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See Ar

Contents

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

Agricultural Marketing Service
RULES
Limes grown in Florida, 27517
Peaches grown in Georgia, 27516
PROPOSED RULES
Milk marketing orders:
Eastern Colorado, 27554
Iowa, 27554
Lake Mead, 27555
Nebraska-Western Iowa, 27553

Agriculture Department
See Agricultural Marketing Service; Farmers Home Administration; Federal Grain Inspection Service

Army Department
See also Engineers Corps
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 27577

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase From the Blind and Other Severely Handicapped

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service
NOTICES
Agency information collection activities under OMB review, 27574

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 27576
(2 documents)
Additions and deletions; correction, 27577

Commodity Futures Trading Commission
RULES
Domestic exchange-traded commodity options:
Non-agricultural options contracts; pilot program status termination, 27529

Consumer Product Safety Commission
NOTICES
Cigarette and Little Cigar Fire Safety Interagency Committee; patented, non-commercial cigarettes for ignition propensity testing; request for samples, 27577

Copyright Royalty Tribunal
RULES
Royalty rate for coin operated phonorecord players, adjustment, 27537

Defense Department
See Army Department; Engineers Corps; Navy Department

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
Corona CoGen, Inc., 27580
Sierra CoGen, Inc., 27581

Education Department
NOTICES
Grants; availability, etc.:
Experimental and innovative training program, 27766
Rehabilitation long-term training program
Funding priorities, 27768, 27770
(2 documents)

Employment and Training Administration
NOTICES
Job Training Partnership Act:
Within-State incentive grants; policy, 27608

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 27608

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Energy Research Office
NOTICES
Meetings:
Energy Research Advisory Board, 27583

Engineers Corps
NOTICES
Meetings:
Environmental Advisory Board, 27580

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Rhode Island, 27537
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Rhode Island, 27560
Toxic substances:
Health and safety data reporting—
Submission of lists and copies of studies; addition to list of chemicals, 27562
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 27597
Weekly receipts, 27597
Meetings:
Science Advisory Board, 27598
Toxic and hazardous substances control:
Chemical testing; data receipt, 27598

Executive Office of the President
See Presidential Documents

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 27625

Farmers Home Administration
RULES
Loan and grant programs:
Multiple family housing—
Borrowers and grant recipients; management and supervision, 27636

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 27523
British Aerospace, 27524
Canadair, 27525
McDonnell Douglas, 27526
SAAB-Fairchild, 27527
PROPOSED RULES
Airworthiness directives:
Boeing, 27557
Noise standards; aircraft certification; helicopters, 27556
NOTICES
Advisory circulars; availability, etc.:
Aircraft, turbojet; performance information for operation with water, slush, snow, or ice on runway, 27623
Meetings:
Aeronautics Radio Technical Commission, 27623

Federal Communications Commission
RULES
Radio stations; table of assignments:
Minnesota, 27552
PROPOSED RULES
Practice and procedure:
Cable television hardware; utility poles attachment, 27566
Fee collection program
Correction, 27566
Radio stations; table of assignments:
North Carolina; correction, 27567

Federal Election Commission
NOTICES
Special elections; filing dates:
North Carolina, 27599

Federal Emergency Management Agency
NOTICES
Agency information collection activities under OMB review, 27599, 27600
(3 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Ceiling prices for high cost natural gas produced from tight formations; changes to old gas pricing structure, 27529
NOTICES
Electric rate and corporate regulation filings:
Northern States Power Co. et al., 27582

Federal Grain Inspection Service
NOTICES
Agency designation actions:
Nebraska and Indiana, 27572
Texas, 27573
Texas and Wisconsin, 27572
Soybean damage interpretations, 27573

Federal Highway Administration
RULES
Engineering and traffic operations:
Contract procedures; submission of affidavit of noncollusion with bids, 27532
PROPOSED RULES
Motor carrier safety regulations:
Driver qualifications—
Single classified driver's license system, 27567

Federal Home Loan Bank Board
NOTICES
Receiver appointments:
Central Illinois Savings, 27600
Major Federal Savings & Loan Association, 27600
Applications, hearings, determinations, etc.:
Ozark Rivers Federal Savings & Loan Association, 27600

Federal Maritime Commission
NOTICES
Agreements filed, etc., 27600
Agreements filed, etc.; correction, 27601

Federal Reserve System
RULES
Securities credit transactions; OTC margin stocks list (Regulations G,T,U, and X), 27518
NOTICES
Applications, hearings, determinations, etc.:
BancServe Group, Inc., et al., 27601
Rush County National Corp. et al., 27602

Food and Drug Administration
RULES
Human drugs:
Antacid and antiflatulent drug products (OTC); monograph amendments, 27762
Anthelmintic drug products (OTC); final monograph, 27756
Antibiotic drugs—
Updating and technical changes, 27531
NOTICES
Human drugs:
Regulatory review period determinations—
Nix, 27603

General Services Administration
RULES
Property management:
Transportation and traffic management—
Policies and procedures; clarification and update; correction, 27539

Health and Human Services Department
See also Food and Drug Administration
NOTICES
Agency information collection activities under OMB review, 27602

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
Cases filed, 27584
Decisions and orders, 27585, 27586
(2 documents)
Special refund procedures; implementation, 27587-27595
(3 documents)

VOL 51 ISS 148 AG 1 1986 UMI

Housing and Urban Development Department
RULES
Public and Indian housing:
Lead–based paint hazard elimination, 27774
PROPOSED RULES
Community development block grants, rehabilitation loan and rental rehabilitation grant prgorams, etc.:
Lead–based paint hazard elimination, 27793
NOTICES
Agency information collection activities under OMB review, 27604
Environmental statements; availability, etc.:
Detroit, MI, 27605
Organization, functions, and authority delegations:
Assistant Secretary for Public and Indian Housing et al.; requests for conversion of public housing, 27603
Regional Administrators et al.; requests for demolition, disposition or conversion of public housing, 27604

Immigration and Naturalization Service
NOTICES
Reimbursable services; excess cost of preclearance operations, 27608

Interior Department
See also Land Management Bureau; Surface Mining Reclamation and Enforcement Office
RULES
Superfund and Clean Water Act:
Natural resource damage assessments, 27674

International Trade Administration
NOTICES
Short supply determinations; inquiry:
Carbon steel cold rolled strip, 27574
Applications, hearings, determinations, etc.:
National Aeronautics and Space Administration, 27575

Interstate Commerce Commission
NOTICES
Agency information collection activities under OMB review, 27607
Motor carriers:
Compensated intercorporate hauling operations, 27607
Organization, functions, and authority delegations:
Regional Motor Carrier Boards, 27607
Railroad services abandonment:
Seaboard System Railroad, Inc., 27607

Justice Department
See Immigration and Naturalization Service

Labor Department
See Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 27606
Environmental statements; availability, etc.:
West Desert Pumping Project, UT, 27606
Recreation management restrictions, etc.:
Battle Mountain District, NV, 27606

Legal Services Corporation
RULES
Lobbying and other activities; restrictions, 27539

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
M&J Coal Co., Inc., 27609
Omega Mining Co., Inc., 27610
Utah Fuel Co., 27610

National Aeronautics and Space Administration
RULES
Administrative authority and policy:
Leaseholds, permits, and real property licenses, etc., 27528

National Credit Union Administration
RULES
Federal credit unions:
Insurance year; definition, 27522

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Music Advisory Panel, 27613

National Labor Relations Board
NOTICES
Procurement:
Commercial or industrial activities, performance; review schedule (OMB A-76 implementation), 27613

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Caribbean Fishery Management Council, 27575
Mid-Atlantic Fishery Management Council, 27575
Permits:
Marine mammals, 27576

National Technical Information Service
NOTICES
Patent licenses, exclusive:
Cobe Laboratories, 27576

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Bainbridge, 27535
USS Gridley, 27536

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Public Service Electric & Gas Co. et al., 27613

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
California, 27534
NOTICES
State plans; standards approval, etc.:
Iowa, 27610

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Memphis Construction, Inc., et al., 27611
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 27613

Pension Benefit Guaranty Corporation
NOTICES
Privacy Act; systems of records, 27614

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 27614

Presidential Documents
PROCLAMATIONS
Special observances:
Nucler Medicine Week, National (Proc. 5514), 27515

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Cincinnati Stock Exchange, Inc., 27617
New York Stock Exchange, Inc., et al., 27618
Pacific Stock Exchange, Inc., 27621, 27622
(2 documents)
Applications, hearings, determinations, etc.:
GECMO Corp.-I, 27616

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Federal surface coal mining programs:
Georgia et al., 27559
Permanent program submission:
Wyoming, 27560
Permits and coal exploration systems:
Significant revisions guidelines; rulemaking petition, 27558

Transportation Department
See Federal Aviation Administration; Federal Highway Administration

Treasury Department
NOTICES
Notes, Treasury:
AC-1988 series, 27624

United States Information Agency
NOTICES
Art objects, importation for exhibition:
Treasures of the Holy Land: Ancient Art from the Israel Museum, 27624

Separate Parts In This Issue

Part II
Department of Agriculture, Farmers Home Administration, 27636

Part III
Department of the Interior, 27674

Part IV
Department of Health and Human Services, Food and Drug Administration, 27756

Part V
Department of Health and Human Services, Food and Drug Administration, 27762

Part VI
Department of Education, 27768

Part VII
Department of Education, 27768

Part VIII
Department of Education, 27770

Part IX
Department of Housing and Urban Development, 27774

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5514 27515

7 CFR
911 27517
918 27518
1930 27636
1944 27636
1951 27636
1965 27636
Proposed Rules:
1065 27553
1079 27554
1137 27554
1139 27555

12 CFR
207 27518
220 27518
221 27518
224 27518
741 27522

14 CFR
39 (5 documents) 27523–27527
1204 27528
Proposed Rules:
36 27556
39 27557

17 CFR
1 27529
5 27529
16 27529
33 27529

18 CFR
154 27529
157 27529
270 27529
271 27529
284 27529

21 CFR
331 27762
332 27762
357 27756
369 27756
436 27531
440 27531
442 27531

23 CFR
635 27532

24 CFR
35 27774
905 27774
965 27774
968 27774
Proposed Rules:
35 27793
510 27793
511 27793
570 27793
590 27793

29 CFR
1952 27534

30 CFR
Proposed Rules:
774 27558
910 27559
912 27559
921 27559
922 27559
933 27559
937 27559
939 27559
941 27559
947 27559
950 27560

32 CFR
706 (2 documents) 27535, 27536

37 CFR
306 27537

40 CFR
52 27537
Proposed Rules:
52 27560
716 27562

41 CFR
101–40 27539

43 CFR
11 27674

45 CFR
1612 27539

47 CFR
73 27552
Proposed Rules:
0 27566
1 (2 documents) 27566
21 27566
22 27566
23 27566
62 27566
73 (2 documents) 27566, 27567
74 27566

49 CFR
Proposed Rules:
391 27567

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

Presidential Documents

Title 3—

The President

Proclamation 5514 of July 29, 1986

National Nuclear Medicine Week, 1986

By the President of the United States of America

A Proclamation

Nuclear medicine is an invaluable medical resource that contributes significantly to improvements in the diagnosis and treatment of patients in the United States. It also provides powerful tools for biomedical research.

Today, nuclear medicine allows physicians to probe the bodies of patients without using a scalpel. Three-dimensional images of organs such as the heart and kidneys can be obtained, leading to early diagnosis of disease.

In addition to images of anatomy, nuclear medicine yields information on subtle chemical processes as they occur in the body. For example, investigators can now examine the brain's processing of glucose, which it uses as a source of energy. Due to advances in nuclear medicine, the underlying pathological changes in such illnesses as Alzheimer's disease and schizophrenia are now closer to being understood.

The field is growing so fast that what today seems a breakthrough will tomorrow be routine. Powerful tools such as positron emission tomography, or PET, are being brought to bear on heart disease and cancer. Where nuclear medicine techniques were once used to provide images of tumors, the tumors themselves may now be located and treated using specially targeted isotopes linked to antibodies specific to the tumor.

All across the country, from medical centers to community hospitals, nuclear medicine departments are becoming as common as x-ray laboratories. This field unites the skills of medicine, physics, chemistry, and mathematics in a common focus—healing the sick.

To stimulate public awareness of a medical field that has come of age, the Congress, by House Joint Resolution 297, has designated the week beginning July 27, 1986, as "National Nuclear Medicine Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning July 27, 1986, as National Nuclear Medicine Week, and I call upon the people of the United States to observe this week with appropriate observances and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of July, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-17460
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ACTION:

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Rules and Regulations

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

Limes Grown in Florida; Amendment to Container Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will permit lime handlers to make export shipments in 2.5 kilogram containers and eliminate five containers no longer used by the industry. The addition of the 2.5 kilogram container will allow U.S. shippers to compete more favorably in certain European markets. Elimination of the five containers currently authorized but no longer used will bring the container requirements into conformity with current handler packing practices.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Departmental Regulation 1512-1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules proposed thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The container requirement changes are pursuant to the marketing agreement and Marketing Order No. 911 regulating the handling of limes grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Lime Administrative Committee, established under the program, is responsible for its local administration.

Notice was given in the April 23, 1986, Federal Register (51 FR 15349) affording interested persons until May 23, 1986, to submit written comments. None were filed. However, at its May 14 meeting the committee recommended a slight change in the dimensions of the 2.5 kilogram container inasmuch as the die to be used varies slightly from the one used for the original measurements, which were 7½ by 12 by 4½ inches. The new measurements are 7⅛ by 11⅞ by 4¼ inches. The recommendation is found to have merit and is hereby incorporated into this rule.

At its public meeting on February 12, 1986, the committee recommended adding a new container to be used for export shipments. The new container will have inside dimensions of 7⅛ by 11⅞ by 4¼ inches and contains 2.5 kilograms (approximately 5.5 pounds) of limes. Foreign shippers, notably those from Brazil, tend to adjust container sizes as the market price of limes changes. This can place U.S. shippers at a competitive disadvantage if they cannot use a container similar to those used by other shippers. The addition of the 2.5 kilogram container will make it easier for U.S. exporters to compete in certain European markets with shippers from other lime producing areas using the 2.5 kilogram container.

The committee also recommended eliminating five containers from the container regulation. These containers are of larger capacity, ranging from 38 to 42 pounds and 20 to 22 pounds of limes. The industry has been moving toward smaller containers over the years, and the ones to be eliminated are no longer used. The change will lessen the number of large containers authorized and bring the container requirements into conformity with industry operating practices.

It is hereby found and determined that the following amendment, as hereinafter set forth, will tend to effectuate the declared policy of the Act. It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that the shipping season already began in March and to maximize benefits to producers this regulation should apply to as many shipments as possible. Compliance with this amendment will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date.

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 911.329 (47 FR 22073, May 21, 1982; 47 FR 29647, July 8, 1982; and 47 FR 45865, October 14, 1982) is hereby amended by removing (a)(2)(i) through (a)(2)(v), adding a new (a)(2)(i), and redesignating (a)(2)(vi) through (a)(2)(xii) as (a)(2)(ii) through (a)(2)(viii), respectively, as follows:

§ 911.329 Lime Regulation 27.

(a) * * *

(2) * * *

(i) Containers with inside dimensions of 7⅛ by 11⅞ by 4¼ inches; except that any such container shall contain not less than 5 nor more than 6 pounds net weight of limes.

* * * * *

Dated: July 25, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-17264 Filed 7-31-86; 8:45 am]
BILLING CODE 3410-02-M

VOL 51 ISS 148 AG 1 1986 UMI

7 CFR Part 918

[Georgia Peach Reg. 3; Amdt. 3]

Fresh Peaches Grown in Georgia; Change in Quality Requirements for 1986 and Subsequent Seasons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: The Department has decided to leave in effect the interim final rule which added a tolerance for decay to the maturity, size, and inspection requirements in effect for Georgia peaches. This action is intended to insure that only good quality peaches will be available for fresh market shipment during the remainder of the 1986 season and subsequent seasons. This action is in the interest of producers and consumers.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250. Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Departmental Regulation 1521-1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This action finalizes the interim final rule which was recommended by the Georgia Peach Industry Committee and which amended Georgia Peach Regulation 3 to include a one percent tolerance for decay. In making its recommendation, the committee considered supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1986 Georgia Peach crop. On the basis of these considerations, the committee recommended the addition of a one percent tolerance for decay to the maturity, size, and inspection requirements. Finalization of these requirements will insure that only good quality peaches will be available for fresh market shipment during the remainder of the 1986 and subsequent seasons. This will benefit both producers and consumers by preventing the shipment of undesirable and unwholesome peaches. The shipment of such fruit tends to adversely affect consumer demand and depress grower returns.

The interim final rule was issued on May 1, 1986, and published in the **Federal Register** on May 7, 1986, (51 FR 16812). Interested persons were given until June 6, 1986, to submit comments. No comments were received.

The interim final rule and this action are issued under the marketing agreement and Order No. 918, both as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Like the interim final rule, this rule is based on a recommendation and information submitted by the Georgia Peach Industry Committee. That committee, established under the marketing agreement and order, works with the Department in administering the program. This rule contains requirements identical to those in the interim final rule in effect since May 1, 1986.

Prior to May 1, 1986, shipments of Georgia peaches, except peaches in bulk to adjacent markets (the States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and that portion of Louisiana which is east of the Mississippi River) were required to be mature as provided in § 918.400, and not be smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot may be smaller than 1⅝ inches in diameter. The interim final rule issued on May 1, 1986, added a one percent tolerance for decay to those requirements. To insure that all peaches entering market channels meet those requirements, the peaches must be inspected and certified as meeting the requirements prior to shipment.

After consideration of all relevant matter presented, the information and recommendation submitted by the committee, and other available information, it is found that finalization of Peach Regulation 3, Amendment 3, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) The requirements finalized by this action are identical to those effective since May 1, 1986 (51 FR 16812), the date when the shipment of 1986 crop Georgia peaches began; (2) producers and handlers have been conducting their operations on the basis of those requirements since that date, and need no additional time to comply therewith; and (3) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Peaches, Georgia.

PART 918—[AMENDED]

1. The authority citation for 7 CFR Part 918 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; U.S.C. 601-674.

The interim rule published in the **Federal Register** of May 1, 1986 (51 FR 16812) is adopted as final without change.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-17263 Filed 7-31-86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

[Regulations G, T, U, and X]

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective May 13, 1986 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Research Assistant, Division of Banking Supervision and Regulation, (202) 452–2781, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. This List supersedes the last complete List which was effective May 13, 1986 (51 FR 15757, April 28, 1986). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U and X (12 CFR 207, 220, 221, and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under an SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS Security), Reporting and recordkeeping requirements.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with section 207.2(k) and 6(c) of Regulation G, section 220.2(s) and 17(c) of Regulation T, and section 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of deletions from and additions to the Board's List:

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Acro Energy Corporation
No par common
Amstar Corporation
$12.50 par cumulative preferred
Applied Circuit Technology, Inc.
No par common
Argonaut Energy Corporation
No par common
Biosearch Medical Products Inc.
No par common
Callon Petroleum Company
$.01 par common
Carolina Mines Ltd.
No par common
Cityfed Financial Corporation
$2.20 par cumulative convertible preferred
Commonwealth Realty Trust
Class A, no par shares of beneficial interest
Compusave Corporation
$.01 par common
Continental Health Affiliates, Inc.
Warrants (expire 04–03–86)
Diplomat Electronics Corporation
$.01 par common
Expeditors International of Washington, Inc.
Warrants (expire 09–17–89)
First Executive Corporation
Series D, $1.00 par cumulative convertible preferred
First Federal Savings & Loan Association of Roanoke
$.01 par common
First Midwest Corporation
$1.00 par common
First National Corporation (Ohio)
No par common
General Devices, Inc.
$.01 par common
General Hydrocarbons, Inc.
$.01 par common
Hammer Technologies, Inc.
$.001 par common
Health Information Systems Inc.
$.01 par common
Indiana National Corporation
No par depository preferred
Integrated Barter International, Inc.
$.40 par common
Intercontinental Energy Corp.
$.40 par common
Lorimar Telepictures Corporation
8¾% convertible subordinated debentures
Mr. Steak, Inc.
No par common
Moduline International, Inc.
No par common
Morris County Savings Bank (New Jersey)
$2.00 par common
ORS Automation Inc.
$.01 par common
Offshore Logistics, Inc.
Series A, no par convertible preferred
OMNI Equities, Inc.
$.01 par common
Pacific Gamble Robinson Company
$5.00 par common
Satelco, Inc.
$.10 par common
Servamatic Systems, Inc.
No par common
Statewide Bancorp.
Series A, $2.20 cumulative convertible preferred
Strata Corporation
Class A, $.10 par common
Summit Bancorporation, The
Series A, $2.20 convertible preferred
Technical Equities Corporation
$1.00 par capital
Thoratec Laboratories Corporation
No par common
Tidelands Toyalty Trust "B"
Units of beneficial interest
United States Mutual Financial Corporation
$1.00 par common
Victoria Station Inc.
$.10 par common
Visual Technology, Inc.
$.10 par common
Voit Corporation
$.005 par common
Widcom Inc.
$.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

A&M Food Services, Inc.
$.01 par common
Alfin Fragrances, Inc.
$.01 par common
American Cellular Telephone Corp.
Class A, $.01 par common
American Technical Ceramics Corp.
$.01 par common
Americare Health Corporation
$1.00 par common
Booth, Inc.
$.50 par common
Centrust Savings Bank (Florida)
$.01 par common
Citizens Cable Communications, Inc.
No par common
Continental Healthcare Systems Inc.
$.01 par common
Craddock-Terry Shoe Corporation
$1.00 par common
Decision Data Computer Corporation
$.10 par common
Emett & Chandler Companies, Inc.
$.50 par common
Environmental Systems Company
$.01 par common
First Indiana Bancorp
$10.00 par common
Georgia Federal Bank, FSB
$1.00 par common
Highlands-National, Inc.
$1.00 par common
Larsen Company, The
$.40 par common
Lily-Tulip, Inc.
$.05 par common
Lincoln Income Life Insurance Company
$1.00 par common
Medicore, Inc.
$.01 par common
Mediplex Group, Inc., The
$.10 par common
Midwest Commerce Corporation
No par common
Mylan Laboratories Inc.
$.50 par common
Numerax Inc.
$.01 par common
Peerless Chain Company
$.25 par common
Pharmacy Corporation of America, Inc.
$.01 par common
Pittsburgh Brewing Company
$1.00 par common
Provincetown-Boston Airline, Inc.
$.01 par common
RJ Financial Corporation
$.01 par common
Reid-Rowell, Inc.
$.20 par common
Rival Manufacturing Company
$1.00 par common
Rocky Mountain Natural Gas Company, Inc.
$3.00 par common
Savings Bank of Puget Sound, FSB
$5.00 par common
Sloan Technology Corporation
$.10 par common
Suburban Airlines, Inc.
$1.00 par common
Tempo Enterprises, Inc.
$.01 par common
Trans Louisiana Gas Company, Inc.
No par common
Union Bancorp Inc. (Michigan)
$1.00 par common
United Federal Bank, FSB (New Hampshire)
$1.00 par common
Van Schaack & Company
$1.00 par common

Additions to the List

ACA Joe Eastern, Ltd.
$.01 par common
AEP Industries, Inc.
$.01 par common
AIM Telephones, Inc.
$.01 par common
AW Computer Systems, Inc.
Class A, $.01 par common
Advanced Magnetics, Inc.
$.01 par common
Allison's Place, Inc.
$.01 par common
America First Federally Guaranteed Mortgage Fund 2 Limited Partnership
Exchangeable Passthrough Certificates
Exchangeable Units
America First Tax Exempt Mortgage Fund Limited Partnership
Beneficial Unit Certificates
American Cruise Lines, Inc.
$.01 par common
American Health Companies, Inc.
$.01 par common
American Home Shield Corporation
$.04 par common
American Travellers Corporation
$.01 par common
Anchor Glass Container Corporation
$.01 par common
Andover Togs, Inc.
$.10 par common
Arbor Drugs, Inc.
$.01 par common
Aspen Ribbons, Inc.
No par common
Astec Industries, Inc.
$.20 par common
Atlantic Federal Savings Bank (Maryland)
$1.00 par common
Baker, J., Inc.
$.50 par common
Balchem Corporation
Class B, $.66⅔ par common
Baldwin & Lyons, Inc.
Class B, no par common
Bancserve Group, Inc.
$5.00 par common
Bay View Federal Savings & Loan Association (California)
$.01 par common
Bayamon Federal Savings & Loan Association of Puerto Rico
$1.00 par common
Beauticontrol Cosmetics, Inc.
$.10 par common
Bio-Medicus, Inc.
$.01 par common
Breakwater Resources, Ltd.
No par common
Brendle's Incorporated
$1.00 par common
Brookfield Federal Bank for Savings (Illinois)
$1.00 par common
Buehler International, Inc.
$.01 par common
CCA Industries, Inc.
$.01 par common Warrants
CNL Financial Corporation
$1.00 par common
Calumet Industries, Inc.
Warrants (expire 02-27-87)
Cambridge Bioscience Corporation
$.01 par common
Capital Wire & Cable Corporation
No par common
Cayuga Savings Bank (New York)
$1.00 par common
Centennial Real Estate Investment Trust
No par shares of beneficial interest
Central Holding Company
No par common
Charter-Crellin, Inc.
$.01 par common
Chartwell Group Ltd.
$.01 par common
Children's Discovery Centers of America, Inc.
Class A, $.01 par common
Citizens Financial Corporation
$1.00 par common
Community Bank System, Inc. (New York)
$1.25 par common
Community Bankshares, Inc.
$1.00 par common
Conversion Industries, Inc.
No par common
Cosmetics and Fragrance Concepts, Inc.
$.01 par common
Cronus Industries, Inc.
Warrants (expire 02-01-90)
Crossland Savings, F.S.B. (New York)
Series A, $1.8125 par cumulative convertible preferred
Cypress Semiconductor Corporation
No par common
Digitech, Inc.
$.10 par common
Doxsee Food Corporation
$.10 par common
Eldec Corporation
$.05 par common
Energy Factors, Incorporated
8¼% convertible subordinated debentures
Enseco Incorporated
$.01 par common
Entertainment Marketing, Incorporated
$.01 par common
Escalade, Incorporated
$1.00 par common
FFB Corp.
$1.00 par common
Faradyne Electronics Corp.
$.05 par common
First American Savings, F.A. (Pennsylvania)
$1.00 par common
First Community Bancorp, Inc.
$10.00 par common
First Federal of the Carolinas, F.A.
$1.00 par convertible preferred
First Oak Brook Bancshares, Inc. (Illinois)
Class A, $2.00 par common
Firstbank of Illinois Co.
$2.00 par common
Florida Employers Insurance Company, The
$.01 par common
Frankford Corporation, The
$1.00 par common
Fretter, Inc.
$.01 par common
Gander Mountain, Inc.
$.01 par common
Gantos, Inc.
$.01 par common

Gardenamerica Corporation
No par common
Gateway Communications, Inc.
No par common
Gemcraft, Inc.
$.10 par common
General Computer Corporation
$.10 par common
Genetics Institute, Inc.
$.01 par common
Genicom Corporation
$.01 par common
Genmar Industries, Inc.
$.01 par common
Genzyme Corporation
$.01 par common
Golden Knight Resources Inc.
No par common
Great American Recreation, Inc.
$.01 par common
Grenada Sunburst System Corporation
$2.50 par common
HPSC, Inc.
Warrants (expire 01–15–89)
Haverty Furniture Companies, Inc.
Class A, $1.00 par common
Henley Group, Inc., The
$.01 par common
Home Federal Savings Bank (Maryland)
$1.00 par common
Home Savings & Loan Association, Inc. (North Carolina)
$1.00 par common
Immucor, Inc.
$.10 par common
Independent Bank Corporation
$1.00 par common
Infinity Broadcasting Corporation
Class A, $.01 par common
Integrated Resources American Insured Mortgage Investors Series '85, a California Limited Partnership
Depository Units
Interleaf, Inc.
$.01 par common
International Robomation Intelligence
No par common
ITO-Yokado Co., Ltd.
American Depository Receipts
JG Industries, Inc.
No par common
J&J Snack Food Corporation
No par common
Jefferson National Bank (New York)
$1.00 par common
KLLM Transport Services, Inc.
$1.00 par common
Kahler Corporation, The
$2.50 par common
Kenilworth Systems Corporation
$.01 par common
Kent Electronics Corporation
No par common
Key Centurion Bancshares, Inc.
$3.00 par common
Kirschner Medical Corporation
$.10 par common
Kurzweil Music Systems, Inc.
$.001 par common
Lake Sunapee Savings Bank, F.S.B. (New Hampshire)
$1.00 par common
Laser Precision Corporation
$.10 par common
Leisure Concepts, Inc.
$.01 par common
Lincoln Foodserve Products, Inc.
No par common
MacMillan Bloedel Limited
No par common
Management Assistance Inc. Liquidating Trust
Units of beneficial interest
Marietta Corporation
$.01 par common
Medford Savings Bank (Massachuesetts)
$.01 par common
Memory Metals, Inc.
$.01 par common
Mid-Hudson Savings Bank, FSB (New York)
$1.00 par common
Midway Airlines, Inc.
Series B, convertible exchangeable preferred
Modular Technology, Inc.
$.01 par common
Moore-Handley, Inc.
$.10 par common
Neoax, Inc.
$.05 par common
Neti Technologies Inc.
No par common
New Milford Savings Bank (Connecticut)
$1.00 par common
Newport News Savings and Loan Association
$1.00 par common
Niagara Exchange Corporation
$1.00 par common
North American Communications Corporation
$.01 par common
North American Savings Association (Missouri)
$1.00 par common
Nova Pharmaceutical Corporation
Class B, warrants, (expire 06–05–88)
P&F Industries, Inc.
$.20 par common Warrants (expire 05–16–87)
Pacific Nuclear Systems, Inc.
$.01 par common
Peoples Westchester Savings Bank (New York)
$1.00 par common
Piedmont Federal Savings Bank (Virginia)
$1.00 par common
Pioneer Savings Bank, Inc. (North Carolina)
$1.00 par common
Polk Audio, Inc.
$.01 par common
Poly-Tech, Inc.
No par common
Ports of Call, Inc.
$.20 par common
Pre-Paid Legal Services, Inc.
Warrants (expire 11–30–87)
Prospect Group, Inc., The
$.50 par common
Pyramid Technology Corporation
No par common
Reidel Environmental Technologies, Inc.
$.01 par common
Repligen Corporation
$.01 par common
Richmond Hills Savings Bank
$1.00 par common
Rochester Community Savings Bank, The
$1.00 par common
Rudy's Restaurant Group, Inc.
$.01 par common
Ryan, Beck & Co., Inc.
$.10 par common
Savoy Industries, Inc.
$.01 par common
Shoe City Corporation
$.10 par common
Silver Hart Mines, Ltd.
No par common
Skaneateles Savings Bank (New York)
$1.00 par common
Skywest, Inc.
No par common
Sooner Defense of Florida, Inc.
$.01 par common
South Carolina Federal Savings Bank
$1.00 par common
Southeastern Savings & Loan Company (North Carolina)
$1.00 par common
Southington Savings Bank (Connecticut)
$1.00 par common
Southwest Airlines Co.
Warrants (expire 06–25–90)
Spartech Corporation
$.50 par common
Stater Bros. Inc.
$.01 par common
Statewide Bancorp
Warrants (expire 03–31–89)
Sterling, Inc.
No par common
Summit Savings Association (Washington)
$8.00 par common
Sunstates Corporation
$25.00 par preferred
Sybra, Inc.
$.10 par common
Synercom Technology, Inc.
$.03 par common
TCF Banking and Savings, F.A. (Minnesota)
$.01 par common
TMK/United, Inc.
$1.00 par common
Tech Data Corporation
$.0015 par common
Teknowledge Inc.
$.01 par common
Telequest, Inc.
No par common
Telos Corporation
$.01 par common
Thermo Analytical, Inc.
$.10 par common
Tompkins County Trust Company (New York)
$5.00 par common
Tower Federal Savings Bank (Indiana)
$.01 par common
Town & Country Jewelry Manufacturing Corporation
$.01 par common
Traditional Industries, Inc.
$.20 par common
Trenwick Group, Inc.
No par common
Tri-Star Pictures, Inc.
Warrants (expire 06–01–92)
Tyco Toys, Inc.
$.01 par common
United Dominion Realty Trust, Inc.
9% convertible subordinated debentures
United Insurance Companies, Inc.
$.01 par common
United Savings and Loan Association (Missouri)
$1.00 par common
Universal Voltronics Corporation

$.05 par common
Vanguard Savings Bank (Massachusetts)
$.10 par common
Waste Technology Corp.
$.01 par common
Waterford Glass Group, PLC.
No par common
Webster Clothes, Inc.
$.01 par common
Werner Enterprises, Inc.
$.01 par common
Western Bank (Oregon)
$2.50 par common
Western Publishing Group, Inc.
$.01 par common
Worlds of Wonder, Inc.
No par common
Xoma Corporation
$.0005 par common
Xidex Corporation
Warrants (expire 04-16-93)
Xyvision, Inc.
$.03 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), July 28, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-14179 Filed 7-31-86; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance and Voluntary Termination or Conversion of Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This final rule changes the definition of "Insurance Year," presently January 1 through December 31, to mean the period from July 1 through June 30. Payments due to the National Credit Union Share Insurance Fund are determined based upon insured shares at the close of the Insurance Year. These payments will continue to be due by the end of January but will now be based upon insured share balances reported by credit unions on their Midyear Call Report.

EFFECTIVE DATE: August 1, 1986.

ADDRESS: National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance (202) 357-1065.

SUPPLEMENTARY INFORMATION:

Background

The Federal Credit Union Act, at section 202(b)(1) (12 U.S.C. 1782(b)(1)), provides that for each Insurance Year an insured credit union must file a certified statement showing the total amount of insured shares at the close of the preceding Insurance Year. The amount of such shares is used to determine the credit union's capitalization deposit, or adjustments thereto, and insurance premiums, if any. Section 202(h)(1) (12 U.S.C. 1782(h)(1) defines "insurance year" to mean January 1 through December 31 but permits the NCUA Board to prescribe any other period of time.

At its April 25, 1986, meeting, the NCUA Board issued for public comment a notice of proposed rulemaking affecting three regulations relating to share insurance: Part 740—Advertising; Part 741—Requirements for Insurance; and Part 745—Clarification and Definition of Account Insurance Coverage. (51 FR 16710.) Included within that notice was the proposal to amend § 741.7(b)(1) to change the definition of "Insurance Year" from "January 1 through December 31" to "July 1 through June 30."

Six commenters addressed this issue in their response to the request for public comment. Five of the commenters had no objection to the proposal, although several conditioned their response, e.g., as long as it would reduce administrative costs, or didn't result in a double insurance premium or payment. The sixth commenter objected because the change would delay the capitalization deposit from newly-chartered credit unions. Any delay, however, would be immaterial because the insured share balance of a newly-chartered credit union is minimal.

During 1985 and 1986, NCUA Regional and Washington Office staff spent considerable time and effort resolving capitalization deposit discrepancies which occurred from incorrect share balances reported by credit unions on their annaul assessment forms. Although the deposit adjustments are due to the NCUSIF by late January, past experience has shown that an additional two or more months are required by Agency staff to determine correct share balances, issue refunds or collect underpayments, and correct the credit union's capitalization data. In March 1986, 840 credit unions still had unresolved differences in reported shares between the Share Insurance Invoice and Yearend Call Report. The net amount of share difference between the two forms was approximately $1 billion. One percent of this amount is $10 million which has sufficient impact upon the Fund's contributed capital balance. Most of these errors have now been resolved, but to prevent this situation from recurring in future years, it was proposed that the Insurance Year be changed from January 1 through December 31 to a period extending from July 1 through June 30. This would enable NCUA to preprint the entire Share Insurance Invoice by using the insured share balances reported by credit unions on their Midyear Call Report. The capitalization deposit due would be calculated by the computer thus eliminating a high potential for manual error by credit unions. Another advantage of amending the Insurance Year is that it would provide the NCUSIF advance knowledge of the precise dollar amount of deposits due in January and enhance the budget process through more accurate income and retained earnings projections. No change would be required for the collection of monies. The invoices would be preprinted and mailed to credit unions by January 1st of each year, and payments would continue to be due by the end of January. A smiliar change was made for the operating fee in November 1984. At that time, the Board approved a change in the operating fee assessment using reported assets from the credit unions' June 30 Midyear Call Report as opposed to the December 31 Yearend Call Report. Since then, the entire operating fee invoice has been preprinted and collection of the fees has been relatively error free.

Therefore, the Board has amended the definition of "Insurance Year" as previously proposed.

Impact Upon NCUSIF

Under the new Insurance Year proposal, all credit unions would still receive a dividend for a twelve-month period and the amount of dividend paid would not differ significantly from that paid before the Insurance Year change. In either case, the projected dividend is less than 1%.

Impact Upon Credit Unions

The change in Insurance Year would benefit credit unions through a reduction of capitalization payments in January 1987. Using the projected $121 billion in insured shares as of June 30, 1986, the amount due from credit unions would be about $100 million less than the amount due using December 31, 1986, insured shares (assuming 19% growth rate).

Regulatory Procedures

The NCUA Board has determined and certifies that the amended rule, if

adopted, will not have a significant economic impact upon credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This rule eliminates a paperwork requirement currently in place, and thereby reduces the paperwork burden of Federal credit unions.

List of Subjects in 12 CFR Part 741

Credit unions, Requirements for insurance.

By the National Credit Union Administration Board on the 15th day of July, 1986.

Rosemary Brady,

Secretary of the NCUA Board.

PART 741—[AMENDED]

Accordingly, NCUA has amended Part 741 as follows:

1. The authority citation for Part 741 is revised to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1781, 12 U.S.C. 1782, 12 U.S.C. 1789.

2. Section 741.5(b)(1) is revised to read as follows:

§ 741.5 Insurance premium and one percent deposit.

* * * * *

(b) * * *

(1) "Insurance Year" means the period from July 1 through June 30.

[FR Doc. 86-17349 Filed 7-31-86; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-04-AD; Amdt. 39-5369]

Airworthiness Directives; Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 757-200 airplanes that requires inspection for proper self-locking torque of certain self-locking nuts, and replacement, if necessary. This action is prompted by detection of several nuts that were found to have insufficient self-locking torque for proper self-locking. This situation, if not corrected, could result in the loss of an affected nut and the loss of proper retention of the associated airplane component.

EFFECTIVE DATE: September 5, 1986.

ADDRESSES: The service letter specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require the inspection and replacement, if necessary, of certain self-locking nuts on certain Boeing Model 757 airplanes was published in the **Federal Register** on February 12, 1986 (51 FR 5203). The comment period for the proposal closed on April 6, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Four comments were received from three commentors.

The first comment was that the AD should reference an FAA-approved service bulletin instead of Boeing Service Letter 757-SL-27-24-A to detail the torque check procedures because special tooling is required that is not listed in the service letter. The Boeing service letter has recently been revised to reference recent revisions to the maintenance manual that clarify the proper tools and procedures to conduct the torque check of the self-locking nuts. The final rule has been revised to reference the revised Boeing service letter.

The second comment was that, because of the size of its fleet of Model 757 airplanes, an operator needs 90 days to comply with the AD. The FAA agrees that the compliance time can be extended from 60 to 90 days after the effective date of this AD without an adverse impact on safety. The final rule has been revised accordingly.

The third comment was that since the FAA Manufacturing Offices have alerted the Model 757 airplane operators, an AD is not necessary. The FAA does not concur that the notification by the FAA is sufficient to assure that the affected self-locking nuts are checked.

The final comment was that the AD was not warranted based upon the available data. The FAA does not concur. Loss of certain self-locking nuts would result in loss of proper retention of the associated airplane component. Faulty nuts have been found on airplanes and in factory stores. The FAA has reviewed the function of the self-locking nuts listed in the NPRM. It has been concluded that loss of the self-locking nut on the rudder pedal adjustment cable retainer will not result in loss of rudder control and cause an unsafe condition. Therefore, this nut has been excepted from the final rule.

It is estimated that 40 airplanes will be affected by this AD, that it will take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD is estimated to be $32,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 16, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 757 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 757-200 series airplanes listed in Boeing Service Letter 757-SL-27-24-B, dated June 2, 1986, certificated in any category.

To detect nuts that have insufficient self-locking torque characteristics, installed on the nose gear door actuator attachment, main

landing gear jury brace support attachment, main landing gear forward trunnion drag fitting aft attachment, and the P&W 2037 engine front evener bar attachment, accomplish the following, unless already accomplished:

A. Within the next 90 days after the effective date of this AD, check the Category II self-locking nuts, P/N BACN10JC12CM or BACN10JC12CD, except the rudder pedal adjustment cable retainer self-locking nut, for proper self-locking torque in accordance with Paragraph B of Boeing Service Letter 757-SL-27-24-B, dated June 2, 1986, or later FAA-approved revision. If any self-locking nut is found not to meet the self-locking torque criteria of Boeing Service Letter 757-SL-27-24-B, dated June 2, 1986, or later FAA-approved revision, it must be replaced prior to further flight with a nut which meets the self-locking torque criteria.

B. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 5, 1986.

Issued in Seattle, Washington on July 23, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17305 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-145-AD; Amdt. 39-5377]

Airworthiness Directives; British Aerospace Viscount Model 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires modification of the aircraft hydraulic system cut out valve on British Aerospace (BAe), Aircraft Group, Viscount Model 800 Series Airplanes. This action is taken as a result of a report of an inadvertent withdrawal of the mechanical nose landing gear downlock on a Viscount Model 700 series airplane, which caused the nose landing gear to collapse. Since the Viscount Model 800 series airplanes use this same part, the potential exists for these airplanes to be subject to this failure.

EFFECTIVE DATE: September 8, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires modification of the aircraft hydraulic system cut out valve on British Aerospace Viscount Model 800 Series Airplanes to prevent inadvertent withdrawal of the nose landing gear downlock, was published in the Federal Register on March 4, 1986 (51 FR 7447).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated at $600 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($1,000). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace Viscount: Applies to Vickers Viscount Model 800 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished. To prevent nose landing gear collapse as a result of a faulty hydraulic cut out valve, accomplish the following:

A. Within the next 1,000 hours time-in-service or nine months after the effective date of this AD, whichever occurs first, modify the cut out valve, Part Number AIR 41916, in accordance with Automotive Products Modification Standard SA 3490, dated December 16, 1959 (reference BAe Technical News Sheet No. 232, Issue 1, dated August 5, 1985).

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 8, 1986.

Issued in Seattle, Washington, on July 25, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17299 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-157-AD; Amdt. 39-5378]

Airworthiness Directives; Canadair Model CL-44D4 and CL-44J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new airworthiness directive (AD), applicable to Canadair Model CL-44D4 and CL-44J airplanes, which requires an initial and repetitive fluorescent penetrant inspection of the aft attachment lugs on the upper forging of the main landing gear, and replacement of this forging if the lugs are found cracked. This amendment is prompted by reports of stress corrosion cracks found running lengthwise of both upper and lower lugs on the main gear upper forgings on several CL-44 airplanes. This condition, if not corrected, could result in the inability of the landing gear to extend or retract.

EFFECT DATE: September 8, 1986.

ADDRESSES: The applicable service information may be obtained from Canadair Limited, Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Quebec, Canada H3C 3G9. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Aerospace Engineer, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone Number (516) 791-6220.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires an initial and repetitive fluorescent penetrant inspection of the aft attachment lugs on the upper forging of the main landing gear, and replacement of this forging if the aft lugs are found cracked, was published in the Federal Register on February 28, 1986, (51 FR 3472).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

Canadair requested that Service Information Circular (SIC) No. 446-CL44, now known as the "Britavia repair," be included in the AD as an alternate means of compliance.

Canadair issued SIC No. 446-CL44, dated May 17, 1983, which offered a modification known as the "Britavia repair" for landing gear lugs with damaged aft attachment lugs on the upper forging. The repair was approved by Canadair's Design Approval Representative (DAR) on behalf of the Canadian Ministry of Transport.

The FAA contacted Transport Canada in order to determine if the repair was an acceptable alternate means of compliance with their published AD CF-85-09, effective August 26, 1985. Transport Canada advised that only Canadair SIC No. 419-CL44, dated May 18, 1978, is approved for use in compliance with Canadian AD CF-85-09, and that SIC No. 446-CL44 is not approved by Transport Canada as an alternate means of compliance with the AD. They further advised that the "Britavia repair" was developed many years previous to their AD, and they have requested that Canadair provide data to substantiate the repair. Transport Canada has not received such substantiation to date.

The FAA does not agree with this comment for the reasons stated above.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule.

It is estimated that 7 airplanes of U.S. registry will be affected by this AD, that it would take approximately 32 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,960.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model CL-44 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Canadair: Applies to all Canadair CL-44D4 and CL-44J airplanes certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the aft attachment lugs on the main landing gear upper forging, P/N 44-87573-2, accomplish the following, unless already accomplished.

A. Within the next 30 days after the effective date of this Airworthiness Directive (AD), and at intervals thereafter not to exceed 2000 hours time-in-service or one year, whichever occurs first:

1. Remove the parts shown in Figure 1 of Canadair Service Information Circular (SIC) No. 419-CL44, dated May 18, 1978, from both main landing gear legs: jack attach bracket assemblies, P/N 44-87583; spacers, P/N 44-87639; pins, P/N 44-87725-2; attaching parts, and bushings, P/N 44-87624-2, if necessary.

2. Inspect the bore of the upper and lower jack attachment lugs of the left and right main gear leg upper forgings, P/N 44-87573-2, for cracks, using fluorescent penetrant procedures.

3. Replace cracked parts, prior to further flight, with serviceable parts of the same part number which have been inspected in accordance with the requirements of this AD.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections and replacement of parts required by this AD.

D. Upon the request of an operator, an FAA Maintenance Inspector, subject to approval by the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that

operator if the request contains substantiating data to justify the change for that operator.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Canadair Limited, Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

This Amendment becomes effective September 8, 1986.

Issued in Seattle, Washington, on July 25, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17298 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-154-AD; Amdt. 39-5375]

Airworthiness Directives; McDonnell Douglas Corporation Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires purging of wing spar mounted fuel fire shutoff valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. This AD is prompted by reports of restricted movement of emergency fire handles that are necessary for emergency fuel shutoff and to discharge the fire agent. This AD is necessary to reduce the potential unsafe condition resulting from the loss of fuel shutoff and fire extinguishing capabilities.

EFFECTIVE DATE: August 18, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: Four operators have reported twenty-three instances where the wing spar mounted fuel fire shutoff valves could not be closed. Investigation revealed that water, which is usually present in the fuel, can accumulate and freeze in the valve mechanism cavity. Nineteen instances occurred on engine No. 2, and four on engine No. 1. Examination of these valves revealed that water in the fuel can accumulate and freeze in the actuating mechanism cavity and valve gate groove. Ice formation in either one of those locations can prevent the valve from closing completely. Partial closure of the valve can prevent the full travel of the flight compartment emergency fire handle, which is necessary to shutoff the fuel and engage the electrical switch used to discharge the fire agent. Inability to shutoff the fuel and discharge the firex bottles due to malfunction of the fuel fire shutoff valve could result in an uncontrolled engine fire.

AD 86-09-10 was issued April 30, 1985, to require draining and grease packing of wing spar mounted and aft fuselage mounted fuel fire shutoff valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. The AD was prompted by reports of restricted movement of emergency fire handles that are necessary to discharge the fire agent. The AD was necessary to reduce the potential unsafe condition resulting from the loss of fuel shutoff and fire extinguishing capabilities. Investigation had shown that water can accumulate in the valve body cavity and in the gate groove. AD 86-09-10 addressed the body cavity problem. This AD addresses the gage groove accumulation and requires purging the wing spar mounted valves which will minimize the possibility of ice forming in the valve gate grooves.

McDonnell Douglas Alert Service Bulletin A28-55, Revision 1, dated July 17, 1986, has been issued to provide operators with instructions on how to purge the fuel fire shutoff valves.

The FAA is considering further regulatory action that will constitute terminating action for AD 86-09-10 and this AD.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive purging of the fuel fire shutoff valves in accordance with the Alert Service Bulletin metioned above.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not requied).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, certificated in any category. To preclude a potential unsafe condition from loss of fuel shutoff and fire extinguishing capabilities, accomplish the following within the next 30 days after the effective date of this AD, unless accomplished within the last 15 days:

A. Perform an initial purging of the wing spar mounted engine No. 1, No. 2, and No. 3 fuel fire shutoff valves in accordance with the gate groove purging procedure specified in McDonnell Douglas DC-10 Alert Service Bulletin A28-55, Revision 1, dated July 17, 1986.

B. Repeat the valve gate groove purging in accordance with the above alert service bulletin at intervals not to exceed 45 days, or 500 hours' time in service, whichever occurs first.

C. An alternate means of compliance with this AD which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base for accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective August 18, 1986.

Issued in Seattle, Washington, on July 22, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17296 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-171-AD; Amdt. 39-5376]

Airworthiness Directives; SAAB Fairchild Corporation Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends and publishes in the Federal Register, and makes effective as to all persons, an amendment adopting a new airworthiness directive (AD), which was previously made effective as to all known U.S. owners and operators of SAAB Fairchild Corporation Model SF-340A series airplanes by individual telegrams. This AD requires a series of operating restrictions in response to reports of engine flameouts. This action is necessary to prevent engine flameouts which may occur during flight in icing conditions. Terminating action for certain of the operation restrictions is also provided.

EFFECTIVE DATE: August 18, 1986.

This AD was effective earlier to all recipients of telegraphic AD T85-26-51, dated December 31, 1985. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from SAAB Scania, Product Support, S-58188, Linkoping, Sweden. This information may be examined at the Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Within the last year, there have been five reports of engine flameout during cruise and descent between 11,000 and 16,000 feet altitude and at an ambient temperature of between minus 5 degree centigrade, and plus one degree centigrade in icing conditions. In all cases, the engines were startable, even though in some cases minor compressor damage was noted. This condition, if not corrected, could result in a single or dual engine flameout in a critical phase of flight.

Emergency telegraphic AD T85-24-51, issued November 29, 1985, required revision of the FAA approved airplane flight manual (AFM) to impose new operating restrictions and repetitive engine inlet inspections for flight in icing conditions. Following issuance of this AD, an additional engine flameout incident occurred with prompted the FAA to issue emergency telegraphic AD T85-25-52 on December 10, 1985, which superseded AD T85-24-51. This AD imposed further operating restrictions, which prohibited all revenue flight and non-revenue flight in instrument meteorological conditions (IMC), or known or forecasted icing conditions.

Following issuance of AD T85-25-52, the FAA determined that certain flight operations prohibited by this AD could be conducted safely if certain inspections and modifications were accomplished, and if flight in known or forecasted icing conditions, or conditions in which icing could reasonably be expected to occur was prohibited. Telegraphic AD T85-25-57, which superseded AD T85-25-52, was issued on December 20, 1985, and allowed the airplanes to be used for limited operation.

Since the issuance of AD T85-25-57, the manufacturer completed additional investigations, which more clearly define the impact of an engine flameout and re-ignition during critical phases of flight. As a result, the FAA determined that additional flight operations could be conducted safely. AD T85-26-51 issued on December 31, 1985, superseded AD T85-25-27, and modified its provisions by removing the restrictions against operating the airplane in icing conditions or in other than day visual flight rule conditions below 10 degrees centigrade, and by imposing takeoff restrictions and requirements for further inspections, and modifications intended to reduce the possibility of engine flameout.

After AD T85-26-51 was issued, it was determined that the restriction against takeoff in slush conditions could be removed if Modification 1185, as described in SAAB Fairchild Service Bulletin SF340-54-002, Revision 1, dated April 3, 1985, was accomplished. This amendment removes the restriction on takeoff in slush from AD T85-26-51 if the modification has been accomplished.

It has also been determined that, as a result of testing conducted, that the 10° C threshold restriction for operation of the anti-icing system can be removed if Modification 1319, as described in SAAB Fairchild Service Bulletin SF340-71-017, dated November 22, 1985, has been accomplished. This amendment removes the 10° C threshold restriction from AD T85-26-51 if the modification has been accomplished.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 29, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

VOL 51 ISS 148 AG 1 1986 UMI

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

SAAB Fairchild: Applies to all Model SF-340A series airplanes, certificated in any category. Compliance as shown below. To minimize the hazards associated with engine flameout due to potential ice ingestion, accomplish the following, unless previously accomplished:

A. Prior to further flight, install a continuous ignition switch by incorporating the provisions of SAAB Fairchild SF-340 Service Bulletin SF340-74-002, Revision 1, dated December 15, 1985.

B. Incorporate the following into the limitations section of the airplane flight manual. This may be accomplished by including a copy of this AD in the airplane flight manual.

1. Takeoff in conditions of slush on the runway is prohibited unless Modification 1185, "Nacelle—Exhaust Nozzle—Improved Drainage and Ventilation of Inlet Protection Device (IPD) and Special Inspection," as described in SAAB Fairchild Service Bulletin SF340-54-002, Revision 1, dated April 3, 1985, has been accomplished.

2. Turn the engine and propeller anti-ice systems on and set the ignition ("IGN") switch to the continuous ("CONT") position during all operation in which icing could reasonably be expected to occur and for a period of five minutes after these conditions no longer exist.

3. In the definition of icing conditions stated in the FAA approved flight manual on page 2-11, change the temperature stated in "Icing Conditions," paragraph 1, line 4, from "5° C" to "10° C," unless Modification 1319, "Installation of New Lower Inlet, IPD and Exhaust Nozzle," as described in SAAB Fairchild Service Bulletin SF340-71-017 dated November 22, 1985, has been accomplished. If this modification has been accomplished, "5° C" can remain in the definition.

C. Conduct engine performance monitoring in accordance with General Electric Operating Engineering Bulletin (OEB) 2, Revision 4, dated December 14, 1985, or later FAA-approved revision.

D. Prior to further flight, and at intervals specified in General Electric OEB 4, Revision 4, dated December 14, 1985, or later FAA-approved revisions, perform an inspection and perform maintenance, as necessary, of the ignition system in accordance with that OEB.

E. Unless Modification 1319, as described in paragraph B.3., above, has been accomplished, in the event of an icing encounter, an inspection must be accomplished prior to the next departure to assure that no snow, ice, or slush accumulation is present in or around the inlet or the inlet protection device.

F. Following each flameout or re-ignition event, conduct an inspection of Stage 1 compressor blades, in accordance with General Electric OEB 4, Revision 4, dated December 14, 1985, or later FAA-approved revisions.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to SAAB Scania, Product Support, S-58188, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 18, 1986.

As to all persons, except those persons to whom it was made immediately effective by telegraphic AD T85-26-51, issued December 31, 1985.

This supersedes telegraphic AD T85-25-87 issued December 20, 1985.

Issued in Seattle, Washington, on July 25, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17300 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1204 is amended by revising the authority citation for § 1204.504, "Delegation of Authority to Grant Leaseholds, Permits, and Licenses in Real Property." Section 1204.504 is also revised to reflect NASA's current organization.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, 202-453-1950.

SUPPLEMENTARY INFORMATION: Since this revision involves only agency organization and management procedures, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1204

Airports, Authority delegation (Government agencies), Federal buildings and facilities, Government contracts, Government employees, Government procurement, Grant programs science and technology, Intergovernmental relations, Labor unions, Security measures, Small businesses.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

For reasons set out in the Preamble, 14 CFR Part 1204 is amended as follows:

1. The authority citation for Subpart 5 is revised to read as follows:

Authority: 42 U.S.C. 2473.

2. Section 1204.504 is revised to read as follows:

§ 1204.504 Delegation of authority to grant leaseholds, permits, and licenses in real property.

(a) *Delegation of authority.* The National Aeronautics and Space Act of 1958, as amended, authorizes NASA to grant leaseholds, permits, and licenses in real property. This authority is delegated to the Associate Administrator for Management and the Director, Facilities Engineering Division.

(b) *Definition.* "Real Property" means land, buildings, other structures and improvements, appurtenances, and fixtures located thereon.

(c) *Determination.* It is hereby determined that grants of leaseholds, permits, or licenses made in accordance with the provisions of this section will not be adverse to the interests of the United States.

(d) *Redelegation.* (1) The Directors of Field Installations with respect to real property under their supervision and management may, subject to the restrictions in paragraph (e) of this

section, grant a leasehold, permit, or license to any person or organization, including other Government agencies, a State, or political subdivision or agency thereof. This authority may not be exercised with respect to real property which is (i) excess within the meaning of 40 U.S.C. 472(e), or (ii) proposed for use by a NASA exchange and subject to the provisions of NASA Management Instruction 9050.6, NASA Exchange Activities.

(2) The Directors of Field Installations may redelegate this authority to only two senior management officials of the Field Installation concerned.

(e) *Restrictions.* Except as otherwise specifically provided, no leasehold, permit, or license shall be granted under the authority stated in paragraph (d) of this section unless:

(1) The Director of the Field Installation concerned determines:

(i) That the interest to be granted is not required for a NASA program.

(ii) That the grantee's exercise of rights granted will not interfere with NASA operations.

(2) Fair value in money is received by NASA on behalf of the Government as consideration.

(3) The instrument provides:

(i) For a term not to exceed 5 years.

(ii) For the termination thereof, in whole or in part, and without cost to the Government if there has been:

(A) A failure to comply with any term or condition of the grant; or

(B) A determination by the Associate Administrator for Management, the Director, Facilities Engineering Division, or the Director of the Field Installation concerned that the interests of the national space program, the national defense, or the public welfare require the termination of the interest granted; and a 30-day notice, in writing, to the grantee that such determination has been made.

(iii) That written notice of termination shall be given to the grantee, or its successors or assigns, by the Associate Administrator for Management, the Director, Facilities Engineering Division, or the Director of the Field Installation concerned, and that termination shall be effective as of the date specified by such notice.

(iv) For any other reservations, exceptions, limitations, benefits, burdens, terms, or conditions necessary to protect the interests of the United States.

(f) *Waivers.* If, in connection with a proposed grant, the Director of a Field Installation determines that a waiver from any of the restrictions set forth in paragraph (e) of this section is appropriate, r request may be submitted to the Associate Administrator for Management or the Director, Facilities Engineering Division.

(g) *Services of the Corps of Engineers.* In exercising the authority herein granted, the Directors of Field Installations, pursuant to the applicable provisions of any cooperative agreement between NASA and the Corps of Engineers (in effect at the time), may:

(1) Utilize the services of the Corps of Engineers, U.S. Army.

(2) Delegate authority to the Corps of Engineers to execute, on behalf of NASA, any grants of interests in real property as authorized in this section provided that the conditions set forth in paragraphs (e) and (f) of this section are complied with.

(h) *Distribution of Documents.* One copy of each document granting an interest in real property, including instruments executed by the Corps of Engineers, will be forwarded for filing in the Central Depository for Real Property Documents to: National Aeronautics and Space Administration, Real Estate Management Branch (Code NXG), Facilities Engineering Division, Washington, DC 20546.

James C. Fletcher,

Administrator.

[FR Doc. 86-17307 Filed 7-31-86; 8:45 am]

BILLING CODE 7510-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5, 16, and 33

Domestic Exchange-Traded Commodity Options; Revisions to Rules for Trading Non-Agricultural Option Contracts and Termination of Pilot Program Status

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effective date of rule amendment.

SUMMARY: On May 13, 1986, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** various amendments to the rules governing option trading (51 FR 11905). In particular, these amendments terminated the pilot status of the program for the trading of options on futures contracts on other than domestic agricultural commodities and made permanent the status of such trading. In that **Federal Register** notice, the Commission indicated that, with the exception of the amendments to Part 16 which become effective on September 10, 1986, these amendments would become effective following the expiration of 30 calendar days of continuous session of Congress after the transmittal of the rule amendments and related materials to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and the publication in the **Federal Register** of a notice of the effective date of the rule amendments.

The Congressional review period specified in section 4c(c) of the Act (7 U.S.C., 6c(c)) has now expired. Accordingly, the Commission is providing notice that the amendments to Parts 1, 5, and 33 of its regulations as published at 51 FR 17464 have become effective.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-6990.

List of Subjects in 17 CFR Part 33

Commodity options, Commodity futures, Commodity exchange designation procedures.

Issued in Washington, DC, on July 29, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17368 Filed 7-31-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 270, 271, and 284

[Docket Nos. RM86-3-006, RM86-3-062]

Ceiling Prices; Old Gas Pricing Structure

Issued July 28, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Petitions for Stay of Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order denying petitions for an immediate stay of the final rule that establishes new ceiling prices under sections 104(b)(2) and 106(c) of the Natural Gas Policy Act of 1978, and provides for "good faith negotiation" procedures, and certain implementing

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authorizations. The Commission finds, in its order, that the petitioners requesting an immediate stay have not shown that such extraordinary relief is warranted. The final rule became effective July 18, 1986, and was on that day stayed by the Commission until July 30, 1986 (51 FR 27018), pursuant to a request from the United States Court of Appeals for the Eighth Circuit.

DATE: This order was issued July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8224.

SUPPLEMENTARY INFORMATION: On June 6, 1986, the Commission issued Order No. 451[1] establishing new ceiling prices under sections 104(b)(2) and 106(c) of the Natural Gas Policy Act of 1978 (NGPA)[2] and adopting regulations governing implementation of the revised pricing structure. Of the approximately sixty applications for rehearing that have been timely filed with the Commission, a small number included requests for stay of the effectiveness of Order No. 451. The Commission is denying the requests of KN Energy, Inc. (KN), [3] and certain Florida Cities (Cities) for an immediate stay of the effectiveness of the order.[4]

Petitioners argue that under Order No. 451, pipelines will be compelled to enter into price renegotiations with their producer suppliers at substantial and impermissible disadvantages, namely: (1) The pipelines becoming common carriers as of November 1, 1986; and (2) the producer suppliers possessing the right to initiate unilateral negotiations with third parties for higher gas prices.[5] Petitioners allege that Order No. 451 will result in financial harm to customers of pipelines, in the form of gas price increases, with concomitant substantial dollar losses to the pipelines as a result of loss of load. On the other hand, petitioners allege, the only parties who arguably would be harmed if Order No. 451 is stayed are natural gas producers. Finally, according to petitioners, failure to grant a stay of the rule pending rehearing or judicial review would allow the Commission to continue to exceed its legal authority and therefore cause irreparable damage to the pipeline industry and consumers at large.

In reviewing a request for a stay, the Commission applies the standard set forth in the Administrative Procedure Act, 5 U.S.C. 705 (1982), *i.e.*, if the Commission finds that "justice so requires." If this standard is not met, this Commission follows a general policy of denying motions for stays of its orders, based on the need for definitiveness and finality in administrative proceedings.[6]

The Commission is not persuaded by petitioners' arguments to stay the effectiveness of its regulations.

First of all, petitioners have not shown that implementation of the Order No. 451 regulations will cause imminent, irreparable harm to them or will not otherwise be in the public interest in its impact on consumers or the natural gas industry in general. Because of the importance of the rule for consumers and the industry, the Commission provided a transition period for parties to natural gas contracts to voluntarily determine if, when, and under what terms to renegotiate their gas prices under the new ceiling price established by Order No. 451. For this reason, new § 270.201(b) of the Commission's regulations prevents any producer from initiating renegotiation under the "good faith negotiation" procedure in Order No. 451 until November 1, 1986.

In addition, by using all the time provided for renegotiation under new § 270.201 of the Commission's regulations, the purchaser, at its discretion, may extend the negotiation procedure until late winter, 1987 even for price renegotiation initiated as early as November 1, 1986. During this time, then, a producer of sections 104 and 106(a) gas may not charge a price up to the new ceiling price under an existing contract with its pipeline purchaser unless the price is agreed to by the existing purchaser. Therefore, such producer must continue to sell the gas to the purchaser during this period as well as prior to November 1, 1986 under the same contractual terms and conditions that applied before Order No. 451. *See* new § 271.402(c)(7) of the Commission's regulations, 51 FR 22220 (June 18, 1986). Thus, Order No. 451 will not cause petitioners imminent, irreparable harm because the final rule in fact ensures that a purchaser will not be compelled to negotiate or pay a higher price for gas under the new ceiling price, unless it agrees to do so.

Likewise, the Commission finds that the transportation provisions in Order 451 will not cause imminent, irreparable harm to the petitioners, because the availability of such transportation is expressly delayed at the discretion of existing pipeline purchasers until the gas to the transported is released due to termination of purchases or abandonment under the "good faith negotiation" procedure. *See* new § 270.201(b) of the Commission's regulations. Because under the good faith negotiation procedure, an existing purchaser can delay the termination of purchases or abandonment of gas at its discretion as much as 90 to 120 days following a producer's initiation of renegotiation after November 1, 1986, the transportation provisions in Order No. 451 cannot even take effect over the objection of a purchaser before late winter, 1987, at the earliest.

On the other hand, the Commission finds that delaying Order No. 451 pending rehearing or judicial review would adversely affect the reliability of gas supplies for current and future consumers, and potentially result in the permanent loss of substantial reserves of old gas. The Commission believes that raising the ceiling price for all old gas to that permitted for post-1974 gas will substantially increase recoverable reserves of old gas, because the additional revenue on pre-1975 wells should permit those wells to produce to lower pressure levels. The increase in reserves will be substantial and the DOE prediction of an approximately 11 Tcf increase is the most convincing analysis in the record of what that increase will be. *See* Order No. 451, 51 FR 22191-94 (June 18, 1986).

Furthermore, the Commission has found that the existing ceiling price structure for old gas is the primary cause of continuing price distortions to consumers in natural gas markets. The old gas price structure, therefore, is

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[1] 51 FR 22,168 (June 18, 1986).

[2] 15 U.S.C. 3314(b)(2) and 3316(c) (1982).

[3] On July 1, 1986, KN filed a petition in the United States Court of Appeals for the Eight Circuit requesting a writ of prohibition or, alternatively, a writ of mandamus directing the Commission to vacate Order No. 451. On July 17, 1986, KN filed a motion requesting that Court to stay the effectiveness of Order No. 451 pending disposition of its petition for a writ. On July 18, 1986, in response to a request by the Court, the Commission stayed the effectiveness or Order No. 451 until July 30, 1986. (51 FR 27018) The Commission, of course, recognizes the Court's authority in this case; accordingly, in acting on the stay applications filed with the Commission, the Commission means simply to exercise its own jurisdiction as it relates to the stay petitions filed with it.

[4] In addition, several applicants requested a stay in the event their applications for rehearing were denied. These include the American Public Gas Association in Docket No. RM86-3-004, the Interstate Power Council in Docket No. RM86-3-012, the Northern Distributor Group in Docket No. RM86-3-013, and Laclede Gas Company in Docket No. RM86-3-009. These requests cannot be acted upon until the Commission has evaluated the arguments raised and issued its order on rehearing.

[5] KN Application for Rehearing and Request for Stay at 43; *see also* Florida Cities' Request for Rehearing and Stay of FERC Order No. 451, filed July 7, 1986, Docket No. RM86-3-002, at 33. with

[6] *See, e.g.*, Arkansas Louisiana Gas Co., 23 FERC ¶ 61,324 (1983).

unjust and unreasonable within the meaning of the Natural Gas Act. To delay the effectiveness of Order No. 451 would only perpetuate the existing unjust and unreasonable ceiling price structure and its harm to consumers and the industry alike. Delaying the rule would also delay the just and reasonable price structure which the Commission is obligated to fix under its Natural Gas Act and NGPA authority once the existing prices have been found unjust and unreasonable. *See* 51 FR 22179–90 ("B. Deficiencies in Old Gas Price Structure"; "C. Proposed Old Gas Ceiling Price"). For these reasons, the Commission finds that staying the effectiveness of Order No. 451 would not be in the public interest and would unjustifiably delay the market-responsive pricing and supply benefits to consumers intended by the final rule.

The Commission looks to "the interests of the market as a whole . . . in the determination of how the public's needs are best served." [7] Initially there may be some adjustment required by some participants in the gas market that benefited from the distortions inherent in the old vintage-based ceiling price structure. However, consumers in the recent past suffered shortages and higher prices under the current price system for old gas, and these distortions would cause more damage to consumers in the future, if existing reserves continue to be sold at less than replacement cost. Keeping old gas ceiling prices below replacement cost would revive shortages and high prices for future generations of consumers.

The Commission has chosen to price old gas at its replacement cost, while at the same time requiring producers and pipelines under existing contracts which authorize higher prices to go through the "good faith negotiation" procedure before the producer may sell the gas to any other purchaser. Under this balance in Order No. 451, the overall competitive benefits of more accurate price signals, coupled with the long-term benefits of enhanced supplies of existing gas reserves, will outweigh the risks of any isolated price increases on individual pipeline systems. As an added protection, the Commission intends to scrutinize purchased gas adjustment (PGA) filings by pipelines very carefully, to assure that filings are not based on the worst possible outcome of negotiations under the final rule. The Commission will exercise its suspension authority liberally to assure that PGAs track actual gas costs as realistically as possible. *See* Order No. 451, 51 FR 22203 (June 18, 1986).

In light of the foregoing, the Commission finds that justice does not require further postponing the effective date of Order No. 451, and the petitions for a stay are denied. However, these denials are without prejudice to the Commission's consideration of the merits of KN and Cities' requests for rehearing filed before the Commission.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17324 Filed 7–31–86; 8:45 am]

BILLING CODE 6717-01-M

[7] Felmont Oil Corp. and Essex Offshore, Inc., Docket No. CI84–10–000, Opinion No. 245, 33 FERC ¶ 61,333 at 61,657 (1985).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 440, and 442

[Docket No. 86N–0269]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by making an updating and two minor noncontroversial technical changes in certain regulations providing for accepted standards of antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations.

DATES: August 1, 1986; comments, notice of participation, and request for hearing by September 2, 1986; data, information, and analyses to justify a hearing by September 30, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Norton, Center for Drugs and Biologics (HFN–815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by making an updating and two minor noncontroversial technical changes in certain antibiotic drug regulations that provide for the accepted standards of antibiotic and antibiotic-containing drugs intended for human use. To aid the reader in understanding the types of amendments included in this document, the amendments have been grouped into two general classes for discussion in this preamble: updating and technical changes.

Updating

In § 436.201(b)(1), the fourth sentence is revised to provide for the use of commercially prepared pyridine-free Karl Fischer reagent.

Technical Changes

1. In § 440.13a(a)(1)(vi), the pH range for sterile carbenicillin disodium (6.5 to 8.0) is revised to read 6.0 to 8.0. One manufacturer has submitted adequate data to support this revision. The agency has contacted the only other manufacturer and this firm supports the revision.

2. In § 442.14a(b)(1), the microbiological agar diffusion and the hydroxylamine colorimetric assays are replaced with a high-pressure liquid chromatographic assay for determining the potency of sterile cefoxitin sodium. The sole manufacturer has submitted adequate data to support this revision.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, shall become effective August 1, 1986. However, interested persons may, on or before September 2, 1986, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file

objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before September 2, 1986, a written notice of participation and request for hearing, and (2) on or before September 30, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics.

21 CFR Part 442

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 436, 440, and 442 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. Section 436.201 is amended in paragraph (b)(1) by revising the fourth sentence to read as follows:

§ 436.201 Moisture determination.

* * * * *

(b) *Reagents*—(1) *Karl Fischer reagent.* * * * (A commercially prepared Karl Fischer reagent, pyridine containing or pyridine-free, may be used.) * * *

* * * * *

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR Part 440 is revised to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

§ 440.13a [Amended]

4. Section 440.13a *Sterile carbenicillin disodium* is amended in paragraph (a)(1)(vi) by changing "6.5" to read "6.0."

PART 442—CEPHA ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR Part 442 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

6. Section 442.14a is amended by revising paragraph (b)(1) to read as follows:

§ 442.14a Sterile cefoxitin sodium.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.347 of this chapter, preparing the working standard and sample solutions and calculating the cefoxitin content as follows:

(i) *Working standard solution.* Dissolve an accurately weighed portion of the cefoxitin working standard with distilled water to obtain a solution containing 1 milligram of cefoxitin per milliliter.

(ii) *Sample solutions.* Dissolve an accurately weighed portion of the sample with distilled water to obtain a solution containing 1 milligram of cefoxitin per milliliter (estimated); and also if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with distilled water to obtain a solution containing 1 milligram of cefoxitin per milliliter (estimated).

(iii) *Calculations*—(*a*) Calculate the cefoxitin content in micrograms per milligram as follows:

$$\text{Micrograms of cefoxitin per milligram} = \frac{A_u \times P_s}{A_s \times C_u}$$

where:

A_u = Area of the cefoxitin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefoxitin peak in the chromatogram of the cefoxitin working standard;

P_s = Cefoxitin activity in the cefoxitin working standard solution in micrograms per milliliter; and

C_u = Milligrams of sample per milliliter of sample solution (estimated).

(*b*) Calculate the cefoxitin content of the vial as follows:

$$\text{Milligrams of cefoxitin per vial} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the cefoxitin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefoxitin peak in the chromatogram of the cefoxitin working standard;

P_s = Cefoxitin activity in the cefoxitin working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

* * * * *

Dated: July 25, 1986.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 86-17365 Filed 7-31-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

Contract Procedures—Advertising for Bids; Noncollusion Affidavit Requirement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising its regulation on contract procedures regarding advertising for bids. The

revised regulation will require all persons submitting bids on a Federal-aid highway project to submit with each bid an affidavit of noncollusion. The submission of an affidavit of noncollusion serves to notify bidders that collusion in bidding is a violation of law and will serve in a court or administrative hearing as evidence of intent when other evidence that demonstrates the act of collusion is presented.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Bob B. Myers, Chief, Construction and Maintenance Division (202) 366–0392, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET. Monday through Friday.

SUPPLEMENTARY INFORMATION: The requirement for the submission of an affidavit of noncollusion is necessary to protect the integrity of the Federal-aid highway program. The authority to issue and implement regulations necessary to carry out the statutory requirements of the program has been delegated by the Secretary to the Federal Highway Administrator. The submission of an affidavit is currently required from the low bidder prior to award of the final contract, but this does not address the problem of collusion among those who are not awarded the contract. A common collusion situation involves participation by both the low bidder and other bidders who submit "complementary" bids. Bidders who are not currently required to file an affidavit of noncollusion may be acting in conjunction as partners with the low bidder.

The Antitrust Division of the U.S. Department of Justice feels that requiring all bidders to submit affidavits of noncollusion will promote several important enforcement objectives of the Antitrust Division as follows:

First, the prosecution of firms that submit non-winning "complementary" or "cover" bids for violating the Sherman Act would be greatly facilitated.

Second, the affidavit serves as evidence of criminal intent and fraud.

Third, noncollusion affidavits may also provide the basis for a combined Sherman Act and mail fraud of false statement prosecution.

Finally, the affidavit requirement plays a worthwhile educational and deterrent role.

States will be required to provide the form for the affidavit to each prospective bidder for inclusion in the bid package. Any bid submitted without the required affidavit would be considered nonresponsive. All States except Maine now require all bidders to submit noncollusion affidavits with their bids.

A notice of proposed rulemaking was published in the Federal Register on Mach 27, 1985, at 50 FR 12037, in which the FHWA requested comments on the proposed regulation revisions. Comments were to be received on or before May 28, 1985. Only seven written comments were received in the docket. Of the seven comments, three were from State highway agencies and the others were from highway associations and individuals. The three highway agencies supported the rule changes, whereas the other commenters felt the requirement was unnecessary, redundant, and a waste of time and money. One of those opposing the rule change further suggested that the proposed FHWA requirement should only apply to States that do not include the affidavits in their bidding documents. The FHWA does not feel this would be desirable. A requirement such as this should apply to all States. It would also serve as a uniform standard for the States to follow.

The submission of affidavits by all bidders has been suggested by the FHWA for several years. Many States have realized the worth of having the affidavit since the FHWA started promoting the practice.

Requiring the affidavit only codifies prior FHWA guidance. It is appropriate to follow through with this rulemaking even though 49 States have the requirement. It is also desirable to have a uniform Federal requirement rather than several State requirements that may be subject to revision or withdrawal.

Although they supported the proposed rule changes, two State highway agencies suggested that changes be made in order to simplify the procedures and cut paperwork. The first suggestion was to delete the reference to Title 23, United States Code, section 112(c), in the advertised specification. In this way, States could use the same specification language for both Federal-aid and non-Federal projects. The FHWA agrees that it is not necessary to reference Title 23, U.S.C., in the regulation, as the intent of the statute is met. The rule has been revised accordingly.

The other suggestion was to delete the requirement to have the affidavits sent to the FHWA, or alternatively, to advise the FHWA for each project that the statements are on file with the State highway agency. The FHWA agrees that it is unnecessary to receive copies of each bidder's affidavit. It is also felt to be unnecessary to mention in each award approval letter submitted to the FHWA that the affidavits are on file at the highway agency. Since the affidavits must be submitted in order to make the contractor's bid responsive, it is not necessary to require any further documentation submittal to the FHWA. The rule has been revised to delete this requirement.

No other changes to the rule are being proposed or appear to be warranted.

Therefore, based on a further review and with consideration given to the comments submitted to the public docket, the revisions, as proposed and further modified to the extent discussed above, are adopted in this final rule.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Only minimal impact on the affected States and public would be expected. Any additional costs would be more than offset by the potential savings in Federal-aid funds created by the avoidance of bid collusion. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action will not have a significant impact on a substantial number of small entities and that the preparation of a full regulatory evaluation is not required.

In consideration of the foregoing, the FHWA hereby amends Part 635, Subpart A of Chapter I of Title 23, Code of Federal Regulations, by revising § 635.107 to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 635

Bidding procedures, Government contracts, Grants programs—Transportation, Highways and roads.

Issued on: July 25, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures [Amended]

The FHWA hereby amends Part 635, Subpart A of Chapter I of Title 23, Code of Federal Regulations, as follows:

1. The authority citation for Part 635 is revised to read as follows:

Authority: 23 U.S.C. 112, 113, 114, 117, 128, and 315; 31 U.S.C. 6506; 42 U.S.C. 3334, 4601 *et seq.*; 49 CFR 1.48(b).

2. Section 635.107(i) is revised to read as follows:

§ 635.107 Advertising for bids.

* * * * *

(i) The State highway agency shall include a statement substantially as follows in the advertised specifications:

Each bidder shall file a sworn statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths. The required form for the affidavit will be provided by the State to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

[FR Doc. 86-17327 Filed 7-31-86; 8:45 am]
BILLING CODE 4910-23-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approved State Plans for Enforcement of State Standards Approval of Supplement to the California State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; Approval of Supplement to the California State Plan.

SUMMARY: This document gives notice of Federal approval of a State plan supplement concerning California's Cooperative Self-Inspection Program.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

A. Background

The California Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and 29 CFR Part 1902 on May 1, 1973 (38 FR 10717). Part 1953 of this Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

B. Description of Supplement

On February 28, 1985, Ron Rinaldi, Director, California Department of Industrial Relations, submitted a plan change supplement concerning California's Cooperative Self-Inspection Program (CSIP). In response to Federal review and to internal State evaluation, the State made changes in its program and submitted a revised supplement on December 11, 1985. The State's CSIP is comparable to the Federal Voluntary Protection Programs as described in the Federal Register on July 2, 1982 (47 FR 29025). CSIP's purpose is to improve safety and health conditions through a cooperative approach. Workplaces participating in CSIP are removed from scheduled inspection lists, although inspections are still conducted in response to employee complaints or accidents. A non-enforcement State representative will be assigned to each participating site as a resource person.

In order to be approved for CSIP, an employer must meet several requirements. The employer's history of inspections and abatement must indicate good faith attempts to improve safety and health conditions. Employers must agree to correct all hazards in a timely manner. When a site has a significant portion of its employees organized by one or more collective bargaining agents, the recognized agent(s) must either sign the application or submit a signed statement expressing no opposition to participation in the program. Employers must assure that employees will not be discriminated against for exercising their occupational safety and health rights, including participation in CSIP activities such as labor-management committees. There are also specific requirements for participation in each of the State's two CSIP programs, Cal/Star (comparable to the Federal Star program) and Reach (comparable to the Federal Try program).

The Cal/Star Program's purpose is to recognize leaders in occupational safety and health programs who have been successful in reducing workplace hazards and to encourage others to work toward similar levels of success. The term for participation in the Cal/Star program is unlimited, contingent upon continued favorable review of injury/illness incidence rates, and lost workday rates and on-site evaluation of all program elements every three years. In the construction industry, participation ends with the completion of construction work at the site.

An applicant must have had a minimum of one year's operational experience with a safety and health program which meets the Cal/Star requirements. Qualification for Cal/Star participation include: a demonstrated top-level commitment to occupational safety and health; injury and illness rates below a specified level; access to professional expertise; line accountability; job hazard review, and a written safety and health program which includes routine self-inspections, safety and health training, and program evaluation. Construction sites must utilize the labor-management committee approach to the identification and correction of hazards, while general industry sites must have either a labor-management committee or an equally effective means of employee participation.

The Reach Program is aimed at employers in any industry who have not yet met the qualifications for the Cal/Star Program but who wish to work toward Cal/Star participation. A Reach Program will be approved for a period of time agreed upon in advance of approval. The term will be dependent upon how long it is expected to take the applicant to accomplish the goals for Cal/Star participation. Participation will be cancelled at the end of the term.

An eligible applicant for participation in the Reach Program must have certain program elements operational or, at a minimum, in place and ready for implementation by the date of approval. These include: top-level management commitment to occupational safety and health; specified injury and illness rates; access to professional experties; and a written safety and health program. Improvements in any of these areas which are not of Cal/Star quality, as well as the other requirements for Cal/Star, must be set as program goals.

Although this general plan supplement was submitted in response to a Federal program change set out in OSHA Instruction CPL 5.1 CH-1 (November 7, 1983), Voluntary Protection Programs, the State had previously instituted pilot projects at several worksites incorporating some of the features now contained in the CSIP. The sites for pilot projects included: Bechtel Power Corporation, San Onofre Nuclear Generating Station, San Clemente;

Hensel Phelps Construction Company, IBM Construction Project, San Jose; Martin Marietta Aluminum Plant, Torrance (ongoing). Establishments currently participating in the CSIP include the Pepsi Cola Bottling Plant in Fresno, and Bechtel Construction, Union Oil Refinery in Rodeo (Cal/Star), and FMC Chemical Plant of Fresno and Fletcher Oil Refinery in Carson (Reach).

C. Location of Supplement for Inspection and Copying

A copy of the State plan supplement on the California Cooperative Self-Inspection Program may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 11349 Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102; California Division of Occupational Safety and Health, Room 701, 525 Golden Gate Avenue, San Francisco, California 94102; and Director, Federal State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3476, 200 Constitution Avenue N.W., Washington, D.C. 20210.

D. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the State's Cooperative Self-Inspection Program is substantially similar to the Occupational Safety and Health Administration's Voluntary Protection Programs, meets Federal requirements and was adopted by the State after opportunity for input from interested parties. Good cause is therefore found for approval of this supplement and further public participation would be unnecessary.

E. Decision

After careful consideration, the California plan supplement described above is found to be in accordance with Federal requirements and is hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

F. List of Subjects in 29 CFR Part 1952

Occupational safety and health.

Signed this 28 day of July, 1986, in Washington, D.C.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1952—[AMENDED]

Accordingly 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 is revised to read as follows:

Authority: Secs. 8, 18, Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736).

2. Section 1952.175 is amended by adding paragraph (h) to read as follows:

§ 1952.175 Changes to approved plans.

* * * * *

(h) In accordance with Subparts C and E of Part 1953 of this chapter, the California Cooperative Self-Inspection Program was approved by the Assistant Secretary on August 1, 1986.

[FR Doc. 86–17383 Filed 7–31–86; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS BAINBRIDGE (CGN 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. TURNER, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS BAINBRIDGE (CGN 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
U.S.S. BAINBRIDGE	CGN 25	N/A	N/A	N/A	N/A	N/A	×	×	19

Dated: July 16, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-17367 Filed 7-31-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS GRIDLEY (CG 21) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS GRIDLEY (CG 21) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS GRIDLEY (CG 21) is a member of the CG 16 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS GRIDLEY (CG 21).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.)

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above the hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex 1, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex 1, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex 1, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex 1, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light not less than ¼ ship's length aft of forward masthead light. Annex 1, sec. 3(a)	Percentage horizontal separation attained
U.S.S. GRIDLEY	CG21	N/A	N/A	N/A	N/A	N/A	×	×	29

Dated: July 16, 1986.
John Lehman,
Secretary of the Navy.
[FR Doc. 86-17366 Filed 7-31-86; 8:45 am]
BILLING CODE 3810-AE-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 306

Cost of Living Adjustment of the Royalty Rate for Performance of Musical Compositions on Coin-Operated Phonorecord Players

AGENCY: Copyright Royalty Tribunal.
ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces a cost of living adjustment of the royalty rate for performance of musical compositions on jukeboxes. The annual compulsory license fee is increased to $63. The adjustment is being made in accordance with § 306.4 of the Tribunal's rules.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, DC 20036, (202) 653-5175.

SUPPLEMENTARY INFORMATION: In 1980, the Copyright Royalty Tribunal conducted a proceeding to adjust the compulsory license fee for the performance of musical compositions on coin-operated phonorecord players (jukeboxes). *1980 Adjustment of the Royalty Rate for Coin-Operated Phonorecord Players*, 46 FR 890 (January 5, 1981). The Tribunal determined that a $50 annual fee was reasonable. However, in order to ease the impact of the rate increase upon the jukebox industry, the Tribunal elected to stagger the introduction of the rate. For two years, 1982 and 1983, the rate was $25. Thereafter, the rate became $50.

The Tribunal further determined that because the $50 rate could not, under the Copyright Act, be reviewed until 1990, that the copyright owners might not be fairly compensated unless a provision was included to allow for an adjustment for inflation.

Accordingly, the Tribunal adopted provisions for a one-time inflation adjustment, § 306.4, which reads, "(a) On August 1, 1986, the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to February 1, 1981 to the last Index published prior to August 1, 1986. (b) On the same date at the notices published pursuant to paragraph (a), the CRT shall publish in the **Federal Register** a revised schedule of the compulsory license fee which shall adjust the dollar amount set forth in § 306.3(b) according to the change in the cost of living determined as provided in paragraph (a). Such compulsory license fee shall be fixed at the nearest dollar. (c) The adjusted schedule for the compulsory license fee shall become effective on January 1, 1987."

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) for the Index published July 23, 1986 to the last Index published prior to February 1, 1981 is 25.9% (June 1986's Index, published July 23, 1986 was 327.9. The Last Index published prior to February 1, 1981 was 260.5). The jukebox compulsory license fee shall be adjusted upward from $50 to $63 annually. Sections 306.3 and 306.4 are revised as shown below.

List of Subjects in 37 CFR Part 306

Copyright, Jukeboxes, Music.

PART 306—[AMENDED]

1. The authority citation for Part 306 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1); 17 U.S.C. 804(a)(2)(C).

37 CFR Part 306.3 is revised to read as follows:

§ 306.3 Compulsory license fee for coin-operated phonorecord players.

(a) Commencing January 1, 1982, the annual compulsory license fee for a coin-operated phonorecord player shall be $25.

(b) Commencing January 1, 1984, the annual compulsory license fee for a coin-operated phonorecord player shall be $50.

(c) Commencing January 1, 1987, the annual compulsory license fee for a coin-operated phonorecord player shall be $63.

(d) If performances are made available on a particular coin-operated phonorecord player for the first time after July 1 of any year, the compulsory license fee for the remainder of that year shall be one half of the annual rate of (a), (b), or (c) of this section, whichever is applicable.

§ 306.4 [Removed]

37 CFR Part 306.4 is removed.

Dated: July 28, 1986.
Edward W. Ray,
Chairman.
[FR Doc. 86-17190 Filed 7-31-86; 8:45 am]
BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3053-4]

Approval and Promulgation of Implementation Plans; Rhode Island; Temporary Sulfur-in-Fuel Revision for Seville Dyeing Corporation, Woonsocket

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is today approving a revision to the Rhode Island State Implementation Plan (SIP) which will allow Seville Dyeing Corporation in Woonsocket, Rhode Island to increase the sulfur content of its residual fuel oil for up to 30 months. The burning of less expensive, higher sulfur content fuel oil will provide this source with some of the capital it has expended to implement permanent energy conservation measures.

EFFECTIVE DATE: August 1, 1986.

ADDRESSES: Copies of the Rhode Island submittal, which is incorporated by reference, are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 2313, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC; and the Division of Air and Hazardous Materials, Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 223-4869.

SUPPLEMENTARY INFORMATION: On December 16, 1985 and January 23, 1986, the Rhode Island DEM submitted a SIP revision for Seville Dyeing Corporation, in Woonsocket, Rhode Island. The revision allows the burning of 2.2% sulfur fuel in their boilers for 30 months or less. The facility will use the savings realized during the temporary (30 months or less) utilization of less expensive 2.2% sulfur fuel oil to pay back the costs which were expended to

implement the permanent energy conservation measures. The facility will return to burning 1.0% sulfur fuel oil by February 1, 1989 or, if within the 30 month period, the savings realized from burning high sulfur oil equals or exceeds $80,750.00.

Background

This temporary sulfur-in-fuel revision is being approved pursuant to the provisions of Rhode Island Regulation No. 8, Subsection 8.3.3, "Conversion and Conservation Incentive." EPA approved the addition of this regulation to the Rhode Island SIP on March 29, 1983, (48 FR 13026). It specifies the requirements and conditions which sources must meet in order to qualify for temporary sulfur-in-fuel relaxations and the procedures which the Rhode Island Department of Environmental Management (DEM) must use to determine that the emissions will not violate any National Ambient Air Quality Standards (NAAQS). Only sources rated at less than 250 million Btu per hour heat input, which are currently burning residual fuel oil, and have made a commitment to either (a) convert to an alternate fuel, or (b) implement conservation measures, are eligible for a temporary sulfur-in-fuel revision not to exceed 30 months. Further details on the requirements of Rhode Island Regulation No. 8, Subsection 8.3.3 and EPA's reasons for approving it were discussed in a Notice of Proposed Rulemaking (NPR) published on January 4, 1983 (48 FR 274). In the NPR, EPA also proposed approval of all individual sources that meet the eligibility requirements of this regulation.

EPA Evaluation

EPA has determined that the DEM has approved Seville Dyeing Corporation's request to burn higher sulfur fuel oil in accordance with the provisions of Rhode Island Regulation No. 8, Subsection 8.3.3, and agrees that no air quality standards will be violated by the temporary burning of 2.2% sulfur fuel oil at this facility.

EPA received no comments on its January 4, 1983 (48 FR 274) proposal to approve individual sources of sulfur-in-fuel relaxations, and the DEM has satisfactorily responded to the comments it received on its proposed approval of the temporary sulfur-in-fuel relaxation at the Seville Dyeing Corporation, in Woonsocket. Since the public has had these other opportunities to comment, and since the Seville Dyeing Corporation facility is a small source (each piece of equipment is less than 250 million Btu per hour heat input), EPA is taking final action today to approve this SIP revision without first publishing a new proposed rulemaking. EPA believes that publishing a new NPR is unnecessary. EPA finds good cause for making this action effective immediately because the implementation plan is already in effect under State law and imposes no additional regulatory burden.

Final Action

EPA is approving the proposed temporary sulfur-in-fuel relaxation revision for Seville Dyeing Corporation.

Under 42 U.S.C. 605(b), the Administrator has certified that this action will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 1986. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Note.—Incorporation by Reference for the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 14, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52, Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart 00—Rhode Island

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

§ 52.2070 [Amended]

2. Section 52.2070 is amended by adding paragraph (c)(25) as follows:

§ 52.2070 Identification of Plan

* * * * *

(c) * * *

(25) A revision submitted on December 16, 1985 and January 23, 1986 allowing the burning of 2.2% sulfur content fuel oil at the Seville Dyeing Corporation facility in Woonsocket, Rhode Island for a period of up to 30 months, commencing on August 1, 1986, the savings from which will be used to pay for permanent energy conservation measures to reduce on-site consumption of petroleum products by at least 50,000 gallons per year (estimated 250,000 gallons per year).

(i) *Incorporation by reference.* (A) Letter from Doug L. McVay, Principal Engineer, to Seville Dyeing Corporation, dated December 16, 1985 allowing the temporary use of less expensive 2.2% sulfur fuel oil until February 1, 1989. At the end of the temporary use period, Seville Dyeing Corporation will return to the use of 1.0% sulfur fuel oil. The particulate emission rate for the facility will not exceed 0.15 lbs per million Btu.

(B) Letter to Louis F. Gitto, Director of Air Management Division, EPA Region I from Thomas D. Getz, Director of Air & Hazardous Materials, RI DEM dated January 23, 1986; subject: Response to EPA questions regarding Seville Dyeing Corporation, and outline of the permanent energy conservation measures to be used.

§ 52.2081 [Amended]

3. Section 52.2081 is amended by adding the following line to the table of EPA Approved Regulations:

§ 52.2081 EPA-Approved. EPA Rhode Island State regulations.

* * * * *

TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State Citation	Title/subject	Date adopted by State	Date approved by EPA	F.R. citation	52.2070	Comments/unapproved sections
•	•	•	•	•	•	•
No. 8	Sulfur Content of Fuels.	12/16/85	See note below.	See note below.	(c)(25)	Temporary relaxation for Seville Dyeing Corporation in Woonsocket
•	•	•	•	•	•	•

[FR Doc. 86-16387 Filed 8-1-86; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Amdt. G-79]

Transportation and Traffic Management

Correction

In FR Doc. 86-15005 beginning on page 24329 in the issue of Thursday, July 3, 1986, make the following corrections:

1. On page 24329, in the third column in the **SUPPLEMENTARY INFORMATION,** eighth line from the bottom, the first word should read "Administrative";

§ 101-40.101-1 [Corrected]

2. On page 24331, in the second column, in § 101-40.101-1(a), sixth line, the first word should read "contacting";

3. On the same page in the same section, in the table, in the second column, Region 5, "NM" should read "MN";

§ 101-40.103-2 [Corrected]

4. On the same page, in the third column, in § 101-40.103-2(b), seventh line, "Pub. L. 96-623" should read "Pub. L. 93-623";

§ 101-40.103-3 [Corrected]

5. On page 24332, in the first column, in § 101-40.103-3, fifteenth line, "807" should read "808";

§ 101-40.206 [Corrected]

6. On page 24334, in the third column, in § 101-40.206 introductory text, fifteenth line, insert "how" after "about";

§ 101-40.301 [Corrected]

7. On page 24335, in the third column, in § 101-40.301(a), in the "Note" following the table, third line, "as" should read "so";

8. On page 24336, in the first column, in § 101-40.301(b)(1), last line, "conterminous" was misspelled;

§ 101-40.404-1 [Corrected]

9. On page 24338, in the second column, in § 101-40.404-1(b), third line, the first word should read "officer";

§ 101-40.404-3 [Corrected]

10. On the same page, third column, amendatory instruction 55 should read "Section 101-40.404-3 is removed and the section is reserved.";

§ 101-40.408-3 [Corrected]

11. On page 24339, in the third column, in § 101-40.408-3(c)(2)(iii), fourth line, "proposed" was misspelled;

§ 101-40.409-1 [Corrected]

12. On page 24340, in the second column, in § 101-40.409-1(c), fourth line, "for" should read "or";

§ 101-40.702-3 [Corrected]

13. On page 24341, in the second column, in § 101-40.702-3(a), sixth line, the first word should read "lading";

14. On the same page, in the third column, in § 101-40.702-3(d), eleventh line, the first word should read "addressees"; and

§ 101-40.703-2 [Corrected]

15. On page 24342, in the first column (§ 101-40.703-2(a)), sixth line, the section number should read "§ 101-40.702-1(b)";

§ 101-40.703-3 [Corrected]

16. On the same page, in the first column, in § 101-40.703-3(a), 37th line, the section number should read "§ 101-40.703-2(c)";

17. On the same page and column, in § 101-40.703-3(b), third line, "as" should read "at"; and

§ 101-40.710 [Corrected]

18. On page 24343, in the first column, in § 101-40.710(a), fourteenth line, the section number should read "§ 101-40.711".

BILLING CODE 1505-02-M

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: On February 21, 1986, LSC's Board of Directors approved a new version of Part 1612 of its regulations for final publication. In revising Part 1612, it has been the purpose of the Board, consistent with Congressional intent, to remove restrictions on what programs can do in *bona fide* representation of eligible clients. The Board also believed that more stringent regulations were necessary in areas peripheral to the responsibilities of legal services programs, such as publications, training, grassroots lobbying, dues paying, and organizing. Finally, the Board sought to streamline Part 1612 by a threefold approach: Expanding the definition section; dividing old § 1612.5; and treating all LSC-derived funds consistently. Congress has been given the fifteen-day notice required by Section 606 of Public Law 99-180. This version of Part 1612 will go into effect thirty days after publication in the **Federal Register**.

EFFECTIVE DATE: September 2, 1986.

FOR FURTHER INFORMATION CONTACT: John H. Bayly, Jr., General Counsel, 400 Virginia Avenue SW., Washington, DC 20024-2751, (202) 863-1820.

SUPPLEMENTARY INFORMATION: On February 24, 1984, LSC published in the **Federal Register** (49 FR 6943) a proposed rule revising Part 1612—Restrictions on Certain Activities. Interested parties were given 30 days, until March 26, 1984, in which to submit comments. A total of 218 comments was received and considered. Of these comments, 144 were received within the comment period; the remainder were received thereafter. Of the comments, 56 were from programs funded by LSC; 13 from Congress; 20 from bar associations; 20 from state officials; 63 from legal and political foundations and coalitions; 12 from government agencies; and 34 from private attorneys, firms, and citizens.

Part 1612 was originally adopted by LSC's Board of Directors on April 28, 1984, and published in final form in the **Federal Register** on May 31, 1984 (49 FR 22651). That version of the regulation is currently in effect. On January 4, 1985, the Legal Services Corporation republished Part 1612 of its regulations for comment (50 FR 501). Numerous comments were received and considered. On February 20, 1986, the Operations and Regulations Committee of the Board of Directors approved a new Part 1612, and the Board approved a modified version the next day. Congress has been given fifteen days' notice, as required by Section 606 of Public Law 99-180. Part 1612 will go into effect thirty days after publication in the **Federal Register**.

The principle that guided creation of this new verison is whether changes would affect a *bona fide* attorney/client relationship. It has been the purpose of

the Board, consistent with Congressional intent, to remove restrictions on what programs can do in *bona fide* representation of eligible clients. At the same time, greater stringency was appropriate to areas that are peripheral to the responsibilities of legal services programs, such as publications, training, grassroots lobbying, dues paying, and organizing.

Three changes in approach have allowed the Board to streamline Part 1612: expanding the definition section; splitting up old § 1612.5; and treating all LSC-derived funds in the same fashion. The first and perhaps the most significant change in the new version is the expansion of the definition section. Where before only two terms, "legal assistance activities" and "legislation" were defined, definitions are now supplied for all the major terms used in Part 1612. Defining these terms at the outset avoids much of the confusing repetition of statutory language that made the old version difficult to follow.

In the old version of the regulation, § 1612.5 was a catchall section that lumped together all the major provisions concerning lobbying. Section 1612.5 dealt not only with prohibitions on legislative, administrative, and grassroots lobbying, but also with permissible activities (representing clients and appearing before elected officials upon request) and with various liaison activities. All of these activities are now treated in separate sections of Part 1612.

Besides lumping most of the provisions concerning lobbying into one section, the other feature that made the old version confusing was the necessity of distinguishing among different kinds of funds. Some funds were controlled by the provisions of the Act and others by the provisions of various appropriation riders. Differing treatment of "red," "blue," and "green" dollars is no longer necessary, however, after passage last year of section 112 of Pub. L. 99–180, 99 Stat. 1185, which makes the provisions of the current appropriation rider applicable to all funds derived from LSC.

Finally, the sections of the regulation have been placed in what, it is hoped, is a more logical order. In the old regulation, the restrictions on "certain other activities" (public demonstrations and activities, organizing, and training) were placed before the restrictions on lobbying. Then came the catchall section, § 1612.5, followed by two sections dealing with lobbying under Public Law 98–166 and, finally, the enforcement provision and a provision requiring posting of notices. The new version starts with lobbying and then treats other activities. It moves from the general prohibition on lobbying to various exceptions to the prohibition. Thus, after a definition section, and a section on legal assistance activities (§ 1612.2), § 1612.3 deals with legislative activities in general and § 1612.4 sets forth the general prohibition against legislative and administrative lobbying. Sections 1612.5 and 1612.6 then set forth the two major exceptions to the prohibition of lobbying: activities on behalf of eligible clients and activities undertaken pursuant to the request of public officials. Section 1612.7 sets forth the prohibition on grassroots lobbying and §§ 1612.8, 1612.9, and 1612.10 deal, respectively, with public demonstrations and activities, training, and organizing. Finally, § 1612.11 deals with accounting and timekeeping, § 1612.12 with enforcement, and § 1612.13 with certain uses of private funds. The old provision requiring posting of notices has been dropped. The significant changes effected by the regulation are summarized below.

Section 1612.1 Definitions.

The term "adjudicatory proceeding" is defined in paragraph (a) as a "proceeding . . . which makes a determination that is of particular rather than general applicability." It is used in § 1612.5(a); in § 1612.9(c); and in § 1612.11. This definition is derived from a number of sources. The definition of the term "adjudication" in its broadest sense is "an agency determination of particular rather than general applicability that affects private rights or interests." *See* 4 Mezines, Stein, & Gruff, *Administrative Law* § 31.01 (1985.) The Administrative Procedure Act defines "adjudication" as an "agency process for the formulation of an order" (5 U.S.C. 551(7)) and defines "order" as the "whole or part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, in a matter other than rulemaking but including licensing" (5 U.S.C. 551(6)). The list of organizations used in this definition—"Federal, State, or local agency, commission, authority or government corporation"—is from old § 1612.6, which was entitled "Administrative Representation under Pub. L. 98–166." In employing this definition, the Board does not ignore that an individual adjudication may have precedential value and thus, in some sense, general applicability. The definition is intended only to distinguish adjudication from rulemaking. An individual adjudication may turn out to be a test case and may have broad ramifications, but it still focuses on a particular matter. The words "federal, state, or local" as used throughout Part 1612 are intended to modify each of the words "agency, commission, authority, or government corporation." Thus the regulation refers to federal, state, or local government commissions, and federal, state, or local government authorities. The words "agency, commission, authority, or government corporation" are used to clarify that the regulation applies to any entity exercising governmental authority, whatever its name. "Government corporations," although not specifically mentioned in the statute, are treated as agencies.

The term "administrative lobbying" is defined in paragraph (b) and is used in § 1612.1 (c), (g), (j), and (k); in § 1612.4(b); and in § 1612.12. The definition tracks the language of the second paragraph of Pub. L. 99–180, the appropriation rider. The first clause of that paragraph provides that none of the funds appropriated in the Act for the Legal Services Corporation may be used "[t]o pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State or local agency." For the sake of clarifying the scope of the word "agency", several additions were made to the language of the rider, including insertion of the word "official" before the word "agency" and insertion of the words "commission, authority, or government corporation" after the word "agency."

The term "administrative representation" is defined in paragraph (c) and is used in § 1612.3 (c) and (f) and in § 1612.5 (a) and (d). In the past some have incorrectly used the word "representation" as a euphemism for "lobbying" and have spoken as if all of Part 1612 dealt with various forms of representation. Representation, however, includes only activities conducted on behalf of particular clients. It does not include such activities as those conducted pursuant to the request of a legislator. The new definitions of "administrative representation" and of "legislative lobbying", accordingly, recognize that the word "representation" can accurately describe only activities conducted on behalf of particular clients.

The term "grassroots lobbying" is defined in paragraph (d) and is used in § 1612.1 (g) (j), and (k) and in § 1612.7(a). The definition tracks the language of the first paragraph of Pub. L. 99–180, the appropriation rider. That paragraph provides that none of the funds

appropriated in the Act for the Legal Services Corporation may be used "[t]o pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency." For the sake of clarity the words "county, or municipal legislative bodies, including any commission, authority, or government corporation with rulemaking authority," have been substituted for the words "local legislative bodies." For the same reason the words "county, or municipal administrative body" have been substituted for the words "local agency." The words "or intended or designed to influence any decision by the electorate on a measure submitted to it for a vote" are added to enforce the provisions of the Act prohibiting the use of Corporate funds to influence the passage or defeat of State proposals by initiative petition (section 1007(a)(5) of the Act) and the provisions of Pub. L. 97-377 prohibiting the use of Corporate funds to influence elected officials to favor or oppose "any referendum, initiative, [or] constitutional amendment."

The term "legal assistance activities" is defined in paragraph (e) and is used in § 1612.2 and in § 1612.8 (a) and (b). The term "legal assistance" is used in § 1612.5(b); in § 1612.6(a); in § 1612.9 (b) and (b)(1); and in § 1612.10(b). Under the new definition three types of activities qualify as legal assistance activities: first, activities carried out during working hours or while on official travel; second, activities using resources provided by the Corporation or a recipient, directly or through a subrecipient; and third, activities that, in fact, provide legal advice or representation to an eligible client. The Corporation has the responsibility to track and regulate the use of the federal dollars that have been allocated to it. Clearly this responsibility included the duty to regulate how LSC money is used for travel. Accordingly, this definition has been written so that any activities engaged in by an employee on official travel fall within the scope of regulated "legal assistance activities." The Board believes, for instance, that, if provider personnel come to Washington, D.C., using Corporate funds and spend three-fourths of their time lobbying, they should not be able to escape the strictures of Part 1612 by claiming that they lobbied on their own time or during "off hours." It is important to note that this paragraph does not prevent provider personnel—or anyone else—from coming to Washington at their own expense and then doing whatever they please. It regulates only activities that are supported in whole or in part by regulated funds. Also, this section does not prohibit a staff member on an official trip from staying over, say, to visit friends. The problem addressed is the use of public funds to facilitate political activity, not time spent on activities that are personal in nature.

The term "legislation" is defined in paragraph (f) and is used in § 1612.1 (d), (h)(1), (j), (m), and (n); in § 1612.5(c); in § 1612.6 (a), (b), (b)(2), (b)(5), and (c); in § 1612.7 (b), (b)(2), and (b)(5); and in § 1612.9(a)(2). The definition expands upon the definition that appeared in old § 1612.1(b). The older definition was circular: "legislation" was "any action of . . . [a] body . . . acting in a legislative capacity." The words "acting in a legislative capacity" have been eliminated and materials from two other sources have been used to make the definition clearer. First, language has been taken from Webster's *Third New International Dictionary* (1971), where "legislation" is defined as "the exercise of the power and function of making rules (as laws, ordinances . . . edicts) having force and authority by virtue of their promulgation by an official organ of a state or other organization." Second, language has been borrowed from the Administrative Procedure Act which defines "rule" as "the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency." Administrative rulemaking is included within the category of legislation because legislation and rulemaking are essentially the same in character. In recognition of the fact that the appropriation rider treats rulemaking differently from other forms of legislation, however, a separate provision dealing with rulemaking has been included later in § 1612.5(b). As in prior versions of Part 1612, the definition of legislation specifically lists the following as examples of legislation: Action on constitutional amendments, treaties and intergovernmental agreements, approval of appointments or of budgets proposed by an executive branch official, simple resolutions not having the force of law, and approval or disapproval of execution action. This list is not exhaustive. Indian Tribal Councils are not to be considered as legislatures for the purpose of Part 1612.

The term "legislative activities" is defined in paragraph (g) and is used in § 1612.3 (a), (b), (d), (f), and (g); in § 1612.9(c); and in § 1612.11 (a) and (b). It is a broad term and encompasses administrative, legislative, and grassroots lobbying as well as liaison activities.

The term "legislative lobbying" is defined in paragraph (h) and is used in § 1612.1 (g), (i), (j), and (k); in § 1612.4 (a) and (b); and in § 1612.13. The definition tracks language contained in Pub. L. 99-180, the appropriation rider. Paragraph (h)(1) of the definition is derived verbatim from the rider as are paragraphs (h) (2), (3), and (4). Paragraph (h)(2) of the definition carries forward the language of former § 1612.7(a)(1) and defines the term "similar procedure" as legislative consideration of matters relating to the structure of government itself, such as reapportionment.

The term "legislative representation" is defined in paragraph (i) as "legislative lobbying carried out on behalf of an eligible client." It is used in § 1612.3 (c) and (f) and in § 1612.5(d).

The term "liaison activities" is defined in paragraph (j) and is used in § 1612.1(g). It means activities designed to facilitate administrative, legislative, or grassroots lobbing. The Coporation has deliberately chosen to use the more narrow words "designed to" instead of simply the word "which" in order to establish an intent standard for determining what activities constitute regulated liaison activities. The Corporation will generally characterize activities such as attending legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation as liaison activities.

The team "political activities" is defined in paragraph (k). The terms "political activities" or "political activity" are used in § 1612.3 (a), (b), (d), (f), and (g); in § 1612.8(b)(4) (in the singular); and in § 1612.9 (a)(2) and (c). The term "political activities" is defined as those activities intended either to influence the making, as distinguished from the administration, of public policy or to influence the electoral process. Political activities include favoring or opposing current or proposed public policy and also include administrative, legislative, and grassroots lobbying.

This definition reflects the generally accepted meaning of the word "political," as anything relating to governmental activities or, more narrowly "relating to . . . the making as distinguished from the administration of governmental policy" (*Webster's Ninth New Collegiate Dictionary* (1985)). It is consistent with the usage of the terms

"political activity" or "political activities" in sections 1006(b)(5), 1006(e)(1), 1007(a)(6), 1007(b)(4), 1007(b)(6) of the Legal Services Corporation Act. The argument has been made that the term as used in the Act at section 1007(a)(6)(A) should be construed narrowly as meaning involvement with elections. Under the common understanding of the term "political," however, legislative and administrative activities are political. Clearly, Congress appreciated the difference between political activity and electoral activity and would have signalled its indication for the Corporation to adopt a narrower interpretation. The legislative history of the Act, moreover, supports a broad construction of the adjective "political." Referring to the Act, the House Committee on Education and Labor declared:

> the Committee expects that no grantee—under the guise of fulfilling program training functions—will advocate any *political* action including, but not limited to, boycotts, demonstrations, strikes or picketing.

(H. Rep. 93–247, 93rd Cong., 1st Sess. 11). The 1974 Conference Report on the Act accepted broad House language that required all attorneys while engaging in activities supported in whole or in part by the Corporation to "refrain from any political activity" and rejected a Senate amendment that prohibited only "activity associated with a political party or association, or campaign for public or party office" (H. Rep. 1039. 93rd Cong. 2d Sess. 23 (Conference Report)). In speaking of political activities, Senator Taft referred to abuses "where they [program personnel] would go out and solicit individuals for a political cause" 120 *Cong. Rec.* S. 918 (daily ed. January 31, 1974). It is strained indeed to view the words "political cause" as referring simply to the electoral process. A political cause is commonly a movement that seeks to effect some change in a government or its policies. The election of a President constitutes a political cause; so too does the campaign to change abortion laws or the naturalization and immigration statutes.

Far from being a narrow or tangential prohibition, the restriction on "political activities" lies at the core of the Act and thus, of necessity, at the heart of Part 1612. Congress sought in the Act to differentiate between recognized legal services (which include an attorney's advice and assistance to enable a cleint to enforce his rights under existing law) and, on the other hand, activities designed to alter government policies. Senator Hathaway was addressing this fundamental distinction when he declared that "[t]he only advice [a legal services attorney] can give is legal advice. He cannot advise [a client] to join a political party or to do something to enhance political activities" (120 Cong. Rec. S 920 (daily ed. January 31, 1974)).

The term "public policy" is defined in paragraph (l) and is used in § 1612.1 (f) and (k) and in § 1612.9(a)(1). The definition incorporates language from Webster's *Ninth New Collegiate Dictionary* (1985) which defines "policy" as "a high-level overall plan embracing the general goals and acceptable procedures esp[ecially] of a governmental body." The basic substantive application of this definition comes in § 1612.9 on training. The definition of public policy is not intended to prohibit informing eligible clients of their rights under existing laws. Indeed, § 1612.9(b)(3) expressly permits training clients on what the law is. Favoring or opposing current laws, however, is prohibited just as is favoring or opposing proposed laws. Training sessions may not advocate either existing or proposed laws. Thus, for example, programs may train people about the meaning of the Baby Doe cases but training is not to include espousing a position on what the law should be in those cases. At no time, of course, may programs or trainers counsel disregard or nonobservance of the law.

The term "publicity and propaganda" is defined in paragraph (m) and is used in § 1612.1(d); in § 1612.5(c); and in § 162.7(b)(1). The Board does not intend the language "or when taken as whole, an indirect suggestion" to prohibit neutral reporting activities or to forbid stating after-the-fact information on legislative history. It intends, rather, to prohibit favoring or opposing particular policy positions. The Corporation will use an intent or *scienter* standard to differentiate between neutral reporting and prohibited publicity and propagranda. If the intent of putting certain information in a publication is, directly or indirectly, to stir up people for or against legislation, the information is a prohibited communication. The Board found it necessary to use the word "indirectly" in this definition for the same reasons that Congress found it necessary to use the word "indirectly" in section 1007(a)(5) of the Act. It is impossible to address specifically all the ways that clever people might devise to engage in grassroots lobbying. Indirect grassroots lobbying certainly includes such practices as publishing the telephone number of a legislator along with information about current legislation or printing a letter from a Congressman attacking pending legislation. Public funds should not be used to stimulate public pressure on the legislative process. Accordingly, the Board has added new language to the definition to ensure that the exception for communications to clients does not swallow the general prohibition against publicity and propaganda. The exception for clients will apply only to those clients who are "currently represented by a recipient with regard to a matter directly related to the legislation." At the same time the Board has made clear that attorneys may communicate with other staff in their own programs or with co-counsel.

The term "rulemaking" is defined in paragraph (n) as "an agency process for formulating, amending, or repealing legislation." It is used in § 1612.1 (a), (d), and (f); in § 1612.5(b); and in § 1612.9(a)(2). This definition is basically that of the Administrative Procedure Act (5 U.S.C. 551(5)) which defines rulemakings as "an agency process for formulating, amending or repealing a rule." Since rules are one form of legislation, as defined in § 1612.1(f), the word "legislation" has been substituted for the word "rule" as used in the Administrative Procedure Act.

Section 1612.2 Legal assistance activities.

Section 1612.2 sets forth the scope of Part 1612. Unless expressly provided, the regulation applies to all legal assistance activities carried out with funds made available by the Legal Services Corporation or private entities. The purpose of this provision is to ensure that, in most instances, private funds are restricted to the same extent as LSC funds. Section 1612.13 sets forth the express exceptions applying to private funds.

Section 1612.3 Legislative activities in general.

Legislative activities are to be exceptional, rather than routine, functions of legal services programs. Section 1612.3(a), accordingly, prohibits the operation of full-time legislative offices with Corporate funds. This paragraph prohibits maintaining a separate office to deal with nothing but legislative and administrative representation.

Section 1612.3(b) restricts the payment of dues with LSC funds to $100 per recipient per annum to any organization (other than a bar association), a purpose

or function of which is to engage in political or legislative activities. Old § 1612.5(c)(2) restricted dues payments to organizations a "substantial purpose" of which was to influence legislation. Numerous comments criticized this provision as vague. In response, the Board has deleted the words "substantial purpose." Some comments suggested that the Board should allow dues payments to organizations that engage in political or legislative activities as long as the organization segregates LSC funds and ensures they are not used for prohibited activities. The Board, however, is unpersuaded as to the effect and value of a segregtion requirement and explicitly declined to include such a provision. If LSC dues are used to help pay a light bill, they free other funds for use in political or legislative activities. Other comments suggested that the Corporation should contact all organizations that might be paid dues with LSC funds and publish every year a list of which are approved and which are not. The Corporation, however, is fully occupied monitoring recipients for which Congress has given it primary responsibility and the administrative burden of further monitoring and review would be too great. Accordingly, the Board decided to create only two exceptions to the general prohibition on dues payments to organizations that engage in political or legislative activities: A *de minimis* exception and a bar association exception. Under the *de minimis* exception, each recipient may choose to pay a total of $100 per year in dues with LSC funds regardless of the number of organizations, not counting bar associations. Under the bar association exception, the Board intends to permit dues payments to organizations constituting bar associations so long as they are open for membership to all practitioners in the geographical area.

Paragraph (c) clarifies that LSC grant funds may not be used to pay for transporting persons to legislative or administrative proceedings unless they fall into one of three categories: Attorneys or other employees engaged in permitted representational activities, witnesses entering formal appearances on behalf of the recipient's client, and where necessary and appropriate, the client who is being represented at the proceeding.

Paragraph (d) prevents using LSC grant funds to help conduct, or transport people to, events if the primary effect of the expenditure is to facilitate political or legislative activities or any activity that would be prohibited if conducted with funds made available by the Corporation.

Paragraph (e) pervents expenditure of LSC grant funds for administrative or related costs associated with prohibited activities. This provision is simply an elaboration of the basic rule that only those costs that further the purpose of legal assistance to eligible clients within the provisions of the Act may be charged against the LSC grant. If the primary purpose of the expenditure is furtherance of an objective that is not an authorized use of LSC funds, the expenditure is not an authorized cost of the LSC grant.

Paragraph (f) provides that no funds made available by the Corporation shall be used knowingly to assist others to engage in legislative or political activities. It contains a proviso, however, to the effect that the paragraph shall not be construed to prohibit the administrative or legislative representation permitted by § 1612.5. Comments suggested that former versions of this paragraph had contradicted § 1612.5. By adding the proviso, however, the Boad does not intend to remove any of the prohibitions on training. The language of paragraph (f) has been revised to clarify that assisting others to influence legislation is the prohibited activity. By adding the word "knowingly" at the beginning before the word "assist," a *scienter* requirement has been included in Section 1612.3(f).

Section 1612.3(g) prohibits using program funds to attend meetings of coalitions formed to engage in legislative or political activities. The General Accounting Office has strongly criticized the practice of using LSC funds to attend coalition meetings. The Board determined that the only way to stop abuse in this area was by creating an outright prohibition on attending such meetings.

Section 1612.4 Legislative and administrative lobbying.

The general rule of section 1007(a)(5) of the Act is that the use of Legal Services funds for legislative and administrative lobbying is prohibited unless it falls within one of several carefully defined exceptions. Since 1977 Congress has repeatedly indicated, through oversight hearings and appropriation riders, that it believes legal services programs have interpreted the Act as authorizing more lobbying activity than was intended. This section sets forth the general prohibition against legislative and administrative lobbying as established in the Act and in Pub. L. 99–180, the appropriation rider.

Paragraph (a), by referring to the definition of legislative lobbying at § 1612.1(h), follows Pub. L. 99–180 in absolutely prohibiting legislative lobbying in three cases: In connection with: (1) Any referendum, initiative, constitutional amendment or similar procedure of a legislative body; (2) authorizations or appropriations for the Corporation or a recipient; or (3) oversight proceedings concerning the Corporation or any recipient. Section 1612.1(h) defines "similar procedure" to mean legislative consideration of matters requiring subsequent ratification by the electorate or matters relating to the structure of government itself. There are no exceptions for communications in this area.

Paragraph (b) prohibits administrative lobbying or other kinds of legislative lobbying unless they fall within one of two categories: certain permissible activities on behalf of eligible clients as provided in § 1612.5 and certain permissible activities undertaken pursuant to the request of public officials as provided in § 1612.6.

Section 1612.5 Permissible activities on behalf of eligible clients.

Paragraph (a) provides for administrative representation of an eligible client in an adjudicatory proceeding or in informal negotiations directly involving that client's legal rights or responsibilities with respect to a particular application, claim, or case.

Paragraph (b) provides for representation in rulemaking proceedings under some circumstances. This paragraph requires that the project director consider whether the program should be involved in a particular rulemaking proceeding and that he ensure that recipients do not conduct publicity or propaganda campaigns with respect to rulemaking. If a recipient is representing a *bona fide* client on a particular application, claim, or case, and it becomes necessary in the course of that representation to participate in a rulemaking proceeding, the receipient may take part in such proceeding and do whatever is appropriate for it to do according to the practices of the administrative body, other than engage in grassroots lobbying. If, for example, the administrative body permits cross-examination of witnesses in rulemaking proceedings, then a program attorney may engage in such cross-examination.

Paragraph (c) permits representation in legislative proceedings for the sole purpose of bringing a specific and distinct legal problem to the attention of elected officials. It is not intended to provide blanket permission for full-scale

lobbying in all rulemaking or legislative proceedings. Neither is it intended to afford program attorneys the opportunity to testify about any matters they please: It authorizes only written or oral communications concerning the client's problems and the legal obstacles to the client's obtaining judicial or administrative relief; testimony before the pertinent legislative committee upon the specific legal problem of the client; or the provision of a legal analysis of the client's problems to an official. Like paragraph (b) it does not authorize publicity or propaganda or any efforts to persuade other elected officials or members of the public to support or oppose the proposed legislation.

An employee may make communications under paragraph (c) only if the project director or chief executive of the recipient has determined that the client is in need of relief that can be provided by the official or the body with which the official is associated and that appropriate judicial and administrative avenues to relief have been exhausted. The Board emphasizes that representation under § 1612.5(c) is representation relating to specific problems of specific clients and not to those of a general class of poor people who are not actual eligible clients.

Paragraph (d) prohibits employees from soliciting clients for the purpose of making legislative or administrative representation possible. Section 1007(a)(5)(A) of the Act forbids solicitation that is "in violation of professional responsibilities." Congress adopted this language before the Supreme Court decided *In re Primus*, 436 U.S. 412 (1978). Accordingly, the Board has determined that, to clarify and effect the original intent of Congress, it should place a flat bar upon solicitation in legislative and administrative cases. In making an exception to the general rule against lobbying for activities necessary to the representation of a client, Congress did not intend to authorize recipients to go out and "find" clients.

Paragraph (e) sets out the documentation requirements for communications authorized under paragraph (c). Project directors must document the content of each communication and the basis for the two determinations specified in paragraph (c). They must give written approval setting forth the basis of their determination that the communication is authorized under the policies of the recipient's governing board.

Paragraph (e)(4) requires that the documentation include a retainer in the form specified in § 1611.8, setting forth the specific legal interest of each client at whose request the communication was undertaken and a statement by the client in the client's own words, insofar as not precluded by the client's inability to communicate, of the problem for which the client sought representation.

The two statements required in paragraph (4) are not redundant since a statement from a lawyer analyzing the legal interests of a client is not the same as a statement showing what brought a client into a legal services office. The purposes of requiring a retainer are to insure that the work done conforms to the desires of the client and to aid the Corporation in auditing grantee compliance with the terms of section 1007(a)(5)(A). The retainer will be more useful for these purposes if, at the commencement of representation, there is a clear record of the client's description of the legal problem for which the attorney finds it necessary to seek relief from a legislature or administrative agency. A statement from the client will help the Corporation to ensure that there is some nexus between the matter that causes the client to seek legal assistance and the program attorney's decision to engage in legislative or administrative representation. A lawyer should not completely take over a case, refashion its objective or transform its intent, and use it to address issues or problems which are incidental or foreign to the client, or which the client did not raise. The legal relief sought should be in direct and proximate response to the client's request. The requirement of a retainer does not suggest a more sophisticated knowledge of the law than could reasonably be expected of eligible clients who, after all, may be presumed able to express in their own words "the matter on which relief is sought." The Board recognizes that there are a number of clients, such as those who have grown up totally dependent upon American sign language, who would have trouble giving statements that most laymen and lawyers would find comprehensible. In response to these concerns, the Board has created an exception for clients who are unable to communicate. In such cases the program should itself supply a statement summarizing the problems that brought the client to seek representation.

Paragraph (e)(5) requires that the documentation also include the director's certification that the communication is not the result of participation in a coordinated effort to communicate with elected officials. Prior versions of this paragraph required that the director certify that the communication was prepared by the attorney and client without consulting with persons "who are participating in a coordinated effort to influence legislation." In response to comments the Board deleted this requirement.

Paragraph (f) requires that the recipient's governing body adopt policies to guide the director in approving communications that bring legal problems to the attention of officials. The regulation directs that such policies shall require periodic reports to the governing body, shall ensure that staff neither solicits requests to undertake communications with elected officials nor participates in a coordinated effort to provide communications on a particular subject, and takes into account the recipient's priorities in resource allocation. The reports must be consistent with restrictions on disclosure of confidential information imposed by applicable law.

Paragraph (g) permits requests to introduce private relief bills.

Paragraph (h) recognizes that program employees may communicate with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies. Program employees may inform a current client about a new or proposed statute, executive order, or administrative regulation consistent with the provisions of § 1612.7. They may advise a client with respect to the client's own communications to officials. All such communications, however, are subject to the provisions of § 1612.5(c). Program employees may communicate directly or indirectly with the Corporation for any purpose.

Section 1612.6 Permissible activities undertaken pursuant to request of public officials.

Paragraph 1612.6(a) sets forth the conditions under which legal services personnel may respond to request from public officials. In drafting this provision the Board kept one basic principle in mind: the primary purpose of LSC grants is to help respond to client requests for representation. Some comments had requested that the Board allow recipients to disseminate information to anyone an official or his agent might direct as long as there was not "widespread" dissemination of such communications. In considering paragraph (a), the Board explicitly declined to add this expansive language. Not only should the Corporation not be in the position of having to decide what kind of communication is too widespread, but also programs should not accept delegation of the functions and responsibilities of governmental

offices and staff in circulating communications. The Board is persuaded that when Congress provided that legal services personnel could respond to requests from public officials, Congress meant requests for information, not requests to perform office tasks. Public officials themselves can reproduce information and disseminate it instead of requesting legal services personnel to do so. The authority to respond to official requests is limited to requests concerning "a specific matter." Program employees may not communicate with persons other than the requesting party, or agents or employees of such party. Moreover, of course, responses to requests should be made only to an extent compatible with the program's priorities and with the demands of clients on the program's time.

Section 1612.6(b) prohibits soliciting requests from public officials or governmental agencies. This provision does not prohibit sending out otherwise permissible publications such as programs' annual reports.

Formerly § 1612.6(b)(1) required that requests from legislators or agency officials had to be in writing and that legal services attorneys, before responding to a specific request, had to obtain the explicit written approval of their project directors. In response to various comments, the Corporation has removed this requirement. Paragraph (c) now requires simply that the recipient adopt procedures and forms to document its compliance with this section. The documentation must include contemporaneous documentation that states the type of representation or assistance requested by the official and that identifies the regulation, legislation, or executive order to be addressed.

Section 1612.7 Grassroots lobbying.

In its original form this section of the regulation was added in March of 1983 in response to an earlier recommendation from the Comptroller General. As the Comptroller General stated clearly in his May 1, 1981, opinion, section 1007(a)(5) of the Legal Services Corporation Act does not authorize a recipient's employees to engage in indirect or grassroots lobbying activity such as organizing coalitions or engendering communications from the public favoring or opposing changes in public policy. These activities are not necessary to the provision of legal advice or of representation in respect of a client's legal rights and responsibilities.

Accordingly, paragraph (a) forbids using Corporation funds or funds from private entities for grassroots lobbying. The word "entities," as used here and throughout Part 1612, is broadly inclusive and extends to natural persons and to all other bodies, such as corporations, whether or not they possess legally recognized status. For further analysis of what constitutes grassroots lobbying, please see the discussion of the definition of grassroots lobbying, *supra*, at § 1612.1(d) and the definition of publicity and propaganda, *supra*, at § 1612.1(m).

Paragraph (b) prohibits the distribution of publications that contains any reference to proposed or pending legislation unless the publication meets five criteria. First, the publication must not contain any publicity or propaganda. Second, it must not contain directions on how to lobby generally or in respect of particular legislation. Third, prior to its dissemination, the publication must have been reviewed by the recipient's project director, or by his or her designee, for conformity to LSC regulations. Fourth, a copy of the publication must have been provided to the Corporation within 30 days after publication. Fifth, LSC funds must have been used only for costs incident to the publication's preparation, production, or dissemination. It must have been disseminated only to recipients, recipient staff and board members, private attorneys representing eligible clients, eligible clients currently represented by a recipient with regard to a matter directly related to the legislation, and the Corporation, as opposed to the public at large, or to eligible clients generally. The Corporation wishes to emphasize in this connection that limited Corporate resources are to be used for representing eligible clients on specific matters and not for distributing publications to every prospective or potential client within a service area. Consequently, this provision does not permit mailing publications to eligible clients generally or other forms of mass communication. It does not, however, prevent sending letters to specific eligible clients.

Section 1612.8 Public demonstrations and activities.

This section prohibits anyone that is engaging in legal assistance activities and that is using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, from participating in, or encouraging public demonstrations and illegal activities. Paragraph (a) prohibits participation in, or encouragement of, demonstrations, picketing, boycotts, and strikes. The only exception to the prohibition of paragraph (a) is that a program employee may participate in these activities in connection with his own employment.

Paragraph (b) prohibits people, while carrying out legal assistance activities and while using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, from engaging in, or encouraging others to engage in illegal activities. Illegal activities include, but are not limited to, rioting and civil disturbances, activities in violation of court injunctions, and intentional identification of the Corporation with any political activity. There are no exceptions to the prohibition of paragraph (b).

Paragraph (c) makes clear that the prohibition on participation in demonstrations, strikes, and other such activities does not prohibit an attorney from fulfilling his professional responsibilities to a client.

Section 1612.9 Training.

This section implements section 1007(b)(5) of the Act and the related prohibitory provision of Pub. L. 99–180. It is important to note at the outset that this section does not purport to control relations between attorneys and clients. It places no restrictions on the advice attorneys can give their clients. It does control and restrict the nature of the training that can be conducted with LSC funds.

Paragraph (a) prohibits funding of training programs that advocate particular public policies; that encourage certain types of enumerated activities, including political activities or labor activities; or that disseminate information about these policies or activities.

Paragraph (a)(2) includes a provision that prohibits training people to develop strategies to influence legislation or rulemaking. Program involvement with legislative activities and rulemaking should be peripheral, and recipients should not need to conduct training programs in these areas.

Paragraph (a)(3) prohibits the dissemination of information about public policies or certain enumerated activities. This prohibition, as shown by paragraph (b)(3), which expressly permits informing eligible clients about their rights under existing law or about the meaning or significance of particular bills, is not intended to keep recipients from informing people about their rights under current law.

Paragraph (b) excepts from the general prohibition on training any training that is necessary for preparing attorneys or paralegals to provide

adequate legal assistance to eligible clients, to advise eligible clients as to the nature of the legislative process in general, to inform them of their rights under a statute or regulation already enacted or about the meaning or significance or particular bills, or to understand what activities are permitted under relevant laws and regulations. Programs, however, may engage in permitted training activities only to the extent compatible with meeting the demand for client service and the priorities established pursuant to Part 1620 or, in the case of support centers, to the extent compatible with the provision of support services to recipients. Recipients may conduct training that includes information about the meaning or significance of particular bills and training on what activities are permitted or prohibited under relevant laws and regulations.

Paragraph (b)(2) contains a distinction which prohibits training on lobbying strategies for particular bills. Such training does not constitute "advice as to the nature of the legislative process in general."

The Board found it significant that the GAO specifically focused on past abuse of training programs for lobbying purposes. Accordingly, paragraph (c) provides that a recipient cannot use funds for training in respect of political or legislative activities or with regard to areas in which program involvement is prohibited. Thus, although participation in legislative and political activities is not completely prohibited, training in these areas is. The Board explicitly declined to create an exception that would have allowed training in rulemaking and legislative lobbying. For years the Board has been assured by recipients that lobbying and legislative activity amount to a very small portion of program activity. In light of these representations, it makes little sense to devote money to training in lobbying techniques even though the regulations permit some lobbying. Lobbying activities should be so peripheral to what recipients are doing that training programs on lobbying techniques should not be necessary. In response to comments, the prohibition on training in substantive areas where only limited or incidental activities are allowed has been removed. Programs may offer training in areas where the law and regulations permit activity. They may also train managers and other staff on what activities are permitted or prohibited under the Act and regulations. Such training of recipients is not a political or legislative activity unless, for example, the program conducts it for the purpose of advocating some position with respect to these regulations, such as changing them or retaining them as they are. Learning about the law is entirely different from undertaking to influence officials or instructing people how to influence public officials.

Paragraph (c) specifically provides that funds may be used for training with regard to adjudicatory proceedings. The Board created this exception because adjudicatory proceedings, unlike rulemaking proceedings and legislative lobbying, are a form of judicial proceedings in which a client asserts a right under existing law.

Section 1612.10 Organizing.

Section 1612.10 implements provisions of section 1007(b)(7) of the Act which contains an exception to enumerated prohibited activities. Thus, for instance, if a client should so request, a recipient may draft the articles of incorporation for an organization. At the same time, however, section 1007(b)(7) prohibits recipients from initiating the formation, or acting as an organizer of, any association, federation, labor union, coalition, network, alliance, or similar entity. Put simply, legal services attorneys are not to initiate or originate the formation of organizations and then propel them into being as organizers, promoters, or facilitators.

In accordance with the Act § 1612.10 makes clear that recipients may provide advice or assistance to eligible clients concerning the laws applicable to formation or operation of an organization. According to the legislative history of the Act, it is permissible "to encourage poor people aggrieved by particular problems to consider organizing to foster joint solutions to common problems." In observance of this Congressional concern, the last sentence of § 1612.10(a) specifically provides that the restriction on "communication" does not include advice given an individual client during the course of legal consultation. Indeed, nothing in paragraph (a) purports to restrict recipients from advising clients of the advantages of belonging to an organization. The old section on organizing (§ 1612.30) provided that legal advice or assistance could not be given in the formation of an organization, a substantial purpose of which was to influence legislation, elections, or ballot propositions. In response to comments criticizing the vagueness of the term "substantial purpose", this sentence has been deleted. Paragraph (b) provides that legal services programs may, at the request of an eligible client, give legal advice on matters of incorporation, bylaws, tax problems and other matters essential to the planning of an organization, regardless of its purpose. The restriction is simply that the service provided must be legal in nature and must be provided in response to a *bona fide* client inquiry rather than at the initiative of the recipient's employees. Programs may engage in permitted legal assistance to organizers, however, only to the extent compatible with meeting the demands for client services and the priorities established pursuant to Part 1612 or, in the case of support centers, to the extent compatible with the provision of support services to recipients.

Although § 1612.10 does not restrict the sort of legal advice that recipients can give eligible clients, it prohibits recipients from using funds to advocate that anyone other than a client start or join an organization. Such communications do not constitute the legal assistance activities that are the real concern of recipients. Paragraph (a) forbids recipients to develop networks of advocates. Significantly, section 1007(b)(7) of the Act places no limit on the types of organizations that are subject to this prohibition on organizing. The Act makes clear that an organization need not be a legal person to fall within the restrictions. In setting forth its prohibition on organizing, the Act uses as examples the words "federation" and "association." Neither necessarily connotes organizations that are "legal persons" or which have some recognized legal status. Many associations, for instance, do not have bylaws, charters, or even legal standing. The words "similar entity," moreover, are plainly a catchall provision meant to include groups such as task forces or networks. Congress clearly intended to prohibit recipients from initiating the formation of any group of people. Accordingly, under paragraph (a), no matter what language it may employ in describing an organization, whether "coalition," "network," or some other term, a recipient may not, under this part, initiate or promote the meeting of a group of people, regardless of its purpose. At the same time, the Board recognizes that such networks may be useful. Therefore, if reasonable, recipients may work with such organizations and advise their clients to work with such organizations.

The second sentence of § 1612.10(a) would likewise prohibit programs from advocating that their employees join an organization. Programs may not make employment conditional upon membership in an organization, whether it be the American Bar Association or the American Library Association.

Under paragraph (a), however, programs may tell their employees that organizations exists; it is advocacy that is prohibited.

Paragraph (a) also prohibits such practices as allowing other organizations to leave promotional literature on the recipients' premises for inspection by clients. The Board has no problem with a recipient's furnishing a client with a package of information from groups such as local tenants' organizations as long as the information is clearly related to the problem for which the client came to the recipient. Leaving information lying around a legal services office, however, for inspection by anyone who might walk in, whether or not a client, amounts to encouraging the process or organizing generally, without regard to its relevance to a particular legal problem. This provision would not, however, prohibit programs from sending out notices to other programs advising them to join groups to learn about the use of computers or about other clerical or office skills.

Section 1612.11 Accounting and timekeeping

Section 1612.11 deals with accounting and timekeeping. The Board is concerned that no one knows how much lobbying and legislative and administrative representation occurs. It has decided, therefore, to require recipients to maintain records of the time and the direct and indirect expenses associated with all legislative activities as defined in § 1612.1(j), regardless of the sources of the funds supporting such activities. Because of the definition of legislative activities, this will require recipients to account for time and resources spent on all legislative and administrative lobbying and all legislative and administrative representation. As representatives of field programs repeatedly conceded to the Board, lobbying does not occur solely in legislatures—administrative rulemaking proceedings account for some of the most important lobbying that takes place. It makes little practical difference in which forum a recipient is lobbying. Recipients must keep records of time spent formulating positions and strategy as well as time spent in direct communication with officials. They must also specify the sources of funds supporting regulated activities.

In addition to keeping general records relating to regulated activities, recipients must account for all the working hours of those employee who are registered lobbyists or who engage in legislative activities. These time logs are necessary to ensure the completeness of the records furnished pursuant to the terms of Pub. L. 99–180 and to enable the Corporation to enforce section 1010(c) of the Act which prohibits the use of private non-Corporation funds for prohibited purposes. The Board was concerned that if it did not require recipients to document all of their lobbyists' time, it would learn very little about the amount of time spent upon such things as liaison activities. No matter what the time of day, if an employee engages in legislative activities on behalf of a client, the employee must, pursuant to this section, account for such time. Thus, an employee must record all time in cases where he lobbies at the legislature on behalf of a client from 9:00 in the morning until 4:00 in the afternoon, even though the employee then returns to the recipient's offices and continues working late into the night because the legislature is in session.

Anybody who engages in legislative or administrative rulemaking must furnish the Corporation with a time log of all working hours. However, if all an employee engages in are administrative adjudicatory proceedings the employee will not have to furnish a complete time log: participation in adjudicatory proceedings does not trigger the timekeeping requirement for employees.

Paragraph (b) requires recipients to submit quarterly reports describing their legislative activities. In furnishing these reports recipients must comply with restrictions on disclosure of confidential or privileged information imposed by the applicable law of any state or other jurisdiction.

Both paragraphs of § 1612.11 provide that the Corporation may, at its option, specify the manner in which records of legislative activities are to be maintained. After ascertaining that the Corporation has never specified a manner in which recipients are to keep records on lobbying, the Board deleted prior language that required records to be kept in the manner specified by the Corporation. Until the Corporation specifies how records of legislative activities are to be maintained, recipients may keep records of regulated activities in the best way that they can. They need not, however, keep duplicate records of acitivities. Once the Corporation amends the Case Service Reports (CSR's) to include legislative activity, recipients will have to report these activities in the form required by the CSR's. The Board intends, however, to conform the CSR's to the lobbying regulation and to insure that all of the information required by § 1612.11 will also be required by the CSR's.

Section 1612.12 Enforcement

Section 1612.12 details a number of the enforcement options available to the Corporation in cases where Part 1612 has been violated. Paragraph (a) provides that the Corporation may suspend or terminate the employment of any employee of the Corporation who violates Part 1612. The Corporation may also impose appropriate sanctions against recipients which fail to ensure that their employees refrain from violating Part 1612.

Paragraph (b) explicitly sets forth a number of the enforcement options available against recipients which fail to ensure that their employees refrain from violating either Part 1612 or the provisions of the Act relating to lobbying, including those relating to the use of private funds. In accordance with Parts 1606, 1618, 1623 and 1625, the Corporation may suspend or terminate financial assistance or deny refunding to such recipients. It may also recover costs incurred by recipients as a result of activities proscribed by Part 1612.

Paragraph (c) describes some of the steps that recipients are to take in order to publicize and enforce Part 1612. First, they are to advise their employees about their responsibilities under Part 1612. Second, recipients must establish procedures for determining whether employees have violated Part 1612 and must also establish policies for determining the appropriate sanctions to be imposed for violations. Each recipient must then transmit a copy of its policy to the Corporation. Each policy is to include use of administrative reprimand (in cases of minor or unintentional violations, or where there are mitigating circumstances); suspension and termination of employment; and other sanctions appropriate to the enforcement of Part 1612.

Third, recipients must inform the Office of Monitoring, Audit, and Compliance within 30 days of imposing sanctions for violating Part 1612. Prior to 1984 Part 1612 required recipients to consult with the General Counsel of the Corporation before they determined what sanctions to impose. The present provision, however, recognizes that the Corporation is not directly involved in personnel decisions of programs, but is only concerned with assuring that programs comply with the Act and regulations.

Fourth, whether or not sanctions are imposed, recipients are to make available to the Corporation the records of their investigation of alleged violations. Recipients should submit these records on a quarterly basis to the

Office of Monitoring, Audit, and Compliance. Because the Board believes it to be important to recognize ethical restrictions explicitly, the Board has provided that recipients comply with the requirement of § 1612(c)(4) in a manner that is consistent with restrictions on disclosure of confidential or privileged information imposed by the applicable law of any state or other jurisdiction.

Section 1612.13 Private funds.

Section 1612.13 provides that recipients may use private funds to lobby, if a government agency, elected official, legislative body, committee, or committee member is considering a measure directly affecting the activities of the recipient or the Corporation under the Act. After deliberating, the Board decided to permit private funds to be used in such cases because, for the past year, it has been urging recipients to explore other funding sources. Clearly, if recipients are to go to state legislatures and local bodies to obtain funds replacing those that Congress can no longer make available, they must have the right to lobby legislatures and local bodies.

The Board was not persuaded of the wisdom or the practical necessity for other exceptions to the prohibition on using private funds for lobbying. Accordingly, it has determined that in all other cases private funds and LSC funds should be subject to the same restrictions. The Board believes, for at least two reasons, that it has the power to make this decision. First, when Congress adopted section 1010(c) of the Act, it provided in effect that private funds and federal funds were to be treated identically: If a recipient could not engage in an activity using federal funds, it should not be able to do so using private funds. Since amendment of the Legal Services Corporation Act in 1977, however, a complication has arisen. For various reasons and because no clear consensus exists to modify the substantive legislation granting authority to the Corporation, Congress has not subsequently revised the Legal Sevices Corporation Act. Instead, it has amended the substantive legislation in a oblique way by placing restrictions on the use of annual appropriations. Since funding riders restrict only federal funding and not private funding, Congressional language has never directly enjoined recipients from using private funds for purposes prohibited in the appropriation riders. Nonetheless, no Congressional statement or legislative enactment has, over the past nine years, indicated that Congress ever intended to depart or retreat from its plainly expressed determination that federal funds and private funds ought to be treated alike. Accordingly, the Board has concluded that to effectuate the intent of Congress restrictions contained in the riders should extend to private funds.

The second reason for inclusive treatment is that the Corporation has broad inherent authority to regulate the manner in which its recipients use private funds. Section 1010(c) of the Act contains no prohibition against the Corporation's imposing restrictions by regulation on private funds. The Act plainly contemplates, moreover, that private funds "shall not be expended by recipients for *any* purpose prohibited by [its terms]" 42 U.S.C. 2996i(c) (emphasis supplied). Congress, furthermore, has pointedly made the Legal Services Corporation a District of Columbia corporation, and a District of Columbia corporation plainly has the power to contract and thereby to impose restrictions on parties with which it transacts business. No First Amendment consideration, as has been suggested, prevents the Corporation from imposing contractual obligations on its recipients.

List of Subjects in 45 CFR Part 1612.

Administrative representation, Legal services, Lobbying, Publicity, Reporting and recordkeeping requirements.

For the reasons set out above, Part 1612 is revised as follows:

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

Sec.

1612.1 Definitions.
1612.2 Legal assistance activities.
1612.3 Legislative activity in general.
1612.4 Legislative and administrative lobbying.
1612.5 Permissible activities on behalf of eligible clients.
1612.6 Permissible activities undertaken pursuant to request of public officials.
1612.7 Grassroots lobbying.
1612.8 Public demonstrations and activities.
1612.9 Training.
1612.10 Organizing.
1612.11 Accounting and timekeeping.
1612.12 Enforcement.
1612.13 Private funds.

Authority: Secs. 1006(b)(5), 1007(a)(5), (6) and (7), 1011, 1006(e), Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996e(b)(5), 2996f(a)(5), (6) and (7), 2996j, 2996g (e)); Pub. L. 95-431, 92 Stat. 1021; Pub. L. 96-68, 93 Stat. 416; Pub. L. 96-536, 94 Stat. 3166; Pub. L. 97-161, 96 Stat. 22; Pub. L. 97-377, 96 Stat. 1874; Pub. L. 98-166, 97 Stat. 1071; Pub. L. 99-180, 99 Stat. 1185.

§ 1612.1 Definitions.

(a) "Adjudicatory proceeding," as used in this part, means a proceeding by a Federal, State, or local agency, commission, authority, or government corporation which makes a determination that is of particular rather than general applicability, that affects private rights or interests, and that results in a final disposition, whether affirmative, negative injunctive, or declaratory in form. The term does not include rulemaking but does include licensing.

(b) "Administrative lobbying," as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State or local official, agency, commission, authority or government corporation.

(c) "Administrative representation," as used in this part, means administrative lobbying carried out on behalf of an eligible client.

(d) "Grassroots lobbying," as used in this part, means publicity or propaganda intended or designed to support or defeat legislation pending before Congress or before State, county, or municipal legislative bodies, including any commission, authority, or government corporation with rulemaking authority, or intended or designed to influence any decision by a Federal, State, county, or municipal administrative body or intended or designed to influence any decision by the electorate on a measure submitted to it for a vote.

(e) "Legal assistance activities," as used in this part, means any activity—

(1) Carried out during working hours or while on official travel;

(2) Using resources provided by the Corporation or a recipient, directly or through a subrecipient; or

(3) That, in fact, provides legal advice or representation to an eligible client.

(f) "Legislation", as used in this part, means any action or proposal for action by Congress, by a State legislature, or by any other body of governmental, municipal, or local officials, whether elected or appointed, (including any commission, authority, or government corporation with rulemaking authority) formulating a rule for the future or formulating a statement of general or particular applicability and future effect which is designed to implement, interpret, or prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments, rules, regulations, the ratification of treaties and intergovernmental agreements, approval of appointments and budgets, adoption of resolutions not having the force of law, and approval or disapproval of

actions of the executive. It does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws (such as action taken by a local council sitting as a Board of Zoning Appeals). "Legislature" as used herein does not include any Indian Tribal Council.

(g) "Legislative activities," as used in this part, means administrative, legislative, and grassroots lobbying and liaison activities.

(h) "Legislative lobbying", as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device directly or indirectly intended to influence any Member of Congress or any other Federal, State or local elected nonjudicial official—

(1) In connection with any Act, bill, resolution or similar legislation;

(2) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in a legislative capacity. The term "similar procedure" as used in this part refers to legislative consideration of matters which by law must be determined by a vote of the electorate or matters relating to the structure of government itself, such as reapportionment;

(3) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient or the Corporation; or

(4) In connection with the conduct of oversight proceedings concerning the recipient or the Corporation.

(i) "Legislative representation," as used in this part, means legislative lobbying carried out on behalf of an eligible client.

(j) "Liaison activities", as used in this part, means activities designed to facilitate administrative, legislative, or grassroots lobbying, and includes, but is not limited to, such activities as attending legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation.

(k) "Political activities", as used in this part, means those activities intended either to influence the making, as distinguished from the administration, of public policy or to influence the electoral process. Political activities include favoring or opposing current or proposed public policy and also include administrative, legislative, and grassroots lobbying.

(l) "Public policy", as used in this part, means an overall plan embracing the general goals and acceptable procedures of any governmental body. Public policy includes but is not limited to, statutes, rules, and regulations already enacted by a governmental body.

(m) "Publicity or propaganda", as used in this part, means any oral, written, or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion, or, when taken as a whole, an indirect suggestion to the public at large or to persons outside of the recipient program (other than a client or group of clients currently represented by a recipient with regard to a matter directly related to legislation, or their counsel or co-counsel) to contact public officials in support of or in opposition to legislation, or to contribute to or participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of such legislation.

(n) "Rulemaking", as used in this part, means an agency process for formulating, amending, or repealing legislation.

§ 1612.2 Legal assistance activities.

Except as hereinafter provided, the provisions of this part shall apply to all legal assistance activities carried out with funds made available by the Legal Services Corporation or private entities.

§ 1612.3 Legislative activity in general.

No funds made available by the Corporation shall be used to—

(a) Maintain separate offices for the sole purpose of engaging in political or legislative activities;

(b) Pay dues exceeding $100 per recipient per annum to any organization (other than a bar association), a purpose or function of which is to engage in political or legislative activities;

(c) Pay for transportation to legislative or administrative proceedings of persons other than employees engaged in activities permitted under this section or witnesses entering appearances in such proceedings on behalf of clients of the recipient, except that such funds may be used to transport the client where necessary and appropriate; this paragraph does not authorize payment of transportation expenses for employees not actually engaged in permitted legislative or administrative representation;

(d) Pay, in whole or in part, for the conduct of, or transportation to, an event if a primary purpose of the expenditure is to facilitate political or legislative activities or any activity which would be prohibited if conducted with funds made available by the Corporation;

(e) Pay for administrative or related costs associated with any activity prohibited by this part;

(f) Knowingly assist others to engage in legislative or political activities; provided, however, that this paragraph shall not be construed to prohibit the administrative or legislative representation permitted by § 1612.5; or

(g) Attend meetings of coalitions formed to engage in legislative or political activities.

§ 1612.4 Legislative and administrative lobbying.

(a) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying as defined in § 1612.1(h)(2), (3), and (4).

(b) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying as defined in § 1612.1(h)(1) or for administrative lobbying as defined in § 1612.1(b), except as provided in § 1612.5 and 1612.6.

§ 1612.5 Permissible activities on behalf of eligible clients.

(a) An employee of a recipient may provide administrative representation for an eligible client in an adjudicatory proceeding or in informal negotiations directly involving that client's legal rights or responsibilities with respect to a particular application, claim or case.

(b) Notwithstanding anything in this part to the contrary, an employee of a recipient may provide legal assistance to a current eligible client in a rulemaking proceeding, consistent with the practices of the particular administrative official or body, on a particular application, claim or case directly involving the client's legal rights or responsibilities. Such assistance may be provided only if the program director or chief executive of such recipient has determined prior to such representation that the client or each such client is in need of relief that can be provided by such administrative official or body.

(c) An employee of a recipient may, upon the request of a current client or clients, communicate directly with Federal, State or local elected officials for the sole purpose of bringing specific and distinct legal problems to the attention of such officials. This provision authorizes written or oral communications notifying public officials or legislative committees of the client's problems and of the legal

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obstacles to the client's obtaining judicial or administrative relief; testimony before pertinent legislative committees upon the specific legal problems of the client; or the provision of a legal analysis of the client's problems to officials. It does not authorize publicity or propaganda or any efforts to persuade members of the public to support or oppose the proposed legislation. Such communications may be made only if the project director or chief executive of such recipient has determined, prior to such communications—

(1) That the client or each such client is in need of relief that can be provided by the official or the legislative body with which the official is associated; and

(2) That appropriate judicial and administrative relief has been exhausted.

(d) No employee shall solicit a client for the purpose of making legislative or administrative representation possible.

(e) In connection with each communication authorized by paragraph (c) of this section, the project director shall maintain the following documentation:

(1) The content of each such communication;

(2) The basis for the two determinations specified in paragraph (b) of this section;

(3) The director's written approval of such communication, setting forth the basis of his determination that such communication is authorized under the policies of the recipient's governing board adopted pursuant to paragraph (e) of this section;

(4) A retainer in the form specified in § 1611.8, setting forth the specific legal interest of each client at whose request the communication was undertaken and a statement by the client, insofar as not precluded by the client's inability to communicate, in the client's own words of the problem for which the client sought representation;

(5) The director's determination that such communication is not the result of participation in a coordinated effort to communicate with elected officials on the subject matter.

(f) The governing body of a recipient shall adopt a policy to guide the director of the recipient in determining when to approve a communications to a Federal, State or local official under paragraph (e) of this section. The policy adopted shall—

(1) Consistent with restrictions on disclosure of confidential information imposed by applicable law, require periodic reports to the governing body on the communications approved, which report shall include a statement on the exhaustion of appropriate judicial and administrative relief;

(2) Ensure that staff does not solicit requests to undertake communications with elected officials nor participate in a coordinated effort to provide communications on a particular subject; and

(3) Require that, in determining the amount of effort to be expended in preparing the communication, the director take into account the recipient's priorities in resource allocation.

(g) Notwithstanding the prohibition in paragraph (c) of this section of communications to elected officials that do more than bring a problem to the official's attention, a project director may approve communications to elected officials requesting introduction of specific "private relief bills," which for purposes of this part mean bills allowing a specifically named persons or groups to make claims against a government for which there is no other remedy. The documentation required under paragraph (e) of this section shall be maintained in connection with such communications.

(h) Nothing in this or any other section is intended to prohibit an employee from—

(1) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;

(2) Informing a current client about a new or proposed statute, executive order, or administrative regulation consistent with the provisions of § 1612.7; or

(3) Communicating directly or indirectly with the Corporation for any purpose.

§ 1612.6 Permissible activities undertaken pursuant to request of public officials.

(a) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, an employee may respond to a request from a governmental agency, elected official, legislative body, committee, or member made to the employee or to a recipient to testify, draft or review legislation or to make representations to such agency, official, body, committee or members on a specific matter. This exception for responses to officials does not authorize communication with anyone other than the requesting party or an agent or employee of such party.

(b) No employee of the recipient shall, directly or indirectly, solicit or arrange a request from any official to testify or otherwise make representations in connection with legislation.

(c) Recipients shall adopt procedures and forms to document compliance with this section. Such documentation shall include contemporaneous documentation by the recipient which states the type of representation or assistance requested by the public official and identifies the regulation, legislation, or executive or administrative order to be addressed.

§ 1612.7 Grassroots lobbying.

(a) No funds made available by the Corporation or by private entities shall be used for grassroots lobbying.

(b) No funds made available by the Corporation or by private entities shall be used to support the preparation, production, or dissemination of any article, newsletter, or other publication or written matter or other form of mass communication which contains any reference to proposed or pending legislation unless—

(1) The publication does not contain any publicity or propaganda;

(2) The publication does not contain directions on how to lobby generally or on particular legislation;

(3) The recipient's project director, or his or her designee, has reviewed each publication produced by the recipient prior to its dissemination for conformity to these regulations;

(4) The recipient provides a copy of any such material produced by the recipient to the Corporation within 30 days after publication; and

(5) Such funds are used only for costs incident to the preparation, production, or dissemination of such publications to the Corporation, recipients, recipient staff and board members, private attorneys representing eligible clients, and eligible clients currently represented by a recipient with regard to a matter directly related to the legislation, as opposed to the public at large, or eligible clients generally.

§ 1612.8 Public demonstrations and activities.

(a) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, no person shall—

(1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or

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(2) Encourage, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow.

(b) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, no person shall at any time engage in or encourage others to engage in—

(1) Any rioting or civil disturbance;

(2) Any activity in violation of an outstanding injunction of any court of competent jurisdiction;

(3) Any other illegal activity;

(4) any intentional identification of the Corporation or any recipient with any political activity.

(c) Nothing in this section shall prohibit an attorney from—

(1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or

(2) Taking such action on behalf of his client as may be required by his professional responsibilities or applicable law of any State or other jurisdiction.

§ 1612.9 Training.

(a) No funds made available by the Corporation or by private entities may be used for the purpose of supporting or conducting training programs that—

(1) Advocate particular public policies; or

(2) Encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking; or

(3) Disseminate information about such policies or activities.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, nothing in this section shall be construed to prohibit any training of attorneys or paralegal personnel necessary for preparing them—

(1) To provide adequate legal assistance to eligible clients;

(2) To advise any eligible client as to the nature of the legislative process in general as opposed to discussing a lobbying strategy for a particular bill;

(3) To inform any eligible client of his rights under any statute, order or regulation already enacted, or about the meaning or significance of particular bills; or

(4) To understand what activities are permitted or prohibited under relevant laws and regulations.

(c) No funds made available by the Corporation or by private entities may be used to pay for participation by any person or organization in training with regard to political or legislative activities, except for adjudicatory proceedings, or with regard to areas in which program involvement is prohibited pursuant to the provisions of the Act, of other applicable Federal law, or of Corporation regulations, guidelines, or instructions.

§ 1612.10 Organizing.

(a) No funds made available by the Corporation or by private entities may be used to initiate the formation, or to act as an organizer of any association, federation, labor union, coalition, network alliance, or any similar entity. No funds may be employed for any communication or any meeting to advocate that anyone organize or join any organization. The term "communication" does not include advice given an individual client during the course of legal consultation.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations, or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, this section shall not be interpreted to prevent recipients and their employees from providing legal advice or assistance to eligible clients who desire to plan, establish, or operate organizations, such as by preparing articles of incorporation and bylaws.

§ 1621.11 Accounting and timekeeping.

(a) Recipients shall maintain separate records of the activities regulated in this part. These records shall document the direct and indirect expenses, time spent on, and the sources of the funds supporting, all legislative activities, regardless of the sources of the funds employed. In addition, recipients shall require all employees who are registered lobbyists or who devote any of their time to legislative activities, except for adjudicatory proceedings, to maintain a time log accounting for all working hours. The Corporation may at any time specify the manner in which these records are to be maintained.

(b) Recipients shall submit quarterly reports describing their legislative activities conducted pursuant to these regulations, together with such supporting documentation as required by the Corporation, consistent with restrictions on disclosure of confidential or privileged information imposed by applicable law of any state or other jurisdiction. The Corporation may at any time specify the form in which these reports are to be submitted.

§ 1612.12 Enforcement.

(a) The Corporation shall have authority—

(1) To suspend or terminate the employment of an employee of the Corporation who violates the provisions of this part; and

(2) To impose such sanctions as are appropriate (including but not limited to recovery of questioned costs) for the enforcement of this regulation against a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part.

(b) The Corporation shall have authority in accordance with the procedures set forth in parts 1606, 1618, 1623 and 1625 of these regulations to suspend or terminate financial assistance or deny refunding to a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part. It shall also have authority to recover costs incurred by recipients as a result of activities proscribed by this part.

(c) A recipient shall—

(1) Advise employees about their responsibilities under this part; and

(2) Establish procedures for determining whether an employee has violated a provision of this part; and shall establish a policy, a copy of which shall be transmitted to the Corporation, for determining the appropriate sanction to be imposed for a violation, including—

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension of termination of employment;

(iii) Other sanctions appropriate for the enforcement of this regulation; and

(3) Inform the Office of Monitoring, Audit, and Compliance within 30 days of imposing any sanction on any person for violation of this part; and

(4) Make available to the Corporation the records of its investigation of any allegation of violations whether or not any sanctions were imposed. Such records shall be submitted on a quarterly basis to the Office of Monitoring, Audit, and Compliance.

§ 1612.13 Private Funds.

A recipient may use funds provided by private sources to engage in legislative or administrative lobbying if a government agency, elected official, or

legislative body, committee or member thereof is considering a measure directly affecting activities under the Act of the recipient or the Corporation.

Dated: July 25, 1986.

John H. Bayly, Jr.,

General Counsel.

[FR Doc. 86-17124 Filed 7-31-86; 8:45 am]

BILLING CODE 6830-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-370; RM-4954, RM-5046]

Radio Broadcasting Services; Thief River Falls and Warroad, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 274C1 to Thief River Falls, MN, substitutes Channel 282C1 for 257A at Thief River Falls and modifies the license of Station KSNR to specify Channel 282C1 instead of 257A at Thief River Falls, MN, as the first and second wide area FM channels. This action is taken in response to requests filed by Theodore S. Storck and Olmstead Broadcasting, Inc. A site restriction 19.5 kilometers east is required for the allocation of Channel 274C1 at Thief River Falls, MN. In addition, Channel 223C1 is allocated to Warroad, MN as its first FM channel in response to a request filed by Daniel DeMolee. Canadian concurrence has been obtained for the allocation of the above channels. With this action, this proceeding is terminated.

DATES: Effective September 2, 1986, the window period for filing applications for Channel 274C1 at Thief River Falls, MN and Channel 223C1 at Warroad, MN, will open on September 3, 1986, and close on October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-370, adopted July 14, 1986, and released July 24, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 C.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the entry for Thief River Falls, MN, and adding a new entry for Warroad, MN to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

Community	Channel No.
Thief River Falls, MN	262C1, 274C1
Warroad, MN	223C1

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-17225 Filed 7-31-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Notice of Proposed Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to revise temporarily certain provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would reduce for September 1986 through March 1987 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status. The action was requested by a supply plant operator in order to maintain the pool status of producers historically associated with the Nebraska-Western Iowa order.

DATE: Comments are due no later than August 8, 1986.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1065.7(b)(3) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of September 1986 through March 1987.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September 1985 in the temporary revision period.

The comments that are sent will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1065.7(b). The revisions would be applicable for the months of September 1986 through March 1987. The specific revisions would reduce the supply plant shipping percentage for the months of September 1986 through March 1987 by 10 percentage points from the present 40 to 30 percent.

Pursuant to the provisions of § 1065.7(b)(3), the supply plant shipping percentage as set forth in § 1065.7(b) may be increased or decreased by up to 20 percentage points during any month to encourage aditional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accure from such pricing.

Neu Cheese Company, a handler operating a supply plant historically pooled under the Nebraska-Western Iowa order, requested that for the months of September 1986 through March 1987, the supply plant shipping percentage requirement be reduced by 10 percentage points.

Neu Cheese Company states that it has consistently supplied milk to the fluid market by shipping its share of milk to distributing plants from its supply plant. However, the handler states that it is having trouble finding fluid outlets at which to qualify its supply of milk for the period September 1986 through March 1987 because of a change in the ownership of a distributing plant traditionally supplied by Neu Cheese Company. Neu Cheese Company claims that the distributing plant's new management is requiring the supply plant operator to pay significant fees in order to pool milk on the basis of its sales to the distributing plant, and that Neu Cheese Company agree to deliver to the distributing plant a percentage of its milk supply substantially in excess of the market's Class I utilization percentage.

The handler states that in order to continue the pool status of producers long associated with the Nebraska-Western Iowa order, the pool supply plant shipping percentage must be temporarily reduced by 10 percentage points, from 40 percent of the supply plant's receipts to 30 percent.

Therefore, it may be appropriate to relax the aforementioned provisions of § 1065.7(b) for the months of September 1986 through March 1987 to prevent uneconomic shipments of milk, and to assure that dairy farmers long associated with the fluid milk market will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Signed at Washington, DC, on: July 29, 1986.

Edward T. Coughlin,

Director Dairy Division.

[FR Doc. 86–17322 Filed 7–31–86; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of September through November 1986 portions of the Iowa Federal milk marketing order. The proposed suspension would eliminate the need for a supply plant operator to ship a percentage of its receipts to distributing plants during this period. Also, as a corollary action, the proposed suspension would increase the limits on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. A cooperative association requested suspension in order to pool the milk of its members who have been historically associated with the market.

DATE: Comments are due no later than August 8, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area, 7 CFR Part 1079, is being considered for September through November 1986:

1. In § 1079.7(b) the words "35 percent or more" as they appear in the paragraph.

2. In § 1079.13(d)(2) and (3), the words "50 percent in the months of September through November and" and the words "in other months" as they appear in each paragraph.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the Federal Register. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1986 in the suspension period if this is found necessary.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27 (b)).

Statement of Consideration

Associated Milk Producers, Inc. (AMPI), an association of producers, operates a supply plant regulated by the Iowa milk order. The cooperative has requested that the supply plant shipping requirement be relaxed for September through November 1986 so that a supply plant operator would not have to ship a percentage of its receipts of Grade A milk to distributing plants. Also, the cooperative asked that the 50-percent diversion limitation be suspended for this same period. The remaining diversion provisions in the order would permit 70 percent of a handler's producer milk receipts to be moved directly from farms to nonpool manufacturing plants and still be priced under the order.

The cooperative notes that its supply plant has, for many years, been associated with this market. This has been accomplished through a unit pooling arrangement with Mid-America Dairymen, Inc. (Mid-Am), whereby the total of all shipments to distributing plants by the two cooperatives are used to qualify all the supply plants named in the unit. AMPI says that it currently pools an average of 32 million pounds of milk per month in the Iowa order.

AMPI stated that Mid-Am has indicated that Mid-Am no longer needs AMPI milk for any sales commitments after August 31, 1986. AMPI notes that without this unit pooling arrangement, it is presently left with committed sales to distributing plants of approximately 2 million pounds per month. According to AMPI, even if the shipping percentage were reduced from 35 percent to 25 percent through a temporary revision of the shipping requirements, this would pool only approximately 8 million pounds of its members' milk leaving approximately 22 million pounds not pooled. AMPI indicated that adoption of the proposed suspension during September through November would provide time to try to develop sufficient sales to distributing plants in order to meet a reduced shipping requirement in December 1986 and succeeding months.

AMPI stated that producer milk on the Iowa order has continued to increase at a greater percentage than Class I sales. AMPI notes that producer milk during the first six months of 1986 increased approximately 14 percent over the same period of 1985. During this same period, Class I sales were down about 1.5 percent. AMPI stated that in their opinion, the ratio of producer milk to Class I sales will be higher this fall, thereby requiring more milk to be moved to nonpool manufacturing plants. However, without the suspension of the diversion provisions, AMPI claims that much of its member milk would have to pumped into the supply plant and then pumped back out again for transport to a manufacturing plant. AMPI contends that the extra handling involved adversely affects milk quality (more pumping than if diverted) and is an uneconomic means of pooling milk. Suspending the 50-percent diversion limit would alleviate these concerns and allow improved efficiencies, thus increasing returns to producers, according to the cooperative.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1079 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Signed at Washington, DC, on: July 29, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-17380 Filed 7-31-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue through October 1986 a suspension of portions of the Eastern Colorado Federal

milk order. Provisions proposed to be suspended relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also proposed to be suspended for the same period is the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Continuation of the suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due on or before August 8, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Room 2968, South Building; U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered for the months of August through October 1986:

1. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing plant".

2. In the second sentence of § 1137.12(a)(1), the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of" and "distributing".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include August 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Mid-America Dairymen, Inc. (Mid-Am), an association of producers that supplies some of the market's fluid milk needs and handles some of the market's reserve milk supplies, requested the suspension. The suspension would continue to relax for the months of August through October 1986 the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and remove the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month.

The order now provides that a cooperative may divert a quantity of milk not in excess of 20 percent of the cooperative association's member milk received at pool distributing plants. Suspension of the requested language would allow up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

Mid-Am states that the volume of producer milk pooled on the Eastern Colorado order began to increase following the conclusion of the Milk Diversion Program in 1985, and has continued to increase during 1986. According to the cooperative, Eastern Colorado producer milk during the first 5 months of 1986 had increased 14.4 percent over the same period in 1985. At the same time, producer milk used in Class I had increased only 1.3 percent. Mid-Am states that as a result of increased milk production, there are ample supplies of local milk available to meet the fluid requirements of Denver-area distributing plants. The cooperative estimates that approximately 15 loads of producer milk produced in Kansas and Nebraska would have to be shipped to Eastern Colorado pool distributing plants each month in order to qualify Mid-Am producers for continued pool status. The cooperatives states that these shipments would displace Denver-area milk, which would have to be moved to surplus handling plants. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested continued suspension, the cooperative expects to incur substantial unnecessary cost for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1137 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: July 29, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–17382 Filed 7–31–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1139

Milk in the Lake Mead Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue a suspension of certain diversion provisions of the Lake Mead Federal milk order. Provisions proposed to be suspended relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also proposed to be suspended is the "touch-base" requirement that at least one day's production of each producer's milk be received each month at a pool plant. The proposed continued suspension would be effective during August 1986 and until a proceeding to consider a merger of the Lake Mead and Great Basin milk orders is completed. The continued suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than August 8, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of

Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued February 6, 1986; published February 11, 1986 (51 FR 5070).

The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Lake Mead marketing area is being considered for August 1986, and continuing until a hearing proceeding to consider a merger of the Lake Mead and Great Basin milk orders is completed:

In § 1139.13(d)(2), all of the language following the parenthetical phrase.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include August 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed continued suspension would remove the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and remove the requirement that at least one day's production of each producer's milk be received at a pool plant each month. The suspension was requested by Lake Mead Cooperative Association, which supplies some of the market's fluid milk needs and handles most of the market's reserve supplies.

The order now provides that a cooperative may divert a quantity of milk not in excess of 50 percent in the months of March through July, and 40 percent in other months, of the producer milk delivered to or diverted from pool plants during the month. Continued suspension of the requested language would allow unlimited amounts of a cooperative's member milk supply to continue to be diverted to nonpool plants and remain eligible to share in the marketwide pool. The current suspension of the requested language has been in effect since February 1986.

A public hearing was held on March 18–20, 1986, in Salt Lake City, Utah, to consider a merger of the Great Basin and Lake Mead orders. The cooperative expects that the diversion provisions contained in the proposed merged order would offer a long-term solution to the problems of operating within the order's present diversion limits. Until the hearing proceeding is completed, however, the cooperative requests that the order's diversion limits and "touch-base" requirements be suspended to assure that all of the member milk of the cooperative is eligible to participate in marketwide pooling and pricing under the Lake Mead Federal order. The cooperative contends that the hearing supports such action.

The record of the public hearing shows that milk production pooled under the Lake Mead order during 1985 increased by approximately 23 percent, while producer milk used in Class I increased only 5 percent. The record also shows that the cooperative would not have been able to pool all of the milk of its member producers in the absence of the prior suspension of the provisions in question without resorting to uneconomic and inefficient milk hauling and handling. However, changes in marketing practices in the marketing area since the hearing, including the association of additional producers with the market, warrant giving interested persons an opportunity to comment on the desirability of a continued suspension of the requested provisions.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1139 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: July 29, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–17381 Filed 7–31–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

[Docket No. 24929; Notice No. 86–3A]

Noise Standards for Helicopters in the Normal, Transport and Restricted Categories

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM); Reopening of Comment Period.

SUMMARY: This notice announces the reopening of the comment period for Notice of Proposed Rulemaking No. 86–3, which closed on June 5, 1986. That notice invited comments relative to the establishment of noise certification standards for civil helicopters in the normal, transport, and restricted categories and would provide noise level limits and test procedures for the issuance of original and amended type certificates. The notice also proposed to prohibit changes in type design of helicopters that might increase their noise levels beyond certain limits. While that notice contained several provisions similar to those contained in an earlier notice withdrawn in 1981, it differed from that noise in several important aspects. One of these is the absence of any proposal to limit the further manufacture of older non-complying helicopter types; another is the commonality between the proposed standards and those adopted by the International Civil Aviation Organization (ICAO). The FAA believes that these rules are necessary to provide current and future relief and protection to the public health and welfare from the noise of affected helicopters. This reopening is necessary to afford all interested parties additional time to present their views on the proposed rulemaking and to provide time for comments that may arise from the June ICAO meeting on Aviation Environmental Protection.

DATE: Comments must be received on or before September 2, 1986.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC–204), Docket No. 24929, 800 Independence Avenue, SW., Washington, DC 20591; Or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC 20591.

All comments must be marked: Docket No. 24929. Comments may be examined

in the Rules Docket, weekdays except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Tedrick, Noise Policy and Regulatory Branch, (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasonable regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24929." The post card will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-1 which describes the application procedure.

Background

On March 6, 1986, the FAA published Notice No. 86-3 (51 FR 7878), which provide for a 90 day comment period, closing on June 5, 1986. In that notice the FAA proposed noise certification standards for civil helicopters certificated in the normal, transport, and restricted categories. The notice also proposed to prohibit changes in the design type of helicopters that might increase their noise levels beyond certain limits.

The FAA invited interested persons to submit comments and suggestions as to future action regarding this rulemaking. Since Notice 86-3 was published, a request from the Aerospace Industries Associations of America, Inc., has been received for an extension of the comment period due to the relationship of the proposed rule and issues to be discussed during the June ICAO committee meeting on Aviation Environmental Protection.

The FAA considers it vital to obtain the comments of all interested persons concerning the overall regulations, economic, environmental and energy aspects of the proposal and to obtain suggestions for improving it.

Conclusion

This notice reopens the comment period on the NPRM to afford interested persons with additional time in which to review and respond to Notice 86-3. For reasons discussed in Notice 86-3, the FAA has determined that this document: (1) Involves a proposal regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, it is certified that, under criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities. Further, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Reopening of Comment Period

The FAA is informed that many interested parties have requested additional time to comment on the NPRM since it takes time to fully analyze the proposals so that all potential problem areas are identified and brought to the agency's attention.

In consideration of the above, the FAA concludes that the comment period should be reopened. Accordingly, the comment period for Notice 86-3 is reopened until September 2, 1986.

Issued in Washington, DC, on July 23, 1986.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 86-17304 Filed 7-31-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-60-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment to Notice of Proposed Rulemaking (NPRM); and Extension of Comment Period.

SUMMARY: A Notice of Proposed Rulemaking (NPRM), Docket No. 86-NM-60-AD, was issued April 30, 1986, which proposed an airworthiness directive (AD) which would require replacement of the trolley roller and side track roller assemblies and the cable pulleys in the counterbalance system on certain Boeing Model 767 entry/service doors. This document amends the NPRM by adding a requirement to rework the aft roller side tracks on certain Boeing Model 767 entry/service doors. This action is prompted by the manufacturer reporting that, on some doors the operating loads are increased excessively when the aft side track roller is replaced as originally proposed by the NPRM. This document also extends the time for comments for the proposed rule.

DATES: Comment period for the NPRM, as amended, is extended and comments must be received no later than August 21, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-60-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

VOL 51 ISS 148 AG 1 1986 UMI

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Aerospace Engineer, Airframe Branch, ANM–120S; telephone (206) 431–2931. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–60–Ad, 17900 Pacific Highway South, C–68966, Seattle Washington 98168.

Discussion

Notice of Proposed Rulemaking, Docket No. 86–NM–60–AD, was published in the **Federal Register** on May 8, 1986 (51 FR 17052). This notice proposed to adopt an airworthiness directive (AD) that would require replacement of the trolley roller and side track roller assemblies and the cable pulleys in the counterbalance system on certain Boeing Model 767 entry/service doors. This action was prompted by reports of component failures, which could prevent the door from opening when required for emergency evacuation. Since issuance of the NPRM, the FAA has determined that it is necessary to trim the aft roller side track to ensure rotation of the aft side track roller as proposed in the original NPRM. This action is prompted by the manufacturer reporting that, on some doors the operating loads are increased excessively when the aft side track roller is replaced as originally proposed by the NPRM.

Boeing issued Service Bulletin No. 767–52–0044 on June 27, 1986, which describes the modification of the aft roller side track by trimming the outboard edge of the track.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the tracks in accordance with the service bulletin previously mentioned.

It is estimated that 63 airplanes of U.S. registry would require rework of the aft roller side tracks which would require 32 manhours per airplane to accomplish; at an estimated cost of $40 per manhour, the cost impact of this revision to the NPRM on U.S. operators is estimated to be $80,640. The cost impact of this proposal, as revised, is estimated to be $80,640 plus $154,320, as listed in the original notice, for a total of $234,960.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89

§ 39.13 [Amended]

2. By revising an NPRM published in the **Federal Register** on May 8, 1986 (51 FR 17052) document FR Doc. 86–10280, as follows:

"**BOEING:** Applies to the Model 767 series airplanes specified in the Boeing service bulletins listed below, certified in any category. To ensure proper entry/service door operation during emergency evacuation, accomplish the following within 9 months after the effective date of this AD, unless previously accomplished:

A. For airplanes listed in Boeing Service Bulletin 767–52–0032, dated September 13, 1985, remove and replace the entry/service door trolley roller and side track roller assemblies in accordance with Boeing Service Bulletin 767–52–0032, dated September 13, 1985, or later FAA-approved revisions.

B. For airplanes listed in Boeing Service Bulletin 767–52–0037, dated March 21, 1986, replace the counterbalance cable pulleys in accordance with Boeing Service Bulletin 767–52–0037, dated March 21, 1986, or later FAA-approved revisions.

C. For airplanes listed in Boeing Service Bulletin 767–52–0044, dated June 27, 1986, modify the aft roller side tracks in accordance with Boeing Service Bulletin 767–52–0044, dated June 27, 1986, or later FAA-approved revisions.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used with approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD."

All persons affected by this proposal who have not already received copies of the manufacturer's service bulletins may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 24, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–17303 Filed 7–31–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 774

Guidelines for Significant Revisions; Reopening of Comment Period on Petition To Initiate Rulemaking

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of reopening of comment period on a petition to initiate rulemaking.

SUMMARY: On June 13, 1986, the Office of Surface Mining Reclamation and Enforcement (OSMRE) published a notice (51 FR 21574) seeking public comments on a petition submitted pursuant to section 201(g) of the Surface Mining Control and Reclamation Act. This petition requested OSMRE to amend its regulations to establish guidelines for determining whether a proposed revision to an existing permit is significant. OSMRE has received clarification from the petitioners that the intent of this petition is to initiate national rulemaking. OSMRE has also received a request for an extension of the comment period.

DATE: OSMRE will accept written comments until 4:00 p.m. Eastern Daylight Time, September 2, 1986.

ADDRESSES: *Hand-deliver* to the Office of Surface Mining Reclamation and Enforcement, Division of Permit and Environmental Analysis, Room 5121, 1100 L Street NW., Washington, DC, or

Mail to the Office of Surface Mining Reclamation and Enforcement, Division of Permit and Environmental Analysis, Room 5121–L, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Catherine Roy, Division of Permit and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, telephone (202) 343–5143.

SUPPLEMENTARY INFORMATION:

I. Background

OSMRE, through the Division of Tennessee Permitting, has been developing guidelines for use in Tennessee in determining whether proposed revisions to permits are significant. OSMRE received a petition for rulemaking indicating that such guidelines are rules and subject to the APA rulemaking process. However, the petition was unclear as to whether the requested rulemaking would be national in scope or limited to Tennessee. On June 13, 1986, OSMRE published a request for comments on the need for the rulemaking and on its scope (51 FR 21574). The petitioners have now clarified that its intent is to initiate national rulemaking.

OSMRE also received a request for an extension of the public comment period. Because the scope has been clarified by the petitioners, OSMRE is reopening the comment period.

II. Public Comment Procedures

Written comments should be specific, should be confined to the need for the requested national rulemaking, and should explain the reasons for the comment. Persons who have already submitted comments on the need for this rulemaking do not need to resubmit them, unless they wish to amend their comments. The public is also referred to a companion notice in this **Federal Register** on proposed rulemaking on criteria for significant permit revisions.

OSMRE cannot ensure that written comments received after the close of the comment period (see "**DATE**") or delivered to any location other than that specified under "**ADDRESSES**" above will be considered and included in the administrative record on this petition.

List of Subjects in 30 CFR Part 774

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: July 29, 1986.

Brent Wahlquist,

Assistant Director, Program Operations.

[FR Doc. 86–17318 Filed 7–30–86; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, and 947

Surface Coal Mining and Reclamation Operations Under Federal programs in Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Reopening comment period on a portion of the proposed rule.

SUMMARY: On August 5, 1985, the Office of Surface Mining Reclamation and Enforcement (OSMRE) published a notice of proposed rulemaking to update Federal programs promulgated under the Surface Mining Control and Reclamation Act to reflect section numbering changes and rule content revisions made in OSMRE's permanent program rules during regulatory reform (50 FR 31674). OSMRE is reopening the comment period on the portion of these proposed rules pertaining to guidelines in determining the scale or extent of proposed permit revisions and in determining whether the proposed revision is significant.

DATE: OSMRE will accept written comments until 4:00 p.m. Eastern Daylight Time, September 2, 1986.

ADDRESSES: *Hand-deliver* to the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5315, 1100 L Street NW., Washington, DC; or.

Mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5315–L, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mary Josie Smith, Chief, Branch of Federal Regulatory Activities, Division of Permit and Environmental Analysis; telephone (202) 343–5150.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed rules, published August 5, 1985, (50 FR 31674), included guidelines to be used by the regulatory authority in determining whether a proposed revision to a permit for surface coal mining operations is significant. Applications for significant permit revisions have specific requirements in SMCRA and the existing regulations.

The proposed guidelines were listed under sections 910.774(b)(2), 912.774(b)(2), 921.774(b)(2), 922.774(b)(2), 933.774(b)(2), 937.774(b)(2), 939.774(b)(2), 941.774(b)(2), and 947.774(b)(2) in the 1985 notice. OSMRE now intends to reconsider those proposed guidelines in light of a petition for similar rulemaking (see a companion notice in this **Federal Register**).

II. Public Comment Procedures

Written comments should be specific and should include a reason for the comment. Comments should be confined to the proposed guidelines in the 1985 **Federal Register** notice (see Background). OSMRE cannot ensure that comments received after the close of the comment period (see "**DATE**") or

delivered to any location other than that specified in "**ADDRESSES**" will be considered and included in the administrative record.

Persons who have already submitted comments do not need to resubmit them, unless they wish to amend their comments. The public is also referred to a companion notice in this **Federal Register**.

Dated: July 29, 1986.

Brent Walquist,

Assistant Director, Program Operations.

[FR Doc. 86-17317 Filed 7-31-86; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 950

Proposed Modifications to the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Reforcement (OSMRE), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSMRE is reopening the period for review and comment on modified portions of the Wyoming permanent regulatory program. On January 15, 1986 (51 FR 1816), OSMRE announced a public comment period and procedures for requesting a public hearing on the substantive adequacy of a proposed amendment to the Wyoming permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by Wyoming on December 13, 1985. The amendment submitted by Wyoming consists of modifications to the definition of "collateral bond" by allowing the use of personal property as an acceptable method of depositing collateral with the Administrator of the Wyoming Land Quality Division for the purpose of posting additional security for self-bonding purposes. OSMRE is reopening the comment period to allow the public an opportunity to comment on supplemental material relating to the proposed amendment submitted by Wyoming on June 10, 1986.

DATE: Written comments not received on or before August 18, 1986 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Jerry Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Casper, Wyoming 82601-1918.

Copies of the supplemental material submitted by Wyoming and other relevant documents are available for review at the Casper Field Office and the office of the State regulatory authority listed below. Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays. Each requestor may receive, free of charge, one single copy of the Wyoming amendment by contacting OSMRE's Casper Field office listed above.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, Room 5124, 1100 "L" Street NW., Washington, DC 20240

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Officer Building, 122 W. 25th Street, Cheyenne, Wyoming 82002

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Casper, Wyoming 82601-1918; Telephone: (310) 261-5824.

SUPPLEMENTARY INFORMATION: The general background of the permanent regulatory program, the State program approval process, the Wyoming program and the conditional approval, can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 **Federal Register** (45 FR 78637-78684).

On December 13, 1985, the State of Wyoming submitted to OSMRE a program amendment that revised Chapter XII, section 2 of the approved program regulations relating to the use of personal property as collateral when posting additional security for self-bonding.

The January 15, 1986 **Federal Register** announced receipt of the program modification by OSMRE as well as a public comment period (51 FR 1816). In that same notice OSMRE announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On June 10, 1986, Wyoming submitted additional material to further clarify the proposed amendment. Copies of the additional material are available at those locations listed under "**ADDRESSES**". OSMRE is reopening the comment period in order to allow the public an opportunity to review and comment on the additional material submitted to OSMRE by the State on June 10, 1986. Specifically, OSMRE is seeking comment on whether the material submitted by Wyoming on June 10, 1986, together with the proposed amendment submitted on December 13, 1985, satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17. If the proposed amendment is found by the Director to be in accordance with SMCRA and no less effective than the Federal regulations, the amendment will be approved by the Director and codified in 30 CFR Part 950 as part of the Wyoming permanent regulatory program.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 28, 1986.

Brent Walquist,

Assistant Director, Program Operations.

[FR Doc. 86-17362 Filed 7-31-86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3058-7]

Approval and Promulgation of Implementation Plans; Rhode Island; Disapproval of Alternative Reasonably Available Control Technology Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision is an alternative reasonably available control technology (RACT) determination involving relaxed emission limitations and an extension of the final compliance date for four paper and fabric coating lines at Arkwright Incorporated (Arkwright) in Fiskeville, Rhode Island.

EPA is proposing to disapprove this revision for the following reasons: (1) The revision request does not contain adequate support that the emission limitations already in Rhode Island's SIP for this source cannot feasibly be met. (2) The revision request does not contain adequate support that the compliance date extension to June, 1988 for the reformulation of coatings on one of Arkwright's coating lines is expeditious. (3) The revision request does not contain adequate support that a reformulation program or add-on control program is not feasible on two of Arkwright's coating lines. (4) The revision does not contain adequate support that a final compliance date extension to June 30, 1987 for the installation of control

equipment on one of Arkwright's coating lines is justifiable. As a result of this disapproval, Arkwright remains subject to the emission limitations and final compliance date found in Rhode Island Regulation No. 19, Subsection 19.3.1.

DATES: Comments must be received on or before September 2, 1986.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, JFK Federal Building, Room 2311, Boston, MA 02203; and the Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: David B. Conroy (617) 223–4869, FTS 223–4869.

SUPPLEMENTARY INFORMATION: On July 6, 1983 (48 FR 31026), EPA approved Rhode Island's Ozone Attainment Plan and incorporated it into the SIP. As part of the attainment plan, Rhode Island adopted Regulation No. 19, "Control of Volatile Organic Compounds from Surface Coating Operations." A source subject to this regulation is required under Subsection 19.3.1 to apply RACT to its VOC emitting processes. The RACT limitations specified in Subsection 19.3.1 are equivalent to those specified in EPA's applicable Group I control techniques guidelines (CTG) document.

On November 18, 1985, the Rhode Island DEM submitted a revision to its SIP consisting of an administrative consent agreement between the DEM's Division of Air and Hazardous Materials and Arkwright of Fiskeville, Rhode Island. This consent agreement was issued pursuant to provisions in Rhode Island Regulation No. 19, Subsection 19.3.3 which allow the DEM to impose alternative compliance dates and emission limitations to those set forth in Subsection 19.3.1 on a case-by-case basis provided that certain conditions are met. The process commonly referred to as making an alternative RACT determination.

In order to qualify for an alternative RACT determination under Subsection 19.3.3, a source, at least 18 months prior to the final compliance date of July 1, 1985 set forth in Subsection 19.3.1, must have documented to the satisfaction of the DEM's Division of Air and Hazardous Materials that the applicable emission limitations set forth in Subsection 19.3.1 could not be met. This documentation involved demonstrating both economically and technologically that neither coating reformulation nor the installation of a control system is feasible or even partially feasible.

Amendments to Rhode Island Regulation No. 19 which included Subsection 19.3.3 were submitted to EPA by Rhode Island on May 14, 1982. EPA approved these amendments on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. It was EPA's intention when approving Subsection 19.3.3 that all compliance date extension and emission limitation relaxations granted pursuant to this subsection by the DEM would be submitted to EPA as SIP revisions and that any technical or economic analysis would be independently reviewed and evaluated by EPA. The DEM agrees that EPA has the authority to review such compliance date extensions and emission limitation relaxations.

Summary of SIP Revision

Arkwright Incorporated operates three existing paper and fabric coating lines (coater numbers 5, 6, and 7) in Fiskeville, Rhode Island. A fourth existing line (coater No. 4) is to be used as an emergency standby for coater No. 6. There is one additional line at Arkwright (coater No. 3) which was installed in 1984 and is subject to different control requirements than the existing lines. The lines are used for the coating of polyester fabrics and plastic films such as transparencies. Due to the nature of the substrates coated, the existing surface coating lines at Arkwright are subject to the control requirements of Rhode Island SIP Regulation No. 19. Rhode Island Regulation No. 19, Subsection 19.3.1 requires that the VOC content of each coating employed at Arkwright be at or below 2.9 pounds VOC/gallon of coating (minus water) by July 1, 1985 except as provided in Subsection 19.3.3. (Note: 2.9 pounds VOC/gallon of coating (minus water) is the emission limitation specified in EPA's control techniques guideline (CTG) document for such facilities.)

Pursuant to Subsection 19.3.3, the Rhode Island DEM has submitted a revision providing relaxed emission limitations and an extended compliance date for Arkwright. The DEM believes that the provisions of the consent agreement submitted as the SIP revision constitute an alternative RACT determination for the source.

Arkwright has primarily employed solvent-based coatings in its coating lines. During 1980, the first year this regulation became effective, the VOC emissions from this source were 1042 TPY. In 1984, the VOC emissions from this source were 638 TPY with lines 5, 6 and 7 emitting 70 TPY, 191 TPY, and 377 TPY, respectively. Under the proposed consent agreement, Arkwright will be required to install an add-on control device on line 7 by June 30, 1987. This device should reduce approximately 320 TPY of VOC emissions from this line.

The consent agreement also requires Arkwright to reformulate the coatings used on line 6 by June, 1988. All other coatings on line 5 and on line 6 and 7, before reformulation or the installation of add-ons, would be subject to an emissions limit of 7.03 lbs VOC/gallon of coating (minus water). This limit will be reestablished on a yearly basis by the DEM to reflect VOC reductions Arkwright has achieved from its coatings.

The consent agreement also limits the operation of coater No. 4 to times when coater No. 6 is not in operation. The operation of coater No. 4 is allowed as long as Arkwright notifies the DEM prior to using the coater. The coatings used on coater No. 4 are subject to the 7.03 lbs VOC/gallon coating (minus water) emission limit.

SIP Deficiencies

As previously stated, EPA is proposing to disapprove this revision because of several deficiencies in the consent agreement negotiated with Arkwright. Each of the deficiencies is discussed below.

1. Compliance Date Extension—Reformulation

The Rhode Island DEM has requested a compliance date extension to June 30, 1988 for Arkwright Incorporated to reformulate its coatings on coater No. 6. Section 172(b)(2) of the Clean Air Act (CAA) requires that all provisions of an implementation plan for a state relating to attainment and maintenance of national ambient air quality standards in any nonattainment areas must provide for the implementation of all reasonably available control measures as expeditiously as practicable. Therefore, for each individual compliance date extension request, EPA must determine whether or not the request does, in fact, evidence an expeditious timeframe.

EPA's technical criteria for evaluating compliance date extensions are set forth in an August 17, 1984 letter from Joseph Cannon, then Assistant Administrator for Air and Radiation, to Richard Lillquist, President of the Flexible Packaging Association. (This letter is available as part of the evaluative memorandum prepared on this revision. Copies may be obtained from the EPA

Regional Office listed in the **ADDRESSES** section of this notice.) In order to demonstrate that a compliance date extension represents an expeditious timeframe, the source must provide evidence of having made reasonable efforts to develop and/or install low-solvent technology at its facility from the time of adoption by the state of the applicable regulations without any significant periods of inaction. In addition, this letter states that in no case will a compliance date extension request extending beyond 1987 be considered expeditious. Further, a compliance date extension request must contain commitments to install add-on control equipment by a specified date if a low-solvent development program fails by a specified date. Rhode Island Regulation No. 19 was effective on November 13, 1979 and conditionally approved by EPA on May 7, 1981 (46 FR 25466). EPA fully approved Rhode Island Regulation No. 19 as part of Rhode Island's Ozone Attainment Plan on July 6, 1983 (48 FR 31028). Arkwright has not adequately described the steps it took to investigate the use of complying coatings since the adoption of Regulation No. 19. Without this detailed explanation, it is not possible to substantiate Arkwright's claim that it needs an extension beyond the July 1, 1985 final compliance date contained in Regulation No. 19. Additionally, EPA does not consider a compliance date extension request extending beyond December 31, 1987 to be expeditious and cannot approve such a request. Moreover, EPA cannot approve this request because there is no provision in Arkwright's consent agreement requiring the company to install add-on control equipment should the low solvent development program fail.

2. Compliance Date Extension—Add-on Control

The Rhode Island DEM has requested a compliance date extension to June 30, 1987 for Arkwright Incorporated to install add-on controls on coater No. 7. The final compliance date in Regulation 19 is July 1, 1985. By this date, Arkwright should have installed add-on control equipment on coater No. 7. Arkwright claims it could not afford to install the add-on control equipment by July 1, 1985 and requested an extension pursuant to Rhode Island Regulation No. 19, Subsection 19.3.3. EPA has done an extensive review of economic and financial information submitted by Arkwright. That review has indicated that Arkwright had and continues to have the capability to make the expenditures necessary to install and operate add-on control equipment prior to June 30, 1987. (The review is available as part of the evaluative memorandum prepared on this revision. Copies may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice). EPA does not consider a schedule for the installation of add-on control equipment which extends the compliance date 24 months after the final compliance date to be expeditious.

3. Emission Limitation on Uncontrolled Lines

The Rhode Island DEM has requested an alternative emission limitation for the coatings used on coater No. 4, when it is allowed to operate, and on coater No. 5. The limit that the coatings on these lines must meet when operating is 7.03 lbs VOC/gallon coating (minus water). The DEM's Division of Air & Hazardous Materials will restablish this limit on a yearly basis to reflect VOC reductions Arkwright has achieved from its coatings. Arkwright has not provided adequate support which shows that there are not any existing low/no solvent formulations which can meet Arkwright's needs on these two coaters. Furthermore, Arkwright has not provided adequate support which shows that add-on control equipment is not feasible on either or both of these coaters.

EPA Response

On June 28, 1985, EPA submitted comments on the consent agreement between the DEM and Arkwright at the public hearing that was held on this revision. EPA commented on the specific deficiencies of the consent agreement and stated that EPA did not believe the provisions of the consent agreement constituted RACT for this source. In its November 18, 1985 submittal, the DEM did not address all of EPA's comments made at the hearing. In a letter dated February 10, 1986, EPA reiterated its comments on Arkwright's consent agreement and recommended that the DEM withdraw the submittal. EPA stated that it would disapprove the submittal if the State did not withdraw it. On February 21, 1986, the State notified EPA that if still considers this SIP revision request pending.

Proposed Action

EPA is today proposing to disapprove the consent agreement submitted as a SIP revision request for Arkwright Incorporated in Fiskeville, Rhode Island for the following reasons:

1. The source has not demonstrated that the requested compliance date extension to June 30, 1988 for reformulation of coatings on coater No. 6 constitutes an expeditious schedule as required by the CAA and Subsection 19.3.3 of the federally approved SIP for Rhode Island.

2. The source has not demonstrated that it needs a two year compliance date extension until June 30, 1987 for the installation of add-on control equipment on coater No. 7 as required by the CAA and Subsection 19.3.3 of the fedrally approved SIP for Rhode Island.

3. The source has not demonstrated that an add-on control program or a reformulation program is not feasible on coater No. 4 and coater No. 5 as required by Subsection 19.3.3 of the federally approved SIP for Rhode Island.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it affects only one source. In addition, this action imposes no additional requirements on the source.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Dated: Apirl 3, 1986.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 86-17351 Filed 7-31-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 716

[OPTS-84022; FRL-3058-1]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies on Certain Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to add 107 chemical substances to the list of chemical substances and mixtures (henceforth referred to as substances) in the Health and Safety Data Reporting Rule, 40 CFR Part 716. Once EPA lists these substances in the Health and Safety Data Reporting Rule, past, current, and prospective manufacturers, importers, and processors of these substances would be required to provide EPA with lists and copies of unpublished health and safety studies on these substances. EPA will use this information to support a detailed

assessment of the health and environmental risks of these substances.

DATE: Written comments on this proposed rule should be submitted by September 30, 1986.

ADDRESS: Comments should bear the docket control number OPTS–84022 and should be submitted to: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE–G004, 401 M St. SW., Washington, DC 20460.

All written comments on this proposed rule will be available for public inspection in Rm. E–107 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, DC 20460

Toll free: (800–424–9065), In Washington, DC: (554–1404)

Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

A. On Rule

Under section 8(d) of the TSCA, EPA issued the model Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) model rule requires past, current and prospective manufacturers, importers, and processors of listed chemical substances to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacture, import, or process. These studies furnish EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

As part of an effort to coordinate information gathering requests from different offices in EPA and other Federal agencies, EPA has included in this proposed rule chemicals nominated by the Office of Toxic Substances, the Office of Drinking Water, the Office of Water Regulations and Standards, the Office of Solid Waste, and the Consumer Product Safety Commission. This coordination will lead to resource savings for both industry and the government by avoiding duplicative information requests by multiple offices in EPA or other Federal agencies. This savings will be reflected in reduced Agency implementation costs and industry reporting costs.

A list of the chemicals to be added and their nominating office(s) is given in Unit II of this proposed rule. This list represents an initial effort in coordinating the assessment activities of all officers in EPA, as well as certain other Federal agencies. It incorporates a backlog of requests for health and safety information and covers many currently identified Agency health and safety data needs for Fiscal Years 1986, 1987 and in some cases, 1988.

Though there will be future additions to the Health and Safety Data Reporting Rule which encompass information requests from multiple offices and/or agencies, EPA does not anticipate future additions will again entail such an extensive list of chemicals. Other than the automatic additions which result from the receipt of the Interagency Testing Committee's (ITC's) Reports, EPA will continue to propose amendments to the Health and Safety Data Reporting Rule on an as needed basis.

B. On Nominated Chemicals

Prior to listing the chemicals in this proposed rule, information searches of several governmental chemical data bases were conducted by EPA to determine if the information needed by the requesting office was available. The list of chemicals was also given to other officers and programs in EPA requesting previously unavailable unpublished information for any of the listed chemicals. Thirty-eight chemicals were eliminated from the original list after the nominating office determined that the information provided met their needs. Only if the information needed on a chemical was unavailable, or the available information did not meet the particular needs of the nominating office, was the chemical retained on the list.

The particular reasons for each office's information request on the substances listed in this proposed rule are discussed below.

1. Office of Toxic Substances (OTS)

OTS has requested information on 26 diisocyanates. There is a concern about the potential for widespread human exposure to diisocyanates. With a few exceptions, toxicologic and health effects data are available only for toluene diisocyanate (TDI) and polymeric methylene diphenyl diisocyanate (MDI). The health effects of greatest concern for these substances are those resulting from acute and chronic exposure, including respiratory tract effects, dermal irritation, nose and eye irritation, neurotoxic effects, hepatic, renal, and hematologic changes, and immune-mediated physiologic and pathologic changes.

The information obtained on these substances will help OTS to quantitatively and qualitatively analyze risks posed by them.

2. Office of Water (OW)

The information requested on the 34 chemicals nominated by the Office of Water is necessary to develop drinking water regulations, health advisories and ambient water criteria for aquatic and human health. Available toxicological information about these chemicals is variable in quality and quantity, and in some instances inadequate for proper scientific assessment of toxicity. Toxicity assessment requires the evaluation of acute, subchronic and chronic studies in rodents with respect to its target organs. The primary health concerns are damage to the central nervous system, liver, kidneys, and/or adrenals, and testicular toxicity. Toxicity data on additional effects such as teratogenesis, mutagenesis, reproductive effects and metabolism must be assessed since they may make a significant contribution to toxicity assessment of these chemicals.

3. Office of Solid Waste (OSW)

OSW needs health and environmental effects data for the development of background documents and **Federal Register** notices for their Listing Program. The Listing Program in the EPA Office of Solid Waste analyzes industrial wastes and their constituents and develops the background information, rationales and support documents needed to add waste streams to the list of hazardous wastes from non-specific sources (40 CFR 261–31), or hazardous wastes from specific sources (40 CFR 261.32). The identification and listing of these industrial waste streams as hazardous results in their regulation under the authority of RCRA. OSW is particularly concerned with carcinogenicity, teratogenicity, reproductive effects, and chronic and systemic health effects data. They also need information on environmental effects, aquatic toxicity, environmental fate, persistence and bioaccumulation. The existing literature yields only inconclusive or no data on the 35

chemical nominated by OSW for this rule.

4. Consumer Product Safety Commission (CPSC)

The 12 chemicals nominated by CPSC are found in a variety of consumer products such as deodorizers, paints, adhesives, textiles, flame retardants, dyes, solvents, and plastics, and are known or suspected of producing chronic effects in animals or adverse human health effects. CPSC hopes this rule will provide the information that will help in evaluating potential consumer health risks from exposure to these chemicals. This information is not currently available in the published literature.

II. Summary of This Rule

This proposed rule would add 107 chemical substances to the list of substances in 40 CFR 716.17.

By listing these substances in the section 8(d) model rule, EPA would trigger the model rule's reporting requirements for past, current, and prospective manufacturers, importers, and processors of these substances. The model rule requires manufacturers, importers, and processors of listed substances to submit data within 60 days of the effective date of any amendment to the model rule.

The nominated chemicals are listed by CAS number below with the requesting office(s) noted:

CAS No.	Chemical name	Requesting office*
67-63-0	2-Propanol	OSW
67-66-3	Methane, trichloro-	ODW/OWRS
74-83-9	Methane, bromo-	ODW
74-95-3	Methane, dibromo-	ODW
74-97-5	Methane, bromochloro-	ODW
75-00-3	Ethane, chloro-	ODW
75-04-7	Ethanamine	OSW
75-25-2	Methane, tribromo-	ODW/OWRS
75-27-4	Methane, bromodichloro-	ODW/OWRS
75-29-6	Propane, 2-chloro-	OSW
75-34-3	Methane, 1,1-dichloro-	ODW/OWRS
75-69-4	Methane, trichlorofluoro-	ODW/OWRS
75-71-8	Methane, dichlorodifluoro-	ODW/OWRS
76-01-7	Ethane, pentachloro-	ODW
78-88-6	1-Propene, 2,3-dichloro-	OSW
78-97-7	Propanenitrile, 2-hydroxy-	OSW
79-00-5	Ethane, 1,1,2-trichloro-	ODW/OWRS/ OTS
79-34-5	Ethane, 1,1,2,2-tetrachloro-	ODW/OWRS
90-42-6	[1,1'-Bicyclohexyl]-2-one	OSW
91-08-7	Benzene, 1,3-diisocyanato-2-methyl-	OTS
91-20-3	Naphthalene	ODW
91-97-4	1,1'-Biphenyl, 4,4'-diisocyanato-3,3'-dimethyl-	OTS
92-69-3	[1,1'-Biphenyl]-4-ol	OSW
92-84-2	10H-Phenothiazine	OSW
92-87-5	[1,1'-Biphenyl]-4,4'-diamine.	OWRS
96-18-4	Propane, 1,2,3-trichloro-	ODW
97-18-7	Phenol, 2,2'-thiobis[4,6-dichloro-.	CPSC
97-23-4	Phenol, 2,2'-methylenebis[4-chloro-.	CPSC
98-01-1	2-Furancarboxaldehyde	OSW
98-06-6	Benzene, (1,1-dimethylethyl)-	ODW
98-83-9	Benzene, (1-methylethenyl)-	OSW
99-87-6	Benzene, 1-methyl-4-(1-methylethyl)-	ODW
100-48-1	4-Pyridinecarbonitrile	OSW
100-54-9	3-Pyridinecarbonitrile	OSW
100-70-9	2-Pyridinecarbonitrile	OSW
101-20-2	Urea, N-(4-chlorophenyl)-N'3,4-dichlorophenyl)CPSC.	CPSC
101-68-8	Benzene, 1,1'-methylenebis[4-isocyanato-	OTS
104-49-4	Benzene, 1,4-diisocyanato-	OTS
104-51-8	Benzene, butyl	ODW
104-76-7	1-Hexanol, 2-ethyl-	OSW
105-60-2	2H-Azepin-2-one, hexahydro.	OSW
106-43-4	Benzene, 1-chloro-4-methyl.	ODW
107-06-2	Ethane, 1,2-dichloro-	OWRS
108-60-1	Propane, 2,2'-oxybis [1-chloro-.	ODW
108-86-1	Benzene, bromo-	ODW
108-95-2	Phenol	OWRS
109-87-5	Methane, dimethoxy-	CPSC
109-89-7	Ethanamine, N-ethyl-	OSW
111-69-3	Hexanedinitrile	OSW
111-92-2	1-Butanamine, N-butyl-	CPSC
120-12-7	Anthracene OSW	
121-44-8	Ethanamine, N,N-diethyl-	OSW
121-47-1	Benzenesulfonic acid, 3-amino.	OSW
122-66-7	Hydrazine, 1,2-diphenyl-	OWRS
123-61-5	Benzene, 1,3-diisocyanato-	OTS
124-48-1	Methane, dibromochloro-	ODW
127-18-4	Ethene, tetrachloro-	OWRS
129-00-0	Pyrene	OSW
135-98-8	Benzene, (1 methylpropyl).	ODW
137-26-8	Thioperoxydicarbonic diamide tetramethyl-.	CPSC
139-25-3	Benzene, 1,1'-methylenebis[4-isocyanato-3-methyl-.	OTS
472-41-3	Phenol, 4-(3,4-dihydro-2,2,4-trimethyl-2H-1-benzopyran-4-yl)-.	OSW
506-96-7	Acetyl bromide	OSW
530-50-7	Hydrazine, 1,1-diphenyl-	OWRS
534-07-6	2-Propanone, 1,3-dichloro-	OSW
540-54-5	Propane,1-chloro-	OSW
540-84-1	Pentane, 2,2,4-trimethyl-	CPSC
542-75-6	1-Propene, 1,3-dichloro-	ODW
580-51-8	[1,1'-Biphenyl]-3-ol	OSW
584-84-9	Benzene, 2,4-diisocyanato-1-methyl-	OTS
598-21-0	Acetyl bromide, bromo-	OSW
630-20-6	Ethane, 1,1,1,2-tetrachloro-	ODW/OWRS
685-91-6	Acetamide, N,N-diethyl-	OSW
812-03-3	Propane, 1,1,1,2-tetrachloro-	OSW
822-06-0	Hexane, 1,6-diisocyanato-	OTS
828-00-2	1,3-Dioxan-4-ol, 2,6-dimethyl-, acetate.	CPSC
1070-78-6	Propane, 1,1,1,3-tetrachloro-	OSW
1208-52-2	Benzenamine, 2-[(4-aminophenyl)methyl]-.	OSW
1200-71-6	Phenol, dimethyl-	OWRS
1321-38-6	Benzene, diisocyanatomethyl- (unspecified isomer).	OTS
1331-47-1	[1,1'-Biphenyl]-4,4'-diamine, dichloro.	OWRS
2536-05-2	Benzene, 1,1'-methylenebis[2-isocyanato-	OTS
2556-36-7	Cyclohexane, 1,4-diisocyanato-	OTS
2778-42-9	Benzene, 1,3-bis(1-isocyanato-1-methylethyl)-.	OTS
3173-72-6	Naphthalene, 1,5-diisocyanato-.	OTS
3296-90-0	1,3-Propanediol, 2,2-bis(bromoethyl)-.	CPSC
4098-71-9	Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-.	OTS
5124-30-1	Cyclohexane, 1,1'-methylenebis[4-isocyanato-.	OTS
5873-54-1	Benzene, 1-isocyanato-2-[(4-isocyanatophenyl)methyl].	OTS
7440-28-0	Thallium	OWRS
7440-48-4	Cobalt	OWRS
9016-87-9	Isocyanic acid, polymethylenepolyphenylene ester.	OTS
10347-54-3	Cyclohexane, 1,4/bis(isocyanatomethyl)-.	OPTS
10436-39-2	1-Propene, 1,1,2,3/tetrachloro-.	OSW
12001-85-3	Naphthenic acids, zinc salts.	CPSC
15646-96-5	Hexane, 1,6-diisocyanato-2,4,4-trimethyl-	OTS
16938-22-0	Hexane, 1,6-diisocyanato-2,2,4-trimethyl-.	OTS
18495-30-2	Propane, 1,1,2,3-tetrachloro-.	OSW
19060-16-3	2-Propenoic acid, 2,3-dibromopropyl ester.	CPSC
26447-40-5	Benzene,1,1'-methylenebis[isocyanato-	OTS
26471-62-5	Benzene, 1,3-diisocyanatomethyl-.	OTS
26530-20-1	3(2H)-Isothiazolone, 2-octyl-.	CPSC
26952-23-8	1-Propene, dichloro-	OSW
32052-51-0	Isocyanic acid, trimethylcyclonexyl ester.	OTS
38661-72-2	Cyclohexane, 1,3-bis(isocyanatomethyl)-.	OTS
75790-84-0	Benzene, 2/isocyanato-4-[(4-isocyanatophenyl)methyl]-1-methyl-.	OTS
75790-87-3	Benzene,1-isocyanato-2-[(4-isocyanatophenyl)thio]-.	OTS

*CPSC = Consumer Product Safety Commission.
OSW = Office of Solid Waste, EPA.
OTS = Office of Toxic Substances, EPA.
ODW = Office of Drinking Water, EPA.
OWRS = Office of Water Regulations and Standards, EPA.

III. Reporting Requirements

Detailed guidance for reporting unpublished health and safety data is provided in 40 CFR Part 716. Also found in Part 716 are reporting exemptions. Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either had proposed to manufacture, import, or process, or had manufactured, imported, or processed, the listed substance must submit a copy of each unpublished health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process, or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each unpublished health and safety study which is in their possession at the time the substance is listed.

b. A list of unpublished health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of health and safety studies that are initiated after the date the substance is listed and are conducted by or for them.

e. A copy of each unpublished health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each unpublished health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of unpublished health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of health and safety studies that are initiated after the time they propose to manufacture, import, or process the listed substance, and are conducted by or for them.

e. A copy of each unpublished health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

IV. Economic Impact

EPA estimates that the establishment of section 8(d) reporting requirements for the substances listed in Unit II of this proposed rule, would cost industry approximately $353,987. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of those data are not current. Therefore, if the Agency's estimate of regulatory impact is somewhat inaccurate, EPA intends to overestimate rather than underestimate that impact.

Nevertheless, the cost of this rule is low in comparison with its potential benefits. Health and safety studies concerning the listed substances would improve EPA's ability to identify and evaluate potential public health and environmental problems with regard to these substances. The Agency therefore would be better able to determine whether further regulatory action would be necessary.

The studies would help CPSC in evaluating potential consumer health risks from exposure to these chemicals.

The costs for reporting are broken down as follows:

Initial corporate review	$55,790
Site identification	49,113
File search	95,237
Title listing	5,099
Photocopying	19,838
Managerial review	98,226
Ongoing reporting	10,584
Total	$353,987

V. Public Record

The following documents constitute the public record for this proposed rule (docket control number OPTS–84022). All of these documents, including the index to the public record, are available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Public Information Office is located at EPA Headquarters, Rm. E–107, 401 M St. SW., Washington, DC. The public record includes the following information considered by the Agency in developing this proposed rule.

1. This proposed rule.

2. The economic analysis for this rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation

VI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a regulatory impact analysis. The Agency has determined that this proposed rule, if promulgated, is not "major" because it does not have an effect of $100 million or more on the economy. EPA also anticipates that this proposed rule, if promulgated, will not have a significant effect on competition, costs, or prices.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial numner of small entities. In a study of submitters reporting under the section 8(d) model rule, EPA found that only 1 of 69 submitters had less than $100 million in annual sales. EPA does not expect this proposed amendment to affect this distribution. Therefore, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and has assigned OMB Control Number 2070–0004. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA". The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety data, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements.

Dated: July 24, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, it is proposed that 40 CFR Part 716 be amended as follows:

1. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

2. By adding paragraphs (a)(18) and (c)(2) to § 716.17 to read as follows:

§ 716.17 Substances and listed mixtures to which this subpart applies.

(a) * * *

(18) As of the date 44 days after the date of publication of the Final Rule in the Federal Register, the following chemical substances are added to this Subpart:

CAS No.	Chemical name
67–63–0	2-Propanol
67–66–3	Methane, trichloro-
74–83–9	Methane, bromo-
74–95–3	Methane, dibromo-
74–97–5	Methane, bromochloro-

—Continued

CAS No.	Chemical name
75-00-3	Ethane, chloro-
75-04-7	Ethanamine
75-25-2	Methane, tribromo-
75-27-4	Methane, bromodichloro-
75-29-6	Propane, 2-chloro-
75-34-3	Ethane, 1,1-dichloro-
75-69-4	Methane, trichlorofluoro-
75-71-8	Methane, dichlorodifluoro-
76-01-7	Ethane, pentachloro-
78-88-6	1-Propene, 2,3-dichloro-
78-97-7	Propanenitrile, 2-hydroxy-
79-00-5	Ethane, 1,1,2-trichloro-
79-34-5	Ethane, 1,1,2,2-tetrachloro-
90-42-6	[1,1'-Bicyclohexyl]-2-one
91-08-7	Benzene, 1,3-diisocyanato-2-methyl-
91-20-3	Naphthalene
91-97-4	1,1'-Biphenyl, 4,4'-diisocyanato-3,3'-dimethyl-
92-69-3	[1,1'-Biphenyl]-4-ol
92-84-2	10H-Phenothiazine
92-87-5	[1,1'-Biphenyl]-4,4'-diamine
96-18-4	Propane, 1,2,3-trichloro-
97-18-7	Phenol, 2,2'-thiobis[4,6-dichloro-
97-23-4	Phenol, 2,2'-methylenebis[4-chloro-
98-01-1	2-Furancarboxaldehyde
98-06-6	Benzene, (1,1-dimethylethyl)-
98-83-9	Benzene, (1-methylethenyl)-
99-87-6	Benzene, 1-methyl-4-(1-methylethyl)-
100-48-1	4-Pyridinecarbonitrile
100-54-9	3-Pyridinecarbonitrile
100-70-9	2-pyridinecarbonitrile
101-20-2	Urea, *N*-(4-chlorophenyl)-*N'*-(3,4-dichlorophenyl)-
101-68-8	Benzene, 1,1'-methylenebis[4-isocyanato-
104-49-4	Benzene, 1,4-diisocyanato-
104-51-8	Benzene, butyl-
104-76-7	1-Hexanol, 2-ethyl-
105-60-2	2*H*-Azepin-2-one, hexahydro-
106-43-4	Benzene, 1-chloro-4-methyl-
107-06-2	Ethane, 1,2-dichloro-
108-60-1	Propane, 2,2'-oxybis[1-chloro-
108-86-1	Benzene, bromo-
108-95-2	Phenol
109-87-5	Methane, dimethoxy-
109-89-7	Ethanamine, *N*-ethyl-
111-69-3	Hexanedinitrile
111-92-2	1-Butanamine, *N*-butyl-
120-12-7	Anthracene
121-44-8	Ethanamine, *N,N*-diethyl-
121-47-1	Benzenesulfonic acid, 3-amino-
122-66-7	Hydrazine, 1,2-diphenyl-
123-61-5	Benzene, 1,3-diisocyanato-
124-48-1	Methane, dibromochloro-
127-18-4	Ethene, tetrachloro-
129-00-0	Pyrene
135-98-8	Benzene, (1-methylpropyl)-
137-26-8	Thioperoxydicarbonic diamide tetramethyl-
139-25-3	Benzene, 1,1'-methylenebis[4-isocyanato-3-methyl-
472-41-3	Phenol, 4-(3,4-dihydro-2,2,4-trimethyl-2*H*-1-benzopyran-4-yl)-
506-96-7	Acetyl bromide
534-07-6	2-Propanone, 1,3-dichloro-
540-54-5	Propane, 1-chloro-
540-84-1	Pentane, 2,2,4-trimethyl-
542-75-6	1-Propene, 1,3-dichloro-
580-51-8	[1,1'-Biphenyl]-3-ol
584-84-9	Benzene, 2,4-diisocyanato-1-methyl-
598-21-0	Acetyl bromide, bromo-
630-20-6	Ethane, 1,1,1,2-tetrachloro-
685-91-6	Acetamide, *N,N*-diethyl-
812-03-3	Propane, 1,1,1,2-tetrachloro-
822-06-0	Hexane, 1,6-diisocyanato-
828-00-2	1,3-Dioxan-4-ol, 2,6-dimethyl-, acetate
1070-78-6	Propane, 1,1,1,3-tetrachloro-
1208-52-2	Benzenamine, 2-[(4-aminophenyl)methyl]-
1300-71-6	Phenol, dimethyl-
2536-05-2	Benzene, 1,1'-methylenebis[2-isocyanato-
2556-36-7	Cyclohexane,1,4-diisocyanato
3173-72-6	Naphthalene, 1,5-diisocyanato-
3296-90-0	1,3-Propanediol, 2,2-bis(bromoethyl)-
4098-71-9	Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-
5124-30-1	Cyclohexane, 1,1'-methylenebis[4-isocyanato-
5873-54-1	Benzene, 1-isocyanato-2-[(4-isocyanatophenyl)methyl]-
7440-28-0	Thallium

—Continued

CAS No.	Chemical name
7440-48-4	Cobalt
9016-87-9	Isocyanic acid, polymethylenepolyphenylene ester
10347-54-3	Cyclohexane, 1,4-bis(isocyanatomethyl)-
10436-39-2	1-Propene, 1,1,2,3-tetrachloro-
12001-85-3	Naphthenic acids, zinc salts
15646-96-5	Hexane, 1,6-diisocyanato-2,4,4-trimethyl-
16938-22-0	Hexane, 1,6-diisocyanato-2,2,4-trimethyl-
18495-30-2	Propane, 1,1,2,3-tetrachloro-
19660-16-3	2-Propenoic acid, 2,3-dibromopropyl ester
26447-40-5	Benzene, 1,1'-methylenebis[isocyanato-
26471-62-5	Benzene, 1,3-diisocyanatomethy-
26530-20-1	3(2*H*)-Isothiazolone, 2-octyl-
26952-23-8	1-Propene, dichloro-
38661-72-2	Cyclohexane, 1,3-bis(isocyanatomethyl)-
75790-84-0	Benzene, 2-isocyanato-4-[(4-isocyanatophenyl)methyl]-1-methyl-
75790-87-3	Benzene, 1-isocyanato-2[(4-isocyanatophenyl)thio]-

* * * * *

(c) * * *

(2) *Substances not on the TSCA Chemical Substance Inventory.* As of the date 44 days after the date of publication of the final rule in the **Federal Register**, the following chemical substances are added to this Subpart. The provisions of § 716.11(e) do not apply to these substances.

CAS No.	Chemical name
530-50-7	Hydrazine, 1,1-diphenyl-
1321-38-6	Benzene, diisocyanatomethyl-(unspecified isomer)
1331-47-1	[1,1'-Biphenyl]-4,4'-diamine, dichloro-
2778-42-9	Benzene, 1,3-bis(1-isocyanato-1-methylethyl-
32052-51-0	Isocyanic acid, trimethylcyclohexyl ester

* * * * *

[FR Doc. 86-17352 Filed 7-31-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 21, 22, 23, 62, 73, and 74

[Gen. Docket No. 86-285]

Establishment of a Fee Collection Program To Implement the Provisions; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On July 16, 1986, the Commission published a Notice of Proposed Rule Making (FCC No. 86-301) on page 25792. Through inadvertence, the deadline for filing comments and reply comments were transposed.

DATES: The correct date for comments is August 15, 1986 and the correct date for replies is September 2, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Brent Weingardt (202) 632-3906.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-17229 Filed 7-31-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 1

[CC Docket No. 86-212]

Attachment of Cable Television Hardware to Utility Poles; Extension

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order granting extension of time for filing comments.

SUMMARY: In response to a request by the National Cable Television Association, Inc., the Commission's Common Carrier Bureau has granted a 30-day extension of time for filing comments on matters discussed in the Commission's Notice of Proposed Rulemaking, Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles in CC Docket No. 86-212, published on June 16, 1986, 51 FR 21774. The extension also established a new date for filing reply comments.

DATES: Comments are now due by August 27, 1986, and reply comments by September 11, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub or Suzan Friedman (202) 632-4887.

Order

In the matter of amendment of rules and policies governing the attachment of cable television hardware to utility poles.

Adopted: July 22, 1986.
Released: July 23, 1986.

By the Chief, Common Carrier Bureau.

1. Before the Bureau is a motion for extension of time filed by the National Cable Television Association, Inc. ("NCTA"), requesting that the Bureau extend for 45 days, *i.e.*, from July 28, 1986, to September 11, 1986, the deadline for interested persons to file comments in the above-captioned proceeding.[1]

2. In support of its request, NCTA states that the extension is needed to gather cost data from its members and to prepare a research study which

[1] 51 FR 21774 (1986).

responds to the issues raised in the Commission's Notice of Proposed Rulemaking ("NPRM"). NCTA also asserts that such an extension of time would permit a more complete record upon which the Commission can base its decision.

3. Although good cause has been shown to grant an extension, and no evidence has been submitted that other interested parties will suffer harm from a short delay, we conclude that a 45-day extension would be excessive. Therefore, we will grant a 30-day extension of time in which to file comments and will adjust the due date for reply comments accordingly.

4. Accordingly, it is ordered, pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, that the request for extension of time filed by the National Cable Television Association, Inc., is granted in part and otherwise denied.

5. It is further ordered that all interested parties may file comments on the matters discussed in the NPRM and its proposed rule changes by August 27, 1986, and reply comments by September 11, 1986.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86-17230 Filed 7-31-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-274, RM-5246]

Radio Broadcasting Services; Southport, NC

Correction

In FR Doc. 86-15378 beginning on page 24875 in the issue of Wednesday, July 9, 1986, make the following correction:

On page 24875, third column, in the "DATES" caption, second line, insert the following after "1986": ", and reply comments on or before September 8, 1986."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC-125; Notice No. 86-9]

Qualifications of Drivers; Single Classified Driver's License System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA has determined that to improve operation of commercial motor vehicles and enhance safety on the Nation's highways, national standards for the issuance of classified commercial motor vehicle operators licenses should be established. Further, a single license requirement is needed to eliminate the possibility of drivers operating commercial motor vehicles dividing their records of accidents and violations among several State record systems and avoiding State enforcement action. This notice seeks comment on the feasibility, scope and practical implementation of a single and classified licensing system.

DATE: Written comments must be received on or before September 2, 1986.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 366-2990;

or

Edward J. Mullaney, Office of the Chief Counsel (202) 366-1356, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590.

Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On October 11, 1984, Congress passed the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, 98 Stat. 2829) (the Act). The Act was signed into law by the President on October 30, 1984, and requires the Secretary of Transportation (the Secretary) to issue regulations pertaining to commercial motor vehicle safety. Such regulations shall establish minimum Federal safety standards for commercial motor vehicles and shall ensure that commerical motor vehicles are safely operated.

The purposes of the Act, as stated by the Congress, are to promote the safe operation of commercial motor vehicles, to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules, regulations, standards, and orders issued pursuant to this Act.

The Congress found that it is in the public interest to enhance commercial motor vehicle safety and to reduce highway fatalities, injuries, and property damage. It is the Congress' view that, by having more uniform commercial motor vehicle measures and strengthened enforcement, the number of fatalities and injuries would be reduced and the level of property damage related to commercial motor vehicle operations would also be reduced.

Also, under 49 U.S.C. 3102, the Secretary may prescribe requirements for qualifications of employees of a motor carrier.

The Problem

The Congress, the Department of Transportation, the National Transportation Safety Board (NTSB), and the motor carrier industry generally have recognized there is a growing problem with the present commercial motor vehicle driver licensing system. As we see it, there are two major problems with the present system:

(1) The licensing procedures used in the States are not uniform and may not be adequate for evaluating an applicant's qualifications to drive a large commercial motor vehicle; and

(2) Drivers can obtain licenses easily from more than one State and thereby avoid possible license suspensions by spreading out their violations among the various licenses.

Several different proposals for some form of a "National Drivers License" have been made by industry associations, public interest groups and the Congress. While these proposals may differ regarding such things as the types of commercial motor vehicle drivers that should be covered and the issuing authority for such licenses, there is commonality concerning the five items that need to be addressed:

(1) Lack of uniform/sufficient State licensing system;

(2) Single licensing requirements;

(3) Knowledge and skill examination standards;

(4) Positive driver identification methods; and

(5) A record system clearinghouse.

Discussion

1. Lack of a Uniform/Sufficient State Licensing System

The NTSB recently stated "truck driving is a specialized skill, distinct in many ways, and more demanding than operating a smaller vehicle, such as a car. However, far too many people are

able to enter the field without having first acquired that skill" (NTSB Safety Recommendation H–86–8 and 9).(*1*) This ability to enter the field without adequate testing is a result of a variety of factors, but is primarily caused by the lack of a uniform classified driver licensing system (CLS) which incorporates standardized requirements, testing procedures and criteria for the license suspsension/revocation of problem drivers.

Presently, only 31 States utilize some form of a CLS and the systems employed vary from State to State. Only 12 of these States require behind-the-wheel road testing (in trucks or buses) of *all* applicants, while the other 19 will waive testing if the applicant meets certain conditions such as completion of a training program at an accredited training school. Even in the 12 testing States, the tests are not uniform and in many cases may not be adequate to screen out drivers who may lack the necessary skills to safely operate heavy vehicles on our Nation's roadways. The remaining number of States and the District of Columbia do not require applicants to demonstrate proficiency in the type of vehicle intended to be operated. This enables a driver, qualified to drive a subcompact car, to drive a three axle inter-city bus or a tractor-trailer combination throughout the country without ever demonstrating proficiency in operating that specific type of vehicle.

2. Single Licensing Requirement

It is well known that many drivers of commercial motor vehicles obtain driver's licenses from several States so that they do not accumulate an excessive number of traffic convictions on a single license. By holding several licenses, the driver can spread out traffic violations among those licenses, keeping one relatively clear of violations. During the period 1972 through 1979, the NTSB conducted 44 accident investigations which involved commercial motor vehicles. While investigating these accidents, NTSB made inquiries relative to the 44 commercial vehicle drivers' driving records. The NTSB reported "When the responses to these inquiries were compiled, the composite records of the 44 drivers listed a total of 63 driver licenses, 98 license suspensions, 60 previous accidents, and 456 traffic convictions."(*2*) The most common traffic conviction (more than 60 percent of the total convictions) was for speeding.

The ability to obtain more than one license is fostered by the lack of an active exchange of information between all license issuing authorities concerning driver records. Since it is difficult to detect when a driver is holding multiple drivers' licenses, this results in drivers being able to escape detection and suspension or revocation. It also precludes law enforcement agencies and motor carrier employers from accurately evaluating an individual's complete driving record. A study by the National Highway Traffic Safety Administration (NHTSA) in cooperation with the American Association of Motor Vehicle Administrators (AAMVA) entitled "Multiple Licensing and Interstate Truck Drivers" reached a similar conclusion.(*3*) This is contrary to "the one license/one record concept," which is designed so that driver licenses issued by the States do not constitute separate privileges to drive; rather, each individual has a single, nationwide driving privilege which may be certified by any State through the issuance of a driver license and a single record which details each driver's history.

In a 1983 review of the transportation of hazardous materials by highway, the NTSB compiled the results of their investigations of 15 accidents which had occurred since 1972, involving trucks transporting hazardous materials in bulk, where truck driver error or deficiency was a causal factor.(*4*) These accidents involved vehicle overturns, jackknives, and collisions with trains, and collectively resulted in 61 fatalities and 283 injuries. Most of the fatalities and injuries were caused by the release of the hazardous materials being transported. Although records were not available for all of the involved drivers, a review of the records located by the NTSB disclosed 11 driver's license suspensions, 19 previous accidents, and 83 previous traffic convictions among these 15 drivers.

The FHWA believes that restricting commercial motor vehicle drivers to single driver's license is essential to the detection and control of problem drivers. Further, we believe that the motivation for a driver obtaining multiple driver's licenses is in most cases to escape detection as a "problem driver" by motor carrier employers, law enforcement agencies, and licensing agencies.

Current Approaches and Technologies

1. Knowledge and Skill Testing Development

The National Highway Traffic Safety Administration conducted a research study to develop a set of tests and procedures that States could use to evaluate entry level knowledge and skill of heavy vehicle license applicants.(*5*) The components of the study, known as Truck Operator Qualifications Examination (TORQUE), consists of the following:

Operator Manual—presents safe operating procedures related to controlling the vehicle, operating on the road, responding to emergencies, and handling accidents. Driver fitness and vehicle readiness characteristics are also addressed.

Knowledge Test—is a pool of 96 multiple choice test items designed to sample critical knowledge of necessary practices to safely drive a large commercial motor vehicle.

Operator Pre-Trip Test Manual—presents the exercises, examination procedures and scoring criteria for a vehicle inspection, and for coupling and uncoupling a tractor-trailer combination.

Operator Skill Test Manual—contains information and procedures for administering a test of an applicant's skills in handling a large vehicle in an off-street environment.

Operator Road Test Manual—presents information procedures for administering a reliable test of safe driving skills in traffic. The 30-minute test samples 100–150 critical performance measures on a standard test route. Performance is tested under specific situations and at designated locations. Performance checks include braking, shifting, turning, lane keeping, visual search, signaling, speed selection and space management.

TORQUE represents one contractor's approach to this issue. The FHWA believes that, with the help of States, motor carriers and drivers, workable uniform tests can be developed. A copy of the study has been placed in the docket.

2. Driver Identification Methods

In order to make a single license system work, it is essential that there be a system for uniquely identifying each license holder. Without such an identifier, drivers would be able to circumvent the system, leaving potential problem drivers still operating.

Most States identify a driver by name, address and other physical characteristics, and possibly social security number. Computer technology has also fostered the growth of biometrics that measure a physical attribute of an individual. The capability to accurately measure physical attributes of an individual for uniqueness is a relatively new, but rapidly developing technology. Significant advances have been announced in the areas of signature analysis, retinal imaging, voice prints,

ear prints, and fingerprints. The digitalization of fingerprints appears to have the highest validity for accurately reproducing the same numeric representation of an individual's print over time.

The National Driver Register uses a sophisticated name search program plus date of birth to identify individuals. The use of this concept will provide exact match identification if the applicant is specifically truthful or if data input to the system is 100 percent verified. In cases of fraudulent applications this method without other data cannot provide exact matches, and therefore requires human analysis for positive identification. By definition, this human analysis must be performed by issuing office personnel.

An alternative to identifying a simple physical characteristic of an individual is the use of the "smart card." This card has the capability of containing the full record of the driver's characteristics including a digital representation of the driver's photograph.

The FHWA believes that an identifier or group of identifiers is needed but, as raised in the attached questions, the issues are how unique the identifier must be, whether the system is appropriate, and if it can be cost effective. In addition, what types of systems are feasible?

3. Record Systems

Clearinghouse. The clearinghouse concept assumes that to successfully manage the one license-one individual objective a means must exist to compile all relevant traffic violations. The FHWA raises questions below regarding how and whether the clearinghouse concept can be implemented either at the Federal level or in the private sector on a profit or non-profit basis.

One alternative to the clearinghouse concept is to provide a telecommunication network to all license issuing jurisdictions in order to "poll" all jurisdictions to determine prior registration for a commercial driver. This assumes that each commercial license applicant can be uniquely identified in a standard manner to all jurisdictions. Networks exist at the present time or are planned in the future to provide the communication capability between State jurisdictions on a selected basis as follows:

A. National Law Enforcement Telecommunication Systems (NLETS): this system provides law enforcement jurisdictions the capability to obtain information from other law enforcement jurisdictions. NLETS is managed by member jurisdictions. Intrastate communication is the responsibility of each State. The NLETS is a sophisticated, high-speed and high-capacity switching network that routes requests for information and dissemination of information among the jurisdictions participating in the system. The current users have a unique address to facilitate routing of data.

B. Alliance for a Motor Vehicle Administrator's Telecommunication Network (AMVAT): A feature of this proposed system is a capability to broadcast a simultaneous search of participating State data bases. The full range of requirements and planned capabilities of this system are unknown at this time.

C. National Driver Register Problem Driver Pointer System Network (NDR/PDPS): The full network will be operational in the early 1990's after the successful test of the Problem Driver Pointer System, and appropriate authority from Congress. This network will provide a full interactive link between all State licensing jurisdictions and the National Driver Register.

D. D.A.C. Services provides a program to verify driver records. This is a four-part system which supplies a nationwide (except Massachusetts) motor vehicle record (MVR), an MVR pointer file designed to address the multiple license problems, a national claims file to address falsification or omission of employment or insurance applications, and an employment history file.

Proposal

The FHWA is enlisting the aid of the various States, industry, labor, and the public to develop comprehensive driver licensing standards that will encompass a uniform standardized approach to the issuance of a single classified commercial motor vehicle (truck and bus) driver's license. Development and adoption by the States of practical, uniform CLS's will improve the quality of commercial motor vehicle drivers and, ultimately, will result in safety benefits to the motoring public, motor carriers (employers) and the drivers themselves. In order to develop practicable standards for a performance-oriented single and classified licensing system which would be initiated and administered by the various States, interested persons are invited to submit substantive written data and documentation, views, or arguments concerning any aspect of this rulemaking action. If a commenter wishes to comment on a single question or a group of questions, these responses will be welcome. The following questions are grouped in general areas of concern in order to aid commenters.

General Questions

Scope of the Problem

1. By statute the Federal Motor Carrier Safety Regulations apply to operations in interstate commerce. Should the driver licensing requirements apply to only those drivers who drive in interstate operations? Will there be cost efficiencies and safety benefits that would dictate State decisions to implement one system for all drivers?

2. Under current State licensing systems, exemptions are provided for specific types of operations. Should the proposed licensing system apply to all drivers without any exemptions or should exemptions be provided for specific operations such as, farm operations, the personal transportation of household goods, single trip operations in rental trucks, school buses, logging operations and motor homes?

3. In the Motor Carrier Safety Act of 1984, "commercial motor vehicle" is defined as a motor vehicle having a gross vehicle weight rating of 10,001 pounds or more; the motor vehicle is transporting hazardous materials requiring the vehicle to be placarded or is designed to transport 15 passengers or more. Should the same parameters be used to define "commercial motor vehicle driver" in this proposed nationwide licensing system or should other parameters be used to identify drivers in the system? Should the weight limit be increased? If so, to what weight and why? How would this effect the need for exemptions?

4. At the present time drivers from contiguous foreign countries are allowed into the United State provided the driver has a valid license from that country. Under a national licensing system with uniform testing and licensing, how should commercial motor vehicle drivers from these foreign countries be licensed to drive into or through the United States?

Timing and Implementation

5. How can State participation be most effectively ensured? If a State does not choose to participate, what accommodations can be made for drivers residing in a nonparticipating State?

6. What is the best way to finance a nationwide licensing system that is administered by the States? Currently the user States finance such systems and generally the licensing fee is quite low. How much would fees need to be increased to cover the cost of a new system? Are there other methods available to the States?

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7. The implementation of a licensing program for commercial vehicle drivers could be an initial burden on a State that currently does not provide for necessary testing. What lead time is necessary for a State to hire the required personnel, train examiners, provide testing material, find testing locations and all of the other administrative support activities for a licensing program to become operational? Could the time be accommodated through a phase-in period or a staged implementation? That is, could the first drivers in the system be the drivers of heavy tractor-trailer combinations followed by drivers of lighter weight vehicles? Could all current drivers with clean driving records be grandfathered? Should they be grandfathered until they have to renew their licenses?

8. For States that now have an operative system of licensing commercial vehicle drivers, including both written and skill testing, what length of time would be necessary to convert their present system to a standardized national system?

9. Should all States follow the same implementation schedule? Should the new system be implemented a few States at a time? Are there some States that have classified licensing systems that have been tested and could serve as a model for a nationwide system?

Single Licensing Questions

Record Systems

10. For the success of a national system of commercial motor vehicle driver licensing, it is necessary to ensure that the affected drivers hold only one valid license and that the system be enforceable. Who should maintain the driving record for each driver? What information is necessary for the license record? What provisions are necessary to ensure enforceability? What should the State and Federal roles be in the enforcement system?

11. Are there additional alternatives to that of a clearinghouse central data base or a communication network that simultaneously searches all State jurisdiction files to control and enforce the issuance of one license per individual commercial driver?

12. What information should be maintained and exchanged between State jurisdictions on commercial drivers (e.g., personal identification characteristics; motor vehicle violation records; accident reports)?

13. Do existing or proposed State telecommunication systems (NLETS, AAMVAT, NDR/PDPS) have the capability to adequately serve as the commercial motor vehicle driver network for interchange of data?

14. What procedures should be used to ensure that drivers hold only a single license? Under the current regulations, employers are responsible for monitoring the driving records of their employees. Should the data and reporting requirements for employers be changed to include the driver license number (i.e., on medical certificates, personnel papers, etc.) to help enforce the single license requirement? Could the use of a temporary license be used to provide the necessary safeguards and time to ensure the driver has only one license? What are the costs associated with these procedures?

15. Currently the States use the National Law Enforcement Telecommunications System (NLETS) to forward controlled messages between State law enforcement agencies, and between local and Federal enforcement agencies. At the present time about 35 percent of the traffic on NLETS is driver license inquiries and responses. Is NLETS a system that could be used for all States to exchange information regarding commercial vehicle drivers licenses, as well as the checking of a drivers license by the State enforcement agency?

16. D.A.C., Inc., a private operation, is one of the Nation's largest supplier of driving records to the insurance industry and the single largest suppliers of driving records by computer to the motor carrier industry. In addition to motor vehicle records, D.A.C. receives information from previous employers and insurance companies. All information is accessible by the driver's name and social security number. Could a private operation, such as D.A.C., handle the necessary exchange of information involving the licensing of commercial drivers? How would this be funded?

17. In record and data exchange, what is the most practical role for the States, for the Federal Government, and for the industry in the day-to-day operation of the commercial driver licensing system? Please explain your rationale.

18. Who should have access to the data maintained on commercial motor vehicle drivers? What privacy constraints should be formulated to protect the rights of the private citizen?

19. Who should fund the establishment of the commercial driver information system and how much would this system cost? What are the costs and benefits?

Driver Identification

20. Are existing identification techniques such as use of the social security number adequate for enforcement of "one license-one record" concept? Are there privacy problems with this approach? What is your opinion on the use of high technology techniques, such as digitalized fingerprints to identify individuals for commercial licenses?

21. Should the Federal Motor Carrier Safety Regulations be amended to require the license number on all documents pertaining to the driver, such as the Medical Certificate and the Driver's Record of Duty Status (Driver's Log); and what effect might this have on reducing driver violations?

22. Currently eight States require a nonresident driver seeking to obtain employment in that State to obtain a license. This results in the driver holding two or more licenses. Should such practices continue? If so, what other options are available to States to ensure that these drivers who are required to hold two licenses do not defeat the single license concept by allowing convictions to be spread among the two States? Even if this is pursued, should there only be one record?

Uniform Standards Questions

Classification

23. How specific should Federal standards be? Should they establish detailed standards that would not require States to make (design standard) judgments or should they serve as general standards which would allow States to develop the specific criteria (performance standards)?

24. How many classifications should such a licensing system have? Should the classes be based upon vehicle size, weight, number of axles, number of wheels, number of articulation points (such as doubles and triples), cargo and/or commodity, such as, liquids and hazardous materials, or upon vehicle configurations?

Driver Qualifications

25. Licensing tests are administered to assure that applicants who apply for a license are qualified to operate their vehicles safely. A license test, to have maximum value as an accident countermeasure, must assess a broad range of characteristics which underlie safe and efficient operating behavior. Therefore the broad question is: What are the requirements of an operator test that would contribute to a reduction of accidents and injuries involving commercial motor vehicles?

26. Would any test be reliable in measuring the requirements for safe driving? Do tests such as those

developed as part of the Truck Operator Qualifications Examination (TORQUE) adequately measure the knowledge and skill of truck and bus applicants? Who should develop the knowledge and skill tests?

27. Should operator tests cover knowledge, pre-trip inspection, close quarter maneuvering skills and high-speed traffic? If not, what areas should be covered?

28. What procedures would be effective and least costly in providing training to potential operators as preparation for taking the tests? What are the associated costs?

Suspension/Revocation

29. Who should develop the criteria for suspension and/or revocation of the license or driving privileges? What should the criteria be? What should be considered as effective enforcement mechanisms?

30. Should these commercial motor vehicle drivers' licenses be issued and/or renewed based upon the driver's submnission of evidence of physical fitness, in the form of Medical Certificates, as presently required in the Federal Motor Carrier Safety Regulations, and if so, should they be the same or made either more or less stringent?

31. Should these proposed licenses be automatically renewed as long as the holder maintains a clean driving record, or should all drivers be reexamined on a periodic basis? If they are to be reexamined, at what time intervals? Should the time intervals be shortened for new drivers? For older drivers?

Costs

32. What are the probable costs to implement a qualification standard? Is it appropriate to finance it through license fees and other user fees? What level of fee would be considered reasonable for the drivers license, and what fee would be reasonable for those who query the system, through the States, for driver license record information?

The FHWA has determined that this document is not a major rule under Executive Order 12291. However, it is considered a signficant regulation under the regulatory policies and procedures of the Department of Transportation because of the public interest involved. A draft regulatory evaluation has been prepared and is available for inspection and copying in the public docket by contacting Mr. Neill L. Thomas at the address provided under the heading "FOR FURTHER INFORMATION CONTACT."

Base on the information available at this time, it is believed that any action taken in this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 391

Highways and roads, Highway safety, Motor carriers, Motor vehicle safety, Driver qualifications.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety).

(49 U.S.C. App. 2505 and 49 U.S.C. 3102; 49 CFR 1.48 and 301.60)

Issued on: July 29, 1986.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

Footnotes

(*1.*) Available for inspection and copying from the BMCS files or by contacting the NTSB, Public Inquiries, Room 805F, 800 Independence Avenue, SW., Washington, D.C. 20594, (202) 382–6600.

(*2.*) NTSB, Office of Evaluations and Safety Objectives, Safety Effectiveness Evaluation of Detection and Control of Unsafe Interstate Commercial Drivers Through the National Driver Register, State Driver Licensing Policies and the Federal Motor Carrier Safety Regulations, Report No. NTSBSEE801, February 15, 1980, p. 18.

(*3.*) NHTSA in cooperation with American Association of Motor Vehicle Administrators, Multiple Licensing and Interstate Truck Drivers—A Problem Statement, DOT–HS–805–645, Janaury 1981.

(*4.*) NTSB, Recommendations H–83–30 through 34, July 8, 1983. Available for inspection and copying from the BMCS Docket Files or by contacting the NTSB, Public Inquiries, Room 805F, 800 Independence Avenue SW., Washington, D.C. 20594, (202) 382–6600.

(*5.*) Development of Knowledge and Performance Tests for Heavy Vehicle Operators, Volume I: Development and Field Test; Volume II: License Administrator/Examiner Manuals; Contract No. DTNH22–80–C–07336. The documents are available from the National Technical Information Service, Springfield, Virginia 22161.

[FR Doc. 86–17394 Filed 7–31–86; 8:45 am]

BILLING CODE 4910–22–M

VOL 51 ISS 148 AG 1 1986 UMI

Notices

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation Renewal of the Fremont (NB) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Fremont Grain Inspection Department, Inc. (Fremont) and Titus Grain Inspection, Inc. (Titus), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: September 1, 1986.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced that Fremont's and Titus's designations terminate on August 31, 1986, and requested applications for official agency designation to provide official services within specified geographic areas in the March 3, 1986, **Federal Register** (51 FR 7301). Applications were to be postmarked by April 2, 1986. Fremont and Titus were the only applicants for their respective designations and each applied for designation renewal in the area currently assigned to that agency.

FGIS announced the applicant names and requested comments on the same in the May 1, 1986, **Federal Register** (51 FR 16182). Comments were to be postmarked by June 16, 1986. No comments were received regarding Fremont's and Titus's designation renewal.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Fremont and Titus are able to provide official services in the geographic area for which FGIS is renewing their designation. Effective September 1, 1986, and terminating August 31, 1989, Fremont and Titus will provide official inspection services in their specified geographic area, which is the entire area previously described in the March 3 **Federal Register**.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Review Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following addresses:

Fremont Grain Inspection Department, Inc., 603 East Dodge Street, Fremont, NE 68025

Titus Grain Inspection, Inc., 1111 East 800 North, West Lafayette, IN 47906

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: July 18, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–17328 Filed 7–31–86; 8:45 am]
BILLING CODE 3410–EN–M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Amarillo Agency (TX) and State of Wisconsin (WI)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Amarillo Grain Exchange, Inc. (Amarillo) and Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin).

DATE: Comments to be postmarked on or before September 15, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the June 2, 1986, **Federal Register** (51 FR 19769). Applications were to be postmarked by July 2, 1986. Amarillo and Wisconsin were the only applicants for their respective designations and each applied for designation renewal in the area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Staff, Resources Management Division,

specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the Federal Register, and the applicants will be informed of the decision in writing.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: July 18, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–17329 Filed 7–31–86; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Farwell Agency (TX)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agency. The official agency is Farwell Grain Inspection Company.

DATE: Applications to be postmarked on or before September 2, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Farwell Grain Inspection Company (Farwell), 112 9th Street, P.O. Box 488, Farwell, TX 79325, was designated under the Act as an official agency to provide inspection functions on February 1, 1984.

The official agency's designation terminates on January 31, 1987. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Farwell, in the States of Texas and New Mexico, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows: Bailey, Deaf Smith (west of State Route 214), Lamb (south of U.S. Route 70 and west of FM 303), and Parmer Counties, Texas. Bernalillo, Chaves, Curry, DeBaca, Eddy, Guadalupe, Lea, Quay, Roosevelt, San Miguel, Santa Fe, Torrance, and Union Counties, New Mexico.

Interested parties, including Farwell, are hereby given opportunity to apply for official agency designation to provide the official services in each geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning February 1, 1987, and ending January 31, 1990. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: July 18, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–17330 Filed 7–31–86; 8:45 am]

BILLING CODE 3410–EN–M

Soybean Damage Interpretation

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Damaged soybeans are determined by reference to interpretive line slides (ILS). FGIS is revising certain slides to tighten damage interpretations for grading soybeans to more adequately reflect the implications of damaged soybeans to the domestic and foreign soybean crushing industry.

DATE: The revised interpretive line slides for grading soybeans will be effective September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661 Suth Building, 1400 Independence Avenue SW., Washington, DC 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: Notice of a public meeting to discuss the tightening of interpretations of soybean damage was published in the Federal Register on June 24, 1986 (51 FR 22959). The meeting held on July 10, 1986, in St. Louis, Missouri, was attended by 25 persons representing exporters, domestic soybean processors, official inspection agencies, a university Plant Pathologist, and producers.

The agenda included: (1) Definition of the problem, (2) presentation of the current interpretations, (3) review of proposed interpretations, and (4) discussion of data on chemical analysis of samples graded under the current and proposed interpretations.

Information presented at the meeting included foreign buyer concerns, the need for tightening the interpretations of damage in soybeans as reflected in the ILSs, and the results of FGIS research regarding such damage which supported the need for revising the ILSs.

Damaged soybeans are determined by reference to a set of interpretive line slides (ILS). The ILSs are 35mm color transparencies. The specific ILSs revised are: (SB–1.0) Badly Ground or Weather Damaged, (SB–3.0) Frost Damaged, (SB–8.0) Mold Damaged, (SB–2.0) Damaged by Heat, and (SB–5.0) Heat Damaged.

Increased damage to soybeans caused by weather and harvest conditions during the last two crop years (1984–85 and 1985–86) raised concerns about the appropriate interpretations of damage in soybeans. A primary consideration of these concerns was the percent of free fatty acids (FFA) found in the crude processed soybean oil. Damage diminishes quality because of increased FFA levels which reflect oil deterioration. Elevated levels of FFA result in a refining loss and in increased costs associated with removal of FFA. In

VOL 51 ISS 148 AG 1 1986 UMI

addition, several foreign complaints specifically mentioning increased FFA in soybean oil processed from U.S. export shipments were received by FGIS in 1985 and 1986. Also, concern was expressed as to the overall appearance of the soybeans received.

The Grain Quality Workshops sponsored by the North American Export Grain Association recently issued a final report entitled "Commitment to Quality." The report discussed the effects of soybean damage on FFA values in soybean oil. The report recommended that FGIS change the ILSs for soybean damage to reflect interpretations presently used by the domestic and foreign crushing industry. This would require changing the ILSs to correspond with the National Soybean Processing Association and the Federation of Oils, Seeds, and Fats Association trading rule of 0.75% maximum FFA for crude degummed soybean oil as a benchmark to interpret the damage factors for U.S. No. 2 yellow soybeans.

FGIS has conducted research on the effects of the current and revised interpretations of damage on the levels of FFA in soybean oil. These studies have indicated that the current soybean damage interpretation would give a predicted FFA in oil of approximately 1.0% in a U.S. No. 2 grade containing 3.0% damage. Under the revised damage interpretation a predicted FFA in oil would be approximately 0.7% in a U.S. No. 2 grade containing 3.0% damage. Standard deviation for these predicted FFA values was approximately 0.2%. Accordingly, the revised ILSs would approximate the trading rule level for FFA in U.S. No. 2 yellow soybeans.

The changes in the ILSs and associated changes in FFA levels for U.S. No. 2 yellow soybeans were endorsed by representatives of the American Soybean Association. Producers expressed satisfaction with the changes. However, exporters present at the meeting were of the opinion that further study was needed. FGIS has determined that based upon all information available including its own research, the ILSs need to be revised. Inspection personnel, university researchers, and domestic soybean processors concurred with the changes except for the mold interpretive line slide. Data were presented by a university Plant Pathologist showing that "powdery mildew" mold is superficial and, while a form of damage, is of less concern that other molds. Based on this information FGIS will issue an ILS showing invaded (those molds that penetrate the surface of the seed coat) and surface or superficial molds.

Concern was expressed by several representatives about the need for training and implementation prior to the harvest this fall. The effective date of September 1 will allow ample time for adequate training of official inspection personnel.

Based upon all information available, FGIS is revising the soybean damage ILSs by tightening the soybean damage interpretations for badly ground or weather damaged, frost damaged, mold damaged, damaged by heat and heat damaged.

Dated: July 29, 1986.

Kenneth A. Gilles,

Administrator.

[FR Doc. 86-17383 Filed 7-31-86; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Economic Censuses-Listing of Additional Establishments
Form number: Agency—NC-9920; OMB—NA
Type of request: New collection
Burden: 65,000 respondents; 32,500 reporting hours
Needs and uses: The objective of the Listing of Additional Establishments is to obtain name and address information for establishments for which a separate 1987 Economic Censuses report form was not received or which were not listed on the 1987 Economic Censuses Report of Organization. This census will be conducted in FY88.
Affected public: Farms, businesses or other for-profit institutions, non-profit institutions, small businesses or organizations
Frequency: Quinquennially
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe 395-4814

Agency: Bureau of the Census
Title: 1987 Economic Censuses-Report of Organization
Form number: Agency—NC-9901; OMB—NA
Type of request: New collection
Burden: 65,000 respondents; 48,750 reporting hours
Needs and uses: The objective of the Report of Organization is the continuing updating and maintenance of the Standard Statistical Establishment List. This census will be conducted in FY88.
Affected public: Farms, businesses or other for-profit institutions, non-profit institutions, small businesses or organizations
Frequency: Quinquennially
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe 395-4814

Agency: Bureau of the Census
Title: 1987 Census of Agriculture
Form number: Agency—87-A0101, 87-A0201, 87-A0301, etc.; OMB—NA
Type of request: New collection
Burden: 4,000,000 respondents; 1,540,000 reporting hours
Needs and uses: This census is the only source of agriculture data comparable and consistent at national, state, and county levels. It provides data for the agriculture economy for benchmarking more frequent sample surveys, evaluating government farm policies and programs, and assessing American agriculture. This survey will be conducted in FY88.
Affected public: Farms
Frequency: Quinquennially
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 28, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86-17377 Filed 7-31-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Short Supply Review on Certain Carbon Steel Cold Rolled Strip; Request For Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain cold rolled carbon steel strip for use in manufacturing knitting machine components.

EFFECTIVE DATE: Comments must be submitted no later than August 11, 1986.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received a short supply request for certain cold rolled carbon steel strip, grade 1095, in widths ranging from 1 to 2⅝ inches and thicknesses ranging from .004 to .027 inch, to be used in manufacturing certain knitting machine components.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 28, 1986.

[FR Doc. 86–17379 Filed 7–31–86; 8:45 am]

BILLING CODE 3510–DS

National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–180. Applicant: National Aeronautics and Space Administration, Greenbelt, MD 20771. Instrument: Magnetic Tape Abrasivity Test Monitor. Manufacturer: Fulmer Research Laboratory Ltd., United Kingdom. Intended use: See notice at 51 FR 15821.

Comments: None received. Decision: Denied. Reasons: The article and its intended use possess no scientific value upon which to base a finding of scientific equivalency. Item 851.60 of the Tariff Schedules of the United States (TSUS) provides, *inter alia*, for duty-free treatment of "Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes . . . if no instrument or apparatus of *equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used* is being manufactured in the United States" (emphasis supplied). The law requires use to determine "Whether an instrument or apparatus of equivalent scientific value to such [the foreign] article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States" (Headnote 6(c), Schedule 8, Part 4, TSUS). In order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign article, whether in education or research, must be intended.

Although the applicant is an eligible educational institution and the foreign article falls within the tariff items eligible for duty-free entry consideration, the intended use of the instrument on the NASA Space Tracking Data Network is not scientific. Testing and monitoring the abrasivity of magnetic tapes for conformance to quality assurance requirements is not scientific research within the intent of Pub. L. 89–651.

Accordingly, we cannot ascribe a scientific value to the article for the purposes for which it is to be used and, consequently, cannot make the scientific equivalency finding upon which duty-free entry must be conditioned. Therefore, pursuant to § 301.5(d)(1)(iii) of the regulations, we deny the application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 86–17378 Filed 7–31–86; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, August 13, 1986, from 9:30 a.m. to approximately 4 p.m. at the Council's office (address below), to discuss issues related to the Committee's regular administrative operators.

For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918; telephone: (809) 753–4926.

Dated: July 28, 1986.

Richard B. Roe, Director,

Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–17343 Filed 7–31–86; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, August 20–21, 1986, at Ramada Inn, 76 Industrial Highway, Essington, PA (phone: 215–521–9600), to discuss the Blue Ribbon Panel Report; the Fishery Management Primer; the Striped Bass and Summer Flounder Fishery Management Plans, as well as other fishery management matters.

For further information contact the John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674–2331.

Dated: July 28, 1986.

Richard B. Roe, Director,

Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–17344 Filed 7–31–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Proposed Permit Modification; Northwest and Alaska Fisheries Center, National Marine Fisheries Service

Notice is hereby given that the Northwest and Alaska Fisheries Center, National Marine Fisheries Service (NMFS), 7600 Sand Point Way, NE., Seattle, Washington 98115 has requested a modification to Permit No. 561 issued on July 16, 1986, under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to incidentally entangle up to 300 fur seals (*Callorhinus ursinus*) in association with research on interactions between large fragments of marine debris and fur seals.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, NMFS, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

The Permit and modification request are available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, NMFS, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC;

Director, Northwest Region, NMFS 7600 Sand Point Way, NE, BIN C15700, Seattle, Washinton, 98115; and

Director, Alaska Region, NMFS, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: July 29, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–17345 Filed 7–31–86; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Cobe Laboratories, having a place of business in Lakewood, Colorado, an exclusive right in Japan to manufacture, use, and sell products embodied in the inventions entitled "Blood Cell Separator" and "Flow Through Centrifuge" U.S. Patent Application Serial Numbers 5–817,016 and 5–661,114. The patent rights in this invention are owned by the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.9. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

David T. Mowrey,

Associate Director for the Center for the Utilization of Federal Technology, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86–17326 Filed 7–31–86; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1986 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

Comments Must be Received on or Before: September 3, 1986 ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodities

File, Work Organizer
7520–00–286–1722
7520–00–286–1723
7520–00–833–7343
Microfiche Programs
7690–00–NSH–0007 B212–S
7690–00–NSH–0008 B214–S.
(Requirements for library of Congress only)

Services

Commissary Shelf Stocking, Custodial and Warehousing Service Hill Air Force Base, Utah.

Operation of the Postal Service Center Elmendorf Air Force Base, Alaska.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–17359 Filed 7–31–86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1986 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 1, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Additions and Deletions to the Procurement List of the commodities and service listed below was published in the **Federal Register** on May 9 and June 6, 1986 (51 F.R. 17226 and 51 F.R. 20688). One comment was received in response to the notice proposing the deletion of certain requirements for the Liner, Coat, Cold Weather. The commenter questioned the basis for the deletion.

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The actions will result in authorizing small entities to produce the commodities and service procured by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1986:

Commodities

Belt, Trousers
- 8440–01–167–7246
- 8440–01–175–7851
- 8440–01–175–7853
- 8440–01–175–7850
- 8440–01–204–2610
- 8440–01–175–7854
- 8440–01–175–7852
- 8440–01–181–4410
- 8440–01–181–4411
- 8440–01–204–2610
- 8440–01–175–7850

Service

Grounds Maintenance
- NASA-Goddard Space Flight Center
- Greenbelt, Maryland

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

Accordingly, the following commodities are hereby deleted from Procurement List 1986:

Liner, Coat, Cold Weather
- 8415–00–782–2886
- 8415–00–782–2887
- 8415–00–782–2888
- 8415–00–782–2889
- 8415–00–782–2890
- 8415–00–062–0679

(Requirements for Norfolk, Virginia and Tracy, California DLA Depots only)

C.W. Fletcher,

Executive Director.

[FR Doc. 86–17360 Filed 7–31–86; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1986 Additions; Correction

In FR Doc. 86–16180 appearing on page 26033 in the issue of Friday, July 18, 1986, make the following correction:

In the second column, under "Services", the third entry should read: Janitorial/Custodial, USAR Facilities, Mann Hall, North 4415 Market Street, Spokane, Washington and 3800 North Sullivan Road, Trentwood, Washington.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–17361 Filed 7–31–86; 8:45 am]

BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Ignition Propensity Testing of Patented, Non-Commercial Cigarettes

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety, CPSC.

ACTION: Notice.

SUMMARY: In the **Federal Register** of June 16, 1986 (51 FR 21790), the Technical Study Group on Cigarette and Little Cigar Fire Safety (TSG) invited inventors of cigarettes which are not produced commercially but which are claimed to have reduced propensity to ignite upholstered furniture and mattresses to submit samples of such cigarettes for ignition propensity testing. That notice described the testing program and requirements for consideration of cigarette inventions as candidates for testing in this program. That notice specified that only cigarette inventions for which a patent had been issued or for which a patent application had been filed by June 16, 1986, would be eligible for consideration as candidates for testing in this program. The TSG has revised its criteria for selection of candidate inventions to include any cigarette invention for which a patent has been issued or for which a patent application has been filed by September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Colin B. Church, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6554.

Dated: July 18, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 86–17348 Filed 7–31–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards; Membership List

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the Performance Review Boards for the Department of the Army.

EFFECTIVE DATE: July 22, 1986.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310–0300, (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendations will include only those senior executives' appraisals from their respective commands or activities. A consolidated board has been established for those commands that do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice

rescinds notice published in 50 FR 133, dated 11 July 1985, to account for additions and deletions to the membership of those boards previously published.

The members of the Performance Review Board for the Office, Secretary of the Army are:

1. Ms. Susan Crawford, General Counsel, Office, General Counsel, Headquarters, Department of the Army.
2. Mr. Steven Dola, Deputy for Management and Budget, Office, Assistant Secretary of the Army (Civil Works).
3. Mr. Neil R. Ginnetti, Deptuy for Planning, Programming, Budgeting and Budget Execution Systems, Office, Assistant Secretary of the Army (Financial Management).
4. Ms. Judy Ann F. Miller, Deputy Assistant Secretary of the Army (Military Personnel, Equal Opportunity and Human Resources), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).
5. Mr. Stephen R. Burdt, Deputy for Program Evaluation, Office, Assistant Secretary of the Army (Research, Development and Acquisition).
6. Mr. Charles C. O'Donnell, Director, Defense Supply Service-Washington, Office of the Administrative Assistant.
7. Mr. Lewis D. Walker, Deputy for Environmental Safety and Occupational Health, Office, Assistant Secretary of the Army (Installations and Logistics).
8. Ms. Juanita P. Watts, Director, Small and Disadvantaged Business Utilization, Office of the Secretary of the Army.
9. Mr. Robert G. Stockton, Operations Research Analyst for Systems, Office, Under Secretary of the Army.
10. Brigadier General Richard B. Griffitts, Deputy Chief of Public Affairs, Office of Public Affairs, Office of the Secretary of the Army.

The members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Mr. Barry W. McDaniel, Assistant Deputy Chief of Staff for Readiness, Headquarters, U.S. Army Materiel Command.
2. Mr. Archie D. Grimmett, Assistant Deputy Chief of Staff for Personnel, Headquarters, U.S. Army Materiel Command.
3. Mr. Robert O. Weidenmuller, Assistant Deputy Chief of Staff for Cost Analysis, Headquarters, U.S. Army Materiel Command.
4. Mr. Hugh F. Lazar, Director for Product Assurance, U.S. Army Armament, Munitions, and Chemical Command.
5. Mr. Perry C. Stewart, Deputy for Logistics Readiness, U.S. Army Armament, Munitions, and Chemical Command.
6. Dr. Richard M. Carlson, Director, Research & Technology Laboratories, U.S. Army Communications-Electronics Command.
7. Mr. Victor J. Ferlise, Chief Counsel, Research & Technology Laboratories, U.S. Army Communications-Electronics Command.
8. Mr. Thomas R. Dudney, Deputy for Supply Maintenance & Transportation, U.S. Army Depot Sytems Command.
9. Dr. Robert J. Lontz, Director, Physics Division, U.S. Army Research Office, U.S. Army Laboratory Command.
10. Dr. Clarence G. Thornton, Director, Electronics Technology & Devices Laboratory, U.S. Army Laboratory Command.
11. Mr. Richard Vitali, Technical Director, U.S. Army Laboratory Command.
12. Mr. Truman W. Howard, III, Director of Product Assurance, U.S. Army Missile Command.
13. Mr. Ernest A. Young, Assistant Deputy for Readiness, U.S. Army Missile Command.
14. Mr. Joseph A. Floyd, Assistant Deputy for Procurement & Readiness, U.S. Army Tank-Automotive Command.
15. Mr. Grady H. Bannister, Jr., Technical Director, Electronic Providing Ground, U.S. Army Test and Evaluation Command.
16. Mr. Harold L. Mabrey, Deputy for Procurement & Production, U.S. Army Troop Support Command.
17. Mr. Arend H. Reid, Chief, Combat Support Division, U.S. Army Material Systems Analysis Activity.
18. Mr. Paul Donovon, Assistant Deputy Chief of Staff for Security Assistant, Headquarters, U.S. Army Material Command.
19. Mr. Roy D. Greene, Assistant Deputy Chief of Staff for Program Management, Headquarters, U.S. Army Material Command.
20. Mr. Marvin L. Hancks, Chief Counsel, Rock Island Arsenal, U.S. Army Armament, Munitions and Chemical Command.
21. Mr. Jimmie C. Morgan, Deputy for Procurement & Production, Rock Island Arsenal, U.S. Army Armament, Munitions and Chemical Command
22. Mr. John L. Shipley, Deputy Director, Applied Technology Laboratory, Research and Technology Laboratory, U.S. Army Aviation Systems Command.
23. Mr. Robert F. Giordano, Director, Electronic Warfare/Reconnaissance Surveillance Target Acquisition Directorate, U.S. Army Communications-Electronics Command.
24. Mr. David E. Bahr, Deputy for Command Operations, U.S. Army Depot Systems Command.
25. Mr. Walter. W. Pattishall, Associate Technical Director for Electronic Warfare & Intelligence, U.S. Army Laboratory Command.
26. Dr. Jimmie R. Suttle, Director, Electronics Division, U.S. Army Research Office, U.S. Army Laboratory Command.
27. Dr. Edward S. Wright, Director, Army Materials & Technology Laboratory, U.S. Army Laboratory Command.
28. Dr. Richard G. Rhoades, Associate Director for Technology, U.S. Army Missile Command.
29. Mr. Lowell H. Barnett, Director of Product Assurance, U.S. Army Tank-Automotive Command.
30. Mr. James A. Wise, III, Technical Director, National Range Operations, U.S. Army Test and Evaluation Command.
31. Dr. Abner S. Salant, Director, Food Engineering Laboratory, U.S. Army Natick Research, Development and Engineering Center, U.S. Army Troop Support Command.
32. Mr. John W. Kramar, Chief, Ground Warfare Division, U.S. Army Material Systems Analysis Activity.
33. Major General James R. Klugh, Deputy Chief of Staff for Personnel, Headquarters, U.S. Army Material Command.
34. Brigadier General Peter D. Hidalgo, Commander, Chemical Research, Development and Engineering Center, U.S. Army Armament, Munitions and Chemical Command.
35. Brigadier General William H. Forster, Deputy Commanding General, U.S. Army Aviation Systems Command.
36. Brigadier General Harry G. Karegeannes, Deputy, Commanding General, U.S. Army Communications-Electronics Command.
37. Brigadier General John S. Drosdeck, Jr., Deputy Commanding General, U.S. Army Missile Command.
38. Brigadier General Walter W. Kastenmayer, Deputy Chief of Staff for Chemical and Nuclear Matters, Headquarters, U.S. Army Materiel Command.
39. Brigadier General Guy P. Bowen, Executive Director for Conventional Ammunition, Headquarters, U.S. Army Materiel Command.

The members of the Performance Review Boards for the Office of the Chief of Staff, Army and the Consolidated Commands are:

1. Brigadier General Robert M. Bunker, Director of Management, Office, Chief of Staff Army.
2. Ms. Joann Langston, Director, Study Program Management Office, Office, Chief of Staff Army.
3. Dr. Julius Bellaschi, Deputy Director, Program Analysis and Evaluation, Office, Chief of Staff Army.
4. Mr. Edgar B. Vandiver, III, Director, Concepts Analysis Agency.
5. Mr. Philip E. Louer, Director of Methodology, Resources & Computation, Concepts Analysis Agency.
6. Mr. Daniel J. Shedlowski , Assistant Director for Strategy, Concepts, & Plans, Concepts Analysis Agency.
7. Brigadier General Randall A. Greenwalt, Deputy Assistant Chief of Staff for Intelligence.
8. Mr. James Davis, Special Assistant to the Assistant Chief of Staff for Intelligence.
9. Major General Robert J. Donahue, Deputy Assistant Chief of Staff for Information Management.
10. Brigadier General Samuel A. Leffler, Director, Architecture & Design, Office, Assistant Chief of Staff for Information Management.
11. Mr. Earl J. Holliman, Army Spectrum Manager, Office, Assistant Chief of Staff for Information Management.
12. Brigadier General Donald W. Hansen, Assistant Judge Advocate General for Military Law.
13. Mr. Dellon E. Coker, Special Assistant to the Judge Advocate General.
14. Major General John S. Crosby, Assistant Deputy Chief of Staff for Personnel.
15. Brigadier General Claude E. Fernandez, Jr., Director, Manpower Programs & Budget, Office Deputy Chief of Staff for Personnel.
16. Dr. Edgar M. Johnson, Technical Director, U.S. Army Research Institute.

17. Dr. Newell Kent Eaton, Associate Director, U.S. Army Research Institute.
18. Dr. Robin L. Keesee, Associate Director, Army Research Institute Institute.
19. Mr. Gary L. Purdum, Deputy Director of Manpower, Programs & Budget, Office, Deputy Chief of Staff for Personnel.
20. Mr. Raymond J. Sumser, Director of Civilian Personnel, Office, Deputy Chief of Staff for Personnel.
21. Mr. Charles W. Weatherholt, Deputy Director of Civilian Personnel, Office, Deputy Chief of Staff for Personnel.
22. Ms. Anna Yurkoski, Chief of Employment & Classification, Office, Deputy Chief of Staff for Personnel.
23. Major General Richard G. Graves, Assistant Duputy Chief of Staff for Operations and Plans.
24. Major General Jack O. Bradshaw, Director, Strategic Plans & Policies, Office, Deputy Chief of Staff for Operations and Plans.
25. Dr. Charles N. Davidson, Technical Director, U.S. Army Nuclear & Chemical Agency.
26. Mr. Herbert K. Fallin, Jr., Technical Advisor to the Deputy Chief of Staff for Operations and Plans.
27. Major General Vincent M. Russo, Assistant Deputy Chief of Staff for Logistics.
28. Major General Charles W. Brown, Assistant Deputy Chief of Staff for Logistics (Security Assistance).
29. Major General Edward Honor, Director for Transportation, Energy & Troop Support, Office, Deputy Chief of Staff for Logistics.
30. Major General David W. Stallings, Director for Contracting, Office, Deputy Chief of Staff for Logistics.
31. Ms. Mary E. Harvey, Assistant Director for Supply, Supply & Maintenance Directorate, Office, Deputy Chief of Staff for Logistics.
32. Mr. James B. Emahiser, Assistant Director for Maintenance, Supply & Maintenance Directorate, Office Deputy Chief of Staff for Logistics.
33. Mr. William L. Jackson, Chief, Security Assistant Policy Coordination Office, Office, Deputy Chief of Staff for Logistics.
34. Mr. James T. Brown, Assistant Director for Resources & Management, Office, Deputy Chief of Staff for Logistics.
35. Major General Jerry Max Bunyard, Assistant Deputy Chief of Staff for Research, Development Acquisition.
36. Brigadier General Billy M. Thomas, Deputy Director, Combat Support Systems, Office, Deputy Chief of Staff for Research, Development Acquisition.
37. Dr. Louis M. Cameron, Director of Army Research & Technology, Office, Deputy Chief of Staff for Research, Development Acquisition.
38. Mr. Hunter M. Woodall, Research, Development Acquisition Analysis Officer, Office, Deputy Chief of Staff for Research, Development Acquisition.
39. Major General James F. McCall, Director of Army Budget, Office, Comptroller of Army.
40. Mr. Clyde E. Jeffcoat, Principal Deputy, U.S. Army Finance & Accounting Center.
41. Mr. Arthur T. Walker, Deputy Director of Army Budget, Office, Comptroller of the Army.
42. Mrs. Mary H. Smith, Director of Resource Management Systems, Office, Comptroller of the Army.
43. Mr. Isaac E. Barbre, Deputy Auditor General.
44. Mr. Michael A. Janoski, Director of Acquisition & Systems Audit, Army Audit Agency.
45. Mr. Thomas A. Grant, Director of Personnel & Force Management Audits, Army Audit Agency.
46. Mr. Henry J. Fischer, Jr., Director of Audit Policy, Plans & Resources, Army Audit Agency.
47. Major. General Eugene Fox, Deputy Commanding General, U.S. Army Strategic Defense Command.
48. Dr. Carl G. Davis, Chief, Battle Management Division, U.S. Army Strategic Defense Command.
49. Dr. William O. Davies, Jr., Director, Systems Analysis/Battle Management, U.S. Army Strategic Defense Command.
50. Dr. James R. Risher, Director, Sensors Directorate, U.S. Army Strategic Defense Command.
51. Mr. Donald D. Schenk, Chief, ACtive Sensors Division, U.S. Army Strategic Defense Command.
52. Mr. Elmer M. Mitchell, Chief, Discrimination Division, U.S. Army Strategic Defense Command.
53. Mr. Frank Vann, Chief, Passive Sensors Division, U.S. Army Strategic Defense Command.
54. Brigadier General Paul C. Hurley, Commanding General, Eastern Area, Military Traffic Management Command.
55. Brigadier General Charles A. Vickery, U.S. Air Force, Vice Commander, Military Traffic Management Command.
56. Mr. Joseph P. Cribbens, Special Assistant to the Deputy Chief of Staff for Logistics.
57. Major General J. Hollis V. McCrea, Jr., Deputy Chief of Staff, Personnel, Administration & Logistics, U.S. Army Training and Doctrine Command.
58. Major General M. Krausz, Deputy Chief of Staff, Combat Development, U.S. Army Training and Doctrine Command.
59. Brigadier General William H. Reno, Deputy Chief of Staff, Resource Management, U.S. Army Training and Doctrine Command.
60. Major General Robert L. Drudik, Commander, Combined Arms Test Activity U.S. Army Training and Doctrine Command.
61. Mr. Larry C. Hanson, Deputy Chief of Staff for Resource Management, U.S. Army Training and Doctrine Command.
62. Major General Robert H. Forman, Chief of Staff, U.S. Army Training and Doctrine Command.
63. Mr. Leon F. Goode, Jr., Director, System Analysis Activity, U.S. Army Training and Doctrine Command.
64. Dr. Darrel W. Collier, Scientific Advisor, Combined Arms Test Activity, U.S. Army Training and Doctrine Command.
65. Dr. Wilbur B. Payne, Director, Operations Research Activity, U.S. Army Training and Doctrine Command.
66. Mr. Arthur C. Christman, Jr., Scientific Advisory, Office Deputy Chief of Staff for Combat Developments, U.S. Army Training and Doctrine Command.
67. Dr. Marion R. Bryson, Director, U.S. Army Combat Development Experimentation Center, Combat Development Experimentation Command.
68. Major General Carl H. McNair, Jr., Chief of Staff, U.S. Army Training and Doctrine Command.
69. Mr. James F. Fox, Scientific Advisor, Combined Arms Combat Development Activity, U.S. Army Training and Doctrine Command.
70. Mr. Raymond V. Michael, Assistant Deputy Chief of Staff for Personnel, Administration & Logistics, U.S. Army Training and Doctrine Command.
71. Major General Thomas J.P. Jones, Deputy Chief of Staff for Personnel, U.S. Army Forces Command.
72. Brigadier General H.M. Hagwood, Comptroller, U.S. Army Forces Command.
73. Mr. William S. Fraim, Civilian Personnel Director, U.S. Army Forces Command.
74. Mr. William M. Wilkinson, Deputy Comptroller, U.S. Army Forces Command.
75. Major General Archie S. Cannon, Deputy Chief of Staff for Personnel, U.S. Army Europe.
76. Major General Scott B. Smith, Deputy Chief of Staff for Engineers, U.S. Army Europe.
77. Mr. Andrew F. Foreman, Assistant Deputy Chief of Staff for Personnel (Civilian Personnel) U.S. Army Europe.
78. Mr. Carey C. Jones, Assistant Deputy Chief of Staff for Engineers, U.S. Army Europe.
79. Major General Bruce R. Harris, Deputy Chief of Staff, U.S. Army Information Systems Command.
80. Brigadier General Alan B. Salisbury, Commanding General, U.S. Army Information Systems Engineering Command.
81. Mr. Leonard J. Mabius, Technical Director, U.S. Army Information Systems Command.
82. Mr. Feliciano Giordano, Technical Director, U.S. Army Communications Systems Agency.
83. Mr. Frederick L. Orr, Comptroller, U.S. Army Information Systems Command.
84. Mr. Gale W. Parks, Director, U.S. Army Systems Selection & Acquisition Agency.
85. Mr. Ralph L. Gunn, Director, U.S. Army Management Systems Support Agency.
86. Brigadier General John H. Stanford, Commanding General, Western Area, Military Traffic Management Command.
87. Dr. Harry M. West, III, Deputy Comptroller of the Army.

The members of the Performance Review Board for the Office of The Surgeon General are:

1. Brigadier General Robert H. Baker, M.D., Deputy Surgeon General.
2. Major General H. Thomas Chandler, D.D.S., Assistant Surgeon General for Dental Services/Director of Personnel.
3. Major General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
4. Brigadier General Walter F. Johnson, III, M.D., Director of Health Care Oprations, Office of the Surgeon General.

5. Brigadier General Connie L. Slewitzke, RN, Chief, Army Nurse Corps, Office of the Surgeon General.
6. Brigadier General Robert R. Jorgensen, Assistant Surgeon General for Veterinary Services, Office of the Surgeon General.
7. Gunter F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Louis S. Baron, Ph.D., Chief, Department of Bacterial Immunology, Walter Reed Army Institute of Research.
9. Daniel H. Connor, M.D., Chairman, Department of Infectious and Parasitic Disease Pathology, Armed Forces Institute of Pathology.
10. Bhupendra P. Doctor, Ph.D., Director, Division of Biochemistry, Walter Reed Army Institute of Research.
11. Robert R. Engle, Ph.D., Deputy Director, Division of Experimental Therapeutics, Walter Reed Army Institute of Research.
12. Franz M. Enzinger, M.D., Chairman, Department of Soft Tissue Pathology, Armed Forces Institute of Pathology.
13. Samuel B. Formal Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.
14. Elson D. Helwig, M.D., Chairman, Department of Skin and Gastrointestinal Pathology, Armed Forces Institute of Pathology.
15. Nelson S. Irey, M.D., Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institute of Pathology.
16. Kamal G. Ishak, M.D., Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology.
17. Frank B. Johnson, M.D., Chairman, Department of Chemical Pathology, Armed Forces Institute of Pathology.
18. Arthur D. Mason, Jr., M.D., Chief, Laboratory Division, U.S. Army Institute of Surgical Research.
19. Fathollah K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
20. Henry J. Norris, M.D., Chairman, Department of Gynecologic and Breast Pathology, Armed Forces Institute of Pathology.
21. Howard E. Noyes, Ph.D., Associate Director for Research Management, Walter Reed Army Institute of Research.
22. Donald E. Sweet, M.D., Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.
23. James A. Vogel, Ph.D., Director, Exercise Physiology Division, U.S. Army Research Institute of Environmental Medicine.

The members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Major General Norman G. Delbridge, Jr., Deputy Chief of Engineers, Headquarters, U.S. Army Corps of Engineers.
2. Brigadier General Charles E. Dominy, Division Commander, Missouri River Division.
3. Brigadier General C.E. Edgar, III, Division Commander, South Atlantic Division.
4. Mr. Kisuk Cheung, Chief, Engineering Division, Pacific Ocean Division.
5. Mr. Cecil G. Goad, Chief, Operations and Readiness Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.
6. Dr. Richard B. Gomez, Physical Scientists (Atmospheric Science), Directorate of Research and Development, Headquarters, U.S. Army Corps of Engineers.
7. Mr. Alfred P. Hutchinson, Chief, Construction-Operations Division, Southwestern Division.
8. Mr. Bory Steinberg, Chief, Program Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.
9. Brigadier General James W. Roy, Division Commander, Europe Division.
10. Brigadier General Thomas A. Sands, Division Commander, Lower Mississippi Valley Division.
11. Mr. Bob O. Benn, Assistant Director for Research and Development (Military Programs), Headquarters, U.S. Army Corps of Engineers.
12. Mr. George Erie, Deputy Director, Resource Management, Headquarters, U.S. Army Corps of Engineers.
13. Mr. Edward T. Watling, Cheif, Facilities Engineering Division, Headquarters, U.S. Army Corps of Engineers.
14. Mr. Herbert H. Kennon, Chief, Engineering Division, North Pacific Division.
15. Mr. Kenneth Murdock, Chief, Planning Division, North Central Division.

Carol D. Smith,
Chief, Senior Executive Service Office.
[FR Doc. 86-17333 Filed 7-31-86; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Chief of Engineers Environmental Advisory Board Meeting

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Open Meeting.

SUMMARY: Under section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is to be jointly chaired by Dr. Evan C. Vlachos, Chairman, EAB, and Lieutenant General E.R. Heiberg III, Chief of Engineers, U.S. Army. The meeting is open to the public.

DATE: The meeting will be held from 8:00 a.m., Tuesday, August 26, 1986, to 11:00 a.m., Thursday, August 28, 1986.

ADDRESS: The meeting will be held at the Holiday Inn Central, Omaha, Nebraska.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Kit J. Valentine, Chief, Office of Environmental Overview or Captain Glen J. Lozier, Office of the Chief of Engineers, Washington, DC 20314-1000, (202) 272-0166.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the Environmental Advisory Board meeting is:

26 August—Tuesday—A.M. Session

8:00—Meeting convened—Opening remarks
8:40—Old business
9:20—Charge to the EAB for Hazardous Waste Disposal—Assistant Chief of Engineers
10:00—Hazardous Waste cleanup at Army Installations
10:15—Examples of the Army Program

P.M. Session

1:30—Panel Discussion: Lessons learned in Hazardous Waste Cleanups at USACE
3:00—Research and Development
3:45—Charge to the EAB for Groundwater Discussions—Director of Civil Works
4:10—USGS—Groundwater Mission
5:00—Meeting recess

27 August—Wednesday—A.M. Session

8:00—EPA Panel: Groundwater Mission
10:00—Bureau of Reclamation—Mission and Ogallala Study
11:00—Corps Groudwater Activities

P.M. Session

1:00—EPA, USGS, BUR REC, & USACE Panel Discussion: Innovative Technology in Groundwater Studies
3:15—MRO Denver Water Supply Study
4:30—Meeting recess

26 August—Thursday—A.M. Session

8:00—EAB Report to the Chief of Engineers
9:30—Chief of Engineers Response
10:30—Public comments
11:00—Meeting adjournment

Kit J. Valentine,
LTC, Corps of Engineers, Chief, Office of Environmental Overview.
[FR Doc. 86-17332 Filed 7-31-86; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA C&E 86-43; OFP Case No. 61061-9317-20-24]

Corona CoGen, Inc.; Exemption

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting Corona CoGen, Inc. exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel

Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Corona Cogen, Inc. (Corona CoGen or "the petitioner"). The permanent exemption permits the use of natural gas as the primary energy source in a new powerplant facility located in Corona, Riverside County, California, based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on September 30, 1986. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Office of Fuels Programs, Economic Regualtory Administration, 1000 Independence Avenue, SW., Room GA–093, Washington, DC 20585, Telephone: (202) 252–6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252–6947.

SUPPLEMENTARY INFORMATION: On May 13, 1986, Corona CoGen petitioned ERA under section 212 of FUA and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas in a new powerplant. The petition for exemption is based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record that shows that in accordance with the requirements of 10 CFR 503.32(b), Corona CoGen has submitted the following evidence in order to make the demonstration required by that section:

(1) Duly executed certifications required under paragraph (a) of that section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of that section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of those regulations;

(4) Fuels search, as required under § 503.14 of those regulations; and

(5) All data required by § 503.6 (cost calculation) of those regulations necessary for computing the cost calculation formula.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on June 4, 1986 (51 FR 20335), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on July 21, 1986; no comments were received and no hearing was requested.

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has detremined that Corona CoGen has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32(b). Therefore, pursuant to section 212 of FUA, ERA hereby grants a permanent exemption to Corona CoGen to permit the use of natural gas as the primary energy source for the new powerplant in Corona, Riverside County, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, DC, on July 24, 1986.

Robert L. Davies,

Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 86–17395 Filed 7–31–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA C&E 86–42; OFP Case No. 67054–9320–20, 21–24]

Sierra CoGen, Inc.; Exemption

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting Sierra CoGen, Inc. exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a p ermanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Sierra CoGen, Inc. (Sierra CoGen or "the petitioner"). The permanent exemption permits the use of natural gas as the primary energy source in a new powerplant facility located in Bakersfield, California, based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final exemption order and detailed information on the proceeding are provided in the Supplementary Information section, below.

DATES: The order shall take effect on September 30, 1986. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–093, Washington, DC 20585, Telephone: (202) 252–6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252–6947.

SUPPLEMENTARY INFORMATION: On May 13, 1986, Sierra CoGen petitioned ERA under section 212 of FUA and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas in a new powerplant. The petition for exemption is based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

VOL 51 ISS 148 AG 1 1986 UMI

Basis For Permanent Exemption Order

The permanent exemption order is based upon evidence in the record that shows that in accordance with the requirements of 10 CFR 503.32(b), Sierra CoGen has submitted the following evidence in order to make the demonstration required by that section:

(1) Duly executed certification required under paragraph (a) of that section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of that section [including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption];

(3) Environmental impact analysis, as required under § 503.13 of those regulations;

(4) Fuels search, as required under § 503.14 of those regulations; and

(5) All data required by § 503.6 (cost calculation) of those regulations necessary for computing the cost calculation formula.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significatly affecting the quality of the human environment within the meaning of section 102(2)[C) of the National Environmental Policy Act (NEPA).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3[b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the Federal Register on June 4, 1986 (51 FR 20336), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on July 21, 1986; no comments were received and no hearing was requested.

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined that Sierra CoGen has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32(b). Therefore, pursuant to section 212 of FUA, ERA hereby grants a permanent exemption to Sierra CoGen to permit the use of natural gas as the primary energy source for the new powerplant in Bakersfield, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the Federal Register.

Issued in Washington, DC, on July 24, 1986.

Robert L. Davies,

Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 86-17396 Filed 7-30-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-725-002 et al.]

Northern States Power Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Northern States Power Company

[Docket No. ER85-725-002]

July 25, 1986.

Take notice that on July 21, 1986, Northern States Power Company (Wisconsin) tendered for filing a letter stating that all of the wholesale customers had paid the settlement rates approved by the Commission for this docket, so that no refunds were owed to any customer.

Northern States Company (Wisconsin) has forwarded copies of the letter to the Public Service Commission of Wisconsin and to the Michigan Public Service Commission.

Comment date: August 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket Nos. ER86-76-009 and ER86-230-005]

July 25, 1986.

Take notice that on July 18, 1986, Commonwealth Edison Company tendered for filing Rate 80 and Rate 81 and related Riders 9 and 23.

Rate 80 and Rate 81 and the related Riders provide for service and use of the facilities necessary to enable the City of Geneva, Illinois and the City of Rock Falls, Illinois, respectively, to take delivery of electricity from electric utility suppliers other than Commonwealth Edison and are filed in compliance with an Order of the Federal Energy Regulatory Commission entered on June 18, 1986, in Docket No. ER86-76-004, ER86-76-005, ER86-230-002 and ER86-230-003.

Copies of the rate schedules were served upon the Illinois Commerce Commission, Springfield, Illinois, the Cities of Geneva, Rock Falls, Batavia and Naperville, Illinois, and the Illinois Municipal Electric Agency.

Comment date: August 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. The Connecticut Light and Power Company

[Docket No. ER86-606-000]

July 28, 1986.

Take notice that on July 21, 1986, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a sales agreement (Agreement) with respect to Montville and Middletown Units between CL&P and UNITIL Power Corp. (UNITIL) dated as of June 1, 1986.

CL&P states that the rate schedule provides for a sale to UNITIL of capacity and energy from CL&P's Montville Units Nos. 5 and 6 and Middletown Units Nos. 2, 3, and 4 (the Units) during the period October 1, 1986, to October 31, 1992, together with related transmission service.

CL&P requests that the Commission permit the rate schedule filed to become effective on October 1, 1986.

CL&P states that the capacity charge rate for the first twenty-five months for the proposed service is a negotiated rate, based on the market price for this capacity, and less than cost-of-service rate. The capacity charge for the remainder of the term is determined on a cost-of-service basis at the time that the Agreement was executed. The monthly transmission charge rate is equal to one-twelfth of the annual average cost of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Agreement was executed and is detemined in accordance with § 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/kw-month) and (ii) the number of kilowatts of winter capability which UNITIL is entitled to receive during such month. This charge is reduced to give due recognition of the payments made by UNITIL to intervening systems providing transmission service over Pool Transmission Facilities for the delivery of the purchase provided under the Agreement. The Energy Charge and the

Station Service Energy Charge are based on UNITIL's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive these charges.

CL&P states that the services to be provided under the Agreement are similar to services provided by CL&P pursuant to purchase agreements with Vermont Electric Generation and Transmission Cooperative, Inc. (FERC Rate Schedule No. CL&P 350).

CL&P states that a copy of this filing has been mailed to UNITIL, Bedford, NH.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. The Kansas Power and Light Company

[Docket No. ER86-605-000]

July 28, 1986.

Take notice that on July 21, 1986, Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated June 9, 1986, with the City of Sterling for wholesale service to that community. KPL states that this contract permits the City of Sterling to receive service under rate schedule WTU-12/83 designated Supplement No. 8 to R.S. FERC No. 187. The proposed effective date is July 1, 1986. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contract have been mailed to the City of Sterling and the State Corportation Commission.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this document.

5. Long Island Lighting Company

[Docket No. ER86-476-000]

July 28, 1986.

Take notice that on July 21, 1986, Long Island Lighting Company ("LILCO") tendered for filing a proposed supplement to its Contract No. 139 between LILCO and the Incorporated Village of Freeport for the interchange of emergency electric power between them.

The purpose of this supplement to the interchange agreement is for Freeport to provide LILCO with 23,000 kw of firm capacity for the time period November 1, 1985 to October 31, 1986; to set the price of any energy provided during that time period; and to enable Freeport continued access to LILCO's transmission system during that time period.

Copies of this filing were served upon the New York Power Authority, The Municipal Electric Utilities Association of New York State, the Incorporated Village of Freeport and the New York State Public Service Commission.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Long Island Lighting Company

[Docket No. ER86-477-000]

July 28, 1986.

Take notice that on July 21, 1986, Long Island Lighting Company ("LILCO") tendered for filing a proposed supplement to its Rate Schedule FERC No. 15 between LILCO and the Incorporated Village of Freeport. The purpose of this supplement is to amend the fuel cost adjustment provision that is applicable to energy sales made under this rate schedule.

Copies of this filing were served upon the New York State Public Service Commission and Incorporated Village of Freeeport.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER86-604-000]

July 28, 1986.

Take notice that on July 21, 1986, Niagara Mohawk Power Corporation (Niagara), tendered for filing as a rate schedule, an agreement between Niagara and the Rockester Gas and Electric Corporation (Rochester) dated June 5, 1986.

Niagara presently has on file an agreement with Rochester dated April 12, 1973 last amended on May 15, 1985. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 76. This new agreement is being transmitted as a supplement to the existing agreement.

The original April 12, 1973 agreement states that Niagara will provide for the transmission of power and energy to and from the Power Authority of the State of New York at the Blenheim-Gilboa Pumped Storage Plant for Rochester. This supplement revises the rate to be paid by Rochester for the use of Niagara's facilities. The monthly charge will be updated on October 1 of each succeeding year using Niagara's most recent annual fixed charges. Niagara requests the Commission to allow said agreement to become effective as of October 1, 1986.

Copies of the filing were served upon the Rochester Gas & Electric Corporation of Rochester, New York and Public Service Commission of Albany, New York.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Hampshire

[Docket No. ER86-607-000]

July 28, 1986.

Take notice that on July 22, 1986, Public Service Company of New Hampshire ("PSNH") tendered for filing an initial rate for transmission service to be provided to Pontook Hydro Limited Partnership by PSNH over its 115 kV and above transmission facilities.

The rate applicable to the provision of transmission service is $2.16 per KW, per month, determined pursuant to the formula contained in the Transmission Agreement between PSNH and Pontook Hydro Limited Partnership dated July 26, 1985 and will be updated as provided in said Agreement.

Copies of the filing were served upon Pontook Funding Corporation, Pontook Hydro Limited Partnership and the New Hampshire Public Utilities Commission.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 86-17321 Filed 7-31-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat, 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB).

Date and time: August 26, 1986, 9 a.m.–4:30 p.m.; August 27, 1986, 9 a.m.–12 Noon; August 28, 1986, 9 a.m.–12 Noon.

Place: Brookhaven National Laboratory, Berkner Hall, Conference Room B, Brookhaven Avenue, Upton, NY 11973, Telephone: 516/282–7989.

Contact: Sarah Goldman, Department of Energy, Office of Energy Research, ER–6, 1000 Independence Avenue SW,, Washington, DC 20585, Telephone: 202/252–5779.

Purpose of the Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the day of the meeting.

Tentative Agenda

August 26, 1986

9:00 a.m.—Administrative Matters
9:15 a.m.—Welcoming Remarks; Summary of Brookhaven National Laboratory Research Programs
9:45 a.m.—Activities of Chicago Operations Office
Panel Reports:
10:15 a.m.—Physics Review Panel
10:30 a.m.—Technical Panel on Magnetic Fusion of the Energy Research Advisory Board
10:45 a.m.—Solid Earth Sciences Panel
11:00 a.m.—Civilian Nuclear Power Panel
12:00 Noon—Lunch
12:45 p.m.—Plenary Session; Discussion of Past ERAB Reports
1:00 p.m.—Subgroup Meetings on Past ERAB Reports
4:20 p.m.—Public Comment (10-minute rule)
4:30 p.m.—Adjourn

August 27, 1986

9:00 a.m.—Discussion of Past ERAB Reports—Lessons Learned
10:00 a.m.—Discussions with Deputy Secretary
11:50 a.m.—Public Comment (10-minute rule)
12:00 Noon—Adjourn

August 28, 1986

9:00 a.m.—Departure Schedules
9:15 a.m.—Board Discussion of Potential New Topics for Study
11:50 a.m.—Public Comment (10-minute rule)
12:00 Noon—Adjourn

Public Participation: The meeting is open to the public. The Chairman of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sarah Goldman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 28, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86–17334 Filed 7–31–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Notice of Cases Filed Week of July 4 Through July 11, 1986

During the Week of July 4 through July 11, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

July 25, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 4 through July 11, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
March 27, 1986	Research Fuels, Inc., Dallas, TX	KEX–0017	Supplemental order. If granted: The Office of Hearings and Appeals would determine whether Oasis Petroleum Corporation's representations regarding the manner in which the firm utilized base period volumes of motor gasoline was accurate.
June 30, 1986	Aminoil/Linda Jo's Bottle Gas Company, St. Louis, MO	RR139–8	Request for modification/rescission in the Aminoil refund proceeding. If granted: The May 27, 1986 Decision and Order (Case No. RF139–84) issued to Linda Jo's Bottle Gas Company would be modified regarding the firm's application for refund submitted in the Aminoil refund proceeding.
Do	Belridge/Washington and Amoco/Washington	RM78–32 and RM21–33	Request for modification/rescission in the Belridge and Amoco second stage refund proceedings. If granted: The June 6, 1984, Decision and Order (Case Nos. RQ21–56 and RQ6–57) issued to Washington would be modified regarding the state's application for refund submitted in the Amoco and Belridge second stage refund proceedings.
July 7, 1986	Natural Resources Defense Council, Washington, D.C	KFA–0043	Appeal of an Information Request Denial. If granted: The June 25, 1986, Freedom of Information Appeal Denial issued by the Albuquerque Operations Office would be rescinded and the Natural Resources Defense Council would receive access to the entire document entitled "Analysis of Joe-4, T–257, September 11, 1952 by Dr. Hans Bethe."
July 10, 1986	Economic Regulatory Administration, Washington, D.C	KRS–0004	Request for stay. If granted: Economic Regulatory Administration would receive a stay of the July 28, 1985 Proposed Remedial Order (Case No. HRO–0287) issued to Goldsberry Operating Company, Inc.
Do	Petroleum Supply, Inc., Washington, D.C	KEF–0046	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V in connection with May 21, 1986 Consent Order issued to Petroleum Supply, Inc

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of July 4 through July 11, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
July 9, 1986	Economic Regulatory Administration, Washington, D.C.	KRS-0250	Request for stay. If granted: Economic Regulatory Administration would receive a stay of the Proposed Remedial Order issued to BHP Petroleum Company (Case No. KRO-0250) pending settlement and issuance of a consent order agreement.

Date received	Name of refund proceeding/ name of refund applicant	Case No.
7/7/86	Central/Tampa Electric Co.	RF209-2
7/7/86	Howell Quintana/Lubrizol Corp.	RF245-6
7/7/86	Husky/Nevada Power Co.	RF161-95
7/7/86	Central/Norton Center Garage	RF209-3
7/7/86	Quaker State/Bridgeport Gas	RF219-210
7/7/86	Sigmor/The Coastal Corporation	RF242-19
7/7/86	Howell/West Point Pepperell	RF245-7
7/7/86	Amoco/New Jersey	RQ251-504
7/8/86	USA/Gulf States Oil & Refining	RF252-3
6/30/86	Sage Creek Refining Co.	RF171-86
7/10/86	Gulf/Appalachian Power Company.	RF40-3204
7/10/86	Quaker State/Smith-Shaler Oil Co.	RF213-211
7/10/86	Tenneco/Kelso Oil Company	RF7-137
7/9/86	Gulf/Sutton Oil	RF40-3201, RF40-3202
7/9/86	Gulf/City of Macon, Georgia	RF40-3203
7/3/86—7/11/86	Mobil Refund Applications	RF225-6778, RF225-6918
7/7/86—7/11/86	Marathon Refund Applications	RF250-46, RF250-326

[FR Doc. 86-17397 Filed 7-31-86; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders; Week of June 23 through June 27, 1986

During the week of June 23 through June 27, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

United Independent Oil Co.; 6/27/86; HRO-0247

The United Independent Oil Company (United), a refiner, objected to a Proposed Remedial Order (PRO) issued to it on July 27, 1984. The PRO required United to refund $404,323 in alleged illegal entitlements benefits received for crude oil processed by the Lion Oil Company (Lion) in May 1977. The DOE concluded that the processing agreement transactions constituted indirect sales by United to Lion, and that the applicable regulation prohibited claims for small refiner benefits with respect to such sales. The DOE specifically found that the DOE regulation was intended to prevent small refiners from obtaining the additional entitlements benefits of the small refiner bias (SRB) through processing agreements which did not change the flow of the crude oil. Finally, the DOE rejected United's claims that it was improper to hold it solely liable for refunding the SRB benefits and that the enforcement of these violations was barred by laches. Accordingly, the PRO was issued as a final remedial order. The overcharges and interest are to be deposited into a suitable account for ultimate distribution pursuant to Subpart V Special Refund Procedures.

Implementation of Special Refund Procedures

King and King Enterprises, Inc.: 6/24/86; HEF-0108

The DOE issued a Decision and Order implementing a plan for the distribution of $93,907.92 received pusuant to a consent order entered into by King and King Enterprises, Inc. (K&K) and the DOE on August 31, 1981. The DOE determined that the K&K settlement fund should be distributed to customers that purchased K&K motor gasoline during the period March 1, 1979 through June 30, 1979. The specific information to be included in Applications for refund is set forth in the Decision.

Refund Applications

AMTEL, Inc./Alvarado Premier Service Station: 6/25/86; RF46-51

The DOE approved an Application for Refund filed by Alvarado Premier Service Station in connection with a consent order fund deposited by Amtel, Inc. Alvarado documented its purchase volumes of Amtel motor gasoline during the consent order period and requested a refund which was less than the $5,000 small claims threshold amount. Based upon the procedures established in *Amtel* and the volumes of Amtel motor gasoline which Alvarado showed that it had purchased, the DOE approved a total refund amount of $2,703, representing $1,385 in principal and $1,318 in interest.

AMTEL, Inc./U.S. Oil Co., Inc./; 6/26/86; RR46-1

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by the U.S. Oil Company (USOC) in response to an April 15, 1986 Decision and Order denying an Application for Refund filed by USOC in the Amtel, Inc. special refund proceeding. USOC stated that it was entitled to a refund in the Amtel proceeding even though it had been a spot purchaser of Amtel motor gasoline, and it submitted additional financial data to support its claim. After reviewing USOC's request, including the additional information, the DOE reaffirmed its original finding that USOC purchased motor gasoline from Amtel because it was advantageous to do so and therefore failed to overcome the presumption that, as a spot purchaser, it was not injured by the alleged Amtel overcharges. Accordingly, the USOC Motion for Reconsideration was denied.

Armour Oil Co./Powerine Oil Co.; 6/23/86; RF187-1

The DOE approved an Application for Refund filed by Powerine Oil Company in connection with a consent order fund deposited by the Armour Oil Company. Powerine, a reseller of Armour petroleum products, provided documentation that it purchased refined products from Armour during the consent order period, requested a refund which was less than the $5,000 small claims threshold amount, and was identified as an allegedly overcharged customer in the Armour audit file. In accordance with the procedures established in the Armour special refund proceeding, the DOE determined that Powerine should receive a refund based on a prorated portion of the alleged Armour overcharges. The total refund amount approved in this Decision is $6,599.04, representing $4,942.36 in principal and $1,656.68 in interest.

Charter Co. South Carolina; 6/23/86; RQ23-292

The DOE issued a Decision approving the second-stage plan of South Carolina for use of funds from the Charter escrow account. South Carolina will use $48,321 for two projects: a Fuel Conservation Traffic Control Program and a Distillates Weatherization Diagnostic Audit Program. The DOE found these programs restitutionary to injured consumers of petroleum products. Accordingly, the State's refund application was granted.

Cibro Gasoline Corp./Vijax Fuels Corp.; RF184-1;
Public Fuel Service Co., Inc.: 6/26/86; RF184-2

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Cibro Gasoline Corporation special refund proceeding. Both of the applicants were end-users of Cibro motor gasoline. In its Decision, the DOE granted the applications under the standards specified in *Champlain Oil Co.*, 13 DOE ¶ 85,118 (1985). The refund granted totals $3,499, representing $2,143 in principal and $1,356 in interest.

Coline Gasoline Corp./West Virginia, Idaho, RQ2-244; National Helium Corp./Idaho, Louisiana, RQ2-274; Standard Oil Co., RQ3-275, RQ3-262; (Indiana)/Louisiana, RQ21-263; Charter Co./Louisiana: 6/26/86; RQ23-264

The States of West Virginia, Idaho, and Louisiana filed second-stage refund plans for funds remitted to the DOE under consent orders with Coline Gasoline Corp., National Helium Corp., Standard Oil Co. (Indiana),

and Charter Co. The OHA approved West Virginia's proposal to use $307 plus accrued interest alloted it from the Coline escrow account to erect informational logo signs on portions of Interstate 77. The OHA also approved Idaho's proposals to use $230 plus accrued interest from the Coline escrow account and $5,038 plus accrued interest from the National Helium escrow account to synchronize traffic signals in three Idaho cities and to publish and distribute copies of a pamphlet on car/van-pooling. The OHA denied, however, Idaho's plans to use $3,000 plus accrued interest to teach driver's education instructors and school bus drivers energy-efficient driving techniques. Finally, the OHA approved Louisiana's plans to use $28,376 plus accrued interest from the National Helium escrow account and $97,618 principal from the Standard Oil Co. escrow account to promote Louisiana Car Care Month and to implement a van-pool program in the New Orleans area. The OHA denied, however, Louisiana's application for use of Charter escrow account funds on the ground that neither of the submitted plans benefited user of No. 2-D diesel fuel. The Decision also specified the additional allocations of National Helium escrow account funds which DOE had made to eight states.

Earth Resources Co./C & G Gas Co., RF239-2; Westate Oil Co.: 6/27/86; RF239-11

The DOE issued a Decision and Order concerning two Applications for Refund filed by resellers of Earth Resources Company/Delta Refining Company petroleum products. Each firm applied for a refund based on the procedures outlined in *Earth Resources Co.*, 13 DOE ¶ 85,384 (1986), governing the disbursement of settlement funds received from Earth Resources pursuant to a 1981 consent order. In accordance with those procedures, each firm chose to limit its total refund eligibility to the small claims threshold amount of $5,000 (exclusive of interest). The DOE determined that each firm should therefore receive $7,631, representing $5,000 in principal and $2,631 in interest.

General Equities, Inc./Story Brothers: 6/23/86; RF224-10

The DOE issued a Decision and Order concerning an Application for Refund filed in the General Equities, Inc. special refund proceeding. The applicant, Story Brothers, was a reseller of General Equities motor gasoline whose purchases from General Equities during the consent order period entitled it to a refund which was less than the $5,000 small claims threshold amount. In its Decision, the DOE granted the application under the standards specified in *Busler Enterprises*, 13 DOE ¶ 85,308 (1985). The refund granted totals $3,040, representing $2,817 in principal and $223 in interest.

Good Hope Refineries/Amoco Oil Co.: 6/23/86; RF189-8

The DOE issued a Decision and Order concerning an Application for Refund filed by Amoco on the basis of the procedures outlined in *Good Hope Refineries*, 13 DOE ¶ 85,105 (1985). Since Amoco applied for a refund of greater than $5,000, it was required to demonstrate that it had cost banks greater than the amount of the refund, and was injured as a result of the overcharges. After examining the evidence and supporting documentation, the DOE concluded that Amoco had demonstrated that it had cost banks, and that it had been injured in some of the months of the consent order period. Part of Amoco's claim for a spot purchase of residual fuel, however, was denied because the firm failed to rebut the presumption that this purchase was made because it would be advantageous to Amoco. Accordingly, the firm was granted a partial refund. The total amount of refund granted is $51,781 (including interest).

Gulf Oil Corp./J.D. Streett & Co.: 6/27/86; RF40-2576

The DOE issued a Decision and Order concerning an Application for Refund filed on the basis of the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). In accordance with these procedures, J.D. Streett & Co., Inc. demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. The firm also indicated that it had purchased motor gasoline directly from Gulf. After examining the evidence and supporting documentation, the DOE concluded that Streett should receive a refund of the full volumetric amount, or $29,353, including interest.

Gulf Oil Corp./Nankin Gulf Service, et al.: 6/26/86; RF40-00759 et al.

The DOE issued a Decision and Order concerning 27 Applications for Refund filed by retailers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the applications, the DOE concluded that the firms should receive a total refund of $47,422, consisting of $39,626 in principal plus $7,796 in interest.

Gulf Oil Corp./Florida Power Corp., et al.: 6/27/86; RF40-3133 et al.

The DOE approved Applications for Refund filed by four public utilities in connection with a consent order fund deposited by the Gulf Oil Corporation. Each claimant provided documentation of its purchase volumes of Gulf products during the consent order period and certified that it would notify the appropriate regulatory agencies of any refund it received. In accordance with the procedures set forth in the Gulf special refund proceeding, the DOE granted each claimant a refund based on the volumes of Gulf products it purchased during the consent order period. The total amount of refunds approved in this decision is $19,842, representing $16,580 in principal and $3,262 in interest.

Gulf Oil Corp./R & W Oil Products: 6/23/86; RF40-1998

The DOE issued a Decision and Order concerning an Application for Refund filed by R & W Oil Products, a retailer/wholesaler of Gulf motor gasoline and middle distillates. R & W applied for a refund based on the volumetric presumption outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). R & W argued that in assessing its eligibility for a refund, its banks of unrecouped, increased product costs should include unrecouped, increased non-product costs. This argument was rejected and R & W was granted a refund for the portion of the consent order period during which it had banks of unrecovered, increased non-product costs. The refund granted consisted of $13,293 principal and $2,724 interest.

Hicks Oil and Hicks Gas Co., Inc./Patterson Bros. Oil & Gas, Inc., et al.: 6/27/86; RF237-1 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed in the Hicks Oil and Hicks Gas Company, Inc. special refund proceeding. Three of the six applicants claimed purchase volumes which entitled them to a refund which was less than the $5,000 small claims threshold amount. The three other applicants would have been eligible to receive refunds of more than $5,000 but elected to limit their claims to the $5,000 threshold amount in lieu of making a detailed showing of injury. In its Decision, the DOE granted the applications under the standards specified in *Hicks Oil and Hicks Gas Co.*, 13 DOE ¶ 85,400 (1986). The refunds granted total $25,685, representing $19,377 in principal and $6,308 in interest.

Kansas-Nebraska Natural Gas Co., Inc./Mobil Oil Corp.: 6/25/86; RF113-3

Mobil Oil Corporation filed an Application for Refund, seeking a portion of funds remitted by Kansas-Nebraska Natural Gas Company pursuant to a consent order between the firm and the DOE. Mobil documented purchases of 2,761,794 gallons of natural gas liquid products from Kansas-Nebraska during the consent order period. Through price comparisons, the DOE found that Mobil's purchases were generally priced at below market average price levels. Since there was no evidence that Mobil was unable to pass through Kansas-Nebraska's alleged overcharges, the DOE denied Mobil's refund request.

Red Triangle Oil Co./Ted & Lil: 6/26/86; RF238-23

The DOE issued a Decision and Order concerning an Application for Refund filed in the Red Triangle Oil Company special refund proceeding by Ted & Lil, a firm which had been indentified by the Economic Regulatory Administration (ERA) as having sustained overcharges alleged in the ERA's audit of Red Triangle's sales of motor gasoline. The claimant adequately demonstrated that it was injured by the alleged overcharges and, accordingly, the DOE approved the refund application. The total amount of the refund granted in the Decision was $836, representing $737 in principal and $99 in interest.

Sid Richardson Carbon & Gasoline Co. & Richardson Products Co./Kruegels, Inc.: RF26-35; Flame Gas: 6/27/86; RF26-39

The DOE issued a Decision and Order granting refunds from the Sid Richardson Carbon & Gasoline Co. & Richardson Products Company deposit fund escrow account to two retailers of Sid Richardson propane, Kruegels, Inc. and Flame Gas. Since neither firm sought a refund for purchases exceeding the small claims threshold established for Sid Richardson applicants, the DOE did not require either to submit a detailed showing of injury. The refunds granted these firms total $65,774, representing $34,366 in principal and $31,408 in interest.

Dismissals

The following submissions were dismissed:

Company name	Case No.
Absorbent Cotton Co.	RF225–2855
Acushnet Co.	RF225–2727; RF225–2728
Airco Industrial Gases	RF225–2872; RF225–2873
Alvin Jess	RF215–10
Anthony J. Dougherty	RF215–11
Arundel Nursery	RF215–12
Barbara P. Heavenston	RF225–2862
Barry E. Christy	RF215–15
Bernie S. Kahn, Inc.	RF225–3189
Biddle Gulf	RF40–3175
Bothwell Ranches	RF225–8192
Brockway Glass Inc.	RF225–3089; RF225–3090
C. Floyd Caldwell	RF225–3210
Central Marine Service, Inc.	RF225–2707; RF225–2708
Dallas Country Club	RF225–2112; RF225–3113
Daniels Gulf	RF40–3183
Fannie Lee Mitchell	RF225–2723; RF225–2736
Forest Foods Inc.	RF225–2485; RF225–2486
Forty West Gulf	RF40–3176
Glidden Coating & Resins	RF225–2945
Howard Bus Co.	RF215–16
Hunter Fan Co.	RF225–2865; RF225–2866
Isle Oil Co.	KEE0055
Johns Hopkins University	RF215–13
Label Craft Co.	RF225–2789; RF225–2790
Lester S. Sanderson	RF225–2720; RF225–2721
Locust Valley Fire District	RF225–3002
Loren D. Hazen, Jr.	RF187–12
Lubnqup-Houdaille, Inc.	RF225–2638
Memmac Paper Co.	RF225–2452; RF225–2453
Newman Oil Co., Inc.	KEE0057
Sabraton Chrysler	RF213–140
Sowela Technical Institute	RF225–2705; RF225–2706
Superior Burner Service, Inc.	RF21–12617
Texaco Inc.	HRO0278
The Grigoleit Co.	RF225–3211
United Technologies Automotive Group	RF225–2663
W.W. Babcock Co., Inc.	RF225–2660
Waller Avenue Gulf	RF40–3167
Woodstream Corp.	RF225–3213

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director Office of Hearings and Appeals.

July 17, 1986.

[FR Doc. 86–17398 Filed 7–31–86; 8:45 am]

BILLING CODE 6450–01–M

Notice of Issuance of Decisions and Orders; Week of June 30 Through July 4, 1986

During the week of June 30 through July 4, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

H. Michael Clyde, 7/3/86, KFA–0038

On June 6, 1986, H. Michael Clyde (Clyde) filed a Freedom of Information Act (FOIA) Appeal from a determination issued by the Inspector General (IG) of the Department of Energy on May 5, 1986. The determination, which was issued in response to a request for documents made by Clyde under the FOIA, withheld certain documents and portions of documents pursuant to Exemptions 5, 6, and 7(C). In considering the Appeal, the DOE found that the IG's determination had been made in full compliance with the FOIA and the DOE's implementing regulations. Specifically, the DOE found that material had been properly withheld pursuant to Exemption 5 based on the deliberative process privilege, and while not claimed by the IG, that some of the material also was entitled to protection under the exemption based on the attorney work-product privilege. In addition, contrary to Clyde's assertions that no privacy interest would be invaded by release of the material withheld pursuant to Exemptions 6 and 7(C), the DOE found in each case that release of the withheld material would constitute any unwarranted invasion of privacy not outweighed by an public interest in disclosure. Accordingly, the DOE denied Clyde's Appeal.

Request for Temporary Exception

Whirlpool Corporation, 7/2/86, KEL–0002; KEL–0037

Whirlpool Corporation filed Applications for Temporary Exception seeking relief from the provisions of 10 CFR Subchapter D, Part 430, Subpart B, Appendix A1 (Appendix A1) for two models of adaptively-defrosting refrigerator-freezer. Appendix A1 prescribes refrigerator and refrigerator-freezer energy test procedures, the results of which must be included on a label or tag to be affixed to an appliance before it may be sold. In considering Whirlpool's request, the DOE found that adherence to the Appendix A1 procedures would cause a greater inequity for Whirlpool than for the other persons affected by this proceeding, since in the absence of relief, Whirlpool would not be able to report energy usage figures. The firm was granted temporary exception relief allowing it to test the two new refrigerator-freezers using the Appendix A1 procedures for long-time automatic defrost machines and an assumed CT of 36.

Refund Applications

Aminoil U.S.A., Inc./ 'Cities Service Oil and Gas Company, 7/3/86, RF139–10

Cities Service Oil and Gas Corporation (Cities) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order with Aminoil U.S.A., Inc. (Aminoil). Althought the firm was given the opportunity to rebut the spot purchaser presumption and establish its injury, the DOE determined that Cities failed to provide evidence that it sustained an injury from its Aminoil purchases. Accordingly, the DOE concluded that Cities' sporadic purchases from Aminoil were "spot" purchases which did not reflect a regular supplier/purchaser relationship, and Cities' Application for Refund was denied.

Bayou State Oil Company, Ida Gasoline, Inc., E–Z Mart Stores, Inc., 6/30/86, RR117–1

The DOE issued a Decision and Order concerning a Request for Reconsideration of an Application for Refund filed by E–Z Mart Stores, Inc. on the basis of the procedures outlined in *Bayou State Oil Co.*, 12 DOE ¶ 85,197 (1985). E–Z Mart had requested a refund which exceeded the $5,000 small claims limit established in *Bayou State*. In order to receive such a refund E–Z Mart had to demonstrate that it had cost banks which exceeded the amount of the estimated refund, and that it was injured as a result of the overcharges. Upon reconsideration, the DOE concluded that E–Z Mart Stores had demonstrated that it had cost banks greater than the amount of the refund requested. The DOE further determined that E–Z Mart was unable to pass through its increased costs in many of the months of the Consent Order period. Accordingly, it received an additional refund of $171,235, including interest.

Eastern Petroleum Corporation/B–60 Ranch, 6/30/86, RF215–14

The DOE issued a Decision and Order concerning an Application for Refund filed in the Eastern Petroleum Corporation special refund proceeding. The applicant, B–60 Ranch, was an end-user of motor gasoline purchased from Eastern during the consent order period. In its Decision, the DOE granted the application under the standards specified in *Busler Enterprises, Inc.*, 13 DOE ¶ 85,308 (1985). The refund granted in this proceeding totals $19, representing $14 in principal and $5 in interest.

Gulf Oil Corporation/G.A. Norris Butane Company, Calloway Butane Company, 7/2/86, RF40–3103, RF40–3106

G.A. Norris Butane Company and Callaway Butane Company filed Applications for Refund seeking portions of the funds obtained by the DOE through a Consent Order with Gulf Oil Corporation. In a July 2, 1986 Decision, the DOE denied the firms'

Applications for Refund because Norris and Callaway admittedly did not have access to information that would allow them to demonstrate the existence of cost banks equal to the refunds claimed. Since Gulf applicants were required to demonstrate the existence of cost banks, the firms were found to be ineligible to receive refunds.

Gulf Oil Corporation/Hoff Oil Company, et al., 6/30/86, RF40–782, et al.

The DOE issued a Decision and Order granting the Applications for Refund filed by Hoff Oil Company and three other retailers or wholesalers of Gulf Oil Corporation petroleum products. All of the claimants applied for refunds based on the volumetric presumption outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds approved in this Decision total $39,465, representing $32,753 in principal and $6,712 in interest.

Gulf Oil Corporation/Reynolds Gulf Service, Inc., et al., 7/2/86, RF40–00215, et al.

The DOE issued a Decision granting 12 Applications for Refund from the Gulf Oil Corporation consent order fund filed by retailers of Gulf refined products. In considering the applications, the DOE found that each of the claimants had demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. Accordingly, the firms were granted refunds totalling $13,309, representing $11,047 in principal and $2,262 in interest.

Gulf Oil Corporation, Sutton Oil Company, et al., 7/1/86, RF40–831 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by Sutton Oil Company and 4 other consignees of Gulf motor gasoline, on the basis of the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶85,048 (1984). Each applicant demonstrated that overall gasoline consumption in the state in which it was located and increased during the consent order period, while its own total sales volume of gasoline during that period had declined. The DOE therefore determined that each applicant was injured by Gulf's allegedly uncompetitive prices. Each applicant's refund was calculated by multiplying the number of gallons of gasoline Gulf consigned to it during the consent order period, its percent loss of potential sales, and the Gulf volumetric refund amount of $.00122. The total refund granted in this Decision is $10,284, representing $8,536 in principal and $1,748 in interest.

Leonard E. Belcher, Inc./East Springfield Oil Company, et al., 7/1/86, RF227–13 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed on the basis of the procedures outlined in *Leonard E. Belcher, Inc.*, 13 DOE ¶85,348 (1986). Four of the firms applied for refunds of greater than $5,000, and were required to demonstrate that they had cost banks greater than the amount of the refund, and that they were injured as a result of the overcharges. After examining the evidence and supporting documentation, the DOE concluded that three of the firms had demonstrated that they had cost banks, and had been injured in many of the months of the consent order period. Accordingly, these firms were granted refunds for the months that they suffered injury. The fourth firm could not demonstrate that it had experienced injury in excess of the threshold amount, so its refund was limited to $5,000 plus interest. The fifth applicant did not attempt to prove injury, but instead agreed to limit its claim to $5,000. The total amount of the refunds granted in this decision is $54,704, including interest.

Pronto Gas Company/Warren Petroleum Company, E.I. du Pont de Nemours & Co., 7/3/86, RF59–1, RF59–2

Warren Petroleum Company filed an Application for Refund, seeking a portion of funds remitted by Pronto Gas Company pursuant to a consent order Pronto entered into with the DOE. Warren purchased 3,043,716 gallons of natural gas liquid products from Pronto during the consent order period. The DOE found that for a major portion of the NGLPs that Warren purchased, Warren was charged prices below the market average price levels. As a result, Warren obtained a substantial cost benefit. Considering the competitive advantage that Warren enjoyed from its purchases from Pronto, the DOE limited the refund to Warren to an amount equal to the number of gallons that Warren purchased at above market prices multiplied by the per gallon refund rate. The total amount of refund granted to Warren was $13,386.00, representing $7,101.26 in principal and $6,284.74 in accrued interest.

E.I. du Pont de Nemours & Co. also filed an application for Refund in the Pronto refund proceeding on the basis that it purchased the Pronto products from Warren. Du Pont used the Pronto products in its petrochemical production process. Since Du Pont was an end-user, the DOE determined that the firm should receive a refund in proportion to the volume that the firm purchased without a detailed showing of injury. The amount of refund granted to Du Pont was $837.00, representing $443.96 in principal and $393.04 in accrued interest.

Sid Richardson Carbon and Gasoline Company and Richardson Products Company/Lichti Brothers Oil Company, Inc., G.A. Eddy & Sons, Inc., 7/1/86, RF26–40, RF26–41

The DOE issued a Decision and Order granting refunds from the Sid Richardson Carbon & Gasoline Company and Richardson Product Company deposit escrow account to two retailers of Sid Richardson propane, Lichti Brothers Oil Company, Inc. and G.A. Eddy & Sons, Inc. Neither firm sought a refund for purchases exceeding the small claims threshold amount established for Sid Richardson applicants. The refunds granted these firms total $18,035, representing $9,423 in principal and $8,612 in interest.

Dismissals

The following submissions were dismissed:

Company Name and Case No.
Automatic Gasoline Systems, Inc., RF167–7
Carleton Oil Company, Inc., KEE–0048
Illinois Power Company, RF21–12620
Pelmount Enterprises Inc., RF225–687

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 17, 1986.

[FR Doc. 86–17399 Filed 7–31–86; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $21,217 obtained as a result of a consent order which the DOE entered into with National Propane Corporation, Conservative Gas Division, a reseller-retailer of propane located in New Hyde Park, New York. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0135.

FOR FURTHER INFORMATION CONTACT: Sharon Dennis, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Propoed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $21,217, plus accured interest, obtained by the DOE under the terms of a consent order entered into

with National Propane Corporation, Conservative Gas Division (Conservative). The funds were provided to the DOE by Conservative to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of propane during the period November 1, 1973, through November 30, 1975

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals who purchased propane from Conservative. In order to obtain a refund, a claimant will be required to submit a schedule of its monthly purchases from Conservative and to demonstate that it was injured by Conservative's pricing practices. Applicants must submit specific information regarding the date, place, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered. An applicant claiming $5,000 or less, however, will be required to document only its purchae volumes.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in these proceedings will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: July 24, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 24, 1986.

Proposed Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Name of Firm: National Propane Corporation, Conservative Gas Division
Date of Filing: October 13, 1983
Case Number: HEF–0135.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with National Propane Corporation, Conservative Gas Division (Conservative).

I. Background

Conservative is a "reseller-retailer" of covered products as that term was defined in 10 CFR § 212.31, with its home office located in New Hyde Park, New York. A DOE audit of Conservative's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The audit alleged that between November 1, 1973 and November 30, 1975, Conservative committed certain pricing violations in its sales of propane.

In order to settle all claims and disputes between Conservative and the DOE regarding the firm's sales of propane during the period covered by the audit, Conservative and the DOE entered into a consent order on September 26, 1979. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, the consent order states that Conservative does not admit that it violated the regulations and that the settlement is solely a compromise of reasonable differing interpretations of rules and regulations governing the computation of Conservative's maximum lawful selling price (MLSP).

Under the terms of the consent order, Conservative agreed to pay a total settlement amount of $70,491, including interest, to cover alleged overcharges committed in its sales of propane during the consent order period. ERA ordered that the total settlement amount be divided between Conservative's various customer classes and be distributed by two different methods. Apparently Conservative marketed its propane in cylinder and bulk form to ten separate customer categories at wholesale and retail prices.[1] In connection with this settlement, all of Conservative's retail and certain of its wholesale customers received direct payments totaling $49,274. The remaining $21,217 represents the settlement of alleged overcharges on sales to Conservative's wholesale customers that were not included in the direct-payment schedule. Conservative deposited that amount into an interest-bearing escrow account for ultimate distribution by the DOE.

The purchasers eligible for refunds in this proceeding are resellers which purchased bulk and cylinder propane, and wholesale dealers which purchased "bulk cylinder" propane from Conservative. In view of the direct payments which have been made to all retail and certain wholesale customers, we propose that such purchasers be ineligible to claim refunds in this proceeding. A further payment to these firms on the basis of the sales covered by the audit would produce a double refund.[2] This decision therefore concerns the distribution of the funds in the Conservative escrow account to these eligible classes of purchasers.[3]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines which may be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify those persons who may have been injured by any alleged overcharges or ascertain the amount of such injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures

[1] Bulk sales are generally delivered by tank truck in large quantities at relatively low cost, as compared to cylinder sales which are more expensive because they include the costs of bottling propane in cylinder form.

[2] If, however, a wholesale customer can show that it was also a purchaser of the propane sales covered in this proceeding, and that it did not previously receive a refund for such purchases, then that customer may apply for a refund on those purchases.

[3] As of June 30, 1986, the Conservative escrow account contained a total of $40,916.82, representing $21,217 in principal and $19,699.82 in accrued interest.

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to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

As in other Subpart V cases, we believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of propane that were injured by Conservative's alleged pricing practices between November 1, 1973 and November 30, 1975 (the consent order period). Any funds that remain after all meritorious first-stage claims have been paid may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

In the first stage of the Conservative refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by Conservative's alleged overcharges. As in many prior refund cases, we propose to adopt certain presumptions which will be used to help determine the level of a purchaser's injury.

The use of presumptions in refund cases is specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [I]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a volumetric presumption for the allocation of consent order funds. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. As a separate matter, we are making a proposed finding that end users experienced injury.[4]

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of products marketed by that firm. In the absence of better information, the volumetric method is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Using a volumetric approach means that a portion of the consent order funds would be allocated to each gallon of product which a successful claimant purchased from Conservative. The volumetric factor is the average per gallon refund and in this case equals $0.002491 per gallon.[5] In addition, successful claimants will receive a proportionate share of the accrued interest.

The volumetric presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Cabron and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and case cited therein at 88,164.

Second, we plan to presume that purchasers of Conservative's products seeking small refunds were injured by Conservative's pricing practices. There are a number of bases for the presumption that claimants seeking small refunds were injured.

See, e.g., Uban Oil Co., 9 DOE ¶ 82,541 (1982). The firms that will be eligible for refunds are purchasers that were in the chain of distribution of the products to which the alleged overcharges attached. These purchasers therefore experienced some impact of the alleged overcharges. Without some presumptions as to injury, in order to support a specific claim of injury a claimant would have to compile and submit very detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This demonstration, if even possible, would generally be very time-consuming and expensive. In the case of relatively small claims, the cost to the claimant of gathering the necessary information and the cost to OHA of analyzing it could certainly exceed the value of any expected refund as well as any analytic benefits to be derived. Consequently, without simplified procedures, some potential claimants could be effectively denied an opportunity to seek a refund since it would be uneconomic to do so. As a result, we intend to adopt a small claims presumption which will eliminate the need for a claimant to submit and OHA to analyze extensive, detailed proof of the result of the impact of the alleged overcharges.

Under the small-claims presumption, a claimant that is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Principal among the factors which determine the value of this threshold is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low, $5,000 is a reasonable value for the small-claim threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

A reseller or retailer which seeks a refund of more than $5,000 will be required to document its claim. While there are a variety of methods by which a claimant could show that it did not pass the alleged overcharges on to its customers, the claimant would generally have to show that at the time of the alleged overcharges, it maintained a bank of unrecovered costs,[6] and that market conditions would not permit it to pass through those increased costs.[7]

If a reseller or retailer made only sopt purchases, we propose that it should not receive a refund since it is unlikely to have experienced injury. This is true because

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[4] We note that the escrow funds at issue in this proceeding were assigned to wholesale purchasers only. However, as in other proceedings, downstream customers—which may include end users—may be eligible for refunds on purchases made from Conservative.

[5] The volumetric factor has been calculated from information contained in ERA's audit workpapers. The figure was derived by dividing the $21,217 in escrow by 8,516,162 gallons sold by Conservative during the consent order period.

[6] If a firm states that it did not maintain cost banks during the relevant eriod, we plan to presume that it was able to pass through its increased costs unless it presents an alternative demonstration of cost-absorption. For instance, we would generally require evidence of the firm's May 15, 1973 maximum lawful margin(s), as well as the actual monthly margins it maintained during the consent order period through January 27, 1981 (when deregulation of propane occurred).

[7] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada).

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. The same principles apply in this case. Accordingly, we propose that resellers and retailers which made only spot purchases from Conservative not receive refunds unless they present evidence which rebuts this presumption and establishes the extent to which they experienced injury.

As noted above, we are making a proposed finding that end users whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. These entities were not subject to DOE regulations during the relevant period, and are thus outside our inquiry about pass-through of overcharges. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) *(PVM)*; *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. Therefore, we propose that for end users of propane sold by Conservative, documentation of purchase volumes will provide a sufficient showing of injury.

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to provide a detailed demonstration that they absorbed the alleged overcharges associated with Conservative's sales of propane. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*), and *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). We will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to notify the appropriate regulatory body or membership group of their receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 plus interest will be processed. In prior refund cases we have found that the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

III. Applications for Refund

In order to receive a refund, each claimant will be required to identify its purchasing status during the relevant period and to submit a schedule of its monthly purchases of propane from Conservative. If an applicant claims injury at a level greater than the threshold level, it must document this injury in accordance with the procedures described above, including specific information as to the volume and per gallon price of propane purchased, the date of purchase, and the extent of any injury alleged. A claimant must also indicate whether it has previously received a refund from Conservative, or from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the means and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provided a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in any DOE enforcement or private § 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by National Propane Corporation, Conservative Gas Division pursuant to the Consent Order executed on September 26, 1979, will be distributed in accordance with the foregoing Decision.

[FR Doc. 86–17402 Filed 7–31–86; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $216,196.10 obtained as a result of a consent order which the DOE entered into with Marine Petroleum Company and Mars Oil Company, their parents, subsidiaries and affiliates (Marine), a reseller-retailer of refined petroleum products located in St. Louis, Missouri. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESSES: Applications for Refund of a portion of the Marine consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case No. HEF–0122 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Sharon Dennis, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Marine Petroleum Company and Mars Oil Company which settled possible pricing violations in Marine's sales of motor gasoline during the period November 1, 1973, through April 30, 1974. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Marine consent order funds was issued on December 23, 1985. 50 Fed. Reg. 53390 (December 31, 1985).

The Decision sets forth procedures and standards that the DOE has formulated to distribute to adversely affected parties $216,196.10 plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Marine Petroleum Company and Mars Oil Company, their parents, subsidiaries, and affiliates (Marine).

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to 50 first purchasers who may have been overcharged. In order to obtain a refund, each claimant will be required either to submit a schedule of its monthly purchases from Marine or to submit a statement verifying that it purchased motor gasoline from Marine and is willing to rely on the data in the audit files. Reseller and retailer applicants will be required to document their injury as discussed in the Decision, although a detailed demonstration of injury will not be required of applicants that file at or below the $5,000 threshold level. End-user customers are presumed to have been injured and need only document their total pruchases from Marine to provide sufficient evidence of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit, including customers of Marine's company-affiliated wholesale and retail firms. Unidentified customers who purchased directly from Marine will be required to provide schedules of their monthly purchase volumes. These applicants will be subject to the same requirements regarding proof of injury as are identified purchasers. Motorists which purchased from Marine's retail stations, like other ultimate consumers, had no opportunity to pass through the alleged overcharges and consequently do not have to provide a detailed demonstration of injury.

As the Decision and Order published with this Notice indicates, Applications for Refund may now be filed by customers who purchased motor gasoline from Marine during the consent order period. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after the publication of this Decision and Order in the Federal Register. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: July 23, 1986.

George B. Breznay,

Director Office of Hearings and Appeals.

July 23, 1986.

Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Name of Firm: Marine Petroleum Company and Mars Oil Company
Date of Filing: October 13, 1983
Case Number: HEF-0122

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Marine Petroleum Company, Mars Oil Company, their parents, subsidiaries and affiliates (Marine).

I. Background

Marine is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in St. Louis, Missouri. A DOE audit of Marine's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. Based on the audit, the DOE alleged that between November 1, 1973 and April 30, 1974, Marine committed certain pricing violations with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Marine and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Marine and the DOE entered into a consent order on September 1, 1981. The consent order, which resolved a Notice of Probable Violation (NOPV) issued on November 26, 1980, refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, the consent order states that Marine does not admit that it violated the regulations.

Under the terms of the consent order, Marine agreed to deposit $198,500 plus installment interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Marine was required to make its payments in 24 equal monthly installments. The consent order was paid in full on June 18, 1982. Including installment interest, Marine's actual deposits total $216,196.10. That sum will be considered to be the principal amount in this proceeding. This decision concerns the distribution of the funds in the Marine escrow account.[1]

[1] As of May 31, 1986, the Marine escrow account contained a total of $310,946.62, representing $216,196.10 in principal (including installment interest) and $100,750.52 in accrued interest.

II. Jurisdiction and Authority to Fashion Refund Procedures

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds received as the result of a consent order are set forth in 10 CFR Part 205, Subpart V. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 9 DOE ¶ 82,597 (1981).

On December 23, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable showing of injury as a result of Marine's alleged violations in its sales of motor gasoline during the consent order period. 50 FR 53,390 (December 31, 1985). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the Federal Register and comments regarding the propoeed refund procedures were solicited. In addition, a copy of the PD&O was mailed to each purchaser identified in the audit file whose address was available. Copies were also sent to various petroleum marketers' associations. None of Marine's customers submitted comments on the proposed procedures. Comments were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. These comments concern the distribution of any funds remaining after all refunds have been made to injured parties. However, the purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Marine refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, we will not address the issues raised by the states at this time.

A. Refunds to Identified Purchasers

In the first stage of the Marine refund proceeding, we will distribute the funds currently in escrow to claimants that demonstrate that they were injured by

the alleged overcharges. In order to be eligible to receive a refund, claimants will have to file an application and, with three exceptions which will be discussed later in this Decision, show the extent to which they were injured by the alleged overcharges.

In order to effect restitution in this proceeding, we will rely on the information contained in the DOE's audit files. The purchasers of Marine's products are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under these circumstances, a reasonably precise determination can be made regarding the identity of the allegedly overcharged parties and the amount of alleged overcharges each party experienced.

In the PD&O we stated that during the DOE audit, 50 first purchasers were identified by ERA and alleged overcharge amounts were assigned. The audit also indicated that these identifiable wholesale purchasers absorbed 47.05 percent of the total alleged overcharges. The remainder of the overcharges were assigned to Marine's company-affiliated wholesale firms and retail firms, which absorbed 17.36 percent and 35.59 percent of the alleged overcharges, respectively. However, these affiliates (see Appendix III) are not eligible for refunds since such a refund would amount to returning consent order funds to Marine. However, customers of these wholesale and retail affiliates are eligible to apply for refunds from the portion of the settlement funds assigned to the affiliate firms by ERA. The record indicates that these identified first purchasers and repurchasers are the parties most likely to have been injured by Marine's pricing practices. We recognize, however, that other wholesale customers not identified by the ERA audit may have been overcharged by Marine during the consent order period, and may be entitled to a portion of the consent order fund. Therefore, as in previous cases of this type, the funds in the escrow account may be apportioned among (i) The purchasers identified by the audit, (ii) other injured first purchasers, and (iii) subsequent repurchasers that can also show injury. *See, e.g., Bob's Oil Co.*, 12 Doe ¶ 85,024 (1984); *Richards Oil Company,*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit and the share of the settlement earmarked for each are listed in Appendices 1 and 2. [2]

On the basis of the information in the record at this time, we will distribute a portion of th escrow funds to the eligible firms listed in Appendices 1 and 2 that file refund applications and demonstrate injury in accordance with the presumptions and findings which will be described in Section C below. Refunds will be authorized to those firms in the amounts indicated, plus accrued interest to the date they receive refunds. [3] However, we have been unable to directly solicit applications from the firms listed in Appendix 2 since their current addresses are not known. In an attempt to locate those firms, we will provide Marine and various petroleum dealers' associations with copies of this Decision and will publish a notice in the **Federal Register** as well as in area newspapers. We will accept information regarding the identity and present location of these firms for a period of 90 days from the date of publication of this Decision and Order in the **Federal Register**.[4]

B. Refunds to Unidentified Purchasers

As previously noted, this Decision concerns the distribution of the entire $216,196.10 that Marine deposited into the escrow account thorugh June 18, 1982, plus accrued interest since that date. Since the refunds tentatively allotted to identified purchasers total $101,719.36, the remaining portion of the Marine consent order funds may be distributed among first purchasers other than those identified by the ERA audit, and to customers of Marine's company-affiliated retail and wholesale firms, provided they can make the necessary demonstration of injury.

Since it was impossible for ERA to assign specific overcharges to unidentified customers and repurchasers, we will use a volumetric method to determine the potential refunds for these applicants. This method presumes that the unassigned alleged overcharges were spread equally over all the gallons of motor gasoline sold by Marine to unidentified purchasers during the consent order period. Under the volumetric method, a previously unidentified claimant that adequately demonstrates injury (see Section C below) will be eligible to receive a refund equal to the number of gallons it purchased from Marine times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.002529 per gallon.[5] In addition, successful claimants will receive a proportionate share of the accrued interest.

We recognize that the impact on an individual purchaser could have been greater than that estimated by using the volumetric factor, and any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein. Similarly, purchasers identified in the ERA audit may attempt to show that they should receive refunds greater than those indicated in the Appendix. If valid claims exceed the funds available in escrow, all refunds will be reduced proportionately. Actual refunds will be determined only after analyzing all appropriate claims.

C. Demonstration of Injury

The assignment of overcharge amounts to both identified and unidentified purchasers is only the first step in the distribution process. We must also determine whether these claimants were injured or were able to pass through the alleged overcharges. In order to be eligible to receive a refund, all claimants will have to file an application and, with the three exceptions discussed below, show the extent to which they were injured by the alleged overcharges. To extent that any individual or firm can establish injury, it will be eligible for a share of the consent order fund.

In this case, we will adopt two rebuttable presumptions as well as two findings regarding injury. These presumptions and findings have been used in many previous special refund cases. First, we will presume that purchasers of Marine motor gasoline who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. Second, in the absence of compelling material, we will presume that spot pruchasers were not injured. Third, we will make a finding that end-

[2] Appendix 1 contains the names and addresses of identified first purchasers; Appendix 2 contains the names and last known addresses of additional identified first purchasers for which we have no current addresses.

[3] The refund amounts have been adjusted from those computed by ERA to reflect the larger principal amount in escrow resulting from Marine's payments of installment in escrow resulting from Marine's payments of installment interest. The refund amounts were recalculated according to the following formula: we divided the $196,500 original principal amount into the new principal amount, $216,196.10 to obtain a factor of 1.099149. We then multiplied this factor by the amounts attributed to each firm to obtain the revised refund amounts.

[4] If we are unable to locate any firm listed in Appendix 2, we will reserve any funds allocated to that firm for distribution in a subsequent proceeding.

[5] This per gallon factor is computed by dividing the $114,478.74 available for distribution to unidentified customers of Marine's company-affiliated retail and wholesale firms, by the estimated 45,273,041 gallons sold by Marine to these firms during the consent order period.

users or ultimate consumers of Marine products whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges.[6] Lastly, we will not require a detailed demonstration of injury from regulated utilities or agricultural cooperatives that purchased Marine motor gasoline and passed the alleged overcharges associated with that product through to their end-user members. We will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to notify the appropriate regulatory body of their receipt of any refund money. Prior OHA decisions provide detailed explanations of the bases of these presumtions and the end-user finding. *E.g., Peterson Petroleum, Inc.*, 13 DOE ¶ 85,191 at 88,508–10 (1985). The rationale for these presumptions and findings was also fully explained in the PD&O. 50 FR. 53,390 at 53,391–92 (December 31, 1985). These presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

In the PD&O we proposed that a demonstration that "banks" of unrecovered product costs existed, along with information showing that the applicant was competitively disadvantaged in its local market, would be a sufficient showing of injury for reseller-retailer applicants claiming refunds above the $5,000 threshold. *See, e.g., Triton Oil and Gas Corp./Cities Service Company*, 12 DOE ¶ 85,107 (1984); *Tenneco Oil Company/Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). There were no objections to this demonstration, and we will adopt this requirement for larger reseller and retailer applicants in this proceeding.[7]

As in previous cases, only claims for at least $15 plus interest will be processed. In prior refund cases we have found that the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

III. Application for Refund Procedures

We have determined that by using the procedures described above, we can distribute the Marine consent order fund as equitably and efficiently as possible. Accordingly, we shall now accept applications for refund from eligible customers who purchased Marine motor gasoline during the consent order period, November 1, 1973 through April 30, 1974. There is no official application form. The following information should be included in all Applications for Refund:

1. The name of the consent order firm: Marine Petroleum Company and Mars Oil Company, the case number: HEF–0122, and the applicant's name should be prominently displayed on the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the Application.

3. The manner in which the applicant used the Marine motor gasoline, *i.e.*, whether it was a reseller or end-user.

4. The volume of Marine motor gasoline that the applicant purchased in each month of the period for which it is claiming it was injured by the alleged overcharges. A firm identified in the ERA audit may choose to submit a statement verifying that it purchased motor gasoline from Marine and is willing to rely on the data in the audit files.

5. If the applicant is a reseller who wishes to claim a refund in excess of $5,000, it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations from the month in which purchases were first made until the termination of banking regulations (July 15, 1979 for retailers; April 30, 1980 for resellers and retailers-resellers).

(b) Submit evidence to establish that it could not pass through the alleged overcharges to its customers. For example, a firm may compare the prices it paid for Marine motor gasoline with the prices paid for that product by its competitors to show that price increases to recover alleged overcharges were infeasible.

6. A statement of whether the applicant was in any way affiliated with Marine. If so, the applicant should state the nature of the affiliation.

7. A statement of whether there has been any change in ownership of the entity that purchased the motor gasoline from Marine since the end of the consent order period. If so, the name and address of the current (or former) owner should be provided.

8. A statement of whether the applicant is or has been involved as a party in any DOE or private, Section 210 enforcement actions. If these actions have been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

9. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF–0122 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for Refunds from the funds remitted to the Department of Energy by Marine Petroleum Company and Mars Oil Company pursuant to the Consent Order executed on September 1, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of

[6] We reason that may potential applicants which purchased Marine motor gasoline from company-owned service stations will find it difficult to document purchases made so many years ago. Therefore, if credit card or other receipts no longer exist, applicants may submit estimates of purchases accompanied by a detailed explanation of how the estimated purchase volumes were derived. For instance, this information might include the type and number of vehicles owned, the number of miles driven, etc. *See* Thornton Oil Corp., 12 DOE ¶ 85,112 at 88,330 (1984).

[7] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit evidence of injury beyond documentation of volumes purchased. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,125 (1982) (Ada).

this Decision and Order in the **Federal Register**.

George B. Breznay,

Director Office of Hearings and Appeals.

Dated: July 23, 1986.

APPENDIX I

Name and address	Escrow amount
Checker Oil Co., P.O. Box 162, Hazel Crest, IL 60429	$2,420.98
Martin Oil, 144 Weldon Parkway, Maryland Heights, MO 63043	4,600.83
Sirroco Oil, 7755 Carondelet, Clayton, MO 63105	1,713.49
Leonard, 7755 Carondelet, Clayton, MO 63105	755.58
J.D. Street, 144 Weldon Parkway, Maryland Heights, MO 63043	4,495.66
Triangle Refineries, Inc., P.O. Box 3367, Houston, TX 77001	5,135.69
Sid Blankenship, Hillsboro, IL 62049	120.38
Robert Brace Service, Wellsville, MO 63384	165.80
Charles Browder Marine, P.O. Box 623, Fulton, KY 42041	882.23
Central Petroleum, Centralia, IL 62801	325.42
C.J. Coddington, 1727 West 50th, O'Fallon IL 62269	208.92
Raymond Cornwell Cornwell Oil Co., 401 E. Main St., E. Prairie, MO 63845	211.36
C.S.C. Oil Co., P.O. Box 1713, Louisville, KY 40201	416.22
C.C. Dillon Oil Co., 1342 Lonedell Rd., Arnold, MO 63010	1,752.21
Herbert Duck, Marine Service Station, Dyer, TN 38330	331.23
Gold Oil Co., 701 Sherman Rd., Belleville, IL 62221	308.38
Henry County Board of Education, Paris, TN 38242	152.20
James Jennings Summit Service, Rt. 1, Desota, MO 63020	83.89
Keys & Son Oil Co., Villa Ridge, MO 63089	261.27
Billy J. Lawson, Frankclay, MO 63644	99.20
Laws Enterprises (Bi-Rate), 2110 Chouteau, St. Louis, MO 63103	75.49
Manchester Leasing, 1075 S. Brentwood Blvd., St. Louis , MO 63117	*10.34
McCollum Service Station, Vandalia, MO 63382	60.37
Midwest Petroleum, 6760 Southwest Ave., St. Louis, MO 63143	1,156.00
Mofitt Oil Co., R.R. 3, Waterloo, IL 62298	91.44
Mullinicks & Boone, Manne Service Station, McEwen, TN 37101	167.34
Cylde Nixon, Highway 21, East, Potosi, MO 63364	224.33
Niemeyer Brothers, Hwy 54 West, Bowling Green, MO 63334	84.72
Fred Nixon Service Station, R.R.1, Mineral Point, MO 63660	263.41
Obion County Highway Department, E. Jackson St., Union City, TN 38261	116.97
Obion County Board of Education, Troy, TN 38260	*8.63
Onyx Oil, 11345 Olive St. Rd., Creve Coeur, Mo 63141	424.32
James Petty Route 5, Trenton, TN 38382	107.36
Saveway Oil Co., P.O. Box 336, Cape Girardeau, MO 63701	4,591.56
Super Gas, P.O. Box 248, Arnold, MO 63010	11,462.81
Tenneco Oil Co., P.O. Box 101229, Atlanta, GA 30302	507.00
Len Theole, 1020 Hawthorn, St. Charles, MO 63301	399.36
Walker Oil Co., P.O. Box 130, Dyersburg, TN 38024	46.99
Flash Oil, 7755 Carondelet, Clayton, MO 63105	32,272.96
Site Oil, 7755 Carondelet, Clayton, MO 63105	19,208.66
Total	95,588.11

As noted in the text of the Decision, we do not intend to process refunds below $15.

APPENDIX II

Name and last known address	Escrow amount
Star Service, 156 Progress Parkway, Maryland Heights, MO 63043	$641.33
Lincoln Trees. City, GPO Box 1, New York, NY 10116	811.20
City Ice & Fuel Co., Wickliffe, KY 42087	190.34
Feld Chevrolet, 7700 Manchester Road, St. Louis, MO 63143	12.10 [1]
Marvel Oil, 6256 Etzel Ave., St. Louis, Mo 63133	2.96 [1]
Lewis Minvss, 4517 Minnetonka Blvd., Minneapolis, MN 55416	539.58
Reynolds Service Station, 1403 Church St., Tiptonville, TN 38079	87.49
Weldon Turner, 1300 N Main, Desota, MO 63020	115.47
Wides Oil Co., Murphysboro, IL 62966	3,730.79
Total	6,131.25

[1] As noted in the text of this Decision, we do not intend to process refunds below $15.00.

Appendix III.—Wholesale Affiliates of Marine Petroleum Company [1]

Name of Firm

Dodgoma
Second Oil
Jupiter
Cherochat Oil
Jor Hunt Oil
Mars Oil
Illinois Marine
Illinois Waterways
Mort Jackson Oil
Oscark Oil Terminal
Neark Oil
Jonark Oil
Cornark Oil
North Broadway Terminal
Dexmo Oil Terminal
Air Berk Oil
Hopken Oil
Milan Main Oil
Clariver Oil
Gasoline Transport Company
Pipeline Oil
Mars Barge and Special

[FR Doc. 86-17401 Filed 7-31-86; 8:45 am]

BILLING CODE 6450-01-M

[1] Firms and individuals which purchased motor gasoline during the relevant period from any of the firms listed in this Appendix are eligible to apply for a share of the consent order funds.

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $5,095,000 (plus accrued interest) obtained from Berry Holding Company, Berry & Ewing and Surprise Oil Company, Case No. KEF-0027; and Saxon Oil Company, Case No. KEF-0028. The OHA has tentatively decided that the funds will be distributed in accordance with the DOE Policy of Restitution for Crude Oil Overcharges.

DATE AND ADDRESS: Comments must be filed in duplicate by September 2, 1986, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, DC. 20585. All comments should display a conspicuous reference to Case No. KEF-0027 and/or Case No. KEF-0028.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director, or Matthew Huston, Staff Analyst, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies obtained from Berry Holding Company, Berry & Ewing and Surprise Oil Company (Berry); and Saxon Oil Company (Saxon). Berry and Saxon remitted monies to the DOE to settle possible pricing violations with respect to their sales of crude oil. The funds received from Berry and Saxon are being held in interest-bearing escrow accounts pending distribution by the DOE.

The DOE has tentatively decided that distribution of the monies received from Berry and Saxon will be governed by the DOE Policy of Restitution for Crude Oil Overcharges, 50 FR. 27400 (1985). That policy states that all overcharge funds associated with crude oil miscertifications should be held in escrow pending Congressional action.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000

Independence Avenue, SW., Washington, DC 20585.

Dated: July 18, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 18, 1986.

Proposed Decision and Order of the Department of Energy; Special Refund Procedures

Names of Cases: Berry Holding Company, Berry & Ewing and Surprise Oil Company, Saxon Oil Company

Date of Filings: April 11, 1986

Case Numbers:

KEF–0027

KEF–0028

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations.

The ERA has requested that the OHA formulate procedures to distribute $5,095,000 plus interest which the DOE received from Berry Holding Company, Berry & Ewing and Surprise Oil Company (collectively referred to as Berry); and Saxon Oil Company (Saxon).

I. Background

Berry and Saxon were crude oil producers subject to the DOE's Mandatory Petroleum Price Regulations. During the period August 1973 through February 1977, Berry was the owner and operator of the Berry & Ewing and Surprise properties in Kern County, California. An audit of the firm's activities at these two properties revealed that Berry may have miscertified "old" oil as "stripper" oil, and also may have exceeded the ceiling price for several types of crude oil. These allegations were included in a June 10, 1977 Remedial Order issued to Berry by the Director of the Compliance Division of Region IX of the Federal Energy Administration (FEA). Berry sold allegedly miscertified crude oil, as well as allegedly overpriced crude, to the Independent Oil Producers' Association, which, in turn, sold the products to the Union Oil Company. Berry's Appeal challenging the Remedial Order was denied by the OHA. *Berry Holding Co.*, 2 DOE ¶ 80,101 (1978). Berry appealed OHA's decision in the U.S. District Court for the Eastern District of California. Under the terms of a December 15, 1983 Agreed Final Judgment, Berry remitted $4.975 million plus interest to the DOE.[1] The Agreed Final Judgment settles the DOE allegations contained in the June 1977 Remedial Order.

The DOE also alleged that Saxon violated the DOE petroleum pricing regulations during the period from September 1, 1973 through September 30, 1978. The alleged violations include miscertification of "old" oil as "stripper" oil, and other types of crude oil violations, at six properties operated by Saxon in Reagan and Taylor Counties, Texas. A December 31, 1984 Consent Order between Saxon and the DOE settled the DOE allegations by requiring Saxon to remit $120,000 to the DOE.

II. Jurisdiction and Authority To Fashion Refund Procedures

The general guidelines that the OHA may use to formulate and implement a plan to distribute funds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify (1) the persons who may have been injured as a result of alleged or adjudicated violations, or (2) the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

We have considered the ERA's petitions to implement Subpart V proceedings with respect to the monies received from Berry and Saxon and have determined that such proceedings are appropriate. Accordingly, we will grant the ERA's petitions.

III. DOE Policy Regarding Crude Oil Overcharges

The monies Berry and Saxon remitted to the DOE settle alleged crude oil overcharges. Therefore, we propose that the DOE Policy of Restitution for Crude Oil Overcharges, 50 FR 27400 (1985) (DOE Policy), govern the distribution of the funds.

The DOE Policy is to hold all overcharge funds associated with crude oil miscertifications in escrow, pending Congressional action. The Policy stems from a report that the OHA issued in the Stripper Well Exemption Litigation. *Report of the Office of Hearings and Appeals, In re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan. filed June 21, 1985), Fed. Energy Guidelines ¶ 90,507 (1985) (the OHA Report). The OHA Report examined the general effect of crude oil miscertifications on the Entitlements Program.[2]

On the basis of the OHA's findings, the Deputy Secretary of Energy issued a statement establishing the DOE Policy on June 21, 1985. The statement concluded that an indirect means of effectuating restitution was appropriate in cases involving crude oil overcharges. 50 FR 27400 (July 2, 1985). Accordingly, the policy statement announced that the DOE would maintain overcharge monies in escrow to afford Congress the opportunity to select the means of making indirect restitution. The DOE stated that if Congress had not acted on the issue by the fall of 1986, the funds should be paid to the miscellaneous receipts accounts of the United States Treasury in order to benefit all Americans. *Id.*

In light of the DOE Policy, the OHA issued an Order announcing that it intended to apply the DOE policy in special refund proceedings involving crude oil. 50 FR 27402 (July 2, 1985). The OHA solicited comments which were considered and rejected in *Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985) (*Amber*). Thus, the OHA has determined that it will apply the DOE policy in implementing special refund procedures in cases like the present one.

IV. Refund Procedures

In view of the OHA's decision in *Amber*, we propose that the refund monies received from Berry and Saxon should be pooled with other crude oil settlement funds and distributed in accordance with the DOE Policy.

Before taking the action which we have proposed, we intend to publicize our proposal and to solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Decision and Order in the **Federal Register**.

It Is Therefore Ordered That: The funds obtained from Berry Holding

[1] Berry has not admitted to any violations of the DOE regulations. As of June 30, 1986, the Berry funds in escrow totalled $10,435,406.69.

[2] The Crude Oil Entitlements Program, part of the DOE's system of mandatory petroleum price and allocation controls, was in effect from November 1974 through January 1981. The program was intended to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this end, refiners were required to make transfer payments among themselves through the purchase and sale of entitlements. The program dispersed overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985).

Company, Berry & Ewing and Surprise Oil Company pursuant to a December 15, 1983 Agreed Final Judgment with the Department of Energy; and the monies remitted by Saxon Oil Company pursuant to a December 31, 1984 Consent Order with the Department of Energy will be distributed in accordance with the foregoing Decision.

[FR Doc. 86-17400 Filed 7-31-86; 8:45 am]

BILLING CODE 6350-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3058-5]

Availability of Environmental Impact Statements

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed July 21, 1986 Through July 25, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860295, Draft, IBR, OR, Umatilla Basin Water Supply Project, Umatilla River Steamflows and Fishery Improvement, Umatilla and Morrow Counties, Due: October 31, 1986, Contact: John Woodworth (208) 334-1207.

EIS No. 860296, Draft, SCS, PA, West Branch Brandywine Creek Watershed, Protection and Flood Prevention Plan, Chester and Lancaster Counties, Due: September 15, 1986, Contact: James Olson (717) 782-4453.

EIS No. 860297, Final, FWS, NY, Honeoye Creek Wetland Expansion and Enhancement Project, Ontario County, Due: September 2, 1986, Contact: Howard Larsen (617) 965-5100.

EIS No. 860298, Final, VAD, MI, Allen Park Veterans Administration Medical Center, Replacement and Modernization, Construction,Wayne County, Due: September 2, 1986, Contact: Susan Livingstone (202) 389-2922.

EIS No. 860299, Draft, BLM, CO, Wolf Ridge Nahcolite Solution Mine, Construction and Operation, Piceance Basin, Rio Blanco County, Due: September 23, 1986, Contact: Willy Frank (303) 878-3601.

EIS No. 860300, Final, SCS, AR, Tyronza River Watershed Protection and Flood Prevention Plan, Due: September 2, 1986, Contact: Jack Davis (501) 378-5445.

EIS No. 860301, Final, UAF, CA, White Point Air Force Space Division Housing Project, Construction and Operation, Los Angeles Air Force Station, Los Angeles County, Due: September 2, 1986, Contact: Robert Mason (213) 643-0933.

EIS No. 860302, DSuppl, FHW, RI, Woonsocket Industrial Highway/RI-99 Construction, I-295 Interchange to RI-146/RI-146A, Due: September 15, 1986, Contact: Gordon Hoxie (401) 528-4541.

Amended Notices

EIS No. 860360, Final, FHW, LA, Eden Isles Interchange Construction, I-10 Access Point, St. Tammany Parish, OFFICIALLY WITHDRAWN.

EIS No. 840095, Draft, COE, LA, West Bank Hurricane Protection Levee Construction, Jefferson Parish, Published in the **Federal Register** March 16, 1984—OFFICIALLY WITHDRAWN.

Dated: July 28, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-17403 Filed 7-31-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3058-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 14, 1986 through July 18, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D-AFS-L65102-00, Rating EO2, Wallowa-Whitman Nat'l Forest, Land and Resource Mgmt. Plan, OR and ID. SUMMARY: EPA believes the draft EIS and Plan does not clearly provide the necessary protection for water quality and sensitive beneficial uses given the major grazing and timber harvesting outputs proposed. EPA's concerns include: (1) Insufficient analysis of existing conditions and risks to water quality and beneficial uses due to sedimentation from planned activities, (2) standards relating to fish habitat and riparian areas are too general to assure adequate protection of these important resources, and (3) the draft EIS has an unclear commitment that activities unable to meet the standards adopted would not be allowed to occur unmodified.

ERP No. DS-COE-A32456-AL, Rating EC2, Black Warrior and Tombigbee Rivers Maintenance and Operation, New Information, AL. SUMMARY: EPA believes the project would solve the problems associated with maintaining navigation. However, EPA expressed concerns over the apparent continued losses of bottomland hardwood wetlands and suggested an onsite coordination meeting to determine the extent of jurisdictional wetlands that may be lost in this instance.

ERP No. D-FHW-E40694-KY, Rating EC2, Blankenbaker Rd./I-64 Interchange Improvement, KY-1819 to US 60, 404 Permit, KY. SUMMARY: EPA requested that the final EIS include additional alternative analysis and a biological assessment of streams. It was also requested that noise mitigation measures be implemented.

ERP No. DS-FHW-F40151-MI, Rating LO, I-94 Improvements, Merriman and Middlebelt Rds. Interchanges, New Preferred Construction Alternative, Right-of-Way Acquisition, MI. SUMMARY: EPA's review resulted in no objections to the proposed activity.

ERP No. D-FHW-F40287-MI, Rating LO, I-96 BL/Cedar Street Improvement, Cloverland Drive to Mt. Hope Road, Reconstruction, Right-of-Way Acquisition, MI. SUMMARY: EPA has no objection to the proposed project.

ERP No. DB-USN-E11006-GA, Rating LO, Kings Bay Fleet Ballistic Missile Submarine Support Base, St. Mary's Entrance Channel Dredging Programs Modifications, GA. SUMMARY: EPA agrees that changes proposed in this supplement EIS will not result in any long-term adverse impacts.

Final EISs

ERP No. F-AFS-F65010-MN, Superior Nat'l Forest, Land and Resource Mgmt. Plan, MN. SUMMARY: EPA's review resulted in no objections to implementation of the preferred alternative.

ERP No. F-AFS-F65011-MN, Chippewa Nat'l Forest, Land and Resource Mgmt. Plan, MN. SUMMARY: EPA has no objections with the proposed activity as described.

ERP No. F-AFS-J65103-MT, Lewis and Clark Nat'l Forest, Land and Resource Mgmt. Plan, Implementation, and Wilderness Designation Recommendation, MT. SUMMARY: EPA's concerns with the draft EIS have been adequately addressed and EPA has no objections to the proposed activity as described.

ERP No. F-AFS-F65145-MT, Deerlodge Nat'l Forest, Noxious Weed and Poisonous Plants Control Program, MT. SUMMARY: EPA's concerns were adequately addressed in the final EIS.

ERP NO. F–AFS–J82003–MT, Beaverhead Nat'l Foest, Noxious Weeds and Poisonous Plant Control Program, MT. SUMMARY: EPA's concerns were adequately addressed in the final EIS.

ERP No. F–AFS–K65082–CA, Cleveland Nat'l Forest, Land and Resource Mgmt. Plan, CA. SUMMARY: EPA offered additional comments regarding the protection of water quality, and requested that the Forest Service keep it apprised of the progress in carrying out mitigation measures to protect water quality.

ERP No. FS–COE–F35029–MN, Upper Mississippi River Lower Pool 5 Channel Maintenance and Weaver Bottoms Rehabilitation Plan, Dredged Material Maintenance, MN. SUMMARY: EPA's review resulted in no objections to the proposed project.

ERP No. F–COE–G34041–TX, Palo Duro Creek Multi-purpose Dam Project, TX. SUMMARY: EPA has no objections to the proposed action with proper implementation of mitigation measures as described.

ERP No. F–FHW–K40103–NV, US 395 Reconstruction and Relocation, Lake Tahoe Junction North to Arrowhead Drive, Right-of-Way Acquisition, NV. SUMMARY: EPA's prior concerns were adequately addressed in the final EIS.

ERP No. F–NOA–B91021–00, Northeast Multi-Species Fishery Mgmt. Plan, Adoption, Approval and Implementation, MA, ME, NH, RI, and CT. SUMMARY: EPA believes that the FMP will not cause significant adverse impacts to the physical environment.

ERP No. F–NOA–K64005–HI, Hawaiian Monk Seal Critical Habitat Designation, HI. SUMMARY: EPA had no comments to offer on the final EIS.

ERP No. F–SCS–G36133–LA, Acadia Parish Fifth Ward Watershed Protection and Flood Prevention Plan, 404 Permit, LA. SUMMARY: EPA has no objections to the proposed action with proper implementation of the mitigation measures as described.

Amended Notice

The following review should have appeared in the FR Notice published on July 25, 1986.

ERP No. F–OSM–J01059–WY, East Gillette Federal Mine, Mining Plan, Approval and Operating Permit, WY. SUMMARY: EPA continues to have concerns that the final EIS fails to specify the water quality parameters to be monitored. EPA recommends that the Final Mining Plan be accompanied by the necessary NPDES permits and identify which water quality parameters will be included in the monitoring program.

Dated: July 29, 1986.

Allan Hirsh,

Director, Office of Federal Activities.

FR Doc. 86–17404 Filed 7–31–86; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–3058–2]

Science Advisory Board Environmental Health Committee's Drinking Water Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on August 21–22, 1986, in the North Conference Center, Room 3, Waterside Mall, 401 M Street SW., Washington, DC 20460. The meeting will start at 9:00 a.m. on August 21 and adjourn no later than 1:00 p.m. on August 22.

The purpose of the meeting will be to (1) to receive a briefing on recent revisions to the Safe Drinking Water Act, (2) to discuss other items of interest to the Subcommittee and (3) to comment on a draft Drinking Water Criteria Document for Nitrate/Nitrite (TR–540–59D: October, 1985). A proposed recommended maximum containment level for nitrate/nitrite was published on November 13, 1985 (50 FR 46936–47022). A public review meeting was held on January 28, 1986, and the public comment period closed on March 13, 1986. The comments received to date are under review by EPA. To obtain a copy of the draft document, write to the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 or phone (800) 336–4700. A fee will be charged. Additional comments on the draft document may be submitted by mail to the Comment Clerk, Criteria and Standards Division (WH–550), Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

The meeting will be open to the public. Any member of the public wishing to attend or present information, or desiring further information on the meeting, should contact Dr. Daniel Byrd, Executive Secretary to the Committee, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101F), 401 M Street SW, Washington, DC, 20460, no later than c.o.b. on August 19, 1985.

Dated: July 24, 1986.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 86–17355 Filed 7–31–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–44016] [FRL–3057–9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces test data submissions received by EPA during the third quarter of 1986 from voluntary industry testing programs on certain chemical substances or groups of chemicals considered by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Envronmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, DC 20460

Toll free: (800–424–9065), In Washington, D.C.: (554–1404)

Outside the USA: (Operator–202–554–1404)

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a). In the **Federal Register** of June 30, 1986 (51 FR 23705), EPA issued procedures for entering into Enforceable Consent Agreements (ECAs) under section 4 of TSCA. Those procedures provide that EPA will follow the procedures specified in section 4(d) in providing notice of test data received pursuant to ECAs. In addition, EPA from time to time receives industry submissions of test data developed voluntarily (i.e., not under test rules or ECAs) on chemicals EPA has considered for testing under section 4. Although not required by section 4(d), EPA periodically issues notices of receipt of such test data.

I. Test Data Submissions

This notice announces test data submissions received during the third quarter (April–June) of 1986 from voluntary industry testing programs.

The following table lists the chemicals by CAS No., date received, submitter, and type of study.

TABLE 1—3RD QUARTER TEST DATA SUBMISSIONS UNDER TSCA SECTION 4 [APRIL–JUNE 1986]

Chemical	CAS No.	Date Rec'd	Submitter	Study
Antimony Oxide	1309–64–4	Jun. 30, 1986	Antimony Oxide Industry Assoc.	Sediment (TLC).
Butylbenzyl Phthalate	85–68–7	May 12, 1986	Monsanto	96-Hr Toxicity (Hydra).
Butylbenzyl Phthalate	85–68–7	Apr. 9, 1986	Monsanto	Well water solubility.
Chlorotoluene [1]	95–49–8	Dec. 1, 1985	Hooker/Occidental Chemical Co.	Analytical data.
Cyclohexanone	108–94–1	Apr. 16, 1986	Industrial Health Foundation	2-Generation Reproduction (Rat) (Inhalation).
Di(2-ethly-hexyl) terephthalate	6422–86–2	May 23, 1986	Eastman Kodak Co.	Seed Germination (Radish) (14-Day).
Di(2-ethly-hexyl) terephthalate	6422–86–2	May 23, 1986	Eastman Kodak Co.	Seed Germination (Ryegrass) (14-Day).
Di(2-ethly-hexyl) terephthalate	6422–86–2	May 23, 1986	Eastman Kodak Co.	Seed Germination (Soybeans) (14-Day).
Trichloro-ethane [1]	71–55–6	Mar. 4, 1986	DOW Chemical Co.	Chronic Oncogenicity (Rat) (Inhalation).
Tris(2-ethyl-hexyl) Trimellitate [1]	3319–31–1	Nov. 13, 1985	Chemical Manufact. Association	UDS (Rat)
Vinylidene Fluoride	75–38–7	Jun. 16, 1986	Penwalt/DuPont	90-Day Subchronic (Rat) (Inhalation).

[1] Not previously reported.

II. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS–44016). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS Reading Room, NE–G–004, 401 M St. SW., Washington, DC 20460.

Dated: July 22, 1986.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86–17356 Filed 7–31–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL ELECTION COMMISSION

[Notice 1986–6]

Filing Dates for North Carolina Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for North Carolina special elections.

SUMMARY: Committees required to file reports in connection with the North Carolina special elections to be held on November 4, 1986, must file a 12-day pre-election report by October 23, 1986, and a 30-day post-election report by December 4, 1986.

After filing these reports, committees should file a year-end report, due January 31, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street NW., Washington, DC 20463, Telephone: (202) 376–3120, Toll free: (800) 424–9530.

Notice of Filing Dates for Special Elections, Senate and 10th Congressional District, North Carolina

All principal compaign committees of candidates in the special elections and all other political committees which support candidates in these elections shall file a 12-day pre-election report due on October 23, 1986, with coverage dates from the closing date of the last report filed through October 15,1986, and a 30-day post-election report due on December 4, 1986, with coverage dates from October 16, 1986, through November 24, 1986.

After filing these reports, committees should file a year-end report due January 31, 1987.

Dated: July 29, 1986.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 86–17375 Filed 7–31–86; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0139

Title: Federal Regional Reconstitution Area (FRRA) Survey

Abstract: Data collectors will perform on-site surveys of potential reconstitution sites in order to confirm, upgrade, or expand information now stored in FEMA's data base on Federal Regional Reconstitution Areas.

Type of Respondents: State or Local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations

Number of Respondents: 2,500

Burden Hours: 2,500

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: July 24, 1986.

Wesley C. Moore,

Acting Director, Office of Administrative Support.

[FR Doc. 86–17314 Filed 7–31–86; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0167

Title: Claims of FEMA Personnel for Personal Property Damage or Loss

Abstract: This regulation specifies the procedures by which the Director of FEMA will settle and pay claims of employees of FEMA amounting to not more than $25,000 for damage to or loss of personal property incident to their service in FEMA.

Type of Respondents: Individual or Households

Number of Respondents: 10

Burden Hours: 10

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: July 24, 1986.

Wesley C. Moore,

Acting Director, Office of Administrative Support.

[FR Doc. 86-17315 Filed 7-31-86; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0074

Title: Certificate of Labor Standards Compliance

Abstract: This is necessary to assure compliance with the Federal Labor Standards for construction of Emergency Operating Centers and emergency communications facilities by State and local governments where Federal Funding is provided for these programs.

Type of Respondents: State or Local governments

Number of Respondents: 150

Burden Hours: 150

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: July 24, 1986.

Wesley C. Moore,

Acting Director, Office of Administrative Support.

[FR Doc. 86-17316 Filed 7-31-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Central Illinois Savings, a Federal Savings Association, Virden, IL; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Central Illinois Savings, a Federal Savings Association, Virden, Illinois on July 25, 1986.

Dated: July 29, 1986.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-17373 Filed 7-31-86; 8:45 am]

BILLING CODE 6720-01-M

Major Federal Savings and Loan Assoc., Cincinnati, OH; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Major Federal Savings and Loan Association, Cincinnati, Ohio, on July 25, 1986.

Dated: July 28, 1986.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-17312 Filed 7-31-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-494]

Ozark Rivers Federal Savings and Loan Assoc., Salem, MO; Final Action Approval of Conversion Application

Dated: July 25, 1986.

Notice is hereby given that on July 15, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Ozark Rivers Federal Savings and Loan Association, Salem, Missouri for permission to convert to the stock of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-17311 Filed 7-31-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 212-010027-015.

Title: Brazil/U.S. Atlantic Coast Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro
Companhia de Navegacao Maritima Netumar S/A
United States Lines (S.A.) Inc.
A/S Ivarans Rederi
Empresa Lineas Maritimas Argentinas S/A
A. Bottacchi S.A. de Navegacion C.F.I.I.
Van Nievelt, Goudriaan and Co., B.V.

Synopsis: The proposed amendment would establish a special carrying adjustment of 95% of the gross pool income for the carriage of certain specified cargoes.

Agreement No. 212-010320-012.

Title: Brazil/U.S. Gulf Ports Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro
Companhia de Maritima Nacional
United States Lines (S.A.) Inc.
Empresa Lineas Maritimas Argentinas S.A.
A. Bottacchi S.A. de Navegacion C.F.I.I.
Transportation Maritima Mexicana S.A.

Synopsis: The proposed amendment would add a new section to the agreement establishing a special carrying adjustment of 95 percent of the gross pool income for the carriage of certain specified cargoes.

Agreement No. 202-010689-016.

Title: Transpacific Westbound Rate Agreement.

Parties:

Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Inc.
A.P. Moller-Maersk Line
American President Lines, Ltd.
Evergreen Marine Corp. (Taiwan), Ltd.

Hanjin Container Lines, Ltd.
Japan Line, Ltd.
Hyundai Merchant Marine Co., Ltd.
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Orient Overseas Container Line, Inc.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to bring the agreement into compliance with the newly adopted rule concerning independent action provisions in conference agreements.

Agreement No. 207-010884-001.
Title: Trans Freight Lines Joint Venture Agreement.
Parties:

Trans Freight Lines, Inc.
TNT TFL Inc.
Overseas Container Limited
OCL (Trans Freight Lines) Ltd.

Synopsis: The proposed amendment would permit Trans Freight Lines, Inc. to enter into space charter arrangements or other agreements or contracts, subject to any applicable requirements of the Shipping Act of 1984. The parties have requested a shortened review period.

Agreement No. 203-010977.
Title: Hispaniola Discussion Agreement.
Parties: United States Atlantic and Gulf/Hispaniola Steamship Freight Association.
Independent Carrier Party: Zim Israel Navigation Co.
Synopsis: The proposed agreement would establish a cooperative working arrangement between the parties in the trades between ports and inland or coastal points in the U.S. Atlantic and Gulf Coast, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands, on the one hand, and ports in Haiti and the Dominion Republic, on the other hand; and between inland or coastal points served via such ports. It would permit the parties to meet, exchange information and agree upon rates and charges but would not authorize a common tariff nor require adherence to any agreement reached.

Agreement No. 225-010978.
Title: PMA/TMN Agency Agreement.
Parties:

Pacific Maritime Agencies, Inc. (PMA)
Thai Maritime Navigation Co., Ltd. (TMN)

Synopsis: The proposed agreement would permit PMA to act as general steamship agent for TMN in the United States. The parties have requested a shortened review period.

Agreement No. 202-010979.
Title: Caribbean Shipowners Association.
Parties:

Tropical Shipping & Construction Co., Ltd. Sea-Land Service, Inc.
Trailer Marine Transport Corporation

Synopsis: The proposed agreement would permit the parties to create a rate-fixing assocation between Florida ports in the Jacksonville/Key West range, and inland Continental U.S. points (excluding Alaska and Hawaii) via such ports, and ports in the Leeward/Windward Islands, Barbados, and Trinidad and Tobago. The parties have requested a shortened review period.

Dated: July 29, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-17357 Filed 7-31-86; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 224-010967]

Agreements Filed, etc; Correction

Container Corporation of America/ Ocean Highway and Port Authority Ground Lease Terminal Agreement

ERRATUM

The **Federal Register** Notice of June 30, 1986 (Vol. 51, No. 125, page 23601) stated that the above named agreement was filed with the Commission pursuant to section 5 of the Shipping Act of 1984. The agreement should have also been noticed pursuant to section 15 of the Shipping Act, 1916.

By Order of the Federal Maritime Commission.

Dated: July 29, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-17358 Filed 7-31-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BancServe Group, Inc., et al; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in effeciency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *BancServe Group, Inc.*, Rockford, Illinois; to engage *de novo* through its subsidiary, BancServe Credit Life Insurance Company, Rockford, Illinois, in underwriting credit life insurance and credit accident and health insurance that is directly related to the extension of credit by BancServe Group, Inc. and its subsidiaries pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clearwater Home State Bancshares, Inc.*, Clearwater, Kansas; to engage *de novo* through its subsidiary, Home Financial Corporation, Wichita, Kansas in making loans and other extensions of credit as would be made by consumer service and mortgage companies pursuant to § 225.25(b)(1) of

the Board's Regulation Y, and in the sale of money orders, savings bonds and traveler's checks pursuant to § 225.25(b)(12) of the Board's Regulation Y. These activities will be conducted in Kansas and Oklahoma.

Board of Governors of the Federal Reserve System, July 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17309 Filed 7-31-86; 8:45 am]

BILLING CODE 6210-01-M

Rush County National Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 22, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rush County National Corporation,* Rushville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Rush County National Bank, Rushville, Indiana.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *N.E. Montana Bancshares, Inc.,* Plentywood, Montana; to become a bank holding company by acquiring 82.8 percent of the voting shares of Security State Bank, Plentywood, Montana.

2. *Security State Bank Employee Stock Ownership Plan and Trust,* Plentywood, Montana; to become a bank holding company by acquiring 37.9 percent of the voting shares of N.E. Montana Bancshares, Inc., Plentywood, Montana, and thereby indirectly acquire control of Security State Bank, Plentywood, Montana.

Board of Governors of the Federal Reserve System, July 28, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17310 Filed 7-31-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 25, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

Food and Drug Administration

Subject: Protection of Human Subjects—(Recordkeeping Requirements for Institutional Review Boards)—Extension—(0910-0130)
Respondents: Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
Subject: Label Declarations: Cholesterol Content of Foods—Existing Collection
Respondents: Businesses or other for-profit

Centers for Disease Control

Subject: Prospective Evaluation of Health-Care Workers Exposed to Blood from Patients with HTLV-III/LAV Infection via the Parenteral Route—Extension—(0920-0131)
Respondents: Individuals or households

National Institutes of Health

Subject: Protection of Human Subjects—Certification and Recordkeeping—Reinstatement—(0925-0137)
Respondents: State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
OMB Desk Officer: Bruce Artim

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of package)

Subject: Domestic Service Questionnaire—Extension—(0960-0047)
Respondents: Individuals or households
Subject: State Contribution Return—Extension—(0960-0041)
Respondents: State or local governments
Subject: Financial Status Report—Extension—(0960-0275)
Respondents: State or local governments
Subject: Request for Funds for the Work Incentive Demonstration Program—Extension—(0960-0276)
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package)

Subject: Medicaid Quarterly Showing—Extension—(0938-0061)—HCFA-41
Respondents: State or local governments
Subject: Application for Hospital Insurance—Extension—(0938-0251)—HCFA-18
Respondents: Individuals or households
Subject: Fire Safety Survey Report Forms—Revision—(0938-0242)—HCFA-2786
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

(Call Reports Clearance Officer on 202-472-4415 for copies of package)

Subject: Impact Measures for the RAP Management Support Contract—Reinstatement—(0980-0103)
Respondents: State or local governments; Non-profit institutions
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. Attn: (name of OMB Desk Officer).

Dated: July 28, 1986.

Harry A. Hadd,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-17346 Filed 7-31-86; 8:45 am]

BILLING CODE 4110-04-M

Food and Drug Administration

[Docket No. 86E-0265]

Determination of Regulatory Review Period for Purposes of Patent Extension; NIX

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Nix and is publishing this notice of that determination as required by law. FDA had made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approved phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Nix, a topical pediculicide and ovicide for single-application treatment of infestation with *Pediculus Humanus* var. *capitis* (head louse) and its nits (eggs). Following FDA's approval, National Research Development Corp. filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistant in determining the patent's eligibility for patent term restoration. In a letter dated June 27, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Nix represented the first commercial marketing or use of its active ingredient, permethrin. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Nix is 1,068 days. Of this time, 671 days occurred during the testing phase of the regulatory review period, while 397 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 30, 1983. FDA has verified that the investigational new drug application became effective on April 30, 1983 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* February 28, 1985. FDA has verified that the new drug application (NDA 19-435) was initially submitted on February 28, 1985.

3. *The date the application was approved:* March 31, 1986. FDA has verified that NDA 19-435 was approved on March 31, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 732 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 30, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 27, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 24, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

FR Doc. 86-17364 Filed 7-31-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-86-820]

Delegation of Authority to the Assistant Secretary for Public and Indian Housing for Approval or Disapproval of Public Housing Agency Requests for Conversion of Public Housing

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Delegation of authority to the Assistant Secretary for Public and Indian Housing for approval or disapproval of requests for conversion of public housing, with the authority to redelegate to Regional Administrators.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy Chisholm, Director, Policy Staff, Office of the Assistant Secretary for Public and Indian Housing, Room 4118, Department of Housing and Urban Development, 451 Seventh Street, SW.,

Washington, DC 20410. Telephone (202) 755–6713 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Under Part I of the Annual Contributions Contract (ACC) between a PHA and HUD, a PHA must obtain prior HUD approval for the conversion (permanent change of bedroom size, family/elderly occupancy type or dwelling/non-dwelling status) of public housing. The Secretary is delegating to the Assistant Secretary for Public and Indian Housing authority to disapprove or approve any PHA request for conversion of public housing.

Accordingly, the Secretary delegates as follows:

Section A. Authority delegated.

Authority to disapprove or approve any PHA request for conversion of public housing.

Section B. Authority to redelegate.

All or any part of the authority delegated to the Assistant Secretary for Public and Indian Housing in Section A may be redelegated to any Regional Administration.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 24, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86–17405 Filed 7–31–86; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D–86–821]

Redelegation of Authority to Regional Administrators for Approval or Disapproval of Public Housing Agency Requests for Demolition, Disposition or Conversion of Public Housing

AGENCY: Department of Housing and Urban Development, Office of the Assistant Secretary for Public and Indian Housing.

ACTION: Redelegation of authority to Regional Administrators for approval or disapproval of requests by Public Housing Agencies for demolition, disposition or conversion of public housing.

SUMMARY: The Assistant Secretary for Public and Indian Housing is redelegating to the Regional Administrators disapproval authority and limited approval authority for public housing agency (PHA) requests for the demolition, disposition or conversion of public housing, with the authority to redelegate futher to the Field Office Managers.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy Chisholm, Director, Policy Staff, Office of the Assistant Secretary for Public and Indian Housing, Room 4118, Department of Housng and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755–6713 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Under applicable HUD regulations (24 CFR Part 970), a PHA must obtain prior HUD approval for the demolition or disposition of public housing. Under Part I of the Annual Contributions Contract (ACC) between a PHA and HUD, a PHA must obtain prior HUD approval for the conversion (permanent change of bedroom size, family/elderly occupancy type or dwelling/nondwelling status) of public housing. The Assistant Secretary for Public and Indian Housing is redelegating to the Regional Administrators authority: (1) To disapprove any PHA request for demolition, disposition or conversion; and (2), except to the extent that more than a specified number of dwelling units may be involved, to approve any such request. Each Regional Administrator is authorized to redelegate all or any part of such authority to any Field Office Manager. Approval authority for demolition, disposition or conversion of more than the specified number of dwelling units is reserved to the Assistant Secretary for Public and Indian Housing.

Accordingly, the Assistant Secretary for Public and Indian Housing redelegates as follows:

Section A. Authority redelegated.

The following authority for decisions on PHA requests for the demolition or disposition of public housing, under 24 CFR Part 970, is redelegated to Regional Administrators:

(1) Authority to disapprove any such request; or

(2) Authority to approve any such request for the following actions:

(a) Demolition or disposition of not more than 100 dwelling units, or 20 percent of the total of dwelling units of a particular project, whichever number is fewer; provided that, for a particular project, this limitation shall apply cumulatively, counting all units in the project that were previously approved by HUD for demolition or disposition.

(b) Demolition or disposition of nondwelling structures.

(c) Disposition of utility systems.

(d) Disposition of non-fee interests in real estate, such as easements, rights-of-way, mineral leases or other leasehold interests.

(e) Disposition of not more than 10 acres of land, whether vacant or occupied by structures or systems within the limits stated in paragraphs (2)(a) through (d) of this section.

The following authority for decisions on PHA requests for conversion of public housing, under Part I of the ACC, is redelegated to Regional Administrators:

(1) Authority to disapprove any request; or

(2) Authority to approve conversion of 100 dwelling units, or 20 percent of the dwelling units in a particular project, whichever number is fewer; provided that, for a particular project, this limitation shall apply cumulatively since the first such request for the project. The Regional Administrator may not approve requests which shall result in the reduction in one half or more of the three-bedroom or larger units.

Section B. Authority to redelegate.

All or any part of the authority redelegated to a Regional Administrator under Section A may be further redelegated to any Field Office Manager.

Section C. Authority reserved.

All authority for the approval of demolition, disposition or conversion of public housing exceeding the limitations stated in Section A is reserved to the Assistant Secretary for Public and Indian Housing.

Dated: July 24, 1986.

Authority: Delegation of authority from the Secretary to the Assistant Secretary for Public and Indian Housing, effective September 7, 1983, 48 FR 41097, dated September 13, 1983; delegation of authority from the Secretary to the Assistant Secretary for Public and Indian Housing, effective July 24, 1986, dated July 24, 1986.

James E. Baugh,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 86–17406 Filed 7–31–86; 8:45 am]

BILLING CODE 4210-33-M

Office of Administration

[Docket No. N–86–1624]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is

soliciting public comments on the subject proposal.

DATE: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirment; and (8) the names of telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed information Collection to OMB

Proposal

Income Limits with Respect to, Admission to, and Occupancy of, Lower-Income Public Housing Owned by Public Housing Agencies or Leased by Public Housing Agencies from Private Owners, 24 CFR 960.

Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State of Local Governments
Estimated Burden Hours: 4,200
Status: New
Contact: Joyce Anne Bassett, HUD, (202) 426–1744; Robert Fishman, OMB, (202) 395–6880

Dated: July 24, 1986.

Proposal

Title I Transfer of Mobile Home Loans to GNMA Pool.

Office: Administration
Form Number: HUD–676
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 1,250
Status: Extension
Contact: Cynthia Palmer, HUD, (202) 755–5263; Robert Fishman, OMB, (202) 395–6880

Dated: July 24, 1986.

Proposal

Broker's Accounting Reports

Office: Administration
Form Number: HUD–2700, 2700a, 2700b, and 2751
Frequency of Submission: Monthly
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 18,384
Status: Extension
Contact: Adolph R. Platt, HUD, (202) 755–5156; Robert Fishman, OMB, (202) 395–6880

Dated: July 24, 1986.

Proposal

Fiscal Information—Military Acquisition

Office: Administration
Form Number: HUD–2706
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 150
Status: Extension
Contact: Adolph R. Platt, HUD, (202) 755–5156; Robert Fishman, OMB, (202) 395–6880

Dated: July 24, 1986.

Proposal

Survey of Pension Funds

Office: Housing
Form Number: None
Frequency of Submission: Quarterly
Affected Public: State or Local Governments, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 84
Status: Extension
Contact: John N. Dickie, HUD, (202) 755–7270; Robert Fishman, OMB, (202) 395–6880

Dated: July 21, 1986.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86–17407 Filed 7–31–86; 8:45 am]

BILLING CODE 4210–01–M

Office of Environment and Energy

[Docket No. I–86–139]

Intended Environmental Impact Statement; Detroit, MI

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared by the City of Detroit, Michigan, for the expansion of the Jefferson-Conner Industrial Revitalization Project under the HUD programs described in the appendix to this Notice. This Notice is required by the Council of Environmental Quality under its rule (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the Federal Register a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the Federal Register, then a new and updated Notice of Intent will be published.

Issued at Washington, DC, date July 29, 1986.

Dorothy S. Williams,

Acting Director, Office of Environment and Energy.

Appendix—EIS on the Jefferson-Conner Industrial Revitalization Project

The City of Detroit, Michigan, intends to prepare an Environmental Impact Statement for the Jefferson-Conner Industrial Revitalization Project and

solicits information and comments for consideration in the EIS.

Description: The proposed project involves the demolition and complete, phased reconstruction of an existing, obsolete automobile assembly plant and conversion of the plant into a 1.9 million square foot assembly plant for trucks and other vehicles.

Included in the project is the provision of additional land adjacent to the plant for suppliers, and construction of new rail facilities, utilities, and roadways. The project area, including rail facilities and roadways, is bounded generally by St. Jean Avenue, Mack Avenue, Algonquin Avenue, Conner Avenue extended to Warren Avenue, and Freud Avenue. The estimated cost of the proposed project is approximately $1.4 billion.

Federal funding for the project is expected to be from the U.S. Department of Housing and Urban Development, Urban Development Action Grant Program, the U.S. Department of Transportation, and Economic Development Administration.

Need: A decision to prepare an EIS has been based upon the large-scale nature of the project in a dense urban setting and the possible impacts on air quality, relocation of persons and businesses, solid/hazardous waste management, historical resources, and transportation systems.

Alternatives: Alternatives being considered include:

a. No action,

b. Renovation of the existing plant, or portions thereof, for other auto-related purposes,

c. The proposed action (complete reconstruction of the plant and related rail and roadway construction),

d. A small size expansion (expansion of building space without expansion of the existing site), and

e. A different site within the City of Detroit.

Scoping: Responses to this Notice will be used to:

1. Help determine significant environmental issues,

2. Identify data that will be used in the EIS, and

3. Identify agencies, groups, and individuals that will participate in the EIS process.

A public scoping meeting will be held approximately ten (10) days after publication of this Notice in the **Federal Register** at a place and time to be announced later in the local newspaper.

Comments: Submission of comments and information either in writing or by telephone, relating to the scoping meeting or this Notice should be directed to: Mr. Thomas Andrews, Detroit Planning Department, 3400 Cadillac Tower, Detroit, Michigan 48226. Telephone: (313) 224–6380.

[FR Doc. 86–17408 Filed 7–31–86; 4:45 am]

BILLING CODE 4210–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–06–4333–11]

Battle Mountain District; Shoshone-Eureka Resource Area

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Establishment of camping stay limit for public lands administered by the BLM in the Battle Mountain District, Nevada.

SUMMARY: Person(s) may occupy a site or multiple sites within a five (5) mile radius on public lands not closed or otherwise restricted to camping within the Battle Mountain District for a total period of not more than fourteen (14) days during any twenty eight (28) day period. Following the fourteen (14) day period, persons may not relocate within a distance of five (5) miles of the site that was just previously occupied until completion of the twenty eight (28) day period. The fourteen (14) day limit may be reached either through a number of separate visits or through a period of continuous occupations of a site. Under special circumstances and upon request, the authorized officer may give permission for extension to the fourteen (14) day limit.

Additionally, no person may leave personal property unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Battle Mountain District for a period of more than forty-eight (48) hours without written permission from the authorized officer.

DATE: This camping stay limit will be effective immediately upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Terry Plummer, District Manager, Battle Mountain District Office, North Second and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820, telephone (702) 635–5181.

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping on public lands within the Battle Mountain District. Of equal importance is the problem of long-term camping, which precludes equal opportunities for other members of the public to camp in the same area, which creates user conflicts.

Authority for this stay limit is contained in CFR Title 43, Chapter II, Part 8365, Subpart 8365.1–2, 8365.1–6, and 8365.2–3.

Michael C. Mitchel,

Acting District Manager.

[FR Doc. 86–17306 Filed 7–31–86; 8:45 am]

BILLING CODE 4310–HC–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestion on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202–395–7340.

Title: Wildfire Prevention Permit, 43 CFR Part 9210

Abstract: The permit is a procedure by which BLM may authorize the permittee to enter public lands during a closure or restricted use of an area to perform the permitted activity. Entrance is not allowed, unless by a written permit

Bureau Form Number: 9210–52

Frequency: On occasion

Description of Respondents: Individuals needing access to restricted areas because of high wildlife danger; generally local residents

Annual Responses: 1,000

Annual Burden Hours: 84

Bureau clearance officer: Rebecca Daughtery, (202) 653–8800.

James Parker,

Assistant Director, Support Services.

June 3, 1986.

[FR Doc. 86–17331 Filed 7–31–86; 8:45 am]

BILLING CODE 1991–93–M

Availability of Environmental Impact Statement, Salt Lake District

SUMMARY: The Bureau of Land Management's Salt Lake District and the U.S. Air Force announce the availability of the Final Environmental Impact

Statement for the West Desert Pumping Project. This document discusses the impacts of granting rights-of-way to the State of Utah for construction of a system of dikes and ponds for evaporation of excess water from the Great Salt Lake.

ADDRESSES: Copies of the West Desert Pumping FEIS may be obtained from your local public library or by writing Jack Peterson, Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane Zeller,

District Manager.

[FR Doc. 86-17306 Filed 7-31-86; 8:45 am]

BILLING CODE 4310-DQ-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I & II Motor Carriers of Property
OMB Form No.: 3120-0032
Agency Form No.: Form M
Frequency: Annually
Respondents: Class I & II Motor Carrier of Property
No. of Respondents: 2,606
Total Burden Hrs: 119,876

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I & II Motor Carrier of Household Goods
OMB Form No.: 3120-0033
Agency Form No.: Form M-H
Frequency: Annually
Respondents: Class I & II Motor Carrier of Household Goods
No. of Respondents: 163
Total Burden Hrs: 5,705

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Motor Carriers of Property
OMB Form No.: 3120-0106
Agency Form No.: Form N/A
Frequency: Quarterly/Annually
Respondents: Motor Carriers of Property
No. of Respondents: 2,606
Total Burden Hrs: 367,446

Noreta R. McGee,

Secretary.

[FR Doc. 86-17338 Filed 7-31-86; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b)

A. 1. The Parent Corporation and its address is as follows: Deep Sea Foods, Inc.

Also doing business as:
Deep Sea Marine Services
Deep Sea Foods Freezer
Deep Sea Marine Products
Deep Sea Oil Company
Deep Sea Marine Dock
Address: 600 Shelt Belt Road, Bayou La Batre, Al. 36509

2. Wholly-Owned Subsidiaries and State of Incorporation:

(i) Bayou Oil Company, Inc.—State of Alabama
(ii) Deep Sea Boats, Inc.—State of Alabama
(iii) Deep Sea Boatbuilders, Inc.—State of Alabama

B. 1. Parent corporation and address of principal office: Green Forest Lumber (International) Limited, 194 Merton Street, Toronto, Ontario, M4S 3B5

2. Wholly-owned subsidiaries which will participate in the operations, and place of incorporation:

A. Green Forest Lumber Limited Incorporated in Ontario, Canada
B. Chapleau Lumber Mill Inc., Incorporated in Ontario, Canada
C. 673764 Ontario Limited, Incorporated in Ontario, Canada

The above subsidiaries all have a mailing address of 194 Merton Street, Toronto, Ontario M4S 3B5.

C. 1. Parent corporation and address of principal office: Jim smith Contracting Co., Inc., Route 1, P.O. Box 27, Grand Rivers, Kentucky 42045

2. Wholly-owned subsidiaries which will participate in the operations, and State of Incorporation: J. Riley Trucking Co., Inc. Kentucky.

D. 1. Parent corporation and address of principal office: Mill Creek Mining Company, 402 Indiana Theatre Building, 638 Philadelphia Street, Indiana, Pennsylvania 15701

2. Wholly-owned subsidiaries which will participate in the operations, and State of Incorporation:

(i) Doan Mining Company, 402 Indiana Theatre Building, 638 Philadelphia Street, Indiana, Pennsylvania 15701, a Pennsylvania Corporation.
(ii) Doan Trucking Company, 402 Indiana Theatre Building, 638 Philadelphia Street, Indiana, Pennsylvania 15701, a Pennsylvania Corporation.

Noreta R. McGee,

Secretary.

[FR Doc. 86-17336 Filed 7-31-86; 8:45 am]

BILLING CODE 7035-01-M

Regional Motor Carrier Boards, Appointment of Members

Acting under 49 U.S. Code, section 10305:

It is ordered: That the incumbents of the following positions be appointed as members of the Regional Motor Carrier Boards in each of the three regions:

- Assistant to the Regional Director (Chairman)
- Supervisor, Complaint and Authority Center
- Transportation Industry Analyst, Complaint and Authority Center

These appointments are necessitated by the reorganization of the Office of Compliance and Consumer Assistance, which becomes effective August 1, 1986. Notice of the reorganization was published at 51 FR 25206 and 25265, July 11, 1986.

Decided: July 22, 1986.

Heather J. Gradison,

Chairman.

[FR Doc. 86-17337 Filed 7-31-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 177)A]

Seaboard System Railroad, Inc.; Findings on Abandonment Between Wheeler and Ewing, VA

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc., to abandon its 12.5-mile rail line between Wheeler (milepost CV-222.5) and Ewing, VA (milepost CV-235). The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance

(through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee.

Secretary.

[FR Doc. 86–17339 Filed 7–31–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Reimbursable Services-Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to Immigration and Naturalization Service Regulations (8 CFR 235.5(c)), the biweekly reimbursable excess costs for each preclearance installation are determined as set forth below and will be effective with the pay period beginning August 3, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$11,093.74.
Toronto, Canada	15,036.86.
Kindley Field, Bermuda	2,214.12.
Freeport, Bahama Islands	7,150.59.
Nassau, Bahama Islands	8,809.16.
Calgary, Canada	4,859.36.
Edmonton, Canada	2,861.49.
Vancouver, Canada	8,426.43.
Victoria, Canada	3,580.14.
Winnipeg, Canada	1,343.10.

These amounts will be in effect and billed biweekly until the first full pay period after the next notice of reimbursable biweekly excess costs is published in the **Federal Register**.

Dated: July 29, 1986.

Malcolm E. Arnold,

Comptroller.

FR Doc. 86–17370 Filed 7–31–86; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act; Uses of Section 202(b)(3) Within-State Incentive Grants (So-Called Six Percent Funds)

AGENCY: Employment and Training Administration, Labor.

ACTION: Extension of comment period on notice of proposed policy.

SUMMARY: The Department of Labor will extend the comment period for thirty days on the proposed policy clarification regarding the use of Job Training Partnership Act (JTPA) section 202 (b)(3) within-State incentive grants (so-called six-percent funds) for purposes set forth in JTPA. Such funds are not to be used for management information systems or post-program data collection or other activities that are appropriately chargeable to administration.

DATE: Comments must be submitted on or before September 2, 1986.

ADDRESS: Submit comments to: Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Dr. Fred Romero, Administrator, Office of Strategic Planning and Policy Development.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Williams, Telephone (202) 535–0687.

SUPPLEMENTARY INFORMATION: On June 4, 1986, the Department of Labor (Department) published a proposed policy in the **Federal Register** at 51 FR 20362. This policy would preclude States from using within-State incentive grants (six-percent funds) for any purpose beyond those specifically set forth at section 202 (b)(3) of the Job Training Partnership Act (JTPA). Interested parties were invited to submit written comments through June 19, 1986.

Some of the commenters indicated that there was insufficient time allowed to comment completely on the proposed policy. Additionally, Congress is in the process of considering amendments to JTPA that may have a direct bearing on this policy. In view of these developments the comment period has been extended for thirty days from the date of this notice. This will provide ample time for the system to respond to the proposed policy and to await any statutory revisions that may likewise affect the Department's final policy determination.

Signed at Washington, DC, this 28th day of July, 1986.

Roberts T. Jones,

Deputy Assistant Secretary of Labor.

[FR Doc. 86–17323 Filed 7–31–86; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally-Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York:
NY86-2 (Jan. 3, 1986)..... pp. 645-659; pp. 659a-659b.
Pennsylvania:
PA86-12 (Jan. 3, 1986)..... p. 887.

Volume II

Arkansas:
AR86-2 (Jan. 3, 1986)..... pp. 6-9.
Colorado:
CO86-1 (Jan. 3, 1986)..... pp. 97-98.
Iowa:
IA86-1 (Jan. 3, 1986)..... pp. 24-25.
Do.
IA 86-2 (Jan. 3, 1986)..... pp. 28-31.
Louisiana:
LA86-5 (Jan. 3, 1986)..... pp. 360, 363, p. 366, pp. 377-378.
Missouri:
MO86-2 (Jan. 3, 1986)..... p. 559, pp. 561-563.
Missouri:
MO86-3 (Jan. 3, 1986)..... p. 569.
Missouri:
MO86-4 (Jan. 3, 1986)..... p. 576.
Missouri:
MO86-5 (Jan. 3, 1986)..... p. 579.
Missouri:
MO86-6 (Jan. 3, 1986)..... p. 583.
Missouri:
MO86-7 (Jan. 3, 1986)..... p. 590.
Missouri:
MO86-8 (Jan. 3, 1986)..... p. 595.
Missouri:
MO86-9 (Jan. 3, 1986)..... pp. 596-601, p. 603.
Missouri:
MO86-10 (Jan. 3, 1986)..... p. 606.
Missouri:
IL86-11 (Jan. 3, 1986)..... p. 611.
Listing by location (index) pp. xv, xxi.

Volume III

Oregon:
OR 86-1 (Jan. 3, 1986)..... pp. 257-258, p. 260.
Washington:
WA 86-1 (Jan. 3, 1986)..... pp. 299-300, p. 304.
Washington:
WA86-2 (Jan. 3, 1986) ..... pp. 328-330.
Washington:
WA86-3 (Jan. 3, 1986) ..... p. 339.
Washington:
WA86-5 (Jan. 3, 1986) ..... p. 356.
Washington:
WA86-6 (Jan. 3, 1986) ..... p. 360.
Washington:
WA86-7 (Jan. 3, 1986) ..... p. 362.
Washington:
WA86-8 (Jan. 3, 1986) ..... p. 365b.
Washington:
WA86-9 (Jan. 3, 1986) ..... p. 365f.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the State covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 25th day of July 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-17086 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket File No. M-86-80-C]

M&J Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

M&J Coal Company, Inc., 1499 Barry Street, Fairmont, West Virginia 26554 has filed a petiton to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 1 Mine (I.D. No. 46-06225) located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A. summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug

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connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petiton may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variance, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 2, 1986. Copies of the petition are available for inspection at that address.

Dated: July 4, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-17388 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-65-C]

Omega Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Omega Mining Company, Inc., P.O. Box 3186, Morgantown, West Virginia 26503 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Omega Mine No. 100 (I.D. No. 46-06470) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a metal bracket and a metal locking device (harness snap) in lieu of padlocks. The metal locking device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening. In addition, the locking device and the fabricated metal brackets will be securely attached to prevent accidental loss.

3. Petitioner states that the metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 2, 1986. Copies of the petition are available for inspection at that address.

Dated: July 24, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-17389 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-95-C]

Utah Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

Utah Fuel Company, P.O. Box 719, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Skyline No. 3 Mine (I.D. No. 42-01566) located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to roof falls portions of the return entries cannot be travelled, and rehabilitation of these areas would expose miners to hazardous conditions.

3. The roof falls have not impeded the air flow in the mine. There are no electrical ignition sources present in the fall areas and methane has not been detected in the mine.

4. As an alternate method petitioner proposes to establish check points to monitor airflow and rest for methane. All checks would be made by a certified person and the results would be kept in a log at the check points.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 2, 1986. Copies of the petition are available for inspection at that address.

Dated: July 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-17390 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Iowa State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 20, 1973, notice was published in the **Federal Register** (38 FR 19368) of the approval of the Iowa plan and the adoption of subpart J of Part 1952 containing the decision.

The Iowa plan provides for the adoption of Federal standards (by reference after comments and public hearing). By letter dated June 27, 1986 from Walter H. Johnson, Deputy Commissioner of Labor to Alonzo I. Griffin, Area Director, and incorporated as part of the plan, the State submitted State standards comparable to: Educational/Scientific Diving, Subpart T, 29 CFR 1910.401 (Appendix B) as published in the **Federal Register** (50 FR

1050 dated January 9, 1985); Occupational Exposure to Ethylene Oxide; Change in Effective Date and Approval of Information Collection Requirements, 29 CFR 1910.1047(m) as published in the **Federal Register** (50 FR 9800 dated March 12, 1985); Flammable and Combustible Liquids, 29 CFR 1910.106 (b)(2)(iv)(*f*) as published in the **Federal Register** (50 FR 36992 dated September 11, 1985); Coke Oven Emissions Standard; Conforming Deletions, 29 CFR 1910.1029(f)(1)(*b*), (f)(1)(ii)(*b*), (f)(6)(iii), and (g)(4)(i) as published in the **Federal Register** (50 FR 37353 dated September 13, 1985). These standards which are contained in Chapter 88 of the Code of Iowa (1983) were promulgated after public comment requested on October 4, 1985, hearing held on November 13, 1985 and resolution adopted by the Iowa Bureau of Labor on December 30, 1985 pursuant to Chapter 17a, Iowa Code. The standards were effective on February 19, 1986 and notice of their adoption was published by the State on January 15, 1986.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the comparable Federal standards and should therefore be approved.

3. *Location of supplement for inspection and coping.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal/State Operations, Office of State Programs, Room N3476, 200 Constitution Avenue, NW., Washington, DC 20210; Office of the Regional Administrator, OSHA, Room 406 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Iowa Bureau of Labor, 307 E. 7th Street, Des Moines, Iowa 50319.

4. *Public participation.* Under 29 CFR 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would be unnecessary.

This decision is effective August 1, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Kansas City, Missouri this 10th day of July 1986.

Roger A. Clark,

Regional Administrator.

[FR Doc. 86-17391 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 86-96; Exemption Application No. D-6263 et al.]

Grant of Individual Exemptions; Memphis Construction, Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Employees' Profit Sharing and Retirement Plan of Memphis Construction, Inc. (the Plan) Located in Memphis, New York

[Prohibited Transaction Exemption 86-96; Exemption Application No. D-6263]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain real property by the Plan to Memphis Construction, Inc., the Plan sponsor, provided all of the terms of the proposed transaction are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party on the date of the communication of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 3, 1986 at 51 FR 19903.

For Further Information Contact: Linda M. Hamilton of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Circleville Publishing Company Profit Sharing Plan (the Plan) Located in Circleville, Ohio

[Prohibited Transaction Exemption 86-97; Exemption Application No. D-6517]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to Circleville Publishing Company, a party

in interest with respect to the Plan, of the shares of Press Properties, Inc. owned by the Plan, provided the sale price is not less than the fair market value of such shares on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 3, 1986 at 51 FR 19904.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

The Washington News Publishing Company Profit Sharing Plan (the Plan) Located in Washington Court House, Ohio

[Prohibited Transaction Exemption 86–98; Exemption Application No. D–6520]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code, shall not apply to the sale to the Washington News Publishing Company, a party in interest with respect to the Plan, of the shares of Press Properties, Inc. owned by the Plan, provided the sales price is not less than the fair market value of such shares on the date of the sales.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published in June 3, 1986 at 51 FR 19905.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

The Van Wert Publishing Company Profit Sharing Plan (the Plan) Located in Van Wert, Ohio

[Prohibited Transaction Exemption 86–99; Exemption Application No. D–6521]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to The Van Wert Publishing Company, a party in interest with respect to the Plan, of the shares of Press Properties, Inc. owned by the Plan, provided the sales price is not less than the fair market value of such shares on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 3, 1986 at 51 FR 19906.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (2) 523–8194. (This is not a toll-free number.)

The Wayne Newspaper Company Profits Sharing Plan (the Plan) Located in Logan, Ohio

[Prohibited Transaction Exemption 86–100; Exemption Application No. D–6522]

Exemption

The restrictions of section 406(a) and 405 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to the Wayne Newspaper Company, a party in interest with respect to the Plan, of the shares of Press Properties, Inc. owned by the Plan, provided the sales price is not less than the fair market value of such shares on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 3, 1986 at 51 FR 19906.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (2) 523–8194. (This is not a toll-free number.)

The News-Journal Company Profit Sharing Plan (the Plan) Located in Wilmington, Ohio

[Prohibited Transaction Exemption 86–101; Exemption Application No. D–6523]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanction s resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to The News-Journal Company, a party in interest with respect to the Plan, of the shares of Press Properties, Inc. owned by the Plan, provided the sales price is not less than the fair market value of such shares on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 3, 1986 at 51 FR 19907.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Bear, Stearns & Co., Inc. and Custodial Trust Company

[Prohibited Transaction Exemption 86–102; Exemption Application No. D–6633]

Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lending of securities to Bear, Streans & Co., Inc. by employee benefit plans for which Custodial Trust Company (CTC) acts as directed trustee or custodian and securities lending agent and to the receipt of compensation by CTC in connection with these transactions, if the conditions incorporated in the representations set forth in the notice of pendency are met.

For a more complete statement of the facts and representations suporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on May 23, 1986 at 51 FR 18974.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/

or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not deapositive of whether the transaction is in fact a probibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of July, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-17392 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Individual Benefit Reporting and Recordkeeping of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., August 14, 1986, at the U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-2313,Washington, DC 20210.

This four-member work group was formed by the Advisory Council to study issues relating to individual benefit reporting and recordkeeping for employee benefit pension plans covered by ERISA.

The purpose of the August 14 meeting is to discuss issues relating to individual benefit reporting and recordkeeping for employee benefit plans covered by ERISA. Individuals wishing to present their views on these issues to the work group will be invited to speak during the afternoon session of the meeting.

Individuals who would like to address the work group of the Advisory Council should submit requests on or before August 12, 1986 to Charles W. Lee, Jr., Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Signed at Washington, DC, this 29th day of May 1986.

Dennis M. Kass,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 86-17393 Filed 7-31-86; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Multi-Music Presenters Section) to the National Council on the Arts will be held on August 20-22, 1986, from 9:00 a.m.-6:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 22, from 11:00 a.m.-1:00 p.m. Topics for discussion will include Policy and Guidelines.

The remaining sessions of this meeting on August 20-21, 1986, from 9:00 a.m.-6:00 p.m., and August 22, 1986 from 9:00-11:00 a.m. and 1:00-6:00 p.m., are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 28, 1986.

[FR Doc. 86-17325 Filed 7-31-86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL LABOR RELATIONS BOARD

Proposed OMB Circular A-76; Cost Comparison Study for Federal Register and Commerce Business Daily

AGENCY: National Labor Relations Board, Division of Administration.

ACTION: Notice of OMB Circular A-76 Cost Comparison Study.

SUMMARY: The following activity is scheduled for review in accordance with OMB Circular A-76: NLRB Editorial Services

The A-76 procedure is to determine the cost advantages of contract vs in-house performance. Depending on the requirements of the review, the process can take 12 months or more to complete. Since the study is in the beginning phase, specifications have not yet been prepared. The study is scheduled to begin September 2, 1986. This notice is not an invitation for sealed bids or a request for proposals. When bids/proposals are desired, appropriate advertisement will be placed in the Commerce Business Daily.

FOR FURTHER INFORMATION CONTACT: Paul E. Long, Deputy Director of Administration, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, DC 20570. Telephone number (202) 254-9200.

Dated: Washington, DC, July 29, 1986.

By direction of the Board:

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 86-17309 Filed 7-31-86; 8:45 am]

BILLING CODE 7545-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

Public Service Electric & Gas Co. and Atlantic City Electric Co., Hope Creek Generating Station; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the

Commission or NRC) has issued Facility Operating License No. NPF–57 (License) to Public Service Electric & Gas Company and Atlantic City Electric Company (the licensees) which authorizes operation of the Hope Creek Generating Station (the facility) at reactor core power levels not in excess of 3293 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan. On April 11, 1986, the Commission issued Facility Operating License No. NPF–50, which authorized operation of the Hope Creek Generating Station at power levels not in excess of 164.65 megawatts thermal. Facility Operating License No. NPF–57 supersedes Facility Operating License No. NPF–50.

The Hope Creek Generating Station is a boiling water nuclear reactor located on the east shore of the Delaware River in Lower Alloways Creek Township, Salem County, New Jersey. The License is effective as of the date of issuance.

The application for the License complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on August 10, 1983 (48 FR 36357).

The Commission has determined that the issuance of this License will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the License is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF–57, with Technical Specifications (NUREG–1202) and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated December 18, 1984; (3) the Commission's Safety Evaluation Report, dated October 1984 (NUREG–1048), and Supplements 1 through 6; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and Supplements thereto; and (6) the Final Environmental Statement dated December 1984 (NUREG–1074).

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street NW., Washington, DC 20555 and in the Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070. A copy of Facility Operating License NPF–57 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing. Copies of the Safety Evaluation Report and Supplements 1 through 6 (NUREG–1048) and the Final Environmental Statement (NUREG–1202) may be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or may be ordered by calling (202) 275–2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or MasterCard number and expiration date.

Dated at Bethesda, Maryland, this 25th day of July 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–17372 Filed 7–31–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of OMB Authorization for Information Collection Requirements in Standard Forms 85 and 86

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, title 44, U.S.C., Chapter 35, this notice announces a proposed extension of two forms which collect information from the public. Standard Form 85, Data for Nonsensitive or Non-critical-Sensitive Position, and Standard Form 86, Security Investigation Data for Sensitive Position, are completed by applicants for Federal positions throughout the Government. OPM uses the information to conduct investigations required by Executive Order 10450, Security Requirements for Government Employment, issued April 27, 1953; OMB Circular No. A–130, Management of Federal Information Resources, issued December 12, 1985; and various public laws. For copies of this proposal and the forms involved call James M. Farron, Agency Clearance Officer, on (202) 632–7714.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James M. Farron, (202) 632–7714.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86–17371 Filed 7–31–86; 8:45 am]

BILLING CODE 6325–01–M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; New System of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of new system of records and routine uses.

SUMMARY: This document provides notice that the Pension Benefit Guaranty Corporation will establish and maintain a system of records pertaining to its "call detail program" that collects and use information on the use of the Corporation's telephone system by employees and other persons. The document also provides notice of seven routine uses of information in the new system of records.

EFFECTIVE DATE: The new system of records and its routine uses will become effective without further notice on September 2, 1986, unless comments are received on or before that date that would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Comments should be addressed to the Director, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection in Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel,

Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–956–5051 (202–956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") is establishing a new system of records that is entitled Call Detail Records and designated as PBGC–11. This sytsem of records will contain records relating to the assignment of telephone extension numbers and location of telephone extensions in the PBGC's telephone system, and to the use of those telephone extension to place long distance and other toll calls. The PBGC also is establishing and giving notice of seven routine uses under this system of records.

New System of Records

This document provides notice of the existence and character of a proposed new system of records, "PBGC–11", that is designated "Call Detail Records-PBGC." System PBGC–11 will be established and maintained by the PBGC to enable it to collect and use information relating to its employees' and other persons' use of the PBGC's telephone system, in accordance with requirements under the Privacy Act of 1974.

The PBGC has established a call detail program to help it control the costs of operating its telephone system. To this end the program will collect information about the use of the agency's telephone system for long distance and other toll calls and will attempt to assign responsibility to individual employees or other persons for particular calls. A twofold purpose for this collection of information is to deter the use of the telephone system for unofficial purposes and to recover for the agency the cost of unofficial calls. Other purposes are to assist the PBGC in choosing more efficient and cost-effective ways of communcating; in making decisions about acquiring hardware, software, and services; and in developing management strategies for using existing telecommunications capabilities more efficiently.

To the extent that the PBGC's call detail program will collect and maintain information about individuals and will be used to determine accountability for telephone usage and abuse, it will be maintained as a Privacy Act system of records.

This system of records, PBGC–11, will contain initial call detail, summarized monthly (or as needed) and annually, on paper and floppy disk; locator information showing where in the PBGC specific telephone extensions are located; and records relating to the identification of individual employees or other persons and linking them with specific extension numbers and specific called numbers that incurred long distance or other toll charges. The information will be maintained and safeguarded in accordance with Privacy Act provisions as set forth in the description of the existence and character of System PBGC–11 set forth below.

Routine Uses

In general, a government agency must obtain the written consent of an individual before disclosing information about that individual from a system of records. The Privacy Act provides 12 exceptions to that basic requirement, of which one is routine uses that are for a purpose compatible with the purpose for which the information was collected. A routine use is considered "compatible" if the uses are functionally compatible as well as if they are necessary and proper.

The PBGC has previously established six General Routine Uses that may be made of the information in its systems of records, which are as follows:

1. Routine Use—Law Enforcement: In the event that a system of records maintained by the PBGC to carry out its functions indicates a violation or potential violation of law, whether criminal, civil or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. Routine Use—Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the letting of a contract.

3. Routine Use—Disclosure of Requested Information: A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. Routine Use—Disclosure During and in Anticipation of Litigation: A record from this system of records may be disclosed during litigation with the individual who is the subject of the record or his or her employer and the companies in common control with the employer. This includes disclosure to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal, or during proceedings in reasonable anticipation thereof.

5. Routine Use—Disclosure to OMB: A record contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Routine Use—Congressional Inquiries: Disclosure may be to a congressional office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

Of these General Routine Uses, all but number 5 apply to and will be incorporated by reference into the PBGC system of records, PBGC–11. In addition, the PBGC is proposing two additional routine uses for the information in its System PBGC–11. The first of these provides for routine disclosure of the information to employees, contract employees and consultants, and to labor organization officials to determine their own responsibility for telephone calls. The second provides for disclosure to the collective bargaining agent of an employee. These two routine uses in System PBGC–11 are proposed to read as follows:

1. Records and data may be disclosed to employees, contract employees and consultants of the PBGC and to officials of the labor organization representing PBGC employees to determine their individual responsibility for telephone calls, but only to the extent that such disclosures consist of comprehensive lists of called numbers and length of calls.

2. Pursuant to Title VII of the Civil Service Reform Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

Both of the Routine Uses 1 and 2 in the proposed PBGC–11 system of records and General Routine Uses 1–4 and 6, which are proposed to be incorporated therein, are considered functionally compatible and necessary and proper uses of the information maintained in that system of records.

Section 552a(e)(11) of the Privacy Act requires that notice of an intended routine use of records by published at least 30 days prior to the implementation of the use and that the public be given an opportunity to comment. Interested persons are invited to submit written data, views, or comments on the proposed routine uses, which may be changed in light of the comments received. If no changes are made, and unless the PBGC publishes a notice to the contrary, the proposed amended routine uses will become final 30 days after publication of this notice.

(Sec. 3, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a))

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

PBGC–11

SYSTEM NAME:

Call Detail Records—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contract employees and consultants of the PBGC and officials of the labor organization representing PBGC employees who have made long distance or other toll calls from PBGC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of PBGC telephones to place long distance and other toll calls; records indicating assignment of telephone extension numbers to employees and other covered individuals; records relating to location of telephone extensions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records and data may be disclosed to employees, contract employees and consultants of the PBGC and officials of the labor organization representing PBGC employees to determine their individual responsibility for telephone calls, but only to the extent that such disclosures consist of comprehensive lists of called numbers and length of calls.

2. Pursuant to Title VII of the Civil Service Reform Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representatives of PBGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained manually in file folders, in machine readable form, and on floppy disks.

RETRIEVABILITY:

Records are retrieved by name of employee or other covered individual or telephone extension number, or by telephone number called.

SAFEGUARDS:

Manual and machine readable records are maintained in filing cabinets or offices in areas of restricted access that are locked after office hours; floppy disks are locked in a vault with limited access in an office that is locked after office hours.

RETENTION AND DISPOSAL:

Records are retained for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Office Services Division, Human Resources and Support Services Department, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURES:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; private telephone billing information.

[FR Doc. 86–17376 Filed 7–31–86; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15226; (812–6363)]

GECMO Corporation—I; Application for Exemption From All Provisions of the Act

July 25, 1986.

Notice is hereby given that GECMO Corporation–I ("Applicant"), 260 Long Ridge Road, Stamford, Connecticut 06902, filed an application on April 28, 1986, and an amendment thereto on July 18, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act in connection with the issuance of mortgage related securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the relevant provisions thereof.

According to the application, Applicant, a Delaware corporation, is wholly-owned by General Electric Real Estate Credit Corporation, also a Delaware Corporation, which in turn, is wholly-owned by General Electric Company, a New York corporation. Applicant states that it was formed for the limited purpose of issuing and selling one or more series of bonds ("Bonds") collateralized by mortgage certificates (as defined below) and certain other collateral ("Collateral") and engaging in activities incidental thereto. According to the application, the Bonds will be separately secured primarily by mortgage pass-through certificates which are fully guaranteed as to principal and interest by the Government National Mortgage Association, Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation and/or Guaranteed Mortgage Pass-Through Certificates issued and guaranteed by the Federal National Mortgage Association (collectively, "Mortgage Certificates").

Applicant states that the Bonds, will be issued pursuant to the indenture between an independent trustee ("Trustee") and Applicant, as supplemented by a supplemental indenture for each series ("Indenture"). The Indenture for each public offering will be qualified under the provisions of the Trust Indenture Act of 1939. The Mortgage Certificates securing each series of Bonds will be acquired by Applicant principally by using the net proceeds of the sale of the Bonds. All Collateral securing each series of Bonds

will be pledged to and held by the Trustee or its custodian and such Trustee will have a first lien perfected security interest in such Collateral. In addition to the Mortgage Certificates, the Collateral will include a separate collection account for each series of Bonds and may include a debt service reserve fund or other reserve fund. Applicant represents that the outstanding principal amount of the Mortgage Certificates securing a series of Bonds will be at least equal to the unpaid principal amount of such Bonds on their issue date.

Applicant asserts that it is not the type of entity that the Act was intended to regulate and that its limited activities do not require the Act's protection. In this respect, Applicant asserts that that it will exercise no investment discretion with respect to the Mortgage Certificates, except that the proceeds of the Mortgage Certificates held by the Trustee pending distribution to Bondholders may be invested in United States obligations and cash equivalents, guaranteed investment contracts and other investments meeting the requirements of the investment rating agency or agencies rating the Bonds. Applicant believes that under these circumstances, a Bondholder's risk and return will in no material respect depend upon the ability to Applicant to successfully invest and reinvest Bond proceeds. Finally, Applicant submits that the requested exemption will enhance its ability to purchase Mortgage Certificates and that the public interest will be served by expanding the sources of funds available to finance the purchase and retention of Mortgage Certificates and, thereby, the sources of funds available for the housing finance needs of the nation.

Applicant expressly consents to the following conditions with respect to the requested order:

(1) Each series of Bonds will be registered under the Securities Act of 1933 ("Securities Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. However, the mortgage collateral underlying the Bonds will be limited to mortgage certificates guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(3) If new mortgage collateral is substituted, the substitute collateral must: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2), (4) and (6). In addition, new collateral may not be substituted for more than 40% of the aggregate face amount of the mortgage certificates initially pledged as mortgage collateral. In no event may any new mortgage collateral be substituted for any substitute mortgage collateral.

(4) All mortgage certificates, funds, accounts or other collateral securing a series of Bonds ("bond collateral") will be held by the Trustee or on behalf of the Trustee by an independent custodian. The custodian may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the Securties Act, 17 CFR 230.405) of the Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all Bond Collateral.

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemable securities within the meaining of Section 2(a)(32) of the Act.

(6) No less often than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the mortgage collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the Trustee.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 19, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exhange Commission, Washington, DC 20549. A copy of the request should be served personnally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17341 Filed 7-31-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23468; File No. SR-CSE-86-5]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Delisting by an Issuer

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1986, the Cincinnati Stock Exchange ("CSE") filed with the Securities and Exchange Commission the Proposed Rule Change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the Proposed Rule Change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend Article IV, Section 3.2 of its Code of Regulations concerning the delisting of a security by an issuer. Under the proposed rule, an issuer may be delisted from the Exchange at its own request provided that it furnishes the Exchange with a certified copy of a resolution adopted by the issuer's Board of Directors authorizing the withdrawal from listing and registration on the Exchange and providing a statement setting forth the reasons and justifications for the proposed delisting. The Exchange may require the issuer to submit the proposed withdrawal to the holders of the security for their vote at a meeting for which proxies are solicited where the security is not also listed on another exchange having rules requiring submission of any delisting proposal to the security holders for approval.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under current CSE rules, an issuer that wishes to delist its security on the Exchange must first obtain approval for

such action from its shareholders at a special or annual meeting. This requirement imposes an unnecessary burden on issuers who list their securities on more than exchange. The Proposed Rule Change seeks to remove this burden without compromising the right of shareholders to have their security listed on at least one exchange for trading purposes.

The Proposed Rule Change is consistent with Section 6(b)(5) of the Act in that it is designed to perfect a national market system and to protect investors and the public interest without unfairly discriminating between issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the Proposed Rule Change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the Proposed Rule Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CSE's consents, the Commission will:

(A) By order approve such Proposed Rule Change, or

(B) Institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to the file number in the caption above and should be submitted by August 22, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 24, 1986

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17340 Filed 7-31-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23469; File No. SR-NYSE-86-14]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., and Request for Comment on Proposals by the New York Stock Exchange, Inc., et al.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 2, 1986, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On June 24, 1986, the NYSE filed with the Commission Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments from interested persons on the NYSE proposed rule change as well as the proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex")[1] and the National Association of Securities Dealers, Inc. ("NASD")[2] relating to listing standards for non-U.S. companies.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rules Changes

The proposed rule change amends the NYSE's listing standards for non-U.S. companies as set forth in Section 103.00 of the NYSE Listed Company Manual.[3] These consist of modifications appropriate to providing U.S. investors, seeking to invest in securities of internationally respected non-U.S. companies, access to the investment opportunities afforded by the Exchange's highly-regulated securities market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rules changes and discussed any comments it received on the proposed rules changes. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* With the rapid growth and interdependence of world economies, the NYSE is prepared to retain its key role in the globalization of securities trading. However, it has been determined that some internationally respected non-U.S. companies are reluctant to enter the Exchange's securities market. While this reluctance is due to a number of factors, the chief concern related to the NYSE is its policies and requirements as to certain corporate governance practices and the reporting of interim earnings.

These policies and practices are not necessarily consistent with the laws or practices customarily observed by non-U.S. companies in their country of domicile. For example, in many foreign countries, controlling law or common practice compel or permit the non-U.S. company to issue interim earnings reports on a semi-annual, as opposed to quarterly, basis or to have a class or classes of common stock having more or less than one vote per share. Other NYSE policies concerning the corporate governance practices required of domestic companies, which may not be consistent with the home country laws or practices of non-U.S. companies, include those which address the structure and composition of the Board of Directors, shareholder approval, quorum requirements for shareholders'

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[1] The Amex proposed rule change was published for notice and comment previously in Securities Exchange Act Release No. 23064 (March 25, 1986), 51 FR 11125 (File No. SR-Amex-86-6).

[2] *See* Securities Exchange Act Release No. 22508 (October 4, 1985) 50 FR 41769 (File No. SR-NASD-85-20).

[3] The proposed amendments to section 103.00 of the NYSE Listed Company Manual are attached as *Exhibit A.*

meetings and related continued listing criteria.[4]

Under the proposal, where it appears to the NYSE that a non-U.S. company's interim earnings reporting or corporate governance practices are consistent with the law or practices in the country in which it is domiciled, such practices need not necessarily be barriers to listing or continued listing.

To assist the NYSE in considering the question of the listing or continued listing of the securities of a non-U.S. company whose interim earnings reporting or corporate governance practices are not in compliance with Exchange requirements for domestic companies, the non-U.S. company would be required to furnish the Exchange with a written certification from independent counsel in the country of the non-U.S. company's domicile as to whether or not the non-complying practices are consistent with home country law or practice.

In applying the modified standard, the NYSE will not accept a home country law or practice which allows or requires reporting of earnings less frequently than semi-annually.

The modification to the NYSE's interim earnings reporting requirement will not alter a non-U.S. company's obligation to publicly disclose any significant change in its earnings trends between semi-annual reports under the NYSE's "Timely Disclosure of Material News Developments" policy.

Finally, non-U.S. companies listing under the modified standard will, like presently listed companies, be required to provide an English language version of earnings and other reports.

(2) *Basis.* The proposed rule amendment is consistent with sections 6(b)(5) and 11A(a)(1)(C)(ii) of the Act. Those sections, among other things, require that Exchange rules be designed to promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and assure fair competition among exchange markets and between exchange markets and markets other than exchange markets.

While the proposed amendment will afford the Exchange greater flexibility in determining the eligibility for listing of non-U.S. companies, this is intended solely to overcome the reluctance of such companies to list, thereby fostering competition.

According to the NYSE, the proposed rule amendment is also consistent with the Commission's treatment of foreign issuers in that such issuers which register securities on Form 20–F or are exempt from registration pursuant to Rule 12g3–2 under the Act are permitted to provide less extensive disclosure and are not subject to the proxy and quarterly reporting provisions of the Act.[5]

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rules changes will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rules Changes Received from Members, Participants, or Others

The NYSE has neither solicited nor received written comments concerning these proposed rules changes.

III. Date of Effectiveness of the Proposed Rules Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rules changes should be disapproved.

IV. Solicitation of Comments

As noted previously, the Commission recently has received proposed rule changes from the Amex and the NASD that relate to listing standards for foreign issuers. Amex, like the NYSE, believes that foreign companies are reluctant to list on the Amex because of the difficulty in complying with listing standards that are either inconsistent with or contrary to their home country's laws and practices. Briefly, Amex proposes to amend Section 110 of the Amex Company Guide to permit the Exchange to "consider the laws, customs and practices of the applicant's country of domicile regarding such matters as (1) the election and composition of the Board of Directors; (2) the issuance of quarterly earnings statements; (3) shareholder approval requirements; and (4) quorum requirements for shareholder meetings."

The Amex proposal would require a foreign company to furnish American shareholders an English language version of their annual financial statements and all other materials regularly provided to other shareholders. It also would require that the company publish, at least semi-annually, an English language version of its interim financial statements.[6]

The NASD, unlike NYSE and Amex, currently does not have any corporate governance or shareholder reports requirements.[7] The NASD, however, has proposed to adopt certain corporate governance and annual and interim reporting requirements for all NASDAQ stocks designated as national market system ("NMS") securities pursuant to Rule 11Aa2–1 under the Act. Under this proposal, an NMS issuer would have to distribute to shareholders any annual and interim reports it is required to file with the Commission. The NASD proposal also would establish requirements relating to audit committees, independant directors, shareholder meetings, quorum, solicitation of proxies, and conflicts of interest.

Foreign issuers who are generally not subject to the Commission's quarterly reporting requirements, would not be required by the NASD proposal to send quarterly reports to shareholders. Furthermore, the reporting and corporate governance provisions of the proposal would not apply to a foreign issuer if these requirements would

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[4] Specifically, under the terms of the NYSE proposal, non-U.S. companies applying for listing on the NYSE, and conforming to local practices in the country in which they are domiciled, would be eligible, for waiver or modification of the existing NYSE listing requirements, including requirements regarding (1) quarterly interim reporting of earnings; (2) dual class capitalizations with varying votes per share, and single classes of common stock with votes per share based upon tenure of holding the security; (3) quorum requirements that permit shareholder votes by less than a majority of securities entitled to vote on a proposal, (4) Audit Committees of, or independent director representation on, a company's Board of Directors; (5) classification of a company's Board of Directors or the terms of directors; and (6) shareholder approval for the issuance of securities.

See letter from Richard A. Grasso, Executive Vice President, NYSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated June 24, 1986.

[5] *See* Amendment No. 1 to File No. SR–NYSE–86–14.

[6] Amex noted in its filing with the Commission that the change in the quarterly reporting requirement would not alter the company's obligation to comply with the Amex's timely disclosure policies (Sections 401 and 405 of the Amex Company Guide).

[7] However, like the NYSE and the Amex, the NASD does require issuers of authorized NASDAQ securities to promptly disclose to the public through the press any material information which may affect the value of its securities or influence investors decisions. See Subdivision B, Schedule D, Part II, Paragraph B(3)(b) of the By-laws of the National Association of Securities Dealers.

require the foreign issuer to do anything contrary to the law of any public authority exercising jurisdiction over the issuer or contrary to "generally accepted business practices in the issuer's country of domicile." [8]

The Amex and NYSE rule filings are constructed similarly. Both Exchanges have identified specific corporate governance provisions in their rules that may operate as an impediment to foreign listings that they propose to relax or waive. Each proposal then goes further to include a more general provision that would permit the Exchanges to waive or modify virtually any existing NYSE and Amex corporate governance listing standard that was inconsistent with the laws, customs or practices of the applicant company's country of domicile. As noted previously, the NASD filing also includes such a provision. The basis for granting such an exemption is not set out in any of the filings.

It appears clear that the self-regulatory organizations ("SROs") do not mean to grant waivers or exemptions only when it would be impossible for a company to comply with a specific corporate governance requirement and also comply with home country law. It is unclear, however, what additional circumstances the proposed rules are intended to encompass. If, for example, a waiver were available any time compliance with SRO rule requirements imposed any additional burdens on foreign companies beyond those imposed by law or custom by the country of domicile, the proposals would be tantamount to eliminating all listing standards in this area from foreign companies.

Thus, the Commission believes that the SRO proposals raise questions concerning appropriate listing requirements for foreign issuers that choose voluntarily to list or have their securities quoted in U.S. markets. Among the issues raised are the potential competitive effects of such disparate listing standards or eligibility criteria on domestic companies and the impact of such a change on existing investor/shareholder protections embodied in current and proposed corporate governance standards.[9] The Commission, therefore, is seeking public comment on specific issues raised by these proposals. In this regard, commentators may wish to focus on the following questions:

(1) Will there be a material reduction in investor/shareholder protections if foreign companies' securities are permitted to be listed or traded on the NYSE, Amex or NASDAQ/NMS without being required to conform to the financial reporting and corporate governance standards currently required or proposed by the SROs?[10] Will investor confusion result if foreign listed companies are subject to different standards than domestic companies, and if the requirements vary from one foreign company to another? Is there an efficient way to approse investors of the standards to which particular companies are subject?

(2) As noted above, both the NYSE and Amex proposals in their current form, would allow the Exchanges to modify or eliminate existing corporate governance listing requirements under certain circumstances. Although both the Amex and the NYSE proposals provide examples in their proposed rule of the types of listing standards which could be subject to waiver or modifications, neither Exchange specifies all standards that could be modified. Should the NYSE and Amex enumerate or limit the specific listing standards that would be subject to waiver or modification? Are there specific reporting or other listing standards that should be non-waivable? Should the Exchanges specify or limit the types of home country customs or practices that could be used to support the waiver or modification of exchange listing standards?

(3) Is there a potentially significant detrimental competitive impact on domestic companies by allowing foreign companies to list on the NYSE and Amex without requiring them to comply with the same financial reporting and corporate governance standards that are currently required of domestic companies listed on those exchanges?

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the NYSE, Amex

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[8] File No. SR–NASD–85–20 at 2.

The Commission has received a letter, from John D. Dingell, Chairman of the Committee on Energy and Commerce, U.S. House of Representatives, to John S.R. Shad, Chairman, Securities and Exchange Commission, dated May 1, 1986, commenting on the Amex and NASD proposals concerning foreign issuer listing standards. Chairman Dingell expressed general approval for the Amex's proposed disclosure standards which would still require foreign issuers to publish, at least semi-annually, an English language version of an interim financial statement. He also expressed concern, however, over the NASD's proposed corporate governance standards (File No. SR–NASD–85–20) which would exempt foreign issuers from complying with any listing requirement which was contrary to the laws, rules or regulations of any public authority exercising jurisdiction over the issuer or contrary to generally accepted business practice in the issuer's country of domicile, and which would impose no minimum disclosure requirement on foreign issuers such as a semi-annual English language earnings report.

[9] NYSE corporate governance listing standards are included in Section 3 ("Corporate Responsibility") of the NYSE Listed Company Manual. Such standards include requirements relating to: Audit Committees, § 303.00; Concentration of Voting Power, § 305.00; Defensive Tactics, § 308.00; Quorums, § 310.00; Shareholder Approval Policy, § 312.00; and Voting Rights, § 313.00. The Commission notes that the NYSE's proposed amendment states that related policies and requirements set forth in other sections of the Company Manual, as they may relate to non-U.S. companies, are to be considered in light of the provisions of proposed section 103.

Amex governance standards for listed companies are set out in the Amex Company Guide, Part 1 ("Original Listing Requirements") and Part 7 ("Shareholers' Meetings, Approval and Voting of Proxies").

The qualitative requirements the NASD would exempt foreign issuers from are contained in its pending proposal, note 2, *supra*.

Both NYSE and Amex have different quantitative listing requirements (*e.g.*, number of shareholders, number of publicly held shares, market value of publicly held shares, tangible net worth, pre-tax income) for non-Canadian foreign companies than for domestic companies. *See* Amex Company Guide, section 110; NYSE Listed Company Manual, section 103. These standards focus on worldwide distribution of shares rather than distribution within the United States. Both NYSE and Amex, however, permit non-Canadian foreign companies to qualify for listing under either the quantitative standards for domestic companies or those established for foreign companies. *See*, Amex Company Guide, sections 101, 110; NYSE Listed Company Manual, sections 102, 103.

The NASD's quantitative standards are generally the same for domestic and foreign issues (including American Depository Receipts ("ADRs"), except that foreign issues and ADRs exempt from registration under 12(g) of the Act by Rule 12g–2(b) under the Act or registered under Section 15(d) of the Act have different standards. In this connection, the Commission notes that the Rule 12g3–2 exemption is no longer available for either Canadian issuers or for other issuers not quoted on NASDAQ as of October 1, 1983.

[10] In this regard, it should be noted that the NYSE, Amex and NASD proposals will not alter the obligation of a non-U.S. company participating in U.S. securities markets to comply with the requirements of either the Securities Act of 1933 or the Act and the rules and regulations promulgated thereunder.

or the NASD. All submissions should refer to the file numbers in the caption above and should be submitted September 2, 1986.

Dated: July 25, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17388 Filed 7-31-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23473; File No. SR-PSE-86-12]

Self-Regulatory Organizations; Order Granting Accelerated Effectiveness of Proposed Rule Change by Pacific Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 7, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This filing will have the effect of changing the procedure used for the election of stop and stop-limit orders (i.e. when the orders become market orders or limit orders, respectively) by use of a quotation.

Under the terms of the proposed rule, a stop order to buy will become a market order when the *bid* price in the options series is quoted at or above the stop price. Conversely, a stop order to sell will become a market order when the *offer* price in the options series is granted at or below the stop price.

A stop-limit order to buy will become a limit order executable at the limit price or a better price (if obtainable) when the *bid* price in the options series is quoted at or above the stop price. A stop-limit order to sell will become a limit order executable at the limit price or at a better price (if obtainable) when the *offer* price in the options series is quoted at or below the stop price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

As of now, the stop and stop-limit orders can only be elected when a transaction in the options series occurs at the stop price. As a result, stop and stop-limit orders used in connection with inactive options series often remain unexecuted on the Order Book because no transaction takes place at the stop price.

In addition, the PSE notes that the proposed rule change will permit the same elections that are now provided for in the Philadelphia Stock Exchange Rule 1086(g), approved by the Commission on December 4, 1985, and in the recently approved rules of the American Stock Exchange (File No. SR-AMEX-84-41) and the New York Stock Exchange (File No. SR-NYSE-85-32). (See SEC Release Nos. 22240 and 22495, respectively.)

The PSE believes that this filing is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 in that it will facilitate transactions in securities and remove impediments to the mechanisms of a free and open market.

(B) Self-Regulatory Organizations's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because the rule change is substantively identical to proposals previously filed by the American, Philadelphia and New York Stock Exchanges and approved by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication thereof because the rule change is substantially similar to proposals previously filed by the American,[1] New York,[2] and Philadelphia [3] Stock Exchanges and approved by the Commission.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 22, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

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[1] *See* Securities Exchange Act Release No. 22240 (July 15, 1985), 50 FR 29776 (July 22, 1985).

[2] *See* Securities Exchange Act Release No. 22495 (October 2, 1985), 50 FR 41082 (October 8, 1985).

[3] *See* Securities Exchange Act Release No. 22630 (November 11, 1985), 50 FR 46517 (November 25, 1985).

Dated: July 28, 1986.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-17387 Filed 7-31-86; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-23470; File No. SR-PSE-86-14]

Self-Regulatory Organizations; Proposed Rule Change by The Pacific Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1986, The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This filing will have the effect of first, consolidating all references to the procedure of appealing a sanction issued by a floor citation into one rule, Rule XX, section 11.

While in the process of consolidating these rules, the Exchange is, in addition, clarifying and adding to the procedure for appealing as follows:

The relevant section of Rule XX, will now be specifically applied to the appeal of floor citations rather than "Exchange action other than disciplinary actions and arbitrations;"

The Exchange has added the ability to request witnesses at a hearing on these matters, at the discretion of the panel, to further protect the members' rights and to ensure a fair hearing;

The Exchange has deleted the provision that requires a copy of the application for hearing and review to be sent to the Board of Governors, due to the fact that the application is automatically accepted and the Board will review the matter at a later time;

The Exchange has amended the provision that allows the Board to reopen a decision of the appeal panel to either thirty days from the date of the decision, as it now reads, or upon the first presentation made to the Board, which could be beyond the original thirty day period.

The Exchange has expanded the composition of the hearing panel to include either members of the existing committee that has jurisdiction over the matter, or other members which the committee has approved to act as hearing panelists.

In the second part of the filing, the Exchange is amending Rule XX, section 5, which sets out the procedures to be followed in the course of Exchange disciplinary actions. Specifically, section 5 has a default provision which allows for a summary determination to be made by a Hearing Committee when a Member fails to answer any formal complaint issued by an Exchange Committee. The amendment to this section will be to delete that part of the section that allows a Member ten days after the summary determination to reopen the matter and ask for a hearing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

A. Since the inception of the Rules governing options trading, there has been an ongoing need to revise certain aspects of the Rules to conform them to the natural evolution of regulation in this relatively new trading environment. This proposed rule change is an example of such a need.

Originally, section 84 was drafted to allow members to request a review or hearing for what was termed "Exchange action other than disciplinary actions and arbitrations." This term was intended to cover those types of actions that are now dealt with by the use of Floor Citations.

Citations are issued on the floor of the Exchange by Floor Officials whose duty it is to see that the members do not violate any of the specific rules dealt with by citations. However, because section 84 was drafted prior to the establishment of the citation system, it is not stated that the Section applies to Floor Citations.

Accordingly, the first part of the rule change is designed to update section 84 to ensure that it is applicable to the current procedures of the Exchange. The Exchange has also added the ability to request witnesses at a hearing on these matters, at the discretion of the panel, to further protect the members' rights and to ensure a fair hearing.

Two additional changes appear in paragraph (c) of the current section 84, "Procedure Following Applications for Hearing and Review." The first change is to paragraph (c)(1) which deletes the provision that requires a copy of the Application for Hearing and Review to be sent to the Board of Governors.

When an application for a hearing or review is made, the appropriate committee grants the review automatically. Therefore, sending the Application to the Board has no effect since the review will take place regardless of whether the Board receives the Application or not. Once a member submits an application for hearing or review, a 3-member Hearing Panel is selected to hear or review the matter. The Panel's decision is then submitted to the full committee for their review, and is reported in the subsequent minutes. Because the Board receives the minutes of the Committee and then has the opportunity to review the Decision, the Exchange considers the initial referral of all applications to the Board to be an unnecessary duplication.

The second change to paragraph (c) of section 84 is in (c)(1) which sets forth a deadline for review of a decision by the Board, on its own motion, within thirty days after issuance of the decision. The Exchange is concerned with the fact that there are times when, due to various factors, the Board may not see the decision within the thirty days after issuance. If that occurred, the Board would be precluded from reopening a decision if they felt it was incorrect. The Exchange has therefore added the provision to allow the Board to reopen the matter either within thirty days from the date of the decision, or upon presentation to the Board, whichever is later. This will ensure that the decision can be reopened by the Board at the time it is presented to them.

In (c)(1) of section 84, the Committee will now be able to appoint a hearing panel composed of *other* approved members besides the current members of the Committee. This will allow hearings to be held without the delay caused by the inability of Committee members to find the time to serve as hearing panelists.

Finally, the entirety of section 84 will be transferred to Rule XX Section 11, "Disciplinary Proceedings" in order to consolidate all disciplinary matters.

B. Rule XX of the Rules of the Board of Governors of the Pacific Stock Exchange Incorporated ("Exchange") sets out the procedures to be followed in the course of Exchange disciplinary actions. Section 5 of the Rule allows for a summary determination to be made by a Hearing Committee when a Member fails to answer any formal complaint issued by an Exchange Committee. This default provision only comes into use when the member has failed to exercise his right to respond after several requests from the Exchange staff. However, once a determination as to penalty is made, the member must be notified of the penalty and is given ten days to ask for a Hearing.

While the Exchange is mindful of protecting the due process rights of the member, it is also aware that section 5 is overboard in that respect. As a matter of practice and courtesy, Exchange staff notifies members of matters which could subject them to disciplinary action even before they are initially brought to an Exchange Committee, and affords them the opportunity to state their case. A Committee, composed of their peers, then carefully deliberates on the merits of the case and considers the members' response if they choose to submit one.

If a Committee issues a Complaint, a member has at least fifteen days to file an Answer. Staff is lenient with respect to the granting of extensions, and also does not require a high level of formality with respect to the Answer. If no Answer is received, the member is again contacted and asked to supply the Answer. If, at that time, no Answer is yet given, the same Committee then imposes a penalty based upon finding the member in default.

The Exchange is of the belief that sufficient safeguards are in place to protect the due process rights of the members even without the provision in section 5 which allows a defaulting member to set aside the determination of the Committee. For example, once a default penalty has been imposed by the Committee, a member may still petition the Board of Governors for a rehearing, irrespective of the default provision found in section 5. In addition, any member who is disciplined by the Exchange may petition the Securities and Exchange Commission for yet another review. The Exchange feels that such a rule change will have the practical effect of saving a substantial amount of staff time that could be allocated to other needs.

This proposed rule change is consistent with section 6(b)–(5) of the Securities Exchange Act of 1934 in that it is designed to foster cooperation and coordination with the members of the Pacific Stock Exchange and the Exchange's regulatory staff; and in accordance with section 6(b)(7) in providing a fair procedure for the disciplining of members and those associated with members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so findings; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 22, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–17385 Filed 7–31–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission For Aeronautics (RTCA); Special Committee 156—Potential Interference To Aircraft Electronic Equipment From Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard to be held on August 26–27, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of Tenth Meeting's Minutes; (3) Review of Task Assignments; (4) Committee final report. Integrate assigned sections into a First Draft; (5) Other business; (6) Task Assignments; (7) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 24, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86–17301 Filed 7–31–86; 8:45 am]

BILLING CODE 4910–13–M

Proposed Advisory Circular; Performance Information for Operation With Water, Slush, Snow, or Ice on the Runway

AGENCY: Federal Aviation Administration.

ACTION: Notice of proposed revision to advisory circular 91–6A and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides information, guidelines, and recommendations concerning the takeoff and landing preformance of turbojet aircraft on wet runways or runways contaminated by standing water, slush, snow, or ice.

DATE: Comments must be received on or before September 30, 1986.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Flight Technical Programs Branch, AFO–210, 800 Independence Avenue SW., Washington, DC 20591. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Gough, AFS–210, at the above address, telephone (202) 426–8452.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named above under "**FOR FURTHER INFORMATION CONTACT.**" Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify AC 91–6B and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Flight Technical Programs Branch before issuing the final AC.

Discussion

Advisory Circular 91–6A has long been available as guidance for adjusting airplane takeoff performance to account for contaminants on the runway and their detrimental effect on airplane acceleration performance. The purpose of proposed AC 91–6B is to replace AC 91–6A with guidance that is greater in scope in that both the loss in acceleration and reduced braking are considered. Advisory Circular 91–6B also reflects the experience gained from many years of aircraft operation on contaminated runways. Whereas AC 91–6A reflects a need only for adjustments to takeoff data, proposed AC 91–6B includes both takeoff and landing. AC 91–6B also recommends consideration of an engine failure during the takeoff and the use of reverse thrust during a rejected takeoff or landing if the airplane is so equipped. In addition, proposed AC 91–6B offers expanded guidelines regarding the definitions of runways with various contaminants, and the braking coefficients that are considered appropriate to each.

Issued in Washington, DC on June 20, 1986.

William T. Brennan,

Acting Director of Flight Standards.

[FR Doc. 86–17302 Filed 7–31–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series No. 24–86]; Interest rate on Treasury Notes of Series AC–1988

Washington, July 24, 1986.

The Secretary announced on July 23, 1986, that the interest rate on the notes designated Series AC–1988, described in Department Circular—Public Debt Series No. 24–86 dated July 17, 1986, will be 6⅝ percent. Interest on the notes will be payable at the rate of 6⅝ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–17297 Filed 7–31–86; 8:45 am]

BILLING CODE 4810–40–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Addition

On July 9, 1985, notice was published at page 28058 of the **Federal Register** (50 FR 28058) by the United States Information Agency pursuant to Pub. L. 89–259 relating to the exhibit "Treasures of the Holy Land: Ancient Art from the Israel Museum." Since that notice was published, USIA was informed that an additional object is to be included in the exhibit. It is a mosaic pavement from the site of Beth Shean.

I hereby determine that this object is of cultural significance, and that display of the exhibit at the Metropolitan Museum of Art, New York, New York, beginning on or about September 25, 1986, to on or about January 5, 1987; the Los Angeles County Museum of Art, Los Angeles, California, beginning on or about April 9, 1987, to on or about July 5, 1987; and the Houston Museum of Fine Arts, Houston, Texas, beginning on or about October 31, 1987, to on or about January 17, 1988, to be in the national interest. A copy of the list of objects covered by this notice may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of U.S.I.A. The telephone number is 202–485–7976, and the address is Room 700, 301 4th Street SW., Washington, DC 20547.

Dated: July 25, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86–17347 Filed 7–31–86; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 148
Friday, August 1, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

1

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of a forthcoming meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 5, 1986, from 10:00 a.m. until such time the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703-883-4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters at the meeting are:

1. Approval of Minutes of July Meeting.
2. Amendment to Rules of transaction of Business of the Farm Credit Administration Board.
3. Regulations:

Final

Part 611—Mergers, Consolidations, Territory Adjustments, Conservatorships, Receiverships

Proposed

Parts 614 and 615—Elimination of Prior Approvals Relating to Capital Adequacy Related Regulations

4. Action on Loan Documentation Standards.
*5. Consideration of Personnel Related Matters.
**6. Examination, Supervision, and Enforcement Matters.

*Closed Session—Exempt pursuant to 5 U.S.C. 552b(c)(2).

**Closed Session—Exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

Dated: July 29, 1986.

Kenneth J. Auberger,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86-17456 Filed 7-30-86; 1:02 pm]

BILLING CODE 6705-01-M

VOL
51
ISS
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federal register

Friday
August 1, 1986

Part II

Department of Agriculture

Farmers Home Administration

7 CFR Parts 1930, 1944, 1951, and 1965
Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients; Final Rule

VOL 51 ISS 148 AG 1 1986 UMI

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1930, 1944, 1951 and 1965

Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations governing the management and supervision of Farmers Home Administration (FmHA) Multiple Family Housing Loan and Grant Recipients. This action is taken to incorporate changes required by the Housing and Urban-Rural Recovery Act (HURRA) of 1983, and to make administrative changes and clarifications. The intended effect of this action is to implement policy changes based on consideration of public comments received in response to proposed rule of July 16, 1985, (50 FR 28782).

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: James D. Tucker, Branch Chief, Multiple Family Housing Servicing and Property Management (MHSPM) Division, Room 5321–S, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 382–1618.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "nonmajor." This action will not result in an annual effect on the economy of $100 million or more. This action will not result in a major increase in the cost or price for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This action will not cause any significant adverse affects on competition, employment, investment, productivity, or innovation. This action will not cause any significant adverse affects on the ability of enterprises based in the United States to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed according to 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. According to the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Intergovernmental Review

This program/activity is listed in the Catalog of Federal Domestic Assistance under numbers 10.405, 10.411, 10.415 and 10.427 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, USDA, has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

General Information

Background and Statutory Authority

On November 18, 1983, the Ninety-Eighth Congress passed legislation known as the Housing and Urban-Rural Recovery Act (HURRA) of 1983. The legislation was enacted November 30, 1983, upon signature by the President. A major thrust of HURRA is to require alignment of the FmHA definitions of low-income families or persons and very low-income families or persons with those established by the Department of Housing and Urban Development (HUD) in implementing the provisions of the United States Housing Act of 1937. Closely related is the requirement that FmHA's definitions of income and adjusted income be consistent with those established by Congress under sections 3(b)(4) and 3(b)(5) respectively of the United States Housing Act of 1937, which are described in this rulemaking. Another requirement of HURRA is the establishment of rules prohibiting denial of common household pets in federally assisted housing for the elderly as required by section 227 of HURRA.

Other changes correct and clarify the proposed rule in response to questions raised by the public and FmHA staff.

Responses to Public Comments

Numerous public comments were received on the proposed rule during the comment period. Comments were received on a variety of issues. A summary of the most significant issues surfaced follows. The following discussion of comments relates to Exhibit B to Subpart C of Part 1930 unless otherwise indicated.

HUD Related Changes

Definitions

A number of comments indicated that contrary to the provisions of law, FmHA income definitions differed from those published by the Department of Housing and Urban Development (HUD). The FmHA does not interpret the law as requiring adoption of the exact wording used by HUD. The FmHA considered the proposed definitions to be compatible with those used by HUD and definitions in 7 CFR Part 1944, Subpart A (50 FR 39959), (50 FR 48372) and (51 FR 6393), for making FmHA Single Family Housing loans. The latter provisions also implement requirements of HURRA to be compatible with HUD income definitions. This rulemaking action defines income to achieve an even greater degree of compatibility with HUD definitions and FmHA's Single Family Housing loan program definitions.

Commentors indicated the income exclusions were not compatible with those used by HUD because the Agency did not specifically list HUD's exclusion of any income excluded by Federal statute. The Agency listed those programs it considered applicable for exclusion; however, with the vast amount of legislation the Agency recognizes an accurate listing is difficult to maintain. The Agency agrees there is a need to incorporate wording excluding any income specifically exempted by a Federal statute along with a listing of programs the Agency has identified as meeting the criteria. The Agency also updates the published listing to include exclusion of income derived from benefits received by the Job Training Partnership Act, benefits from certain funds held in trust by Indian tribes, etc., and modifies its listing excluding benefits of the Food Stamp Act of 1964 to correctly reference the amended Food Stamp Act of 1977. The Agency agrees to move to achieve needed compatibility with HUD rules governing sources which can be excluded from annual income by adding wording similar to that utilized in the FmHA's Single Family Housing program. The latter wording is considered to be more compatible with HUD rules and received public comment review.

Public comments were received indicating income deductions for medical expenses not covered by insurance should be based on past expenses rather than projected

expenses. The Agency chose to retain the use of projected expenses. The Agency anticipates adequate capability exists to reasonably expect that medical expenses can be projected. Projections are used for all future income and deductions. The approach to permit income deductions for projected medical expenses not covered by insurance is also used by HUD. The Agency is required by law to adopt income definitions which are compatible with those used by HUD.

Commentors indicated a more definitive statement of what constitutes substantial income from domestic farm labor should be incorporated in the definition of domestic farm laborer. Commentors cited a motion for entry of consent judgment and a consent judgment entered before the United States District Court for the Southern District of Forida in Case Number 82-0451. The Agency offered to propose clarifying language as indicated in its motion for entry of consent judgment; however, the final consent order did not require the Agency to immediately promulgate such regulations. The Agency recently addressed the need for clarifying language. Such clarifications were recently adopted by a separate final rulemaking action published in the Federal Register on June 24, 1986, (51 FR 22924) at § 1944.153 of Subpart D of Part 1944. This regulation incorporates those definitions by reference.

The Agency noted commentors' request to include persons who are on indefinite parole in the definition of eligible domestic farm labors. The Agency will pursue any needed implementation of clarifying language related to this issue through separate rulemaking action in 7 CFR Part 1944 Subpart D.

Concern surfaced over the Agency's definition of elderly to include persons with specified handicaps and disabilities. Concern surfaced over whether marketability may be eroded by permitting the disabled and their families to occupy elderly projects which restrict children. Concern also surfaced that any definition permitting persons with disabilities to live in an elderly project incorporate safeguards in the definition to allow owners to prohibit entry of such persons in any project not already modified to accommodate such persons. The Agency believes admitting handicapped or disabled persons in elderly projects is unlikely to cause serious marketability problems. The Agency expects retrofit applicability in existing projects to afford handicapped accessibility if a handicapped person applies for occupancy. The Agency does not expect existing housing to be subject to standards which would exceed new construction standards. New construction standards normally require five percent of the units in the project site or one unit, whichever is greater, to be accessible to or adaptable for physically handicapped persons. The Agency recognizes permitting disabled persons to live in elderly projects may potentially raise project expenses. The Agency does not, however, view such possibilities as being so serious as to warrant prohibiting entry of handicapped and disabled persons. The Agency may grant recovery of such expenses via a request to modify the project's budget. Thus, owners have a means to seek recovery of any expenses needed to accommodate handicapped and disabled persons. Furthermore, the Agency notes the law prohibits handicapped or disabled persons from being barred from entry in an elderly project.

Commentors indicated the proposed rulemaking treatment of selected net family asset exclusions from income is flawed and not sufficiently compatible with HUD rules. The Agency agrees with commentors indicating automobiles and personal property should be excluded only if found to be essential living expenses. The Agency also agrees that the definition otherwise lacks sufficient compatibility with HUD rules in that coverage excluding property in trust and disposal of selected assets for less than fair market value is not provided while HUD rules address these issues. The Agency adopts needed changes to paragraph H W of Exhibit B of Subpart C of Part 1930 of this chapter to achieve needed compatibility with HUD rules. One commentor indicated certain assets such as income from notes receivable from the sale of a farm should be exempted from being considered as income for those rural areas served by the FmHA. The Agency believes the enabling legislation contemplates providing subsidized housing by giving priority to those exhibiting the greatest need. The Agency believes the regulations as modified establish proper and prudent rules while protecting rural residents from unreasonable barriers. The Agency does not find sufficient cause to warrant adoption of the latter suggestion.

A number of comments were concerned that the methodology and/or listing of the annual income limits for the published very low, low and moderate income definitions were not printed as a part of the proposed rulemaking action. The Agency believes that the proposed rulemaking action adequately addressed this issue by providing that the limits are available in FmHA Offices. Futhermore, the Agency notes Congressional intent to adopt income definitions comparable to those used by HUD. The Agency believes the public was afforded adequate access to the information related to the income definitions published.

Concern was surfaced over a potential technical flaw in the definition of a tenant. The concern indicated that the definition as written may present an unintended barrier frustrating owners seeking to gain possession of an apartment not occupied by a tenant. The concern indicated the wording conveys that FmHA consider a person a tenant until personal property is removed voluntarily or by legal court proceedings. The Agency agrees a modification is needed to remove a potentially serious flaw in its proposed rulemaking action. The Agency recognizes tenants may not voluntarily remove property and that legal court proceedings may entail considerable time; therefore, the Agency agrees it must also permit owners to continue their right to gain possession through lawful means including eviction in accordance with local legal codes.

Increase in Tenant Contribution

The public comments were both favorable and unfavorable for the proposed change to permit an increase in the required tenant housing contribution from 25 percent to 30 percent of adjusted income without resorting to the degree of complexity used by HUD in implementing its rules to raise the level of the required tenant housing contribution. Alternative methods were suggested to phase in any increase in a tenant's required housing contribution. In addition, concerns were surfaced that the provisions of 42 U.S.C. 1940a will not be properly applied because the Agency did not recognize that the 10 percent cap on any rental increase caused by increasing the required level of tenant housing contribution, was intended to apply regardless of whether such increase was brought about by a change in the definition of income and/or an increase in the required level of housing contribution. Concern was also surfaced that the provisions of 42 U.S.C. 1940a will not be properly applied because the Agency did not recognize that those requirements also apply to any rental increases the Agency may authorize. An example of such is FmHA authorizing rents for low or very low income persons to be raised to 125 percent of

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VOL 51 ISS 148 AG 1 1986 UMI

market rent for tenants deemed ineligible due to reasons such as violating lease restrictions governing extended absences. Concern was also surfaced over the need to discuss how the required rental housing contributions for Plan I projects are derived in the provisions of Exhibit B of Part 1930 Subpart C. Additionally, concern was raised about whether the provisions governing the required housing contribution should contain technical differences for those residing in residences before and after any final rulemaking issuance.

Rental increases above 10% must be shown to be unrelated to the Housing and Urban-Rural Recovery Act (HURRA) or other law or regulation. The Agency will use its revised tenant certification form to ensure these requirements are met. The Agency finds the law permits increases above 10% for changes due to income changes or future rental changes not attributable to HURRA. The Agency also concludes that the law permits the Agency to authorize some or all of low or very low income rents to be raised up to 125 percent of market rent for tenants deemed ineligible due to reasons such as violating any lease restrictions governing extended absences. The Agency contends any 10% cap on tenant housing contributions is applicable to eligible tenants and further contends such provisions of law did not apply to authorized penalty provisions imposed for reasons such as failure to meet lease convenants.

The Agency considers the required tenant housing contribution levels to be adequately covered in Exhibit E to Part 1930, Subpart C. The Agency considers the provisions governing the required level of tenant housing contribution appropriate. The Agency notes a technical modification is needed to enable tenants to continue receiving Rental Assistance (RA) when the gross tenant housing contribution is shown to be above the specified thresholds (i.e. 30% of monthly adjusted income, etc.). This change is needed because due to the HURRA provisions, some tenants previously categorized as low income will be pushed into a moderate income category. The proposed rulemaking action considered such applicants ineligible for RA. Failure to make a technical change would require the project to absorb an income reduction until such time as an increase in rental rates were authorized. Additionally, this technical change is needed to promote more uniformity in program delivery and prevent potential vacancy problems. High housing costs attributable to differences in climates will require many *moderate* income tenants to have housing costs above 30% of their adjusted income. This could cause such tenants to be unable to afford the rental rates. These conditions warrant making an exception to the RA eligibility standards to permit tenants receiving RA to continue getting RA. The exception criteria will provide a smoother transition period than would otherwise be expected to occur.

Other Changes

Public commentors offered a number of technical changes related to management agreements and management compensation including suggestions as to what should constitute acceptable fees. The Agency considers its proposed rulemaking wording to be adequate in this area.

A number of commentors were concerned with the proposed eligibility standards for continued occupancy. Commentors suggested a variety of alternatives including the retention of existing occupancy standards in lieu of adopting the proposed changes, and modification of various parts of the newly proposed standards.

The Agency carefully considered public comments in this area and concluded there was insufficient public support to warrant adoption of the flexible occupancy standards published in the prior rulemaking action. The Agency therefore chose to retain its existing occupancy standards with minor modifications primarily aimed at streamlining the processing of any requests for an exception to the existing occupancy standards.

Commentors suggested a variety of technical changes to rules governing project management compensation. Suggested changes included requiring fees to be set at a fixed amount per occupied unit unless an exception is given by the Agency, establishing a range of acceptable fees, describing what constitutes excessive fees, requiring any evaluation of reasonable management compensation to be based on non-FmHA projects providing similar services and providing better guidance on how management compensation is reported on a project's cash budget. The Agency believes the prior rulemaking issuance provided appropriate guidance on management compensation without making additional policy changes. The Agency contends that the nature of the suggested changes would prove to be administratively too cumbersome or impractical to adopt.

Concern was surfaced that requiring tenants to vacate projects, should their adjusted annual income exceed the moderate income limit established, is not appropriate to apply to the Rural Rental Cooperative (RCH) program. The Agency agrees but believes no clarifying changes are needed. Since residents of RCH projects are not considered tenants the provisions cited do not apply.

Concern was surfaced that placement of an absence restriction in the occupancy standards and the lease is inappropriate, discriminates against lower income households and interferes with constitutional rights to travel. The Agency contends the absence restrictions do not violate constitutional rights to travel and that the standards are needed and are appropriate. The regulations afford an owner an objective and practical means to seek remedy against tenants suspected of not being entitled to federal benefits. Tenants are protected against arbitrary eviction by virtue of the notification requirements which must proceed any eviction proceedings. The tenants are also protected under State or local laws governing procedures for an airing of tenant eviction grievances. Similar concerns were surfaced over the policies governing tenant guests in paragraph VIII–F9 of Exhibit B to Subpart C of Part 1930. The Agency considers it's tenant guest policies to be appropriate for reasons similar to those used in establishing restrictions on extended absences.

Concern was raised that the proposed occupancy standards permit too much flexibility with respect to establishing person per unit standards and/or standards governing the use of bedrooms by dependents of the tenant and/or co-tenant. The comments indicated a concern that the degree of flexibility permitted may lead to arbitrary and discriminatory admission policies. The Agency contends the proposed standards should provide sufficient protection against arbitrary and discriminatory admission policies. However, in view of the public responses in this area, the Agency concluded there was not sufficient public support for the flexible occupancy standards proposed. The Agency therefore chose to retain its existing occupancy standards with minor modifications primarily aimed at streamlining the processing of any request for an exception to the existing occupancy standards.

Concern was surfaced that a grandfather provision is needed for occupancy standards in effect under the terms of any existing lease. The Agency believes the provisions in paragraph VI B 2 of Exhibit B of Part 1930, Subpart C are adequate.

Comments were received that the proposed provisions, stipulating that rental agents should consider the use of credit reports, warrant being dropped or modified. Modification was suggested to require a comparison of past income and related living costs to the projected future income and related living costs when reviewing credit reports. Commentors are concerned that credit reports can be used in an arbitrary and abusive manner and may encourage discriminatory practices.

The Agency contends the use of credit reports in eligibility considerations is useful in evaluating eligibility for those seeking benefits from a lender of last resort such as the FmHA. The Agency contends management agents need not always be expected to consider the underlying causes for each denial action based on poor credit history. The FmHA believes it is sufficient to afford multi-housing tenant applicants a forum to challenge a denial action under the Agency's appeal procedures governing tenant applicants. Such forum provides appropriate protection against arbitrary and discriminatory practices by management agents/owners.

Commentors were concerned that it is not appropriate to require formerly eligible tenants to vacate at the end of their lease or 30 days whichever is longer if eligible tenants are on a waiting list and ready for occupancy. Commentors further indicated that such requirements may violate 7 U.S.C. 1941 (g) which provides that programs be carried out, consistent with program goals and objectives, so that involuntary displacement of families and businesses is avoided.

The Agency contends the provisions of paragraph VI B 5 of Exhibit B are appropriate and consistent with its enabling legislation. The multi-housing goals and objectives are to assist as many persons in the greatest need of decent, safe and sanitary housing, as is possible under the law and the Agency's implementing regulations. The Agency seeks to avoid involuntary displacements of those persons the Agency was charged to assist. The regulations are designed to achieve this objective.

The Agency notes that paragraph VI B 2 of Exhibit B provides adequate protection to ensure fair consideration of those existing tenants who occupied residences under earlier policies. The grandfather provisions of paragraph VI B 2 of Exhibit B permit continued same unit occupancy by tenants who met earlier eligibility requirements. Since servicing tenants of above moderate income limits is not consistent with the Agency's goals and objectives, they may be properly required to vacate if other eligible tenants are available for occupancy. Since tenants who "under occupy" a unit are not consistent with Agency goals and objectives, because they restrict access by a greater number of eligible people, they may be properly required to vacate if other eligible tenants are available for occupancy. Since tenants who "over occupy" a unit are not consistent with Agency goals and objectives (because they exceed the occupancy standards designed to ensure decent, safe and sanitary housing) such tenants may be properly required to vacate if other eligible tenants are available for occupancy.

The Agency notes the District Director may permit continued occupancy by formerly eligible tenants for a reasonable period of time if vacating the unit in the time period prescribed creates an undue hardship on the family. Under such regulations families who may be under-utilizing a unit may be considered for retention as tenants when circumstances warrant such as when a known appropriately sized unit will become available for occupancy in the near future.

Commentors also were concerned that requiring the mandatory use of an inquiry list is a burdensome and unneeded requirement. The Agency considers an inquiry list to be a useful management tool. Upon reconsideration of this issue in light of the public comments received, the Agency agrees to make the use of such list optional.

Commentors indicated that it is wrong to stipulate that applicants who give written reasons why they cannot accept an offer to occupy an appropriately sized living unit, will forfeit their right to appeal the removal of their name from a waiting list. The Agency intended to convey that such appeal rights are forfeited when an applicant requests to be removed from a waiting list. The Agency agrees to amend paragraph VI E 1 of Exhibit B of Part 1930, Subpart C to preserve an applicant's right to appeal any removal from a waiting list unless the applicant has volumtarily lodged a written request to withdraw an application from consideration.

Concern surfaced over the failure of the regulation to give guidance if an employer refuses to verify income from employment. The Agency agrees and adds language to accept a notarized affidavit from the tenant identifying the tenant's gross annual income when an employer or income source refuses to verify income.

Concern was surfaced that interest and investment income should be included as examples of income which must be verified in writing by the income source. The Agency contends adequate guidance is provided on this issue without the need to add clarifying language.

Concern surfaced that the Agency's proposal to let borrowers project income for labor housing tenants in instances where income cannot be easily verified invite abuse and thus should be dropped in favor of permitting a notarized affidavit from the tenant stating the gross annual income. The Agency believes the proposed rules on this issue are appropriate. The Agency anticipates that labor housing tenants may not be able to access a notary as readily as non-labor housing tenants.

Concern was surfaced that a limit be placed on the size of a waiting list to prevent the administrative burdens which can be encountered when waiting lists build up to large numbers. The Agency contends the provisions of paragraph VI C 7 of Exhibit B are adequate. These provisions permit borrowers to establish procedures to periodically purge inquiry and waiting lists.

Concern surfaced that additional safeguards should be imposed to protect against potential abuses in any application fee charges that owners may propose. Recommendations included prohibiting fees until such time as income verifications were necessary, prohibiting charges for staff costs or overhead, and requiring application fees to be included as project income. The Agency contends its regulations require application fees to be included as project income and that adoption of the recommended safeguards is not necessary.

The priority list procedures used in the maintenance of waiting lists and in the processing and selection of tenant applications elicited a number of public comments. Changes recommended included "grandfathering" applications on hand who are eligible for rental assistance (RA) into the highest processing priority, permitting owners to select low income applicants over very low income applicants for those existing projects already meeting their existing requirements to maintain a specified percentage of very low income applicants (i.e., 95 percent or 75 percent), permitting applications to be processed on a first-come-first-served basis, establishing an ineligible category at the lowest priority level, establishing coverage of the provisions of 42 U.S.C. 1485(o), and establishing a category preference for applicants residing in inadequate housing as the law intended as specified at 42 U.S.C 1490(1).

The Agency contends the proposed rulemaking regulations governing the maintenance of waiting lists, and the processing and selection of tenant applicants are in compliance with the provisions of 42 U.S.C. 1490(1) and 42 U.S.C. 1485 including the provisions of 42 U.S.C. 1485(o). Enabling selected low or moderate income applicants to have priority over very low income applicants is not consistent with Agency objectives of helping the greatest number of applicants who exhibit the greatest need for housing, attain access to decent, safe and sanitary housing. Requiring a priority listing for ineligible applicants or for those residing in inadequate housing is not considered necessary. The implementation of any such recommended priority requirements is considered burdensome, impractical and unnecessary under the law. The implementation of restrictions curtailing access by low or moderate applicants to units where RA is available even under conditions where no very-low income applicants are on a waiting list may threaten the financial viability of housing projects. The proposed rulemaking provisions set out at paragraph VI E 2 of Exhibit B are legally sufficient. The Agency also contends the implementation of the additional recommended priority categories would entail an increase in public reporting burdens and require a capacity to identify and confirm whether an applicant resided in inadequate housing. Such requirements would impose a considerable burden on private sector owners and such requirements are not required to carry out the spirit or letter of the law.

Concerns surfaced that requiring submission of an initial tenant certification on or before the day the tenant occupies the unit creates a burden on large operators. The Agency contends such a burden is minimal and that the requirement is reasonable.

Public concern indicated the Agency should consider requiring one annual tenant certification for each project instead of on the anniversary date of each tenant's previous certification. The Agency believes most project owners would object to adopting an annual recertification for the project because of the advantages inherent in spreading recertification workloads throughout the year.

Concern was raised over the clarity of the existing tenant income certification procedures. The Agency agrees that some clarifications were needed. The confusion surfacing over when the income recertification becomes effective should be eliminated by the incorporation of an effective date on the tenant income certification form to be issued with this rulemaking action.

Concern was surfaced that the tenant income recertification process being used since implementation of the Automated Multi-Housing Accounting System (AMAS) presents the potential for serious financial burden on projects since payment of overage is required for any tenant without a current tenant certification on file. The Agency agrees that some relief from payment of overage is warranted when tenants served with eviction notices refuse to cooperate in providing current tenant recertifications. The Agency is permitting relief from payment of overage in such circumstances. The Agency contends payment of overage by the borrower is warranted in all circumstances other than as noted above. The borrower is expected to diligently obtain current income tenant certifications and can reasonably be expected to secure such certification under the rules proposed. Project managers failing to secure such certifications are expected to pay overages and seek appropriate reimbursement from the tenant. The Agency contends such requirements are reasonable.

Comments were received indicating that District Offices should not be required to notify the borrower in writing 90 days in advance of a tenant recertification and specify the due date. The Agency adopted this practice in an earlier regulatory issuance to insure owners would be aware of the penalties involved for failure to obtain current tenant certification for tenants. The Agency no longer believes it necessary to date such notice to be sent by District Directors and adopts the recommendation to drop this requirement.

Concerns were surfaced that the present FmHA policy of not allowing recapture of RA and overages for tenants moving out after the first of each month may result in a substantial loss for a project. The Agency is not convinced substantial losses may occur for a project due to its practice of paying RA based on a tenant's occupancy from the first of the month and basing overage collections on the first of the month occupancy. The Agency believes that the added costs to compute such payments and collections based on actual occupancy dates are likely to outweigh the costs required to accommodate a change. The Agency contends that typical project budgets will not incur substantial losses as a result of the Agency's policies governing calculation of RA payment and/or overage collection. The Agency notes that over the long term the project is as likely to include benefits as it is losses by adopting a policy of paying RA and basing overage collections based on a first of the month tenant occupancy.

Concern was surfaced that the mortgage late fee penalties imposed on borrowers by the Agency are too severe. Permitting late fees of 6 percent of the monthly note installment was considered by some to be unwarranted. The Agency disagrees and notes it is not aware of any widespread concern in this area.

Concern surfaced that the Agency should permit interim certification when a tenant's income status or family-size changes while retaining the original certification expiration date. The Agency contends there is insufficient cause presented to warrant changing existing administrative requirements in this area.

Concerns surfaced that the technical provisions of the lease provisions be changed to convey that rents may change for failure to submit information necessary to certify income. The Agency adopts such changes.

Commentors requested regulations clarify when to record security deposits as project income. The Agency contends such added guidelines are not shown to be needed. The Agency requires security deposits to be reflected on project income budgets when such deposits become available as project income, an example of which occurs when security deposits are properly retained by the project because of the condition of a vacated unit.

Concern was surfaced that the proposed regulations prevent late fees from being paid from project income and that such requirements should not apply to nonprofit and public borrowers. The Agency contends such borrowers may have income sources to pay such fees. Should this not prove to be the case, the proposed regulations are sufficiently flexible to permit a waiver of late fee charges. The Agency contends additional changes are not shown to be needed.

Commentors expressed concern that any notice to terminate tenancy should properly inform tenants of an opportunity for review under Agency appeal procedures as required by 42 U.S.C. 1480(g). The Agency contends the proposed regulations are in compliance with the provisions of 42 U.S.C. 1480(g). The proposed regulations require any tenancy termination notice state the reasons for termination and refer to relevant portions of the lease. Such

notice must also give tenants prior notice of eviction in accordance with State or local law and advise tenants that the borrower may seek to enforce the termination only by bringing a judicial action at which time the tenant may present a defense. The Agency contends the provisions of 42 U.S.C. 1480(g) do not require tenancy termination appeal reviews to be done by FmHA. The law affords the flexibility of permitting such termination appeal reviews under State or local law. The Agency chooses to continue to permit termination appeal reviews be conducted under State or local law in lieu of providing such reviews under FmHA appeal procedures.

Concern was surfaced over the requirements for review lease provisions by the Office of the General Counsel (OGC) in selected cases. The recommendation was made to exempt review by OGC for any leases the borrower's attorney certifies is in compliance with State law even when used for multiple projects. The Agency contends a review by OGC is warranted. The Agency notes that the published provisions would permit use of an OGC approved sample lease for use within a State by borrowers owning multiple projects without the need to obtain separate OGC approval for use on each separate project. The Agency contends review by OGC is warranted to ensure that the lease complies with the requirements set out in FmHA Instructions as well as the State laws.

Concern was surfaced that the lease provisions were in need of technical changes including inserting provisions stipulating that required tenant contributions may be raised or lowered for failure to provide information necessary to certify tenant income. The Agency agrees that coverage of this issue needs to be contained in the lease provisions and makes appropriate wording changes to implement this recommendation.

Concern was surfaced that paragraph VIII E of Subpart B needed modification to permit a 30 day notice prior to implementing lease terms necessitated by the tenant certification process. The Agency notes the regulation permits such flexibility to meet any such provision which may be required by State law. The provisions permitting borrowers to serve an appropriate notice to the tenant must be done in compliance with any State laws governing such notices.

Public comments recommended that occupancy rules be approved and changed only by the State Director. The Agency contends that it is appropriate to permit exceptions to the occupancy standards to be approved by the District Director.

Concern was surfaced that owners should be permitted to set occupancy standards without FmHA approval. Owners should also be permitted to change occupancy standards without the need to make proposed changes available to each tenant at least 30 days in advance of implementation and to advise tenants of a right to appeal such changes. The Agency contends its safeguards are prudent and should be retained.

Concern was surfaced that tenants should have the option to exclude all and/or certain pets in elderly projects. The Agency contends provisions permitting exclusion of certain pets may be made with the FmHA's Director's consent in accordance with approved pet rules. The Agency contends further changes in the pet occupancy standards are not warranted.

Commentors recommended regulations stipulate that project reserve funds be permitted to construct pet exercise areas, pay liability insurance, etc. The Agency contends such blanket approval is unwise.

Concerns surfaced that better guidance was needed as to what constitutes a reasonable pet security deposit. The Agency agrees that better guidance is warranted and incorporates a change to stipulate that pet security deposits must never exceed the basic rent established for the project.

Concern surfaced that the regulations governing security deposits are unwarranted and restrict efficient market functions. The Agency contends the regulations are warranted and do not impose substantial barriers to efficient market functions.

Concern was surfaced that the grace period for late payment fees be extended to the greater of 10 days or the period prescribed by State law. The Agency contends the 10 day grace period affords an adequate period of relief.

A number of comments were received on the Agency's proposed accounting system requirements. A majority of comments recommended the Agency prohibit the commingling of accounting and reporting records; however, support for commingling of such records was voiced by a number of commentors provided the requirements were carefully drafted to safeguard against abuse. The Agency believes it is wise to retain the proposed restrictions on the commingling of records for the immediately foreseeable future.

Concern was surfaced that the State Director should be given authority to grant an extension of the requirement to submit audit results within 60 days of the end of the audit period. The Agency contends such a change is generally not warranted because of the need to receive timely reports to protect the integrity of the program. To comply with Departmental rulemaking action (See 7 CFR Part 3015) authorizing single audits for selected governmental units, the Agency incorporated provisions to accommodate single audits.

Concern was surfaced that the regulations prohibit authorizing a rent increase in any year in which an owner seeks an authorized withdrawal of the required initial 2 percent operating capital investment. The Agency amends its regulations to not preclude approval of a rental increase for normal expenses in the same year that an authorized withdrawal of the initial 2 percent operating capital investment is requested provided the withdrawal does not cause a deficit. The Agency notes any such rental increase sought must be justified and meet with FmHA approval (See Exhibit C of Part 1930 Subpart C).

Concern was surfaced that the proposed regulations governing fidelity bonds is improved but inadequate in some respects. Concern included confusion over whether a blanket bond was permitted to be taken covering both FmHA and non-FmHA security property. The Agency contends the regulations are sufficiently flexible to permit blanket coverage of both FmHA and non-FmHA security as long as FmHA security is separately identified and as long as the costs are established on a pro-rata basis. The Agency notes the latter provision may require that costs for coverage on classes of property be revealed so that a proper pro-rata basis can be calculated. The Agency also believes the proposed regulations should be amended to specifically recognize that commercial forms of insurance or bonding will be used whenever acceptable to the State Director. The Agency also concludes the proposed regulations warrant amendment to remove the need for the OGC to review commercial forms of insurance or bonding for acceptance as to legal sufficiency.

Concern surfaced over whether project owners should ever be required to maintain fidelity bond coverage. The Agency notes such coverage is required only for those owners/employees/management agents having access to project assets. The Agency contends blanket waiver of fidelity bond coverage for owners is not appropriate.

Commentors indicated that authorizing State Directors to contract out for selective non-decision making

VOL 51 ISS 148 AG 1 1986 UMI

servicing actions should be deleted to prevent abuses by inexperienced contractors and greater workload by the Agency. The Agency believes proper use of contractors can reduce Agency workload and provide better service to the public. The Agency believes it can provide the needed monitoring and oversight necessary to ensure the benefits derived from contracting exceed the costs.

Concern surfaced that the provision stipulating that payment of a return on investment may not produce a year-end deficit should be deleted. Concern was expressed that such provisions should be retroactively imposed on projects approved prior to November 30, 1983. Concern was expressed that the provisions are inappropriate especially since other provisions stipulate that rent increases for projects approved on or after November 30, 1983, must be based on actual expenses. The proposed provisions provide the prospect that an owner may never receive a return on investment.

The Agency contends that it is appropriate to impose the restriction on owner's investment return for all projects. The Agency further contends it is unwise to permit payment of a return of investment to owners which would produce a year-end deficit as such practices may threaten the financial viability of the project. The Agency contends retention of the proposed rulemaking provisions on this issue are prudent and appropriate. The older loan agreements/loan resolutions stipulate that operations will be conducted in compliance with Agency regulations.

Rent Changes in Exhibit C of Part 1930, Subpart C

Commentors expressed concern that the proposed procedures governing the processing of rent changes are cumbersome, likely to result in tenants receiving an invalid rent increase notice, likely to have a chilling effect on tenant comments, and may be legally deficient for not giving timely notice to tenants of the approved rent increase. The Agency contends the proposed procedures are legally sufficient and appropriate. The Agency is encouraging its borrowers to meet with the District Director to ensure the borrowers are aware of the documentation needed to review a requested rent increase. The borrower may choose to submit the needed documentation without attending a meeting, with the District Director's consent. The Agency further contends that the proposed procedures do not eliminate the need for owners to notify tenants 30 days in advance of the actual rent increase or such other period as may be prescribed by law. The Agency notes that the provisions of Exhibit C–2 of Part 1930, Subpart C require such notice 30 days before a rent increase. The Agency does not believe the proposed procedures will prove to have a chilling affect on tenant comments or prove to be cumbersome to administer.

Commentors indicated increased insurance costs beyond an owners control warrant the Agency's automatic approval of rent increases to recapture such costs, similar to the treatment afforded when utility costs and taxes increase. The Agency contends there is normally a competitive market for insurance. The Agency contends it should ensure owners explore the market for appropriate and affordable insurance coverage, before the Agency approves any rent increases to cover increasing insurance costs.

Since utilities usually are delivered via a "market" which is a monopoly, the Agency permits automatic approval of rent increases to recapture such increased costs. The Agency contends its policies on these issues are appropriate.

Concern was expressed that the provisions of paragraph III A 2 of Exhibit C inappropriately interpret the provisions of 42 U.S.C. 1485(g) by limiting rent change requests for projects built on or after November 30, 1983, to situations where need is demonstrated by actual costs incurred. The Agency contends it is in compliance with the provisions of 42 U.S.C. 1485(g). The Agency notes paragraph VI C of Exhibit C provides essential information necessary to interpret that the required demonstration of need applies to past operating costs of the project itself or to specified comparable cost data, whatever is less. The Agency contends that the use of the term "incurred costs" in the enabling legislation cited prevents the Agency from authorizing rent increases in the budget based on projection estimates, however realistic or reasonable. The Agency contends; however, that the law affords the Agency the authority to approve rent increases based on written notice of an actual increase to take effect for the project on a date certain; or based on written notices of a minimal level of actual increase known to be implemented on a date certain, or within a short period of a date certain. The Agency contends that the nature of such a written notice is sufficient to enable the Agency to administratively interpret as being in compliance with the law and the implementating regulations. The Agency contends such evidence would not constitute a projection estimate, as an actual level of increase is known and; consequently, the Agency concludes such information can be considered for budgeting purposes.

Concern surfaced that the provisions of 42 U.S.C. 1985(g) governing rent increases, apply to all projects, not just those approved after November 30, 1983. The Agency disagrees and contends the opening provisions of 42 U.S.C. 1985(g) convey that the limits on rents apply to newly constructed or substantially rehabilitated projects assisted after November 30, 1983.

Concern surfaced that rent increases based on actual costs dictate that the projects approved on or after November 30, 1983, will constantly be running deficits and owners will be restricted from recovering a return on investment. Recommendations included dropping the restrictions on rent increases, removing provisions prohibiting paying a return on owner's investment if such a return would produce a year-end deficit, and modifying the return on owner's investment to permit an 8 percent return—not only on the 5 percent minimum required capital investment—but also on the minimum 2 percent operating and maintenance capital contribution requirement. The Agency contends it cannot ignore the provisions of law, and drop regulations limiting rent increases to actual costs on projects approved on or after November 30, 1983. The Agency also contends the restrictions prohibiting payment of owner's return on investment if such payment would place the project in a year-end deficit, are appropriate. The Agency notes owners may properly seek approval of budgets which provide for rental rates which recognize sufficient proceeds to cover project expenses, authorized return on owner's investment and recovery of any project losses from a previous year. The Agency contends such provisions provide ample means to ensure owners will, in fact, be capable of realizing a return on investment in most instances.

Rental assistance (RA) in Exhibit E of Part 1930, Subpart C

Concern was surfaced that rental agents should not be able to remove an application from a waiting list for RA without the tenant's consent. Commentors indicated that tenants accepting occupancy, but still wanting the benefits of RA, should not be subject to having rental agents remove any application from an RA waiting list just because a rental agent determined that such removal would not cause a hardship on the tenant. The Agency

contends these provisions are appropriate and consistent with other regulatory provisions enabling rental agents to establish procedures to periodically purge their waiting lists. The Agency contends that regulations (7 CFR Part 1944 Subpart L) affording appeal rights to applicants provide sufficient protection against any improper removal of an application from an RA waiting list by a rental agent.

Concern was surfaced that the provisions of paragraph VI C 1 of Exhibit C of Part 1930, SubPart C are inconsistent with 42 U.S.C. 1485(o)(3). The Agency contends provisions of law limiting access to tenants other than very low income tenants is sufficiently flexible to permit occupancy by other than very low income tenants when no very low income tenants are on the waiting list for projects with units where RA is available, or when no very low income tenants are in the market area. The Agency contends that the Secretary has sufficient authority to implement such provisions and that such provisions are consistent with the goals and objectives of the enabling legislation. The Agency contends that the law affords this flexibility in this instance because the alternative is to threaten the financial viability of a project. The Agency contends it would be unwise to issue regulations which may provide no means to fill vacant rental units under certain unusual market conditions. The Agency contends the proposed rulemaking provisions are prudent, practical, and in compliance with the letter and spirit of the enabling legislation.

Concern was surfaced regarding the appropriateness of permitting RA to be suspended, cancelled and/or transferred due to liquidation or failure to fulfill critical servicing responsibilities. The Agency contends such provisions are appropriate for consideration and that adequate protection against any arbitrary cancellation of RA by the Agency is provided under the Agency's appeal procedures.

Concern was surfaced that first priority in assigning RA in operational projects should be given to existing low income tenants where there is a rent overburden. The Agency contends it is appropriate to establish first priority of RA to very low income households.

Concern was surfaced that the eligibility requirements for RA need amendment to allow extension of RA to persons based on 25 percent of adjusted income as defined prior to implementation of a new rulemaking action. The reasons for such a recommendation centered on the view that 42 U.S.C. 1490(a) was designed to avoid a tenant's rental increase above 10 percent regardless of whether such cause resulted from redefining adjusted income and/or raising the required tenant housing contribution level to 30 percent of adjusted income. The Agency disagrees with the interpretations offered. The Agency considers its proposed rulemaking action to be legally sufficient. The Agency agrees that the law requires a 10 percent cap on rental increases caused by HURRA regardless of whether caused by redefining adjusted income or raising the required tenant housing contribution level from 25 percent to 30 percent of adjusted income.

List of Subjects

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing—rental, Reporting requirements.

7 CFR Part 1944

Administrative practice and procedure, Aged, Farm labor housing, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing—Rental, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing.

7 CFR Part 1951

Account servicing, Accounting, Loan programs—housing and community development, Low-and moderate income housing loans—servicing, mortgages.

7 CFR Part 1965

Administrative practice and procedure, Low and moderate income housing—rental, Mortgages.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1930—GENERAL

1. The authority citation for Part 1930 continues to read as follows:

Authority: 42 U.S.C. 1480, 7 CFR 2.23, 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

§ 1930.101 [Amended]

2. Section 1930.101(d)(1) is amended by changing the reference. "Form FmHA 444–8" to read "Form FmHA 1944–8."

§ 1930.102 [Amended]

3. Section 1930.102(h) is amended in the first sentence by removing the words "located on the same or contiguous site(s) and" and inserting the words "in one community such as a densely settled area, town or village" and by adding the words "under § 1965.68 of Subpart B of Part 1965 of this chapter" at the end of the last sentence.

§ 1930.109 [Amended]

4. Section 1930.109 is amended in the last sentence by inserting the word "actions" between the words "servicing" and "will" and by placing a period after tbe word "chapter" and removing the remainder of the sentence.

§ 1930.110 [Amended]

5. Section 1930.110 introductory text is amended by inserting the words "Periodic group meetings with borrower;" between the words "meetings;" and "analysis."

6. Section 1930.110(a)(4) is amended in the first sentence by inserting the word "and" between the words "plan" and "to."

7. Section 1930.110(a)(5) is amended by changing the spelling of "personal" to "personnel."

§ 1930.117 [Amended]

8. Section 1930.117(b)(3) is amended by inserting the words "and conduct" between "Develop" and "training" and by adding the letter "s" to the word borrower.

9. Section 1930.117(b)(5) is amended in the second sentence by changing the spelling of "benefitting" to "benefiting" and by replacing the words "made available to" with the words "offered to or accessible by."

10. Section 1930.117(b)(6) is amended by replacing the words "to assure" with the word "for."

11. Section 1930.117(c) introductory text is amended in the first sentence by replacing the word "officers" with "chiefs."

§ 1930.119 [Amended]

12. Section 1930.119(a) introductory text is amended in the first sentence by inserting the words "or other FmHA authorized persons" between the words "officials" and "will."

13. Section 1930.119(b)(1) is amended in the second sentence by adding the words "or other FmHA authorized person" between the words "person" and "will."

14. Section 1930.119(b)(2) is amended in the first sentence by inserting the the words "or other FmHA authorized person" between the words "Director"

and "will" and by removing the words "a biennial" and inserting "an" in their place and inserting words "at least once every three years" between the words "project" and "with."

15. In § 1930.119, paragraphs (d) and (e) are redesignated as (e) and (f) respectively, paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 1930.119 Supervisory visits and inspections.

* * * * *

(c) *Preparation.* The person planning to make the visit and inspection will review the most recent monthly or annual reports, the running records, correspondence and other District Office records to be fully aware of the supervisory needs of the project. This awareness should be developed into an informal visit plan and include, but not be limited to such things as: payment status, subsidy status, due dates of taxes and insurance, adequacy of fidelity bond, and any known maintenance problems.

(d) *Conducting visit or inspection.* The person making the visit or inspection should spend sufficient time at the project to accomplish the visit plan and any additional needs that are observed or brought out by the tenants or management staff.

* * * * *

16. In § 1930.119 newly redesignated paragraph (f) is amended in the first sentence by adding the words "or other FmHA authorized person" between the words "member" and "will."

§ 1930.124 [Amended]

17. Section 1930.124 introductory text is amended at the end of the last sentence by removing the period (.) and inserting a colon (:) in its place.

18. Section 1930.124(a)(3) is amended in the first sentence by removing the words "full fiscal year of" and inserting in their place the words "six months of succesful".

19. Section 1930.124(b) introductory text is amended in the first sentence by removing the words "and will consist of" and inserting the punctuation and words ", or any extension authorized in writing by the District Director. The report will consist of:".

20. Section 1930.124(c) introductory text is amended in the third sentence by adding the words "or A–128" between the words "OMB Circular A–102" and "will be acceptable" and is amended in the fourth sentence by inserting the words "through the State Office" between the words "referred" and "to."

21. Section 1930.124(c)(1) is amended in the first sentence by placing a period (.) after "1970" and by removing the remainder of the sentence and by removing the word "closely" from the second sentence.

22. Section 1930.124(d)(1)(iii) is amended by changing the reference "§ 1930.119(b)" to read "§ 1930.119(b)(2)".

23. Section 1930.124(f)(1) is amended by revising the last sentence to read: "In cases where the District Director does not have delegated authority, the State Director or state staff delegate will approve Form FmHA 1930–7."

24. Section 1930.125 is added to read as follows:

§ 1930.125 Changing project designation.

Generally projects designated for families, elderly or handicapped persons will be used for the original purpose throughout the life of the FmHA loan. However, if it becomes necessary to change the designation of a project due to housing market changes which inhibit the borrower's ability to maintain occupancy levels sufficient to sustain the project, the State Director may change the designation with the prior written concurrence of the National Office. No change in the plan of operation (limited profit, nonprofit or full profit) will be authorized in conjunction with the change in project designation. Project design must meet elderly housing requirements when changing the designation to elderly. A LH project cannot be designated as a RRH project and a RRH project cannot be designated as a LH project. The National Office will only consider such requests on a case by case basis when all of the following information has been provided:

(a) The complete borrower case files have been submitted together with the State Director's specific recommendations and analysis of the present and long term situation.

(b) A market needs survey which substantiates the rationale for the change has been provided by the borrower. (The market survey must clearly indicate the long term marketability of the project and include the appropriate demographic information which reflects the population trends in the area.)

(c) A summary of all servicing actions taken by FmHA to aid the borrower in maintaining the present designation.

(d) A summary of all actions taken by the borrower to effectively market the units to potential eligible tenants.

(e) A summary of the impact the change will have on any existing tenants, rent subsidy needs, and the community as a whole.

§ 1930.141 [Amended]

25. Section 1930.141(i)(6) is amended by changing the reference "Form FmHA 444–6" to read "Form FmHA 1944–6".

§ 1930.143 [Amended]

26. Section 1930.143 is amended by designating the text as paragraph (b) and by adding a new paragraph (a) to read as follows:

§ 1930.143 Delegation of responsibility and authority.

(a) The Administrator may on an individual state basis, authorize the State Director to contract out selective fact gathering, non-decision making servicing actions in this subpart.

* * * * *

27. Exhibit A to Subpart C is amended in the last paragraph entitled "Summary" by changing "VII" to "VIII" before the word "Summary."

28. Exhibit A–1 to Subpart C is amended to change "45" to "60" wherever it occurs.

29. Exhibit B to Subpart C is revised to read as follows:

Exhibit B of Subpart C.—Multiple Housing Management Handbook

Table of Contents

I. Purpose.
II. Definitions.
III. Borrower Responsibilities.
IV. Rent Subsidy Opportunities.
V. Management Operations.
VI. Renting Procedure.
VII. Verification and Certification of Tenant Income and/or Employment.
VIII. Lease Agreements.
IX. Rent Collection.
X. Maintenance.
XI. Rent Changes.
XII. Borrower Project Budgets.
XIII. Accounting and Reporting Requirements and Financial Management Analysis.
XIV. Termination of Tenancy and Eviction.
XV. Security Servicing.

EXHIBITS

Title	Exhibit
Management Plan Requirements for FmHA Multiple Family Housing Projects	B–1
Requirements for Management Agreements	B–2
Management Agreement for FmHA Multiple Family Housing Projects	B–3
Questionnaire for Prospective Management Agent of a Multiple Family Housing Project	B–4
Questionnaire for Owner Who Proposes Owner-Management of a Multiple Family Housing Project	B–5
Monthly Reports (Chart)	B–6
Annual Reports (Chart)	B–7
Miscellaneous Reports or Submittals (Chart)	B–8
Employment Inquiry	B–9
Objective Guides to assist Management in Determining the Ability of Tenants to Sustain Relative Independence	B–10
Type of Living Environment Needed in Relation to Nature and Degree of Disability	B–10A

Multiple Housing Management Handbook

I. Purpose

This management handbook prescribes the Farmers Home Administration (FmHA) regulations, policies and procedures for management of Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), and Labor Housing (LH) projects to used by multiple housing borrowers (owners) and applicants and their management agents and site managers. Several exhibits are included to provide clarification and guidance. These regulations are intended to assist borrowers in the successful operation of FmHA-financed rental projects.

II. Definitions

A. *Adjusted Annual Income.* This is the income of the household members, who live or propose to live in the rental unit for the next 12 months, (including spouse or children of an elderly family in nursing homes or hospitals who would otherwise live in the unit), excluding:

1. $480 for each member of the family residing in the household (other than the tenant or co-tenant or spouse of either, or foster children) who is under 18 years of age; or who is 18 years of age or older and is disabled, handicapped or a full-time student. The student must carry a subject load considered full time by the educational institution attended.

2. $400 for any elderly family;

3. Total medical expenses in excess of 3 percent of annual family income may be deducted for any elderly family. The term "total medical expenses" includes:

a. Medical expenses the tenant anticipates incurring over the 12 months following the effective date of the certification;

b. Medical expenses not covered by insurance;

c. Examples of medical expenses are dental expenses, prescription medicines, medical insurance premiums, eyeglasses, hearing aids and batteries, the cost of a live-in resident assistant, monthly payments required on accumulated major medical bills including that portion of the spouse's or children nursing home care paid from tenant family income(s).

d. Reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

4. The amounts paid by the family for the care of minors under 13 years of age may be deducted. Deductions for these expenses are permitted only when such care is necessary to enable a family member to further his or her education or to be gainfully employed, including the gainful employment of the disabled or handicapped family member. When the deduction is to enable gainful employment the amount may not exceed the amount of income received from such employment. When the deduction is to facilitate further education, the amount must not exceed a sum reasonably expected to cover class time and travel time to and from classes. (Child support payments made on behalf of a minor child who does not reside in the unit may not be deducted as a child care expense.)

B. *Adjusted Monthly Income.* This is the amount obtained by dividing the adjusted annual income by 12.

C. *Annual Income.* Annual income is the gross amount of income to be received by all members of the household to be in residence during 12 months following the effective date of Form FmHA 1944–8, "Tenant Certification."

1. *Income Included.* The following are included when determining annual income:

a. The gross amount (before any deductions) of wages and salaries, overtime pay, commissions, fees, tips, and bonuses of all members of the household.

b. The *net* income from operations of a business or profession or from rental of real or personal property. Expenditures for business expansion or amortization of indebtedness are not considered in the computation of net income. Net losses will be completed as zero. Deductions from gross business or rental income to arrive at net income may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the trade or business of the adult household members under the straight line method of depreciation. An itemized schedule must be provided in support of any deductions from gross income made under the provisions of this section. The schedule should be consistent with the amount of depreciation permitted for these items for Federal income tax purposes under the straight line method of depreciation.

c. Interest, dividends, and other income from net family assets as defined in paragraph II W of this Exhibit. On contracts for sale of real estate, deeds of trust or mortgages held by the applicant or tenant, only the interest portion of the monthly or annual payments received by the applicant or tenant is included as income.

d. The full amount of periodic payments received from Social Security (including Social Security payment received by adults on behalf of minors or by minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits (except lump sum settlements) and other similar types of periodic receipts.

e. Payments in lieu of earnings, such as unemployment and disability compensation, worker compensation and severance pay.

f. Periodic and determinable allowances, such as alimony and child support payments, which the applicant or tenant can reasonably expect to receive.

g. Regularly recurring contributions or gifts received from persons not residing in the dwelling.

h. Any amount of education grants or scholarships or Veterans Administration benefits on behalf of tenant, co-tenant, applicant, or other adult available for subsistence after deducting expenses for tuition, fees, books and equipment.

i. All regular pay, special pay (except for persons exposed to hostile fire) and allowances of a member of the armed forces who is head of the family or spouse, whether or not that family member lives in the unit.

j. Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities and that amount is subject to adjustments by the Public Assistance Agency according to the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:

(1) The total amount of the public assistance, minus the amount specifically designated for shelter and utilities; plus

(2) The maximum amount which the Public Assistance Agency could in fact allow the family for shelter and utilities.

Example

Total Grant	$300
Amount specifically designated for shelter and utilities	−150
Amount of grant excluding shelter and utility allowance	150
The maximum the agency could provide for this family for shelter and utility allowance	+180
Amount per month to be included in Annual Income	330

2. *Exempted Income.* The following are not included in annual income:

a. Income of dependent minors under 18 years of age except as specified in paragraph II C 1 d of this Exhibit. (Tenant or co-tenant or spouse of either may never be considered minors.)

b. In the case of contracts for sale of real estate, mortgages or Deeds of Trust held by the tenant or co-tenant, the principal portion of the payments received by the tenant or co-tenant.

c. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.

d. Payments received for the care of foster children.

e. Casual,. sporadic or irregular gifts.

f. Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker compensation policies, and settlements for personal or property losses.

g. Amounts which are granted specifically for, or in reimbursement of, the cost of medical expenses. Medical expenses may include those expenses incurred by disabled or handicapped residents so that they may live independently (e.g., attendant care).

h. Amounts of education scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or veterans payments, which are not used for above purposes and are available for subsistence, are considered to be income of tenant, co-tenant or applicant.

i. Student loans.

j. The hazard duty pay to a service person head of a household or spouse away from home and exposed to hostile fire.

k. Payments received pursuant to participation in the following programs:

(1) Programs under the Domestic Volunteer Service Act of 1973 including, but not limited to, the National Older Americans Volunteer Programs (OAVP) of the Federal Action Agency for persons age 60 and over including the:

(i) Retired Senior Volunteer Program (RSVP).

(ii) Foster Grandparent Program (FGP).

(iii) Senior Companion Program (SCP).

(iv) Older American Committee Service Program.

(2) National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program and Special Volunteer Programs.

(3) Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and,

(4) Title V–Community Service Employment for Older Americans which include:

(i) Senior Community Service Employment Program

(ii) National Caucus Center on Black Aged

(iii) National Urban League

(iv) Association National Pro Personas Mayores

(v) National Council on Aging

(vi) American Association of Retired Persons

(vii) National Council of Senior Citizens

(viii) Green Thumb.

l. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

m. Payments received under the Alaska Native Claims Settlement Act.

n. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes.

o. Payments or allowances made under the Department of Health and Human Services Low-Income Home Energy Assistance Program.

p. Payments received from the Job Training Partnership Act.

q. Income derived from the disposition of funds of the Grand River Bank of Ottawa Indians.

r. The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, or from funds held in trust for an Indian tribe by the Secretary of Interior.

s. Any funds which a Federal statute specifies must not be used as the basis for denying or reducing Federal financial assistance or benefits to which the recipient would otherwise be entitled.

D. *Borrowers.* "Borrowers" means owners who may be individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations and other organizations and have received a loan or grant from FmHA for LH, RRH, RCH, or RHS purposes.

E. *Caretaker.* The individual(s) employed by the borrower or the management agent as specified in the management plan to handle normal maintenance and upkeep of the project.

F. *Chore Service Worker.* An individual who provides intermittant assistance essential to the well being of a tenant whose services are compensated by a Federal, State, or local assistance program. A chore service worker will not be a resident of the tenant's living unit.

G. *Congregate Housing.* Housing that affords an assisted independent living environment that offers the elderly, disabled or handicapped person who may be functionally impaired or socially deprived, but in good health (not acutely physically ill), the residential accommodations, central dining facilities, related facilities, and supporting service(s) required to achieve, maintain, or return to a semi-independent life style and prevent premature or unnecessary institutionalization as they grow older. Congregate housing also includes:

1. Housing which has complete kitchen facilities in each unit. However, some or all of the units may have limited kitchen facilities such as a cooktop with a small oven and a refrigerator. In the case of group living arrangements, each single family dwelling is considered a unit.

2. A group living arrangement where one or more elderly, disabled or handicapped persons may share living space within a rental unit and in which a resident assistant is required. Such housing may be one or more single family dwellings or a multi-unit structure.

H. *Domestic Farm Laborers.* Persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families of such persons, and as further defined in Subpart D of Part 1944 of this chapter.

I. *Elderly (Senior Citizen).* A person who is at least 62 years old. The term elderly (senior citizen) also means persons with the following handicapped or disabilities, regardless of age:

1. *Handicapped.* a. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which:

(1) Has lasted or can be expected to last for a continuous period of not less than 12 months, or which can be expected to result in death;

(2) Substantially impedes the ability to live independently; and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions.

b. In the case of a blind person who is at least 55 years old (within the meaning of "blindness" as determined in Section 223 of the Social Security Act), is unable because of the blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity over a substantial period of time.

2. *Disabled.* In the case of developmental disability, a person with a severe, chronic disability which:

a. Is attributable to a mental or physical impairment or combination of mental or physical impairment;

b. Is manifested before the person attains age 22;

c. Is likely to continue indefinitely;

d. Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(1) Self care,

(2) Receptive and expressive language,

(3) Learning,

(4) Mobility,

(5) Self-direction,

(6) Capacity for independent living,

(7) Economic self-sufficiency; and

e. Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

J. *Elderly Family.* A household where the tenant or co-tenant is at least 62 years old, disabled or handicapped as defined in paragraph II I of this Exhibit. An elderly family may include a person(s) younger than 62 years of age who is essential to the elderly, handicapped or disabled person's care and well-being. (To receive an elderly family deduction the elderly, disabled or handicapped person must be the tenant or co-tenant.)

K. *Eligibility Income.* The calculated adjusted gross income which is compared to the income limits in Exhibit C to Subpart A of Part 1944 of this chapter.

L. *Forms Manual Insert (FMI).* A type of directive which includes a sample of the form and complete instructions for its preparation, use and distribution.

M. *Household.* One or more persons who maintain or will maintain residency in one rental unit, but not including a resident assistant or chore service worker.

N. *LH* means Farm Labor Housing loans and/or grants.

O. *Low-Income Household.* A household having an adjusted annual income within the maximum low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA Office).

P. *Management Agent.* The firm or individual engaged by the borrower to manage the project in accordance with a written agreement.

Q. *Management Agreement.* The written agreement between the borrower and management agent setting forth the management agent's responsibilities and fees for management services.

R. *Management Fee.* The compensation for providing overall management services for a Multiple Family Housing (MFH) project. The fee is compensation for the time, expertise and knowledge required to direct and oversee the present and future operation of the project. Project management fees may include the cost of day-to-day reasonable management activities of the project such as (1) developing and modifying operating budgets, (2) renting the units, (3) collecting the rent, (4) preparing reports to FmHA, (5) normal bookkeeping, (6) maintaining tenant records, (7) arranging for the proper

maintenance of the project, and (8) making inspections, etc. A management fee does not include the compensation paid to a site manager.

S. *Management Plan.* The primary management charter, constituting a comprehensive description of the detailed policies and procedures to be followed in managing a project.

T. *Migrant.* A domestic farmlaborer who works in any given local area on a seasonal basis and relocates his or her place of residence as farm work is obtained in other areas during the year.

U. *Minor.* The term *minor* includes persons under 18 years of age other than the tenant or co-tenant. Persons aged 18 and over who are full-time students are treated as minors. The tenant or co-tenant may never be counted as a minor.

V. *Moderate-Income Household.* A household having an adjusted annual income within the maximum moderate-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA Office).

W. *Net Family Assets.* Net Family Assets includes: 1. The value of equity in real property, savings, demand deposits, and the market value of stocks, bonds, and other forms of capital investments, but *exclude:*

a. interests in Indian trust land,

b. the value of *necessary* items of personal property such as furniture and automobile(s), and the debts against them,

c. the assets that are a part of the business, trade, or farming operation in the case of any member of the household who is actively engaged in such operation, and

d. the value of a trust fund that has been established and the trust is not revocable by, or under the control of, any member of the household, so long as the fund continues to be held in trust.

2. The value of any business or household assets disposed of by a member of the household for less than *fair* market value (including disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application, in excess of the consideration received therefor. In the case of a disposition as part of a divorce settlement, the disposition shall not be considered to be for less than *fair* market value if the household member receives important consideration not measurable in dollar terms.

3. Income from Net Family Assets which is included in Annual Income is determined as follows:

a. If Net Family Assets equals $5,000 or less, Annual Income includes the actual income derived from the Net Family Assets.

b. If Net Family Assets exceeds $5,000, Annual Income includes the greater of:

(1) Actual income derived from all Net Family Assets, or

(2) A percentage of the value of such assets based on the Bank Passbook annual savings rate.

X. *New Housing.* Newly constructed or substantially rehabilitated RRH, RCH, or LH project financed by FmHA. For rental assistance (RA) purposes, it further means before any units are occupied.

Y. *Operational Housing.* A completed RRH, RCH, or LH Project financed by FmHA which has been opened for occupancy and has at least been partially occupied by tenants.

Z. *Pet.* A commonly accepted domesticated household animal (such as a dog, cat, bird, etc.) owned or kept by a tenant.

AA. *Project.* A project is the total number of rental housing units in one community such as a densely settled area, town or village operated under one management plan with one loan agreement/resolution. The rental units may have been developed originally with separate initial loans and separate loan agreements/resolutions, now consolidated into one operational project according to § 1965.68 of Subpart B of Part 1965 of this chapter.

BB. *Rental Agent.* The individual responsible for the leasing of the units. If other than the borrower, this individual may be hired by the borrower, or the management agent as specified in the management plan.

CC. *Rental Assistance (RA).* RA, as used in this Exhibit, is the portion of the approved shelter cost paid by FmHA to compensate for the difference between the approved shelter cost and the monthly tenant contribution as calculated according to paragraph IV of this Exhibit. When the monthly gross tenant contribution is less than the approved utility allowance which is billed directly to and paid by the tenant, the owner will pay the tenant that difference according to paragraph IX A 2 of Exhibit E to this subpart.

DD. *Resident Assistant.* A person(s) residing in a housing unit who is essential to the well-being and care of the senior citizen(s) or handicapped person(s) residing in the unit and who is not related by blood, marriage or operation of the law to these tenants. The resident assistant is not considered to be part of the household and is not subject to the eligibility requirements of a tenant. The resident assistant receives compensation from sources other than FmHA. A resident assistant is not a chore service worker.

EE. *RCH* means Rural Cooperative Housing loans.

FF. *RHS* means Rural Housing Site loans.

GG. *RRH* means Rural Rental Housing loans.

HH. *Shelter Cost.* The approved shelter cost consists of basic and/or market rent plus utility allowance, when required. Basic and/or market rent must be shown on the project budget for the year and approved according to § 1930.124 of this subpart. Utility allowances, when required, must be determined and approved according to Exhibit A–5 to Subpart E of Part 1944 of this Subpart. Any change in rental rates or utility allowances must be processed according to Exhibit C to this subpart.

II. *Site Manager.* The individual employed by the borrower or the management agent who lives at or near the project site and is responsible for the day-to-day operations of the project. A site manager residing at the project site may also be referred to as a resident manager.

JJ. *Tenant.* A tenant also includes a co-tenant and is a person(s) who has signed a lease and is, or will be, an occupant of a unit in an RRH, RCH, or LH project. A person who has ceased to be an occupant, but whose personal property remains in the rental unit will be considered a tenant until such personal property is removed voluntarily or by other legal means.

KK. *Tenant Contribution.* The portion of the approved shelter cost paid by the tenant household (tenant rent). For tenants not receiving HUD Section 8, this amount will be calculated according to Form FmHA 1944–8. For tenants receiving HUD Section 8, this will be the amount referred to on HUD Form 50059 "Certification and Recertification of Tenant Eligibility," (or other HUD approved Form), as family contribution. The proportion of tenant income and adjusted income paid as the tenant contribution will vary according to the type of subsidy provided to the household.

LL. *Very Low-Income Household.* A household having an adjusted annual income within the maximum very low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA Office).

III. Borrower Responsibilities

A. *General.* All borrowers are responsible for:

1. Understanding the distinction between FmHA supervised credit and the credit provided by other Federal, State, or conventional sources.

2. Meeting the objectives for which the loan and/or grant was made and complying with the respective program requirements.

3. Understanding the unique characteristics and function of their particular type of borrower entity as provided by charter, articles of incorporation, by-laws, and/or statute.

4. Assuring that a site manager or contact person is in close proximity to their MFH project.

5. Complying with the provisions of their security instruments and any directive issued by FmHA.

B. *Borrowers Without a Loan Agreement.* Unless otherwise specified, these borrowers are exempt from the requirements of this subpart, except for Exhibit C (Rent Changes), as long as the borrower is not in default of any program requirement, security instrument, payment, or any other agreement with FmHA. However, these borrowers must provide evidence of tenant income eligibility by properly completing a Form FmHA 1944–8 for each tenant as required by the FMI.

C. *Borrowers With a Loan and/or Grant Agreement.* These borrowers are responsible for meeting the requirements and conditions of their agreement/resolution and the requirements of this subpart.

D. *Borrowers With Governing Bodies.* The elected or appointed officials comprising the governing body of the borrower are responsible for:

1. Maintaining records of all current members and maintaining membership at the required level.

2. Holding meetings as required by the organizational documents, and as otherwise necessary, to provide prope? control and management of its operations, and to keep the membership informed.

E. *Borrowers With a Membership.* Members of a membership type borrower are

responsible for full support of the project and operation by:

1. Promptly paying any dues, fees, and other required charges.

2. Electing responsible officials.

3. Complying with organization rules and regulations.

4. Participating in annual and special meetings.

F. *Delegation of Responsibility and Authority.* The borrower may delegate or assign management responsibilities to a property manager such as a management agent, a site manager, or as appropriate, a caretaker. Delegations or assignments of duties and responsibility will be included in written documents such as management agreements. FmHA will hold the borrower ultimately responsible for management of the project. FmHA may require a borrower to change the plan of project management and/or make appropriate redelegations of project management responsibility to achieve program objectives.

IV. Rent Subsidy Opportunities

The available subsidy programs should be considered at the time of developing a project proposal and during project operation as they may be available to meet the tenants' needs. These subsidy programs are as follows:

A. *FmHA Interest Credit—RRH and RCH Loans.* Regulations are contained in Exhibit B to Subpart E ot Part 1944 of this chapter and include:

1. Plan I—Only those borrowers who received this type of interest subsidy prior to October 27, 1980, may continue to utilize this Interest Credit Plan. Those broadly-based nonprofit corporations and consumer cooperatives may continue operating under this plan provided:

a. Occupancy is limited to very-low- or low-income nonelderly; very-low-, low- and moderate-income elderly, disabled or handicapped persons.

b. Budgets and rental rates are based on a 3 percent loan amortization. The rent schedule consists only of "market" rental rates.

2. Plan II—This interest subsidy is available to broadly-based nonprofit corporations, consumer cooperatives, State or local public agencies, or to other organizations and individuals operating on a limited profit basis.

a. Occupancy is limited to very-low-, low- and moderate-income persons except as noted in paragraph VI B 2 e of this Exhibit.

b. Budgets are prepared for two rental rates, basic and market. The minimum (basic) rental rate for tenants not receiving rental assistance is based on a 1 percent loan amortization. The maximum (market) rental rate is based on the loan amortized at the interest rate shown in the promissory note.

c. Tenant's contribution for shelter cost, calculated according to the FMI for Form FmHA 1944–8, may not exceed the highest of:

(1) Thirty (30) percent of monthly adjusted income, or

(2) Ten (10) percent of gross monthly income, or

(3) If the household is receiving payment for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the household's shelter costs (Example in paragraph II C 1 j (2) of this Exhibit), or

(4) The basic rent where no RA is available.

d. Any tenant contribution increase caused by the change from 25 percent of the household adjusted income to the greater of c (1), (2), or (3) or by other provision of Federal Law or Federal regulation is restricted to not more than 10 per centum in any 12 month period, as calculated on Form FmHA 1944–8, unless the increase above 10 per centum is attributable to an increase in income.

e. RRH borrowers whose loans were approved on or after August 1, 1968, may convert from Plan I to Plan II. When they are presently a full profit operation, they may convert to Plan II by executing a new or amended loan resolution or loan agreement and an interest credit and agreement according to Exhibit B of Subpart E of Part 1944 of this chapter.

B. *Rental Assistance (RA) Program—FmHA.* This is a subsidy program available to RRH, RCH, and LH borrowers to assist very-low- and low-income tenants in paying their shelter cost. RA is not authorized for tenants whose adjusted income is above the low-income level. RA is not available to LH borrowers who are individual farmowners, partnerships, family corporations, or association of farmers. RRH borrowers with loans approved on or after August 1, 1968, must be operating under, or change to, Interest Credit Plan II to receive RA. Full Profit borrowers may utilize RA by converting to a Limited Profit operation. The provisions of the RA program are covered in detail in Exhibit E of this subpart.

C. *Department of Housing and Urban Development (HUD)—Section 8 Housing Assistance Payments Program.* This subsidy program is administered by HUD or the local public housing agency. Projects operating under the Memorandum of Understanding between FmHA and HUD (Exhibit H to Subpart E of Part 1944 of this chapter) will also be subject to the requirements of the Housing Assistance Payments (HAP) Contract executed by the borrower. Projects accepting tenants utilizing Section 8 assistance assigned by a local public housing agency will also comply with any requirements imposed by such agency. However, in all cases, tenants receiving Section 8 assistance must meet the eligibility requirements specified in paragraph VI B of this Exhibit. Requirements that conflict with FmHA requirements should be referred to the District Director for guidance. (Generally, the most restrictive HUD or FmHA requirements or limitations will apply.) Additional information on the HUD Section 8 program is contained in Exhibits G and H to Subpart E of Part 1944 of this chapter.

V. Management Operations

A. *Management Plan.* A comprehensive management program is essential to the successful operation of a project. A written plan is the primary ingredient which should describe the detailed policies and procedures in managing the project. *Unless program regulations specifically permit an exception, a management plan is required for:* (1) all proposed multiple housing projects; (2) existing projects in which the loan, transfer, or reamortization, was approved after October 27, 1980; and (3) any other multiple housing projects where the State Director determines a management plan is needed because of loan delinquency or default, neglected maintenance, or known landlord-tenant problems. The plan should be developed in detail commensurate to project size and complexity and should be reviewed annually and updated by the borrower at least biennially. Exhibit B–1 of this subpart outlines the requirements of the plan. The following items, as a minimum, should be addressed in the plan.

1. The relationship between owner and management agent (when applicable).

2. Personnel policy and staffing arrangements.

3. Publicizing and achieving early occupancy through affirmative fair housing marketing and policies.

4. Tenant certification and verification of income.

5. Tenant admissions policies and leasing policies.

6. Rent collection.

7. Rent changes.

8. Maintenance.

9. Records maintenance and reports.

10. Energy conservation measures.

11. Tenant participation in project operations and tenants' relationship with management.

12. Termination of leases and evictions.

13. Management of Support Services to congregrate and/or group home projects.

14. Management Background and/or Experience.

15. Management agreement (when applicable).

16. Management compensation.

17. Occupancy policy.

B. *Management Agreement.* The management agreement is the primary document by which the management agent is guided, evaluated, and compensated. It bears a close relationship to the management plan. A management agreement is required except in cases where the borrower (owner) fills the role of manager. Requirements of a management agreement are listed in Exhibit B–2 of this subpart. Exhibit B–3 of this subpart is a suggested management agreement. The two types of agreements acceptable to FmHA, are described as follows:

1. The owner hires a professional management agent to oversee and operate the project. The management agent may provide a site manager for onsite management and/or caretaker when justified by the size of the project. A qualifications statement by the management agent is required by the borrower and FmHA. Exhibit B–4 of this subpart provides a guideline for preparing the statement.

2. The owner maintains all or a part of the management role. The owner may use the services of a site manager in providing onsite management and/or services of a caretaker when justified by the size of the project. FmHA requires a qualifications statement by the owner who proposes to personally

provide the management to determine management capability. Exhibit B–5 of this subpart provides a guideline for preparing the statement.

C. *Responsibility.* The management plan and management agreement must be based on applicable provisions of local, State, and Federal statutes and the regulatory requirements of the loan used to finance the project, regardless of the management system used. The owner remains totally responsible to FmHA for the project, regardless of the authority delegated by the owner to the management agent.

D. *Compensation.* 1. *Projects with management agent.* The amount of compensation is to be negotiated between the owner and the management agent. The amount of compensation must be reasonable, typical when compared with similar services available in the area, and earned. The amount of compensation or "fee" should generally be stated on a monthly per occupied unit or as a percentage of rents collected for each occupied unit. Rents collected could include any RA and/or interest credit subsidy. The fee should vary from project to project depending upon size, complexity, services to be provided, type of project, age of loan and other relevant factors, such as comparable fees for similar projects in the area in which the project is located. The State and District Offices shall assemble data on comparable management fees in the District and State to be used as a basis for determining the fairness of fees negotiated between borrowers and management agents.

a. The management agreement must specifically define any project services to be provided that are to be paid directly from the Owner's Operating and Maintenance Account by the management agent but not included in the agent's management fee. These costs may include the following budget line items:

(1) Cost of salary and wages of the project's site manager and/or caretaker. (These persons will be hired and/or dismissed by the management agent.) The management plan must specify the duties of the site manager.

(2) Legal fees for the project.

(3) Auditing fees for the project.

(4) Repair and maintenance costs for the project.

b. The management agreement must also define costs that accrue to the management agent, but not directly to the project. The management fee will include costs such as:

(1) Monitoring project operations, training and supervision of on-site staff.

(2) Establishing a system to keep project books, reports, records, and accounts.

(3) Preparation and distribution of monthly reports.

(4) Preparation and distribution of annual reports of operations and maintenance.

(5) Preparation of requests for reserve withdrawal, rent adjustment, rehabilitation and energy conservation proposals, plans and specifications.

(6) Review of tenant certifications and submission of monthly RA requests. Assure protection of project receipts and make project invoice and payment disbursements.

(7) Management agent's office overhead including office space and utilities, clerical staff and training, agent's office bookkeeping, office supplies and equipment, transportation and telephone calls to projects, office data processing systems and postage.

(8) Supervision by management agent (time, knowledge, and expertise) of overall operations and capital improvements.

(9) Meeting with owners, investors, and/or lending agency.

(10) Development, preparation, and revision of management plans and/or agreements.

2. *Owner managed projects.* The owner will be authorized to manage the project only when FmHA determines in writing that the owner (either as the individual borrower or as a part of an organizational/ borrower) has the necessary management capabilities.

Projects with owners with identity-of-interest relationships to the management agent will *not* be considered as an owner managed project. A typical management fee may be charged as an expense to the project. The compensation must be according to the provisions of paragraph V D of this Exhibit and be reasonable, earned, and not exceed the normal cost of similar services, had such services been provided by an independent management agent.

3. *Initial Rent-Up Fees.* Payment of fees for a one-time effort to achieve initial rent-up of a newly constructed project is permitted when it is determined necessary and documented by the FmHA loan approval official and the loan applicant. Rent-up fees should be paid on a per-unit basis only after each unit has been occupied by the initial tenant. Payment of the rent-up fee and other project management start-up expenses should generally be made from the 2 percent initial operation and maintenance fund as follows:

a. In owner managed projects or when there is an identity of interest as defined in § 1924.4(h) of Subpart A of Part 1924 of this chapter between the management agent and the borrower, such as the owner or the owner's principals or family members owning an interest in the management firm (or vice versa), initial rent-up fees may be allowed but only up to reasonable actual cash expenditures.

b. When there is not an identity of interest, a person or firm, preferably the management agency, may be compensated at a rate negotiated with the applicant/borrower that represents reasonable compensation for the incurred marketing cost and project management start-up expenses.

E. *Site Manager and/or Caretaker Services.* The onsite services of a site manager and/or caretaker may be used when justified by the size, composition and location of a project, whether the project is managed by a management agent or by the owner. There should be a written agreement between the owner or the management agent and the site manager to define the role and duties of the site manager and to provide a basis for evaluating the site manager. FmHA may require an onsite resident manager and/or caretaker to assure that the loan objectives are met and/or to protect the tenant's or government's interests. It is desirable but not mandatory the site manager and/or caretaker meet the tenant eligibility requirements for occupancy in the project.

1. *Calculation of rental rate for site manager or caretaker.* The associated cost of the unit occupied by the site manager or caretaker will always be reflected in the project budget the same as the cost for other non-revenue producing portions of the project. When the unit for the site manager or caretaker was authorized by the State Director according to the requirements of § 1944.212(g) of Subpart E of Part 1944, the unit may or may not be designated as part of the non-revenue producing facilities. This determination will be reflected in the project's management plan. The rental rate will then be determined as follows:

a. If the unit is planned and designed as a revenue producing unit, the compensation paid to the site manager and/or caretaker will be reflected in the operation and maintenance expenses of the project and will be included in the annual income of the site manager and/or caretaker. The site manager and/or caretaker's rent contribution will be based on their total income from all sources.

b. When a living unit is provided at a reduced cost to the site manager and/or caretaker in a plan II project, the rental of the unit will be considered to be basic rent. The portion of rent furnished by the project in the form of rent reduction below the basic rent will be recorded on FmHA budget forms. Debt payment will be as if the unit were rented at basic rent.

c. When a living unit was planned as a revenue producing unit but is provided at no cost to the site manager and/or caretaker in a Plan II project, the rental value of the unit will be considered to be basic rent. The associated cost of the unit will be treated the same as those of other non-revenue producing portions of the project. Project rental rates will be established as if the unit did not exist as living quarters. Debt payment will be as if the unit were rented at basic rent.

d. When a living unit is provided at no cost to the site manager and/or caretaker in a plan I or profit type project, the rental value of the unit will be considered to be the FmHA approved "market" rental value.

e. When the site manager and/or caretaker resides in a living unit and pays rent, the rental rate will be calculated as follows:

(1) If the site manager and/or caretaker meets the tenant eligibility requirements for the type of project being occupied, the appropriate rental rate will be the rate established for an eligible tenant in accordance with paragraph VI B of this Exhibit.

(2) If the site manager and/or caretaker does not meet the tenant eligibility requirements for the type of project being occupied because the site manager's and/or caretaker's adjusted annual income exceeds the maximum income limits, the site manager's and/or caretaker's appropriate rental rate for all projects except those operating under interest credit Plan I will be the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the appropriate rental rate will be the FmHA approved market rental

rate for the size of unit occupied, plus 25 percent.

f. If the unit was planned and designated as a non-revenue producing unit, it will be treated as any other essential facility for which loan funds were authorized so long as it is used according to the approved management plan. The operating costs, reserve payment and debt service for the manager or caretaker's unit will be budgeted as part of the overall cost of operation.

2. *Owner Occupancy.* Homeownership is not an objective of the FmHA multiple housing loan programs. With the prior approval of the State Director, owners may occupy a unit in the project when the owner will manage the project rather than hiring a management agent or a site manager. The size, composition, and location of the project must justify the services of a site manager or caretaker, and the State Director must determine the owner is capable of performing these services. The rental rate will be included as described in paragraph V E 1 of this Exhibit.

F. *Projects Without a Site Manager and/or Caretaker.* Projects without a site manager and/or caretaker must have, at a minimum, a tenant who will serve as a contact person or have a person who is easily accessible to the project who is able to represent the project manager or owner on maintenance and management matters.

VI. Renting Procedure

Preparations for initial rent-up, occupancy and maintenance will begin 90–120 days ahead of the projected completion date of the project. This procedure will include a prerent-up conference between the FmHA District Director, the borrower, and the person(s) responsible for project management. Decisions to be made concern the advertisement of available units, affirmative marketing practices, tenant eligibility, and tenant selection criteria.

A. *Affirmative Fair Housing Marketing Plan.* All borrowers with *five* or more rental units must meet the requirements of § 1901.203(c) of Subpart E of Part 1901 of this chapter by preparing and submitting an Affirmative Fair Housing Marketing Plan on HUD Form 935.2. Records must be maintained by the borrower reflecting efforts to fulfill the plan and will be subject to review by FmHA during compliance reviews for Title VI of the Civil Rights Act of 1964. *The approved plan will be made available by the borrower for public inspection upon request at the borrower's place of business, rental office, or at any other location where tenant applications are received for the project.* In developing the plan, the following items should be considered:

1. *Direction of Marketing Activity.* The plan should be designed to attract applications for occupancy from all potentially eligible groups of people in the housing marketing area regardless of race, color, religion, sex, age, marital status, national origin, or physical or mental handicap (must possess capacity to enter into legal contract). The plan must show that efforts will be made to reach very low-income, low-income group or groups who traditionally would not be expected to apply for such housing without special outreach efforts.

2. *Marketing Program.* The applicant or borrower should determine which methods of marketing such as radio, newspaper, TV, signs, etc. are best suited to reach those very low-income, low-income group or groups who otherwise might not apply for occupancy in the project. The aging network such as the State and Area Agencies on Aging should be contacted to assist in reaching senior citizens.

a. *Signs, Brochures, Etc.* Any radio, TV or newspaper advertisement, signs, pamphlets, or brochures used must contain appropriate equal opportunity statements. A copy of this proposed material should be submitted along with the HUD Form 935.2 for approval. The nondiscrimination poster entitled, "And Justice For All" and/or the "Fair Housing" poster must be displayed in the rental office. If the rental office is not on site, the posters must be displayed in a common conspicuous place on the site.

b. *Community Contact.* Special interest groups such as community, public interest, and religious organizations should be contacted in small communities without formal communication media aimed at the group or groups least likely to apply for the available housing. Community contacts should also be used in reaching specific elements of the community such as the elderly or particular ethnic groups.

c. *Rental Staff.* All staff persons responsible for renting the units will be instructed in the procedures and requirements of the Affirmative Fair Housing Marketing Plan and in those actions necessary to carry out the plan promoting equal housing opportunity.

3. *Marketing Records.* The borrower will be required to provide data according to Subpart E of Part 1901 of this chapter, pertaining to compliance reviews, to indicate to what extent minority groups are being benefited.

B. *Tenant Eligibility.* The rental agent of the project must be knowledgeable about the FmHA tenant eligibility requirements as they relate to a particular project. FmHA loans require occupancy of the units by eligible tenants. Except for migrant farm worker tenants, tenant/applicants must certify on their application that the housing they will occupy is/will be their permanent residence. They will further certify that they do/will not maintain a separate subsidized rental unit in a different location.

1. *Eligible Tenants.* The following tenant eligibility criteria will apply where appropriate, unless otherwise authorized:

a. To determine eligibility for occupancy the applicant's income must be as defined in paragraph II K and include net family assets as defined in paragraph II W of this Exhibit.

b. The adjusted annual income must meet the definition of very low-, low- or moderate-income as defined in this Exhibit as required for that specific project for applicant selection, tenant contribution and continued occupancy.

c. To determine eligibility for continued occupancy, the tenant's Adjusted Annual Income must be determined at least once every 12 months. When the tenant's Adjusted Annual Income exceeds the moderate-income limit established for the area in which the project is located, the tenant is no longer eligible and will be required to vacate the project according to the terms of the lease and paragraph VI B 5 of this Exhibit.

d. In RRH projects operating on a Plan I basis, tenants will:

(1) Be a very low-, low-, or moderate-income elderly, disabled or handicapped person.

(2) Be a very low or low-income nonelderly, nondisabled or nonhandicapped person.

e. In RRH projects operating on a nonprofit or limited profit Plan II basis, tenants will be a very low-, low-, or moderate-income person regardless of age, disability or handicapped condition.

f. In RRH projects operating on a full-profit basis, tenants will:

(1) Be an elderly, disabled or handicapped person of any income.

(2) Be a very low-, low-, or moderate-income nonelderly, nondisabled or nonhandicapped person.

g. In LH projects designed and operated either for year-round or seasonal occupancy, tenants will be domestic farm laborers.

h. Occupancy in RRH projects or those portions of RRH projects designated by FmHA as:

(1) Family housing may be by any combination of elderly, disabled or handicapped, and/or nonelderly, nondisabled or nonhandicapped tenants.

(2) Elderly housing must be by elderly, disabled and/or handicapped tenants but not restricted exclusively for use by disabled and/or handicapped tenants.

i. Tenant households must generally be capable of caring for themselves and must meet the following criteria:

(1) Not be totally dependent on others to be able to vacate the unit for their own safety in emergency situations. Tenant households are eligible for occupancy when a member of the household is disabled if adequate care and assistance is provided by the tenant household for the safety and well-being of the disabled household member.

(2) Possess the legal capacity to enter into a lease agreement, except in the case of tenants residing in a congregate housing project who have a legal guardian.

(3) Persons meeting the definition of elderly in paragraph II I of this Exhibit may be considered an eligible tenant or co-tenant if more suitable housing will improve their ability to live independently. The disability or handicap must be supported by a doctor's certificate and must meet one of the definitions in paragraph II I of this Exhibit. Receipt of veterans benefits for disability, whether service-oriented or otherwise, does not automatically establish disability. The owner/manager must make the determination based upon evaluation of the applicant's condition and the documentation presented.

j. In congregate housing projects, eligible tenants will include elderly, disabled or handicapped persons who require some supervision and central services, but are otherwise able to care for themselves. They must be able to provide for their own sustenance in projects that provide less than

a full meal program. The borrower will regularly assess the level of function and degree of competence of the tenant and/or co-tenant's ability in performing daily living activities. This assessment should enable the borrower to determine whether or not the tenant can maintain relatively independent occupancy given the supportive services in the project (see Exhibit B–10 to this subpart). The tenants must also meet the criteria found in paragraph VI B 1 h above.

k. For LH projects and units in RRH projects specifically designed and designated for the elderly, disabled and/or handicapped as defined by FmHA, occupancy is limited rolely to those meeting the eligibility requirements for the specific type of project (i.e., domestic farm laborers, elderly, disabled and/or handicapped). Eligible occupants in these projects may also include other persons who are usually household members of the domestic farm laborer, elderly, disabled or handicapped person. Resident assistants or chore workers will not be considered to be members of the tenant household.

l. In a group home situation, a Resident Assistant may occupy separate living space of appropriate size without regard to income.

m. A student or other seemingly temporary resident of the community who is otherwise eligible and seeks occupancy in a RRH project may be considered an eligible tenant when all of the following conditions are met:

(1) Is either of legal age in accordance with applicable State law or is otherwise legally able to enter into a binding contract under State law.

(2) The person seeking occupancy has established a household separate and distinct from the person's parents or legal guardians.

(3) The person seeking occupancy is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence is provided to this effect.

(4) The person seeking occupancy signs a written statement indicating whether or not the person's parents, legal guardians, or others provide any financial assistance and such financial assistance is considered as part of current annual income and is verified in writing by the borrower.

n. A former domestic farm laborer may continue occupancy of a LH project after retirement or after becoming disabled if the farm laborer was an eligible tenant living in the project prior to the event.

o. A tenant who does not personally reside in a unit for a period exceeding 60 consecutive days, for reasons other than health or emergency, is considered ineligible and shall be required to pay market rent in Plan II projects or 125 percent of rent in Plan I projects for the period of absence exceeding 60 consecutive days.

(1) If the tenant continues to be absent from the unit, the borrower must notify the tenant by certified mail at least 30 days prior to the end of the leasing period, to occupy the living unit by the end of the lease period or the borrower will start eviction proceedings.

(2) In those cases existing before the issuance of this subpart on *December 10, 1983*, where the tenant's lease does not contain the lease clause in paragraph VIII B 3 c of this Exhibit, the tenant will be advised that the lease will not be renewed.

2. Occupancy Policy: Occupancy policy in FmHA financed projects shall have the objective of effective utilization of space without overcrowding or providing more space than is needed by the number of people in the household.

a. The following occupancy standards are to be complied with to assure efficient use of the rental units developed with FmHA financing and apply to all RRH projects and to LH projects designed and operated for year-round occupancy:

Number of bedrooms	Occupants	
	Min	Max
0	1	[illegible]
1	1	[illegible]
2	2	[illegible]
3	[illegible]	[illegible]
4	6	[illegible]
5	[illegible]	10

b. The above occupancy standards may serve as general guidelines for migrant farm labor housing. Projects developed in compliance with local and/or state design requirements will determine the appropriate occupancy standards for migrant LH.

c. Without FmHA approval, management may assign a larger or smaller unit than the household needs if all the following conditions are met:

(1) No household, otherwise eligible and having the number of members appropriate to the unit, is available to occupy the unit and management has made a diligent effort to reach tenants who qualify for the larger or smaller size unit;

(2) The tenant agrees to transfer to the first correctly-sized unit if and when it becomes available in the project;

(3) The tenant agrees to pay all costs associated with the subsequent move; and

(4) The agreements in c (2) and c (3) of this paragraph are included in the tenant's lease.

d. Borrowers with RRH projects specifically built for the elderly prior to October 27, 1980, with only a few or no one-bedroom units, may permit occupancy of two bedroom units by single eligible tenants if this provision is included in the project occupancy policy. The occupancy policy should reflect the needs of the local market area. This eligibility determination made by management must be included in the tenant's lease and will entitle such tenant to all benefits without need for further FmHA approval.

e. When a unit cannot be rented under the provisions in paragraphs c and d above, the District Director may authorize an exception according to paragraph VI B 6 of this Exhibit.

f. A tenant who was determined eligible and allowed to occupy under regulations in effect prior to October 1, 1986, who does not meet eligibility requirements regarding income or borrower occupancy policy as prescribed in these regulations may be permitted continued occupancy in the same unit.

g. In the case of unusual household situations such as a single parent with older children of opposite gender the District Director may make an exception to paragraphs VI B 2 a through f on a case-by-case basis and determine the household eligible.

h. For each RRH project specifically built for the elderly, the borrower or management may not:

(1) Prohibit, prevent, restrict or discriminate against any tenant who owns or keeps a pet in their apartment unit with respect to continued occupancy in the project unless the approved project pet rules are violated.

(2) Prohibit, prevent, restrict or discriminate against any applicant who owns a pet with respect to obtaining occupancy to the project.

3. Other Items the Rental Agent Should Consider in Determining Eligibility of Applicants for Admission to the Project. a. Credit reports to reflect the applicant's past record of meeting obligations.

b. Prior landlord references to determine if the tenant was responsive to meeting rent payment obligations, care, and maintenance of the unit.

c. Verification of income and/or employment according to paragraph VII of this Exhibit. This item is a requirement in all cases.

d. The applicant's financial capability to meet other basic living expenses and the rental charge, taking into consideration any subsidy assistance that could be made available to the tenant. Where RA is not available, any very-low or low-income household that would be required but unable to pay the approved rent, including utilities, may be eligible for some form of rent subsidy described in paragraph IV of this subpart if it is available in the area.

4. Surviving Members of Eligible Tenant Household. a. Surviving members of an elderly, disabled and/or handicapped tenant's household may continue occupancy of the unit even though they may not meet the definition of an elderly, disabled or handicapped person stated in paragraph II of this Exhibit, provided:

(1) They are eligible occupants in all other respects,

(2) They occupied the unit at the time that the original tenant ceased to occupy the unit, and

(3) The District Director determines on a yearly review basis that their continued occupancy will not be detrimental to the integrity of the project in the community.

b. Surviving members of a domestic farm laborer household may continue to occupy when they meet the definition of a domestic farm laborer as defined in paragraph II of this Exhibit. When they do not meet the definition, the provisions for formerly eligible tenants in paragraph VI B 5 of this Exhibit will apply.

5. Formerly Eligible Tenants. Unless authorized by paragraph VI B 2 f, formerly eligible tenants will be required to vacate their unit within 30 days (7 days for migrant farm labor tenants with week-to-week lease agreements) or the end of the term of their lease agreement, whichever is longer, when an eligible applicant is on the waiting list and is available for occupancy. If vacating the unit in the time period described creates an undue hardship on the family, the District

Director may permit continued occupancy for a reasonable period of time. The following "formerly eligible" situations apply to this paragraph:

a. Tenants who no longer meet FmHA income eligibility requirements. (This includes tenants receiving RA or Section 8 assistance.)

b. Tenants in LH projects who no longer meet the farm labor occupation requirement, except retired or disabled domestic farm laborers who are eligible tenants at the time of their retirement or becoming disabled may continue to occupy a project that they initially occupied as an eligible domestic farm laborer.

c. Tenants who no longer meet the occupancy policy for the project. These tenants must either move to a unit of appropriate size in the project, or when none is available, vacate the project at the termination of their lease.

8. District Director Authority To Permit an RRH or LH Borrower To Rent to Ineligible Tenants. a. The District Director may authorize the borrower in writing, upon receiving the borrower's written request with the necessary documentation, to rent *units* to ineligible persons for temporary periods to protect the financial interest of the Government. This authority will be for periods not to exceed one year. Within the period of the lease the tenant may not be required to move for any reasons of ineligibility. A copy of the authorization to rent to ineligibles will be forwarded to the State Office. The following determinations must be made by the authorizing FmHA official.

(1) There are no eligible persons on a waiting list.

(2) The borrower provided evidence that a diligent but unsuccessful effort to rent any vacant unit(s) to an eligible tenant household has been made. Such evidence may consist of advertisements in appropriate publications, posting notices in several public places, and other places where persons seeking rental housing would likely make contact; holding open houses, making appropriate contacts with public housing agencies and authorities (where they exist), State and local agencies and organizations, Chamber of Commerce, and real estate agencies.

(3) The borrower will continue with aggressive efforts to locate eligible tenants and submit to the District Office, along with Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," a report of efforts made. The required followup should be posted in the District Office on Form FmHA 1905–6, "Management System Card—Multifamily Housing."

(4) To protect the security interest of the Government the units may be rented for no more than a year after which the lease must convert to a monthly lease. The monthly lease must require that the unit be vacated when an eligible prospective tenant is available. The ineligible tenant will then be given 30 days to vacate.

(5) Tenants who are ineligible, because their household income exceeds the maximum for the project, will be charged the FmHA approved market rental rate for the size of unit occupied in a Plan II RRH project. In projects operated under Plan I, ineligible tenants will be charged rental surchage of 25 percent of the approved market rental rate.

(6) Tenants who are ineligible for reasons other than income may benefit from RA and/or interest credit if they are otherwise eligible in the same manner as an eligible tenant.

b. Examples of situations where the District Director may consider authorizing a borrower to rent units to ineligible persons when units cannot be returned to eligible persons are:

(1) Permitting occupancy by other eligible families in a project designed for, designated as, and limited to occupancy by eligible elderly, disabled, and/or handicapped persons.

(2) A household that does not meet eligibility requirements regarding income, i.e., an above moderate-income household.

c. When the District Director determines that a borrower may rent to an ineligible tenant, the written authorization must contain the appropriate clauses which must be inserted into the ineligible tenant's lease. At a minimum it should include:

(1) The reason for ineligibility.

(2) The term of ineligible occupancy.

(3) Any conditions under which the tenant will be required to vacate the unit including moving to an appropriate size unit when warranted to comply with the established occupancy standards.

(4) The length of notice the tenant will be given to vacate.

C. *Maintenance of Inquiry and Waiting Lists.* 1. When a prospective tenant inquires (by telephone, letter or visit) concerning the availability of a rental unit, the borrower or rental agent may place the prospect's name chronologically on an inquiry list. The list should contain enough information for future contact by mail or telephone. THIS LIST DOES NOT ESTABLISH ANY PRIORITY.

2. When a prospective tenant files an application for occupancy the borrower or rental agent will place the prospect's name chronologically on the appropriate written waiting list. An application is a written document(s) prescribed by the management providing sufficient information for the rental agent to complete the steps necessary to determine eligibility. The actual determination of eligibility will be conducted according to the application process described in paragraph VI D of this Exhibit.

3. Separate waiting lists by categories and/or a master waiting list with income levels identified (very low, low and moderate), and categories or priorities indicated will be maintained for rural rental and year-round occupancy farm labor housing. Each list must be maintained in chronological order. When there are separate lists, they must be cross-referenced for prospective tenants who fit more than one category or priority.

a. Separate lists may be maintained for:

(1) Income levels (very low, low, moderate, ineligible).

(2) Various size units.

(3) Units for elderly, disabled or handicapped persons, families, or any other combination as planned for the project according to the borrower's loan agreement or resolution.

(4) Persons who require the special design features of the handicapped units in the project such as persons confined to a wheelchair. Persons on this list have priority for these units.

(5) Displacees, such as victims of natural disasters and eminent domain, to whom priority consideration may be given.

(6) In congregate housing projects, priority will be given to the frail or impaired eligible applicants to sustain an occupancy level of 25% to 35% of the project units. After this occupancy level is attained, priority will be given to non-frail or non-impaired applicants.

b. Separate waiting lists will be maintained for very low-income households who *are* eligible for RA. This list may be compiled from the filed applications or extracted from the master list.

4. For seasonal farm labor housing a waiting list should be chronologically compiled as in paragraphs VI C 1, VI C 2, and VI C 3 of this Exhibit. These lists should be maintained for the season in which the project will be operating. Prospective tenants should be advised that the waiting list will terminate on the closing date of the project in any given season.

a. Seasonal LH management plans should identify a date when applications will be accepted for a new operating season and a waiting list compiled.

b. A process should be specified in the plan for advising prospective tenants of the application process and the dates of project operation.

5. A Letter of Priority Entitlement (LOPE) issued by FmHA according to $1965.90 of Subpart B of Part 1965 of this chapter entitles prospective tenants to move to the top of any waiting list for that appropriate unit size for which the applicant qualifies.

6. Each list by category will be available for inspection by prospective tenants on the waiting list. When prospective tenants are first assigned to the waiting list, they will be notified of the category(s) to be assigned to their application.

7. Borrowers may establish a procedure for purging the inquiry and waiting list(s) periodically of prospective tenants who are no longer interested in occupancy. The borrower must inform each prospective tenant of this procedure and any actions they must take to maintain their priority position on the waiting list. When a name is removed from the waiting list, the prospective tenant must be informed in writing at their last known address. The letter must include appeal rights under Subpart L of Part 1944 of this chapter.

D. *Notification of Eligibility or Rejection.*— 1. *Application Status for Determining Eligibility.* All persons desiring to apply for occupancy will be provided the opportunity to submit a complete application. The borrower or rental agent will provide prospective tenants with a written list of all information required for a complete application and offer assistance in completing the application if needed.

a. After the potential tenant has submitted all required forms and information but additional information is required, the borrower or rental agent must notify the applicant within 10 days of the items needed to complete a review of eligibility. The

application file will be documented on the action taken.

b. When an operational project has few or no vacancies, and there are sufficient active applications from households determined eligible to fill expected vacancies, the borrower may postpone verification of eligibility for new applicants.

c. While application fees are discouraged, any fee charged to a prospective tenant must be reasonable and limited to actual costs for obtaining necessary information.

2. *Application Requirements.* At a minimum to be considered complete, applications must include the following information for each prospective tenant household:

a. Name and present address.

b. Household income and eligibility income information, verified and certified according to paragraph VII of this Exhibit.

c. Age and number of household members.

d. Handicap status, if applicable.

e. Race or ethnic group and sex designation.

(1) The borrower or management agent will request that each prospective tenant provide this information on a voluntary basis for statistical purposes only. When the applicant does not provide this information, the rental agent will complete this item based on personal observation or surname.

(2) The following disclosure notice shall appear on the tenant application form or on an amendment to the application:

"The information solicited on this application is requested by the apartment owner in order to assure the Federal Government, acting through its Farmers Home Administration, that Federal Laws prohibiting discrimination against tenant applicants on the basis of race, color, national origin, religion, sex, marital status, age, and handicap are complied with. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, the owner is required to note the race/national origin and sex of individual applicants on the basis of visual observation or surname."

3. *Notification to Applicant.* The applicant who has submitted a *completed* application will be notified in writing that he or she has been selected, rejected, or placed on a waiting list.

4. *Applicants Determined Ineligible.* Applicants determined ineligible will be notified in writing of the specific reasons for rejection.

a. The rejection letter must also outline the applicant's rights under the FmHA Tenant Grievance and Appeals Procedures in Subpart L of Part 1944 of this chapter.

b. When the rejection is based on information from a Credit Bureau, the source of the Credit Bureau report must be revealed to the applicant in accordance with the Fair Credit Reporting Act.

c. Applicants may be rejected due to:

(1) A history of unjustified and chronic nonpayment of rent and financial obligations.

(2) A history of violence and harassment of neighbors.

(3) A history of disturbing the quiet enjoyment of neighbors.

(4) A history of violations of the terms of previous rental agreements such as the destruction of a unit or failure to maintain a unit in a sanitary condition.

d. Rejection of applicants on an arbitrary basis is prohibited. Examples of such arbitrary rejections are:

(1) Race, color, religion, sex, age, marital status, national origin, physical or mental handicap (except in those projects or portions of projects designated for elderly, disabled and/or handicapped, where occupancy by nonelderly, nondisabled or nonhandicapped can be prohibited).

(2) Receiving income from public assistance.

(3) Families with children of undetermined parentage.

(4) Participation in tenant organizations.

e. In the case of Labor Housing projects, no organization borrower other than an association of farmers or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing.

f. Rejected applications must be kept on file by the borrower or management agent until a compliance review has been conducted by FmHA in accordance with Subpart E of Part 1901 of this chapter.

E. *Tenant Selection.* 1. Applicants determined eligible will be selected on a firstcome-first-served basis according to the chronological order of each categorized waiting list or by chronological order of each income group identified on a master waiting list in the following priority:

a. Very low-income.

b. Low-income.

c. Moderate-income.

d. Ineligible.

2. When RA is available: a. Very low-income applicants eligible for RA have a priority over all other applicants on each type of waiting list maintained by the borrower in accordance with paragraph XI of Exhibit E to this subpart.

b. Low-income applicants may be selected provided no very low-income applicants remain on the waiting list.

c. Moderate-income applicants may not be selected where the number of unassigned RA units equals or exceeds the number of vacant units. (Borrowers unable to use RA may consider requesting a transfer of RA authority according to paragraph XV of Exhibit E.)

3. Selections will be made from the waiting list maintained for the particular unit size and/or unit type in which a vacancy exists. If the applicant cannot accept the unit at that time, the reason for not accepting the living unit will be documented. The applicant's name will then be *removed* from the waiting list *unless* the rental agent determines that hardship exists for reasons such as health problems or high cost of rent without RA in which case the applicant's name will remain on the list in chronological order. An applicant whose name has been removed from the waiting list may reapply.

4. When there are no applicant names on the waiting list for the size and/or type of vacant living unit, a name may be selected from the waiting list of another size and/or type of living unit according to the date order of the application on the master waiting list. The selected tenant will be subject to the provisions for ineligible tenants found in paragraph VI B 6 of this Exhibit.

F. *Tenant Record File.* A separate file must be maintained for each tenant. This file will include items such as application, income verification forms, lease agreement and attachments, inspection reports for moving in and moving out, correspondence and notices to the tenant, and any other necessary information. The income verification, tenant eligibility certification and recertification information must be retained for at least 3 years while the tenant is living in the unit and for 3 years after the tenant has moved out.

VII. Verification and Certification of Tenant Income and/or Employment

The incomes reported by the tenants (and employment in the case of LH tenants) selected for occupancy must be verified by the borrower or rental agent before the tenant is determined eligible. If in unusual circumstances a tenant is allowed to move in before income is verified, the lease should contain a clause "subject to verification of income." Temporary verification may also be obtained through contacts with individuals who may be knowledgeable of the tenant's income. When no other verifiable source is available, a notarized affidavit from the tenant attesting to his/her gross annual income may be accepted.

A. *Verification of Income from Employment.* Verification of income from employment, authorized by the tenant/applicant, must be obtained from the employer in writing and filed in the "Tenant Record File." A suggested Employment Inquiry form is attached as Exhibit B–9.

B. *Verification of Income from Other Sources.* Any income from other than employment (e.g., social security, Veterans Administration, public assistance) must be verified in writing by the income source. Verification of income must be documented and filed in the "Tenant Record File." When it is not immediately possible to obtain the written verification from the income source, the income may be temporarily verified by actually examining the income checks, check stubs, or other reliable data the tenant possesses which indicates the tenant's gross income.

C. *Verification of Income and/or Employment for LH Tenants.* 1. Verification of income is required for those domestic farm laborers, including migrants, who will receive the benefits of RA. When the tenants do not have easily verifiable income, the borrower may project monthly income expected to be received by the tenant during occupancy for determining eligibility and subsidy assistance.

2. Verification that all LH tenants have sufficient income from farm labor employment, that meets the definition of domestic farm labor, is required for all domestic farm laborers, including migrants. Employment verification is an addition to income verification for those tenants

described in paragraph VII C 1 above. Verification must be documented and filed in the "Tenant Record File."

D. *Random Sample of Tenant Income and/or Employment Verification.* District Directors are required to make a random sample of tenant income verifications; in the case of LH tenants, employment verifications for use in evaluating the adequancy of such verifications. The random sample can be derived from information on the tenant certification forms that will be submitted to the District Office in accordance with paragraph VI F of this Exhibit. The random sample should be representative of very low-, low- and moderate-income persons in the project, including those receiving subsidy assistance, those paying in excess of the contribution level cited in paragraph IV A 2 c (1) or (2) or (3) of this exhibit for the costs of rent and utilities, and those paying the market rent. The District Director will conduct the random sample in the borrower's office during supervisory visits and at any time he/she may be knowledgeable of discrepancies in income and/or employment verifications. If the random sample discloses discrepancies, the District Director will be required to investigate further or report to the State Director to obtain the assistance of the Office of Audit or the Office of Investigations.

E. *Use of HUD Certification Form for Section 8 Recipients.* HUD Form 50059, or another HUD form approved by HUD for this purpose, may be used in lieu of Form FmHA 1944–8 for the tenants receiving Section 8 assistance. However, the tenant's income cannot exceed FmHA limits for the type of housing project involved if it has been calculated according to the formula contained in Form FmHA 1944–8.

F. *Certification of Tenant Income.* 1. Borrowers must provide a current tenant certification to the FmHA District Office (using Form FmHA 1944–8 or, when tenants receive section 8 assistance, the acceptable HUD form) before a tenant household can be considered an eligible tenant in a multihousing project.

2. The initial tenant certification must be submitted to the FmHA District Office on or before the day the tenant occupies the unit.

3. Any substantial change in income or change in family size requires a new tenant certification to be promptly filed with the FmHA.

4. Form FmHA 1944–8 must be processed as follows:

a. Borrower or their representatives may sign Form FmHA 1944–8 up to 60 days prior to the effective date.

b. Borrowers or their representatives are not to submit Form FmHA 1944–8 to the FmHA District Office more than one month (i.e., 30 days) preceding the effective date.

c. The FmHA District Office reviews each Form FmHA 1944–8 submitted and verifies that the information is complete and correctly computed based on the information provided on the form.

d. The FmHA approved tenant certifications have an effective period of 12 months. The effective period begins on the effective date which is always the first day of the month.

5. Each tenant must be recertifed within 12 months of the previous certification. Tenants receiving Section 8 assistance will be recertified according to HUD regulations.

a. The borrower must: (1) Notify the tenant that a current tenant certification and income verification is required before the due date and explain the procedure necessary to accomplish recertification. Normally this initial written notice will be sent 75 to 90 days prior to the expiration date of the current tenant certification;

(2) Process the appropriate tenant certification and verification of income; and

(3) Submit the signed recertification to the District Office by the due date.

b. The borrower must provide a second written notice to the tenant 30 days prior to the due date if the tenant has not responded. The second notice must advise the tenant that without a current tenant certification, the tenant will be required to pay market rent and that eviction proceedings may be started as of the due date since an annual recertification is required for continued occupancy. If the tenant has RA, the tenant must be advised that without a current certification, the tenant's RA will be cancelled and may not be immediately available for reinstatement should a proper tenant certification be provided at a later date.

c. When an eviction notice has been served on a tenant for failure to recertify, the borrower must provide a copy of the eviction notice to the District Office as required in paragraph XIV B of this Exhibit. If the District Director does not receive a new tenant certification on such tenant(s) the Director will annotate the project master list with an E beside the "Expiration Date of Tenant Certification" on Form FmHA 1944–29 for the appropriate tenant(s). The District Director will continue to authorize interest credit and waiver of overages while the eviction is being actively pursued until resolution of the eviction. The RA will be suspended during the eviction process. Upon conclusion of the eviction process the RA will either be reinstated or given to another tenant.

6. The borrower must submit Form FmHA 1944–29 to the District Office with each payment, report of overage or request for RA as required in paragraph XIII C 1 b of this Exhibit. The calculations on Part II of the form must be for tenants in residence on the first day of the month for which the payment or request is submitted. All calculations will be made as if the tenant will be in residence for the full month. ADJUSTMENTS WILL NOT BE MADE TO THE BORROWER'S SUBSIDY, PAYMENT OR CHARGES FOR OVERAGE FOR TENANTS MOVING IN OR OUT AFTER THE FIRST OF THE MONTH.

7. Paragraph VIII B 3 b of this Exhibit is a required lease provision requiring tenants to notify the management of any permanent change in adjusted monthly income or size of household. Upon receipt of such notice, the borrower must promptly obtain a new tenant certification and income verification and submit it to the District Office.

8. When a borrower/agent believes that an applicant/tenant certification and income verification is inaccurate, they may provide the information including the tenant's social security number to the District Office requesting a further verification through the appropriate state employment agency. The District Office will forward the request to the State Director for submission to the state agency that keeps records on the incomes of wage earners. The State Director will develop a method of obtaining the information from the state agency.

VIII. Lease Agreements

A Lease Agreement is a written contract between the tenant and landlord assuring the tenant quiet, peaceful enjoyment and exclusive possession of a specific dwelling unit in return for payment of rent and reasonable use and protection of the property.

A. *Form of Lease.* Each State Director is encouraged to prepare a sample lease form complying with individual State laws and FmHA requirements. The State Director may incorporate clauses which meet a specific need in compliance with State law. Any sample lease must be reviewed and approved by the OGC before being provided to borrowers as a guide for preparing an acceptable project lease.

1. All leases will be in writing and must cover a period of at least 30 days but not more than one year, except that leases for LH may be weekly where occupancy is typically seasonal. In areas where there is a concentration of non-English speaking individuals, leases and the established rules and regulations for the project written in both plain English and the non-English concentration language must be available to the tenants. The tenant should have the opportunity to examine and execute either form of lease.

2. Annual leases should contain an appropriate escalation clause permitting changes in basic and/or market rents prior to the expiration of the lease. Rent changes would normally be necessary due to changing utility and other operating costs. Any changes must be approved by FmHA according to Exhibit C of this subpart.

3. The form of lease to be used by the borrower and any modifications of the lease form must be approved by the FmHA District Director. When submitting a lease form for FmHA approval, it must be accompanied by a letter from the borrower's attorney regarding its legal sufficiency and compliance with State law and FmHA regulations.

4. A copy of a properly completed and approved Exhibit A–5, "Housing Allowances for Utilities and Other Public Services," of Subpart E of Part 1944 (when the tenant will pay utilities) and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

5. A copy of a properly completed and signed Form FmHA 1944–8 or HUD Form 50059 for those tenants receiving HUD Section 8 tenant subsidy, will be used to calculate each tenant's contribution and will be provided to the tenant as an attachment to the lease.

B. *Required Lease Clauses.* The following clauses will be required in leases used in

connection with FmHA-financed housing projects.

1. All lease agreements must include a statement indicating that the project is financed by the FmHA and is subject to the Title VI nondiscrimination provisions, and that all complaints are to be directed to the Secretary of Agriculture or to the Office of Equal Opportunity, USDA.

2. All lease agreements must also specify that should the tenant no longer meet the eligibility requirements of the project during the term of the lease agreement, he/she will be required to vacate the unit unless an exception is authorized by the State Director.

3. All leases used in FmHA-financed RRH projects must include the following clauses except for elderly, disabled, and handicapped persons in a full profit plan project:

a. "I understand that I will no longer be eligible for occupancy in this project if my income exceeds the maximum allowable adjusted income as defined periodically by the Farmers Home Administration for the (State/Territory)."

b. "I agree to immediately notify the lessor of any permanent change in the adjusted monthly income or change in the number of persons living in the household."

c. "I understand that I must promptly notify the lessor of any extended absences and that if I do not personally reside in the unit for a period exceeding 60 consecutive days, for reasons other than health or emergency, my net monthly tenant contribution shall be raised to $———/per month (market rent for Plan II projects or 125 percent of rent in Plan I projects) for the period of my absence exceeding 60 consecutive days. I also understand that should any rental assistance be suspended or reassigned to other eligible tenants, I am not assured that it will still be available to me upon my return. I also understand that if my absence continues, that as landlord you may take the appropriate steps to terminate my tenancy."

d. "I understand that should I receive rental benefits to which I am not entitled due to my/our failure to provide information or due to incorrect information provided by me or on my behalf by others, or for any other household member, I may be required to make restitution and I agree to pay any amount of benefits to which I was not entitled."

e. "I agree to promptly provide any certifications and income verifications required by the owner to permit determination of eligibility and, when applicable, the monthly tenant contribution to be charged."

4. Leases used by borrowers participating in the FmHA RA program will contain the following clauses. (These clauses can be made an addendum to the lease and they must be signed by the lessor and lessee):

"I understand and agree that as long as I receive rental assistance, my gross monthly tenant contribution (as determined on the latest Form FmHA 1944–8, which must be attached to this lease) for rent and utilities will be $———. If I pay any or all utilities directly (not including telephone or cable TV), a utility allowance of $——— will be deducted from my gross monthly tenant contribution and my resulting net monthly contribution will be $———. If my net monthly tenant contribution would be less than zero, the lessor will pay me $———.

I also understand and agree that my monthly tenant contribution under this lease may be raised or lowered, based on changes in the household income, failure to submit information necessary to certify income, changes in the number and age of persons living in the household, and on the escalation clause in this lease. Should I no longer receive rental assistance as a result of these changes, or the rental assistance agreement executed by the owner and FmHA expires, I understand and agree that my monthly tenant contribution may be adjusted to no less than $——— (Basic Rental) nor more than $——— (Market Rental) during the remaining term of this lease, except that based on the escalation clause in this lease these rental rates may be changed by a Farmers Home Administration approved rent change."

[Note: Eligible borrowers with LH loans and grants, direct RRH loans, or insured RRH loans approved before August 1, 1968, may omit the words "no less than $——— (Basic Rental) nor more than" from the last sentence of the above statement.]

"I understand that every effort will be made to provide rental assistance so long as I remain eligible and the rental assistance agreement between the owner and FmHA remains in effect. However, should this assistance be terminated I may arrange to terminate this lease, giving proper notice as set forth elsewhere in this lease."

5. For leases with tenants occupying units in which borrowers are operating under Plan II Interest Credit Only:

"I understand and agree that my gross monthly tenant contribution as determined on the latest Form FmHA 1944–8, which must be attached to this lease, for rent and utilities will be $———.

If I pay any or all utilities directly (not including telephone or cable TV), a utility allowance of $——— will be deducted from my gross monthly tenant contribution except that I will pay not less than the basic rent nor more than the market rent stated below. My net monthly tenant contribution will be $———. I understand that should I receive rental subsidy benefits (interest credit) to which I am not entitled, I may be required to make restitution and I agree to pay any amount of benefit to which I was not entitled. I also understand and agree that my monthly tenant contribution under this lease may be raised or lowered based on changes in the household income, failure to submit information necessary to certify income, changes in the number and age of persons living in the household, and on the escalation clause in this lease. My tenant contribution will not, however, be less than $——— (Basic Rental) nor more than $——— (Market Rental) during the term of this lease, except that based on the escalation clause in this lease, these rental rates may be changed by a Farmers Home Administration approved rent change."

6. Leases used by borrowers with farm labor housing loans and/or grants will use the following additional clauses:

a. "I understand that the project is operated and maintained for the purpose of providing housing for domestic farm laborers and their immediate families. I do hereby certify that a substantial portion of my immediate family income is and will be derived from farm labor. I further understand that domestic farm labor means persons who receive a substantial portion of their income as laborers on farms in the United States and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands, after being legally admitted for permanent residence therein, and may include the immediate families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. It also includes labor for the production of aquatic organisms under a controlled or selected environment."

b. "I agree that if my household income ceases to be substantially from farm labor for reasons other than disability or retirement, I will promptly vacate my dwelling after proper notification by the owner."

7. The lease agreement in congregate housing cases must include the following statement: "I understand that my ability to live independently in the project with the support services available will be evaluated on a periodic basis. I may be requested to vacate if a determination is made that I am no longer able to live in the project without additional assistance." This involves cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management with competent medical advice, a level of care not available in the congregate housing facility.

C. *Other Lease Provisions.* All leases must contain provisions covering:

1. Names of the parties to the lease and all individuals to reside in the unit and the identification of the premises leased.

2. The amount and due date of monthly tenant contributions.

3. Any penalty for late payment of monthly tenant contribution according to paragraph IX B of this Exhibit.

4. The utilities and quantities thereof and the services and equipment to be furnished to the tenant by the management and the tenant's responsibility to pay utility charges promptly when due.

5. The process by which tenant contribution and eligibility for occupancy shall be determined and redetermined including:

a. The frequency of such tenant contribution and eligibility determinations.

b. The information which the tenant shall supply to permit such determinations: usually, income verification; names and ages of household members; and, in congregate facilities, information that permit management to determine the tenant's or co-tenant's level of function and degree of competence in performing daily living activities.

c. The standards by which rents, eligibility, and appropriate dwelling unit size shall be determined.

d. Tenant's household agreement to move to a unit of appropriate size if the household size changes.

e. The circumstances under which a tenant may request a redetermination of tenant contribution.

f. The effect of misrepresentation by the tenant of the facts upon which tenant contributions or eligibility determinations are based.

g. The time at which shelter cost changes, tenant contribution changes, or notice of ineligibility shall become effective.

6. The limitation upon the tenant of the right to the use and occupancy of the dwellings.

7. The responsibilities of the tenant in the maintenance of the dwelling and the obligation for intentional or negligent failure to do so.

8. Agreement of management to accept a tenant contribution without regard to any other charges owed by tenant to management and to seek separate legal remedy for the collection of any other charges which may accrue to management from tenant(s).

9. The responsibility of management to maintain the buildings and any common areas in a decent, safe, and sanitary condition in accordance with local housing codes and FmHA regulations, and its liabilities for failure to do so.

10. The responsibility of management to provide the tenant with a written statement of the condition of the dwelling unit (when the tenant initially enters into occupancy and when vacating the dwelling unit), and the conditions under which the tenant may participate in the inspection of the premises which is the basis for such statement.

11. The circumstances under which management may enter the premises during the tenant's possession thereof, including a periodic inspection of the dwelling unit as a part of a preventive maintenance program.

12. Responsibility of tenant to advise management of any planned absence for an extended period, usually 2 weeks or more.

13. Agreement that tenant may not let or sublet all or any part of the premises.

14. Understanding that should the project be sold to a buyer approved by FmHA, the lease will be transferred to the new owner.

15. The formalities that shall be observed by management and the tenant in giving notice one to the other as may be called for under the terms of the lease.

16. The circumstances under which management may terminate the lease, all limited to good cause, and the length of notice required for the tenant to exercise the right to terminate.

17. The procedure for handling tenant's abandoned property as provided by State law.

18. Disposition of lease if building becomes untenantable because of fire or other disaster. Right of owner to repair or rehabilitate the building within a certain period or terminate the lease.

19. The agreement that any tenant grievance or appeal from management's decision shall be resolved in accordance with procedures consistent with FmHA regulations covering such procedures which are posted in the rental office.

20. The usual signature clause attesting that the lease has been executed by the parties.

D. *Prohibited Lease Clauses.* Lease clauses in the classifications listed below shall not be included in any lease.

1. Confession of Judgment. Prior consent by tenant to any lawsuit the landlord may bring against the tenant in connection with the lease and to a judgment in favor of the landlord.

2. Distraint for Rental or Other Charges. Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. Exculpatory Clause. Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments. Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. Waiver of Legal Proceedings. Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred.

6. Waiver of Jury Trial. Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to trial by jury.

7. Waiver of Right To Appeal Judicial Error in Legal Proceedings. Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. Tenant Chargeable With Costs or Legal Actions Regardless of Outcome. Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of this clause does not mean that the tenant, as a party to a lawsuit, may not be obligated to pay attorney's fees or other costs if the tenant loses the suit.)

E. *Modification of Lease—Notification to Tenants.* The landlord may modify the terms and conditions of the lease, effective at the end of the initial term or a successive term, by serving an appropriate notice on the tenant, together with the tender of a revised lease or an addendum revising the existing lease. This notice and tender shall be delivered to the tenant either by first-class mail, properly stamped and addressed or hand delivered to the premises to an adult member of the household.

The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first-class letter is mailed or the date on which the copy of the notice is delivered to the premises. The notice must be received at least 30 days prior to the last date on which the tenant has the right to terminate the tenancy without executing the revised lease. The notice must advise the tenants that they may appeal modifications to the lease in accordance with the FmHA tenant grievance and appeals procedure (Subpart L of Part 1944 of this chapter) if the modification will result in a denial, substantial reduction, or termination of benefits being received.

The same notification will be applicable to any changes in the rules and regulations for the project.

F. *Occupancy Rules.* Occupancy rules establish the basis for the management-tenant relationship. Occupancy rules and regulations must be provided and explained by the project management to enable the tenant to understand the purposes, objectives, and standards of the project. The rules will be approved by the FmHA State Director or designee, generally together with the project management plan, management agreement, and lease form.

1. All rules for occupancy and rent structures will be in writing posted conspicuously in the borrower's and/or manager's offices and provided to each tenant with the lease agreement.

2. Proposed changes of any rules for occupancy must be made available to each tenant at least 30 days in advance of implementation, and tenants must be advised that they may appeal changes in accordance with the FmHA tenant grievance and appeals procedure (Subpart L of Part 1944 of this chapter).

3. No rule may infringe on the rights of the tenants to organize an association of tenants. Such associations may be organized to bargain with management, as well as to act socially and/or provide for the welfare of its members. The project management person or organization should be available and willing to work with a tenant organization.

4. Rules may be promulgated that prohibit activities which are detrimental to management and tenants. Such activities include threats to the health or safety of other tenants or the employees of the borrower, interference with the quiet enjoyment of the premises by other tenants, or damage to the physical structure of the project.

5. The borrower may choose to provide rules for *nonelderly* projects that either permit or exclude pets *except* that no rules may be promulgated that would prohibit the tenancy of a tenant household member who requires the services of a trained and certified seeing eye or hearing ear animal to achieve the normal function of that household member.

6. For each RRH project specifically built for the *elderly*, the borrower must establish project rules by October 1, 1987, permitting elderly, handicapped or disabled tenants to keep commonly accepted household pets. These pet rules are to be established according to the following:

a. Pet rules *must not:* (1) Prohibit, prevent, restrict or discriminate against any tenant who owns or keeps a pet in their apartment unit, with respect to continued occupancy in the project unless the approved project pet rules are violated.

(2) Prohibit, prevent, restrict or discriminate against any applicant who owns a pet with respect to obtaining occupancy to the project.

b. Borrowers with operational projects must consult with the tenants of the project

when establishing pet rules and document to the District Director how the consultation process was conducted.

c. Borrowers with new projects will establish pet rules prior to occupancy, but may revise those rules based on tenant comments and suggestions received after rent-up begins.

d. Pet rules will be approved by FmHA as part of, or an amendment to, the project lease. FmHA approval will be granted when the rules meet the provisions and intent of this subparagraph.

e. Pet rules will be reasonable and will be written to consider at least the following factors:

(1) Density of project units.
(2) Pet Size.
(3) Type of pet.
(4) Potential financial obligations of tenants who own or keep pets.
(5) Standards of pet care.
(6) Pet exercise areas.
(7) State and local animal laws or ordinances.
(8) Liability insurance.

f. Pet rules must allow the borrower or project manager authorization to remove from the project any pet whose conduct or condition is duly determined to constitute a nuisance or threat to the health or safety of other tenants in the project or persons in the surrounding community.

7. Initial rules will be attached to the lease agreement. Approval by FmHA for changes and additions may be requested annually with submission of annual reports or more frequently only in the case of an emergency situation.

8. The following items illustrate areas that should be addressed in rules developed by management and provided to all tenants prior to move-in:

a. Explanation of rights and responsibilities under the lease. Where a non-English language is common to a project area, a lease written in that language should also be provided.

b. Rent payment policies and procedures should be fully explained.

c. Policy on periodic inspection of units.

d. Responding to tenant complaints.

e. Maintenance request procedure.

f. Project services and facilities available to tenants.

g. Office location, hours, and emergency telephone numbers.

h. Map showing location of community facilities including schools, health care, libraries, parks, etc.

i. Restrictions on storage and prohibition against abandoning vehicles in the project area.

j. A project newsletter; if desired.

k. Community and public transportation schedules.

9. Tenant may be permitted to have a guest(s) visit their household. However, an adult person(s) making reoccurring visits or one continuous visit of 14 days and nights in a 45-day period *without consent* of the management will be counted as a household member(s).

G. *Security Deposits.* 1. Security deposits are encouraged and they should be used when it is reasonable and customary for the area. The amount of security deposits must be reflected in the borrower's management plan and may not be changed without the written consent of the FmHA District Director. When security deposits are used, they should be an amount equal to the tenant contribution for one month or basic rent, whichever is greater. Families receiving a HUD rental subsidy will pay security deposits according to HUD requirements. In an elderly project, the amount of additional security deposit for pets must be reasonable and not designed to prohibit or discourage tenancy but in no case should it exceed the basic rent of the project. Where a seeing eye or hearing ear animal is necessary for the normal function of a household member, an additional security deposit for the animal may not be charged.

2. Security deposits for persons eligible for RA or Section 8 assistance shall be administered in a manner to prevent hardship on the household. If such tenants cannot pay the full amount initially, they may be given terms that should ordinarily:

a. For RRH projects, not exceed a down payment of 25 percent of adjusted monthly income plus $15 per month or that amount needed monthly to complete the security deposit within twelve months, whichever is greater.

b. For low-income farmworkers in an LH project, not exceed $25 downpayment and $15 per month until an equivalent of one month's project rent is reached. In the case of migrants who will occupy the units for a short period of time, exception to this policy by FmHA may be made upon written request from the borrower when it is shown that such deposits need to be raised to protect the security interest of the government and it will not create a hardship on the tenants.

3. Security deposits shall be handled in accordance with any State or local laws governing tenant security deposits. Tenant security deposits shall be deposited in a separate account at a Federally insured institution, and shall be handled in accordance with any State or local laws governing tenant security deposits. Funds in the Security Deposit Account shall only be used for authorized purposes as intended and represented by the project management in the management plan, and until so used, shall be held by the borrower in trust for the respective tenants.

4. Borrowers may assess fair and reasonable charges to the security deposit for damage and loss caused or allowed by the tenant. An itemized accounting for such charges must be presented to the tenant after the move-out inspection provided for in paragraph X E 2 of this Exhibit, unless the tenant has abandoned the property and his/her whereabouts are unknown and cannot be ascertained after reasonable inquiry.

H. *Special Lease Supplement.* Borrowers are encouraged to supplement lease agreements, particularly of elderly, disabled, and handicapped tenants, to:

1. Permit the borrower, with competent medical or clergical advice, to contact a predetermined sponsor(s) or guardian(s) to effect the transfer of the tenant to other appropriate housing when the tenant is (a) no longer able to functionally make self-determinations or (b) to adequately provide self-care within the facilities and services provided by the project. A sponsor or guardian would be a person(s) designated by the tenant, generally a family member, friend, doctor, or member of the clergy.

2. Provide instruction to the borrower of a person(s) to contact in the event of death of the tenant.

When a lease has been supplemented, the borrower should also obtain an agreement from the designated sponsor(s) or guardian(s) to assume responsibility for the tenant in the event of need as identified in subparagraphs 1 and 2 above.

IX. Rent Collection

A pre-established day of the month should be the designated rental collection day. The time and place of onsite collection and/or the correct address for payment by mail should be well publicized and consideration should be given to an after-hours' depository if needed.

A. *Rental Receipts.* A form of serially-numbered rental receipts should be selected for use and the collection agent held accountable for every receipt. Optional collection services may be considered when they are available.

B. *Delinquent Rents.* A system to identify and detect unpaid rents should be instituted within the project. A penalty of up to $10.00 for late payment of rent after a 10-day grace period, or the grace period prescribed by State law, may be permitted. The borrower should consider the circumstances causing the late payment before assessing any penalty. True hardship cases should not be assessed penalties; however, maintaining a firm and fair policy on rent collection encourages tenants to meet their rental obligations.

C. *Recapture of Improperly Advanced Rental Assistance and Interest Credit.* Recapture of improperly advanced RA and interest credit will be processed in accordance with 7 CFR Part 1951, Subpart N (FmHA Instruction 1951–N, available in any FmHA Office).

X. Maintenance

Maintenance is the process by which a project is kept up in all respects and includes land, buildings, and equipment. Maintenance responsibilities will be included in the management plan. Proper maintenance will help to keep a good image for the project, help to minimize vacancies, and help to preserve the project. Plans and policies for inspections, effective maintenance and repair are to be established at the outset and modified periodically as needed. The following types of maintenance are necessary:

A. *Routine Maintenance.* Routine or short-term type maintenance and repairs will be those cost items and services included in the annual budgets to be paid out of the operations and maintenance expense account. It includes regular maintenance tasks of the project that can be prescheduled or planned for, based on equipment availability and property characteristics. Also included are janitorial tasks performed on a regular basis to maintain the appearance

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of the project and to prevent an accumulation of debris and subsequent deterioration.

B. *Responsive Maintenance.* This includes all maintenance tasks performed in response to either requests for service from tenants or unplanned breakdowns. An essential part of any maintenance system is to plan for requests coming from the dwelling units and for emergencies occurring in the systems serving the apartments. The project manager should develop a plan to focus on: who receives the requests, how they are handled, how specific employees are assigned to the tasks and what kind of records are kept. The capacity of the project manager to respond to requests and emergencies is one of the true tests of a successful maintenance program.

C. *Preventive Maintenance.* This is similar to inspection type maintenance. Regular checking and servicing of equipment and systems is done as required by service information. Preventive maintenance of mechanical systems, building exteriors, elevators, and heating systems in rental projects, require specially trained personnel. The project manager should establish biweekly or monthly schedules in which the routine oiling, adjusting, replacing of filters, and the like is done based on manufacturer's manuals and specifications.

D. *Long Term Maintenance.* These are major expense items which normally do not occur on an annual basis. The borrower may request permission to use reserve funds to pay for these expenses when they occur. However, use of funds out of the reserve account must be preapproved by FmHA.

E. *Inspection Maintenance.* These are maintenance inspections performed periodically to discover problems before crisis situations develop. The following inspections of each tenant's apartment should be made at appropriate times:

1. Move-in Inspection. Before move-in occurs, the management and the applicant accepted for tenancy should together inspect the unit to be occupied and agree upon any repairs needed. A written inspection report shall be prepared and a copy retained in the tenant's file. Any of the identified deficiencies not corrected prior to occupancy should be noted on the lease or inspection move-in report and signed by the tenant and borrower's representative.

2. Move-out Inspection. An inspection should be scheduled with the tenant when the management becomes aware that the tenant is moving out or has vacated the unit. Whenever possible, the inspection should be performed after the furniture has been moved out and before any portion of the security deposit is returned to the tenant. Any repairs or costs to be charged to the tenant will be according to the terms of the lease, local law, and regulations governing security deposits in paragraph VIII G of this Exhibit.

3. Periodic Inspection. An inspection of this type should be made at least annually. The borrower should make provisions in the lease for periodic inspection of the units as a part of a preventive maintenance program.

XI. Rent Changes

It may be necessary as operating costs and/or revenues fluctuate to consider a change of rental rates to keep the project viable. Before any change of rental rates may occur, *prior written consent* of FmHA *is required.* The procedure to request and implement a rent change is specifically covered in Exhibit C of this subpart.

XII. Borrower Project Budgets

A. *Budget Development and Preparation.* 1. Borrowers are required to develop an annual budget of project income and expense.

2. Separate budgets will be developed for each project when the borrower owns more than one MFH project.

3. Budgets will cover a 12 month period selected by the borrower to be the project fiscal year of operation.

4. Budgets will be prepared according to the instructions contained in Form FmHA 1930–7, "Statement of Budget and Cash Flow."

B. *Return on Investment as Authorized by Borrower's Loan Agreement/Resolution.* 1. Limited profit borrowers may take the return authorized for the current budget year without further FmHA approval under the following conditions:

a. Payment may be made only once a year at the end of the project fiscal year.

b. Payment must have been approved as part of the borrower's annual budget on Form FmHA 1930–7.

c. The project must have produced adequate income during that year to cover all expenditures in accordance with the approved budget.

d. The balance in the reserve account must be current less any authorized withdrawals.

e. Payment of the return may not produce a year end deficit.

2. If income is not adequate in any given fiscal year to cover payment of the return to owner, FmHA may authorize the return to be paid from:

a. Excess funds available at the end of the following fiscal year of operation provided it does not result in a rent increase and the reserve account is current less authorized withdrawals. (Non-cash losses of the borrower entity do not qualify to be recouped in following years.) This option is authorized only for the year immediately following the year in which the return was not paid.

b. Release of reserve funds with District Director approval, provided:

(1) The Reserve Account will not be reduced below the amount required to be accumulated by that time considering adjustments for any previously authorized withdrawals; and,

(2) During the next 12 months the amount in the Reserve Account will not likely fall below that required to be accumulated by the end of such 12-month period.

C. *Advancement (Loan) of Funds to a Project by the Owner, Member of the Organization, or Agent of the Owner.* 1. Such advances are discouraged but may be allowed when justified, provided the prior written approval of the District Director has been obtained. Justification will be based on the following:

a. A review of the documented circumstances and the project operating budget before any funds are advanced (loaned).

b. Funds are not immediately available from any of the following sources:

(1) Reserve funds

(2) Initial operating capital

(3) An imminent rent increase

2. The funds will be applied to ordinary project operating and maintenance expenses.

3. No interest will be charged or paid on the loan from project income.

4. No lien in connection with the loan will be filed against the property securing the FmHA loan or against project income.

5. The pay-back of the advance (loan) may be permitted by the District Director provided the terms and conditions were mutually agreed to by the borrower and FmHA at the time of the advance and the financial position of the project will not be jeopardized. Payback should only be permitted on the advance when the FmHA debt is current and the reserve requirements are being maintained at the required levels.

XIII. Accounting and Reporting Requirements and Financial Management Analysis

A. *General.* RRH, RCH, and LH borrowers are expected to account for all project income and expenses through a bookkeeping or accounting system appropriately reflecting the complexity of project operations. The degree of sophistication will also reflect such factors as the type of borrower, the size, location and type of project and the type of financial management information needed to provide adequate guidance and supervision to assure program objectives are being met.

1. Borrowers with loan agreements or resolutions are subject to the following conditions:

a. All RRH and LH projects with loan agreements or resolutions approved on or after October 27, 1980, are required to comply with the provisions of this paragraph XIII.

b. All RRH and LH projects with loan agreements or resolutions approved prior to October 27, 1980, will be guided by the recordkeeping and reporting requirements of their respective loan agreement or resolution.

(1) They are encouraged, however, to adopt the provisions of this section by amending their existing loan agreement or resolution.

(2) The State Director may require adoption of these provisions when deemed necessary as a loan servicing action.

c. Any amendment to an existing loan agreement, or resolution, requires concurrence of all parties and written approval by the State Director with advice from the OGC prior to enactment of the amendment.

d. Individual farm borrowers with LH units will be considered in general compliance with this paragraph by virtue of completing the recordkeeping and reporting requirements of their farm and home planning with FmHA.

2. Borrowers without loan agreements or resolutions are required to maintain information in sufficient detail to provide the necessary assurance that program objectives are being met. As necessary to protect the integrity of the program, the State Director may require the borrower to establish a system capable of accounting for project operations and reporting.

B. *Accounting System.* A bookkeeping and accounting system provides the financial information needed to effectively plan,

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control and evaluate project activity. The type of system should be determined prior to loan closing, but it may be revised with FmHA approval to meet program objectives. FmHA may also prescribe the system to be used. Form FmHA 1930–5, "Bookkeeping System—Small Borrower," can be adapted to the bookkeeping needs of small RRH projects. Bookkeeping for MFH projects may be maintained using a cash, modified cash, or accrual type accounting system.

1. *Type of accounts.* As used in this paragraph, the term account is used interchangeably to mean either a ledger (or bookkeeping account) or an actual banking account. Depending upon the complexity of the accounting system being used, these accounts may be further subdivided into subsidiary ledgers or accounts to assist the borrower in providing the information needed for project financial analysis or reporting requirements. Regardless of the number or types of accounts established, all bookkeeping and accounting systems must meet the following:

a. All project funds shall be held only in accounts insured by an agency of the Federal Government, unless otherwise specifically authorized by the borrower's loan agreement, loan resolution and this paragraph.

b. All funds in any account shall be used only for authorized purposes as described in their loan agreement or resolution and this paragraph.

c. All funds received and held in any account, except the tenant security deposit shall be held in trust by the borrower for the loan obligation until used.

d. All project funds will be maintained separately and distinct from any other project or enterprise of the borrower and/or his/her management agent. Under no circumstances will project funds be commingled with those of another project.

e. Each project will maintain at least one demand deposit or checking account. However, it is not necessary for each bookkeeping account within one project to be maintained as a checking account.

2. *Required Accounts.* All RRH, RCH, and LH borrowers will maintain, as a minimum, the accounts required by their loan agreement or resolution. The following accounts are required for all RRH and RCH loans approved after October 27, 1980, or those who have amended their loan agreements or resolutions to adopt these accounts.

a. *General Operating Account.* This account records all project income and disbursements. Excess project cash held in this account may be combined with other project funds described in this paragraph in temporary (immediate call) interest bearing accounts when separate bookkeeping records are maintained for the individual project accounts. This account may be further subdivided as follows:

(1) *Initial Operating Capital.* The borrower will have deposited the required initial operating capital into this temporary bookkeeping account by the time of the FmHA loan closing or when interim financing funds are obtained, whichever occurs first. The initial operating capital will be deposited in the General Operating Account. After two, but before five full budget years of project operation, the State Director may authorize the borrower to make a onetime withdrawal from project funds, an amount not to exceed the borrower's beginning cash contribution to the Initial Operating Capital as described in the loan agreement or resolution, provided that:

(i) The loan was closed on or after October 27, 1980,

(ii) The loan agreement or resolution signed by the borrower is Form FmHA 1944–33 "Loan Agreement," 1944–34 "Loan Agreement," or 1944–35 "Loan Resolution."

(iii) The project has achieved at least a 95% occupancy level at time of the withdrawal request,

(iv) The withdrawal will not affect the financial integrity of the project. The borrower must demonstrate that all prudent maintenance is being planned and performed, and payment of necessary project expenses are not being deferred,

(v) The State Director determines that the withdrawal will not necessitate a rent increase during the year of withdrawal or during the next year of operation, except that rent increases needed because of normal increased budget expenses unrelated to the withdrawal may be approved.

(vi) The State Director has reviewed and approved any required borrower reports before the Initial Operating Capital is withdrawn.

(2) *Deposits.* All income and revenue from the housing project shall, upon receipt, be immediately deposited in the General Operating Account. This will include rent receipts, housing subsidy payments (including HUD Section 8 and FmHA RA payments), laundry revenue, or any other project income. The borrower may also deposit other funds at any time which are to be used for purposes authorized by this section including transfers from the Reserve Account.

(3) *Disbursements.* Not later than the 15th of each month, out of the General Operating Account, the borrower shall pay or fund the actual, reasonable and necessary monthly project expenses. Current expenses may include the initial purchase and installation of furnishings and equipment with any other funds deposited in the General Operating Account which are not proceeds of the loan or income or revenue from the project. (Howevet, non-profit borrowers are permitted to use loan funds specified for initial operating capital purposes as authorized in FmHA Instruction 1944–E.) Other authorized disbursements are FmHA approved installments of debt service, real estate tax and insurance escrow, reserve, and return on investment as provided in Section 2c below. Any balance remaining in the General Operating Account except as authorized above, may be retained in this account or transferred to the Reserve Account.

(4) *Unauthorized Disbursements.* Late fees charged the borrower according to Subpart K of Part 1951 of this chapter, may not be paid from project income. When late fees are deducted by FmHA from payments made from project income, the project General Operating Account must be reimbursed from nonproject income of the owner or management agent or deducted from the owner's return on investment.

b. *Real Estate Tax and Insurance Escrow Account.* Funds recorded in this account may be deposited in an interest bearing project account. Each month after the payment of actual, reasonable, and necessary current operating and maintenance expenses there shall be transferred from the General Operating Account to the Real Estate Tax and Insurance Escrow Account an amount equal to one-twelfth of the total anticipated real estate tax and insurance payments for the year. Any interest earned shall be prorated based on the amount held in the escrow account at the time the interest is earned and shall accrue and be part of the account.

c. *Reserve Account.* Funds recorded in this account should be held in an interest bearing project account.

(1) Immediately after paying each installment for the orderly retirement of the FmHA loan, as provided in the borrower's promissory note, required reserve installments shall be transferred to the Reserve Account at the monthly rate stipulated by the borrower's loan agreement or resolution. Monthly transfers will continue until the account reaches the total amount specified in the loan agreement or resolution. Monthly transfers shall be resumed the next month following disbursement from the Reserve Account until it is restored to the specified total minimum sum.

(2) Reserve Account funds not immediately needed for authorized purposes may be invested in saving certificates insured by a Federal institution, or invested in readily marketable obligations of the United States Treasury Department, the earnings on which shall accrue to the reserve account.

(3) Interest earnings may be used to meet the monthly installments to the Reserve Account and/or to meet a modified and higher reserve level established periodically by an FmHA approved amendment to the borrower's loan agreement or resolution. Such amendment may be made to build reserve for scheduled replacement of depreciable property items in addition to general reserve requirements.

(4) Any amount in the reserve account which exceeds the total sum specified in the loan agreement or resolution may be transferred to the General Operating Account for the authorized purposes *only when* it is agreed between the borrower and the FmHA to be in excess of the requirement. However, the FmHA District Director may direct the excess sum to be retained in the Reserve Account when determined necessary to protect the Government's security interest.

(5) With prior written consent of the District Director, funds in the Reserve Account may be used by the borrower or its designee for the following purposes:

(i) To meet payments due on the loan obligations in the event the amount for debt service is not sufficient for that purpose.

(ii) To pay costs of repairs or replacements to the housing, furnishings or equipment caused by catastrophe or long-range depreciation which are not current expenses.

Withdrawal for authorized purposes should be approved in advance during the annual budget approval process.

(iii) To make improvements to the housing project without creating new living units.

(iv) For other purposes desired by the borrower, which in the judgment of the Government will promote the loan purposes, strengthen the security, or facilitate, improve, or maintain the orderly collectibility of the loan without jeopardizing the loan or impairing the adequacy of the security.

(v) To pay a return on investment at the end of the borrower's project operating year, provided that after such disbursements the amount in the Reserve Account will not be less than that required by the loan agreement or resolution to be accumulated by that time and the amount in the Reserve Account will likely not fall below that required to be accumulated during the next 12 months.

(A) In the case of borrowers operating on a limited profit basis, to pay a return on the borrower's initial investment as identified in the loan agreement or resolution.

(B) In the case of borrowers operating on a full profit basis, to pay an annual return as specified in the borrower's loan agreement or resolution.

d. *Tenant Security Deposit Account (when applicable).* Upon receipt, all tenant security deposit funds collected shall be recorded in a bookkeeping account that is kept separate from the project bookkeeping accounts. These funds shall be deposited in an account that is kept separate from any project funds and will be handled according to any State or local laws governing tenant security deposits. Funds in the Tenant Security Deposit Account shall be used only for authorized purposes as intended and represented by the project management plan. They shall be held by the borrower in trust for the respective tenants until so used. Any amount of the Tenant Security Deposit Account which is retained by the borrower as a result of lease violations shall be transferred to the General Operating Account and treated as income of the housing.

(1) The owner will follow all State and local requirements governing the handling and disposition of tenant security deposits.

(2) In no case, will interest earned on security deposits accrue to project management or the owner. Any interest earned but not returned to the tenants will accrue to the project's general operating account for disposition as outlined in the management plan.

C. *Borrower Reporting Requirements.* Certain reports are necessary to verify compliance with FmHA requirements and to aid the borrower in carrying out the objectives of the loan. Some reports must be submitted with the FmHA payments and others submitted to FmHA either monthly or annually. Exhibits B–6, B–7, and B–8 of this Exhibit (Management Handbook), are to be used as a guide for determining when reports are due and the number of copies required. (Also see § 1930.124 of this subpart.) The following reports will be prepared and submitted by the borrower:

1. Monthly Reports: a. Submit Form FmHA 1930–6, by the tenth of each month to the District Office to reflect the project operations for the preceding month. Monthly reports will generally be completed on a cash basis, but may also be completed on a modified cash or accrual basis with appropriate modifications made on the form.

b. Submit Form FmHA 1944–29, with the payment to the District Office. This form *must* be submitted each month to report overage and/or request RA, even if a loan payment is not submitted. This form reflects occupancy in the project as of the first day of each month.

c. For LH projects, Form FmHA 1944–29 will be submitted monthly for the LH tenants who receive RA. Otherwise, the Form FmHA 1944–29 covering all LH tenants will be submitted to FmHA at least once annually with the annual reports.

2. Annual Reports: Annual reports may be completed on a cash, modified cash, or an accrual basis. Within 60 days following the close of the borrower's fiscal year, the borrower will submit the following reports to the FmHA District Office:

a. Form FmHA 1930–7, showing all planned project income and expenses for the next year as well as actual project income and expense for the past year.

b. Form FmHA 1930–8, "Year End Report and Analysis For Fiscal Year Ending _____".

c. Audit report or verification. All audit reports will be completed in accordance with Departmental regulations, Subpart I of Part 3015 of Chapter XXX of Title 7, implementing the single audit provisions contained in OMB Circular A–128, when applicable or according to the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." For projects with 25 or more units the audit will be prepared by a LPA licensed on or before December 31, 1970, or a CPA. Borrowers with 24 units or less will need to provide a verification by an individual who is qualified by education and/or experience and who is independent of the borrower or by a committee of the membership not including any officer, director, or employee of the borrower; however, the State Director may also require audits by a CPA or LPA for any project.

d. Copy of the minutes of the annual meeting, when applicable.

e. Energy audit for review according to the provisions of Exhibit D of this subpart.

f. Any other related material that may be requested by the District Director.

D. *Financial and Management Analysis.* Financial and management analysis provides information on the status of the project's operation. Regular analysis can help identify strengths and weaknesses so that appropriate corrective actions can be taken. Some methods of analysis are:

1. Budget Analysis: Using monthly and annual reports, the borrower or project manager compares actual income and expenses with the budgeted amounts. Any differences between the budget and actual figures indicate areas of the project operation where the manager may need to focus added attention and/or take corrective action.

2. Ratio Analysis: Ratios are an effective tool for financial analysis. They prescribe various measures of actual operating performance. FmHA and borrowers should develop a data base of recorded ratios for comparative analysis. Some useful ratio are:

$$\text{a. Vacancy Rate} = \frac{\text{Total vacancy days for the month}}{\text{Total unit days for the month}}$$

$$\text{b. Resident Turnover Ratio} = \frac{\text{Total units becoming vacant during the period}}{\text{Average units occupied for the period}}$$

$$\text{c. Expense Ratio} = \frac{\text{Total Expense}}{\text{Total Income}}$$

$$\text{d. Cost Per Unit} = \frac{\text{Total Expense (By category)}}{\text{Total No. of Units}}$$

$$\text{e. Working Capital Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

$$\text{f. Collection Ratio} = \frac{\text{Total Collections}}{\text{Total Rent Roll}}$$

$$\text{g. Percent of revenue from Government Sources} = \frac{\text{FmHA Rental Assistance or HUD Section 8 Payments}}{\text{Total Market Rent}}$$

XIV. Termination of Tenancy and Eviction

Borrowers and project managers should actively develop ways and means to avoid forced terminations of lease and the eviction of tenants by considering the following:

A. *Tenant's Entitlement to Continued Occupancy.*—1. *General.* The borrower or project manager may terminate or refuse to renew any tenancy only for material noncompliance with the lease or other good cause such as:

a. Noneligibility for tenancy.

b. Action or conduct of the tenant which disrupts the liveability of the project by adversely affecting the health or safety of any tenant, or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities, or that has an adverse financial effect on the project.

c. Expiration of the lease period is not sufficient grounds for eviction of a tenant.

2. *Material Noncompliance.* Material noncompliance with the lease includes:

a. One or more substantial violations of the lease; or

b. Repeated nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period constitutes a substantial violation; or

c. Repeated minor violations of the lease which disrupt the liveability and harmony of the project by adversely affecting the health or safety of any person, or the right of any tenant to the quiet enjoyment of the leased premises and the related project, or that have an adverse financial effect on the project.

3. *Other Good Cause.* Conduct cannot be considered as other good cause unless the borrower or project manager has given the tenant *prior notice* that the conduct will constitute a basis for termination of tenancy.

4. *Rent Overburden.* Any tenant household (except those receiving Section 8 benefits) paying more than the contribution levels cited in paragraphs IV A c (1) or (2) or (3) of this Exhibit toward rent, including utilities, is considered to be experiencing rent overburden. Whenever a tenant is experiencing rent overburden, borrowers are encouraged to utilize any available and compatible governmental rental subsidies including FmHA RA and/or interest credit; or to assist tenants in applying for Section 8 housing assistance to minimize termination of tenancy.

B. *Notice of Termination.* Any notice to terminate tenancy must be based on material violation of the lease terms or for other good cause as determined by the borrower or the project manager.

1. The notice of intent to terminate the tenancy will be handled according to the terms of the lease. Tenants will be given prior notice of eviction according to State or local law. The notice must:

a. Refer to relevant provisions in the lease.

b. State the reasons for the termination with enough specificity to enable the tenant to prepare a response. In those cases where the proposed termination of the tenancy is due to the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity.

c. State that the tenancy is terminated on a date specified.

d. Advise the tenant that if he or she remains in the leased unit on the date specified for termination, the borrower may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense.

2. The notice shall be accomplished by: (a) sending a letter by first class mail, properly stamped and addressed, to the tenant at his or her address at the project, with a proper return address; *and* (b) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be deemed effective until both notices provided for herein have been accomplished. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first class letter provided for in this paragraph is mailed, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

3. A copy of any notice of eviction will be forwarded to the FmHA District Office. The District Director will review the notice for compliance with this paragraph XIV and any State Supplements that have been issued covering tenant evictions with respect to the proper preparation and handling of the notice. If the notice is found to be properly prepared, no further action is needed. If the notice is found to be improperly prepared, the District Director will notify the borrower to cease the action and will then inform the borrower how the notice is improperly prepared. The District Director will not indicate any opinion on the merits of the eviction to the borrower or project manager at this time.

XV. Security Servicing

Security servicing, as referenced in this Exhibit, concerns the borrower's general responsibilities in relation to the loan agreement or resolution, mortgage, and other loan documents. It does not deal with security items between the borrower and the tenants. FmHA will look to the borrower to fulfill its obligation according to the requirements of the loan agreement or resolution, note, mortgage, and other legal or closing documents. Some items of special emphasis are:

A. *Fidelity Bond.* All projects will be required to obtain Fidelity bond coverage for the borrower officials and all employees entrusted with the receipt, custody, and disbursement of any project funds or negotiable or readily saleable personal property. Fidelity bond coverage should be obtained as soon as there are assets within the organization and must be obtained before any loan funds or interim financing funds are made available to the borrower. Fidelity bonds will be obtained according to the following guidelines:

1. Individual or organizational borrowers will provide a fidelity bond when they have employees with access to project assets as cited in paragraph XV A, other than when a management firm has exclusive access to such assets.

2. Borrowers who use a management firm/individual with exclusive access to project assets as cited in Paragraph XV A will require the firm/individual to provide a fidelity bond. In addition, if the borrower takes possession of or gains access to the cited project assets, the borrower must be covered as stated in pararaph XV A(1).

3. Fidelity bond coverage is not required when a loan is made to an individual (natural person) and that individual will be responsible for such activities.

4. In the case of a Land Trust where the beneficiary is responsible for management, the beneficiary will be treated as an individual.

5. A General partnership will not be required to provide fidelity bond coverage where the partners are responsible for the receipt, custody and disbursement of its funds or any other negotiable or readily saleable personal property.

6. The amount of the bond will at least equal the potential gross project income for two months rental collection or the maximum amount of money the project is expected to have on hand at any one time, including cash on hand, money in reserve and other special accounts, etc., whichever is greater.

7. The United States acting through the FmHA will be named as co-obligee in the bond when not prohibited by State Law.

8. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used when commercial insurance or bonding forms are not acceptable to the State Director provided Form FmHA 440–24 is permitted by State Law. In those cases where commercial insurance or bonding forms are used, the form of bond must be approved by the State Director. Use of commerical insurance or bonding forms are encouraged.

9. A blanket bond may be accepted from a borrower or management agent when blanket coverage is more advantageous cost-wise for each project on a pro-rata basis, the coverage limit for each project is identified *or* the total coverage limit is at least equal to the sum of all projects and coverage is restricted exclusively to FmHA-financed MFH projects.

10. The borrower's fidelity bond premiums may be a project expense when coverage is obtained and paid by the borrower.

11. Fidelity bond premiums for a management agent(s) will be included in the management fee.

12. A fidelity bond may have a deductible figure in an amount equivalent to 2 percent of the initial project contribution for operating capital but not in excess of $2,000.

B. *Insurance.* The minimum amounts and types of insurance required of the borrower will be determined by FmHA in accordance with Subpart A of Part 1806 (FmHA Instruction 426.1) and Subpart B of Part 1806 (FmHA Instruction 426.2). All references to County Supervisor shall be construed to mean District Director when applied to the multiple housing program. The borrower or its agent shall obtain:

1. Adequate fire, extended coverage, and earthquake insurance as needed will be required on all buildings included as security for the loan or grant. The amount of coverage will be not less than the amount specified on Form FmHA 426–1, "Valuation of Buildings."

2. Suitable Worker's Compensation Insurance on all its employees. (Worker's Compensation Insurance for employees of a management agent shall be paid out of the agent's management fee.)

3. Adequate liability insurance.

4. Flood insurance when the project is located in a designated flood hazard area.

C. *Real Estate and Personal Property Taxes.* All borrowers will be required to pay their taxes before they become delinquent and provide FmHA with proof of payment. An exception to the above may be made if the borrower has formally contested the amount of the property assessment and has escrowed the amount of taxes in question in a manner acceptable to the District Director.

30–31. Exhibit B–1 to Subpart C is amended by revising paragraph 4.d. and

revising the title to paragraph 11 to read as follows:

Exhibit B–1 of Subpart C—Management Plan Requirements for FmHA Multiple Family Housing Projects

* * * * *

4. * * *

d. Is the responsible person aware of FmHA guidelines covering family size and needs as they relate to unit size?

* * * * *

11. *Plans for tenant participation in project operations and tenant's relationship with management.*

* * * * *

32. Exhibit B–3 to Subpart C is amended by changing the reference in paragraph IV.E. from "Form FmHA 444–8" to "Form FmHA 1944–8" and in the first sentences of paragraph V.B. and paragraph V.C. by removing the words "a separate" and inserting in their place the word "an."

33. Exhibit B–9 to Subpart C is amended in the heading information by inserting a line between the lines "Employee" and "Address" to read "SSN (optional) ————————."

34. Exhibit C to Subpart C is revised to read as follows:

Exhibit C of Subpart C—Rent Changes

I. Objectives

This Exhibit prescribes the method of processing changes in the monthly rental rates for tenants in Farmers Home Administration (FmHA) Rural Rental Housing (RRH) and Labor Housing (LH) projects. This Exhibit covers all RRH and LH loans, including those approved before the date of this subpart.

II. Definitions

A. Approving Official. State Director or designated State and District Office staff with delegated authority according to § 1930.143 of this subpart.

B. Utility. Sewer, water, trash collection, electricity, natural gas, and any other fuel used specifically for cooking, heating, and/or cooling.

III. Initial Understanding With Borrower

A. All RRH and LH applicants will be informed at the application stage of the agency's rent change procedure. All borrowers will be advised that all proposed rent changes must comply with this Exhibit. This Exhibit will also apply to rent changes resulting from Housing and Urban Development's (HUD) Automatic Annual Adjustment Factors for units receiving Section 8, assistance.

1. Projects approved *prior* to November 30, 1983, may submit a rent change request based on a realistic projected budget for the interim year or the ensuring full year.

2. Projects approved on or *after* November 30, 1983, may submit a rent change request only after cost(s) incurred demonstrate a need.

B. Rental rates in projects financed in whole or in part by an RRH or LH loan may not be raised without FmHA written consent according to requirements in loan agreements, loan resolutions, and other instruments executed in connection with RRH and LH loans. Changes requiring only prior FmHA review are those which are beyond the borrowers' control to cover changes in taxes or utilities, and rent changes which do not result in an increase in the tenants' total shelter cost. Borrowers are encouraged to have the effective date of needed rent changes coincide with the start of their fiscal year or with the start of the season in the case of LH projects occupied on a seasonal basis. Rental change requests normally should be made at least 60 days prior to the end of the borrower's fiscal year. It is anticipated that rent changes would not be necessary more than once a year.

C. All borrowers are encouraged to participate in the FmHA Rental Assistance (RA) Program. However, unless the Administrator notifies State and District Offices otherwise, all borrowers with projects meeting the eligibility requirements of Paragraph II B of Exhibit E of this subpart, except full profit borrowers, will be *required* according to Section 530 of Title V of the Housing Act of 1949, as amended, to apply for and accept RA when it appears that a rent change will cause more than 20 percent of the low-income tenants to pay in excess of 30 percent of adjusted monthly income for costs of rent and utilities. If FmHA does not have RA available for this purpose, the borrower is encouraged to use other sources of governmental rent subsidies. The availability or unavailability of governmental rent subsidies will not preclude FmHA from processing a rent change request.

D. Even though RA is not available, borrowers are encouraged to convert to Interest Credit Plan II to give tenants the most favorable rents possible.

IV. Borrower's Responsibility in Processing Rent Changes Which Increase Housing Costs to Tenants and Require FmHA Prior Approval

A. When an RRH borrower, or LH borrower, determines that a rental change is needed for reasons other than those specified in paragraph VI., the borrower must meet with the District Director to review the following information before the "Notice of Proposed Rent Change" is posted and delivered to the tenants. In lieu of meeting with the borrower, the District Director may allow the information to be submitted to the District Director for prior review before being posted. The borrower may proceed to post the notice 15 days after the submission or upon receipt of the District Office's response whichever is earlier.

1. Facts demonstrating the need and justification for a rent change in accordance with paragraphs III A 1 or 2 of this Exhibit.

2. A new operating budget for borrower fiscal year showing:

a. Currently approved budget at old rents.

b. Actual income and expenses to date.

c. Proposed budget at proposed new basic rents.

d. Proposed budget at proposed new market rents (when applicable).

3. An application for RA on Form FmHA 1944–25, "Request For Rental Assistance," if the borrower's project is an eligible project and the proposed rent change will cause 20 percent of the very low- and low-income tenants to pay in excess of 30 percent of adjusted monthly income for the costs of rent and utilities. If the low-income tenants are receiving some other form of rent subsidy, such as HUD's existing Section 8, an exception may be made to this requirement.

4. A new energy audit or a listing of deferred improvements identified in a previous energy audit that was performed within the past five-year period according to the requirements of Exhibit D of this subpart or regulations then extant.

5. Any other information the borrower believes necessary to justify the proposed rent change.

B. Current tenant certifications on Form FmHA 444–8 "Tenant Certification," or other form approved by FmHA must be on file in the District Office.

C. After the borrower and District Director have reviewed the rent change application, the borrower will notify all affected tenants of any proposed rent change using the format of Exhibit C–1 of this Exhibit. The "Notice to Tenants of Proposed Rent Change" will advise tenants that during a 20-day comment period identified in the posted Notice, they have an opportunity to inspect, copy, and make written comments or objections to all materials which will be made available to them justifying the proposed rental increase. Tenants will be advised that they may also review any subsequent material submitted by the borrower to FmHA to support the rent change. If subsequent material is submitted, the borrower will be required to post a new notice. The Notice will advise the tenants that all written comments or objections should be submitted directly to the FmHA District Director by the end of the 20 day comment period. Tenants must be notified by the following methods:

1. The owner or management agent must mail or hand deliver copies of the Notice to all *affected* tenants and the District Director at least 60 days prior to the anticipated effective date of the rent change. By the end of the 20-day comment period, which is included within the 60-day period, the borrower may submit to the District Director any other information to be considered.

2. The management must also post prominently in common areas around the project (laundry rooms, parking areas, recreation rooms, etc.) copies of the Notice. In addition to plain English, all notices will be published in the other primary languages of the tenants.

D. Notification to the tenant of proposed rent change will not be required when an change in the utility allowance only is proposed on Exhibit A–5 of Subpart E of Part 1944 of this chapter, and the utilities are paid directly by the tenants. This does not preclude posting of the FmHA Letter of Approval as provided for in paragraph V B 1 of this Exhibit.

V. Determination by FmHA

A. *Actions by District Director.* The District Director will not consider a rent change application complete and acceptable until the borrower has complied with all terms listed in paragraph IV of this Exhibit. When the application and all attachments for the proposed rent change have been received (including the tenant comments when notification is required), the District Director will:

1. Review all the material submitted.

2. Provide a copy of the borrower's latest Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance."

3. Determine if RA is available for an eligible project on behalf of the low-income tenants.

4. When the change is requested for energy savings improvements identified in an Energy Audit, the District Director shall determine the cost effectiveness and financial impact of the proposed improvements from information contained in the energy audit. The District Director's determination will be made according to paragraph VI of Exhibit D of this subpart.

5. When State Office approval is required, the District Office will submit to the State Director:

a. Appropriate recommendations on the request,

b. An indication of the number of tenants who will need RA as a result of the rent changes,

c. All the material received from the borrower, including tenant comments or objections, at the end of the 20-day comment period.

d. A short narrative describing the general tone of tenant comments and concerns.

6. When a member of the District Office staff is the approval official, the documentation required by V.A.5. above, will be attached to the rent change request.

7. When the borrower has requested RA, complete Form FmHA 1944–25 and forward it to the State Director.

B. *Actions by the Approval Official.* When the application, attachments and comments are received, the approval official will review the material to determine if the rent change is justified. The borrower will be notified by the approval official of the determination within 45 days from the date the "Notice to Tenants of Proposed Rent Change" is posted.

1. *Approval Actions.* a. When a rent change is approved, the approval official will notify the borrower by using Exhibit C–2 of this subpart. The Notice letter will be prepared using the required and/or optional paragraphs as applicable. The reasons for the approved rent change should be concise. The Notice Letter will be mailed or hand delivered to each tenant *and* posted in a conspicuous place(s).

b. When the borrower's project is operated on a profit basis as defined in § 1944.205(s) of Subpart E to Part 1944, and the purpose of the rent change is for: justified operating and maintenance expense; funding the reserve account; other project expenses; providing or maintaining a profit, the change may be allowed as long as eligible tenants can afford the new rental rate.

2. *Disapproval Actions.* When the approval official determines an application for a proposed rent change is not justified on the basis of the information submitted, the approval official will notify the borrower in writing of the reason(s) why the rent change is not approved. The borrower will be advised of the right to file an appeal regarding the rent change disapproval according to § 1900.56 of Subpart B of Part 1900 of this chapter. Rent changes may not be approved when any of the following circumstances exist:

a. The borrower is able but unwilling: to comply with applicable tenant eligibility requirements; the audit and reporting requirements of this subpart; or, the conditions set forth in the borrower's loan agreement or resolution, interest credit and/or rental assistance agreement, promissory note, or mortgage.

b. The budget for the project reflects sufficient income at the present rent structure to meet operation and maintenance expenses which are appropriate and reasonable in amount, meet the FmHA debt service requirements, meet the required reserve account deposit, and provide a return to the borrower, when appropriate.

c. The borrower's project is operated on a profit basis as defined in § 1944.205(s) of Subpart E to Part 1944 and the proposed rent change is for purposes other than meeting operation and maintenance expenses and debt service; i.e., the purpose is to allow excessive profits and the proposed rent change will result in rental rates in excess of what eligible tenants can afford.

d. The State Director is able to provide RA to the project and the borrower's project is operated on either a nonprofit basis or limited profit basis as defined in § 1944.205(r) of Subpart E of Part 1944; but the borrower has not applied for RA within the most recent period of 180 days prior to the rent change request.

VI. Rent Changes Requiring FmHA Prior Review Only

A. Rent changes caused by increases in operating costs for taxes and utilities, which are beyond the borrower's control, may be implemented with only prior FmHA review. The changes may not be greater than the amount necessary to cover the specific tax or utility increases.

1. Prior to notifying tenants, the borrower must meet or consult with the District Director to review:

a. A new operating budget for borrower fiscal year showing:

(1) Currently approved budget.

(2) Actual income and expenses to date.

(3) Budget at new basic rents.

(4) Budget at new market rents (when applicable).

b. A copy of the notification to the borrower from the taxing body or vendor showing that taxes or utilities are being increased. The amount of the change or the basis on which the increased cost can be computed, must be shown in the notice.

c. Detailed calculations showing how the increased operating cost was determined.

d. An updated Exhibit A–5 to Subpart E of Part 1944, when the tenants pay their own utilities and the rent change involves increased utility costs.

e. A new energy audit or a listing of deferred improvements identified in a previous energy audit that was performed within the past five-year period according to the requirements of Exhibit D of this subpart or regulations then extant.

2. The District Director shall review the budget and supporting documentation and when found to be acceptable, notify the borrower in writing that the budget is approved. A copy of the approved budget will be forwarded to the State Director.

3. In addition to notifying each tenant of the new rents as required by State law. The borrower will:

a. Include in the notice an explanation of the increased costs which necessitated the rent change.

b. Mail a copy of the notice to the tenant at least 30 days prior to the effective date of the rent change.

c. Offer the tenants an opportunity to meet with management, discuss the rent change and review all material necessitating the change.

d. Inform the tenants of their right to request a review of the rent change approval decision within 45 days of the date of the notice by writing to the next higher FmHA approval official. Until the request is resolved, the tenants are required to pay the changed amount of rent as indicated in the Notice of Approval.

B. Rent changes decreasing or not increasing tenant's total shelter cost (rent plus utilities), may be implemented with only prior FmHA review provided:

1. Prior to notifying tenants, the borrower must meet with the District Director to review:

a. A new borrower fiscal year operating budget showing:

(1) Currently approved budget.

(2) Actual income and expenses to date.

(3) Budget at new basic rents.

(4) Budget at new market rents (when applicable).

b. Any material contributing to the change and justification for the change.

c. An updated Exhibit A–5 to Subpart E of Part 1944 when the change involves the tenant's utility allowance.

2. The District Director shall review the budget and supporting documentation, and when found to be acceptable, notify the borrower in writing that the budget is approved. A copy of the approved budget will be forwarded to the State Director.

3. In addition to any State requirements, the borrower notifies each tenant of the new rents and/or utility allowance as required by State law, and:

a. Include in the Notice an explanation of the changes and events which necessitated the change. Also, the explanation must specify any adverse and/or positive effect the change may have on the tenants.

b. Mail a copy of the Notice to the tenant at least 30 days prior to the effective date of the rent change.

c. Offer the tenants an opportunity to meet with management to discuss the change and review any material contributing to the change.

d. Inform the tenants of their right to request a review of the rent change approval decision according to paragraph VI A 3 d of this Exhibit.

C. Rent changes to cover project operating and maintenance costs occurring in newly constructed or substantially rehabilitated RRH projects approved after November 30, 1983, may be approved with prior FmHA review only, provided:

1. The limit of rent change shall be the lesser of:

a. The actual past operating cost change incurred.

b. The amount of operating cost change incurred with respect to comparable rental dwelling units serving the project's market area. When no comparable dwelling units exist in the project's market area, the FmHA approval official may approve a rent change according to the best available data regarding operating cost change in rental units.

2. The same requirements of paragraphs VI B 1 and 2 above are met.

D. When the budget and supporting documentation for any rent changes authorized by this paragraph are not acceptable to the District Director, and the District Director and the borrower cannot jointly agree on a budget based on acceptable rents, the borrower will be notified in writing to reduce or rescind the proposed rent change. The borrower will be given appeal rights as specified in Subpart B of Part 1900 of this chapter.

VII. Unauthorized Rent Increases

When a borrower implements a rent change that does not meet the requirements of this Exhibit, the borrower will be notified in writing that: (1) the rent change has not been authorized, and (2) the rents must be rolled back to the last FmHA authorized level. Tenants affected by the unauthorized rent change will be given a rebate or credit for the unauthorized amount retroactive to the date of the unauthorized change. Those borrowers that fail to comply with the provisions of this paragraph will be handled according to § 1965.85(d) of Subpart B of Part 1965 of this chapter.

VIII. Automatic Annual Adjustment Factors for Section 8 Units

If the approval official disapproves a rental rate change requested as a result of HUD's automatic annual adjustment factors for units receiving Section 8 assistance, or approves a rent change for a lesser amount than the change permitted by HUD, the approval official must require the borrower to deposit any excess funds into the Reserve Account. If this results in an accumulation of funds in the Reserve Account beyond the sum shown in the Loan Agreement or Loan Resolution, the interest reduction on a Section 8/515 project should be adjusted or canceled by memorandum to the Finance Office. The borrower will still be required to operate on a limited profit basis.

IX. Special Problem Cases

Problem cases which cannot be handled under this subpart should be submitted to the National Office for review with the State Director's recommended plan of action.

35. Exhibit C–2 to Subpart C is revised to read as follows:

Exhibit C–2 of Subpart C—Notice of Approved Rent Change

Dear ———:

You are hereby notified that the Farmers Home Administration (FmHA) has approved a rent change for the _____ project(s). The rental changes for all rental units will become effective on _____, 19___. (Insert effective date shown in Exhibit C–1 or later effective date in accordance with last paragraph of Exhibit C–1.)

(Insert Reasons for Approval)

The approved rent changes are as follows:

Project Name	Unit	Present Rent		Requested Rent		Approved Rent	
		Basic	Market	Basic	Market	Basic	Market

(Use the following required and/or optional paragraphs where applicable)

*You must notify the tenants of FmHA's approval of the rent changes by posting this letter in the same manner as the "NOTICE TO TENANTS OF PROPOSED RENT CHANGE." This notification must be posted in a conspicuous place and cannot be substituted for the usual written notice to each individual tenant.

*This rent change approval does not authorize you to violate the terms of any lease you currently have with your tenants.

**For those tenants receiving rental assistance (RA), their costs for rent and utilities will continue to be based on the higher of 30% of their adjusted monthly income or 10 percent of gross monthly income or if the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the households shelter cost. If tenants are receiving Housing and Urban Development (HUD) Section 8 subsidy assistance, their costs for rent and utilities will be determined by the current HUD formula.

**Since RA units are not available, the approved rent change is subject to your acceptance of the units should they become available. Your application for RA units on behalf of eligible tenants has been received.

**This rent change is conditioned on the requirement that you carry out energy conservation measures as determined necessary by the project energy audit. You will be allowed _____ days for completion of the work. FmHA assistance may be available to finance any needed improvements.

*You may file an appeal regarding the rent change as approved within 45 days of the date of this notice. An appeal by you must be in writing to the appropriate hearing officer as specified in Subpart B of Part 1900 of this chapter.

*You must inform the tenants of their right to request a review of the rent change approval decision within 45 days of the date of this notice by writing to *(insert name and address of next higher FmHA approval official)*. Until the request is resolved, the tenants are required to pay the changedamount of rent as indicated in the Notice of Approval.

*Any tenant who does not wish to pay the FmHA approved rent changes may give the owner 30-days notice that they will vacate. The tenant will suffer no penalty as a result of this decision to vacate, and will not be required to pay the changed rent. However, if the tenant later decides to remain in the unit, the tenant will be required to pay the changed rent from the effective date of the changed rent.

Sincerely,

_____

FmHA Approving Official

*Required.

**Optional, as applicable.

36. Exhibit D to Subpart C is amended in the first sentence of paragraph V. by removing the words "or appropriate" after the fifth comma.

37. Exhibit E to Subpart C is revised to read as follows:

Exhibit E of Subpart C—Rental Assistance Program

I. General

The objective of the rental assistance (RA) program is to reduce rents paid by low-income households. This Exhibit sets forth the policies and procedures and delegates authority under which RA will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This Exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farmworkers, or a State or local public Agency. RA will supplement the benefits available to tenants under the interest credit program outlined in Exhibit B to Subpart E of Part 1944 of this chapter.

II. Definitions

A. *Eligible Tenants.* Any very low-income, or low-income household, elderly, disabled or handicapped person, meeting the following requirements:

1. The household adjusted annual income must not exceed the very low- or low-income limit established for the area as indicated in Exhibit C to Subpart A of Part 1944 of this chapter (available in any FmHA Office.)

2. The household must be unable to pay the approved rental rate plus utility allowance within a portion of their income not exceeding the highest of:

(a) 30 percent of their adjusted monthly income; or

(b) 10 percent of gross monthly income, or

(c) If the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the household's shelter cost.

3. The household must meet the occupancy policy established for the project and approved by FmHA according to paragraph VI.B.2. of Exhibit B of this subpart.

B. Eligible Project. 1. All projects must operate under Interest Credit Plan II RA to be eligible to receive RA, except LH loans, direct RRH, and insured RRH loans approved prior to August 1, 1968, which must operate under Plan RA. To be eligible for RA the project must have a:

a. RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency, including Senior Citizen Housing (SCH), or

b. RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in § 1944.205(r) of Subpart E to Part 1944 of this chapter, or

c. RCH insured or direct loan, or

d. LH loan, or an LH loan and grant combination, made to a broadly-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Borrowers may utilize the Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program for existing housing and FmHA RA for other eligible households in the same project.

3. Projects with all or a part of the rental units under contract with HUD developed under the Section 8 program for new construction or rehabilitation, by either the dual or single track processing procedures will not be considered an eligible project for RA.

4. Borrowers may provide RA to only those eligible tenants occupying rental housing units financed by FmHA, LH, RCH, or RRH funds.

C. *Operational Project.* A completed RRH, RCH, or LH project financed by FmHA which has been opened for occupancy and has at least been partially occupied by tenants.

D. *New Projects.* Newly constructed or substantially rehabilitated RRH, RCH, or LH project financed by FmHA. For purposes, it further means before any units are occupied.

E. *Rental Assistance.* RA, as used in this Exhibit, is the portion of the approved shelter cost paid by FmHA to compensate for the difference between the approved shelter cost and the monthly tenant contribution as calculated according to paragraph IV.A.2.C. of Exhibit B to this Subpart. When the household's monthly gross tenant contribution is less than the approved utility allowance which is billed directly to and paid by the tenant, the owner will pay the household that difference according to paragraph IX.A.2. of this Exhibit.

F. *Shelter Cost.* The approved shelter cost consists of basic or market rent plus utility allowance, when required. Basic and/or market rent must be shown on the project budget for the year and approved according to § 1930.124 of this subpart. Utility allowances, when required, are determined and approved according to Exhibit A–5 to Subpart E of Part 1944 of this chapter. Any change in rental rates or utility allowances must be processed according to Exhibit F to this subpart.

G. *Utility Allowances.* The allowance approved by FmHA according to Exhibit A–5 to Subpart E of Part 1944 of this chapter, to cover the cost of utilities which are payable directly by the households.

H. *Replacement Units.* RA units which replace RA units in RA agreements expiring because obligated funds have been fully disbursed.

III. Utilization of Rental Assistance

All borrowers with eligible projects as defined in paragraph II. B. of this Exhibit are encouraged to utilize the RA program and receive RA payments on behalf of eligible tenants. Generally, the borrower, or the borrower's approved management agent, will initiate the processing of a RA application.

IV. Priority of Rental Assistance Applications

A. *State Allocations.* The National Office may establish a State quota on the number of RA units that may be approved and obligated in any fiscal year. The State Director will limit the approval of RA to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of RA units for operational projects and the number of RA units to be used for new construction. Priority in allocating RA units will be as follows:

B. *Allocation to Projects Within a State.* The State Director will distribute any RA units allocated to the State according to any specific guidance established by the National Office. When no specific guidance is established by the National Office the State Director will approve requests for RA to projects according to the provisions of this Exhibit.

1. *Replacement Units:* The State Director will distribute or reserve RA units and give priority to projects needing replacement units before any initial or additional units are allocated to other new or operational projects. The State Director should ascertain how many RA units are expected to expire in each District Office during the current fiscal year and the first quarter of the following fiscal year.

2. *New Housing:* Any RA units allocated to the State for new construction will be distributed on a priority basis in the following order:

a. Applications for RRH and RCH loans where the market survey information indicates that a large percentage of the prospective tenants needed RA. When the number of RA units available is inadequate to cover all such applications, the units will be distributed giving priority to those projects located in areas identified as having the greatest housing needs and selected for funding in accordance with § 1944.231 of Subpart E of Part 1944 of this chapter.

b. For LH projects, RA units will be allocated by the National Office from the National Office reserve on a case-by-case basis at the time the projects are considered for funding at the National Office level.

3. *Operational Housing:* When the National Office provides an allocation for servicing RA units, the State Director will distribute them to operational RRH, RCH, and LH projects based on Forms FmHA 1944–25, "Request for Rental Assistance" that have been submitted by eligible borrowers. Priority will be given to projects based on this exhibit and administrative directives issued by the National Office under the annual RA allocations or other authorizations or guidelines established through the budget process. The National Office will notify the State Director each year of any specific date by which all requests for RA must be submitted to FmHA for consideration.

V. Processing of Rental Assistance Applications

All requests for RA will be processed according to this paragraph and may be approved by the State Director.

A. *Operational Projects.* 1. A borrower with an eligible project in which there are tenants paying in excess of 30 percent of their adjusted income for rent is encouraged to file Form FmHA 1944–25 with the District Director. A separate Form FmHA 1944–25 will be submitted for each project. The borrower should include the following with each request.

a. Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," with all columns completed for each tenant in the project. (All Forms FmHA 1944–8, "Tenant Certification" must be current.)

b. Approved or proposed budget for the year on Form FmHA 1930–7, "Statement of Budget and Cash Flow," with Exhibit A–5 to Subpart E of Part 1944 of this chapter attached, when applicable.

2. Prior to the full disbursement of obligated funds on any agreement, a borrower or approved management agent may submit a request for replacement RA units. This request should contain all the material requested in paragraph V A 1 of this Exhibit and should be submitted no later than three (3) months prior to the expected full disbursement of obligated funds, to allow time for processing the request. The number of replacement units may not exceed the number of units that are expiring. Once replacement units have been requested, additional units may not be requested until Form FmHA 1944–51, "Multiple Family Housing Obligation Fund Analysis," is received obligating the replacement units. Form FmHA 1944–51 requesting the additional units must be coded sequentially as required in paragraph V C 5.

3. The District Director will review the budget, Exhibit A–5, Form FmHA 1944–29, and Form FmHA 1944–25 submitted by the borrower to assure that the items are complete and accurate. The District Director will complete Form FmHA 1944–25 and submit all data provided by the borrower to

the State Director with appropriate comments and recommendations.

B. *Projects To Be Funded.* 1. Applicants requesting funding for new projects who are planning to utilize the RA program, should submit a completed Form FmHA 1944–25 to the County Supervisor or District Director, as appropriate, when submitting a preapplication or application for funding.

2. The number of units of RA requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. *State Director Action on Requests for Rental Assistance.* Only the State Director or delegated members of the State Office staff may approve or disapprove RA requests.

1. *Approval Actions.* When the State Director determines that RA can be obligated or transferred, Part III of Form FmHA 1944–51 for obligation, or Form FmHA 1944–55, "Multiple Family Housing Transfer of Rental Assistance," for transfers, will be prepared and distributed according to the Forms Manual Insert (FMI). Form FmHA 1944–27, "Rental Assistance Agreement," will not be executed or amended until the obligation or transfer is verified by the Finance Office. The State Office will verify the obligation or transfer via the computer terminal, on the day following the request.

2. *Completing Agreements.* When the State Director verifies that RA units have been obligated or transferred by the Finance Office, the State Director will forward a copy of either Form FmHA 1944–51 or Form FmHA 1944–55 to the District Director. The District Director will complete Form FmHA 1944–27, and attach the appropriate copies of Form FmHA 1944–51 or Form FmHA 1944–55 according to the FMI.

a. *Initial Agreements.* The District Director will prepare an original and two copies of Form FmHA 1944–27. When the project does not have a Form FmHA 1944–7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement," in effect, the District Director will prepare an original and three copies. The District Director and the borrower will then execute the originals and all copies of Form FmHA 1944–27 and Form FmHA 1944–7. The forms will be distributed according to their FMIs.

b. *Replacement or Modified Agreements.* When an RA agreement initiated prior to May 1, 1985, is replaced or modified, a new Form FmHA 1944–27 will be prepared and distributed according to the FMI. For every replacement or modification on or after May 1, 1985, the original and all copies of the affected RA agreement will be notated, assembled and distributed by the District Director according to the FMI.

3. *Modification of an Existing Agreement.* After any request for a change in the amount of RA has been obligated by the Finance Office, a copy of Form FmHA 1944–51 or Form FmHA 1944–55 will be attached to Form FmHA 1944–27 distributed according to the FMI. A new Form FmHA 1944–7 is not required.

4. *Denial of Rental Assistance Request.* If RA cannot be provided, the State Director will inform the borrower, in writing, of the reasons. The borrower will be given appeal rights according to Subpart B of Part 1900 of this chapter in all cases except when RA is not available from the State's allocation or the National Reserve.

5. *Rental Assistance Agreement Numbers.* a. Each RA agreement will be assigned a six digit Rental Assistance Agreement Number by the Approving Official as follows:

(1) First two digits—Fiscal Year (FY in which the funds were obligated, i.e., 85, 86, etc.)

(2) Second two digits—Initial obligation for the project will be coded 01. Renewal obligations will be coded sequentially starting with 02.

(3) Third two digits—Initial obligation will be coded 01. Each modification where units are added to the agreement by obligation will be coded sequentially starting with 02.

b. RA Agreements with units obligated before FY 1985 will be coded as follows:

(1) First two digits—FY initial obligation was made on the project, i.e., 76, 79, 80, etc.

(2) Second two digits—Relate to the pre-AMAS conversion loan number to which the RA obligation was processed.

(3) Third two digits—Indicate the number of modifications plus 1. (RA Agreement with two modifications on September 30, 1984, will be designated "03.")

c. The Finance Office will track RA agreements by number and notify the District Office on Form FmHA 1951–53, "Multiple Family Housing Transaction Record."

VI. Terms of the Rental Assistance Agreement

A. *Effective Date.* Each "Rental Assistance Agreement" will be effective the first day of the month in which it is executed. If assistance is granted to a project under an appeal according to paragraph XVI of this Exhibit, the effective date will be retroactive to the first day of the month in which the assistance was denied, provided the borrower agrees to make any appropriate refunds to tenants who would have been entitled to RA during the retroactive period.

B. *Term.*— 1. *Twenty (20) Year Agreement.* Twenty (20) year agreements when authorized are restricted to new projects or modifications of existing twenty (20) year agreements. The agreement shall be effective for twenty (20) years from the effective date of the agreement. This agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in Section 1 of the agreement are fully disbursed. This can be any time before or after the end of the 20-year term. Upon expiration of the agreement, a replacement agreement may be executed. If a replacement agreement is considered, it will be for a five (5) year period.

2. *Five (5) Year Agreement.* Five (5) year agreements may be used for operational projects, or for new projects when twenty (20) year units are not available. The agreement shall be effective for five (5) years from the effective date of the agreement. This five (5) year agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in Section 1 of the agreement are fully disbursed. This can be any time before or after the end of the five (5) year period.

3. *Modification of Agreements.* RA agreements may be modified:

a. To add or subtract RA units assigned to the project through obligation or through transfer from another RA agreement;

b. To reinstate a suspended RA agreement to a new borrower in the same project after a voluntary conveyance or a foreclosure and a credit sale within the Multiple Family housing program; or

c. To transfer a suspended RA agreement to a new borrower and a different project after liquidation of the project assets or after the loan is paid in full.

4. *Amendment of Agreements.* a. Any existing RA agreement executed prior to February 15, 1983, which will have a remaining obligation balance at the end of the 5-year or 20-year expiration date stated in Section 9, "Term of the Agreement," may be modified by the use of Form FmHA 444–27A, "Amendment to Rental Assistance Agreement." The amended agreement will expire when the obligated funds are fully disbursed.

b. Any existing RA agreement containing an occupancy standard may be amended by mutual consent of the borrower and FmHA when a new occupancy policy for the project is approved according to paragraph VI B 2 of Exhibit B of this subpart. To amend the agreement:

(1) Delete Section 5 of the original agreement and the borrower's copy and have the deletion dated and initialed by the appropriate FmHA official and the person(s) authorized to sign for the borrower.

(2) Type the following statement on the reverse of the original agreement and the borrower's copy and have the statement dated and initialed by the appropriate FmHA official and the person(s) authorized to sign for the borrower.

"Amended _____ (date) by authority of paragraphs VI B 4 of Exhibit B and VI B 2 a of Exhibit B to Subpart C of Part 1930, Chapter XVIII, Title 7, Code of Federal Regulations."

5. *Replacement Agreements.* Replacement RA agreements for either 5-year or 20-year agreements will be for a five (5) year period. All requirements in paragraphs VI B 2 and 3 of this exhibit apply. Expiring RA agreements and replacement RA agreements may run concurrently for one month so any undisbursed obligation balance on the expiring RA agreement can be liquidated.

VII. Recordkeeping Responsibilities

A. The State Director will maintain Form FmHA 444–28, "Record of Rental Assistance Agreements." Any changes which are made in the number of rental units assisted will be recorded on Form FmHA 444–28.

B. The Finance Office (FO) will track the use of RA and ensure that RA is not disbursed or credited to a borrower's account in excess of the RA obligation. Quarterly and annually, the FO will provide the District Director with an RA payment and obligation status report for each project. The annual version of this report will be filed in Position

2 of the project case file and maintained indefinitely.

C. The District Director will notify the borrower to apply for replacement RA units when the RA Undisbursed Balance reaches a level sufficient to cover approximately 6 months of RA requests. This figure will be based on the project's average monthly request for RA.

D. Information on Form FmHA 2033–42, "Multiple Family Housing Information Status Tracking and Retrieval System" (MISTR), regarding balance of RA funds must be updated annually at the end of each fiscal year by the District Director and State Director.

VIII. Responsibilities of Borrower in Administering the Rental Assistance Program

The borrower and management agent for each project receiving RA should fully understand the responsibilities and requirements of carrying out the program. The following guidelines will be followed:

A. RA payments will not be made directly to eligible tenants receiving RA except as specified in paragraph IX A of this Exhibit. The borrower will maintain an accurate accounting of each tenant's utility allowance and payments made to tenants. All other RA payments will be recorded as a credit to the tenant's monthly rental payment.

B. The borrower must submit Form FmHA 1944–8 for each tenant as required in paragraph VII F of Exhibit B of this subpart (Management Handbook).

C. The incomes reported by the tenants must be verified by the borrower in accordance with paragraph VII of Exhibit B of this subpart (Management Handbook).

D. Borrowers utilizing RA must comply with § 1930.124 of this subpart. RA will not be approved for a project until the operating budget has been approved by the FmHA State Office or the District Director. District Directors, with assistance from the State Office, must closely supervise and assist borrowers in complying with all accounting and management requirements.

E. A borrower participating in the RA program must have an FmHA approved lease with the assisted household. All leases must comply with the provisions of paragraph VIII of Exhibit B of this subpart (Management Handbook).

F. The borrower will be responsible to FmHA for any errors made in the administration of the RA program which are made by the borrower or the borrower's authorized management agent. Errors in computation or other unauthorized use of RA will require, at a minimum, the repayment of any incorrectly advanced RA funds. If the error or unauthorized use of RA appears to be deliberate or intentional, the State Director will refer the case to the Office of Inspector General according to Subpart B of Part 2012 (available in any FmHA Office).

IX. Handling Utility Allowances

A. *Payment of Utilities.* 1. When the tenant is billed directly for utilities, rent paid by the tenant receiving RA will be the difference between the established utility allowance and the portion of income cited in paragraph II A 2 (a) or (b) or (c) of this Exhibit.

2. When utilities are paid by the household receiving RA and the portion of income cited in paragraph II A 2 or (b) or (c) of this Exhibit is less than the allowance for utilities, the borrower will pay the household the difference between the utility allowance and one of those limits of the household's adjusted monthly income.

3. In a project where the owner pays all utilities, the tenant rent will be the portion of income cited in paragraph II A 2 (a) or (b) or (c) of this Exhibit up to the approved rent for the rental unit being occupied.

B. *Determining the Allowance.* The utility allowance will be determined and recorded by the use of Exhibit A–5 to Subpart E of Part 1944 of this chapter.

C. *Changes in Allowances.* The utility allowance should be reviewed annually and adjusted if there are substantial changes in utility and public service rates. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval. Changes in utility allowance which will result in changed rent paid by tenants will be processed according to Exhibit C of this subpart.

X. Method of Payment of Rental Assistance to Borrower

A. Regular monthly RA payments.

1. *Borrower Responsibilities.* a. Any RA due the borrower will be deducted from the balance of scheduled loan payments, any delinquent payments, and other charges due on Form FmHA 1944–29, and the remaining balance must be submitted to the District Office. If the RA due the borrower exceeds the balance of scheduled loan payments, delinquent payments and other charges, an RA check for the excess will be issued by the Finance Office.

b. Each month the borrower must forward to the District Director a separate Form FmHA 1944–29 and any new Form FmHA 1944–8, for each project according to the instruction attached to the form.

2. *District Director Responsibilities.* a. When a Form FmHA 1944–29 and new Form FmHA 1944–8 are received, the District Director will:

(1) Review Form FmHA 1944–8 and verify that the information contained on the form is complete and correctly computed based on information contained in the form.

(2) Review Form FmHA 1944–29 and ensure that entries are supported by the current Form FmHA 1944–8.

(3) Submit the borrower's payment and payment data to the Finance Office using Form FmHA 1944–9, "Multiple Family Housing Certification and Payment Transmittal."

b. The District Director should verify the accuracy of the borrower's servicing address shown on the Finance Office (FO) record. When the address shown is incorrect, Form FmHA 1944–50, "Multiple Family Housing Borrower/Project Characteristics," will be prepared and the FO record corrected via a field computer terminal. File Form FmHA 1944–50 in the borrower casefile.

B. When a project loan account is delinquent, the District Director should counsel with the borrower and develop a servicing plan in accordance with § 1965.85 (b) of Subpart B of Part 1965 of this chapter. This plan should incorporate detailed provisions for continuing operation of the project and paying the account current.

1. As part of the servicing plan, the District Director may agree to releasing a portion of the monthly RA for project operation. This amount will be shown in the "Amount of Rental Assistance Check" block on Form FmHA 1944–9. The check will be delivered to the District Director.

2. The RA Check may be released to the borrower according to the servicing plan.

C. An RA payment request must be based on actual occupancy as of the first day of the month.

XI. Assigning Rental Assistance To Tenants

A. *New Project.* Applications for occupancy should be accepted during the construction phase of the project and placed on a waiting list. During initial rent-up period the following priorities will apply:

1. Until all the RA units have been assigned, a number of apartment units in the project equal to the number of RA units will be initially reserved for applicant households who qualify for RA as defined in paragraph II A of this Exhibit. Applications qualifying for RA will be considered according to the priority established by paragraph XI B of this Exhibit, by-passing those applicants on the waiting list whose income is above the low-income limits for the area. The balance of the apartment units will be rented simultaneously to other applicants on a first-come-first-served basis.

2. If a substantial number of apartment units reserved to be used with RA units remain vacant after initial rent-up and the borrower could rent those units to applicants not eligible for RA, the borrower may consider requesting a transfer of unused RA units in accordance with Paragraph XV B 5 of this Exhibit. Applicants not eligible for RA cannot be selected to occupy units initially reserved to be used with RA until unused RA units are transferred.

3. If there are still vacant units, those applicants by-passed because they did not qualify for RA will be considered for occupancy on a first-come first-served basis.

B. *Operational Project.* To determine priority for assigning an available RA unit in an operational project, the latest Form FmHA 1944–29 must be updated as of the date the unit is available, assuring that columns 3 through 9 are current and accurate.

1. First priority for assigning RA must always be given to eligible very low-income households in the following order:

a. Eligible very low-income tenants paying the highest percentage of adjusted annual income for approved shelter costs.

b. *Eligible very low-income applicants from waiting list.* Very low-income applicants will be selected from the waiting list on a first come, first served basis as provided in paragraph VI E of Exhibit B to this subpart. No eligible tenant household in the project may be required to move from the project to allow an applicant on the waiting list who is eligible for RA, to move in.

2. Second priority for assigning RA will be given to eligible households with *low-income* in the following order.

a. *Eligible low-income tenants* paying the highest percentage of adjusted annual income for approved shelter cost.

b. *Eligible low-income applicants from waiting list.* Low-income applicants will be selected on a first come, first served basis according to paragraph VI E of Exhibit B of this subpart, provided the borrower has satisfied the requirements of paragraph XI C of this Exhibit.

3. Third priority for RA will be given, with State Director approval, to occupancy ineligible tenants living in the project. The occupancy requirements of paragraph VI B 2 of Exhibit B of this subject must be met.

4. When the project has vacancies and RA is not available, an applicant who is eligible for RA may elect to accept occupancy without the benefit of RA. After occupancy, the household will be considered for RA according to paragraph XI B of this Exhibit. If the applicant elects not to accept occupancy because RA is not available, their application will retain its priority date on the waiting list if the rental agent determines that a hardship to the applicant will exist according to paragraph VI E 3 of Exhibit B of this subpart.

5. Eligible tenants receiving the benefits of RA may continue receiving such benefits as long as they remain eligible for RA or the RA calculation formula shows a moderate income tenant that was initially eligible for RA as a low-income tenant still needs RA and there is a RA agreement in effect.

C. *Limits on Low-Income Applicants Which May Receive Occupancy and RA.* 1. When no more very low-income applicants are on the waiting list *and RA is available,* eligible low-income applicants may obtain occupancy and receive RA provided that:

a. For projects available for initial occupancy prior to November 30, 1983, no more than 25 percent of the vacant units receiving RA may become occupied by low-income tenants other than very low-income tenants.

b. For projects available for initial occupancy on or after November 30, 1983, no more than 5 percent of the vacant units receiving RA may become occupied by low-income tenants other than very low-income tenants.

2. The borrower may rent units and provide RA to other than very low-income applicants/tenants in excess of the percentage in paragraph XI C 1 a and b above, respectively, when no more very low-income applicants/tenants are in the market area. The borrower must have in its file and available to FmHA or its representative documentation that shows the efforts made, and the facts used to determine that there are no more very low-income applicants in the market value.

D. *Assigning Rental Assistance Other Than the First of the Month.* 1. When a tenant receiving RA vacates before the end of the month, the RA unit should be immediately reassigned to another tenant or an applicant using the priorities given in paragraph XI B of this Exhibit.

2. When RA is assigned to an applicant and the applicant initially enters the project on a day other than the first of the month, the applicant's tenant contribution for housing costs will be prorated for the remaining portion of the month the same as if the tenant was receiving RA. [Example: Basic rent of $200 and the tenants monthly contribution with RA would be $120, the prorata amount for ½ month would be $80.]

3. When RA is assigned to a tenant other than the first of the month, no adjustment to their tenant contribution on Form FmHA 1944–29 for that month will be made. The tenant will begin to receive the benefits of RA as of the first day of the next month.

4. No adjustment will be made on Form FmHA 1944–29 to request additional RA payment or to refund any excess RA payment or overage when RA is reassigned other than the first of the month.

XII. Rental Assistance Assigned to Wrong Household

When the tenant has correctly reported income and household size, but RA was assigned to a household in error, that tenant's RA benefit should be cancelled and reassigned. Incidents involving incorrect reporting are addressed in 7 CFR Part 1951 Subpart N (FmHA Instruction 1951–N, available in any FmHA Office.)

A. Before the borrower notifies the tenant, the borrower or management agent shall review the case with the District Director. If the District Director verifies that an error has been made based on information available at the time the unit was assigned, the tenant will be given 30 days written notice that the unit was assigned in error and that the RA benefit will be cancelled effective on the next monthly rental payment due date after the end of the 30 day notice period. The tenant will also be notified in writing that:

1. The tenant has the right to cancel the lease based on the error made by the borrower and the loss of benefit to the tenant.

2. The RA granted in error will not be recaptured from the tenant.

3. The tenant may meet with management to discuss the cancellation and the facts on which the decision was based. If the facts are accurate and the tenant cannot produce further evidence proving eligibility for RA, there will be no appeal from the decision. If the tenant feels there is justification for further review the borrower must give the tenant appeal rights under Subpart L of Part 1944 of this chapter.

B. *Reassigning rental assistance.* 1. The RA unit will be reassigned to the household which was erroneously denied the RA unit. The assignment will be based on the Form FmHA 1944–29 from which the original priority was established, when the anit was erroneously assigned. The RA will not be retroactive unless the reassignment was based on an appeal by the tenant. Retroactive RA may not exceed the project's remaining RA obligation balance.

2. If the originally denied household now has RA, or is no longer a resident, the RA will be assigned based on a current Form FmHA 1944–29 and the priorities in paragraph XI of this Exhibit.

XIII. Rental Assistance Payment Cancellation

When a RA check must be cancelled, the following procedure will be followed:

A. *Return of the original rental assistance Treasury Check:* The District Office will prepare Form FmHA 1944–53, as specified in the FMI and mail it to the MFH unit in the Finance Office.

B. *Return of all or a portion of the monthly rental assistance payment or refund of rental assistance previously advanced:* A check from the borrower made payable to Farmers Home Administration (FmHA) will be submitted to the MFH Unit in the Finance Office on Form FmHA 1944–53, completed according to the FMI.

XIV. Terminating Existing Rental Assistance Agreements Obligated in Prior and/or Current Fiscal Years

A. When a project's obligated funds are fully disbursed under any given RA agreement number, RA will be automatically terminated by the Finance Office. The Finance Office will notify the District Office on Form FmHA 1951–51. The District Office will notate Form FmHA 1944–27 according to the FMI to indicate that a termination has occurred. The District Director will notify the borrower in writing that the obligation under the RA agreement number has expired and the RA agreement number must be stricken from the agreement.

1. *For all RA obligations before FY 1985.* RA is considered fully disbursed by the Finance Office when all RA funds obligated before FY 1985 are disbursed.

2. *For all RA obligations after FY 1984.* RA is considered fully disbursed by the Finance Office when all RA funds obligated in a particular FY are disbursed. This includes RA transferred from a different MFH project.

3. When an RA agreement (Form FmHA 1944–27) consists of several different obligations (Form FmHA 1944–51, Part III, or Form FmHA 1944–55) identified by different RA agreement numbers, and the obligations will not be fully disbursed at the same time, only those RA agreement numbers with fully disbursed obligation will be terminated.

B. Prior to Full Disbursement of Obligated Funds:

1. *Prior Fiscal Year Obligations.* Prior fiscal year (FY) obligations will not be terminated. They will be suspended by the State Director using procedures in paragraph XV of this Exhibit.

2. *Current Fiscal Year Obligations.* The State Director is authorized to terminate RA agreements prior to the disbursement of obligated funds if the funds were obligated during the current FY. The undisbursed funds for the RA obligation will be returned to the current FY obligation authority.

XV. Suspending or Transferring Existing Rental Assistance Agreements

A. RA may be suspended or transferred according to the requirements for each situation described in paragraph XV B of this Exhibit and the following:

1. *Suspension.* a. The State Director may approve a suspension of a project's RA agreement and obligation as a result of the

servicing actions described in paragraph XV B 2, 3, and 4 of this Exhibit. The State Director will maintain records and control of the suspended RA.

b. The District Director will notify the borrower in writing and the Finance Office by memorandum.

c. After notification, the Finance Office will suspend all RA payments to the affected project.

d. The State Director may reinstate the RA to the same borrower in the same project, by memorandum to the Finance Office.

2. *Transfer.* a. Only the State Director may approve a RA transfer.

b. RA may be transferred to any borrower with an RA eligible project according to the priorities established by this Exhibit or the National Office.

c. The amount of RA which may be transferred must be:

(1) A specific unit and dollar amount. The dollar value of each RA unit to be transferred will be determined by dividing the transferring project's total remaining RA obligation(s) balance in the transferring RA agreement by the total number of obligated RA units in the RA agreement.

(2) A unit and dollar value equal to or less than those shown on the current RA agreement for the transferring project for example, a portion of an RA agreement unit and remaining obligation dollar value may be transferred.

d. RA units identified by different RA agreement numbers must be transferred with separate RA agreement numbers on Form FmHA ~~1944–55~~.

e. When the State Director approves an RA transfer, Form FmHA 1944–55 completed according to the FMI, will be used to notify the Finance Office except as noted in paragraph XV B 1 of this Exhibit.

f. Form FmHA 1944–27, with Form FmHA 1944–55, attached will be completed according to the FMI for each transferee. The transferors RA agreement will be modified by attaching a copy of Form FmHA 1944–55 according to the FMI to indicate that a portion of the agreement has been transferred. When all the RA units on a RA agreement have been transferred, the transferor's present agreement will be so documented.

B. RA may be suspended and/or transferred in the following situations according to the following directions:

1. *RA transfer accompanying a loan transfer.* When a loan is transferred to an eligible borrower, the transferee may assume the transferor's RA agreement. The RA will be transferred using Form FmHA 1944–55 which will be forwarded to the Finance Office with Form FmHA 1965–9, "Multiple Family Housing Assumption Agreement" as required in § 1965.65 (c)(11) of Subpart B of Part 1965 of this chapter.

2. *Suspension and transfer after a voluntary conveyance.* When a project with RA is voluntarily conveyed to the Government, theRA will be suspended rather than cancelled. When Form FmHA 1965–19, "Multiple Family Housing Advice of Mortgaged Real Estate Acquired," is sent to the Finance Office. Form FmHA 1944–55 must be attached indicating the Code 4 status of the suspended RA units according to the FMI. If the project is sold through a credit sale within the program, the suspended RA may be transferred to the project's new borrower, or a different project if it is not needed.

3. *Suspension and transfer after a liquidation.* When a project with RA is liquidated through sale outside of the program or the loan is paid in full, the RA will be suspended and, subsequently, transferred to a different FmHA financed project.

4. *Suspension and transfer or reinstatement due to a servicing action.* a. When servicing a project's account according to § 1965.85 of Subpart B of Part 1965 of this chapter and the account is accelerated, the RA will be suspended and either:

(1) Transferred with the project to a new borrower when all appeals and redemption periods of the defaulting borrower have expired and a credit sale is to be completed, or

(2) Transferred to a different project if the defaulting project is subsequently sold outside the program, or

(3) Reinstated to the same project when the defaults are corrected and the State Director reinstates the borrower's account.

b. The borrower will be apprised of the appeal rights available under Subpart B of Part 1900 of this chapter upon notification of the pending suspension. The suspension will not be effective until these appeal rights have been exhausted.

5. *Transfer of unused RA.* When RA is unused after initial rent-up and not needed because of a lack of eligible potential tenants in the area, all or a portion of it may be transferred when the State Director determines that the following conditions have been met:

a. *The borrower demonstrates that:* (1) The original market survey completed according to Exhibit A–6 of Subpart E of Part 1944 of this chapter clearly indicates no significant need for rental housing by households in the market area that would require RA for occupancy, and that there are no eligible tenants in the project not receiving RA or there are no eligible applicants on the waiting list who could use RA when obtaining occupancy. The State Director may require a new market survey for the project to make this determination if the original market survey does not adequately address potential very low-income tenants in the area, or does not reflect current market conditions.

(2) When the market survey indicates that there is a significant need for rental housing by households in the market area that would have required RA for occupancy, but all or a substantial portion of the RA units available remain unused after a two-year period since initial availability, the borrower must demonstrate that:

(i) A good faith effort was made to market the project to RA eligible applicants;

(ii) The waiting list does not contain RA eligible applicants and the project is not occupied by RA eligible tenants who do not receive RA; and

(iii) Project management has not used a policy of discouraging RA eligible households from applying for or obtaining tenancy in the project.

(3) Rent increases anticipated for the following two years will not prompt a request for RA according to the provision of Exhibit C of this subpart.

b. The District Director recommends the RA transfer after reviewing documentation submitted by the borrower and finding that the applicable conditions of paragraph XV B 5 of this Exhibit have been met.

6. *Transfer due to an uncloseable loan.* When RA will be unused because the loan to which it was obligated will not be closed, or the RA agreement is not signed, the RA obligation may not be transferred except as provided under the conditions of § 1944.235 (b) of this chapter. However, if this situation occurs during the same FY of obligation, the obligation should be cancelled and reobligated immediately using current authorities. Obligations from prior fiscal year must be cancelled and will be lost unless the conditions of § 1944.235 (b) of Subpart E of Part 1944 of this chapter exist.

XVI. Rights for Appeal if Rental Assistance Is Not Granted or Is Cancelled by Farmers Home Administration

A. Borrowers who have requested RA in writing and are denied such assistance (whether in whole or in part) by FmHA, or when RA is cancelled, will be notified in writing of the specific reasons why they have been denied RA as specified in Subpart B of Part 1900 of this chapter.

B. If at any time a borrower or a household is granted RA under an appeal, the borrower or household will receive the next available RA unit.

C. Borrower denial of RA to tenants will be handled according to Subpart L of Part 1944 of this chapter.

XVII. Forms and Exhibits

Exhibit A–5 to Subpart E of Part 1944 of this chapter and Form FmHA 1944–7 are to be used in determining the amount of RA to be provided.

38. In addition to the amendments set forth above, 7 CFR Part 1930 is amended by removing the words "45 days" and inserting the words "60 days" in the following places:

(a) § 1930.124(b);

(b) Exhibit A–1, paragraph IV B 1 c; item 5. of the Evaluation Checklist for Audit Reports, and item 3. of the Example Audit Review Letter;

(c) Exhibit B–7, wherever it appears under the column entitled "Due dates."

PART 1944—HOUSING

39. The authority citation for Part 1944 continues to read:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

40. Section 1944.178 is amended by revising paragraphs (b), (c), (d), (e) and (g) to read as follows:

§ 1944.178 Complaints regarding discrimination in use and occupancy of LH.

* * * * *

(b) The District Director or State Director will acknowledge receipt of the complaint and promptly forward it to the Administrator, Attention: Director, Equal Opportunity for submission to the Department's Office of Advocacy and Enterprise Equal Opportunity.

(c) Attached to the complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains an assurance agreement. The statement also should include any other information which the State Director or District Director has pertaining to the complaint. The District Director or State Director will not initiate a comprehensive investigation of any complaint until requested to do so by the National Office.

(d) The Department's Office of Advocacy and Enterprise, Equal Opportunity will determine whether discrimination did in fact occur.

(e) If it is found that the borrower's assurance agreement in the security instrument or elsewhere was violated, FmHA will inform the parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

* * * * *

(g) If the borrower fails to take such corrective action and assure future compliance, the Administrator will take further appropriate action as sanctioned by Subpart E of Part 1901 of this chapter.

§ 1944.182 [Amended]

41. Section 1944.182 is amended in the fifth sentence by changing "Form FmHA 444–8" to "Form FmHA 1944–8."

§ 1944.200 [Amended]

42. Section 1944.200 is amended in the first sentences of paragraphs (a)(1) and (a)(2) by adding the words "very low-," before the words "low- and moderate-income . . ."

43. Exhibit A to Subpart D is amended in the first sentence of the second paragraph by adding the words "very low- and" before "low-income farmworkers."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

44. § 1944.205 is amended by revising paragraphs (b), (c), the heading of paragraph (d), paragraph (f), paragraphs (i) and (j), and by adding paragraph (cc) to read as follows:

§ 1944.205 Definitions.

* * * * *

(b) *Elderly (Senior Citizen).* A person who is at least 62 years old. The term elderly, or senior citizen, also means persons with the following handicap or disabilities, regardless of age:

(1) *Handicapped.* (i) Inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which:

(A) Has lasted or can be expected to last for a continuous period of not less than 12 months or which can be expected to result in death, and

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that such ability could be improved by more suitable housing conditions.

(ii) In the case of a blind person who is at least 55 years old (within the meaning of "blindnesss" as determined in Section 223 of the Social Security Act), is unable because of the blindness to engage in substantially gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity over a substantial period of time.

(2) *Disabled.* In the case of developmental disability, a person with a severe, chronic disability which:

(i) Is attributable to a mental or physical impairment or combination of mental or physical impairment;

(ii) Is manifested before the person attains age 22;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(A) Self-care,

(B) Receptive and expressive language,

(C) Learning,

(D) Mobility,

(E) Self-direction,

(F) Capacity for independent living,

(G) Economic self-sufficiency, and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

(c) *Resident assistant.* A person(s) residing in a housing unit who is essential to the well-being and care of the elderly, disabled or handicapped person(s) residing in the unit and who is not related by blood, marriage, or operation of the law to these tenants. The resident assistant is not considered to be part of the household and is not subject to the eligibility requirements of a tenant. The resident assistant receives compensation from sources other than FmHA.

(d) *Very low, low or moderate income household.* * * *

(f) *Eligible occupants.* Eligible occupants in a project may be either the elderly, disabled, handicapped, or very low-, low- and moderate-income households, or any combination thereof, as planned for the project and shown on the applicant's loan resolution or loan agreement, and who comply with the occupancy policy of the borrower as governed by the provisions of paragraph VI B 2 of Exhibit B to Subpart C of Part 1930. The term "occupant" also includes the term "tenant" as used in this Subpart. The occupant must:

(1) Be eligible households usually living in the local community and the surrounding area capable of caring for themselves. However, in the case of congregate housing with supportive services, this may include elderly or handicapped persons who require some supervision and central services, but are otherwise able to care for themselves. All occupants must meet the following criteria:

(i) Occupants must not be totally dependent on others to be able to vacate the unit for their own safety in emergency situations. Tenant households are eligible for occupancy when a member of the household is disabled if adequate care and assistance is provided by the tenant household for the safety and well-being of the disabled household member.

(ii) Occupants must be able to provide for their own sustenance in projects that provide less than full food service.

(iii) The occupant or legal guardian must possess the legal capacity to enter into a lease agreement.

(iv) The tenant or co-tenant must be of legal age.

(2) For a direct loan or a loan developed under Plan I, be:

(i) An elderly, handicapped or disabled person with a very low-, low- or moderate-income, or

(ii) Any household with a very low- or low-income.

(3) For loans developed under Plan II, be a person(s) with a very low-, low- or moderate-income.

(4) For all other loans be a person(s) with a very low-, low- or moderate-income or an elderly, handicapped or disabled person(s) without regard to income.

(5) In the case of cooperative housing projects all members (occupants) must be very low-, low- or moderate-income; except that, any member who is admitted as an eligible tenant of the cooperative may not subsequently be deprived of his/her membership or tenancy by reason of no longer meeting the income eligibility requirements as outlined in Exhibit C of Subpart A of Part 1944 of this chapter.

* * * * *

(i) *Related facilities.* Related facilities may consist of community rooms or buildings, site manager's apartment unit, cafeterias, dining halls, appropriate recreation facilities, and other essential service facilities such as central heat and cooling, sewerage, light systems, ranges and refrigerators, clothes washing machines and clothes dryers, and a safe domestic water supply. Under special conditions, such as a congregate housing project or a project housing handicapped tenants, space may be provided for cafeterias, dining areas, an infirmary, therapy room, special bathing room, and other special areas needed by the elderly and handicapped tenants when determined to be economically feasible. The cost of kitchen equipment such as stoves, ovens, steam tables and other such items may be included in the RRH loan. However, the cost of specialized equipment such as that used for training and therapy will not be included in the RRH loan to equip these facilities. When ranges, refrigerators, dish washing machines, dish dryers and other kitchen equipment are included, they will be attached to the real estate in a manner to prevent easy removal.

(j) *Project.* A project is the total number of rental housing units in one community such as a densely settled area, town or village, operated under one management plan with one loan agreement or resolution.

* * * * *

(cc) *Elderly family.* A household where the tenant or co-tenant is at least 62 years old or handicapped or disabled as defined in § 1944.205(b). An elderly family may include a person(s) younger than 62 years of age who is essential to the elderly, handicapped or disabled person's care and well-being. (To be eligible for an elderly family deduction, the elderly, handicapped or disabled person must be the tenant or co-tenant.)

45. Section 1944.211 is amended by adding paragraph (c) to read as follows:

§ 1944.211 Eligibility requirements.

* * * * *

(c) *Eligibility of tenants.* Eligibility requirements for tenants are specified in Exhibit B to Subpart C of Part 1930 of this chapter.

§ 1944.215 [Amended]

46. Section 1944.215 (i)(1) is revised to read as follows:

§ 1944.215 Special conditions.

* * * * *

(i) * * *

(1) Eligible occupants must meet the requirements of Exhibit B of Subpart C of Part 1930.

* * * * *

§ 1944.215 [Amended]

47. Section 1944.215 (i)(4) is amended by inserting "very low-" between the words "eligible" and "low- or moderate-income."

48. Section 1944.235 is amended by revising paragraphs (i)(1) and (i)(3) to read as follows:

§ 1944.235 Actions subsequent to loan approval.

* * * * *

(i) * * *

(1) The District Director will review the applicant's marketing plan to determine that it is complete with all supplemental information provided. If the plan needs modification before marketing activity begins, approval must be granted by the loan approval official. The District Director will review the approved operating budget to determine if it is still adequate for the initial operating period. If it is not adequate, a rent change will be made according to paragraph VI C of Exhibit C of Subpart C of Part 1930 of this chapter.

* * * * *

(3) Prior to initial occupancy of any tenant, the District Director and the applicant will reconvene to assess implemented and marketing activity by thoroughly reviewing the marketing plan, anticipated occupancy results and the extent of achievement of plan objectives. If original marketing concepts prove to be less than effective, and/or if there are changes in the housing market, the applicant will be required to modify the marketing plan for the project. Should the District Director determine the applicant in noncompliance to the plan and a modification to the plan not warranted, the matter will be referred to the FmHA Administrator, attention Equal Opportunity Officer, through the State FmHA Compliance Officer.

* * * * *

49. Exhibit B to Part 1944 is amended by revising paragraphs IV.A.1, IV.B.1, VI.F. and VIII. to read as follows:

Exhibit B to Subpart C—Interest Credits on Insured RRH and RCH Loans

* * * * *

IV. * * *

A. * * *

1. Borrowers operating under this plan must agree to limit occupancy of the housing to very low- or low-income nonelderly and very low-, low- and moderate-income elderly, disabled or handicapped persons.

* * * * *

B. * * *

1. Borrowers operating under this plan must agree to limit occupancy of the housing to households, including disabled and handicapped persons with very low-, low- and moderate-incomes. Under Plan II, interest credits are based on the cost of operating the project and the size and income of the household.

* * * * *

VI. * * *

F. *Understanding Eligibility.* The borrower should understand the eligibility requirements for occupancy of the housing. Instructions for tenant's eligibility may be found in paragraph VI B of Exhibit B to Subpart C to Part 1930 of this chapter (Multiple Housing Management Handbook).

* * * * *

VIII. *Tenant Certification*

Tenant certification and recertification for interest credit borrowers will be performed in accordance with paragraph VII of Exhibit B to Subpart C to Part 1930 of this chapter.

* * * * *

50. In addition to the amendments set forth above, 7 CFR 1944, Subpart E is amended by changing the references from "Form FmHA 444–8" to "Form FmHA 1944–8" in the following places:

(a) Exhibit B, paragraph IV.B.2.c.;

(b) Exhibit H, paragraph VII.

PART 1951—[AMENDED]

51. The authority citation for Part 1951 continues to read:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

52. Section 1951.506 is amended by revising paragraphs (a)(2) and (a)(5) to read as follows:

§ 1951.506 Processing payment.

(a) * * *

(2) The borrower must mail all Forms FmHA 1944–8, "Tenant Certification," or for tenants receiving Section 8 assistance, the acceptable Department of Housing and Urban Development (HUD) form, to the District Director on the same day, or before, the tenant occupies the unit. The District Director will verify the information on the tenant

VOL
51
ISS
148
AG
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1986
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certification as required in paragraph VII F of Exhibit B to Subpart C of Part 1930 of this chapter. The data from the verified tenant certification should be entered on a "master" Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance" filed with the current tenant certifications in the District Office Servicing file. Only tenants with current tenant certifications shown on this "master" list may be certified for interest credit or rental assistance.

* * * * *

(5) Form FmHA 1944–29, prepared by the borrower must reflect the following:

(i) Only tenants occupying units the first day of the month for which payment is due.

(ii) Interest credit and rental assistance may be claimed only for tenants with current tenant certification as specified in paragraph VII F 2 of Exhibit B to Subpart F of Part 1930 of this chapter.

(iii) Overage up to the market rent must be paid to FmHA by the borrower for tenants without current tenant certifications unless there is a formal eviction in process, then the payment will be calculated based on the expired tenant certificate. The District Director may determine that the tenant may be required to reimburse the borrower for that overage as allowed in paragraph VII F of Exhibit B to Subpart C of Part 1930 of this chapter.

(iv) The borrower may subtract any rental assistance due the project (supported by current tenant certifications) from the payment due and remit a "net" payment. Calculations supporting the "net" payment must be shown on Part I of Form FmHA 1944–29.

* * * * *

PART 1965—REAL PROPERTY

53. The authority citation for Part 1965 continues to read:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

§1965.65 [Amended]

54. Section 1965.65 (c)(6) is amended by changing the reference from "Form FmHA 444–8" to "Form FmHA 1944–8."

Dated: June 4, 1986.

Kathleen W. Lawrence,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 86–16187 Filed 7–31–86; 8:45 am]

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Friday
August 1, 1986

Part III

Department of the Interior

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments; Final Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for assessing damages to natural resources resulting from a discharge of oil or a release of a hazardous substance and compensable under either the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also known as Superfund, or under the Clean Water Act (CWA). Responsibility for preparation of this rule was delegated by the President to the Department of the Interior by Executive Order on August 14, 1981.

This rule is for the use of authorized Federal and State officials referred to in CERCLA as "trustees" for natural resources. Federal trustees are those management agencies designated as trustees in subpart G of the National Oil and Hazardous Substances Contingency Plan (NCP). State trustees are authorized representatives of States who may bring claims under sections 107 and 111 of CERCLA. The procedures in the rule will assist authorized officials to perform natural resource damage assessments for use in court actions or administrative proceedings when seeking compensation for injuries to natural resources.

Section 301(c) of CERCLA requires the promulgation of two types of regulations, standard and simplified "type A" procedures, and alternative "type B" procedures to be used in individual cases. This rule consists of the alternative methodologies referred to as the "type B" procedures. This rule does not provide guidance for simplified assessments referred to as the "type A" procedures. The "type A" procedures were proposed in a Notice of Proposed Rulemaking on May 5, 1986 (51 FR 16636).

Natural resource damage assessments are not identical to response or remedial actions (cleanup) addressed by the larger statutory scheme of CERCLA and the CWA. Assessments are not intended to replace response actions, which have as their primary purpose the protection of human health, but to supplement them, by providing a process for determining proper compensation to the public for injury to natural resources.

DATES: The effective date of the final rule is September 2, 1986.

The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register and is effective September 2, 1986.

ADDRESS: CERCLA 301 Project, Room 4354, Department of the Interior, 1801 C Street NW., Washington, DC 20240 (Regular business hours 7:45 a.m. to 4:15 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Keith Eastin, (202) 343–5183; Alison Ling, (415) 556–8807; David Rosenberger, (202) 343–1301; Willie Taylor (202) 343–7531.

SUPPLEMENTARY INFORMATION: This rule was issued as a proposed rule on December 20, 1985 (50 FR 52126), with comments requested by February 3, 1986. The comment period was extended on February 4, 1986 (57 FR 4397), to February 18, 1986, and extended a second time to March 21, 1986 (51 FR 5376).

Throughout this preamble, language has been extracted from the preamble of the proposed rule, where such language is still appropriate, in order to ensure a clear understanding of the underlying principles contained in this final rule.

The contents of this preamble are listed in the following outline:

I. Background
- A. Statutory Background
- B. Regulatory Background
- C. "Type A" Regulations

II. Overview of the Rule
- A. Introduction
- B. The Natural Resource Damage Assessment Process
- C. Concepts Embodied in the Rule
- D. Resource Related Issues
- E. Economic Issues
- F. Glossary

III. Responses to Comments
- A. Revisions to Subpart A
- B. Revisions to Subpart B
- C. Revisions to Subpart C
- D. Revisions to Subpart D
- E. Revisions to Subpart E
- F. Revisions to Subpart F
- G. Revisions to Appendix I

IV. Special Resources
- A. The Concept of Special Resources
- B. Comments Received
- C. Responses to Comments

I. Background

A. Statutory Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, requires in section 301(c) the promulgation of rules for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substance for the purposes of CERCLA and of section 311(f)(4) and (5) of the Clean Water Act (CWA), also known as the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.* Section 301(c) of CERCLA states:

> (c) (1) The President, acting through Federal officials designated by the National Contingency Plan published under section 105 of this Act, shall study and, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a release of oil or a hazardous substance for the purposes of this Act and section 311(f)(4) and (5) of the Federal Water Pollution Control Act.
>
> (2) Such regulations shall specify (A) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (B) alternative protocols for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.
>
> (3) Such regulations shall be reviewed and revised as appropriate every two years.

This rule is available for use by Federal and State authorized officials acting as trustees of natural resources to assess damages to natural resources for purposes of sections 107(a) and 111(a) and (b) of CERCLA and section 311(f)(4) and (5) of the CWA. Use of this rule is optional. The results of an assessment performed in accordance with this rule by a Federal authorized official acting as a trustee will be given the status of a rebuttable presumption. When injuries occur to natural resources resulting from a discharge of oil or release of a hazardous substance, the Federal or State agency acting in its role as trustee may seek, from the responsible party, damages for those injuries through a CERCLA or CWA action, or may seek restoration or replacement costs, in the case of a release of a hazardous substance, from the Hazardous Substance Response Trust Fund.

Section 107(a) establishes liability for ". . . damages for, injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release." This language is the basis for seeking damages from responsible parties. Section 107(f) describes the role of a trustee and authorizes Federal and State agencies to assume that role. Section 111(a) and (b) permit the payment of claims asserted

for injury, destruction, or loss of natural resources, including the cost of damage assessments from the Hazardous Substance Response Trust Fund. Section 311(f)(4) of the CWA establishes responsible party liability for costs incurred by the Federal or State governments in the restoration or replacement of natural resources injured or destroyed as a result of a discharge of oil or release of a hazardous substance.

Section 301(c) of CERCLA specifies two types of procedures to be developed. The type A procedures are to be standard procedures for simplified assessments requiring minimal field observation. The type B procedures are to include alternative methodologies for conducting assessments in individual cases.

This rule does not include procedures for the filing of claims for natural resource damages against the Hazardous Substance Response Trust Fund. Rules for that purpose have been promulgated by the Environmental Protection Agency (EPA), at 40 CFR Part 306.

B. Regulatory Background

This rule has been developed under a court-imposed deadline. Section 301(c) of CERCLA required its promulgation by December 11, 1982. By Executive Order 12316, August 14, 1981 (46 FR 42237), responsibility for preparation of the rule was delegated to the Department of the Interior. On January 10, 1983 (48 FR 1084), the Department issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking comment from the public concerning how to approach the development of the regulations. A second Advance Notice of Proposed Rulemaking appeared on August 1, 1983 (48 FR 34768) summarizing the comments received from the January notice. In December 1983, the State of Montana filed suit against the Department of the Interior for failure to promulgate the regulations. That suit was voluntarily withdrawn, but was followed by two new cases, one brought by the State of New Jersey and the New Jersey Department of Environmental Protection, and the other brought by the New Mexico Health and Environment Department, the State of Louisiana, Public Citizen, the National Wildlife Federation, and the Environmental Defense Fund. The court ruled on December 12, 1984, in *State of New Jersey et al.* v. *Ruckelshaus et al.* (now Thomas), Cir. No. 84–1668 (D.C.N.J.), that the Secretary had failed to promulgate the assessment regulations in a timely fashion. In a consent order entered on February 5, 1985, the Secretary agreed to undertake action to adopt the assessment regulations as expeditiously as possible. The Secretary agreed to the following:

(1) To publish a notice of proposed rulemaking for the "A regulations" on or before April 4, 1986, and to promulgate final "A regulations" on or before August 7, 1986.

(2) To publish a notice of proposed rulemaking for the "B regulations" on or before December 20, 1985, and to promulgate final "B regulations" on or before April 22, 1986.

The Department published a **Federal Register** notice on January 11, 1985, inviting updated public comment and suggesting meetings between interested members of the public and representatives of the Department involved in preparation of the regulations. Comments received in response to this notice and the earlier ANPRM's were discussed in the proposed rule.

The proposed rule was published on December 20, 1985 (50 FR 52126). The original comment period was set at 45 days in order to comply with the court-imposed deadlines cited earlier. The Department first extended the comment period to February 18 (51 FR 4397) and later to March 21, 1986 (51 FR 5376). On February 3, 1986, the court modified the previously-established deadlines. The modified schedule (51 FR 5376) required the Secretary to:

(1) Submit to the **Federal Register** the final type B regulations on or before June 23, 1986; and

(2) Propose for public comment the type A regulations on or before May 5, 1986, and submit the final type A regulations to the **Federal Register** by October 7, 1986, for publication.

This change in deadlines resulted largely from numerous requests for extension of time to provide public comment on the type B proposed rule and was agreed to by the parties to the litigation. Comments on the proposed type B regulations are discussed at length in section III of this preamble.

C. "Type A" Regulations

This final rule establishes the overall administrative process for conducting natural resource damage assessments and specifically provides the alternative methodologies referred to as the type B procedures described in section 301(c)(2)(B) of CERCLA. No guidance is provided in this rule regarding type A procedures or for choosing between a type A and a type B assessment.

The Department proposed initial type A procedures on May 5, 1986 (51 FR 16636). The procedures are applicable only to coastal and marine environments. At a later date, the Department may expand these procedures or develop new systems to cover other ecosystems, natural resources, and different types of discharges and releases. Formulation of the type A procedures was dependent upon development of the concepts generally applicable to all natural resource damage assessments. As a result, the type A procedures have required more time to develop than the type B procedures. The proposed type A procedures are also proposing to amend certain procedural sections of this final rule. These proposed changes are to allow the type A procedures to be incorporated into the overall natural resource damage assessment process. These proposed changes will be incorporated as the type A regulations are issued in final form.

II. Overview of the Rule

A. Introduction

The final rule provides a process for determining proper compensation to the public for injury to natural resources. It stresses the need for a planned approach to natural resource damage assessments and allows active involvement of both the public and potentially responsible parties throughout the process. However, the final authority for all decisions in the assessment process rests with the authorized official. The rule seeks a balance between controlling the potential costs of assessments and the need for flexibility in designing the assessments. The rule also specifies the procedural steps to be taken in any natural resource damage assessment process peformed pursuant to this rule.

Although the rule provides objectives and criteria for selecting methodologies for making injury and damage determinations, it does not provide specific procedures for implementing these methodologies. A flexible rule is necessary because of the multitude of resources, ecosystems, and oils and hazardous substances, as well as the need to allow the use of evolving scientific and economic methodologies. An evaluation of currently available techniques applicable to the various phases of a natural resource damage assessment is contained in various technical information documents. These technical documents are:

- Type B Technical Information Document: Injury to Fish and Wildlife Species;
- Type B Technical Information Document: Application of Air Models to Natural Resource Injury Assessment;

- Type B Technical Information Document: Guidance on Use of Habitat Evaluation Procedures and Suitability Index Models for CERCLA Application;
- Type B Technical Information Document: Approaches to the Assessment of Injury to Soil Arising from Discharges of Hazardous Substances and Oil; and
- Type B Technical Information Document: Techniques to Measure Damages to Natural Resources.

These technical information documents are being prepared in conjunction with this rule to ensure that the steps and objectives outlined in the rule are feasible and to provide more specific technical information to those performing assessments, interested members of the public, and potentially responsible parties. These documents do not constitute regulatory guidance nor are they required to be followed to obtain the rebuttable presumption. The documents may be obtained through the CERCLA 301 Project office. Availability of these information documents in final form will be the subject of a future notice in the Federal Register.

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VOL 51 ISS 148 AG 1 1986 UMI

Chart I

Natural Resource Damage Assessment Process

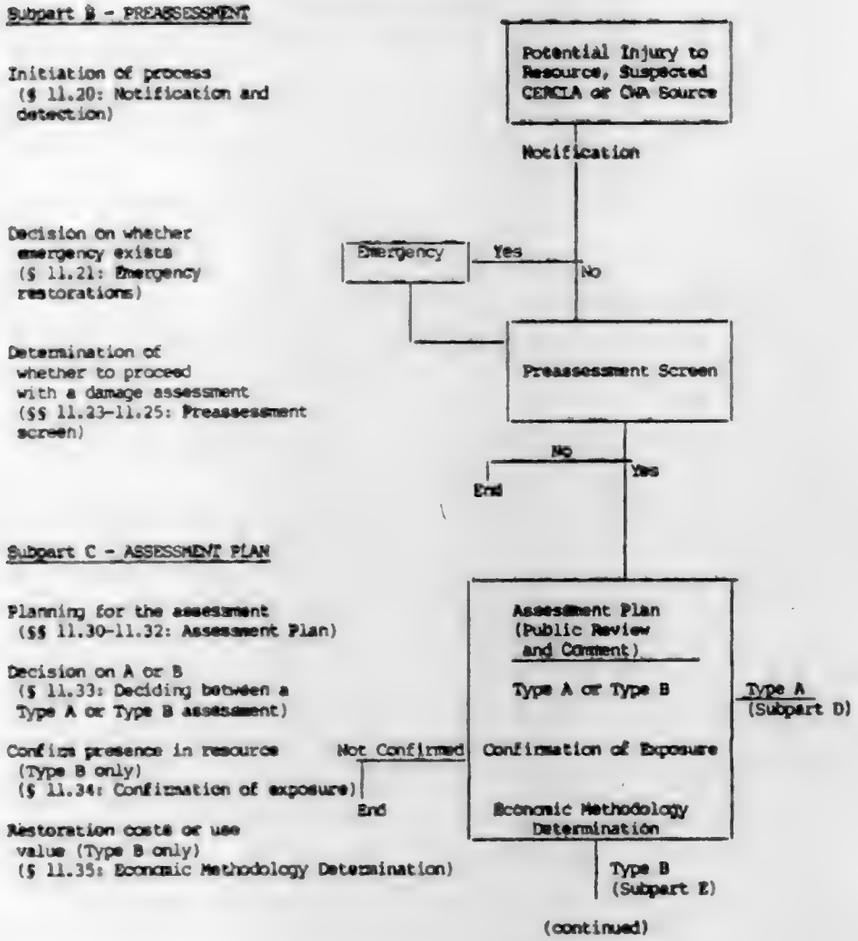

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Chart I (continued)

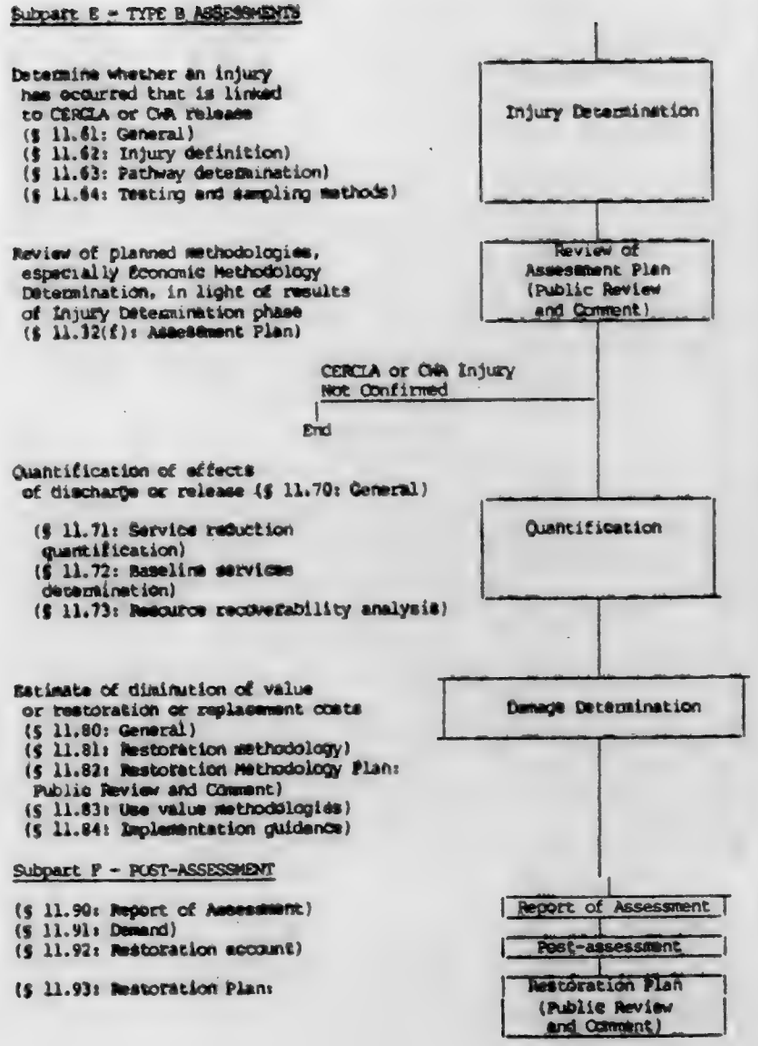

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B. The Natural Resource Damage Assessment Process

Chart I provides an overview of the natural resource damage assessment process embodied in the rule. This section will briefly discuss the major steps in the process. A more detailed discussion of the major issues pertaining to this process is contained in Sections C and D of this overview of the rule.

Initiation of Process—A natural resource damage assessment begins with the process set forth in the NCP. The NCP, in 40 CFR 300.52(d) and 300.62(d), provides for notification by the lead agency to Federal or State agencies authorized to act as trustees when a potential natural resource injury may exist. In instances where a Federal or State official first identifies a possible injury to a resource for which a Federal or State agency may act as a trustee under CERCLA, and suspects a CERCLA or CWA covered discharge or release as the source, the official is directed to the procedures in the NCP for reporting the discharge or release.

Emergency Restorations—Section 111(i) of CERCLA provides authority for emergency restorations. The rule: defines an emergency; requires that the emergency be reported to the National Response Center; allows for certain emergency actions to be taken in the event the lead response agency or potentially responsible party is not taking sufficient action; and upon completion of the emergency restoration, returns the authorized official to the natural resource damage assessment process.

Preassessment Screen—Any assessment actions, other than emergency actions, begin with a preassessment screen to determine whether the discharge or release justifies a natural resource damage assessment. This screen is viewed as a "desk top" review of existing data with a minimal amount of field work and should be capable of being completed in a matter of days.

A determination is required upon completion of this screen. The decision to proceed beyond this screen must be based upon a preliminary finding that: the discharge or release was covered by CERCLA or the CWA; it could have resulted in some injury to the resource; the resource potentially injured and the extent of potential injury are of concern to the authorized official; and the authorized official has reason to believe that the potential benefits outweigh the potential costs of performing an assessment.

The preassessment screen proceeds in steps from preliminary identification of the substance discharged or released and its source, to initial estimates of the pathway for purposes of identifying any resources that may be impacted, to identifying important resources that may justify further assessment. This preassessment screen should complement rather than duplicate any equivalent procedure that may already be used by Federal and State agencies to screen for potential resource damages. It should permit the authorized official, based upon previous agency experience or similar incidents involving such resources, to begin the process of identifying and deriving cost estimates on a very preliminary basis. It should not duplicate or repeat information gathered by the lead agency or by other parties as part of the response action. Existing and previously gathered information is sufficient so long as it is adequate to make the appropriate determinations. Moreover, in conducting assessments pursuant to this rule, all activities of the authorized official should be closely coordinated with the lead agency undertaking response work. If the preassessment screen results in a determination that a natural resource damage assessment is appropriate, the next phase is to prepare an Assessment Plan. However, if the preassessment screen results in a determination that a natural resource damage assessment is not appropriate, no further assessment actions are to be taken and no assessment costs will be recovered.

Assessment Plan—All decisions on the selection of the methodologies, including, but not limited to, parameter values and other assumptions used to implement the methodologies provided in subparts D or E, must be documented. This documentation must be set out in the Assessment Plan. The Assessment Plan should ensure that only the reasonable costs of assessment will be incurred. The authorized official should refer to the definitions stated in the rule for "reasonable costs" and "cost-effectiveness" when preparing the Assessment Plan.

This rule contains several requirements that must be fulfilled in developing the Assessment Plan. These requirements relate to the involvement of multiple agencies, potentially responsible parties, and the public in the assessment.

The authorized official should ensure that other possibly affected agencies have been contacted. The selection of a lead authorized official is required in all instances when multiple agencies are conducting a joint assessment.

Allowances are made for assessments that can be divided and conducted separately. Divisions of responsibility among agencies jointly conducting an assessment should be documented in the Assessment Plan. The rule provides a division of responsibility in instances where consensus cannot be reached. Agencies should be aware of additional requirements concerning designation of lead trustees in claims against the Hazardous Substance Response Trust Fund (CERCLA Fund) contained in 40 CFR 306.20(b). In claims against the CERCLA Fund, 40 CFR 306.20(b) states, "Should the trustees fail to agree on a lead trustee, EPA in its sole discretion shall appoint a lead trustee for the purposes of asserting a claim against the Fund on behalf of all trustees."

The potentially responsible parties should be identified at this phase. The rule provides for a Notice of Intent to Perform an Assessment to be sent to any identified potentially responsible parties.

The rule provides for public involvement in the Assessment Plan with at least a 30-day review and comment period before implementing the Plan or making significant modifications. The rule also requires that comments and responses be maintained as part of the administrative process.

For a type B assessment, there are several additional requirements in the Assessment Plan phase. The rule provides for a mandatory review of the Assessment Plan at the end of the Injury Determination phase. The purpose of this review is to ensure that the selection of methodologies for the last two phases of the type B assessment is compatible with the findings of the Injury Determination phase. Other type B Assessment Plan requirements include the confirmation of exposure, the Economic Methodology Determination, a Quality Assurance Plan, and the objectives of testing and sampling for injury or pathways. Guidance for the confirmation of exposure and Economic Methodology Determination is provided in this rule. The Quality Assurance Plan should be prepared following the same requirements that apply to other response actions taken under the NCP. The testing and sampling objectives are discussed in the testing and sampling section of the rule (§ 11.64).

The confirmation of exposure is the second screen in the assessment process. It is intended to ensure that the authorized official has confirmed that the oil or hazardous substance has actually come into contact with the resource. If the authorized official cannot confirm that the oil or hazardous substance has actually come into contact with the resource, no further

assessment actions are to be taken and no assessment costs will be recovered.

The Economic Methodology Determination is where the authorized official must make a choice between using: restoration or replacement costs; or the diminution of use values as the measure of damages. The decision will affect the choice of methodologies to be selected in the Quantification phase and to a lesser extent in the Injury Determination phase. Therefore, the rule requires the decision at an early stage, but provides that the decision may be modified. Using "off-the-shelf" data, the Economic Methodology Determination requires an "order of magnitude" estimate of the relative costs and benefits of restoration or replacement versus the diminution of use. The guidance on performing this determination is described within the rule.

The selection of: restoration or replacement costs; or the diminution of use values only affects the method of damage determination. It does not imply any decisions concerning whether the resources will be restored. In fact, the rule requires that all funds, regardless of whether the basis of calculating the damage was restoration costs or diminution of use, be used for restoration, rehabilitation, replacement, or acquisition of the equivalent. In restoration or replacement, the costs can include the diminution of use values until the resource is restored or replaced.

Type B Assessment—A type B natural resource damage assessment involves three major steps: establishing that an injury has occurred and that the injury resulted from the discharge or release; quantifying the effects of the discharge or release on the services provided by the injured resource; and determining the damage.

Injury Determination—This phase of the type B assessment acts as the third screen of the natural resource damage assessment. To assert a natural resource damage claim, the authorized official must establish that an injury occurred and must link that injury to the discharge or release. Otherwise, no further assessment actions are to be taken and no assessment costs will be recovered.

To perform this phase, injury to one or more natural resources must first be established. The rule provides a general definition of injury as a measurable adverse change in the chemical or physical quality or viability of a natural resource. For example, an organism need not die before that organism is considered to have been injured by the oil or hazardous substance. Conversely, the mere presence of oil or a hazardous substance in the organism may not necessarily constitute an injury. All of the natural resources specified by CERCLA have been placed into one of five groups: surface water, ground water, air, geologic, and biological resources. Specific definitions of injury are provided for each of these resources. These specific definitions focus on inherent physical, chemical, or biological properties of the resource that enable it to provide one or more specific services, such as habitat for aquatic species or a water supply.

In addition to satisfying the injury definition, the pathway of the discharged or released substance from the source to the resource must be demonstrated. Each of the five groups of resources may also act as a component of the pathway through which the oil or hazardous substance may travel. For example, biological resources can carry the substance away from the site by either direct physical contact or by exposing other organisms through the food chain. Oil or hazardous substances contained in ground water resources may move to a lake or stream thereby exposing biological resources. The use of transport and fate modeling in media such as air or water may be useful in many situations for demonstrating the pathway. In other situations, sampling may be required. The rule also provides guidance on selecting testing and sampling methodologies to determine that an injury to the resource has occurred and for pathway determinations.

Review of the Assessment Plan—Upon completion of the Injury Determination phase, the authorized official must review the methodologies selected in the Assessment Plan. This step allows the authorized official to refine the restoration or replacement alternatives and cost estimates initially identified in the Assessment Plan phase in order to select a cost-effective, feasible restoration or replacement alternative for comparison with diminution of use. The distinction between restoration and replacement alternatives will, in most cases, depend on the nature of the lost or disrupted services previously provided by the resource. If an injury, as defined in the rule, cannot be determined or cannot be linked to the discharge or release, further assessment efforts should be terminated and the results of the Injury Determination phase documented in the Assessment Plan. If an injury determination has been made, methodologies for the next two phases must be selected that are consistent with the findings of the Injury Determination. If the decision was not previously made, the authorized official must decide whether: restoration or replacement costs; or a diminution of use values will form the basis of the damage determination. The rule provides that when significant modifications occur to the Assessment Plan, these modifications shall be made available for public review and comment.

Quantification of Effects—Having established that the resource was injured by the discharge or release, the next step in the type B procedure is to quantify the effects on the injured resource.

Because the purpose of the natural resource damage assessment is to determine compensation for injuries rather than a decision on the level of cleanup, this phase requires ascertaining the baseline level of the services provided by the resource prior to the discharge or release. The baseline level of services is then compared to the existing level of services or the anticipated level of services upon the completion of any response actions to determine the residual change resulting from the discharge or release. The baseline level of services should include consideration of the resource's natural cyclical changes.

This rule provides that quantification of the change in the resource be expressed in terms of the change in the level of services that the resource provides. These services include such ecological services as flood and erosion control, habitat, and food chains as well as such human uses as recreation. Therefore, it is at this stage in the assessment that the selection is made of services that in a later phase will be used to determine damages. The selection of the services to be assessed may vary based upon the economic methodology selected. For restoration or replacement, the authorized official has the discretion to select services provided prior to the discharge or release by the resource to humans and to other natural resources. For a diminution of use value, the authorized official should select services for which clear relationships to human uses existed prior to the discharge or release and for which dollar values can be assigned.

Damage Determination Phase—The next phase of the process is applying the method of estimating the damage, using either the costs of restoration or replacement or the diminution of use values, that was determined in the Assessment Plan.

If restoration or replacement costs are to be the measure of damages, a plan for the restoration or replacement, referred to as the Restoration Methodology Plan, must be developed in the Damage Determination phase. This plan must be in sufficient detail to ensure that all major elements of costs are included and that these costs represent the most cost-effective means of restoring or replacing the services lost. This means that the authorized official should take considerable effort to detail the costs of the specific restoration or replacement actions selected, building wherever appropriate upon remedial action data available for CERCLA response actions. This plan will also serve as the foundation for the final restoration plan that must be developed after the damage award.

Using the diminution in use values as the method for determining damages will require that the authorized official identify the human uses of the services that were lost as a result of the discharge or release. For an assessment based upon the diminution in use values, the lost uses being valued are the committed uses supplied by the injured resources. Committed uses must be current public uses or public uses that have been financially, legally, or administratively documented.

The losses compensable to a Federal or State agency acting as a trustee under CERCLA are for the uses of the resource by members of the public at large. They do not include any direct or indirect losses suffered by a private commercial user of public resources. Direct private commercial losses appropriately are not recovered by a public body acting for the public at large.

The rule provides guidance on performing a damage determination using either the restoration or replacement cost method or the diminution of use value method. A final section in this portion of the rule provides guidance, such as selecting a discount rate, that is applicable to either method.

Report of Assessment—At the conclusion of either a type A or a type B assessment, the authorized official must document the results of the major steps of the process. This documentation includes the Preassessment Screen Determination and the Assessment Plan, with all comments and responses, for either the type A or type B assessment. The results of the assessment should be included for the type A assessment. For the type B assessment, the Injury Determination, the Quantification and the Damage Determination, including the Restoration Methodology Plan if appropriate, should be included. This document must be filed as the Report of Assessment with a court or an administrative body should the Federal agency seek a rebuttable presumption.

Post Assessment—CERCLA requires that funds recovered for damages must be available for restoration, rehabilitation, replacement, or the acquisition of the equivalent of the injured resource. To accomplish this objective, the rule requires the establishment of an account into which all monies awarded pursuant to section 107 of CERCLA or section 311(f) (4) and (5) of the CWA for compensation for damages must be placed. For Federal authorized officials acting as trustees, this account shall be located in the United States Treasury. State authorized officials acting as trustees are given the choice of setting up an account in the State treasury or having the potentially responsible party set up a trust fund. The purpose of these procedures is to ensure that monies obtained for restoration will be available for that use without requiring, with one exception discussed below, that the Federal or State agency go through the normal appropriations process.

Reimbursements of assessment and administrative costs are not placed in these accounts. Similarly, monies awarded from the Hazardous Substance Response Trust Fund as reimbursement for assessment or restoration costs pursuant to the natural resource claims provision of CERCLA need not be placed in a post-assessment account because they are by definition reimbursements of costs incurred. Claims against the Hazardous Substance Response Trust Fund must be costs incurred as specified by the Natural Resource Claims Procedures promulgated by EPA (40 CFR Part 306). These reimbursements must be returned to the Federal or State general treasury that incurred the costs.

Once a damage award is made, the Federal or State agency acting as trustee shall prepare a Restoration Plan. This plan shall be based upon the decisions made in the Restoration Methodology Plan, if one has been prepared, modified to the extent necessary to accommodate new information, including the amount of the award. Where the measure of damages is determined using a use value methodology, the Restoration Plan shall describe those management actions designed to restore, replace, rehabilitate, or acquire the equivalent resources that can be undertaken consistent with the level of the damage award. The accounts described above are to be used to pay for the implementation of this Restoration Plan.

In recognition of the fact that restoration of some injured resources is technically infeasible, replacement and acquisition of the equivalent are defined to include acquisition of resources that provide similar services to the injured resource. However, there is a limitation on use of the account. Where the Restoration Plan would involve acquisition of land for Federal management, the award must be paid to the general treasury. The appropriations process must be used where private land is being acquired that would expand the total Federal landholdings.

C. Concepts Embodied in the Rule

1. Compensatory, Not Punitive

The rule takes into consideration existing common law rules for developing a theory of natural resource damages. A fundamental principle of the theory developed in the rule is that natural resource damages are compensatory, not punitive. CERCLA itself calls for compensatory rather than punitive damages. This principle is consistent with the common law, which disfavors punitive damages, and is basic to the theory underlying the common law of damages, which is that money can be used to provide substitutionary relief.

The money awarded as compensation using common law principles represents a rough measure that approximately represents the value of the thing that is lost. Rules have been developed by the courts for the measurement of damages so that cases can be resolved, and perhaps more importantly, settled in accordance with common law principles. Settlements become possible because the range of outcomes given a particular set of facts is predictable.

The mandate to establish regulations for the assessment of damages to natural resources included a mandate to develop methodologies that are based upon the best available procedures. This directive implies that compensatory damages were intended. The expensive and complex process of studying existing injury measurement and economic compensation techniques would have been unnecessary if punitive damages were intended. The procedures for determining punitive damages could have involved the simple publication of penalty fee tables.

Finally, it should be noted that a variety of criminal or other punitive statutes may apply to actions for which natural resource damages may be sought. Through those statutes, penalties may be sought where appropriate.

2. Rebuttable Presumption

CERCLA provides for the recovery of damages to natural resources, but it does not establish the measure of those damages. Instead, it requires the President, acting through designated Federal officials, to develop regulations for the assessment of damages. Pursuant to CERCLA section 111(h), the dollar figure representing the measure of damages is determined through an assessment performed using the procedures specified in the rule. This figure, when supported by the Report of Assessment and based on an assessment performed by a Federal official, is entitled to a rebuttable presumption in a court action or administrative proceeding to determine the measure of damages recoverable under the statute. The rebuttable presumption provides a significant benefit. Accordingly, the methodologies and criteria adopted in the rule have been carefully selected.

In its present form, the rebuttable presumption accorded by section 111(h)(2) of CERCLA attaches only to assessments performed by Federal officials. The question of the interpretation of the rebuttable presumption provision in CERCLA arose prior to the formulation of this rule in the context of the Natural Resource Claims Procedures, 40 CFR 306, promulgated by EPA. A full discussion of the resolution of this issue is contained in section V(C) of the preamble to that final rule (December 13, 1985, 50 FR 51212) for the Natural Resource Claims Procedures. In brief, after reviewing comments and considering revisions to the NCP, EPA concluded that the language of section 111(h)(2) of CERCLA, when read in conjunction with section 111(h)(1) of CERCLA, which refers only to "damages . . . assessed by Federal officials," only allowed the provision of the rebuttable presumption to be extended to Federal officials. The Department of the Interior has adopted a position on this issue that is consistent with the Executive branch's prior decision on the interpretation of CERCLA in this matter.

The Department notes that claims against the Hazardous Substance Response Trust Fund must be for costs incurred as specified by the procedures promulgated by EPA at 40 CFR 306 (December 13, 1985, 50 FR 51205). As mentioned in the EPA preamble, it may be possible for Federal and State trustees to work jointly on assessments done pursuant to this rule. The results of these joint assessments may then qualify for a rebuttable presumption.

3. Relationship to Response Actions

An action for the recovery of damages to natural resources is part of the larger statutory scheme of CERCLA and the CWA. Under those Acts discharges of oil and releases of hazardous substances are responded to by EPA and the U.S. Coast Guard in accordance with procedures set forth in the National Contingency Plan (NCP). In some cases, responses are also made by States or other Federal agencies. The primary purpose of response actions is to protect human health. This rule supplements the procedures in the NCP. It does not replace response actions, but adds an additional means of addressing problems resulting from discharges of oil and releases of hazardous substances. In addition to taking removal and remedial actions, compensation may be sought and resources restored by use of the procedures in this rule.

Injuries to natural resources should be considered in the planning of a response by the EPA or the U.S. Coast Guard. In particular, natural resource concerns should be included in the planning process for remedial action. However, in many cases, not all natural resource concerns will be resolved by that process alone. In some cases certain actions, such as habitat management or acquisition of an equivalent resource, will be beyond the scope of the response action. This rule provides that natural resource damages are for injuries residual to those injuries that may be ameliorated in the response action. In addition, these damages include compensation for the loss of use from the time of the discharge or release until such injuries are ameliorated. This concept of natural resource damages as a residual should prevent the development of two separate actions to ameliorate the same situation, encourage the inclusion of natural resource concerns in the development of remedial plans, and preserve the priority order of remedial actions intended by the creation of the National Priorities List.

In some instances it may be necessary to anticipate an eventual remedial action in planning a natural resource damage assessment. Ideally the natural resource damage assessment would be performed concurrently with the remedial investigation/feasibility study (RI/FS). When the statute of limitations will not allow adequate time to complete and coordinate the necessary procedures, the rule does not preclude filing of a nautral resource damage claim against a responsible party before completion of the assessment.

4. Cost-Effectiveness and Reasonable Costs

Cost-effectiveness is defined in the rule as achieving an objective with the least expenditure of financial or other assets. Thus, in order to achieve cost-effectiveness, a well-defined objective must be specified. For example, the objective of restoration or replacement is the return to the baseline level of services provided by the resource. Once an objective is defined, cost-effectiveness means that the authorized official must choose the least expensive management or other actions that achieve the objective.

The Department recognizes that in many instances limited information may be available to prepare an Assessment Plan. The rule is flexible enough to allow for revision of the Assessment Plan. What may have been cost-effective under the previous set of circumstances may not be cost-effective when new information is obtained. Therefore, the plan should be modified during the assessment as new information is obtained. In this context, the test of cost-effectiveness may require consideration of new management or other actions as objectives become clearer and more specific.

Section 107(a)(4)(C) of CERCLA states that a responsible party is liable for the "reasonable costs of assessing" injury. The concept of reasonable cost implies cost-effectiveness, but the term reasonable cost is broader in scope. Cost-effectiveness means that whenever the same or similar benefit can be obtained in several ways, the least costly means of obtaining that benefit is selected. The concept of reasonable cost is more closely related to the economic notion of cost-benefit analysis. Reasonable cost, while incorporating cost-effectiveness, also allows comparisons to be made across choices of procedures involving very different levels of benefits. A cost-effectiveness criterion cannot be used as a measure to select between alternatives that provide very different levels of benefits at different costs. A reasonable cost criterion should be used for this purpose.

The Department has defined the term "reasonable cost," for the purposes of this rule, to mean: that the Injury, Quantification, and Damage Determination phases of the Assessment Plan have a well-defined relationship to each other; that the anticipated increment of extra benefits in terms of the precision or accuracy of estimates obtained by using a more costly

methodology for injury, quantification, or damage determination outweigh the anticipated increment of extra costs of the more expensive procedure; and that the anticipated costs of performing the assessment are expected to be less than the anticipated damage amount.

In order to achieve the objective of deriving a dollar figure to be used as the amount of damage claimed, a three-phased assessment must be performed to: document the occurrence of an injury; quantify the effects of the injury; and determine damages. In almost all cases, the achievement of reasonable costs will require that these three phases be planned concurrently. Since these three phases will form the basis of a damage claim, all analyses conducted under this rule should be directed toward the goal of obtaining a dollar value for the injury to the resource. The minimum amount of information required to move from one phase to another should be collected. During an assessment, studies of injury or damage that do not directly contribute to the determination of a dollar value for the injured resource should not be part of the damage claim. However, nothing in this rule precludes agencies from performing general or related studies with their own funds.

5. Involvement of the Public and Potentially Responsible Parties

The rule uses an administrative process as its decisionmaking method. Various methods exist for doing a natural resource damage assessment. No single answer can be given for the various questions that arise in the process. Every resource and affected area has distinctive characteristics and is managed by different agencies for different purposes. Accordingly, the flexibility of an adminstrative process is desirable and fair, giving the public and responsible parties protection against arbitrary requirements. The rule requires that an Assessment Plan be prepared before an assessment is initiated. After the plan is prepared, there is a period of at least thirty days during which the public and any potentially responsible parties are to be given an opportunity to review and comment on the plan. If a Restoration Methodology Plan is prepared, comment and review by the potentially responsible party and the public are also required for at least thirty days. All comments on both the Assessment Plan and the Restoration Methodology Plan are included in the Report of Assessment, which is part of the administrative record. Therefore, the views of the public and any potentially responsible parties on the key elements of the assessment will be available in any subsequent litigation.

Public involvement and participation by the potentially responsible party will aid the authorized official seeking natural resource damages in a number of ways. First, it will ensure that important resource concerns are not omitted from the assessment. Second, it will help ensure that the methodologies are given an independent review and that the appropriate methodologies are chosen for the Assessment Plan. Third, it will help ensure that the costs of assessment are reasonable.

Early involvement of the potentially responsible party is intended to facilitate fair and speedy resolution of damage actions. Just as the NCP process encourages responsible parties to undertake remedial actions and avoid litigation, this process is intended to encourage responsible parties to undertake natural resource damage assessments and restorations. If the responsible party is aware of the proposed assessment efforts, it may be encouraged to take the actions necessary to do the assessment and restoration. However, the Federal or State authorized official is the ultimate decisionmaker regarding the content of the Assessment Plan, as well as all restoration actions.

6. Emergencies

In accordance with section 111(i) of CERCLA, the rule permits an emergency restoration prior to development of an Assessment Plan where genuine emergency circumstances exist. Some limited situations may require immediate action in order to avoid irreversible loss or to prevent or reduce any continuing danger to natural resources (e.g., where a continuing discharge or release must be abated in order to avoid the complete destruction of a resource or where continuing degradation threatens more and more of the resource). Such emergency actions would typically consist of the erection of non-permanent barriers to prevent or reduce the migration of the oil or hazardous substance onto or into the resource. The authorized official may undertake only those actions necessary to abate the emergency. Any additional actions other than those necessary may be performed only upon following normal assessment procedures.

Emergency actions may only be taken on lands or waters over which the authorized official has existing authority to act. This provision is not an authorization to undertake response actions on private property nor is it meant as a substitute for response actions. For example, if the discharge or the release occurs in an area for which the agency would not otherwise have authority to act, emergency restoration actions are limited to those actions that would prevent or reduce the migration of the oil or hazardous substance onto or into the resource under their authority.

If the discharge or release occurs in an area for which the agency would have the authority to act, the authorized official should first consider using that existing authority to undertake response actions to abate the emergency. The cost of such response actions would be recoverable under section 107 (a) or (b) of CERCLA, rather than as natural resource damages. The burden of proof, based upon information available at the time, that irreversible harm would have resulted if the emergency restoration were not undertaken and that costs associated with the emergency actions were reasonable and necessary will rest with the Federal or State agency acting as trustee.

D. Resource Related Issues

1. Injury Determination—General

The definition of injury adopted in this rule is fundamental to the assessment process. Without injury to one or more natural resources there is no damage to recover. A general definition of injury is provided in § 11.14(v). The rule clearly distinguishes between the concepts of "damage" and "injury." Following the statutory division in use of the words, "damage" is the amount of money sought in compensation for an "injury." Injury is the "injury to," "destruction of," or "loss of" the resource.

The injury definition has two parts. First, there must be a measurable adverse change in the resource. That is, there must be a change for the worse, in the resource that is detectable by observation or scientific methods. Specific definitions of injury are provided for each resource in § 11.62. The criteria for what constitutes a measurable injury are strict. This stringency reflects the determination by the Department that these criteria provide for the best available procedures and reflect the fact that Federal trustees will receive a rebuttable presumption for assessments performed pursuant to this rule. By establishing acceptance criteria for the measurement methodologies for the injuries to the resources, the rule requires that the authorized official use only quality evidence in measuring the adverse change in a resource.

Second, the adverse change must be to the chemical or physical quality or in the viability of a resource. Since only biological resources involve the aspect of viability, specific criteria for measuring such injury is based on a measurable biological response of the organism. Water and air, for instance, are commonly evaluated in terms of established water quality or air quality standards. Such standards have not been established for biological resources to determine when exposure to a specific contaminant level has reduced the viability of the different organisms. Further, no standards have been established for biological resources adversely impacted by residues of specific contaminants resulting from such exposure.

Finally, to be compensable under CERCLA or the CWA, the injury must result from a discharge of oil or release of a hazardous substance, or from a product of reactions resulting from the discharge of oil or release of a hazardous substance. This result is established by the demonstration of a link between the discharge or release and the injured resources, called the pathway determination as provided in § 11.63.

2. Injury Determination for Specific Resources

(a) *Surface water.* The presence of oil or hazardous substances in surface waters may adversely affect the quality of the resource, especially its ability to provide essential life-supporting services. The definitions of injury to the surface water resource rely primarily upon established water standards and criteria, recognizing the extensive research performed to develop the standards and criteria. The injury definitions include concentrations of substances adhering to sediments in contact with the surface water, because these sediments provide services to aquatic life much as soils provide on land. The injury definitions do not differentiate between freshwater and seawater, except as may be provided by the specific standards and criteria used, because CERCLA and the CWA broadly define the "waters of the United States" to include both fresh and marine surface waters.

(b) *Ground water.* The presence of oil or hazardous substances in ground water may adversely affect the quality of the resource, especially its services to humans. The definitions of injury to the ground water resource therefore rely upon established water standards and criteria. The term "ground water" is defined in both CERCLA and the CWA, and the definitions do not include water or other materials in the unsaturated zone. Therefore, measures of adverse change in the ground water resource resulting directly from the occurrence of oil or hazardous substances in the unsaturated zone are included in the subsection on geologic resources rather than in this subsection. Although many of the standards and criteria used are only applicable to fresh ground water, injury to brackish or saline ground water may occur if the ground water contains released substances that have caused injury to other resources.

(c) *Air.* Injury to air is defined in two basic ways. The first relies upon air quality standards set by EPA and upon related standards set by individual States. Those standards include within them ways of determining whether they have been violated, including duration and appropriate testing procedures. As a result, these criteria are not repeated in this rule. Secondly, the number of substances for which air quality standards have been set is relatively small, so air may also be considered injured if an airborne oil or hazardous substance injures other resources. (Note that the definition of "oil" is broad and includes gaseous or vaporized oil products and components.) Additional information helpful for assessing injury to air is being developed in: "Type B Technical Information Document: Application of Air Models to Natural Resource Injury Assessment," which is being prepared in conjunction with this rule.

(d) *Geologic resources.* Geologic resources include the portion of the Earth's crust not otherwise included in ground and surface water, and includes such elements as soil, sediments, rocks, and minerals. The quality of geologic resources is defined by physical and chemical characteristics that pertain to the major services provided by the resource. Soil quality is frequently measured by its ability to support plants and other organisms. Thus, injury to soil is defined directly by chemical and physical criteria and through its ability to continue to support biological organisms. Development potential is especially important for mineral resources, so if a discharge or release reduces that potential, the minerals are considered injured. The unsaturated zone is included within geologic resources. However, its major effect is on ground water. Therefore, injury to the unsaturated zone also can be based upon its effect on ground water.

Finally, as with all of the other resources, provision is made for considering the geologic resource injured if concentrations sufficient to cause injury to other resources are found. This provision allows for cases where previously established standards may not anticipate effects of oil or a hazardous substance on these resources. Additional information helpful for assessing injury to soil is being developed in the "Type B Technical Information Document: Approaches to the Assessment of Injury to Soil Arising from Discharges of Hazardous Substances and Oil," which is being prepared in conjunction with the rule.

(e) *Biological resources.* Section 11.62 also provides criteria for demonstrating injury to organisms when their viability is adversely impacted by oil or a hazardous substance, as well as a limited use of established standards for edibility. Because specific criteria have not been developed previously for biological resources, more detail is provided than for other resources. Additional technical information is being developed in the "Type B Technical Information Document: Injury to Fish and Wildlife Species," which is being prepared in conjunction with this rule.

In general, injury will have occurred to a biological resource when a biological response, as defined in the rule, has resulted from exposure to the oil or hazardous substance. The rule provides acceptance criteria for determining which biological responses may be used in such a demonstration, provides a list of certain responses in fish and wildlife species that have been determined acceptable according to those criteria, and also provides acceptable measures for those identified responses.

Except for the use of edibility action or tolerance levels set by the Food and Drug Administration and by States, the mere presence of a substance in an organism does not necessarily constitute injury to the organism. Many organisms, including man, can carry low levels of foreign chemicals in their tissues with few or no known measurable effects from those chemicals. Injury determination in this rule is based on a demonstrable adverse biological response from the oil or hazardous substance. For example, DDT and related chemicals are ubiquitous in small amounts in almost every warm-blooded animal, but this fact alone does not show injury. DDT, however, can cause eggshell thinning. This biological response has been an important factor in causing population declines of certain fish-eating and raptoral birds. Demonstration of statistically significant levels of eggshell thinning in the presence of DDT does demonstrate

injury. Many similar biological responses are described in the rule.

Acceptance criteria in the rule provide the means for evaluating whether a particular response will demonstrate injury in a specific case. These acceptance criteria extensively broaden past practice under which many assessments relied almost exclusively on body counts of dead organisms as the primary or sole evidence of injury to those organisms and did not allow the use of compensation for other kinds of biological responses, such as sublethal effects like eggshell thinning. These acceptance criteria can be summarized as requiring that the response is unlikely to be due to factors other than the exposure to oil or hazardous substances, the response has been demonstrated in both the laboratory and the field, and that testing for the response is practical and reliable. Both laboratory and field demonstrations are required because these two conditions can rarely provide the same information. Laboratory experiments can be carefully controlled to prevent effects from factors other than the substance under test, but may use concentrations, exposure systems, and other conditions unrelated to those found in the field. Controlled laboratory experiments cannot duplicate the variety of foods, activities, potential substance degradation, and other factors found in the field. Field experiments or observations often rely on correlations, and cause-and-effect can rarely be documented as well as it can be in the laboratory. There are numerous instances where either laboratory or field experiments have failed to confirm conclusions drawn from the other.

Categories of such responses are provided in this rule, and certain responses within these categories have been identified for fish and wildlife species as having met the acceptance criteria. These specific responses are identified based upon a review contained in the type B technical information document cited above, and pertain to fish and wildlife. The acceptance criteria are intended to be applied to responses in all biological resources, including plants, shellfish, and other organisms. The authorized official may rely upon other responses in addition to the specific responses identified in the rule, so long as the other responses relied upon can meet the acceptance criteria. There has been considerable work on responses in other organisms, especially plants, therefore, other responses should meet the acceptance criteria. On the other hand, if extensive new research work is required to meet the acceptance criteria, the costs of such research would be outside the assessment costs attributable to a particular assessment for purposes of a damage claim.

3. Pathways

For injury to have occurred, the oil or hazardous substance must have traveled from the source of the discharge or release to the injured resource. In some cases demonstration of this fact is straightforward, but in others further work must be done. In general, two ways may be used: demonstration of sufficient concentrations in the pathway for it to have carried the substance to the injured resource; or use of modeling to demonstrate the pathway. In each case, a given resource may act as a pathway, be injured, or both. Pathways can and often do include more than one resource category.

For the physical resources, including water, air, and the geologic resources, the rule identifies important factors and standard procedures appropriate to making a pathway determination.

Biological resources may act as a pathway both by direct physical contact or by assimilation through a food chain. Physical contact usually includes material on the skin, fur, feathers, or other surface covering. Food chain transfers may include bioaccumulation and bioconcentration, so that an organism higher on a food chain may contain the highest concentrations of the substances. Food chains may be analyzed by testing free-ranging organisms or by placing test organisms in situ to discover whether they will take up the substance. The use of appropriate indicator species is recommended. Further discussion of the use of indicator species may be found in the "Field Operations Manual for Resource Contaminant Assessment–Chapter 1.5—Field Methods and Materials," available from the Division of Resource Contaminants Assessment, U.S. Fish and Wildlife Service, Department of the Interior, 1801 "C" St. NW., Washington, DC 20240.

Careful selection of indicator species will consider the potential for that species to have taken up or contacted the discharge or release. Plants often can exclude or selectively screen out non-essential substances present in their environment, especially many organic compounds with large molecules. Other substances, such as small inorganic ions, may be taken up in the plant tissues and passed on to other organisms. Animals, because of their mobility and different physiology, are often more likely to serve as pathways, especially over greater distances.

4. Testing and Sampling

Section 11.64 provides guidance on selecting procedures and techniques to be used by the authorized official in making injury and pathway determinations. For the most part, the guidance refers to techniques that are standard for each discipline, and their identification here primarily provides special considerations that may be needed in using these otherwise standard techniques for assessment purposes.

(a) *Surface water and ground water.* Specific techniques for testing and sampling of water resources are not identified in § 11.64 of the rule. The authorized official may select appropriate techniques for inclusion in the Assessment Plan from the following references:

American Public Health Association, American Water Works Association, and Water Pollution Control Federation, "Standard Methods for the Examination of Water and Waste-water," 16th edition, Washington, DC, 1985. Available from: American Public Health Association, Attn: Publications Sales, 1015 15th Street, NW, Washington, DC 20005; ph: (202) 789–5600.

Barcelona, M.J., L.P. Gibb, and R.A. Miller, "A Guide to the Selection of Materials for Monitoring Well Construction and Ground-Water Sampling," Illinois State Water Survey, Champaign, IL, SWS Report No. 327, 1983. Available from: Publications, Water Survey Resource Center, 2204 Griffith Drive, Champaign, IL 61820; ph: (217) 333–2210.

Claassen, H.C., "Guidelines and Techniques for Obtaining Water Samples that Accurately Represent the Water Chemistry of an Aquifer," U.S. Geological Survey, Lakewood, CO, Open-File Report No. 82–1024, 1982. Available from: Open File Services Section, Western Distribution Branch, U.S. Geological Survey, Box 24325, Federal Center, Lakewood, CO 80225; ph: (303) 234–5888.

Gillham, R.W., M.J.L. Robin, J.F. Barker, and J.A. Cherry, "Groundwater Monitoring and Sample Bias," American Petroleum Institute, Washington, DC, API Publication No. 4367, 1983. Available from: American Petroleum Institute, 1220 L Street, NW, Washington, DC 20005; ph: (202) 682–8000.

Grasshoff, K., M. Ehrhardt, and K. Kremling (eds.), "Methods of Seawater Analysis," 2nd edition, Verlag Chemie, Weinheim, Federal Republic of Germany, 1983. Available from: VCH Publishers Inc., 303 NW 12th Ave., Deerfield Beach, FL 33222–1705; ISN No. 089573–070–7; ph: (305) 428–5566.

"Ground Water and Wells," Johnson Division, St. Paul, MN, 1985. Available from: Johnson Division, P.O. Box 64118, St. Paul, MN 55164; ph: (612) 636–3900.

"Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136.

"Pesticide Chemicals: Subpart D—Test Methods for Nonconventional Pesticide Pollutants," 40 CFR 455.50–.51.

Strickland, J.D.H., and T.R. Parsons, "A Practical Handbook of Seawater Analysis," 2nd ed., jointly published by the Fisheries Research Board of Canada and Supply and Services Canada, Ottawa, Canada, 1984. Available from: Unipub, 205 E. 42nd Street, New York, NY 10017; No. SSC70; ph: (212) 916–1650.

Swanson, R.G., "Sample Examination Manual," Methods and Exploration Series No. 1, American Association of Petroleum Geologists, 1981. Available from: the American Association of Petroleum Geologists, P.O. Box 979, Tulsa, OK 74101; ph: (918) 584–2555.

U.S. Environmental Protection Agency, "Geophysical Techniques for Sensing Buried Wastes and Waste Migration," Environmental Monitoring Systems Laboratory, Las Vegas, NV, EPA–600/7–84–064, June 1984. Available from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB–84–198–449/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Guidance on Remedial Investigations under CERCLA," Office of Solid Waste and Emergency Response, Washington, DC, EPA/540/G–85/002, 1985. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 85–238–616/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Manual of Individual Water Supply Systems," Office of Drinking Water, EPA–570/9–82–004, 1982. Available from: U.S. Environmental Protection Agency, Office of Drinking Water, WH–550, 401 M Street, SW, Washington, DC 20460; or from NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB–85–242–279/AS; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Test Methods for Evaluating Solid Waste, Physical and Chemical Methods," 2nd edition, July 1982, as amended by April 1984, Update 1, and April 1985, Update 2, Office of Solid Waste and Emergency Response, Washington, DC, SW–846. Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Stock No. 55–002–81001–2; ph: (202) 783–3238.

U.S. Geological Survey, "National Handbook of Recommended Methods for Water-Data Acquisition," Office of Water Data Coordination, 1977, with updates. Available from: U.S. Geological Service, Office of Water Data Coordination, MS–417 National Center, Reston, VA 22092; ph: (703) 860–6931.

(b) *Air.* Testing and sampling may include analytical methods or modeling. Modeling should only be performed if testing and sampling methods are inappropriate. Testing and sampling for air may be complex because of the wide range of conditions that may be encountered, including conditions such as: a massive short-term emission, as might occur from a tank car accident; episodic or intermittent releases, as might be created by varying wind conditions that distribute particulates from a tailing pile; and a long-term, low-level release that may come from an open disposal pond.

The rule lists factors to identify in developing a sampling plan, including an appropriate sampling schedule. Objectives based upon the requirements of the testing and sampling need to be established, and the sampling plan designed to meet those objectives.

The authorized official may use the air testing methods listed in the publications below. In addition, the authorized official may use other methods that have been accepted following formal review and evaluation by the U.S. Environmental Protection Agency, the National Institute for Occupational Safety and Health, the American Society for Testing and Materials, and the American Public Health Association. Some examples of these are the following documents:

U.S. Environmental Protection Agency, "Atmospheric Measurements of Selected Hazardous Organic Chemicals," Environmental Sciences Research Lab, Research Triangle Park, NC, EPA–600/53–81–031, May 1981. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 81–250–628/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Characterization of Hazardous Waste Sites—A Methods Manual: Volume II, Available Sampling Methods, Second Edition," Environmental Monitoring Systems Laboratory, Las Vegas, NV, EPA–600/4–84–076, December 1984. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 85–168–771/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Characterization of Hazardous Waste Sites—A Methods Manual: Volume III, Available Laboratory Analytical Methods," Environmental Monitoring Systems Laboratory, Las Vegas, NV, EPA–600/4–84–038, May 1984. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 84–191–049/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Compendium of Methods for the Determination of Toxic Organic Compounds in Ambient Air," Environmental Monitoring Systems Laboratory, Office of Research and Development, Research Triangle Park, NC, EPA–600/4–84–041, April 1984. Available from: ORD Publications, U.S. EPA-CERI, 26 W. St. Clair, Cincinnati, OH, 45268.

U.S. Environmental Protection Agency, "Digest of Ambient Particulate Analysis and Assessment Methods," Office of Air Quality Planning and Standards, Research Triangle Park, NC, EPA 450/3–78–113, September 1978. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 80–196–872/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Network Design and Site Exposure Criteria for Selected Noncriteria Air Pollutants," Office of Air Quality Planning and Standards, Research Triangle Park, NC, EPA–450/485–022, September 1984. Available from: U.S. EPA, Library Services MD–35, Research Triangle Park, NC 27711; ph: (919) 541–2777.

For further information on air modeling, the "Type B Technical Information Document: Application of Air Models to Natural Resource Injury Assessment" is being prepared in conjunction with this rule.4

(c) *Geological resources.* Methodologies for testing and sampling for injuries to soil and other geologic resources are provided in the rule. Specific procedures for implementing the soil methodologies, the largest portion of this resource group, are discussed in the "Type B Technical Information Document: Approaches to the Assessment of Injury to Soil Arising from Discharges of Hazardous Substances and Oil," which is being prepared in conjunction with this rule.

The first three methodologies for testing and sampling for injury to soil, those involving pH, cation exchange, and salinity, involve standard chemical analyses. Some useful references for performing these chemical analyses are provided in:

U.S. Environmental Protection Agency, "Characterization of Hazardous Waste Sites—A Methods Manual: Volume II, Available Sampling Methods, Second Edition," Environmental Monitoring Systems Laboratory, Las Vegas, NV, EPA–600/4–84–076, 1984. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 85–168–771/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Guidance on Remedial Investigations Under CERCLA," Office of Solid Waste and Emergency Reponse, Washington, DC, EPA/540/G–85/002, 1985. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 85–238–616/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Preparation of Soil Sampling Protocol: Techniques and Strategies," Environmental Monitoring System Laboratory, Las Vegas, NV, EPA–600/4–83–020, August 1983. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 83–206–979/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Soil Sampling Quality Assurance User's Guide," Environmental Monitoring System Laboratory, Las Vegas, NV, EPA–600/4–84–043, May 1984. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 84–198–621/LL; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Test Methods for Evaluating Solid Waste, Physical and Chemical Methods," 2nd edition, July 1982, as amended by April 1984, Update 1 and April 1985, Update 2, Office of Solid Waste and Emergency Response, Washington, DC, SW–846, Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Stock No. 55–002–81001–2; ph: (292) 783–3238.

The fourth method of verifying an injury to soil is by changes to soil microbial respiration. Among the available procedures are those found in:

Anderson, J.P.E., "Soil Respiration," in A.L. Page (ed.), *Methods of Soil Analysis, Part 2: Chemical and Microbiological Properties, 2nd Edition*, pp. 831–871, American Society of Agronomy, Madison, WI, 1982. Available from: American Society of Agronomy, 677 South Segoe Road, Madison, WI 52711; ph: (608) 273–8080.

Tabatabai, M.A., "Soil Enzymes," in A.L. Page (ed.), *Methods of Soil Analysis, Part 2: Chemical and Microbiological Properties*, 2nd Edition, pp. 903–945, American Society of Agronomy, Madison, WI, 1982. Available from: American Society of Agronomy, 677 South Segoe Road, Madison, WI 52711; ph: (608) 273–8080.

To verify an injury to soil by testing for changes to microbial populations, the procedures provided in the documents listed below may be useful:

Anderson, J.P.E. and K.M. Domsch, "A Physiological Method for the Quantitative Measurement of Microbial Biomass in Soils," *Soil Biology and Biochemistry*, 10:263–269, 1976.

Jenrinson, D.S. and D.S. Powlson, "The Effects of Biocidal Treatments on Metabolism in Soil—Part V: A Method for Measuring Soil Biomass," *Soil Biology and Biochemistry*, 8:209–213, 1976.

Karnak, R.E. and J.L. Hamelink, "A Standardized Method for Determining the Acute Toxicity of Chemicals to Earthworms," *Ecotoxicology and Environmental Safety*, 6:216–222, 1982.

To test for an injury to soil that resulted from phytotoxicity, the rule requires either seed germination, seedling growth, root elongation, plant uptake, or soil core microcosm tests. Among the procedures currently available are:

U.S. Environmental Protection Agency, "The Early Seedling Growth Toxicity Test," in *Environmental Effects Test Guidelines*, Section EG13, Office of Pesticides and Toxic Substances, Washington, DC, EPA 560/6–82–002, 1982. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB 82–232–992: ph: (703) 487–4650.

U.S. Environmental Protection Agency, "Experimental Terrestrial Soil-Core Microcosm Test Protocol," Corvalis Environmental Research Laboratory, Corvallis, OR, EPA–600/3–85–047, 1985. Available from: NTIS, 5285 Port Royal Road, Springfield, VA, 22161; PB 85–213–338; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "The Plant Uptake and Translocation Test," in *Environmental Effects Test Guidelines*, Section EG14, Office of Pesticides and Toxic Substances, Washington, DC, EPA 560/6–82–002, 1982. Available from: NTIS, 5285 Port Royal Road, Springfield, VA, 22161; PB 82–232–992; ph: (703) 487–4650.

U.S. Environmental Protection Agency, "The Seed Germination/Root Elongation Toxicity Test," in *Environmental Effects Test Guidelines*, Section EG12, Office of Pesticides and Toxic Substances, Washington, DC, EPA–560/6–82–002, 1982. Available from: NTIS, 5285 Port Royal Road, Springfield, VA 22161; PB–82–232992; ph: (703) 487–4650.

(d) *Biological resources.* Appropriate tests for biological resources are largely identified in the injury definition section of the rule. These tests are discussed in more detail in the document cited in that discussion, "Type B Technical Information Document: Injury to Fish and Wildlife Species." Specific methodologies are numerous and may vary depending upon the organism, type of response being studied, oil or hazardous substance involved, and statistical confidence required. Methodologies may be used that technical literature show are appropriate to the response being tested. In general, for purposes of a damage claim, the authorized officials would only use techniques that have been tested previously for the kind of situation being examined and that have been documented in the technical literature.

5. Quantification

(a) *General.* Sections 11.70 through 11.73 of the rule provide guidance on methods for quantifying the effects of injuries resulting from discharges of oil or releases of hazardous substances. These methods establish the link between injuries to resources and the methods used to determine compensation for those injuries.

Several steps are necessary to convert natural resource injuries to damages, that is, to assign a dollar amount for the injuries. The Injury Determination phase demonstrated that an injury has in fact occurred as a result of the discharge or release. The Quantification phase must determine how much of the resource has been injured, and how "badly," and also must determine what effect the injury has had on services provided by the resource. Determining the effect on services is critical to converting physical and biological changes to dollar amounts, and is explained in more detail below.

Throughout the Quantification phase, conditions following the discharge or release are compared to baseline conditions, which are the conditions that would have existed in the absence of the discharge or release under investigation. Baseline conditions include physical, chemical, and biological conditions as well as services.

The final critical dimension in determining "how much" the resource and associated services have been affected is time, which is referred to here as the "recovery period." Injuries that will recover over a long time period may have greater effects on services than those that will recover quickly, especially if that recovery requires little or no intervention ("restoration"). The final section of the Quantification phase, § 11.73, provides guidance on determining recovery periods for various alternatives, including different restoration alternatives and the situation where no actions beyond the removal or remedial actions are carried out.

(b) *Service reduction quantification.* In order to quantify service reduction, the authorized official must first determine the extent of the effects of the injury, or, in other words, how much of the resource has been injured, as provided in § 11.71. In general terms, this reduction might mean the volume of water no longer usable for a specified purpose, the size of a fish population lost, the acres of wildlife habitat changed, or any other physical, chemical, or biological changes resulting from the discharge or release.

To help make these changes useful for the analyses in the Damage Determination phase they must be converted into "services." Broadly speaking, a service refers to any function that one resource performs for another or for humans. Within the non-human part of an ecosystem, plants provide habitat and food for animals, one animal may provide or serve as food for another, or water may be used by fish for support, respiration, and many other functions. This list could be expanded to describe almost any interaction between species or between physical and biological levels. Among these services are the uses that humans make of natural resources. These services would include such things as use of water for drinking, the use of fish or wildlife for food, and the use of many components of the environment for recreation.

An important distinction between services and the physical, chemical, or biological conditions existing in a resource is that the services represent interactions between resources, or between resources and humans. Traditionally humans have valued natural resources in monetary terms on the basis of services provided by the resources. This method logically may be extended to valuing damages to an injured resource on the basis of changes in services. This rule establishes the link between measured adverse changes in the condition of the resource, the injury, and the damages through the measurement of changes in the services provided by the injured resource. This method of determining damages is in accord with traditional economic measures of the value of natural resources.

Using this rule, damages to an injured pond might be estimated by changes in

services the pond provided as fish habitat. The measure of change in services might be numbers of fish, varieties of fish, or the services the fish provide to another resource, such as food for other animals. If the pond had also served as a source of drinking water, the measure of change in services might be the volume of water formerly used for that supply. In either case, damages would be estimated on the basis of lost use of the services or of change in the level of more than one service, and demonstrable changes in all services may be counted when estimating damages.

The methodology to be used in the Damage Determination phase is critical in determining which services to measure in the Quantification phase. Close coordination is required between economists and natural resource specialists in planning and carrying out this phase of the assessment. The authorized official must decide whether to determine damages based upon the lesser of: the diminution of use values; or restoration or replacement costs (§ 11.35). These two approaches require different kinds of results from the Quantification phase. If diminution of use values is chosen, results must be expressed as changes in the uses of the services provided to humans. In this case, the measurements of services not used primarily by humans are useful mainly as intermediate results, although they may be critical in determining changed human use.

On the other hand, if restoration or replacement costs are to be the measure of damages, the non-human services may be equally critical, because the determination of restoration or replacement costs is based on the restoration or replacement of services. In this case, the non-human services may be more important in measuring changes in how well a wildlife habitat or marsh is supporting wildlife, controlling floods, assimilating wastes, and providing any other services that may be important. Human uses may need to be measured for purposes of determining priorities and calculating diminution of use values during the recovery period.

Provision is made in the Quantification phase for directly quantifying the effects of injuries based upon a loss of services dependent on the injured resources, where that direct quantification provides a better measure of the extent of the effect than first measuring a change in the chemical, physical, or biological parameters.

Detailed guidance is not provided on methods for measuring changes in services, in part because the range of services that can be measured is so broad, and in part because the methods to be used depend greatly on which services are measured. Guidance is provided for certain natural resources, but most methods for measurement of services will have to be determined by the authorized official. The guidance provided for specific resources is primarily on how to choose techniques that are scientifically acceptable and that can provide useful data for measuring services relating to those resources.

Quantification of the effects on the physical resources (surface and ground water, air, and geologic resources) focus on determining the area, or in some cases the volume, exposed to the discharge or release. In addition, the services provided by those resources must be determined. Comparison to baseline is critical to this process.

In the measurement of biological resources, the choice between habitat and population analysis is required to ensure that common units are being used and that double counting is avoided. There may be circumstances where a mixed analysis may be possible while avoiding double counting, if there is little or no interaction between the resources analyzed. For example, a population analysis might be used for a terrestrial resource such as deer, but a habitat analysis might be used for a fish resource affected by the same discharge or release. To some extent, choice of habitat analysis will be more closely related to restoration options, and population analysis to use values, but the relationship is not strict.

The types of biological measurements identified in the rule are those that have generally been used in damage assessments, with the exception of the Habitat Evaluation Procedures (HEP). (Information on HEP is available from: Habitat Evaluation Procedures Group, Western Energy and Land Use Team, U.S. Fish and Wildlife Service, Drake Creekside Building One, 2627 Redwing Road, Fort Collins, CO 80526–2899.) HEP has been used widely in analyzing impacts of proposed development projects, and considerable documentation is already available. An information document useful for implementing HEP in assessments, "Type B Technical Information Document: Guidance on Use of Habitat Evaluation Procedures and Habitat Suitability Index Models for CERCLA Applications," is being prepared concurrently with this rule. This document is intended to be a supplement to the materials and training already available for HEP from the U.S. Fish and Wildlife Service.

Life table statistics are widely used in other management and research functions, but their use here is restricted. The conditions generally considered necessary for their valid use are expected to occur rarely in assessments. The reference in the rule to the American Fisheries Society publication, "Monetary Values of Freshwater Fish and Fish-kill Counting Guidelines," (see § 11.71(l)(5)(iii)(A)), does not address or refer to the dollar values assigned to fish species in that publication, but is restricted to the section in that publication providing guidance on methods for conducting valid counts of dead fish.

(c) *Baseline services determination.* The measure of effect in the Quantification phase is a comparison of the conditions found following the discharge or release under investigation with a baseline condition both for services and for biological or physical changes. This baseline will most often represent conditions occurring just prior to the discharge or release, although the definition given in the rule is broader. This broader definition allows for longer-term situations where, even in the absence of the specific discharge or release, significant changes would have occurred in the resource or service being measured. For example, an area might have been primarily a farming community when a dump was first established, but land use changed during the period of hazardous waste dumping, and much of the area might have been converted to industrial use. These land use changes need to be considered in establishing baseline; it may be unreasonable to assess damages based in this case upon lost use as wildlife habitat. In addition to human-caused changes, consideration may have to be given to natural changes, such as ecological succession. This method of defining baseline reflects the principle that a natural resource damage claim should be limited to the damages caused by the injury resulting from actions of the party determined responsible. The rule provides that when it is not technically feasible or cost-effective to determine baseline conditions, the authorized official may, under certain circumstances, establish baseline conditions that do not fully represent actual baseline conditions that existed at the assessment area prior to the discharge or release.

The issue of from which point the calculation of change should be performed frequently has been erroneously related to the question faced by EPA in determining what level of "cleanup" is appropriate in response

actions under the NCP. The objectives of EPA under the NCP and the damage assessment process under this rule differ and, as such, different calculation points are inevitable.

EPA is not always concerned with returning the site to its baseline condition when it determines a cleanup level. Rather, the goal of most response actions is to remove and/or remedy the hazardous substances at a site until they no longer represent an actual or potential threat to public health, welfare, or the environment. The particular cleanup level is driven by the application of applicable or relevant and appropriate environmental standards and other site-specific considerations.

When performing a natural resource damage assessment, the objective is to determine the value of the loss. Standards may be used to determine that an injury has occurred, but the extent of effects for which the responsible party may be found liable may differ significantly from the standard. In some instances, the baseline condition was cleaner than the standard, where in others the standard was exceeded before the discharge or release. Therefore, in many situations the level of cleanup will be different from the baseline. The rule follows the common law principle that the injured party should be made whole again. Thus, quantification of injury and estimates of damages are based upon the change from baseline, rather than on standards.

The rule also requires that the baseline reflect normal variation in the resource and service. For almost any parameter being measured, variability is expected, whether that parameter is a physical measurement, such as concentration of an ion in ground water, or a biological measure, such as population levels of an animal species. Some of those parameters may be relatively constant, or vary on an annual cycle; others can be expected to vary cyclically and dramatically, such as "four-year cycles" of lemmings or "ten-year cycles" of lynx, where populations may vary from nearly zero to many thousands in a given area over the course of a fairly regular cycle. Other parameters may change gradually in one direction, as do population changes of many species during ecological succession, or show random and unpredictable changes. Included in the last category are extreme changes that might fall outside of "normal" variation, but still be due to natural causes. An example of extreme change is destruction of a coastal marsh by hurricane winds and seas.

A baseline should allow for comparison with the normal range of variation, rather than being constrained to a single measurement. For example, a discharge or release may occur or be studied at a time when a population is normally absent or low, but may affect the ability of the affected area to support the population at times when it would normally be high. A chemical change in air or water may be mitigated by dilution at certain times of year, but the same quantity of material may reach deleterious concentrations at other times because of low water flow or different wind conditions. A further constraint is that data for the baseline and for the assessment area should be collected using comparable methods. Unless identical or very similar methodologies are used, different data may simply reflect a difference in the methodologies rather than in the condition being measured.

The preferred method for establishing baseline is to use historical data taken from the assessment area before the discharge or release. In many cases, such historical data for an assessment area may be missing or inadequate, so the rule establishes an alternative means for estimating baseline. In most cases, estimating baseline requires data for similar areas ("control areas") near the assessment area. Preferably, the authorized official will use historical data for the control area if available, after ensuring that the control and assessment areas are similar except for the discharge or release. If historical data are unavailable for both the assessment and control areas, then field data must be collected for the control area following the guidance provided in the rule.

The same materials used for literature searches in performing research are sources for locating baseline data. These materials include general bibliographic references as well as computer data bases and specialized data bases that contain compilations of resource-specific data from many sources. In addition, many parts of the United States have been studied in Environmental Impact Statements (EIS's) or related documents for various kinds of projects. These EIS's may contain baseline data (or references to sources) for the subject area. The Digest of Environmental Impact Statements summarizes all EIS's, and is published by Cambridge Scientific Abstracts, 5161 River Road, Bethesda, MD 20816. A number of Federal and State laws require other planning documents that may be useful. The Federal Government carries out or sponsors research nationwide on natural resources; the National Technical Information Service (NTIS), in Springfield, Virginia, has a computer searchable data base for locating reports on this research, and also can supply microfiche or paper copies. Local information may be available through State agencies (e.g., water resources, air quality control, fish and game, public health, etc.). If the discharge or release occurred on publicly-held land, the agency managing that land may have data available, and private land owners may have similar data. Nearby universities and colleges may have data from studies done by students or faculty members.

If historical data for both assessment and control areas are inadequate, field data must be collected from control areas. Although each resource will require techniques and procedures specific to that resource, and local conditions will require tailoring procedures to the specific location, the rule provides general guidelines that apply to selection and use of control areas. The general guidelines are to be used together with the specific guidelines for each resource, and are designed to balance the needs for flexibility and rigor.

Because of the importance of water as a resource, extensive data on water quality have been collected by many Federal, State, and local agencies. Most of those historical data deal with traditional water quality measures, such as inorganic ions and microbial content, and only rarely include tests for man-made organic contaminants. A computerized data base that provides access directly to certain large data collections, such as EPA's STORET water quality data base, or other data bases, is available through the National Water Data Exchange (NAWDEX), headquartered at the U.S. Geological Survey (USGS) in Reston, Virginia, and also available through local assistance centers. (For information, contact: NAWDEX, U.S. Geological Survey, MS 421, National Center, 12201 Sunrise Valley Park, Reston, VA 22092; ph: (703) 860–6871.) In addition, the Survey's own water data are available from the National Water Data Storage and Retrieval System (WATSTORE); inquiries may be sent to Reston, VA (WATSTORE, U.S. Geological Survey, MS 437, National Center, 12201 Sunrise Valley Park, Reston, VA 22092; ph: (703) 860–6871) or to USGS offices in each State. When determining baseline for ground water, control wells may have to be selected or drilled. Historical data should be available to determine the extent of the aquifers being studied or to

determine hydrologic characteristics other than the concentration of oil or hazardous substances. Tests done on the water and matrix from control wells should parallel those done during the Injury Determination phase, as for other baseline procedures.

Establishing baseline for surface water resources includes consideration of effects due to low and high water conditions. At high flow or stage conditions, surface water samples will provide information on material washed from the land surface or tidally-transported. Low water conditions will reflect the potentially most concentrated condition of the surface waters. The range of normal concentrations should be determined over the range of water flows or stages, rather than depending strictly on seasonal or annual cycles as might be needed for biological resources. Sediments in the water bodies may represent the major concentration of many contaminants, may provide potential for future releases, and may serve as a potential source of injury for biological resources via food chains. Establishing baseline for marine and estuarine waters may require procedures to account for tidal and current effects on the movement of substances.

Concentrations of materials in air can change due to changing wind conditions, diffusion, varying volatility of the materials, and changes in release rates. Thus, establishing baseline conditions for air presents problems for baselines that differ from the other resources. The rule imposes limitations on use of historical data for an air resource baseline. These limitations, in summary, require that previous testing would have detected the oil or hazardous substance, and that the previous testing indicates that historical levels have been sufficiently predictable to be useful. Detectable concentrations of oil or hazardous substances are normally extremely rare in air, so these requirements are less restrictive than they may seem. Otherwise, monitoring at control sites will have to be conducted by the authorized official with consideration given to siting and to sampling schedules that ensure comparability to the assessment area and conditions, and that avoid interference from other potential sources.

Guidelines on baseline data for geologic resources primarily reflect factors important in determining comparability between the assessment and control areas and the need for appropriate sampling from the control areas.

Because quantification of injury to biological resources will involve habitats and populations, the sources of historical information provided emphasize these types of information. Included among the appropriate habitat maps would be the Wetland Inventory maps prepared by the U.S. Fish and Wildlife Service and by individual States showing locations of specific habitats and ecosystems (U.S. Fish and Wildlife Wetland Inventory Maps are available from: U.S. Fish and Wildlife Service, National Wetlands Inventory, Dade Building Suite 217, 9620 Executive Center Drive, St. Petersburg, FL 33702; ph: (813) 893–3624). Many other kinds of habitat and ecosystem maps are available. The U.S. Geological Survey maintains indices to and has available series of aerial photographs for most areas of the country, including not only topographic photography, but also photographs for studying agricultural and other land uses. With professional interpretation, these materials can indicate trends in habitat. Museum collections also provide records of species occurrence that may avoid duplication of collection efforts; specimens often are accompanied by field notes that provide habitat information. Both Federal and State agencies maintain biological data bases that often include distribution and habitat data. Among these are data bases for endangered species, Natural Heritage data bases maintained by many States, systematic data bases often maintained by museums and herbaria, and data bases for numerous fish and game species maintained by management agencies.

The requirement for species identification is not intended to be a major task. A comprehensive collection of all or most species present is not desirable. The authorized official instead should confirm the identification of species that figure most prominently in the injury assessment and in the selected restoration alternatives. For species that should not be collected for normal taxonomic studies because of low populations or other reasons, modern techniques that require only small blood or other tissue samples from live-trapped animals may be used, as may other techniques that will not create problems for species restoration. These confirmed identities may prove important in subsequent judicial or administrative processes or in later evaluating the success or failure of restoration programs.

(d) *Resource recoverability analysis.* Section 301(c)(2)(B) of CERCLA requires consideration of the "ability of the ecosystem or resource to recover." This consideration is provided for in § 11.73 of the rule. To satisfy this requirement, the authorized official must estimate the time necessary for recovery, both without restoration efforts beyond the removal of remedial action and "normal" management practices, and with proposed alternative restoration plans. No single formula can be designated for determining the recovery time. Recovery will be considered complete upon the determination that natural resource services have been effectively restored. This determination does not require that the recovered ecosystem or other resource necessarily be identical to the one lost, but merely that all important and measurable services of the lost resource have been restored. Once that point is reached, restoration or replacement is considered complete. The authorized official is given the option of using a shorter period because the costs of efforts expended in estimating very long recovery periods may not provide sufficient benefits when subjected to economic analysis.

The major source of information for the authorized official to use in determining recovey times is the experience that has been gained during other recoveries of similiar resources. Journals and published symposia on oil and hazardous substance response, as well as references found in these sources, contain numerous case studies that can be used as the basis for calculating recovery times. EPA has summarized some of these data in Appendix D of their "Technical Support Document for Water Quality-based Toxics Control," Office of Water Enforcement and Permits and Office of Water Regulations and Standards, September 1985. Knowledge of local conditions, including information on ecosystems, organisms, and climate, can be critical in adjusting the results of published studies to particular situations. Modeling may be useful for air, water, and geologic resources, and knowledge of degradation and natural removal processes for the oil or hazardous substance will be central to all time determinations.

E. Economic Issues

1. Economic Methodology Determination

The method for determining damages is described in section 301(c)(2) of CERCLA as considering, but not limited to, "replacement value, use value and the ability of the ecosystem to recover." Replacement value (costs) and use value are concepts that have a history of

application. Accordingly, common law and economics provide considerable guidance on selection of a method or methods to calculate damages. In common law, compensation is often determined by the lesser of the diminution of market value or the cost of restoration or replacement.

In terms of economics, compensation for damages would be the lesser of the diminution of use values or the cost of cost-effective restoration or replacement. That is, if use value is higher than the cost of restoration or replacement, then it would be more rational for society to be compensated for the cost to restore or replace the lost resource than to be compensated for the lost use. Conversely, if restoration or replacement costs are higher than the value of uses forgone, it is rational for society to compensate individuals for their lost uses rather than the cost to restore or replace the injured natural resource. Thus, economics and common law agree on a principle of compensation. This rule has adopted an approach parallel to the general common law and economic rules for compensation for damages. Damages in this rule are the lesser of: restoration or replacement costs; or the diminution of use values.

The choice of a measure of damages, i.e., restoration or replacement costs, or the diminution of use values, does not affect the actual use of damage amounts. No matter which measure is chosen, the monies collected from the settlement or award must be used for restoration or replacement. In addition, Federal or State agencies are not precluded from supplementing damage funds with other monies to restore, replace, or enhance the injured natural resource.

The analysis required in the Economic Methodology Determination, § 11.35, is intended to be only a rough approximation of the values derived after the conclusion of the Damage Determination phase. Original research projects should not be conducted at this early phase of the assessment. Existing studies to approximate use values forgone resulting from the injury to the natural resource should be relied upon. Sources of data include journal articles, government publications, such as the documents produced by the Forest Service to implement the Resource Planning Act, and work in progress at many universities. Restoration or replacement costs should be approximated through the use of unit values for past management practices or resource acquisitions. If sufficient information is not readily available at the time of the development of the Assessment Plan, the determination of an economic methodology can be postponed until after the Injury Determination phase of the assessment. In addition, any necessary refinements in the Economic Methodolgy Determination can be made as modifications to the Assessment Plan at any time.

One crucial issue in any quantitative damage assessment is the selection of a discount rate. The discount rate is used to translate monetary amounts of costs and benefits occurring in different time periods into a common present value amount. The discount rate used in this rule is given by "Office of Management and Budget (OMB) Circular A–94 Revised." The discount rate listed in this circular is a real rate of 10 percent.

2. Restoration or Replacement Methodology

The restoration methodology is described in § 11.81. In the Quantification phase, the authorized official quantifies the effects of the injury in terms of lost or disrupted services. In the Damage Determination phase, the authorized official determines management actions, that is, actions to restore, rehabilitate, replace, or acquire the equivalent, that will return the lost or disrupted services. Management actions are those types of activities that either physically modify the resource or administratively change the species or human use of the resource designed to achieve a specific goal normally reflected in the agency's planning documents. Examples of management actions include such resource related actions as seeding, stocking, supplying water, or hazing to discourage wildlife use of specific habitats. When performing this methodology, the authorized official should look to restore or replace the lost or disrupted services in a cost-effective manner. Any specific methodology that accomplishes this goal is acceptable. However, the method chosen must be the result of an evaluation performed in the Restoration Methodology Plan discussed later. An example of a restoration methodology is the Habitat Evaluation Procedures (HEP). The U.S. Fish and Wildlife Service has examined how the presence of oil or hazardous substances can be incorporated into HEP. This information can be found in "Type B Technical Information Document: Guidance on the Use of Habitat Evaluation Procedures and Habitat Suitability Index Models for CERCLA Applications," which is being prepared concurrently with this rule.

The U.S. Fish and Wildlife Service has also produced guidance on incorporating cost-effectiveness into HEP. This guidance can be found in "Designing Cost-Effective Habitat Management Plans Using Optimization Methods," by Adrian H. Farmer and Scott C. Matulich, 1986 (available from the Habitat Evaluation Procedure Group, Western Energy and Land Use Team, U.S. Fish and Wildlife Service, Drake Creekside Building One, 2627 Redwing Road, Fort Collins, CO 80526–2897). In addition, the U.S. Fish and Wildlife Service is preparing a microcomputer program called the "Habitat Management Evaluation Model" (HMEM). This model may provide a means of rapidly designing cost-effective management actions for use with restoration or replacement alternatives. The model is based upon the concepts in the Farmer and Matulich document and available at the aforementioned address. These procedures should be reviewed to determine if they can be of assistance in structuring cost-effective restorations or replacements.

If restoration or replacement will form the basis of compensation in the Damage Determination phase of the assessment, the Federal or State agency acting as trustee may also claim damages for the diminution of use values over the time required to perform the restoration. The authorized official should estimate this diminution of use values in accordance with the guidance in §§ 11.83 and 11.84.

3. Restoration Methodology Plan

The selection of the cost-effective restoration or replacement measures for the Damage Determination is made in the Restoration Methodology Plan. The guidance provided in § 11.81 concerning the restoration methodology is to be followed in developing the Restoration Methodology Plan and in selecting the cost-effective alternative.

The Restoration Methodology Plan is intended to encompass the requirements of a good environmental analysis. Fundamental to the plan are the requirements for an analysis of alternative means of restoring or replacing the lost services and public review and input to the decision. An interdisciplinary analysis of both direct and indirect impacts of the alternatives also is called for in the rule. Finally, in accordance with accepted procedures for environmental analysis, the Restoration Methodology Plan is required to form the basis from which the post-award Restoration Plan will be tiered.

The purpose of the Restoration Methodology Plan is to compute damages. Therefore, the plan is not

viewed as being of sufficient detail to carry out a restoration, rather the level of detail is driven by the needs of the damage determination. The later post-award Restoration Plan, when the level of funding is known, is expected to focus on the selected alternative and, therefore, provide more detail on the actual restoration.

The authorized official is encouraged to combine the requirements for the Restoration Methodology Plan with other planning or analytical requirements that may apply to a specific restoration or replacement decision. Some examples of other such requirements include a restoration plan required under section 111(i) of CERCLA for claims against the Fund, Remedial Investigation/Feasibility Studies (RI/FS) required under the National Contingency Plan, analyses required under the National Environmental Policy Act of 1969 (NEPA), or land use planning documents required under the various land management statutes. The Restoration Methodology Plan is designed, in particular, to satisfy the requirements of NEPA without additional analysis at this stage.

4. Use Value Methodologies

Section 11.83 is divided into two parts—one for resources that are traded in markets and the other for resources that are not traded in markets. If the injured resource is traded in a market, the diminution of the market price should be the measure of lost use value. The diminution of the market price will not always coincide with the change in the loss in social value, but this amount is widely recognized by courts as the measure of damages when a commodity is injured.

When the injured resource is traded in the market, the authorized official must determine whether the market is "reasonably competitive" in order to use this methodology. While not defined in the rule, reasonably competitive means that the assumptions underlying a competitive market are fulfilled to a reasonable degree. This determination may be made on a case-by-case basis.

If the injured resource is not traded in a market, but similar or like resources are traded in a market, the authorized official should use an appraisal technique to determine damages. To the extent possible, all appraisals should be in conformance with the "Uniform Appraisal Standards for Federal Land Acquisitions" (Uniform Appraisal Standards) (see § 11.83(c)(2)(i)). In those instances when State statutes may be at variance with these standards, a State authorized official acting as trustee should follow the applicable State's guidance on performing appraisals.

The Uniform Appraisal Standards cover three general appraisal approaches: the cost approach; the income method; and the comparable sales approach. The cost approach is inappropriate in implementing the appraisal method since the restoration methodology (described in § 11.81) explains how restoration costs are to be determined. While the income method in the Uniform Appraisal Standards is appropriate, it should only be performed in accordance with the "Factor Income" method given in the rule. The diminution of market price and the appraisal method jointly comprise the marketed resource methodology in the rule. Only when the injured resource is not traded in a market, or when that market is not reasonably competitive, and no comparable sales are available for use in an appraisal, may the authorized official use any of the nonmarketed resource methodologies listed, or any that meet the acceptance criterion.

CERCLA provides that a Federal or State agency is acting as a trustee when seeking recovery for a loss to a resource. Accordingly, it is damage to the public that may be recovered. The use values that can be claimed by a Federal or State agency are those associated with the loss to the public in general because of the discharge or release. These include: losses in recreation and other public uses; fees and other payments made to the agency for the private use of the public resource; and the economic rent, that is, the excess of total earnings of a producer of a good or service over the payment required to induce that producer to supply the same quantity currently being supplied, accruing to private individuals engaged in commercial ventures because the government does not charge the producer a price or fee for the private use of the public resource.

Under this rule, the Federal or State agency acting as trustee cannot collect for: taxes forgone, because these are transfer payments from individuals to the government; wages and other income lost by private individuals, except for that portion of income that represents economic rent, because these values do not accrue to the agency and may be the subject of law suits brought by the individuals suffering the loss; or any speculative losses. The costs incurred by private individuals engaged in commercial ventures may be considered in performing the nonmarketed resource methodologies listed in the rule, but the purpose of this use is to enable the authorized official to assign a value to the resource, not to collect that private cost.

The Federal or State agency acting as trustee can claim all the net income lost, not just the economic rent, from a commerical venture when the agency is the sole or majority owner of the venture that is affected by the discharge or release. For example, if the Federal or State agency sells water and that water supply is injured, that agency can claim the change in net income as damages. This procedure allows the agency to file one claim to obtain all damages associated with the discharge or release, rather than two.

Nonmarketed resource methodologies may be used to measure a diminution of use values. The methodologies listed in § 11.83 are examples of those that are permitted under this rule. Discussions of these methodologies can be found in many natural resource or environmental economics textbooks, such as in A. Myrick Freeman III, "The Benefits of Environmental Improvement: Theory and Practice," Resources for the Future, Inc. (Baltimore, MD: Johns Hopkins University Press, 1979), available from: Resources for the Future, Customer Services, P.O. Box 4852, Hampden Station, Baltimore, MD 21211; ph: (202) 328–5025.

Several of the nonmarketed resource methodologies listed in § 11.84 are also listed in the "Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)" (Procedures) (see § 11.83(a)(3)). To the extent practicable and applicable, the authorized official should follow the guidance in this document. The discussion of unit day values in the Procedures should be supplemented with other sources of existing estimates of use values, such as that in the forthcoming Final Environmental Impact Statement, "1985–2030 Resources Planning Act Program," Appendix F (Resources Program and Assessment Staff, Forest Service, U.S. Department of Agriculture, 3306 S. Agriculture Building, P.O. Box 2417, Washington, DC 20013).

Other studies may also provide the authorized official with more background. One supplemental source is W.H. Desvousages, V.K. Smith, and M.P. McGivney, "A Comparison of Alternative Approaches for Estimating Recreation and Related Benefits of Water Quality Improvement," U.S. Environmental Protection Agency, Office of Policy Analysis, Washington, DC, EPA–230/05–83–001, March 1983 (available from: Office of Policy Analysis, U.S. EPA, 401 M St. SW. Washington, DC 20460, or from NTIS). In

addition, further information on the use of nonmarketed resource methodologies can be found in "Type B Technical Information Document: Techniques to Measure Damages to Natural Resources," which is being prepared in conjunction with this rule.

The list of nonmarketed resource methodologies cannot be comprehensive. The acceptance criterion in § 11.84 is designed to ensure that methodologies consistent with economic theory, yet not specifically listed in the rule, are available for use in estimating damages. This acceptance criterion stipulates that the methodology measures willingness to pay in a cost-effective manner.

F. Glossary

The following terms are defined using generally accepted and applied definitions. The definitions provided here are simply for clarification and are not included as regulatory language.

(a) "Assimilate" means to absorb a substance into an organism's body, tissues, or cellular structure and does not refer to substances in the digestive tract or respiratory system that have not otherwise been absorbed across membranes or epithelia.

(b) "Behavioral abnormalities" means alteration of overt activities by an animal including locomotor, reproductive, care of young, food gathering, or avoidance of predation.

(c) "Bioaccumulate" means the process whereby chemical substances enter aquatic or terrestrial organisms through both bioconcentration and uptake of chemical residues from dietary sources.

(d) "Bioconcentrate" means the process whereby either chemical substances enter aquatic organisms through gills or epithelial tissue directly from water, or chemical substances enter terrestrial organisms through respiratory or epithelial tissues directly from air; and the concentration of the chemical substances in the tissue fluids of the organism exceeds that of the air or water.

(e) "Biomagnify" means the process by which tissue concentrations of bioaccumulated chemical substances increase as they pass up the food chain through two or more trophic levels.

(f) "Cancer" means a general term frequently used to indicate any of various types of malignant neoplasms, most of which invade surrounding tissues and may metastasize to several sites.

(g) "Constant dollar" means inflation adjusted dollars at a specified base year.

(h) "Controlled experiment" means any laboratory, pen, or field test in which an investigator regulates the exposure of the biological resource to the oil or hazardous substances and which includes comparison to organisms treated similarly except for such exposure.

(i) "Disease" means an impairment of a biological resource's ability to resist or recover from an infectious agent.

(j) "Existence value" means the dollar amount of the willingness to pay or willingness to accept of individuals who do not plan to utilize a resource now or in the future, but are willing to pay to know that the resource would continue to exist in a certain state of being.

(k) "Expected present value" means the dollar amount derived by the period-by-period summation of the various levels of benefits or costs associated with alternative assumptions on parameter values, where each level is weighted by the probability of the occurrence of the parameter value, and discounted by period, using the discount rate as determined in § 11.83 of this part.

(l) "Free-ranging" means biological resources in their natural habitat, in contrast to biological resources maintained in captivity.

(m) "Genetic mutations" means a detectable chromosomal aberration that can be correlated with a detrimental effect on the survival or reproductive success of the biological resource.

(n) "Neoplasm" means an abnormal mass of tissue, the growth of which exceeds and is uncoordinated with that of the normal tissue and persists in an excessive manner after cessation of the stimuli that evoked the change.

(o) "Net expected present value" means that costs are subtracted from benefits in the definition of expected present value.

(p) "Option value" means the dollar amount of the willingness to pay or willingness to accept of individuals who are not currently using a resource, but wish to preserve their option to use that resource in a certain state of being in the future.

(q) "Physical deformation" means congenital or acquired alterations in shape, size, and structure of an organism or any part of an organism, including malformations.

(r) "Physiological malfunction" means alterations in biochemical and physiological processes necessary for maintenance of homeostasis and reproduction, including such processes as fluid transport, digestion, metabolism, excretion, respiration, locomotion, and nervous and endocrine integration.

(s) "Willingness to accept" means the amount of money an individual must be given to be as well off as he was prior to the occurrence of an event.

(t) "Willingness to pay" means the amount of money an individual would be willing to pay to have avoided the occurrence of an event.

III. Responses to Comments

The Department received numerous comments on the proposed rule. The considerable time and effort expended on the comments and the thoughtfulness of the comments are greatly appreciated. Most comments commended the Department's efforts in developing a well-thought-out and logical assessment process. The general approach of the proposed rule has been maintained in the final rule. At the same time, the final rule has benefited from many suggested improvements in clarifying its intent and improving the accuracy of the damage assessment process. Changes made to the proposed rule in response to comments are explained in the section-by-section that follows. A number of additional minor changes of a non-substantive nature have been made to ensure clarity of language, correct errors, and to conform to proper Code of Federal Regulations usage.

A. Revisions to Subpart A—Introduction

General Comments—Relationship to Response Actions

There may have been a misunderstanding among some comments as to the purpose of a natural resource damage assessment. Many comments made reference to the use of a damage assessment to effect a "cleanup" or "remedy." Other comments maintained that the natural resource damage assessment process would result in two remedial actions being undertaken. This rule, however, is a companion to other regulations under CERCLA that are specifically intended to deal with response and remedial actions. As such, this rule is intended only to assess the residual damages for injuries to a natural resource that might remain after remedial actions or other response actions were completed.

The Department notes that while this rule does not provide for a "second remedial action," it does provide for additional measures when necessary to compensate for residual injuries through restoration, replacement, rehabilitation, or acquisition of equivalent natural resources, actions that may not lie within the scope of the remedial alternative selected for the site in question. In addition, this rule allows for compensation for loss of use values suffered from the time of the discharge or release responsible for the injury until

the lost services provided by the natural resource are restored. The rule does, however, encourage natural resource damage concerns to be incorporated as fully as possible in NCP response actions.

One comment held the mistaken impression that damages determined in accordance with the rule were only available on a reimbursement basis. The comment also expressed concern as to the proposed rule's reference to a priority order for restoration work.

The Department notes that damages may be awarded once a demand is made. The damage award cannot be spent until the Restoration Plan is developed, but the Plan itself is based on the amount of the award. The Department points out, however, that claims against the Hazardous Substance Response Trust Fund must be for costs incurred as specified by the Natural Resource Claims Procedures promulgated by EPA at 40 CFR 306 (December 13, 1985, 50 FR 51205). Also, no priority order for restoration work is included or intended in the rule.

Several comments expressed concern over how the assessment process will be integrated with the remedial investigation/feasibility study (RI/FS) process, especially in light of the long-term nature of some remedial actions. Many comments requested further practical guidance on how to effect this coordination.

The Department is unable to provide much additional guidance beyond that already provided in this rule and its preamble until some practical experience in the application of this rule has been gained. The Department can only emphasize the critical need for authorized officials and lead agencies to work closely together throughout the RI/FS process. The Department does believe that to properly account for the effects of remedial actions, the Quantification phase generally should not be initiated until the remedy has been selected and is being implemented. The baseline, however, is determined as the level of conditions prior to the discharge or release under investigation, not as the conditions after the remedy has eliminated or mitigated the injury. Measurement of the change from baseline would account for the effects of the remedial action. If a remedial action is going to be significantly delayed, and a damage claim must be brought because of the statute of limitations, the rule does allow for inclusion of the "anticipated" effects of remedial actions.

Another comment expressed concern that the rule's concept of residual damage may prove contrary to the overall policy of the CERCLA program, and that use of the residual damage concept could lead to the establishment of an unreasonably low action level to limit residual damages, thereby suggesting a preference for the remedial action option of media removal with off-site disposal. On-site contaminant containment, the comment continued, is often the most desirable remedial option because it reduces adverse impacts at the site and minimizes potential impacts in otherwise unaffected areas. Finally, the comment noted that, if the concept of residual damages is not balanced with the concept of overall benefits, it is unlikely that cost-effective and environmentally sound on-site containment remedial options would be considered viable for implementation at CERCLA sites.

The Department agrees that on-site containment may often be the best remedial alternative and does not intend that use of the residual damage concept should increase the number of off-site remedies. Federal and State agencies acting as trustees must coordinate closely with the lead agency under the NCP to ensure that the remedy selected for the site is balanced against the overall impact on the environment, both on- and off-site.

Finally, one comment correctly noted that the current CERCLA case law imposes liability for a natural resource damage claim only if the release or the threatened release causes response costs to be incurred. However, the comment then incorrectly concluded that this interpretation suggests that if no remedial action is deemed appropriate, there is no cognizable injury to natural resources that may be assessed.

The Department notes that CERCLA defines response costs to be much broader than simply remedial action costs. "Response" includes "remove and removal" costs, which include monitoring, assessing, and evaluating the release (see section 101 (25) and (23) of CERCLA).

General Comments—Challenges to the Rule

One comment expressed concern as to the appropriate time to challenge inappropriate applications of the methodologies contained in the rule. The comment stated that the appropriate time to challenge a particular application of any of the various alternative methodologies that might be used under this rule is when the methodologies are applied in an actual assessment.

The Department agrees that the specific application of an allowable methodology in an assessment setting can be challenged within the context of the damage claim litigation. Such an action, however, would not be a challenge to the rule, nor a challenge to the inclusion of the methodology in the rule. The provisions of the rule itself cannot be challenged after the ninety-day period provided for in section 113(a) of CERCLA.

General Comments—Punitive Damages

One comment took issue with the Department's statement that natural resource damages under CERCLA are intended to be compensatory, not punitive. The comment stated that CERCLA expressly provides for punitive damages in some cases (section 107(c)(3)), and that CERCLA was intended to preserve traditional tort remedies, expressing no intent to cut off punitive damages. The comment stated that punitive natural resource damages were especially important because of section 114(b) of CERCLA, which precludes compensation for damages pursuant to CERCLA in addition to any other Federal or State law. The comment suggested that the rule should be revised to provide that, in the case of outrageous conduct by a responsible party, the trustee may seek punitive damages, reviewable in a subsequent proceeding by a court.

The Department does not believe that Congress intended that the assessment regulations should include provision for punitive damages. Section 107(c)(3) of CERCLA, by its language, applies only to a refusal to comply with removal or remedial action orders. The natural resource damage assessment regulations are intended to measure, as accurately as possible, the "loss" suffered by the public for injuries to natural resources. Any additional damages based on the intent of the responsible party at the time of the discharge or release would be beyond the scope of this rule, and, in the Department's interpretation of the statute, not authorized by section 107(f) of CERCLA.

General Comments—Administrative Process

Several comments objected to the level of discretion given to a trustee agency to make the significant decisions called for in the rule. The comments suggested a national review panel, an arbitration panel, or an administrative appeals board to oversee the assessment process.

The Department does not support the establishment of any type of oversight mechanism, since the rule contains an administrative process to provide for

review of the authorized official's exercise of discretion. While it is true that the rule commits many important decisions to the discretion of the authorized official, the rule provides criteria by which the decision can be evaluated and specifically subjects the decisionmaking process to review by other affected trustee agencies, any potentially responsible parties, the public, and ultimately the courts. The Department believes that review and resolution of disputes on a case-by-case basis by the parties directly involved is more effective than imposition of the judgment of a national group.

Section-by-Section Comments

Section 11.10 Scope and applicability.

In response to several comments, the Department has changed the language of § 11.10 to clarify that the procedures specified in the rule apply only to "assessments initiated after the effective date of [the] final rule." Procedural devices such as the rebuttable presumption do not apply to assessments performed pursuant to the proposed rule. Also, the Department notes that whether an assessment is initiated at the discretion of the Federal or State agency acting as trustee, CERCLA does not mandate assessments; it simply authorizes damage claims.

Section 11.11 Purpose.

The comments received on the purpose of the rule centered around the role and definition of the rebuttable presumption in the assessment process.

One comment suggested that to compensate for the advantage that the rebuttable presumption provides to a Federal agency, the final rule should state explicitly that the damage assessment must result in a "reasonable" damage determination. The Department has carefully developed the natural resource damage assessment process in this rule and has selected methodologies and criteria for the various steps of the process to ensure the "reasonableness" of the damage assessment. Therefore, there is no need for an additional reasonableness limitation to compensate for the rebuttable presumption.

One comment maintained that the CERCLA 111(h)(2) rebuttable presumption raises concerns about due process because the trustee is given virtually unlimited discretion to fix the amount of the damage assessment and is protected by the rebuttable presumption provision. The Department believes that the assessment process required in the rule ensures that the authorized official's discretion is not unlimited and that the damage assessment will be reasonable. Therefore, the rule does not deny due process.

Another comment suggested that the Department clarify whether the rebuttable presumption applies to the trustee's choice of methodologies and their application, or only to the (final dollar) assessment. It is the dollar figure representing the damage assessment that is entitled to a rebuttable presumption, rather than the choice of methods for arriving at the dollar figure. The rebuttable presumption attaches to the dollar figure, however, only if it has been derived in accordance with proper application of the methodologies in the rule. The rebuttable presumption does not necessarily attach to each individual decision as to the proper application of methodologies allowed.

Several comments suggested that the rebuttable presumption should apply to assessments by State trustees as well as Federal trustees. The question of the interpretation of the rebuttable presumption provision in CERCLA also arose prior to the formulation of this rule in the context of the Natural Resource Claims Procedures, 40 CFR 306, promulgated by the Environmental Protection Agency (EPA). A full discussion of the resolution of this issue is contained in section V(C) of the preamble to that final rule (50 FR 51212) for the Natural Resource Claims Procedures. In brief, after reviewing comments and considering revisions to the NCP, EPA concluded that the language of section 111(h)(2) of CERCLA, when read in conjunction with section 111(h)(1) of CERCLA, which refers only to "damages . . . assessed by Federal officials," only allowed the provision of the rebuttable presumption to be extended to Federal officials. The Department of the Interior has adopted a position on this issue that is consistent with the Executive branch's prior decision on the interpretation of CERCLA in this matter.

The Department notes that, as is mentioned in the EPA preamble, it may be possible for Federal and State authorized officials to work together on assessments and then qualify for a rebuttable presumption.

Numerous comments were received on the issue of the rebuttable presumption as discussed in the preamble to the proposed rule, relating to the Department's interpretation of the application of the presumption in any particular judicial setting. After reviewing the issues raised with other Federal agencies and departments, the Department believes that it is inappropriate to attempt to define how this essentially legal mechanism would operate in this rule.

The Department notes that § 11.10 has been clarified to explicitly state that this rule is an optional process for Federal and State authorized officials, however, use of the rule by Federal officials acting as trustees is required if their damage assessment is to be accorded the rebuttable presumption pursuant to section 111(h) of CERCLA.

Section 11.12 Biennial review.

Several comments encouraged the Department to establish formal procedures for requiring the review of damage assessments performed and the submission of assessment documents to the Department in order to facilitate the Department's biennial review of the regulations.

The Department has not included such formal regulatory requirements in this final rule. However, the Department strongly encourages all parties who have been involved in a natural resource damage assessment to communicate their successes, problems, and concerns with the application of this rule to specific incidents to the Department. Such communications should be sent to the address given at the beginning of this preamble until further notice. The Department agrees with the comments that only with experience can the possible inadequacies of the assessment process become apparent. The Department encourages ideas for voluntary exchanges of information to assist in the review of the rule.

Section 11.14 Definitions.

§ 11.14(a) "Acquisition of the equivalent" or "replacement"

One comment suggested that "acquisition of the equivalent" or "replacement" be defined as the substitution of "the same or substantially similar" services because, in the comment's view, the term "related services" is not sufficient to comply with CERCLA. The Department agrees and has revised the definition accordingly. In addition, this change has also been made in § 11.14(ii).

§ 11.14(c) "Assessment area"

Several comments suggested that the term "assessment area" be defined in terms of affected resources rather than affected geographical areas. The Department concurs and has incorporated the term "natural resources" into the definition of assessment area in § 11.14(c) of the rule.

Several comments suggested that "damage assessment area" and "injury

assessment area" be distinguished. The comments held that damage assessment area should include areas directly or indirectly affected by the injury. The Department notes that the proposed rule did not define either of these terms, nor does this final rule. The Department believes that sufficient flexibility has been established in this final rule to allow the Federal or State authorized official acting as trustee to include all areas of direct or indirect injury or damages in the damage assessment.

§ 11.14(d) "Authorized official"

In response to comments expressing the concern that the rule could be construed as allowing potentially responsible parties to be designated as "authorized officials" or even as "lead authorized officials," a revision has been made to the definition of "authorized official" and of "lead authorized official," in § 11.14(w), to clarify that only Federal or State officials may act as authorized officials.

§ 11.14(e) "Baseline"

Some comments stated that the concept of baseline should reflect all pre-release conditions, rather than just the condition of the assessment area immediately preceding the release that caused the injury for which damages are being assessed. In addition, one comment recommended that the concept of cumulative effects of incremental releases be incorporated into the definition of "baseline" so that restoration to conditions prior to the first of several releases that cumulatively caused the injury would be required.

The Department disagrees with the comments and has not made these changes. Where there is a series of releases, baseline is determined by looking to the condition of the injured resource in the absence of the release or any number of releases that can be included in the current assessment. Whether cumulative releases can be assessed will depend upon the application of the liability provisions of section 107 of CERCLA to the incident in question in accordance with governing case law.

Some changes were made to the definition of the term "baseline." These changes are discussed in the response to comments on § 11.72 Quantification phase—baseline determination.

§ 11.14(h) "Committed use".

One comment suggested that "another party," as used in the definition of "committed use," should include local governments or private parties. The Department has revised the definition to clarify that the key issue is that the use being measured is a public use and has been documented as a public use. The identity of the party documenting the use is not controlling, so long as the documentation is a matter of public record.

Another comment maintained that the definition of "committed uses" should clarify that such uses are compensable only if they are public uses. The Department believes that this concept was embodied in the proposed rule. However, because of some confusion as to the meaning of the definition, it has been reworded to make the concept explicit.

One comment recommended that the definition of "committed use" be revised to allow a trustee to commit a use at any time to protect particularly important or sensitive resources.

The Department disagrees with this comment. In order to arrive at a fair value of compensation, the commitment to the use must be made prior to the discovery of the injury.

Another comment stated that the definition of "committed use" should be revised to reflect natural resource uses that are legal and consistent with uses of similar public resources in compatible areas. The comment asserted that the current definition is too restrictive because it includes only documented past uses and excludes present uses. Another comment correctly interpreted and concurred with this definition. However, the comment noted that more than one interpretation is possible. This comment requested that the definition of "committed use" be revised to explicitly include all current uses of an injured natural resource, but only those future uses that have been documented by the trustee or another party as planned future uses. The comment maintained that this interpretation prevents assessment of speculative resource uses while allowing trustees to measure accurately current and planned resource uses.

Because of the confusion, the Department has rewritten this definition to explicitly clarify that only future uses need to be documented and that these uses are included as committed uses.

§ 11.14(i) "Control area" or "control resource"

One comment suggested that language be added to the definition of "control area" to provide that if the control area does not contain as diverse or vital a population as existed at the assessment area before the release, the baseline should be adjusted to account for such conditions. The comment held that such a change would better protect biological diversity. The Department believes that this change is not required. The rule defines and discusses the choice and use of a control area and its relationship to the baseline sufficiently to enable the authorized official to use these terms as is needed for the assessment.

§ 11.14(j) "Cost-effective" or "cost-effectiveness"

Several comments suggested that the definition for "cost-effectiveness" be expanded to apply whenever "the same or similar" level of benefits are being considered. The Department agrees and has made this change. In many cases benefits may not be exactly the same, but may be similar in nature; cost-effectiveness should hold in these cases. While the reasonable cost test would theoretically cover this problem, the definition of cost-effectiveness was changed to avoid confusion.

One comment argued that "cost-effectiveness" is the appropriate standard used in the assessment process; that "reasonable costs" is not needed to a substantial degree and is inadequate. Another comment stated that cost-effectiveness and reasonable costs are clearly explained in the rule and preamble, are well applied, and that the rule does an excellent job of balancing the need for a fair and defensible assessment of damages while minimizing the cost of an assessment.

The Department points out that under CERCLA the authorized official can recover only the "reasonable costs" of assessments. As such, both the reasonable cost and cost-effective criteria apply. The Department notes that cost-effectiveness, as defined in this part, refers only to actions taken pursuant to the natural resource damage assessment regulations. A cost-effectiveness definition for actions taken pursuant to the NCP was published at 40 CFR 300.68(i).

§ 11.14(l) "Damages"

One comment recommended that the definition of "damages" be revised to provide that only lost public services and public uses are compensable, and that damages are to be measured by the lesser of cost-effective restoration or replacement and diminution of use values.

The Department points out that this rule limits the damages compensable to authorized officials to the loss to the general public, in §§ 11.81 and 11.83. As such, defining damages as the comment suggests would be redundant. Consequently, this change was not incorporated into this rule.

One comment noted that while the definition of damages in this section was reasonable, this definition was effectively expanded in §§ 11.15(a) and 11.80(f)(1) of the proposed rule. This comment suggested that the definition of damages, in § 11.14(l), be expanded to

incorporate the concepts in §§ 11.15(a) and 11.80(f)(1). The Department notes that § 11.14(l) provides the basic definition of damages as compensation for an injury. Sections 11.15(a) and 11.80(f)(1), and other sections, elaborate on how this compensation is to be measured. To incorporate all of this elaboration into the definition section would be unwieldy and unworkable.

§ 11.14(m) "Destruction"

One comment suggested that tissue concentrations of hazardous substances in animals, fish, or plants in excess of FDA levels constitute a "total loss" of these resources, within the meaning of the definition of "destruction." Several comments believed that "destruction" should be defined as "irreversible loss of the services of a natural resource" because a resource is not lost, even when extensively damaged; only its services are lost.

The Department has defined "injury" to include the term "destruction" and has provided specific injury definitions in § 11.62 for each category of natural resources. These issues are discussed further in the responses to comments on § 11.62.

§ 11.14(o) "Drinking water supply"

Several comments asserted that the definition of "drinking water supply" is too broad or too vague. Comments suggested that the proposed rule utilize the Safe Drinking Water Act (SDWA) definition of public water supply (40 CFR 141.2(e)) as a water supply that provides 15 service connections and serves 25 persons at least 60 days per year.

The Department notes that the definition of drinking water supply is taken directly from the definition in section 101(7) of CERCLA.

§ 11.14(t) "Ground water resources"

Several comments suggested that the definition of "ground water resources" is too broad; one comment proposed to limit such resources to aquifers because those are the only such resources "capable of providing some use."

The Department disagrees with these comments. It is true that aquifers are useful ground water resources and can provide drinking water supplies and irrigation. However, the Department recognizes that "ground water resources" has been defined broadly. This definition recognizes that ground water exists as a complex and interrelated system. An injury to waters in the saturated zone is an injury to ground water resources. Such waters may be extracted and used directly and/or may migrate to and contaminate aquifers.

One comment recommended that the portion of the definitions of ground water resources and surface water resources relating to "rocks and sediments" be explicitly stated to apply only to this rule. The comment suggested that these definitions would otherwise establish undesirable precedents for interpreting other regulations.

The Department does not believe that the definitions are either unique or confusing. The Department feels that adequate guidance has been provided to ensure that the definitions apply only to this rule.

§ 11.14(v) "Injury"

One comment stated that the definition of "injury" be explicitly limited to the change in services from baseline less mitigation of those lost services resulting from response actions. The Department points out that the definition, as well as the concept of injury, has been discussed in detail elsewhere in this preamble. The comment is addressed further in the response to comments on § 11.71 of the rule.

§ 11.14(w) "Lead authorized official" (See discussion for § 11.14(d).)

§ 11.14(x) "Loss"

One comment requested clarification on whether a "measurable adverse reduction," within the meaning of the definition of "loss," includes a statistically significant reduction at a probability of $P=0.05$ from a control or reference site.

The Department believes that the measure of a "measurable adverse reduction" would be determined in the Assessment Plan phase of an assessment, in accordance with the stipulation that all assessments be designed and planned to follow appropriate scientific procedures. The specific level of significance can only be determined in conjunction with the type of test being used and the case-specific application of that test. Because of this, the level of significance required is left unspecified in this rule.

§ 11.14(z) "Natural resources"

One comment suggested that the Department provide a more detailed definition of the term "natural resources" to emphasize that only public and not private resources are within the scope of this definition.

Section 101(16) of CERCLA defines natural resources as those resources "belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States . . ., any State or local government, or any foreign government." The Department believes that Congress has defined "natural resources" with sufficient specificity to leave no doubt that resources owned by parties other than Federal, State, local, or foreign governments (i.e., privately-owned resources) are not included. The Department has therefore retained the CERCLA definition of natural resources in § 11.14(z) of this rule.

Another comment held that the rule allowed the assessment of resources not covered by CERCLA, because throughout the rule, the term "resources" is used instead of "natural resources."

The Department has amended the definition of "natural resources" to clarify that the term "resources" is equivalent to the term "natural resources."

One comment urged the Department to state explicitly in the rule that only two types of private losses are not subject to trustee recovery, namely, change in value of injured private property and lost private business opportunity. The comment further stated that only when the potentially responsible party demonstrates that a private cause of action is available to recover private losses should a trustee be barred from recovering those losses.

The Department notes, as stated above, that section 101(16) of CERCLA clearly indicates that damage to privately-owned natural resources are not to be included in natural resource damage assessments. Private resource owners are free to pursue private damage actions to recover for injuries to their resources.

Several comments held that the statement in the proposed rule that "direct losses suffered by private users of public resources" are not compensable suggests that trustees will be precluded from recovering natural resource damages under CERCLA.

The Department believes that these comments have misinterpreted the concept of public use embodied in the proposed rule. "Private uses" are essentially synonymous with for-profit uses. For example, an enterprise that rents boats for recreation at a public lake is a private use. Those who pay a fee for entry to the lake, by contrast, enjoy a public use. If the lake is injured by a hazardous substance release, a Federal or State authorized official may recover the loss in fees from visitations forgone due to the discharge or release. However, the Federal or State authorized official may not recover the lost wages or income to those who conduct a business there.

One comment recommended a limited exception to the provisions of the rule that private uses of public resources are not compensable in order to protect the public interest in resources that are the subject of scientific studies being conducted by research teams from private educational institutions.

The Department feels that there is no need for such an exception. Non-profit scientific research performed for a public purpose by public or private institutions is a public use and, therefore, compensable under this rule.

§ 11.14(ee) "Reasonable cost"

Several comments objected to the definition of "reasonable cost" in the proposed rule because, according to the comments, the increment of extra benefits of one method over another cannot be known until an assessment has actually been performed using those methods. Other comments asked for clarification of "extra benefits" or interpreted that phrase to mean "a larger damage assessment."

In response to these comments, the definition of reasonable cost has been changed in three places. The phrase "extra benefits" in the second part of the definition has been modified by the phrase "in terms of the precision or accuracy of estimates." This explicit statement has been added for clarity, although most of the comments correctly understood that the proposed rule implicitly meant this.

The second change was to add the term "anticipated" before the phrase "increment of extra benefits" and to add the phrase "anticipated increment" before the term "costs" in the second part of the definition. This change makes it clear that the authorized official acting as trustee should make the judgment on what is "reasonable," based on estimates of costs and benefits, as suggested by the comments.

The third change was to add a third part to the definition that states "the anticipated cost of the assessment is expected to be less than the anticipated damage amount determined in the Injury, Quantification, and Damage Determination phases." This change is also in response to comments that correctly understood that this requirement was one underlying the entire assessment process outlined in the proposed rule, but thought that this concept should be stated explicitly.

§ 11.14(ff) "Rebuttable presumption"

Comments on the definition of "rebuttable presumption" have been discussed with the comments on § 11.11 of this rule.

§ 11.14(gg) "Recovery period"

Some comments objected to the discretion given to the trustee to select a "lesser period of time" for the recovery period rather than the "longest length of time required to return the services of the injured resources to their baseline conditions."

The Department agrees that a lesser period of time should not be selected arbitrarily, but believes the rule should provide this flexibility in order to allow the authorized official to fit the assessment to the analytical requirements of the resource, particularly where exceptionally long recovery periods, while theoretically correct, may have insignificant effects on the damage assessment.

One comment requested clarification on whether the recovery period extends to injuries resulting from releases that began prior to the enactment of CERCLA and are continuing. Specifically, the comment urged that the rule be clarified to reflect Federal case law that, in the comment's view, establishes the retrospective nature of sections 107(f) and 111(d) of CERCLA.

The Department notes in response that the rule is intended to be applied consistent with case law and believes that no change is necessary to reflect this in the text.

The comment also requested that the concept of recovery period be clarified to include future losses or diminution of value, as some natural resources may require a period of several years to recover to pre-exposure viability. The Department agrees with this comment, but believes that the rule adequately reflects this concept.

Another comment suggested that the definition of "recovery period" be modified to address the situation where a resource can never return to its baseline condition. The Department has not added this discussion because it believes that this situation is adequately covered by the definition.

§ 11.14(ll) "Restoration" or "rehabilitation"

One comment suggested that the definition of "restoration" be revised so that "baseline condition" may be measured in terms of a resource's biological or chemical, as well as physical, properties. The comment maintained that limiting the measurement of baseline to the physical properties of a resource would unduly limit the injuries considered. The Department agrees with this comment and has modified the definition accordingly.

§ 11.14(nn) "Services"

One comment suggested that the definition of "services" provide explicitly that services are not limited to human uses. The comment stated that the legislative history is clear that ecological services should be considered. Several comments recommended that the definition of "services" include explicit references to examples of intangible services.

The Department notes that the current definition does not preclude the consideration of non-human services where the authorized official deems consideration appropriate. Human uses are a subset of services. As such, no change in this definition has been made. Further discussion of this issue can be found in the discussion of the comments to § 11.71.

§11.14(oo) "Site"

One comment recommended that the definition of "site" be revised by inserting the word "discharged" to conform with section 311 of the Clean Water Act. The Department agrees and has so revised the definition.

§ 11.14(pp) "Special resources"

See discussion of comments on "special resources" in the responses to comments in Section IV of this preamble.

§ 11.14(qq) (now (pp)) "Surface water resources"

One comment suggested that the definition of "surface water resources" not be limited to "waters of the United States" and offered instead the phrase "waters on the surface of the earth above the saturated zone." The Department believes that the definition of "surface water resources" is adequate as it was given in the proposed rule, and has not changed the definition.

§ 11.14(rr) (now (qq)) "Technical feasibility" or "technically feasible"

One comment suggested that an Assessment Plan or Restoration Methodology Plan, within the meaning of the definition of "technical feasibility," need not be "well known" to be feasible. The comment offered the alternative requirement that the Plan "has been demonstrated to be possible in at least one comparable project or in a feasibility study." Another comment suggested that there be some objective standard for determining whether the Plan is technically feasible: that simply requiring the authorized official to use his discretion in such a determination is too subjective.

The Department has changed this definition to delete the phrase "as determined by the authorized official." This modification was made because the authorized official acting as trustee makes the final determination on all aspects of the assessment. As such, the phrase was redundant. The Department has made no other changes to this definition. The determination of "well-known" and "technically feasible" must be made on a case-by-case basis.

Section 11.15 Actions against the responsible party for damages

One comment stated that § 11.15(a) appears to limit recovery under section 107 of CERCLA to damages determined in accordance with the rule, which

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appears to be at a variance with the stated purpose of the rule to allow for a rebuttable presumption.

The Department did not intend to limit all recoveries under CERCLA to damages determined in accordance with this rule, and has revised the language of § 11.15 to clarify that it applies only to assessments conducted pursuant to this rule.

Several comments on this section expressed concern as to the language used to describe what damages and costs a Federal or State agency acting as trustee may recover from a responsible party. One comment held that § 11.15(a)(1)(ii) should state that damages would be allowed for "any increase in injuries that are reasonably foreseeable as a result of response actions" rather than "reasonably unavoidable," because the reasonable foreseeability test is well established in tort law. Conversely, another comment wanted this section to disallow recovery for damage from any increased injury due to response actions by governmental agencies.

The word "unavoidable" in § 11.15(a)(1)(ii) was not changed to "foreseeable" because the Department believes that any response actions undertaken by government agencies should strive to avoid additional injury to natural resources whenever possible. Damages from such "reasonably unavoidable" increases in injury resulting from response actions by governmental agencies are not excluded from damage actions, because they are indirectly due to the discharge or release and thus included under section 301(c) of CERCLA.

Several comments stated that § 11.15(a)(3)(i) should be changed so that the costs of a preassessment screen or any other part of the assessment would not be recoverable unless injury was actually found to have occurred.

As several comments pointed out, however, and the Department agrees, the responsible party is not liable for damages or any assessment costs if there is no injury. For this reason, a new paragraph, now § 11.15(c), was added to clarify that assessment costs may not be recovered if at any point in the assessment process it is determined that no injury has occurred.

Another comment maintained that the language in § 11.15(a)(3)(ii), which allows for recovery of "administrative costs and expenses reasonably necessary for, and incidental to, the assessment," might allow the recovery of undefined and therefore unlimited "incidental" costs.

The Department disagrees that the language could be interpreted as allowing undefined and unlimited costs. The rule repeatedly states that all assessment costs must be reasonable and fully documented. This applies equally to administrative and incidental costs.

Several comments were received that stated that § 11.15 should be changed to clearly provide that recovery of any administrative, planning, or other costs necessary in the restoration or replacement of natural resources is allowed under the Clean Water Act.

The Department agrees and has changed §11.15 to make it clear that section 311(f)(4) and (5) of the CWA allows the recovery of the reasonable and necessary costs or expenses incurred in the restoration or replacement of natural resources.

A number of comments stated that language should be added to § 11.15 to make it clear that section 107(f) of CERCLA prohibits recovery where the damages and the release have occurred wholly before the enactment of CERCLA. Other comments suggested that the applicability of this statutory limitation to the determination of baseline and recovery times be clarified, especially in the cases where releases or damages commenced before the enactment of CERCLA but continued afterwards. A few comments requested that the ceilings to liability set forth in section 107(c) of CERCLA be repeated in § 11.15.

The Department agrees that CERCLA prohibits recovery of damages where such damages and the release of a hazardous substance from which such damages resulted, have occurred wholly before the enactment of CERCLA, and has added this exclusion under § 11.24(b). Discussions of the relationship between this exclusion and the determination of baseline and recovery times have been included in this preamble in the responses to comments on §§ 11.70 through 11.73. The Department did not change § 11.15 to reflect the ceilings to liability given in section 107(c) of CERCLA because those ceilings on liability are included in, the now, § 11.15(b) of the rule.

One comment suggested that CERCLA's three-year statute of limitations be tolled on all natural resource damage claims until the final rule is promulgated, to ensure that causes of action are not lost through expiration of the limitations period. In addition, the comment contended that discovery cannot occur until the trustee has completed the Injury Determination phase of the assessment process described in this rule.

The Department disagrees with this comment. Section 112(d) of CERCLA provides that natural resource damage actions be filed within three years after enactment of CERCLA (by December 11, 1983) or within three years of the date of discovery of the loss, whichever is later. The promulgation of natural resource damage assessment regulations is not required to initiate natural resource damage actions under CERCLA (see *U.S. v. Reilly Tar and Chemical Corp.*, 546 F. Supp. 1100 (D. Minn. 1982)). Shortly before expiration of the December 11, 1983, deadline, several Federal and State trustees filed suit in order to preserve their rights to recover for damages discovered before the enactment of CERCLA. Similarly, all Federal and State agencies acting as trustees who discover injury after the enactment of CERCLA should institute any damage actions within three years of the date of discovery of the loss. Of course, the definition of "discovery" is the key to determining the date by which claims must be filed.

The Department believes that discovery occurs when the authorized official knows or should have known of the injury and its relationship to the discharge or release for which recovery is sought. This approach is consistent with the prevailing common law rule relating to statutes of limitation. The underlying purpose of statutes of limitation is fairness to the defendant in precluding the plaintiff from bringing stale claims. This concern does not disappear in the context of natural resource damage actions. If, as the comment suggested, the statute of limitations does not begin to run until the Injury Determination phase is completed, the authorized official could preserve its cause of action indefinitely by unduly delaying that portion of the assessment process. The Department notes that a regulatory definition of "date of discovery" has been developed under CERCLA by EPA for the purposes of filing claims pursuant to the Natural Resource Claims Procedures (40 CFR 306.12(f)).

Section 11.17 Compliance with applicable laws and standards.

One comment questioned why only specific statutes were included in § 11.17, stating that restorations, etc., should comply with all applicable, relevant, and appropriate laws.

The Department notes that § 11.17 does require compliance with all "applicable statutory consultation or review requirements." The specific statutes listed were intended only to highlight the statutes thought most relevant to natural resource damage assessment and restoration actions.

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B. Revisions to Subpart B—Preassessment Phase

Section 11.20 Notification and detection.

Several comments suggested that the On-Scene Coordinator (OSC) be required to notify the potentially responsible party at the same time as the agency acting as trustee in the event of a possible natural resource injury.

Other comments suggested that the OSC or lead agency should notify the public as well as the trustee of potential or actual injuries to natural resources.

The Department notes that the responsibilities of the OSC and the lead agency in the response action are defined by the NCP. The requirement in § 11.20(a) for notification is a restatement of the current NCP guidance, not something generated by this rule. The Department has no authority under section 301(c) of CERCLA to redirect the activities of the OSC or lead agency.

Section 11.21 Emergency restorations.

One comment on this section maintained that provisions for emergency restorations in the rule are redundant since emergency responses are already established under specific sections of both CERCLA and the CWA. Another comment stated that the recovery of costs for emergency restorations is improper because section 111(i) of CERCLA does not make these costs recoverable under section 107(f). The comment held that such costs would be covered by section 106(a), which refers to removal and remedial actions. As is stated in the rule, emergency restorations are meant for those limited situations where immediate action is required to avoid or reduce danger to natural resources, and where emergency response actions are determined by the trustee to be insufficient. No duplication or redundancy of effort is involved. The Department believes that emergency restorations and recovery of costs for such actions are authorized under sections 107(f) and 111(i) of CERCLA.

Several comments noted that the rule does not provide for notification or involvement of the potentially responsible party when emergency restoration might be required, even if that party has already been identified.

The Department agrees that, if possible under the circumstances, potentially responsible parties should be contacted prior to the authorized official's proceeding with emergency restoration actions. Section 11.21(b) of the final rule has been revised to so require notification when the identity of the potentially responsible party is known.

A few comments suggested that the distinction made in § 11.21 between on-site versus off-site and restoration versus emergency response actions be eliminated in order to give trustees the flexibility to take the most appropriate action for each emergency situation. One comment stated that the terms "on-site" and "off-site" should be clearly defined.

Another comment stated that the rule should clarify that there is no restriction on actions of Federal and State trustees for any response or restoration actions, whether off-site or on-site, if such actions are taken pursuant to existing authority.

Also, one comment stated that the trustee should be allowed to take off-site emergency actions, even if on-site response actions are ongoing, if such actions are necessary to protect the natural resources.

The Department notes in response to these comments that if an agency has independent authority to take action off-site, the agency should exercise that authority. However, the emergency restoration provision of CERCLA provides no additional authority to take actions on lands or waters the agency would not otherwise have authority to take.

The Department also feels that the term "site" has been sufficiently defined in the rule to make the meaning of "off-site" and "on-site" clear, and that the distinction between these locations and between emergency restoration and response actions must be maintained to delineate the different responsibilities of responding authorities and authorized officials.

Another comment on § 11.21 disagreed with the requirement that trustees prove that emergency restoration was necessary and that restoration costs were reasonable. Still another comment requested that § 11.21 be revised to clarify that private injuries may not be included in damage assessments because private injuries are not compensable under CERCLA.

In response, the Department notes that emergency actions are an exception to the requirement that actions first be set out in an Assessment Plan and subjected to public and potentially responsible party review and comment. Because of this exception, the rule requires that the agency demonstrate that the emergency restoration was necessary and that the costs were reasonable. The fact that private injuries may not be included in assessments has been adequately addressed elsewhere in the rule.

A final comment noted that the preamble of the proposed rule refers to emergency actions as only being allowed on "land," and that this restriction does not exist in CERCLA.

The preamble to the final rule has been reworded to eliminate this restriction. The rule itself does not contain any such limitation.

Section 11.22 Sampling of potentially injured natural resources.

One comment on this section suggested that § 11.22(b)(2) should require the authorized official to sample randomly or obtain average concentrations of ephemeral conditions or materials, in order to ensure that the suspected areas of exposure are accurately represented. Another comment recommended the early identification and sampling of a suitable control area to assist in establishing baseline conditions in later phases. One comment noted that sampling requirements in § 11.22 are particularly applicable to biological resources. A final comment suggested that the phrase "that the evidence suggests have been injured" in § 11.22(b)(1) be changed to the phrase "that the authorized official believes may be injured," since little actual evidence will be available at this point.

The Department does not believe that any changes to the language of § 11.22(b)(i) are necessary. The sampling permitted in § 11.22 is meant to be the minimum necessary to prevent the loss of data on conditions that are ephemeral. Injured or dead biological resources that are perishable certainly fit into this category, as is stated in the rule. In order to minimize costs prior to the development of a clearly delineated Assessment Plan, the rule does not require potentially costly random sampling techniques or sampling of control areas during the preassessment screen. Sampling done at this stage is not intended to represent average conditions but only to preserve some evidence of contamination.

Section 11.23 Preassessment screen—general.

A majority of the comments approved of the basic concept of the preassessment screen, stating that it is an important and useful step in the assessment process. Most of the suggestions were in the form of recommended modifications to various stages of the screen rather than disagreements with the general concepts involved. One comment endorsed the idea of a preassessment screen, but found the existing one to have a positive

determination threshold so low as to make the screen meaningless.

A few comments mentioned that the preassessment screen is one place in the rule where the opportunity should be taken to encourage the authorized official and the responsible party to come to a settlement and thus avoid the costs of litigation.

The Department concurs that a mutually agreed upon settlement is preferable to expensive litigation. It has provided opportunities for settlement discussion by mandating involvement of the potentially responsible party at the beginning of the Assessment Plan phase. The preassessment screen, however, is meant to be an early evaluative stage in which the authorized official initially determines whether any assessment is appropriate for a particular site. During the preassessment screen basic information is still being gathered. It is thus too early to formally require a consideration of settlement, although such considerations at this stage are not precluded by the rule.

One comment suggested that there be a formal record of the decision made at the end of the preassessment screen to proceed or not proceed with an assessment, as well as a notice of intent to conduct a preassessment screen and to develop an Assessment Plan.

The rule already requires that a written Preassessment Screen Determination (§ 11.23(a)) be made and included in the Report of Assessment, that a Notice of Intent to Perform an Assessment be sent to all identified potentially responsible parties prior to the development of the Assessment Plan, and that all authorized officials sharing responsibility for the affected natural resources coordinate their efforts at the beginning of the Assessment Plan phase. A notice requirement for the preassessment screen itself would be inappropriate, because it is the most preliminary stage of agency involvement.

Another comment maintained that the public should be informed at this stage of the likelihood of injury to natural resources and of the decision as to whether an assessment will be conducted.

Prior to the formulation of the Assessment Plan, decisions on proceeding with an assessment are generally based on questions of jurisdiction, statutory authority, and internal agency authority and on the severity of the potential for natural resource injury. Public involvement is best utilized at the Assessment Plan phase when such administrative and internal issues have been resolved, and when preliminary decisions on the scope and extent of the assessment have been addressed to some degree.

Suggestions from the comments on changes or additions to the criteria set forth in § 11.23(e) were numerous. Some comments held that the criterion that the authorized official make a judgment as to whether the planned or ongoing response activities would sufficiently remedy injury was either too vague, too difficult to do, or too restrictive.

The Department feels that it is not unreasonable to require that the authorized official take into account efforts to remedy the injury prior to preparing to do an assessment. On the other hand, the determination of whether planned response actions will "sufficiently remedy" any potential injury is left to the discretion of the authorized official to be decided on a case-by-case basis, due to the wide variety of situations that may arise.

Some comments maintained that confirmation of exposure rather than probability of exposure should be required in the preassessment screen. Others felt that a preliminary determination of resources and services impaired was appropriate at this point, with an emphasis on the identification of the services provided by resources rather than on the resources themselves.

The Department feels that requiring the confirmation of exposure within the preassessment screen would add considerably to the scope and complexity of the screen. The placement of the confirmation of exposure as a formal requirement early in the development of the Assessment Plan phase allows the results to be reviewed sufficiently early enough to avoid any costly assessments being initiated. In a similar manner, a preliminary identification of services in the Assessment Plan phase, rather than the preassessment screen, will direct those performing an assessment toward cost-effective decisions without unnecessarily adding to the burden of the information necessary for the Preassessment Screen Determination.

A large number of comments on the criteria in § 11.23(e) had to do with concerns that assessments not be continued beyond the preassessment screen where costs potentially exceeded benefits. Some wanted a specific weighing of potential costs versus potential benefits at this point in the assessment process. Others requested that the type of preliminary economic analysis required in the Assessment Plan be moved up to the preassessment screen. Conversely, some comments objected to the criterion in the rule that the authorized official determine that data sufficient to pursue an assessment are readily available or obtainable at a reasonable cost, on the grounds that neither the cost nor the availability of data should prevent an assessment from being performed. One comment pointed out that the definition of "reasonable cost" provided in § 11.14(ee) is inappropriate in the preassessment screen, since it is too early in the assessment to determine incremental benefits.

The Department acknowledges the concern that some emphasis be given in the preassessment screen to the potential magnitude of the damages and the question of whether it is worthwhile to continue. On the other hand, the rule purposely minimizes the cost of all assessment related efforts that precede the Assessment Plan. The preassessment screen is not meant to include extensive analysis, economic or otherwise. Any decisions made in the Preassessment Screen Determination regarding reasonable costs will be reevaluated in the Assessment Plan phase and throughout the assessment. In fact, one of the purposes of the Assessment Plan phase is to estimate costs, as a truly accurate estimate cannot be made until a plan is established. However, the Department has attempted to include an early consideration of the costs of doing an assessment versus the benefits by requiring that the authorized official look at the availability of data and the costs of obtaining data. The Department does not feel that this requirement at an early stage of the assessment process is overly restrictive. It has changed the wording of § 11.23(e)(4) slightly, from "Data sufficient to pursue an assessment are readily available or *can be obtained* at reasonable cost" to "Data sufficient to pursue an assessment are readily available or *likely to be obtained* at reasonable cost" in order to reflect the fact that it may be too early in the assessment process to decide with absolute certainty whether such data can be obtained at reasonable cost or not.

A number of comments requested that § 11.23 include a provision that no assessments be conducted beyond the preassessment screen for "de minimus" levels of discharges or releases, in order to avoid trustees being placed in the "difficult position of conducting data collection merely to document the nonexistence of a damage." Some comments suggested that such "de minimus" quantities be equated to establishing a level for assessing injuries in natural resource damage assessments.

The Department does not consider the setting of "de minimus" quantities of an oil or hazardous substance discharged or released as either appropriate or necessary within the context of this final rule. This rule provides procedures for seeking compensation for injuries to natural resources resulting from a discharge or release. The rule defines injury as a measurable adverse change in the chemical or physical quality or viability of a resource. It is inappropriate to require a particular quantity of a discharge or release to identify a potential injury in the preassessment phase as a criterion to be met before proceeding with an assessment. It cannot be determined whether such a predetermined quantity would result in a measurable adverse change. The Department does not consider it necessary to provide additional guidance on the question of the quantity of oil discharged or hazardous substance released since extensive guidance has already been provided in §§ 11.24 and 11.25 to facilitate a Preassessment Screen Determination.

The authorized official acting as trustee is required to examine critically all aspects of the situation, including the quantity and concentration of the discharged oil or released hazardous substance, in order to determine if the potential for injury exists and can be assessed at a reasonable cost. This requirement will ensure that assessments will not be done for discharges or releases where the potential for injury and reasonable assessment costs are very low.

Additional comments on § 11.23 dealt with coordination between this rule and other response activities. Many comments approved of the requirements in § 11.23(f) that preassessment screen activities be coordinated with response actions and other similar processes whenever possible. Some thought that natural resource damage assessment procedures should be combined with currently existing Hazard Ranking procedures, or in some other way be even more closely coordinated with remedial investigations and feasibility studies. Others thought that the preassessment screen should be delayed until the Remedial Investigation is complete.

The Department notes that natural resource damage assessments and response actions, while closely coordinated, do serve different purposes and thus cannot be fully combined. However, the Department has attempted to integrate these two activities to the maximum extent practicable. As for disallowing any activities from taking place until remedial investigations are complete, the Department feels that this would be overly restrictive, given the current statute of limitations in CERCLA. The rule purposely avoids specifying particular dates by which specific steps should be taken because of the wide variety of assessment situations that may be encountered.

A final group of comments on § 11.23 recommended that this section be amended to include identification of the reasonable and necessary costs that may be incurred in the preassessment phase. The Department agrees with this comment and has clarified the issue of allowable costs by adding § 11.23(g).

Section 11.24 Preassessment screen—information on the site.

A number of comments pointed out that damages occurring to natural resources wholly before the enactment of CERCLA on December 11, 1980, are specifically excepted from liability in section 107(f) of CERCLA, and that this exception should be listed with the others given in § 11.24(b)(1) of the rule. The Department concurs and has revised § 11.24(b) accordingly.

Another comment suggested that the exception to liability for federally permitted releases given in § 11.24(b)(1) should clearly state that the meaning of "federally permitted releases" is as it is defined in CERCLA. The Department agrees that this should be explicitly stated, and has inserted a reference to the CERCLA definition into this section and into § 11.71(g).

One comment suggested that a new subsection be added to § 11.24 to expressly state that injuries to natural resources resulting from mining or ore processing activities conducted in compliance with a State-issued permit or other applicable Federal or State law are excluded from liability under CERCLA. The Department responds that the only exclusions to CERCLA liability are those specifically set forth in the statute. Further discussions on how mining activities may be treated under this rule, particularly in terms of establishing a baseline and discerning damages that have occurred wholly before the enactment of CERCLA, are included in the responses to comments on §§ 11.70 through 11.73.

Section 11.25 Preassessment screen—preliminary identification of resources potentially at risk.

One comment stated that § 11.25 should explicitly state that the potentially responsible party should not be required to pay preassessment costs if no natural resource injury is identified during the preassessment screen.

As stated earlier, the Department agrees and has revised § 11.15 to explicitly state that the potentially responsible party shall not be responsible for any assessment costs if injury is not demonstrated.

An additional comment on this section held that the rule allowed the assessment of resources not covered by CERCLA, because in § 11.25, and in other places throughout the rule, the term "resources" is used instead of "natural resources." For the same reason, the comment objected to the fact that in § 11.25(b) the authorized official is directed to identify "areas where exposure or effects may have occurred" without a restatement of the limitation that no damages may be recovered for private losses.

The Department has amended the definition of "natural resources," in § 11.14(z), to clarify that the term "resources" is equivalent to the term "natural resources." Also, the Department believes that, given the emphasis throughout the rule and preamble on the fact that "private" losses are not within the scope of this rule, further clarification as to the areas where exposure or effects may have occurred is unnecessary; therefore no change in this regard has been made.

C. Revisions to Subpart C—Assessment Plan Phase

General Comments—Assessment Costs

Some comments stated that the proposed rule did not sufficiently ensure that trustees will use cost-effective assessment methodologies, nor that the final cost of the assessment will be reasonably related to the damages being assessed. One comment argued that baseline condition measurement and pathway analysis requirements in particular will be too costly in many circumstances. Some comments recommended incorporating techniques into the assessment process to evaluate the need and practicability of each subsequent step to ensure that only appropriate measurements will be made. In addition, one comment suggested that greater clarification is needed on what costs associated with performing an assessment a responsible party can be required to pay.

The Department is committed to ensuring that, under this rule, each assessment is conducted at a reasonable cost, and that cost-effective assessment methodologies are used. The language of § 11.14(ee), the definition of "reasonable costs," has been revised to ensure that

the cost of an assessment will be reasonably related to the damages being assessed. Also, § 11.31(a)(2) now states that an Assessment Plan will be sufficiently detailed to evaluate whether the assessment will be conducted at a reasonable cost. In addition, §§ 11.23, 11.30, and 11.60 have been revised to ensure that the preassessment, Assessment Plan, Injury Determination, Quantification, and Damage Determination phases of an assessment are undertaken in a cost-effective manner. These sections now state that at each phase, the authorized official will choose the cost-effective means that achieve the objective of that phase. In addition, language has been added to these sections clarifying what costs associated with performing an assessment can be part of a damage claim.

One comment asserted that the first several years of the implementation of the rule will involve experimentation regarding assessment methodologies, and that assessment costs will therefore be quite high. Government, rather than responsible parties, the comment stated, should pay at least part of assessment costs during this learning period. Conversely, several comments stated that the cost of new research required to meet the acceptance criteria, indeed any research needed to assess injury and determine damage, should be borne by the responsible party.

The Department points out that only those costs directly associated with deriving a dollar value for damages, as provided in this rule, for a particular injury are considered "reasonable costs." CERCLA also mandates that the "best available procedures" be used to assess natural resource damages. Responsible parties should not be required to pay for new developmental research necessary to meet the acceptance criteria, or any other research. On the other hand, CERCLA does provide that the liability of a responsible party includes assessment costs, therefore, authorized officials acting as trustees are statutorily authorized to include all reasonable costs of performing an assessment as part of a damage claim.

Some comments suggested that the assessment process be modified so that a trustee could present a demand for the estimated costs of assessing damages before the assessment began. These comments argued that, if such a modification is not made, trustees may be reluctant to determine, during the preassessment screen, that an assessment is justified, because the trustee might fear having to assume some or all of the assessment costs.

The Department notes that § 11.32(d) allows potentially responsible parties to participate in the implementation of all or part of an approved Assessment Plan. Where this participation is appropriate, costs of performing the assessment can be borne by potentially responsible parties rather than the authorized official acting as trustee. Aside from this alternative, however, reasonable assessment costs incurred by an authorized official acting as trustee can be recovered from a responsible party only as part of a damage claim. A damage claim must be presented after damages have been assessed. Therefore, a responsible party cannot be required to pay assessment costs prior to an assessment.

Section-by-Section Comments

Section 11.30 Assessment Plan—general.

In response to comments requesting greater clarification of what assessment costs a responsible party can be required to pay, subsection (c) has been added detailing the reasonable and necessary costs that are eligible in the Assessment Plan phase.

In response to comments requesting that costs not specifically allocable to the damage assessment not be borne by the responsible party, paragraph (c) also requires that regular activities of the authorized official be excluded from the assessment costs and that appropriate records and documentation be provided for eligible assessment costs.

Section 11.31 Assessment Plan—content.

One comment stated that the proposed text, in §11.31(a)(1), implies that only methods and approaches specifically identified in the Assessment Plan can be used, even though subsequent information may suggest that other methods are preferable. This restriction, according to the comment, would require that an Assessment Plan cover all possible contingencies, and thus would not convey information about those methodologies that are most likely to be used. The comment also stated that § 11.31(a)(2) implies that the trustee can demonstrate cost-effectiveness within the Assessment Plan. The comment recommended that the language be changed because data available during this stage of the assessment are not sufficient to demonstrate cost-effectiveness.

The Department agrees with the comment, and for the purposes of clarification both of the recommended textual changes have been made. Section 11.31(a)(1) now reads: "shall identify . . . methodologies that *are expected to be performed* during the Injury Determination, Quantification, and Damage Determination phases . . . ." Section 11.31(a)(2) has been modified to read: "whether the approach used for assessing the damage is *likely to be* cost-effective . . . ."

Several comments stated that the Quality Assurance Plan requirements in § 11.31(c) are too limited in scope, focusing almost exclusively upon sampling and laboratory analysis. These comments maintained that the Quality Assurance Plan requirements fail to provide standards to maintain quality assurance in the many other aspects of the assessment, such as modeling, baseline determinations, service quantification, and economic valuation. One comment stated that the Plan failed to provide expressly for a common reviewer of all Quality Assurance Plans as EPA requires in the NCP (40 CFR 300.68(k)).

The Department does not intend to mandate EPA approval of each Quality Assurance Plan. However, authorized officials are encouraged to seek advice and assistance, when appropriate, from EPA in the development of the Quality Assurance Plan. The Assessment Plan itself is intended to function as a type of "quality assurance plan" for the entire assessment. Where specific Quality Assurance Plan requirements have not been previously developed for a phase of the assessment, the Assessment Plan should contain sufficient detail to allow review, as mandated in § 11.32(c)(1), of the accuracy of all procedures expected to be used in the assessment process.

Section 11.32 Assessment Plan—development.

Several comments on this section stated that a comment period of thirty days may not always be sufficient to respond to an Assessment Plan, especially when the Plan is unusually complex.

The Department notes that the proposed rule provided for a comment period of "at least 30 calendar days." The final rule has been modified to explicitly allow the authorized official to designate a comment period of longer than 30 days when appropriate. In general, however, the authorized official should choose a time period that allows adequate comment, yet still ensures that the damage assessment process proceeds in as timely a fashion as possible.

One comment requested clarification of the lead authorized official's identity

and role. The comment maintained that it was possible to construe § 11.32(d) as saying that a potentially responsible party could be designated as the lead authorized official.

The Department points out that § 11.32(a) states that the lead authorized official must be chosen from among the trustees with jurisdiction over one or more of the potentially injured natural resources. The Department notes that these trustees are in all cases representatives of Federal or State agencies. However, to avoid any possible confusion, a revision has been made to the definition of "authorized official" in § 11.14(d) to clarify that only Federal or State officials may act as authorized officials. There may be, however, a few instances where Federal or State agencies are both the trustee agency and the potentially responsible party. In those instances, and only in those instances, the lead authorized official could also be one of the potentially responsible parties. Such dual roles by government agencies have been judicially recognized (see *U.S. v. Shell Oil*, 605 F. Supp. 1064 (D. Colo. 1985)).

The same comment requested clarification of the lead authorized official's role, claiming that as final arbitrator of all disputes among authorized officials, and given the large number of critical decisions to be made by them, the lead authorized official obtains a disproportionate amount of authority.

The Department does not intend that the designation of a lead authorized official relieves other authorized officials of their responsibility to protect and manage one or more of the affected natural resources. The Department encourages the participation and consultation of all authorized officials regarding all aspects of the assessment. All affected authorized officials should be thoroughly consulted before the lead authorized official makes any of the critical decisions called for in the assessment. The rule states that the lead authorized official acts as final arbitrator only if a dispute among the authorized officials arises, and only if consensus cannot be reached. Thus, the Department believes that the rule provides the lead authorized official with special authority only when necessary, and that this does not constitute a disproportionate amount of authority.

This comment also expressed concern that a lead authorized official may not be designated in a timely fashion, and requested that designation "be made within 60 days following notice of injury."

The Department believes that the issue of timely designation is already addressed by the rule. Section 11.32, pre-development requirements requires designation prior to the development of the Assessment Plan.

Some comments suggested that § 11.32(a)(1)(ii) was not comprehensive enough in outlining the conditions by which a lead authorized official would be chosen if consensus among trustees could not be reached. In particular, it was stated that paragraph (C) was too restrictive because it referred to natural resources subject to the "administrative jurisdiction of a State agency acting as trustee."

The Department intended only to reflect the State trusteeship as defined by CERCLA, and therefore, to clarify this point, has replaced that phrase with one that refers to "all other natural resources for which the State may assert trusteeship."

Several comments stated that the 30-day period provided for potentially responsible parties to respond to the Notice of Intent to Perform an Assessment is inadequate, and requested that a 60-day period be specified.

The original period of at least thirty days was provided in the proposed rule in an attempt to minimize the impact of the requirement on the timely progress of the assessment. Language has been added to the final rule to clarify that the authorized official may designate periods longer than 30 days in which potentially responsible parties may respond to the notice. Because this period precedes the development of the Assessment Plan or any other assessment actions, the Department believes that a mandatory 60-day period might unnecessarily delay the damage assessment process in some cases.

Other comments requested that the Notice of Intent to Perform an Assessment be sent to interested members of the public, not just potentially responsible parties. Further, they requested that the Notice's invitation to potentially responsible parties to participate in the development of the type and scope of the assessment and in the performance of the assessment be extended to members of the public as well.

While the Department recognizes the importance of participation by both interested members of the public and potentially responsible parties in the natural resource damage assessment process, it does not consider their responsibilities or roles identical. The public has a right to review and comment on decisions at appropriate points in the process. Indeed, members of the public serve a valuable role by providing input, raising concerns, and performing critical reviews. The public's role, however, is not meant to supplant that of authorized officials acting as trustees, who bear a direct obligation to protect the public's interests. Federal and State agencies acting as trustees are by definition "entrusted" with responsibility for protecting and managing public resources. Public participation can enhance and complement the work of authorized officials acting on behalf of the public interest, but it cannot substitute for the authorized officials' performance of their statutory responsibilities.

The role of potentially responsible parties, on the other hand, is distinct from that of the public or the authorized official acting on behalf of the public. Although the rule is designed to encourage the cooperation of potentially responsible parties in developing and implementing assessment plans, the potentially responsible parties are, in fact, potential defendants. In addition, potentially responsible parties are ultimately responsible not only for paying the assessed damages, but for the costs of performing the damage assessment. The Department believes that participation of potentially responsible parties in Assessment Plan development and performance protects those parties' interest in a cost-effective approach and promotes an amicable settlement of natural resource damage claims. Therefore, while the participation of potentially responsible parties and members of the public as outlined in the rule is not identical, it is equitable, given the potentially responsible parties' status as potential defendants and the authorized official's actions on behalf of the public.

Some comments objected to the implication of § 11.32(a)(2)(iii) that where several potentially responsible parties are involved, the parties must select one and only one representative. Comments indicated that this restriction is inappropriate where potentially responsible parties believe their interests are in conflict. They suggested that the rule be more flexible and allow for more than one representative if, for example, it is established that more than one class of potentially responsible parties exists.

The Department maintains that a single representative is preferable, but agrees that in some circumstances more than one representative may be appropriate. Therefore, the rule has been changed to address this possibility. Any deviation from the designation of a single representative should be made at

the request of the parties and with the concurrence of the authorized official.

One comment expressed concern that the language of proposed § 11.32(a)(2)(ii) suggests that the trustee's ability to proceed against one or several parties depends on the number of potentially responsible parties or their unavailability, rather than upon the indivisibility of the harm.

The Department did not intend to suggest any deviation from the case law governing joint and several liability under CERCLA. The language of § 11.32(a)(2)(ii) must be read in the context of governing case law.

Some comments requested that the Report of Assessment include not only comments received on the Assessment Plan, § 11.32(c)(2), but all comments received during all phases of the assessment. Further, they requested that the trustee be required to respond on the record to those comments.

The Department notes that the proposed rule required comments on the Assessment Plan and any Restoration Methodology Plan to be made part of the Record of Assessment. Because modifications to the Assessment Plan are subject to public review and are considered part of the Assessment Plan, any modifications to the Assessment Plan would also be included in the Report of Assessment. The Department agrees that authorized officials should be required to respond to all significant comments on the record and has changed §§ 11.32(c)(2) and 11.82(e)(2)(ii) to reflect this requirement. Whenever the rule requires public review and comment, notice of availability of documents to review should be accomplished in the manner generally used by the Federal or State agency to provide for public notice. It is expected that this would include publication in a paper of general circulation and use of the **Federal Register**, where appropriate.

Many comments supported the concept embodied in § 11.32 of allowing potentially responsible parties to participate in the implementation of the Assessment Plan. Other comments, however, were in disagreement with this provision. Still others agreed that potentially responsible parties should be eligible for participation, but should not be allowed to make the decision to opt for participation. Apparently, there was confusion over the phrase "At the option of any potentially responsible party."

The Department meant to emphasize that a potentially responsible party could not be required to participate if it were unwilling to do so. The Department's intention has always been that the decision to allow or not allow potentially responsible parties to participate in the implementation of the Assessment Plan should rest solely with the authorized official, or the lead authorized official, when appropriate. Furthermore, a decision to allow such participation should only be made when the authorized official believes that a fair and accurate damage assessment will result from the potentially responsible party's participation and will be ensured through adequate direction, guidance, and monitoring by the authorized official. Section 11.32(d) has been modified to clarify that the authorized official, not the potentially responsible party, makes this decision, and that the decision and reasons supporting it are documented in the Assessment Plan.

The Department emphasizes that any and all actions taken by potentially responsible parties to implement an Assessment Plan occur under the ultimate approval and authority of the authorized official acting as trustee. The potentially responsible party functions in a strictly ministerial role. The final choice of methodologies rests solely with the authorized official.

In addition to these comments, it was requested that trustees share data with potentially responsible parties as soon as it is available and allow potentially responsible parties the opportunity to obtain split samples.

While the Department supports the suggestion regarding split sampling, it does not support an ad hoc approach to sharing data. Section 11.31(a)(4) has been added to specifically provide that data will be made available in a standardized manner as part of the Assessment Plan, providing sufficient opportunity for all interested parties to comment and review.

One comment stated that there are several points in the assessment procedures at which the trustee may end the assessment, and that it should be made clear that this decision to end the assessment is intended to be the final administrative action for the purposes of administrative or judicial review.

The Department agrees that a negative determination at any of the crucial steps, properly reflected in the Report of Assessment, would in most cases constitute final agency action.

Comments requested that administrative appeals processes and an oversight function be incorporated into the rule, particularly at the Assessment Plan phase.

The Department believes that CERCLA does not contemplate such procedures and that regulatory imposition of them is both unwise and unnecessary. Proper adherence to the requirements of this rule can only appropriately be determined on a case-by-case basis by the agencies acting as trustees, the potentially responsible parties, and the judicial system.

Section 11.33. Assessment Plan—deciding between a type A or type B assessment.

This section was proposed on May 5, 1986 (51 FR 16636), in conjunction with the type A rule. Comments on this section will be discussed in the final type A rule.

Section 11.34 Assessment Plan—confirmation of exposure.

Several comments supported the proposed rule's approach of making confirmation of exposure an explicit step of the Assessment Plan phase. The Department has made no changes in this section; but a further discussion on this issue can be found in section III–B of this preamble.

Section 11.35 Assessment Plan—Economic Methodology Determination.

One group of comments strongly supported the rule that damages to natural resources be valued at the lesser of restoration or replacement costs; or diminution of use values. These comments supported this concept because it represents an appropriate adaptation of the common law rule and it promotes a rational allocation of society's assets. One comment stated that damage amounts would be used to compensate for the injury by restoring or replacing the natural resources, regardless of the method used to determine the damages, and that, until society can determine more accurately the value of natural resources and quantify their damage, using the lesser of the two methods is the fairest solution.

Another group of comments, however, argued that the guidelines for choosing valuation methodologies in the proposed rule are inconsistent with both CERCLA and its legislative history because both section 107(f) and the Senate report (S. Rep. No. 96–848, 96th Cong., 2d Sess. (1980)) state that the measure of natural resource damages is not limited to restoration or replacement costs. The comments interpreted this statement to mean that restoration or replacement costs are the minimum damages that trustees may recover.

The Department believes that a more reasonable interpretation of section 107(f) and the Senate report language is that the alternative methodologies for measuring damages should not be limited to restoration or replacement costs, but may also include other

methodologies (i.e., diminution of use values). Furthermore, it is clear that the general common law measure of damages is the lesser of diminution of use values and restoration or replacement costs. No comment contended that this is not the general common law rule. In the absence of clearly expressed Congressional intent to deviate from this common law rule for purposes of natural resource damage assessments, it must be presumed that Congress intended to incorporate traditional notions of damage measurement into the natural resource damage assessment process. Congress stated in section 301(c)(2) of CERCLA that natural resource damage assessment regulations "shall take into consideration" replacement value, use value, and restoration value. Congress did not indicate in this section how these differing valuation methodologies were to be considered.

Some comments further argued that because diminution of use value will nearly always be less than restoration or replacement costs, damage awards will rarely be sufficient to enable trustees to restore or replace injured resources.

The Department notes that while the diminution of use values may in some instances be less than restoration or replacement costs, it does not follow that injured resources or the services provided by the resources will not be restored or replaced. Regardless of which valuation methodology is chosen, this rule requires that all funds collected from the settlement or award must be used for restoration or replacement. In addition, Federal or State agencies are not precluded from supplementing damage funds with other monies to restore, replace, or enhance the injured natural resource. Also, it is important to remember that the natural resource damage assessment regulations are intended to measure residual damages. The natural resource at issue has, in the majority of cases, already been the focus of a cleanup or a remedial action. This rule is intended only to assess what compensation, if any, is necessary to account for residual damages.

One comment noted that § 11.35(c)(1) requires the trustee to "estimate and document the costs of restoration or replacement and the benefits gained by restoration or replacement . . ." The comment questioned the need and authority for requiring this analysis. The Department notes that the analysis in § 11.35 is required to allow the authorized official acting as trustee to determine whether: restoration or replacement costs; or the diminution of use values will be the measure of damages. As stated above, this final rule follows the general common law definition of damages, i.e., that damages are the lesser of: restoration or replacement costs; or a diminution of use values. The Department believes that because CERCLA does not change this general common law definition of damages, it has authority to require an analysis to implement this definition. Without the analysis required in § 11.35, the authorized official would not be able to select the proper measure of damages to use in the Damage Determination phase of the assessment.

Several comments suggested that in order to prevent depletion of resources through injury, restoration costs should be favored over replacement costs whenever restoration is possible. There is no indication in CERCLA or its legislative history that Congress intended to favor restoration costs over replacement costs as a method of valuation of natural resource injury. Therefore, this rule contains no bias for restoration costs or against replacement costs as a measure of damages, other than the requirement that the most cost-effective measure be chosen.

Several comments objected to the requirement in §11.35 that the acquisition of replacement lands for Federal management be selected only as a last resort, arguing that in many cases replacement could be the most direct and cost-effective method.

The Department has retained this provision as proposed because of the need to restrict new Federal acquisitions only to those absolutely necessary to satisfy the mandates of the Federal management agency. This issue is discussed further in Section III E of this preamble.

Some comments suggested that, while it might be possible in some cases to make the choice between restoration or replacement costs and a diminution of use values at this stage, it might not be possible in all cases. In some instances, the comments suggested, trustees might have to perform the analyses required in §§11.81 and 11.83 prior to making this decision.

The Department notes that the purpose of the Economic Methodology Determination is to decide upon the appropriate measure of damage, not the exact amount of the damage claim. The amount of the damage claim is determined by the use of the methods listed in §§11.81 and 11.83. The Economic Methodology Determination is meant to derive only an order of magnitude estimate of restoration costs and lost use values. The purpose of this rough estimate is to help structure the Quantification and Damage Determination phases of the assessment. Selection of restoration costs or use values based on the Economic Methodology Determination in the Assessment Plan phase rather than the extensive analysis of each of the methodologies in the Damage Determination phase avoids the expense of performing two major pieces of expensive analyses, and is in keeping with the statutory requirements allowing only the reasonable costs of an assessment to be claimed by authorized officials acting as trustees. The Department further notes that this initial decision, or its underlying analysis, may be modified as new information is obtained. The authorized official is given the explicit discretion to modify the Assessment Plan at any point. This includes modifications of the Economic Methodology Determination.

The Department expects that the close consultation between resource specialists and economists required by this final rule will mitigate the need for frequent revisions to the Economic Methodology Determination. Because of the purposes served by the Economic Methodology Determination and the authorized official's ability to modify the initial decision, this comment has not been incorporated in the final rule.

One comment suggested that because the Economic Methodology Determination may not be completed, or may be modified, before the Assessment Plan has been developed and subjected to public review and comment, that a separate review and comment period was necessary.

The Department agrees with the comment's suggestion that when the determination is made or is modified after approval of the Assessment Plan, that it should be considered a significant modification of the plan, and thus be subject to a formal review and comment period. Section 11.32(f) has been revised accordingly.

Special Resources

Many comments were received on special resources. These comments are addressed in Section IV of this preamble.

D. Revisions to Subpart D—Type A Assessments [Reserved]

E. Revisions to Subpart E—Type B Assessments

General Comments

A number of comments were received on the type B assessments in general. Most of these have been covered in

responses to comments on specific sections of the rule.

One comment suggested specifying the kinds of costs that are recoverable for activities taking place throughout the assessment. The Department concurs and has addressed this issue by adding a new paragraph to §11.60, as well as to §§11.23 and 11.30.

Another comment asked that, if there is no reponse action taken, can there be compensation for injuries that might have been taken care of if a response had been taken?

The rule allows recovery for injuries that are residual to any response action, plus any loss of use of the resource from the time of the discharge or release. Thus, if there is no remedial or other response action planned or taken, then recovery may be based on the total extent of injury.

One comment expressed the opinion that, though permitted releases are excluded from the quantification process, there is no guidance for the situation in which a permitted release is accompanied by the release of unpermitted constituents.

In response, the Department agrees that the rule excludes injuries resulting from permitted releases. Therefore, in the situation described in the comment, a damage claim should only include the injuries resulting from the unpermitted releases.

One comment recommended that each phase of the assessment should be preceded by an evaluation of the practicality and need for the step about to be performed.

The Department notes that such an evaluation is present in each step, with the exception of between the Quantification and Damage Determination phases. Since these phases are expected to overlap in scope and time, there is no required review between them.

Section 11.61 Injury Determination phase—general.

Many comments on the Injury Determination phase supported the requirement that injury be linked to the release, and pointed out that the trustee has no authority to "presume" causation. These comments concurred with the Department's position that speculative damages are not within the scope of CERCIA.

Other comments agreed with the determination, in § 11.61(e)(3), that if there is no injury, there will be no further assessment actions taken. These comments asserted that the potentially responsible party should not be liable for assessment costs when there is no finding of injury.

To make sure that this position is clear, the Department has added language in § 11.15 to explicitly state that there is no recovery of costs where there is no injury.

One comment on the general approach to injury determination stated that methodologies should be limited to those that are most realistic and that can be best related to the lost services to ensure that the methodology chosen is the one most scientifically appropriate, not just the one that is the cheapest.

The Department notes in response that cost-effectiveness assumes a set level of benefits to be derived from the methodology to be used.

Some comments stated that the rules for determining injury are based only on effects on humans, whereas effects on other parts of the environment should also be considered.

The Department points out that many of the measures of viability of a biological resource—one of the adverse changes that can constitute a natural resource injury—are independent of effects on humans.

One comment asserted that the definition of injury should include intangible injuries, such as changes in aesthetics of affected landscapes.

In general, the Department believes that since the result of a damage assessment for injury to a resource can have the force and effect of a rebuttable presumption, an injury should be defined strictly as a measurable adverse change in the physical, chemical, or biological properties of a resource. "Intangible injuries" would, by definition, be impossible to measure accurately, and the assessment of damages for such injuries should therefore not qualify for a rebuttable presumption.

One comment stated that nowhere in the rule is the injury caused by the cumulative effects of oil and hazardous substance discharges or releases discussed, and that responsible parties should be required to compensate for damages to natural resources that are injured as a result of a series of discharges or releases. The comment further stated that under the proposed rule, each of the discharges or releases will be evaluated separately, and if a single discharge or release does not injure resources, then no damages can be sought.

The Department notes in response that neither CERCLA nor the rule defines "cumulative releases" apart from other types of discharges or releases. By using guidance provided in this rule, the authorized official determines the time, duration, and frequency of any specific incident involving a discharge or a release, and also identifies "any potentially responsible parties." The language used in the rule allows assessment of damages due to cumulative releases, if the releases satisfy the statutory requirements of CERCLA.

Section 11.62 Injury Determination phase—injury definition.

General Comments

One comment stated that the proposed rule for the Injury Determination phase was not sufficiently tied to the requirement that an injury is a "measurable adverse change," and that many of the "standards" and methods set forth in §§ 11.62 and 11.63 do not require any "real world" injury, but instead rely upon hypothetical models or laboratory tests. The comment stated that the law does not award damages for remote or speculative injury, and therefore urged the Department to amend the rule and the acceptance criteria to ensure that only actual and not theoretical injury will be measured.

The Department disagrees that the rule for injury determination is not sufficiently tied to the definition of injury. The injury tests for non-biological resources use established standards that have been scientifically tested and publicly evaluated prior to adoption by health and environmental agencies. The injury tests for biological resources were determined after an exhaustive literature search and review that documented the "real world" relevance of the biological responses listed in this rule.

One comment felt that each test for injury determination was written so stringently that any change whatsoever establishes an injury to the natural resource in question.

The Department disagrees that this is the case. The injury definitions do not measure insignificant changes. The definitions rely on changes which have been demonstrated to adversely impact the resources in question, or services provided by those resources.

One comment stated that some of the criteria selected for determination of injury—even though based on actual measurement—may not be sufficient to establish an actual injury. For example, standards established under the Clean Air Act and Clean Water Act are intended to guard against injury to human health and the environment. The Clean Air Act requires that a margin of safety be included in every standard. Exceeding these standards, according to

the comment, does not necessarily entail an actual injury. This comment also stated that the use of these standards in the assessment without reference to baseline conditions at the site is meaningless. If the standards were exceeded before the release, the comment stated, they cannot usefully serve as an indicator of an injury stemming from the release.

The Department recognizes that these standards have incorporated a margin of safety. However, this margin of safety addresses the uncertainties involved in determining the most sensitive use of the resource and to account for the National variability in the conditions of the resource. For these reasons the Department believes that excedence of these standards adequately reflects the occurrence of an injury to a natural resource; however, the Department notes that compensation for the injury is based on site-specific changes from baseline.

One comment stated that where no standards or criteria exist, the rule should include methods for, or encourage the development of, "no effect" levels based on existing data. Trustees could then compare existing conditions at the point of service delivery to the "no effect" level to determine whether, and the extent to which, the service flow has been interferred with.

The Department has not included methods to determine " 'no effect' levels based on existing data" in this final rule. This would be contrary to the mandate in § 301(c) of CERCLA to determine the "best available procedures" for inclusion in this rule.

Sections 11.62(b) Surface water resources and 11.62(c) Ground water resources.

Many comments opposed the use in § 11.62(b)(1)(iii) of water quality criteria developed under section 304(a)(1) of the Clean Water Act to define injury to surface water. They argued that § 11.62(b)(1)(iii) should be more explicit in indicating that water criteria for human health are not applicable when the surface water is not used for a water supply.

The Department believes that these comments may have misinterpreted the proposed rule. The injury definition which is maintained in this final rule in § 11.62(b)(1)(iii) states that injury occurs when concentrations in excess of "applicable criteria" are measured "in surface water that *before* the discharge or release *met the criteria* and is a committed use, . . . as a habitat for aquatic life, water supply or recreation" (emphasis added).

Several comments noted that under § 11.62(c)(1)(iii), applicable water quality criteria under section 304(a)(1) of the CWA are cited. Comments suggested: that these criteria are not fully applicable to ground water (the aquatic life criterion has no pertinence to ground water since ground water does not support aquatic life); and that the human health criterion is inapplicable to ground water with the exception of the component accounting for consumption of fish and shellfish. The Department notes that the definition given in § 11.62(c)(1)(iii) recognizes that the base flow of streams and a major portion of water in lakes and marshes is supplied by ground water. Thus, the CWA criteria are applicable to ground water resources when the flow of the ground water is into lakes and marshes that support aquatic life. The Department further notes that biota living beneath land surface in swamps are supported by "ground water" as that term is defined by CERCLA.

Many comments suggested that §§ 11.62 (b)(1)(i) and (c)(1)(i) would apply drinking water standards to contamination levels directly in surface water or ground water. The comments stated that reliance on these standards disregarded whether surface or ground waters are actually used directly for drinking, ignores ordinary treatment before consumption, and thus permits speculative assessments for unfounded injuries.

The Department considers that use of drinking water standards to determine injury is appropriate. The comments' concern for the uses made of the ground water are more appropriately addressed in § 11.71, which provides for quantification of the reduction in services provided by the injured resource. The Department considers the requirements provided in § 11.32 for the development of the assessment plan sufficient to preclude speculative assessments. The Department notes that many of these comments may have misinterpreted the standard hydraulic definition of potable. Briefly, potable means that the water was "fit or suitable for drinking." Therefore, injury can occur only when applicable standards are exceeded in water that was fit or suitable for drinking.

Several comments objected to the injury definitions that allow concentrations in one resource (e.g., surface water) sufficient to cause injury to another resource (e.g., exceed air standards) to define injury to the first resource (surface water). These comments stated that such catch-all provisions are not required, that, although the air may exceed an air standard, or contamination may have been present, this does not mean the surface water is independently or separately injured. Since standards for one medium are often set based upon effects through completely different exposure pathways than standards for another medium—for example, ingestion versus inhalation—the comments stated that injury in one medium does not necessarily translate to injury in another.

The Department disagrees with these comments. Where appropriate standards have been established, the Department has utilized those standards to determine injury. These standards are based primarily on the maintenance of the quality of specific services provided by the resource. However, in many instances, such standards have not been established. In order to capture the interdependence of resource services and the potential injury to the resource providing those services, the Department has established these provisions. The Department also disagrees with the statement that the presence of substances in resource "A" acting as a pathway to injure resource "B" should not constitute injury to resource "A". The "catch-all" provision was designed to capture those injuries that current standards have not yet been able to address. For example, a discharge or release into surface waters may not exceed established water quality criteria, yet the concentrations may be sufficient to bioconcentrate in migratory waterfowl that live and feed around the surface water. In that instance, the surface water containing the substance can also be determined to be injured.

Several comments stated that the water sampling procedures outlined by § 11.62(b)(2) are incomplete.

The Department disagrees. Section 11.62 defines the injury and sets acceptance criteria for determining injury. Guidance on methods for sampling and testing are provided in a separate section (§ 11.64) of the rule.

Several comments suggested that the number of samples with measurable concentration should not be limited to just two. One comment noted that the specificity in the rule is statistically inappropriate when nothing more is known about the nature of the area to be assessed.

The Department believes that two samples are appropriate acceptance criteria for injury determination, although more samples may be required to quantify the injury. Such injury acceptance criteria are cost-effective. A larger number of samples would not give

any better determination of *injury* and would cost more. The Department notes, however, that the total number of samples taken for the Quantification phase of the assessment is the decision of the authorized official. Consequently, the rule retains the requirement that two samples be used to measure concentrations of oil or a hazardous substance before the assessment of damages to surface water may continue.

Several comments stated that the requirement of 100 feet separation between samples to determine injury to water resources is inappropriate.

The Department agrees that in some situations, this separation may be inappropriate. Accordingly, § 11.62 (b) and (c) have been revised to incorporate instances when it may not be possible to separate samples by less than 100 feet.

One comment stated that injury to surface water resources and ground water resources (§ 11.62 (b) and (c)) should be defined to include any further degradation of water quality for those resources not used as a water supply. The Department believes the rule appropriately defines injury to water resources that are not used as a water supply.

One comment suggested that, for a potable ground water resource, there be a yield factor as well as a quality factor, and that low yield aquifers do not merit compensation. The Department notes that yield has little to do with the "quality" of the resource. In addition, adoption of this comment's suggestion would redefine the term "ground water" as defined in Section 101(12) of CERCLA and the definition of "ground water resources" in § 11.14(t) of the rule. Consequently, this suggestion is not incorporated into the final rule.

One comment stated that "duration," in § 11.62 (b) and (c) is not part of the SDWA standards. The Department notes that the rule calls for use of standards "established by . . . SDWA, or by other Federal or State laws or regulations that establish such standards." If duration is part of a standard in State regulation or law, then it should be applied whether or not SDWA contains such language.

Another comment noted that Resource Conservation and Recovery Act characteristics do not have "duration" as suggested in § 11.62(b)(1)(iv). The Act cited in § 11.62(b)(1)(iv) is the Solid Waste Disposal Act. The Department agrees that "duration" is not a characteristic of substances listed or identified pursuant to Section 3001 of that Act, and has revised § 11.62(b)(1)(iv) accordingly.

One comment stated that there is no justification for requiring "more than one" of the purposes listed in § 11.62(b)(1)(iii) to be included. The Department notes that the definition in § 11.62(b)(1)(iii) does not require that "more than one" of the listed uses be made before injury is determined. The language in the proposed rule, which has been repeated in this final rule, states that if more than one use is made, "the most stringent criterion shall apply."

The Department notes that § 11.62(b)(1)(v) has been changed to include "Concentrations and durations of substances sufficient to have caused injury as defined in paragraphs (c), (d), (e), or (f) of this section to *ground water*, air, geologic, or biological resources . . ." The inclusion of ground water in this section is a correction of an unintended omission. the Department also notes that the phrase "was used" has been deleted from the definition of injury to surface water and ground water resources, where the phrase was used in reference to the committed use of these water resources (§§ 11.62 (b)(1)(ii) and (iii), and 11.62(c)(1)(ii) and (iii)). The Department considers the phrase redundant to the defintion of committed use provided in § 11.14(h).

Section 11.62(d) Air resources.

Several comments were received on the use of air modeling techniques, which were described more fully in the supplementary technical information document on air models. One comment expressed the view that the document is valuable in identifying the thought processes that must go into developing a modeling approach, but that the modeler should be advised that a thorough understanding of the physical phenomena requiring the modeling is necessary, as well as a complete familiarity with the model to be used. Another comment stated that the technical information document lists only EPA's computer air models, leaving out other credible models that may be more accurate.

The Department, in response, points out that the technical information document is provided only for information purposes and is not binding for the assessment. Other models that meet the requirements given in the rule would be acceptable. In addition, the Department notes that no model or method is, in itself, adequate without trained specialists to understand its applicability, limitations, and results.

One comment recommended deleting the reference to section 112 of the Clean Air Act as defining an injury to air resources in § 11.62(d)(1) and, in its place, inserting reference to Section 109 of that Act.

The Department believes that the proposed language was consistent with Section 101(14) of CERCLA, which specifically defines hazardous substances to include those identified under Section 112 of the Clean Air Act. Therefore, this suggestion was not incorporated into this final rule.

Section 11.62(e) Geologic resources.

A few comments took issue with the determination of injury to soil microbial populations. The comments suggested that impeded soil microbial respiration and inhibited carbon mineralization, two of the definitions of soil injury in § 11.62(e), do not clearly indicate resource injury. Both responses occur in soil after oil or a hazardous substance is added, but most organic chemicals, including oil, cause the depressed rates to be followed by a surge of higher than normal rates before returning to the original rate. The comments stated that the surge is caused by the proliferation of the fraction of the biota that thrives on the new content of the soil; the return to original rates occurs when the organic chemicals have been consumed. They also stated that this change in the successful members of a soil community is less an injury than a part of the recovery process. In addition, the comments stated that the relationship of microbial respiration, carbon mineralization, and other tests of injury to soil or plant resources is not clear.

The Department agrees that oil or other organic material spilled on soils may cause a surge in microbial respiration and carbon mineralization, however, the rule states that injury occurs when "[microbial] growth [is] *inhibited*" by the oil or hazardous substance (emphasis added). The relation between microbial respiration, carbon mineralization, and the other tests of soil injury is that these tests are all measures of physical or chemical quality or viability of the resource.

One comment stated that the technical information document seemed to imply that models can be used to estimate transport parameters in soils; a misleading inference since models should use physical measurements of transport parameters to determine the fate of oil and hazardous substances in the soil. Another comment stated that a discussion of appropriate, available models of soil chemistry should be included.

The Department notes that the technical information document on soil provides general information and is not intended to have the force of regulation. The fact that the document "implies" models of contaminant transport in soils

may be used is reasonable, since the authorized officials acting as trustees have discretion to select models.

Several comments stated that the Department should re-examine the issue of pH range, contained in § 11.62, used for presumption of injury to geologic resources (soils). One comment stated that it is not the elevation of pH to above 8.5 (above 7.5 in humid areas) or the decline to below 4.0 that should serve as evidence of injury, but rather the concentrations of substances sufficient to cause *change* in the negative logarithm of hydrogen ion concentration of, for example, three units or more on the pH scale. Another comment stated that the rule should reflect the fact that many soils in the western part of the United States have a background pH of 8.3 or higher.

The Department disagrees that a change of pH in soils of two units would necessarily be an injury *to the soil.* However, the Department agrees that plants or other biota of the soil may be adversely affected by such a marked pH change. The Department believes that the definitions of injury to geologic resources contained in paragraphs (6), (7), (9), (10), (11), and (12) of § 11.62(e) adequately address the concerns of the comment. The Department agrees that the pH of some soils may naturally occur near 8.5. This factor will become important during the determination of baseline conditions and services quantification.

One comment suggested that in § 11.62(e)(3) the sodium adsorption ratio would be a better measurement to use than the exchangeable sodium percentage. The Department agrees with the comment and has made the change. The Department notes that the conversion of an exchangeable sodium percentage greater than 15 percent is equivalent to a sodium adsorption ratio of more than 0.176.

One comment stated that the use of erosion in § 11.62(e) as a criterion of injury to geologic resources was ill-defined and potentially difficult to accurately apply, since it would be very hard to link the occurrence of erosion to a particular discharge or release. The Department agrees with this comment and has dropped erosion as a direct criterion of injury to geologic resources. If erosion occurs when plant cover is decreased because of a discharge or release, the injury can be documented by reference to the paragraph in § 11.62(e) that covers phytotoxic response.

One comment stated that, by its very nature, mining is injurious to geologic resources, and that once ore is removed from the ground, the area may become subject to "releases" into the ground water or subsurface system. The Department notes that such a release would result in liability only if it comes within the CERCLA definitions of "release" of a "hazardous substance," not otherwise exempted by the statute. The Department also points out that the rule reflects the statutory exception by prohibiting assessments when the discharge or release was specifically identified as "an irreversible and irretrievable commitment of natural resources . . . and the facility or project was otherwise operating within the terms of its permit or license" (§ 11.24(b)(1)(i)).

Several comments pointed out that the saturation value in § 11.62(e)(4) (now (3)) should be corrected to read "2 millimhos per centimeter," not "micromhos". The Department agrees and has made the correction.

Section 11.62(f) Biological resources.

Several comments requested that the Department add an additional injury definition to biological resources, in § 11.62(f)(1), to include specific tissue concentrations of substances that pose a threat to the health of biological resources. One comment noted that long-term exposure to oil in tissues could potentially lead to less obvious and less severe injuries than those identified in the rule. Another comment recommended eliminating all reference to tissue concentrations that exceed guidelines for human consumption, stating that such concentrations do not adversely affect the viability of the biological resources.

The Department recognizes that various criteria, standards, and guidelines have been developed for the presence of oil and hazardous substances in water and air. Guidelines have also been developed for biological tissues that are directed towards limiting human exposure to hazardous chemicals and use of biological resources. The Department was, however, unable to identify the existence of any chemical criteria, standards, or guidelines for tissue concentrations that specifically address protection of the biological resource from injury due to the presence of the oil or hazardous substance. All established criteria, standards, and guidelines are based on protection from exposure to oil and hazardous substance, not tissue concentrations of substances that pose a threat to the health of biological resources.

The Department recognizes that, in some instances, tissue concentrations of oil and hazardous substances can pose a threat to biological resources. The Department's definition of injury to biological resources includes measurable adverse changes in the viability of the resource that can result from both long-term exposure and the accumulation of substances in body tissues. The Department has concluded that there is insufficient technical information currently available to stipulate specific tissue concentrations for the many oils and hazardous substances as a definition of injury to biological resource viability.

Variabilities in species sensitivity, age, sex, and the general condition of an organism all influence the potential long-term threat from such tissue concentrations. As noted in Section II of this preamble, many organisms can carry low levels of foreign chemicals in their tissues with no known measurable adverse effects from these chemicals. Although criteria, standards, or guidelines have not been established as yet, there is considerable technical data developed that may be applicable on a case-by-case basis. Where such data exists and no biological injury, as defined in this rule, can be identified, the authorized official is encouraged to work within existing or planned response actions to alleviate potential threats to biological resources.

Numerous comments were received on the acceptance criteria contained in § 11.62(f)(2) for determining injury to biological resources. Some comments supported the concept of the acceptance criteria for documenting injury to biological resources. The comments viewed the criteria as technically sound and agreed that all four criteria must be satisfied before an acceptable determination of injury can be made.

Several of the comments expressed the view that the criteria were extremely rigid in view of the paucity of information concerning the transport, fate, and effects of hazardous substances in the natural environment. One comment indicated that a liberal test for injury was necessary and that the criteria should not require absolute scientific certainty. Another comment suggested that the Department should allow experimental results to be judged by experts in the field to see if presented results were deserving of merit and consideration, and that research studies should also be allowed to prove injury. Yet another comment expressed the view that the criteria could make it difficult or impossible to document injury in some circumstances where it would be reasonable to assume injury had actually occurred as a result of a hazardous substance release. One comment questioned the need for

meeting both the field and laboratory criteria.

Opposing comments concerning the acceptance criteria stated that CERCLA does not allow for damage awards for remote or speculative injury. One comment urged that assessments be performed using criteria and methods that have been validated and, therefore, are of established and accepted scientific reliability. Another comment suggested that the criteria be more restrictive by requiring that the application of the acceptance criteria be chemical-specific for each oil and hazardous substance. The comment noted that a rebuttable presumption cannot be attached to methods of doubtful scientific validity. One comment felt that the criteria are difficult to apply and allow acceptance of injuries that appear theoretical in nature.

The principal means of identifying injury to biological resources, as stated in the rule, is by documenting a measurable biological response, i.e., there must be a measurable adverse change to the viability of the biological resource or its offspring as a result of the discharge or release. The acceptance criteria in the rule provide the means for evaluating the level of scientific understanding and, thus, the validity of documenting injury to biological resources based on a particular biological response measured in the assessment area. Since a rebuttable presumption is provided to assessments performed by Federal officials pursuant to this rule, the level of scientific understanding for determining injury is important.

The technical literature contains extensive documentation for a vast array of different types of biological responses that can be exhibited by organisms. Many of these biological responses have, to differing degrees, also been attributed to exposure to oil and hazardous substances. The level of scientific understanding can vary greatly, ranging from those that have been postulated by a single observer incidental to a study to those considered "classical" responses to oil or hazardous substances. In recognition of these different degrees of scientific understanding pertaining to biological responses, the Department continues to require that all of the acceptance criteria provided in § 11.62(f)(2) of this rule be met to document injury.

The Department acknowledges that the acceptance criteria are stringent. The Department does not, however, view the acceptance criteria as being either unduly rigid or requiring "absolute" scientific certainty as suggested by one comment. The Department does not consider that biological responses for which a paucity of information exists in the technical literature constitute sufficient scientific understanding for documenting injury pursuant to this rule. The acceptance criteria do not require absolute scientific certainty since no biological response is caused exclusively by oil or hazardous substances. The criteria require the biological response to be predominantly caused by oil or hazardous substances.

The Department recognizes the technical merit of the peer review process for publication of research findings. This merit is reflected in the requirement that biological responses meet both field and laboratory criteria. General research studies are not compensable under a damage assessment performed pursuant to this rule, since it is inappropriate that experimental research studies to advance general scientific understanding be included as a part of a specific natural resource damage claim.

The Department believes that the requirement of meeting all four acceptance criteria does eliminate the potential for remote or speculative injuries as cited by some comments. The biological response must have been previously documented under both field and laboratory conditions, and the methodologies used to measure the biological response must produce reproducable and verifiable results.

The recommendation of one comment that the acceptance criteria be applied to biological responses on a chemical specific basis is considered by the Department to be unduly restrictive. There is considerable information available in the published literature that demonstrates that particular biological responses are not necessarily unique to specific chemicals. For example, the similarity in the molecular structure of certain classes of chemicals are known to elicit the same biological response.

One comment stated that other factors, such as nutrition and human disturbances, must be considered before a biological response can be attributed to injury presumed to be caused by an oil or hazardous substance. The Department recognizes that such other factors can also cause a particular biological response. The acceptance criteria considers such factors. Further, the design of the testing and sampling program for documenting injury must consider such factors when fulfilling the requirement, in § 11.62(f)(3), that a statistically significant difference be shown in the biological response observed between samples from populations in the assessment area and those in the control area.

One comment requested that further definition of the term "statistically significant difference," as used in § 11.62(f)(3), be provided and the concepts (e.g., significance) and statistical methodology be included as part of the final rule. The Department considers that the guidance provided at § 11.31(c)(3), which requires a Quality Assurance Plan consistent with the requirements of § 300.68(k) of the NCP, provides adequate definition and guidance.

Several comments suggested that the Department include additional categories of injury in the rule. Floral abnormalities, such as chlorosis, abnormal growth, and reproduction, were cited as examples. Another comment requested that additional species to that of fish and wildlife be evaluated for types of biological injuries. One comment requested clarification that other biological responses beyond those listed in § 11.62(f)(4) could be applied to document injury to biological resources and that the authorized official is not restricted specifically to this list. In response to these comments, the Department reiterates that the acceptance criteria provided at § 11.62(f)(2) are intended to apply broadly to all biological resources, not to just the fish and wildlife species provided in § 11.62(f)(4). The authorized official may select other biological responses for other species to document injury so long as the response relied upon can meet the acceptance criteria. In response to these comments, § 11.62(f)(4) has also been revised to clarify that the authorized official may designate other responses when appropriate.

One comment correctly noted that discharges or releases can provide the opportunity for direct physical observation of dead or dying organisms. The rule allows for fish kill investigations, but no comparable investigations are provided for wildlife resources. In response to this comment, the final rule has been revised to provide for wildlife kill investigations in § 11.62(f)(4)(i)(C). There are presently no generally accepted procedures for conducting wildlife kill investigations. To the extent practicable, the authorized official should conduct such wildlife kill investigations in a manner comparable to the procedures provided for conducting fish kill investigations.

A comment stated that the absence of a species in an area containing a known concentration of an oil or hazardous substance did not appear to be

addressed by the rule. The Department points out, however, that the absence of a species may have occurred due to several reasons, that is, the organisms may be absent because they have either died or they are adversely avoiding the area containing the substance. The Department has identified, in the proposed rule, several such procedures that meet the acceptance criteria for documenting such injuries. These procedures have been retained in this final rule.

One comment requested that the rule state clearly that the procedures referenced in the American Fisheries Society Special Publication Number 13, "Monetary Values of Freshwater Fish and Fish-Kill Counting Guidelines," pertain only to the quantifying procedures for determining numbers of fish killed. The Department agrees with this comment and has changed § 11.62(f)(4)(i)(B) of the rule to reflect this concern.

One comment stated that the oil or hazardous substance used in laboratory toxicity testing, avoidance, and reduced fish reproduction should use the exact substance or a substance that is reasonably comparable to the substance discharged or released. The Department agrees with this comment and has modified § 11.62(f)(4) (i)(E), (iii)(B), and (v)(E) to reflect this comment.

Several comments recommended deleting laboratory toxicity testing, avoidance, and reduced fish reproduction from the rule stating that such biological responses are hypothetical bench tests that, unless there is intrinsic evidence that the release has actually caused the effect in the assessment area, should not be used as a basis for injury determination. The Department believes that the evidence in the scientific literature linking the toxicity of chemicals in the laboratory to toxic conditions in the field is substantial. In fact, all national water quality regulation strategies and standards are based on this well documented relationship. The Department's "Type B Technical Information Document: Injury to Fish and Wildlife Species" identifies a number of the technical publications and EPA technical support documents that substantiate the extensive level of scientific understanding linking the toxicity of chemicals in the laboratory to toxic conditions in the field. The Department further notes that the requirements provided in § 11.63 for the pathway of contamination provide guidance on the exposure.

One comment noted that fledgling success provided in § 11.62(f)(4)(v)(B) for measuring reduced avian reproduction can be affected by other factors, such as noise or other human disturbances during remedial actions, rather than from a particular chemical substance. The Department recognizes that other factors can, at times, also affect avian reproduction. It is also recognized that such factors need to be considered in the study design for documenting such injury, including the selection of a comparable control site and the statistical design of the sampling program. Sufficient studies have been conducted, however, that enable reduced avian reproduction to have fulfilled all the acceptance criteria for documenting injury to avian species.

One comment noted with regard to § 11.62(f)(4)(iii)(A) that the presence of specific behavior in "two" organisms is not statistically significant. In addition, a variety of substances could elicit the same or similar clinical behavioral signs of toxicity. The Department agrees with the comment, and § 11.62(f)(4)(iii)(A) has been revised to state that a statistically significant difference must be measured.

One comment stated that "avoidance" alone, as proposed in § 11.62(f)(4)(iii)(B), did not constitute a biological response reflecting *injury* to the biological resource. The comment noted the fact that biota may avoid a specific environmental condition does not indicate that the organism has been or is likely to have been harmed. Avoidance may actually benefit the organism. The Department considers that avoidance behavior is an adverse response exhibited by the organism. Such avoidance of a geographical area may preclude the organism's use of the area as habitat, or preclude migratory or reproductive behavior. As such, this biological response has been retained in the final rule.

One comment stated that the limitation of one type of injury for cancer of neoplasm in fish is too rigid. Neoplasms in organisms other than fish, particularly terrestrial fauna, should be considered in determining injury by comparing frequency of occurrence between samples from populations in the assessment area and in the control area. This can be confirmed by histological procedures. The Department points out that, at this time, there have not been either field or laboratory studies conducted on terrestrial fauna to indicate that such injuries do occur because of exposure to oil or hazardous substances. There is, as yet, an insufficient level of scientific understanding of neoplasms in wildlife that would allow such biological responses to fulfill the acceptance criteria.

One comment noted that for injury determination to biological resources (§ 11.62(f)), the rule identifies the following seven categories of adverse change: death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, and physical deformation. No biological responses, however, are provided in § 11.62(f)(4) for genetic mutations in fish and wildlife. The Department notes that a review of the technical literature was unable to identify any biological response for genetic mutation injury that fulfilled the acceptance criteria.

Section 11.63 Injury Determination phase—pathway determination.

One comment stated that the discussion of pathway determination is needlessly unclear and confusing and should be clarified. Whereas the rule is explicit that a pathway must be demonstrated and documented using sampling and/or modeling, it also indicates that it is not necessary to show that the release caused the injury, only that the substance was released and that exposure could have resulted in injury. The comment stated that the rule should be modified for simplicity and clarity to state specifically that an injury cannot be determined unless a direct pathway from the discharge point to the injured resource can be demonstrated and documented quantitatively.

The Department notes that the rule does require that the pathway be demonstrated in order to establish injury. The rule requires that it be shown that the release "resulted in" the injury. Further, the Department believes that § 11.63 incorporates necessary guidance to enable the authorized official acting as trustee to link the pathway to the injury.

One comment stated that § 11.63(b)(2)(i) should be amended so that the reference to "downstream of the source" in the pathway determination phase would include "downstream or downcurrent of the source." The Department agrees, and has added the phrase "downcurrent of the source" in § 11.63(b)(2)(i).

One comment suggested deleting, in § 11.63(b)(3) (i) and (ii), the lists of data that should be determined, since these lists have little apparent relation to subsequent evaluations under § 11.63(b)(4). The Department believes that determining the hydraulic characteristics of the surface water resource (§ 11.63(b)(3)) is appropriate and directly related to determining the mobility or pathway of the oil or hazardous substance through the

resource (§ 11.63(b)(4)), and has retained this discussion.

One comment stated that in making "pathway determinations," current field measurement and modeling techniques will not prove adequate in certain situations. The Department disagrees with statements that current techniques are not adequate for certain "pathway determinations." The guidance in § 11.63(a)(2) allows for either demonstration of the presence of the oil or hazardous substance or use of appropriate models to determine pathway.

One comment suggested that modeling results must be required to demonstrate the direct measurement of "sufficient concentrations of hazardous substances," and that the pathway determination process should be linked to the injury determination step. The Department agrees that "sufficient concentrations" are part of the definitions of water resources injury, but these are directly measured in the injured resource. The pathway determination (in § 11.63) establishes a link between the discharge or release and the injury.

Another comment felt that direct measurements are more reliable than models and therefore should be favored in making the pathway determination. The Department favors direct measurement over the use of models and notes that the rule requires detailed technical explanation of physical-chemical models used by the authorized official (see § 11.64 (b)(6) and (c)(8)). In general, the Department believes guidance provided in this rule is sufficient to enable the authorized official to choose the appropriate method for determining pathways.

One comment suggested that in section 11.63(f)(4)(ii)(A)(*5*), the word "cannot" appears to be an error. It should be stated as "can be detected . . . ." This comment is mistaken. The paragraph is correct as stated in the rule. The Department stresses that a species should *not* be used as an indicator species for demonstrating a pathway of contamination if that species readily metabolizes the substance in question.

One comment stated that the rule should allow for the use of wild-strain organisms that have been reared in a laboratory setting as indicator species in § 11.63(f)(4)(ii)(C). The Department accepts this comment and has so amended the rule.

Section 11.64 Testing and sampling methods.

One comment suggested that under § 11.64(b)(2), acceptable sampling methods should include "User's Guide to the U.S. EPA Contract Laboratory Program" prepared by the EPA Sample Management Office of the Contract Laboratory Program, August 1982. The Department agrees that the document cited may provide useful technical information on sampling methods, but has moved this reference to Section II of the preamble.

Several comments noted, under § 11.64(c)(3), that it is considered appropriate practice with many contaminants (e.g., metals) to filter samples of ground water. Unfiltered samples are likely to contain materials introduced by well construction, whereas filtered samples are often more typical of the actual ground water. The Department agrees that both filtered and unfiltered water samples may be collected, as appropriate, and does not now specify which one shall be used.

One comment stated that § 11.64 limits trustees to six standard procedures for chemical analysis of fresh- and salt-water surface water resources. The comment recognized the advantages of establishing standard procedures in case of future litigation, but expressed concern that the specified procedures may not be appropriate in all circumstances. Several comments suggested that trustees should be given the opportunity to use other scientifically valid procedures for chemical analysis in the event that the specified procedures are not appropriate.

The Department agrees that specific procedure manuals should not be incorporated by reference, rather they should be listed as references, to be used by the authorized official, as appropriate. The standard procedures listed in § 11.64 of the proposed rule now appear as information manuals in Section II of this preamble.

One comment stated that the references listed in the proposed rule for environmental testing methodologies are not complete, yet the language on the damage assessment procedures allows only the listed methodologies to be used (see § 11.64(b)). This could preclude use of other methodologies that may be appropriate for determining the extent of injury to the natural resource. The comment stated that it also could complicate efforts to avoid duplication in tests conducted by the authorized official and the lead agency.

The Department has reworded § 11.64 to allow the authorized official to use discretion in selecting appropriate methods, including methods suggested in documents listed in the preamble.

One comment recommended that a new subsection be added to § 11.64 to read as follows: "All samples shall be gathered at locations and times found by the authorized official to be likely to show positive results. All samples shall be representative, and the data on the samples shall be publicly available upon request."

The Department agrees that all samples should be representative of the resource condition, and that the data obtained from samples should be available to the public at times and in a format provided for in the Assessment Plan. However, the Department disagrees that the samples should be chosen to increase the probability of positive results.

Several comments suggested that scientific testing methodologies used by a trustee must be validated to ensure that the results of the use of such methodologies are reproducible.

The Department agrees that methods of laboratory or field analysis should be validated, reproducible, and subjected to appropriate scientific scrutiny. The Department believes the references listed in Section II of the preamble to this rule provide appropriate guidance to the authorized official when developing an Assessment Plan.

Section 11.70 Quantification phase—general.

A number of comments reacted to the variety of different ways to carry out quantification with a concern that it could turn out to be an excessively expensive and time-consuming process, and suggested that some flexibility be reduced.

The Department believes that the variety of situations anticipated will require considerable flexibility, as allowed by the rule. The different parts of the quantification phase contain many options that are to be selected only as appropriate to the situation. No assessment would be expected to or even be capable of using everything in this section, and, as with other phases of the damage assessment, compliance with the reasonable cost definition is required, and double counting is prohibited. As recognized by some comments, the Department agrees that successful planning and execution of the Quantification phase will require a high level of cooperation between economists and natural resource specialists.

Section 11.71 Quantification Phase—service reduction quantification.

One comment requested that the steps set out in § 11.71(b) include a preliminary estimate of services affected, before the baseline step, in

order to focus baseline studies on services. The Department points out, however, that such an estimate has already been made as part of the preassessment screen (§ 11.25(e)(2)). At numerous points, authorized officials are already directed to focus only on resources that have been injured and for which damage claims will likely be made (i.e., those for which services have been affected by the discharge or release, e.g., §§ 11.70(a), 11.71(a), 11.72(a), 11.72(b)(4)). The Department considers additional guidance on this point to be unnecessary.

Many comments recognized and supported the Department's emphasis on services as the focus of quantification. Some asked that this emphasis be made even stronger, and even recommended that quantification be strictly limited to determination of services reduced, suggesting that measurements of "conditions" other than services are irrelevant and unnecessary. A number of other comments also requested that extensive additional guidance be provided on the nature of services to be measured, and on methodologies for doing so. A few suggested that the discussion of services provided in § 11.71 conflicted with the definition of services provided in § 11.14(nn), or provided an alternative definition. Some also suggested that the term "committed use" be incorporated in this section.

The Department acknowledges the support for its emphasis on services. It continues, however, to believe that in most cases it will be necessary for "conditions" to form the basis for service reduction measurements. Ultimately, the level of change in human uses will be dependent on the physical, chemical, or biological changes resulting from the discharge or release, as will any determination of recovery rates, so retention of the discussions of methods for measuring "conditions" is considered essential. In some cases, it may be possible to measure services directly, and provision has been made for such measurement (§ 11.71(f)), but the Department does not believe total reliance can always be placed on direct measurement.

The Department has not modified its treatment of services from the proposed rule. The discussion of services contained in § 11.71 does not redefine the term, but rather provides further clarification of the term. The definitions in § 11.14 are brief, and cannot describe every aspect of each term as provided in the rule itself; otherwise the definition section would become unwieldy and no longer useful. Also, the Department has already provided examples of services, and does not consider it practical or advisable to attempt an exhaustive list of services. A major responsibility of agencies acting as trustees, independent of the damage assessment process, is to manage the natural resources for which they act as trustee, and in the process they must be conversant with the services provided by those resources. In many cases, these responsibilities for services are included in the basic statutes establishing the agency, often among its stated purposes. Because continued provision of those services is so basic and important for such agencies, detailed listing of them here is unnecessary. The Department also believes that an overly detailed list here could be misconstrued as constraining agencies acting as trustees from pursuing claims based on services for which they have a major responsibility, but which the Department may have failed to list.

The Department also has not provided additional guidance on methods for measurement of services. Proper measurement of services is inextricably linked with the economic methodology selected in the Damage Determination phase, and the Department reiterates here that natural resource specialists must work closely with economists to carry out a reliable damage assessment. Much of the guidance in the Damage Determination phase applies to service measurement, and is not duplicated in the Quantification phase section. The Department also has not inserted the term "committed use" throughout the Quantification phase for the same reason: authorized officials are directed to quantify only resources and services for which they will claim damages, and damages can only be claimed for natural resources with "committed use" as defined in this rule. Because the Damage Determination and Quantification phases are not independent, use of the term throughout the Quantification phase would add little, and would reduce readability. Minor changes have been made to § 11.70 to clarify the general purposes of the Quantification phase, and make it more consistent with other parts of the rule.

Two comments objected to allowing direct quantification of services, on grounds that to do so would rely on speculative methodologies. On the other hand, numerous comments raised concerns that to require measurement of physical and biological changes in addition to measuring services could contribute to excessively expensive assessments, and many suggested that only human services be measured directly.

The Department agrees that direct quantification of services requires that precautions be followed to ensure the accuracy of any such assessment. It also believes that flexibility is needed and that both methods must be preserved as written for several reasons. The valuation methodology selected will generally require different kinds of data from the quantification phase. If lost use value will be the primary valuation method, then measurement of changes in human uses will be the critical factor. In some cases, it may be practical and possible to measure these changes directly, as allowed by § 11.71(f). To disallow such direct measurement would reduce the flexibility to use some reasonable-cost methods where those methods can meet the restrictions imposed by that section. If restoration is to be the primary valuation method, then measurement of biological, physical, and chemical parameter changes may be more critical, since these will be essential to designing an effective restoration and determining its success.

Several comments pointed out that the statutory exclusions in the proposed rule did not include the provision for "no recovery . . . where such damages and the release of a hazardous substance . . . occurred wholly before the enactment of this Act." Other comments interpreted this provision to require "partitioning," such that if a release and the resulting damages began before the Act, and continued past the date of its enactment, the authorized official would be required to determine which damages occurred in each period, and to make a claim only for those occurring after the date of enactment.

The Department has now added this exclusion to the list of statutory exclusions in § 11.71(g) to further clarify that it applies as cited. The application of this exception to a specific incident would depend on the the governing CERCLA case law.

One comment suggested that the word "proper" be inserted before "application of a pesticide . . ." in that exclusion. The Department, however, has used the exact language of the statute in this exclusion.

Two comments referred to the exclusion for permitted releases, and argued that it should extend to hazardous substances released incidental to permitted substances, even though those substances might not be specifically identified or included on the permit. One comment also argued that "partitioning" of liability should be done, so that liability would only extend to damages due to quantities of released

substances above permitted quantities. Finally, one comment suggested that the Department extend the exclusion to State-permitted releases.

The Department disagrees with these comments. The exclusion, as taken from the statute, clearly states that to gain the exclusion, the "facility [must be] otherwise operating within the terms of its permit or license." This exclusion applies only to Federally permitted releases; if a release is not specifically Federally permitted, it is not excluded from liability.

One comment stated that if resource conditions (e.g., contamination) have or are predicted to increase contaminant concentrations at the point of use, then these concentrations must be compared against applicable drinking water standards to determine whether they diminish the service flow. If they do not exceed Federal or State drinking water standards (e.g., MCL's under 40 CFR 141.11–.16) at the point of use, and if they otherwise present no significant drinking risks, then again there has been no service flow reduction. The Department disagrees that the *only* appropriate measure of reduction in service is made at the point of use. The purpose of measuring reduction in service is to estimate damages so that the injured party may be made whole. Any treatment required after a release to make drinking water safe "at the point of use" is only one potential service of the water that can be quantified.

One comment noted that § 11.71(i)(4)(i) discusses quantifying the volume of ground water pumped from wells as if it can be priced by volume quantity. In fact, pumped ground water can be sensibly discussed as volume per a specified time period, and value can only be determined under methods that account for time as a variable (e.g., by fixing a particular duration for evaluation). The Department believes that the guidance in § 11.71(i)(4)(i) on quantifying services is appropriate; the authorized official must decide how to quantify the services lost or reduced.

One comment suggested that § 11.71(i)(2)(ii) is misleading in implying that it is simple to differentiate a "plume from background," and states that in fact it can be prohibitively difficult. The Department disagrees that § 11.71(i)(2)(ii) implies it is *simple* to differentiate a plume from background. In order to assess damages, the authorized official must determine the extent and nature of the services provided by the injured resource; assessment also requires determining where and how much the resource is injured. This task may be difficult, but the rule both urges participation by potentially responsible parties and cautions the authorized official that the cost of research activities cannot be part of the damage claim.

One comment suggested that the "values" contained in Part I of "Monetary Values of Fresh-Water Fish and Fish Counting Guidelines" referenced in § 11.71(1)(5)(iii)(A), were out of date and incomplete.

The Department did not intend to endorse the use of Part I of this document in the proposed rule. To clarify this point, the words "for estimating numbers of fish killed" have been added after "guidelines" in § 11.71(1)(5)(iii)(A).

A number of comments recognized that although improvements could be made in the Habitat Evaluation Procedures (HEP) as a method for evaluating changes in habitat quality, there are no better substitutes available for certain purposes, and that at present it represents the "best available procedure" for those purposes. These comments represent fairly the Department's reasoning in including it among the allowed methodologies, as explained in more detail below.

Many comments raised concerns regarding use of HEP, as suggested in § 11.71(1)(8). These concerns included questions about the replicability of results derived from HEP, the need for modification of models derived originally for other purposes, and the degree of inappropriate discretion that might be exercised by persons carrying out a HEP analysis. In addition, one comment cited a study that it suggested "proved" that HEP produced invalid results. Still other comments were concerned that HEP either did not reflect all services potentially reduced or lost due to a release or a discharge, that other methods might be more appropriate in a given situation, or that it might result in double counting when used in combination with other methods.

The Department believes most of the above concerns can be explained by providing further discussion of the HEP process and its anticipated role in damage assessment. The Department previously stated, both in the preamble and in the supplementary information document, that the HEP material produced for CERCLA damage assessments is intended as a supplement to the basic materials and training provided by the Fish and Wildlife Service for HEP; they do not and cannot stand alone. Certification of persons to carry out HEP involves a week-long training course, and the basic training and reference documents for HEP encompass several hundred pages. Although the Department can summarize some of this material, the basic training course and other materials can provide a far better understanding of the process. (One comment questioned whether sufficient numbers of people had been trained in HEP. The Department had included in the technical information document data indicating that about 1,400 people have been trained nationwide, of which 70 percent represent private and government organizations other than the U.S. Fish and Wildlife Service. Courses are given frequently throughout the country.)

HEP is normally carried out by a team consisting of qualified persons who have taken at least the basic training course and who have training and experience with ecological measurement in general. The team generally will include at least three persons, and normal practice, as described in the HEP materials, is to include on that team qualified representatives of the principal parties involved in the action leading to the evaluation. For example, in planning mitigation for a highway project, the HEP team often incudes biologists from the highway department, the State wildlife management agency, and the U.S. Fish and Wildlife Service. In some cases, where a project affects private interests (e.g., a permit required from the U.S. Army Corps of Engineers for dredging or filling for a private project) or where a conservation group may have standing and a strong interest in a project (e.g., one affecting a park or recreation area), qualified biologists representing such groups have also been included on the HEP team. The Department would expect a similar arrangement to be followed when performing natural resource damage assessments: a team might include qualified representatives from a Federal and/or a State agency, from one or more potentially responsible parties, and possibly one representing other interests, if appropriate, and as determined by the authorized official.

HEP teams composed in this way provide a means for different viewpoints to be heard and represented, yet each representative must be qualified both by background and by training in the HEP process. Decisions made as the HEP is carried out are generally by consensus within the team, thus providing for an internal conflict-resolution mechanism. Records are maintained of decisions and the reasons for these decisions, should any question arise later. As in any other part of a damage assessment, no matter who is actually carrying out the assessment, the agency acting as trustee

is ultimately responsible for the results and for ensuring that procedures are carried out properly.

A normal component at the beginning of any HEP is the choice of species for analysis, and modification of models as needed to fit the local situation. Such a process is hardly different from any other ecological analysis method where species must be selected, and generally standard census or population estimating techniques other than HEP also usually need modifications for local situations. For example, a "standard" (not HEP) "mark-and-recapture" technique for estimating populations of animals can require considerable modification for different species as to methods for capture, frequency of capture attempts, and duration of study needed to obtain valid results. These will all vary according to local conditions for most population estimating techniques, and HEP will require that the "standard" Habitat Suitability Index (HSI) models be modified to some degree in most cases. Also, as detailed in the basic manuals and training for HEP, many species models exist besides the HSI models developed by the U.S. Fish and Wildlife Service and others, and frequently these models can and should be used for HEP, with some modification. Further modification for use in damage assessments requires skills additional to those usually necessary for HEP analysis, and this and other problems that need to be met are carefully laid out in the technical information document.

HEP measures habitat quality of a study site or area by use of an index to the carrying capacity of that area for each of one of more evaluation species. These evaluation species are selected by the HEP study team according to criteria that include importance of those species both to man and to the ecosystem, and the degree to which those species can represent other important species in that ecosystem or habitat. Basic to this selection is the ecological concept of "guilds," where groups of ecologically similar species, such as seed-eating birds, hole-nesting insectivorous birds, or terrestrial grazing mammals, might be evaluated based on a typical or "representative" member of that guild. The criteria for selection of evaluation species are also embodied in the selection criteria of § 11.71(1)(2), which also adds other criteria specific to a damage assessment. Although some comments were critical of potentially poor choice of evaluation species, this problem is not unique to HEP; it would apply to any technique for ecological evaluation, and merely points up the need for careful work by qualified professionals, as in all other parts of the assessment process.

HEP is one of a number of methods that may be used in quantifying changes in biological resources. Other methods include population estimation, index methods, and many others identified in § 11.71(1). An authorized official acting as trustee is given discretion in the rule to select from these methods when deciding how to proceed in a damage assessment; HEP may or may not be considered appropriate to a particular situation. One factor that may weigh heavily in that decision is the type of economic analysis that will be done. If restoration costs will be the primary method for measuring damages, then HEP might be especially useful, if other circumstances would allow its use. Use values as the primary measure of damages might be better determined through other methods, such as population measures or direct measures of lost services. HEP is a method for quantifying biological resources only; measures of other services of an area, such as provision of water for purposes other than habitat (e.g., recreation, drinking) would have to be done by other means. A careful reading of the rule will show that HEP was not proposed to measure anything beyond habitat values. Although care must be taken to avoid double counting, all services measured appropriately can be used in the quantification process.

Questions of replicability also are not necessarily unique to HEP. Ecological systems are extremely complex and by their nature are in a constant state of change, including a wide variety of interactions among different species and between species and the physical and chemical environment. Considerable improvement has been made in recent years in our understanding of these systems and of methods for measuring interactions but the inherent dynamic and probablistic nature of ecological interactions will never eliminate uncertainty from our measurements, only allow improvements in our understanding of the degree of that uncertainty. (The physical sciences also have such limits; quantum physics, which deals with the most basic particles of matter, can only give probabilities, not "certainties.")

One comment cited a study by Bart, Petit, and Linscombe that was intended to test the validity of two muskrat (*Ondatra zibethicus*) HSI models, and suggested that it proved that HEP was an invalid method.

The Department has reviewed that study. This study compared calculated HSI values with densities estimated by other methods. However, HSI values are an index of habitat quality as *potential* carrying capacity, not of density, and that difference is clearly spelled out in all materials pertaining to HEP. Many factors beyond carrying capacity can affect the actual density present on a given site. If it is important to an authorized official to measure densities or actual animal numbers (e.g., as a step in measuring services dependent on such numbers), the rule provides for such measurements by other means; HEP is not nor has it been represented as an appropriate measure of actual numbers or densities, although it may be an appropriate method in some cases where restoration of wildlife habitat is to be a primary component in the measure of damages.

That same comment also suggested alternative language for measurement of habitat quality, to replace § 11.71(1)(8), and would have omitted direct reference to HEP. However, that language did not provide more guidance as to what methods would be suitable compared to the present language, would not preclude use of HEP as apparently intended, and does not provide any alternative methods, so it was not adopted by the Department.

To provide for some additional latitude in choice of habitat quality measurement techniques, and to make this paragraph more parallel to the preceding two paragraphs, the Department is changing the word "should" to "may," but is retaining the reference to HEP. It should be noted that the rule refers to "techniques such as [HEP]," thus allowing use of similar methodologies, which are available and can be adapted in ways similar to the adaptations suggested for HEP. One such review of other methods for habitat evaluation is by T.H. Roberts and L.J. O'Neill ("Habitat Evaluation Methods—Examples and Guidelines for Selection," pp. 226–269, in Bell, J.F. and T. Atterbury, eds., 1983, Renewable Resource Inventories for Monitoring Changes and Trends. Proceedings of a Conference in Corvallis, Oregon, August, OSU College of Forestry, Corvallis.). The Department notes that paragraphs (1) through (4) of § 11.71(1) provide more extensive guidance on general criteria for selection of bioligical quantification methods, including those for habitat measurement. Paragraphs (5) through (8) of § 11.71(1) are essentially supplementary to that guidance for certain specific types of methods.

A number of additional comments directly addressed the technical information document for HEP or

involved details of the implementation of HEP. The Department is addressing these in the revision of the technical information document. The Department notes that the technical information document on HEP provides general information and is not intended to have the force of regulation.

Section 11.72 Quantification phase—baseline services determination.

A number of comments were supportive of the Department's concept of baseline as a way to distinguish between effects resulting from actions of the responsible party and effects resulting from other causes; these comments encouraged retention of this basic concept. The Department acknowledges these comments and is retaining the baseline concept in the final rule.

Several concerns were raised in comments discussing the question of determining and using the "baseline." Some comments suggested that the concept might be unworkable for the mining industry, primarily because of naturally existing contaminants or because of long-term and widespread effects of mining that might in some instances have begun more than a hundred years ago.

The Department believes many of these concerns stem from apparent misunderstandings of the proposed rule. Baseline is not intended to represent necessarily pristine conditions, nor is it intended to represent conditions in the absence of "any" discharge or release. Rather, the rule specifically requires that baseline represent conditions that would have existed in the absence of the specific discharge or release under investigation. Thus, effects of other discharges or releases, as well as any other natural or human-caused effects, are to be accounted for in determining the baseline against which the effects of the discharge or release under investigation are measured. The intent is to restrict liability to those effects resulting from the responsible party's actions, as in any other liability situation. Thus, in a mining district where there may be a "background" level of a particular hazadous substance in all water collected, if it is clear that the release under investigation is not responsible for that background level, that background level would likely be an appropriate baseline level. Further, experience of the Department with restoration of mining sites does not confirm the suggestion that adequate baselines cannot be established for mining sites. Federal and State permits for mining frequently contain provisions requiring restoration to pre-mining conditions, and a process very similar to the determination of baseline here is commonly carried out to do so.

Several comments suggested that using baseline as defined was too stringent, or that it would require excessive work to determine, possibly requiring several years of work. Among the suggestions was the use of "standards" as a baseline, even if baseline as defined in the rule might have involved lower concentrations of a contaminant than a standard. Arguments for such use included claims that a standard used for baseline would allow restoration of all services, and that going beyond standards to establish baseline often was technically not feasible.

The Department disagrees. Standards are used in determining the threshold of whether or not an injury occurred for many natural resources, but that is a different phase of a damage assessment, although some commenters apparently were confused to some degree about the difference. In the Injury Determination phase, a threshold test is made to determine whether or not an injury occurred; no determination is made at that stage of how extensive the injury is. No previously existing standards are available for many resources, especially for biological resources, so reliance on standards for determining baseline would leave a great many injuries uncompensated. Also, the suggestion that restoration to a standard would compensate all lost services is unsupported by evidence. The Quantification phase is where the extent of service change is determined, which is basic to determining the level of compensation to be required. In common law, the principle is to make the injured party "whole" again. Measurement merely to a standard would, in some cases, not make the party whole again, and in other cases would over-compensate for the actual loss. Where a resource previously had no concentration of an oil or hazardous substance, or a concentration considerably lower than an established standard, restoration only to "standard" would leave uncompensated the service provided by that resource of being able to absorb low levels of that material without exceeding standards or without other effects. That capability is extremely important, because otherwise liability could fall to any party that later released even a small quantity of a substance, which would then raise concentrations above the injury threshold again. Thus, the Department does not accept the suggestions to change the definition of baseline.

On the other hand, the Department recognizes that technical feasibility and considerations of reasonable cost may dictate use of a baseline that does not fully represent the baseline as defined. A new paragraph, § 11.72(b)(5), has been added to give the authorized official more flexibility in this regard, subject to certain restrictions to ensure that the necessity for this modification has been established, and that the baseline used is conservative and does not lead to assessments greater than what would have been found if the change were not made. As in all other phases of the assessment process, this is a decision ultimately of the authorized official.

A small number of comments suggested that the provision in § 11.72(c) for adjusting historical baseline data "[i]f a significant length of time has elapsed since the discharge or release first occurred, ..." be eliminated as a condition for such an adjustment. The primary argument for such a change was that any changes due to causes other than the discharge or release under investigation should be accounted for in the baseline determination.

The Department agrees with and has repeatedly emphasized the point that liability should be limited to changes resulting from the discharge or release under investigation. Generally, the guidelines and methodologies provided for the Quantification phase focus on the extent of the injury caused by that discharge or release. Adjustment of the baseline to achieve this purpose is already provided for in the general requirements for quantification and in the general guidelines for establishing baseline, especially § 11.72(b)(1). The intent of the sentence in § 11.72(c) was to allow adjustment of *historical* data for changes that occurred over time, such as land use changes and biological succession, that may be especially important when analyzing historical data. It does not eliminate the requirement to measure the extent of injury due to the discharge or release, which may involve other questions such as alternative sources of contaminants. The words "signficant lenght of time" should also be understood as being relative to the resource and normal rates of change in that resource. For some resources, a few months or years may be significant. No change was considered necessary or has been made in the proposed language.

Some comments expressed concern over the difficulty of finding historical data that could meet necessary standards for an assessment. One problem cited was the recent development of highly sensitive detection methods for contaminants that were unavailable previously.

The Department agrees that historical data may not be readily available in all cases, but leaves the option for cases where it may be available. Also, in this context, "historical" is used in a broad sense, and may represent recently collected data, even up to the point immediately preceding a discharge or release. The lack of sensitive detection methods historically is not as critical as characterized by some comments; useful data may include population data, specimens collected at some point in the past, or other types of data that do not rely on availability of those methods.

One comment stated that the requirement of one full cycle in the Quantification phase, baseline services determination, should be flexible since one full cycle can extend over many years. It was recommended that specific cycle requirements be established for each general type of resource. The Department notes that this restriction applies to control areas *if needed* and is modified by the general guidance given § 11.72(b) (2), (4) and the new (5).

One comment stated that § 11.72 does not contain adequate or appropriate guidance for the selection of a control area. The comment argued that a control area should be selected that closely approximates the background contaminant level conditions at the CERCLA site in question. The Department believes the guidance provided in the preamble and in § 11.72 is adequate to enable the authorized official to select appropriate control areas. The comment has misread the guidance given in § 11.72(d)(1); the guidance there specifies lack of exposure "to *the* discharge or release of" (emphasis added). What is indicated is that the discharge or release that led to the assessment should not affect the control area.

One comment stated that, while the use of control areas to establish baselines may be adequate to a degree for air and geologic resources, the comparability of control areas to assessment areas for surface and ground water, and particulary, biological resources will be extremely difficult to demonstrate beyond reasonable doubt. According to this comment, the variabilities in the components of these resources even within the same systems are subject to the constant variations and interactions of numerous ecosystem elements, and experts invariably will be divided on the adequacy of baseline characterizations determined via control areas over pre-discharge data from the same systems.

The Department disagrees that comparability of control areas to assessment areas will be extremely difficult to determine; but agrees that establishing comparability will take effort. Although experts may disagree, the Department believes that the authorized official must make his determination and proceed with the assessment, so that a claim is made in a reasonable time period.

One comment stated that it agreed with the proposed rule that the restoration or replacement should be to pre-release, or without-a-discharge or release, condition where the natural resources are not already depressed or diminished below those levels found in equivalent control areas. However, the comment stated that the definition of the "baseline" condition (§ 11.14(e)) and the injury quantification as a departure from baseline presented in the proposed rule could present problems in the case of repeated discharges or releases. The comment stated that the proposed rule should be amended to account for those instances of repeated discharge or release so that, after a second release, the assessment does not yield the determination that no injury occurred because of a depression of the "baseline" condition due to a previous discharge or release.

The Department agrees that repeated discharges or releases may affect the baseline determination; however, the Department believes that consideration of repeated releases will depend upon application of the liability provisions of CERCLA to the facts of the situation under investigation. All releases that meet the statutory elements may be considered. The authorized official would determine the baseline or "without-a-release" condition on the discharges or releases that come within the statute.

One comment suggested that the rule needlessly requires thorough characterization of a control area. The comment suggested that the rigorous examination of control areas should be an unusual measure—required only when unusual baseline conditions, i.e., not free of contamination, are expected to prevail. The Department agrees that establishment of baseline should not employ control areas unless necessary. Section 11.72(b) requires that all actions are to be reasonable and appropriate.

One comment stated that the guidance in section 11.72(g)(3)(i) for surface water conrol areas, which is keyed to finding areas "not . . . exposed to . . . release of a hazardous substance," is too broad. The comment stated that a control area should be comparable to the study area except for the specific releases at issue; it should therefore contain whatever other hazardous substances were not part of that release. The language defining control areas for ground water resources, § 11.72(h)(3)) should serve as the model for modifying this section. The Department believes that this comment misquotes the guidance given in § 11.72(g)(3(i) that "The water and sediments . . . have not [been] exposed to *the discharge or release*" (emphasis added). The Department notes that the rule refers to the oil or hazardous substances whose discharge or release led to the assessment.

One comment noted that § 11.72(h)(4) indicates that ground water wells should be sufficient to estimate the concentration of substances in the unsaturated zone. The comment points out that, by definition, ground water wells sample *only* the saturated zone. Field devices to collect water from the unsaturated zone are notoriously difficult to install and use. Characterization of the unsaturated zone should be limited in the rule to information collected by analyzing soil collected from soil borings or during well installation. The Department notes that the guidance in § 11.72(h)(4) pertains to *estimating* vertical and lateral variations in concentrations; further guidance on sampling earth materials is given in § 11.72(h)(4)(ii).

One comment suggested that under § 11.72(g)(4)(iii)(A), "the range of concentration" should be changed to "the approximate range of concentration." The Department agrees and has made this change.

One comment stated that the methods set forth in SW 846 are not reliable or useful unless or until they are validated. Further, the comment requested that the Department grant a ruling of equivalency to the comment alternative for the analysis of Appendix VIII compounds in ground water. The alternative involves the use of Clean Water Act Section 304(h) Gas Chromatography/Mass Spectroscopy ("GC/MS") methods with more extensive library searching and the use of conventional methods for detection of metals, cyanides, and sulfides. The comment recommends that the Department consider the inconsistencies of the SW 846 methods before including them in this rule. The Department agrees that the GC/MS methods are reliable and may be useful; however, it should be noted that information references here have been moved to Section II of this preamble and are not incorporated by reference in this final rule.

Section 11.73 Quantification phase—resource recoverability analysis.

Several comments were critical of allowing authorized officials to use

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recovery times shorter than the total time necessary for restoration of services.

One comment stated that the rule, in §§ 11.14(gg), 11.73(a), and 11.84(g), allows the authorized official to select a recovery period shorter than the natural recovery period, and that the use of a shorter recovery period necessarily results in a damage award that does not fully compensate the trustee for the injured resources. The comment recommended that the authorized official should not be allowed to use a shorter period unless the costs of using the full recovery period are grossly disproportionate to the benefit gained.

The Department believes that the reasonable cost and cost-effectiveness criteria in CERCLA require that the authorized official have an option to use a shorter period. This allows the authorized official to avoid the expense of quantifying effects so far out into the future that the economic value would be negligible.

One comment requested further guidance on distinguishing "complete" recovery from "functional" recovery, to avoid use of excessively long recovery times by the authorized official. The Department previously included in this section the concept of recovery to the point where services are restored to baseline levels. No further guidance on this point is considered necessary.

One comment suggested that "natural recovery" might predominate when cost-effectiveness is considered, and asked what recourse the government or public had in cases of inaccurate recovery time estimates.

The Department points out that the statute requires consideration of natural recovery periods. In order to determine the most cost-effective restoration alternative, the authorized official acting as trustee must also consider effects on services, lost use values, and other economic considerations of the Damage Determination phase. In considering these factors, it is possible that natural recovery may be the cost-effective alternative. The authorized official is an official of the Federal or State agency acting as trustee, and all phases of the damage assessment, including the recovery time estimates, are the responsibility of that official, even if the assessment is carried out by a potentially responsible party. Only the authorized official actually makes determinations, no matter who may be doing the work.

One comment recommended adding "depuration" rates to the processes to be considered in § 11.73(c)(2)(iv)(C). The Department agrees with that suggestion, and has added the term.

Section 11.80 Damage Determination phase—general.

One comment suggested that the rule correctly defined an equivalent or replacement resource as one that produces the same service, but that the same equivalence should not be extended without qualification to resources producing "similar, or related" services. The comment suggested that, to be equivalent, it is necessary that the substitute resource provide equivalent kinds and amounts of "social utility," not merely support "similar" or "related" services.

The Department agrees that, theoretically, a qualifier such as "social utility" could be added to this definition. However, as well demonstrated in the economics literature, the operational rules for implementing such a qualifier are fraught with theoretical (e.g., Arrow's "Impossibility" Theorem), empirical (e.g., estimating "direct" or "indirect" utility functions, if individual utility functions are to be arguments in any "social utility or welfare function"), and practical difficulties (e.g., if there is such a thing as a "social utility or welfare function," are individual utility functions given equal or some other scheme of weights?). These are but a few of the many problems entailed in following this suggestion. These problems are complex and are not yet resolved to the universal satisfaction of the economics profession. To attempt to resolve them in this rule would be an impossible task. Because of these problems, this comment has not been incorporated into the final rule.

Section 11.81 Damage Determination phase—restoration methodology.

Some comments were concerned about the possibility of "double counting" because § 11.81(b) allows for damages based on restoration or replacement costs to include "any diminution of use values, as described in § 11.84, of this part, occurring during the recovery period as determined in § 11.73 of this part." The Department notes that this provision is intended solely to compensate for forgone uses during the recovery period that would not be compensated for otherwise and thus does not represent double counting. Section 11.84(g) explicitly prohibits double counting. Therefore, the language in § 11.81 has not been modified in this final rule.

One comment disagreed with the Department's distinction, in § 11.81(c)(2), between resource services "with-a-discharge-or-release" and those "previously provided." The comment believes that the text should refer to the services that would have been expected in the absence of the injury, not to those that existed prior to the injury.

The Department notes that the text in § 11.72, which is referenced in § 11.81(c)(2), describes in detail the quantification procedures that provide the measurement of change in services for the Damage Determination phase. The rule provides guidance as to baseline measurement of conditions that would have been expected at the assessment area had the discharge of oil or release of hazardous substances not occurred. Therefore, the Department believes this comment has misinterpreted the intent of the rule.

Several comments suggested that the distinction made between "private" and "public" uses in § 11.83 was correct and should also be explicitly stated in the restoration methodology section. The Department agrees and has made this change in § 11.81(a).

Section 11.82 Damage Determination phase—Restoration Methodology Plan.

Several comments disagreed with a statement in the preamble to the proposed rule that stated:

> For restoration or replacement, the authorized official should select services for which restoration or replacement is necessary. For a diminution of use value, the authorized official should select services for which clear relationships to human use exist and for which dollar values can be assigned. (December 20, 1985, 50 FR 52133)

These comments suggested that the rule should require the restoration or replacement of all services existing prior to injury, not just those services deemed necessary. Similarly, these comments suggested that all services the injured resource formerly provided to humans, as well as other resources, and those resources for which dollar values cannot be assigned should be considered in determining the diminution of use value. One comment asserted that diminution of use affects other resources that are directly or indirectly dependent upon the injured resource. For example, an oil spill might damage a rookery, killing seals or preventing them from breeding. Although a clear human use and dollar value would be difficult to establish in such a case, the loss to the ecosystem should still be considered when calculating the diminution of use.

The Department agrees that the preamble language requiring only restoration or replacement of "necessary" services may have been misleading. The revised preamble, therefore, reads: "For restoration or replacement, the authorized official has the discretion to select services

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provided by the resource, prior to injury, to both humans and other resources." In reference to the comments concerning services without clear human use, the Department believes that only when a service has a human recipient can it be classified as a use per se. The Department notes that services disrupted due to injury to an ecosystem may include those affecting human use because of the indirect nature of the human use, e.g., injury to lower biota that works its way up the food chain can potentially be measured by the "factor income" method listed in § 11.83(d)(2) of this final rule.

Several comments objected to the restriction on land acquisition as a means of restoration, except in those cases where "acquisition constitutes the only viable method of obtaining the lost services."

The Department notes that the restriction on expansion of the Federal estate in the proposed rule has been maintained in this final rule. This restriction limits the Federal authorized official in the acquisition of land unless such acquisition is the only feasible restoration or replacement alternative. Even in this case, funds to acquire the land must be placed in the general fund of the Federal Treasury and requested by the Federal agency through the normal appropriations process. This restriction was placed in the proposed rule after extensive consultation with other Federal agencies. The purpose of this limitation is to limit the acquisition of private lands for Federal management under CERCLA, by eliminating the possibility of expanding the Federal estate without Congressional approval.

Some comments expressed the concern that the 30-day comment period would not give sufficient time for concerned parties to respond to the Restoration Methodology Plan. These comments suggested, instead, that the comment period be 90 days. The Department notes that § 11.82(e)(2)(i) has been modified to state that the comment period will be for at least 30 calendar days, with reasonable extensions granted, as appropriate. The Department believes that the new language will allow authorized officials to tailor the review period to the complexity and level of interest in the Restoration Methodology Plan.

Section 11.83 Damage Determination phase—use value methodologies.

Several comments supported the inclusion of option and existence values in the proposed rule. Many objected, however, to the limitation on the use of contingent valuation to measure these values in situations where no other valuation technique will be feasible (§ 11.83(d)(5)). These comments suggested that this limitation may unduly hamper a trustee's ability to accurately and cost-effectively measure option and existence values. Many other comments stated that option and existence values, i.e., non-use values, should be given weight and consideration equal to that given to use values.

On the other hand, many comments expressed concerns about the option and existence values discussed in this section. Several comments contended that the current contingent valuation techniques for measuring option and existence values are not appropriate for inclusion in natural resource damage assessments. One comment stated that contingent valuation techniques to measure option and existence values would be inaccurate and costly as well as subjective and biased, therefore, not appropriate for a litigative setting. In addition, some comments stated that option and existence values would lead to speculative damages and, therefore, should be deleted altogether from the rule.

The Department notes that § 11.83(b) has been changed to explicitly state that option and existence values may be estimated in lieu of use values only when use values cannot be determined. Ordinarily, option and existence values would be added to use values. However, section 301(c) of CERCLA mentions only use values. Therefore, the primary emphasis in this section is on the estimation of use values. The discussion of option and existence values remains in this final rule to take into account those extraordinary circumstances when the authorized official cannot determine a use value for the resource. Only in this very limited circumstance may the authorized official estimate option and existence values.

Another related reason for this limitation is that more is known about the determination of use values than option and existence values. Option and existence values are less well-defined and more uncertainty surrounds their measurement. Because of these reasons, their current use, if the authorized official acting as trustee wishes to obtain a rebuttable presumption, is limited.

In order to further reflect the intent of the proposed rule, the discussion of contingent valuation, § 11.83(d)(5), has been revised. This section now makes clear that contingent valuation is just as valid a method to estimate use values as the other methods listed. However, the use of contingent valuation to explicitly measure option and existence values is limited, in this final rule, to the situation discussed above.

One comment stated that the three use values listed in § 11.83(b) fail to account for: consumer surplus to consumers of the products from the resource; producer surplus in industries reliant on resource use, such as sport fishing; damages to individuals put out of work who rely on the use of the resource; and impacts beyond producer surplus and income that occur in industries that are impacted by expenditures associated with resource use.

The Department notes that consumer surplus is specifically included in use values, and that producer surplus is included in economic rent, both concepts are listed in § 11.83(b)(1). The last two types of damages listed in the comment are not losses compensable to the authorized official acting as trustee under CERCLA and therefore are outside the scope of this rule.

One comment stated that "fees and other payments," included in § 11.83(b)(1), may not represent the full and appropriate measure of natural resource value. Another comment stated that the words "because the government does not charge a fee or price" should be deleted from § 11.83(b)(1), because the presence of a fee does not necessarily eliminate economic rent, it merely reduces it. The Department agrees with these statements, but points out that these fees are what the government has determined to represent the value of the natural resource and represent an offer by a willing seller.

One comment noted that § 11.83(b)(3) incorrectly implies that the economic effects of damages incurred by government enterprise are different from those described in the previous paragraph for values to the public of recreational or other public uses of a resource. The Department points out that the clause in § 11.83(b)(3) is only meant to minimize the costs of collecting damages that might result from having to bring two law suits for the Government to recover all damages.

Some comments stated that it is unclear why lost taxes, which are payment to the public for use of a common resource, are not recoverable, but lost income from a commercial venture is recoverable. As stated in Section II of this preamble, lost taxes are not recoverable by a Federal or State agency acting on behalf of the trustee because taxes are transfer payments from an individual to the government; they are not recovery for real resource uses.

Many comments asserted that the preference established in the proposed rule for market-based valuation methods is consistent with the common law principle of providing recovery for diminution in market value due to an injury. This regulatory preference among acceptable valuation methods, according to one comment, reduces the likelihood that compensation for speculative damages will be pursued. Conversely, many other comments asserted that compensation based solely on market or appraisal methods may not reflect the full value of the resources. Several of these comments suggested that instead of the proposed rule's strong presumption in favor of market price and appraisal methodologies, the trustee should have the option to use any assessment techniques listed in § 11.83 under any circumstances. Finally, other comments suggested that the rule should require the use of nonmarketed resource methodologies, so long as double counting does not occur.

The Department notes that § 11.83 prescribes an intentional hierarchy among various valuation methods, with one group of methodologies for resources, or resources similar to those injured, that are traded in markets and the other methodologies for resources that are not traded in markets. This hierarchy of methodologies allows the authorized official to assess damages using the "best available procedures." The authorized official must apply the "market price" methodology so long as a "reasonably competitive" market exists for the resource because diminution of the market price is widely recognized by courts and economics as a reasonable measure of damages when a commodity is injured. If the injured resource is not itself traded in a market but similar resources are, and sufficient information is available, the appraisal method must be used. Only when neither of these market-based methods is appropriate should the authorized official use the nonmarketed methodologies listed in § 11.83(d). This hierarchy is based on both the accuracy and ease with which the methodologies are typically employed and reflects a cost-effective approach to reaching a reasonable damage amount. The authorized official is given a choice among the damage determination methodologies. However, to obtain the rebuttable presumption, the choice must be made in accordance with the hierarchy in this rule. If the hierarchy were reversed or eliminated, the Department believes that the tendency would be towards more costly and less consistent damage determinations.

One comment stated that additional guidance is needed as to the meaning and use of "similar or like resources" traded in a market. The Department points out that similar or like resources can only be determined in the context of the resource in question. Consequently, the authorized official is given the flexibility to make this decision on a case-by-case basis.

Several comments requested more explicit guidance on determining when a market is "reasonably competitive." Other comments asserted that methods utilizing market price should not be limited to the use of markets that are "reasonably competitive." These comments suggested that the only necessary requirement is that the market price and market quantity represent a point on the demand curve. Some comments claimed that the use of market price to estimate damages to a public resource is inappropriate and would result in under- or over-estimating the damages depending on certain market conditions.

The Department notes that, in order to use the marketed resource methodologies (§ 11.83.(c)(1)), the authorized official must first determine that the market in which the resource is traded is reasonably competitive. While not defined in this rule, reasonably competitive means that the assumptions underlying a competitive market are fulfilled to a reasonable degree. Because different markets may vary as to what criteria must be met for the market to be reasonably competitive, this determination must be made on a case-by-case basis, therefore further guidance is not provided in this final rule. The Department believes that the reasonably competitive requirement is necessary to ensure that a market price reflects the value of the resource. The Department believes that when markets are reasonably competitive, the market price is a reasonable approximation of the marginal value of the resource.

One comment stated that the authorized official should not be restricted to using nonmarketed methodologies, where available, but should have the choice of either substituting nonmarketed methodologies or using a combination of marketed and unmarketed methodologies. This comment felt that marketed methodologies may not reflect the full societal value of the resource. Other comments were concerned that nonmarketed methodologies, while well-founded in economic theory, are inexact and are surrounded by inherent uncertainty with limited experience in practical applications.

The Department points out that this rule is not an attempt to totally internalize the costs associated with the use of oils and hazardous substances by assessing the total value to society of the resource. The final rule explicitly does not estimate all losses to private commercial enterprises or any "multiplier" effects. These losses and effects do not accrue to authorized officials acting as trustees and therefore are not considered compensatory to Federal and State agencies under CERCLA. Moreover, private commercial users of the resource have private causes of action.

The Department believes that, besides being well-founded in economic theory, these nonmarketed methodologies have been tested and reviewed in many professional journals and under a wide variety of other circumstances. When used correctly, e.g., along the lines of the Water Resources Council guidelines and the guidance in "Type B Technical Information Document: Techniques to Measure Damages to Natural Resources," which is being prepared to accompany this rule, these methodologies work well and are valid and appropriate measures for determining damages.

One comment requested that an additional handbook, including checklists, be added to the final rule to provide additional guidance on the acceptance criteria for the "selection of economic assessment techniques." The Department believes, however, that the guidance provided is not only adequate, but that further specificity is inappropriate at this time. The authorized official acting as trustee must, within the guidance provided, be allowed to select the economic methodologies on a case-by-case basis.

One comment stated that because marketed resource and appraisal methodologies are best suited to evaluating the entirety of a resource, further guidance was needed to use these methodologies in assessing damages when only a portion of a resource is injured. The comment also requested recognition that the relationship between the portion of the resource affected and the change in value of the resource is not necessarily linear.

The Department does not contend, and did not mean to imply in the proposed rule or in the final rule, that the relationship specified above is linear. In addition, the Department believes that the guidance in "Uniform Appraisal Standards for Federal Land

Acquisition," referenced in this final rule, is adequate for determining a partial loss of a resource.

The same comment asserted that appraisals should not be based on the income method. The Department agrees and maintains that appraisals performed under this final rule should be based only on the comparable sales methodology.

Some comments asserted that nonmarketed resource valuation methodologies contain severe deficiencies and that these methodologies will not result in the reliable, accurate assessments that warrant a rebuttable presumption. In particular, according to some comments, these techniques have no basis in CERCLA, present insurmountable methodological challenges, and are essentially "research techniques." Another comment questioned the validity of the nonmarketed resource methodologies because of a lack of CERCLA court decisions where these methods have been accepted.

Although the Department recognizes the difficulty in determining the value of nonmarketed resources, the methodologies presented in the rule provide a flexible and theoretically sound approach to developing the most accurate assessment possible. The Department realizes that determining damages for some nonmarketed resources may be difficult in some cases, but if injury is determined and quantification is obtained, then some economically sound method should be available for determining damages. The Department notes that section 301(c) of CERCLA recognizes this need by specifically requiring that this rule consider "replacement value, *use value,* and the ability of the ecosystem to recover" (emphasis added). As difficult as the damage assessment process may be, the methodologies outlined in the rule provide a reasonable approach which uses the "best available procedures" to determine damages, as required by CERCLA. By incorporating the guidance in § 11.84(d), the authorized official can perform an accurate and equitable damage assessment where no market price or appraisal value is available.

In reference to the comment that questioned the nonmarketed methodologies because of the lack of support in the courts, the Department notes that very few court decisions have been reached involving natural resource damage assessments under CERCLA. The fact that there may not be decisions affirming a particular methodology is not reason enough to reject the "best available procedures." The Department maintains that nonmarketed resource methodologies listed in § 11.83(d) (or others that meet the acceptance criterion) are valid, proven techniques when properly structured and professionally applied.

While acknowledging that the treatment of uncertainty requires reasonable alternative assumptions to be examined, some comments requested that when dealing with uncertainty, the authorized official acting as trustee should avoid choosing a "worst-case" alternative rather than the reasonably probable alternative. The Department notes, however, that it cannot be assumed a priori that a "worst case" alternative is not among the range of reasonable alternatives. Therefore, when a worst case alternative is a reasonable alternative, it should be documented and included in the analysis along with an appropriate estimate of its probability, as required by the rule.

Several comments asserted that the "willingness-to-pay" measure is inadequate for use as an acceptance criterion for nonmarketed natural resource methodologies. A willingness-to-pay test, according to these comments, tends to undervalue the resource and therefore the "willingness-to-accept" measure should generally be used as the basis for valuation. The majority of comments, however, asserted that the willingness-to-accept method should not be used as a way of measuring use value. According to several of these comments, research has suggested that the willingness-to-accept measure distorts the value of a resource and may exceed by three or four times an assessment using the willingness-to-pay criterion. The comments pointed out that less is known about methods to implement the willingness-to-accept criterion than the willingness-to-pay criterion. These comments also pointed out the increased uncertainty that accompanies methodologies that estimate willingness to accept.

The Department maintains that willingness to pay and willingness to accept are both theoretically valid criteria for estimating damages to nonmarketed natural resources. In addition, the Department continues to maintain that willingness to accept may be the criterion most germane to natural resource damages, since the public has the property right to the injured natural resource. However, the Department also agrees with many of the comments that recognize that the application of the willingness-to-accept criterion can lead to more technical difficulties and uncertainties than the willingness-to-pay criterion. In recognition of these difficulties and of the fact that the authorized official will obtain a rebuttable presumption, the Department, therefore, is modifying the acceptance criteria in § 11.83(d)(7) to include only the willingness-to-pay criterion.

Several comments approved of the general listing of use value methodologies, one stating that the legislative history emphasizes the need for flexible rules that offer trustees a choice of acceptable assessment techniques. Other comments, however, suggested that the list of measurement techniques for nonmarketed resources in § 11.83(d) should be expanded to include methodologies not listed in the rule. Some comments asserted that any list was too restrictive and that the trustee should be free to choose any methodology believed to be appropriate.

The Department believes that no list of nonmarketed resource methodologies would be comprehensive. The rule expands the types of methods that can be used to calculate use values by including nonmarketed methodologies. These methodologies correctly measure the loss of use. The acceptance criterion in § 11.83 is designed to ensure that methodologies consistent with economic theory, yet not specifically listed in the rule, are available for use in estimating damages. The Department has carefully selected the methodologies in the rule because: this rule increases the scope of tools available to authorized officials, and Federal authorized officials will obtain a rebuttable presumption by using this rule.

One comment asserted that for damage determination the analysis "must recognize that the level of injury may vary over time, specify the time period during which injury occurs, and compute damage in relation to both factors as well as the supply and demand for the uses affected." The Department agrees and notes that these factors are already incorporated in §§ 11.64, 11.71, and 11.84.

One comment suggested that guidance should be given as to how choices should be made between cost-effectiveness and theoretical soundness in the use of nonmarketed resource methodologies. The Department recognizes that the trade-off between extra costs and increased precision or accuracy in estimation is a concern in all aspects of a damage assessment. Guidance to help authorized officials make this decision is given in the definitions of "cost-effectiveness" and "reasonable cost" (§ 11.14(j), (ee)).

One comment stated that guidance provided by the Water Resources Council (the Principles and Guidelines

cited in § 11.83(a)(3)) is not necessarily appropriate for the measurement of damages from releases of hazardous substances. The comment asserted there is no indication that these materials have been or are currently being specifically reviewed for applicability, and that the text should therefore be changed from "shall be followed" to "may be followed."

The Department disagrees and has not incorporated this suggestion into the final rule. The Department recognizes that not all guidance in the Principles and Guidelines will be applicable to all discharges and releases; however, the procedures were reviewed prior to their incorporation. Authorized officials acting as trustees are given explicit discretion in § 11.83(a)(3) to determine the guidance applicable to the specific circumstances of the discharge or release. The "Principles and Guidelines" referenced in the rule lay down generally accepted "good practices" that the Department believes are the best publicly available at this time. The rule, and the technical information document, referenced above, also provides general guidance to help authorized officials acting as trustees tailor the use of nonmarketed methodologies to the particular circumstances of the discharge or release.

One comment noted that various Federal and State agencies are developing agency-specific manuals or guides for use in resource damage estimation. This comment stated that the need exists to validate these manuals and to promote comparable techniques. The Department agrees that such a need exists. However, at this time, none of the agency-specific materials mentioned by this comment have been validated, nor have they received the inter-agency ratification of the Principles and Guidelines or the Uniform Appraisal Standards. Consequently, these documents have not been referenced in this final rule.

One comment noted that the Department should require the trustee to make known any assumptions regarding economic methodologies. The Department agrees that all assumptions and data for *all* elements of the damage assessment should be made known. The Post-assessment phase of the rule now clarifies, in § 11.90(c), that this documentation will be part of the Record of Assessment.

Section 11.84 Damage Determination phase—implementation guidance.

Several comments suggested that the Department clarify the language in § 11.84(b)(3)(i) so that its applicability is restricted to "committed uses" as defined in the rule. Other comments stated that no guidance is given as to how to base damages on actual and quantifiable economic losses, rather than speculative losses. The Department believes that clarification of § 11.84(b)(3)(i) is unnecessary. Section 11.84(b)(2) applies to all of § 11.84 and explicitly states that only committed uses can be used to determine damages, thereby precluding consideration of speculative uses. In addition, the definition of committed use explicitly states the conditions required for any use to be considered a committed use. The Department believes that further guidance on this issue is not required.

Several comments were received on the non-mutually exclusive services language in § 11.84(b)(3) (i) and (ii). Many individuals found this language confusing. The intent of this section was to incorporate potential congestion or crowding out effects, if any. This language has been changed to explicitly state this intention.

Several comments raised concerns about quantifying uncertainties, such as uncertain or incorrect information regarding the resource, in the Damage Determination phase of the assessment. One comment noted that the proposed rule attempts to deal with the problem of uncertainty by requiring that net expected present value be calculated for various damage estimates, this comment suggested that the rule should provide guidance as to how the trustee or potentially responsible party can develop realistic estimates of the probabilities of that calculation.

The Department notes that the rule provides a broad framework for incorporating uncertainty into the damage determination methodologies. Section 11.84(d) requires that when there are significant uncertainties concerning the implementation of a damage methodology, uncertainty should be examined explicitly in the assessment analysis and the assumptions used in the methodology should be documented.

Section 11.84(d) has been revised to make explicit that quantitative uncertainties in all aspects of the damage assessment can be reflected in the Damage Determination phase. This was the original intent of the proposed rule; however, the comments received on this section made it clear that this purpose was not explained well in the proposed rule. Because the sole purpose of a damage assessment is to derive a dollar value for compensation for injury to a natural resource, the Damage Determination phase is the proper place to explicitly incorporate uncertainties in the analysis. The requirement to select the net expected present value of damages will incorporate the uncertainty while allowing the authorized official the ability to present to the potentially responsible party a specific damage claim. In this regard it should be remembered that Congress defined a claim in section 101(4) of CERCLA as "a demand in writing for a sum certain." The requirements in § 11.84(d) of this rule allow the authorized officials to use alternative assumptions in all phases of the damage assessment and still derive a single sum to present to the potentially responsible party. The Department is aware that the guidance for incorporating uncertainty (using net expected present value) is not specific; however, more specific guidance cannot be set forth, given the variety of assumptions used in the different Assessment Plan methodologies.

Several comments were received on the discount rate procedure specified in the proposed rule. The discount rate in the proposed rule, § 11.84(e), is given in OMB Circular A-94 as a real rate of 10 percent. Some comments stated that the 10 percent real rate was too high. Others thought that the rate was appropriate for discounting damages. One comment suggested that 10 percent is a reasonable discount rate for determining damages under the proposed rule, but that if pre-judgment interest is charged, within the context of the rule, this rate would be too high. The 10 percent rate was selected after extensive inter-agency consultation and has been retained in this final rule.

It should be noted that the Department has not specified whether prejudgment interest should be included in any court award, and consequently has not specified a rate of interest for determining this amount. The award of pre-judgment interest is a determination to be made in the courts, not in this rule.

Another comment interpreted the rule to say that natural resource damages are not recoverable unless they can be strictly and thoroughly quantified and qualified. This comment pointed out that damage determination is not an exact science, therefore the rule is not precise. The Department believes that this rule provides the "best available procedures" to determine injury, quantify the effects of that injury, and determine damages based upon that injury as required under CERCLA. As such, the final rule does provide for the quantification of injury and the assignment of a monetary value of compensation for the injury. The Department recognizes that damage determination is not an exact science; no science is exact. However, CERCLA

provides for recovery of a "sum certain." The rule attempts to derive this "sum certain" by incorporating the uncertainty and by determining the expected net present value of the damages (i.e., a quantification of the measurement of inexactness), as discussed above.

Several comments disagreed with the language of proposed § 11.84(f), which requires that estimates of the ability of the public to substitute uses for those of the injured services should be incorporated in calculating the diminution of use values. These comments suggested that the substitution provision would result in an inadequate assessment of damages.

The Department believes that the substitutability provision in § 11.84(f) should not be changed, because it improves the accuracy of the assessment of damages for nonmarketed resources. The market price of a resource already takes into consideration the ease with which another resource may be substituted for the damaged resource. For nonmarketed resource methodologies, the substitutability provision captures this variable, and thus the assessment better reflects the value of the resource. The effect of the provision may be to "lower" or "raise" the estimated value depending on the relative availability of substitute services. Moreover, an estimate of substitutability need not be included in all nonmarketed resource methodologies; the rule states: "This substitutability shall be estimated, only if the potential benefits from an increase in accuracy are greater than the potential costs."

One comment stated that, in determining a compensatory level of damages, the rule must account for the net diminishment in the flow of services from the type of natural resource that has been injured.

The Department agrees with this comment, but believes no additional language change is required. The language in § 11.84(f), on substitutability, encompasses this concept.

Several comments felt that § 11.84(i) (1) and (2) preclude the authorized official acting as trustee from assessing damages on a local level and should be deleted. Other comments felt that § 11.84(i) should be revised to expressly include direct, indirect, and induced regional economic impacts.

The Department does not feel § 11.84(i) (1) and (2) should be deleted since the scope of the assessment depends upon the trusteeship involved. Also, these sections explicitly do not include indirect or induced impacts, i.e., multiplier effects. As stated above, such impacts are private losses and, as such, are outside the scope of this rule.

F. Revisions to Subpart F—Post-Assessment Phase

Section 11.90 Post-assessment phase—Report of Assessment.

One comment suggested that §§ 11.90(b) and 11.91(c) be modified so that the references to the "administrative record" are consistent. In the proposed rule, § 11.91(c) indicated that the administrative record may consist of more than the Report of Assessment, whereas § 11.90(b) stated that the Report of Assessment constitutes the administrative record.

Section 11.90 has been revised to delete paragraph (b) of the proposed rule. The Report of Assessment shall contain all the elements listed in § 11.90(a), however, the full administrative record of assessment could contain other documents relating to the performance and circumstances of the assessment.

Comments suggested that all other agencies acting as trustees and the public be provided an opportunity to review and comment upon the damage determination and the Report of Assessment before the lead authorized official presents the demand to the responsible party.

The Department believes that the rule already requires close coordination and review among all agencies acting as trustees at every step of the assessment. Public review and comments, however, would not be appropriate, immediately before the demand is presented. Public availability of the demand and the Report of Assessment after it is presented would certainly be appropriate. The Restoration Plan for the use of monies awarded is subject to public review and comment.

One comment held that the rule should explicitly provide that natural resource damage assessments will not be reviewed under an "arbitrary and capricious" standard of judicial review. The Department believes that it is beyond the scope of this rule to establish the judicial standards for review.

Section 11.91 Post-assessment phase—Demand.

One comment recommended that the word "reasonable," in § 11.91(a), either be omitted from the discussion of reimbursement for the cost of conducting assessments or be accompanied by regulatory guidelines for interpreting the term. The Department notes that "reasonableness" is a statutory requirement, found in section 107(a)(4)(C) of CERCLA. The final rule, however, does provide additional guidance on what would be considered reasonable costs.

Section 11.92 Post-assessment phase—Restoration account.

Several comments opposed the requirement that damages awarded as the result of an assessment be used solely for restoration or replacement purposes, and challenged the Department's authority to impose such a requirement. One comment expressed the concern that since damages may often be recovered on the basis of the diminution of use value, the requirement that damages awarded be used solely for restoration or replacement might be sufficient only for partial restoration or replacement.

The Department believes that the language of CERCLA requires that all sums recovered as damages either through court awards or negotiated settlements be used for restoration or replacement of the resource. If restoration or replacement of the specific resource injured is not feasible, the funds may be used to restore or replace similar or like resources. If damages were determined on the basis of lost use value, those sums should still be used for restoration or replacement efforts. The Department notes that a trustee agency is always free to restore beyond an amount representing lost use values if desired by supplementing the damage award. The Department has added language to clarify that claims against the Hazardous Substance Response Trust Fund must be for those expenses specified in EPA's Natural Resource Claims Procedures, 40 CFR 306.

One comment suggested that the rule include a method for dividing the damage award when natural resources under the jurisdiction of two or more trustees are injured. Because the circumstances where co-trustees are involved could be so varied and numerous, the Department believes that it would be inappropriate for the rule to govern how the damage award should be apportioned between trustees.

One comment recommended that § 11.92(b) be deleted entirely. The comment felt that the requirement that funds for land acquisition be deposited into the U.S. Treasury rather than into a trust authorized to acquire land violates section 107(f) of CERCLA.

The Department does not agree that § 11.92(b) of the rule violates section 107(f) of CERCLA. It merely requires Federal authorized officials to use existing Federal appropriations

procedures when attempting to acquire additional land for Federal management.

One comment maintained that the establishment of a restoration account and a Restoration Plan infringes on the authority of State trustees to recover damages from potentially responsible parties. Another comment objected to the requirement that all damage awards except those for land acquisition be held in a separate account, pending restoration planning. The comment suggested that damages be made directly available to the trustee for restoration rather than being held in a trust fund subject to the administration of EPA. The Department notes that damages are to be made directly available to the authorized official for restoration. The rule does not require that monies be placed in a trust fund subject to EPA administration.

One comment suggested that the trustee be alloted a specific period of time during which the trustee must implement and complete the Restoration Plan, or else return the funds not used for restoration. The comment felt that such a provision would assure that funds are used for restoration, as CERCLA intended.

The Department believes that the requirements of § 11.92(e) are sufficient to assure that damage awards are used solely for activities described in the Restoration Plan. Time periods for completion of Restoration Plan actions could vary to an extent that any set time would not be appropriate.

Another comment urged that a fund be established to lend Federal and State trustees monies necessary to perform the assessment with repayment of the loan required upon receipt of the damage award.

The Department notes that the establishment of such a fund is beyond the scope of this rule.

Section 11.92(d), *Adjustments*, has been rewritten. The proposed rule anticipated that a potentially responsible party would set up an interest bearing account from which the authorized official acting as trustee would draw to effectuate the restoration or replacement. Because the account accrued interest, there was no need to explicitly adjust for inflationary effects. The majority of these effects would be eliminated by the accrued interest over the period of time required to complete the restoration or replacement. After extensive interagency consultation, it was determined that all monies awarded to the Federal Government should go into non-interest bearing accounts in the Federal Treasury. This procedure requires an adjustment to the rule to take into consideration anticipated inflationary effects. The adjustment in this final rule requires that the damage amount going into non-interest bearing accounts be adjusted by the rate payable on Federal notes and bonds with a maturity that approximates the length of time required to complete the restoration. This procedure is not meant to provide a windfall for authorized officials, but simply meant to adjust for effects of inflation when the restoration or replacment is expected to occur over a long period of time.

G. Revisions to Appendix I to Part 11

Numerous comments noted the typographical errors that appeared in the Appendix to the proposed rule. Rather than detailing the corrections, the Department is reprinting a corrected version of the Appendix.

The Department also notes that the authorized official may use the methods in Appendix I only "*for estimating*, as required in § 11.25 of this part, the areas of exposure of ground water or surface water . . ." (emphasis added). Any other use of the methods or factors listed in Appendix I is inappropriate for natural resource damage assessments (see § 11.25(c)).

Several comments suggest that in Table 1 of Appendix 1 the flow units are too high and would result in predicting a much larger area of contamination than would really exist. The comments suggest that an average value, rather than a worst case value, would be more appropriate. The Department does not agree that the flow units of this factor are too high; the values are mean values derived from data presented in "Groundwater" by Freeze & Cherry (1979), tables 2.2 and 2.4. Because the factors are mean values (i.e., averages) the Department agrees that the factors given may over- or under-estimate the area of contamination.

IV. Special Resources

A. The Concept of Special Resources

In the December 20, 1985 Notice of Proposed Rulemaking (50 FR 52126) the Department proposed that an exception to the general common law rule that damages are the lesser of: restoration or replacement costs; or the diminution of use values. This exception covered a narrow class of resources called "special resources." This exception was set forth in § 11.35(d) of the proposed rule. The authorized official acting as trustee could elect to use restoration or replacement costs as the measure of damages when a special resource was injured, so long as the restoration or replacement costs were not "grossly disproportionate to the benefits gained."

Special resources were defined in the proposed rule, § 11.14(pp), as:

> . . . those resources that have been set aside and committed to a specific use by law before the discharge of oil or release of a hazardous substance was detected. The term includes resources that were set aside primarily to preserve wildlife habitat or other unique and sensitive environments. It does not include resources that have been set aside but are committed to multiple-use management, nor does it include resources listed on administratively determined lists for special protection, or resources protected by regulatory statutes.

The intent of this concept was to create a very narrow exception to the general common law definition of damages to address situations where Congress or State legislatures have determined that certain natural resources are worthy of protection even if their use values are relatively low. The Department reasoned that if agencies were held to the strict rule of the lesser of: restoration or replacement costs; or a diminution of use values, some of these resources could be left unrestored or unreplaced to the level of their original protection, thereby being contrary to Congressional or a State legislature's intent.

B. Comments Received

Many comments on the proposed rule expressed strong objections to the definition of special resources as proposed, others objected to the existence of the exception altogether.

Several comments stated that the proposed definition of "special resources" was too narrow, and would unduly restrict the trustee's authority to choose which resources would warrant damages for full restoration or replacement costs. These comments suggested that the definition be broadened to include marine and estuarine sanctuaries, multiple-use lands, areas of critical environmental concern, and other resources designated by trustees.

A number of comments argued that species that are listed as threatened or endangered pursuant to the Endangered Species Act, as well as their critical habitats, should be treated as special resources. The comments asserted that the exclusion of these species from the special resources category would be both unwise and, because of the provisions of section 7 of the Endangered Species Act, unlawful.

Other comments maintained that the provisions relating to special resources were too vague, and would give trustees too much discretion in determining what

a special resource is and what would be reasonable costs for the restoration or replacement of a special resource.

Still other comments argued that there is no provision in CERCLA or its legislative history that allows such a departure from the normal common-law standard of damage calculation. In addition, the comments argued that allowing State law to determine what are special resources would result in inconsistent application of CERCLA on a State-by-State basis.

C. Response to Comments

Because of the diversity of the comments received, the Department has determined that it would be best to take a closer look at the concept of special resources before making it a part of this final rule. Therefore, the Department has decided at this time that the special resources exception should be deleted from this final rule. The Department takes this action after reviewing the public comments received on this issue and deciding that there is a need to reexamine the special resources concept generally as well as the appropriate scope of the exception. Further, there is no real "on the ground" experience in the use of these rules. The Department is uncertain as to how this exception would function with the more general rules for assessing damages, whether the exception would result in inappropriate cost shifting, or whether the exception would actually result in the further protection of these resources. The Department has concluded that the concept deserves further consideration.

To assist in the Department's reconsideration of the special resources exception, the Department is requesting additional public comment concerning the exception in conducting type B natural resource damage assessments. The comments should address three major issues. First, should there be an exception to the general common law definition of damages for special resources? Second, if there is an exception for special resources what natural resources should be included in the definition of special resources? Third, what is the rational basis for including some natural resources and excluding others from the classification of special resources?

The Department, if necessary, will implement any changes as a result of the review and consideration of public comments received on this issue by amending this final rule.

Comments on this issue will be accepted for a period of 60 days after the date of publication of this rule. Comments should be sent to Keith Eastin, CERCLA 301 Project Director, Department of the Interior, 1801 "C" Street NW, Room 4354, Washington, DC 20240.

Authorship

The primary authors of this rulemaking are Keith Eastin, Deputy Under Secretary, Alison Ling, Office of the Solicitor, David Rosenberger and Peter Escherich, U.S. Fish and Wildlife Service, Stan Coloff, Bureau of Land Management, Willie Taylor, Office of Policy Analysis, and Craig Sprinkle, U.S. Geological Survey, all with the Department of the Interior, Sheryl Katz, formerly with the Office of the Solicitor, and Richard Aiken, formerly with the Bureau of Land Management, Department of the Interior. Significant contributions to this rulemaking were made by Linda Burlington, Office of the Solicitor, and Karla Jamir, Office of the Assistant Secretary for Policy, Budget, and Administration, both with the Department of the Interior.

NEPA, E.O. 12291, and Paperwork Reduction Act Requirements

The Department has determined that this rule is eligible for a categorical exclusion under the National Environmental Policy Act (NEPA). Departmental NEPA procedures (516DM2, Appendix 1.10) provide for a categorical exclusion for regulations of an administrative, financial, legal, technical, or procedural nature; or for regulations for which the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis, or when those effects will be subject later to the NEPA process, whether collectively or case by case.

The promulgation of this rule does not constitute a significant Federal action affecting the environment in and of itself. The rule only applies to natural resources potentially injured by discharges or releases of oil or hazardous substances. Except in emergencies, before any restoration action could be taken relevant to the natural resources that are the subjects of this rule, a damage assessment must be conducted, a claim must be filed, an award must be made, and a Restoration Plan or comparable planning document with public input must be approved.

Requirements that encompass the kinds of information the authorized official acting as trustee must provide in the course of the restoration planning activity are described in this rule in § 11.82. This information has been designed to fulfill the same information requirements as NEPA, with equivalent opportunities for public input. Thus if an EA or EIS were determined to be necessary for any particular restoration or other activity planned in satisfaction of a particular claim, appropriate and timely information would be available.

No comments addressing this matter were received during the public comment period on the proposed rule.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule provides technical and procedural guidance for the assessment of damages to natural resources. Therefore, the rule does not directly impose any additional cost. In addition, estimates of per unit assessment costs times the potential numbers of assessments total well below $100 million annually. The rule applies to Federal and State agencies acting as trustees for natural resources and is thus not expected to have an effect on a substantial number of small entities.

It has been determined that this rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 11

Continental shelf, Environmental protection, Fish, Forests and forest products, Grazing land, Incorporation by reference, Indian lands, Hazardous substances, Mineral resources, National forest, National parks, Natural resources, Oil pollution, Public lands, Wildlife, Wildlife refuges.

Under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for the reasons set out in the preamble, Title 43, Subtitle A of the Code of Federal Regulations is amended by adding a new Part II as set forth below.

Dated: June 23, 1986.

Keith E. Eastin,

Deputy Under Secretary.

PART 11—NATURAL RESOURCE DAMAGE ASSESSMENTS

Subpart A—Introduction

Sec.

11.10 Scope and applicability.
11.11 Purpose.
11.12 Biennial review of regulations.
11.13 Overview.
11.14 Definitions.
11.15 Actions against the responsible party for damages.

Sec.
11.16 Claims against the Hazardous Substance Response Trust Fund.
11.17 Compliance with applicable laws and standards.
11.18 Incorporation by reference.

Subpart B—Preassessment Phase

11.20 Notification and detection.
11.21 Emergency restorations.
11.22 Sampling of potentially injured natural resources.
11.23 Preassessment screen—general.
11.24 Preassessment screen—information on the site.
11.25 Preassessment screen—preliminary identification of resources potentially at risk.

Subpart C—Assessment Plan Phase

11.30 Assessment Plan—general.
11.31 Assessment Plan—content.
11.32 Assessment Plan—development.
11.33 Assessment Plan—deciding between a type A or type B assessment. [Reserved]
11.34 Assessment Plan—confirmation of exposure.
11.35 Assessment Plan—Economic Methodology Determination.

Subpart D—Type A Assessments—[Reserved]

Subpart E—Type B Assessments

11.60 Type B assessments—general.
11.61 Injury Determination phase—general.
11.62 Injury Determination phase—injury definition.
11.63 Injury Determination phase—pathway determination.
11.64 Injury Determination phase—testing and sampling methods.
11.70 Quantification phase—general.
11.71 Quantification phase—service reduction quantification.
11.72 Quantification phase—baseline services determination.
11.73 Quantification phase—resource recoverability analysis.
11.80 Damage Determination phase—general.
11.81 Damage Determination phase—restoration methodology.
11.82 Damage Determination phase—Restoration Methodology Plan.
11.83 Damage Determination phase—use value methodologies.
11.84 Damage Determination phase—implementation guidance.

Subpart F—Post-Assessment Phase

11.90 Post-assessment phase—Report of Assessment.
11.91 Post-assessment phase—demand.
11.92 Post-assessment phase—restoration account.
11.93 Post-assessment phase—Restoration Plan.

Appendix I to Part 11—Methods for Estimating the Areas of Ground Water and Surface Water Exposure During the Preassessment Screen

Authority: 42 U.S.C. 9651(c).

Subpart A—Introduction

§ 11.10 Scope and applicability.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601–9657, and the Clean Water Act (CWA), 33 U.S.C. 1251–1376, provide that Federal and State agencies who are authorized to act as trustees of natural resources may assess damages to natural resources resulting from a discharge of oil or a release of a hazardous substance covered under CERCLA or the CWA and may seek to recover those damages. This part supplements the procedures established under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR 300, for the identification, investigation, study, and response to a discharge of oil or release of a hazardous substance, and it provides a procedure by which a Federal or State agency acting as trustee can determine compensation for injuries to natural resources that have not been nor are expected to be addressed by response actions conducted pursuant to the NCP. The assessment procedures set forth in this part are not mandatory. However, they must be used by Federal officials acting as trustees in order to obtain the rebuttable presumption contained in section 111(h) of CERCLA. This part applies to assessments initiated after September 2, 1986.

§ 11.11 Purpose.

The purpose of this part is to provide standardized and cost-effective procedures for assessing natural resource damages. The results of an assessment performed by a Federal official according to these procedures shall be accorded the evidentiary status of a rebuttable presumption as provided in section 111(h) of CERCLA.

§ 11.12 Biennial review of regulations.

The regulations and procedures included within this part shall be reviewed and revised as appropriate 2 years from the effective date of these rules and every second anniversary thereafter.

§ 11.13 Overview.

(a) *Purpose.* The process established by this part uses a planned and phased approach to the assessment of natural resource damages. This approach is designed to ensure that all procedures used in an assessment, performed pursuant to this part, are appropriate, necessary, and sufficient to assess damages for injuries to natural resources.

(b) *Preassessment phase.* Subpart B of this part, the preassessment phase, provides for notification, coordination, and emergency activities, if necessary, and includes the preassessment screen. The preassessment screen is meant to be a rapid review of readily available information that allows the authorized official to make an early decision on whether a natural resource damage assessment can and should be performed.

(c) *Assessment Plan phase.* If the authorized official decides to perform an assessment, an Assessment Plan, as described in Subpart C of this part, is prepared. The Assessment Plan ensures that the assessment is performed in a planned and systematic manner and that the methodologies chosen demonstrate reasonable cost.

(d) *Type A assessments.* The simplified assessments provided for in section 301(c)(2)(A) of CERCLA are performed using the standard procedures specified in Subpart D of this part.

(e) *Type B assessments.* Subpart E of this part covers the assessments provided for in section 301(c)(2)(B) of CERCLA. The process for implementing type B assessments has been divided into the following three phases.

(1) *Injury Determination phase.* The purpose of this phase is to establish that one or more natural resources have been injured as a result of the discharge of oil or release of a hazardous substance. The sections of Subpart E comprising the Injury Determination phase include definitions of injury, guidance on determining pathways, and testing and sampling methods. These methods are to be used to determine both the pathways through which resources have been exposed to oil or a hazardous substance and the nature of the injury.

(2) *Quantification phase.* The purpose of this phase is to establish the extent of the injury to the resource in terms of the loss of services that the injured resource would have provided had the discharge or release not occurred. The sections of Subpart E comprising the Quantification phase include methods for establishing baseline conditions, estimating recovery periods, and measuring the degree of service reduction stemming from an injury to a natural resource.

(3) *Damage Determination phase.* The purpose of this phase is to establish the appropriate compensation expressed as a dollar amount for the injuries established in the Injury Determination phase and measured in the Quantification phase. The sections of Subpart E comprising the Damage Determination phase include guidance

on acceptable economic methodologies for estimating compensation based on: the costs of restoration or replacement; or a diminution of use value.

(f) *Post-assessment phase.* Subpart F of this part includes requirements to be met after the assessment is complete. The Report of Assessment contains the results of the assessment, and documents that the assessment has been carried out according to this rule. Other post-assessment requirements delineate the manner in which the demand for a sum certain shall be presented to a responsible party and the steps to be taken when sums are awarded as damages.

§ 11.14 Definitions.

Terms not defined in this section have the meaning given by CERCLA or the CWA. As used in this part, the phrase:

(a) "Acquisition of the equivalent" or "replacement" means the substitution for an injured resource with a resource that provides the same or substantially similar services, when such substitutions are in addition to any substitutions made or anticipated as part of response actions and when such substitutions exceed the level of response actions determined appropriate to the site pursuant to the NCP, 40 CFR 300.65 and 300.68.

(b) "Air" or "air resources" means those naturally occurring constituents of the atmosphere, including those gases essential for human, plant, and animal life.

(c) "Assessment area" means the area or areas within which natural resources have been affected directly or indirectly by the discharge of oil or release of a hazardous substance and that serves as the geographic basis for the injury assessment.

(d) "Authorized official" means the Federal or State official to whom is delegated the authority to act on behalf of the Federal or State agency acting as trustee to perform a natural resource damage assessment. As used in this part, authorized official is equivalent to the phrase "authorized official or lead authorized official," as appropriate.

(e) "Baseline" means the condition or conditions that would have existed at the assessment area had the discharge of oil or release of the hazardous substance under investigation not occurred.

(f) "Biological resources" means those natural resources referred to in section 101(16) of CERCLA as fish and wildlife and other biota. Fish and wildlife include marine and freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened, endangered, and State sensitive species. Other biota encompass shellfish, terrestrial and aquatic plants, and other living organisms not otherwise listed in this definition.

(g) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*

(h) "Committed use" means either: a current public use; or a planned public use of a natural resource for which there is a documented legal, administrative, budgetary, or financial commitment established before the discharge of oil or release of a hazardous substance is detected.

(i) "Control area" or "control resource" means an area or resource unaffected by the discharge of oil or release of the hazardous substance under investigation. A control area or resource is selected for its comparability to the assessment area or resource and may be used for establishing the baseline condition and for comparison to injured resources.

(j) "Cost-effective" or "cost-effectiveness" means that when two or more activities provide the same or a similar level of benefits, the least costly activity providing that level of benefits will be selected.

(k) "CWA" means the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, also referred to as the Federal Water Pollution Control Act.

(l) "Damages" means the amount of money sought by the Federal or State agency acting as trustee as compensation for injury, destruction, or loss of natural resources as set forth in section 107(a) or 111(b) of CERCLA.

(m) "Destruction" means the total and irreversible loss of a natural resource.

(n) "Discharge" means a discharge of oil as defined in section 311(a)(2) of the CWA, as amended, and includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil.

(o) "Drinking water supply" means any raw or finished water source that is or may be used by a public water system, as defined in the SDWA, or as drinking water by one or more individuals.

(p) "EPA" means the United States Environmental Protection Agency.

(q) "Exposed to" or "exposure of" means that all or part of a natural resource is, or has been, in physical contact with oil or a hazardous substance, or with media containing oil or a hazardous substance.

(r) "Fund" means the Hazardous Substance Response Trust Fund established under section 221 of CERCLA.

(s) "Geologic resources" means those elements of the Earth's crust such as soils, sediments, rocks, and minerals, including petroleum and natural gas, that are not included in the definitions of ground and surface water resources.

(t) "Ground water resources" means water in a saturated zone or stratum beneath the surface of land or water and the rocks or sediments through which ground water moves. It includes ground water resources that meet the definition of drinking water supplies.

(u) "Hazardous substance" means a hazardous substance as defined in section 101(14) of CERCLA.

(v) "Injury" means a measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil or release of a hazardous substance, or exposure to a product of reactions resulting from the discharge of oil or release of a hazardous substance. As used in this part, injury encompasses the phrases "injury," "destruction," and "loss." Injury definitions applicable to specific resources are provided in § 11.62 of this part.

(w) "Lead authorized official" means a Federal or State official authorized to act on behalf of all affected Federal or State agencies acting as trustees where there are multiple agencies affected because of coexisting or contiguous natural resources or concurrent jurisdiction.

(x) "Loss" means a measurable adverse reduction of a chemical or physical quality or viability of a natural resource.

(y) "Natural Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Contingency Plan and revisions promulgated by EPA, pursuant to section 105 of CERCLA and codified in 40 CFR Part 300.

(z) "Natural resources" or "resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government. These natural resources have been categorized into the following five groups: surface water resources, ground water resources, air resources, geologic resources, and biological resources.

(aa) "Natural resource damage assessment" or "assessment" means the process of collecting, compiling, and analyzing information, statistics, or data through prescribed methodologies to determine damages for injuries to natural resources as set forth in this part.

(bb) "Oil" means oil as defined in section 311(a)(1) of the CWA, as amended, of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(cc) "On-Scene Coordinator" or "OSC" means the On-Scene Coordinator as defined in the NCP, 40 CFR 300.6.

(dd) "Pathway" means the route or medium through which oil or a hazardous substance is or was transported from the source of the discharge or release to the injured resource.

(ee) "Reasonable cost" means the amount that may be recovered for the cost of performing a damage assessment. Costs are reasonable when: the Injury Determination, Quantification, and Damage Determination phases have a well-defined relationship to one another and are coordinated; the anticipated increment of extra benefits in terms of the precision or accuracy of estimates obtained by using a more costly injury, quantification, or damage determination methodology are greater than the anticipated increment of extra costs of that methodology; and the anticipated cost of the assessment is expected to be less than the anticipated damage amount determined in the Injury, Quantification, and Damage Determination phases.

(ff) "Rebuttable presumption" means the procedural device provided by section 111(h) of CERCLA describing the evidentiary weight that a court, or EPA in a claim against the Fund, is required to give a damage assessment performed by a Federal agency acting as trustee in accordance with the regulations provided in this part.

(gg) "Recovery period" means either the longest length of time required to return the services of the injured resource to their baseline condition, or a lesser period of time selected by the authorized official and documented in the Assessment Plan.

(hh) "Release" means a release of a hazardous substance as defined in section 101(22) of CERCLA.

(ii) "Replacement" or "acquisition of the equivalent" means the substitution for an injured resource with a resource that provides the same or substantially similar services, when such substitutions are in addition to any substitutions made or anticipated as part of response actions and when such substitutions exceed the level of response actions determined appropriate to the site pursuant to the NCP, 40 CFR 300.65 and 300.68.

(jj) "Response" means remove, removal, remedy, or remedial actions as those phrases are defined in sections 101(23) and 101(24) of CERCLA.

(kk) "Responsible party or parties" and "potentially responsible party or parties" means a person or persons described in or potentially described in one or more of the categories set forth in section 107(a) of CERCLA.

(ll) "Restoration" or "rehabilitation" means actions undertaken to return an injured resource to its baseline condition, as measured in terms of the injured resource's physical, chemical, or biological properties or the services it previously provided, when such actions are in addition to response actions completed or anticipated, and when such actions exceed the level of response actions determined appropriate to the site pursuant to the NCP, 40 CFR 300.65 and 300.68.

(mm) "SDWA" means the Safe Drinking Water Act, 42 U.S.C. 300f–300j–10.

(nn) "Services" means the physical and biological functions performed by the resource including the human uses of those functions. These services are the result of the physical, chemical, or biological quality of the resource.

(oo) "Site" means an area or location, for purposes of response actions under the NCP, at which oil or hazardous substances have been stored, treated, discharged, released, disposed, placed, or otherwise came to be located.

(pp) "Surface water resources" means the waters of the United States, including the sediments suspended in water or lying on the bank, bed, or shoreline and sediments in or transported through coastal and marine areas. This term does not include ground water or water or sediments in ponds, lakes, or reserviors designed for waste treatment under the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901–6987 or the CWA, and applicable regulations.

(qq) "Technical feasibility" or "technically feasible" means that the technology and management skills necessary to implement an Assessment Plan or Restoration Methodology Plan are well known and that each element of the plan has a reasonable chance of successful completion in an acceptable period of time.

(rr) "Trustee" means any Federal natural resources management agency designated in the NCP, 40 CFR Subpart G, and any State agency that may prosecute claims for damages under section 107(f) or 111(b) of CERCLA.

(ss) "Type A assessment" means standard procedures for simplified assessments requiring minimal field observation to determine damages as specified in section 301(c)(2)(A) of CERCLA.

(tt) "Type B assessment" means alternative methodologies for conducting assessments in individual cases to determine the type and extent of short- and long-term injury and damages, as specified in section 301(c)(2)(B) of CERCLA.

§ 11.15 Actions against the responsible party for damages.

(a) In an action filed pursuant to section 107(f) of CERCLA or section 311(f) (4) and (5) of the CWA, a Federal or State agency acting as a trustee who has performed an assessment in accordance with this rule may recover:

(1) Damages as determined in accordance with:

(i) Subpart D; or

(ii) As determined in accordance with §§ 11.80 through 11.84 of this part and calculated based on injuries occurring from the onset of the discharge or release through the recovery period, less any mitigation of those injuries by response actions taken or anticipated, plus any increase in injuries that are reasonably unavoidable as a result of response actions taken or anticipated;

(2) The costs of emergency restoration efforts under § 11.21 of this part; and

(3) The reasonable and necessary costs of the assessment, to include:

(i) The cost of performing the preassessment and Assessment Plan phases and the methodologies provided in Subpart D or E of this part; and

(ii) Administrative costs and expenses necessary for, and incidental to, the assessment, assessment and restoration planning, and any restoration or replacement undertaken.

(b) The determination of the damage amount shall consider any applicable limitations provided for in section 107(c) of CERCLA.

(c) Where an assessment determines that there is, in fact, no injury, as defined in § 11.62 of this part, the Federal or State agency acting as trustee may not recover assessment costs.

§ 11.16 Claims against the Hazardous Substance Response Trust Fund.

Claims against the Fund shall be filed in accordance with the Natural Resource Claims Procedures, 40 CFR Part 306.

§ 11.17 Compliance with applicable laws and standards.

(a) *Worker health and safety.* All worker health and safety considerations specified in the NCP, 40 CFR 300.38, shall be observed, except that requirements applying to response actions shall be taken to apply to the assessment process.

(b) *Resource protection.* Before taking any actions under this part, particularly before taking samples or making determinations of restoration or replacement, compliance is required with any applicable statutory consultation or review requirements, such as the Endangered Species Act; the Migratory Bird Treaty Act; the Marine Protection, Research, and Sanctuaries Act; and the Marine Mammal Protection Act, that may govern the taking of samples or in other ways restrict alternative management actions.

§ 11.18 Incorporation by reference.

(a) The following publications or portions of publications are incorporated by reference:

(1) Part II only (Fish-Kill Counting Guidelines) of "Monetary Values of Freshwater Fish and Fish-Kill Guidelines," American Fisheries Society Special Publication Number 13, 1982; available for purchase from the American Fisheries Society, 5410 Grosvenor Lane, Bethesda, MD 20814, ph: (301) 897–8616. Reference is made to this publication in §§ 11.62(f)(4)(i)(B) and 11.71(l)(5)(iii)(A) of this part.

(2) Appendix 1 (Travel Cost Method), Appendix 2 (Contingent Valuation (Survey) Methods), and Appendix 3 (Unit Day Value Method) only of Section VIII of "National Economic Development (NED) Benefit Evaluation Procedures" (Procedures), which is Chapter II of *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies,* U.S. Department of the Interior, Water Resources Council, Washington, DC, 1984, DOI/WRC/–84/01; available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB No. 84–199–405; ph: (703) 487–4650. Reference is made to this publication in § 11.83(a)(3) of this part.

(3) "Uniform Appraisal Standards for Federal Land Acquisition" (Uniform Appraisal Standards), Interagency Land Acquisition Conference, Washington, DC, 1973; available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Stock Number 052–059–00002–0; ph: (202) 783–3238. Reference is made to this publication in § 11.83(c)(2)(i) of this part.

(b) The publications or portions of publications listed in paragraph (a) of this section are available for inspection at the Office of the Federal Register, 1100 L Street, NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

Subpart B—Preassessment Phase

§ 11.20 Notification and detection.

(a) *NCP responses.* The NCP at 40 CFR 300.52(d) and 300.64(d) provides for the OSC or lead agency to notify the Federal or State agency acting as trustee when natural resources have been or are likely to be injured by a discharge of oil or a release of a hazardous substance being investigated under the NCP.

(b) *Previously unreported discharges or releases.* If a Federal or State agency acting as trustee identifies or is informed of apparent injuries to natural resources that appear to be a result of a previously unidentified or unreported discharge of oil or release of a hazardous substance, he should first make reasonable efforts to determine whether a discharge or release has taken place. In the case of a discharge or release not yet reported or being investigated under the NCP, the Federal or State agency acting as trustee shall report that discharge or release to the appropriate authority as designated in the NCP, 40 CFR 300.51(b) and 300.63(b).

(c) *Identification of co-trustees.* The Federal or State agency acting as trustee should assist the OSC or lead agency, as needed, in identifying other Federal or State agencies whose resources may be affected as a result of shared responsibility for the resources and who should be notified.

§ 11.21 Emergency restorations.

(a) *Reporting requirements and definition.* (1) In the event of a natural resource emergency, the Federal or State agency acting as trustee shall contact the National Response Center (800/424–8802) to report the actual or threatened discharge or release and to request that an immediate response action be taken.

(2) An emergency is any situation related to a discharge or release requiring immediate action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources, or a situation in which there is a similar need for emergency action.

(b) *Emergency actions.* If no immediate response actions are taken at the site of the discharge or release by the EPA or the U.S. Coast Guard within the time that the Federal or State agency acting as trustee determines is reasonably necessary, or if such actions are insufficient, the Federal or State agency acting as trustee should exercise any existing authority it may have to take on-site response actions. The Federal or State agency acting as trustee shall determine whether the potentially responsible party, if his identity is known, is taking or will take any response action. If no on-site response actions are taken, the Federal or State agency acting as trustee may undertake limited off-site restoration action consistent with their existing authorities to the extent necessary to prevent or reduce the immediate migration of the oil or hazardous substance onto or into the resource for which the Federal or State agency may assert trusteeship.

(c) *Limitations on emergency actions.* The Federal or State agency acting as trustee may undertake only those actions necessary to abate the emergency situation. The normal procedures provided in this part must be followed before any additional restoration actions other than those necessary to abate the emergency situation are undertaken. The burden of proving that emergency restoration was required and that restoration costs were reasonable and necessary based on information available at the time rests with the Federal or State agency acting as trustee.

§ 11.22 Sampling of potentially injured natural resources.

(a) *General limitations.* Until the authorized official has made the determination required in § 11.23 of this part to proceed with an assessment, field sampling of natural resources should be limited to the conditions identified in this section. All sampling and field work shall be subject to the provisions of § 11.17 of this part concerning safety and applicability of resource protection statutes.

(b) *Early sampling and data collection.* Field samples may be collected or site visits may be made before completing the preassessment screen to preserve data and materials that are likely to be lost if not collected at that time and that will be necessary to the natural resource damage assessment. Field sampling and data collection at this stage should be coordinated with the lead agency under

the NCP to minimize duplication of sampling and data collection efforts. Such field sampling and data collection should be limited to:

(1) Samples necessary to preserve perishable materials considered likely to have been affected by, and contain evidence of, the oil or hazardous substance. These samples generally will be biological materials that are either dead or visibly injured and that evidence suggests have been injured by oil or a hazardous substance;

(2) Samples of other ephemeral conditions or material, such as surface water or soil containing or likely to contain oil or a hazardous substance, where those samples may be necessary for identification and for measurement of concentrations, and where necessary samples may be lost because of factors such as dilution, movement, decomposition, or leaching if not taken immediately; and

(3) Counts of dead or visibly injured organisms, which may not be possible to take if delayed because of factors such as decomposition, scavengers, or water movement. Such counts shall be subject to the provisions of § 11.71(l)(5)(iii) of this part.

§ 11.23 Preassessment screen—general.

(a) *Requirement.* Before beginning any assessment efforts under this part, except as provided for under the emergency restoration provisions of § 11.21 of this part, the authorized official shall complete a preassessment screen and make a determination as to whether an assessment under this part shall be carried out.

(b) *Purpose.* The purpose of the preassessment screen is to provide a rapid review of readily available information that focuses on resources for which the Federal or State agency may assert trusteeship under section 107(f) of CERCLA. This review should ensure that there is a reasonable probability of making a successful claim before monies and efforts are expended in carrying out an assessment.

(c) *Determination.* When the authorized official has decided to proceed with an assessment under this part, the authorized official shall document the decision in terms of the criteria provided in paragraph (e) of this section in a Preassessment Screen Determination. This Preassessment Screen Determination shall be included in the Report of Assessment described in § 11.90 of this part.

(d) *Content.* The preassessment screen shall be conducted in accordance with the guidance provided in this section and in § 11.24—Preassessment screen—information on the site and § 11.25—Preassessment screen—preliminary identification of resources potentially at risk, of this part.

(e) *Criteria.* Based on information gathered pursuant to the preassessment screen and on information gathered pursuant to the NCP, the authorized official shall make a preliminary determination that all of the following criteria are met before proceeding with an assessment:

(1) A discharge of oil or a release of a hazardous substance has occurred;

(2) Natural resources for which the Federal or State agency may assert trusteeship under CERCLA have been or are likely to have been adversely affected by the discharge or release;

(3) The quantity and concentration of the discharged oil or released hazardous substance is sufficient to potentially cause injury, as that term is used in this part, to those natural resources;

(4) Data sufficient to pursue an assessment are readily available or likely to be obtained at reasonable cost; and

(5) Response actions, if any, carried out or planned do not or will not sufficiently remedy the injury to natural resources without further action.

(f) *Coordination.* (1) In a situation where response activity is planned or underway at a particular site, assessment activity shall be coordinated with the lead agency consistent with the NCP, 40 CFR 300.33(b).

(2) Whenever, as part of a response action under the NCP, a preliminary assessment, 40 CFR 300.52 and 300.64, or an OSC Report, 40 CFR 300.40, is to be, or has been, prepared for the site, the authorized official should consult with the lead agency under the NCP, as necessary, and to the extent possible use information or materials gathered for the preliminary assessment or OSC Report, unless doing so would unnecessarily delay the preassessment screen.

(3) Where a preliminary assessment or an OSC Report does not exist or does not contain the information described in this section, that additional information may be gathered.

(4) If the Federal or State agency acting as trustee already has a process similar to the preassessment screen, and the requirements of the preassessment screen can be satisfied by that process, the processes may be combined to avoid duplication.

(g) *Preassessment phase costs.* (1) The following categories of reasonable and necessary costs may be incurred in the preassessment phase of the damage assessment:

(i) Release detection and identification costs;

(ii) Trustee identification and notification costs;

(iii) Potentially injured resource identification costs;

(iv) Initial sampling, data collection, and evaluation costs;

(v) Site characterization and preassessment screen costs; and

(vi) Any other preassessment costs for activities authorized by §§ 11.20 through 11.25 of this part.

(2) The reasonable and necessary costs for these categories shall be limited to those costs incurred by the authorized official for, and specifically allocable to, site-specific efforts taken during the preassessment phase for assessment of damages to natural resources for which the agency is acting as trustee. Such costs shall be supported by appropriate records and documentation and shall not reflect regular activities performed by the agency in management of the natural resource. Activities undertaken as part of the preassessment phase shall be taken in a manner that is cost-effective, as that phrase is used in this part.

§ 11.24 Preassessment screen—information on the site.

(a) *Information on the site and on the discharge or release.* The authorized official shall obtain and review readily available information concerning:

(1) The time, quantity, duration, and frequency of the discharge or release;

(2) The name of the hazardous substance, as provided for in Table 302.4—List of Hazardous Substances and Reportable Quantities, 40 CFR 302.4;

(3) The history of the current and past use of the site identified as the source of the discharge of oil or release of a hazardous substance;

(4) Relevant operations occurring at or near the site;

(5) Additional oil or hazardous substances potentially discharged or released from the site; and

(6) Potentially responsible parties.

(b) *Damages excluded from liability under CERCLA.* (1) The authorized official shall determine whether the damages:

(i) Resulting from the discharge or release were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement or other comparable environmental analysis, that the decision to grant the permit or license authorizes such commitment of natural resources, and that the facility or project was otherwise operating within the terms of its permit or license; or

(ii) And the release of a hazardous substance from which such damages resulted have occurred wholly before enactment of CERCLA; or

(iii) Resulted from the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135–135k; or

(iv) Resulted from any other federally permitted release, as defined in section 101(10) of CERCLA.

(2) An assessment under this part shall not be continued for potential injuries meeting one or more of the criteria described in paragraph (b)(1) of this section, which are exceptions to liability provided in sections 107 (f), (i), and (j) of CERCLA.

§ 11.25 Preassessment screen—preliminary identification of resources potentially at risk.

(a) *Preliminary identification of pathways.* (1) The authorized official shall make a preliminary identification of potential exposure pathways to facilitate identification of resources at risk.

(2) Factors to be considered in this determination should include, as appropriate, the circumstances of the discharge or release, the characteristics of the terrain or body of water involved, weather conditions, and the known physical, chemical, and toxicological properties of the oil or hazardous substance.

(3) Pathways to be considered shall include, as appropriate, direct contact, surface water, ground water, air, food chains, and particulate movement.

(b) *Exposed areas.* An estimate of areas where exposure or effects may have occurred or are likely to occur shall be made. This estimate shall identify:

(1) Areas where it has been or can be observed that the oil or hazardous substance has spread;

(2) Areas to which the oil or hazardous substance has likely spread through pathways; and

(3) Areas of indirect effect, where no oil or hazardous substance has spread, but where biological populations may have been affected as a result of animals moving into or through the site.

(c) *Exposed water estimates.* The area of ground water or surface water that may be or has been exposed may be estimated by using the methods described in Appendix I of this part.

(d) *Estimates of concentrations.* An estimate of the concentrations of oil or a hazardous substance in those areas of potential exposure shall be developed.

(e) *Potentially affected resources.* (1) Based upon the estimate of the areas of potential exposure, and the estimate of concentrations in those areas, the authorized official shall identify natural resources for which he may assert trusteeship that are potentially affected by the discharge or release. This preliminary identification should be used to direct further investigations, but it is not intended to preclude consideration of other resources later found to be affected.

(2) A preliminary estimate, based on information readily available from resource managers, of the services of the resources identified as potentially affected shall be made. This estimate will be used in determining which resources to consider if further assessment efforts are justified.

Subpart C—Assessment Plan Phase

§ 11.30 Assessment Plan—general.

(a) *Assessment Plan requirement.* Before initiating any assessment methodologies provided in Subpart D for a type A assessment or in Subpart E for a type B assessment, the authorized official shall develop a plan for the assessment of natural resource damages. The Assessment Plan shall be developed in accordance with the requirements and procedures provided in this subpart.

(b) *Purpose.* The purpose of the Assessment Plan is to ensure that the assessment is performed in a planned and systematic manner and that methodologies selected from Subpart D for a type A assessment or from Subpart E for a type B assessment, including the Injury Determination, Quantification, and Damage Determination phases, can be conducted at a reasonable cost, as that phrase is used in this part.

(c) *Assessment Plan phase costs.* (1) The following categories of reasonable and necessary costs may be incurred in the Assessment Plan phase of the damage assessment:

(i) Methodology identification and screening costs;

(ii) Potentially responsible party notification costs;

(iii) Public participation costs;

(iv) Exposure confirmation analysis costs;

(v) Economic Methodology Determination costs; and

(vi) Any other Assessment Plan costs for activities authorized by §§ 11.30 through 11.35 of this part.

(2) The reasonable and necessary costs for these categories shall be limited to those costs incurred or anticipated by the authorized official for, and specifically allocable to, site-specific efforts taken in the development of an Assessment Plan for a resource for which the agency is acting as trustee. Such costs shall be supported by appropriate records and documentation, and shall not reflect regular activities performed by the authorized official in management of the natural resource. Activities undertaken as part of the Assessment Plan phase shall be taken in a manner that is cost-effective, as that phrase is used in this part.

§ 11.31 Assessment Plan—content.

(a) *General content and level of detail.* (1) The Assessment Plan shall identify and document the use of all of the scientific and economic methodologies that are expected to be performed during the Injury Determination, Quantification, and Damage Determination phases of the type B assessment, or the specific type A procedure that will be performed.

(2) The Assessment Plan shall be of sufficient detail to serve as a means of evaluating whether the approach used for assessing the damage is likely to be cost-effective and meets the definition of reasonable costs, as those phrases are used in this part. The Assessment Plan shall include descriptions of the natural resources and the geographical areas involved. In addition, for type B assessments, the Assessment Plan shall include the sampling locations within those geographical areas, sample and survey design, numbers and types of samples to be collected, analyses to be performed, preliminary determination of the recovery period, and other such information required to perform the selected methodologies.

(3) The Assessment Plan shall contain information sufficient to demonstrate that the damage assessment has been coordinated to the extent possible with any remedial investigation feasibility study or other investigation performed pursuant to the NCP.

(4) The Assessment Plan shall contain procedures and schedules for sharing data, split samples, and results of analyses, when requested, with any identified potentially responsible parties and other Federal or State agencies acting as trustees.

(b) *Decision on type A or type B assessment.* The Assessment Plan shall include documentation of the authorized official's decision as to whether to proceed with a type A or a type B assessment. This determination shall be based upon the guidance provided in § 11.33 of this part.

(c) *Specific requirements for type B assessments.* When the Assessment Plan includes type B methodologies, the Plan shall incorporate the following, in addition to the material identified in § 11.31(a) of this part:

(1) The results of the confirmation of exposure performed in accordance with the requirements of § 11.34 of this part;

(2) The Economic Methodology Determination performed in accordance with the guidance provided in § 11.35 of this part;

(3) A Quality Assurance Plan that satisfies the requirements listed in § 300.68(k) of the NCP and applicable EPA guidance for quality control and quality assurance plans; and

(4) The objectives, as required in § 11.64(a)(2) of this part, of any testing and sampling for injury or pathway determination.

§ 11.32 Assessment Plan—development.

(a) *Pre-development requirements.* The authorized official shall fulfill the following requirements before developing an Assessment Plan.

(1) *Coordination.* (i) If the authorized official's responsibility is shared with other Federal or State agencies acting as trustees as a result of coexisting or contiguous natural resources or concurrent jurisdiction, the authorized official shall ensure that all other known affected Federal and State agencies are notified that an Assessment Plan is being developed. This notification shall include the results of the Preassessment Screen Determination.

(ii) Authorized officials from different agencies are encouraged to cooperate and to coordinate any assessments that involve coexisting or contiguous natural resources or concurrent jurisdiction. They may arrange to divide responsibility for implementing the assessment in any manner that is agreed to by all of the affected Federal and State agencies acting as trustees with the following conditions:

(A) A lead authorized official shall be designated to administer the assessment. The lead authorized official shall act as coordinator and contact regarding all aspects of the assessment and shall act as final arbitrator of disputes if consensus among the authorized officials cannot be reached regarding the development, implementation, or any other aspect of the Assessment Plan. The lead authorized official shall be designated by mutual agreement of all the Federal or State agencies acting as trustees. If consensus cannot be reached as to the designation of the lead authorized official, the lead authorized official shall be designated in accordance with paragraphs (a)(1)(ii) (B), (C), or (D) of this section:

(B) When the natural resources being assessed are located on lands or waters subject to the administrative jurisdiction of a Federal agency, the Federal agency shall act as the lead authorized official.

(C) For all other natural resources for which the State may assert trusteeship, the State shall act as the lead authorized official.

(D) When there is a natural resource claim against the Fund pursuant to section 111(c)(3) of CERCLA, the lead authorized official will be designated in accordance with the Natural Resource Claims Procedures, 40 CFR 306.20(b).

(iii) If there is a reasonable basis for dividing the assessment, the Federal or State agencies acting as trustees may act independently and pursue separate assessments, actions, or claims so long as the claims do not overlap. In these instances, the agencies shall coordinate their efforts, particularly those concerning the sharing of data and the development of the Assessment Plans.

(2) *Identification and involvement of the potentially responsible party.* (i) If the lead agency under the NCP for response actions at the site has not identified potentially responsible parties, the authorized official shall make reasonable efforts to identify any potentially responsible parties.

(ii) In the event the number of potentially responsible parties is large or if some of the potentially responsible parties cannot be located, the authorized official may proceed against any one or more of the parties identified. The authorized official should use reasonable efforts to proceed against most known potentially responsible parties or at least against all those potentially responsible parties responsible for significant portions of the potential injury.

(iii)(A) The authorized official shall send a Notice of Intent to Perform an Assessment to all identified potentially responsible parties. The Notice shall invite the participation of the potentially responsible party, or, if several parties are involved and if agreed to by the lead authorized official, a representative or representatives designated by the parties, in the development of the type and scope of the assessment and in the performance of the assessment. The Notice shall briefly describe, to the extent known, the site, vessel, or facility involved, the discharge of oil or release of hazardous substance of concern to the authorized official, and the resources potentially at risk.

(B) The authorized official shall allow at least 30 calendar days, with reasonable extensions granted as appropriate, for the potentially responsible party or parties notified to respond to the Notice before proceeding with the development of the Assessment Plan or any other assessment actions.

(b) *Plan approval.* The authorized official shall have final approval as to the appropriate methodologies to include in the Assessment Plan and any modifications to the Assessment Plan.

(c) *Public involvement in the Assessment Plan.* (1) The Assessment Plan shall be made available for review by any identified potentially responsible parties, other Federal or State agencies acting as trustees, other affected Federal or State agencies, and any other interested members of the public for a period of at least 30 calendar days, with reasonable extensions granted as appropriate, before the performance of any methodologies contained therein.

(2) Any comments concerning the Assessment Plan received from identified potentially responsible parties, other Federal or State agencies acting as trustees, other affected Federal or State agencies, and any other interested members of the public, together with responses to those comments, shall be included as part of the Report of Assessment, described in § 11.90 of this part.

(d) *Plan implementation.* At the option of the authorized official and if agreed to by any potentially responsible party, or parties acting jointly, the potentially responsible party or any other party under the direction, guidance, and monitoring of the authorized official may implement all or any part of the Assessment Plan finally approved by the authorized official. Any decision by the authorized official to allow or not allow implementation by the potentially responsible party shall be documented in the Assessment Plan.

(e) *Plan modification.* (1) The Assessment Plan may be modified at any stage of the assessment as new information becomes available.

(2)(i) Any modification to the Assessment Plan that in the judgment of the authorized official is significant shall be made available for review by any identified potentially responsible party, any other affected Federal or State agencies acting as trustees, and any other interested members of the public for a period of at least 30 calendar days, with reasonable extensions granted as appropriate, before tasks called for in the modified plan are begun.

(ii) Any modification to the Assessment Plan that in the judgment of the authorized official is not significant shall be made available for review by any identified potentially responsible party, any other affected Federal or State agencies acting as trustees, and any other interested members of the public, but the implementation of such

modification need not be delayed as a result of such review.

(f) *Plan review.* (1) After the Injury Determination phase is completed and before the Quantification phase is begun, the authorized official shall review the decisions incorporated in the Assessment Plan.

(2) The purpose of this review is to provide an opportunity to confirm the decisions made in the Economic Methodology Determination, or to make such determination if the determination was not completed in the plan development stage, and to ensure that the selection of methodologies for the Quantification and Damage Determination phases is consistent with the results of the Injury Determination phase.

(3) Any revision or determination of the Economic Methodology Determination shall be deemed significant for the purposes of § 11.32(e)(2)(i) of this part.

§ 11.33 Assessment Plan—deciding between a type A or type B assessment. [Reserved]

§ 11.34 Assessment Plan—confirmation of exposure.

(a) *Requirement.* (1) In accordance with the requirements provided in this section, the authorized official shall confirm that at least one of the natural resources identified as potentially injured in the preassessment screen has in fact been exposed to the oil or hazardous substance.

(2) Type B assessment methodologies shall be included in the Assessment Plan only upon meeting the requirements of this section.

(b) *Procedures.* (1) Whenever possible, exposure shall be confirmed by using existing data, such as those collected for response actions by the OSC, or other available studies or surveys of the assessment area.

(2) Where sampling has been done before the completion of the preassessment screen, chemical analyses of such samples may be performed to confirm that exposure has occurred. Such analyses shall be limited to the number and type required for confirmation of exposure.

(3) Where existing data are unavailable or insufficient to confirm exposure, one or more of the analytical methodologies provided in the Injury Determination phase may be used. The collection and analysis of new data shall be limited to that necessary to confirm exposure and shall not include testing for baseline levels or for injury, as those phrases are used in this part.

§ 11.35 Assessment Plan—Economic Methodology Determination.

(a) *Requirements.* Based upon the guidance provided in this section, the authorized official shall determine whether: restoration or replacement costs; or a diminution of use values will form the basis of the measure of damages. This determination, referred to as the Economic Methodology Determination, shall be used in developing the Assessment Plan for a type B assessment.

(b) *Determination.* (1) The Economic Methodology Determination shall be used to ascertain whether: restoration or replacement costs; or a diminution of use values will form the basis of further economic analysis in the Damage Determination phase.

(2) The authorized official shall select the lesser of: restoration or replacement costs; or diminution of use values as the measure of damages, except as specified in paragraph (b)(3) of this section.

(3) When restoration or replacement of the injured resource is not technically feasible, as that phrase is used in this part, the diminution in use values, as determined by using the methodologies listed in § 11.83 of this part, or other methodologies that meet the acceptance criterion in § 11.83 of this part, shall constitute the measure of damages.

(c) *Costs and benefits.* (1) The Economic Methodology Determination shall estimate and document the costs of restoration or replacement and the benefits gained by restoration or replacement of the resource or the resource services.

(2) The costs of restoration or replacement, as determined in paragraph (d) of this section, shall be measured by the anticipated management actions and resource acquisitions required to return the resource services lost as a result of the injury. In determining the costs of restoration or replacement, the costs of acquiring land for Federal management should be used only if this acquisition would represent the sole viable method of obtaining the lost services.

(3) The benefits of restoration or replacement, as determined in paragraph (d) of this section, shall be the value of the restored uses associated with the anticipated management actions and resource acquisitions as determined in paragraph (c)(2) of this section.

(d) *Content.* (1) In performing the Economic Methodology Determination, existing data and studies should be relied upon. Significant new data collection or modeling efforts should not be performed at this stage of the assessment process to complete this determination.

(2) If existing data are insufficient to perform the Economic Methodology Determination, this analysis may be postponed until the Assessment Plan review stage at the completion of the Injury Determination phase of the assessment.

(3) Each Economic Methodology Determination should estimate the following benefits and costs:

(i) The expected present value, if possible, of anticipated restoration or replacement costs, expressed in constant dollars, and separated into capital, operating, and maintenance costs, and including the timing of the costs;

(ii) The expected present value, if possible, of anticipated use values gained through restoration or replacement, expressed in constant dollars, specified for the same base year as the cost estimate, and separated into recurring or nonrecurring benefits, including the timing of the benefit.

(4) Any estimates of costs and benefits shall make explicit all assumptions pertaining to costs and benefits and shall specify all sources of information. Any effects that connot be expressed in monetary terms should be listed.

(5) The discount rate to be used in developing estimates of the expected present value of benefits and costs shall be that determined in accordance with the guidance in § 11.84(e) of this part.

Subpart D—Type A Assessments [Reserved]

Subpart E—Type B Assessments

§ 11.60 Type B assessments—general.

(a) *Purpose.* The purpose of the type B assessment is to provide alternative methodologies for conducting natural resource damage assessments in individual cases.

(b) *Steps in the type B assessment.* The type B assessment consists of three phases: § 11.61—Injury Determination; § 11.70—Quantification; and § 11.80—Damage Determination, of this part.

(c) *Completion of type B assessment.* After completion of the type B assessment, a Report of Assessment, as described in § 11.90 of this part, shall be prepared. The Report of Assessment shall include the determinations made in each phase.

(d) *Type B assessment costs.* (1) The following categories of reasonable and necessary costs may be incurred in the assessment phase of the damage assessment:

VOL 51 ISS 148 AG 1 1986 UMI

(i) Sampling, testing, and evaluation costs for injury and pathway determination;

(ii) Quantification costs (including baseline service determination and resource recoverability analysis);

(iii) Restoration Methodology Plan development costs including:

(A) Development of alternatives;

(B) Evaluation of alternatives;

(C) Potentially responsible party, agency, and public reviews;

(D) Other such costs for activities authorized by § 11.82 of this part;

(iv) Use value methodology calculation costs, and

(v) Any other assessment costs authorized by §§ 11.60–11.84 of this part.

(2) The reasonable and necessary costs for these categories shall be limited to those costs incurred or anticipated by the authorized official for, and specifically allocable to, site specific efforts taken in the assessment of damages for a natural resource for which the agency is acting as trustee. Such costs shall be supported by appropriate records and documentation, and shall not reflect regular activities performed by the agency in management of the natural resource. Activities undertaken as part of the damage assessment phase shall be taken in a manner that is cost-effective, as that phrase is used in this part.

§ 11.61 Injury Determination phase—general.

(a) *Requirement.* (1) The authorized official shall, in accordance with the procedures provided in the Injury Determination phase of this part, determine: whether an injury to one or more of the natural resources has occurred; and that the injury resulted from the discharge of oil or release of a hazardous substance based upon the exposure pathway and the nature of the injury.

(2) The Injury Determination phase consists of § 11.61—general; § 11.62—injury definition; § 11.63—pathway determination; and § 11.64—testing and sampling methods, of this part.

(b) *Purpose.* The purpose of the Injury Determination phase is to ensure that only assessments involving well documented injuries resulting from the discharge of oil or release of a hazardous substance proceed through the type B assessment.

(c) *Injury Determination phase steps.* (1) The authorized official shall determine whether the potentially injured resource constitutes a surface water, ground water, air, geologic, or biological resource as defined in § 11.14 of this part. The authorized official shall then proceed in accordance with the guidance provided in the injury definition section, § 11.62 of this part, to determine if the resource is injured.

(2) The authorized official shall follow the guidance provided in the testing and sampling methods section, § 11.64 of this part, in selecting the methodology for determining injury. The authorized official shall select from available testing and sampling procedures one or more procedures that meet the requirements of the selected methodologies.

(3) The authorized official shall follow the guidance provided in the pathway section, § 11.63 of this part, to determine the route through which the oil or hazardous substance is or was transported from the source of the discharge or release to the injured resource.

(4) If more than one resource, as defined in § 11.14(z) of this part, has potentially been injured, an injury determination for each resource shall be made in accordance with the guidance provided in each section of the Injury Determination phase.

(d) *Selection of methodologies.* (1) One of the methodologies provided in § 11.64 of this part for the potentially injured resource, or one that meets the acceptance criteria provided for that resource, shall be used to establish injury.

(2) Selection of the methodologies for the Injury Determination phase shall be based upon cost-effectiveness as that phrase is used in this part.

(e) *Completion of Injury Determination phase.* (1) Upon completion of the Injury Determination phase, the Assessment Plan shall be reviewed in accordance with the requirements of § 11.32(f) of this part.

(2) When the authorized official has determined that one or more of the natural resources has been injured as a result of the discharge or release, the authorized official may proceed to the Quantification and the Damage Determination phases.

(3) When the authorized official has determined that an injury has not occurred to at least one of the natural resources or that an injury has occurred but that the injury cannot be linked to the discharge or release, the authorized official shall not pursue further assessment under this part.

§ 11.62 Injury Determination phase—injury definition.

(a) The authorized official shall determine that an injury has occurred to natural resources based upon the definitions provided in this section for surface water, ground water, air, geologic, and biological resources. The authorized official shall test for injury using the methodologies and guidance provided in § 11.64 of this part. The test results of the methodologies must meet the acceptance criteria provided in this section to make a determination of injury.

(b) *Surface water resources.* (1) An injury to a surface water resource has resulted from the discharge of oil or release of a hazardous substance if one or more of the following changes in the physical or chemical quality of the resource is measured:

(i) Concentrations and duration of substances in excess of drinking water standards as established by sections 1411–1416 of SDWA, or by other Federal or State laws or regulations that establish such standards for drinking water, in surface water that was potable before the discharge or release;

(ii) Concentrations and duration of substances in excess of water quality criteria established by section 1401(1)(D) of SDWA, or by other Federal or State laws or regulations that establish such criteria for public water supplies, in surface water that before the discharge or release met the criteria and is a committed use, as the phrase is used in this part, as a public water supply;

(iii) Concentrations and duration of substances in excess of applicable water quality criteria established by section 304(a)(1) of the CWA, or by other Federal or State laws or regulations that establish such criteria, in surface water that before the discharge or release met the criteria and is a committed use, as that phrase is used in this part, as a habitat for aquatic life, water supply, or recreation. The most stringent criterion shall apply when surface water is used for more than one of these purposes;

(iv) Concentrations of substances on bed, bank, or shoreline sediments sufficient to cause the sediment to exhibit characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act, 42 U.S.C. 6921; or

(v) Concentrations and duration of substances sufficient to have caused injury as defined in paragraphs (c), (d), (e), or (f) of this section to ground water, air, geologic, or biological resources, when exposed to surface water, suspended sediments, or bed, bank, or shoreline sediments.

(2)(i) The acceptance criterion for injury to the surface water resource is the measurement of concentrations of oil or a hazardous substance in two samples from the resource. The samples must be one of the following types,

except as specified in § 11.62 (b)(3) of this part:

(A) Two water samples from different locations, separated by a straight-line distance of not less than 100 feet; or

(B) Two bed, bank, or shoreline sediment samples from different locations separated by a straight-line distance of not less than 100 feet; or

(C) One water sample and one bed, bank, or shoreline sediment sample; or

(D) Two water samples from the same location collected at different times.

(ii) In those instances when injury is determined and no oil or hazardous substances are detected in samples from the surface water resource, it must be demonstrated that the substance causing injury occurs or has occurred in the surface water resource as a result of physical, chemical, or biological reactions initiated by the discharge of oil or release of a hazardous substance.

(3) If the maximum straight-line distance of the surface water resource is less than 100 feet, then the samples required in § 11.62(b)(2)(i) (A) and (B) of this part should be separated by one-half the maximum straight-line distance of the surface water resource.

(c) *Ground water resources.* (1) An injury to the ground water resource has resulted from the discharge of oil or release of a hazardous substance if one or more of the following changes in the physical or chemical quality of the resource is measured:

(i) Concentrations of substances in excess of drinking water standards, established by sections 1411–1416 of the SDWA, or by other Federal or State laws or regulations that establish such standards for drinking water, in ground water that was potable before the discharge or release;

(ii) Concentrations of substances in excess of water quality criteria, established by section 1401(1)(d) of the SDWA, or by other Federal or State laws or regulations that establish such criteria for public water supplies, in ground water that before the discharge or release met the criteria and is a committed use, as the phrase is used in this part, as a public water supply;

(iii) Concentrations of substances in excess of applicable water quality criteria, established by section 304(a)(1) of the CWA, or by other Federal or State laws or regulations that establish such criteria for domestic water supplies, in ground water that before the discharge or release met the criteria and is a committed use as that phrase is used in this part, as a domestic water supply; or

(iv) Concentrations of substances sufficient to have caused injury as defined in paragraphs (b), (d), (e), or (f) of this section to surface water, air, geologic, or biological resources, when exposed to ground water.

(2) The acceptance criterion for injury to ground water resources is the measurement of concentrations of oil or hazardous substance in two ground water samples. The water samples must be from the same geohydrologic unit and must be obtained from one of the following pairs of sources, except as specified in § 11.62(c)(3) of this part:

(i) Two properly constructed wells separated by a straight-line distance of not less than 100 feet; or

(ii) A properly constructed well and a natural spring or seep separated by a straight-line distance of not less than 100 feet; or

(iii) Two natural springs or seeps separated by a straight-line distance of not less than 100 feet.

(3) If the maximum straight-line distance of the ground water resource is less than 100 feet, the samples required in § 11.62(c)(2) of this part should be separated by one-half of the maximum straight-line distance of the ground water resource.

(4) In those instances when injury is determined and no oil or hazardous substance is detected in samples from the ground water resource, it must be demonstrated that the substance causing injury occurs or has occurred in the ground water resource as a result of physical, chemical, or biological reactions initiated by the discharge of oil or release of hazardous substances.

(d) *Air resources.* An injury to the air resource has resulted from the discharge of oil or release of a hazardous substance if one or more of the following changes in the physical or chemical quality of the resource is measured:

(1) Concentrations of emissions in excess of standards for hazardous air pollutants established by section 112 of the Clean Air Act, 42 U.S.C. 7412, or by other Federal or State air standards established for the protection of public welfare or natural resources; or

(2) Concentrations and duration of emissions sufficient to have caused injury as defined in paragraphs (b), (c), (e), or (f) of this section to surface water, ground water, geologic, or biological resources when exposed to the emissions.

(e) *Geologic resources.* An injury to the geologic resource has resulted from the discharge of oil or release of a hazardous substance if one or more of the following changes in the physical or chemical quality of the resource is measured:

(1) Concentrations of substances sufficient for the materials in the geologic resource to exhibit characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act, 42 U.S.C. 6921;

(2) Concentrations of substances sufficient to raise the negative logarithm of the hydrogen ion concentration of the soil (pH) to above 8.5 (above 7.5 in humid areas) or to reduce it below 4.0;

(3) Concentrations of substances sufficient to yield a salt saturation value greater than 2 millimhos per centimeter in the soil or a sodium adsorption ratio of more than 0.176;

(4) Concentrations of substances sufficient to decrease the water holding capacity such that plant, microbial, or invertebrate populations are affected;

(5) Concentrations of substances sufficient to impede soil microbial respiration to an extent that plant and microbial growth have been inhibited;

(6) Concentrations in the soil of substances sufficient to inhibit carbon mineralization resulting from a reduction in soil microbial populations;

(7) Concentrations of substances sufficient to restrict the ability to access, develop, or use mineral resources within or beneath the geologic resource exposed to the oil or hazardous substance;

(8) Concentrations of substances sufficient to have caused injury to ground water, as defined in paragraph (c) of this section, from physical or chemical changes in gases or water from the unsaturated zone;

(9) Concentrations in the soil of substances sufficient to cause a toxic response to soil invertebrates;

(10) Concentrations in the soil of substances sufficient to cause a phytotoxic response such as retardation of plant growth; or

(11) Concentrations of substances sufficient to have caused injury as defined in paragraphs (b), (c), (d), or (f), of this section to surface water, ground water, air, or biological resources when exposed to the substances.

(f) *Biological resources.* (1) An injury to a biological resource has resulted from the discharge of oil or release of a hazardous substance if concentration of the substance is sufficient to:

(i) Cause the biological resource or its offspring to have undergone at least one of the following adverse changes in viability: death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations; or

(ii) Exceed action or tolerance levels established under section 402 of the Food, Drug and Cosmetic Act, 21 U.S.C. 342, in edible portions of organisms; or

(iii) Exceed levels for which an appropriate State health agency has issued directives to limit or ban consumption of such organism.

(2) The method for determining injury to a biological resource, as defined in paragraph (f)(1)(i) of this section, shall be chosen based upon the capability of the method to demonstrate a measurable biological response. An injury can be demonstrated if the authorized official determines that the biological response under consideration can satisfy all of the following acceptance criteria:

(i) The biological response is often the result of exposure to oil or hazardous substances. This criterion excludes biological responses that are caused predominately by other environmental factors such as disturbance, nutrition, trauma, or weather. The biological response must be a commonly documented response resulting from exposure to oil or hazardous substances.

(ii) Exposure to oil or hazardous substances is known to cause this biological response in free-ranging organisms. This criterion identifies biological responses that have been documented to occur in a natural ecosystem as a result of exposure to oil or hazardous substances. The documentation must include the correlation of the degree of the biological response to the observed exposure concentration of oil or hazardous substances.

(iii) Exposure to oil or hazardous substances is known to cause this biological response in controlled experiments. This criterion provides a quantitative confirmation of a biological response occurring under environmentally realistic exposure levels that may be linked to oil or hazardous substance exposure that has been observed in a natural ecosystem. Biological responses that have been documented only in controlled experimental conditions are insufficient to establish correlation with exposure occurring in a natural ecosystem.

(iv) The biological response measurement is practical to perform and produces scientifically valid results. The biological response measurement must be sufficiently routine such that it is practical to perform the biological response measurement and to obtain scientifically valid results. To meet this criterion, the biological response measurement must be adequately documented in scientific literature, must produce reproducible and verifiable results, and must have well defined and accepted statistical criteria for interpreting as well as rejecting results.

(3) Unless otherwise provided for in this section, the injury determination must be based upon the establishment of a statistically significant difference in the biological response between samples from populations in the assessment area and in the control area. The determination as to what constitutes a statistically significant difference must be consistent with the quality assurance provisions of the Assessment Plan. The selection of the control area shall be consistent with the guidance provided in § 11.72 of this part.

(4) The biological responses listed in this paragraph have been evaluated and found to satisfy the acceptance criteria provided in (f)(2) of this section. The authorized official may, when appropriate, select from this list to determine injury to fish and wildlife resources or may designate another response as the determiner of injury provided that the designated response can satisfy the acceptance criteria provided in (f)(2) of this section. The biological responses are listed by the categories of injury for which they may be applied.

(i) *Category of injury—death.* Five biological responses for determining when death is a result of exposure to the discharge of oil or release of a hazardous substance have met the acceptance criteria.

(A) *Brain cholinesterase (ChE) enzyme activity.* Injury has occurred when brain ChE activity in a sample from the population has been inhibited by at least 50 percent compared to the mean for normal brain ChE activity of the wildlife species. These enzymes are in the nervous system of vertebrate organisms and the rate of ChE activity is associated with the regulation of nerve impulse transmission. This biological response may be used to confirm injury when anti-ChE substances, such as organophosphorus and carbamate pesticides, are suspected to have resulted in death to bird and mammal species.

(B) *Fish kill investigations.* Injury has occurred when a significant increase in the frequency or numbers of dead or dying fish can be measured in accordance with the procedures for counting dead or dying fish contained in Part II (Fish-Kill Counting Guidelines) of "Monetary Values of Freshwater Fish and Fish-Kill Counting Guidelines," American Fisheries Society Special Publication Number 13, 1982 (incorporated by reference, see § 11.18).

(C) *Wildlife kill investigations.* Injury has occurred when a significant increase in the frequency or number of dead or dying birds or mammal species can be measured in a population sample from the assessment area as compared to a population sample from a control area. Wildlife kill investigations may be used when acute mortality has occurred to multiple wildlife species, or when detectable quantities of oil or hazardous substances have adherred to, bound to, or otherwise covered surface tissue, or had been ingested or inhaled by dead or dying bird or mammal species.

(D) *In situ bioassay.* Injury has occurred when a statistically significant difference can be measured in the total mortality and/or mortality rates between population samples exposed in situ to a discharge of oil or a release of hazardous substance and those in a control site. In situ caged or confined bioassay may be used to confirm injury when oil or hazardous substances are suspected to have caused death to fish species.

(E) *Laboratory toxicity testing.* Injury has occurred when a statistically significant difference can be measured in the total mortality and/or mortality rates between population samples of the test organisms placed in exposure chambers containing concentrations of oil or hazardous substances and those in a control chamber. Published standardized laboratory fish toxicity testing methodologies for acute flow-through, acute static, partial-chronic (early life stage), and chronic (life cycle) toxicity tests may be used to confirm injury. The oil or hazardous substance used in the test must be the exact substance or a substance that is reasonably comparable to that suspected to have caused death to the natural population of fish.

(ii) *Category of injury—disease.* One biological response for determining when disease is a result of exposure to the discharge of oil or release of a hazardous substance has met the acceptance criteria.

(A) *Fin erosion.* Injury has occurred when a statistically significant difference can be measured in the frequency of occurrence of fin erosion (also referred to as fin rot) in a population sample from the assessment area as compared to a sample from the control area. Fin erosion shall be confirmed by appropriate histological procedures. Fin erosion may be used when oil or hazardous substances are suspected to have caused the disease.

(iii) *Category of injury—behavioral abnormalities.* Two biological responses for determining when behavioral abnormalities are a result of the exposure to the discharge of oil or release of a hazardous substance have met the acceptance criteria.

(A) *Clinical behavioral signs of toxicity.* Injury has occurred when a statistically significant difference can be measured in the frequency of occurrence of clinical behavioral signs of toxicity in a population sample from the assessment area as compared to a sample from the control area. Clinical behavioral signs of toxicity are characteristic behavioral symptoms expressed by an organism in reponse to exposure to an oil or hazardous substance. The clinical behavioral signs of toxicity used shall be those that have been documented in published literature.

(B) *Avoidance.* Injury has occurred when a statistically significant difference can be measured in the frequency of avoidance behavior in population samples of fish placed in testing chambers with equal access to water containing oil or a hazardous substance and the control water. The oil or hazardous substance used in the test must be the exact substance or a substance that is reasonably comparable to that suspected to have caused avoidance to the natural populations of fish. This biological response may be used to confirm injury when oil or hazardous substances are suspected to have resulted in avoidance behavior in fish species.

(iv) *Category of injury—cancer.* One biological response for determining when cancer is a result of exposure to the discharge of oil or release of a hazardous substance has met the acceptance criteria.

(A) *Fish neoplasm.* Injury has occurred when a statistically significant difference can be measured in the frequency of occurrence of the fish neoplasia when comparing population samples from the assessment area and a control area. Neoplasms are characterized by relatively autonomous growth of abnormal cells that by proliferation infiltrate, press upon, or invade healthy tissue thereby causing destruction of cells, interference with physiological functions, or death of the organism. The following type of fish neoplasia may be used to determine injury: liver neoplasia and skin neoplasia. The neoplasms shall be confirmed by histological procedures and such confirmation procedures may also include special staining techniques for specific tissue components, ultra-structural examination using electron microscopy to identify cell origin, and to rule out or confirm viral, protozoan, or other causal agents. Fish neoplasm may be used to determine injury when oil or hazardous substances are suspected to have been the causal agent.

(v) *Category of injury—physiological malfunctions.* Five biological responses for determining when physiological malfunctions are a result of exposure to the discharge of oil or release of a hazardous substance have met the acceptance criteria.

(A) *Eggshell thinning.* Injury has occurred when eggshell thicknesses for samples for a population of a given species at the assessment area are thinner than those for samples from a population at a control area, or are at least 15 percent thinner than eggshells collected before 1946 from the same geographic area and stored in a museum. This biological response is a measure of avian eggshell thickness resulting from the adult bird having assimilated the oil or hazardous substance. This biological response may be used when the organochlorine pesticide DDT or its metabolites are suspected to have caused such physiological malfunction injury.

(B) *Reduced avian reproduction.* Injury has occurred when a statistically significant difference can be measured in the mean number of young fledged per active nest when comparing samples from populations in the assessment area and a control area. The fledging success (the number of healthy young leaving the nest) shall be used as the measurement of injury. Factors that may contribute to this measurement include egg fertility, hatching success, and survival of young. This biological response may be used when oil or hazardous substances are suspected to have reduced the nesting success of avian species.

(C) *Cholinesterase (ChE) enzyme inhibition.* Injury has occurred when brain ChE activity in a sample from the population at the assessment area shows a statistically significant inhibition when compared to the mean activity level in samples from populations in a control area. These enzymes are in the nervous systems of vertebrate organisms and the rate of ChE activity is associated with the regulation of nerve impulse transmission. This biological response may be used as a demonstration of physiological malfunction injury to birds, mammals, and reptiles when anti-ChE substances, such as organophosphorus and carbamate pesticides, have been discharged or released.

(D) *Delta-aminolevulinic acid dehydratase (ALAD) inhibition.* Injury has occurred when the activity level of whole blood ALAD in a sample from the population of a given species at an assessment area is significantly less than mean values for a population at a control area, and ALAD depression of at least 50 percent can be measured. The ALAD enzyme is associated with the formation of hemoglobin in blood and in chemical detoxification processes in the liver. This biological response is a measure of the rate of ALAD activity. This biological response may be used to determine injury to bird and mammal species that have been exposed to lead.

(E) *Reduced fish reproduction.* Injury has occurred when a statistically significant difference in reproduction success between the control organisms and the test organisms can be measured based on the use of published standardized laboratory toxicity testing methodologies. This biological response may be used when the oil or hazardous substance is suspected to have caused a reduction in the reproductive success of fish species. Laboratory partial-chronic and laboratory chronic toxicity tests may be used. The oil or hazardous substance used in the test must be the exact substance or a substance that is reasonably comparable to that suspected to have caused reduced reproductive success in the natural population of fish.

(vi) *Category of injury—physical deformation.* Four biological responses for determining when physical deformations are a result of exposure to the discharge of oil or release of a hazardous substance have met the injury acceptance criteria.

(A) *Overt external malformations.* Injury has occurred when a statistically significant difference can be measured in the frequency of overt external malformation, such as small or missing eyes, when comparing samples from populations of wildlife species from the assessment area and a control area. This biological response may be used as a demonstration of injury when such physical deformations are observed in wildlife species exposed to oil or hazardous substances.

(B) *Skeletal deformities.* Injury has occurred when a statistically signficant difference can be measured in the frequency of skeletal deformities, such as defects in growth of bones, when comparing samples from populations of wildlife species from the assessment area and a control area. This biological response may be used as a demonstration of injury when such physical deformations are observed in wildlife species exposed to oil or hazardous substances.

(C) *Internal whole organ and soft tissue malformation.* Injury has occurred when a statistically signficant difference can be measured in the frequency of

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malformations to brain, heart, liver, kidney, and other organs, as well as soft tissues of the gastrointestinal tract and vascular system, when comparing samples from populations of wildlife species in the assessment area and a control area. This biological response may be used as a demonstration of injury when such physical deformations are observed in wildlife species exposed to oil or hazardous substances.

(D) *Histopathological lesions.* Injury has occurred when a statistically signficant difference can be measured in the frequency of tissue or cellular lesions when comparing samples from populations of wildlife species from the assessment area and a control area. This biological response may be used as a demonstration of injury when such physical deformations are observed in wildlife species exposed to oil or hazardous substances.

§ 11.63 Injury Determination phase—pathway determination.

(a) *General.* (1) To determine the exposure pathways of the oil or hazardous substance, the following shall be considered:

(i) The chemical and physical characteristics of the discharged oil or released hazardous substance when transported by natural processes or while present in natural media;

(ii) The rate or mechanism of transport by natural processes of the discharged oil or released hazardous substance; and

(iii) Combinations of pathways that, when viewed together, may transport the discharged oil or released hazardous substance to the resource.

(2) The pathway may be determined by either demonstrating the presence of the oil or hazardous substance in sufficient concentrations in the pathway resource or by using a model that demonstrates that the conditions existed in the route and in the oil or hazardous substance such that the route served as the pathway.

(3) To the extent that the information needed to make this determination is not available, tests shall be conducted and necessary data shall be collected to meet the requirements of this section. Methods that may be used to conduct these additional tests and collect new information are described in § 11.64 of this part.

(b) *Surface water pathway.* (1) When the surface water resource is suspected as the pathway or a component of the pathway, the authorized official shall determine, using guidance provided in this paragraph, whether the surface water resource, either solely or in combination with other media, served as the exposure pathway for injury to the resource.

(2) (i) Using available information and such additional tests as necessary, it should be determined whether the surface water resource downstream or downcurrent of the source of discharge or release has been exposed to the oil or hazardous substance.

(ii) When the source of discharge or release is on an open water body, such as a marsh, pond, lake, reservoir, bay, estuary, gulf,or sound, it should be determined, using available information and such additional tests as necessary, whether the surface water resource in the vicinity of the source of discharge or release has been exposed to the oil or hazardous substance.

(3) (i) If a surface water resource is or likely has been exposed, the areal extent of the exposed surface water resource should be estimated, including delineation of:

(A) Channels and reaches;

(B) Seasonal boundaries of open water bodies; and

(C) Depth of exposed bed, bank, or shoreline sediments.

(ii) As appropriate to the exposed resource, the following should be determined:

(A) Hydraulic parameters and streamflow characteristics of channels and reaches;

(B) Bed sediment and suspended sediment characteristics, including grain size, grain mineralogy, and chemistry of grain surfaces;

(C) Volume, inflow-outflow rates, degree of stratification, bathymetry, and bottom sediment characteristics of surface water bodies;

(D) Suspended sediment concentrations and loads and bed forms and loads of streams and tidally affected waters; and

(E) Tidal flux, current direction, and current rate in coastal and marine waters.

(4) (i) Using available information and data from additional tests as necessary, the mobility of the oil or hazardous substance in the exposed surface water resource should be estimated. This estimate should consider such physical and chemical characteristics of the oil or hazardous substance as aqueous solubility, aqueous miscibility, density, volatility, potential for chemical degradation, chemical precipitation, biological degradation, biological uptake, and adsorption.

(ii) Previous studies of the characteristics discussed in paragraph (b)(4)(i) of this section should be relied upon if hydraulic, physical, and chemical conditions in the exposed surface water resource are similar to experimental conditions of the previous studies. In the absence of this information, those field and laboratory studies necessary to estimate the mobility of the oil or hazardous substance in surface water flow may be performed.

(5) (i) The rate of transport of the oil or hazardous substance in surface water should be estimated using available information and with consideration of the hydraulic properties of the exposed resource and the physical and chemical characteristics of the oil or hazardous substance.

(ii) Transport rates may be estimated using:

(A) The results of previous time-of-travel and dispersion studies made in the exposed surface water resource before the discharge or release;

(B) The results of previous studies, conducted with the same or similar chemical substances to those discharged or released under experimental conditions similar to the hydraulic, chemical, and biological conditions in the exposed surface water resource;

(C) The results of field measurements of time-of-travel and dispersion made in the exposed or comparable surface water resource, using natural or artificial substances with transport characteristics that reasonably approximate those of the oil or hazardous substance; and

(D) The results of simulation studies using the results of appropriate time-of-travel and dispersion studies in the exposed or comparable surface water resource.

(c) *Ground water pathway.* (1) When ground water resources are suspected as the pathway or a component of the pathway, the authorized official shall determine, using guidance provided in this paragraph, whether ground water resources, either solely or in combination with other media, served as the exposure pathway for injury to the resource.

(2) Using available information and such additional tests as necessary, it should be determined whether the unsaturated zone, the ground water, or the geologic materials beneath or downgradient of the source of discharge or release have been exposed to the oil or hazardous substance.

(3) If a ground water resource is or likely has been exposed, available information and such additional tests should be used as necessary to determine the characteristics of the unsaturated zone, as well as any aquifers and confining units containing the exposed ground water, in the vicinity of the source of discharge or

release. The characteristics of concern include:

(i) Local geographical extent of aquifers and confining units;

(ii) Seasonal depth to saturated zone beneath the site;

(iii) Direction of ground water flow in aquifers;

(iv) Local variation in direction of ground water flow resulting from seasonal or pumpage effects;

(v) Elevation of top and bottom of aquifer and confining units;

(vi) Lithology, mineralogy, and porosity of rocks or sediments comprising the unsaturated zone, aquifers, and confining units;

(vii) Transmissivity and hydraulic conductivity of aquifers and confining units; and

(viii) Nature and amount of hydraulic connection between ground water and local surface water resources.

(4) (i) Using available information and such additional tests as necessary, the mobility of the oil or hazardous substance within the unsaturated zone and in the exposed ground water resources should be estimated. This estimate should consider local recharge rates and such physical and chemical characteristics of the oil or hazardous substance as aqueous solubility, aqueous miscibility, density, volatility, potential for chemical degradation, chemical precipitation, biological degradation, biological uptake, and adsorption onto solid phases in the unsaturated zone, aquifers, and confining units.

(ii) Previous studies of the characteristics discussed in paragraph (c)(4)(i) of this section should be relied upon if geohydrologic, physical, and chemical conditions in the exposed ground water resource are similar to experimental conditions of the previous studies. In the absence of this information, field and laboratory studies may be performed as necessary to estimate the mobility of the oil or hazardous substance within the unsaturated zone and in ground water flows.

(5) (i) The rate of transport of the oil or hazardous substance in ground water should be estimated using available information and with consideration of the site hydrology, geohydrologic properties of the exposed resource, and the physical and chemical characteristics of the oil or hazardous substance.

(ii) Transport rates may be estimated using:

(A) Results of previous studies conducted with the same or similar chemical substance, under experimental geohydrological, physical, and chemical conditions similar to the ground water resource exposed to the oil or hazardous substance;

(B) Results of field measurements that allow computation of arrival times of the discharged or released substance at downgradient wells, so that an empirical transport rate may be derived; or

(C) Results of simulation studies, including analog or numerical modeling of the ground water system.

(d) *Air pathway.* (1) When air resources are suspected as the pathway or a component of the pathway, the authorized official shall determine, using guidance provided in this paragraph, whether the air resources either solely or in combination with other media, served as the exposure pathway for injury to the resource.

(2) Using available information, air modeling, and additional field sampling and analysis, it should be determined whether air resources have been exposed to the discharge of oil or release of a hazardous substance.

(3) (i) If an air resource is or has likely been exposed, available information and such additional tests as necessary should be used to estimate the areal extent of exposure and the duration and frequency of exposure of such areas to emissions from the discharge of oil or release of a hazardous substance.

(ii) The areal extent of exposure is defined as the geographical surface area or space where emissions from the source of discharge or release are found or otherwise determined to be present for such duration and frequency as to potentially result in injury to resources present within the area or space.

(4) Previous studies of the characteristics discussed in paragraph (d)(3)(i) of this section should be relied upon if the conditions in the exposed air resource are similar to experimental conditions of the previous studies. In the absence of this information, air sampling and analysis methods identified in § 11.64(d) of this part, air modeling methods, or a combination of these methods may be used in identifying the air exposure pathway and in estimating the areal extent of exposure and duration and frequency of exposure.

(5) For estimating the areal extent, duration, and frequency of exposure from the discharge or release, the following factors shall be considered as may be appropriate for each emissions event:

(i) The manner and nature in which the discharge or release occurs, including the duration of the emissions, amount of the discharge or release, and emergency or other time critical factors;

(ii) The configuration of the emitting source, including sources such as ponds, lagoons, pools, puddles, land and water surface spills, and venting from containers and vessels;

(iii) Physical and chemcial properties of substances discharged or released, including volatility, toxicity, solubility, and physical state;

(iv) The deposition from the air and re-emission to the air of gaseous and particulate emissions that provide periodic transport of the emissions; and

(v) Air transport and dispersion factors, including wind speed and direction, and atmospheric stability and temperature.

(e) *Geologic pathway.* (1) When geologic resources are suspected as the pathway or a component of the pathway, the authorized official shall determine, using guidance provided in this paragraph, whether geologic resources, either solely or in combination with other media, served as the exposure pathway for injury to the resource.

(2) (i) Using available information and the methods listed in § 11.64(e) of this part, it should be determined whether any element of the geologic resource has been exposed to the oil or hazardous substance. If a geologic resource is or has likely been exposed, the areal extent of the exposed geologic resource, including the lateral and vertical extent of the dispersion, should be estimated.

(ii) To determine whether the unsaturated zone served as a pathway, the guidance provided in paragraph (c) of this section should be followed.

(f) *Biological pathway.* (1) When biological resources are suspected as the pathway or a component of the pathway, the authorized official shall determine, using the guidance provided in this paragraph, whether biological resources, either solely or in combination with other media, served as the exposure pathway for injury to the resource.

(2) Biological pathways that resulted from either direct or indirect exposure to the oil or hazardous substance, or from exposure to products of chemical or biological reactions initiated by the discharge or release shall be identified. Direct exposure can result from direct physical contact with the discharged oil or released hazardous substance. Indirect exposure can result from food chain processes.

(3) If the oil or hazardous substance adhered to, bound to, or otherwise covered surface tissue, or was ingested, or inhaled but not assimilated, the area of dispersion may be determined based upon chemical analysis of the appropriate tissues or organs (such as leaves, lungs, stomach, intestine, or their

contents) that were directly exposed to the oil or hazardous substance.

(4) If the oil or hazardous substance was assimilated, the areal dispersion may be determined based upon one or more of the following alternative procedures:

(i) If direct exposure to the biological resource has occurred, chemical analysis of the organisms that have been exposed may be performed.

(ii) If indirect exposure to the biological resource has occurred, either chemical analysis of free-ranging biological resources using one or more indicator species as appropriate, or laboratory analysis of one or more in situ placed indicator species as appropriate may be performed.

(A) "Indicator species," as used in this section, means a species of organism selected consistent with the following factors to represent a trophic level of a food chain:

(*1*) General availability of resident organisms in the assessment area;

(*2*) Potential for exposure to the oil or hazardous substance through ingestion, assimilation, or inhalation;

(*3*) Occurrence of the substance in a chemical form that can be assimilated by the organism;

(*4*) Capacity of the organism to assimilate, bioconcentrate, bioaccumulate, and/or biomagnify the substance;

(*5*) Capacity of the organism to metabolize the substance to a form that cannot be detected through available chemical analytical procedures; and

(*6*) Extent to which the organism is representative of the food chain of concern.

(B) Collection of the indicator species should be limited to the number necessary to define the areal dispersion and to provide sufficient sample volume for chemical analysis.

(C) When in situ procedures are used, indicator species that behave comparably to organisms existing under free-ranging conditions shall be collected. The indicator species used in this procedure shall be obtained either from a control area selected consistent with provisions of § 11.72 of this part or obtained from a suitable supply of wild-strain organisms reared in a laboratory setting. Appropriate chemical analysis shall be performed on a representative subsample of the indicator species before in situ placement.

(iii) In situ placement procedures shall be used where the collection of samples would be inconsistent with the provisions of § 11.17(b) of this part.

(5) Sampling sites and the number of replicate samples to be collected at the sampling sites shall be consistent with the quality assurance provisions of the Assessment Plan.

(6) Chemical analysis of biological resource samples collected for the purpose of this section shall be conducted in accordance with the quality assurance provisions of the Assessment Plan.

§ 11.64 Injury Determination phase—testing and sampling methods.

(a) *General.* (1) The guidance provided in this section shall be followed for selecting methodologies for the Injury Determination phase.

(2) Before selecting methodologies, the objectives to be achieved by testing and sampling shall be defined. These objectives shall be listed in the Assessment Plan. In developing these objectives, the availability of information from response actions relating to the discharge or release, the resource exposed, the characteristics of the oil or hazardous substance, potential physical, chemical, or biological reactions initiated by the discharge or release, the potential injury, the pathway of exposure, and the potential for injury resulting from that pathway should be considered.

(3) When selecting testing and sampling methods, only those methodologies shall be selected:

(i) For which performance under conditions similar to those anticipated at the assessment area has been demonstrated;

(ii) That ensure testing and sampling performance will be cost-effective;

(iii) That will produce data that were previously unavailable and that are needed to make the determinations; and

(iv) That will provide data consistent with the data requirements of the Quantification phase.

(4) Specific factors that should be considered when selecting testing and sampling methodologies to meet the requirements in paragraph (a)(3) of this section include:

(i) Physical state of the discharged or released substance;

(ii) The duration, frequency, season, and time of the discharge or release;

(iii) The range of concentrations of chemical compounds to be analyzed in different media;

(iv) Detection limits, accuracy, precision, interferences, and time required to perform alternative methods;

(v) Potential safety hazards to obtain and test samples;

(vi) Costs of alternative methods; and

(vii) Specific guidance provided in paragraphs (b), (c), (d), (e), and (f) of this section.

(b) *Surface water resources.* (1) Testing and sampling for injury to surface water resources shall be performed using methodologies described in the Assessment Plan.

(2) Chemical analyses performed to meet the requirements of the Injury Determination phase for surface water resources shall be conducted in accordance with methods that are generally accepted or have been scientifically verified and documented.

(3) The term "water sample" shall denote a volume of water collected and preserved to represent the bulk water and any dissolved or suspended materials or microorganisms occurring in the surface water resource.

(4) Sampling of water and sediments from surface water resources shall be conducted according to generally accepted methods.

(5) Measurement of the hydrologic properties of the resource shall be conducted according to generally accepted methods.

(6) (i) Interpretation of surface-water flow or estimation of transport of oil or hazardous substance in surface water through the use of models shall be based on hydrologic literature and current practice.

(ii) The applicability of models used during the assessment should be demonstrated, including citation or description of the following:

(A) Physical, chemical, and biological processes simulated by the model;

(B) Mathematical or statistical methods used in the model; and

(C) Model computer code (if any), test cases proving the code works, and any alteration of previously documented code made to adapt the model to the assessment area.

(iii) The validity of models used during the assessment should be established, including a description of the following:

(A) Hydraulic geometry, physiographic features, and flow characteristics of modeled reaches or areas;

(B) Sources of hydrological, chemical, biological, and meteorological data used in the model;

(C) Lists or maps of data used to describe initial conditions;

(D) Time increments or time periods modeled;

(E) Comparison of predicted fluxes of water and solutes with measured fluxes;

(F) Calibration-verification procedures and results; and

(G) Types and results of sensitivity analyses made.

(c) *Ground water resources.* (1) Testing and sampling for injury to ground water resources shall be

performed using methodologies described in the Assessment Plan.

(2) Chemical analyses performed to meet the requirements of the Injury Determination phase for ground water resources shall be conducted in accordance with methods that are generally accepted or have been scientifically verified and documented.

(3) (i) The term "water sample" shall denote a volume of water collected and preserved to represent the bulk water and any dissolved or suspended materials or microorganisms occurring in the ground water resource.

(ii) The source of ground water samples may be from natural springs, in seeps, or from wells constructed according to generally accepted methods.

(4) Sampling of ground water or of geologic materials through which the ground water migrates shall be conducted according to generally accepted methods.

(5) Measurement of the geohydrologic properties of the resource shall be conducted according to generally accepted practice.

(6) Description of lithologies, minerals, cements, or other sedimentary characteristics of the ground water resource should follow generally accepted methods.

(7) Interpretation of the geohydrological setting, including identifying geologic layers comprising aquifers and any confining units, shall be based on geohydrologic and geologic literature and generally accepted practice.

(8) (i) Interpretation of ground-water flow systems or estimation of transport of oil or hazardous substances in ground water through the use of models shall be based on geohydrologic literature and current practice.

(ii) The applicability of models used during the assessment should be demonstrated, including citation or description of the following.

(A) Physical, chemical, and biological processes simulated by the model;

(B) Mathematical or statistical methods used in the model; and

(C) Model computer code (if any), test cases proving the code works, and any alteration of previously documented code made to adapt the model to the assessment area.

(iii) The validity of models used during the assessment should be established, including a description of the following:

(A) Model boundary conditions and stresses simulated;

(B) How the model approximates the geohydrological framework of the assessment area;

(C) Grid size and geometry;

(D) Sources of geohydrological, chemical, and biological data used in the model;

(E) Lists or maps of data used to describe initial conditions;

(F) Time increments or time periods modeled;

(G) Comparison of predicted fluxes of water and solutes with measured fluxes;

(H) Calibration-verification procedures and results; and

(I) Type and results of sensitivity analyses made.

(d) *Air resources.* (1) Testing and sampling for injury to air resources shall be performed using methodologies that meet the selection and documentation requirements in this paragraph. Methods identified in this section and methods meeting the selection requirements identified in this section shall be used to detect, identify, and determine the presence and source of emissions of oil or a hazardous substance, and the duration, frequency, period of exposure (day, night, seasonal, etc.), and levels of exposure.

(2) The sampling and analysis methods identified in this paragraph are the primary methods to be used for determining injury to the air resource. Air modeling methods may be used for injury determination only when air sampling and analysis methods are not available or the discharge or release occurred with no opportunity to monitor or sample the emissions.

(3) (i) Methods developed, evaluated, approved, and published by the U.S. Environmental Protection Agency may be used for sampling and analysis to determine injury to the air resource.

(ii) Methods selected for air sampling and analysis may include those methods that have been formally reviewed, evaluated, and published by the following government and professional organizations: the National Institute for Occupational Safety and Health, the American Society for Testing and Materials, and the American Public Health Association.

(iii) Methods selected for air sampling and analysis shall be methods that are documented for each of the following:

(A) The range of field conditions for which the methods are applicable;

(B) Quality assurance and quality control requirements necessary to achieve the data quality the methods are capable of producing;

(C) Operational costs of conducting the methods; and

(D) Time required to conduct the methods.

(iv) The determination of concentrations in excess of emission standards for hazardous air pollutants established under section 112 of the Clean Air Act, 42 U.S.C. 7412, shall be conducted in accordance with the primary methods or alternative methods as required in "National Emission Standards for Hazardous Air Pollutants: Source Test and Analytical Methods," 40 CFR 61.14, and as may be applicable to the determination of injury to air resources.

(4) In selecting methods for testing and sampling for injury to air resources, the following performance factors of the sampling and analysis methods and the influencing characteristics of the assessment area and the general vicinity shall be considered:

(i) Method detection limits, accuracy, precision, specificity, interferences, and analysis of time and cost;

(ii) Sampling area locations and frequency, duration of sampling, and chemical stability of emissions; and

(iii) Meteorological parameters that influence the transport of emissions and the spatial and temporal variation in concentration.

(e) *Geologic resources.* (1) Testing and sampling for injury to geologic resources shall be performed using methodologies described in this paragraph.

(2) Testing pH level in soils shall be performed using standard pH measurement techniques, taking into account the nature and type of organic and inorganic constituents that contribute to soil acidity; the soil/solution ratio; salt or electrolytic content; the carbon dioxide content; and errors associated with equipment standardization and liquid junction potentials.

(3) Salinity shall be tested by measuring the electrical conductivity of the saturation extraction of the soil.

(4) Soil microbial respiration shall be tested by measuring uptake of oxygen or release of carbon dioxide by bacterial, fungal, algal, and protozoan cells in the soil. These tests may be made in the laboratory or in situ.

(5) Microbial populations shall be tested using microscopic counting, soil fumigation, glucose response, or adenylate enegry charge.

(6) Phytotoxicity shall be tested by conducting tests of seed germination, seedling growth, root elongation, plant uptake, or soil-core microcosms.

(7) Injury to mineral resources shall be determined by describing restrictions on access, development, or use of the resource as a result of the oil or hazardous substance. Any appropriate health and safety considerations that led to the restrictions should be documented.

(f) *Biological resources.* (1) Testing and sampling for injury to biological resources shall be performed using methodologies provided for in this paragraph.

(2) (i) Testing may be performed for biological responses that have satisfied the acceptance criteria of § 11.62(f)(2) of this part.

(ii) Testing methodologies that have been documented and are applicable to the biological response being tested may be used.

(3) Injury to biological resources, as such injury is defined in § 11.62(f)(1)(ii) of this part, may be determined by using methods acceptable to or used by the Food and Drug Administration or the appropriate State health agency in determining the levels defined in that paragraph.

§ 11.70 Quantification phase—general.

(a) *Requirement.* (1) Upon completing the Injury Determination phase, the authorized official shall quantify for each resource determined to be injured and for which damages will be sought, the effect of the discharge or release in terms of the reduction from the baseline condition in the quantity and quality of services, as the phrase is used in this part, provided by the injured resource using the guidance provided in the Quantification phase of this part.

(2) The Quantification phase consists of § 11.70—general; § 11.71—service reduction quantification; § 11.72—baseline services determination; and § 11.73—resource recoverability analysis, of this part.

(b) *Purpose.* The purpose of the Quantification phase is to quantify the effects of the discharge or release on the injured natural resources for use in determining the appropriate amount of compensation.

(c) *Steps in the Quantification phase.* In the Quantification phase, the extent of the injury shall be measured, the baseline condition of the injured resource shall be estimated, the baseline services shall be identified, the recoverability of the injured resource shall be determined, and the reduction in services that resulted from the discharge or release shall be estimated.

(d) *Completion of Quantification phase.* Upon completing the Quantification phase, the authorized official shall make a determination as to the reduction in services that resulted from the discharge or release. This Quantification Determination shall be used in the Damage Determination phase and shall be maintained as part of the Report of Assessment described in § 11.90 of this part.

§ 11.71 Quantification phase—service reduction quantification.

(a) *Requirements.* (1) The authorized official shall quantify the effects of a discharge of oil or release of a hazardous substance by determining the extent to which natural resource services have been reduced as a result of the injuries determined in the Injury Determination phase of the assessment.

(2) This determination of the reduction in services will be used in the Damage Determination phase of the assessment, and must be consistent with the needs of the economic methodology selected in the determination required in § 11.35 of this part.

(3) Quantification will be done only for resources for which damages will be sought.

(b) *Steps.* Except as provided in § 11.71(f) of this part, the following steps are necessary to quantify the effects:

(1) Measure the extent to which the injury demonstrated in the Injury Determination phase has occurred in the assessment area;

(2) Measure the extent to which the injured resource differs from baseline conditions, as described in § 11.72 of this part, to determine the change attributable to the discharge or release;

(3) Determine the services normally produced by the injured resource, which are considered the baseline services or the without-a-discharge-or-release condition as described in § 11.72 of this part;

(4) Identify interdependent services to avoid double counting in the Damage Determination phase and to discover significant secondary services that may have been disrupted by the injury; and

(5) Measure the disruption of services resulting from the discharge or release, which is considered the change in services or the with-a-discharge-or-release condition.

(c) *Contents of the Quantification.* The following factors should be included in the quantification of the effects of the discharge or release on the injured resource:

(1) Total area, volume, or numbers affected of the resource in question;

(2) Degree to which the resource is affected, including consideration of subunits or subareas of the resource, as appropriate;

(3) Ability of the resource to recover, expressed as the time required for restoration of baseline services as described in § 11.73 of this part;

(4) Proportion of the available resource affected in the area;

(5) Services normally provided by the resource that have been reduced as a result of the discharge or release; and

(6) Factors identified in the specific guidance in paragraphs (h), (i), (j), (k), and (l) of this section dealing with the different kinds of natural resources.

(d) *Selection of resources, services, and methodologies.* Specific resources or services to quantify and the methodology for doing so should be selected based upon the following factors:

(1) Degree to which a particular resource or service is affected by the discharge or release;

(2) Degree to which a given resource or service can be used to represent a broad range of related resources or services;

(3) Consistency of the measurement with the requirements of the economic methodology to be used;

(4) Technical feasibility, as that phrase is used in this part, of quantifying changes in a given resource or service at reasonable cost; and

(5) Preliminary estimates of services at the assessment area and control area based on resource inventory techniques.

(e) *Services.* In quantifying changes in natural resource services, the functions provided in the cases of both with- and without-a-discharge-or-release shall be compared. For the purposes of this part, services include provision of habitat, food and other needs of biological resources, recreation, other products or services used by humans, flood control, ground water recharge, waste assimilation, and other such functions that may be provided by natural resources.

(f) *Direct quantification of services.* The effects of a discharge or release on a resource may be quantified by directly measuring changes in services provided by the resource, instead of quantifying the changes in the resource itself, when it is determined that all of the following conditions are met:

(1) The change in the services from baseline can be demonstrated to have resulted from the injury to the natural resource;

(2) The extent of change in the services resulting from the injury can be measured without also calculating the extent of change in the resource; and

(3) The services to be measured are anticipated to provide a better indication of damages caused by the injury than would direct quantification of the injury itself.

(g) *Statutory exclusions.* In quantifying the effects of the injury, the following statutory exclusions shall be considered, as provided in section 107 (f), (i), and (j) of CERCLA, that exclude compensation for damages to natural resources that were a result of:

(1) An irreversible and irretrievable commitment of natural resources identified in an environmental impact statement or other comparable environmental analysis, and the decision to grant the permit or license authorizes such a commitment, and the facility was otherwise operating within the terms of its permit or license; or

(2) The damages and the release of a hazardous substance from which such damages resulted have occurred wholly before the enactment of CERCLA; or

(3) The application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135–135k; or

(4) Any other federally permitted release, as defined in secton 101(10) of CERCLA.

(h) *Surface water resources.* (1) The area where the injured surface water resource differs from baseline shall be determined by determining the areal extent of oil or hazardous substances in the water or on the sediments.

(2) (i) Areal variation in concentrations of the discharged or released substances dissolved in or floating on water, adhering to suspended sediments, or adhering to bed, bank, or shoreline sediments from exposed areas should be determined in sufficient detail to approximately map the boundary separating areas with concentrations above baseline from areas with concentrations equal to or less than baseline.

(ii) The size, shape, and location of the plume may be estimated using time of travel and dispersion data obtained under § 11.63 of this part, since plumes of dissolved or floating substances may be rapidly transported and dispersed in surface water.

(3) Water and sediment samples may be collected and chemically analyzed and stage, water discharge, or tidal flux measurements made, as appropriate, to collect new data required by this section.

(4) (i) Within the area determined in paragraph (h)(2) of this section to be above baseline, the services provided by the surface water or sediments that are affected should be determined. This determination may include computation of volumes of water or sediments affected, total areas of water or sediment affected, volume of water used from the affected surface water resource, or other appropriate measures.

(ii) The services should be determined with consideration of potential effects on downstream or downcurrent resources during the recovery period, as determined in § 11.73 of this part, resulting from transport of dissolved substances and of substances adhering to sediments.

(i) *Ground water resources.* (1) The area where the injured ground water resource differs from baseline should be determined by determining the areal extent of oil or hazardous substances in water or geologic materials in the unsaturated zone and identified geohydrological units, which are aquifers or confining layers, within the assessment area.

(2) (i) The lateral and vertical extent of discharged or released substances in the unsaturated zone, if it is known to be exposed, should be determined.

(ii) The lateral and vertical extent of plumes within geohydrologic units known to be exposed should be determined. Concentrations of substances within and adjacent to each plume should be determined in sufficient detail to approximately locate the boundary separating areas with concentrations above baseline from areas with concentrations equal to or less than baseline.

(3) Water or geologic materials may be sampled and chemically analyzed, or surface-geophysical techniques may be used for collecting new data required by this section. General verification of the plume boundaries by chemical analysis of selected water samples should be done if boundary locations are initially determined by surface-geophysical measurements.

(4) (i) Within the area determined in paragraph (i)(2)(ii) of this section to be above baseline, the services provided by the ground water that is affected should be determined. This determination may include computation of the volume of water affected, volume of affected ground water pumped from wells, volume of affected ground water discharged to streams or lakes, or other appropriate measures.

(ii) The services should be determined with consideration of potential enlargement of the plume during the recovery period, as determined in § 11.73 of this part, resulting from ground water transport of the substances.

(iii) The effects on the ground water resource during the recovery period resulting from potential remobilization of discharged or released substances that may be adhering, coating, or otherwise bonding to geologic materials should be considered.

(j) *Air resources.* The area where the injured air resource differs from baseline should be determined by determining the geographical area affected, the degree of impairment of services, and the period of time impairment occurred.

(k) *Geologic resources.* The area where the injured geologic resource differs from baseline should be determined by determining:

(1) The surface area of soil with reduced ability to sustain the growth of vegetation from the baseline level;

(2) The surface area or volume of soil with reduced suitability as habitat for biota from the baseline level;

(3) The volume of geologic resources that may act as a source of toxic leachate;

(4) The tonnage of mineral resources whose access, development, or use is restricted as a result of the discharge or release.

(l) *Biological resources.* (1) The extent to which the injured biological resource differs from baseline should be determined by analysis of the population or the habitat or ecosystem levels. Although it may be necessary to measure populations to determine changes in the habitats or ecosystems, and vice versa, the final result should be expressed as either a population change or a habitat or ecosystem change in order to prevent double counting in the economic analysis. This separation may be ignored only for resources that do not interact significantly and where it can be demonstrated that double counting is being avoided.

(2) Analysis of population changes or habitat or ecosystem changes should be based upon species, habitats, or ecosystems that have been selected from one or more of the following categories:

(i) Species or habitats that can represent broad components of the ecosystem, either as representatives of a particular ecological type, of a particular food chain, or of a particular service;

(ii) Species, habitats, or ecosystems that are especially sensitive to the oil or hazardous substance and the recovery of which will provide a useful indicator of successful restoration; or

(iii) Species, habitats, or ecosystems that provide especially significant services.

(3) Analysis of populations, habitats, or ecosystems shall be limited to those populations, habitats, or ecosystems for which injury has been determined in the Injury Determination phase or those that can be linked directly through services to resources for which injury has been so determined. Documentation of the service link to the injured resource must be provided in the latter case.

(4) Population, habitat, or ecosystem measurement methods that provide data that can be interpreted in terms of services must be selected. To meet this requirement, a method should:

(i) Provide numerical data that will allow comparison between the assessment area data and the control area or baseline data;

(ii) Provide data that will be useful in planning restoration or replacement efforts and in later measuring the success of those efforts, or that will allow calculation of use values; and

(iii) Allow correction, as applicable, for factors such as dispersal of organisms in or out of the assessment area, differential susceptibility of different age classes of organisms to the analysis methods and other potential systematic biases in the data collection.

(5) When estimating population differences of animals, standard and widely accepted techniques, such as census, mark-recapture, density, and index methods, and other estimation techniques appropriate to the species and habitat shall be used. Frequencies of injury observed in the population shall be measured as applicable.

(i) In general, methods used for estimates of wildlife populations should follow standard and widely accepted techniques such as those recommendations provided in the "Wildlife Management Techniques Manual" (4th edition, Wildlife Society, 1980, available from the Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814), including references cited and recommended in that manual. The specific technique used need not be cited in that manual, but should meet its recommendations for producing reliable estimates or indices.

(ii) Measurement of age structures, life table statistics, or age structure models generally will not provide satisfactory measurement of changes due to a discharge of oil or release of a hazardous substance unless there is clear evidence that the oil or hazardous substance has differentially affected different age classes and there are reliable baseline age structure data available for the population being assessed.

(iii) Mortality from single incidents may be used to estimate changes in populations only when there are available baseline population data for the area, so that the proportion lost can be estimated, and when corrections can be made for potential sampling biases, such as natural mortality and factors influencing distribution of carcasses and ability of investigators to find them. Specific techniques for measuring mortality include the following:

(A) Fish mortality in freshwater areas may be estimated from counts of carcasses, using methods and guidelines for estimating numbers of fish killed contained in Part II (Fish-Kill Counting Guidelines) of the "Monetary Values of Freshwater Fish and Fish-Kill Counting Guidlines," American Fisheries Society Special Publication Number 13, 1982 (incorporation by reference, see § 11.18), including use of appropriate random sampling methods and tagged carcasses as identified and discussed in Part II of that publication.

(B) The authorized official may adapt the techniques discussed in paragraph (l) (5) (iii) (A) of this section for counting dead aquatic birds or for counting marine or estuarine fish or birds. Such adaptation will require the documentation of the methods used to avoid sampling biases.

(C) Fish mortality may also be estimated by use of an in situ bioassay technique that is similar to that identified in § 11.62(f)(4)(i)(C) of this part, if the oil or hazardous substance is still present at levels that resulted in injury and if appropriate instream controls can be maintained at control areas.

(6) Plant populations may be measured using standard techniques, such as population density, species composition, diversity, dispersion, and cover.

(7) Forest and range resources may be estimated by standard forestry and range management evaluation techniques.

(8) Habitat quality may be measured using techniques such as the Habitat Evaluation Procedures (HEP) developed and used by the U.S. Fish and Wildlife Service.

§ 11.72 Quantification phase—baseline services determination.

(a) *Requirements.* The authorized official shall determine the physical, chemical, and biological baseline conditions and the associated baseline services for injured resources at the assessment area to compare that baseline with conditions found in § 11.71 of this part.

(b) *General guidelines.* Baseline data shall be selected according to the following general guidelines:

(1) Baseline data should reflect conditions that would have been expected at the assessment area had the discharge of oil or release of hazardous substances not occurred, taking into account both natural processes and those that are the result of human activities.

(2) Baseline data should include the normal range of physical, chemical, or biological conditions for the assessment area or injured resource, as appropriate for use in the analysis in § 11.71 of this part, with statistical descriptions of that variability. Causes of extreme or unusual value in baseline data should be identified and described.

(3) Baseline data should be as accurate, precise, complete, and representative of the resource as the data used or obtained in § 11.71 of this part. Data used for both the baseline and services reduction determinations must be collected by comparable methods. When the same method is not used, comparability of the data collection methods must be demonstrated.

(4) Baseline data collection shall be restricted to those data necessary for a reasonable cost assessment. In particular, data collected should focus on parameters that are directly related to the injury quantified in § 11.71 of this part and to data appropriate and necessary for the economic methodology selected in § 11.35 of this part.

(5) The authorized official may use or authorize for use baseline data that are not expected to represent fully the baseline conditions, subject to the following requirements:

(i) The authorized official shall document how the requirements of this paragraph are met:

(ii) These substitute baseline data shall not cause the difference between baseline and the conditions in the assessment area to exceed the difference that would be expected if the baseline were completely measured; and

(iii) The authorized official has determined that it is either not technically feasible or not cost-effective, as those phrases are used in this part, to measure the baseline conditions fully and that these baseline data are as close to the actual baseline conditions as can be obtained subject to these limitations.

(c) *Historical data.* If available and applicable, historical data for the assessment area or injured resource should be used to establish the baseline. If a significant length of time has elapsed since the discharge or release first occurred, adjustments should be made to historical data to account for changes that have occurred as a result of causes other than the discharge or release. In addition to specialized sources identified in paragraphs (g) through (k) of this section, one or more of the following general sources of historical baseline data may be used:

(1) Environmental Impact Statements or Environmental Assessments previously prepared for purposes of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4361, similar documents prepared under other Federal and State laws, and background studies done for any of these documents;

(2) Standard scientific and management literature sources appropriate to the resource;

(3) Computerized data bases for the resource in question;

(4) Public or private landholders in the assessment area or in neighboring areas;

(5) Studies conducted or sponsored by Federal or State agencies acting as trustees for the resource in question;

(6) Federally sponsored research identified by the National Technical Information Service;

(7) Studies carried out by educational institutions; and

(8) Other similar sources of data.

(d) *Control areas.* Where historical data are not available for the assessment area or injured resource, or do not meet the requirements of this section, baseline data should be collected from control areas. Historical data for a control area should be used if available and if they meet the guidelines of this section. Otherwise, the baseline shall be defined by field data from the control area. Control areas shall be selected according to the following guidelines, and both field and historical data for those areas should also conform to these guidelines:

(1) One or more control areas shall be selected based upon their similarity to the assessment area and lack of exposure to the discharge or release;

(2) Where the discharge or release occurs in a medium flowing in a single direction, such as a river or stream, at least one control area upstream or upcurrent of the assessment area shall be included, unless local conditions indicate such an area is inapplicable as a control area;

(3) The comparability of each control area to the assessment area shall be demonstrated, to the extent technically feasible, as that phrase is used in this part;

(4) Data shall be collected from the control area over a period sufficient to estimate normal variability in the characteristics being measured and should represent at least one full cycle normally expected in that resource;

(5) Methods used to collect data at the control area shall be comparable to those used at the assessment area, and shall be subject to the quality assurance provisions of the Assessment Plan;

(6) Data collected at the control area should be compared to values reported in the scientific or management literature for similar resources to demonstrate that the data represent a normal range of conditions; and

(7) A control area may be used for determining the baseline for more than one kind of resource, if sampling and data collection for each resource do not interfere with sampling and data collection for the other resources.

(e) *Baseline services.* The baseline services associated with the physical, chemical, or biological baseline data shall be determined.

(f) *Other requirements.* The methodologies in paragraphs (g) through (k) of this section shall be used for determining baseline conditions for specific resources in addition to following the general guidelines identified in paragraphs (a) through (e) of this section. If a particular resource is not being assessed for the purpose of the Damage Determination phase, and data on that resource are not needed for the assessment of other resources, baseline data for the resource shall not be collected.

(g) *Surface water resources.* (1) This paragraph provides additional guidance on determining baseline services for surface water resources. The general guidance provided in paragraphs (a) through (f) of this section should be followed before beginning any work described in this paragraph.

(2) Applicable and available historical data shall be gathered to determine baseline conditions for the surface water resource at the assessment area. If deemed inadequate for determining baseline conditions, such data shall be used to the extent technically feasible, as that phrase is used in this part, in designating the control areas described in paragraph (g)(3) of this section for the surface water resource determined to be injured.

(3) Control areas shall be selected for the surface water resource subject to the general criteria in paragraph (d) of this section and additional criteria as follows:

(i) For each injured stream or river reach, a control area shall be designated consisting of a stream or river reach of similar size, that is as near to the assessment area as practical and, if practical, that is upstream or upcurrent from the injured resource, such that the channel characteristics, sediment characteristics, and streamflow characteristics are similar to the injured resource and the water and sediments of the control area, because of location, have not been exposed to the discharge or release.

(ii) For each injured standing water body, such as a marsh, pond, lake, bay, or estuary, a control area shall be designated consisting of a standing water body of similar size that is as near to the assessment area as practical, such that the sediment characteristics and inflow-outflow characteristics of the control area are similar to the injured resource and the water and sediments of the control area, because of location, have not been exposed to the discharge or release.

(4) (i) Within the control area locations shall be designated for obtaining samples of water and sediments.

(ii) The water discharge, stage, or tidal flux shall be measured and representative water and sediments collected as follows:

(A) Measure stage, water discharge, and tidal flux as appropriate at the same time that water and sediment samples are collected; and

(B) Obtain comparable samples and measurements at both the control and assessment areas under similar hydraulic conditions.

(iii) Measurement and samples shall be obtained as described in this paragraph in numbers sufficient to determine:

(A) The approximate range of concentration of the substances in water and sediments;

(B) The variability of concentration of the substances in water and sediments during different conditions of stage, water discharge, or tidal flux; and

(C) The variability of physical and chemical conditions during different conditions of stage, water discharge, or tidal flux relating to the transport or storage of the substances in water and sediments.

(5) Samples should be analyzed from the control area to determine the physical properties of the water and sediments, suspended sediment concentrations in the water, and concentrations of oil or hazardous substances in water or in the sediments. Additional chemical, physical, or biological tests may be made, if necessary, to obtain otherwise unavailable data for the characteristics of the resource and comparison with the injured resource at the assessment area.

(6) In order to establish that differences between surface water conditions of the control and assessment areas are statistically significant, the median and interquartile range of the available data or the test results should be compared using the Mann-Whitney and ranked squares tests, respectively.

(7) Additional tests may be made of samples from the control area, if necessary, to provide otherwise unavailable information about physical, chemical, or biochemical processes occurring in the water or sediments relating to the ability of the injured surface water resource to recover naturally.

(h) *Ground water resources.* (1) This paragraph provides additional guidance on determining baseline services for ground water resources. The general guidance provided in paragraphs (a) through (f) of this section should be followed before beginning any work described in this paragraph.

(2) Applicable and available historical data shall be gathered to determine baseline conditions for the ground water resource at the assessment area. If deemed inadequate for determining baseline conditions, such data shall be used to the extent technically feasible, as that phrase is used in this part, in designating the control areas described in paragraph (h)(3) of this section for the ground water resource determined to be injured.

(3) A control area shall be designated subject to the general criteria in paragraph (d) of this section and as near to the assessment area as practical, such that, within the control area, geological materials, geohydrological units, and hydrologic conditions are similar to the assessment area, and ground water resources are not exposed to substances from the discharge or release.

(4) Within the control area, wells shall be identified or drilled, designated as control wells, to obtain representative ground water samples for analysis. The location, depth, and number of control wells and the number of ground water samples collected should be sufficient to estimate the vertical and lateral variation in concentration of the substances in both the unsaturated zone and in ground water from geohydrologic units similar to units tested in the assessment area.

(i) Representative water samples from each control well shall be collected and analyzed. The analyses should determine the physical and chemical properties of the ground water relating to the occurrence of oil or hazardous substances.

(ii) If the oil or hazardous substances are commonly more concentrated on geologic materials than in ground water, representative samples of geologic materials from aquifers and the unsaturated zone as appropriate should be obtained and chemically analyzed. The location, depth, and number of these samples should be sufficient to determine the vertical and lateral variation in concentration of the oil or hazardous substances absorbing or otherwise coating geologic materials in the control area. These samples may also be analyzed to determine porosity, mineralogy, and lithology of geologic materials if these tests will provide otherwise unavailable information on storage or mobility of the oil or hazardous substances in the ground water resource.

(5) In order to establish that differences between ground water conditions of the control and assessment areas are statistically significant, the median and interquartile range of available data or the test results from similar geohydrologic units should be compared using the Mann-Whitney and ranked squares test, respectively.

(6) Additional tests may be made of samples from the control area, if necessary, to provide otherwise unavailable information about chemical, geochemical, or biological processes occurring in the ground relating to the ability of the injured ground water resource to recover naturally.

(i) *Air resources.* (1) This paragraph provides additional guidance on determining baseline services for air resources. The general guidance provided in paragraphs (a) through (f) of this section should be followed before beginning any work described in this paragraph.

(2) Applicable and available historical data shall be gathered on ambient air quality and source emissions to determine baseline conditions for the air resource. These historical data may be used to determine baseline conditions if the data satisfy the general guidelines in paragraph (d) of this section and if all the following criteria are met:

(i) The methodology used to obtain these historical data would detect the oil or hazardous substance at levels appropriate for comparison to the concentrations measured in § 11.71 of this part;

(ii) The effect of known or likely emission sources near the assessment area other than the source of the discharge or release can be identified or accounted for in the historical data; and

(iii) The historical data show that normal concentrations of the oil or hazardous substance are sufficiently predictable that changes as a result of the discharge or release are likely to be detectable.

(3) If historical data appropriate to determine baseline conditions at the assessment area are lacking, one or more control areas, as needed, shall be designated subject to the general criteria of paragraph (d) of this section and the following additional factors, which shall also be considered in establishing a monitoring schedule:

(i) Applicable and available historical data shall be used to the extent technically feasible, as that phrase is used in this part, in designating control areas or, lacking historical data, the factors in paragraph (i)(3)(iii) of this section shall be considered;

(ii) Control areas shall be spatially representative of the range of air quality and meteorological conditions likely to have occurred at the assessment area during the discharge or release into the atmosphere; and

(iii) The following additional factors shall be considered:

(A) The nature of the discharge or release and of potential alternative sources of the oil or hazardous substance, including such factors as existing sources, new sources, intermittent sources, mobile sources, exceptional events, trends, cycles, and the nature of the material discharged or released;

(B) Environmental conditions affecting transport, such as wind speed and direction, atmospheric stability, temperature, humidity, solar radiation intensity, and cloud cover; and

(C) Other factors, such as timing of the discharge or release, use patterns of the affected area, and the nature of the injury resulting from the discharge or release.

(4) (i) The preferred measurement method is to measure air concentrations of the oil or hazardous substance directly using the same methodology employed in § 11.71 of this part.

(ii) Nonspecific or chemical compound class methodologies may be used to determine baseline generically only in situations where it can be demonstrated that measuring indicator substances will adequately represent air concentrations of other components in a complex mixture.

(j) *Geologic resources.* (1) This paragraph provides additional guidance on determining baseline services for geologic resources. The general guidance provided in paragraphs (a) through (f) of this section should be followed before beginning any work described in this paragraph.

(2) Applicable and available historical data shall be gathered to determine baseline conditions for the geologic resource at the assessment area. If deemed inadequate for determining baseline conditions, such data shall be used to the extent technically feasible, as that phrase is used in this part, in designating the control areas described in paragraph (j)(3) of this section for the geologic resource determined to be injured.

(3) Control areas shall be selected for geologic resources subject to the general criteria in paragraph (d) of this section and additional criteria as follows:

(i) Similarity of exposed soil or geologic material in the assessment area

with the geologic resource in the control area should be the primary factor in selecting the control area. Other factors, including climate, depth of ground water, vegetation type and area covered, land slope and land area, and hydraulic gradients and spatial relation to source should be comparable to the assessment area.

(ii) The control area shall be selected such that the geologic resource in the control area is not exposed to the discharge or release.

(4)(i) A sufficient number of samples from unbiased, randomly selected locations in the control area shall be obtained in order to characterize the areal variability of the parameters measured. Each sample should be analyzed to determine the physical and chemical properties of the geologic materials relating to the occurrence of the oil or hazardous substance. Additional chemical, physical, or biological tests may be made, if necessary, to obtain otherwise unavailable data for the characterization and comparison with the injured resource at the assessment area.

(ii) The mean and standard deviation of each parameter measured shall be used as the basis of comparison between the assessment and control areas.

(k) *Biological resources.* (1) This paragraph provides additional guidance on determining baseline services for biological resources. The general guidance provided in paragraphs (a) through (f) of this section should be followed before beginning any work described in this paragraph.

(2) Applicable and available historical data shall be gathered to determine baseline conditions for the biological resource at the assessment area and should include both population and habitat data if available. These data may be derived from the data sources identified in paragraph (c) of this section, as well as from the following:

(i) Aerial photographs or maps showing distribution and extent of habitat types or other biological resources before the discharge or release;

(ii) Biological specimens in systematic museum or herbarium collections and associated records, including labels and collectors' field notes; and

(iii) Photographs showing the nature of the habitat before the discharge or release when the location and date are well documented.

(3)(i) Control areas shall be selected for biological resources subject to the general criteria in paragraph (d) of this section and additional criteria as follows:

(A) The control area shall be comparable to the habitat or ecosystem at the assessment area in terms of distribution, type, species composition, plant cover, vegetative types, quantity, and relationship to other habitats;

(B) Physical characteristics of the control and assessment areas shall be similar; and

(C) If more than one habitat or ecosystem type is to be assessed, comparable control areas should be established for each, or a control area should be selected containing those habitat types in a comparable distribution.

(ii) To the extent they are available, historical data should be gathered and used for the control area. Lacking adequate historical data for both the control and assessment areas, the control areas shall be used for the following purposes, as appropriate to the quantification:

(A) To measure baseline biota population levels or habitat or ecosystem quality, as discussed in § 11.71(l) of this part; and

(B) To measure the natural frequency, if any, of the injury being assessed in unaffected populations or to demonstrate the lack of that injury in unaffected populations if these have not been done for purposes of the Injury Determination, and if needed for purposes of the Quantification.

(4) In addition, a control area should be used to collect control specimens, as needed, for the Injury Determination procedures.

(5) The identity of species for which Damage Determinations will be made or that play an important role in the assessment shall be confirmed except in the case where collecting the specimens of a species is likely to compromise the restoration of the species. One or more of the following methods shall be used:

(i) Specimens of the species shall be provided to an independent taxonomist or systematic biologist, who has access to a major systematic biology collection for that taxon, and who shall provide written confirmation of their identity to the species level;

(ii) A reference collection of specimens of the species, prepared and preserved in a way standard for systematic collections for that taxon, shall be maintained at least through final resolution of the damage action at which time it should be transferred to a major systematic biology collection; or

(iii) In the case of a species where collecting specimens is likely to compromise the recovery or restoration of that species population, the authorized official shall determine and use an alternative method for confirming species identity that will be consistent with established management goals for that species.

§ 11.73 Quantification phase—resource recoverability analysis.

(a) *Requirement.* The time needed for each injured resource to recover to the state that the authorized official determines services are restored to baseline levels shall be estimated. The time estimated for recovery or any lesser period of time as determined in the Assessment Plan shall be used as the recovery period for purposes of § 11.35 and the Damage Determination phase, §§ 11.80 through 11.84, of this part.

(1) In all cases, the amount of time needed for recovery if no restoration efforts are undertaken beyond response actions performed or anticipated shall be estimated. This time period shall be used as the "No Action-Natural Recovery" period for purposes of § 11.82 and § 11.84(g)(2)(ii) of this part.

(2) The estimated time for recovery shall be included in any alternatives for restoration, as developed in § 11.81 of this part, and the data and process by which these recovery times were estimated shall be documented.

(b) *Restoration not feasible.* If the authorized official determines that restoration will not be technically feasible, as that phrase is used in this part, the reasoning and data on which this decision is based shall be documented as part of the justification for any replacement alternatives that may be considered or proposed.

(c) *Estimating recovery time.* (1) The time estimates required in paragraph (a) of this section shall be based on the best available information and where appropriate may be based on cost-effective models. Information gathered may come from one or more of the following sources, as applicable:

(i) Published studies on the same or similar resources;

(ii) Other data sources identified in § 11.72 of this part;

(iii) Experience of managers or resource specialists with the injured resource;

(iv) Experience of managers or resource specialists who have dealt with restoration for similar discharges or releases elsewhere; and

(v) Field and laboratory data from assessment and control areas as necessary.

(2) The following factors should be considered when estimating recovery times:

(i) Ecological succession patterns in the area;

(ii) Growth or reproductive patterns, life cycles, and ecological requirements of biological species involved, including their reaction or tolerance to the oil or hazardous substance involved;

(iii) Bioaccumulation and extent of oil or hazardous substances in the food chain;

(iv) Chemical, physical, and biological removal rates of the oil or hazardous substance from the media involved, especially as related to the local conditions, as well as the nature of any potential degradation or decomposition products from the process including:

(A) Dispersion, dilution, and volatilization rates in air, sediments, water, or geologic materials;

(B) Transport rates in air, soil, water, and sediments;

(C) Biological degradation, depuration, or decomposition rates and residence times in living materials;

(D) Soil or sediment properties and adsorption-desorption rates between soil or sediment components and water or air;

(E) Soil surface runoff, leaching, and weathering processes; and

(F) Local weather or climatological conditions that may affect recovery rates.

§ 11.80 Damage Determination phase—general.

(a) *Requirement.* (1) The authorized official shall estimate the damages resulting from the discharge of oil or release of a hazardous substance based upon the information provided in the Quantification phase and the guidance provided in the Damage Determination phase.

(2) The Damage Determination phase consists of § 11.80—general; § 11.81—restoration methodology; § 11.82—Restoration Methodology Plan; § 11.83—use value methodologies; and § 11.84—implementation guidance, of this part.

(b) *Purpose.* The purpose of the Damage Determination phase is to estimate the amount of money to be sought for compensation for injury to natural resources resulting from a discharge of oil or release of a hazardous substance.

(c) *Steps in the Damage Determination phase.* Based upon the decisions arrived at in the Economic Methodology Determination prepared in § 11.35 of this part, as part of the Assessment Plan concerning the appropriate measure of damages to be employed during the Damage Determination phase, the authorized official shall use either the restoration methodology provided in § 11.81 of this part or one of the use value methodologies provided in § 11.83 of this part to calculate damages. For assessments that use the restoration methodology, a Restoration Methodology Plan described in § 11.82 of this part shall be prepared. The guidance provided in § 11.84 of this part shall be followed in implementing either the restoration methodology or one of the use value methodologies, as appropriate.

(d) *Completion of the Damage Determination.* Upon completion of the Damage Determination phase, the type B assessment is completed. The results of the Damage Determination phase shall be documented in the Report of Assessment described in § 11.90 of this part.

§ 11.81 Damage Determination phase—restoration methodology.

(a) *Requirement.* The guidance provided in this section shall be followed when estimating damages based upon the restoration or replacement of the public services as identified in § 11.72 of this part.

(b) *Diminution of uses.* Damages based on restoration or replacement costs may include any diminution of use values, as described in § 11.84, of this part, occurring during the recovery period as determined in § 11.73 of this part.

(c) *Measurement.* (1) Restoration or replacement measures are limited to those actions that restore or replace the resource services to no more than their baseline, that is, the without-a-discharge-or-release condition as determined in § 11.72 of this part.

(2) The resource services previously provided by the injured resource in its baseline condition shall be identified in accordance with § 11.72 of this part and compared with those services provided by the injured resource, that is, the with-a-discharge-or-release condition. All estimates of the with-a-discharge-or-release condition shall incorporate the ability of the resource to recover as determined in § 11.73 of this part.

(d) *Alternatives.* (1) Alternative methods to achieve the restoration or replacement of the resource services shall be developed. Alternative methods may range from the replacement of individual resources to modification or restoration of a habitat or other resource.

(2) Selection of the cost-effective restoration or replacement methodology shall be documented in the Restoration Methodology Plan as required in § 11.82 of this part.

(e) *Evaluation.* (1) The costs of the alternative restoration or replacement methods developed in paragraph (d) of this section shall be evaluated. When an alternative requires the replacement of a resource, local prices should be used when available for those resources.

(2) In determining the costs of restoration or replacement, the acquisition of land for Federal management should be used only if this acquisition would represent the sole viable method of obtaining the lost services.

(f) *Damages.* (1) The damage amount as measured by restoration or replacement is the cost to accomplish the cost-effective alternative that provides the lost services.

(2) All restoration or replacement techniques, management methods, and methodologies must be technically feasible, as that phrase is used in this part.

§ 11.82 Damage Determination phase—Restoration Methodology Plan.

(a) *Requirement.* In instances where the authorized official has determined, based upon the Economic Methodolgy Determination in § 11.35 of this part, that restoration or replacement costs will form the basis of the measure of damages, a Restoration Methodology Plan shall be developed in accordance with the requirements of this section.

(b) *Purposes.* The purposes of the Restoration Methodology Plan are to ensure that the restoration or replacement alternative that forms the basis of the measure of damages is cost-effective and to serve as a basis for the more detailed restoration or replacement plan that shall be completed after a damage award.

(c) *Uses of the Plan.* (1) The expected present value of the costs of the restoration or replacement alternative selected shall be used as the measure of damages in any action or claim for damages under CERCLA or the CWA.

(2)(i) The Restoration Methodology Plan, updated and otherwise revised to reflect new information, shall be used as the basis of any restoration or replacement decision or plans that may be developed after the damage award has been made.

(ii) For purposes of submitting claims against the Fund, the requirements of 40 CFR 306.22 will need to be fulfilled before restoration work is authorized.

(d) *Plan content.* (1) The Restoration Methodology Plan shall describe all management actions or resource acquisitions to be taken consistent with the restoration or replacement decisions.

(2)(i) The Restoration Methodology Plan shall include a range of restoration and replacement alternatives that

restore the lost services to no more than their baseline level. These alternatives shall include a "No Action-Natural Recovery" alternative and other alternatives that reflect varying rates of recovery, management actions, and resource acquisitions.

(ii) The "No Action-Natural Recovery" alternative shall be based upon the determination made in § 11.73(a)(1) of this part concerning the ability of the resource to recover without additional actions beyond those response actions taken or anticipated under the NCP and normal management actions.

(iii) The development of the alternatives should be consistent with the requirements of any Federal or State statute concerning the injured resource, should consider techniques currently available in the biological and physical sciences, engineering, or economic and other management sciences, and should consider the long-term and indirect impacts of the restoration or replacement on other resources.

(iv)(A) An alternative that requires the acquisition of land for Federal management shall not be developed unless in the judgment of the Federal agency acting as trustee such acquisition constitutes the only viable method of obtaining the lost services.

(B) If the acquisition of land for Federal management constitutes the only viable method of obtaining the lost services, the appropriation process must be included in the scheduling of such acquisition since funding for such acquisition will have to be obtained through appropriations.

(3)(i) The Restoration Methodology Plan shall be of sufficient detail to evaluate the alternatives for the purpose of selecting the cost-effective method of restoring or replacing the lost services.

(ii) The cost-effective alternative shall be determined in accordance with the following:

(A) The description of the alternatives shall include cost and timing of expenditures;

(B) The guidance provided for discount rates in § 11.84(e) of this part shall be used; and

(C) The guidance provided for calculating the diminution of use values over the period of time required for restoration or replacement in § 11.84(g) of this part.

(e) *Plan development.* (1) In developing the Restoration Methodology Plan, the guidance provided in § 11.81 of this part shall be followed.

(2)(i) The Restoration Methodology Plan shall be made available for review by any identified potentially responsible party, other Federal or State agencies acting as trustees, other affected Federal or State agencies, and any other interested members of the public for a period of at least 30 calendar days, with reasonable extensions granted as appropriate, before the authorized official's final decision on selection of the alternative.

(ii) Comments received from any identified potentially responsible party, other Federal or State agencies acting as trustees, other affected Federal or State agencies, or any other interested members of the public, together with responses to those comments shall be included as part of the Report of Assessment, described in § 11.90 of this part.

(3) The Restoration Methodology Plan may be combined with other similar plans or may be expanded to incorporate requirements from procedures required under other portions of CERCLA or the CWA or from other Federal or State statutes applicable to restoration or replacement of the injured resource, so long as the requirements of this section are fulfilled.

(f) *Selection of alternative.* (1) The cost-effective alternative shall be selected as the basis for the measure of damages from among those evaluated in the Restoration Methodology Plan.

(2) The authorized official has the responsibility for the final approval of selection of the appropriate restoration or replacement alternative.

(g) *Costs of management actions.* Costs of management actions within the Restoration Methodology Plan may include:

(1) Net present value of capital costs for restoration and replacement; and

(2) Net present value of operating costs for restoration and replacement.

§ 11.83 Damage Determination phase—use value methodologies.

(a) *Requirement.* (1) The methodologies listed, or other methodologies that meet the acceptance criterion provided in this section, shall be used to estimate damages based on a diminution of use values.

(2) In estimating use values, either a marketed or nonmarketed resource methodology, as described in paragraphs (c) and (d) of this section shall be used.

(3) In using the nonmarketed resource methodologies in paragraph (d) of this section, the applicable guidance on the travel cost, contingent valuation, and unit value methodologies found in "National Economic Development (NED) Benefit Evaluation Procedures" (Procedures), in *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, Chapter II, Section VIII, Appendices 1–3, U.S. Department of the Interior, Water Resources Council, Washington, DC, 1983 (incorporated by reference, see § 11.18), shall be followed.

(4) Nothing in this part precludes the use of different methodologies for separate damage estimates for different resources.

(b) *Use values.* (1) For the purposes of this part, use values are the value to the public of recreational or other public uses of the resource, as measured by changes in consumer surplus, any fees or other payments collectable by the government for a private party's use of the natural resource, and any economic rent accruing to a private party because the government does not charge a fee or price for the use of the resource.

(2) Estimation of option and existence values shall be used only if the authorized official determines that no use values can be determined.

(3) In instances where the Federal or State agency acting as trustee is the majority operator or controller of a for- or not-for-profit enterprise, and the injury to the natural resource results in a loss to such an enterprise, that portion of the lost net income due the agency from this enterprise resulting directly or indirectly from the injury to the natural resource may be included as a measure of damages under this part.

(c) *Marketed resource methodologies.* (1) A determination shall be made as to whether the market for the resource is reasonably competitive. Unless the authorized official determines that the market for the resource is not reasonably competitive, the diminution in the market price of the resource shall be used to estimate the damages to the injured resource. This methodology shall be referred to as the market price methodology.

(2) When the authorized official determines that the market price methodology is not appropriate, the appraisal methodology shall be used if sufficient information exists. Damages should be measured, to the extent possible, in accordance with the applicable sections of the "Uniform Appraisal Standards for Federal Land Acquisition" (Uniform Appraisal Standards), Interagency Land Acquisition Conference, Washington, DC, 1973 (incorporated by reference, see § 11.18). The measure of damages under this appraisal methodology shall be the difference between the with- and without-injury appraisal value determined by the comparable sales approach as described in the Uniform Appraisal Standards.

(d) *Nonmarketed natural resource methodologies.* (1) Only when the authorized official has determined that neither the market price nor the appraisal methodology is appropriate shall the methodologies listed in this section or those that meet the acceptance criterion in paragraph (d)(7) of this section be used to estimate a diminution of use value for the purposes of this part.

(2) If the lost resource is an input to a production process, which has as an output a product with a well-defined market price, the factor income methodology can be used. This methodology should be used to estimate the economic rent associated with the use of a resource in the production process and is sometimes referred to as the "reverse value added" method. The factor income methodology should be used to measure the in-place value of the resource.

(3) The travel cost methodology may be used to estimate a value for the use of a specific area. An individual's incremental travel costs to an area are used as a proxy for the price of the services of that area. Damages to the area are the difference between the value of the area with- and without-a-discharge-or-release. When regional travel cost models exist, they should be used if appropriate.

(4) Hedonic pricing methodologies may be used to estimate the value of a resource. These methodologies can be used to determine the value of nonmarketed resources by an analysis of private market choices. The demand for nonmarketed natural resources is thereby estimated indirectly by an analysis of commodities that are traded in a market.

(5) (i) The contingent valuation methodology includes all techniques that set up hypothetical markets to elicit an individual's economic valuation of a natural resource. This methodology can determine use values and explicitly determine option and existence values.

(ii) The use of the contingent valuation methodology to explicitly estimate option and existence values should be used only if the authorized official determines that no use values can be determined.

(6) Unit values are preassigned dollar values for various types of nonmarketed recreational or other experiences by the public. Where feasible, regional unit values and unit values that closely resemble the recreational or other experience lost should be used.

(7) Other nonmarketed resource methodologies that measure use values in accordance with willingness to pay, in a cost-effective manner, are acceptable methodologies to estimate damages under this part.

§ 11.84 Damage Determination phase—implementation guidance.

(a) *Requirement.* The damage estimation methodologies in § 11.81 and § 11.83 of this part should be implemented following the appropriate guidance in this section and that in § 11.35 of this part.

(b) *Determining uses.* (1) Before estimating damages based on the diminution of use values under § 11.83 of this part, the uses made of the resource services identified in the Quantification phase should be determined.

(2) Only committed uses, as that phrase is used in this part, of the resource or services over the recovery period will be used to measure the change from the baseline resulting from injury to a resource. The baseline uses must be reasonably probable, not just in the realm of possibility. Purely speculative uses of the injured resource are precluded from consideration in the estimation of damages.

(3) (i) When resources or resource services have mutually exclusive uses, the highest-and-best use of the injured resource or services, as determined by the authorized official, shall be used as the basis of the analyses required in this part. This determination of the highest-and-best use must be consistent with the requirements of paragraph (b)(2) of this section.

(ii) If the uses of the resource or service are not necessarily mutually exclusive, the sum of damages should be determined from individual services. However, the sum of the projected damages from individual services shall consider congestion or crowding out effects, if any, from the resulting projected total use of those services.

(c) *Double counting.* (1) Double counting of damages should be avoided. Double counting means that a benefit or cost has been counted more than once in the damage assessment.

(2) Natural resource damages are the residual to be determined by incorporating the effects, or anticipated effects, of any response actions. To avoid one aspect of double counting, the effects of response actions shall be factored into the analysis of damages. If response actions will not be completed until after the assessment has been initiated, the anticipated effects of such actions should be included in the assessment.

(d) *Uncertainty.* (1) When there are significant uncertainties concerning the assumptions made in all phases of the assessment process, reasonable alternative assumptions should be examined. In such cases, uncertainty should be handled explicitly in the analysis and documented. The uncertainty should be incorporated in the estimates of benefits and costs.

(2) To incorporate this uncertainty, a range of probability estimates for the important assumptions used to determine damages should be derived. In these instances, the damage estimate shall be the net expected present value of: restoration or replacement costs; or diminution of use values.

(e) *Discounting.* (1) Where possible, damages should be estimated in the form of an expected present value dollar amount. In order to perform this calculation, a discount rate must be selected.

(2) The discount rate to be used is that specified in "Office of Management and Budget (OMB) Circular A–94 Revised" (dated March 27, 1972, available from the Executive Office of the President, Publications, 726 Jackson Place, NW, Washington, DC 20503; ph: (202) 395–7372).

(f) *Substitutability.* In calculating the diminution of use values, the estimates of the ability of the public to substitute uses for those of the injured services should be incorporated. This substitutability shall be estimated only if the potential benefits from an increase in accuracy are greater than the potential costs.

(g) *Diminution of use in restoration or replacement.* (1) If restoration or replacement is to form the basis of the measure of damages, the diminution of use values during the period of time required to obtain restoration or replacement may also be included in the measure of damages.

(2) To calculate the diminution of use values during the period of time required to obtain restoration or replacement, the procedures described below should be followed. It is not necessary that they be followed in sequence.

(i) The ability of the resource to recover over the recovery period should be estimated. This estimate includes estimates of natural recovery rates as well as recovery rates that reflect management actions or resource acquisitions to achieve restoration or replacement.

(ii) A recovery rate should be selected for this analysis that is based upon cost-effective management actions or resource acquisitions, including a "No Action-Natural Recovery" alternative. After the recovery rate is estimated, the diminution in use values should be estimated.

(iii) The rate at which the uses of the injured resource will be restored through

the restoration or replacement of the services should be estimated. This rate may be discontinuous, that is, no uses are restored until the services are restored, or continuous, that is, restoration of uses will be a function of the level and rate of restoration or replacement of the services. Where practicable, the supply of and demand for the restored services should be analyzed, rather than assuming that the services will be utilized at their full capacity at each period of time in the analysis. These use values should be discounted using the rate described in paragraph (e)(2) of this section. This estimate is the expected present value of uses obtained through restoration or replacement.

(iv) The uses of the resource that would have occurred in the absence of the discharge or release should be estimated. This estimate should be done in accordance with the procedures in § 11.72 of this part. These uses should be estimated over the same time period using the same discount rate as that specified in paragraph (e)(2) of this section. This amount is the expected present value of uses forgone.

(v) Subtraction of the present value of uses obtained through restoration or replacement from the expected present value of uses forgone gives the amount of compensation that may be included, if positive, in a measure of damages.

(h) *Incorporating natural recovery in use values.* If use values will form the measure of damages, the natural ability of the resource to recover as determined in § 11.73 of this part shall be used to estimate the diminution of use values. The same procedures as those in paragraph (g)(2) of this section should be followed to determine the diminution of use values, except that only the natural rate of recovery, as determined by the analysis required in § 11.73 of this part and any normal management actions, shall be used.

(i) *Scope of the analysis.* (1) The authorized official must determine the scope of the analysis in order to estimate a diminution of use values.

(2) In assessments where the scope of analysis is Federal, only the diminution of use values to the Nation as a whole should be counted.

(3) In assessments where the scope of analysis is at the State level, only the diminution of use values to the State should be counted.

Subpart F—Post-Assessment Phase

§ 11.90 Post-assessment phase—Report of Assessment.

(a) *Requirement.* At the conclusion of either a type A or type B assessment, the authorized official shall prepare a Report of Assessment that shall consist of the Preassessment Screen Determination, the Assessment Plan, and the requirements of paragraphs (b) or (c) of this section as appropriate.

(b) *Type A assessments.* For a type A assessment conducted in accordance with the guidance in Subpart D of this part, the Report of Assessment shall include the results of that assessment.

(c) *Type B assessments.* For a type B assessment conducted in accordance with the guidance in Subpart E of this part, the Report of Assessment shall consist of all the documentation supporting the determinations required in the Injury Determination phase, the Quantification phase, and the Damage Determination phase, and specifically including the test results of any and all methodologies performed in these phases. Where the basis for the measure of damages is restoration or replacement costs, the Restoration Methodology Plan shall also be included in the Report of Assessment.

§ 11.91 Post-assessment phase—demand.

(a) *Requirement and content.* At the conclusion of the assessment the authorized official shall present to the responsible party a demand in writing for a sum certain, representing the damages determined in accordance with the requirements and guidance of § 11.80 of this part, including the reasonable cost of the assessment, and as adjusted, if necessary, by the guidance in § 11.92(d) of this part, delivered in such a manner as will establish the date of receipt. The demand shall adequately identify the Federal or State agency asserting the claim, the general location and description of the injured resource, identification of the type of discharge or release determined to have resulted in the injuries, and the damages sought from that party.

(b) *Report of Assessment.* The demand letter shall include the Report of Assessment as an attachment.

(c) *Rebuttable presumption.* When performed by a Federal official in accordance with this part, the natural resource damage assessment and the resulting damage determination supported by a complete administrative record of the assessment including the Report of Assessment as described in § 11.90 of this part shall have the force and effect of a rebuttable presumption on behalf of any claimant in any judicial or adjudicatory administrative proceeding under CERCLA or section 311 of the CWA.

(d) *Responsible party response.* The authorized official should allow at least 60 days from receipt of the demand by the responsible party, with reasonable extensions granted as appropriate, for the responsible party to acknowledge and respond to the demand.

§ 11.92 Post-assessment phase—restoration account.

(a) *Disposition of Recoveries.* (1) Except as provided in paragraphs (b) and (c) of this section, all sums awarded pursuant to section 107(a)(4)(C) of CERCLA or section 311(f) (4) and (5) of the CWA to the Federal government acting as trustee shall be placed in a separate account in the United States Treasury.

(2) Except as provided in paragraph (c) of this section, all sums awarded pursuant to section 107(a)(4)(C) of CERCLA or section 311(f) (4) and (5) of the CWA to a State government acting as trustee shall either:

(i) Be placed in a separate account in the State treasury; or

(ii) Be placed by the responsible party or parties in an interest bearing account payable in trust to the State agency acting as trustee.

(b) *Land acquisition.* Any monies awarded for the purpose of acquiring land for Federal management shall be deposited in the general fund of the United States Treasury. Federal agencies shall acquire land for Federal management solely with monies appropriated for that purpose.

(c) *Reimbursement for costs.* Sums awarded as reimbursement for the reasonable costs of conducting the assessment shall be payable to the appropriate treasury of the Federal or State agency that incurred the costs.

(d) *Adjustments.* (1) In establishing the account pursuant to paragraph (a) of this section, the calculation of the expected present value of the damage amount should be adjusted, as appropriate, whenever monies are to be placed in a non-interest bearing account. This adjustment should correct for the anticipated effects of inflation over the time estimated to complete expenditures for the restoration or replacement.

(2) In order to make the adjustment in paragraph (d)(1) of this section, the authorized official acting as trustee should adjust the damage amount by the rate payable on notes or bonds issued by the United States Treasury with a maturity date that approximates the length of time estimated to complete expenditures for the restoration or replacement.

(e) *Payments from the account.* Monies shall be paid out of the account established pursuant to paragraph (a) of this section only for those actions

described in the Restoration Plan required by § 11.93 of this part.

(f) *Hazardous Substance Response Trust Fund Claims.* Claims against the Hazardous Substance Response Trust Fund must be for costs incurred as specified by the procedures promulgated by EPA at 40 CFR 306.

§ 11.93 Post-assessment phase—Restoration Plan.

(a) Upon determination of the amount of the award of a natural resource damage claim as authorized by section 107(a)(4)(C) of CERCLA, or section 311(f)(4) and (5) of the CWA, the authorized official shall prepare a Restoration Plan as provided in section 111(i) of CERCLA. If the measure of damages was determined in accordance with the guidance in § 11.81 of this part, the plan shall be based upon the Restoration Methodology Plan described in § 11.82 of this part. If the measure of damages was determined using any of the methodologies described in § 11.83 of this part, the plan shall describe how the monies will be used to address natural resources, specifically what restoration, replacement, or acquisition of the equivalent resources will occur. The Restoration Plan shall be prepared in accordance with the guidance set forth in § 11.82 of this part.

(b) No restoration activities shall be conducted by Federal agencies that would incur ongoing expenses in excess of those that would have been incurred under baseline conditions and that cannot be funded by the amount included in the separate account established pursuant to § 11.92(a) of this part unless such additional monies are appropriated through the normal appropriations process.

(c) Modifications may be made to the Restoration Plan as become necessary as the restoration proceeds. Significant modifications shall be made available for review by any responsible party, any affected Federal or State agencies acting as trustees, and any other interested members of the public for a period of at least 30 days, with reasonable extensions granted as appropriate before tasks called for in the modified plan are begun.

Appendix I to Part 11—Methods for Estimating the Areas of Ground Water and Surface Water Exposure During the Preassessment Screen

This appendix provides methods for estimating, as required in § 11.25 of this part, the areas where exposure of ground water or surface water resources may have occurred or are likely to occur. These methods may be used in the absence of more complete information on the ground water or surface water resources.

Ground Water

The longitudinal path length (LPL) factors in table 1 are to be applied in estimating the area potentially exposed downgradient of the known limit of exposure or of the boundary of the site. Estimates of lateral path width (LPW) are to be used when the LPW exceeds the width of the plume as determined from available data, or when the width of the plume at the boundary of the site is estimated as less than the LPW. In the absence of data to the contrary, the largest values of LPL and LPW consistent with the geohydrologic data available shall be used to make the estimates required in the preassessment screen. An example computation using the LPL and LPW factors follows table 1.

Table 1—Factors for Estimation of Areas Potentially Exposed Via the Ground Water Pathway

Aquifer type	Hyd. conductivity/porosity factor (miles/year)	Hydraulic gradient estimate (feet/mile)	Time since release began (in years)	Longitudinal path length (in feet)	Lateral path width (in feet)
Sand	50	×	× =		LPW = 0.2LPL
Sand + silt	0.5	×	× =		LPW = 0.3LPL
Gravel	6000	×	× =		LPW = 0.2LPL
Sandstone	0.01	×	× =		LPW = 0.4LPL
Shale	3×10^{-6}	×	× =		LPW = 0.8LPL
Karst Limestone or Dolomite	10	×	× =		LPW = 0.2LPL
Limestone or Dolomite	0.01	×	× =		LPW = 0.4LPL
Fractured Crystalline Rocks	0.3	×	× =		LPW = 0.3LPL
Dense Crystalline Rocks	1×10^{-5}	×	× =		LPW = 0.8LPL

Example of Computation for Estimating the Area Potentially Exposed via Ground Water Pathway

A release of hazardous substances occurs from a facility located in a glacial valley. Available data indicate the release may have occurred intermittently over a period of almost 1 year, although only one well about 300 feet downgradient of the facility boundary had detectable quantities of contaminants. The contaminated well is screened in the water table aquifer composed of gravelly sands. The facility boundary nearest the contaminated well is almost 3,000 feet in length, but a review of available data determined the release is probably localized along a 500-foot section of the boundary where a stream leaves the facility. Available water table data indicate hydraulic gradients in the valley range from 0.005 feet/mile up to 0.25 feet/mile near pumping wells. No pumping wells are known to be located near the release, and a mean hydraulic gradient of 0.1 feet/mile is estimated in the vicinity of the release site. Using the gravel factor from table 1, the LPL and LPW are estimated:

$6000 \times 0.1 \times 1 = 600$ feet (LPL)

and

$600 \times 0.2 = 120$ feet (LPW).

Since the estimated LPW (120 feet) is less than the plume width (500 feet) determined from other available data, the greater number is used to compute the area potentially exposed:

(1) 600 feet × 500 feet = 300,000 square feet (about 6.9 acres). The available information allows an initial determination of area potentially exposed via the ground water pathway to be estimated:

(2) 300 feet × 500 feet = 150,000 square feet (about 3.5 acres).

The total area potentially exposed is the sum of (1) and (2):

6.9 + 3.5 = 10.4 acres.

Surface Water

The area of surface water resources potentially exposed should be estimated by applying the principles included in the examples provided below.

Example 1—A release occurs and most of the oil or hazardous substance enters a creek, stream, or river instantaneously or over a short time interval (pulse input is assumed). The maximum concentration at any downstream location, past the initial mixing distance, is estimated by:

$C_p = 25(W_l)/(T^{0.5}Q)$

where C_p is the peak concentration, in milligrams/liter (mg/L),

W_l is the total reported (or estimated) weight of the undiluted substance released, in pounds,

Q is the discharge of the creek, stream, or river, in cubic feet/second, and

T is the time, in hours, when the peak concentration is estimated to reach a downstream location L, in miles from the entry point.

The time T may be estimated from:

$T=1.5(L)/V_s$

where T and L are defined as above and

V_s is the mean stream velocity, in feet per second.

The mean stream velocity may be estimated from available discharge measurements or from estimates of slope of the water surface S (foot drop per foot distance downstream) and estimates of discharge Q (defined above) using the following equations:

for pool and riffle reaches $V_s=0.38(Q^{0.49})(S^{0.29})$, or

for channel-controlled reaches $V_s=2.69(Q^{0.34})(S^{0.29})$.

Estimates of S may be made from the slope of the channel, if necessary.

As the peak concentrations become attenuated by downstream transport, the plume containing the released substance becomes elongated. The time the plume might take to pass a particular point downstream may be estimated using the following equation:

$T_p=9.25\times10^{6}W_i/(QC_p)$

where

T_p is the time estimate, in hours, and W_i, C_p, and Q are defined above.

Example 2—A release occurs and most of the oil or hazardous substance enters a creek, stream, or river very slowly or over a long time period (sustained input assumed). The maximum concentration at any downstream location, past the initial mixing distance, is estimated by:

$C_p=C(q)/(Q+q)$

where C_p and Q are defined above,

C is the average concentration of the released substance during the period of release, in mg/L, and

q is the discharge rate of the release into the streamflow, in cubic feet/second.

For the above computations, the initial mixing distance may be estimated by:

$L_m=(1.7\times10^{-3})V_sB^2/(D^{1.5}S^{0.5})$

where

L_m is the initial mixing distance, in miles,

V_s is defined above,

B is the average stream surface width, in ft,

D is the mean depth of the stream, in ft, and

S is the estimated water-surface slope, in ft/ft.

Example 3—A release occurs and the oil or hazardous substance enters a pond, lake, reservoir, or coastal body of water. The concentration of soluble released substance in the surface water body may be estimated by:

$C_p=CV_c/(V_w+V_c)$

where

C_p and C are defined above,

V_c is the estimated total volume of substance released, in volumetric units, and

V_w is the estimated volume of the surface water body, in the same volumetric units used for V_c.

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Food and Drug Administration

21 CFR Parts 357 and 369

Anthelmintic Drug Products for Over-the-Counter Human Use; Final Monograph

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 357 and 369

[Docket No. 79N-0378]

Anthelmintic Drug Products for Over-The-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) anthelmintic drug products (products that destroy pinworms) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on anthelmintic drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: February 2, 1987. For additional information concerning this effective date see "Paperwork Reduction Act of 1980" appearing in the preamble of this document.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1980 (45 FR 59540), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC anthelmintic drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by December 8, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1981.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for anthelmintic drug products was published in the **Federal Register** of August 24, 1982 (47 FR 37062). Interested persons were invited to file by October 25, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by December 22, 1982. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC anthelmintic drug products.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC anthelmintic drug products (47 FR 37062), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 6 months after the date of publication in the **Federal Register**. Therefore, on or after February 2, 1987, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC anthelmintic drug products, a bi-State drug informaiton center, a pediatric association, a consumer, and a physician submitted comments. Several additional comments were received after the close of the comment period from a county department of health services, a university medical center, and three physicians. The issues raised by these comments are the same as those raised by comments submitted during the period the administrative record was open. Copies of the comments received are on public display in the Dockets Management Branch.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) or the additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions of the Comments

1. Two comments disagreed with the agency's proposed substitution of the word "doctor" for the "physician" in OTC drug labeling. One comment stated that because "physician" is a term that is recognized by people of all ages and social and economic levels, there is no need for the change, which would be costly and provide no benefit. The comment further contended that physician is a more accurate term, whereas "doctor" is a broad term that could confuse and mislead the lay person into taking advice on medication from persons other than medical doctors, such as optometrists, podiatrists, and chiropractors.

The agency recognizes that the term "doctor" is not a precise synonym for the word "physician," but believes that the terms are frequently used interchangeably by consumers and that the word "doctor" is likely to be more commonly used and better understood by consumers. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs. Based on comments

received on these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor". This final monograph provides that option.

2. Several comments objected to the agency's proposed switch of pyrantel pamoate from prescription to OTC status, arguing that there is a large potential for widespread inappropriate use because the average person is incapable of diagnosing pinworm infestations, and proper diagnosis requires laboratory confirmation. One comment stated that symptoms are not specific in pinworn infestations, and another comment added that parents could incorrectly attribute nonspecific gastrointestinal and other symptoms to worms when the symtomatology may be due to causes other than pinworm infestation.

The agency does not agree that consumers are unable to diagnose pinworm infestations and that reclassification of pyrantel pamoate from prescription to OTC status would result in widespread inappropriate use. As one comment pointed out, the best known symptom of pinworm infestation is pruritis ani (itching in the anal area). Secondary conditions that also occur in pinworm infestation include insomnia, gastrointestinal distress, irritability, enuresis (bedwetting), and secondary infection due to localized scratching. The agency agrees that these symptoms are suggestive of pinworm infestation but are not limited to that condition. When these symptoms occur, the labeling of an OTC anthelmintic drug product will inform consumers having such symptoms that they may have pinworms and will instruct them to make a visual inspection for the worms before using the product.

The agency recognizes that laboratory diagnosis would be required to confirm pinworm eggs, but consumer diagnosis can be made by visual detection of the adult female worm (usually ¼ to ½ inch in length) during the hours of sleep when the worm migrates out of the anus onto the perianal skin. In addition, OTC anthelmintic drug products will not be indicated for the symptoms of pruritus ani, gastrointestinal distress, etc., but instead will be labeled only for the treatment of pinworms. Should a consumer suspect pinworms, the labeling will provide sufficient information on the symptoms, identification, and detection of pinworms to allow consumers to use the product properly.

The comments did not present, and the agency is unaware of, any evidence that drugs previously marketed OTC for pinworm treatment have been inappropriately used. Likewise, the comments did not present, and the agency is unaware of, any evidence that the OTC availability of pyrantel pamoate will result in misuse of the drug. However, because pyrantel pamoate is a single-dose (one time) medication and should not be repeated without consulting a doctor, the agency is amending the directions for use in § 357.150(d)(2) by adding the following: "Medication should only be taken one time as a single dose; do not repeat treatment unless directed by a doctor," and "If any symptoms of pinworms are still present after treatment, consult a doctor."

3. Several comments argued that pyrantel pamoate is not safe for OTC use because of the side effects sometimes associated with use of the drug. The comments further contended that the lay person cannot differentiate between the side effects that might occur with use of the drug and potentially serious pathologic conditions. One comment stated that pyrantel pamoate-related increases in serum glutamic-oxaloacetic transaminase (SGOT) occurred in 0 to 4 percent of individuals who took the drug and included three references purporting to show that the incidence of side effects after taking pyrantel pamoate varied from 0 to 20 percent, depending on geographic area and observer (Refs. 1,2, and 3). The comment also included a report alleging that pyrantel pamoate was responsible for causing two deaths in Egypt (Ref. 4).

The agency has reviewed the references included by the comment and other available data and believes that they do not support the contention that the drug pyrantel pamoate is unsafe for OTC use because of the side effects which might occur with use of the drug. In fact, the references (Refs. 1, 2, and 3) suggest the pyrantel pamoate is a safe and effective single-dose anthelmintic with a low incidence of side effects. Additionally, the agency notes that when side effects do occur (i.e., abdominal cramps, nausea, vomiting, or diarrhea, and, less frequently, headaches and dizziness) they are mild and transient. Therefore, the agency believes the concern over side effects can be adequately handled through the OTC drug labeling. The agency is expanding the monograph warnings to include the side effects most frequently mentioned in the references, as follows: "Abdominal cramps, nausea, vomiting, diarrhea, headache, or dizziness sometimes occur after taking this drug. If any of these conditions persist, consult a doctor." The agency recognizes that the lay person cannot differentiate between side effects that might occur with the use of pyrantel pamoate, or any other OTC drug, and serious pathologic conditions. However, in view of the fact that pyrantel pamoate is a single-dose medication, the agency believes it is sufficient for the labeling of the product to advise consumers to consult a doctor if side effects persist or become bothersome.

Although no significant changes in or impairment to hepatic function attributable to the use of pyrantel pamoate have been reported, the agency proposed in the tentative final monograph (47 FR 37064) to include a warning against the use of pyrantel pamoate in patients with preexisting liver disease because minor transient elevations of SGOT have occurred, as the comment pointed out, in a small percentage of patients. The agency reaffirms that decision by including the warning in this final rule.

The agency notes that the Panel was aware of, reviewed, and evaluated the information available to it regarding the incident in Egypt (Refs. 5 and 6) and concluded that the deaths were not due to pyrantel pamoate (45 FR 59546). The agency concurs with the Panel's findings that pyrantel pamoate can be generally recognized as safe for OTC use as an anthelmintic.

References

(1) Gilles, H. M., "Diseases of the Alimentary System—Treatment of Intestinal Worms," *British Medical Journal*, 2:1314–1315, 1977.

(2) Piekarski, G., "Die Askariasis (Spulwurmbefall)," *Deutsche Medizinische Wochenschrift*, 105:1406–1408, 1980.

(3) Stahel E., "Therapie der Darmparasitosen," *Deutsche Medizinische Wochenschrift*, 102:133–135, 1977.

(4) Comment No. C00003, Docket No. 79N–0378, Dockets Management Branch.

(5) OTC volume 170160, Docket No. 79N–0378, Dockets Management Branch.

(6) OTC volume 170162, Docket No. 79N–0378, Dockets Management Branch.

4. One comment objected to the OTC availability of pyrantel pamoate because its safety has not been demonstrated for use by pregnant women.

The agency recognizes that there are no data demonstrating that pyrantel pamoate is safe for use by pregnant women. Conversely, as stated in the tentative final monograph (47 FR 37064), there are no data available demonstrating that pyrantel pamoate is unsafe for use by pregnant women. The directions for use for treating pinworms state that when one individual in a

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household has pinworms, the entire household should be treated unless otherwise advised. In the case of a pregnant woman, the agency believes that the decision to use an anthelmintic drug product would best be made through consultation with a doctor and, therefore, has included the following warning in the proposed liver disease warning: "If you are pregnant or have liver disease, do not take this product unless directed by a doctor."

5. Two comments stated that determination of the required dose of pyrantel pamoate based on the weight of the patient could be confusing to the lay person.

Because the agency shares the concern expressed by the comments, it concluded in the tentative final monograph that the dosage information for pyrantel pamoate must be provided to consumers with directions that are easily understood (47 FR 37064). The agency provided a dosage schedule and proposed that the label should state the quantity of drug (liquid measurement or the number of dosage units) to be taken for varying body weights. The dosage chart is further clarified in this final monograph to include weight ranges.

6. One comment stated that none of the Panel members was knowledgeable in the field of medical parasitology and that expertise in this field was essential to the development of the Panel's report on OTC anthelmintic drug products.

Although the Miscellaneous Internal Drug Products Panel did not include a medical parasitologist, experts in the fields of parasitology and pediatrics appeared before the Panel to express their views and present data for the Panel's consideration. Additionally, data submitted to the Panel were reviewed by three pediatricians knowledgeable in the diagnosis and treatment of pinworms (Ref. 1). Thus the Panel was not denied expertise in these areas in developing its report.

The agency points out that data on which the Panel based its conclusions, including published and unpublished references, are available to interested persons through the Dockets Management Branch (address above).

Reference

(1) Summary Minutes of the OTC Panel on Miscellaneous Internal Drug Products, Ninth Meeting, March 7–8, 1976, Docket No. 79N–0378, Dockets Management Branch.

7. The directions for use for pyrantel pamoate in proposed § 357.150(d)(2) stated that when one individual in a household has pinworms, the entire household should be treated. To avoid a contradiction between this statement and the warnings which advise persons who are pregnant or have liver disease not to take the drug unless directed by a doctor, the agency has revised the directions statement to read as follows: "When one individual in a household has pinworms, the entire household should be treated unless otherwise advised. See Warnings."

II. The Agency's Final Conclusions on OTC Anthelmintic Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC anthelmintic drug products are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the only monograph ingredient is pyrantel pamoate. All other ingredients, including gentian violet and piperazine citrate, are considered nonmonograph ingredients. Hexylresorcinol, which was not submitted for review by the Panel or the agency, but which has been the subject of a recommended warning in § 369.20, is also a nonmonograph ingredient. Any drug product marketed for use as an OTC anthelmintic that is not in conformance with the monograph (21 CFR Part 357, Subpart B) will be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and may not be marketed for this use unless it is the subject of an approved new drug application. Accordingly, the agency is removing from § 369.20 the entry "GENTIAN VIOLET (METHYLROSANILINE) TABLETS" and its caution statement; and the entry "HEXYLRESORCINOL ANTHELMINTICS" and its warning statement.

In the **Federal Register** of April 22, 1985 (50 FR 15810), the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under that policy, the agency had maintained that the terms used in an OTC drug product's labeling were limited to those terms included in a final OTC drug monograph.

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing the exclusivity policy and establishing three alternatives for stating the indications for use in OTC drug labeling. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph. The final rule in this document is subject to the final rule revising the exclusivity policy.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 37065). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC anthelmintic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC anthelmintic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the collection of information requirement in § 357.152 in this regulation will be submitted for approval to the Office of Management

and Budget (OMB). This requirement will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of this requirement in the **Federal Register** prior to February 2, 1987. Any comments on this provision should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Rm. 3002, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer for FDA.

List of Subjects

21 CFR Part 357

OTC drugs, Anthelmintic drug products, Cholecystokinetic drug products.

21 CFR Part 369

Labeling, OTC drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. In Part 357 by adding new Subpart B to read as follows:

Subpart B—Anthelmintic Drug Products

Sec.
357.101 Scope.
357.103 Definition.
357.110 Anthelmintic active ingredient.
357.150 Labeling of anthelmintic drug products.
357.152 Package inserts for anthelmintic drug products.
357.180 Professional labeling.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart B—Anthelmintic Drug Products

§ 357.101 Scope.

(a) An over-the-counter anthelmintic drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.103 Definition.

As used in this subpart:

Anthelmintic. An agent that is destructive to worms.

§ 357.110 Anthelmintic active ingredient.

The active ingredient of the product is pyrantel pamoate when used within the dosage limits established in § 357.150(d)(1).

§ 357.150 Labeling of anthelmintic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "pinworm treatment."

(b) *Indication.* The labeling of the product states, under the heading "Indication," the following: "For the treatment of pinworms." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Abdominal cramps, nausea, vomiting, diarrhea, headache, or dizziness sometimes occur after taking this drug. If any of these conditions persist consult a doctor."

(2) "If you are pregnant or have liver disease, do not take this product unless directed by a doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) Adults and children 2 years to under 12 years of age: oral dosage is a single dose of 5 milligrams of pyrantel base per pound, or 11 milligrams per kilogram, of body weight not to exceed 1 gram. Dosing information should be converted to easily understood directions for the consumer using the following dosage schedule:

Weight	Dosage (taken as a single dose) [1]
Less than 25 pounds or under 2 years old.	Do not use unless directed by a doctor.
25 to 37 pounds	125 milligrams.
38 to 62 pounds	250 milligrams.
63 to 87 pounds	375 milligrams.
88 to 112 pounds	500 milligrams.
113 to 137 pounds	625 milligrams.
138 to 162 pounds	750 milligrams.
163 to 187 pounds	875 milligrams.
188 pounds and over	1,000 milligrams.

[1] Depending on the product, the label should state the quantity of drug as a liquid measurement (e.g., teaspoonsful) or as the number of dosage units (e.g., tablets) to be taken for the varying body weights. (If appropriate, it is recommended that a measuring cup graduated by body weight and/or liquid measurement be provided with the product.) Manufacturers should present this information as appropriate for their product and may vary the format of this chart as necessary.

(2) "Read package insert carefully before taking this medication. Take only according to directions and do not exceed the recommended dosage unless directed by a doctor. Medication should only be taken on time as a single dose; do not repeat treatment unless directed by a doctor. When one individual in a household has pinworms, the entire household should be treated unless otherwise advised. See Warnings. If any worms other than pinworms are present before or after treatment, consult a doctor. If any symptoms or pinworms are still present after treatment, consult a doctor.

(3) "This product can be taken any time of day, with or without meals. It may be taken alone or with milk or fruit juice. Use of a laxative is not necessary prior to, during, or after medication."

(e) *Optional wording.* The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

§ 357.152 Package inserts for anthelmintic drug products.

The labeling of the product contains a consumer package insert which includes the following information:

(a) A discussion of the symptoms suggestive of pinworm infestation, including a statement that pinworms must be visually identified before taking this medication.

(b) A detailed description of how to find and identify the pinworm.

(c) A commentary on the life cycle of the pinworm.

(d) A commentary on the ways in which pinworms may be spread from person to person and hygienic procedures to follow to avoid such spreading.

(e) The appropriate labeling information contained in § 357.150

§ 357.180 Professional labeling.

The labeling provided to health professionals (but not to the general public) may contain an additional indication: "For the treatment of common roundworm infestation."

PART 396—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

2. The authority citation for 21 CFR Part 369 is revised to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050–1052 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 52 Stat. 1055–1056 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.11.

§ 369.20 [Amended]

3. In § 369.20 *Drugs; recommended warnings and caution statements* by removing the entry "GENTIAN VIOLET (METHYLROSANILINE CHLORIDE) TABLETS" and its caution statement and by removing the entry "HEXYLRESORCINOL ANTHELMINTICS" and its warnings statement.

Dated: May 3, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-17180 Filed 7-31-86; 8:45 am]

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VOL 51 ISS 148 AG 1 1986 UMI

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Part V

Department of Health and Human Services

Food and Drug Administration

Antacid and Antiflatulent Drug Products for Over-the-Counter Human Use; Amendment of the Monographs

VOL 51 ISS 148 AG 1 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Parts 331 and 332

[Docket No. 85N-0093]

Antacid and Antiflatulent Drug Products for Over-the-Counter Human Use; Amendment of the Monographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to amend the monographs for over-the-counter (OTC) antacid and antiflatulent drug products by adding new sections that will exempt certain antacid, antiflatulent, and antacid/antiflatulent combination drug products from that part of the accidental overdose warning required by § 330.1(g) (21 CFR 330.1(g)) that states, "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." The exemption from the warning above is being provided because certain antacid and antiflatulent active ingredients contained in OTC drug products have been determined to have a low potential for acute toxicity resulting from accidental ingestion. FDA is issuing this final rule after considering public comment on the agency's proposed regulation and all new data and information on OTC antacid and antiflatulent drug products that have come to the agency's attention. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 4, 1974 (39 FR 19862), FDA issued a final monograph for OTC antacid drug products (21 CFR Part 331) and a final monograph for OTC antiflatulent drug products (21 CFR Part 332) that established conditions under which these drug products are generally recognized as safe and effective and not misbranded. At that time, FDA exempted sodium bicarbonate powder from the general accidental overdose warning required by § 330.1(g) (39 FR 19867). Since publication of the antacid final monograph, a number of firms have petitioned for an exemption from the general overdose warning required on the labeling of antacid, antiflatulent, and antacid/antiflatulent combination drug products.

In the **Federal Register** of April 13, 1984 (49 FR 14908), FDA issued a notice of proposed rulemaking to exempt certain antacid, antiflatulent, and antacid/antiflatulent combination drug products from the accidental overdose warning statement required by § 330.1(g), i.e., "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." FDA proposed this exemption from the warning because certain antacid and antiflatulent active ingredients in OTC drug products have been demonstrated to have a low potential for acute toxicity resulting from accidental ingestion. The labeling of products containing these ingredients would continue to contain the first part of the warning required by § 330.1(g) which states, "Keep this and all drugs out of the reach of children." This requirement would have applied to sodium bicarbonate as well as to other antacid and antiflatulent drug products.

Interested persons were invited to file by June 12, 1984, written comments regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by August 13, 1984. Final agency action occurs with the publication of this final rule.

In response to the proposed rule, one manufacturer of sodium bicarbonate products submitted a comment. Copies of the comment received are on public display in the Dockets Management Branch.

The comment objected to the proposed rule because it appears to take away an exemption from the requirements of § 330.1(g) that is currently allowed for products containing sodium bicarbonate. The comment stated that the antacid final rule published in the **Federal Register** of June 4, 1974 (39 FR 19867) provided an exemption to sodium bicarbonate from the labeling requirements of § 330.1(g), and that the exemption applies to both the "keep out of reach of children" and the accidental overdose portions of the warning. The comment objected that the proposed rule would remove the existing exemption which sodium bicarbonate has from the "keep out of reach of children" statement without following necessary administrative procedures. The comment argued that there is no factual need for the "keep out of reach of children" warning on sodium bicarbonate products because there have been no instances of a child voluntarily ingesting these products and becoming ill even though the products have been promoted for uses directly involving children. The comment also argued that requiring the warning on sodium bicarbonate products could undermine the effectiveness of warning statements on other products because consumers know that sodium bicarbonate is safe and would ignore the warning and may assume that other product warnings in general are also unjustified and unimportant. The comment concluded that it had no objection to FDA's stated purpose for the proposed rule, but requested that FDA remove the implied revocation of the exemption for sodium bicarbonate products from having to bear the warning "Keep this and all drugs out of the reach of children."

After considering the comment's arguments, the agency agrees that sodium bicarbonate powder, when packaged and promoted primarily for other than drug uses, e.g., baking ingredient, refrigerator deodorant, household cleanser, etc., does not pose a threat to small children. The inclusion of the "keep out of reach of children" warning on such products would be unnecessary and may be unduly alarming to consumers who have routinely used these products around children. Therefore, the agency concludes that sodium bicarbonate products, in powder form and intended primarily for other than drug uses, may be exempt from both the "keep out of reach of children" and the accidental overdose warnings required by § 330.1(g). However, because the agency believes it is generally best to keep any drug product out of the reach of children, regardless of its potential for causing acute toxicity, the labeling of sodium bicarbonate products marketed primarily as a drug and all other antacid and antiflatulent drug products must continue to contain the first part of the warning which states "Keep this and all drugs out of the reach of children."

Accordingly, the agency is adding new §§ 331.30(g) and 332.30(c) that will exempt antacid drug products identified in § 331.11(a), (b), and (d) through (m) and antiflatulent drug products identified in § 332.10 or any allowable combination of these ingredients to be exempt from the general overdose warning requirement in § 330.1(g). With the exception of sodium bicarbonate when marketed in a powder form and intended primarily for other than drug uses, the labeling of OTC antacid and antiflatulent drug products containing these ingredients must continue to contain the first part of the warning which states, "Keep this and all drugs out of the reach of children." Because no new data were submitted regarding the toxicity of bismuth compounds, the labeling of products containing these

ingredients, identified in § 331.11(c), must continue to bear both warnings required by § 330.1(g).

Because this final rule relates only to warnings for OTC antacid and antiflatulent drug products, the changes in the "exclusivity" policy that were recently published in the **Federal Register** of May 1, 1986 (51 FR 16258) do not apply to this document.

One comment was submitted in response to the agency's request for specific comment on the economic impact of this rulemaking (49 FR 14909). The comment argued that marketers of sodium bicarbonate products would suffer unjustifiable, irreparable economic harm if sodium bicarbonate products were required to bear the "keep out of reach of children" statement because the statement would deter consumers from purchasing the product for use as a refrigerator deodorant, baking ingredient, etc. Because this final rule exempts powder forms of sodium bicarbonate intended primarily for other than drug uses from the "keep out of reach of children" statement, the comment's concern is moot. The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC antacid and antiflatulent drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antacid and antiflatulent drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

21 CFR Part 331

Labeling, OTC drugs, Antacid drug products.

21 CFR Part 332

Labeling, OTC drugs, Antiflatulent drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Parts 331 and 332 as follows:

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

1. The authority citation for 21 CFR Part 331 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

§ 331.11 [Amended]

2. In Part 331, § 331.11 *Listing of specific active ingredients* is amended in paragraph (k)(1) by revising the last sentence to read:

* * * * *

(k) * * *

(1) * * * That part of the warning required by § 330.1(g), which states, "Keep this and all drugs out of the reach of children" is not required on a product which contains only sodium bicarbonate powder and which is intended primarily for other than drug uses.

3. In Part 331, § 331.30 is amended by adding new paragraph (g) to read as follows:

§ 331.30 Labeling of antacid products.

* * * * *

(g) *Exemption from the general accidental overdose warning.* The labeling for antacid drug products containing the active ingredients identified in § 331.11(a), (b), and (d) through (m); permitted combinations of these ingredients provided for in § 331.10; and any of these ingredients or combinations of these ingredients in combination with simethicone (identified in § 332.10 of this chapter and provided for in § 331.15(c)), are exempt from the requirement in § 300.1(g) of this chapter that the labeling bear the general warning statement "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." With the exception of sodium bicarbonate powder products identified in § 331.11(k)(1), the labeling must continue to bear the first part of the general warning in § 330.1(g) of this chapter, which states, "Keep this and all drugs out of the reach of children."

PART 332—ANTIFLATULENT PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

4. The authority citation for 21 CFR Part 332 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

5. In Part 332, § 332.30 is amended by adding new paragraph (c) to read as follows:

§ 332.30 Labeling of antiflatulent products.

* * * * *

(c) *Exemption from the general accidental overdose warning.* The labeling for antiflatulent drug products containing simethicone identified in § 332.10 and antacid/antiflatulent combination drug products provided for in § 332.15, containing the active ingredients identified in § 331.11(a), (b), and (d) through (m) of this chapter are exempt from the requirement in § 330.1(g) of this chapter that the labeling bear the general warning statement "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." The labeling must continue to bear the first part of the general warning in § 330.1(g) of this chapter, which states, "Keep this and all drugs out of the reach of children."

Dated: May 3, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–17161 Filed 7–31–86; 8:45 am]

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51
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Part VI

Department of Education

Availability of Grants for Experimental and Innovative Training Program; Notice

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Experimental and Innovative Training Program; Availability of Grants

AGENCY: Department of Education.

ACTION: Notice of final funding priority for fiscal year 1986.

SUMMARY: The Secretary announces an annual funding priority for training grants under the Experimental and Innovative Training Program in order to ensure effective use of program funds and to direct funds to an area of identified personnel need during fiscal year 1986. The Secretary will give an absolute preference to applications that meet the terms of the priority.

EFFECTIVE DATE: This final annual funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this final annual funding priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Delores L. Watkins, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3324–M/S 2312, Mary E. Switzer Building), Washington, D.C. 20202. Telephone: (202) 732–1332.

SUPPLEMENTARY INFORMATION: Grants for the Experimental and Innovative Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Experimental and Innovative Training Program are established at 34 CFR Part 387. The purpose of the Experimental and Innovative Training Program is to support projects designed to develop new types of rehabilitation personnel and to demonstrate the effectiveness of these new types of personnel in providing rehabilitation services to severely handicapped persons and to develop new and improved methods of training rehabilitation personnel to achieve more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Summary of Comments and Responses

A notice of proposed annual funding priority was published in the **Federal Register** on May 21, 1986 (51 FR 18651) for the Experimental and Innovative Training Program. No comments were received in response to the Notice of Proposed Priority within the designated period for comment. No change has been made.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to applications submitted under the Experimental and Innovative Training Program in fiscal year 1986 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

All applications submitted under the Experimental and Innovative Training Program must address the training of rehabilitation counselors employed by State vocational rehabilitation agencies. State vocational rehabilitation agencies have only recently begun to serve learning disabled adults. It is essential, therefore, that rehabilitation counselors develop and maintain skills that will enable them to identify adults who are learning disabled, determine the eligibility of those individuals to receive rehabilitation services, and plan rehabilitation programs for and deliver services to learning disabled individuals. The training must also emphasize improved coordination of services between special education and vocational rehabilitation service providers and the effective use of resources in the community to facilitate the transition of learning disabled individuals from school to employment.

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training)

(29 U.S.C. 774)

Dated: July 29, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–17319 Filed 7–31–86; 8:45 am]

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federal register

Friday
August 1, 1986

Part VII

Department of Education

Office of Special Education and Rehabilitation Services

Rehabilitation Long-Term Training Program; Notice of Final Funding Priority for Fiscal Year 1986

VOL 51 ISS 148 AG 1 1986 UMI

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priority for Fiscal Year 1986.

SUMMARY: The Secretary announces an annual funding priority for long-term training grants in the field of Rehabilitation Workshop and Facility Personnel in order to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1986. The Secretary will give an absolute preference to applications that meet the terms of the priority.

EFFECTIVE DATE: This final annual funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this final annual funding priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Delores L. Watkins, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3324–M/S 2312, Mary E. Switzer Building), Washington, DC 20202. Telephone: (202) 732–1332.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-term Training Program is to support projects designed to train personnel for employment in public and private agencies involved in the rehabilitation of physically and mentally disabled individuals, especially those who are severely disabled.

Summary of Comments and Responses

A notice of proposed annual funding priorities was published in the **Federal Register** on May 20, 1986 at 51 FR 18549. No letters of comment were received in response to the Notice of Proposed Priority. No change has been made.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to long-term training applications submitted in the field of Rehabilitation Workshop and Facility Personnel in fiscal year 1986 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

All applications submitted in the long-term training field of Rehabilitation Workshop and Facility Personnel must address the training of personnel who are employed by and provide direct rehabilitation services in vocationally oriented workshops and facilities. The training must focus on the development and upgrading of skills of such categorical types of workshop and facility personnel as vocational instructors, production supervisors and resident supervisors. The training must develop and upgrade the skills of such direct service delivery personnel to use new and innovative methods and techniques in the vocational rehabilitation of physically and mentally disabled individuals and their placement into competitive employment. The training must also increase the skills of those trained to provide transitional employment and supported employment services to disabled individuals.

(Authority: 29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training)

Dated: July 29, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–17320 Filed 7–31–86; 8:45 am]

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August 1, 1986

Part VIII

Department of Education

Rehabilitation Long-Term Training Program; Notice

VOL 51 ISS 148 AG 1 1986 UMI

DEPARTMENT OF EDUCATION

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Year 1986.

SUMMARY: The Secretary announces final funding priorities for long-term training grants in the field of Rehabilitation Counseling to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1986. The Secretary will reserve funds for applications meeting these priorities.

EFFECTIVE DATE: These final annual funding priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these final funding priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Delores L. Watkins, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3324–M/S 2312, Mary E. Switzer Building), Washington, DC 20202. Telephone: (202) 732–1332.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed to train personnel for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Summary of Comments and Responses

A notice of proposed annual funding priorities was published in the **Federal Register** on April 25, 1986 (51 FR 15665–15666) for the long-term training field of Rehabilitation Counseling. A total of 18 letters commenting on the priorities were received in response to the Notice of Proposed Priorities within the designated period for comment. Comments were received from professional rehabilitation counseling organizations, educators of rehabilitation counseling personnel and State vocational rehabilitation unit personnel. The following is a summary of comments which were related to the substance of the priorities and the Secretary's responses to those comments.

Comment. Eleven commenters suggested that the central theme of the priorities is too narrow for an academic degree program in a university and suggested that the priorities for Rehabilitation Counseling be made comparable to those published for other types of rehabilitation training. In accordance with this suggestion, commenters further suggested that standards for the accreditation of master's degree rehabilitation counseling training programs and for the certification of rehabilitation counselors be used to ensure balance in the rehabilitation curriculum of rehabilitation counseling training projects.

Response. A change has been made in the introductory statement to the three priorities to clarify the intent of the training described under the three individual priorities. The language has been modified to make clear that all applications submitted in response to the described priorities must be directed to strengthening the capacity of rehabilitation counseling and other rehabilitation personnel to place severely disabled individuals in employment. The training content described in priority one, as part of the total training provided, is intended to emphasize the acquisition of skills by students in master degree rehabilitation counseling programs in developing jobs for and placing severely disabled individuals in employment. Priorities two and three are directed to the training of other rehabilitation personnel whose job development and job placement functions specifically include the need for special skills in providing supported employment services to severely disabled individuals. The Department agrees that rehabilitation counseling programs of a traditional nature must ensure balance in their training curricula so that students are provided broad exposure to all types of rehabilitation services for disabled individuals.

Comment. Seven commenters suggested that no division of funds for rehabilitation counseling training projects be made by academic level and that funds be made available only for the support of master's degree rehabilitation counseling training. The commenters also suggested that the funding of rehabilitation counseling training projects at the undergraduate and doctoral degree levels was inappropriate.

Response. No change has been made. Training described under priorities two and three is not directed to content traditionally provided in a master's degree rehabilitation counseling program in a university or college. Priority two is targeted to the training of rehabilitation personnel who will have specialized skills in providing supported employment services to severely disabled individuals. Training described under priority three is intended to combine the skills described under priorities one and two in order to prepare rehabilitation personnel who will have specialized skills in developing jobs for and placing disabled individuals in employment in business and industry and providing supported employment services. The Department believes it is, therefore, appropriate to make division of funds for the training of such specialized rehabilitation personnel at academic levels other than the master's degree level.

Comment: One commenter expressed concern that the priorities appeared to reflect the endorsement of the supported employment services model and to emphasize the development of jobs for and placement of only severely disabled individuals into competitive employment.

Response: No change has been made. Priorities two and three are directed to the training of rehabilitation personnel who will have specialized skills in providing supported employment services to severely disabled individuals. The Department has identified a need to provide Federal support to train specialized rehabilitation personnel to provide supported employment services in order to upgrade the vocational placements for severely disabled individuals who have traditionally been placed in non-competitive employment settings.

Final Priorities

In accordance with the Education Department General Administrative Regulations [EDGAR] at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to long-term training applications submitted in the field of Rehabilitation Counseling in fiscal year 1986 that respond to one of the priorities described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priorities.

All applications submitted in the long-term training field of rehabilitation counseling must be designed to improve and strengthen the capacity of rehabilitation counselors and other

rehabilitation personnel to place severely disabled individuals into employment, especially competitive employment. All training must include a job development and job placement component in one of the following areas:

Priority 1

The training under this priority must include placement services that will directly involve rehabilitation counseling students with business and industry in providing rehabilitation services to severely physically and mentally disabled individuals. The placement coursework must be designed to enable students to acquire skills and knowledge in the areas of: (1) job development, analysis, job modification, and job restructuring; (2) workers' compensation; (3) forecasting labor market trends; (4) the applicability of sections 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; and (5) effective consultation with employers and potential employers to identify employment opportunities for disabled individuals, to assist in the removal of barriers to the employment of disabled individuals, and to educate or train employers and potential employers about various disabilities and any vocational implications of those disabilities. Practicum training must include job development and job placement activities that involve students directly with business and industry. A primary element of the training must be the direct participation of students with business and industry in placing disabled individuals into competitive employment and may include actual participation of students in practicum experiences in business and industry settings. The training must be at the master's degree level.

Priority 2

The training under this priority must include a training curriculum that will prepare rehabilitation personnel to provide supported employment services to severely disabled adults. Supported employment, as used here, means paid work in a variety of integrated settings that include both handicapped individuals and non-handicapped individuals, particularly regular work sites, especially designed for severely handicapped individuals, irrespective of age or vocational potential—(1) for whom competitive employment at or above the minimum wage has not traditionally occurred; and (2) who, because of their disability, need intensive on-going post-employment support to perform in a work setting. The training curriculum must include coursework to enable students to acquire skills and knowledge in the areas of: (1) behavioral analysis; (2) job analysis; (3) job development, job modification, job accommodation, and job placement; (4) specific job-skills training; (5) employer relations; and (6) union relations. In addition to the specific skills previously listed, training is expected to provide students with knowledge about the various social service systems which affect the lives of disabled individuals, including: (1) State vocational rehabilitation agencies; (2) State developmental disabilities agencies; (3) State employment security systems; (4) workers' compensation; (5) private rehabilitation systems within industry; (6) projects with industry; (7) independent living programs; (8) sections 501, 502, 503, and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; and (9) provisions of the Social Security Act which relate to disabled individuals. Students must be provided practicum experiences at supported employment sites. Because of the required practicum experience element, applications must show evidence of an on-going established relationship with supported employment programs. The training must be at the bachelor's degree level or above.

Priority 3

The training under this priority must prepare rehabilitation personnel to develop jobs for and place severely disabled individuals into competitive employment in business and industry settings. The training must also focus on supported employment placements of disabled individuals in business and industry settings. Training supported under this priority must include a curriculum that combines the specific skills designated under the previous two priorities. The training must be at the doctoral level.

A separate application review competition will be conducted for each of the three priorities described for the rehabilitation long-term training field of Rehabilitation Counseling. Each application must respond to only one of the described priorities.

(29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training)

Dated: July 29, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-14200 Filed 7-31-86; 8:45 am]

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Part IX

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 35 et al.

Lead-Based Paint Hazard Elimination; Final Rule and Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 35, 905, 965 and 968.

[Docket No. R-86-1165; FR-1748]

Lead-Based Paint Hazard Elimination in Public and Indian Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule amends regulations regarding the elimination of hazards due to lead-based paint in Public and Indian housing. It amends 24 CFR Part 35, Lead-Based Paint Poisoning Prevention in Certain Residential Structures, adds new subpart H in 24 CFR Part 965, PHA-owned or Leased Projects—Maintenance and Operation, and amends 24 CFR Parts 905, Indian Housing, and 968, Comprehensive Improvement Assistance Program (CIAP). Changes in the funding priorities for CIAP are also provided. Funding groups are revised with certain lead-based paint testing and hazard abatement preferences.

HUD has amended its regulations implementing section 302 of the Lead-Based Paint Poisoning Prevention Act ("LPPPA") in light of advances in knowledge regarding the causes of elevated blood lead levels of children as well as hazard detection and abatement techniques. HUD has also reexamined its regulations purusant to the mandate of *Ashton* v. *Pierce*, 716 F.2d 56 (D.C. Cir. 1983), a case in which public housing tenants in the District of Columbia challenged the adequacy of HUD's lead-based paint regulations.

EFFECTIVE DATE: September 23, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy Chisholm, Director of Policy, Office of Public and Indian Housing, (202) 755-6713, Room 4118, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

I. Background

This rulemaking was initated by publication of an Advance Notice of Proposed Rulemaking ("ANPR") 49 FR 19210, May 4, 1984), which solicited public comment on issues relating to implementation of lead-based paint detection and hazard abatement procedures in the many distinct HUD programs to which the statute applies.

A proposed rule, which related primarily to public housing, was published (51 FR 5666, February 14, 1986) pursuant to a subsequent order of the Federal District Court. The same order requires publication of this final rule not later than August 1, 1986.

Pursuant to a subsequent order of the District Court, HUD published (51 FR 24112, July 1, 1986) a proposed rule prescribing lead-based paint hazard detection and abatement requirements applicable to the FHA single-family and multifamily insurance programs, the Section 8 Existing Housing Certificate program and other insured or assisted housing programs. Additional proposed rules prescribing procedures applicable to rehabilitation assisted under the Community Development Block Grant and other HUD programs are also required to be published not later than August 1, 1986.

In developing these regulations, HUD considered what procedures are "practicable" (as required by the LPPPA, and as discussed in *Ashton* below) within these different program contexts. The factors considered in this rulemaking are different from the other rulemaking because, in each of such programs, the cost of hazard abatement is a private cost. In the single-family insurance programs, for example, the cost of hazard abatement required to qualify an existing property for FHA mortgage insurance on resale of the property must be borne by the seller of the home. In Section 8 Existing Housing Certificate, Housing Voucher and Moderate Rehabilitation programs, the cost of any hazard abatement required to qualify the rental unit as one in which a very low-income tenant's rental payment will be subsidized must be borne by the landlord. The impact of such costs on availability of the programs to their intended participants is a relevant consideration in determining whether requirements are "practicable". See Section IV. below.

This preamble is divided into the following five sections: (1) Background (discussion of statutory and regulatory requirements and the *Ashton* decision); (2) Proposed Public and Indian Housing Rulemaking and Comments; (3) Recent Studies of the Lead-Based Paint Problem (including a public housing study and the Environmental Protection Agency's Air Quality Criteria for Lead); (4) Requirements for Public and Indian Housing's Program; and (5) Section-by-Section Review of Proposed Regulations.

A. Statutory and Regulatory Requirements

HUD's authority to issue this rule is based on section 302 of the LPPPA, 42 U.S.C. 4822. Added in 1973, section 302 requires the Secretary of HUD to "establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary." The public housing programs covered by this final rule involve a contract for housing assistance payments. The statute further prescribes that such procedures shall "as a minimum provide for . . . appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed"; and further, that the procedures must apply to housing constructed prior to 1950 and "may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead-based paint."

HUD implemented section 302 of the LPPPA by promulgating regulations in 1976 which are found at 24 CFR Part 35 and by incorporating Part 35 in other program-specific regulations. The development of that regulation is fully described in the ANPR. The key provisions of the 1976 version of Part 35 define an "immediate hazard" requiring treatment as "paint (which may contain lead) on applicable surfaces which is cracking, scaling, chipping, peeling or loose." The definition did not require that the lead content in the paint be measured or identified, only that the condition of the paint be defective. Also, the definition excluded intact, or "tight", paint regardless of its lead content. The hazard elimination procedures in Part 35 were applicable to all "HUD-associated housing" regardless of construction date. This final rule will amend Part 35 and supersede Subpart C of Part 35's minimum requirements by establishing specific program requirements. The public and Indian housing proposed rule (51 FR 5666, February 14, 1986) suggested a 1978 construction cut-off date for Subpart C of Part 35 (defective paint hazard elimination). Public comments were received on this point. See section II.A below. Alternative construction cut-off dates (1950 and 1978) were proposed for Subpart C in the proposed rule published July 1, 1986 (51 FR 24112). This final rule amends Subpart C by using a 1978 construction cut-off date. This final rule is not intended to settle the issue, but will remain in effect on this matter until rulemaking for Part 35 is completed.

B. The Ashton Decision

In *Ashton v. Pierce*, public housing tenants in the District of Columbia challenged the adequacy of the Department's lead-based paint regulations. The plaintiff alleged that HUD's lead-based paint regulation was deficient for failing to define "tight" lead-based paint surfaces as an "immediate hazard" requiring treatment.

The District Court determined the issues on motions for summary judgment based on the statutory language and legislative history and the administrative record of the Department's rulemaking. The District Court found that the regulations were deficient in not treating lead-based paint accessible to children as an immediate hazard, and in failing to prescribe sufficient steps to eliminate accessible lead-based paint "as far as practicable." The District Court ordered the Department to "undertake further rulemaking to establish appropriate procedures for the elimination of lead-based paint hazards in federally-associated public housing, including so-called tight paint." *Ashton v. Pierce*, 541 F. Supp. 635, 642 (D.D.C. 1982).

The Court of Appeals affirmed the District Court order. *Ashton v. Pierce*, 716 F.2d 56 (D.C. Cir. 1983). The Court of Appeals found, first, that Congress intended the phrase "immediate hazard" not to be limited to paint in a defective condition. The Court of Appeals also held that the Department had applied an erroneous standard in determining whether it was "practicable" to eliminate the immediate hazard of intact lead-based paint. In the Court of Appeal's view, HUD had construed "as far as practicable" to mean "most practicable." The Court expressly rejected what it considered to be a "cost-benefit analysis" approach employed by the Department.

> In plain language Congress commanded that if it is "practicable" to eliminate an immediate hazard, that hazard must be eliminated. The statute admits of no exceptions to the required elimination procedures on the basis of the degree of practicability. Neither Congress' concern about the cost of the elimination program nor congressional silence in the face of the Department's interpretation of the statute can overcome the clear statutory directive. *Id.* at 64.

The Court of Appeals concluded, however, that the administrative record had not established that elimination of chewable intact paint is in fact practicable. The Court of Appeals stated:

> It is peculiarly within the expertise of the Department to determine the practicability of a given elimination procedure. We agree with the district court that the "as far as practicable" standard allows the Department "to consider cost and technical considerations in developing its regulations" and that the threshold of practicability is reached if there exist "reasonably available techniques" for eliminating the hazard . . . *Id.*

The Court of Appeals affirmed the requirement to reopen rulemaking to determine under what conditions intact paint containing lead constituted an immediate hazard. The Court affirmed the Department's broad discretion in making this determination.

> * * * Like the district court, we note that "in carrying out further rulemaking [the Department] retains substantial discretion to adopt regulations of a scope and effect it deems appropriate. * * * We simply hold that the Department's "complete failure to address the hazards associated with "tight" paint containing lead is contrary to the intent of Congress." *Id.*

For a complete discussion of the *Ashton* decision, see 51 FR 5666, February 14, 1986.

II. Proposed Public and Indian Housing Rulemaking and Comments

A proposed rule regarding elimination of hazards due to lead-based paint in public and Indian housing was published on February 14, 1986 (51 FR 5666). This proposed rule is to amend 24 CFR Parts 35, Lead-Based Paint Poisoning Prevention to Certain Residential Structures; 905, Indian Housing; and 968, Comprehensive Improvement Assistance Program (CIAP); and proposed a new subpart H in 24 CFR Part 965, PHA-owned or Leased Projects—Maintenance and Operation. The proposed rule discussed six principal elements: (1) Program Requirements (General); (2) Testing; (3) Abatement; (4) Funding; (5) Notification; and (6) Monitoring and Enforcement. Several questions within most of these elements were raised. Comments were received on most of the questions presented in the proposed rule. Twenty-eight comments were received from commenters including public housing authorities ("PHAs"), state health departments, trade associations, Federal agencies, environmental groups, contractors, research consultants, a lead detection equipment manufacturer, a pediatric hospital, a health related organization, and a private law firm. Commenters submitted or referred to numerous articles and papers that addressed additional aspects of the problem.

This section will discuss the proposed rule questions and comments regarding public and Indian housing in order of the questions presented in the proposed rule and then comments received on the remaining principal elements.

A. Program Requirements

Two general questions were posed regarding the proposed program requirements. The first question was "Whether all paint surfaces where lead analysis produces a reading greater than or equal to 0.7 mg/cm^2 that are in unsound condition or on chewable surfaces (as defined), and in the locations described in the proposed rule, must be considered "immediate hazards due to the presence of paint which may contain lead and to which children may be exposed" in all circumstances, regardless of date of construction and the presence or absence of children in a unit?"

Twelve commenters representing all concerns responded to this question. Seven commenters agreed that such readings must be considered immediate hazards. Two commenters conditioned their comments on further evaluation of the testing equipment before such readings are considered an indication of an immediate hazard. One commenter limited immediate hazards to exposed surfaces coated with lead-based paint. One manufacturer of an X-ray fluorescence analyzer ("XRF") discussed the 0.7 mg/cm^2 level by describing the precision of its equipment at the 0.7 mg/cm^2 level. Additional comments regarding the 0.7 mg/cm^2 level and accuracy of the XRF are discussed below in Section II.B.7.a. Commenters which agreed that such readings must be considered immediate hazards also suggested a 0.1 mg/cm^2 cutoff level should be used because this level is necessary to provide reasonable protection for young children and pregnant women. One commenter suggested that 0.1 mg/cm^2 is a realistic goal, and that HUD could record readings above 0.1 mg/cm^2 but only take action on those that have 0.7 mg/cm^2 readings (A two stage abatement procedure might be required later). It was stated that the proposed limit of 0.7 mg/cm^2 was based upon technological considerations and not on health considerations. The commenter further noted that a recent clinical study concluded that a limit of lead in paint of 0.7 mg/cm^2 does not provide adequate protection of young children against lead toxicity. (Chisolm, Mellits and Quaskey (1985)). Children, who were tested for lead poisoning and then returned to houses in which lead-based paint surfaces containing more than 0.7 mg/cm^2 had been abated using propane torches and extensive sanding, still

maintained highly elevated blood lead concentrations; their average level was 38 μg pb/dl (micrograms of lead per deciliter of whole blood). That blood lead level substantially exceeds currently acceptable limits (The Centers for Disease Control ("CDC") has defined an elevated blood lead level ("EBL") which reflects excessive absorption of lead as a confirmed concentration of lead in whole blood at 25 μg/dl or greater). However, those children transferred to "lead free" housing maintained significantly lower blood lead concentrations, with most children's blood lead levels eventually falling within the safe range.

The commenter also stated that since the publication of the ANPR and the publication of the CDC's January 1985 Statement on the Prevention of Lead Poisoning in Childen, the state of the art for detection of lead-based paints has substantially improved. A new portable XRF lead analyzer with a detection limit of 0.1 mg/cm² is now on the market and is in use. The commenter further stated that analyses of painted surfaces (American Academy of Pediatrics, 1972) indicate that the use of a limit of 0.1 mg/cm² for selection of surfaces from which lead paint is to be removed will come much closer than any higher limit value to providing reasonable health protection for young children and pregnant women.

One commenter stated that the language of section 302 of the LPPPA compels a definition of immediate hazard that includes any lead-based paint that is accessible to children. The commenter noted that HUD has recognized its obligation to require removal of lead-based paint to which children may be exposed by including chewable intact lead-based paint in its definition of immediate hazard but has omitted from coverage certain housing and certain surfaces where immediate hazards are surely present, (*i.e.*, housing for the elderly, housing built after 1973, exterior surfaces (HUD proposed in certain cases spot removal and did not mention walls as applicable surfaces), lead in soils and potential hazards).

Commenters who questioned whether such readings must be considered immediate hazards offered the following technical advice and local requirements. One commenter stated that the 0.7 mg/cm² positive value is based on a National Bureau of Standards ("NBS") evaluation (NBSIR 78–1466) of then commercially available XRF analyzers. Only one of the analyzers tested is still available and it was tested as a prototype at that time. The state-of-the-art in lead detection technology has advanced in the years since this independent evaluation was done. Currently two manufacturers are marketing XRFs for this purpose. One manufacturer claims sensitivities of 0.1 mg/cm². If this claim was substantiated by an independent agency, CDC might consider lowering the definition of a positive response (CDC has recommended that readings by XRFs greater than or equal to 0.7 mg/cm² for lead on painted surfaces be considered positive).

The New York City Housing Authority indicated that it follows the New York City Health Code which requires both the existence of hazardous lead-based paint level (0.7 mg/cm²) and a blood lead level of 30–40 micrograms per deciliter with a free erythrocyte protoporphyrin of 50 micrograms per decliliter or higher before abatement is required. For further discussion of the accuracy of XRF and the 0.7 mg/cm² level, see section II.B.7.a.

The second general question regarding program requirements was "Whether the abatement treatment required in this proposed rule is "practicable" in all circumstances encompassed by the proposed rule and should, in the Secretary's discretion, be required for housing constructed after 1950 and, if so, for what periods or under what circumstances?"

Ten commenters responded to this question. The majority considered the proposed abatement requirements to be impracticable because they were too costly, time restrictive and not necessary to carry out an effective program. Three commenters suggested the proposed abatement requirements were practicable and praised HUD for its approach. Two commenters suggested that the Secretary should begin with housing constructed before 1950 and then proceed to housing constructed between 1950 and 1978. *Ashton* plaintiffs' counsel suggested that HUD must consider post-1973 housing and may not legally await positive evidence of lead-based paint in the form of a poisoned child before it promulgates regulations requiring the testing and elimination of hazardous paint. Another commenter suggested a construction cut-off date of 1977 but expressed the need for a pilot city study of post-1977 housing. This commenter further noted that while the *Ashton* court did not order HUD to require abatement in post-1950 housing, the LPPPA requires the abatement of lead-based paint hazards if HUD determines that such hazards exist. One commenter also agreed that not only housing units but also common areas and non-dwelling facilities are "practicable" areas for treatment. CDC considered the question irrelevant and said, "If the surveys are as complete and thorough as proposed, and lead is found as expected, the question is the will to carry out the abatement program in face of competition for resources. It makes no difference when the housing was constructed if leaded paint is found—it must be removed." For a further discussion of specific abatement comments, see section II.C.

Based on public comments and HUD's recent observations of lead-based paint detection techniques and abatement methods, HUD will be requiring testing and abatement of lead-based paint hazards in public housing units where an EBL child is identified. Child care facilities owned or operated by the PHA and used by that EBL child will also be tested and as necessary promptly abated. Testing and abatement of exteriors and common areas where EBLs are involved will be done as considered necessary and appropriate by the PHA and HUD. PHAs will be required to test and abate family units between occupants when the incoming family has an EBL child.

Lead-based paint testing and abatement can also be undertaken as part of comprehensive modernization. The comprehensive modernization requirements apply to family projects: (i) Constructed or substantially rehabilitated prior to 1973, or (ii) constructed or substantially rehabilitated during or after 1973 but before 1978 under circumstances not subjecting such construction or rehabilitation to the requirements of 24 CFR Part 35 (as then in effect). The abatement requirements will apply to defective paint surfaces and chewable surfaces, which contain lead-based paint. In testing for lead content, HUD will use a standard of 1.0 mg/cm². See section II.B.7. for a further discussion of the testing standard. Abatement methods are described below in section II.C. HUD will also require a maintenance obligation for defective paint surfaces found in family projects constructed prior to 1978. For a fuller discussion of the Public Housing program, see section IV. below.

B. Testing

Six questions were presented in the proposed rule's discussion of testing for lead-based paint. Fifteen commenters, representing a broad cross-section of commenters, responded to the testing questions. Other aspects of the testing element of the proposed program also received comment.

1. HUD requested public comments on the feasibility of the two-year timeframe, given the number of testing machines or Childhood Lead Poisoning Prevention Programs ("CLPPPs") in the country and the size and number of PHAs. All but one of the commenters responding to this question indicated that the two-year timeframe was infeasible. One commenter believed that HUD must require that the PHAs complete the process faster, particularly in view of its failure to begin the process in the 13 years since passage of the LPPPA. Commenters offered alternative testing periods ranging from six months to twenty years and indicated several additional problems associated with a two-year timeframe. One commenter stated that because HUD is proposing to test units constructed between 1950 and 1973, this additional burden requires that HUD modify its schedule to permit a period of three years for its testing. One commenter suggested that if HUD insists on testing all apartments in projects where tests showed the existence of hazardous lead-based paint, very large PHAs, especially New York, would require an extension from a two-year testing period to four years, because of the number of apartments that would require testing. One PHA stated that it had no operating funds available to purchase the machinery, labor, and materials needed to fulfill the requirements of the proposed rule within any timeframe. It further added that regardless of funding, the testing process is not practicable given the availability of XRFs and the time needed to test a unit. The level of impracticability increases with every unit identified as having lead-based paint, for that increases the number of units that must be included in the testing process. An alternative to a mandated timeframe is to incorporate testing and abatement into the ongoing processes of normal vacancy preparation and federally funded modernization (unless EBLs are detected). The Council of Large Public Housing Authorities ("CLPHA") indicated that the time period to complete testing is dependent upon the funds made available to do this work. If no additional funds are made available, the proposed time limit is clearly impracticable. One PHA agreed that the two-year testing program was only feasible with additional funds and also indicated that the proposed testing program would be difficult and would distort repair and modernization programs underway. It was further suggested that HUD should both guarantee funding and make some effort to extend the time limit and allow PHAs to fit a testing program into current repair programs in a rational way.

Instrument experts at Georgia Tech Research Institute concluded that a two-year timeframe was not realistic. They suggested that a uniform training program should be available for PHAs because "non-technical" personnel may obtain erroneous results if they do not have an understanding of how the instrument actually arrives at the number representative of the area concentration of lead. They also suggested that a technical resource center should be established for the duration of the program in order to provide focus to the technical aspects of lead detection methodology, provide a single contact point for questions and guidance in proper use of specified methods and act as an "information collection center". The establishment of a technical resource center would require more "up-front" time, but would result in a higher public and agency level of confidence and would reduce overall costs.

HUD will not be requiring testing of all public housing within two years. Testing will be required in cases where an EBL child is identified as a resident of public housing and in cases where an incoming family has an EBL child. For any comprehensive modernization funded at the time the regulation becomes effective and thereafter, PHAs will be required to randomly test and abate lead-based paint only if the project involves the breaking of a painted surface.

2. HUD requested comments on the availability of testing resources for PHAs. Three commenters responded to this question and indicated that testing resources were scarce. A PHA indicated that there are no operating funds or funds available on the state or local level which would permit PHA compliance with the testing requirements, and it objected to adding these requirements to an already overburdened and underfunded CIAP. The New York City Housing Authority indicated that it takes a health and housing approach. The local health department notifies the PHA whenever a child in one of the PHA's units has an EBL and their XRF tests show a reading of 0.7 mg/cm^2 or higher. After this notification, the PHA inspects the unit and validates the XRF results by submitting paint chip samples for laboratory testing. One state department of health noted that state and local agencies are suffering from budget restrictions which leave them ill-prepared to assume any additional responsibilities such as XRF testing and blood lead level screening for PHAs.

HUD will encourage PHAs to seek state and local funding for testing for lead-based paint but recognizes that federal funding will be the primary resource for testing. Blood lead level screening will continue to be done by the state, local and private health agencies now serving the public housing population.

3. HUD requested comments regarding quality control techniques. Two commenters responded to this question and suggested quality control guidelines should be established regarding the use of XRFs. (The XRF response is dependent upon the nature of the surface being examined. Improper use of an XRF on sculptured surfaces, surfaces with peeling paint, soil or dust on floors, multi-paint layers, etc. may lead to erroneous results. The best intentioned operator may have misunderstandings concerning proper use of the XRF in other than ideal circumstances, *e.g.* tightly painted surfaces. A standard guidebook should be prepared to insure proper use of XRFs by non-technical personnel.) XRFs must be calibrated using field available standards of known lead levels prior to use. One PHA indicated that it evaluates XRF tests by submitting paint chip samples for laboratory atomic absorption tests.

HUD will not be developing quality control guidelines. CDC guidelines on testing and abatement are suggested.

4. HUD requested comments on HUD's responsibility when there are not local or state standards or supervision. HUD proposed continuation of its current provision that the PHA is responsible for compliance with state or local laws, ordinances, codes or regulations governing lead-based paint hazard abatement. In order to promote efficiency, HUD proposed that it would defer to state or local requirements that provide for a comparable level of protection from lead-based paint hazards. Four commenters responded generally to this question and indicated that HUD should clarify which state or local laws are acceptable substitutes for HUD regulations. It was suggested that Massachusetts laws insured a comparable level of protection but that New York laws do not provide as stringent requirements. Commenters further added that the state and local standards have to be at least as stringent as the federal standard in order to be entitled to deference. Commenters also noted that many state and local governments have failed to adopt or to enforce requirements necessary to protect public health from

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the hazards of lead-based paint. While state and local authorities should retain the discretion to establish and enforce more stringent programs, the federal government must guarantee a minimum level of safety and health protection.

HUD will retain its current provision that the PHA is responsible for compliance with state or local laws, ordinances, codes, or regulations governing lead-based paint hazard abatement. HUD funds may be used to meet all state or local codes. HUD's field counsel will determine whether state or local requirements provide a comparable level of protection from lead-based paint hazards. The field counsel will be provided guidelines to assist in making these determinations. These determinations can be reviewed by HUD headquarters' counsel.

5. HUD requested comments regarding any tribal quality control standards. No commenters responded to this request and no comments were received on the application of the proposed rule to Indian Housing Authorities.

6. Certain CLPPPs may be using only laboratory chemical analysis. HUD was interested in learning which localities use only this method. HUD was considering paying (through the modernization program) for the equivalent cost of using XRFs, but requested comments from local lead programs and the scientific community regarding laboratory chemical analysis standard and equivalency of test results with XRFs. Two commenters responded to this question and indicated that there is no way to correlate the measurements it uses (parts per million) with mg/cm², and that there is no direct equivalence between laboratory analysis for lead and XRF response unless the thickness of the lead layer is known. This thickness may be determined by using a scanning electron microscope. It may be desirable to determine this equivalency at select sites to provide some idea of the overall efficiency of field detection methods. Comparison of lab and field results at a relatively small number of select sites would provide for determination of a statistical confidence level for the overall program.

Three comments indicated that laboratory chemical analysis should be permitted as a means of detection of lead-based paint for several reasons. The Public Housing Agency of the City of Saint Paul stated that their health departments were dissatisfied with XRF readings and that they send paint chips for analysis to a laboratory for approximately $12.00 a sample. The Boston Housing Authority indicated that of the limited number of companies available in the Boston area to test for lead-based paint, a minority use the XRF. The non-laboratory chemical analysis approach (using sodium sulfide), which is permitted under Massachusetts law, will enable PHAs to have more access to more testing services and will accelerate the process of testing and abatement. CLPHA recommended that where it is the preference of the PHA, laboratory chemical analysis should be an equally acceptable alternative method of testing.

Testing utilizing the XRF will be an allowable modernization cost. Laboratory chemical analysis may be used if approved by HUD in cases where it is not practical to obtain XRF readings.

7. *Miscellaneous.* Sixteen commenters noted additional concerns, criticisms and suggestions pertaining to the proposed testing procedure. These comments have been grouped into the following five areas: (a) Problems with the XRF; (b) Randon Testing; (c) Other Surfaces and Areas to Test; (d) Priorities for EBLs; and (e) Housing Approach.

a. Problems with the XRF.—i. *Accuracy.* Five out of six commenters suggested that readings produced by XRFs were very inaccurate. Commenters indicated that the XRF reads the opposite side of the wall as well as the side of the wall being tested, detects lead pipes nearby or lead in walls or other leaded materials. False readings can result and cause unnecessary removal at great expense. The XRF machines are often inaccurate at the levels approximating 0.7 mg/cm² or less, often by a factor of 100%. Based upon a comparison of XRF readings and laboratory atomic absorption tests, the New York City Housing Authority has found the XRF to be accurate only 3% of the time at the 0.7 mg/cm² level. They have explored the possible reasons for the differences in the readings and have concluded that wall construction is the key factor. All specifications for apartment projects' walls constructed prior to 1978 required a three coat plaster with a wire lathe base. The XRF may be detecting the lead in the wire lathing. They recommend that HUD further investigate the effectiveness and reliability of the XRF test results on walls constructed with materials other than sheet rock wall board. Based on CDC's recommendations, one commenter suggested that XRFs can measure down to 0.7% with an acceptable margin of reliability and the margin of error is small.

ii. *The 0.7 mg/cm² level.* Comments were diverse regarding the use of the 0.7 mg/cm² lead-detection level. HUD had proposed to use this level based on the recommendations of CDC. One commenter was not satisfied that the XRF will clearly read down to 0.7 mg/cm² level. The Housing Authority of the City of Milwaukee stated that XRFs are not reliable below 1 mg/cm² and therefore the 0.7 mg/cm² level would require other test procedures. Princeton Gamma-Tech, a manufacturer of an XRF, advised that the precision (1 sigma) of a single reading of their Model XK–3 is ±0.35 mg/cm². To achieve a precision of ±0.2 mg/cm² on a given spot, at least three readings on that spot are required. The manufacturer further noted that improvement in reading precision on a spot varies with the square root of the number of readings taken on that spot. The statistical variations which necessitate the multiple readings for increased precision result from the physical laws which govern the x-ray fluorescence process and have nothing to do with the instrument itself. Based on its experience, one state department of health stated that to obtain reliable readings at the 0.7 mg/cm² level, approximately eight readings must be taken on each surface and then averaged. One commenter noted that the detection level greatly influences the cost. When Philadelphia switched from 2.0 mg/cm² to 0.7 mg/cm², the number of surfaces to be abated increased by a third. A conservative reading level erring on the side of caution was suggested. Two commenters suggested the detection level should be reduced to 0.1 mg/cm². Another commenter noted if HUD chooses the 0.7 mg/cm² level, enormous sums may be spent on incomplete abatement.

iii. *Operation of the XRF.* Three commenters suggested that XRF readings may be unreliable because of operational factors. One of these commenters suggested the use of a uniform training program and a technical resource center. One commenter further stated that quality control guidelines should be established regarding the use of XRFs. Improper use of an XRF on sculpted surfaces, surfaces with peeling paint, soil or dust on floors, or multi-paint layers may lead to erroneous results. The Housing Authority of the City of Milwaukee noted from experience that XRFs are not reliable on rough or curved surfaces and other test methods are required at these locations. Another commenter suggested that readings will vary with the height of the inspector, and inspectors can become weary of the process and start to generalize greatly. Therefore, it is important to take an average of several readings of a given item and to pay a unit fee to a local public health agency

to keep the process objective and above reproach. CDC stated that HUD must use the best technology available, with rigorous quality control measures, in order not only to meet objectives of abatement but to conserve resources.

iv. *State of technology.* One commenter believed the technology behind the XRFs was highly unreliable. Georgia Tech Research Institute suggested that an independent evaluation of the two currently available XRF instruments should be undertaken prior to initiation of a national program for lead-paint hazard abatement. This evaluation should follow procedures defined by the NBS as reported in NBSIR–73–231 and NBSIR 78–1466. The physical principle of x-ray excitation is identical in both instruments, however, they use different detection methods. One instrument uses a scintillation method, the other a proportional counter. There are trade-offs to be considered in both detection methods. In the 1978 evaluation, an instrument utilizing a scintillation detection method was found to be too imprecise and inaccurate to be recommended for use by NBS. In any analytical measurement certain limitations apply due to fundamental physical and chemical principles. An on-board computer provides for an easier way of dealing with these limitations but does not change the physics of the measurement. Reliability and performance standards for all instruments to be used need to be documented prior to the onset of a program such as this one. In addition, performance standards for lead testing should be established and should be independent of the analysis method used. They also noted that recent technology advances may be directly transferable to lead detection. Development of hand-held spectrophotometers may allow for quantitative chemical analysis of lead in the field. It was not suggested that a research and development program be undertaken but rather an evaluation of existing technology applicable to lead detection which may result in a substantial cost reduction over the course of the entire detection and abatement program. Simple "color change" sodium sulfide tests to indicate the presence/absence of lead may be ambiguous; some numerical indication of lead concentration is necessary.

v. *Availability of the XRF.* Several commenters remarked that the availability of the XRFs would pose a problem in an undertaking this large. They stated that XRFs are not widely available locally from other agencies or units of government. A very large PHA might be able to afford to buy its own. Without additional funding from HUD, most medium-sized and smaller PHAs will not be able to afford to buy the XRFs.

vi. *Safety concerns.* Concerns were expressed about the cobalt radiation in using the XRF. XRF operators in New York City are required to wear badges that indicate the amount of radiation absorption. Many PHA employees are fearful to operate the XRF or carry a "hi-tech" and expensive machine into public housing developments because in some cases it may also invite assault if they are unaccompanied. The use of this machine may constitute an unnecessary potential health hazard to employees and occupants.

vii. *Other.* One commenter suggested that it would be extremely helpful if the Consolidated Supply Program could solicit proposals for testing services.

b. *Random Testing.* Five commenters expressed concerns regarding the proposed random testing procedures. One commenter considered the proposal to be infeasible because of the number of units and because many are scattered single family houses of varying ages. To reach the 95% degree of reliability in testing paint, some PHAs would have to test almost every one of their dwelling units and incur very high costs. The CLPHA also questioned whether it would be necessary to inspect every unit in a development where it is found that there is some lead-based paint. If an abatement program is instituted, it is likely to cover all the units in a development, and preliminary inspection of each one of the units individually would not be required. To avoid this high degree of testing, a PHA suggested a brief notice to all public housing residents warning them of the possible hazard of lead poisoning because it is more important that the PHA have the HUD funds to correct these lead-based paint conditions than to conduct a thorough testing program. One commenter applauded HUD's random sampling approach which requires sampling of all public housing but noted the proposal is both too broad and too narrow. It is too narrow because it omits random sampling of soils in play areas and in areas directly adjacent to buildings with exterior lead paint. The testing proposal is too narrow also because it does not require testing of all intact paint and testing of elderly housing. Young children visit elderly housing and repeated exposures from these visits can cause poisoning. The testing proposal is too broad in that testing on a project basis may overlook entire buildings where dangerous levels of lead are present. An alternative scheme would be to choose samples on the basis of the number of buildings and number of units within a project.

A PHA suggested an alternative to a mandated time frame is to incorporate testing and abatement procedures, where no EBLs in children exist, into two ongoing processes: Normal vacancy preparation and modernization under CIAP. If isolated incidents of a child living in a public housing unit testing positive for blood lead occur, then the family can be relocated if the paint in the unit or the common area is at fault and abatement can proceed immediately. The PHA further indicated that although testing is impracticable depending on the availability of the XRF operated by their state CLPPP for extensive testing, program personnel have indicated that random testing using their XRF is feasible. Another PHA suggested that it should be permitted to substitute a sub-sample of additional apartments in each of the project buildings, which should be adequate to confirm the exsitence of hazardous lead-based paint. Paint specifications for their projects constructed during the critical years of lead-based paint usage were the same for the entire devleopment. Therefore, if a sample and sub-sample show positive readings, they would have to assume the existence of hazardous lead-based paint throughout the entire project.

c. *Other Surfaces and Areas to Test.* Three commenters suggested that HUD should test exteriors above five feet, revise its definitions of chewable surfaces, defective lead-based paint (which only addresses short term hazards) and applicable surfaces (to include exterior walls). One commenter further added that units must be re-tested and re-treated any time a potential hazard becomes an immediate hazard. A PHA suggested that testing should be required on all surfaces in all units in projects that were not constructed at the same time or constructed under separate contracts under the random selection process.

d. *Priorities for EBLs.* Three commenters agreed with HUD that whenever a child with an EBL is identified, testing of those units (and possibly the EBL building) should be a priority.

e. *Housing Approach.* Two commenters commended HUD for taking primarily a housing approach to the elimination of lead-based paint poisoning in public housing. One commenter stated HUD had no legal choice but to use the housing approach.

Given these comments regarding miscellaneous testing procedures, the testing and abatement standard will be 1.0 mg/cm² using an XRF. Hud has selected the 1.0 mg/cm² level for several reasons. The 1.0 mg/cm² level provides for an adequate margin of safety between abatement levels and levels that have been demonstrated to be dangerous because they are often associated with EBLs. Research by Gilbert, et al. (1979) found that median paint lead levels in the homes of children with EBLs were about 10 mg/cm² for interior surfaces and 16 to 20 mg/cm² for exterior surfaces. Control subjects, without EBLs, lived in houses in which paint lead was generally less than 1.0 mg/cm², except for some exterior surfaces. Research by Reece, et al. (1972) found that children with EBLs lived in housing with lead content averaging between 4 mg/cm² and 8 mg/cm² on interior surfaces and between 10 mg/cm² and 17 mg/cm² on exterior surfaces. The 1.0 mg/cm² level is within the range of 0.7 mg/cm² to 2 mg/cm² typically used as abatement standards by local CLPPPs. One of the two available XRFs, the XK–3, was designed to a contract specification of 1.0 mg/cm². Tests by the National Bureau of Standards (NBS) (1978) showed that the XK–3 was sensitive to lead at that level, although the accuracy was not as good as specified in the contract. The NBS did not thoroughly test the XK–3 for sensitivity or accuracy at lead concentrations of 0.7 mg/cm². The manufacturer of the other available XRF, the Microlead I, has stated that the machine more than meets these requirements. Thus, the testing and abatement standard can be met adequately using either of the available detection instruments. Laboratory chemical analysis may be used if approved by HUD in cases where it is not practical to obtain XRF readings. For a fuller discussion of the testing requirements of the Public Housing program, see Section IV. B below.

C. Abatement

Although HUD did not pose any specific questions regarding its proposed requirements for abatement, eighteen commenters commented on the proposed requirements. These comments have been grouped into ten categories: (1) General Programmatic Concerns; (2) Surfaces to Abate; (3) Abatement Timeframe; (4) Methods of Abating; (5) Abatement Hazards; (6) Abatement Priorities; (7) Cost of Abatement; (8) Emergency Intervention Actions; (9) Effect on Modernization; and (10) Relocation.

1. *General Programmatic Concerns.* Three commenters expressed general concerns about an abatement program and offered design suggestions. It was suggested that abatement of large numbers of dwellings requires necessary controls, otherwise more lead related problems can result. Another commenter indicated that lessons learned from asbestos abatement need to be applied to the problems of lead-based paint hazard abatement. A set of guidelines needs to be established to allow HUD to properly write and oversee specifications with which abatement contractors must comply. Where abatement of the hazard does not result in paint removal but relies on encapsulation or cover-up, education and maintenance programs need to be established. One commenter considered the removal precautions in the proposed rule to be adequate. Enforcement of these precautions is a concern. A system of frequent inspections during each abatement project will be needed to ensure that the precautions are being followed. A requirement for testing and certification of all lead abatement contractors should be considered.

2. *Surfaces to Abate.* Seven commenters suggested that HUD should reconsider the surfaces to be abated. Four commenters suggested an expansion of surfaces to be treated to include: All painted surfaces, including intact non-chewable interior and exterior surfaces and soils; applicable surfaces including walls and exterior surfaces if they are defective or chewable; and surfaces in elderly units and other potential hazards which become immediate hazards after the abatement contemplated by the proposed rule. One commenter suggested that the requirement that lead-based paint be removed from all accessible walls without regard for the soundness or lack of peeling is impractical and further added that PHA personnel should make an assessment of the presence of lead-based paint and whether there is sufficient documentation for it being ingested by an occupant of the unit. One PHA noted that the presence of children under seven years of age should not be part of the criteria for determination of the need for abatement considering unit turnover. One commenter suggested that the definition of defective paint in 24 CFR § 35.22 should specify a lead content of 0.7 mg/cm².

3. *Abatement Timeframe.* Eight commenters expressed concerns about the proposed five-year timeframe for abatement in public housing. Two commenters suggested longer or more flexible timeframes. Two commenters recommended a five-year deadline for complete lead abatement in public housing and indicated that the proposed rule was defective for not specifying a timeframe and a requirement for one-time abatement. Two commenters indicated that testing and elimination should be completed in substantially fewer than seven years and lack of funding should not excuse compliance. Two commenters indicated that the nineteen day timeframe for testing and abatement in cases of EBLs is impracticable given the restricted time period allowed for locating and contracting for testing and arranging for abatement including relocation of the family.

4. *Methods of Abatement.* Eight commenters commented on the proposed methods of abatement. One commenter stated that the abatement methodology involving covering or removal was not practicable. Two commenters commended HUD on not prescribing the use of any specific methods for lead-based paint removal and supported a performance based standard for clean-up and abatement rather than a design standard. One commenter mentioned that newer approaches to abatement are developing but remain to be fully validated.

Three commenters expressed comments on coverings used for abatement. One commenter asked if the list of coverings for walls was inclusive and suggested that the list should be expanded to include the installation of heavy vinyl wall covering or plaster impregnated cloth because of their studies of these materials. One commenter proposed that protruding corner walls be covered with protective vinyl corner moulding and that window sills and casings be clad with vinyl corner mouldings because this would be more cost effective and less time-consuming. Another commenter stated that the covering of walls in their entirety would be satisfactory provided that the old walls are well-sealed. They further supported removal of all paint from both flaking, peeling surfaces and chewable surfaces and removal of all paint from all accessible, intact surfaces because any other alternative would provide only temporary partial abatement.

Four commenters were concerned about removal methods. A contractor indicated that doing only chewable areas (*e.g.*, four inches in from the edge of the door and up to five feet) adds to the expense of repainting. Adjacent paint to the chewable edge tends to blister with the heat and there is no way

to effectively stop it without completing the entire item. However, doing all leaded surfaces increases the expense of abatement by a factor of three or four over the cost of treating only chewable areas, depending on variables. The contractor also suggested using open flame heat methods because nonflame heat elements triple the cost and the devices break down often, vacant units may not have electricity to operate them and labor time increases. According to studies by the Philadelphia Department of Health, the use of open flame heat guns in the 700°–750° range does not produce toxic fumes. Chemicals are more expensive and create a splash hazard. The contractor recognized that the open flame burning technique creates a greater fire risk and creates more dust and smoke than other techniques, but this must be weighed against the fact that three times more units can be deleaded for the same dollar. It was also noted that occupants must be out of the house during this process unless they wear a mask and some local fire ordinances forbid open flame methods or restrict them to exterior areas or single family dwellings.

Two commenters recommended that on chewable surfaces (usually woodwork such as baseboards, windowsills, door frames, etc.) the abatement method of choice is removal of the affected wood and its replacement with new wood as appropriate for the underlying condition of the wood. This method was recommended because: (1) It creates the least inconvenience and hazard for the tenant and workman; (2) chips and paint dust generated by this method are minimal; (3) no lead residue remains; and (4) although this method is more costly, the use of abrasives, heat or chemical paint removers are objectionable because of the amounts of fumes and/or dust created.

5. *Abatement Hazards.* Five commenters expressed concern regarding the hazard created by abatement and noted preventive measures. Three commenters were concerned about the hazards of lead dust and suggested alternative methodology. High efficiency particulate air filtered vacuums should be used in cleanup because home or industrial type non-filtered vacuums tend to expel fine particles in the air which are then deposited over the entire house. Wet-scrubbing should include the use of high phosphate detergents. Lead dust monitoring using the wet-wipe method should be considered as a quality control measure. Pre and post monitoring of the lead bearing dust will determine when abatement and cleanup has been completed successfully. At least one incident of lead poisoning in a Baltimore child was the result of improper lead abatement. A commenter noted that household dust lead levels are one of the best predictors of lead absorption in very young children. They recommended that the removal of lead-based paint hazards in public housing should be judged satisfactory only when household dust levels are reduced to levels which do not pose undue risks as found in modern suburban housing free of paints containing lead additives. A state department of health was concerned about contamination of interior spaces with lead in dust due to removal by scraping and sanding and by careless removal procedures. They suggested there may be less health risk in leaving leaded paint on interior surfaces that are not defective and not chewable than in removing it. The proposed rule indicated that the PHA shall dispose of lead-based paint debris in accordance with applicable local, state, or Federal requirements. A state department of health indicated that such requirements are difficult or impossible to find and that locations of hazardous waste landfills are equally as difficult to find.

6. Abatement Priorities. Five commenters made suggestions on abatement priorities. One commenter suggested HUD may appropriately prioritize or target certain housing units for deleading, but it must apply to all housing within the authority of HUD on a one time basis. One PHA recommended that Group 1 priorities include testing and abatement as part of the normal vacancy preparation cycle, or as part of a "genuine CIAP modernization program", or as part of a separate federally funded program dealing specifically with lead-based paint testing and abatement. Additional levels of priority for testing and abatement need to be established to stagger the enormous dollar amount required to comply with the proposed rule.

Three commenters addressed needs for EBL priorities. One PHA commented that since neither HUD nor the PHA is going to pay for testing EBLs, it is sensible that testing and abatement would be accomplished when the EBL is reported. A very costly testing program before an EBL is reported will not eliminate additional testing and necessary abatement when a child with EBL is found. Another commenter stated that whenever EBLs are identified by a health source, testing and abatement of the unit, and probably the building should be accomplished. One commenter noted that the proposed abatement program appropriately carries forward the priorities established in HUD's testing program. When there are limited resources, it is necessary to concentrate on those units and projects where children with EBLs have already been identified.

7. *Costs of Abatement.* Eight commenters responded to HUD's projections on costs of abatement ($1,100 per unit). Commenters noted that lead abatement is a labor intensive process in regard to total cost especially given Davis-Bacon wage rates. Half of the chewable areas will be doors and windows. Therefore, costs will vary between apartments, semi-detached and single homes. One third of the chewable items are kitchen cabinets, shelving, stairway posts, rails and spindles. The exterior accounts for the remainder and can easily equal fifty percent of the cost if a porch and yard fence are included. It is cheaper to throw away a fence rather than delead it. If a house has painted radiators, the number of chewable surfaces will increase by a third and metal surfaces, such as radiators, must be treated chemcially. It was suggested that vacant units should be given high priority because they are the safest, most convenient and cheapest units to abate. Costs can increse by fifty percent due to potential damage claims, moving and scheduling problems with occupied units. One commenter also added that use of high efficiency particulate air filtered vacuums and wet-scrubbing methods will increase the effectiveness of abatement while adding little to the overall costs. Commenters gave estimated costs of abatement which ranged between $1,000 to $4,400 per dwelling unit.

8. *Emergency Intervention Actions.* One commenter suggested that the proposed rule regarding EBLs and emergency intervention actions should be supplemented by a requirement that, whether or not funding sources are immediately available, the child must be relocated to a lead-free housing unit until abatement is completed. The proposed emergency intervention actions increase rather than decrease, the risk to the child by increasing the amount of lead dust in the unit.

9. *Effect on Modernization.* Two commenters addressed the issue of recently completed or ongoing Comprehensive Improvement Assistance Program (CIAP) modernization work. It was suggested that if HUD is proposing to dismantle newly completed work which includes intact paint or other wallcovering, a

substantial amount of work will be wasted and dollars lost. Another commenter recommended that approvals of these ongoing programs could be a legitimate reason for an indefinite extension of programs to avoid recapture of funds.

10. *Relocation.* Seven commenters raised the need for relocation during abatement. All commenters suggested relocation was needed and some also noted that some provision should be made to relocate tenants to safe housing until funds become available and the unit is abated. Relocation during abatement is a much larger problem than contemplated by the regulations. It may not be possible for the household to occupy the unit during deleading operations and vacant units may not be available. Commercial accommodations may be necessary. Funding will be necessary for relocation and this also suggests the need for a new and separately funded HUD program. One commenter recommended that removal of lead-based paint be carried out only in vacant units. One commenter noted that relocation of tenants adds to the cost and difficulty and consequently distorts other necessary ongoing repair. One PHA indicated that relocation of tenants is needed during abatement, but noted that if extensive numbers of apartments need to be treated, it will be difficult to rehouse the families because of the severe housing shortage and limited number of vacant apartments.

Abatement methods to be used for defective paint surfaces, chewable surfaces, which contain lead-based paint, and defective lead-based paint surfaces shall consist of suitable coverings, removal, scraping, non-flame heat and chemicals. Sanding and open-flame heat removal techniques on lead surfaces are not recommended because of associated health hazards. (These methods will be permitted only on a limited exception basis where other methods are not feasible.) PHAs will be required to relocate families when necessary during abatement in order to mitigate possible health hazards arising from the abatement process, except when abatement is accomplished by removal of woodwork or covering of walls or woodwork. Abatement of exteriors and common areas where EBLs are involved will be done as considered necessary and appropriate by the PHA and HUD and will be eligible for emergency modernization funds. HUD also recognizes that despite the public housing study which indicated per unit abatement costs of $1,100, the consensus of comments places the figure higher. For a fuller discussion of the abatement requirements of the Public Housing program, see Section IV. C below.

D. Funding

Fourteen commenters mentioned funding concerns. Five commenters suggested the proposed requirements were too costly. Ten commenters suggested special set aside funding measures. It was suggested that three hundred to four hundred million dollars should be set-aside for the purpose of testing, treating and eliminating lead-based paint, and that any current CIAP funding should be refunded by the set-aside to accomplish work items deleted under CIAP.

The CLPHA and other commenters stated that HUD's proposal that all PHA housing be inspected, tested and deleaded without any new source of funding is impracticable and unworkable. They added that the operating budgets of PHAs are already fully committed to the regular, ongoing operations of the PHAs. The operating budget of PHAs is not the place for an extensive lead elimination program. No state or local funding sources are adequate to cover these expenses. This major nationwide program should not be part of CIAP. The total costs of the program could easily be $750 million. Even if Congress provides $700 million per year in contract authority, the program over a period of years could consume 20 percent of each year's CIAP funding. The purpose of the CIAP program is comprehensive modernization and additional funding priorities should not be added. CLPHA stated that HUD should ask Congress for a separate appropriation for lead elimination and some of this funding should be earmarked for research and development into less costly inspection, testing and abatement procedures.

One commenter stated that by attempting to rely on state and local programs and CLPPs, HUD would be effectively taking resources away from cases with confirmed EBLs. HUD should provide the funding and seek advice and training from the CLPPPs. Additionally, by including only those abatement situations where a child has an EBL as the first priority, HUD is effectively reverting to the "health approach" in funding the proposal. Abatement of an identified lead hazard should not be relegated to the "Group 2" category where it would be subjected to a cost benefit analysis along with other modernization needs. HUD should set aside a special fund for this program. The use of CIAP funds should then be used to supplement that fund in emergency situations.

One commenter proposed that abatement funding be placed in an emergency category after testing has identified any units other than elderly as having a lead paint hazard. Commenters suggested that HUD's funding proposals were "subject to availability of funds" and therefore abusive to the extent that they permit any CIAP funds to be diverted to the correction of conditions in a public housing project that do not pose an immediate hazard to tenants and their children. Additionally, all detection and elimination of immediate hazards should be eligible for Group 1 funding. All detection and elimination of potential hazards should be eligible for Group 2 funding. If hazard elimination remains a Group 2 priority, then the regulations should provide that the Secretary will give priority to lead-based paint hazard abatement.

HUD continues to encourage use of state and local funds for testing and abatement. In response to the comments, HUD has determined that testing and abatement of EBL units and PHA owned or operated child care facilities used by EBL children will be an eligible funding activity under emergency modernization. Testing and abatement of exteriors and common areas will be done as considered necessary and appropriate by the PHA and HUD and will be eligible for emergency modernization where EBLs are involved. Where lead-based paint testing or abatement is undertaken as part of comprehensive modernization, it may be eligible for Group 2 or 3 funding depending on the nature of the project. See also section IV. C.

E. Notification

Six commenters provided comments on the notification requirements of the proposed rule. One commenter suggested that a notice of lead-based paint hazards may cause unnecessary alarm to public housing residents. It would create a fairly substantial administrative problem to require the PHA to collect certifications from all tenants. It was recommended that notices and certifications be a routine part of the admissions and annual recertification processes and provided to new residents. The notices should advise residents to contact the PHA about loose, peeling, scaling, chipping or falling paint. Notification should be required in cases where the presence of lead-based paint in a public housing unit or common area is determined to be the cause of an EBL in a resident child. Another commenter stated that HUD should set minimum requirements to be included in the notice including the

hazards of lead-based paint, the hazards associated with abatement procedures and recommendations for screening of children. A separate notice should be required at the time of abatement and should mention precautions to be taken. Notices could be tailored to the specific area in which a project is located and should be multi-lingual, if necessary.

One commenter suggested that HUD should publish a form of the proposed notice for review. The notices should alert parents to the possibility of lead-based paint poisoning in places other than their dwelling units, advise tenants of their right to have their units and units frequented by their children tested for the presence of lead-based paint, and alert parents to the danger of chewable surfaces. Notices should be distributed to all new and existing public and Indian housing tenants, including elderly, within six months of the final publication date of the public and Indian Housing rule.

One PHA agreed that all tenants living in projects constructed prior to 1978 should be notified of the potential hazards of lead-based paint, the symptoms and treatment of lead poisoning. From its experience, evidence of receipt can be obtained by certified mail—return receipt requested or tenant written acknowledgements. However, certified mail is not effective for many reasons *(e.g.,* tenants refuse to pick up letters, and extensive staff follow-up is required). Tenants also often refuse to provide written acknowledgement of notices. It was proposed that PHAs only be required to certify that tenants have been notified. An effective method would include individual letters sent by first class mail to each tenant family in projects affected, posters prominently posted in management offices, community, child care and health centers, announcements in their housing authority journal and project newsletters and notices in new leases.

Based on these comments, HUD will require PHAs to certify that tenants (including incoming tenants) have been personally and directly notified as to potential lead hazards and the availability and advisability of blood lead level screening for children under seven years of age. Flexibility in the method of notification will be permitted. A certified mail procedure will not be required because it represents an unnecessary expense.

F. Monitoring and Enforcement

Three commenters offered monitoring and enforcement comments. They indicated that the monitoring and enforcement requirements are insufficient because they do not go beyond what is already established for HUD's other programs and that HUD has not identified any specific steps it will take. It was suggested that HUD should create a unit of trained personnel to monitor compliance with its regulations and assist PHAs in their compliance efforts. HUD should also condition the grant of all CIAP funds on the existence of an approved plan to comply with the lead-based paint regulations within the time allowed. One PHA noted that the enormity of the program makes monitoring for complaince impracticable.

In response to these comments, HUD plans to modify its PIH Field Monitoring Handbook (7460.7 REV.) and CIAP Handbook (7485.1 REV–2) to reflect specific lead-based paint testing/abatement monitoring and performance review objectives. On/site HUD inspections of PHAs will incorporate review of lead-based paint testing/abatement performance.

III. Recent Studies of the Lead-Poisoning Problem

A. Public Housing Study

HUD completed a research study with Abt Associates to provide an estimate of the incidence and condition of lead-based paint in public housing units and common areas and an estimate of the cost of abatement under different regulatory program approaches. This research was part of a larger contract to determine modernization needs in public and Indian housing. In this study, the Department requested CLPPPs to assist in data collection by visiting five randomly selected local public housing projects (in areas with less than five local public housing projects, all projects were inspected) and inspecting them for the presence of lead paint. A total of 34 local programs visited 131 public housing projects and 262 units to test for the presence of lead-based paint. The programs used XRFs to test units, common areas such as halls, and site-wide facilities for the presence of leaded paint, and the amount of lead. The local inspectors also reported whether the paint was in good condition or defective (*e.g.,* peeling or chipping).

Because prior research led the researchers to expect a higher proportion of lead-based paint hazards in the oldest project, the analysts split the sample into four age strata and obtained inspections in a larger number of older projects than new projects. Using a standard of 1.0 mg/cm² lead on chewable surfaces accessible to children or in defective paint on flat surfaces such as walls or ceilings, data shows immediate hazards in 69% of the sample units built in 1950 and before, 48% of units built between 1951 and 1959, 44% of units built between 1960 and 1977, and only 7% of units built between 1978 and 1983. Analysis of the units inspected that were built in 1978 or later showed only 1 of the 15 sampled units with leaded paint, and none of 15 units had any defective lead-based paint. Also in the post 1977 units that did have some lead-based paint, the lead was found to be at a relatively low level, marginally over the 1.0 mg/cm² standard. These findings were expected because it became illegal to sell paint with significant amounts of lead starting in 1977.

B. EPA Air Quality Criteria for Lead

EPA's Air Quality Criteria for Lead evaluates and assesses scientific information on the health and welfare effects associated with exposure to various concentrations of lead in ambient air. The documentation considers all sources of lead including lead-based paint. Because of recent papers and scientific literature concerning the relationship between blood lead levels and blood pressure, EPA made available for public comment a draft addendum to the draft revised criteria document (February 11, 1986, 51 FR 5100). At the time of publication of this final rule, the criteria document and addendum are still under review.

IV. Requirements for Public and Indian Housing's Program

This rule amends the structure of the regulations implementing the LPPPA. It amends the Public and Indian Housing Lead-Based Paint Poisoning Prevention program and provides minimum requirements for other HUD programs. Part 35 has been amended to state generally applicable minimum requirements but authorizes Assistant Secretaries to promulgate program-specific regulations which supersede the general inspection and hazard elimination requirements of Subpart C of 24 CFR Part 35. This rule supersedes Subpart C of Part 35, integrates the lead-based paint requirements into the administrative and operational structures of public and Indian housing and allows for "practicability" determinations to be based on specific program circumstances. The practicability standard required by the LPPPA and as interpreted in the *Ashton* decision has been discussed at length in the proposed rules for Public and Indian Housing (51 FR 5667) and Insured and Assisted Housing (51 FR 24118). After a discussion of the construction cut-off dates, the lead-based paint public and

VOL 51 ISS 148 AG 1 1986 UMI

Indian housing program requirements will be discussed along with practicability determinations.

A. Construction Cut-Off Dates

Both proposed rules for Public and Indian Housing (51 FR 5669) and Insured and Assisted Housing (51 FR 24115) discussed the issue of construction cut-off dates in the LPPPA, the current rule and the ANPR. Several comments were received in response to the question on construction cut-off dates in the proposed rule for public and Indian housing. See Section II.A. above. HUD has decided not to use construction cut-off dates for testing and necessary abatement involving children with EBLs because of the health hazard involved. In cases where PHAs are applying for comprehensive modernization projects or are currently in the process of a comprehensive modernization project involving the breaking of painted surfaces, HUD has decided that the comprehensive modernization requirements apply to projects constructed or substantially rehabilitated before 1973, or constructed or substantially rehabilitated between 1973 and 1978 but not subject at such time to HUD's then current lead-based paint regulations. HUD is using 1973 as the initial cut-off date because it is inappropriate to impose testing and abatement requirements based on the assumption of noncompliance with Federal regulations. The choice of 1978 as a cut-off date is based on findings in the public housing study. See Section III.A. The public and Indian housing maintenance requirement for defective paint adopts the 1978 construction cut-off date found in new Subpart C of Part 35. The public and Indian housing notification requirement adopts the new 1978 construction cut-off date in Subpart A of Part 35.

B. Inspection and Testing

HUD is requiring inspection for defective paint surfaces. This requirement is a remnant of the current Part 35. Secuon 965.704 provides that in family projects constructed prior to 1978, the PHA shall inspect units for defective paint surfaces (a visual inspection and no requirement for testing of lead content): (1) At unit turnover when the incoming household includes a member seven years of age or under, and (2) as part of routine periodic unit inspections. If defective paint surfaces are found, covering or removal of the defective paint spots as described in § 35.24(b)(2) shall be required. Treatment shall be completed before occupancy in the case of unit turnover and within a reasonable period of time when discovered as part of routine periodic unit inspections. The costs of this abatement will be paid out of the PHA's operating budget.

Testing procedures in new Section 965, Subpart H are initiated upon identification of an EBL child. Section 965.705(a) requires when a child residing in a PHA-owned low income public housing project has been identified as having an EBL, the PHA to test all chewable surfaces and defective paint surfaces in the unit and in PHA owned and operated child care facilities used by the EBL child for lead-based paint. The PHA may also test non-chewable applicable surfaces. Testing of exteriors and common areas (including PHA non-dwelling facilities which are commonly used by children) will be done as considered necessary and appropriate by the PHA and HUD. Instead of testing, the PHA may transfer the family with an EBL child to a post-1978 or previously tested or treated unit. Similar procedures in § 965.705(b) apply when an applicant family has a child with an identified EBL.

Tenants are encouraged by PHAs through the notification process in § 965.703 to have all children under seven years of age who reside in pre-1978 units or are members of applicant families tested for EBLs. HUD believes there are adequate resources for the necessary blood lead screening (CLPPPs, state and local health departments, private health professionals and Medicaid-assisted screening). To avoid unnecessary retesting, PHAs are required to maintain records of which units, PHA child care facilities, common areas and exteriors are tested and the results of the testing and the condition of the painted surfaces by location.

Under the new comprehensive modernization requirements, PHAs will be required in certain cases to test for lead-based paint on a random basis. For ongoing comprehensive modernization projects which involve the breaking of a painted surface (*e.g.*, replacement of kitchen cabinets), no construction contracts (excluding those solely for emergency work items) shall be executed until random testing has taken place and any necessary abatement is included in the modernization budget. The same random testing requirements apply to applications for comprehensive modernization projects.

Based upon public comment and available research, the testing standard will be 1.0 mg/cm^2. Testing to more stringent standards is permitted if required by state or local law. PHAs are required to certify that they have complied with state or local requirements. The PHA shall maintain records which support this certification. PHAs are encouraged to first use state and local sources for testing. Testing utilizing the XRF will be an allowable modernization cost. The additional cost of using laboratory chemical analysis will be allowable under CIAP only where approved by HUD in cases where it is not practical to obtain XRF readings.

HUD believes these testing requirements will lead to eliminating as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed. The testing requirements employ reasonably available techniques for eliminating the hazard. The state of art of testing for lead content in paint is currently limited to laboratory chemical analysis or portable XRFs. Portable XRFs ar recommended by CDC, and are less costly than laboratory chemical analysis. Laboratory chemical analysis is discouraged because there is no direct equivalence between this type of analysis and the readings given by the XRFs. Lead paint analysis by laboratory chemical analysis also takes longer than by use of an XRF. The XRF provides immediate readings. In the laboratory chemical analysis approach, it is estimated that thirty to forty samples can be analyzed per day at a cost of $12 per sample in a public laboratory. Typically, six to eight samples are taken per room to test for lead paint using the laboratory chemical analysis method. The costs for this service at private laboratories is estimated at $25 per sample or $175 per room. The costs of using an XRF is estimated at $20 per room (taking twenty to twenty-five readings per room) and typically two three-bedroom units can be tested in one day. Two companies are currently manufacturing XRFs. The cost is approximately $8,000 per machine, and the yearly maintenance is approximately $2,500.

The number of chemical testing laboratories available throughout the country capable of handling HUD's testing, if required, is limited at best To HUD's knowledge, there are approximately 400 XRFs in existence throughout the United States to test not only housing in HUD programs but all other private housing. Most of the XRFs, which may or may not be available on a routine basis to test properties participating in HUD programs, are owned by municipalities or organizations affiliated with state of local governments. HUD is also aware that there is substantial downtime in repairing XRFs. The testing which HUD

requires for this rule should increase significantly the demand on these testing resources.

In addition to their limited availability, HUD has other concerns regarding the XRF. HUD received sixteen comments on the XRF in response to the proposed lead-based paint rule to Public and Indian Housing. A majority of commenters suggested readings produced by XRFs are highly inaccurate (*e.g.*, XFRs are reported to read the opposite sides of walls, and to be influenced by lead pipes and other leaded building materials within the walls). Several commenters indicated that XRFs are not accurate at levels below 1.0 mg/cm ^{2}. Other commenters suggested that XRF readings may be unreliable because of operational factors and suggested the need for a uniform training program, technical resource center and quality control guidelines. It was also suggested that an independent evaluation of the two currently available XRF instruments should be undertaken prior to initiation of a national program for intact paint hazard abatement dependent on the use of such detection equipment. Other commenters were concerned about the effects of cobalt radiation in using the XRF. See Section II.B. above.

The Court of Appeals in *Aston* agreed with the District Court, which stated that the "as far as practicable" standard allows the Department to "consider cost and technical considerations in developing its regulations" and that the threshold of practicability is reached if there exist "reasonably available techniques" for eliminating the hazard. 541 F. Supp. 641.

Based on these comments, recent demonstrations and literature research, HUD has considered a number of testing requirements, and the availability and reliability of testing equipment is a serious practical issue. If HUD proposed more extensive testing of PHA projects, a shortage of testing equipment and competent operators could force PHAs to proceed with abatement measures in many cases where there would be no hazard or force PHAs to chip intact painted surfaces to collect samples for laboratory analysis. It is estimated that hundreds of testing machines would be needed for such an undertaking. The effective availability of the machines would be reduced by the fact that the machines often break down and need new radioactive sources every year. In addition, contractors and PHA staff would have to be trained in the safe operation of these machines. It could affect availability and quality of testing in those units where accurate testing is of the greatest importance (*e.g.*, EBL children). Cost associated with more extensive testing program would severely curtail program activity. As demonstrated by many PHAs' comments on the proposed public and Indian housing rule, alternative testing procedures could have a serious impact on the CIAP program and cause a disruption in the public and Indian housing program and numerous administrative problems.

Because of the numerous practical problems associated with testing in this program, HUD is requiring testing in § 965, Subpart H only where there is a child with an EBL. HUD believes testing should also be included in comprehensive modernization projects which involve the breaking of painted surfaces.

C. Abatement

Section 965.705(d) requires that hazard abatement actions shall be provided to EBL-related structures. The order of abatement and surfaces to be abated are as follows: (1) Units housing (or which will be housing an incoming family which has an EBL child) children identified with EBLs (abatement is required for defective lead-based paint surfaces and chewable surfaces found to contain lead-based paint); (2) PHA owned or operated child care facilities used by children identified with EBLs (abatement is required for defective lead-based paint surfaces and chewable surfaces found to contain lead-based paint); (3) common areas and exterior applicable surfaces of projects in which children with identified blood lead levels reside (if considered necessary and appropriate by the PHA and HUD, abatement is to be provided to defective lead-based paint spots on applicable surfaces other than chewable surfaces and to complete chewable surfaces found to contain lead-based paint).

Similar abatement actions apply in the case of comprehensive modernization projects. Where defective lead-based paint is found on a wall or ceiling surface within a unit or a PHA owned or operated child care facility, the entire wall or ceiling surface shall be treated. If lead-based paint is found on chewable surfaces within a unit, the entire chewable surface shall be treated. In common areas, including exterior surfaces or non-dwelling facilities, and on applicable exterior surfaces, treatment shall be provided to defective lead-based paint spots and to complete chewable surfaces containing defective or intact lead-based paint.

The degree of abatement is based upon the CDC statement, local and state practices, risk to EBLs and practicability. The degree of abatement varies between interior and exterior surfaces including common areas. In an EBL unit or a PHA-owned or operated child care facility where a defective lead-based surface is found on any portion of a wall or ceiling surface, the entire wall or ceiling would be abated. Treatment of a unit for an applicant family which has an EBL child shall be completed prior to occupancy. Within five days after a resident EBL child has been identified and the PHA notified and before the hazards can be fully abated, the PHA is required to take temporary emergency intervention actions. These actions include removing defective lead-based paint (which is within easy reach of the child) and scrubbing surfaces after such removal with a strong detergent (high-phosphate detergent if permitted under state or local law). Full treatment of a unit housing an EBL child is required within fourteen days after identification of an EBL. The PHA shall request reprogramming of previously approved CIAP funds or apply immediately for emergency modernization funds, if other funding sources are unavailable. For common areas and exterior applicable surfaces of projects, abatement would include all defective spots and chewable surfaces.

A "defective lead-based paint surface" is defined as any paint on applicable surfaces having a lead content greater than or equal to 1.0 mg/cm^2, that is cracking, scaling, chipping, peeling or loose, and "chewable surface" is defined as all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.* protruding corners, windowsills and frames, doors and frames, and other protruding woodwork. Defective and intact chewable lead-based paint surfaces are considered, in the statutory phase, "immediate hazards" for EBLs. Other lead painted surfaces are considered potential hazards because of lack of evidence of poisoning from these surfaces.

The methods of abatement are not prescribed but the immediate hazard must be thoroughly removed or covered. Various treatment methods are described in revised § 35.24(b)(2). Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surfaces. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted.

Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and the use of propane torches (open-flame methods) are not recommended and will be permitted only on a limited exception basis where other methods are not feasible. Washing and repainting without thorough removal or covering does not constitute hazard abatement. HUD recommends that PHAs consult the CDC guidelines on hazard abatement and that workers performing abatement work comply with OSHA standards (29 CFR Part 1926). HUD is not recommending the use of sanding or propane torches (open-flame heat methods) in abatement because of the additional hazard which is created. Sanding produces the greatest deposits of lead in dust, with rates as high as 10 mg of lead/sq. ft./hour. Open flame methods cause lead to vaporize. HUD stresses the need for thorough cleanup after lead-paint removal. The area should be vacuumed thoroughly and then wetscrubbed with strong detergents (high-phosphate type if permitted by state or local law). PHAs and their contractors shall deposit lead-based paint debris in accordance with all local, state and Federal requirements. When necessary, tenants, especially children with EBLs and pregnant women, should be relocated during abatement in order to mitigate any possible health hazard.

D. Funding

If state and local funds are unavailable, PHAs may use federal funds (such as CIAP, section 14 of the United States Housing Act of 1937, 42 U.S.C. 1437). Testing and abatement of EBL units and PHA owned or operated child care facilities used by EBL children will be eligible funding activities under emergency modernization. Testing and abatement of exteriors and common areas considered necessary by the PHA and HUD will also be eligible for emergency modernization funds where EBLs are involved.

The first step in the CIAP funding decision is Preliminary Application. Preliminary Applications are first screened on the basis of such factors as the urgency of the need and the management and modernization capability of the PHA. Lead-based paint needs will be considered among others at this screening. Section 968.5(d) is amended to state that the HUD office shall review the Preliminary Applications. Those selected for Joint Review receive further scrutiny during a HUD on-site review. After Joint Review, HUD decides which PHAs will be invited to submit Final Applications based upon the funding preferences.

Under CIAP, there are three funding preferences. Group 1 includes projects having emergency conditions that pose an immediate threat (*i.e.*, must be corrected within one year of funding approval) to tenant health or safety (emergency modernization and emergency work under homeownership modernization). Under emergency modernization, funding is limited to correction of emergency conditions and may not be used for substantial rehabilitation. Group 2 includes projects (a) having conditions which threaten tenant health or safety or having a significant number (10 percent or more) of vacant or substandard units, and (B) located in PHAs having demonstrated a capability of carrying out the proposed modernization activities (comprehensive, special purpose and homeownership modernization). Group 3 includes other projects not meeting the criteria of Group 1 or 2 (comprehensive, special purpose and homeownership modernization).

HUD is amending the funding preferences. Testing and abatement of EBL units, common areas and exteriors and PHA-owned or operated child care facilities used by EBL children, would be an eligible activities under Group 1. The PHA may request reprogramming of previously approved CIAP funds or apply immediately for emergency modernization funds, if other funding sources are unavailable.

All other required testing and abatement would be funded under Group 2 or 3 depending on the nature of the project. PHAs with comprehensive modernization programs funded at the time the regulation becomes effective and thereafter must comply with the lead-based paint requirements whenever a painted surface is broken during the rehabilitation. PHAs may not enter into contracts under CIAP for treatment of areas involving the breaking of painted surfaces which could have lead-based paint, other than for testing lead-based paint, until random testing is completed and any necessary abatement is included in the modernization budget.

E. Notification

This regulation requires that purchasers and tenants of all HUD-associated housing constructed prior to 1978 and that all applicant families be notified about the hazards of lead-based paint and of the advisability and availability of blood lead level screening for children. HUD is deleting notices (Appendices I and II) from Part 35 to permit the issuance of more program-specific notices. PHAs are required to certify that tenants have been personally and directly notified as to potential lead hazards but flexibility in the method of notification will be permitted. A certified mail procedure will not be required.

F. Monitoring and Enforcement

HUD plans to modify language in the PIH Field Monitoring Handbook (7460.7 REV.) and CIAP Handbook (7485.1 REV-2) to reflect specific lead paint testing/abatement monitoring and performance review objectives. On-site HUD inspections of PHAs will incorporate review of lead testing/abatement procedures performance under this rule.

V. Section-by-Section Review of Proposed Regulations

These regulations amend Parts 35, 905, 965 and 968. Each of these amendments are described below.

Part 35

In Subpart A, § 35.1 is amended by changing the reference from 1950 to 1978. Definitions of immediate hazard and potential hazard in § 35.3 are deleted. The definition of HUD-associated housing is revised to more accurately reflect section 302 of the LPPPA, and the definition of residential structure is revised to reflect all areas of HUD-associated housing designed for human habitation and commonly used by children under seven years of age. Section 35.5 is amended to refer to the hazards of lead-based paint in HUD-associated housing constructed prior to 1978 and to delete reference to the prescribed text of notices in Appendix I.

In Subpart C, § 35.20 has been revised to more accurately reflect section 302 of the LPPPA. Definitions used only in Subpart C of Part 35 are listed in § 35.22. Section 35.24 has also been amended to limit inspection and abatement treatment prescribed as minimum requirements for all programs to housing constructed prior to 1978, authorize superseding program-specific regulations, and revise treatment methods. Section 35.25, which provides for a lead-based paint clearinghouse in HUD, is deleted. HUD has received little information or suggestions with respect to elimination of lead-based paint hazards through this clearinghouse. Subpart E of Part 35 is amended by simplifying the definitions and amending the requirements in a similar fashion to § 35.24.

Part 905

Section 905.107 is amended by adding a specific requirement for lead-based

paint poisoning prevention compliance. Indian Housing Authorities ("IHAs") are also covered by Part 965 as amended herein.

Part 965

New Subpart H is added to Part 965 for lead-based paint poisoning prevention. The subject matter of this new subpart is discussed extensively above.

Part 968

Section 968.4 is amended by specifically including lead-based testing and abatement as eligible modernization costs. Section 968.5(g)(3) is amended by allowing funding of lead-based paint testing and abatement in one or two stages. The funding preferences in Section 968.5(h) are expanded to include lead-based paint testing and abatement. This rule also revises and expands the funding preferences and the application screening process under CIAP. This section is discussed above in detail in section IV.

Other Matters

Regulatory Flexibility Act

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. HUD finds that there are not anticompetitive discriminatory aspects of the rule with regard to small entities nor are there any unusual procedures that would need to be complied with by small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with Part 50 of this title, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

OMB Control Number

Information collection requirements contained in §§ 965.705(e), 965.706, 968.5(i)(6)(ix) and 968.9(e) of this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502). See OMB approval 2577–0090.

Regulatory Impact Analysis

This rule qualifies as a major rule as defined in Executive Order 12291. The Department has conducted a cost analysis of the proposed regulations as part of the public and Indian housing modernization needs study. This cost analysis serves as a Regulatory Impact Analysis. The Department interprets the Executive Order to require an analysis of potential costs and cost alternatives without regard to the degree to which cost-effectiveness is an appropriate standard under the applicable statute. The cost study is available from the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The procedures otherwise required under Executive Order 12291 were not completed as to this rule because of a deadline imposed by judicial order, as described above.

Seminannual Agenda of Regulations

This rule was listed as sequence number 793 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14046) under Executive Order 12291 and the Regulatory Flexibility Act.

Note

The following HUD rule is subject to regulatory review by the Director of the Office of Management and Budget under Executive Order 12291, February 17, 1981.

While the cited rules have been submitted to the OMB for review under the Executive Order, that review has not been completed at the time of this publication. It is impracticable for the Department of Housing and Urban Development to follow the procedures of the Executive Order with respect to these rules, because, under orders filed by the United States District Court for the District of Columbia in *Ashton* v. *Pierce*, Civil Action No. 81–0719 (December 13, 1985 and February 7, 1986), the Department has been directed to publish these rules on or before August 1, 1986.

The Department has to date, and will continue, to adhere to the requirements of Executive Order 12291 to the extent permitted by the judicial deadline.

List of Subjects

24 CFR Part 35

Lead poisoning, Reporting and recordkeeping requirements.

24 CFR Part 905

Grant programs: Housing and community development, Grant programs: Indians, Loan programs: Indians, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 965

Energy conservation, Loan programs: Housing and community development, Public housing, Utilities.

24 CFR Part 968

Loan programs: Housing and community development, Public housing, Reporting and recordkeeping requirements, Grant programs: Housing and community development, Indians.

Accordingly, 24 CFR Parts 35, 905, 965 and 968 are amended as follows:

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

1. The authority citation for Part 35 is revised to read as set forth below and any citation following any section in Part 35 is removed:

Authority: Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. The Table of Contents for Subparts A and C are revised to read as follows:

Subpart A—Notifications to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1978 of the Hazards of Lead-Based Paint Poisoning

Sec.
35.1 Purpose and scope.
35.3 Definitions.
35.5 Requirements.
* * * * *

Subpart C—Elimination of Lead-Based Paint Hazards in HUD-Associated Housing

35.20 Purpose and scope.
35.22 Definitions.
35.24 Requirements.
* * * * *

3. Subpart A is revised to read as follows:

Subpart A—Notification to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1978 of the Hazards of Lead-Based Paint Poisoning

§ 35.1 Purpose and scope.

This Subpart A establishes procedures to assure that purchasers and tenants of all HUD-associated housing constructed prior to 1978 are notified of the hazards of lead-based paint which may exist in such housing, of the symptoms and treatment of lead-based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards.

§ 35.3 Definitions.

Act. The Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, 84 Stat. 2078, as amended by Pub. L. 93–151 and Pub. L. 94–317 (42 U.S.C. 4821–4846).

Assistant Secretaries. The Assistant Secretaries in the Department of Housing and Urban Development.

Department of HUD. The U.S. Department of Housing and Urban Development.

HUD-associated housing. Any residential structure that is the subject of an application for mortgage insurance under the National Housing Act or is proposed for the receipt of housing assistance payments under a program administered by the Secretary. For purposes of this Subpart A, "HUD-associated housing" also includes any existing residential structure—

(1) Acquired by the Secretary pursuant to any provision of law which, prior to such acquisition, was insured under the National Housing Act or was subject to a loan under section 312 of the Housing Act of 1964,

(2) Sold by the Secretary following any such acquisition and subject to any requirements regarding its use or operation under an agreement with, or condition imposed by, the Secretary, or

(3) That is currently covered by mortgage insurance or a contract for housing assistance payments.

Residential structure. Any house, apartment or structure intended for human habitation, including any non-dwelling facility operated by the owner and commonly used by children under seven years of age, such as a child care center.

Secretary. The Secretary of Housing and Urban Development or a HUD official delegated the Secretary's authority with respect to the Act.

§ 35.5 Requirements.

(a) Purchasers and tenants of HUD-associated housing constructed prior to 1978 shall be notified:

(1) That the property was constructed prior to 1978;

(2) That the property may contain lead-based paint;

(3) Of the hazards of lead-based paint;

(4) Of the symptoms and treatment of lead-based paint poisoning; and

(5) Of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards).

Prospective purchasers or renters shall receive the above notifications prior to purchase or rental.

(b) Each Assistant Secretary shall take necessary actions to implement the requirements of paragraph (a) of this section with respect to the HUD programs within his/her administrative jurisdiction. Such actions shall include the preparation and prescription of appropriate notices or brochures providing the required information, and the establishment of procedures to:

(1) Provide evidence that the prescribed notification has been received by purchasers and tenants of HUD-associated housing constructed prior to 1978, and

(2) Require the inclusion of appropriate provisions in contracts of sale, rental or management of HUD-associated housing to assure that purchasers and tenants receive the prescribed notification.

4. Subpart C is amended by removing § 35.25 and by revising the remaining sections (§§ 35.20, 35.22 and 35.24) to read as follows:

Subpart C—Elimination of Lead-Based Paint Hazards in HUD-Associated Housing

§ 35.20 Purpose and scope.

This Subpart C implements the provisions of section 302 of the Act with respect to establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing HUD-associated housing which may present such hazards.

§ 35.22 Definitions.

As used in this subpart:

Applicable surface means all exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or doors, which are readily accessible to children under seven years of age and all interior surfaces of a residential structure.

Defective paint surface means an applicable surface on which the paint is cracking, scaling, chipping, peeling, or loose.

HUD-associated housing shall have the meaning ascribed in § 35.3.

Residential structure shall have the meaning ascribed in § 35.3.

§ 35.24 Requirements.

(a) Each Assistant Secretary shall establish procedures with respect to programs involving HUD-associated housing within his or her administrative jurisdiction to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to such housing which may present such hazards.

(b) Subject to the provisions of separate regulations promulgated with respect to any program by the Assistant Secretary having jurisdiction over such program, the following minimum requirements shall apply to all programs:

(1) All applicable surfaces of HUD-associated housing constructed prior to 1978 shall be inspected to determine whether defective paint surfaces exist. In housing proposed to be assisted with Housing Development Grant funds, the unit of local government or appropriate agency thereof shall be responsible for inspection.

(2) Treatment necessary to eliminate immediate hazards shall, at a minimum, consist of covering or removal of defective paint surfaces found in HUD-associated housing constructed prior to 1978. Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and use of open-flame methods are not recommended and will be permitted only on a limited exception basis where other methods are not feasible. In the case of defective paint spots, scraping and repainting the defective area is considered adequate treatment. Washing and repainting without thorough removal or covering does not constitute adequate treatment.

(3) Appropriate provisions for the inspection of applicable surfaces and elimination of hazards shall be included in contracts and subcontracts involving HUD-associated housing constructed prior to 1978.

(4) Any requirement of this section shall be deemed superseded by a regulation promulgated by an Assistant Secretary with respect to any program under his or her jurisdiction which states expressly that it is promulgated pursuant to the authorization granted in this section and supersedes, with respect to programs within its defined scope, the requirements prescribed by this section. See, *e.g.*, 24 CFR Part 965, Subpart H (Public and Indian Housing).

5. Section 35.54 is revised to read as follows:

§ 35.54 Definitions.

The definitions contained in §§ 35.3 and 35.22 shall apply to this Subpart E. The following definitions are also applicable to this Subpart E:

Federal agency. The United States or any executive departments, independent

establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies or instrumentalities.

Federally-owned properties. Any properties owned by a federal agency as defined in this section.

Use for residential habitation. The use of a property as a residential structure as defined in § 35.3.

6. Section 35.56 is amended by revising paragraphs (a) (1), (2), and (3) and removing (a)(4) to read as follows:

§ 35.56 Requirements.

(a) * * *

(1) All applicable surfaces of residential structures constructed prior to 1978 shall be inspected to determine whether defective paint surfaces exist. For this purpose all defective paint surfaces shall be assumed to be immediate hazards; and

(2) Treatment necessary to eliminate immediate hazards shall consist of covering or removal of defective paint surfaces. Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and use of open-flame methods are not recommended and will be permitted only on a limited exception basis where other methods are not feasible. Washing and repainting without thorough removal or covering does not constitute adequate treatment.

(3) Prospective purchasers are provided all notifications described in § 35.5(a).

* * * * *

Appendices I and II [Removed]

7. Appendices I and II are removed.

PART 905—INDIAN HOUSING

8. The authority citation for Part 905 continues to read as follows:

Authority: Secs. 3, 4, 5, 6, 9, 11, 12, and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437b, 1437c, 1437d, 1437g, 1437i, 1437j, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. Section 905.107 is amended by adding a new paragraph (f) to read as follows:

§ 905.107 Compliance with other Federal requirements.

* * * * *

(f) *Lead-based paint poisoning prevention.* The IHA shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), Subparts A and B of 24 CFR Part 35, and Subpart H of 24 CFR Part 965, PHA-Owned or Leased Projects—Maintenance and Operation.

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

10. The authority citation for 24 CFR Part 965 is revised to read as set forth below and any citation following any section in Part 965 is removed:

Authority: Secs. 2, 3, 6, and 9, United States Housing Act of 1437a, (42 U.S.C. 1437, 1437a, 1437d, and 1437g); Sec. 7(d), Department of Housing and Urban Development Act (42) U.S.C. 3535(d)). Subpart H is also issued under Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846).

11. Part 965 is amended by adding a new Subpart H—Lead-Based Paint Prevention to read as follows:

Subpart H—Lead-Based Paint Poisoning Prevention

Sec.

965.701 Purpose and applicability.
965.702 Definitions.
965.703 Notification.
965.704 Maintenance obligation; defective paint surfaces.
965.705 Procedures involving EBLs.
965.706 Compliance with state and local laws.
965.707 Monitoring and enforcement.

Subpart H—Lead-Based Paint Poisoning Prevention

§ 965.701 Purpose and applicability.

The purpose of this subpart is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821–4186, by establishing procedures to eliminate as far as practicable the immediate hazards from the presence of paint which may contain lead in PHA/IHA-owned housing assisted under the United States Housing Act of 1937. This subpart applies to PHA-owned low income public housing projects, including Turnkey III, Mutual Help and conveyed Lanham Act and Public Works Administration projects, and to section 23 Leased Housing Bond-Financed projects. This subpart does not apply to projects under the section 23 Leased Housing Non-Bond-Financed Program, the section 10(c) Leased Housing Program, and the section 23 and section 8 Housing Assistance Payments Programs. This subpart is promulgated pursuant to the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35.

§ 965.702 Definitions.

Applicable surface. All exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or doors, which are readily accessible to children under seven years of age and all interior surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective lead-based paint surface. Paint on applicable surfaces having a lead content of greater than or equal to 1 mg/cm^2, that is cracking, scaling, chipping, peeling or loose.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Family project. Any project assisted under the U.S. Housing Act of 1937 (other than section 8 or 17 of the Act) which is not an elderly project. For this purpose, an elderly project is one which was designated for occupancy by the elderly at its inception (and has retained that character) or, although not so designated, for which the PHA gives preference in tenant selection (with HUD approval) for all units in the project to elderly families. A building within a mixed-use project which meets these qualifications shall, for purposes of this subpart, be excluded from any family project.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1.0 mg/cm^2.

§ 965.703 Notification.

(a) *General.* Tenants in PHA-owned low income public housing projects constructed prior to 1978 shall be notified:

(1) That the property was constructed prior to 1978;

(2) That the property may contain lead-based paint;

(3) Of the hazards of lead-based paint;

(4) Of the symptoms and treatment of lead-based paint poisoning;

(5) Of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards); and

(6) Of the advisability and availability of blood lead level screening for children under seven years of age.

Tenants shall be advised to notify the PHA if an EBL condition is identified.

(b) *Applicants.* A notice of the dangers of lead-based paint poisoning and a notice of the advisability and availability of blood lead level screening for children under seven years of age shall be provided to every applicant family at the time of application. The applicant family shall be advised, if screening is utilized and an EBL condition identified, to notify the PHA.

§ 965.704 Maintenance obligation; defective paint surfaces.

In family projects constructed prior to 1978, the PHA shall inspect units for defective paint surfaces at unit turnover when the incoming household includes a member seven years of age or under, and as part of routine periodic unit inspections. If defective paint surfaces are found, covering or removal of the defective paint spots as described in § 35.24(b)(2) shall be required. Treatment shall be completed before occupancy in the case of unit turnover and within a reasonable period of time when discovered as part of routine periodic unit inspections.

§ 965.705 Procedures involving EBLs.

(a) *Procedures where a current resident child has an EBL.* When a child residing in a PHA-owned low income public housing project has been identified as having an EBL, the PHA shall: (1) Test all chewable surfaces and defective paint surfaces in the unit or PHA owned and operated child care facilities used by the EBL child for lead-based paint (The PHA may also test the non-chewable applicable surfaces. Testing of exteriors and common areas (including non-dwelling PHA facilities which are commonly used by children under seven years of age) will be done as considered necessary and appropriate by the PHA and HUD) and treat (where positive) the surfaces found to contain lead-based paint or (2) transfer the family with an EBL child to a post-1978 or previously tested or treated unit.

(b) *Procedures for admission of an EBL child.* When an applicant family has a child with an identified EBL, the PHA shall (1) test all chewable surfaces and defective paint surfaces in the unit assigned for lead-based paint (The PHA may also test the non-chewable applicable surfaces. Testing of exteriors and common areas (including non-dwelling PHA facilities which are commonly used by children under seven years of age) will be done as considered necessary and appropriate by the PHA and HUD) and treat (where positive) the surfaces found to contain lead-based paint or (2) assign the family to a post-1978 unit or a previously tested or treated unit.

(c) *Testing requirements.* Testing of the unit housing the EBL child and the PHA owned or operated child care facilities used by the EBL child shall be completed within five days after notification of the PHA of the identification of the child. Testing of a unit for an applicant family which has an EBL child shall be completed prior to occupancy. Testing services available from state, local or tribal health or housing agencies shall be utilized to the extent available. Testing will be considered an eligible modernization cost under Part 968 only upon PHA certification that testing services are otherwise unavailable. Testing shall be performed by using an X-ray fluorescence analyzer (XRF). Laboratory chemical analysis may be used if approved by HUD in cases where it is not practical to obtain XRF readings. XRF readings of 1 mg/cm^2 or higher are considered positive for presence of lead-based paint.

(d) *Hazard abatement requirements.*

(1) *Abatement actions.* Hazard abatement actions shall be carried out in accordance with the following requirements and order of priority:

(i) Unit housing or to be housing a child with an EBL. If defective lead-based paint surfaces are found within the unit, the entire surface shall be treated. Any chewable surface found to contain lead-based paint shall be treated. Treatment of a unit for an applicant family which has an EBL child shall be completed prior to occupancy. Where full treatment of a unit housing an EBL child cannot be completed within five days after positive testing, emergency intervention actions (including removing defective lead-based paint and scrubbing surfaces after such removal with strong detergents) shall be taken within such time. Full treatment of a unit housing an EBL child shall be completed within 14 days after positive testing, unless funding sources are not immediately available. In such event, reprogramming of previously approved CIAP funds, or emergency modernization funds, shall be requested immediately.

(ii) PHA owned or operated child care facilities used by a child with an EBL. If defective lead-based paint surfaces are found within the facility, the entire surface shall be treated. Also any chewable surface found to contain lead-based paint shall be treated.

(iii) Common areas (including non-dwelling PHA facilities which are commonly used by children under seven years of age) and exterior applicable surfaces of projects in which children with EBLs reside. Where considered necessary and appropriate by the PHA and HUD, abatement shall be provided to defective lead-based paint spots on common areas and exterior applicable surfaces other than chewable surfaces, and to complete chewable surfaces containing defective or intact lead-based paint.

(2) *Abatement methods.* Abatement shall be provided by such methods as described in § 35.24(b)(2). The PHA shall select a cost-effective and safe treatment for the surface under the circumstances.

(3) *Tenant protection.* The PHA shall take appropriate action to protect tenants including children with EBLs, other children, and pregnant women from hazards associated with abatement procedures. When necessary, tenants must be relocated during abatement in order to mitigate possible health hazards arising from the abatement process, except when abatement is accomplished by removal of woodwork or covering of walls or woodwork. Tenant relocation may be accomplished with CIAP assistance.

(4) *Disposal of lead-based paint debris.* The PHA shall dispose of lead-based paint debris in accordance with applicable local, state or Federal requirements. (See, *e.g.*, 40 CFR Parts 260–271.)

(e) *Records.* The PHA shall maintain records on which units, common areas and exteriors and PHA child care facilities have been tested, results of the testing, and the condition of painted surfaces by location in or on the unit, common area, exterior surface or PHA child care facility. The PHA shall report information regarding such testing, in accordance with such requirements as shall be prescribed by HUD. The PHA shall also maintain records of abatement provided under this subpart, and shall report information regarding such abatement, and its compliance with the requirements of 24 CFR Part 35, Subpart A and § 965.703, in accordance with such requirements as shall be prescribed by HUD. If records establish that a unit, PHA child care facility, exterior or common area was tested or

treated in accordance with the standards prescribed in this subpart before or after September 23, 1986, such units, child care facilities, exteriors or common areas are not required to be re-tested or re-treated.

(Information collection requirements contained in paragraph (e) were approved by the Office of Management and Budget under control number 2577–0090.)

§ 965.706 Compliance with state and local laws.

(a) *PHA responsibilities.* Nothing in this subpart H is intended to relieve a PHA of any responsibility for compliance with state or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement. The PHA shall maintain records evidencing compliance with applicable state or local requirements, and shall report information concerning such compliance, in accordance with such requirements as shall be prescribed by HUD.

(b) *HUD responsibility.* If HUD determines that a state or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this subpart and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this subpart in such manner as may be appropriate to promote efficiency while ensuring such comparable level or protection.

(Approved by the Office of Management and Budget under OMB Control Number 2577–0090.)

§ 965.707 Monitoring and enforcement.

PHA compliance with the requirements of this subpart will be included in the scope of HUD monitoring of PHA operations. Noncompliance with any requirement of this subpart may subject a PHA to sanctions provided under the Annual Contribution Contract or to enforcement by other means authorized by law.

PART 968—COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

12. The authority citation for Part 968 is revised to read as follows:

Authority: United States Housing Act of 1937 (42 U.S.C. 1437), sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

13. Section 968.4 is amended by adding new paragraphs (h) and (i) to read as follows:

§ 968.4 Eligible costs.

* * * * *

(h) *Lead-based paint testing.* Lead-based paint testing costs, as described in §§ 965.705 (a), (c) and 968.9(e), are eligible modernization costs.

(i) *Lead-based paint hazard abatement.* Lead-based paint hazard abatement costs, as described in §§ 965.705(d) and 968.9(e) are eligible modernization costs.

14. Section 968.5 is amended by revising paragraph (d), addding a new paragraph (g)(3), revising paragraph (h), and adding a new paragraph (i)(6)(ix) and an OMB control number to the end of the section to read as follows:

§ 968.5 Procedures for obtaining approval of a modernization program.

* * * * *

(d) *HUD screening.* The HUD office shall review the Preliminary Application. The HUD office shall select the Preliminary Application for further processing on the basis of such factors as the urgency of the need and the management and modernization capability of the PHA.

* * * * *

(g) * * *

(3) *Lead-based paint testing and abatement funding.* In general, modernization involving lead-based paint testing and abatement may be funded in one or two stages as described in subparagraphs (g) (1) and (2) of this section.

(h) *HUD preliminary funding decisions.* After all of the Joint Reviews, the HUD office will determine whether the PHA will be invited to submit the Final Application for the identified project(s) by considering whether the PHA has adequately addressed all relevant issues, as determined by HUD, giving preferences to PHAs which request assistance for:

(1) Group 1, projects having emergency conditions that pose an immediate threat (*i.e.*, must be corrected within one year of funding approval) to tenant health or safety. Funding is limited to correction of emergency conditions and may not be used for substantial rehabilitation. Emergency conditions include all testing as required by § 965.703 (a) and (c) and abatement as required by § 965.705(d).

(2) Group 2, projects: (i) Having conditions which threaten tenant health or safety or having a significant number (10 percent or more) of vacant or substandard units and (ii) located in PHAs having demonstrated a capability of carrying out the proposed modernization activities (comprehensive, special purpose and homeownership modernization). Within this category, the Secretary may give priority to additional factors, such as the correction of physical disparities under the nondiscrimination preference, second or subsequent stage of comprehensive modernization, cost benefit, and the severity of lead-based paint hazard abatement needs.

(3) Group 3, other projects located in PHAs having demonstrated a capability of carrying out the proposed modernization activities (comprehensive, special purpose and homeownership modernization). The Secretary may give priority to factors which demonstrate that the modernization will result in the greatest cost benefit.

(i) * * *

(6) * * *

(ix) The PHA must certify that it will comply with local and state public health testing requirements.

* * * * *

(Information collection requirements contained in paragraph (i)(6)(ix) were approved by the Office of Management and Budget under control number 2577–0090)

15. Section 968.9 is amended by revising paragraph (e) and adding an OMB control number to the end of the section to read as follows:

§ 968.9 Other program requirements.

* * * * *

(e) *Lead-based paint poisoning prevention.*

(1) *General.* The PHA shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and HUD implementing regulations (24 CFR Part 35 and Part 965, Subpart H).

(i) Comprehensive Modernization in Progress. For comprehensive modernization projects which involve the breaking of a painted surface which may contain lead-based paint and for which funds have been reserved by HUD before [effective day of this rule], no construction contracts, excluding those solely for emergency work items, shall be executed until random testing as described in this paragraph has taken place and any necessary abatement as described in this paragraph and § 965.705(d) is included in the modernization budget.

(ii) Applications for Comprehensive Modernization Projects. For Comprehensive Modernization projects for which funds are reserved on or after [effective date of this rule], no construction contracts, excluding those solely for emergency work items, shall

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be executed until random testing as described in this paragraph has taken place and any necessary abatement as described in this paragraph and § 965.705(d) is included in the modernization budget.

(2) *Random testing.* If the family project was—

(i) Constructed or substantially rehabilitated prior to 1973, or

(ii) Constructed or substantially rehabilitated during or after 1973 but before 1978 under circumstances not subjecting such construction or rehabilitation to the requirements of 24 CFR Part 35 (as then in effect).

The PHA shall cause a random sample of the comprehensive modernization project units to be tested for lead-based paint on chewable surfaces and defective paint surfaces. Ten units shall be tested in comprehensive modernization projects with 20 or more units, and six units shall be tested in projects with fewer than 20 units, together with a sample of common areas and exterior chewable surfaces and defective paint surfaces which are part of the comprehensive modernization project. Common areas included in the sample may include PHA-owned or operated child care centers or non-dwelling PHA facilities commonly used by children under seven years of age. If none of the tested units, common areas or exterior applicable surfaces contain lead-based paint, the comprehensive modernization project may be considered free of lead-based paint, and no further testing or abatement action will be required. If lead-based paint is found in any units in the sample, all units in the comprehansive modernization project are required to be tested. If lead-based paint is found in any common areas, all common areas in the comprehensive modernization project are required to be tested. If lead-based paint is found in any exterior applicable surface, all exterior applicable surfaces in the comprehensive modernization project are required to be tested. In the comprehensive modernization projects that are known to contain some lead-based paint, no random sampling is necessary, but each unit shall be tested. Testing requirements as described in § 965.703(c) shall be followed.

(3) *Abatement.* Where defective lead-based paint is found on a wall or ceiling surface within a unit or a PHA-owned or operated child-care facility, the entire wall or ceiling surface shall be treated. If lead-based paint is found on chewable surfaces within a unit, the entire chewable surface shall be treated. In common areas, including interior surfaces or non-dwelling PHA facilities (which are commonly used by children under seven years of age), and on applicable exterior surfaces, treatment shall be provided to defective lead-based paint spots and to complete chewable surfaces containing defective or intact lead-based paint. Abatement within a comprehensive modernization project should be prioritized in relation to the immediacy of the hazards found to children under seven years of age.

* * * * *

(Information collection requirements contained in paragraph (e) were approved by the Office of Management and Budget under control number 2577-0090)

Dated: July 30, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86-17469 Filed 7-31-86; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 35, 510, 511, 570 and 590

[Docket No. R-86-1291; FR-2243]

Lead-Based Paint Hazard Elimination in Community Development Block Grant, Urban Development Action Grant, Secretary's Fund, Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: HUD invites public comment concerning amendment to its regulations regarding the elimination of hazards due to lead-based paint in Community Development Block Grant, Urban Development Action Grant, Secretary's Fund, Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading programs. This proposed rule would amend 24 CFR Part 35, Lead-Based Paint Poisoning Prevention in Certain Residential Structures; 24 CFR Part 570, Community Development Block Grants; 24 CFR Part 510, Section 312 Rehabilitation Loan Program; 24 CFR Part 511, Rental Rehabilitation Grant Program; and 24 CFR Part 590, Urban Homesteading Program.

HUD is reconsidering its current regulations implementing section 302 of the Lead-Based Paint Poisoning Prevention Act in light of advances in knowledge regarding the causes of elevated blood lead levels of children as well as hazard detection and abatement techniques. HUD is also reexamining its regulations pursuant to the mandate of *Ashton* v. *Pierce*, 716 F.2d 56 (D.C. Cir. 1983), a case in which public housing tenants in the District of Columbia challenged the adequacy of HUD's lead-based paint regulations.

DATE: Comments due September 30, 1986.

ADDRESSES: Comments on rule: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and date of publication. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

Comments on information collection: Comments on the information collection requirements contained in this proposed rule should be submitted both to the HUD Rules Docket Clerk at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20504, Attention: Desk Officer for HUD. They should contain the docket number and date of publication.

FOR FURTHER INFORMATION CONTACT: For Community Development Block Grant programs contact Don Patch, Director, Office of Block Grant Assistance, (202) 755-6587, Room 7280; for Urban Development Action Grant program contact Stanley Newman, Director, Office of Urban Development Action Grants, (202) 755-6290, Room 7262; for Secretary's Fund programs including Indian Community Development Block Grants, Insular Areas Community Development Block Grants and Special Projects contact Leroy Gonnella, Director, Secretary's Fund Division, Office of Program Policy Development, (202) 755-6092, Room 7134; for Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading programs contact Nancy Blauvelt, Office of Urban Rehabilitation, (202) 755-5970, Room 7164; Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

This rulemaking was initiated in response to the *Ashton* court order by publication of an Advance Notice of Proposed Rulemaking (ANPR) (49 FR 19210, May 4, 1984), which solicited public comment on issues relating to implementation of lead-based detection and hazard abatement procedures in the many distinct HUD programs to which the statute applies. Pursuant to subsequent orders of the United States District Court for the District of Columbia, proposed lead-based paint rules for Public and Indian Housing and minimum requirements for other HUD programs (51 FR 5666, February 14, 1986) and for Housing programs (51 FR 24112, July 1, 1986) have been published. This proposed rule, which addresses the hazards of lead-based paint in Community Develpment Block Grant (CDBG), Urban Development Action Grant (UDAG), Secretary's Fund (including Indian CDBG, Insular Areas CDBG and Special Projects), Section 312 Rehabilitation Loan (Section 312), Rental Rehabilitation and Urban Homesteading programs, is also being published pursuant to the subsequent order of the District Court. This order requires publication of a final rule not later than February 15, 1987.

The issue of what procedures may be "practicable" differs within the various HUD programs. For example, in the Public and Indian Housing programs and FHA Single Family Property Management and Disposition program, the cost of hazard abatement is a public cost. However, in the FHA Single Family and Multifamily Insurance and Coinsurance programs, the cost of hazard abatement required to qualify an existing property for FHA mortgage insurance or coinsurance is a private cost to be borne by the seller. In the Section 8 Existing Housing Certificate, Housing Voucher and Section 8 Moderate Rehabilitation programs, the cost of hazard abatement required to qualify the rental unit as one in which a very low-income tenant's rental payment will be subsidized must be borne by the private landlord. Similarly, the Rental Rehabilitation, CDBG, UDAG, Urban Homesteading, and Section 312 programs all deal with predominantly privately-owned real property—either owner-occupied or rental residential. Though program requirements differ from program to program and between agencies based upon their local program designs, the cost of hazard abatement frequently falls in whole or in part on the private owner.

For the Rental Rehabilitation program, for example, no more than 50 percent of the rehabilitation costs not to exceed $5,000 can be provided in the form of construction subsidies with the remainder of the funds coming from the owner. Many agencies also require some form of repayment of the subsidy. Under the CDBG program, owner-occupied and/or rental properties may be rehabilitated under grants or combination grant/loans. Some or all of the cost of hazard abatement can thus fall on the lower-income private owner. Under the Section 312 program, owner-occupied properties are rehabilitated at below-market-interest rate (3 percent) loans and investor properties are rehabilitated with below-market-rate loans which may also be combined with CDBG loans or grants. The effect of hazard abatement requirements, thus, has a direct impact on lower-income homeowners as well as the owners and tenants (usually lower-income) of rental properties. The increased costs of abatement may cause the rehabilitation of rental properties to become infeasible given the income of the properties and the limitations on the subsidies that can be provided. It can also cause a considerable number of owner-occupied

properties to fall outside the limits imposed by cities on their rehabilitation programs or cause otherwise feasible owner-occupied properties funded through local loan programs to exceed the amount lower-income homeowners can borrow. The impact of the inspection, testing and abatement costs on the availability of the programs to their intended participants is a relevant consideration in determining whether the requirements are "practicable"; see discussion of *Ashton* decision below and the Proposed Program Requirements in Section IV.

This preamble is divided into the following five sections: (1) Background (discussion of statutory and regulatory requirements and the *Ashton* decision); (2) ANPR (summary of the comments that focus on the CDBG programs); (3) Recent Studies of the Lead-Based Paint Problem (including the Centers for Disease Control's January 1985 Statement and the Environmental Protection Agency's Air Quality Criteria for Lead); (4) Proposed Program Requirements; and (5) Section-by-Section Review of Proposed Regulations.

A. Statutory and Regulatory Requirements

HUD's authority to issue this rule is based on the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821–4846 ("LPPPA"). Added in 1973, section 302 of LPPPA requires the Secretary of HUD to "establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary." The statute further prescribes that such procedures shall "as a minimum provide for . . . appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed;" and, further, that the procedures must apply to housing constructed prior to 1950 and "may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead-based paint."

HUD implemented section 302 of LPPPA by promulgating regulations in 1976 which are found at 24 CFR Part 35 and by incorporating Part 35 in other program-specific regulations. Revision of Part 35 has recently been proposed (51 FR 5666, February 14, 1986; 51 FR 24112, July 1, 1986). This proposed rule will also amend Part 35 and supersede proposed Subpart C of Part 35's minimum requirements by establishing specific program requirements. This proposed rule also revises the definition of HUD-associated housing in § 35.3. The definition of HUD-associated housing is revised to more clearly follow the intent of section 302 of the LPPPA. The revised definition reflects the statute's emphasis on an "application for mortgage insurance or housing assistance payments." The legislative history contains no explicit indication of the intended scope of the phrase "housing assistance payments." The phrase was not in general use as a description of subsidy payments under any particular program in 1972, when Senator Schweicker introduced the floor amendment which became the basis for section 302, or in 1973 when the legislation was finally enacted. The Community Development Block Grant program was not authorized until 1974. However, HUD believes it likely that Congress intended to cover subsidies for housing rehabilitation and construction provided under predecessor programs, including the Model Cities program, of which Congress was specifically aware when considering lead-based paint legislation. See, generally, *Lead-Based Paint Poisoning Amendments of 1972: Hearings on S. 3080 Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare*, 92d Cong., 2 Sess. (1972). Accordingly, HUD believes that the use of CDBG funds for housing rehabilitation is included within the scope of "housing assistance payments" as used in Section 302.

B. The Ashton Decision

HUD was required to reconsider its lead-based paint regulations by the United Court of Appeals for the District of Columbia Circuit. In *Ashton* v. *Pierce*, the Court held that the Department's Lead-Based Paint regulations (Part 35) were invalid because they were inconsistent with the LPPPA's mandate that the Secretary establish procedures for HUD-assisted housing "to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed. . . ." 42 U.S.C. 4822.

Specifically, the Court held that the regulations are deficient in not treating any intact lead-based paint surfaces accessible to children as an "immediate hazard" under the Act. The current regulations define "immediate hazard" as "paint . . . which is cracking, scaling, chipping, peeling or loose." The definition did not require that the lead content in the paint be measured or identified, only that the condition of the paint be defective. The definition excluded intact or "tight" paint regardless of its lead content. The Court concluded that the Act's language and its legislative history demonstrate "that Congress intended the Department to eliminate at least lead-based paint that is accessible to, and chewable by, children." 716 F.2d 63.

The Court affirmed the district court's holding that the Department had failed to fulfill its statutory duty to establish procedures to eliminate the hazard of accessible intact paint "as far as practicable." The Court concluded that the administrative record of HUD's rulemaking showed that the Department erroneously placed too much emphasis on cost-effectiveness in determining the practicability of hazard elimination measures. The Court held that the "as far as practicable standard allows the Department to consider cost and technical considerations in developing its regulations and that the threshold of practicability is reached if there exist reasonably available techniques for eliminating the hazard." 716 F.2d 64. The Court, however, declined to affirm the district court's finding that the administrative record established that elimination of chewable intact paint is in fact practicable. The Court determined that in undertaking further rulemaking to bring the lead-based paint regulations into conformance with the Act's mandate regarding "immediate hazards", the Department should also consider the practicability issue. For a further discussion of the practicability standard see Section IV.C. below.

II. Advance Notice of Proposed Rulemaking and Comments

HUD commenced rulemaking by publishing an Advance Notice of Proposed Rulemaking (ANPR) (49 FR 19210, May 4, 1984). The ANPR raised four major regulatory issues: (1) Hazard Determination; (2) Program Coverage; (3) Notification; and (4) Monitoring and Enforcement. Several questions were raised within each of the principal issues. Thirty-nine comments were received from commenters including public housing agencies, state, county and city health departments, cities, trade associations, public interest organizations, state housing authorities and individuals. Commenters submitted or referred to numerous articles and papers that addressed additional aspects of the problem.

The proposed lead-based paint rule for Public and Indian Housing discussed public comments regarding hazard determination, notification, monitoring

and enforcement (51 FR 5666, February 14, 1986). This section will discuss the ANPR questions and comments regarding CDBG program coverage. The ANPR did not raise any specific questions pertaining to the other programs covered by this proposal, and no comments were received regarding the other programs.

Eleven commenters commented on the CDBG program coverage questions. The first issue was "What mechanisms, now not in place, for assuring compliance with any requirements imposed by HUD hazard elimination regulations can be integrated into the inspection processes likely to be utilized by grantees under the block grant program with respect to residential rehabilitation funded under the program?" Three of the six commenters responding to this question offered measures for assuring compliance with any requirements imposed by HUD hazard elimination regulations. These measures included: (1) Require inspectors to abide by the same regulations as established for Section 8 housing; (2) dedicate greater resources to CDBG housing inspections; and (3) require the contractor, who does the rehabilitation work, to remove the lead-based paint hazards or forfeit payment of any work that they have done. The Department was encouraged to institute the following: (1) Training for local CDBG housing rehabilitation inspectors (including inspection methods, abatement procedures and full explanation of Department regulations); (2) standardization and reduction of the cost of testing procedures; (3) shared information network (including techniques for removing, identifying and preventing lead-based paint hazards); and (4) understandable and straight-forward regulations.

One redevelopment authority responded that the CDBG program already requires too much inspection and counseling regarding lead-based paint hazards. They inspected 9,000 properties for lead-based paint in 1982 and only 10% of those properties were approved for loans. One commenter urged complete removal of lead-based paint as a requirement for block grant assistance, and the cost of compliance should be separately stated and separately funded. One commenter suggested inspection at the time renovations are planned and that renovation should include consideration of making the dwelling lead-free. If the cost of this type of abatement is prohibitive and exceeds the allocated funds, the commenter suggested that the dwelling should be made lead-safe.

The second issue was "What hazard elimination standards would be appropriate to be imposed in the specific context of block grant programs, taking into account existence or non-existence of applicable local requirements, likely availability of hazard detection equipment, impact on program participation, and other considerations mentioned in this Notice?" Each of the six commenters responding to this question expressed a different hazard elimination standard. Suggested standards included: (1) Compliance with state and local lead-based paint requirements; (2) use of Section 8 standards; (3) elimination of lead-based paint hazards in all pre-1950 housing and for post-1950 housing, require elimination of lead-based paint hazards if testing confirm its presence on either interior or exterior exposed surfaces (screening of children should be used to identify high-risk areas); (4) use a "reasonable approach" in determining coverage, particularly where the beneficiary of funds is a private individual since private expenditure of funds is also indicated; (5) remove all lead-based paint; and (6) remove all lead-based paint up to a four-foot level (all other areas should be scraped) on oral contact surfaces with excessive amounts of lead (commenter also added that most rehabilitation grantees will comply to get the assistance).

Several other issues were raised by commenters with respect to the program coverage of lead-based paint abatement in the CDBG program. One commenter noted that lead-based paint removal expenditures prevent low-income homeowners from getting loans for what they really need (*i.e.*, heating). Similarly, the removal of intact lead-based paint from interior surfaces may not balance the need to provide decent, safe and affordable housing as required in the Housing and Community Development Act of 1974. One commenter believes elimination of lead-based paint hazards is a low- and moderate-income benefit regardless of the area where it is performed. Another commenter suggested that lead-based paint requirements should not apply in cases of minimal rehabilitation assistance. One commenter noted that lead-based paint requirements add on to owners' costs and discourage some eligible recipients from participating in the CDBG programs. One commenter suggested temporary housing should be provided for families whose units are being deleaded.

III. Recent Studies of the Lead-Poisoning Problem

Since publication of the ANPR, several new studies involving lead-based paint poisoning have been released. These studies include the CDC January 1985 Statement and the EPA Air Quality Criteria for Lead. HUD solicits comments on other recent lead-based paint poisoning studies.

A. Centers for Disease Control's January 1985 Statement

In January 1985, the Centers for Disease Control (CDC) issued a second revision to its statement entitled *Preventing Lead Poisoning in Young Children*. Based on new research findings on lead toxicity, CDC redefined lead poisoning at a lower blood lead level (from 30 to 25 micrograms of lead per deciliter of whole blood) and updated its recommendations on lead-based paint abatement.

B. EPA Air Quality Criteria for Lead

EPA's Air Quality Criteria for Lead evaluates and assesses scientific information on the health and welfare effects associated with exposure to various concentrations of lead in ambient air. The document considers all sources of lead including lead-based paint. At the time of publication of this proposed rule, the criteria document is still under review. HUD considers this document to be a potential source of helpful information for this rulemaking and expects to consider its conclusions in developing a final rule.

IV. Proposed Program Requirements

The Department proposed to alter the structure of its regulations implementing the LPPPA in its proposed lead-based paint rules for Public and Indian Housing and minimum requirements for other HUD programs which were published on February 14, 1986 (51 FR 5666). It was proposed that 24 CFR Part 35 would continue to state generally applicable minimum requirements but would authorize Assistant Secretaries to promulgate program-specific regulations which would supersede the general inspection and hazard elimination requirements of Subpart C of 24 CFR Part 35. The rationale for this proposal was to integrate the lead-based paint requirements into the administrative and operational structures of different programs and allow for "practicability" determinations to be based on specific program circumstances.

Few substantive changes were proposed in Part 35 except that the notification requirements in Subpart A of Part 35 were proposed to be extended

to all HUD-associated housing constructed during the period 1950–1977. Testing and hazard abatement requirements of Subpart C of Part 35 were proposed to be limited to all HUD-associated housing constructed prior to 1978. Subpart C's minimum inspection and abatement requirements continued to be based on defective paint surfaces. This proposed rule revises the definition of HUD-associated housing in § 35.3 as discussed in Section I.A. Inspection and hazard abatement requirements of Subpart C (24 CFR 35.24), which were previously proposed on July 1, 1986, are repeated in this proposed rule to demonstrate the requirements that are being superseded by this proposed rule.

After a general discussion of the construction cut-off dates, testing and the practicability standard, proposed lead-based paint program requirements will be discussed for the CDBG, Urban Homesteading, Section 312, and Rental Rehabilitation programs. The proposed CDBG regulations at § 570.608 (Subpart K) also apply to Entitlement Grants (Part 570, Subpart D), Secretary's Fund programs including the Insular areas and Special Projects programs (Part 570, Subpart E), Small Cities program (Part 570, Subpart F), UDAG (Part 570, Subpart G), Loan Guarantees (Part 570, Subpart M) and Indian CDBG programs (Part 571). HUD intends only to cover properties approved for assistance after the effective date of the final rule.

A. Construction Cut-Off Dates

As previously mentioned in Section I.A. above, Section 302 of LPPPA provides that its requirements must be applied to housing constructed prior to 1950 and that they may be applied to housing constructed during or after 1950 "if the Secretary determines, in his discretion, that such housing presents hazards of lead-based paint." The hazard elimination requirements contained currently in Subpart C of Part 35 apply to all "HUD-associated housing," whenever constructed. On the other hand, the notification requirements contained in the current Subpart A of Part 35 are limited to purchasers and tenants of housing constructed prior to 1950. The administrative record of the 1976 rulemaking did not make clear the basis of the Secretary's determination that prompted extension of the hazard elimination requirements to post-1950 housing, and the record suggested that no determination of the presence or absence of a hazard was made in the context of addressing the notification requirements. In *Ashton*, the plaintiffs challenged the Department's failure to extend the hazard notice requirements to post-1950 housing. Notwithstanding that the Department had extended to post-1950 housing, the District Court apparently viewed the notice requirement as a separate context and declined to impose an extended notice requirement on the basis of whatever determination had been made regarding hazard elimination. In the notice context, the District Court found no evidence that the Secretary had addressed the issue at all. The Court therefore held that there was no record of an actual determination that was adequate for review and, further, that the Secretary's discretion in the matter was unreviewable in any event. The Court of Appeals affirmed, on modified grounds, holding that there was "no enforceable duty on the Secretary to make such a determination" and, therefore, that the Secretary's failure to address the question was not reviewable.

The question of extension of the hazard elimination requirements applicable to defective paint surfaces stands upon a different ground that the question of notice extension that was considered by the *Ashton* courts, because in the 1976 rulemaking, the Secretary was in fact determined to extend those requirements to post-1950 housing. The administrative record does not make clear an enunciated basis for this determination, and a major basis may be simply the fact that the Department's pre-statutory regulations, adopted in 1972, provided no construction cut-off date for the hazard elimination requirements (On the other hand, the 1972 regulations contained no hazard notice provisions, so that when the Department first considered that requirement after the statutory enactment, it somewhat more naturally considered the statutory cut-off date provisions as well). As noted in the previously published ANPR (49 FR 19210, 19221), in its Environmental Impact Statement prepared in connection with publication of the proposed rule in 1975, HUD rejected a 1950 cut-off date for hazard elimination requirements on the rationale that it would not provide "the maximum practicable protection to children affected by the programs within the Department's jurisdiction."

The discretion conferred by the statute as to extension of the hazard elimination requirements relating to defective paint to post-1950 housing remains fully applicable. However, having once addressed the issue and made a determination, a reasoned basis for a change is required.

In the ANPR, the Department opened this question by soliciting comments as to whether there was a reasonably satisfactory construction cut-off date after which units should be presumed, for purposes of mandatory testing and hazard abatement requirements, to be free of lead-based paint. Commenters suggested variouis cut-off dates, ranging from 1950 to 1977, and supporting rationales. Several recommended 1971, when the LPPPA's prohibition on use of lead-based paint in Federally-assisted construction or rehabilitation was enacted. Others recommended 1977, when the Consumer Product Safety Commission banned the commercial sales of paint having a lead content by weight of over .06%.

As indicated in the recent proposed rulemaking regarding public housing, HUD recently awarded a research contract to provide an estimate of the incidence and condition of lead-based paint in public housing units and common areas and an estimate of the cost of abatement under different regulatory approaches. In this study, the Department requested Childhood Lead Poisoning Prevention Program (CLPPPs) to assist in date collection by visiting five randomly selected local public housing projects (in areas with less than five local public housing projects, all projects were inspected) and inspecting them for the presence of lead paint. A total of 34 local programs visited 131 public housing projects and 262 units to test for the presence of lead-based paint. The programs used X-ray fluorescence analyzers ("XRFs") to test units, common areas such as halls, and site-wide facilities for the presence of leaded paint, and the amount of lead. The local inspectors also reported whether the paint was in good condition or defective (*e.g.*, peeling or chipping).

Because prior research led the researchers to expect a high proportion of lead-based paint hazards in the oldest projects, the analysts split the sample into four age strata and obtained inspections in a larger number of older projects rather than newer projects. Defining paint with over 1 mg/cm² lead content on chewable surfaces accessible to children or in defective paint on flat surfaces such as walls or ceilings as constituting an "immediate hazard" for purposes of the study, the data shows such conditions existing in 69% of the sample units built in 1950 or before, 48% of the units built between 1951 and 1959, 44% of the units built between 1960 and 1977, and 7% of the units built in 1978 or later. In the few post-1978 sample units where lead was found, it was at a relatively low level, below 1.5 mg/cm².

HUD currently does not have comparable data regarding housing units constructed under the programs covered by this proposed rule. However, HUD is cognizant that the use of lead-based paint in federally-assisted construction and rehabilitation has been prohibited since 1971. Section 401 of LPPPA, as enacted in 1971, directed the Secretary of Health, Education and Welfare to prohibit the use of lead-based paint in such construction or rehabilitation. The Secretary of HEW promulgated regulations in March 1972, and complementing regulations were adopted by the Secretary of HUD in August 1972. HUD believes it inappropriate to impose extensive testing requirements based on an assumption of noncompliance with Federal regulations.

As indicated above, the current Part 35 requirements for defective paint surfaces (paint on applicable surfaces (*i.e.*, all exterior surfaces of a residential structure, up to five feet from the floor or ground and which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure) that is cracking, scaling, chipping, peeling or loose), extend to all "HUD-associated housing," without any construction cut-off date. The current regulations were adopted in 1976. As in the July 1, 1986 proposed rule, HUD is proposing two alternative provisions regarding defective paint abatement in programs to which the Secretary's discretion is applicable. Under one such proposal, the Secretary proposes to limit the defective paint abatement requirement to housing constructed prior to 1978, because of the ban on the commercial sale of paint having a lead content by weight of over .06% which became effective in 1977.

As an alternative, HUD proposes to limit all defective paint inspection and abatement requirements to pre-1950 housing. Considerations which would be relevant to the selection of such an alternative would be the extent of the presence of lead-based paint in different types of housing constructed in 1950 or later; the experience of CDBG and UDAG grantees, cities, state and local governments and agencies, redevelopment authorities, community development-related agencies, local health agencies, and others, including impacts on program participation and benefits; and recent evidence regarding the correlation of defective paint at different lead contents with elevated blood-lead levels in children or other serious adverse effects. In connection with this inquiry, and as an indication of the type of condition to which Congress intended the requirements to apply, the Department notes that the selection of a 1950 cut-off date by Congress, made more than 20 years after that date, was based on Congress' conclusion that "lead-based paint for interior household use which contained *very high percentages of lead compounds, at least 50 percent lead in several cases*, was in fairly wide use during the years before 1950" (118 Cong. Rec. 20853 (1972) (Senator Schweiker) (see fuller quotation below).

The alternative proposals regarding defective paint are presented in the proposed rule at §§ 35.24(b), 510.410(c)(2), 511.11(f)(3)(ii) and 570.608(c)(3)(i).

For chewable surfaces (*i.e.*, all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, such as protruding corners, windowsills and frames, doors and frames, and other protruding woodwork), the Secretary proposes to limit abatement requirements, where found practicable, to pre-1950 housing in all programs covered by this proposed rule. The Secretary declines to exercise his discretion to extend such requirements to post-1950 housing in such programs because it is not clear that the requirements, if so extended, would remain "practicable." The relative unavailability of lead-content measuring equipment and experienced operators is discussed in Section IV.B. below.

The Secretary proposes an intact paint inspection and abatement requirement for pre-1950 units for which rehabilitation assistance is sought under the CDBG, UDAG, Secretary's Fund (including Indian CDBG, Insular Areas CDBG and Special Projects), Section 312 and Rental Rehabilitation, limited to units to be occupied by families with children having an identified elevated blood lead level ("EBL"). This proposal is based in significant part on an understanding that: (1) The majority of rehabilitation assistance in these programs is to owner-occupied single family units; (2) blood lead level screening programs are available in most areas where the prevalence of EBL children is highest; and (3) lead-content measuring equipment is likely to be reasonably available in most areas where a blood lead level screening capacity is available. However, the Secretary declines to extend such requirements to post-1950 housing before an assessment of the effects of the new requirements, including delays in processing such assistance and effects on program participation.

B. Inspection, Testing and Abatement

When introducing his floor amendment which became the basis of Section 302 of the LPPPA, Senator Schweiker discussed the procedures required by his amendment as follows:

> Lead-based paint for interior household use which contained very high percentages of lead compounds, at least 50 percent lead in several cases, was in fairly wide use during the years before 1950. As a consequence, much of the housing in existence today which was constructed prior to 1950 is likely to contain paint with these very high levels of lead compounds. My pending amendment would require the Secretary of Housing and Urban Development to establish procedures to minimize the hazards of lead-based paint poisoning, when inspecting residential housing constructed prior to 1950 for which an application for mortgage insurance or housing assistance payments has been made to the Federal Government.
>
> Before approving such a mortgage or initiating a subsidized program, HUD is currently inspecting such property to determine compliance with code enforcement and the value of the property for mortgage purposes. Therefore, these procedures would not present an additional burden or significant cost to HUD. The amendment would require the Secretary to establish procedures to eliminate the hazard when paint in housing constructed prior to 1950 is found to be cracking, scaling, peeling, or loose . . .
>
> My amendment would also require the Secretary to give to the buyers of such housing assured written notification of the hazards of lead-based paint, as well as a description of the symptoms and treatment of lead-based poisoning together with information concerning the importance of the removal of such hazards and techniques currently available to do so.
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> * * * * *
>
> . . . my amendment would incorporate into an existing HUD procedure the means to warn the buyer of the hazard of lead-based paint and remove the immediate danger before he moves into the house.
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> * * * * *
>
> The amendment would do two things. It would, first of all, provide an inspection procedure for each house that comes up in the Federal housing and FHA program during any particular year, whereby part of the inspection before FHA approval would be for chipping and peeling paint, and if such a condition is found FHA under the amendment would have the authority to go to the builder or the remodeler and have him remedy the situation before the house is accepted by FHA.
>
> Second, notwithstanding the remedy provided, a notice must be given to the buyer in which he is warned of the danger of lead-based paint poisoning and pointing out that further chipping and peeling could occur and what to do about it.
>
> Mr. Kennedy. I understand this pertains to the new purchaser of the home by giving his notice. That is one purpose of the

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amendment. The second purpose of the amendment is to do something about the chipping or peeling of fragmentation of lead-based paint in old homes at the time of the transaction or sale.

What the Senator is doing effectively by his amendment is to provide an additional kind of remedy or effort to try to reach the situation that exists in the older buildings or houses being turned over under the FHA program. Is that correct?

Mr. Schweiker. That is correct. 118 Cong. Rec. 20853 (1972).

The above colloquy took place at initial introduction of the floor amendment and before the 1973 mark-up of the reintroduced legislation that resulted in deletion of the original reference in the statutory language to "cracking, scaling, peeling, or loose paint." Nevertheless, it indicates a strong Congressional expectation and intention that the new requirements would fit easily, without program disruption or substantial cost increase, into standard program administrative procedures. No departure from this expectation was indicated after the markup changes in 1973; in the brief floor discussion of the revised bill, it was described as "essentially the same measure unanimously approved by the Senate last June" (119 Cong. Rec. 1488, (1973) (Senator Kennedy)).

Inspection for defective paint conditions can be done easily by the appraiser or other customary inspector because no detection equipment beyond the naked eye is required. Inspection for intact paint having a measured lead content is another matter, requiring equipping the appraiser or inspector with special equipment. This requirement presents the most problematic consideration in determining the practicability of intact paint inspection and abatement requirements in program contexts.

Since *Ashton*, HUD has been considering the "practicability" of testing procedures for intact paint and abatement procedures for both defective and intact paint.

In the ANPR, HUD asked "What newly developed techniques are used by localities for the abatement of lead-based paint that is intact on accessible and chewable surfaces (*e.g.*, outside corners and edges of window sills, frames, doors, cabinets, stairs, balusters, etc. within reach of children)?" and "What are the problems, effectiveness, availability and costs of such techniques?" Many commenters requested that HUD prescribe particular detection or abatement technologies. Some commenters asserted, however, that localities are best able to judge the appropriate detection and abatement approach. Other commenters suggested that HUD should prescribe the use of XRFs or standard technologies to eliminate confusion and unnecessary deleading work. Commenters mentioned new techniques including high pressure water guns, low intensity heat guns, wall systems for covering and liquid paint removers. Many problems are associated with removal methods. With the exception of abatements involving wall coverings, hazardous dusts or fumes are produced.

CDC recommmended that "it is better to establish performance standards then design criteria: This does not preclude new approaches in the search for better instrumentation to detect lead in wall coverings. The marketplace can decide the least expensive method of hazard abatement as long as the objective of permanently eliminating the hazard, either through removal of covering the lead paint surface, is met. To prescribe a particular method sometimes stops research into better ways to meet the goals." The state of the art of testing for existence of lead-based paint is currently limited to laboratory chemical analysis or portable XRFs. Portable XRFs are recommended by CDC, and are less costly than laboratory chemical analysis. Laboratory chemical analysis is discouraged because there is no direct equivalence between this type of analysis and the readings given by the XRFs. Lead paint analysis by laboratory chemical analysis also takes longer than by use of an XRF. The XRF provides immediate readings. In the laboratory chemical analysis approach, it is estimated that thirty to forty samples can be analyzed per day at a cost of $12 per sample in a public laboratory. Typically, six to eight samples are taken per room to test for lead paint using the laboratory chemical analysis method. The costs for this service at private laboratories is estimated at $25 per sample or $175 per room. The cost of using an XRF is estimated at $20 per room (taking twenty to twenty-five readings per room) and typically two three-bedroom units can be tested in one day. Two companies are currently manufacturing XRFs. The cost is approximately $8,000 per machine, and the yearly maintenance is approximately $2,500.

The number of chemical testing laboratories available throughout the country capable of handling HUD's testing, if required, is limited at best. To HUD's knowledge, there are less than 400 XRFs in existence throughout the United States to test not only housing in HUD programs but all other private housing. Most of the XRFs are owned by municipalities or organizations affiliated with state or local governments which may or may not be available on a routine basis to test properties participating in HUD programs. HUB is also aware that there is substantial downtime in repairing the XRFs.

In addition to their limited availability, HUD has other concerns regarding the XRF. HUD received sixteen comments on the XRF in response to the proposed lead-based paint rule for Public and Indian Housing. A majority of commenters suggested readings produced by XRFs are highly inaccurate (*e.g.*, XRFs are reported to read the opposite sides of walls, and to be influenced by lead pipes and other leaded building materials within the walls). Several commenters indicated that XRFs are not accurate at levels below 1.0 mg/cm^2. Other commenters suggested that XRF readings may be unreliable because of operational factors and suggested the need for a uniform training program, technical resource center and quality control guidelines. It was also suggested that an independent evaluation of the two currently available XRF instruments should be undertaken prior to intitiation of a national program for intact paint hazard abatement dependent on the use of such detection equipment. Other commenters were concerned about the effects of cobalt radiation in using the XRF.

The Court of Appeals in *Ashton* agreed with the District Court, which stated that the "as far as practicable" standard allows the Department to "consider cost and technical considerations in developing its regulations" and that the threshold of practicability is reached if there exist "reasonably available techniques" for eliminating the hazard. 541 F. Supp. 641. Based on these comments, recent demonstrations and literature research, HUD is further evaluating whether the XRF is a "reasonably available technique."

For purposes of this proposed rule regarding testing for lead-based paint, HUD proposes that the standard for reliable detection of surface area would be XRF readings of greater than or equal to 1 mg/cm^2. Although a 0.7 mg/cm^2 standard is recommended in CDC's January 1985 statement, HUD proposes the 1 mg/cm^2 standard because of evaluations performed by the National Bureau of Standards (Evaluations of Lead Detectors, March 1977 and Evaluation of New Portable X-ray Fluorescent Lead Analyzers for Measuring Lead in Paint, May 1978) and because the vast majority of XRF's available today are designed to HUD's

specifications (minimum precision of ±0.2 mg/cm² at 1 mg/cm²). HUD requests further comments on the availability and reliability of XRFs, other reasonably available techniques, and the 1.0 mg/cm² standard.

This regulation proposes testing in certain cases and proposes generally to rely on local or state public health, housing agencies or private concerns to test for lead-based paint. For lead testing, HUD is proposing CDC's approach which establishes performance standards rather than design criteria. Based on CDC's recommendation, HUD suggests the use of the XRF, but HUD will approve other methods which are developed and which adequately measure lead content. HUD is aware of approximately 50 active CLPPPs capable of testing lead-based paint, which have provided services in the past at nominal or no cost. Certain CLPPPs may be using only laboratory chemical analysis. HUD is interested in learning which localities use only this method. HUD is also interested in the feasibility of relying on these pubic and private concerns for testing. For the CDGB programs and other programs adopting its regulation, the grantee will be required to conduct and fund the required testing.

For abatement, HUD is not prescribing the particular method of abatement, but is requiring that the paint either be thoroughly removed or covered. HUD proposes minimum abatement standards in the CDBG program but is not limiting the available techniques. HUD proposes to use the treatment described in proposed 35.24(b)(2) for the programs covered by this rule.

Covering the hazard could include such methods as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal could include such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and use of propane torches are prohibited because of the additional hazards these methods create. Sanding produces the greatest deposit of lead in dust, with rates as high as 10 mg of lead/sq. ft/hour. Open-flame methods cause the lead to vaporize. Washing and repainting without thorough removal or covering does not constitute hazard abatement. Comments are requested on these methods of treatment.

The effect of lead-based paint abatement requirements has a direct impact on lower-income homeowners as well as the owners and tenants (usually lower-income) of rental properties. The increased costs of abatement may cause the rehabilitation of rental properties to become infeasible given the income of the properties and the limitations on the subsidies that can be provided. It can also cause a considerable number of owner-occupied properties to fall outside the limits imposed by cities on their rehabilitation programs or cause otherwise feasible owner-occupied properties funded through local loan programs to exceed the amount lower-income homeowners can borrow.

Many communities participating in the CDBG, UDAG, Rental Rehabilitation, Urban Homesteading, and Section 312 Loan Programs also have relatively small programs. The costs of purchasing equipment for testing for lead content on applicable surfaces is infeasible for such communities particularly since UDAG for entitled cities, Rental Rehabilitation and Section 312 programs provide no administrative dollars and all administrative costs related to those programs must be borne by the CDBG program or other sources of public funds. Such communities would probably have to rely on other, more individually expensive means of testing for lead content on applicable surfaces.

Lead-based paint inspection and abatement requirements must thus be balanced against the feasibility in terms of abatement costs to lower-income homeowners and the owners of rental residential property predominantly occupied by lower-income tenants as well as the practicability in terms of the scale of local rehabilitation operations and the availability of program funds to cover the costs of inspection. To mandate overly stringent requirements would only serve to reduce the number of lower-income families who can be served through such programs by making rehabilitation infeasible.

C. Practicability Standard

The LPPPA requires HUD to establish procedures to eliminate "as far as practicable" the hazards of lead-based paint posioning. The "practicability" standard applies to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments. The Department is of the legal opinion that the "practicability" standard applies to all "HUD-associated housing" as defined in § 35.3. In *Ashton*, the courts held that HUD had applied an erroneous standard in determining whether it was "practicable" to eliminate the immediate hazard of intact lead paint.

In the Court of Appeals' view, HUD had construed "as far as practicable" to mean "most practicable." The Court expressly rejected what it considered to be a "cost-benefit analysis" approach employed by the Department.

> In plain language Congress commanded that if it is "practicable" to eliminate an immediate hazard, that hazard must be eliminated. The statute admits of no exceptions to the required elimination procedures on the basis of the degree of practicability. Neither Congress' concern about the cost of the elimination program nor congressional silence in the face of the Department's interpretation of the statute can overcome the clear statutory directive. *Id.* at 64.

The Court of Appeals concluded, however, that the administrative record had not established that elimination of chewable intact paint is in fact practicable. *Id.* Both the Court of Appeals and the District Court made specific reference to a HUD options paper considered by Secretary Carla A. Hills before promulgation of the 1976 rule. The paper listed five alternatives:

Alternative I—require scraping of loose, peeling, flaking paint and repainting (1972 regulation).

Alternative II—require removal of all paint from loose, flaking, peeling surface.

Alternative III—require scraping of loose, peeling, flaking paint and removal of all paint from chewable surfaces.

Alternative IV—require removal of all paint form both falking, peeling surfaces and chewable surfaces.

Alternative V—require removal of all paint from all accessible, intact surfaces.

HUD had considered the following factors when evaluating these alternatives: (1) Total costs both to government and private owners, (2) benefits to children (qualitatively assessed), (3) impact on the effectiveness and availability of FHA program activities, and (4) possible redlining of neighborhoods and abandonment of housing. HUD selected alternative I.

The District Court approved HUD's conclusion that alternatives IV and V were impracticable due to adverse impacts of the major costs involved on continued FHA activity and the "unreasonable burden" placed on the FHA fund. But the District Court concluded that the Department had inappropriately used cost to compare the first three alternatives on a cost-effectiveness basis and reject alternatives II and III because it found alternative I alone to be cost-effective.

The Court of Appeals, however, rejected the District Court's conclusion

that HUD, by implication, had found options II and III to be practicable. Ambiguity in the administrative record to the 1976 rule, it held, did not support this inference. Moreover, the Court of Appeals did not question the District Court's acceptance of HUD's rejection of alternatives IV and V. The Court of Appeals stated:

> It is peculiarly within the expertise of the Department to determine the practicability of a given elimination procedure. We agree with the district court that the "as far as practicable" standard allows the Department "to consider cost and technical considerations in developing its regulations" and that the threshold of practicability is reached if there exist "reasonably available techniques" for eliminating the hazard . . . *Id.* at 84.

Although a practicability analysis will be presented for each program below, common issues affect each program. For example, the availability of testing resources is scarce given the magnitude of the possible demand. See Section IV.B. above. There are only 400 XRFs presently available to perform testing. Not considering any private demand for testing, if HUD imposed testing requirements on all of its housing programs, in the first year alone there could be a demand for testing of over four million units. It would take approximately 5½ years to test all of these units at a cost of over $480,000,000. These statistics indicate the many side-effects that the availability of testing equipment and compentent operators may have. The unavailability of testing equipment and competent operators will severely impact the effectiveness and availability of HUD program activities and may lead to redlining of certain older neighborhoods. Testing requirements may have the effect of driving users away from HUD programs. There is no guarantee that there will be a benefit to children. Without equipment, there will be severe program delays.

Implementation of the testing requirements in this proposed rule is subject to the availability of testing equipment. HUD is considering possible actions it may take if the testing equipment is not available. For UDAG and CDBG programs, HUD is considering allowing communities where testing equipment is unavailable to request a waiver of these requirements under § 570.5, where the grantee can demonstrate that undue hardship would result from applying the requirements and where application of the requirements would adversely affect the purposes of the Housing and Community Development Act of 1974. HUD specifically requests comments on this issue.

HUD specifically invites comments regarding whether the forms of inspection, testing and abatement required in this proposed rule are practicable in all circumstances encompassed by the proposed rule. Additional questions for comment are also raised in the following program discussions.

During the course of this rulemaking proceeding, HUD will continue to evaluate the evidence submitted in response to the ANPR, the further studies referred to in this preamble, and such additional evidence and comments as may be received in response to this notice of proposed rulemaking, that are relevant to the foregoing questions.

D. CDBG, UDAG, Secretary's Fund, Section 312 and Rental Rehabilitation

1. *Scope.* Sections 510.410, 511.11(f) and 570.608 of the proposed rule establish procedures to eliminate as far as practicable the immediate hazards of lead-based paint poisoning with respect to any project constructed prior to 1978 (alternatively, 1950) which presents such hazards to children under seven years of age and which is rehabilitated with assistance under Parts 510, 511 and 570 respectively. This proposed rule also applies to entitlement grants (Part 570, Subpart D), Secretary's Fund programs including the Insular areas and Special Projects program (Part 570, Subpart E), Small Cities program (Part 570, Subpart F), UDAG (Part 570, Subpart G), Loan Guarantees (Part 570, Subpart M) and the Indian CDBG program (Part 571) because these programs incorporate Subpart K which includes § 570.608. The Section 312 and Rental Rehabilitation programs propose requirements similar to § 570.608. This proposed rule would affect approximately 88,200 units each year.

2. *Practicability Analysis.* Separate practicability analysis are provided for each of the affected programs below.

(a) *CDBG Program:* The CDBG program was not in existence at the time of enactment of Section 302 of the LPPPA. CDBG funds are entended to localities to be utilized for activities selected by them, limited only be broadly defined activity eligibility requirements and the requirement that at least 51% of CDBG funds must be used for activities principally benefiting low- and moderate-income persons. A substantial portion of CDBG funds are expended for residential rehabilitation.

According to a Comptroller General report entitled "Rental Rehabilitation With Limited Federal Involvement: Who Is Doing It? At What Cost? Who Benefits?" (GAO/RCED–83–148, July 11, 1983), ninety-eight percent of the communities were financing rehabilitation of owner-occupied units with CDBG funds. In contrast, only 50 percent were financing investor-owned rental rehabilitation. According to the 1985 Consolidated Annual Report to Congress on Community Development Programs (CDBG, UDAG, Section 312, Urban Homesteading), the principal component of housing expenditures in FY 1982 was loans and grants to facilitate the rehabilitation of single family housing. Urban Counties concentrated a large majority of their housing funding, 73 percent of all such expenditures, in single-family rehabilitation. Metropolitan Cities, on the other hand, used their CDBG funds to undertake a broader range of activities such as the rehabilitation of multifamily (usually renter-occupied) housing, public housing modernization and the rehabilitation of other publicly-owned residential housing. Both types of grantees spent smaller amounts of housing funds in administering their housing programs and supporting code enforcement, general housing repair, housing development, or non-profit corporations or other sub-recipients to undertaken similar activities. Overall, these figures suggest that entitlement communities may be using their CDBG funds more for the rehabilitation of multifamily or rental properties than in past years. The differences in the mix of housing activities between cities and counties are consistent with general aggregate differences in their housing characteristics. Urban Counties, which are comprised of suburbs to a large extent, are characterized by single-family, owner-occupied housing. In contrast, Metropolitan Cities tend to have a greater proportion of multifamily rental housing and Federal public housing. Consequently, although single family rehabilitation still is by far the largest category of expenditures for cities, they spend a large proportion of funds in other areas than do Urban Counties.

Residential units rehabilitated with CDBG funds are within the scope of "HUD-associated housing" as defined by HUD. Accordingly, HUD's regulations for the CDBG program have required compliance with the hazard elimination requirements in the rehabilitation of existing housing with CDBG assistance. The hazard elimination regulations themselves assign responsibility for inspection of units rehabilitated with CDBG funds to the unit of local government or agency thereof.

The vast majority of CDBG assisted rehabilitation takes place in residential structures built prior to 1950, and it is these structures that probably have interior and/or exterior lead-based paint surfaces. Under the CDBG program, the use of program funds for residential rehabilitation is not limited solely to units occupied by low- and moderate-income persons, but the majority of rehabilitated units are occupied by such persons. If additional requirements to assure compliance with lead-based paint hazard elimination were to be imposed on grantees by HUD, the costs of such requirements would adversely affect local rehabilitation programs and make CDBG rehabilitated units less accessible to those most in need of affordable housing.

It should also be noted that HUD expects that extra costs imposed by these new requirements will cause CDBG grantees to either sharply reduce the number of units rehabilitated or to reduce funding for other activities being carried out with CDBG funds (public services, economic development, etc.). The proposed requirements, however, are revised in order to clarify that the costs of inspection, screening, and testing for lead-based paint hazards, as well as the costs of related equipment and supplies, are eligible expenditures. HUD invites comments on the probable direct impact of the cost of new lead-based paint requirements on local CDBG-assisted rehabilitation programs as well as the probable indirect impact of these requirements on other CDBG-funded activities.

(b) *UDAG Program:* UDAG funds are granted to localities to be used in support of private investments. The locality loans funds to private sector developers for economic development activities, and/or uses funds directly for such activities. These activities include commercial, industrial and neighborhood development. Residential rehabilitation is an eligible use of UDAG funds. Twenty-nine percent or 28,710 planned units in projects approved through FY 1985 involved rehabilitation. Though not funded at levels approaching Action Grant support for industrial or commercial projects, UDAG assistance to housing development activities has been substantial. The types of projects that include housing, the occupancy and construction characteristics of housing units developed through the Action Grant Program very according to the type of project development involved. Housing development in mixed-use projects is characterized by the production or renovation of rental units. Rental housing comprises 66 percent of the units developed as part of mixed-use projects; mixed-use projects also involve more new construction than housing-only projects. Rental housing is consistent with the thrust of mixed-use projects in supporting downtown development activities. In contrast, and reflecting the dominant purpose of housing-only projects to stabilize neighborhoods, 66 percent of such units involve rehabilitation and fully 83 percent are intended to be owner-occupied.

Residential units rehabilitated with UDAG funds are within the scope of "HUD-associated housing" as defined by HUD. Accordingly, HUD's regulations for the UDAG program have required compliance with the hazard elimination requirements in the rehabilitation of existing housing with UDAG assistance. The hazard elimination regulations themselves assign responsibility for inspection of units rehabilitated with UDAG funds to the unit of local government or agency thereof.

The majority of UDAG assisted residential rehabilitation takes place in structures built prior to 1950, and it is these structures that probably have interior and/or exterior lead-based paint surfaces. Under the UDAG program, the use of program funds for residential rehabilitation includes units occupied by low- and moderate-income persons. If additional requirements to assure compliance with lead-based paint hazard elimination were to be imposed on grantees and private sector participants by HUD, the costs of such requirements could adversely affect local rehabilitation programs and make UDAG rehabilitated units less assessible to those most in need of affordable housing.

It should also be noted that HUD expects that extra costs imposed by these new requirements will cause UDAG project recipients to reduce the number of units rehabilitated and could discourage applications for residential rehabilitation. The proposed requirements, however, are revised in order to clarify that the costs of inspection, screening, and testing for lead-based paint hazards, as well as the costs of related equipment and supplies, are eligible expenditures. HUD invites comments on the probable direct impact of the cost of new lead-based paint requirements on local UDAG-assisted rehabilitation programs.

(c) *Secretary's Fund:* (1) *Secretary's Fund for CDBGs for Indian Tribes and Alaskan Native Villages (Part 571) and for Insular Areas (Part 570, Subpart E).* The same concerns noted under the CDBG program section (Section IV.D.2(a)) apply to the Indian program and the Insular Areas program. In addition, because of the small size of many of these applicants, their isolation from urban areas and the grant ceilings limiting the size of grants, the testing requirements may be burdensome. HUD invites comments on the extent of the problems on reservations and in the Insular Areas, the age of housing and alternative approaches to addressing such problems. At the persent time we anticipate that we will apply the regulations adopted for the CDBG program to these programs.

(2) *Secretary's Fund for CDBG Special Projects Program (Part 570, Subpart E).* The same concerns noted under the CDBG program section (Section IV.D.2(a)) apply to the Special Projects program. In addition, rehabilitation has not been a significant activity under this program. We would expect to apply the regulations adopted for the CDBG program to the Special Projects program.

(d) *Section 312 Rehabilitation Loan Program:* The Section 312 program is a long existing program of the Department which provides direct loans to owners, both single family and investor owned properties, at below market interest rates in both CDBG areas and in communities participating in the Urban Homesteading program. The rehabilitation conducted in these program areas generally includes rehabilitation levels to bring the property up to local code standards and agencies have been instructed to comply with lead-based paint regulation requirements, although the requirements have not been formally published under the program's existing rules. The Department does intend to include the requirements when comprehensive rules for the program are developed. Since the objective of the program is to provide assistance to owners of property in need of rehabilitation, in order to make the rehabilitation of the property economically feasible, the additional requirement to abate hazards posed by all intact lead-based paint on the property would defeat this objective. For investor owned property, the investor generally would have to absorb the additional cost and pass it on to the tenants, thus pushing up the rents and making the rehabilitation infeasible in many cases. For the single family owner-occupied property (approximately 78 percent of the program), the cost for this single item would take up much of the loan assistance needed to correct other code deficiencies, which may require

additional financing at a higher rate, thus making the rehabilitation infeasible for this class of owner as well. This, as in the case of the Rental Rehabilitation Program, would have a negative impact on the ability of the program to accomplish its objective which is to provide an affordable source of financing for rehabilitation in CDBG areas and to support Urban Homesteading areas.

When inspections are required, however, the costs of inspection should be covered by the locality in charge of the program. It has been an established practice in the Section 312 program that the locality fully inspect the property and notify the applicant as to the necessary repairs needed to qualify for the assistance. This is currently the practice for lead-based paint items, and the Department would not like to impose the added costs on loan applicants under this program.

(e) *Rental Rehabilitation:* The Rental Rehabilitation program was designed by the Department to support its new Housing Voucher program by providing a sufficient supply of decent and affordable units for use by families receiving Housing Vouchers. The program provides construction grants to assist in the rehabilitation of privately-owned residential rental properties for up to 50 percent of the rehabilitation costs generally not to exceed $5,000 per unit. The remaining funds to support the rehabilitation generally must be provided by the owner. Individual grantees have a wide variety of subsidy mechanisms ranging from grants to repayable amortized loans. The program is designed to accomplish moderate rehabilitation of approximately $10,000 per unit. To the extent that lead-based paint abatement requirements cause the rehabilitation costs to exceed this average range, the owner would have to absorb the costs. Abatement of intact lead-based paint hazards could significantly impact the rehabilitation costs required to be provided by the owner and, given the modest level of rents for these units, could make many projects infeasible given project income. The primary housing stock being addressed by the program is, in fact, pre-1950 housing; so it may be assumed that such units would be significantly impacted by any universal requirements to abate hazards imposed by intact paint and thus potentially make rehabilitation of these units infeasible because of the added costs. This would have a direct, negative impact on the ability of the program to accomplish its objective of providing decent, affordable housing for lower-income tenants receiving Section 8 rental assistance.

3. *Proposed Requirements.* The requirements of §§ 510.410, 511.11(f) and 570.608 include a prohibition against the use of lead-based paint, a notification of hazards of lead-based paint poisoning and the availability and advisability of blood lead level screening, and proposed requirements for the elimination of lead-based paint hazards. These requirements apply to existing housing which receives rehabilitation assistance. Under the proposed CDBG program requirements, the following activities are excluded: (a) Emergency repairs (not including lead-based paint-related emergency repairs); (b) weatherization; (c) water or sewer hook-ups; (d) installation of security devices (*e.g.*, smoke detectors, locks, etc.); (e) facilitation of tax exempt bond issuances which provide funds for rehabilitation; (f) other similar types of single-purpose programs that do not include physical repairs or remodeling of applicable surfaces (as defined in §35.22) or residential structures; and (g) any non-single purpose rehabilitation that does not involve applicable surfaces (as defined in § 35.22) that does not exceed $3,000 per unit. HUD proposes that these projects should not be covered by § 570.608 because they do not involve rehabilitation of applicable surfaces.

These exempt activities differ from maintenance and modernization programs assisted under HUD's Comprehensive Improvement Assistance Program because the housing is privately owned and these activities are generally limited to under $3,000 per unit. If HUD administratively imposed the proposed lead-based paint requirements on these small-scale, single-purpose activities, and these requirements had a significant impact on the cost of carrying out these activities, HUD expects that CDBG grantees would either drastically reduce the scope of such activities or eliminate them entirely from their programs. However, if these activities involve rehabilitation of applicable surfaces (as defined in proposed 24 CFR 570.608(c)(1)), defective paint and chewable surfaces must be treated as provided in proposed § 570.608(c).

Emergency repair programs are those local programs designed exclusively to correct a health or life-threatening situation and which do not include general repairs on the units. Such situations may include but are not limited to a leaking roof, defective heating system which has or is about to fail, or plumbing or electrical problems which cause health or safety problems. HUD does not propose to exclude lead-based paint-related emergency repairs. In weatherization programs, cities will set-aside $500–600 per unit for weatherstriping, plastic window coverings and minimal insulations. CDBG funding may also be used to facilitate tax exempt bond issuances which provide funds for rehabilitation. CDBG funds subsidize issuance of the bonds including administrative costs but are not usually used to pay principals. All of these activities are single-purpose programs or non-single purpose rehabilitation under $3,000 per unit that do not include significant physical repairs or remodeling of the interior or exterior surfaces of residential structures.

The proposed elimination section in the programs covered by this rule requires the grantee (the term grantee is used in this preeamble because it is a common term used in the CDBG, UDAG and Rental Rehabilitation programs; for purposes of this preamble, loan recipients and local agencies in the Section 312 program are considered grantees as are recipients of State rehabilitation funds to inspect for defective paint surfaces in all units constructed prior to 1978 (alternatively 1950) which are occupied by families with children under seven years of age and which are receiving rehabilitation assistance. Defective paint surfaces are defined as paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose. Applicable surfaces include all exterior surfaces of a residential structure up to five feet from the floor or ground such as a wall, stairs, deck, porch, railing, window or doors, which are readily accessible to children under seven year of age, and all interior surfaces of a residential structure. The inspection is to occur at the same time the property is being inspected for rehabilitation. Defective paint surfaces will be included in the work write-up for the remainder of the rehabilitation work.

The grantee is required to test the lead content of chewable surfaces (*i.e.*, all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork) if the family residing in a unit, constructed prior to 1950 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content on chewable surfaces shall be treated by using an XRF or other method approved by HUD.

Test readings of 1 mg/cm² or higher using an XRF are considered positive for presence of lead-based paint.

Where inspections find defective paint surfaces, the defective areas are to be treated. Where testing finds leaded chewable surfaces, the entire interior and exterior chewable surface is to be treated. Treatment for defective paint and leaded chewable paint is to be performed before final inspection and approval of the work. Where weather prohibits repainting exterior surfaces before final inspection, the grantee may permit the owner to abate the defective paint or chewable lead-based paint and agree to repaint by a specified date. Abatement methods including various removal or covering techniques are acceptable.

The grantee is required to bear the costs of inspections and testing. Costs of purchasing any available equipment such as XRFs, are eligible costs under the CDBG program. Individual program requirements and local program design will determine whether the cost of abatement is to be borne by the owner, the grantee or a combination of the owner and the grantee. The grantee will be required to certify that inspections and tests for lead-based paint in housing units are in compliance with these regulations. The grantee is to keep a copy of the inspection reports for at least three years. The owner is required to protect tenants from hazards associated with abatement procedures and to notify the grantee of such measures taken.

HUD field office monitoring of rehabilitation programs will cover compliance with these requirements. In cases of noncompliance, HUD could impose conditions or sanctions on grantees.

If any other HUD assistance is provided to units covered by these proposed regulations, the more stringent requirements shall prevail. If HUD determines that a state or local law, ordinance, code or regulation provides a comparable level of protection from the hazards of lead-based paint poisoning, HUD may modify or waive these requirements. Grantees are reminded to comply with Federal, state or local requirements in disposing of lead-based paint and defective paint debris.

E. Urban Homesteading

The Department has also reviewed the Urban Homesteading program and has decided that the minimum lead-based paint standards in 24 CFR Part 35 should apply. The Assistant Secretary for Community Planning and Development does not intend to supersede Subpart C of Part 35 for the Urban Homesteading program. The Urban Homesteading program transfers HUD, Veterans Administration (VA), and Farmers Home Administration (FmHA) owned properties at no cost to states or local government for use in a HUD-approved homesteading program. Unoccupied, unrepaired single family houses are then conditionally conveyed to homesteaders selected by the participating localities. Section 810 of the Housing and Community Development Act of 1974, as amended, requires that the locality give special consideration to the applicant's need for housing and ability to make the repairs or to pay for them to be made. Priority is given to applicants whose housing fails to meet local health and safety standards and who currently pay over 30 percent of their income for shelter. No funds are authorized in the statute for rehabilitation. These repairs are often funded through the Section 312 program, CDBG, or by private lenders. Section 810 funds may only be used to reimburse the FHA, VA or FmHA portfolio account for the purchase of these properties. An amendment to the enabling legislation would be required if Section 810 funds were to be used for lead-based paint abatement or any other purpose.

New regulations, issued for the Urban Homesteading program on June 24, 1985 (50 FR 25941), included a provision to comply with lead-based paint procedures. 24 CFR 590.11(d)(6). This proposed rule revises the Urban Homesteading program at 24 CFR 590.11(d)(6) to incorporate by reference Part 35.

V. Section by Section Review of Proposed Regulations

The proposed regulations amend Parts 35, 510, 511, 570 and 590. Each of these amendments are described below.

Part 35

The definition of HUD-associated housing in Section 35.3 is revised. Section 35.5 is revised to provide supersedure authority for program-specific notification requirements. Section 35.24 of Subpart C is repeated as it was proposed in the Housing rule (July 1, 1986, 51 FR 24112) and is discussed extensively above in Section IV.

Part 510

Section 510.410 is proposed to be amended. This section was discussed in detail in Section IV.

Part 511

Section 511.11(f) is proposed to be amended. This section was discussed in detail in Section IV.

Part 570

Sections 570.458, 570.461 and 570.608 are proposed to be amended. These sections were discussed in detail in Section IV.D.2 and 3.

Part 590

Section 590.11 is proposed to be amended to incorporate by reference the lead-based paint regulations in Part 35. This section is discussed above in detail in Section IV.E.

Other Matters

Regulatory Flexibility Act

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. HUD finds that there are not anticompetitive discriminatory aspects of the proposed rule with regard to small entities nor are there any unusual procedures that would need to be complied with by small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with Part 50 of this title, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20510.

OMB Control Number

The information collection requirements contained in §§ 510.410(c)(2)(ii), (6) and (8); 511.11(f)(3)(ii)(B), (vi) and (viii); and 570.608(c)(3)(ii), (7) and (9) of this proposed rule have been submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

Regulatory Impact Analysis

This rule qualifies as a major rule as defined in Executive Order 12291. The Department is conducting a cost analysis of the proposed regulations. Once completed, this cost analysis will serve as a Regulatory Impact Analysis.

VOL 51 ISS 148 AG 1 1986 UMI

The Department interprets the Executive Order to require, in this case, an analysis of potential costs and the cost alternatives without regard to the degree to which cost-effectiveness is an appropriate standard under the applicable statute. The cost study will be available for the final rulemaking.

Semiannual Agenda of Regulations

This rule was listed as sequence number 793 under the Office of the Secretary in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14046) under Executive Order 12291 and the Regulatory Flexibility Act.

Note

The following HUD rule is subject to regulatory review by the Director of the Office of Management and Budget under Executive Order 12291, February 17, 1981.

While the cited rules have been submitted to the OMB for review under the Executive Order, that review has not been completed at the time of this publication. It is impracticable for the Department of Housing and Urban Development to follow the procedures of the Executive Order with respect to these rules, because, under orders filed by the United States District Court for the District of Columbia in *Ashton* v. *Pierce*, Civil Action No. 81–0719 (December 13, 1985 and February 7, 1986), the Department has been directed to publish these rules on or before August 1, 1986.

The Department has to date, and will continue, to adhere to the requirements of Exective Order 12291 to the extent permitted by the judicial deadline.

List of Subjects

24 CFR Part 35

Lead poisoning, Reporting and recordkeeping requirements.

24 CFR Part 510

Loan programs: Housing and community development, Housing, Relocation assistance, Home improvement, Rehabilitation, Urban renewal.

24 CFR Part 511

Rental rehabilitation grants, Administrative practice and procedure, Grant programs: Housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 570

Community development block grants, Grant programs: Housing and community development, Loan programs: Housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

24 CFR Part 590

Government property, Homesteading, Housing, Intergovernmental relations, Loan programs: Housing and community development.

Accordingly, 24 CFR Parts 35, 510, 511, 570 and 590 would be amended as follows:

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

Subpart A—Notification to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1978 of the Hazards of Lead-Based Paint Poisoning

1. The authority citation of Part 35 would be revised to read as set forth below.

Authority: Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. The definition of HUD-associated housing in § 35.3(e) would be revised to read as follows:

§ 35.3 Definitions.

* * * * *

(e) *HUD-associated housing.* Any residential structure that is the subject of an application for mortgage insurance under the National Housing Act or is proposed for the receipt of housing assistance payments under a program administered by the Secretary. For purposes of this Subpart A, "HUD-associated housing" also includes any existing residential structure—

(1) Acquired by the Secretary pursuant to any provision of law which, prior to such acquisition, was insured under the National Housing Act or was subject to a loan under section 312 of the Housing Act of 1964,

(2) Sold by the Secretary following any such acquisition and subject to any requirements regarding its use or operation under an agreement with, or condition imposed by, the Secretary, or

(3) That is currently covered by mortgage insurance or a contract for housing assistance payments.

* * * * *

3. Section 35.5 would be revised to read as follows:

§ 35.5 Requirements.

(a) Purchasers and tenants of HUD-associated housing constructed prior to 1978 shall be notified: (1) That the property was constructed prior to 1978; (2) that the property may contain lead-based paint; (3) of the hazards of lead-based paint; (4) of the symptoms and treatment of lead-based paint poisoning; and (5) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards).

Prospective purchasers or renters shall receive the above notifications prior to purchase or rental.

(b) Each Assistant Secretary shall take necessary actions to implement the requirements of paragraph (a) of this section with respect to the HUD programs within his/her administrative jurisdiction. Such actions shall include the preparation and prescription of appropriate notices or brochures providing the required information, and the establishment of procedures to: (1) Provide evidence that the prescribed notification has been received by purchasers and tenants of HUD-associated housing constructed prior to 1978, and (2) require the inclusion of appropriate provisions in contracts of sale, rental or management of HUD-associated housing to assure that purchasers and tenants receive the prescribed notification.

(c) Any requirement of this section shall be deemed superseded by a regulation promulgated by an Assistant Secretary with respect to any program under his or hr jurisdiction which states expressly that it is promulgated pursuant to the authorization granted in this section and supersedes, with respect to programs within its defined scope, the notification requirements prescribed by this section. See, *e.g.*, 24 CFR 570.608(b) (Community Development Block Grant).

Subpart C—Elimination of Lead-Based Paint Hazards in HUD-Associated Housing

4. Section 35.24 would be revised to read as follows (alternative versions of paragraphs (b)(1) and (2) are shown enclosed in brackets):

§ 35.24 Requirements

(a) Each Assistant Secretary shall establish procedures with respect to programs involving HUD-associated housing within his or her administrative jurisdiction to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to such housing which may present such hazards.

(b) Subject to the provisions of separate regulations promulgated with

respect to any program by the Assistant Secretary having jurisdiction over such program, the following minimum requirements shall apply to all programs:

[Alternative A:

(1) All applicable surfaces of HUD-associated housing constructed prior to 1978 shall be inspected to determine whether defective paint surfaces exist. In housing proposed to be assisted with Housing Development Grant funds, the unit of local government or appropriate agency thereof shall be responsible for inspection.

(2) Treatment necessary to eliminate immediate hazards shall, at a minimum consist of covering or removal of defective paint surfaces found in HUD-associated housing constructed prior to 1978. Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and use of propane torches are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment.]

[Alternative B:

(1) All applicable surfaces of HUD-associated housing constructed prior to 1950 shall be inspected to determine whether defective paint surfaces exist. In housing proposed to be assisted with Housing Development Grant funds, the unit of local government or appropriate agency thereof shall be responsible for inspection.

(2) Treatment necessary to eliminate immediate hazards shall, at a minimum, consist of covering or removal of defective paint surfaces found in HUD-associated housing constructed prior to 1950. Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Sanding and use of propane torches are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment.]

(3) Appropriate provisions for the inspection of applicable surfaces and elimination of hazards shall be included in contracts and subcontracts involving HUD-associated housing to which such requirements may apply.

(4) Any requirement of this section shall be deemed superseded by a regulation promulgated by an Assistant Secretary with respect to any program under his or her jurisdiction which states expressly that it is promulgated pursuant to the authorization granted in this section and supersedes, with respect to programs within its defined scope, the requirement prescribed by this section. See *e.g.*, 24 CFR Part 200, Subpart O (mortgage insurance and property disposition); § 882.109(i) (Section 8 Existing Housing); Part 965, Subpart H (Public and Indian Housing).

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

5. The citation of authority for Part 510 continues to read as follows:

Authority: Sec. 312, United States Housing Act of 1964 (42 U.S.C. 1452b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. Section 510.410 would be added to read as follows (in § 510.410(c)(2), alternative versions of paragraph (i) are shown encloded in brackets):

§ 510.410 Lead-based paint.

(a) *Prohibition against the use of lead-based paint.* section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures rehabilitated with assistance provided under this part.

(b) *Notification of hazards of lead-based paint poisoning.* (1) The Secretary has promulgated requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1978 of the hazards of lead-based paint poisoning at 24 CFR Part 35, Subpart A. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.5(c) and supersedes, with respect to all housing to which it applies, the notification requirements prescribed by Subpart A of 24 CFR 35.

(2) For properties constructed prior to 1978, owner-occupant applicants for rehabilitation assistance provided under this part shall be notified: (i) That the property may contain lead-based paint; (ii) of the hazards of lead-based paint; (iii) of the symptoms and treatment of lead-based paint poisoning; (iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards) and (v) of the advisability and abailability of blood lead level screening for children under seven years of age.

Owners of investment properties receiving rehabilitation assistance under this part shall provide the same notification as described above to their tenants.

(c) *Elimination of lead-based paint hazards.* The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisioning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards due to the presence of paint which may contain lead and to which children under seven years of age may be exposed in existing housing which is rehabilitated with assistance provided under this part. The Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph is promulgated pursuant to the autorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35. These requirements shall be implemented not later than [six months after effective date of rule].

(1) *Definitions.*

Applicable surface. All exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window or doors, which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead conent greater than or equal to 1 mg/cm ^{2}.

(2) *Inspection and testing.*

[*Alternative A:*

(i) *Defective paint surfaces.* The local agency shall inpect for defective paint surfaces in all units constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.]

[*Alternative B:*

(i) *Defective paint surfaces.* The local agency shall inspect for defective paint surfaces in all units constructed prior to 1950 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.]

(ii) *Chewable surfaces.* The local agency shall be required to test the lead content of chewable surfaces if the family residing in a unit, constructed prior to 1950 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content shall be tested by using an X-ray flurescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm ^{2} or higher using an XRF shall be cosidered positive for presence of lead-based paint.

(3) *Abatement actions.* (i) For inspections performed under § 510.410(c)(2)(i) and where defective paint surfaces are found, treatment shall be provided to defective areas. Treatment shall be performed before final inspection and approval of the work.

(ii) For testing performed under § 510.410(c)(2)(ii) and where chewable surfaces are found to contain lead-based paint, the entire interior and exterior chewable surfaces shall be treated. Treatment shall be performed before final inspection and approval of the work.

(iii) When weather prohibits repainting exterior surfaces before final inspection, the local agency may permit the owner to abate the defective paint or chewable lead-based paint as required by this section and agree to repaint by a specified date. A separate inspection would be required.

(4) *Abatement methods.* At a minimum, treatment of the defective areas and chewable lead-based paint surfaces shall consist of covering or removal of the painted surface as described in 24 CFR 35.24(b)(2).

(5) *Funding.* (i) *Inspection and testing.* The local agency shall bear the costs of inspections and testing required by § 510.410(c)(2).

(ii) *Abatement.* Program requirements and local program design will determine whether the cost of abatement is to be borne by the owner/occupant or investor owner, the local agency or a combination of the owner/occupant or investor owner and local agency.

(6) *Certifications.* The local agency shall be required to certify that inspections and tests for lead-based paint of housing units are in compliance with § 510.410(c)(2).

(7) *Tenant protection.* The loan recipient shall take appropriate action to protect tenants from hazards associated with abatement procedures and will notify the grantee of those actions taken.

(8) *Records.* The local agency shall keep a copy of each inspection and/or test report for at least three years.

(9) *Monitoring and enforcement.* HUD field office monitoring of rehabilitation programs will cover compliance with applicable program requirements for lead-based paint. In cases of noncompliance, HUD may impose conditions or sanctions on grantees to encourage prompt compliance.

(10) *Compliance with other program requirements, Federal, state and local laws.* (i) *Other program requirements.* To the extent that assistance from any of the programs covered by this section is used in conjunction with other HUD program assistance which have lead-based paint requirements which may have more or less stringent requirements, the more stringent requirements shall prevail.

(ii) *HUD responsibility.* If HUD determines that a state or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this section and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this section in such manner as may be appropriate to promote efficiency while ensuring such comparable level of protection.

(iii) *Loan recipient/local agency responsibility.* Nothing in this section is intended to relieve any loan recipient/local agency in the programs covered by this section of any responsibility for compliance with state or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement.

(iv) *Disposal of lead-based paint debris.* Lead-based paint and defective paint debris shall be disposed of in accordance with applicable Federal, state or local requirements. (See, *e.g.*, 40 CFR Parts 260–271.)

PART 511—RENTAL REHABILITATION GRANT PROGRAM

7. The citation of authority for Part 511 continues to read as follows:

Authority: Sec. 17 of the United States Housing Act of 1937 (42 U.S.C. 1437o); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

8. Section 511.11(f) would be revised to read as follows (in §511.11(f)(3)(ii), alternative revisions of paragraph (A) are shown enclosed in brackets):

§511.11 Other Federal requirements.

* * * * *

(f) *Lead-based paint.* (1) *Prohibition against the use of lead-based paint.* section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures rehabilitated with assistance provided under this part.

(2) *Notification of hazards of lead-based paint poisoning.* (i) The Secretary has promulgated requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1978 of the hazards of lead-based paint poisoning at 24 CFR Part 35, Subpart A. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.5(c) and supersedes, with respect to all housing to which it applies, the notification requirements prescribed by Subpart A of 24 CFR Part 35.

(ii) For properties constructed prior to 1978, owner-occupant applicants for rehabilitation assistance provided under this part and tenants of properties rehabilitated with assistance provided under this part shall be notified: (A) That the property may contain lead-based paint; (B) of the hazards of lead-based paint. (C) of the symtoms and treatment of lead-based paint poisoning; (D) of the precautions to be taken to avoid lead-based paint poisoning (inlcuding maintenance and removal

techniques for eliminating such hazards) and (E) of the advisability and availability of blood lead level screening for children under seven years of age.

(3) *Elimination of lead-based paint hazards.* The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards due to the presence of paint which may contain lead and to which children under seven years of age may be exposed in existing housing which is rehabilitated with assistance provided under this part. The Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35. These requirements shall be implemented not later than [six months after effective date of rule].

(i) *Definitions.*

Applicable surface. All exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or doors, which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frame, doors, and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Grantee. The direct formula grantee or recipient of funds under the state program.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm^2.

(ii) *Inspection and testing.*

[*Alternative A:*

(A) *Defective paint surfaces.* The grantee shall inspect for defective paint surfaces in all units constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.]

[*Alternative B:*

(A) *Defective paint surfaces.* The grantee shall inspect for defective paint surfaces in all units constructed prior to 1950 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.]

(B) *Chewable surfaces.* The grantee shall be required to test the lead content of chewable surfaces if the family residing in a unit, constructed prior to 1950 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint.

(iii) *Abatement actions.*

(A) For inspections performed under § 511.11(f)(3)(ii)(A) and where defective paint surfaces are found, treatment shall be provided to defective areas. Treatment shall be performed before final inspection and approval of the work.

(B) For testing performed under § 511.11(f)(3)(ii)(B) and where chewable surfaces are found to contain lead-based paint, the entire interior and exterior chewable surfaces shall be treated. Treatment shall be performed before final inspection and approval of the work.

(C) When weather prohibits repainting exterior surfaces before final inspection, the grantee, may permit the owner to abate the defective paint or chewable lead-based paint as required by this section and agree to repaint by a specified date. A separate inspection would be required.

(iv) *Abatement methods.* At a minimum, treatment of the defective areas and chewable lead-based paint surfaces shall consist of covering or removal of the painted surface as described in 24 CFR 35.24(b)(2).

(v) *Funding.*

(A) *Inspection and testing.* The grantee shall bear the costs of inspections and testing required by § 511.11(f)(3)(ii).

(B) *Abatement.* Program requirements and local program design will determine whether the cost of the abatement is to be borne by the owner/developer, the grantee or a combination of the owner/developer and the grantee.

(vi) *Certifications.* The grantee shall be required to certify that inspections and tests for lead-based paint of housing units are in compliance with § 511.11(f)(3)(ii).

(vii) *Tenant protection.* The owner shall take appropriate action to protect tenants from hazards associated with abatement procedures and will notify the grantee of such actions taken.

(viii) *Records.* The grantee shall keep a copy of each inspection and/or test report for at least three years.

(ix) *Monitoring and enforcement.* HUD field office monitoring of rehabilitation programs will cover compliance with applicable program requirements for lead-based paint. In cases on noncompliance, HUD may impose conditions or sanctions on grantees to encourage prompt compliance.

(x) *Compliance with other program requirements, Federal, state and local laws.*

(A) *Other program requirements.* To the extent that assistance from any of the programs covered by this section is used in conjunction with other HUD program assistance which have lead-based paint requirements which may have more or less stringent requirements, the more stringent requirements shall prevail.

(B) *HUD responsibility.* If HUD determines that a state or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this section and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this section in such manner as may be appropriate to promote efficiency while ensuring such comparable level of protection.

(C) *Grantee responsibility.* Nothing in this section is intended to relieve any grantee in the programs covered by this section of any responsibility for compliance with state or local laws, ordinances, codes or regulations

governing lead-based paint testing or hazard abatement.

(D) *Disposal of lead-based paint debris.* Lead-based paint and defective paint debris shall be disposed of in accordance with applicable Federal, state or local requirements. (See, *e.g.*, 40 CFR Parts 260–271.)

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart G—Urban Development Action Grants

9. The citation of authority for Part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

10. Section 570.458 would be amended by adding paragraph (c)(14)(ix)(N) to read as follows:

§ 570.458 Full applications.

* * * * *

(c) * * *

(14) * * *

(ix) * * *

(N) The lead-based paint regulations as set forth in 24 CFR Part 35 as modified by § 570.608 of Subpart K and certify that it will require the participating party obligated to carry out the rehabilitation activities to comply with the requirements in § 570.608 of Subpart K.

* * * * *

11. Section 570.461 would be amended by adding the concluding text at the end of the section to paragraph (f) and by adding paragraph (g) to read as follows:

§ 570.461 Post preliminary approval requirements.

* * * * *

(g) *Lead-based paint requirements.* The recipient may receive preliminary approval prior to the accomplishment of inspection, testing, notification and abatement as described in § 570.608 of Subpart K, but no funds will be released until such actions are complete and evidence of compliance is submitted to HUD.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart K—Other Program Requirements

12. Section 570.608 would be revised to read as follows (in § 570.608(c)(2), alternative revisions of paragraph (i) are shown enclosed in brackets):

§ 570.608 Lead-based paint.

(a) *Prohibition against the use of lead-based paint.* Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this part.

(b) *Notification of hazards of lead-based paint poisoning.* (1) The Secretary has promulgated requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1978 of the hazards of lead-based paint poisoning at 24 CFR Part 35, Subpart A. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.5(c) and supersedes, with respect to all housing to which it applies, the notification requirements prescribed by Subpart A of 24 CFR Part 35.

(2) For properties constructed prior to 1978, owner-occupant applicants for rehabilitation assistance provided under this part and purchasers of publicly-owned properties rehabilitated with assistance provided under this part shall be notified: (i) That the property may contain lead-based paint; (ii) of the hazards of lead-based paint; (iii) of the symptoms and treatment of lead-based paint poisoning; (iv) of the precautions to be taken to avoid lead-based poisoning (including maintenance and removal techniques for eliminating such hazards) and (v) of the advisability and availability of blood lead level screening for children under seven years of age.

(c) *Elimination of lead-based paint hazards.* The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards due to the presence of paint which may contain lead and to which children under seven years of age may be exposed in existing housing which is rehabilitated with assistance provided under this part. The Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph is promulgated pursuant to the authorization granted n 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35. These requirements shall be implemented not later than [six months after effective date of rule].

(1) *Applicability.* This paragraph applies to the rehabilitation of applicable surfaces in existing housing which is assisted under this part. The following activities assisted under the Community Development Block grant program are not covered by this paragraph: (i) Emergency repairs (not including lead-based paint-related emergency repairs); (ii) weatherization; (iii) water or sewer hook-ups; (iv) installation of security devices; (v) facilitation of tax exempt bond issuances which provide funds for rehabilitation; (vi) other similar types of single-purpose programs that do not include physical repairs or remodeling of applicable surfaces (as defined in § 35.22) of residential structures; and (vii) any non-single purpose rehabilitation that does not involve applicable surfaces (as defined in § 35.22) that does not exceed $3,000 per unit.

(2) *Definitions.*

Applicable surface. All exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or doors, which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm^2.

(3) *Inspection and testing.*

[Alternative A:

(i) *Defective paint surfaces.* The grantee shall inspect for defective paint surfaces in all units constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work

write-up for the remainder of the rehabilitation work.]

[Alternative B:

(i) *Defective paint surfaces.* The grantee shall inspect for defective paint surfaces in all units constructed prior to 1950 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.]

(ii) *Chewable surfaces.* The grantee shall be required to test the lead content of chewable surfaces if the family residing in a unit, constructed prior to 1950 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test reading of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint.

(4) *Abatement actions.*

(i) For inspections performed under § 570.608(c)(3)(i) and where defective paint surfaces are found, treatment shall be provided to defective areas. Treatment shall be performed before final inspection and approval of the work.

(ii) For testing performed under § 570.608(c)(3)(ii) and where chewable surfaces are found to contain lead-based paint, the entire interior and exterior chewable surfaces shall be treated. Treatment shall be performed before final inspection and approval of the work.

(iii) When weather prohibits repainting exterior surfaces before final inspection, the grantee, may permit the owner to abate the defective paint or chewable lead-based paint as required by this section and agree to repaint by a specified date. A separate inspection would be required.

(5) *Abatement methods.* At a minimum, treatment of the defective areas and chewable lead-based paint surfaces shall consist of covering or removal of the painted surface as described in 24 CFR 35.24(b)(2).

(6) *Funding.*

(i) *Inspection and testing.* The grantee shall bear the costs of inspections and testing required by § 570.608(c)(3). Testing for lead content on chewable surfaces, including the costs of purchasing any available equipment such as XRFs, shall be eligible costs under the CDBG program.

(ii) *Abatement.* Program requirements and local program design will determine whether the cost of the abatement is to be borne by the owner/developer, the grantee or a combination of the owner/developer and the grantee. The cost of abatement will be considered an eligible cost under the CDBG program.

(7) *Certifications.* The grantee shall be required to certify that inspections and tests for lead-based paint of housing units are in compliance with § 570.608(c)(3).

(8) *Tenant protection.* The owner/developer shall take appropriate action to protect tenants from hazards associated with abatement procedures and will notify the grantee of such actions taken.

(9) *Records.* The grantee shall keep a copy of each inspection and/or test report for at least three years.

(10) *Monitoring and enforcement.* HUD field office monitoring of rehabilitation programs will cover compliance with applicable program requirements for lead-based paint. In cases of noncompliance, HUD may impose conditions or sanctions on grantees to encourage prompt compliance.

(11) *Compliance with other program requirements, Federal, state and local laws.*

(i) *Other program requirements.* To the extent that assistance from any of the programs covered by this section is used in conjunction with other HUD program assistance which have lead-based paint requirements which may have more or less stringent requirements, the more stringent requirements shall prevail.

(ii) *HUD responsibility.* If HUD determines that a state or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this section and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this section in such manner as may be appropriate to promote efficiency while ensuring such comparable level of protection.

(iii) *Grantee responsibility.* Nothing in this section is intended to relieve any grantee in the programs covered by this section of any responsibility for compliance with state or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement.

(iv) *Disposal of lead-based paint debris.* Lead-based paint and defective paint debris shall be disposed of in accordance with applicable Federal, state or local requirements. (See, *e.g.*, 40 CFR Parts 260–271.)

PART 590—URBAN HOMESTEADING

13. The citation of authority for Part 590 continues to read as follows:

Authority: Sec. 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

14. Section 590.11(d)(6) would be revised to read as follows:

§ 590.11 Applications.

* * * * *

(d) * * *

(6) The applicant or its designated public agency will comply with the HUD lead-based paint procedures set forth in 24 CFR Part 35.

* * * * *

Dated: July 30, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86–17470 Filed 7–31–86; 8:45 am]

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Reader Aids

Federal Register

Vol. 51, No. 148

Friday, August 1, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
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Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

27515-27810.....1

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Last List July 16, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 274/Pub. L. 99-364

To designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend." (July 29, 1986; 100 Stat. 771; 1 page) Price: $1.00

S.J. Res. 279/Pub. L. 99-365

To designate the month of October 1986, as "Lupus Awareness Month." (July 29, 1986; 100 Stat. 772; 1 page) Price: $1.00

VOL
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TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1986

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
August 1	August 18	September 2	September 15	September 30	October 30
August 4	August 19	September 3	September 18	October 3	November 3
August 5	August 20	September 4	September 19	October 6	November 3
August 6	August 21	September 5	September 22	October 6	November 4
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August 8	August 25	September 8	September 22	October 7	November 6
August 11	August 26	September 10	September 25	October 10	November 10
August 12	August 27	September 11	September 26	October 14	November 10
August 13	August 28	September 12	September 29	October 14	November 12
August 14	August 29	September 15	September 29	October 14	November 12
August 15	September 2	September 15	September 29	October 14	November 13
August 18	September 2	September 17	October 2	October 17	November 17
August 19	September 3	September 18	October 3	October 20	November 17
August 20	September 4	September 19	October 6	October 20	November 18
August 21	September 5	September 22	October 6	October 20	November 19
August 22	September 8	September 22	October 6	October 21	November 20
August 25	September 9	September 24	October 9	October 24	November 24
August 26	September 10	September 25	October 10	October 27	November 24
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VOL
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8-4-86
Vol. 51 No. 149
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VOL 51 ISS 149 AG 4 1986 UMI

Contents

Federal Register

Vol. 51, No. 149

Monday, August 4, 1986

Agricultural Marketing Service
RULES
Oranges (Valencia) grown in Arizona and California, 27816
Pistachio nuts, in-shell; grade standards, 27813
PROPOSED RULES
Milk marketing orders:
Great Basin, 27866

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Food and Nutrition Service

Animal and Plant Health Inspection Service
PROPOSED RULES
Exportation and importation of animals and animal products:
Psittacine birds, 27871

Coast Guard
RULES
Ports and waterways safety:
New Orleans; vessel traffic service, 27839
PROPOSED RULES
Drawbridge operations:
Louisiana, 27877
NOTICES
Meetings:
Houston/Galveston Navigation Safety Advisory Committee, 27926, 27927
(3 documents)

Commerce Department
See Economic Development Administration; International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 27929
(5 documents)

Customs Service
RULES
Air commerce:
Private aircraft arriving from areas south of U.S., reporting requirements; Lindbergh Field; designated airport status removed, 27836
PROPOSED RULES
Customs bonds:
Bond structure; instruments of international traffic bond condition; liquidated damage provision, etc., 27875

Economic Development Administration
RULES
Relocation assistance and land acquisition policies
Correction, 27828

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
Sierra Pacific Power Co., 27902

Education Department
NOTICES
Grants; availability, etc.:
Magnet schools assistance program, 27898

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission
NOTICES
Crude oil cases; modified restitutionary policy; policy statement, 27899

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Inorganic arsenic, 27956
Air quality implementation plans; approval and promulgation; various States:
Arkansas, 27840
Maryland, 27841
Air quality planning purposes; designation of areas:
Arizona, 27843
California, 27844
Pennsylvania, 27845
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
New Hampshire, 27878
Toxic substances:
Testing requirements—
Diethylene glycol butyl ether and diethylene glycol butyl ether acetate, 27880
NOTICES
Agency information collection activities under OMB review, 27912

Executive Office of the President
See Presidential Documents.

Farm Credit Administration
NOTICES
Organization, functions, and authority delegations:
Assistant to the General Counsel et al., 27912

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 27830, 27832
(2 documents)
Grob-Werke, 27828, 27829
(2 documents)
SAAB-Fairchild, 27833
Transition areas, 27833–27835
(3 documents)
PROPOSED RULES
Airworthiness directives:
Boeing, 27874

NOTICES
Environmental statements; availability, etc.:
Nashville Metropolitan Airport, TN; meeting, 27927
Organization, functions, and authority delegations:
Salt Lake City, UT; flight service station, 27928

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
Popcorn, 27862

Federal Deposit Insurance Corporation
RULES
Applications, requests, submittals, authority delegations, etc.:
Cease-and-desist orders and written agreements acceptance, 27826
NOTICES
Meetings; Sunshine Act, 27929, 27930 (2 documents)
Privacy Act; systems of records, 27912

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Generic determination of rate of return on common equity for public utilities
Correction, 27835
NOTICES
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 27904, 27905 (2 documents)
Small producer certificates, applications, 27906
Preliminary permits surrender:
Lorida Associates, 27907
Moore Haven Associates, 27907
Small power production and cogeneration facilities; qualifying status:
Crescent Hotels et al., 27907
Applications, hearings, determinations, etc.:
Consolidated Gas Supply Corp. et al., 27908
Danner, George, III, et al., 27909
Joint Ypsilanti Recreation Organization, 27909
Northwest Central Pipeline Corp., 27909
Pacific Gas Transmission Co., 27910
United Gas Pipe Line Co. et al., 27910

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
Other insurance or guaranty; technical correction
(Editorial Note: This document appearing at page 26228 of the **Federal Register** of July 22, 1986, was incorrectly identified in that issue's table of contents)

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
American Security Corp. et al., 27914
First Florida Banks, Inc.; correction, 27914
Mellon Bank, N.A., 27914
United Jersey Banks, 27914

Fish and Wildlife Service
NOTICES
Marine mammal and endangered and threatened species permit applications, 27917
Marine mammal permit applications, 27918

Food and Nutrition Service
NOTICES
Child nutrition programs:
Cash in lieu of commodities; value of donated commodities for 1986 school year, 27897

Health and Human Services Department
See Health Care Financing Administration; Human Development Services Office; Public Health Service

Health Care Financing Administration
RULES
Medicaid and medicare:
Hospitals; conditions of participation
Correction, 27847

Housing and Urban Development Department
RULES
Government National Mortgage Association:
Attorneys-in-fact list, 27838
Mortgage and loan insurance programs:
Multifamily housing and low cost and moderate income; correction, 27837
NOTICES
Agency information collection activities under OMB review, 27916

Human Development Services Office
NOTICES
Grants; availability, etc.:
Developmental disabilities basic support and protection and advocacy formula programs; Federal allotment to States, 27915

Immigration and Naturalization Service
PROPOSED RULES
Nonimmigrant classification:
Change of nonimmigrant classification; students in educational institutions in the U.S., etc., 27867

Interior Department
See Fish and Wildlife Service; Land Management Bureau

International Trade Administration
NOTICES
Meetings:
Computer Systems Technical Advisory Committee, 27897, 27898 (4 documents)

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Guilford Transportation Industries, Inc., et al., 27918

Justice Department
See Immigration and Naturalization Service

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Oregon, 27917

National Aeronautics and Space Administration
RULES
Acquisition regulations, 27848

National Highway Traffic Safety Administration
NOTICES
Meetings:
National Highway Safety Advisory Committee, 27928

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
High seas salmon off Alaska, 27860
Ocean salmon off coasts of Washington, Oregon, and California, 27859

Nuclear Regulatory Commission
RULES
Export and import of nuclear equipment and material:
Tritium; licensing requirements, 27825
Plants and materials, physical protection:
Entry searches of individuals at reactor facilities, 27822
Safety related equipment; designation and protection of vital locations, etc.; miscellaneous amendments, 27817
Production and utilization facilities; domestic licensing:
Safety goals, policy statement, 28044
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Fitness for duty; personnel with unescorted access to protected areas, 27872
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 27919
Nuclear power plant personnel; fitness for duty; policy statement, 27921

Occupational Safety and Health Administration
NOTICES
Meetings:
Methylenedianiline Mediated Rulemaking Advisory Committee, 27919

Patent and Trademark Office
RULES
Trademark cases:
Fees; revision, 28052

Presidential Documents
ADMINISTRATIVE ORDERS
Semiconductors; trade between the U.S. and Japan (Memorandum of July 31, 1986), 27811

Public Health Service
NOTICES
Medical technology scientific evaluations:
Ambulatory cardiac catheterization performed in ambulatory surgical centers, etc., 27915
Chemical aversion therapy in treatment of alcoholism, 27916
Organization, functions, and authority delegations:
Health Resources and Services Administration, 27915

Small Business Administration
NOTICES
Agency information collection activities under OMB review, 27923
Applications, hearings, determinations, etc.:
Trico Venture, Inc., 27924

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 27930

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration
NOTICES
Agency information collection activities under OMB review, 27924
Aviation proceedings:
Agreements filed; weekly receipts, 27926
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 27926
Hearings, etc.—
Westates Airlines, Inc., 27925

Treasury Department
See also Customs Service
NOTICES
Agency information collection activities under OMB review, 27928

Veterans Administration
NOTICES
Agency information collection activities under OMB review, 27928

Separate Parts In This Issue

Part II
Environmental Protection Agency, 27956

Part III
Nuclear Regulatory Commission, 28044

Part IV
Department of Commerce, Patent and Trademark Office, 28052

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
July 3, 1986 27811

7 CFR
51 27813
906 27816
Proposed Rules:
447 27862
1136 27866

8 CFR
Proposed Rules:
214 27867
248 27867

9 CFR
Proposed Rules:
92 27871

10 CFR
50 (2 documents) 27817, 28044
73 (2 documents) 27817, 27822
110 27825
Proposed Rules:
50 27872

12 CFR
303 27826

13 CFR
310 27828

14 CFR
39 (5 documents) 27828–27830, 27832, 27833
71 (3 documents) 27833–27835
Proposed Rules:
39 27874

18 CFR
37 27835

19 CFR
6 27836
Proposed Rules:
113 27875

24 CFR
207 27837
221 27837
300 27838

33 CFR
161 27839
Proposed Rules:
117 27877

37 CFR
1 28052
2 28052

40 CFR
52 (2 documents) 27840, 27841
61 27956
81 (3 documents) 27843–27845
Proposed Rules:
52 27878
795 27880
799 27880

42 CFR
405 27847
482 27847

48 CFR
1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 27848
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 27848
1853 27848

50 CFR
661 27859
674 27860

Federal Register
Vol. 51, No. 149
Monday, August 4, 1986

Presidential Documents

Title 3—

The President

Memorandum of July 31, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(d)(2) of the Trade Act of 1974, as amended (19 U.S.C. 2411(d)(2)), I have determined that the Agreement between the Governments of Japan and the United States of America Regarding Trade in Semiconductors, to be implemented by an exchange of letters, is an appropriate and feasible response to the practices of the Government of Japan with respect to trade in semiconductors. These practices have been investigated by the United States Trade Representative in response to a petition filed under Section 301 on June 14, 1985, by the Semiconductor Industry Association.

The Agreement, which will be in effect until March 31, 1991, will open up the Japanese market to U.S. exports of semiconductors and will help prevent dumping of semiconductors in the United States and third country markets. It achieves a key objective of Section 301, which is to open foreign markets to U.S. exports. The satisfactory resolution of this problem demonstrates our ability to help U.S. industries and to resolve contentious trade disputes through the negotiating process.

Fulfillment of the objectives and commitments in the Agreement is of critical importance. Therefore, I hereby determine that any future failure by the Government of Japan to meet the commitments and objectives of the Agreement would be inconsistent with a trade agreement or an unjustifiable act that would burden or restrict U.S. commerce. Therefore, I instruct the United States Trade Representative to report to me on: (1) the results of each of the periodic consultations held pursuant to the Agreement; and (2) annual improvements in foreign-based semiconductor firms' access to the Japanese market. I also direct the United States Trade Representative and the Secretary of Commerce to take any further action that may become appropriate to implement the Agreement. Finally, the Section 301 proceeding on semiconductors shall be suspended and shall remain suspended as long as the objectives and commitments of the Agreement are fulfilled.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, July 31, 1986.

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Rules and Regulations

Federal Register
Vol. 51, No. 149
Monday, August 4, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Pistachio Nuts in the Shell

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes voluntary United States Standards for Grades of Pistachio Nuts in the Shell. Industry requested establishment of these grade standards in order to provide a common trading language for this product. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated as "nonmajor." It would not result in an annual effect on the economy of $100 million or more. There would be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It would not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrtor of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it establishes U.S. Standards for Grades of Pistachio Nuts in the Shell which have been requested by the U.S. pistachio nut industry and are in-line with current industry practices. Compliance with these standards will not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of such entities vis-a-vis large businesses. In addition, the standards are voluntary; so a pistachio nut grower, handler, shipper, or receiver need not have their product certified under these standards; thereby incurring no costs at all.

A proposal to establish United States Standards for Grades of Pistachio Nuts in the Shell (7 CFR 51.2540-51.2546) was published in the Federal Register on April 11, 1986 (51 FR 12522-12524). Copies were distributed to various individuals, growers, handlers, receivers, grocery store chains, Federal and State government officials, and industry associations or organizations for review and comment.

A total of twelve comments were received and included comments from the Association of Food Industries, Inc., whose membership includes virtually all the importers and import agents of pistachios, and the California Pistachio Association, whose membership includes growers, handlers, and interested persons nationally and internationally.

Six commentors expressed general support of the rule as proposed. One commentor indicated that the rule should have established acceptable aflatoxin levels and the remaining five commentors felt that the proposed rule did not take into consideration the various varieties of pistachio nuts produced worldwide, the specific characteristics of each variety, and the diversity of cultural and marketing practices. They made a number of comments concerning grade names, size, definitions of defects, and tolerances. The following paragraphs discuss the establishment of aflatoxin levels and the concerns of the remaining five commentors.

The procedures for sampling and aflatoxin testing of domestic and imported in-shell and shelled pistachio nuts have been established by a memorandum of understanding between AMS and the Food and Drug Administration and are outlined in a notice printed in the June 13, 1986, Federal Register (51 FR 21626-21628). Therefore, there is no need to establish such levels in voluntary U.S. grade standards.

Five commentors indicated that imported nuts would only meet the proposed U.S. No. 2 grade and felt that this was a negative connotation. They requested that the grade names be U.S. Fancy, U.S. No. 1 Extra, and U.S. No. 1. USDA denied a similar request to change the grade names when the standards were in the early stages of development. This request is also denied because USDA's Uniform Grade Nomenclature Policy, established in 1976, states the grade names for new U.S. standards for grades of fresh fruits, vegetables, nuts, and other special products shall be U.S. Fancy, U.S. No. 1, U.S. No. 2, and U.S. No. 3 (7 CFR 51.100). Each of the grades for pistachios have the same requirements and definitions with the separation of grade levels being established by tolerances only.

Another area of concern was the lack of a definition and tolerances for dark or brown centers of the kernels, possibly caused by improper drying and which are said to be accompanied by an inferior taste. Dark centers would be objectionable under these grade standards when they become dark enough to materially detract from the appearance or the edible or marketing quality of the kernel or the lot and the tolerances for damage by internal defects (Table II) would be applied.

Five commentors request USDA to revise the definition of non-split shells (§ 51.2545(b)(1)(i)) to allow shell halves to be squeezed so that the gauge could freely slip into the opening. This request is not considered practical because it would be possible for shell halves separated on only a small portion of the suture to be considered split if enough pressure were applied. However, the word "freely" has been removed from the definitions of non-split shells and not-split on suture so that shipments containing obviously split nuts with closely aligned but otherwise distinctly

separated shell halves would not be unduly penalized or rejected.

Related to this comment, USDA was also requested to increase the tolerance for non-split shells and shells not-split on suture in the U.S. No. 1 and U.S. No. 2 grades. An increase in the tolerance would reduce the number of open shells in the lot and tolerances for unopened shells in European in-shell pistachio nut standards are more restrictive than the proposed tolerances for the U.S. No. 2 grade. Therefore, these tolerances remain as proposed.

Four commentors pointed out that nuts in the Small size category (§ 51.2544) should not be subject to a larger vs. smallest size ratio of 1.70 because this is an open ended category.

USDA does not agree because disregarding this requirement in the small size or any other size category would be inconsistent with good packing practices. A lot could consist of a wide range of nut sizes, but could meet count requirements for any size if the amount of large and small nuts were in the right proportions. It is desirable that nuts packed to meet a specific size should be fairly uniformly sized within the lot, otherwise size categories would be of little value.

These size designations are not a requirement of the grades and size may also be designated in terms of a count range per ounce. The 1.70 large vs. small requirement is only applicable when a size designation in Table IV or a count range per ounce is specified.

Five commentors indicated that the tolerances for shell pieces and blanks and for foreign material would be too restrictive, especially in the No. 2 grade.

In other U.S. grade standards for nuts and in some European grade standards, these tolerances are less restrictive in the lower grades. With this in mind, USDA is allowing tolerances of 2 percent for shell pieces and blanks and .50 percent for foreign material in the U.S. No. 2 grade.

Three commentors requested that the tolerance for loose kernels should not be the same in all grades, but should gradually decrease for U.S. No. 2 to U.S. Fancy. A four percent tolerance in all grades is not considered objectionable.

Three commentors requested that the definitions of light and dark stained shells be referenced to color charts that would be subject to review and comment by the industry. In addition, they pointed out that imported nuts are not as bright and attractive as California grown nuts and that separate color charts should be developed for each.

At the present time, USDA is developing visual aid color guides that would provide an objective guide for determining whether or not a shell would be considered stained and will give the industry the opportunity to periodically review this guide.

In addition to the changes discussed above, § 51.2540, paragraph b, is changed to clarify that dissimilar forms, such as natural versus dyed, or raw versus salted, cannot be commingled, and the tolerance chart and definition of foreign material are reworded to clarify that the presence of any amount of foreign material in the form of glass, metal, or live insects (zero tolerance) would prohibit the lot from meeting any U.S. grade.

It is found that it is contrary to industry interests to postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these U.S. grade standards effective upon publication in that: (1) The domestic pistachio nut harvest begins on or about September 1; (2) the domestic industry has requested that these standards be effective prior to the 1986 harvest; and (3) the use of the standards is voluntary and making them effective upon publication would cause no extra labor or expense for industry or consumers.

These changes have been incorporated into this final rule and the following establishes voluntary United States Standards for Grades of Pistachio Nuts in the Shell.

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables and other products (inspection, certification, and standards).

PART 51—[AMENDED]

Accordingly, 7 CFR Chapter I is amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended, [7 U.S.C. 1622, 1624].

2. A new subpart consisting of § 51.2540 through 51.2546 is added to read as follows:

Subpart—United States Standards for Grades of Pistachio Nuts in the Shell

Sec.
51.2540 General.
51.2541 Grades.
51.2542 Tolerances.
51.2543 Application of tolerances.
51.2544 Size.
51.2545 Definitions.
51.2546 Average moisture content determination.

Subpart—United States Standards for Grades of Pistachio Nuts in the Shell

§ 51.2540 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to pistachio nuts in the shell which may be in a natural, dyed, raw, roasted, or salted state; or in any combination thereof. However, nuts of obviously dissimilar forms shall not be commingled.

§ 51.2541 Grades.

"U.S. Fancy," "U.S. No. 1", and "U.S. No. 2" consist of pistachio nuts in the shell which meet the following requirements.

(a) Basic requirements:
(1) Free from:
(i) Foreign material;
(ii) Loose kernels;
(iii) Shell pieces;
(iv) Particles and dust; and,
(v) Blanks.
(b) Shells:
(1) Free from:
(i) Non-split shells; and
(ii) Shells not split on suture.
(2) Free from damage by:
(i) Adhering hull material;
(ii) Light stained;
(iii) Dark stained; and
(iv) Other External (shell) defects.
(c) Kernels:
(1) Well dried, or, very well dried when specified in connection with the grade.
(2) Free from damage by:
(i) Minor mold;
(ii) Immature kernels;
(iii) Kernel spots; and,
(iv) Other Interal (kernel) defects.
(3) Free from serious damage by:
(i) Minor insect or vertebrate injury;
(ii) Insect damage;
(iii) Mold;
(iv) Rancidity;
(v) Decay; and,
(vi) Other Internal (kernel) defects.
(d) The nuts are of a size not less than $^{8}/_{64}$ inch in diameter as measured by a round hold screen.
(e) For tolerances see section 51.2542.

§ 51.2542 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances in Tables I, II, III and paragraph (b) of this section are provided.

TABLE I

Factor	U.S. Fancy	U.S. No. 1	U.S. No. 2
External (shell) defects (tolerances by weight)	Percent	Percent	Percent
(a) Non-split and not split on suture	2	3	6
(1) Non-split, included in (a)	1	2	4
(b) Adhering hull material	1	1	2
(c) Light stained	7	12	20
(1) Dark stained, included in (c)	2	3	4
(d) Damage by other means	1	1	1
(e) Less than 25/64 inch in diameter:			
(1) Small size	5	5	5
(2) Medium, Large, Extra Large sizes	1	1	1

TABLE II

Factor	U.S. Fancy	U.S. No. 1	U.S. No. 2
Internal (kernel) defects (tolerances by weight)	Percent	Percent	Percent
(a) Damage	3	6	8
(b) Serious Damage	3	4	5
(1) Insect damage, included in (b)	1	2	3
Total internal defects shall not exceed	5	8	10

TABLE III

Factor	U.S. Fancy	U.S. No. 1	U.S. No. 2
Other defects (tolerances by weight)	Percent	Percent	Percent
(a) Shell pieces and blanks	1	1	2
(b) Foreign material (No glass, metal or live insects shall be permitted)	.25	.25	.50
(c) Particles and dust	.25	.25	.25

(b) No lot shall contain more than 4 percent loose kernels, by weight.

§ 51.2543 Application of Tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample drawn from containers throughout the lot. Any container or group of containers which have nuts obviously different in quality or size from those in the majority of containers shall be considered a separate lot and shall be sampled separately.

§ 51.2544 Size.

Nuts may be considered as meeting a size designation specified in Table IV or a range in number of nuts per ounce, provided, the weight of 10 percent, by count, of the largest nuts in a sample does not exceed 1.70 times the weight of 10 percent, by count, of the smallest and the average number of nuts per ounce is not more than one-half nut above or below the extremes of the range specified.

Table IV

Size designation	Average number of nuts per ounce [1]
Extra Large	20 or less.
Large	21 to 25.
Medium	26 to 30.
Small	31 or more.

[1] Before roasting.

§ 51.2545 Definitions.

(a) "Well dried" means the kernel is firm and crisp.

(b) "Very well dried" means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7.00 percent or is specified. (See § 51.2546].

(c) "Loose kernels" means edible kernels or kernel portions which are out of the shell and which cannot be considered particles and dust.

(d) "External (shell) defects" means any blemish affecting the hard covering around the kernal. Such defects include, but are not limited to, non-split shells, shells not split on suture, adhering hull material, light stained, or dark stained.

(1) "Damage" by external (shell) defects means any specific defect described in paparagaph (d)(1) (i) through (v) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual shell or of the lot (For tolerances see § 51.2542, Table I).

(i) "Non split shells" when shells are not opened or are partially opened and will not allow an 1 5/1000 (.018) inch thick by ¼ (.25) inch wide gauge to slip into the opening.

(ii) "Not-split on suture" when shells are split other than on the suture and will allow an 1 5/1000 (.018) inch thick by ¼ (.25) inch wide gauge to slip into the opening.

(iii) "Adhering hull material" when an aggregate amount covers more than one-sixteenth of the total shell surface, or when readily noticeable on dyed shells.

(iv) "Light stained" on raw or roasted nuts, when an aggregate amount of yellow to light brown or light gray discoloration is noticeably contrasting with the predominate color of the shell and affects more than one-fourth of the total shell surface or, on dyed nuts, when readily noticeable.

(v) "Dark stained" on raw or roasted nuts, when an aggregate amount of dark brown, dark gray or black discoloration affects more than one-eighth of the total shell surface, or, on dyed nuts, when readily noticeable.

(e) "Internal (kernel) defects" means any blemish affecting the kernel. Such defects include, but are not limited to evidence of insects, immature kernels, rancid kernels, mold, or decay.

(1) "Damage" by internal (kernel) defects means any specific defect described in paragraphs (e)(1) (i) through (iii) of this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot (For tolerances see § 51.2542, Table II).

(i) "Minor white or gray mold" when not readily noticeable on the kernel and which can be easily rubbed off with the fingers.

(ii) "Immature kernels" when they are excessively thin or when a kernel fills less than three-fourths, but not less than one-half the shell cavity.

(iii) "Kernel spots" when dark brown or dark gray and aggregating more than one-eighth of the surface of the kernal.

(2) "Serious damage" by internal (kernel) defects means any specific defect described in paragraphs (e)(2) (i) through (v) of this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or the marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2542, Table II).

(i) "Minor insect or vertebrate injury" when the kernel shows conspicuous evidence of feeding.

(ii) "Insect damage" when an insect, insect fragment, web or frass is attached to the kernel. No live insects shall be permitted.

(iii) "Mold" when any type is readily visible on the shell or kernel.

(iv) "Rancidity" means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(v) "Decay" when any portion of the kernel is decomposed.

(f) "Other defects" means defects which cannot be considered internal defects or external defects. Such defects include, but are not limited to shell pieces, blanks, foreign material or particles and dust. The following shall be considered other defects. (For tolerances see § 51.2542, Table III).

(1) "Shell pieces" means half shells or pieces of shell which are loose in the sample.

(2) "Blank" means a split or a non-split shell not containing a kernel or containing a kernel that fills less than one-half the shell cavity.

(3) "Foreign material" means leaves, sticks, loose hulls or hull pieces, dirt, rocks, insects or insect fragments not attached to nuts, or any substance other than pistachio shells or kernels. Glass, metal or live insects shall not be permitted.

(4) "Particles and dust" means pieces of nut kernels which will pass through a 5/64 inch round opening.

§ 51.2546 Average mositure content determination.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when nuts are specified as "very well dried." It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Nuts shall be obtained from a randomly drawn composite sample and only kernels shall be used for analysis. Shells and all non-kernel material shall be removed immediately before anaylsis. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and the owner of any equipment used.

Done in Washington, DC on: July 30, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-17478 Filed 8-1-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 908

[Valencia Orange Regulation 373, Amdt. 1; Valencia Orange Regulation 374]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 373 increases the quantity of fresh shipments of California-Arizona Valencia oranges that may be shipped to market during the period July 25–31, 1986. Regulation 374 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period August 1–7, 1986. The amendment and regulation are needed to balance the supply of fresh Valencia oranges with market demand for the periods specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: Regulation 373, Amendment 1 (§ 908.673) is effective for the period July 25–31, 1986. Regulation 374 (§ 908.674) is effective for the period August 1–7, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The amendment and regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and regulation are consistent with the marketing policy for 1985-86. The committee met publicly on July 29, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports that the market for Valencia oranges has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which this amendment and regulation are based became available and the effective dates necessary to effectuate the declared policy of the act. Interested persons were given opportunity to submit information and views on the amendment and regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and the effective dates.

List of Subjects in 7 CFR Part 908.

Marketing agreements and orders, California, Arizona, Oranges, Valencias.

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

Authority: (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

2. Section 908.673 is revised to read as follows:

§ 908.673 Valencia Orange Regulation 373.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 25, 1986, through July 31, 1986, are established as follows:

(a) District 1: 368,000 cartons; (b) District 2: 432,000 cartons; (c) District 3: Unlimited cartons.

3. Section 908.674 is added to read as follows:

§ 908.674 Valencia Orange Regulation 374.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 1, 1986, through August 7, 1986, are established as follows:

(a) District 1: 391,000 cartons; (b) District 2: 459,000 cartons; (c) District 3: Unlimited cartons.

Dated: July 30, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 86-17506 Filed 7-31-86; 9:28 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to provide a more safety-conscious safeguards system while maintaining current levels of protection. The revised requirements are a result of a Commission review of the impact of safeguards requirements on plant safety objectives. The amendments include refined policy on vital area access controls, authority to suspend safeguards measures during safety emergencies, protection of certain items of security equipment which significantly impact nuclear plant security, and key and lock controls. This amendment supports the Commission's goal of increased assurance that power reactors are adequately protected against sabotage by an insider.

EFFECTIVE DATE: September 3, 1986.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Dwyer, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4773.

SUPPLEMENTARY INFORMATION:

Background

Commission experience since the implementation of § 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage," indicated a need to clarify the policy for the designation and protection of vital areas containing safety-related equipment. Particular concern has been focused on ensuring that security measures do not impede plant safety. Inspections have indicated certain physical security equipment is not protected as vital, despite the fact that sabotage of this equipment could significantly impact plant safety. In addition, experience with key and lock controls indicates that § 73.55 can be modified to provide greater flexibility while continuing to maintain adequate plant protection. The Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety.

On March 12, 1980, the NRC published proposed amendments regarding access controls to 10 CFR Part 73 (45 FR 15937). These amendments were the precursor to the Miscellaneous Amendments. Public comment was invited and received. The Commission significantly revised these requirements to assure adequate access for safety purposes while accomplishing the safeguards objectives.

On August 1, 1984, the NRC published the revised amendments to 10 CFR Part 73 (49 FR 30735) again for public comment as part of the three-rule Insider Safeguards Rules package. This action was taken based upon the substantial changes that had been made to the rule since its prior publication in proposed form. The original 120-day public comment period was extended an additional 90 days at public request and expired on March 7, 1985. Changes to the proposed rule have been made in response to public comment and to provide clarification where necessary. A summary of public comment and, where appropriate, a description of the changes that resulted from them follows. Minor conforming amendments to 10 CFR Part 50, which were subject to public comment as part of the Access Authorization Rule of the Insider Safeguards Rules (49 FR 30726), are included within these amendments because of the Commission's disapproval of final issuance of the Access Authorization Rule. No public comment was received on these conforming amendments to 10 CFR Part 50.

Response to Public Comments

A total of 34 letters of comment were received from utilities, utility associations, contractors, private citizens, and State governments.

The comments addressed a number of issues and have been placed in the following categories:

1. Vital Island Concept/Independent Vital Islands
2. Barriers and Intrusion Alarms
3. Access Lists/Logs
4. Suspension of Safeguards Measures
5. Key/Lock/Badge
6. Clarification of Terms

1. *Vital Island Concept/Independent Vital Islands.* The proposed rule introduced the concept of the "vital island" as one or more vital areas protected as a single entity. Many commenters recommended that the adoption of the vital island concept be voluntary in that mandating the adoption could result in unnecessary expense and would not enhance the current level of protection. The commenters indicated that adequate vital equipment protection is afforded under current regulations. Further, commenters questioned how this revised policy was to interface with on-going NRC vital area designation studies and evolving vital area designation policy.

Concerning independent vital islands, commenters felt that use of the term was in conflict with the intent of the rule because it would result in compartmentalization contrary to the rule's intent. It was further suggested that the designation of the vital areas or equipment should remain site specific rather than requiring specific areas or items of equipment be protected as vital at all sites. Commenters also noted that the development of independent vital islands is unnecesary expense because protection against the insider is already achieved through internal barriers and access controls.

The Commission has considered the public comment on the vital island concept and "independent" vital islands (which in general indicated opposition or confusion) and is cognizant of the evolving nature of the NRC's vital area designation policy. The Commission further notes that present regulations, i.e., 10 CFR 73.55, do not preclude the consolidation of one or more vital areas into a single vital area if approved by the NRC. Based upon these three factors, the Commission believes the most appropriate course of action is to delete the vital island and "independent vital island portions from the rule on an interim basis pending finalization of policy in this area. The supporting Regulatory Guide will be revised accordingly. This deletion also impacts the "sunshine door" provision of these amendments. Further discussion of this issue is found in the discussion of the second category of issues, 2. Barriers and Intrusion Alarms. The remaining proposed amendments of the Miscellaneous Amendments are not impacted and go forward as a final rule.

2. *Barriers and Intrusion Alarms.* Commenters expressed concern regarding the intent of proposed § 73.55(d)(7)(i)(D) to lock and protect by an active intrusion alarm system all exterior doors leading to vital islands which are not otherwise controlled. It was felt this could result in protection in excess of the current required double barriers. It was also recommended that the term "active" be changed to "activated."

Further, proposed § 73.55(c)(2) requires the physical barriers at the perimeter of the protected area to be separated from any other barrier designated as a physical barrier for a

vital area or island within the protected area. Commenters felt that this requirement may not be practical in areas such as the gate house and the water intake structure which often times are located at the protected area perimeter.

As previously noted, the vital island concept has been deleted from the rule on an interim basis pending finalization of vital area policy. Because of this fact, the Commission believes the requirement to lock and alarm all exterior doors leading to vital areas (or islands) can also be deleted on an interim basis. The rule has been modified accordingly. With regard to the term "active," the Commission agrees with the comment in this area and has changed the term "active" to "activated" within the regulatory text to allow for the use of balanced magnetic switches in accordance with current procedures.

Concerning the separation of protected area and vital area barriers, the Commission agrees that this provision may be difficult or impractical to implement in certain situations. While no revision has been made to the requirement, the protection of vital areas which are located on the perimeter of the protected area will be considered to meet the requirement if the structure is Seismic Category I reinforced concrete and, in the case of the essential service water intake structure designated as vital, the following criteria are met with regard to the intake structure. It (1) is secured with screening or grill to prevent introduction of large objects, (2) has double barriers on any non-water side that contains a movable opening, (3) is equipped with heavy duty doors that provide delay to penetration, sufficient to allow arrival of facility response force, (4) is kept under continual surveillance for rapid assessment, and (5) is protected by volumetric intrusion alarm system consistent with criteria found in Regulatory Guide 5.44, "Perimeter Intrusion Alarm Systems." This criteria will be added to the rule's supporting Regulatory Guide.

One commenter noted that the proposed amendment deleted "ceiling" from § 73.55(e)(1) regarding elements of a central alarm station that must be bullet-resisting. This was an error of omission and the word "ceiling" has been added to this provision.

3. *Access Lists/Logs.* Proposed requirements under § 73.70(d) require all individuals granted unescorted vital area access to log their name, badge number, time of entry, reason for entry, and time of exit when entering or exiting a vital area (except the reactor control room). Further proposed revisions to § 73.55(d)(7) require access lists to be updated and approved by cognizant licensee management at least once every 31 days. Commenters indicated that both of these requirements are unnecessary and over burdensome. In a related matter, commenters suggested that the term "log" be revised to allow use of a procedure or system.

The Commission disagrees that the term "log" needs revision. The intent of this provision is to retain a record of all personnel who entered or exited vital areas at a facility; this may be accomplished through a written log or computerized system. The Commission believes that requiring data explaining the reason for vital area entry may be overly burdensome and limit the use of computerized systems. Hence this particular portion of the requirement has been deleted. This is considered acceptable because the requirement to update access lists at least once every 31 days will remain. This assures that only individuals whose specified duties require access to vital areas are allowed access.

4. *Suspension of Safeguards Measures.* Several commenters specifically supported the amendment addressing the suspension of safeguards measures. It was requested that clarification be provided regarding the licensee's responsibility of reporting the suspension of safeguards measures. It was recommended that suspension of safeguards measures be tested during drills and exercises in order to adequately evaluate the system. Additional guidance was requested regarding how this provision is to interface with existing regulation of a similar nature, i.e., § 50.54 (x) and (y).

In response to public comment the Commission has revised the provision for the suspension of safeguards measures to directly relate to the provisions of § 50.54 (x) and (y) and to indicate explicitly that the suspension is reportable under § 73.71. Guidance on the suspension of safeguards measures during drills and exercises has been included in the amendment's supporting Regulatory Guide.

5. *Key/Lock/Badge Issues.* Proposed 73.55(d)(9) requires that keys, locks, combinations, and related equipment be changed whenever a person who had access to them is terminated for untrustworthiness, unreliability, or inadequate work performance. Commenters suggested it was inappropriate to require that keys and locks be changed when an individual is terminated for inadequate work performance. It was indicated that unless there was cause for questioning the individual's reliability or trustworthiness that the requirement to change the keys and locks was an unnecessary expense. It was further suggested that the term "related equipment" be changed to "related access control devices" and the requirement to change all keys, locks, combinations, and related equipment at least every 12 months should be optional. Commenters also noted that provisions should be made for keys, locks and combinations to be changed or *rotated.* Finally commenters felt that it is not practical to retrieve identification badges prior to termination as proposed in § 73.55(d)(7)(i)(C).

After reviewing the comments, the Commission has amended the rule to change the term "related equipment" to "related access control device" to better clarify the Commission's intent. Additionally, the rule has been revised to allow for rotation of keys, locks, and combinations.

The Commission believes the requirement to change or rotate access devices whenever an individual is terminated for inadequate work performance has merit and has made no revision to the rule in this regard. The Commission believes employees terminated for inadequate work performance may have a high potential for becoming disgruntled ex-employees. It is considered merely prudent action to change or rotate the locks and combinations to which these individuals had access. Additionally, the Commission believes the changing or rotating of all access devices at least every 12 months is a minimum requirement necessary to reduce the potential for compromise.

The intent of the requirement to retrieve identification badges prior to termination is to disallow these employees from having unescorted facility access after they have received notice of termination but have not been formally terminated from employment. This accommodates licensee processing time. No revision has been made to the rule in this respect; however, the issue will be clarified in the rule's supporting Regulatory Guide.

6. *Clarification of Terms.* Commenters requested clarification of 10 terms or phrases contained in the proposed Miscellaneous Amendments. These terms have either been dropped because of deletion of the vital island concept and independent vital island provision or have been covered previously in this discussion.

Environmental Impact: Categorical Exclusion

The NRC has determined this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval numbers 3150–0002 and 3150–0011.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Priscilla A. Dwyer, Safeguards Reactor Regulatory Requirements Section, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4773.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule affects electric utilities that own and operate nuclear power plants and are dominate in their respective service areas. These utilities do not fall within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. These regulations will affect some nuclear power industry contractors and vendors most of whom are large concerns who service the industry.

Backfit Analysis

As required by 10 CFR 50.109 (50 FR 38097), the Commission has completed a backfit analysis for this final rule. This analysis, along with a summary regulatory analysis, follows.

I. Summary Regulatory Analysis

1. Objective. The objective of this rule is to provide a more safety-conscious safeguards system while maintaining current levels of safeguards protection at nuclear power plants. Commission experience since the implementation of § 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage," indicated a need to clarify policy for the protection of vital areas containing safety-related equipment. Particular concern has been focused on ensuring that security measures do not impede plant safety. Inspections have indicated that certain physical security equipment is not protected as vital, despite the fact that the equipment safeguards vital areas containing essential safety-related equipment. In addition, experience with key and lock controls indicates that § 73.55 can be modified to provide greater flexibility while continuing to maintain adequate plant protection. This amendment further supports the Commission's goal of increased assurance that power reactors are adequately protected against sabotage by an insider.

2. Description of Activity. The amendments include revised policy on:

(1) Vital area access controls to establish and update at least every 31 days access lists for each vital area, and to design the access authorization system to accommodate the potential need for rapid ingress or egress of individuals during emergencies,

(2) Authority to suspend safeguards measures during safety emergencies,

(3) The protection of onsite secondary power supply systems for alarm annunciator equipment and nonportable communications equipment as vital, and

(4) Key and lock controls to assure such devices are changed or rotated at least once every 12 months or when there is evidence of compromise or an individual with access to the keys or locks is terminated for cause.

3. Potential Change in Risk to the Public from Accidental Offsite Release of Radioactive Material. Permitting unauthorized personnel access to vital areas at power reactors and not protecting certain equipment which safeguards vital areas containing essential safety-related equipment creates significant potential for harm. To the extent that this regulation establishes certain controls for vital area access and protection of certain equipment as vital, the risk of radiological sabotage and offsite release of radioactive material (risk to the public) is reduced.

4. Potential Impact on Radiological Exposure of Facility Employees. Assuring that safeguards measures (particularly in the area of access/egress controls to vital areas) do not have an adverse impact on plant safety during emergencies reduces the potential impact on radiological exposure of facility employees.

Further, protection of specific security equipment as vital which has not previously been protected as vital reduces the risk of the equipment being sabotaged and, hence, reduces the risk of a radioactive release. Thus, this action also reduces the potential impact on radiological exposure of facility employees.

5. Installation and Continuing Costs.

Implementation Cost Per Site: $10.2K; Annual Operational Savings Per Site: $15.0K (due to key and lock control revisions).

6. Potential Safety Impact of Changes in Plant or Operational Complexity.

(a) Maintaining current access lists to vital areas will increase plant safety by helping to assure that only authorized individuals are granted access to these areas.

(b) Designing a facility's access authorization system to accommodate the need for rapid ingress/egress of individuals during emergencies reduces the complexity of plant operation during safety-related emergencies.

(c) Authority to suspend safeguards measures during safety-related emergencies reduces the complexity of plant operations during such emergencies.

(d) Changing or rotating keys and locks annually or when access is suspended for cause, as opposed to when any individual with access to keys or locks changes duty, reduces the complexity of plant operations.

7. Estimated Resource Burden on the NRC.

Implementation Cost Per Existing Site: $4.3K; Implementation Cost Per New Site: none; Operational Costs: none.

Existing resource skills are adequate. FTE requirements are reflected in budget documents.

8. Potential Impact of Differences in Facility Type or Age. No potential impact is noted of differences in facility type or age on the relevance or practicality of implementing this rule.

9. The Proposed Rule is final.

II. Justification

1. Increased Protection of the Public Health and Safety. In addition to providing a more safety-conscious security system while maintaining adequate security, the Miscellaneous Amendments contain revised policy on vital access controls, authority to suspend safeguards measures during emergencies, protection of specific

security equipment as vital, and key and lock controls. Each of these measures contributes to the Commission's goal to provide increased assurance against the insider threat at nuclear power plants. With respect to vital area access controls, increased assurance that only authorized individuals are granted unescorted access to vital areas reduces the potential for access by unauthorized individuals intent upon committing radiological sabotage. Controlling access to these areas, including the use of access lists updated every 31 days, contributes significantly to the protection of the public health and safety because of the sensitive nature of vital areas. Authority to suspend safeguards measures during safety-related emergencies will facilitate plant access by emergency response personnel. For this reason certain site emergencies with the potential to result in a radioactive release might be mitigated in a more timely manner by emergency response personnel, thereby preventing a radioactive release. In this situation, the protection of the public health and safety would be significantly increased. The specific security equipment that would be protected as vital under these amendments are onsite secondary power supplies for alarm annunciator equipment and nonportable communications equipment. Protection of this equipment as vital will help assure proper operation of the central alarm station during a safeguards emergency, and, further, will help assure communications with local law enforcement agencies (LLEA) in such an emergency. The ability of the site security force to respond to site emergencies in a cohesive, timely manner, and to call upon LLEA, if needed, significantly increases the assurance that the public health and safety will be adequately assured. Finally, reducing the operational complexity of key and lock controls while assuring that these controls remain adequate, will permit safer plant operation. This results in an overall increase in the protection of the public health and safety. In conclusion, these amendments, in toto, will result in a significant increase in the protection of the public health and safety.

2. Cost Implications. The cost of the Miscellaneous Amendments associated with implementation is estimated to be $10.2K per site. However, the annual operational savings per site is estimated to be $15.0K. This is primarily due to key and lock control revisions which in part require changing or rotating keys or locks when individuals with access to them have access suspended for cause rather than simply because of change of duty.

3. Priority and Scheduling. Based upon the resulting substantial increase in the overall protection of the public health and safety as discussed above, this backfit is considered to be high priority.

In addition, the proposed changes do not affect the schedules of other regulatory activities ongoing at the facility.

4. Findings. The Commission finds that issuance of this final rule will result in a substantial increase in the overall protection of the public health and safety, and direct and indirect costs are justified in view of the increase in protection.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 73

Hazardous materials-transportation, Incorporation by reference, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 50 and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.34, paragraph (d) is revised to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(d) *Safeguards contingency plan.* Each application for a license to operate a production or utilization facility that will be subject to §§ 73.50, 73.55, or 73.60 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in Appendix C to 10 CFR Part 73. The safeguards contingency plan shall include plans for dealing with threats, thefts, and radiological sabotage, as defined in Part 73 of this chapter, relating to the special nuclear material and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each application for such a license shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information as set forth in Appendix C to 10 CFR Part 73 are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)[7]

3. In § 50.54, paragraph (p) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p)(1) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan, or guard training and qualification plan prepared pursuant to §§ 50.34(c), 50.34(f), or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to § 50.54(d) or Part 73, as applicable, without prior approval

[7] A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to the licensee's license pursuant to § 50.90.

(2) The licensee may make changes to plans referenced above without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards (for enrichment and reprocessing facilities) or the Director of Nuclear Reactor Regulation (for nuclear reactors), U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made. Commencing on February 9, 1983, Licensees in Regions I and II, and commencing on October 1, 1983, licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards (for enrichment and reprocessing facilities) or to the Director of Nuclear Reactor Regulation (for nuclear reactors). Prior to the safeguards contingency plan being put into effect, the licensee shall have:

(i) All safeguards capabilities specified in the safeguards contingency plan available and functional,

(ii) Detailed procedures developed according to Appendix C to Part 73 available at the licensee's site, and

(iii) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed Procedures.

(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. To this end, the licensee shall provide for a review at least every 12 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

4. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

5. In § 73.55, the introductory paragraph, paragraph (a), paragraphs (d)(7) and (d)(9), and paragraph (e)(1) are revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

By Dec. 2, 1986 each licensee, as appropriate, shall submit proposed amendments to its security plan which define how the amended requirements of paragraphs (a), (d)(2), (d)(7), (d)(9), and (e)(1) will be met. Each submittal must include a proposed implementation schedule for Commission approval. The amended safeguards requirements of these paragraphs must be implemented by the licensee within 180 days after Commission approval of the proposed security plan in accordance with the approved schedule.

(a) *General performance objective and requirements.* The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. The physical protection system shall be designed to protect against the design basis threat of radiological sabotage as stated in § 73.1(a). To achieve this general performance objective, the onsite physical protection system and security organization must include, but not necessarily be limited to, the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section. The Commission may authorize an applicant or licensee to provide measures for protection against radiological sabotage other than those required by this section if the applicant or licensee demonstrates that the measures have the same high assurance objective as specified in this paragraph and that the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by paragraphs (b) through (h) of this section and meets the general performance requirements of this section. Specifically, in the special cases of licensed operating reactors with adjacent reactor power plants under construction, the licensee shall provide and maintain a level of physical protection of the operating reactor against radiological sabotage equivalent to the requirements of this section. In accordance with § 50.54 (x) and (y) of Part 50, the licensee may suspend any safeguards measures pursuant to § 73.55 in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specification that can provide adequate or equivalent protection is immediately apparent. This suspension must be approved as a minimum by a licensed senior operator prior to taking the action. The suspension of safeguards measures must be reported in accordance with the provisions of § 73.71. Reports made under § 50.72 need not be duplicated under § 73.71.

* * * * *

(d) Access requirements. * * *

(7) The licensee shall:

(i) Establish an access authorization system to limit unescorted access to vital areas during nonemergency conditions to individuals who require access in order to perform their duties. To achieve this, the licensee shall:

(A) Establish current authorization access lists for each vital area. The access lists must be updated and reapproved by the cognizant licensee manager or supervisor at least once every 31 days. The licensee shall include on the access list only individuals whose specific duties require access to vital areas during nonemergency conditions.

(B) Positively control, in accordance with the access list established pursuant to paragraph (d)(7)(i) of this section, all points of personnel and vehicle access to vital areas.

(C) Revoke, in the case of an individual's involuntary termination for cause, the individual's unescorted facility access and retrieve his or her identification badge and other entry devices, as applicable, prior to or simultaneously with notifying this individual of his or her termination.

(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas.

(ii) Design the access authorization system to accommodate the potential need for rapid ingress or egress of individuals during emergency conditions or situations that could lead to emergency conditions. To help assure this, the licensee shall:

(A) Ensure prompt access to vital equipment.

(B) Periodically review physical security plans and contingency plans and procedures to evaluate their potential impact on plant and personnel safety.

* * * * *

(9) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise. All such keys, locks, combinations, and related access control devices must be changed or rotated at least every 12 months. Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated. The licensee shall issue keys, locks, combinations, and other access control devices to protected areas and vital areas only to persons granted unescorted facility access. Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access must be changed or rotated.

(e) *Detection aids.* (1) All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm. The onsite central alarm station must be located within a building in such a manner that the interior of the central alarm station is not visible from the perimeter of the protected area. This station must not contain any operational activities that would interfere with the execution of the alarm response function. The walls, doors, floor, ceiling, and any windows in the walls and in the doors of the central alarm station shall be bullet-resisting. On site secondary power supply systems for alarm annunciator equipment and non-portable communications equipment as required in paragraph (f) of this section must be located within vital areas.

* * * * *

6. In § 73.70, paragraph (d) is revised to read as follows:

§ 73.70 Records.

* * * * *

(d) A log indicating name, badge number, time of entry, and time of exit of all individuals granted access to a vital area except those individuals entering or exiting the reactor control room.

* * * * *

Dated at Washington, DC, this 29th day of July 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-17500 Filed 8-1-86; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

Searches of Individuals at Power Reactor Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its requirements for entry searches at power reactor facilities. This amendment is needed to clarify requirements for searches of individuals at these facilities. This amendment requires equipment searches of all individuals seeking access to protected areas, except on-duty law enforcement officers. Additionally, pat-down searches will be required when detection equipment fails or cause to suspect exists. This amendment supports the Commission's goal of increased assurance that power reactors are adequately protected against sabotage by an insider.

EFFECTIVE DATE: September 3, 1986.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Dwyer, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4773.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1977, the Nuclear Regulatory Commission published in the **Federal Register** (42 FR 10836) effective amendments to its regulation in 10 CFR Part 73, "Physical Protection of Plants and Materials." One requirement included in these amendments was to search individuals for firearms, explosives, and incendiary devices. The regulations specified that the search function would be conducted by a physical search or by use of equipment capable of detecting such devices. The requirements involving procedural measures were scheduled for implementation by August 24, 1977 or earlier if equipment was installed. Since equipment available at that time was not capable of detecting all types of explosives and incendiary devices, the search requirement called for additional measures, such as random physical searches, to provide high assurance of protecting against sabotage. The implementation date of May 25, 1977, for procedural measures was extended under **Federal Register** notice (42 FR 51607) dated September 29, 1977 to August 24, 1978, the date when all the requirements of § 73.55 were to have been required, pending further review by the Commission. The implementation was further extended by a series of notices (43 FR 34765, 44 FR 11201, 44 FR 47758, and 44 FR 65969) until on December 1, 1980 (45 FR 79492) when the Commission revised the regulation to read: ". . . a licensee need not implement the physical search requirement of paragraph (d)(1) of this section for individuals who are regular employees of the licensees . . . until 60 days following Commission approval of security plan amendments which define how the final search requirements of paragraph (d)(1) of this section, will be met." At the same time, the Commission issued proposed revisions to 10 CFR 73.55(d)(1) to finalize requirements for personnel searches at protected area entry portals of power reactors. The Commission revised the rule in response to public comment and the recommendations made by the Committee to Review Safeguards Requirements at Power Reactors (Safety/Safeguards Committee). This Committee had the overall task of studying power reactor safeguards requirements and practices to determine

whether actual or potential conflicts exist between plant safety and safeguards objectives.

On August 1, 1984, the proposed rule was again published for public comment (49 FR 30738) as part of the proposed Insider Safeguards Rules because of the interrelationship among the rules with regard to protection against the insider threat. The original 120-day comment period on the Insider Safeguards Rules was extended an additional 90 days at licensee request and expired on March 7, 1985.

Summary of Public Comment

A total of 28 letters of comments was received from licensees, licensee groups, licensee contractors, and unions. A summary of the public comments follows:

1. *Use of Pat-Down Searches.* The proposed rule requires pat-down searches of all individuals requiring facility access, except on-duty law enforcement officers, when search equipment fails or cause to suspect exists. A broad range of comments was received on this issue. Some comment indicated full-time facility employees should never be pat-down searched because pat-down search of long-standing, trusted employees is degrading. Other comment recommended a distinction be made on pat-down search requirements for individuals with unescorted versus escorted access. Finally, comments recommended that only 5 or 10% of individuals requiring access should be pat-down searched when search equipment failed, giving credit for use of random checks and citing the time-consuming nature of pat-down searches. Some comment went as far to say that pat-down searches were unnecessary when search equipment failed because the equipment is usually repaired before individuals being searched are aware of equipment failure. The Commission has rejected revising the rule in response to the above noted comments for two reasons. First, allowing no search of any kind upon equipment failure provides no protection against an insider who may have surreptitiously originated the failure of the equipment. Second, the use of random pat-down searches was explored by the Safety/Safeguards Committee. As a result of its study, the Committee believed that most licensees had successfully adjusted to 100% equipment search, and that 100% pat-down searches would be more easily implemented than those randomly implemented.

2. *Individuals Exempt from Equipment Search.* The proposed rule requires all persons entering the protected area of nuclear power reactors, except on-duty law enforcement officers, to be searched using metal and explosive detectors. Comment recommended that persons exempt from equipment search requirements should also include emergency response personnel and armed security force members. As a result of the Commission's review of potential conflicts between safeguards and safety requirements conducted by the Safety/Safeguards Committee, the Commission is revising 10 CFR 73.55(a) to provide authority to licensees to suspend safeguards measures as required to accommodate emergency response. This revision is being made as part of the Miscellaneous Amendments rule published elsewhere in this issue. The Commission has rejected the inclusion of armed security force members within the search exemption. The distinction has been made between law enforcement officers and members of a facility's security force because law officers for the most part will be under continual escort. This provides an increased degree of assurance of protection against a malevolent act. Security personnel on the other hand are for the most part provided unescorted access based upon screening. Because the Commission's design basis threat includes an internal threat of an insider including an employee in any position, the Commission believes the time to equipment search members of the security force is insignificant compared to the increased assurance against a malevolent insider gained by equipment search.

3. *Time Lapse for Implementation of Pat-Down.* The proposed rule requires the licensee to immediately implement pat-down searches of all individuals, except on-duty law enforcement officers, requiring facility access when search equipment fails. Some comment indicated that immediate implementation of the pat-down search procedure was not necessary. These commenters recommended that a lapse ranging from 4 to 72 hours was acceptable prior to implementing pat-down searches. Justification for the time lapse included the fact that individuals being searched would be unaware of equipment malfunction and that the majority of individuals being searched were long-time, trusted employees. The Commission has rejected revising the rule in response to these comments because it maintains the belief that contraband searches are necessary elements of a reactor security program and immediate pat-down searches are easily implemented.

On the basis of public comment received, no changes were made to the proposed search requirements and the Commission is now publishing these amendments in final form.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0002.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555. Single copies of the analysis may be obtained from Priscilla A. Dwyer, Safeguards Reactor Regulatory Requirements Section, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4773.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this revised rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule affects electric utilities that own and operate nuclear power plants and are dominant in their respective service areas. These utilities do not fall within the definition of small businesses set forth in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. These regulations will affect some nuclear power industry contractors and vendors most of whom are large concerns who service the industry.

Backfit Analysis

As required by 10 CFR 50.109 (50 FR 38097), the Commission has completed a backfit analysis for this final rule. This analysis, which includes a summary regulatory analysis, follows.

I. Summary Regulatory Analysis

1. Objective

The objective of this rule is to clarify requirements for entry searches of individuals at power reactor facilities to preclude the introduction of contraband into protected areas at such facilities. This amendment supports the Commission goal of increased assurance that power reactors are adequately protected against acts of sabotage.

2. Description of Activity

This amendment requires firearms and explosive detection equipment searches of all individuals seeking access to protected areas at power reactors, except on-duty law enforcement officers, to detect unauthorized firearms, explosives, and incendiary devices. Additionally, pat-down searches are required when detection equipment fails or cause to suspect exists.

The amendment, in effect, adds a requirement for pat-down searches in the event of equipment failure and codifies interim procedures established by the Commission in 1977 (42 FR 51507). At that time an effective amendment to 10 CFR 73.55, Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage, was issued amending prefatory language to § 73.55 to relieve licensees from conducting pat-down searches of site employees in accordance with § 73.55(d)(1). Section 73.55(d)(1) requires the licensee to control all points of personnel and vehicular access to the protected area at power plants through identification and search. The search function for detection of firearms, explosives, and incendiary devices must be conducted by either a physical search or by use of equipment capable of detecting such devices. The amendment in 1977 stated that search procedures implemented using only equipment capable of detecting firearms, explosives, and incendiary devices satisfied the performance requirements of § 73.55(d)(1) until final search procedures were issued. The Search Requirements Rule represents these final search procedures.

3. Potential Change in Risk to the Public From Accidental Offsite Release of Radioactive Material

Allowing unauthorized firearms, explosives, or incendiary devices to enter the protected area at power reactors creates significant potential for harm. To the extent that this program improves the licensees' ability to prohibit the introduction of such contraband that would otherwise be carried into the plant, the risk of radiological sabotage and offsite release of radioactive material (risk to the public) is reduced.

4. Potential Impact on Radiological Exposure of Facility Employees

To the extent that the risk of radiological sabotage is reduced, the potential impact on radiological exposure of facility employees would also be reduced. Otherwise, with respect to radiological exposure, there is no impact on facility employees.

5. Installation and Continuing Costs

Implementation Cost Per Existing Site (which consists of submittal of security plan amendments), minimal.

Implementation Cost Per New Site, $16.4K.

Annual Operational Cost Per Site, minimal.

6. Potential Safety Impact of Changes in Plant or Operational Complexity

Not applicable.

7. Estimated Resource Burden on the NRC

Implementation Costs All Sites—Licensing Review, $205.0K.

Operational Costs, minimal.

Existing resource skills are adequate. FTE requirements are reflected in budget documents.

8. Potential Impact of Differences in Facility Type or Age

No potential impact is noted of differences in facility type on the relevance or practicality of implementing this rule. However as indicated in Item 5, existing facilities would incur no cost because of interim procedures presently in place, while new facilities would incur the costs indicated in Item 5.

9. The Proposed Rule is final.

II. Justification

1. Increased Protection of the Public Health and Safety

The stated objective for this rule is to clarify requirements for entry searches of individuals to preclude the introduction of contraband such as unauthorized firearms, explosives, and incendiary devices into the protected area at power reactors. This rule established a regulatory base for procedures which are at present interim.

Prohibiting unauthorized firearms, exposives, and incendiary devices from the facility through use of state-of-the-art equipment search will significantly reduce the risk and potential for harm from malevolent acts involving such contraband. The NRC design basis threat against which the physical protection at nuclear power plants is targeted is designed to assure the protection of the public health and safety. The design basis threat includes acts of radiological sabotage. Unauthorized use of the contraband devices previously cited could contribute significantly to the success of an attempted act of radiological sabotage. If the potential for successful completion of radiological sabotage can be decreased, the overall protection of the public health and safety would be increased. Therefore, the significant decrease in the potential for successful completion of radiological sabotage that will result from prohibiting unauthorized contraband onsite will result in a substantial increase in the overall protection of the public health and safety.

2. Cost Implications

The cost of the Search Requirements associated with implementation would be insignificant for existing sites (because licensees have at present implemented interim procedures requiring electronic search equipment) and $16.4K for future sites, with no significant annual operating cost.

3. Priority and Scheduling

Based upon the resulting substantial increase in the overall protection of the public health and safety, as discussed above, this backfit is considered to be high priority.

In addition, the proposed changes do not affect the schedules of other regulatory activities on-going at affected facilities.

4. Findings

The Commission finds that (1) issuance of this final rule will result in a substantial increase in the overall protection of the public health and safety, and (2) direct and indirect costs are justified in view of the increase in protection.

List of Subjects in 10 CFR Part 73

Hazardous materials-transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC

is adopting the following amendment to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1); 73.26(b)(3), (h)(6), and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 73.55, paragraph (d)(1) is revised to read as follows:

§ 73.55 Requirement for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d) *Access Requirements.* (1) The licensee shall control all points of personnel and vehicle access into a protected area. Identification and search of all individuals unless otherwise provided herein must be made and authorization must be checked at these points. The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. The licensee must subject all persons except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into protected areas, the licensee shall conduct a physical pat-down search of that individual. Whenever firearms or explosives detection equipment at a portal is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who would otherwise have been subject to equipment searches. The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure his or her ability to respond or to summon assistance. By Dec. 2, 1986 each licensee shall submit revisions to its security plan which define how the final search requirements of this paragraph will be met. The final search requirements of this package must be implemented by the licensee within 60 days after Commission approval of the proposed security plan revisions.

* * * * *

Dated at Washington, DC, this 29th day of July 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–17499 Filed 8–1–86; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 110

Licensing Requirements for the Export of Tritium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for the export of tritium under a general license. The revised regulations impose more restrictive limits on the amount of dispersed tritium which can be contained in luminescent light sources and other items exported under the general license. The revision precludes the export of large tritium light sources under the general license unless the light source is installed in an aircraft as a safety device. This action is necessary to address the concerns of the Executive Branch and other governments that the current general license regulations covering tritium luminescent light sources may represent a potential proliferation risk. This amendment also defines tritium in order to clarify its meaning to exporters and to conform NRC's export regulations with international guidelines.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Elaine O. Hemby, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7984 or Joanna M. Becker, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7630.

SUPPLEMENTARY INFORMATION: The Executive Branch has requested that the NRC amend its regulations concerning the export of tritium contained in luminescent light sources under a general license. This action is being taken as a result of a review of tritium export controls by the NRC and the Executive Branch and consultations with other governments which indicated that the current general license may represent a potential proliferation concern. Section 110.23(a)(2) now permits individual shipments of tritium in light sources of up to 10,000 curies to any country except those listed in the embargoed destinations (§ 110.28) with no other limitations. The general license was intended to cover exports of many small tritium light sources for non-nuclear related commercial products (e.g., watch dials, exit signs, etc.). At the time the current general license was proposed, it was considered unnecessary to impose upper limits on the amount of tritium contained in each light source because most light sources contained only a few millicuries of tritium up to a maximum of 25 curies. However, in recent years, the maximum size of light sources has increased significantly. For example, tritium light panels when used for remote airfields contain five light sources of 60 curies each, for a total of 300 curies of tritium per panel. In these larger quantities, it becomes technically easier to extract bulk tritium from the light sources and divert it to proliferation sensitive end uses. To address this concern, the current general license provisions of § 110.23(a)(2) which now covers tritium in light sources and § 110.23(a)(3) which now covers all other items containing dispersed tritium in quantities of less than 100 curies per item will be combined into a single general license provision. The revised § 110.23(a)(2) will limit exports of tritium in any dispersed form under a general license to 10 curies per item, 1,000 curies per shipment, and 10,000 curies per person per year to any one country. A limited general license authority will be retained at § 110.23(a)(3) to allow the continuation of the export of tritium in amounts exceeding 10 curies per item when installed in aircraft as a luminescent safety device. This limited general license authority is appropriate because many aircraft tritium light sources exceed 10 curies and, when installed in aircraft, are of minimal proliferation concern.

In summary, exporters of any item containing dispersed tritium including a luminescent light source in quantities greater than 10 curies per item will be required to obtain a specific NRC license before they may export the item unless the item is a light source installed in an aircraft as a safety device.

BEST COPY AVAILABLE

NRC also will be amending its regulations in § 110.2, the list of definitions, to add a definition of tritium reading as follows: "Tritium" means not only tritium but also includes compounds and mixtures containing tritium in which the ratio of tritium to hydrogen by atoms exceeds one part in 1,000. This action clarifies the meaning of tritium to exporters, and also conforms NRC's export regulations with international export control guidelines. Finally, a minor editorial change will be made in the wording of the current general license provision pertaining to the export of bulk tritium in § 110.23(c) for the purpose of making it consistent with the language in the other general license entries.

The impact of this rulemaking action on exporters is expected to be minimal. NRC believes less than five exporters of tritium light sources will be affected per year. With respect to exports of other forms of dispersed tritium, NRC also believes less than five exporters will be affected per year.

Because this rulemaking involves a foreign affairs function of the United States and since the Department of State has requested expeditious action, notice of proposed rulemaking and public procedure thereon are not required by the Administrative Procedure Act (5 U.S.C. 553 (a)(1)), and the final rule may be made effective upon publication in the **Federal Register.**

Environmental Impact: Categorical Exclusion

The NRC has determined that the final rule in Part 110 is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0036.

Regulatory Analysis

The Commission has prepared a regulatory analysis of this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW, Washington, DC. Single copies of the analysis may be obtained from Elaine Hemby, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7984.

Backfit

The NRC has determined that the backfit analysis provisions in 10 CFR 50.109 do not apply to amendments to 10 CFR Part 110 because Part 110 applies only to the export and import of nuclear facilities, material, and components and does not deal with domestic facilities. Therefore, a backfit analysis has not been prepared for these amendments.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

Pursuant to the Atomic Energy Act of 1954, as amended the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553 the following amendments to 10 CFR Part 110 are published as a document subject to codification.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 110.1(b)(2) also issued under Pub. L. 96–533, 94 Stat. 3138 (42 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c. and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Seaction 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553.

For the purpose of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 110.20–110.29, 110.50, and 110.120–110.129 also issued under secs. 161b. and i., 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b) and (i)); and § 110.53 also issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 110.2 a definition of "Tritium" is added after "Transport" to read as follows:

§ 110.2 Definitions.

* * * * *

"Tritium" means not only tritium but also includes compounds and mixtures containing tritium in which the ratio of tritium to hydrogen by atoms exceeds one part in 1,000.

* * * * *

3. In § 110.23, paragraphs (a)(2), (a)(3), and (c) are revised to read as follows:

§ 110.23 Export of byproduct material.

(a) * * *

(2) Tritium in any dispersed form (e.g., luminescent light sources, luminescent paint, accelerator targets, calibration standards, labeled compounds) in quantities of 10 curies or less per item. No person may export more than 1,000 curies per shipment or 10,000 curies per year to any one country.

(3) Tritium in luminescent safety devices installed in aircraft.

* * * * *

(c) A general license is issued to any person to export bulk, undispersed tritium in individual shipments of 100 curies or less to any country not listed in § 110.28 or § 110.29. No person may export more than 10,000 curies per year to any one country.

* * * * *

Dated at Bethesda, Maryland, this 22d day of July 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86–17481 Filed 8–1–86; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control; Modification of Cease-and-Desist Orders and Acceptance of Written Agreements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending its regulations to delegate to the FDIC's Director of the Division of Bank Supervision and, where confirmed in writing by the Director, to the Director's delegate(s) authority to modify any cease-and-desist order at the request of the bank or other respondent. Authority is also being delegated to the Board of Review in two instances. First, to accept written agreements in connection with sections 8(a) and 8(b) of the Federal Deposit

Insurance Act and second, to act on any matter which the Director of the Division of Bank Supervision, or the Director's delegate(s) may not wish to act under authority delegated pursuant to § 303.12(c). The changes are expected to allow the FDIC to administer its capital forbearance program efficiently and to provide greater operational flexibility in connection with the acceptance of written agreements relating to sections 8(a) and 8(b) of the Federal Deposit Insurance Act. The amendments would benefit both the FDIC and the banks. First, by allowing the FDIC to more efficiently modify orders issued pursuant to section 8(b) of the Federal Deposit Insurance Act when requested by the bank or other respondent. Second, by allowing the Director of the Division of Bank Supervision, or the Director's delegate(s), to refer any matter to the Board of Review, where action is not mandated under delegated authority and third, written agreements would be more expeditiously accepted in connection with the above-mentioned statutory enforcement actions.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Rita Wiles Ross, Senior Attorney, Legal Division, (202) 898–3743, or G. Michael Dew, Chief, Special Situations Section, Division of Bank Supervision, (202) 898–6770, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Part 303 of the FDIC regulations, which among other things contains various delegations of authority by the FDIC's Board of Directors, is being amended to delegate to the FDIC Director of the Division of Bank Supervision and, where confirmed in writing by the Director, to the Director's delegate(s) authority to modify any order issued pursuant to section 8(b) of the Federal Deposit Insurance Act at the request of the bank or other respondent. The Board of Directors also considers it appropriate that the delegations of authority to the Board of Review be extended to include the acceptance of any written agreement in connection with sections 8(a) or 8(b) of the Federal Deposit Insurance Act.

The delegations will aid the FDIC in administering the capital forbearance program efficiently by providing broader delegations of authority for the modification of a cease-and-desist order at the request of the bank or other respondent. The delegations will also provide for greater operational flexibility in the acceptance of written agreements in connection with sections 8(a) and 8(b) of the Federal Deposit Insurance Act.

Regulatory Considerations

Because the amendments are procedural in nature and will not alter any rights or obligations of any insured bank, they are being published in final form without opportunity for public comment under authority of 5 U.S.C. 553(b)(A) (Administrative Procedure Act), which exempts from required publication for comment interpretive rules, general statements or policy, and rules of agency practice and procedure. The amendments, which constitute nonsubstantive changes to the FDIC rules of practice and procedure, are being made immediately effective inasmuch as the requirement found in 5 U.S.C. 553(d) that substantive rules be published not less than 30 days prior to their effective date is inapplicable. As these amendments neither alter existing nor create new recordkeeping or reporting requirements, the Paperwork Reduction Act is inapplicable. Finally, the requirements of the Regulatory Flexibility Act are inapplicable as the amendments are not subject to required public comment under the Administrative Procedure Act.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks, banking.

For the reasons set out above, Part 303 of Title 12 of the Code of Federal Regulations is amended as set forth below.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 continues to read as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. Section 303.0 is amended by adding a new paragraph (b)(7) to read as follows:

§ 303.0 Scope and definitions.

* * * * *

(b) * * *

(7) The term "Director's delegate(s)" refers to any Associate Director of the Division of Bank Supervision or, in the event the title of Associate Director becomes obsolete, any official within the Division of comparable authority.

3. Paragraphs (c)(3)(iv), (c)(7) and (c)(12) of § 303.12 are revised to read as follows:

§ 303.12 Delegation of authority to act on enforcement matters.

* * * * *

(c) * * *

(3) * * *

(iv) *Modification of section 8(b) orders.* The authority to modify an order issued pursuant to section 8(b) of the Act at the request of the bank or other respondent is delegated to the Director of the Division of Bank Supervision and, where confirmed in writing by the Director of the Division of Bank Supervision, to the Director's delegate(s).

* * * * *

(7) *Action under delegated authority not mandated.* The Director of the Division of Bank Supervision and the Deputy General Counsel for Regional and Corporate Affairs and/or the Board of Review, may act on any matter on which the regional director and/or regional counsel may not wish to act under authority delegated pursuant to this § 303.12(c) The Board of Review may act on any matter on which the Director of the Division of Bank Supervision, or the Director's delegate(s) may not wish to act under authority delegated pursuant to this § 303.12(c). Any aggrieved party or person may petition the Board of Directors for review of any action taken under authority of this § 303.12(c).

* * * * *

(12) *Acceptance of written agreements.* The Board of Review is hereby delegated authority to accept or enter into on behalf of the FDIC any written agreement with an insured bank, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank, pertaining to any matter which may be addressed by the FDIC pursuant to

sections 8(a) and 8(b) of the Federal Deposit Insurance Act.

* * * * *

By Order of the Board of Directors.

Dated at Washington, DC, this 29th day of July, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-17476 Filed 8-1-86; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 310

[Docket No. 60586-6096]

Relocation Assistance and Land Acquisition Policies

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule; correction.

SUMMARY: EDA is correcting an error in the amendatory language which appeared in its final rule concerning relocation assistance and land acquisition policies, published in the Federal Register July 7, 1986 (51 FR 24516).

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel for Operations and Administration, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7009, Washington, DC 20230, (202) 377-5441.

SUPPLEMENTARY INFORMATION: At 51 FR 24516, language used to amend EDA's regulation at 13 CFR Part 310 was incorrect. Since Part 310 was removed by publication of a uniform regulation on February 27, 1986 (51 FR 7000) in order for EDA to make changes to its Part 310, it must be added back into the CFR.

In light of this, the following corrections are being made:

1. The words of issuance section which reads: "Accordingly, for the reasons set forth above, 13 CFR Part 310 is amended as follows:" is revised to read: "Accordingly, for the reasons set forth above, 13 CFR Chapter III is amended as follows:"

* * * * *

2. Paragraph 2 which reads:

"2. Part 310 is being amended to refer applicants and recipients (states and political subdivisions of states) to 15 CFR Part 11. Therefore, § 310.1 is revised to read as follows:", is revised to read as follows: "2. Part 310 is being added to refer applicants and recipients (states and political subdivisions of states) to 15 CFR Part 11."

* * * * *

Dated: July 28, 1986.

Orson G. Swindle, III,

Assistant Secretary for Economic Development.

[FR Doc. 86-17257 Filed 8-1-86; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-29; Amdt. 39-5356]

Airworthiness Directives; Grob Werke GmbH & Co. KG GROB G 109B Motorgliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires limiting the never exceed speed and provides for the modification of the motorglider after which the speed limitation will no longer be applicable on Grob-Werke GmbH Model GROB G 109B motorgliders. The AD is needed to prevent the possibility of encountering aileron flutter which could result in aileron failure and consequent loss of control of the motorglider.

DATES: Effective—July 31, 1986.

Compliance—As required in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register on July 31, 1986.

ADDRESSES: The technical information and modification parts specified in this AD may be obtained from GROB Systems, Inc., Aircraft Division, I-75 and Airport Drive, Bluffton, Ohio 45817. A copy of the technical notes is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts, 08103.

FOR FURTHER INFORMATION CONTACT: Mr. Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, Telephone 513.38.30 ext. 2710, or Vito A. Pulera, ANE-172, New York Aircraft Certification Office, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791-6220.

SUPPLEMENTARY INFORMATION: During the course of the type certification of the GROB G 109B motorglider in Sweden, it was found that at high speeds combined with very high aileron and/or rudder deflections, aileron flutter may be induced at a certain excitation frequency. Thereupon, the Luftfahrt-Bundesamt (LBA) issued an AD to limit the maximum speed of the aircraft. Subsequently, GROB-WERKE GmbH issued Technical Information No. TM 817-20, dated January 29, 1986, approved by the LBA on March 7, 1986, which requires that the aircraft be modified by installing a rudder damper, additional mass-balance to the ailerons, and stiffening the upper and lower rudder hinge attachment points on the vertical tail.

The LBA issued another AD requiring compliance with the provisions of Technical Information No. TM 817-20 on motorgliders operated under the Federal Republic of Germany registration. Incorporation of TM 817-20 deletes the airspeed limitation requirement. Aileron flutter may cause aileron failure and consequent loss of control of the motorglider.

The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of these motorgliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Grob-Werke GmbH Technical Information No. TM 817-20 and the issuance of AD's Nos. 85-218 Grob and 85-218/2 Grob by LBA. Based on the foregoing, the FAA has determined that the condition addressed by the LBA AD's is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued to require a speed limitation and provide for modification of the Grob-Werke GmbH Model Grob G 109B motorgliders.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by Reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

GROB-WERKE GmbH: Applies to Model Grob G 109B motorgliders (serial numbers 6200 through 6430 inclusive) certificated in any category.

Compliance is required as indicated, unless already accomplished.

To prevent the possibility of encountering aileron flutter which could result in the loss of control of the motorglider, accomplish the following:

(a) Within the next 5 hours time-in-service after the effective date of this AD:

(1) Attach a placard on the instrument panel adjacent to the airspeed indicator with the following wording: "NEVER EXCEED AIRSPEED (IAS): 190 km/h (100 kts)."

(2) Place a copy of this AD in the limitation section of the flight manual.

(b) Modification of the motorglider, by installing a rudder damper, additional mass-balance to the ailerons, and stiffening the upper and lower rudder hinge attachment points on the vertical tail, in accordance with the "Instructions" section of GROB-Werke GmbH Technical Information No. TM 817-20 dated Jan. 29, 1986, and GROB-WERKE GmbH Repair Instruction No.'s 817-20/1, 817-20/2, 817-20/3, dated Jan. 29, 1986, deletes the requirement for compliance with Paragraph (a).

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, telephone no. 513.38.30 ext. 2710 or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone no. 516-791-6680.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

Grob-Werke GmbH Technical Information No. 817-20, dated Jan. 29, 1986, and Grob-Werke GmbH Repair Instructions Nos. 817-20/1, 817-20/2, 817-20/3, dated Jan. 29, 1986, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Grob Systems Inc., Aircraft Division, I-75 and Airport Drive, Bluffton, Ohio 45817. These documents also may be examined at the Office of Regional Counsel, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket 86-ANE-29, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on July 31, 1986.

Issued in Burlington, Massachusetts, on July 8, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86-17419 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ANE-30; Amdt. 39-5365]

Airworthiness Directives; Grob Werke GmbH (Burkhart Grob) Models G103 TWIN II & G103A TWIN II ACRO Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires visual inspection and replacement of the front cockpit airbrake operating lever on Grob-Werke GmbH Models G103 TWIN II & G103A TWIN II ACRO gliders. The AD is needed to prevent failure of the front cockpit airbrake operating lever from cracks or buckling which could result in the loss of airbrake control.

DATES: Effective August 8, 1986.

Compliance Schedule—As prescribed in body of AD.

Incorporation by Reference—Approved by the Director of the Federal Register on August 8, 1986.

ADDRESSES: The technical information and modification parts specified in this AD may be obtained from Grob Systems, Inc., Aircraft Division, I-75 and Airport Drive, Bluffton, Ohio 45817. A copy of the technical notes is contained in Rules Docket Number 86-ANE-30, Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts, 08103, and may be examined between the hours of 8:00 am and 4:30 pm, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, Telephone 513.38.30 ext. 2710, or John J. Maher, ANE-172, New York Aircraft Certification Office, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791-6221.

SUPPLEMENTARY INFORMATION: Grob-Werke GmbH has determined that buckling or cracks may occur in the front cockpit airbrake operating lever in the area adjacent to the bearing support. The manufacturer has issued Technical Information No. TM 315-29, dated October 1, 1985, which requires a visual inspection and replacement of the front cockpit airbrake operating lever with a reinforced version. The Luftfahrt-Bundesamt (LBA) who has responsibility and authority to maintain the continuing airworthiness of these gliders in the Federal Republic of Germany has issued an AD requiring compliance with the provisions of Technical Information No. TM 315-29 on gliders operated under the Federal Republic of Germany registration. The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of these gliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design

certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Grob-Werke GmbH Technical Information No. TM 315–29 and the issuance of AD No. 85–222 Grob by the LBA. Based on the foregoing, the FAA has determined that the condition addressed by Grob Technical Information No. TM 315–29 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Applicability information is provided because not all aircraft serial numbers of the named models are affected by this AD.

Therefore, an AD is being issued to require visual inspection and replacement of the front cockpit airbrake operating lever on Grob-Werke GmbH Models G103 TWIN II and Model G103A TWIN II ACRO gliders. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

GROB WERKE GmbH (Burkhart Grob): Applies to Models G103 TWIN II and G103A TWIN II ACRO gliders (serial numbers 3501 through 3715 and 3544–K–1 through 3709–K–45) certificated in any category.

Compliance is required as indicated, unless already accomplished.

To prevent the failure of front cockpit airbrake operating lever, P/N 103B–4270, which could result in the loss of airbrake control, accomplish the following:

(a) Within the next 10 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 10 hours time-in-service after the last inspection, until compliance with Paragraph (c) is accomplished, visually inspect airbrake operating lever for cracks and buckling in accordance with Part 1 of the "Instructions" section of Grob Technical Information No. TM 315–29, dated October 1, 1985.

(b) If a defective lever is found during the inspection required by Paragraph (a) of this AD, before further flight, replace the airbrake operating lever with a reinforced airbrake operating lever in accordance with part 2 of the "Instructions" section of Grob Technical Information No. TM 315–29, dated October 1, 1985, and Grob Repair Instructions No. 315–29, dated October 1, 1985.

(c) Within the next 50 hours time-in-service but no later than 90 days after the effective date of this AD, replace any airbrake operating lever not replaced in accordance with Paragraph (b) of this AD with a reinforced airbrake operating lever in accordance with Part 2 of the "Instructions" section of Grob Technical Information No. TM 315–29, dated October 1, 1985, and Grob Repair "Instructions" No. 315–29, dated October 1, 1985.

Note.—Reinforced airbrake operating lever does not have a new part number. It can be identified as it is 40 mm wide versus 30 mm for the original part.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B–1040 Brussels, Belgium, Telephone No. 513.38.30 ext. 2710, or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791–6880.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

Grob Technical Information No. 315–29, dated October 1, 1985, and Grob Repair Instructions No. 315–29, dated October 1, 1985, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Grob Systems, Inc., Aircraft Division, I–75 and Airport Drive, Bluffton, Ohio 45817. These documents also may be examined at the Office of Regional Counsel, Room 311, Rules Docket 86–ANE–30, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective August 8, 1986.

Issued in Burlington, Massachusetts, on July 14, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86–17420 Filed 8–1–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–34–AD; Amdt. 39–5379]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires the inspection for corrosion, repair if necessary, and optional modification of the aft pressure bulkhead web and lower chord on certain Boeing Model 747 airplanes. This action is prompted by reports of corrosion in the aft pressure bulkhead web and lower chord that, if not corrected, could result in possible loss of cabin pressure.

EFFECTIVE DATE: September 10, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM–120S; telephone (206) 431–2923. Mailing address: FAA, Northwest

Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require inspection for corrosion and subsequent repair, if necessary, was published in the Federal Register on April 16, 1986 (51 FR 12670). The comment period for the proposal closed on June 2, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Comments were received from the Air Transport Association (ATA) of America on behalf of its members. One member asked if previous bulkhead inspections could be considered as credit. The AD allows credit for inspections that have been previously accomplished using the procedures defined in paragraph A., of the AD. Reinspection intervals will be based on the criteria of paragraph B., or C., whichever is appropriate.

Other ATA members requested changing the compliance time for airplanes with more than 40,000 flight hours from 6 months after the effective date of the AD to 12 months. The FAA does not concur. The severity of the corrosion reported in this area indicates a need to inspect airplanes as soon as practicable.

Other commenters requested that the area of inspection be clarified since the service bulletin defines three separate inspection areas. The FAA concurs that clarification is necessary. The area that requires inspection is the aft pressure bulkhead lower web and the lower chord of Body Station 2360 bulkhead. The bonded web lap joints and radial stiffener, and the APU duct pressure pan are not subject to this AD. The AD has been revised accordingly.

One commenter requested raising the repetitive inspection interval of 20,000 flight hours or 7 years, whichever occurs first, to 26,000 flight hours or 7 years to allow the AD to be complied with during its scheduled "D" check which occurs approximately at 5 year intervals. The FAA has determined that since corrosion is primarily calendar-time dependent, rather than flight-hour dependent, the flight-hour references have been deleted from paragraphs B., and C., of the AD.

One commenter suggested adding an inspection of the APU cutout for evidence of fatigue cracking. The FAA does not concur since this would increase the scope of the AD. This subject may be addressed in subsequent rulemaking.

One commenter suggested that the cargo or combi configurations should not be included in this AD, as they do not have an aft lavatory. The FAA does not concur. Severe corrosion of the lower chord of Body Station 2360 bulkhead has been found on a cargo airplane. Condensate can form on the inside surface of the aft pressure bulkhead and remain trapped against the Body Station 2360 bulkhead.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above.

It is estimated that 142 airplanes of U.S. registry will be affected by this AD, that it will take approximately 500 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,840,000 for the initial inspection cycle.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised) Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, certificated in any category.

To detect corrosion in the aft pressure bulkhead web and lower chord accomplish the following unless already accomplished:

A. Perform an inspection for corrosion of the aft pressure bulkhead lower web and the lower chord of Body Station 2360 bulkhead in accordance with Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, in accordance with the following schedule after the effective date of this AD:

1. Within 6 months for airplanes that have accumulated over 40,000 flight hours on the effective date of this AD;

2. Within 12 months for airplanes that have accumulated 20,000 to 40,000 flight hours on the effective date of this AD; and

3. Within 24 months or upon the accumulation of 20,000 flight hours, whichever occurs later.

B. For airplanes on which the aft pressure bulkhead lower web and the lower chord of Body Station 2360 bulkhead have not been modified with the reworked drain hole, application of leveling compound, trimming of insulation blanket, and an application of corrosion preventive compound in accordance with Boeing Service Bulletin 747-53-220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, repeat the inspections required by paragraph A., above, at intervals not to exceed three and one-half years.

C. For airplanes on which the aft pressure bulkhead lower web and the lower chord of Body Station 2360 bulkhead have been modified with the reworked drain hole, application of leveling compound, trimming of insulation blanket, and an application of corrosion preventive compound in accordance with Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, repeat the inspections required by paragraph A., above, at intervals not to exceed seven years.

D. If any corrosion is found in the aft pressure bulkhead lower web and the lower chord of Body Station 2360 bulkhead, repair before further flight in accordance with Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This

document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 10, 1986.

Issued in Seattle, Washington, on July 28, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17414 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-58-AD; Amdt. 39-5380]

Airworthiness Directives; Boeing Model 747 Series Airplanes With the Escape Slide Cool Gas Generator Inflation System Installed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new airworthiness directive (AD) which requires inspection and replacement, if necessary, of the self-locking nuts used to secure the escape slide inflation and the manual inflation cable to the cool gas generator trigger mechanism on certain Boeing Model 747 airplanes. This action is prompted by several reports of defective (insufficient locking torque) self-locking nuts. This condition, if not corrected, could prevent automatic inflation or manual inflation depending on which nut is loose. If both nuts are sufficiently loose the slide will not inflate. Failure to automatically inflate may cause a delay in inflation or the assumption that the slide is not usable, thus delaying and jeopardizing successful emergency evacuation of the airplanes.

EFFECTIVE DATE: September 10, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANM-120S; telephone (206) 431-2929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require inspection and replacement, if necessary, of the self-locking nuts used to secure the escape slide inflation cables to the cool gas generator trigger mechanism on certain Boeing Model 747 airplanes was published in the **Federal Register** on May 12, 1986 (51 FR 17364).

The comment period for the proposal, which ended June 30, 1986, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Only one substantive comment was received.

The manufacturer stated that the Boeing Service Bulletin has been revised (Revision 2 issued May 2, 1986) to reduce the torque value for tightening new or existing self-locking nuts and that the higher torque value listed in Revision 1 of the service bulletin may cause failure of the hollow support tube on which the self-locking nut is installed.

Since the torque value specified in Revision 1 of the service bulletin is not correct, the AD has been revised to require inspection in accordance with Boeing Alert Service Bulletin 747-25A2696, Revision 2. Operators that used the torque value listed in Revision 1 should inspect the escape slide inflation cable support tube to verify there is no damage as stated in Revision 2.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously noted.

It is estimated that 10 airplanes of U.S. registry will be affected by this AD. Approximately 16 manhours at a cost of $40 per manhour will be required to accomplish the required actions on each airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to $6,400.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 airplanes, certificated in any category, listed in Boeing Alert Service Bulletin 747-25A2696, Revision 1, dated January 31, 1986, that are equipped with the cool gas generator inflation systems. To ensure that the escape slide inflation system operates properly, accomplish the following, unless already accomplished:

A. Within three months after the effective date of this AD, inspect the escape slide inflation system to verify the installation of acceptable self-locking nuts and replace defective nuts, if necessary, in accordance with Boeing Alert Service Bulletin 747-25A2696, Revision 2, dated May 2, 1986, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 10, 1986.

Issued in Seattle, Washington, on July 28, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17415 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-128-AD; Amdt. 39-5381]

Airworthiness Directives; SAAB-Fairchild Corporation Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to SAAB-Fairchild airplanes, that requires replacement of the pitch trim synchronizer with an elevator synchronizer in which loading resistors have been added. This action is necessary to prevent uncommanded motion of the right-hand actuator to its end-limit position. Such uncommanded action could result in sudden nose up attitude without warning.

EFFECTIVE DATE: September 10, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to SAAB-Fairchild Product Support, S-58188, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires replacement of the pitch trim synchronizer with an elevator synchronizer on certain SAAB-Fairchild Model SF-340A airplanes, was published in the **Federal Register** on May 14, 1986 (51 FR 8842).

Interested parties have been afforded an opportunity to participate in the making of this amendment. One comment was received which supported the NPRM's intent but recommended that the compliance time be decreased from 60 days after the effective date of the final rule to 30 days. This was based on the commenter's concern for the problem, and the fact that only 15 airplanes and one manhour of work were involved.

The FAA does not agree. The proposed compliance time of 60 days provides an acceptable level of safety. Further, in order to decrease the compliance time from the 60 days specified in the NPRM, it would be necessary to withdraw the NPRM and reissue it for comments. This would delay the effective date.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $600.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Saab-Fairchild: Applies to Model SF-340A airplanes listed in Service Bulletin SF340-27-028, Revision 1, dated August 14, 1985, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To prevent uncommanded pitch trim inputs, accomplish the following:

1. Modify the elevator pitch trim synchronizer in accordance with SAAB-Fairchild Service Bulletin SF340-27-028, Revision 1, dated August 14, 1985.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to SAAB-Fairchild, Product Support, S-58188, Linkoping, Sweden. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 10, 1986.

Issued in Seattle, Washington, on July 28, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17417 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASO-14]

Designation of Transition Area; Montezuma, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Montezuma, Georgia, transition area to accommodate Instrument Flight Rule (IFR) aeronautical operations at Dr. C.P. Savage, Sr., Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Montezuma Nondirectional Radio Beacon (RBN) which is to be located 3.7 miles north of the airport, has been developed to serve the airport

and the controlled airspace is required for protection of IFR aeronautical activities.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Montezuma, Georgia, transition area (51 CFR 21569). This action will provide controlled airspace for aircraft executing a new instrument approach procedure to Dr. C.P. Savage, Sr., Airport. The operating status of the airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Montezuma, Georgia, transition area and lowers the base of controlled airspace in the vicinity of Dr. C.P. Savage, Sr., Airport from 1,200 to 700 feet above the surface.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 11.181 [Amended]

2. By amending § 71.181 as follows:

Montezuma, Georgia—[New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dr. C.P. Savage, Sr., Airport (Lat. 32°18'15" N., Long. 84°00'15" W.); within 4.5 miles each side of the 360° bearing from the Montezuma RBN (Lat. 32°22'02" N., Long. 84°00'27" W.), extending from the 6.5-mile radius area to 11 miles north of the RBN.

Issued in East Point, Georgia, on July 23, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86–17412 Filed 8–1–86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86–ASO–13]

Designation of Transition Area; Thomaston, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Thomaston, Georgia, transition area to accommodate Instrument Flight Rule (IFR) operations at Reginald Grant Memorial Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Reginald Grant Nondirectional Radio Beacon (RBN), has been developed to serve the airport and the controlled airspace is required for IFR aeronautical activities.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Thomaston, Georgia, transition area (51 FR 21570). This action provides controlled airspace for aircraft executing a new instrument approach procedure to Reginald Grant Memorial Airport. The operating status of the airport is "changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Thomaston, Georgia, transition area and lowers the base of controlled airspace in the vicinity of Reginald Grant Memorial Airport from 1,200 to 700 feet above the surface.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Thomaston, GA—[New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Reginald Grant Memorial Airport (Lat. 32°56'20" N., Long. 84°20'35" W.); within three miles each side of the 225° bearing from the Reginald Grant RBN (Lat. 32°56'12" N., Long. 84°20'27" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Issued in East Point, Georgia, on July 24, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86–17411 Filed 8–1–86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86–AWP–7]

Amendment to the Fort Huachuca, AZ, Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the description of the Fort Huachuca, Arizona, transition area. This action will expand the 700 foot transition area west of the Libby AAF/Sierra Vista Municipal Airport (lat. 31°35'00" N., long. 110°20'30" W.) and provide controlled airspace for military radar approaches to Libby AAF.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90260; Telephone (213) 297–1649.

SUPPLEMENTARY INFORMATION:

History

On May 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Fort Huachuca, Arizona, transition area (51 FR 19068). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B, dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations expands the 700 foot transition area west of the Libby AAF/Sierra Vista Municipal Airport, Arizona. This will provide controlled airspace for military radar approaches to Libby AAF.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Fort Huachuca, AZ—[Amended]

After "Fort Huachuca, AZ, (lat. 31°35'00" N., long. 110°20'30" W.)" add "within 5 miles each side of the Libby AAF VOR 273° radial, extending from the VOR to 12 miles west of the VOR."

Issued in Los Angeles, California, on July 23, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86–17413 Filed 8–1–86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM85–19–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Correction

July 30, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of update to benchmark rate of return on common equity for Public Utilities; correction.

SUMMARY: The Commission is correcting errors in the Notice of Update to Benchmark Rate of Return on Common Equity for Public Utilities which appeared in the **Federal Register** on July 22, 1986 [51 FR 26237]. The errors appear in Exhibit 3 "Annualized Dividend Yields for the Indicated Quarter for Utilities Retained in the Sample." Since issuing the Notice, the vendor that provides the data used to produce Exhibit 3 has informed the Commission of these errors.

The "advisory" benchmark rate of return of 12.75 percent for the period August through October 1986 is unaffected by these corrections.

DATE: This notice was issued on July 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8293.

SUPPLEMENTARY INFORMATION: Notice of update to benchmark rate of return on common equity for public utilities; correction.

The Federal Energy Regulatory Commission (Commission) is correcting errors which appeared in its Notice of Update to Benchmark Rate of Return on Common Equity for Public Utilities issued July 16, 1986. 51 FR 26237 (July 22, 1986). The errors appeared in Exhibit 3 "Annualized Dividend Yields for the Indicated Quarter for Utilities Retained in the Sample."

The corrections do not change the "advisory" benchmark rate of return on common equity applicable to rate filings made by electric utilities during the period August through October 1986, which is set at 12.75 percent. The median dividend yield for the second quarter of 1986 is unchanged at 7.16 percent. And, the industry average cost

of common equity estimate based on the dividend yields for the first and second quarters of 1986 remains 12.18 percent.

Since the issuance of the Notice, the vendor that supplies the data used to produce Exhibit 3 has informed the Commission that some of the individual company market price data reflects June 27 rather than June 30 information. The corrections to this data are provided below.

As published, Exhibit 3 reads, in part, as follows:

Ticket symbol	Price, 3rd month of arbitrage	Annualized dividend yield
UIL	30.875	7.607
UTP	29.875	7.989
WPS	50.375	5.940
WWP	29.875	8.552

These values in Exhibit 3 should be revised to read as follows:

Ticket symbol	Price, 3rd month of arbitrage	Annualized dividend yield
UIL	31.875	7.566
UTP	30.750	7.949
WPS	50.625	5.935
WWP	30.000	8.546

List of Subjects contained in 18 CFR Part 37

Electric Power Rates, Electric Utilities, Rate of Return.

The following corrections are made in Generic Determination of Rate of Return on Common Equity for Public Utilities published in the **Federal Register** on July 22, 1986 at 51 FR 26237:

1. On page 26,241, sixth column, line 30, change 30.875 to 31.875;
2. On page 26,241, sixth column, line 31, change 29.875 to 30.750;
3. On page 26,241, sixth column, line 34, change 50.375 to 50.625;
4. On page 26,241, sixth column, line 35, change 29.875 to 30.000;
5. On page 26,241, ninth column, line 30, change 7.607 to 7.565;
6. On page 26,241, ninth column, line 31, change 7.989 to 7.949;
7. On page 26,241, ninth column, line 34, change 5.940 to 5.935;
8. On page 26,241, ninth column, line 35, change 8.552 to 8.546.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17483 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 86-146]

Customs Regulations Amendments Relating to Reporting Requirements for Certain Private Aircraft

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document announces the removal of San Diego International Airport (Lindbergh Field) from the list of airports at which private aircraft arriving from areas south of the U.S. must land for Customs processing. Currently, private aircraft can comply with Customs Regulations by making Lindbergh Field their first landing site after crossing the U.S.-Mexican border.

Lindbergh Field is approximately 15 miles from the border. This distance gives smugglers the opportunity to engage in "touch and go" or air drop smuggling of illegal drugs and contraband. "Touch and go" smuggling involves reporting Lindbergh Fields the first U.S. destination but actually landing somewhere else first, quickly unloading contraband, and continuing on to Lindbergh Field. Air drop smuggling involves flying very low over some point between the border and Lindbergh Field, pushing contraband out of the aircraft to be retrieved on the ground, and continuing on to Lindbergh Field. Additionally, the high volume of air traffic in the Lindbergh Field area makes tracking of individual aircraft very difficult. This is a further impediment to effective drug interdiction in the area.

By removing the designated airport status from Lindbergh Field, aircraft will have to report to one of two other airports, both very close to the U.S.-Mexican border and therefore less likely the targets of smugglers. Lindbergh Field's status as an international airport is not affected.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Dennis Benjamin, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5608).

SUPPLEMENTARY INFORMATION:

Background

As part of Customs efforts to combat the problem of drug smuggling by air, in 1975 the Customs Regulations were amended to add a new § 6.14 (19 CFR 6.14), that provides in part that private aircraft arriving in the U.S. via the U.S.-Mexican border must provide a notice of intended arrival with Customs (T.D. 75-201; 40 FR 33203). The section further provides that these private aircraft must land at any one of the designated airports near the U.S.-Mexican border. The purpose of this regulation was to provide Customs with increased enforcement efficiency by providing tight control over air traffic arriving from the direction of countries that are major sources of illegal drugs destined for the U.S.

In our diligence to fight the national epidemic of illegal drugs, Customs has amended § 6.14, Customs Regulations, several times since 1975. Amendments have included extending coverage to private aircraft arriving via the Pacific, Gulf of Mexico, or Atlantic coasts (T.D. 83-192; 48 FR 41381); expanding coverage by modifying the definition of private aircraft (T.D. 84-236; 49 FR 46885); and extending the coverage to include some flights arriving from Puerto Rico and all flights arriving from the U.S. Virgin Islands, increasing from 15 minutes to one hour the minimum time required for notice to be given prior to penetrating U.S. air space, and requiring aircraft seeking exemption from landing requirements to be equipped with functioning transponders (T.D. 86-72; 51 FR 11004).

Customs again finds it necessary to amend § 6.14(g), which lists designated airports at which subject aircraft must land. San Diego Internationl Airport (Lindbergh Field) is on that list. However, Customs has discovered smugglers are taking advantage of Lindbergh Field's location approximately 15 miles from the border by engaging in "touch and go" or air drop smuggling of illegal drugs and contraband. "Touch and go" smuggling involves reporting Lindbergh Field as the first U.S. destination but actually landing somewhere else first, quickly unloading illegal drugs or contraband, and continuing on to Lindbergh Field. Air drop smuggling involves flying very low over some point between the border and Lindbergh Field, pushing illegal drugs or contraband out of the aircraft to be retrieved on the ground, and continuing on to Lindbergh Field.

By removing Lindbergh Field from the list of designated airports in § 6.14(g), aircraft subject to the reporting requirements of § 6.14 will have to land at either Calexico International Airport, Calexico, California, or Brown Field, San Diego, California. Both of these airports are very close to the U.S.-Mexican border and therefore will be unlikely targets of "touch and go" or air

drop smuggling. They are also less congested than Lindbergh Field which makes it easier to track individual aircraft by means of radar devices. These factors will combine to make Customs enforcement activities more effective and more easily manageable in this area of the country.

Brown Field is already the preferred destination of most private aircraft arriving from foreign countries in the San Diego area. In FY 1985, there were 870 private aircraft arrivals from foreign countries at Lindbergh Field compared to 4115 such arrivals at Brown Field and 5262 such arrivals at Calexico International Airport. This revocation in no way affects Lindbergh Field's status as an international airport under § 6.13, Customs Regulations (19 CFR 6.13), and in no way prohibits private aircraft that have crossed the U.S.-Mexican border and complied with § 6.14 by landing at Brown Field or Calexico International Airport, from subsequently landing at Lindbergh Field.

Inapplicability of Public Notice and Delayed Effective Date Requirements

This amendment is being published without an opportunity for public comment or a delayed effective date under the authority of 5 U.S.C. 553(b)(B). The severity of the drug problem in the U.S. is well documented. Customs is always looking for weak links in our drug interdiction efforts and when found, seeks to correct them as expeditiously as possible. The situation surrounding Lindbergh Field is providing a loophole in our enforcement efforts that is allowing illegal drugs and contraband to enter the U.S. It must be stopped as quickly as possible. Therefore, Customs has determined that it would be contrary to the public interest to unnecessarily delay the removal of the designated airport status of Lindbergh Field.

Regulatory Flexibility Act

This document is not subject to the provisions of 5 U.S.C. 603, 604, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Amendment to the Regulations

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air carriers, Aircraft, Airports.

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 49 U.S.C. 1474, 1509.

§ 6.14 [Amended]

2. Section 6.14(g) is amended by removing the entry that reads, "San Diego, Calif. . . . San Diego International Airport (Lindbergh Field)" from the list of designated airports.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus

Acting Commissioner of Customs.

Approved: July 14, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86–17457 Filed 8–1–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207 and 221

[Docket No. R–86–615; FR–2258]

Technical Corrections to Multifamily Housing Mortgage Insurance and Low Cost and Moderate Income Mortgage Insurance Regulations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule makes technical revisions in 24 CFR Part 207, multifamily housing mortgage insurance, to correct errors in cross-references, and restores an inadvertently deleted phrase in 24 CFR Part 221, low cost and moderate income mortgage insurance.

EFFECTIVE DATE: September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James Hamernick, Director, Office of Insured Multifamily Housing Development, Room 6134, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–800. Telephone (202) 755–6500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 8, 1979, the Department published an interim rule which added a new paragraph (b)(3) to 24 CFR 207.258 and redesignated the existing paragraphs (b)(3) and (b)(4) as (b)(4) and (b)(5), respectively. (See 44 FR 8195.) The rule, however, failed to revise § 207.258(b)(4)(iv) and § 207.259(b)(2)(iii) to conform existing cross-references. This final rule makes those revisions.

This rule also replaces several words which were inadvertently deleted from the 1972 codification of 24 CFR 221.761(c), and which have remained missing from the adopted rule in the intervening years. The amendment to § 221.761(c) corrects the section to reflect its content before the error, and serves to clarify the requirements set out in that section.

Notice and public procedure are considered unnecessary because this rule makes only minor technical corrections to HUD rules which do not represent any change in policy or procedure. Accordingly, this document is being published as a final rule.

This final rule is the kind of internal administrative procedure that 24 CFR 50.20 excludes from the requirements in 24 CFR Part 50, the HUD rules implementing section 102(2)(c) of the National Environmental Policy of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations, issued by the President on February 17, 1981.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. Since no person's rights or obligations are adversely affected by this rule, it would have no economic impact.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

Accordingly, the Department amends § 207.258(b)(4)(iv), § 207.259(b)(2)(iii) and § 221.761(c) as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 207 continues to read as follows:

Authority: Sections 207 and 211 of the National Housing Act (12 U.S.C. 1713, 1715(b)); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 207.258(b)(4)(iv) is revised to read as follows:

§ 207.258 Insurance claim requirements.

* * * * *

(b) * * *

(4) * * *

(iv) All property of the mortgagor held by the mortgagee or to which it is entitled (other than the cash items which are to be retained by the mortgagee) pursuant to paragraph (b)(5) of this section.

* * * * *

3. Section 207.259(b)(2)(iii) is revised to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(b) * * *

(2) * * *

(iii) The sum of the cash items retained by the mortgagee pursuant to § 207.258(b)(5), except the balance of the mortgage loan not advanced to the mortgagor.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

4. The authority citation for 24 CFR Part 221 continues to read as follows:

Authority: Sections 211 and 221 of the National Housing Act (12 U.S.C. 1715(b), 1715l); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5. Section 221.761(c) is revised to read as follows:

§ 221.761 Forbearance relief.

* * * * *

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its decision to either assign the mortgage to the Commissioner or to acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 221.763 shall be applicable.

Dated: July 24, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 86-17424 Filed 8-1-86; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 300

[Docket No. N-86 1626; FR-2251]

Government National Mortgage Association; List of GNMA Attorneys-In-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice announcing list of attorneys-in-fact.

SUMMARY: This document updates the current list of persons appointed attorneys-in-fact by the Government National Mortgage Association (GNMA). Attorneys-in-fact are authorized to act for GNMA by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs. These appointments assist GNMA in carrying out its responsibilities under the National Housing Act.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: John Maxim, Associate General Counsel, Insured Housing and Finance, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755-6274. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association (GNMA) periodically approves staff members of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corportation (Freddie Mac) to be delegated signatory authority to act in GNMA's behalf as attorneys-in-fact.

On August 12, 1983 (48 FR 36572), GNMA announced that it was removing the list of persons appointed to act from the CFR, changing the procedure of announcing appointments to a notice document, and publishing a complete list of persons currently appointed to act as attorneys-in-fact. The rule removing the list from the CFR was effective on October 11, 1983.

This notice today announces changes to the list of persons authorized to act as attorneys-in-fact. The changes include additions to and deletions from the Federal National Mortgage Association list. To enhace the usability of these notices, the Department has decided to republish the entire list of attorneys-in-fact each time changes are made.

Accordingly, the following lists represent all persons currently appointed as attorneys-in-fact delegated signatory authority to act in GNMA's behalf:

I. Staff members of the Federal National Mortgage Association, a government-sponsored private corporation, appointed attorneys-in-fact.

Name and Region

Leopold E. Abueg, Los Angeles, CA
Charlotte Adelman, Los Angeles, CA
Angelina P. Alleva, Philadelphia, PA
Ellen W. Allison, Atlanta, GA
David P. Antczak, Chicago, IL
Glenn T. Austin, Jr., Atlanta, GA
J. J. Bacchus, Atlanta, GA
Irene S. Baggio, Philadelphia, PA
Darlene Bagley, Atlanta, GA
Anna H. Bender, Chicago, IL
Denise M. Benn, Chicago, IL
Frances E. Bennett, Atlanta, GA
Renee Y. Berryman, Los Angeles, CA
E. N. Biggerstaff, Atlanta, GA
J. C. Billinger, Atlanta, GA
James R. Blakeley, Los Angeles, CA
Ann Blount, Atlanta, GA
W. R. Bowen, Los Angeles, CA
W. James Bradley, Washington, D.C.
Craig J. Bromann, Chicago, IL
Debra Brown, Atlanta, GA
Larry W. Brown, Dallas, TX
Burleigh O. Burshem, Washington, D.C.
Rena L. Busby, Los Angeles, CA
J. L. Busselle, Dallas, TX
David Byrd, Atlanta, GA
Donna M. Cabrera, Los Angeles, CA
John A. Carlisi, Philadelphia, PA
E. P. Carr, Atlanta, GA
James S. Cash, Atlanta, GA
Heinrich F. Charles, Los Angeles, CA
Patricia R. Charrier, Philadelphia, PA
Mary Churchwell, Dallas, TX
John M. Coan, Washington, D.C.
Vincent Coletti, II, Philadelphia, PA
Jean V. Cunniff, Chicago, IL
Edward F. Czubernat, Chicago, IL
Nitin J. Dave, Atlanta, GA
Edward Dodson, Philadelphia, PA
James E. Domenico, Chicago, IL
Lawrence J. Dondero, Jr., Philadelphia, PA
Dennis D. Downey, Dallas, TX
Samuel A. Duca, Philadelphia, PA
Wanda Durham, Atlanta, GA
J. Ellis Dykes, Atlanta, GA
Joseph R. Elred, Philadelphia, PA
J. Randy England, Atlanta, GA
David J. Evans, Atlanta, GA
R. Douglas Ezzell, Atlanta, GA
Leon Fine, Philadelphia, PA
Robert H. Foster, Philadelphia, PA
Jimmy L. Gallahar, Atlanta, GA
Elizabeth A. Garvin, Los Angeles, CA

Hettye D. Gates, Atlanta, GA
Robert R. Glinski, Philadelphia, PA
James D. Grady, Jr., Philadelphia, PA
John J. Hagerty, Philadelphia, PA
Ann B. Hamilton, Philadelphia, PA
Robert E. Haren, Chicago, IL
Charles W. Harvey, Jr., Philadelphia, PA
Ronald W. Harwig, Chicago, IL
John R. Hayes, Chicago, IL
Robert J. Hearn, Philadelphia, PA
B. J. Hendryx, Dallas, TX
C. W. Heptinstall, Los Angeles, CA
J. W. Hester, Jr., Atlanta, GA
R. R. Holst, Los Angeles, CA
Debbie Howard, Dallas, TX
Carmen I. Huertas, Los Angeles, CA
Jeanne Hunter, Atlanta, GA
Robert A. Hunter, Atlanta, GA
Betty M. Iasparro, Dallas, TX
Louise E. Isabel, Chicago, IL
William S. Jones, Dallas, TX
Shelley J. Kauzlaric, Dallas, TX
Jeffrey H. Kay, Philadelphia, PA
Arthurine C. Kent, Los Angeles, CA
Henry Konigsmark, III, Atlanta, GA
William Jackson, Atlanta, GA
Denise Lee, Philadelphia, PA
Robert E. Lis, Philadelphia, PA
Alfredo S. Loyola, Chicago, IL
Robert J. Mahn, Washington, D.C.
Elizabeth Mahoney, Los Angeles, CA
Noel J. Mangan, Chicago, IL
Philip J. McCarthy, III, Philadelphia, PA
Glenda R. McCoy, Los Angeles, CA
Renay A. McKenzie, Chicago, IL
Susan McMahon, Chicago, IL
Doris A. Morrow, Chicago, IL
Charleen N. Munson, Philadelphia, PA
R. A. Nevitt, Chicago, IL
Brenda J. Newbill, Chicago, IL
Philip R. Nichols, Jr., Philadelphia, PA
Willis W. Nixon, Dallas, TX
Robert D. O'Connell, Chicago, IL
B. J. Odom, Atlanta, GA
Zach Oppenheimer, Philadelphia, PA
Bentley C. Palez, Jr., Dallas, TX
Dale L. Pea, Dallas, TX
Norman H. Peterson, Los Angeles, CA
Kathryn M. Phillips, Atlanta, GA
Robert G. Pike, Atlanta, GA
A. Chris Puchalski, Chicago, IL
Clotelia S. Riddell, Los Angeles, CA
Dolphus D. Roberts, Atlanta, GA
Karen A. Runnels, Chicago, IL
Tim J. Ryan, Chicago, IL
E. L. Schreiber, Dallas, TX
Frank L. Scrivano, Dallas, TX
Linda Seibel, Philadelphia, PA
R. L. Shanteau, Atlanta, GA
George Sierra, Dallas, TX
Mary Simpson, Dallas, TX
Sonya Simpson, Dallas, TX
Samuel M. Smith, III, Atlanta, GA
Susan T. Smith, Dallas, TX
Charles G. Sower, Philadelphia, PA
Mary Lou Stellman, Dallas, TX
D. Stricklen, Dallas, TX
Debbie Stricklen, Dallas, TX
T. J. Swanson, Jr., Atlanta, GA
Leta L. Terrell, Dallas, TX
Jimmie L. Thomas, Dallas, TX
William J. Tierney, Chicago, IL
Sandra J. Todd, Atlanta, GA
Carmeleta Turner, Dallas, TX
Ruth C. Turner, Los Angeles, CA
J.H. Van House, Atlanta, GA
Lewis A. Vidmar, Dallas, TX
Mary E. Voigt, Los Angeles, CA
Erlinda C. Weaver, Los Angeles, CA
Edward W. Wendell, Chicago, IL
James H. Whitehead, Atlanta, GA
Sherry L. Williamson, Atlanta, GA
W.E. Yeager, Atlanta, GA
Dick A. Yockey, Los Angeles, CA
Barbara Zwijacz, Chicago, IL

II. Staff members of the Federal Home Loan Mortgage Corporation, created under the laws of the United States, appointed attorneys-in-fact.

Name and Region

William T. Bings, Washington, D.C.
Philip R. Brinkerhoff, Washington, D.C.
Jerry Brooks, Atlanta, GA
Michael Coffey, Dallas, TX
Douglas R. Cottrell, Atlanta, GA
Kenneth Coulter, Los Angeles, CA
George E. Delgado, Arlington, VA
James L. Garrison, Arlington, VA
C. Gordon Gray, Chicago, IL
Ken Halterman, Dallas, TX
Philip N. Harrington, Washington, D.C.
Carl Hillis, Dallas, TX
John Horseman, Sr., Washington, D.C.
Victor H. Indiek, Washington, D.C.
David S. Latimore, Atlanta, GA
Leon L. Linkroum, Los Angeles, CA
John E. Lott, Chicago, IL
Peter R. McNulty, Arlington, VA
J. Michael Materie, Atlanta, GA
Walter P. Moenning, Jr., Chicago, IL
Ronald Morck, Atlanta, GA
Randall M. Nay, Dallas, TX
Jerry C. Nelson, Dallas, TX
Robert K. Ostengaard, Los Angeles, CA
Paul Quinn, Denver, CO
F. Michael Salb, Arlington, VA
Kenneth J. Sandin, Atlanta, GA
Fred Schwartz, Chicago, IL
Stu Strand, Los Angeles, CA
Ronald D. Struck, Washington, D.C.
Melvin L. Taylor, Seattle, WA
William R. Thomas, Jr., Dallas, TX
Glenn Vaupel, Los Angeles, CA
William J. Verant, Los Angeles, CA
Edward Voss, Chicago, IL
Clifford A. Walters, Chicago, IL

Dated: July 24, 1986.

Glenn R. Wilson, Jr.,

President, Government National Mortgage Association.

[FR Doc. 86-17422 Filed 8-1-86; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 86-049]

New Orleans Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends the New Orleans Vessel Traffic Service regulations to indicate the existence and operation of an informational light located on the Mississippi River at Westwego, New Orleans. This light informs downbound vessel operators whether the control light at Gretna (Gretna Light) is red or green. This information is necessary to improve safety on the waterway.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Powers, (202) 267-0415.

SUPPLEMENTARY INFORMATION: This final rule amends the New Orleans Vessel Traffic Service (VTS) regulations by adding a note describing the existence and loation of an informational light at Westwego, approximately 101.4 miles above Head of Passes (AHP). This light has been in existence but was inadvertently left out of the final rule establishing the VTS (44 FR 47932; August 16, 1979). The note indicating the existence of the Westwego Light is for information purposes only. This light informs downbound mariners on the Mississippi River of the kind of display (red or green) indicated on the control light at Gretna (Gretna Light), approximately 96.6 miles AHP.

This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days after publication in the **Federal Register**. Adding this note to the existing rules merely informs vessel operators that there exists a means of knowing whether a downstream control light, which may be out of their line of sight, is red or green. Therefore, the Coast Guard has determined that notice and public procedure thereon are unnecessary under 5 U.S.C. 553 (b)(3)(B). Because this addition has no substantive effect, good cause exists for making it effective in less than 30 days after publication, under 5 U.S.C. 553 (d).

Drafting Information

The principal persons involved in drafting this final rule are Mr. Michael J. Powers, Project Manager, Office of Navigation, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

This regulatory change is considered to be non-major under Executive Order 12291 and non-significant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). There is no economic impact by adding this note to existing rules; therefore further evaluation is unnecessary. This note merely provides information as to an additional traffic light that exists within

the New Orleans VTS area to inform vessels of the status of the control light described in the existing regulations. Therefore, the Coast Guard certifies that if will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 161

Hazardus materials transportation, Navigation (water), Vessels.

In consideration of the foregoing, Part 161 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 161—[AMENDED]

1. The heading of Part 161 is revised to read "Vessel Traffic Management".

2. The authority citation for Part 161 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

3. By adding a note at the end of paragraph (b)(1) of § 161.402 to read as follows:

§ 161.402 Vessel operation.

* * * * *

(b) * * *

(1) * * *

Note: To provide advance information to downbound vessels whether the control light at Gretna (Gretna Light) is red or green, a traffic light is located at Westwego on the right descending bank, on the river batture at the end of Avenue B, approximately 101.4 miles above Head of Passes.

* * * * *

Dated: July 28, 1986.

J.H. Parent,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 86-17464 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-3059-4]

Approval and Promulgation of Implementation Plans; Arkansas; Public Availability of Emission Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves an amendment to the Arkansas Water and Air Pollution Control Act as a revision to the Arkansas State Implementation Plan (SIP). This action is a result of rulemaking on September 26, 1974 (39 FR 34533), in which EPA disapproved SIPs of states which failed to meet the requirements of section 110(a)(2)(F) of the Clean Air Act and of 40 CFR 51.10(e) (public availability of emission data).

The Governor of Arkansas submitted the SIP revision (Arkansas Act 763 of 1985) to EPA on December 16, 1985. Review of the revision indicates that Arkansas has met the criteria of section 110(a)(2)(F) of the Clean Air Act and of 40 CFR 51.10(e) (public availability of emission data).

EFFECTIVE DATE: This action will be effective on October 3, 1986, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action should be addressed to Thomas Diggs of the EPA Region 6 Air Programs Branch, SIP/NSR Section (address below). Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1201 Elm Street, Dallas, Texas 75270

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

Arkansas Department of Pollution Control and Ecology, Division of Air Pollution Control, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Bill Deese, Air Programs Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-9832 or (FTS) 729-9832. Reference Docket File Number AR-86-1.

SUPPLEMENTARY INFORMATION: Section 110(a)(2)(F) of the Clean Air Act requires state plans to provide for the periodic reporting of emission data. The emission data must be made available to the public in a reasonable manner. Most of the state implementation plans originally approved by the Administrator provided public access to emission data. However, many plans contained confidentiality provisions which could cause data to be withheld from the public. Three Circuit Courts [1] in 1973 and 1974 held that the presence of a confidentiality provision in a plan so beclouded the public's right to emission data that the emission disclosure provisions had to be disapproved.

[1] NRDC *et al.* v. EPA, 478 F.2d 875 (1st Cir. 1973). NRDC *et al.* v. EPA, 494 F.2d 519 (2nd Cir. 1974). NRDC *et al.* v. EPA, 489 F.2d 390 (5th Cir. 1974).

EPA, on September 26, 1974 (39 FR 34533), disapproved provisions in state plans whose emission disclosure provisions had not been found to be consistent with Federal requirements. The Arkansas plan was disapproved by adding 40 CFR 52.178(a) and 40 CFR 52.179(a) to the Arkansas plan.

Proposed replacement regulations for states whose plans were disapproved were also published in the September 26, 1974, **Federal Register** (39 FR 34572). No general comments were received on the proposed replacement regulations. These regulations were promulgated on November 28, 1975 (40 FR 55326). The replacement regulation for Arkansas was added by 40 CFR 52.178(b). (See 39 FR 34534 and 39 FR 34572, September 26, 1974, and 40 FR 55326, November 28, 1975, for more information.)

The Arkansas 75th General Assembly passed Act 763 of 1985. Act 763 of 1985 amended section 32-1937 of the Arkansas Water and Air Pollution Control Act to give the State the legal authority to make available to the public all emission data submitted to the State, local agencies, or EPA, which is otherwise obtained by any of those agencies pursuant to the federal Clean Air Act.

The Governor of Arkansas on December 16, 1985, submitted Act 763 of 1985 to Region 6 EPA as a revision to the Arkansas plan. Region 6 EPA has found the SIP revision to satisfy all the requirements of section 110(a)(2)(F) of the Clean Air Act and 40 CFR 52.10(e) (public availability of emission data).

Final Action

By this notice, EPA is approving Arkansas Act 763 of 1985 as meeting the requirements of section 110(a)(2)(F) of the Clean Air Act and of 40 CFR 51.10(e) (public availability of emission data). Accepting Act 763 of 1985 as an amendment to the Arkansas Water and Air Pollution Control Act allays the need for 40 CFR 52.178 and 52.179.

EPA has reviewed this revision to the Arkansas SIP and is approving it as submitted. This action is taken without prior proposal because the change is non-controversial and EPA anticipates no adverse comments on it. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days of publication that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and will begin a new

rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of Arkansas was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 28, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

40 CFR Part 52 is amended as follows:

Subpart E—Arkansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.170 is amended by adding paragraph (c)(23) as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(23) A revision to the Arkansas Plan of Implementation of Air Pollution Control was submitted by the Governor on November 25, 1985.

(i) *Incorporation by reference.* (A) Act 763 of 1985 (public availability of emission data) approved April 3, 1985. Act 763 of 1985 amends section 82–1937 (Industrial secrets confidential—Revealing a misdemeanor) of the Arkansas Water and Air Pollution Control Act.

§ 52.178 [Removed and Reserved]

3. Section 52.178 General requirements is removed and reserved.

§ 52.179 [Removed and Reserved]

4. Section 52.179 Legal authority is removed and reserved.

[FR Doc. 86–17451 Filed 8–1–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[EPA Docket No. AM063MD, A–3–FRL–3059–1]

Approval and Promulgation of Implementation Plans; Revision to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Maryland Air Management Administration (MAMA) has submitted to EPA a revision to the Maryland State Implementation Plan (SIP) in the form of a Secretarial Order (by Consent) for Monarch Manufacturing, Inc. (the Company). The Order allows the Company to comply with interim standards for Volatile Organic Compound (VOC) emissions until source-specific regulations are developed for the Company's types of installations. This Notice summarizes the Order which EPA is approving today.

EFFECTIVE DATE: September 3, 1986.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Ms. Patricia S. Gaughan (3AM11)

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 West Preston Street, Baltimore, MD 21201, Attn: Mr. George P. Ferreri

Public Information Reference Unit, U.S. Environmental Protection Agency, EPA Library, Room 2922, 401 M Street, SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline M. Pine at the EPA Region III address indicated above or by telephoning (215) 597–6552.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1985 (50 FR 40872) EPA proposed approval of the Maryland SIP revision pertaining to establishing interim standards for the Monarch Manufacturing Company in Belcamp, Maryland. The Company manufactures plastic automobile components for use by the General Motors Corporation. The installations at the plant in Belcamp consist of two spray booths, two adhesive applicator booths, and a plastic welding assembly booth, all of which cause the discharge of VOC emissions. Although this area is designated a nonattainment area for ozone, it is scheduled to attain the ozone standard by 1987. Approval of this SIP revision should not alter the likelihood of attainment of the standard by the scheduled attainment date.

Since the plant is located in a nonattainment area, but will have a potential to emit less than 50 tons per year, it is not subject to Maryland's "New Source Impacting on a Non-Attainment Area" regulations (COMAR 10.18.06.11). Normally, under federal regulations, minor sources would not be required to implement any control technology. However, the Code of Maryland Regulations (COMAR) 10.18.21, Volatile Organic Compounds from Specific Processes does require minor new sources to meet certain RACT requirements. The facilities covered under this SIP revision, however, cannot be categorized within the definition of automobile and light-duty truck coating under this regulation because they do not meet this definition. Therefore, the Company's installations are subject to the non-specific VOC regulation under COMAR 10.18.06.06, which requires installations that discharge in excess of 20 pounds per day to reduce emissions by 85 percent. Two of the Company's installations will exceed the 20 pounds per day limit and the present design does not include the costly control equipment which would be necessary to reduce emissions to the level required by the non-specific regulation. EPA agrees that there are no substitute low VOC adhesives currently available for the adhesive applicator installations.

Generally, adhesives with high VOC content are widely used in a variety of industries including plastic, paper, vinyl, leather and wood applications. The intent of Maryland in developing its VOC regulations was to remove certain source types from the general application of COMAR 10.18.06.06 as it develops source-specific regulations that represent reasonable available control technology (RACT) for the source type. EPA believes that adhesive application is a source type that should have source-specific regulations and that it would be inappropriate, at present, to apply the

VOL 51 ISS 149 AG 4 1986 UMI

general requirement under COMAR 10.18.06.06 to the source. Maryland has decided to establish source-apecific emission standards for adhesive application. A study to determine RACT for this source type and others, based on a complete analysis of the quality of available adhesives, has been completed with final regulations to be developed as soon as practicable. Originally, the final regulations were to have been completed by December 31, 1985, but despite good faith efforts by the State, there has been difficulty in developing effective RACT standards for many types of sources all at once. Maryland anticipates that the regulations will be adopted within approximately six additional months. Until the new regulations become applicable to Monarch under the terms of the Order, the Company is to comply with the interim control technology as specified in that Order.

Description of Interim Control Technology

As mentioned above, minor new sources are subject to RACT under state law and in this case, the interim RACT standard is as follows:

The Company may not cause or allow VOC emissions to exceed 4.1 and 6.2 pounds of VOC per day for the two paint spray booths nor exceed 52.6 and 65.4 pounds of VOC per day for the two adhesive applicator booths. This corresponds with a maximum VOC content of 39 percent for each of the water based acrylic paints used at the facility and 73 and 16 percent, respectively, for the two adhesives that may be used. The plastic welding assembly booth may not exceed the emission limit of 1.4 pounds of VOC per day with a maximum VOC content of 38 percent for methyl ethyl ketone (MEK). The Notice of proposed rulemaking for this matter erred in describing the VOC content at 38 percent for methylene chloride for the plastic welding assembly booth. It should read as stated here in this final notice.

The Company shall maintain records for each day's operation which will include the quantity of each coating and adhesive used, and the estimated emissions for each separate installation. This information will be recorded and maintained for review by the MAMA. Each day on which the maximum VOC content for any coating or adhesive is exceeded, or on which the maximum allowable VOC emission from any installation is exceeded, a separate violation shall take place.

During the interim, the Company shall investigate the quality of the adhesive it uses and make use of adhesives with the lowest known VOC content. The Company shall also continue to investigate new coatings or control methods that may be developed so that emissions are minimized. When final RACT standards for plastic coatings and/or for adhesives are adopted, the Company shall achieve compliance with the new appropriate standards within six months after they become effective. Within these six months and until the company achieves compliance with the new standards, the interim standards shall apply. The new standards, currently in draft form, are intended to be more stringent than these interim limits. If the Company cannot meet the new standards using low VOC coatings or adhesives, the company must install control equipment to meet the new coating and/or adhesive standards. Adoption of the new adhesive RACT standards are anticipated by the end of 1986 with the new plastic coating RACT standards possibly following later. Monarch is expected to comply with the new adhesive standards within six months of their adoption, independent of the adoption of new standards for plastic coatings.

EPA Evaluation

EPA has reviewed this Secretarial Order and finds that the interim emissions limits are acceptable and are not likely to jeopardize attachment of the ozone standard by 1987.

One of the assumptions made in developing the 1980 and the 1987 SIP emissions inventory provided that emissions from new minor sources would be offset by shutdown of other sources that were included in the 1980 baseline. In other words, relative to the total emissions inventory between 1980 and 1987, the production fluctuations of existing sources will balance one another and new minor sources will be balanced by shutdown of existing sources. The State has provided EPA with a list of sources which have shutdown so EPA can affirm that this SIP revision will not interfere with reasonable further progress in Maryland.

The interim standards, expressed as percent VOC by weight, will provide an enforceable reduction in VOC emissions by placing a daily emissions cap of 131 pounds per day for the plant. The total emissions of the plant are 14.14 tons per year with this emission cap. As indicated in the Order, the coating standard was developed with a maximum emission rate in terms of pounds per day that was established using the design capacity of the equipment and is a never-to-be exceeded standard. EPA agrees that the interim RACT requirements will adequately limit emissions from Monarch Manufacturing's operations until the final RACT regulations are imposed on the Company pursuant to their Order. The final RACT regulations for adhesives will be similar to previous source specific regulations developed by the State of Maryland.

Based on our review of this Secretarial Order, EPA is today approving it as a SIP revision. The State of Maryland has certified that, after adequate public notice, a public hearing was held on June 28, 1984 with respect to this SIP revision in Baltimore, Maryland. On August 1, 1984, the Order was submitted to EPA as a SIP revision and on October 7, 1985, (50 FR 40672) EPA proposed approval of the revision. No comments were received during the 30-day comment period ending November 7, 1985.

Conclusion

The Administrator's decision to approve this Order is based on a determination that the SIP revision meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from publication. Under section 307(b)(2), the requirements which are the subject of today's Notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 29, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

40 CFR Part 52 is amended as follows:

Supart V—Maryland

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1070 is amended by adding paragraph (c) (85) as follows:

52.1070 Identification of plan.

* * * * *

(c) * * *

(85) Revisions to the Ozone Attainment Plan were submitted by the Director, Maryland Air Management Administration, on August 1, 1984.

(i) *Incorporation by Reference.* (A) State Secretarial Order for the Monarch Manufacturing Company located in Belcamp, Maryland, allowing interim VOC emission standards to be used by the Company until source-specific regulations are developed by MAMA. The Company shall come into compliance with the source-specific regulations within six months after their adoption. The Secretarial Order was approved on July 23, 1984.

[FR Doc. 86–17448 Filed 8–1–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–9–FRL–3059–6]

Designation Of Areas For Air Quality Planning Purposes; Arizona; Partial Tucson Area Redesignation for CO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice takes final action to approve the State of Arizona request for the redesignation of a part of the Tucson nonattainment area from nonattainment to attainment for carbon monoxide (CO). EPA finds no reason to believe that the National Ambient Air Quality Standards (NAAQS) for CO have been violated in the area being redesignated or that sources in the area contribute to violations in the urban core, being retained as nonattainment. This action not only updates the CO attainment status of the rural parts of Pima County, but also removes the major stationary source construction ban imposed by EPA in the area. Also, no additional Part D requirements need be satisfied in the attainment area. Instead, Part C, Prevention of Significant Deterioration requirements will apply in the redesignated area.

DATE: This action is effective September 3, 1986.

ADDRESSES: The EPA Technical Support Comment/Response Document (October, 1985) is available for public inspection during normal business hours at the following locations:

Arizona Department of Health Services, Division of Environmental Health Services, Bureau of Air Quality Control, 2005 North Central Avenue, Phoenix, AZ 85004

Pima County Health Department, Air Quality Control District, 151 West Congress Street, Tucson, Arizona 85701

Environmental Protection Agency, Region 9, Air Management Division, Technical Evaluation Section, 215 Fremont Street, San Francisco, CA 94105

Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Morris I. Goldberg, Technical Evaluation Section, Air Management Division, EPA, Region 9, telephone: (415) 974–7651 or FTS: 454–7651.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8970) EPA redesignated Pima County as a nonattainment area for CO. On August 15, 1978 Arizona requested redesignation of the area outside of the Tucson Air Planning Area (TAPA) to attainment for CO. On March 19, 1979 (44 FR 16392) EPA reduced the nonattainment area to the TAPA. On March 4, 1983 Arizona requested redesignation and on November 7, 1983 (48 FR 51160) EPA proposed to redesignate a part of the nonattainment area for CO to the boundaries described below. Five comments were received during the public comment period which ended on December 7, 1983. On June 27, 1984 Arizona requested that EPA temporarily suspend action on the redesignation request. The State requested that EPA continue its redesignation action on October 18, 1985. On January 27, 1986 (51 FR 3335) EPA disapproved the Tucson CO nonattainment area plan because of an inadequate new source review program in the area being redesignated to attainment. A ban on the construction of major stationary sources of CO in the subject redesignation area was imposed effective February 26, 1986.

The boundary of the Tucson CO nonattainment area is revised to include only those townships, as follows:

T. 11–12S, R. 12–E; T. 13–15 S., R. 11–16 E.;
T. 16 S., R. 12–16 E.;
Gila and Salt River Base Line and Meridian;

excluding parts within the Saguaro National Monument and the Coronado National Forest, and excluding parts of T11S, R14E northeast of the TAPA boundary line formed by connecting the coordinates:

Latitude 32°38.5′ N, Longitude 111°24.0′ W.
Latitude 32°26.5′ N, Longitude 110°47.5′ W.

The new attainment portions of the State include those parts of the county within the townships as follows:

T. 11–12 S, R. 8–10 E; T. 13–14 S, R. 9–10 E;
T. 5 S., R. 10 E. & 17–18 E.; T. 16 S., R. 10–11 E. & 17–18 E.;
T. 17 S., R. 10–18 E.; T. 18 S., R. 11–18 E.; T. 19 S., R. 12–18 E.;
Gila and Salt River Base Line and Meridian,

and within the boundary formed by connecting the corrdinates in order as follows:

Latitude 32°38.5′ N, Longitude 111°24.0′ W.
Latitude 32°26.5′ N, Longitude 110°47.5′ W.
Latitude 32°12.5′ N, Longitude 110°32.5′ W.
Latitude 31°49.5′ N, Longitude 110°25.5′ W.
Latitude 31°42.0′ N, Longitude 110°50.5′ W.
Latitude 31°52.5′ N, Longitude 110°12.5′ W.
Latitude 32°24.5′ N, Longitude 111°29.0′ W.
Latitude 32°38.5′ N, Longitude 111°24.0′ W.

including those portions of the Saguaro National Monument and the Coronado National Forest within the above coordinates.

Public Comment

The Technical Support Comment/Response Document is available at the addresses cited above. All issues raised have been successfully resolved. Five public comments were received. They were from the State, three from citizen's groups and one from industry. In summary, the comments and the responses from the Technical Support Comment/Response Document are as follows:

The State commented that they had found several typographical errors in the description of the area it recommended stay nonattainment. EPA believes that the errors are minor. A revision to the proposal is unnecessary since EPA correctly depicted the boundaries by including only a map, in the EPA Technical Support Document (September, 1983) referenced in the proposal. The State correction increases the size of the nonattainment area from that originally specified by boundaries in the State request.

The Arizona Center for Law in the Public Interest (ACLPI) commented that EPA had ignored: (1) Its criteria for redesignation and (2) its requirements for an inspection and maintenance (I/M) program. The applicable redesignation criteria for areas which may have been included without adequate justification in the original CO nonattainment designation are not as stringent as the criteria for urbanized areas. EPA does not require or expect that CO be monitored outside of U.S. Bureau of the Census defined urbanized areas (the urban core, as defined by the EPA,

Region 9), because, in general, such areas do not contain concentrations of sources sufficient to cause significant ambient CO air quality problems. EPA thus believes that redesignation is appropriate for non-urban areas of low commuter populations containing no stationary CO sources, unless available data indicates that the area does indeed show violations. Redesignation of such areas outside of the urban core should not effect the current control strategy in either area. Thus the redesignation would have no air quality impact.

Comments by ACLPI also suggested that EPA policy for I/M area boundaries required EPA to retain all urbanized areas within the I/M area. However, redesignation has no affect on the I/M boundary and no effect on the CO control strategy in general or I/M in particular. Therefore there is no environmental effect associated with the redesignation. Any modification to the I/M boundary would require a SIP revision, which in turn would require a demonstration of the effect of such a change. EPA has preliminarily determined that emissions from the area to be redesignated have only an insignificant impact on the nonattainment problem in the urban core. However, if a modification to the I/M boundary was predicted to produce a significant adverse impact, the SIP revision would either have to be disapproved or would have to contain additional control measures.

The Southwest Environmental Service (SES) commented in support of comments by the ACLPI and added that areas of expected growth and planned development had been excluded by the State from the revised nonattainment area. No evidence of future violations or future significant impact has been presented. In addition, the Clean Air Act, section 107(d)(1)(A&B), does not authorize EPA to designate or retain areas as nonattainment because of future violations for CO, but only for SO_2 and TSP. See 43 FR 40413 (1978).

The Green Valley Community Coordinating Council, Inc. commented in support of the proposal, indicating that their areas, one of the areas cited by ACLPI and SES, did not have a CO problem and the Council intended to keep it that way.

ASARCO, Inc. commented that EPA should redesignate an area just within the revised nonattainment area border, where one of its sources is located. EPA policy from the decision in *Bethlehem Steel Corp.* V. *USEPA* (No. 82-2608, 7th Cir. Dec. 13, 1983), finding a lack of authority for EPA redesignations without State requests, prevents the agency from processing redesignations requested solely by industry or citizen's groups.

EPA Action

EPA approves the redesignation since the proposed attainment area satisfies EPA policy in accord with section 107 of the Clean Air Act. The ban on the construction of major stationary sources of CO is removed by this action. Also, no additional Part D requirements need be satisfied in the attainment area. Instead, Part C, prevention of Significant Deterioration will apply.

Regulatory Process

The Office of Management and Budget has exempted this action from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated July 29 1986.

Lee M. Thomas,

Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.303 the attainment status designation table for carbon monoxide is revised to read as follows:

§ 81.303 Arizona.

ARIZONA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Maricopa Association of Governments Urban Planning Area.	X	
Tucson Urban Area[1]	X	
Rest of State		X

[1] For a description of the Tucson Urban Area, please see publication date.

* * * * *

[FR Doc. 86-17452 Filed 8-1-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-9-FRL-3059-5]

Designation of Areas for Air Quality Planning Purposes; California; North Central Coast Air Basin Redesignation for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice takes final action to approve the State of California request for the redesignation of the North Central Coast Air Basin (NCCAB) from nonattainment to attainment for ozone. EPA finds no reason to believe that the National Ambient Air Quality Standards (NAAQS) for ozone have been violated since 1981 in the area being redesignated. This action updates the attainment status of the North Central Coast Air Basin. Also, the area has implemented a control strategy fully approved by EPA and no additional Part D requirements need to be satisfied in the attainment area.

DATES: This action is effective October 3, 1986, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: The EPA Technical Support Document (March 1986) is available for public inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 9, Air Management Division, Technical Evaluation Section, 215 Fremont Street, San Francisco, CA 94105

California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Michael Jones, Technical Evaluation Section, Air Management Division, EPA, Region 9, Telephone: (415) 974-7655, FTS 454-7655.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all States (43 FR 8962). In California, EPA designated the NCCAB as nonattainment for ozone. Ambient air quality data from all three member counties of the NCCAB (Monterey, Santa Cruz, and San Benito) triggered the "nonattainment" status pursuant to the CAA revisions of 1977. The original triggering mechanism utilized the federal Oxidant NAAQS of 0.8 ppm. Since that time, the federal

NAAQS for ozone was revised to 0.12 ppm and defined nonattainment by more than three exceedances in any consecutive three-year period.

On January 6, 1986, the ARB requested the NCCAB be redesignated from nonattainment to attainment for ozone. The ARB submitted sufficient data showing that the NAAQS for ozone has been attained for this area.

EPA Actions

The ARB request to redesignate the North Central Coast Air Basin for ozone satisfies EPA's criteria for a redesignation to attainment. There are four years of violation free ozone data and zero expected ozone exceedances (3 year average). In addition, an EPA approved control strategy has been implemented. This includes regulations for cutback asphalt, Stage I vapor recovery, architectural coatings, and the California motor vehicle emission control program.

EPA therefore concurs with the ARB request to redesignate the NCCAB to attainment for ozone.

Direct Final

EPA's approval of the above redesignation in California is being done without prior proposal because the redesignation is not controversial. The public should be advised that this approval action will be effective 60 days from the date this notice is published in the **Federal Register**. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, this approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this action from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1), of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities [46 FR 8709].

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: July 28, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

40 CFR Part 81 is amended as follows:

Subpart C—California Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. In § 81.305 the attainment status designation table for ozone is amended by revising the entry for the "North Central Coast Air Basin" to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
North Central Air Basin:		
Monterey County		X
San Benito County		X
Santa Cruz County		X
* * * * *		

* * * * *

[FR Doc. 86–17453 Filed 8–1–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[EPA Docket No. 107PA-22, A-3-FRL-3058-9]

Designation of Areas for Air Quality Planning Purposes Approval of State Implementation Plan Revision and Section 107 Designation for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a request from the Commonwealth of Pennsylvania to revise the attainment status designation of seven (7) counties from "Does not meet primary standards" (nonattainment) to "Better than national standards" (attainment) with respect to ozone.

Additionally, EPA will process under a separate rulemaking action a request from the Commonwealth to revise the attainment status designation of twenty-five (25) areas in Pennsylvania with respect to Total Suspended Particulates (TSP) (Docket No. 107PA–20). EPA will also process under a separate rulemaking action a request from the Commonwealth to revise the attainment status designation of the Upper Beaver Valley Air Basin from "Cannot be classified" to "Better than national standards" with respect to sulfur dioxide (SO_2) (Docket No. 107PA–21).

EFFECTIVE DATE: September 3, 1986.

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3AM11) at the EPA, Region III address above or call (215) 597–9134.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Eighth Floor, Philadelphia, PA 19107. Attn: Donna Abrams

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120. Attn: Gary Triplett

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (Act), the EPA Administrator has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within each state (see 43 FR 8962 (March, 1978)). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

Total Suspended Particulate Matter

The Pennsylvania Department of Environmental Resources (DER) has submitted to the U.S. Environmental Protection Agency (EPA), on July 27, 1984, a request to have the following areas redesignated on a county-by-county basis with respect to Total Suspended Particulates (TSP).

Coplay Borough (Boro), Whitehall Township (Twp.), Northampton Boro, Allen Twp., City of Monessen, Rostraver Twp., Aliquippa Boro, Baden Boro, and Midland Boro redesignated from "Does not meet primary standards" to "Better than national standards."

Pottstown Boro, South Coatesville Boro, City of Lancaster, Manheim Twp., remaining portions of the Lower Beaver Valley Air Basin, Wesleyville Boro and Lawrence Park Twp., redesignated from "Does not meet secondary standards" to "Better than national standards."

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West Pottsgrove Twp., Upper Pottsgrove Twp., City of Coatesville, and Doylestown Twp., redesignated from "Cannot be classified" to "Better than national standards."

East Conemaugh Boro, Franklin Boro, Ellwood City Boro, City of Sharon and the City of Farrell redesignated from "Does not meet primary standards" to "Does not meet secondary standards."

On March 11, 1985, EPA proposed approval of the redesignation of these areas and, on August 9, 1985, these redesignations were forwarded to EPA Headquarters for final processing. In September 1985, EPA Headquarters clarified the existing policy on TSP redesignations. In accordance with this clarification, for nonattainment areas without final, fully federally approved TSP SIP revisions, EPA can only grant a redesignation to attainment if certain specific events are demonstrated for each area requested for redesignation. This information has not been provided for the above areas. EPA has requested the necessary additional information from the State. EPA will not take action on the State's TSP redesignation requests until the State responds to our request for additional information.

Sulfur Dioxide

On July 27, 1984, the Pennsylvania Department of Environmental Resources also submitted a request to have the Upper Beaver Valley Air Basin (the following political subdivisions in Lawrence County: Bessemer Boro, Ellport Boro, Ellwood City Boro, Enon Valley Boro, Little Beaver Twp., New Beaver Boro, City of New Castle, North Beaver Twp., Shenango Twp., South New Castle Boro, Taylor Twp., Wampum Boro, and Wayne Twp.) redesignated from "Cannot be classified" to "Better than national standards" for sulfur dioxide (SO_2) on a county-by-county basis.

The only major source of SO_2 in Lawrence County is the Pennsylvania Power Company's West Pittsburgh station. The Pennsylvania Power Company constructed a 750-foot stack in order to reduce the local impact of their emissions at ground level. Under federal regulations, only that portion of the stack height, termed the good engineering practice (GEP) height, can be allowed for use in compliance modeling. EPA determined this height to be 415 feet. The previous stack height (prior to construction of the "tall stack") was 230 feet. Also as part of the construction, Pennsylvania Power Company combined the flue gases from their other existing stacks into this one stack to install an electrostatic precipitator to control the emissions of particulate matter into the environment.

On March 11, 1985, EPA proposed approval of the Commonwealth's request to redesignate the Upper Beaver Valley Air Basin From "Cannot be classified" to "Better than national standards" for SO_2. Subsequently, this redesignation request was processed for final action and forwarded to EPA Headquarters for review on August 9, 1985. Upon reviewing the Commonwealth's request to redesignate this air basin, it was noted that the State has not demonstrated that this SO_2 redesignation action is consistent with the July 8, 1985, final stack height regulations (50 FR 27892).

On December 16, 1981, at 46 FR 61267, EPA approved relaxing SO_2 SIP limits for Pennsylvania Power Company's West Pittsburgh Station. Because the plant merged gas streams to install TSP control equipment when it raised its stack back in the late 1970's, the enhanced plume rise may not be creditable to set the less stringent SO_2 limit under the revised "tall stack" regulations. In order to process this redesignation request, the State must demonstrate that credit for enhanced dispersion due to the merging of the flues is not given in its SIP emission limit.

EPA has requested that the State make the above demonstration and, until this demonstration is made, EPA will not take action on this redesignation request.

Ozone

On July 27, 1984, the Pennsylvania Department of Environmental Resources submitted a request to have the following counties redesignated from "Does not meet primary standards" to "Better than national standards": Bedford, Blair, Cambria, Centre, Clearfield, Indiana, and Somerset.

When considering a redesignation request for ozone, a number of criteria must be considered. The most important is the National Ambient Air Quality Standard (NAAQS) for ozone which is specified in 40 CFR 50.9. The NAAQS for ozone is defined to be violated when the annual average expected number of daily exceedances of the standard (0.12 parts per million (ppm), 1-hour average) is greater than one (1). A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 ppm ("Guideline for the Interpretation of Ozone Air Quality Standard," EPA–450/4–79–003). The expected number of daily exceedances is calculated from the observed number of exceedances by making the assumption that non-monitored days, which are days with invalid or incomplete data, have the same fraction of daily exceedances as those observed on monitored days (EPA–450/4–79–003).

Specified criteria for ozone redesignation reviews are given in a December 7, 1979, policy memorandum from Richard G. Rhoads, former Director of U.S. EPA's Control Programs Development Division, and an April 21, 1983, policy memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards. These memoranda indicate that the average number of expected exceedances for each monitoring site is to be based on ozone concentrations monitored in the most recent 3 years of data, if 3 years of data are available. In addition, evidence is required of an implemented control strategy which has been approved by EPA. In this case, the state has implemented areawide RACT regulations for Group I and II CTG sources which will remain in effect after the redesignation.

For a non-monitored area, EPA considers its proximity to major precursor source areas (generally major urban areas) and wind directions. Data from areawide ozone-precursor studies in the vicinities of major urban areas, such as St. Louis and Philadelphia, as well as data from rural monitoring sites in Region III, indicate that ozone transport, at significant levels, can occur over considerable distances downwind from urban areas. Based on these studies and data, and in the absence of any monitoring data, counties immediately downwind from major urban areas are generally assumed to be nonattainment.

Given the regional nature of ozone concentrations, as confirmed in the St. Louis and Philadelphia studies, it is reasonable to assume that non-monitored counties adjoining monitored nonattainment areas are, themselves, probable nonattainment areas. The probability of nonattainment is particularly high in those counties which are both immediately downwind of major urban areas and adjoining geographically similar monitored rural nonattainment areas.

Based on EPA's review of 1982–1984 ambient ozone monitoring data for Cambria and Blair Counties and on the proximity of Clearfield, Indiana and Somerset Counties to Cambria County and on the proximity of Bedford and Centre Counties to Blair County, EPA believes that these counties should be redesignated from "Does not meet primary standards" (nonattainment) to

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"Better than national standards" (attainment).

EPA originally proposed disapproval for the redesignation of Blair, Bedford, and Centre counties to "unclassifiable/attainment" (50 FR 9694). However, based on its review of comments received from the Commonwealth of Pennsylvania, EPA has changed its position. A discussion of these comments and EPA's views on these comments follows.

Public Comments

In accordance with the redesignation criteria for ozone, on March 11, 1985, EPA proposed approval of four (4) counties with respect to ozone. Additionally, EPA proposed disapproval of the redesignation of three (3) counties in Pennsylvania with respect to ozone (Blair, Bedford, and Centre).

As a result of the notice of proposed rulemaking (50 FR 9694), the Commonwealth submitted comments on the proposed disapproval of the redesignation of Blair County and two (2) of its adjacent counties—Bedford and Centre. The Commonwealth pointed out that they had submitted the air quality data on daylight savings time as opposed to standard time. If the Commonwealth had reported the data on standard time, which is the way the EPA reports data, two (2) of the exceedances out of the four (4) recorded for Blair County would have occurred on the same day. Therefore, these two (2) exceedances should have been considered as one episode. Additionally, these exceedances occurred during the evening hours and, based on our knowledge of ozone formation, these results are anomolous. Hence, Blair County actually did not have more than one (1) exceedance of the ozone NAAOS per year, on the average, over the period 1982–1984 and consequently, should be redesignated attainment for ozone. Bedford and Centre counties were formerly designated nonattainment area because of their proximity to the then nonattainment area, Blair County. Bedford and Centre counties, being rural areas with no monitoring data, now adjacent to an attainment area (Blair County), should also be redesignated attainment for ozone. Therefore, EPA is now taking final approval action on redesignating all seven (7) areas to attainment.

The Commonwealth has agreed, in a letter dated July 30, 1985, to request a nonattainment designation for these counties if, at such time, Blair County is monitored nonattainment for ozone.

40 CFR Part 81 is being revised by amending the chart, in § 81.339, for ozone.

Administrative Procedures

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by October 3, 1986. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2) of the Act).

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: July 28, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

40 CFR Part 81 is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—Ozone (O_3)," is amended by revising the following counties in entries IV, V and VI to read as follows:

§ 81.339 Pennsylvania.

* * * * *

Pennsylvania—Ozone (O_3)

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
• • • • •		
IV. Central Pennsylvania Intrastate AQCR:		
(A) Bedford County		X
(B) Blair County		X
(C) Cambria County		X
(D) Centre County		X
• • • • •		
(O) Somerset County		X
• • • • •		
V. Southwest Pennsylvania Intrastate AQCR:		
• • • • •		
(G) Indiana County		X
• • • • •		
VI. Northwest Pennsylvania Interstate AQCR:		
• • • • •		
(C) Clearfield County		X
• • • • •		

[FR Doc. 86–17449 Filed 8–1–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405 and 482

[BERC–519–CN]

Medicare and Medicaid Programs; Conditions of Participation for Hospitals; Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on June 17, 1986 (51 FR 22010) on conditions of participation for hospitals under the Medicare and Medicaid programs.

FOR FURTHER INFORMATION CONTACT: Stanley Rosenfeld, (301) 594–5675.

In FR Doc. 86–13171 beginning on page 22010 in the issue of June 17, 1986, the following changes are made to correct technical errors and to conform legal citations and cross-references to redesignated sections of the law or regulations:

A. On page 22040

1. The heading, "§§ 405.1501 and 405.1502 [Amended]" is changed to read "§§ 405.1501, 405.1502, and 405.1505 [Amended]".

2. Under the heading "§ 405.1501 and 405.1502 [Amended]", in lines 6 and 9, "and" is changed to "or".

3. Under the heading "§ 405.1901 [Amended]", in line 8, "481" is changed to "491".

B. On page 22041

Under the heading "§ 405.1913 [Amended']', in lines 3 and 4, "§ 405.1137(a)" is changed to "§ 405.1137(d)".

C. On page 22042

1. In the authority citation following the table of contents for part 482, in line 1, "1814(a)(7)" is changed to "1814(a)(6)"; in line 3, "1902(a)(30)" is inserted after "1886," and before "and"; in line 4, "1395f(a)(7)" is changed to "1395f(a)(6)"; and in line 6, "1396a(a)(30)," is inserted after "1395ww," and before "and".

2. Under § 482.12(a)(1), in line 3, "partitioners" is changed to "practitioners".

VOL 51 ISS 149 4 1986 AG UMI

D. On page 22045

Under § 482.25(b)(9), in line 3, "pharmaceutical" is changed to "pharmaceuticals".

E. On page 22046

1. Under § 482.26(b)(1), in line 6, "or" is changed to "of".

2. Under § 482.27(a)(3)(iii)(A), in lines 2 and 3, "American Board of Dermatology or American Board of Pathology" is changed to "American Board of Dermatology, the American Osteopathic Board of Dermatology, the American Board of Pathology, or the American Osteopathic Board of Pathology". (The osteopathic boards were inadvertently omitted in regulation text. See explanation in preamble of document on page 22023.)

F. On page 22050.

1. Under § 482.57(b)(2), line 6, a comma is added after "management".

2. Under § 482.60(a), line 3, "physician" is changed to "doctor of medicine or osteopathy". (This is a conforming change inadvertently omitted in the regulations text. See page 22012 or preamble to document for discussion.)

3. Under § 482.61(a)(4), line 6, "contracts" is changed to "contacts".

G. On page 22051

1. Under § 482.62(b)(2), line 5, the word "(physician)" is removed. (This is a conforming change inadvertently omitted in the regulation text. See page 22012 of preamble to document for discussion).

2. Under § 482.62(g)(1), line 1, "to" is inserted after the word "appropriate".

3. Under § 482.66 introductory text, line 6, "§ 405.120" is changed to "§ 409.30".

Dated: July 25, 1986.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-17471 Filed 8-1-86; 8:45 am]

BILLING CODE 4120-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1804–1807, 1809, 1813–1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1845, 1847, 1851, 1852, and 1853

[NASA FAR Supplement Directive 85-5]

Miscellaneous Changes to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuances or dealing with NASA internal or administrative matters, including physical consolidation of long-standing regulations.

EFFECTIVIE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453–2119.

SUPPLEMENTARY INFORMATION:

Background

The major changes involve: the numbering system for the NASA FAR Supplement; procedures for selecting and appointing contracting officers; a discussion of contract effective dates; assignment of responsibility for internal reports; authorization of simplified closeout for small purchases; use of class justfications; identification of additional sources for locating potential contractors; implementation of FAR requirements for obtaining information on ordering economic quantities; delegations of authority related to qualified products; a $300 limitation on use of imprest funds; implementation of the FAR contract order of precedence change; clarification of a current solicitation requirement regarding contract property; a discussion of the FAR requirements for synopsizing unsolicited proposals; reiteration of long-standing NASA policy on use of Source Evaluation Board procedures; procedures for duty-free entry of space articles; clarification of the applicability of patent clauses to domestic contractors and specification of invention and reporting rights for foreign contracting; consolidation and restatement of existing guidance and policy on disputes under contracts awarded prior to March 1979 and public inspection of files; information to be included by NASA in the register of ocean shipments; and purchase of airline tickets by certain contractors at vendors other than SATO's.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. All regulations in NFSD 85–5 fall in the exempted category. These regulations deal with internal NASA policies and procedures. Therefore, NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulations impose no burdens on the public within the ambit of the Paperwork Reduction Work Act, as implemented at 5 CFR 1320.

List of Subjects in 48 CFR Parts 1801, 1804–1807, 1809, 1813–1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1845, 1847, 1851, 1852, and 1853

Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1804 through 1807, 1809, 1813 through 1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1645, 1847, 1851, 1852, and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. The heading for Part 1801 is revised to read as set forth above.

3. Subpart 1801.1 is amended by revising 1801.104–370 to read as follows:

1801.104–370 Dissemination of this Regulation, revisions and procurement notices.

(a) The NASA FAR Supplement NASA FAR Supplement Directives (NFSD's) and Procurement Notices (PN's) (see 1801.270), will be distributed directly to NASA Headquarters and to installation distribution points. The number of copies of the regulations, and revisions thereto, will be distributed on the basis of the requirments furnished by each Headquarters office and NASA field installation to the Office of Procurement, NASA Headquarters (Code HP). Material which revises this Regulation will be published in the **Federal Register**, as required by statute.

(b) Heads of field installations will ensure that copies of the NASA FAR Supplement, revisions thereto, and PN's are promptly distributed to all interested activities and individuals within their installation. Code HP is responsible for distribution within Headquarters and for monitoring bulk distribution to installations.

(c) Subscriptions to the NASA FAR Supplement, including applicable NFSD's, may be purchased by private concerns and individuals from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

4. Subpart 1801.2 is amended as follows:

a. Section 1801.270–2 is amended by revising paragraph (a) and adding paragraph (c).

1801.270–2 Procurement notices.

(a) This Regulation will also be amended by issuance of Procurement Notices (PN's) when it is necessary or advisable to—

(1) Promulgate as rapidly as possible selected material revising this Regulation, in a general or narrative manner, in advance of a specific page replacement type revision to this Regulation, or

(2) When the policy and/or procedure is expected to be effective for a period of 1 year or less.

* * * * *

(c) Material which is unsuitable for insertion in this Regulation will be promulgated by means other than Procurement Notices.

b. Section 1801.270–4 is revised.

1801.270–4 Numbering.

(a) Effective January 1, 1986, NASA FAR Supplement Directives and Procurement Notices are numbered in the same manner as the FAR, i.e., consecutively beginning with number 1 prefixed by the last two digits of calendar year of issuance of the current edition of the NASA FAR Supplement.

(b) Prior to January 1, 1986, the following NFSD's and PN's were issued:

1984	NFSD 84–1 through 84–3
	PN 84–1 through 84–15
1985	NFSD 85–1 through 85–4
	PN 85–1 through 85–9

Although in calendar year 1986 the NFS is a 1984 edition, the first NFSD is 85–5 and the first PN is 85–10. The current consecutive numbering and the "85" prefix will be maintained until the next NFS edition is published. Full compliance with paragraph (a) of this section will be achieved at that time.

1801.301 [Amended]

5. Section 1801.301 is amended by removing the comma after the word "otherwise".

1801.405 [Amended]

6. Section 1801.405 is amended by revising the reference to "FAR 1.104(b)" to read "FAR 1.405(b)."

Subpart 1801.5—[Removed]

7. Subpart 1801.5 is removed.

8. Subpart 1801.6 is amended by removing 1801.603–1, by adding 1801.603–2 and 1801.603–3, by revising 1801.603–4, and by adding 1801.670 to read as follows:

1801.603–1 [Removed]

1801.603–2 Selection.

(a) *Policy.* The objective of issuing contracting officer Certificates of Appointment, SF Form 1402, is to ensure that only those officials who are fully qualified to obligate the Government for the expenditure of public funds for the procurement of supplies and/or services are appointed as contracting officers when an organizational need occurs. Only GS–1105 and GS/GM–1102 personnel shall be appointed as contracting officers.

(b) *Appointment levels.* There are three levels of appointment authority as follows; the appropriate appointment level shall be specified on the SF 1402 upon issuance:

(1) *Basic level.* Applies to personnel in the GS–1102 or GS–1105 series only who have signature authority for small purchases, orders placed under Federal Supply Schedule contracts, other mandatory sources, or blanket purchase agreements.

(2) *Intermediate level.* Applies to those in the GS–1102 series only who have been delegated the authority to execute contracts and contract modifications for up to a maximum of $500,000.

(3) *Senior level.* Applies to all personnel in the GS–1102 series only who have been delegated contracting authority to execute contracts and contract modifications which exceed $500,000.

(c) *Organizational need determination.* NASA contracting officers shall be appointed only in those instances in which a valid organizational need can be demonstrated. Organizational factors to be considered in assessing the need for a contracting officer appointment include volume of actions, complexity of work, and organizational structure.

(d) *Selection procedure.*

(1) Once the organizational need is determined, the supervisor will nominate a contracting officer candidate. At the request of the supervisor, the candidate shall prepare a qualification statement (or SF 171) containing the following information:

(i) Name;

(ii) Title, series, grade;

(iii) Office;

(iv) Relevant experience, beginning with current position to a total of four relevant positions, including for each position—

(A) Employer;

(B) Dates employed;

(C) Title of position;

(D) Kind of business/organization; and

(E) Description of work.

(v) Other relevant special qualifications, certifications or skills;

(vi) Relevant honors, awards, or fellowships received;

(vii) Education, including—

(A) Highest level completed;

(B) High school name, dates attended, and diploma received; and

(C) College or university name, dates attended, degree(s) received; chief undergraduate college subjects; number of credits (show whether semester or quarter hours) completed; major field or study at highest level of college work.

(viii) Procurement-related training, including—

(A) Name of course;

(B) Name of school; and

(C) Dates attended.

(2) The supervisor will review the qualification statement to determine the candidate's ability to perform the functions required to meet the organizational need. The supervisor will then complete a Request for Appointment of a Contracting Officer, using the format shown below, justifying the validity of the organizational need and verifying the contracting officer candidate's qualifications. This document will be signed by the candidate's supervisor and submitted through appropriate organizational channels to the appointing authority (see NMI 5101.24). If additional information is required by the appointing authority, the application will be returned with a request for further explanation or supporting data.

Format

Request for Appointment of a Contracting Officer

The following findings and determinations are made pursuant to applicable laws and regulations:

1. There is a clear and convincing need to appoint a contracting officer with the ability to perform at the _____ (basic, intermediate, or senior) contracting officer warrant level for the following reasons:

2. The contracting officer candidate is:

_____

(Name, Title, Series, and Grade)

3. The contracting officer candidate will occupy the organizational level described below:

_____

(Office/Branch/Division and Location

4. The candidate's qualifications statement is enclosed. It was found that (insert the appropriate statement)

—The candidate's experience and training meet the established qualification standards.

—This candidate does not meet the minimum qualifications in _____ (experience and/or training as indicated in the justification); therefore, an interim appointment for the period of _____ is

requested. These experience and/or training needs will be identified in the candidate's individual development plan and must be completed by _____.

5. The candidate's current conflict-of-interest disclosure statement is on file in the appropriate personnel office or is attached.

6. In addition to the NASA FAR Supplement, laws, Executive Orders, NASA Management Instructions, and other applicable regulations, the following additional warrant limitations are imposed:

a. Dollar Threshold: _____
b. Other Limitations: _____

Supervisor: _____
(Signature of Supervisor of the Candidate)

(Date) (Typed Name)

(Procurement Office) (Title)
APPROVED:

(Appointing Authority) (Date)

(3) If the appointing authority approves the Request for Appointment of a Contracting Officer, the appointing authority shall issue an SF 1402 Certificate of Appointment in accordance with 1801.603–3. A copy of the SF 1402, the Request for Appointment of a Contracting Officer, and the qualification statement shall be maintained for each contracting officer in a central location in the center procurement office during the period of time the SF 1402 is effective and for three years after its termination or the individual has left the procurement office's employ. A copy of each SF 1402 issued shall be provided to NASA Headquarters, Office of Procurement, Code HM. Each center shall prepare and maintain an up-to-date listing, by name and position, of all the installation's contracting officers and the limitations imposed on them in their warrants. A copy of this listing shall be provided annually to NASA Headquarters, Office of Procurement, Code HM.

(e) *Required qualifications.*

(1) The following are the experience, education, and training requirements needed to qualify for each of the three contracting officer appointment authority levels. Appointing authorities can establish additional qualifications, as appropriate. For example, additional qualifications may be established for those authorized to sign incentive and award-fee actions.

(i) *Experience.*—(A) *Basic level:* One year of current experience in Government or commercial procurement, including six months experience in small purchase.

(B) *Intermediate level:* Two years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(C) *Senior level:* Four years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(ii) *Education.* (preferred, not mandatory).

(A) *Basic level:* A high school diploma or equivalent.

(B) *Intermediate and Senior levels:* A bachelor's degree from an accredited college or university which included or was supplemented by at least 24 semester hours in a field of study directly related to procurement, such as business administration, contract law, accounting, Government management, industrial purchasing, or material management.

(iii) *Training.* Acceptable formal training courses covering the subject matter listed below must be satisfactorily completed before a candidate may be nominated for a contracting officer appointment. Approved equivalency tests may be used as substitutes for these formal training requirements.

(A) *Basic level:* 40 hours of formal training covering the application of fundamental principles, policies, procedures, and practices in procurement.

(B) *Intermediate level:* 80 hours of formal training covering the functional knowledge of procurement law, policies, procedures, and methods, including as a minimum Government contract law, procurement by negotiation, procurement by sealed bidding, contract administration, and cost and price analysis.

(C) *Senior level:* 120 hours of formal training including analysis of procurement methods and techniques to enable an individual to effectively manage contractual relationships. The general topics described above also apply to the senior level.

(2) A two-year associate's degree in a procurement related field, such as business administration or accounting, may be substituted for six months of procurement experience. A four year undergraduate program degree in a procurement-related field from an accredited college or university may be substituted for procurement experience at the rate of 12 semester credit hours for three months of procurement experience. One year of concentrated experience in an advanced procurement subject area beyond the two-year minimum for the intermediate level qualifications and the four year minimum for senior level qualifications may be substituted for 24 classroom hours for formal training in procurement. The maximum credit for the total additional years of experience in separate concentrated procurement subject areas is 96 classroom hours.

(f) *Interim appointments.* Personnel shall not ordinarily be appointed as contracting officers if they do not meet the applicable qualifications prescribed in this subsection. If it is necessary to appoint a contracting officer who does not fully meet the qualifications, an interim appointment may be granted. The appointing authority shall require as a condition of the interim appointment that all training or experience requirements will be met within a reasonable period of time. Failure to successfully complete the training requirements within this time frame will result in termination of the appointment or issuance of another interim warrant, whichever is deemed necessary by the appointing authority. Such actions must be fully documented.

(g) *Condition of appointment.* As a condition of continuing appointment, all contracting officers shall be required to satisfactorily complete a procurement-related Government, commercial, or academic course/seminar at least once every five years. This training will preferably be in an area closely related to that in which the contracting officer is assigned.

(h) *Changes to contracting officer appointments.* Changes, either increasing or decreasing the warrant limitations of a contracting officer, shall be made solely at the discretion of the appointing authority. When an appointing authority determines to make such changes, a new SF 1402 Certificate of Appointment shall be issued and the existing warrant shall be officially terminated.

1801.603–3 Appointment.

(a) The Standard Form 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the FAR. In addition, the Standard Form 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the NASA FAR Supplement and the NASA Procurement Regulation. The limitations section of the Standard Form 1402 shall, immediately after the word "following," state: ". . . the limitations contained in the NASA FAR Supplement and the limitations contained in the NASA Procurement Regulation."

(b) If the appointing official chooses to restrict a contracting officer from exercising authority under the NASA Procurement Regulation, the limitations section of SF 1402 shall, immediately

after the word "following," state: ". . . the limitations contained in the NASA FAR Supplement. This Certificate of Appointment does not authorize the appointee to exercise contracting officer authority under the NASA Procurement Regulation."

1801.603–4 Termination.

The appointment of a contracting officer may be revoked at any time by the appointing authority. Contracting officers whose appointments are terminated shall be given a written notice stating the reasons for and the effective date of the termination.

1801.670 Delegation of procurement responsibilities.

(a) Non-GS/GM–1102 or –1105 personnel shall only be delegated procurement responsibilities by a warranted contracting officer (see 1801.603) and only in accordance with the guidelines in this section. Personnel who are not in the GS/GM–1102 or –1105 job series shall not be issued formal contracting officer warrants (SF Forms 1402). Procurement responsibilities, as ordering officers or as contracting officer representatives, shall be delegated to such personnel by a warranted contracting officer in a written letter of delegation. Limitations shall be clearly set forth in the delegation letter. Authority to sign contracts, modifications, or orders in excess of the small purchase limitation shall not be delegated.

(b) Nonprocurement personnel who are delegated procurement responsibilities shall be required to have the training, experience, and education requirements necessary for the responsibilities assigned. If responsibility is to be delegated for making small purchases, the training, education, and experience for the Basic-level contracting officer warrant shall be required. Variations from these procedures will require a deviation in accordance with Subpart 1801.4.

PART 1804—ADMINISTRATIVE MATTERS

9. Subpart 1804.1 is amended by adding 1804.170 to read as follows:

1804.170 Contract effective date.

(a) The contract effective date is defined as the date agreed upon by the contracting parties for the commencement of the period of performance under the contract. The effective date shall be on or after the date on which the contract becomes legally binding. Generally, a contract becomes legally binding on the date that the document, signed by both parties, is received by the offeror, unless, by the terms of the contract, it does not become binding until some subsequent condition is met, e.g., approval by higher authority (FAR 52.204–1) or availability of funds (FAR 52.232–18). The effective date should allow for adequate time for the actual receipt of the written acceptance by the offeror or its agent, with any doubt being resolved by the effective date being after the contract becomes legally binding. In no case will the effective date precede the signature date of the contracting officer or the designated higher approval authority.

(b) Costs incurred before the effective date of the contract as defined in paragraph (a) above are unallowable unless such costs qualify as precontract costs (see FAR 31.205–32) and the clause prescribed at 1831.170 is used.

10. Subpart 1804.6 is amended as set forth below:

a. Section 1804.601 is added to read as follows:

1804.601 Record requirements.

The Headquarters Procurement Management Division (Code HM) is responsible for developing the computer file, specified at FAR 4.601, through monthly submission of Individual Procurement Action Reports (NASA Form 507) and for subsequent transmittal of the required data to the Federal Procurement Data System (FPDS).

b. In 1804.671–4, paragraph (w), the word "Service" is revised to read "Schedule"; in paragraph (ii), the citation "(see 51.602)." is revised to read "(see FAR 4.804–4)."; and paragraphs (pp), (rr), (ss), and (tt) are revised to read as follows:

1804.671–4 Preparation of Individual Procurement Action Reports (NASA Form 507 and NASA Form 507A).

* * * * *

(pp) Item 41—Total profit or fee (11 positions). Enter the definitized negotiated fee or profit when applicable or available.

(1) For incentive contracts, enter the target fee.

(2) For award fee contracts, enter the base fee plus the maximum award fee.

(3) On modifications, enter the total cumulative, definitized fee and not merely the increase or decrease effected by the respective modification. (The initially reported fee will be overlaid by modification data.)

(4) Round all entries to the nearest whole dollar.

* * * * *

(rr) Item 43—Number of offers received—not used for 8(a) awards. Enter the actual number of offers received in response to a solicitation. Use 99 for offers totalling 99 or more.

(ss) Item 44—Competitive solicitation procedures. This item pertains to the requirements of FAR Part 6, Subpart 6.1 (Full and Open Competition), 6.2 (Full and Open Competition After Exclusion of Sources), and 6.3 (Other Than Full and Open Competition), with the exception of the statutory authorities for other than full and open competition (Subpart 6.3) which are reported in Item 45. Codes A through L designate the competition alternates described in FAR Part 6. Codes N and P designate actions which do not require application of these requirements. Modifications within the scope of a contract, and delivery order contract actions under requirements, or definite quantity contracts shall be reported the same as the initial contract. Delivery order contract actions under indefinite quantity contracts shall be reported the same as the initial contract when the following conditions, in FAR 6.001(f), are met: "Orders placed under indefinite-quantity contracts that were entered into pursuant to this Part when—The contract was awarded under Subpart 6.1 (Full and Open Competition) or Subpart 6.2 (Full and Open Competition After Exclusion of Sources) and all responsible sources were realistically permitted to compete for the requirements contained in the order; or The contract was awarded under Subpart 6.3 (Other than Full and Open Competition) and the required justification and approval adequately covers the requirements contained in the order."

(1) Code A—Normal Full and Open Competition is entered when the action resulted from an award pursuant to FAR 6.102(a), Sealed bids (see 6.401(a)); or 6.102(b), Competitive proposals (see 6.401(b)); or 6.102(c), Combination of competitive procedures. When this code is used, Items 21 and 46 must be coded competitive. This code will be used for Single Award Schedule Contracts ((i) Mandatory, unless information in the schedule indicates otherwise; (ii) Optional, if you competitively solicit the procurement and the GSA FSS contract is selected). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L).

(2) Code B—Architect-Engineer is entered if the action resulted from selection of sources for architect engineer contracts in accordance with Pub. L. 92–582 and procedures in FAR Subpart 36.6 (see FAR 6.102(d)(1)). The selection of a potential A&E contractor

is made by an A&E Evaluation Board conducted in accordance with 41 U.S.C. 541 et seq. This selection process is considered a competitive procedure and for reporting purposes shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 3 or 4.

(3) Code C—Basic Research Proposal is entered if the action resulted from competitive selection of basic research proposals as a result of—

(i) A broad agency announcement that is general in nature identifying areas of research interest, including criteria for selecting proposals, and soliciting the participation of all offerors capable of satisfying the Government's needs; and

(ii) A peer or scientific review (see FAR 6.102(d)(2)). When this code is used, Item 46 must be coded 4.

(4) Code D—Multiple Award Schedule is entered if the action is an order issued against a multiple award schedule using the procedures in FAR (see FAR 6.102(d)(3)). When this code is used, Item 46 must be coded. 4. This code will be used for Multiple Award Schedule contracts (Mandatory or Optional). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L). The use of Multiple Award Schedule program is considered to be a competitive procedure because competitive procedures were used by GSA to make the basic multiple award schedule contract awards under 41 U.S.C. 259(b)(3)(A). For reporting purposes, an order issued against a multiple award schedule shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 4.

(5) Code E—Alternate Source-Reduced Cost is entered if the action was taken pursuant to FAR 6.202(a)(1), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition, of such supplies or services. When this code is used, Item 46 must be coded 1, 2, or 3.

(6) Code F—Alternate Source-Mobilization is entered if the action was taken pursuant to FAR 6.202(a)(2), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization. When this code is used, Item 46 must be coded 1, 2, or 3.

(7) Code G—Alternate Source—Engineering/R&D Capability is entered if the action was taken pursuant to FAR 6.202(a)(3), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being required if the agency head determines that to do so would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. When this code is used, Item 46 must be coded 1, 2, or 3.

(8) Code H—Small Business Set-Aside is entered if the action resulted from use of procedures for small business set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. This code includes contract actions under the Small Business Innovation Research Program established under Pub. L. 97-219. When this code is used, Item 46 must be coded 1, 2, or 3 and Item 21 must be coded 4. SBIR awards must be coded 2 in Item 46. NF 507 Item 19 must be coded N, 1, or 2.

(9) Code J—Labor Surplus Area Set-Aside is entered if the action resulted from use of procedures for labor surplus area set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. When this code is used, Item 46 must be coded 1, 2, or 3. NF 507 Item 19 must be coded 4.

(10) Code K—Combined LSA/Small Business Set-Aside is entered if the action resulted from use of procedures for combined LSA/Small Business Set-Asides pursuant to FAR 6.203. When this code is used, Item 46 must be coded 1, 2, or 3. NF 507 Item 19 must be coded 3.

(11) Code L—Other than Full and Open Competition is entered if the action resulted from use of other than full and open competition pursuant to 10 U.S.C. 2304(c). The certain conditions or exceptions that permit contracting without providing full and open competition are prescribed in FAR 6.302. This code will also be used for all ADP procurements where the solicitation utilized specific make and model specifications.

(12) Code N—8(a) Program is entered when the procurement action is made under Authority section 8(a) of the Small Business Act, which authorizes the Small Business Administration to enter into all types of contracts with other agencies and let subcontracts, for performing these contracts, to eligible minority firms (see FAR Subpart 19.8). When this code is used, Items 43, 45, and 46 must be blank. Contracts awarded under the 8(a) Program are not addressed in FAR Part 6.

(13) Code P—Otherwise Authorized by Statute is entered when using contracting procedures that are expressly authorized by statute and not addressed in FAR Part 6. When this code is used, Items 43, 45 and 46 must be blank. This code should not be used for statutes addressed in FAR 6.302-5.

(tt) Item 45—Authority for Other than Full and Open Competition. When Item 44 is coded L, then this item must be completed. Select the applicable categories listed below. This item identifies the solicitation process and not the extent of competiton used in the award of the contract.

* * * * *

c. Section 1804.676 is revised to read as follows:

1804.676 Committee on Academic Science and Engineering (C.A.S.E.) Report.

NASA Form 1356, "C.A.S.E. Report on College and University Projects," shall be prepared for awards to nonprofit institutions of higher education or nonprofit institutions which are operationally affiliated or integrated with an educational institution. Information is used to produce reports required by the National Science Foundation and to respond to inquiries. Submission is required regardless of instrument type (contract, grant or cooperative agreement) and type of proposal (solicited or unsolicited). Full instructions appear on the Form itself and constitute the detailed guidance for preparation and submission. The Form, which is either included with acquisition packages or initiated by the contracting office will, subsequent to the award, be completed, checked and promptly forwarded to the Procurement Management Division, Code HM, NASA Headquarters.

11. Subpart 1804.8 is amended as set forth below:

a. Section 1804.803–71 is added to read as follows:

1804.803–71 Checklist.

NASA Form 1098, Checklist for Contract Award File Content, shall be used as the "top page" in contact files. NF 1098 is intended as a reminder of the required or most important documents in the file. It also provides a uniform tab numbering system. Only the most frequently occurring documents are listed. Therefore, space is provided for writing in additional documents applicable to specific contracts or resulting from local guidelines. The user is cautioned that completion of the NF 1098, in and of itself, does not establish that all contract actions have been taken and/or properly documented.

b. Section 1804.804–5 is revised to read as follows:

1804.804–5 Detailed procedures for closing out contract files.

(a) When the contracting office retains contract administration (excluding small purchases), it shall use as necessary NASA Form 1612, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record, to ensure that the applicable actions enumerated at FAR 4.804–5(a) are completed.

(b) Upon completion of paragraph (a) above, the contracting officer shall use NASA Form 1611, Contract Completion Statement, (this will satisfy the requirements of FAR 4.804–5(b)) for all contracts exceeding $25,000. For contracts $25,000 and under, the contracting officer shall file a signed statement that all contract actions are complete.

1804.805–70 [Amended]

c. In 1804.805–70(a)(2) both dollar amounts of "$10,000" are revised to read "$25,000"; and in paragraph (b)(1), the citation "18–805" is revised to read "1804.805".

13. Subpart 1804.72 is amended by removing 1804.7202 and by revising 1804.7205(a) to read as follows:

1804.7202 [Removed]

1804.7205 Information to be furnished when requesting approval of contracts and supplemental agreements.

(a) *General.* Requests for approval of contracts and supplemental agreements submitted to Headquarters for approval by the Assistant Administrator for Procurement, in accordance with Subpart 1807.71, Master Buy Plan Procedures, and 1816.603, Letter contracts, shall include the information required by this section and shall be forwarded in sufficient time to allow a minimum of 15 days for review. The official contract file will be submitted with the request for approval and will include completed NASA Form 1098, Checklist for Contract Award File Content. Where Headquarters Legal Counsel review is required, a duplicate copy of the file should, if practical, be forwarded in order to expedite review. A list of contracts requiring such legal review will be published periodically.

* * * * *

14. Subpart 1804.73 is amended by revising 1804.7301 (a) and (d) to read as follows:

1804.7301 General.

(a) Procurement requests will be prepared and submitted to the contracting office in accordance with installation instructions.

* * * * *

(c) The procurement request shall be assigned within the contracting office to a negotiator who will be responsible to the contracting officer for conducting the business aspects of the transaction. The negotiator will review the request to ensure that it complies with the FAR, this Regulation, applicable installation instructions, and that the information contained in the request is in sufficient detail to prepare the solicitation. Uncertain requirements or inconsistencies in the procurement request will be discussed with the initiator of the request and clarified prior to the initiation of procurement action.

PART 1805—PUBLICIZING CONTRACT ACTIONS

15. Subpart 1805.2 is amended by adding 1805.202 to read as follows:

1805.202 Exceptions.

(a) Under FAR 15.507(b)(4), the contracting officer must comply with the preaward synopsis requirement at FAR 5.201 for all unsolicited proposals that will result in contracts, unless evaluation on a case-by-case basis demonstrates that FAR 5.202(a)(8) is applicable. Note that in keeping with the focus of Pub. L. 98–369, the rule, rather than the exception, is the use of synopses to foster competition.

(b) With careful drafting it should be possible to develop a generic or more detailed synopsis which adequately describes a NASA need without disclosing the originality of thought or innovativeness contained in an unsolicited research proposal. In a few instances the mere statement in a synopsis, without any further elaboration, that a particular problem and solution exist would improperly disclose the proposer's unique perception, i.e., the originality of thought or innovativeness. However, generally, the contracting officer, in developing the synopsis, should emphasize the problem or research area which the Government wishes to address rather than the solution proposed in the unsolicited proposal. Thus, the primary objective is to foster competition, while still encouraging the submission on unique and innovative concepts, the substance of which is not otherwise available to the Government.

(c) The phrase "proprietary information" as used at FAR 5.202(a)(8) means information (data) that constitutes a trade secret and/or information that is commercial or financial and confidential or privileged.

PART 1806—COMPETITION REQUIREMENTS

16. Subpart 1806.3 is amended as follows:

1806.301 Policy.

a. In 1806.301, the heading is revised to read as set forth above.

1806.302–1–70 [Amended]

b. In 1806.302–1—70(a), the citation "FAR 6.302–1(b)(6)" is revised to read "FAR 6.302–1(b)(4)".

c. In 1806.304(a), the following sentence is added to the end of the paragraph: "NASA Form 1452 shall be used for actions requiring Headquarters approval.", and paragraph (d) is revised to read as follows:

1806.304 Approval of the justification.

* * * * *

(d) Regardless of dollar value, class justifications shall be processed and approved as if they were individual justifications over $10,000,000.

PART 1807—ACQUISITION PLANNING

17. Subpart 1807.1 is amended by revising 1807.102, 1807.103(b)(1)(iii), and 1807.170–1 to read as follows:

1807.102 Policy.

(a) In R&D procurements over $100,000, when three or fewer sources are known, the contracting officer shall have the requirements office query the Defense Technical Information Center (DTIC) IR&D Database to identify additional sources conducting IR&D in the area of the instant procurement. This is in addition to any other market survey techniques.

(b) NASA uses several methods to document its acquisition planning. These include the Project Plan, Program Operation Plan (POP), normal budget

submissions, and procurement plan. The procurement plan is the only one of these coordinated documents that is a direct procurement responsibility. Instructions and requirements for completing the other documents are in various NMI's. The thresholds and requirements for NASA procurement plans are at 1807.103 below. As authorized in FAR 7.102, NASA will continue to use its existing procurement planning system in lieu of the criteria in FAR Subpart 7.1. However, all procurement plans will comply with FAR 7.104(c), 7.105(b)(2), and when appropriate, 7.106.

1807.103 Agency-head responsibilities.

* * * * *

(b) * * *

(1) * * *

(iii) For procurements that are selected for Headquarters review and approval in accordance with the Master Buy Plan Procedure, the procurement plan shall be submitted for the signature of the Head of the Installation after review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program/Project Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The procurement plan shall be submitted to the Assistant Administrator for Procurement (Code HS) for coordination of the Headquarters review and approval process. The original and ten copies shall be submitted. The position title will be shown for each individual signing the procurement plan as required by paragraphs (b)(1) (i) through (iii) of this section.

* * * * *

1807.170–1 Procurement plans requiring approval by NASA Headquarters.

(a) Each procurement plan prepared for approval by NASA Headquarters shall be prepared on NASA Forms 1451 and 1452. Form 1451, Request for Procurement Plan Approval, shall be completed as follows:

(1) *Item 1. A descriptive short title.* In this item, include only a descriptive short title of the procurement plan. A Detailed Description of the Proposed Procurement will be attached to the Plan as Tab A. The information to be provided will consist of—

(i) A clear and concise description, including intended use, of the item or service to be procured;

(ii) Number of units, delivery schedule, and/or period of performance (Note: In the event a schedule of major events will enhance the plan, it should also be included);

(iii) An identification of any option provision including the period(s) covered and estimated costs thereof;

(iv) A brief discussion of the relationship between the proposed procurement and NMI 7121.1, Planning and Approval of Major Research and Development Projects; and

(v) A statement as to whether the contractor will be required to comply with detailed specifications, meet performance requirements, perform a mission, or furnish a level of effort.

(2) *Item 2. Name of installation.* Indicate the name of the installation responsible for the procurement.

(3) *Item 3. Plan prepared by.* Indicate the name of the individual who prepared the plan.

(4) *Item 4. Date.* Date the plan is prepared.

(5) *Item 5. Responsible technical office.* Identify the office (by title) that will be responsible for technical monitoring of the contract. Include a technical point of contact and telephone number.

(6) *Item 6. Total estimated cost of this procurement.* Provide one figure for the total estimated cost of the proposed procurement, including options, if any. When options are involved, show the cost for each option separately in the description (Tab A), as a breakout from total cost.

(7) *Item 7. Proposed funding by fiscal year and Unique Project Number (UPN).* Identify the funding amounts by appropriation, fiscal year, and UPN, for the procurement covered by the plan. Where funding is obtained from multiple projects, provide a complete identification of each fund source.

(8) *Item 8. Full and open competition.* If full and open competition is provided for, check box. If other than full and open competition is contemplated, check box.

(9) *Item 9. Type of contract.* State the type of contract recommended for the procurement. Under Tab B, Remarks, discuss the type of contract and the rationale for its selection. Where an incentive-type contract is proposed, discuss the type of incentive provision considered most suitable for the accomplishment of the procurement objectives.

(10) *Item 10. Facilities and Government-furnished property.* Indicate, by checking the appropriate box, whether the procurement will require the providing of any existing, new, or modified Government property. When other Government property is to be provided, identify the item(s) and dollar amount(s) involved. The dollar amount(s) provided in Item 12 will not be included in the dollar amounts specified under Items 7 and 9 of the form unless the property or facilities specified are part of the procurement. If dollar amounts under Item 12 are included under Items 7 and 9, the amounts should be so annotated under this item in Tab B, Remarks.

(11) *Item 11. Procurement action schedule.* Indicate the date the procurement plan was submitted to Headquarters for review and approval. For all other entries, provide only the number of calendar days required to complete the action (beginning at the time the previous action was completed) in order to meet the program schedule.

(b) *Tab B, Remarks.*—(1) *General.* Include any comments required by the above instructions not covered elsewhere and any other information considered essential to amplify or clarify any item on the form. In addition—

(i) Identify specific deviation(s) to the Acquisition Regulation;

(ii) Identify any special conditions or clauses required;

(iii) Identify all separate approvals required in support of the proposed procurement;

(iv) Include a copy of any comments by Counsel for the contracting office (or a statement that Counsel has no objection to the plan) and describe the actions taken in response to any such comments; and

(v) Discuss considerations given to small business, including minority business enterprises, participation.

(2) *Competition.* Describe how competition will be sought and promoted. If appropriate, discuss how competition will be sustained through the course of the acquisition. If full and open competition is not contemplated, cite the authority in FAR 6.202 or 6.302; identify the source(s); and discuss why full and open competition cannot be obtained.

18. Subpart 1807.2 is added to read as follows:

Subpart 1807.2—Planning for the Purchase of Supplies in Economic Quantities

1807.204 Responsibilities of contracting officers.

The contracting officer shall transmit in writing to the cognizant inventory management/requirements office either the actual offeror responses or a summary of the salient points thereof. This does not preclude preliminary verbal consultations. The transmittal should be made within five working

days after the closing date for receipt of offers; however, in negotiated acquisitions, if a response indicates a significant price variation, it should be transmitted immediately. All transmittals shall request the recipient to specify promptly whether the acquisition should be amended, cancelled, or concluded as is. Although award or negotiation need not be delayed pending a reply unless a potential for significant savings is apparent, such delay is encouraged where feasible in negotiated acquisitions in order to fully accommodate the intent and purpose of review of the data by the inventory management/requirements office. In sealed bid acquisitions, the policy in FAR 14.404–1(a) applies.

19. Subpart 1807.71 is amended as set forth below:

a. Section 1807.7102 is amended by revising paragraph (a) to read as follows:

1807.7102 Applicability.

(a) The Master Buy Plan Procedure is applicable to each negotiated procurement when the expected dollar value of that procurement, or aggregate amount of follow-on procurements (see 1807.103(b)(2)), is expected to equal or exceed the dollar value in paragraph (c) below, for the installation making the award. This procedure is also applicable to the following special procurements which are less than the paragraph (c) amounts:

(1) Procurement of utility services when an area-wide contract is not used and either—

(i) The annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed $100,000; or

(ii) When, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed $25,000.

(2) Procurement of architect-engineer services for $1,000,000 or more including those services described at 18–15.903–70.

(3) Procurements which provide facilities having a total acquisition value exceeding $500,000, or provide real property regardless of amount (see 1845.302–1).

* * * * *

1807.7105 [Amended]

b. In 1807.7105(a), after the parenthetical phrase "(including supplemental agreements)", remove the words "and leases".

c. In 1807.7106, the Master Buy Plan Procedure Format, paragraph (7) is revised to read as follows:

1807.7106 Format of Master Buy Plan.

* * * * *

(7) List only *one* procurement on each page. Sequentially number each procurement action page with a two digit "Line Item Number" beginning with "01" for each annual submission and continue the same numbering system for amendments to the annual submission so as to provide a unique, sequential number throughout the entire fiscal year.

PART 1809—CONTRACTOR QUALIFICATIONS

20. Subpart 1809.1 is amended by revising 1809.106–7001 to read as follows:

1809.106–7001 General.

Subsections 1809.106–7001 through 1809.106–7205 establish procedures for conducting preaward surveys. They include preaward surveys conducted by NASA, those conducted by another agency for NASA, and those jointly conducted.

21. Subpart 1809.2 is amended by adding 1809.202 and 1809.206–1 and revising 1809.203–70(a) to read as follows:

1809.202 Policy.

(a) Authority regarding agency head actions under FAR 9.202(a) is delegated to the cognizant technical activity with approval by the installation Competition Advocate.

(b) The approval authority of FAR 9.202(e) is delegated to the installation Competition Advocate. Requests shall be prepared by the cognizant requirements office and submitted via the procurement officer.

1809.203–70 General.

(a) NASA Headquarters Office of Reliability and Quality Assurance (Code DR) is responsible for justifying, determining, and approving NASA's need for inclusion and continued usage of qualification requirements in specifications under the NASA Microelectronics Reliability Program.

* * * * *

1809.206–1 General.

(a) The emergency determination authority specified at FAR 9.206–1(b) is delegated to the installation Competition Advocate. Requests for determination shall be prepared by the cognizant requirements office and submitted through the procurement officer.

(b) Requests not to enforce a qualification requirement in a non-emergency situation shall be prepared by the cognizant requirements office and approved by the Headquarters Chief Engineer, Code D.

(c) Under FAR 9.206–1(c), if an offeror seeks to demonstrate its capability, where applicable, both the product and the producer must meet the established standards.

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

1813.404 [Amended]

22. In Subpart 1813.4, 1813.404(a) is revised by placing a period after "$300" and removing the remainder of the sentence.

1813.7003 [Amended]

23. In Subpart 1813.70, 1813.7003(a) is revised by removing the parenthetical phrase "(or $500 under emergency conditions)".

PART 1814—SEALED BIDDING

1814.201–3 [Removed]

24. Subpart 1814.2 is amended by removing 1814.201–3.

PART 1815—CONTRACTING BY NEGOTIATION

25. Subpart 1815.4 is amended as set forth below:

1815.406–3 [Removed]

a. Section 1815.406–3 is removed.

b. Section 1815.406–5 is amended by redesignating paragraphs (a) and (b) as (b) and (c), respectively. New paragraph (a) is added, and newly redesignated paragraph (b)(9) is revised to read as follows:

1815.406–5 Part IV—Representations and instructions.

(a) *Section K, Representations, certifications, and other statements of offerors or quoters.* See 1845.104(b).

(b) * * *

(9) Include a statement that the solicitation does not commit the Government to pay any cost incurred in the submission of the offer/quotation or in making necessary studies or designs for the preparation thereof, nor to contract for services or supplies.

* * * * *

1815.407–70 [Amended]

c. In 1815.407–70, "1852.214–72" is revised to read "1852.215–72".

26. Subpart 1815.5 is amended by revising 1815.507(c) to read as follows:

1815.507 Contracting methods.

* * * * *

(c) See NFS 1805.202 for guidance in complying with the preaward synopsis requirement at FAR 15.507(b)(4).

27. Subpart 1815.6 is amended by revising 1815.613–70 and in 1815.613–71, adding paragraph (a)(4) to read as follows:

1815.613–70 General.

Pursuant to FAR 15.613, the source selection procedures in 1815.613 apply to all procurements negotiated by NASA. The evaluation of proposals received may be accomplished in a number of different ways. Evaluation of proposals received in response to an Announcement of Opportunity will be accomplished in accordance with NHB 8030.6, Guidelines for Acquisition of Investigations. The applicability of and rules for the conduct of source selection in accordance with formal source evaluation board procedures are covered at 1815.613–71. The policies prescribed at 1815.613–71 shall also apply to other negotiated procurements.

1815.613–71 Evaluation and negotiation of procurements conducted in accordance with the Source Evaluation Board Manual (NHB 5103.6).

(a) * * *

(4) These procedures may be used in any other competitively negotiated procurements where a Source Selection Official determines it is desirable to do so.

* * * * *

PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

28. Part 1819 is amended by removing the heading for Subpart 1819.1. Section 1819.001, titled "Definitions" is added. Section 1819.101 is redesignated as 1819.001–70 and the heading is revised to read "Additional Definitions".

PART 1825—FOREIGN ACQUISITION

1825.109 [Removed]

1825.109–70 [Removed]

29. Subpart 1825.1 is amended by removing 1825.109 and 1825.109–70.

30. Section 1825.604 is amended by adding paragraph (e) to read as follows:

1825.604 Exempted supplies.

* * * * *

(e) Item 837.00 of Schedule 8 and the Subpart A headnote of Part 3, Schedule 8, provides for duty-free entry of articles launched into space by NASA, articles returned from space by NASA, including spare parts or necessary and uniquely associated support equipment. Consult 14 CFR 1214.15 (NMI 8610.18, "Space Transportation System; Duty-Free Entry of Space Articles") for procedures on obtaining the required Headquarters certificates for the duty-free entry of these articles.

PART 1827—PATENTS, DATA, AND COPYRIGHTS

31. Subpart 1827.3 is amended as follows:

a. In 1827.373, paragraphs (a)(1) and (c)(1) are revised, and paragraph (g) is added to read as follows:

1827.373 Contract clauses.

(a) * * *

(1) The contracting officer shall insert the clause at FAR 52.227–11, Patent Rights—Retention by the Contractor (Short Form), in any contract (and solicitation therefor) with a small business firm or a nonprofit organization for the performance of experimental, developmental, or research work unless a determination is made to use another clause pursuant to one of the exceptions set forth in paragraph (c) below. The clause shall be modified as specified at 1852.227–11. Also, see paragraph (f) below.

* * * * *

(c) * * *

(1) When work is to be performed outside the United States, its possessions, Puerto Rico by contractors that are not domestic firms, the clause at 1852.227–85, Invention Reporting and Rights—Foreign, shall be used unless the contracting officer determines, with concurrence of installation Patent Counsel, that the objectives of the contract would be better served by use of the clause at FAR 52.227–13, Patent Rights—Acquisition by the Government. For the purposes of this subparagraph, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304–4(a) regarding subcontracts with U.S. firms.)

* * * * *

(g) *Solicitation provision.* The contracting officer shall insert the provision at 1852.227–84, Patent Rights Clauses, in solicitations for experimental, developmental, or research work to be performed in the United States, its possessions, or Puerto Rico, when the eventual awardee may be a small business or nonprofit organization but it is not known at the time of solicitation; e.g., the procurement is not a set-aside and is not sole source to a large business.

PART 1832—CONTRACT FINANCING

1832.470 [Removed]

32. Subpart 1832.4 is amended by removing 1832.470.

PART 1833—PROTESTS, DISPUTES, AND APPEALS

33a. The heading of Part 1833 is revised to read as set forth above.

33b. Subpart 1833.2 is amended by adding 1833.211–70 to read as follows:

1833.211–70 Contracts awarded before March 1, 1979.

Under contracts awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), the contractor may elect to proceed either under the Act or under the Disputes clause in the contract. Therefore, when preparing final decision letters regarding disputes under contracts awarded before March 1, 1979, the paragraph in FAR 22.211(a)(4)(v) should be revised to read as follows:

This is the final decision of the contracting officer. Since this contract was awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), you may appeal this decision by following the procedures of either the—

(a) Disputes clause (dated April 1984) in 52.233–1 of the Federal Acquisition Regulation; or

(b) Disputes clause (dated September 1962) in the contract.

If you decide to make an appeal under Procedure (a), the Disputes clause dated April 1984, you must mail or otherwise furnish written notice thereof to the NASA Board of Contract Appeals, Code NC, Room 6058, 4th and Maryland Avenue SW., Washington, DC 20546, within ninety days from the date you receive this decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken. The notice shall indicate that an appeal is intended, should reference this decision, and identify the contract by number. For appeals under this clause you may, solely at your election, proceed under the NASA Board of Contract Appeals' small claims procedure (for claims $10,000 or less) or their accelerated procedure (for claims $50,000 or less). In lieu of appealing to the NASA Board of Contract Appeals, you may bring an action directly in the U.S. Claims Court within twelve months of the date you receive this decision.

If you decide to make an appeal under Procedure (b), the Disputes clause of this contract (*Disputes*, September 1962), you must mail or otherwise furnish *to the Contracting Officer*, within *thirty* days from the date you receive this decision, a written appeal or written notice thereof addressed to the Administrator of NASA or the Board of Contract Appeals, which shall indicate that an appeal is intended, and shall reference this decision and identify the contract by number. For appeals filed under this clause

you may elect to proceed under the NASA Board of Contract Appeals optional accelerated procedure (for claims $25,000 or less). The NASA Board of Contract Appeals is the authorized representative of the Administrator for hearing and determining disputes.

There is a separate set of Rules of the NASA Board of Contract Appeals for each of the two procedures described above; both sets appear in Part 14, Code of Federal Regulations, section 1241. The Board will mail a copy of its Rules to you if you timely file an appeal from this decision.

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1836.203 [Amended]

35. Section 1836.203(a) is amended by revising "For Office Use Only" to read "For Official Use Only".

PART 1837—SERVICE CONTRACTING

36. Subpart 1837.2 is amended by revising 1837.204–70(d), by adding 1837.204–71, and by revising 1837.205–71(b) (1) and (4) to read as follows:

1837.204–70 NASA policy.

* * * * *

(d) Consulting service tasks assigned to the Jet Propulsion Laboratory and amendments to contract NAS 7–100 must be reviewed and approved by the Associate Administrator for Management Operations (Code N).

* * * * *

1837.204–71 Public inspection.

(a) NASA's annual Appropriations Act states: "Except as otherwise provided under existing law or under an Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract."

(b) In accordance with paragraph (a) above, the Office of Procurement (Code HM) will be rsponsible for preparing and distributing the list for public inspection on a quarterly basis to NASA Information Centers pursuant to NMI 1382.2 (14 CFR Part 1206), "Availability of Agency Records to Members of the Public." Copies of such lists will also be distributed to NASA installation procurement offices to assure an awareness of contracts that have been highlighted for public inspection.

(c) Public inspection of consultant service contracts and purchase orders at NASA field installations in accordance with the Appropriations Act, will be limited to basic contract documents and modifications. Requests for copies of contracts or other data will be handled in accordance with NMI 1382.2 and OFPP Policy Letter No. 78–3, dated March 30, 1978.

1837.205–71 Negotiation of contracts.

* * * * *

(b) * * *

(1) The contractor warrants that the rates quoted are not in excess of those charged nongovernmental clients for the same services performed by the same individuals;

* * * * *

(4) The contractor agrees that any reports regarding organizational matters (as required by the contract) shall include, when feasible, in addition to the recommendations, alternative methods to be considered and the pros and cons of each alternative.

PART 1839—MANAGEMENT ACQUISITION AND USE OF INFORMATION RESOURCES

1839.7003–2 [Amended]

36. In section 1839.7003–2, in the Format, in paragraph 5(ii)(G), the reference to "FIRMR 201–30.013–2)." is revised to read "FIRMR 201–11.002–1)."

PART 1842—CONTRACT ADMINISTRATION

1842.202–70 [Amended]

37. Subpart 1842.2 is amended by revising the last sentence of 1842.202–70(e) to read "When retained, the functions should be performed in accordance with Subpart 1845.72."

PART 1845—GOVERNMENT PROPERTY

38. Subpart 1845.1 is amended by revising 1845.106–70(c) to read as follows:

1845.106–70 NASA contract clauses.

* * * * *

(c) The contracting officer shall insert the clause at 1852.245–72, Liability for Government Property Furnished for Repair and Services, in solicitations and contracts on a fixed-price basis (except for experimental, developmental, or research work with educational or nonprofit institutions, where no profit to the contractor is contemplated) for repair (modification, rehabilitation) or other servicing of Government property, when such property is furnished to a contractor for that purpose. If a substantial quantity of parts or material will be furnished to the contractor, or a significant amount of scrap will result from the work to be performed, or if other Government property will be furnished to or acquired by the contractor, the contract will also contain the appropriate Government property clause (see FAR 45.106) and the Schedule of the contract shall provide that such property shall be governed by the terms of that clause. When minor repairs are obtained under small purchases procedures, the procedures of this paragraph will not apply. Contracting officers shall not require additional insurance under the clause unless the circumstances clearly indicate advantages to the Government.

* * * * *

39. Subpart 1845.3 is amended as follows:

1845.302–70 [Amended]

a. In 1845.302–70(a), the words "NASA Management Delegation A7330.1B." is revised to read "NASA Management Instruction 7330.1C."

40. Subpart 1845.72 is amended by revising 1845.7205(f)(1) to read as follows:

1845.7205 Functional oversight of property administration and plant clearance.

* * * * *

(f) * * *

(1) Obtain and review property control system survey summaries for all contracts for which property administration has been delegated. Advise Headquarters Code NIE of any severe or continuing problems.

* * * * *

PART 1847—TRANSPORTATION

41. Subpart 1847.1 is amended by revising 1847.506–70(a) and adding 1847.507 to read as follows:

1847.506–70 Compliance with the Cargo Preference Act.

(a) A register will be established and maintained by the transportation officer in each field installation to reflect adherence to the Cargo Preference Act. The register shall contain data related to shipments made by the installation, as well as those made by NASA contractors. Where there is no transportation officer available, it will be maintained by the procurement office. Such registers shall contain pertinent details of ocean shipments,

including, but not limited to, the ports of origin and destination of shipments, commodity descriptions, and gross weight, freight revenue, name of vessel, operator of vessel, and date of loading. Registers shall be maintained on a current basis and organized so that adherence to the Cargo Preference Act can be ascertained at all times. Insofar as practicable, compliance with the 50 percent minimum requirements of the Cargo Preference Act shall be maintained on a quarter-year basis. Any deficiencies to maintain such compliance shall be corrected by the end of the calendar year.

* * * * *

1847.507 Contract clauses.

The basic clause at FAR 52.247–64 with the appropriate alternate (I or II) shall be used.

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

42. Subpart 1851.70 is amended by revising 1851.7003(c), 1851.7004, and 1851.7005 to read as follows:

1851.7093 Eligible contractors.

* * * * *

(c) Contractor is on- or near-site at a NASA installation.

* * * * *

1851.7004 Procedures.

(a) Individual airline tariffs as well as airline business strategies govern the availability of the discount fares. These rules and practices will be interpreted and applied by the contractor's source of airline tickets when contractors request service and are the reason for the provision in paragraph (g) of the clause at 1852.251–70. Where airline tariffs permit use of discount fares which are in addition to the GSA contract fare, such additional fares should also be used.

(b) The basic procedures for obtaining GSA City-Pairs Contract and other government discount passenger air transportation rates to be followed by contractors is set forth in the clause at 1852.251–70. (The contractor's source of airline tickets and Installation Travel Offices will comply with guidance provided by the Transportation Management Office.)

(c) For both new and amended contracts, the contracting officer shall notify the installation travel office that the clause in (b), above, has been used and furnish contractor name, contract number, and period of performance.

1851.7005 Contract clause.

The contracting officer shall insert the clause at 1852.251–70, Contractor Employee Air Transportation, in solicitations and contracts with contractors determined eligible in accordance with 1851.7003. The clause implements the following special conditions, based on NASA-Air Transport Association agreements, which must be observed in authorizing a contractor to use reduced GSA-negotiated passenger airfares:

(a) Service must be ordered on SF 1169, U.S. Government Transportation Request (GTR).

(b) Tickets may be obtained only for bona-fide contractor employees, e.g., the procedures cannot be used to obtain tickets for Government employees.

(c) Air carriers are not obligated to make city-pairs contract fares or other Government discount fares available to NASA contractors (see 1851.7004).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

43. Subpart 1852.2 is amended as follows:

1852.214–70, 1852.215–73, and 1852.225–70 [Removed]

a. Sections 1852.214–70, 1852.215–73, and 1852.225–70 are removed.

b. Sections 1852.227–84, and 1852.227–85 are added to read as follows:

1852.227–84 Patent Rights Clauses.

The contracting officer shall insert the following provision as prescribed in 1827.373(g):

Patent Rights Clauses (April 1986)

This solicitation contains the patent rights clauses of FAR 52.227–11 (as modified by the NFS), NFS 1852.227–70, and NFS 1852.227–73. If the contract resulting from this solicitation is awarded to a small business or nonprofit organization, the clause at NFS 1852.227–70 shall not apply. If the award is to other than a small business or nonprofit organization, the clauses at FAR 52.227–11 and NFS 1852.227–73 shall not apply.

(End of Provision)

1852.227–85 Invention Reporting and Rights—Foreign.

As prescribed in 1827.373(c)(1), insert the following clause:

Invention Reporting and Rights—Foreign (April 1986)

(a) As used in this clause, the term "invention" means any invention, discovery or improvement, and "made" means the conception or first actual demonstration that the invention is useful and operable.

(b) The Contractor shall report promptly to the Contracting Officer each invention made in the performance of work under this contract. The report of each such invention shall:

(1) Identify the inventor(s) by full name; and

(2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.

(c) The Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration the full right, title and interest in and to each such invention throughout the world, except for the State in which this contract is to be performed. As to such State, Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration only an irrevocable, nontransferable, nonexclusive, royalty-free license to practice each such invention by or on behalf of the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America, provided that Contractor within a reasonable time files a patent application in that State for each such invention. Where Contractor does not elect to file such patent application for any such invention in that State, full right, title and interest in and to such invention in that State shall reside in the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

(d) The Contractor agrees to execute or to secure the execution of such legal instruments as may be necessary to confirm and protect the rights granted by paragraph (c) above, including papers incident to the filing and prosecution of patent applications.

(e) Upon completion of the contract work, and prior to final payment, Contractor shall submit to the Contracting Officer a final report listing all inventions reportable under this contract or certifying that no such inventions have been made.

(f) In each subcontract, the Contractor awards under this contract where the performance of research, experimental design, engineering, or developmental work is contemplated, the Contractor shall include this clause and the name and address of the Contracting Officer. (End of Clause)

c. Section 1852.251–70 is revised to read as follows:

1852.251–70 Contractor Employee Air Transportation.

As prescribed at 1851.7005, insert the following clause:

Contractor Employee Air Transportation (December 1985)

(a) To the maximum extent practicable consistent with travel requirements, the Contractor shall use the reduced air transportation rates and services provided through available Government-discount airfares for bonafide employees' travel that is otherwise reimbursable as a direct cost pursuant to this contract.

(b) Upon initial receipt of this contract or amendment, the Contractor shall notify the travel office of the issuing installation of the

name and title of the Contractor employee responsible for authorizing each individual airline ticket purchase and provide a copy of the Contractor's document by which such authorization is made. At a minimum, this document shall require that ticket purchases be supported with the name and position of the traveler, the purpose of the travel, the itinerary (places and dates), and the dated signature and position of the authorizing official. Revised notifications shall be made to accommodate changed responsibilities.

(c) The Contractor will acknowledge receipt of Standard Form 1169, Government Transportation Request (GTR) by signing the Transmittal document (NASA Form 1622) and returning it to the issuing travel office.

(d) The Contractor shall order Government-discount airfare services only through issuance of a GTR. The authorized Contractor official shall obtain the installation travel officer's signature on the requisite number of GTR's for each ordering period. However, a maximum of one GTR per applicable contract per billing period shall be provided to the source of airline tickets.

(e) All tickets purchased at Government discount rates will be obtained with the GTR and each ticket shall have at least one flight coupon at Government discount rates.

(f) The Contractor shall account for each issued GTR, safeguard GTR's against unauthorized use, and return unused GTR's to the issuing NASA office upon completion of the contract. The installation travel office and the source of airline tickets shall be promptly notified of lost or stolen GTR's. The contractor shall establish procedures with its source of airline tickets to obtain refunds for tickets ordered and issued, but not used.

(g) Nothing in this clause shall authorize obtaining transportation or services which are not otherwise reimbursable as direct costs under this contract, or for use by Government employees. Nothing in this clause requires air carriers to make available to the Contractor city-pair contract fares or other Government discount fares. (End of clause)

PART 1853—FORMS

44. Subpart 1853.2 is amended by revising 1853.207(b) and 1853.251 to read as follows:

1853.207 Acquisition planning (NF's 1451, 1452).

* * * * *

(b) *NASA Form 1452, Signature Page (Installation).* NF 1452, prescribed at 1806.304(a) and 1807.170–1(a), shall be used in obtaining installation-level signatures required by 1806.304 and 1807.103.

1853.251 Contractor Employee Air Transportation (SF's 1169, NF 1622).

The following forms, prescribed at 1851.7005, shall be used in conjunction with employee air transportation under specified contracts:

(a) *Standard Form 1169, U.S. Government Transportation Request.* Form 1169 shall be used by contractors to obtain tickets.

(b) *NASA Form 1622, Transmittal and Acknowledgement of Government Transportation Requests.* Form 1622 shall be used in transmitting the NASA Forms 1169 to contractors.

[FR Doc. 86–17479 Filed 8–1–86; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477–6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces a reduction of the bag limit in the recreational fishery from Cape Falcon to Cape Blanco, Oregon. Previous action has been taken to close the fishery on Sunday and Monday of each week. This action is necessary to slow the harvest of coho salmon and increase the likelihood that the fishery will extend through Labor Day. It is intended to allow a maximum length of season for the recreational fishery established by the 1986 ocean salmon fishing regulations.

EFFECTIVE DATE: The reduced bag limit for the recreational fishery from Cape Falcon to Cape Blanco, Oregon, is effective at 2400 hours Pacific Daylight Time on July 28, 1986. Comments on this notice will be received until August 11, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (50 CFR Part 661). The framework regulations were modified by an emergency rule (51 FR 18451, May 20, 1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation schemes in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

The all-species recreational fishery from Cape Falcon to Cape Blanco, Oregon, opened on May 24, 1986 with a harvest quota of 189,000 coho south of Cape Falcon. The fishery was closed on Sunday and Monday of each week beginning July 27, 1986 (51 FR 26900 citation). Projected landings south of Cape Falcon totaled 144,000 coho through July 26, 1986. At current fishing rates the recreational fishery would harvest its coho quota and close before the Labor Day weekend. This two-day-per-week closure will not curtail the progress of the fishery sufficiently to allow the fishery to continue through the Labor Day weekend.

The Regional Director consulted with the Director of the Oregon Department of Fish and Wildlife (ODFW) and the Chairman of the Pacific Fishery Management Council regarding a reduction in the bag limit from 6 salmon to 2 salmon in any 7 consecutive days. The ODFW Director confirmed that Oregon would manage the ocean recreational fisheries in state waters adjacent to this area of the fishery conservation zone in accordance with a revised bag limit.

After consideration of the factors listed above, the Secretary determined that a reduction in bag limit is consistent with criteria in the emergency rule, and therefore issues this notice to reduce the bag limit to 2 salmon in any 7 consecutive days in the recreational fishery from Cape Falcon to Cape Blanco, Oregon, until modified or rescinded.

VOL 51 ISS 149 AG 4 1986 UMI

This notice does not apply to other salmon fisheries which may be operating in other areas nor to other fisheries in the same area.

Other matters

This notice is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: July 29, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-17435 Filed 7-30-86; 10:56 am]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 50694-5094]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes one area of the fishery conservation zone (FCZ) to commercial salmon fishing off Southeast Alaska. This action is necessary to protect coho salmon returning to the northern inside waters of Southeast Alaska and some rivers coming out of Canada. The intent of this action is to ensure that adequate numbers of coho salmon return to their spawning grounds. This action complements similar actions on the commercial troll salmon fishery in waters managed by the State of Alaska.

DATE: This notice is effective at 0001 hours Alaska Daylight Time (ADT) July 30, 1986, and will expire at 2400 hours ADT on September 20, 1986, unless modified by a later notice. Public comments are invited until August 29, 1986.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection during the hours of 0800 to 1630 (ADT) Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS), 907-586-7228.

SUPPLEMENTARY INFORMATION: This notice implements a provision of the regulations implementing the Pacific Salmon Treaty and the Fishery Management Plan for the High Seas Salmon Fishery off the coast of Alaska (FMP). The FMP was developed and amended by the North Pacific Fishery Management Council. The regulations (50 CFR Part 674) govern the salmon fisheries in the FCZ off the coast of Alaska east of 175° East longitude. They were issued under section 7(a) of Pub. L. 99-5, the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 *et seq.*) and under section 305 of the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Section 674.23 of the regulations provides that the Secretary may modify the fishing periods and fishing areas by publishing a notice in the **Federal Register**. Any such modification must be based on a determination by the Director of the Alaska Region of NMFS (Regional Director), that (a) the condition of any salmon species is "substantially different from the condition anticipated in the FMP", and (b) this difference requires a modification of the fishing times and areas to conserve adequately any salmon species. The regulations specify the factors the Regional Director may consider. The regulations also specify that the Secretary must consult with the Alaska Department of Fish and Game (ADF&G) before he modifies the regulations.

In view of these requirements, the Regional Director (acting on behalf of the Secretary) has consulted with ADF&G. Also, he has reviewed the information on the 1986 salmon fishery to date, has determined that some coho salmon stocks in 1986 are substantially different from the condition anticipated in the FMP, and has determined that this difference in stock condition requires that an area of the FCZ be closed to commercial salmon trolling as of 0001 hours ADT on July 30, 1986.

Information available at this time indicates that coho abundance is extremely depressed in the northern inside waters of Southeast Alaska. The Alaska Department of Fish and Game has been monitoring the troll fisheries in Icy Strait and upper Chatham Strait, the salmon gillnet fishery in the Taku River-Snettisham area, and the sport fishery in the Juneau area. These fisheries serve as indicators of the abundance of coho salmon moving to the northern inside fishing areas and spawning grounds. The present information on the harvests and catch-per-unit-of-effort in these fisheries indicate that serious conservation problems (particularly, inadequate spawning escapement) could occur if coho abundance in these northern inside waters does not increase. For example, for the Taku-Snettisham drift gillnet fishery, the cumulative coho catch as of July 20 is less than 4,000 coho and the daily catch rate has shown no significant increase, whereas normally the cumulative catch would be about 20,000 and the catch rate would be increasing rapidly.

In sharp contrast to these northern inside fisheries, information from the commercial troll fishery in offshore waters, and from the gillnet and sport fisheries in the southern parts of Southeast Alaska indicate relatively strong runs of coho in those areas. The trollers in the offshore area north of Sitka are catching an average of about 80 coho per boat per day. The overall troll catch to date is considerably above the catch to date for both the 1985 season and the 1981-1985 average; coho catches by the gillnet fisheries in the southern areas are average or above average; and the coho catch per sport fisherman per hour at Ketchikan is considerably above that of 1985.

At this time, then, it appears that only those coho stocks migrating through Icy Straits to the northern inside areas appear to be weak. These stocks normally pass through the ocean area north of Cross Sound now being fished heavily by the trollers. Thus, the troll fishery in that area needs to be stopped until the picture becomes clearer.

Accordingly, the Regional Director has decided to close part of the FCZ north of Cape Cross. He is taking this action in conjunction with similar actions being taken by the ADF&G for waters under its jurisdiction. Specifically, he is closing the entire FCZ north of a line extending seaward due west (270° true) from Cape Cross (57°55.5' N. lat., 136°34.5' W. long.) to a line extending seaward on a course of 231° true from a point on the beach about 9 nautical miles northwest of Cape Fairweather located at (58°56.8' N. lat., 138°02.7' W. long.; about where Loran C line 7960-Y-29700 intersects the coast).

ADF&G is closing the State coastal waters inside this area of the FCZ, but is leaving waters of North Inian Pass, Icy Strait, and Lisianski Inlet open to fishing to help in monitoring the passage of coho through those areas.

The Regional Director and ADF&G have closed the above areas because the closures should give considerable protection to southward migrating coho that will enter Icy Strait through Cross Sound, but will interfere little with the

fisheries harvesting coho destined for outside spawning areas north of Cape Fairweather or those harvesting coho destined for southerly and central areas.

Section 674.23(b)(3) requires the Secretary to accept and consider public comments for 30 days after the effective date of this notice, which does not provide an opportunity for the public to comment before its effective date. The aggregated data upon which this closure is based is available for public inspection at the address given above. The Secretary will consider all public comments received, and will publish a notice in the **Federal Register** either confirming this action's continued effect, modifying it, or rescinding it, unless the action has already expired or been rescinded.

The closure will become effective after this notice has been filed for public inspection with the Office of the Federal Register and the closure has been publicized for 48 hours through procedures customarily used by ADF&G, as prescribed under § 674.23(b)(2).

Classification

This action is exempt from sections 4 through 8 of the Administrative Procedure Act, the Regulatory Flexibility Act, and Executive Order 12291 because, as is expressly provided in section 7(a) of Pub. L. 99–5, it involves a foreign affairs function. It contains no requirement for collecting information for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, International organizations, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: July 29, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86–17436 Filed 7–30–86; 10:56 am]

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Proposed Rules

Federal Register
Vol. 51, No. 149
Monday, August 4, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 447

[Docket No. 3515S]

Popcorn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to revise and reissue the Popcorn Crop Insurance Regulations (7 CFR Part 447), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (2) Increase the amount of acreage which must be replanted to obtain replanting plants; (3) Shorten the length of time an insured has to give notice when claiming an indemnity; and (4) Establish a standard shelling factor for use when a shelling factor cannot be determined. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 3, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is June 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the popcorn policy are:

1. Section 2.c.—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

2. Section 5.c.—Remove the provision for rate adjustment and transfer of experience. Since the crop program was implemented in 1984, this provision is not applicable because no experience would have accumulated through the 1983 crop year as specified in the policy.

3. Section 8.a.(1)(a)—Increase from 10 acres or 10 percent to 20 acres or 20 percent the acreage replanted to qualify for a replant payment and apply a specific time frame for determining the replant for the unit. These changes will reduce the number of inspections by eliminating insignificantly small replant payments and paperwork.

Section 8.a.(4)—Shorten from 30 to 10 days the time an insured has to give notice of loss when claiming an indemnity. This change allows FCIC to determine indemnities more efficiently and quickly.

4. Section 9.e.(3)—Establish at 80% the standard shelling factor for use when a shelling factor cannot be determined. This will allow any ear production for which we cannot determine a shelling factor to be considered to have an 80 percent shelling factor.

FCIC is soliciting public comments on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 447

Crop insurance; Popcorn.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue the Popcorn Insurance Regulations (7 CFR Part 447), effective for the 1987 and succeeding crop years, to read as follows:

PART 447—POPCORN CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

447.1 Availability of popcorn crop insurance.
447.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
447.3 OMB control numbers.
447.4 Creditors
447.5 Good faith reliance on misrepresentation.
447.6 The contract.

Sec.
447.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 447.1 Availability of popcorn corp insurance.

Insurance shall be offered under the provisions of this subpart on popcorn in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 447.2 Preimum rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for popcorn which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 447.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 447.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 447.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the popcorn insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) Said insured relied thereon in good faith; and (3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 447.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the popcorn crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 447.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the popcorn crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitetd to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in previous policies and regulations issued by FCIC, a contract in the form provided for in this subpart will come into effect as a continuation of a popcorn contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years in found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Popcorn Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Popcorn—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provision.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Aplication and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;
(2) The failure to follow recognized good popcorn farming practices or the grower provisions of the popcorn contract;
(3) The impoundment of water by any governmental, public, or private dam or reservoir project;
(4) Damage resulting from frost or freeze after the date designated by the actuarial table;
(5) The failure or breakdown of irrigation equipment or facilties;
(6) The failure to follow recognized good popcorn irrigation practices; or
(7) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be popcorn which is planted for harvest, grown on insured acreage, and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be popcorn planted on insurable acreage as designated by the actuarial table and in

which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured popcorn at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Of popcorn not grown under a contract executed with a processor or excluded from the processor contract for, or during, the crop year. (The contract must be executed and effective before you report your acreage.);

(2) Which is destroyed, it is practical to replant to popcorn, and such acreage is not replanted;

(3) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Initially planted after the final planting date set by the actuarial table unless you agree, in writing, on our form to coverage reduction;

(6) Of volunteer popcorn;

(7) Planted to a type or variety of popcorn not established as adapted to the area or excluded by the actuarial table;

(8) Planted with a crop other than popcorn; or

(9) Planted for the development or production of hybrid seed or planted for experimental purposes.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water at the time of planting to carry out a good popcorn irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

g. An instrument in the form of a "lease" under which you retain possession of the land on which the popcorn is grown and which provides for delivery of the popcorn under certain conditions and at a stipulated price will, for the purpose of this contract, be treatred as a contract under which you have the share in the popcorn.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of popcorn planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any popcorn planted in the county. This report must be submmitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the acturarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will not be more than 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the popcorn is planted and ends at the earliest of:

a. Total destruction of the popcorn;

b. Harvest;

c. Final adjustment of a loss; or

d. December 10 of the calendar year in which the popcorn is normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant popcorn damaged due to any insured cause (see subsection 9.f.);

(b) During the period before harvest, the popcorn on any unit is damaged and you decide not to further care for it or harvest any part of it;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

(2) Insured acreage may not be put to another use until we have appraised the popcorn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(3) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(4) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given. A representative sample of the unharvested popcorn (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the popcorn on the unit;

(b) Harvest of the unit; or

(c) December 10 of the crop year.

b. You may not destroy or replant any of the popcorn on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the popcorn which is not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the popcorn on the unit;

(2) Harvest of the unit; or

(3) December 10 of the crop year.

b. We will not pay any indemnity unless you:

(1) Establish the total production of the popcorn on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of popcorn to be counted (see § 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature popcorn production:

(a) Which otherwise is not eligible for quality adjustment will be reduced .12

percent for each .1 percentage point of moisture in excess of 15.0 percent; or

(b) Which, due to insurable causes, is not of merchantable popcorn quality and is rejected by the processor, will be adjusted by:

(i) Dividing the value per pound of the damaged popcorn by the contract price per pound for undamaged popcorn; and

(ii) Multiplying the result by the number of pounds of such popcorn.

(2) Any production from yellow or white dent corn will be counted as popcorn on a weight basis.

(3) Any ear production for which we cannot determine a shelling factor will be considered to have an 80 percent shelling factor.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of popcorn becomes general in the county;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(6) The amount of production of any unharvested popcorn may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the popcorn is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

f. A replanting payment may be made on any insured popcorn replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit as determined on the final planting date.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date established by the actuarial table; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed 150 pounds multiplied by the price election, multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You may not abandon any acreage to us.

h. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

i. An indemnity will not be paid unless you comply with all policy provisions.

j. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all of the popcorn produced on each unit including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the cropyear specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are

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deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of popcorn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding popcorn insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the popcorn is normally grown and is designated by the calendar year in which the popcorn is normally harvested.

d. "Harvest" means the completion of removing the grain from the stalk either by hand or machine.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Loss ratio" means the ratio of indemnity to premium.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

i. "Replanting" means performing the cultural practices necessary to replant insured acreage to popcorn.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the popcorn or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of popcorn in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the popcorn on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported.

Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations, (7 CFR Part 400-Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on July 15, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-17506 Filed 8-1-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1136

Milk in the Great Basin Marketing Area; Notice of Proposed Suspension of a Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue a suspension of a provision of the Great Basin Federal milk order. The provision proposed to be suspended is the requirement that milk diverted from a distributing plant be included in the plant's receipts for purposes of determining whether the plant is qualified for pool status under the Great Basin Federal milk order. The proposed continued suspension would be effective during August 1986 and until a proceeding to consider a merger of the Lake Mead and Great Basin milk orders is completed. The continued suspension of the provision was requested by Western General Dairies, Inc., a cooperative association representing most of the producers supplying the market, in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than August 11, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agricultural, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued February 6, 1986; published February 11, 1986 (51 FR 5070).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of the proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provision of the order regulating the handling of milk in the Great Basin marketing area is being considered for August 1986, and continuing until a hearing proceeding to consider a merger of the Lake Mead and Great Basin milk orders is completed:

In 7 CFR 1136.7(a) the language "or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include August 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed continued suspension would remove from the definition of a pool distributing plant the requirement that milk diverted from a distributing

plant be included in the plant's receipts for purposes of determining whether the plant is qualified for pool status under the Great Basin Federal milk order. Continuation of the suspension was requested by Western General Dairies, Inc., a cooperative association which supplies most of the market's fluid milk needs and handles most of the market's reserve supplies. Western General also operates pool distributing plants and manufacturing plants in the Great Basin marketing area. The current suspension of the requested language has been in effect since February 1986.

The cooperative based its request for continued suspension on the record of a public hearing held March 18–20, 1986, in Salt Lake City, Utah, to consider its proposal to merge the Great Basin and Lake Mead orders. Until the hearing proceeding is completed, the cooperative requests that the language including milk diverted from distributing plants to manufacturing plants in the distributing plants' receipts for purposes of determining whether the plant is qualified for pooling be suspended to assure that all of the member milk of the cooperative is eligible to participate in marketwide pooling and pricing under the Great Basin Federal order. The cooperative contends that the hearing record supports such action.

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1136 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Signed at Washington, DC, on: July 29, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–17443 Filed 8–1–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed regulation is the first refinement of a major revision to the student regulatory package published on April 5, 1983 at 48 FR 14575. This proposed regulation refines some of the areas which have been cumbersome and have led to confusion. It retains and expands the basic thrust of the major revision, in that it eliminates burdensome paperwork, and maintains control over the students by more effective use of institutional sponsorship of the students by the schools.

DATES: Comments must be received on or before October 3, 1986.

ADDRESSES: Submit written comments, in duplicate, to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048

For Specific Information: Joseph D. Cuddihy, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3320.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service proposes to revise the regulations pertaining to nonimmigrant students in educational institutions in the United States. There are four general areas of proposed change.

First, the proposed regulation changes the definition of duration of status. Under the present regulation a student progressing from one educational level to the next highest level must receive permission to do so from the Service. This causes a number of applications of a routine nature to be submitted to the Service by nonimmigrant students following a normal progression of studies. The proposed regulation redefines duration of status to be all levels of study, but places limitations on the length of time a student may remain in any one level of study. Thus, the Service has eliminated applications for extension of stay for students who are progressing from one educational level to another, but has placed a control over students who take an inordinate length of time to complete one level of study.

Second, the proposed regulation changes the procedures for a nonimmigrant student to transfer between schools. The present regulation is confusing to both schools and nonimmigrant students, in that it requires two different procedures depending upon whether the student is transferring schools within the same educational level, or is transferring schools and moving up an educational level.

In addition, the current procedures followed by both schools involved in a transfer within an educational level are confusing. The proposed regulation standardizes the procedures to be used in both transfer processes. It also eliminates some of the steps required by schools to effect a student transfer.

Third, the proposed regulation streamlines the process for a nonimmigrant student to obtain a first period of practical training upon graduation. The current regulation requires a decision by the Service to be made on practical training after a recommendation is made by the designated school official. Often, there is inconsistency between the recommendation and the decision. In addition, the time period necessary for the Service to make the decision is often too long for the prospective employer to hold the job for the student.

The proposed regulation would add the requirement that a second school official recommend the practical training experience, but would allow a designated school official to authorize the acceptance of the first period of a practical training for the student. The Service would continue to decide upon a continuation of the practical training experience.

Fourth, the proposed regulation would require the Service to deny any change of status request for change of nonimmigrant status from student to temporary worker (H classification) when the student has engaged in practical training after completion of studies. The Service believes the practical training experience is being abused by some individuals to gain temporary and ultimately permanent employment in the United States rather than to gain practical experience to be used upon return to the home country. The proposed regulation would not allow an applicant to change from student status to temporary worker status in the United States if he or she has been authorized practical training after completion of studies. The proposed regulation would still allow a student who has not engaged in practical training after completion of studies to change to temporary worker status, and would still allow the student who had engaged in practical training to go outside the United States to obtain a nonimigrant visa in a temporary worker category at a United States embassy or consulate.

The proposed regulations were developed in part through a series of meetings between the Service and the

National Association for Foreign Student Affairs (NAFSA). These meetings were held to discuss areas of difficulty and confusion with the current regulations as perceived within the academic community and were scheduled as the result of two documents published by NAFSA's Task Force on Regulatory Reform, "Regulatory Roadblocks to International Educational Exchange", and "Plan of Implementation for a New System of Students/Schools Regulations Governing Nonimmigrant Students". These documents provided a beginning point for the meetings.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule would not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with recordkeeping and reporting requirements, compliance with them would not result in a significant effect on the economy or operation of the affected institutions or individuals. This rule, therefore, would not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Schools, Students.

8 CFR Part 248

Administrative practice and procedure, Aliens.

For the reasons set forth in the preamble, Chapter I of Title 8 of the Code of Federal Regulations would be amended as set forth below:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 is revised to read as follows:

Authority: Secs. 101, 103 and 214 of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101, 1103 and 1184.

§ 214.2 [Amended]

2. In 214.2, paragraphs (f)(4)(ii), (5), (6)(ii) through (v), (7), (8), and (10) would be revised, and a new undesignated paragraph would be added to follow paragraph (6)(v) to read as follows:

* * * * *

(f) * * *

(4) * * *

(ii) *Student who intends to transfer or has transferred between schools.* If an F–1 student has transferred or intends to transfer schools and has been issued an I–20A–B by the school to which he has or intends to transfer, the name of the new school does not have to be specified on the student's visa to allow reentry into the United States after a temporary absence.

(5) *Duration of status—(i) General.* For purposes of this chapter, duration of status means the period during which the student is pursuing a full course of studies in any educational program (e.g., elementary or high school, bachelor's or master's degree, doctoral or post-graduate program) and any periods of authorized practical training, plus sixty days within which to depart from the United States. Exceptions to this definition are listed in paragraph (f)(5)(iv) of this section. An F–1 student who continues from one educational level to another is considered to be remaining in status, provided the transition to the new educational program is accomplished according to the transfer procedures outlined in paragraph (f)(8) of this section. An F–1 student at an academic institution is considered to be in status during the summer if the student is eligible, and intends, to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer, is considered to be in status during that vacation provided the student is eligible, and intends, to register for the next term and the student has completed the equivalent of an academic year prior to taking the vacation. A student who is compelled by illness to interrupt or reduce a course of study is considered in status during the illness. The student must resume a full course of study upon recovery.

(ii) *Condition.* Subject to the condition that the alien's passport is valid for a minimum period of six months at all times while in the United States (including any automatic revalidation accorded by agreement between the United States and the country which issued the alien's passport) unless the alien is exempt from the requirement for presentation of a passport:

(A) Any alien admitted to the United States as an F–1 student is to be admitted for duration of status as defined in paragraph (f)(5)(i) of this section; and

(B) Any alien granted a change of nonimmigrant classification to that of an F–1 student is considered to be in status for duration of status as defined in paragraph (f)(5)(i) of this section.

(iii) *Conversion to duration of status.* Any F–1 student in a college, university, seminary, conservatory, academic institution, or in a language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The dependent spouse and children of the students are also automatically granted duration of status if they are maintaining F–2 status. Any alien converted to duration of status under this paragraph need not present Form I–94 to the Service. This paragraph constitutes official notification of conversion to duration of status. The Service will issue a new Form I–94 to the alien when the alien comes into contact with the Service.

(iv) *Exceptions.* Students who are out of status must apply for reinstatement as stated in paragraph (f)(12) of this section. A student is considered out of status when according to the date on Form I–20A–B issued at the beginning of the program his/her:

(A) Studies are expected to be completed in two years or less, and the course is not completed within six months after the date studies are expected to be completed.

(B) Studies are expected to be completed in more than two but within four years, but the course is not completed within one year after the date the studies are expected to be completed.

(C) Studies are expected to be completed in more than four years, but the course is not completed within eighteen months after the date the studies are expected to be completed.

(6) * * *

(ii) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tutition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs a lesser course load to complete the course of study during the current term;

(iii) Study in a post-secondary language, liberal arts, fine arts or other non-vocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve clock hours of instruction a week, or its equivalent as determined by the district director in the school approval process;

(iv) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week provided that the dominant part of the course of study consists of classroom instruction and twenty-two clock hours a week provided that the dominant part of the course of study consists of laboratory work; or

(v) Study in a primary or academic high school curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week perscribed by the school for normal progress towards graduation.

An F–1 student may engage in less than a full course of study when directed to do so by a designated official for valid academic reasons, limited to English language difficulties, unfamiliarity with American teaching methods or reading requirements; or improper course level placement. A student is not allowed to take less than twelve semester or quarter hours in more than one term during the program of studies. Although permission of the Service is not required to direct a student to take less than twelve semester or quarter hours, whether a student is, in fact, considered to be pursuing a full course of studies is subject to review and approval by the Service.

(7) *Extension of stay.* Any student who has been in student status for eight consecutive academic years must request an extension of stay from the Service. The application must be submitted to the Service on Form I–538. A student who has submitted an application for extension of stay may continue in student status until a decision is rendered by the Service. Once a student has been granted an extension of stay, he or she does not have to request another extension until an additional eight-year period has elapsed.

(8) *School Transfer*—(i) *Eligibility.* An F–1 student is eligible to transfer to another school if the student:

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend during the term immediately preceding the transfer (or the last term preceding a vacation as provided in paragraph (f)(5)(i) of this section);

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Transfer Procedure.* The following procedures must be followed before a transfer will be considered to be completed:

(A) The F–1 student must obtain a properly completed Form I–20A–B from the school to which the student intends to transfer. The student must inform the deisgnated school official at the school the student is currently attending of the intention to transfer;

(B) The student must enroll in the new school in the first term after leaving the previous school or the first term after vacation as provided in paragraph (f)(5)(i) of this section. The student must complete page 2 of Form I–20A–B as instructed and submit the Form I–20A–B to a designated school official of the new school within fifteen days after the date the student begins classes at the new school; and

(C) The designated school official receiving the Form I–20A–B must:

(*1*) Sign the reverse side of Form I–20 ID Copy in the space provided for designated school official's signature, thereby acknowledging the student's attendance in class;

(*2*) Return the Form I–20 ID Copy to the student;

(*3*) Add the name of the school from which the student has transferred to the front page of Form I–20A–B, item 2(C), and initial the addition; and

(*4*) Submit the Form I–20A–B to the Service's Data Processing Center within thirty days of receipt from the student.

(iii) *Students not pursuing a full course of study.* A student who wants to transfer to another school but has not pursued a full course of study at the school the student was last autorized to attend must apply for and be granted reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section before he or she may request a transfer.

(9) * * *

(10) *Practical training*—(i) *Practical training prior to completion of studies*—(A) *General.* Temporary employment for practical training prior to completion of studies may be authorized only:

(*1*) After completion of all course requirements for the degree (excluding thesis or equivalent), if the student is in a bachelor's, master's or doctoral degree program;

(*2*) If the student is attending a high school, college, university, seminary, or conservatory which requires or makes optional practical training of candidates for a degree in that field or for a high school diploma; or

(*3*) During the student's annual vacation if the student is attending a college, university, seminary, or conservatory. A student may not be granted permission to accept practical training prior to completion of studies unless the student has been in student status for nine months. A student in a language training program may not be granted permission to accept practical training after completion of studies. A student may not be granted practical training exceeding twelve months in the aggregate prior to completion of studies.

(B) *Making a request to accept practical training prior to completion of studies.* A student must submit a request for practical training prior to completion of a course of study to the designated school official of the school the student is authorized to attend. The request must consist of:

(*1*) A completed request for practical training on Form I–538;

(*2*) Form I–20 ID copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(C) *Action upon request to accept practical training prior to completion of studies.* The designated school official must:

(*1*) Certify on Form I–538 that the proposed employment is for the purpose of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence;

(*2*) Endorse Form I–538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse Form I–20 ID copy with the endorsement "practical training prior to completion of studies from (date) to (date) authorized", and return the form to the student.

A student may engage in practical training only after receiving the Form I–20 ID copy endorsed to that effect.

(ii) *Practical training after completion of studies*—(A) *General.* Temporary employment for practical training after completion of studies may be authorized only:

(*1*) After completion of the course of study, if the student intends to engage in only one course of study, or

(*2*) After completion of at least one course of study, if the student intends to engage in more than one course of study.

A student may not be granted permission to accept practical training after completion of studies unless the student has been in student status for nine months. A student in a language training program may not be granted permission to accept practical training after completion of studies. After completion of studies, a student may not be granted practical training exceeding twelve months. Practical training after completion of studies will be authorized in two periods; the first period of six months to be certified by the designated school official, and the second period to be authorized by the Service of sufficient time so as total employment does not exceed twelve months.

(B) *Request to accept a first period of practical training after completion of studies.* A student must submit a request to accept a first period of practical training to the designated school official no more than sixty days prior to completion of the course of study, but less than thirty days after completion of the course of study. The request for certification must consist of:

(*1*) A completed request for practical training on Form I–538;

(*2*) Form I–20 ID copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(C) *Action upon a request to accept a first period of practical training after completion of studies.* The designated school official must:

(*1*) Certify on Form I–538 that the proposed employment is for the purposes of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence;

(*2*) Endorse Form I–538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse Form I–20 ID copy with the endorsement "First period of practical training authorized from (date) to (date)" and return the form to the student.

A student may engage in practical training only after receiving the Form I–20 ID copy endorsed to that effect.

(D) *Computation dates for practical training.* For purposes of computation, the "beginning" date of the first period will be the date of completion of studies and the "ending" date will be a date six months after the date of completion of studies. The actual date of commencement of practical training will be determined by the Service at the time of application for a second period of practical training. The actual date of commencement of practical training will be the date the student begins employment, or a date sixty days after the date of completion of studies, whichever is earlier.

(iii) *Second period to continue practical training after completion of studies*—(A) *General.* A second period to continue practical training after completion of studies may not be granted unless the student has actually begun qualified employment during the first authorized period. A student shall submit his or her application for a second period to continue practical training immediately after he or she begins qualified employment.

(B) *Request for a second period to continue practical training after completion of studies.* A student must submit a request for a second period to continue practical training. The request must be submitted to the Service office having jurisdiction over the actual place of employment. The request must consist of:

(*1*) A completed request for practical training on Form I–538, properly certified by the designated school official;

(*2*) Form I–20 ID copy; and

(*3*) A letter from the applicant's employer stating the applicant's occupation, the exact date employment began, the date employment will terminate, and describing in detail the duties of the applicant in the employment.

The letter from the student's employer must be seen by the designated school official before the designated school official's certification is made. There is no requirement that the student re-establish to the Service that the employment engaged in is not available to the student in the country of the student's foreign residence.

(C) *Action upon request for a second period to continue practical training after completion of studies.* The district director must determine that the student began qualified employment during the first period of practical training, that the stated employment is related to the student's course of study, and that the student an complete the practical training within the maximum time authorized. Upon approval of the student's request to continue practical training the district director must—

(*1*) Endorse From I–538 with the approval stamp, show that practical training from (date) to (date) has been authorized, and send the Form I–538 to the Service's Data Porcessing Center; and

(*2*) Endorse Form I–20 ID copy with the endorsement "Second period of practical training authorized from (date) to (date)" and return the form to the student.

A student who has been authorized a first period of practical training may continue to be employed while application for a second period of practical training is pending until he/she receives a decision from the Service. A student may in no case continue employment beyond twelve months.

(D) *Computation dates for practical training.* The actual "beginning" date of the second period of practical training will be the end date of the first period. The "end" date of the second period will be the date twelve months after the exact date employment began, or fourteen months after the date of completion of studies, whichever is earlier. The student therefore has a maximum of twelve months work authorized.

(*1*) *Alternate work/study programs.* An F–1 student enrolled in a college, university, conservatory or seminary having an alternate work/study program as a part of the regular curriculum may participate in the program without obtaining a change of nonimmigrant status and without obtaining permission to accept employment. Periods of actual off-campus employment which are part of a work/study program, however, must be deducted from the total of twelve months practical training time before graduation for which the student is eligible. A student who participates in an alternate work/study program is not eligible for practical training after completion of studies.

* * * * *

3. In 214.3, paragraph (g)(1) (i) through (xi) would be revised, (g)(1)(xii) would be removed, and a new undesignated paragraph would be added to follow paragraph (g)(1)(xi) to read as follows:

§ 214.3 Petitions for approval of schools.

(g) * * *

(1) * * *

(i) Name.

(ii) Date and place of birth.

(iii) Country of citizenship.

(iv) Address.

(v) Status, i.e., full-time or part-time.

(vi) Date of commencement of studies.

(vii) Degree program and field of study.

(viii) Whether the student has been certified for practical training, and the beginning and end dates of certification.

(ix) Termination date and reason, if known.

(x) The documents referred to in paragraph (k) of this section.

(xi) The number of credits completed each semester.

A Service officer may request any or all of the above data on any individual student or class of students upon notice. This notice will be in writing if requested by the School. The school will have three work days to respond to any request for information concerning an individual student, and ten work days to respond to any request for information concerning a class of students. The Service will first attempt to gain information concerning a class of students from the Service's record system.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

4. The authority citation for Part 248 is revised to read as follows:

Authority: Secs. 101, 103, 214, 247 and 248 of the Immigration and Nationality Act as amended; (8 U.S.C. 1101, 1103, 1184, 1257 and 1258).

5. In section 248.1, a new paragraph (e) would be added to read as follows:

§ 248.1 Eligibility.

* * * * *

(e) *Application for change of nonimmigrant classification from that of a student under section 101(a)(15)(F)(i) to that described in section 101(a)(15)(H).* A district director shall deny an application for change of nonimmigrant classification from that of an F-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the student has engaged in practical training after completion of studies in accordance with § 214.2(f)(10)(ii).

Dated: June 18, 1986

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-17438 Filed 8-1-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-032]

Importation of Psittacine Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 92 to (1) lengthen the period of time in which federal and commercial quarantine facilities must legband or otherwise individually identify imported psittacine birds, and (2) delete a footnote that is no longer applicable. It appears that the proposal would relieve current restrictions and clarify the regulations without increasing the risk of spreading foreign bird and poultry diseases into the United States.

DATE: Written comments must be received on or before October 3, 1986.

ADDRESS: Written comments concerning this proposed rule should be submitted to Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-032. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. W. H. Ritchie, Import-Export Operations Staff, VS, APHIS, USDA, Room 766, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7835.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations), among other things, regulate the importation of birds into the United States to help assure that said birds are free from exotic Newcastle disease, forms of avian influenza lethal to poultry, and other communicable diseases of poultry. Specific sections of the regulations that would be affected by this proposal are:

1. Section 92.2(c), containing requirements for entry of pet birds into the United States.

2. Section 92.11(e), containing imported bird handling procedures for United States Department of Agriculture quarantine facilities.

3. Section 92.11(f), containing facility standards and imported bird handling procedures for privately operated quarantine facilities approved by the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Birds Per Family Limitation

Sections 92.2(c)(1), 92.2(c)(2)(i), and 92.2(c)(3) of the current regulations are footnoted as follows:

"U.S. Public Health Service Regulations (42 CFR 71.164(a)) restrict the entry of pet psittacine birds to two birds per family per year."

This restriction was established by the United States Public Health Service (PHS) as a means of stemming the spread of psittacosis, a disease of birds that is transmittable to man. However, the incidence of disease has been very low in recent years, and psittacosis is now treatable with antibiotics. As a result, PHS no longer considers psittacosis to be a serious health hazard and, on Feb. 11, 1985, removed restrictions on psittacine birds from PHS regulations. Therefore, this document proposes to delete the above footnote and the references thereto from § 92.2(c).

Bird Identification

Imported psittacine birds are individually identified when quarantined in U.S. Department of Agriculture or approved privately operated facilities. Under current regulations, the birds must be identified with a serially numbered legband, or other suitable means of identification, within 72-hours of their entry into the quarantine facility.

The Department believes, however, that requiring individual bird identification within 72-hours of their entry into the quarantine facility is causing unreasonable and unnecessary hardships. Psittacine birds frequently arrive at quarantine facilities in bulk shipments of hundreds of birds. The current 72-hour identification requirement does not provide enough time for banding or otherwise identifying such large numbers of birds and does not take weekends into account. Thus, complying with the 72-hour identification requirement frequently results in quarantine facilities incurring extensive overtime costs.

Department veterinarians also believe that the 72-hour identification requirement places imported birds under undue stress. In fiscal year 1984, roughly 156,000 imported birds died in transit or during the minimum 30-day quarantine

required by the regulations. The major cause of these losses was stress resulting from handling and transportation. Under the current 72-hour identification requirement, birds are often not fully recovered from shipment-related stress before undergoing identification—a procedure involving the physical seizure and immobilization of the birds.

This document proposes to extend the mandatory time period for accomplishment of individual bird identifications by United States Department of Agriculture and approved privately operated quarantine facilities, from the current 72-hours to 7-days. The Department believes that this additional time would significantly reduce facility overtime costs and bird stress, without reducing the effectiveness of the identification procedure.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and should have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Removal of the footnoted reference would have no impact on the importation of birds into the United States since the referenced importation limitation no longer exists. Extending the individual bird identification period from 72-hours to 7-days would relieve existing restrictions and should result in reduced costs for quarantine facilities and more healthful conditions for imported birds.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and Livestock Products, Mexico, Poultry and Poultry Products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, it is proposed to amend 9 CFR Part 92 as follows:

1. The authority citation for Part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306, 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.2 [Amended]

2. In § 92.2, footnote number 2a of paragraphs (c)(1), (c)(2)(i), and (c)(3) and the references thereto would be removed.

§ 92.11 [Amended]

3. Paragraph (e) of § 92.11 would be amended by changing "72 hours" to read "7 days".

4. Paragraph (f)(3)(ii)(E) of § 92.11 would be amended by changing "72 hours" to read "7 days".

Done at Washington, DC., this 29th day of July 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 86–17442 Filed 8–1–86; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Personnel With Unescorted Access to Protected Areas: Fitness for Duty

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: withdrawal.

SUMMARY: The Commission is withdrawing a proposed rule published in the Federal Register on August 5, 1982. In this rule, the Commission proposed amending its regulations to require that certain licensees establish, document, and implement adequate written procedures designed to ensure that while on duty personnel with unescorted access to protected areas in commercial nuclear power plants are not under the influence of alcohol or other drugs or otherwise unfit for duty. The Commission proposed this rule because of a concern that certain persons could become unfit for duty due to the effects of substances such as alcohol or other drugs and, thereby, adversely impact the health and safety of the public. Instead of this rule, the Commission is issuing a Policy Statement concurrent with this action to withdraw the proposed rule. The Commission has decided to defer rulemaking on fitness for duty of nuclear power plant personnel for a minimum of 18 months from the effective date of the Policy Statement. The Commission's decision is intended to recognize and further encourage the initiatives concerning fitness for duty being taken by the nuclear power industry, the Nuclear Utility Management and Human Resources Committee (NUMARC), and by the Institute of Nuclear Power Operations (INPO). The Commission will exercise this deference as long as the industry programs produce the desired results. The Commission will reassess the possible need for further action based on the success of those programs during the 18-month period.

DATE: This withdrawal is effective August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Loren Bush, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–8080.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission recognizes drug and alcohol abuse to be a social, medical, and safety problem affecting every segment of our society. Given the pervasiveness of the problem in our society, it seems reasonable to assume that drug and alcohol abuse, as well as other emotional and psychological factors, also exist in the nuclear industry. Prudence, therefore, requires that the Commission take appropriate precautionary measures to reduce the probability that a person, who is under the influence of alcohol, other drugs, or who is otherwise unfit for some task involving a nuclear power unit, may cause an accident or react inadequately to an accident.

The job performance of alcohol and drug abusers can be expected to be hindered by the presence of chemicals in their blood stream. For example, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), in its 1981 Report to Congress, reports that 46 percent of all nonfatal and 40 percent of all fatal

U.S. industrial accidents involve alcohol, at an annual cost of $12 to $15 billion. More specifically, 4 ounces of alcohol in the blood steam of a 165-pound male requires approximately 12 hours to metabolize. This is one reason that other regulatory agencies (e.g., U.S. Department of Transportation) mandate specific periods of abstinence (e.g., 4 or 8 hours) for interstate truck drivers, commercial airline pilots etc., before these persons come on duty. Drugs other than alcohol, such as cocaine and hashish, require as much as 24 to 72 hours to metabolize.

The Tennessee Valley Authority's (TVA) 1979 report on its Alcohol and Drug Dependency Program states that the program served 350 employees during that year (one out of every 143). TVA estimates its annual cost due to alcohol abuse alone is approximately $18.5 million. As recently as mid-1981, approximately one-third of the Edison Electric Institute's (EEI) member companies operating nuclear stations had no programs to deal with this problem. More recently, NRC Inspection and Enforcement (IE) Information Notice No. 82-05, "Increasing Frequency of Drug-Related Incidents," reports a steadily increasing number of drug-related arrests and terminations being reported by the nuclear industry since 1978. The reported incidents are widespread geographically and involve power reactor sites in each of the five NRC regions. The Commission determined, therefore, that a regulation may be needed to deal with this problem.

Proposed Rule

On August 5, 1982, NRC published in the **Federal Register** (47 FR 33980) its proposed "Fitness for Duty" Rule, amending 10 CFR 50.54. The proposed rule was a broad, non-prescriptive rule that would have required licensees to establish, document, and implement adequate written procedures to ensure that while on duty their personnel and their contractors' personnel with unescorted access to protected areas, while in those protected areas, are not under the influence of alcohol, other drugs, or otherwise unfit for duty. Various questions were posed in the proposed rule to which the Commission wanted responses in order to decide on its next course of action.

Comments

A total of 73 responses containing 310 comments were received, all of which were evaluated in the decision to proceed with the Policy Statement and are reflected in it. The following highlights the major issues raised in the comments (a more complete discussion of the comments received is available for inspection or copying for a fee in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC).

Approximately two-thirds of the respondents disagreed with the need for a rule, stating in essence, that (1) NRC has not established a sufficient need for the rule, (2) the rule should be part of the proposed rule on the "Access Authorization Program" published in the **Federal Register** on August 1, 1984 (49 FR 30726), and that (3) the utilities are aware of the fitness for duty issue and are taking appropriate remedial action.

Several respondents commented that the development and implementation of "fitness for duty" procedures would cause a licensee legal and union-related liabilities, significant monetary costs, and would have a deleterious impact on employee morale.

Comments about implementation issues involving the rule, such as definition of terms, use of diagnostic tools such as breath testers, or establishment of fitness for duty standards, were received from 58 of 73 respondents. Most of these expressed a need for definitions and standards and objected to the use of breath tests.

Six specific recommendations for changes in the proposed rule were received from 56 of the 73 respondents. These involved (1) changing the word "ensure" to the term "provide reasonable assurance"; (2) extending the rule to all persons with unescorted access, thereby including NRC personnel as well as personnel of the Department of Energy, and othe Federal, State and local government agencies; (3) limiting the rule to "vital" areas, rather than having it apply to the more general "protected" areas of the plant; (4) eliminating the requirement for maintaining records of written procedures for the life of the plant; (5) providing an appropriate time for implementation; and (6) working the rule broadly and not making it prescriptive.

Initial Response and Additional Comments

On July 5, 1984 the Commission approved publication of the rule, as revised by the staff in response to public comments and per direction provided by the Commission. However, the Commission asked, that prior to publishing the final rule, the staff explore with INPO and NUMARC their willingness to undertake the development of detailed program elements and acceptance criteria for a fitness for duty program. NUMARC responded that they would be willing to develop guidance on fitness for duty as an alternative to the NRC promulgating the rule. Industry representatives stated they believed that any rulemaking or other form of mandatory requirements would undermine the voluntary efforts of the industry toward self improvement in this area. NUMARC suggested the NRC issue a Policy Statement or generic letter on fitness for duty, which would not establish additional NRC requirements.

Response to Comments

The Commission met on October 12, 1984 to discuss the question of the extent to which it wished to seek industry commitments for self improvements versus promulgating the Fitness for Duty Rule. Previously the Commission had proposed a general rule whose detailed implementation would be left to the industry because it believed that a problem existed which must be solved, and that not all of its licensees were taking appropriate remedial action. The decision before the Commission as a result of public comments and industry initiatives was whether (1) to issue a regulation which allows each licensee to develop written procedures that taken into consideration not only fairness to, and due process for, its employees, but also any condition or circumstances unique to its facility, or (2) to make sure that the industry develops and implements such procedures without the Commission promulgating a rule.

After careful consideration of the industry initiatives and all the public comments, the Commission has decided to withdraw the proposed rule. Instead of this rule, the Commission is publishing a Policy Statement concurrent with this notice withdrawing the proposed rule. In that statement, it is presenting its policy on fitness for duty of nuclear power plant personnel, incorporating many of the elements discussed in the comments, and describing the activities it will undertake to execute its responsibilities to ensure the health and safety of the public.

In the Policy Statement the Commission recognizes that the industry, through the initiatives of the Edison Electric Institute (EEI), NUMARC, and INPO, has made progress in developing and implementing nuclear utility employee fitness for duty programs. While some of these efforts have only recently been initiated, the Commission realizes the importance of industry's initiative and wishes to further encourage such self-improvement. Subject to the continued

success of industry's programs and NRC's ability to monitor their effectiveness, the Commission will refrain from new rulemaking on fitness for duty of nuclear power plant personnel for a minimum of 18 months from the effective date of the Policy Statement. While the Commision is deferring rulemaking in this area in recognition of the industry's efforts to date, and the intent of the industry to utilize the "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development" [1], it will exercise this deference only as long as the industry's programs produce the desired results. NRC continues to have the responsibility for independently evaluating applicants' and licensees' efforts in the fitness for duty area to ensure that the desired results are achieved and for evaluating the possible need for further NRC action based on the success of the industry's programs during this 18-month period. Withdrawal of the proposed fitness for duty rule, therefore, does not preclude the Commission from initiating similar rulemaking actions in the future or from taking any other course of action deemed necessary with regard to fitness for duty.

The NRC will evaluate the effectiveness of utility fitness for duty programs by its normal review of industry activities, through reviews of INPO program status and evaluation reports, periodic NRC observation of the conduct of INPO evaluations, and direct inspections conducted by NRC's Performance Appraisal Team, Regional Offices, and Resident Inspectors. NRC will also monitor the progress of individual license fitness for duty programs.

The Commission hereby withdraws the notice of proposed rulemaking published on August 5, 1982 (47 FR 33980).

Dated at Washington, DC, this 28th day of July, 1986.

For the Nuclear Regulatory Commision.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-17498 Filed 8-1-86; 8:45 am]

BILLING CODE 7590-01-M

[1] A copy of the EEI's current guidelines is available for inspection or copying for a fee in the Commission's Public Document Room, 1717 H Street, NW., Washington DC. Copies of the EEI guidelines may also be obtained for a fee from the Ordering and Billing Department, Edison Electric Institute, 1111—19th Street, NW., Washington, DC 20036.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-156-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) that requires inspection of trailing edge flap tracks for cracking on certain Boeing Model 747 airplanes. This amendment would incorporate a decrease in the inspection intervals from 1,000 landings to 300 landings for the fourth fastener from the forward end of the flap track. This action is prompted by eight recent reports of cracking adjacent to the fourth fastener hole prior to the current 1,000 landing inspection interval. This recent service experience has shown that the present 1,000 landing inspection interval is inadequate. Cracking could lead to failure of the flap track, and separation of the flap which would result in partial loss of controllability of the airplane.

DATE: Comments must be received on or before September 25, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-156-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The service bulletin specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals in this notice may be changed in light of the comments received. All comments submitted wil be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-156-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Amendment 39-4917 (49 FR 36619; September 20, 1984), as amended by Amendment 39-5314 (51 FR 18308; May 19, 1986), AD 84-19-02, requires repetitive inspection of trailing edge flap tracks for cracking at intervals not to exceed 1,000 landings. The track web cracks are attributed to fatigue, stress corrosion pitting, and possible work hardening at the fail-safe bar fastener holes. Extensive cracking could result in separation of the flap. This failure could lead to partial loss of controllability of the airplane.

Since the issuance of AD 84-19-02, eight operators have reported 8 additional track web hole cracks adjacent to the fourth fail-safe bar fastener hole. The flap track is fabricated from high strength steel and testing has shown that the rate of crack growth is very fast once a crack is established. The recent finding of a number of cracks is an indication that the present 1,000 landing inspection interval is too long.

The FAA has reviewed and approved Boeing Service Bulletin 747-57A2229, Revision 2, dated June 6, 1986, which reduces the inspection interval from 1,000 landings to 300 landings and clarifies the specific inspection procedures to be used to check for cracks in the trailing edge flap tracks on certain Model 747 series airplanes.

Since this situation is likely to exist or develop on other airplanes of the same type design, this proposed AD would require repetitive inspection for cracking adjacent to the fail-safe bar fastener holes in the trailing edge flap tracks of Boeing Model 747 airplanes in accordance with the Boeing alert servcie bulletin previously mentioned. If cracking of flap track structure is found, it must be repaired before further flight.

It is estimated that 101 airplanes of U.S. Registry would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $161,000 for the initial inspection cycle.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the ciriteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending AD 84-19-02, Amendment 39-4917 (49 FR 38619; September 20, 1984), as amended by Amendment 39-5314 (51 FR 18308; May 19, 1986), by revising paragraph A. to read as follows:

A. Within 300 landings after the effective date of this Amendment, unless accomplished within the last 300 landings, and at intervals thereafter not to exceed 300 landings, visually inspect the flap track lower flanges and vertical webs at the front end for cracks adjacent to bolts number 1 through 4 in accordance with Boeing Alert Service Bulletin 747-57A2229, Revision 2, dated June 6, 1986, or later FAA-approved revisions. Cracked parts must be replaced prior to further flight.

Note.—These are the bolts that pass through both the flap track and the front end of the fail-safe bar. Inspection of the flap track may be performed by borescope through access holes in the flap track fairing adjacent to the front of the track. The proper location and diameter for the access holes is provided in the service bulletin.

All persons affected by this proposal who have not already received the service bulletin from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 28, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17416 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 113

Proposed Customs Regulations Amendments Relating to Customs Bonds

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: On October 19, 1984, Customs published a final rule in the **Federal Register** which extensively modified the Customs bond structure. Customs ongoing review of the revised bond structure has revealed that it is necessary to clarify a provision in the instruments of international traffic bond condition to recognize a counterpart substantive requirement in the regulations. Specifically, this document proposes to recognize in the instruments of international traffic bond condition the regulatory exemption from entry filing for diverted or withdrawn U.S. instruments of international traffic not increased in value or improved in condition abroad. It is also necessary to establish, as an additional enforcement tool, a consequence of default provision in the basic importation and entry bond condition for failure to satisfy regulatory requirements. Specifically it is proposed to establish a liquidated damage provision in the basic importation and entry bond condition for failure to timely deposit estimated duties.

DATE: Written comments must be received on or before October 3, 1986.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: William Rosoff, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

By a final rule published in the **Federal Register** as T.D. 84-213 on October 19, 1984 (49 FR 41152), the Customs bond structure was extensively revised by consolidating and reducing the number of bond forms in use. The purpose of the revision was to simplify transactions between Customs and the importing public and to facilitate establishment of an efficient computerized bond control system.

A part of the foregoing involved incorporating specific bond conditions into Part 113, Customs Regulations (19 CFR Part 113), which established a contractual obligation on the part of the bond principal to comply with substantive requirements of the regulations. As a necessary part of this scheme, the bond conditions incorporated specific consequences of default provisions for failure to comply with the substantive requirements of the regulations and bond provisions.

Customs ongoing review of the revised bond structure since then has revealed that it is necessary to clarify a provision in the instruments of international traffic bond condition to recognize a counterpart substantive regulatory requirement.

Specifically, § 10.41a, Customs Regulations (19 CFR 10.41a), relates to instruments of international traffic such as lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments. Paragraph (d) of § 10.41a provides that if an instrument of foreign origin, or of U.S. origin which has been increased in value or improved in condition by a process of manufacture or other means while abroad, is released under § 10.41a

and is subsequently diverted to point-to-point local traffic within the U.S., or is otherwise withdrawn within the U.S. from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duties. Section 10.41a(d) also provides that an instrument of U.S. origin which has not been increased in value or improved in condition by a process of manufacture or other means while abroad and which is released under § 10.41a is not subject to entry filing or the payment of duty if it is diverted or otherwise withdrawn.

The bond condition relating to control of containers and instruments of international traffic is found in § 113.66, Customs Regulations (19 CFR 113.66). However, a review of the bond condition reveals that no provision has been made in § 113.66(a)(2) for the exemption from entry for a U.S. instrument which has not been increased in value or improved in condition as set forth in the latter part of § 10.41a(d). Accordingly, it is proposed to amend § 113.66(a)(2) to incorporate this exemption.

Another area where Customs believes an amendment would be appropriate relates to the consequences of default provision of the basic importation and entry bond condition of § 113.62, Customs Regulations (19 CFR 113.62). As presently written there is no liquidated damages provision for failure to deposit estimated duties and taxes within the time prescribed by law or regulation.

Under the provisions of section 505, Tariff Act of 1930, as amended (19 U.S.C. 1505), duties must be deposited with Customs at the time of making entry, or at such later time as may be prescribed by regulations. Section 141.101, Customs Regulations (19 CFR 141.101), generally provides, with certain identified exceptions, that estimated duties must be deposited with Customs at the time of filing the entry documentation or the entry summary documentation when it serves as both the entry and entry summary. One of the identified exceptions relates to merchandise released under entry documentation. Under this exception, deposit of estimated duties must be made at the time the entry summary is filed. Section 142.12, Customs Regulations (19 CFR 142.12), requires the filing of the entry summary, with estimated duties attached, within 10 working days after the time of entry.

Section 113.62, Customs Regulations, incorporates the above requirements into paragraph (a) of the bond condition relating to the agreement to pay duties, taxes, and charges. In order to provide an additional enforcement tool to insure timely deposit of estimated duties, Customs proposes to amend the consequences of default provisions found in § 113.62(i) by adding a new paragraph (4) which provides for payment of liquidated damages for each default involving failure to deposit estimated duties and taxes within the time prescribed by law or regulation in the amount of $50 and, for each day late, 1 percent of the undeposited estimated duties and taxes due. These amounts are consistent with the amount of liquidated damages assessed under the old General Term Bond, Customs Form 7595, and Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, prior to the revision of the Customs bond structure by T.D. 84–213.

Further, to avoid any unnecessary litigation if we attempt to collect liquidated damages under a bond, it is proposed to amend the bond conditions set forth in §§ 113.62(a), 113.63(g)(1), 113.64(a), 113.64(c), 113.65(a)(3), 113.65(b), 113.66(c), 113.67(b)(1), 113.68(b), 113.69, 113.70, 113.71(b), 113.72, and 113.73(a)(2), Customs Regulations (19 CFR 113.62(a), 113.63(g)(1), 113.64(a), 113.64(c), 113.65(a)(3), 113.65(b), 113.66(c), 113.67(b)(1), 113.68(b), 113.69, 113.70, 113.71(b), 113.72, 113.73(a)(2)), to specify that the principal and surety are "jointly and severally" liable under the bond.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Reglations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no reglatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that, if adopted, the proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis requirement of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 113

Customs duties and inspection, Imports, Surety bonds.

Proposed Amendments to the Regulations

It is proposed to amend Part 113, Customs Regulations (19 CFR Part 113), as set forth below.

PART 113—CUSTOMS BONDS

1. It is proposed that the authority for Part 113 continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. It is proposed to amend § 113.62(i) by adding a new paragraph (4) to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(i) * * *

(4) If the principal defaults on the agreements in condition (a)(1)(i) by failing to deposit estimated duties and taxes within the time prescribed by law or regulation, the obligors agree to pay liquidated damages for each default in the amount of $50 and, for each day late, 1 percent of the undeposited estimated duties and taxes due.

3. It is proposed to revise § 113.66(a)(2) to read as follows:

§ 113.66 Control of containers and instruments of international traffic bond conditions.

* * * * *

(a) * * *

(2) Promptly enter the instrument unless exempt from entry; and

* * * * *

§§ 113.62, 113.63, 113.66, 113.67, 113.68, 113.69, 113.70, 113.71, 113.72, and 113.73 [Amended]

4. It is proposed to amend §§ 113.62(a), 113.63(g)(1), 113.66(c), 113.67(b)(1), 113.68(b), 113.69, 113.70, 113.71(b), 113.72, and 113.73(a)(2) by adding a comma and "jointly and severally" after the word "surety".

§ 113.64 [Amended]

5. It is proposed to amend § 113.64(a) by adding "(principal and surety, jointly

and severally)", after the word "obligors".

6. It is proposed to amend § 113.64(c) by removing "(principal and surety)" from the second sentence.

§ 113.65 [Amended]

7. It is proposed to amend §§ 113.65(a)(3) and 113.65(b) by removing "agrees" and inserting, in its place, "and surety, jointly and severally agree".

William von Raab,

Commissioner of Customs.

Approved July 11, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-17459 Filed 8-1-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[OGD8-86-04]

Drawbridge Operation Regulations; Milhomme Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the St. Martin Parish Police Jury, the Coast Guard is considering a change to the regulation governing the operation of the pontoon bridge over Milhomme Bayou, mile 12.0, at Stephensville, St. Martin Parish, Louisiana, by requiring that at least two hours advance notice be given for an opening during the hours from 10 p.m. to 6 a.m. and that the draw continue to open on signal from 6 a.m. to 10 p.m. Presently, the draw is required to open on signal at all times.

This proposal is being made because of infrequent requests to open the draw during the prescribed advance notice period. This action should relieve the bridge owner of the burden of having a person constantly available at the bridge between 10 p.m. and 6 a.m., while still providing for the reasonable needs to navigation.

DATE: Comments must be received on or before September 18, 1986.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Proposed Regulation

The vertical clearance of the bridge in the closed position is zero, although there is a small boat opening at one end of the bridge. Traffic through the bridge consists of commercial boats (largely oil related), shrimp/fish boats and recreational craft. Data submitted by St. Martin Parish show that this traffic is in a decline for the proposed advance notice period of 10 p.m. to 6 a.m. as indicated below:

(1) For the year 1985, during the proposed advance notice period, there were 360 bridge openings—an average of 30 openings per month or one opening per day. For the years 1983 and 1984, during the same proposed period, there were 414 and 373 openings, respectively.

(2) For the 12 months ending April 1986, during the proposed advance notice period, there were 280 bridge openings—an average of three openings every four days. Of the 280 openings, 67 occurred in the first four months of 1986—an average of about one opening every two days. For the same four months of 1983, 1984, and 1985, during the proposed advance notice period, there were 135, 129 and 147 openings, respectively.

Considering the few openings involved and the on-going traffic decline into 1986, the Coast Guard feels that two hours advance notice for opening the draw between 10 p.m. and 6 a.m. can be adopted with only minimal economic impact. This arrangement would allow relief to the bridge owner while still providing for the reasonable needs of navigation. The bridge would continue to open on signal between 6 a.m. and 10 p.m.

The advance notice for opening the draw would be given by placing a collect call to the Stephensville Bridge between 6 a.m. and 10 p.m., telephone (504) 385-0350, or to the St. Martin Parish Sheriff's office at St. Martinville, Louisiana, between 10 p.m. and 6 a.m., telephone (318) 394-3071. From afloat, this contact may be made by radiotelephone through a public coast station.

St. Martin Parish recognizes that there may be an unusual occasion to open the bridge on less than two hours notice for an emergency or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur. To provide for leeway in the vessel's appointed arrival time, St. Martin Parish will have a bridge tender at the bridge at least one-half hour before the appointed time who will remain at least one-half hour after the appointed time for a late arriving vessel.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is the continuing decrease in navigation, with few vessels now passing this bridge during the proposed advance notice period of 10 p.m. to 6 a.m. The few vessels involved can reasonably give advance notice for a bridge opening by placing a collect call to the bridge owner at any time. The mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g).

2. Section 117.481 (Nezpique Bayou) is redesignated as 117.482 and a new § 117.481 is added to read as follows:

§ 117.481 Milhomme Bayou.

The draw of the St. Martin Parish bridge, mile 12.0 (Landside Route) at Stephensville, shall open on signal; except that, from 10 p.m. to 6 a.m. the draw shall open on signal if at least two hours notice is given. During the advance notice period, the draw shall open on less than two hours notice for an emergency and shall open on demand should a temporary surge in waterway traffic occur.

Dated: July 16, 1986.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 86–17465 Filed 8–1–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–I–FRL–3059–3]

Approval and Promulgation of Implementation Plans; Nashua, NH, Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan revisions submitted by the State of New Hampshire. The intended effect of these revisions is to control emissions of carbon monoxide in Nashua, New Hampshire, in order to attain the primary National Ambient Air Quality Standard by December 31, 1990 and to provide for reasonable further progress in the interim, as required under Part D of the Clean Air Act Amendments of 1977.

DATE: Comments must be received on or before September 3, 1986.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Managment Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, room 2312, JFK Federal Bldg., Boston, MA 02203 and at the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Thomas Wholley (617) 223–4862, FTS: 223–4862

SUPPLEMENTARY INFORMATION: On February 26, 1985, September 12, 1985, and December 3, 1985 the Director of the New Hampshire Air Resources Agency (ARA) submitted revisions to the New Hampshire State Implementation Plan (SIP). These revisions request an extension of the attainment date for carbon monoxide (CO) for the City of Nashua to 1990 and contain the necessary attainment plan. The plan includes local street improvements, a vehicle Anti-Tampering/Anti-fuel Switching program and a vehicle Inspection-Maintenance (I/M) program. The remainder of this Notice presents the background for this action, how these revisions satisfy EPA's requirements for Part D SIPs, and EPA's proposed approval.

Background

The Clean Air Act Amendments of 1977 (the Act) specify that all areas of the country classified as nonattainment on or before July 1, 1979 must attain the primary National Ambient Air Quality Standards (NAAQS) no later than December 31, 1982, with specific exceptions. For states with nonattainment areas unable to demonstrate attainment of the CO standards by 1982, the Act allows a five year extension to December 31, 1987.

New Hampshire began air quality monitoring for CO in Nashua during the winter of 1978–79. Many violations of the eight-hour CO standard (10 mg/m3 or 9 ppm) were recorded that winter with the highest levels being more than twice the standard. The growth of industry and population in the Nashua area in the 1970s, and the lack of an adequate arterial roadway system to handle the increased traffic, have caused the major streets of downtown Nashua to become congested with heavy, slow moving traffic. At the State's request, EPA designated the City of Nashua as a nonattainment area for CO on April 11, 1980 (45 FR 24869).

When it became evident that Nashua could not possibly meet the 1982 attainment deadline, the EPA Regional Office recommended that New Hampshire be allowed the five year time periods (1977 to 1982 to 1987) associated with the statutory dates to develop a SIP for Nashua that would set 1985 as the attainment deadline with a possible extension to 1990. On November 3, 1981, New Hampshire submitted a preliminary attainment plan that showed attainment could not be achieved by 1985 and requested an extension to 1990.

In 1982 and 1983, while New Hampshire initiated further studies, EPA deliberated over how to deal with areaas that did not attain the NAAQS by the strict statutory date. EPA returned the Nashua SIP to New Hampshire in 1982 because it was inconsistent with EPA's developing post-1982 attainment policies. After much public comment, a year later, on November 2, 1983 (48 FR 50686), EPA published its final post-82 attainment policy. Areas classified nonattainment after July 1, 1979 are required to meet the same time intervals as described in the Act for nonattainment areas classified before this date (i.e., five years after designation with a possible five year extension). Under this policy, Nashua was given an attainment date of December 31, 1985, with a possible extension to 1990. On February 24, 1984, EPA sent a letter to the Governor of New Hampshire formally requesting a CO attainment plan for Nashua within 12 months.

EPA staff worked closely with the ARA and other New Hampshire agencies in the development of the attainment plan. The ARA formally submitted the Nashua plan on March 1, 1985. The cornerstone of the attainment plan was a two county resale I/M program which required authorization by the state legislature. However, in June, 1985, the legislature authorized a full I/M program in Nashua and eleven surrounding towns. Since this substantially altered the plan, EPA gave New Hampshire an additional six months to submit a revised plan. On September 12, 1985, New Hampshire submitted the revised plan. Revised completion dates for local street improvements were submitted on December 3, 1985.

In the context of the Act, these revisions are analogous to a combination of a 1979 SIP requesting an extension of the attainment date, and a 1982 SIP revision providing for attainment of the NAAQS by the

extension date. These revisions have thus been reviewed for consistency with EPA requirements for both 1979 and 1982 SIPs, with the major focus on the latter.

Policy Requirements—Extension of Attainment Date

The criteria EPA uses in evaluating the adequacy of SIPs requesting a five year extension of the attainment deadline are discussed in a February 24, 1978 memorandum from the Administrator (43 FR 21673). The memorandum details basic criteria for all Part D SIPs and specifies criteria for areas seeking extensions. Since Nashua's nonattainment problem results from mobile source emissions, two specific criteria must be satisfied.

1. Vehicle Emission Program

New Hampshire has committed to a two phased approach to reducing mobile source emissions. First, in July 1985, New Hampshire began an Anti-Tampering/Anti-Fuel Switching program for all 1985 and newer light duty gasoline vehicles. Secondly, New Hampshire has obtained the legal authority to implement an I/M program in Nashua and eleven surrounding towns. The State submitted a schedule to develop rules and regulations and to start up the I/M program by September, 1987. (More discussion of the program is provided below.)

2. Improved Public Transportation Measures

The Nashua Regional Planning Commission prepared a report that recommended several fixed bus routes through the City which would serve about 75% of its population. These recommendations were implemented in September, 1984. In April, 1985 another bus route as added. The transit service is continually being evaluated for potential improvements.

Policy Requirements—Extension Area SIPS

The criteria EPA uses in evaluating the adequacy of extension area SIPs is discussed in detail in a policy document published in the **Federal Register** on January 22, 1981 (46 FR 7182). The following section discusses how the Nashua attainment plan satisfies these criteria.

1. Control Strategies and Attainment Demonstration

A. Stationary Sources

No stationary source control programs are required since the nonattainment area does not have any stationary sources of CO with more than 1,000 tons per year potential emissions.

B. Vehicle Inspection and Maintenance

In June, 1985, the New Hampshire legislature authorized a full I/M program in Nashua and eleven surrounding towns. Vehicles will be tested once a year and the requirement will be enforced through annual vehicle registration. EPA has evaluated the proposed program and finds that it meets RACT requirements and provides for attainment by 1990. New Hampshire has committed to submit draft I/M program rules by June 30, 1986 and final rules by September 30, 1986. The program will start no later than September 30, 1987. EPA will be working with New Hampshire on the development of the program to ensure that it meets Agency requirements as set forth in the January 22, 1981 **Federal Register** (46 FR 7186). Upon receipt of the regulations, EPA will publish a supplementary notice of proposed rulemaking for public comment. EPA will then consolidate both proposals in one final action.

C. Transporation Measures

The attainment plan commits to four transportation control measures which will reduce traffic congrestion around intersections with high CO levels. These measures include rerouting of traffic, road construction, parking controls and optimization of signal timing. The December 3, 1985 submission contains a schedule for the implementation of these measures, showing full implementation by December, 1986. The Final Rulemaking will not be published until these measures have been implemented or until the legal authority to implement them has been obtained.

D. Reasonable Further Progress

The attainment plan provides for reasonable further progress by implementing the control strategies in stages. Emission reductions are currently being obtained from the catalyst inspection portion of the Anti Tampering/Anti Fuel Switching program which began on July 11, 1985 and the ongoing Federal Motor Vehicle Control Program. Future reductions will come from Nashua's implementation of local street improvements in 1986 and implementation of the I/M program in 1987.

E. Additional Measures/Contingency Plan

New Hampshire is committed to re-evaluating the air quality in Nashua. In the event that EPA determines that Nashua will not achieve attainment by 1990, the State will determine which additional control measure are needed to make up the shortfall. In order to ensure maintenance of the standards beyond 1990, New Hampshire plans to vigorously pursue the construction of a new bridge crossing the Nashua River which would divert traffic away from the problem area.

F. Conformity of Federal Actions.

The National Environmental Policy Act review process will be used to ensure that all future projects will not violate the New Hampshire SIP criteria at CO hot spot locations.

2. SIP Development Process

A Consulation Among State and Local Officials

In February 1979, the Governor of New Hampshire designated the Nashua Regional Planning Commission (NRPC), the New Hampshire Department of Public Works and Highways (NHDPW&H) and the ARA as joint lead agencies for CO attainment planning in Nashua. In August 1979, the NRPC, NHDPW&H, ARA and the Nashua Area Transportation Study Policy Committee signed a cooperative agreement with regard to transportation related air quality issues. The NRPC subsequently performed the study which was the beginning of the attainment planning. Representatives from all these agencies and the City of Nashua met on a regular basis throughout the development of the plan to discuss technical and policy issues.

B. Establishment of Emission Reduction Targets

Since there are no signficant stationary sources of CO, it was clear at the outset of the planning process that all emission reductions would have to come from mobile sources. Rather than fix a percent reduction target, the agencies involved in developing the attainment plan developed a list of potential mobile source strategies and evaluated them alone, and in various combinations, to see if attainment could be demonstrated.

C. Analysis of Alternatives

A variety of transportation measures and vehicle emission control programs were analyzed by state and local officials in the development of the attainment plan. Each measure was evaluated for its own emission reduction potential. Difference combinations of measures were also analyzed. The final strategy was selected after input from state, local and federal agencies and the public. The form of the I/M program was

VOL 51 ISS 149 AG 4 1986 UMI

debated in the legislature before the option for a full I/M program in Nashua and surrounding towns was selected.

3. Air Quality and Emission Data Bases

A special monitoring sutdy in 1978 and 1979 uncovered the nonattainment program in Nashua. The current continuous monitoring site has been operating since 1981 and satisfies EPA's monitoring criteria. The site is located near one of the most congested intersections in Nashua, and is representative of the worst air quality in the area. The input data for the modeling analyses represent a typical weekday during the worst CO season. The assumptions for meteorological conditions and background concentrations are consistent with EPA guidance. The State's original technical analyses for the attainment plan were performed using the MOBILE2 emissions model. At New Hampshire's request, EPA conducted an additional analysis of the proposed control strategy using the MOBILE3 model. That analysis also demonstrated attainment.

4. Modeling/Attainment Demonstration

New Hampshire conducted a two phased, site specific air quality modeling analysis to assess Nashua's CO attainment problems. A preliminary analysis of all signalized intersections in Nashua, using EPA's "Carbon Monoxide Hot Spot Guidelines," indicated that 46 intersections had the potential for CO violations. Next, New Hampshire conducted a detailed modeling study, using CALINE3 and MOBILE2, of the ten worst intersections for 1987. Excess emissions from queueing vehicles were accounted for using procedures approved by EPA. From this analysis, it was evident that Nashua could not meet the 1985 attainment date. For the 1990 attainment analysis, the three intersections with the highest predicted 1985 CO levels were modeled with CALINE3. This analysis demonstrated that the implementation of New Hampshire's SIP would result in Nashua attaining the NAAQS for CO by 1990.

Proposed Action

EPA is proposing to approve the New Hampshire Carbon Monoxide State Implementation Plan revisions for the City of Nashua that were submitted on September 12, 1985, with the understanding that the state will submit the required I/M rules and regulations by September 30, 1986. Upon receipt of the rules, EPA will publish a supplementary notice of proposed rulemaking for public comment. It is anticipated that the proposals will be consolidated into a single final rulemaking action.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide.

Authority: 42 U.S.C. 7401–7642.

Dated: February 14, 1986.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 86–17447 Filed 8–1–86; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 795 and 799

[OPTS–42085; FRL–3058–8]

Diethylene Glycol Butyl Ether and Diethylene Glycol Butyl Ether Acetate; Proposed Test rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The EPA, under section 4 of the Toxic Substances Control Act (TSCA), is proposing that manufacturers and processors of diethylene glycol butyl ether (DGBE), CAS No. 112–34–5, and manufacturers and processors of diethylene glycol butyl ether acetate (DGBA), CAS No. 124–17–4, (also known as 2-(2-butoxyethoxy)ethylacetate), be required to perform health effects testing of DGBE for subchronic toxicity with particular emphasis on reproductive, hematological, liver and kidney effects; neurotoxicity/ behavioral effects; developmental neurotoxicity; pharmacokinetics; mutagenicity; and oncogenicity. EPA is also proposing dermal absorption testing of DGBA.

This proposed rule follows an Advance Notice of Proposed Rulemaking (ANPR) for DGBA and DGBE, which EPA issued on November 19, 1984 (49 FR 45606).

DATES: Submit written comments on or before October 3, 1986. If persons request an opportunity to submit oral comment by September 18, 1986, EPA will hold a public meeting on this rule in Washington, DC. For further information on arranging to speak at the meeting see Unit IX of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS–42085), in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St., SW., Washington, DC 20460, Toll free: (800–424–9065).

In Washington, DC: (554–1404).

Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule under section 4(a) of TSCA to test diethylene glycol butyl ether for health effects and diethylene glycol butyl ether acetate for dermal absorption.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established the ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated DGBA (CAS No. 124–17–4) for priority consideration in its 13th Report submitted to EPA on November 8, 1983, and published in the Federal Register on December 14, 1983 (49 FR 55674). The ITC recommended that DGBA be considered for health effects testing, including subchronic toxicity, reproductive effects and toxicokinetics.

The bases for these recommendations were as follows: a subchronic toxicity study in another species was recommended to investigate renal effects due to the renal tubular degenerative damage observed in rabbits in a 90-day dermal study at 2,000 to 3,000 mg/kg/day (Ref. 1); a reproductive effects study was recommended due to the possible testicular effects of a probable alkyloxy acetic acid metabolite (Ref. 2) by analogy to a similar metabolite of ethylene glycol butyl ether (EGBE) which produced a slight testicular effect in mice (Ref. 3); and a toxicokinetics study including biochemical disposition was recommended because DGBA may

be absorbed through the skin, the first product of its hydrolysis would probably be a glycol ether, and both worker and consumer exposures are involved.

B. Test Rule Development Under TSCA

Under section 4(a) of TSCA, EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Agency finds that:

(1)(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine whether there is or may be substantial production and significant or substantial human exposure or substantial release to the environment. For the findings under sections 4(a)(1) (A)(ii) and (B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the finding under section 4(a)(1) (A)(iii) or (B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules as published in the Federal Register of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed at 45 FR 48524 and 46 FR 30300, and the section 4(a)(1)(B) findings are discussed at 46 FR 30300.

In evaluating the ITC's testing recommendations for DGBA, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of DGBA under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) for DGBA; and published and unpublished data available to the Agency. Based on its evaluation, EPA responded to the ITC designation by publishing in the Federal Register on November 19, 1984 (49 FR 45606), an advance notice of proposed rulemaking (ANPR) for DGBA under section 4(a) of TSCA. This ANPR also informed the public that EPA was expanding the scope of its rulemaking to include DGBE. The ANPR presented a preliminary section 4(a)(1)(B) finding based upon the potential for substantial inhalation exposure to DGBA and DGBE due to their use in latex paint and the potential for dermal absorption of DGBE due to its use in numerous products which involve dermal exposure; presented a preliminary section 4(a)(1)(A) finding for hematological effects based on the ability of the structural analog EGBE to cause erythrocyte fragility with a no-observed-effect level (NOEL) close to the level estimated for consumer exposure to DGBA and DGBE from the use of latex paint (Ref. 26); defined the testing EPA was considering proposing for both chemicals; and sought public comment on EPA's plan to propose a test rule for these chemicals. The testing EPA was considering for DGBA and DGBE included a 90-day subchronic oral study with a complete histopathology of reproductive organs. Effects observed in these organs would trigger a requirement for full reproductive effects testing. Neurotoxicity and behavioral toxicity testing would also be performed on the test animals. As part of the 90-day subchronic study, a satellite group was being considered to evaluate hematological effects. Hematological testing would consist of serial sacrifices with blood counts, measurements of blood chemistry, and bone marrow studies over the first 2 weeks of dosing. This schedule was being considered because of the transitory blood effects reported for EGBE (Ref. 19). Developmental effects testing by the oral route was being considered in addition to a tiered mutagenicity test sequence. Positive findings in certain mutagenicity tests consistent with testing policy would lead to further mutagenicity testing and, in some cases, to carcinogenicity testing. EPA was also considering requiring comparative pharmacokinetics for the inhalation and oral routes of exposure to allow an evaluation of the effect of the route of exposure upon the effects of DGBA and DGBE. The Agency also requested comments and information on the effect of the route of administration on the toxicology of these chemicals.

In the ANPR, EPA also announced it was considering testing of only DGBE if DGBA could be shown to rapidly metabolize to DGBE and requested comments on this.

The ANPR also sought comments on the need for neurotoxicity testing since DGBE was reported to cause narcosis at doses near its LD_{50} (Refs. 5 and 31), and another glycol ether had been reported to cause neuropathy in workers (Ref. 14), but DGBE and DGBA have not been reported to cause neurotoxic effects when tested at lower doses for longer periods of time (Refs. 1 and 34).

In response to the ANPR, comments and studies were received from: Eastman Kodak Company, the Procter and Gamble Company, the Dow Chemical Company, and the Chemical Manufacturers Association (CMA). Based on its evaluation of this information as described in this proposed rule, EPA is proposing health effects testing requirements for DGBE and dermal absorption testing of DGBA under section 4(a)(1)(A) and (B) of TSCA.

C. ANPR Comments

1. *Exposure.* The Dow Chemical Company (Ref. 61) and the Chemical Manufacturers Association (CMA) (Ref. 60) commented that there was not substantial exposure to DGBA and DGBE during manufacturing. This was EPA's conclusion in the ANPR, but now the Agency considers that dermal absorption during manufacturing and processing may be substantial. (See Unit II.D.)

CMA (Ref. 60) and Eastman Kodak (Ref. 59) commented that exposure to DGBA from the use of latex paint would present no unreasonable risk based on a

painting study conducted by Kodak in which the airborne concentration of DGBA was measured (Ref. 16). The study estimated that a painter would receive a dose of 5.6 micrograms per kilogram (μg/kg) from inhalation exposure to DGBA while applying latex paint for 1.3 hours. EPA considers this estimate to be low since the peak concentration of DGBA occurs 2 to 6 hours after application (Ref. 16). This study also predicted the painter's dose of DGBA to be 49.9 μg/kg for 6.3 hours of exposure based on area samples during the 5-hour period after paint application and the personnel samples on the painter during the 1.3 hours of paint application (Ref. 16). EPA also considers this exposure estimate for 6.3 hours to be low since it was based on DGBA concentrations evolved from only 1.3 hours rather than 6.3 hours of painting; also, area samples gave consistently lower values when compared to personnel samples taken during the same time period (i.e., the 1.3 hours of paint application), despite a ventilation arrangement which caused a downward air flow away from the painter's breathing zone; also, the paint used contained 1 percent DGBA rather than the maximum of 3 percent. EPA does not agree with Eastman Kodak's low estimate of potential exposure and is making a section 4(a)(1)(B) finding based on significant exposure to DGBA in latex paint.

CMA (Ref. 60), Eastman Kodak (Ref. 59), and Procter and Gamble (Ref. 18) commented that dermal absorption and inhalation exposure to DGBE from the use of water-based cleaning products would be very low, based on the low vapor pressure of DGBE and the rate of dermal absorption of 0.035 mg/cm²/hr measured by Procter and Gamble (Ref. 18). Procter and Gamble estimated consumer exposure to DGBE to be 0.06 mg/kg from the use of a hard surface cleaner by measuring inhalation exposure and estimating dermal absorption during 3 minutes using the full strength cleaner and 9 minutes using a diluted cleaner (Ref. 18). EPA considered Procter and Gamble's exposure estimate somewhat low because the total cleaning time was only 12 minutes and no consideration was given to cases where the film of detergent and water would be allowed to dry on the skin, thereby increasing the dermal dose. EPA is using exposure to DGBE in cleaning and other consumer products, in addition to exposure to DGBA in latex paint, as the basis for the section 4(a)(1)(B) finding.

2. *Hematologic effects of EGBE.* The ANPR made a preliminary section 4(a)(1)(A) finding for hematologic effects by analogy to EGBE which caused erythrocyte fragility in rats. CMA submitted a review which assessed the hematologic toxicity of EGBE and concluded that rats are the most susceptible species to erythrocyte fragility caused by EGBE and that this effect should not be extrapolated to humans (Ref. 42). Dow also submitted a study which showed that EGBE, but not DGBE, caused erythrocyte fragility in rats (Ref. 41). (See Unit II.G.4.)

EPA is no longer basing a section 4(a)(1)(A) finding on analogy to EGBE's ability to cause erythrocyte fragility, but rather on the reduced blood cell counts due to DGBE reported in two studies (Refs. 38 and 39). (See Unit II.G.3.)

3. *Testing of DGBE only.* Eastman Kodak submitted a study which demonstrated that DGBA rapidly hydrolyzed to DGBE (Ref. 29) and commented that test data on DGBE was therefore sufficient to evaluate the toxicity of DGBA (Ref. 59).

EPA accepts the Kodak study and believes it adequately demonstrates the rapid hydrolysis of DGBA to DGBE and that the testing of DGBE alone for health effects will be sufficient.

4. *Test program*—a. *Subchronic toxicity.* CMA, the Dow Chemical Company, and Eastman Kodak commented that sufficient subchronic toxicity testing has been done to characterize the effects of DGBE (Refs. 59, 60, and 61). They commented that three studies in particular (Refs. 36, 37, and 38) adequately demonstrated the subchronic effects of DGBE. EPA reviewed these studies and found them inadequate to fully assess the potential subchronic toxicity of DGBE. (See Unit II.G.3.)

b. *Oral Testing.* CMA commented that oral testing of DGBE was unwarranted in light of the absence of human oral exposures (Ref. 60). EPA originally chose oral testing because it felt inhalation testing would be difficult, but now that dermal absorption appears to be an equally important route of exposure, EPA is proposing testing by the dermal route, except where specific test guidelines require oral administration.

c. *Oral vs. inhalation pharmacokinetics.* CMA commented that oral vs. inhalation pharmacokinetics testing is unwarranted in light of the absence of human oral exposure and minimal human inhalation exposure (Ref. 60).

EPA is now proposing oral vs. dermal pharmacokinetics because testing will be done by these routes of administration and dermal absorption is an important route of exposure. EPA does not agree that human inhalation exposure is minimal (See Unit II.D.), but is not asking for inhalation pharmacokinetics because of anticipated difficulties in performing this test.

d. *Reproductive and developmental effects.* CMA (Ref. 60), the Dow Chemical Co. (Ref. 61), and Eastman Kodak (Ref. 59) commented that two reproductive effects studies of DGBE in rats and mice (Refs. 45 and 51) and a dermal teratology study of DGBE in rabbits (Ref. 46) as well as other studies on the glycol ether analog, EGBE, (Refs. 44, 53, and 54) adequately demonstrate that DGBE and DGBA are unlikely to produce human reproductive or developmental toxicity. EPA reviewed these studies and found them inadequate to fully assess or predict the potential reproductive effects of DGBE, but adequate to predict the developmental effects of DGBE. (See Units II.G.7 and 8.)

e. *Mutagenicity.* CMA (Ref. 60) commented that the mutagenic potential of DGBE had been extensively reviewed by Thompson (Ref. 47) in a tiered test sequence similar to that proposed by EPA. EPA agrees that all the necessary tests in the gene mutation test sequence have been done with only one positive result. Such a positive result is normally a trigger for oncogenicity testing. However, EPA is proposing a repeat of this test in another cell line to further assess the need for oncogenicity testing because the weight-of-evidence indicates a low potential for DGBE to be oncogenic.

However, the complete mutagenicity test sequence for chromosomal aberrations was not done and EPA considers this necessary to fully assess the potential of DGBE to cause chromosomal effects (See Unit II.G.6) and also to further assess the need of oncogenicity testing.

5. *Neurotoxicity.* CMA commented that the report of narcosis at DGBE doses near the acute LD_{50} is similar to findings at high doses of many other organic solvents and provides no suggestion of neurotoxicity at lower doses (Ref. 60). EPA agrees that effects near the LD_{50} should not raise undue concern for neurotoxicity, but studies by Krotov (Ref. 39) and the Bushy Run Research Center (Ref. 44) showed effects on the nervous system in rats at much lower dose levels. (See Unit II.G.4.) Therefore, EPA has proposed neurotoxicity testing of DGBE. (See Unit IV.A.)

6. *Effect of route of administration.* Since the ANPR called for oral testing,

but exposure is by inhalation and dermal absorption, EPA asked for comments on the effect of the route of administration on the toxicity of DGBA and DGBE. EPA did not receive any comments on this subject; but is now proposing testing by the oral and dermal routes.

II. Review of Available Data

A. Profile

DGBA and DGBE are colorless, relatively nonpolar liquids with faint, sweet odors. A summary of the physical and chemical properties of DGBA and DGBE is presented in the following Table 1:

TABLE 1.—PHYSICAL AND CHEMICAL PROPERTIES OF DGBA AND DGBE[1]

Property	DGBA	DGBE
Density (g/ml)	0.981	0.948
Molecular weight (g/mole)	204.3	162.3
Freezing point (°C)	−32	−68.0
Boiling point (°C)	246.8	230.4
Vapor pressure at 25 °C (mm Hg)	<0.01	0.043
Flash point open cup (°C)	240.0	200.6
Solubility in water (g/l)[2]	65.0	([3])
Log K_{ow}[2]	1.9	1.0
K_{ow} (estimated)[2]	257.0	83.0

[1](Ref. 5).
[2](Ref. 6).
[3]Miscible.

The chemicals are excellent solvents and cosolvents for high molecular weight resins (Ref. 4). DGBA and DGBE have low vapor pressures and are soluble in water.

B. Production

DGBE is manufactured by reacting *n*-butyl alcohol with ethylene oxide. DGBA is manufactured by reacting DGBE with acetic anhydride. Due to the pressure requirements of the reactions, the chemicals are produced in closed systems with all waste streams recycled (Ref. 6).

DGBE is produced by six companies, two of which also make DGBA. The annual production of DGBA and DGBE is 4.8 and 66.5 million pounds per year (Ref. 62).

C. Use

DGBE and DGBA are found in a number of industrial and consumer products. Forty percent of the latex paint consumed in the U.S. contains DGBE or DGBA as coalescing agents at concentrations of 0.5 to 3 percent by weight (Refs. 10, 11, 12, and 63). Coalescing agents are compounds added to latex paints to act as plasticizers for the latex polymer. Plasticizers soften the colloidal latex particles and allow them to merge and form a uniform film upon drying. Coalescing agents slowly volatilize from paint over several days following application (Ref. 11).

DGBE and DGBA are also used in inks and industrial coatings as solvents and carriers. Unlike the lower molecular weight glycol ethers which rapidly evaporate, DGBE and DGBA evaporate more slowly (Ref. 7). Inks and coatings containing DGBE and DGBA are usually oven dried (Refs. 6 and 9). DGBE and DGBA also serve as solvents in the electronics industry (Ref. 13).

In addition, DGBE is used as a diluent in brake fluids, and as a component of cutting oils (Ref. 7), and in a number of consumer and industrial products including hard surface cleaners, metal cleaners, paint removers, stamp pad inks, floor cleaners, floor wax strippers, floor finishes, spray cleaners, penetrating oils, and foam fire extinguishers (Ref. 14).

D. Exposure and Release

Based on available data, EPA believes that the highest exposure to DGBA and DGBE occurs from the consumer and occupational use of latex paints. The use of latex paint is widespread, and the exposed population would include most professional painters and a large percentage of the U.S. consumer population. EPA estimates that 4,500 occupational painters and 15 to 20 million consumers are exposed to latex paint containing DGBA or DGBE each year (Refs. 63 and 25).

DGBA and DGBE act as coalescing agents in latex paint and are slowly released from the painted wall to the air over several days following application. Although DGBA and DGBE have low vapor pressures, releases of the glycol ethers from the large surface areas of painted walls are estimated to result in concentrations of 1 to 5 parts per million (ppm) in consumer homes. Consumers exposed to these levels are estimated to receive doses of 1 to 10 milligrams per kilogram body weight per day (mg/kg/day). While consumers would be exposed to these levels for only a few days per year, painters would be exposed each workday (Ref. 15).

The dosage from dermal exposure to DGBE and DGBA in latex paint is believed to be much less than that by inhalation. While painters and consumers may have significant dermal contact with latex paint, dermal absorption of DGBE and DGBA from paint is expected to be minimal during the first two hours that paint is on the skin. Both compounds are reported to partition into the latex polymer particles from the solvent portion of latex paints where they are relatively unavailable for dermal absorption (Ref. 11). However, according to the Eastman Kodak study (Ref. 16) discussed in Unit I.C.1, DGBA is slowly evaporated from paint, with the peak airborne concentration appearing 2 to 6 hours after application. It appears possible, therefore, for DGBA to be absorbed from paint if allowed to remain on the skin for a period longer than 2 hours.

Exposure to DGBE is expected from its use in a wide variety of commercial and consumer products which involve skin contact, such as cleaners, paint removers, floor products, brake fluid, cutting oils, and penetrating oils. From its use in cleaners alone, EPA estimates that 20 to 41 million consumers and 40,000 janitors could be exposed to DGBE (Refs. 25 and 63). *In vitro* dermal absorption studies have shown DGBE to be readily absorbed through human skin at a mean steady rate of 35 micrograms per square centimeter per hour (ug/cm²hr) with an equivalent rate expected for the acetate (Ref. 17). An *in vitro* dermal absorption study by Procter and Gamble also showed that the rate of absorption in human skin increases with the duration of exposure: at the end of 1 hour, DGBE in a 50 percent dilution of a cleaning product (4 percent DGBE) is absorbed at the rate of 17 ug/cm²/hr, but at the end of 6 hours it is absorbed at the rate of 66 ug/cm²/hr (Ref. 18). This result implies that increased exposure time results in a greater than linear increase in dose by dermal absorption.

Using airborne concentrations and dermal absorption rates over time determined by the Procter and Gamble study (Ref. 18), EPA estimated the dose of DGBE a consumer would receive from the use of a cleaning product for 12 minutes and from a full 8 hours use of a cleaning product. If a cleaning product containing 4 percent DGBE were used full strength for 3 minutes and at a diluted concentration for 9 minutes, the consumer's exposure would total 0.55 mg/kg/day if the consumer allowed the films of diluted and full strength cleaner to dry on his hands. By not rinsing the films off immediately, additional dermal absorption is permitted to occur, thereby increasing the total dose (Ref. 20). If a consumer were to use the cleaning solution for 8 hours, which may be the case for a janitor, the following exposure estimates were made: After using the diluted cleaning product for 8 hours and allowing the residual film to dry on his hands, a janitor's dose of DGBE could be as high as 0.22 mg/kg/day. After using the cleaning product full strength on a dampened sponge (50 percent dilution) for 8 hours and allowing the residual film to dry on his hands, the janitor's dose of DGBE could be as high as 8.0 mg/kg/day (Ref. 21).

Inhalation exposure during manufacture is expected to be low since chemical production occurs only in enclosed processes. Dow submitted three monitoring studies which looked at employee exposure to DGBE during production, truck loading and rail car hook-up. Exposure was evaluated by determining 8-hour time-weighted average concentrations; none exceeded the detection limit of 0.2 ppm, which Dow considered acceptable when compared to its standard for DGBE of 35 ppm (Refs. 22, 23, and 24). Inhalation exposure during processing is also expected to be low since DGBA and DGBE have low vapor pressures and are used in low concentrations in various products (Ref. 6). There could be opportunities for dermal exposure, however, in manufacturing and processing during such operations as repair of equipment, sampling the process stream, cleaning equipment, changing filters, spill cleanup, and handling, transfer, and packaging of products.

Environmental releases of DGBA and DGBE during production and processing are expected to be small, since both are synthesized in closed reactor systems and only small amounts are expected to be released during loading into shipping containers. Although DGBA and DGBE are released to the atmosphere through the venting of storage tanks, this release is expected to be negligible. Eastman Kodak reports negligible release of DGBA from its plants to air and virtually no release to water or landfill (Refs. 6 and 8).

In their use in paints and inks, DGBA and DGBE will be released to the atmosphere. In products such as cutting oils and brake fluids, release to the environment could occur by disposal in wastewater. In all cases the level of release is expected to be low and widely dispersed (Ref. 6). No monitoring data were found reporting atmospheric or water concentrations of DGBA or DGBE released to the environment during use (Ref. 6).

E. Chemical Fate

By applying the physical and chemical properties of DGBA and DGBE presented in Unit II.A. to the EPA environmental partitioning (ENPART) model, the environmental distribution of DGBA and DGBE can be estimated. Assuming the initial dispersion to air, water, and soil to be 94, 4, and 2 percent and that half lives in air, water, and soil are 0.5 hours, 14 days, and 28 days, the ENPART model predicts the mass environmental distribution of DGBA and DGBE to be 78 and 80 percent in water, 20 and 18 percent in soil, and 2 percent of each in air (Refs. 27 and 28).

Although no specific information was available on the environmental fate of DGBA or DGBE, they are expected to degrade fairly rapidly in air and at a moderate rate in water and soil (Ref. 6). A biodegradation study of DGBA in activated sludge reported more than 90 percent biodegradation in 2 weeks after a 5-day adaptation period (Ref. 64), while a biodegradation study of DGBE reported 11 percent degradation in 5 days after introduction to the diluted effluent from a biological treatment plant (Ref. 65).

Neither DGBA nor DGBE is expected to bioaccumulate because of calculated bioconcentration factors (BCF) of 16 and 3 (Ref. 6), a BCF below 100 indicates a low potential for bioaccumulation.

F. Ecological Effects

Although there are no available data on the aquatic toxicity of DGBA, several screening studies have been performed to estimate the acute toxicity of DGBE to fish, aquatic invertebrates, and algae. The data presented in the following Table 2 demonstrate that DGBE has low aquatic toxicity. The Agency does not expect DGBA to be substantially more toxic than DGBE.

TABLE 2.—THE ACUTE TOXICITY OF DGBE TO AQUATIC ORGANISMS

Species	Test duration	Effect and-point	Endpoint (mg/l)	Ref.
Menidia beryllina	96h	LC50	2,000	74
Lepomis macrochirus	96h	LC50	1,300	74
Poecilia reticulata	7d	LC50	1,150	75
Carassius auratus	24h	LC50	2,700	76
Leuciscus idus		LC50	1,805	77
Leuciscus idus		LC50	2,304	77
Alburnus alburnus	96h	LC50	>10,000	78
Notocra spinipes	96h	LC50	6,800	78
Daphnia magna	24h	LC50	2,850	79
Scenedesmus quadricauda	7d	[1]EC3	1,000	56
Entosphon sulcatum	72h	[2]EC5	73	55
Anacystis aeruginosa	8d	[3]Th	53	73

[1]Threshold concentration reducing growth by 3 percent.
[2]Threshold concentration reducing growth by 5 percent.
[3]Threshold concentration.

G. Health Effects

1. *Pharmacokinetics.* DGBA and DGBE are glycol ethers which differ structurally by only an acetate group. The ANPR requested information concerning the metabolism of DGBA to DGBE to evaluate the necessity of testing both chemicals. Eastman Kodak submitted an *in vitro* study which looked at the rate at which DGBA is hydrolyzed in blood to DGBE. When 5 mM of DGBA was incubated in rat blood, 42 percent was hydrolyzed to DGBE in 2 minutes and 68 percent in 4 minutes. With an apparent half-life of DGBA in blood of 3 minutes, this study adequately demonstrated a rapid hydrolysis of DGBA to DGBE (Ref. 29). No other data on the pharmacokinetics of DGBE are available comparing absorption, biotransformation, and excretion by the oral and dermal routes. Also, there are no data available on the rate of dermal absorption of DGBA.

2. *Acute toxicity.* Several studies of the acute oral toxicity of DGBA and DGBE have been conducted indicating similar toxicity for both chemicals, but an apparent species variation exists in the LD_{50} which ranges from approximately 2,000 to 12,000 mg/kg, with the guinea pig and rabbit appearing to be most sensitive. The results of the acute studies are summarized in the following Table 3.

TABLE 3.—Summary of Acute Toxic Effects (LD_{50}) of DGBA and DGBE

Species	Route of administration	LD_{50} (mg/kg)		References
		DGBA	DGBE	
Rat (fasted)	Oral	7,000		30
Rat	do	11,920	6,560	31
Rat (fasted)	do		7,292	32
Rat (fed)	do		9,823	32
Mouse (fasted)	do		2,406	32
Mouse (fed)	do		5,526	32
Mouse (fed)	do	8,480		30
Guinea pig (fasted)	do	2,650		30
Guinea pig	do	2,340	2,000	31
Rabbit (fed)	do	2,750		30
Rabbit	Dermal	5,400		30
Rabbit	do		2,764	33

In the Eastman Kodak study clinical signs of toxicity in rats and mice following oral administration of DGBE were inactivity, labored breathing, rapid respiration, anorexia, slight to moderate weakness, tremors, prostration, and death (Ref. 32).

The acute dermal toxicity of DGBE in male New Zealand white rabbits was evaluated following exposure for 24 hours at 4 dose levels: 1,700, 3,400, 6,800, and 13,610 mg/kg. Clinical signs of toxicity noted after treatment were anorexia, depression, tremors, prostration, and death. Gross pathology at autopsy showed evidence for adverse effects on the kidneys at the intermediate dose levels (enlarged, discolored renal pelvis). Edematous and hemorrhagic lesions of the thymus were observed at the three higher dose levels, and dark red fluid was noted in the urinary bladder of three rabbits treated with 3,400 mg/kg (Ref. 33).

The rat oral study by Smyth noted narcosis occurring near the LD_{50} and kidney damage at unspecified doses (Ref. 31). The chemicals are relatively non-irritating to the skin and eye (Ref. 1).

The studies of acute toxicity are adequate to predict the acute effects of exposure to DCBE and DGBA.

3. *Subchronic toxicity.* A subchronic dermal study by Draize applied DGBA to the clipped intact skin of rabbits for 90 days in daily doses from 490 to 3,920 mg/kg. Observed effects included hematuria, hemolysis in the kidney, and renal tubular degenerative changes (Ref 1). This study was not adequate to assess the subchronic toxicity of DGBA because the histopathology of the other possible target organs was not done, the observed effects were not correlated with dose, and the sex of the animals was not stated.

A 30-day oral study in rats by Kesten saw 650 mg/kg/day of DGBE cause hydropic degeneration of the kidney tubules (Ref. 34). The same study repeated by Smyth and Carpenter saw histopathologic injury in liver, spleen, and testes as well as kidney at 650 mg/kg/day. The maximum dose of DGBE having no observed effect was 51 mg/kg/day (Ref. 35). Because these studies were only 30 days in duration, they are not adequate to evaluate the subchronic toxicity of DGBE.

A 5-week inhalation study in rats by the Dow Chemical Company resulted in increased hepatocyte vacuolization and increased liver weights at doses of 40 and 120 mg/kg/day of DGBE. These effects were also seen in the controls, but the degree was not stated. The study looked for effects on erythrocyte fragility but found none (Ref. 36). Because this study was only 5 weeks in duration, it is not adequate to evaluate the subchronic toxicity of DGBE.

Eastman Kodak submitted the results of a 6-week oral study in which male rats were administered DGBE by gavage at doses of 891 to 3,564 mg/kg/day. At 1,782 and 3,564 mg/kg / the absolute and relative weights of spleen and liver were significantly increased compared to controls. Hematological effects were present at these doses and included decreased hemoglobin and total red cells, and abnormal red cell morphology. There were also kidney effects at these doses including proteinaceous casts and hemosiderin in the proximal convoluted tubules. No effect was seen at the dose of 891 mg/kg/day (Ref. 37). Because no liver histopathology was reported for this study, only male rats were used, and the study was only 6 weeks in duration, it is not adequate to fully evaluate the potential subchronic toxicity of DGBE.

The Huntington Research Centre evaluated the subchronic toxicity of DGBE for the Procter and Gamble Company by dermal exposure of six New Zealand rabbits to 30 mg/kg DGBE for 28 days. The major effects observed in males were a decrease in eosinophils and monocytes. In females, there was a decrease in red cells, white cells, neutrophils and hemoglobin, cortical scarring in the kidney and vacuolization of the liver (Ref. 38). The study, however, used only 3 animals per sex and cannot adequately evaluate the subchronic toxicity of DGBE.

A rat inhalation study by Krotov administered DGBE at doses of 0.7 to 13 mg/kg/day for 4 months. At 3.4 and 13.0 mg/kg/day there were changes in the differential leukocyte count, urea level, lactic acid, and pyruvic acid in blood. At 0.7 mg/kg/day there were reversible changes in the kidney, liver, and nervous system (Ref. 39). Due to the inadequate description of the study design and results, this study was not adequate to fully evaluate the subchronic toxicity of DGBE.

In a dose-setting study for a reproductive screen, female mice were treated by gavage with DGBE for 8 consecutive days at five dose levels, 10 mice per dose level. At the two highest dose levels, 1,000 and 2,000 mg/kg/day, disorientation and lethargy were noted on day 1 in all animals immediately after administration of the first dose. All surviving mice given 1,000 mg/kg/day were hypoactive 1 hour after administration. With one exception, all animals that survived the treatment period remained normal throughout the post-dosing phase. Based on the mortality data, a dose level of 500 mg/kg/day was identified as the maximum tolerated dose (Ref. 40). Because this study was an 8-day, screening study, it is not adequate to fully evaluate subchronic toxicity of DGBE.

Although the above studies raised concern about the effect of DGBA and DGBE on the blood, liver, kidney, testes, spleen, and nervous system, they are inadequate for the above stated reasons to fully evaluate the subchronic toxicity of DGBA and DGBE and establish NOEL's for various effects.

4. *Erythrocyte fragility.* A study by the Dow Chemical Company looked at the fragility of erythrocytes from rats dosed with ethylene glycol monobutyl ether (EGBE) and DGBE. It was found that blood cells from rats dosed at ½ and ¼ the LD_{50} of EGBE lysed in saline concentrations (0.55 to 0.80 percent saline) in which only fragile erythrocytes will lyse. In contrast, blood from rats dosed with DGBE at its LD_{50} lysed only in saline concentrations (0.35 to 0.45 percent saline) in which normal erythrocytes will lyse (Ref. 41). This study suggests that erythrocyte fragility as an acute effect is caused by EGBE and not DGBE. The study did not raise the question of how DGBE has caused the reported decrease in erythrocytes in the subchronic studies (Refs. 37 and 38), but bone marrow effects should probably be considered.

The Chemical Manufacturers Association submitted a review of EGBE's hematologic toxicity which concluded that EGBE causes erythrocyte fragility in only certain species, especially rats, which CMA contends are poor hematologic models for humans (Ref. 42). EPA, however, does not believe that data from rats should be discounted, in that data from a sensitive species will provide a greater margin of safety for sensitive humans.

5. *Neurotoxic effects.* No studies in the available literature attempted to investigate the neurotoxicity of DGBA or DGBE. Observations on the subchronic toxicity of DGBE included disorientation and lethargy following oral administration of 1,000 or 2,000 mg/kg to female mice (Ref. 40). Also, Krotov reported irreversible changes in the functional condition of the nervous system (increase in excitability) of rats exposed continuously by inhalation to 13 or 3.4 mg/kg/day DGBE for 4 months. Similar but reversible changes were observed toward the end of the treatment period in rats exposed to 0.7 mg/kg/day (Ref. 39).

In acute studies, DGBE was reported to cause narcosis at doses near its LD_{50} (Refs. 5 and 31).

Studies on the analog, EGBE, included observations which may indicate neurotoxicity at high dose levels. Following a 4-hour inhalation exposure of rats to 867 or 523 ppm EGBE (LC_{50} for females was 450 ppm), observations included loss of coordination, narcosis, and respiratory difficulty (Ref. 30). Also, prompt death following a single oral dose of EGBE is attributed to the narcotic effects of the compound (Ref. 5). At much lower dose levels, pregnant rats were hypoactive after inhalation exposure to 100, 200, or 300 ppm for 6 hours per day (Ref. 44).

Although the available studies suggest a concern for neurotoxicity they are not adequate to fully evaluate the potential for DGBA and DGBE to cause neurotoxic effects.

6. *Developmental neurotoxicity.* There was no information in the available literature on the testing of DGBA or DGBE for developmental neurotoxicity. There were data, however, on two analogs, 2-methoxyethanol and 2-ethoxyethanol in studies by Nelson et al. (Refs. 49 and 50). Neurochemical deviations were observed in rat brains from 21-day-old offspring when either the paternal or maternal groups were

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exposed to 25 ppm of 2-methoxyethanol for 6 weeks prior to mating (males) or during gestation (females). In addition, behavioral testing revealed significant differences from controls in avoidance conditioning of offspring of mothers exposed to 25 ppm of 2-methoxyethanol on gestation days 7 to 13 (Ref. 49). With 2-ethoxyethanol, prenatal exposure of pregnant rats to 100 ppm also caused behavioral and neurochemical alterations in offspring (Ref. 50).

Although these analog studies raise concern for the neurotoxic effect of glycol ethers on the developing fetus, they are not adequate to predict the potential developmental neurotoxicity of DGBA and DGBE.

7. *Reproductive effects.* There was no information in the available literature on the testing of DGBA for reproductive effects. Limited information was available on DGBE, but a considerable body of data was found on glycol ether analogs.

In a 90-day study with the analog diethylene glycol monoethyl ether (DGEE), Hall found 5 percent DGEE in drinking water caused testicular atrophy in rats (Ref. 52). Nagano, however, saw no testicular atrophy in mice after dosing with 2 percent diethylene glycol monomethyl ether (DGME) in drinking water for 25 days, although he did see atrophy from similar administration of ethylene glycol methyl ether (EGME) and ethylene glycol ethyl ether (EGEE) (Ref. 53). Foster saw spermatocyte degeneration in rats after dosing with 100 mg/kg/day of EGME and 500 mg/kg/day of EGEE (Ref. 2). In a review by Hardin, it was observed that the methyl and ethyl derivatives of ethylene glycol clearly cause testicular atrophy, but that the butyl derivative apparently did not have the same effect (Ref. 3).

Although the above reviewed analog studies raise a concern for reproductive effects, they are not sufficient to characterize the full reproductive effects of DGBA and DGBE.

The effects of DGBE on fertility and reproductive performance were evaluated in a study done for Procter and Gamble in which male rats were dosed for 60 days and female rats for 2 weeks prior to mating at 0, 250, 500, or 1,000 mg/kg/day by gavage. At each dose level there were 25 rats/sex mated to undosed rats. Controls received deionized water (5 ml/kg) and were similarly mated. Treatment of either males or females at 250 or 500 mg/kg/day had no effect on fertility or reproductive performance. Females dosed at 1,000 mg/kg/day mated with undosed males produced offspring with reduced body weights from days 4 to 21 of lactation, and may have depressed the mean number of implantations suggesting a possible effect on ovulation, fertility or implantation. No delay to time of delivery was observed in any dosed group of females. Male rats dosed at 1,000 mg/kg/day and mated with undosed females resulted in a slight reduction in total implantations, indicating a possible effect on spermatogenesis, fertilization, or implantation, but a clear effect was not indicated by the data (Ref. 45). This study is not adequate to fully evaluate the potential for DGBE to cause reproductive effects because dosing was not conducted for the full 10 weeks before mating, which EPA considers necessary for a reliable study; there was an insufficient number of pregnant females per dose sacrificed at or near term; there was no fertility study of the F_1 generation; there was no study of the reversibility of effects on the F_1 generation; and there was no maternally toxic dose administered. However, because the effects observed in this study were minimal, the Agency believes that modifications to the subchronic test to further evaluate reproductive toxicity will adequately characterize the reproductive effects of DGBE and DGBA. If the results raise questions which require additional testing to resolve, that testing will be proposed at a later date.

8. *Developmental effects.* There was no information in the available literature on the testing of DGBA for developmental effects. Information was available on DGBE and its glycol ether analogs, particularly EGBE.

The available studies on the developmental effects of EGBE (Refs. 44, 54, 57, and 58), ethylene glycol monoethyl ether (EGEE) (Ref. 50), ethylene glycol monomethyl ether (EGME) (Ref. 3), and diethylene glycol monomethyl ether (DGME) (Ref. 55) indicated a potential for embryotoxicity, fetotoxicity and delayed parturition. Although the data from the above reviewed glycol ether analogs indicated developmental effects, the data were not sufficient to characterize the developmental effects of DGBE and DGBA.

In a study conducted by Borriston Laboratories for the National Institute for Occupational Safety and Health, DGBE was tested for reproductive effects in a short-term screening assay in mice (Ref. 40). Treatment of 50 pregnant CD–1 mice with DGBE (500 mg/kg/day) by gavage from gestation day 7 to 14 did not adversely affect the survival or gestational weight gain of the dams, delivery time, birth weight, weight gain, or viability of the F_1 generation through the first 3 postpartum days. However, the dosage used was judged to be an insufficient challenge since there was no evidence of maternal toxicity. When DGBE was subjected to a similar protocol by Schuler at 2,000 mg/kg/day, a dose at which maternal mortality was 8 percent, it likewise caused no adverse effects on any of the parameters mentioned above, except delivery time which was not discussed, suggesting low-concern for developmental toxicity (Ref. 51). In addition, the reproductive study in rats with a limit dose of 1,000 mg/kg/day did not report a delay in time to delivery (Ref. 45, see Unit II. G.7).

In a study done for Procter and Gamble, the teratogenic effects of dermal exposure to DGBE were evaluated (Ref. 46). Twenty rabbits per group were exposed to doses of 100, 300, and 1,000 mg/kg for 4 hours per day on gestation days (GD) 7 to 18. On GD 29 the fetuses were removed for teratological evaluation. In general, the mean numbers of viable and non-viable fetuses, early and late resorptions, post implantation losses, total implantations, and corpora lutea, as well as the mean fetal body weight (by sex) and fetal sex distribution at all dose levels were comparable to control group values. At the low dose level there was a slight increase in the mean postimplantation loss, which was offset by a slight increase in the mean number of total implantations. The number of fetuses and litters with malformations in the three treated groups did not differ significantly from those of the control group. The greatest incidence of anomalies occurred among control and low-dose litters, with a lesser incidence seen in the intermediate and high-dose groups. The most frequently seen malformations, vertebral anomalies with or without associated rib anomalies and fused sternebrae, reflected this pattern. In addition, interventricular septal defects and other heart and major vessel anomalies were observed primarily in the control group. This study appears to be adequate to assess the developmental effects of DGBE in rabbits. Since studies on other glycol ethers indicate rabbits are the most sensitive species for this endpoint and since the Procter and Gamble study was done to the limit dose and administered DGBE by the preferred route of exposure, the Agency will not propose that testing be performed in a second species.

9. *Mutagenic effects.* The mutagenic potential of DGBE was examined by Thompson et al. (Ref. 47) with 3 assays for gene mutation (gene mutation in Salmonella, somatic cells in culture

using mouse lymphoma cells, and *Drosophila* sex-linked recessive lethal), one test for chromosomal aberration (*in vitro* cytogenetics), and one test for DNA repair capacity (unscheduled DNA synthesis). All the tests were negative except the somatic cells in culture test which was positive in the absence of metabolic activation, but negative with activation.

The Agency believes the weight-of-evidence suggests the potential for DGBE to cause gene mutation is low, but that additional testing in this area is necessary to assess the need for oncogenicity testing. Additional tests are also needed to fully evaluate DGBE's potential to induce chromosomal aberrations and to further assess the need for oncogenicity testing.

10. *Oncogenic effects.* There are no data on the oncogenic potential of DGBA or DGBE.

III. Findings

EPA is basing its proposed health effects testing of DGBA and DGBE on the authority of sections 4(a)(1) (A) and (B) of TSCA. Under section 4(a)(1)(B), EPA finds that DGBA and DGBE are produced in substantial quantities and that there may be substantial human exposure to both chemicals in their use, manufacture, and processing. The annual production of DGBA and DGBE is 4.8 and 66.5 million pounds per year, respectively (Ref. 62). Potentially 15 to 20 million consumers and 4,500 occupational painters are exposed to DGBA and DGBE in latex paint at 1 to 10 milligrams per kilogram per day (mg/kg/day) (Refs. 15, 25 and 63). Also, 20 to 41 million consumers and 40,000 janitors are potentially exposed to DGBE in cleaning products at 0.22 to 8.0 mg/kg/day (Refs. 18, 20, 21, 25 and 63). Additionally, there is a potential for dermal absorption in employees of manufacturers and processors.

EPA finds that there are insufficient data to reasonably predict the subchronic, neurotoxic, developmentally neurotoxic, reproductive, chromosomal, and oncogenic effects and pharmacokinetics of human exposure to DGBE and DGBA.

Under section 4(a)(1)(A) EPA finds that the use of DGBE and DGBA in consumer goods may present an unreasonable risk of hematological, reproductive, developmental, developmentally neurotoxic, neurotoxic/behavioral effects, hepatotoxicity, and renal toxicity.

The Agency finds that the available data are sufficient to predict the developmental effects of DGBE and DGBA, but insufficient to reasonably predict or determine the subchronic, kidney, liver, hematological, reproductive, neurotoxic/behavioral, developmentally neurotoxic, chromosomal, and oncogenic effects of exposure to DGBE and DGBA from the use of these compounds. In addition, the available data are insufficient to fully evaluate the pharmacokinetics of these compounds, specifically the effect of administration route on absorption, biotransformation and excretion. The EPA finds that testing is necessary to develop such data. EPA is aware that the U.S. Navy is currently conducting a 90-day subchronic oral study of DGBE in rats. This study does not address all of the Agency's concerns for DGBE; specifically it does not evaluate neurotoxic/behavioral effects and kidney and liver function, or hematological effects during the first two weeks of dosing (Ref. 48).

Existing data adequately demonstrate that DGBA is rapidly hydrolyzed to DGBE. Therefore, EPA finds that separate health effects testing of DGBA is not necessary. The only exception to this is a dermal absorption test of DGBA, since DGBA could be used interchangeably with DGBE in consumer products which involve dermal exposure, therefore the dermal absorption of DGBA relative to DGBE should be known. The pharmacokinetics test of DGBE will compare absorption, biotransformation and excretion by each of the two routes of administration, i.e. dermal and oral, to enable comparison with existing data and the oral subchronic study being conducted by the Navy (Ref. 48), which may be helpful in dose-setting.

Testing should be by the dermal route since it is a major route of exposure. Exceptions to this include the tests for *in vivo* cytogenetics, dominant lethal assay, and heritable translocation, if required, where oral administration is recommended. Although inhalation is also a main route of exposure, it was considered too difficult for test purposes due to DGBE's low vapor pressure.

IV. Proposed Rule

A. Proposed Testing and Test Standards

The Agency is proposing that health effects and pharmacokinetics testing of DGBE and dermal absorption testing of DGBA be conducted in accordance with specific guidelines set forth in 40 CFR Part 798 as enumerated below.

This proposed rule is a tiered rule. The following tests will be incorporated in Tier I: Subchronic toxicity with particular emphasis on reproductive, hematological, liver and kidney effects; neurotoxicity; developmental neurotoxicity; lower-tier mutagenicity (somatic cells in culture using CHO cells, *in vivo* cytogenetics, and dominant lethal test, if triggered); pharmacokinetics and dermal absorption.

The Tier II tests may include the heritable translocation test and the oncogenicity test.

All of the tests will be proposed and finalized at one time. Before Tier II testing is initiated, EPA will hold a public program review if the results of the Tier I tests are positive. A review of all available data will be conducted. Public participation in this program review will be in the form of written public comments or a public meeting. Request for public comments or notification of a public meeting will be published in the Federal Register. Should EPA determine, based on the available weight-of-evidence, that proceeding to the heritable translocation test and/or oncogenicity test is no longer warranted, the Agency would propose to repeal the appropriate testing requirements and, after public comment, issue a final amendment to rescind such requirements.

DGBE will be tested for subchronic toxicity (§ 798.2250). In addition to an intermediate and high dose, two low dose levels, 1 and 15 mg/kg/day, have been specified to evaluate whether effects occur at 1 mg/kg/day as reported by Krotov (Ref. 39) and at 15 mg/kg/day, which just exceeds the maximum anticipated human exposure. Exposure will be by the dermal route in the rat. Urinalyses in all animals will be done before the study starts, at day 30 and day 90. There will be a special satellite group dealing with liver dysfunction. The details for the liver dysfunction tests and the special hematologic studies are given in § 799.1560. Subchronic dermal neurotoxicity studies will be performed in the rat: A functional observational battery (§ 798.6050), motor activity (§ 798.6200), and neuropathology (§ 798.6400). These neurotoxicity tests may be combined, using 10 animals for each dose and sex.

Some additional work will be required for the subchronic testing to evaluate reproductive toxicity. Special organs of the reproductive tract to be weighed and evaluated are listed in § 799.1560. The integrity of the various cell stages of spermatogenesis shall be determined with particular attention directed toward achieving optimal quality in the fixation and embedding; preparations of testicular and associated reproductive organ samples for histology should follow the recommendations of Lamb and Chapin (Ref. 66), or an equivalent procedure. This evaluation of the

spermatogenic pattern has been shown by Creasy (Ref. 72) and Foster (Ref. 2) to be the most sensitive indicator of glycol ether-induced testicular injury. Testicular spermatid counts shall be performed; the method described by Johnson et al. (Ref. 67) and Blazak et al. (Ref. 68), or an equivalent method should be used. Epididymal sperm count and sperm morphology shall also be done. Data on female cyclicity shall be obtained by performing vaginal cytology over the last two weeks of dosing; the method of Sadleir (Ref. 69), or an equivalent method should be used. The histopathology of the ovary to evaluate oocyte toxicity shall be performed and should follow the method of Mattison (Ref. 70) and Pederson (Ref. 71), or an equivalent method. A satellite group of animals will be used to evaluate fertility effects at high doses of DGBE in both males and females. If the results of the above testing suggest concern for reproductive effects, the Agency will consider the need for additional reproductive effects testing under section 4(a)(1)(A) of TSCA.

To further assess the need for oncogenicity testing, the Agency is proposing mutagenicity testing in the somatic cells in culture test using Chinese hamster ovary (CHO) cells (§ 798.5300).

To further assess the potential for chromosomal aberrations and the need for oncogenicity testing, DGBE shall be tested in the *in vivo* cytogenetics assay (§ 798.5385) in the rat, mouse, or hamster by oral gavage. If this test is negative, no further testing for chromosomal effects need be done. If the test is non-negative, then a dominant lethal study (§ 798.5450) in the rat or mouse shall be performed by oral gavage. If the dominant lethal test is negative, no further chromosomal aberration studies need be done. If the dominant lethal test is positive, a public program review of the data will be held before the mouse heritable translocation test (§ 798.5460) by oral gavage is performed.

For a more detailed discussion concerning mutagenicity testing and public program review procedures see EPA's final test rule for the C_9 aromatic hydrocarbon fraction published in the **Federal Register** of May 17, 1985 (50 FR 20662).

EPA is requiring developmental neurotoxicity testing in the rat according to § 795.250 published in the **Federal Register** of May 15, 1986 (51 FR 17883) by the dermal route of exposure. The offspring shall be allowed to go to parturition, and those offspring shall be evaluated for behavioral alterations at various stages following birth. The developmental neurotoxicity study shall be performed at doses lower than those which induce severe teratogenic or fetal effects.

The Agency is also proposing pharmacokinetics testing of DGBE and DGBA in rats and guinea pigs to compare absorption, biotransformation and excretion of DGBE by the dermal and oral routes of administration and to determine dermal absorption of DGBA in accordance with § 795.225.

Oncogenicity studies (§ 798.3300) of DGBE will be required in the mouse and rat by dermal absorption unless negative results are obtained in both the somatic cells in culture test using Chinese hamster ovary cells and the *in vivo* cytogenetics assay. EPA will review the mutagenicity and other available data and hold a public program review before oncogenicity testing is performed.

The Agency is proposing that the above-referenced TSCA health effects test guidelines be employed as the test standards for the purposes of the proposed tests for DGBE and DGBA. The TSCA test guidelines for health effects testing specify generally accepted minimal conditions for determining the health effects for substances like DGBE and DGBA to which humans are expected to be exposed. The Agency's review of the TSCA Test Guidelines, which occurs on a yearly basis according to the process described at 47 FR 41857 (September 22, 1982), has found no reason to conclude that these protocols need to be modified significantly.

EPA published in the **Federal Register** certain proposed revisions to these TSCA Test Guidelines to provide more explicit guidance on the necessary minimum elements for each study (51 FR 1522; January 14, 1986). In addition, these revisions will avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for DGBE and DGBA.

B. Test Substance

The EPA is proposing testing of DGBE and DGBA of at least 95 percent purity. The EPA believes that test materials of this purity are available at reasonable cost (Refs. 29 and 37). The Agency has specified relatively pure substances for testing because the EPA is interested in evaluating the effects attributable to the subject compounds themselves. This requirement would lessen the likelihood that any effects seen are due to impurities. Radiolabeled $14_{C\text{-}DGBE}$ will be needed for the pharmacokinetics testing and $14_{C\text{-}DGBA}$ for the dermal absorption study.

C. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, which includes production of these chemicals as a byproduct, ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because the EPA has found that existing data are inadequate to assess the health risks from the use, manufacturing, and processing of these compounds the EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process, DGBA or DGBE at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements contained in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time equal to that which was required to develop data if more than 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that the EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to the EPA for an exemption from the requirement. The EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

When both manufacturers and processors are subject to a test rule, the EPA expects that manufacturers will conduct the testing and that processors will ordinarily be exempted from testing. As described in 40 CFR Part 790, processors will be granted an exemption automatically without filing applications if manufacturers perform all of the required testing. Manufacturers are

required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the test rule.

The EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for DGBE and DGBA. As noted in Unit IV.B, the EPA is interested in evaluating the effects attributable to the specified compounds and has proposed relatively pure substances for testing.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

The EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 45 days before the start of each study.

The EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed tests as follows:

1. The subchronic toxicity and subchronic neurotoxicity/behavioral tests of DGBE shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final test rule.

2. The Tier I mutagenicity studies of DGBE shall be completed and final results submitted to the Agency as follows: The somatic cells in culture assay using CHO cells within 6 months of the effective date of the final rule; the *in vivo* cytogenetics assay within 8 months of the effective date of the final rule; and the dominant lethal test within 18 months of the effective date of the final rule, if triggered.

3. The developmental neurotoxicity study of DGBE shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

4. The pharmacokinetics tests of DGBE and the dermal absorption test of DGBA shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final test rule.

5. The Tier II heritable translocation test, if triggered, shall be completed and final results submitted to the Agency within 45 months of the effective date of a final test rule.

6. The oncogenicity test of DGBE, if triggered, shall be completed and the final results submitted to the Agency within 56 months of the effective date of a final test rule.

Progress reports are required for tests except the somatic cells in culture test. Reports shall be submitted every 6 months, beginning 6 months from the effective date of the final rule or in the case of the dominant lethal assay and Tier II tests, beginning 6 months from the date triggered.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707. In brief, as of the effective date of this test rule, an exporter of DGBA or DGBE must report to the EPA the first annual export or intended export of either chemical to any one country. The EPA will notify the foreign country about the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce . . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for DGBA and DGBE. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, and that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards and the test standards established in the rule.

The EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. This provision would also apply to processors that fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (see 40 CFR 790.28(b)). Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, the EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to the EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to

"any person" who violates various provisions of TSCA. The EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Issues for Comment

1. Although the rabbit may be a more sensitive species for some effects and was proposed as the test species for the triethylene glycol ethers proposed test rule, the rat is proposed as the test species due to the greater experience with this animal in the tests proposed in this rule. Use of the rat should produce better data and facilitate interpretation of results. Also, the ITC recommended that subchronic testing be done for renal effects in another species besides rabbit. Should the Agency require rabbit as the test species since it is more sensitive to DGBE for some effects than the rat?

2. The proposed sample size of 10 animals/sex/dose for adult neurotoxicity evaluations may be too small given the degree of variability associated with some of the tasks (e.g. locomotor activity). Would fifteen to twenty animals/sex/dose be more appropriate?

VI. Economic Analysis of Proposed Rule

To assess the potential economnic impact of this rule, EPA has prepared an economic analysis (Ref. 62) that evaluates the potential for significant economic impacts on industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of DGBA and DGBE:

1. Price sensitivity of demand,
2. Industry cost characteristics,
3. Industry structure, and
4. Market expectations.

If these indications are negative, no further economic analysis is performed; however, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Total direct testing costs for the proposed rule for DGBE are projected to range from $1.2 million to $1.6 million. This estimate includes the costs for both the required minimum series of tests as well as the conditional tests. The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $323,000 to $424,000. Based on the reported 1984 production volume of 66.5 million pounds, the unit test costs range from 0.49 to 0.64 cents per pound. In relation to a unit sales value of 41 cents per pound for DGBE, these costs represent 1.20 to 1.56 percent of unit sales value.

Total direct testing costs for the proposed testing for DGBA are estimated to range from $78,000 to $103,000. The annualized test costs range from $20,000 to $27,000. Based on 1984 production of 4.8 million pounds and adjusting for upstream testing costs, because DGBA is manufactured from DGBE, the unit test costs range from 0.03 to 1.09 cents per pound. In relation to the current sale price of 72 cents per pound for DGBA, these costs are equivalent to 1.15 to 1.51 percent of price.

Based on these costs and the uses of the chemicals, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is low.

This conclusion is based upon the following observations:

1. The estimated unit test costs are low;

2. Technical performance tends to offset relatively high product price and contributes to overall price inelasticity of demand;

3. Market expectations appear favorable for DGBE and DGBA; and

4. Producers of DGBE and DGBA also produce the likely substitutes for these chemicals, some of which can be produced in the same production equipment.

Refer to the economic analysis for a complete discussion of test cost estimation and the potential for economic impact resulting from these costs.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires the EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, the EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82-140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

VIII. Public Meetings

If persons indicate to the EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, the EPA will hold a public meeting subsequent to the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800-424-9065); In Washington, DC: (554-1404); Outside the U.S.A. (Operator—202-554-1404), by September 18, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of the EPA's record for this rulemaking.

IX. Public Record

The EPA has established a record for this rulemaking, (docket number OPTS-42085). This record contains the basic information considered by the Agency in developing this proposal and appropriate Federal Register notices.

This record includes the following information:

A. Supporting Documentation

(1) Federal Register notices pertaining to this rule consisting of:

(a) Notice containing the ITC designation of 2-(2-butoxyethoxy)ethyl acetate or DGBA (48 FR 55674; December 14, 1983).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on 2-(2-butoxyethoxy)ethyl acetate or DGBA (48 FR 55685 and 55686; December 14, 1983).

(c) Advance Notice of Proposed Rulemaking (ANPR) for 2-(2-Butoxyethoxy) Ethyl Acetate; Response to the Interagency Testing Committee (49 FR 45600; November 19, 1984).

(d) Notice of final rule on EPA's TSCA good laboratory practice standards (48 FR 53922; November 29, 1983).

(e) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(f) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(g) Notice of proposed rule revising TSCA test guidelines (51 FR 1522; January 14, 1986).

(2) Support document consisting of DGBA and DGBE's economic analysis.

(3) TSCA test guidelines and other test methodologies cited as test standards for this rule.

(4) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(5) Reports—published and unpublished factual materials.

B. References

(1) Draize, J.H., Alvarez, E., Whitesell, M.F., Woodard, G., Hagan, E.C., and Nelson, A.A. "Toxicological investigations of compounds proposed for use as insect repellants." *Journal of Pharmacology and Experimental Therapeutics*, 98:26–39, (1948).

(2) Foster, P.M.D, Creasy, D.M., Foster, J.R., Thomas, L.V., Cook, M.W., and Gangolli, S.D. "Testicular toxicity of ethylene glycol monomethyl and monoethyl ethers in the rat." *Toxicology and Applied Pharmacology*, 69:385–399, (1983).

(3) Hardin, B.D. "Reproductive toxicity of the glycol ethers." *Toxicology*, 27:91–102, (1983).

(4) SRI. Stanford Research Institute International. Glycol Ethers. In *Chemical Economics Handbook*, Menlo Park, CA. p. 663.5022H, Online update (April 1984).

(5) *Patty's Industrial Hygiene and Toxicology*, 3rd rev. ed. , Vol. 2 C, New York: Wiley-Interscience pp. 3909–4052 (1982).

(6) Capital Systems Group, Inc., Kensington, MD 20895 and Dynamac Corp., Enviro Control Division, Rockville, MD 20852. "2-(2-Butoxyethoxy)ethyl acetate and 2-(2-Butoxyethoxy) ethanol. Draft Technical Support Document." Prepared for U.S. Environmental Protection Agency, Test Rules Development Branch, Existing Chemical Assessment Division, Office of Toxic Substances, Washington, DC. Contract No. 68–01–6530. (January 3, 1985).

(7) SRI. Stanford Research Institute International. Glycol Ethers, In *Chemical Economics Handbook*, Menlo Park, CA. Sections 663.5021A–663.5022Z. (1979).

(8) Eastman Kodak Company. Eastman Chemicals Division, Kingsport, TN 37662. Letter from D.W. Kreh to TSCA Public Information Office. U.S. Environmental Protection Agency, Washington, DC 20460. (January 1984).

(9) Volpe, P. National Association of Printing Ink Manufacturers, Harrison, NY. Personal communication with A. Engelkemeir, Dynamac Corp., 11140 Rockville Pike, Rockville, MD 20852. (November 18, 1983).

(10) NIOSH. National Institute for Occupational Safety and Health. Cincinnati, OH. Computer Printout: NIOSH Trade-name Ingredient Data Base— National Occupational Hazard Survey. (Retrieved November 15, 1983).

(11) Sullivan, D.A. "Water and solvent evaporation from latex and latex paint films," *Journal of Paint Technology*, 47(610): 60–67. (1975).

(12) Woebkenberg, J. SCM Glidden Corp., 6151 Sprague Rd., Strongsville, OH 44136. Personal Communication with A. Engelkemeir. Dynamac Corp., 11140 Rockville Pike, Rockville, MD 20852. (December 8, 1983).

(13) Engelhard Industries. Engelhard Industries Specialty Chemicals Division. 1 West Central Ave. East Newark, NJ 07029. Letter from W.J. Stimpfel to Paul Price, U.S. Environmental Protection Agency, Washington, DC 20460 (March 27, 1984).

(14) NIOSH. National Institute for Occupational Safety and Health. Cincinnati, OH. Computer Printout: NIOSH Trade-name Ingredient Data Base—National Occupational Hazard Survey. (Retrieval April 3, 1984).

(15) Platz, R. Dynamac Corp., 11140 Rockville Pike, Rockville, MD 20852. Exposure to DGBE and DGBA in latex paint. Memorandum to Paul Price, Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460. (August 20, 1984).

(16) Eastman Kodak Company, Health and Environmental Laboratories. Estimation of the atmospheric concentration of diethylene glycol monobutyl ether acetate resulting from the application of latex paint. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1985).

(17) Dugard, P.H., Walker, M., Mawdsley, S.J., and Scott, R.C. "Absorption of some glycol ethers through human skin in vitro." *Environmental Health Perspectives*, 57:193–197, (1984).

(18) The Procter and Gamble Company. Sharon Woods Technical Center, 11520 Reed Hartman Highway, Cincinnati, Ohio 45241. Letter from D.W. Briggs to Frank Benenati, U.S. Environmental Protection Agency, Washington, DC 20460. Re: Diethylene glycol monobutyl ether: Exposure assessment. (January 28, 1985).

(19) Bushy Run Research Center, R.D. 4, Mellon Rd. Export, PA 15632. (February 27, 1984). "A teratologic evaluation of ethylene glycol monobutyl ether in Fisher 344 rats and New Zealand white rabbits following inhalation exposure." Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1984)

(20) USEPA. U.S. Environmental Protection Agency. "Procter and Gamble exposure assessment for DGBE." Intra-agency memo from Karen Hammerstrom, EED, to Catherine Roman, Test Rules Development Branch (TRDB). (June 26, 1985).

(21) USEPA. U.S. Environmental Protection Agency. "Estimated janitorial exposure to DGBE from 8-hour use of Procter and Gamble cleaning product." Letter to the DGBA/DGBE file from Catherine Roman, TRDB. (December 30, 1985).

(22) Dow Chemical Company. Midland, Michigan 48640. Industrial hygiene surveys during 1983 at the Eastern Division Marine Terminal at Joliet, Illinois. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (May 1985).

(23) Dow Chemical Company. Midland, Michigan 48640. Employees' exposures to Dowanol DB glycol ethers at the * * * plant, * * * building, November and December, 1976. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington DC (May 1985).

(24) Dow Chemical Company. Midland, Michigan 48640. Evaluation of personnel exposures to Dowanol glycol ethers, butylene oxide, ethylene oxide, and propylene oxide at the * * * plant, * * * building, organic chemicals production. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (May 1985).

(25) USEPA. U.S. Environmental Protection Agency. "Consumer exposure to DGBE and DGBA." Intra-agency memo from Karen Hammerstrom, Exposure Assessment Branch, to Catherine Roman, Test Rules Development Branch, Office of Toxic Substance, Washington, DC 20460. (April 29, 1986).

(26) Tyler, T.R. "Acute and subchronic toxicity of ethylene glycol monobutyl ether." Union Carbide Corporation. Corporate Applied Toxicology, P.O. Box 8361, South Charleston, WV 25303. (1983).

(27) USEPA. U.S. Environmental Protection Agency. Thirteenth report of the TSCA Interagency Testing Committee. ENPART analyses of DGBA, TGD, and oleylamine. Intra-agency memorandum to Test Rules Development Branch, Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460. (January 12, 1984).

(28) USEPA. U.S. Environmental Protection Agency. Behavior/distribution of diethylene glycol butyl ether in the environment. Intra-agency memorandum from R. Kinerson to P. Price, Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460. (July 13, 1984).

(29) Eastman Kodak Company. The *in vitro* hydrolysis of diethylene glycol monobutyl ether acetate in rat blood. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (January 1985).

(30) Dodd, D.E., Snellings, W.M., Maronpot, R.R., Ballantyne, B. "Ethylene glycol monobutyl ether: acute, 9-day, and 90-day vapor inhalation studies in Fischer 344 rats." *Toxicology and Applied Pharmacology* 68:405–414. (1983).

(31) Smyth, H.F. Jr., Seaton, J. and Fischer, L. "The single dose toxicity of some glycols and derivatives." *Journal of Industrial Hygiene and Toxicology*, 23:259–268. (1941).

(32) Eastman Kodak Company. Toxicity studies with diethylene glycol monobutyl ether. I. Acute oral LD_{50}. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (April 1984).

(33) Eastman Kodak Company. Toxicity Studies with diethylene glycol monobutyl ether. II. Acute dermal LD_{50}. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (April 1984).

(34) Kesten, H.D., Mulinos, M.G., Pomerantz, L. "Pathologic effects of certain glycols and related compounds." *Archives of Pathology*, 27:447–465. (1939).

(35) Smyth, H.F. Jr. and Carpenter, C.P. "Further experience with the range finding test in the industrial toxicology laboratory."

Journal of Industrial Hygiene and Toxicology, 30: 63–68. (1948).

(36) Dow Chemical Company. Toxicology Research Laboratory, Health and Environmental Sciences, Dow Chemical USA, Midland, MI 48640. Dowanol®DB: A 5-week repeated vapor inhalation study in rats. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (October 1984).

(37) Eastman Kodak Company, Rochester, New York. Toxicity studies with diethylene glycol monobutyl ether. III. Six weeks repeat dose study. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (April 1984).

(38) Huntington Research Centre, Huntington, England. 28-day subchronic percutaneous study of diethylene glycol butyl ether in rabbits. Project ECM–BTS 753. (1982). For Procter and Gamble Company, Cincinnati, Ohio. P&G 995/82950/58. Submitted to Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1984).

(39) Krotov, Yu. A., Lykova, A.S., Skachkov, M.A. et al. "The toxicological properties of diethyleneglycol ethers (carbitols) in relation to ensuring clean air." *Gig. Sanit.* 2:14–17, (1981) (In Russian; English translation).

(40) Borriston Laboratories, Inc. 5050 Beech Place, Temple Hills, MD 20748. (1983). Screening of Priority chemicals for reproductive hazards. For National Institute for Occupational Safety and Health, Experimental Toxicology Branch, Division of Biomedical and Behavioral Science, Cincinnati, OH. Contract No. 210–81–6010. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1984).

(41) Dow Chemical Company, Midland, Michigan 48640. (March 1976). Red blood cell fragility studies on Dowanol DB. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (May 1984).

(42) Chemical Manufacturers Association, Washington, DC (April 11, 1985). Assessment of hemnatologic toxicity of ethylene glycol monobutyl ether (EGBE). Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency. (April 23, 1985).

(43) Nagano, K., Nakayama, E., Koyano, M., Oobayashi, H., Adachi, H., Yamada, T. "Mouse testicular atrophy induced by ethylene glycol mono alkyl ethers." *Japan Journal of Industrial Health*, 21:29–35. (1979).

(44) Bushy Run Research Center, Export, PA 15632. (November 30, 1983). Inhalation teratological potential of ethylene glycol monobutyl ether in the rat. (February 27, 1984) A teratologic evaluation of ethylene glycol monobutyl ether in Fischer 344 rats and New Zealand white rabbits following inhalation exposure. For the Chemical Manufacturers Association, Washington, DC. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (March 2, 1984).

(45) International Research and Development Corporation, Mattawan, Michigan 49071. (January 10, 1984). Study of fertility and general reproductive performance in rats. Test article (TSIN): B0547–01. DRD No. BSBTS–796S2. For Procter and Gamble Company, Cincinnati, OH. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1984).

(46) International Research and Development Corporation, Mattawan, Michigan 49071. (October 4, 1983). Dermal teratology study in rabbits. Test article (TSIN): B0547–01. DRD No. BSBTS 796. For Procter and Gamble Company, Cincinnati, OH. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC (1984).

(47) Thompson, E.D., Coppinger, W.J., Valencia, R. and Iavicoli, J. "Mutagenicity testing of diethylene glycol monobutyl ether." *Environmental Health Perspectives*, 57:105–112. (1984).

(48) Naval Medical Research Institute, Toxicology Detachment, Wright-Patterson Air Force Base, Ohio 45433–6503. Diethylene glycol monobutyl ether, 90-day oral dosing study using F–344 rats. Letter from D.E. Uddin to Catherine Roman, U.S. Environmental Protection Agency, Washington, DC 20460. (September 17, 1985.)

(49) Nelson, B.K., Brightwell, W.S., Setzer, J.V., and O'Donohue, T.L. "Reproductive toxicity of the industrial solvent 2-ethoxyethanol in rats and interactive effects of ethanol." *Environmental Health Perspectives*, 57:255–259. (1984).

(50) Nelson, B.K., Brightwell, W.S., Setzer, J.V., Taylor, B.J., Hornung, R.W. "Ethoxyethanol behavioral teratology in rats." *Neurotoxicology* 2:231–249. (1981).

(51) Shuler, R.L., Hardin, B.D., Niemeier, R.W., Booth, G., Hazelden, K., Piccirillo, V., and Smith, K. "Results of testing fifteen glycol ethers in a short-term in vivo reproductive toxicity assay." *Environmental Health Perspectives*, 57:141–146. (1984).

(52) Hall, D.E., Lee, F.S., Austin, P., and Fairweather, F.A. "Short-term feeding study with diethylene glycol monoethyl ether in rats." *Food and Cosmetics Toxicology*, 3:263–268. (1966).

(53) Nagano, K., Nakayama, E., Oobayashi, H., Nishizawa, T., Okuda, H., and Yamazaki, K. "Experimental studies on toxicity of ethylene glycol alkyl ethers in Japan". *Environmental Health Perspectives*, 57:75–84. (1984).

(54) Nelson, B.K., Setzer, J.V., Brightwell, W.S., Mathinos, P.R., Kuczak, M.H., Weaver, T.E., and Goad, P.T. "Comparative inhalation teratogenicity of four glycol ether solvents and an amino derivative in rats." *Environmental Health Perspectives*, 57:261–271. (1984).

(55) Hardin, B.D., Goad, P.T. and Burg, J.R. Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Cincinnati, Ohio, and Intox Laboratories, Inc., Redfield, Arkansas. "Teratogenicity of diethylene glycol monomethyl ether in the rat." Submitted by Union Carbide, Danbury, CT 06817–0001 to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington DC (August 2, 1985).

(56) Bringmann, G. and Kuhn, R. "Comparison of the toxicity thresholds of water pollutants to bacteria, algae, and protozoa in the cell multiplication inhibition test." *Water Research*, 14(3):231–241. (1980).

(57) Nelson, B.K. Division of Biomedical and Behavorial Science National Institute of Occupational Safety and Health, U.S. Department of Health and Human Services, Cincinnati, OH. Summarized telephone conversation with R. Platz, Dynamac Corporation, 11140 Rockville Pike, Rockville, MD 20852. (February 15, 1984).

(58) Von Oettingen, W.F., Jirouch, E.A. "The pharmacology of ethylene glycol and some of its derivatives in relation to their chemical constitution and physical chemical properties." *Journal of Pharmacology and Experimental Theraputics*, 42(3):355–372. (1931).

(59) Eastman Kodak, Rochester, New York. Comments on Advance Notice of Proposed Rulemaking on 2-(2-Butoxyethoxy)Ethyl Acetate. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington DC 20460. (February 26, 1985).

(60) Chemical Manufacturers Association, Washington, DC 20037. Comments on EPA's Advance Notice of Proposed Rulemaking on 2-(2-Butoxyethoxy) Ethyl Acetate. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington DC 20460. (February 19, 1985).

(61) The Dow Chemical Company, Midland, Michigan, 48674. Reference: OPTS–42062. Submitted to U.S. Environmental Protection Agency, Washington DC 20460. (May 5, 1985).

(62) USEPA. U.S. Environmental Protection Agency. Economics and Technology Division. "Economic Impact Analysis of Proposed Test Rule for Diethylene glycol monobutyl ether and acetate." (May 1986).

(63) USEPA. U.S. Environmental Protection Agency. Exposure assessment for DGBE and DGBA. Intraagency memorandum from Craig Matthiessen, Chemical Engineering Branch, to Catherine Roman, Test Rules Development Branch, Office of Toxic Substances, Washington, DC 20460. (April 11, 1986).

(64) Zahn, R. and Wellens, H. "Examination of biological degradability through the batch method—further experience and new possibilities of usage." *Zeitschrift fur Wasser und Abwasser Forschung*, 13:1–7. (1980).

(65) Bridie, A.L., Wolff, C.J.M., and Winter, M. "BOD and COD of some petrochemicals." *Water Research*, 13:627–638. (1979).

(66) Lamb, J.C. and Chapin, R.E. "Experimental models of male reproductive toxicology". *Endocrine Toxicology*, pp. 85–115, Eds. J.A. Thomas, K.S. Korach, J.A. McLachlan. New York, NY: Raven Press. (1985).

(67) Johnson, L., Petty, C.S., and Neaves, W.B. "A comparative study of daily sperm production and testicular composition in humans and rats". *Biology of Reproduction*, 22:1233–1243. (1980).

(68) Blazak, W.F., Ernst, T.L., and Stewart, B.E. "Potential indicators of reproductive toxicity: Testicular sperm production and epididymal sperm number, transit time and motility in Fischer 344 rats". *Fundamental and Applied Toxicology*, 5:1097–1103. (1985).

(69) Sadleir, R.M.F.S. "Cycles and Seasons." In *Reproduction in Mammals*: I.

Germ Cells and Fertilization. Eds. C.R. Austin and R.V. Short. Chapter 4. Cambridge Press, New York. (1978).

(70) Mattison, D.R. and Thorgiersson, S.S. "Ovarian aryl hydrocarbon hydroxylase activity and primordial oocyte toxicity of polycyclic aromatic hydrocarbons in mice." *Cancer Research*. 39:3471–3475. (1979).

(71) Pederson, T. and Peters, H. "Proposal for classification of oocytes and follicles in the mouse ovary. *Journal of Reproduction and Fertility*. 17:555–557. (1968).

(72) Creasy, D.M. and Foster, P.M.D. "The morphological development of glycol ether-induced testicular atrophy in rat." *Experimental and Molecular Pathology*. 40:169–176. (1984).

(73) Bringmann, G. and Kuhn, R. "Testing of substances for their toxicity threshold: Model organisms *Microcystis (diplocystis) aeruginosa and Scenedesmus quadricauda*." *Mitteilungen-Internationale Vereinigung fuer Theoretische und Angewandte Limnologie*. 21:275–284. (1978).

(74) Dawson, G.W., Jennings, A.L., Drozdowski, D., and Rider, E. "The acute toxicity of 47 industrial chemicals to fresh and saltwater fishes." *Journal of Hazardous Materials*. 1(4):303–318. (1977).

(75) Koneman, H. "Quantitative structure-activity relationships in fish toxicity studies. Part I: Relationship for 50 industrial pollutants." *Toxicology*. 19(3):209–221. (1981).

(76) Bridie, A.L., Wolff, C.J.M., Winter, M. "The acute toxicity of some petrochemicals to goldfish." *Water Research*. 13(7):623–626. (1979).

(77) Juhnke, I. and Luedmann, D. "Results of the investigation of 200 chemical compounds for acute fish toxicity with the golden orfe test." *Zeitschrift fur Wasser und Abwasser Forschung*. 11(5):161–164. (1978).

(78) Linden, E., Bengtsson, B.E., Svanberg, O., and Sandstrom, G. "The acute toxicity of 78 chemicals and pesticide formulations against two brackish water organisms, the bleak (*Alburnus alburnus*) and the harpacticoid (*Nitocra spinipes*)." *Chemosphere* 11(12):843–851. (1979).

(79) Bringmann, G. and Kuhn, R. "The toxicity of waterborne contaminants towards *Daphnia magna*." *Zeitschrift fur Wasser und Abwasser Forschung*. 10(5):161–166. (1977).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Rm. NE–G004, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

X. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, the EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from the OMB to the EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), the EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They will not perform testing themselves, or will not participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place; Washington, DC 20503 marked "Attention: Desk Officer for the EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: July 23, 1986.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 795—[AMENDED]

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

1. In proposed Part 795 (51 FR 15803):

a. The authority citation for Part 795 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 795.225 to read as follows:

§ 795.225 Pharmacokinetics test standard.

(a) *Purpose.* The purpose of these studies is to compare: (1) The absorption of diethylene glycol butyl ether (DGBE) after administration by the oral and dermal routes,

(2) The biotransformation of DGBE administered orally and dermally, and

(3) The dermal absorption of DGBE and diethylene glycol butyl ether acetate (DGBA).

(b) *Test procedures*—(1) *Animal selection*—(i) *Species.* The species utilized for investigating DGBE and DGBA shall be the rat, a species for which historical data on the toxicity and carcinogenicity of many compounds are available and which is used extensively in percutaneous absorption studies, and the guinea pig, a species whose skin more closely resembles human skin.

(ii) *Animals.* Adult female Fischer 344 rats and Hartley guinea pigs shall be used. The rats shall be 7 to 9 weeks old and weigh 125 to 175 grams, and the guinea pigs, 5 to 7 weeks old and weigh 400 to 500 grams. Prior to testing, the animals shall be selected at random for each group. Animals showing signs of ill health shall not be used.

(iii) *Animal care.* (A) The animals should be housed in environmentally controlled rooms with 10 to 15 air changes per hour. The rooms should be maintained at a temperature of 25±2 °C and humidity of 50±10 percent with a 12 hour light/dark cycle per day. The rats and guinea pigs should be kept in a quarantine facility for at least 7 days prior to use.

(B) During the acclimatization period, the rats and guinea pigs should be housed in cages on hardwood chip bedding. All animals shall be provided with conventional laboratory diets and water ad libitum.

(2) *Administration of DGBE and DGBA*—(i) *Test compounds.* These studies require the use of both nonradioactive DGBE and DGBA, and of ^{14}C-labeled DGBE and DGBA. The use of ^{14}C–DGBE and ^{14}C–DGBA is required to investigate items under paragraph (a) (1), (2), and (3) of this section because they will facilitate the work and improve the reliability of quantitative determinations.

(ii) *Dosage and treatment.* (A) Two doses shall be used in the study, a "low" dose and a "high" dose. When administered orally, the "high" dose level should ideally induce some overt toxicity such as weight loss. The "low" dose level should correspond to a no observed effect level.

(B) The same "high" and "low" doses shall be administered orally and dermally.

(C) Oral dosing shall be performed by gavage or by administering encapsulated compounds.

(D) For dermal treatment, the doses shall be applied in a volume adequate to deliver the prescribed doses. The backs of the rats and guinea pigs should be lightly shaved with an electric clipper shortly before treatment. The dose shall be applied with a micropipette on a specific area (2 cm^2 for rats, 5 cm^2 for guinea pigs) on the freshly shaven skin. The dosed areas shall be occluded with an aluminum foil patch which is secured in place with adhesive tape.

(iii) *Washing efficiency study.* Before initiation of the dermal absorption studies described in paragraph (b)(2)(iv)(A) and (B) of this section, an initial washing efficiency experiment shall be performed to assess the extent of removal of the applied DGBE and DGBA by washing with soap and water. Groups of four rats and 4 guinea pigs should be lightly anesthetized with sodium pentobarbital. These animals shall then be treated with dermal doses of test compound at the low dose level. Soon after application (5 to 10 min) the treated animals shall be washed with soap and water then housed in individual metabolism cages for excreta collection. Urine and feces shall be collected at 8, 24, and 48 hours following dosing. Collection of excreta shall continue every 24 hours if significant amounts of DGBE, DGBA or metabolites continue to be eliminated.

(iv) *Determination of absorption, biotransformation, and excretion.* (A) Rat studies. (*1*) Eight animals shall be dosed once orally with the low dose of ^{14}C–DGBE.

(*2*) Eight animals shall be dosed once orally with the high dose of ^{14}C–DGBE.

(*3*) Eight animals shall be dosed once dermally with the low dose of ^{14}C–DGBE.

(*4*) Eight animals shall be dosed once dermally with the high dose of ^{14}C–DGBE.

(*5*) Eight animals shall be dosed once dermally with the low dose of ^{14}C–DGBA.

(*6*) Eight animals shall be dosed once dermally with the high dose of ^{14}C–DGBA.

(*7*) In the oral studies, the animals shall be placed in individual metabolic cages for collection of excreta at 8, 24, 48, 72 and 96 hours following administration.

(*8*) In the dermal studies, doses of ^{14}C–DGBE and ^{14}C–DGBA shall be kept on the skin for the duration of the study (96 hours). After application, the animals shall be placed in metabolism cages for excreta collection. Urine and feces shall be collected at 8, 24, 48, 72 and 96 hours.

(B) *Guinea pig studies.* The same procedures shall be followed as specified in paragraph (b)(2)(iv)(A) (*1*) through (*8*) of this section.

(3) *Observation of animals*—(i) *Urinary and fecal excretion.* The quantities of total ^{14}C excreted in urine and feces by rats dosed as specified in paragraph (b)(2)(iv)(A) of this section and guinea pigs dosed as specified in paragraph (b)(2)(iv)(B) of this section shall be determined at 8, 24, 48, 72, and 96 hours after dosing, and if necessary, daily thereafter until at least 90 percent of the dose has been excreted or until 7 days after dosing (whichever occurs first). Four animals from each group shall be used for this purpose.

(ii) *Biotransformation after oral and dermal dosing.* Appropriate qualitative and quantitative methods shall be used to assay urine specimens collected from rats dosed with DGBE as specified in paragraph (b)(2)(iv)(A) of this section and from guinea pigs as specified in (b)(2)(iv)(B) of this section. Any metabolite which comprises greater than 10 percent of the dose shall be identified.

(c) *Data and reporting*—(1) *Treatment of results.* Data shall be summarized in tabular form.

(2) *Evaluation of results.* All observed results, quantitative or incidental, shall be evaluated by an appropriate statistical method.

(3) *Test report.* In addition to the reporting requirements as specified in the TSCA Good Laboratory Practice Standards, 40 CFR Part 792, Subpart J, the following specific information shall be reported:

(i) Species, strain, and supplier of laboratory animals.

(ii) Information on the degree (i.e., specific activity for a radiolabel) and site(s) of labeling of the test substances.

(iii) A full description of the sensitivity and precision of all procedures used to produce the data.

(iv) Relative percent absorption by the dermal route for rats and guinea pigs administered low and high doses of ^{14}C–DGBE and ^{14}C–DGBA.

(v) Quantity of isotope, together with percent recovery of the administered dose, in feces and urine.

(vi) Biotransformation pathways and quantities of DGBE and metabolites in urine collected after administering single high and low oral and dermal doses to rats and guinea pigs.

PART 799—[AMENDED]

2. In Part 799:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 799.1560 to read as follows:

§ 799.1560 Diethylene glycol butyl ether and diethylene glycol butyl ether acetate.

(a) *Identification of test substances.* (1) Diethylene glycol butyl ether (DGBE), CAS Number 112–34–5 and diethylene glycol butyl ether acetate (DGBA), CAS Number 124–17–4 shall be tested in accordance with this section.

(2) Compounds of at least 95 percent purity shall be used as the test substances.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture or process DGBE and/or DGBA other than as an impurity, from the effective date of this section (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period, shall submit letters of intent to conduct testing, submit study plans, and conduct tests or submit exemption applications in accordance with Part 792 of this chapter. Those conducting tests of DGBE must submit data as specified in this section other than the test for DGBA in § 799.1560(c)(6), Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking. Only persons who manufacture or process DGBA are subject to the requirements for DGBA in § 799.1560(c)(6).

(c) *Health effects testing*—(1) *Subchronic toxicity*—(i) *Required testing.* (A) A 90-day subchronic toxicity test of DGBE shall be conducted in rats by dermal application in accordance with § 798.2250 of this chapter.

(B) Modifications: The following modifications shall be incorporated in § 798.2250 of this chapter for testing DGBE.

(*1*) *Dose level and dose selection.* The requirement under § 798.2250(e)(4)(iii) of this chapter is modified so that the lowest doses to be administered will be 1 mg/kg/day and 15 mg/kg/day.

(*2*) *Observations.* The requirement under § 798.2250(e)(9)(iv) of this chapter is modified so that cage-side observations shall include daily examination for hematuria.

(*3*) *Hematology.* The requirement under § 798.2250(e)(10)(i)(A) of this chapter is modified so that hematology determinations shall be carried out 1, 2, 4, 6, 10, and 14 days following initiation of dosing in addition to the other times specified. At all hematologic determinations additional

measurements shall include a platelet count and mean corpuscular volume.

(4) *Clinical biochemistry.* The requirement under § 798.2250(e)(10)(i)(B) of this chapter is modified so that clinical biochemistry determinations shall be carried out 24 to 48 hours following initiation of dosing in addition to the other times specified.

(5) *Urinalysis.* The requirement under § 798.2250(e)(10)(ii)(B) of this chapter is modified so that urinalyses shall be done at least three times during the test period: just prior to initiation of dosing (baseline data), after approximately 30 days on test and just prior to terminal sacrifice at the end of the test period. The animals shall be kept in metabolism cages, and the urine shall be examined microscopically for the presence of erthrocytes and renal tubular cells, in addition to measurement of urine volume, specific gravity, glucose, protein/albumin and blood.

(6) *Fertility test.* A satellite group to evaluate fertility shall be established. Control males and males administered the high dose shall be mated to non-exposed partners. Control females and females administered the high dose shall be mated to non-exposed partners. If the animals in the high dose group exhibit marked toxicity (e.g. greater than 20 percent weight loss), then the fertility tests shall be conducted in the next highest dose group. Endpoints to be evaluated for the male fertility test shall include percent mated, percent pregnant, pre- and post-implantation loss (with females sacrificed on day 15 of pregnancy). Endpoints to be evaluated for the female fertility test shall include length of gestation, litter size and viability, sex of offspring, birth weight, and survival to day 4.

(7) *Liver-function tests.* The requirement under § 798.2250(e)(10)(ii) of this chapter is modified to add required testing for liver clearance using five rats per sex per dose with sulfobromophthalein (BSP) and a like number using indocyanine green (ICG). The same animals shall be tested at three times during the test period: Just prior to initiation of dosing (baseline data), after approximately 30 days on test and just prior to terminal sacrifice at the end of the test period.

(8) *Organ weights.* The requirement under § 798.2250(e)(11)(ii) of this chapter is modified so that the prostate gland, the epididymes, seminal vesicles and pituitary gland weights shall be determined wet, as soon as possible after dissection.

(9) *Gross pathology.* The requirement under § 798.2250(e)(11)(iii) of this chapter is modified so that the following additional organs shall be preserved in a suitable medium for future histopathologic examination: The vas deferens, the oviducts and the vagina.

(10) *Histopathology.* The requirement under § 798.2250(e)(12)(i) of this chapter is modified so that the accessory genital organs (epididymides, prostate, seminal vesicles) and the vagina shall be examined histopathologically. In addition, the integrity of the various cell stages of spermatogenesis shall be determined, with particular attention directed toward achieving optimal quality in the fixation and embedding; preparations of testicular and associated reproductive organ samples for histology should follow the recommendations of Lamb and Chapin (1985) under paragraph (d)(1) of this section, or an equivalent procedure. Testicular spermatid counts shall be performed; the method described by Johnson *et al.* (1980) and Blazak *et al.* (1985) under paragraph (d) (2) and (3) of this section or an equivalent procedure should be used. Epididymal sperm count and sperm morphology shall also be done. Data on female cyclicity shall be obtained by performing vaginal cytology over the last two weeks of dosing; the method of Sadleir (1978) under paragraph (d)(4) of this section or an equivalent method should be used. The histopathology of the ovary to evaluate oocyte toxicity shall be performed; the method of Mattison (1979) and Pederson (1968) under paragraph (d) (5) and (6) of this section or an equivalent method should be used.

(ii) *Reporting requirements.* (A) The subchronic test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final test rule.

(B) Progress reports shall be submitted to the Agency every 6 months, beginning 6 months from the effective date of the final rule.

(2) *Neurotoxicity/behavioral effects*—(i) *Required testing.* Neurotoxicity/behavioral tests of DGBE shall be conducted according to a functional observational battery (§ 798.6050 of this chapter), motor activity (§ 798.6200 of this chapter), and neuropathology (§ 798.6400 of this chapter). The tests shall be performed in the rat by dermal administration for a period of 90 days.

(ii) *Modification.* If these three tests are combined, at least ten animals per sex per dose level shall be used.

(iii) *Reporting requirements.* (A) The neurotoxicity/behavioral tests shall be completed and final results submitted to the Agency within 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted to the Agency every 6 months, beginning 6 months from the effective date of the final rule.

(3) *Mutagenicity*—(i) *Required testing.* (A) A somatic cells in culture assay of DGBE using Chinese hamster ovary (CHO) cells shall be conducted in accordance with § 798.5300 of this chapter.

(B) An *in vivo* cytogenetics test of DGBE shall be conducted in rats or mice or hamsters by oral gavage in accordance with § 798.5385 of this chapter.

(C) A dominant lethal assay of DGBE shall be conducted in rats or mice by oral gavage in accordance with § 798.5450 of this chapter if the *in vivo* cytogenetics test is not negative.

(D) A heritable translocation test of DGBE shall be conducted in mice by oral gavage in accordance with § 798.5460 if the dominant lethal assay is positive.

(ii) *Reporting requirements.* (A) Mutagenicity tests shall be completed and final results submitted to the Agency as follows: somatic cells in culture using CHO cells, within 6 months; *in vivo* cytogenetics, within 8 months; dominant lethal assay (if triggered), within 18 months of the effective date of the final rule; and heritable translocation, if required, within 45 months of the effective date of the final rule.

(B) A progress report for the *in vivo* cytogenetics test will be submitted to the Agency within 6 months of the effective date of the final rule. A progress report for the dominant lethal assay shall be submitted to the Agency within 6 months of the date when the test is triggered. Progress reports for the heritable translocation test shall be submitted every 6 months, beginning 6 months after the test is triggered.

(4) *Oncogenicity*—(i) *Required testing.* An oncogenicity test of DGBE shall be required unless negative results are obtained in both of the following tests: the somatic cells in culture assay using Chinese hamster ovary cells and the *in vivo* cytogenetics test. The test shall be performed by dermal application in accordance with § 798.3300 of this chapter. The test species shall be rats and mice.

(ii) *Reporting requirements.* (A) The oncogenicity test, if triggered, shall be completed and the final results submitted to the Agency within 56 months of the effective date of the final rule.

(B) Progress reports shall be submitted every 6 months, beginning 6 months after the test is triggered.

(5) *Developmental neurotoxicity*—(i) *Required testing.* A developmental

VOL
51
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149
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neurotoxicity test of DGBE shall be performed in rats in accordance with § 795.250 of this chapter by dermal application as specified under § 798.3300 (b)(6)(ii) of this chapter as published in the **Federal Register** of May 15, 1986 (51 FR 17883).

(ii) *Reporting requirements.* (A) The developmental neurotoxicity test shall be completed and the results submitted to the Agency within 1 year of the effective date of the final test rule.

(B) A Progress report shall be submitted to the Agency 6 months from the effective date of the final rule.

(6) *Pharmacokinetics*—(i) *Required testing.* Pharmacokinetics tests of DGBE and DGBA will be conducted in rats and guinea pigs by the dermal (DGBE and DGBA) and oral (DGBE only) routes of administration in accordance with § 795.225 of this chapter.

(ii) *Reporting requirements.* (A) The pharmacokinetics tests shall be completed and final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) A progress report shall be submitted 6 months from the effective date of the final rule.

(d) *References.* For additional background information the following references should be consulted:

(1) Lamb, J.C. and Chapin, R.E. "Experimental models of male reproductive toxicology", *Endocrine Toxicology*, pp. 85–115. Eds. J.A. Thomas, K.S. Korach, J.A. McLachlan. New York, NY: Raven Press. (1985).

(2) Johnson, L., Petty, C.S., and Neaves, W.B. "A comparative study of daily sperm production and testicular composition in humans and rats", *Biology of Reproduction*, 22:1233–1243. (1980).

(3) Blazak, W.F., Ernst, T.L., and Stewart, B.E. "Potential indicators of reproductive toxicity: Testicular sperm production and epididymal sperm number, transit time and motility in Fischer 344 rats", *Fundamental and Applied Toxicology*, 5:1097–1103. (1985).

(4) Sadleir, R.M.F.S. "Cycles and Seasons." In *Reproduction in Mammals: I. Germ Cells and Fertilization*. Eds. C.R. Austin and R.V. Short. Chapter 4. Cambridge Press, New York. (1978).

(5) Mattison, D.R. and Thorgiersson, S.S. "Ovarian aryl hydrocarbon hydroxylase activity and primordial oocyte toxicity of polycyclic aromatic hydrocarbons in mice." *Cancer Research*. 39:3471–3475. (1979).

(6) Pederson, T. and Peters, H. "Proposal for classification of oocytes and follicles in the mouse ovary. *Journal of Reproduction and Fertility*. 17:555–557. (1968).

(Information collection requirements approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc. 86–17353 Filed 8–1–86; 8:45 am]

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Notices

Federal Register
Vol. 51, No. 149
Monday, August 4, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Cash in Lieu of Commodities; Value of Donated Commondities for School Year 1986

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that, since the value of agricultural commodities and other foods provided meets the level of assistance authorized under the National School Lunch Act, there will be no shortfall cash payments to States for the National School Lunch Program for the 1986 school year. The Secretary of Agriculture has determined that the annually programmed level of assistance was met in food donations by June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Beverly King, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Classification

This action, which implements a mandatory provision of section 6(b) of the National School Lunch Act, has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "nonmajor."

It meets none of the three criteria in the Executive Order: the action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs; and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirement of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service has determined that it will not have a significant economic impact on a substantial number of small entities. The primary purpose of the action is to notify States that the amount of foods donated will meet the programmed level for the school year 1986; therefore, no payment of cash in lieu of donated foods will be necessary.

Section 6(b) of the National School Lunch Act (the Act), as amended (7 U.S.C. 1755) and the regulations governing cash in lieu of donated foods (7 CFR Part 240) require the Secretary of Agriculture by May 15 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. Under the food distribution regulations (7 CFR Part 250), these foods are used by schools participating in the National School Lunch Program. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by June 15 of that school year to pay each State administering agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

For school year 1986 the adjusted minimum national average value of donated foods or payment of cash in lieu thereof per lunch has been established under section 6(e) at 11.75 cents per lunch. In accordance with this requirement, a national entitlement of $448,434,896 in commodities was established for school year 1986. The Secretary has determined that at least that amount was available for delivery nationally by June 30, 1986, to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1986.

This notice contains no reporting or recordkeeping provision necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance No. 10.550)

Dated: July 30, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86–17482 Filed 8–1–86; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Systems Technical Advisory Committee; Closed Meeting

A closed meeting of the Computer Systems Technical Advisory Committee will be held August 22, 1986, 11:00 a.m. at the Herbert C. Hoover Building, Room 6802, 14th Street & Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4127. For further information or copies of the minutes, call Betty Ferrell at (202) 377–2583.

Dated: July 29, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff Office of Technology & Policy Analysis.

[FR Doc. 86–17431 Filed 8–1–86; 8:45 am]

BILLING CODE 3510-DT-M

VOL 51 ISS 149 AG 4 1986 UMI

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held August 21, 1986, 9:30 a.m.–11:30 a.m. at the Herbert C. Hoover Building, Room B–841, 14th Street & Constitution Avenue, NW., Washington, DC. The Hardware Subcommittee was formed to focus on manufacturing and performance characteristics of main frames and other computer hardware.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

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Dated: July 29, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86–17432 Filed 8–1–86; 8:45 am]

BILLING CODE 3510–DT–M

Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee will be held August 21 and 22, 1986, in the Herbert C. Hoover Building, 14th Street & Constitution Avenue NW., Washington, DC. The meeting on August 21 will be held in Room B–841 at 2:30 p.m.–5:00 p.m. The meeting on August 22 will be held in Room 6802 at 9:00 a.m.–11:00 a.m. The Licensing Procedures and Regulations Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Open Session

1. Opening Remarks by the Chairman.

2. Presentation of papers or comments by the public on proposed equipment decontrol and discussions on problems experienced in obtaining export licenses.

3. Discussion and formulation of a proposal to revise U.S. controls regarding West/West export licenses.

Executive Session:

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4127. For further information or copies of the minutes, call Betty Ferrell at (202) 377–2583.

Dated: July 29, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff Office of Technology & Policy Analysis.

[FR Doc. 86–17433 Filed 8–1–86; 8:45 am]

BILLING CODE 3510–DT–M

Software Subcommittee of the Computer Syustems Technical Advisory Committee; Closed Meeting

A meeting of the Software Subcommittee of the Computer Systems Technical Advisory Committee will be held August 21, 1986, 12:30 p.m. at the Herbet C. Hoover Building, Room B–841, 14th Street & Constitution Avenue NW., Washington, D.C. The Software Subcommittee was formed to study computer software with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(b) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202/377–4217. For further information contact Betty Ferrell at (202) 377–2583.

Dated: July 29, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff Office of Technology & Policy Analysis.

[FR Doc. 86–17434 Filed 8–1–86; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF EDUCATION

[CFDA No: 84.165]

Applications for New Awards Under the Magnet Schools Assistance Program for Fiscal Year 1987

Purpose: Provides grants to eligible local educational agencies to support

projects in magnet schools that are part of approved desegregation plans.

Deadline for transmittal of applications: November 7, 1986

Deadline for intergovernmental review comments: January 7, 1987

Applications available: August 29, 1986

Available funds anticipated: The Department has requested $75,000,000, for this program in FY 1987. However, the level of funding is contingent upon final Congressional action.

Estimated range of awards: $200,000–$4,000,000

Estimated average size of awards: $1,705,000

Estimated number of awards: 44

Project period: 24 months

Applicable regulations: (a) The Magnet Schools Assistance Program Regulations, 34 CFR Part 280, and (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or information contact: M. Petricia Goins, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2023, FOB–6, Washington, DC 20202. Telephone: (202) 472–7960

Program authority: 20 U.S.C. 4051–4062.

Dated: July 30, 1986.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 86–17509 Filed 8–1–86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Statement of Modified Restitutionary Policy in Crude Oil Cases

AGENCY: Department of Energy.

ACTION: Statement of modified restitutionary policy to be implemented in crude oil cases.

SUMMARY: The Department of Energy (DOE) is announcing an amendment to its policy concerning the exercise of its remedial authority under the Emergency Petroleum Allocation Act (EPAA), as amended, 15 U.S.C. 751 *et seq.*, in crude oil cases. This policy supersedes the policy announced at 50 FR 27400 on July 2, 1985. Under the policy announced today, the DOE will implement special refund proceedings under 10 CFR Part 205, Subpart V (Subpart V) in crude oil cases, as discussed below. The funds in those proceedings will be distributed as follows: Up to 20 percent of the funds will be reserved for the payment of claims of eligible parties, and the balance will be divided between the states, territories and possessions of the United States (States), and the U.S. Treasury, as indirect restitution to unidentified injured parties. This revision of DOE's restitutionary policy will permit members of the public to seek restitution, and provide significant sums to the States and the U.S. Treasury for the benefit of all citizens, and thus better serve the public interest than current policy.

FOR FURTHER INFORMATION CONTACT: Carl A. Corrallo, Solicitor, Economic Regulatory Administration, RG–40, 1000 Independence Avenue SW, Room 3H–017, Washington, DC. 20585, 202–252–4387.

SUPPLEMENTARY INFORMATION: The DOE issues this policy statement to modify the Statement of Restitutionary Policy concerning the disposition of crude oil violation refund amounts issued on June 21, 1985 (50 FR 27400, July 2, 1985). Under this Modified Statement of Restitutionary Policy, DOE will exercise its remedial authority under the EPAA in crude oil enforcement cases to provide persons claiming to have been injured by crude oil violations the opportunity to prove injury, and to distribute funds in excess of the amount necessary for the satisfaction of such claims to parties in a manner that achieves indirect restitution: One half of these funds will be distributed to the States, in proportion to their relative consumption of refined petroleum products during the period of price controls, and one half will be distributed to the U.S. Treasury.

Background

This Modified Restitutionary Policy Statement (Statement) is issued in conjunction with the approval on July 7, 1986, of the Settlement Agreement (Agreement) dated May 21, 1986, by the District Court for the District of Kansas (Court) in *The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378. The previous Statement of Restitutionary Policy was also issued in conjunction with M.D.L. 378. *See* 50 FR. 27400.

The history of M.D.L. 378 is best summarized in the Court's Memorandum and Order of September 13, 1983:

> This action is a consolidation of a number of cases brought by oil producers to enjoin the Federal Energy Administration (FEA), now the Department of Energy (DOE), from enforcing Ruling 1974–29, concerning low production oil wells, commonly called "stripper wells." The Court enjoined enforcement of the regulations in question, but ordered the oil producers to deposit into escrow the difference between the stripper well price and controlled price of crude oil affected by the injunction. As of October 31, 1982, the escrow fund, including interest, contained over one billion dollars.
>
> The issue of the validity of the regulations and Ruling was finally settled in *In re the Department of Energy Stripper Well Exemption Litigation*, 800 F. 2d 1375 (Em. App. 1982), *cert. denied*, [459 U.S. 1127] (1983), in which the Temporary Emergency Court of Appeals (TECA) reversed this Court's decision and upheld the rulings and regulations as valid. TECA remanded this action to this Court with instructions to enter judgment for DOE, which judgment has been entered. The effect of TECA's decision is to declare the funds deposited in escrow to be overcharges recovered due to violations of the petroleum pricing regulations. The remaining task is the appropriate dispensation of the escrowed funds. . . .
>
> 578 F. Supp. 586,589.

On September 13, 1983, the Court granted DOE's motion to refer the issue of who may have been injured by the overcharges to the DOE Office of Hearings and Appeals (OHA) to conduct fact-finding concerning who bore the impact of the overcharges at issue in the *Stripper Well* case. The Court also ordered all parties with claims on the escrow to submit specific proof thereof to OHA. The Court also solicited DOE's view on the proper means of restitution in this case.

On December 30, 1983, OHA published in the **Federal Register** a public notice concerning the referral decision (48 FR 57606). That notice discussed the background of this litigation, OHA's preliminary views on the question of injury and specifically requested comments on the impact of the overcharges on Entitlements Program participants, direct purchasers of refined products, resellers, and consumers. OHA received over 100 separate comments, including comments from many entities or groups which were not then parties to M.D.L. 378.

On May 9, 1984, OHA published another public notice in the **Federal Register**, announcing its decision to hold an evidentiary hearing on the issue of tracing the impact of the overcharges on direct purchasers of this crude oil and on participants in the Entitlements Program (49 FR 19718). A full twenty-two days of hearings followed during a three-month period. Sixty-four public and private entities and groups consisting of thousands of members participated actively in the hearings. Over thirty witnesses testified and a record of almost 13,000 pages of written and oral presentations was compiled, including 185 exhibits and 23 briefs. Expert witnesses testified as to the effect of oil overchages upon the consuming public. Econometric evidence (economic studies relying on mathematical and statistical methods) was introduced regarding the specific

injury to the various parties in the economic chain from producer to consumer.

On June 21, 1985, the first part of the report was submitted to the Court by OHA. *Report of the Office of Hearings and Appeals, In Re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan.)* (OHA Report). Based on the expert testimony and evidence presented, OHA determined that it was impossible to trace those increased costs through an individual refiner's refining, distribution and marketing operations. However, based on the econometric evidence presented to it, OHA found that refiners were injured, as a class, by 2.7 to 8.1 percent of the overcharges because of their purchases of crude oil, and that the balance of the overcharges were passed on to subsequent purchasers of refined products. Thus, while downstream customers bore, in the aggregate, between 91.9 and 97.3 percent of the overcharge, the injury to individual consumers could not be accurately determined.

On June 21, 1985, DOE submitted to the Court the second part of its report in the form of a Statement of Restitutionary Policy applicable to all crude oil overcharge funds. That policy statement, and an implementing order by OHA, were published in the **Federal Register** on July 2, 1985. 50 FR 27400 and 27402. In the policy statement, DOE announced that, in light of OHA's findings, it would be DOE policy to retain all funds received in crude oil cases in escrow pending Congressional action, and that, if Congress did not act by the end of the current session, *i.e.*, Fall 1986, the funds would be paid to the U.S. Treasury.

Thereafter, Judge Theis presented the parties the opportunity to file statements in opposition to the OHA Report.

It was in that context that the parties discussed the settlement of the issue of the disposition of the Court's escrow. In view of the similarity of restitutionary problems confronting the agency in other crude oil cases, and the uniform treatment of all such cases in the policy statement, DOE concluded that the settlement negotiations provided an appropriate vehicle for exploring the resolution of those issues in all crude oil cases.

The Court and OHA had allowed wide-spread participation on the question of disposition of the escrowed funds, and had compiled an extensive record based on the submissions of the parties. The private parties represented the interests of refiners, marketers and major consumers of petroleum products, *i.e.*, Resellers, Retailers, Airlines, Agricultural Cooperatives, Surface Transporters (Trucks, Buses and Cabs), and Utilities. The public parties, the States and DOE, which have been the beneficiaries of indirect restitution in other crude oil cases, also played very active roles. Thus, the parties possessed the necessary expertise and a broad range of interests to assure that the private interests, and the pubic interest, were recognized.

The Settlement Agreement in the *Stripper Well* case, which preceded this Policy Statement, was the result of seven months of extensive arms-length negotiations among the various public and private interests to determine an appropriate distribution of the funds escrowed by the Court. In arriving at a compromise, every aspect of the receipt and distribution of the funds by each of these parties was thoroughly debated and subsequently approved by the Court. The negotiations took into account the expected recovery of future funds by DOE in the *Stripper Well* and other crude oil cases in fashioning the distribution of funds in the Court's escrow, and examined the anticipated benefits to refiners, marketers and other purchasers including consumers. The Parties reached a settlement and presented their Agreement to the Court on May 22, 1986. On July 7, the Court approved the Settlement Agreement, holding that the Agreement "is fair, reasonable and adequate to all concerned parties" (Slip Op. at 19) and that "the agreement promotes the public interest in a very broad sense." (Slip Op. at 25). The Court directed entry of final judgment with regard to "each and every matter that is compromised, settled or otherwise resolved by the Settlement Agreement, as modified by the Court's opinion and order dated July 7, 1986."

The Agreement, as modified by the judgment, resolves a number of matters. Among them are the distribution of funds collected by the Court, and the distribution of funds collected by DOE in other cases. As to the distribution of funds subject to the Court's jurisdiction in M.D.L. 378, the Agreement establishes a mechanism through individual escrow agreements for each of the groups receiving funds from the *Stripper Well* escrow, *i.e.*, Resellers of refined product; Retailers of gasoline and diesel fuel; Agricultural Cooperatives; domestic Airlines; oil-fired Utilities; Surface Transporters (fleet operators of trucks, buses and taxis); and Rail and Water Transporters (railroads and operators of barges and American flag vessels).

Each group will receive a portion of the funds held in escrow by the Court in M.D.L. 378 to distribute further pursuant to the terms of their individual escrow agreements. The amounts each group will receive under the Agreement includes an amount in anticipation of the crude oil violation funds DOE believes it will recover in the future. As a result, as a condition to submitting a claim to a refund from any of the above escrows, all claimants will be required to sign a waiver releasing any claims they may have against all other crude oil funds.

The Agreement also provides a mechanism for resolving the distribution of crude oil overcharges in all other cases. This Statement is part of the implementation of the terms of the Agreement which provides a mechanism for the consideration of claims for restitution by purchasers of petroleum products in other crude oil enforcement cases. It applies to the agency's consideration of claims by purchasers of crude oil or refined petroleum products for restitution from the funds collected in other crude oil cases. It addresses the distribution of crude oil violation funds obtained in cases alleging violations of the regulations governing the first sale of crude oil (10 CFR Part 212, Subpart D), the crude oil reseller regulations (Part 212, Subpart F and L), and the entitlements regulations (10 CFR 211.66, 211.67, 211.69). The identification and adjudication of the violation in such cases is unaffected by this Statement.

It is anticipated that the Settlement Agreement will resolve, by payments from the M.D.L. 378 funds and accompanying waivers, the vast majority of claims of individual purchasers of crude oil or refined petroleum products. The Agreement also provides that any restitutionary funds not distributed to, or reserved for the claims of, private claimants will be divided between the States and the Federal government, as representatives of the energy consuming public.

Individual Claims for Refund

With respect to individual refund claims, the Agreement provides parties which did not settle or receive funds on M.D.L. 378 the opportunity to present their claims to OHA under the existing OHA Subpart V refund regulations at 10 CFR Part 205. Under the Agreement, OHA will establish an initial reserve fund for these claims of twenty percent of all funds subject to Subpart V proceedings involving alleged crude oil overcharges. The remaining eighty percent will then be divided between the States and the U.S. Treasury, as described below. Accordingly, the policy applicable to crude oil overcharges cases announced on July 2,

1985, is modified to permit the utilization of the current Subpart V regulations, without amendment, to allow individuals and firms to apply for refunds.

OHA will conduct special refund proceedings in accordance with the rules and procedures established in 10 CFR Part 205, Subpart V. Applicants that received refunds in M.D.L. 378 may not file applications, since they will have waived this right as a condition of receiving payment from the M.D.L. 378 funds. All applicants for refunds pursuant to the Department's Subpart V regulations must demonstrate injury as a result of any alleged crude oil violations. The requirement of a demonstration of injury is established in OHA precedent. *See, e.g., Office of Special Counsel/ Tenneco Oil Co.*, 9 DOE ¶82,538 at 85,206 (1982). Applicants for refunds may seek to prove injury through the use of econometric evidence of the type submitted to OHA and OHA may use the findings contained in the OHA Report when reviewing claims.

Consistent with OHA precedent in Subpart V proceedings, OHA will not accept applications for refunds on behalf of classes, associations or trade groups. OHA has previously determined that claims by similar groups are inappropriate in the "first stage" claims process in which OHA reviews claims of direct injury, because they amount to proposals for "indirect" restitution, *i.e.*, to distribute the funds attributable to unidentified parties. *Standard Oil Company (Indiana)/ Diesel Automobile Association*, 11 DOE ¶85,250 (1984).

Restitutionary Distribution to States and DOE

This Statement also alters the restitutionary policy involving the distribution of crude oil overcharge funds attributable to unidentified injured purchasers. The DOE policy heretofore contemplated Congressional action to distribute escrowed funds. DOE has concluded that where it is impossible to trace the effects of violations in order to make direct restitution to the specific persons injured by them, the overcharge monies should be divided by distributing one-half of such funds to the States and depositing the reamining half in the U.S. Treasury. The allocation among the States will be based on the consumption of refined petroleum products within each State during the period of price controls, September 1973 through January 27, 1981. In addition to the fifty states, the District of Columbia the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Marianas will receive distributions of crude oil finds.

Such an indirect restitutionary plan was suggested by the Stripper Well Court in its 1983 Memorandum and Order. Indeed, the Court remarked that it "believes that the equitable goals of restitution would mandate distribution to the state governments or the federal government for use in programs designed to aid energy consumers." 587 F. Supp. 586, 594. Further, a distribution of crude oil overcharge funds to the States for indirect restitutionary purposes was upheld last year by the TECA in *United States* v. *Exxon Corp.*, 773, F.2d. 1240 (Em. App. 1985), *cert. den.*, 106 S. Ct. 892 (1986), *reh'g den.* 54 U.S.L.W. 3663 (Apr. 7, 1986). TECA found in *Exxon* that the disbursement to the States for the benefit of injured citizens would be "equitable, and fair, and a reasonable method of compensating the puiblic", where identification of victims is impossible. The Agreement also provides for payments directly to the United States Treasury which will "benefit the public." *Payne 22* v. *United States*, 762 F.2d. 90, 94 (Em. App. 1985). As the Court has stated, a payment to the Treasury will fulfill the restitutionary goal of req uiring that judicially-determined illegal gains are fully disgorged. 578 F. Supp. at 594.

This policy will be implemented by equally distributing to the States, and to DOE for deposit in the Treasury, eighty percent of all crude oil funds. The remaining twenty percent will be set aside for claims of direct injury. Any balance remaining after the first stage is completed will also be paid to the States and DOE. For all overcharge funds in judicial proceedings where injured persons cannot be readily identified, DOE will recommend to the court that it take action to achieve the distribution of the funds in a manner consistent with this Statement.

Under the terms of the Agreement and the Restitutionary Policy announced today, the States must apply the funds received to benefit the citizens of their States. The States may fund (1) programs approved by OHA in Subpart V proceedings; (2) those programs referenced in the consent order which DOE entered into in 1981 with Standard Oil Company of California (Chevron) (46 FR 52221; October 28, 1981); (3) the types of energy conservation activities set forth in the following legislation:

(a) Part A of the Energy Conservation and Existing Buildings Act of 1976 (relating to weatherization of buildings; 42 U.S.C. 6861 *et seq.*);

(b) Part D of Title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 *et seq.*);

(c) Part G of Title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 8371 *et seq.*);

(d) The National Energy Extension Service and Conservation Act (relating to the promotion of conservation by small business and individuals; 42 U.S.C. 7001 *et seq.*); and

(e) The Low-Income Home Energy Assistance Act of 1981 (relating to assisting the poor with home utility bills; 42 U.S.C. 8621 *et seq.*);

and (4) such other restitutionary programs as may be approved by the District Court in the *Stripper Well* case or by OHA. All such funds paid to the States (including interest earned on such funds following distribution to the States) must be applied to benefit petroleum consumers in those States. The States must use funds received to supplement funds available under Federal or State law.

The direct participation of the States in the distribution of overcharge funds is one means of providing the consuming public with restitution. Such State involvement assures that the local needs of the various States are more directly and effectively addressed. By according each State broad discretion in selecting the programs that best meet the needs of its particular citizens, the Agreement, and this Statement, allow the States to benefit various categories of petroleum consumers who may not receive direct refunds under the Agreement. In order to more directly involve consumers, each State will provide public notice and hold a public hearing wherein suggestions for the expenditure of overcharge funds may be fully expressed. Indeed, some States have already provided both notice and hearing.

The States have agreed to consider the specific needs of low-income consumers and to consult with low-income group representatives in formulating plans to expend overcharge funds. Similarly, the States have agreed to provide Indian tribal governments and their citizens within their geographical boundaries an equitable share of benefits from State restitutionary programs and consider the unique requirements of the various tribal groups in reviewing their grant application. Finally, the Governor of each state will provide a Letter of Assurance to the Court and to the DOE that all overcharge funds will be

expended solely in accordance with the Agreement and the terms outlined above.

Funds Affected

As indicated above, the policy announced here is a result of the Court's judgment approving the distribution of funds in the *Stripper Well Litigation* pursuant to the Settlement Agreement. The funds escrowed in that case will be distributed pursuant to other provisions of the Settlement Agreement which was approved by Judge Theis on July 7, 1986. The mechanism for distribution in the Settlement Agreements consists of individual escrow agreements for each of the groups receiving funds from the *Stripper Well* escrow. Each individual escrow provides for the disbursement of the funds received to members of that group through a claims fund. Each of the Escrow Agreements established under the Settlement Agreement provided for an Administrator. The Administrator is required to provide notice to members of the eligible group of the applicable procedures for filing a claim and instructions on where to obtain a claim form.

At the present time, DOE is also holding monies in escrow obtained from other crude oil cases. This Modified Restitutionary Policy Statement will immediately apply to distribution of those funds through the implementation of, or completion of pending, Subpart V proceedings. In light of the releases, waiving and releasing any claims to future crude oil funds, executed by the number of parties participating under the Agreement, it is anticipated that relatively few claims will be submitted in the remaining proceedings. Accordingly, as already noted, DOE will reserve an amount of the funds received in crude oil cases for the satisfaction of direct claims and distribute the balance to the States and DOE. At the outset, DOE will reserve twenty percent of the funds received for direct claims, and will reevaluate that amount based on OHA's experience in receiving claims under this policy. Thus, as funds are received in future cases, DOE may distribute a greater portion of the funds received immediately to the States and DOE.

Conclusion

The policy announced today, in conjunction with the Settlement Agreement in the *Stripper Well* case, is expected to result in the expeditious consideration of claims in crude oil cases, the reduction of challenges to the distribution of funds in such cases, and a reduction of the litigation that has surrounded this issue in the past. Claimants who may not have had the opportunity to recover funds under the Settlement Agreement may file claims in OHA's Subpart V proceedings, and residual funds will be made available immediately to benefit the citizens of the States and the United States.

This policy is effective immediately and will apply to all funds held in escrow in pending crude oil cases as well as to future receipts of funds in such cases.

Issued in Washington, DC, July 28, 1986:

Joseph F. Salgado,

Under Secretary of Energy.

[FR Doc. 86-17454 Filed 8-1-86; 8:45 am]

BILLING CODE 6540-01-M

Economic Regulatory Administration

[Docket Nos. ERA-FC-82-018, 019; EPA Case Nos. 52658-2230-01, 02-82]

Concurrence on Certification and Issuance of Final Prohibition Orders; Powerplant and Industrial Fuel Use of Act of 1987

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of concurrence on certification and issuance of final prohibition orders.

SUMMARY: In accordance with sections 301(c) and 702(a) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301, *et seq.* (FUA or "the Act"), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of (1) its concurrence on a certification of coal-mixture capability filed on March 18, 1982, by Sierra Pacific Power Company (Sierra Pacific) on behalf of its Fort Churchill Generating Station Units Nos. 1 and 2 (hereafter referred to as Fort Churchill 1 and 2); and (2) its issuance of final prohibition orders to Fort Churchill 1 and 2. The certification addresses the technical capability and financial feasibility of Fort Churchill 1 and 2 to use a mixture of petroleum or natural gas and coal or another alternate fuel as their primary energy source. Together with the supporting materials submitted by Sierra Pacific and other information contained in the administrative record of this proceeding, this certification constitutes the basis for the issuance of the final prohibition orders which will prohibit the use of petroleum or natural gas in Fort Churchill 1 and 2 in amounts in excess of the minimum amount necessary to maintain reliability of operation of the units, consistent with maintaining reasonable fuel efficiency of such mixture.

EPA's Notice of Acceptance of Certification and Issuance of Proposed Prohibition Orders to Fort Churchill 1 and 2 was published at 47 FR 27888 (June 28, 1982). At that time, a public comment period was announced for the purpose of receiving written comments and requests, if any, for a public hearing on ERA's proposed prohibition orders. The comment period expired on August 12, 1982; no comments or requests for hearing were received.

The regulations implementing section 301 of FUA and governing this proceeding are 10 CFR Parts 500, 501 and 504, published on April 21, 1982 at 47 FR 17037. Additional information on the proceeding, together with the final prohibition orders and the applicable Compliance Schedule addressed to Fort Churchill 1 and 2 appear in the **SUPPLEMENTARY INFORMATION** section below.

EFFECTIVE DATES: The final prohibition orders take effect on October 3, 1986. The prohibitions set out in the orders shall only take effect provided that the conditions subsequent, contained in the Compliance Schedule (see below) have been met.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Indenpendence Avenue SW., Room GA-093, Washington, DC 20585. Telephone: (202) 252-4523

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 252-6947

The public file containing a copy of this Notice and all other documents and supporting materials related to the proceeding are available for inspection upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: On March 18, 1982, Sierra Pacific certified to ERA that, subject to the conditions of that certification, it is technically and financially feasible for its powerplants, Fort Churchill 1 and 2, to use a mixture of petroleum or natural gas and coal or another alternate fuel as their primary energy source. As provided in section 301(c) of FUA and 10 CFR 504.4, 504.6, and 504.8, ERA may, after its review and concurrence on a certification of coal-mixture capability, issue a mixtures prohibition order limiting the use of

petroleum or natural gas as the primary energy source in a powerplant to the amount necessary to maintain reliability of unit operation, consistent with maintaining reasonable fuel efficiency of the mixture. Sierra Pacific certified that, for Fort Churchill 1 and 2, the minimum amount of the primary energy source consisting of natural gas or petroleum that would be necessary to achieve these purposes would be the equivalent of thirty (30) percent of each powerplant's annual operating hours, respectively. Sierra Pacific, by letter dated July 15, 1982, clarified that it does not now foresee the need to use these units on petroleum or natural gas. The Company has requested a mixtures order for the sole purpose of providing it with operating flexibility in the future in the event that these units are required for peaking service due to load growth on Sierra Pacific's system that is not accompanied by additions to its generating capacity due to financial or regulatory constraints.

ERA's final regulations applicable to the issuance of prohibition orders to existing powerplants that have been certified as capable of using a petroleum or natural gas and coal (or other alternate fuel) mixture under section 301(c) of FUA are 10 CFR Parts 500, 501, and 504, published at 47 FR 17037 (April 21, 1982). The regulations require that the following actions be completed before issuance of final prohibition orders to Fort Churchill 1 and 2.

(1) *Notice of Order.* Pursuant to 10 CFR 501.52(b)(2), proposed prohibition orders based upon ERA's review of the certification and the supporting information, and including an explanation of the basis therefor, must be issued to the proposed recipients and published in the **Federal Register,** together with a Notice of Acceptance of the certification. ERA complied with this requirement on June 18, 1982 (47 FR 27888, June 28, 1982).

(2) *Public Participation.* Pursuant to 10 CFR 501.52(b)(3), the Notice of Acceptance must commence a 45-day public comment period during which evidence pertaining to the certification and to ERA's proposed action could be submitted and a public hearing could be requested. The public comment period established for Fort Churchill 1 and 2 in the Notice of Acceptance referred to in paragraph (1), above, expired on August 12, 1982, without receipt of either comments or hearing requests.

(3) *NEPA Compliance.* Pursuant to 10 CFR 501.52(b)(3), no final prohibition orders can be issued until any necessary environmental review pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) is completed. ERA completed its NEPA review on October 14, 1983, with the determination of a Finding of No Significant Impact (FONSI) based on the Environmental Assessment (DOE/EA-0221) which is a part of the public record. DOE has determined that the issuance of final prohibition orders to Fort Churchill Units 1 and 2 is not a major Federal action significantly affecting the quality of the human environment and therefore does not require preparation of an environmental impact statement.

Accordingly, after consideration of the whole record in this proceeding, and finding its proposed actions to be supported by reliable, probative, and substantial evidence, ERA concurs in the certification of coal-mixture capability filed by Sierra Pacific on behalf of Fort Churchill 1 and 2 and issues the following final prohibition orders:

Prohibition Orders

Sierra Pacific Power Co., Fort Churchill #1

Docket No. 52658-2330-01-82

Sierra Pacific Power Co., Fort Churchill #2

Docket No. 52658-2330-02-82

Pursuant to section 301(c) of FUA and 10 CFR 504.8, ERA hereby prohibits the above-named powerplants from using petroleum or natural gas as a primary energy source in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining the reasonable fuel efficiency of the mixture. For Fort Churchill 1 and 2, these amounts shall be the equivalent of the operation of each of the units on petroleum or natural gas for thirty (30) percent of their respective annual operating hours. Under Section 103(a)(28) of FUA, Sierra Pacific may use an actual mixture of natural gas or petroleum and coal or a combination of such fuels, either simultaneously or alternately, in the powerplants in compliance with these prohibitions. These prohibitions shall take effect provided that the conditions subsequent set forth in the accompanying Compliance Schedule have, [at that time], been met.

As provided in section 301(c) of FUA, and 10 CFR 504.8, these prohibition orders are based upon ERA's findings that:

(1) Fort Churchill 1 and 2 have the technical capability to use a mixture of petroleum or natural gas with coal or another alternate fuel as their primary energy source notwithstanding the fact that some relatively minor modifications must be made to the units beforehand (10 CFR 504.6(c)(3));

(2) It is financially feasible to use a mixture of petroleum or natural gas with coal or another alternate fuel as a primary energy source in Fort Churchill 1 and 2, subject to the satisfactory completion of financing and regulatory arrangements as set forth in the Compliance Schedule. If Sierra Pacific is able to meet the conditions in the attached Compliance Schedule it will be able to obtain sufficient capital to finance the conversions, including all necessary land, coal and ash handling equipment, pollution control equipment, and all other necessary conversion expenditures, without violating any legal restrictions on its ability to raise debt or equity capital, unreasonably diluting shareholder equity, or unreasonably adversely affecting its credit rating (10 CFR 504.6(f)). Further, through the performance of cost calculations based on the formula in 10 CFR 504.12, Sierra Pacific has demonstrated that the total and individual unit costs of using a coal and petroleum or natural gas mixture will not exceed the cost of using imported petroleum, and that, therefore, the economic benefits to be derived from the operation of the converted powerplants using such a mixture are anticipated to be much greater than those that would be derived from the continued operation of the units using petroleum or natural gas exclusively.

These findings are based upon the contents of the certification submitted by Sierra Pacific on behalf of Fort Churchill 1 and 2, on which certification ERA has, above, concurred; upon the data furnished to ERA in support of the certification; and upon all other relevant information contained in the administrative record.

Sierra Pacific's Conversion of Fort Churchill 1 and 2 shall be accomplished as follows:

Compliance Schedule

1. Sierra Pacific shall obtain approval from the Nevada Public Service Commission for the conversion of Fort Churchill 1 and 2 no later than December 1, 1988, such approval to be requested as part of Sierra Pacific's request for approval of its 1988 Resource Plan.

2. Sierra Pacific shall commence detailed engineering and design work no later than December 1, 1988, following the approval of the conversion by the Nevada Public Service Commission referred to in paragraph 1, *supra,* and shall complete detailed engineering and

design work no later than December 1, 1989.

3. Construction work shall be commenced no later than May 1, 1990, and completed, including testing, no later than December 1, 1992.

Upon issuance, the prohibition orders to Fort Churchill 1 and 2 are final for purposes of judicial review (Section 702 of FUA). These orders shall become effective on October 3, 1986.

The prohibitions stated in the orders shall become effective if and when the conditions subsequent contained in the Compliance Schedule have been met. For this purpose, Items 1 through 3 of the Compliance Schedule shall each, separately, be considered to be a condition subsequent. The prohibitions shall not become effective until all such conditions are satisfied. 10 CFR 501.52(c)(2).

Sierra Pacific may at any time amend the certification applicable to Fort Churchill 1 and 2 in order to take into account changes in relevant facts and circumstances, except that no such amendment to the certification may be made after the prohibitions based thereon have become effective (section 301(d) of FUA; 10 CFR 501.52(d)). Upon application by Sierra Pacific and subject to the approval of ERA, Sierra Pacific may amend the compliance schedule which it filed under 10 CFR 504.5(d). Furthermore, after the prohibitions become effective Sierra Pacific may seek rescission or modification of the prohibitions under 10 CFR Part 501, Subpart G—"Requests for Modification or Rescission of a Rule or Order" (10 CFR 501.100—501.103).

Issued in Washington, DC, on July 15, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-17455 Filed 8-1-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-4918-000, et al.]

Sun Exploration & Production Co., et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates[1]

July 30, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 14, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4918-000, D, July 14, 1986	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Phillips Petroleum Co., Panhandle Field, Moore County, Texas.	(1)	
G-17385-002, D, July 28, 1986	do	El Paso Natural Gas Co., Blanco Field, San Juan County, New Mexico.	(2)	
CI65-592-000, D, July 14, 1986	do	Lone Star Gas Co., North Dibble Field, McClain County, Oklahoma.	(3)	
CI86-581-000 (CI65-1169), B, July 14, 1986.	do	Arkla Energy Resources, South Pine Hollow Field, Pittsburg, County, Oklahoma.	(4)	
CI86-569-000 (CI73-142), B, July 10, 1986	do	Tennessee Gas Pipe Line Co., Waveland Field, Hancock County, Mississippi.	(5)	
CI86-570-000 (CI76-677-001), B, July 10, 1986.	do	El Paso Natural Gas Co., Drinkard Field, Lea County, New Mexico.	(6)	
CI86-571-000 (CI79-55), B, July 10, 1986.	do	El Paso Natural Gas Co., Deck Cisco Sand Field, Sterling County, Texas.	(7)	
CI86-579-000, D, July 14, 1986	do	Transcontinental Gas Pipe Line Corp., Ship Shoal Block 113 Field, Offshore Louisiana.	(8)	
CI86-584-000 (CI75-652), B, July 14, 1986.	do	Northern Natural Gas Co., Drinkard Field, Lea County, New Mexico.	(9)	
CI86-586-000 (CI73-443), B, July 15, 1986	do	Northern Natural Gas Co., Sherard Field, Chouteau County, Montana.	(10)	
CI67-1768-000, July 16, 1986	Phillips 66 Natural Gas Co., 336 HS&L Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Lusk Gasoline Plant Tailgate located in Lea County, New Mexico.	(11)	
CI71-663-001, July 16, 1986	do	El Paso Natural Gas Co., Lusk Gasoline Plant Tailgate and Lea Gasoline Plant Tailgate both located in Lea County, New Mexico.	(12)	
CI72-594-000, July 16, 1986	do	El Paso Natural Gas Co., Lusk Gasoline Plant Tailgate located in Lea County, New Mexico.	(13)	
CI72-732-000, July 16, 1986	do	do	(14)	
CI76-268-004, July 14, 1986	do	do	(15)	
CI75-75-002, D, July 11, 1986	Phillips Petroleum Co., 336 HS&L Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Permian Basin Area, Eddy County, New Mexico.	(16)	
CI68-667-000, D, July 14, 1986	ARCO Oil and Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Texas 75221.	Texas Eastern Transmission Co., Coteau Freme Field, Assumption Parish, Louisiana.	(17)	
CI75-78-002, D, July 14, 1986	do	Southern Natural Gas Co., Chandeleur Sound Block 25, St. Bernard Parish, Louisiana.	(18)	
CI77-567-002, D, July 18, 1986	Union Exploration Partners, Ltd., P.O. Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., Blocks 34 and 60 Vermilion Area, Offshore Louisiana.	(19)	
CI73-49-000, D, July 14, 1986	BHP Petroleum (Americas) Inc., P.O. Box 1201, Wichita, Kansas 67201.	United Gas Pipe Line Co., Blanconia Field, Bee County, Texas.	(20)	
CI86-588-000 (CI72-752), B, July 15, 1986.	do	United Gas Pipe Line Co., Red Fish Bay-Mustang Island Field, Nueces County, Texas.	(21)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C186-591-000 (C65-45), B, July 17, 1986.	....do	Southern Natural Gas Co., Grange Field, Lawrence County, Mississippi.	(17)	
C186-592-000 (G-10133-001), B, July 15, 1986.	CNG Producing Co., P.O. Box 2115, Tulsa, Okla. 74101.	ANR Pipeline Co., Cattledale Field, Woodward County, Oklahoma.	(18)	
C186-589-000, B, July 17, 1986	Hanson Operating Co., (Succ. to Jake L. Hamon)/ Don O. Chapell, Suite 3900, Republic Bank Tower, 325 North St. Paul, Dallas, Texas 75201-3902.	United Gas Pipe Line Co., State Tract No 8, Corpus Christi Bay, Nueces County, Texas.	(19)	
C186-563-000, B, July 3, 1986	Petro-Lewis Corp., P.O. Box 2250, Denver, Colorado 80201.	Transcontinental Gas Pipe Line Corp., OCS Lease G-2591, South Marsh Island, Area Block 146, Offshore Louisiana.	(20)	
C186-564-000, B, July 3, 1986	Petro-Lewis Funds, Inc., P.O. Box 2250, Denver, Colorado 80201.	....do	(20)	
C186-567-000, B, July 10, 1986	Ruby Davisson Oil & Gas Co., TERM, Energy Corp., Agent, 110 North Spring St., Harrisville, West Virginia 26362.	Consolidated Gas Transmission Corp., Ritchie County, West Virginia.	(21)	
C186-568-000, B, July 10, 1986	Ted Weiner, *et al.*, 2100 Texas Crude Bldg., 801 Travis, Houston, Texas, 77002.	Tennessee Gas Transmission Co., Bully Camp Field, La Fourche Parish, Louisiana.	(22)	
C186-572-000, B, July 10, 1986	E.K. Edmiston, 1260 KSB&T Bldg., Wichita, Kansas 67202.	Northwest Central Pipeline Corp., Sharon Northwest Field, Barber County, Kansas.	(23)	
C186-573-000, B, July 10, 1986	....do	....do	(23)	
C186-574-000, B, July 10, 1986	Edmiston Oil Co., 1260 KSB&T Bldg., Wichita, Kansas 67202.	Northwest Central Pipeline Corp., Rhodes Field, Barber County, Kansas.	(23)	
C186-576-000 (G-14386), B, July 10, 1986.	Cities Service Oil & Gas Corp., P.O. Box 300, Tulsa, Oklahoma 74102.	Hope Gas, Inc., Pfer Mountain Field, Preston County, West Virginia.	(24)	
C186-577-000 (C71-660), B, July 11, 1986.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Southern Natural Gas Co., Main Pass 107, Offshore Louisiana.	(25)	
C186-578-000, B, July 11, 1986	First City Natl. Bank of Midland, Trustee (formerly The Midland, Natl. Bank, Trustee), P.O. Box 10900, Midland, Texas 79702.	Northern Natural Gas Co., Flying "W" (Ellenberger) Field, Winkler County, Texas.	(26)	
C186-592-000, B, July 21, 1986	Dry Run Oil & Gas Company, TERM Energy Corp., Agent, 110 North Spring St.	Consolidated Gas Transmission Corp., Ritchie County, West Virginia.	(27)	
C186-588-000, B, July 21, 1986	Hoover Oil & Gas Co., TERM Energy Corp., Agent, 110 North Spring St., Harrisville, West Virginia 26362.	Consolidated Gas Transmission Corp., Ritchie County, West Virginia.	(27)	
C186-587-000, B, July 18, 1986	Joseph P. Mueller, 1010 First City Tower II, Corpus Christi, Texas 78478.	Texas Eastern Transmission Corp., Brandt Field, Goliad County, Texas.	(27)	
C186-602-000, D, July 21, 1986	Sun Exploration and Production Co	El Paso Natural Gas Co., Drinkard Field, Lea County, New Mexico.	(30)	
C186-604-000, B, July 21, 1986	CNG Producting Co	Northern Natural Gas Co., Granite Wash Field, Hemphill County, Texas.	(28)	
C186-605-000, B, July 21, 1986	....do	Colorado Interstate Gas Co., Hutchinson County, Texas.	(29)	
C186-607-000, B, July 21, 1986	....do	Florida Gas Transmission Co., North St. Rose Field, St. Charles Parish, Louisiana.	(29)	

[1] Property sold to Childress Royalty Company.
[2] Property sold to Texaco, Inc.
[3] Property sold to Mansanto Oil Company.
[4] Not used.
[5] Property sold to Barnes Petroleum, Inc.
[6] Property sold to Earth Scientists, Ltd.
[7] By order issued May 5, 1986, Applicant's certificate was amended to reflect its assignment to Brady W. Production, Inc., by assignment dated December 27, 1984. Applicant requests that its certificate be terminated and its rate schedule be canceled because Applicant's research group now indicates that Applicant retained no interest in the dedicated acreage.
[8] Property sold to A. W. Dugan Petroleum.
[9] Sun sold all of their leaseholdings to Citrco effective 11-1-85.
[10] Property sold to John H. Hendrix Corp.
[11] Applicant is filing for an additional delivery point.
[12] Release of acreage due to plugging and abandonment of the James C #1 located in the SW/4 Section 35-21S-30E, Eddy County, New Mexico.
[13] The Soc. 87-01 was released July 19, 1976, and four leases were surrendered June 1980.
[14] Effective 1-24-83, Union assigned its 50% interest in the Block 34 dedicated depth to Amoco Production Company. Production ceased on 3-7-86 and the lease on Block 34 (OCS-G-3120) expired on 6-6-86.
[15] Property sold to S. J. Hankson, Jr.
[16] Property sold to Sota Oil Company, Inc.
[17] Property sold to Marsh Engineering, Inc.
[18] Property sold to Cotterwood Oil Field Services, Inc.
[19] Commercial production ceased in April 1983 and State Tract No. 8 Lease surrendered in 1984.
[20] All commercial production has ceased.
[21] No longer able to economically produce wells due to age of wells (low reservoir pressure) and consistantly high line pressure maintained by Consolidated Gas. The imposition by purchaser of a $75 month fee was also a major factor in this decision.
[22] Well died after shut in period. Attempts to restore production failed. Abandoned as non-commercial well.
[23] Uneconomical.
[24] The purchaser has advised that effective 1-1-84 gas purchases under the subject Rate Schedule was transferred to its intrastate gas system.
[25] Production has ceased, all the leases have expired and the last sales occurred in January 1986.
[26] Lease No. LA-11116 released, relinquished and surrendered unto lessor. State Lease 4540 sold to Royal International Petroleum Corporation.
[27] Applicant states that it has begun and plans to continue production enhancement work on the Jablonski Unit #1 gas well in order to qualify under NGPA section 107(c)(5), and also plans to drill a new well; the current contract price is not enough to justify the work and contract provisions do not contain language to provide reasonable revenue to justify drilling a new well. Applicant states that Texas Eastern has indicated its unwillingness to enter into a rollover contract to include pricing or take provisions to justify the economics of production enhancement work or drilling a new well. Applicant states it proposes to sell instead to Corpus Christi Gas Gathering, Inc.
[28] Depletion of reserves.
[29] Property sold to Ronald D. Thomas and Odis H. McClellan, Jr.
[30] Property sold to American International Energy Corporation.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total succession; F—Partial Succession.

[FR Doc. 86-17484 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

Hood Goldsberry et al.; Applications for Abandonment

[Docket No. C186-575-000 et al.]

July 29, 1986.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in

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Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI86-575-000 B, July 10, 1986 [1]	Hood Goldsberry, *et al.*, 1200 American Tower, Shreveport, LA [2] 71101.	United Gas Pipe Line Co., Armogene Fontenot Well No. 3, Washington Field, St. Landry Parish, LA.	[8]	
CI86-585-000, B, July 16, 1986 [4]	Northern Pump Company, 1010 Hudson's Bay Centre, 1600 Stout Street, Denver, CO 80202-3130	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Weslaco Field, Hidalgo County, TX.	[8]	
CI86-590-000, B, July 17, 1986	Deminex U.S. Oil Co., 700 N. Peart, Lock Box 340, Suite 500, Dallas, TX 75201	Transcontinental Gas Pipe Line Corp., West Stuart Field, LaSalle County, TX.	[8]	
CI86-599-000, B, July 22, 1986	Danden Petroleum, Inc., *et al.* P.O. Box 5084, Borger, TX 79008.	Northern Natural Gas Co., Division of Enron Corp., Texas Hugoton and Hanna's Draw Fields, Hansford and Sherman Counties, TX.	[7]	

[1] Additional information received July 21, 1986.

[2] The *et al.* parties are David Crow, Equity Oil Company, William Abroms, Irwin I. Muslow, Harry R. Freyer, Karen W. Freyer, M. & M. Producing Co. and Marvin L. Muslow. Hood Goldsberry operates under small producer certificate in Docket No. CS72-153 David Crow operates under small producer certificate in Docket No. CS71-841.

[3] Applicant requests authorization for permanent abandonment for itself and all other interest holders in the Armogene Fontenot Well No. 3 dedicated to United. Applicant states that the contract expired in 1984, the well has been shut in, the gas is NGPA section 104-rollover gas and United is not paying for gas not taken. Applicant states that the well is capable of producing approximately 300 Mcf per day and that it desires to seek another market for its gas.

[4] Additional material received July 18, 1986.

[5] Applicant, a small producer certificate holder in Docket No. CS71-22, requests authorization to abandon the sale of gas to Tennessee under an October 1, 1958, contract. Applicant requests permanent abandonment for sales from four NGPA section 108 stripper gas wells and their spacing units and requests limited-term abandonment authorization for up to two years from two NGPA section 106(a) interstate rollover gas wells to the extent Tennessee does not purchase such 106(a) gas. Applicant proposes to sell the subject gas to other buyers. Applicant states Tennessee has consented to such abandonment by letters dated June 11 and July 15, 1986. Applicant further states Tennessee has stopped taking, and has declined to pay for, gas produced from the NGPA section 108 stripper gas wells and if that situation were to continue, Applicant would face payment of shut-in royalties, the wells would not be commercially viable, and the result would be the waste of significant reserves.

The wells involved are listed below.

Well name	NGPA category	Approximate deliverability (Mcf/d)
Henry #1	108	55
Solether No. 1	108	10
C. W. Hall #1	108	55
Harris #3	108	55
Lockart No. 1	108(a)	150
Williams No. 1	108(a)	550
		875

[6] Applicant requests abandonment, or limited-term abandonment for a term of three years, for its sale to Transco from the Ezra Aldermen No. 1 Well, an NGPA section 104 post-1974 gas well. Applicant states that remaining recoverable reserves are 40 MMcf. Applicant states that it is a small producer certificate holder under Order No. 411. Applicant states that during the period January 1, 1986, through May 31, 1986, Transco curtailed production from the affected well in excess of 60% of the time; Applicant has been advised that nearly 100% curtailment is expected until such time as the gas market improves to the degree necessary for the well's contract price to be competitive; the well is in its latter stages of depletion and continued curtailment could result in the premature plugging and abandoning of the property due to the continuing operating cost. Applicant proposes instead to enter into a spot market sales contract with Transco Energy Marketing Company.

[7] Applicant, a small producer certificated in Docket No. CS71-231, seeks permission to abandon sales of gas to Northern under a contract dated May 14, 1974, as amended. Applicant states that it had filed suit against Northern in *Danden Petroleum, Inc. v InterNorth, Inc.*, No. CA-2-650066, (N.D. Tex., Amarillo Div.). In settlement of this litigation and other contract disputes, Applicant states that it and Northern have entered into a take-or-pay settlement and release agreement dated May 5, 1986, by which Northern agrees to release all gas from acreage subject to the contract for a two-year term. Applicant seeks abandonment for a period beginning with the effective date of a contract to be executed with a third-party purchaser and extending for a period of two years. Applicant further states that of the 13 producing wells that are subject to the contract, ten qualify pursuant to NGPA section 108, and three qualify pursuant to NGPA section 104 (two are 1973-1974—biennium and one is replacement contract or recompletion gas). One additional well which is not currently producing would qualify pursuant to NGPA section 104 (1973-1974—biennium) if it is returned to producing status. Applicant states that the wells have a total average flow rate of approximately 1,591 Mcf/d.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 17485 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS68-41, et al.]

Frank W. Cass, d/b/a Cass Oil Co. (Frank W. Cass), et al.; Applications for Small Producer Certificates [1]

July 29, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection

Any person desiring to be heard or to make protest with reference to said applications should on or before August 14, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Dated filed	Applicant
CS68–41	[1] 7–9–86	Frank W. Cass, d/b/a Cass Oil Company (Frank W. Cass), 2727 Routh Street, Dallas, TX 75201.
CS84–30–000	[2] 6–23–86	Margaret Doris McConnell (J. W. McConnell, Jr.), 600 North Broadway, Hobart, OK 73651
CS84–72–000	[3] 6–11–86	Rosewood Resources, Inc. (Rosewood Resources (POC), Inc.) 2600 Thanksgiving Tower, Dallas, TX 75201.
CS86–83–000	6–30–86	Joseph T. Dawson, 630 Bayview Federal Building, Corpus Christi, TX 78474.
CS86–84–000	7–18–86	Robert Craig Bonnet, d.b.a. Renegade Oil & Gas, P.O. Box 4140, Del Rio, Texas 78841.
CS86–86–000	7–22–86	John A. Smith, P.O. Box 2501, Midland, Texas 79702.

[1] By letter dated July 8, 1986, Applicant requests that the small producer certificate issued to Frank W. Cass in Docket No. CS68–41 be redesignated under the name of Frank W. Cass, d/b/a Cass Oil Company.

[2] By letter dated February 6, 1986, filed June 23, 1986, as supplemented by letter dated June 25, 1986, received July 1, 1986, Margaret Doris McConnell, the heir of J.W. McConnell, Jr., requests that his small producer certificate be redesignated in her name.

[3] By letter dated June 4, 1986, filed June 11, 1986, as supplemented by letter dated June 25, 1986, received June 30, 1986, Applicant states that on December 31, 1984, Rosewood Resources (HPC), Inc. [(HCP)], a small producer certificate holder in Docket No. CS84–74–000, merged with and into Rosewood Resources (POC), Inc. [(POC)], small producer certificate holder in Docket No. CS84–72–000. As of the date of merger (POC), the surviving corporation, relinquished its corporate title and changed its name to Rosewood Resources, Inc. Applicant requests redesignation of the small producer certificate issued in Docket No. CS84–72–000 to (POC) under the name of Rosewood Resources, Inc., and termination of the small producer certificate issued to (HPC) in Docket No. CS84–74–000.

[FR Doc. 86–17486 Filed 8–1–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 9165–001]

Lorida Associates; Surrender of Preliminary Permit

July 30, 1986.

Take notice that Lorida Associates, Permittee for the proposed Structure 65 B Project No. 9165, has requested that its preliminary permit be terminated. The permit was issued on December 13, 1985, and would have expired November 30, 1988. The project would have been located on the Kissimmee Canal, in Okeechobee County, Florida.

The Permittee filed the request on July 14, 1986, and the preliminary permit for Project No. 9165 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary

[FR Doc. 86–17487 Filed 8–1–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 9166–001]

Moore Haven Associates; Surrender of Preliminary Permit

July 30, 1986.

Take notice that Moore Haven Associates, Permittee for the proposed Structure 77 Project No. 9166, has requested that its preliminary permit be terminated. The permit was issued on December 11, 1985, and would have expired November 30, 1988. The project would have been located on the Caloosatchee River, in Glades County, Florida.

The Permittee filed the request on July 14, 1986, and the preliminary permit for Project No. 9166 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary

[FR Doc. 86–17488 Filed 8–1–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF86–767–000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Crescent Hotels, et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Crescent Hotels

[Docket No. QF86–767–000]

July 30, 1986.

On May 27, 1986, Crescent Hotels (Applicant), of 2735 East Camelback Road, Phoenix, Arizona 85016 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Phoenician Golf and Tennis Resort at 6000 East Camelback Road, Scottsdale, Arizona. The facility will consist of two reciprocating engine generators and necessary heat recovery system. Heat recovered by the system will be used in an absorption chiller for building air conditioning. The primary energy source will be natural gas. The net electric power production capacity will be 1200 kW. Installation will begin in December 1986.

2. York County Solid Waste and Refuse Authority

[Docket No. QF86–920–000]

July 23, 1986.

On July 16, 1986, York County Solid Waste and Refuse Authority (Applicant), of P.O. Box 2054, R.D. #2, Stewartstown, Pennsylvania 17363 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Manchester Township, York County, Pennsylvania. The facility will consist of three (3) refuse-fired steam generators and a fully-condensing turbine generator. The net electric power production capacity will be 25.7 megawatts. The primary energy source will be biomass in the form of municipal solid waste. Fossil fuels will be used for start-up purposes and will not exceed 25 percent of the total energy input to the facility in any calendar year.

3. American REF-FUEL Company of Bergen County

[Docket No. QF86–917–000]

July 30, 1986.

On July 11, 1986, American REF-FUEL Company of Bergen County (Applicant), of P.O. Box 3151, Houston, Texas 77253, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Ridgefield, New Jersey and will consist of four solid waste-fired boilers and two steam turbine generator units. The net electric power production capacity will be 79.8 MW. The primary source of energy will be biomass in the form of commercial and municipal solid waste.

4. Power Resources, Inc.

[Docket No. QF86-930-000]

July 30, 1986.

On July 17, 1986, Power Resources, Inc. (Applicant), of 2200 Post Oak Boulevard, Suite 509, Houston, Texas 77056 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed Big Spring topping-cycle cogeneration facility will be located on I-20 East at the Fina Oil and Chemical Company, Big Spring, Texas 79721. The facility will be developed in three phases. In the final phase the facility will consist of two combustion turbine-generators, two heat recovery steam generators and an extraction/condensing steam turbine-generator. The extracted steam will be sold to Fina Oil and Chemical Company. The steam will be used in the oil refining processes. The net electrical power production capacity will be 126.8 MW. The primary energy sources will be natural gas and refinery offgas. The installation of the facility will commence in November 1986.

5. Science Park Energy Associates

[Docket No. QF86-907-000]

July 30, 1986.

On July 8, 1986, Science Park Energy Associates (Applicant), of 5 Science Park, New Haven, Connecticut 06511 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in New Haven, Connecticut and will consist of a gas turbine generator, a waste heat recovery boiler, and an extraction/condensing steam turbine generator. The thermal energy will be used for district heating and cooling. The electric power production capacity will be 25 MW. The primary source of energy will be natural gas. Construction of the facility will begin July 1, 1987.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17489 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-9-004]

Consolidated Gas Supply Corp., et al.; Petition To Amend

July 25, 1986.

Take notice that on July 10, 1986, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, and Texas Eastern Transmission Corporation (Texas Eastern), 1019 19th Street, NW., Washington, DC 20036, referred to collectively as Petitioners, filed in Docket No. CP74-9-004 a petition to further amend the order issued on January 22, 1974,[1] in Docket No. CP74-9, as amended in Docket No. CP74-9-000, pursuant to section 7(c) of the Natural Gas Act, to authorize the transportation and exchange of natural gas at three additional delivery points, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Pursuant to a letter agreement dated May 1, 1986, between Consolidated and Columbia, the Petitioners propose the receipt and delivery of such exchange gas at three additional existing interconnections between Columbia and Consolidated known as the Sheldon and Letchworth Connections on Consolidated's Line Numbers 546 and 14, respectively, located in Wyoming County, New York, and the Meadville Connection on Consolidated's Line Number TL-406 in Crawford County, Pennsylvania. Petitioners state that, as the exchange arrangement presently exists, Consolidated and National deliver quantities of natural gas produced by Consolidated and National in Indiana and Cambria Counties in Pennsylvania to Columbia. Texas Eastern delivers equivalent quantities to Consolidated for Columbia's account and deducts said equivalent quantities from quantities it has scheduled for delivery to Columbia under Texas Eastern's currently effective service agreement with Columbia. Consolidated then redelivers to National its portion of the aforementioned production. It is anticipated, Petitioners state, that Columbia's purchase from Texas Eastern described above will fall short of those quantities delivered by Consolidated and National to Columbia and likewise the equivalent quantities to be redelivered to Consolidated for Columbia's account by Texas Eastern. Accordingly, it is stated, Texas Eastern will not longer be able to receive from Columbia quantities equivalent to those it would otherwise be obligated to deliver to Consolidated under the exchange arrangement. To the extent Columbia receives from Consolidated and National more gas than can be redelivered to Columbia's account to Consolidated via Texas Eastern, Columbia will be able to utilize the three additional exchange points to deliver such difference directly to Consolidated, it is explained.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 8, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17490 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Project No. 4641-001]

George Danner III and James P. Fenster; Application for Surrender of License

July 29, 1986.

Take notice that George Danner III and James P. Fenster have filed an application for surrender of their license for the Danner-Fenster Project No. 4641.

On August 28, 1981, a license was issued to George Danner III and James P. Fenster to construct, operate, and maintain Project No. 4641 on an unnamed creek near Juneau, Alaska. The project consisted of a diversion structure, a pipeline, and a powerhouse containing a 12-kW generating unit.

Licensee states that the project was abandoned after suffering considerable damage in a landslide on September 26, 1984. The Forest Service states that the Tongass National Forest land that the licensee's dam and waterline occupied has undergone satisfactory site reclamation.

Anyone desiring to be heard or to make any protest about this action should file a motion to intervene or a protest with the Federal Energy Regulation Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214 (1985). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in section 385.211 for protests. To become a party, or to participate in any hearing that might be held, a person must file a motion to intervene in accordance with the Commissions's Rules. Any comments, protest, or motion to intervene must be filed with the Secretary of the Commission on or before August 29, 1986. The Commission's address is: 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17491 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5334-006]

Joint Ypsilanti Recreation Organization; Application for Approval To Develop Project Lands

Take notice that the Joint Ypsilanti Recreation Organization, licensee for the Ford Lake Project, FERC No. 5334, located in Washtenaw County, Michigan, filed on June 17, 1986, an application for authorization to develop certain lands to enhance fish and wildlife and recreational use. This project is designated as the North Bay Reclamation Project, which is located on the Huron River near the City of Ypsilanti, Michigan.

The proposed project is the second phase of the North Bay Reclamation Project. Phase I was completed in early 1985. It consisted of constructing three islands and filling 23,500 cubic yards of dredge material along the shoreline. Phase II consists of constructing an additional island and five foot bridges connecting the existing three islands and the proposed island. Approximately 24,000 to 48,000 cubic yards of dredge material would be used to construct the proposed island.

Correspondence with the licensee should be directed to: Mr. Kenneth R. Oscarson, Orchard, Hiltz and McCliment, Inc., 34935 Schoolcraft Road, Livonia, Michigan 48150.

Agency Comments—Federal, State, and local agencies are invited to file comments on Phase II of the project. (A copy of the plans for Phase II of the reclamation project may be obtained by agencies directly from the licensee. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 38.211 or 385.214, 47 FR 19025-26 (1983). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments protests, or motions to intervene must be filed on or before September 15, 1986.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 203 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the licensee specified in the third paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17492 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-624-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

July 25, 1986.

Take notice that on July 16, 1986, Northwest Central Pipeline Corporation (Northwest), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-624-000 a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new sales tap for the direct interruptible sale of natural gas to Kaw Economic Development Authority (Kaw) under authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to construct and operate a sales tap for the direct interruptible sale of approximately 14,000 Mcf of natural gas annually and 137 Mcf of natural gas on a peak day for use in Kaw's greenhouse in Kay County, Oklahoma. Northwest indicates that the estimated cost of the proposed facilities is $6,680, which cost would be paid from treasury cash.

Northwest states that it would not need to acquire any new natural gas supply to make the proposed sale and such sale would not have any detrimental effect on any of its customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commision, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17493 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-606-000]

Pacific Gas Transmission Co.; Application

July 23, 1986.

Take notice that on July 8, 1986, Pacific Gas Transmission Company (Applicant), 160 Spear Street, San Francisco, California 94105-1570, filed in Docket No. CP86-606-000, as supplemented July 14 and 16, 1986, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (i) the exchange of up to 25,000 Mcf of gas per day with Northwest Central Pipeline Corporation (Northwest Central) and (ii) the sale of such exchange gas to Pacific Gas and Electric Company (PG&E), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authority to exchange up to 25,000 Mcf of gas per day which Northwest Central gathers for Applicant in the Northeast Wamsutter area in Sweetwater and Carbon Counties, Wyoming, by causing a thermally equivalent volume of gas to be delivered to Applicant at the facilities of Northwest Pipeline Corporation (Northwest), in the Moxa area in Lincoln County, Wyoming, and to sell such exchanged gas to PG&E at the point of delivery.

It is explained that the proposed exchange of gas would be pursuant to an existing gas gathering and exchange agreement between Applicant and Northwest Central dated December 31, 1979, and would be a continuation of an arrangement which commenced May 1, 1980, pursuant to section 311(a) of the Natural Gas Policy Act and terminated May 1, 1986, when Northwest Central's authorization ended.

Applicant states that the proposed exchange would be on a thermally equivalent basis, free of transportation charges to either party. Applicant would pay Northwest Central its cost of service for gathering Applicant's gas in the Northeast Wamsutter area, it is stated. Applicant states that it has no presently existing or proposed facilities necessary to effectuate the proposed exchange.

It is further explained that Applicant and PG&E have entered into a gas purchase and sale agreement dated June 26, 1986, which provides, in part, that the price paid to Applicant by PG&E for such exchange gas would be equal to Applicant's purchase price of the gas plus all related gathering and exchange fees or transportation costs actually incurred. Applicant also requests that such agreement be accepted by the Commission as a special rate schedule.

Applicant states that PG&E has entered into transportation agreements with Northwest and others whereby the gas purchased by PG&E would be transported to its market area.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17494 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-447-000, et al.]

United Gas Pipe Line Co.; Applications For Blanket Limited-Term Abandonment and Blanket Limited-Term Certificates With Pre-Granted Abandonment Filed By Pipeline Companies on Behalf of Their Producer-Suppliers

July 29, 1986.

Take notice that the pipeline companies (Applicants) listed herein have filed applications pursuant to section 7 of the Natural Gas Act for blanket limited-term abandonment and blanket limited-term certificates with pre-granted abandonment as described herein.[1]

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per mcf	Pressure base
CI86-447-000 A 5-30-86 [1]	United Gas Pipe Line Company,[2] P.O. Box 1478, Houston, Texas 77251-1478.	United Gas Pipe Line Company, Various locations	(3)	
CI86-450-000 B 5-30-86 [4]	....do [2]	....do	(3)	
CI86-510-000 A 6-13-86 [4]	Tennessee Gas Pipeline Company, a Division of Tenneco Inc.,[2] P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Various locations.	(4)	
CI86-513-000 B 6-13-86 [4]	....do [2]	....do	(5)	
CI86-594-000 A 7-18-86	Northwest Central Pipeline Corporation,[2] P.O. Box 3288, Tulsa, Oklahoma 74101.	Northwest Central Pipeline Corporation, various locations.	(6)	
CI86-596-000 B 7-18-86	....do [2]	....do	(6)	
CI86-595-000 A 7-21-86	Sea Robin Pipeline Company,[2] P.O. Box 1478, Houston, TX 77251-1478.	Sea Robin Pipeline Company, Various locations	(7)	
CI86-597-000 B 7-21-86	....do [2]	....do	(7)	

Footnotes:

[1] Additional information received July 10, 1986.

[2] Applicant is filing on behalf of its producer-suppliers.

[3] Applicant is requesting partial, limited-term abandonment of certain sales by its producer-suppliers, subject to Applicant's right to recall, for a period of three years commencing with the date Applicant accepts such authorization, subject to an extension for additional three years by Applicant with prior Commission approval. Applicant states that it will have approximately 234 Bcf of deliverability available during 1987 under NGPA categories 102, 104, 106, 108 and 109, a substantial portion of which could be subject to the requested authorizations. Applicant also requests a blanket certificate with pre-granted abandonment authorizing the sale for resale in interstate commerce of gas released by Applicant and subject to the requested abandonment authorization. Applicant's request for pre-granted abandonment is for any sale for resale made under the requested blanket certificate at the end of the requested three-year term or any extension thereof or such earlier time as Applicant may recall such temporarily released gas. Applicant states that the producer affected by its applications have been subjected to substantially reduced takes with concomitant reductions in revenue. Applicant states it has filed also, on May 30, 1986, in conjunction with these applications, a separate application in Docket No. CP86-526-000 for blanket certificate authorization to provide non-discriminatory, open-access transportation pursuant to Order Nos. 436 and 436-A. Applicant states that because of the severe decline in its markets, Applicant has been engaged in on-going negotiations with its producer-suppliers seeking concessions from contractual price and take-or-pay provisions. The requested authorizations will, according to Applicant, significantly facilitate such negotiations, greatly contribute toward a solution to Applicant's current surplus deliverability problem, and help alleviate Applicant's potential take-or-pay exposure to the benefit of Applicant's sales customers. Applicant additionally requests waiver of any Commission regulations necessary to permit its applications to be accepted for filing and granted.

[4] Additional information received July 22, 1986.

[5] Applicant requests that the Commission issue an order granting the following authorizations: (1) Authority for limited-term partial abandonment of certain certificated sales to Tennessee; (2) a blanket limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing the sale in interstate commerce of such partially abandoned volumes. Applicant states that the requested authorizations are a prerequisite to successful negotiations on contract modifications between Applicant and its producer-suppliers. Applicant is engaged in seeking concessions from its producer-suppliers to afford relief from contractual price and take-or-pay obligations. Applicant states that the requested authorizations are necessary to permit the marketing of contractually released excess gas supplies that qualify under NGPA sections 102(d), 104, 106(a), 108 and 109. Applicant states that its daily deliverability qualifying under such sections is approximately 2.1 Bcf. Applicant states that the proposed term of the authorizations is for a period of three years commencing with the effective date of the requested authorizations. In addition, Applicant requests that the abandonment authorization be specifically subject to Applicant's right to recall and purchase the released supplies at any time as required in Applicant's reasonable discretion to provide adequate service to its customers at the lowest reasonable cost. Applicant further states that no transportation authorization is requested herein and that transportation on Applicant's system of any gas sold pursuant to authority granted under its requested blanket will be provided under individual certificate authorizations under section 7(c) of the Natural Gas Act. Applicant states that its producer-suppliers subject to the applications have been subjected to substantially reduced takes without payment, and as such Applicant requests expeditious treatment and such other and further relief as may be appropriate.

[6] Applicant requests that the Commission issue an order (1) authorizing the blanket partial, limited-term abandonment by Applicant's producer-suppliers of certain sales for resale of natural gas in interstate commerce, to the extent such gas is released by agreement between Applicant and its producer-suppliers, and (2) issuing a blanket certificate of public convenience and necessity authorizing the sale for resale in interstate commerce, with pre-granted abandonment, of natural gas released by Applicant and for which the requested, blanket abandonment authorization is granted, all to be effective for a limited term of five (5) years commencing with the effective date of the authorizations requested under the applications. Applicant also requests on behalf of these producer-suppliers waiver of the Commission's Regulations as to the establishment and maintenance of rate schedules relating to the sales for which such authorizations are requested, including 18 CFR 154.94(h), 154.94(k) and Part 271, all as more fully set forth in the applications which are on file with the Commission and open to public inspection. Applicant states that the blanket abandonment and sales authorization sought in these applications shall not apply, without further Commission authorization, to (1) volumes qualifying under section 104 of the NGPA (except post-1974 gas and 1973-74 biennium gas) in excess of twenty-five percent (25%) of the total volumes released by Applicant until, as a result of Commission rule or order or legislation, the price being paid for such gas is increased above the price specified in Table II at § 271.101(a) of the Commission's Regulations for gas of the applicable vintage (excluding any unused price established pursuant to section 104(b)(2) of the NGPA), and (2) released volumes which reduce below 15.0 years Applicant's reserve-life index determined by dividing (a) the sum of Applicant's total proven contracted reserves, including all reserves temporarily released, by (b) the sum for the most recent twelve billing periods of Applicant's sales (excluding off-system best efforts sales) and the volumes transported by Applicant under its Rate Schedule FTS subject to Standby Service. Applicant states that the applications are filed pursuant to Article II, section 3 of a proposed Stipulation and Agreement in Docket Nos. RP88-32, *et al.*, filed simultaneously, under which Applicant will implement non-discriminatory open-access transportation consistent with the intent and purpose of Order Nos. 436, *et al.*, issued in Docket No. RM85-1-000. Applicant states that during contract negotiations with producer-suppliers Applicant may agree to temporarily release gas supplies subject to the Commission's NGA sales and abandonment jurisdiction that are in excess of volumes required by Applicant for its current system requirements in order to allow the producer-suppliers to seek alternative markets for such excess gas. Applicant states that the gas subject to its requests qualifies under NGPA sections 102(d), 104, 106(a), 107(c)(5) 108 or 109. Applicant states that the abandonment and sales authorizations requested in the applications are a prerequisite to mutually beneficial contractual modifications between Applicant and its producer-suppliers and would, among other things, reduce Applicant's take-or-pay obligations to the benefit of its sales customers. Applicant requests that the abandonment authorization be specifically subject to Applicant's right to recall and purchase the released supplies at any time as required in Applicant's reasonable discretion to provide adequate service to its customers. Applicant states that no transportation authority is requested under the application and that all transportation by Applicant of gas subject to the applications would occur under the terms of Applicant's blanket transportation authority or other NGA section 7 authorizations.

[7] Applicant requests (1) blanket limited-term abandonment of all certificated producer sales of natural gas to Applicant, regardless of Natural Gas Policy Act (NGPA) pricing category; (2) a blanket limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing interruptible sales of released gas in interstate commerce; (3) waiver of the requirement for producer rate filings under Parts 154 and 271 of the Commission's Regulations with respect to producers' spot market sales of released gas under the program; and (4) expedited consideration of Applicant's applications in accordance with the policy enunciated in Order 436, in recent orders issued by the Commission encouraging releases and spot sales programs, and in the policy statement set out in 18 CFR 2.77 on take-or-pay obligations. Applicant states that by its applications it seeks to address an immediate crisis situation on its system resulting from existing and threatened legal actions against it for injunctive relief and decrees of specific performance in various courts that have the potential of requiring Applicant to take more gas into its system than it can sell, and from increasingly serious problems of declining markets, mounting take-or-pay exposure, and the imminent curtailment of Applicant's takes of casinghead gas. Applicant states that it has two sales customers, United Gas Pipe Line Company (United) and Southern Natural Gas Company (Southern). Applicant states that its sales to these customers have declined drastically over the past several years, from 238 Bcf in 1981 to 119 Bcf in 1985. Applicant states that during 1986, sales have continued to deteriorate at an even greater pace, with sales during the first five months of 1986 at only 35.7 Bcf. Applicant states that in late April 1986, United gave Applicant notice that it was ceasing its purchases altogether until further notice. Applicant states that although Southern has continued to purchase gas from Applicant at a level of 98,000 Mcf per day, Southern has recently notified Applicant that a reduction in purchase to approximately 58,000 Mcf per day will be implemented on August 1, 1986. Applicant states that the loss of sales on its system has caused substantial cuts in its takes from its producers and has led to the accumulation of significant take-or-pay exposure. According to Applicant, at the end of the first quarter of 1986, Applicant reported take-or-pay claims against it in excess of $150 million, or more than three times the value of Applicant's equity. In contrast to Applicant's current market of 98,000 Mcf per day, which will be reduced to 50,000 Mcf per day on August 1, Applicant states that the total deliverability under contract to Applicant is in excess of 500,000 Mcf per day. Applicant states that under injunctions and court orders currently in effect, it is required to take a quantity up to 39,000 Mcf of gas-well gas per day from one producer and 15,000 Mcf of gas-well gas per day from another. In addition to these requirements, Applicant states it has casinghead production capacity connected to its system of approximately 47,000 Mcf per day. With the cuts in its sales on August 1, 1986, Applicant states it will be forced to curtail substantially its takes of casinghead gas, so long as the existing injunctions remain in effect. In addition, Applicant may soon be in a position where the amount of gas it is required to take by court orders is greater than the volume its system physically can accommodate. Accordingly, Applicant states that as it seek to allocate its limited market over conflicting producer demands, including potential requests for injunctions, it must be able to provide its producers a relief mechanism to move all categories of shut-in gas to alternate markets. Applicant further states that all of the gas connected to its system is NGPA section 104, 109 and 102(d) gas, which continues to be subject to the Commission's certificate and abandonment jurisdiction under the Natural Gas Act. Applicant states that it seeks the same authorization for its producer-suppliers that the Commission has granted in LTA proceedings. E.g., *Tenneco Oil Co.*, 33 F.E.R.C. ¶ 61,134 (1985), *extended sub nom. Columbia Gas Transmission Corp.*, 34 F.E.R.C. ¶ 61,407 and *Marathon Oil Co.*, 34 F.E.R.C. ¶ 61,417 (1986). Applicant states that because of the almost total loss of Applicant's market, which will necessitate further cuts in its takes from producers, including curtailment of casinghead gas, Applicant proposes to include gas from all NGPA pricing categories. Applicant states it is willing to submit quarterly reports on sales of released gas to the extent the Commission finds it in the public interest to do so. Applicant states that its proposed program will extend through March 31, 1987, and will be conditioned so that Applicant will be absolved of take-or-pay liability for released volumes sold by its producers to third parties.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 86-17495 Filed 8-1-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3058-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Non-compliance of Motor Vehicles with Federal Emission Standards (EPA ICR #0222). (This is a renewal of a currently approved ICR; its only change is the omission of the dealership survey, one of the four surveys in the original ICR.)

Abstract: Owners of passenger cars and light duty trucks supply information about their vehicles' maintenance and usage history. This information is used to determine whether motor vehicle manufacturers are meeting the current emissions standards of the Clean Air Act.

Respondents: Owners of passenger cars and light duty trucks.

Title: New Source Performance Standards, Subpart MM—Automobile and Light Duty Truck Surface Coating Operations (EPA ICR #1064). (This is an extension of a currently approved ICR; there are no changes.)

Abstract: Owners or operators of automobile and light-duty truck surface coating facilities must report initial performance tests, monthly non-compliance activity, and quarterly excess emissions. If incinerators are used, owners or operators must maintain records of incinerator temperatures and performance. The information is used to ensure continuous compliance with the standard.

Respondents: Owners and operators of automobile and light-duty truck surface coating facilities.

Office of Water

Title: Water Quality Standards Regulation (EPA ICR #0988). This is a renewal of an existing ICR; no changes are proposed.)

Abstract: The Clean Water Act requires States to review their water quality standards at least once every three years and revise them, as appropriate. States submit the results of reviews to EPA for determination of compliance with the Act.

Respondents: State water quality agencies.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0223, Declaration Form Completed at the Time of Importation of a Motor Vehicle or Engine, was approved 7/16/86 (OMB #2060-0085; expires 7/31/89).

EPA ICR #0226, Application for Permit to Discharge Wastewater, and Associated Regulations, was approved 7/14/86 (OMB #2040-0086; expires 7/31/88).

EPA ICR #0982, New Source Performance Standards (NSPS) for Metallic Mineral Processing Plants (Subpart LL), was approved 7/16/86 (OMB #2060-0016; expires 7/31/89).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Wayne Leiss (ICRs #0222 and #1064), or Rick Otis (ICR #0988), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503

Dated: July 28, 1986.

Daniel J. Florino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-17354 Filed 8-1-86; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 865]

Authority Delegations; Authorization of the Assistant to the General Counsel and Assistant to the Chairman to Authenticate Documents, Certify Official Records, and Affix Seal

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Chairman of the Farm Credit Administration issued Order No. 865 authorizing certain employees to authenticate documents, certify official records, and affix seal. The text of the Order is as follows:

1. Isla B. Marsden, Assistant to the Chairman and Loretta M. Gascon, Assistant to the General Counsel, individually, are authorized and empowered:

a. To execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from, official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of the records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the supervision or direction of the Farm Credit Administration.

b. To sign official documents and to affix the seal of the Farm Credit Administration thereon for the purpose of attesting the signature of officials of the Farm Credit Administration.

2. The provisions of this Order shall be effective, and on that date shall supersede Farm Credit Administration Order No. 859 dated October 2, 1985 (50 FR 40449, October 3, 1985).

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 86-17507 Filed 8-1-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Proposed New System of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed system of records: "chain bank report."

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Federal Deposit Insurance Corporation ("FDIC") gives notice of the establishment of a new system of records entitled "Chain Bank Report."

DATE: Comments on the establishment of the system must be submitted by September 3, 1986. The system will become effective on October 8, 1986, unless superseding notice to the contrary is published before that date.

ADDRESSES: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429, or hand-delivered to the same address between 9:00 a.m. and 5:00 p.m., Monday—Friday, Comments are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Deputy Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429, telephone (202) 898–3812.

SUPPLEMENTARY INFORMATION: The FDIC is establishing a new system of records, the Chain Bank Report, as part of its supervision of insured banks. The system consolidates existing information relating to insured banks which are owned or controlled by one or more individuals (called "chain banks"). The consolidation of information into a system of records will permit identification of institutions subject to common ownership or control, coordination of Federal and State supervisory activities, and evaluation of the overall condition of the organization.

The system of records basically is information in word processing or microprocessing systems. The information in the system will relate to the individual's percentage of ownership or control of insured banks and to the insured bank, including its name, location, and date of last examination. Information will derive from examination reports, change in bank control filings and other public reports, and may include a brief comment section. Information in the system will be available to the individual.

Accordingly, the Board of Directors proposes the establishment of the following system of records:

FDIC 30–64–0008

SYSTEM NAME:

Chain Bank Report.

SYSTEM LOCATION:

Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, DC. 20429, and FDIC regional offices. (See Appendix A for the location of FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control a chain banking organization (two or more financial institutions).

ATEGORIES OF RECORDS IN THE SYSTEM:

Contains names of individuals, information relating to the person's ownership or control of banks or other financal institutions and information relating to the bank or financial institution, such as name, location, charter type, and date of last examination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1817(j), 1819 and 1820(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the sytem may be disclosed;

(1) To other financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of banks of financial institutions subject to multiple supervisory juirisdiction; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions.

(2) To the appropriate Federal, State or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto.

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

(4) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in word processing or microprocessing programs or hard copy printouts stored in file cabinets.

RETRIEVABILITY:

Indexed by name of controlling individual(s).

SAFEGUARDS:

Information in word processing or microprocessing programs is accessed only by authorized personnel; hard copy printouts will be stored in lockable file cabinets or offices.

RETENTION AND DISPOSAL:

Records are generally maintained in eletronic storage disks in an on-line capacity until needed. Certain records are archived in off-line storage. All records, including those in printout form, are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429, and for the regional office, the regional director (see Appendix A).

NOTIFICATION PROCEDURE:

Requests must be in writing and addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain (1) the requestor's name and address and (2) the name and location of the controlled banks.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Bank Control Notices filed pursuant to 12 U.S.C. 1817(j).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

By direction of the Board of Directors.

Dated at Washington, DC, this 22nd day of July 1986.

Margaret M. Olsen,

Acting Executive Secretary.

[FR Doc. 86–17475 Filed 8–1–86; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

American Security Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless outherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *American Security Corporation*, Washington, DC; to engage *de novo* through its subsidiary American Security Investment Services, Inc., Washington, DC, in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 29, 1986.

James McAfee,

Associate Secretary of the Board.

[Fr Doc. 86-17426 Filed 8-1-86; 8:45 am]

BILLING CODE 6210-01-M

First Florida Banks, Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86-16720, published at page 26751 of the issue for Friday, July 25, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First Florida Banks, Inc.*, and *FL* Corporation, both of Tampa, Florida; to acquire 100 percent of the voting shares of First Florida Bank of Pasco County, N.A., Bayonet Point, Florida, a *de novo* bank.

Comments on this application must be received by August 15, 1986.

Board of Governors of the Federal Reserve System, July 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17425 Filed 8-1-86; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank, N.A.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), the Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than August 15, 1986.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, DC 20551:

1. *Mellon Bank, N.A.*, Pittsburgh, Pennsylvania; to establish a corporation to be known as Mellon Overseas Investment Corporation, Wilmington, Delaware. This application may be inspected at the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, July 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17427 Filed 8-1-86; 8:45 am]

BILLING CODE 6210-01-M

United Jersey Banks; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 25, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *United Jersey Banks*, Princeton, New Jersey; to merge with Commercial Bancshares, Inc., Jersey City, New Jersey, thereby indirectly acquire Commercial Trust Company of New Jersey, Jersey City, New Jersey, Fidelity Bank & Trust Company of New Jersey, Pennsauken, New Jersey, The Wood Ridge National Bank, Wood-Ridge, New Jersey, Lenape State Bank, West Deptford, New Jersey, The Edgewater National Bank, Englewood Cliffs, New Jersey, and First Bank of Colonia, Colonia, New Jersey.

Applicant has also applied to acquire Trico Mortgage Company, Inc., Woodbridge, New Jersey and N.A. Home Investors Mortgage Corporation, Hackensack, New Jersey, and thereby engage in all aspects of mortgage lending, including origination, purchase, sale and servicing of mortgage loans pursuant to section 12 CFR 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17428 Filed 8-1-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Intent to Reallot Basic Support and Protection and Advocacy Funds to States for Developmental Disabilities Expenditures

AGENCY: Administration on Developmental Disabilities, Office of Human Development Services, HHS.

ACTION: Notice of intent to reallot funds.

SUMMARY: The Administration of Developmental Disabilities herein gives notice of intent to reallot funds which will not be obligated or expended by States or Territories by September 30, 1986. This notice is given in accordance with section 125(d) of the Developmental Disabilities Act of 1984, Pub. L. 98-527. To be considered for receipt of additional funds under this reallotment, each State or Territory must provide the following information in writing:

(1) The amount of funds that will not be obligated or expended by September 30, 1986, under its approved State Plan. If all funds will be so used, provide a statement to that effect;

(2) The amount of additional funds that can be obligated or expended by September 30, 1986, if any; or

(3) A statement that no additional funds can be used by that date.

This information will be used to calculate the amounts to be reallotted. It should be submitted no later than September 3, 1986 to: Bettye J. Mobley, Grants and Contracts Management Division, Office of Human Development Services, Department of Health and Human Services, 200 Independence Avenue, SW., Room 341F.4 HHH Bldg., Washington, DC 20201.

A State or Territory which does not provide the written notice as described above will not receive a reallocation of additional funds for Fiscal Year 1986.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley, (202) 245-7220.

(Catalog of Federal Domestic Assistance Program No. 13-630 Developmental Disabilities-Basic Support and Advocacy Grants)

Dated: July 27, 1986.

Casimer R. Wichlacz,

Acting Commissioner, Administration on Developmental Disabilities.

Approved: July 28, 1986.

Jean K. Elder,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 86-17472 Filed 8-1-86; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

National Center for Health Services Research and Health Care Technology Assessment; Cardiac Catheterization When Performed in Any Freestanding Setting, Including an Ambulatory Surgical Center (ASC)

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is coordinating an assessment of what is known of the safety and effectiveness of, and indications for ambulatory cardiac catheterization when performed in any freestanding setting, including an ambulatory surgical center (ASC). Cardiac catheterization is a procedure in which a small plastic tube is inserted through the skin of the arm or leg into an artery or vein. The tip of the catheter is positioned in or near the heart so that studies may be performed on the heart's chambers and/or x-ray pictures of the arteries may be obtained revealing any dangerous or potentially dangerous narrowing of the vessels.

Cardiac catheterization has been performed as a hospital inpatient procedure for years. More recently, the study has been undertaken on hospital outpatients. This assessment seeks to determine whether cardiac catheterization can be undertaken safely and effectively in a freestanding facility including an ASC. Specific questions to be answered by this assessment include: (1) Is cardiac catheterization safe when performed in a freestanding setting or an ASC? (2) Are complications and rates of complications the same for ambulatory cardiac catheterization when performed in ASCs as for catheterization performed in hospitals? (3) Do complications associated with cardiac catheterization pose an unacceptable risk to patients when the procedure is performed in a freestanding setting or ASC? (4) When performed in a freestanding setting or ASC, is cardiac catheterization any less safe or effective than when performed in a hospital inpatient or outpatient setting? (5) Is there any situation or patient population where ambulatory cardiac catheterization in a freestanding setting or ASC is appropriate or preferable to a hospital setting? This assessment also seeks to determine what is known about the cost of cardiac catheterization when performed in this setting.

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector as well as from PHS agencies and other departments and agencies throughout the Federal Government. The assessments are based on the most current knowledge concerning the safety and effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy.

The information being sought is a review and assessment of past, current and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies. Information related to the characterization of the patient population most likely to benefit, as well as on clinical acceptability and the effectiveness of this technology when used in these settings is being sought. Proprietary information is not being sought. Any person or group wishing to provide OHTA with information relevant to this assessment

should do so in writing no later than October 30, 1986.

Written material should be submitted to: Morgan Jackson, M.D., M.P.H., National Center for Health Services Research and Health Care Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4990.

Dated: July 21, 1986.

Morgan N. Jackson,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 86–17473 Filed 8–1–86; 8:45 am]

BILLING CODE 4160–17–M

National Center for Health Services Research and Health Care Technology Assessment; Chemical Aversion Therapy in the Treatment of Alcoholism

This is to amend the previous notice of June 19, 1986, (FR 51 (118): 22356), announcing an assessment of chemical aversion therapy in the treatment of alcoholism, to reflect the fact that this assessment is being performed at the request of both the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) and the Health Care Financing Administrtion (HCFA). Information generated by this assessment will result in recommendations to both OCHAMPUS and HCFA as to whether or not these techniques should be covered under OCHAMPUS or Medicare. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than October 30, 1986.

Written material should be submitted to: Morgan N. Jackson, M.D., M.P.H., Office of Health Technology Assessment, NCHSR&HCTA, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4990.

Dated: July 23, 1986.

Morgan N. Jackson,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 86–17474 Filed 8–1–86; 8:45 am]

BILLING CODE 4160–17–M

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 51 FR 21629, June 13, 1986), is amended to reflect the transfer of the PHS hospital and clinic records function within the Bureau of Health Care Delivery and Assistance.

Under HB–10, Organization and Functions amend the functional statements for the *Bureau of Health Care Delivery and Assistance (HBC)* as follows:

(1) Under *Division of National Hansen's Disease Programs (HBC8)* delete the word "and" before item number (6), change the period after item number (6) to a semicolon, and add the following:

"and (7) responds to requests for information or copies of the PHS hospital and clinic medical records."

(2) Under *Division of Federal Occupational and Beneficiary Health Services (HBCA)* delete item number (19), change the semicolon after item number (18) to a period, and insert the word "and" after item number (17).

This transfer is effective on October 31, 1986.

Dated: July 22, 1986.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 86–17477 Filed 8–1–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–86–1625]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Davide S. Cristy, Reports Management Officer Department for Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Requisition for Funds-Advance Loans.
Office: Public and Indian Housing.
Form No.: HUD–5402.
Frequency of Submission: On Occasion.
Affected Public: Businesses or Other For-Profit.
Estimated Burden Hours: 9,000.
Status: Extension.
Contact: George C. Davis, HUD, (202) 755–7920; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 23, 1986.

Proposal: Tenancy and Administrative Grievance Procedure, 24 CFR Part 966
Office: Public and Indian Housing
Form No.: None
Frequency of Submission: Single-Time
Affected Public: Individuals or Households and State or Local Governments
Estimated Burden Hours: 26,000
Status: New

Contact: Joyce Anne Bassett, HUD, (202) 426–0744; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 21, 1986.

Proposal: Requirement for Repurchase Agreements for Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs)
Office: Public and Indian Housing
Form No.: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 60
Status: New
Contract: Stephanie Avery-Boyd, (202) 755–6444; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 21, 1986.

Proposal: Tenancy and Administrative Grievance Hearing, 24 CFR Part 966
Office: Public and Indian Housing
Form No.: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households and State or Local Governments
Estimated Burden Hours: 14,600
Status: New
Contact: Joyce Anne Bassett, HUD, (202) 426–0744; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 21, 1986.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86–17423 Filed 8–1–86; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 36826; (OR–090–06–4212–13; GP6–302)]

Realty Action—Exchange; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—exchange of public lands in Lane County, Oregon.

SUMMARY: The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Willamette Meridian, Oregon

T. 19 S., R. 1 E.,
Sec. 18: Unnumbered Lot in NE¼NW¼.
T. 20 S., R. 1 W.,
Sec. 6: Lot 18.
T. 18 S., R. 11 W.,
Sec. 7: NE¼NW¼.
Containing 116.46 acres.

In exchange for these lands, the United States will acquire the following described municipal lands from the Eugene Water and Electric Board:

Willamette Meridian, Oregon

T. 16 S., R. 3 E.,
Sec. 32: Lots 13, 14 less Metes & Bounds.
T. 17 S., R. 3 E.,
Sec. 5: Lots 2, 3, SW¼NE¼ less Metes & Bounds.
Containing 150.14 acres, more or less.

The purpose of the exchange is to improve the resource management program of the Bureau of Land Management and the property management program of the Board. The public lands to be exchanged are relatively isolated parcels. The Board intends to sell these lands to generate revenue. The Board lands have important recreational, timber, visual and wildlife habitat values that merit retention in public ownership. These lands will be managed for multiple use along with the adjoining public lands. The public interest will be well served by making this exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted to bring the values as close as possible upon completion of the final appraisal of the lands. Full equalization of values will be achieved by payment to the United States of funds in an amount not to exceed 25 percent of the total value of the public land to be transferred. All mineral rights will be transferred with the surface except for oil and gas rights on the NE¼NW¼ Section 7, T. 18 S., R. 11 W., W.M., which will be reserved by the United States.

The exchange will be subject to:

1. All valid existing rights, including any right-of-way, easement, permit or lease of record.

2. A reservation of the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

Publication of this notice in the Federal Register segregates the public land, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

DATE: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Eugene District Manager at the address shown below. Any objections will be reviewed by the Oregon State Director, Bureau of Land Management, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning this exchange, including the environmental assessment, is available for review at the Eugene District Office, P.O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Ronald Wold, Eugene District Office, at (503) 687–6895.

Date of Issue: July 28, 1986.

Melvin D. Clausen,

District Manager.

[FR Doc. 86–17445 Filed 8–1–86; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Issuance of Permits for Marine Mammals

On June 18, 1986, a notice was published in the Federal Register (Vol. 51, No. 117) that an application had been filed with the Fish and Wildlife Service by Dr. Donald Siniff (PRT–678319) for a permit to tag 960 Alaskan sea otters, 160 of which would be surgically implanted with radio transmitters and tracked.

Notice is hereby given that on July 21, 1986, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On April 3, 1986, a notice was published in the Federal Register (Vol. 51, No. 64) that an application has been filed with the Fish and Wildlife Service by Hubbs Marine Research Institute (PRT–705521) for a permit to take (harass) 165 Alaskan sea otters to develop capture & herding techniques. On June 17, 1986, a permit was issued to authorize take of 75 otters, excluding mother/pup pairs.

VOL 51 ISS 149 AG 4 1986 UMI

Notice is hereby given that on July 14, 1986, as authorized by the provisions of the Marine Mammal Protection Act 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued an amendment to the permit, subject to certain conditions set forth therein, authorizing inclusion of 5 mother/pup pairs in the 75 otters authorized, as requested in the permittee's original application.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: July 30, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–17461 Filed 8–1–86; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application for Permit

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR Parts 17 and 18).

Applicant

PRT–710248

Name: Nagasaki Aquarium, Shukumachi 3, Nagasaki, Japan
Type of Permit: Public Display
Name of Animals: Alaskan sea otter (*Enhydra lutris lutris*-3-
Summary of Activity to be Authorized: The applicant proposes to take (capture) these animals and export them to Nagasaki Aquarium for public display.
Source of Marine Mammals for Display: Prince William Sound, Green Island, or as designated by Alaska Department of Fish & Game.
Period of Activity: September 1, 1986 to December 31, 1986.

Applicant

PRT–672624

Name: Bob Brownell, U.S. Fish & Wildlife Service, San Simeon, CA
Type of Permit: Scientific Research
Name and Number of Animals: 450 California sea otters (*Enhydra lutris nereis*)
Summary of Activity to be Authorized: The applicant amends his original application published June 18, 1986 (FR Vol. 51, No. 117) to tag 240 sea otters, by requesting authorization to inject transponders under the skin of, not only the animals he has requested to tag, but also other California sea otters captured under other research permits and rehabilitated otters released back to the wild. The transponder is approximately the size of a pencil lead, is injected with a syringe (sedation not necessary), is read with a scanner, and provides a permanent means of identifying the animal.
Source of Marine Mammals: Off the coast of California
Period of Activity: 3 years.

Applicant

PRT–709567

Name: Vancouver Public Aquarium, P.O. Box 3232, Vancouver, BC Canada
Type of Permit: Public Display
Name and Number of Animals: 2 Alaskan sea otters (*Enhydra lutris lutris*)
Summary of Activity to be Authorized: The applicant proposes to take these animals for the purpose of public display and captive propagation.
Source of Marine Mammals for Public Display: Prince William Sound near Cordova, Alaska, or as designated by Alaska Department of Fish and Game.
Period of Activity: September 1 through December 31, 1986.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above applications are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: July 30, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–17462 Filed 8–1–86; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29720 (Sub–No. 1)]

Guilford Transportation Industries, Inc., et al; Control

AGENCY: Interstate Commerce Commission.

ACTION: Date for filing comments or evidence.

SUMMARY: A trackage rights application was filed in these proceedings on June 27, 1986 by the Canadian National Railway Company (CN). The application, entitled Finance Docket No. 29720 (Sub-No. 2) Canadian National Railway Company—Trackage Rights In Maine, seeks rights over a main line of Maine Central Railroad Company (MEC) between Danville Junction and Bangor, ME and over tributary branch lines of MEC between Rumford and Leeds Junction, ME, Oakland and Madison, ME, Fairfield and Shawmut, ME and Bangor and Bucksport, ME. The trackage rights would be utilized by the CN in connection with its own lines between Danville Junction and westerly points such as Chicago, IL.

DATES: Persons not already parties of record in the lead proceeding, Finance Docket No. 29720 (Sub-No. 1), may file comments or evidence in opposition to the described trackage rights application of CN in the Sub-No. 2 proceeding with the Commission on or before September 3, 1986.

ADDRESS: An original and six copies of the comments or evidence must be filed with: Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Paul S. Cross, Administrative Law Judge, Interstate Commerce Commission, Washington, DC 20423, (202) 275–7474.

SUPPLEMENTAL INFORMATION: The comments or evidence of a "new" party also must be served upon CN and other existing "active" parties of record. Upon request, CN must provide any new party who desires to participate in this matter with a copy of the trackage rights application and with a listing of active parties.

CN's representative is: Hamel & Park, 888 Sixteenth Street, NW., Washington, DC 20006, (202) 835–8095.

New parties desiring to submit evidence (as opposed to comments) shall do so in the form of verified written statements, and shall specifically indicate whether they wish to participate as an active party of record. Any necessary cross-examination of witnesses submitting verified statements will take place during an oral hearing session in middle September. Specific notice of the date and place of hearing will be given.

Decided July 29, 1986.

By the Commission, Paul S. Cross, Administrative Law Judge.

Noreta R. McGee,

Secretary.

[FR Doc. 86-17480 Filed 8-1-86; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Methylenedianiline Mediated Rulemaking Advisory Committee

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of meetings and agendas.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. 92-463, as amended), notice is hereby given of the schedule of six Committee meetings to be held from August 1986 through January 1987. Notice is also given of the tentative topics of discussions. It is anticipated that the meetings will last from one to three days but this may vary as the work of the Committee proceeds. For the purpose of this notice only the beginning dates will be given. Locations of the meetings are also provided in the notice. Information on room numbers will be available in the lobbies of the designated buildings.

DATES: The meetings are scheduled to begin on:

August 5, 1986 at 9:30 a.m. at the Hyatt Regency Washington, 400 New Jersey Avenue NW., Washington, DC 20001, (202) 737-1234;

September 9, 1986 at 9:30 a.m. at the Little American Hotel, 500 South Main Street, Salt Lake City, Utah 84101, (801) 363-6781;

October 7, 1986 at 9:30 a.m. in the Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210;

November 18, 1986 at 9:30 a.m. in the Department of Labor Building indicated above;

December 9, 1986, at 9:30 a.m. at the Phoenix Park Hotel, 520 North Capitol Street NW., Washington DC 20001, (202) 638-6900; and

January 13, 1987 at 9:30 a.m. in the Department of Labor Building indicated above.

Status: These meetings will be open to the public.

ADDRESS: Submissions presented in response to this notice should be sent in quadruplicate to the Docket Officer, Docket No. H-040, Room N3670, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC 20210; (202) 523-7894. Written comments received, as well as other information in Docket H-040, will be available for inspection and copying at this address, Monday through Friday, 8:15 a.m. to 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue NW., Washington, DC 20210; Telephone (202) 523-8615.

SUPPLEMENTARY INFORMATION: On October 22, 1985, OSHA announced its intent to make use of mediated rulemaking in developing a proposed standard for MDA (50 FR 42790-42793). The notice also set forth the basic concepts of mediated rulemaking and outlined the participant selection criteria which OSHA expected to use in establishing an MDA Mediated Rulemaking Committee.

OSHA established the committee in accordance with the Federal Advisory Committee Act (FACA) and section 7(b) of the Occupational Safety and Health Act (OSH Act) to mediate issues associated with the development of a Notice of Proposed Rulemaking on MDA.

Appointees to the committee include representatives from labor, industry, health and safety groups, and government agencies.

Members of the public wishing to submit written statements to the Committee that are germane to the agenda may do so. Such statements should be in reproducible form and should be submitted to the OSHA Division of Consumer Affairs at least 5 days before the meeting. In addition, the Mediator or Chairman of the Committee has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting.

At the first meeting held in Washington on July 22-23, 1986, the topics and the order of their discussion were established. For the purpose of 29 CFR 1912.28 these constitute the Agendas for the meetings and are as follows:

August 5, 1986: Scope and Application, Definitions, Recordkeeping, Emergencies, Hygiene Facilities and Housekeeping;

September 9, 1986: Personal Protective Equipment, Exposure Monitoring, and site visit;

October 7, 1986: Health Effects, Risk Assessment, Medical Surveillance, Medical Appendices, Biological Monitoring, and Removal and Rate Retention;

November 18, 1986: Technological and Economic Feasibility;

December 9, 1986: Permissible Exposure Limits, Including Short Term Exposure Limits and Action Level Discussions; and

January 13, 1987: Review of Committee Recommendations for Federal Register Publication.

Minutes of these meetings will be available for public inspection at the OSHA Docket Office, U.S. Department of Labor, Rm. N-3670, 200 Constitution Ave. NW., Washington, DC 20210; Telephone (202) 523-7894.

Signed in Washington, DC this 30 day of July 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-17532 Filed 7-31-86; 11:44 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on August 7-9, 1986, in Room 1046, 1717 H Street NW., Washington, DC. Notice of this meeting was published in the Federal Register on July 24, 1986.

Thursday, August 7, 1986

8:30 A.M.—8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.—10:45 A.M.: Standardized Nuclear Plants (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations to the NRC regarding a proposed policy statement by the Nuclear Regulatory Commission on standardized nuclear plants. Members of the NRC Staff will participate as appropriate.

11:00 A.M.—1:00 P.M.: Improved Light Water Reactors (Open)—The members will discuss proposed Committee comments and recommendations to the NRC regarding proposed characteristics for improved light water reactors.

2:00 P.M.—3:00 P.M.: Seismic Qualification of Equipment (Open/Closed)—The members will hear presentations as appropriate and will discuss proposed ACRS comments and recommendations regarding the proposed program to seismically qualify safety-related equipment in operating nuclear plants. Representatives of the

NRC Staff will take part in this session as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

3:00 P.M.—4:00 P.M.: NRC Regulatory Process (Open)—The members will discuss proposed ACRS comments and recommendations to the NRC regarding reevaluation of the nuclear regulatory process.

4:14 P.M.—6:30 P.M.: Long Range Planning (Open)—The members will hear and discuss the report of its subcommittee on a proposed guide for the preparation of a long range plan for NRC activities.

Friday, August 8, 1986

8:30 A.M.—9:30 A.M.: Activities of the NRC Office of Nuclear Material Safety and Safeguards (Open/Closed)—The members will hear a briefing by the Director, NMSS, regarding NMSS activities of mutual interest, including safeguards and security at nuclear power plants, fuel cycle facilities, and nuclear waste processing, storage, and repository facilities.

Portions of this session will be closed as necessary to discuss a licensee's or applicant's detailed security provisions at facilities of the types being considered when the public disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security.

9:30 A.M.—10:15 A.M.: Management and Disposal of Radioactive Wastes (Open)—The members will hear and discuss the report of its subcommittee on topics related to radioactive waste management and disposal, including residual radiation limits for the disposition of land, buildings, equipment, and metals resulting from the decontamination and decommissioning of nuclear power plants and fuel facilities, salvaging of contaminated smelted alloys, and the NRC radioactive waste management program.

10:15 A.M.—12:15 P.M.: San Onofre Nuclear Power Station Unit 1 (Open/Closed)—The members will hear and discuss reports of its subcommittee and NRC Staff representatives as appropriate regarding changes in the San Onofre Nuclear Station resulting from the November 21, 1985 loss of feedwater at this facility. Representatives of the licensee will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility.

12:15 P.M.—12:30 P.M.: Future ACRS Activities (Open/Closed)—The members will discuss anticipated subcommittee activities, items proposed for consideration by the full Committee, and proposed activities of individual ACRS members. The proposed schedule for full Committee meetings during CY 1987 will also be discussed.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

1:30 P.M.—3:00 P.M.: Human Factors Issues (Open)—The members will hear and discuss reports from its subcommittee and representatives of the NRC Staff as appropriate regarding proposed activities related to consideration of human factors, including fitness for duty requirements, guidance for nuclear power plant operators and senior reactor operators, and educational requirements for senior reactor operators.

3:15 P.M.—5:15 P.M.: Operating Experience (Open)—The members will hear and discuss the reports of its subcommittee and representatives of the NRC Staff regarding recent operating experience and incidents at nuclear facilities.

5:15 P.M.—6:30 P.M.: TVA Reorganization (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations regarding the proposed reorganization of TVA nuclear activities.

Saturday, August 9, 1986

8:30 A.M.—12:30 P.M.: Preparation of ACRS Reports to the Nuclear Regulatory Commission (Open/Closed)—The members will discuss proposed reports to the NRC regarding matters considered during this meeting. In addition, the members will discuss proposed ACRS reports on safety-related matters such as aptitude testing of nuclear power plant personnel.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the matters being discussed.

1:30 P.M.—3:00 P.M.: Activities of ACRS Subsommittees (Open)—The members will hear and discuss the reports of ACRS subcommittees regarding assigned activities on radioactive waste management and disposal in geologic repositories, nuclear power plant scram system reliability, degraded primary system piping, management of ACRS activities, and procedures for conduct of ACRS activities.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)] applicable to the facilities being discussed, detailed information related to the security arrangements at a nuclear power plant [5 U.S.C. 552b(c)(3)], and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: July 29, 1986.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 86–17501 Filed 8–1–86; 8:45 am]

BILLING CODE 7590-01-M

Commission Policy Statement on Fitness for Duty of Nuclear Power Plant Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This statement presents the policy of the Nuclear Regulatory Commission (NRC) with respect to fitness for duty of nuclear power plant personnel and describes the activities that the NRC will use to execute its responsibilities to ensure the health and safety of the public. To provide reasonable assurance that all nuclear power plant personnel with access to vital areas at operating plants are fit for duty, licensees and applicants are developing and implementing fitness for duty programs using guidance of the Edison Electric Institute's (EEI's) "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development." It remains the continuing responsibility of the NRC to independently evaluate applicant development and licensee implementation of fitness for duty programs to ensure that desired results are achieved. Nothing in this Policy Statement limits NRC's authority or responsibility to follow up on operational events or its enforcement authority when regulatory requirements are not met. However, while evaluating the effectiveness of this guidance, the NRC intends to exercise discretion in enforcement matters related to fitness for duty programs for nuclear power plant personnel and refrain from new rulemaking in this area for a period of at least 18 months from the effective date of this Policy Statement. The Commission invites interested members of the public to provide comments on this policy statement.

DATES: Effective Date: August 4, 1986. Submit comments by November 3, 1986.

ADDRESSES: Comments should be sent to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, DC between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Loren Bush, Operating Reactor Programs Branch, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–8080.

SUPPLEMENTARY INFORMATION:

Introduction

The Nuclear Regulatory Commission (NRC) recognizes drug and alcohol abuse problems to be a social, medical, and safety problem affecting every segment of our society. Given the pervasiveness of the problem it must be recognized that it exists to some extent in the nuclear industry. Prudence, therefore, requires that the Commission consider additional appropriate measures to provide reasonable assurance that a person who is under the influence of alcohol or any substance legal or illegal which affects that person's ability to perform duties safely, is not allowed access to a vital area at a nuclear power plant.

The nuclear power industry, with assistance from programs developed and coordinated by EEI and the Institute of Nuclear Power Operations (INPO), has made and is continuing to make substantial progress in this area.

Background

A Task Force on Drug Abuse Problems, Policies, and Programs established in 1982 by EEI's Industrial Relations Division Executive Advisory Committee, published guidelines in 1983 to help the industry address the issue of how to establish comprehensive fitness for duty programs. They were subsequently revised in 1985 as the "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development" and were provided to all nuclear utilities.

A series of EEI sponsored regional conferences in the fitness for duty area in 1982 and 1983 provided a forum for discussion of industry concerns related to development and implementation of fitness for duty programs. Topics addressed at the conferences included union participation, legal aspects, training, and methods for handling controlled substances. An industrywide conference sponsored by EEI in October 1985 provided the basis for additional discussions on fitness for duty based on the current EEI guidelines which had been expanded to include information on chemical testing. As a result of increased awareness in this area, the nuclear industry has worked to develop and implement improved fitness for duty programs. These programs concentrate on the training of managers, supervisors, and others in methods for identifying and dealing with personnel potentially unfit for duty.

On August 5, 1982, the Commission published in the **Federal Register** a proposed rule on fitness for duty (47 FR 33980). The proposed rule would have required licensees to establish and implement written procedures for ensuring that personnel in a nuclear power plant are fit for duty. Due to the initiatives taken by the nuclear industry, the Commission has decided to defer implementation of the rule subject to successful implementation of fitness for duty programs by the industry as described in this Policy Statement. NRC is publishing a separate notice in the **Federal Register** withdrawing the proposed rule, analyzing the comments on the rule, and explaning its intent to reassess the possible need for rulemaking after an 18-month period, if circumstances warrant. The following statement sets forth the Commission's policy on fitness for duty and describes how it will execute its responsibilities in this area to ensure the health and safety of the public.

Policy Statement

The Commission recognizes that the industry, through the initiatives of the Nuclear Utility Management and Resources Committee (NUMARC), EEI, and INPO, has made progress in developing and implementing nuclear utility employee fitness for duty programs. The Commission stresses the importance of industry's initiative and wishes to further encourage such self-improvement.

Subject to the continued success of industry's initiatives in implementing fitness for duty programs and NRC's ability to monitor the effectiveness of those programs, the Commission will refrain from new rulemaking on fitness for duty of nuclear power plant personnel for a minimum of 18 months from the effective date of this Policy Statement. The Commission's decision to defer implementation of rulemaking in this area is in recognition of industry efforts to date and the intent of the industry to utilize the EEI Guidelines in developing fitness for duty programs. The Commission will exercise this deference as long as the industry programs produce the desired results. However, the Commission continues to be responsible for evaluating licensee's efforts in the fitness for duty area to verify effectiveness of the industry programs. The Commission will reassess the possible need for further NRC action based on the success of those programs during the 18-month period.

At the Commission's request, the industry agreed to undertake a review of the program elements and acceptance criteria for a fitness for duty program. EEI modified and issued the revised "EEI Guideline to Effective Drug and Alcohol/Fitness for Duty Policy Development." Further, INPO enhanced its performance objectives and criteria for its periodic evaluations to include appropriate criteria for fitness for duty. Copies of the documents describing the

program elements and criteria for fitness for duty programs developed by the industry are provided to NRC for review and comment.

The NRC will evaluate the effectiveness of utility fitness for duty programs by its normal review of industry activities, through reviews of INPO program status and evaluation reports, periodic NRC observation of the conduct of INPO evaluations, and direct inspections conducted by the NRC's Performance Appraisal Teams, Regional Office, and Resident Inspectors. NRC will also monitor the progress of individual licensee programs.

By way of further guidance to licensees, Commission expectations of licensee programs for fitness for duty of nuclear power plant personnel may be summarized as follows:

- It is Commission policy that the sale, use, or possession of alcoholic beverages or illegal drugs within protected areas at nuclear plant sites is unacceptable.
- It is Commission policy that persons within protected areas at nuclear power plant sites shall not be under the influence of any substance, legal or illegal, which adversely affects their ability to perform their duties in any way related to safety.
- An acceptable fitness for duty program should at a minimum include the following essential elements:

(1) A provision that the sale, use, or possession of illegal drugs within the protected area will result in immediate revocation of access to vital areas and discharge from nuclear power plant activities. The use of alcohol or abuse of legal drugs within the protected area will result in immediate revocation of access to vital areas and possible discharge from nuclear power plant activities.

(2) A provision that any other sale, possession, or use of illegal drugs will result in immediate revocation of access to vital areas, mandatory rehabilitation prior to reinstatement of access, and possible discharge from nuclear power plant activities.

(3) Effective monitoring and testing procedures to provide reasonable assurance that nuclear power plant personnel with access to vital areas are fit for duty.

The industry, by periodic briefings or other appropriate methods, is expected to keep the Commission informed on program status. The NRC may also from time to time ask individual licensees to provide such information as the Commission may need to assess program adequacy.

Enforcement

Violations of any applicable reporting requirement or instances of a person being unfit for duty such that plant safety is potentially affected will be subject to the enforcement process. Any NRC staff enforcement action pertaining to fitness for duty of nuclear power plant personnel during the 18-month grace period will be undertaken only with Commission concurrence.

In addition to required reports and inspections, information requests under 10 CFR 50.54(f) may be made and enforcement meetings held to ensure understanding of corrective actions. Orders may be issued where necessary to achieve corrective actions on matters affecting plant safety.

In brief, the NRC's decision to use discretion in enforcement to recognize industry initiatives in no way changes the NRC's ability to issue orders, call enforcement meetings, or suspend licenses should a significant safety problem be found.

Nothing in this Policy Statement shall limit the authority of the NRC to conduct inspections as deemed necessary or to take appropriate enforcement action when regulatory requirements are not met.

The separate views of Commissioner Asselstine follow:

This Policy statement is a step in the right direction. Human error is a dominant factor in the risk associated with the operation of nuclear power plants. An adequate fitness for duty program is essential to reduce the chance that human error will be caused by utility personnel performing safety-related work in a drug or alcohol impaired state. This policy statements puts the Commission on record as endorsing the concept of a drug and alcohol free workplace at plant sites, and that is useful. The statement also gives some guidance on what the Commission expects of licensee fitness for duty programs. However, I believe that the Commission should have gone further.

Instead of merely issuing a policy statement, the Commission should have promulgated a rule. The rule should be a relatively simple, nonprescriptive rule which would do two things. First, it would prohibit anyone who is unfit for duty from being permitted access to vital areas of plants. Second, it would require licensees to have a program and procedures to ensure that no one who is unfit for duty gains access to vital areas. The Commission should then work with the industry to develop guidance on what are the essential elements of an adequate fitness for duty program. There are several reasons why I believe that this would be a better approach.

The most important reason for my preference for a rule and specific guidelines is that a rule is enforceable while a policy statement is not. With a rule the Commission would have a clear basis for enforcement action in all cases in which a utility fails to establish and maintain an effective finess for duty program. The NRC has broad authority under the Atomic Energy Act to take enforcement action by issuing an order should there be an immediate threat to public health and safety. The Commission would also be able to take enforcement action if it could tie a specific safety problem to a lapse in the licensee's fitness for duty program. However, the Commission is unlikely to be able to do so. For example, if a maintenance worker makes a mistake in assembling safety equipment because he is under the influence of drugs or alcohol and equipment later malfunctions, it is unlikely that the true cause of the mistake would be discovered. In fact, the problem would most likely be attributed to some defect in the worker's training. Further, waiting until a specific safety problem surfaces or an immediate threat occurs and then trying to correct the fitness for duty program after the fact is not the best way to ensure that licensees have effective fitness for duty programs. Thus, our general enforcement authority does not provide us with enough flexibility to deal with all potential fitness for duty problems in a timely manner. Absent a specific event, it would not allow us to do much of anything if a licensee simply has not developed or implemented an adequate program. This policy statement represents a continuation of the reactive approach to regulation which has so often failed in the past.

A second reason for my preference for a rule with minimum guidelines is that the policy statement is too amorphous. Even the "specific" guidance the Commission does provide is fairly vague. The policy statement provides little insight into what the Commission considers to be an adequate fitness for duty program or what standard the staff is supposed to use as it monitors the progress of the industry over the next eighteen months.

The Commission should work together with the industry to identify the essential elements of an adequate fitness for duty program. While the policy statement comments favorably upon the EEI guidelines developed by the industry, those guidelines are optional, not mandatory. The utilities can, therefore, pick and choose among

the various elements and decide whether to include them in their programs. Moreover, the EEI guidelines themselves are quite general in nature, and are subject to varying interpretations. Absent further guidance on what is an acceptable fitness for duty program, the utilities can and probably will adopt widely differing approaches on such elements as chemical testing and offsite drug use. Not all approaches are likely to be acceptable. The Commission should not wait until 18 months from now, when all the utilities are supposed to have their programs in place, to let the industry know whether the Commission agrees with what they have done. The Commission and the industry ought to decide now which elements are absolutely essential to an adequate program, and then everyone will be working from a common base of understanding.

The Commission and the industry should also establish the specific criteria against which individual licensee programs will be evaluated so that the ground rules for evaluating programs and for monitoring progress will be in place before the 18 month monitoring period begins. Absent such guidelines, it is difficult to see how INPO and NRC staff reviews of these programs will provide any meaningful insights as to their adequacy.

Thus, to ensure enforceability, to set the ground rules in advance and to ensure that all utilities meet at least a minimum set of standards, I believe the Commission should issued a rule and should establish guidance, in cooperation with the industry, on just exactly what are the essential elements of a fitness for duty program.

The additional views of the Commission follow:

The Commission does not share Commissioner Asselstine's great concern about the legally non-binding character of the policy statement per se. The Commission's hands are not tied if it finds inadequate compliance with straight-forward and explicit policy guidelines. The Atomic Energy Act confers broad authority for the Commission to take prompt enforcement action should any licensee facility, in the Commission's judgment, not be operated in a manner that protects the public health and safety. A policy statement, at this juncture, offers the quickest means to achieve the end we all desire.

Dated at Washington, DC, this 30th day of July 1986.

For the Nuclear Regulatory Commission.
Lando W. Zech, Jr.,
Chairman.

[FR Doc. 86-17497 Filed 8-1-86; 8:45 am]
BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Agency Information Collection Activities

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 21 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: Patricia Aronsson Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7231

Title: Executive Qualifications Questionnaire
Frequency: On occasion
Description of Respondents: This information is requested from applicants for SES positions to assist in evaluating qualifications for a vacancy.
Annual Responses: 400
Annual Burden Hours: 400
Type of Request: Extension

Title: Secondary Participation Guaranty and Certification Agreement and Request for Certification
Form nos. SBA 1085, 1086
Frequency: On occasion
Description of Respondents: These forms describe the rights and responsibilities of the SBA, a lender, and the investor when the guaranteed portion of a loan is sold.
Annual Responses: 3,200
Annual Burden Hours: 12,000
Type of Request: Extension

Title: Profile of Score/ACE Volunteer with international trade experience
Form no. SBA 1202
Frequency: On occasion
Description of Respondents: Information is collected by SCORE/ACE chapters when new members join the organization, if they have international trade experience.
Annual Responses: 500
Annual Burden Hours: 34
Type of Request: Extension

Title: Financial assistance request to participate in International Trade Exhibition or mission
Form no. SBA 1369
Frequency: On occasion
Description of Respondents: The information requested is necessary for SBA to evaluate a firm's eligibility to receive a grant or financial assistance to participate in an international trade exhibition or mission.
Annual Responses: 100
Annual Burden Hours: 175
Type of Request: Extension

Title: Client Export File
Form no. SBA 1174
Frequency: On occasion
Description of Respondents: This information is necessary in order to identify the firm's needs and is used to create a program of export development for the small business requesting counseling in international trade.
Annual Responses: 5,000
Annual Burden Hours: 850
Type of Request: Extension

Title: Personal Financial Statement
Form no. SBA 413
Frequency: On occasion
Description of Respondents: This information is used to assist the Agency in determining the financial strength of an individual for a loan or loan guaranteed by SBA.
Annual Responses: 76,500
Annual Burden Hours: 76,500
Type of Request: Revision

Title: Inquiry Record
Form no. SBA 149
Frequency: On occasion
Description of Respondents: This information is required at the time of interview so that the applicant can communicate the loan needs to agency, and to determine the size and

purpose eligibility and credit worthiness.
Annual Responses: 240,000
Annual Burden Hours: 120,000
Type of Request: Revision

Title: This information is required from applicants applying for financial assistance and used to make credit decisions.
Form nos. SBA 4, 4I 4 Sch. A
Frequency: On occasion
Description of Respondents: Information is collected by SCORE/ACE chapters when new members join the organization, if they have international trade experience.
Annual Responses: 30,000
Annual Burden Hours: 600,000
Type of Request: Revison

Richard Vizachero,
Chief, Administrative Procedures and Documentation Section, Small Business Administration.

[FR Doc. 86-17429 Filed 8-1-86; 8:45 am]
BILLING CODE 8025-01-M

[License No. 02/02-5496]

Trico Venture, Inc.; Application, Hearings, Determinations, etc.

On April 1, 1986, a notice was published in the **Federal Register** (62 FR 11134) stating that an application had been filed by Trico Venture, Inc., 805 Avenue L, Brooklyn, New York 11230, with the Small Business Administration (SBA), for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1986).

Interested parties were given until the close of business April 30, 1986, to submit their comments on the application to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other information, SBA issued License No. 02/02-5496 to Trico Venture, Inc. on June 27, 1986 to operate as a section 301(d) SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 25, 1986.

Robert G. Lineberry,
Deputy Associate Administrator for Investment.

[FR Doc. 86-17430 Filed 8-1-86; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on July 29, 1986

AGENCY: Office of the Secretary, DOT.
ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on July 29, 1986, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on July 29, 1986.

DOT No: 2767

OMB No: 2127-0049
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 575, Consumer Information Regulations (Excluding UTQGS)
Form(s): None
Frequency: On occasion
Respondents: Motor Vehicle Manufacturers

Need/Use: These regulations establish a system by which information about the performance and safety features on new motor vehicles is made available to vehicle purchasers and prospective purchasers.

DOT No: 2768

OMB No: 2125-0074
By: Federal Highway Administration
Title: Endorsement for Motor Carrier Policies of Insurance
Form(s): MCS-90 and MCS-82
Frequency: Other: During period policy is in effect.
Respondents: Affected Motor Carriers

Need/Use: To meet the requirements for motor carriers to retain the endorsement and surety bond at its principal place of business and to make available the endorsement and surety bond to the public.

DOT No: 2769

OMB No: 2120-0101
By: Federal Aviation Administration
Title: Physiological Training
Form(s): AC Form 3150-7
Frequency: On occasion
Respondents: Pilots

Need/Use: This report is necessary to establish qualifications of eligibility to receive voluntary physiological training and will be used as evidence of training. This form is filled out by pilots and air crewmembers for application to receive voluntary training.

DOT No: 2770

OMB No: 2106-0005 [1]

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[1] OMB No. 2106-0014 is consolidated in 2106-0005.

By: DOT/Office of the Secretary of Transportation
Title: 14 CFR Part 380 Public Charters
Form(s): OST 4532, 4533, 4534, 4535, and 4530
Frequency: On occasion
Respondents: U.S. and Foreign Public Charter Operators

Need/Use: Certification of binding contracts with direct air carriers and financial institutions, and registration of foreign operators are needed prior to the operation of Public Charters in air transportation.

DOT No: 2771

OMB No: 2115–0076
By: United States Coast Guard
Title: Security Zones, Regulated Navigation Areas and Safety Zones
Form(s): N/A
Frequency: On occasion
Respondents: Waterways Users

Need/Use: This information collection requirement is needed and used to: (1) Establish security zones to control and limit access into an area by prohibiting marine traffic, requiring reduced speed, controlling spectators, and other restrictions; (2) determine that certain areas of the navigable waters of the U.S. require special regulations to assure safe navigation of vessels; and (3) establish water or waterfront safety zones to protect vessels, structures, water or shore areas.

DOT No: 2772

OMB No: 2127–0541
By: National Highway Traffic Safety Administration
Title: Owner's Manual Requirements—Motor Vehicle and Motor Vehicle Equipment—49 CFR 571.126, 205, 208, 210, and 575.105
Form(s): None
Frequency: Annually
Respondents: Manufacturers

Need/Use: Certain safety information which could benefit the vehicle operator by reducing the risk of harm must be included in the vehicle Owner's Manual to provide for safe operation by users.

DOT No: 2773

OMB No: 2120–0040
By: Federal Aviation Administration
Title: Aviation Maintenance Technician School
Form(s): FAA Form 8310–6
Frequency: On occasion
Respondents: Businesses, State and Local governments
Need/Use: FAA Act of 1958, Section 607 authorizes certification of civil aviation mechanic schools: FAR 147 prescribes requirements for certification and operation of aviation mechanic schools. Information collected is needed to determine applicant eligibility and compliance.

DOT No: 2774

OMB No: 2127–0051
By: National Highway Traffic Safety Administration
Title: Vehicle Identification Number—Basic Requirements, FMVSS No. 115 and Vehicle Identification Number—Contract Requirements, Part 565
Form(s): None
Frequency: On occasion
Respondents: Vehicle manufacturers

Need/Use: The purpose of these requirements are to specify general physical requirements for a vehicle identification number (VIN); and its installation, format, and content to simplify information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

DOT No: 2775

OMB No: 2125–003
By: Federal Highway Administration
Title: Statement of Materials and Labor Used by Contractors on Highway Construction
Form(s): FHWA 47
Frequency: On occasion
Respondents: Highway Construction Contractors/State and local highway agencies

Need/Use: To obtain information on usage of materials and labor in Federal highway construction.

DOT No: 2776

OMB No: 2120–0103
By: Federal Aviation Administration
Title: Application for Parking Permits at Washington National Airport and Dulles International Airport
Form(s): MA Form 1780–1 and 4665–1
Frequency: Annually
Respondents: DCA and IDA Employees

Need/Use: The purpose of this information collection activity is the administration of the employee parking program in order to issue qualified applicants airport parking permit.

DOT No: 2777

OMB No: 2120–098
By: Federal Aviation Administration
Title: Airplane Operator Security—FAR 108
Form(s): FAA Form 1650–17
Frequency: On occasion
Respondents: Airplane Operators/Businesses

Need/Use: FAR Part 108 requires air carriers to check radiation leakage on X-ray equipment used for property security screening at least annually, evaluate and record personal dosimeter readings monthly, and report aircraft piracy as part of the required security program, and maintain security training records.

DOT No: 2778

OMB No: 2138–0018
By: Research and Special Programs Administration
Title: Form 251 Report of Passengers Denied Confirmed Space
Forms: RSPA Form 251
Frequency: Quarterly
Respondents: Large domestic and foreign scheduled air carriers

Need/Use: This report supplies DOT with data to monitor the compliance of the air transportation industry with DOT's policy on overbooking.

Issued in Washington, DC, on July 29, 1986.

John E. Turner,
Director of Information Resource Management.

[FR Doc. 86–17502 Filed 8–1–86; 8:45 am]
BILLING CODE 4910–62–M

[Order 86–7–72; Docket 42262]

Proposed Revocation of the Section 401 Certificate of Westates Airlines, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause, order 86–7–72; Docket 42262.

SUMMARY: The Department of Transporation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Westates Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATES: Persons wishing to file objections should do so no later than August 19, 1986.

ADDRESSES: Responses should be filed in Docket 42262 and addressed to the Documentary Service Division, Department of Transporation, 400 7th Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Special Authorities Division, P–47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: July 29, 1986.

Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–17505 Filed 8–1–86; 8:45 am]
BILLING CODE 4910–62–M

BEST COPY AVAILABLE

Aviation Proceedings; Agreements Filed During the Week Ending, July 25, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44185–R–1–R–25

Parties: Members of International Air Transport Association
Date Filed: July 21, 1986
Subject: Composite Cargo
Proposed Effective Date: October 1, 1986

Docket No. 44186–R–1–R–18

Parties: Members of International Air Transport Association
Date Filed: July 21, 1986
Subject: North Atlantic Cargo Rates
Proposed Effective Date: October 1, 1986

Docket No. 44190–R–1–R–3

Parties: Members of International Air Transport Association
Date Filed: July 22, 1986
Subject: Japan/Canada—U.S. Cargo Rates
Proposed Effective Date: October 1, 1986

Docket No. 44191–R–1–R–3

Parties: Members of International Air Transport Association
Date Filed: July 22, 1986
Subject: Japan—TC1 (Except Canada/U.S.)
Proposed Effective Date: October 1, 1986

Docket No. 44192–R–1–R–11

Parties: Members of International Air Transport Association
Date Filed: July 22, 1986
Subject: North Central Pacific—TC1 Rates
Proposed Effective Date: October 1, 1986

Docket No. 44197–R–1–R–28

Parties: Members of International Air Transport Association
Date Filed: July 24, 1986
Subject: TC2 Cargo Rates
Proposed Effective Date: October 1, 1986

Docket No. 44195

Parties: Air Traffic Conference of America
Date Filed: 7–24–86
Subject: Application of Air Traffic Conference of America requests amendment to an Air Traffic Conference Resolution. In addition requests approval of an exemption from the antitrust laws to the extent necessary to enable such person to proceed with the transactions specifically approved by the Board, pursuant to the provisions of Section 414 of the Act.

Docket No. 44202

Parties: Presidential Airways, Inc. and Key Airlines, Inc.
Date Filed: 7–25–86
Subject: Application of Presidential Airways, Inc. requests an exemption from Sections 408 and 401(h) of the Act to the extent necessary to permit Presidential to acquire all of the outstanding stock of Key Airlines, Inc.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86–17503 Filed 8–1–86; 8:45 am]
BILLING CODE 4910–62–M

Applications For Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended

July 25, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44199

Date Filed: July 25, 1986
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 22, 1986
Description: Application of Piedmont Aviation, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to provide round-trip air transportation between Charlotte, North Carolina and London, England.

Docket No. 44201

Date Filed: July 25, 1986
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 22, 1986.
Description: Application of the Flying Tiger Line Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations for a certificate of Public convenience and necessity to engage in scheduled foreign air transportation of property and mail between points in the United States and the Kingdom of Saudia Arabia.

Phyllis T. Kaylor,
Chief, Documentary Service Division.
[FR Doc. 86–17504 Filed 8–1–86; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 86–048]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of the twelfth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, September 25, 1986 in the BLACKTHORN Pavilion at U.S. Coast Guard Base Galveston at the end of the Ferry Road on Fort Point, Galveston, Texas. The meeting is scheduled to begin at approximately 10:00 a.m. and end at approximately 5:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the Committee
3. Presentation of any additional new items for consideration of the Committee
4. Adjournment

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, telephone number (504) 589–6901.

Dated: July 18, 1986.

E.B. Acklin,
Captain, U.S. Coast Guard; Acting Commander, 8th Coast Guard District.
[FR Doc. 86–17466 Filed 8–1–86; 8:45 am]
BILLING CODE 4910–14–M

BEST COPY AVAILABLE

[CGD 86-046]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, September, 11, 1986 in the Blackthorn Pavilion at U.S. Coast Guard Base Galveston at the end of Ferry Road on Fort Point, Galveston, Texas. The meeting is scheduled to begin at 9:00 a.m. and end at 10:30 a.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee
3. Presentation of any additional new items for consideration to the Subcommittee
4. Adjournment

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and , if applicable, the organization he/she is representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: July 18, 1986.

E.B. Acklin,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 86-17466 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-047]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

Pursuant to seciton 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, September 11, 1986 in the Blackthorn Pavilion at U.S. Coast Guard Base Galveston at the end of Ferry Road on Fort Point, Galveston, Texas. The meeting is scheduled to begin at 10:30 a.m. and end at 12:00 p.m. The agenda for the meeting consists of the following items:

1. Call for Order
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee
3. Presentation of any additional new items for consideration to the Subcommittee
4. Adjournment

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: July 18, 1986.

E.B. Acklin,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 86-17467 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement on New Runway 2R-20L at Nashville Metropolitan Airport, Nashville, TN; Scoping Meeting

The Federal Aviation Administration, Southern Region acting as lead agency, intends to prepare a Federal Environmental Impact Statement on: New 9,000 foot runway 2R-20L with a parallel taxiway; connecting taxiways; taxiway bridges over Donaldson Pike; Category II/III runway lighting system; Medium Intensity Approach Lighting System (MALSR), on runway 2R and ALSF-2 on runway 20L; realignment of Donaldson Pike; Construction of retention dam on McCrory Creek; Relocation of TVA transmission line; Colonial Pipeline Company gas line and local electric service; land acquisition; construction of additional roads along the east boundary; and construction of a Crash, Fire and Rescue facility. Alternatives runway alignments of 2R-20L, 13-31 and no development will be evaluated.

A Federal Scoping meeting will be held on Thursday, September 4, 1986, at 2:00 P.M. at the Tennessee Air National Guard Facility, Main Hangar Building 721, Metropolitan Nashville Airport. An Environmental Assessment Report is available for review at any branch of the Nashville Metropolitan Public Library System, thru September 4, 1986. The meeting will be held to identify the significant issues related to the proposed development and consider a scope of work to address those issues to this EIS. As part of the follow up scoping process, the study team members will be available from 5:30 P.M. to 8:00 P.M. on the same day and at the same location to further discuss the relevant issues with inerested persons. All interested agencies, organizations, and persons are invited to attend and provide input and comments to finalize the scope of work.

Inquiries about the proposed action should be directed to: Otis T. Welch, Principal Planner/Programmer, FAA Airports District Office, 3973 Knight Arnold Road, Memphis, TN 38118-3004 Telephone Number (901) 521-3495.

Issued in Memphis, Tennessee, July 15, 1986.

Otis T. Welch,

Principal Planner/Programmer, Memphis Airports District Office.

[FR Doc. 86-17418 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Salt Lake City, UT; Closing

Notice is hereby given that on about August 5, 1986, the flight service station at Salt Lake City, Utah, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Cedar City, Utah. This information wil be reflected in the FAA Organization Statement the next time it is issued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Seattle, Washington, on July 22, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17410 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held August 13-14, 1986, in Washington, DC. The meeting will be held in Room 2230 at the DOT Headquarters Building, 400 Seventh St. SW., from 9:00 a.m. to 4:00 p.m. on August 13, and 8:30 a.m. to 4:00 p.m. on August 14. The newly appointed Members will receive an orientation briefing and will be sworn-in. The members will also receive an overview of NHTSA and FHWA programs and in-depth briefings on NHTSA's safety belt and alcohol programs.

The meeting is open to the interested public, but may be limited in attendance to the space available. Members of the public may present a written statement to the Committee at any time. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Additional information is available from the NHTSA Executive Secretariat, Room 5221, DOT Headquarters Building, telephone 202-336-2870.

Issued in Washington, DC on: July 29, 1986.

Joseph Cameron,

Acting Director, Executive Secretariat.

[FR Doc. 86-17409 Filed 8-1-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 25, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0028
Form Number: Forms 940 and 940 PR
Type of Review: Revision
Title: Empoyer's Annual Federal Unemployment (FUTA) Tax Return Planilla Para la Declaracion Anual del Patrono—La Contribucion Federal Para el Desempleo (FUTA)
Clearance Officer: Garrick Shear (202) 566-6150, Room 557, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Mangement and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmenal Reports Management Office.

[FR Doc. 86-17437 Filed 8-1-86; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a new collection and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 30, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

New

1. Department of Veterans Benefits
2. Notice of Default and Intention to Foreclose
3. VA Form 26-6850a
4. On occasion
5. Businesses or other for-profit
6. 85,192 responses
7. 28,397 hours
8. Not applicable

[FR Doc. 86-17463 Filed 8-1-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 149
Monday, August 4, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1-5
Federal Deposit Insurance Corporation	6, 7
Tennessee Valley Authority	8

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., August 12, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the New York Cotton Exchange for designation as a contract market in U.S. Dollar Index Options.

Proposed Linkage between the Commodity Exchange, Inc. and Sydney Futures Exchange, Ltd.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17543 Filed 7-31-86; 12:26 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 12, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17544 Filed 7-31-86; 12:26 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., August 19, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17545 Filed 7-31-86; 12:26 pm]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., August 27, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Advance Notice of proposed rulemaking of Federal Speculative Position Limits

Quarterly Objectives—First Quarter FY 1987

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17546 Filed 7-31-86; 12:26 pm]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 27, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Quarterly Objectives

Rule enforcement review

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-17547 Filed 7-31-86; 12:26 pm]

BILLING CODE 6351-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsections (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, July 29, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Mr. Robert J. Herrmann, acting in the place and stead of Robert L. Clarke (Comptroller of the Currency), concurred in by Director C.C. Hope, Jr. (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Foothill Thrift and Loan, an operating noninsured industrial bank located at 1304 Foothill Drive, Salt Lake City, Utah, for Federal deposit insurance.

Application of Dumas State Bank, Dumas, Arkansas, an insured State nonmember bank, for consent to purchase the fixed assets of and assume the liability to pay deposits made in the Dumas Office of FirstSouth, F.A., Pine Bluff, Arkansas, a non-FDIC-insured institution, and for consent to establish the Dumas Office of FirstSouth, F.A. as a branch of Dumas State Bank.

Application of First National Bank of Phillips County, Helena, Arkansas, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Helena Office of FirstSouth, F.A., Pine Bluff, Arkansas, a non-FDIC-insured institution.

Application of National City Bank, Cleveland, Ohio, for consent to purchase certain assets of and assume the liability to pay deposits made in 14 branches of The Broadview Savings and Loan Company, Cleveland, Ohio, a non-FDIC-insured institution.

Application of National City Bank, Akron, Akron, Ohio, for consent to purchase certain assets of and assume the liability to pay deposits made in three branches of The Broadview Savings and Loan Company, Cleveland, Ohio, a non-FDIC-insured institution.

Application of The Third National Bank of Sandusky, Sandusky, Ohio, for consent to purchase certain assets of and assume the liability to pay deposits made in the Sandusky Branch of The Broadview Savings and Loan Company, Cleveland, Ohio, a non-FDIC-insured institution.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 30, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-17530 Filed 7-31-86; 11:09 am]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsections (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. Tuesday, July 29, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarx (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the Corporation's assistance agreements with insured banks.

Memorandum regarding the Corporation's payroll and personnel system.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: July 30, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-17531 Filed 7-31-86; 11:10 am]

BILLING CODE 6714-01-M

8

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 144 (July 28, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (edt), Wednesday, July 30, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTERS: The following items are added to the previously announced agenda:

Old Business Items

3. Supplement No. 1 to personal services Contract No. TV-67471A with Management Analysis Company, San Diego, California, requested by the Office of Nuclear Power, which provides for termination of the contract effective July 25, a reduction in contract rates of approximately 28 percent below the original contract rates effective April 1, and an increase in the total contract amount from $970,000 to $1,600,000 to cover additional costs incurred at TVA's request.

New Business Items

D. Personnel Items

1. Employee Loan Agreement with Management Analysis Company (Contract No. TV-69288A) for the services of two individuals to assume Office of Nuclear Power line management postions as loaned employees at a total cost of $500,000, effective January 1, 1986, and terminating December 31, 1986, requested by the Office of Nuclear Power.

2. Supplement to personal services Contract No. TV-68729A with EQE Incorporated, San Francisco, California, covering arrangements for seismic evaluations at Browns Ferry and Sequoyah Nuclear Plants, requested by Office of Nuclear Power.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: July 30, 1986.

Approved.

C.H. Dean, Jr.,

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86-17519 Filed 7-31-86; 9:32 am]

BILLING CODE 8120-01-M

federal register

Monday
August 4, 1986

Part II

Environmental Protection Agency

40 CFR Part 61

National Emission Standards for Hazardous Air Pollutants; Standards for Inorganic Arsenic; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2779-3]

National Emission Standards For Hazardous Air Pollutants; Standards For Inorganic Arsenic

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 5, 1980, EPA listed inorganic arsenic as a hazardous air pollutant under section 112 of the Clean Air Act (48 FR 37886). Standards were subsequently proposed for inorganic arsenic emissions from high-arsenic primary copper smelters, low-arsenic primary copper smelters, and glass manufacturing plants on July 20, 1983 (48 FR 33112). Additional control measures for high-arsenic primary copper smelters and associated arsenic plants were proposed in a December 16, 1983, **Federal Register** notice (48 FR 55880) and additional control options for glass manufacturing plants were proposed in a March 20, 1984, **Federal Register** notice (49 FR 10278). This **Federal Register** notice reaffirms the Administrator's decision that inorganic arsenic is a hazardous air pollutant and responds to comments on and promulgates standards for inorganic arsenic emissions from primary copper smelters, glass manufacturing plants, and arsenic plants.

Six other categories of sources emitting inorganic arsenic were also identified and discussed in the July 20, 1983, **Federal Register** notice: primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide plants, cotton gins, and arsenic chemical manufacturing plants. This **Federal Register** notice responds to comments on the decision that standards for these sources were not warranted and reaffirms the Administrator's decision not to regulate these sources.

EFFECTIVE DATE: August 4, 1986. Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia circuit within 60 days of today's publication of this notice. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Documents.* The background information documents (BID's) may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please specify:

EPA–450/3–83–010b Inorganic Arsenic Emissions from Primary Copper Smelters and Arsenic Plants—Background Information for Promulgated Standards.

EPA–450/3–83–011b Inorganic Arsenic Emissions From Glass Manufacturing Plants—Background Information for Promulgated Standards.

EPA–450/5–85–001 Inorganic Arsenic NESHAP: Responses to Public Comments on Health, Risk Assessment, and Risk Management.

EPA–450/5–85–002 Inorganic Arsenic Risk Assessment for Primary and Secondary Lead Smelters, Primary Zinc Smelters, Zinc Oxide Plants, Cotton Gins, and Arsenic Chemical Plants.

The BID's for the promulgated standards each contain: (1) A summary of all public comments on the proposed standard, including comments that are not discussed in this preamble, and EPA's responses to these comments; (2) a summary of changes to the standard since proposal; and (3) the final environmental impact statement (EIS), which summarizes the impacts of the standard.

For background information on the health effects and carcinogenicity of inorganic arsenic, please refer to "Health Assessment Document for Inorganic Arsenic," EPA–600/8–83–021F. This document also may be obtained at the above address.

Dockets. Dockets containing supporting information considered in developing the promulgated standards are available for public inspection and copying between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying. The following dockets are available.

- OAQPS–79–8 Listing of arsenic as a hazardous pollutant
- A–80–40 High-arsenic and low-arsenic copper smelters
- A–83–8 Glass manufacturing plants
- A–83–9 Secondary lead
- A–83–10 Cotton gins
- A–83–11 Zinc oxide plants
- A–83–23 Primary zinc, primary lead, arsenic chemical manufacturing.

FOR FURTHER INFORMATION CONTACT: For further information concerning the background technical information supporting the promulgated standards, contact Dr. James Crowder, Industrial Studies Branch, MD–13, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5601. For information on the regulation of inorganic arsenic emissions and the promulgated standards, contact Mr. Robert L. Ajax, Standards Development Branch, MD–13, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578. For information concerning the listing of inorganic arsenic as a hazardous air pollutant, contact Mr. Robert Kellam, Pollutant Assessment Branch, MD–12, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5645.

SUPPLEMENTARY INFORMATION: The discussion of the promulgated standards and their basis and the decision not to regulate certain source categories is organized as follows:

I. Overview
  1. Background
  2. Basis for Promulgated Standards
  3. Summary of Standards and Actions
II. Risk Management Policy and General Health Issues
  1. Health Effects and Listing of Inorganic Arsenic
  2. Public Exposure and Health Risk Estimates
  3. Risk Management
III. Primary Copper Smelters
  1. Summary of Promulgated Standard
  2. Summary of Environmental, Health, Energy, and Economic Impacts
  3. Significant Changes Since Proposal
  4. Additional Analyses
  5. Basis for Standard
  6. Discussion of Comments
  7. Impacts of Reporting and Recordkeeping Requirements
IV. Glass Manufacturing Plants
  1. Summary of Promulgated Standard
  2. Summary of Environmental, Health, Energy, and Economic Impacts
  3. Significant Changes Since Proposal
  4. Additional Analyses
  5. Basis for Standard
  6. Discussion of Comments
  7. Impacts of Reporting and Recordkeeping Requirements
V. Arsenic Trioxide and Metallic Arsenic Production Facilities
  1. Summary of Promulgated Standard
  2. Summary of Environmental, Health, Energy, and Economic Impacts
  3. Significant Changes Since Proposal
  4. Additional Analyses
  5. Basis for Standard
  6. Discussion of Comments
  7. Impacts of Reporting and Recordkeeping Requirements
VI. Negative Determinations
  1. Summary of Decisions
  2. Significant Changes Since Proposal
  3. Additional Analyses

4. Basis for Decisions
5. Discussion of Comments
VII. Miscellaneous
1. Docket
2. Reporting and Recordkeeping
3. Executive Order 12291
4. Regulatory Flexibility Analysis
5. Regulatory Flexibility Act Certification

The Overview section presents a brief summary of the basis for the standards and a summary of the standards, while the sections on the standards present more detailed discussions. The discussion of the risk management policy and health issues presented in the second part of this preamble is limited to issues generally applicable to the actions. Policy and health issues specific to individual source categories are presented as part of the specific discussion on the standard.

I. Overview

Background

In 1977, Congress amended the Clean Air Act (the Act) to address airborne emissions of arsenic. Section 122 of the Act required the Administrator of EPA to determine whether or not emissions of arsenic into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. On June 5, 1980, EPA published a Federal Register notice listing inorganic arsenic as a hazardous air pollutant under section 112 of the Act (44 FR 37886).

Concurrent with the decision to list inorganic arsenic as a hazardous air pollutant, EPA began a series of studies of the sources of inorganic arsenic emissions. The purpose of the earliest studies in the series was to identify which types of sources merited more detailed study toward possible regulation, and the purpose of the final studies in the series was to develop the detailed information needed to support the proposal of standards. The EPA Administrator was sued by the State of New York, and was subsequently ordered on January 12, 1983, by the United States District Court for the Southern District of New York, to publish proposed emission standards for inorganic arsenic by July 11, 1983, *New York* v. *Gorsuch*, 554 F. Supp. 1080, 1086 (S.D.N.Y. 1983).

On July 11, 1983, EPA proposed standards (48 FR 33112, July 20, 1983) for inorganic arsenic emissions from the following source categories: High-arsenic primary copper smelters, low-arsenic primary copper smelters, and glass manufacturing plants. The EPA also identified other categories of sources which emitted inorganic arsenic but, after careful study, determined that proposal of standards for these source categories was not warranted. These sources are primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide plants, cotton gins, and arsenic chemical manufacturing plants. During the consideration of public comments on the proposed actions, new information on emissions and costs as well as new regulatory approaches were published for public comment. Specifically, on December 16, 1983, EPA proposed in the Federal Register (48 FR 55880) for comment additional controls for fugitive emission sources at high-arsenic primary copper smelters and any associated arsenic plant. The comment period for the proposed standard on glass manufacturing plants was reopened on March 20, 1984, (49 FR 10278) to take public comment on proposed options for controlling emissions from furnaces producing soda-lime glass and the method for calculating zero production offsets. On September 20, 1984, the public comment period was reopened to take comments on the revised cost and emission estimates for low-arsenic primary copper smelters (49 FR 36877). The public comment period on this last Federal Register notice closed on November 5, 1984.

At the time of proposal, the standard proposed for high-arsenic primary copper smelters affected only the smelter owned and operated by ASARCO, Incorporated, located in Tacoma, Washington. On June 27, 1984, ASARCO announced plans to close its primary copper smelting operations at Tacoma, Washington, by June 30, 1985; and subsequently ceased copper smelting operations at Tacoma. Because of ASARCO's action, EPA is withholding farther action on the proposed standard for existing high-arsenic primary copper smelters. The EPA will continue to monitor ASARCO's actions and will reconsider the need for a separate standard applicable to existing high-arsenic smelters if there is evidence that ASARCO-Tacoma will resume copper smelting operations. However, even in the absence of a specific high-arsenic smelter standard, the standard being promulgated today would apply to the Tacoma smelter if copper smelting operations were to resume. Today's standard is applicable to all existing and any new primary copper smelters.

In the announcement of closure of the primary copper smelter at Tacoma, ASARCO also stated that it will continue to operate the arsenic trioxide and metallic arsenic plants at the site. ASARCO also indicated that the operations at the arsenic plants would be modified to reduce emissions significantly, but the actual configuration of the facilities was not specified. Therefore, EPA is promulgating the proposed standard for fugitive emission sources at arsenic plants. This standard is being established as Subpart P. The only existing arsenic plant is the ASARCO arsenic plant at Tacoma, Washington.

Public Participation

To provide interested persons an opportunity to comment on the proposed standards, public hearings were held on November 2, 3, and 4, 1983, in Tacoma, Washington, and on November 8, 1983, in Washington, DC. Both hearings were open to the public, and each attendee was given an opportunity to comment on the proposed standards and the negative determinations. During the various public comment periods, about 800 letters were received on the proposed standards for high-and low-arsenic primary copper smelters, 24 letters were received on the proposed standard for glass plants, and 11 letters were received on the listing of inorganic arsenic and the negative determinations. Most of the commenters made multiple comments, and many repeated comments made in other letters or by other commenters. All comments were carefully considered and, where determined to be appropriate by EPA, have served as the basis for changes made to the proposed standards. (Comments received on the proposed standard for high-arsenic primary copper smelters that are also pertinent to the proposed standard for low-arsenic smelters were considered in the development of the final standard for primary copper smelters.) Major comments and EPA's consideration of the issues presented for each standard are discussed in the appropriate section of this preamble. Additional comments and the detailed analyses conducted for responses to some issues are presented in the BID's for the promulgated standards (see Addresses section). All commenters on the proposed standards are identified in the appropriate BID's.

Basis For Promulgated Standards

Risk Management Approach

For carcinogenic hazardous pollutants, including inorganic arsenic, health effects thresholds have not been clearly demonstrated and, in the view of a number of researchers, may not exist. The absence of identifiable thresholds suggests that for carcinogens any level of control short of an absolute ban on emissions may pose finite health risks. For many of the substances considered

VOL 51 ISS 149 AG 4 1986 UMI

for regulation under section 112, such a ban would produce severe economic disruption if not closure of the emitting industries.

Section 112 of the Act requires EPA to establish emission standards for hazardous air pollutants that protect public health with an "ample margin of safety." In interpreting this language for the purposes of regulatory development, EPA does not believe that the word "safety" implies a total absence of risk. Many activities involve some risk, but are not considered "unsafe." In the Administrator's view, standards under section 112 should protect against significant public health risks. See *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute*, 448 U.S 607, 642 (1980); *Ethyl Corp.* v. *EPA*, 541 F. 2d 1 (D.C. Cir. 1976), *cert. den.* 426 U.S. 941 (1976); H.R. Rep. No. 95–294, 95th Congress, 1st Sess. 43–51 (1977).

In establishing an appropriate level of control for carcinogens, the Administrator views the objective as a judgment of the extent to which the estimated health risks must be reduced before the degree of control can be considered amply protective. Two choices are available: either the emission standards must be set at zero to eliminate the attributable health risks or some residual risk must be permitted. In the absence of specific direction on this choice in section 112 and in recognition of the drastic economic consequences that could follow a requirement to eliminate all risk from hazardous pollutant emissions, the EPA believes that it is not the intent of this section to eliminate totally all risks and that section 112 standards which permit some level of residual risk can be considered to provide an ample margin of safety to protect public health.

The EPA's strategy for risk management under section 112 first provides for the identification of source categories that may pose significant risks to public health as a result of air emissions. Next, the Agency performs an assessment of candidate source categories to evaluate current control levels and associated health risks, future or ongoing emissions reductions from other regulatory activities (e.g., State Implementation Plans (SIP's) and Occupational Safety and Health Administration [OSHA] standards), the availability of more stringent options such as further controls or process modifications, and the costs and economic impacts associated with each option. Based on this assessment, the Administrator selects a level of control which, in his judgment, reduces the health risks to the greatest extent that can reasonably be expected after considering the uncertainties in the analysis, the residual risks remaining after the application of the selected control level, the costs of further control, and the societal and other environmental impacts of the regulation. In the consideration of the factors, no one factor is consistently overriding and the deciding factor will vary among source categories. In summary, there is no rigid formula to decide whether to regulate a source category or decide the appropriate level of control; rather, a more flexible approach is used to weigh the effects of regulation in a given situation. The Administrator believes that this flexibility is necessary to establish the appropriate level of control.

Risk Assessment Methodology

In reaching a decision on the ample margin of safety required by section 112 of the Act, the Administrator considers the nature and relative magnitude of the health hazards posed by the pollutant in question. The EPA has estimated public health risks as a result of population exposure to inorganic arsenic emissions from a number of source categories. Although uncertainties are associated with the data and the estimating procedure, the Administrator believes that these quantitative expressions of risk serve a purpose as a health-based measurement tool facilitating comparison of pollutants, sources, and emission controls, and that when used appropriately, such quantitative expressions of risk play an important role in decisionmaking.

In developing the exposure/risk relationship for inorganic arsenic, EPA has assumed that a linear, nonthreshold model appropriately describes the relationship between inorganic arsenic exposure and the risk of contracting lung cancer. This relationship, calculated from studies of occupationally exposed workers who have been subjected to relatively high exposures, is also assumed to describe mathematically the exposure/risk relationship at lower levels more characteristic of public exposure. The nonthreshold assumption implies that any nonzero exposure to inorganic arsenic poses some finite cancer risk. As described more fully in Part II, Risk Management Policy and General Health Issues, of this preamble, EPA has concluded that the assumptions of linearity and the absence of thresholds are reasonable and prudent for the protection of public health in light of presently available information.

The numerical constant that defines the exposure/risk relationship used by EPA in the linear, nonthreshold model is called the unit risk factor. The unit risk factor for an air pollutant is defined as the excess cancer risk associated with a lifetime of exposure (70 years) to an average concentration of 1 microgram per cubic meter (1 $\mu g/m^3$) of the pollutant in the air. For inorganic arsenic, the unit risk estimate is based on EPA's analysis of five sets of the latest smelter worker epidemiological data collected by four researchers at two smelters. Based on this analysis, EPA has revised the unit risk estimate used in the proposed regulations from 0.00295 to 0.00429 per $\mu g/m^3$, a 40-percent increase. The linear nonthreshold risk extrapolation model is believed to produce plausible upper-bound estimates of risk since other plausible risk models give lower risk estimates. When the projected lifetime public exposure to inorganic arsenic approaches 1 $\mu g/m^3$, the public exposure also approaches the range of occupational exposure as measured by some epidemiological studies. In this high range of exposure, the difference between models is less and the risk estimate is more accurate. At lower levels of inorganic arsenic concentrations where most of the public exposure occurs, the Agency believes that the risk model generally produces upper-bound but plausible risk estimates, if the exposure is accurately known.

The unit risk factor is one of two elements required in the estimation of public health risks. The second required element is the estimation of public exposure, i.e., the number of people exposed and the concentrations of inorganic arsenic to which they are exposed. To estimate public exposure, EPA uses computer models that calculate: (1) Nearby ambient concentration profiles that occur due to the source's emissions, and (2) the location and number of people exposed to the arsenic concentrations. Arsenic concentration profiles are estimated through the use of atmospheric dispersion models. Plants are located by latitude and longitude, and then estimated or measured emissions data are supplied along with other plant parameters and local prevailing weather patterns as inputs to the computer model to estimate ambient air concentrations within a specified distance from the source. When data are available and where feasible, the Agency compares the predicted concentrations to the measured concentrations, and adjustments are made in the exposure estimates to reflect more closely the measured

concentrations. The number and location of people exposed are derived from 1980 census data broken down into clusters called individual block group and enumeration districts that are located within the assessment area.

By combining the population data with predicted concentrations, the computer model estimates exposure at selected distances from the source and sums the exposure estimates. As used in this notice, the term "exposure" refers to the product of the estimated ambient air concentration of inorganic arsenic and the estimated number of people exposed to that concentration. Exposure is expressed in units of "people-$\mu g/m^3$."

The modeled concentrations and exposure estimates are combined to produce two measures of health risk: "annual incidence" and "maximum lifetime risk." "Annual incidence" represents the aggregate number of cancer cases that may occur in the population residing within a specified distance from plant or plants. This risk reflects the average number of cases that would be expected each year in the exposed population based on predicted exposure. "Maximum lifetime risk" represents the probability of contracting cancer for those individuals assumed to be exposed for a lifetime to the highest measured or predicted average concentration.

Due to the highly complex interactions between individuals and airborne arsenic, EPA has made a number of simplifying assumptions in estimating inorganic arsenic health risks. Major assumptions of the exposure model are that individuals remain in the vicinity of their residences for a lifetime, are exposed for that period to the predicted concentrations, and are equally as susceptible to contracting cancer as occupationally exposed individuals. Also, site-specific factors such as the plant's emissions are, for calculation purposes, assumed to remain constant over a lifetime. In addition, two simplifying assumptions generally have been used in the air dispersion modeling analysis: That the readily available meteorological data at the site nearest the plant are representative of the local meteorology and that the terrain surrounding the plant is relatively flat.

There are also numerous uncertainties in the analysis. For example, scientific uncertainties not resolved to date include the amount of overestimation of the true risk in the use of the linear nonthreshold model in extrapolating from high-dose occupational exposure to low-dose public exposure at ambient air concentrations. There also is uncertainty with exposure estimates because of difficulty in obtaining precise data on emission rates; atmospheric dispersion patterns and population concentrations around individual sources; and lack of information on short-term and long-term movement (migration) of people and indoor versus outdoor toxic air pollutant concentration patterns. Finally, there are uncertainties concerning possible additive effects of multiple sources or pollutants, synergistic or antagonistic health effects, and heightened susceptibilities to some cancers by some population groups.

In view of this, EPA took a number of actions. Where better data were available and more detailed study was feasible, EPA performed a limited number of more sophisticated site-specific air dispersion analyses that consider local meteorology and terrain features. Also, EPA used measured ambient arsenic data to confirm the concentration profiles predicted by the air dispersion analysis and reviewed community epidemiology studies to check the risk assessment projections.

The Administrator has considered the uncertainties of the analysis and the risk assessment methodology and has concluded that the calculated risks for inorganic arsenic exposure represent the best estimates of the actual health risks that the Agency can generate within the available resources.

Summary of Standards and Actions

Primary Copper Smelters

The standard applies to all existing and new primary copper smelters. The standard requires monitoring, recordkeeping, and reporting of the average annual inorganic arsenic feed rate to converters. For all affected primary copper smelters with average annual arsenic feed rates to the converters greater than 75 kilograms per hour (kg/h) (164 pounds/h [lb/h]), the standard requires capture and collection of secondary inorganic arsenic emissions from converters. The standard is expressed in terms of equipment and design specifications and work practices for the capture system and a maximum allowable particulate emission limit for the control device. The required equipment consists of a secondary hood system, the principal components of which are a hood enclosure, a horizontal air curtain, fans, and auxiliary equipment. The standard limits emissions from the control device to 11.6 milligrams of particulate per dry standard cubic meter of exhaust gas (mg/dscm) (0.005 grains per dry standard cubic foot of exhaust gas [gr/dscf]).

Compliance with the particulate matter emission limit will be determined using EPA Reference Method 5. The average annual arsenic charging rate to the converters will be determined using monthly average weight percent arsenic in feed materials and the charging rates. The weight percent arsenic in feed materials will be determined using Method 108A. Continuous monitoring of the opacity of gases exiting the control device and of the airflow through the converter secondary hood is required to ensure proper operation and maintenance of the system. The reporting requirements of the standard include: (1) Annual reports of average inorganic arsenic charging rate to the converters; (2) quarterly reports of airflows less than 80 percent of the reference flow rate; and (3) quarterly reports of excess opacity levels.

Glass Manufacturing Plants

The standard applies to each glass manufacturing furnace that uses commercial arsenic as a raw material. The standard for existing glass manufacturing furnaces requires the owner or operator to either: (1) Limit uncontrolled arsenic emissions to 2.5 megagrams (Mg) (2.75 tons) per year, or less, or (2) reduce total arsenic emissions by 85 percent. New or modified glass furnaces must keep uncontrolled arsenic emissions below 0.4 Mg (0.44 tons) per year or reduce emissions by 85 percent.

Compliance with the emission limit will be determined using Method 108 unless the furnace is exempted. Existing furnaces are exempt from the emission test requirement if less than 8.0 Mg (8.8 tons) of arsenic is added to the furnace annually, and new or modified furnaces are exempt if less than 1.0 Mg (1.1 tons) of arsenic is added annually; and the owner or operator can demonstrate through a material balance that the applicable emission limit is being met. The standard also requires continuous monitoring of the temperature of the gas entering the control device and of the opacity of the gas discharged to the atmosphere from the control device. The reporting requirements of the standard include: (1) Semiannual reports of occurrences of excess opacity at facilities subject to the 85 percent reduction emission limit, and (2) semiannual reports of occurrences of uncontrolled emission rates greater than 2.5 Mg (2.75 tons) per year at existing furnaces and greater than 0.4 Mg (0.44 tons) per year at new or modified furnaces at facilities subject to those limits.

Arsenic Trioxide and Metallic Arsenic Plants

The standard applies to facilities recovering arsenic trioxide from low grade arsenic bearing materials by a roasting-condensation process and to metallic arsenic plants. The standard requires the owner or operator to develop a detailed inspection, maintenance, and housekeeping plan that will be used to minimize fugitive emissions; to take steps to minimize emissions during malfunctions and upsets; and to monitor ambient concentrations of inorganic arsenic near the plants.

Compliance with the standard will be determined by the development of an approvable plan and implementation of that plan. Continuous monitoring of the opacity of gases exiting from the control device is required to ensure proper operation and maintenance of the control device. The regulation also requires continued operation and maintenance of existing ambient monitoring systems for arsenic in the vicinity of the arsenic plants. Reporting requirements of the standard include: (1) Quarterly reports of occurrences of excess opacity; (2) quarterly reports of ambient concentrations of arsenic monitored near the facility; and (3) semiannual reports on pilot plant studies on alternative arsenic trioxide production technologies.

Negative Determinations

At proposal, EPA identified several inorganic arsenic source categories for which standards were not warranted. After consideration of public comments on these negative determinations, the Administrator is reaffirming his decision not to regulate these sources at this time. The primary reasons for this decision are that the estimated health risks are small; and additional emission reduction either can be achieved only through closure or will impose control costs that are likely to result in closure, or are excessive compared to any small possible health benefit that might result.

II. Risk Management Policy and General Health Issues

This part of the preamble presents a discussion of comments on health effects of inorganic arsenic and the risk management policy that apply to all categories considered in the July 20, 1983, notice. Health and risk issues that pertain only to one source category are presented in the discussion on the specific source category.

Health Effects and the Listing of Inorganic Arsenic

A fundamental element in this rulemaking is the Administrator's conclusion that inorganic arsenic is a hazardous air pollutant and the decision on June 5, 1980, to list inorganic arsenic under section 112 of the Act (45 FR 37885). After a substance is listed as a hazardous air pollutant, section 112 requires the Administrator to subject the listing decision to public review following the proposal of the emission standards to determine if "such pollutant is clearly not a hazardous air pollutant" (section 112(b)(1)(B)). Thus, in the July 20, 1983, proposal the Agency specifically requested comments on the listing decision and the Administrator's judgment that inorganic arsenic is a hazardous air pollutant. Of those who responded to this request, the majority of commenters expressed support for EPA's decision to list inorganic arsenic as a hazardous air pollutant and to require standards to protect public health. However, there were a number of commenters who disagreed with the listing decision. Most of their arguments fell into the following two categories.

One group of commenters called for the Administrator to act under section 112 only when there is an absolute certainty that inorganic arsenic is a human carcinogen and when there is a clear association between inorganic arsenic emissions and lung cancer. For instance, these commenters noted that inorganic arsenic is not a proven animal carcinogen, and in fact, low levels of inorganic arsenic appear to be a nutritional requirement for certain animals. Also, several commenters stated that the mutagenic potency of inorganic arsenic is weak or negligible when compared to other known metal mutagens and that this, therefore, casts some doubt on inorganic arsenic being classified as a human carcinogen. There also were flaws, a few commenters said, in the occupational studies on which EPA's listing decision was based.

Another set of commenters felt that a reasonable link had been established between the high levels of inorganic arsenic exposure and increased lung cancer rates. But, they pointed out that certain studies, such as those of Higgins, *et al.*, indicate the existence of a cancer threshold, i.e., a certain level of inorganic arsenic exposure below which no carcinogenic effect was observed in those exposed. Furthermore, they noted that the apparent inorganic arsenic threshold level (as suggested by Higgins, *et al.*) is well above the measured or estimated public exposure levels near any of the inorganic arsenic sources. Also referenced by these commenters were several community studies, such as Frost, *et al.*, that did not detect any increases of lung cancer in the community near the ASARCO primary copper smelter in Tacoma, Washington. These commenters agreed with the Administrator's finding that there is a high probability that inorganic arsenic is carcinogenic to humans at high levels of exposure, but they felt that there are either no risks or insignificant risks associated with the lower levels of public exposure to inorganic arsenic emissions.

The Administrator stated at the time of proposal, and many commenters agreed, that there are uncertainties in the health data base and EPA's risk assessment and that a significant public health risk in the general community has not been absolutely proven. But, neither the Act nor prudent public health protection policy requires absolute proof of health risks before the Agency invokes its authority to act under section 112.

When the decision to propose inorganic arsenic standards was made, the Administrator was aware, via an extensively updated draft document entitled "Health Assessment Document for Inorganic Arsenic" (EPA–600/8–83–021), of the issues and the data subsequently presented by many of the dissenting commenters. This draft document presented, on balance, a strong case for inorganic arsenic being a human carcinogen. In September 1983, the Science Advisory Board (SAB), an advisory group of nationally prominent scientists from outside EPA, reviewed the document in a public meeting. The SAB subsequently concurred with the report's conclusion that the weight of evidence places inorganic arsenic in a group of pollutants that are characterized as "carcinogenic to humans." This conclusion is based on two general observations. First, associations between cancer and inorganic arsenic exposure have been demonstrated in several different occupational settings, such as copper smelters, pesticide manufacturing, and agricultural work, and in nonoccupational populations using arsenical drugs on consuming arsenic-contaminated drinking water and/or food. Second, the results from several human studies have consistently demonstrated the same study findings, that is, the same high relative risks, and specificity of tumor sites (skin and lungs). The EPA has now published these conclusions in the final health document (EPA–600/8–83–021F), which can be obtained from EPA at the

address given in the Addresses section of this preamble.

Others have made similar findings regarding inorganic arsenic's carcinogenicity. Widely respected scientific groups such as the National Cancer Institute (NCI), the National Academy of Sciences (NAS), and the International Agency for Research on Cancer (IARC) have concluded that there is sufficient evidence to conclude that inorganic arsenic is carcinogenic to humans. In addition, the OSHA also recently reviewed the substantial body of evidence and concluded that inorganic arsenic "is clearly a human carcinogen" (43 FR 19584).

The EPA health document indicates that consistent demonstration of inorganic arsenic as an animal carcinogen, using different chemical forms, routes of exposure, and various experimental species, has not been observed. However, recent data indicate that lung tumorigenicity and possibly carcinogenicity can be demonstrated in animals if the retention of inorganic arsenic in the lung is increased. The additional observations reported from two laboratories that calcium arsenate is only slowly cleared from the lung suggest that this agent may be carcinogenic. Upon review of the available data and the public comments, the Administrator has concluded that the data do not clearly demonstrate the lack of carcinogenicity of inorganic arsenic in animals.

The possible nutritional value of inorganic arsenic was mentioned by commenters in support of the idea that at low levels inorganic arsenic is beneficial to humans. That inorganic arsenic appears to be an essential element in small quantities in certain animal species is based on a number of detrimental effects noted by several researchers when administering arsenic-deprived diets to rats, goats, chicks, and guinea pigs. However, EPA's review of the literature and the public comments found no data which support the view that inorganic arsenic is beneficial to such animals when inhaled or deposited in the trachea, and EPA is unaware of any data that demonstrate the essentiality of inorganic arsenic in man.

Many researchers have noted that a number of probable carcinogens have also been shown to be probable mutagens as well, and have linked the two responses together. Commenters, in applying this association in reverse, pointed to inorganic arsenic's weakness in producing mutagenic responses in numerous test systems as supporting a conclusion that inorganic arsenic is not carcinogenic. The EPA's final health assessment document points out that various inorganic compounds of arsenic have been tested for mutagenicity in a variety of systems ranging in complexity from bacteria to lymphocytes in the blood of exposed human beings. Although much of the data are contradictory, the weight of evidence supports the following conclusions:

1. Arsenic is either inactive or extremely weak for the induction of gene mutations in cell cultures.
2. Arsenic causes chromosomal breakage and induces sister chromatid exchanges, an indicator of chromosomal damage, in a variety of cell types, including human cell cultures.
3. Arsenic does not appear to induce chromosome aberrations in experimental animals (one available study).
4. Several studies suggest that human beings exposed to arsenic demonstrate higher frequencies of sister chromatid exchanges and chromosomal aberrations in blood lymphocytes; however, the quality of these studies is generally poor.
5. Arsenic may affect DNA by the inhibition of DNA repair processes or by its occasional substitution for phosphorus in the DNA structure.

Although the data do not present a clear picture, inorganic arsenic may be a weak or inactive gene mutagen with the potential to cause chromosomal changes in human beings. The Administrator cannot conclude, based on the available data, that inorganic arsenic is clearly a nonmutagen in humans, as some commenters have suggested.

The information the commenters have presented is indirect evidence for the case of inorganic arsenic not being a human carcinogen, and when closely studied is inconclusive as evidence to refute the Administrator's findings. On the other hand, a number of independent occupational studies provide direct evidence of inorganic arsenic's carcinogenicity in humans. As commenters pointed out, each study contains flaws and EPA carefully reviewed the comments regarding those flaws. But, the collective documentation in the human health data base, which demonstrates in several different occupational settings the same study findings, the same high relative risks, and the same specificity of tumor sites, overwhelms the flaws in each individual occupational study and the inconclusive, indirect data from the animal studies. On balance, the Administrator concludes, after reviewing the public comments and the available data, that inorganic arsenic is a human carcinogen.

The second set of commenters, although agreeing with the Administrator's findings regarding the carcinogenicity of inorganic arsenic, questioned the assumption that inorganic arsenic poses some finite lung cancer risk at low levels of exposure. They felt that several scientific studies had shown that there was a threshold or level of exposure below which increased cancer risks are nonexistent. The EPA recognized at the time of listing that epidemiological studies had not proven that exposure to inorganic arsenic at ambient levels causes cancers. Epidemiological methods that have successfully revealed associations between occupational exposure and cancer for inorganic arsenic are not as easily applied to the public sector, with its increased number of confounding variables, much more diverse and mobile exposed population, lack of consolidated medical records, much lower exposures, and almost total absence of historical exposure data. Given the above characteristics, EPA considers it improbable that any community epidemiological association with arsenic exposure, short of very large increases in cancer or very unusual pathology, can be detected with any reasonable certainty. The NAS noted that in considering the possibility of thresholds for carcinogenesis, it is important to understand that there is no agent, chemical or physical, that induces a form of cancer in man that does not occur in the absence of that agent. In other words.

> . . . . when there is exposure to a material, we are not starting at an origin of zero cancers. Nor are we starting at an origin of zero carcinogenic agents in our environment. Thus, it is likely that any carcinogenic agent added to the environment will act by a particular mechanism on a particular cell population that is already being acted on by the same mechanism to induce cancer.

In discussing experimental dose-response curves, the NAS observed that most information on carcinogenesis is derived from studies on ionizing radiation with experimental animals and with humans, which indicate a linear, nonthreshold dose-response relationship at low doses. They added that although some evidence exists for thresholds in some animal tissues, by and large thresholds have not been established for most tissues. The NAS concluded that establishing such low-dose thresholds would require large-scale experiments and recognized that the U.S. population is a genetically heterogeneous group exposed to a large variety of toxic agents. This fact, coupled with the known genetic variability to carcinogenesis and the predisposition of some individuals to some form of cancer, makes it extremely

difficult, if not impossible, to identify a threshold.

For these reasons, EPA has taken the position, shared by other Federal regulatory agencies, that in the absence of sound scientific evidence to the contrary, carcinogens should be considered to pose some cancer risk at any exposure level. This nonthreshold assumption is based on the view that as little as one molecule of a carcinogenic substance may be sufficient to transform a normal cell into a cancer cell. Evidence is available from both the human and animal health literature that cancers may arise from a single transformed cell. Mutation research with ionizing radiation in cell cultures indicates that such a transformation can occur as the result of interaction with as little as a single cluster of ion pairs. In reviewing the available data and the public comments regarding carcinogenicity, EPA found no compelling scientific reason to abandon the nonthreshold presumption for inorganic arsenic.

In support for the existence of an inorganic arsenic threshold, several commenters cited community studies that did not demonstrate a link between increased lung cancer risks and arsenic exposure. For instance, Dr. Frost of the Washington State Department of Social and Health Services (DSHS) forwarded to EPA a recently completed community study that provided new data on women who have died in Pierce County from 1935 through 1969. The Frost, *et al.*, analysis showed that all three study areas near the ASARCO primary copper smelter in Tacoma, Washington had mortality rates that were slightly less than the U.S. white-female lung cancer rates, even though these women were living near a very large inorganic arsenic source in the U.S. Unfortunately, this kind of study cannot directly quantify the female lung cancer rates for people who had lived in the study areas without inorganic arsenic exposure (i.e., there is no control group) and, therefore, such studies do not provide a clear demonstration of the absence of increased cancer risks in an exposed population in relation to a similar but unexposed population. However, the Frost, *et al.*, study does provide an indication that the ASARCO emissions have not been causing an epidemic of lung cancers in the communities surrounding the smelter and that EPA has not grossly underestimated public risks.

Several other community studies with both "positive" and "negative" results were mentioned by commenters. Except for the Frost, *et al.*, study which was completed during the public comment period, many of these studies identified by the respondents were already mentioned in EPA's draft health assessment document and had been considered by the Agency. The following section provides a summary of the known community studies that consider arsenic exposure.

1. *Blot and Fraumeni, 1975* Lung cancer mortality was shown to be significantly higher among males and females in 36 U.S. counties with copper, lead, and zinc smelters and refineries than in the rest of the U.S. counties. The increase, corrected for demographic variables, was 17 percent for males and 15 percent for females over the years 1950–1969.

2. *Lyon, et al., 1977* Using a population based cancer registry, addresses at diagnosis of lung cancer cases were compared to malignant lymphoma controls to assess the possible carcinogenic effect of the Salt Lake City copper smelter. The distribution of distances from the smelter of lung cancer cases and lymphoma controls was similar.

3. *Rom, et al., 1982* Using the same methodology as Lyon, *et al.*, lung cancer cases around the El Paso, Texas, smelter were shown to have the same distance distribution from the smelter as breast and prostate cancer controls.

4. *Greaves, et al., 1981* Greaves, using the same methods as Lyon, *et al.* and Rom, *et al.*, studied the distances of residences at diagnosis, or death, of lung cancer cases and controls (prostate, colon, and breast cancers) from the ten primary copper smelters and one lead-zinc smelter. The distance distribution of lung cancer was not significantly different from the distribution of the control cancers in any of the areas studied.

5. *Pershagen, et al., 1977* Mortality in the region around the Ronnskar smelter in northern Sweden was studied. The population residing within 15 kilometers (km) (9 miles) of the smelter was compared to the population residing 200 km (124 miles) away. The lung cancer mortality in the exposed population (<15 km) was significantly different in comparison to national rates. When the occupationally exposed cases are removed, the lung cancer standard mortality ratio was reduced and was no longer statistically significantly different than the comparison population.

6. *Matinoski, et al., 1976* Cancer mortality reported on death certificates was studied in census tracts in Baltimore around a chemical plant producing calcium and lead arsenate, arsenic acid, cupric aceto-arsenite (Paris green), and sodium arsenite. An increase in lung cancer was seen in the census tract containing the plant in the years 1966–1974 in males only. No increase was seen in an earlier time period (1958–1962). Removing plant workers from the high lung cancer census tract did not eliminate the high male lung cancer mortality rate.

7. *Polissar, et al., 1979* Lung cancer mortality by census tract was examined around the Tacoma, Washington, copper smelter. The distance of the census tract from the smelter, and the concentration of sulfur dioxide over background for each census tract were used as a surrogate for arsenic exposure data. There was no excess risk of lung cancer for persons living near the smelter.

8. *Hartley, et al., 1982* Lung cancer mortality in the 35 census tracts in Tacoma, Washington, was examined for the 21 years 1950–1970, using the death certificate address for assignment to census tract. Lung cancer mortality was no higher in the census tracts near the smelter than in those farther away.

9. *Milham, et al., 1982* Class rosters of children enrolled at the Ruston elementary school (91m [100 yards] from the Tacoma, Washington, smelter) were examined. A cohort of 283 children who were enrolled for three or more years during the years 1900–1919 was developed. Surviving cohort members were contacted and death records were obtained for decedent members. Using life table comparisons, mortality of men in this cohort was shown to be favorable (more survivors to 1980 than expected). It also did not appear that lung cancer was increased in the male cohort (1 lung cancer death among 20 for whom death certificates were obtained). Forty percent of the men in this cohort were employed at the smelter at some time.

10. *Newman, et al., 1976* Although this was primarily a study of lung cancer cell type in two Montana copper mining and smelting counties, it demonstrated an increase in lung cancer incidence in both men and women in the towns of Butte and Anaconda, but the same increase was not seen in the counties as a whole.

In addition, there were a number of community morbidity studies referenced by commenters.

1. *Milham and Strong, 1974* In the population around the Tacoma smelter, children were shown to have increased levels of arsenic in hair and urine. Urinary arsenic decreased with distance from the smelter. Mean urinary arsenic for children living within 0.8 km (0.5) miles of the smelter was 0.30 ppm (parts per million) (normal 0.014). Vacuum

cleaner dust and attic dust contained over 1000 ppm of arsenic.

2. *Morse, et al., 1979* Children exposed to arsenic in air and drinking water in Ajo, Arizona, near a copper mine and smelter were studied. Hair and urinary arsenic were elevated in children and decreased with distance from the smelter. No clinical or hematologic abnormalities attributable to arsenic were found.

3. *Baker, et al., 1977* In 19 U.S. towns with primary nonferrous smelters, 1-to 5-year-old children were studied for arsenic, lead, and cadmium absorption. Urine arsenic was elevated near 10 of 11 copper smelters.

4. *Milham, 1977* Hearing, hematological status, and school attendance of children living in Ruston, Washington (near the Tacoma smelter), were the same as children living further away from the smelter. The Ruston children had increased levels of urinary and hair arsenic.

5. *Nordstrom, et al., 1978* Frequencies of congenital malformations were studied in offspring of female employees of the Ronnskar smelter and in the population living near the smelter. In the offspring of the employees, the frequency of multiple malformations was increased. However, there was no increase in total frequency of malformations or in type of malformations in the population around the smelter.

6. *Nordstrom, et al., 1978* Frequency of spontaneous abortion and birthweight distributions in female smelter employees and women who lived near the Ronnskar smelter were examined. Women working at the smelter had an increased frequency of spontaneous abortion and low birthweight infants. Women living near the smelter showed no increase in spontaneous abortions, but had a tendency to have infants slightly lighter than women who lived at a distance from the smelter.

Such community studies generally suffer from two shortcomings: They lack a well-defined control group and they lack the necessary statistical power to detect the predicted number of increased lung cancer cases.

A control group is a number of people who are not exposed to inorganic arsenic yet who live in the same or a similar area, have similar life styles, and are similarly exposed to other carcinogenic agents. National data indicate significantly different lung cancer rates between states and even cities; thus, the ideal control group would live in the same city or area, but would remain unexposed to arsenic. Obviously, such a group of any useful size does not exist.

The second shortcoming of community studies is that negative study results do not conclusively prove that there is no increased risk in the community due to exposure. The ability of a study to detect an excess risk that truly exists, or the probability of not missing a true excess risk, is quantified by a statistical parameter called "power." In a community epidemiological study, the research may not have the statistical power or be able to detect excesses in lung cancer rates when, in fact, such excesses are actually occurring. Key factors that determine the study's power are the number of expected lung cancer cases in the study group and the relative magnitude of the excess risk in relation to expected risk.

For inorganic arsenic, EPA's assessment estimated that the increase in lung cancer risk due to the inorganic arsenic source categories is for most of the exposed population a small fraction of the expected community lung cancer risk. Considering the above, it is not reasonable to expect the referenced community studies to detect the increased lung cancers predicted by the Agency.

In particular, the Nordstrom, *et al.*, studies were not designated specifically to study the effects of arsenic but rather to study the effects, in general, of the smelter works pollutants on neighboring populations; the diverse agents involved preclude making conclusive statements about the specific effects of inorganic arsenic. In 1981, the Swedish National Health Board Expert Committee published a report that discredited or questioned almost every finding that would be suitable for making determinations regarding the potential human reproductive effects caused by inorganic arsenic exposure.

These community studies have provided the Administrator with very little new information regarding the risks associated with inorganic arsenic emissions other than that increased cancer risks are not likely to be substantially greater than EPA's estimates and could be substantially less than estimated. Such studies also have not clearly proven the existence of an inorganic arsenic threshold.

The Administrator, upon review of the available data and the public comments, reaffirms his position stated in the proposal that inorganic arsenic emissions pose significant risks to the public health.

Public Exposure and Health Risk Estimates

A number of commenters were concerned that specific portions of the exposure and health risk models represented sources of uncertainty. A few commenters recommended that 1980 census data or recent maps of the areas near sources, rather than 1970 census data, be used to estimate the exposed populations. Also, EPA's simplifying assumption that individuals are exposed to the same arsenic concentration continuously over 70 years was questioned by several commenters.

Other commenters noted that EPA's models did not consider such factors as risks to sensitive subpopulations, exposure to arsenic at places other than a person's residence, and risks to people residing beyond 20 km (12 miles) from sources.

Another group of commenters questioned the usefulness of the quantitative exposure and risk model results in decisionmaking. For instance, several commenters expressed opinions about the degree of conservatism of the models. Most felt that EPA's risk estimates were overly conservative, representing an extreme worst-case estimate of risk. In particular, some thought the linear, nonthreshold model used to calculate risk from exposure estimates was too conservative, although a few supported use of this model. Others thought that the linear, nonthreshold model was moderate, and might underestimate health risk. Also, several commenters questioned the need for the Agency to use exposure and/or health risk models at all. Instead, they suggested that the Agency should use direct measurements of public health effects and lung cancer rates instead of mathematical models. Others suggested that urinary arsenic content or measured ambient arsenic concentrations rather than dispersion model estimates be used to estimate public exposure.

In the Overview—Basis for Promulgated Standards section of this preamble, EPA has briefly described the public exposure/risk methodology and a more detailed explanation can be found in each BID for the inorganic arsenic source categories (see **ADDRESSES** section of this preamble). Basically, there are four phases of the risk assessment process: (1) Emission and emission parameter estimation; (2) air quality dispersion modeling; (3) public exposure estimation; and (4) risk evaluation. The first two phases are discussed elsewhere in this notice, while the following discussion focuses on comments pertaining to the third and fourth phases.

Changes in the exposure estimation methodology (the third phase) were made in response to public comments and the Agency's desire to improve the model. At the time of proposal, EPA

used 1970 U.S. Census Bureau population data which EPA extrapolated to 1980 by using 1977 U.S. Census Bureau county growth factors. These population data have been replaced with 1980 U.S. Census Bureau population data recently made available to the Agency.

At proposal, exposure and risk were estimated for people residing within 20 km (12 miles) of a source. Some commenters pointed out that since people beyond 20 km are exposed to some level of arsenic due to the source emissions, EPA's proposal analysis underestimates the total exposure and risk. EPA agrees with this comment and has expanded its analysis to 50 km (31 miles); the risk assessment results presented in today's notice reflect this change. There are several reasons for EPA to extend its analysis out to 50 km. The EPA's guidelines for use of air quality models recommend that, because of the increasing uncertainty of estimates with distance from the modeled source and because of the paucity of validation studies at larger distances, the impact analysis should generally be limited to a downwind distance of 50 km from the source. Such site-specific factors as terrain features (complex or flat), the objectives of the modeling exercise, and the distance to which the model has been validated will determine the appropriate distance (whether greater or less than the guideline distance) over which the Agency should apply the model.

Unless there are special overriding technical considerations, EPA has decided to extend the hazardous air pollutant dispersion modeling out to 50 km (31 miles). The Administrator believes that the potential to identify additional significant public exposure outweighs the increased inaccuracies of applying the models beyond the previously accepted 20-km radius.

For the exposure model, it is assumed that people stay at the same location and are exposed to the same concentration for 70 years. The complexity of human mobility in today's society makes this assumption somewhat unrealistic. However, long-term individual mobility and concurrent changes in inorganic arsenic exposure are difficult to model with any amount of certainty. For example, it is unknown how long various portions of the population remain in an area and to what concentrations of inorganic arsenic they may have been exposed in other places they have lived. Thus, the simplifying assumption of a 70-year residence in one location has been made. On a smaller scale, the exposure model also assumes that people are continuously exposed to the average ambient arsenic concentration at their residence. In reality, people travel daily within and beyond the local area and they are exposed to different concentrations at their workplaces, schools, shopping centers, etc. However, it would be extremely difficult to model local travel and indoor and outdoor exposures, and any result would be highly uncertain. For instance, even if it were possible for EPA to collect this information over one particular time period, it may not be representative of population activities in times past or in the future. It is not known if this approach over- or underestimates actual exposures.

Moreover, the Agency believes that there is merit to using the simplifying assumption of 70-year resident immobility. When estimating risk, the Agency is concerned about both the public exposure that is occurring and that could potentially occur. That group of people being exposed to the highest predicted pollutant concentrations may include individuals, who for a variety of reasons, may spend a large majority of their lifetime at a single residence. Presently, the Agency does not have detailed information on those individuals that live near the inorganic arsenic sources, nor does it intend to collect routinely those kinds of specific data. Such data would not allow the Agency to predict the exposure patterns that high exposure groups may experience in the future. Since the purpose of estimating maximum individual exposure is to anticipate a reasonable worst-case scenario, EPA regards this assumption as appropriate.

In calculating aggregate risk, the estimates of annual cancer incidence are independent of population mobility as long as there is no net change in population of each exposure subgroup and no net change in the total population in the study area (see Overview—Risk Assessment Methodology for a description of EPA's exposure model). This conclusion is based on EPA's risk model which mathematically describes cancer risk that varies in direct proportion to cumulative lifetime exposure. For example, application of EPA's risk model produces the same estimate of total cancer incidence for a certain number of people exposed for a lifetime to a particular concentration as for a group twice that number being exposed for half a lifetime to the same concentration. It is possible for communities to remain rather stable in number and location of residents despite significant migration of individuals into and from the area. For this reason, the individual exposure assumption does not impact the estimation of aggregate population risk, i.e., the annual incidence.

Another problem is that emission sources do not emit at a constant annual level for 70 years. Many sources have reduced emissions over the past decade. To the extent that this trend continues, EPA's estimates may overstate risks. Similarly, the EPA assumes that the number of people that are exposed remains constant. These uncertainties are considered to the extent possible in interpreting and applying modeled risk estimates.

One commenter noted that EPA assumed that indoor air concentrations equaled the ambient concentration near the house and that assumption probably causes overestimation of exposure and risk. When developing inorganic arsenic exposure estimates, the Agency considered this possibility. If there are no sources or sinks for inorganic arsenic in the homes, the long-term concentrations in the home should equal the concentrations measured just outside the house. However, this may not be true for many homes. For example, homes that have a filtered air handling system for heating and cooling would tend to have lower indoor inorganic arsenic concentrations. Little study has been made of the relationship between indoor and outdoor inorganic arsenic concentrations. The limited available data on particulate matter indicate that the indoor concentrations are somewhat lower than ambient concentrations but the difference is not substantial; the indoor particulate matter levels are about 10 to 30 percent lower than the outdoor air. Whether this ratio applies to homes near arsenic sources is unknown. Since people spend part of their time on their property outside the house and since the available data do not indicate that a correction for indoor inorganic arsenic concentrations is required, the assumption of equal inorganic arsenic concentrations for both indoor and outdoor air over a long term is reasonable. The EPA has not made any revisions in its current analysis to account for this factor.

The distribution of individual susceptibility to lung cancer is unknown, so risk to sensitive subpopulations or individuals could not be considered quantitatively in EPA's model. Commenters correctly indicated that the unit risk estimate is based on the study of healthy males exposed in the workplace and the application of the

unit risk estimate assumes that the exposed community has the same cancer susceptibility as the exposed workers. As stated in the background documents, this is one of the uncertainties that may cause the risks calculated by EPA to be underestimated. The EPA, in its decisionmaking, is aware of the possible risk to sensitive individuals and to the extent possible considers this in its selection of the appropriate control option.

Several commenters suggested that EPA use approaches, such as direct monitoring, other than modeled exposure estimates. While appealing, it is not feasible to directly measure exposure to ambient arsenic. In a heavily populated area such as El Paso or Tacoma, a large number of monitors would be necessary. Perhaps as many as 50 to 100 monitors within 50 km (31 miles) of the plant would be needed to determine the concentrations to which persons living near a source are exposed, since exposure will vary with distance and direction from the plant. Furthermore, air quality monitors cannot predict potential ambient concentration reductions due to a certain control option, or past or future concentrations. Conversely, dispersion models can be used to estimate time variations in exposure and to predict exposure under any emission control scenario.

Based on the Agency's present level of knowledge, EPA also has rejected the use of urinary arsenic concentrations as a measure of public exposure to smelter emissions or lung cancer risks and for developing Section 112 regulations. The primary reason is that urinary arsenic levels and how they relate to adverse effects such as cancer are not well understood, although we do know they reflect many factors in addition to the inhalation of arsenic. Arsenic in food and drinking water can account for increases and decreases in urinary arsenic concentrations. Individual metabolism and age also can cause variations in the amount of arsenic excreted. Thus, at low dose levels urinary arsenic levels cannot be used to estimate exposure to air emission sources only, because other sources of exposure contribute in unknown degrees to arsenic concentrations in urine.

Furthermore, an attempt to determine exposure to the population within 50 km (31 miles) of an inorganic arsenic source using urinary arsenic measurements would not be feasible. The analysis procedure would be relatively expensive and time consuming; to get a good "map" of exposure, one would have to measure urinary arsenic levels in many individuals living at many different locations at different times of the year under a variety of meteorological conditions. Dispersion and exposure modeling, despite its drawbacks, is a much more practical approach.

As discussed earlier, increased health risk to residents in an area surrounding a source cannot be measured directly either. Epidemiological studies have revealed an association between occupational exposure to ambient arsenic and lung cancer, but such associations are not readily measured in the general public because of the presence of many confounding factors. These include the public's greater diversity and mobility, the lack of consolidated medical records, lack of historical exposure data over each individual's lifetime, public exposure to many carcinogens besides inorganic arsenic, and the long latency period of cancer. Because of such factors, increases in cancer observed in the public can rarely be assigned to a specific chemical or emission source. Therefore, public risk is estimated by using an exposure/risk relationship developed from epidemiology studies. The Human Exposure Model (HEM) uses air dispersion and population models to estimate exposure, and then applies the exposure risk relationship to calculate risks. These assessment procedures are the only tools currently available to EPA for making such estimates.

Risks from other potential inorganic arsenic-related health effects were not modeled. For example, skin cancer also has been associated with inorganic arsenic when exposure occurred through ingestion or dermal contact. Health effects other than cancer which could result from chronic, low-level exposure to inorganic arsenic have not been well documented. These effects have not been consistently observed where exposure/risk relationships can be established. For this reason, health risks other than lung cancer cannot be quantitatively estimated or modeled. The potential for risks of other unknown health effects is considered by EPA to the extent possible during the decisionmaking procedure. It is not clear that these other effects are occurring at workplace exposure levels and, as best as can be determined, they do not occur at levels of public exposure.

Although a number of commenters had assumed that measured ambient arsenic concentration data provided the best means of calculating exposure, the Natural Resources Defense Council (NRDC) and the Attorney General's Office of New York questioned the reliability of either EPA's Or ASARCO's ambient data. The NRDC mentioned that the ASARCO monitoring program had a number of uncertainties such as the untested correspondence between the ASARCO air sampler (low-volume filtration) and EPA's air sampler (high-volume filtration), and the lack of a quality assurance program. New York questioned the reasons for changes in the measurement technique used by EPA for establishing mass of the collected arsenic and thought that the Agency's analysis was designed for measuring only certain inorganic arsenic compounds and not all arsenic compounds.

To measure the atmospheric concentrations, the Agency first collects or "captures" arsenic onto or into some medium from which analytical techniques can determine the mass of the collected arsenic. Both ASARCO and EPA use devices that draw the air through a filter to capture the ambient particulate matter and then analyze the amount of arsenic in the filtrate. The concentration of arsenic is calculated by dividing the measured mass of the pollutant of the filter by the measured volume of air that passed through the filter. Portions of the commenters' concerns centered on one of the two phases of atmospheric measurement (sampling or analysis) described above.

In the early 1970's, limited research indicated that some if not a substantial amount of arsenic was not being collected by either the high- or the low-volume sampler's filters. More recently, ASARCO conducted a more extensive test of their low-volume air sampler's collection efficency. The collection efficiency test was performed by adding arsenic gas phase collection devices behind the filter. The EPA and the Puget Sound Air Pollution Control Agency (PSAPCA) reviewed the study results and determined that the data provided evidence of the reliability of the low-volume sampler to collect arsenic. Although the data showed that the device was not 100 percent efficient (no collection device can be), generally more than 90 percent of the airborne arsenic was collected by the filter and consequently, less than 10 percent of the arsenic was collected by the impingers.

However, some of the arsenic data used in the risk assessment was collected using high-volume samplers. In addition to the impinger studies, ASARCO, in conjunction with the State of Montana, conducted a comparison study between the low-volume and the high-volume air samplers. This study indicated that the two devices provided measurements that were highly correlated. the concentrations measured

by low-volume air samplers were about 18 percent higher than those measured using high-volume samplers; the low-volume samplers' data ranged from 4 to 33 percent higher than the high-volume sampler's data. The two sampling techniques are statistically different at the 90 percent level. Thus, the combination of the two studies, the ASARCO/Montana study and the ASARCO impinger study, provide evidence to the Agency that for purposes of the inorganic arsenic risk assessment the high-volume air sampler data have adequately measured the amount of arsenic in the atmosphere.

Regarding the second phase of measurement (analysis), EPA has changed the analytical techniques used over the years. The objective of switching techniques was to improve sensitivity and accuracy, and the Agency has generally been successful in doing so. However, the commenters should note that both the Agency's and ASARCO's routine analyses measure elemental arsenic; it is more difficult to provide analyses on individual species of arsenic compounds such as arsenic trioxide or the trivalent arsenic compounds than the elemental concentrations. Also, when measuring total elemental arsenic, the Agency uses a quality control/quality assurance program to assure the best data possible.

Based on the available company data and some limited monitoring data collected at nearby sites, the Agency believes that both ASARCO and EPA arsenic data have some measure of uncertainty, but may provide more reliable information than the air dispersion modeling. For these reasons, the Agency followed through on the commenters' suggestion to check air dispersion predictions against available air quality data and this has been done where the data would provide meaningful comparisons.

Risk Management

Risk Management Approach

Several comments focused on whether the proposed inorganic arsenic standards provide an ample margin of safety as required by Section 112. These comments either directly or indirectly address the Agency's position that a Section 112 regulation can permit some level of residual risk and still provide an ample margin of safety to protect public health (see the Overview—Basis for Promulgated Standards section of this preamble for the full statement of the Agency's position). A significant number of those who commented on this issue felt that the proposed standards were entirely inadequate to provide this "ample margin of saftey." Opposing views were held by other who felt that the proposed standards were adequate to protect the health of the citizens living in the local communities.

According to several commenters, the Agency should establish a level of health risk resulting from exposure to hazardous pollutants that it considers to be acceptable. For instance, commenters felt that maximum individual risks above 1 in 1,000 were unacceptable. Some felt that risk levels below 1 in 100,000 or 1 in 1,000,000 could be considered negligible. In addition, many commenters felt that the emission standards for arsenic should be set at a zero level or at a level which would result in no deaths (zero risk); however, other commenters felt that a zero-risk standard was not possible or needed. Some said it would be difficult or impossible to determine an acceptable level of risk, while others said that EPA should determine an unacceptable level of risk before promulgating a regulation.

Many commenters sought a framework for determining the acceptabilty of the estimated risks. They suggested that comparisons of risk levels to those associated with other societal and environmental factors might be appropriate. Both voluntary risks (such as those associated with smoking) and involuntary risks (such as the risk of being struck by lightning) were suggested as a basis of comparison.

Many of these commenters, in effect, are advocating that EPA establish a target, or maximum permissible, risk level for setting standards under Section 112. Under this approach, a fixed numerical risk or expected cancer incidence rate target could be used in determining the degree of control required for carcinogens. Although EPA finds the concept of an established "acceptable" risk level appealing, it suffers, from several drawbacks. First, the Agency perceives there would be substantial difficulty in determining such levels. This perception was borne out by the wide range of opinions on what constituted acceptability in the minds of the commenters. Second, although current quantitative risk assessment techniques for chemical carcinogens are useful decisionmaking tools, considerable uncertainties are associated with these techniques at their current stage of development. Consequently, the Administrator believes that in using quantitative risk assessments, he should generally be free to consider that actual cancer risks may be significantly above or below those predicted by the estimated procedures, and not bound by a fixed target. Third, a fixed target level fails to provide the flexibility necessary for an appropriate response. For example, where risks could be reduced beyond the target without significant costs, that should be permitted. Likewise, where attainment of the risk-based goal would eliminate a highly beneficial or necessary activity, the decisionmaker should be able to consider less stringent standards. The EPA agrees with those commenters who perceived that specific acceptable risk levels are very difficult to set and are not reasonable as a basis for regulation. After reflecting on the various points presented, the Administrator supports the concept of reducing public risks to the extent possible considering the uncertainties and technical feasibility, and the environmental, economic, energy, and other impacts on society and industry. (See Basis for Standard sections of this preamble for a discussion of how these factors were specifically used to select the level of control in the final standards.)

The EPA understands the desire of the public to seek a reference for relating to the estimated risk levels associated with inorganic arsenic source categories. The EPA believes that comparing the estimated increased lung cancer risk associated with inorganic arsenic source categories, as seen in other sections of this notice, to national lung cancer rates provides a useful perspective (see Table II-1).

TABLE II-1.—NATIONAL CANCER AND LUNG CANCER RATES—ALL AGES (1982)[a]

	Annual deaths per 100,000[b,c]	Percent of total deaths[b]
Malignant neoplasms of respiratory and intrathoracic organs	50.2	5.8
Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues (cancer—all forms)	186.1	21.6

[a] Source: "Monthly Vital Statistics Report," National Center for Health Statistics, Vol. 31, No. 13, October 5, 1983.
[b] Based on a 10 percent sample of deaths.
[c] Rates are not age-adjusted.

Basis for Proposed Standards

Many commenters objected to EPA's setting standards based on "best available technology" (BAT). Commenters felt that basing standards on BAT placed too much emphasis on nonhealth issues such as technology, economics, and affordability. They stated that under section 112 the protection of public health, not costs or the availability of technology, is the primary consideration in developing standards. A few commenters objected

to the BAT approach because it provided no incentive on the part of industry to develop improved control technology. On the other hand, several commenters favored basing a standard on BAT, calling it a reasonable, logical approach. They felt it was a reasonable approach when considering uncertainties associated with estimating public health risks. They also felt that economic data are important and must be considered in setting standards under section 112. Some commenters noted that basing standards on BAT may allow for continued improvement. As a new technology becomes available and economically feasible, commenters thought it appropriate to require that technology for control of emissions.

Comments received on the risk management approach described in the July 29, 1983, notice of proposal suggested that many do not believe that the approach sufficiently considers protection of public health. Evidently, some commenters saw the selection of BAT as the final step in the decisionmaking process. Also, there seemed to be some level of misunderstanding as to what BAT represented and some confusion between BAT and similar terms used in other EPA programs, such as "best available control technology" (BACT) found in the Prevention of Significant Deterioration program and "best available technology" (BAT) in the water program.

Several commenters either interpreted the meaning of BAT in terms of a level of control that would force further development of control technology or desired the Agency to adopt this definition. This perception is not, however, consistent with EPA's proposed definition of BAT applied to inorganic arsenic control. Under EPA's definition at proposal, BAT was an available, feasible, and affordable technology. An option which would be technology-forcing and which might require plant closure if the technology does not evolve was defined as beyond BAT. However, commenters who are concerned that technology improvements will bypass EPA's regulation are reminded that the Agency's activities do not stop with the promulgation of standards; EPA will periodically review today's regulations and revise them appropriately in light of improved control technologies.

In addition, several commenters responded to EPA's suggestions regarding alternative strategies for using exposure/risk information to determine best available technology (BAT) for low-arsenic primary copper smelters. The BAT policy upon which the proposed decision was based gave limited weight to exposure and risk information and substantial weight to the economic feasibility of installing technologically available emission controls. The Agency sought public comment on the degree to which exposure and risk information should be used to establish BAT and, in doing so, presented two alternative strategies. Under the first alternative, called the population density approach, EPA would subdivide the source category on the basis of population density (a surrogate for public exposure) near each source before determining BAT. Sources would be put into a "high" or "low" population density category and BAT would be determined for each subcategory of sources. Under the second alternative, the risk-based approach, EPA would place sources into "high" or "low" risk categories based on consideration of the combination of estimated maximum individual risk and the annual incidence estimates. Again, BAT would be determined for each source group.

One commenter felt that under both of EPA's alternative approaches for determining BAT for low-arsenic copper smelters, EPA was making the protection that an individual deserves a function of the number of people at the same level of exposure. He, along with three other commenters, said that the population density approach had the potential for causing people in sparsely populated areas to be exposed to higher risk than people in cities. Under the risk-based approach he said a person could be exposed to shockingly high risks unless there are many people in a similar situation. He stated that the Clean Air Act does not authorize such inequitable distinctions.

Two commenters rejected both alternatives by saying that, although the cost factors associated with regulation may be excessive for smaller sources, EPA should establish required controls for the entire industry to regulate more effectively environmental pollutants. One suggested that if such an approach was going to drive somebody out of business, that individual should petition Congress and let Congress decide whether that is an unacceptable tradeoff between risk reduction and the cost of compliance. Another said that once a standard is set, penalties should be imposed for violations that are stiff enough to make compliance economically worthwhile.

Although they wanted risk information to be used in a more significant way in determining BAT, the Office of Management and Budget (OMB) was not supportive of either alternative approach presented by the Agency and said that the stepwise process of classifying sources (based on risk or exposure data) into subcategories and then determining BAT (based on technology and costs) produces inconsistent results. The OMB argued that one of the most important factors, risk reduction, could not be considered in the subcategorization process, and plants may be required to apply controls that are "too little" or "too much" in light of the reduction in public risks. Thus, for each plant, EPA would be unable to balance the effectiveness of all control options in light of likely public health gains and costs of achieving further control. The OMB went on to suggest that EPA should establish BAT in one step where the decision criteria, reduction in public health risks and costs of further controls, can be considered and balanced at the same time. If exposure and risk were considered in the process of subdividing the source category for purposes of establishing different levels of BAT, then the selection of BAT based on cost effectiveness of reducing emissions would serve as a reasonable estimate of the cost effectiveness of reducing public exposure and risk. Another commenter agreed with this basic concept, but suggested that EPA discontinue the BAT approach and use the one step that considers risk, risk reduction, available controls, and costs when making decisions to regulate each source category.

Two commenters supported EPA's proposal to subdivide low-arsenic primary copper smelters based on cancer incidence and health risk data. One felt that a more uniform risk criterion should be established for regulating each source category and preferably for each carcinogen. In fact, the commenter said, in the case of inorganic arsenic abundant risk information is available, providing confidence that safe levels can be prescribed. Risk information should play a more significant role in establishing BAT.

Three commenters disagreed with EPA's cancer incidence and health risk based approach as an alternative strategy. One felt that this approach would be based on unreliable risk estimates. Two other commenters shared his concern and stated that this regulatory alternative also suffers from other serious problems, such as the intentionally conservative assumptions in calculating risk which distort and exaggerate the risk estimates. The high risk etimates place sources in the high

risk category when, in actuality, they do not need further controls.

The OMB noted that most of the public health gains projected from the proposed rules would result from control of emissions at a distinct subset of plants. For example, control of secondary emissions from converter operations at three smelters accounts for 88 percent of the total cancer reduction for low-arsenic copper smelters but only 34 percent of the total control costs. The commenter pointed out that an alternative regulatory strategy that emphasizes the effectiveness of further controls on a particular subcategory of sources could achieve most of the health gains at a substantially lower cost.

One commenter suggested modifying the BAT approach to include a graduated risk approach for regulating existing sources. Under this approach, the lowest achievable emission rate (LAER) would be required for sources with risk levels exceeding 1,000 in one million; BAT would be required for sources with risks between 1,000 in a million and 1 in a million; and no NESHAP regulation would be required for sources with risks less than 1 in a million. The commenter also said that if EPA does not have the confidence in its risk assessment figures to set such risk levels as firm standards, then acceptable risk levels should be set as goals to be considered in the regulatory decisionmaking process.

The Agency carefully considered the above comments. Generally, there was not a strong support for either of EPA's suggested alternative approaches, and the variety of other approaches offered indicated that the public perceived major flaws in the Agency's proposed BAT subcategorization approach as well as the suggested alternatives. Based on EPA's experiences with benzene and now inorganic arsenic, the Administrator agrees that the BAT approach and its stepwise procedures are inflexible and make it difficult to weigh all the important factors at the appropriate point in the decisionmaking process.

When the Agency began formal dialogue with the public on many of these issues by proposing the air carcinogen policy in 1979 (49 FR 58642), the BAT concept was the keystone to EPA's strategy. The Agency realized that it was necessary to have a technical portion of the decisionmaking process that considered what control technologies were available and could reasonably be applied to the source category being considered for regulation. The Agency was desirous of applying a similar control requirement for most or all of the sources within the category. However, as EPA reviewed the public comments on the carcinogen policy and gained more experience with specific pollutants such as inorganic arsenic and benzene, the shortcomings of the BAT approach became more apparent.

As highlighted by the wide range of estimated risks, existing controls, and affordability for individual plants in the primary copper smelter category, the proposed and the suggested BAT approaches would in certain cases place individual sources into subcategories that, on balance, would be inappropriate. There were several reasons for this. Each of the step-wise approaches tended to downplay at least one significant piece of information. For example, the commenters pointed out their concern that a small number of people being subjected to very large unacceptable risks were not going to be appropriately protected. With the risk-based alternative regulatory strategy, a hypothetical source with very high individual risks and very low annual incidence would not be regulated.

Also, the process of selecting a cutoff, that is, an emission, risk, cost or other parameter that would separate sources into one subcategory or the other, places a large burden on the Agency when there are a number of sources near the cutoff value. Uncertainties in EPA's analysis (which may be considerable) makes the task difficult to reasonably separate sources into two subcategories. An example would be a source that narrowly fell into the low risk category but could easily afford to substantially reduce its emissions and risk. It may be reasonable, upon further scrutiny of the risk information, to regulate this source, although a straightforward application of the BAT decisionmaking routine would not require further controls. For these reasons and the reasons given in the discussion of the current approach, the Administrator has come to the conclusion that the Agency cannot, at this time, establish a mathematical formula that will accommodate all the relevant factors of managing public risk.

Therefore, the Administrator has decided to move away from the BAT approach and refine the decisional procedure into a simple one-step process designed to reduce unacceptable risks with as little social or economic disruption as possible.

As can be seen when comparing the risk management description in today's promulgation to the one given in the proposal, the term "BAT" has been removed. This change reflects more than just a revision in terms; it is a refined approach used in selecting the final control option as a basis for the Section 112 regulation. Instead of the previous multi-step process, this approach incorporates an amalgam of elements of the BAT residual risk approach combined with elements of the two risk-based alternatives set forth in the proposal. Under each control option, the residual risks were considered along with other important factors such as risk assessment uncertainties, economic and environmental impacts, and affordability. With this approach, there is no separate step for determining BAT or for examining the reasonableness of the residual risks. Rather, these are combined into a single selection process which involves considering possible control options and the technical, economic, public health, and other implications of each option. This refinement, the Administrator believes, is both rational and consistent with the intent of section 112, and it responds to many concerns of the commenters.

There are certain factors that must be evaluated, and they will remain in any process for selecting the appropriate control option. For instance, has the control technology been demonstrated at other installations as a means to reduce emissions? If required, can the control device actually be used safely on the process or the stack gases? Will the control technology create new problems such as increased pollution in another medium such as the water or land? Is the control technology so expensive that its application will shut down a large portion of the plants within the source category? In summary, there is no one consistently overriding factor in the evaluation of whether to regulate a given source category or sources within the category; rather, a more flexible approach is used to weigh the effects of regulation in a given situation. Under both the proposed BAT approach and the current risk management approach, EPA has considered and will continue to consider these technical and economic factors as part of the selection of the appropriate level of control.

Consideration of the OSHA Standard

A number of commenters compared measured or predicted ambient inorganic arsenic concentrations to the OSHA permissible exposure limit of 10 $\mu g/m^3$ in an attempt to show that exposure to ambient inorganic arsenic concentrations below 10 $\mu g/m^3$ would cause insignificant health effects. However, EPA believes that it is inappropriate to make such comparisons for several reasons.

For example, there is a difference in the averaging times of the concentration

values used by OSHA and EPA. The OSHA standard is based on an 8 hour time-weighted average for occupational exposure, while EPA's concerns are with long term average (lifetime) community exposures. For instance, a 10 $\mu g/m^3$ exposure for 8 hours per day, 5 days per week, 50 weeks per year and 45 years over a lifetime equates to a continuous lifetime exposure of less than 1.5 $\mu g/m^3$. This example demonstrates that on a technical basis, direct comparisons cannot be made between EPA's estimated long term pollutant concentrations and the OSHA standard.

In addition, OSHA did not conclude that the 10 $\mu g/m^3$ level it set left only an insignificant risk. Rather, OSHA concluded that the level it set was the lowest feasible level, and that a significant risk remained to employees at that level. It stated:

> OSHA also concludes, based on the estimates from the risk assessments and the dose-response demonstrated in many of the epidemiology studies, that a 10 $\mu g/m^3$ exposure limit, *the lowest level feasible*, together with the industrial hygiene provisions in the arsenic standard are necessary and appropriate to significantly reduce the health risk . . .
>
> Finally, OSHA concludes that the new inorganic arsenic standard setting exposures at 10 $\mu g/m^3$ does not reduce the risk of the exposure to inorganic arsenic below the level of significance. (48 FR 1867, January 14, 1983). OSHA added,
>
> The linear model estimates a risk level of 7.7 to 10 excess cases of cancer per 1000 exposed workers at the 10 $\mu g/m^3$ limit. OSHA's preliminary conclusion is that significant risk is not eliminated at this risk level and that a reasonable person would take steps to reduce it if feasible (48 FR 1902).
>
> OSHA has clearly stated their judgment that the risk level associated with their 10 $\mu g/m^3$ standard is significant and that their standard is based on the limit to which feasible engineering and work practice controls can reduce the workplace concentrations. For these reasons, the use of the OSHA standard as a reference or target concentration for the protection of public health under the Clean Air Act is inappropriate.

III. Primary Copper Smelters

As indicated in the Overview section of this preamble, on July 20, 1983, EPA proposed standards in the **Federal Register** (48 FR 33112) for inorganic arsenic emissions from low- and high-arsenic primary copper smelters. The public comment period for the proposed standards, which was extended twice at the request of members of the public, ended on January 31, 1984. The public comment period was later reopened on September 20, 1984, to allow comment on EPA's analysis of new information on emissions and costs for low-arsenic smelters. This comment period ended on November 5, 1984.

At the time of proposal, the low-arsenic smelter category included 14 smelters and it was estimated that the proposed standard would affect six of the smelters. The high-arsenic smelter category only included and affected the smelter owned and operated by ASARCO, Incorporated, located in Tacoma, Washington. On June 27, 1984, ASARCO announced plans to close its primary copper smelting operations at Tacoma, Washington, by June 20, 1985; and subsequently ceased copper smelting operations at Tacoma. Because of this, EPA is withholding further action on the proposed standard for existing high-arsenic primary copper smelters. The EPA will continue to monitor ASARCO's actions and will reconsider the need for a separate standard applicable to existing high-arsenic smelters if there is evidence that ASARCO-Tacoma will resume copper smelting operations. However, even in the absence of a specific high-arsenic smelter standard, the standard being promulgated today would apply to the Tacoma smelter if copper smelting operations were to resume. Today's standard is applicable to all existing and any new primary copper smelters.

This part of the preamble presents the final standard, its basis, and a discussion of public comments on the proposed standards. The discussion of comments includes comments made on the proposed standard for high-arsenic smelters that are also pertinent to the proposed standard for low-arsenic smelters, as well as comments made on the proposed standard for low-arsenic smelters.

Summary of Promulgated Standard

Applicability

The standard that is being promulgated today applies to each existing and new primary copper smelter. For all copper smelters, the standard requires monitoring, recordkeeping, and a reporting of average annual inorganic arsenic feed rate to the converters. For all copper smelters with average annual arsenic feed rates to the converters greater than 75 kg/h (164 lb/h), the standard requires control of secondary emissions for the converters. These facilities also are required by the standard to minimize excess emissions during malfunctions and process upsets, to monitor emissions; to maintain specific records, and to report all occurrences of excess emissions.

Standard for Converter Operations

The standard for converter operations remains the same as proposed. The standard requires capture and collection of secondary inorganic arsenic emissions from converter charging, blowing, skimming, holding, and pouring operations. The standard is expressed in terms of equipment and design specifications and work practices for the capture system, and a maximum allowable particulate emission limit for the control device. Equipment and design specifications described in the regulation are intended to ensure that the secondary hood system achieves its maximum capture efficiency. The secondary hood system specifications include: (1) The configuration and dimensions of the hood enclosure must be sized so that the converter mouth, charging ladles, skimming ladles, and other material transfer vessels are housed within the confines or influence of the hood during each mode of converter operation; (2) the back of the hood enclosure must be fully enclosed and sealed against the primary hood; (3) the edges of the hood enclosure side-walls in contact with the converter vessel must remain sealed during each mode of converter operation; (4) the size of the opening at the top and front of the hood enclosure necessary for the entry and egress of ladles and crane appratus must be minimized to the fullest extent practicable; (5) the hood enclosure must be fabricated in such a manner and of materials of sufficient strength to withstand incidental contact with ladles and crane apparatus with no significant damage; and (6) one side-wall of the enclosure must be equipped with a horizontal-slotted plenum along the top, and the opposite side-wall must be equipped with an exhaust hood.

The standard specifies that the horizontal-slotted plenum shall be connected to a fan and the air curtain fan be sized to deliver a minimum of 22,370 watts (30 air horsepower) at the slot. In addition, the converter and the air curtain secondary hood system must be operated at conditions optimum for the capture of secondary inorganic arsenic emissions. The owner or operator must visually inspect the components of the system at least once every month and maintain each converter and associated secondary hood system in a manner consistent with minimizing inorganic arsenic emissions.

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Particulate emissions from the collection device may not exceed 11.6 mg/dscm (0.005 gr/dscf).

Requirements for Periods of Excess Emissions

At all times, including periods of startup, shutdown, and malfunction, the standard requires plant personnel to minimize emissions of inorganic arsenic from the converters and associated control devices to the greatest extent possible. The standard requires the owner or operator to submit a plan for control of emissions during startup, shutdown, and malfunctions of converter and associated emission control equipment. The plan shall include: (1) A systematic procedure for identifying malfunctions and for reporting them immediately to supervisory personnel; and (2) procedures that will be followed to ensure that equipment or process breakdowns due to poor maintenance or other preventable conditions do not occur.

Compliance Provisions

The Standard requires compliance within 90 days of today's date, unless a waiver of compliance is obtained from the Administrator. Waivers can be granted for a period of time needed to install controls to comply with the standard, not to exceed 2 years from today's date. Each smelter that has an average arsenic feed rate to the converters greater than 75 kg/h (164 lb/h), must have installed the required controls within 90 days of today's date to be in compliance, unless a waiver is requested and granted. Most smelters already monitor the arsenic content of feed materials throughout the smelting process and, based on historical data, should know whether they will be affected by the requirement for secondary converter controls. Should any additional smelter in the future have an annual arsenic feed rate to the converters greater than 75 kg/h, the owner or operator of that source must install the required controls within 90 days of the determination, unless a waiver is requested and granted.

The average annual arsenic charging rate to the converters shall be determined each month using the monthly average weight percent of arsenic in feed materials and charging rates to the converters for a 12-month period. The weight percent of arsenic in feed materials will be determined using Method 108A. Compliance with the particulate emission limit for copper converter control devices will be determined using EPA Reference Methods 1 through 5 in Appendix A of 40 CFR Part 60.

Continuous Monitoring

Owners or operators of facilities that must capture and control converter secondary emissions must continuously monitor the opacity of converter secondary emission streams that exit from a control device. The standard requires that reference opacity levels be established for each converter operating mode based on the highest 1-hour average opacity level monitored during a 36-hour evaluation period. Thereafter, occurrences of average opacity levels above the respective reference levels must be reported as exceedances to Administrator along with information describing the cause of the exceedances.

Continuous monitoring of air flow through the converter air curtain secondary hood system's horizontal-slotted plenum and exhaust hood is also required to ensure that the hood system is being properly operated and maintained. Occurrences of air flow rates less than 80 percent of the reference air flow rates must be reported as exceedances along with information on the causes of the exceedances.

Recordkeeping and Reporting Requirments

Owners or operators of source covered by the standard are subject to the reporting and recordkeeping requirements of the standard as well as those prescribed in the General Provisions (Subpart A) of 40 CFR Part 61. Specific reporting requirements of the promulgated standard include: (1) An initial report and subsequent annual reports of the average inorganic arsenic charging rate to the converters at each affected smelter; (2) reports of emission test results to demonstrate compliance with the particulate emission limit for control devices treating converter secondary emissions; (3) for the converter secondary hood systems, quarterly reports of occurrences of air flows less than 80 percent of the corresponding reference flow rate for any converter operating mode; and (4) for converter secondary emission collection devices, quarterly reports of excess opacity readings and the reference opacity levels set at the time the collection device demonstrated compliance. In addition, the owner or operator shall submit a report documenting the evaluation of the opacity monitoring system and the establishment of the reference opacity level.

Records of supporting data for the reports described above must be maintained at the source for a period of 2 years and made available to the Administrator upon request. These records will include the monthly arsenic charging rate to converters in existing and new smelters, and all continuous monitoring data.

Summary of Environmental, Health, Energy, and Economic Impacts

The standard being established today affects existing and new primary copper smelters. It is estimated that only one existing domestic primary copper smelter, the ASARCO smelter at El Paso, Texas, will be required to install control equipment to comply with the standard. No new domestic copper smelters are projected to be built in the next 5 years. This projection is based on EPA's conclusion that in the next 5 years annual copper industry growth in the U.S. will be accomplished by existing primary copper smelting capacity.

The standard will reduce secondary inorganic arsenic emissions from the affected smelter by about 1 to 4 Mg per year (1.1 to 4.4 tons per year). As a result of this reduction in inorganic arsenic emissions, it is estimated that the number of incidences per year of lung cancer due to inorganic arsenic exposure for persons residing within 50 km of the affected smelter would be reduced from 0.38 to 0.29 case per year. The standard would reduce the estimated maximum lifetime risk from exposure to airborne inorganic arsenic at the affected smelter from 1×10^{-3} to 8×10^{-4}. The estimated maximum lifetime risk represents the probability of a person contracting cancer who has been exposed continuously during a 70-year period to the estimated maximum long-term inorganic arsenic concentration due to emissions from the smelter. These estimated health impacts were calculated based on a number of assumptions and contain uncertainty as discussed in Appendix C of the BID for the promulgated standard (EPA–450/3–83–010b).

Application of the controls required would slightly increase the amount of solid waste handled by the smelter. The additional solid waste can be easily handled by ASARCO-El Paso. The standard also does not create any direct water pollution impacts, since the control system used at ASARCO-El Paso is a dry system (a fabric filter collector). The standard will increase electrical energy consumption by approximately 2000 MW, or approximately 0.1 percent above plant energy requirements without the standards.

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Capital and annualized costs of complying with the standard are estimated to be about $1.85 million and $379,000, respectively. The primary economic impacts associated with the standard are projected decreases in profitability for the ASARCO-El Paso smelter if costs cannot be passed through. If the costs are passed forward in the form of a price increase, it is estimated that the final standard would result in a 0.3 percent increase in the price of copper. No plant closures are anticipated to result from this standard.

Significant Changes Since Proposal

Since proposal of the standard, a number of major and minor changes have been made. Significant changes have been made to the applicability of the standard, the opacity monitoring requirements, and the requirements for control of matte and slag tapping emissions. In addition, requirements for control of excess emissions during malfunctions and upsets have been added. The bases for these changes are discussed in the Basis for Standard and Discussion of Comments sections of this part of the preamble. The changes are summarized below.

Applicability of Standard. The standard is now applicable to new and existing primary copper smelters. The proposed standard was applicable to new and existing low-arsenic primary copper smelters, and a separate standard was proposed for high-arsenic smelters. The standard for converter secondary emissions now applies to all converters where the average annual arsenic feed rate to the converters is 75 kg/h (164 lb/h), or greater; the proposed level was 6.5 kg/h (14 lb/h). At proposal, it was estimated that six smelters would be required to install controls to comply with the standard. The final standard is expected to affect only one existing smelter in this manner.

Control Requirements for Matte and Slag Tapping Emissions. The standard no longer includes provisions requiring application of emission control to matte and slag tapping operations.

Requirements for Periods of Excess Emissions. Provisions have been added to the standard that require steps to be taken to minimize emissions during malfunctions and upsets and that require operation and maintenance of converters and associated air pollution control equipment in a manner that avoids preventable malfunctions.

Test Methods and Procedures. The equation for calculation of the converter arsenic charging rate was revised to clarify that all converters operating at a smelter are considered in the calculation of the arsenic charging rate and that applicability is not determined for each converter separately. This revision was made to clarify the calculation method and the basis for the cutoff, and does not represent a substantive change in the method of determining applicability. The revised equation calculates converter arsenic charging rates in a manner that is consistent with the method used to calculate the rates presented in Table III–1, given later in this notice.

Opacity Monitoring. The proposed standard required reporting of all 6-minute average opacity levels greater than the 97.5 percent upper confidence level of a normal or log-normal distribution of the 6-minute average opacity levels monitored during the emission test. This requirement has been revised to require establishment of reference opacity levels based on the highest 1-hour average opacity level monitored during a 36-hour evaluation period. The evaluation period will include the time period during which the emission test for the control device is conducted. Occurrences of 1-hour average opacity levels above the reference level must be reported as excess emissions.

Recordkeeping and Reporting. The proposed requirements were redrafted to clarify some requirements, to improve the organization of the sections, and to add additional requirements. New recordkeeping and reporting requirements added include maintenance of a record of malfunctions and all actions taken to reduce emissions until the problem is corrected; and reporting of any changes in the operating conditions of the emission capture system, control device, or the building housing the converters that might increase emissions. In addition, exceedances of opacity and air flow rate reference values are now to be reported quarterly instead of semiannually.

Additional Analyses

Because of public comments, EPA has conducted additional analyses to ensure that the final rule is based on the most complete and accurate information available. These additional analyses include revision of emission estimates, revision of dispersion modeling and risk assessments, and additional cost and economic impact analyses. The scope of these additional analyses is summarized in the paragraphs below. The conclusions are presented in the Discussion of Comments section of the preamble and are discussed in detail in the BID for the promulgated standard.

Emission Estimates

Since proposal, EPA has refined its estimates of process and fugitive emissions for the 14 primary copper smelters. These revised estimates are based either on additional information on the emission inventory or on refinements in emission estimates.

Analysis of additional information provided by copper companies for eight smelters concerning arsenic inputs, distribution, emissions, and baseline controls resulted in significant revisions to converter secondary emission estimates at seven smelters. Comments that prompted the additional analyses of emission information for these eight smelters and EPA's detailed responses are included in the BID for the promulgated standard (EPA–450/3–83–010b) along with comments received on the revised emission estimates. These comments and responses also are summarized in the Discussion of Comments—Emission Estimates section of this preamble.

The EPA also reviewed the emission estimates for the remaining low-arsenic smelters and made minor adjustments as necessary. These adjustments primarily reflected refinements in assumptions and calculations concerning distribution of arsenic between primary and secondary emission sources. These revised emission estimates are also presented in the BID for the promulgated standard.

Dispersion Modeling

At the time of proposal, EPA recognized that the estimates of public exposure to inorganic arsenic emissions from the 14 low-arsenic copper smelters needed improvement. In particular, it was known that uncertainties in emission estimates, particularly the estimates of fugitive emissions and other information used in dispersion modeling, could contribute to significant errors in estimates of ambient concentrations. Because of the recognized uncertainties in the information used in the dispersion modeling studies, EPA undertook to improve the dispersion modeling results. The EPA reviewed emission sources and quantities used as inputs to the HEM at proposal to make quantitative estimates of public exposure, current risk, and probable risk reduction resulting from application of controls. Input parameters for each smelter were revised based on results of the reanalysis of emission estimates and upon best available meteorological data for each site. The model was applied to the revised set of input parameters for each low-arsenic throughput smelter and new arsenic

dispersion estimates were obtained. The revised modeling results predicted ambient concentrations at distances up to 50 km (31 miles) from the smelter. The procedure used to estimate health risk is described in Part I of this preamble, Risk Management. Further, more sophisticated modeling of arsenic dispersion was performed for two of the smelters, as discussed below.

At the plant sites of Douglas, Arizona (Phelps Dodge), and El Paso, Texas (ASARCO), EPA performed more detailed, site-specific analyses which included the use of plant meteorological data, consideration of terrain features, and the use of more sophisticated air dispersion models. These two sites were selected because of the availability of on-site or nearby meteorological data. At the other primary copper smelter sites, similar data were not reasonably available.

In its original risk assessment, EPA did not consider terrain effects or the effect of buoyancy of the fugitive emissions escaping from the furnace buildings. Additional dispersion analyses were performed for the El Paso and Douglas sites to examine the combined effect of terrain, downwash, and buoyancy on airborne arsenic concentrations. These analyses are described in Appendix C of the BID and in a report, entitled "Atmospheric Dispersion Modeling of Long-Term Average Arsenic Concentrations in the Vicinities of Four Industrial Plants" (A–80–40/IV–A–12).

The concentration profiles predicted by both the more sophisticated model and by HEM were compared to available ambient data near the El Paso smelter to confirm the model's abilities to provide reasonable estimates of ambient arsenic concentrations. Both air dispersion models generally underpredicted the ambient concentrations at the El Paso site. The EPA expects that the dispersion models could tend to slightly underpredict ambient concentrations since the ambient monitors collect arsenic due to other nearby sources including arsenic that naturally occurs in the soil and from reentrainment of past smelter emissions. These comparisons indicate that the HEM can provide reasonable estimates of ambient concentration profiles and is suitable for estimating concentration of ambient arsenic at the remaining primary copper smelter sites at which the more sophisticated analyses were not used.

At smelter sites other than El Paso, Texas, EPA has compared its HEM predictions of ambient concentrations to available ambient data. Such comparisons were attempted at the Douglas, Ajo, Hayden, San Manuel, and Morenci copper smelter sites. For a number of technical reasons, including a lack of a significant quantity of data, the EPA was unable to make meaningful comparisons except at two sites—El Paso and Hayden. Although the model both over- and underpredicted measured concentrations, generally HEM provided reasonable, for the purpose of risk assessment, estimates of the inorganic arsenic concentrations to which people are being exposed. (The final risk estimates for each plant are listed in Table III–3, presented in the Consideration of Risks discussion.) In addition to the above, EPA meteorologists searched for more representative weather data for each of the smelter sites. For the Garfield, Utah, site, such data were identified and used in subsequent analysis. These analyses are presented in detail in Appendix C of the BID (EPA–450/3–83–010b).

Costs and Economic Analyses

Since proposal, EPA has revised its estimates of the cost and economic impacts to primary copper smelters of applying controls required by the proposed standard. For six of these smelters, copper companies supplied information concerning equipment and costs necessary for compliance with the proposed standard. The EPA reviewed the cost information supplied by the companies and analyzed the differences between these estimates and those made by EPA at proposal. For each of these smelters, EPA reviewed the reasonableness of the assumptions and reevaluated the control costs. The EPA also reviewed the comments of these copper companies on EPA's reanalysis of the control costs. The final estimates of control costs reflect consideration of all comments received throughout the public comment period.

Because of this reanalysis, the control cost estimates for converter operations and matte and slag tapping operations generally were increased over the estimates presented at proposal. Also, an economic analysis was performed for the 14 copper smelters using the revised cost and emission estimates to determine whether the standard would be affordable.

Basis for Standard

As discussed in Part I of this preamble, the risk management approach provides for a comprehensive assessment of candidate source categories, including an evaluation of current and applicable emission control alternatives, as well as the associated health risks, risk reductions, and associated costs and economic impacts. This section describes the application of this approach in the development of the standard for primary copper smelters and the rationale for extension of the standard to any new smelters. The factors considered in the development are discussed under two areas: (1) application of risk management approach including consideration of risks and control options; and (2) selection of final standard.

Application of Risk Management Approach

The standard that is being established today is based on the technology that, in the Administrator's judgment, provides the maximum reduction in risk to public health and is available and can be applied without causing widespread plant closure or imposing costs that far exceed any public health benefit. Accordingly, the Administrator considered a number of factors in selecting the final standard. The factors that were considered included the estimated emission reduction and remaining public exposure to inorganic arsenic, the level of the estimated health risks and uncertainties in these estimates, and the economic impacts of closure. The following sections describe the principal factors considered in this decision.

Consideration of Control Options. There is a range of potential control options that are applicable to low-arsenic primary copper smelters. These potential options are: (1) Converter fugitive emission controls; (2) matte and slag tapping fugitive emission controls; and (3) control of emissions during malfunctions. The evaluations of the potential control options are summarized below.

1. *Converter fugitive emission controls:* The standard proposed on July 20, 1983, would have required installation of converter secondary hoods consisting of horizontal air curtains and exhaust plenum, specific work practices to ensure effective capture by the hoods of converter secondary emissions, and venting of the captured secondary emissions to a control device for collection. A prototype air-curtain secondary hood already installed on the No. 4 converter at ASARCO-Tacoma has been evaluated and found to achieve an overall average capture efficiency of about 94 percent. Based on these test results, EPA estimates that the converter fugitive controls will reduce converter fugitive emissions by 90 percent (if captured emissions are controlled by a collection device with 98 percent efficiency (i.e., 90 percent = 94 percent

× 98 percent)). The potential emission reductions, in Mg per year, for existing copper smelters are summarized in Table III–1. The estimated annualized costs for the converter secondary controls at each of the existing smelters also are given in Table III–1. The estimated cost effectiveness ($/Mg) ranges from about $100,000 to $8 million per Mg at the 14 smelters.

TABLE III–1.—REVISED ENVIRONMENTAL AND COST IMPACTS ASSOCIATED WITH SECONDARY INORGANIC ARSENIC EMISSION CONTROL SYSTEMS FOR CONVERTER OPERATIONS

Smelter	Arsenic content of feed, percent	Arsenic feed rate to converters, kilogram per hour	Potential secondary arsenic emission, milligrams per year	Baseline secondary arsenic emissions, milligrams per year	Predicted secondary arsenic emission reduction, milligrams per year	Annualized control costs, $1,000	Cost per unit emission reduction, dollars per milligram as
ASARCO—El Paso: [1]							
(1)	0.5	98.9	98.3	13.3	[2] 3.7	379	102,430
(2)	0.5	98.9	24.6	3.4	[2] 1.0	379	379,000
ASARCO—Hayden	0.42	83.4	10.2	5.4	4.4	796	181,365
Kennecott McGill	0.033	9.3	10.1	10.1	9.2	2,201	239,240
Kennecott—Hayden	0.015	7.2	6.5	6.5	5.9	2,140	362,710
Phelps Dodge—Douglas	0.03	4.2	4.1	4.1	3.7	2,943	795,405
Inspiration—Miami	0.033	5.7	1.9	1.9	1.7	2,943	1,731,000
Phelps Dodge—Morenci	0.006	1.9	1.9	1.9	1.7	3,432	2,019,000
Kennecott—Utah (Garfield)	0.144	14.7	1.5	1.5	1.4	2,028	1,449,000
Phelps Dodge—Hidalgo	0.003	0.4	0.2	0.2	0.18	1,745	9,694,000
Tennessee Chemical—Copperhill	0.0004	0.7	0.65	0.65	0.58	1,278	2,203,000
Magma—San Manuel	0.006	0.6	0.55	0.55	0.50	3,979	7,958,000
Phelps Dodge—Ajo	0.015	0.8	0.52	0.52	0.47	1,562	3,323,000
Kennecott—Hurley	0.0005	0.8	0.46	0.46	0.42	2,296	5,467,000
Copper Range—White Pine	0.008	0.5	0.30	0.30	0.27	1,278	4,733,000
Total							

[1] El Paso figures represent secondary arsenic emissions based (1) on an emission factor for uncontrolled converter fugitive emissions of 15% of the arsenic contained in the primary converter process gases and, (2) on a 3.75% emission factor. These figures are estimated by EPA to represent the upper and lower bounds of uncontrolled converter fugitive emissions at ASARCO—El Paso.

[2] Emission reduction estimates calculated assuming no additional control by the building evacuation system (BES) of emissions escaping the converter secondary hoods. Some control of these emissions by the BES may occur although the amount of control cannot be determined. To the extent that emissions escaping the converter secondary hoods are controlled by the BES, these emission reductions are understated.

2. *Matte and slag tapping fugitive emission controls:* The standard proposed on July 20, 1983, also would have required capture and control of matte and slag tapping secondary emissions from smelting furnaces with arsenic tapping rates greater than 40 kg/h (88 lb/h). All three smelters above this cutoff have installed localized hoods over matte and slag tapping operations and two have also installed efficient control devices to control the particulate matter emissions. The potential emission reductions and the costs to control the captured emissions at the smelters that are not currently controlling them are summarized in Table III–2. The cost effectiveness of these controls ranges from $330,000 to $7,300,000 per Mg for the 14 primary copper smelters.

TABLE III–2.—REVISED ENVIRONMENTAL AND COST IMPACTS ASSOCIATED WITH SECONDARY INORGANIC ARSENIC EMISSION CONTROL SYSTEMS FOR MATTE AND SLAG TAPPING OPERATIONS

Smelter	Arsenic process rate kilograms per hour	Potential Arsenic Emissions milligrams per year	Baseline Arsenic Emissions milligrams per year	Predicted Arsenic Emission Reduction milligrams per year	Annualized Control Costs $1,000	Cost per Unit Emission Reduction dollars per milligram as
ASARCO—Hayden	98.2	8.5	1.1	0	0	
ASARCO—El Paso	102.1	6.7	0.8	0	0	
Kennecott—Utah (Garfield)	48.4	2.0	2.0	1.7	1,914	1,126,000
Kennecott—Hayden	9.4	0.9	0.9	0.78	257	329,490
Inspiration—Miami	19.8	0.8	0.8	0.68	261	378,260
Phelps Dodge—Douglas	10.4	0.6	0.4	0.32	514	1,606,000
Kennecott—McGill	5.6	0.3	0.3	0.26	257	988,460
Phelps Dodge—Morenci	5.0	0.3	0.3	0.26	514	1,977,000
Phelps Dodge—Hidalgo	0.8	0.05	0.05	0.04	257	6,425,000
Phelps Dodge—Ajo	1.8	0.1	0.1	0.09	257	2,856,000
Kennecott—Hurley	1.6	0.1	0.1	0.09	265	2,944,000
Tennessee Chemical—Copperhill	1.1	0.06	0.06	0.06	257	3,213,000
Magma—San Manuel	1.0	0.06	0.06	0.07	514	7,343,000
Copper Range—White Pine	0.6	0.06	0.06	0.05	257	5,140,000

3. *Control of emissions during malfunctions:* Primary copper smelting operations can experience equipment malfunctions and process upsets that result in increased inorganic arsenic emissions. The effect of process upsets and equipment malfunctions on ambient arsenic concentrations has been demonstrated at the ASARCO-Tacoma smelter, where ambient arsenic concentrations have been monitored at the plant boundary for the past eight years. These monitoring data have shown that arsenic concentrations dramatically increased when increased fugitive emissions were released during upsets of the copper converters and when malfunctions of control equipment resulted in an increase in emissions. Therefore, EPA believes that all reasonably available control measures should be utilized to reduce the impact of malfunctions and process upsets on inorganic arsenic emissions.

The Administrator recognizes that malfunctions cannot be completely prevented. However, there are measures that can be taken to reduce emission rates significantly and to minimize the time during which increased emissions occur due to malfunctions and process upsets. Measures that can be taken to reduce emissions during startups, shutdowns, and malfunctions include repair of malfunctioning or damaged equipment as soon as possible and regular maintenance of potential sources of inorganic arsenic emissions to ensure that preventable breakdowns do not occur.

The emission reduction obtained by using such measures cannot be estimated. Furthermore, the control costs will vary depending on the nature of the malfunctions, specific equipment, and frequency of occurrence of

malfunctions and upsets. However, it is estimated that the costs of a program will be negligible.

Consideration of Risks. In reaching the decision on the standard, the Administrator considered of particular importance the magnitude of the estimated risks and the degree to which estimated risks can be reduced by available control measures. In addition, the Administrator also considered the general public comments on the reasonableness of risks to be an important element in consideration of risks.

Estimated Risk—Current estimated risks and the risks remaining after the application of available control technology for converter secondary emissions are summarized in Table III–3. These calculated risk estimates were developed using the procedure described in Part I of this notice, and a unit risk factor of $4.29 \times 10^{-3}/\mu g^{-m3}$. As shown in Table III–3 for each smelter, estimated maximum lifetime risks before application of controls range from 1.3×10^{-3} to 5.0×10^{-6} and the estimated annual incidence ranges from 0.38 to 0.0001 cases per year. In general, these estimates of risk are lower than those presented at proposal because of revisions to inorganic arsenic emission rate estimates resulting from public comments (for basis of revisions see Discussion of Comments—Emission Estimates).

TABLE III–3.—RISK ESTIMATES FOR PRIMARY COPPER SMELTERS

Maximum lifetime risk	Smelter [2]			Annual incidence, cases per year		
	Baseline × 10^{-4}	Converter Control [1] × 10^{-4}	Reduction × 10^{-4}	Baseline	Converter Control [1]	Reduction
ASARCO—El Paso:						
(1)	10	[1] 6	2	0.38	[4] 0.29	0.09
(2)	[illegible]	[4] 5	1	0.20	[4] 0.18	0.02
	[3] 10	[3] [4] 9	[3] 1	[3] 0.18	[3] [4] 0.16	0.02
ASARCO—Hayden	13	12	1	0.06	0.05	0.01
Kennecott—Garfield (Utah)	0.6	0.6	0	0.14	0.14	0
Kennecott—Hayden	3	0.5	2.5	0.016	0.0054	0.0106
Inspiration—Miami	1.9	1.0	0.9	0.0089	0.0034	0.0035
Phelphs Dodge—Douglas	12	2	10	0.022	0.0081	0.0139
	[5] 0.8	[5] 0.7	[5] 0.1	[5] 0.025	[5] 0.013	[5] 0.012
Kennecott—McGill	4	0.6	3.4	0.006	0.0015	0.0045
Phelps Dodge—Hidalgo	[illegible]	0.03	0.02	0.0001	0.0001	0
Phelps Dodge—Morenci	0.8	0.2	0.6	0.0026	0.0009	0.0019
Phelps Dodge—Ajo	2	1.7	0.3	0.0045	0.0038	0.0007
Kennecott—Hurley	1.2	0.5	0.7	0.0008	0.0003	0.0005
Tennessee Copper—Copperhill	0.6	0.1	0.5	0.003	0.0006	0.0027
Magma—San Manuel	1.6	0.4	1.2	0.0026	0.0017	0.0009
Copper Range—White Pine	1.1	0.15	0.95	0.0004	0.0002	0.0002

[1] Control of converter fugitive emissions by a system consisting of a secondary hood with 94 percent collection efficiency.
[2] El Paso figures represent secondary arsenic emissions based: (1) on an emission factor for uncontrolled converter fugitive emissions of 15% of the arsenic contained in the primary converter process gases, and (2) on a 3.75% emission factor. These figures are estimated by EPA to represent the upper and lower bounds of uncontrolled converter fugitive emissions at ASARCO–El Paso
[3] Risk estimates calculated using site-specific analyses (ISCLT/Valley model) and 3.75% emission factor.
[4] Risk estimates calculated assuming no additional control by the building evacuation system (BES) of emissions escaping the converter secondary hoods. Some control of these emissions by the BES may occur although the amount of control can not be determined. To the extent that emissions escaping the converter secondary hoods are controlled by the BES, these risk estimates are overstated.
[5] Risk estimates calculated using site-specific analyses (ISCLT/Valley model).

Effect of Control Optiona.—As described in the discussion on *Consideration of Control Options*, reductions in fugitive emission rates can be achieved with the air-curtain hoods for converter secondary emissions and controls on matte and slag tapping emissions. (Emission reductions for a malfunction and upset control program cannot be estimated.) Applying controls for converter secondary emissions would reduce the range of estimated maximum risks to between 1.2×10^{-3} and 3.0×10^{-6} from a range of 1.3×10^{-3} to 5.0×10^{-6}. The estimated annual incidence of lung cancer would be reduced to levels ranging from 0.29 to 0.0001 with application of converter secondary controls. (Before application of controls, the estimates of annual incidence ranged from 0.38 to 0.0001.) The application of controls to matte and slag tapping secondary emissions would achieve only negligible reductions in risk. Specifically, application of matte and slag tapping controls in addition to converter controls would not result in any additional reduction in maximum lifetime risk and would reduce the estimated annual incidence of lung cancer to levels ranging from 0.29 to 0.0001 (i.e. essentially no reduction).

Accuracy of Risk Estimates.—Although EPA believes that the use of quantitative risk estimates is an important element of the risk management process, the Agency recognizes and has attempted to make clear throughout this rulemaking that any such estimates contains inherent uncertainties. A part of this uncertainty arises from gaps in the health and technical data bases that (1) Cannot ever be filled; or (2) cannot be filled within the time and resource allocations available. Another part of this uncertainty derives from the simplifying assumptions that must be made to reduce the scope and detail of the analysis to manageable terms. The assumptions necessary to estimate inorganic arsenic health risks and the underlying uncertainties have led some commenters to suggest that the use of risk estimates is inappropriate in regulatory decisionmaking. Although the Agency acknowledges the potential for error in these estimates, EPA believes that, on balance, they are best estimates that the Agency can reasonably provide. Whether the risk estimates are higher or lower than the true risks to the public is unknown; although, in general, many of the assumptions which have been made tend to be conservative and, therefore, tend to ensure that the estimates are not significantly understated.

Selection of Standard

The EPA interprets the requirement of section 112 to establish emission standards at a level which "provides an ample margin of safety" as not implying that these standards must ensure that there is no remaining level of risk. Consequently, the standard being adopted today requires the use of control equipment and work practices that will reduce arsenic emissions and hence risks to the practical minimum. Equipment and work practices

requirements for the capture of converter secondary emissions are being established instead of an emission standard owing to the infeasibility of accurately measuring these emissions (see 49 FR 33132 for discussion of selection of format of the standard).

The standard reflects consideration of the magnitude of the risks, the costs and availability of further controls and associated risk reduction potential, and the potential societal impacts of regulatory alternatives. The consideration of the impacts, in particular, weighed the estimated risks achieved by and remaining after application of controls and their uncertainties against the costs to achieve the emission reduction and the potential for widespread closure. These considerations were described earlier and are summarized below.

The EPA assessed the need for the proposed converter secondary control requirements using the risk estimates and control cost estimates presented in Tables III–1 and III–3. For five of the six smelters that the proposed standard would have affected, EPA concluded that the costs were disproportionate to the risk reductions that could be obtained. Furthermore, the revised economic analysis showed that for two of these five smelters the control costs were likely to result in the smelters remaining permanently closed. The analysis of the converter control requirement also indicated for the sixth facility, ASARCO–EL Paso, that risk reduction could be obtained at a cost that does not present unreasonable economic and social effects. An additional factor considered in the assessment was that secondary hoods will be installed on all converters at ASARCO–EL Paso to comply with requirements in the Texas SIP for attainment of the NAAQS for lead. Since the costs of the controls are reasonable and the control can be implemented now, it is the Administrator's judgment that these controls should be applied at ASARCO–El Paso. Consequently, EPA revised the cutoff to distinguish between primary copper smelters where additional emission control is reasonable and those where additional emission control imposes costs that far exceed any public health benefit. The final standard, thus, requires installation and operation of the air-curtain secondary hoods and the use of work practices to ensure maximum capture of fugitive emissions at facilities where the converter arsenic feed rate is 75 kg/h (164 lb/h) or greater. Based on available information, this cutoff requires application of converter secondary controls only at the ASARCO–El Paso smelter.

The Administrator also concluded that it is appropriate to apply the standard to any new primary cooper smelters having average annual arsenic feed rates to the converters of 75 kg/h, or greater. Although no new smelters are projected to be built in the next 5 years, the standard is being applied to new smelters to ensure that any such sources are controlled. Should any new smelter be constructed, EPA will also evaluate the need for additional emission controls.

The EPA's assessment of the risk reduction achievable through application of controls on matte and slag tapping secondary emissions showed that reductions in annual incidence were less than 0.001 and that essentially no reduction in maximum lifetime risk would be obtained. The negligible reductions in risk are largely a result of the current low emission rates (less than 1–2 Mg per year). In addition, controls on matte and slag tapping operations are required by the Tripartite Agreement for ASARCO–El Paso, and no additional emission reduction would be achieved with a NESHAP requirement. Moreover, it is the Administrator's judgment that controls on matte and slag tapping operations at the remaining facilities would impose costs that are greatly disproportionate to the risk reduction achieved. Therefore, the proposed control requirement for matte and slag tapping operations is not included in the final standard.

The need for requirements to minimize emissions during process upsets and equipment malfunctions was not evaluated using a risk management analysis. Rather, the need was determined considering the availability of preventative measures and the potential for elevated ambient arsenic concentrations during such periods. Since EPA inspections of primary copper smelters identified areas where increased attention to maintenance and operations could minimize emissions due to equipment malfunctions, it is the Administrator's judgment that control measures are available and can be reasonably applied. Because the inclusion of a comprehensive list of all potential malfunctions in a regulation is impractical, the Adminstrator concluded that it would be more effective if the owner or operator were to identify potential malfunctions and upsets and the steps it would take to minimize emissions when they occur. Therefore, the final standard requires each affected smelter to submit a plan for EPA approval that outlines the specific steps that can and will be taken to reduce emissions from converter upsets and control equipment malfunctions. For the purpose of this standard, a malfunction is defined as any sudden failure of process or air pollution control equipment or of a process to operate normally that results in increased emissions of arsenic. A failure of equipment or a process upset caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or equipment breakdown, would be considered improper operation and maintenance. Improper operation and maintenance is a violation of the standard. The provisions pertaining to malfunctions that are discussed above do not excuse such violations.

Discussion of Comments

Comments on the proposed standard were received from copper companies, State and local air pollution control agencies, Federal agencies, environmental groups, the United Steelworkers of America (USWA), and private citizens. A detailed discussion of these comments and EPA's responses can be found in the BID, which is referred to in the ADDRESSES section of this preamble.

In comment letters and hearing testimony, general and specific comments were made on EPA's emission estimates, cost estimates, ambient exposure modeling and risk estimation, achievability of the standard and various technical aspects of the proposed standard. For discussion purposes, the comments have been grouped into the following areas: risk management approach, legal and policy, application of risk management approach, emission estimates, health effects, public exposure and health risk estimates, control technology, costs and economic impacts, monitoring requirements, and compliance provisions.

Risk Management Approach

Comments on the risk management approach include general comments on the methodolgy and BAT approach as well as comments on alternative risk management strategies considered for low-arsenic primary copper smelters. The comments on risk management and BAT approach, and alternative risk management strategies are considered in Part II of this notice, and will not be repeated here.

Legal and Policy

A few commenters argued that the proposed standard attempts to

circumvent Section 112 of the Clean Air Act; and that the regulation should not exempt emissions during startup, shutdown, and malfunctions from the control requirements. The commenters further argued that the regulation should encourage compliance, not provide a means and incentive for circumvention. The regulation has been revised as it applies to emissions during startups, shutdowns, and malfunctions. The final regulation includes maintenance requirements and timely repair of malfunctioning converters and pollution control equipment. The regulation also now explicitly requires that emissions of inorganic arsenic be minimized at all times.

The Sierra Club, State of New Mexico, and NRDC took issue with EPA's reliance on control measures required by SIP's, consent decrees growing out of violations of SIP requirements, and OSHA standards. The commenters thought these requirements were an inadequate substitute for Section 112 standards since the requirements can be amended and have greater flexibility in their enforcement. The Administrator believes that where standards established under separate authorities are effective in reducing emissions, redundant standards need not be established by EPA. The EPA establishes separate standards when there is evidence that either the control measures are not likely to remain in place or are unlikely to be properly operated and maintained. In the case of primary copper smelters, EPA reviewed the SIP requirements, the applicable OSHA standards and agreements, and the emission reductions achieved under these requirements. Based on this review, the Agency has concluded that adoption of redundant EPA standards would result in no emission reduction or other public health benefit beyound that which is occurring (or will occur). The EPA will continue to monitor controls and emissions at the smelters, and the standard can be later revised should this assessment prove to be incorrect.

The Sierra Club also recommended that EPA consider requiring capital investment set-asides that would be available for smelter capital improvements when EPA reviews the standard after 5 years. This would provide smelters that otherwise could not afford controls with a means of affording controls on their operations. The NRDC suggested that some form of financial relief be established to assist communities that are at particular risk from smelter inorganic arsenic emissions. Section 112 of the Act requires EPA to adopt standards that are protective of public health and places the obligation for controlling emissions on the source. The Administrator believes that requirements of capital investment set-asides and financial relief are not authorized by Section 112 of the Act and are beyond the scope of this rulemaking. Furthermore, EPA believes that since historical fluctuations in the price of copper was considered in the analysis of the affordability of controls, such a requirement is not necessary.

In their comments on the revised emission and cost estimates published for comment in the September 20, 1984, **Federal Register** notice, ASARCO, Phelps Dodge, and Kennecott requested that EPA also publish the revised risk estimates for comment. The Administrator considered this request, the extent to which the estimates have changed since proposal, and the potential effect of these changes on the final decision, and concluded that publication of the revised risk estimates for comment is not necessary. Moreover, the Administrator thought that the additional delay in issuance of the standard this would entail would not be in the public interest. Instead, to keep the public informed, EPA placed the revised estimates in the public docket (Docket No. A–80–40) and provided these commenters with copies of the revised estimates and their supporting documentation. The Administrator believes that adequate opportunity for public review of the risk estimates has been provided.

Application of Risk Management Approach

ASARCO and Kennecott commented that EPA's selection of smelters to be regulated at proposal was arbitrary and capricious since different cost-effectiveness cutoffs were used at different facilities. At proposal, smelters were selected for regulation of either converter fugitive emissions or matte and slag tapping emissions based on potential emissions and the costs to achieve the emission reduction. As discussed in Part II of this notice, several difficulties were encountered with this approach and the basis for selection of the appropriate level of control has been revised. Decisions on the level of control are now based on consideration of the risk reduction that can be obtained as well as the costs to achieve that reduction and the economic impacts of the control requirement. The Agency believes that the present risk management approach is consistent with the intent of Section 112, and it responds to many concerns of commenters.

Emission Estimates

On two occasions during the public comment period, EPA published estimates of arsenic emission rates for the low-arsenic smelters. Comments were received from several copper companies on the two estimates. The copper companies' comments on the emission estimates presented in the July 20, 1983, **Federal Register** notice were that EPA had overestimated arsenic emissions from several of their smelters. Comments of this nature were received regarding ASARCO's El Paso and Hayden smelters, Kennecott's Hayden, McGill, and Garfield (Utah) smelters, and Phelps Dodge's Morenci and Ajo smelters.

For each of these smelters, EPA reviewed the information on which the proposal emission estimates were based in light of the comments submitted. Where judged appropriate, revisions to the proposal estimates were made. These revised estimates were presented for public comment in the September 20, 1984, **Federal Register** notice (49 FR 36877). Additional comments were received regarding these revised emission estimates. In general, the copper companies thought that EPA's estimates still overstated the total amount of arsenic being emitted or the amount emitted from the converter building. The EPA reviewed these additional comments and determined that with the exception of Phelps Dodge-Hidalgo, additional revisions to the estimates were not warranted. The final emission estimates for the low-arsenic smelters are given in Tables III–1 and III–2. All of the final estimates of inorganic arsenic emissions are lower than the proposed estimates with the exception of the Kennecott-Hayden estimates, which are unchanged. The primary basis for revision of the estimates is summarized below for each smelter and discussed in detail in the BID for the promulgated standard (EPA–450/3–83–010b).

ASARCO-El Paso: The EPA concluded from a review of comments and supporting documentation that the estimated capture efficiencies for the building evacuation system at El Paso should be increased to 90 percent (from 75 percent) and that less converter secondary emissions may be generated than previously estimated due to use of a computerized gas management system; however, the amount of emission reduction is unknown. Therefore, a range of emission estimates was developed for this smelter, assuming 90 percent capture efficiency and converter secondary emission factors of 3.75 and

15 percent of the converter primary emissions, and was published in the September 20, 1984, **Federal Register** notice. ASARCO's comments on the range of emission estimates did not provide any information on the effect of the computerized damper system on fugitive emissions. Therefore, EPA continues to believe that the range of emission estimates best characterizes converter secondary emissions at ASARCO-El Paso.

ASARCO-Hayden: Based on a review of comments and material submitted regarding the estimates presented in the July 20, 1983, **Federal Register** notice, EPA determined that its estimate of the smelting furnace arsenic volatilization rate should be increased (from 49 to 78 percent), and converter secondary emissions decreased (from 15 to 3.75 percent of the primary converter process emissions). The revised percent arsenic volatilization rate falls within the range of values reported in the literature and is the rate predicted by the furnace designer (INCO) for feed materials used at the Hayden smelter. Additionally, the converter fugitive emission factor was revised to reflect the performance of high-draft primary hoods such as the hoods on the No. 1 and No. 2 converters at ASARCO-Tacoma, which the primary hoods for the converter operations at Hayden closely resemble. Since ASARCO did not provide any rationale for its estimates of 75 to 80 percent capture efficiency for the existing secondary hoods, the original estimate of 50 percent efficiency based on EPA observations was retained.

In their comments on the revised emission estimates, ASARCO disagreed with EPA's assessment of emissions escaping capture by the primary hoods, the capture efficiencies achieved by the existing secondary hoods, and the capture efficiencies air curtain secondary hoods would attain at this smelter. The EPA considered these comments and concluded that to revise the emission estimates further would require inspection of the facility and additional information. Because EPA believes that further reductions in the emission estimates achievable would not affect the standard, EPA decided this effort would not be a productive use of resources and the estimates should not be revised. If EPA were to consider revising the standard so as to cover this facility, the capture efficiency achieved by the existing secondary hoods would be re-evaluated and the specific factors that might reduce the capture efficiency of air curtain secondary hoods would be evaluated.

Kennecott-Hayden: After consideration of Kennecott's comments on the emission estimate for this smelter, EPA has not made any significant changes to the arsenic material balance. The overall arsenic material balance information provided by Kennecott was very similar to the mass balance used by EPA at proposal, with the exception of the estimates of stack emission rates and fugitive emission rates from smelter equipment. Since Kennecott did not identify the basis for their estimated stack emission rate of 0.23 kg/h (0.5 lb/h) and EPA's estimate is derived from emission test data for control devices similar to the device used at this smelter, EPA retained its estimated stack emission rate of 3.2 kg/h (7 lb/h). Further, since the potential reduction in fugitive inorganic arsenic emissions was not quantified by Kennecott, EPA has no basis for estimating the effects of the smelter improvements on fugitive emissions of inorganic arsenic. This smelter is currently closed.

Kennecott-McGill: In response to comments that the proposal arsenic balance was based on atypical concentrates that will not be smelted at this facility in the future, EPA revised the arsenic balance to reflect use of concentrates used by other low-arsenic throughput toll smelters. In comments on the revised estimates, Kennecott reiterated its belief that planned controls for converter fugitive emissions should be considered in determining emissions. The EPA considered this comment and concluded that the planned controls should not be included in the estimate of baseline emissions. Specifically, EPA believes that since the anticipated controls are not included in a Federally enforceable requirement and these controls are not yet firmly enough established to be assumed operational before application of this NESHAP, the control should not be considered in estimating baseline emissions. This smelter is currently closed.

Kennecott-Utah: The arsenic material balance was revised to reflect changes in process operations and more accurate material assays. The smelter arsenic material flow information used by EPA at proposal for developing the arsenic balance was obtained directly from information submitted by Kennecott in 1978 and 1983. In its comments on the estimate presented in the July 20, 1983, notice of proposal, Kennecott supplied a revised balance for the Utah smelter that reflected small changes in process operations and more accurate material assays. In these comments Kennecott also stated that in-house testing demonstrated that the capture efficiency of the converter secondary hoods is more than 90 percent, indicating EPA's estimate of 50 percent capture efficiency is too low. This comment was restated in Kennecott's comments on the revised emission estimates. The final emission estimate for this smelter only reflects the basic changes to the balance suggested by Kennecott. The final arsenic balance and emission estimate retains EPA's estimate of 50 percent capture efficiency by the converter secondary hoods. Kennecott's claim of greater capture efficiency for the converter secondary hoods was not accepted because the analysis failed to consider the other points in the hot metal building housing the converters where emissions could escape to the atmosphere, such as the roof monitor on the hot metal side of the building and windows and doors in the building. The EPA also considered that even if the existing converter secondary hoods were to achieve 90 percent capture efficiency, the difference in the estimate of low-level fugitive emissions would result only in small changes in risk estimates, and would not affect the promulgated standard.

Phelps Dodge-Morenci: The EPA revised the arsenic material balance for this smelter using information submitted by the company after proposal. The revised arsenic distribution is based on recent sampling at the smelter, while the balance presented at proposal was based on a theoretical distribution provided by the company. Consequently, the basic changes were accepted by EPA as more accurately predicting inorganic arsenic emissions and were incorporated into the arsenic balance.

Phelps Dodge-Hidalgo: The EPA revised the arsenic material balance for this smelter using information submitted by the company in their comments on the September 20, 1984, **Federal Register** notice. The revised arsenic distribution is based on the arsenic content of copper concentrates now being processed at the smelter (now 0.005 percent arsenic, or less). Consequently, EPA revised the arsenic balance based on this new information. The revised emission estimate is lower than the estimate presented at proposal.

Phelps Dodge-Ajo: The arsenic balance was revised to reflect the arsenic content of feed materials expected to be smelted in the future and the use of an unmodified reverberatory furnace instead of an oxy-sprinkle modified furnace. These changes were made because of information provided by the company and because of changes

in the consent decree affecting this smelter. The company also thought that the arsenic balance should reflect the fugitive emission controls on matte and slag tapping operations at the Ajo smelter. The EPA did not revise the arsenic balance regarding matte and slag tapping operations for two reasons. First, the fugitive emission controls consist of only an emission capture system (no collection or removal system), so no emission reduction is achieved. Second, the risk modeling already considered the height of release of these emissions.

Other comments on emission estimates were made by the USWA. In its comments, the USWA suggested that no set of emission estimates should be considered final and definitive. The regulation should provide for a continuing examination of inorganic arsenic emissions from all sources at the smelters, in order to identify opportunities for additional control. In particular, the USWA thought that attention should be given to intermittent operations and to process upsets. The EPA agrees that estimations of emissions from a source should not be considered final, and that continuing examinations, as circumstances warrant, should be carried out in order to have up-to-date and accurate emission information on record. It was for this reason that the Agency's estimates at proposal were re-evaluated after receipt of public comments and the revised estimates were published for public comment. Several emission estimates were revised to reflect new information on feed inorganic arsenic concentrations, smelter configurations, and process data. The final regulation was issued after considering the best information available. The regulation will be periodically reviewed after promulgation and changes made as appropriate to account for any new information relating to arsenic emission sources at smelters in this source category. In addition, the final regulation includes provisions that require steps to be taken to minimize emissions during converter upsets and emission control equipment malfunctions.

Health Effects

Phelps Dodge, Kennecott, and ASARCO stated that Section 112 was intended to apply only when emissions pose a significant risk of increased mortality or serious irreversible, or incapacitating reversible illness. Phelps Dodge felt that the evidence presented to EPA has established that inorganic arsenic emissions from U.S. primary copper smelters do not present significant risks. The evidence that the companies presented in support of their position included both (1) community and certain occupational studies that did not detect lung cancer risks associated with exposure levels at or greater than those occurring near primary copper smelters, and (2) evidence that predicted concentrations near the smelter are less than those found in some cities in the U.S.

As discussed in Part II, Risk Management Policy and General Health Issues, of this preamble, this evidence has not proven to the Agency that primary copper smelters pose insignificant or nonexistent risks to the exposed public. (The commenters did not debate that inorganic arsenic exposure was occurring.) The community and occupational studies generally do not have the statistical power to detect significant increases in lung cancer at the exposure levels that are predicted by the Agency's models. Although they did not detect increases in risk, such studies could not conclude with a high degree of statistical confidence that risk increases were not present. By applying the best information available and using a scientifically creditable exposure/risk relationship that was based on occupational data, EPA has estimated increased lung cancer risk to the public surrounding the smelters.

These three commenters also compared the ambient arsenic concentrations caused by the smelter's emissions to the highest arsenic concentrations measured in other places in the U.S. According to EPA's estimates and ambient monitoring data, the maximum concentrations of arsenic to which people may be exposed near smelters ranges from 0.003 to 0.3 $\mu g/m^3$ and the highest annual concentrations reliably reported in areas not affected by smelters occurred in Ohio and Atlanta, Georgia, where concentrations are about 0.01 $\mu g/m^3$. The comparison indicates that arsenic concentrations in most areas are well below the predicted and measured concentrations near copper smelters.

In the Administrator's judgment, primary copper smelters are posing significant risks, but in light of the level of the estimated risks and the impacts requiring further controls, most of those risks are not unreasonable.

Public Exposure and Health Risk Estimates

Commenters on the proposed standards for high- and low-arsenic primary copper smelters expressed both general and specific concerns regarding the exposure and risk estimates for primary copper smelters. The general comments included comments on the linear nonthreshold assumption, the 70-year residence assumption, the air quality modeling out to distances of 20 km (12 miles), and the failure to consider health effects other than lung cancer. The EPA's consideration of these general comments is discussed in Part II, Risk Management Policy and General Health Issues, of this preamble. The responses to specific comments on risk estimates for primary copper smelters are given in this section.

Two commenters who had carefully studied EPA's risk assessment results criticized the fact that the computerized exposure model positioned portions of exposed populations at points where people could not possibly live. For instance, in the Phelps Dodge-Ajo smelter analysis, people had been assigned to uninhabited areas near the smelter such as tailings ponds, slag heaps and waste dumps. The EPA is aware that the computer model may assign exposed people to unlikely places near the smelter. This results from the format of the census data. Of necessity, the census data are provided to EPA in a summarized form so that the data base will not overload computer storage capability. Instead of providing records on the location of each family dwelling, the U.S. Census Bureau gathers a number of people (up to 2,000 people) and locates this group of people at one point called a population centroid. Of course, most if not all of the people in the group do not acutally dwell at this population centroid. Therefore, the computer program, when calculating exposure, considers that groups of people do not live at a single point and, using a preselected formula that more realistically reflects the actual population distribution, assigns people to nearby points on the concentration profile grid. Generally, this approach causes the model's risk estimate for the most exposed person to increase since "spreading" out the population over a broader area increases the likelihood of people being placed nearer points of maximum concentrations. After the risk estimates are calculated, EPA staff review the computer printouts to ensure that the estimation of the risk to, and the location of, the most exposed individual is reasonable. This judgment is based on a study of small-scale U.S. Geological Survey (USGS) maps and discussions with Agency personnel who have visited the plants. For calculating annual incidence or aggregate risk for a large number of nearby people, such careful checking becomes very difficult to perform. When the Agency has attempted to make such corrections in

the modeling, the results have not significantly changed. The computer program simply assigns people in a more reasonable spot where the concentrations may be larger or smaller than at the centroid location. With larger populations, the corrections result in about equal positive and negative changes to the estimated risks and thus balance out. With smaller populations, the Agency reviews the reasonableness of the exposure results and where deemed necessary, makes corrections by hand calculations. The Administrator believes that the risk assessment techniques used as a basis for today's rulemaking produce reasonable exposure and risk estimates given all the other uncertainties that are associated with the risk assessment process.

Phelps Dodge commented that the location coordinates for the Ajo smelter that EPA presented in the background document for the proposed standard are inaccurate. In response, EPA checked its location data on a small-scale USGS map and has made the location correction (less than a kilometer shift in position). The current risk assessment is based on the new location data.

Several of the primary copper smelter companies said EPA should present a table for each smelter that provides the distribution of levels of exposure. (The EPA only showed this information for all smelters as a group, not for individual smelters.) They said that without this information, the public is not able to replicate or check the accuracy of EPA's exposure assessment. Therefore, EPA has expanded its risk assessment portion in the BID for primary copper smelters (and the other source categories as well) and has included in the docket (Docket No. A–80–40) copies of the exposure assessment computer printouts.

Two commenters criticized the appropriateness of meteorologic date EPA used in dispersion modeling. One commenter stated that EPA did not use accurate meteorological data. A representative of Phelps Dodge commented that the Tucson meteorologic data used to model Phelps-Dodge smelters in Ajo and Morenci, Arizona, were from a location over 160 km (100 miles) from these smelters, and the data are not representative of conditions at the smelters. He suggested that local meteorologic data should be used. Another commenter said the model, based on Tucson data, estimates the highest concentrations to the northwest and west northwest of the smelter. The commenter noted that meteorological data show Ajo's winds are primarily from the the south so the highest concentrations should be directly north of the smelter. We claimed areas north of the smelter are largely uninhabited. These two commenters believed using the Tucson data caused overestimation of exposure. One also believed assumptions about atmospheric stability should be avoided, and soundings should be taken at different heights to measure stability.

ASARCO also claimed that the Tucson data were not representative of metorological conditions near its smelter at Hayden. ASARCO commented that Tucson was over 100 km (60 miles) from Hyden, and is in a broad valley; whereas Hayden is mountainous with a narrow valley, so wind patterns would be different. ASARCO also commented that the El Paso smelter is on the other side of a ridge from the meteorologic station EPA used to model that smelter, so the data are not representative. It also cautioned that meteorologic conditions at the elevation of a tall stack may be different from those at ground level. Kennecott commented that the Tucson airport was located too far from their Hayden smelter for the meteorologic data to be representative.

As discussed under the section entitled Additional Analyses, EPA made several efforts to improve the Agency's estimates of risks near primary copper smelters. However, the analysis at only three plant sites (El Paso, Douglas, Garfield) were affected by the improvements. At other primary copper smelter sites, the Agency was unable to obtain more representative meteorological data in a format that could be used by EPA's computer models. These other smelters are generally located in rather sparsely populated areas and are not near a National Weather Service station that would collect and record the necessary surface weather observations. As the commenters point out, the selected surface weather observation (meteorological data) may not be representative of the smelter area. In this case, the Agency must use the best available information to perform its analysis. Therefore, since more representative meteorological data were not available for some smelter sites, EPA tried to obtain ambient arsenic concentrations data for comparison with the modeled exposure estimates. The following discussion explains the basis of the final exposure estimates.

The commenters suggested that the estimated risks at sites where the Agency may be using unrepresentative meteorological data are overstated. When applying the more local or representative meteorological data, EPA's experience has shown that the risk estimates may increase or decrease and because of the complexity of the dispersion and exposure models, the changes are difficult to predict in advance of completing the new analysis.

Several commenters believed the dispersion model overestimates ambient arsenic concentrations. Some commenters said EPA should have measured background arsenic present when smelters were not operating and compared this with ambient arsenic concentrations measured when the smelters were operating to determine the extent to which smelters contribute to ambient arsenic levels. These commenters and others felt EPA should base its exposure estimates on measured ambient concentrations rather than dispersion modeling results.

Some commenters presented ambient monitoring data and compared it to the dispersion model predictions in an attempt to show that the dispersion model is inaccurate. Phelps-Dodge submitted ambient arsenic concentration data obtained using a high-volume air sampler for two periods: January through April 1982 and January through April 1983. Measurements were taken at the Ajo town plaza. During the first period the Ajo smelter was operating normally. During the second period, the smelter was closed. These data were used to arrive at an estimate of 0.0014 $\mu g/m^3$ as the level of ambient arsenic concentration caused by the smelter at the plaza. Phelps-Dodge commented that EPA's model estimated maximum ambient concentrations 150 times greater, and average exposures 40 times greater than these measured concentrations.

Some commenters claimed ambient arsenic levels in Morenci are 10 percent of the levels reported by EPA in the proposed notice. ASARCO submitted quarterly concentrations of arsenic measured using ASARCO's low-volume air sampling network around El Paso and Hayden in 1982 and 1983. The commenters said the mean measured concentration at the Hayden fire station (near the town's population center) is 0.14 $\mu g/m^3$. According to ASARCO, this measurement can be multiplied by 1.67 to yield an estimate similar to that which would be obtained using a high-volume air sampler. ASARCO concluded that EPA's dispersion model estimates a concentration of about 0.417 $\mu g/m^3$ for this location, which is twice the measured concentration.

Some commenters criticized EPA's dispersion model because it does not consider terrain. They said terrain is not

level around copper smelters, in particular Phelps Dodge's Ajo smelter, ASARCO's Hayden smelter, and ASARCO's El Paso smelter. One commenter added that EPA's background document for the proposed standard states that failure of the model to consider terrain will result in underestimation of exposure in areas with uneven terrain. The commenter said this is not always the case. He said measured concentrations in Hayden were lower than modeled concentrations.

As mentioned in the section entitled Additional Analyses, EPA has made serveral changes to improve or check the exposure and risk estimates. (See Appendix C of the BID [EPA–450/3–83–010b] for a detailed presentation of the risk assessment.) In addition to significantly reducing some of the smelter's emission estimates used in the exposure model, comparisons between predicted and measured values have been made to demonstrate the exposure model's potential for estimating ambient arsenic concentrations. Because it generally does not provide a site-specific analysis that accounts for local terrain features and meteorology and because there are other sources that emit arsenic into the atmosphere, EPA expects that exposure model to both over- and underpredict measured concentrations; but, on the average, the model should slightly underpredict the measured values. As a result of a computer data base search, limited ambient arsenic data near the ASARCO-Hayden, Inspiration-Miami, Magma-San Manuel, Phelps Dodge-Ajo, Phelps Dodge-Morenci, and Phelps Dodge-Douglas sites were identified, while at the ASARCO–El Paso site, the Agency located a number of arsenic monitoring sites operated by the State Agency and ASARCO.

For El Paso, EPA's computer exposure model consistently underpredicted concentrations at 20 monitoring sites (included six company sites). At eight of these sites, the predicted concentrations were within a factor of two of the measured data and all but one of the remaining estimates were within a factor of ten of the measured data. At the one remaining site, EPA has underestimated the arsenic concentration by a factor of 40. (However, the data at this one site were collected in one year only and did not meet the air quality guidelines for calculating a representative annual average.) The amount by which EPA's exposure model underpredicted the measured concentration was higher than what EPA would consider a natural background concentration. In an attempt to improve the correlation between predicted and measured concentrations, EPA also performed a site-specific analysis of El Paso. This site-specific analysis used on-site meteorology and considered terrain features. However, the site-specific analysis also provided predicted concentrations that were lower than the measured concentrations. There are three possible explanations for this underprediction. First, as the commenters have suggested, there is some fraction of the arsenic concentration that comes from other sources, such as naturally occurring arsenic in the local soil. Second, studies have shown that pollution from past plant emissions has increased pollutant concentrations in the surrounding soil and this condition allows the reentrainment of arsenic into the atmosphere. Third, the Agency may have underestimated emissions from the plant. Some combination of reentrainment of local soil and underestimation of the plant's emissions is the suspected but undocumented cause of the underpredictions.

At the ASARCO-Hayden and Phelps Dodge-Douglas primary copper smelter sites, EPA's analysis indicated that the exposure model both over- and underpredicted the measured concentrations at those monitoring sites where meaningful comparisons could be made between predicted and measured concentrations. However, at the State-operated monitors near the smelters, the calculated long-term concentrations were based often on individual measurements that were below the minimum detectable level (MDL) of the analysis technique. Rather than record zeros, EPA assumed that the actual concentration is one-half the MDL and used that value in the analysis. Thus, when there are a number of measured concentrations below the MDL in the data base, the calculated long-term concentration become more uncertain. When considering this uncertainty of the available ambient data at the Phelps Dodge-Douglas and the ASARCO-Hayden sites, it appeared that on balance the exposure model was making reasonable if not somewhat of an overprediction of the ambient concentrations.

At those remaining primary copper smelter sites (Inspiration-Miami, Phelps Dodge-Ajo, Phelps Dodge-Morenic, and Magma-San Manuel), much of the ambient data showed concentrations below the MDL and at best, provided only a qualitative comparison to confirm the model's predicted concentrations. At the Phelps Dodge-Douglas site, EPA performed an additional site-specific analysis that was similar to that performed at the ASARCO-El Paso site. Although the Agency believes that the site-specific analysis will generally produce at any site the best estimate of ambient concentrations that occur as a result of a source's emissions, EPA's human exposure model provides ambient concentration estimates that are very similar to the site-specific analysis results and the available ambient data. (See Appendix C of the BID of a detailed discussion of the modelling.)

There were several primary copper smelter sites for which no nearby ambient data could be found. When considering the results of the model confirmation efforts described above, the Administrator believes that the ambient concentration estimates as generated by HEM are reasonable and represent the best estimates that can be provided within the limited resources available.

Several commenters said that some populations are exposed to emissions from two or more smelters. They reasoned that since the model does not consider the combined effects of the emissions from plants with overlapping emissions, exposure and risk are underestimated. This possibility, as identified by the commenters, could occur in the Hayden area since two primary cooper smelters are located in this town. The EPA agrees that in this case, there is a potential for the risk assessment to underestimate the maximum individual risk to the population exposed to both smelter's emissions. Because the ASARCO-Hayden facility emissions dominate the concentrations, the additional risk (concentration) from Kennecott-Hayden has been shown to be small, about 16 percent of the ASARCO-Hayden maximum individual risk. The commenter has made a valid point, but the maximum individual risk estimates that account for the overlapping of the ambient concentrations are essentially the same as the maximum individual risk based on only concentrations resulting from the ASARCO-Hayden emissions. To confirm this result, EPA modified the exposure model and performed an assessment that considered the combination of the two plants. The results substantiated the earlier estimates. For the annual incidence, the combined smelter exposure assessment indicated that the town of Hayden's annual incidence is simply the sum of the annual incidence associated with each plant's operations.

Some commenters said that primary cooper smelter risks were overestimated because EPA has applied a number of conservative assumptions that lead to worst case risk estimates. The EPA agrees with the commenters that some of the Agency's assumptions are conservative (e.g., the exposed people remain at their residences for a lifetime). However, in several cases, the assumptions are generally not conservative. For example, the assumption of flat terrain may result in under-prediction of ambient concentrations for those located in areas with local terrain features elevated above the source.

Upon review of the assumptions and their associated uncertainties, which are discussed in Part II of this notice, the Agency cannot demonstrate that the analysis provides an overestimate, a best estimate, or an underestimate of actual risks. Although not able to quantify all the uncertainties, the Agency believes that its risk assessment provides reasonable if not somewhat conservative estimates and is the best estimate that the Agency can reasonable make. A number of commenters have made suggestions for improving the risk estimates, as mentioned in earlier sections. The EPA has followed their suggestions where feasible (e.g. use of nearby ambient data to confirm the exposure model's prediction).

Two smelter companies made their own risk calculations, which they believed to be more accurate than those EPA presented in the BID for the proposed standard (EPA 450/3–83–010a). Their results are summarized in Table III–4. At two sites (Hayden and McGill) EPA's estimated risks are every similar to those estimated by the company. At the two remaining sites (Garfield and Ajo), there was substantially less agreement. The footnotes provide possible reasons for the differences in results. Since the standard does not regulate any of these four smelters, the companies' lower risk estimates have no effect on the Administrator's decisions.

TABLE III–4—COMPARISON OF RISK ESTIMATES AS MADE BY THE SMELTER COMPANIES AND THE EPA

Smelter	Baseline—maximum individual lifetime risk		Baseline—annual incidence individual risk (cases/yr)	
	Company	EPA	Company	EPA
Phelp Dodge-Ajo (a)	$0–6\times10^{-6}$	2×10^{-4}	0–0.00044	0.0045
Kennecott-Utah (a)	$0.6–5\times10^{-6}$	6×10^{-5}	0.0006–0.003	0.14
Kennecott-Hayden	$4.5–27\times10^{-4}$	3×10^{-4}	0.0017–0.025	0.016
Kennecott-McGill	$1.7–13\times10^{-5}$	4×10^{-4}	0.005–0.1	0.006

(a) Phelps Dodge's analysis was based on limited sampling data collected over 3 months at one site that was located approximately 1 km from the plant. The EPA's analysis was based on air dispersion models that estimate long-term (over several years) concentrations.

(b) The EPA's risk analysis considered population exposure out to 50 km, while Kennecott's analysis went out to 20 km. There was a significant number of people that lived between 20 and 50 km of the plant. This factor may account for the difference in EPA's and Kennecott's estimates of annual incidence.

Consideration of Transboundary Air Pollution. Two commenters noted that EPA's risk assessment did not consider any Mexican populations that are being exposed to emissions from U.S. primary copper smelters located near the Mexican border. Also, commenters noted that EPA's analysis did not consider U.S. public exposure to emissions from the Mexican primary copper smelters located near the border. In regard to the first comment, the Administrator has considered the potential exposure to Mexican citizens from the U.S. smelters (El Paso and Douglas) in his decisionmaking. At the present time, the Agency does not have any Mexican census data in a form similar to that supplied by the U.S. Census Bureau, so the Agency was unable to perform its standard exposure analysis to evaluate exposures in Mexico. Based on the very limited data available, the Agency did attempt a crude estimate of Mexican exposure near the Douglas smelter and found, based on this initial calculation, that exposure was small enough so as to not significantly change the risk assessment results presented in this notice. Similar estimation techniques indicated that the Mexican population exposure due to emissions from the ASARCO-El Paso smelter is more substantial, but not great enough to justify any tightening of the standard.

In regard to U.S. public exposure to emissions from Mexican smelters, the Administrator notes that he lacks authority to regulate these emissions. However, the United States and Mexico have entered into an "Agreement on the Environment in the Border Area" (signed August 14, 1983; entered into force February 16, 1984). Under this agreement, delegations from the two countries have formed a technical study group on air quality that will deal with smelting operations on both sides of the border. Arsenic emissions from the smelters may be considered by the technical study group.

Control Technology

Numerical emission limit. The American Lung Association (ALA) and NRDC commented that the proposed emission limit of 11.6 mg/dscm (0.005 gr/dscf) for the control device treating converter secondary emissions or smelting furnace tapping emissions does not reflect the control levels achievable by best available technology. Hence, the commenters thought the standard would allow application of less than best systems. The NRDC further commented that the emission limit should be established considering the best control efficiencies achieved by well-designed and -operated systems, not the worst efficiencies, and that EPA had not explained why the emission limit was based on the highest emission rate rather than the average. In contrast to NRDC's and ALA's position, ASARCO and Phelps Dodge argued that the emission rate had not been demonstrated to be achievable and the standard should be 50 mg/dscm (0.022 gr/dscf) to allow use of existing electrostatic precipitators and fabric filter collectors. ASARCO cited test data for other smelters and a retest of the El Paso converter building fabric filter collector to support its argument. The average outlet particulate matter concentration for these tests varied from 0.2 to 126 mg/dscm (0.001 to 0.05 gr/dscf). Phelps Dodge also cited EPA and company emission test data showing average particulate matter concentrations greater than 11.6 mg/dscm.

The Administrator does not agree with the commenters that the standards are either too lenient or so restrictive as to be unachievable. As explained at the time of proposal, to select the emission limit, EPA reviewed the particulate matter source test results for the control devices judged to represent best technology. The available source test data for systems used to treat converter secondary emissions consisted of one series of three test runs conducted on the fabric filter collector treating emissions from the El Paso converter building. The particulate matter emissions from the control device outlet ranged from 1.1 to 11.6 mg/dscm. The average value for the three runs was 5.1 mg/dscm (0.002 gr/dscf). The EPA believes that because an emission level of 11.6 mg/dscm (0.005 gr/dscf) is not an unexpected result during an emission test of this technology, this is the

appropriate level for the standard which is not to be exceeded. It is EPA's judgment that the 11.6 mg/dscm (0.005 gr/dscf) emission limit requires a well-designed, -operated, and -maintained control device and does not allow use of less effective control devices.

The level at which a standard should be set is a matter of judgment. As discussed above, the numerical emission limit for converter secondary emissions is based on the test results for only one control device. Because of the limited amount of data, it is EPA's judgment that a standard reflecting the lowest level or even the average level measured would not allow any margin for differences among facilities and control devices or for sampling and analytical errors in measurement of emissions. To provide this margin, the standard is based on the highest outlet concentration that was measured.

The Administrator considered the data and arguments presented by ASARCO and Phelps Dodge and concluded that it would not be appropriate to establish an emission limit of 50 mg/dscm (0.022 gr/dscf) as suggested. In reaching this conclusion, the data base for the standard, the data cited by both companies, and data for other source categories which have emissions comparable to converter secondary emissions were reviewed. This review is summarized here and presented in the BID for the promulgated standard (EPA–450/3–83–010b). Emission test data for the ASARCO-Tacoma smelter and other facilities show that uncontrolled converter secondary emissions contain less than 50 mg/dscm (0.022 gr/dscf) particulate matter. Thus, an emission limit of 50 mg/dscm (0.022 gr/dscf) would likely require no control of converter secondary emissions.

Review of the test data submitted by ASARCO and cited by Phelps Dodge showed that the data do not demonstrate that the proposed emission limit is unachievable. Specifically, with the exception of the test conducted on the El Paso converter building control device, the data were for emission streams which are not comparable to converter secondary emissions (e.g., higher inlet concentrations and significantly different particle size distributions) and for control devices with different design specifications. Therefore, the performance of these control devices is not considered to be indicative of the expected performance of a well-designed and -operated best system of emission reduction controlling converter secondary emissions. ASARCO's August 1983 test of the El Paso converter building fabric filter collector also does not demonstrate the unachievability of the emission limit. The EPA's review of this test report found that the condition of the control device was not reported. In addition, the concentration measured at the outlet of the control device exceeded the concentration measured at the inlet during EPA's test program in 1978. Combined, all of these factors suggest that the system tested by ASARCO in 1983 differed significantly from the system tested by EPA in 1978, and that at the time of ASARCO's tests the control system probably was not properly maintained or operated.

The EPA believes that the emission limit of 11.6 mg/dscm (0.005 gr/dscf) is further demonstrated to be achievable by the test data available from other source categories which have emissions similar to converter secondary emissions and use comparable control devices. Electric arc furnaces (EAF's) in the steel industry have particulate emissions with size distributions and concentrations similar to those of converter secondary emissions. Emission test data for well-controlled EAF's show that emission rates of less than 11.6 mg/dscm (0.005 gr/dscf) are consistently achieved (EPA–450/3–82–002a). Consequently, EPA has established an emission of 12 mg/dscm (0.0052 gr/dscf) in the new source performance standard for EAF's in the steel industry.

An additional ASARCO comment on the achievability of the 11 mg/dscm (0.005 gr/dscf) standard for converter secondary emissions was that it is invalid to argue that the standard is achievable merely because the concentration of the inlet fugitive emission gas stream is low since there is no direct relationship between the inlet and outlet concentrations of arsenic-containing particulate matter. To support this comment, ASARCO cited emission data for the arsenic plant fabric filter collector at the Tacoma smelter that seemed to show that the highest outlet concentrations were associated with the lowest inlet concentrations. The Administrator considers the low inlet concentration to be relevant to selection of the emission limit for several reasons. Inlet concentration is considered along with desired emission rate and other gas stream parameters in the design of a control device. Although particulate control devices do not tend to operate with constant efficiency over the entire design range of conditions, they will achieve a minimum collection efficiency when operated within the design range of conditions. Vendor guarantees of performance for control devices do include consideration of the expected minimum efficiency over the expected range of operating conditions. ASARCO's argument regarding the lack of any relationship between inlet and outlet arsenic concentrations is flawed. The data cited included one inlet test that was reported to be biased low owing to loss of part of the sample during analysis. When this test series is excluded from the data set, the remaining three inlet tests only vary by about 20 percent. The measured collection efficiencies varied from 99.95 to 99.97 percent. Thus, the data only show small random variations and do not support ASARCO's argument.

Converter work practices. Several comments were received from ASARCO and Phelps Dodge on the proposed converter work practices. (No substantive comments on the converter work practices were received from other commenters.) ASARCO commented that, since a rolled-out converter never ceases fuming, the wording of proposed § 61.182(a)(2)(ii)(B) should be changed to require the converter to be held in an idle position until fuming is minimized. The EPA agrees with the commenter that converters do not cease fuming entirely. The intent of this requirement was not to require zero fuming before skimming but to require sufficient idling of the converter to minimize the quantity of secondary emissions generated during skimming. Consequently, the language of this requirement has been revised as suggested (now § 61.172(b)(2)(i)(B)).

ASARCO and Phelps Dodge also commented that the proposed requirement in § 60.172(a)(2)(ii)(C) to position the ladle as close to the converter as possible to minimize the drop distance would reduce the effectiveness of the air curtain, decrease productivity, and increase safety hazards. The commenters hypothesized that the hood capture efficiency would be adversely affected because holding the ladle off the ground will place the crane cable in the air curtain jet during the skim. ASARCO and Phelps Dodge argued that productivity would be decreased because: (1) coordination of smelter operations serviced by the crane is difficult due to the unpredictable nature of smelting; (2) the crane would not be available to perform other duties and it would block the converter aisle, thus preventing part of the aisle from being serviced by other cranes; and (3) at most smelters only one crane is available during the daily maintenance period, thus the requirement would

hinder production during these periods. ASARCO argued that the requirement would create safety hazards because the secondary hood channels the heat toward the crane aisle, increasing the heat burden on the crane block, cables, and cab. As support for this comment, ASARCO stated that it has had to install additional heat shields on the crane cab at Tacoma and to replace wiring with special heat-resistant materials.

The proposed requirements are based on EPA personnel's observations of converter operations at the ASARCO-Tacoma smelter. Over a 1-week period, EPA personnel observed the operation of the prototype air curtain secondary hood during all converter operating modes. Work practices used by crane and converter operators varied significantly from operator to operator. The work practices observed included the proposed practice of holding the ladle close to the converter and slow pouring rates during skimming as well as placing the ladle on the ground and rapid skimming rates. The EPA personnel observed that better capture efficiencies were achieved when the ladle was held close to the converter than when the ladle was placed on the ground, and better capture was obtained with slow skimming of the converter than with rapid skimming. Thus, EPA personnel did not observe that the crane cables adversely affected the secondary hood's capture efficiency. The EPA personnel, however, observed that the crane block did affect the capture of emissions when it was placed in the air curtain path. To achieve effective emission capture, the crane block must be placed above or below the air curtain during skimming, and the final regulation requires this.

The EPA reviewed the comments on the effects of the proposed ladle-holding requirements on productivity considering the range of typical converter operations at copper smelters. A converter generally completes a cycle in 8 to 24 hours, with slag blowing comprising 70 to 75 percent of the cycle. The remainder of the cycle is spent in charging and skimming operations, and holding due to normal process fluctuations within a smelter. At the end of each slag blowing period, slag is skimmed off the bath and returned to the reverberatory furnace. Typically, the ladle is filled 4 or 5 times during each slag skimming which lasts less than 30 minutes. Except for skimming into the first ladle (which may be done when the crane is not in the area), the crane is typically committed to skimming a particular converter and is not available for other activities regardless of the ladle-holding practice used. Thus, it is EPA's conclusion that the requirement that the ladle be held close to the converter during skimming could at worst decrease productivity only slightly.

The EPA reviewed the comments on the safety hazard presented by the proposed work practices considering available information on the practices. Basically, the proposed practices were observed in operation at the ASARCO-Tacoma smelter and appeared to be routine operating procedure for some crane operators. The question of safety hazards presented by the practice was also discussed with the USWA industrial hygienist. It was the industrial hygienist's impression from talking with the local union that in the past some crane operators at the ASARCO-Tacoma smelter routinely held the ladle close to the converter. Consequently, EPA concluded that, in spite of these comments, ASARCO has not judged the practice to be sufficiently dangerous to ban its use. The EPA also considered ASARCO's remarks on the potential hazard of additional heat stress applied to the crane block, cables, and cab. Important considerations in the assessment of any additional heat stress from the requirement were (1) the fact the requirements reflect ASARCO's operating practice at one smelter and (2) the fact that to the extent that a company concludes that the extra heat burden may affect crane cables and blocks, it appears safety can be assured by increasing the frequency of inspection of crane cables and upgrading the maintenance program for the cranes.

Moreover, it should be noted that Section 112(e)(3) allows use of alternative equipment or operation practices upon demonstration that equivalent capture efficiency is achieved. The addition of doors to the air curtain hood is one specific example of equipment which would preclude the need to hold the ladle close to the converter.

ASARCO and Phelps Dodge also commented that EPA has not estimated the extent to which any of the proposed work practices would reduce emissions and has not considered that some smelter feed causes more fuming than other feed. Hence, fuming will vary from time to time. (However, the commenters did not argue that this variation in fuming makes the standard unachievable.) The EPA's assessment of the effect of work practices on emission reduction consisted of evaluation of the effect on capture efficiency of the secondary hood. During the test program to evaluate the performance of the prototype hood, two visible emission observers usually evaluated the hood's capture effectiveness. The observations are presented in "Evaluation of an Air Curtain Hooding System for a Primary Copper Converter" (A–80–40/IV–A–4 and IV–A–5) and are summarized in the BID for the proposed standard (EPA 450/3–83–010a). The visual emission observations revealed that converter and crane operating practices can introduce significant variability in overall hood capture efficiency and that careful operations could minimize fume "spillage" and provide capture efficiencies of 90 percent or greater. Specifically, it was observed that hood capture efficiency increased considerably (more than 90 percent) during skimming operations when the crane operator held the ladle next to the converter while the converter was slowly rotated to the discharge position. In contrast, when the ladle was placed on the ground during skimming operations and the skimming rate was rapid, capture efficiencies were quite variable (ranging from 50 to 95 percent). It was also observed that during matte charging, capture effectiveness was improved if the crane was withdrawn slowly from the confines of the secondary hood. Thus, EPA concluded that the converter work practices did affect hood capture efficiencies and emissions escaping capture by the hood. When the recommended practices are used, it is estimated that hood capture efficiencies of 90 percent and greater are achieved, thus reducing converter secondary emissions.

The EPA recognizes that some smelter feed materials cause more fuming than other feed materials. For example, charging of dirty scrap (which contains essentially no arsenic) has been observed generally to overwhelm the secondary hood. In contrast, EPA does not expect that variations in matte or slag composition should seriously affect capture efficiencies achieved by the air curtain secondary hood. Consequently, for the requirements being established under this standard, this variation in fuming could at most affect the time that a converter must be held in an idle position but it does not affect the requirement to maximize emission capture. With a properly designed and operated secondary air curtain hood, this variation in fuming should not result in significant variations in secondary emission rates.

ASARCO and Phelps Dodge also responded to EPA's request in the preamble to the proposed standards (48 FR 33134) for comment on establishment

of minimum time periods for some of the work practices. These companies recommended that minimum time periods for converter work practices not be adopted because such time periods are unwarranted and would necessarily be arbitrary. ASARCO and Phelps Dodge argued: (1) That the converter and crane operators should be allowed discretion to determine the best methods to ensure capture of emissions, and (2) that smelter owners have ample incentives to operate air curtain secondary hoods in a reasonable manner consistent with maintaining production. The incentives cited were that proper uses would aid in achieving compliance with OSHA standards and in controlling SO_2 fugitive emissions.

Time periods for converter work practices are not included in the regulation being promulgated today. However, this does not preclude the Administrator from including time periods in any future amendment to the to the regulation establishing equivalent work practices, as provided under § 61.12(d). Whether or not the work practices for a facility specify minimum time periods will depend on the evaluation of the work practices and the Administrator's judgment of the need for such requirements. The Administrator will propose preliminary determinations of equivalent work practices in the **Federal Register**. During the public comment period, the company management can submit information on the adverse effects of time periods or any other requirements the Administrator considers necessary to achieve equivalent emission capture. As with the safety question discussed previously, the option of installing air curtain secondary hoods that entirely contain the fugitive emissions is available to copper smelting companies should they determine that practices necessary to minimize emissions interfere with production.

Need for additional controls. The USWA and NRDC commented that EPA's most important task is the identification of additional control measures. The USWA thought that the standard should provide for continuing evaluation of arsenic emissions from all sources in copper smelters. Similarly, the State of New York thought that additional control measures should be required. In particular, the State of New York objected to EPA's proposal to allow many low-arsenic smelters to continue using existing controls, instead of requiring the best technology available. In contrast, ASARCO argued that no emission controls beyond the secondary hoods and existing fugitive control programs should be imposed in the final standard. The EPA agrees with the commenters who argued that EPA should identify all additional control measures that will help reduce inorganic arsenic emissions and exposures. For this reason in the development of the standard, EPA assessed the control measures used, the emission sources, and the feasibility of achieving any additional emission reductions. The final standard includes those control measures that EPA believes are technically feasible and are likely to result in a reduction in risks that is proportionate to the cost. In deciding which emission sources should be regulated, EPA considered several factors. The principal consideration was the emission reduction achievable and the remaining public exposure to inorganic arsenic that will occur after application of controls. Other factors which were considered included the estimated health risks; the economic impacts of the additional control measures, including the likelihood of closure; and the costs of these measures relative to the amount of risk reduction achieved. Thus, in consideration of possible additional control measures for low-arsenic smelters, EPA examined the feasibility of the measures, the associated emission reduction and expected reduction in health risks, and the costs to implement controls. These analyses showed that further process and fugitive emission controls would not be reasonable in light of the small emission and risk reduction achievable and the high costs of the controls. Therefore, it is the Administrator's judgment that the standard being addopted today will reduce inorganic arsenic emissions and hence risks to the practical minimum and that additional measures are not warranted.

As part of their arguments on the need for additional control, NRDC disagreed with the approach followed by EPA at proposal to evaluate gas cooling as a control option for copper smelter process emissions. The two main points of disagreement are: (1) EPA's assumption that 121 °C (250 °F) is a reasonable lower limit for gas cooling because of potential corrosion problems; and (2) EPA's use of vapor pressure data in predicting potential inorganic arsenic emission reduction achievable with gas cooling. The NRDC suggested that EPA thoroughly examine the disagreement between emission test data and theory, and that EPA reconsider the benefits of gas cooling as a control option. The State of New Mexico also expressed concerns regarding EPA's analysis of the benefits of cooling and recommended that EPA conduct a more thorough analysis of controls for process emissions.

At proposal, EPA used arsenolite (As_4O_6) saturation concentrations to predict collectability of arsenic, although it was recognized that other factors, such as the presence of pre-existing nuclei in the gas stream, other forms of arsenic, and residence time at lower temperatures, can also affect condensation. Saturation concentrations were used because analysis of available data showed the two most important factors were operating temperature of the control device and the arsenic concentration in the gas stream. Specifically, the contention that temperature has a significant effect on the collectability of inorganic arsenic is supported by EPA test data, presented in the proposal BID, showing the inorganic arsenic collection efficiencies for three collection devices used on process streams at primary copper smelters. Emission test data for two control devices (one electrostatic precipitator [ESP] and one baghouse) operated at about 100 °C (about 212 °F) showed the devices achieved average arsenic collection efficiences of about 98 and 99 percent. In contrast, an ESP operated at 327 °C (620 °F) only achieved about 30% arsenic collection efficiency. The concentrations of inorganic arsenic measured in the inlet streams to these three control devices were comparable. Thus, EPA analyzed the potential inorganic arsenic emisisons reduction achievable if gas stream cooling in conjunction with an efficient particulate control device were utilized to control process streams at several smelters that do not currently use either this method of control or an acid plant to control process emission streams. Cooling of the gas stream to 121 °C (250 °F) was assumed in the analysis because it was believed to represent a reasonable estimate of operating temperatures for primary copper smelters' process gas streams, although it was also recognized that acid dew points may be higher or lower than 121 °C (250 °F) at some facilities. An additional consideration was that below 125 °C (257 °F) saturation concentrations are very small and further cooling would achieve very little additional emission reduction. Since no significant emission reductions were expected, EPA did not evaluate the feasibility and costs of process controls for these smelters.

Following proposal, because of comments on the approach used, EPA assessed the maximum potential risk reduction achievable by control of these emission sources. For the second

assessment, the revised smelter arsenic balances were used to predict arsenic emissions from the process streams, and it was assumed that 100 percent of the arsenic would be controlled (i.e., the risk was reduced to zero). The EPA estimated the health risks associated with process emissions at all primary copper smelters where gas cooling could potentially be applied to reduce inorganic arsenic emissions from one or more process streams. The estimates were prepared using HEM. The smelters for which these risk estimates were prepared include the smelters for which gas cooling was evaluated as a control option at proposal plus Phelps Dodge-Ajo. The estimates of annual incidence associated with current process emissions at these smelters that could potentially be reduced if gas cooling were used are shown in Table III–5.

TABLE III–5.—ESTIMATED ANNUAL INCIDENCE ASSOCIATED WITH PROCESS EMISSIONS AT SMELTERS WHERE GAS COOLING COULD POTENTIALLY BE APPLIED AS A CONTROL OPTION

Smelter	Process stream(s)	Annual incidence (cases/yr)
Kennecott-Hayden	Smelting Furnaces	0.0026
Kennecott-McGill	Smelting Furnaces and Converters.	0.0006
Magma-San Manuel	Smelting Furnaces	0.0013
Phelps Dodge-Ajo	Smelting Furnaces	0.0034
Phelps Dodge-Douglas.	Roaster, Smelting Furnaces and Converters.	0.0036
Copper Range-White Pine.	Smelting Furnaces	0.0001

The EPA has also estimated preliminary annual costs associated with process stream gas cooling. For the purpose of these estimates, it was assumed that gas stream cooling to 121°C (250°F) or below could be achieved without requiring that special measures be taken to prevent corrosion problems. The annualized cost estimates are shown in Table III–6. It is important to note that these costs are approximate and may not accurately reflect the actual cost of applying gas cooling. However, EPA believes these estimates do provide a general indication of the relative magnitude of the costs of applying gas cooling as a control option.

TABLE III–6.—Preliminary Estimate of Costs to Apply Gas Cooling as a Control Option[a]

Smelter	Process stream(s)	Annualized cost
Kennecott-Hayden	Smelting Furnaces	$ 1,200,000
Kennecott-McGill	Smelting Furnaces and Converters.	[b]11,800,000
Magma-San Manuel	Smelting Furnaces	4,700,000
Phelps Dodge-Ajo	Smelting Furnaces	1,600,000
Phelps Dodge-Douglas.	Roaster, Smelting Furnaces and Converters.	10,300,000
Copper Range-White Pine.	Smelting Furnaces and Converters.	[c]2,500,000

[a] Annualized costs include cost of reheating gas stream to stream temperature before cooling and, except as noted, it is assumed that the existing particulate control device would not have to be replaced.
[b] Includes cost of new particulate control device for the converter stream.
[c] Includes cost of new particulate control device for the smelting furnace stream.

As can be seen from Table III–5, the annual incidence associated with the process emission streams to which gas cooling could potentially be applied is very low in all cases, with 0.0036 incidence per year being the highest. Thus, even if gas cooling could reduce process stream emissions by 100 percent, the reduction in risk would be very small. In addition, the cost of achieving this small reduction in risk could be significant, as shown in Table III–6. These considerations led EPA to conclude that even if gas cooling to 121°C (250°F) or below were a feasible control option for process emissions at these smelters, the costs would be greatly disproportionate to the reduction in risk that could be achieved, and therefore gas cooling should not be required.

The State of New Mexico commented that if EPA uses emission estimates for ASARCO-El Paso that reflect improvement in the capture efficiency of the building evacuation system to 90 percent, EPA must include provisions in the regulation requiring maintenance of 90 percent capture efficiency by the building evacuation system and provisions to verify that the system is being properly operated and maintained.

In response to this comment, EPA reviewed its analysis of emissions from and operations of the converter building at the ASARCO-El Paso smelter to ensure that decisions and analyses were made based on the best information available. The reassessment included: (1) An on-site inspection of the converter building ventilation system; and (2) discussions with ASARCO regarding anticipated future operation of the system after installation of the converter secondary hoods and the impact of the computerized gas management system on fugitive emissions. The on-site inspection showed that the converter building evacuation system is achieving about 90 percent capture efficiency and EPA believes that if the existing total flow rate from the converter building is maintained after installation of the converter secondary hoods the capture efficiency of the building evacuation system should not be diminished. The EPA also recognizes that the converter secondary hoods could, by altering the dispersion of emissions and gas flow within the building, affect the performance of the building evacuation system. Since the design of the ventilation system incorporating the converter secondary hoods has not been established yet, EPA cannot determine what the effects will be and whether it is necessary to require maintenance of 90 percent capture efficiency in the converter building. The EPA also cannot determine whether it is necessary or reasonable to maintain 90 percent capture efficiency owing to uncertainties in the emission factor for the anode furnace and the converter fugitive emission factor and their effect on estimates of fugitive emissions from the building. To determine the necessary level of control, it would be necessary to monitor emissions, air flows, and system changes after installation of the converter secondary hoods.

From discussions with ASARCO and review of applicable State and SIP requirements, EPA concluded that ASARCO will continue to maintain the converter building in its present condition if this can be done without increasing worker exposures and creating unacceptably high temperatures in the work area. While it appears likely that ASARCO will maintain a relatively closed building, neither EPA nor ASARCO can determine with certainty whether this will be technically feasible. Therefore, the standard does not include provisions requiring maintenance of 90 percent capture efficiency in the converter building or maintenance of the measures taken by ASARCO to seal the building. The standard does, however, require ASARCO, or the owner or operator of any other facility that might be required to install converter secondary hoods, to report any significant changes in the operation of the emission control system capturing and controlling emissions from converter operations. Examples of changes that must be reported are reductions in air flow through the capture system of more than 20 percent and an increase in the area of the converter building that is open to the atmosphere. Because changes could affect the capture efficiency achieved by the secondary hoods and the building evacuation system, EPA will evaluate these if they occur.

VOL 51 ISS 149 AG 4 1986 UMI

Standard for New Smelters. The State of New Mexico commented that EPA has failed to determine control requirements for new smelters that will provide an ample margin of safety for protection of public health. The State of New Mexico thought that a thorough review by EPA would result in additional control requirements beyond those proposed for existing smelters. The EPA did not develop a separate standard for new smelters because it is EPA's best projections that no new primary copper smelters will be built during the next 5 years. To determine the applicable control measures and the impacts and benefits of those measures, it is necessary to rely on reasonable projections of possible new construction, including projections of process technologies and associated emission rates which would be associated with new plants. Consequently, EPA's analysis at proposal was based on application of control to the existing domestic primary copper smelters. Should any new primary copper smelters be constructed and the converter arsenic feed rate is above the cutoff, the standard would require control of converter secondary emissions. However, as is evident throughout this rulemaking, the need for and applicability of controls depends to a large degree on knowledge of specific processes and feed materials. Thus, EPA believes that it is impractical to attempt to project emission control requirements for technology that would be installed more than 5 years from now.

Costs and Economic Impact

Comments were received on the estimated costs to control converter secondary emissions and on the economic analysis of the affordability of arsenic controls for low-arsenic copper smelters presented in the July 20, 1983, notice of proposal. Owing to the comments received on the initial cost estimates, EPA revised its estimates of control costs and published estimates for comment in a September 20, 1984, **Federal Register** notice (49 FR 36877). Comments on the revised estimates were received from the three copper companies that had submitted comments on the initial cost estimates.

In comments on the initial cost estimates, ASARCO, Kennecott, and Phelps Dodge commented that estimated costs for six of their smelters were understated in the proposal and based on faulty assumptions. The companies submitted their estimates of emission control costs for these smelters. In several cases, EPA obtained from the companies additional information on their cost estimates. The EPA reviewed the cost information supplied by the companies and analyzed the differences between these estimates and those made by EPA at proposal. Factors contributing to the cost differences included: (1) Site-specific factors, requiring modification of the converter secondary hood design; (2) installation of new ductwork and fans rather than reuse of existing equipment; (3) different assumptions regarding the control systems needed; and (4) different assumptions for the annualized cost capital recovery factor (i.e., the interest rate and equipment service life). For each case where the company provided additional cost information, EPA reviewed the reasonableness of the companies' assumptions and reevaluated the control costs.

Comments on the revised cost estimates were received from ASARCO, Kennecott, and Phelps Dodge. These comments consisted of comments on EPA's annualized cost factor (i.e., interest rate and equipment service life) as well as comments on EPA's consideration of costs at the specific smelters. The EPA's consideration of the comments on the cost estimates and the economic impact assessments is discussed under three areas: (1) General comments on cost estimating assumptions; (2) comments on cost estimates for specific smelters; and (3) comments on economic impacts.

General Comments on Cost Estimating Assumptions. All three copper companies commented that EPA's annualized cost factor should be based on 15 percent interest and 15-year equipment life. The commenters argued that 15 percent interest represented real interest rates that would be incurred today and that the 15-year equipment life is more realistic for the conditions under which the hoods would be operated.

The EPA's assumption at proposal was a 10 percent interest rate, and 20-year service life represented a reasonable estimate of costs that would be incurred with the installation of converter secondary controls. The annualized cost estimates are developed assuming dollars of constant value and hence, at the 5 to 6 percent inflation rate experienced at the time of proposal, the 10 percent interest rate represents a constant dollar equivalent of the nominal 15 percent interest rate. Thus, EPA believes that the interest rate assumed is close to the rate suggested by the commenters. The use of the 10 percent interest is further supported by the interest rate being experienced with tax-exempt municipal revenue bond issues, which most firms use to finance pollution control equipment. In general, current interest rates on tax-exempt bonds are below 10 percent. For example, ASARCO, Phelps Dodge, Magma, and Kennecott have financed air pollution controls at interest rates ranging from 3.75 to 10.8 percent. Therefore, EPA believes that a 10 percent interest rate represents a realistic assessment of capital cost of financing air pollution control equipment. The cost analysis an equipment service life of 20 years because that is the service life generally assumed for sheet metal and this life had been used by ASARCO to amortize the cost of installation of launder covers at Tacoma. The Agency recognizes that the service life of the equipment to be used in cost analysis is somewhat a matter of judgment. However, since changing the interest rate from 10 to 15 percent and equipment life from 20 to 15 years will increase the annualized cost by only 18 to 27 percent, these differences in the cost do not affect any decisions on the standard.

ASARCO commented that EPA's use of incremental cost makes the proposed standard appear to be most costly for those companies that have installed the fewest controls in the past and penalizes those that have installed controls. To consider prior installation of controls, ASARCO thought that the cost of operating or scrapping existing equipment should be attributed to the standard. The Agency does not agree that the method of cost analysis penalizes those companies that have installed controls. The assessment of whether to require further emission control at a facility considers the effectiveness of existing control systems in the assessment of present risks and the risk reductions achievable as well as the cost to achieve that emission reduction (cost effectiveness). Thus, prior installation of control systems is explicitly considered in the assessment of the need for additional emission reduction and the approach does not penalize those companies that have previously installed emission control systems.

Regarding ASARCO's second point, the Agencyt recognizes that some of the cited costs (i.e., operating or scrapping of existing equipment) may be legitimate expense, however, EPA did not consider them in this analysis for several reasons. The EPA believes that to consider these costs it would be necessary for EPA to evaluate the validity of the claimed expenses in terms of justification and assigned value. To conduct such an analysis would result in further delays in

issuance of this rulemaking. Furthermore, there is no single accounting procedures which is universally used for depreciating equipment. Thus, consideration of costs to scrap equipment is also subject to dispute. Consequently, EPA did not evaluate these costs for the smelters. A prime consideration in this decision was the fact that consideration of these costs would not affect the decision whether to regulate the specific smelters.

Comments on Smelter Specific Cost Estimates. As previously indicated, EPA reviewed each comment on the control cost estimates and where determined to be appropriate reevaluated the control cost estimate. The final cost estimates are presented in Tables III–1 and III–2, along with the final estimates of emission reduction achievable by the best emission controls. The bases of the revisions to the cost estimates for each smelter are summarized below and described in detail in the BID for the promulgated standard (EPA–450/3–83–010b).

ASARCO–El Paso: In comments on EPA's initial cost estimate, ASARCO submitted estimated capital costs for installation of air curtain secondary hoods that were approximately 35 percent higher than EPA's estimate at proposal. The EPA's review of the detailed breakdown of the cost estimate showed that ASARCO's estimate was higher primarily because it included costs for demolition and installation of new ductwork. Since the cost differences reflected slight differences in engineering judgment and were based on sound design and engineering practices, ASARCO's capital cost estimate was used in the reanalysis of annualized control cost. In comments on EPA's revised cost estimate of $1.8 million, ASARCO stated that changes in the design of the ventilation system for the converter secondary hoods have increased the estimated costs by approximately 90 percent. The EPA did not further revise the capital cost estimates from $1.8 million to $3.5 million to reflect these changes because the validity of the cost estimate could not be determined from the information provided. Additional information was not requested since this increase in capital costs in itself would not affect the decision to require converter secondary controls at this smelter.

ASARCO's initial estimate of annualized costs for the converter secondary hoods was about 2.3 times EPA's estimate in the July 20, 1983, notice of proposal. The EPA's and ASARCO's annualized cost analyses differed because ASARCO assumed a 15 percent interest on capital and 15-year equipment life, and attributed a prorated share for operation of the existing control device to the cost of implementing the standard. ASARCO's basis for calculating capital recovery costs was not used in the reanalysis of control costs. The EPA's revised estimate of annualized costs still reflects use of 10 percent real interest on capital and 20 year equipment life because EPA believes this basis more realistically reflects actual capital costs and the expected life for this equipment. Furthermore, on incremental costs of operation of the control device were attributed to this standard for the previously discussed reasons and since EPA is not in a position to realistically evaluate these costs. Therefore, the final annualized costs are the costs presented in the September 20, 1984, notice which reflect the ASARCO's first capital cost estimate of $1.8 million for installation of converter secondary hoods.

ASARCO–Hayden: ASARCO commented that EPA underestimated the capital and annualized costs of converter fugitive emission controls for this smelter. ASARCO argued that EPA's estimates were too low because of site-specific differences that affect hood design (the costs at proposal were derived from actual costs incurred at the ASARCO-Tacoma smelter), and because several direct and indirect costs were not included. The principal difference between EPA's proposal estimate and ASARCO's estimate was the costs pertaining to demolition of the existing secondary hoods and to the actual costs of a new air curtain secondary hood and ductwork structures. The EPA evaluated ASARCO's cost estimate and determined these costs to be reasonable, considering the specific design requirements at this facility. Consequently, ASARCO's capital cost estimate of $3.66 million was used in EPA's reanalysis of control costs for converter operations at ASARCO–Hayden.

ASARCO's estimate of annualized costs differed from EPA's estimate in the use of 15 percent interest on capital, 15 year equipment life, a pro rata share of the existing control device's operating costs, and a write-off of the value of the scrapped existing secondary hoods. Again, EPA's revised estimate of annualized costs is based on 10 percent real interest and 20 year equipment life rather than ASARCO's basis. The revised costs also do not include the write-off cost or the prorata share of operating costs of the existing ESP. The EPA did not consider it appropriate to attribute the write-off costs to the cost of the converter secondary controls since the emission and cost analysis (i.e., cost-effectiveness) considers the cost to achieve additional emission reduction. The operating costs of the existing ESP also were not included since EPA could not verify that the standard would significantly affect the cost to operate this control device. Therefore, the final estimate of annualized costs only reflects the higher capital costs for installation of converter air curtain secondary hoods at this smelter.

Kennecott-Utah: Kennecott commented that EPA's estimate of control costs for converter and matte and slag tapping operations were low. The EPA's review of a detailed breakdown of the capital cost estimate for converter controls showed the primary reason for the difference in the two estimates was that Kennecott's estimate included costs for installation of new ductwork and fans. The EPA reviewed Kennecott's capital cost estimates for accuracy and adherence to sound engineering principles and concluded that the costs were reasonable. Therefore, Kennecott's estimate of capital costs for converter controls were used in EPA's revised cost estimates.

Kennecott's annualized cost of converter controls also included a capital recovery cost based on 15 percent interest and 15 year equipment life. For the previously described reasons, EPA's revised annualized cost estimate is based on 10 percent real interest and 20 year equipment life. Thus, the revised annualized costs only reflect the increase in the capital costs of the secondary hoods.

Kennecott's capital cost estimates for matte and slag tapping controls differed significantly from EPA's primarily because costs for new ductwork, increased fan capacity, and a larger capacity control device (11,500 acmm [400,000 acfm]) were included. In the revised estimate of capital cost, EPA assumed use of new ductwork and increased fan capacity, but did not assume use of the larger capacity control device since the capacity was significantly in excess of that normally used. In comments on the revised cost estimates, Kennecott reiterated its belief that the higher capacity control device is needed. The EPA considered these comments and concluded that, considering costs and crane availability, a reasonable design would provide sufficient capacity to treat emissions from simultaneous tapping of one matte and one slag stream (i.e., the previously assumed capacity of 5,600 acmm

[200,000 acfm]). The EPA also considered that further revision of the cost estimate would not be useful since the cost to control matte and slag tapping emissions was disproportionate to the risk reduction at the lower capacity control device. Therefore, EPA's estimated capital cost for the control device was retained and the final cost estimate reflects Kennecott's estimated costs for new ductwork and fan capacity.

The annualized costs for matte and slag tapping controls estimated by Kennecott again used 15 percent interest and 15 year equipment life as the basis of the capital recovery factor. The final cost estimates reflect only the higher capital cost for installation of matte and slag tapping controls.

Kennecott-Hayden: For its Hayden smelter, Kennecott provided estimates of capital and annualized costs for converter secondary controls, which were only slightly higher than EPA's estimates at proposal. Kennecott's capital cost estimates were only 19 percent higher than EPA's and were accepted as reasonable. Their estimate of annualized costs was revised to reflect a 10 percent interest rate and 20 year equipment life basis for calculating capital recovery costs.

Kennecott-McGill: Kennecott's estimates of capital and annualized costs for controls on converters and matte and slag tapping operations were slightly lower than EPA's estimates at proposal. The EPA reviewed the cost estimates provided by Kennecott and concluded their estimates were reasonable. Consequently, the final cost estimates reflect only minor changes that resulted from Kennecott's comments.

Phelps Dodge-Morenci: Phelps Dodge submitted capital and annualized cost estimates for installing converter secondary emission controls that were considerably higher than EPA's estimates at proposal. Phelps Dodge's capital cost estimate differed from EPA's in its inclusion of: (1) costs to demolish the existing secondary hood system and to replace the existing ductwork and fans; and (2) costs for a gas treatment plant (stainless steel ESP's and lime spray pretreatment). The EPA reviewed the basis of Phelps Dodge's cost estimates, and concluded that only the additional costs for demolition of the existing system and replacement of ductwork were reasonable. The costs for gas treatment were considered to be unnecessary because EPA would not require operation of the converter secondary emission control system at a temperature below the acid dew point of the gas stream. The costs for demolition of the existing system and installation of new ductwork and fans were accepted since they were based on actual expenses incurred by Phelps Dodge in installing a secondary hood on a converter at Morenci. Therefore, EPA revised the capital costs for converter controls using Phelps Dodge's estimate of costs to demolish and replace existing ductwork. The revised capital cost for control of converter secondary emissions also reflects use of a baghouse rather than an ESP fabricated of stainless steel to control emissions. (The capital cost of a baghouse was included in the cost estimate presented at proposal). Phelps Dodge's comments on the revised estimate were that a stainless steel ESP is necessary for treatment of gas streams below the acid dew point and is the proper basis for determining control costs for this smelter. The capital cost estimate was not revised to reflect use of a stainless steel ESP as recommended since the standard would not require the control device to be operated below the dew point of the gas being treated. In addition, revision of the cost estimate would not affect the decision to require control of converter fugitive emissions at this smelter. The final capital cost estimate, thus, reflects the cost to demolish and replace existing ductwork and the cost of a baghouse. The final cost estimate is the same as the estimate used in the September 20, 1984 notice.

Phelps Dodge estimated annualized costs using a capital recovery factor based on 15 percent interest on capital and 15 year equipment life, their estimate of capital costs, and utilities required for an ESP. As with the cost estimates discussed earlier in this section, EPA calculated the capital recovery cost for the revised capital cost estimate assuming 10 percent real interest and 20 year equipment life. In addition, Phelps Dodge's estimate for electric power costs was adjusted to apply to a baghouse rather than an ESP. The final estimate of annualized costs primarily reflect the higher capital costs of the control system. The final cost estimate is the same as the estimate given in the September 20, 1984 notice.

Phelps Dodge-Ajo. Phelps Dodge commented that EPA's estimated costs to cool the reverberatory furnace offgases and collect condensed inorganic arsenic particulate should Phelps Dodge not convert the furnace to oxy-sprinkle smelting and install an acid plant were too low. To support its argument, Phelps Dodge submitted cost estimates. As previously discussed, EPA cannot presently determine the technical feasibility of cooling gas streams below the acid dew point without creating corrosion problems or predict the emission reduction that could be attained. Moreover, owing to the changes in the estimate of inorganic arsenic emissions from this smelter, the reduction in risk is very small and the costs are disproportionately high. Therefore, EPA is not requiring that gas stream cooling be used and is not revising its cost estimates since this option would not be selected at the lower cost.

Comments on Economic Impacts. Comments on costs and economic impacts were also received from NRDC and the Sierra Club, Grand Canyon Chapter. The NRDC commented that to assess the affordability of controls EPA must obtain verifiable documentation of company claims of the economic impacts of control measures, such as financial planning documents for the affected smelters. The NRDC charged that the existing economic information on the facilities is incomplete and unsupported. The EPA believes that the cost and economic information is sufficiently complete and documented for the following reasons. The EPA's economic analyses for primary copper smelters are based on data which are available in the public domain or from the companies. Information was obtained from a wide variety of sources, including past submissions of data by the copper companies, reports prepared by others on the companies, information on prices from standard reference, and engineering cost studies of the specific operations. As previously described, detailed economic and engineering information has been obtained under Section 114 of the Act from several of the copper companies since proposal. Therefore, EPA believes that obtaining further information such as internal planning documents is unnecessary and EPA's economic analyses of affordability are sufficient for decisionmaking purposes.

The Sierra Club stated that the proposal should include sufficient economic data for the public to judge the economic feasibility and costs of controls, including income figures for all operations at a smelter such as gold and silver production. In addition, the actual costs of plant closure should be detailed for each smelter and compared to benefits (e.g., health cost savings). The EPA agrees with the commenter that sufficient information should be presented to allow the public an opportunity for meaningful participation in the rulemaking. It is for this reason that detailed supporting information is made available for public inspection in

the docket and a document summarizing the supporting information is made available to interested parties. The EPA believes that, since the economic analyses and their bases are available, sufficient information has been provided. Because the financial health of the low-arsenic primary copper smelters depends heavily on the price of copper, EPA does not believe that consideration of income from by-products and co-products would significantly have affected the conclusions of the economic analysis for the low-arsenic smelters.

The EPA believes that the recommended comparison of closure costs and benefits is beyond the scope of this rulemaking. To perform the type of analysis suggested by the commenter would require consideration of a large number of factors including: (1) Costs and economic impacts to the affected companies; (2) costs and economic impacts to businesses in the community; (3) social costs, such as impacts on property values, health care costs, lost development opportunities, and unemployment compensation costs; and (4) health impacts associated with unemployment. Some of these costs such as closure costs are relatively easy to quantify (data are readily available, can be developed, and require few value judgements); while others such as impacts on property values, quality of life, and health care costs are extremely difficult to quantify (data are not available, and there is no generally accepted method for quantifying the impacts in economic terms). Consequently, EPA believes this type of analysis cannot be reasonably done within this rulemaking. These secondary impacts are considered qualitatively in selecting the level of a standard. Therefore, EPA believes that this type analysis is not necessary for selecting the appropriate control level for the standard. Taking all available qualitative and quantitative information into account, EPA judges that the social and economic costs of closing the smelters would far outweigh the resulting health benefits.

Emission Monitoring Requirements

ASARCO and Phelps Dodge took issue on several grounds with the proposed opacity monitoring requirement for converter secondary emissions exiting a control device. First, ASARCO and Phelps Dodge commented that opacity monitoring will not be useful for evaluating proper operation and maintenance of control devices because short-term variations in particle size distributions due to combining of gas streams will cause variations in observed opacities that are not associated with a change in outlet mass concentration. ASARCO and Phelps Dodge recommended revision of the opacity monitoring requirement to a requirement for keeping a record of all maintenance of the control device and for annual emission testing of the device. The EPA agrees with the commenters that, if they occur, significant fluctuations in particle size distribution of emissions could cause variations in observed opacities. However, the magnitude of opacity variations due to particle-size changes are expected to be small relative to changes associated with malfunctions or improper operation or maintenance of the control device. Because the intent of the opacity monitoring requirement is to detect increased emissions due to malfunctions and improper operation, EPA reassessed the opacity monitoring requirement and concluded that the most reasonable approach is to establish a maximum 1-hour average reference opacity level that considers the fluctuations in opacity levels. One-hour average opacity levels above the reference opacity level would indicate that the collection device may no longer be meeting the particulate matter emission limit. A Method 5 test could then be performed to determine compliance.

ASARCO and Phelps Dodge also disagreed with EPA's requiring the use of transmissometers for monitoring gas streams with low particulate concentrations. ASARCO commented that frequent Method 5 testing would have to be performed to determine the validity of using transmissometers to monitor compliance with the 11.6 mg/dscm (0.005 gr/dscf) emission standard because opacity levels associated with concentrations of 11.6 mg/dscm (0.005 gr/dscf) are close to or at a transmissometer's limit of detection. The EPA agrees with ASARCO and Phelps Dodge that opacity levels associated with concentrations of 11.6 mg/dscm (0.005 gr/dscf) may be near the detection limit of transmissometers. The intent of the proposed requirement was to monitor for significant changes in the level of particulate matter emission control resulting from operation or maintenance practices, and such increased levels would be well above the detection limit of the transmissometer. Therefore, EPA revised the method for defining excess opacity levels. The revisions include using 1-hour averages of opacity data to determine the highest average and establishing the reference opacity level at 5 percent opacity above the highest 1-hour average opacity determined during an evaluation period that includes the emission test. The EPA believes that reference opacity levels defined in this manner will be a useful indicator of significant changes in the performance of the control device.

The Administrator would like to emphasize that this opacity monitoring and reporting of excess emissions is only a monitoring requirement and is not a directly enforceable opacity standard. However, excess emissions do provide evidence of possible violation of operation and maintenance requirements. In other standards, the EPA establishes enforceable opacity limits based on visual evaluations of opacities of gases exiting stacks and other conveyances, and on consideration of the effect on opacities of the expected range of normal operating variables. In addition, these opacity limits are based on Method 9, which determines opacity using human observers. At the primary copper smelters, opacity limits could not be established for the control devices because emissions from several control devices frequently are discharged in common to the atmosphere through one stack. Consequently, EPA established the monitoring requirements.

ASARCO further commented that they have had frequent maintenance problems with their existing transmissometers and that these problems are costly and undercut the usefulness of the instrument. The EPA does not agree that all transmissometers will experience frequent maintenance problems. Available information on performance of transmissometers indicates that transmissometers which meet 40 CFR 60 Appendix B specifications have repeatedly demonstrated more than 95 percent availability when properly operated and maintained. Therefore, EPA believes that transmissometers are a useful means for ensuring continuous effective operation of collection devices.

Magma Copper Company questioned whether the waiver of the emission test requirements referred to in § 61.175(a)(4) could be used to waive the requirement for collection and analysis of daily grab samples of matte, slag, and total smelter charge for any smelter that has arsenic inputs well below the cutoff. The waiver of emission tests discussed in § 61.13 and referred to in § 61.175(a)(4) of the proposed regulation for low-arsenic copper smelters, applies to sources that are required to demonstrate compliance with the standards through periodic testing of emissions. Thus, this reference in the regulation does not refer to the

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VOL 51 ISS 149 AG 4 1986 UMI

sampling requirements for demonstrating applicability.

The EPA agrees that the daily collection and monthly analysis of grab samples would prove burdensome for a smelter that fell well under the applicability cutoff of 75 kg/h (164 lb/h) converter arsenic charging rate. Consequently, paragraph 61.174(g) has been included in the final regulation to permit an owner or operator to petition the Administrator for a modified sampling schedule if the analyses performed in the first year of the standard show the source to have very low arsenic processing rates in relation to the cutoff values. An example of modified sampling schedule would be weekly, instead of daily, grab samples being collected to form the composite monthly samples.

Compliance Provisions

The proposed compliance provisions have been redrafted to remove provisions that were established as general provisions to 40 CFR Part 61 (see 50 FR 46284) and to improve the organization of sections in the regulation. The final standard also includes specific provisions requiring the owner or operator to operate the secondary hood system in a manner which will achieve maximum capture of arsenic emissions. The optimum operating conditions necessary to achieve maximum capture of emissions will be determined by the Administrator. The Administrator will propose separate optimum operating conditions for each secondary hood system which will be based on an assessment of capture efficiencies achieved by the hood under different operating conditions. The assessment of hood capture efficiency may include an evaluation of emissions by a panel as well as evaluation of hood design and performance by EPA personnel. After a period of public comment, the Administrator will publish final optimum operating conditions for each system.

The standard requires the owner or operator of each secondary hood system to submit to the Administrator a list of initial operating conditions for the system that in the owner or operator's judgment result in the greatest capture of converter secondary emissions. This list must be submitted by September 3, 1986, or within 30 days of the initial operation of the system, whichever is later. The system shall be operated under these conditions, or under conditions specified by the Administrator, until optimum operating conditions are established.

The potential use of a panel to evaluate hood performance was discussed in the July 20, 1983, **Federal Register** notice of proposal (48 FR 33112). The EPA requested comments on the proposed use of a panel in evaluating air curtain secondary hoods and in determining optimum operating conditions. Based on comments received on this "panel approach", the Administrator thinks that the method for establishing optimum operating conditions for the hoods should be clarified. The conditions will be determined by the Administrator based on visual observations of overall capture efficiency under different operating conditions such as different face velocities in the exhaust hood, horizontal slot dimensions, air velocity through the horizontal slot, and other operating conditions specified by the Administrator. These observations may be made by EPA personnel alone or by a group of individuals (i.e., "panel") comprised of representatives of EPA, industry, and the State or local air pollution control agency.

A variety of comments was received concerning the method for determining optimum hood operating conditions. Some commenters endorsed the concept of the panel approach, while others opposed it. One commenter argued that the panel approach is subjective and thus will result in different requirements for different facilities. The commenter suggested that EPA use the tracer mass balance procedure to determine capture efficiency of air secondary hoods. The EPA agrees with the commenter that visual evaluation of fume capture efficiency is a subjective procedure; however, EPA believes it is superior to other procedures, including the tracer technique. In tests to evaluate the air curtain secondary hood at ASARCO-Tacoma, EPA characterized hood performance by tracer mass balance tests, visual evaluations, and transmissometer measurements. The tracer mass balance procedure used could not at any one time evaluate the capture efficiency within the entire converter-secondary hood area. That is, owing to technical limitations, the capture efficiency could be evaluated only within subregions such as near the air curtain or near the converter. In contrast, the visual observations were overall assessments of the entire converter-secondary hood area. The average observations for the various converter operating conditions showed the same trends as the tracer experiments. In addition, tracer mass balance determinations are difficult and expensive to conduct. The EPA, therefore, believes it is unnecessary and unreasonable to require tracer mass balance determinations to evaluate hood capture efficiencies. The study also found the transmissometer data to be of limited usefulness because, again, overall capture efficiencies for the entire converter-secondary hood area could not be evaluated. (The transmissometer was mounted on top of the air curtain and measured emissions escaping capture by the air curtain and passing through the slot. It was not practical to monitor emissions escaping the lower portion of the hood and pouring into the converter aisle.) Consequently, the Administrator concluded that visual evaluation of fume capture efficiency should be used to evaluate optimum conditions for secondary hoods.

The use of observers to determine hood capture effciencies would not change the basic control requirements for the facilities. The standard requires installation of an air curtain secondary hood and use of operating practices that maximize the capture efficiency obtained. The EPA recognizes that design and operating requirements will vary among facilities and possibly among converters at any given facility. These differences will occur because each air curtain secondary hood will have to be custom designed to fit each existing converter. It is expected that any differences resulting from differences in judgments of capture efficiency will be negligible relative to differences imposed by design constraints.

ASARCO and Phelps Dodge argued that it would be costly and time consuming to use the proposed panel approach to establish optimum operating conditions for the converter secondary hoods. In lieu of the panel, ASARCO and Phelps Dodge recommended that each company be required to optimize its hoods through trail and error and that the company be required to keep a log of the parameters and emissions. during this period. The record would be submitted to EPA for review and assessment. The requirements of the standard do not preclude an owner or operator from conducting studies on the capture effectiveness and operating parameters. In fact, EPA believes that such studies by the owner or operator could expedite the Administrator's evaluation of operating conditions. However, EPA does not believe that the optimum operating conditions should be solely determined by the owner or operator of the source. The EPA believes that optimum operating conditions should be determined by the Agency since

evaluation of optimum operating conditions for converter secondary hoods is a further step in the development of the regulation. This part of the standard cannot be developed or established until the equipment required by the regulation is in place and operating. The Administrator will consider the assessment of the secondary hood's performance under a variety of operating conditions in the selection of operating conditions. The specific requirements that will establish optimum capture of converter secondary emissions will then be proposed by EPA in the Federal Register and established after consideration of public comments. Until optimum operating conditions are established for the source, the standard requires the owner or operator to operate the hood in a manner which will achieve effective capture of secondary emissions. These operating conditions will be established by the Administrator based on review of operating conditions recommended by the owner or operator of the source.

ASARCO further commented that if EPA decides to use a panel to evaluate and optimize hood operations, EPA should take steps to ensure that the panel is unbiased. ASARCO recommended that the panel be composed of persons knowledgeable about smelting and that it include at least one neutral member who is selected and compensated jointly by EPA and the company. The Administrator will establish optimum operating conditions based on visual assessments of hood capture efficiency under a variety of operating conditions and consideration of public comments on the proposed requirements. Because EPA plans to use observations made by more than one observer and measurements of operating parameters (e.g., hood flow rate, horizontal slot dimension, etc.), significant discrepancies among observations by the different observers would be detectable and, thus, considered in the selection of optimum operating conditions. (Observations of hood capture efficiency by EPA and local air pollution control agency personnel at the ASARCO-Tacoma smelter were generally in close agreement and EPA expects that observations by several individuals should be comparable and any biases detectable.) Public comment on the proposed standard will also serve to identify any bias in the basis for the proposed standard. Consequently, EPA does not agree that additional measures are needed to ensure that the observers and hence the assessments of hood capture efficiency are unbiased.

The NRDC and the USWA supported the panel approach, but favored expanding the size of the panel and its responsibilities. These commenters recommended that the panel include representatives of the union and local environmental groups. It was also suggested that the panel consider all sources of arsenic emissions, enforcement of the standard, and review of monitoring data. The Administrator considered these recommendations and concluded that they were inconsistent with the intended approach and should not be adopted as suggested. The EPA views the determination of optimum operating conditions as a further step in the regulatory development process of this standard. Hence, EPA believes that this determination should be conducted by EPA personnel considering assessments and information provided by EPA personnel, local air pollution control agency personnel, and the affected industry. During the development of the optimum operating conditions, there will be opportunities for NRDC, the USWA and members of the public to review and comment on the basis of the suggested operating conditions. Therefore, EPA believes that it is not necessary to include formally NRDC, the USWA, and other groups in the standards development process. The suggested use of a panel to review control of all arsenic emission sources, enforcement of the standard, and the monitoring data is also considered to be unnecessary. Arsenic emissions from sources in the primary copper smelters are presently being controlled under consent decrees, SIP's and OSHA standards, and additional control of other emission sources cannot be achieved at a reasonable cost. The EPA further believes that it would be inappropriate to delegate enforcement of the standard to a panel.

The NRDC suggested that the optimization panel may need to be chartered under the Federal Advisory Committee Act (FACA) and required to report annually to the Administrator, the local air pollution control agency, and the public on the status of arsenic emission control and prospects for additional emission control. The EPA did not intend to create an advisory committee with the proposed panel approach. The EPA proposed use of a panel to report data which can be used to identify optimum operating conditions for the converter secondary hoods as a means of continuing the development of the regulatory requirements. Hood operating parameters cannot be evaluated, or determined, until the equipment required by the regulation is in place. It is intended that optimum operating parameters will be proposed by the Administrator and established after consideration of public comments. Therefore, EPA has revised the regulation to indicate clearly that the optimum operating conditions for the secondary hoods are established by EPA based on a case-by-case evaluation of the hood's performance and public comments. At present, EPA plans to evaluate each hood's capture efficiency under varying operating conditions using observers, as appropriate and practicable, from EPA, the local air pollution control agency, and industry. The observers will only serve as a fact-finding body and will not recommend operating parameters for secondary hoods. Consequently, EPA does not believe the observers or "panels" need to be chartered under FACA or to report annually to the Administrator.

Impacts of Reporting and Recordkeeping Requirements

The EPA believes that the required reporting and recordkeeping requirements are necessary to assist the Agency in: (1) identifying sources; (2) determining initial compliance; and (3) enforcing the standards.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). To accommodate OMB review, EPA uses 3-year periods in its impact analysis procedures for estimating the labor-hour burden of reporting and recordkeeping requirements.

The average annual burden on primary copper smelters to comply with the reporting and recordkeeping requirements of the final standard over the first 3 years after the effective date is estimated to be about 8,000 labor-hours.

IV. Glass Manufacturing Plants

As indicated in the Overview section of this preamble, a standard limiting inorganic arsenic emissions from glass manufacturing plants was proposed on July 20, 1983, in the Federal Register (48 FR 33112). The public comment period for the proposed standard ended on January 31, 1984. The public comment period was reopened from March 20 1984, to April 19, 1984, to allow comment on the proposed method for calculating zero production offset and proposed control options for soda-lime glass furnaces (49 FR 10278). This part of the preamble presents the final standard, its

basis, and a discussion of the public comments on the proposed standard.

Summary of Promulgated Standard

Applicability

The promulgated standard for inorganic arsenic emissions from glass manufacturing plants applies to each glass melting furnace that uses commercial arsenic as a raw material. It does not apply to pot furnaces (i.e., furnaces that contain one or more refractory vessels and melt glass by indirect heating), nor does rebricking cause a furnace to become subject to the standard.

Emission Limits

The standard requires that the owner or operator of an existing glass melting furnace limit uncontrolled arsenic emissions to 2.5 Mg (2.75 tons) per year or less or reduce arsenic emissions by 85 percent. Similarly, new or modified glass melting furnaces must keep emissions below 0.4 Mg (0.44 ton) per year or meet the 85 percent reduction requirement.

Compliance Provisions

To demonstrate compliance with the precent reduction option, the owner or operator must determine the concentration of arsenic in the inlet and outlet gas streams to the control device and calculate the emission reduction. Test Method 108 is used to determine arsenic concentration, which consists of gas and particulate phase arsenic.

To demonstrate compliance with the annual uncontrolled emission limits, an owner or operator is required to conduct emission tests unless the amount of arsenic added annually to be an existing furnace is less than 8.0 Mg (8.8 tons) or less than 1.0 Mg (1.1 tons) for new or modified furnaces, and the owner or operator can demonstrate through a material balance that the applicable uncontrolled emission limit is being met. Owners or operators of all affected furnaces must estimate the uncontrolled arsenic emissions for the forthcoming 12-month period each 6 months by multiplying an arsenic emission factor for each type of glass produced by the amount of each type of glass produced during the 12 months.

Continuous Monitoring

An owner or operator who chooses to comply with the percent reduction requirement must continuously monitor the opacity of emissions discharged from the control device. Opacity monitoring must be conducted during the compliance test to establish a reference opacity level. Following the compliance test, owners or operators must reduce all opacity data to 6 minute averages and report any occurrence of excess opacity levels above the reference level to the Administrator. The temperature of the furnace exhaust gas entering a control device must also be continuously monitored and recorded.

Recordkeeping and Reporting Requirements

In addition to the reporting requirements of 40 CFR Part 61, Subpart A, owners or operators must report the results of the continuous monitoring system evaluation, any excess opacity occurrence, and any change from compliance with uncontrolled emission limit provisions to percent reduction provisions. Owners or operators who choose to comply with the annual uncontrolled emission limit must keep records of the arsenic emission factors, supporting calculations, and emission forcasts for the preceding and forthcoming 12-month periods. All owners or operators of a source subject to the standard must maintain records of all measurements, all calculations used to produce emission estimates, monitoring system performance evaluations, any malfunction of process or control equipment, and any maintenance and repairs made to the controls or monitoring systems. All records must be suitable for inspection and retained for 2 years.

Summary of Environmental, Health, Energy, and Economic Impacts

The standard being established today will affect eight existing glass manufacturing furnaces and any new or modified glass manufacturing furnace. It is expected that control devices would have to be installed on two of the existing furnaces or the use of arsenic as a raw material would have to be decreased and that the other six furnaces would be able to continue using their existing control systems to meet the standard. Environmental, energy, and economic impacts of the standard are summarized in Table IV–1.

TABLE IV–1.—SUMMARY OF ENVIRONMENTAL, ENERGY, AND ECONOMIC IMPACTS FOR GLASS MANUFACTURING PLANTS

Plant location	Uncontrolled arsenic emissions (Mg/yr)	Reduction in arsenic emissions (Mg/yr)	Increase in solid waste (Mg/yr)	Increase in energy use (MW-hr/yr)	Decline in profit (percent)
Martinsburg, West Virginia	13.2	11.22	[a]2.0	185	<5
Charleroi, Pennsylvania	3.4	[b]3.40	0	0	0
Danville, Kentucky	7.6	[c]7.40	0	0	0
Charleroi, Pennsylvania	7.3	[c]7.29	0	0	0
State College, Pennsylvania	6.9	[c]6.88	0	0	0
Fall Brook, New York	3.8	[c]3.73	0	0	0
Fall Brook, New York	2.7	[c]2.65	0	0	0
Central Falls, Rhode Island	2.6	[c]2.41	0	0	0
Total	47.5	44.96	2.0	185	<5

[a]Assumes that 90 percent of waste is recycled to furnace.
[b]Assumes that non-arsenic containing glass recipe will be used; no impacts.
[c]Controls presently in place; no additional controls required.

Significant Changes Since Proposal

In response to public comments received on the proposed rulemaking and as a result of EPA re-evaluation, five major changes were made to the proposed standard. These changes involve: (1) Revising the annual limit on uncontrolled emissions above which add-on control is required for existing furnaces, (2) revising the format of the emission limits, (3) allowing the control device to be by-passed for periods of maintenance, (4) eliminating the exemption to 40 CFR Part 60, Subpart CC for sources that comply with the NESHAP, and (5) establishing a provision to exempt certain sources from testing requirements.

Existing Furnace Annual Uncontrolled Emission Limit

After proposal, further examination of the costs, risks, and potential risk reductions associated with inorganic arsenic emissions and controls for specific existing glass manufacturing plants led the Agency to change the regulation by establishing the limit on uncontrolled arsenic emissions for existing glass melting furnaces at 2.5 Mg (2.75 ton) per year. The proposed limit on uncontrolled arsenic emissions of 0.4 Mg/year (0.44 ton) is retained for new or modified furnaces. The rationale for this revision is discussed below under Basis for Standard.

Format of the Standard

The second major change in the regulation since proposal involves a change in the format for emission limits. The proposed standard was in the form of a particulate matter emission limit. The promulgated standard requires

owners or operators of glass furnaces to ensure either that uncontrolled arsenic emissions are less than limits described above or that arsenic emissions are reduced by 85 percent. Compliance with the percent reduction requirement is determined using Test Method 108. The rationale for this revision is discussed below under Basis for Standard.

Bypass of the Control Device

The third major change in the regulation allows owners or operators of glass furnaces to petition the Administrator for permission to by-pass the control device for a limited period for purposes of maintaining the control device. However, the Agency has included provisions to minimize arsenic emissions during maintenance periods and will allow by-pass of the control device only upon demonstration of its necessity. The revision is fully discussed in the Discussion of Comments section of this part of the preamble.

Elimination of Exemption from NSPS

In the proposed standard, particulate emission limits were identical to those in the glass manufacturing NSPS (40 CFR Part 60, Subpart CC), and no furnace was allowed to operate with uncontrolled arsenic emissions in excess of 0.4 Mg (0.44 ton) per year. The promulgated standard has been revised such that the emission limits are no longer identical and the exemption from the NSPS is no longer appropriate.

Compliance Testing

In the final major change, EPA created a provision which exempts owners or operators of certain furnaces from the requirement to conduct emission tests to demonstrate compliance. Emission tests are not required for existing furnaces that use less than 8.0 Mg (8.8 tons) arsenic per year and new or modified furnaces that use less than 1.0 Mg (1.1 tons) arsenic per year if the owner or operator demonstrates through a material balance that the applicable annual uncontrolled emission limit is being met. Analysis has shown that at least 70 percent of the arsenic added to the raw materials is retained in the glass product. Therefore, the Agency believes that existing furnaces to which less than 8.0 Mg (8.8 tons) of arsenic is added annually, or new and modified furnaces to which less than 1.0 Mg (1.1 tons) of arsenic is added annually, would not be likely to exceed the respective limits on uncontrolled inorganic arsenic emissions. The Administrator does reserve the right to require an emission test of any furnace using arsenic to ensure that the annual uncontrolled emission limits are not exceeded under any circumstances.

Additional Analyses

As a result of public comments, EPA has conducted additional analyses to ensure that the promulgated standard is based on the most complete and accurate information available. These additional analyses focused on the status of the industry, arsenic emission sources and characteristics, and risk assessment. The scope and results of these additional analyses are summarized below. The analyses and conclusions are discussed in greater detail in the Discussion of Comments section of this preamble and in the BID for the promulgated standard.

Update of Industry Status

At the time of proposal, the Agency had identified a total of 32 glass melting furnaces that use arsenic as a raw material. Five of these furnaces were determined to emit arsenic at uncontrolled levels at or below 0.4 Mg (0.44 ton) per year, which was the proposed cutoff for requiring add-on controls. Of the remaining 27 furnaces, 13 were identified as being controlled by electrostatic precipitators or fabric filters. Arsenic emissions from the 32 furnaces were estimated to be 36.7 Mg (40.4 tons) per year. The Agency also noted at the time of proposal, however, that more arsenic-using furnaces probably existed, although most of these furnaces were believed to be small pot furnaces and all-electric melters or other furnaces that would not be affected by the proposed regulation.

Upon further investigation, a total of 53 additional arsenic-using glass furnaces were identified. Total emissions of arsenic from these 53 furnaces were estimated to be 12 Mg (13.2 tons) per year. Over 60 percent of these additional arsenic emissions arise from a single glass plant which is equipped with 9 individual arsenic-using furnaces, 5 of which emit more than 0.40 Mg (0.44 ton) of arsenic annually. Each of the remaining 44 furnaces identified after proposal were estimated to emit 0.4 Mg (0.44 ton) or less of arsenic per year. Additional data were also gathered after proposal on the 32 furnaces that had been previously identified. It was found that since proposal the use of arsenic had been eliminated from 10 of these furnaces.

The information currently available to the Agency indicates that a total of 75 glass furnaces located at 27 plants are known to use arsenic as a raw material. Arsenic emissions from these 75 furnaces are estimated to be 32.2 Mg (35.4 tons) per year. Of the total arsenic emissions from the source category, nearly 80 percent (25.2 Mg/yr) arise from 11 uncontrolled furnaces each of which emits more than 0.40 Mg (0.44 ton) annually. These 11 furnaces are located at 5 separate glass manufacturing plants. A complete listing of all furnaces known to use arsenic is provided in Appendix C of the BID.

Emission Sources and Characteristics

Several analyses were conducted to estimate the magnitude of inorganic arsenic emissions from various sources within the glass manufacturing plants, and to characterize the factors affecting inorganic arsenic emissions. These analyses included:

(1) An estimate of the magnitude of fugitive emissions of arsenic from glass manufacturing plants (A–83–8/IV–B–11). Although several sources of fugitive arsenic emissions were identified, even under worst case conditions they were found to be very small compared to stack emissions.

(2) An analysis to determine if furnaces that do not add arsenic as a raw material could exceed the proposed 0.4 Mg/yr (0.44 ton/yr) emissions cutoff due to the presence of arsenic impurities in other raw materials (A–83–8/IV–B–12). It was concluded that the concentration of arsenic impurities in other raw materials would be insufficient to result in an exceedance of the proposed emission cutoff.

(3) Estimates of the cost and emission impacts of allowing furnaces to by-pass the emission control device during periods of routine maintenance of the control device (A–83–8/IV–B–10).

(4) An evaluation of the feasibility of reducing or eliminating the use of arsenic in soda-lime glass (A–83–8/IV–B–13).

(5) A study of the factors affecting arsenic emissions from glass melting furnaces, particularly those affecting the proportion of arsenic that is emitted as particulate matter. Additional emission test data were obtained through EPA testing and from industry representatives. The results of this study are reviewed below under Basis for Standard, and more detailed summaries of the emission test data can be found in Appendix A of the BID.

Risk Assessment

Risk assessment for all known arsenic-using furnaces had been performed at proposal. However, for several of these furnaces stack parameter data were not available and model plant parameters were used.

After proposal, stack parameter information was obtained for those furnaces. In addition, more accurate location (latitude/longitude) data were obtained for all furnaces. Risk assessments were then performed for the actual furnaces known to use arsenic rather than for model furnaces. Maximum individual risk and aggregate risk values were calculated for each plant at existing control levels and the levels required by the final standard. These risk estimates also reflect extension of the analysis out to 50 km (31 miles) from a plant and the use of 1980 census data.

The risk estimates were developed using the procedure described in Part I, *Risk Assessment Methodology*, of this preamble and a unit risk factor of $4.29 \times 10^{-3}/\mu g - m^3$. The Agency determined that most of the emissions and risks were associated with 11 uncontrolled furnaces emitting more than 0.4 Mg/yr (0.44 tons/yr) each. These furnaces are located at 5 different plants. A sixth plant operating 9 uncontrolled furnaces, each emitting less than 0.4 Mg/yr (0.44 ton/yr) of arsenic, was also found to present relatively high aggregate risks. Because the proposed annual limit on uncontrolled arsenic emissions was set at 0.4 Mg/yr (0.44 ton/yr), none of the furnaces at this plant would have been subject to the proposed control requirements. However, risks to the population in the vicinity of a plant are a function of the emissions from an entire plant, rather than emissions from individual furnaces within a plant. Therefore, EPA considered whether the proposed annual limit should be lowered to include furnaces emitting less than 0.4 Mg/yr (0.44 ton/yr) when these furnaces contribute significantly to plant-wide emissions, and thereby to plant-wide risks.

The Agency also reviewed the availability of closer or more representative meteorological sites from those used in the proposal analysis. Meteorological experts within the Agency identified four sites in which more representative meteorological data were available, collected the data, and used it in the analysis which supports today's rulemaking. The plant sites involved are located in Dunkirk, Indiana; Baltimore, Maryland; Charleroi, Pennsylvania; and Moundsville, West Virginia.

Basis For Standard

As discussed in Part I of this preamble, the risk management approach provides a comprehensive assessment of candidate source categories, including the evaluation of current and applicable emission control alternatives, as well as the associated health risks, risk reductions, and costs and economic impacts. This section describes the application of this approach in the development of the standard for glass manufacturing plants. The points addressed here are: (1) Application of risk management approach including consideration of risks and the effectiveness and cost of control technology; and (2) selection of the format and the level of the final standard.

Application of Risk Management Approach

The standard that is being established today is based on the best technology which, in the Administrator's judgment, is available and can be applied without causing widespread plant closure or imposing costs that far exceed any public health benefit. Accordingly, the standard reflects consideration of the estimated risks, the costs and availability of further controls and the associated potential for risk reduction, and the potential societal impacts of regulatory alternatives. The following sections describe the principal factors considered in this decision.

Consideration of Effectiveness of Control Technology. At the time of proposal, it was believed that the most effective technology for control of arsenic emissions was identical to the best demonstrated technology for control of total particulate emissions from glass melting furnaces, fabric filter collectors and ESP's. This determination was based on data obtained from two tests on particulate control devices (one fabric filter and one ESP) installed on glass melting furnaces that use arsenic, which showed that at least 90 percent of the emitted arsenic was in the particulate matter and captured in the control devices. Because only arsenic emitted in the particulate matter can be controlled with existing technologies, and because most of the arsenic emitted from glass melting furnaces was believed to occur as particulate matter, it was concluded that application of the best systems for control of particulate matter would result in the maximum achievable control of arsenic emissions. Therefore, the Agency proposed to require affected sources to reduce emissions of total particulate to the levels required by the NSPS for glass manufacturing plants.

Data gathered by the Agency after proposal, and information supplied by commenters on the propsed standard, led to the conclusion that some furnaces would be able to meet the proposed emission limits without installing the most effective technology for control of arsenic emissions. For example, it was found that the largest arsenic emitting furnace, located in Martinsburg, West Virginia, could meet the proposed emission limit by reducing total particulate emissions by about only 45 percent. In this case, the corresponding reduction achieved in arsenic emissions would be no greater than 45 percent. In addition, data gathered from further EPA emission tests and emission test data supplied by industry representatives indicated that inorganic arsenic emissions from some glass melting furnaces may occur less predominantly in the particulate matter than previously believed. Therefore, a requirement that only emissions of total particulate be controlled would not guarantee that the most effective control of inorganic arsenic emissions would be achieved in all cases.

Prior to proposal, consideration was given to two alternative formats for the emission limits. One alternative considered was to establish a limit on the amount of arsenic emitted. This alternative was not adopted because the wide variability in the amount of arsenic added to the raw materials and the amount of arsenic retained in the product glass results in considerable variability in the amount of arsenic emitted from glass melting furnaces. Therefore, if the arsenic emission limit were set high enough to allow for the variability observed, the standard would not have resulted in application of the most effective control to all affected furnaces. Consideration was also given to an efficiency format that would require arsenic emissions to be reduced by a specific percentage. An efficiency format was not proposed because it was believed that a particulate emission limit would require the same level of control without the additional costs involved in measuring arsenic emissions at both the inlet and outlet of the control device.

In considering all of the available data, the Agency has concluded that, as believed at proposal, well-maintained and -operated ESP's and fabric filters represent the most effective technologies for controlling inorganic arsenic emissions from glass manufacturing plants. However, based on the data collected after proposal, the Agency has also concluded that the effectiveness of fabric filters and ESP's in controlling emissions of arsenic from glass melting furnaces can best be determined by measuring the efficiency of these control devices in reducing inorganic arsenic emissions. Only in this way can the Agency be assured that inorganic arsenic emissions from all

affected furnaces will be reduced to the greatest extent possible. Therefore, the Agency believes that the additional costs involved in measuring the amount of arsenic at both the inlet and the outlet of the control device are warranted given the increased effectiveness of control that would be achieved by requiring emissions of arsenic to be reduced by a specific percentage.

As mentioned above, data made available after proposal have indicated that arsenic emissions from some glass melting furnaces may occur less predominantly as particulate matter. However, data collected during EPA emission testing and additional data supplied by industry representatives did not demonstrate any correlations between the proportion of arsenic emitted as particulate matter and the type of glass produced, the type of furnace used, or the type of arsenic added to the raw materials. In light of this finding, the EPA examined further whether cooling of the exhaust gases would cause gaseous arsenic emissions to condense and thereby increase the overall efficiency of particulate control devices in reducing total arsenic emissions. One emission test performed by EPA after proposal indicated that cooling of the furnace exhaust gas might increase the proportion of arsenic emitted as particulate matter, although the results were inconclusive. A subsequent emission test performed on the furnace located in Martinsburg, West Virginia, did clearly demonstrate that, for that furnace, arsenic removal efficiencies could be increased by cooling the furnace exhaust gas to a temperature of 121°C (250°F) or below.

The Agency also considered the performance of existing control devices in reducing emissions of inorganic arsenic. Available performance data for arsenic-using furnaces that are presently equipped with ESP's or fabric filters are shown in Table IV–2. The average efficiencies in controlling total arsenic emissions range from 92.6 percent to 99.7 percent. The relatively lower removal efficiency achieved by the fabric filter system installed on the furnace located in Central Falls, Rhode Island, is attributable to the fact that a relatively larger fraction of the arsenic emitted from this furnace was in the gaseous phase and not captured by the control device. The fabric filters at this plant achieved a greater than 99 percent removal efficiency of particulate arsenic emissions and the furnace exhaust gas is cooled to about 138°C (280°F) prior to entering the existing control system.

TABLE IV-2.—AVAILABLE ARSENIC EMISSION DATA FOR GLASS MELTING FURNACES WITH EXISTING CONTROL DEVICES

Plant Location	Furnace	Control device type [a]	Uncontrolled emissions (Mg/yr)	Controlled emissions (Mg/yr)	Average percent reduction
Danville, Kentucky	A	ESP	7.6	0.20	97.5
Charleroi, Pennsylvania	C	ESP	7.3	0.01	[illegible]
State College, Pennsylvania	A	ESP	6.9	[illegible]	99.7
Fall Brook, New York	A	ESP	3.1	0.05	98.5
	B				
	C				
Fall Brook, New York	C	ESP	3.8	0.07	[illegible]
	D				
Central Falls, Rhode Island	A	FF	2.6	0.19	[illegible]
Moundsville, West Virginia	A	ESP	1.7	0.04	98.7
Corning, New York	B	FF	0.6	0.04	94.0
Circleville, Ohio	A	ESP	0.6	[illegible]	95.0
	B	ESP	0.2	0.006	97.0

[a] ESP = Electrostatic Precipitator; FF = Fabric Filter.

Consideration of Costs and Economic Impacts. At the time of proposal, insufficient data were available to estimate the cost and economic impacts of applying controls to specific furnaces at specific glass manufacturing plants. To more accurately evaluate the cost and economic impacts associated with the final standard, detailed information was gathered on the largest emitting furnaces and the plants at which those furnaces are located. This information enabled the costs associated with alternative control options to be estimated for specific furnaces and the economic impacts to be estimated for the companies that operate those furnaces.

The detailed cost and economic analysis was conducted only for arsenic-using furnaces that are not presently equipped with ESP's or fabric filters. Total arsenic emissions from the 16 arsenic-using furnaces with existing control devices were estimated to be about 1.3 Mg/yr (1.4 tons/yr), or less than 5 percent of the emissions from the source category. Moreover, the available data indicate that arsenic emissions from these furnaces are presently being reduced to the maximum extent possible, although 4 furnaces were found to be emitting particulate emissions at levels higher than those required by the proposed standard. The costs of upgrading these control devices to meet the proposed emission limits were estimated and found to be excessive given that little, if any, incremental reduction in arsenic emissions could be achieved by further control. Therefore, the Agency concluded that it would unreasonable to require any additional control of arsenic-using furnaces equipped with existing fabric filters or ESP's, and no further cost or economic analysis was conducted for these furnaces.

Of the total 59 uncontrolled glass melting furnaces that use arsenic, about 90 percent of the emissions and risks are associated with 24 individual furnaces. Therefore, the cost and economic impacts of applying controls to these 24 furnaces were investigated. The 24 furnaces are located at 6 separate glass manufacturing plants and are owned and operated by 3 different companies.

The costs of controlling arsenic emissions from the six plants are shown in Table IV–3. Capital costs were calculated to range from about $2,239,000 to $4,650,000. Annualized costs were calculated to range from about $450,000 to $940,000. Assuming that the costs of controls are absorbed by the companies operating these furnaces (i.e., control costs are not passed on to consumers), the estimated decline in profit ranges from less than 5 percent to more than 30 percent. A decline in profit of 15 percent or more is considered by the Agency to be significant, and could result in the closure of a furnace. A more detailed discussion of the cost and economic analysis is provided in Appendix B of the BID.

TABLE IV–3.—COSTS OF CONTROL AND ECONOMIC IMPACTS

Plant	Number of uncontrolled furnaces	Uncontrolled emissions (milligrams per year)	Capital cost ($1,000)	Annual cost ($1,000 per year)	Decline in profit (percent)
Martinsburg, Virginia	1	13.3	2,634	533	<5
Dunkirk, Indiana	[illegible] 9	7.6	2,979	597	15–30
Charleroi, Pennsylvania	1	3.4	2,628	531	30–50

TABLE IV-3.—COSTS OF CONTROL AND ECONOMIC IMPACTS—Continued

Plant	Number of uncontrolled furnaces	Uncontrolled emissions (milligrams per year)	Capital cost ($1,000)	Annual cost ($1,000 per year)	Decline in profit (percent)
Shreveport, Louisiana	3	2.4	2,746	556	5–15
Toledo, Ohio	[2] 9	1.6	4,650	936	5–15
Corning, New York	1	0.8	2,299	451	15–30

[1] Four furnaces at plant each emit less than 0.4 Milligrams per year of arsenic; no controls were assumed to be applied to these four furnaces.
[2] All nine furnaces at plant each emit less than 0.4 Milligrams per year of arsenic; controls were assumed to be applied to all nine furnaces.

As mentioned above, cooling of the exhaust gases from glass melting furnaces may, in some cases, be necessary to achieve the best control of arsenic emissions. Because cooling of the exhaust gases may result in corrosion of the metal surfaces in an emission control system, the costs of installing systems to remove corrosive substances (dry scrubbers) from the exhaust gas were also estimated (A–83–08/IV–B–14). The use of dry scrubbing systems was found to increase annualized control costs by 40 to 50 percent above those for an ESP or fabric filter alone. However, no existing furnaces affected under the promulgated standard would need to install dry scrubbing systems.

Consideration of Risks. In reaching the decision on the standard, the Administrator considered of particular importance the present magnitude of estimated risks and the degree to which risks can be reduced by control measures which are available.

The magnitude of the reduction in risk achievable by application of control technology was determined by comparing the maximum individual risk and the annual incidence before control to the residual risks remaining after control. Any changes in the emission source characteristics caused by the application of controls, such as exhaust gas cooling, were considered in the estimates of residual risks. The accuracy of the exposure analysis was evaluated by comparing the results obtained from alternative dispersion models and, where possible, by comparing the modelled concentrations to the concentrations actually measured near specific sites.

Estimated Risk—Using the approach and procedures described above, the maximum lifetime risks and the annual incidence prior to control were calculated for the six highest emitting plants. Over 90 percent of the total arsenic emissions from the source category arise from the 24 individual melting furnaces operated at these 6 plants. The residual risks that would remain if emissions from these plants were controlled to the maximum extent possible were then estimated.

The results of the risk analysis are summarized in Table IV–4. Maximum lifetime risks prior to control range from a low of about 0.3×10^{-4} for the plant located in Corning, New York to a high of about 9×10^{-4} for the plant located in Dunkirk, Indiana. Annual incidence was determined to range from 0.005 per year to 0.12 per year. With the exceptions of the highest emitting plant and the lowest emitting plant, the magnitude of the risks were found not to correlate directly with the magnitude of the emissions. This finding reflects the sensitivity of risk to the physical charcteristics of the emission source as well as to the location of the population with respect to the emission source.

TABLE IV–4.—BASELINE RISKS AND RESIDUAL RISKS AFTER CONTROL OF GLASS MANUFACTURING PLANTS WITH HIGHEST ARSENIC EMISSIONS

Plant	Number of uncontrolled furnaces	Uncontrolled arsenic emissions (Mg/manufactured/year)	Prior to control		After control		
			Maximum risk ($\times 10^{-4}$)	Annual incidence	Maximum risk ($\times 10^{-4}$)	Annual incidence	Reduction in annual incidence
Martinsburg, West Virginia	1	13.3	8	0.12	0.5	0.013	0.11
Dunkirk, Indiana	[2] 9	7.6	9	0.036	1.7	0.0085	0.03
Charleroi, Pennsylvania	1	3.4	4	0.11	0.2	0.012	0.10
Shreveport, Louisiana	3	2.4	0.7	0.035	0.05	0.0037	0.03
Toledo, Ohio	[2] 9	1.6	3	0.07	0.09	0.0066	0.059
Corning, New York	1	0.8	0.3	0.005	0.14	0.0016	0.003

[1] Four furnaces at plant each emit less than 0.4 Mg/yr of arsenic; no controls were assumed to be applied to these four furnaces.
[2] All nine furnaces at plant each emit less than 0.4 Mg/yr of arsenic; controls were assumed to be applied to all nine furnaces.

The estimated reduction in annual incidence achievable through the application of emission controls were found to range from less than 0.01 per year to more than 0.10 per year. The estimated reduction in annual incidence achievable from the plants located in Martinsburg, West Virginia, and Charleroi, Pennsylvania, were found to be three to four times greater than the reduction in annual incidence achievable from the other four plants. Because emission test data gathered at the Martinsburg plant indicated that cooling of the furnace exhaust gas would result in more effective control of arsenic emissions, residual risks were estimated for a control system that included gas cooling.

Validation of the Exposure Estimates—The EPA has used HEM to estimate exposure and risks associated with the glass plants. However, similar to what the Agency did in the case of the primary copper smelter source category, EPA has validated its HEM exposure assessment of the glass plants in several ways. First, at two sites, EPA has conducted a more site-specific air quality modeling analysis and compared the results to the concentration profiles that are predicted by the HEM dispersion model. In the original HEM analysis, EPA did not consider terrain effects or the full effect of building downwash on stack emissions from glass manufacturing plants. Glass plants often have short stacks that cause effluents to be entrained in the building wake on the leeward side of the furnace buildings or other adjacent structures. As a consequence, it was regarded as likely that airborne arsenic concentrations to which people might be exposed near these plants could be underestimated. In addition, it was felt that the extent of building downwash could be expected to be different depending on the temperature of the gas stream exiting the control device. If so, the relative reduction in risk achieved would be affected. For these reasons, more sophisticated dispersion analyses

were carried out for two glass plant locations: Martinsburg, West Virginia, and Shreveport, Louisiana. These two plants were selected because of availability of representative meteorological data that were collected at monitoring stations near the plants and because of the availability of some limited ambient monitoring data to which the modeling results could be compared. Although the concentrations predicted by HEM were somewhat higher, generally the HEM and the site-specific analyses provided comparable results.

Where possible at other glass plant sites, the Agency has validated the results of the air dispersion models by comparing the modeled concentrations to ambient concentrations measured near the plants. Ambient data in sufficient quantities to make limited comparisons were found at four glass plant sites. Generally, EPA's dispersion modeling estimates were close to the measured concentrations or were overpredictions of the measured concentrations. However, much of the available data were below the detection limit of the sampling and analytical techniques used in the ambient monitoring program, thus, limiting the usefulness of the comparison.

Selection of Standard

Based on EPA's interpretation of section 112, as previously discussed in Overview—Basis for Promulgated Standards, the following factors were considered in the selection of the standard: (1) The magnitude of the risks; (2) the costs and availability of further controls; and (3) the potential economic and social impacts of the alternatives.

Applicability of the Standard. In assessing the need for further control, the risks and control cost estimates for the six plants with the highest uncontrolled emissions were considered. These estimates are shown in Tables IV–3 and IV–4. The cost control at each of the six plants is similar except for the Toledo, Ohio, plant which has an estimated annual control cost approximately double the others. In contrast, the estimated risks and risk reduction potential varies widely among the six plants. The reduction in annual incidence achievable from plants located in Martinsburg, West Virginia, and in Charleroi, Pennsylvania (from Table IV–4), is three to four times greater than the reduction in annual incidence achievable from the other four plants.

Based on a consideration of these risk and cost data, it was concluded that further control should be required at the Martinsburg and Charleroi plants. However, at the other four plants where risk and achievable risk reduction potential are lower, it was concluded that further control is not necessary, and if required, would impose costs which are disproportionately high compared to the benefits of reducing the estimated current risks. Accordingly, the promulgated standard establishes an annual emission limit on uncontrolled arsenic emissions from existing glass melting furnaces that would require only the plants located in Martinsburg, West Virginia, and Charleroi, Pennsylvania, to install add-on control technology. Because emissions from these two plants arise from a single uncontrolled furnace having emissions higher than any furnace at the other plants, and because no furnaces at any of the other plants emit more than 2.5 Mg (2.75 tons) per year of arsenic, the limit on uncontrolled emissions of arsenic for existing glass melting furnaces is established at 2.5 Mg/yr (2.75 tons/yr). In establishing this limit, the estimated economic impact of applying controls to the plant located in Charleroi, Pennsylvania, was given particular consideration because the economic analysis indicated that possible closure would result. However, representatives of the firm that owns this plant indicated that they do not intend to produce an arsenic-containing glass in this furnace in the future (A–83–08/IV–E–58). Therefore, the Agency concluded that establishing the limit at 2.5 Mg/yr (2.75 tons/yr) would not result in adverse economic impacts. The EPA has also identified six other glass melting furnaces with uncontrolled inorganic arsenic emissions of more than 2.5 Mg/yr (2.75 tons/yr). However, all six of the furnaces are presently equipped with the control technology that would be necessary to meet the promulgated emission control requirements, and, as discussed below, are not expected to need any additional control to demonstrate compliance.

The selected uncontrolled emission limit of 2.5 Mg/yr (2.75 tons/yr) applies only to existing glass melting furnaces that use commercial arsenic. For new or modified furnaces, the proposed limit of 0.4 Mg/yr (0.44 tons/yr) of uncontrolled arsenic emissions has been retained in the promulgated standard. It is not feasible to establish an emission limit for new or modified glass melting furnaces on the basis of risk because it is impossible to characterize the factors that affect risk estimates for glass furnaces that do not presently exist, or do not at present use arsenic. The risks associated with emissions of arsenic are a function of the amount of arsenic emitted, the specific physical parameters of the emission source (i.e., stack height, exhaust gas temperature, and velocity, etc.), and the location of the emission source with respect to the surrounding population. The Agency does not anticipate that any new arsenic-using furnaces will be built, or that any furnaces that do not at present use arsenic will do so in the future. Since proposal, the use of arsenic in some glass melting furnaces has been eliminated and the Agency believes that this trend is likely to continue. The companies that operate these furnaces have indicated that they do not plan to resume using arsenic. The cutoff applied to new or modified glass melting furnaces is based on consideration of cost and economic factors and has been retained in the promulgated standard to discourage reintroduction of arsenic in furnaces that have recently eliminated its use and to discourage future use. The Agency believes that this is appropriate to prevent risks from increasing near those furnaces that have recently eliminated arsenic use and because reasonable alternatives to exceeding this cutoff level are available at these facilities. These include the use of low-arsenic glass recipes and the use of controlled furnaces for production of those glass types which would result in uncontrolled emissions of arsenic of more than 0.4 Mg (0.44 ton) per year.

Format and Level of the Standard. As discussed above under Consideration of the Effectiveness of Control Technology, EPA believes that well-maintained and operated ESP's and fabric filters represent the most effective technologies for controlling emissions of arsenic from glass manufacturing plants. However, based on information and data made available after proposal, the Agency has determined that a standard requiring arsenic emissions to be reduced by a specific percentage is necessary to ensure that these control devices are applied and operated in a manner that best reflects their full effectiveness in controlling arsenic emissions.

Consideration was given to applying the percent reduction requirement to emissions of particulate arsenic rather than total arsenic. This option was considered because only arsenic emitted as particulate matter can be collected by ESP's and fabric filters. However, emission test data have indicated that for some glass melting furnaces only a relatively small proportion of the emitted arsenic occurs as particulate matter. In these cases, a control requirement based on a percent reduction in particulate arsenic would result in some furnaces meeting the

standard without reducing emissions of total arsenic to the maximum extent possible. Also, the results obtained from a recent test on a glass melting furnace (summarized in Appendix A of the BID) indicated that the Test Method 108 sampling train may not provide a reliable indication of the ratio of particulate arsenic emissions to gaseous arsenic emissions in instances where the concentration of gaseous arsenic is sufficiently high to be sensitive to gas stream temperature. Therefore, measurements of particulate arsenic, as opposed to total arsenic, may be subject to error in some instances and may not provide an accurate indication of the degree of emission reductions achieved in all cases. For these reasons, the Agency concluded that the standard should be based on the reductions of total arsenic achievable through the application of ESP's and fabric filters.

As the data from furnaces with existing control devices demonstrate (see Table IV-2), the efficiency of a given control device in reducing total arsenic emissions may not be obtained by a similar device installed on a different glass melting furnace. The variability observed in removal efficiency is primarily a function of the proportion of arsenic emitted as particulate matter. As discussed above, no correlations have been identified between the proportion of arsenic emitted as particulate matter and the type of glass produced, the type of glass melting furnace employed, the type of arsenic added to the raw materials, or other process characteristics. Although the available data do indicate that cooling of the furnace exhaust gas prior to entering a control device can sometimes be effective in increasing the proportion of arsenic emitted as particulate matter, sufficient data are not available to predict quantitatively the extent to which cooling will increase the effectiveness of control. As a result of these uncertainties, available data on the efficiencies of existing control devices in controlling total arsenic emissions cannot be generalized to glass melting furnaces that are not presently controlled. Therefore, the degree of emission reduction achievable from the two uncontrolled furnaces emitting more than 2.5 Mg/yr (2.75 tons/yr) of arsenic were also investigated.

Available emission test data for the furnace located in Charleroi, Pennsylvania, showed that the fraction of total arsenic emitted from this furnace in the particulate phase ranges from about 89 to 95 percent. Assuming that the stack gas sampling system used in these tests accurately measured the ratio of particulate arsenic to gaseous arsenic, control efficiencies for total arsenic of from 89 to 95 percent would be expected. However, because EPA expects that no arsenic will be used in this furnace in the future, no further analysis of the arsenic control efficiencies achievable for the Charleroi furnace was performed.

Emission test data supplied by Corning Glass Works on the furnace located in Martinsburg, West Virginia, showed wide variability in the proportion of arsenic emitted from the furnace as particulate matter. Data collected over a five-year period indicated that the proportion of arsenic emitted as particulate matter ranges from a low of about 30 percent to a high of about 100 percent. Wide variability was observed even for tests performed on the same day, under stable operating conditions. Because the available data on the Martinsburg furnace did not provide the Agency with any clear indication of the arsenic removal efficiencies achievable from this furnace, additional testing was performed by EPA. Simultaneous with the EPA tests, Corning conducted a series of performance tests on a pilot-scale fiber filter system that was installed on the furnace. In reviewing the data from these tests, it was concluded that cooling of the furnace exhaust gas to a temperature of approximately 121 °C (250 °F), or below, was effective in increasing the efficiency of the pilot-scale fabric filter in reducing emissions of arsenic. When the control device was operated at temperatures above 121 °C (250 °F), control efficiencies ranged from about 58 percent to 82 percent and averaged 71 percent. Control efficiencies at temperatures below 121 °C (250 °F) ranged from 75 percent to 97 percent and averaged 87 percent. The variability observed in these results reflects the fact that the operating conditions of both the furnace and the control device were variable over the course of the test program.

The operating condition that exerted the greatest influence on the percentage of arsenic reduced across the control device was the production rate of the furnace. As the production rate decreased, the concentration of particulate arsenic in the gas entering the control device also decreased. The concentration of gaseous arsenic at the inlet of the control device did not decrease at lower production rates. Because proportionally less arsenic entered the control device in particulate form at lower production rates, the percentage of the total arsenic captured by the control device decreased. However, the total concentration of arsenic in the gas leaving the control device remained constant at all furnace production rates. Therefore, although the efficiency of the control device decreased with decreasing production rate, the production rate of the furnace did not affect the amount of arsenic emitted to the air. A detailed summary of these tests is provided in Appendix A of the BID.

In selecting the level of the final standard, the Agency considered the performance of existing control devices installed on arsenic-using glass furnaces in reducing arsenic emissions, the factors affecting control device performance, the control efficiencies achievable for uncontrolled furnaces that would be required to install controls, and the cost and economic impacts of control. As reviewed above, the performance of ESP's and fabric filters installed on existing furnaces demonstrate that efficiencies of between about 92 percent and 99 percent are achievable. However, in considering the factors affecting performance, the Agency determined that no basis exists for concluding that existing control devices with relatively lower arsenic removal efficiencies could achieve higher removal efficiencies by modifying either the design or the operation of the control system. In addition, the costs of modifying any existing control systems would be disproportionate to the incremental reductions in arsenic emissions that might be achieved, even if there were reason to believe that these modifications would increase the effectiveness of control. Therefore, the Agency concluded that the final standard should be set at a level that would not require any additional control of furnaces equipped with existing control devices. In considering the data gathered from the emission tests on the uncontrolled furnace located in Martinsburg, West Virginia, the Agency concluded that the level of control achievable within the range of production rates typical for this furnace would be an 85 percent reduction in total uncontrolled arsenic emissions. Because the Agency also believes that all furnaces with existing control devices affected under the emission cutoff are capable of achieving an 85 percent reduction in total arsenic emissions without installing any additional control, the level of the final standard was set at 85 percent.

The Agency believes that the level of the final standard will ensure that the most effective technology for reducing emissions of arsenic will be applied to

the furnace that will be required to install add-on controls as a result of this regulation. Because the factors affecting the performance of particulate control devices in reducing emissions of arsenic are variable and cannot be accurately predicted, any control device installed as a result of this rulemaking can reasonably be expected to be designed and operated in a manner that ensures the most effective possible control under all furnace operating conditions. Therefore, the Agency concluded that setting the standard at a level higher than 85 percent would not result in the application of control technology any more effective than that which would be applied to reduce emissions by 85 percent. If the level of the standard were set at a higher level, however, the probability that a source may fail to demonstrate compliance would be correspondingly higher, without providing any additional environmental benefit. The Agency believes that reductions in arsenic emissions of at least 90 percent will be typically achieved by all existing controlled furnaces affected by the standard. To ensure that the intent of the standard is not circumvented by any existing or future source, provisions are included in the final regulation that prohibit the application of controls to only a portion of the furnace exhaust gas. This provision will prevent the installation of partial controls on those furnaces where all of the arsenic is emitted as particulate matter under all furnace operating conditions, and an overall 85 percent reduction could be achieved by applying controls to only a portion of the furnace exhaust gas.

The final standard does not require cooling of furnace exhaust gases to any specific level prior to entering a control device. The Agency has no basis for determining under what conditions cooling would be effective in increasing control device performance or for predicting the extent to which cooling might increase performance. Therefore, a requirement that the exhaust gas from all affected furnaces be cooled to some specific level prior to entering a control device would result in increased costs with no guarantee that additional arsenic emission reductions would be achieved. The Agency believes that both the level and the format of the final standard are sufficient to ensure that furnace exhaust gases are cooled in those instances where the effectiveness of control is dependent on the operating temperature of the control device. In the case of the furnace located in Martinsburg, West Virginia, the Agency expects that the temperature of the furnace exhaust gas will be cooled to below 121 °C (250 °F) prior to entering the control device. The final standard includes provisions for continuous monitoring and recording of the operating temperature of a control device to ensure that the temperature maintained during the emission test to demonstrate compliance is also maintained thereafter.

Discussion of Comments

Comments on the proposed standard were received from 20 interested parties, and three speakers commented on the proposed standard for glass manufacturing plants at the public hearing. In addition, four comment letters were received on the March 20, 1984, **Federal Register** notice regarding options proposed by EPA for controlling emissions from furnaces producing soda-lime glass and calculating zero production offsets. The following sections summarize the Agency's responses to the major comments and the consideration given these comments in formulating the standard being established today.

Applicability

Several commenters raised questions about the applicability of the regulation to glass manufacturing plants, both generally and with respect to specific circumstances. The major issues raised by the commenters concerned the consideration of risk in establishing an emissions cutoff, the applicability of the regulation of furnaces that are at present equipped with add-on control devices, the applicability of the regulation to emissions arising from trace impurities of arsenic in non-arsenic raw materials, the reliance on OSHA standards for controlling fugitive emissions of arsenic, and the applicability of various allowances and exemptions.

Selection of Annual Uncontrolled Emission Limit. One commenter (the New Jersey Department of Environmental Protection) stated that the proposed arsenic emission limit of 0.4 Mg/yr (0.44 ton/yr) for uncontrolled emissions was based entirely on cost and economic factors, with no consideration given to the risks associated with these emissions.

At the time of proposal, the Agency's standard setting approach involved first selecting a standard that was achievable through the application of best available technology (BAT). Determination of BAT was based on the capability of existing technologies to reduce emissions, as well as on the costs of emission controls and on the economic impact of applying the controls at specific facilities. The residual risks remaining after application of BAT to furnace that would have been affected by the proposed limit (0.4 Mg/yr of arsenic prior to control) were then considered to determine if a more stringent standard would be necessary to protect public health. The Agency determined that eliminating the 0.4 Mg (0.44 ton) per year exclusion level would not affect the estimated maximum lifetime risk and would have negligible effect on estimated cancer incidence. Since proposal, Agency policy has evolved to place greater emphasis on risk and risk reduction in determining which specific sources within a source category shall be subject to an emission limit under section 112. Costs and economic impact are still considered in relation to the reductions in risk achievable through the use of selected control technologies.

Because of various site-specific factors, the degree of risk associated with inorganic arsenic emissions from glass manufacturing plants does not, in all cases, directly correlate with the absolute magnitude of those emissions. For instance, a fugitive emission source with a relatively low emission rate released relatively close to the ground may have a similar air quality impact as a stack with a higher emission rate and a higher point of release. Moreover, risks to the population in the vicinity of a plant must be assessed in terms of emissions of inorganic arsenic from an entire plant, rather than emissions from individual furnaces within a plant. Therefore, in establishing an emission cutoff, the emphasis has shifted from consideration of the magnitude of the emissions arising from individual furnaces, and the costs of controlling those emissions, to consideration of the magnitude of the risks associated with specific plants and the degree to which those risks can be reduced at a reasonable cost. The application of this policy in developing the final standard was described above under Selection of Standard.

Applicabilty to Furnaces with Existing Control Devices. One commenter representing Corning Glass Works stated that all glass melting furnaces that are currently equipped with add-on control technology should not be required to install additional control. The commenter indicated that the largest and most cost-effective reductions in arsenic emissions could be obtained from furnaces that are currently uncontrolled.

The promulgated emission limit requiring 85 percent reduction of arsenic emissions applies to all existing glass melting furnaces that emit more than 2.5

Mg/yr (2.75 tons/yr) of arsenic prior to an add-on control device. Thus, furnaces with existing control devices must achieve this limit if emissions of arsenic from these furnaces would be more than 2.5 Mg/yr (2.75 tons/yr) if controls were not in place; EPA is aware of 6 such furnaces. Available emission data indicate that arsenic emissions from each of these furnaces are currently being reduced by more than 85 percent; therefore, demonstration of compliance should be possible without installation of additional control.

Trace Amounts of Arsenic in Raw Materials. Three commenters, including the Glass Packaging Institute, addressed the issue of whether the presence of arsenic as an impurity in the raw materials used to manufacture glass should be considered in determining the applicability of the standard. Each of these commenters expressed concern that it would be burdensome and costly to require facilities that do not use arsenic as a raw material to demonstrate that emissions arising from trace arsenic contamination of other raw materials would not result in exceedance of the proposed annual uncontrolled emission limit of 0.4 Mg per year (0.44 ton per year). The commenters requested that EPA explicitly exclude from the promulgated regulation all furnaces that do not intentionally use arsenic as a raw material. One commenter noted that the arsenic content of raw materials is not routinely specified by raw material suppliers since arsenic is not known to impair glass quality. However, the commenter indicated that in a telephone survey of glass manufacturers and raw material suppliers, no evidence was found that arsenic exists in significant quantities as an impurity of raw material components. The only detectable quantity of arsenic was found in Green River soda-ash concentrations ranging from 0.03 to 0.5 ppm. These concentrations would result in maximum uncontrolled arsenic emissions of about 1.1 kilogram (2.5 pounds) per year from a typical 225 Mg/day (250 ton/day) glass container furnace. This commenter concluded that EPA should give no consideration to the arsenic content of raw materials since there is no reason to believe that the arsenic content of raw materials used for glass manufacture is any higher than it is raw materials used in other process industries. Another commenter, however, pointed out that for the size of furnace typically used to produce flat glass (450 to 545 Mg/day [500 to 600 tons/day]), trace amounts of arsenic in the raw materials on the order of 2 to 3 ppm by weight could result in uncontrolled arsenic emissions approaching the proposed emission cutoff of 0.4 Mg/year (0.44 tons/yr). The commenter is aware of only one conventional raw material that contains arsenic as an impurity. That one exception, an additive used in small amounts in producing body-colored glass, would result in arsenic emissions of less than one pound per year.

The EPA has examined the problems posed by the presence of arsenic as an impurity in various raw materials used in the production of glass, and has concluded, based on available information, that this source of arsenic is not expected to affect significantly the emissions of inorganic arsenic from glass manufacturing furnaces. The specific comment that appears to indicate that the presence of arsenic impurities may result in emissions approaching 0.4 Mg (0.44 ton) per year was closely examined. It was determined that the calculations present an unrealistic situation in presuming that all of the raw materials entering the furnace contain 2 to 3 ppm arsenic by weight, and that all of the arsenic entering the furnace is emitted. Because it would be uncommon for all raw materials to contain arsenic at that level, and because at least 70 percent of the arsenic is expected to be retained in the product, EPA has concluded that the emissions calculated in the example given in the comment are substantially overstated and not indicative of an actual condition that might occur.

The EPA has also independently investigated the concentration of arsenic found in the bulk raw materials commonly used in the glass industry (A–83–08/IV–B–12). During an emission test of an arsenic-using furnace, samples of the bulk raw materials were taken and analyzed for arsenic content. With the single exception of barium carbonate, the concentrations of arsenic in the raw materials from this plant were below the detection limits of the analytical method used. The measured concentration of arsenic in the barium carbonate sample was 2.32 ppm. However, barum carbonate is not widely used in large quantities within the glass industry. Even assuming that the concentration of arsenic in bulk raw materials is equal to the detection limit of the analytical methods used on the test samples, the maximum uncontrolled emissions of arsenic arising from raw material impurities would be about 0.19 Mg/yr (0.21 ton/yr) from a furnace producing 500 Mg/day (550 tons/day) of glass.

Based on all of the information available to the Agency, glass melting plants that do not use commercial arsenic as an ingredient of their batch composition would not emit enough arsenic to be affected by the promulgated uncontrolled emission limits of 0.4 Mg (0.44 ton) per year for new and modified furnaces and 2.5 Mg (2.75 tons) per year for existing furnaces. The EPA agrees it would be unreasonable to require demonstration of this; and, therefore, the applicability section of the promulgated regulation has been revised to exclude all furnaces that do not use commercial arsenic as a raw material. Commercial arsenic is defined as any form of arsenic that is produced by extracting arsenic from any arsenic-containing substance and is intended for sale or for intentional use in a manufacturing process.

Fugitive Emissions. The NRDC representative objected to EPA's reliance on compliance with OSHA standards for fugitive emissions of inorganic arsenic in the workplace. The NRDC felt it was not appropriate to consider OSHA standards in deciding not to propose standards for these emissions. The commenter stated that: (1) This reliance was based solely on statements made by company representatives, and had not been independently verified by the Agency; (2) although OSHA standards, if implemented, may provide protection to workers in glass manufacturing plants, they do not give persons living around the plants the enforcement power to compel compliance with the standards that would be available under the Clean Air Act; and (3) the Agency should, at the least, incorporate into a section 112 standard the equipment and work practice requirements needed to comply with the OSHA standards.

The Administrator believes that where standards established under separate authorities are effective in reducing emissions, redundant standards need not be established by EPA. The Agency establishes separate standards when there is evidence that either the control measures are not likely to remain in place or are unlikely to be properly operated and maintained. The EPA has again reviewed the emission sources at glass manufacturing plants to determine any need for controls beyond those required by OSHA.

Information gathered after proposal during visits to glass plants that use arsenic indicated that fugitive emissions from some plants may not be controlled. As a result of this finding, EPA has estimated the magnitude of the emissions of inorganic arsenic that could arise from fugitive sources within glass manufacturing plants (A–83–03/

IV–B–11). These estimates were based on published fugitive emission factors for various material handling operations, as well as on data gathered during visits to glass plants that use arsenic. To be conservative, "worst case" conditions were assumed in estimating potential fugitive arsenic emissions. For example, in this analysis it was assumed that the plant uses unusually high concentrations of arsenic (7 kg/Mg [14 lb/ton]) in the batch raw materials. The major potential source of fugitive particulate emissions at glass manufacturing plants are the material handling operations associated with the unloading, storage, and weighing of the bulk raw materials. However, arsenic is not present during these operations. Arsenic is added later, just prior to mixing the batch. Fugitive emissions of arsenic could occur during mixing of the batch materials, during the transfer of these materials to the furnaces, when the materials are charged into the furnace, and when control devices (if used) are emptied and the waste products are removed for disposal or recycled to the melting furnace. In considering all of the possible sources of fugitive emissions from glass manufacturing plants, and employing the best information currently available to the Agency, the EPA estimated that the maximum fugitive emissions of arsenic from a large, 545 Mg per day (600 tons per day), plant would amount to 0.21 Mg/yr (0.23 ton/yr) if emission control devices were not used. For a plant of this size, uncontrolled stack emissions would be about 145 Mg/yr (160 tons/yr). The same plant, if controlled, would emit about 7 Mg/yr (8 tons/yr) out of the stack(s); fugitive arsenic emissions from a 545 Mg/day (600 tons/day) controlled plant were estimated to be 0.33 Mg/yr (0.36 ton/yr) under worst case conditions. Because all of the plants known to use arsenic have capacities less than 545 Mg/day (600 tons/day), and because the estimates summarized above are based on "worst case" assumptions, the EPA has concluded that fugitive emissions of inorganic arsenic from glass manufacturing plants are negligible, and, hence, risks are expected to be small; thus, fugitive emissions are not expected to endanger public health. Therefore, the promulgated standard neither requires controls for fugitive inorganic arsenic emissions at glass manufacturing plants nor incorporates OSHA requirements into the promulgated standard as suggested by the commenter.

Allowances and Exemptions. One commenter representing Corning Glass Works requested that the EPA include provisions for conducting normal maintenance on control devices. Most glass furnaces operate continuously for a period of years, while emission control devices require frequent maintenance. The commenter stated that the maintenance requirement on an electrostatic precipitator is about 144 hours per year and that provisions should be made for by-pass of the control device while maintenance is being conducted.

The EPA has investigated the cost and environmental impacts associated with performing routine maintenance on emission control devices installed on affected glass furnaces (A–83–08/IV–B–10). Two alternatives were considered. The first alternative would be to require the glass furnace to shut down during these maintenance periods in order to avoid uncontrolled emissions of arsenic. The second alternative would allow furnace operators to by-pass the control device for a limited period of time for maintenance purposes. Emissions of arsenic during these periods would not be controlled. The EPA analysis compared the increase in the cost incurred by a model manufacturing plant that would result from the first alternative to the increase in emissions that would follow from the by-pass alternative. In this analysis both large and small furnaces and high and low glass production costs were considered. In total, the cost and environmental impacts associated with the alternative requirements were evaluated for eight different cases.

In the first four cases, the impacts were calculated for two furnace sizes (45 and 136 Mg/day [50 and 150 tons per day]) and for two levels of specific arsenic emissions (0.025 kg/Mg of glass produced and 0.05 kg/Mg of glass produced [0.05 lb and 1.00 lb ton/of glass]). In the first four cases, relatively low glass production costs were assumed, on the order of $0.75/kg ($0.34/lb) of product. The second four cases assumed the same furnace sizes and specific arsenic emission rates, but were based on the assumption of a glass with higher production costs of $4.19/kg ($1.90/lb). These values represent the low and high end of the ranges for actual glass furnaces that use arsenic. In all cases, it was assumed that the time required for maintenance of control devices is 144 hours per year.

The results of this analysis showed that a large furnace with a high arsenic emission rate could emit up to 0.41 Mg (0.45 ton) of arsenic during the 144 hours that the control device is by-passed. Small furnaces with low arsenic emission rates would emit 0.01 Mg (0.01 ton) of arsenic during this maintenance period. The annual costs of furnace shutdown were estimated to range from a low of $63,000 for a small furnace producing a low-cost glass, to a high of $1,000,000 for a large furnace producing a high-cost glass. Thus, the cost effectiveness of requiring all arsenic-using furnaces to be shut down while maintenance is carried out on emission control devices would range from about $463,000 per Mg ($420,000 per ton) of arsenic removed to over $51,800,000 per Mg ($47,000,000 per ton) of arsenic removed.

Because the economic impacts of requiring furnaces to be temporarily shut down while maintenance is performed on emission control devices would be excessive in some cases, and because the use of well-maintained control devices is essential in effectively controlling arsenic emissions on a continuing basis, the promulgated standard allows emission control devices installed on furnaces affected by the standard to be by-passed for purposes of conducting necessary maintenance. The EPA has also determined, however, that inorganic arsenic emissions from glass melting furnaces can be reduced by implementing certain work practices during maintenance periods. Therefore, each owner or operator of an affected furnace who needs to by-pass the control device for maintenance purposes is required to submit a plan to the Administrator that details (1) the length of time it will be necessary to by-pass the control device; (2) the emissions of arsenic that would occur during maintenance periods if no steps were taken to reduce them; (3) the procedures and work practices that will be implemented to minimize arsenic emissions during maintenance periods; and (4) the expected reduction in emissions of arsenic achieved by the implementation of these procedures and work practices. Only after approval by the Administrator of this plan will the by-pass of an emission control device by allowed.

In some cases, emissions of inorganic arsenic can be prevented entirely while control devices are undergoing maintenance. For example, control device maintenance should be scheduled during periods of normal furnace shutdown whenever possible. For some plants, it may be feasible to switch production temporarily during periods of control device maintenance to glasses that do not contain arsenic. All facilities affected by the regulation should make maximum use of control devices that are divided into two or

more independently operated sections. Use of so-called "sectionalized" control devices enables maintenance to be performed on one section of the device without affecting the operation of the other(s). Other steps that can be taken to minimize emissions of inorganic arsenic during maintenance of control devices are the maximum use of cullet, the temporary reduction in arsenic feed, or the temporary reduction of furnace output.

Format of the Standard

Two commenters on the proposed regulation stated that using the emission rates for total particulate allowed under the standard of performance for new sources (NSPS) as the basis of the control requirement for an arsenic NESHAP would lead to numerous problems in demonstrating compliance with the regulation. Corning Glass Works provided several examples in which multiple furnaces, each melting a different type of glass, are exhausted to a common stack. Because the proposed emission rates were different for different glass types, the commenter felt that it would be virtually impossible to determine compliance for each possible combination of furnaces and glass types. The commenter also noted that some furnaces currently equipped with the best control technology available would not comply with the proposed emission rates for total particulates. The New Jersey Department of Environmental Protection recommended that the Agency establish an efficiency standard for arsenic removal, rather than an emission rate for total particulate matter.

In carefully evaluating all of the comments and available data, the Agency has determined that a control requirement based on a percent reduction of arsenic emissions is preferable to a limit on emissions of total particulates from glass melting furnaces. Some furnaces in the pressed and blown segment of the industry are used to melt various types of glass. The type of glass being melted in these furnaces may change frequently, causing a corresponding change in particulate emission rates. No satisfactory approach could be developed for determining compliance with a particulate emission rate on a continuing basis under these circumstances, or for prorating emissions from multiple furnaces that exhaust to a common stack. The EPA has also found that particulate emission rates from arsenic-using furnaces that are currently uncontrolled are, in some instances, significantly less than would be normally expected. Thus, these furnaces could conceivably meet the proposed particulate emission limit by reducing particulate emissions by as little as 45 percent. In this case, the corresponding reduction achieved in arsenic emissions would be only 40 to 45 percent, even though all of the emitted arsenic may be in the particulate matter. Therefore, EPA has found that control equipment that would meet the proposed particulate emission limits may not, in all instances, represent the most effective control technology for arsenic emissions. Finally, EPA has assembled all of the available data on control devices currently installed on arsenic-using glass furnaces. Many of these control devices achieve more than 95 percent reduction in total arsenic emissions, although some of them are not capable of reducing emissions of total particulates to the level prescribed by the NSPS. The costs of upgrading these control devices to meet the NSPS particulate emission rates were investigated and found to be excessive when compared to the additional reduction in arsenic emissions that would be achieved. There is one disadvantage of an emission limit based on arsenic emission reduction efficiency—the increased cost of testing the inlet and outlet of the control device. This type of testing using Test Method 108 would cost about $13,250 for a typical furnace as opposed to about $10,000 for particulate matter testing using Reference Method 5. The EPA believes, however, that the additional testing costs involved in determining the efficiency of a control device in reducing arsenic emissions are warranted, considering the various problems and impacts associated with the proposed emission limits for total particulates. Therefore, the format of the final standard is in terms of percent reduction of arsenic emissions.

Control Technology

Several commenters addressed the issue of the level of control of arsenic emissions achievable by conventional particulate control technologies. Many of these comments were concerned with the effect of temperature on the percentage of total arsenic emitted in particulate form, and, therefore, available for removal by the control devices.

As discussed in the preamble to the proposed regulation, theoretical considerations indicate that all of the arsenic emitted from glass melting furnaces would be in the vapor phase at typical furnace exhaust temperatures. At the time of proposal, however, data from EPA tests on two particulate control devices installed on glass melting furnaces that use liquid arsenic acid as a raw material showed that more than 90 percent of the emitted arsenic was in particulate form and collected by the control devices. On the basis of these data, EPA concluded that cooling of the exhaust gases may not be effective in increasing the efficiency of particulate control devices in reducing arsenic emissions from glass melting furnaces. The EPA acknowledged at the time, however, that emissions from furnaces using powdered arsenic trioxide rather than liquid arsenic acid might consist of substantially more vapor-phase arsenic. It was also uncertain whether the relationship between temperature and the proportion of arsenic emitted in the solid phase was the same for all types of glass.

In order to resolve these questions, the EPA performed five emission tests after proposal on arsenic-using glass melting furnaces. The tests proved helpful in demonstrating that the use of powdered arsenic trioxide instead of arsenic acid had little or no effect on the proportion of arsenic emitted in the solid phase. The results of these tests were inconclusive, however, as to the effect of temperature on the proportion of arsenic in the solid phase for different types of glass. The EPA presented a summary of the data in the **Federal Register** on March 20, 1984 (49 FR 10278), and tentatively concluded that a decrease in temperature would result in an increase in particulate arsenic for soda-lime furnaces, but not for other types of furnaces. These data are discussed fully in that notice and in the BID for the promulgated standard. In developing the requirements in the final standard, EPA considered public comments on the March 20, 1984, **Federal Register** notice and the results of two additional emission tests that are discussed below.

Control Methods for Soda-Lime Furnaces. The representative for Corning Glass Works stated that data from one of the commenter's soda-lime furnaces indicate that the percentage of arsenic in the particulate matter increases, rather than decreases, with increasing exhaust gas temperature. The proportion of arsenic found in the particulate from this furnace varied widely, however, from a low of about 50 percent to a high of 99 percent. Data provided by the commenter for a furnace producing aluminosilicate glass also showed a wide variability in the proportion of total arsenic that was emitted as particulate matter. For 23 representative samples collected on this furnace, from about 30 to 100 percent of the total arsenic was emitted as particulate. The commenter concluded that temperature is not the only factor

affecting the fraction of total arsenic emitted as particulate matter. The commenter for Owens-Illinois challenged the validity of the data presented by EPA in the March 20, 1984, **Federal Register**. This commenter stated that the data were flawed and did not conclusively demonstrate that there is a relationship between temperature and the fraction of total arsenic emitted in particulate form. The commenter believes that EPA's earlier conclusion that at least 90 percent control of arsenic emissions can be achieved by particulate control devices is correct. The NRDC stated that the data presented by EPA demonstrate that emissions of particulate arsenic increase sharply as the temperature of the furnace exhaust gases decreases, and that EPA should require exhaust gases from soda-lime furnaces to be cooled to 121°C (250°F) prior to entering a particulate control device.

The results of the first test on a furnace melting soda-lime glass showed that less of the total arsenic emitted from the furnace was in particulate form compared to the previous tests (about 74 percent compared to more than 90 percent) at the standard EPA Method 108 sampling temperature of 121°C (250°F). In addition, samples taken simultaneously at three different temperatures (121°C, 204°C, and 288°C) showed that the amount of arsenic in the particulate matter generally increased as the filtered gas was cooled from 288°C (550°F) to 121°C (250°F). However, the amount of vapor-phase arsenic detected in these samples did not decrease in proportion to the increase observed in particulate arsenic, and the total amount of arsenic collected at 288°C (550°F) was uniformly less than the total amount collected at a filtered gas termperature of 121°C (250°F). The results of this test were also complicated by the fact that some of the filters used during the test were later found to be torn. Because there was not a decrease in vapor-phase arsenic emissions in proportion to the apparent increase in particulate arsenic, no clear basis exists for concluding that cooling of the exhaust gases causes a significant amount of vapor-phase arsenic to condense and form particulate arsenic. For this reason, the Agency has no assurance that cooling of furnace exhaust gases would result in a significantly higher arsenic removal efficiency. The Agency agrees with the commenter that the data obtained from the first test on a soda-lime furnace are inconclusive, and are insufficient to support a limit on the temperature of the gases at the inlet of particulate control devices.

After publication of the notice in the **Federal Register** on March 20, 1984, a second arsenic emission test was performed on a soda-lime glass melting furnace. No significant amounts of vapor-phase arsenic were found in the emissions from this furnace regardless of the temperature of the filtered gas. In all test runs, more than 99 percent of the total arsenic was captured as particulate matter. Therefore, even if the results of the first test on a soda-lime furnace had quantified a relationship between temperature and the amount of arsenic emitted as particulate matter, this relationship could not be generalized to all furnaces producing soda-lime glass.

The EPA also performed emission tests on a glass melting furnace producing an aluminosilicate glass. Although the furnace is not presently equipped with a permanent control device, a pilot-scale fabric filter system had been recently installed on the furnace. The test program included both EPA Method 108 and single-point sampling, as well as a series of performance tests on the pilot-scale fabric filter. The results of these tests did conclusively demonstrate that cooling of the furnace exhaust gases caused gaseous arsenic to condense, and thereby increased the effectiveness of the fabric filter in reducing arsenic emissions. When the temperature of the exhaust gas was cooled to below 121°C (250°F), control efficiencies ranged from about 75 percent to 97 percent and averaged about 87 percent. When the temperature of the exhaust gas was maintained above 121°C (250°F), control efficiencies ranged from about 58 percent to 82 percent and averaged about 71 percent. The data also indicated that the effectiveness of cooling is sensitive to the concentration of gaseous arsenic in the exhaust gas and to the residence time of the gas stream at lower temperatures. However, the data collected during these tests are not sufficient to correlate specific temperatures to specific removal efficiencies.

Although the available data to indicate that arsenic emissions from some glass melting furnaces may occur less predominantly as particulate matter than was previously believed, and that cooling can be effective in increasing the proportion of total arsenic emitted as particulate matter, no correlations have been identified between the proportion of arsenic emitted as particulate matter and the type of glass produced, the type of melting furnace used, the type of arsenic added to the raw materials, or any other source characteristics. In addition, EPA does not have sufficient data to conclude that cooling of furnace exhaust gases would be effective in incrasing the efficiency of a control device in all cases. Therefore, a requirement that the exhaust gas from all affected furnaces be cooled to some specific level prior to entering a control device would result in increased costs with no guarantee that additional control would be achieved. The Agency does believe, nonetheless, that both the format and the level of the final standard are sufficient to ensure that furnace exhaust gases are cooled in those instances where the effectiveness of control is dependent on the operating temperature of the control device.

Elimination of Arsenic in Glass Manufacturing

Four commenters representing Owens-Illinois, the Glass Packaging Institute, NRDC, and legal counsel for Container Glass Manufacturers, discussed the elimination of arsenic as a raw material in the manufacture of glass. Two of these commenters stated that use of arsenic in the manufacture of glass containers has been completely eliminated, and that there is no technical reason to use arsenic in the manufacture of glass container products. These two commenters made no objection to a requirement that arsenic be eliminated from glass container manufacturing, as long as no additional administrative burdens were placed upon container glass manufacturers. The commenter for Owens-Illinois stated that the use of arsenic in the manufacture of pressed and blown glassware is essential and that no acceptable substitutes are currently available. Without arsenic, tableware glass tends to have an objectionable green tint. The NRDC objected to the contention that the elimination of arsenic in pressed and blown glass manufacturing would have serious consequences for this sector of the glass manufacturing industry. The commenter stated that the only benefit to the glass industry stemming from the use of arsenic is that it improves the cosmetic qualities of the glass by making it clearer. The NRDC asserted that cosmetic benefits are insufficient to justify public exposure to arsenic emissions and urged that the standard be amended to eliminate arsenic from the manufacture of pressed and blown glass. The commenter also stated that if there are specialized, nonsubstitutable uses for arsenic that rise above the level of cosmetics, then EPA should set a standard requiring extremely stringent

controls for a small number of furnaces dedicated to such uses.

Based on the public comments received and the information available before and after proposal of the standard, the EPA has concluded that the container glass, flat glass, and wool fiberglass segments of the glass manufacturing industry do not use arsenic as a raw material in the manufacturing process. Because the promulgated standard applies only to furnaces that use arsenic as a raw material, no furnaces in the container, flat, or wool fiberglass segments of the glass industry would be affected. Owners or operators of furnaces that do not melt a glass in which arsenic is added as a raw material are not subject to the requirements of this standard, including those for reporting and recordkeeping. If an owner or operator of a furnace in any of these segments of the industry were to begin using arsenic, the furnace would be subject to the standard.

Arsenic is used in the manufacture of some products in the pressed and blown segment of the glass industry, however. A case-by-case assessment of the potential to eliminate arsenic use was conducted by contacting all six major manufacturers of pressed and blown soda-lime glassware (A–83–08/IV–B–13). Although some companies have been successful in removing arsenic entirely from their raw batch materials, other companies producing similar types of glass have been unable to obtain a product of acceptable quality when arsenic is removed. Although the qualities achieved by the inclusion of arsenic (clarity, elimination of unwanted color, etc.) are "cosmetic," they do have economic value, and reflect certain physical attributes of the final product that are required by the consumer. Demand for these products is inherently connected to their physical appearance which, therefore, has a tangible economic value. The EPA expects that producers of pressed and blown glassware will continue to try to eliminate arsenic from their batch recipes to avoid being subject to the requirements of this standard. It is not clear, however, when (and if) these efforts will be successful. Because a requirement to eliminate the use of arsenic in the pressed and blown glass segment of the industry could cause severe economic impacts for some producers, it is not included in the final standard but will be evaluated as part of the 5-year review of the standard.

Costs and Economic Impact

The Corning Glass Works representative stated the belief that some plants would close down if the proposed standard were promulgated, but did not provide any data to support that statement. Another commenter representing Owens-Illinois stated that the monetary costs required to comply with the standard would severily affect an already depressed market, which is facing significant and increasing competition from foreign producers of glass tableware. Between 1979 and 1982, the compound growth in imports has been 6.8 percent, while growth in the domestic share of the market has declined by 0.4 percent. In addition, over the past 10 years there has been a decline in real total dollar market value for the U.S. tableware industry. Two tableware manufacturers have recently closed plants. The strong U.S. dollar will continue to favor imports of glass tableware. The commenter stated that reducing emissions to the level proposed by the standard is estimated to cost $15.65/Mg ($14.20/ton) of glass. These costs would increase operating costs by over $2 million per year. This represents an increase of 2.1 percent in production costs over 1982 levels, which would have decreased 1982 profits by 25 percent.

The EPA recognizes that machine-made glass tableware manufacturers are facing competition from foreign producers of glass tableware; and in the economic analysis conducted after proposal, it was assumed that prices cannot be raised and that companies must absorb the control costs as decreased profits. (See Appendix B of the BID for promulgated standard.) The costs cited by the commenter were for a specific plant owned and operated by the commenter. The costs and economic impacts of the promulgated standard were analyzed for this plant, and EPA concluded that they would be disproportionately high compared to the risk reduction that would be achieved through compliance with the standard. Therefore, while the plant is one of several that would have had to install control devices to achieve the proposed standard, it is expected to have average annual arsenic emissions below the revised emission limit for existing furnaces in the final standard.

The economic analysis indicated a potential closure for only one furnace currently using arsenic and with arsenic emissions above the revised cutoff. Company representatives have informed EPA, however, that they plan to eliminate the use of arsenic at this furnace; therefore, it would not be affected by the standard. The EPA's analysis indicated that no other furnace closures would result from the standard.

One commenter for NRDC stated that the "worst case" economic analysis conducted by EPA has been grossly exaggerated in reaching a conclusion that under certain conditions the proposed regulation could cause some furnaces to close. Further, the commenter stated that the assertion that the elimination of arsenic from pressed and blown glass would make U.S. manufactured glassware uncompetitive with glassware imported from countries that do not restrict arsenic use has not been supported by hard data or analysis. The commenter stated that if the regulation does impose a competitive disadvantage on U.S. glass manufacturers, other steps should be taken to protect their position, such as the imposition of duties on imports of arsenic-containing glass.

The revised economic analysis of the promulgated standard explains that cost absorption (profit reduction) by producers, rather than cost pass-through to consumers, is more likely to result because of the competitive role of imports. Using this assumption, all control costs were analyzed as additions to baseline operating expenses. No closures are anticipated as a result of the promulgated standard.

The EPA's assertion that U.S. manufacturers of pressed and blown glass would be at a competitive disadvantage to foreign manufacturers if arsenic were eliminated as a glass additive is based on the fact that the properties that arsenic provides for glass products have an economic value. Such properties as clarity are desired by the consumer and, thus, are considered necessary for certain products to be competitive in the market. The economic value of these properties has not been quantified but is, nevertheless, real. The commenter's suggestion that duties be imposed on imports of pressed and blown glass that contain arsenic cannot be implemented because EPA does not have legislative authority to impose such duties or to take any similar measure to reduce possible competition to U.S. glassware manufacturers by foreign glass.

Monitoring and Measurement Methods

One commenter for the Toledo, Ohio, Environmental Services Agency supported EPA's position that a material balance or other non-stack test data be used to establish whether a facility is affected by the proposed regulation and to monitor compliance. However, the commenter requested clarification on two points. First, how much confidence does the EPA have in the estimates of arsenic retention in glass? Specifically,

should the low end of the estimate, 70 percent retention, be used in estimating uncontrolled arsenic emissions? Second, how should the arsenic content of the cullet be determined? Is it accurate to assume that all of the arsenic entering with the cullet remains in the glass, and thus has no impact on arsenic emissions?

The estimates of the amount of arsenic in the glass product were provided by the glass industry. Data obtained from tests conducted by EPA have been found to be reasonably consistent with data supplied by industry representatives. It should be noted, however, that the amount of arsenic retained in the glass can vary significantly according to the specific recipe used in making glass.

The 70 percent retention value published in the proposal BID (EPA–450/3–83–011a) was supplied by industry representatives as a typical retention rate for lead silicate type glass. Data gathered by the EPA after proposal have demonstrated that at least 70 percent of the arsenic is retained in the glass product, regardless of its composition. However, the amount of arsenic retained in the glass product is not strictly a function of the type of glass produced. For any given type of glass, the percentage of arsenic retained in the product can vary widely. For example, data collected by EPA show that the percent of arsenic retained in soda-lime glass can range from about 70 percent to about 99 percent. Therefore, in estimating uncontrolled arsenic emissions the arsenic retention value should be based on actual laboratory analysis of the glass produced in a specific melting furnace. If analytical data are not available, an assumed retention value of 70 percent would provide an estimate of the maximum rate of uncontrolled arsenic emissions from the glass melting furnace. In developing a material balance for monitoring compliance, it is the responsibility of the furnace owner or operator to provide a theoretical emission factor that accurately takes into account the amount of arsenic retained in the glass. Retention values should be based on actual analytical data for the specific type(s) of glass produced by the affected furnace.

The amount of arsenic entering the furnace in the cullet should be explicitly accounted for. Some furnaces may add mixed cullet that is not exactly similar in chemical composition to the type of glass being melted. When the cullet added is identical to the glass being produced, the percentage of arsenic in the cullet can be assumed to be identical to the percentage retained in the glass. Thus, the arsenic entering with the cullet would not have any impact on inorganic arsenic emissions. When this assumption is made, however, care must be taken to calculate the amount of arsenic retained in the glass on the basis of the percent of product weight that is derived from fresh raw materials rather than on the basis of the total product weight. This is discussed in more detail in the BID for the promulgated standard.

Opacity Monitoring

Two commenters (Owens-Illinois and Corning Glass Works) stated that the proposed requirement for opacity monitoring of emissions exiting the control device in unnecessary and inconsistent with the NSPS for glass manufacturing, which does not require opacity monitoring. The commenter for Owens-Illinois indicated that opacity monitoring would represent an unjustifiable cost burden. The commenter for Corning stated that opacity monitoring is administratively burdensome, and readings cannot be correlated with emissions of either inorganic arsenic or particulate, especially when multiple furnaces are exhausted to a common stack. The commenter noted that excessive stack opacity occurs in one of the commenter's furnaces as a result of gaseous fluoride emissions from melting one type of glass, and that this opacity is unrelated to inorganic arsenic or total particulate emissions.

The requirement for opacity monitoring was proposed as a means to ensure that emission control devices installed on arsenic-using glass furnaces are continuously operated and maintained in a manner consistent with the procedures followed to comply with the standard initially. These requirements have been retained in the promulgated standard. Under the glass manufacturing NSPS promulgated October 19, 1984, opacity monitoring is not required for glass furnaces equipped with control devices. However, opacity monitoring is required for furnaces using process modifications to meet the NSPS. The NSPS requirement for glass manufacturing plants has no bearing on this action because the intent of this regulation is to control a hazardous air pollutant that is not specifically regulated under the NSPS. With respect to the costs of opacity monitoring, EPA has determined that the costs involved are reasonable in light of the additional information provided to the owner and operator of a control system and the improved effectiveness in enforcement that will be gained as a result of this requirement. No information has been presented to the Agency that indicates that continuous monitoring of opacity represents an unjustifiable cost burden.

The promulgated standard does not set any specific limit on stack gas opacity based on correlations between opacity and emissions of either particulate matter or of arsenic. Rather, the promulgated standard requires that a 6-minute average reference opacity value for a given furnace be determined during compliance testing. Any subsequent exceedance of the reference opacity value established during a compliance test must be reported semiannually. If excess opacity occurs as a result of a change in the composition of the glass being melted in a furnace, this cause should be cited in the report. Alternatively, if multiple types of glass are typically melted in a single furnace, and stack gas opacity is expected to be significantly higher for one type of glass, the initial compliance test may be performed while this glass is being melted. Finally, paragraph 61.163(h) of the promulgated standard allows owners or operators of affected furnaces to petition the Administrator for approval of any alternative continuous monitoring system that can be demonstrated to provide accurate and representative monitoring of a properly operating control device.

Several commenters suggested changes in the proposed Method 108. These suggestions and the rationale for changes are discussed in the BID for the promulgated standard. Briefly, changes in Method 108 include deletion of all references to SO_2 collection and analysis, a change in the sampling temperature for glass furnaces to 121°C±14°C (250°F±25°F), a revision requiring that audit samples be analyzed at least once per month, and elimination of the digestion procedure when Method 108 is applied to glass furnaces.

One commenter for the Department of Environmental Resources in Harrisburg, Pennsylvania, saw no reason to differentiate between sources firing fuels with more than, or less than, 0.5 percent by weight sulfur content. The Agency agrees that there is no reason to differentiate between sources firing fuel with greater than 0.5 percent by weight sulfur from those with less than 0.5 percent, and has revised the standard accordingly.

The commenter for Corning Glass Works stated that the time allowances for testing under the proposed § 61.163 were inflexible and inadequate, and that the specified testing procedures were inflexible and unnecessary. In support, the commenter provided data showing that other analytical methods can

provide similar results to those obtained when using the specified EPA Method 108 procedures.

The major difference between the procedure proposed by the commenter and the EPA Method 108 procedure was in the method used in determining arsenic concentration of the samples. The procedure proposed by the commenter employed the colorimetric molybdenum blue method instead of atomic absorption. There were also slight differences in the types of reagents employed, and the procedures followed in leaching the materials collected by the probe, filter, and impingers. In the example provided, the amount of arsenic detected when using the molybdenum blue method was 21 mg, 5 mg, and 0.2 mg in the filter, probe, and impingers, respectively. These results compared to detected arsenic levels when using EPA Method 108 procedures of 21 mg in the filter, 1 mg in the probe, and 0.4 mg in the impingers.

Under 40 CFR 61.14 in Subpart A—General Provisions, the Administrator may allow the use of any alternative method that he has determined to be adequate for indicating whether a source is in compliance. Anyone wishing to have a method approved as an alternative may submit comparative date between the candidate method and the reference method for evaluation by the Administrator.

Reporting Requirements

The commenter for Owens-Illinois stated that it is unreasonable and irrational to require 12-month projections of arsenic emissions from glass plants and that semiannual reporting of past emissions should be sufficient for enforcement purposes.

The requirement that inorganic arsenic emissions be projected over a 12-month period is necessary in order for the operator of the glass manufacturing furnace to anticipate the level of control that will be required for each facility. Only in this way can possible instances of noncompliance with the standard be prevented. The calculation of past emissions may reveal actual instances of noncompliance, but only after unacceptable levels of inorganic arsenic have been emitted into the atmosphere. This result would be inconsistent with the objectives of section 112 of the Act.

The commenter for Corning Glass Works stated that many administrative problems could result with EPA's semiannual reporting requirements under the proposed § 61.163. The administrative problems referred to in this comment have not been specified. However, it is EPA's conclusion that the reporting, recordkeeping, and other requirements contained in the standard are both necessary to the implementation of the regulation and reasonable in their impact on the glass manufacturing industry and individual furnace owners and operators.

Impacts of Reporting and Recordkeeping Requirements

The EPA believes that the required reporting and recordkeeping requirements are necessary to assist the Agency in (1) identifying sources; (2) determining initial compliance; and (3) enforcing the standard.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). To accommodate OMB review, EPA uses 3-year periods in its impact analysis procedures for estimating the labor-hour burden of reporting and recordkeeping requirements.

The average annual burden on owners and operators of glass maunfacturing plants to comply with the reporting and recordkeeping requirements of the standard over the first 3 years after the effective date is estimated to be about 23,100 labor-hours.

V. Arsenic Trioxide and Metallic Arsenic Production Facilities

As discussed in the overview section of this preamble, on July 20, 1983, EPA proposed a standard in the **Federal Register** for primary copper smelters procesing feed materials with 0.7 percent or greater arsenic. This proposed standard would have affected only the ASARCO smelter in Tacoma, Washington. The EPA proposed for comment additional controls for fugitive emission sources in the copper smelter and the arsenic plants at the ASARCO-Tacoma facility in a **Federal Register** notice on December 16, 1983 (48 FR 55880). On June 27, 1984, ASARCO announced plans to close its primary copper smelting operations at Tacoma, Washington by June 30, 1985; and subsequently ceased copper smelting operations at Tacoma. In the June 1984 announcements, ASARCO also stated that it will continue to operate the arsenic trioxide and metallic arsenic plants at the site and that the plants will be operated in an environmentally acceptable manner. From discussions with ASARCO personnel, EPA has concluded that there is some uncertainty regarding the process to be used and the future configuration of the arsenic trioxide plant. According to public statements, ASARCO is considering several different modifications to its arsenic trioxide production process including the use of a wet leaching process or enclosure of the Godfrey roasters and control of emissions using a fabric filter collector. ASARCO expects that these modifications will significantly reduce arsenic emissions from the facility, but has not yet completed detailed plans or a schedule for this change. Consequently, the Administrator decided that the proposed fugitive emission standard for arsenic plants should be promulgated. This part of the preamble presents the standard for arsenic trioxide and metallic arsenic production facilities, its basis, and a discussion of the comments on the proposed standard.

Summary of Promulgated Standard

Applicability

The standard that is being promulgated today applies to each new and existing arsenic trioxide production facility processing low-grade arsenic bearing materials by a pyrometallurgical (roasting and condensation) process and to each new and existing metallic arsenic facility. Facilities that produce arsenic trioxide solely by wet leaching or extraction processes are not subject to this standard.

Standard

The standard requires the identification of potential arsenic emission sources and preparation and implementation of a detailed inspection, maintenance, and housekeeping plan that will be used to minimize emissions from the arsenic trioxide and metallic arsentic production facilities. The standard requires the plan to fulfill the stated objectives of: (1) Cleanup of arsenic containing materials; (2) regular maintenance and inspection of process, conveying, and air pollution control equipment; and (3) reduction of emissions during malfunctions to the maximum extent feasible.

Requirements for Periods of Excess Emissions

During periods of startup and shutdown, the standard requires that emissions of inorganic arsenic be minimized to the greatest extent possible. The standard also requires the following measures to minimize emissions from malfunctions and upsets: (1) All steps necessary to limit emissions, including curtailing operations until the equipment is repaired or the process is operating normally; (2) establishment of a plan that describes specific actions to be taken during malfunctions and upsets:

and (3) a routine maintenance program for process, conveying, and emission control equipment.

Compliance Provisions

The standard requires compliance within 90 days of today's date, unless a waiver of compliance is obtained from the Administrator. If a waiver of compliance is granted, the plan shall be submitted on a date set by the Administrator. Waivers can be granted for a period of time needed to install controls to comply with the standard, not to exceed 2 years from today's date.

Continuous Monitoring

Continuous opacity monitoring is required for process emissions that exist from a control device. The standard requires that a reference opacity level be established for each emission stream based on the highest 6-minute average opacity level monitored during a 30-hour evaluation period. Thereafter, occurrences of opacity readings above the respective reference level must be reported as exceedances to the Administrator along with information describing the cause of the exeedances.

Recordkeeping and Reporting Requirements

Owners or operators of sources covered by the standard will be subject to the reporting and recordkeeping requirements of the standard as well as those prescribed in the General Provisions (Subpart A) of 40 CFR Part 61. Reporting and recordkeeping requirements of the General Provisions were discussed in the preamble to the proposed standards (48 FR 33112). Specific reporting requirements of the promulgated standard include: (2) Quarterly reports of occurrences of excess opacity readings and ambient arsenic concentrations; and (1) semiannual status reports on pilot plant studies on alternative arsenic trioxide production processes. Owners and operators are also required to submit the following reports for the opacity monitoring system: (1) Evaluation to verify the operational status of the opacity monitors; and (2) report of reference opacity level and supporting data.

Records of supporting data for the reports described above must be maintained at the source for a period of 2 years and made available to the Administrator upon request. These records will include the logs demonstrating compliance with the general work practices and records of all opacity measurements and repairs to the monitoring device.

Summary of Enviromental, Health, Energy, and Economic Impacts

The standard being established today affects new and existing arsenic trioxide and metallic arsenic production facilities. It is expected that the standard will affect one facility, the arsenic plant at ASARCO-Tacoma.

The standard is expected to reduce emissions from malfunctions and upsets in the arsenic plant and to reduce reentrainment of arsenic-containing materials from plant surfaces. However, the impact of the standard on fugitive emissions from the arsenic plant cannot be quantified because of the difficulties inherent in estimating fugitive emissions, the unpredictability of malfunctions, and the considerable uncertainties regarding the processes and operations that will be used at the facility in the future. The standard is based on application of control measures that are necessary and are applicable at this time, and is not based on application of a quantitative risk management approach.

Application of the required housekeeping and maintenance provisions should have no effect on the solid waste, water, or energy impacts of the facility. Annualized costs required to comply with the standard are estimated to be about $285,000. The primary economic impacts associated with the standard are projected small decreases in profitability for the ASARCO-Tacoma arsenic plant, if costs cannot be passed through. If costs are passed forward in the form of a price increase, it is estimated that the standard will result in less than a 5 percent increase in the price of arsenic trioxide. This standard is not expected to cause closure of the affected plant.

Significant Changes Since Proposal

A number of major changes have been made to the requirements proposed on July 20, 1983, and December 16, 1983. These changes are: (1) Deletion of specific equipment requirements for the arsenic plant. The proposed requirements for modifications to equipment in the arsenic plant have been removed from the standard. These modifications are not being required because either the equipment is in place and likely to remain in place or there is a more cost-effective means of achieving the emission reduction; (2) Modification of the proposed work practices. While the proposed requirement for preparation of an inspection, maintenance, and housekeeping plan has been retained, specific aspects have been modified. The final requirements for an approvable plan do not require the inspector to follow a prescribed route. In addition, the proposed requirement to shut down malfunctioning equipment until it is repaired has been modified to require the source to describe the time and actions required to curtail increased emissions due to malfunctions; and (3) Clarification of the recordkeeping and reporting requirements provisions and inclusion of minor new provisions. The standard requires quarterly reporting of excess opacity readings and of ambient arsenic concentration monitoring data and semiannual status reports on pilot plant studies on alternative arsenic trioxide production processes. The basis for the changes is described in the Discussion of Comments section of this part of the preamble.

Additional Analyses

Since proposal of the standards on July 20, 1983 (48 FR 33112), EPA has developed estimates of process and fugitive emissions from the arsenic plant and has identified additional control measures to reduce arsenic emissions from the facility. These revised emission estimates are based on an on-site emission inventory and emission testing.

Emission estimates for the arsenic plant fabric filter collector are based on the results of EPA emission tests conducted in September 1983. Operation of the arsenic trioxide plant and the metallic arsenic plant were closely monitored during the tests to ensure that testing was conducted during normal operations. These test results showed average outlet arsenic concentrations and mass emission rates of 3.17 mg/dscm (0.0014 gr/dscf) and 0.15 kg/h (0.33 lb/h), respectively. These results represent an average collection efficiency for the fabric filter collector greater than 99 percent.

Potential sources of low-level fugitive emissions in the arsenic plant were assessed during extensive on-site inspections during June 1983, and emission estimates were developed. Based on these assessments, it is estimated that approximately 15 Mg/yr (17 tons/yr) of fugitive arsenic emissions were released from operations of the arsenic trioxide plant at ASARCO-Tacoma in 1982. These estimates are based on visual observations of the sources and operations and on engineering judgment since fugitive emissions from these sources cannot be measured readily. Consequently, these estimates are subject to significant imprecision.

The EPA conducted further investigations to identify controls that could reduce fugitive arsenic emissions

from the arsenic plant as well as from other sources at the ASARCO-Tacoma smelter. The on-site inspection revealed that specific equipment modifications and housekeeping practices would reduce arsenic emissions. The list of potential control measures for fugitive arsenic sources was published in the December 16, 1983, **Federal Register** notice (48 FR 55880). The EPA reviewed the condidate control requirements considering public comments on the requirements. The final requirements are based on this review and on consideration of whether the controls are already installed or required by another regulation or agreement, and are likely to remain in operation or good repair. The final requirements are summarized in the Summary of Promulgated Standard section and are discussed in the Basis for Standard and Discussion of Comments—Control Technology sections of this preamble. Cost estimates were also developed for the fugitive arsenic emission controls.

Basis for Standard

A standard is being established for the arsenic trioxide and metallic arsenic production facilities at ASARCO-Tacoma because with current production processes and operations the arsenic plant is a significant contributor to ambient exposures to inorganic arsenic. Fugitive emissions from the arsenic plant are estimated currently to be about 6 Mg per year (7 tons per year), due to recent implementation of controls required by the Tripartite Agreement (i.e., the agreement among ASARCO, the union, and the State of Washington Department of Labor and Industries).

The standard that is being established today is based on available fugitive emissions control measures that can be readily applied. Section 112(e)(1) of the Act authorizes design, equipment, work practice, or operational standards when (a) the pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant; or (b) the application of a measurement methodology is not practicable due to technological or economic limitations. The fugitive emissions that are being controlled through the arsenic plant standard would result from poor housekeeping practices and poor maintenance of process and emission control equipment. They cannot be emitted through a conveyance designed and constructed to emit or capture them, and their frequency and magnitude would vary to such an extent that measurement would not be practicable. Therefore, the format of the standard is one in which work practices and preventative maintenance control measures are required rather than a numerical emission limit. These control measures reflect application of general housekeeping procedures to the facility, and represent a level of control that can be required at this time in the absence of certainty on the future production process. Control measures beyond this minimum level of control are not being required because EPA is not in a position to identify the processes and applicable controls at this time. The standard was based on consideration of the need to minimize arsenic emissions through use of additional control measures, as well as on the feasibility and cost of these measures. The control measures considered include improved housekeeping practices and curtailment of emissions during malfunctions.

Equipment and Work Practices for Fugitive Emission Control

During the evaluation of additional controls, EPA conducted onsite inspections of processes and operations at the ASARCO-Tacoma facility. The on-site investigation identified several low-level arsenic emission sources where additional emission control is possible. Specifically, it was noted that overall housekeeping in the arsenic trioxide process area was poor with light to heavy accumulations of dust on all surfaces. Since this dust can be re-entrained and release emissions to the atmosphere, it was concluded that emission controls and improved housekeeping practices are needed. The contribution of these sources to total emissions from the facility cannot be accurately estimated. However, high ambient arsenic concentrations measured at the close-in ambient air monitors have been attributed by ASARCO, in part, to re-entrainment of dust from buildings and plant surfaces. Furthermore, in the public hearings on the proposed standards, testimony by representatives of ASARCO indicated that no formal operations and emissions logging procedure is used by ASARCO to assess the causes of high ambient arsenic concentrations.

Potential equipment, work practice, and recordkeeping requirements for sources of fugitive emissions were described in the December 16, 1983, **Federal Register** notice (48 FR 55880). Comments were received on the need for these additional controls and on their technical feasibility and costs. The comments were reviewed, and the equipment and work practice requirements which are feasible and likely to result in significant additional emission reduction were identified. This assessment of the control measures is presented in the Discussion of Comments section of this part of the preamble. From the consideration of public comments, it was concluded that none of the proposed equipment requirements should be imposed and that the proposed work practices should be slightly modified. Also identified were recordkeeping requirements that will be useful in determining probable causes of high ambient arsenic concentrations and steps that must be taken to prevent their reoccurrence. Combined, the identified control options for low-level fugitive emission sources are expected to reduce emissions from fugitive sources (and to maintain them) below current levels. The estimated combined annualized cost for inspection and maintenance requirements is about $265,000. In the Administrator's judgment, this cost is reasonable and affordable. Therefore, these requirements are included in the final standard.

Curtailment During Malfunctions

At the ASARCO-Tacoma smelter, ambient monitoring data for monitors at or near the plant boundaries have shown that arsenic concentrations dramatically increased when malfunctions and upsets occurred with the converters, the reverberatory furnace, the arsenic plant, or the liquid sulfur dioxide (SO_2) plant. Furthermore, on occasion these malfunctions have persisted for several days. The need for prompt attention to malfunctions was also demonstrated during EPA's emission test program conducted in September 1983. During emission testing of the arsenic plant baghouse, EPA personnel observed that the air slide conveying system, which transfers arsenic-laden dust back to the process, was blowing dust into the air. A large quantity of arsenic-laden dust (white dust) had accumulated under and around the air slide. No ASARCO personnel were in the immediate area, and based on EPA's understanding of the operations, none would have been in the area until the next day. (ASARCO personnel were located and the process was taken out of service until the air slide was repaired.)

The Administrator recognizes that malfunctions cannot be completely prevented. However, there are measures that can be taken to reduce emission rates significantly and to minimize the time during which increased emissions occur due to malfunctions. The most effective of these emission reduction measures is to shut down the affected operations when malfunctions occur. Therefore, in the December 16, 1983,

Federal Register notice (48 FR 55880) EPA proposed that a housekeeping plan be submitted that would include provisions for : (1) Regular inspection of all process, conveying, and emission control equipment; and (2) repair of malfunctioning or damaged equipment as soon as possible and shutdown of any operation involving material having an arsenic content greater than 2 percent until the equipment is repaired. Because the inclusion of a comprehensive list of all potential malfunctions in a regulation is impractical, the Administrator concluded that it would be more effective if the owner or operator of the source were to identify potential emission sources and the steps to be taken to minimize emissions (including shutdown) when they occur. Therefore, the final standard requires the owner or operator to submit a plan for EPA approval that outlines the steps that can and will be taken to curtail operations when equipment malfunctions or process upsets occur. The plan will include all operations, processes, and control equipment that handle material having an arsenic content greater than 2 percent. The program will describe the specific steps that will be taken to take out of operation or idle the affected operations, and the minimum time in which this can be accomplished. For the purpose of this standard, a malfunction is defined as any sudden failure of process or air pollution control equipment or of a process to operate normally which results in increased emissions of arsenic. Shutdown means the cessation of operation of the equipment or the addition of materials to process equipment.

The EPA would consider a failure of equipment or a process upset caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or equipment breakdown, to be the result of improper operation and maintenance. Improper operation and maintenance is a violation of the standard. The provisions pertaining to malfunctions which are discussed above do not excuse such violations.

Discussion of Comments

This section presents a summary of the specific comments pertaining to the arsenic plant at the ASARCO-Tacoma smelter. The comments were made in letters and in hearing testimony on the proposed standard for ASARCO-Tacoma's copper smelting operations. The comments are discussed by major topic area below.

Emission Estimates

Throughout the public comment period, comments were received concerning EPA's estimates of inorganic arsenic emissions from the ASARCO-Tacoma copper smelter and arsenic plant. Initially, the comments concerned the emission estimates presented in the July 20, 1983, **Federal Register** notice of proposed rulemaking and the BID for the proposed standard (EPA–450/3–83–009a). Several commenters, including ASARCO and PSAPCA, claimed that the emission rates presented by EPA significantly overstated the amount of arsenic being emitted. During the public comment period, EPA published several revised estimates of arsenic emission rates in 1982. Additional comments were received regarding these revised emission estimates. These commenters primarily focused on the emission estimates for the smelter's converter fugitive emissions and other low-level sources. The commenters still thought that EPA's emission estimates overstated the amount of arsenic being emitted from the ASARCO-Tacoma copper smelter and arsenic plant.

Since proposal, EPA has conducted emission tests of the arsenic plant fabric filter collector. New information on sources of low-level arsenic emissions was also obtained by EPA during extensive on-site visits to the ASARCO-Tacoma smelter. The EPA also reviewed the comments and evaluated the supporting information provided by the commenters. Based on the emission test results, observations, and the improved understanding of plant operations, EPA revised its emission estimates. These revised emission estimates were submitted for review to representatives of national and local environmental groups, PSAPCA, the USWA, and ASARCO who had attended a December 20, 1983, working level meeting. The emission estimates were further revised and EPA now estimates that arsenic emissions from the arsenic plant in 1982 were about 15 Mg (17 tons) and current emissions are about 6 Mg (7 tons) per year. The emission rate of fugitive sources in the arsenic plant will be less than 6 Mg (7 tons) per year when all control measures required by the standard are in place. The actual emission reduction cannot be estimated inasmuch as the required control measures are for unpredictable events of varying emission potential. The basis of the final emission estimates is presented in the BID for the promulgated standard (EPA–450/3–83–010b).

The EPA recognizes that the emission estimates retain some uncertainty, and some commenters may think the estimates continue to overstate arsenic emissions from the arsenic plant. The EPA believes that, although uncertainties persist, these estimates represent a good approximation of the actual emission rates. These emissions can be significantly reduced through improved housekeeping practices.

Control Technology

Low-level fugitive sources. Several commenters, including PSAPCA and Washington State Department of Ecology (DOE), recommended that EPA establish standards which require control of low-level fugitive arsenic emission sources. The Administrato agrees with the commenters and has established work practice requirements to reduce fugitive emissions. These final requirements were selected from those published in the December 16, 1983, **Federal Register** notice, considering public comments on their need, feasibility, and costs. The requirements are expressed as work practice and operational standards because emissions from these sources cannot be measured accurately.

General and specific comments on the proposed equipment, work practice, and operational requirements were received from ASARCO and the USWA, and are discussed in the following paragraphs. ASARCO commented that the listed control measures were developed without considering the likelihood of the material being emitted into the ambient air, their technical feasibility, cost, or the cost effectiveness of the measures in reducing any health risk. The proposed additional control measures were based on EPA's assessment of controls that could be used to reduce fugitive emissions from the arsenic plant and smelter. The likelihood of fugitive emissions being released to the atmosphere was considered by the EPA in developing the requirements. The generally open configuration of buildings and EPA observations show that emissions released inside buildings at the ASARCO-Tacoma facility are likely to be released to the atmosphere. In some cases, such emissions disperse directly to the air outside buildings. In other cases, the emissions may settle on supporting structures and surfaces within the buildings. These deposits of dust on buildings and plant surfaces can be re-entrained during periods with high winds. In fact, ASARCO has attributed some episodes of high ambient arsenic concentrations to re-entrainment of dust from plant and building surfaces. Similarly, EPA believes that spills of materials can also serve as a source of fugitive emissions through re-

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entrainment of dust from building and plant surfaces. Thus, the additional control measures addressed all known sources or potential sources of fugitive emissions.

In developing the additional control measures, EPA also developed estimates of the costs. These control measures were briefly discussed in the meeting held December 20, 1983, and were placed in Docket Number A–80–40 for public inspection. (In response to comments, these estimates were revised and the revised estimates were also distributed to the meeting attendees for comment and to the public docket). The final control requirements are estimated to cost about $265,000 per year (increase in costs due to controls). These control measures were selected based on consideration of the need for the measure, the technical feasibility, and the estimated costs. The bases for the specific requirements are summarized below along with ASARCO's and the USWA's comments.

1. Equipment Standards—"Arsenic plant, raw dust conveyor system"—ASARCO's comments on the proposed requirement for a dust-tight conveying system for the arsenic plant were: (1) It is not possible to use an enclosed pneumatic conveying system to transfer wet dust (the dust is wetted because the Godfrey roasters cannot accept dry dust); and (2) the present covered belt conveyor system is best available technology. The USWA also commented that pneumatic conveying would require relocation of the zig-zag blender and recommended as an alternative that ASARCO be required to maintain the fullest possible enclosure of the zig-zag blender and belt transfer system and to ensure that leaks are promptly identified and repaired. The EPA considered these comments and believes that a pneumatic conveyor could be used as proposed by relocating the zig-zag blender closer to the Godfrey roasters. The EPA, however, also concluded that there were other more cost-effective ways of reducing emissions from transfer of raw dust from the arsenic plant storage bunkers to the Godfrey roasters. Specifically, the objective could be accomplished through improved housekeeping and maintenance of the existing system. Since EPA is establishing provisions that require a routine maintenance and repair program, the standard does not require installation of a dust-tight conveyor system in the arsenic plant.

"Godfrey roasters"—In response to the proposal to require installation and maintenance of a solid refractory arch on each Godfrey roaster, both ASARCO and USWA commented that all the arches have been installed. The final standard does not include this provision because the controls are in place and it is EPA's judgment that the controls are likely to remain in place.

"Calcine conveyor system"—In response to the proposal to require a pneumatic conveyor system for transfer of calcine from the Godfrey roaster water-cooled screw conveyors to the railcar loading station, ASARCO and USWA commented that this system has been installed and is operating. Thus, it is EPA's judgment that there is no need to require this system since it is in place and likely to remain in operation.

"Arsenic kitchen pulling area"—ASARCO commented that the enclosure around the kitchen pulling area that EPA proposed to require would be extremely large and expensive and is not justifiable. The USWA's industrial hygienist commented that the enclosure might exacerbate worker exposure to arsenic without any clear benefit to community air quality. The final standard does not require enclosure of the kitchen pulling areas because of the potential for significantly increased worker exposure in this area. This conclusion is based on a review of the conceptual design and calculations of expected arsenic concentrations within the enclosures where the kitchen pullers must work. Although workers in this area use full face respirators, this protection is not sufficient to fully isolate workers from exposure to arsenic because of the difficulties associated with the use of respirators. While it is theoretically possible to prevent increased exposure using respirators, it is more probable that employee exposures would significantly increase. Furthermore, EPA believes that substantial emission reductions can be achieved by improved housekeeping and maintenance of the arsenic plant without increasing worker exposures. Consequently, the regulation requires emissions from arsenic kitchen pulling to be minimized by cleaning up, wetting, or stabilizing dry, dusty, arsenic-bearing materials in the area.

2. Work Practices—Five general work practice objectives were listed in the December 16, 1983, **Federal Register** notice. Only ASARCO and the USWA commented on these proposed objectives for an inspection, maintenance, and housekeeping plan. The comments on each objective, and the objective, are discussed below.

"No accumulation of material having an arsenic content greater than 2 percent on any surface within the plant outside of a dust-tight enclosure"—ASARCO's comments on this objective of the management plan were: (1) This requirement can only be intepreted as meaning the entire plant would have to be placed within an enclosure; and (2) the costs of such an enclosure would be astronomical. The USWA commented that dry, dusty materials with arsenic concentrations well below 2 percent may contribute significantly to fugitive emissions from the plant, while damp materials with higher arsenic content would not contribute significantly. The USWA recommended that the regulation require clean-up or stabilization of dry materials containing more than 0.2 percent arsenic.

The rationale for requiring no accumulation and clean-up of arsenic-containing materials is that, as previously discussed, re-entrainment of part or all of the material is possible and re-entrained material is likely to be released to the atmosphere. The intent of the requirement was not, as suggested by ASARCO, to require enclosure of the entire plant, which is obviously not practicable. Instead, the intent was to focus attention on control of potentially significant sources of fugitive arsenic emissions from sources such as arsenic kitchen pulling or handling of baghouse dust and to exclude nonarsenic-bearing materials. The EPA considers the USWA's comment that the requirement should be limited to dry, dusty materials to be valid. Consequently, this objective has been reworded in the general work practices standard to require cleaning up or wetting of dry, dusty materials. The objective has not been revised as suggested by USWA to include materials with more than 0.2 percent arsenic because limiting the requirement to materials with more than 2 percent arsenic essentially requires cleanup or control of all sources in the arsenic plant.

"Immediate cleanup of any spilled material having an arsenic content greater than 2 percent"—ASARCO's comments on this objective were: (1) There is a housekeeping program in place as part of the OSHA/WISHA arsenic compliance requirements; (2) any clean-up requirements should be directed toward specific sources and materials and should be handled by a regulatory agency compliance requirement; and (3) the objective does not consider whether the material is likely to become airborne. The USWA comments on this proposed requirement were the same as its comments on the preceding requirement. The EPA reviewed ASARCO's housekeeping plan submitted to the Washington State Department of Labor and Industries and

found that its scope was much narrower than intended by EPA's proposal. Thus, at present the existing housekeeping program cannot be considered an adequate substitute for the proposed objective.

The EPA believes this objective of the general work practice plan should be included in the standard to ensure that prompt attention is given to clean-up or control of spilled materials containing greater than 2 percent arsenic. It would not be practicable to identify every potential source in the regulation because of the large number of sources and materials processed at the facility. Unless this requirement is part of the regulation, EPA believes there would be no means of ensuring the attendant emission control. Therefore, the requirement has been included in the regulation.

"Regular scheduled maintenance of all smelter process, conveying, and emission control equipment to minimize equipment malfunctions"—Both ASARCO and USWA commented that this proposed objective is currently required by the Tripartite Agreement, and USWA further commented that it should be included in the final standard. This provision is being required to establish more explicit requirements for the arsenic plant than does the Tripartite Agreement. The standard includes this as a necessary part of an approvable housekeeping, inspection, and maintenance plan.

"Regular inspection to ensure equipment is operating properly"—ASARCO commented that there is an inspection procedure in place, and it is unreasonable to require the proposed inspection routine and documentation. In contrast, the USWA agreed with the proposed objective and recommended that the inspector document general housekeeping in each area to ensure plant surfaces are kept free of dry, dusty materials. Both ASARCO and USWA commented that it is unnecessary to require the inspector to follow a prescribed route. The EPA believes that the proposed regular inspection objective is a necessary element of the management plan to miminize fugitive and excess emissions and thus should be included in the standard. The proposed requirement of a prescribed route, however, has been deleted as it is unnecessary as long as all equipment and areas are inspected. The inspection and documentation of equipment status will ensure that malfunctioning equipment is quickly detected and will create a record that can be used to evaluate possible causes of higher than normal ambient arsenic concentrations. The EPA believes that regular inspection and documentation is necessary because ASARCO's correspondence with PSAPCA and EPA suggests that equipment malfunctions and upsets and other causes of higher than normal emissions are not systematically documented. Further, during the public hearing in Tacoma, ASARCO representatives confirmed that they do not have procedures which document all observed emissions and their causes. The EPA believes that such documentation is necessary to objectively pursue an effective emission control program. As suggested by the USWA, the inspection procedure has been expanded to include observation and documentation of housekeeping practices. The EPA believes that the inspection procedure and its required documentation will increase awareness of and emphasis on emission control.

"Repair of malfunctioning or damaged equipment"—ASARCO commented that they oppose the proposed requirements because the urgency of the repair is not related to the quantity of emissions to the air or impact on air quality. ASARCO also considered the proposal to be unreasonable because it would remove from ASARCO the discretion and authority to determine and take appropriate action. The USWA commented that it is not always practicable or necessary to shut down operations involving releases of material with more than 2 percent arsenic. The EPA considered these comments and consequently revised the proposed objective to require the company to submit a plan, subject to the approval of the Administrator, describing the actions that will be taken to curtail operations when process upsets and malfunctions of process, emission control, or material handling equipment occur that will result in increased emissions of arsenic. This plan will describe the time and actions required to curtail increased emissions due to malfunctions. The plan will also describe any technical limitations on curtailments. The EPA believes that this approach will allow sufficient flexibility to consider technical limitations and to consider whether specific individual malfunctions would increase emissions of inorganic arsenic to the atmosphere.

Arsenic trioxide production techniques. Both PSAPCA and NRDC recommended that EPA consider alternative arsenic trioxide production processes in the evaluation of best available controls for the ASARCO-Tacoma facility. These commenters recommended replacing the existing hot roasting process with a hydrometallurgical process as the best approach to reducing low-level arsenic emissions. Another commenter (the USWA) recommended that EPA require ASARCO to research alternative technologies for the production of arsenic trioxide and metallic arsenic.

The EPA has examined the status and applicability of hydrometallurgical processes to materials processed in the ASARCO-Tacoma arsenic production facility. The EPA is monitoring the development of hydrometallurgical processes and is aware of a number of processes that are being developed. Since flue dusts used in the ASARCO-Tacoma arsenic plant vary considerably in composition and contain impurities not found at other smelters, there is no known established process that can be readily applied at Tacoma. At this time, ASARCO is researching several processes for extracting arsenic from various flue dusts and is operating a pilot plant to evaluate further the feasibility of several processes recommended by the research department. Pilot plant operations began in September 1984.

The EPA is not requiring ASARCO to research alternative technologies for the production of arsenic trioxide and metallic arsenic for two reasons. First, the Tripartite Agreement among ASARCO, OSHA, and USWA already requires ASARCO to monitor and evaluate the development of alternative technologies for the production of arsenic trioxide and matallic arsenic. As previously indicated, EPA does not believe it is necessary to establish redundant standards when the measures required would be implemented even in the absence of EPA standards. Second, such a new requirement would have no impact because ASARCO is committed to, and is, in fact, already conducting pilot plant tests. Today's regulation does, however, require ASARCO to report to the Administrator the findings of studies conducted on the feasibility of alternative processes for producing arsenic trioxide. The EPA plans to continue to monitor the development of hydrometallurgical processes and the process changes to the arsenic trioxide plant, and to revise the regulation when appropriate.

Compliance Provisions

The Washington State DOE recommended that requirements for good operation and maintenance for process controls be included in the final regulation. The EPA agrees with DOE and, as described in the Summary of Promulgated Standard section of this preamble, the regulation includes

provisions that require good operation and maintenance of process, conveying, and emission control equipment associated with the arsenic plant.

Reporting and Recordkeeping

The Washington State DOE recommended that the standard include recordkeeping and reporting requirements for malfunctions, upsets, and spills, and operation and maintenance provisions for control equipment. The Administrator considered this comment (and comments made at the public hearing that additional controls were needed) and concluded that additional inspection, maintenance, and recordkeeping requirements would be helpful in achieving better control of arsenic emissions. Consequently, the final standard requires regular inspection and maintenance of process, conveying, and emission control equipment as well as reporting of all malfunctions and process upsets that result in increased arsenic emissions.

ASARCO commented that it considers the monitoring, recordkeeping, and reporting requirements to be extremely burdensome and far beyond what is necessary, considering that emissions are negligible. The EPA believes that recordkeeping and reporting requirements are necessary to assist the Agency in identifying emission sources and to assist in enforcing the standard after the initial compliance demonstration. The final recordkeeping and reporting requirements will require on the average about 800 labor-hours per year over the first 3 years after the effective date of the standard. These requirements have been imposed because ambient arsenic concentrations around the facility are high, and fugitive emissions from the various operations in the facility, and in particular the arsenic plant, contribute significantly to ambient arsenic concentrations.

Ambient Limits

A number of commenters, local governmental agencies (PSAPCA and Washington State Department of Social and Health Services (DSHS)), and environmental groups, recommended that EPA establish an ambient arsenic standard which the ASARCO-Tacoma facility must achieve. It was also suggested that the standard should specify the monitoring and analytical techniques to be used. The PSAPCA specifically recommended that EPA establish 24-hour and annual average arsenic "action levels" to enforce implementation of a fugitive emission control program at the ASARCO-Tacoma facility. Conversely, other commenters argued that EPA should not establish an ambient standard for inorganic arsenic. The Washington DOE said that while it intends to establish 24-hour and annual average community exposure standard to limit inorganic arsenic emissions, it did not recommend that EPA adopt an ambient, or community exposure, standard. The DOE believes there is a need for flexibility in implementing such a standard applied to the ASARCO-Tacoma facility. Hence, in April 1984 the DOE adopted an interim ambient standard and plan to adopt permanent standards after evaluation and study of the causes of high ambient arsenic concentrations in the Tacoma area. The interim standard limits maximum 24-hour ambient concentrations of arsenic to 2.0 $\mu g/m^3$ and maximum annual average ambient concentrations of arsenic to 0.3 $\mu g/m^3$. The USWA and NRDC commented that an ambient standard for carcinogens is inappropriate and is not authorized under the Act. These commenters argued that an ambient standard is inappropriate because no safe level can be established for zero-threshold pollutants. These commenters did, however, believe that an ambient monitoring requirement and an "action level" used as an adjunct to enforcement would be useful and is authorized under the Act. The USWA specifically recommended: (1) That the action level should be achievable when all controls are working properly and should be revised periodically and (2) that exceedances of the action level should trigger an investigation by the company and a report to EPA. The USWA also recommended that the ambient monitoring requirement include provisions which require ASARCO to study and estimate regularly fugitive emissions from all sources in the plant, and to prepare and implement a management plan for control of fugitive emissions.

ASARCO commented on the legal authority and recommendations for an ambient arsenic standard or community exposure level. ASARCO commented that the language and legislative history of the Clean Air Act shows that section 112 does not empower EPA to set an enforceable ambient standard. ASARCO maintained that the clear thrust of section 112 is that EPA is responsible for adopting standards that limit continuously the amount of emissions of hazardous air pollutants from individual sources. ASARCO argued that an ambient standard would not be useful or appropriate because: (1) Ambient arsenic concentrations are presently and will continue to be monitored; (2) ambient concentrations around a source vary, depending on factors other than emissions, including meterological conditions and local terrain; (3) fugitive emissions are already well-controlled; and (4) there are no medical criteria that can be used to establish the level and averaging period of a standard. A further argument against an ambient standard presented by ASARCO was that an ambient standard would not be an effective means of reducing arsenic emissions. ASARCO commented that an ambient standard would have to be achieved either by emission controls or by production curtailments, and that EPA would have to identify sources of emissions causing high ambient arsenic levels and determine the controls required to attain the standard ASARCO pointed out that, in the case of a 24-hour standard, it would be difficult to determine what controls should be required because it is not possible to determine retroactively the causes of high ambient arsenic values. It was also argued that maintaining an ambient arsenic standard by intermittent production curtailment was not feasible. Curtailment is not a feasible approach to arsenic control because: (1) There is currently no real-time monitoring system for arsenic; (2) it is not practicable because of lack of knowledge about which sources should be curtailed; and (3) arsenic emission sources require lengthy shutdown periods before they cease emitting arsenic.

Since an enforceable ambient standard is not being established in the standard being promulgated today, ASARCO's comment (that section 112 of the Clean Air Act does not give EPA the authority to set enforceable ambient standards) is not pertinent to this rulemaking. The EPA agrees that an ambient standard cannot be established for inorganic arsenic based solely on health effects or risk estimates. The EPA does believe, however, that an enforceable ambient limit, which is an indicator of proper operation and maintenance of emission control systems and is developed considering all relevant factors, is consistent with the goals of Section 112 and may consider establishing a limit at a later date. This limit would serve as a direct measure of the degree to which fugitive arsenic emission sources at the arsenic production facilities are being controlled. The EPA intends to review ambient arsenic monitoring data in the future to determine if additional control measures are needed, and the standard requires quarterly reporting of ambient

arsenic concentration monitoring data to facilitate this review. Among the measures that would be considered would be an enforceable boundary limit providing sufficient information and data are available to establish a limit. The enforceable boundary limit would be used to evaluate the effectiveness of required control measures and would not impose any additional emission control requirements. Thus, the enforceable boundary limit would not require production curtailments to achieve compliance with the limit. Hence, ASARCO's comments regarding the utility of an ambient standard are not applicable to the concept of the enforceable boundary limit.

Depending on the steps which ASARCO takes to reduce emissions in future operations of the arsenic plant, EPA plans to determine the need for additional control measures and the need for an enforceable boundary limit after the effects of the required control actions are assessed. This assessment will involve comparison of ambient levels of arsenic measured near the plant with ASARCO's records of operation at the arsenic plant. The EPA believes that this information will help to identify operating practices that cause high ambient concentrations, and the agree to which additional controls might reduce ambient arsenic concentration levels. In particular, exceedances of the DOE standard would be investigated to determine the cause and to determine possible control measures. The review may also consider the need for requiring periodic review of emissions and control measures to ensure the continued effectiveness of the housekeeping plan.

Impacts of Reporting and Recordkeeping Requirements

The EPA believes that the required reporting and recordkeeping requirements are necessary to assist the Agency in: (1) Identifying sources; (2) determining initial compliance; and (3) enforcing the standards.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). To accommodate OMB review, EPA uses 3-year periods in its impact analysis procedures for estimating the labor-hour burden of reporting and recordkeeping requirements.

The average annual burden on owners and operators of arsenic trioxide and metallic arsenic production facilities to comply with the reporting and recordkeeping requirements of the final standard over the first 3 years after the effective date is estimated to be about 800 labor-hours.

VI. Negative Determinations

On July 20, 1983, EPA proposed not to establish standards limiting emissions of inorganic arsenic for six categories of sources. These sources were primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide plants, cotton gins, and arsenic chemical manufacturing plants. The public comment period on these negative determinations ended on January 31, 1984. This part of the preamble presents the basis of the Administrator's decision to reaffirm the decision not to establish emission limits for these sources and responds to comments on the preposed action.

Summary of Decisions

The EPA identified the following six inorganic arsenic source categories, but concluded that standards were not warranted at this time: Primary lead smelters, primary zinc smelters, zinc oxide plants, arsenic chemical plants, secondary lead smelters, and cotton gins. The EPA has not developed standards for these source categories for the following reasons:

1. As a result of the existing level of control for these six source categories, maximum lifetime risk and annual incidence for each source category are generally small.

2. Requiring further controls under section 112 beyond OSHA and SIP requirements for either individual sources or for the six categories would not result in a significant reduction in maximum lifetime risk or annual incidence.

3. The EPA analyses indicate that severe economic impacts, including plant closure, could result if further control were required. The Agency does not believe that plant closure is a reasonable alternative.

The EPA believes that the cost of any additional controls that may be possible appear to far exceed any small incremental health benefit which might result. For the above reasons, the Agency believes that Federal regulation under section 112 of these six categories of sources of arsenic emissions is not currently warranted.

Significant Changes Since Proposal

No changes have been made in the Agency's decision not to regulate primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide plants, cotton gins, and arsenic chemical manufacturing plants.

Additional Analyses

As a result of public comments, EPA conducted additional analyses to ensure that the decision whether to regulate primary lead smelters, primary zinc smelters, zinc oxide plants, arsenic chemical manufacturing plants, secondary lead smelters, and cotton gins is based on the most complete and accurate information available. Additional information on arsenic emissions and control technology was collected and analyzed for primary zinc smelters and secondary lead smelters. For primary zinc smelters, plant visits were conducted to verify the emission estimates and use of emission control equipment. During the plant visits, feedstock samples and process information were obtained to develop a material balance for estimating emissions. For secondary lead smelters, additional information was collected concerning the secondary lead industry. The current level of control practiced throughout the secondary lead industry was assessed in-depth. New nationwide arsenic emission estimates were made for secondary lead process sources and process and area fugitive sources based on EPA source testing. Risk analyses were performed based on these revised secondary lead emission estimates. These additional analyses undertaken for primary zinc smelters and secondary lead smelters are described in the responses to public comments.

Risk estimates, both maximum lifetime risk and annual incidence, for all six categories were revised by increasing the distance modeled from 20 km to 50 km (12 to 31 miles) from the source, by incorporating 1980 population data, and by more exactly locating the coordinates of some plant sites.

Basis for Decisions

This section presents the application of EPA's risk management approach in the review of the decision not to develop standards for the six source categories. The factors considered in the review were the risks posed by the sources, both maximum lifetime risk and annual incidence; the emission and risk reductions achievable through application of additional emission controls; and the costs and economic impacts of these control measures. The assessment of the risks and control options is summarized below.

Although the Agency did not perform site-specific air dispersion analysis for any of the six source categories which the Administrator has decided not to regulate under section 112, EPA has, where possible, made comparisons

between the predicted and measured values. Generally, ambient data were not available in sufficient quantity to allow meaningful comparisons, but when obtained, the measured ambient values tended to be slightly higher than predicted by HEM for these source categories. This result is expected and reasonable since the ambient monitors would be affected by naturally-occurring arsenic in the soil and by other local arsenic sources that were not considered in EPA air dispersion analysis. The risk estimates ae given in Table VI–1.

More detailed information regarding the risk assessments for the source categories that remain unregulated under Section 112 may be found in the background information document (EPA–450/5–85–002). An explanation of EPA's risk management approach is found in the Overview—Basis for Promulgated Standards section of this preamble.

1. Secondary lead smelters. Maximum lifetime risk and annual incidence are small for most plants in this source category under the existing level of control. The highest annual incidence which occurs at one secondary lead smelter is 0.14, associated with a large exposed population (8.86 million within a 50 km radius). The EPA expects that OSHA and SIP requirements will lead to additional control to be implemented at this smelter as well as at many others. Fugutive sources are now largely controlled so that improvement, if possible, would be necessarily site-specific, and not practical or reasonable in a national standard. Due to the small maximum lifetime risk the probable inability to achieve further significant reductions in emissions and incidence, the potential negative societal and economic impacts that would result from additional control, and the difficulty in developing a uniform national standard, EPA has decided that regulation of secondary lead smelters under Section 112 is not currently warranted.

2. Cotton gins. For cotton gins, EPA developed "model" plants located in "model" locations for use in estimating maximum lifetime risks. However, with this approach, which was used since detailed location data were not available for all plants, the Agency cannot reasonably calculate aggregate or total risks to those living within 50 km (31 miles) of the gins. To look more closely at this category, EPA conducted an ambient monitoring study around two gins in the Texas area. When comparing the measured arsenic values to the predicted concentrations from the appropriate model gin exposure analysis, EPA found that the predicted values were reasonably close to concentrations measured very near the gins. The monitoring study data also showed that the arsenic concentrations fell off very rapidly with distance from the gins. This result suggests that people living at some distance from the gins are not being significantly exposed to the gins' emissions. Such a result, coupled with the observation that many gins are in rural areas, supports the Agency's conclusion that the aggregate risks for this source category are small.

The estimated maximum lifetime risks associated with the current level of process emission control from cotton gins is also small. There is not sufficient information available on the effectiveness of fugitive emission control techniques and such techniques have not been demonstrated to be applicable to all operational variabilities of cotton gins, leading the Agency to conclude that additional fugitive emission control is not reasonable. Taking these factors into consideration, the Agency has concluded: (1) That the existing level of control is acceptable because of the potential economic and societal consequences of gin closure and (2) that regulation of cotton gins under section 112 is not currently warranted.

3. Zinc oxide plants. Annual incidence estimates are small for both existing zinc oxide plants under current levels of control.

TABLE VI–1.—RISK ESTIMATES FOR SOURCE CATEGORIES FOR WHICH THE AGENCY IS NOT PROPOSING STANDARDS

Source category	Number of plants	Maximum individual risks	Aggregate risks (cases/yr)
Secondary lead smelters	35	4×10^{-4}	0.39
Cotton gins	~300	5×10^{-4}	
Primary lead smelters	5	20×10^{-4}	0.07
Primary zinc smelters	5	0.07×10^{-4}	0.004
Zinc oxide plants	2	10×10^{-4}	0.08
Arsenic chemical plants	5	2×10^{-4}	0.004

The one plant where maximum lifetime risk is highest has process and fugitive controls in place. Existing controls and those planned for the near future to comply with OSHA and SIP regulations will reduce emissions and associated maximum lifetime risk from both plants. The EPA cannot identify any control requirements beyond those established by OSHA that would not result in closure of the plant associated with the highest maximum lifetime risk. Thus, EPA has decided that regulation of zinc oxide plants under section 112 is not warranted at this time.

4. Primary lead smelters. The annual incidence is small for all of the existing smelters under current levels of control. The highest predicted maximum lifetime risk which occurs at one smelter is 2×10^{-3}. Controls implemented at this plant as a result of recent tripartite agreements among OSHA, smelter management, and labor have already resulted in reduced ambient arsenic levels at this plant. Moreover, EPA has not identified any controls beyond those necessary to comply with OSHA and lead SIP requirements that could further reduce arsenic emissions to a significant degree. Thus, the Agency has concluded that section 112 regulation is not warranted at this time.

5. Primary zinc smelters. Annual incidence and maximum lifetime risk estimates are small for this source category under existing levels of control. No technology has been demonstrated that can reduce emissions further. Thus, the Agency has concluded that regulation under section 112 is not currently warranted.

6. Arsenic chemical manufacturing plants. Annual incidence and maximum lifetime risk estimates are small for this source category under existing levels of control. There are no demonstrated control techniques that would result in further emission reductions. Thus, the Agency has concluded that regulation of this soruce category under section 112 is not currently warranted.

Discussion of Comments

Comments on the decision not to propose standards for these source categories were solicited in the July 20, 1983, **Federal Register** (48 FR 33112). Eleven letters were received pertaining to these source categories. One of the parties who testified at the public hearing alluded to these source categories, and later submitted more detailed written comments. Comments concerned general topics that pertained to all six source categories as well as to particular source categories. Comments and Agency responses are presented here in the following order: General comments, secondary lead smelters, cotton gins, zinc oxide plants, primary lead smelters, primary zinc smelters, and arsenic chemical manufacturing plants. The docket reference is indicated in parentheses in each comment.

General Comments

The Attorney General's Office of the State of New York (A–83–09/IV–D–9, A–83–10/IV–D–12, A–83–11/IV–D–9, A–83–23/IV–D–9) submitted a list of companies located in New York and New Jersey, some of which are in the

source categories EPA has identified as potential sources of inorganic arsenic emissions. The commenter claimed that EPA has neither identified these companies as inorganic arsenic sources, nor demonstrated that they do not emit inorganic arsenic.

The list of companies provided was reviewed by EPA. The list apparently involves firms which fall under the same industrial source classification as the sources which emit arsenic. However, in general, the list contained companies that did not fall into the source categories identified as potential arsenic emission sources. A good example of this misclassification was observed when reviewing the secondary lead smelter category. Of the 27 companies included on the secondary lead smelter list submitted by the State of New York, only two were included on EPA's list of secondary lead smelters. These companies (Federated Metals, Newark, NJ, and Roth Brothers Smelting, E. Syracuse, NY) are also the only two companies recognized as secondary lead smelters by the Secondary Lead Smelting Association. Upon receipt of the listing, EPA initiated an additional data gathering effort to obtain information pertaining to the nature of business conducted by the remaining 25 companies. After the investigation, EPA identified the majority of these companies as remelters (plants that operate a melting pot) and/or companies that produce special alloys. The majority of these companies produced zinc, aluminum, copper, or other nonlead alloys. Also included on the list of potential secondary lead smelters was: (1) A company that recovers precious metals (gold, silver, and platinum) from scrap jewelry, (2) a fabrication and construction company that uses lead fabricated products in various construction applications, (3) a company that produces metal decoration for churches, (4) a company that weaves industrial wire cloth for reinforcing washing machine hoses, and (5) a paper company. Six of the companies listed by the commenter were either permanently closed or had no current telephone listing.

The EPA finds no reason to believe that any of these companies use significant quantities of arsenic or arsenic bearing materials in processes that would release arsenic to the atmosphere. The EPA, therefore, concludes that all significant sources of inorganic arsenic emissions have previously been identified, and the list provided by the State of New York does not identify any additional companies in any of the subject source categories.

The State of New York Attorney General's Office (A–83–09/IV–D–9, A–83–10/IV–D–12, A–83–10/IV–D–9, A–83–23/IV–D–9) also commented that fugitive emission sources and the status of their control had not been statisfactorily characterized and that this information is needed to support EPA's claim that fugitive sources are well controlled. The commenter stated that control techiques such as secondary hood systems, dust control, building enclosures, and fines agglomeration may be applicable to many types of sources of fugitive arsenic emissions and should be applied wherever those controls would reduce fugitive arsenic emissions.

The EPA attempted to characterize controls used on the major fugitive sources from all source categories (Preliminary Study of Sources of Inorganic Arsenic [EPA–450/5–82–005]). Plants were contacted for information on fugitive emissions and controls. As described in the preliminary study, the magnitude of fugitive arsenic emissions was estimated quantitatively or qualitatively for all source categories. The quantity of fugitive emissions from primary lead smelter was based on previously conducted fugitive arsenic and lead emission tests at two primary lead smelter. Fugitive arsenic emissions from secondary lead smelter were estimated based on measured lead emissions and estimated lead to arsenic ratios. The OSHA arsenic measurements provide an indication of the quantity of fugitive arsenic emitted from arsenic chemical manufacturing, primary zinc, and zinc oxide plants. Based on workplace arsenic levels reported, EPA concluded that fugitive emissions from these sources were well controlled.

Fugitive emissions are difficult to measure and limited data are available, so there is uncertainty in EPA's characterization of both area and process fugitive emissions. Where quantitative control efficiency data were not available, EPA qualitatively analyzed fugitive capture and control efficiency based on engineering design. The preliminary source study did identify secondary lead smelters as a category warranting further study. Fugitive emissions from secondary lead smelters were investigated further after the July 20, 1983, proposal, and the results are summarized in Docket A–83–09, item IV–A–4.

The EPA agrees that the control technologies mentioned by the commenter have been effective in achieving reductions in fugitive emissions in various applications. However, fugitive arsenic emission controls to meet OSHA requirements are currently in operation at all plants. The types of existing fugitive control systems vary from plant to plant because of differences in the physical configurations of plant equipment and because of variations in production processes and emission points among plants in the various source categories.

The EPA investigated the effect of existing regulations on reducing fugitive arsenic emissions from all source categories (A–83–08/II–A–5). Applicable regulations include OSHA lead and inorganic arsenic standards; lead, SO_2, and particulate National Ambient Air Quality Standards (NAAQS); and New Source Performance Standards (NSPS) for some source categories. The conclusion of this investigation was that many sources of fugitive emissions within all source categories are currently well controlled, and industry compliance with existing regulations will result in the application of effective control to all remaining fugitive emission sources. After this characterization of fugitive emissions and controls, EPA concluded that the risks associated with fugitive arsenic emissions from primary and secondary lead smelters, primary zinc smelters, zinc oxide plants, cotton gins, and arsenic chemical plants are generally small; and additional control at the Federal level through a Section 112 standard would not result in significant reduction of inorganic arsenic emissions and associated risks.

The Attorney General's Office of the State of New York (A–83–09/IV–D–9, A–83–10/IV–D–12, A–83–11/IV–D–9, A–83–23/IV–D–9) thought that EPA has not adequately taken into consideration the physical properties of the arsenic trioxide that affect efficiency achieved by control devices. This commenter felt that EPA did not adequately consider emission controls for vapor phase arsenic. The commenter noted that arsenic trioxide is appreciably volatile at 100 °C (212 °F). Since most industrial processes involve temperatures well in excess of 100 °C (212 °F), they concluded that any arsenic in a feed material will be found in the vapor phase.

The State of New York also said that when gas streams saturated with arsenic trioxide vapor are cooled, condensation does not occur as expected. Depending on the quantity of arsenic present in the feed material, they felt that process vapors may not be saturated with arsenic trioxide. The commenter stated that when the vapor is not saturated with arsenic trioxide, substantially lowering the temperature will not force arsenic trioxide to condense. Therefore, since arsenic

trioxide remains in the gaseous phase, they concluded that particulate control methods dependent on arsenic trioxide condensation will be ineffective.

The commenter presents two conflicting ideas. The first is that EPA has not proposed controls that remove vapor phase arsenic in hot (>100 °C) offgas streams (removal by condensation). The second idea presented and conclusion drawn by the commenter is that control of gaseous phase arsenic trioxide by condensation is ineffective unless the vapor is saturated.

The commenter also stated that because of the high temperature required for industrial processes (100 °C), any arsenic in the feed material will be found in the vapor phase. In contrast, EPA found, based on samples collected by the Agency and information provided by plants in each of the subject source categories, some arsenic is typically found in the product metal, slag, matte, and flue dust.

Process arsenic emissions from zinc oxide plants, arsenic chemical manufacturing, primary lead and zinc smelters, and secondary lead smelters are controlled by either wet scrubbers, contact acid plants, or fabric filters. Because of the presence of vapor phase arsenic in these offgas streams, EPA investigated the feasibility and effectiveness of low temperature controls for all "hot" process sources. Preliminary calculations based upon the limited data available at the time of the initial survey showed that additional cooling of the offgas streams from zinc oxide plants, secondary lead smelters, and glass manufacturing plants could potentially result in additional arsenic trioxide condensation. These preliminary calculations demonstrated that offgas cooling could potentially reduce arsenic emissions by condensing the vapor phase arsenic and capturing it as particulate arsenic.

Following the preliminary calculations, emission tests were performed at glass manufacturing plants and secondary lead smelters (see "Inorganic Arsenic Emissions from Glass Manufacturing Plants—Backgound Information for Promulgated Standards," EPA 450/3–83–011b, and "Secondary Lead Smelter Tests of Area Source Fugitive Emissions for Arsenic, Cadmium, and Lead; Chloride Metals, Tampa, Florida," EMB 84–SLD–3, A–83–09/IV–A–4)

Results from the process emission tests at a secondary lead smelter demonstrated that arsenic entering the process baghouse was primarily associated with particulate matter at temperatures of 175 ° to 200 °C (350 to 390 °F) (A–83–09/IV–A–2). Simultaneous inlet-outlet measurements conducted on the process baghouse indicated an average total arsenic removal efficiency of 98.86 percent. Based on arsenic trioxide saturation theory, the measured arsenic concentrations entering the baghouse correspond to less than one percent of the concentration required for vapor saturation. Arsenic emissions from glass manufacturing have also been shown to be predominantly in the solid phase. A series of tests on glass furnace offgas demonstrate that for most types of arsenic containing glasses, more than 90 percent of the arsenic exists in the particulate phase at typical stack gas temperatures of 288 °C (550 °F) (A–83–08/II–A–5).

These data apparently contradict theoretical considerations (based upon arsenic being present as arsenic trioxide), which predict all of the arsenic to exist in the vapor phase at the measured temperatures. However, theoretical considerations are based only on arsenic in the form of arsenic trioxide and do not consider the presence of other chemical species (chlorides, etc.) in the stack gas or adsorptive interactions with particulate matter. The presence of other components changes the way arsenic would react alone in the furnace offgas streams.

Therefore, EPA concludes that arsenic emissions from some processes are effectively controlled by particulate control devices even at elevated temperatures. Despite theoretical predictions, exhaust stream measurements demonstrate that arsenic can be controlled from some processes by particulate capture and that high removal efficiencies can be achieved even at temperatures exceeding 260 °C (500 °F). In addition, the data available to EPA do not conclusively demonstrate a correlation between temperature and arsenic in vapor or solid phase and, thus, cannot serve as the basis for any requirement to cool gas streams.

The Attorney General's Office of the State of New York (A–83–09/IV–D–9, A–83–10/IV–D–12, A–83–11/IV–D–9, A–83–23/IV–D–9) commented that EPA has not adequately dealt with the special control problems associated with arsenic particulate matter. They stated that there are much higher concentrations of arsenic in small particle size fractions (1–2 micrometers) than in larger size fractions. They noted that the concentration of arsenic in particulate matter with a diameter greater than 11.3 micrometers is 680 ppm and the concentration in the 1–2 micrometers range is 1,700 ppm. The commenter concluded that arsenic controls must be efficient at collection of the fine particulate fraction.

The State of New York said that even though fabric filters can achieve removal efficiencies of 90 to 99 percent for particulate matter, EPA cannot assume that this represents 99 percent removal of arsenic. They noted that: (1) Arsenic occurs preferentially in the fine particulate fraction that escapes collection, and (2) fabric filters will not remove arsenic in the vapor phase. New York State contended that if fabric fileters are operated properly, particulate emissions can be reduced to 23 mg/dscm (0.01 gr/dscf) and a concurrent fine particulate (less than 2 micrometers) reduction to 18 mg/dscm (0.008 gr/dscf). They note that if the equipment is well maintained, one can expect arsenic control of approximately 90 percent with the use of state-of-the-art fabric filters. The commenter felt that such filters must be required as a minimum control device, and that design and maintenance standards should also be specified.

Thus, the State of New York concluded that among technologies for particulate control, fabric filters are the most effective. They also concluded that fabric filters are the only acceptable method of arsenic control and that arsenic control with wet scrubbing systems is ineffective and expensive. However, this commenter noted that EPA has not specified fabric filters as BAT for all arsenic sources.

Two conflicting viewpoints are presented by the commenter. The logic behind recommending fabric filters as BAT for all arsenic sources is inconsistent with the commenter's earlier statements concerning the physical properties of arsenic emissions (i.e., vapor phase arsenic and size fraction of the arsenic-bound particulate). However, previous statements by the same commenter indicated that arsenic control based on condensation "is ineffective," and arsenic bound particulate occurs in the fine particulate fraction "which escape collection."

The EPA agrees that for a control device to be effective in reducing arsenic emissions it must be effective in collecting fine particulate matter. Control devices currently used in these source categories are effective in collecting fine particulate matter.

The EPA has not assumed that since fabric filters are capable of achieving 99 percent collection of particulates, they are also capable of achieving 99 percent collection of arsenic. Therefore, EPA agrees with the commenter that such an assumption cannot be made. However,

EPA believes fabric filters to be an effective fine particulate control technique with efficiencies in the 90 percent range for arsenic bound particulate less than 10 micrometers. The EPA disagrees with the commenter regarding the effectiveness of wet scrubbing systems. Wet scrubbing systems use a liquid stream to recover small particles from a gas stream. Wet scrubbing systems also serve to cool the offgases and promote some degree of condensation. In one test conducted on a wet scrubber which followed a fabric filter that achieved about 99 percent control, approximately a 60 percent reduction in remaining arsenic was noted. The commenters did not provide any information to support the claim that wet scrubbers are ineffective.

It is unclear what the commenter means by the statement that EPA has not "specified" fabric filters as BAT for all inorganic arsenic sources. The EPA has, however, concluded that effective control is in place or will be in place in the near future for the subject source categories due to lead SIP's and OSHA requirements; and the level of control that would have been required by a NESHAP is no more stringent than currently exists and thus would not have resulted in any additional inorganic arsenic emission reduction.

Three commenters mentioned that EPA had omitted any discussion at proposal of the need to regulate coal and oil combustion sources (A–83–08/IV–D–17, A–83–08/IV–D–18a, A–83–08/IV–D–18b). Two of these commenters felt that EPA has unjustifiably ignored this potentially significant category and wanted the Agency to carefully study or regulate it. In the case of coal combustion, EPA had reviewed the literature in 1979–80 and made a simple but conservative risk analysis with a series of model plants. Because of the large number of utility and industrial boilers that burn coal or oil and the lack of specific location data, EPA could not perform its normal nationwide exposure analysis; however, EPA was able to estimate the maximum concentrations and concluded that risks associated with those ambient concentrations were small. The report, entitled "Human Exposure to Atmospheric Arsenic" (OAQPS–19–8/II–A–9) concluded that because the realistic worst-case annual average environmental arsenic exposures for coal-fired power plants (and industrial boilers) are less than 0.003 $\mu g/m^3$ for all power plants and less than 0.001 $\mu g/m^3$ for most power plants, power plant (and industrial-boiler) emissions do not add appreciably to nominal urban background concentrations. For oil combustion, EPA's review of the literature indicated that arsenic concentrations in oil were substantially lower than those measured in coal, and estimated that the exposure associated with oil combustion would be even lower than those concentrations given above for coal combustion. Based on further analysis of available data, the Agency continues to believe that the ambient concentrations of inorganic arsenic associated with emissions from coal and oil combustion are low. Inorganic arsenic, however, is only one of several trace elements of potential concern that are present in combustion emissions. Taken together, the Agency has concluded that such emissions warrant further study. The Agency is conducting exposure analyses for inorganic arsenic and a number of other pollutant emissions from this source category.

The NRDC stated that EPA has the obligation to regulate under section 112 *all* source categories of inorganic arsenic (A–83–08/IV–D–18a, A–83–08/IV–D–18b). The commenter's concerns would apply to two classifications of source categories that the Agency had decided not to regulate. The first classification of source categories includes those source categories with risks that, in the Administrator's judgment, are small or not significant. Regulating these source categories would provide only a small measure of risk reduction and as previously discussed, the impacts of control outweigh the benefits. The NRDC agreed to this approach in one of their comments (A–83–08/IV–D–18a), but there is a disagreement over when the Agency should stop consideration of a source category and move on to another. The second classification includes source categories that pose somewhat greater risks but, in light of the small benefits and large impacts of requiring further emission reduction, the risk levels are thought to be not unreasonable.

Two commenters listed a number of potential inorganic arsenic sources that were not mentioned in the July 20, 1983, notice of proposal (A–83–08/IV–D–17, A–83–08/IV–D–18a, A–83–08/IV–D–18b). For instance, municipal incinerators, rock wool manufacturing, and oil shale reporting were identified as inorganic arsenic source categories for regulation. One commenter (A–83–08/IV–D–17) felt that the Agency may have underestimated the emissions from these source categories. This commenter contended that the Agency failed to adequately address fugitive emissions and did not identify many individual sources within the categories. For example, the State of New York mentioned that the municipal incinerator and rockwool manufacturing emissions were estimated by assuming that the arsenic concentrations in the collected particulate matter were equivalent to the arsenic concentrations in the emitted particulate matter. The commenter suggested that this assumption leads to emission rate estimates that are lower than actual emissions because, based on measurements made at other source category facilities, arsenic concentrations in the emitted particulate matter are generally higher than those in the collected particulate matter. Also, the commenter pointed out that the number of incinerators will potentially increase in the future.

For these source categories, EPA had performed a preliminary study ("Study of Inorganic Arsenic Sources," OAQPS–79–8/IV–A–2) and had concluded that these source categories emit very small quantities of inorganic arsenic and pose small risks. For example, 102 municipal incinerators emitted about 5 Mg of inorganic arsenic per year and 43 rockwool production plants emitted 0.5 Mg of inorganic arsenic per year. The Agency reviewed the commenters' information and, although several of the suggestions were potentially valid, the Agency's emission estimates would not be significantly increased. Based on the Agency's understanding of the nature of the emissions, the low emission rates, and the number of plants, the Administrator has concluded that standards are not warranted for these categories.

Secondary Lead Smelters

One commenter (A–83–09/IV–D–8) stated that EPA does not know how many secondary lead smelters there are, and, as a result, EPA has no basis for statements referring to the level of control exhibited throughout the industry.

Following the publication of the negative determination proposal, an in-depth study was initiated by EPA to obtain additional information about the secondary lead industry and to assess the current level of control practiced throughout the industry. The information gathered in this study is contained in A–83–09/IV–A–5, "Control of Arsenic Emissions from Secondary Lead Smelting Industry—Technical Document."

The EPA defines a secondary lead smelter as any facility operating a blast, rotary, or reverberatory furnace for the purpose of reclaiming lead from lead

bearing scrap. Facilities that simply remelt lead in a melting pot for refining or recasting were not included in this category since these plants do not engage in smelting operations.

A preliminary list of secondary lead smelters was developed based on information obtained from previous EPA studies. It was soon learned that several secondary lead smelters had recently closed. The remaining facilities were contacted by EPA and subsequently requested to respond to a questionnaire regarding process and fugitive emission controls, arsenic usage, and emissions. Additional closures were identified during this survey. At the conclusion of this information gathering (December 1983), it had been determined that there were 43 secondary lead smelting plants in the United States (either open or temporarily closed). Confirmation of the accuracy and completeness of this listing was provided by both representatives of the Secondary Lead Industry Association and of several of the secondary smelters (A–83–09/II–B–25, A–83–09/II–1–6, A–83–09/II–1–7).

The level of emission control at each of the 43 plants was characterized using information obtained from responses to the questionnaire, telephone contacts with plant officials, and previously conducted trip reports or tests. In addition, EPA conducted plant visits to 14 of the 43 smelters (A–83–09/II–B–18, A–83–09/II–B–17, A–83–09/II–B–19, A–83–09/II–B–21, A–83–09/II–B–28). As a result of this study, EPA is confident that it has up-to-date information on emissions and controls for characterizing and basing decisions on the secondary lead smelting industry (A–83–09/IV–A–5 and A–83–09/IV–B–1).

One commenter (A–83–09/IV–D–9) expressed strong objection to EPA's reliance on OSHA workplace standards for inorganic arsenic, and the NAAQS for lead to control inorganic arsenic emissions from secondary lead smelters.

In response, EPA notes that data derived from a long-term ambient monitoring program near a large secondary lead smelter demonstrate a correlation between ambient lead and arsenic concentrations (A–83–09/II–A–2). The 758 measurements demonstrate a statistically significant relationship between the measured ambient arsenic and lead concentrations (i.e., high arsenic corresponds to high lead). Based on this correlation and on ambient arsenic levels measured near 16 secondary lead smelters (approximately 10 measurements for each plant), it is estimated that arsenic levels would be decreased by controls installed to achieve the lead NAAQS. Secondary lead smelters which were in compliance with the lead NAAQS (1.5 $\mu g/m^3$) demonstrated ambient arsenic levels of less than 0.03 $\mu g/m^3$.

The Administrator believes that where standards established under separate authorities (e.g., the OSHA inorganic arsenic standards) are effective in reducing emissions, redundant standards need not be established by EPA. The EPA establishes separate standards when there is evidence that either the control measures are not likely to remain in place or are unlikely to be properly operated and maintained. The Agency has concluded that adoption of redundant EPA standards would result in no emission reduction or other public health benefit beyond that achievable under OSHA standards.

One commenter (A–83–09/IV–D–20) stated that the process fugitive capture and control equipment used in the industry has not been characterized adequately (e.g. hood design, capture efficiency, etc.), and, consequently, EPA cannot validly conclude that process fugitive emissions are well controlled. During plant visits to 14 of the 43 secondary lead smelters, EPA qualitatively assessed the effectiveness of the fugitive capture and control equipment for process fugitive emissions. Based on these visual inspections, the industry-wide survey, and records demonstrating compliance with OSHA inorganic arsenic standards, EPA concluded that process fugitive emissions are well controlled. During a fugitive arsenic emissions test at a secondary lead smelter, samples were collected inside the smelter building near process fugitive emission points. The results from this study are summarized in "Control of Arsenic Emissions from Secondary Lead Smelting Industry—Technical Document (A–83–09/IV–A–5)."

One commenter (A–83–09/IV–D–10) pointed to apparent conflicts between statements in the Preliminary Source Survey document and statements in the July 20, 1983, Federal Register notice (48 FR 33121) concerning the current degree of area fugitive control. The commenter noted that the Preliminary Source Study indicates that most of the area sources are currently uncontrolled, whereas the conclusion drawn by the preamble is that fugitive sources are already controlled at the BAT level. Consequently, the commenter felt that fugitive emission sources and the status of their control had not been satisfactorily characterized.

After preparation of the Preliminary Source Survey document, a more detailed study of area fugitive sources and control was initiated. Of the potential fugitive area sources identified at secondary lead smelters, the only significant source of arsenic emissions was flue dust handling. Data on flue dust arsenic content from different smelters range from 0.001 to 5.0 percent by weight arsenic. The arsenic content of material from other potential fugitive sources were all approximately one order of magnitude lower.

Additional data were gathered on flue dust handling and storage practices (A–83–09/II–A–1). It was determined that, at the majority of plants, flue dust is controlled by enclosed and ventilated screw conveyors; and flue dust storage is either controlled by enclosure, or flue dust is recycled directly to the furnace. Only three of the plants (less than 5 percent) have open flue dust storage, and these facilities are in the process of eliminating this process. Thus, the Agency has concluded that additional control of area fugitive sources is not warranted.

Two commenters (A–83–09/IV–D–8, A–83–09/IV–D–10) said that EPA should consider requiring that secondary lead smelters be controlled with fabric filters followed by wet scrubbers. The commenters pointed out that the July 20, 1983, Federal Register notice of proposal (48 FR 33112) stated that "a fabric filter/wet scrubber is a demonstrated technology in the industry." The commenters thought emissions might be significantly reduced by requiring this technology.

Based on calculations in the Preliminary Source Survey document, EPA estimated at proposal that arsenic emissions from a fabric filter/scrubber combination could be approximately 60 percent less than arsenic emissions from a fabric filter alone.

Subsequent to the publication of the July 20, 1983, Federal Register notice, EPA conducted performance tests on a control system in which furnace offgases are controlled with a fabric filter and a wet scrubber (A–83–09/IV–A–2). Total inorganic arsenic removal efficiency of 98.86 percent was achieved by the fabric filter, while the fabric filter/wet scrubber combination removed 99.61 percent of the inorganic arsenic from the furnace offgases. These performance test results are in agreement with the preliminary estimates of arsenic emission reduction associated with the use of a wet scrubber after the fabric filter. However, the test results showed that arsenic concentrations in the inlet to the scrubber are much lower than had been estimated originally from lead to arsenic ratios. Therefore, arsenic emissions from fabric filter-controlled process sources at secondary lead

smelters are much lower than originally estimated.

Following the July 20, 1983, **Federal Register** notice, new nationwide arsenic emission estimates were made for process sources at secondary lead smelters. Requiring fabric filters to be followed by wet scrubbers would result in an estimated nationwide inorganic arsenic emission reduction of about 1.6 Mg/yr (1.8 tons/yr). This level of control would reduce inorganic arsenic emission estimates from about 7.2 to 5.6 Mg/yr (7.9 to 6.2 tons/yr). These estimates correspond to a 22 percent reduction in inorganic arsenic emissions from secondary lead smelters resulting from the use of scrubbers. However, the risks associated with all sources of inorganic arsenic emissions at secondary lead smelters would be reduced by a considerably lower percentage because the fugitive emissions which are released at or near ground level have the greatest effect on maximum lifetime risk.

As indicated in the **Federal Register**, the cost effectiveness of the fabric filter/wet scrubber control would correspond to approximately $600,000 to $12 million per Mg of arsenic removed depending upon total arsenic reduction achieved. According to a preliminary economic impact analysis, these control costs would have a severe effect on the secondary lead industry (A–83–09/IV–A–1).

Based on the small reduction in maximum lifetime risk and annual incidence associated with installing and operating a fabric filter/wet scrubber combination and the adverse economic impact, EPA has concluded that a Federal standard requiring this system is not warranted. Thus, the Agency is not requiring additional process control at secondary lead smelters.

Although maximum lifetime risk for secondary lead smelters is small (4×10^{-4}), the estimated annual incidence is higher (0.39 cases per year) than the other five sources for which standards were not promulgated. This higher estimated annual incidence is largely comprised of the incidence of 0.14 associated with a particular smelter. All other annual incidence estimates are below 0.01, with most below 0.0047. One reason for the higher incidence estimates at the one smelter is that the population exposed to emissions from that smelter is quite large (8.86 million within 50 km) compared to the entire category. The highest maximum estimated lifetime risk associated with any single secondary lead smelter is estimated to be 4×10^{-4}. The current estimate of emissions and health impacts are almost an order of magnitude lower than the impacts presented in the July 20, 1983, **Federal Register** notice.

The Agency believes that the fugitive emission sources in this industry are now largely controlled. Additional emission reduction, therefore, would be through increasing the efficiency of existing controls. A nationwide uniform standard to effect such controls would be difficult, if not impossible, to develop, and improvements that can be made would be necessarily site specific. The absence of site-specific engineering and emission information, the small maximum risk, the probable inability to achieve further significant reductions in emissions and incidence, and the difficulty in developing a uniform nationwide standard, have led EPA to conclude that Federal regulation of secondary lead smelters under section 112 is not warranted.

Cotton Gins

One commenter claimed that there is no valid basis for listing cotton gins as a point source for inorganic arsenic emissions under section 112 of the Clean Air Act (A–83–10/IV–D–5). The commenter stated that the usage of arsenic acid as a desiccant was overstated in EPA's study and, therefore, the Agency overestimated arsenic emissions and exposure from cotton gins. Another commenter stated that the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) restriction of arsenic acid application to 0.35 liters (1) per 1,000 m^2 (3 pints per acre) of cotton field was sufficient to protect the public (A–83–10/IV–D–4).

The Agency, when developing emission estimates for the cotton gins, did not use the usage data to which the commenter refers, but instead used the available data on measured arsenic in the cotton gin trash. Gin trash concentration data are directly related to gin emissions and provide a better estimate than arsenic acid usage figures. The Administrator agrees with the second commenter and believes that, as a result of the arsenic acid restriction, the estimated arsenic emissions will not increase over current levels.

Several commenters (A–83–10/IV–D–3, A–83–10/IV–D–4, A–83–10/IV–D–5, A–83–10/IV–D–6) expressed support for EPA's decision not to propose an inorganic arsenic emission standard for cotton gins. One commenter (A–83–10/IV–D–5) agreed with EPA's determination that the existing level of control for process emissions from cotton gins is BAT. Another commenter (A–83–10/IV–D–4) stated that the high cost of requiring any further control techniques would cause many cotton gin plants to close.

One commenter (A–83–10/IV–D–6) said that the State of California produces one-third of the cotton grown in the United States and does not permit any chemicals which contain inorganic arsenic to be used on cotton. The commenter concludes that no inorganic arsenic is emitted from cotton gins in California, and that, therefore, cotton gins should not be regulated.

The Agency agrees that cotton gins should not be regulated. However, although arsenic acid may not be used as a desiccant on cotton in California, it is used in other cotton-producing states, such as Texas and Oklahoma. Therefore, cotton gins were identified as a potential source of inorganic arsenic emissions. Farmers in Texas and Oklahoma grow varieties of short season cotton that have been specifically adapted for stripper harvesting. A desiccant must be applied to short season cotton prior to stripper harvesting to dry out green plant leaves to prevent fiber staining and unacceptable levels of fiber moisture content. In California, on the other hand, different varieties of cotton suited to the climate are grown and different harvesting techniques that do not require the use of arsenic are used.

The NRDC (A–83–09/IV–D–10) believes that the appropriate way to control cotton gin emissions is to prohibit the use of arsenic acid as a desiccant. The commenter added that the Preliminary Source Study only briefly mentions what seems to be a perfectly adequate alternative (i.e., heat treatment), while the preamble in the **Federal Register** does not mention this technique at all. The commenter said that according to the Preliminary Source Study, cotton can be desiccated by application of a relatively intense heat for a short time, and that experiments to date have required approximately 9.4 liters of liquid propane gas per 1,000 m^2 (10 gallons per acre). The commenter believes that commercial scale units for such desiccation would be more efficient, but gives no evidence to support this conclusion.

In response, EPA notes that the use of heated air for cotton desiccation was considered in a recent study which evaluated the potential economic impacts of restricting inorganic arsenicals (A–83–10/IV–A–1). The study reports a pilot test in which intense heat application was investigated as an alternative to arsenic acid for cotton desiccation. Preliminary estimates of heat desiccation provided by the commenter were $1.23 per 1,000 m^2

($4.98/acre) (arsenic acid is $0.62 per 1,000 m^2 [$2.50/acre]). However, heat desiccation has not been commercially demonstrated. Among the chemicals investigated, paraquat was identified as the only acceptable alternative to arsenic acid for cotton desiccation. However, the economic impact study demonstrated that the paraquat cost of $1.24 to $2.47/1,000 m^3 ($5–10/acre) was more than twice the cost of arsenic acid, which costs $0.62/1,000 m^3 ($2.50/acre). Among the other alternate technologies identified for cotton desiccation, a killing frost was the only acceptable alternative. The study concluded that "at present, there is no replacement chemical or new technique which is suited for preparation of cotton for mechanical stripping."

The maximum lifetime risk (5×10^{-4}) associated with the current level of process emission control from cotton gins is small and further possible reductions in this risk would be small. Furthermore, cotton gins are generally located in areas of low population density which would result in small annual incidence. There is not sufficient information available on the effectiveness of fugitive emission control techniques and such techniques have not been demonstrated amenable to all operational variabilities of cotton gins. Taking these factors into consideration, the Agency has decided that regulation of cotton gins under section 112 is not warranted at this time.

Additional studies are being conducted by EPA's Office of Pesticide Programs (OPP) to review all non-wood uses for inorganic arsenicals, including arsenic acid; this review is scheduled for completion later this year. A risk/benefit analysis will be done for arsenic acid use on cotton. This analysis will examine the adverse risks associated with the use of arsenic acid as a cotton desiccant. Also, information on the benefits of the use of the desiccant is being collected and analyzed. The risks and benefits of alternative chemicals for arsenic acid will also be analyzed.

Alternative courses of regulatory action will be considered as a result of the risk/benefit analysis. There are a number of components of alternative courses of action; these are the various statutory and regulatory methods EPA can use for restricting arsenic acid use under FIFRA. Examples of alternative courses of action are changes in labeling, classification, and tolerances, or cancellation for some or all uses. Some of these actions could result in reduction or elimination of arsenic emissions from cotton gins.

Zinc Oxide Plants

One commenter (A–83–11/IV–D–8) recommended that EPA again review the control technologies on zinc oxide plants. The commenter thought that an inorganic arsenic emission standard should be applied to zinc oxide plants. The commenter provided no specific criticisms of EPA's review and analysis of controls on zinc oxide plants or any reasons why EPA's analysis is inadequate. The EPA has reviewed the information contained in the public docket (A–83–11) and summarized in the July 20, 1983, **Federal Register** (48 FR 33117) and believes it adequately supports the decision not to propose a standard for inorganic arsenic emissions from zinc oxide plants.

One commenter (A–83–11/IV–D–10) said that the Preliminary Source Study (EPA–450/5–82–005) contains no specific information on the capture efficiency of the hoods and other fugitive emission controls at ASARCO-Columbus and New Jersey Zinc-Palmerton zinc oxide plants. The commenter added that EPA must evaluate whether emission controls are well designed and well operated before pronouncing them BAT.

Quantitative test data on fugitive emissions capture and control efficiencies are not available, but EPA does not believe such data are necessary to determine that fugitive controls used are adequate. As reported in the Preliminary Source Study, fugitive sources at both plants are controlled with estimated adequate ventilation technology followed by particulate removal in fabric filters (A–83–11/II–A–2). All ore storage areas, material transfer points, and furnace operations are enclosed and/or properly ventilated at each of these plants. In addition, both plants are in compliance with existing OSHA inorganic arsenic workplace standards indicating that the amount of fugitive emissions escaping capture is low. Consequently, no further study was made of the potential for fugitive capture and control device improvements.

One commenter (A–83–11/IV–D–10) said that the Preliminary Source Study concludes that the New Jersey Zinc-Palmerton plant is not equipped with "estimated best control" (EBC) technology, yet this conclusion was not mentioned in the notice of proposal and EPA has proposed to accept its current controls as BAT and sufficient. The commenter added that the Preliminary Source Study states that the best technique for fugitive emission collection for this plant is cooling the gas streams to a temperature of 110 °C (230 °F) and passing them through fabric filters. According to the Preliminary Source Study as cited by the commenter, all streams except the Waelz kiln offgas stream are controlled at EBC. This stream is passed through a fabric filter operated at 140 °C (285 °F). The study states that lowering the temperature closer to the acid dew point of the stream (below 100 °C) would improve arsenic collection and concludes: "economic feasibility does not appear to be an impediment to estimated best control use" at this plant. The commenter said that the preamble states the general conclusion, derived from theoretical calculations, that further cooling of gas streams would not result in more arsenic collection. However, the commenter noted that the actual data consistently show more arsenic collected than the theory predicts, for given combinations of concentration and temperature, and therefore, EPA should not rely on the theory to excuse further controls.

After the Preliminary Source Study was completed, EPA visited the New Jersey Zinc Palmerton plant. Samples of all major streams and mass flowrate data were collected during the site visit to verify the estimated material balance from the preliminary study. The mass flowrates, arsenic contents, and analysis examining the potential effect of cooling the gas streams to condense additional arsenic are included in Docket Number A–83–11, Item Numbers II–B–3 and II–B–5. The temperature of the Waelz kiln emission stream was found to be lower than that reported in the Preliminary Study. The temperature above the discharge hoppers from the fabric filter ranged from 77 to 199 ° C (170 to 390 °F). Based on material balance calculations, the stream was not saturated with arsenic at this temperature. Further cooling of the stream with, for example, spray chambers would be impossible without redesign of the entire cooling system since the Waelz oxide must be collected dry. The company has tried additional cooling in the past, but the procedure resulted in water condensation on oxide particles, which required downtime for cleanup. Furthermore, additional cooling would not result in a significant increase in arsenic collection because of the low arsenic concentration in the stream.

In conclusion, EPA has determined that regulation of inorganic arsenic emissions from zinc oxide plants is not warranted at this time. The estimated annual incidence is 0.08, and the maximum lifetime risk is 1×10^{-3}. Although the current estimate of maximum lifetime risk is higher than four of the other five negative

determination source categories, EPA has concluded that existing controls (A–83–11/II–B–4) or those planned for the near future to comply with OSHA and SIP regulations (A–83–11/II–A–2) will reduce emissions and associated maximum lifetime risk without causing serious economic impacts. The EPA cannot identify any control requirements beyond those established by OSHA that would not result in closure of the plant associated with the highest maximum lifetime risk in this source category. Thus, the Agency is not promulgating a standard for zinc oxide plants under section 112.

Primary Lead Smelters

The NRDC (A–83–23/IV–D–10) stated that limited information on arsenic emissions and arsenic controls from the five primary lead smelters is presented in a document entitled "Preliminary Study of Sources of Inorganic Arsenic" (EPA–450/5–82–005). The commenter added that arsenic is present in Missouri lead ore concentrates at levels "typically" about 0.02 percent by weight, and in Western lead ore concentrates at levels ranging from "about 0.1 to 0.4 percent." The commenter stated, however, that in the above mentioned document, no range is given for the Missouri ore concentrates. The NRDC pointed out that the arsenic content of the Western ore concentrates is in the same range as the low-arsenic copper ore concentrates, the smelting of which EPA proposed to regulate.

The EPA believes information summarized in the July 20, 1983, **Federal Register** notice of the proposed standard for inorganic arsenic (48 FR 33112) and in the Preliminary Source Study adequately supports EPA's decision not to regulate primary lead smelters. Arsenic is present in Missouri lead ore concentrates at levels ranging from 0 to 0.02 percent by weight (A–83–23/IV–E–2). Although arsenic contents may be similar in Western lead ore concentrates and low arsenic copper ore concentrates, the types of control systems, production processes, and emission points vary considerably between copper and lead smelting. All primary lead smelters are covered by SIP's for SO_2 and particulate matter. In addition, they are moving toward compliance with OSHA lead standards (A–83–23/IV–B–2, A–83–23/IV–J–6, A–83–23/IV–J–7, A–83–23/IV–J–8). As a result, low temperature fabric filter systems or contact sulfuric acid plants are reducing emissions from process vents, and fugitive emissions are controlled by enclosing ore storage areas, ventilating and/or enclosing material transfer points, ventilating and/or enclosing furnace operations, and treatment of all the ventilation gas streams with fabric filter systems. The EPA considers these controls effective and in view of this does not consider the inorganic arsenic emissions or estimated risks to warrant further control.

The NRDC (A–83–23/IV–D–10) stated that arsenic is contained in process emissions from sintering machines, blast furnaces, drossing kettles, dross furnaces, and lead refineries. They added that the Preliminary Source Study defines "estimated best technology" for process emissions as use of a sulfuric acid plant on streams in which SO_2 is present in sufficient concentrations, and use of fabric filters on other systems. The NRDC noted that the study reports that EPA has no test data on the removal efficiency of existing systems, but by analogy to copper smelting controls, EPA estimates that "arsenic removal efficiencies greater than 90 percent are currently being achieved by existing acid plants and fabric filter systems." The NRDC argued that from this, the preamble draws the following conclusions: (1) That existing controls represent BAT, and (2) that "EPA knows of no demonstrated control techniques, short of closure, that would result in further inorganic arsenic emissions reduction" (48 FR 33117). The NRDC felt that several additional questions must be asked before this conclusion could be accepted.

First, NRDC stated that according to the available copper smelting background information materials, the arsenic collection efficiency of acid plants is estimated to be as high as 99 percent. They added that the collection efficiency of baghouses is estimated to be as high as 99.5 percent (for particulate matter, and presumably for arsenic in the particulate phase). They concluded that if the collection efficiency of the lead smelter systems is only "greater than 90 percent," why is it considered BAT?

Second, NRDC said that the study states that the ideal temperature for operation of fabric filters, for greatest removal efficiencies without corrosion problems, is 10 to 25 °C (18 to 45 °F) above the acid dew point of the gas streams. They added that the study then states that filters are currently run without corrosion problems at temperatures of 100 to 125 °C (212 to 257 °F). However, NRDC pointed out that no data have been collected for the temperature representing the acid dew points. They also noted that, from the data presented, it is not possible to conclude that filters are currently being run at the optimum temperature—i.e., at no more than 10 to 25 °C (18 to 45 °F) above the acid dew point. They postulated that perhaps the gas streams can be cooled further and arsenic collection efficiencies enhanced. The NRDC also stated that EPA has not given any information on the feasibility or cost of means to deal with corrosion at temperatures below the acid dew point. They noted that even though the BID's for proposed standards for high- and low-arsenic copper smelters state that spray chambers are effective in combating corrosion, and that a variety of corrosion resistant materials are available, none of this is discussed with regard to primary lead smelting.

The NRDC felt that neither measures to enhance capture and collection efficiencies to percentages in the high 90's, nor measures to further reduce the operating temperatures of fabric filters so as to enhance arsenic condensation, are necessarily expensive. They concluded that EPA does not seem justified in its conclusion that no additional control measures short of closure have been demonstated.

In response, EPA is not aware of any data on the efficiency of sulfuric acid plants for controlling arsenic emissions from primary lead smelter offgases. By analogy to copper smelting controls, EPA conservatively estimated that removal efficiencies greater than 90 percent are being achieved. The removal efficiency estimate persented in the **Federal Register** was conservative and, therefore, by no means intended to imply that contact acid plants at primary lead smelters were any less efficient than those operated at primary copper smelters. Since acid plant control is similar in both cases, and arsenic is objectionable in the project acid (maximum allowable limit of arsenic in the gas stream entering the contact acid plant is 1.1 mg/dscm [0.0005 gr/scf]) (A–83–23/IV–J–1), EPA concludes that collection efficiency percentages are greater than 90 percent and presumably in the high 90's (A–83–11/II–A–1). Consequently, EPA has not investigated additional control measures to enhance capture and collection efficiencies beyond the existing level of control.

The NRDC recommended that acid dew point temperatures for various offgas streams be determined to investigate the possibility of enhancing arsenic collection efficiencies by additional cooling of the streams. Estimation of acid dew points requires the determination of moisture (which is readily available) and sulfur trioxide (SO_3) content of the gases. Sulfur trioxide is generally measured by indirect methods (conversion of the

vapor phase SO_3 to sulfuric acid and the subsequent condensation of sulfuric acid), and each of the commonly used methods has limitations and problems associated with reproducibility and accuracy (A–83–23/IV–J–4). Therefore, in general, plants do not have the equipment and/or techniques available for determining SO_3 concentrations in process offgases and, consequently, these measurements have not been made. In review of the available literature, SO_3 measurements have not been reported for any of the primary lead smelter process streams which are currently controlled by fabric filters.

In well-characterized streams, SO_3 values may be estimated based on the quantity of SO_2 in the gas (A–83–23/IV–J–3). However, many factors affecting primary lead smelter offgas streams, such as firing rate, excess air, presence of catalytic metallic oxides of vanadium, iron, nickel, or sulfur adsobing additives such as magnesium oxide, will drastically change the SO_3 content (A–83–23/VI–J–2). Such uncertainties mean that it is not feasible to estimate SO_3 concentrations in primary lead smelter streams. Consequently, acid dew points vary from plant to plant and do not remain constant even for a single process stream.

Plan operators "determine" acid dew points by noting temperature ranges at which the fabric filter beings to corrode due to acid condensation. As a result, operators maintain the stream temperature well above this temperature range to ensure that acid condensation, and subsequent corrosion, do not occur.

The NRDC would have EPA require plant operators to adjust the process stream temperature to slightly above the acid dew point in hopes of increasing arsenic trioxide condensation, and thus the arsenic collection efficiency of the fabric filter. Because an accurate estimate of acid dew point cannot be made based on the available data, EPA estimated the amount of cooling that would be required to enhance arsenic collection based on arsenic trioxide saturation theory. Based on low arsenic concentrations in the process streams (less than 1 percent of the concentration required for saturation), theory predicts substantial cooling must take place before arsenic trioxide saturation conditions are reached. Such cooling corresponds to offgas temperatures that are below the dew point of water and, therefore, below the lower bound of the acid dew point. For some streams, cooling to below ambient temperatures would be required to reach arsenic trioxide saturation. The EPA believes that to require cooling of gas streams to below ambient temperatures would be inappropriate and the costs would not be justified by the small additional emission reduction achieved.

The NRDC (A–83–12/IV–D–10) stated that according to the Preliminary Source Study, fugitive emissions can be captured and controlled by "hooding and enclosure of emission points followed by particulate removal using fabric filter or wet scrubbing systems," or in the case of sintering machines, by "total or partial enclosure of the operation." The NRDC noted that these techniques are said to be "commonly used" or "generally used," implying that they are not universally used.

The commenter said that for inorganic arsenic standards development, EPA has collected no test data on capture efficiencies of such equipment as is used. They quoted the study as follows (p. 59): "By analogy to the copper smelting industry, it is expected that the best available capture ventilation systems should be capable of approximately 90 percent fugitive arsenic emission capture. The performance of the existing ventilation system in the primary lead smelting industry is expected to be below this level."

The NRDC concluded that if the equipment in use in the lead smelters is less effective than the best available technology, then EPA is not justified in concluding that the Agency knows of no additional control measures short of closure which are available. They argued that substandard fugitive emission controls can be improved.

In response, EPA noted that test data are not available to determine the arsenic removal efficiencies of existing primary lead smelter fugitive control systems. the OSHA lead standard of 50 $\mu g/m^3$ is being exceeded at all five primary lead smelters, and the OSHA inorganic arsenic standard of 10 $\mu g/m^3$ is being exceeded at two of the five plants. The OSHA work place standard exceedances measured at primary lead smelters are due to emissions from fugitive sources. On this basis, the current level of fugitive control in the primary lead industry is estimated as lower than that achieved by the copper smelting industry. However, as a result of the current OSHA exceedances, improvements in the fugitive control systems are being required at all plants and are specifically described in consent agreements for SIP compliance and tripartite agreements signed by smelters and OSHA (A–83–23/IV–J–6, A–83–23/IV–J–7, A–83–23/IV–J–8). The modifications are specifically designed to achieve compliance with the OSHA inorganic lead standard. The ASARCO–El Paso and ASARCO–East Helena smelters have already signed agreements with OSHA that will result in improvements in their fugitive emission control systems. Therefore, EPA estimates that the performance of the modified ventilation systems will be capable of capture efficiencies similar to those demonstrated at primary copper smelters.

The NRDC (A–83–23/IV–D–10) strongly disagreed with the implication in the July 20, 1983, **Federal Register** notice (48 FR 33117) that it is sufficient to rely on the existing SIP requirements for SO_2 and particulate matter, the OSHA standards, and the still-to-be-formulated SIP's for lead. The NRDC notes that since EPA reports substantial noncompliance with such standards, they can hardly be an adequate substitute for a section 112 standard for inorganic arsenic.

As explained in response to the first comment discussed on primary lead smelters, EPA believes that effective controls will be installed on all smelters as a result of recent agreements among OSHA, smelter management, and labor. Agency policy is to avoid promulgating standards that would increase administrative costs but would not produce additional emission reduction.

The Attorney General's Office of the State of New York (A–83–23/IV–D–9) objected to EPA's decision to not regulate primary lead smelting fugitive emissions even though fugitive emissions are estimated at 0.59 kg (1.3 lb) arsenic per hour. The commenter added that of this amount, 96.2 percent occurs in the dross/reverb building.

The Agency is not regulating primary lead smelting plants under section 112 for two main reasons. First, the predicted annual incidence of cancer is small for all primary lead smelters (less than 0.07 cases per year). Second, although the maximum lifetime risk estimate (2×10^{-3}) is higher compared to other negative determination source categories, this is mainly attributable to one of the five primary lead smelters. Engineering controls such as ventilation systems and fabric filters are now required at all primary lead smelters to reduce work-place lead-in-air concentrations as a result of recent tripartite agreements among OSHA, smelter management, and labor. Preliminary actions in response to these agreements have resulted in reduced ambient arsenic levels at the smelter with the highest risk estimates (A–83–23/IV–B–2). Data show an average reduction in the ambient concentration of about 45 percent in the first three

quarters of 1984 compared to 1981 through 1983. The EPA has not identified any controls beyond those necessary to comply with the OSHA and lead SIP requirements that could further reduce arsenic emissions to a significant degree.

Primary Zinc Smelters

The NRDC (A–83–23/IV–D–10) stated that EPA has not sufficiently investigated whether the equipment and techniques for fugitive emissions capture at the St. Joe Minerals smelter in Monaco, Pennsylvania, are state-of-the-art. They added that further documentation of the adequacy of these controls is necessary before EPA can make the conclusion that no further controls short of closure are available.

The EPA believes that effective technology for controlling fugitive emissions from zinc smelters includes enclosure of ore storage areas, enclosure and/or ventilation of materials transfer points and furnace operations, and treatment of all ventilation gas streams with fabric filters. Efficiencies of fugitive emission capture and control systems are difficult to test, and quantitative control efficiency data are not available for the St. Joe zinc plant. However, there is nonquantitative information that shows the controls are effective.

The following information supports the conclusion that St. Joe Minerals is using effective control for fugitive arsenic emissions. At St. Joe Minerals, all of the major operations with fugitive arsenic emissions are conducted inside buildings (A–83–23/IV–C–1, A–83–23/IV–E–1, A–83–23/IV–J–5). All ore is received by train and unloaded in the receiving building, and sinter material is stored in silos above the furnaces. There are no visible fugitive emissions from these two sources. Fugitive emissions from the electrothermal furnaces are dependent on furnace operation. When properly operated, negative pressure is maintained in the lower sections of the furnace so emissions from this source do not escape capture. During upsets, there may be fugitive emissions from this source. However, according to State agency personnel, furnaces at the plant are well-operated. Captured fugitive dusts from the electrothermal furnaces are ducted through fabric filters (A–83–23/IV–C–1, A–83–23/IV–E–1, A–83–23/IV–J–5). Emissions from holding bins, feeders, and transfer points are also collected and passed through fabric filters (A–83–23/IV–C–1, A–83–23/IV–E–1, A–83–23/IV–J–5). Arsenic emissions testing at St. Joe indicated that the largest source of controlled arsenic emissions is the sinter machine offgas stream (A–83–23/II–A–1). Arsenic emissions from fugitive sources are reported to be negligible in comparison to sinter machine emissions. The facility is constantly upgrading the process fugitive capture systems to reduce the work place lead concentrations. The plant is in compliance with the OSHA regulations for inorganic arsenic, which demonstrates the efficiency of the fugitive emission controls applies at the smelter. For these reasons, the Agency believes that the St. Joe Minerals smelter is adequately controlled.

To summarize, the Agency has not developed a standard for primary zinc smelters because these sources are effectively controlling emissions in response to existing regulatory requirements. Maximum lifetime cancer risk (7×10^{-6}) and annual incidence (0.004 cancer cases per year) are small. Further significant reductions in incidence and maximum lifetime risks cannot be achieved with available control measures. Additional significant emission reduction can be achieved only by closing facilities. The Agency does not believe that requiring plant closure is a reasonable control alternative. Taking these factors into consideration, the Administrator has concluded that Federal regulation under section 112 is not currently warranted.

Arsenic Chemical Manufacturing Plants

The New Jersey Department of Environmental Protection (DEP) (A–83–23/IV–D–8) felt that for arsenic chemical manufacturing plants with relatively high risk, the use of both fabric filters and wet scrubbers in series would seem appropriate. They stated that in the July 20, 1983, notice EPA reported that for secondary lead smelters a 65 percent reduction in the cancer risk would result when a fabric filter/wet scrubber combination was used rather than a fabric filter without a scrubber. The New Jersey DEP stated that since most arsenic emissions from arsenic chemical manufacturing plants are emitted in the vapor phase and scrubbers will cause condensation of some of the arsenic, a comparison should be made between the arsenic removal efficiencies of fabric filters and wet scrubbers.

Some secondary lead smelters use wet scrubbers in series with fabric filters for SO_2 control. This combination of control devices has been demonstrated to achieve further reduction of arsenic emissions. It is thought that the scrubbr provides additional cooling which results in additional condensation and, hence, removal of arsenic. However, the Agency is not requiring the use of wet scrubbers under Section 112 because of the relatively small reduction in maximum lifetime risk and annual incidence and because of the adverse economic impact. This decision is discussed in response to comments concerning secondary lead smelters.

The exhaust gas in arsenic chemical plants is at ambient temperature, while the flue gas in secondary lead smelters ranges from 31 °C to 200 °C (88 °F to 392 °F). Since the flue gas of arsenic chemical manufacturing plants is cool and emissions are already in particulate form, a wet scrubber is not needed. If proper engineering design and operating procedures are followed, fabric filters can reduce these arsenic trioxide particulate emissions by about 99.5 percent. The efficiency of fabric filters at chemical manufacturing facilities is higher than for some other source categories that emit arsenic because arsenic trioxide particulate is at ambient tempertures in chemical manufacturing.

The NRDC (A–83–23/IV–D–10) stated that the principal weakness of the analysis for this category is the lack of date or analysis regarding the efficiency of capture of fugitive arsenic trioxide dusts at the eight sources of most interest. The NRDC noted that for four of the facilities, the information EPA does have is considered confidential. For the other plants, the commenter stated that the descriptions of capture techniques are cursory. The NRDC said that EPA does not appear to have engaged in any evaluation of their efficiency. They concluded that EPA is then unable to say if the hoods, enclosures, or vacuum systems used are really BAT.

In response, EPA notes that no quantifiable data are available on the capture efficiency of the hooding and enclosures used to collect fugitive arsenic trioxide dusts within the eight arsenic chemical manufacturing plants studied. However, qualitative evaluations were conducted based on the engineering design of the capture devices. Because the arsenic plants were in compliance with the OSHA workplace limit of 10 $\mu g/m^3$, the capture devices used during the handling and processing of powdered arsenic trioxide can reasonably be expected to be operating efficiently. The companies provided EPA with data on the design of the capture systems used for controlling fugitive emissions. In several cases, these data were considered proprietary by the companies and, therefore, EPA did not release them for publication. The EPA considers these capture systems to be effective.

The EPA is not regulating arsenic chemical manufacturing plants under

Section 112 of the Act because the maximum individual cancer risks (2×10^{-4}) and the annual incidence (0.004 cancer cases per year) are small, and the plants are currently controlled in response to existing regulatory requirements and due to the economic benefits of collecting and reusing arsenic trioxide. Further significant reductions in annual incidence and maximum lifetime risk cannot be achieved.

VII. Miscellaneous

The effective date of these regulations is August 4, 1986. Section 112 of the Clean Air Act provides that national emission standards for hazardous air pollutants, or revisions thereof, become effective upon promulgation.

As prescribed by section 112, establishment of these standards was preceded by the Administrator's determination that inorganic arsenic is a hazardous air pollutant as defined in section 112(a)(1) of the Act. Inorganic arsenic was added to the list of hazardous air pollutants on June 5, 1980.

An economic impact assessment was prepared for each standard and for other regulatory alternatives. The updated economic impact assessment for each standard is included in the BID's for the promulgated standards (EPA–450/3–83–010b and EPA–450/3–83–011b).

Docket

The docket is an organized and complete file of all information submitted to or otherwise considered by EPA in the development of the standards. The principal purposes of the dockets are (1) to allow interested parties to identify and located documents readily so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials (§ 307(d)(7)(A))).

Reporting and Recordkeeping

The information collection requirements contained in these standards (§§ 61.165, 61.176, 61.177, 61.185, 61.186) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The OMB control numbers assigned to the regulations are as follows: (1) Glass manufacturing plants, 2060–0043; (3) primary copper smelters; 2060–0044; and (3) arsenic trioxide and metallic arsenic production facilities, 2060–0042. The preamble and BID for each standard responds to comments on the recordkeeping and reporting requirements of that standard.

There are no reporting requirements by other governmental agencies for the information required by these standards which would result in overlapping requirements. In particular, there is no overlap with the reporting requirements of the Superfund program. The Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, Pub. L. 96–510) and authorizes the Federal government to respond directly to releases (or threatened releases) of hazardous substances and pollutants or contaminants to any media that may endanger public health or welfare. Under the notification and liability provisions of section 103 (see 48 FR 23552, May 25, 1983), CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities immediately notify the National Response Center of the release (800–424–8802; in Washington, DC, metropolitan area 202–426–2675). However, air releases which qualify as federally-permitted releases, such as inorganic arsenic emissions that are regulated under section 112 of the Clean Air Act, are not subject to the notification or liability provisions of CERCLA unless the air releases are in excess of the allowable NESHAP emissions by an amount equal to or greater than the reportable quantity; in this case, persons in charge must report the excess air releases to the National Response Center. (Reporting under CERCLA does not excuse the persons in charge from any responsibility, including reporting, or liability under the NESHAP program.)

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. None of the standards are considered major because none are expected to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rulemaking was submitted to the Office of Management and Budget for review as required by the Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Dockets (see **ADDRESSES**).

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) requires that differential impacts of Federal regulations upon small businesses be identified and analyzed. The RFA stipulates that an analysis is required if a substantial number of small businesses will experience significant impacts. Both measures must be met: that is, a substantial number of small businesses must be affected and they must experience significant impacts, to require an analysis. Twenty percent or more of the small businesses in an affected industry is considered a substantial number. The EPA definition of significant impact involves three tests, as follows: (1) Prices of produced by small entities rise 5 percent or more, assuming costs are passed on to consumers; (2) annualized investment costs for pollution control are greater than 20 percent of total capital spending; or (3) costs as a percent of sales for small entities are 10 percent greater than costs as a percent of sales for large entities.

The EPA has analyzed the impacts of the standards and has concluded that small businesses will not incur significant impacts. The bases for these conclusions are summarized below.

The Small Business Administration (SBA) definition of a small business for Standard Industrial Classification (SIC) Code 3331, Primary Smelting and Refining of Copper is 1,000 employees. All primary copper smelters in the United States are owned by seven companies that each have more than 1,000 employees. Therefore, none of the seven companies meets the SBA definition of a small business and no regulatory flexibility analysis is required for the primary copper smelter standard. Similarly the metallic arsenic and arsenic trioxide production facilities standard affects only one facility that is operated by a copper company with more than 1,000 employees. Therefore, no regulatory flexibility analysis is required for this standard.

Because of several aspects of the standard, the glass manufacturing plants standard will not result in significant small business impacts. These aspects are: (1) The exclusion of existing furnaces that emit 2.5 Mg of arsenic per year, or less, and new or modified

furnances that emit 0.4 Mg per year, or less, from the requirement of 85 percent emission reduction; (2) the exemption of pot furnaces; and (3) the provision that the emission testing requirement can be waived if nontest methods are adequate to demonstrate that arsenic emissions do not exceed 2.5 Mg/yr or 0.4 Mg/yr. Owning to these provisions, the standard does not significantly affect any small businesses. Therefore, no regulatory flexibility analysis is required, and the preliminary analysis that was prepared at the time of proposal was not finalized.

Regulatory Flexibility Act Certification

Under the provisions of 5 U.S.C. 605(b), I hereby certify that the standards for primary copper smelters, glass manufacturing plants, and arsenic trioxide and metallic arsenic production facilities promulgated today will not have a significant economic impact on small business entities because the only affected firms are not small and no new facilities ae expected.

List of Subject in 40 CFR Part 61

Asbestos, Beryllium, Glass, Hazardous substances, Inorganic arsenic, Mercury, Primary copper smelters, Radionuclides, Reporting and recordkeeping requirements, Vinly chloride.

Dated July 3, 1986.

Lee M. Thomas,

Administrator.

Part 61–[Amended]

Part 61 is amended by adding Subparts N, O, and P, and Reference Methods 108 and 108A to Appendix B, as follows:

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. The Table of Sections is amended by adding Subparts N, O, and P and Reference Methods 108 and 108A as follows:

Subpart N—National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants

Sec.

61.160 Applicability and designation of source.
61.161 Definitions.
61.162 Emission limits.
61.163 Emission monitoring.
61.164 Test methods and procedures.
61.165 Reporting and recordkeeping requirements.

Subpart O—National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters

Sec.

61.170 Applicability and designation of source.
61.171 Definitions.
61.172 Standard for new and existing sources.
61.173 Compliance provisions.
61.174 Test methods and procedures.
61.175 Monitoring requirements.
61.176 Recordkeeping requirements.
71.177 Reporting requirements.

Subpart P—National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities

Sec.

61.180 Applicability and designation of sources.
61.181 Definitions.
61.182 Standard for new and existing sources.
61.183 Emission monitoring.
61.184 Ambient air monitoring for inorganic arsenic.
61.185 Recordkeeping requirements.
61.186 Reporting requirements.

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Appendix B—Test Methods

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2. Part 61 is amended by adding Subpart N as follows:

Subpart N—National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants

§ 61.160 Applicability and designation of source.

(a) The source to which this subpart applies is each glass melting furnace that uses commercial arsenic as a raw material. This subpart does not apply to pot furnaces.

(b) Rebricking is not considered construction or modification for the purposes of § 61.05(a).

§ 61.161 Definitions.

The terms used in this subpart are defined in the Clean Air Act, in § 61.02, or in this section as follows:

"Arsenic-containing glass type" means any glass that is distinguished from other glass solely by the weight percent of arsenic added as a naw material and by the weight percent of arsenic in the glass produced. Any two or more glasses that have the same weight percent of arsenic in the raw materials as well as in the glass produced shall be considered to belong to one arsenic-containing glass type, without regard to the recipe used or any other characteristics of the glass or the method of production.

"By-pass the control device" means to operate the glass melting furnace without operating the control device to which that furnace's emissions are directed routinely.

"Commercial arsenic" means any form of arsenic that is produced by extraction from any arsenic-containing substance and is intended for sale or for intentional use in a manufacturing process. Arsenic that is a naturally occurring trace constituent of another substance is not considered "commercial arsenic."

"Cullet" means waste glass recycled to a glass melting furnace.

"Glass melting furnace" means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. The forming apparatuses, including the float bath used in flat glass manufacturing, are not considered part of the glass melting furnace.

"Glass produced" means the glass pulled from the glass melting furnace.

"Inorganic arsenic" means the oxides and other noncarbon compounds of the element arsenic included in particulate matter, vapors, and aerosols.

"Malfunction" means any sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of arsenic are increased.

"Pot furnace" means a glass melting furnace that contains one or more refractory vessels in which glass is melted by indirect heating. The openings of the vessels are in the outside wall of the furnace and are covered with refractory stoppers during melting.

"Rebricking" means cold replacement of damaged or worn refractory parts of the glass melting furnace. Rebricking includes replacement of the refractories comprising the bottom, sidewalls, or roof of the melting vessel; replacement of refractory work in the heat exchanger; and replacement of refractory portions of the glass conditioning and distribution system.

"Shutdown" means the cessation of operation of an affected source for any purpose.

"Theoretical arsenic emissions factor" means the amount of inorganic arsenic,

expressed in grams per kilogram of glass produced, as determined based on a material balance.

"Uncontrolled total arsenic emissions" means the total inorganic arsenic in the glass melting furnace exhaust gas preceding any add-on emission control device.

§ 61.162 Emission limits.

(a) The owner or operator of an existing glass melting furnace subject to the provisions of this subpart shall comply with either paragraph (a)(1) or (a)(2) of this section; except as provided in paragraph (c) of this section.

(1) Uncontrolled total arsenic emissions from the glass melting furnace shall be less than 2.5 Mg per year, or

(2) Total arsenic emissions from the glass melting furnace shall be conveyed to a control device and reduced by at least 85 percent.

(b) The owner or operator of a new or modified glass melting furnace subject to the provisions of this subpart shall comply with either paragraph (b)(1) or (b)(2) of this section, except as provided in paragraph (c) of this section.

(1) Uncontrolled total arsenic emissions from the glass melting furnace shall be less than 0.4 Mg per year, or

(2) Total arsenic emissions from the glass melting furnace shall be conveyed to a control device and reduced by at least 85 percent.

(c) An owner or operator of a source subject to the requirements of this section may, after approval by the Administrator, bypass the control device to which arsenic emissions from the furnace are directed for a limited period of time for designated purposes such as maintenance of the control device, as specified in § 61.165(e).

(d) At all times, including periods of startup, shutdown, and malfunction, the owner or operator of a glass melting furnace subject to the provisions of this subpart shall operate and maintain the furnace and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions of inorganic arsenic to the atmosphere to the maximum extent practicable. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, inspection of the source, and review of other records.

§ 61.163 Emission monitoring.

(a) An owner or operator of a glass melting furnace subject to the emission limit in § 61.162(a)(2) or § 61.162(b)(2) shall:

(1) Install, calibrate, maintain, and operate a continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device; and

(2) Install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the temperature of the gas entering the control device.

(b) All continuous monitoring systems and monitoring devices shall be installed and operational prior to performance of an emission test required by § 61.164(a). Verification of operational status shall, at a minimum, consist of an evaluation of the monitoring system in accordance with the requirements and procedures contained in Performance Specification 1 of Appendix B of 40 CFR Part 60.

(c) During the emission test required in § 61.164(a) each owner or operator subject to paragraph (a) of this section shall:

(1) Conduct continuous opacity monitoring from the beginning of the first test run until the completion of the third test run. Process and control equipment shall be operated in a manner that will minimize opacity of emissions, subject to the Administrator's approval.

(2) Calculate 6-minute opacity averages from 24 or more data points equally spaced over each 6-minute period during the test runs.

(3) Determine, based on the 6-minute opacity averages, the opacity value corresponding to the 97.5 percent upper confidence level of a normal or lognormal (whichever the owner or operator determines is more representative) distribution of the average opacity values.

(4) Conduct continuous monitoring of the temperature of the gas entering the control device from the beginning of the first test run until completion of the third test run.

(5) Calculate 15-minute averages of the temperature of the gas entering the control device during each test run.

(d) An owner or operator may redetermine the values described in paragraph (c) of this section during any emission test that demonstrates compliance with the emission limits in § 61.162(a)(2) or § 61.162(b)(2).

(e) The requirements of § 60.13(d) and § 60.13(f) shall apply to an owner or operator subject to paragraph (a) of this section.

(f) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under § 60.13(d), all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements by completing a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(g) An owner or operator subject to paragraph (a) of this section shall:

(1) Reduce all opacity data to 6-minute averages. Six-minute averages shall be calculated from 24 or more data points equally spaced over each 6-minute period. Data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages calculated under this paragraph, and

(2) Calculate 15-minute averages of the temperature of the gas entering the control device for each 15-minute operating period.

(h) After receipt and consideration of written application, the Administrator may approve alternative monitoring systems for the measurement of one or more process or operating parameters that is or are demonstrated to enable accurate and representative monitoring of a properly operating control device. Upon approval of an alternative monitoring system for an affected source, the Administrator will specify requirements to replace the requirements of paragraphs (a)–(g) of this section for that system.

§ 61.164 Test methods and procedures.

(a) To demonstrate compliance with § 61.162, the owner or operator shall conduct emission tests, reduce test data, and follow the procedures specified in this section unless the Administrator:

(1) Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

(2) Approves the use of an equivalent method;

(3) Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or

(4) Waives the requirement for emission tests as provided under § 61.13.

(b) Unless a waiver of emission testing is obtained, the owner or operator shall conduct emission tests required by this section:

(1) No later than 90 days after the effective data of this subpart for a source that has an initial startup date preceding the effective date; or

(2) No later than 90 days after startup for a source that has an initial startup date after the effective date.

(3) At such other times as may be required by the Administrator under Section 114 of the Act.

(4) While the source is operating under such conditions as the Administrator may specify, based on representative performance of the source.

(c) To demonstrate compliance with § 61.162(a)(1) when less than 8.0 Mg per year of elemental arsenic is added to any existing glass melting furnace, or to demonstrate compliance with § 61.162(b)(1) when less than 1.0 Mg per year of elemental arsenic is added to any new or modified glass melting furnace, an owner or operator shall:

(1) Derive a theoretical uncontrolled arsenic emission factor (T), in grams of elemental arsenic per kilogram of glass produced, based on material balance calculations for each arsenic-containing glass type (i) produced during the 12-month period, as follows:

$$T_i = (A_{bi} \times W_{bi}) + (A_{ci} \times W_{ci}) - A_{gi}$$

Where:

T_i = the theoretical uncontrolled arsenic emission factor (g/kg) for each glass type (i).

A_{bi} = fraction by weight of elemental arsenic in the fresh batch for each glass type (i).

W_{bi} = weight (g) of fresh batch melted per kg of glass produced for each glass type (i).

A_{ci} = fraction by weight of elemental arsenic in cullet for each glass type (i).

W_{ci} = weight (g) of cullet melted per kg of glass produced for each glass type (i).

A_{gi} = weight (g) of elemental arsenic per kg glass produced for each glass type (i).

(2) Estimate theoretical uncontrolled arsenic emissions for the 12-month period for each arsenic-containing glass type as follows:

$$Y_i = \frac{(T_i \times G_i)}{10^6}$$

Where:

Y_i = the theoretical uncontrolled arsenic emission estimate for the 12-month period for each glass type (Mg/year).

T_i = the theoretical uncontrolled arsenic emission factor for each type of glass (i) produced during the 12-month period as calculated in paragraph (c)(1) of this section (g/kg).

G_i = the quantity (kg) of each arsenic-containing glass type (i) produced during the 12-month period.

(3) Estimate the total theoretical uncontrolled arsenic emissions for the 12-month period by finding the sum of the values calculated for Y_i in paragraph (c)(2) of this section.

(4) If the value determined in paragraph (c)(3) of this section is equal to or greater than the applicable limit in § 61.162(a)(1) or (b)(1), conduct the emission testing and calculations described in paragraphs (d)(1) through (d)(5) of this section. If the value is less than the applicable limit, the source is in compliance and no emission testing or additional calculations are required.

(d) To demonstrate compliance with § 61.162(a)(1) when 8.0 Mg per year or more of elemental arsenic are added to any existing glass melting furnace, or to demonstrate compliance with § 61.162(b)(1) when 1.0 Mg per year or more of elemental arsenic is added to any new or modified glass melting furnace, an owner or operator shall:

(1) Estimate the theoretical uncontrolled arsenic emissions for each glass type for the 12-month period by performing the calculations described in paragraphs (c)(1) and (c)(2) of this section.

(2) Conducte mission testing to determine the actual uncontrolled arsenic emission rate during production of the arsenic-containing glass type with the highest theoretical uncontrolled arsenic emissions as calculated under paragraph (d)(1) of this section. The owner or operator shall use the following test methods and procedures:

(i) Use Method 108 in Appendix B to this part for determinig the arsenic emission rate (g/h). The emission rate shall equal the arithmetic mean of the results of three 60-minute test runs.

(ii) Use the following methods in Appendix A to 40 CFR Part 60:

(A) Method 1 for sample and velocity traverse.

(B) Method 2 for velocity and volumetric flowrate.

(C) Method 3 for gas analysis.

(D) For sources equipped with positive pressure fabric filters, use Section 4 of Method 5D to determine a suitable sampling location and procedure.

(3) Determine the actual uncontrolled arsenic emission factor (R_e) in grams of elemental arsenic per kilogram of glass produced, as follows:

$$R_e = E_e \div P$$

Where:

R_e = the actual uncontrolled arsenic emission factor (g/kg).

E_e = the actual uncontrolled arsenic emission rate (g/h) from paragraph (d)(2) of this section.

P = the rate of glass production (kg/h). determined by dividing the weight (kg) of glass pulled from the furnace during the emission test by the number of hours (h) taken to perform the test under paragraph (d)(2) of this section.

(4) Calculate a correction factor to relate to the theoretical and the actual uncontrolled arsenic emission factors as follows:

$$F = R_e \div T_i$$

Where:

F = the correction factor.

R_e = the actual uncontrolled arsenic emission factor (g/kg) determined in paragraph (d)(3) of this section.

T_i = the theoretical uncontrolled arsenic emission factor (g/kg) determined in paragraph (c)(1) of this section for the same glass type for which R_e was determined.

(5) Determine the uncontrolled arsenic emission rate for the 12-month period, as follows:

$$U = \frac{\sum_{i=1}^{n} (T_i \times F \times G_i)}{10^6}$$

Where:

U = the uncontrolled arsenic emission rate for the 12-month period (Mg/year).

T_i = the theoretical uncontrolled arsenic emission factor for each arsenic-containing glass type (i) produced during the 12-month period, as calculated in paragraph (c)(1) of this section (g/kg).

F = the correction factor calculated in paragraph (d)(4) of this section.

G_i = the quantity (kg) of each arsenic-containing glass type (i) produced during the 12-month period.

n = the number of arsenic-containing glass types produced during the 12-month period.

(6) If the value determined in paragraph (d)(5) of this section is less than the applicable limit in § 61.162(a)(1) or (b)(1), the source is in compliance.

(e) To demonstrate compliance with § 61.162(a)(2) or (b)(2), an owner or operator shall:

(1) Conduct emission testing to determine the percent reduction of inorganic arsenic emissions being achieved by the control device, using the following test methods and procedures:

(i) Use Method 108 in Appendix B to this part to determine the concentration of arsenic in the gas streams entering and exiting the control device. Conduct three 60-minute test runs, each consisting of simultaneous testing of the inlet and outlet gas streams. The gas streams shall contain all the gas exhausted from the glass melting furnace.

(ii) Use the following methods in Appendix A to 40 CFR Part 60:

(A) Method 1 for sample and velocity traverses.

(B) Method 2 for velocity and volumetric flowrate.

(C) Method 3 for gas analysis.

(D For sources equipped with positive pressure fabric filters, use Section 4 of Method 5D to determine a suitable sampling location and procedure.

(2) Calculate the percent emission reduction for each run as follows:

$$D = \frac{(C_a - C_b) \times 100}{C_a}$$

Where:

D= the percent emission reduction.

C_a= the arsenic concentration of the stack gas entering the control device, as measured by Method 108.

C_b= the arsenic concentration of the stack gas exiting the control device, as measured by Method 108.

(3) Determine the average percent reduction of arsenic by calculating the arithmetic mean of the results for the three runs. If it is at least 85 percent, the source is in compliance.

§ 61.165 Reporting and recordkeeping requirements.

(a) Each owner or operator of a source subject to the requirements of § 61.162 shall maintain at the source for a period of at least 2 years and make available to the Administrator upon request a file of the following records:

(1) All measurements, including continuous monitoring for measurement of opacity, and temperature of gas entering a control device;

(2) Records of emission test data and all calculations used to produce the required reports of emission estimates to demonstrate compliance with § 61.162;

(3) All continous monitoring system performance evaluations, including calibration checks and adjustments;

(4) The occurrence and duration of all startups, shutdowns, and malfunctions of the furnace;

(5) All malfunctions of the air pollution control system;

(6) All periods during which any continuous monitoring system or monitoring device is inoperative;

(7) all records of maintenance and repairs for each air pollution control system, continuous monitoring system, or monitoring device;

(b) Each owner or operator who is given approval by the Administrator to bypass a control device under paragraph (e) of this section shall maintain at the source for a period of at least 2 years and make available to the Administrator upon request a file of the following records:

(1) The dates the control device is bypassed; and

(2) Steps taken to minimize arsenic emissions during the period the control device was bypassed.

(c) Each owner or operator of a source subject to the emission limit in § 61.162(a)(1) or (b)(1) shall determine and record at the end of every 6 months the uncontrolled arsenic emission rate for the preceding and forthcoming 12-month periods. The determinations shall:

(1) Be made by following the procedures in § 61.164(c)(1), (c)(2), and (c)(3); or in § 61.164(d)(5), whichever is applicable; and

(2) Take into account changes in production rates, types of glass produced, and other factors that would affect the uncontrolled arsenic emission rate.

(d) Each owner or operator of a source subject to the provisions of this subpart shall:

(1) Provide the Administrator 30 days prior notice of any emission test required in §61.164 to afford the Administrator the opportunity to have an observer present; and

(2) Submit to the Administrator a written report of the results of the emission test and associated calculations required in § 61.164(d) or (e), as applicable, within 60 days after conducting the test.

(3) Submit to the Administrator a written report of the arsenic emission estimates calculated under § 61.164(c):

(i) Within 45 days after the effective date of this subpart for a source that has an initial startup date preceding the effective date; or

(ii) Within 45 days after startup for a source that has an initial startup date after the effective date.

(4) Submit to the Adminstrator a written report of the uncontrolled arsenic emission rates determined in accordance with paragraph (c) of this section, if:

(i) The emission rate for the preceding 12-month period (or preceding 6-month period for the first 6-month determination) exceeded the applicable limit in § 61.162(a)(1) or (b)(1).

(ii) The emission rate for the forthcoming 12-month period will exceed the applicable limit in § 61.162(a)(1) or (b)(1). In this case, the owner or operator shall also notify the Administrator of the anticipated date of the emission test to demonstrate compliance with the applicable limit in § 61.162(a)(2) or (b)(2).

(5) Ensure that the reports required in paragraph (d)(4) of this section are postmarked by the tenth day following the end of the 6-month reporting period.

(e) To obtain approval to bypass a control device, as provided in § 61.162(c), an owner or operator of a source subject to this subpart may make written application to the Administrator. Each application for such a waiver shall be submitted to the Administrator no later than 60 days before the bypass period would begin and shall include:

(1) Name and address of the owner or operator;

(2) Location of the source;

(3) A brief description of the nature, size, design, and method of operation of the source;

(4) The reason it is necessary to by-pass the control device;

(5) The length of time it will be necessary to by-pass the control device;

(6) Steps that will be taken to minimize arsenic emissions during the period the control device will be by-passed.

(7) The quantity of emissions that would be released while the control device is by-passed if no steps were taken to minimize emissions;

(8) The expected reduction in emissions during the by-pass period due to the steps taken to minimize emissions during this period; and

(9) The type of glass to be produced during the bypass period, and, if applicable, an explanation of why non-arsenic or lower-arsenic-containing glass cannot be melted in the furnace during the bypass period.

(f) Each owner or operator required to install and operate a continuous opacity monitoring system under § 61.163 shall:

(1) Submit a written report to the Administrator of the results of the continuous monitoring system evaluation required under § 61.163(b) within 60 days after conducting the evaluation.

(2) Submit a written report to the Administrator every 6 months if excess opacity occurred during the preceding 6-month period. For purposes of this paragraph, an occurrence of excess opacity is any 6-minute period during which the average opacity, as measured by the continuous monitoring system, exceeds the opacity level determined under § 61.163(c)(3) or the opacity level redetermined under § 61.163(d).

(3) Ensure that any semiannual report of excess opacity required by paragraph (f)(2) of this section is postmarked by the thirtieth day following the end of the

6-month period and includes the following information:

(i) The magnitude of excess opacity, any conversion factor(s) used, and the date and time of commencement and completion of each occurrence of excess opacity.

(ii) Specific identification of each occurrence of excess opacity that occurs during startups, shutdowns, and malfunctions of the source.

(iii) The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments.

(Approved by the Office of Management and Budget under control number 2060-0043)

3. Part 61 is amended by adding Subpart O as follows:

Subpart O—National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters

§ 61.170 Applicability and designation of source.

The provisions of this subpart are applicable to each copper converter at any new or existing primary copper smelter, except as noted in § 61.172(a).

§ 61.171 Definitions.

All terms used in this subpart shall have the meanings given to them in the Act, in Subpart A of Part 61, and in this section as follows:

"Blowing" means the injection of air or oxygen-enriched air into a molten converter bath.

"Charging" means the addition of a molten or solid material to a copper converter.

"Control device" means the air pollution control equipment used to collect particulate matter emissions.

"Converter arsenic charging rate" means the hourly rate at which arsenic is charged to the copper converters in the copper converter department based on the arsenic content of the copper matte and of any lead matte that is charged to the copper converters.

"Copper converter" means any vessel in which copper matte is charged and is oxidized to copper.

"Copper converter department" means all copper converters at a primary copper smelter.

"Copper matte" means any molten solution of copper and iron sulfides produced by smelting copper sulfide ore concentrates or calcines.

"Holding of a copper converter" means suspending blowing operations while maintaining in a heated state the molten bath in the copper converter.

"Inorganic arsenic" means the oxides and other noncarbon compounds of the element arsenic included in particulate matter, vapors, and aerosols.

"Lead matte" means any molten solution of copper and other metal sulfides produced by reduction of sinter product from the oxidation of lead sulfide ore concentrates.

"Malfunction" means any sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of inorganic arsenic are increased.

"Opacity" means the degree to which emissions reduce the transmission of light.

"Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the specified reference method.

"Pouring" means the removal of blister copper from the copper converter bath.

"Primary copper smelter" means any installation or intermediate process engaged in the production of copper from copper-bearing materials through the use of pyrometallurgical techniques.

"Primary emission control system" means the hoods, ducts, and control devices used to capture, convey, and collect process emissions.

"Process emissions" means inorganic arsenic emissions from copper converters that are captured directly at the source of generation.

"Secondary emissions" means inorganic arsenic emissions that escape capture by a primary emission control system.

"Secondary hood system" means the equipment (including hoods, ducts, fans, and dampers) used to capture and transport secondary inorganic arsenic emissions.

"Shutdown" means the cessation of operation of a stationary source for any reason.

"Skimming" means the removal of slag from the molten converter bath.

§ 61.172 Standard for new and existing sources.

(a) The provisions of paragraphs (b)–(f) of this section do not apply to any copper converter at a facility where the total arsenic charging rate for the copper converter department averaged over a 1-year period is less than 75 kg/h, as determined under § 61.174(f).

(b) The owner or operator of each copper converter subject to the provisions of this subpart shall reduce inorganic arsenic emissions to the atmosphere by meeting the following design, equipment, work practice, and operational requirements:

(1) Install, operate, and maintain a secondary hood system on each copper converter. Each secondary hood system shall consist of a hood enclosure, air curtain fan(s), exhaust system fan(s), and ductwork that conveys the captured emissions to a control device, and shall meet the following specifications:

(i) The configuration and dimensions of the hood enclosure shall be such that the copper converter mouth, charging ladles, skimming ladles, and any other material transfer vessels used will be housed within the confines or influence of the hood enclosure during each mode of copper converter operation.

(ii) The back of the hood enclosure shall be fully enclosed and sealed against the primary hood. Portions of the side-walls in contact with the copper converter shall be sealed against the converter.

(iii) Openings in the top and front of the hood enclosure to allow for the entry and egress of ladles and crane appartus shall be minimized to the fullest extent practicable.

(iv) The hood enclosure shall be fabricated in such a manner and of materials of sufficient strength to withstand incidental contact with ladles and crane apparatus with no significant damage.

(v) One side-wall of the hood enclosure shall be equipped with a horizontal-slotted plenum along the top, and the opposite side-wall shall be equipped with an exhaust hood. The horizontal-slotted plenum shall be designed to allow the distance from the base to the top of the horizontal slot to be adjustable up to a dimension of 76 mm.

(vi) The horizontal-slotted plenum shall be connected to a fan. When activated, the fan shall push air through the horizontal slot, producing a horizontal air curtain above the copper converter that is directed to the exhaust hood. The fan power output installed shall be sufficient to overcome static pressure losses through the ductwork upstream of the horizontal-slotted plenum and across the plenum, and to deliver at least 22,370 watts (30 air horsepower) at the horizontal-slotted plenum discharge.

(vii) The exhaust hood shall be sized to completely intercept the airstream from the horizontal-slotted plenum combined with the additional airflow resulting from entrainment of the surrounding air. The exhaust hood shall be connected to a fan. When activated, the fan shall pull the combined airstream into the exhaust hood.

(viii) The entire secondary hood system shall be equipped with dampers

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and instrumentation, as appropriate, so that the desired air curtain and exhaust flow are maintained during each mode of copper converter operation.

(2) Optimize the capture of secondary inorganic arsenic emissions by operating the copper converter and secondary hood system at all times as follows:

(i) Copper converter.

(A) Increase the air curtain and exhaust flow rates to their optimum conditions prior to raising the primary hood and roiling the copper converter out for charging, skimming, or pouring.

(B) Once rolled out, prior to the commencement of skimming or pouring, hold the copper converter in an idle position until fuming from the molten bath has been minimized.

(C) During skimming, raise the receiving ladle off the ground and position the ladle as close to the copper converter mouth as possible to minimize the drop distance between the converter mouth and the receiving ladle.

(D) Control the rate of flow into the receiving ladle to the extent practicable to minimize fuming.

(E) Upon the completion of each charge, withdraw the charging ladle or vessel used from the confines of the secondary hood in a slow, deliberate manner.

(F) During charging, skimming, or pouring, ensure that the crane block does not disturb the air flow between the horizontal-slotted plenum and the exhaust hood.

(ii) Secondary hood system.

(A) Operate the secondary hood system under conditions that will result in the maximum capture of inorganic arsenic emissions.

(B) Within 30 days after the effective date of this subpart, or within 30 days after the initial operation of each secondary hood system, whichever comes later, provide to the Administrator a list of operating conditions for the secondary hood system that will result in the maximum capture of inorganic arsenic emissions. This list shall specify the operating parameters for the following:

(*1*) The dimensions of the horizontal slot.

(*2*) The velocity of air through the horizontal slot during each mode of converter operation.

(*3*) The distance from the horizontal slot to the exhaust hood.

(*4*) The face velocity at the opening of the exhaust hood during each mode of converter operation.

(C) Operate the secondary hood system under the conditions listed in paragraph (b)(2)(ii)(B) of this section, unless otherwise specified by the Administrator.

(D) Notify the Administrator in writing within 30 days if there is any change in the operating conditions submitted pursuant to the requirements of paragraph (b)(2)(ii)(B) that will result in any reduction in the maximum capture of inorganic arsenic emissions.

(3) Comply with the following inspection and maintenance requirements after installing the secondary hood system required in paragraph (b)(1) of this section:

(i) At least once every month, visually inspect the components of the secondary hood system that are exposed to potential damage from crane and ladle operation, including the hood enclosure, side- and back-wall hood seals, and the horizontal slot.

(ii) Replace or repair any defective or damaged components of the secondary hood system within 30 days after discovering the defective or damaged components.

(c) No owner or operator of a copper converter subject to the provisions of this subpart shall cause or allow to be discharged into the atmosphere any copper converter secondary emissions that exit from a control device and contain particulate matter in excess of 11.6 milligrams per dry standard cubic meter.

(d) The owner or operator of a copper converter subject to the provisions of this subpart shall submit a description of a plan for control of inorganic arsenic emissions from the copper converter and associated air pollution control equipment. This plan shall be submitted within 90 days after the effective date of this subpart, unless a waiver of compliance is granted under § 61.11. If a waiver of compliance is granted, the plan shall be submitted on a date set by the Administrator. Approval of the plan will be granted by the Administrator provided he finds that:

(1) It includes a systematic procedure for identifying malfunctions and for reporting them immediately to smelter supervisory personnel.

(2) It specifies the procedures that will be followed to ensure that equipment or process breakdowns due entirely or in part to poor maintenance or other preventable conditions do not occur.

(3) It specifies the measures that will be taken to ensure compliance with paragraph (b)(2) of this section.

(e) The owner or operator shall implement the plan required under paragraph (d) of this section unless otherwise specified by the Administrator.

(f) At all times, including periods of startup, shutdown, and malfunction, the owner or operator of a copper converter subject to the provisions of this subpart shall operate and maintain the converter and associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions of inorganic arsenic to the atmosphere to the maximum extent practicable. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, inspection of the source, and review of other records.

§ 61.173 Compliance provisions.

(a) The owner or operator of each copper converter to which § 61.172(b)–(f) applies shall demonstrate compliance with the requirements of § 61.172(b)(1) as follows:

(1) The owner or operator of each existing copper converter shall install a secondary hood system to meet the requirements of § 61.172(b)(1) no later than 90 days after the effective date, unless a waiver of compliance has been approved by the Administrator in accordance with § 61.11.

(2) The owner or operator of each new copper converter shall install a secondary hood system to meet the requirements of § 61.172(b)(1) prior to the initial startup of the converter, except that if startup occurs prior to the effective date, the owner or operator shall meet the requirements of § 61.172(b)(1) on the effective date.

§ 61.174 Test methods and procedures.

(a) To determine compliance with § 61.172(c), the owner or operator shall conduct emission tests and reduce the test data in accordance with the test methods and procedures contained in this section unless the Administrator:

(1) Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology,

(2) Approves the use of an equivalent method,

(3) Approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific source is in compliance, or

(4) Waives the requirement for emission tests as provided in § 61.13.

(b) The owner or operator shall conduct the emission tests required in paragraph (a) of this section:

(1) After achieving the optimum operating conditions submitted under § 60.172(b)(2)(ii)(B) for the equipment required in § 61.172(b)(1), but no later than 90 days after the effective date of

this subpart in the case of an existing copper converter or a copper converter that has an initial startup date preceding the effective date, or

(2) After achieving the optimum operating conditions submitted under § 60.172(b)(2)(ii)(B) for the equipment required in § 61.172(b)(1), but no later than 90 days after startup in the case of a new copper converter, initial startup of which occurs after the effective date, or

(3) At such other times as may be required by the Administrator under section 114 of the Act.

(c) The owner or operator shall conduct each emission test under representative operating conditions and at sample locations subject to the Administrator's approval, and shall make available to the Administrator such records as may be necessary to determine the conditions of the emission test.

(d) For the purpose of determining compliance with § 61.172(c), the owner or operator shall use reference methods in 40 CFR Part 60, Appendix A, as follows:

(1) Method 5 for the measurement of particulate matter,

(2) Method 1 for sample and velocity traverses,

(3) Method 2 for velocity and volumetric flow rate,

(4) Method 3 for gas analysis, and

(5) Method 4 for stack gas moisture.

(e) For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf) except that smaller times or volumes when necessitated by process variables or other factors may be approved by the Administrator.

(f) For the purpose of determining applicability under § 61.172(a), the owner or operator shall determine the converter arsenic charging rate as follows:

(1) Collect daily grab samples of copper matte and any lead matte charged to the copper converters.

(2) Each calendar month, from the daily grab samples collected under paragraph (f)(1) of this section, put together a composite copper matte sample and a composite lead matte sample. Analyze the composite samples individually using Method 108A to determine the weight percent of inorganic arsenic contained in each sample.

(3) Calculate the converter arsenic charging rate once per month using the following equation:

$$R_c = \sum_{i=1}^{n} \frac{A_c W_{ci} + A_l W_{li}}{100\ H_c}$$

Where:

R_c is the converter arsenic charging rate (kg/h).

A_c is the monthly average weight percent of arsenic in the copper matte charged during the month (%) as determined under paragraph (f)(2) of this section.

A_l is the monthly average weight percent of arsenic in the lead matte charged during the month (%) as determined under paragraph (f)(2) of this section.

W_{ci} is the total weight of copper matte charged to a copper converter during the month (kg).

W_{li} is the total weight of lead matte charged to a copper converter during the month (kg).

H_c is the total number of hours the copper converter department was in operation during the month (h).

n is the number of copper converters in operation during the month.

(4) Determine an annual arsenic charging rate for the copper converter department once per month by computing the arithmetic average of the 12 monthly converter arsenic charging rate values (R_c) for the preceding 12-month period.

(g) An owner or operator may petition the Administrator for a modified sampling and analysis schedule if analyses performed for the first 12-month period after the effective date show the source to be considerably below the applicability limit prescribed in § 61.172(a).

§ 61.175 Monitoring requirements.

(a) Each owner or operator of a source that is subject to the emission limit specified in § 61.172(c) shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of the opacity of emissions discharged from the control device according to the following procedures:

(1) Ensure that each system is installed and operational no later than 90 days after the effective date of this subpart for a source that has an initial startup date preceding the effective date; and no later than 90 days after startup for other sources. Verification of the operational status shall, as a minimum, consist of an evaluation of the monitoring system in accordance with the requirements and procedures contained in Performance Specification 1 of Appendix B of 40 CFR Part 60.

(2) Comply with the provisions of § 60.13(d) of 40 CFR Part 60.

(3) Except for system breakdowns, repairs, calibration checks, and zero span adjustments, ensure that each continuous monitoring system is in continuous operation and meets frequency of operation requirements by completing a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. Each data point shall represent the opacity measured for one cycle of sampling and analysis and shall be expressed as percent opacity.

(b) Except as required in paragraph (c) of this section, calculate 1-hour opacity averages from 360 or more consecutive data points equally spaced over each 1-hour period. Data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph.

(c) No later than 60 days after each continuous opacity monitoring system required in paragraph (a) of this section becomes operational, the owner or operator shall establish a reference opacity level for each monitored emission stream according to the following procedures:

(1) Conduct continuous opacity monitoring over a preplanned period of not less than 36 hours during which the processes and emission control equipment upstream of the monitoring system are operating under representative operating conditions subject to the Administrator's approval. This period shall include the time during which the emission test required by § 61.13 is conducted.

(2) Calculate 6-minute averages of the opacity readings using 36 or more consecutive data points equally spaced over each 6-minute period.

(3) Calculate 1-hour average opacity values using 10 successive 6-minute average opacity values (i.e., calculate a new 1-hour average opacity value every 6 minutes). Determine the highest 1-hour average opacity value observed during the 36-hour preplanned test period.

(4) Calculate the reference opacity level by adding 5 percent opacity to the highest 1-hour average opacity calculated in paragraph (c)(3) of this section.

(d) The owner or operator may redetermine the reference opacity level for the copper converter secondary emission stream at the time of each emission test that demonstrates compliance with the emission limit required in § 61.172(c) according to the provisions of paragraphs (c)(1) through (c)(4) of this section.

(e) With a minimum of 30 days prior notice, the Administrator may require the owner or operator to redetermine the reference opacity level for any monitored emission stream.

(f) Each owner or operator who is required to install the equipment specified in § 61.172(b)(1) for the capture of secondary copper converter emissions shall install, calibrate, maintain, and operate a continuous monitoring device on each secondary hood system for the measurement of the air flow through the horizontal-slotted plenum and through the exhaust hood. Each device shall be installed and operational no later than 90 days after the effective date of this subpart for a source that has an initial startup preceding the effective date; and no later than 90 days after startup for other sources.

(g) Each owner or operator subject to the requirements in paragraph (f) of this section shall establish for each secondary hood system reference air flow rates for the horizontal-slotted plenum and exhaust hood for each mode of converter operation. The reference flow rates shall be established when the equipment is operating under the optimum operating conditions required in § 61.172(b)(2)(ii).

(h) Each owner or operator shall install the continuous monitoring systems and monitoring devices required in paragraphs (a) and (f) of this section in such a manner that representative measurements of emissions and process parameters are obtained.

§ 61.176 Recordkeeping requirements.

(a) Each owner or operator subject to the requirements of § 61.172(b)(1) shall maintain at the source for a period of at least 2 years records of the visual inspections, maintenance, and repairs performed on each secondary hood system as required in § 61.172(b)(3).

(b) Each owner or operator subject to the provisions of § 61.172(c) shall maintain at the source for a period of at least 2 years and make available to the Administrator upon request a file of the following records:

(1) All measurements, including continuous monitoring for measurement of opacity;

(2) Records of emission test data and all calculations used to produce the required reports of emission estimates to demonstrate complaince with § 61.172(c);

(3) All continuous monitoring system performance evaluations, including calibration checks and adjustments;

(4) The occurrence and duration of all startups, shutdowns, and malfunctions of the copper converters;

(5) All malfunctions of the air pollution control system;

(6) All periods during which any continuous monitoring system or device is inoperative;

(7) All maintenance and repairs performed on each air pollution control system, continuous monitoring system, or monitoring device;

(8) All records of 1-hour average opacity levels for each separate control device; and

(9) For each secondary hood system:

(i) The reference flow rates for the horizontal-slotted plenum and exhaust hood for each converter operating mode estabilshed under § 61.175(g);

(ii) The actual flow rates; and

(iii) A daily log of the start time and duration of each converter operating mode.

(c) Each owner or operator subject to the provisions of this subpart shall maintain at the source for a period of at least 2 years and make available to the Administrator upon request the following records:

(1) For each copper converter, a daily record of the amount of copper matte and lead matte charged to the copper converter and the total hours of operation.

(2) For each copper converter department, a monthly record of the weight percent of arsenic contained in the copper matte and lead matte as determined under § 61.174(f).

(3) For each copper converter department, the monthly calculations of the average annual arsenic charging rate for the preceding 12-month period as determined under § 61.174(f).

(Approved by the Office of Management and Budget under control number 2060-0044)

§ 61.177 Reporting requirements.

(a) Each owner or operator subject to the provisions of § 61.172(c) shall:

(1) Provide the Administrator 30 days prior notice of the emission test required in § 61.174(a) to afford the Administrator the opportunity to have an observer present; and

(2) Submit to the Administrator a written report of the results of the emission test required in § 61.174(a) within 60 days after conducting the test.

(b) Each owner or operator subject to the provisions of § 61.175(a) shall provide the Administrator at least 30 days prior notice of each reference opacity level determination required in § 61.175(c) to afford the Administrator the opportunity to have an observer present.

(c) Each owner or opertor subject to the provisions of § 61.175(a) shall submit to the Administrator:

(1) Within 60 days after conducting the evaluation required in § 61.175(a)(1), a written report of the continuous monitoring system evaluation;

(2) Within 30 days after establishing the reference opacity level required in § 61.175(c), a written report of the reference opacity level. The report shall also include the opacity data used and the calculations performed to determine the reference opacity level, and sufficient documentation to show that process and emission control equipment were operating normally during the reference opacity level determination; and

(3) A written report each quarter of each occurrence of excess opacity during the quarter. For purposes of this paragraph, an occurrence of excess opacity is any 1-hour period during which the average opacity, as measured by the continuous monitoring system, exceeds the reference opacity level established under § 61.175(c).

(d) The owner or operator subject to the provisions of § 61.175(g) shall submit to the Administrator:

(1) A written report of the reference air flow rate within 30 days after establishing the reference air flow rates required in § 61.175(g);

(2) A written report each quarter of all air flow rates monitored during the preceding 3-month period that are less than 80 percent of the corresponding reference flow rate established for each converter operating mode; and

(3) A written report each quarter of any changes in the operating conditions of the emission capture system, emission control device, or the building housing the converters that might increase fugitive emissions.

(e) All quarterly reports shall be postmarked by the 30th day following the end of each 3-month period and shall include the following information:

(1) The magnitude of each occurrence of excess opacity, any conversion factor(s) used, and the dates and times of commencement and completion of each occurrence of excess opacity, the cause of each exceedance of the reference opacity level, and the measures taken to minimize emissions.

(2) The magnitude of each occurrence of reduced flow rate and the date and time of commencement and completion of each occurrence of reduced flow rate, the cause of the reduced flow rate, and the associated converter operating mode.

(3) Specific identification of each occurrence of excess opacity or reduced flow rate that occurs during startups, shutdowns, and malfunctions of the source.

(4) The date and time identifying each period during which the continuous

monitoring system or monitoring device was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments.

(5) Specific identification of each change in operating conditions of the emission capture system or control device, or in the condition of the building housing the converters.

(f) Each owner or operator of a source subject to the provisions of this subpart shall submit annually a written report to the Administrator that includes the monthly computations of the average annual converter arsenic charging rate as calculated under § 61.174(f)(4). The annual report shall be postmarked by the 30th day following the end of each calendar year.

(Approved by the Office of Management and Budget under control number 2060–0044)

4. Part 61 is amended by adding Subpart P as follows:

Subpart P—National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities

§ 61.180 Applicability and designation of sources.

The provisions of this subpart are applicable to each metallic arsenic production plant and to each arsenic trioxide plant that processes low-grade arsenic bearing materials by a roasting condensation process.

§ 61.181 Definitions.

All terms used in this subpart shall have the meanings given them in the Act, in Subpart A of Part 61, and in this section as follows:

"Arsenic kitchen" means a baffled brick chamber where inorganic arsenic vapors are cooled, condensed, and removed in a solid form.

"Control device" means the air pollution control equipment used to collect particulate matter emissions.

"Curtail" means to cease operations to the extent technically feasible to reduce emissions.

"Inorganic arsenic" means the oxides and other noncarbon compounds of the element arsenic included in particular matter, vapors, and aerosols.

"Malfunction" means any sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of inorganic arsenic are increased.

"Opacity" means the degree to which emissions reduce the transmission of light.

"Primary emission control system" means the hoods, enclosures, ducts, and control devices used to capture, convey, and remove particulate matter from exhaust gases which are captured directly at the source of generation.

"Process emissions" means inorganic arsenic emissions that are captured and collected in a primary emission control system.

"Roasting" means the use of a furnace to heat arsenic plant feed material for the purpose of eliminating a significant portion of the volatile materials contained in the feed.

"Secondary emissions" means inorganic arsenic emissions that escape capture by a primary emission control system.

"Shutdown" means the cessation of operation of a stationary source for any purpose.

§ 61.182 Standard for new and existing sources.

(a) Within 30 days after the effective date of this subpart, the owner or operator of each source to which this subpart applies shall identify and submit to the Administrator a list of potential sources (equipment and operations) of inorganic arsenic emissions.

(b) The owner or operator shall submit a description of an inspection, maintenance, and housekeeping plan for control of inorganic arsenic emissions from the potential sources identified under paragraph (a) of this section. This plan shall be submitted within 90 days after the effective date of this subpart, unless a waiver of compliance is granted under § 61.11. If a waiver of compliance is granted, the plan shall be submitted on a date set by the Administrator. Approval of the plan will be granted by the Administrator provided he finds that:

(1) It achieves the following objectives in a manner that does not cause adverse impacts in other environmental media:

(i) Clean-up and proper disposal, wet-down, or chemical stabilization to the extent practicable (considering access and safety) of any dry, dusty material having an inorganic arsenic content greater than 2 percent that accumulates on any surface within the plant boundaries outside of a dust-tight enclosure.

(ii) Immediate clean-up and proper disposal, wet-down, or chemical stabilization of spills of all dry, dusty material having an inorganic arsenic content greater than 2 percent.

(iii) Minimization of emissions of inorganic arsenic to the atmosphere during removal of inorganic arsenic from the arsenic kitchen and from flue pulling operations by properly handling, wetting down, or chemically stabilizing all dusts and materials handled in these operations.

(2) It includes an inspection program that requires all process, conveying, and air pollution control equipment to be inspected at least once per shift to ensure that the equipment is being properly operated and maintained. The program will specify the evaluation criteria and will use a standardized checklist, which will be included as part of the plan required in paragraph (b) of this section, to document the inspection, maintenance, and housekeeping status of the equipment and that the objectives of paragraph (b)(1) of this section are being achieved.

(3) It includes a systematic procedure for identifying malfunctions and for reporting them immediately to supervisory personnel.

(4) It specifies the procedures that will be followed to ensure that equipment or process malfunctions due entirely or in part to poor maintenance or other preventable conditions do not occur.

(5) It includes a program for curtailing all operations necessary to minimize any increase in emissions of inorganic arsenic to the atmosphere resulting from a malfunction. The program will describe:

(i) The specific steps that will be taken to curtail each operation as soon as technically feasible after the malfunction is discovered.

(ii) The minimum time required to curtail each operation.

(iii) The procedures that will be used to ensure that the curtailment continues until after the malfunction is corrected.

(c) The owner or operator shall implement the plan required in paragraph (b) of this section until otherwise specified by the Administrator.

(d) At all times, including periods of startup, shutdown, and malfunction, the owner or operator of each source to which this subpart applies shall operate and maintain the source including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions of inorganic arsenic to the atmosphere to the maximum extent practicable. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, inspection of the source, and review of other records.

§ 61.183 Emission monitoring.

(a) The owner or operator of each source subject to the provisions of this subpart shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of the opacity of each arsenic trioxide and metallic arsenic process emission stream that exits from a control device.

(b) The owner or operator shall install, operate, and maintain each continuous monitoring system for the measurement of opacity required in paragraph (a) of this section according to the following procedures:

(1) Ensure that each system is installed and operational no later than 90 days after the effective date of this subpart for an existing source or a new source that has an initial startup date preceding the effective date. For a new source whose initial startup occurs after the effective date of this subpart, ensure that the system is installed and operational no later than 90 days after startup. Verification of the operational status shall, as a minimum, consist of an evaluation of the monitoring system in accordance with the requirements and procedures contained in Performance Specification 1 of Appendix B of 40 CFR Part 60.

(2) Comply with the provisions of § 60.13(d) of 40 CFR Part 60.

(3) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under § 60.13(d), ensure that each continuous monitoring system is in continuous operation and meets frequency of operation requirements by completing a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. Each data point shall represent the opacity measured for one cycle of sampling and analysis and shall be expressed as percent opacity.

(c) The owner or operator shall calculate 6-minute opacity averages from 36 or more consecutive data points equally spaced over each 6-minute period. Data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph.

(d) No later than 60 days after each continuous opacity monitoring system required in paragraph (a) of this section becomes operational, the owner or operator shall establish a reference opacity level for each monitored emission stream according to the following procedures:

(1) Conduct continuous opacity monitoring over a preplanned period of not less than 36 hours during which the processes and emission control equipment upstream of the monitoring system are operating in a manner that will minimize opacity under representative operating conditions subject to the Administrator's approval.

(2) Calculate 6-minute averages of the opacity readings using 36 or more consecutive data points equally spaced over each 6-minute period.

(3) Establish the reference opacity level by determining the highest 6-minute average opacity calculated under paragraph (d)(2) of this section.

(e) With a minimum of 30 days prior notice, the Administrator may require an owner or operator to redetermine the reference opacity level for any monitored emission stream.

(f) Each owner or operator shall install all continuous monitoring systems or monitoring devices required in paragraph (a) of this section in such a manner that representative measurements of emissions or process parameters are obtained.

§ 61.184 Ambient air monitoring for inorganic arsenic.

(a) The owner or operator of each source to which this subpart applies shall operate a continuous monitoring system for the measurement of inorganic arsenic concentrations in the ambient air.

(b) The ambient air monitors shall be located at sites to detect maximum concentrations of inorganic arsenic in the ambient air in accordance with a plan approved by the Administrator that shall include the sampling and analytical method used.

(c) The owner or operator shall submit a written plan describing, and explaining the basis for, the design and adequacy of the monitoring network, sampling and analytical procedures, and quality assurance within 45 days after the effective date of this subpart.

(d) Each monitor shall be operated continuously except for a reasonable time allowance for instrument maintenance and calibration, for changing filters, or for replacement of equipment needing major repair.

(e) Filters shall be changed daily and shall be analyzed and concentrations calculated within 30 days after filters are collected.

(f) The Administrator at any time may require changes in, or expansion of, the sampling program, including sampling and analytical protocols and network design.

§ 61.185 Recordkeeping requirements.

(a) Each owner or operator of a source subject to the provisions of this subpart shall maintain at the source for a period of at least 2 years the following records: All measurements, including continuous monitoring for measurement of opacity; all continuous monitoring system performance evaluations, including calibration checks and adjustments; all periods during which the continuous monitoring system or monitoring device is inoperative; and all maintenance and repairs made to the continuous monitoring system or monitoring device.

(b) Each owner or operator shall maintain at the source for a period of at least 2 years a log for each plant department in which the operating status of process, conveying, and emission control equipment is described for each shift. For malfunctions and upsets, the following information shall be recorded in the log:

(1) The time of discovery.

(2) A description of the malfunction or upset.

(3) The time corrective action was initiated.

(4) A description of corrective action taken.

(5) The time corrective action was completed.

(6) A description of steps taken to reduce emissions of inorganic arsenic to the atmosphere between the time of discovery and the time corrective action was taken.

(c) Each owner or operator subject to the provisions of this subpart shall maintain for a period of a least 2 years records of 6-minute average opacity levels for each separate control device.

(d) Each owner or operator subject to the provisions of § 61.186 shall maintain for a period of at least 2 years records of ambient inorganic arsenic concentrations at all sampling sites and other data needed to determine such concentrations.

(Approved by the Office of Management and Budget under control number 2060-0042.)

§ 61.186 Reporting requirements.

(a) Each owner or operator subject to the provisions of § 61.183(a) shall provide the Administrator at least 30 days prior notice of each reference opacity level determination required in § 61.183(a) to afford the Administrator the opportunity to have an observer present.

(b) Each owner or operator subject to the provisions of § 61.183(a) shall submit to the Administrator:

(1) Within 60 days of conducting the evaluation required in § 61.183(b)(1), a written report of the continuous monitoring system evaluation;

(2) Within 30 days of establishing the reference opacity level required in § 61.183(d), a written report of the reference opacity level. The report shall also include the opacity data used and the calculations performed to determine the reference opacity level, and sufficient documentation to show that process and emission control equipment were operating normally during the reference opacity level determination; and

(3) A written report each quarter of each occurrence of excess opacity during the quarter. For the purposes of this paragraph, an occurrence of excess opacity is any 6-minute period during which the average opacity, as measured by the continuous monitoring system, exceeds the reference opacity level established under § 61.183(d).

(c) All quarterly reports of excess opacity shall be postmarked by the 30th day following the end of each quarter and shall include the following information:

(1) The magnitude of excess opacity, any conversion factor(s) used, and the dates and times of commencement and completion of each occurrence of excess opacity, the cause of each exceedance of the reference opacity level, and the measures taken to minimize emissions.

(2) Specific identification of each period of excess opacity that occurred during startups, shutdowns, and malfunctions of the source.

(3) The date and time identifying each period during which the continuous monitoring system or monitoring device was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments.

(d) Each owner or operator subject to this subpart shall submit a written report semiannually to the Administrator that describes the status and results, for the reporting period, of any pilot plant studies on alternative arsenic trioxide production processes. Conclusions and recommendations of the studies shall also be reported.

(e) All semiannual progress reports required in paragraph (d) of this section shall be postmarked by the 30th day following the end of each 6-month period.

(f) Each owner or operator of a source to which this subpart applies shall submit a written report each quarter to the Administrator that includes the following information:

(1) All ambient inorganic arsenic concentrations measured at all monitoring sites in accordance with § 61.184.

(2) A description of any modifications to the sampling network, during the reporting period, including any major maintenance, site changes, calibrations, and quality assurance information including sampling and analytical precision and accuracy estimates.

(g) All quarterly reports required in paragraph (f) of this section shall be postmarked by the 30th day following the end of each quarter.

(Approved by the Office of Management and Budget under control number 2060–0042)

Appendix B—[Amended]

5. Part 61 is amended by adding Method 108 to Appendix B as follows:

* * * * *

Method 108—Determination of Particulate and Gaseous Arsenic Emissions

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of inorganic arsenic (As) emissions from stationary sources as specified in the applicable subpart.

1.2 Principle. Particulate and gaseous arsenic emissions are withdrawn isokinetically from the source and collected on a glass mat filter and in water. The collected arsenic is then analyzed by means of atomic absorption spectrophotometry.

2. Apparatus

2.1 Sampling Train. A schematic of the sampling train is shown in Figure 108–1; it is similar to the Method 5 train of 40 CFR Part 60, Appendix A. NOTE: This and all subsequent references to other methods refer to the methods in 40 CFR Part 60, Appendix A. The sampling train consists of the following components:

2.1.1 Probe Nozzle, Probe Liner, Pitot Tube, Differential Pressure Gauge, Filter Holder, Filter Heating System, Metering System, Barometer, and Gas Density Determination Equipment. Same as Method 5, Sections 2.1.1 to 2.1.6 and 2.1.8 to 2.1.10, respectively.

2.1.2 Filter Heating System. Any heating (or cooling) system capable of maintaining a sample gas temperature at the exit end of the filter holder during sampling at 121 ± 14°C (250 ± 25°F). Install a temperature gauge capable of measuring temperature to within 3°C (5.4°F) at the exit end of the filter holder so that the sample gas temperature can be regulated and monitored during sampling. The tester may use systems other than the one shown in APTD–0591.

2.1.3 Impingers. Four impingers connected in series with leak-free ground-glass fittings or any similar leak-free noncontaminating fittings. For the first, third, and fourth impingers, use the Greenburg-Smith design, modified by replacing the tip with a 1.3-cm-ID (0.5 in.) glass tube extending to about 1.3 cm (0.5 in.) from the bottom of the flask. For the second impinger, use the Greenburg-Smith design with the standard tip. The tester may use modifications (e.g., flexible connections between the impingers, materials other than glass, or flexible vacuum lines to connect the filter holder to the condenser), subject to the approval of the Administrator.

Place a thermometer, capable of measuring temperature to within 1°C (2°F), at the outlet of the fourth impinger for monitoring purposes.

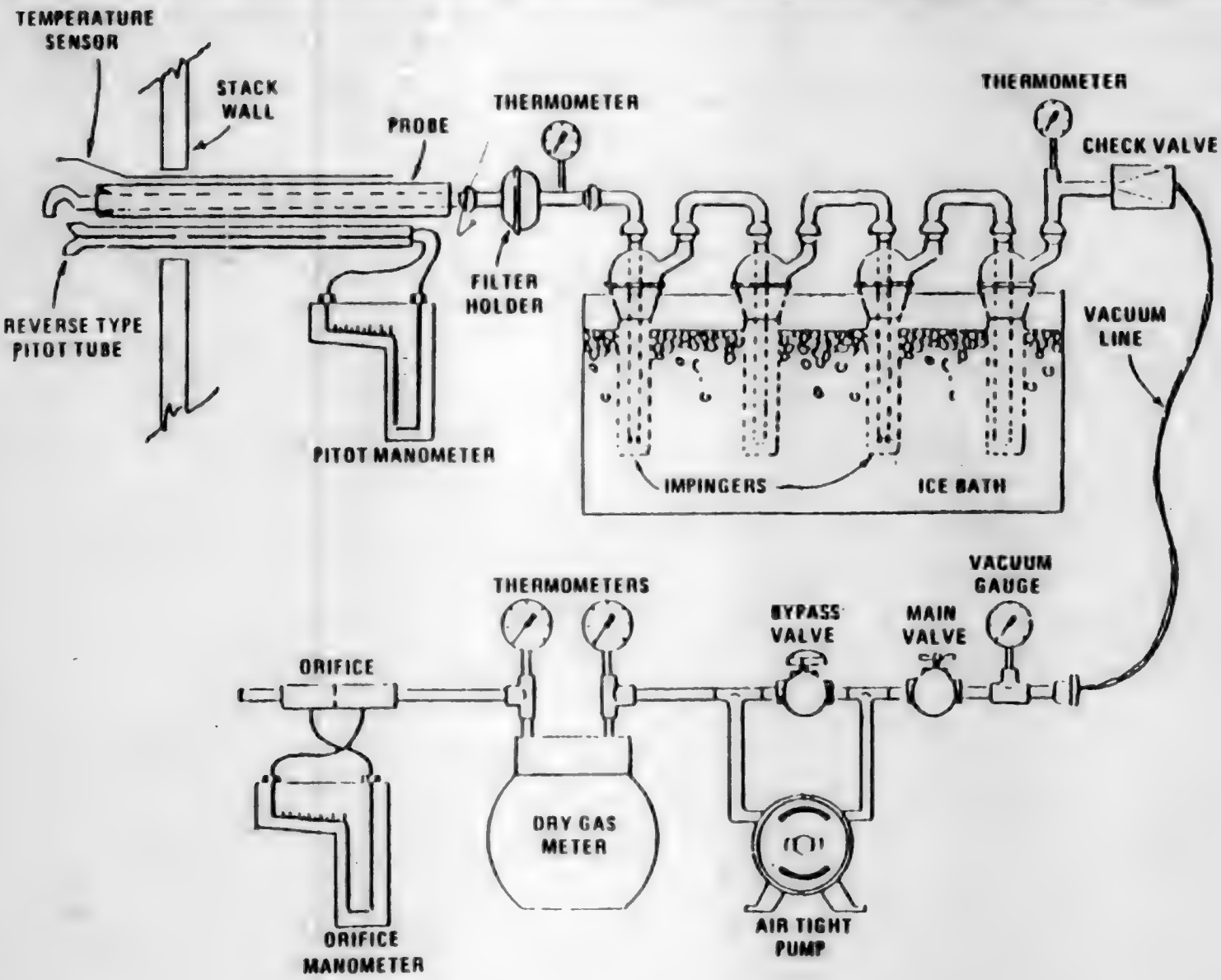

Figure 108-1. Arsenic sampling train.

2.2 Sample Recovery. The following items are needed:

2.2.1 Probe-Liner and Probe-Nozzle Brushes, Petri Dishes, Graduated Cylinder or Balance, Plastic Storage Containers, Rubber Policeman, and Funnel. Same as Method 5, Sections 2.2.1 and 2.2.4 to 2.2.8, respectively.

2.2.2 Wash Bottles. Polyethylene (2).

2.2.3 Sample Storage Containers. Chemically resistant, polyethylene or polypropylene for glassware washes, 500- or 1000-ml.

2.3 Analysis. The following equipment is needed:

2.3.1 Spectrophotometer. Equipped with an electrodeless discharge lamp and a background corrector to measure absorbance at 193.7 nm. For measuring samples having less than 10 μg As/ml, use a vapor generator accessory or a graphite furnace.

2.3.2 Recorder. To match the output of the spectrophotometer.

2.3.3 Beakers. 150-ml.

2.3.4 Volumetric Flasks. Glass 50-, 100-, 200-, 500-, and 1000-ml; and polypropylene, 50-ml.

2.3.5 Balance. To measure within 0.5 g.

2.3.6 Volumetric Pipets. 1-, 2-, 3-, 5-, 8-, and 10-ml.

2.3.7 Oven.

2.3.8 Hot Plate.

3. Reagents

Unless otherwise specified, use American Chemical Society reagent grade (or equivalent) chemicals throughout.

3.1 Sampling. The reagents used in sampling are as follows:

3.1.1 Filters. Same as Method 5 except that the filters need not be unreactive to SO_2.

3.1.2 Silica Gel, Crushed Ice, and Stopcock Grease. Same as Method 5, Sections 3.1.2, 3.1.4, and 3.1.5, respectively.

3.1.3 Water. Deionized distilled to meet American Society for Testing and Materials Specification D 1133–74, Type 3 (incorporated by reference—see § 60.17). When high concentrations of organic matter are not expected to be present, the analyst may omit the $KMnO_4$ test for oxidizable organic matter.

3.2 Sample Recovery. 0.1 N sodium hydroxide (NaOH) is required. Dissolve 4.00 g of NaOH in about 500 ml of water in a 1-liter volumetric flask. Then, dilute to exactly 1.0 liter with water.

3.3 Analysis. The reagents needed for analysis are as follows:

3.3.1 Water. Same as 3.1.2.

3.3.2 Sodium Hydroxide, 0.1 N. Same as 3.2.

3.3.3 Sodium Borohydride ($NaBH_4$), 5 Percent (W/V). Dissolve 5.00 g of $NaBH_4$ in about 500 ml of 0.1 N NaOH in a 1-liter volumetric flask. Then, dilute to exactly 1.0 liter with 0.1 N NaOH.

3.3.4 Hydrochloric Acid (HCl), Concentrated.

3.3.5 Potassium Iodine (KI), 30 Percent (W/V). Dissolve 300 g of KI in 500 ml of water in a 1-liter volumetric flask. Then, dilute to exactly 1.0 liter with water.

3.3.6 Nitric Acid (HNO_3), Concentrated.

3.3.7 Nitric Acid, 0.8 N. Dilute 52 ml of concentrated HNO_3 to exactly 1.0 liter with water.

3.3.8 Nitric Acid, 50 Percent (V/V). Add 50 ml concentrated HNO_3 to 50 ml water.

3.3.9 Stock Arsenic Standard, 1 mg As/ml. Dissolve 1.3203 g of primary standard grade As_2O_3 in 20 ml of 0.1 N NaOH in a 150-ml beaker. Slowly add 30 ml of concentrated HNO_3. Heat the resulting solution and evaporate just to dryness. Transfer the residue quantitatively to a 1-liter volumetric flask and dilute to 1.0 liter with water.

3.3.10 Arsenic Working Solution, 1.0 μg As/ml. Pipet exactly 1.0 ml of stock arsenic standard into an acid-cleaned, appropriately labeled 1-liter volumetric flask containing about 500 ml of water and 5 ml of concentrated HNO_3. Dilute to exactly 1.0 liter with water.

3.3.11 Air. Suitable quality for atomic absorption analysis.

3.3.12 Acetylene. Suitable quality for atomic absorption analysis.

3.3.13 Nickel Nitrate, 5 Percent (W/V). Dissolve 24.780 g of nickel nitrate hexahydrate in water in a 100-ml volumetric flask and dilute to 100 ml with water.

3.3.14 Nickel Nitrate, 1 Percent (W/V). Pipet 20 ml of 5 percent nickel nitrate solution into a 100-ml volumetric flask and dilute to exactly 100 ml with water.

3.3.15 Hydrogen Peroxide, 3 Percent. Pipet 50 ml of 30 percent hydrogen peroxide into a 500 ml volumetric flask and dilute to exactly 500 ml with water.

3.3.16 Quality Assurance Audit Samples. Arsenic samples prepared by the Environmental Protection Agency's (EPA) Environmental Systems Laboratory, Quality Assurance Division, Source Branch, Mail Drop 77A, Research Triangle Park, North Carolina 27711. Each set will consist of two vials of unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the Quality Assurance Management Office at each EPA regional office or the responsible enforcement office. (NOTE: The tester should notify the Quality Assurance Office or the responsible enforcement agency at least 30 days prior to the test date to allow sufficient time for delivery.)

4. Procedure

4.1 Sampling. Because of the complexity of this method, testers must be trained and experienced with the test procedures in order to obtain reliable results.

4.1.1 Pretest Preparation. Follow the general procedure given in Method 5, Section 4.1.1, except the filter need not be weighed.

4.1.2 Preliminary Determinations. Follow the general procedure given in Method 5, Section 4.1.2, except select the nozzle size to maintain isokinetic sampling rates below 28 liters/min (1.0 cfm).

4.1.3 Preparation of Collection Train. Follow the general procedure given in Method 5, Section 4.1.3.

4.1.4 Leak-Check Procedures. Follow the leak-check procedures given in Method 5, Sections 4.1.4.1 (Pretest Leak-Check), 4.1.4.2 (Leak-Checks During Sample Run), and 4.1.4.3 (Post-Test Leak-Check).

4.1.5 Arsenic Train Operation. Follow the general procedure given in Method 5, Section 4.1.5, except maintain a temperature of 107° to 135°C (225° to 275°F) around the filter and maintain isokinetic sampling flow rates below 28 liters/min (1.0 cfm). For each run, record the data required on a data sheet such as the one shown in Figure 108–2.

4.1.6 Calculation of Percent Isokinetic. Same as Method 5, Section 4.1.6.

BILLING CODE 6560-50-M

PLANT _____

LOCATION _____

OPERATOR _____

DATE _____

RUN NO. _____

SAMPLE BOX NO. _____

METER BOX NO. _____

METER $\Delta H@$ _____

C FACTOR _____

PITOT TUBE COEFFICIENT, C_p _____

SCHEMATIC OF STACK CROSS SECTION

AMBIENT TEMPERATURE _____

BAROMETRIC PRESSURE _____

ASSUMED MOISTURE, % _____

PROBE LENGTH, m (ft) _____

NOZZLE IDENTIFICATION NO. _____

AVERAGE CALIBRATED NOZZLE DIAMETER, cm (in.) _____

PROBE HEATER SETTING _____

LEAK RATE, m^3/min. (cfm) _____

PROBE LINER MATERIAL _____

TRAVERSE POINT NUMBER	SAMPLING TIME (θ), min.	STATIC PRESSURE mm Hg (in Hg)	STACK TEMPERATURE (T_S) °C (°F)	VELOCITY HEAD (ΔP_S), mm(in.)H_2O	PRESSURE DIFFERENTIAL ACROSS ORIFICE METER mm H_2O (in. H_2O)	GAS SAMPLE VOLUME m^3 (ft^3)	GAS SAMPLE TEMPERATURE AT DRY GAS METER		FILTER HOLDER TEMPERATURE, °C (°F)	TEMPERATURE OF GAS LEAVING CONDENSER OR LAST IMPINGER, °C (°F)
							INLET °C (°F)	OUTLET °C (°F)		
TOTAL							Avg.	Avg.		
AVERAGE							Avg.			

Figure 108-2. Arsenic field data.

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4.2 Sample Recovery. The same as Method 5, Section 4.2 except that 0.1 N NaOH is used as the cleanup solvent instead of acetone and that the impinger water is treated as follows:

Container Number 4 (Impinger Water). Clean each of the first two impingers and connecting glassware in the following manner:

a. Wipe the impinger ball joints free of silicone grease, and cap the joints.

b. Weigh the impinger and liquid to within ±0.5 g. Record in the log the weight of liquid along with a notation of any color or film observed in the impinger catch. The weight of liquid is needed along with the silica gel data to calculate the stack gas moisture content.

c. Rotate and agitate each impinger, using the impinger contents as a rinse solution.

d. Transfer the liquid to Container Number 4. Remove the outlet ball-joint cap, and drain the contents through this opening. Do not separate the impinger parts (inner and outer tubes) while transferring their contents to the cylinder.

e. (Note: In Steps e and f below, measure and record the total amount of 0.1 N NaOH used for rinsing.) Pour approximately 30 ml of 0.1 NaOH into each of the first two impingers, and agitate the impingers. Drain the 0.1 N NaOH through the outlet arm of each impinger into Container Number 4. Repeat this operation a second time; inspect the impingers for any abnormal conditions.

f. Wipe the ball joints of the glassware connecting the impingers and the back half of the filter holder free of silicone grease, and rinse each piece of glassware twice with 0.1 N NaOH; transfer this rinse into Container Number 4. (DO NOT RINSE or brush the glass-fritted filter support.) Mark the height of the fluid level to determine whether leakage occurs during transport. Label the container to identify clearly its contents.

4.2.1 Blanks. Save a portion of the 0.1 N NaOH used for cleanup as a blank. Take 200 ml of this solution directly from the wash bottle being used and place it in a plastic sample container labeled "NaOH blank." Also save a sample of the water, and place it in a container labeled "H_2O blank."

4.3 Arsenic Sample Preparation.

4.3.1 Container Number 1 (Filter). Place the filter and loose particulate matter in a 150-ml beaker. Also, add the filtered material from Container Number 2 (see Section 4.3.3). Add 50 ml of 0.1 N NaOH. Then stir and warm on a hot plate at low heat (do not boil) for about 15 minutes. Add 10 ml of concentrated HNO_3, bring to a boil, then simmer for about 15 minutes. Filter the solution through a glass fiber filter. Wash with hot water, and catch the filtrate in a clean 150-ml beaker. Boil the filtrate, and evaporate to dryness. Cool, add 5 ml of 50 percent HNO_3, and then warm and stir. Allow to cool. Transfer to a 50-ml volumetric flask, dilute to volume with water, and mix well.

4.3.2 Container Number 4 (Arsenic Impinger Sample).

Note: Prior to analysis, check the liquid level in Containers Number 2 and Number 4; confirm as to whether leakage occurred during transport on the analysis sheet. If a noticeable amount of leakage occurred, either void the sample or take steps, subject to the approval of the Administrator, to adjust the final results.

Transfer the contents of Container Number 4 to a 500-ml volumetric flask, and dilute to exactly 500 ml with water. Pipet 50 ml of the solution into a 150-ml beaker. Add 10 ml of concentrated HNO_3, bring to a boil, and evaporate to dryness. Allow to cool, add 5 ml of 50 percent HNO_3, and then warm and stir. Allow the solution to cool, transfer to a 50-ml volumetric flask, dilute to volume with water, and mix well.

4.3.3 Container Number 2 (Probe Wash). See note in 4.3.2 above. Filter (using a glass fiber filter) the contents of Container Number 2 into a 200-ml volumetric flask. Combine the filtered material with the contents of Container Number 1 (Filter).

Dilute the filtrate to exactly 200 ml with water. Then pipet 50 ml into a 150-ml beaker. Add 10 ml of concentrated HNO_3, bring to a boil, and evaporate to dryness. Allow to cool, add 5 ml of 50 percent HNO_3, and then warm and stir. Allow the solution to cool, transfer to a 50-ml volumetric flask, dilute to volume with water, and mix well.

4.3.4 Filter Blank. Determine a filter blank using two filters from each lot of filters used in the sampling. Cut each filter into strips, and treat each filter individually as directed in Section 4.3.1, beginning with the sentence, "Add 50 ml of 0.1 N NaOH."

4.3.5 0.1 N NaOH and Water Blanks. Treat separately 50 ml of 0.1 N NaOH and 50 ml water, as directed under Section 4.3.2, beginning with the sentence, "Pipet 50 ml of the solution into a 150-ml beaker."

4.4 Spectrophotometer Preparation. Turn on the power; set the wavelength, slit width, and lamp current; and adjust the background corrector as instructed by the manufacturer's manual for the particular atomic absorption spectrophotometer. Adjust the burner and flame characteristics as necessary.

4.5 Analysis.

4.5.1 Arsenic Determination. Prepare standard solutions as directed under Section 5.1, and measure their absorbances against 0.8 N HNO_3. Then, determine the absorbances of the filter blank and each sample using 0.8 N HNO_3 as a reference. If the sample concentration falls outside the range of the calibration curve, make an appropriate dilution with 0.8 N HNO_3 so that the final concentration falls within the range of the curve. Determine the arsenic concentration in the filter blank (i.e., the average of the two blank values from each lot). Next, using the appropriate standard curve, determine the arsenic concentration in each sample fraction.

4.5.1.1 Arsenic Determination at Low Concentration. The lower limit of flame atomic absorption spectrophotometry is 10 μg As/ml. If the arsenic concentration of any sample is at a lower level, use the graphite furnace or vapor generator which is available as an accessory component. The analyst also has the option of using either of these accessories for samples whose concentrations are between 10 and 30 μg/ml. Follow the manufacturer's instructions in the use of such equipment.

4.5.1.1.1 Vapor Generator Procedure. Place a sample containing between 0 and 5 μg of arsenic in the reaction tube, and dilute to 15 ml with water. Since there is some trial and error involved in this procedure, it may be necessary to screen the samples by conventional atomic absorption until an approximate concentration is determined. After determining the approximate concentration, adjust the volume of the sample accordingly. Pipet 15 ml of concentrated HCl into each tube. Add 1 ml of 30 percent KI solution. Place the reaction tube into a 50°C water bath for 5 minutes. Cool to room temperature. Connect the reaction tube to the vapor generator assembly. When the instrument response has returned to baseline, inject 5.0 ml of 5 percent $NaBH_4$, and integrate the resulting spectrophotometer signal over a 30-second time period.

4.5.1.1.2 Graphite Furnace Procedure. Dilute the digested sample so that a 5-ml aliquot contains less than 1.5 μg of arsenic. Pipet 5 ml of this digested solution into a 10-ml volumetric flask. Add 1 ml of the 1 percent nickel nitrate solution, 0.5 ml of 50 percent HNO_3, and 1 ml of the 3 percent hydrogen peroxide and dilute to 10 ml with water. The sample is now ready to inject in the furnace for analysis.

Because instruments from different manufacturers are different, no detailed operating instructions will be given here. Instead, the analyst should follow the instructions provided with his particular instrument.

4.5.1.2 Check for Matrix Effects on the Arsenic Results. Same as Method 12, Section 5.4.2.

4.5.2 Container Number 3 (Silica Gel). The tester may conduct this step in the field. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g; record this weight.

4.6 Audit Analysis. Concurrently, analyze the two unknown audit samples with each set of compliance samples to evaluate the techniques of the analyst and the standards preparation. (Note: It is recommended that known quality control samples be analyzed prior to the compliance and audit sample analysis to optimize the system's accuracy and precision. One source of these samples is the Source Branch listed in Section 3.3.16.) The same analyst, analytical reagents, and analytical system shall be used both for each set or sets of compliance samples and the EPA audit samples; if this condition is met, audit samples need not be included with any additional compliance analyses performed within the succeeding 30-day period for the same enforcement agency. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies unless prior arrangements are made with both enforcement agencies.

Calculate the concentration in g/m^3 using the specified sample volume in the audit instructions. (Note: The analyst may determine immediately whether the audit analyses acceptable by reporting the audit results in g/m^3 and compliance results in μg/ml by telephone). Include the results of both audit samples, their identification numbers, and the analysts' names with the results of the compliance determination samples in appropriate reports to the EPA regional office

or the appropriate enforcement agency. Include this information with subsequent compliance analyses for the same enforcement agency during the succeeding 30-day period.

5. Calibration

Maintain a laboratory log of all calibrations.

5.1 Standard Solutions. For the high level procedure pipet 1, 3, 5, 8, and 10 ml of the 1.0-mg As/ml stock solution into separate 100-ml volumetic flasks, each containing a ml of concentrated HNO_3. If the low level vapor generator procedure is used, pipet 1, 2, 3, and 5 ml of 1.0 μg As/ml standard solution into the separate reaction tubes. For the low level graphite furnace procedure, pipet 1, 5, 10 and 15 ml of 1.0 μg As/ml standard solution into the separate flasks along with 2 ml of the 5 percent nickel nitrate solution and 10 ml of the 3 percent hydrogen peroxide solution. Dilute to the mark with water. Then treat the standards in the same manner as the samples (Section 4.5).

Check these absorbances frequently against 0.8 N HNO_3 (reagent blank) during the analysis to insure that base-line drift has not occurred. Prepare a standard curve of absorbance versus concentration. (Note: For instruments equipped with direct concentration readout devices, preparation of a standard curve will not be necessary.) In all cases, follow calibration and operational procedures in the manufacturers' instruction manual.

5.2 Sampling Train Calibration. Calibrate the sampling train components according to the indicated Sections of Method 5: Probe Nozzle (Section 5.1), Pitot Tube Assembly (Section 5.2), Metering System (Section 5.3), Probe Heater (Section 5.4), Temperature Gauges (Section 5.5), Leak Check of Metering System (Section 5.6), and Barometer (Section 5.7).

6. Calculations

6.1 Nomenclature—

B_{ws} = Water in the gas stream, proportion by volume.
C_a = Concentration of arsenic as read from the standard curve, μg/ml.
C_c = Actual audit concentration, g/m³.
C_d = Determined audit concentration, g/m³.
C_s = Arsenic concentration in stack gas, dry basis, converted to standard conditions, g/dsm³ (g/dscf).
E_s = Arsenic mass emission rate, g/hr.
F_d = Dilution factor (equals 1 if the sample has not been diluted).
I = Percent of isokinetic sampling.
m_{bi} = Total mass of all four impingers and contents before sampling, g.
m_{af} = Total mass of all four impingers and contents after sampling, g.
m_a = Total mass of arsenic collected in a specific part of the sampling train, μg.
m_t = Total mass of arsenic collected in the sampling train, μg.
T_m = Absolute average dry gas meter temperature (see Figure 108-2), °K (°R).
V_m = Volume of gas sample as measured by the dry gas meter, dm³ (dcf).
$V_{m(std)}$ = Volume of gas sample as measured by the dry gas meter correlated to standard conditions, sm³ (scf).
V_a = Volume of solution in which the arsenic is contained, ml.
$V_{w(std)}$ = Volume of water vapor collected in the sampling train, corrected to standard conditions, sm³ (scf).
ΔH = Average pressure differential across the orifice meter (see Figure 108-2), mm H_2O (in. H_2O).

6.2 Average dry gas meter temperatures (T_m) and average orifice pressure drop (ΔH). See data sheet (Figure 108-2).

6.3 Dry Gas Volume. Using data from this test, calculate $V_{m(std)}$ by using Eq. 5-1 of Method 5. If necessary, adjust the volume for leakages.

6.4 Volume of Water Vapor.

$$V_{w(std)} = K_1 (m_f - m_{bi}) \qquad \text{Eq. 108-1}$$

Where:

$K_1 = 0.001334$ m³/g for metric units.
$= 0.047012$ ft³/g for English units.

6.5 Moisture Content.

$$B_{ws} = \frac{V_{w(std)}}{V_{m(std)} + V_{w(std)}} \qquad \text{Eq. 108-2}$$

6.6 Amount of arsenic collected.

6.6.1 Calculate the amount of arsenic collected in each part of sampling train, as follows:

$$m_a = C_a F_d V_a \qquad \text{Eq. 108-3}$$

6.6.2 Calculate the total amount of arsenic collected in the sampling train as follows:

$$m_t = m_a(\text{filters}) + m_a(\text{probe}) + m_a(\text{impingers}) - m_a(\text{filter blank}) - m_a(\text{NaOH}) - m_a(H_2O) \qquad \text{Eq. 108-4}$$

6.7 Calculate the arsenic concentration in the stack gas (dry basis, adjusted to standard conditions) as follows:

$$C_s = K_2 (m_t / V_{m(std)}) \qquad \text{Eq. 108-5}$$

Where:

$K_2 = 10^{-6}$ g/μg

6.8 Pollutant Mass Rate. Calculate the arsenic mass emission rate using the following equation.

$$E_s = C_s Q_{sd} \qquad \text{Eq. 108-6}$$

The volumetric flow rate, Q_{sd}, should be calculated as indicated in Method 2.

6.9 Isokinetic Variation. Using data from this test, calculate I. Use Eq. 5-8 of Method 5.

6.10 Acceptable Results. Same as Method 5, Section 6.12.

6.11 Relative Error (RE) for QA Audits, Percent.

$$RE = \frac{C_d - C_c}{C_c} \times 100 \qquad \text{Eq. 108-7}$$

7. Bibliography

1. Same as Citations 1 through 9 of Section 7, of Method 5.

2. Perkin Elmer Corporation. Analytical Methods for Atomic Absorption Spectrophotometry. 303-0152. Norwalk, Connecticut. September 1976. pp. 5-6.

3. Standard Specification for Reagent Water. In: Annual Book of American Society for Testing and Materials Standards. Part 31: Water, Atmospheric Analysis. American Society for Testing and Materials. Philadelphia, PA. 1974. pp. 40-42.

6. Part 61 is amended by adding Method 108A to Appendix B as follows:

* * * * *

Method 108A—Determination of Arsenic Content in Ore Samples From Nonferrous Smelters

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of inorganic arsenic (As) content of process ore and reverberatory matte samples from nonferrous smelters and other sources as specified in the regulations.

1.2 Principle. Arsenic bound in ore samples is liberated by acid digestion and analyzed by atomic absorption spectrophotometry.

2. Apparatus

2.1 Sample Preparation

2.1.1 Parr Acid Digestion Bomb. Stainless steel with vapor-tight Teflon cup and cover.

2.1.2 Volumetric Pipets. 2- and 5-ml sizes.

2.1.3 Volumetric Flask. 50-ml polypropylene with screw caps, (one needed per standard).

2.1.4 Funnel. Polyethylene or polypropylene.

2.1.5 Oven. Capable of maintaining a temperature of approximately 105°C.

2.1.6 Analytical Balance. To measure to within 0.1 mg.

2.2 Analysis.

2.2.1 Spectrophotometer and Recorder. Equipped with an electrodeless discharge lamp and a background corrector to measure absorbance at 193.7 nm. A graphite furnace may be used in place of the vapor generator accessory when measuring samples with low As levels. The recorder shall match the output of the spectrophotometer.

2.2.2 Volumetric Flasks. Class A, 50-ml (one needed per sample and blank).

2.2.3 Volumetric Pipets. Class A, 1-, 5-, 10-, and 25-ml sizes.

3. Reagents

Unless otherwise specified, use ACS reagent grade (or equivalent) chemicals throughout.

3.1 Sample Preparation.

3.1.1 Water. Deionized distilled to meet American Society for Testing and Materials Specification D-1193-74, Type 3 (incorporated by reference—See § 60.7). When high concentrations of organic matter are not expected to be present, the analyst may omit the $KMnO_4$ test for oxidizable organic matter. Use in all dilutions requiring water.

3.1.2 Nitric Acid (HNO_3), Concentrated. HANDLE WITH CAUTION.

3.1.3 Nitric Acid, 0.5 N. In a 1-liter volumetric flask containing water, add 32 ml of concentrated HNO_3 and dilute to volume with water.

3.1.4 Hydrofluoric Acid (HF), Concentrated. HANDLE WITH CAUTION.

3.1.5 Potassium Chloride (KCl) Solution, 10 percent (w/v). Dissolve 10 g KCl in water, add 3 ml concentrated HNO_3, and dilute to 100 ml.

3.1.6 Filter. Teflon filters, 3 micron porosity, 47mm size. (Available from

Millipore Co., type FS, Catalog Number FSLW04700.)

3.1.7 Sodium Borohydride ($NaBH_4$), 5 Percent (W/V). Dissolve 5.00 g of $NaBH_4$ in about 500 ml of 0.1 NaOH in a 1-liter volumetric flask. Then, dilute to exactly 1.0 liter with 0.1 NaOH.

3.1.8 Nickel Nitrate, 5 Percent (W/V). Dissolve 24.780 g of nickel nitrate hexahydrate in water in a 100-ml volumetric flask and dilute to 100 ml with water.

3.1.9 Nickel Nitrate, 1 percent (W/V). Pipet 20 ml of 5 percent nickel nitrate solution into a 100-ml volumetric flask and dilute to 100 ml with water.

3.2 Analysis.

3.2.1 Water. Same as in Section 3.1.1.

3.2.2 Sodium Hydroxide (NaOH), 0.1 N. Dissolve 2.00 g of NaOH in water in a 500-ml volumetric flask. Dilute to volume with water.

3.2.3 Nitric Acid, 0.5 N. Same as in Section 3.1.3.

3.2.4 Potassium Chloride Solution, 10 percent. Same as in Section 3.1.5.

3.2.5 Stock Arsenic Standard, 1 mg As/ml. Dissolve 1.320 g of primary grade As_2O_3 in 20 ml of 0.1 N NaOH. Slowly add 30 ml of concentrated HNO_3, and heat in an oven at 105°C for 2 hours. Allow to cool, and dilute to 1 liter with deionized distilled water.

3.2.6 Nitrous Oxide. Suitable quality for atomic absorption analysis.

3.2.7 Acetylene. Suitable quality for atomic absorption analysis.

3.2.8 Quality Assurance Audit Samples. Arsenic samples prepared by the Environmental Protection Agency's (EPA) Environmental Systems Laboratory, Quality Assurance Division, Source Branch, Mail Drop 77A, Research Triangle Park, North Carolina 27711. Each set will consist of two vials of unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the Quality Assurance Management Office at each EPA regional office or the responsible enforcement office. (NOTE: The tester should notify the Quality Assurance Office or the responsible enforcement agency at least 30 days prior to the test date to allow sufficient time for delivery.

4. Procedure

4.1 Sample Collection. A sample that is representative of the ore lot to be tested must be taken prior to analysis. The sample must be ground into a finely pulverized state. (A portion of the samples routinely collected for metals analysis may be used provided the sample is representative of the ore being tested.)

4.2 Sample Preparation. Weigh 50 to 500 mg of finely pulverized sample to the nearest 0.1 mg. Transfer the sample into the Teflon cup of the digestion bomb, and add 2 ml each of concentrated HNO_3 and HF. Seal the bomb immediately to prevent the loss of any volatile arsenic compounds that may form. Heat in an oven 105° C for 2 hours. Then remove the bomb from the oven and allow it to cool. Using a Teflon filter, quantitatively filter the digested sample into a 50-ml polypropylene volumetric flask. Rinse the bomb three times with small portions of 0.5 N HNO_3, and filter the rinses into the flask. Add 5 ml of KCl solution to the flask, and dilute to 50 ml with 0.5 N HNO_3.

4.3 Spectrophotometer Preparation. Turn on the power; set the wavelength, slit width, and lamp current; and adjust the background corrector as instructed by the manufacturer's manual for the particular atomic absorption spectrophotometer. Adjust the burner and flame characteristics as necessary.

4.4 Preparation of Standard Solutions. Pipet 1, 5, 10, and 25 ml of the stock As solution into separate 100-ml volumetric flasks. Add 10 ml KCl solution and dilute to the mark with 0.5 N HNO_3. This will give standard concentrations of 10, 50, 100, and 250 μg As/ml. For low-level-arsenic samples that require the use of a graphite furnace or vapor generator, follow the procedures in Section 4.4.1.

Dilute 10 ml of KCl solution to 100 ml with 0.5 N HNO_3 and use as a reagent blank. Measure the standard absorbances against the reagent blank. Check these absorbances frequently against the blank during the analysis to assure that baseline drift has not occurred.

Prepare a standard curve of absorbance versus concentration. (Note: For instruments equipped with direct concentration readout devices, preparation of a standard curve will not be necessary.) In all cases follow calibration and operational procedures in the manufacturer's instruction manual. Maintain a laboratory log of all calibrations.

4.4.1 Arsenic Determination at Low Concentration. The lower limit of flame atomic absorption spectrophotometry is 10 μg As/ml. If the arsenic concentration of any sample is at a lower level, use the vapor generator or graphite furnace which is available as an accessory component. Follow the manufacturer's instructions in the use of such equipment.

4.4.1.1 Vapor Generator Procedure. Place a sample containing between 0 and 5 μg of arsenic in the reaction tube, and dilute to 15 ml with water. Since there is some trial and error involved in this procedure, it may be necessary to screen the samples by conventional atomic absorption until an approximate concentration is determined. After determining the approximate concentration, adjust the volume of the sample accordingly. Pipet 15 ml of concentrated HCl into each tube. Add 1 ml of 30 percent KI solution. Place the reaction tube into a 50° C water bath for 5 minutes. Cool to room temperature. Connect the reaction tube to the vapor generator assembly. When the instrument response has returned to baseline, inject 5.0 ml of 5 percent $NaBH_4$ and integrate the resulting spectrophotometer signal over a 30-second time period.

4.4.1.2 Graphite Furnace Procedure. Pipet 5 ml of this digested solution into a 10-ml volumetric flask. Add 1 ml of the 1 percent nickel nitrate solution, 0.5 ml of 50 percent HNO_3, and 1 ml of the 3 percent hydrogen peroxide and dilute to 10 ml with water. The sample is now ready to inject in the furnace for analysis.

Because instruments from different manufacturers are different, no detailed operating instructions are given here. Instead, the analyst should follow the instructions provided with the particular instrument.

4.5 Analysis.

4.5.1 Arsenic Determination. Determine the absorbance of each sample using the blank as a reference. If the sample concentration falls outside the range of the calibration curve, make an appropriate dilution with 0.5 N HNO_3 so that the final concentration falls within the range of the curve. From the curve, determine the As concentration in each sample.

4.5.2 Mandatory Check for Matrix Effects on the Arsenic Results. Same as in Method 12, Section 5.4.2.

4.5.3 Audit analysis. With each set or sets of source compliance samples, analyze the two unknown audit samples in the same manner as the source samples to evaluate the techniques of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for each set or sets of compliance samples and the EPA audit samples; if this condition is met, it is not necessary to analyze additional audit samples for subsequent compliance analyses performed for the same enforcement agency within a 30-day period. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies unless prior arrangements are made with both enforcement agencies.

Calculate the concentration in g/m^3 using the specified sample volume in the audit instructions. (Note: The acceptability of the analyses of the audit samples may be obtained immediately by reporting the audit and compliance results by telephone). Include the results of both audit samples, their identification numbers, and the analysts' names with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency. Include this information with subsequent compliance analyses for the same enforcement agency during the succeeding 30-day period.

5. Calculations

5.1 Calculate the percent arsenic in the ore sample as follows:

$$\% AS = \frac{5\ C_s\ F_d}{W} \qquad \text{Eq. 108A-1}$$

Where:

C_s = Concentration of As as read from the standard curve, μg/ml.
F_d = Dilution factor (equals 1 if the sample has not been diluted).
W = Weight of ore sample analyzed.
5 = 50-ml sample x $100/10^9$ μg/ml.

6. Bibliography

1. Same as Citations 1 through 9 of Section 7, of Method 5.

2. Perkin Elmer Corporation. Analytical methods of Atomic Absorption Spectrophotometry. 303–0152. Norwalk, Connecticut. September 1976. pp 5–6.

3. Ringwald, D. (TRW). Arsenic Determination on Process Materials from ASARCO's Copper Smelter in Tacoma, Washington. Unpublished Report. Prepared for Emission Measurement Branch, Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. August 1980. 35 p.

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Part III

Nuclear Regulatory Commission

10 CFR Part 50

Safety Goals for the Operations of Nuclear Power Plants; Policy Statement

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Safety Goals for the Operations of Nuclear Power Plants; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This policy statement focuses on the risks to the public from nuclear power plant operation. Its objective is to establish goals that broadly define an acceptable level of radiological risk. In developing the policy statement, the NRC sponsored two public workshops during 1981, obtained public comments and held four public meetings during 1982, conducted a 2-year evaluation during 1983 to 1985, and received the views of its Advisory Commission on Reactor Safeguards.

The Commission has established two qualitative safety goals which are supported by two quantitative objectives. These two supporting objectives are based on the principle that nuclear risks should not be a significant addition to other societal risks. The Commission wants to make clear that no death attributable to nuclear power plant operation will ever be "acceptable" in the sense that the Commission would regard it as a routine or permissible event. The Commission is discussing acceptable risks, not acceptable deaths.

• The *qualitative safety goals* are as follows:

—Individual members of the public should be provided a level of protection from the consequences of nuclear power plant operation such that individuals bear no significant additional risk to life and health.

—Societal risks to life and health from nuclear power plant operation should be comparable to or less than the risks of generating electricity by viable competing technologies and should not be a significant addition to other societal risks.

• The following *quantitative objectives* are to be used in determining achievement of the above safety goals:

—The risk to an average individual in the vicinity of a nuclear power plant of prompt fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1 percent) of the sum of prompt fatality risks resulting from other accidents to which members of the U.S. population are generally exposed.

—The risk to the population in the area near a nuclear power plant of cancer fatalities that might result from nuclear power plant operation should not exceed one-tenth of one percent (0.1 percent) of the sum of cancer fatality risks resulting from all other causes.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Merrill Taylor, Regional Operations and Generic Requirements Staff, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301/492–4356).

SUPPLEMENTARY INFORMATION: The following presents the Commission's Final Policy Statement on Safety Goals for the Operation of Nuclear Power Plants:

I. Introduction

A. Purpose and Scope

In its response to the recommendations of the President's Commission on the Accident at Three Mile Island, the Nuclear Regulatory Commission (NRC) stated that it was "prepared to move forward with an explicit policy statement on safety philosophy and the role of safety-cost tradeoffs in the NRC safety decisions." This policy statement is the result.

Current regulatory practices are believed to ensure that the basic statutory requirement, adequate protection of the public, is met. Nevertheless, current practices could be improved to provide a better means for testing the adequacy of and need for current and proposed regulatory requirements. The Commission believes that such improvement could lead to a more coherent and consistent regulation of nuclear power plants, a more predictable regulatory process, a public understanding of the regulatory criteria that the NRC applies, and public confidence in the safety of operating plants. This statement of NRC safety policy expresses the Commission's views on the level of risks to public health and safety that the industry should strive for in its nuclear power plants.

This policy statement focuses on the risks to the public from nuclear power plant operation. These are the risks from release of radioactive materials from the reactor to the environment from normal operations as well as from accidents. The Commission will refer to these risks as the risks of nuclear power plant operation. The risks from the nuclear fuel cycle are not included in the safety goals.

These fuel cycle risks have been considered in their own right and determined to be quite small. They will continue to receive careful consideration. The possible effects of sabotage or diversion on nuclear material are also not presently included in the safety goals. At present there is no basis on which to provide a measure of risk on these matters. It is the Commission's intention that everything is needed will be done to keep these types of risks at their present very low level; and it is the Commission's expectation that efforts on this point will continue to be successful. With these exceptions, it is the Commission's intent that the risks from all the various initiating mechanisms be taken into account to the best of the capability of current evaluation techniques.

In the evaluation of nuclear power plant operation, the staff considers several types of releases. Current NRC practice addresses the risks to the public resulting from operating nuclear power plants. Before a nuclear power plant is licensed to operate, NRC prepares an environmental impact assessment which includes an evaluation of the radiological impacts of routine operation of the plant and accidents on the population in the region around the plant site. The assessment undergoes public comment and may be extensively probed in adjudicatory hearings. For all plants licensed to operate, NRC has found that there will be no measurable radiological impact on any member of the public from routine operation of the plant. (Reference: NRC staff calculations of radiological impact on humans contained in Final Environmental Statements for specific nuclear power plants; e.g., NUREG–0779, NUREG–0612, and NUREG–0854.)

The objective of the Commission's policy statement is to establish goals that broadly define an acceptable level of radiological risk that might be imposed on the public as a result of nuclear power plant operation. While this policy statement includes the risks of normal operation, as well as accidents, the Commission believes that because of compliance with Federal Radiation Council (FRC) guidance, (40 CFR Part 190), and NRC's regulations (10 CFR Part 20 and Appendix I to Part 50), the risks from routine emissions are small compared to the safety goals. Therefore, the Commission believes that these risks need not be routinely analyzed on a case-by-case basis in order to demonstrate conformance with the safety goals.

B. Development of This Statement of Safety Policy

In developing the policy statement, the Commission solicited and benefited from the information and suggestions provided by workshop discussions. NRC-sponsored workshops were held in Palo Alto, California, on April 1–3, 1981 and in Harpers Ferry, West Virginia, on July 23–24, 1981. The first workshop addressed general issues involved in developing safety goals. The second workshop focused on a discussion paper which presented proposed safety goals. Both workshops featured discussions among knowledgeable persons drawn from industry, public interest groups, universities, and elsewhere, who represented a broad range of perspectives and disciplines.

The NRC Office of Policy Evaluation submitted to the Commission for its consideration a Discussion Paper on Safety Goals for Nuclear Power Plants in November 1981 and a revised safety goal report in July 1982.

The Commission also took into consideration the comments and suggestions received from the public in response to the proposed Policy Statement on "Safety Goals for Nuclear Power Plants," published on February 17, 1982 (47 FR 7023). Following public comment, a revised Policy Statement was issued on March 14, 1983 (48 FR 10772) and a 2-year evaluation period began.

The Commission used the staff report and its recommendations that resulted from the 2-year evaluation of safety goals in developing this final Policy Statement. Additionally, the Commission had benefit of further comments from its Advisory Committee on Reactor Safeguards (ACRS) and by senior NRC management.

Based on the results of this information, the Commission has determined that the qualitative safety goals will remain unchanged from its March 1983 revised policy statement, and the Commission adopts these as its safety goals for the operation of nuclear power plants.

II. Qualitative Safety Goals

The Commission has decided to adopt qualitative safety goals that are supported by quantitative health effects objectives for use in the regulatory decisionmaking process. The Commission's first qualitative safety goal is that the risk from nuclear power plant operation should not be a significant contributor to a person's risk of accidental death or injury. The intent is to require such a level of safety that individuals living or working near nuclear power plants should be able to go about their daily lives without special concern by virtue of their proximity to these plants. Thus, the Commission's first safety goal is—

Individual members of the public should be provided a level of protection from the consequences of nuclear power plant operation such that individuals bear no significant additional risk to life and health.

Even though protection of individual members of the public inherently provides substantial societal protection, the Commission also decided that a limit should be placed on the societal risks posed by nuclear power plant operation. The Commission also believes that the risks of nuclear power plant operation should be comparable to or less than the risks from other viable means of generating the same quantity of electrical energy. Thus, the Commission's second safety goals is—

Societal risks to life and health from nuclear power plant operation should be comparable to or less than the risks of generating electricity by viable competing technologies and should not be a significant addition to other societal risks.

The broad spectrum of expert opinion on the risks posed by electrical generation by coal and the absence of authoritative data make it impractical to calibrate nuclear safety goals by comparing them with coal risks based on what we know today. However, the Commission has established the quantitative health effects objectives in such a way that nuclear risks are not a significant addition to other societal risks.

Severe core damage accidents can lead to more serious accidents with the potential for life-threatening offsite release of radiation, for evacuation of members of the public, and for contamination of public property. Apart from their health and safety consequences, severe core damage accidents can erode public confidence in the safety of nuclear power and can lead to further instability and unpredictability for the industry. In order to avoid these adverse consequences, the Commission intends to continue to pursue a regulatory program that has as its objective providing reasonable assurance, while giving appropriate consideration to the uncertainties involved, that a severe core damage accident will not occur at a U.S. nuclear power plants.

III. Quantitative Objectives Used To Gauge Achievement of The Safety Goals

A. General Considerations

The quantitative health effects objectives establish NRC guidance for public protection which nuclear plant designers and operators should strive to achieve. A key element in formulating a qualitative safety goal whose achievement is measured by quantitative health effects objectives is to understand both the strengths and limitations of the techniques by which one judges whether the qualitative safety goal has been met.

A major step forward in the development and refinement of accident risk quantification was taken in the Reactor Safety Study (WASH–1400) completed in 1975. The objective of the Study was "to try to reach some meaningful conclusions about the risk of nuclear accidents." The Study did not directly address the question of what level of risk from nuclear accidents was acceptable.

Since the completion of the Reactor Safety Study, further progress in developing probabilistic risk assessment and in accumulating relevant data have led to a recognition that it is feasible to begin to use quantitative safety objectives for limited purposes. However, because of the sizable uncertainties still present in the methods and the gaps in the data base—essential elements need to gauge whether the objectives have been achieved—the quantitative objectives should be viewed as aiming points or numerical benchmarks of performance. In particular, because of the present limitations in the state of the art of quantitatively estimating risks, the quantitative health effects objectives are not a substitute for existing regulations.

The Commission recognizes the importance of mitigating the consequences of a core-melt accident and continues to emphasize features such as containment, siting in less populated areas, and emergency planning as integral parts of the defense-in-depth concept associated with its accident prevention and mitigation philosophy.

B. Quantitative Risk Objectives

The Commission wants to make clear at the beginning of this section that no death attributable to nuclear power plant operation will ever be "acceptable" in the sense that the Commission would regard it as a routine or permissible event. We are discussing acceptable risks, not acceptable deaths. In any fatal accident, a course of

conduct posing an acceptable risk at one moment results in an unacceptable death moments later. This is true whether one speaks of driving, swimming, flying or generating electricity from coal. Each of these activities poses a calculable risk to society and to individuals. Some of those who accept the risk (or are part of a society that accepts risk) do not survive it. We intend that no such accidents will occur, but the possibility cannot be entirely eliminated. Furthermore, individual and societal risks from nuclear power plants are generally estimated to be considerably less than the risk that society is now exposed to from each of the other activities mentioned above.

C. Health Effects—Prompt and Latent Cancer Mortality Risks

The Commission has decided to adopt the following two health effects as the quantitative objectives concerning mortality risks to be used in determining achievement of the qualitative safety goals—

- The risk to an average individual in the vicinity of a nuclear power plant of prompt fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1 percent) of the sum of prompt fatality risks resulting from other accidents to which members of the U.S. population are generally exposed.
- The risk to the population in the area near a nuclear power plant of cancer fatalities that might result from nuclear power plant operation should not exceed one-tenth of one percent (0.1 percent) of the sum of cancer fatality risks resulting from all other causes.

The Commission believes that this ratio of 0.1 percent appropriately reflects both of the qualitative goals—to provide that individuals and society bear no significant additional risk. However, this does not necessarily mean that an additional risk that exceed 0.1 percent would by itself constitute a significant additional risk. The 0.1 percent ratio to other risks is low enough to support an expectation that people living or working near nuclear power plants would have no special concern due to the plant's proximity.

The average individual in the vicinity of the plant is defined as the average individual biologically (in terms of age and other risk factors) and locationally who resides within a mile from the plant site boundary. This means that the average individual is found by accumulating the estimated individual risks and dividing by the number of individuals residing in the vicinity of the plant.

In applying the objective for individual risk of prompt fatality, the Commission has defined the vicinity as the area within 1 mile of the nuclear power plant site boundary, since calculations of the consequences of major reactor accidents suggest that individuals within a mile of the plant site boundary would generally be subject to the greatest risk of prompt death attributable to radiological causes. If there are no individuals residing within a mile of the plant boundary, an individual should, for evaluation purposes, be assumed to reside 1 mile from the site boundary.

In applying the objective for cancer fatalities as a population guideline for individuals in the area near the plant, the Commission has defined the population generally considered subject to significant risk as the population within 10 miles of the plant site. The bulk of significant exposures of the population to radiation would be concentrated within this distance, and thus this is the appropriate population for comparison with cancer fatality risks from all other causes. This objective would ensure that the estimated increase in the risk of delayed cancer fatalities from all potential radiation releases at a typical plant would be no more than a small fraction of the year-to-year normal variation in the expected cancer deaths from nonnuclear causes. Moreover, the prompt fatality objective for protecting individuals generally provides even greater protection to the population as a whole. That is, if the quantitiative objective for prompt fatality is met for individuals in the immediate vicinity of the plant, the estimated risk of delayed cancer fatality to persons within 10 miles of the plant and beyond would generally be much lower than the quantitative objective for cancer fatality. Thus, compliance with the prompt fatality objective applied to individuals close to the plant would generally mean that the aggregate estimated societal risk would be a number of times lower than it would be if compliance with just the objective applied to the population as a whole were involved. The distance for averaging the cancer fatality risk was taken as 50 miles in the 1983 policy statement. The change to 10 miles could be viewed to provide additional protection to individuals in the vicinity of the plant, although analyses indicate that this objective for cancer fatality will not be the controlling one. It also provides more representative societal protection, since the risk to the people beyond 10 miles will be less than the risk to the people within 10 miles.

IV. Treatment of Uncertainties

The Commission is aware that uncertainties are not caused by use of quantitative methodology in decisionmaking but are merely highlighted through use of the quantification process. Confidence in the use of probabilistic and risk assessment techniques has steadily improved since the time these were used in the Reactor Safety Study. In fact, through use of quantitative techniques, important uncertainties have been and continue to be brought into better focus and may even be reduced compared to those that would remain with sole reliance on deterministic decisionmaking. To the extent practicable, the Commission intends to ensure that the quantitative techniques used for regulatory decisionmaking take into account the potential uncertainties that exist so that an estimate can be made on the confidence level to be ascribed to the quantitative results.

The Commission has adopted the use of mean estimates for purposes of implementing the quantitative objectives of this safety goal policy (i.e., the mortality risk objectives). Use of the mean estimates comports with the customary practices for cost-benefit analyses and it is the correct usage for purposes of the mortality risk comparisons. Use of mean estmates does not however resolve the need to quantify (to the extent reasonable) and understand those important uncertainties involved in the reactor accident risk predictions. A number of uncertainties (e.g., thermal-hydraulic assumptions and the phenomenology of core-melt progression, fission product release and transport, and containment loads and performance) arise because of a direct lack of severe accident experience or knowledge of accident phenomenology along with data related to probability distributions.

In such a situation, it is necessary that proper attention be given not only to the range of uncertainty surrounding probabilistic estimates, but also to the phenomenology that most influences the uncertainties. For this reason, sensitivity studies should be performed to determine those uncertainties most important to the probabilistic estimates. The results of sensitivity of studies should be displayed showing, for example, the range of variation together with the underlying science or engineering assumptions that dominate this variation. Depending on the decision needs, the probabilistic results should also be reasonably balanced and supported through use of deterministic

arguments. In this way, judgements can be made by the decisionmaker about the degree of confidence to be given to these estimates and assumptions. This is a key part of the process of determining the degree of regulatory conservatism that may be warranted for particular decisions. This defense-in-depth approach is expected to continue to ensure the protection of public health and safety.

V. Guidelines For Regulatory Implementation

The Commission approves use of the qualitative safety goal, including use of the quantitative health effects objectives in the regulatory decisionmaking process. The Commission recognizes that the safety goal can provide a useful tool by which the adequacy of regulations or regulatory decisions regarding changes to the regulations can be judged. Likewise, the safety goals could be of benefit in the much more difficult task of assessing whether existing plants, designed, constructed and operated to comply with past and current regulations, conform adequately with the intent of the safety goal policy.

However, in order to do this, the staff will require specific guidelines to use as a basis for determining whether a level of safety ascribed to a plant is consistent with the safety goal policy. As a separate matter, the Commission intends to review and approve guidance to the staff regarding such determinations. It is currently envisioned that this guidance would address matters such as plant performance guidelines, indicators for operational performance, and guidelines for conduct of cost-benefit analyses. This guidance would be derived from additional studies conducted by the staff and resulting in recommendations to the Commission. The guidance would be based on the following general performance guideline which is proposed by the Commission for further staff examination—

Consistent with the traditional defense-in-depth approach and the accident mitigation philosophy requiring reliable performance of containment systems, the overall mean frequency of a large release of radioactive materials to the environment from a reactor accident should be less than 1 in 1,000,000 per year of reactor operation.

To provide adequate protection of the public health and safety, current NRC regulations require conservatism in design, construction, testing, operation and maintenance of nuclear power plants. A defense-in-depth approach has been mandated in order to prevent accidents from happening and to mitigate their consequences. Siting in less populated areas is emphasized. Furthermore, emergency response capabilities are mandated to provide additional defense-in-depth protection to the surrounding population.

These safety goals and these implementation guidelines are not meant as a substitute for NRC's regulations and do not relieve nuclear power plant permittees and licensees from complying with regulations. Nor are the safety goals and these implementation guidelines in and of themselves meant to serve as a sole basis for licensing decisions. However, if pursuant to these guidelines, information is developed that is applicable to a particular licensing decision, it may be considered as one factor in the licensing decision.

The additional views of Commissioner Asselstine and the separate views of Commissioner Bernthal are attached.

Dated at Washington, DC, this 30th day of July 1986.

For the Nuclear Regulatory Commission.

Lando W. Zech, Jr.,

Chairman.

Additional Views by Commissioner Asselstine on the Safety Goal Policy Statement

The commercial nuclear power industry started rather slowly and cautiously in the early 1960's. By the late 1960's and early 1970's the growth of the industry reached a feverish pace. New orders were coming in for regulatory review on almost a weekly basis. The result was the designs of the plants outpaced operational experience and the development of safety standards. As experience was gained in operational characteristics and in safety reviews, safety standards were developed or modified with a general trend toward stricter requirements. Thus, in the early 1970's, the industry demanded to know "how safe is safe enough." In this Safety Goal Policy Statement, the Commission is reaching a first attempt at answering the question. Much credit should go to Chairman Palladino's efforts over the past 5 years to develop this policy statement. I approve this policy statement but believe it needs to go further. There are four additional aspects which should have been addressed by the policy statement.

Containment Performance

First, I believe the Commission should have developed a policy on the relative emphasis to be given to accident prevention and accident mitigation. Such guidance is necessary to ensure that the principle of defense-in-depth is maintained. The Commission's Advisory Committee on Reactor Safeguards has repeatedly urged the Commission to do so. As a step in that direction, I offered for Commission consideration the following containment performance criterion:

> In order to assure a proper balance between accident prevention and accident mitigation, the mean frequency of containment failure in the event of a severe core damage accident should be less than 1 in 100 severe core damage accidents.

Since the Chernobyl accident, the nuclear industry has been trying to distance itself from the Chernobyl accident on the basis of the expected performance of the containments around the U.S. power reactors. Unfortunately, the industry and the Commission are unwilling to commit to a level of performance for the containments.

The argument has been made that we do not know how to develop containment performance criteria (accident mitigation) because core meltdown phenomena and containment response thereto are very complex and involve substantial uncertainties. On the other hand, to measure how close a plant comes to the quantitative guidelines contained in this policy statement and to perform analyses required by the Commission's backfit rule, one must perform just those kinds of analyses. I find these positions inconsistent.

The other argument against a containment performance criterion is that such a standard would overspecify the safety goal. However, a containment performance objective is an element of ensuring that the principle of defense-in-depth is maintained. Since we cannot rule out core meltdown accidents in the foreseeable future, given the current level of safety, I believe it unwise not to establish an expectation on the performance of the final barrier to a substantial release of radioactive materials to the environment, given a core meltdown.

General Performance Guideline

While I have previously supported an objective of reducing the risks to a low as reasonably achievable level, the general performance guideline articulated in this policy [i.e., ". . . the overall mean frequency of a large release of radioactive materials to the environment from a reactor accident should be less than 1 in 1,000,000 per year of reactor operation.") is a suitable compromise. I believe it is an objective that is consistent with the recommendations of the Commission's chief safety officer and our Director of

VOL 51 ISS 149 AG 4 1986 UMI

Research, and past urgings of the Advisory Committee on Reactor Safeguards. Unfortunately, the Commission stopped short of adopting this guideline as a performance objective in the policy statement, but I am encouraged that the Commission is willing at least to examine the possibility of adopting it. Achieving such a standard coupled with the containment performance objective given above would go a long way toward ensuring that the operating reactors successfully complete their useful lives and that the nuclear option remains a viable component of the nation's energy mix.

In addition to preferring adoption of this standard now, I also believe the Commission needs to define a "large release" of radioactive materials. I would have defined it as "a release that would result in a whole body dose of 5 rem to an individual located at the site boundary." This would be consistent with the EPA's emergency planning Protective Action Guidelines and with the level proposed by the NRC staff for defining an Extraordinary Nuclear Occurrence under the Price-Anderson Act. In adopting such a definition, the Commission would be saying that its objective is to ensure that there is no more than a 1 in 1,000,000 chance per year that the public would have to be evacuated from the vicinity of a nuclear reactor and that the waiver of defenses provisions of the Price-Anderson Act would be invoked. I believe this to be an appropriate objective in ensuring that there is no undue risk to the public health and safety associated with nuclear power.

Cost-Benefit Analyses

I believe it is long overdue for the Commission to decide the appropriate way to conduct cost-benefit analyses. The Commission's own regulations require these analyses, which play a substantial role in the decisionmaking on whether to improve safety. Yet, the Commission continues to postpone addressing this fundamental issue.

Future Reactors

In my view, this safety goal policy statement has been developed with a steady eye on the apparent level of safety already achieved by most of operating reactors. That level has been arrived at by a piecemeal approach to designing, constructing and upgrading of the plants over the years as experience was gained with the plants and as the results of required research became available. Given the performance of the current generation of plants, I believe a safety goal for these plants is not good enough for the future. This policy statement should have had a separate goal that would require substantially better plants for the next generation. To argue that the level of safety achieved by plant designs that are over 10 years old is good enough for the next generation is to have little faith in the ingenuity of engineers and in the potential for nuclear technology. I would have required the next generation of plants to be substantially safer than the currently operating plants.

Separate Views of Commissioner Bernthal on Safety Goals Policy

I do not disapprove of what has been said in this policy statement, but too much remains unsaid. The public is understandably desirous of reassurance since Chernobyl; the NRC staff needs clear guidance to carry out its responsibilities to assure public health and safety; the nuclear industry needs to plan for the future. All want and deserve to see clear, unambiguous, practical safety objectives that provide the Commission's answer to the question, "How safe is safe enough?" at U.S. nuclear power plants. The question remains unanswered.

It is unrealistic for the Commission to expect that society, for the foreseeable future, will judge nuclear power by the same standard as it all other risks. The issue today is not so much calculated risk; the issue is public acceptance and, consistent with the intent of Congress, preservation of the nuclear option.

In these early decades of nuclear power, TMI-style incidents must be rendered so rare that we would expect to recount such an event only to our grandchildren. For today's population of reactors, that implies a probability for severe core damage of 10^{-4} per reactor year; for the longer term, it implies something better. I see this as a straightforward policy conclusion that every newspaper editor in the country understands only too well. If the Commission fails to set (and realize) this objective, then the nuclear option will cease to be credible before the end of the century. In other words, if TMI-style events were to occur with 10–15 year regularity, public acceptance of nuclear power would almost certainly fail.

And while the Commission's primary charge is to protect public health and safety, it is also the clear intent of Congress that the Commission, if possible, regulate in a way that preserves rather than jeopardizes the nuclear options. So, for example, if the Commission were to find 100 percent confidence in some impervious containment design, but ignored what was inside the containment, the primary mandate would be satisfied, but in all likelihood, the second would not. Consistent with the Commission's long-standing defense-in-dept philosophy, both core-melt and containment performance criteria should therefore be clearly stated parts of the Commission's safety goals.

In short, this pudding lacks a theme. Meaningful assurance to the public; substantive guidance to the NRC staff; the regulatory path to the future for the industry—all these should be provided by plainly stating that, consistent with the Commission's "defense-in-depth" philosophy:

(1) Severe core-damage accidents should not be expected, on average, to occur in the U.S. more than once in 100 years;

(2) Containment performance at nuclear power plants should be such that severe accidents with substantial offsite damages are not expected, on average, to occur in the U.S. more than once in 1,000 years;

(3) The goal for offsite consequences should be expected to be met after conservative consideration of the uncertainties associated with the estimated frequency of severe core-damage and the estimated mitigation thereof by containment.[1]

The term "substantial offsite damages" would correspond to the Commission's legal definition of "extraordinary nuclear occurrence." "Conservative consideration of associated uncertainties" should offer at least 90 percent confidence (typical good engineering judgment, I would hope) that the offsite release goal is met.

The broad core-melt and offsite-release goals should be met "for the average power plant"; i.e., for the aggregate of U.S. power plants. The decision to fix or not to fix a specific plant would then depend on achieving "the goal for offsite consequences." As a practical matter, this offsite societal risk objective would (and should) be significantly dependent on site-specific population density.

The absence of such explicit population density considerations in the Commission's 0.1 percent goals for offsite consequences deserves careful thought. Is it reasonable that Zion and

[1] Interestingly enough, the Commission has adopted proposed goals similar to the above core-melt and containment performance objectives—without clearly saying so. Taken together, the Commissions's: (1) 0.1 percent offsite prompt fatality goals; (2) proposed 10^{-6} per-reactor-year "large offsite release" criterion; (3) commitment "to provide reasonable assurance . . . . that a severe core-damage accident will not occur at a U.S. nuclear power plant," though they may be ill-defined, can be read to be more stringent than the plainly stated criteria suggested above.

Palo Verde, for example, be assigned the same theoretical "standard person" risk, even though they pose considerably different risks for the U.S. population as a whole? As they stand, these 0.1 percent goals do not explicitly include population density considerations; a power plant could be located in Central Park and still meet the Commission's quantitative offsite release standard.

I believe the Commission's standards should preserve the important principle that site-specific population density be quantitatively considered in formulating the Commission's societal risk objective; e.g., by requiring that for the *entire* U.S. population, the risk of fatal injury as a consequence of U.S. nuclear power plant operations should not exceed some appropriate specified fraction of the sum of the expected risk of fatality from all other hazards to which members of the U.S. population are generally exposed.

I am further concerned by the arbitrary nature of the 0.1 percent incremental "societal" health risk standard adopted by the Commission, a concept grounded in a purely subjective assessment of what the public might accept. The Commission should seriously consider a more rational standard, tied statistically to the average variations in natural exposure to radiation from all other sources.

Finally, as noted in its introductory comments, the Commission long ago committed to "move forward with an explicit policy statement on safety philosophy and the role of safety-cost tradeoffs in NRC safety decisions." While this policy statement may not be very "explicit", as discussed above, it contains nothing at all on the subject of " 'safety-cost' tradeoffs in NRC safety decisions." For example, *is* $1,000 per person-rem an appropriate cost-benefit standard for NRC regulatory action? While I have long argued that such fundamental decisions are more rightly the responsibility of Congress, the NRC staff continues to use its own ad-hoc judgment in lieu of either the Commission or the Congress speaking to the issue.

In summary, while the Commission has produced a document which is not in conflict with my broad philosophy in such matters, I doubt that the public expected a philosophical dissertation, however erudite. It is a tribute to Chairman Palladino's efforts that the Commission has come this far. But the task remains unfinished.

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ISS
149
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Part IV

Department of Commerce

Patent and Trademark Office

37 CFR Parts 1 and 2
Revision of Trademark Fees; Final Rule

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 60457-6119]

Revision of Trademark Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent and trademark cases, Parts 1 and 2 of title 37, Code of Federal Regulations, to adjust trademark fee amounts. This action is necessary at this time because trademark operating costs have increased over the past three and one-half years. The Commissioner is authorized by section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113), to establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services and materials related to trademarks and other marks.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Margaret M. Laurence, Assistant Commissioner for Trademarks by telephone at (703) 557–3061 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed primarily to adjust trademark fees because costs have increased and the Commissioner is authorized to adjust fees for the filing and processing of an application for the registration of a trademark or other mark and for all other processing, services or materials related to trademarks which have been established by the Commissioner in accordance with section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113).

Adjustments to fees for filing and processing a patent application and for other processing, services or materials related to patents were made by rules published in the **Federal Register** on August 6, 1985, at 50 FR 31818, effective October 5, 1985.

Adjustments to fees for filing and processing a trademark application and for other processing, services or materials related to trademarks were not proposed at that time, pending review of automation cost requirements. The Patent and Trademark Office's proposal for an integrated Automated Trademark System was included in the President's FY 1987 Budget and the Office's revised Automation Master Plan that were submitted to the Congress in February 1986.

Background Information

Trademark fees are authorized by section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113). Section 31 grants the Commissioner the authority to establish trademark fees and the discretion to establish the level of Office costs to be recovered from trademark fees. The House Committee on the Judiciary, in House Report 97–542 accompanying H.R. 6260 that was enacted as Pub. L. 97–247, recommended a trademark fee schedule that was adopted by rule published in the **Federal Register** on July 30, 1982 at 47 FR 33086, effective October 1, 1982.

In House Report 97–542, the Committee stated that:

". . .[it] is aware of the concerns of users of the Trademark registration system, however, and intends to exercise vigorous oversight with respect to the Commissioner to ensure that fees remain at a reasonable level and that trademark registrations are processed in an efficient and cost effective manner. As part of this oversight, the Committee recommends the following fee structure to the Commissioner for Fiscal Year 1983.

Type of fee:	Proposed fee
Application filing fee per class	$175
Renewal fee	300
Late renewal	100
Section 12(c) claim	100
New certificate	100
Certificate of correction	100
Disclaimer to registration	100
Amendment to registration	100
Per class combines section 8 and 15 affidavit	200
Per class section 8 affidavit alone	100
Per class section 15 affidavit alone	100
All petitions to Commissioner	100
Cancellation opposition per class	200
TTAB appeal	100
Certified copies	10
Copies of tradmarks	(1)
Assignments	(1)

[1] $100 plus for each mark in addition to 1."

The Patent and Trademark Office (PTO) believes it is reasonable to use fluctuations in the Consumer Price Index (CPI) during the previous three years to define the maximum aggregate revenue level that may be recovered from trademark fees for the three-year period 1986–1988. Fees would then be set to recover, in the aggregate, projected costs for the fee cycle, but under no circumstances would total revenues exceed the maximum revenue level that would be recovered if fees were adjusted by the CPI.

This is consistent with the method mandated by Pub. L. 97–247 for adjusting patent fees.

The first step in the trademark fee adjustment process was to determine the maximum level of recovery for the three-year fee cycle. This was done by: (1) Multiplying present fees by projected workload for fiscal years 1986–1988, (2) totalling the results, and (3) applying the rate of fluctuation in the Consumer Price Index as determined by the Secretary of Labor.

The second step in the trademark fee adjustment process was to establish the total cost to be recovered from trademark fees for the three year period 1986–1988. The total costs for the filing and processing of an application for the registration of a trademark or other mark and for all other processing, services or materials related to trademarks were determined. The Office followed: (1) The general guidelines set forth in OMB Circular A–25 entitled "User Charges", that establishes general policies for developing an equitable and uniform system of charges for certain Government services and property, and (2) the guidelines for accounting and reimbursement for sharing of information technology facilities as set forth in Appendix II to OMB Circular No. A–130 entitled "Management of Federal Information Resources."

The Office used cost-finding techniques for determining the costs of all processing, services and/or materials associated with each trademark fee. Costs were determined from the best available records and included both direct and indirect costs. Costs were adjusted to reflect projected increases or decreases contained in the President's FY 1987 Budget. These cost figures were documented by the Director, Office of Finance and reviewed by each responsible Assistant Commissioner.

The total projected costs for the three-year period 1986–1988 are lower than the maximum level of recovery which would be allowed if fees were adjusted strictly according to changes in the CPI during the past three years. In its adjustment of Trademark fees, PTO is expected to recover the total projected costs in fiscal years 1987 and 1988 plus a contingency of two percent of the estimated fee income for fiscal years 1987–1988.

This rule continues to follow the suggested fee schedule contained in House Report 97–542, with the exception of increases to the fee for filing an application for registration and the fee for a printed copy of a registered mark. As a result of continuing to follow this

suggested fee schedule, over the two-year period, some trademark fees would recover more than their actual estimated cost and some would recover less than their actual estimated cost. Using the 1986–1988 workload projections, the total fee revenues generated by the proposed fees for the three-year period, in the aggregate, would not exceed the total projected costs for trademarks for the same period, apart from the contingency.

It is intended that the amount of any fee due and payable on or after October 1, 1986 is the amount set in this rulemaking. For purposes of determining the amount of the fee to be paid, the date of mailing indicated on a proper Certificate of Mailing, where authorized under § 1.8 of title 37, Code of Federal Regulations, will be considered to be the date of receipt in the Office. A "Certificate of Mailing under section 1.8" is *not* "proper" for items which are specifically excluded from the provisions of § 1.8. Section 1.8 of title 37, Code of Federal Regulations, should be consulted for those items for which a Certificate of Mailing is *not* "proper." The provisions of § 1.10, relating to filing of papers and fees by "Express Mail" with certificate, however do apply to *any paper or fee* to be filed in the Office. If an application or fee is filed by "Express Mail" with a certificate of mailing dated October 1, 1986, the amount of the fee to be paid is the fee established herein if a change is being made in the fee.

To ensure clarity in the implementation of the fee proposals, a discussion of specific sections is set forth below:

Discussion of Specific Changes

Section 1.24 Coupons.

Section 1.24 is amended to adjust the fee for the purchase of coupons for trademarks to make it comparable to the proposed fee required for the purchase of a printed copy of a registered mark.

Section 2.6 Trademark fees.

Section 2.6 is amended to adjust trademark fees established pursuant to the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) and set forth in paragraphs (a) and (n) of this section to more closely reflect the cost to the Office of such processing.

Section 2.6, paragraph (o) is amended to provide a $25 fee for the expedited handling of a request for a certified copy of a trademark record. Currently there is no procedure for such expedited handling, and the Office has received many requests that this service be provided.

Section 2.6, paragraph (q), is amended to clarify that the fee for recording documents applies to every paper which relates to the property in a registration or application. This is in accord with past and current Office policy.

Response to Comments on the Rules

Special comments were received on the proposed rule changes. Three letters submitting written comments were received. Oral testimony was presented by two people at the public hearing conducted on June 18, 1986. All of the written and oral comments were considered in adopting the changes set forth herein. The comments submitted appear below along with responses thereto.

Comment: The trademark fee increases of 1982 were accompanied by a commitment that the Trademark Operation would be shielded from government-wide cuts aimed at reducing the deficit. The applicability of the fiscal year 1986 Gramm-Rudman-Hollings sequestration of trademark funds represents a failure of the Federal Government to live up to its side of the bargain. Until these funds are restored to the Trademark Operation and the Administration states that it will not again undermine this provision of law, any effort to increase trademark fees must be deferred.

Reply: Pub. L. 97–247, enacted August 27, 1982, did not provide that the Trademark Operations are exempt from government-wide cuts in expenditures aimed at reducing the federal deficit. The only restriction, imposed by section 3(g), is that the fees collected from trademark activities "shall be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks." The PTO has fully complied with this requirement. Moreover, the Supreme Court has recently decided the constitutionality of Gramm-Rudman-Hollings (The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. 99–177, enacted December 12, 1985), holding that the reductions to the federal deficit must be accomplished via the enactment of a joint resolution of the Congress. *See Bowsher v. Synar*, Nos. 85–1377, 85–1378, and 85–1379 slip op. at 20 (July 7, 1986). Consequently, any budget reductions made by the PTO that are mandated by such a joint resolution will be pursuant to law. Therefore, the PTO is not required to defer increases in trademark fees since the provisions of Pub. L. 97–247 do not shield the Trademark Operations from such budget cuts and any such cuts are made pursuant to subsequent law.

Comment: The House of Representatives and the Senate have passed differing versions of H.R. 2434. Both versions prohibit the use of user fees for the search rooms and the House version prohibits user fees for automation. The PTO should withdraw the current proposal, and publish a new proposal for public comment, if needed, after Congress passes the authorization bill.

Reply: The PTO already is in compliance with the provision of the Senate and House authorization bills that prohibits use of fees to fund the search room. In fiscal year 1986, unobligated appropriated funds carried forward from fiscal year 1985 are being used to fund the paper Trademark Search Room. Appropriated funds for the Search Room were requested in the pending FY 1987 President's Budget.

Although the House version of H.R. 2434 prohibits the use of fee income for automation expenditures, it does not provide appropriated funds. The Senate version of H.R. 2434 does not prohibit the use of fee income for automation expenditures. Since there are significant differences between the House and Senate versions on this and other provisions, the PTO must wait for final action by both the Congress and the President.

In the meantime, the PTO will continue to operate in accordance with the 1986 Appropriations Act and the pending FY 1987 President's Budget, which fund Automation through user fees. If legislation is ultimately passed by the Congress and signed by the President that is contradictory to this plan, appropriate adjustments will be made. The suggestion to withdraw the current proposal, and to publish a new proposal for public comment, if needed, after Congress passes the authorization bill has not been adopted.

Comment: It is important for the PTO to make available detailed information concerning activities that are not supported by appropriations since government operations which are supported by user fee income receive far less scrutiny from government authorities (cabinet level department officials, Office of Management and Budget, and appropriation committees in Congress) than operations which are supported by appropriations.

Reply: The assertion that government operations supported by user fee income receive far less scrutiny from government authorities is not correct. Fee supported activities receive the same amount of oversight as activities supported by appropriations. In Senate Report 99–305 accompanying bill H.R.

VOL 51 ISS 149 AG 4 1986 UMI

2434, the Committee on the Judiciary said that:

". . . Congress never envisioned that activities financed by user fees would be any more beyond the scrutiny of Congressional oversight than those activities that are paid for by appropriations. On the contrary, it is clear that the Office's authority to collect and spend user fee money does not remove these activities from Congressional oversight and control.

. . . Both the authority to raise general revenue and the authority to allow the Office to set fees rests with Congress. If Congress is to carry out the responsibilities attending both of these exercises of its power, it must carefully review the effectiveness and efficiency of all agency activities no matter how they are funded. While it may be proper to restrict the funding of certain activities to appropriations, such restrictions cannot be justified solely by reference to the need to increase oversight. That reasoning implies that Congress has less concern over how the agency spends user fee money. In the case of the Patent and Trademark Office, this would imply that most of the agency's activities are not subject to effective congressional review, which, as pointed out above, is simply not true."

Specific examples of oversight include: (1) The budget process requires program levels to be fully justified regardless of funding sources; (2) the budget request is thoroughly analyzed and evaluated, without regard to revenue source, by the Department of Commerce, Office of Management and Budget (OMB) and the Appropriations Committees in the Congress; (3) fee revenues are appropriated annually by the Congress; (4) the use of fee money by the PTO is subject to the same OMB apportionment process as the use of appropriations; (5) Department of Treasury reports do not distinguish between funding sources; and (6) reprogramming (or redirection) of funds that vary from the enacted budget require Department and OMB approvals and Congressional notification, regardless of funding source.

In addition, since 1983 the PTO has routinely provided the Public Advisory Committee for Trademark Affairs with detailed reports which fully disclose the source and use of all trademark-related resources.

Comment: It is contrary to existing law (Public Laws 96–517 and 97–247) to spend user fee income for the search rooms and automation.

Comment: Despite representations that major capital expenses would be underwritten by General Fund revenues, not user fees, the PTO continues to rely on user fee income to finance its trademark automation project and the public search room.

Reply: User fee income is not being spent on the paper Trademark Search Room in fiscal year 1986. The paper Trademark Search Room is being funded from unobligated appropriated funds carried forward from fiscal year 1985. For fiscal year 1987, the PTO has requested $322,000 in appropriated funds to maintain the paper Trademark Search Room. Reference page 41 of the PTO's 1987 Budget Submission to the Congress.

Pub. L. 96–517, although enacted into law, was never fully implemented because the Congress passed H.R. 6260 which was enacted as Pub. L. 97–247 on August 22, 1982. The restrictions on the use of income from fee revenues, which were included in House Report 96–1307 accompanying Pub. L. 96–517, were based upon a 50 percent recovery of patent and trademark costs from user fees. Then-Commissioner Mossinghoff testified before the Subcommittee on Courts, Civil Liberties, and Administration of Justice, when Congress was considering H.R. 6260, that the Administration's PTO user fee program was proposed to improve the quality of service at the PTO by reducing patent pendency, trademark pendency and automating patent and trademark operations. The Commissioner went on to say that: "The major increases in the three program areas will be paid for by the sharp increase in user fees that we are recommending." The Congressional debate on this proposal indicates that the Subcommittee approved these innovative fee provisions in order to improve the level of patent and trademark services provided to users of the office. Expenditure of funds since 1983 is believed to have met this goal.

Comment: There is no reason why any fee increases have to be in effect by October 1, 1986.

Reply: While there is no legal compulsion for an October 1, 1986 effective date for the fee increase, there are financial reasons for adjusting fees at that time. For every one-month of delay beyond October 1, 1986, the Trademark Operation will receive about $135,000 less in fee revenues which will mean that the program contemplated for fiscal year 1987 will be affected. The PTO's budget is prepared annually for the period October 1 through September 30 and it is important that planned expenditures equal planned income.

Comment: The Notice of Proposed Rulemaking justifies the proposed fee increase on the ground that the amount of the increase is less than the increase that has occurred in the Consumer Price Index.

Reply: The proposed fee increase is justified on the basis that costs have increased since October 1982 when the present fee schedule was established, and the Commissioner is authorized by section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) to adjust fees.

On page 18290 of the Notice of Proposed Rulemaking under Summary it is stated that: "This action [to adjust trademark fees] is necessary at this time because trademark operation costs have increased over the past three and one-half years." On the same page, third column, the methodology used to determine the costs associated with each trademark fee was described. The Notice of Proposed Rulemaking then goes on to say that: "The total projected costs for the three-year period 1986–1988 are lower than the maximum level of recovery which would be allowed if fees were adjusted strictly according to changes in the CPI during the past three years." In other words, Trademark Operation costs for 1987–1988 are projected to be less than changes in the CPI during the past three years.

Comment: PTO has failed to justify why the trademark fee increases are necessary. The PTO should make calculations and other relevant information pertaining to the proposed increases available to the public and the Congress.

Reply: Because of the volume, it was not feasible for the PTO to publish the calculations and other relevant information upon which the proposed fee increases were based. As stated in the third column of page 18290 of the Notice of Proposed Rulemaking, the Office followed OMB guidelines and the cost figures were documented by the Director, Office of Finance [a Certified Public Accountant] and reviewed by each responsible Assistant Commissioner. All of the backup documentation is available for review, upon request.

Comment: If costs are reduced as they were through the forced reductions in the PTO's budget authority under the Deficit Reduction Act, the entire concept on which the PTO calculates its trademark fees must be reconsidered before further fee increases can be reasonably considered.

Reply: The 1987 Federal budget submitted by the President to the Congress meets the 1987 deficit reduction goal established by the Balanced Budget and Emergency Deficit Control Act of 1985. Therefore, there is no basis for the PTO to assume alternative funding levels in 1987. The suggestion that the trademark unit cost calculations be reconsidered before further fee increases has not been adopted.

Comment: In the Notice of Proposed Rulemaking, the PTO requested comments on the methodology it employed in calculating the need for a fee increase. It is impossible to comment on the process itself in the absence of more detailed information.

Reply: The PTO did not request comments on the methodology it employed in calculating the need for a fee increase. On page 18291 of the Notice of Proposed Rulemaking, first column, it states that: "In its adjustment of Trademark fees, PTO seeks to recover total projected costs in FY 1987 and FY 1988 and to provide for a contingency of two percent of the estimated fee income for fiscal years 1987–1988. PTO seeks comments on this approach." No comments were received on the planned contingency. This fact notwithstanding, the PTO has adopted this approach as part of its excess fee policy.

Comment: The Notice of Proposed Rulemaking does not explain what expenses of the Office will be paid with trademark fees. In particular, the notice does not explain what items are included in "indirect costs."

Reply: The Commissioner has the authority to establish trademark fees and the discretion to establish the level of Office costs to be recovered from trademark fees. Since fiscal year 1983, the PTO has recovered 100 percent of the costs related to trademark processing, both direct and indirect. Direct costs are those represented by the Trademark budget activity (page 29 of the PTO's 1987 Budget Submission to the Congress): Trademark examination (including contractual costs for T-Search), the Trial and Appeal Board, and Trademark printing. Indirect costs are costs incurred by other offices in the PTO which carry out trademark activities: Customer Services (providing trademark copies to examining attorneys, processing certificates of correction and assignments, etc.), Publications (administration of the contract to print the Trademark *Official Gazette*), Management Planning (collecting and processing trademark fees), Administrative Services (mail processing, files repository, etc.) and Automation (TRAM operations, ATS implementation and operations, etc.). No trademark fees are used to fund the Office of the Commissioner, the Office of Legislation and International Affairs, the Office of the Solicitor staff in the immediate Office of the Automation Administrator, or any other PTO function that is not directly related to trademark processing.

Comment: The Notice of Proposed Rulemaking does not explain how the Office's revised automation plans have affected the need for fee increases.

Reply: The Notice of Proposed Rulemaking, second column, page 18290 states that: "The Patent and Trademark Office's proposal for an integrated Automated Trademark System was included in the President's FY 1987 Budget and the Office's revised Automation Master Plan that were submitted to the Congress in February 1986." The PTO's 1987 Budget Submission to the Congress, page 32 states that: "The PTO requests a net increase of $901,000 to fund an automation initiative providing further improvements in the capabilities, performance, availability, and efficiency of the existing systems through enhancements for an integrated ATS (Automated Trademark System) . . . . The full cost of the increase has been partially offset by a decrease of $624,000 for the T-Search contract. ATS will provide automated support to all Trademark operations currently supported by TRAM and T-Search."

In addition to Automation, other increases, such as four new positions for the Trademark Trial and Appeal Board, have caused costs to increase thereby necessitating the fee increase.

Comment: The Notice of Proposed Rulemaking contains no discussion of the policy of the House Judiciary Committee in 1982 of keeping the filing fee relatively low and recovering more than the actual cost for other trademark services or materials. Was this consideration taken into account in establishing the proposed fees?

Reply: The suggestion of the House Committee on the Judiciary that the filing fee be kept as low as possible to foster use of the Federal registration system was the basis for the proposed fee adjustments. The Notice of Proposed Rulemaking, first column, page 18290, quoted the text of House Report 97–542 which suggested that the Commissioner ensure that fees remain at a reasonable level. Included in the quote was the House Committee's recommended fee schedule that was adopted by rule published in the Federal Register on July 30, 1982.

Further, on page 18291, first column, it is stated that: "This proposed rulemaking would continue to follow the suggested fee schedule contained in House Report 97–542, with the exception of proposed increases to the fee for filing an application for registration and the fee for a printed copy of a registered mark. As a result of continuing to follow this suggested fee schedule, over the two-year period, some trademark fees would recover more than their actual estimated cost and some would recover less than their actual estimated cost."

Comment: The proposed increase of $25.00 for filing an application is against the concept of keeping the filing fee relatively low and recovering more than actual cost for other trademark services or materials.

Reply: The projected cost for filing an application for fiscal years 1987–1988 is $242.84 per application, per class. The Office has set the application fee at $200.00 or 21.4 percent below cost. At that reduced level, the Trademark Operation will lose almost $6 million over the two-year period which must be made up from other Trademark fees. The Trademark Operation is also losing revenues on other fees directly related to the Federal registration of a trademark, i.e., fees for filing oppositions, appeals, and petitions. Combined with the application fee shortfall, the total loss over the two-year period will be almost $10 million. On the other hand, fees from renewals, Section 8 and 15 affidavits, and assignments are expected to generate excess revenues of about $9 million. This excess, plus another $1 million generated from some other trademark fees will equal the shortfall caused by the reduced fees for processing applications, oppositions, appeals and petitions.

Comment: The PTO should explain why it charges $100 for a trademark assignment and only $7.00 for a patent assignment. The cost to the government of recording a trademark assignment could not even come close to the $100 fee being charged.

Reply: The PTO charges more than the actual cost to record trademark assignments in order to subsidize other areas of the Trademark Operation, specifically the processing of applications. This is in accordance with the fee structure suggested by the House Committee on the Judiciary in House Report 97–542 which accompanied the bill which was enacted as Pub. L. 97–247. This policy was also recommended by various bar groups, including the Public Advisory Committee for Trademark Affairs.

Comment: Trademark fees are becoming increasingly onerous, particularly on small businesses which must often select less than the total number of classes to which they are entitled to file, for economic reasons. The filing fee for a trademark application already exceeds that for a small entity filing a patent application.

Reply: As reported on page 18291 of the Notice of Proposed Rulemaking, the General Counsel of the Department of Commerce certified to the Small

Business Administration that the proposed rule change will not have a significant adverse economic impact on a substantial number of small entities because the increase is modest in comparison with the 400 percent increase in the application fee in October 1982, and the increase then had no noticeable impact. While the Office has no way of ascertaining which applications are filed by small businesses, a review of the number of applications filed by individuals and partnerships during the years 1980–1982 prior to the 400 percent increase and the years 1983–1985 after the fee increase showed an increase, rather than a decrease, in the number of filings by individuals. This is confirmed by the total figures on filing which indicate that fees have not deterred applicants. The annual number of application classes filed for prior to the fee increase was 50,672, 52,149 and 55,152 in fiscal years 1979, 1980 and 1981, respectively. There was a dump of cases in September 1982 to avoid the October 1, 1982 fee increase, which distorts the filing data for fiscal years 1982 and 1983. However, filings have continued to increase at over five percent a year in 1984 and 1985 (61,480 and 64,677, respectively). Latest projections for 1986 indicate we will be receiving almost 68,800 applications, or 6.3 percent more than 1985.

Comment: Trademark fee income has been diverted to non-trademark activities.

Reply: No trademark fee income is used for any purpose other than trademark-related activities.

Comment: The PTO has vastly underestimated and understated the number of requests it receives for trademark copies and, as a consequence, Trademarks is not receiving appropriate credit for the income this service generates.

Reply: It is beyond the control of the PTO if a user buys a coupon for a patent copy and then uses it to pay for a trademark copy. To comply with the provisions of Pub. L. 97–247 that trademark fee income be used only for trademark-related activities, the Office of Finance has been crediting the Trademark account with revenues that equate to the number of trademark copies actually sold each month by the copy fulfillment contractor. The same accounting adjustment is being used for copies made on the vendor-operated copy machines.

Comment: The notice does not explain the 50 percent increase in the cost of printed copies of registered marks.

Reply: The cost of providing one trademark copy is $1.95 based on projected costs for fiscal years 1987 and 1988. These costs include $43,100 for personnel compensation and benefits, $53,200 for contractor costs, $25,300 for services, supplies and depreciation of capital equipment, and $24,500 for general and administrative expenses. Assuming 74,900 trademark copies will be sold over the two-year period, the unit cost is $1.95. The PTO proposed to increase the fee for a trademark copy by $.50 to $1.50 to more closely reflect the cost of providing a trademark copy, and to make it comparable to the fee for a patent copy for ease of administration.

Comment: How is the $25.00 fee for expedited handling of certification requests justified?

Reply: The Office followed OMB Circular A–25 Guidelines on "User Charges" to determine the projected direct and indirect costs for expedited handling of certification requests. Circular A–25 provides that a reasonable charge should be imposed to recover the full cost to the Government of rendering a service to an identifiable recipient.

The Assistant Commissioner for Trademarks has estimated that about 1,000 requests for expedited certification would be received each year. This estimate is based on the number of public inquiries presently received for special handling for certifications.

Assuming about 2,000 requests for expedited certification will be received during the two year period 1987–1988, it is estimated that the costs would be $49,248, or $25.00 per unit rounded to the nearest dollar. The costs include $40,982 for personnel compensation and benefits for 2.1 staff years of effort, and $8,266 for general and administrative expenses (20.17 percent of direct costs).

The PTO intends to issue guidelines regarding the expedited service procedures prior to October 1, 1986. Requests delivered to the Trademark Services Division before noon will be available for pick-up or mailing no more than three working days thereafter.

Comment: The Senate version of H.R. 2434 would require the PTO to report annually several items of statistical information concerning the Office's fee collections and expenses; i.e., a list of patent and trademark fee collections, and lists of the activities of the Office supported by patent fees, trademark fees and appropriations. This type of information should be made available to the public before any fees are increased.

Reply: The PTO is already providing lists of patent and trademark fee collections in Table 4 of the Commissioner's Annual Report. The report is sent to the Congress and is available for public dissemination. Since 1983, the PTO has periodically provided detailed information to the Public Advisory Committee on Trademark Operations which includes a list of PTO activities supported by trademark fees. Upon enactment of an authorization bill, the PTO will comply with the requirements of both the legislation and the accompanying report.

Comment: The PTO should expand the information contained in the Congressional budget under Fee Functions to show the amount of trademark and patent fee income dollars and the amount of appropriated dollars that are being used to support each item in its budget.

Reply: The Congressional Budget is prepared in the format requested by the House and Senate Appropriations Subcommittees. As indicated above, the PTO will comply with any additional reporting requirements that may be included in enacted authorizing legislation.

With regard to trademark user fees, since 1983 the PTO has routinely provided the Public Advisory Committee for Trademark Affairs with detailed reports which fully disclose the source and use of all Trademark-related resources. The reports include resources (e.g., unobligated resources, balances carried forward from prior years, excess fees from prior years, and current-year's fees); expenditures for direct trademark activities (examination, T-Search, Trial and Appeal Board, and printing), and indirect trademark activities (Customer Services, Publications, Management Planning, Administrative Services, and Automation); and backup documentation as requested. The PTO has regularly modified its reporting formats to accommodate the needs of the user community and is presently working with the Advisory Committee to develop a "business-type" financial report.

Comment: The PTO should adopt a policy of giving the public a minimum of 60 days to comment after every rule change proposal is published in the **Federal Register.**

Reply: The Administrative Procedure Act (5 U.S.C. 551 et. seq.) requires that the public be given the right to participate in the rulemaking process by commenting on proposed rules. The PTO makes every attempt to provide between 45 and 60 days but no less than 30 days for public comment. The public comment period is dependent on internal and external review requirements and effective date constraints.

Other Considerations

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. There are no information collection requirements relating to trademark fee rules.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). Although these rules increase the trademark fees, the cost of Federal registration of a trademark is a small part of the cost of doing business. Furthermore, the incremental change is modest in comparison with the increase in the application fee in October 1982, and the increase then had no noticeable impact. Office records show no decline in the number of applications filed by individuals and partnerships after the October 1982 fee increases, and the rules maintain the present fee schedule for the most part, and limit the increase in the filing fee to the minimum amount possible.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 37 CFR Parts 1 and 2

Administrative practice and procedure, Authority delegations (government agencies), Conflict of interest, Courts, Inventions and patents, Lawyers, Trademarks.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, 15 U.S.C. 1113 and 1123, and Pub. L. 97–247, the Patent and Trademark Office is amending title 37 of the Code of Federal Regulations as set forth.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.24 is revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of one dollar and fifty cents for the purchase of patents, designs, defensive publications, statutory invention registrations, and trademark registrations are sold by the Patent and Trademark Office for the convenience of the general public; these coupons may not be used for any other purpose. The one dollar and fifty cent coupons are sold individually and in books of 50 with stubs for record for $75. These coupons are good until used; they may be transferred but cannot be redeemed.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR Part 2 is revised to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, 25, unless otherwise noted.

2. Section 2.6 is amended by republishing the introductory text and revising paragraphs (a), (n), (o) and (q) to read as follows.

§ 2.6 Trademark fees.

The following fees and charges are established by the Patent and Trademark Office for trademark cases:

(a) For filing an application, per class	$200.00
(n) For printed copy of registered mark, copy only	$1.50
* * * * *	
(o) For certifying trademark records, per certificate	$3.50
For expedited handling of such certification, per record requested	$25.00
* * * * *	
(q) For recording trademark assignments and agreements or other papers relating to the property in a registration or application, per document	$100.00

* * * * *

Dated: June 25, 1986.

Donald W. Peterson,

Deputy Assistant Secretary and Deputy Commissioner of Patents and Trademarks.

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VOL
51
ISS
149
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27811-

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Federal Register

Vol. 51, No. 149

Monday, August 4, 1986

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5514.....27515

Administrative Orders:
Memorandums:
July 31, 1986.....27811

7 CFR

51.....27813
908.....27816
911.....27517
918.....27518
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
447.....27862
1065.....27553
1079.....27554
1136.....27866
1137.....27554
1139.....27555

8 CFR

Proposed Rules:
214.....27867
248.....27867

9 CFR

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:
50.....27872

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
741.....27522
303.....27826

13 CFR

310.....27828

14 CFR

39.....27523-27527, 27828-27830, 27832, 27833
71.....27833-27835
1204.....27528

Proposed Rules:
36.....27556
39.....27557, 27874

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

18 CFR

37.....27835
154.....27529
157.....27529
270.....27529
271.....27529
284.....27529

19 CFR

6.....27836

Proposed Rules:
113.....27875

21 CFR

331.....27762
332.....27762
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531

23 CFR

635.....27532

24 CFR

35.....27774
207.....27837
221.....27837
300.....27838
905.....27774
965.....27774
968.....27774

Proposed Rules:
35.....27793
510.....27793
511.....27793
570.....27793
590.....27793

29 CFR

1952.....27534

30 CFR

Proposed Rules:
774.....27558
910.....27559
912.....27559
921.....27559
922.....27559
933.....27559
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

32 CFR

706..... 27535, 27536

33 CFR

161..... 27839

Proposed Rules:

117..... 27877

37 CFR

1..... 28052
2..... 28052
306..... 27537

40 CFR

52..... 27537, 27840, 27841
61..... 27956
81..... 27843–27845

Proposed Rules:

52..... 27560, 27878
716..... 27562
795..... 27880
799..... 27880

41 CFR

101–40..... 27539

42 CFR

405..... 27847
482..... 27847

43 CFR

11..... 27674

45 CFR

1612..... 27539

47 CFR

73..... 27552

Proposed Rules:

0..... 27566
1..... 27566
21..... 27566
22..... 27566
23..... 27566
62..... 27566
73..... 27566, 27567
74..... 27566

48 CFR

1801..... 27848
1804..... 27848
1805..... 27848
1806..... 27848
1807..... 27848
1809..... 27848
1813..... 27848
1814..... 27848
1815..... 27848
1819..... 27848
1825..... 27848
1827..... 27848
1832..... 27848
1836..... 27848
1837..... 27848
1839..... 27848
1842..... 27848
1845..... 27848
1847..... 27848
1851..... 27848
1852..... 27848
1853..... 27848

49 CFR

Proposed Rules:

391..... 27567

50 CFR

661..... 27859
674..... 27860

CFR CHEC

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Title

1, 2 (2 Reser
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5 Parts:
1–1199.....
1200–End, 6 (

7 Parts:
0–45.....
46–51.....
52 .....
53–209.....
210–299.....
300–399.....
400–699.....
700–899.....
900–999.....
1000–1059.
1060–1119.
1120–1199.
1200–1499.
1500–1899.
1900–1944.
1945–End.....

8

9 Parts:
1–199.....
200–End.....

10 Parts:
0–199.....
200–399.....
400–499.....
500–End.....

11

12 Parts:
1–199.....
200–299.....
300–499.....
500–End.....

13

14 Parts:
1–59.....
60–139.....
140–199.....
200–1199.....
1200–End.....

15 Parts:
0–299.....
300–399.....
400–End.....

VOL 51 ISS 149 AG 4 1986 UMI

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4	11.00	Jan. 1, 1986
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1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
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300–399	11.00	Jan. 1, 1986
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	9.50	Jan. 1, 1986
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
1500–1899	7.00	Jan. 1, 1986
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	7.00	Jan. 1, 1986
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1986
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	8.50	Jan. 1, 1986
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1986
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	7.00	Jan. 1, 1986
300–399	20.00	Jan. 1, 1986
400–End	15.00	Jan. 1, 1986

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	18.00	Jan. 1, 1986
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
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150–399	25.00	Apr. 1, 1986
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19	21.00	Apr. 1, 1985
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
*500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
1300–End	5.50	Apr. 1, 1985
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	16.00	July 1, 1985
29 Parts:		
0–99	11.00	July 1, 1985
100–499	5.00	July 1, 1985
500–899	19.00	July 1, 1985
900–1899	7.00	July 1, 1985
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[3] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
200–699	6.00	July 1, 1985
700–End	13.00	July 1, 1985
31 Parts:		
0–199	8.50	July 1, 1985
200–End	11.00	July 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[3] July 1, 1984
1–39, Vol. II	19.00	[3] July 1, 1984
1–39, Vol. III	18.00	[3] July 1, 1984
1–189	13.00	July 1, 1985
190–399	16.00	July 1, 1985
400–629	15.00	July 1, 1985
630–699	12.00	[2] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[4] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[4] July 1, 1984
3–6	14.00	[4] July 1, 1984
7	6.00	[4] July 1, 1984
8	4.50	[4] July 1, 1984
9	13.00	[4] July 1, 1984
10–17	9.50	[4] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[4] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[4] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[4] July 1, 1984
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1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
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48 Chapters:		
1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
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7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	19.00	Nov. 1, 1985
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
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1–199	11.00	Oct. 1, 1985
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Revision Date
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
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Oct. 1, 1985
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Oct. 1, 1985
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Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Nov. 1, 1985
Nov. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Oct. 1, 1985
Jan. 1, 1986
1986
1983
1984
1986
1986

1980 to March

1, 1984 to June

for Parts 1–39
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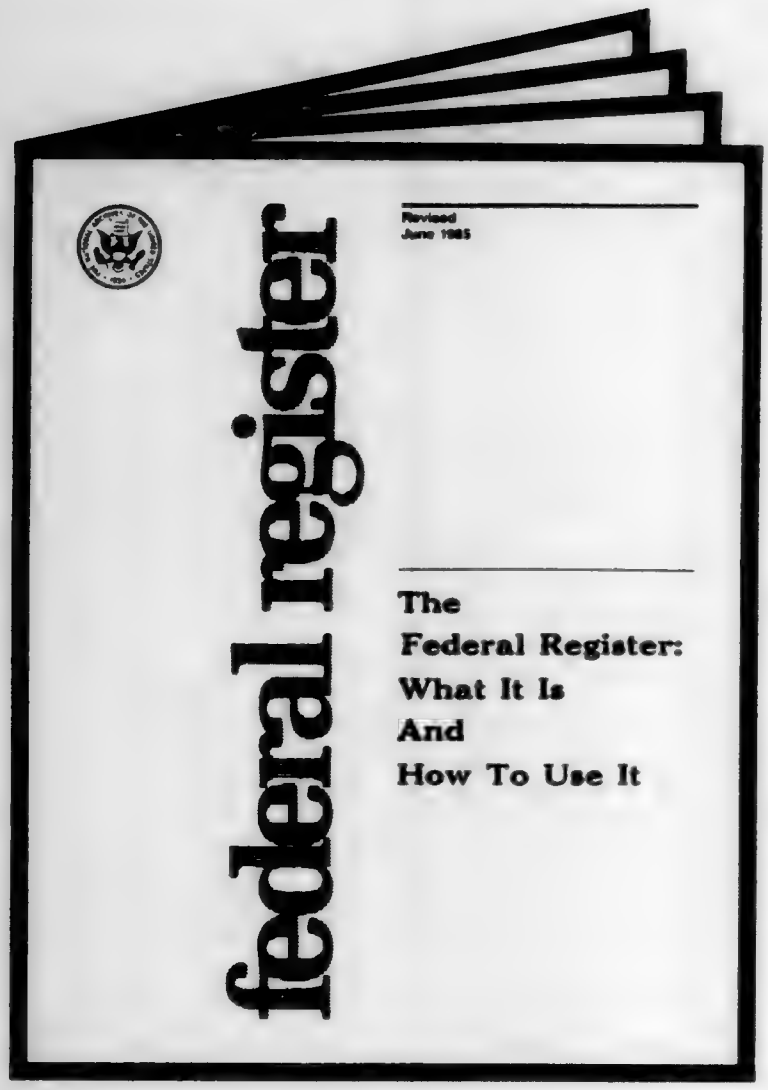

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Pages

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Pages 28059-28218

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Tuesday
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VOL 51 ISS 150 AG 5 1986 UMI

Contents

Federal Register

Vol. 51, No. 150

Tuesday, August 5, 1986

ACTION
NOTICES
Grants; availability, etc.:
Special volunteer programs, 28120

Agricultural Marketing Service
RULES
Lemons grown in California and Arizona, 28059

Agriculture Department
See also Agricultural Marketing Service; Food and Nutrition Service; Forest Service; Soil Conservation Service
NOTICES
Meetings:
Human Nutrition Board of Scientific Counselors, 28121

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol, tobacco, and other excise taxes:
Consolidated Omnibus Budget Reconciliation Act; implementation (chewing tobacco and snuff), 28078
Alcoholic beverages:
Caribbean Basin Economic Recovery Act; imported rum excise taxes, 28071
PROPOSED RULES
Alcohol, tobacco, and other excise taxes:
Consolidated Omnibus Budget Reconciliation Act; implementation (chewing tobacco and snuff); cross reference, 28106

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Montana, 28122
Ohio, 28122

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 28122, 28123
(2 documents)

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Malaysia; correction, 28124

Customs Service
RULES
Organization and functions; field organization, ports of entry, etc.:
Shreveport and Bossier City, LA, 28070

Defense Department
RULES
Federal claims collection, 28092
NOTICES
Meetings:
Military Personnel Testing Advisory Committee, 28124
Women in Services Advisory Committee, 28124
Travel per diem rates and actual expense reimbursement for civilian personnel, 28124

Economic Regulatory Administration
NOTICES
Consent orders:
Total Petroleum, Inc., 28125

Employment and Training Administration
NOTICES
Adjustment assistance:
Barnes & Tucker Coal Co., 28142
Ford Motor Co. et al., 28143
Honeywell, Inc., 28143
Nova Manufacturing Co., 28144

Employment Standards Administration
See also Wage and Hour Division
NOTICES
Procurement:
Commercial activities, performance; inventory and review schedule (OMB A-76 implementation), 28144

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Environmental Protection Agency
RULES
Hazardous waste program authorizations:
Georgia; correction, 28094
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
Aftermarket catalytic converters, sale and use, enforcement policy, 28114
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 28113
Toxic substances:
Significant new uses—
Benzenamine 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-; correction, 28119
Polybrominated biphenyls and tris (2,3-dibtomopropyl) phosate; correction, 28119
NOTICES
Air pollution control; new motor vehicles and engines:
Aftermarket catalytic converters; sale and use, 28132
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 28132

Executive Office of the President
See Presidential Documents.

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 28061, 28065, 28066
(3 documents)
Rogerson Hiller Corp., 28062
SAAB-Fairchild, 28063

Short Brothers, 28064
Transition areas, 28067
PROPOSED RULES
Intentional one-engine-inoperative speed and air-minimum control speed, etc., definitions; rulemaking petition, 28095
Jet routes; correction, 28096 (2 documents)
Restricted areas; correction, 28095

Federal Communications Commission
NOTICES
Meetings; Sunshine Act, 28152

Federal Election Commission
PROPOSED RULES
Presidential primary and general election candidates; public financing, 28154

Federal Emergency Management Agency
PROPOSED RULES
Federal crime insurance program:
Purchase of insurance and adjustment of claims; State listings, 28119
NOTICES
Disaster and emergency areas:
Washington, 28133

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Ceiling prices for high cost natural gas produced from tight formations—
New Mexico, 28068
PROPOSED RULES
Natural Gas Policy Act:
Ceiling prices—
Compression allowances and protest procedures, 28102
NOTICES
Electric rate and corporate regulation filings:
Niagara Mohawk Power Corp. et al., 28130
Natural Gas Policy Act:
Pipeline decontrol; waivers, rehearings, clarifications, etc., 28132
Pipeline decontrol; waivers, rehearings, clarifications, etc. (Transwestern Pipeline Co.), 28131
Applications, hearings, determinations, etc.:
Bonneville Power Administration, 28126
Locust Ridge Gas Co., 28126
Natural Gas Pipeline Co. of America, 28126
Sea Robin Pipeline Co., 28126
Tennessee Gas Pipeline Co., 28126
Transcontinental Gas Pipe Line Corp., 28126

Federal Home Loan Bank Board
NOTICES
Applications, hearings, determinations, etc.:
Empire of America Federal Savings Bank, 28134

Federal Maritime Commission
NOTICES
Agreements filed, etc.; correction, 28134

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
First NH Banks, Inc., et al., 28134
Southborough Holdings, Inc., 28134
Suntrust Banks, Inc., et al., 28135

Food and Nutrition Service
RULES
Food stamp program:
Categorical eligibility for public assistance and supplemental security income recipients (Food Security Act; implmentation), 28196

Forest Service
NOTICES
Meetings:
Pacific Crest National Scenic Trail Advisory Council, 28121

Health and Human Services Department
NOTICES
Organization, functions, and authority delegations:
National Institutes of Health, 28135

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
Cases filed; correction, 28132

Immigration and Naturalization Service
RULES
Transportation line contracts:
Maui Airlines, Inc., 28060

Interior Department
See Land Management Bureau; National Park Service

International Trade Administration
NOTICES
Applications, hearings, determinations, etc.:
University of California, 28123

Justice Department
See Immigration and Naturalization Service

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Wage and Hour Division
NOTICES
Agency information collection activities under OMB review, 28141

Land Management Bureau
NOTICES
Alaska Native claims selection:
Afognak Native Corp., 28136
Realty actions; sales, leases, etc.:
California, 28137
Mississippi, 28138
Resource management plans, etc.:
Shoshone-Eureka Resource Area, NV, 28136

Maritime Administration
NOTICES
Trustees; applicants approved, disapproved, etc.:
Chase Lincoln First Bank, 28150

National Aeronautics and Space Administration
NOTICES
Patent licenses, exclusive:
Enerpro, Inc., 28145

National Bureau of Standards
NOTICES
Meetings:
International Laboratory Accreditation Conference, 28123

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico reef fish; correction, 28094

National Park Service
PROPOSED RULES
National Register of Historic Places; administrative procedures, 28204
Special regulations:
Blue Ridge Parkway, VA and NC; commercial hauling and commercial vehicles, 28107
Everglades National Park, FL, 28108
Fort Jefferson National Monument, FL, 28110
NOTICES
Boundary establishment, descriptions, etc.:
Mesilla Plaza, NM (National Historic Landmark), 28141
Historic Places National Register; pending nominations:
Alabama et al., 28138

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Houston Lighting & Power Co. et al., 28145

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities under OMB review, 28146

Presidential Documents
PROCLAMATIONS
Special observances:
Helsinki Human Rights Day (Proc. 5515), 28218

Saint Lawrence Seaway Development Corporation
NOTICES
Committees; establishment, renewals, terminations, etc.:
Strategic Planning for the St. Lawrence Seaway Advisory Group; correction, 28150

Securities and Exchange Commission
PROPOSED RULES
Securities:
Takeovers and contests for corporate control; poison pill plans, etc., 28096
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 28148
Cincinnati Stock Exchange, Inc., 28149
Applications, hearings, determinations, etc.:
Thirteen Star Partners, Ltd., 28147

Small Business Administration
NOTICES
Disaster loan areas:
New Jersey, 28150
Applications, hearings, determinations, etc.:
Zaitech Capital Corp., 28150

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Aguilar School Critical Area Treatment, CO, 28121

State Department
NOTICES
Environmental statements; availability, etc.:
Convention on Wetlands of International Importance, Especially Waterfowl Habitat; ratification; correction, 28150

Tennessee Valley Authority
NOTICES
Agency information collection activities under OMB review, 28150

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration; Maritime Administration; Saint Lawrence Seaway Development Corporation

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service

United States Institute of Peace
NOTICES
Meetings; Sunshine Act, 28152

Wage and Hour Division
NOTICES
Learners, certificates authorizing employment at special minimum wages, 28144

Separate Parts In This Issue

Part II
Federal Election Commission, 28154

Part III
Department of Agriculture, Food and Nutrition Service, 28196

Part IV
Department of the Interior, National Park Service, 28204

Part V
The President, 28218

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 150 AG 5 1986 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5515.....28218

7 CFR
272.....28196
273.....28196
910.....28059

8 CFR
238.....28060

11 CFR
Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

14 CFR
39 (6 documents).....28061–28066
71.....28067
Proposed Rules:
1.....28095
73.....28095
75 (2 documents).....28096

17 CFR
Proposed Rules:
240.....28096

18 CFR
271.....28068
Proposed Rules:
271.....28102

19 CFR
101.....28070

27 CFR
19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078
Proposed Rules:
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

32 CFR
90.....28092

36 CFR
Proposed Rules:
7 (3 documents)...28107–28110
60.....28204
63.....28204

40 CFR
271.....28094
Proposed Rules:
65.....28113
85.....28114
721 (2 documents).....28119

44 CFR
Proposed Rules:
81.....28119

50 CFR
641.....28094

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Rules and Regulations

Federal Register
Vol. 51, No. 150
Tuesday, August 5, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on three amendments to rules and regulations which will: Allow handlers of organic lemons to ship 250 cartons per week of such lemons without regard to volume and size regulations under the order; permit the optional use of upward adjustments by handlers in Districts 1 and 3 up to 100 percent of their average weekly picks; and provide that District 2 handlers whose picks are interrupted for four or more successive weeks (rather than eight or more successive weeks as previously provided in the regulations) may apply for a new prorate base. This rule will also invite comments on making these amendments effective for subsequent crop years. These actions provide lemon handlers with additional flexibilities to enable them to market their lemons more advantageously.

EFFECTIVE DATE: Effective August 1, 1986, through July 31, 1987. Comments due by September 4, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this action. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Section 910.180(d) of the rules and regulations established under the order prescribes procedures governing the exemption from order regulations of lemons handled in minimum quantities and certain types of shipments. This action would allow the handling of organic lemons without regard to volume and size requirements that may be issued under the order if certain safeguards are met. Under the amendment, each handler of organic lemons would be required to apply to the committee for exemption from such regulations and furnish necessary information to the committee. The amendment would allow handlers to ship up to 250 cartons of organic lemons each week to designated market outlets, e.g. health food stores. This action is designed to facilitate the marketing of organic lemons. A similar exemption for the handling of organic lemons has been in effect for the past three marketing seasons.

The marketing order provides that the prorate base of each handler be based upon the handler's average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's packinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. Marketing Order 910 provides in § 910.53(h) that the percentage of adjustment specified in §§ 910.53(f)(1) and 910.153(e)(3), may be changed through informal rulemaking. Provision for 100 percent upward adjustment of average weekly picks of handlers in Districts 1 and 3 is currently in effect and such provision has been in effect since 1980. Continuance of such a provision would allow District 1 and 3 handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

This interim final rule also changes from eight to four the minimum number of successive weeks during which picks are interrupted by District 2 handlers, before they may apply for a new prorate base. Under provisions of the marketing order, District 2 handlers who become eligible for a new prorate base may also apply for accelerated averaging of weekly picks and upward adjustments to receive additional allotment. Section 910.53(h) provides that the number of weeks specified in § 910.53(f)(2) may be changed through informal rulemaking. Such an amendment would afford District 2 handlers the opportunity to receive adjusted allotment to handle lemons on an accelerated basis. A similar rule has been authorized in past seasons.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in other public procedures, and postpone the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this rule is based and the effective date

necessary to effectuate the declared policy of the act. This interim final rule relieves regulations on the handling of lemons and handlers have been apprised of such provisions and the effective date. Interested persons were given an opportunity to submit information and views on these amendments at public meetings of the committee, at which the committee without opposition recommended implementation of such requirements in their 1986–87 marketing policy. Also, this rule invites comments to make these amendments effective for subsequent crop years. This rule provides for a 30-day comment period. Any comments received will be considered prior to finalization of the rule.

This rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The rule is based upon the recommendations and information submitted by the Lemon Administrative Committee in its marketing policy and upon other available information. It is hereby found that this rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, Lemons, California, Arizona.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.153 is amended by adding the following language at the end of the last sentence in paragraph (e)(2) and revising the first sentence of paragraph (e)(3) to read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(2) * * * Notwithstanding the provisions of this section any District 2 handler whose picks are interrupted for 4 successive weeks or more may apply for a new prorate base, for accelerated averaging of weekly picks, and for upward adjustments as provided herein.

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1), the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of such handler's average weekly pick: *Provided,* That upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * *

3. Section 910.180 is amended by adding a new paragraph (d)(3) to read as follows:

§ 910.180 Lemons not subject to regulation.

* * * * *

(d) * * *

(3) Any person may be granted an exemption of up to 250 cartons per week, or an equivalent amount thereof, to market or distribute organic lemons to organic or health food wholesalers or retailers. Such lemons shall be exempt from volume and size requirements issued under this part. Persons shall file with the committee an application for exemption as described in paragraph (d)(1) of this section. Such persons shall also file weekly reports (LAC Form 8) during each week in which such organic lemons are shipped. For purposes of this section, "organic lemons" means lemons which are produced, harvested, distributed, stored, processed, and packaged without application of synthetically compounded fertilizers, pesticides, or growth regulators. In addition, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied by the grower to the field or area in which the lemons are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for lemons.

Dated: July 31, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–17591 Filed 8–4–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Maui Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Maui Airlines, Inc. to the list of carriers which have entered into agreement with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: May 4, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Maui Airlines, Inc. on May 4, 1986, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Maui Airlines, Inc.

Dated: July 29, 1986.

Harriet B. Marple,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-17550 Filed 8-4-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-35-AD; Amdt. 39-5386]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 747 airplanes, which requires an inspection for loose or failed bolts used for the forward attachment of the Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surfaces. This action is prompted by a recent inflight separation of a portion of the Number 2 flap assembly. This condition, if not corrected, could lead to reduced controllability of the airplane.

EFFECTIVE DATE: September 11, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require inspection for, and subsequent replacement of, failed bolts for the forward attachment of Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surfaces, was published in the **Federal Register** on April 7, 1986 (51 FR 11750). The comment period for the proposal closed on June 2, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Comments were received from the Air Transport Association (ATA) of America on behalf of its members. One member indicated that it had inspected its fleet in accordance with Boeing Service Letter Number 747-SL-57-44, and requested that a note be provided in the final rule, which indicates that inspections made in accordance with this service letter are considered equivalent to inspections in accordance with Boeing Service Bulletin 747-57A2234. The FAA has determined that the Boeing Service Letters Number 747-SL-57-44 and 747-SL-57-44A provide an equivalent procedure for checking the torque of the bolts. A note has been added to paragraph A. of the AD.

Another ATA member commented that it would have difficulty in scheduling the inspection within the proposed compliance period of 300 cycles. It also requested that since positions 3 and 6 were the only locations where the problem was noted, the 300-cycle period should apply only to flap tracks 3 and 6, and that flap tracks 1, 2, 7, and 8 should be inspected at 1,000 cycles from the effective date of the AD. The FAA does not concur; loose bolts have been found at locations other than flap tracks 3 and 6. Furthermore, Boeing Service Letter Number 747-SL-57-44 was issued on December 18, 1985, recommending proof torque inspection within 30 days, thus providing operators with ample advance notice of the need to perform this inspection.

A comment was also received from the National Transportation Safety Board (NTSB). The NTSB supported the proposed action as it satisfies the intent of Safety Recommendation A-86-1. However, it is concerned that Safety Recommendation A-86-2, that recommended periodic reinspection of these bolts for proper torque, has not been incorporated. The FAA has carefully considered the need for a reinspection requirement as part of the AD, and has not included such a requirement for two reasons: First, this type of self-locking nut and bolt concept is used throughout the airplane, and service history has shown that if properly installed and torqued these bolts will remain in that condition. Second, the looseness of the bolts on the flap tracks is believed to have been caused by either the entrapment of paint or sealant under the fitting that later is squeezed out, or an improper torquing sequence that briefly distorts the fitting until it is loaded in service. The requirement for a one-time verification that the bolts are tight by the application of the specified torque will provide an adequate level of safety.

A comment was also received from the manufacturer. It recommended the following alternate means of compliance for paragraph B., or C., of the proposed AD:

- Allow the operators to defer replacement of bolts where 2 or less are broken for 1,200 flights, provided the non-broken bolts are retorqued to installation requirements.
- Delete the requirement to replace loose bolts provided the bolts are retorqued to installation requirements.
- Check the bolts for stress corrosion cracking at each "C" check (approximately 15 months).
- Inconel bolt replacement constitutes terminating action.

The FAA concurs that this alternate means of compliance will provide an acceptable level of safety, and it has been incorporated into the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above.

It is estimated that 83 airplanes of U.S. registry will be affected by this AD, that it will take approximately 42 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $139,440.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes listed in Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, certificated in any category. To detect loose or broken bolts used for the forward attachment of the Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surface, accomplish the following, unless already accomplished:

A. Prior to the accumulation of 5,000 flight cycles or within the next 300 flight cycles after the effective date of this AD, whichever occurs later, conduct a one-time inspection for loose or broken bolts in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revisions.

Note: "Proof Torque" inspections previously accomplished in accordance with Boeing Service Letters Numbers 747-SL-57-44, dated December 18, 1985, or 747-SL-57-44A, dated December 20, 1985, constitute an equivalent means of compliance with the above requirement.

B. If one bolt is found loose or broken, replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface within the next 600 flight cycles in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revision.

C. If two bolts are found loose or broken, replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface within the next 300 flight cycles in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revision.

D. If three or more bolts are found loose or broken, replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface prior to further flight in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revision.

E. Alternate means of compliance for paragraphs B., or C., above, is:

1. If broken bolts are found, their replacement may be deferred for 1,200 flight cycles, provided the remaining non-broken bolts are retorqued to installation requirements in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revisions.

2. If loose bolts are found, retorque all bolts to installation requirements in accordance with the Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revisions.

3. Perform a visual inspection of the H-11 bolts for broken bolts (evidenced by missing heads) within 15 months after the inspections of paragraph A., of this AD, and repeat the inspections thereafter at intervals not to exceed 15 months.

4. Replacement of the bolts with new bolts in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revisions is terminating action for the repetitive inspections required by paragraph E.3.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received this service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 11, 1986.

Issued in Seattle, Washington, on July 29, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17517 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ASW-16; Amdt. 39-5367]

Airworthiness Directives; Rogerson Hiller Corp., Model UH-12D, UH-12E, UH-12E4, and Military Model OH-23F and OH-23G Series Helicopters, Including all Models Converted to Turbine Power by STC SH177WE and STC SH178WE Equipped With Main Rotor Blade Fork, Part Number (P/N) 52110-3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), (No. 79-18-04), which presently requires inspections of the main rotor blade fork on certain Rogerson Hiller Corporation series helicopters. After issuing AD 79-18-04, there was one complete blade fork failure that resulted in a fatal accident. The accident indicated that the visual inspection applicable to certain serial number main rotor blade forks is not effective. This amendment is needed to extend to all blade forks the daily check and the 100-hour interval dye penetrant inspections which are presently required by AD 79-18-04 for only selected serial number blade forks. This amendment also requires that the blade forks be inspected for proper serialization. These actions are needed to preclude blade fork failure which can cause the loss of the aircraft.

DATES: Effective Date: August 22, 1986.

Compliance: As indicated in the body of the AD.

ADDRESSES: The Rules Docket for this amendment is located at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Yarges, Aerospace Engineer, Airframe Section, ANM-120S, Seattle Aircraft Certification Office, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 431-2925.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3540 (44 FR 50035), AD 79-18-04, which superseded Amendment 39-3441 (44 FR 18645), AD 79-07-01, issued in 1979 to require periodic inspection of the main rotor blade fork (P/N 52110-3) on the UH-12D and UH-12E model helicopters. The main rotor blade fork is used to attach the main rotor blade to the main rotor hub. Cracking had been found in service in the cylindrical section of the fork, originating at the tension-torsion pin (T.T. pin) hole. This cracking can lead to total failure of the blade fork, and thereby loss of the helicopter.

AD 79-18-04 recognizes two different main rotor blade fork designs, one with a shot-peened T.T. pin hole and one without. The shot-peened design currently receives a visual inspection, with a 10-power magnifying glass, per AD 79-18-04, every 643 hours' time in service (concurrent with the replacement of the T.T. pin). The nonshot-peened design receives a daily visual check plus a 100-hour interval time in service dye penetrant inspection of the T.T. pin hole and adjacent milled surfaces. The two designs are distinguished by serial number.

On January 16, 1986, a fatal accident occurred on a UH-12E helicopter for the type of failure that AD 79-18-04 was intended to prevent. The part was receiving a visual inspection with a 10-power magnifying glass every 100 hours' time in service.

The manufacturer has performed an investigation into main rotor blade fork cracking incidents. This investigation has disclosed that both shot-peened and nonshot-peened parts have cracked in

service. The manufacturer has recommended that the AD be revised to eliminate reference to serial numbers and to require a 100-hour interval time in service dye check on all such main rotor blade forks after an initial threshold of 250 hours' time in service. The FAA has carefully considered these findings and has determined to supersede the existing AD with a new AD requiring daily visual checks and 100-hour interval time in service dye penetrant inspections of all P/N 52110-3 main rotor blade forks, regardless of serial number. The dye penetrant inspection is applicable after the blade forks have accumulated 250 hours' time in service and is to be phased in within 10 hours' time in service on helicopters that have already accumulated 240 or more hours' time in service but were not previously being inspected in this manner.

This supersedure also requires that the main rotor blade forks be inspected to assure that they have a serial number permanently displayed on their outer surface. All forks that meet the type design for the UH-12D and E series helicopters were so serialized during their manufacture to provide a means of tracking their accumulated life. Nonserialized parts are to be discarded and replaced with serialized parts.

Additionally, the FAA has noted that certain helicopter models, which the AD should be applicable to, were not specifically cited in AD 79-18-04. Therefore, this supersedure revises the applicable helicopter model citation in the existing AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it when filed, may be obtained by contacting the person identified under the caption

"FOR FURTHER INFORMATION CONTACT."

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C 1354(a), 1421, and 1423; 49 U S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive.

Rogerson Hiller Corp.: Applies to Model UH-12D, UH-12E, and UH-12E4 series helicopters, including military Models OH-23F and OH-23G, and all those converted in accordance with STC's SH177WE and SH178WE, certificated in any category, equipped with main rotor blade fork P/N 52110-3.

Compliance is required as indicated, unless already accomplished.

To detect cracks and prevent failures which have occurred in the main rotor blade fork P/N 52110-3 at the outboard tension-torsion bar retention bolt hole, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, verify that each installed P/N 52110-3 fork has a serial number permanently displayed on its outer surface. Remove from service forks found not to be serialized and replace with serialized parts.

(b) Perform a daily visual check of P/N 52110-3 forks for cracks in the area of the outboard tension-torsion bar retention bolt hole. Washers and nuts need not be removed for this inspection. This check may be performed by the pilot.

Note.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see § 91.173.

(c) On forks having 240 or more hours' time in service on the effective date of this AD, within the next 10 hours' time in service, unless already accomplished within the last 90 hours' time in service, and within each 100 hours' time in service thereafter from the last inspection, accomplish the inspection specified in (e).

(d) On forks having less than 240 hours' time in service on the effective date of this AD, accomplish the inspection specified in (e) prior to the accumulation of 250 hours' time in service and within each 100 hours' time in service thereafter from the last inspection.

(e) Perform a dye penetrant inspection, or FAA-approved equivalent, of the bolt hole and adjacent milled surfaces. For this inspection, remove the nut, washer, and pin.

(f) Replace cracked rotor forks with like serviceable parts prior to further flight.

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections required by this AD.

(h) An alternate method of compliance which provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

This amendment supersedes Amendment 39-3540 (44 FR 50035), AD 79-18-04.

This amendment becomes effective August 22, 1986.

Issued in Fort Worth, Texas, on July 18, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region

[FR Doc. 86-17518 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-143-AD; Amdt. 39-5387]

Airworthiness Directives; SAAB-Fairchild Corporation Model SF-340A Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires modification to the engine cable controls on certain SAAB-Fairchild Model SF-340A airplanes. This action is prompted by reports of an incorrect fitting of O-ring seals. This situation, if not corrected, could lead to freezing of the engine cable(s).

EFFECTIVE DATE September 11, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to SAAB-Fairchild, Product Support, S-58188, Linkoping, Sweden. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires the installation of new O-ring seals on

certain SAAB-Fairchild Model SF-340A airplanes to prevent freezing of the engine control cables, was published in the **Federal Register** on February 10, 1985 (50 FR 4929).

Interested parties have been afforded an opportunity to participate in the making of this amendment.

No comments were received. After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($400). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

SAAB-Fairchild: Applies to Model SF-340A airplanes listed in SAAB-Fairchild Service Bulletin SF-340-76-007, Revision 3, dated August 14, 1985, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To prevent engine control cable freezing, accomplish the following:

A. Modify the engine control cable system in accordance with SAAB-Fairchild Service Bulletin SF340-76-007, Revision 3, dated August 14, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to SAAB-Fairchild, Product Support, S-58188, Linkoping, Sweden. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 11, 1986.

Issued in Seattle, Washington, on July 29, 1986.

Joseph W. Harrell,

Acting Director Northwest Mountain Region.

[FR Doc. 86-17516 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-29-AD; Amdt. 39-5388]

Airworthiness Directives; Short Brothers PLC Models SD3-30 and SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires sealing eight co-axial connectors in the fuel quantity indication system on certain Short Brothers PLC Models SD3-30 and SD3-60 series airplanes. This action is necessary to prevent ingress of moisture, which may result in erratic or false indications of fuel tank contents.

EFFECTIVE DATE: September 11, 1986.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires sealing of eight co-axial connectors in the fuel quantity indication system on certain Short Brothers PLC Models SD3-30 and SD3-60 series airplanes, was published in the **Federal Register** on March 12, 1986 (51 FR 8509).

Interested parties have been afforded an opportunity to participate in the making of this amendment. One comment was received which supported the NPRM.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 101 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $20,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($200). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Short Brothers PLC: Applies to Models SD3–30 and SD3–60 airplanes listed in Short Brothers PLC Service Bulletins SD3–28–22, Revision 2, dated July 1985 (for Model SD3–30 airplanes), and SD360–28–06, Revision 2, dated July 1985 (for Model SD3–60 airplanes), certificated in any category. Compliance is required within 90 days after the effective date of this AD. To prevent erroneous or erratic fuel quantity indications caused by moisture ingress into the fuel tank gauging system co-axial connectors, accomplish the following, unless previously accomplished:

A. Seal the affected co-axial connectors in accordance with Short Brothers PLC, Service Bulletins SD3–28–22, Revision 2, dated July 1985, for Model SD3–30 airplanes, and SD360–28–06, Revision 2, dated July 1985, for Model SD3–60 airplanes.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 11, 1986.

Issued in Seattle, Washington, on July 29, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–17515 Filed 8–4–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–24–AD; Amdt. 39–5385]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection for proper self-locking torque of certain self-locking nuts on certain Boeing Model 737 airplanes, and replacement, if necessary. This action is prompted by detection of several nuts that were found to have insufficient self-locking torque for proper self-locking. This condition, if not corrected, could result in the loss of an affected nut and the loss of proper retention of the associated airplane component.

DATE: Effective September 11, 1986.

ADDRESSES: The applicable service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM–120S; telephone (206) 431–2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and replacement, as necessary, of certain self-locking nuts in significant applications on certain Boeing Model 737 series airplanes was published in the **Federal Register** on March 26, 1986 (51 FR 10406). The comment period for the proposal closed on May 19, 1986.

Interested parties have been afforded an opportunity to participate in the making of this AD and due consideration has been given to all comments received.

The Air Transport Association (ATA) of America, on behalf of its affiliates, provided the following comments:

The ATA commented that although the areas specified for inspection may be structurally significant, it does not necessarily follow that loosening of the self-locking nut will result in an unsafe condition. It was noted that for the vertical fin installation, even the loss of the nut will not cause the bolt to back off since the bolt head is on top against another structural surface. The FAA does not concur. A review of both design drawings and production hardware revealed no such restraining structure. Furthermore, the manufacturer indicated that, although it may be standard practice to install these bolts with the head on top, this is not a design requirement.

An operator noted that, although the applicability statement in the proposed rule includes all airplanes listed in Boeing Service Letter 737–SL–27–28, dated January 16, 1986, the service letter does not describe any inspections for airplanes line numbered airplanes 1 thru 929. Therefore, the operator requested that the final rule be revised to delete line numbered airplanes 1 thru 929. The FAA concurs. The applicability statement of the final rule has been revised to include only those airplanes for which detailed inspection areas are specified. These inspection areas include, the Body Buttock Line (BBL) 70.85 wing to body splice plate, the thrust reverser secondary deactivation pin, the vertical fin front spar to closure rib attachments, and apply only to airplane Groups I and II as specified in Boeing Service Letter 737–SL–27–28, dated January 16, 1986.

Another operator commented that several of the nut installations specified for inspections are not applications affecting airworthiness and that the remaining areas are designed such that a longer threshold for compliance is warranted. In particular, the operator cited the BBL 70.85 wing to body splice and the thrust reverser secondary deactivation pins as inspection areas which should be deleted from the AD. Furthermore, the operator recommended that, if inspections are necessary, the threshold should be extended from 180 days to 18 months to allow scheduling.

In regard to the recommendation for extension of the threshold, the FAA has reviewed the comments received and the design of each structural detail involved and has determined that the compliance time may be extended to 18 months without derogating safety, and the final rule has been revised accordingly. The FAA does not concur with the suggestion that the BBL 70.85 and thrust reverser inspections are unnecessary. The BBL 70.85 inspection applies to four three-quarter inch diameter countersunk bolts common to the side of body splice plate and the rear spar lower chord. This is obviously a significant structural area and has been cited as an area requiring inspection under the 737 Supplemental Structural Inspection Program. These fasteners must maintain the clamp-up which is vital to the structural integrity of this joint. Accordingly, the service letter specifies an external visual inspection to assure adequate clamp-up. Although these bolts are installed in close reamed holes and sealed with tank sealant, this is not considered a positive means of

retention without adequate self-locking torque. The thrust reverser deactivation pin, though seldom used, does provide a vital function. It is necessary to prevent deployment of the thrust reverser when the thrust reverser must be rendered inactive. Furthermore, the engine area is one of high noise and vibration, both of which may loosen any nuts which do not have a positive means of retention.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted above.

It is estimated that 140 airplanes of U.S. registry will be affected by this AD. A total of 83 airplanes will require 4 manhours per airplane for inspections and the remaining 57 airplanes will require 14 manhours for inspections. Based on an average labor cost of $40 per manhour, the total cost impact of this AD to U.S. operators is estimated to be $45,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing

Applies to Model 737 series airplanes, line numbers 930 and above, listed in Boeing Service Letter 737-SL-27-38, dated January 16, 1986, certificated in any category. To detect nuts installed at the Body Buttock Line (BBL) 70.85 wing-to-body splice plate, the thrust reverser secondary deactivation pin, and the vertical fin front spar to closure rib attachments, that have insufficient self-locking torque characteristics, accomplish the following, unless already accomplished:

A. Within the next 18 months after the effective date of this AD, check the self-locking nuts, P/N BACN10JC12CM and P/N BACN10JC 12CD, for proper self-locking torque in accordance with Paragraph II of Boeing Service Letter 737-SL-27-38, dated January 16, 1986, or later FAA-approved revision. If any self-locking nut does not meet the torque criteria specified in the service letter, replace it prior to further flight with an appropriate nut which meets the torque criteria.

B. An alternate means of the compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 11, 1986.

Issued in Seattle, Washington, on July 29, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17513 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-13-AD; Amdt. 39-5384]

Airworthiness Directives: Boeing Model 727 and 727-100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that supersedes an existing AD that requires inspection, and repair, if necessary, of the wing center section front spar on certain Boeing Model 727 airplanes. Since issuance of the existing AD, there have been reports of cracking in areas adjacent to those required to be inspected, and cracking in areas previously repaired. This AD expands the area that must be inspected, eliminates one repair procedure referenced in the existing AD, and requires reinspection of areas previously repaired in accordance with that procedure .

DATE: Effective September 11, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations was published in the Federal Register on March 31, 1986 (51 FR 10878) to supersede AD 70-15-15, Amendment 39-3417, and require inspection and repair, if necessary, of the wing center section front spar on certain Boeing Model 727 airplanes. The Comment period for the proposal closed on May 23, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Three comments were received.

The first commenter was an operator who had not found any cracks on airplanes which had accumulated over 20,000 landings prior to the incorporation of the back-to-back stiffener modification. Therefore, the operator felt that the initial inspection on airplanes that incorporated the back-to-back stiffener modification after 20,000 landings could be extended from 500 to 1,000 landings. The NPRM, as issued, specified in paragraph F. that the initial inspection be within 1,000 landings on airplanes that have accumulated 20,000 landings prior to the installation of the back to-back stiffener. A cross-reference has been inserted in paragraph A. of the AD to clarify that the initial compliance period in that paragraph doesn't apply to airplanes subject to pargraph F.

The second commenter stated that the proposed rule does not discuss airplanes

that had less than 20,000 landings prior to the incorporation of the back-to-back stiffener modification. The proposed rule did not discuss airplanes in this category because the FAA had determined that additional inspections of these airplanes are not necessary. Paragraph F.1. has been added to the final rule to clarify this point.

The third commenter stated that if a crack less than 5 inches long was detected on an airplane with the back-to-back stiffeners installed after 20,000 landings, the proposed AD would require the airplane to be modified in accordance with paragraph E. No provision was proposed to inspect and modify the airplane in accordance with paragraph B. or C. The FAA concurs, that if cracks less than 5 inches long are detected it is acceptable to inspect and modify and repetitively inspect the airplane in accordance with paragraph B., or C., as appropriate. The final rule has been revised to incorporate this alternative.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

It is estimated that 130 airplanes will be affected by this AD, that it will take approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. Operators is estimated to be $124,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 727 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing

Applies to all Model 727 and 727-100 series airplanes listed in Boeing Service Bulletin 727-57-107, Revision 5, dated December 13, 1985, certificated in any category. To detect cracks in the wing center section front spar web between Left Buttock Line (LBL) 58.64 and Right Buttock Line (RBL) 58.64, accomplish the following, unless already accomplished:

A. Except as provided in paragraph F., prior to the accumulation of 15,000 landings, or within the next 500 landings after the effective date of this AD, whichever occurs later, unless accomplished within the last 500 landings prior to the effective date of this AD, visually inspect the wing center section for cracks in accordance with Figure 1 of Boeing Service Bulletin 727-57-107, Revision 5, dated December 13, 1985, or later FAA-approved revisions. If no cracks are detected, repeat the visual inspection at intervals not to exceed 1,000 landings.

B. If a single crack less than two inches in length is detected on either side of BBL 0.0, before further flight, the crack must be stop drilled at each end in accordance with the Boeing 727 Structural Repair Manual (SRM) and visually reinspected at intervals not to exceed 10 landings for crack growth beyond the stop holes. If crack growth occurs beyond any stop hole, accomplish the procedures required by paragraph C., or D., of this AD.

C. If a single crack between two and five inches in length is detected on either side of BBL 0.0., before further flight, the crack must be stop drilled at each end in accordance with the Boeing 727 SRM, and the crack must be repaired in accordance with Boeing Drawing Number 69-62491-2. Visually reinspect the affected area at intervals not to exceed 200 landings for crack growth beyond any stop hole. If crack growth occurs beyond any stop hole, accomplish the procedures required by paragraph D., below.

D. If any crack greater than five inches is detected, or if more than one crack on either side of BBL 0.0 is detected, they must be stop-drilled in accordance with the Boeing 727 SRM, and modified in accordance with paragraph E., of this AD.

E. To terminate the repetitive inspection requirements of paragraphs A., B., C., and F. of this AD, accomplish one of the following:

1. Accomplish the modification described in Part I.D. of the Accomplishment Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision; or

2. Accomplish the interim modification described in Part I.E. of the Accomplishment Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision. Prior to the accumulation of 12,000 landings after the incorporation of the interim modification, eddy current inspect the fastener and any stop holes for crack growth, remove the fatigued metal, stop-drill any new cracks in accordance wtih the Boeing 727 SRM, and incorporate the terminating modification in accordance with Part I.E. of the Accomplishment Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision.

F. With respect to airplanes that have been modified by installing angles back-to-back with existing stiffeners:

1. Airplanes modified prior to the accumulation of 20,000 landings require no further action.

2. Airplanes modified after the accumulation of 20,000 landings must be inspected within 1,000 landings after the effective date of this AD in accordance with Figure 1 of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision. If cracks are found, before further flight, accomplish paragraph B., C. or D., as appropriate, of this AD. If no cracks are found, reinspect thereafter at intervals not to exceed 1,000 landings.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This supersedes AD 70-15-15, Amendment 39-1048, as amended by Amendments 39-1188, and 39-3417.

This Amendment becomes effective September 11, 1986.

Issued in Seattle, Washington, on July 29, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-17514 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ANE-18]

Establishment of the Rangeley, Maine, 700 Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

VOL 51 ISS 150 AG 5 1986 UMI

SUMMARY: This action establishes the Rangeley, Maine, 700 Foot Transition Area so as to provide protected airspace for aircraft executing a new Nondirectional Radio Beacon Airport (NDB–A) Standard Instrument Approach Procedure (SIAP) to the Rangeley Municipal Airport, Rangeley, Maine.

EFFECTIVE DATE: 0901 GMT, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273–7139.

SUPPLEMENTARY INFORMATION:

History

On May 12, 1986, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Rangeley, Maine, 700 Foot Transition Area so as to provide protected airspace for aircraft executing a new Nondirectional Radio Beacon Airport (NDB–A) Standard Instrument Approach Procedure (SIAP) to the Rangeley Municipal Airport, Rangeley, Maine. [51 FR 17365]

Interested parties were invited to participate in this Rulemaking Proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the Notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Rangeley, Maine, 700 Foot Transition Area so as to provide protected airspace for Instrument Flight Rule aircraft executing a new Nondirectional Radio Beacon Airport (NDB–A) Standard Instrument Approach Procedure (SIAP) to the Rangeley Municipal Airport, Rangeley, Maine.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending Section 71.181 as follows:

Rangeley, Maine, Transition Area

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the center, of the Rangeley Municipal Airport, latitude 44 59'00" N., longitude 70 39'45" W., Rangeley, Maine, and within 3.5 miles each side of the Rangeley NDB, latitude 44 56'02" N., longitude 70 45'03" W., 244 Magnetic (266 True) bearing from the Rangeley NDB, extending from the 6.5 mile radius to 10 miles southwest of the Rangeley NDB.

Issued in Burlington, Massachusetts, on July 23, 1986.

James I. Lucas,

Manager, Air Traffic Division, ANE–500.

[FR Doc. 86–17510 Filed 8–4–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–115 (New Mexico–14); Order No. 455]

High-Cost Gas Produced From Tight Formations; New Mexico

Issued: July 31, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Section 107(c)(5) of the Natural Gas Policy Act of 1978 authorizes the Federal Energy Regulatory Commission to designate certain types of gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas which may receive an incentive price. 18 CFR 271.703 (1986). That rule established procedures for jurisdictional agencies to submit recommendations of areas for designation as tight formations. This order adopts the recommendation of the State of New Mexico Energy and Mineral Department Oil Conservation Division that portions of the Dakota Producing Interval located in the Basin-Dakota Gas Pool, San Juan County, New Mexico, be designated as a tight formation under § 271.703(d) of the Commission's regulations.

EFFECTIVE DATE: This rule is effective September 2, 1986.

FOR FURTHER INFORMATION CONTACT: Mitchell L. Cohen, (202) 357–5491; Victor H. Zabel, (202) 357–8616; or Michael J. Boyle, (202) 357–5689.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Based on the recommendations made by the State of New Mexico Energy and Minerals Department Oil Conservation Division (New Mexico), the Federal Energy Regulatory Commission (Commission) amends its regulations [1] to include a portion of the Dakota Producing Interval in the Basin-Dakota Gas Pool, San Juan County, New Mexico, as a designated tight formation eligible for incentive pricing.

Background

On April 19, 1982, the Commission received a recommendation pursuant to § 271.703(d) of the Commission's regulations [2] from New Mexico that a specified area of the Dakota Producing Interval located in the Basin-Dakota Gas Pool, San Juan County, New Mexico, be designated as a tight formation. A notice proposing the designation was issued on May 3, 1982.[3] Southern California Gas

[1] 18 CFR 271.703(d) (1986).

[2] *Id.*

[3] 47 FR 19719 (May 7, 1982). The Commission received three comments on the proposed rule: one in support of New Mexico's recommendation from Husky Oil Company and two in opposition, one jointly from Southern California Gas Company and Pacific Lighting Gas Supply Company and one from Pacific Gas and Electric Company. No party requested a public hearing.

Company, Pacific Lighting Gas Supply Company (SoCal/PLGS), and Pacific Gas and Electric Company filed comments stating that certain acreage could be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the Commission's regulations since, in their view, the area was previously authorized for infill drilling by New Mexico and could be developed without incentive pricing. SoCal/PLGS also claimed that the royalty rate and average well cost data used by Consolidated Oil and Gas, Inc. (Consolidated) to support its original application to New Mexico were not representative and should not be relied upon. They further argue that producers will have little incentive to keep costs down if they know that they can rely on such costs to show the need for incentive pricing.

On June 24, 1982, the Commission requested additional information, specifically the spud dates for the wells drilled into the Dakota Formation within the application area. The Commission received that information on January 23, 1985.

Discussion

The evidence submitted by New Mexico supports the assertion that certain acreage in the Dakota Producing Interval in the Basin-Dakota Gas Pool, San Juan County, New Mexico, meets the guidelines contained in § 271.703(c)(2)(i). The evidence is based on economic data, geologic data from eighteen wells, and engineering and production data from three wells located within the application area and two wells located just east of the application area.

The original application filed by Consolidated with New Mexico sought tight formation designation only for the Dakota Formation underlying 29,645 acres. New Mexico had sufficient data to consider a larger stratigraphic area and made its recommendation for the Dakota Producing Interval (comprised of the Granerous Shale Formation, the Dakota Formation, and the productive upper portion of the Morrison Formation). Based upon economic data provided by Consolidated, however, New Mexico excluded 14,482 acres from the original application area. New Mexico states that in its judgment the excluded acreage can be developed absent the incentive price established in 18 CFR 271.703(a) (1986). Thus, New Mexico's recommendation to the Commission is for some 15,163 acres of the Dakota Producing Interval in the Basin-Dakota Gas Pool, San Juan County, New Mexico.

Analysis of the data submitted indicates that the guidelines contained in § 271.703(c)(2)(i) are satisfied.[4] The average *in situ* gas permeability throughout the Dakota Producing Interval is expected to be 0.0296 millidarcy [5] which is less than the maximum allowable 0.1 millidarcy. The average observed flow rate prior to stimulation is sixty-three Mcf per day [6] which is less than the maximum allowable rate of 251 Mcf per day. None of the wells drilled into the Dakota Producing Interval within the recommended area are expected to produce, prior to stimulation, more than five barrels of crude oil per day. Finally, even though the Basin-Dakota Gas Pool in San Juan County is authorized for infill drilling,[7] the record supports New Mexico's holding that incentive prices are necessary for the development of the recommended area. The assertion by SoCal/PLGS that New Mexico's consideration, are unrepresentative in the area. New Mexico's reliance on the royalty rates provided by Consolidated was unreasonable is unsupported. SoCal/PLGS have provided no evidence that such rates, which are legitimate expenses for New Mexico's reliance on the average well cost data provided by Consolidated also appears reasonable and no contrary information has been provided by opposing commenters. New Mexico, applying the standard set forth in § 271.703(c)(2)(i)(D) of the Commission's regulations, excluded nearly half of the acreage originally applied for by Consolidated because that area could be economically developed without additional incentives. This Commission will not disturb the findings by New Mexico that incentive pricing is necessary for development of the recommended area, since New Mexico's recommendation is supported by evidence in the record which is uncontradicted by opposing commenters. Accordingly, the Commission adopts New Mexico's recommendation.

The Commission orders

The Commission adopts the recommendation made by the State of New Mexico Energy and Minerals Department Oil Conservation Division that a portion of the Dakota Producing Interval within the Basin-Dakota Gas Pool, San Juan County, New Mexico, be designated as a tight formation under § 271.703(d).

This amendment shall become effective September 2, 1986.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d) (197) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(197) Dakota Producing Interval in New Mexico. RM79–76 (New Mexico–14).

(i) *Delineation of formation.* The Dakota Producing Interval is located in Township 31 North, Range 13 West, Sections 1 through 12, Sections 14 through 21, Sections 28 through 32, NMPM, San Juan County, New Mexico. The interval is within the Basin—Dakota Gas Pool, in the northwestern portion of the San Juan Basin near the Hogback Monocline.

(ii) *Depth.* The Dakota Producing Interval is composed of the Granerous Shale Formation, the Dakota Formation, and the productive upper portion of the Morrison Formation. The average depth to the top of the Dakota Formation is 6,544 feet. Gross thickness of the interval is approximately 400 feet.

[FR Doc. 86–17565 Filed 8–4–86; 8:45 am]

BILLING CODE 6717-01-M

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[4] The analysis included the data from the two wells outside the original application area.

[5] The average *in situ* gas permeability of those wells within the original application area is 0.0234 millidarcy.

[6] The average flow rate for those wells within the original application area is twenty-two Mcf per day.

[7] New Mexico Order No. R–1670–V, effective July 1, 1979.

VOL 51 ISS 150 AG 5 1986 UMI

DEPARTMENT OF THE TREASURY

CUSTOMS SERVICE

19 CFR Part 101

[T.D. 86-145]

Customs Regulations Amendment Relating to the Customs Field Organization; Shreveport and Bossier City, LA

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This notice changes the field organization of the Customs Service by establishing a new port of entry, on a 2-year trail basis, at Shreveport and Bossier City, Louisiana. This change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry are places (seaports, airports, or land border ports) designated hy the Secretary of the Treasury were Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of Customs and related laws.

The Caddo-Bossier Port Commission filed an application with Customs requesting the establishment of a new Customs port of entry at Shreveport and Bossier City, Louisiana. A review of that application confirmed that the proposed port met the minimum Customs criteria for establishing ports of entry.

A notice proposing the establishment of the Shreveport-Bossier City port of entry, in a 2-year trail basis, was published in the **Federal Register** on January 22, 1986 (51 FR 2897). The notice solicited public comment on the matter.

Discussion of Comments

Seventy-three comments were received in response to the notice. Seventy-one commenters supported establishment citing the benefits that such a port would provide to the region's growing international trade business, as well as the over-all positive effect on the area's economic and employment outlook. Of the two opposing comments, one doubted the new port would have a sufficient workload, and the other expressed concern that opening a new port would somehow drain the resources available for existing ports.

As to the workload argument, Customs has a commitment from the port that it will meet the minimum workload standards of a port of entry. At the end of the 2-year period, the practicality of maintaining a port of entry at Shreveport-Bossier City will be reevaluated in light of the actual Customs workload. As to the second argument, the opening of this port will in no way make the operation of any existing port less efficient.

After analysis of the comments and further review of the matter, Customs is establishing, on a 2-year trial basis, a port of entry at Shreveport-Bossier City, Louisiana.

Changes in the Customs Field Organization

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-05 (47 FR 2449).

Customs has determined that it is in the public interest to establish, on a 2-year trial basis, a port of entry at Shreveport-Bossier City, Louisiana. The limits of the port of entry of Shreveport-Bossier City are the city limits of Shreveport-Bossier City, Louisiana.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Goverment agencies).

PART 101—[AMENDED]

1. The authority citation for Part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

§ 101.3 [Amended]

To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding, "Shreveport-Bossier City La., including the territory described in T.D. 86-145." directly below, "Nashville, Tenn., including the territory described in T.D. 84-126," in the column headed "Ports of entry" in the New Orleans, Louisiana district.

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by section 3 of that E.O. is not required. Similarly, this document is not subject to the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) and the regulatory analysis and other requirements of 5 U.S.C. 603 and 604 are not applicable.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: July 9, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-17458 Filed 8-4-86; 8:45 am]

BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19 and 250

[T.D. ATF-233; Ref: T.D. ATF-175 Notice No. 558]

Implementing the Caribbean Basin Recovery Act; Distribution of Excise Taxes on Imported Rum

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule amends ATF regulations to implement a portion of Title II of Pub. L. 98-67 (Caribbean Basin Economic Recovery Act). This law, signed by President Reagan on August 5, 1983, affects the distribution of Federal excise taxes collected on rum imported into the United States after June 30, 1983. The purpose of this law was to ensure that the economies of Puerto Rico and the United States Virgin Islands are not adversely affected by the elimination of importation duties on selected goods imported into the United States from certain countries located in the Caribbean Basin. This final rule supersedes the temporary rule (T.D. ATF-175) on this subject which was published in the **Federal Register** on May 16, 1984 (49 FR 20600).

EFFECTIVE DATE: September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Robert White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7531).

SUPPLEMENTARY INFORMATION:

Background

Under section 5001 of the Internal Revenue Code (IRC) of 1954 (as amended), the United States imposes an excise tax of $12.50 per proof gallon on distilled spirits, including rum, produced in or imported into the United States. Section 7652 of the IRC provides for merchandise manufactured in Puerto Rico and brought into the U.S. for consumption or sale, and merchandise produced in the Virgin Islands and imported into the United States, to be subject to a tax equal to the tax imposed in the United States upon like merchandise of domestic manufacture.

Excise taxes collected under the Internal Revenue laws of the United States on merchandise produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed in the island, shall be covered into the Treasury of Puerto Rico at the rate prescribed by 26 U.S.C. 7652(f). The excise taxes collected on merchandise produced in the Virgin Islands and shipped to the United States (less certain amounts deposited to the U.S. Treasury as miscellaneous receipts), shall be paid to the Treasury of the Virgin Islands at the rate prescribed by 26 U.S.C. 7652(f). Section 7652(f) states that, with respect to taxes imposed under section 5001 or section 7652 on distilled spirits, the amount covered into the Treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of $10.50, or the tax imposed under section 5001(a)(1), on each proof gallon. In addition, section 7652(c) states that merchandise containing distilled spirits shall not be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such merchandise is attributable to rum.

In general, subject to the limitations stated in sections 2681(b) (2) and (3) of the Deficit Reduction Act of 1984 (Pub. L. 98-369), section 7652(c) of the IRC shall not apply with respect to merchandise containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

The Treasury of Puerto Rico is paid directly from funds transferred by the Internal Revenue Service (IRS) on a monthly basis. The Virgin Islands receives fiscal year advances of funds based on estimates made by its Treasury and the U.S. Department of the Interior. The IRS reports the actual amount of merchandise that comes into the U.S. from the Virgin Islands on a monthly basis to the Department of the Interior, which is responsible for transferring the appropriate funds to the Virgin Islands and making adjustments to the amount of each fiscal year's advance to include any difference in the prior fiscal year's estimate and actual quantities brought into the United States.

The following procedures are presently used for determining the amount of excise taxes collected on bulk and cased distilled spirits (with an alcohol content of at least 92 percent rum) manufactured in Puerto Rico and the Virgin Islands, and brought into the U.S. The distilled spirits plants that bring in bulk spirits from Puerto Rico and the Virgin Islands report the amount received into their processing account, adjusted by the percentage of overall monthly gains or losses, on ATF Form 5110.28. The ATF regional offices receive Forms 5110.28 and report the figures to ATF headquarters of ATF F 5600.8 for bulk spirits transported from Puerto Rico and the Virgin Islands. ATF headquarters consolidates these figures and sends them to IRS. For other than bulk distilled spirits transferred in bond to a distilled spirits plant, the excise tax collections on such distilled spirits are reported to the appropriate IRS offices in the United States in one of two ways. The first way concerns collections reported by Customs. Each Customs port of entry reports the amount of excise tax collected by it on merchandise (including distilled spirits) brought into the U.S. from all areas outside the United States on a Customs internal document. The information from this document is then entered into Customs' computer system. Customs reports monthly to IRS headquarters in Washington the amount of excise tax it collected on all merchandise brought into the United States from Puerto Rico and the Virgin Islands. This figure from Customs includes cased distilled spirits (including rum) transported into the U.S. from Puerto Rico and the Virgin Islands. The second way of reporting concerns collections reported by the United States IRS office in Puerto Rico. This office reports on excise taxes collected in Puerto Rico on products containing distilled spirits shipped to the United States. Most of the collections shown on this report are for cased rum although some of the collections are for nonbeverage products containing distilled spirits. The report is sent to the IRS Philadelphia Service Center. Both the Customs report and the report from the IRS office in Puerto Rico are used to help determine how much cover over excise taxes is due to the Puerto Rican Treasury. In regard to the Virgin Islands, only the Customs report is used.

Changes Due to Pub. L. 98-67

As a result of the Caribbean Basin initiative, the Caribbean Basin Economic Recovery Act (Pub. L. 98-67, Title II) was passed, effective August 5, 1983, to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region. Subtitle A of Title II of this Act eliminates duties on certain merchandise, including rum, imported from Caribbean Basin countries which have been certified by the President. The elimination of the duties should reduce the price of Caribbean Basin imported rum to U.S. consumers, which may result in a reduction of Puerto Rican and Virgin Islands rum sold in the United States. Any such reducton in the U.S. sales of rum produced in Puerto Rico and the Virgin Islands will reduce revenues (from excise taxes collected on rum coming into the United States from Puerto Rico and the Virgin Islands) transferred from the U.S. Treasury to the Governments of these two possessions.

Although the Caribbean Basin Economic Recovery Act was passed for the purpose of benefiting countries in the Caribbean Basin that meet certain criteria, this act was not intended to reduce the distilled spirits excise tax revenues of Puerto Rico and the Virgin Islands.

In order to protect the revenues of Puerto Rico and the Virgin Islands, section 221 was added to the Caribbean Basin Economic Recovery Act. This section states that distilled spirits excise taxes collected under section 5001(a)(1) of the Internal Revenue Code of 1954 on all rum imported into the United States from outside the country (including rum from possessions other than the Virgin Islands and Puerto Rico), whether or not from a Caribbean Basin country, will be paid over to the Treasuries of Puerto Rico and the Virgin Islands. These payments are to be reduced by the estimated amount necessary for payment of refunds and drawbacks. The Act does not impose restrictions on the uses to which the Government of the Virgin Islands or the Government of Puerto Rico may put the revenues they receive under the provision of this section of the Act.

The Caribbean Basin Economic Recovery Act states that the Secretary of the Treasury shall, from time to time, prescribe by regulation a formula for the division of the excise tax collections on imported rum between Puerto Rico and the Virigin Islands. For the purposes of this section of the Act, the term "rum" means any article classified under item 169.13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202).

Temporary Rule (T.D. ATF-175)

On May 16, 1984, ATF published a temporary rule (T.D. ATF-175) in the **Federal Register** (49 FR 20800) which provided for a distribution that was proportional to the average excise taxes collected on rum brought into the U.S. from Puerto Rico and the Virgin Islands during fiscal years 1980, 1981, and 1982. As a result, Puerto Rico has been receiving 86.4 percent and the Virgin Islands 13.6 percent of the excise taxes collected on rum imported into the United States from all areas other than Puerto Rico and the Virgin Islands.

A temporary rule was used rather than a notice of proposed rulemaking because it was necessary to get regulations into effect quickly so that Puerto Rico and the Virgin Islands could begin receiving the excise taxes collected on imported rum. This was especially necessary since Congress made this section of the Caribbean Basin Economic Recovery Act retroactive to July 1, 1983. However, in the preamble of the temporary rule, ATF stated that the formula published in the regulation's portion of the temporary rule did not take into account the fact that either Puerto Rico or the Virgin Islands might lose more revenue than the other due to rum imports. We stated in the temporary rule that ATF was in the process of compiling and evaluating information which would enable it to propose a formula that would compensate Puerto Rico and the Virgin Islands for any reduction in their revenues due to rum imports. We also stated that the formula would be published in the **Federal Register** in the near future as a notice of proposed rulemaking so that all interested persons could submit comments.

Notice No. 558

On February 14, 1985, ATF published a notice of proposed rulemaking (Notice No. 558) in the **Federal Register** (50 FR 6203) which proposed amending 27 CFR Part 250 to change the formula used for distributing the excise taxes collected on imported rum to the Treasuries of Puerto Rico and the Virgin Islands. The formula proposed in the notice of proposed rulemaking took into consideration a situation whereby either Puerto Rico or the Virgin Islands lost more revenue than the other as a result of an increase in the share of the U.S. rum market by other Caribbean Basin countries. The proposed formula provided for a greater allocation of U.S. excise taxes collected on rum from areas other than Puerto Rico and the Virgin Islands to the possession (Puerto Rico or the Virgin Islands) whose relative share in the total U.S. rum market had decreased. The proposed formula took into account the total shipments of rum to the United States, the shipments of rum from Puerto Rico and the Virgin Islands to the United States, and the relative shares of rum brought into the United States from each of these two possessions prior to passage of the Caribbean Basin Economic Recovery Act. For a more complete description of the proposed formula, see Notice No. 558.

Comments

Two comments were received in response to Notice No. 558. One was from the Governor of the United States Virgin Islands and the other was from the Director of the Puerto Rico Federal Affairs Administration. The Governor of the Virgin Islands stated that the proposed formula in Notice No. 558 appears to be fair and in accordance with the intent of the provision in the law to protect Matching Fund revenues from foreign competition. In this regard, he stated that the proposed formula was superior to alternatives 1, 2, or 3 (proposed in Notice No. 558) in meeting the intent of the law. The Governor further stated that the formula proposed in Notice No. 558 reflects closer conformity with the intent and spirit of the law by protecting the mainland industry and at the same time maintaining the actual competitive position between the Virgin Islands and Puerto Rico in the world market. In addition, the Governor stated that the alternatives listed in Notice No. 558 suggest arbitrary cases which may or may not be in the best interest of the Virgin Islands. The Governor went on to state that during the period when the Virgin Islands was protesting the inclusion of rum for duty free treatment, many of the Caribbean Basin Initiative (CBI) countries noted that they produce and sell bottled rum and were not strongly interested in the bulk rum market. If this continues to be their position throughout the twelve year CBI program, then the excise taxes on Virgin Islands rum would not be at risk from the CBI countries except to the extent that Virgin Islands' bottled rum becomes less competitive. This is due to the fact that the Virgin Islands distills largely unaged, private label bulk rums. However, the Governor stated that the U.S. Virgin Islands has only one major rum producer, and that distillery could be lost to competition in two ways. First, CBI countries at any time could change their position vis-a-vis bulk rum production. Second, the CBI countries' bottled rum could eventually compete effectively against one or more Puerto Rico distrilleries. To the extent that the competition ended there, Puerto Rico's share of the excise tax dollars would increase, which is as it should be under the provisions of section 221. However, if a Puerto Rico distillery under pressure from CBI foreign rum sales decided to switch to the bulk rum market, the Virgin Islands bulk rum production could cease, even thought no CBI country was producing bulk rum. Therefore, the Governor stated that the proposed formula in Notice No. 558 appears to be fair to all parties with respect to the return of excise taxes on foreign rum.

The comment from the Director of the Puerto Rico Federal Affairs Administration stated that Puerto Rico is opposed to the proposed formula for distribution of excise taxes on imported rum to Puerto Rico and the Virgin Islands as published in Notice No. 558 (50 FR 6203). The Director stated that, since the Caribbean Basin Economic Recovery Act provides little guidance

for the criteria that the Secretary of the Treasury should use when apportioning the excise tax on foreign rum between Puerto Rico and the United States Virgin Islands, general rules or reasonableness and practicality should be followed. These rules might be based either upon merit or upon need or some combination of the two. The Director stated, however, the proposed distribution formula adheres to neither of these principles.

The proposed distribution formula departs radically from the merit principle, according to the Director, by assuring both Puerto Rico and the U.S. Virgin Islands that each will receive its fiscal year 1980 through 1982 share of all rum excise tax collections (to the extent that this can be done without dipping into excise taxes on the other's rum) regardless of what might happen in its own industry. The proposed formula, according to the Director, is apparently based on the need to protect either Puerto Rico or the Virgin Islands against a fall in excise tax collections which it is assumed could only be caused by the competition of duty-free rum imports. Ignored is the detrimental effect on incentives caused by the fact that each party will receive a fixed percentage of the total excise tax regardless of what it might do to improve its own product or increase its sales. Furthermore, according to the Director, Puerto Rico assigned $75 million to the Economic Development Administration during the past five years for the promotion of rum in the U.S. market, $15.9 million of which was spent in the last year. The Director states that Puerto Rico's marketing efforts should be taken into consideration in analyzing the reasons for the change in the share of the rum market in the United States.

The Director of the Puerto Rico Federal Affairs Administration goes on to state that Puerto Rico's objection to the proposed formula is further strengthened based upon examination of the trend of Puerto Rico and Virgin Island's rum sales to the United States from 1980 through 1983, the last year before the duty was removed from Caribbean rum. The Director states that a case can be made that the effect of duty free competiton is best measured by the degree of departure in 1984 from the previous trends, not by degree of difference from the market share average for 1980, 1981, and 1982 which is the rationale for the proposed new distribution formula. The Director further states that his calculations indicate that Puerto Rico sold 18 percent less than projected in 1984 and the Virgin Islands sold 17.8 percent less than projected. Under the proposed formula, Puerto Rico would get .23 percent less in total excise tax than a straight line trend would project while the Virgin Islands would get 31.69 percent more. However, according to the Director, using the existing interim formula, Puerto Rico would get 2.35 percent more than projected and the Virgin Islands would get 10.6 percent more.

The Director states the existing interim distribution formula (stated in T.D. ATF-175) comes close to adhering to the pure principle of merit in that it distributes the foreign rum excise tax in the same proportion that Puerto Rico and the United States Virgin Islands had earned it on their own sales in the U.S. mainland from 1980 through 1982. It departs somewhat from the merit principle in that it does not provide for future adjustments in the proportion of foreign excise taxes based upon changes in relative sales to the mainland. However, the Director thinks this small departure from the merit principle can be justified because of the need to compensate, to a reasonable extent, the party whose sales might not keep pace with the other party. Consequently, the Director states that Puerto Rico is prepared to settle for the existing interim formula even though it might be more appropriate, and would certainly be more favorable to Puerto Rico, to use 1981, 1982, and 1983 for calculating the relative apportionment of the foreign rum excise tax instead of 1980, 1981, 1982.

In addition, should relative need be the main determining factor for the distribution of the excise taxes on U.S. rum imports, the Director states that Puerto Rico might be due at least 97 percent of foreign rum excise taxes because, of the total of 3,293,089 residents of Puerto Rico and the United States Virgin Islands (by the 1980 U.S. Census), 3,196,520 or 97.1 percent live in Puerto Rico. Furthermore, in 1980 the per capita personal income in Puerto Rico was $3,410 or only 62 percent of the per capita personal income of the U.S. Virgin Islands.

ATF Response to Comments

After careful evaluation of the comments from Puerto Rico and the United States Virgin Islands, ATF has decided to basically adopt the formula proposed in Notice No. 558 but with two minor modifications. The first change involves adding a provision to the formula which ensures that Puerto Rico will always receive at least 51 percent of the applicable excise taxes on rum imported into the United States from countries other than Puerto Rico and the Virgin Islands. This provision is necessary to ensure that Puerto Rico will always receive a fair share of the excise taxes on rum imported into the United States from countries other than Puerto Rico and the Virgin Islands even if the sale of Virgin Islands' rum to the United States drops significantly. Without this provision, it is conceivable that Puerto Rico's share of the excise taxes on foreign rum imports could drop to zero while the Virgin Islands' share could increase to 100 percent if the sale of Virgin Islands' rum to the United States dropped sharply. Since it is extremely difficult, if not impossible, to determine that percentage of a drop in rum sales to the United States is due to an increase in competition from other Caribbean Basin Countries and what percentage is due to other totally unrelated matters, ATF feels that a drop in sales of Virgin Islands' rum in the United States should not cause Puerto Rico's share of the excise tax revenue (from imported foreign rum sales in the United States) to drop below 51 percent. ATF feels that the Virgin Islands should be compensated to a degree for any drop in rum sales to the United States. However, we feel that Puerto Rico should always receive more than half of the excise tax revenue since Puerto Rico's share of the United States rum market is considerably larger than the Virgin Islands and thus more susceptible to increased competition from other Caribbean Basin countries.

The second change to the formula proposed in Notice No. 558 involves using only fiscal year 1983 in determining the base percentages for Puerto Rico and the Virgin Islands rather than using fiscal years 1980 through 1982. ATF feels that fiscal year 1983 is a more accurate indicator of Puerto Rico and the Virgin Islands' share of the United States rum market prior to passage of the Caribbean Basin Economic Recovery Act. We feel that the effects of that Act, which eliminated the duty on rum from certain designated Caribbean Basin countries, would not have been felt by Puerto Rico or the Virgin Islands until fiscal year 1984. Consequently, the base percentages for fiscal year 1983 are 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. These percentages are based on $245,744,274 in excise taxes collected on Puerto Rican rum brought into the United States during fiscal year 1983 in comparison to $34,699,637 in excise taxes collected on Virgin Islands rum brought into the United States during that same year.

As a result of the two changes made to the formula which was proposed in

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Notice No. 558, Puerto Rico's share of the foreign rum excise tax revenue may go as high as 87.626889 percent but will never go below 51 percent. The Virgin Islands' share of the foreign rum excise tax revenue may go as high as 49 percent but will never go below 12.373111 percent. For a complete description, including examples, of the modified formula being adopted by this final rule, see the next section of this preamble.

ATF has decided to adopt this modified version of the formula proposed in Notice No. 558 because of the following reasons:

(1) The current, interim formula stated in 27 CFR 250.31 does not take into consideration a situation whereby Puerto Rico or the Virgin Islands loses more revenue that the other as a result of an increase in the sales of rum to the United States by Caribbean Basin countries other than Puerto Rico and the Virgin Islands. The formula adopted in this Treasury decision provides for a greater allocation of U.S. taxes collected on rum from areas other than Puerto Rico and the Virgin Islands to the possession (Puerto Rico or the Virgin Islands) whose relative share in the total U.S. rum market has decreased. The formula will take into account the total shipments of rum to the United States, the shipments of rum from Puerto Rico and the Virgin Islands, and the relative shares of rum brought into the U.S. from each of these two possessions prior to passage of the Caribbean Basin Economic Recovery ACT.

(2) The formula proposed in Notice No. 558 did not take into consideration the fact that some of the loss in market share of rum in the United States in future years might be due to reasons other than increased competition from other Caribbean Basin countries. Such other reasons could include lack of marketing effort by Puerto Rico or the Virgin Islands or a reduction in the quality of Puerto Rico or Virgin Islands' products. The formula adopted by this final rule ensures that Puerto Rico and the Virgin Islands receive a fair share of the excise tax revenue on foreign rum imported into the United States from countries other than Puerto Rico and the Virgin Islands, even through the sale of Puerto Rican or Virgin Islands' rum to the United States drops significantly.

The formula adopted in the regulations' portion of this final rule will remain in effect until further notice. Section 221 of the Caribbean Basin Economic Recovery Act states that the Secretary of the Treasury shall, from time to time, prescribe by regulation a formula for the division of the excise taxes on foreign rum imported into the United States between Puerto Rico and the Virgin Islands. Consequently, the formula which has been adopted by this final rule is subject to future change if it can be shown that the formula is unfair to either Puerto Rico and the Virgin Islands. If this is the case, then either Puerto Rico and the Virgin Islands may submit a petition to ATF requesting a change in the formula. The petition should include information thoroughly documenting how the formula is inequitable. The petition should also include suggestions on how to improve the formula. If ATF can verify the information submitted in such a petition, we will propose a new formula in a future notice of proposed rulemaking and will solicit public comments before making such a change.

The Formula

The formula adopted in this final rule will provide for an annual calculation using a permanent base distribution percentage and the previous fiscal year's figures for rum brought into the United States from all areas outside the United States. The permanent base distribution represents the amount of bulk and cased rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. (As used here, the fiscal year period is from October 1 through September 30.) Puerto Rico received $245,744,274 in excise taxes collected on its rum during that fiscal year, and the Virgin Islands received $34,699,637. Therefore, the base distribution percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands.

The formula will apply only to the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands. The excise taxes collected on rum brought into the United States from these two possessions will continue to be paid over to the Treasury of the possession in which the rum was produced.

The distribution percentages will be calculated once a year, taking into account each previous fiscal year's figures for the total amount of rum brought into the United States from all areas outside the United States, including Puerto Rico and the Virgin Islands. Since it takes several months for these statistics to be compiled, and several more months to prepare notification of the distribution percentage, it will be effective on March 1 of each year and continue until March 1 of the next year.

The distribution percentages for Puerto Rico and the Virgin Islands will be calculated as follows:

(1) Multiply the total excise taxes collected on rum imported or brought into the United States from all areas (including Puerto Rico and the Virgin Islands) during the previous fiscal year by .87626889 and .12373111 to determine the respective shares of excise taxes collected on the entire rum market that will be allotted to Puerto Rico and the Virgin Islands.

(2) Subtract from those respective shares the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss (or gain) in excise taxes in relation to the previous fiscal year's United States rum market. Then divide the results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands to determine the repective distribution percentage.

Notwithstanding the formula described above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.626889 percent nor drop below 51 percent.

The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico will continue to receive 86.4 percent and the Virgin Islands will continue to receive 13.6 percent of the eligible excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands. To illustrate the use of this formula, the following examples are given

(Note:—The permanent base percentages, representing the excise tax revenues on rum from Puerto Rico and the Virgin Islands during fiscal year 1983, are 87.626889 percent ($245,744,274) for Puerto Rico and 12.373111 percent ($34,699,637) for the Virgin Islands.)

Example 1

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands remain unchanged from the base period. Excise taxes collected on rum from other areas amounted to $10,000,000.

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Step 1 - $245,744,274 (P.R.)
           34,699,637 (V.I.)
           10,000,000 (Other)
         $290,443,911

         $290,443,911          $290,443,911
         X  .87626889          X  .12373111
         $254,506,963          $  35,936,948

Step 2 - P.R.  $254,506,963
             -  245,744,274
                $  8,762,689  ÷  $10,000,000 = 87.6268%

         V.I.  $  35,936,948
             -   34,699,637
                $   1,237,311  ÷  $10,000,000 = 12.3732%
```

Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 87.6268 percent to Puerto Rico and 12.3732 percent to the Virgin Islands.

Example 2

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands dropped slightly, while the amount of excise taxes collected on rum imported from other areas rose.

```
Step 1 - $242,000,000 (P.R.)
           33,000,000 (V.I.)
           15,000,000 (Other)
         $290,000,000

         $290,000,000          $290,000,000
         X  .87626889          X  .12373111
         $254,117,978          $  35,882,022

Step 2 - P.R.  $254,117,978
             -  242,000,000
                $  12,117,978  ÷  $15,000,000 = 80.7865%

         V.I.  $  35,882,022
             -   33,000,000
                $   2,882,022  ÷  $15,000,000 = 19.2135%
```

Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 80.7865 percent to Puerto Rico and 19.2135 percent to the Virgin Islands.

Example 3

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico rose, while the amount from the Virgin Islands dropped. Excise taxes collected on rum from other areas rose to $12,000,000.

Step 1 - $247,000,000 (P.R.)
33,000,000 (V.I.)
12,000,000 (Other)
$292,000,000

$292,000,000 X .87626889 = $255,870,516

$292,000,000 X .12373111 = $36,129,484

Step 2 - P.R. $255,870,516 - 247,000,000 = $8,870,516 ÷ $12,000,000 = 73.9210%

V.I. $36,129,484 - 33,000,000 = $3,129,484 ÷ $12,000,000 = 26.0790%

Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 73.9210 percent to Puerto Rico and 26.0790 percent to the Virgin Islands.

Example 4

In fiscal year 1986, the excise taxes collected on rum brought into the United States from Puerto Rico rose dramatically, while the amount from the Virgin Islands dropped dramatically.

Step 1 - $254,000,000 (P.R.)
26,000,000 (V.I.)
10,000,000 (Other)
$290,000,000

$290,000,000 X .87626889 = $254,117,978

$290,000,000 X .12373111 = $35,882,022

Step 2 - P.R. $254,117,978 - 254,000,000 = $117,978 ÷ $10,000,000 = 1.1798%

V.I. $35,882,022 - 26,000,000 = $9,882,022 ÷ $10,000,000 = 98.8202%

Result: This formula results in Puerto Rico receiving 1.1798 percent and the Virgin Islands receiving 98.8202 percent of the excise taxes collected on rum imported from other areas. However, since a separate provision of the formula states that Puerto Rico's percentage of the excise taxes will not drop below 51 percent, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 51 percent to Puerto Rico and 49 percent to the Virgin Islands.

Timing and Methods for Transferring Tax Collections

The timing and method of making the excise tax payments to Puerto Rico and the Virgin Islands will not change. Puerto Rico currently receives the excise taxes collected on its merchandise, and its share of the taxes collected on rum imported from other areas, on a monthly basis. The Virgin Islands receives fiscal year advances based on the estimated excise taxes to be collected on its merchandise brought into the United States. Actual amounts are subtracted from the advance monthly, and adjustments are made at the end of each fiscal year to reflect actual taxes collected on its merchandise that is brought into the United States. The Virgin Islands receives its shares of the taxes collected on rum imported from other areas on a monthly basis.

Regulatory Changes

In order for ATF to accurately determine the amount of rum brought into the United States from Puerto Rico, the Virgin Islands, and all other areas, it is necessary to require that distilled spirits plants importing bulk rum alter their reporting procedures to provide a more detailed breakdown between imported and domestic rum which is deposited into their processing accounts. This change in the reporting procedures requires amendments to the regulations in 27 CFR Part 19. The amendments to Part 19 concern adjustments to the reporting procedures on the Monthly Report of Processing Operations (ATF Form 5110.28), and Claim forms. ATF F 5110.28 is used by the Bureau for determining the amount of excise taxes collected on bulk distilled spirits brought into the United States that is paid over to the Treasuries of Puerto Rico and the Virgin Islands. It is also used for statistical purposes.

The changes being made to 27 CFR Part 19 by this Treasury decision were previously implemented by a temporary rule (T.D. ATF-175, 49 FR 20800) on May 16, 1984. However, subsequent to the effective date of the temporary rule, ATF published T.D. ATF-198 (50 FR 8456) which implemented the final all-in-bond regulations effective June 1, 1985. The final all-in-bond regulations completely revised 27 CFR Part 19. These final regulations were under review for an extended period of time and did not take into consideration the already revised regulations in T.D. ATF-175. It was decided at that time not to delay further the publication of the final all-in-bond regulations in order to incorporate the changes in T.D. ATF-175. Instead, ATF decided to publish a subsequent Treasury decision to reinstate these provisions. Thus, this Treasury decision reinstates the regulations in 27 CFR Part 19 which initially were implemented by T.D. ATF-175 but were not incorporated in T.D. ATF-198.

Other regulatory changes being adopted by this final rule include totally revising 27 CFR 250.31. This change is necessary due to the complete revision of the formula for dividing the excise taxes on rum from other countries between Puerto Rico and the Virgin Islands.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the

economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The requirements to collect information imposed by this final rule have been approved by the Office of Management and Budget under sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35.

Disclosure

Copies of the temporary rule (T.D. ATF–175), Notice No. 558, and the comments received in response to Notice No. 558, are available for inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406, Ariel Rios Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, DC

Drafting Information

The principal author of this document is Robert White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 250

Administrative practice and procedure, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation, U.S. possessions, Wine.

Issuance

PART 19—[AMENDED]

27 CFR Part 19—Distilled Spirits Plants—is amended to read as follows:

Paragraph 1

The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Paragraph 2

The table of contents in Part 19 is amended to revise the heading of § 19.778 to read as follows:

19.778 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

Paragraph 3

Section 19.42 is amended to revise paragraphs (b) and (c) to read as follows:

§ 19.42 Claims on spirits returned to bonded premises.

* * * * *

(b) If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim shall show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and

(2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands spirits, or on the rum imported from any other area, contained in the product.

(c) Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. No interest is allowed on any claims for refund or credit.

Paragraph 4

Section 19.778 is revised to read as follows:

§ 19.778 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

(a) *Accounting.* Proprietors shall maintain separate accountings, in proof gallons, of Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of imported rum from all areas other than Puerto Rico and the Virgin Islands, received in the processing account for nonindustrial use. Receipts, for the purposes of these accountings, are limited to Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and to imported rum from all areas other than Puerto Rico and the Virgin Islands, received in the processing account from the storage account of the same plant, from the storage account of another plant, and from customs custody.

(b) *Adjustment.* Each month proprietors shall determine the percentage of overall monthly processing gains or losses of spirits. The percentage of overall monthly processing gains or losses can be computed by netting the gains and losses on ATF Form 5110.28 (Part I). The proof gallons of Puerto Rican or Virgin Islands spirits (having an alcoholic content of at least 92 percent rum) and the proof gallons of imported rum from all areas other than Puerto Rico and the Virgin Islands, accounted for as received in processing during the month, shall be adjusted by the percentage of overall monthly processing gains or losses for that month.

(c) *Report.* As required by § 19.792, proprietors shall file monthly reports on ATF Form 5110.28. That report must show separately the adjusted proof gallons of Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of imported rum from all areas other than Puerto Rico and the Virgin Islands, received in processing.

PART 250—[AMENDED]

27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands—is amended to read as follows:

VOL 51 ISS 150 AG 5 1986 UMI

Paragraph 1

The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5141, 5205, 5207, 5232, 5301, 5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Paragraph 2

Section 250.31 is revised to read as follows:

§ 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. This base percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. The formula shall be as follows:

(1) Multiply the total excise taxes collected on rum brought into the United States (including rum from Puerto Rico and the Virgin Islands) during the previous fiscal year (October 1–September 30) by the base percentages to determine the relative shares of the entire U.S. rum market that will be allotted to Puerto Rico and the Virgin Islands;

(2) Subtract each of these shares from the excise taxes collected on rum transported to the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss or gain in relation to the previous fiscal year's U.S. rum market. Divide these results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands.

(b) Notwithstanding the formula prescribed in paragraph (a) above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.62889 percent nor drop below 51 percent.

(c) The percentage for the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands, that will be paid over to the Treasuries of Puerto Rico and the Virgin Islands, shall be effective on March 1 of each year, and shall remain in effect until March 1 of the following year.

(d) The method for transferring the excise tax collections on rum imported from areas other than Puerto Rico and the Virgin Islands, into the Treasuries of Puerto Rico and the Virgin Islands shall be the same as the method used for transferring excise taxes into the Treasury of Puerto Rico on distilled spirits (with an alcohol content of at least 92 percent rum) brought into the United States from Puerto Rico.

(e) The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico shall continue to receive 86.4 percent of the eligible excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands. The Virgin Islands shall continue to receive 13.6 percent of these eligible excise taxes until March 1, 1987.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

Signed: June 13, 1986.

Stephen E. Higgins,

Director.

Approved: July 14, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-17440 Filed 8-4-86; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Parts 270, 275, 290, 295, and 296

[T.D. ATF-232]

Implementation of the Consolidated Omnibus Budget Reconciliation Act of 1985; Chewing Tobacco and Snuff

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements Title XIII, Subtitle B of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, 100 Stat. 311).

This document amends regulations in 27 CFR Parts 270, 275, 290, 295, and 296 to provide for the taxation and regulation of chewing tobacco and snuff pursuant to Pub. L. 99–272. In addition, detailed rules for the grandfathering of existing manufacturers of chewing tobacco and snuff into the current regulatory framework for other tobacco products are provided. Also, this document provides a transitional rule for package markings for chewing tobacco and snuff which will allow manufacturers and importers to coordinate the package markings revisions required by Parts 270 and 275, with those required by the Federal Trade Commission pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Pub. L. 99–252, 100 Stat. 30).

DATE: The effective date of the temporary regulations is retroactive to July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy Cook or Clifford A. Mullen, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Room 6235, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; (202) 566–7531.

SUPPLEMENTARY INFORMATION: This document contains temporary regulations implementing the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject. This document also provides a transitional rule for package markings for chewing tobacco and snuff which will allow manufacturers and importers to coordinate the package markings revisions required by Parts 270 and 275, with those required by the Federal Trade Commission pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Pub. L. 99–252).

A notice of proposed rulemaking with respect to the final regulations appears elsewhere in this issue of the **Federal Register.**

Legislative Background

Under Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985, enacted April 7, 1986, chewing tobacco and snuff manufactured in or imported into the United States after June 30, 1986, are subject to tax at the rate of 8 cents and 24 cents per pound, respectively. The Act also contains a transitional rule which allows those currently engaged in the manufacture of chewing tobacco and snuff, and who make application for a permit prior to July 1, 1986, to continue to engage in such business pending final action on the application.

Smokeless tobacco products have not been subject to Federal excise tax since 1965. A previous excise tax on such products, imposed at a rate of 10 cents per pound, was repealed by the Excise Tax Reduction Act of 1965 (Pub. L. 89–44).

In addition, the act, by amending the definitions for "Tobacco products" and a "Manufacturer of tobacco products" to include smokeless tobacco, subjects manufacturers of such products to all the statutory and regulatory controls set forth in Chapter 52 of the Internal Revenue Code of 1954. These controls include taxpayment, permit qualification, bonding, record-keeping, and civil and criminal sanctions.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any significant secondary or incidental effects, and any significant reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information proposed in this final rule have been submitted to the Office of Management and Budget and approved under sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Electronic fund transfer, Claims, Customs duties and inspection, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 290

Administrative practice and procedure, Aircraft, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign-trade zones, Labeling, Packaging and containers, Penalties, Surety bonds, Vessels, Warehouses.

27 CFR Part 295

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Drafting Information

The principal authors of this document are Clifford A. Mullen and Nancy F. Cook of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

Effective Date

Because the provisions of section 13202 of Pub. L. 99–272 become effective on July 1, 1986 and require immediate taxpayer implementation and compliance, it is thereby found to be impractical and unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

Authority and Issuance

Accordingly, ATF is proposing to amend Title 27 of the Code of Federal Regulations as follows:

PART 270—[AMENDED]

Sec. A. The regulations in 27 CFR Part 270 are amended as follows:

Paragraph 1. The authority citation for Part 270 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 18 U.S.C. 926, 22 U.S.C. 2778, 26 U.S.C. 5701, 5703, 5704, 5705, 5707, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 5753, 5761, 5762, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805, 27 U.S.C. 205, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. The heading of Part 270 is revised to read as follows:

PART 270—MANUFACTURE OF TOBACCO PRODUCTS

Par. 3. The table of contents for Part 270 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products" in the following section headings, §§ 270.1, 270.44, 270.61a, 270.183, and 270.313; the following new sections are added, §§ 270.25, 270.216, and 270.216a; replacing the words "cigars and cigarettes" with the words "tobacco products" in the undesignated center headings following Subpart H, § 270.217, § 270.236, § 270.267; and by replacing the words "cigars and cigarettes" with the words "tobacco products" and replacing the word "tobacco" with the word "materials in § 270.252 to read as follows:

270.1 Manufacture of tobacco products.
* * * * *
270.25 Smokeless tobacco tax rates.
* * * * *
270.44 Disposal of forfeited, condemned, and abandoned tobacco products.
* * * * *
Subpart E—Qualification Requirements for Manufacturers
* * * * *
270.61a Transitional rule.
* * * * *
Subpart H—Operations by Manufacturers
* * * * *
Determination and Payment of Taxes on Tobacco Products
* * * * *
270.183 Record of tobacco products.
* * * * *
270.216 Notice for smokless tobacco.
* * * * *
270.216a Transitional rule.
* * * * *
270.217 * * *
* * * * *
Exemption from Taxes on Tobacco Products
* * * * *
270.236 * * *
Other Provisions Relating to Tobacco Products
* * * * *

270.252 Reduction of tobacco products to materials.
* * * * *
270.287 * * *
Tobacco Products Lost or Destroyed
* * * * *
270.313 Disposition of tobacco products and schedule.
* * * * *

§ 270.1 [Amended]

Par. 4. Section 270.1 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products" wherever they appear in the heading and text.

Par. 5. Section 270.11 is amended by adding the definition for "Chewing Tobacco" to read as follows:

§ 270.11 [Amended]

* * * * *

Chewing tobacco. Any leaf tobacco that is not intended to be smoked.

* * * * *

Par. 6. Section 270.11 is amended by revising the definition for "Determined or determination" to read as follows: "When used with respect to the tax on tobacco products, determined or determination means that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff) of tobacco products and wholesale price of large cigars to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated."

Par. 7. Section 270.11 is amended by revising the definition for "Export warehouse" to read as follows: "A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States."

Par. 8. Section 270.11 is amended by revising the definition of "In bond" to read as follows:

"The status of tobacco products and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond."

Par. 9. Section 270.11 is amended by revising the definition of "Manufacturer of tobacco products" to read as follows:

"Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 10. Section 270.11 is amended by revising the definition of "Removal or remove" to read as follows: "The removal of tobacco products from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States."

Par. 11. Section 270.11 is amended by adding the definition of "Smokeless tobacco" which reads as follows:

Smokeless tobacco. Any snuff or chewing tobacco.

Par. 12. Section 270.11 is amended by adding the definition of "Snuff" to read as follows:

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 13. Section 270.11 is amended by revising the definition of "Tobacco products" to read as follows:

"*Cigars, cigarettes, and smokeless tobacco.* The term does not include smoking tobacco."

Par. 14. Section 270.25 is added and reads as follows:

§ 270.25 Smokeless tobacco tax rates.

On smokeless tobacco, manufactured in or imported into the United States, the following tax rates are imposed by law:

(a) *Snuff.* 24 cents per pound and a proportional tax at the like rate on all fractional parts of a pound.

(b) *Chewing tobacco.* 8 cents per pound and a proportional tax at the like rate on all fractional parts of a pound. (Pub. L. 99-272, 26 U.S.C. 5701)

§ 270.26 [Amended]

Par. 15. Section 270.26 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.27 [Amended]

Par. 16. Section 270.27 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.41 [Amended]

Par. 17. Section 270.41 (c) is amended to change the address of the ATF Distribution Center to 7943 Angus Court, Springfield, Virginia 22153.

§ 270.42 [Amended]

Par. 18. Section 270.42 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

§ 270.44 [Amended]

Par. 19. Section 270.44 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.61 [Amended]

Par. 20. Section 270.61 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

Par. 21. Section 270.61a is added and reads as follows:

§ 270.61a Transitional rule.

Any person who—

(a) On April 7, 1986, was engaged in business as a manufacturer of smokeless tobacco, and

(b) Before July 1, 1986, submits an application, as provided in this Part, to engage in such business, may, continue to engage in such business pending final action on such application. Pending such final action, all provisions of Chapter 52 of the Internal Revenue Code of 1954 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture smokeless tobacco under such chapter 52.

§ 270.69 [Amended]

Par. 22. Section 270.69(c) is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 23. Section 270.72 is revised to read as follows:

§ 270.72 Use of factory premises.

Unless otherwise authorized by the Director as provided in § 270.47, the factory premises shall be used exclusively for the purposes of manufacturing and storing tobacco products; storing materials, equipment, and supplies related thereto or used or

useful in the conduct of the business; and carrying on activities in connection with the business of the manufacturer: Proviced, That tobacco products manufacturers who maintain adequate records showing the date and total quantity in pounds, of the tobacco received, shipped or delivered, lost, and destroyed, in respect to the manufacture and storage of smoking tobacco (as well as tobacco products) may continue such operations on the tobacco products factory premises, without application for authorization as prescribed in § 270.47.

§ 270.104 [Amended]

Par. 24. Section 270.104 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 25. Section 270.133 is revised to read as follows:

§ 270.133 Amount of individual bond.

The amount of the bond of a manufacturer of tobacco products shall be not less than the total amount of tax liability on all tobacco products manufactured in his factory, received in bond from other factories and from export warehouses, and released to him in bond from customs custody, during any calendar month. Where the amount of any bond is no longer sufficient and the bond is in less than the maximum amount, the manufacturer shall immediately file a strengthening or superseding bond as required by this subpart. The amount of any such bond (or the total amount including strengthening bonds, if any) need not exceed $250,000 for a manufacturer producing or receiving cigarettes in bond; need not exceed $150,000 for a manufacturer producing or receiving cigars or smokeless tobacco in bond; and need not exceed $250,000 for a manufacturer producing or receiving, in any combination, tobacco products in bond. The bond of a manufacturer of tobacco products shall in no case be less than $1,000.

Par. 26. The undesignated centerheading following the heading for Subpart H is revised to read "Determination and Payment of Taxes on Tobacco Products".

§ 270.161 [Amended]

Par. 27. Section 270.161 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.162 [Amended]

Par. 28. Section 270.162 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products", and removing paragraph (c) which contains an obsolete transitional rule.

Par. 29. Section 270.162 is amended by removing the word "and" from the end of paragraph (b)(4), by redesignating paragraph (b)(5) as (b)(6), and adding a new paragraph (b)(5) to read as follows:

(b)(5) the amount of chewing tobacco and snuff removed subject to tax during the return period, and

§ 270.165a [Amended]

Par. 30. Section 270.165a is amended by removing the words "cigars, cigarettes, cigarette papers, and cigarette tubes" wherever they appear and replacing them with the words "tobacco products, cigarette papers, and cigarette tubes" and by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.166 [Amended]

Par. 31. Section 270.166 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.167 [Amended]

Par. 32. Section 270.167 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.168 [Amended]

Par. 33. Section 270.168 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 34. Section 270.182 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 270.182 Record of tobacco.

The record of a manufacturer of tobacco products shall show the date and total quantity in pounds, of all tobacco other than tobacco products:

(a) Received (including tobacco resulting from reduction of cigars, cigarettes, and unpackaging of smokeless tobacco), together with the name and address of the person from whom received;

* * * * *

§ 270.183 [Amended]

Par. 35. The heading of section 270.183 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products" and the introductory text is revised to read as follows:

"The record of a manufacturer of tobacco products shall show the date and total quantities of all tobacco products, by kind (small cigars-large cigars; small cigarettes-large cigarettes; chewing tobacco-snuff):"

Par. 36. Section 270.183(g)(6) is amended by removing the word "tobacco" and replacing it with the word "materials".

§ 270.184 [Amended]

Par. 37. Section 270.184 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.186 [Amended]

Par. 38. Section 270.186 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.201 [Amended]

Par. 39. Section 270.201 is amended by removing the words "cigars, cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.202 [Amended]

Par. 40. Section 270.202 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products"; and by adding the parenthetical "(Approved by the Office of Management and Budget under Control No. 1512–0358)" at the end of the section.

§ 270.211 [Amended]

Par. 41. Section 270.211 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

§ 270.212 [Amended]

Par. 42. Section 270.212 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products" and by removing the word "both" in the fourth sentence.

Par. 43. Section 270.216 is added to read as follows:

§ 270.216 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or

"snuff", and a clear statement of the actual pounds and ounces of the product contained therein.

Par. 44. Section 270.216a is added to read as follows:

§ 270.216a Transitional rule.

Notwithstanding the provisions of § 270.212 and 270.216 as they relate to smokeless tobacco, manufacturers of smokeless tobacco may continue to use packaging in use prior to July 1, 1986 until February 27, 1987.

§ 270.217 [Amended]

Par. 45. Section 270.217 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 46. The undesignated centerheading following § 270.217 is revised to read "Exemption From Taxes on Tobacco Products."

Par. 47. Section 270.231 is revised to read as follows:

§ 270.231 Consumption by employees.

A manufacturer of tobacco products may gratuitously furnish tobacco products, without determination and payment of tax, for personal consumption by employees in the factory in such quantities as desired. Each employee may also be gratuitously furnished by the manufacturer, for off-factory personal consumption, not more than 5 large cigars or cigarettes, or 20 small cigars or cigarettes, or 1 retail package of chewing tobacco or snuff, or a proportionate quantity of each tobacco product, without determination and payment of tax, on each day the employee is at work. For the purposes of this section, the term "employee" shall mean those persons whose duties require their presence in the factory of whose duties relate to the manufacture, distribution, or sale of tobacco products and who receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer. Such product furnished for off-factory consumption shall be furnished to the employee within the factory and taken from the factory by the employee on the day for which furnished. Employees shall not sell, offer for sale, or give away products so furnished.

§ 270.232 [Amended]

Par. 48. Section 270.232 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

§ 270.233 [Amended]

Par. 49. Section 270.233 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.234 [Amended]

Par. 50. Section 270.234 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.235 [Amended]

Par. 51. Section 270.235 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.236 [Amended]

Par. 52. Section 270.236 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 53. The undesignated centerheading following § 270.236 is revised to read "Other Provisions Relating to Tobacco Products."

§ 270.251 [Amended]

Par. 54. Section 270.251 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 55. Section 270.252 is revised to read as follows:

§ 270.252 Reduction of tobacco products to materials.

A manufacturer may reduce tobacco products to materials without supervision. If the tobacco products have been entered in the factory record as manufactured or received, and entry shall be made in such record of the kind and quantity of cigars, cigarettes, or smokeless tobacco reduced to materials and of the quantity of tobacco resulting from the reduction. Where the manufacturer intends to file claims for credit allowance, or refund of tax on such tobacco products, he shall comply with the provisions of §§ 270.311 and 270.313.

§ 270.253 [Amended]

Par. 56. Section 270.253 is amended by removing the words "cigars and /or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.254 [Amended]

Par. 57. Section 270.254 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 58. Section 270.255 is revised to read as follows:

§ 270.255 Shortages and overages in inventory.

Whenever a manufacturer of tobacco products makes a physical inventory of packaged tobacco products in bond, either as part of normal operations or when required by an ATF officer, and such inventory discloses a shortage or overage in such products by kind as recorded and reported (i.e., small cigarettes, large cigarettes, small cigars, large cigars, chewing tobacco, or snuff), the manufacturer shall enter such shortage or overage in the records required by § 270.183. Shortages or overages in inventories made at different times may not be used to offset each other, but shall be recorded and reported separately. Unless the manufacturer establishes that a shortage was not caused by a removal subject to the tax the manufacturer shall determine the tax on any shortage, make an adjustment in Schedule A of his next semimonthly tax return and pay the tax thereon. If, after paying the tax on a shortage, the manufacturer satisfactorily establishes that the shortage was not caused by a removal subject to tax, then such payment would be an overpayment of tax which the manufacturer may recover as provided in § 270.286. Where the manufacturer can establish prior to paying the tax on a shortage, that the shortage was not the result of a removal subject to tax he shall submit an explanation of such shortage with his report for the month in which the shortage was disclosed and, if appropriate, he may file claim for remission of tax liability as provided in § 270.287. When an overage is disclosed which the manufacturer can explain, he shall include such explanation in his monthly report and refund of any overpayment may be recovered as provided in § 270.286. Whenever a physical inventory discloses a shortage or overage of tobacco products which have not been packaged the manufacturer shall appropriately enter such shortage or overage in his records and shall, at the time required by the Regional Director (Compliance), furnish an explanation in the form of a claim for remission of tax liability as provided in

§ 270.287. The manufacturer shall pay the tax on any shortage or portion thereof for which he is unable to furnish an explanation acceptable to the Regional Director (Compliance).

§ 270.281 [Amended]

Par. 59. Section 270.281 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.282 [Amended]

Par. 60. Section 270.282 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.283 [Amended]

Par. 61. Section 270.283 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.284 [Amended]

Par. 62. Section 270.284 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.286 [Amended]

Par. 63. Section 270.286 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.287 [Amended]

Par. 64. Section 270.287 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 65. The undesignated centerheading following § 270.287 is revised to read "Tobacco Products Lost or Destroyed".

§ 270.301 [Amended]

Par. 66. Section 270.301 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 67. The undesignated centerheading following §270.301 is revised to read "Tobacco Products Withdrawn From the Market."

§270.311 [Amended]

Par. 68. Section 270.311(a) is amended by removing the first sentence and replacing it with the following sentence: "Where tobacco products are withdrawn from the market and the manufacturer desires to file claim under the provisions of § 270.282 or § 270.283, he shall assemble the products in or adjacent to a factory if they are to be returned to bond or at any suitable place if they are to be destroyed or reduced to materials."

§ 270.312 [Amended]

Par. 69. Section 270.312 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.313 [Amended]

Par. 70. In 270.313 the heading is revised to read "Disposition of tobacco products and schedule" and the text is amended by removing the words "cigars and/or cigarettes" anywhere they appear and replacing them with the words "tobacco products".

§ 270.331 [Amended]

Par. 71. Section 270.331 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Sec. B. The regulations in 27 CFR Part 275 are amended as follows:

Authority and Issuance

27 CFR Part 275 is amended as follows:

PART 275—[AMENDED]

Paragraph 1. The authority citation for Part 275 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5722, 5723, 5741, 5762, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7652(a), 7805, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. The table of contents to Part 275 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the following section headings, §§ 275.1, 275.25, 275.62, 275.174 and the titles of Subpart F and Subpart G; the following new sections are added, §§ 275.33, 275.72, and 275.72a; replacing the words "cigars, cigarettes, and replacing them with the words "tobacco products" in the undesignated centerheadings following §§ 275.81, 275.101, 275.108, 275.129, 275.163 and 275.165; and by replacing the words "Destruction or reduction to tobacco" with the words "Reduction of tobacco products to materials" in §§ 275.170 and 275.171 to read as follows:

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Subpart A—Scope of Regulations

Sec.
275.1 Importation of tobacco products and cigarette papers and tubes.
* * * * *
275.25 Disposal of forfeited, condemned, and abandoned tobacco products and cigarette papers and tubes.
* * * * *
275.33 Smokeless tobacco.
* * * * *
275.62 Customs' collection of internal revenue taxes on tobacco products and cigarette papers and tubes, imported or brought into the United States.
* * * * *
275.72 Notice of smokeless tobacco.
275.72a Transitional rule.
* * * * *

Subpart F—Tobacco Products and Cigarette Papers and Tubes, Imported into or Returned to the United States

275.81 Taxpayment.

Release From Customs Custody of Tobacco Products and Cigarette Papers and Tubes Without Payment of Tax or Certain Duty

* * * * *

Subpart G— Puerto Rican Tobacco Products and Cigarette Papers and Tubes, Brought into the United States

275.101 General.

Prepayment of Tax in Puerto Rico on Tobacco Products and Cigarette Papers and Tubes

* * * * *

Deferred Payment of Tax in Puerto Rico on Tobacco Products

* * * * *

Release of Puerto Rican Tobacco Products and Cigarette Papers and Tubes from Customs Custody, Without Payment of Tax

* * * * *

Tobacco Products and Cigarette Papers and Tubes Lost or Destroyed

275.165 Action by taxpayer.

Tobacco Products and Cigarette Papers and Tubes Withdrawn From the Market

* * * * *
275.170 Reduction of tobacco products to materials, action by regional director (Compliance).
275.171 Reduction of tobacco products to materials, action by regional director (Compliance).
* * * * *
275.174 Disposition of tobacco products and cigarette papers and tubes, and schedule.
* * * * *

§ 275.1 [Amended]

Par. 3. Section 275.1 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.11 [Amended]

Par. 4. Section 275.11 is amended by revising the definitions of bonded manufacturer, computation or computed, determined or determination, factory, importer, manufacturer of tobacco products, package, removal or remove, tobacco products, and by adding new definitions for chewing tobacco, smokeless tobacco and snuff to read as follows:

Bonded manufacturer. "A manufacturer of tobacco products in Puerto Rico who has an approved bond, in accodance with the provisions of this part, authorizing him to defer the payment in Puerto Rico on the internal revenue tax imposed on such products by 26 U.S.C. 7652(a) as provided in this part.

* * * * *

Chewing Tobacco. "Any leaf tobacco that is not intended to be smoked."

* * * * *

Computation or computed. "When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, and snuff) of tobacco products and wholesale price of large cigars being shipped to the United States; that the payment, in Puerto Rico, of the tax on such products to be deferred under Subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated; that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that an ATF officer has verified and executed a certification of such calculation.

Determined or determination. "When used with respect to the internal revenue tax on tobacco products and cigarette papers and tubes, determined or determination shall mean that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff) of tobacco products and wholesale price of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, to be removed subject to internal revenue tax, has been established as prescribed by this part so that the internal revenue tax payable with respect thereto may be calculated.

* * * * *

Factory. "The premises of a manufacturer of tobacco products or cigarette papers or tubes in which he carries on such business."

* * * * *

Importer. "Any person in the United States to whom non-taxpaid tobacco products or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a Customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes into the United States.

* * * * *

Manufacturer of tobacco products. "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces tobacco products solely for his own personal consumption or use; or (b) a proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Package. "The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer or the importer for delivery to the consumer."

* * * * *

Removal or remove. "The removal of tobacco products or cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States."

* * * * *

Smokeless tobacco. "Any chewing tobacco or snuff."

Snuff. "Any finely cut, ground, or powdered tobacco that is not intended to be smoked."

Tobacco products. "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

* * * * *

§ 275.21 [Amended]

Par. 5. Section 275.21(c) is amended to change the address of the ATF Distribution Center to: 7943 Angus Court, Springfield, Virginia 22153.

§ 275.23 [Amended]

Par. 6. Section 275.23 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.25 [Amended]

Par. 7. Section 275.25 the heading is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and the text is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 8. Section 275.33 is added and reads as follows:

§ 275.33 Smokeless tobacco.

On smokeless tobacco, manufactured in or imported into the United States, the following tax rates are imposed by law:

(a) *Snuff.* 24 cents per pound and a proportional tax at the like rate on all fractional parts of a pound.

(b) *Chewing tobacco.* 8 cents per pound and a proportional tax at the like rate on all fractional parts of a pound. (Pub. L. 99-272, 100 Stat. 82, 311; 26 U.S.C. 5701)

§ 275.40 [Amended]

Par. 9. Section 275.40 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.41 [Amended]

Par. 10. Section 275.41 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.50 [Amended]

Par. 11. Section 275.50 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.60 [Amended]

Par. 12. Section 275.60 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.62 [Amended]

Par. 13. Section 275.62 the heading and text are amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.63 [Amended]

Par. 14. Section 275.63 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.71 [Amended]

Par. 15. Section 275.71 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing

them with the words "tobacco products".

Par. 16. Section 275.72 is added and reads as follows:

§ 275.72 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff", and a clear statement of the actual pounds and ounces of the product contained therein.

Par. 17. Section 275.72a is added and reads as follows:

§ 275.72a Transitional rule.

Notwithstanding the provisions of § 275.72 as they related to smokeless tobacco, importers of smokeless tobacco may continue to use packaging in use prior to July 1, 1986 until February 27, 1987.

§ 275.75 [Amended]

Par. 18. Section 275.75 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 19. The heading of Subpart F is revised to read as follows:

Subpart F—Tobacco Products and Cigarette Papers and Tubes, Imported into or Returned to the United States

§ 275.81 [Amended]

Par. 20. Section 275.81 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 21. Section 275.81 is amended by adding a new paragraph (c)(5) to read as follows:

(c)(5) *For smokeless tobacco:* The importer will show whether the product is chewing tobacco or snuff, the number of pounds and ounces, the rate of tax and the tax due.

Par. 22. The undesignated center heading following § 275.81 is revised to read "Release From Customs Custody of Tobacco Products and Cigarette Papers and Tubes Without Payment of Tax or Certain Duty."

§ 275.85 [Amended]

Par. 23. Section 275.85, the first sentence of text, is amended to read "Tobacco products manufactured in a foreign country, the Virgin Islands, or a possession of the United States may be released by the district director of Customs from Customs custody, without payment of internal revenue tax, for transfer to the factory of a manufacturer of tobacco products under the bond of such manufacturer."

Par. 24. Section 275.85 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.85a [Amended]

Par. 25. Section 275.85a, the first sentence, is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products."

Par. 26. Section 275.85a is amended by removing the words "cigars, cigarettes," in the third sentence and replacing them with the words "tobacco products".

§ 275.86 [Amended]

Par. 27. Section 275.86 is amended by removing the words "cigars, cigarettes," and replacing them wherever they appear with the words "tobacco products'.

Par. 28. The heading of Subpart G is revised to read as follows:

Subpart G—Puerto Rican Tobacco Products and Cigarette Papers and Tubes, Brought into the United States

§ 275.101 [Amended]

Par. 29. Section 275.101 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 30. Section 275.101 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 31. The undesignated centerheading following § 275.101 is revised to read "Prepayment of Tax in Puerto Rico on Tobacco Products and Cigarette Papers and Tubes".

Par. 32. Section 275.105 is revised to read as follows:

§ 275.105 Prepayment of tax.

To prepay, in Puerto Rico, the internal revenue tax imposed by 26 U.S.C. 7652(a), on tobacco products and cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States, the shipper shall file, or cause to be filed, with the Officer-in-Charge, a tax return, Form 3073, in triplicate, with full remittance of tax which will become due on such tobacco products and cigarette papers and tubes. The Officer-in Charge will present a receipted copy of the return to the person filing the return and paying the tax, retain one copy, and forward the remaining copy to the Regional Director (Compliance), Bureau of Alcohol, Tobacco and Firearms, New York, NY. The person who filed the return and prepaid the tax shall present the receipted copy of the return to the ATF officer assigned by the Chief, Puerto Rico Operations, to inspect the tobacco products and cigarette papers and tubes to be shipped to the United States. Such officer will endorse the receipted copy of the return to show release of the tobacco products and cigarette papers and tubes, or, if less than the quantity of tobacco products and cigarette papers and tubes covered by the return is released, to show (a) the numbers of small cigarettes, large cigarettes, and small cigars, (b) the number and total wholesale price of large cigars with a wholesale price of not more than $235.294 per thousand, (c) the number of large cigars with a wholesale price of more than $235.294 per thousand, (d) the number of books or sets of cigarette papers of each different numerical content, (e) the number of cigarette tubes, in fact released, and (f) the pounds of chewing tobacco and snuff and will return such copy to the taxpayer.

§ 275.106 [Amended]

Par. 33. Section 275.106 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.107 [Amended]

Par. 34. Section 275.107 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products", by deleting the word "and" at the end of paragraph (d), and inserting "and" after paragraph (e), by removing the period at the end of paragraph (e), and by adding a new paragraph (f) to read as follows:

"(f) the pounds and ounces of chewing tobacco and snuff."

Par. 35. The undesignated centerheading following § 275.107 is revised to read "Deferred Payment of Tax in Puerto Rico on Tobacco Products."

§ 275.109 [Amended]

Par. 36. Section 275.109 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.110 [Amended]

Par. 37. Section 275.110 is amended by removing the words "cigars and cigarettes" wherever they appear and

replacing them with the words "tobacco products" and by revising paragraph (d), redesignating paragraph (e) as (f), and adding a new paragraph (e) to read as follows:

"(d) the pounds and ounces of chewing tobacco or snuff to be shipped, (e) the amount of the tax to be paid on such products under the provisions of this subpart, and"

§ 275.111 [Amended]

Par. 38. Section 275.111 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.112 [Amended]

Par. 39. Section 275.112 is amended by removing the words "cigars and cigarettes" in the first sentence and replacing them with the words "tobacco products"; by redesignating paragraph (e) as paragraph (f); by adding a new paragraph (e); and by removing the "and" at the end of paragraph (d) to read as follows:

(e) the pounds and ounces of smokeless tobacco upon which tax has been computed, and

§ 275.115a [Amended]

Par. 40. Section 275.115a is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.116 [Amended]

Par. 41. Section 275.116 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

§ 275.117 [Amended]

Par. 42. Section 275.117 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products"; by removing the word "and" at the end of paragraph (b); by adding "and" before the period at the end of paragraph (c); and by adding a new paragraph (d) to read as follows: "(d) pounds and ounces of chewing tobacco and snuff."

§ 275.120 [Amended]

Par. 43. Section 275.120 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 44. Section 275.121 is revised to read as follows:

§ 275.121 Amount of Bond.

In order that tobacco products may be shipped to the United States on computation of tax under the provisions of this subpart, the total amount of the bond or bonds shall at all times be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond: *Provided,* That the amount of any such bond need not exceed $250,000 where payment of tax on cigarettes, or on any combination of tobacco products is deferred; and need not exceed $150,000 where the tax on cigars or smokeless tobacco is deferred. The amount of the bond shall in no case be less than $1,000. Where the amount of a bonded manufacturer's bond is less than the maximum prescribed, the bonded manufacturer shall maintain a running account accurately reflecting all outstanding taxes with which his bond is chargeable. He shall charge such account with the amount of tax he agreed to pay on Forms 2987 and shall credit the account for the amount he paid with his return, Form 2988, at the time he files such return.

§ 275.125 [Amended]

Par. 45. Section 275.125 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 46. The undesignated center heading following § 275.129 is revised to read "Release of Puerto Rican Tobacco Products and Cigarette Papers and Tubes From Customs Custody, Without Payment of Tax".

§ 275.135 [Amended]

Par. 47. Section 275.135 is amended by removing the words "cigars, cigarettes" and replacing them with the words "tobacco products".

§ 275.136 [Amended]

Par. 48. Section 275.136 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.137 [Amended]

Par. 49. Section 275.137 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.138 [Amended]

Par. 50. Section 275.138 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.139 [Amended]

Par. 51. Section 275.139 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products" and by revising paragraph (a) to read "(a) Date, quantity, kind of cigars, cigarettes, and smokeless tobacco (number of small cigars—large cigars; number of small cigarettes—large cigarettes; pounds and ounces of chewing tobacco—snuff)."

§ 275.140 [Amended]

Par. 52. Section 275.140 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products" and by removing the words "cigars, cigarettes" and replacing them with the words "tobacco products".

§ 275.141 [Amended]

Par. 53. Section 275.141 is amended by removing the words "cigars, cigarettes," and by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.161 [Amended]

Par. 54. Section 275.161 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.162 [Amended]

Par. 55. Section 275.162 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.163 [Amended]

Par. 56. Section 275.163 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 57. The undesignated centerheading following § 275.163 is revised to read "Tobacco Products and Cigarette Papers and Tubes Lost or Destroyed".

§ 275.165 [Amended]

Par. 58. Section 275.165 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 59. The undesignated centerheading following § 275.165 is revised to read "Tobacco Products and Cigarette Papers and Tubes Withdrawn From the Market".

§ 275.170 [Amended]

Par. 60. Section 275.170 the heading and text are amended by removing the words "reduction to tobacco" wherever they appear and replacing them with the words "reduction to materials" and by

removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.171 [Amended]

Par. 61. Section 275.171 the heading and text are amended by removing the words "reduction to tobacco" wherever they appear and replacing them with the words "reduction to materials" and by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products" and by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.172 [Amended]

Par. 62. Section 275.172 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.173 [Amended]

Par. 63. Section 275.173 is amended by removing the words "cigars, cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.174 [Amended]

Par. 64. Section 275.174 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products" and by removing the words "to tobacco" and replacing them with the words "to materials".

Sec. C. The regulations in 27 CFR Part 290 are amended as follows:

Authority and Issuance

27 CFR Part 290 is amended as follows:

Paragraph 1. The authority citation for Part 290 is revised to read as follows:

Authority: 5 U.S.C. 552(c), 18 U.S.C. 1301, 19 U.S.C. 81c, 1317, 1622, 26 U.S.C. 5703, 5704, 5705, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 6402, 6404, 6423, 7212, 7342, 7606, 7805, 31 U.S.C. 9301, 9303, 9304, 9306, 44 U.S.C. 3504(h).

Par. 2. The heading of Part 290 is revised to read as follows:

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 3. The table of sections for Part 290 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the following headings §§ 290.1, 290.62, 290.63, 290.64, 290.65, Subpart J, 290.213, 290.225, and 290.226 to read as follows:

Subpart A—Scope of Regulations

Sec.

290.1 Exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax.

* * * * *

290.62 Restrictions on deliveries of tobacco products and cigarette papers and tubes to vessels and aircraft as supplies.

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290.63 Restrictions on disposal of tobacco products and cigarette papers and tubes on vessels and aircraft.

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290.64 Responsibility for delivery or exportation of tobacco products and cigarette papers and tubes.

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290.65 Liability for tax on tobacco products and cigarette papers and tubes.

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Subpart J—Removal of Shipments of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

* * * * *

290.213 Destruction of tobacco products and cigarette papers and tubes.

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290.225 Delivery of tobacco products or cigarette papers or tubes for export other than by parcel post.

* * * * *

290.226 Delivery of tobacco products and cigarette papers and tubes for export by parcel post.

* * * * *

§ 290.1 [Amended]

Par. 4. Section 290.1 the heading and text are amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.2 [Amended]

Par. 5. Section 290.2 is amended to change the address of the ATF Distribution Center to 7943 Angus Court, Springfield, Virginia 22153.

[§ 290.11 [Amended]

Par. 6. Section 290.11 is amended by adding the definition for "Chewing tobacco" to read as follows:

Chewing tobacco. Any leaf tobacco that is not intended to be smoked.

Par. 7. In § 290.11 the definition for "Exportation or export" is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 8. In § 290.11 the definition for "Export warehouse" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 9. In § 290.11 the definition for "Factory" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 10. In § 290.11 the definition for "In bond" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 11. Section 290.11 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows:

"Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 12. Section 290.11 is amended by revising the definition for "Package" to read as follows: "The container in which tobacco products, or cigarette papers or tubes are put up by the manufacturer and delivered to the consumer.

Par. 13. In § 290.11 the definition for "Removal or remove" is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 14. Section 290.11 is amended by adding the definition for "Snuff" to read as follows:

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 15. Section 290.11 is amended by adding the definition for "Smokeless tobacco" to read as follows: "*Smokeless tobacco.* Any snuff or chewing tobacco."

* * * * *

Par. 16. Section 290.11 is amended by adding the definition of "Tobacco products" to read as follows:

* * * * *

Tobacco products. Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco.

* * * * *

§ 290.61 [Amended]

Par. 17. Section 290.61 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.61a [Amended]

Par. 18. Section 290.61a is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.62 [Amended]

Par. 19. Section 290.62 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.63 [Amended]

Par. 20. Section 290.63 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.64 [Amended]

Par. 21. Section 290.64 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.65 [Amended]

Par. 22. Section 290.65 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.66 [Amended]

Par. 23. Section 290.66 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.67 [Amended]

Par. 24. Section 290.67 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products"; and by adding the parenthetical "(All recordkeeping requirements have been approved under OMB Control No. 1512–0180)" at the end of the section.

§ 290.69 [Amended]

Par. 25. Section 290.69 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.70 [Amended]

Par. 26. Section 290.70 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 27. Section 290.90 is revised to read as follows:

§ 290.90 Restrictions relating to export warehouse premises.

Export warehouse premises shall be used exclusively for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent removal under this part: Provided, that smoking tobacco may also be stored in an export warehouse.

§ 290.112 [Amended]

Par. 28. Section 290.112 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.123 [Amended]

Par. 29. Section 290.123 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.142 [Amended]

Par. 30. Section 290.142 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 31. Section 290.143 is revised to read as follows:

§ 290.143 General.

(a) Every export warehouse proprietor shall make a true and accurate inventory on ATF Form 3373 (5220.3) to the Regional Director (Compliance), of the numbers of (1) small cigars, (2) large cigars, (3) small cigarettes, (4) large cigarettes, (5) cigarette papers, and (6) cigarette tubes; and the pounds and ounces of (7), chewing tobacco, and (8) snuff, held by him at the times specified in this subpart.

(b) This inventory shall be subject to verification by an ATF officer. A copy of each inventory shall be retained by the export warehouse proprietor for 2 years following the close of the calendar year in which the inventory is made and shall be made available for inspection by any ATF officer upon his request.

§ 290.147 [Amended]

Par. 32. Section 290.147 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.152 [Amended]

Par. 33. Section 290.152 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.153 [Amended]

Par. 34. Section 290.153 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.154 [Amended]

Par. 35. Section 290.154 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 36. The heading of Subpart J is revised to read as follows:

Subpart J—Removal of Shipments of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

§ 290.181 [Amended]

Par. 37. Section 290.181 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.182 [Amended]

Par. 38. Section 290.182 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.183 [Amended]

Par. 39. Section 290.183 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.184 [Amended]

Par. 40. Section 290.184 is amended by replacing the words "cigars and cigarettes," wherever they appear with the words "tobacco products".

§ 290.185 [Amended]

Par. 41. Section 290.185 is amended by removing the words "cigars or cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 290.187 [Amended]

Par. 42. Section 290.187 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.188 [Amended]

Par. 43. Section 290.188 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.189 [Amended]

Par. 44. Section 290.189 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.190 [Amended]

Par. 45. Section 290.190 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.191 [Amended]

Par. 46. Section 290.191 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.192 [Amended]

Par. 47. Section 290.192 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.193 [Amended]

Par. 48. Section 290.193 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.194 [Amended]

Par. 49. Section 290.194 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.195 [Amended]

Par. 50. Section 290.195 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.196 [Amended]

Par. 51. Section 290.196 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.196a [Amended]

Par. 52. Section 290.196a is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.197 [Amended]

Par. 53. Section 290.197 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.198 [Amended]

Par. 54. Section 290.198 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.200 [Amended]

Par. 55. Section 290.200 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.201 [Amended]

Par. 56. Section 290.201 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.202 [Amended]

Par. 57. Section 290.202 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.203 [Amended]

Par. 58. Section 290.203 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.204 [Amended]

Par. 59. Section 290.204 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.205 [Amended]

Par. 60. Section 290.205 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.206 [Amended]

Par. 61. Section 290.206 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.207 [Amended]

Par. 62. Section 290.207 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.207a [Amended]

Par. 63. Section 290.207a is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.208 [Amended]

Par. 64. Section 290.208 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.210 [Amended]

Par. 65. Section 290.210 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.212 [Amended]

Par. 66. Section 290.212 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.213 [Amended]

Par. 67. Section 290.213 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.221 [Amended]

Par. 68. Section 290.221 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.222 [Amended]

Par. 69. Section 290.222 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.223 [Amended]

Par. 70. Section 290.223 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.224 [Amended]

Par. 71. Section 290.224 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.225 [Amended]

Par. 72. Section 290.225 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.226 [Amended]

Par. 73. Section 290.226 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.227 [Amended]

Par. 74. Section 290.227 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.228 [Amended]

Par. 75. Section 290.228 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.229 [Amended]

Par. 76. Section 290.229 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.230 [Amended]

Par. 77. Section 290.230 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.255 [Amended]

Par. 78. Section 290.255 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.264 [Amended]

Par. 79. Section 290.264 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Sec. D. The regulations in 27 CFR Part 295 are amended as follows:

Authority and Issuance

27 CFR Part 295 is amended as follows:

Par. 1. The authority citation for Part 295 is revised to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

Par. 2. The heading of Part 295 is revised to read as follows:

PART 295—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX FOR USE OF THE UNITED STATES

Par. 3. The table of sections for Part 295 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the headings for

§§ 295.1 and 295.25 and by adding the heading, Notice for Smokeless Tobacco, for § 295.43 to read as follows:

* * * * *

295.1 Removal of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States.

* * * * *

295.25 Unlawful purchases, receipt, possession, or sale of tobacco products or cigarette papers or tubes, after removal.

* * * * *

295.43 Notice for smokeless tobacco.

* * * * *

§ 295.1 [Amended]

Par. 4. In § 295.1 the heading and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.11 [Amended]

Par. 5. Section 295.11 is amended by adding alphabetically the definition for "Chewing Tobacco" to read as follows: *Chewing tobacco.* Any leaf tobacco that is not intended to be smoked.

Par. 6. Section 295.11 is amended by revising the definition of "Factory" to read as follows: "The premises of a manufacturer of tobacco products or cigarette papers and tubes in which he carries on such business."

Par. 7. Section 295.11 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows: "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 8. Section 295.11 is amended by revising the definition or "Package" to read as follows: "The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer."

Par. 9. Section 295.11 is amended by revising the definition for "Removal or remove" to read as follows: "The removal of tobacco products or cigarette papers or tubes from the factory."

Par. 10. Section 295.11 is amended by adding alphabetically the definitions for "Smokeless Tobacco" and "Snuff" to read as follows: *Smokeless tobacco.* Any chewing tobacco or snuff. *Snuff.* Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 11. Section 295.11 is amended by revising the definition for "Tobacco Products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 295.23 [Amended]

Par. 12. Section 295.23 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.25 [Amended]

Par. 13. The heading of § 295.25 and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.31 [Amended]

Par. 14. Section 295.31 is amended by replacing the words "cigars, cigarettes," anywhere they appear with the words "tobacco products".

§ 295.32 [Amended]

Par. 15. Section 295.32 is amended by replacing the words "cigars, cigarettes," anywhere they appear with the words "tobacco products".

§ 295.33 [Amended]

Par. 16. Section 295.33 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.34 [Amended]

Par. 17. Section 295.34 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.35 [Amended]

Par. 18. Section 295.35 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 19. Section 295.36 is revised to read as follows:

§ 295.36 Payment of tax.

Any tax which becomes due and payable on tobacco products and cigarette papers and tubes removed under this part shall be paid to the district director, for the district in which the factory from which such articles were removed is located, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment: Provided, That a manufacturer of tobacco products or cigarette papers or tubes may pay any tax for which he becomes liable under this part by an appropriate adjustment in his current tax return Form 5000.24. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

§ 295.37 [Amended]

Par. 20. Section 295.37 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.41 [Amended]

Par. 21. Section 295.41 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.42 [Amended]

Par. 22. Section 295.42 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 23. Section 295.43 is added to read as follows:

§ 295.43 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff", and the quantity, expressed in pounds and ounces (if the package contains over one pound) or in ounces (if the package contains less than one pound) of such product contained therein.

§ 295.46 [Amended]

Par. 24. Section 295.46 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.51 [Amended]

Par. 25. Section 295.51 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Sec. E. The regulations in 27 CFR Part 296 are amended as follows:

Authority and Issuance

27 CFR Part 296 is amended as follows:

Paragraph 1. The authority citation for Part 296 is revised to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7608, 7805, 44 U.S.C. 3504(h), 49 U.S.C 782.

Par. 2. The heading of Part 296 is revised to read as follows:

PART 296—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 3. The table of sections for Part 296 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the headings of

Subpart A and Subpart C, in the text of § 296.75, and the undesignated center heading following § 290.78 and by replacing the words "cigars and cigarettes" with the words "tobacco products" in the heading for Subpart G and § 296.166 to read as follows:

Subpart A—Application of 27 U.S.C. 6423, as Amended to Refund or Credit of Tax on Tobacco Products and Cigarette Papers and Tubes

* * * * *

296.16 * * *

Subpart C—Losses of Tobacco Products and Cigarette Papers and Tubes Caused by a Disaster Occurring After the Date of Enactment of the Excise Tax Technical Changes Act of 1958

* * * * *

296.75 Separation of imported and domestic tobacco products and cigarette papers and tubes; separate claims for taxes and duties.

* * * * * *

Destruction of Tobacco Products and Cigarette Papers and Tubes

* * * * *

Subpart G—Dealers in Tobacco Products

* * * * *

296.166 Dealing in tobacco products.

* * * * *

Par. 4. The heading of Subpart A of Part 296 is revised to read as follows:

Subpart A—Application of 27 U.S.C. 6423, as Amended, to Refund or Credit of Tax on Tobacco Products, and Cigarette Papers and Tubes.

Par. 5. The heading of Subpart C of Part 296 is revised to read as follows:

Subpart C—Losses of Tobacco Products and Cigarette Papers and Tubes Caused by a Disaster Occurring After the Date of Enactment of the Excise Tax Technical Changes Act of 1950

§ 296.71 [Amended]

Par. 6. Section 296.71 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.72 [Amended]

Par. 7. Section 296.72 is amended by revising the definition for "Claimant" to read as follows:

"The person who held the tobacco products or cigarette papers and tubes for sale at the time of the disaster and who files claim under this subpart."

Par. 8. Section 296.72 is amended by revising the definition for "Duly authorized official" to read as follows: "Any Federal, State, or local government official in whom has been vested authority to condemn tobacco products and cigarette papers and tubes made the subject of a claim under this subpart."

Par. 9. Section 296.72 is amended by revising the definition for "removal or remove" to read as follows: "The removal of tobacco products or cigarette papers or tubes from the factory, or release of such articles from Customs custody."

Par. 10. Section 296.72 is amended by revising the definition for "Tax paid or determined" to read as follows: "The internal revenue tax on tobacco products and cigarette papers and tubes which has acutally been paid, or which has been determined pursuant to 26 U.S.C. 5703(b), and regulations thereunder, at the time of their removal subject to tax payable on the basis of a return."

Par. 11. Section 296.72 is amended by revising the definition of "Tobacco products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 296.73 [Amended]

Par. 12. Section 296.73 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 13. Section 296.74 is revised to read as follows:

§ 296.74 Execution and filing of claims.

Claims under this subpart shall be executed on Internal Revenue Service Form 843 in accordance with the applicable instructions on the form, and filed with the Regional Director (Compliance) of the region in which the tobacco products or cigarette papers or tubes were lost, rendered unmarketable, or condemned, within 6 months after the date on which the President makes the determination that the disaster has occurred. The claim shall state all the facts on which the claim is based, and shall set forth the number of small cigars, large cigars, (itemized separately as to the taxable wholesale price), small cigarettes, large cigarettes, cigarette papers, cigarette tubes and the pounds and ounces of chewing tobacco and snuff, as the case may be, and the rate and the amount claimed with respect to each article set forth, substantially in the form as shown in the example below:

EXAMPLE

Quantity	Article	Rate of tax	Amount
20,000	Small Cigars	$0.75 per thousand	$15.00
1,000	Large Cigars—Wholesale price $100 per thousand.	8⅓ pct of wholesale price	8.30
500	Large Cigars—wholesale price $236 per thousand.	$20 per thousand	10.00
10,000	Small Cigarettes	$8 per thousand	80.00
5,000	Large Cigarettes	$8.40 per thousand	42.00
2,000 sets	Cigarette papers—50 each set	$0.005 per set	10.00
1,000 sets	Cigarette Papers—100 each set	$0.01 per set	10.00
1,000	Cigarette Tubes	$0.01 per 50 tubes	0.20
100 lbs	Chewing Tobacco	$.08 per lb	8.00
200 lbs	Snuff	$.24 per lb	48.00
Total Claimed			$231.70

The claimant shall certify on the claim to the effect that no amount of internal revenue tax or customs duty claimed therein has been or will be otherwise claimed under any other provision of law or regulations.

§ 296.75 [Amended]

Par. 14. Section 296.75's heading and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.76 [Amended]

Par. 15. Section 296.76 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 296.77 [Amended]

Par. 16. Section 296.77 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.78 [Amended]

Par. 17. Section 296.78 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 18. The undesignated center-head following § 296.78 is amended to read as follows: "Destruction of Tobacco Products and Cigarette Papers and Tubes."

§ 296.79 [Amended]

Par. 19. Section 296.79 is amended by replacing the words "cigars, cigarettes,"

wherever they appear with the words "tobacco products".

§ 296.80 [Amended]

Par. 20. Section 296.80 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 21. The heading of Subpart G is revised to read as follows:

Subpart G—Dealers in Tobacco Products

§ 296.161 [Amended]

Par. 22. Section 296.161 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products".

§ 296.163 [Amended]

Par. 23. Section 296.163 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows: "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco, solely for his own personal consumption or use; or (b) a proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 24. Section 296.163 is amended by revising the definition for "Package" to read as follows: "The container in which tobacco products are put up by the manufacturer or the importer and offered for delivery to the consumer."

Par. 25. Section 296.163 is amended by revising the definition for "Removal or remove" to read as follows: "The removal of tobacco products from the factory or release from Customs custody, including the smuggling or other unlawful importation of such articles into the United States."

Par. 26. Section 296.163 is amended by revising the definition for "Tobacco products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 296.164 [Amended]

Par. 27. Section 296.164 is amended by replacing the words "cigars, or cigarettes" with the words "tobacco products".

§ 296.166 [Amended]

Par. 28. Section 296.166 the heading and text are amended by replacing the words "cigars and cigarettes" with the words "tobacco products".

§ 296.167 [Amended]

Par. 29. Section 296.167 is amended by replacing the words "cigars or cigarettes" with the words "tobacco products".

Signed: June 23, 1986.

W.T. Drake,

Acting Director.

Approved: July 2, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-17441 Filed 8-4-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

32 CFR Part 90

[DoD Instruction 7045.18]

Collection of Indebtedness Due the United States

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: The Department of Defense (DoD) is revising its regulations on collection of indebtedness due the United States. These revisions are necessary to (1) clarify the issue of a debtor's entitlement to a hearing, the types of hearings available to a debtor and the preparatory requirements for the hearing; (2) establish a certified debt claim form to be used by DoD Components when requesting offsets from another government agency and (3) incorporate guidelines for establishing write-off and close-out procedures in Components' implementing regulations.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Adam T. Shaw, (202) 697-0585.

SUPPLEMENTARY INFORMATION: This change is the second change to the basic instruction (DoD Instruction 7045.18). This Instruction was published in the April 22, 1985 **Federal Register** (50 FR 15734). Change 1 included three specific revisions ordered by the Office of Personnel Management as a condition of OPM approval, required by 5 CFR 550.1104. Also, there were minor administrative revisions. Change 1 was not published in the **Federal Register**. Change 2 has been made primarily to clarify paragraph E.7 of Enclosure 1, "Hearings and Written Submissions." Although other administrative changes were made, the primary revisions were made to subparagraphs E.7.a.(1)–(3). Paragraphs E.7.a.(1)–(3) were rewritten to more accurately describe the procedures under which a debtor may petition for and be granted a hearing by DoD Creditor Components. The new language explains the circumstances under which each type of hearing will be granted and the documentation required by the petitioner and the Creditor Component in preparing for the hearings. The other administrative changes to the enclosure involved renumbering and restructuring of paragraphs with no appreciable changes in meaning. Paragraph M. is a new paragraph which provides guidelines for DoD Components to follow in developing procedures for writing-off and closing-out uncollectible accounts. This paragraph has been added to comply with OMB Circular A–129 of May 9, 1985.

List of Subjects in 32 CFR Part 90

Debt collection.

PART 90—[AMENDED]

Accordingly, 32 CFR Part 90 is amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: 5 U.S.C. 5514.

§ 90.3 [Amended]

2. Section 90.3(b) is amended by changing the words "Creditor agency" to read "Creditor component".

3. In § 90.6, Enclosure 1 is amended by adding paragraph E.5.a.(10) (a) through (c) and paragraph b. to read as follows:

§ 90.6 Procedures.

* * * * *

Enclosure 1—General Procedures

* * * * *

E. * * *

5. * * *

a. * * *

(10) The fact that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(a) Disciplinary procedures appropriate under chapter 75 of Title 5, United States Code, Part 752 of Title 5, Code of Federal Regulations, or any other applicable statutes or regulations;

(b) Penalties under the False Claims Act, sections 3729–3731 of Title 31, United States Code, or any other applicable statutory authority; or

(c) Criminal penalties under sections 286, 287, 1001, and 1002 of Title 18, United States Code or any other applicable statutory authority.

b. DoD Creditor Components should respond promptly, within 30 days when feasible, to communications from the debtor, and should advise those who dispute the debt to furnish evidence supporting their contentions.

4. Paragraph E.7 of Enclosure 1 is revised in its entirety to read as follows:

7. Hearings and Written Submissions.

a. *Petitions.* Debtors are entitled to petition for hearings under this Section within the following guidelines:

(1) If a debtor petitions for a hearing under this section, the DoD Creditor Component must determine whether the debtor is entitled to an oral hearing or whether a "paper hearing" comprised of written submissions is adequate. Unless specifically waived by the debtor, an oral hearing must be provided when: (a) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness and the waiver determination turns on an issue of credibility or veracity, or (b) the debtor requests reconsideration of the debt and the DoD Creditor Component decides that the question of the indebtedness cannot be resolved solely on review of the documentary evidence.

(2) An oral hearing is not required if the particular indebtedness or waiver request is of the type that rarely involves issues of credibility or veracity. In addition, the DoD Creditor Component must determine that a review of the written record is generally adequate in such cases, i.e., the DoD Creditor Component is not required to sift through each request to determine if it involves an issue of credibility or veracity.

(3) A debtor who has petitioned for a hearing but, under the above criteria, is not entitled to an oral hearing, shall be provided a "paper hearing" by which the determinations regarding the existence or amount of the debt or the terms of the offset schedule will be made based on written submissions by the debtor and the Creditor Component.

(4) The following general rules apply to any hearing:

(a) If an employee wants a hearing concerning the existence amount of the debt or the proposed DoD Creditor Component's offset schedule, the employee must file a petition with the DoD Creditor Component concerned not later than 30 days from the date the employee receives the notification of the intent to collect by salary offset of within 45 days after receipt of records, of such records were requested by the debtor.

(b) The employee's petition or statement shall identify and explain with reasonable specificity and brevity the facts, evidence, and witnesses that the employee believes support his or her position.

(c) If an employee requests an oral hearing, the request may be changed to a paper hearing only if a written request is received by the Creditor Component at least three work days before the original hearing date.

(d) If an employee files a petition for a hearing, the DoD Creditor Component shall:

1. Determine the type of hearing and notify the employee. For oral hearings, the notice shall include the time, date, and location of the hearing. To the extent feasible, a location convenient for the employee shall be selected.

2. Provide the employee and the hearing official with a copy of the records in the DoD Creditor Component's possession relating to the employee's debt.

(e) Any appeal of the determination of the existence or amount of the debt must be filed with the DoD Creditor Component and hearing officer:

1. Not later than 25 days from the date the debtor receives the records from the Creditor Component, if such records were not previously furnished, or

2. Not later than 10 days after receipt of notification, of such records were previously furnished the debtor.

a. To contest the DoD Creditor Component's determination of the existence or amount of the debt the employee must submit the reasons why the employee believes the Creditor Component's determination is erroneous. The submission shall include (1) a list of witnesses, if applicable, including a summary of their anticipated testimony; (2) a copy of any records not previously introduced; and (3) the name of any representative the employee expects to be present.

b. To contest the DoD Creditor Component's offset schedule the employee must submit: (1) a proposed alternative offset schedule with supporting documents showing why the Creditor Component's schedule would reduce an extreme financial hardship for the employee; (2) a list of witnesses the employee intends to call at the hearing and a summary of their anticipated testimony; and (3) a copy of the records the employee intends to introduce at the hearing if they differ from the ones provided by the DoD Creditor Component. The supporting documents should include specific details concerning income and expenses of the employee, his or her spouse, and dependents for one year preceding the Creditor Component's notice and projected income and expenses during the repayment period proposed by the Creditor Component.

(f) *Standards for Determining Extreme Financial Hardship. 1.* A proposed offset schedule produces extreme financial hardship if it prevents the employee and his or her spouse and dependents from meeting the costs necessarily incurred for essential subsistence expenses. These essential subsistence expenses include only costs incurred for food, housing, necessary public utilities, clothing, transportation, and medical care.

2. In determining whether the offset schedule produces extreme financial hardship, the DoD Component and the hearing official shall consider the following:

a. The income from all sources of the employee, his or her spouse, and dependents.

b. The extent to which the assets of the employee or his or her spouse and dependents are available to meet the offset and the essential subsistence expenses.

c. Whether essential subsistence expenses have been minimized to the greatest extent possible.

b. The extent to which the employee or his or her spouse can borrow money to meet the offset and other essential expenses.

e. The extent to which the employee and his or her spouse and dependents have other exceptional expenses that should be taken into account and whether these expenses have been minimized.

(g) Within 15 days after receipt of the materials submitted under subparagraph (e) above, the DoD Creditor Component shall either accept the employee's contentions concerning the existence of the debt, the amount of the debt or the employee's alternative offset schedule or provide the employee and the hearing official with the following:

1. A statement supporting the DoD Creditor Component's determination regarding the existence and amount of the debt.

2. A statement setting forth the reasons why the DoD Creditor Component's proposed offset schedule does not produce an extreme financial hardship for the employee.

3. A list of witnesses that the DoD Creditor Component intends to call at the hearing and a summary of their anticipated testimony.

b. *Waiver of Rights to Hearing.* (1) An employee forfeits or waives his or her right to an administrative review or hearing and will have his or her pay offset in accordance with the DoD Creditor Component's offset schedule, if the employee:

(a) Fails to file a petition for an administrative review or hearing before the deadline date prescribed in paragraph E.7.a., above.

(b) Fails to file the required submissions under paragraphs 78.a.(4) (b) and (e), above.

(c) Is scheduled to appear and fails to appear at an oral hearing.

(2) The hearing official may find that the employee has not waived his or her right to a hearing if the employee petitions the hearing official for a determination that the employee had good cause for failing to comply with the established deadline date or for failing to appear at the hearing.

c. *Procedures.* (1) An administrative review or the hearing shall be conducted by a hearing official who is not an employee of the DoD Creditor Component to which the debt is owed and is not otherwise under the supervision or control of the Creditor Component. For instance, when collection action is being taken by the Department of the Army (DA) and a hearing is granted to a DA employee, the hearing offical cannot be employed or supervised by the DA. When collection action is being taken by Washington Headquaters Services for OSD Staff and field activities or by DoD Defense Agencies, i.e., DLA, DCA, DSAA, etc., the hearing official shall be selected from the Department of the Army, Navy or Air Force.

(2) Administrative reviews or hearings should be conducted by DoD personnel. While the Creditor Component may select the Component to conduct the review or administrative hearing, assignment of a hearing official to a particular administrative review or hearing shall be made by the Component selected to conduct the administrative review or hearing. Each Component will identify a reasonable number of employees qualified to serve as hearing officers for other DoD Creditor Components. Eligible persons include grievance or appeals examiners, attorney advisors, staff judge advocates, and other individuals who have been trained in or performed hearing officer duties or who are considered to be qualified to perform hearing officer duties by reason of training or experience. Arrangements for the temporary assignment of hearing officers between Components should reflect any

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agreed upon reimbursement of expenses. Implementing procedures shall identify a central point of coatact with regard to hearing officials who have been identified by each Component. If necessary, individuals not employed by the Department of Defense may be employed on a temporary or intermittent basis to act as hearing officials. Employment of such individuals should occur only where it is clearly impractical to use Department of Defense Personnel.

(3) An oral hearing normally will consist of informal conferences before a hearing official in which the employee and Creditor Components will be given a full opportunity to present evidence, witnesses, and arguments. The employee may represent him or herself or be represented by a person of his or her choice. The hearing official will permit only the introduction of such evidence as described in the prehearing submissions under paragraphs 7.a.(4) (b) and (e)., above and the employee may not raise any issue that he or she has not raised previously concerning the existence or amount of the debt or the Creditor Component's proposed offset schedule.

(4) For oral hearings, the Creditor Component shall provide for maintaining a summary record of the hearing.

(5) The Creditor Component or the agency that will conduct the oral hearing shall select a hearing site as close as possible to the debter's work station.

(6) The hearing official shall provide a written decision on the merits of the administrative review or oral hearing that discusses the basic facts offered to document the nature and origin of the debt and the hearing official's findings and conclusions concerning the existence and amount of the debt and, where applicable, the repayment schedule.

(7) Expenses incident to a debtor or employee inspecting and copying government records or transportation of a debtor or his representative to attend oral hearings shall be born by the employee or debtor requesting the hearing. The Component providing the hearing shall bear expenses for the hearing official. To assist employees in deciding whether necessary expenses incident to travel are warrented, DoD Components shall publish the locations at which hearings will be conducted.

d. *Non-waiver of rights by Payments.* Department of Defense Creditor Components shall prescribe in implementing regulations that an employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

5. Paragraph G.1.a.(2) of Enclosure 1 is revised to read as follows:

(2) A certified DoD debt claim form.

6. Paragraph G.2.b. is revised to read as follows:

b. A certified debt claim from (if used by the Creditor Agency).

7. A new paragraph M is added to Enclosure 1 to read as follows:

M. Write-Off and Close-Out Procedures

1. DoD Components shall develop write-off procedures that identify and remove uncollectible accounts from receivables, and close-out procedures that discontinue collection activity. These procedures will improve accounting for the cost of credit programs and will allow management to focus efforts on accounts most likely to be collected.

a. When appropriate, the allowance for uncollectible debts account shall be adjusted, written-off accounts closed, and the debtor's account ledgers removed from active Component files. DoD Components shall write off accounts when:

(1) Estimated collection costs exceed the amount recoverable.

(2) A claim is without legal merit or it cannot be substantiated by evidence.

(3) A legal judgment, once obtained, has failed to accomplish full or partial collection.

(4) A debtor cannot be located and either (a) there is no security remaining to be liquidated, or (b) the applicable statute of limitations has run and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retaining the claim.

(5) A collection agency has returned with documentation effectively showing that the debt is uncollectible.

b. DoD Components shall close out written-off delinquent accounts and remove the accounts from other active receivables.

(1) DoD Components may find it appropriate to maintain subsidiary records of individual accounts that may subsequently be collected by offset against future benefit claims.

(2) An IRS referral log shall be maintained by calendar year which contains a record of amounts written-off and debtor-identifying information.

(3) DoD Components may reinstitute collection action on closed-out accounts if subsequent evidence shows a debtor's new ability to repay.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 30, 1986.

[FR Doc. 86-17541 Filed 8-4-86; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-4-FRL-3060-2]

Georgia; Final Authorization of State Hazardous Waste Program; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This notice corrects the date and address previously published in the **Federal Register**, July 7, 1986 (51 FR 24549) for a public hearing to be held in Atlanta, Georgia. The date is to be changed from Wednesday, August 6, 1986 to Monday, August 11, 1986. The address is to be inserted at the beginning of the address section to read as follows: "If significant interest for a public hearing is expressed, the hearing will be held in the Cafeteria Conference Room, Floyd Twin Towers Building, 205 Butler Street, SE., Atlanta, Georgia 30334."

FOR FURTHER INFORMATION CONTACT: Otis Johnson, (404) 347-3016.

Dated: July 25, 1986.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 86-17558 Filed 8-4-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 40800-4100]

Reef Fish Fishery of the Gulf of Mexico; Corrections

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; corrections.

SUMMARY: This document corrects two geographical coordinates listed in Table 1 in the final rule implementing the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico published October 9, 1984, 49 FR 39548.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

Dated: July 30, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

The following corrections are made to Table 1 in § 641.22:

§ 641.22 [Corrected]

Under the "Loran C coordinates" heading in Table 1, the Y Loran C coordinate for point 8 is corrected from "43117.4" to "44174.4" and for point 9 from "43347.6" to "44347.6".

[FR Doc. 86-17540 Filed 8-4-86; 8:45 am]

BILLING CODE 3510-22-M

BEST COPY AVAILABLE

Proposed Rules

Federal Register
Vol. 51, No. 150
Tuesday, August 5, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 1

[Docket No. 24912; Petition Notice PR-86-9A]

Petition of the General Aviation Manufacturers Association To Establish Definitions for Intentional One-Engine-Inoperative Speed and Air-Minimum Control Speed, and Establish a Procedure for Demonstration of Air-Minimum Control Speed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: This notice reopens the comment period for Petition for Rulemaking No. PR-86-9 (51 FR 21916; June 17, 1986). That notice published verbatim for public comment the petition of the General Aviation Manufacturers Association dated January 22, 1986. The petitioner proposes that the Federal Aviation Administration amend Part 1 of the Federal Aviation Regulations (FAR) to establish definitions for an intentional one-engine-inoperative speed, V_{SEE} and air-minimum control speed, V_{MCA}. In addition, the petitioner petitions the FAA to establish a standard for the demonstration of directional control when one engine suddenly becomes inoperative by amending the rules, handbooks, and advisory circulars. The petitioner contends that such action will be consistent with industry practice and National Transportation Safety Board (NTSB) Safety Recommendations A76-97 and A76-98 dated July 29, 1976.

DATE: Comments must be received on or before September 4, 1986.

ADDRESS: Comments on the petition contained in Notice PR-86-9A may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Atten: Rules Docket (AGC-204), Docket No. 24912, 800 Independence Avenue SW., Washington, DC 20591. Comments may be inspected in Room 915-G weekdays, except Federal holiday, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Regulations and Policy Office, ACE-110, Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Comments received on or before the closing date for comments will be considered by the Administrator before taking action on the petition. All comments received will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of their comments should submit a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. 24912." The postcard will be date stamped and returned to the commenter.

Availability of Notice

Any person may obtain a copy of Notice No. PR-86-9 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 426-8058. Communications must identify the notice number. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On January 22, 1986, the General Aviation Manufacturers Association submitted a petiton for rulemaking to establish a standard for the demonstration of directional control when one engine suddenly becomes inoperative, and to establish definitions for V_{SEE} and V_{MCA}. The petition was published verbatim in the Federal Register on June 17, 1986 (51 FR 21916) with a closing date for submission of comments on July 17, 1986. On July 16, 1986, a request was received from the Air Transport Association of America requesting an extension of comment period on this petition.

Reopening of Comment Period

The FAA has determined that it is in the public interest to reopen the comment period for Notice PR-86-9 to afford the public and aviation industry the opportunity to further review the petition. Accordingly, the comment period for Notice PR-86-9 is reopened with a closing date of September 4, 1986.

Conclusion

This document reopens the comment period on a petition for rulemaking to afford the public maximum opportunity to review and respond to a petition for rulemaking. Therefore, this document imposes no regulatory or economic burden on the public or industry. For these reasons, I certify that this document will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA has determined that this notice involves an action which is not a major rule under Exectuve Order 12291 and is not considered significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, DC, on July 30, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 86-17511 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 86-AWA-24]

Proposed Alteration of Restricted Area R-5803 Chambersburg, PA

Correction

IN FR Doc. 86-16341 beginning on page 26263 in the issue of Tuesday, July 22, 1986, make the following corrections:

1. On page 26263, in the third column, in the heading, the Docket No. should read as it appears above.

2. On page 26264, in the second column, in the second line, "RPRM" should read "NPRM".

BILLING CODE 1505-01-M

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14 CFR Part 75

[Airspace Docket No. 86-AWP-15]

Proposed Alteration of Jet Route J-143, California

Correction

In FR Doc. 86-16342 beginning on page 26264 in the issue of Tuesday, July 22, 1986, make the following correction: On page 26265, in the second column, in the fourth line from the bottom, insert "*Acting*" before "*Manager,*".

BILLING CODE 1505-01-M

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14 CFR Part 75

[Airspace Docket No. 86-ASO-19]

Proposed Alteration of Jet Routes—South Carolina

Correction

In FR Doc. 86-16343 beginning on page 26265 in the issue of Tuesday, July 22, 1986, make the following corrections:

1. On page 26265, in the third column, in the ADDRESSES caption, in the fourth line, "85-" should read "86-".

2. On page 26266, in the second column, in the Authority, in the first line, insert "1354(a)," after "1348(a),".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Rel. No. 34-23486; S7-18-86]

Concept Release on Takeovers and Contests for Corporate Control

AGENCY: Securities and Exchange Commission.

ACTION: Request for Public Comment

SUMMARY: The Commission is seeking public comment on three topics relating to takeovers and contests for corporate control: (1) Whether the Williams Act should apply whenever a person acquires a substantial percentage of a target company's securities during or shortly after a tender offer; (2) Whether there should be a governmental response to the proliferation of "poison pill" plans; and (3) Whether the Commission should adopt a self-governance exemption to its "all holders" rule, as well as to other provisions of its tender offer rules. The Commission will review comments received in response to this release with a view towards determining whether future rulemaking or legislative proposals are appropriate.

DATE: Comments should be received by September 30, 1986.

ADDRESS: Comment letters should refer to File S7-18-86 and be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. The Commission will make all comments available for public inspection and copying in its Public Reference Room at 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Joseph G. Connolly, Jr. or Gregory E. Struxness ((202) 272-3097), Office of Tender Offers, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: In this concept release, the Commission requests public comment on three topics related to takeovers and contests for corporate control. The Commission has determined that these topics deserve further inquiry because of developments in the market for corporate control, recent court decisions, and comments made during public roundtable meetings with representatives of investor groups, experts in the legal and financial aspects of takeovers, and participants in contests for corporate control.

INTRODUCTION

1. *Substantial Share Acquisitions Outside the Williams Act.* Two Courts of Appeals have held that the tender offer provisions of the Williams Act and Commission rules adopted thereunder did not apply to certain substantial acquisitions of shares that occurred during a tender offer or immediately after termination of a tender offer. The Ninth Circuit's decision in *Carter Hawley Hale* allowed a target company to purchase a majority of its own shares in the open market in six days without complying with the Williams Act. The Second Circuit's decision in *Hanson Trust* allowed a tender offer bidder to terminate its tender offer and immediately purchase almost a third of a target company's shares in open-market and privately negotiated transactions, without complying further with the Williams Act.

The Commission seeks comment as to whether investors require the protections provided by the Williams Act and Commission rules adopted thereunder in the case of certain substantial share acquisitions made during or shortly after termination of a conventional tender offer, and the benefits and costs of applying the Williams Act to these acquisitions. The Commission specifically requests comment on a proposal that would subject to Williams Act requirements all substantial acquisitions of a target company's securities either during or shortly after termination of a conventional tender offer.

2. *"Poison Pills."* "Poison pill" plans place impediments in the path of any person who seeks to acquire substantial shareholdings directly from a target's shareholders without obtaining the prior approval of the target's board. Delaware's Supreme Court upheld one such plan in November of 1985. Currently, more than 190 publicly-traded corporations have poison pill plans in place, and there are indications that more publicly-held corporations may adopt them.

Generally, "poison pill" plans are adopted by a corporation's board of directors without shareholder approval. Proponents of these plans contend that they allow managements to negotiate more effectively on behalf of stockholders. In particular, it is said that these plans protect shareholders from tender offers at unreasonably low prices as well as from partial offers, two-tier offers, open-market purchase programs, and other allegedly abusive takeover practices.

Opponents of these plans argue that they deter takeovers and proxy contests, can entrench management to the detriment of stockholders, and are tantamount to recapitalizations of the issuer effected without shareholder approval. Recent research suggests that poison pills can, under some circumstances, cause a statistically significant decline in the price of a company's shares. There are also indications that some boards of directors may have adopted poison pill plans despite suggestions that the corporation's shareholders would have opposed such plans, had the matter been put to a vote. Because of these and other concerns, it has been suggested that poison pill plans should, at a minimum, be subject to shareholder approval.

The Commission seeks information regarding the extent to which the incidence of poison pill plans is increasing, the costs and benefits of such plans, and the investor protection issues raised by these plans. The Commission also seeks comment as to whether a governmental response is appropriate; whether a governmental response, if appropriate, should be at the state or federal level; and, if at the federal level, the nature of the most appropriate response.

3. *Self-Governance.* State corporation codes and portions of the federal securities laws permit corporations to modify the application of certain regulations to suit their individual circumstances, provided that the corporation acts in accordance with principles of corporate self-governance. The Commission seeks comment on the advisability of adopting a self-governance exemption to its "all holders" rule, as well as to other provisions of its tender offer regulations.

The Williams Act and the Commission's tender offer rules currently operate as rules of general applicability with no provision for modification by stockholder or director action. Tender offers are thus conducted according to uniform rules, and all participants are equally subject to regulations that Congress and the Commission have judged to be in the public interest.

The Commission is interested in exploring whether the public interest might be better served if individual corporations are permitted to craft safeguards suited to the specific circumstances of the corporation and its shareholders rather than be unconditionally subject to the provisions of the Williams Act. Should stockholders and directors be permitted jointly to determine that certain provisions of the tender offer rules are less effective than alternative protections they can craft and implement for themselves? Would a selfgovernance exemption that permits stockholders and directors to design protections suitable for an individual corporation be a beneficial supplement to regulations that would otherwise have general applicability?

The Commission seeks comment as to whether principles of self-governance can contribute to the efficient and equitable operation of tender offer regulations. In particular, the Commission seeks comment as to the probable costs and benefits of self-governance exemptions to tender offer regulations; the investor protection issues raised by such exemptions; the form and workability of self-governance exemptions; and the specific provisions of the tender offer regulations that are most appropriate candidates for self-governance exemptions.

Specific Requests for Comment

I. Share Acquisitions in Conjunction With Tender Offers

The Commission seeks to determine whether acquisition programs for a target company's shares effected during or shortly after termination of a tender offer for the target's securities present investor protection concerns. In the event investor protection issues are present, the Commission seeks comment as to whether a regulatory response is required and, if so, the nature of an appropriate response.

A. Issues Presented

Announcement of a control contest generally builds a premium into the price of the target company's stock. This premium reflects the market's response to the expected increase in security value that will accrue in the event the takeover is completed on the announced terms. Also reflected in the market price is the market's assessment of the probability that the offer will be defeated, or that a takeover may take place on terms and conditions materially different from those initially announced.

After the announcement of a tender offer, shares of the target company often become concentrated in the hands of a smaller number of investors. This concentration represents an allocation of the risk created by uncertainty over the outcome of the takeover process. Shareholders who wish to receive some portion of the tender offer premium but who are unwilling to assume the risk that the tender offer will not be consummated frequently sell into the market. These shares are often purchased by professionals, who assume the risk and provide liquidity to the market.[1]

The Williams Act and tender offer rules are designed to provide shareholders with sufficient time and information to make an informed decision whether to sell into the market, tender, or hold the securities. They also establish substantive protections, including a minimum offering period, and withdrawal and proration rights. These substantive protections prohibit a bidder from purchasing shares under the tender offer until the expiration of the offer. A bidder also is prohibited from purchasing securities outside of its tender offer once the tender offer is announced and during the time that the offer is open.[2] This prohibition prevents bidders from acquiring shares through open market purchases, including purchases from investors who have acquired substantial holdings after announcement of the takeover bid. This and related prohibitions ensure that all target shareholders will be treated equally by a bidder during the tender offer.

Restrictions on the acquisition of securities during a tender offer currently apply only to a tender offer bidder. Other purchasers of a target company's securities are free to engage in open market and privately negotiated transactions at any time during the course of a tender offer,[3] sometimes in competition with or to defeat the original bidder. For example, the Ninth Circuit permitted a target company to defeat a third party tender offer through unregulated, large scale open market purchases of its own securities.[4] Similarly, the Second Circuit permitted a third party bidder, faced with a hostile response by the target company, to terminate its tender offer and immediately effect substantial acquisitions of target company securities through unregulated open market purchases and privately negotiated transactions.[5]

The Commission seeks comment on the consequences of such acquisitions, and their associated costs and benefits. Commentators are requested to address both the shareholder protection and market efficiency issues presented by such acquisitions. Specifically, with respect to investor protection interests, the Commission seeks comment as to whether shareholders have adequate time and information upon which to act in the face of such unregulated acquisition programs, and whether some groups of shareholders are unfairly disadvantaged in such transactions because of the speed with which the transactions occur, the lack of adequate information concerning the transaction, or the inability to participate on the same basis as other shareholders.

The Commission also seeks comment as to the consequences of regulating timing and disclosure in conventional tender offers while permitting other large acquisitions to compete with such

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[1] For an analysis of the relationship between market price prior to completion of a takeover transaction and the probability that the transaction will be successfully completed, see Samuelson & Rosenthal, *Price Movement as Indicators of Tender Offer Success*, 41 J. Fin. 481 (1986).

[2] Rule 10b–13, 17 CFR 240.10b–13.

[3] This assumes that those acquisitions are not themselves deemed to be an unconventional tender offer.

[4] *See SEC* v. *Carter Hawley Hale Stores, Inc.*, 760 F.2d 945 (9th Cir. 1985). The Commission sued Carter Hawley on the grounds that the purchase program constituted an unconventional tender offer that should have complied with the Williams Act and the regulations thereunder. The court rejected the Commission's position.

[5] *See Hanson Trust PLC* v. *SCM Corp.*, 774 F.2d 47 (2d Cir. 1985). The Commission, at the request of the Second Circuit Court of Appeals, filed an amicus brief in which it expressed the view that the bid termination and immediate purchases raised sufficiently substantial questions under the Williams Act to justify the District Court's issuance of a preliminary injunction. The Second Circuit did not agree.

offers, unfettered by such restrictions. In particular, the Commission seeks comment as to whether the possibility of an unregulated competing acquisition by the target or a third party deters or disadvantages the initial bidder or encourages initial takeover attempts to proceed other than by way of conventional tender offers.[6] The Commission also seeks comment as to whether the ability to abandon a conventional tender offer and commence unregulated purchases, as permitted in *Hanson Trust PLC* v. *SCM Corporation*,[7] offsets the possible deterrence of initial bids.

The Commission further seeks comment on the differences, if any, (1) between concerns raised by acquisitions effected during a tender offer and acquisitions effected shortly after termination of a tender offer, and (2) between acquisitions effected by an issuer in the context of a third party offer and acquisitions effected by a third party in the context of either an issuer or third party offer. With respect to any identified effects, commentators are requested to discuss whether such effects are adequately addressed through existing regulation and/or market forces and if not, what response, if any, is warranted. Commentators are requested to provide factual support for their views.

B. A Possible Approach to Regulation of Acquisitions During or Shortly After Tender Offers

One approach to the regulation of such acquisitions involves amending the tender offer rules promulgated under the Securities Exchange Act of 1934 (the "Exchange Act") to provide that a substantial acquisition of a target company's securities by any person after commencement of a formal tender offer for such securities, and until the expiration of a specified period after termination of the tender offer, would be deemed a "tender offer" required to be made in compliance with the tender offer rules. Under this approach, upon the commencement of a tender offer, by either an issuer or a third party, any person seeking to acquire a substantial amount of target company securities (e.g., 10 percent) would be required to effect that acquisition through a conventional tender offer. This requirement would apply to the acquisition of securities by the target company itself as well as to acquisitions by any third party. The establishment of a threshold level, such as 10 percent, is intended to avoid interference with the activities of most arbitrageurs and other market professionals. Commentators are specifically requested to address the need for such a threshold and the appropriate level thereof.

The establishment of a "cooling off" period after the termination of a tender offer would ensure that neither the initial bidder nor any other person could take advantage of the market activity generated by an offer to effect a rapid acquisition of securities.[8] Commentators are specifically requested to address the need for such a "cooling off" period and, if considered necessary, the appropriate amount of time that should be allotted to permit the impact of the offer on the market to subside.

Commentators are also requested to identify characteristics of acquisitions that occur during or shortly after tender offers that, in their view, should be exempted from the requirements of the regulations discussed above because the transactions do not raise investor protection or other concerns. Commentators are specifically requested to address the appropriateness of exempting acquisitions effected through "lock-up" options granted by the issuer.

II. "Poison Pill" Plans

"Poison pill" plans place impediments in the path of any person who seeks to acquire substantial shareholdings directly from a target's stockholders without first obtaining the approval of the target's board.[9] Proponents of these plans state that they are designed to protect shareholders by giving their boards of directors the power to ensure that shareholders receive a fair price for their shares.[10] These plans are generally adopted without the approval of the corporation's stockholders.[11]

Poison pills were adopted as early as June of 1983.[12] On November 19, 1985, in *Moran* v. *Household International*, the Delaware Supreme Court ruled that a board's adoption of a poison pill plan without shareholder approval did not necessarily violate Delaware's corporation law or the business judgment rule.[13] Approximately 37 companies had poison pills in place as of the date of the *Household* decision.[14] Today, at least 190 companies have poison pills in place, and market observers believe this number will increase substantially.[15]

The term "poison pill" refers generally to preferred stock, rights, warrants, options, or debt instruments that an actual or potential target company distributes to its security holders.[16] These instruments are designed to deter nonnegotiated takeovers by conferring certain rights to shareholders upon the occurrence of a "triggering event," such as a tender offer or third party acquisition of a specified percentage of stock.[17] These rights usually have little value until the triggering event occurs, but may subsequently become quite expensive for any party to redeem or purchase.[18] "Flip over" and "flip in" plans are the most

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[6] For a related analysis, see Bradley & Rosenzweig, *Defensive Stock Reourchases*, 99 Harv. L. Rev. 1377 (1986).

[7] 774 F.2d at 47.

[8] Rule 13e–4(f)(6), 17 CFR 240.13e–4, currently prohibits purchases of securities for a period of ten business days after the expiration of an issuer tender offer.

[9] It has been said that poison pills typically "serve[] no conceivable business purpose other than deterring takeovers." Bogen, *More Legal Tests Likely on Stockholder Rights Plans*, Nat'l L.J., June 30, 1986, at 26. *See also* Letter from D.C. Clark, Chairman and CEO of Household International to Household's shareholders (Aug. 14, 1984) (The poison pill's warrants "should deter any attempts to acquire your company in a manner or on terms not approved by the Board.").

[10] *E.g.*, Letter from M. Lipton to the clients of Wachtell, Lipton, Rosen & Katz (Feb. 4, 1985) (Poison pill plans help "to preserve the option of the board of directors of a target company to make the ultimate decision as to its destiny.").

[11] *See, e.g., Moran* v. *Household Int'l, Inc.*, 500 A.2d 1346, 1348 (Del. 1985). *See also* Note, *Internal Transfers of Control Under Poison Pill Preferred Issuances to Shareholders: Toward A Shareholder Approval Rule*, 60 St. John's L. Rev. 94 (1985) [hereinafter Internal Transfers].

[12] Lenox, Inc. adopted a poison pill in its battle with Brown, Forman Distillers Corp. *See* Wall St. J., June 16, 1983, at 2, col. 2.

[13] *Moran* v. *Household Int'l, Inc.*, 500 A.2d 1346 (Del. 1985).

[14] Office of the Chief Economist, Securities and Exchange Commission, *The Economics of Poison Pills*, at Table 2 (March 5, 1986).

[15] Investor Responsibility Research Center, Ongoing Survey of Antitakeover Developments (May, 1986); Kidder, Peabody & Co., Impact of Adoption of Stockholder Rights Plan on Stock Price (June 9, 1986); Corporate Control Alert, June 1986 (and preceding issues).

[16] For a general description of the operation of poison pill plans see Internal Transfers, *supra* note 13; Note, *Delaware's Attempt to Swallow a New Takeover Defense: The Poison Pill Preferred Stock*, 10 Del. J. Corp. L. 569 (1985); Note, *Protecting Shareholders Acainst Partial and Two-Tiered Takeovers: The "Poison Pill" Preferred*, 97 Harv. L. Rev. 1964 (1984); Fleischer & Golden, "Poison Pill," Nat'l L.J., Feb. 24, 1986, at 17.

[17] *See, e.g., Dynamics Corp. of America* v *CTS Corp.*, No. 86–1601, slip op. at 14 (7th Cir. May 28, 1986) (plan is triggered when one shareholder owns 15% or more of CTS's stock); *Moran* v. *Household Int'l, Inc.*, 500 A.2d at 1348–49 (plan is triggered by tender offer for 30% of shares or acquisition of 20% of shares); *Horwitz* v. *Southwest Forest Indus.*, 604 F. Supp. 1130, 1132 (D. Nev. 1985) (same).

[18] *See, e.g., Dynamics Corp.* v. *CTS*, slip op. at 14 (holders of rights can buy stock and debentures at 25% of the then market price of the package); *Household*, 500 A.2d at 1349 (holders of 1/100 of a share of preferred stock able to purchase $200 of acquirer's stock for $100). *See generally* Ferrara & Phillips, *Opposition to Poison Pill Warrants is Mounting*, 7 Legal Times 13 (Oct. 15, 1984).

frequently used forms of poison pills,[19] but a large number of securities issuance plans could conceivably be crafted to have the same effect as currently popular poison pill plans.[20]

Tender offers can benefit shareholders by offering them an opportunity to sell their shares at a premium and by guarding against management entrenchment.[21] However, because poison pills are intended to deter nonnegotiated tender offers, and because they have this potential effect without stockholder consent, poison pill plans can effectively prevent shareholders from even considering the merits of a takeover that is opposed by the board.[22] Accordingly, in an *amicus* brief submitted to the Court in *Household International*, the Commission expressed its concern over these plans. The Commission argued that poison pills may harm shareholders by restricting their opportunity to consider hostile tender offers and by limiting their ability to wage proxy contests.[23]

In at least two instances, corporations have adopted poison pill plans despite indications that there would be a substantial question as to whether a majority of the corporation's stockholders would support adoption of a poison pill, if given the opportunity to vote on the plan.[24] A "Shareholder Bill of Rights" recently adopted by the Council of Institutional Investors, whose members manage over $160 billion in assets, proclaims that "shareholders have a right to vote on . . . poison pills."[25] Members of Congress have similarly considered requiring shareholder approval of poison pills.[26]

In *Household International*, the Delaware Supreme Court determined that poison pills do not necessarily harm shareholders.[27] The court concluded that poison pills do not necessarily prevent stockholders from entertaining all tender offers, and may not change the structure of a company as much as other antitakeover measures that a board could legally implement without stockholder approval. The court also observed that these plans may deter partial and two-tier tender offers and ward off open market purchase programs that could deprive shareholders of larger control premiums. Accordingly, the court concluded that poison pills give a board of directors bargaining power that can be helpful in assuring that target shareholders receive a higher price for their shares. The court stressed, however, that a board of directors has a fiduciary duty to the corporation's shareholders when it is presented with a request to redeem the poison pill, and that the decision not to redeem a poison pill could be subject to further judicial scrutiny.[28] Other courts have upheld the issuance of poison pills under circumstances and on grounds similar to those of *Household International*.[29]

Not all applications of poison pills have, however, withstood challenge in the courts. In *Dynamics Corp. of America* v. *CTS Corp.*, a federal district court applying Indiana law enjoined CTS's first poison pill because it was "unreasonable in relation to the particular threat posed."[30] The Seventh Circuit affirmed that decision and indicated that managements adopting poison pills might not be able to satisfy their burden under the business judgment rule[31] unless the triggering event requires that a shareholder own more than 50% of the target's shares and the rights give shareholders no more for their shares than the highest price the majority shareholder paid for its shares.[32] In *Asarco, Inc.* v. *M.R.H. Holmes A Court*, a federal district court held that New Jersey law prohibited adoption of poison pill plans that caused unequal voting rights among holders of a single class of shares.[33] Similarly, courts

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[19] Both of these variations involve the distribution of "rights" that are nondetachable from the common stock until the triggering event occurs. Under "flip-over" plans, if the acquiring firm consummates a merger, substantial asset sale, or other combination, the shareholder can present the rights to the acquirer in exchange for a fixed dollar amount of securities of the acquiring firm at a price far below (usually half) the market price. *See, e.g., Household*, 500 A.2d at 1349; *Horwitz* v. *Southwest Forest Indus.*, 604 F. Supp. at 1132. Under "flip in" plans, the occurrence of a triggering event permits shareholders, except the bidder, to return their rights to the issuer in exchange for cash or short-term senior notes in amounts often well in excess of the market value of the pre-rights shares. *See, e.g., Dynamics Co. of America* v. *CTS Corp.*, No. 86-1601, slip op. at 14 (7th Cir. May 28, 1986).

[20] "Back end" plans are a particular type of "flip in" pill that require that the target's shares be tendered along with the rights, and provide that the person causing the rights to be triggered may not exercise those rights. *See, e.g., Revlon, Inc.* v. *MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173, 177 (Del. 1986); *Dynamics Corp. of America* v. *CTS Corp.*, No. 86C1624, slip op. at 5-6 (N.D. Ill. May 3, 1986), *aff'd on rehearing*, 86C1624 (N.D. Ill. June 20, 1986). The net financial effect of such a plan may be similar to exclusionary self-tenders that are prohibited by Commission regulation. *See* part III, *infra*. Other varieties of poison pills can also have the same financial effect. For a discussion of recent variations of poison pill plans see Corporate Control Alert, June 1986, at 1.

[21] *See, e.g.*, Jensen & Ruback, *The Market for Corporate Control: The Scientific Evidence*, 11 J. Fin. Econ. 5 (1983) and authorities cited therein; Ginsburg & Robinson, *The Case Against Federal Intervention in the Market for Corporate Control*, Brookings Rev. (Winter/Spring 1986), at 9.

[22] Judges of a Federal Court of Appeals have echoed many of the reservations expressed in this release:

> Personally, we are rather skeptical about the arguments for defensive measures. They strike us as giving too little weight to the effect of "defensive" measures in rendering shareholders defenseless against their own managements. (The shareholders of CTS were not asked to approve the poison pill.) We are especially skeptical about the arguments used to defend poison pills. If the present case is representative, the poison pill seems (as we shall see) more a reflex device of a management determined to hold on to power at all costs than a considered measure for maximizing shareholder wealth.

Dynamics Corp. of America v. *CTS Corp.*, No. 86-1601, slip op. at 9 (7th Cir. May 28, 1986) (Posner, J.).

[23] Brief of the Securities and Exchange Commission, *Moran* v. *Household International, Inc.*, 500 A.2d 1346 (Del. 1985) (poison pills raise the cost of forming a control block and evidence shows that control blocks increase the likelihood of a successful proxy contest). *See also Household*, 500 A.2d at 1356.

[24] *See Moran* v. *Household Int'l, Inc.*, 490 A.2d 1059, 1064 (Del. Ch.), *aff'd*, 500 A.2d 1346 (1985) (Proxy consultant predicted that shareholder approval of a fair price amendment, an antitakeover measure less inhibiting than a poison pill, would result in a close vote. Management elected to pursue the poison pill route, which does not require a vote, "in view of the predicted closeness of the [fair price] vote."); *Rorer Group, Inc. Retains Measure Against Takeovers*, Wall St. J., at 8 (May 29, 1985); *Rorer Holders Vote to Rescind Firm's 'Poison Pill' Rule*, Wall St. J., at 20 (May 9, 1985).

[25] Vise, *"Bill of Rights" Seeks to Boost Power of Shareholders*, Washington Post, April 13, 1986, p. F1.

[26] *See* H.R. 5693, 98th Cong., 2d Sess. (1984). *See also*, Note, *Protecting Shareholders Against Partial and Two-Tiered Takeovers: The "Poison-Pill" Preferred*, *supra* note 16, at 1984 n.2.

[27] 500 A.2d at 1354.

[28] "While we conclude for present purposes that the Household Directors are protected by the business judgment rule [in adopting the plan] that does not end the matter. The ultimate response to an actual takeover bid must be judged by the Directors' actions at that time, and nothing we say here relieves them of their basic fundamental duties to the corporation and its stockholders. Their use of the plan will be evaluated when and if the issue arises." *Id.* at 1357 (citations omitted). At that time, the Delaware court is likely to consider whether the application of the pill is " 'reasonable in relation to the threat posed.' " *Id.* at 1356 (citing *Unocal Corp.* v. *Mesa Petroleum*, 493 A.2d 946, 955 (Del. 1985)).

[29] *See, e.g., Horwitz* v. *Southwest Forest Indus.*, 604 F. Supp. 1130 (D. Nev. 1985); *MacAndrews & Forbes Holding, Inc.* v. *Revlon, Inc.* 501 A.2d 1239, 1251 (Del. Ch. 1985), *aff'd*, 506 A.2d 173 (Del. 1985).

[30] *Dynamics Co. of America* v. *CTS Corp.*, No. 86C1624, slip op. at 32 (N.D. Ill. April 17, 1986), *aff'd*, No. 86-1601 (7th Cir. May 28, 1986). On appeal, the court found that the pill "effectively preclude[d] a hostile takeover, and thus allow[ed] management to take the shareholders hostage." No. 86-1601, slip op. at 16 (7th Cir. May 28, 1986). The district court has since refused to enjoin a second CTS poison pill, No. 86C1624 (N.D. Ill. June 20, 1986) (appeal pending). Unlike the initial rights plan, the second plan did not contain a "flip-in" provision which precluded the insurgent from conducting a proxy contest. Furthermore, the District Court noted that the second plan was the result of a more considered deliberative process by the Board of Directors.

[31] No. 86-1601, slip op. at 10-11 (7th Cir. May 28, 1986).

[32] *Id.*, slip op. at 16.

[33] 611 F. Supp. 468 (D.N.J. 1985).

have enjoined poison pill plans that created rights that could not be transferred with the underlying shares.[34]

Because poison pill plans are relatively new, there has been little research as to their consequences. One study of early plans suggests that poison pills harm stockholder interests and lead to management entrenchment.[35] A more recent study conducted by the Commission's Office of the Chief Economist ("OCE") examines the effects on share price of a larger and more recent set of poison pills and finds that the effect of these pills depends on the circumstances under which they are adopted.[36] For certain firms that were the subject of serious takeover speculation at the time their poison pill plans were adopted, the poison pills caused statistically significant price declines of about 2.4 percent. Poison pills adopted under other circumstances showed no statistically significant effect on share price. All of these findings should be interpreted in light of other research suggesting, in general, that antitakeover measures either reduce shareholder wealth or leave it unchanged.[37] At least one study, however, suggests that antitakeover measures approved by shareholders may increase shareholder wealth.[38]

There has also been substantial controversy as to the effectiveness of poison pills in deterring takeovers. Some commentators claim that poison pills erect virtually insurmountable obstacles to takeovers,[39] but there have been at least two takeovers completed despite the presence of poison pills.[40] An alternative measure of the effectiveness of poison pills is the number of takeovers that would have occurred but for the presence of these plans, or any changes in takeover premiums resulting from poison pill plans. The Commission invites comment as to whether and how the effectiveness of these plans can be measured.

The Commission also observes that the regulation of poison pills has to date been a subject of state, not federal, oversight. Because federal regulation of poison pills could intrude on traditional state functions and preempt state corporation law, the benefits of state involvement in this area must be considered when weighing the appropriateness of any federal action.

In light of the quick evolution, rapid spread, and deep debate over the consequences of poison pill plans, the Commission seeks comment as to the extent to which the incidence of poison pill plans is increasing, the circumstances under which corporations adopt and exercise such plans, the number of corporations that can be expected to adopt poison pills in the future, and the types of pills likely to be adopted. The Commission also seeks comment as to the effectiveness of poison pills in deterring takeovers, and the strategies that bidders can use to circumvent current and future poison pill plans.

The Commission further seeks comment regarding the investor protection issues that poison pills raise and their costs and benefits in general. Because poison pill plans are adopted without stockholder approval, the Commission seeks comment regarding the possibility that these plans are used to entrench management, and the effectiveness of state law fiduciary obligations imposed on directors to consider redemption of the poison pills.[41] The Commission also seeks comment on the consequences of poison pills on contests for corporate control that do not otherwise involve tender offers, including, in particular, proxy contests.

Many concerns regarding poison pill plans might be resolved if these plans are subject to stockholder approval.[42] Such a requirement could be imposed at either a state or federal level. The Commission requests comment as to the appropriateness of federal intervention into the area of poison pills, an area that has to date been the province of state corporation law. In the event that federal action is warranted, the Commission seeks comment as to the appropriate form of the response. In light of the market's ability to evolve new instruments designed to avoid the restraints imposed by regulation, the Commission also seeks comment on the probable effectiveness of any suggested federal action, and the likely market response to such regulatory initiatives.

III. Self-Governance Exemptions

Self-governance exemptions are found in both state and federal law. They are particularly common in state law where corporation codes frequently establish general rules from which corporations can exempt themselves by appropriate stockholder and/or director action.[43] Certain state antitakeover statutes also contain self-governance exemptions.[44] Self-governance exemptions are also found in the federal securities laws, where regulated entities can, by appropriate stockholder or director action, exempt themselves from certain provisions of the Investment Company Act.[45] The Trust Indenture Act contains

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[34] *Minstar Acquiring Corp.* v. *AMF Inc.*, 621 F. Supp. 1252 (S.D.N.Y. 1985) (New Jersey law); Unilever Acquisitions Corp. v. *Richardson-Vicks. Inc.*, 618 F. Supp. 407 (S.D.N.Y. 1985) (Delaware law).

[35] Malatesta & Walkling, *The Impact of "Poison Pill" Securities on Shareholder Wealth* (Dec. 1985) (unpublished manuscript).

[36] Office of the Chief Economist, Securities and Exchange Commission, *The Economics of Poison Pills* (Mar. 5, 1986).

[37] *See, e.g.*, Bradley & Wakeman, *The Wealth Effects of Targeted Share Repurchases*, 11 J. Fin. Econ. 301 (1983); Dann & DeAngelo, *Standstill Agreements, Privately Negotiated Stock Repurchases, and the Market for Corporate Control*, 11 J. Fin. Econ. 275 (1983).

[38] *See* Linn & McConnell, *An Empirical Investigation of the Impact of "Antitakeover Amendments" on Common Stock Prices*, 11 J. Fin. Econ. 361 (1983). *But see* DeAngelo & Rice, *Antitakeover Charter Amendments and Stockholder Wealth*, 11 J. Fin. Econ. 329 (1983).

[39] *A "Poison Pill" That's Super-Lethal*, Business Week, at 93 (Oct. 1, 1984); Ferrara & Phillips, *Opposition to Poison Pills Is Mounting*, 7 Legal Times 13 (Oct. 15, 1984).

[40] Pantry Pride commenced and succeeded with a tender offer for Revlon despite the existence of a poison pill. Similarly, Sir James Goldsmith commenced a tender offer for Crown Zellerbach even though the company had adopted a poison pill plan. Although Goldsmith terminated his tender offer, he proceeded to acquire control of the company through open market purchases.

[41] *See* Note, *Protecting Shareholders Against Two-Tiered and Partial Takeovers: The "Poison Pill" Preferred*, *supra* note 16, at 1968–72.

[42] *See* Internal Transfers, *supra* note 11.

[43] Self-governance exemptions are found in the Model Business Corporation Act, Delaware's General Corporation Law, and New York's and California's corporation codes, as well as in the corporation codes of all other states. *See, e.g.*, Model Business Corp. Act Ann. Sections 6.30(a), 8.03(b)–(c) (3d ed. 1985) (shareholders have no preemptive rights unless provided in articles of incorporation; after shares are issued, board may not change range for size of board or from fixed to variable sized board without shareholder approval); Del. Code Ann. tit. viii, section 102(b)(4) (1974) (stockholders may, by amendment to articles of incorporation, impose super majority provisions for taking corporate or board actions); N.Y. Bus. Cor . Law section 908 (McKinney 1986) (corporation may give guarantee not in furtherance of a corporate purpose if approved by two-thirds of outstanding shares); Cal. Corp. Code section 700(a) (West 1977) (each share, regardless of class, entitled to one vote unless otherwise provided in articles).

In addition, in response to a perceived "insurance crisis" that has made directors and officers liability insurance either unobtainable or relatively expensive, Delaware has recently added a new section 102(b)(7) to its General Corporation Law. *See* S. Bill No. 533 (June 10, 1986). Section 102(b)(7) authorizes charter amendments that would relieve directors of monetary liability for certain breaches of the duty of care. Because section 102(b)(7) is an enabling statute, Delaware corporations must obtain board and shareholder approval before such relief can be made available.

[44] *See, e.g.*, Ohio Rev. Code Ann. Section 1701.831(a) (Page 1983); Pa. Stat. Ann. tit. 15, § 1910a (Purdon 1984); 1983–85 Wis. Legis. Serv. 200, Section 7 (West); N.Y. Bus. Corp. Law § 912(d)(3) (McKinney 1986).

[45] Section 13(a) of the Act provides that a registered investment company may not change

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a prohibition that may be waived by debt holder action.[46] The Commission has also proposed and adopted rules that rely on principles of corporate self-governance to exempt regulated persons from various statutory or regulatory proscriptions.[47]

The Commission seeks public comment on the advisability of a rule whereby stockholders and directors would be permitted to decide for themselves whether they require certain protections of the Williams Act. The Commission seeks public comment on this concept in two contexts: (1) As applied to the "all holders" rule, and (2) as applied to other provisions of the tender offer rules.

A. The "All Holders" Requirement

The recently adopted "all holders" rule prohibits exclusionary issuer and third-party tender offers. It requires that tender offers of issuers and third-party bidders must be open to all holders of the class of securities subject to the tender offer.[48]

As applied to the "all holders" rule, a self-governance provision could, for example, provide that corporations may exempt themselves from the rule if their charters are amended, in accordance with state law, expressly to authorize exclusionary tender offers. A charter provision authorizing such an exemption could cover either issuer or third-party tender offers for such issuer, or it could apply to both issuer and third-party tender offers. The charter provision could also define particular circumstances under which issuer or third-party exclusionary offers would continue to be prohibited.

The Williams Act and the Commission's tender offer rules currently operate as rules of general applicability with no provision for exemptions or modifications by stockholder or director action. Tender offers are thus conducted in accordance with uniform rules, and all participants are equally subject to regulations that Congress and the Commission have determined to be in the public interest.

A self-governance exemption would alter the current structure of the Commission's tender offer rules by allowing individual corporations, within bounds set by the Commission, to modify the protections of the rules to suit their particular circumstances. The Commission requests comment on whether the public interest would be well served if stockholders and directors of individual corporations are permitted, under certain circumstances, to craft safeguards designed to suit the specific circumstances of individual corporations. A body of recent research suggests that self-determination in matters related to corporate governance yields benefits that may not be as readily attainable under rules of general applicability.[49] Thus, without a self-governance exemption, there is a possibility that the "all holders" rule might impose protections on certain corporate investors who neither desire nor benefit from safeguards that might be reasonable for investors in other corporations that are subject to the "all holders" rule. A self-governance exemption might thus help minimize whatever ancillary burdens are imposed by an "all holders" rule without diminishing the rule's general protections.

The Commission seeks comment as to the advisability, costs, and benefits of a self-governance exemption to the "all holders" rule. The Commission also seeks comment regarding the extent to which experience with self-governance exemptions at the state or federal level provides guidance relevant to the adoption of such a self-governance exemption. Empirical evidence related to the costs and benefits of self-governance exemptions will be particularly useful.[50]

The Commission also seeks comment regarding the mechanics involved in the implementation of a self-governance exemption, as well as comment regarding alternative formulations of a rule that might implement a self-governance exemption. In particular, the Commission seeks comment as to whether it should rely on the rules for charter amendments in the issuer's corporate domicile, whether it should condition the exemption on subsequent enactment by the legislature of the issuer's corporate domicile of rules for charter amendments that are specifically addressed to the proposed self-governance exemption, or whether the Commission should provide separate criteria for the adoption of any exemption. Examples of such criteria include supermajority requirements, requirements for periodic shareholder reaffirmation, or provisions that allow

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from a diversified to a non-diversified company, deviate from its stated investment policy, or change its business so as to cease to be a registered investment company, "unless authorized by the vote of a majority of its outstanding voting securities." 15 U.S.C. 80a–13. Section 23(b) permits the sale of common stock of a closed-end investment company at less than current net asset value only "with the consent of a majority of its common stockholders." 15 U.S.C. 80a–23(b). Section 61(a)(3)(A) requires a majority of directors and shareholders to authorize the issuance of certain debt accompanied by warrants, options, or rights to convert. 15 U.S.C. 80a–61(3)(A).

The Investment Advisers Act contains statutory provisions that can be waived by client consent. Section 205(2) of the Act provides, in substance, that an investment adviser may not assign an investment advisory contract without the consent of the party being advised. 15 U.S.C. 80b–5(2). Section 206(3) of the Act provides that an investment adviser, without obtaining the informed prior consent of his client, may not sell securities to or purchase securities from the client as principal for the adviser's own account, or as agent for another client. 15 U.S.C. 80b–6(3).

[46] Section 316 of the Act provides that trust indentures qualified under the Act may authorize a simple majority of the indenture security holders to consent to a waiver of a past default, and a 75 percent majority to consent to a postponement of interest payments for a period of three years from their due date. 15 U.S.C. 77ppp(a).

[47] Rule 16b–3 under the Securities Exchange Act of 1934 provides an exemption for directors, officers, and principal stockholders from liability for short swing profits under section 16(b) of the Act if their transactions occur pursuant to a plan approved by the company's security holders that otherwise meets the requirements of the rule. 15 CFR 240.16b–3. Rule 12b–1 under the Investment Company Act of 1940 provides that mutual funds may act as distributors of their own securities if they do so pursuant to a plan approved by a majority of their security holders that otherwise meets the requirements of the rule. 15 CFR 270.12b–1(b)(1). One of the alternatives proposed by the Commission for Rule 14a–8 under the Securities Exchange Act of 1934 would have allowed issuers and their security holders to adopt their own procedures governing access to the issuer's proxy statement, subject to certain minimums prescribed by the Commission. See SEC Release No. 34–20091, 48 FR 38218 (1983). There was some support, mostly from issuers, for this self-governance alternative, but many commentators were concerned that it would create problems of administration in that there would not necessarily be uniformity or consistency among different issuers in determining whether security holder proposals would be included in the issuer's proxy materials. *Id.* The Commission decided not to adopt this self-governance proposal in part because of overwhelming support for an alternative that was subsequently adopted. *Id.*

[48] Release No.34–23421 (July 11, 1986) [51 Fed. Reg. 25873] (announcing adoption of Rule 14d–10 and amendments to Rules 13e–4, 14d–7, and 14e–1(b)). Although the "all holders" principle is incorporated in more than one rule, for ease of reference this release refers to an "all holders" rule.

[49] *See, e.g.*, Baysinger & Butler, *Antitakeover Amendments, Managerial Entrenchment and the Contractual Theory of the Corporation*, 71 Va. L. Rev. 1257, 1280 ff. (1985); Baysinger & Butler, *The Role of Corporate Law in the Theory of the Firm*, 28 J.L. & Econ. 179 (1985); Butler, *Nineteenth-Century Jurisdictional Competition in the Granting of Corporate Privileges*, 14 J. Legal Stud. 129 (1985); Coase, *The Problem of Social Cost*, 3 J.L. & Econ. 1 (1960); Dodd & Leftwich, *The Market for Corporate Charters: Unhealthy Competition vs. Federal Regulation*, 53 J. Bus. 259 (1980); Easterbrook, *Managers' Discretion and Investors' Welfare: Theories and Evidence*, 9 Del. J. Corp. Law 540 (1984); Fischel, *The Corporate Governance Movement*, 35 Vand. L. Rev. 1259 (1982); Fischel, *The Race to the Bottom Revisited: Reflections on Recent Developments in Delaware's Corporation Law*, 76 Nw.U.L. Rev. 913 (1982); Oesterle, *Target Managers as Negotiating Agents for Target Shareholders in Tender Offers: A Reply to the Possivity Thesis*, 71 Corn. L. Rev. 53, 65 ff. (1985); Romano, *Some Pieces of the Incorporation Puzzle*, 1 J.L., Econ. & Org. 225 (1985).

[50] For examples of such research, see Dodd & Leftwich and Romano, *supra* note 49.

for exemptions to be approved by stockholder action without prior board approval.

B. Self-Governance Provisions Applied to Other Tender offer Regulations

The Commission also seeks comment on the concept of adopting self-governance exemptions to tender offer rules other than the "all holders" provision. The Commission has not determined which, if any, tender offer rules are appropriate candidates for self-governance exemptions, and seeks comment identifying rules that are either particularly appropriate or inappropriate candidates for self-governance exemptions. The Commission requests that comments address the costs and benefits of providing self-governance exemptions to specific tender offer rules and, as in the case of the "all holders" rule, address: (1) Relevant analogues and empirical evidence; (2) Specific language for suggested exemptions; and (3) Whether the exemption should rely on the charter amendment provisions of the issuer's domicile, or on some other rule of corporate self-governance.

In connection with such proposals, the Commission observes that members of Congress have introduced numerous amendments to the Williams Act.[51] Some of these proposals suggest congressional support for time deadlines and thresholds different than those currently found in the statute.[52] Corporate self-governance exemptions could allow issuers to elect deadlines and thresholds within ranges defined by currently pending legislation.[53] In addition, some business organizations and academics have proposed takeover rules that are incompatible with the Williams Act, but that could potentially be adopted in the form of self-governance exemptions.[54] The Commission invites comment regarding the advisability of adopting or recommending to Congress self-governance exemptions that would permit corporations to adopt these or other takeover rules to govern contests for corporate control.

By the Commission.

Jonathan G. Katz.

Secretary.

July 31, 1986.

[FR Doc. 86-17587 Filed 8-4-86; 8:45 am]

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[51] *E.g.*, S.286, 99th Cong., 1st Sess. (1985) (Sen. Riegle); S.631, 99th Cong., 1st Sess. (1985); (Sen. Chafee); S.706, 99th Cong., 1st Sess. (1985) (Sen. Proxmire); S.860, 99th Cong., 1st Sess. (1985) (Sen. Metzenbaum); S.1882, 99th Cong., 1st Sess. (1985) (Sen. Metzenbaum); S.1907, 99th Cong., 1st Sess. (1985) (Sens. D'Amato & Cranston); H.R. 1480, 99th Cong., 1st Sess. (1985) (Rep. Markey). *Cf.* S.1695, 99th Cong., 1st Sess. (1985) (Sen. Specter) (to prohibit enforcement of all holders rule).

[52] For example, Congressman Markey's bill, H.R. 1480 would require that all tender offers (other than issuer offers not made in response to an outside offer) remain open for 60 business days. *See* H.R. 1480, section 104(d), 99th Cong., 1st Sess. (1985). The legislation introduced by Senators D'Amato and Cranston would extend the minimum offering period for tender offers, now 20 days, to 30 days for "any-and-all" offers and to 40 days for partial and two-tiered offers. S.1907, section 2(a)(1), 4(a)(4), 99th Cong., 1st Sess. (1985).

[53] Self-governance provisions could, for example, allow directors to recommend and stockholders to approve minimum offering periods for tender offers for their corporation's shares, provided that those periods were no shorter than the current 20-day period and no longer than the 30-day "any-and-all" and 40-day partial and two-tier periods proposed in the D'Amato-Cranston bill.

[54] *See, e.g.*, Bebchuck, *Toward an Undistorted Choice and Equal Treatment in Corporate Takeovers*, 98 Harv. L. Rev. 1695 (1985) (proposing that the fate of all offers aimed at acquiring a controlling interest (*e.g.*, above 20 percent) be decided upon a poll of shareholders, regardless of whether they tender their shares, and that nontendering shareholders be given certain immediate takeout or redemption rights); Business Roundtable, Statement of Principles on Hostile Takeover Abuses (undated) (proposing that no one may purchase more than 15 percent of the voting securities of a company without board or shareholder approval and that all purchasers of more than 15 percent must offer to purchase all voting securities in a tender offer).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM86-7-000]

Compression Allowances and Protest Procedures Under NGPA Section 110

Issued: July 31, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations issued under section 110 of the Natural Gas Policy Act of 1978 (NGPA) concerning production-related cost. 18 CFR 271.1104 (1986), 49 FR 49625 (December 21, 1985). The Commission proposes that first sellers be allowed under section 110 of the NGPA to recover the fuel or power costs incurred to drive compressors constructed prior to enactment of the NGPA. The Commission also proposes to provide parties an opportunity to protest allowances for delivery of natural gas previously presumed authorized by "area-rate" clauses in gas contracts.

DATES: An original and 14 copies of comments must be filed by September 4, 1986. A public hearing will be held if requested. Requests for a public hearing must be submitted by September 4, 1986.

ADDRESS: All filings should refer to Docket No. RM86-7-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8224.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations, 18 CFR 271.1104 (1986), issued under section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3320 (1982). In particular the Commission proposes to allow a first seller to recover the fuel or power costs incurred in driving a compressor constructed on or before November 8, 1978. The Commission also proposes to establish procedures to permit any affected person to rebut the presumption that an area rate clause in a natural gas contract was intended to permit collection of production-related costs for delivery of natural gas. In so doing, the Commission is implementing the decision in *Texas Eastern Transmission Corporation v. FERC (Texas Eastern)*, 769 F.2d 1053 (5th Cir. 1985), *cert. denied*, 106 S.Ct. 1967 (1986).

II. Background

In Order No. 94-A,[1] the Commission implemented section 110 of the NGPA by promulgating regulations in 18 CFR 271.1104. These regulations allow first sellers to recover certain costs incurred to perform production-related services and define the costs a first seller may recover.[2] The Commission also established generic delivery and compression allowances.[3] *Texas Eastern* involved consolidated appeals[4] challenging, among other things, the Commission's implementation of NGPA section 110 in Order No. 94-A and related orders. The court in *Texas Eastern* affirmed the Commission's

[1] Order No. 94-A, 48 FR 5152 (Feb. 3, 1983), FERC Stats. & Regs. [Reg. Preambles 1982-1985] ¶ 30,419.

[2] 18 CFR 271.1104(c)(7) (1985).

[3] Order No. 334, 48 FR 44495 (Sept. 29, 1983), FERC Stats. & Regs. [Reg. Preambles 1982-1985] ¶ 30,495.

[4] *Texas Eastern*, 769 F.2d at 1058 n.1.

production-related cost regulations in all but two respects. The court instructed the Commission to amend its rules to allow a first seller with a pre-NGPA compressor to collect a compression allowance for the costs of fuel or power required to drive the compressor from the same date and to the same extent such costs are recoverable for the post-NGPA compression facility. In addition, the court also directed the Commission to provide for a protest procedure, modeled on those established in Order No. 23–B,[5] to allow parties the opportunity to show a particular area rate clause did not authorize the recovery of a delivery allowance.[6] The Commission now proposes to modify its regulations consistent with the directives of the court in *Texas Eastern*.

III. Discussion

A. The Commission first proposes to amend its regulations at § 271.1104(d)(1)(iv) which established a generic approach for the computation of NGPA section 110 cost allowances for compression facilities. The current regulations exclude a first seller that operates a compression system for which construction commenced on or before November 8, 1978 (pre-NGPA) from collecting compression allowances that are allowed a first seller who operates a system for which construction commenced on or after November 9, 1978 (post-NGPA). The court in *Texas Eastern* agreed with the Commission that sellers were adquately compensated for pre-NGPA compression costs under Natural Gas Act area and nationwide rates, at least as to the recovery of capital costs. As for recovery of current expenditures, however, such as fuel and power costs of compression, the court found no sound basis for the exclusion of fuel and power costs for pre-NGPA systems. The court therefore instructed the Commission "to modify its order to allow for the recovery of fuel and power costs with respect to pre-NGPA [compression] systems." [7] Accordingly, the Commission proposes to amend § 271.1104(d)(1)(iv) to provide a compression allowance for fuel and power costs incurred in driving a compressor for compression facilities constructed on or before November 8, 1978.

The Commission proposes to require certain sellers with pre-NGPA compressors to amend their blanket affidavits [8] covering notices of rate change under the Natural Gas Act before collecting fuel and power costs related to those compression facilities constructed prior to the NGPA. This filing is consistent with current requirements in § 154.94 (h) and (k). Sellers already exempted from filing rate schedules [9] are exempted from the blanket affidavit requirement proposed.

Retroactive fuel and power cost allowances for pre-NGPA compression facilities will be made payable in a lump sum within 60 days after a bill is served on the purchaser. It is not anticipated that the retroactive fuel and power costs for pre-NGPA compression will be so large as to make lump sum payment unduly burdensome. The Commission's Order No. 94–A rules have always provided that to obtain a compression allowance the contract must "expressly authorize" its collection. The Commission believes that most contracts are not likely to contain such a contract provision "expressing an amount, or a method for determining an amount, that the purchaser agrees to pay the seller for providing the specified service" for pre-NGPA compressors. (*See* 18 CFR 271.1104(c)(4)(ii)(A) (1986).) For this reason, the allowance will be collectible under relatively few contracts. This is not the result of any new requirement promulgated in this rule, however, but arises from the pre-existing requirements of Order No. 94–A, which were affirmed by the court in *Texas Eastern*.

B. Commission regulations allow production-related cost allowances that would otherwise exceed the maximum lawful price to be collected by a first seller when two conditions are satisifed: The production-related cost is actually borne by the seller,[10] and the seller is expressly authorized to be compensated for bearing that production-related cost.[11] Under the Commission's regulations, evidence that a buyer has "expressly authorized" a first seller to collect a *delivery* allowance may be established by an area rate clause in a natural gas sales contract, for all NGPA categories except sections 105 and 108(b).[12] The Commission adopted the area rate clause presumption for delivery allowances based on the rationale that Commission practice had "allowed producers to file for and collect gathering and delivery allowances if 'contractually authorized.' [footnote omitted] . . . Parties included an area rate clause in their contracts in the expectation of receiving any gathering or delivery adjustment that the Commission allowed." [13] Since area rate clauses may "vary widely in language and intent," the court found the lack of a clear protest procedure "troublesome . . . because of the paramount importance of intent under individual contracts . . . ." [14]

The court therefore directed the Commission to establish a "protest procedure to allow parties the opportunity to show that the intent of the parties with respect to certain area rate clauses is inconsistent with the general rules [in the regulations]." [15] This would assure that the presumption now contained in the rule, that the presence of an area rate clause was intended to permit the collection of production-related delivery costs, is rebuttable. Accordingly, the Commission proposes to amend § 271.1104 of its regulations to provide Commission staff, pipeline purchasers, and "[o]ther parties in interest including state commissions, local distribution companies and other aggrieved parties" [16] the opportunity to address whether the parties' intent diverged from the general presumption.

The Commission proposes to provide for a protest procedure similar to that established in Order No. 23–B, as the court suggested. Under the Order No. 23–B procedures, parties in interest could protest and petition the Commission for a specific determination

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[5] Order No. 23–B, "Order Adopting Final Regulations Establishing Protest Procedures Regarding Blanket Affidavit Filings and Interim and Retroactive Collection Filings," 44 FR 38834 (July 3, 1979), FERC Stats. and Regs. [Reg. Preambles 1977–1981] ¶ 30,065; and *reh'g of Order No. 23–B*, 44 FR 46174 (Aug. 17, 1979), FERC Stats. & Regs. [Reg. Preambles 1977–1981] ¶ 30,073. delivery

[6] *Texas Eastern*, 769 F.2d at 1065 (as a general matter, the court found "unassailable" the Commission's argument that "prior experience under the Gas Act, 15 U.S.C. 717 *et seq.*, supports the construction of area rate clauses as authorizing delivery allowances" but not other allowances). *Id.*

[7] *Id.*

[8] *See* 18 CFR 154.94(k) (1986), and Appendix B to § 154.94(k). FERC Stats. & Regs. ¶ 19,194 at 12,791–3 to 12,791–4.

[9] *See* 18 CFR 154.92(c) (1986).

[10] 18 CFR 271.1104(a)(2) (1986).

[11] 18 CFR 271.1104(a)(3) (1986).

[12] 18 CFR 271.1104(c)(4)(ii)(B) (1986).

[13] Order No. 94–A, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," 48 FR 5152 (Feb. 3, 1983), FERC Stats. & Regs. [Reg. Preambles 1982–1985] ¶ 30,419 at 30,360.

[14] *Texas Eastern*, 769 F.2d at 1065.

[15] *Id.* regulations to provide

[16] Order 23–B, 44 FR 38834 (July 3, 1979), FERC Stats. & Regs. [Reg. Preambles 1977–1981] at 30,451 (*quoting* Order No. 23, "Final Regulations Amending and Clarifying Regulations Under the Natural Gas Policy Act and the Natural Gas Act," 44 FR 16895, 16904 (March 20, 1979)). *See also*, Pennzoil Oil Company v. FERC, 645 F.2d 360, 390–393 (5th Cir. 1981), *cert. denied*, 454 U.S. 1142 (1982)

as to whether a particular area rate clause constitutes the requisite authority to charge and collect NGPA rates. In addition, parties in interest will now have the opportunity to dispute whether a particular area rate clause constitutes the requisite authority to charge and collect a delivery allowance under NGPA section 110.

The Commission proposes that the rule would apply to all NGPA categories of gas except sections 105 and 106(b), since all gas sold under NGPA sections 105 and 106(b) is excluded from the presumption that the area rate clause evidences the purchaser's agreement to pay a delivery allowance.[17]

Rather than require a multitude of filings of area rate clause contract language from numerous producers, the Commission proposes to require a limited number of filings by interstate pipelines. The pipeline filings will be due 60 days after publication of the final rule in the **Federal Register**. Each interstate pipeline would submit to the Commission lists of producer-sellers that assert contractual authority to collect delivery allowances pursuant to an area rate clause and identify the contracts relied upon by date and contract number, or other satisfactory identification. One list would enumerate those contracts with sellers whose interpretation is that the area rate clause encompasses a delivery allowance the pipeline supports. The second list would state those contracts with sellers whose interpretation that the area rate clause encompasses a delivery allowance the pipeline disputes and protests. In addition, pipelines must file data to support the pipeline's position and any information submitted to the pipeline by the first seller under § 271.1104(f) of the Commission's regulations. To minimize the filing burden, pipelines would be permitted to refer to specific data already on file in PGA proceedings or elsewhere with the Commission concerning producers who claim contractual rights to section 110 costs, rather than file the data anew. Pipelines would update the lists as needed.

The pipeline listings would be published in the **Federal Register** and other parties may protest the producer's authority to collect a section 110 allowance under any particular area rate clause. Each protest, whether by the pipeline or by a third party, in turn would be noticed and transmitted to the Chief Administrative Law Judge for assignment to an Administrative Law Judge. The protests would then be set for hearing absent summary disposition.

The standards developed in the Order No. 23 series of orders and the case law interpreting those orders would apply to the summary disposition and hearing process established under this rule. Particularly with regard to overcoming the presumption that an area rate clause "expressly authorizes" a delivery allowance, the Commission intends to apply the standards of *Pennzoil Co.* v. *FERC*, 645 F.2d 360 (5th Cir. 1981) (*Pennzoil I*) and *Pennzoil Co.* v. *FERC*, 789 F.2d 1128 (5th Cir. 1986) (*Pennzoil II*), insofar as they are applicable.

If the contracting parties agree that they intended their area rate clause to expressly authorize a delivery allowance, a third party protester will have the burden of coming forward with substantial evidence of the lack of contractual authority to overcome the presumption that the contracting parties' assertion regarding their intent is accurate. This does not *negate* the parties' mutual assertion of intent, however, but merely "bursts the bubble" of the presumption favoring their interpretation. Evidentiary weight may still be given to the contracting parties' mutual assertions and to the contractual language in reaching a decision.

If the contracting parties cannot agree as to their intent, somewhat different principles would apply. In such circumstances under Order No. 23, the burden of proof would rest on the seller since it is seeking the rate increase. *Pennzoil II* at 1133 n.12 citing *Pennzoil I* at 370. This is because the presumption only arose under Order No. 23 when the contracting parties were in agreement.[18] Under Order No. 94–A, however, the presumption for collecting NGPA section 110 delivery allowances arises from the Commission's practice [19] and not from the agreement of the contracting parties. Hence, the presumption would exist with or without the mutual agreement of the parties. If the parties to the contract are not in agreement, evidence submitted by the purchaser that it did not agree to pay the delivery allowance through its area rate clause would be taken into account in determining if the purchaser had made a showing of substantial evidence sufficient to overcome the presumption.

A showing of substantial evidence amounts to more than a "scintilla" of evidence; it must be such that a reasonable man could infer that contractual authority does not exist. The Commission's intent is to conform to the Thayer or "bursting bubble" theory of presumptions as applied by the court in *Pennzoil II*. Under that theory, the presumption is dispelled upon the "introduction of evidence which would support a finding of the nonexistence of the presumed fact . . . ." [20] This is the standard an objecting party—whether a third party, a party to the contract, or staff—must meet in order to overcome the presumption that area rate clauses expressly authorize the collection of a delivery allowance. Once such evidence is presented, and the presumption is overcome, the burden shifts to the seller seeking the allowance to establish the fact that there exists express contractual authority for such an allowance. Evidentiary weight may still be given to the parties' assertions and to the contractual language in reaching a decision. This is consistent with the two *Pennzoil* decisions.[21]

The Commission seeks comments on the application of the evidentiary standards as proposed, and on any other related issue.

IV. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA) [22] to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA) [23] to prepare and make available for public comment an initial regulatory flexibility analysis. The analysis must describe the impact the proposed rule will have on small entities. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules than may significantly affect small business and small government entities and to encourage cost-benefit analyses

[17] 18 CFR 271.1104(c)(4)(ii)(B) (1986).

[18] Order on Rehearing of Order No. 23–B, 44 FR 48174 (Aug. 17, 1979), FERC Stats. & Regs. [Reg. Preambles 1977–1981] ¶ 30,073 at 30,475–76 ("[W]hen a pipeline and a producer assert in a filing to the Commission that a particular contract authorizes the collection of an NGPA maximum lawful price, the Commission will assume that assertion is accurate. If nothing more is shown, that presumption will stand.")

[19] The Commission's practice under the Natural Gas Act was to allow area rate clauses to trigger the applicable Commission-established just and reasonable rate which included "the expectation of receiving any gathering or delivery adjustment that the Commission allowed." This expectation was codified in the presumption of express authorization of delivery allowances under area rate clauses in 18 CFR 271.1104(c)(4)(ii)(B) (1986). *See* FERC Stats. & Regs. [Reg. Preambles 1982–1985] ¶ 30,419 at 30,380

[20] *Pennzoil II* at 1138 *quoting* 10 *Moore's Federal Practice* . . . note 24, § 301.04[2] at III–19 (*citing* Thayer, *A Preliminary Treatise on Evidence at the Common Law*, at 352 (1898).

[21] *See Pennzoil I* at 370, and *Pennzoil II* at 1133, n.12 and at 1138–39.

[22] U.S.C. 553 (1982).

[23] U.S.C. 601–612 (1982).

of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities. The Commission is not required to make an RFA analysis, however, if it certifies that a rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities."[24].

In this preamble the Commission presents its reasons for this agency action, its objective and the legal basis for this rulemaking. As discussed, the proposed rule would allow small producers to recover the fuel or power costs in driving certain compressors and establishes procedures to permit any affected person to rebut the presumption that an area rate clause in a natural gas contract permits collection of production-related costs.

This rule could affect approximately 10,000 natural gas producers, a significant proportion of which would probably be classified as small businesses. [25] However, the Commission has attempted to minimize any disproportionate burden the proposal would have on small producers. The proposal does require producers to amend their blanket affidavits covering notices of rate change, but the Commission regulations relieving small producers from most filing requirements are not affected, [26] and remain applicable. Similarly, the Commission does not impose any reporting requirements on producers under the protest procedures. Instead, all reporting requirements are imposed on pipeline-purchasers. A producer becomes involved in a particular proceeding only after a protest is lodged. Furthermore, in proposing protest procedures, the Commission is attempting to satisfy the directive of the United States Court of Appeals for the Fifth Circuit in *Texas Eastern*.

The Commission believes the rule, as proposed, represents a fair balance that would satisfy the mandate of the court and fulfill the purpose of the Regulatory Flexibility Act. The Commission does not foresee that many small producers will need to participate in the protest procedures because any amounts in controversy are likely to be relatively small and most small producers will negotiate any disagreements over contractual intent with the pipeline. In addition, the Commission does not believe that participation in the protest procedures will be unduly burdensome or costly. For these reasons, the Commission certifies that the rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities."

[24] 5 U.S.C. 605(b) (1982).

[25] 5 U.S.C. 601(c), citing to section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines small business concern as a business which is independently owned and operated and which is not dominant in its field of operation.

[26] 18 CFR 157.40 (1986).

V. Paperwork Reduction Act Statement

The information collection provisions in this proposed rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act [27] and OMB's regulations. [28] Interested persons can obtain information on information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. (Attention: Peg Covello, Energy Validation Data Branch, (202) 357-5402). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for Federal Energy Regulatory Commission).

VI. Comment Procedures

The Commission invites interested persons to submit written comments, data, views, and other information concerning the matters set out in this notice. An original and 14 copies of such comments should be filed with the Commission by September 4, 1986. Comments should be submitted to the Office of the Secretary, Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM86-7-00. All written submissions will be placed in the Commission's public files and will be available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded, if requested, in accordance with section 502(b) of the NGPA. Any person requesting an opportunity to appear to give oral comments must file with the Secretary a request to do so by September 4, 1986. If any requests for a hearing are received, a notice scheduling a public hearing will be published in the **Federal Register** at a later date.

[27] U.S.C. 3501-3520 (1982).

[28] 5 CFR 1320.12 (1986). the proposed

List of Subjects in 18 CFR Part 271

Natural gas, Production-related costs.

In consideration of the foregoing, the Commission proposes to amend Part 271, Chapter I, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. The authority citation for Part 271 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Natural Gas Act, 15 U.S.C. 717-717w (1982); Administrative Procedure Act, 5 U.S.C. 553 (1982), unless otherwise noted.

2. In § 271.1104, paragraph (d)(1)(iv) is revised to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(d) *Amounts necessary to recover production-related costs.*—(1) *General rule.* * * *

(iv) *For compression facilities.* (A) *For recent compression facilities.* For compressing natural gas by compressor facilities, the construction of which commenced on or after November 9, 1978, used to effectuate delivery of such gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person, the seller may collect an amount not to exceed:

(*1*) Six cents ($0.06) per MMBtu for each qualified stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), not to exceed three stages; plus

(*2*) The cost of fuel or power to drive the compressor.

(*3*) For purposes of the compression allowance under this clause, "construction" of facilities includes the complete and necessary replacement of old facilities with new facilities and the necessary addition of any new stage of compression to existing facilities.

(B) *For old compression facilities.*—(*1*) *Authority for collecting the allowance.* If expressly authorized pursuant to paragraph (c)(4)(ii)(A) of this section, for compressing natural gas by compressor facilities, the construction of which commenced on or before November 8, 1978, used to effectuate delivery of such gas to any interstate pipeline, intrastate pipeline, local distribution company or any other person for use by such person,

the seller may collect the cost of fuel or power to drive the compressor.

(2) *Procedure for collecting the allowance.—(i) Blanket Affidavit.* If a seller has made an effective filing under § 154.94(h) of the Commission's regulations, at least 30 days prior to collecting the allowance, the seller must amend its blanket affidavit under § 154.94(k) and Appendix B. (*ii*) *Method of payment.* Amounts owned under this paragraph are due in a lump sum payment within 60 days of the submission required under paragraph (f) of this section.

(*iii*) *Retroactivity.* Amounts owed under this paragraph may be collected retroactive to July 25, 1980, with interest computed under § 154.102(c)(2)(iii)(A) and (B) of the Commission's regulations.

* * * * *

3. In § 271.1104 a new paragraph (h) is added to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(h) *Pipeline list submissions and protest procedure.—(1) Pipeline filings.* The information is required by §§ 271.1104(h)(2) and (3) of this subpart must be filed with the Commission within [insert date that is 60 days after publication in the **Federal Register**]. If information required under § 271.1104(h)(2) and (3) of this subpart has been submitted in any purchased gas adjustment or rate filing with the Commission, the pipeline may fulfill the requirements of §271.1104(h)(2) and (3) by providing specific references sufficient to locate the data in any of these prior filings.

(2) *Statements of contractual authority.* An interstate pipeline must file the following information for every first seller that sells gas to that pipeline and that asserts contractual authority to collect delivery allowances pursuant to any area rate clause:

(i) A statement specifying for each first seller whether, in the opinion of the interstate pipeline, that particular first seller does have, or alternatively does not have, contractual authority to collect production-related costs permitted under § 271.1104 of the Commission's regulations;

(ii) Any data that supports the statement made under paragraph (h)(2)(i);

(iii) A copy of any data submitted under paragraph (f) of this section for each first seller; and

(iv) The rate schedule number (or if none has been assigned, the date of the contract) and the name of the seller for each first sale of natural gas where the seller has made a submission under paragraph (f) of this section.

(3) *Lists of first sellers.* An interstate pipeline must also file the following information to be published by the Commission in the **Federal Register**:

(i) A list of first sellers (and the respective contracts) that the pipeline has identified under paragraph (h)(2)(i) as having, in the opinion of the pipeline, contractual authority to collect production-related costs permitted under § 271.1104 of the Commission's regulations; and

(ii) A list of first sellers (and the respective contracts) that the pipeline has identified under paragraph (h)(2)(i) ad *not* having, in the opinion of the pipeline, contractual authority to collect production-related costs permitted under § 271.1104 of the Commission's regulations.

(4) *Pipeline third-party and staff protests.* A protest to the delivery allowances claimed on the pipeline submissions filed pursuant to paragraph (h)(2) must be submitted to the Commission, within 60 days of the publication in the **Federal Register** of the pipeline list referencing the contract which governs the filed-for production-related delivery costs to which the protestant objects.

(5) *Contents of protests.* A protest filed under paragraph (h)(4) must:

(i) Specifically identify each contract that is protected;

(ii) Set forth the text of the contractual provisions which the protestant believes to be inconsistent with the conclusion that the contract authorizes the seller to collect the filed-for production-related costs, and the specific reasons why the protestant believes such inconsistency exists; and

(iii) Provide any other evidence which the protestant believes is relevant to the issue of the existence of contractual authorization to collect the production-related costs.

(6) *Protest procedure.* (i) The Commission will publish in the **Federal Register** a notice of a protest filed under paragraph (h)(4).

(ii) The Commission will transmit the pipeline protest filing, the protest filed under paragraph (h)(4) of this section, and the list of first sellers identified as *not* having contractual authority to collect production-related costs, to the Chief Administrative Law Judge.

(iii) Any third-party, staff, or pipeline protest will be set for hearing unless summary disposition is made of the protest.

(iv) Upon receipt by the Commission of any third-party or staff protest, or pipeline protest of first sellers identified as not having contractual authority to collect production-related costs referred to in this section, the seller in the first sale will be joined as a party.

(7) *Authority of Chief Administrative Law Judge.* In the case of any proceeding relating to a third party, staff, or pipeline protest filed under this section, the Chief Administrative Law Judge is authorized to issue such procedural orders, including orders setting matters for hearing, serving and consolidating proceedings and certifying questions to the Commission, as he determines necessary or appropriate for the expeditious consideration of such protests. The Chief Administrative Law Judge may, by such order, authorize the Administrative Law Judge to whom a third-party protest or a pipeline's protest is assigned to issue similar procedural orders relating to that protest.

(8) *Rules of practice and procedure.* Part 385 of the Commission's regulations (relating to rules of practice) will apply to such third party, staff, and pipeline protest proceedings except to the extent otherwise provided by a procedural order issued by the Chief or Presiding Administrative Law Judge under paragraph (h)(7) of this section. Section 385.715 of this chapter will apply to any procedural order issued under paragraph (h)(7) of this section.

[FR Doc. 86-17586 Filed 8-4-86; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 270, 275, 290, 295, and 296

[Notice No. 599]

Implementation of the Consolidated Omnibus Budget Reconciliation Act of 1985; Chewing Tobacco and Snuff

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Bureau of Alcohol, Tobacco and Firearms is issuing temporary regulations regarding the implementation of Subpart B of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272). The temporary regulations also serve as a notice of proposed rulemaking for final regulations.

DATES: The effective date of the temporary regulations is July 1, 1986. Written comments must be delivered or mailed by October 1, 1986.

ADDRESS: Send comments to the Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, (Attn: Chief, Regulations and Procedures Division).

Disclosure of Comments: Any person may inspect written comments or suggestions during normal business hours at: Office of Public Affairs and Disclosure, Room 4006, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nancy Cook or Clifford A. Mullen, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Room 6235, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566–7531.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), it is hereby certified that these proposed regulations if adopted, are not likely to have a significant economic impact on a substantial number of small entities. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information proposed in this document have been submitted to the Office of Management and Budget under Sec. 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35. Comments relating to ATF's compliance with 5 CFR Part 1320, Controll[illegible] Paperwork Burdens on the Public, should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503, and to ATF at the address previously specified.

Public Participation

Interested persons may submit written comments and suggestions regarding the temporary regulations. All communications received within the comment period will be considered before final regulations are issued. Any person who desires an opportunity to comment orally at a public hearing on the temporary regulations should submit a written request to the Director within the comment period. However, Director reserves the right to determine whether a public hearing should be held.

The temporary regulations in this issue of the **Federal Register** revised and add new regulations in 27 CFR Parts 270, 275, 290, 295, and 296. For the text of the temporary regulations, see T.D. ATF–232 published in this issue of the **Federal Register.**

Signed: June 23, 1986.

W.T. Drake,

Acting Director.

Approved: July 2, 1986.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 86–17439 Filed 8–4–86; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Blue Ridge Parkway, VA and NC; Commercial Hauling and Commercial Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking is an administrative change deleting the special regulations pertaining to commercial hauling and the use of commercial vehicles on the Blue Ridge Parkway. Commercial activities are adequately addressed in the general regulations that apply to all units of the National Park System; therefore the special regulations are duplicative and unnecessary. Deletion of these regulations will result in no reduction in the levels of park and visitor protection measures provided.

DATE: Written comments will be accepted through September 4, 1986.

ADDRESS: Comments should be addressed to: Superintendent, Blue Ridge Parkway, 700 Northwestern Plaza, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Gary Everhardt, Superintendent, Blue Ridge Parkway, 700 Northwestern Plaza, Asheville, North Carolina 28801, Telephone: 704–259–0351.

SUPPLEMENTARY INFORMATION:

Background

The special regulations codified in 36 CFR 7.34 (f) and (g) govern commercial hauling activities and the use of commercial vehicles on the Blue Ridge Parkway. Portions of these regulations duplicate provisions of the general regulations codified in 36 CFR 5.6 and are therefore unnecessary. The National Park Service (NPS) has also determined that other provisions of these regulations are no longer necessary or appropriate, being needlessly restrictive of vehicle type, cargo and purpose of travel. Those restrictions that remain necessary can be imposed by the superintendent without a rulemaking by establishing public use limits in accordance with 36 CFR 1.5. The various permits authorized by the special regulations are also authorized by the general regulations codified at 36 CFR 1.5 and 1.6 and are therefore duplicative and proposed for deletion.

Deletion of these regulations will not result in a reduction in the levels of protection afforded visitors or the resources of the Blue Ridge Parkway. The provisions that are important to public safety or resource protection will remain in effect but are either codified in NPS general regulations or will be imposed pursuant to the superintendent's discretionary authority.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The primary authors of this rulemaking are Art Allen, Assistant Superintendent; Howard Parr, Chief Ranger; and Jim Fox, Park Protection Specialist, all of the Blue Ridge Parkway.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document constitutes an administrative change, not subject to the provisions of Executive Order 12291, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking has no economic effect since it neither removes substantive restrictions nor imposes new ones.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause of nuisance to adjacent owners or occupants.

Based in this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. By amending § 7.34 as follows:

§ 7.34 Blue Ridge Parkway.

a. By removing paragraphs (f) and (g).

b. By redesignating paragraph (k) as (d) and paragraph (l) as (e).

Dated: July 28, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-17593 Filed 8-4-86; 8:45 am]

BILLING CODE 4310-70-M

36 CFR Part 7

Everglades National Park, FL; Special Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed special regulation set forth below deletes obsolete mining regulations. It further eliminates provisions which restrict some activities and close portions of the park to some uses. Authority to impose restrictions and close areas is adequately provided for in the Services' general regulations. The proposed rule also allows the park to adopt State fishing regulations and to prohibit the possession of any marine life (including lobster species, ornamental tropical fish, or conch species) in the park. This rulemaking will be beneficial in that it will eliminate obsolete regulations, allow consistency with State fishing rules, and ensure protection of park resources.

DATE: Written comments, suggestions, or objections will be accepted until September 4, 1986.

ADDRESS: Comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, FL 33030.

FOR FURTHER INFORMATION CONTACT: Maureen Finnerty, Acting Superintendent, Everglades National Park, P.O. Box 279, Homestead, FL 33030. Telephone (305) 247-6211.

SUPPLEMENTARY INFORMATION:

Background

The National Park Service is proposing to delete obsolete mining rules found in the special regulations for Everglades National Park.

Provisions of the acts of October 10, 1949 (63 Stat. 733), and July 2, 1958 (72 Stat. 280), which will be referred to as "the acts of 1949 and 1958," allowed mineral owners within Everglades National Park to explore for and develop their mineral properties until October 9, 1967. The acts of 1949 and 1958 also provided that if any production of oil or gas occurred during that period the right to explore develop would be extended for all mineral owners for the life of such production. At least four exploratory oil and gas wells were drilled during this period, but no discovery was made and no production occurred. Therefore, the proivision allowing these activities expired on October 9, 1967.

The acts of 1949 and 1958 also provided that former mineral owners were entitled to customary royalties from any production of their former mineral properties should the Federal government so authorize anytime before January 1, 1985. The Federal government made no such authorization.

The National Park Service adopted special regulations found at 36 CFR 7.45(a) ". . . to govern the exploration, development, extraction, and removal of oil, gas, and other minerals on lands acquired for Everglades National Park . . ." The suspense dates authorized by the acts of 1949 and 1958 for former mineral owners to explore or develop their properties or to benefit from any production by the Federal government have passed. Since Everglades National Park is not at risk from such mineral development these regulations are no longer necessary and should be deleted.

The National Park Service is also proposing to modify the section on prohibited conveyances within Everglades National Park. Sections prohibiting the use of glades buggies and amphibious wheeled vehicles have been deleted as unnecessary and duplicative. The Service's general regulation found at 36 CFR 4.19 prohibits the use of all motor vehicles off established roads and parking areas. This provisions provides Everglades with adequate authority to enforce its prohibitions.

Paragraph (c) has been revised to provide clarification to the existing prohibition on the use of vessels or other conveyances with underwater propellers or jets in the water of any grass or marsh area of the park. The existing provision prohibits such use in the "grass area of the glades." This phrase is ambiguous and clarification was determined to be necessary. The park believes this proposed prohibition is necessary to prevent jet scooters and small motor boats from operating in marsh areas. Such operation can be destructive to vegetation and disturbing to wildlife.

The Service is also proposing to revise paragraph (f)(6). This proposed change deletes the existing restriction that cast nets may not exceed 12 feet in diameter. There appears to be no sound ecological or environmental reason to restrict the size of cast nets, and this proposed change would bring this park regulation into conformity with existing State regulation and common fishing practice.

Another proposed revision to paragraph (f) will allow the staff of Everglades National Park to enforce more restrictive State bag limits for saltwater species. The State of Florida's Marine Fisheries Commission asked the National Park Service to propose this regulatory change.

Pursuant to Chapter 80–162, Laws of Florida, a Saltwater Fisheries Study and Advisory Council was appointed by the Governor to recommend to the State Legislature a comprehensive saltwater fishery conservation and management policy. In keeping with this charge, the Council holds public hearings and drafts rules to govern fishing activities within the fisheries of the State of Florida. To date, rules have been promulgated setting seasons, size limits, and bag limits for various species of saltwater gamefish. However, there is a concern among fishermen, the park, and the State over the apparent conflict of bag limits rules set by the Council and those prescribed in the existing Everglades fishing provision in 7.45(f)(17) which states:

(17) Bag limits: No person shall take, have in his possession, buy, offer for sale, sell, or unnecessarily destroy, at any time more than: ten (10) fish of one species, excluding bait fish, as stated in paragraph (f)(6) of this section, and not totalling more than twenty (20) fish of all species, excluding bait fish, with the exception of persons, firms, or corporations holding a valid commercial park fishing permit for mullet and pompano netting only.

Specifically, in the cases of the popular and depleted species such as snook, tarpon, and bonefish, the State of Florida has acted, based on professional fisheries management principles, to restrict possession of these species to two fish per person. Major rules on spotted seatrout and redfish are also under development. The National Park Service does not wish to retain a regulation that conflicts with such State regulatory actions.

Another proposed change is the addition of a prohibition against possession to paragraph (f)(2). The existing regulation prohibits the taking, but *not* the possession, of seahorses, starfish, spiny lobster, ornamental tropical fish, and nonfood fish as defined by the state of Florida. The park believes that to allow for effective enforcement and protection of the resource, possession must be included in this paragraph. This change also makes this provision consistent with 7.45(f)(17) which prohibits the taking or possession of fish in excess of established bag limits.

The remaining proposed changes relate to the deletion of closures and restrictions that are adequately covered under authority of the Service's general regulation found in 36 CFR 1.5, Closures and Public Use Limits. This rule establishes a uniform administrative framework for the exercise of a superintendent's closure and public use control authority. This general regulation accomplishes three objectives: (1) It standardizes, to the greatest degree possible, the circumstances under which a superintendent may apply closures, public use limitations, and visiting hours, area designations, and activity restrictions; (2) it provides for consistent and effective public notification of the imposition of a closure or other restriction or control; and (3) it provides, in appropriate instances, an opportunity for public input into the superintendent's decision-making process. This general regulation makes paragraphs (f)(13) and (g) (1), (2), and (3) of Everglades special regulations unnecessary. They, therefore, are proposed for deletion.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments suggestions, or objections regarding the proposed special regulations to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of these regulations: Rick Dawson and Maureen Finnerty, both of Everglades National Park, and Cordell Roy formerly of Big Cypress National Preserve.

Paperwork Reduction Act

The information collection requirements contained in parargraph (g)(2) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance #1024–0026.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This conclusion is based on the fact that the deletion of obsolete and duplicative regulations will have no economic effect. The fishing regulation changes would be limited, but probably beneficial to fishing-related industries adjacent to Everglades National Park. Lower bag limits will improve the available stock in park waters.

The Service has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health, and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

Pursuant to the section 7 requirements of the Endangered Species Act, the National Park Service has consulted with the U.S. Fish and Wildlife Service, who has determined that these proposed regulations will have no effect on endangered species.

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. Section 7.45 is amended as follows:

§ 7.45 Everglades National Park.

A. By removing and reserving paragraph (a).

B. By revising paragraphs (b) and (c) to read as follows:

* * * * *

(b) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1024–0026. This information is being collected to solicit information necessary for the superintendent to issue permits used to grant administrative benefits. The obligation to respond is required to obtain a benefit.

(c) *Prohibited conveyances.* Operating a vessel or other conveyance equipped with an underwater propeller or jet in

the water of any grass or marsh area is prohibited.

* * * * *

C. By revising the introductory text in paragraph (f), paragraph (f)(2) and paragraph (f)(6) to read as follows:

(f) *Fishing.* Except as otherwise provided in this section or in § 2.3 of this chapter, fishing is governed by applicable State law, including State licensing requirements. State bag limits for saltwater species that are more restrictive than those provided in paragraph (f)(16) of this section are hereby adopted and supercede the less restrictive provisions of this section. Violating a provision of State law is prohibited.

(1)* * *

(2) Except for the taking of finfish, bait fish, crabs and oysters as provided in paragraphs (f) and (f)(1) through (f)(16) of this section, the taking, possession or disturbance of any marine life is prohibited.

* * * * *

(6) Live bait (shrimp, minnows, pilchards, pinfish, mullet, mojarras or ballyhoo) may be taken with hook and line, dipnet (not exceeding 3 feet at its widest point) or by cast net, for use as bait.

(i) No live bait may be taken for the purpose of sale.

(ii) A dipnet or cast net may not be dragged or trawled.

* * * * *

D. By removing paragraph (f)(13) and redesignating paragraphs (f)(14) through (f)(17) as paragraphs (f)(13) through (f)(16).

E. By revising paragraph (g) to read as follows:

(g) *Boating.* (1) The following areas are closed to all public entry: Little Madiera Bay, Taylor River, East Creek, Mud Creek, Davis Creek, Joe Bay and its easternmost portion, commonly called Snag Bay, and all creeks inland from the northern shoreline of Long Sound to U.S. Highway 1.

(2) Operating, or remaining at anchor in, a vessel used as living quarters in the waters of the park for more than 14 days, without a permit issued by the superintendent, is prohibited. The superintendent may establish terms of the permit prescribing location of anchorage, length of stay, sanitary requirements and such other conditions necessary to operate or anchor a vessel used as living quarters in the park.

* * * * *

Dated: July 2, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-17594 Filed 8-4-86; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 7

Fort Jefferson National Monument, Florida; Special Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed special regulation set forth below revises the existing decription of Fort Jefferson National Monument to coincide with the new boundary as legislated in Pub. L. 96-287 (1980). Commercial fishing continues to be prohibited and sportfishing has been revised to prohibit the taking of lobster, conch, and ornamental tropical fish. Definitions have been added to clarify terminology. Protection of coral formations within the Monument has been strengthend by the addition of specific language concerning boat operation, anchoring, and limitations on human activity. The proposed rule also eliminates the paragraph concerning designated anchorage, since the authority to regulate this activity is provided for in the Service's general regulations, 36 CFR § 1.5. There are minor revisions to the paragraph regulating aircraft activity. This rulemaking will be beneficial in that it ensures the protection of the resources of the Monument.

DATE: Written comments, suggestions, or objections will be accepted until September 4, 1986.

ADDRESS: Comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, FL 33030.

FOR FURTHER INFORMATION CONTACT: Maureen Finnerty, Acting Superintendent, Everglades National Park, P.O. Box 279, Homestead, FL 33030. Telephone (305) 247-6211.

SUPPLEMENTARY INFORMATION:

Background

The National Park Service is proposing in paragraph (a) to revise the existing description of the boundary for Fort Jefferson National Monument. In the enabling Presidential Proclamation (No. 2112, 1935), the Monument's boundary was depicted as an ellipse on the diagram accompanying the legislation. This made accurate marking and enforcement of the boundary impossible, since no straight lines existed for Monument personnel or visitors to sight along. In 1960, an administrative boundary was established inside of the elliptical boundary, using longitude-latitude coordinates as 'corners'. This administrative boundary was established as part of the Monument's special regulations. In 1980, Pub. L. 96-287 redescribed the authorized boundary, using nine sets of coordinates as 'corners'. This eliminated any distinction between an authorized and an administrative boundary and resulted in a nine-sided boundary which closely follows the original ellipse authorized in 1935. This rule revision proposes to revise the special regulations so that the Monument boundary is described in accordance with the 1980 Public Law.

The proposed rule deletes existing paragraph (b), which sets forth anchoring and mooring restrictions. Since the Service now has the authority to regulate this type of activity through 36 CFR 1.5, it is no longer necessary that they be retained as special regulations. The general regulation found in 36 CFR 1.5, standardizes the circumstances under which a superintendent may apply closures, public use limitations, visiting hours, area designations, and activity restrictions.

Paragraph (b) is proposed as "Definitions". It defines terminology used elsewhere in § 7.27. Common fish names such as "minnow" and "pinfish" are clarified with scientific names.

Paragraph (c) contains fishing regulations. The reference to protection of sea turtles has been deleted, since it duplicates the protection already provided by the general regulations found in 36 CFR 2.1, and by the Endangered Species Act. The general regulation provide protection to all natural features of a national park system area and the Endangered Species Act gives strong protection to specific, 'listed' species. All of the turtle species known to frequent Monument waters are listed as either endangered or threatened.

The restriction against fishing within 500 feet of the moat wall is proposed for relaxation to allow fishing within 100 feet of the moat wall.

This will be easier to enforce as park rangers will be better able to talk to people and advise them of the restriction. The intent of this proposed paragraph is to keep individuals from fishing from the moat wall and to standardize the distance. Previously restrictions on fishing varied from 200 to 500 feet from the moat wall.

The Service is proposing to delete the existing restriction that cast nets may not exceed 12 feet in diameter. There appears to be no sound ecological or environmental reason to restrict the size of cast nets, and this proposed change would bring this park regulation into conformity with existing State regulation and common fishing practice.

Commercial fishing remains prohibited but all provisions related to sportfishing for lobster or conch have been deleted. In 1976, a moratorium on the taking of lobster became effective via the superintendent's authority to regulate public use (36 CFR 1.5, formerly 36 CFR 2.6). This moratorium was based on data collected by National Park Service biologists in a 1975 study which indicated that legal harvesting was removing almost 90% of the lobster within the Monument. The Gulf of Mexico Fisheries Management Council concurred with this finding and recommended that the Monument be established as a sanctuary for lobster.

In 1975, the entire Dry Tortugas conch population was decimated by a natural disaster, possibly red tide. A superintendent' moratorium was instituted and by 1979 the conch population had recovered. The moratorium has remained in effect since then and in 1985, the State of Florida effected a statewide prohibition on the taking of conch. The intent of the Service is to conform with state fishing regulations whenever they do not conflict with the mission and purpose of a National Park System area. In this case, the statewide conch prohibition reenforces the moratorium on taking conch within the Monument which was accomplished through the authority of the superintendent to regulate public use.

Based on the above discussions, the Service wishes to continue to protect lobster and conch. The moratoriums on both species are contained in the Monument's compendium, a document which cites those actions undertaken by the superintendent to regulate public use. However, the special regulations for the Monument have not been recently revised and thus do not reflect the prohibitions on taking conch or lobster. The Service proposes to update these special regulations to contain the prohibitions on taking conch or lobster within the Monument.

This is also in accord with the intent of Congress, as recently expressed in Pub. L. 96–287 (1980), which broadened the scope of the Mounment's purpose from one of primarily protecting the historical structure of Fort Jefferson to also include protection of the natural features:

"The Congress recognizes the need for . . . protecting and interpreting a pristine natural environment including the entire Dry Tortugas group of islands and their associated marine environments, significant coral formations, fish and other animal populations, and populations of nesting and migratory birds, all of which are located within Fort Jefferson National Monument."

This congressional recognition of the Monument as an important natural area and the need to protect "a pristine natrual environment" has resulted in the Service's proposal to add specific provisions for the protection of ornamental tropical fishes in paragraph (c) and for the "significant coral formations," as proposed in paragraph (d), "Coral Protection." The intent of the Service is to provide the most protective environment possible for fragile coral formations. Although protected in a general sense under 36 CFR 2.1, that regulation is not specific enough to provide definitive protection of coral. Many other natural features (rocks, plants) are not harmed by handling or touching. Coral, however, can be destroyed by these activities; thus the Service finds it is necessary to specifically prohibit them.

Coral damage caused by vessels, anchors, or other mooring devices has in the past been attributed to the unintentional carelessness of vessel operators. The coral formations at Fort Jefferson National Monument are internationally recognized as unique and pristine environs. This fact was supported by the significant expansion of Congressional intent in 1980 concerning the Monument's purpose. Therefore, it is no longer acceptable to ignore the fact that such damage can and does occur. This proposal seeks to place full responsibility for preventing coral damage by vessels or anchoring methods with the vessel operator.

The above explanation may also be applied to the Service's proposal to prohibit persons from "handling, standing on or otherwise disturbing coral in the water." Significant damage to coral can be caused by divers or snorkellers standing on coral heads or handling coral. The Service proposes to mitigate this damage by prohibiting these acts. Each person shall be responsible for insuring that no contact with coral occurs with his/her body or equipment, such as fins, SCUBA tanks, or cameras.

The proposed regulations to protect coral formations are similar to special regulations at two other National Park Service areas: Buck Island Reef National Monument (36 CFR 7.73) and Virgin Islands National park (36 CFR 7.74); and two national marine sanctuaries in the Florida Keys: Key Largo National Marine Sanctuary (15 CFR Part 929) and Looe Key National Marine Sanctuary (15 CFR Part 937).

Minor revisions are proposed in paragraph (3) for aircraft regulation [formerly paragraph (c)]. The Service's general regulations, 36 CFR 2.17 prohibit aircraft from taxiing within 500 feet of swimming beaches, boat docks or piers. Aside from the swimming area beach, the only other beach suitable for aircraft use on Garden Key is just north of the dock, and is less than 500 feet from the dock. In order to allow continued use of this beach by air taxi operators and 'flightseeing' passengers, the Service proposes to continue to allow a relaxation of the restriction provided in the general regulation by stating that seaplanes may taxi closer than 500 feet to the Garden Key dock.

Another minor proposed revision concerns the provision in the existing paragraph (c) " . . . but approaches, landings and takeoffs shall not be made within 300 yards of Bush Key." The following phrase is proposed for addition, to read" . . . but an approach, landing, or takeoff may not be made within 300 yards of Bush Key, when Bush Ky is closed for wildlife nesting under authority of §1.5 of this chapter." The Service proposes this revision to allow aircraft use closer than 300 yards to Bush Key when there is no reason to prohibit such activity. The prohibition will continue in effect when Bush Key is closed to protect wildlife nesting—but will be lifted at all other times.

Public Participation

The Policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed special regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of these regulations. Maureen Finnerty and Lorrie Sprague of Everglades National Park, and Dick Newgren and Tom Rutledge of Fort Jefferson National Monument.

Paperwork Reduction Act

This rule contains no information requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

VOL 51 ISS 150 AG 5 1986 UMI

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This conclusion is based on the fact that the proposed regulations are restatements, clarifications, and definitions of previously established policies and regulations resulting in no change or effects on the economy. A slight enlargement of about four acres of the area available for sport fishing would have virtually had no economic impact. The proposed restrictions on anchoring on or damaging coral will actually have a beneficial effect on tourism to the Fort. Many visitors enjoy snorkeling and diving over the coral reefs.

The Service has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health, and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

Pursuant to the section 7 requirements of the Endangered Species Act, the National Park Service has consulted with the U.S. Fish and Wildlife Service, who has determined that these proposed regulations will have a beneficial effect on endangered species.

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for 36 CFR Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. Section 7.27 is revised as follows:

§ 7.27 Fort Jefferson National Monument.

(a) *Boundary.* Fort Jefferson National Monument consists of an area enclosed by connecting with straight lines the adjacent points of latitude and longitude as listed below:

Buoy	Latitude North	Longitude West
A	24°34'00"	82°54'00"
C	24°34'00"	82°58'00"
E	24°39'00"	82°58'00"
H	24°43'00"	82°54'00"
I	24°43'30"	82°52'00"
K	24°43'30"	82°48'00"
L	24°42'00"	82°46'00"
M	24°40'00"	82°46'00"
O	24°37'00"	82°48'00"

(b) *Definitions.*

Ballyhoo means a member of the genus Hemiramphus, (family: EXOCOETIDAE).

Cast net means a type of circular falling net, weighted on its periphery, which is thrown and retrieved by hand.

Commercial fishing means the taking of products of the sea for sale or barter.

Conch means a member of the genus Strombus.

Dipnet means a device for obtaining bait, the netting of which is fastened in a frame.

Finfish means a member of the subclasses AGNATHA, CHONDRICHTHYES, or OSTEICHTHYES.

Lobster means a member of the genus Panulirus.

Minnow means a member of the family CYPRINODONTIDAE, POECILIIDAE, or ATHERINIDAE.

Mojarra or *goats* means a member of the family GERREIDAE.

Mullet means a member of the family MUGILIDAE.

Ornamental tropical fish means finfish not commonly used for food or bait, belonging to the families SYNGATHIDAE, APOGONIDAE, POMACENTRIDAE, SCARIDAE, BLENNIDAE, CALLIONYMIDAE, GOBIIDAE, OSTRACIIDAE, and DIODONTIDAE.

Pilchard means a member of the herring family, CLUPEIDAE.

Pinfish means a member of the genus Lagodon, (family: SPARIDAE).

Sportfishing means the taking of fish for recreation or personal consumption.

(c) *Fishing.* (1) Commercial fishing is prohibited.

(2) All waters are open to sportfishing with hook and line, except for the following waters of Garden Key which are closed to fishing: The waters of the moat, the waters within 100 feet of the moat wall, and the waters within the swimming and snorkelling area designated by buoys.

(3) The taking of live bait is prohibited, except that minnows, pilchards, pinfish, mullet, mojarras (goats), or ballyhoo may be taken for use for sportfishing with hook and line, dipnet (not exceeding 3 feet at its widest point), or by cast net. No live bait may be taken for the purpose of sale. A dipnet or cast net may not be dragged or trawled.

(4) The use of a spear, gig, or net is prohibited, except for nets as provided in paragraph (c)(3) of this section.

(5) Except for the taking of finfish and bait fish as provided in paragraphs (c)(2) and (3) of this section, and § 2.3 of this chapter, and the taking of unoccupied seashells in accordance with the provisions of § 2.1 of this chapter, the taking or disturbance of any marine life (including ornamental tropical fish, lobster, or conch) is prohibited.

(d) *Coral protection.* (1) No vessel may be operated in a manner, nor may an anchor, chain, line, or any other mooring device be cast, dragged, or placed, so as to strike or otherwise cause damage to any underwater feature, including a coral formation. The operator of a vessel is responsible for any such damage.

(2) Handling, standing on, or otherwise disturbing coral in the water is prohibited.

(e) *Aircraft.* Aircraft may be landed in the waters within a radius of 1 nautical mile of the Fort situated at Garden Key, but an approach, landing, or takeoff may not be made within 300 yards of Bush Key when Bush Key is closed for wildlife nesting under authority of § 1.5 of this chapter. Seaplanes may be moored or brought up on land only on the designated beach north of the Garden Key dock. Helicopters may be landed only at the designated helipad on the Garden Key coaling dock. The operation of aircraft is further restricted by § 2.17 of this chapter, except that seaplanes may be taxied closer than 500 feet to the Garden Key dock while enroute to or from the beach north of the dock.

Dated: July 7, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-17595 Filed 8-4-86; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-3-FRL-30601]

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Pennsylvania Department of Environmental Resources

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Reneer Films Corporation. The Order requires the company to bring air emissions from its graphic arts facility located in West Brunswick Township, Schuylkill County, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. The Order requires that compliance be achieved by December 31, 1986 utilizing low solvent technology (LST) or should LST be abandoned the installation of add-on controls. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement provisions of section 113 of the Act or citizen suit provisions under section 304 of the Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 4, 1986.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jack W. Reynolds P.E., Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division U.S. EPA Region III, 841 Chestnut Building Philadelphia, Pennsylvania 19107 Telephone: (215) 597-9100

SUPPLEMENTARY INFORMATION: Reneer Films Corporation operates a graphic arts facility in West Brunswick Township, Schulykill County, Pennsylvania. The Order under consideration addresses emissions from the rotogravure graphic arts printing operations, which are subject to section 129.67, Title 25 of the Pennsylvania Code. The regulations limit the emissions of volatile organic compounds (VOC), and are part of the federally approved Pennsylvania State Implementation Plan for the control of ozone. The Order requires final compliance with the regulation by December 31, 1986 through the use of low solvent technology (LST) or should LST be abandoned the installation of add-on controls.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicates that the graphic arts facility is a major source of VOC emissions. The facility is located in Northeast Pennsylvania-Upper Delaware Valley Interstate (New Jersey-Pennsylvania) Air Quality Control Region, a nonattainment area for the National Ambient Air Quality Standard for ozone.

The facility as presently constructed is unable to comply with regulations limiting emissions of VOC's codified at section 129.67, Title 25 of the Pennsylvania Code, part of the federally-approved State Implementation Plan, because low solvent coatings are still being developed. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. No public comments or requests for public hearing were received by the State. The Order contains requirements for expeditious increments of progress towards compliance and emission monitoring and reporting as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7)(a) of the Clean Air Act. The first increment of progress, which requires progress reports concerning low solvent coatings research and development has been completed. The 1984 estimated VOC emissions of 574.3 Tons/Year (T/Y) will be reduced 373.3 T/Y to 201 T/Y by December 1986 if either low solvent coatings are chosen or if emission control equipment is installed. The system of emissions reduction required during the period covered by this Order is the best practicable system in light of the ultimate emission reductions required for compliance with the SIP.

In accordance with the increments of progress designated in this Order the Company has chosen to demonstrate compliance by installing emission control equipment. A Plan Approval application for control equipment was submitted prior to January 31, 1986 according to schedule and approval was granted by PADER. Thus the Company is required to implement the remaining actions of this Order according to the established schedule.

The Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so and the Order, therefore, meets the requirements of section 113(d)(7)(B). The Order notifies Reneer Films Corporation of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420 as required by section 113(d)(1)(E) of the Act.

If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments receive by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

The Office of Management and Budget has exempted this rule from the

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requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413, 7601.

Dated: July 24, 1986.

James M. Seif,

Regional Administrator, Region III.

[FR Doc. 86-17580 Filed 8-4-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 85

[FRL-2974-4]

Sale and Use of Aftermarket Catalytic Converters

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed enforcement policy.

SUMMARY: This action announces a proposed enforcement policy regarding the sale and use of replacement catalytic converters ("converters") for motor vehicles. The installation, sale or manufacture of a converter which is ineffective or less effective than the new original equipment (OE) converter could constitute tampering or causing tampering under section 203(a)(3) of the Clean Air Act. Although permitting only new OE converters to be used as replacements would ensure full effectiveness, these parts are generally quite expensive and some State and local vehicle Inspection/Maintenance (I/M) program officials are reluctant to require converter replacement for missing or damaged converters because of this expense. The proposed enforcement policy is intended to encourage the development of inexpensive, multiple-application converters, and to ensure the effectiveness of these products, by allowing their use as replacement converters in certain circumstances provided they meet specified criteria.

DATES: Comments or requests for public hearing must be received on or before November 3, 1986.

ADDRESS: All comments and information should be submitted to Public Docket No. A-84-31, located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Galley I, LE-131, 401 M Street, SW., Wasington, DC 20460. The docket may be inspected weekdays between 8:00 a.m. and 4:00 p.m. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Janet Murphy or Steve Albrink (202) 382-2640, Field Operation and Support Division (EN-397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Most light-duty motor vehicles built since 1975 have been certified to meet Federal or California emission standards with catalytic converters ("converters"). The converter is the major emission control device used by vehicle manufacturers on light-duty vehicles primarily to reduce hydrocarbons and carbon monoxide emissions. Three-way converters, which have been used widely since 1981, also help control oxides or nitrogen emissions. If a vehicle is property maintained and not operated on leaded gasoline, the converter should not require replacement for the entire life of the vehicle. However, improper maintenance, converter removal, accidents or the repeated use of leaded fuel can damage or destroy the effectiveness of the converter so that the vehicle is unsafe, noisy, or cannot comply with emissions standards or local inspection requirements, thus necessitating the installation of a replacement converter.

On November 25, 1980, EPA published regulations regarding the voluntary certification of aftermarket parts pursuant to section 207(a)(2) of the Clean Air Act (*see* 40 CFR Part 85, Subpart V). These regulations contain testing procedures for certifying oxidizing catalytic converters and essentially were designed to require certified aftermarket converters to be as good as or better than the OE converters they are to replace. (To this date, no one has certified converters under the program.) The purpose of these regulations is to protect vehicle owners' emissions performance warranty rights under section 207(b)(2) of the Act [1] if they use such "certified" parts, and to protect service and repair facility operators installing "certified" parts from liability for "tampering" violations under section 203(a)(3) of the Clean Air Act.

The proper use of a converter certified to meet the voluntary aftermarket parts certification regulations will protect the vehicle owner's emissions performance warranty rights and can be installed anytime without subjecting the installer to liability for violating section 203(a)(3).

On December 5, 1984 EPA issued a notice announcing public workshops to explore the possibility of establishing alternative testing procedures or aftermarket converters and requesting information and comments on the subject. 49 FR 47550 (1984). That notice stated that the workshops might result in the amendment of the voluntary aftermarket parts certification regulations. The notice also included draft converter test procedures and criteria to help initiate the discussion of topics. Workships were subsequently held in January 1985 to discuss the relevant issues. Written comments were invited for a period of 30 days after the last workshop.

After reviewing the information received, EPA decided against amending the regulations with regard to the test procedures and acceptance criteria for catalytic converters to be "certified" under section 207(a)(2).[2] However, as discussed below, EPA has developed a proposed enforcement policy (guidelines) on how it will enforce section 203(a)(3) with regard to the installation of aftermarket converters. Although the proposed enforcement guidelines merely reflect EPA intended exercise of its enforcement discretion and are not regulations, EPA proposes to add those guidelines to 40 CFR Part 85 of Appendix IX, for the convenience of any persons who may choose to follow the guidelines.

In addition, as discussed elsewhere in today's **Federal Register**, the proposed guidelines described here will be, from the date of publication of this notice, the interim policy of EPA with regard to the enforcement of the tampering prohibition against sellers, installers, and manufacturers of aftermarket catalytic converters. Although the final policy may be issued with substantial modifications, or not at all, depending on the comments received, no installer, seller, or manufacturer voluntarily complying with the interim guidelines will be prosecuted for tampering as a result of following the guidelines during the interim period before the final policy is published or this proposal is withdrawn. However, the installation or sale of a converter not complying with the interim guidelines, and which is not a new OE converter or its equivalent (as defined in the proposed policy) or a

[1] Under Section 207(b)(2), if a vehicle has been properly maintained and used, yet fails at any time during its useful life to conform to applicable emission standards (e.g., by failing an eligible state or local emissions test), and thus causes the owner to bear some sanction, the vehicle manufacturer is required to correct the failure at its expense.

[2] EPA is, however, preparing another proposal to amend certain aspects of the aftermarket parts certification regulation in accordance with a court order in *Speciality Equipment Manufacturers Association* v. *Ruckelshaus*, 720 F.2d 124 (D.C. Cir. 1983). The provisions subject to that proposal are not at issue here.

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"certified" converter, may be considered tampering or the causing thereof.

Section 203(a)(3) of the Clean Air Act, 42 U.S.C. 7522(a)(3), prohibits parties named in the statute from tampering with emission control systems on motor vehicles and prohibits any person from causing tampering. Specifically, section 203(a)(3) prohibits vehicle manufacturers, dealerships, service and repair facilities and fleet operators from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle. In addition, section 203(a) prohibits any person from causing such tampering. Tampering with emission controls can include removing, disabling or destroying a part of the emission control system, or installing an incorrect or ineffective part in or on any motor vehicle designed to meet Federal or California emissions standards. The installation of a new OE converter identical to that with which the vehicle was originally manufactured would not be a violation of the Act.

Many urban areas have air pollution problems caused primarily by motor vehicles. The majority of these areas have been or will be implementing vehicle inspection or testing programs. EPA's 1984 Tampering survey revealed that 16% of all vehicles have had their converters removed or have used leaded gasoline, which in effect ruined the converters' ability to lower emissions. Many of these vehicles are now or soon will be subject to inspection or testing programs.

EPA is actively promoting state and local tampering inspection programs which would require converter replacement where missing or lead-poisoned converters are discovered. There is no question that effective converters in place of lead-poisoned or missing converters would directly improve compliance with emission standards and benefit air quality. However, the Agency believes that some inspection officials have been or will be extremely reluctant to require converter replacement because OE (or equivalent) converters are relatively quite expensive (e.g., between $300 and $500 installed). Thus, EPA has decided that its success in persuading State and local governments to implement such programs depends, in part, on the availability and cost of replacement converters. EPA is also concerned that replacement converters used in any such program be of sufficient quality to provide vehicles with a reasonable opportunity to comply with applicable standards and to provide as much air quality benefit as reasonably possible.

It has been suggested that the major reason that new OE converters cost so much is that they are engineered and designed only for specific applications. If aftermarket converters could be consolidated into a limited number of multiple-application converters, then the costs to the consumer could be reduced considerably. Thus, the proposed enforcement policy is intended to foster the development and allow the use of less expensive, multiple-application replacement converters.

The proposed performance criteria are based on EPA data on the performance of properly maintained OE converters with less than 50,000 miles of use. The criteria for new aftermarket converters require such converters to perform effectively for up to 25,000 miles of use, as demonstrated by testing on worst case vehicles, so that the emissions reduction benefits for the average vehicle and the total fleet that receive them would be greater than the criteria might indicate. While the proposed policy specifies that prototype converter aging is to be by vehicle mileage accumulation, it also allows for accelerated aging if it can be demonstrated that the procedures are as stringent as vehicle mileage accumulation. The Agency is working with the industry to develop such an aging alternative which could be available for the final policy.

The performance criteria for used aftermarket converters are designed to screen out the used OE converters which have obviously been extensively fuel switched or whose performance has been severely affected by prior use. As a result, each used converter must be tested by a bench test procedure under the proposed criteria.

EPA recognizes that converters which meet the proposed criteria of these guidelines may not perform at the same level over as extended a period as the new converters installed by the vehicle manufacturer and that their use therefore may not completely protect the vehicle owner's emissions warranty rights under section 207 of the Act.[3] In such cases, EPA believes that the substantial emissions control provided by converters meeting the criteria of this policy would be a great improvement compared to the lack of control caused by missing or poisoned converters. Thus, the primary purpose of the proposed policy is to support state and local antitampering inspection programs by encouraging them to require converter replacement where the converter is missing, lead poisoned, or otherwise ineffective.

EPA does not intend to permit the use of aftermarket converters meeting the criteria discussed below to restore the emission control capabilities of vehicles originally equipped with converters and operated outside the U.S., Canada or Mexico and subsequently brought back to the U.S. pursuant to 40 CFR 85.1509, or to replace properly operating OE converters, or as replacement converters for warranty or recall purposes. Since properly maintained converters normally would not require replacement for the life of the vehicle, such uses will be considered violations of section 203(a)(3) of the Act.

EPA also recognizes that in some limited circumstances the original converters may fail or be damaged and require replacement for reasons other than misfueling or converter removal. Under these circumstances, if the vehicle is less than 5 years old, has accumulated less than 50,000 miles, and a state or local inspection program has not determined that the existing converter needs replacement, the vehicle's expected remaining useful life may be significant and should require replacement with a new OE or equivalent converter. Moreover, the 5 year/50,000 mile emissions warranty presumably would be applicable to those vehicles. For vehicles over 5 years old or with more than 50,000 miles, on the other hand, it may be appropriate to allow the use of aftermarket converters meeting the criteria of these guidelines if there is a legitimate need for replacement, even though not due to removal or poisoning of the converter, and even if the state or local inspection program has not ordered replacement.

Thus, this proposed and interim policy only applies to converters that meet the criteria described in the attached guidelines and that are used as replacement converters: (1) On a vehicle which is missing a converter; or (2) pursuant to a determination by a State or local inspection program that the existing converter has been lead-poisoned or damaged or otherwise needs replacement; or (3) for vehicles over 5 years or 50,000 miles old where a

[3] Under section 207(b)(2)(A) of the Act, an owner who has removed or poisoned his original converter by misfueling probably has already voided the manufacturer's performance warranty for the catalyst itself by failing to properly maintain the vehicle. Of course, if an owner wishes to preserve whatever performance warranty rights remain with regard to emission-related parts affected by converter performance, the owner could elect to replace the converter with an OE or certified converter. Under the 207(a) warranty, if the use of anything but an OE or equivalent or certified converter has caused the malfunction of any other emission part or emission-related part, that part should not be considered "defective" and may not be covered under that warranty.

legitimate need for replacement has been established and documented. All other converter replacements by regulated parties are potentially subject to enforcement actions under section 203(a)(3) and, thus, the replacement converters must be OE or equivalent or certified converters. In order to prevent converters meeting the criteria in this proposal from being improperly used to replace properly operating converters, EPA will be monitoring their use. If it becomes apparent that abuses are occurring, EPA may change the final policy, or eliminate the policy entirely, so that the use of such converters by named parties may be considered a violation of section 203(a)(3) under any circumstances.

The proposed policy is intended to supersede EPA's Mobile Source Enforcement Memorandum 1A only with regard to new or used aftermarket converters.

Additional Information

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestics or export markets. In fact, the proposed policy will allow additional businesses to enter the converter replacement market to produce, market, or install acceptable quality replacement converters. It will also lower costs to consumers and increase competition since vehicle manufacturer's dealerships will no longer be the only suppliers of acceptable converters.

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA response to such comments are available for public inspection in the docket.

Finally, the proposed policy will impose reporting and recordkeeping requirements for those companies which voluntary enter this market. Information collection requirements affected by the notice have been submitted to OMB for review under the provisions of the Paperwork Reduction Act. Any written comments from OMB or response from EPA will be included in the docket.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

EPA proposes to amend the table of contents to 40 CFR Part 85 by adding a reference to Appendix IX, entitled Enforcement Policy For Sale and Use of Aftermarket Catalytic Converters.

Dated: July 25, 1986.

Don R. Clay,

Assistant Administrator.

PART 85—[AMENDED]

1. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7522(a)(3).

2. EPA proposes to amend 40 CFR Part 85 by adding a new Appendix IX, to read as follows:

Appendix IX—Enforcement Policy for Sale and Use of Aftermarket Catalytic Converters

A. General Requirements

Regulated parties shall install new or used aftermarket catalytic converters ("converters") on motor vehicles only if the converters are represented in writing by the distributor or manufacturer to have been tested according to the following procedures and to have met the performance criteria specified below, or are certified (under 40 CFR Part 85, subpart V) or are new or equivalent to new original equipment (OE) converters. "Regulated parties" means any person engaged in the business of repairing, servicing, selling, leasing or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles. "Equivalent" means identical or better in all emission related respects as determined by the U.S. Environmental Protection Agency (EPA).

New or used aftermarket converters that meet the performance criteria specified herein may be installed in the following situations: (1) If the vehicle is missing a converter; (2) if a state or local inspection program has determined the existing converter has been lead-poisoned or damaged or otherwise needs replacement; or, (3) if the vehicle is more than five (5) years old or has more than 50,000 miles and a legitimate need for replacement has been established and documented. The third situation normally would include only plugged converters or those damaged to the point where unrepairable exhaust leaks are present. Any other converter replacement must be with a certified or new OE or equivalent converter or it will be considered tampering.

In order to establish and document that the circumstances permitting replacement of an original or missing converter with an aftermarket converter meeting the required performance criteria exist, the installer must include the customer's name, complete address, and the make, model year and mileage of the vehicle on the service invoice along with a stated reason for replacement. Where a state or local government has determined that a converter is damaged or needs replacement, the service or repair facility also must retain a copy of the written statement or order by a proper government representative which indicates that the converter should be replaced and attach it to the invoice. Where the replacement need has not been verified by a proper state or local government representative, the customer and a representative of the service or repair facility must sign a statement verifying that replacement is justified. This statement, which may be contained on the invoice or separately, shall consist of the following:

Catalytic converters are emission control devices which are designed to last the life of the vehicle and do not normally require replacement. Furthermore, if the vehicle is properly use and maintained, original converters are covered by the emissions control warranty for 5 years or 50,000 miles. Federal law prohibits repair businesses from replacing these devices except under certain limited circumstances.

In order to verify that the proper circumstances exist, the owner of the vehicle on which such repairs are made and a facility representative must sign the following statement.

—The vehicle is over 5 years old or has more than 50,000 miles on it and the catalytic converter required replacement because————.

OR

—The vehicle's catalytic converter was missing when the vehicle was brought in.

Vehicle Owner's Signature

Facility Representative's Signature

Installers must retain copies of the invoices and statements for six (6) months, and the replaced converters (if any) for at least 15 days from the date of installation of the replacement converters. Replaced converters must be marked in such a way that they can be identified with particular customer invoices and statements and be available for EPA inspection.

All other converter replacements or installations, such as on vehicles imported without converters pursuant to 40 CFR 85.1509, or on vehicles covered under warranty or being recalled also must be with new OE or equivalent or "certified" converters. Persons who install or sell aftermarket converters that do not meet the criteria and conditions specified in these guidelines may be considered liable for tampering or causing tampering.

These guidelines shall be effective for all aftermarket converters manufactured or recycled after [insert 90 days from publication] and apply to converters which meet the definitions of and criteria for new or used aftermarket converters as stated below.

B. Test Procedures and Performance Criteria

1. New Aftermarket Converters

A new aftermarket converter is defined for purposes of these guidelines to be a converter

which has: (1) All new materials; or, (2) any new materials which make the converter not equivalent to an OE converter; or, (3) any construction which makes the converter not equivalent to an OE converter. New converters require limited vehicle durability testing by the converter manufacturer on worst case vehicles in each application category and the converters must meet the exhaust emission control efficiency requirements listed below. The converter manufacturer must demonstrate that the converters meet applicable performance standards as described below after 25,000 miles, which is considered half their useful lives.

(a) Two vehicles in each application category are normally required to conduct the mileage accumulation and testing. The application category is to be defined by the converter manufacturer. Application category can refer to the types of vehicles and/or engines the converters are to be installed on, or the types of OE converters the aftermarket converters are to replace. In addition, the converters must be identified as one of the following: (1) Oxidation converter, (2) three-way converter; or (3) three-way-plus-oxidation converter.

(b) The vehicles for which the converter is an appropriate installation are to be defined by the converter manufacturer. The converter manufacturers must supply this information with each converter so that the installer can easily and clearly know the vehicle application(s).

(c) The worst case vehicles in each application category are required to be tested by the converter manufacturer. Absent any information supplied by the converter manufacturer, the worst case for each application category will be the highest test weight/largest engine displacement within the application caterogy. This combination is determined by selecting the largest engine displacement within the highest test weight class. Test weight is described in 40 CFR 86.129–80. Information on test vehicle/engine selection is available from EPA's certification summary data.

(d) Durability mileage accumulation shall be conducted on at least two test converters for 25,000 miles each, using the mileage cycle in Appendix IV of 40 CFR part 86 for track mileage accumulation or one that is typical of in-use operation and equal to that cycle for road mileage accumulation. Commercially available unleaded fuel and oils of the grade and quality specified by the manufacturers in the owner's manual shall be used. The vehicles shall be set to manufacturer's specifications, equipped with the test converters for the entire mileage accumulation and records of all vehicle and engine maintenance shall be kept. No maintenance of the converters is permitted. Different vehicles may be used for mileage accumulation and testing if they are equal with respect to emission related parameters (i.e., "slave" vehicle(s) may be used for testing).

(e) As an alternative to vehicle mileage accumulation, accelerated bench testing which simulates the 25,000 miles accumulation may be used if it can be demonstrated to EPA in advance that the procedures are at least as stringent as vehicle mileage accumulation.

(f) At the end of the mileage accumulation, two cold start Federal Test Procedures ("FTP") tests (including the heat-build portion of the evaporative test) described in 40 CFR part 86 shall be performed on each vehicle. The pair of test results will be considered consistent if they are within 10% for HC and CO and 15% for NO_x. If the results are consistent, the results shall be averaged to obtain the with-converter (w/c) emissions. If the pair are not consistent *i.e.*, not within 10% for HC and CO and 15% for NO_x, a third test may be run. The results of the third test may be averaged with either of the first two tests if the resulting pair is consistent, *i.e.*, within 10% for HC and CO and 15% for NO_x. If the third test does not result in a consistent pair, then the design will not be acceptable unless the manufacturer can demonstrate to EPA's satisfaction that the first three tests were not repeatable due to non-converter problems (e.g., test equipment, etc.) and that there is repeatability on subsequent tests.

(g) If the w/c tests produce a consistent pair, the aftermarket converter shall then be removed and replaced with an exhaust pipe which adequately simulates the exhaust backpressure characteristics of the converter. No other maintenance or modification to the vehicles is permitted between with- and without-converter configurations. Two more cold start FTP tests shall be run on each vehicle with converter removed. The results shall be averaged (if they meet the above consistency requirements) to obtain the without-converter (wo/c) baseline values.

(h) The converter efficiency shall be determined using the following formula:

$$\text{efficiency} = \frac{100\,(\text{emissions (wo/c)} - \text{emisison (w/c)})}{\text{emissions (wo-c)}}$$

In order to be an acceptable converter, the converter efficiency determined above must be greater than or equal to the values shown in the following table for each of the two converters.

TABLE 1

Application	Minimum efficiency for (in percent)—		
	HC	CO	NO_x
Oxidation converter	70	70	(1)
Three-way converter	70	70	30
Three-way-plus-oxidation	70	70	30

[1] No requirement.

(i) Converters produced after the qualification process has been successfully completed and shall be identical to the qualified converters in all material respects. A listing of these characteristics and the information to be supplied to EPA shall include the following:

(1) Catalyst supplier and address.

(2) General type of converter (e.g., oxidation, reduction, three-way, etc.).

(3) Number of each type of catalyst used per can (each individual monolith unit or "biscuit" is considered to be a separate catalyst for purposes of determining the number of catalysts per can).

(4) Substrate (e.g., monolithic, pelleted)—give configuration construction technique (e.g., extruded, laid-up, formed, Dravo disk, etc.), composition, supplier and address, composition of active constituents in substrate (grams or troy ounces); for monolithic substrates, give number of cells per square inch of frontal area and design tolerances, nominal cell wall thickness (e.g., in mils); for pelleted substrates, give pellet shape and dimensions, pellet bulk density, specify (if applicable) the use of more than one type of pellet (e.g., Rh or Pt/Pd), specify any geometrical distribution of pellets, and (if this is controlled in production) specify the mean impregnation depth (e.g., in microns) of active materials and include production tolerances.

(5) Washcoat—give composition of active constituents, and total active material loading (grams or troy-oz) in washcoat.

(6) Active material—give composition of active constituents, loading of each active material including design tolerances, total active material loading including design tolerances (grams or troy-oz).

(7) Container—dimensions, volume, materials used, technique of containment end restraint, method of constructing container, canner (if different from catalyst supplier), and insulation and shielding (converter and/or vehicle).

(8) Physical description—dimensions (e.g., length, width, height, etc.), weight (lbs), volume including design tolerances, active surface area (BET), and total active surface area including design tolerances.

(j) The converter manufacturer shall enclose with each converter a statement that it has been designed and manufactured to meet the EPA emission reduction requirements for the designated type of converter and shall warrant that when the vehicle is properly maintained, the converter will meet the emission reduction requirements specified in paragraph (h) for 25,000 miles and that the converter will not constitute a safety hazard.

(k) To ensure that new aftermarket converters have adequate external durability which will make them effective alternatives to OE converters, the converter manufacturer must design and warrant the external converter shell, including the end pipes, to last for five (5) years or 50,000 miles (whichever comes first) from the date of installation.

(l) The converter manufacturer shall enclose with each converter the specific vehicle applications of that converter and a warranty application card to be returned to the converter manufacturer which will include the vehicle owner's name and address, phone number, the make, model, year and mileage of the vehicle, the date of installation, the installing dealer's name and address and the part number(s) installed. All such cards or applications must be retained by the converter manufacturer for a period of five (5) years.

(m) New converter manufacturers shall report to EPA semi-annually the information contained on the warranty cards received

and the number of each type of converter produced during the period. The warranty card information shall consist of *either* a listing of the names and addresses of dealerships purchasing new converters, and the number of each type of converter sold or installed by each dealer *or* copies of all completed warranty cards received by the manufacturer. In either case, such information shall be submitted within 30 days of the end of each period. The reporting periods shall end on June 30th and December 31st of each year.

2. Used Converters

A used converter is defined for purposes of these guidelines as a previously used OE converter which does not meet the definition of a new converter. This includes used pelleted OE converters which have had the pellets replaced with new or used OE equivalent pellets. For used converters, no durability testing is required but each converter must be tested as specified below. *Only* used OE converters can qualify under this procedure. The types of tests are: (1) Container mechanical integrity check, (2) substrate mechanical integrity check, and (3) performance test.

(a) Each converter must be identified with respect to application category. The application category is defined as those vehicles for which the converter was the original production converter.

(b) The converter shall be inspected by the remanufacturer to determine which type of converter it is—oxidation converter, three-way converter or three-way plus-oxidation converter—and that the container (the "can") is structurally sound. There must be no leak paths in the can. The can must have acceptable backpressure characteristics, i.e., not be plugged. The substrate must be sound and not be melted or attrited. It shall not rattle.

(c) The performance test which shall be used for used converters is similar to the General Motors "Cell 102" test, and is as follows: A converter originally at room temperature is subjected to an exhaust flow of known composition and temperature. Because of the exothermal chemical reactions that occur, the converter heats up. Therefore two important converter parameters, light-off and stabilized efficiency, are measured on the same test. Each converter is tested and the exhaust gas constituents are read before and after the converter. Converter efficiency values for HC and CO conversion are computed at 120 seconds and 200 seconds. A light-off test and stabilized efficiency test can be performed consecutively. The exhaust is set to the control parameters while bypassing the converter through a pipe set to a back-pressure equal to the test system. At time=zero, the exhaust stream is switched into the converter system and a strip chart records exhaust gas constituents (before and after the converter) versus time. From this chart the conversion efficiency vs. time curve can be established. Each converter must meet all applicable requirements in Table 2.

TABLE 2.—LIGHT-OFF AND STABILIZED CONVERSION EFFICIENCY VALUES FOR USED OE CONVERTERS

[In percent]

Converter type	Minimum efficiency at 120 seconds		Minimum efficiency at 200 seconds	
	HC	CO	HC	CO
Oxidation	50	50	75	75
Three-way	50	50	75	75
Three-way-plus oxidation	50	50	75	75

The control parameters for this test are:

1. Engine type and Displacement: V–8, 350 to 360 CID.
2. Engine speed: 1800 ±20 RPM.
3. Converter Inlet CO: 2%±0.05% CO.
4. Converter Inlet Temperature: 730°±40° F (set using engine load).
5. Air Injection Pump: 20 CID, (Maximum).
6. Air Injection Drive Ratio: 1.5:1 (Maximum).
7. Converter Mounting: The converter may not be located closer than two (2) feet from the location in the exhaust system where the exhaust from the two engine banks is joined together.
8. Converter pre-test temperature: 90 °F (maximum normally, 100 °F if room temperature makes it necessary due to outside ambient temperatures above 90 °F).

(d) At the option of the used converter remanufacturer, small size converters (less than 100 cubic inches of converter volume) may be tested using a smaller engine if the following additional requirements are met: The oxygen concentration at the converter inlet is 5 percent ±0.5 percent, and the converter space velocity is not less than 25,000 hr—1.

(e) The converter remanufacturer shall enclose with each used converter a statement that it has been tested according to the test procedures for used converters and meets all applicable requirements at the time of testing.

(f) The converter remanufacturer shall enclose with each used converter the specific applciation(s) of that converter.

(g) The converter remanufacturer shall report to EPA on a semi-annual basis the names and complete addresses of the persons or companies to whom it distritues along with the number of each type converter sold to each. This information shall be submitted within 30 days of the end of each period. The reporting periods shall end on June 30th and December 31st of each year.

C. Labeling

The converter manufacturer or remanufacturer shall lable each new or used converter with a visible, permanent, nondestructible label or stamp, which will identify the manufacturer's code (to be issued by EPA when requested by letter), vehicle application code (to be supplied by the manufacturer to EPA), the month and year of manufacture, and information about whether the converter is new or used. The label information shall be in the following formats:

(1) New Converters—N/XX/YYYY/ZZZZ
(2) Used Converters—U/XX/YYYY/ZZZZ

N—is for a new converter designation
U—is for a used converter designation
XX—is the manufacturer code issued by EPA
YYYY—is to be a numerical designation of the vehicle application(s)
ZZZZ—is the month and year of manufacture (i.e., "0186" for January, 1986)

D. Manufacturer's and Remanufacturer's Representations

A manufacturer's or remanufacturer's determination that its converters meet EPA's acceptance criteria does not constitute a certification, accreditation, approval, or any other type of endorsement by the Environmental Protection Agency of any claims concerning pollution control or any other alleged benefits. No claim of any kind, such as "Approved [or Certified] by the Environmental Protection Agency," may be made in any advertising or other oral or written communications. If true, statements such as the following may be made: "meets the emissions reductions requirements and criteria required by the U.S. Environmental Protection Agency which would allow the proper installation of the converter without the installer being liable for violating the tampering prohibition of the Clean Air Act."

E. Confirmatory Testing or Auditing by EPA

EPA reserves the right to inspect facilities and records, to observe testing and to run confirmatory tests to validate any part of the qualification process. If EPA finds that a manufacturer's or remanufacturer's converters do not meet the applicable criteria, EPA shall notify the manufacturer or remanufacturer of such finding, and that the manufacturer or remanufacturer may be liable for causing tampering for any applicable converter installations (past or future) and that the continued installation of the converters by regulated parties may make those parties liable for violations of section 203(a)(3) of the Clean Air Act.

F. Installation Requirements

In order for the installation by a regulated entity of an aftermarket converter meeting the conditions described in A through E, above, not to be considered a violation of section 203(a)(3) of the Act, the converter must:

(1) Be installed only in situations as defined in A above;
(2) Be in the same location as the original converter;
(3) Be the same type of converter as the original converter (i.e., oxidation, three-way or three-way-plus oxidation);
(4) Be the proper converter for the vehicle application as determined and specified by the manufacturer;
(5) Be connected properly to any existing air injection components on the vehicle;
(6) Be installed with all the other required converters for the particular application if more than one converter was installed originally by the vehicle manufacturer or, in the case of new aftermarket converters, if more than one converter was specified by the converter manufacturer; and
(7) Be accompanied by the warranty information card, filled in by the installer, if the converter is a new converter.

G. Notification of EPA by Catalyst Manufacturers and Remanufacturers

Any converter manufacturer or remanufacturer which markets converters under these guidelines must notify EPA of its intent to do so thirty (30) days prior to the actual introduction of each product line. New converter manufacturers must include or have submitted a summary of test results including vehicles tested, method of mileage accumulation, name and location of testing facility, test results, intended vehicle application(s), and the converter information specified in B.1.(i). Used converter remanufacturers must include a description of the test facility and its location and the intended vehicle applications of the converters). The information shall be sent to EPA (EN-397F), 401 M Street, S.W., Washington, D.C. 20460. Manufacturers and remanufacturers shall include any other information which they deem relevant to a determination that the subject converters meet the requirements set forth in these guidelines.

H. Notification of Dealers and Distributors by Converter Manufacturers and Remanufacturers.

Any converter manufacturer or remanufacturer which markets under these rules shall have a system in place to notify and shall notify all of its known dealers and distributors of the proper installation requirements and restrictions which are applicable to parties named in section 203(a)(3) of the Clean Air Act as they apply to the use of its converters. If the manufacturer or remanufacturer is notified by the EPA that converters produced or sold by it do not meet the applicable acceptance criteria described above, the manufacturer or remanufacturer shall promptly notify all of its known dealers and distributors of that fact and that the continued installation of the affected converters may be considered to be violations of section 203(a)(3) of the Clean Air Act.

[FR Doc. 86-17555 Filed 8-4-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50537; FRL-2945-8]

PBBs and TRIS; Proposed Determination of Significant New Use

Correction

In FR Doc. 86-15170 beginning on page 24555 in the issue of Monday, July 7, 1986, make the following corrections:

1. On page 24555, in the second column, in the fifth line of the second paragraph, the section reference should read "5(a)(1)(A)".

2. On the same page, in the third column, in the ninth line of the first complete paragraph, "PBBs for Tris" should read "PBBs or Tris".

§ 721.230 [Corrected]

3. On page 24558, in the third column, the ninth line of § 721.230(a)(1) should read "(CAS No. 27753-52-2);".

BILLING CODE 1505-01-M

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40 CFR Part 721

[OPTS-50556; FRL-3054-3]

Benzenamine, 3-Chloro-2,6-Dinitro-N,N-Dipropyl-4-(Trifluoromethyl)-; Proposed Determination of Significant New Uses

Correction

In FR Doc. 86-16646, beginning on page 26557, in the issue of Thursday, July 24, 1986, make the following corrections:

1. On page 26557, second column, in the "Summary", second line, "signification" should read "significant."

2. On the same page, third column, in the "Address", second paragraph, eighth line, "Rm. NE-6004" should read "Rm. NE-G004".

3. On the same page, third column, in "Supplementary Information", first paragraph, ninth line, "in" should read "is".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 81

Purchase of Insurance and Adjustment of Claims; State Listings

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Further notice of proposed rule.

SUMMARY: This document amends a proposed rule, published on July 25, 1986, 51 FR 26726, which listed the States in which there exists a critical crime insurance availability problem which has not been resolved at the State level and deleted the States of Arkansas, Iowa, Louisiana, Maryland, Massachusetts, North Carolina, Ohio, and Pennsylvania, as of September 17, 1986; Colorado, as of September 30, 1986, and Missouri and Virginia, as of October 31, 1986.

In order to provide more adequate time for all of these States to prepare for resolving any crime insurance availability problem at the State level, all of the dates listed above are revised by specifying that the deletion of all such States will become effective on the same date, namely, December 31, 1986.

DATE: The date for comments is extended from September 23, 1986 to October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Robert J. De Henzel, (202) 646-3440.

SUPPLEMENTARY INFORMATION: Other parts of the preamble remain the same.

PART 81—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Item 2 of the document published at 51 FR 26726 is amended to read:

2. Section 81.1(b) is revised to read as follows:

§ 81.1 [Amended]

* * * * *

(b) On the basis of the information available, the Federal Insurance Administration has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of December 31, 1986, should the Program be continued by Congress past its current statutory expiration date of September 30, 1986.

Accordingly, the Program, if extended, is in operation in the following jurisdictions after December 31, 1986.

Alabama	Illinois	District of Columbia
California	Kansas	Puerto Rico
Connecticut	New Jersey	Virgin Islands
Delaware	New York	
Florida	Rhode Island	
Georgia	Tennessee	

Dated: July 31, 1986.

Francis V. Reilly,

Deputy Federal Insurance Administrator, Federal Insurance Administration.

[FR Doc. 86-17527 Filed 8-4-86; 8:45 am]

BILLING CODE 6718-01-M

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Notices

Federal Register
Vol. 51, No. 150
Tuesday, August 5, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Special Volunteer Programs; Availability of Funds Demonstration Grant

Background

Definitions of literacy/illiteracy and estimates of adults in the United States who fall into these categories are debatable. Modest estimates place the number of adults who lack basic literacy skills at 23 million. Those who expand the definition of literacy estimate that as many as 76 million adults are illiterate. Despite the disagreements about definitions and number, there is little debate that a significant number of adults in this country have difficulty with and lack choices about daily life situations because of their limited basic skills.

It is estimated that over 80% of the people in the United States reside in urban areas; i.e. a geographic area with a concentrated population of over 100,000. It is also widely recognized that urban areas have unique issues and needs based on the economic, social and political dimensions of a concentrated population base. An urban community is defined as a community "with a high population density, predominance of non-agricultural occupations, and a high degree of specialization resulting in a complex division of labor and a formalized system of local government. Urban communities also tend to be characterized by a heterogenous population, prevalence of impersonal secondary relations and dependence on formal social controls." (Modern Dictionary in Sociology, Barnes and Noble)

Adult illiteracy has particular importance in urban areas. Concentrations of poor, minority and often immigrant populations yield increased numbers of illiterate or non-english speaking adults while a highly specialized nature of urban jobs makes it more difficult for these adults to find employment. In addition, it is often difficult for adults to find support and assistance in the impersonal atmosphere of urban areas.

The purpose of this announcement is to solicit private sector programs that support the use of existing resources and generate new volunteer resources for the expansion of quality literacy services in urban areas. The intention is to capitalize on the current national literacy movement and initiatives and to ensure long term support for and focus on urban literacy services. Applicants must match the $250,000 anticipated under this announcement with $250,000 specifically from private sector funds.

A. The Office of Voluntarism Initiatives

ACTION announces the availability of funds during fiscal year 1986 for demonstration grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113; Title I, Part C, 42 U.S.C. 4992).

The purpose of this program is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

The purpose of this process is to identify and support an innovative project that provides grants, training and advocacy in support of collective literacy efforts in urban areas.

Consideration will be given to projects promoting the utilization of volunteer service, including retired and other senior citizens, to address the problem of illiteracy in urban areas.

Applicants must be able to generate new public and private financial and in-kind resources.

In planning and implementing approaches to assisting in eradication of illiteracy, applicants shall build upon existing knowledge on voluntarism.

Applicants shall describe their consultation with private and public agencies as it pertains to the need to help individuals improve their ability to read, write, or comprehend or to perform basic arithmetical computation.

Objectives

To develop Volunteer Demonstration Projects which address areas of human and social concern where citizens, as volunteers, can contribute toward individual self-reliance and community self-sufficiency.

The project funded under this announcement must be able to: (1) Coordinate and fund literacy efforts in ten urban areas as model demonstration sites to be replicated through public and private resources; (2) arrange for training of representatives of the ten demonstration sites; (3) provide comprehensive evaluations of the ten demonstration sites; (4) provide regular vehicles of communication to and among programs and supporters of literacy efforts in urban areas; (5) identify and contact state and national organizations, agencies, and departments, which address or could address urban literacy issues; (6) co-sponsor a conference which would report the progress of the demonstration sites and provide a forum for discussion, planning and training regarding literacy in urban areas; (7) develop an effective plan of management that insures proper and efficient administration of the project; (8) develop a clear description of how the objectives of the project relate to the purpose of the program; (9) provide a complete range of basic human needs and supportive services; and (10) match the $250,000 anticipated under this announcement with $250,000 from private sector funds.

B. Eligible Applicants

Only applicants from private, non-profit incorporated organizations and public agencies will be considered.

C. Available Funds and Scope of the Grant

ACTION anticipates awarding a $250,000 grant to an applicant that can match that amount with $250,000 from private sector funds.

Publication of this announcement does not obligate ACTION to award a grant or to obligate any specific amount of money for a demonstration grant.

D. General Criteria for Grant Selection

Grant applications will be reviewed and evaluated in comparison with the criteria outlined below, as appropriate, as well as conformance to the

instructions included in the application. Grant applications that have demonstrated support and commitment to community volunteer involvement in eradicating illiteracy will be given preference.

1. Potential to recruit and train volunteers in areas of priority.

2. Promise of developing innovations or providing knowledge in areas of priority that are significant to national program development.

3. Potential for replication of the project model and plans for implementation and dissemination of project results, including any products such as reports and manual for use by others.

4. Carefully formulated measurable time phased objectives and feasibility of methods for meeting those objectives.

5. Capability of proposed staff.

6. Likelihood of completion of project within proposed timetable.

7. Feasibility of proposed budget.

8. Adequacy of plans for data gatheing and evaluation.

9. Letters of support from collaborating agencies and organizations where such could be expected to contribute to the value or success of the project.

10. Plans for continuation of the activities and self-sufficiency of the program following the completion of the project supported by ACTION funds.

11. A letter of commitment from private sector entities, matching funds with the anticipated $250,000 under this announcement.

E. Application Review Process

ACTION's Demonstration Grants Division in the Office of Voluntarism Initiatives, which has expertise in volunteer demonstration programs, will review and evaluate all eligible applications submitted under this announcement. ACTION's Associate Director for the Office of Voluntarism Initiatives will make the final selection from among the highest ranked applications. ACTION reserves the right to ask for evidence of any claims of past peformance or future capability.

F. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the Associate Director for the Office of Voluntarism Initiatives, Room M–516, 806 Connecticut Avenue NW., Washington, DC 20525. The deadline for receipt of applications is September 2, 1986. Only those applications that are received by 5:00 p.m. on this date will be eligible.

All grant applications must consist of

a. Application for Federal Assistance (SF 424, Pages 1–2 and ACTION Form A–1017, pages 3–7) with a narrative budget justification and a narrative of project goals and objectives.

b. CPA certification of accounting capability.

c. Articles of incorporation.

d. Proof of non-profit status or an application for non-profit status, which should be made through documentation.

e. Resume of candidates for the position of project director, if available, or the resume of the director of the applicant agency or project.

f. Organization chart of the applicant organization showing how the project is related to the organization.

To receive an application form, please call ACTION's Office of Voluntarism Initiatives, (202) 634–9740.

Signed in Washington, DC on July 29, 1986.

Donna M. Alvarado,

Director.

[FR Doc. 86–17549 Filed 8–4–86; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF AGRICULTURE

Human Nutrition Board of Scientific Counselors' Task Group Meeting on Nutrition Education

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), 86 Stat. 770–776), the Office of the Secretary announces the following meeting:

Name: Human Nutrition Board of Scientific Counselors' Task Group on Nutrition Education.

Date: September 10, 1986.

Time and Place: 9:00 a.m.,–5:00 p.m.; Room 1333 S. Agriculture Building, United States Department of Agriculture, Independence Avenue, between 12th and 14th Streets, SW., Washington, DC.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written coments before or after the meeting with the contact person below.

Purpose: To determine the kinds of initiatives required to formulate and integrate a broad-based nutrition education program to utilize present resources with greater efficiency. A report will be prepared for submission by the Board to the Secretary of Agriculture.

Contact person: Anne Winslow, Confidential Assistant, Office of the Assistant Secretary for Science and Education, U.S. Department of Agriculture, Room 217–W, Administration Building, Washington, DC 20250, telephone (202) 447–5035.

Done at Washington, DC, this 29th day of July 1986.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 86–17539 Filed 8–4–86; 8:45 am]

BILLING CODE 3410–61–M

Forest Service

Pacific Crest National Scenic Trail Advisory Council, Northern California Sub-Committee; Meeting

The Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 12:30 p.m. on August 25, 1986, at the Hat Creek District Headquarters, Highway 299, Fall River Mills, California. The meeting will begin at 12:30 p.m.

The subcommittee will discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the Northern California portion of the Pacific Crest Trail. Specifically, it will discuss the trail crossing of the railroad near Belden, California, and the highway bridge near Seiad Valley, California; Forest land and resource management plans; and preliminary plans for the annual meeting of the council in Burney, California in June 1986.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Assistant Regional Forester for Recreation, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California. (415) 556–1658.

Dated: July 25, 1986.

Zane G. Smith, Jr.

Chairman.

[FR Doc. 86–17520 Filed 8–4–86; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Aguilar School Critical Area Treatment RC&D Measure, Colorado

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on

Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Aguilar School Critical Area Treatment RC&D Measure, Las Animas County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964–0292.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this measure.

This critical area treatment measure concerns a plan to treat erosion around school buildings and sedimentation on school property. The planned works of improvement include shaping and grading, installing waterways and culverts, constructing water control structure, planting trees and grass, and installing a landscape timber barrier.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the Environmental Evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: July 28, 1986.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 86–17521 Filed 8–4–86; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Montana Advisory Committee; Meeting; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission previously scheduled for August 8, 1986, convening at 10:30 a.m. and adjourning at 3:30 p.m., at the Northern Hotel, First & Broadway, Billings, Montana (FR Doc. 86–16712, Page 26728) has a new meeting date.

The meeting convening and adjourning times and location will remain the same. The meeting date will change to September 12, 1986.

Dated at Washington, DC, July 30, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–17528 Filed 8–4–86; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 noon, on August 23, 1986, at the Bond Court Hotel, 777 St. Clair Avenue, Cleveland, Ohio. The purpose of the meeting is to plan a community forum on housing.

Persons desiring additional information, or planning a presentation to the Committee, should contact Clark Roberts, Director of the Midwestern Regional Office at (312) 353–7371, (TTD 312/886–2188). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 30, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86–17529 Filed 8–4–86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Technical Data Letter of Explanation
Form number: Agency—EAR 379.5(d); OMB—N/A
Type of request: Existing collection in use without an OMB control number
Burden: 280 respondents; 2,823 reporting/recordkeeping hours
Needs and uses: Exporters and reexporters of technical data provide information pertinent to the exporting transaction through the letter of explanation. The information is used to determine the suitability of approving an export application or reexport request.
Affected public: Businesses or other for-profit institutions; small businesses or organizations
Title: On Occasion/recordkeeping
Respondent's obligation: Required to obtain or retain or benefit
OMB desk officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Coast Pilot Report
Form number: Agency—NOAA 77–6; OMB—0648–0007
Type of request: Extension of the expiration date of a currently approved collection
Burden: 500 respondents; 250 reporting hours
Needs and uses: The information collected is used to update the nine national books titled U.S. Coast Pilots. The Pilots include essential marine information important to navigators of United States coastal and intracoastal waters, that cannot be shown graphically on the charts.
Affected public: Individuals; federal agencies or employees
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Cooperative Charting Program
Form number: Agency—NOAA 77–4; OMB—0648–0022
Type of request: Revision of a currently approved collection
Burden: 3,000 respondents; 45,000 reporting hours

Needs and uses: NOAA's National Ocean Service (NOS) produces nautical charts to ensure the safe navigation on the nation's waterways. NOS has cooperative charting programs with the United States Power Squadrons and the United States Coast Guard Auxiliary for their members to provide NOS with chart correction data. Data is used to revise charts.
Affected public: Non-profit institutions
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Sheri Fox, 395–3785

Agency: International Trade Administration
Title: Trade and Technical Literature of Commercial NEWS USA
Form number: Agency—ITA—4101P; OMB—N/A
Type of request: New collection
Burden: 300 respondents; 100 reporting hours
Needs and uses: This information collection will be used by the Department to promote in overseas markets U.S trade and technical literature available for export. Firms wishing to promote their products overseas through the Department must provide data so that U.S. Commercial Officers have sufficient information on the product.
Affected public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 31, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86–17584 Filed 8–4–86; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business and Development Agency
Title: Research on the Impacts of State and Local Regulations on Small and Minority Businesses
Form number: Agency—NA; OMB—NA
Type of request: New collection
Burden: 15,000 respondents; 3,750 reporting hours
Needs and uses: This collection will be used to assess the impact of state and local government regulations on minority business development.
Affected public: Businesses or other for-profit institutions
Frequency: One time
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 31, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–17583 Filed 8–4–86; 8:45 am]

BILLING CODE 3510-CW-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86–227. Applicant: University of California, Livermore, CA 94550. Instrument: Thermal-ionization, Multicollector Mass Spectrometer, Model 354. Manufacturer: V.G. Isotopes Ltd., United Kingdom. Intended Use: See notice at 51 FR 22844.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is equipped with a fully automated multiple collector system capable of providing an external precision on Neodymium (300 ng) of 0.003%. This capability is pertinent to the applicant's intended purposes. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 86–17563 Filed 8–4–86; 8:45 am]

BILLING CODE 3510-DC-M

National Bureau of Standards

International Laboratory Accreditation Conference (ILAC) 1986

AGENCY: National Bureau of Standards, Commerce.

ACTION: Invitation to participate in ILAC 86 Conference and announcement of public meeting.

DATES: Ninth ILAC meeting, Tel Aviv, Israel, November 3–11, 1986, Open Pre-Conference Meeting, National Bureau of Standards, Gaithersburg, MD, October 1, 1986. Closing Date for Delegate Appointment, September 1, 1986.

SUMMARY: The Ninth International Laboratory Accreditation Conference (ILAC) will be held in Tel Aviv, Israel, November 3–7, 1986. ILAC is an informal organization of approximately 42 nations and 12 international organizations whose overall purpose and objective is to promote: (1) The development of national programs for accrediting testing laboratories, (2) the employment of harmonized accreditation criteria, and (3) the development of bilateral or multilateral arrangements which would encourage importers to accept the results of tests and data made by laboratories that have been accredited under a laboratory accreditation program in exporting nations.

Conferences in support of ILAC's stated purpose have been held since 1977, to develop information about laboratory accreditation systems, to provide a forum for discussing differences among such systems, to describe basic principles and criteria for operating such systems, and to develop bilateral or other arrangements which

would establish mutual recognition of such systems or of test reports issued by laboratories accredited under such systems. These bilateral arrangements are intended to minimize technical barriers to trade.

The United States Delegation is chaired by the Director of the Office of Product Standards Policy. Anyone interested in attending this meeting in Tel Aviv as a member of the U.S. Delegation, using his or her own financial resources, for registration fees, hotel accommodations, food, and travel expenses, is invited to submit a request by September 1, 1986, to Dr. Stanley Warshaw, Director, Office of Products Standards Policy, National Bureau of Standards, ADMIN A603, Gaithersburg, MD 20899. Such persons should have a background in standards development, laboratory accreditation, product testing or product certification activities.

Notice is also given that the U.S. Delegation will hold an open pre-conference meeting at 10:00 a.m. on Wednesday, October 1, 1986, in Room A1034 of the Administration Building at the National Bureau of Standards, Gaithersburg, Maryland, to prepare for the conference. The meeting attendees and delegates will: (1) Review ILAC Task Force and Committee reports, (2) consider the position that the U.S. Delegation should take in response to those reports, (3) prepare any proposed resolution for introduction at ILAC 86, and (4) consider any additional matters of interest. The pre-conference meeting will be chaired by Dr. Warshaw.

Any one wishing to attend this meeting, which is open to the public, or provide information on proposals for consideration by the delegation, should notify Dr. Stanley I. Warshaw, National Bureau of Standards, ADMIN A603, Gaithersburg, MD 20899, telephone: 301–921–3751, by September 15, 1986.

Dated: July 30, 1986.

Ernest Ambler,

Director.

[FR Doc. 86–17564 Filed 8–4–86; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia; Correction

July 31, 1986.

The eight-month restraint limit designated for Category 317pt. (other than sateen fabric) in the tenth line of the table in the letter to the Commissioner of Customs dated June 10, 1986 (51 FR 21586) should be 12,000,000 square yards instead of 1,333,333 square yards TSUS items 320.—through 331.—with statistical suffixes 51, 52, 83, 85, 89, 91, and 95.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–17582 Filed 8–4–86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:30 AM to 1:30 PM on August 19, 1986 and from 8:30 AM to 3:30 PM on 20 August 1986. The meeting will be held at the Radisson Mark Plaza Hotel, 5000 Seminary Road West, Alexandria, Virginia 22311. The purpose of the meeting is to review the Department of Defense's computer adaptive testing efforts, and equating plans for the Armed Services Vocational Aptitude Battery Forms 15, 16 and 17. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. A.R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 2B271, the Pentagon, Washington, DC 20301–4000, telephone (202) 697–9271 no later than August 14, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense

July 31, 1986.

[FR Doc. 86–17579 Filed 8–4–86; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Women in the Service; Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the responses to the Recommendations, Requests for Information, and Continuing Concerns made by the Committee at the 1986 Spring Meeting; discuss current issues relevant to women in the Services; and finalize the program for the next semiannual meeting scheduled for 28–30 October 1986 in Williamsburg, Virginia.

All meeting sessions will be open to the public.

DATES August 28, 1986, 1:30–5:00 p.m. and August 29, 1986, 9:30–11:30 a.m.

ADDRESS: OSD Conference Room 1E801 #7, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Ilona E. Prewitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (202) 697–2122.

SUPPLEMENTARY INFORMATION: Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the meeting must notify the point of contact listed above no later than August 11, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 30, 1986.

[FR Doc. 86–17580 Filed 8–4–86; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee; Establishment of Actual Expense Reimbursement Ceilings

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Establishment of actual expense reimbursement ceilings.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 134. This bulletin establishes new actual expense reimbursement ceilings for travel in Alaska, Hawaii, Puerto Rico and possessions of the United States by Federal Government employees. Bulletin Number 134 is being published in the Federal Register to assure that travelers are reimbursed actual subsistence expenses in appropriate amounts.

EFFECTIVE DATE: July 1, 1986.

SUPPORTING INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance

Committee and establishes actual subsistence expense reimbursement ceilings for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 134

TO THE HEADS OF THE EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Maximum per Diem Rates and Actual Expense Reimbursement Ceilings for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States by Federal Government Civilian Employees

1. This bulletin is issued in accordance with Executive Order 12561, dated July 1, 1986, which delegates to the Secretary of Defense the authority of the President in 5 U.S. Code 5702(a) to set maximum per diem rates and actual expense reimbursement ceilings for Federal civilian personnel traveling on official business in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates and ceilings may be prescribed.

2. This bulletin revises the ceiling on reimbursements for actual subsistence expenses authorized civilian personnel when traveling to those areas described in paragraph 1. Effective 1 July 1986, for travel in those areas involving special or unique circumstances, the reimbursement of actual and necessary itemized daily subsistence expenses shall not exceed 150 percent of the applicable locality per diem allowance (rounded to the next higher dollar) or the applicable per diem allowance plus $50, whichever is greater. For regulations governing the reimbursement of actual subsistence expenses, see Part 8 of the Federal Travel Regulations of the General Services Administration, or pertinent agency implementing regulations.

3. Maximum per diem rates announced by the previous Bulletin Number 133 remain unchanged.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 31, 1986

[FR Doc. 86-17581 Filed 8-4-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Consent Order With Total Petroleum, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Total Petroleum, Inc. (Total) should be issued as a final order of the DOE without amendment. The consent order resolves all remaining issues relating to Total's compliance with the federal petroleum price and allocation regulations for the period from January 1, 1973 through January 27, 1981. Total will pay DOE $5 million, within ten (10) days of the latter of the effective date of this Consent Order, or of the "Payment Date" pursuant to ¶ II.B.1.b. of the Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378 (D. Kan.). Persons claiming to have been harmed by Total's alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA).

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Washington, DC 20585. Telephone: 202-252-4387.

SUPPLEMENTARY INFORMATION:

I. Background

On June 17, 1986, ERA issued a notice announcing a proposed consent order between DOE and Total which would resolve all remaining matters relating to Total's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 through January 27, 1981. (51 FR 22849, June 23, 1986). The June 23 notice provided in detail the basis of ERA's preliminary view that the settlement provided a favorable recovery by the government and was in the public interest. The notice solicited written comments from the public concerning the terms and conditions of the settlement.

II. Terms of Consent Order

The proposed consent order requires Total to pay $5 million to DOE within ten (10) days of the latter of the effective date of the Consent Order, or the "Payment Date" pursuant to ¶ II.B.1.b. of the Settlement Agreement *in Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378 (D. Kan.). DOE will hold the funds in an interest bearing account and petition the DOE Office of Hearings and Appeals (OHA) to implement special refund proceedings under 10 CFR Part 205, Subpart V.

The $5 million is in settlement of Total's potential liability of $5.2 million, plus interest. Of the $5 million, $2 million is attributable to issues concerning Total's compliance with the entitlements program, case number NOOS90160, OHA case number HRO-0295, and the remaining $3 million is attributable to issues concerning refined products, case numbers 540S00227 and 740S01234. The June 23 notice provides additional information regarding these cases.

Under the consent order, Total and DOE release each other from all claims, liabilities and causes of action each may have under the price and allocation regulations. The consent order also provides for the maintenance of records, disclosure of information, and for its enforcement.

III. Comments Received

ERA received on comment from the Controller of the State of California. The Controller indicates that the funds received from Total attributable to entitlements allegations should be governed by the Settlement Agreement in the *Stripper Well Exemption Litigation*, M.D.L. 378 (D. Kan.) and that the balance of the funds should be submitted to the OHA for a special refund poceeding under 10 CFR Part 205, Subpart V. The consent order requires that ERA petition the OHA to implement a Subpart V proceeding with regard to all the funds received from Total. That disposition is consistent with the Settlement Agreement, under which DOE will issue a restitutionary policy statement. That policy is contemplated by this settlement in that the consent order calls for a Subpart V proceeding for the distribution of the crude oil funds. The distribution of funds to the states requested by the Controller will be an element of the OHA proceeding.

The consent order provides for a Subpart V proceeding with regard to the product funds as well. Accordingly, it appears that the Controller's comments are already addressed by the terms of the consent order.

ERA received no comments objecting to the consent order, and thus, will make it effective as described below.

IV. Decision

As stated in the notice publishing the proposed consent order for comment, ERA believes the settlement is a satisfactory resolution of the matters remaining unresolved between DOE and Total. Accordingly, ERA has determined to issue the consent order as a final order.

By this notice, and pursuant to 10 CFR 205.199J, the proposed consent order between Total and DOE executed on June 12, 1986, is made a final order of the Department of Energy, effective on the date of publication of this notice in the Federal Register.

Issued in Washington, DC, on July 24, 1986.

Carl A. Cerrallo,

Solicitor, Economic Regulatory Administration.

[FR Doc. 86-17551 Filed 8-4-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA86-1-60-004]

Locust Ridge Gas Co.; Proposed Changes in FERC Gas Tariff

July 31, 1986.

Take notice that on July 23, 1986 Locust Ridge Gas Company (Locust Ridge) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 3, the following tariff sheets to be effective as indicated:

March 1, 1986

Original Volume No. 1—Substitute Thirteenth Revised Sheet No. 1A.
Original Volume No. 3—Substitute Twentieth Revised Sheet No. 1A.

July 1, 1986

Original Volume No. 1—Fourteenth Revised Sheet No. 1A.
Original Volume No. 3—Twenty-First Revised Sheet No,. 1A.

Locust Ridge states that the purpose of filing the sheets to be effective March 1, 1986 is to comply with the Commission's Order Denying Rehearing issued May 22, 1986 in Docket No. TA86-1-60-002, and reflects the removal of $18,359.20 of unrecovered purchased gas costs from the company's previously filed rates; decreasing by $0.0225 per MMBtu from those previously filed rates.

Locust Ridge further states that the proposed tariff sheets to be effective July 1, 1986 are filed, out-of-cycle, to reflect lower purchased gas costs brought about by reduced "market-out" levels contractually made effective as of the same date by the company's jurisdictional resale customers. Locust Ridge states that the proposed sheets reduce its rates by $1.0752 per MMBtu, and the company asks that the Commission waive its regulations to the extent necessary to allow the company to extend these reduced rates through its next in-cycle PGA period [September 1, 1986 through February 28, 1987] with this filing.

A copy of this filing has been served upon Locust Ridge's jurisdictional customers affected by this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure [18 CFR 385.211, 385.214]. All such motions or protests should be filed on or before August 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17571 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-142-000]

Natural Gas Pipeline Co. of America; Proposed Change to FERC Gas Tariff

July 31, 1986.

Take notice that on July 25, 1986, Natural Gas Pipeline Company of American (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective August 25, 1986.

Seventh Revised Sheet No. 121
First Revised Sheet No. 121A
Original Sheet No. 121B
Original Sheet No. 121C

Natural states that the purpose of the tariff sheets is to provide the addition of paragraph 18.11 to the General Terms and Conditions of Natural's FERC Gas Tariff. If approved, the proposed tariff provision will permit Natural to adjust its projected average purchased gas cost at any time between its regular semi-annual Purchase Gas Adjustment (PGA) filings on twenty-four hours notice. Such adjustment may be made to recognize on a more timely basis the rate impact of known and measurable changes in the average cost of purchased gas from the rate established in the immediately preceding semi-annual PGA filing.

Such adjustments shall be limited the cost impact of known and measurable changes in gas costs and may further reflect an increase or decrease in Natural's projected average cost of gas, provided that Natural shall be precluded from adjusting its rates above the level established in Natural's immediately preceding semi-annual PGA filing.

The tariff sheets being filed require Natural to file such changes at least one (1) day prior to the proposed effective date. Such filing will not be subject to the Notice requirements established by the Commission's regulations. Further, Natural's proposed tariff sheets require it to demonstrate that its actions are appropriate and that it is entitled to recover the under-recovered purchase gas costs which may result from Natural's election to adjust its rates pursuant to the new Paragraph 18.11, Third Revised Volume No. 1.

To recognize that Natural is unable to control precisely its average cost of gas, Natural's potential liability and demonstration of appropriateness will apply only to that portion of any under-recoveries in excess of three percent (3%) of the known and measurable changes in the actual cost of gas purchased during any PGA Adjustment period in which Natural elected to adjust its projected average cost of Purchased Gas pursuant the produced tariff sheets.

A copy of this filing is being mailed to Natural's jurisdictional customers and the interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure [18 CFR 385.214, 385.211]. All such motions or protests should be filed on or before August 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17572 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-94-001]

Sea Robin Pipeline Co.; Amended Tariff Filing

July 30, 1986.

Take notice that on July 21, 1986, Sea Robin Pipeline Company (Sea Robin) filed Substitute Original Sheet No. 4-A1 to its FERC Gas Tariff, Original Volume No. 1. The proposed effective date is July 1, 1986. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until July 24, 1986.

Sea Robin states that the purpose of the instant filing is to clarify its intent that the interruptible transportation rates filed on May 30, 1986, in compliance with 18 CFR 284.7 of the Commission's Regulations, will apply to all self-implementing interruptible transportation transactions under Part 284 of the Commission's Regulations which may be entered into subsequent to July 1, 1986. By letter order issued June 27, 1986, the Commission accepted the May 30th filing to be effective July 1, 1986. That filing pertained to "grandfathered" transactions which the Commission had authorized under 18 CFR 284.105.

Sea Robin requests waiver of the Commission's regulations to permit the proposed tariff sheet to become effective July 1, 1986. Sea Robin states that good cause exists for such waiver because the instant tariff sheet does not change the May 30th rates but merely clarifies Sea Robin's intent regarding the applicability of the rates.

Sea Robin further states that a copy of this filing has been mailed to each of its jurisdictional customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 6, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17573 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-9-002]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Rate Change Under Tariff Rate Adjustment Provisions

July 31, 1986.

Take notice that on July 25, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1

Second Revised Sheet Nos. 20 and 21

Sixth Revised Volume No. 2

Fourth Revised Sheet No. 2AA
Fifth Revised Sheet No. 2AA
Second Revised Sheet No. 2DD
Third Revised Sheet No. 2DD

The proposed effective date for these sheets is July 1, 1986 with the exception of Fourth Revised Sheet No. 2AA and Second Revised Sheet No. 2DD which are proposed to be effective January 1, 1986.

Tennessee states that the revised tariff sheets are filed in compliance with the Commission's order in this proceeding issued June 30, 1986. Specifically, Second Revised Sheet Nos. 20 and 21 reflect the correction of several minor errors in the prices for Tennessee's gas purchases resulting in a further reduction in Tennessee's Current Purchased Gas Cost Rate Adjustment of 1.47 cents per MMBtu. Fifth Revised Sheet No. 2AA reflects a correction to the determination of the fuel use gas rate adjustment applicable to certain transportation rate schedules. Fourth Revised Sheet No. 2AA and Second Revised Sheet No. 2DD reflect the correct GRI surcharge effective January 1, 1986 and Third Revised Sheet No. 2DD reflects a correction in pagination.

The Commission's order in this proceeding also noted several pagination errors with respect to the tariff sheets filed on May 30, 1986. In order to correct the pagination errors, Tennessee is withdrawing the following tariff sheets which have been filed but have not been accepted.

First Revised Volume No. 1

First Revised Sheet Nos. 20 and 21 (Filed May 30, 1986, Docket No. TA86-3-9)
Second Substitute Original Sheet Nos. 20 and 21 (Filed April 7, 1986, Docket No. RP80-97)
Second Substitute Original Sheet No. 22 (Field April 7, 1986, Docket No. RP80-97)

Sixth Revised Volume No. 2

Fourth Revised Sheet No. 2AA (Filed May 30, 1986, Docket No. TA86-3-9)
Third Substitute Third Revised Sheet No. 2AA (Filed April 7, 1986, Docket No. RP80-97)
Third Revised Sheet No. 2DD (Filed May 30, 1986, Docket No. TA86-3-9)
Substitute Second Revised Sheet No. 2DD (Filed April 7, 1986, Docket No. RP80-97)

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17574 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-137-024]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

July 31, 1986.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on July 23, 1986, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The sheets are proposed to become effective on September 1, 1986 and were filed in accordance with Article X of Transco's

"Settlement Agreement As To Rates" approved by Commission order dated July 25, 1984 in Docket No. RP83–137. The revised tariff sheets reflect a "tracking" rate reduction of 0.3¢ per dt in the commodity rate or delivery charge of Transco's sales and long-haul transportation rate schedules.

Article X of the settlement agreement provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of any decreases in the amount of Transco's outstanding advance payments after March 31, 1984. The rate reduction proposed is occasioned by a decrease of $15,323,675 in the advance payment balance of Transco from that which existed at June 30, 1985.

Transco further states that copies of the instant filing have been mailed to each of its customers, State Commissions and other parties to Docket No. RP83–137

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17575 Filed 8–4–86; 8:45]

BILLING CODE 6717-01-M

[Docket No. EF86–2041–001]

Electric Rates; Federal Rates; Intervention; Department of Energy; Bonneville Power Administration; Order Approving Variable Industrial Power Rate on An Interim Basis, Granting Intervention, and Requesting Additional Comments

Issued July 31, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon and C.M. Naeve.

Background

On June 16, 1986, the Bonneville Power Administration (BPA) filed a request for interim and final approval of its proposed Variable Industrial Power rate schedule VI–86 under sections 7(a)(2) and 7(i)(6) of the Pacific Northwest Electric Power Planning and Conservation Act (NPA) [1] and sections 300.20 and 300.21 of the Commission's regulations.[2] The VI–86 rate schedule is designed to guard against the loss of BPA's Direct Service Industrial (DSI) load, which is dominated by the aluminum smelter industry. The aluminum industry's purchases of energy have become erratic. At the same time, BPA states that it has a capacity and energy surplus. Thus, the loss of sales to the DSIs (which presently account for about 25% of BPA's sales) would allegedly create fiscal problems for BPA. BPA states that the VI–86 rate schedule would protect BPA's ability to repay the Federal investment as required by the NPA. It asks for an effective date of August 1, 1986.

The VI–86 rate schedule is a formula rate that would vary the price of electricity sold to aluminum smelters according to the U.S. market price of aluminum. When the price of aluminum is between 61 cents and 72 cents per pound, the composite rate for electricity under the VI–86 rate schedule would be equivalent to the then-effective average annual rate being charged under Rate Schedule IP–85 (currently 22.8 mills per kWh). When the price of aluminum falls below 61 cents per pound, the price of electricity would decrease by one mill for each one cent decrease in the aluminum price, down to a floor of 15 mills per kWh. Conversely, should the price of aluminum exceed 72 cents per pound (the estimated long-run variable cost of the least efficient smelter), the price of electricity would increase by 0.75 mill for each 1 cent increase in the aluminum price, to the upper rate limit of 28.6 mills per kWh. This rate would only be offered to those DSIs that enter into contracts with BPA obligating them to buy power under the VI–86 rate schedule for a 10-year period. The VI–86 rate schedule would be available only for that portion of a DSI's load used for primary aluminum production.

BPA states that the VI–86 rate schedule includes a series of adjustments that are designed to protect BPA's fiscal position by preserving the aluminum smelter market. In the second year, the lower pivot point [3] would be lowered from 61 cents to 59 cents, and the rate floor would be raised by 1 mill per kWh. Further the rate schedule would be adjusted on a yearly basis to account for inflation and production cost changes. BPA states that every time the IP standard rate increases, so does the price of electricity paid by aluminum smelters under the VI–86 rate schedule.

Two long-term adjustments intended to protect BPA's financial position are also included in the VI–86 rate schedule. First, after the first five years of experience, the "Historical Aluminum Price Adjustment" would be computed, and this average price may boost the price of electricity above the discount rate even if the price of aluminum is below 72 cents a pound. Second, BPA would have the unilateral right to terminate service under the VI–86 rate schedule after five years if the rate is not achieving the goals for which it was designed.

BPA states that the VI–86 rate schedule is projected to recover more revenue over time than its IP standard rate, while stabilizing the load allocated to the aluminum smelter industry over a widely fluctuating range of aluminum prices. Therefore, BPA contends, its ability to meet its revenue requirement, including its obligation to the U.S. Treasury, would improve. However, if any revenue deficiencies are projected to occur within the DSI class during future rate periods, BPA states that it would increase its other rates to ensure that its repayment obligations are met. Conversely, any extra revenues recovered under the VI–86 rate schedule would be used to benefit BPA's other customers.

Notice of the filing was published in the **Federal Register**,[4] with comments due on or before June 30, 1986. Timely motions to intervene were filed by Pacific Power & Light Company, a group of DSIs,[5] the Western Public Agencies Group, the Association of Public Agency Customers, the Public Power Council, Puget Sound Power & Light Company, and Columbia Falls Aluminum Company (CFAC). Portland General Electric Company filed an untimely motion to intervene. The Washington, Utilities and Transportation Commission filed a timely notice of intervention. None of

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[1] 16 U.S.C. 839e(a)(2) and 839e(i).

[2] 18 C.F.R. 300.20 and 300.21.

[3] The pivot points are points in BPA's rate schedule IP–85 at which the price of electricity would change in response to changes in the market price for aluminum.

[4] 51 FR 23,137 (1986).

[5] Aluminum Company of America, Columbia Falls Aluminum Company, Commonwealth Aluminum Corporation, Georgia-Pacific Corporation, Intalco Aluminum Corporation, Kaiser Aluminum & Chemical Corporation, Oregon Metallurgical Corporation, Pacific Carbide & Alloys Company, Pennwalt Corporation, and Reynolds Metals Company.

these entities raised any objections to BPA filing, except CFAC.

CFAC supports the VI–86 rate schedule. However, it objects to the August 1, 1986, effective date requested by BPA, requesting an effective date of September 1, 1986, instead. CFAC states that an August 1 effective date would result in payment of a higher rate during August than would otherwise apply. This is because the presently effective rate varies seasonably, and the rate in August under that rate schedule would be lower than the rate for August under the proposed VI–86 rate schedule. According to CFAC, this would undermine the goals of the VI–86 rate schedule. CFAC characterizes these goals as (1) discouraging aluminum smelter closures in the short run and (2) encouraging high rates of operation by the smelters while (3) if possible, recovering on average the same revenue as under the existing rate schedule. Charging a higher rate during August under the VI–86 rate schedule than would be charged under the existing rate schedule works against these goals, CFAC alleges. Finally, a September 1 effective date would be more consistent with the seasonable differentiation of the IP standard rate, "since the higher winter component of that rate (which the variable rate is designed to supplant) will not become an issue" until September, CFAC argues.

BPA filed a timely answer in which it does not oppose the motions to intervene. It points out that except for CFAC's request for a different effective date, no issues are raised in the motions to intervene and notice of intervention. Given this lack of opposition, interim approval is not necessary, according to BPA. It asks that the Commission issue an order by August 1, 1986, granting final approval. Accordingly, BPA also asks for a waiver of 18 CFR 300.10(a)(3)(iii), which requires BPA rate schedules for which interim approval is not requested to be filed at least 180 days before the proposed effective date.

BPA argues that the effective date should not be delayed, as CFAC asks. BPA states that a "fundamental principle" of the VI–86 rate schedule is that as the rate varies with the price of aluminum, the aluminum smelters using the rate will at times pay more than the standard rate and at other times will pay less. BPA points out that the VI–86 rate schedule is proposed to last up to ten years, and that a fundamental goal is to increase BPA's revenues over the revenues BPA would receive under the standard rate.[6] If a September 1 rather than August 1 effective date is adopted, BPA would allegedly lose $7,000,000. According to BPA, although one goal of the new rate is to discourage smelter closures in the short term, the "short term" is one to three years.[7] In response to CFAC's argument that September 1 would be more consistent with the seasonal differentiation of the IP standard rate, BPA states that the VI–86 rate schedule is not designed to supplant the higher winter component of the existing rate schedule, as CFAC argues. Finally, BPA contends that the level of the VI–86 rate will be what it is in August because BPA adopted CFAC's suggestion that the VI–86 rate for any given month be based on the average aluminum price three months before.

On July 18, 1986, CFAC filed a motion for leave to file a reply to BPA's answer. However, the Commission's rules do not allow such an answer, unless otherwise ordered, and CFAC has not shown why its motion should be granted.[8] Therefore, we shall deny the motion.

Discussion

Under Rule 214 of the Commission's Rules of practice and procedure (18 CFR 385.214), the timely, unopposed motions to intervene serve to make the various movants parties to this proceeding, and the timely notice of intervention serves to make the Washington Utilities and Transportation Commission a party to this proceeding. We find that good cause exists to grant Portland General Electric Company's untimely motion to intervene, given its stated interest, the relatively short delay in seeking to intervene, and the fact that granting the motion will result in no undue prejudice or delay in this proceeding.

Due to the complexities of the filing, we are unable to make a determination at this time with respect to final approval. Regardless of the fact that no intervenor objects to the VI–86 rate schedule, this Commission must determine for itself whether the rate is sufficient to assure repayment of the Federal investment in the Columbia River Power System and whether it is based upon BPA's total system costs, as required by section 7(a) of the NPA. We are unable at this time to make a determination as to whether the VI–86 rate schedule should be approved on a final basis. We shall request additional information from BPA and solicit further public comments before making such a determination. Therefore, our review has been limited to consideration on an interim basis, which is necessarily a more limited review process than the review of rates for final approval, particularly in view of the short review period in this case. Based on this limited analysis, BPA's filing appears to comply with the revenue recovery objectives of the NPA and will be approved on an interim basis under 18 CFR 300.20.[9] It is not necessary to grant or deny BPA's request for a waiver of 18 CFR 300.10(a)(3)(iii), since we are not granting final approval at this time.

With regard to the CFAC's request that the effective date be delayed until September 1, 1986, we agree with BPA that this delay is not justified in view of the purpose of the VI–86 rate schedule. The purpose of VI–86 rate schedule is not simply to give the aluminum industry a more favorable rate. The VI–86 rate schedule is designed to better meet the NPA goal of ensuring repayment of the Federal investment by allowing BPA to charge higher rates when the price of aluminum is up as well as lower rates when the price of aluminum is down. As BPA points out, the ROD reveals that the VI–86 rate schedule is designed to recover *more* revenue, if possible, than under the previous rate. Moreover, BPA has shown good reason to make the new rate effective as of August 1, 1986. It points out that two smelters have stated that they need to complete contract negotiations with suppliers as soon as possible, while others have stated that they need to know if the VI–86 rate schedule is in effect as soon as possible in order to make decisions regarding future operations. No party other than CFAC has asked for a delay in the effective date. Moreover, as we recognized in our order granting a waiver to allow BPA to file the VI–86 rate schedule less than 60 days before the proposed effective date, waivers may be justified to assist BPA in light of the sensitivity of the Pacific Northwest's industrial economy and the importance of the aluminum industry in that region. Therefore, we shall grant interim approval of the VI–86 rate schedule, effective August 1, 1986.

BPA asks that the new rate be approved for an approximately ten year period, the amount of time BPA states is necessary to maintain the aluminum

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[6] BPA states that although CFAC characterizes one of the goals of the new rate as being recovery of revenues *equal* to those that would be collected under the standard rate, the goal in fact is to *increase* BPA's revenues. BPA Record of Decision (ROD) at 29; Variable Industrial Power Rate Study (Study) at 7.

[7] BPA cites the study at 37–38, 40–52, and the ROD at 101–106.

[8] 18 CFR 385.213(a)(2).

[9] *Bonneville Power Administration*, 36 FERC ¶ 61,010, 61,019 (1986).

smelter load during the period of BPA's power surplus. We shall reserve a decision on this question and grant interim approval of BPA's proposed rate only until such time as we decide whether to approve the VI–86 rate schedule on a final basis.

Finally, we noted that BPA's request for approval of its VI–86 rate is predicated upon its concerns that it may recover insufficient revenues to meet the criteria set forth in the NPA. We encourage BPA to review its financial situation and to develop and file new power and transmission rates, if appropriate.

The Commission orders:

(A) Portland General Electric Company's untimely motion to intervene is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) CFAC's motion for leave to file a reply to BPA's answer is hereby denied.

(C) BPA's Variable Industrial Power (VI–86) rate is hereby permitted to be placed into effect on an interim basis, effective August 1, 1986, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations, pending final confirmation and approval or disapproval.

(D) Within forty-five (45) days of the issuance of a deficiency letter requiring BPA to submit further information, BPA shall file the required information. Within thirty (30) days of the date after BPA submits this information, all parties who wish to do so shall file additional comments regarding final confirmation and approval or disapproval of the VI–86 rate. All parties may file cross-comments within twenty (20) days thereafter. The Commission will consider all timely comments in determining the ultimate disposition of BPA's rate proposal.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17570 Filed 8–4–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86–603–000, et al.]

Electric Rate and Corporate Regulation Filings; Niagara Mohawk Power Corp., et al.

July 29, 1986.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER86–603–000]

Take notice that on July 21, 1986, Niagara Mohawk Power Corporation (Niagara), tendered for filing as a rate schedule, an agreement between Niagara and Orange and Rockland Utilities Inc. (Orange and Rockland) dated June 5, 1986.

Niagara presently has on file an agreement with Orange and Rockland dated February 14, 1975, last amended by letter dated May 15, 1985. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 89. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting Fitzpatrick power and energy from the Power Authority of the State of New York to Orange and Rockland as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1986.

Copies of this filing were served upon Orange and Rockland Utilities Inc. of Pearl River, New York and Public Service Commission of Albany, New York.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Western Massachusetts Electric Company, et al.

[Docket No. ER86–378–000]

Take notice that on July 22, 1986, Western Massachusetts Electric Company (WMECO) tendered for filing additional information to support the calculation in the proposed rate schedule under a Distribution Line Agreement dated February 4, 1985 between (1) WMECO and (2) Chicopee Hydroelectric Limited Partnership (CHLP) (Distribution Agreement).

The calculation in the proposed rate schedule has a number of components which require definition in order for the basis of the calculation to be supported. Pursuant to FERC's request, the definition for one of the components which was omitted is now included.

WMECO renews its request that the Commission waive its standard notice period and permit the Distribution Agreement to become effective as of February 4, 1985.

WMECO states that a copy of this filing has been mailed to CHLP, Portland, Maine.

WMECO further states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: August 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central Vermont Public Service Corporation

[Docket No. ER86–542–000]

Take notice that on June 25, 1986, Central Vermont Public Service Corporation ("CVPS") tendered for filing a rate schedule pertaining to a sales agreement for transmission service to the Vermont Electric Generation and Transmission Cooperative, Inc. ("VEGTC"); actual cost report for 1985 service year billings.

CVPS states that the rate schedule provides a revenue comparison setting forth the forecast and actual revenues for 1985, and cost report computing the forecast and the actual cost for 1985.

The annual charges to VEGTC are based on estimated data which are subject to a reconciliation, after a year is over, based on actual data found in the companies FERC Form No. 1. The estimated data showed that CVPS's actual billings fell short of the actual costs on an annual basis by $10,418, of which 5/12 is subject to reconciliation. On this basis, payment has been stipulated in the sales agreement of an interest amount of $155.00.

Comment date: August 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17567 Filed 8–4–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-175-004; RP85-175-005 and RP85-175-006]

Pipeline Rates Late Interventions; Settlements; Order No. 436; Transwestern Pipeline Co.; Order Allowing Late Interventions and Establishing Procedures for Submission of Other Petitions to Intervene Out of Time

Issued July 23, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In this order we address matters concerning petitions to intervene out of time in this proceeding. This case originated with the filing of Transwestern Pipeline Company (Transwestern), on July 20, 1985, for a rate increase under section 4 of the Natural Gas Act. On January 16, 1986, Transwestern filed an offer of settlement which proposed to resolve all issues in the proceeding, and in addition to institute transportation rates pursuant to the Commission's Order No. 436.[1] On March 24, 1986, the presiding administrative law judge issued an order certifying the proposed settlement to the Commission.[2] Subsequently, by an order issued on May 27, 1986, the Commission granted late motions to intervene which had been filed by Exxon Corporation (Exxon), Pennzoil Company and Pennzoil Producing Company (Pennzoil), and Mobil Oil Corporation, Mobil Producing Texas & New Mexico, Inc., and the Superior Oil Company (collectively Mobil).[3] The Commission's order set a schedule for those late intervenors' comments, and reply comments thereto.[4]

In this order we will allow two additional petitions to intervene out-of-time, and establish a procedure to deal with other petitions to intervene out-of-time.

Barbour's Petition

On June 10, 1986, Barbour Energy Corporation (Barbour) filed with the Commission a motion requesting that the Commission reconsider the order that the presiding administrative law judge issued in this proceeding on March 24, 1986, denying Barbour's motion for late intervention in this proceeding.[5]

Barbour notes that the Commission granted three other motions for reconsideration of the judge's order denying late intervention. Barbour further notes that the three other movants filed their motions for late intervention after Barbour filed its similar motion.

Barbour states that it requests party status only, and does not wish to file any additional comments on Transwestern's proposed settlement agreement which is at issue in this proceeding. (Barbour filed comments in opposition to the proposed settlement on January 29, 1986.) Barbour further asserts that granting its motion will in no way further delay the proceeding.

As Barbour correctly notes, the Commission granted the other three motions for late intervention because proper notice had not been given of the fact that the proposed settlement contained provisions under the Commission's Order No. 436. The Commission's concern in treating the issue of late intervention in settlements involving Order No. 436 has been that interested parties be allowed to comment on the proposed settlements' treatment of Order No. 436 issues. The three motions for late intervention which the Commission allowed here were filed on the basis of the movants' concerns with Order No. 436 issues raised by the proposed settlement.

Barbour's motion for late intervention, filed on January 17, 1986, made no mention of Order No. 436. After the judge rejected Barbour's petition, Barbour failed to take timely action to request Commission reconsideration of the judge's denial of its motion. This is in contrast to the other three movants, who filed protests of the judge's denial of their petitions for late intervention within 15 days of his ruling.[6]

Barbour's comments in opposition to the proposed settlement, filed on January 29, 1986, contain seven specific arguments, one of which is based on Order No. 436. Barbour's comment number 4 alleges that Transwestern's settlement fails to comply with all of the requirements of Order No. 436.

We have stated that we "would view with disfavor any proposed settlements dealing with Order No. 436 issues which did not allow all interested parties an adequate opportunity to have their positions considered."[7] We will therefore allow Barbour late intervention, limited to consideration of its comment number 4 on the settlement, filed on January 29, 1986.

To the extent that Barbour's motion for reconsideration is deemed to go beyond its comment number 4 pertaining to Order No. 436, we conclude that it is without merit, and affirm the judge's denial of Barbour's motion for late intervention as failing to satisfy the criteria of the Commission's Rule 214(d), 18 CFR 214(d), for reviewing a late motion to intervene.

Tenneco's Petition

On May 20, 1986, Tenneco Oil Company (Tenneco) filed a motion for permission to intervene late in these proceedings. The orignial filings in this case did not involve Order No. 436. Tenneco states that it was unaware until recently that the contents of the settlement concerned Order No. 436. Tenneco alleges that it desires transporation of its gas pursuant to the provisions of Order No. 436, and that it therefore has an economic interest which will be directly affected by the outcome of this proceeding.

The rationale, which we have described above, for accepting the previous petitions for late intervention in this proceeding, applies equally to Tenneco's petition. We will therefore grant Tenneco's petition.

Procedures to Deal with Other Petitions for Late Intervention

Other persons who have heretofore been unaware of the Order No. 436 provisions of this settlement due ot the insufficient notice given with regard thereto may seek to intervene in this proceeding. In order to avoid the delays which could result if we were to deal with such petitions for late intervention as they come before us, we will adopt the following procedures. First, we shall direct the Secretary to have this order published promptly in the Federal Register. This will give the notice that the rates, terms, and conditions under which Transwestern will operate as an open access transporter pursuant to Order No. 436 will be determined in this case. Second, we shall require any person seeking to intervene to do so within 15 days of the date of publication of this order in the Federal Register. Third, we shall require all persons seeking to intervene to file, if they wish,

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[1] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42408 (Oct. 18, 1985) (Order No. 436). *Modified*, 50 FR 52217 (Dec. 23, 1985) (Order No. 436-A), *pet. for review filed sub nom.* Associated Gas Distributors v. FERC, No. 85-1811 (D.C. Cir., filed Dec. 12, 1985).

[2] 34 FERC ¶ 63114 (1986).

[3] 35 FERC ¶ 61323 (1986).

[4] Reply comments were filed on June 18, 1986, pursuant to the schedule.

[5] 34 FERC ¶ 63133 (1986).

[6] The judge issued his ruling on March 24, 1986. The three movants filed for reconsideration on April 8, 1986. Barbour entered a similar filing with the judge on April 28, 1986. (On April 24, 1986, the Commission had issued a notice in which it stated that it, and not the judge, had jurisdiction over these proceedings as of March 24, 1986, when the judge certified the settlement to the Commission.)

[7] United Gas Pipe Line Co., Docket Nos. RP85-209-003, *et al.*, 35 FERC ¶ 61,179 (May 7, 1986).

comments on the settlement within 15 days of the date of publication of this order in the **Federal Register**. Reply comments may be filed 10 days later.

The Commission Orders

(A) Barbour's late motion to intervene is granted subject to the rules and regulations of the Commission; provided, however, that Barbour's participation shall be limited to matters affecting asserted rights and interests pertaining to Commission Order No. 436 set forth in its comments on the settlement in this proceeding; and provided, further, that the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding.

(B) Tenneco's late motion to intervene is granted subject to the rules and regulations of the Commission, provided that Tenneco's admission as intervenor shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding.

(C) Any other person seeking to intervene shall file a petition to intervene within 15 days of the date of publication of this order in the **Federal Register**.

(D) Tenneco, as well as any other person that has sought to interevene in this proceeding and has not filed comments on the Order No. 436 provisions in the settlement, may file comments within 15 days of the date of publication of this order in the **Federal Register**. Any person may file a reply to these comments 10 days later.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17639 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Natural Gas Policy Act; Pipelines After Partial Wellhead Decontrol, (ANR Pipeline Co.; Order Granting Clarification

Issued: August 1, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman: Charles G. Stalon and C.M. Naeve.

On June 10, 1986, ANR Pipeline Company filed a request for clarification of Order No. 436. ANR requests clarification on (1) the continuing effect of the contract reduction/conversion requirement in § 284.10 after a pipeline withdraws from the Order No. 436 program, and (2) whether grandfathered transportation services under §§ 284.105 and 284.223(g)(1) may continue after a pipeline withdraws from Order No. 436. This order grants their request.

Specifically, ANR states that pipelines that participate in the Order No. 436 program and are subject to § 284.10 must permit existing firm sales customers the option of reducing or converting up to 100 percent of their firm sales entitlements. ANR questions the continuing effect of this provision if a pipeline withdraws from that program. As the Commission made clear in Order No. 436, pipelines that originally elect to participate in this program may later withdraw from the program and instead use the standard filing procedures under section 7 of the Natural Gas Act. 50 FR 42408, at 42434 (1985). ANR states that if a pipeline decides to withdraw from the Order No. 436 program, then a pipeline should no longer be subject to the contract reduction/conversion requirement in§ 284.10. According to ANR, this result must follow if the Commission intends to give pipelines the option of using either the standard section 7 procedures or the Order No. 436 procedures. However, with respect to contract reductions/conversions that took effect during the period the pipeline operated under Order No. 436, ANR concedes those reductions and converions would not be affected by the pipeline's withdrawal, but would remain in effect. Accordingly, no reductions or conversions would be permitted after a pipeline withdrew from Order No. 436, except those that took effect during the pipeline's election to use Order No. 436.

We agree that § 284.10 does not apply once a pipeline withdraws from the Order No. 436 program. The provisions of § 284.10 only apply to pipelines that transport gas under §§ 284.102 or 284.243 or under a blanket certificate issued under § 284.221. Thus, once a pipeline withdraws from the Order No. 436 program, § 284.10 no longer applies. We also agree that any reductions and conversions that were exercised during the period the pipeline participated in the program must be honored, although no further reductions or conversions are required. However, we reiterate that in order for a pipeline to withdraw from the program, it must withdraw in a manner that is consistent with the provisions of Order No. 436.[1]

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17569 Filed 8-4-86; 8:45 am]

BILLING CODE 6717-01-M

[1] Briefly, withdrawal from transportation under Subpart G is subject to abandonment authorization and withdrawal from transportation under Subparts B and C section 311 service) must be on a non-discriminatory basis. 50 FR at 42434 (1986).

Office of Hearings and Appeals

Cases Filed; Week of June 27 Through July 4, 1986

Correction

In the document appearing on page 27452 in the issue of Thursday, July 31, 1986, the file line was omitted and should have appeared as follows:

[FR Doc. 86-17219 Filed 7-30-86; 8:45 am]

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51631; FRL-3048-6]

Certain Chemicals Premanufacture Notices; E.I. du Pont de Nemours and Co., Inc., et al.

Correction

In FR Doc. 86-15871 beginning on page 26055 in the issue of Friday, July 18, 1986, make the following corrections:

1. On page 26055, in the second column, in premanufacture notice P 86-1225, fourth line, "ammonium" was misspelled;

2. On page 26056, in the first column, in premanufacture notice P 86-1231, fifth line, insert "Confidential" after "Prod. range:";

3. On the same page, in the same column, in premanufacture notice P 86-1234, tenth line, "3 hrs/da" should read "8 hrs/da";

4. On the same page, in the second column, in premanufacture notice P 86-1236, fourth line, "S" should read "G"; and

5. On the same page, in the third column, in premanufacture notice P 86-1243, tenth line, "120 hrs/yr" should read "10 hrs/yr".

BILLING CODE 1505-01-M

[FRL-3060-3]

Sale and Use of Aftermarket Catalytic Converters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of exercise of enforcement discretion.

SUMMARY: This action announces an interim enforcement policy regarding the sale and use of repalcement catalytic converters ("converters") for motor vehicles. The basis for this interim enforcement policy is described elsewhere in today's Federal Register under the heading "Sale and Use of Aftermarket Catalytic Converters,

Notice of Proposed Enforcement Policy." From the date of publication of this notice, EPA will exercise its enforcement discretion not to prosecute any installer, seller, or manufacturer of repalcement converters that voluntarily complies with the guidelines proposed in the Notice of Proposed Enforcement Policy, until a final decision is made on the Proposed Enforcement Policy.

ADDRESS: Any comments and information regarding this notice may be submitted to the docket for the Proposed Enforcement Policy, Docket No. A–84–31, located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, LF.131, 401 M Street, SW., Washington, DC 20460. The docket may be inspected weekdays between 8:00 a.m. and 4:00 p.m. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Janet Murphy or Steve Albrink (202) 382–2640, Field Operations and Support Division (EN.397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: As discussed more fully in the Notice of Proposed Enforcement Policy published elsewhere in today's **Federal Register**, the installation, sale or manufacture of a converter which is ineffective or less effective than the new original equipment (OE) converter could constitute unlawful tampering, or causing of tampering, under section 203(a)(3) of the Clean Air Act. Although permitting only new OE converters to be used as repalcements would ensure full effectiveness and would not violate the tampering prohibitions, these parts are generally quite expensive and some State and local vehicle Inspection/Maintenance (I/M) program officials are reluctant to require converter replacement for missing or damaged converters because of this expense. The proposed enforcement policy described elsewhere in today's **Federal Register** is intended to encourage the development of inexpensive, multiple-application replacement converters, and ensure the effectiveness of these products by allowing their use as repalcements in certain circumstances, provided they meet specified criteria EPA has requested comments on that proposed policy.

EPA hereby gives notice that the enforcement policy guidelines and performance criteria proposed elsewhere in today's **Federal Register**, as Appendix IX to 40 CFR Part 85, will be, from the date of publication of this notice and until a final decision is made on the proposed enforcement policy, the basis for the exercise of EPA's enforcement discretion with regard to the enforcement of the tampering prohibition against sellers, installers and manufacturers of aftermarket catalytic converters. Specifically, although the final policy may be issued with substantial modifications, or not at all, depending on the comments received, no installer, seller, or manufacturer voluntarily complying with the interim guidelines will be prosecuted for tampering as a result of following the proposed guidelines during the interim period before the final policy is published or the proposal is withdrawn. However, the installation or sale of a converter not complying with the interim guidlines, and which is not a new OE converter or its equivalent (as defined in the proposed policy) or a "certified" converter, may be considered tampering or the causing thereof.

This notice of the exercise of enforcement discretion is intended to supersede EPA's Mobile Source Memorandum 1A only with regard to new or used aftermarket converters.

Additional Information

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestics or export markets. In fact, this interim enforicement polciy may allow additional businesses to enter the catalyst replacement market to produce, market, or install acceptable quality replacement catalysts. It may also lower cost to consumers and increase competition since vehicle manufacturers' dealerships will no longer be the only suppliers of acceptable catalysts.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any EPA response to such comments are available for public inspection in the docket.

Dated: July 25, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86–17556 Filed 8–4–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–769–DR]

Major Disaster and Related Determinations; Washington

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–769–DR), dated July 25, 1986, and related determinations.

DATED: July 25, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3616.

Notice: Notice is hereby given that, in a letter of July 25, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from a severe storm on May 20, 1986, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Richard A. Buck of the Federal Emergency Management Agency to act as the Federal

BEST COPY AVAILABLE

Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Washington to have been affected adversely by this declared major disaster and is designated eligible as follows:

The City of Spokane for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director.

[FR Doc. 86-17526 Filed 8-4-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-495]

Empire of America Federal Savings Bank Buffalo, NY; Final Action Approval of Conversion Application

Dated: July 28, 1986.

Notice is hereby given that on July 15, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Empire of America Federal Savings Bank, Buffalo, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisor Agent of the Federal Home Loan Bank of New York, One World Trade Center, Suite 8830, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-17577 Filed 8-4-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 224-004057-002]

Oakland Terminal Agreement; Erratum

The **Federal Register** Notice of July 24, 1986 (Vol. 51, No. 142, page 26598) incorrectly identified the above named agreement as Agreement No. 224-004078-002. The agreement should have been identified as Agreement No. 224-004057-002.

By Order of the Federal Maritime Commission.

Dated: July 31, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-17554 Filed 8-4-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First NH Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that a requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 27, 1986.

A. **Federal Reserve Bank of Boston.** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First NH Banks, Inc.;* Manchester, New Hampshire; to acquire 100 percent of the voting shares of First NH Bank of Maine, Portland, Maine a *de novo* bank.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.,* Montgomery Alabama; to acquire 100 percent of the voting shares of Enterprise Banking Company, Enterprise, Alabama.

Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Avoca Financial Services, Inc.,* Council bluffs, Iowa; to become a bank holding company by acquiring over 94 percent of the voting shares of Citizens Savings Bank, Avoca, Iowa. Comments on this application must be received by August 25, 1986.

2. *Lowden Bancshares, Inc.,* Lowden, Iowa; to become a bank holding company by acquiring over 93 percent of the voting shares of American Trust and Savings Bank, Lowden, Iowa. Comments on this application must be received by August 25, 1986.

D. **Federal Reserve Bank of St. Louis** (Randall C. Summer, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *North Arkansas Bancshares, Inc.,* Jonesboro, Arkansas; to become a bank holding company by acquiring 94.6 percent of the voting shares of The Bank of Rector, Rector, Arkansas, and 100 percent of the voting shares of Searcy County Bank, Marshall, Arkansas, formerly The Citizen Bank, Marshall, Arkansas. Comments on this application must be received by August 25, 1986.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lawson Financial Corporation,* Kansas City, Missouri; to become a bank holding company by acquiring 97 percent of the voting shares of Lawson Bank, Lawson, Missouri.

2. *Northland Bancshares, Inc.,* Kansas City, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Platte County, Kansas City, Missouri. Comments on this application must be received by August 19, 1986.

Board of Governors of the Federal Reserve System, July 30, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17522 Filed 8-4-86; 8:45 am]

BILLING CODE 6210-01-M

Southborough Holdings, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies,

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or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate imnspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 25, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Fransicso, California 94105:

1. *Southborough Holdings, Inc.*, Vancouver, British Columbia, Canada, Pacific National Financial Corporation, Vancouver, British Columbia, Canada, and Amercian National Corporation, San Francisco, California; have applied to become bank holding companies by acquiring Foothill Bank, Mountain View, California.

In connection with this application, Applicants have also applied to engage *de nova* through their subsidiary, American National Leasing Corporation, San Francisco, California, in full-payout financial leasing in the United States pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 30, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17523 Filed 8-4-86; 8:45 am]

BILLING CODE 6210-01-M

SunTrust Banks, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, not later than August 28, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *SunTrust Banks, Inc.*, Atlanta, Georgia; to engage *de novo* through its subsidiary, SunTrust Securities, Inc., Atlanta, Georgia, in brokering securities issued by mutual funds, unit investment trusts, or other investment companies; these services will be restricted to buying and selling securities solely as agent for the account of customers and does not include securities or dealing or investment advice or research services pursuant to § 225.25(b)(15) of the Board's Regulation Y; and underwriting and dealing in government obligations and money market instruments; underwriting and dealing in obligations of states and their political subdivisions and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24, and 335 including bankers acceptances and certificates of deposit pursuant to § 225.25(b)(16) of the Board's Regulation Y. These activities will be conducted in Orlando, Florida and Atlanta, Georgia.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bancorp, Inc.*, Channelview, Texas; to engage *de novo* through its subsidiary, MultiBank Mortgage Corporation of Texas, Houston, Texas, in the activity of making, acquiring and/or servicing loans for itself or the account of others of the type made by a mortgage company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *PSB Financial Corporation*, Many, Louisiana; to engage *de novo* through its subsidiary, PSB Mortgage Corporation, Many, Louisiana, in the activity of originating, acquiring, selling and servicing mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 30, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17524 Filed 8-4-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions, and Delegations of Authority; National Institutes of Health

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 51 FR 5804, February 18, 1986) is amended to reflect the following changes in the Office of the Director, NIH: (1) Establish the Office of Disease Prevention (HNA2); (2) establish the Division of Disease Prevention (HNA22) within the Office of Disease Prevention (HNA2); and (3) transfer the Office of Medical Applications of Research (HNA9) to the newly established Office of Disease

Prevention (HNA2) and change its Standard Administrative Code to (HNA23). These changes centralize the leadership and coordination of biomedical programs that seek to improve the Nation's health through research, research training, and the exchange of knowledge as these activities relate to disease prevention, effects of nutrition on health and progression of disease, and medical applications of biomedical research.

Section HN-B, Organization and Functions is amended as follows:

(1) Under the heading *Office of the Director (HNA)*, delete the statement for the Office of Medical Applications of Research (HNA9) in its entirety.

(2) After the statement for the Office of Communications (HNA8), insert the following:

Office of Disease Prevention (HNA2). Coordinates the activities of disease prevention, nutrition, and medical applications of research, and advises the Director, NIH, and senior staff on the following: (a) Research related to disease prevention, and promotion of disease prevention research; (b) all aspects of nutrition research relating to the mission of NIH, including international facets of nutrition; and (c) medical applications of research, including drugs, procedures, devices, and other technology developed from basic biomedical research at NIH.

Division of Disease Prevention (HNA22). (1) Advises the Associate Director for Disease Prevention and provides guidance to the research institutes on research related to disease prevention; (2) coordinates and facilitates the systematic identification of research activities pertinent to all aspects of disease prevention, including: (a) Identification of risk factors for disease; (b) risk assessment, identification, and development of biologic, environmental, and behavioral interventions to prevent disease occurrence or progression of presymptomatic disease; and (c) the conduct of field trials and demonstrations to assess interventions and encourage their adoption, if warranted; (3) identifies, coordinates, and encourages fundamental research aimed at elucidating the chain of causation of acute and chronic diseases; (4) coordinates and facilitates clinically relevant NIH-sponsored research bearing on disease prevention, including interventions to prevent the progression of detectable but asymptomatic disease; (5) promotes the coordinating linkage for research conducted in the research institutes on biobehavioral modification toward prevention of disease; (6) coordinates with the Office of Medical Applications of Research to promote the effective transfer of identified safe and efficacious preventive interventions to the health care community and the public; (7) works with the research institutes to initiate and develop RFAs, PAs, and RFPs to enhance disease prevention program development; and sponsors, singly or in combination with other organizations, workshops and conferences on disease prevention; (8) provides a link between the disease prevention and health promotion activities of the research institutes of the NIH, the Office of the Assistant Secretary for Health, and the Secretary, DHHS; (9) monitors the effectiveness and progress of disease prevention and health promotion activities of the NIH; (10) is responsible for reporting expenditures and personnel involved in prevention activity at NIH; (11) coordinates the nutrition research and training activities of the research institutes; (12) coordinates the Department Research Initiative in Nutrition that includes developing the 5-Year Plan of Nutrition Research and Training; (13) maintains the Human Nutrition Research and Information Management (HNRIM) system; (14) develops the *Annual Report of the NIH Program in Biomedical and Behavioral Nutrition Research and Training*; and (15) develops and maintains effective liaison with other departments and agencies that have nutrition mechanisms.

Office of Medical Applications of Research (HNA23). (1) Advises the Associate Director for Disease Prevention and provides guidance to the research institutes on medical applications of research; (2) coordinates, reviews, and facilitates the systematic identification and evaluation of clinically relevant NIH research program information; (3) promotes the effective transfer of this information to the health care community and, through the Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment (NCHSRHCTA), to those agencies requiring such information; (4) provides a link between technology assessment activities of the research institutes of the NIH and the NCHSRHCTA; and (5) monitors the effectiveness and progress of the assessment and transfer activities of the NIH.

Dated: June 23, 1986.

Otis M. Bowen,

Secretary.

[FR Doc. 86-17542 Filed 8-4-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6694-A]

Alaska Native Claims Selection; Afognak Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of secs. 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), 1621(j), will be issued to Afognak Native Corporation for the Native village of Port Lions for approximately 8 acres. The lands involved are in the vicinity of Port Lions, Alaska.

Seward Meridian, Alaska

T. 26 S., R. 24 W. (Surveyed)
Sec. 1, those lands within Sec. 3(e) application AA-12330.
Containing approximately 8 acres.

A notice of the decision will be published once a week for four (4) consecutive weeks in the KODIAK DAILY MIRROR. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ([907] 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 4, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal.

Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-17534 Filed 8-4-86; 8:45 am]

BILLING CODE 4310-JA-M

[NV-930-06-4410-10]

Resource Management Plans; Shoshone-Eureka Resource Area, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent (NOI) to prepare an amendment to the Shoshone-Eureka Resource Management Plan (RMP) and an invitation to participate in identification of issues and review of the preliminary planning criteria.

SUMMARY: This notice describes the action to be analyzed for the RMP amendment, the geographic area that would be affected, the preliminary issue and planning criteria, the disciplines to be represented and used to prepare the plan, the kind and extent of public participation activities, and the BLM offices to contact for further information. Also this notice is an invitation to participate in the identification of issues and review the planning criteria.

DATE: Written comments are due by September 15, 1986.

ADDRESS: Written comments on the issue(s) and proposed planning criteria are due to the Battle Mountain District, N. 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

FOR FURTHER INFORMATION CONTACT: Neil D. Talbot, Shoshone-Eureka Area Manager, N. 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820, (702) 635–5181.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Planning Action

Pursuant to 43 CFR 1610.5–5, the Bureau of Land Management's Battle Mountain District Office is in the process of initiating an amendment to the comprehensive land use plan for the Shoshone-Eureka Resource Area. The Resource Management Plan amendment is scheduled for completion in September of 1987. The resource management plan amendment will be designed to direct programs and management practices with regard to livestock grazing on forty-eight allotments through recategorization of part of these allotments. In order to determine the impacts of the proposed action, an Environmental Impact Statement will be prepared in conformance with the National Environmental Policy Act of 1969. Reasonable alternatives will be analyzed in the statement, including a no action alternative to assess the consequences of continuing present resource uses and management.

The Geographic Area Covered by the Resource Management Plan Amendment

The Shoshone-Eureka Resource Area contains approximately 4,399,000 acres of public land located in north-central Nevada. It contains the towns of Austin, Eureka, and Battle Mountain. The area includes most of Lander and Eureka counties and a portion of Nye County.

General Types of Issues Anticipated and Preliminary Planning Criteria

The major issue to be addressed for the plan amendment will be the management of livestock use and impacts on wildlife habitat from livestock grazing on a high percentage of the Shoshone-Eureka Resource Area currently managed as Maintain and Custodial Category Allotments. Other issues may be identified through public participation.

The preliminary planning criteria proposes the use of the best data currently available. The proposed criteria for categorization of allotments will be: ecological condition, ecological range site potential, range trend, economic investment potential, social-political controversy or interest, present management, range improvements, resource conflicts, and allotment statistics.

Disciplines Represented on the Planning Team

The planning team will consist of individuals with expertise in the following disciplines: (1) Range management, (2) land use planning, (3) wildlife biology, (4) wild horse management, and (5) watershed management.

Public Participation

Public comment is solicited during this identification of issues, and the development of the criteria to guide the planning process. Upon publication of the draft plan amendment and environmental impact statement there will be a 90 day comment period. The time, dates, and locations of public meetings and other public participation opportunities have yet to be determined. Persons interested in participating in the planning process should submit their name and address for inclusion on the Shoshone-Eureka RMP mailing list to Bureau of Land Management, Battle Mountain District Office, N. 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

Location of Planning Documents

A complete file of the resource management plan document will be maintained at both the Bureau of Land Management, Battle Mountain District Office, N. 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820 and the Bureau of Land Management's Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520.

Dated: July 30, 1986.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86–17533 Filed 8–4–86; 8:45 am]

BILLING CODE 4310–HC–M

[CA–940–06–4212–13; CA 17685]

California; Exchange of Public and Private Lands in Riverside, San Diego, and Lassen Counties and Opening Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire non-Federal lands that have significant multiple-use values, including recreational, wildlife, wilderness, scenic, and endangered species values that far outweigh values found on the Federal lands. The United States also acquired conservation and public access easements. The conservation easement will prevent any subdivision of the land and will protect in perpetuity the predominantly natural, scenic, agricultural, open space, and aesthetic attributes of the land. The public access easement will allow public pedestrian access to and over the property with the right of the public to hunt and fish on the land. The area involved is the longest shoreline of undeveloped private land remaining at Eagle Lake, Lassen County, which is the second largest natural fresh-water lake entirely within California. The public interest was well served through completion of this exchange.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978–4815.

The United States issued an exchange conveyance document to The Trust for Public Land on June 13, 1986, under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2758; 43 U.S.C. 1716), for the following described land:

San Bernardino Meridian, California

T. 8 S., R. 1 E.,
- Sec. 10, Lots 3 and 4;
- Sec. 15, Lots 1 to 5, inclusive, and Lots 7, 8, and 12;
- Sec. 16, E½;
- Sec. 17, SE¼, E½;
- Sec. 20, NE¼, E½NW¼, and NW¼SE¼;
- Sec. 21, NE¼, N½SW¼, and SE¼.

Containing 1,810.30 acres of public land in Riverside County.

In exchange for these lands, the United States acquired the following described lands and interests from The Trust for Public Land:

Parcel 1

San Bernardino Meridian, California

T. 16 S., R. 2 E.,
Sec. 19, E½E½;
Sec. 20, W½W½;
Sec. 29, W½W½;
Sec. 30, E½E½.

Containing 640 acres of non-Federal land in San Diego County.

Parcel 2—Conservation and Public Access Easements

Mount Diablo Meridian, California

T. 32 N., R. 11 E.,
Sec. 11, Lots 1, 2, 3, 8, NE¼SE¼, S½SE¼;
Sec. 12, Lots 1, 2, 3, 4, NW¼NW¼, SW¼SE¼, S½SW¼;
Sec. 13, Lots 1, 2, 3, W½NE¼, NW¼, E½SW¼, W½SE¼;
Sec. 14, Lots 3, 4, 5, NE¼NE¼, S½NE¼, NW¼SE¼;
Sec. 24, NW¼NE¼, NE¼NW¼.
T. 32 N., R. 12 E.,
Tracts 39, 40, 42, and 43.

Containing 1,578.91 acres of non-Federal land in Lassen County.

A payment in the amount of $50,000 will be paid to The Trust for Public Land by the United States to equalize values between the non-Federal land and the public land.

At 10 a.m. on September 3, 1986, the lands described under Parcel 1 above shall be open to operation of the public land laws generally, subject to (1) valid existing rights and the requirements of applicable law, and (2) subject to such use as may be made of land in a wilderness study area (sec. 603 of the Act of October 21, 1976, 90 Stat. 2785, 43 U.S.C. 1782). All valid applications received at or prior to 10 a.m. on September 3, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on September 3, 1986, the non-Federal land described under Parcel 1 shal be open to applications under the United States mining laws and mineral leasing laws, subject to such use as may be made of land in a wilderness study area (sec. 603 of the Act of October 21, 1976, 90 Stat. 2785, 43 U.S.C. 1782).

The lands described under Parcel 2 are in private ownership and, therefore, will not be open to the operation of the public land laws or mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: July 25, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86–17536 Filed 8–4–86; 8:45 am]

BILLING CODE 4310–40–M

[6–00157–ILM 4310–GJ]

Realty Action; Recreation and Public Purpose Sale; Public Land in Jackson County, MS

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—R&PP sale, public lands, Jackson County, Mississippi.

SUMMARY: The following described lands have been examined and are classified as suitable for sale for recreation and public purposes under the Recreation and Public Purposes Act of 1926 (44 Stat. 741), as amended.

St. Stephens Meridian

T. 9 S., R. 6 W.,
Sec. 3 Lot 1.
T. 9 S., R. 6 W.,
Sec. 4 Lot 1.

The described area aggregates approximately 48.92 acres, all in Jackson County, Mississippi.

The City of Pascagoula, Mississippi proposes to use these lands for inclusion into the City's park system. The purpose is to provide the citizens and visitors of Pascagoula with a passive recreation park and to preserve, protect, and perpetuate the natural resources of the lands.

It has been determined that the proposed use in the public's best interest, and is consistent with the policy of the Bureau of Land Management.

The patent will be subject to all existing rights and reservations of record.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent, or in 18 months from the date of this Notice, or upon publication of a Notice of Termination. Detailed information concerning the sale, including the environmental assessment and land report, is available for review at the Bureau of Land Management office listed below.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the District Manager, Jackson District Office, P.O. Box 11348, Jackson, Mississippi 39213. Comments will be evaluated by the District Manager, who may vacate or modify this Realty Action. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

For further information, contact: David L. Gay, (601) 960–4405.

Henry Beauchamp,

Acting District Manager.

[FR Doc. 86–17537 Filed 8–4–86; 8:45 am]

BILLING CODE 4310–GJ–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 26, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 20, 1986.

Beth Grosvenor,

Acting Chief of Registration, National Register.

ALABAMA

Butler County

Greenville, *Blockwell, W.S., House (Greenville MRA)*, 211 Fort Dale St.
Greenville, *Buell-Stallings-Stewart House (Greenville MRA)*, 205 Fort Dale Rd.
Greenville, *Butler Chapel A.M.E. Zion Church (Greenville MRA)*, 407 Oglesby
Greenville, *Confederate Park (Greenville MRA)*, E. Commerce St.
Greenville, *Dickenson House (Greenville MRA)*, 537 S. Conecuh St.
Greenville, *Evans-McMullan (Greenville MRA)*, 303 Bolling St.
Greenville, *First Baptist Church (Greenville MRA)*, 707 South St.
Greenville, *First Presbyterian Church (Greenville MRA)*, 215 E. Commerce St.
Greenville, *Gaston-Perdue House (Greenville MRA)*, 111 Cedar St.
Greenville, *Graydon House (Greenville MRA)*, 507 Cedar St.
Greenville, *Greenville City Hall (Greenville MRA)*, E. Commerce St.
Greenville, *Greenville Public School Complex (Greenville MRA)*, 101 Butler Circle
Greenville, *Howthorne-Cowart House (Greenville MRA)*, 319 Bolling St.
Greenville, *Hinson House (Greenville MRA)*, 208 Oliver St.
Greenville, *House at 308 South Street (Greenville MRA)*, 308 South St.
Greenville, *Lane-Kendrick-Sherling House (Greenville MRA)*, 109 Fort Dale St.

Greenville, *Little-Stabler House (Greenville MRA)*, 718 Fort Dale St.
Greenville, *McMullan-Skinner House (Greenville MRA)*, 204 Oliver St.
Greenville, *Theological Building-A.M.E. Zion Theological Institute (Greenville MRA)*, E. Conecuh St.
Greenville, *Ward Nicholson Corner Store (Greenville MRA)*, 219 W. Parmer
Greenville, *Wright-Kilgore House (Greenville MRA)*, 808 Walnut St.

Jefferson County

Birmingham, *Cullom Street-Twelfth Street South Historic District*, Roughly bounded by Eleventh Ave., Thirteenth St., Sixteenth Ave., and Cullom St.

ARKANSAS

Logan County

Ratcliff, *St. Anthony's Catholic Church*, N of AR 22

Union County

El Dorado, *Rialto Theatre*, 117 E. Cedar St.

CALIFORNIA

San Joaquin County

Lodi, *Morse-Skinner Ranch House*, 13063 N. CA 99

CONNECTICUT

Hartford County

Farmington, *Shade Swamp Shelter (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, E of New Britain Ave. on US 6
Hartland, *Tunxis Forest Headquarters House (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, N of Town Rd. on Pell Rd.
Hartland, *Tunxis Forest Ski Cabin (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, W end of Balance Rock Rd.
Simsbury, *Massacoe Forest Pavilion (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, Off Old Farms Rd. in Stratton Brook State Park

Litchfield County

Barkhamsted, *American Legion Forest CCC Shelter (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, West River Rd. in American Legion State Forest
Barkhamsted, *Peoples Forest Museum (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, Greenwood Rd. in Peoples State Forest
Cornwall, *Red Mountain Shelter (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, CT 4 adjacent to Appalachian Trail
Sharon, *Crem Hill Shelter (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, Wickwire Rd.
Torrington, *Paugnut Forest Administration Building (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, 395 Burr Mountain Rd.

Middlesex County

Killingworth, *Oak Lodge (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, W side of Schreeder Pond in Chatfield Hollow State Park

New Haven County

Hamden, *Sleeping Giant Tower (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, 200 Mount Carmel Ave. at Mt Carmel summit in Sleeping Giant State Park
Madison, *State Park Supply Yard (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, 51 Mill Rd.

New London County

East Lyme, *Rocky Neck Pavilion (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, Lamb End Point in Rocky Neck State Park
Griswold, *Avery House (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, NE corner Park and Roode Rds.

Windham County

Eastford, *Natchaug Forest Lumber Shed (Connecticut State Park and Forest Depression-Era Federal Work Relief Programs Structures TR)*, Kingsbury Rd. in Natchaug State Forest

FLORIDA

Baker County

Macclenny, *Old Baker County Courthouse*, 14 West McIver St.

Bay County

Panama City, *McKenzie, Robert L., House*, 17 E. Third Ct.

Marion County

Ocala, *Ritz Apartments, The*, 1206 East Silver Springs Blvd.

Palm Beach County

Palm Beach, *Vineta Hotel*, 363 Cocoanut Row
West Palm Beach, *Dixie Court Hotel*, 301 N. Dixie Hwy.

ILLINOIS

Cook County

Evanston, *Buildings at 1104–1110 Seward (Suburban Apartment Buildings in Evanston TR)*, 1104–1110 Seward

MARYLAND

Carroll County

Westminster, *Rockland Farm*, 201 Rockland Rd.

Harford County

Churchville, *Churchville Presbyterian Church*, Intersection of MD 22 and MD 136

Prince Georges County

Accokeek, *Bellevue*, 200 Manning Rd. E

MASSACHUSETTS

Barnstable County

Harwich, *Berry, Captain James, House*, 37 Main St.
Harwich, *South Harwich Methodist Church*, 270 Chatham Rd.

Middlesex County

Newton, *Adams, Amos, House (Newton MRA)*, 37 Park Ave.
Newton, *Adams, Seth, House (Newton MRA)*, 72 Jewett St.
Newton, *Auburndale Congregational Church (Newton MRA)*, 64 Hancock St.
Newton, *Bartlett-Hawkes Farm (Newton MRA)*, 15 Winnetaska Rd.
Newton, *Bayley House (Newton MRA)*, 16 Fairmount Ave.
Newton, *Bemis Mill (Newton MRA)*, 1–3 Bridge St.
Newton, *Bigelow, Henry, House (Newton MRA)*, 15 Bigelow Terrace
Newton, *Blodgett, William, House (Newton MRA)*, 645 Centre St.
Newton, *Brackett House (Newton MRA)*, 621 Centre St.
Newton, *Buckingham, John, House (Newton MRA)*, 33–35 Waban St.
Newton, *Building at 1–6 Walnut Terrace (Newton MRA)*, 1–6 Walnut Terrace
Newton, *Central Congregational Church (Newton MRA)*, 218 Walnut St.,
Newton, *Chestnut Hill, The (Newton MRA)*, 219 Commonwealth Ave.
Newton, *Claflin, Adams, Estate (Newton MRA)*, 156 Grant Ave.
Newton, *Clark House (Newton MRA)*, 379 Central St.
Newton, *Collins, Frederick, House (Newton MRA)*, 1734 Beacon St.
Newton, *Crystal Lake and Pleasant Street Historic District (Newton MRA)*, Roughly bounded by Bracebridge, Pleasant, and Lake Aves., and Crystal St.
Newton, *Curtis, Allan Crocker, House-Pillar House (Newton MRA)*, 26 Quinobequin Rd.
Newton, *Curtis, William, House (Newton MRA)*, 2330 Washington St.
Newton, *Davis, Seth, House (Newton MRA)*, 32 Eden Ave.
Newton, *Dupee Estate (Newton MRA)*, 400 Beacon St.
Newton, *Elliott, Charles D., House (Newton MRA)*, 7 Colman St.
Newton, *Eminence, The (Newton MRA)*, 122 Islington Rd.
Newton, *Estabrook, Rufus, House (Newton MRA)*, 33 Woodland Rd.
Newton, *Evangelical Baptist Church (Newton MRA)*, 23 Chapel St.
Newton, *Farlow and Kendrick Parks Historic District (Boundary Increase) (Newton MRA)*, 223, 226, 234, 237, 242, 243, 248, and 256 Park St.
Newton, *Farquhar, Samuel, House (Newton MRA)*, 7 Channing St.
Newton, *Fenno, John A., House (Newton MRA)*, 171 Lowell Ave.
Newton, *First Unitarian Church (Newton MRA)*, 1326 Washington St.
Newton, *Fuller, Capt. Edward, Farm (Newton MRA)*, 59–71 North St.
Newton, *Gane, Henry, House (Newton MRA)*, 121 Adena Rd.

Newton, *Gray Cliff Historic District (Newton MRA)*, 35, 39, 43, 53, 54, 64, 65, and 70 Gray Cliff Rd.
Newton, *Gunderson Jos., House (Newton MRA)*, 983 Centre St.
Newton, *Harbach John, House (Newton MRA)*, 303 Ward St.
Newton, *Harding House—Walker Missionary Home (Newton MRA)*, 161–163 Grove St.
Newton, *Haskell, Charles, House (Newton MRA)*, 27 Sargent St.
Newton, *House at 1008 Beacon St. (Newton MRA)*, 1008 Beacon Street
Newton, *House at 102 Staniford Street (Newton MRA)*, 102 Staniford St.
Newton, *House at 107 Waban Hill Road (Newton MRA)*, 107 Waban Hill Rd.
Newton, *House at 115–117 Jewett Street (Newton MRA)*, 115–117 Jewett St.
Newton, *House at 15 Davis Avenue (Newton MRA)*, 15 Davis Ave.
Newton, *House at 152 Suffolk Road (Newton MRA)*, 152 Suffolk Rd.
Newton, *House at 170 Otis Street (Newton MRA)*, 170 Otis St.
Newton, *House at 173–175 Ward Street (Newton MRA)*, 173–175 Ward St.
Newton, *House at 203 Islington Road (Newton MRA)*, 203 Islington Rd.
Newton, *House at 215 Brookline Street (Newton MRA)*, 215 Brookline St.
Newton, *House at 2212 Commonwealth Avenue (Newton MRA)*, 2212 Commonwealth Ave.
Newton, *House at 230 Melrose Street (Newton MRA)*, 230 Melrose St.
Newton, *House at 230 Winchester Street (Newton MRA)*, 230 Winchester St.
Newton, *House at 3 Davis Avenue (Newton MRA)*, 3 Davis Ave.
Newton, *House at 307 Lexington Street (Newton MRA)*, 307 Lexington St.
Newton, *House at 309 Waltham Street (Newton MRA)*, 309 Waltham St.
Newton, *House at 31 Woodbine Street (Newton MRA)*, 31 Woodbine St.
Newton, *House at 41 Middlesex Road (Newton MRA)*, 41 Middlesex Rd.
Newton, *House at 47 Sargent Street (Newton MRA)*, 47 Sargent St.
Newton, *House at 511 Watertown Street (Newton MRA)*, 511 Watertown St.
Newton, *House at 60 William Street (Newton MRA)*, 60 William St.
Newton, *House at 68 Maple Street (Newton MRA)*, 68 Maple St.
Newton, *House at 729 Dedham Street (Newton MRA)*, 729 Dedham St.
Newton, *House at 81–83 Gardner Street (Newton MRA)*, 81–83 Gardner St.
Newton, *Hyde Avenue Historic District (Newton MRA)*, 36, 42, 52, 59, and 62 Hyde Ave.
Newton, *Hyde House (Newton MRA)*, 27 George St.
Newton, *Hyde, Eleazer, House (Newton MRA)*, 401 Woodward St.
Newton, *Hyde, Gershom, House (Newton MRA)*, 29 Greenwood St.
Newton, *Jackson House (Newton MRA)*, 125 Jackson St.
Newton, *Jackson, Samuel, Jr., House (Newton MRA)*, 137 Washington St.
Newton, *Jennison, Joshua, House (Newton MRA)*, 11 Thornton St.
Newton, *Judkins, Amos, House (Newton MRA)*, 8 Central Ave.
Newton, *King House (Newton MRA)*, 328 Brookline St.
Newton, *Kingsbury House (Newton MRA)*, 137 Suffolk Rd.
Newton, *Kistler House (Newton MRA)*, 945 Beacon St.
Newton, *Lasell Neighborhood Historic District (Newton MRA)*, Roughly bounded by Woodland and Studio Rds., Aspen and Seminary Aves., and Grove St.
Newton, *Merriam, Galen, House (Newton MRA)*, 102 Highland St.
Newton, *Mount Pleasant (Newton MRA)*, 15 Bracebridge Rd.
Newton, *Needham Street Bridge (Newton MRA)*, Needham St. at Charles River
Newton, *Newton Highlands Historic District (Newton MRA)*, Roughly bounded by Lincoln and Hartford Sts, Erie Ave., and Woodward St.
Newton, *Newton Lower Falls Historic District (Newton MRA)*, Roughly bounded by Hagar, Grove, Washington, and Concord Sts.
Newton, *Newton Street Railway Carbarn (Newton MRA)*, 1121 Washington St.
Newton, *Newton Theological Institution Historic District (Newton MRA)*, Along Herrick Rd. roughly bounded by Braeland Ave., Ripley St., Langley and Bowen School Access Rds., and Cypress St.
Newton, *Newton Upper Falls Historic District (Newton MRA)*, Roughly bounded by Boylston, Elliot, and Oak Sts., and Charles River.
Newton, *Newtonville Historic District (Newton MRA)*, Roughly bounded by Highland Ave., Walnut, Mill, and Otis Sts., and Lowell Ave.
Newton, *Nichols House (Newton MRA)*, 140 Sargent St.
Newton, *Old Chesnut Hill Historic District (Newton MRA)*, Along Hammond St. and Chesnut Hill Rd. roughly bounded by Beacon St., Essex and Suffolk Rds.
Newton, *Old Shepard Farm (Newton MRA)*, 1832 Washington St.
Newton, *Our Lady Help of Christians Historic District (Newton MRA)*, Intersection of Adams and Washington Sts.
Newton, *Page, H.P., House (Newton MRA)*, 110 Jewett St.
Newton, *Parsons, Edward, House (Newton MRA)*, 56 Cedar St.
Newton, *Peabody-Williams House (Newton MRA)*, 7 Norman Rd.
Newton, *Potter Estate (Newton MRA)*, 65–71 Walnut Park
Newton, *Prescott Estate (Newton MRA)*, 770 Centre St.
Newton, *Putnam Street Historic District (Newton MRA)*, Roughly bounded by Winthrop, Putnam, Temple, and Shaw Sts.
Newton, *Railroad Hotel (Newton MRA)*, 1273–1279 Washington St.
Newton, *Rawson Estate (Newton MRA)*, 41 Vernon St.
Newton, *Richards, James Lorin, House (Newton MRA)*, 47 Kirkstall Rd. and 22 Oakwood Rd.
Newton, *Riley, Charles, House (Newton MRA)*, 93 Bellvue St.
Newton, *Sacco-Pettee Machine Shops (Newton MRA)*, 156 Oak St.
Newton, *Salisbury, Jonas, House (Newton MRA)*, 62 Walnut Park
Newton, *Salisbury, Jonas, House (Newton MRA)*, 85 Langley Rd.
Newton, *Silver Lake Cordage Company (Newton MRA)*, 469–471 Watertown St.
Newton, *Simpson House (Newton MRA)*, 57 Hunnewell Ave.
Newton, *Smith, S. Curtis, House (Newton MRA)*, 56 Fairmont Ave.
Newton, *Smith-Peterson House (Newton MRA)*, 32 Farlow Rd.
Newton, *Souther, John, House (Newton MRA)*, 43 Fairmount Ave.
Newton, *Staples-Crafts-Wiswall Farm (Newton MRA)*, 1615 Beacon St.
Newton, *Stone, Ebenezer, House (Newton MRA)*, 391 Dedham St.
Newton, *Stone, Joseph L., House (Newton MRA)*, 77–85 Temple St.
Newton, *Strong's Block (Newton MRA)*, 1637–1651 Beacon St.
Newton, *Sumner and Gibbs Streets Historic District (Newton MRA)*, Roughly Sumner St. between Willow St. and Cotswold Terrace and 184 Gibbs St.
Newton, *Thaxter, Celia, House (Newton MRA)*, 524 California St.
Newton, *Thayer House (Newton MRA)*, 17 Channing St.
Newton, *Union Street Historic District (Newton MRA)*, Roughly Union St. between Langley Rd. and Herrick St. and 17–31 Herrick St.
Newton, *Ward, Ephraim, House (Newton MRA)*, 121 Ward St.
Newton, *Webster Park Historic District (Newton MRA)*, Along Webster Park and Webster St. between Westwood St. and Oak Ave.
Newton, *West Newton Hill Historic District (Newton MRA)*, Roughly bounded by Highland Ave., Lenox, Hampshire and Chesnut Sts.
Newton, *Wheat, Samuel, House (Newton MRA)*, 399 Waltham St.
Newton, *Wittemore's Tavern-Bourne House (Newton MRA)*, 473 Auburn St.
Newton, *Woodward, John, House (Newton MRA)*, 50 Fairlee Rd.
Newton, *Working Boys Home (Newton MRA)*, 333 Nahanton St.

Norfolk County

Needham, *Smith, James, House*, 706 Great Plain Ave.

Plymouth County

Duxbury, *Old Shipbuilder's Historic District*, Both sides of Washington St. from Rowder Ave. to N. of South Duxbury

Mississippi

Jones County

Laurel, *Laurel Central Historic District*, Roughly bounded by Tenth and Thirteenth Sts., First Avenue., Seventh and Fifth Sts., and Eighth Ave.

Montana

Carbon County

Red Lodge, *Red Lodge Commercial Historic District (Boundary Increase)*, South

Broadway between Eighth and Fifteenth Sts.

New York

Suffolk County

Mattituck, *Cox, Richard, House*, Mill Rd.

Ohio

Jefferson County

Steubenville, *Steubenville Commercial Historic District*, Roughly bounded by Washington, Court, Third, Market, and Commercial Sts.

Pennsylvania

Chester County

Chester Springs, *Rice-Pennebecker Farm*, Clover Mill Rd.

Delaware County

Cheyney, *Melrose*, Hill Dr.
Concordville vicinity, *High Hill Farm*, 180 Thornton Rd.

Lancaster County

Lancaster, *Follmer, Clogg and Company Umbrella Factory*, 254–260 W. King St.

Lehigh County

Whitehall, *Dent Hardware Company Factory Complex*, 1101 Third St.

Philadelphia County

Philadelphia, *Snellenburg's Clothing Factory*, 642 N. Broad St.

[FR Doc. 86–17512 Filed 8–4–86; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; Notice on Proposed NHL Boundaries

July 25, 1986.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

Comments on the proposed boundaries will be received for 60 days after the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, DC 20013–7127, Attention: Chief of Registration (202) 343–9536. Copies of the documentation of the landmarks and their proposed boundaries, including maps may be obtained from the same office.

Beth Grosvenor,

Acting Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Mesilla Plaza

Mesilla (Dona Ana County), New Mexico

Verbal Boundary Description

The National Historic Landmark boundary has been drawn to include a total area of six acres that contain Mesilla Plaza and those historic structures immediately surrounding the plaza.

The boundary begins at the northeast corner of Calle de Principal and Calle de Parian, and runs south along the east curb of Calle de Principal for approximately 200 feet. Then it proceeds east along the south wall of Building 9 to the west curb of Calle de Guadalupe. The boundary then turns south and runs for approximately 35 feet, to a point on the western curb of Calle de Guadalupe. The boundary then turns due east and extends along the south wall of Building 22 (or the party wall between building 22 and a theatre) for a distance of approximately 150 feet. At this point the boundary turns north and follows along the east wall of Building 22 and Building 10, crossing Calle de Parian and running along the east wall of Building 11. Turning east at the northeastern corner of Building 11, it continues for approximately 50 feet to the west curb of Calle de Albino, and continues north along the west curb of Calle de Albino for approximately 200 feet. The boundary then turns west for approximately 200 feet to the east curb of Calle de Guadalupe, thence north along the east curb of Calle de Guadalupe for approximately 300 feet. It then turns west crossing Calle de Guadalupe, running approximately 30 feet behind Building 13, and extends to the west curb of Calle de Principal, a distance of approximately 200 feet. Here the boundary continues south along the west curb of Calle de Principal for approximately 280 feet. The boundary then turns west for 300 feet, across vacant ground, to the east curb of Calle de Arroyo, thence southwest along the east curb of Calle de Arroyo for approximately 200 feet where the boundary turns due east, across vacant ground, for approximately 150 feet. Here the boundary turns south for approximately 150 feet, across vacant ground to the south curb of Calle de Parian. It then continues east along the south curb of Calle de Parian for approximately 150 feet to the northeast corner of Calle de Principal and Calle de Parian, and the beginning point of the boundary.

[FR Doc. 86–17596 Filed 8–4–86; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How oftern the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331.

Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments

should also be sent to the OMB reviewer, Nancy Wentzler, telephone (202) 395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Occupational Safety and Health Administration
Occupational Exposure to Noise
1218–0046; OSHA 238
On occasion
Businesses or other for profit; small businesses or organizations
192,879 responses; 5,139,328 hours; no forms

This standard requires employers to establish and maintain accurate records of employee exposure to noise and audiometric tests performed in compliance with the provisions of the standard. These records are used by physicians, employers, employees and the Government to determine whether occupation-related hearing loss has occurred, to prevent further deterioration of hearing, and to determine the effectivenes of employers' hearing conservation programs.

Reinstatement

Pension and Welfare Benefits Administration
Summary Plan Description Requirements Under ERISA
1210–0039
Other (5 or 10 year cycle depending on whether a plan is amended in initial 5 years)
Businesses or other for profit; non-profit institutions; small businesses or organizations
14,077,040 responses; 5,307,744 hours

As required by ERISA, this existing regulation provides plan administrators with the procedures and guidelines necessary to furnish plan participants and beneficiaries with Summary Plan Descriptions that clearly explain their rights and obligations.

Regulation Relating to Supplemental Payments
1210–0041
Annually
Individuals or households; businesses or other for profit; small businesses or organizations
50,915 responses; 4,243 hours

The regulation provides among other things, that under certain conditions cost of living benefits payments can be made to pre-1977 retirees without such payment being considered either a pension plan or a welfare plan under ERISA. Such payments must be accompanied by a written notice.

Prohibited Transaction Class Exemption 79–1 and Recapture Exemption
1210–0059
On occasion
Businesses or other for profit; small businesses or organizations
141,458 responses; 141,458 hours

This class exemption exempts from the prohibited transaction restrictions of ERISA the effecting or executing of securities transactions on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan and who is acting in such transactions as agent for the plan.

Signed at Washington, DC, this 31st day of July, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86–17597 Filed 8–4–86; 8:45 am]

BILLING CODE 4510–29–M

Employment and Training Administration

[TA–W–17,067A Mine #20, TA–W–17,067B Mine #24–B, TA–W–17,067C Mine #24–D, TA–W–17,067D Mine #25]

Barnes and Tucker Coal Co., Barnesboro, PA; Negative Determination Regarding Application for Reconsideration

By an application dated July 2, 1986, the United Mine Workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at the Barnes & Tucker Coal Company, Barnesboro, Pennsylvania. The denial notice was published in the Federal Register on June 24, 1986 (51 FR 22990).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that workers producing coal at the mines listed above should be eligible to apply for adjustment assistance because of reduced demand for metallurgical coal caused by steel imports.

Findings in the investigation show that Barnes & Tucker Coal Company is an independent producer which sold metallurgical coal to steel companies. Workers of independent producers of metallurgical coal, not owned or controlled by a steel company, may qualify for adjustment assistance when the Department can substantiate that increased imports of like or directly competitive coal has contributed importantly to decreased company sales or production and to worker separations. U.S. imports of metallurgical coal have been negligible since 1981; U.S. exports of metallurgical coal have increased every year since 1983.

The Department addressed the issue of an independent coal producer supplying coal to a steelmaking facility in its determination on the subject petition. During the time period relevant to the investigation, Barnes and Tucker was an independent coal producer and not related to Inland Steel or LTV Steel by ownership or control. Mines #24–B and #24–D were acquired by Barnes & Tucker from LTV Steel in October, 1982.

Mine #25 is owned by the Inland Steel Company. Inland Steel assumed the operation of production at Mine #25 from Barnes and Tucker in 1982. All workers at Mine #25 were certified for trade adjustment assistance under petition TA–W–15,279 which expired on July 12, 1986. Production at the mine ceased in 1983.

Information furnished by the union on imports of utility coal by several U.S. utilities is unrelated to coal customers of Barnes and Tucker Coal Company. Imports of utility coal represented less than one percent of U.S. domestic production from 1981 to 1985.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 23rd day of July 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 86-17599 Filed 8-4-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,688]

Honeywell, Inc., Fort Washington, PA; Negative Determination Regarding Application for Reconsideration

By an application dated June 23, 1986, the International Union of Electronic and Electrical Workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at Honeywell, Inc., Fort Washington, Pennsylvania. The denial notice was published in the **Federal Register** on June 17, 1986 (51 FR 21991).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union lists several parts that were imported and claims that worker separations at Fort Washington were the result of importing these parts as directed replacements for those produced by the workers at Fort Washington. The union also cites workforce reductions at Fort Washington since 1985.

Findings in the investigation show that many components used in the assembly of the instruments are procured from outside domestic sources. Company officials reported that some component parts have been imported recently but none of the parts were previously produced at Fort Washington. They referenced Article VIII, Section 2 of the Collective Bargaining Agreement which does not permit the subletting of work by the company.

Company officials also reported that recent workforce reductions at Fort Washington were caused by the changing product mix and increased automation. Technological unemployment would not provide a basis for worker certification.

Only workforce reductions at Fort Washington subsequent to November 18, 1984 are applicable to this petition. Section 223(b)(1) of the Trade Act does not permit the certification of workers separated from employment more than one year prior to the date of the worker petition on which a certification is issued. The date of the worker petition is November 18, 1985.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 23rd day of July 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 86-17601 Filed 8-4-86; 8:45 am]

BILLING CODE 4519-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Ford Motor Co. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 15, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 15, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 28th day of July 1986.

APPENDIX

Petitioner Union/Workers of Former Workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Co., Direct Market Operations (workers)	Newark, NJ	7/7/86	7/1/86	TA-W-17,724	Car parts.
California Manufacturing Co. (ACTWU)	St. James, MO	7/21/86	7/18/86	TA-W-17,725	Men's and boys' jackets.
California Manufacturing Co. (ACTWU)	California, MO	7/21/86	7/18/86	TA-W-17,726	Men's and boys' jacket.
EZ Construction (workers)	Keene, ND	7/23/86	7/17/86	TA-W-17,727	Oil field maintnance and construction
Dresser Atlas Div. of Dresser Industries (workers)	Dallas, TX	7/9/86	7/2/86	TA-W-17,728	Shotgun shells, primers, shot and lead.
Al's Oilfield Service (workers)	Williston, ND	6/9/86	6/3/86	TA-W-17,729	Oil well service
B.J. Titan Service, (Company)	Marshall, TX	7/18/86	7/11/86	TA-W-17,730	Oil and gas equipment operators.
Santa Fe Energy (workers)	Midland, TX	7/17/86	7/13/86	TA-W-17,731	Oil and gas field services.
Ram Drilling Co. (company)	Browns, IL	7/18/86	7/15/86	TA-W-17,732	Oil and gas drilling
Armstrong Rubber Co., Midwest Div. (URW)	Des Moines, IA	7/16/86	7/11/86	TA-W-17,733	Tires, farm, radial light truck, large truck
David I. Greenberg (ILGWU)	Pleasantville, NJ	7/16/86	7/9/86	TA-W-17,734	Swimming suits
D.B. Drilling, Inc. (workers)	Abilene, TX	7/15/86	7/10/86	TA-W-17,735	Oil and gas drilling.
Permian Tank & Mfg Inc. (company)	Odessa, TX	7/14/86	7/10/86	TA-W-17,736	Oil storage tanks, heater treaters, separators oil field process equipment.
Mon-Dak Exploration Inc. (workers)	Sidney, MT	7/14/86	7/8/86	TA-W-17,737	Oil drilling.
Brinkerhoff Signal Drilling Co. (workers)	Houston, TX	7/10/86	7/5/86	TA-W-17,738	Oil drilling.
Levis Strauss & Co. (company)	Tyler, TX	7/10/86	7/7/86	TA-W-17,739	Blue jeans.
U.S. Steel Mining Co., Decota Mining District (UMWA)	Decota, WV	6/15/86	7/16/86	TA-W-17,740	Coal mining.
Oceola Shoe Company (workers)	Manila, AR	6/27/86	7/19/86	TA-W-17,741	Cutting & stitching uppers of golf shoes
Ziyad (company)	Denville, NJ	7/16/86	7/11/86	TA-W-17,742	Office automation & paper processing devices.

APPENDIX—Continued

Petitioner Union/Workers of Former Workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
United Technologies, Diesel Systems (IUE)	Springfield, MA	5/20/86	5/14/86	TA-W-17,743	Diesel pump systems.
Rando Machine Corp. (workers)	Macedon, NY	7/17/86	7/10/86	TA-W-17,744	Machinery for the cleaning, opening, blending & feeding of fiber for yarn manufacturing.
CTS Corp. (IUE)	Skyland, NC	7/17/86	7/14/86	TA-W-17,745	Component electronics.
SCM Metal Products (Boilermakers)	Hammond, IN	7/16/86	7/9/86	TA-W-17,746	Cooper powder, bronze powder, tin powder.
Ramsey Piston Ring Div., TRW Automotive Products (workers).	Manchester, MD	7/17/86	7/15/86	TA-W-17,747	Piston rings for cars, tractors.
Glen Invan Corp. (workers)	Penfield, PA	7/17/86	7/14/86	TA-W-17,748	Mining and sales of coal.
Sojourner Drilling Corp. (workers)	Abilene, TX	7/16/86	7/11/86	TA-W-17,749	Drilling & prospect oil and gas.
Midland Ross Corp., Midtex Div. (IUE)	North Mankato, MN	7/17/86	7/14/86	TA-W-17,750	Electronic components.
Smith Drilling Co. (workers)	Lawrenceville, IL	7/16/86	7/11/86	TA-W-17,751	Oil drilling.
Sivall, Inc. (workers)	Odessa, TX	7/15/86	7/11/86	TA-W-17,752	Oil and gas processing equipment.
Genex Corp. (workers)	Paducah, KY	7/16/86	7/14/86	TA-W-17,753	L-Phenylalanine.
Marie Dianne Fashions (ILGWU)	Springfield, MA	7/14/86	7/11/86	TA-W-17,754	Women's skirts.
E. Berhard Faber, Inc. (OCAW)	Mt. Top, PA	7/15/86	7/11/86	TA-W-17,755	Pencils and markers.
Canteen/Vending (company)	Kansas City, MO	7/22/86	7/14/86	TA-W-17,756	Innertubes—tires.
The Timken Co. Timken Research (workers)	Canton, OH	4/29/86	4/21/86	TA-W-17,757	Experimental work on new machines also steel and roller bearings.
Lynchburg Foundry Co. (USWA)	Radford, VA	7/16/86	7/14/86	TA-W-17,758	Automotive castings.
Lapanto Garment Co. (workers)	Lapanto, AR	7/14/86	7/10/86	TA-W-17,759	Womens dresses.
Wood Wireline Service Inc. (workers)	Gillette, WY	7/14/86	6/26/86	TA-W-17,760	Wood wireline.
Mindy Leathers Fashion Inc. (workers)	New York, NY	7/10/86	7/7/86	TA-W-17,761	Leather fashions.
Eagle Casing (workers)	Williston, N.D.	6/25/86	6/21/86	TA-W-17,762	Casing and tubing for oil wells.
Federal Cartridge Corp. (workers)	Anoka, MN	7/23/86	7/18/86	TA-W-17,764	Sale and manufacture of ammunition primers.
Four Flags Drilling Co., Inc. (workers)	Corpus Christi, TX	7/21/86	7/11/86	TA-W-17,764	Oil well drilling.
Massey Construction (workers)	Odessa, TX	7/14/86	7/7/86	TA-W-17,765	Crude oil.
Trojan Luggage Co. (United Furniture Wkrs of America)	Memphis, TN	5/5/86	5/2/86	TA-W-17,766	Tote bag, luggage, footlockers and attache cases.
Laurens Shirt Corp (workers)	Laurens, SC	7/23/86	7/9/86	TA-W-17,767	Woven shirts.
Precison Exploration Co., Inc. (workers)	Olney, IL	7/23/86	7/14/86	TA-W-17,768	Drilling rigs.
Bristol Myers Co., Industrial Div. (workers)	Syracuse, NY	7/16/86	7/11/86	TA-W-17,769	Pharmaceutical products.
Diamond Shamrock Exploration Co. (workers)	Amarillo, TX	7/14/86	6/19/86	TA-W-17,770	Oil and gas exploration.
Hensey Drilling Co. (workers)	Dallas, TX	7/14/86	7/3/86	TA-W-17,771	Crude oil.
Sytetek, Inc. (workers)	Laurel, MA	7/11/86	7/3/86	TA-W-17,772	Plastic heels for shoes.
El Paso Assemblies, Auto Assemblies, Inc. (workers)	El Paso, TX	6/24/86	6/17/86	TA-W-17,773	Electrical power cords and harnesses.
Byron Jackson Pump Div., Borg-Warner Corp. (OCAW)	Tulsa, OK	6/30/86	6/17/86	TA-W-17,774	Castings.
Eastman Whipstock Inc. (workers)	Abilene, TX	7/14/86	7/8/86	TA-W-17,775	Oil drilling and down hole tools.

[FR Doc. 17600 Filed 8-4-86; 8:45 am]
BILLING CODE 4510-30-M

[TA W-17067, etc.]

Nova Manufacturing Co., Red Boiling Springs, TN; et al., Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 27, 1986, applicable to all workers of Nova Manufacturing Company, Red Boiling Springs, Tennessee. The Notice of Certification was published in the Federal Register on July 18, 1986 (51 FR 25764).

Additional information furnished to the Department by the company revealed that the New York office provided administration, sales nd other support operations to the Tennessee plant. All employees at both locations were laid off on October 31, 1985.

The intent of the certification is to cover all workers of the Nova Manufacturing Company at both locations who were affected by the decline in the sales or production of ladies' jeans and dress pants related to import competition. The notice therefore, is amended by including workers at the New York office of George J. Nova, Inc., d/b/a Nova Manufacturing Company, New York, New York under the certification issued to workers of Red Boiling Springs, Tennessee of the Nova Manufacturing Company.

The amended notice applicable to TA-W-067, is hereby issued as follows: "All workers of Nova Manufacturing Company, Red Boiling Springs, Tennessee and George J. Nova, Inc., d/b/a Nova Manufacturing Company, New York, New York who became totally or partially separated from employment on or after December 11, 1984 and before November 30, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 23rd day of July 1986.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 86-17602 Filed 8-4-86; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration

OMB Circular A-76 Management Study; Office of Workers' Compensation Programs Mail and File Operations Nationwide

AGENCY: Employment Standards Administration (ESA), Labor.

ACTION: Notice of OMB Circular A-76 Management Study.

SUMMARY: The Office of Management, Administration and Planning (OMAP), ESA, has scheduled an OMB Circular A-76 management study of the Office of Workers' Compensation Programs mail and file operations nationwide to begin on August 18, 1986.

FOR FURTHER INFORMATION CONTACT:

Kenneth I. Jacobson, 202-523-7564

or

Aaron L. Shapiro, 202-523-7601.

Signed at Washington, DC, this 31st day of July, 1986.

Carol A. Gaudin,

Director, Office of Management, Administration and Planning.

[FR Doc. 86-17603 Filed 8-4-86; 8:45 am]
BILLING CODE 4510-27-M

Wage and Hour Division

Certificate Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949 53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firm listed in this notice has

been issued a special certificate authorizing the employment of learners at hourly wage rates lower than the minimum wage rate otherwise applicable under section 6 of the Act. The effective and expiration dates, number of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the caption below are as established in those regulations.

The following certificate was issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended).

Flushing Shirt Mfg. Co., Inc., Waynesburg, PA; 04–18–86 to 04–17–87; 10 learners for normal labor turnover purposes. (Work Shirts)

The learners certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of this certificate may seek a review or reconsideration thereof on or before August 20, 1986.

Signed at Washington DC, this 30th day of July 1986.

Paula V. Smith,

Administrator.

[FR Doc. 86–17604 Filed 8–4–86; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[86–54]

Intent To Grant an Exclusive Patent License; Enerpro, Inc.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Enerpro, Inc., Goleta, California, a limited, exclusive, royalty-bearing, revocable license to practice the inventions as described in U.S. Patent No. 4,388,585 for a "Electrical Power Generating System," which issued on June 14, 1983 and U.S. Patent No. 4,473,792 for "Coupling An Induction Motor Type Generator to A.C. Power Lines," which issued on September 25, 1984, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATE: Comments to this notice must be received by October 6, 1986.

ADDRESS: National Aeronautics and Space Administration, Code GP Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453–2430.

Dated: July 29, 1986.

John E. O'Brien,

General Counsel.

[FR Doc. 86–17548 Filed 8–4–86; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–498A]

Houston Lighting and Power Co. et al.; No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the construction permit review of Unit 1 of the South Texas Project by the Attorney General and the Commission. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the 'significant change' determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the issuance of the South Texas construction permits to Houston Lighting and Power Company, et al. and the consummation of the settlement agreement before the Commission, the staffs of the Planning and Resource Analysis Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

"In reaching this conclusion, the staff considered the structure of the electric utility industry in east Texas, the events relevant to the South Texas construction permit review and the antitrust settlement subsequent to the constuction permit review.

"The conclusion of the staff's analysis is as follows: 'Prior to the antitrust settlement agreement before the Nuclear Regulatory Commission (NRC), competition for the purchase or sale of power and energy and related ancillary services in the Texas bulk power market was primarily limited to intrastate power transactions. This intrastate power network has remained in tact for many years—notwithstanding the fact that some power entities doing business on the perimeter of the state of Texas as well as some systems within the state have expressed interest in interstate bulk power transactions for quite some time. Although the Texas bulk power market has remained primarily intrastate in nature, there have been several changes since the NRC settlement in 1980 that have provided competitive stimuli to this market—particularly in the areas served by the applicant systems.

"The change that has had the greatest impact in the Texas bulk power market has been the implementation of the settlement agreement. Although both direct current (DC) transmission ties with the Southwest Power Pool (SWPP) have not been completed and DC wheeling rates not finalized, the North tie has been completed and the Central and South West operating systems are exchanging power and energy over this tie. Plans have been developed to expand the North tie (as contemplated in the settlement agreement) to accommodate a significant power transfer by a Texas co-generating entity. Capacity (15%) in both DC interties has

been reserved for firm power transactions for power systems wishing to buy or sell in the interstate market. Moreover, wheeling to, from or over the DC interties is now available to any system wishing to access the DC interties.

'To remedy a growing need to redistribute power from co-generators concentrated in industrialized pockets in the state, the Texas Public Utility Commission promulgated rules requiring mandatory transmission or wheeling of co-generated power in Texas. These rules have enabled corporate entities, heretofore spectators on the fringes of the Texas bulk power market, to market their by-product power and energy and become players in the market, i.e., barriers to entry into the production and sale of bulk power in Texas have been lowered as a result of the newly adopted wheeling rules.

'Increased coordination and cooperation among bulk power suppliers has resulted in a more open market in the state of Texas over the past five years. Houston Lighting & Power C. (HLP) has increased and extended a power purchase agreement with the City of Austin and entered into a wholesale power purchase agreement with the Public Service Board of the City of San Antonio. A computer controlled bulletin board, advising all members of the Electric Reliability Council of Texas (ERCOT) of available power and energy in the state is now in place, making "shopping" for power and energy easier for all systems in the state and enabling power systems to better meet the individual needs of their systems.

'All types of power entities in Texas, municipal, cooperative and investor owned, are beginning to explore joint generation projects both within and outside the state. The concept of interstate planning and participation in interstate power projects is a new one for most Texas power entities. Although the movement to interstate cooperation and competition is still in its embryonic stages in Texas, this movement was contemplated by and provided for in the antitrust settlement agreement before both the NRC and the Federal Energy Regulatory Commission. (The settlement agreement provides for requests for capacity increases and ownership purchases in the DC interties at intervals of every three years beginning in June of 1986 and lasting until June of 2004.) It is anticipated that this movement toward increased cooperation and competition will continue among intrastate power systems within Texas and also between intrastate power systems wishing to engage in joint power supply planning and power supply transactions across state borders.

'Staff's analysis of the changes in the licensees' activities since the antitrust settlement, has not identified any significant negative activities which have adversely impacted the competitive process on-going in the Texas bulk power market. Although there are still physical impediments to complete synchronous operations between most Texas power entities and systems outside of Texas, i.e., there are no major alternating current interconnections between ERCOT and the SWPP, the settlement agreement provided power systems inside of Texas as well as in surrounding states the opportunity to exchange power and energy and engage in bulk power transactions. Staff views the settlement agreement as a major first step in opening up power supply options to all power entities in ERCOT and the SWPP. Based upon the successful implementation of the settlement agreement to date and the lack of any significant negative competitive activities by the licensees since the settlement agreement, staff recommends that a no significant change determination be made pursuant to the application for an operating license for Unit 1 of the South Texas Project.'

"Based upon the staff's analysis, it is my finding that there have been no 'significant changes' in the licensees' activities or proposed activities since the completion of the previous antitrust review in connection with the construction permit."

Signed on July 25, 1986, by Harold R. Denton, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding, may file, with full particulars, a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the **Federal Register**. Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the OL, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated in Bethesda, Maryland, this 29th day of July 1986.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 86-17576 Filed 8-4-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extention of Approval Under the Paperwork Reduction Act of the Information Collection Requirement Contained in 29 CFR Part 2623

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMN approval of extension.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for an extension of the expiration date of a currently approved information collection requirement (1212–0029). The information collection, which is scheduled to expire on August 31, 1986, is contained in PBGS's regulation on Benefit Reductions in Terminated Single-Employer Pension Plans and Recoupment of Benefit Overpayments, 29 CFR Part 2623. Under that regulation, the administrator of a terminated pension plan that is covered by the PBGC insurance program must reduce benefit to an estimated guaranteed benefit level. The plan administrator must also submit to the PBGC information concerning the action taken. There has been no change in the substance or in the method of information collection under the regulation. The effect of this notice is to advise the public of PBGC's request for OMB approval of an extension of its authority to collect this information.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–

956-8050 (202-856-5068 for TTY and TDD). These are not toll-free numbers.

Issued at Washington, DC, this 30th day of July 1986.

Kathleen P. Utgoff,

Executive Director.

[FR Doc. 86-17592 Filed 8-4-86; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHARGE COMMISSION

[Release No. IC-15212; File No. 812-6404]

Thirteen Star Partners, Ltd.; Application

July 30, 1986.

Notice is hereby given that Thirteen Star Partners, Ltd. ("Applicant"), a Florida limited partnership, 180 Park Avenue North, Suite 2-B, Winter Park, Florida 32789, filed an application on June 2, 1986, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting Applicant from all provisions of the Act. All interested persons are referred to application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for all the applicable provisions thereof.

Applicant was formed for the purpose of participating in the distribution of thirteen designated motion pictures ("Pictures") through the acquisition of a limited partnership interest in Warner Bros. Thirteen Star Distributing Company, a California limited partnership ("Venture"). Allen J. Schwalb will act as the general partner of Applicant ("General Partner") and Warner Bros. Distributing Corporation ("Warner") will act as general partner of the Venture and will contribute certain rights in the Pictures to the Venture as its capital contribution, as well as cash needed to meet expenses in excess of Applicant's contributions.

Applicant states that it intends to offer a minimum of 7½ and a maximum of 377 units of limited partnership interest ("Units") pursuant to Regulation D promulgated under the Securities Act of 1933 ("Securities Act") at a price of $240,000 per Unit ("Offering"). The total purchase price per Unit is payable through a "subscription capital contribution" of $88,000, and an "additional capital contribution" of $152,000. The additional capital contribution of $152,000 per Unit is to be payable through the proceeds of a loan to the limited partner from Bank of America, Los Angeles, California ("Loan").

According to the application, the Units will be offered through the Applicant and various members of the National Association of Securities Dealers' registered broker/dealers. Each investor will receive a private placement memorandum fully describing the Offering, prepared in accordance with Regulation D. Applicant will file with the Commission a Notice of Sales of Securities pursuant to Regulation D or section 4(6) on Form D relating to the sale of the Units under the Securities Act. Each prospective investor must have: (a) A net worth (exclusive of house, furnishings and automobiles) of at least $400,000 per Unit purchased (prorated for fractional Units, but not less than $200,000); and (b) estimated taxable income for Federal income tax purposes for 1986 subject to tax at the 50% marginal rate if more than one half Unit is purchased or the 40% marginal rate if one half Unit or less is purchased.

Applicant states that the purpose of the Venture is to own, distribute and exploit the Pictures. Warner, as the general partner of the Venture, must use the amount contributed by Applicant to distribute and exploit the Pictures. Warner will contribute to the Venture all of its right, title and interest in and to each Picture necessary to exploit the Pictures in media in the United States to the extent owned by Warner. Applicant's contribution to the Venture will be used primarily to fund certain advertising and releasing costs incurred by the Venture in connection with the Pictures. Eleven of the Pictures are scheduled to be released between September and December 1986 and two of the Pictures are scheduled for release in 1987.

Applicant states that although the Agreement of Limited Partnership of the Venture ("Venture Agreement") contains no requirements concerning how Warner should advertise or release the Pictures or how much of the Venture's assets Warner shall expend with respect to any Picture, Warner, as the general partner of the Venture, has a fiduciary duty to exercise its business judgment in good faith and Applicant expects that Warner will distribute the Pictures in accordance with the customary standards and practices of Warner and the motion picture industry.

Warner is responsible for the day-to-day operation of the Venture, having sole and complete authority to make all decisions as to the distribution and exploitation of the Pictures. Warner, however, is obligated to devote only such time to the Venture as it, in its sole discretion, determines to be necessary and appropriate. Applicant is entitled to participate in certain major decisions regarding the Venture's business. In particular, Warner would need Applicant's consent to revise the Venture Agreement or to dispose of substantially all of the Venture's assets.

Applicant will be entitled to allocations of items of gross income and gain measured by certain percentages of gross receipts of the pictures, as well as by certain fixed amounts. "Gross receipts" are generally defined as all monies received by the Venture or Warner, without any reductions, from the following sources in the U.S.: Theatrical exhibition of the Pictures; non-theatrical exhibition of the Pictures; network, pay/cable and syndicated television; and specifically defined percentages of certain ancillary income. Applicant will generally be allocated 99% of all items of the Venture's losses and deductions attributable to the Venture's cash expenditures (primarily advertising expenses and the management fee to Warner), as well as to amortization of positive release prints of the Pictures, until Applicant has been allocated an amount of loss and deduction equal to its capital contribution. Warner is allocated 100% of all items of deduction attributable to depreciation of the Pictures and all other deductions not allocated to Applicant.

All items of Applicant's income, gain, loss and deduction will be allocated 98% to the Limited Partners and 2% to the General Partner, with the exception of certain special allocations. Items of Applicant credit will be allocated 98%, or the maximum permitted by law, if different, to the Limited Partners, with the balance to the General Partner. All items allocated to the Limited Partners as a group generally will be allocated among them in accordance with the respective number of Units owned by each. In the event that all Limited Partners are not admitted on the same date, the allocations per Unit for 1986 may differ depending on admission dates.

Distributions of available cash will be made by Applicant beginning in 1987. Distributions will generally be made 98% to the Limited Partners and 2% to the General Partner, with the exception of permitted distributions made in return of capital and distributions, the proceeds of which must be used to make payments of principal and interest under the Loan. It is expected that substantial portions of such cash distributions in 1987, 1988 and 1989 will be used to make payments of principal under the Loan. Upon the dissolution of Applicant, the General Partner will liquidate the assets as promptly as is consistent with obtaining a fair value. Any gains

therefrom will be first allocated pro rata to all partners who have a negative balance in their capital account in order to bring such accounts up to zero, and thereafter gains and losses will allocated in accordance with allocation provisions described above.

Applicant concedes that it may be characterized as an investment company as defined in section 3(a) of the Act, but submits that it is part of a unique business agreement of a type that Congress did not intend to be regulated pursuant to the Act, and that therefore its exemption from the Act would be appropriate in the public interest, and consistent with the protection of investors and the purposes clearly intended by the policy and provisions of the Act. Unlike securities held by traditional investment companies, it is asserted that Applicant's interest in the Venture will not be liquid, mobile, or readily negotiable. Applicant will have no discretion with regard to investing the net proceeds raised in the Offering and will not be able to make any other investments. The use of all proceeds obtained by Applicant from any source have been prescribed by the Partnership Agreement and the Venture Agreement.

Finally, Applicant contends that investors in Applicant will be amply protected by: (a) Full disclosure in the private placement memorandum of all aspects of their investment; (b) suitability standards for prospective investors established by Applicant; (c) limitation on the discretion of Applicant's General Partner; (d) right of Limited Partners provided under the Partnership Agreement and Florida law; and (e) reporting requirements imposed on Applicant and the Venture.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 20, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issue, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17590 Filed 8-4-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23474; File No. SR-CBOE-86-22]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to RAES in Equity Options; Member Eligibility Criteria

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The following text is new.

the followtng describes eligibility criteria for members to participate as contra-brokers on RAES in equity options for a six-month pilot program (as more fully described in SR-CBOE-85-16):

RAES Eligibility in Equity Options

1. Any Exchange member who has registered as a market-maker is eligible to log onto RAES in equity options, so long as the following requirements are met.

2. The market-maker must log onto the system using his own acronym and individual password. All RAES trades to which the market-maker is a party will be assigned to and will clear into his designated account.

3. The market-maker may designate that his trades be assigned to and clear into either his individual account or a joint account in which he is a participant. Consistent with existing Exchange rules and interpretations thereof, only one participant in a joint account may use the joint account for trading in a particular option class at one time, either on RAES or in regular trading.

4. A market-maker may log onto RAES in a particular equity option only in person and may continue on the system only as long as he is present in that trading crowd. A member may not remain on the RAES system and must log off of the system when he has left the trading crowd, unless the departure is for a brief interval.

5. Failure of a member to abide by these eligibility requirements, including but not limited to logging off RAES upon leaving the trading crowd will be subject to disciplinary action under, among others, Rule 6.20 and Chapter XVII of the Exchange Rules. Such failure may also be the subject of remdial action by the Market Performance Committee, including but not limited to suspending a member's eligibility for participation on RAES.

6. In unusual market conditions, the Exchange may grant exemptive relief from these provisions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

This proposed rule change set forth RAES eligibility criteria for market-makers to participate in the RAES pilot in equity options.

The Exchange believes that the criteria set forth in the proposed rule change are consistent with the Act, in reaching a fair accommodation between in-person participation in the system and the eligibility of all competing market-makers to be on the system in that event. The proposed rule change also provides that the Exchange may waive the in-person eligibility requirement in the event of unusual market conditions. This is provided because, given the Exchange's lack of experience in piloting RAES in equity options, it is not known whether there will be sufficient interest among market-makers in a trading crowd to allow RAES to continue in a particular equity option.

The requirements relating to which accounts may be placed on the RAES system are generally consistent with existing Exchange rules and interpretations thereof. The Exchange believes that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and in particular Section 6(b)(5) thereof because the proposed rule change is designated to increase market depth and liquidity and to provide an efficient and fair system for the accommodation of customer transactions on the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days fo the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 26, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 29, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17588 Filed 8-4-86; 8:45 am]

BILLING CODE 8010-01-M.

[Release No. 34-23472; File No. SR-CSE-86-3]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Dues and Fee Increases

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on July 7, 1986, the Cincinnati Stock Exchange ("Exchange") filed with Securities asnd Exchange Commission the Proposed Rule Change as described in Items I, II, III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed Rule Change increases the transaction fee for designated dealers, establishes certain new fees, modifies the discount schedule applicable to gross fees, and raises membership dues. Below is the text of the proposed rule change. (Additions italicized, deletions bracketed).

National Securities Trading System Fees [1]

(a) * * *

~~(b)~~ * * *

(c) *$0.0125* [0.01] will be charged designated dealer members when acting as principal, except when acting as principal as described in (d) below.

(d) * * *

(e) * * *

(f) * * *

(g) Except for the first $0.005 per share charged designated dealer members when acting as principal against a public agency order of another CSE member, and the $0.005 per share charge described in (d) above, discounts will be applied to both Proprietary Member's and non-members' total gross fees charged in any given month as follows:

Gross fees	Discount
Up to $10,000	0%
$10-$25,000 [$10-$20,000]	*5%* [10%]
$25-$50,000 [$20-$40,000]	*10%* [20%]
$50-$75,000 [40 and above]	*15%* [30%]
$75-$100,000	*20%*
$100,000 and above	*25%*

[1] The Commission previously has approved the establishment of a fee schedule by the CSE for National Securities Trading System trades. *See* Securities Exchange Act Release No. 18400 (January 11, 1982), 47 FR 2987.

(i) *Each member will be charged $10 per month for each NSTS security in which such member is a designated dealer. Multiple designated dealers in the same NSTS security will each be charged a fee for such security.*

(j) *Each designated dealer member will be charged $100 per month for each NSTS device (video or printer) used by such member.*

Exchange Dues

The dues of all proprietary members shall be *two thousand dollars ($2,000)* [fifteen hundred dollars ($1,500)] per annum payable quarterly, in advance, on January 1st, April 1st, July 1st, and October 1st.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Proposed Rule Change is to fund increased operational and administrative expenses.

The Proposed Rule Change is consistent with section 6(b)(4) of the Securities Exchange Act of 1934 (the "Act"), which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the Proposed Rule Change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

The Exchange has neither solicited nor received comments on the Proposed Rule Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission such action is necessary or appropriate in the

public interest for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securites and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 26, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 28, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17589 Filed 8-4-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5494]

Zaitech Capital Corp.; Issuance of a Small Business Investment Company License

On February 14, 1986, a notice was published in the **Federal Register** (51 FR 5633) stating that an application has been filed by Zaitech Capital Corporation with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business March 14, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5494 on June 5, 1986, to Zaitech Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: July 28, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-17562 Filed 8-4-86; 8:45 am]

BILLING CODE 8025-01-M

[Designation of Disaster Loan Area #6417]

Designation of Disaster Loan Area; New Jersey

The Town of Kearny, New Jersey constitutes a disaster area because of a severe explosion and fire which occurred in the Kearny Industrial Complex on May 26, 1986. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on April 28, 1987, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410

or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 10.5 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 28, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-17561 Filed 8-4-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 974]

Ratification of Convention on Wetlands of International Importance, Especially Waterfowl Habitat; Finding of No Significant Impact

Correction

In FR Doc. 86-16488 beginning on page 26494 in the issue of Wednesday, July 23, 1986, the public notice number in the heading of the document was incorrect and should read as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Approval of Applicant as Trustee; Chase Lincoln First Bank

Notice is hereby given that Chase Lincoln First Bank, N.A., with offices at 20 Clinton Avenue South, Rochester, New York, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: July 30, 1986.

By Order of the Maritime Administration.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 86-17553 Filed 8-4-86; 8:45 am]

BILLING CODE 4910-81-M

Saint Lawrence Seaway Development Corporation

Establishment of the Advisory Group on Strategic Planning for the St. Lawrence Seaway

Correction

In FR Doc. 86-16274, beginning on page 26200, in the issue of Monday, July 21, 1986, make the following corrections.

1. On page 26200, second column, last paragraph, third line, "Administration" should read "Administrator".

2. On the same page, third column, twenty-second line, "Fednay" should read "Fednav".

3. On the same page, same column, fifth paragraph from the bottom, third line, "of" should read "or".

BILLING CODE 1505-01-M

TENNESSEE VALLEY AUTHORITY

Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of

Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2524, FTS 858–2524

Type of Request: Regular Submission

Title of Information Collection: Interlock/Small Element Water Heater Field Test Telephone Survey

Frequency of Use: Nonrecurring

Type of Affected Public: Individuals or households

Small Businesses or Organizations Affected: No

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 50

Estimated Total Annual Burden Hours: 16.7

Need For and Use of Information: This information is needed to assess the feasibility of small element electric water heaters, and interlocking electric water heater and central air-conditioning systems for reducing peak electrical loads and power production costs.

Dated: July 29, 1986.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 86–17538 Filed 8–4–86; 8:45 am]

BILLING CODE 8120-01-M

VOL
51
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Sunshine Act Meetings

Federal Register
Vol. 51, No. 150
Tuesday, August 5, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Communications Commission	1
United States Institute of Peace	2

1

FEDERAL COMMUNICATIONS COMMISSION

July 31, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, August 7, 1986, which is scheduled to commence at 8:30 A.M., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

General—1—Title: Inquiry into Scrambling of Satellite Television Signals and Access to those Signals by Owners of Home Satellite Dish Antennas. Summary: The Commission will consider whether to adopt a Notice of Inquiry in this proceeding.

General—2—Title: Notice of Proposed Rule Making and Notice of Inquiry to Establish an Automatic Transmitter Identification System for Radio Transmitting Equipment. Proposed Rules—Part 25, Inquiry—All Other Services. Summary: The FCC will consider adopting a proposed rule for video satellite uplinks and an inquiry for all other services concerning a system to automatically identify radio emissions. The benefits of automatic identification to spectrum management will be considered.

Common Carrier—1—Title: In the Matter of Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers. Summary: The Commission will consider Petitions for Reconsideration of the Phase II Order in CC Docket No. 84-800. The Commission will also consider prescriptions of authorized interstate rates of return in Phase III of CC Docket No. 84-800.

Mass Media—1—Title: Amendment of Part 76 of the Commission's Rules Concerning Carriage of Television Broadcast Signals by Cable Television Systems (MM Docket No. 85-349). Summary: The Commission will consider a Report and Order in the matter of mandatory signal carriage rules for cable television systems.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Issued: July 31, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-17651 Filed 8-1-86; 11:27 am]

BILLING CODE 6712-01-M

2

UNITED STATES INSTITUTE OF PEACE

TIMES AND DATES: 11:00 a.m.-5:00 p.m., Thursday, August 14, 1986; 9:30 a.m.-5:00 p.m., Friday, August 15, 1986.

PLACE: National Trust for Historic Preservation, 1785 Massachusetts Avenue, NW., Washington, DC 20036—2d floor board room.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98-525).

AGENDA (TENTATIVE): Meeting of Board of Directors convened. Consideration of minutes of previous meetings. President's report. Committee meetings and reports. Reports on status of grants programs; the Endowment of the United States Institute of Peace; the Jennings Randolph Program for International Peace; internship program; and essay contest. Consideration of grant applications.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 789-5700.

Dated: July 31, 1986.

Robert F. Turner,

President, United States Institute of Peace.

[FR Doc. 86-17626 Filed 8-1-86; 10:17 am]

BILLING CODE 6820-PA-M

federal register

Tuesday
August 5, 1986

Part II

Federal Election Commission

11 CFR Part 9001 et al.

Public Financing of Presidential Primary and General Election Candidates; Notice of Proposed Rulemaking

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VOL 51 ISS 150 5 1986 AG UMI

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 9001 Through 9007, 9012, 9031 Through 9039

Public Financing of Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission requests comments on proposed revisions to its regulations governing publicly financed Presidential primary and general election candidates. These regulations implement the provisions of 26 U.S.C. Chapters 95 and 96, the "Presidential Election Campaign Fund Act" and the "Presidential Matching Payment Account Act". These statutes establish the requirements for determining when Presidential candidates are eligible for public financing, how such funds may be spent and the Commission's obligation to audit publicly financed campaigns and to seek repayment when appropriate. The proposed rules reflect the Commission's experience in administering this program during the 1984 elections and also seek to anticipate some questions that may arise in 1988. In addition to requesting comments on the specific proposals in this notice, the Commission is seeking comment on several issues that could also be addressed in a revision of these rules. One of these issues is a discussion of the statutory provision governing bank loans, at 2 U.S.C. 431(8)(B)(vii), which could have implications for all candidates and political committees, including Presidential candidates who receive public funding. Further information is provided in the supplementary information which follows.

DATE: Comments must be received on or before September 19, 1986.

ADDRESS: Comments should be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 376–5690 or Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is reviewing its regulations governing public financing of Presidential campaigns, at 11 CFR Parts 9001 *et seq.* and 9031 *et seq.*, in preparation for its administration of this program during the 1988 elections. While the changes under consideration are not as broad in scope as those undertaken for the 1984 elections, there are a number of areas being reviewed for possible revision. The Commission welcomes comments on the issues discussed in this Notice and on other aspects of the public financing process that could be addressed in these regulations. No final decision has been made by the Commission concerning any of the proposals contained in this Notice.

The proposed changes under consideration are intended to improve Commission administration of the matching fund program, to provide some new procedural benefits for candidates, and to clarify in the regulations how certain issues will be addressed during the public financing process. In addition to those areas for which proposed language has been drafted, this Notice raises several questions for possible resolution in the regulations which are not reflected in this draft of the proposed rules.

The following discussion highlights the major issues presented in this draft of the proposed rules. However, it does not address all of the changes. Therefore, commentors are urged to review the text of the attached regulations to insure that they are apprised of all revisions under consideration.

A. Bank Loans

One of the most difficult areas for Commission resolution in the 1984 election cycle concerned bank loans to candidates and political committees. This was a prominent issue with respect to publicly financed candidates, particularly due to the relatively large sums borrowed by such candidates, but was also raised with respect to Congressional candidates. The majority of problems arose in determining when a bank loan should be considered to be in the ordinary course of business in accordance with 2 U.S.C. 431(8)(B)(vii), and 11 CFR 100.7(b)(11) and 100.8(b)(12). In particular, questions have been raised regarding the meaning of the requirement that a bank loan be "made on a basis which assures repayment." The Commission seeks comment on three possible interpretations of this phrase, as well as any other suggested approaches. One interpretation would be to require that a candidate or committee provide some sort of collateral to secure the loan. If the Commission were to move away from the concept of more traditional forms of collateral, a second approach would be to consider a candidate's expectation of future contributions, public funds or perhaps other forms of future income, such as future interest income, as adequate assurance of repayment if the funds were deposited as received in a separate "collateral account". *See, e.g.*, Advisory Opinion 1980–108. The third possible approach would be for the Commission to change its prior interpretation and conclude that the statute only requires that a loan be evidenced by a written instrument and subject to a due date or amortization schedule to be considered made on a basis that assures repayment. In addition, loans would be expected to meet the other statutory requirements, such as that a loan bear the usual and customary interest rate of the lending institution.

These three alternatives raise additional questions for Commission consideration in this area. For example, if a lender requires collateral from a candidate or political committee, how should this apply to publicly financed candidates, who are limited to expending $50,000 of their personal funds (which would include a loan guarantee of this type)? Should the regulations specify what would be considered as acceptable collateral, and if so, what should be included on this list? How should a lender evaluate the ability of a candidate or political committee to raise future contributions, particularly in the case of a first-time candidate or new committee? What other assurance of repayment can a candidate, especially a publicly-funded candidate, offer?

It would be helpful to the Commission's consideration of this issue to also have a better understanding of lenders' experience in lending money to candidates and similar types of debtors. For example, what factors do lending institutions consider when making loans to candidates and political committees? How are these factors similar to, or how do they differ from, those considered when making loans to comparable organizations that rely on contributions for funding? Are there any generalizations that can be made regarding a lender's experience in loaning to political debtors? How do factors such as the rate of repayment by political debtors vs. non-political debtors affect the loan approval process? Are there any special problems in seeking repayment from political debtors, and does the amount of time past the due date after which collection proceedings will be instituted vary between political debtors and non-political debtors?

While the Commission is raising these questions today in the context of public financing, the issues regarding bank loans impact on other political committees and Federal candidates as

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well. One issue for Commission resolution, then, is whether to revise the regulations governing bank loans under Title 2 at 11 CFR 100.7(b)(11) and 100.8(b)(12), either as part of this rulemaking or as a separate regulatory revision, since those provisions are applicable to all candidates and committees including publicly financed candidates. A corollary question is whether the Commission should include any regulations in this area as part of the Title 26 regulations or concentrate instead on the Title 2 provisions. The Commission welcomes comments on the issues raised by bank loans and the application of the current regulations in this area to both publicly financed candidates and other candidates and political committees.

B. Debt Settlement and Extensions of Credit

The Commission was faced with several issues during the 1984 election cycle in the area of debt settlement by candidates and their authorized committees. One question concerned the effect of settled debts on the state and overall expenditure limits. Settlement of debts can have the effect of allowing candidates to circumvent the expenditure limits by incurring obligations and receiving the full value of goods and services, but later reducing the amount paid. As set forth in proposed § 9035.1(a)(2), the Commission would continue to count the full amount of the debt against the appropriate limits, rather than the amount for which the debt was settled, unless the candidate or committee can demonstrate that the value of goods or services received was lower than the amount originally owed. If the debt was included as a liability on the candidate's statement of net outstanding campaign obligations and was used as a basis for obtaining further matching funds, the later settlement of that debt could result in a Commission repayment determination for excess entitlement under proposed § 9038.2(b)(1).

Candidate or committee use of credit cards on which the candidate is jointly or solely liable has raised questions regarding the application of the $50,000 limit on expenditures from a candidate's personal funds under § 9035.2. In this situation, the candidate may in effect be extending credit to the campaign if the committee does not pay the balance due by the payment date. The Commission is considering adding new § 9035.2(a)(2) to provide that the use of such credit cards will count against the $50,000 limit if the committee does not pay the outstanding balance of charges on the card by the date payment is required on each billing statement. To avoid this result, the candidate should present the billing statement to the committee on receipt (where bills are not sent directly to the committee) and the committee should pay the outstanding balance in full before a finance charge is incurred.

Debts owed to the campaign have been a third source of questions under the current regulations. A candidate may reflect as an asset on the statement of net outstanding campaign obligations certain accounts receivable based on items such as billings for press reimbursements and deposit refunds. Although no proposed language addressing this issue has been included in this Notice, the Commission welcomes comments on how to determine when the settlement of these accounts or the failure to pursue payment is commercially reasonable and should increase the candidate's entitlement. Although the amount of individual accounts receivable varies, the total amount at issue can be substantial and can have a significant impact on the candidate's ability to receive further matching funds. The Commission does not want to impose undue documentation requirements in this area, but is considering whether to set a certain threshold amount, such as $500 above which a candidate must show that a decision not to pursue full payment of a particular receivable is commercially reasonable. The Commission also encourages comments on what standards could be applied to determine if the candidate's actions are commercially reasonable.

C. Efficient Administration of the Matching Fund Program

The draft rules contain several proposed revisions designed to streamline the Commission's review of matching fund submissions. Some of the proposed changes reflect the Commission's difficulty in meeting certification deadlines in 1984, and its expectation that a record number of candidates will qualify for public funding in 1988, at a time when staff resources may not be increased to meet the demand. For example, proposed § 9033.1(b)(5) would require, as part of the candidates' record production requirements, that candidates agree to provide a copy of a computer magnetic tape containing all information required to be maintained by law, if the campaign maintains its records on computer.

Other proposed changes would save time during the matching fund submission review process by providing that certain problems be addressed initially on an informal basis. Thus, the procedures for making eligibility determinations would be revised under proposed § 9033.4(b) to permit candidates an opportunity to cure deficiencies in their threshold submission before the formal process of finding the candidate ineligible is begun. Again, a similar change is under consideration with respect to the process for reviewing resubmissions under § 9036.5.

Several of the proposed changes would clarify in the regulations some of the documentation and other requirements for matching fund submissions. Some of the 1984 campaigns were unclear about certain requirements not fully set forth in the regulations. Proposed § 9036.1(b) would be revised to include documentation requirements for refunded contributions, joint fundraising proceeds and proceeds from entertainment events in the submission format. That proposed section would also add a requirement that submissions include a certification by the committee treasurer that the information provided is complete and accurate.

In the last election cycle, the Commission developed a new method for obtaining matching funds through letter requests during the candidate's period of eligibility. Letter requests may be submitted on alternate submission dates, and must be followed by full submissions documenting the funds certified in the letter request. On some occasions in the 1984 election cycle, this was not done and the Commission did not receive documentation for all or a portion of the funds certified. The proposed rules, at § 9036.2(b)(2), would clarify the requirement to submit documentation for letter requests on the next submission date and would also propose what action the Commission would take if a candidate fails to satisfy this requirement.

Some questions arose in the 1984 election cycle regarding the dates on which each candidate may make matching fund submissions and resubmissions. Proposed §§ 9036.2(a) and 9036.5(b) would be revised to clarify that each candidate will be notified of his or her submission dates when the Commission determines that the candidate has satisfied the requirements for eligibility under § 9033.4. Candidates would also be notified of the last date on which they may submit contributions for the first time and the last date for making resubmissions, in accordance with proposed §§ 9036.6 and 9036.5(b).

D. Statement of Net Outstanding Campaign Obligations

The Commission is considering several possible revisions regarding the statement of net outstanding campaign obligations that a candidate must submit under § 9034.5. First, the proposed rules would require that all statements submitted under that section contain a certification by the treasurer that the information reported is complete and accurate. As a second proposed change, each statement submitted after the initial statement would be required to include a brief explanation of any changes in the committee's assets and liabilities, to aid the Commission's calculation of the candidate's further entitlement for matching funds. The proposed rule would also expressly exclude from inclusion as liabilities, that could increase the candidate's entitlement, items such as amounts anticipated or determined to be repayable under Part 9038 and any accounts payable for non-qualified campaign expenses.

A final issue raised with respect to the statement of net outstanding campaign obligations concerns the valuation of committee assets. The Commission is proposing to raise the threshold value of capital assets, such as office furniture, that must be included on the statement from $500 to $1,000. Nonetheless, the Commission is also concerned that a substantial amount of committee assets may be liquidated for far less than their fair market value or even disposed of without reimbursement to the committee. Such disposition of assets reduces a committee's ability to pay debts with assets on hand and, thus, increases the candidate's entitlement to further matching funds. To ensure that committees are exercising good faith in using their own resources to raise funds and pay debts, the Commission is considering adding a provision to the regulations that would require documentation of the value of capital and fundraising assets upon their acquisition and disposition. This provision would apply only to assets worth in excess of a stated threshold amount at the time they are acquired, such as $500. It could include a standard depreciation percentage for capital assets, such as 40%, that committees could use to value such assets at the end of the campaign rather than documenting an item's actual fair market value. As in other areas, the committee could claim a higher depreciation percentage for an item if it can document the actual value of that item at the time of disposition. For candidates who become their party's nominee in the general election, a provision such as the one described here could also govern the valuation of and reimbursement for assets transferred from the primary campaign to the general election campaign. The Commission seeks comments on these proposals and welcomes suggestions for alternative approaches in this area.

E. Administrative Costs for Seeking Media Reimbursement

Under the current regulations, at §§ 9004.6 and 9034.6, candidates may seek reimbursement from media personnel for the costs of providing transportation and services to members of the media accompanying the candidate on campaign trips. While the regulations state that the full amount paid by the campaign for services provided to the media are qualified campaign expenses that count against the overall expenditure limit, the candidate may deduct from the expenses counting against this limit the amount of reimbursements received, to the extent the reimbursements do not exceed the actual costs of the services provided. In seeking reimbursement, however, the candidate is permitted to bill each member of the media an amount up to 110% of the actual cost of providing services to that person. The latter provision acknowledges the difficulties of administering a major transportation program in the midst of a campaign. Its intent is to give campaigns some flexibility in their accounting procedures during the campaign period and to determine the total expenditures that will count against the limit once the campaign is over.

Campaigns incur some administrative costs in providing services to the media and later seeking reimbursement for them. The Commission is considering whether to permit campaigns to recoup some of this cost, since these expenses are not wholly directed at furthering the candidate's campaign. Proposed §§ 9004.6(d) and 9034.6(d) would therefore allow candidates to deduct from the overall expenditure limit an amount of reimbursements received equal to 3% of the actual costs of providing such transportation and services, to represent the administrative cost to the committee of these services. It should be noted that this proposal would not permit candidates to seek greater reimbursements from the media; rather, it would only allow them to offset a greater amount of the reimbursements received against the limit.

F. Definition of Qualified Campaign Expense; Post-Ineligibility Entitlement

The current regulations, at § 9034.4(a)(3), permit candidates who are no longer eligible to continue to incur certain expenses, referred to as "winding-down costs," to terminate their committees' activity and comply with the postelection requirements of the Act, such as the mandatory audit and continued reporting. "Winding down costs", which are considered qualified campaign expenses and may be defrayed using federal funds, also include, under the current rules, expenses incurred before the candidate's date of ineligibility if a written commitment to make that expenditure was made before the date of ineligibility.

If a candidate becomes ineligible because he or she fails to receive more than 10% of the vote in two consecutive primary elections, the candidate's date of ineligibility is 30 days after the date of the second primary election. *See* 11 CFR 9033.5(b). This 30 day period can provide a substantial amount of time within which candidates may incur expenditures to continue their campaign after the date of eligibility using public funds, even though they have not met the test of substantial support required by the Act. In 1984, the Commission encountered several situations in which candidates had incurred expenditures before their date of ineligibility for goods and services to be received after that date. These expenditures included obligations for media airtime, as a continuation of the candidate's campaign, and for expenses such as attending the party's national nominating convention.

The Commission is considering revising § 9034.4(a)(3) to clarify that a candidate may not receive winding down costs for terminating his or her campaign unless the candidate's campaign is actually terminating and that expenditures incurred before the date of ineligibility are qualified only if the goods or services are received before the date of ineligibility. *See* proposed § 9034.4 (a) and (b). This proposed revision is not intended to prevent those candidates who wish to continue campaigning from doing so, but it is directed at effectuating the intent of the Matching Payment Account Act to limit the use of public funds by candidates who do not receive a significant portion of the vote. The Commission welcomes comments on this proposal.

G. Petitions for Rehearing; Stays of Repayment Determinations

The proposed rules contain two new sections at 9007.5 and 9038.5 that would set forth guidelines for candidates seeking petitions for rehearing and stays of repayment determinations before the Commission. Under proposed § 9038.5(a), for example, a candidate could request a rehearing following a final determination regarding the candidate's eligibility under § 9033.10, the candidate's entitlement to further matching funds under § 9034.5(f), or the candidate's repayment obligation under § 9038.2. Petitions for rehearing would be limited to new questions of law or fact that would materially alter the Commission's original decision and that could not have been presented during the earlier determination process.

Fed. R. App.P. 18 sets forth a procedure under which persons may apply for a stay of an agency order or decision pending an appeal of that order or decision in the court of appeals. The appellate rules require in most instances, however, that an application for a stay be made first to the agency itself, pursuant to 5 U.S.C. 705. Several candidates have submitted stay applications to the Commission and therefore the Commission is considering including a provision in the regulations to set forth guidelines for these applications. This issue was first raised in an Advance Notice of Proposed Rulemaking concerning Part 111 (50 FR 21077), but the comments on that Notice and Commission discussion of this issue have raised the point that stays are more relevant to publicly financed candidates and would be better addressed in that context.

The proposed language contained in new §§ 9007.5(c) and 9038.5(c) largely follows the standards applied by the Commission in the past, as described in the Advance Notice. These proposed standards could be augmented, however, by the inclusion of proposed §§ 9007.5(c)(3) and 9038.5(c)(3), which would offer further guidance on when the Commission would find that the applicant has shown a strong likelihood of success on the merits of the appeal. This standard would incorporate the decision of the United States Court of Appeals for the District of Columbia in *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977). While one comment on the Advance Notice urged adoption of a bond requirement in lieu of the standards applied by the Commission to date, no precedent has been discovered thus far indicating either that other agencies have taken this approach or that the appellate courts would view the posting of a bond as an acceptable alternative. Consequently, the Commission has retained the standards previously used for purposes of this Notice. The Commission welcomes further comment on these proposals.

H. Additional Repayment Issues

The Commission is considering two additional issues in the context of repayment obligations. The first of these addresses the relationship between the $50,000 limit on a candidate's expenditures from personal funds under 26 U.S.C. 9004(d) and 9035 and the candidate's ability to make repayments from personal funds. Title 26 conditions a candidate's eligibility for public funding on the candidate's agreement to repay funds as required following an audit, see 26 U.S.C. 9003(a)(3) and 9033(a)(3), and further states that the candidate shall pay any amounts determined to be repayable, see 26 U.S.C. 9007(b) and 9038(b). The statutes make no mention of any limit on the candidate's obligation to repay. Indeed, as this obligation is a key component of the public financing scheme, an argument that Congress would have limited the candidate's ability to make repayment, and to such a relatively small sum, appears difficult to sustain. Moreover, if the $50,000 limit were operative in this fashion, it would be easy for a candidate to avoid all personal responsibility for repayments simply by exhausting the limit in the course of the campaign. Proposed §§ 9003.2(c)(7) and 9035.1(a)(2) would therefore provide that the $50,000 limit does not affect the candidate's ability to make repayments. The Commission welcomes comments on whether this is a point that should be clarified in the regulations as well as any alternative viewpoints on the application of the $50,000 limit.

A second question faced by the Commission is whether there should be some mechanism to determine during audits of Presidential primary candidates when the committee no longer has federal funds in its account and therefore the Commission's examination of committee expenditures for non-qualified campaign expenses should cease. If the Commission were to adopt a cut-off date, it would likely be one after the end of the matching payment period, to ensure that the public financing requirements were not somehow being circumvented. Proposed § 9038.2(b)(2)(iii) describes one method of reaching a cut-off point, by reviewing a committee's expenditures on a last-in, first-out basis following the committee's final matching fund payment. An alternative approach would be to review these expenditures using the assumption that each expenditure is made using a combination of public and private funds in a ratio determined for each candidate. The Commission seeks comments on the appropriateness of making this calculation and on other means that could be used to reach this determination.

I. Filing Dates

The Commission has had difficulty, on occasion, in determining when responses from candidates are due since, under the current rules, the time for filing various documents generally runs from the date of the candidate's receipt of the relevant notice from the Commission. *See e.g.*, 11 CFR 9007.2(c), 9007.2(d), 9033.3(b), 9033.4(b), 9033.6(c), 9033.7(b), 9033.9(b), 9034.5(e), 9038.2 (c) and (d). A mutually ascertainable date would permit both parties greater certainty regarding when candidate responses are due. The proposed rules contained in this Notice would provide that the candidate's time for filing such responses begin to run from the date of service of the Commission's notice. It should be noted that the computation of time under these sections is done in accordance with 11 CFR 111.2. *See, eg.*, 11 CFR 9007.2(e) and 9038.2(e). Comments on other mutually ascertainable dates are encouraged.

J. Other Issues on Which No Language Is Proposed

The Commission has been faced with several other issues during its administration of the public financing program on which it would like comment. No proposed language has been included in this Notice on these issues, but the questions presented are described here to elicit comment on whether the regulations should address any of these issues and, if so, what would be the best approach for the Commission to take.

1. Distinction Between Expenses Incurred and Paid

In several of the audits of 1984 primary candidates, the Commission found expenses incurred that would be considered nonqualified campaign expenses. Although goods or services had been received, these expenses had not been paid at the time of the audit. The Commission was therefore presented with the question of whether to seek repayment on the basis of incurred costs or to wait and make additional repayment determinations as the debts are actually paid. While the

VOL 51 ISS 150 AG 5 1986 UMI

latter alternative could have the effect of discouraging payment of debt, the former option is complicated by the District of Columbia Circuit's opinion in *Kennedy for President* v. *FEC*, 734 F.2d 1558 (D.C. Cir. 1984). In that decision, the court held that the Commission may " 'recoup' only *the federal funds* spent for unqualified expenditures". *Kennedy, supra* at 1565 (emphasis in original). This decision raises the question of the Commission's authority to seek repayment for non-qualified campaign expenses until after they are paid. The Commission seeks comments on whether this question should be addressed in a revision of the public financing regulations and, if so, how the Commission can proceed in a manner which is both consistent with the case law and encourages payment of debts by candidates. It should be noted that the *Kennedy* decision recognizes that the Commission may also seek civil penalties under 2 U.S.C. 437g in an appropriate case.

2. Expenditures Made During the Primary Election That Benefit the Candidate's General Election Campaign

Under § 9003.4 of the current regulations, a general election presidential candidate may make certain expenditures for goods and services prior to the beginning of the general election expenditure report period and the candidate's receipt of federal funds. The ability to make such expenditures is predicated on 26 U.S.C. 9002(11)(B). In the 1984 election cycle, some of these expenditures were made prior to the selection of the candidate as the party's nominee, at the height of the primary campaign. Certain of these expenditures appeared not to be for the purpose of influencing the candidate's nomination, as they occurred after the date of the primary in the relevant states. Others may have been intended to influence both the candidate's nomination and election. This has posed several questions for the Commission. The first question under consideration is whether there should be further clarification in the regulations regarding the kinds of expenditures that may be incurred before the beginning of the general election expenditure report period. If the Commission decided to limit these kinds of expenditures, what should the limits be? A second area for possible revision concerns the effects on the primary campaign of the use of primary election funds for general election purposes. The corollary of this issue is also pertinent, regarding the effect of this activity on the general election campaign. Finally, the Commission is considering what standards should be applied for allocation of expenditures that can be viewed as benefitting both the primary and general election campaigns.

3. Payment of Salary to Candidate

During the 1984 election cycle, a candidate posed the question of whether candidates may be paid a salary by a publicly-financed campaign as a qualified campaign expense. The Commission is considering whether to address this issue in the regulations and seeks comments on whether there are circumstances under which payment of a salary to a publicly financed candidate should be viewed as a qualified campaign expense. Since it is not possible to address all situations in the regulations, the Commission is interested in comment on whether the existing regulations defining qualified and non-qualified campaign expenses, at 11 CFR 9002.11, 9004.4, 9032.9 and 9034.4, provide adequate guidance in this area.

4. Effect of Past Actions as a Publicly Financed Candidate

In 1984, the Commission had to determine whether a publicly financed candidate who had not yet satisfied repayment and civil penalty obligations from the prior election cycle should be deemed eligible for public funding in the current election cycle. As this is an issue that could arise again in future election cycles, the Commission is considering whether to include a provision in the regulations discussing the effect of the candidate's past performance on future eligibility determinations. While it may be appropriate to consider as a factor whether a candidate has repudiated statements made in an earlier candidate agreement that the candidate will make any necessary repayments and pay civil penalties, there will undoubtedly be cases in which a candidate is still pursuing in good faith appropriate appeals from an earlier election cycle. The Commission seeks comments on whether to include a provision in the regulations regarding the candidate's satisfaction of public financing requirements in an earlier election cycle. If the Commission does include this as a factor in eligibility determinations, one important question would be the standard for judging earlier performance under the candidate agreement. Should past performance operate solely to delay a finding of eligibility until the earlier condition is satisfied, or are there circumstances that would warrant complete denial of eligibility? Although the Commission's experience to date has been limited to the question of repayments and civil penalties, the Commission welcomes comment on other aspects that should be considered in this area.

5. Changes in Primary Dates

The statute and regulations provide that a candidate who receives less than 10% of the vote in two consecutive primary elections will no longer be eligible to receive matching funds. See, 26 U.S.C. 9033(c)(1) and 11 CFR 9033.5. For purposes of making this determination, if primaries are conducted in more than one state on the same date, the Commission will apply the highest percentage of votes received by each candidate on that date. A candidate may later re-establish eligibility if he or she receives more than 20% of the vote in a subsequent primary. See 11 CFR 9033.9.

The Commission notes that many states are considering, or have decided, to hold their presidential primaries much earlier in 1988 than was previously the case. It is possible that a large percentage of presidential primaries will be held before the end of April, leaving several months of relative inactivity before the national conventions are held. The Commission seeks comments on what effect this turn of events may have on the continuing eligibility of some candidates and, in particular, the potential impact on the application of the 10% and 20% rules under 11 CFR 9033.5 and 9033.9.

Statutory Authority

26 U.S.C. 9001 *et seq.*
26 U.S.C. 9031 *et seq.*

List of Subjects

11 CFR Parts 9001–9005

Campaign funds, Political candidates, Elections.

11 CFR Part 9006

Campaign funds, Reporting requirements, Political candidates, Elections.

11 CFR Part 9007

Campaign funds, Administrative practice and procedure, Political candidates.

11 CFR Part 9012

Political candidates, Political committees and parties, Elections.

11 CFR Parts 9031–9035

Campaign funds, Political candidates, Elections.

11 CFR Part 9036

Administrative practice and procedure, Campaign funds, Political candidates.

11 CFR Parts 9037–9039

Campaign funds, Administrative practice and procedure, Political candidates.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities are affected by these proposed rules. Further, any entities affected are already required to comply with the statutory requirements in these areas.

PART 106—[AMENDED]

1. It is proposed to revise the authority citation for Part 106 to read as follows:

Authority: 2 U.S.C. 441a(b), 441a(g), and 438(a)(8).

2. It is proposed to amend 11 CFR Part 106 by revising § 106.2 to read as follows:

§ 106.2 State allocation of expenditures incurred by authorized committees of Presidential primary candidates receiving matching funds.

(a) *General.* (1) This section applies to Presidential primary candidates receiving or expecting to receive federal matching funds pursuant to 11 CFR Parts 9031 *et seq.* Except for expenditures exempted under 11 CFR 106.2(c), expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid. The candidate shall have the burden of proving that an expenditure should be allocated to a different state than the one determined by the Commission or that all or a portion of an expenditure should be exempt from allocation if the Commission determines that the expenditure is allocable.

(2) Disbursements made prior to the time an individual becomes a candidate for the purpose of determining whether that individual should become a candidate pursuant to 11 CFR 100.7(b)(1) and 100.8(b)(1), i.e., payments for testing the waters, shall be allocable expenditures under this section if the individual becomes a candidate.

(b) *Method of allocating expenditures among States.*— (1) *General allocation method.* Unless otherwise specified under 11 CFR 106.2(b)(2), an expenditure incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate in more than one State shall be allocated to each State on a reasonable and uniformly applied basis.

(2) *Specific allocation methods.* Expenditures that fall within the categories listed below shall be allocated based on the following methods. The method used to allocate a category of expenditures shall be based on consistent data for each State to which an allocation is made.

(i) *Media expenditures.*— (A) *Print media.* Except for expenditures exempted under 11 CFR 106.2(c), allocation of expenditures for the publication and distribution of newspaper, magazine and other types of printed advertisements distributed in more than one State, including any commission charged for the purchase of print media, shall be made using relative circulation percentages in each State or an estimate thereof. For purposes of this section, allocation to a particular State will not be required for a publication which is circulated to less than 3% of the total estimated readership of that publication in that State.

(B) *Broadcast media.* Except for expenditures exempted under 11 CFR 106.2(c), expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, including any commission charged for the purchase of broadcast media, shall be made using industry market data.

(C) *Refunds for media expenditures.* Refunds for broadcast time or advertisement space, purchased but not used, shall be credited to the States on the same basis as the original allocation.

(D) *Limits on allocation of media expenditures.* No allocation of media expenditures shall be made to any State in which the primary election has already been held.

(ii) *Salaries.* Except for expenditures exempted under 11 CFR 106.2(c), salaries paid to persons working in a particular State for five consecutive days or more, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that State during a payroll period.

(iii) *Intra-State travel and subsistence expenditures.* Travel and subsistence expenditures for persons working in a State for five consecutive days or more shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intra-state travel and subsistence expenditures of the candidate and his family or the candidate's representatives. For purposes of this section, "subsistence" includes only expenditures for personal living expenses related to a particular individual travelling on committee business, such as food or lodging.

(iv) *Overhead expenditures.*— (A) *Overhead expenditures of State offices.* Except for expenditures exempted under 11 CFR 106.2(c), overhead expenditures of committee offices located in a particular State shall be allocated to that State. For purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges. "Telephone service base charges" include any regular monthly charges for committee phone service and any phone installation charges but do not include charges for intra-state or inter-state calls.

(B) *Overhead expenditures of regional offices.* Except for expenditures exempted under 11 CFR 106.2(c), overhead expenditures of a committee regional office or any committee office with responsibilities in two or more States shall be allocated to each state on a reasonable and uniformly applied basis. For purposes of this section, overhead expenditures include but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges. "Telephone service base charges include any regular monthly charges for committee phone service and any phone installation charges but do not include charges for intra-state or inter-state calls.

(v) *Telephone service expenditures.*— (A) *Intra-State telephone calls.* Expenditures for all calls made within a particular State shall be allocated to that State.

(B) *Inter-State telephone calls.* Expenditures for telephone calls between two States need not be allocated to any State.

(vi) *Public opinion poll expenditures.* Expenditures incurred for the taking of a public opinion poll covering only one State shall be allocated to that State. Except for expenditures incurred in conducting a nationwide poll,

expenditures incurred for the taking of a public opinion poll covering two or more States shall be allocated to those States based on the number of people interviewed in each State.

(c) *Expenditures exempted from allocation.*— (1) *National campaign expenditures.*— (i) *Operating expenditures.* Expenditures incurred for administrative, staff, and overhead expenditures of the national campaign headquarters need not be allocated to any State. Overhead expenditures shall be defined as in 11 CFR 106.2(b)(2)(iv).

(ii) *National advertising.* Expenditures incurred for advertisements on national networks, national cable or in publications distributed nationwide need not be allocated to any State.

(iii) *Nationwide polls.* Expenditures incurred for the taking of a public opinion poll which is conducted on a nationwide basis need not be allocated to any State.

(2) *Media production costs.* Expenditures incurred for production of media advertising, whether or not that advertising is used in more than one State, need not be allocated to any State.

(3) *Expenditures for transportation and services made available to media.* Expenditures incurred by the candidate's authorized committee(s) to provide transportation and services for media personnel need not be allocated to any State. Reimbursement for such expenditures shall be made in accordance with 11 CFR 9034.6.

(4) *Interstate travel.* Expenditures incurred for inter-state travel costs, such as travel between State campaigns or between State offices and national campaign headquarters, need not be allocated to any State.

(5) *Compliance costs and fundraising expenditures.* An amount equal to 10% of campaign workers' salaries and overhead expenditures in a particular State may be excluded from allocation to that State as an exempt compliance cost. An additional amount equal to 10% of such salaries and overhead expenditures in a particular State may be excluded from allocation to that State as exempt fundraising expenditures, but this exemption shall not apply within 28 calendar days of the primary election as specified in 11 CFR 110.8(c)(2). Any amounts excluded for fundraising expenditures shall be applied against the fundraising expenditure limitation under 11 CFR 100.8(b)(21). If the candidate wishes to claim a larger compliance or fundraising exemption for any person, the candidate shall establish allocation percentages for each individual working in that State. The candidate shall keep detailed records to support the derivation of each percentage in accordance with 11 CFR 106.2(e).

(i) Exempt compliance costs are those legal and accounting costs incurred solely to ensure compliance with 26 U.S.C. 9031 *et seq.*, 2 U.S.C. 431 *et seq.* and 11 CFR Chapter I. If the candidate wishes to claim a larger amount of salaries and overhead expenditures than that permitted by the 10% figure contained in paragraph (c)(5) of this section, the Commission's Financial Control and Compliance Manual for Presidential Primary Candidates contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt compliance costs.

(ii) Exempt fundraising expenditures are those expenses associated with the solicitation of contributions. They include printing and postage for solicitations, one-half the cost of preparing matching fund submissions, airtime for fundraising advertisements and the cost of meals and beverages for fundraising receptions or dinners. If the candidate wishes to claim a larger amount of salaries and overhead expenditures than that permitted by the 10% figure contained in paragraph (c)(5) of this section, the Commission's Financial Control and Compliance Manual for Presidential Primary candidates contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt fundraising expenditures.

(d) *Reporting.* All expenditures allocated under this section shall be reported on FEC Form 3P, page 3.

(e) *Recordkeeping.* All assumptions and supporting calculations for allocations made under this section shall be documented and retained for Commission inspection. For compliance and fundraising deductions that exceed the 10% exemptions under 11 CFR 106.2(c)(5), such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

3. It is proposed to amend 11 CFR by revising Subchapter F, 11 CFR Parts 9031 through 9039, as follows:

SUBCHAPTER F—PRESIDENTIAL ELECTION CAMPAIGN FUND: PRESIDENTIAL PRIMARY MATCHING FUND

PART 9031—SCOPE

Authority: 26 U.S.C. 9031 and 9039(b).

§ 9031.1 Scope.

This subchapter governs entitlement to and use of funds certified from the Presidential Primary Matching Payment Account under 26 U.S.C. 9031 *et seq.* The definitions, restrictions, liabilities and obligations imposed by this subchapter are in addition to those imposed by sections 431–455 of Title 2, United States Code, and regulations prescribed thereunder (11 CFR Parts 100 through 115). Unless expressly stated to the contrary, this subchapter does not alter the effect of any definitions, restrictions, obligations and liabilities imposed by sections 431–455 of Title 2, United States Code, or regulations prescribed thereunder (11 CFR Parts 100 through 115).

PART 9032—DEFINITIONS

Sec.

9032.1 Authorized committee.
9032.2 Candidate.
9032.3 Commission.
9032.4 Contribution.
9032.5 Matching payment account.
9032.6 Matching payment period.
9032.7 Primary election.
9032.8 Political committee.
9032.9 Qualified campaign expense.
9032.10 Secretary.
9032.11 State.

Authority: 26 U.S.C. 9032 and 9039(b).

§ 9032.1 Authorized committee.

(a) Notwithstanding the definition at 11 CFR 100.5, "authorized committee" means with respect to candidates (as defined at 11 CFR 9032.2) seeking the nomination of a political party for the office of President, any political committee that is authorized by a candidate to solicit or receive contributions or to incur expenditures on behalf of the candidate. The term "authorized committee" includes the candidate's principal campaign committee designated in accordance with 11 CFR 102.12, any political committee authorized in writing by the candidate in accordance with 11 CFR 102.13, and any political committee not disavowed by the candidate in writing pursuant to 11 CFR 100.3(a)(3).

(b) Any withdrawal of an authorization shall be in writing and shall be addressed and filed in the same manner provided for at 11 CFR 102.12 or 102.13.

(c) For the purposes of this subchapter, references to the "candidate" and his or her responsibilities under this subchapter shall also be deemed to refer to the candidate's authorized committee(s).

(d) An expenditure by an authorized committee on behalf of the candidate

who authorized the committee cannot qualify as an independent expenditure.

(e) A delegate committee, as defined in 11 CFR 100.5(e)(5), is not an authorized committee of a candidate unless it also meets the requirements of 11 CFR 9032.1(a). Expenditures by delegate committees on behalf of a candidate may count against that candidate's expenditure limitation under the circumstances set forth in 11 CFR 110.14.

§ 9032.2 Candidate.

"Candidate" means an individual who seeks nomination for election to the office of President of the United States. An individual is considered to seek nomination for election if he or she—

(a) Takes the action necessary under the law of a State to qualify for a caucus, convention, primary election or runoff election;

(b) Receives contributions or incurs qualified campaign expenses;

(c) Gives consent to any other person to receive contributions or to incur qualified campaign expenses on his or her behalf; or

(d) Receives written notification from the Commission that any other person is receiving contributions or making expenditures on the individual's behalf and fails to disavow that activity by letter to the Commission within 30 calendar days after receipt of notification.

§ 9032.3 Commission.

"Commission" means the Federal Election Commission, 999 E Street NW., Washington, DC 20463.

§ 9032.4 Contribution.

For purposes of this subchapter, "contribution" has the same meaning given the term under 2 U.S.C. 431(8)(A) and 11 CFR 100.7, except as provided at 11 CFR 9034.4(b)(4).

§ 9032.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. 9037(a).

§ 9032.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the calendar year in which a Presidential general election is held and may not exceed one of the following dates:

(a) For a candidate seeking the nomination of a party which nominates its Presidential candidate at a national convention, the date on which the party nominates its candidate.

(b) For a candidate seeking the nomination of a party which does not make its nomination at a national convention, the earlier of—

(1) The date the party nominates its Presidential candidate, or

(2) The last day of the last national convention held by a major party in the calendar year.

§ 9032.7 Primary election.

(a) "Primary election" means an election held by a State or a political party, including a runoff election, or a nominating convention or a caucus—

(1) For the selection of delegates to a national nominating convention of a political party;

(2) For the expression of a preference for the nomination of Presidential candidates;

(3) For the purposes stated in both paragraphs (1) and (2) of this section; or

(4) To nominate a Presidential candidate.

(b) If separate primary elections are held in a State by the State and a political party, the primary election for the purposes of this subchapter will be the election held by the political party.

§ 9032.8 Political committee.

"Political committee" means any committee, club, association, organization or other group of persons (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

§ 9032.9 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by or on behalf of a candidate or his or her authorized committees from the date the individual becomes a candidate through the last day of the candidate's eligibility as determined under 11 CFR 9033.5;

(2) Made in connection with his or her campaign for nomination; and

(3) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any law of any State in which the expense is incurred or paid, or of any regulation prescribed under such law of the United States or of any State, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, will not be considered a State law for purposes of this subchapter.

(b) An expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making an expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee which has been requested by the candidate, by an authorized committee of the candidate, or by an agent of the candidate to make the expenditure, even though such committee is not authorized in writing.

(c) Expenditures incurred either before the date an individual becomes a candidate or after the last day of a candidate's eligibility will be considered qualified campaign expenses if they meet the provisions of 11 CFR 9034.4(a). Expenditures described under 11 CFR 9034.4(b) will not be considered qualified campaign expenses.

§ 9032.10 Secretary.

For purposes of this subchapter, "Secretary" means the Secretary of the Treasury.

§ 9032.11 State.

"State" means each State of the United States, Puerto Rico, the Canal Zone, the Virgin Islands, the District of Columbia, and Guam.

PART 9033—ELIGIBILITY FOR PAYMENTS

Sec.

9033.1 Candidate and committee agreements.
9033.2 Candidate and committee certifications; threshold submission.
9033.3 Expenditure limitation certification.
9033.4 Matching payment eligibility threshold requirements.
9033.5 Determination of ineligiblity date.
9033.6 Determination of inactive candidacy.
9033.7 Determination of active candidacy.
9033.8 Reestablishment of eligibility.
9033.9 Failure to comply with disclosure requirements or expenditure limitations.
9033.10 Procedures for initial and final determinations.
9033.11 Documentation of disbursements.

Authority: 26 U.S.C. 9033 and 9039(b).

§ 9033.1 Candidate and committee agreements.

(a) General. (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter signed by the candidate to the Commission that the candidate and the candidate's authorized committee(s) will comply with the conditions set forth in 11 CFR 9033.1(b). The candidate may submit the letter containing the agreements required by this section at any time after January 1

of the year immediately preceding the Presidential election year.

(2) The Commission will not consider a candidate's threshold submission until the candidate has submitted a candidate agreement that meets the requirements of this section.

(b) *Conditions.* The candidate shall agree that:

(1) The candidate has the burden of proving that disbursements by the candidate or any authorized committee(s) or agents thereof are qualified campaign expenses as defined at 11 CFR 9032.9.

(2) The candidate and the candidate's authorized committee(s) will comply with the documentation requirements set forth in 11 CFR 9033.11.

(3) The candidate and the candidate's authorized committee(s) will provide an explanation, in addition to complying with the documentation requirements, of the connection between any disbursements made by the candidate or authorized committee(s) of the candidate and the campaign if requested by the Commission.

(4) The candidate and the candidate's authorized committee(s) will keep and furnish to the Commission all documentation for matching fund submissions, any books, records (including bank records for all accounts) and supporting documentation and other information that the Commission may request.

(5) The candidate and the candidate's authorized committee(s) will keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), all documentation required by this section including those required to be maintained under 11 CFR 9033.11, and other information that the Commission may request. The records provided shall also include production of magnetic computer tapes containing all information required by law to be maintained regarding the committee's receipts and disbursements, if the committee maintains its records on computer. Upon request, documentation explaining the computer systems software capabilities shall also be provided.

(6) The candidate and the candidate's authorized committee(s) will permit an audit and examination pursuant to 11 CFR Part 9038 of all receipts and disbursements including those made by the candidate, all authorized committee(s) and any agent or person authorized to make expenditures on behalf of the candidate or committee(s). The candidate and authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 CFR Parts 9038 and 9039.

(7) The candidate and the candidate's authorized committee(s) will submit the name and mailing address of the person who is entitled to receive matching fund payments on behalf of the candidate and the name and address of the national or State bank designated by the candidate as a campaign depository as required by 11 CFR Part 103 and 11 CFR 9037.3. Changes in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed by the candidate or the Committee treasurer.

(8) The candidate and the candidate's authorized committee(s) will prepare matching fund submissions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(9) The candidate and the candidate's authorized committee(s) will comply with the applicable requirements of 2 U.S.C. 431 *et seq.;* 26 U.S.C. 9031 *et seq.* and the Commission's regulations at 11 CFR Parts 100–115, and 9031–9039.

(10) The candidate and the candidate's authorized committee(s) will pay any civil penalties included in a conciliation agreement imposed under 2 U.S.C. 437g against the candidate, any authorized committee of the candidate or any agent thereof.

§ 9033.2 Candidate and committee certifications; threshold submission.

(a) *General.* (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall make the certifications set forth in 11 CFR 9033.2(b) to the Commission in a written statement signed by the candidate. The candidate may submit the letter containing the required certifications at any time after January 1 of the year immediately preceding the Presidential election year.

(2) The Commission will not consider a candidate's threshold submission until the candidate has submitted candidate certifications that meet the requirements of this section.

(b) *Certifications.* (1) The candidate shall certify that he or she is seeking nomination by a political party to the Office of President in more than one State. For purposes of this section, in order for a candidate to be deemed to be seeking nomination by a political party to the office of President, the party whose nomination the candidate seeks must have a procedure for holding a primary election, as defined in 11 CFR 9032.7, for nomination to that office. For purposes of this section, the term "political party" means an association, committee or organization which nominates an individual for election to the office of President. The fact that an association, committee or organization qualifies as a political party under this section does not affect the party's status as a national political party for purposes of 2 U.S.C. 441a(a)(1)(B) and 441a(a)(2)(B).

(2) The candidate and the candidate's authorized committee(s) shall certify that they have not incurred and will not incur expenditures in connection with the candidate's campaign for nomination, which expenditures are in excess of the limitations under 11 CFR Part 9035.

(3) The candidate and the candidate's authorized committee(s) shall certify:

(i) That they have received matchable contributions totalling more than $5,000 in each of at least 20 States; and

(ii) That the matchable contributions are from individuals who are residents of the State for which their contributions are submitted.

(iii) A maximum of $250 of each individual's aggregate contributions will be considered as matchable contributions for the purpose of meeting the thresholds of this section.

(iv) For purposes of this section, contributions of an individual who maintains residences in more than one State may only be counted toward the $5,000 threshold for the State from which the earliest contribution was made by that contributor.

(c) *Threshold Submission.* To become eligible to receive matching payments, the candidate shall submit documentation of the contributions described in 11 CFR 9033.2(b)(3) to the Commission for review. The submission shall follow the format and requirements of 11 CFR 9036.1.

§ 9033.3 Expenditure limitation certification.

(a) If the Commission makes an initial determination that a candidate or the candidate's authorized committee(s) have knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035 prior to that candidate's application for certification, the Commission may make an initial determination that the candidate is ineligible to receive matching funds.

(b) The Commission will notify the candidate of its initial determination, in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may submit, within 29 calendar days after service of the Commission's notice,

written legal or factual materials, in accordance with 11 CFR 9033.10(b), demonstrating that he or she has not knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035.

(c) A final determination of the candidate's ineligibility will be made by the Commission in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d) A candidate who receives a final determination of ineligibility under 11 CFR 9033.3(c) shall be ineligible to receive matching fund payments under 11 CFR 9034.1.

§ 9033.4 Matching payment eligibility threshold requirements.

(a) The Commission will examine the submission made under 11 CFR 9033.1 and 9033.2 and either—

(1) Make a determination that the candidate has satisfied the minimum contribution threshold requirements under 11 CFR 9033.2(c); or

(2) Make an initial determination that the candidate has failed to satisfy the matching payment threshold requirements. The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may, within 30 calendar days after service of the Commission's notice, satisfy the threshold requirements or submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she has satisfied those requirements. A final determination by the Commission that the candidate has failed to satisfy threshold requirements will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

(b) The Commission will make its examination and determination under this section as soon as practicable. During the Presidential election year, the Commission will generally complete its review and make its determination within 30 business days. If it appears during the review of a candidate's submission that the candidate has not met the threshold requirements, the Commission may halt its review to permit the candidate to cure deficiencies in the submission. The Commission will provide a maximum of two opportunities to cure before proceeding to an initial determination under paragraph (a)(2) of this section.

§ 9033.5 Determination of ineligibility date.

The candidate's date of ineligibility shall be whichever date by operation of 11 CFR 9033.5 (a), (b) or (c) occurs first. After the candidate's date of ineligibility, he or she may only receive matching payments to the extent that he or she has net outstanding campaign obligations as defined in 11 CFR 9034.5.

(a) *Inactive candidate.* The ineligibility date shall be the day on which an individual ceases to be a candidate because he or she is not actively conducting campaigns in more than one State in connection with seeking the Presidential nomination. This date shall be the earliest of—

(1) The date the candidate publicly announces that he or she will not be actively conducting campaigns in more than one State; or

(2) The date the candidate notifies the Commission by letter that he or she is not actively conducting campaigns in more than one State; or

(3) The date which the Commission determines under 11 CFR 9033.6 to be the date that the candidate is not actively seeking election in more than one State.

(b) *Insufficient Votes.* The ineligibility date shall be the 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in that primary election, if the candidate permitted or authorized his or her name to appear on the ballot, unless the candidate certifies to the Commission at least 25 business days prior to the primary that he or she will not be an active candidate in the primary involved.

(1) The Commission may refuse to accept the candidate's certification if it determines under 11 CFR 9033.7 that the candidate is an active candidate in the primary involved.

(2) For purposes of this paragraph, if the candidate is running in two primary elections in different States on the same date, the highest percentage of votes the candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern. If two or more primaries are held in the same State on different dates, the earliest primary will govern.

(c) *End of matching payment period.* The ineligibility date shall be the last day of the matching payment period for the candidate as specified in 11 CFR 9032.6.

(d) *Reestablishment of eligibility.* If the Commission has determined that a candidate is ineligible under 11 CFR 9033.5(a) or (b), the candidate may reestablish eligibility to receive matching funds under 11 CFR 9033.8.

§ 9033.6 Determination of inactive candidacy.

(a) *General.* The Commission may, on the basis of the factors listed in 11 CFR 9033.6(b) below, make a determination that a candidate is no longer actively seeking nomination for election in more than one State at any time after March 1 but before July 1 of the Presidential election year. Upon a final determination by the Commission that a candidate is inactive, that candidate will become ineligible as provided in 11 CFR 9033.5

(b) *Factors considered.* In making its determination of inactive candidacy, the Commission may consider, but is not limited to considering, the following factors:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or making expenditures for campaign purposes;

(3) Continued employment of campaign personnel or the use of volunteers;

(4) The release of committed delegates;

(5) The candidate urges his or her delegates to support another candidate while not actually releasing committed delegates;

(6) The candidate urges supporters to support another candidate.

(c) *Initial determination.* The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b) and will advise the candidate of the date on which active campaigning in more than one State ceased. The candidate may, within 15 business days after service of the Commission's notice, submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is actively campaigning in more than one State.

(d) *Final determination.* A final determination of inactive candidacy will be made by the Commission in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.7 Determination of active candidacy.

(a) Where a candidate certifies to the Commission under 11 CFR 9033.5(b) that he or she will not be an active candidate in an upcoming primary, the Commission may, nevertheless, on the basis of factors listed in 11 CFR 9033.6(b), make an initial determination that the candidate is an active candidate in the primary involved.

(b) The Commission will notify the candidate of its initial determination within 10 business days of receiving the candidate's certification under 11 CFR 9033.5(b) or, if the timing of the activity does not permit notice during the 10 day period, as soon as practicable following campaign activity by the candidate in the primary state. The Commission's initial determination will be made in accordance with the procedures outlined in 11 CFR 9033.10(b). Within 10 business days after service of the Commission's notice the candidate may submit, in accordance with 11 CFR 9033.10(b), written legal or factual materials to demonstrate that he or she is not an active candidate in the primary involved.

(c) A final determination by the Commission that the candidate is active will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.8 Reestablishment of eligibility.

(a) *Candidates found to be inactive.* A candidate who has become ineligible under 11 CFR 9033.5(a) on the basis that he or she is not actively campaigning in more than one State may reestablish eligibility for matching payments by submitting to the Commission evidence of active campaigning in more than one State. In determining whether the candidate has reestablished eligibility, the Commission will consider, but is not limited to considering, the factors listed in 11 CFR 9033.6(b). The day the Commission determines to be the day the candidate becomes active again will be the date on which eligibility is reestablished.

(b) *Candidates receiving insufficient votes.* A candidate determined to be ineligible under 11 CFR 9033.5(b) by failing to obtain the required percentage of votes in two consecutive primaries may have his or her eligibility reestablished if the candidate receives at least 20 percent of the total number of votes cast for candidates of the same party for the same office in a primary election held subsequent to the date of the election which rendered the candidate ineligible.

(c) The Commission will make its determination under 11 CFR 9033.8(a) or (b) without requiring the individual to reestablish eligibility under 11 CFR 9033.1 and 2. A candidate whose eligibility is reestablished under this section may submit, for matching payment, contributions received during ineligibility.

§ 9033.9 Failure to comply with disclosure requirements or expenditure limitations.

(a) If the Commission receives information indicating that a candidate or his or her authorized committee(s) has knowingly and substantially failed to comply with the disclosure requirements of 2 U.S.C. 434 and 11 CFR Part 104, or that a candidate has knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035, the Commission may make an initial determination to suspend payments to that candidate.

(b) The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate will be given an opportunity, within 20 calendar days after service of the Commission's notice, to comply with the above cited provisions or to submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is not in violation of those provisions.

(c) Suspension of payments to a candidate will occur upon a final determination by the Commission to suspend payments. Such final determination will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d) (1) A candidate whose payments have been suspended for failure to comply with reporting requirements may become entitled to receive payments if he or she subsequently files the required reports and pays or agrees to pay any civil or criminal penalties resulting from failure to comply.

(2) A candidate whose payments are suspended for exceeding the expenditure limitations shall not be entitled to receive further matching payments under 11 CFR 9034.1.

§ 9033.10 Procedures for initial and final determinations.

(a) *General.* The Commission will follow the procedures set forth in this section when making an initial or final determination based on any of the following reasons.

(1) The candidate has knowingly and substantially exceeded the expenditure limitations of 11 CFR Part 9035 prior to the candidate's application for certification, as provided in 11 CFR 9033.3;

(2) The candidate has failed to satisfy the matching payment threshold requirements, as provided in 11 CFR 9033.4;

(3) The candidate is no longer actively seeking nomination in more than one state, as provided in 11 CFR 9033.5;

(4) The candidate is an active candidate in an upcoming primary despite the candidate's assertion to the contrary, as provided in 11 CFR 9033.7;

(5) The Commission receives information indicating that the candidate has knowingly and substantially failed to comply with the disclosure requirements or exceeded the expenditure limits, as provided in 11 CFR 9033.9; or

(6) The Commission receives information indicating that substantial assets of the candidate's authorized committee have been undervalued or not included in the candidate's statement of net outstanding campaign obligations or that the amount of outstanding campaign obligations has been otherwise overstated in relation to campaign assets, as provided in 11 CFR 9034.5(f).

(b) *Initial determination.* If the Commission makes an initial determination that a candidate may not receive matching funds for one or more of the reasons indicated in 11 CFR 9033.10(a), the Commission will notify the candidate of its initial determination. The notification will give the legal and factual reasons for the determination and advise the candidate of the evidence on which the Commission's initial determination is based. The candidate will be given an opportunity to comply with the requirements at issue or to submit, within the time provided by the relevant section as referred to in 11 CFR 9033.10(a), written legal or factual materials to demonstrate that the candidate has satisfied those requirements. Such materials may be submitted by counsel if the candidate so desires.

(c) *Final determination.* The Commission will consider any written legal or factual materials timely submitted by the candidate before making its final determination. A final determination that the candidate has failed to satisfy the requirements at issue will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the legal and factual reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

(d) *Effect on other determinations.* If the Commission makes an initial determination under this section, but decides to take no further action at that time, the Commission may use the legal and factual bases on which the initial determination was based in any future repayment determination under 11 CFR Part 9038 or 9039. A determination by the Commission under this section may be independent of any Commission decision to institute an enforcement proceeding under 2 U.S.C. 437g.

(e) *Petitions for rehearing.* Following a final determination under this section, the candidate may file a petition for rehearing in accordance with 11 CFR 9038.5(a).

§ 9033.11 Documentation of disbursements.

(a) *Burden of proof.* Each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or committee(s) are qualified campaign expenses as defined in 11 CFR 9032.9. The candidate and his or her authorized committee(s) shall obtain and furnish to the Commission on request any evidence regarding qualified campaign expenses made by the candidate, his or her authorized committees and agents or persons authorized to make expenditures on behalf of the candidate or committee(s) as provided in 11 CFR 9033.11(b).

(b) *Documentation required.* (1) For disbursements in excess of $200 to a payee, the candidate shall present either:

(i) A receipted bill from the payee that states the purpose of the disbursement, or

(ii) If such a receipt is not available, a cancelled check negotiated by the payee, and

(A) One of the following documents generated by the payee: A bill, invoice, or voucher that states the purpose of the disbursement; or

(B) Where the documents specified in 11 CFR 9033.11(b)(1)(ii)(A) are not available, a voucher or contemporaneous memorandum from the candidate or the committee that states the purpose of the disbursement; or

(iii) If neither a receipted bill as specified in 11 CFR 9033.11(b)(1)(i) nor the supporting documentation specified in 11 CFR 9033.11(b)(1)(ii) is available, a cancelled check negotiated by the payee that states the purpose of the disbursement.

(iv) Where the supporting documentation required in 11 CFR 9033.11(b)(1) (i), (ii) or (iii) is not available, the candidate or committee may present a cancelled check and collateral evidence to document the qualified campaign expense. Such collateral evidence may include but is not limited to:

(A) Evidence demonstrating that the expenditure is part of an identifiable program or project which is otherwise sufficiently documented such as a disbursement which is one of a number of documented disbursements relating to a campaign mailing or to the operation of a campaign office;

(B) Evidence that the disbursement is covered by a preestablished written campaign committee policy, such as a per diem policy.

(2) For all other disbursements the candidate shall present:

(i) A record disclosing the identification of the payee, the amount, date and purpose of the disbursement, if made from a petty cash fund; or

(ii) A cancelled check negotiated by the payee that states the identification of the payee, and the amount, date and purpose of the disbursement.

(3) For purposes of this section,

(i) "Payee" means the person who provides the goods or services to the candidate or committee in return for the disbursement; except that an individual will be considered a payee under this section if he or she receives $500 or less advanced for travel and/or subsistence and if he or she is the recipient of the goods or services purchased.

(ii) "Purpose" means the identification of the payee, the date and amount of the disbursement, and a description of the goods or services purchased.

(c) *Retention of records.* The candidate shall retain records, with respect to each disbursement and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, matching fund submissions, and any related materials documenting campaign receipts and disbursements, for a period of three years pursuant to 11 CFR 102.9(c), and shall present these records to the Commission on request.

PART 9034 — ENTITLEMENTS

Sec.

9034.1 Candidate entitlements.
9034.2 Matchable contributions.
9034.3 Non-matchable contributions.
9034.4 Use of contributions and matching payments.
9034.5 Net outstanding campaign obligations.
9034.6 Reimbursements for transportation and services made available to media personnel.
9034.7 Allocation of travel expenditures.
9034.8 Joint fundraising.
9034.9 Sale of assets acquired for fundraising purposes.

Authority: 26 U.S.C. 9034 and 9039(b).

§ 9034.1 Candidate entitlements.

(a) A candidate who has been notified by the Commission under 11 CFR 9036.1 that he or she has successfully satisfied eligibility and certification requirements is entitled to receive payments in an amount equal to the amount of each matchable campaign contribution received by the candidate, except that a candidate who has become ineligible under 11 CFR 9033.5 may not receive further matching payments regardless of the date of deposit of the underlying contributions if he or she has no net outstanding campaign obligations as defined in 11 CFR 9034.5.

(b) If on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR 9034.5, that candidate may continue to receive matching payments for matchable contributions received and deposited on or before December 31 of the Presidential election year provided that on the date of payment there are remaining net outstanding campaign obligations, i.e., the sum of the contributions received on or after the date of ineligibility plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. This entitlement will be equal to the lesser of:

(1) The amount of contributions submitted for matching; or

(2) The remaining net outstanding campaign obligations.

(c) A candidate whose eligibility has been reestablished under 11 CFR 9033.8 or who after suspension of payments has met the conditions set forth at 11 CFR 9033.9(d) is entitled to receive payments for matchable contributions for which payments were not received during the ineligibility or suspension period.

(d) The total amount of payments to a candidate under this section shall not exceed 50% of the total expenditure limitation applicable under 11 CFR Part 9035.

§ 9034.2 Matchable contributions.

(a) Contributions meeting the following requirements will be considered matchable campaign contributions.

(1) The contribution shall be a gift of money made: by an individual; by a written instrument and for the purpose of influencing the result of a primary election.

(2) Only a maximum of $250 of the aggregate amount contributed by an individual may be matched.

(3) Before a contribution may be submitted for matching, it must actually be received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the candidate's authorized committee.

(4) The written instrument used in making the contribution must be dated, physically received and deposited by the candidate or authorized committee on or after January 1 of the year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period as defined under 11 CFR 9032.6. Donations received by an individual who is testing the waters pursuant to 11 CFR 100.7(b)(1) and 100.8(b)(1) may be matched when the individual becomes a candidate if such donations meet the requirements of this section.

(b) For purposes of this section, the term "written instrument" means a check written on a personal, escrow or trust account representing or containing the contributor's personal funds; a money order; or any similar negotiable instrument.

(c) The written instrument shall be: payable on demand; and to the order of, or specifically endorsed without qualification to, the Presidential candidate, or his or her authorized committee. The written instrument shall contain: The full name and signature of the contributor(s); the amount and date of the contribution; and the mailing address of the contributor(s).

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check.

(i) To be attributed equally to other joint tenants of the account, the check or other accompanying written document shall contain the signature(s) of the joint tenant(s). If a contribution on a joint account is to be attributed other than equally to the joint tenants, the check or other written documentation shall also indicate the amount to be attributed to each joint tenant.

(ii) In the case of a check for a contribution attributed to more than one person, where it is not apparent from the face of the check that each contributor is a joint tenant of the account, a written statement shall accompany the check stating that the contribution was made from each individual's personal funds in the amount so attributed and shall be signed by each contributor.

(2) Contributions in the form of checks drawn on an escrow or trust account are matchable contributions, provided that:

(i) The contributor has equitable ownership of the account; and

(ii) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of contribution. This statement shall specify that: the contributor has equitable ownership of the account and the account represents the personal funds of the contributor.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as:

(i) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of contribution. This statement shall specify that the contribution is made with the contributor's personal funds and that the account on which the contribution is drawn is not maintained or controlled by an incorporated entity; and

(ii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business does not exceed $1,000 to any one Presidential candidate seeking nomination.

(iii) No portion of the contribution may be attributed to any person who is not a partner or member of the unincorporated association or business, including any spouse who is not a partner or member.

(4) Contributions in the form of money orders, cashier's checks, traveller's checks, or other similar negotiable instruments are matchable contributions, provided that:

(i) At the time it is initially submitted for matching, such instrument is signed by each contributor and is accompanied by a statement which specifies that the contribution was made in the form of a money order, cashier's check, traveller's check, or other similar negotiable instrument, with the contributor's personal funds;

(ii) Such statement identifies the date and amount of the contribution made by money order, cashier's check, traveller's check, or other similar negotiable instrument, the check or serial number, and the name of the issuer of the negotiable instrument; and

(iii) Such statement is signed by each contributor.

(5) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor (i.e., concerts, motion pictures) are matchable. The promotional material and tickets for the event shall clearly indicate that the ticket purchase price represents a contribution to the Presidential candidate.

(6) Contributions in the form of a purchase price paid for admission to an activity that is essentially political are matchable. An "essentially political" activity is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception.

(7) Contributions received from a joint fundraising activity conducted in accordance with 11 CFR 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising agreement when they are submitted for matching.

(8) Written instruments made payable for more than $1000 are matchable only if:

(i) The contribution meets the requirements of 11 CFR 104.8(d) regarding a written statement signed by all contributors indicating the amount to be attributed to each; or

(ii) The contribution is submitted with documentation showing that the excessive portion of the contribution was refunded.

§ 9034.3 Non-matchable contributions.

A contribution to a candidate other than one which meets the requirements of 11 CFR 9034.2 is not matchable. Contributions which are not matchable include, for example:

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purposes (but a gift of money by written instrument is not rendered unmatchable solely because the contribution was preceded by a promise or pledge);

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in 11 CFR 100.5 or any group of persons other than those under 11 CFR 9034.2(c)(3);

(e) Contributions which are made or accepted in violation of 2 U.S.C. 441a, 441b, 441c, 441e, 441f, or 441g;

(f) Contributions in the form of a check drawn on the account of a committee, corporation, union or government contractor even though the funds represent personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(j) Contributions of currency of the United States or currency of any foreign country.

§ 9034.4 Use of contributions and matching payments.

(a) *Qualified campaign expenses.*—(1) *General.* Except as provided in 11 CFR 9034.4(b)(3), all contributions received by an individual from the date he or she becomes a candidate and all matching payments received by the candidate shall be used only to defray qualified campaign expenses or to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses), which were used to defray qualified campaign expenses.

(2) *Testing the waters.* Even though incurred prior to the date an individual becomes a candidate, payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, shall be considered qualified campaign expenses if the individual subsequently becomes a candidate and shall count against that candidate's limits under 2 U.S.C. 441a(b). See 11 CFR 100.8(b)(1).

(3) *Winding down costs.* The following costs shall be considered qualified campaign expenses:

(i) Costs associated with the termination of political activity, if the candidate is no longer seeking nomination or election, such as the costs of complying with the postelection requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies; or

(ii) Costs incurred before the candidate's date of ineligibility, for goods and services to be received before the candidate's date of ineligibility, for which written arrangement or commitment was made on or before the candidate's date of ineligibility.

(4) *Taxes.* Federal income taxes paid by the committee on non-exempt function income, such as interest, dividends and sale of property, shall be considered qualified campaign expenses. These expenses shall be subject to the overall expenditure limits of 11 CFR 9035.1(a) but shall not count against the state expenditure limits under 11 CFR 106.2.

(b) *Non-qualified campaign expenses.*—(1) *General.* The following are examples of disbursements that are not qualified campaign expenses.

(2) *Excessive expenditures.* An expenditure which is in excess of any of the limitations under 11 CFR Part 9035 shall not be considered a qualified campaign expense. The Commission will calculate the amount of expenditures attributable to the limitations in accordance with 11 CFR 9035.1(a)(2).

(3) *Post-ineligibility expenditures.* Any expenses incurred after a candidate's date of ineligibility, as determined under 11 CFR 9033.5, are not qualified campaign expenses except to the extent permitted under 11 CFR 9034.4(a)(3). Any expenses incurred before the candidate's date of ineligibility for goods and services to be received after the candidate's date of ineligibility are not qualified campaign expenses.

(4) *Civil or criminal penalties.* Civil or criminal penalties paid pursuant to the Federal Election Campaign Act are not qualified campaign expenses and cannot be defrayed from contributions or matching payments. Any amounts received or expended to pay such penalties shall not be considered contributions or expenditures but all amounts so received shall be subject to the prohibitions of the Act. Amounts received and expended under this section shall be reported in accordance with 11 CFR Part 104.

(c) *Transfers to other campaigns.* If a candidate has received matching funds and is simultaneously seeking nomination or election to another Federal office, no transfer of funds between his or her principal campaign committees or authorized committees may be made. See 2 U.S.C. 441a(a)(5)(C) and 11 CFR 110.3(a)(2)(v).

§ 9034.5 Net outstanding campaign obligations.

(a) Within 15 calendar days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5, the candidate shall submit a statement of net outstanding campaign obligations. Each statement filed under this section shall include a signed certification by the committee treasurer that the information contained in the statement is complete and accurate. The candidate's net outstanding campaign obligations under this section equal the difference between paragraphs (a) (1) and (2):

(1) The total of all outstanding obligations for qualified campaign expenses as of the candidate's date of ineligibility as determined under 11 CFR 9033.5, plus estimated necessary winding down costs as defined under 11 CFR 9034.4(a)(3), less

(2) The total of:

(i) Cash on hand as of the close of business on the last day of eligibility (including all contributions dated on or before that date whether or not submitted for matching; currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveller's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value);

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, refunds of deposits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b) The amount submitted as the total of outstanding campaign obligations under paragraph (a)(1) of this section shall not include any accounts payable for nonqualified campaign expenses nor any amounts determined or anticipated to be required as a repayment under 11 CFR Part 9038.

(c) (1) *Capital assets.* For purposes of this section, the term "capital asset" means any property used in the operation of the campaign whose value on the last day of the candidate's eligibility exceeds $1000. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under 11 CFR 9034.5(c)(2). The value of a capital asset shall be the fair market value on the date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility.

(2) *Other assets.* The term "other assets" means any property acquired by the campaign for use in raising funds or as collateral for campaign loans. "Other assets" must be included on the

candidate's statement of net outstanding campaign obligations if the aggregate value of such assets exceeds $5000. The value of "other assets" shall be determined by the fair market value of each item on the candidate's date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility.

(d) Contributions received from joint fundraising activities conducted under 11 CFR 9034.8 may be used to pay a candidate's outstanding campaign obligations.

(1) Such contributions shall be deemed monies available to pay outstanding campaign obligations as of the date these funds are received by the fundraising representative committee and shall be included in the candidate's statement of net outstanding campaign obligations.

(2) The amount of money deemed available to pay a candidate's net outstanding campaign obligations will equal either—

(i) An amount calculated on the basis of the predetermined allocation formula, as adjusted for 2 U.S.C. 441a limitations; or

(ii) If a candidate receives an amount greater than that calculated under 11 CFR 9034.5(d)(2)(i), the amount actually received.

(e) The candidate shall submit a revised statement of net outstanding campaign obligations with each submission for matching funds payments filed after the candidate's date of ineligibility. The revised statement shall reflect the financial status of the campaign as of the close of business on the last business day preceding the date of submission for matching funds. The revised statement shall also contain a brief explanation of each change in the committee's assets and obligations from the previous statement.

(f) (1) If the Commission receives information indicating that substantial assets of the candidate's authorized committee(s) have been undervalued or not included in the statement or that the amount of outstanding campaign obligations has been otherwise overstated in relation to campaign assets, the Commission may decide to temporarily suspend further matching payments pending a final determination whether the candidate is entitled to receive all or a portion of the matching funds requested.

(2) In making a determination under 11 CFR 9034.5(f)(1), the Commission will follow the procedures for initial and final determinations under 11 CFR 9033.10 (b) and (c). The Commission will notify the candidate of its initial determination within 15 business days after receipt of the candidate's statement of net outstanding campaign obligations. Within 15 business days after service of the Commission's notice, the candidate may submit written legal or factual materials to demonstrate that he or she has net outstanding campaign obligations that entitle the campaign to further matching payments.

(3) If the candidate demonstrates that the amount of outstanding campaign obligations still exceeds campaign assets, he or she may continue to receive matching payments.

(4) Following a final determination under this section, the candidate may file a petition for rehearing in accordance with 11 CFR 9038.5(a).

§ 9034.6 Reimbursements for transportation and services made available to media personnel.

(a) If an authorized committee incurs expenditures for transportation, ground services and facilities (including air travel, ground transportation, housing, meals, telephone service, and typewriters) made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall expenditure limitations of 11 CFR 9035.1(a).

(b) If reimbursement for such expenditures is received by a committee, the amount of such reimbursement for each individual shall not exceed either: the individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate of the individual's pro rata share of the actual cost of the transportation and services made available. An individual's pro rata share shall be calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of the transportation and services. The total amount of reimbursements received from an individual under this section shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%.

(c) The total amount paid by an authorized committee for the cost of transportation or for ground services and facilities shall be reported as an expenditure in accordance with 11 CFR 104.3(b)(2)(i). Any reimbursement received by such committee for transportation or ground services and facilities shall be reported in accordance with 11 CFR 104.3(a)(3)(ix).

(d) (1) The committee may deduct from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9035.1(a) the amount of reimbursements received for the actual cost of transportation and services provided under paragraph (a). The committee may also deduct from the overall expenditure limitation an amount of reimbursements received equal to 3% of the actual cost of transportation and services provided under this section as the administrative cost to the committee of providing such services to media personnel and seeking reimbursement for them. If the committee has incurred higher administrative costs in providing these services, the committee must document the total cost incurred for such services in order to deduct a higher amount of reimbursements received from the overall expenditure limitation. Amounts paid by the committee for transportation, services and administrative costs for which no reimbursement is received will be considered qualified campaign expenses subject to the overall expenditure limitation in accordance with paragraph (a).

(2) For the purposes of this section, "administrative costs" shall include all costs incurred by the committee for making travel arrangements for media personnel and for seeking reimbursements, whether performed by committee staff or independent contractors.

§ 9034.7 Allocation of travel expenditures.

(a) Notwithstanding the provisions of 11 CFR Part 106, expenditures for travel relating to the campaign of a candidate seeking nomination for election to the office of President by any individual, including a candidate, shall, pursuant to the provisions of 11 CFR 9034.7(b), be qualified campaign expenses and be reported by the candidate's authorized committee(s) as expenditures.

(b) (1) For a trip which is entirely campaign-related, the total cost of the trip shall be a qualified campaign expense and a reportable expenditure.

(2) For a trip which includes campaign-related and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by calculating what the trip would have cost from the point of origin of the trip to the first campaign-related stop and from that stop through each subsequent campaign-related stop, back to the point of origin. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related.

(3) For each trip, an itinerary shall be prepared and such itinerary shall be made available for Commission inspection.

(4) For trips by government conveyance or by charter, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign-related, shall be made available for Commission inspection.

(5) If any individual, including a candidate, uses government conveyance or accommodations paid for by a government entity for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount equal to:

(i) The first class commercial air fare plus the cost of other services, in the case of travel to a city served by a regularly scheduled commercial service; or

(ii) The commercial charter rate plus the cost of other services, in the case of travel to a city not served by a regularly scheduled commercial service.

(6) Travel expenses of a candidate's spouse and family when accompanying the candidate on campaign-related travel may be treated as qualified campaign expenses and reportable expenditures. If the spouse or family members conduct campaign-related activities, their travel expenses will be treated as qualified campaign expenses and reportable expenditures.

(7) If any individual, including a candidate, incurs expenses for campaign-related travel, other than by use of government conveyance or accommodations, an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers, including the candidate, travelling for campaign purposes will be a qualified campaign expense and shall be reported by the committee as an expenditure.

(i) If the trip is by charter, the actual cost for each passenger shall be determined by dividing the total operating cost for the charter by the total number of passengers transported. The amount which is a qualified campaign expense and a reportable expenditure shall be calculated in accordance with the formula set forth at 11 CFR 9034.7(b)(2) on the basis of the actual cost per passenger multiplied by the number of passengers travelling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation, the actual cost shall be calculated in accordance with the formula set forth at 11 CFR 9034.7(b)(2) on the basis of the commercial fare. Such actual cost shall be a qualified campaign expense and a reportable expenditure.

§ 9034.8 Joint fundraising.

(a) *General.*—(1) *Permissible participants.* Presidential primary candidates who receive matching funds under this subchapter may engage in joint fundraising with other candidates, political committees or unregistered committees or organizations.

(2) *Use of funds.* Contributions received as a result of a candidate's participation in a joint fundraising activity under this section may be—

(i) Submitted for matching purposes in accordance with the requirements of 11 CFR 9034.2 and the Federal Election Commission's Guideline for Presentation in Good Order;

(ii) Used to pay a candidate's net outstanding campaign obligations as provided in 11 CFR 9034.5;

(iii) Used to defray qualified campaign expenses;

(iv) Used to defray exempt legal and accounting costs; or

(v) If in excess of a candidate's net outstanding campaign obligations or expenditure limit, used in any manner consistent with 11 CFR 113.2, including repayment of funds under 11 CFR Part 9038.

(b) *Fundraising representatives.*—(1) *Establishment or selection of fundraising representative.* The participants in a joint fundraising effort under this section shall either establish a separate committee or select a participating committee, to act as fundraising representative for all participants. The fundraising representative shall be a reporting political committee and an authorized committee of each candidate.

(2) *Separate fundraising committee as fundraising representative.* A separate fundraising committee established by the participants to act as fundraising representative for all participants shall—

(i) Be established as a reporting political committee under 11 CFR 100.5;

(ii) Collect contributions;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(3) *Participating committee as fundraising representative.* A participant selected to act as fundraising representative for all participants shall—

(i) Be a political committee as defined in 11 CFR 100.5;

(ii) Collect contributions; however, other participants may also collect contributions and then forward them to the fundraising representative as required by 11 CFR 102.8;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(4) *Independent fundraising agent.* The participants or the fundraising representative may hire a commercial fundraising firm or other agent to assist in conducting the joint fundraising activity. In that case, however, the fundraising representative shall still be responsible for ensuring that the recordkeeping, reporting and documentation requirements set forth in this subchapter are met.

(c) *Joint fundraising procedures.* Any joint fundraising activity under this section shall be conducted in accordance with the following requirements:

(1) *Written agreement.* The participants in a joint fundraising activity shall enter into a written agreement, whether or not all participants are political committees under 11 CFR 100.5. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. The participants shall also use the formula to allocate the expenses incurred for the fundraising activity. The fundraising representative shall retain the written agreement for a period of three years and shall make it available to the Commission on request.

(2) *Funds advanced for fundraising costs.* (i) Except as provided in 11 CFR 9034.8(c)(2)(ii), the amount of funds advanced by each participant for fundraising costs shall be in proportion to the allocation formula agreed upon under 11 CFR 9034.8(c)(1).

(ii) A participant may advance more than its proportionate share of the fundraising costs; however, the amount advanced which is in excess of the participant's proportionate share shall not exceed the amount that participant could legally contribute to the remaining participants. See 11 CFR 102.12(c)(2) and Part 110.

(3) *Fundraising notice.* In addition to any notice required under 11 CFR 110.11, a joint fundraising notice shall be included with every solicitation for contributions.

(i) This notice shall include the following information:

(A) The names of all committees participating in the joint fundraising activity whether or not such committees are political committees under 11 CFR 100.5;

(B) The allocation formula to be used for distributing joint fundraising proceeds;

(C) A statement informing contributors that, notwithstanding the stated allocation formula, they may designate their contributions for a particular participant or participants; and

(D) A statement informing contributors that the allocation formula may change if a contributor makes a contribution which would exceed the amount that contributor may give to any participant.

(ii) If one or more participants engage in the joint fundraising activity solely to satisfy outstanding debts, the notice shall also contain a statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay its outstanding debts.

(4) *Separate depository account.* (i) The participants or the fundraising representative shall establish a separate depository account to be used solely for the receipt and disbursement of the joint fundraising proceeds. All contributions deposited into the separate depository account must be permissible under Title 2, United States Code. Each political committee shall amend its Statement of Organization to reflect the account as an additional depository.

(ii) The fundraising representative shall deposit all joint fundraising proceeds in the separate depository account within ten days of receipt as required by 11 CFR 103.3. The fundraising representative may delay distribution of the fundraising proceeds to the participants until all contributions are received and all expenses are paid.

(iii) For contribution reporting and limitation purposes, the date of receipt of a contribution by a participating political committee is the date that the contribution is received by the fundraising representative. The fundraising representative shall report contributions in the reporting period in which they are received. Participating political committees shall report joint fundraising proceeds in accordance with 11 CFR 9034.8(c)(9) when such funds are received from the fundraising representative.

(5) *Recordkeeping requirements.* (i) The fundraising representative and participating committees shall screen all contributions received to insure that the prohibitions and limitations of 11 CFR Parts 110 and 114 are observed. Participating political committees shall make their contributor records available to the fundraising representative to enable the fundraising representative to carry out its duty to screen contributions.

(ii) The fundraising representative shall collect and retain contributor information with regard to gross proceeds as required under 11 CFR 102.8 and shall also forward such information to participating political committees.

(iii) The fundraising representative shall retain the records required under 11 CFR 9033.11 regarding fundraising disbursements for a period of three years. Commercial fundraising firms or agents shall forward such information to the fundraising representative.

(6) *Contribution limitations.* Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2.

(7) *Allocation of gross proceeds.* (i) The fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. Funds may not be distributed or reallocated so as to maximize the matchability of the contributions.

(ii) If distribution according to the allocation formula extinguishes the debts of one or more participants or if distribution under the formula results in a violation of the contribution limits of 11 CFR 110.1(a), the fundraising representative may reallocate the surplus funds. Candidates seeking to extinguish outstanding debts shall not reallocate in reliance on the receipt of matching funds to pay the remainder of their debts; rather, all funds to which a participant is entitled under the allocation formula shall be deemed funds available to pay the candidate's outstanding campaign obligations as provided in 11 CFR 9034.5(c).

(iii) Reallocation shall be based upon the remaining participants' proportionate shares under the allocation formula. If reallocation results in a violation of a contributor's limit under 11 CFR 110.1, the fundraising representative shall return to the contributor the amount of the contribution that exceeds the limit.

(iv) Earmarked contributions which exceed the contributor's limit to the designated participant under 11 CFR Part 110 may not be reallocated by the fundraising representative without the written permission of the contributor.

(8) *Allocation of expenses and distribution of net proceeds.* (i) If participating committees are not affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity and are not committees of the same political party:

(A) After gross contributions are allocated among the participants under 11 CFR 9034.8(c)(7), the fundraising representative shall calculate each participant's share of expenses based on the percentage of the total receipts each participant had been allocated. To calculate each participant's net proceeds, the fundraising representative shall subtract the participant's share of expenses from the amount that participant has been allocated from gross proceeds.

(B) A participant may only pay expenses on behalf of another participant subject to the contribution limits of 11 CFR Part 110.

(ii) If participating committees are affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity or if participants are party committees of the same political party, expenses need not be allocated among those participants. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

(iii) Payment of expenses may be made from gross proceeds by the fundraising representative.

(9) *Reporting of Receipts and Disbursements.*—(i) *Reporting receipts.* (A) The fundraising representative shall report all funds received in the reporting period in which they are received. Each Schedule A filed by the fundraising representative under this section shall clearly indicate that the contributions reported on that schedule represent joint fundraising proceeds.

(B) After distribution of net proceeds, each participating political committee shall report its share of net proceeds received as a transfer-in from the fundraising representative. Each participating political committee shall also file a memo Schedule A itemizing its share of gross receipts as contributions from original contributors to the extent required under 11 CFR 104.3(a).

(ii) *Reporting disbursements.* The fundraising representative shall report all disbursements in the reporting period in which they are made.

§ 9034.9 Sale of assets acquired for fundraising purposes.

(a) *General.* A candidate may sell assets donated to the campaign or otherwise acquired for fundraising purposes (see 11 CFR 9034.5(b)(2)), subject to the limitations and

prohibitions of Title 2, United States Code and 11 CFR Parts 110 and 114.

(b) *Sale after end of matching payment period.* A candidate whose outstanding debts exceed his or her cash on hand after the end of the matching payment period as determined under 11 CFR 9032.6 may dispose of assets acquired for fundraising purposes in a sale to a wholesaler or other intermediary who will in turn sell such assets to the public, provided that the sale to the wholesaler or intermediary is an arms-length transaction. Sales made under this subsection will not be subject to the limitations and prohibitions of Title 2, United States Code and 11 CFR Parts 110 and 114.

PART 9035—EXPENDITURE LIMITATIONS

Sec.

9035.1 Campaign expenditure limitation.
9035.2 Limitation on expenditures from personal or family funds.

Authority: 26 U.S.C. 9035 and 9039(b).

§ 9035.1 Campaign expenditure limitation.

(a) (1) No candidate or his or her authorized committee(s) shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which expenditures, in the aggregate, exceed $10,000,000 (as adjusted under 2 U.S.C. 441a(c)), except that the aggregate expenditures by a candidate in any one State shall not exceed the greater of: 16 cents (as adjusted under 2 U.S.C. 441a(c)) multiplied by the voting age population of the State (as certified under 2 U.S.C. 441a(e)); or $200,000 (as adjusted under 2 U.S.C. 441a(c)).

(2) The Commission will calculate the amount of expenditures attributable to the overall expenditure limit or to a particular state using the full amounts originally charged for goods and services rendered to the committee and not the amounts for which such obligations were settled and paid, unless the committee can demonstrate that the lower amount actually paid reflects the true value of the goods and services received.

(b) Each candidate receiving or expecting to receive matching funds under this subchapter shall also allocate his or her expenditures in accordance with the provisions of 11 CFR 106.2.

(c) A candidate may exclude from the overall expenditure limitation of 11 CFR 9035.1 an amount equal to 10% of salaries and overhead expenditures of his or her national campaign headquarters and state offices as an exempt legal and accounting compliance cost under 11 CFR 100.8(b)(15). For purposes of this section overhead expenditures include, but are not limited to rent, utilities, office equipment, furniture, supplies, and telephone base service charges. An additional amount of 10% of such salaries and overhead expenditures may be excluded from the overall expenditure limitation of 11 CFR 9035.1 as exempt fundraising expenditures but this exemption shall not apply within 28 days of the primary election as specified in 11 CFR 110.8(c)(2). Any amount excluded for fundraising expenditures shall be applied against the fundraising expenditure limitation under 11 CFR 100.8(b)(21). If the candidate wishes to claim a larger compliance or fundraising exemption for any person, the candidate shall establish allocation percentages for each individual who spends all or a portion of his or her time to perform duties which are considered compliance or fundraising. The candidate shall keep detailed records to support the derivation of each percentage. Such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

(1) Exempt compliance costs are those legal and accounting costs incurred solely to ensure compliance with 26 U.S.C. 9031 *et seq.*, 2 U.S.C. 431 *et seq.*, and 11 CFR Chapter I. Exempt fundraising expenses are those expenses associated with the solicitation of contributions. They include printing and postage for solicitations, one-half the cost of preparing matching fund submissions, air time for fundraising advertisements and the cost of meals and beverages for fundraising receptions or dinners.

(2) If the candidate wishes to claim a larger amount of salaries and overhead expenditures as a compliance or fundraising exemption than that permitted by the 10% figure contained in paragraph (c), the Commission's Financial Control and Compliance Manual contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt compliance or fundraising costs.

(d) The expenditure limitations of 11 CFR 9035.1 shall not apply to a candidate who does not receive matching funds at any time during the matching payment period.

§ 9035.2 Limitation on expenditures from personal or family funds

(a)(1) No candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President which exceed $50,000, in the aggregate. This section shall not operate to prohibit any member of the candidate's immediate family from contributing his or her personal funds to the candidate, subject to the limitations of 11 CFR Part 110. The provisions of this section also shall not limit the candidate's liability for, nor the candidate's ability to pay, any repayments required under 11 CFR Part 9038.

(2) Expenditures made using a credit card for which the candidate is jointly or solely liable will count against the limits of this section to the extent that the balance due is not paid by the date on which payment must be made according to the terms of the credit card agreement.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of this section, "personal funds" has the same meaning as specified in 11 CFR 110.10.

PART 9036—REVIEW OF SUBMISISON AND CERTIFICATION OF PAYMENTS BY COMMISSION

Sec.

9036.1 Threshold submission.
9036.2 Additional submissions for matching fund payments.
9036.3 Submission errors and insufficient documentation.
9036.4 Commission review of submissions.
9036.5 Resubmissions.
9036.6 Continuation of certification.

Authority: 26 U.S.C. 9036 and 9039(b).

§ 9036.1 Threshold submission.

(a) *Time for submission of Threshold Submission.* At any time after January 1 of the year immediately preceding the Presidential election year, the candidate may submit a threshold submission for matching fund payments in accordance with the format for such submissions set forth in 11 CFR 9036.1(b). The threshold submission shall also include a certification signed by the committee treasurer that the information contained in the submission is complete and accurate. The candidate may submit the threshold submission simultaneously with or subsequent to his or her submission of the candidate agreement and certifications required by 11 CFR 9033.1 and 9033.2.

(b) *Format for threshold submission.* (1) For each State in which the candidate certifies that he or she has met the requirements of the certifications in 11 CFR 9033.2(b), the

candidate shall submit an alphabetical list of contributors showing:

(i) Each contributor's full name and residential address;

(ii) The occupation and name of employer for individuals whose aggregate contributions exceed $200 in the calendar year;

(iii) The date of deposit of each contribution into the designated campaign depository;

(iv) The full dollar amount of each contribution submitted for matching purposes;

(v) The matchable portion of each contribution submitted for matching purposes;

(vi) The aggregate amount of all matchable contributions from that contributor submitted for matching purposes;

(vii) A notation indicating which contributions were received as a result of joint fundraising activities.

(2) The candidate shall submit a full-size photocopy of each check or written instrument and of supporting documentation in accordance with 11 CFR 9034.2 for each contribution that the candidate submits to establish eligibility for matching funds. For purposes of the threshold submission, the photocopies shall be segregated alphabetically by contributor within each State, and shall be accompanied by and referenced to copies of the relevant deposit slips.

(3) The candidate shall submit bank documentation, such as bank-validated deposit slips or unvalidated deposit slips accompanied by the relevant bank statements, which indicate that the contributions submitted were deposited into a designated campaign depository.

(4) For each State in which the candidate certifies that he or she has met the requirements to establish eligibility, the candidate shall submit a listing, alphabetically by contributor, of all checks returned by the bank to date as unpaid (e.g., stop payments, non-sufficient funds) regardless of whether the contribution was submitted for matching. This listing shall be accompanied by a full-size photocopy of each unpaid check, and copies of the associated debit memo and bank statement.

(5) For each state in which the candidate certifies that he or she has met the requirements to establish eligibility, the candidate shall submit a listing, alphabetically by contributor, of all refunded contributions, regardless of whether the contribution was submitted for matching. This listing shall include the date and amount of the original contribution and the amount of the refund.

(6) If contributions are included in the submission which were received as a result of joint fundraising, the candidate shall submit a copy of the joint fundraising agreement and the solicitation material for the event. Any contributions attributed to the candidate in a higher percentage than that specified in the joint fundraising agreement shall be accompanied by documentation showing the re-allocation and the basis or reason for the re-allocation.

(7) If contributions received as a result of entertainment events are included in the submission, the candidate shall submit a copy of the promotional material and a copy of each ticket at each price. The promotional material and tickets for the event shall clearly indicate that the ticket purchase price represents a contribution to the Presidential candidate.

(8) The candidate shall submit all contributions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(9) Contributions that are not submitted in compliance with this section shall not count toward the threshold amount.

(c) *Threshold certification by Commission.* (1) After the Commission has determined under 11 CFR 9033.4 that the candidate has satisfied the eligibility and certification requirements of 11 CFR 9033.1 and 9033.2, the Commission will notify the candidate in writing that the candidate is eligible to receive primary matching fund payments as provided in 11 CFR Part 9034.

(2) If the Commission makes a determination of a candidate's eligibility under 11 CFR 9036.1(a) in a Presidential election year, the Commission shall certify to the Secretary, within 10 calendar days after the Commission has made its determination, the amount to which the candidate is entitled.

(3) If the Commission makes a determination of a candidate's eligibility under 11 CFR 9036.1(a) in the year preceding the Presidential election year, the Commission will notify the candidate that he or she is eligible to receive matching fund payments; however, the Commission's determination will not result in a payment of funds to the candidate until after January 1 of the Presidential election year.

§ 9036.2 Additional submissions for matching fund payments.

(a) *Time for submission of additional submissions.* The candidate may submit additional submissions for payments to the Commission on the dates designated by the Commission for that candidate. The Commission will notify the candidate of the dates so designated when the candidate's eligibility is determined under 11 CFR 9033.4.

(b) *Format for additional submissions.* The candidate may obtain additional matching fund payments subsequent to the Commission's threshold certification and payment of primary matching funds to the candidate by filing an additional submission for payment. All additional submissions for payments filed by the candidate shall be made in accordance with the Federal Election Commission's Guideline for Presentation in Good Order and shall include a signed certification by the committee treasurer that the information contained in the submission is complete and accurate.

(1) The first submission for matching funds following the candidate's threshold submission shall contain all the matchable contributions included in the threshold submission and any additional contributions to be submitted for matching in that submission. This submission shall contain all the information required for the threshold submission except that:

(i) The candidate is not required to resubmit the candidate agreement and certifications of 11 CFR 9033.1 and 9033.2;

(ii) The candidate is required to submit an alphabetical list of contributors, but not segregated by State as required in the threshold submission;

(iii) The candidate is required to submit a listing, alphabetical by contributor, of all checks returned unpaid, but not segregated by State as required in the threshold submission;

(iv) The candidate is required to submit a listing, alphabetical by contributor, of all refunded contributions, but not segregated by State as required in the threshold submission;

(v) The occupation and employer's name need not be disclosed on the contributor list for individuals whose aggregate contributions exceed $200 in the calendar year, but such information is subject to the recordkeeping and reporting requirements of 2 U.S.C. 432 (c)(3), 434(b)(3)(A) and 11 CFR 102.9(a)(2), 104.3(a)(4)(i); and

(vi) The photocopies of each check or written instrument and of supporting documentation shall either be alphabetized and referenced to copies of the relevant deposit slip, but not segregated by State as required in the threshold submission; or such photocopies may be batched in deposits of 50 contributions or less and cross-referenced by deposit number and sequence number within each deposit on the contributor list.

VOL 51 ISS 150 AG 5 1986 UMI

(2) Following the first submission under 11 CFR 9036.2(b)(1), candidates may request additional matching funds on dates prescribed by the Commission by making a letter request in lieu of making a full submission as required under 11 CFR 9036.2(b)(1), however, letter requests may not be submitted after the candidate's date of ineligibility. Letter requests shall state an amount of matchable contributions not previously submitted for matching and shall provide bank documentation, such as bank-validated deposit slips or unvalidated deposit slips accompanied by the relevant bank statement, demonstrating that the committee has received the funds for which matching payments are requested. The amount requested for matching may include contributions received up to the last business day preceding the date of the request. On the next submission date as designated for that committee after a letter request has been made, the committee shall submit the documentation required under 11 CFR 9036.2(b)(1) for all contributions included in the letter request, as well as any contributions submitted for matching in that full submission. If the candidate does not produce documentation for a letter request on the next submission date, the Commission will not accept any future letter requests from the candidate and the amount certified on the undocumented letter request will be the subject of a repayment determination under 11 CFR 9038.2(b)(1). A committee may not submit two consecutive letter requests, but the committee may choose to make a full regular submission on a date designated by the Commission as a letter request date for that committee.

(c) *Certification of additional payments by Commission.* (1) (i) When a candidate who is eligible under 11 CFR 9033.4 submits an additional submission for payment in the Presidential election year, the Commission may certify to the Secretary within 5 business days after the Commission's receipt of information submitted by the candidate under 11 CFR 9036.2(a), an amount based on the holdback procedure described in the Federal Election Commission's Guideline for Presentation in Good Order. If the candidate makes a letter request, the Commission may certify to the Secretary an amount which is less than that requested based upon the ratio of verified matchable contributions to total deposits for that committee in the committee's last regular submission.

(ii) The Commission will certify to the Secretary any additional amount to which the eligible candidate is entitled, if any, within 20 business days after the Commission's receipt of information submitted by the candidate under 11 CFR 9036.2(a), unless the projected dollar value of the nonmatchable contributions contained in the submission exceeds 10% of the amount requested. In the latter case, the Commission will certify any additional amount within 25 business days. See 11 CFR 9038.4 for Commission procedures for certification of additional payments.

(2) After a candidate's date of ineligibility, the Commission will certify to the Secretary, within 20 business days after receipt of a submission by the candidate under 11 CFR 9036.2(a), an amount to which the ineligible candidate is entitled in accordance with 11 CFR 9034.1(b), unless the projected dollar value of the nonmatchable contributions contained in the submission exceeds 10% of the amount requested. In the latter case, the Commission will certify any amount to which the ineligible candidate is entitled within 25 business days.

(d) *Additional submissions submitted in non-Presidential election year.* The candidate may submit additional contributions for review during the year preceding the Presidential election year; however, the amount of each submission made during this period must exceed $50,000. Additional submissions filed by a candidate in a non-Presidential election year will not result in payment of matching funds to the candidate until after January 1 of the Presidential election year.

§ 9036.3 Submission errors and insufficient documentation.

Contributions which are otherwise matchable may be rejected for matching purposes because of submission errors or insufficient supporting documentation. Contributions, other than those defined in 11 CFR 9034.3 or in the form of money orders, cashier's checks, or similar negotiable instruments, may become matchable if there is a proper resubmission in accordance with 11 CFR 9036.5 and 9036.6. Insufficient documentation or submission errors include but are not limited to:

(a) Discrepancies in the written instrument, such as:

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount or date of the contribution, or the listing of the committee or candidate as payee.

(b) Discrepancies between listed contributions and the written instrument or supporting documentation, such as:

(1) The listed amount requested for matching exceeds the amount contained on the written instrument;

(2) A written instrument has not been submitted to support a listed contribution;

(3) The submitted written instrument cannot be associated either by accountholder identification or signature with the listed contributor; or

(4) A discrepancy between the listed contribution and the supporting bank documentation or the bank documentation is omitted.

(c) Discrepancies within or between contributor lists submitted, such as:

(1) The address of the contributor is omitted or incomplete or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item;

(2) A discrepancy in aggregation within or between submissions which results in a request that more than $250 be matched for that contributor, or a listing of a contributor more than once within the same submission; or

(3) A written instrument has been previously submitted and matched in full or is listed twice in the same submission.

(d) The omission of information, supporting statements, or documentation required by 11 CFR 9034.2.

§ 9036.4 Commission review of submissions.

(a) *Non-acceptance of submission for review of matchability.* The Commission will make an initial review of each submission made under 11 CFR Part 9036 to determine if it substantially meets the format requirements of 11 CFR 9036.1(b) and 9036.2(b) and the Federal Election Commission's Guideline for Presentation in Good Order. If the Commission determines that a submission does not substantially meet these requirements, it will not review the matchability of the contributions contained therein. In such a case, the Commission will return the submission to the candidate and request that it be corrected in accordance with the format requirements. If the candidate makes a corrected submission within 3 business days after the Commission's return of the original, the Commission will review the corrected submission prior to the next regularly-scheduled submission date. Corrected submissions made after this three day period will be reviewed subsequent to the next regularly-scheduled submission date.

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(b) *Acceptance of submission for review of matchability.* If the Commission determines that a submission made under 11 CFR Part 9036 satisfies the format requirements of 11 CFR 9036.1(b) and 9036.2(b) and the Federal Election Commission's Guideline for Presentation in Good Order, it will review the matchability of the contributions contained therein. The Commission, in conducting its review, may utilize statistical sampling techniques. Based on the results of its review, the Commission may calculate a matchable amount for the submission which is less than the amount requested by the candidate. If the Commission certifies for payment to the Secretary an amount that is less than the amount requested by the candidate in a particular submission, or reduces the amount of a subsequent certification to the Secretary by adjusting a previous certification made under 11 CFR 9036.2(c)(1), the Commission will notify the candidate in writing of the following:

(1) The amount of the difference between the amount requested and the amount to be certified by the Commission;

(2) The amount of each contribution and the corresponding contributor's name for each contribution that the Commission has rejected as nonmatchable and the reason that it is not matchable; or if statistical sampling is used, the estimated amount of contributions by type and the reason for rejection;

(3) The amount of contributions that have been determined to be matchable and that the Commission will certify to the Secretary for payment; and

(4) A statement that the candidate may supply the Commission with additional documentation or other information in the resubmission of any rejected contribution under 11 CFR 9036.5 in order to show that a rejected contribution is matchable under 11 CFR 9034.2.

(c) *Adjustment of amount to be certified by Commission.* The candidate shall notify the Commission as soon as possible if the candidate or the candidate's authorized committee(s) has knowledge that a contribution submitted for matching does not qualify under 11 CFR 9034.2 as a matchable contribution, such as a check returned to the committee for insufficient funds or a contribution that has been refunded, so that the Commission may properly adjust the amount to be certified for payment.

(d) *Commission audit of submissions.* The Commission may determine, for the reasons stated in 11 CFR Part 9039, that an audit and examination of contributions submitted for matching payment is warranted. The audit and examination shall be conducted in accordance with the procedures of 11 CFR Part 9039.

§ 9036.5 Resubmissions.

(a) *Alternative resubmission methods.* Upon receipt of the Commission's notice of the results of the submission review pursuant to 11 CFR 9036.4(b), a candidate may choose to:

(1) Resubmit the entire submission; or

(2) Make a written request for the identification of the specific contributions that were rejected for matching, and resubmit those specific contributions.

(b) *Time for presentation of resubmissions.* If the candidate chooses to resubmit any contributions under 11 CFR 9036.5(a), the contributions shall be resubmitted on the dates designated for that candidate's resubmissions by the Commission. The Commission will notify the candidate of the dates so designated when the candidate's eligibility is determined under 11 CFR 9033.4. The candidate may not make any resubmissions later than September 1 of the year following the Presidential election year.

(c) *Format for resubmissions.* All resubmissions filed by the candidate shall be made in accordance with the Federal Election Commission's Guideline for Presentation in Good Order. In making a presentation of resubmitted contributions, the candidate shall follow the format requirements as specified in 11 CFR 9036.2(b)(1), except that:

(1) The candidate need not provide photocopies of written instruments, supporting documentation and bank documentation unless it is necessary to supplement the original documentation.

(2) Each resubmitted contribution shall be referenced to the submission in which it was first presented.

(3) Each list of resubmitted contributions shall reflect the aggregate amount of contributions submitted for matching from each contributor as of the date of the original submission.

(4) Each list of resubmitted contributions shall reflect the aggregate amount of contributions submitted for matching from each contributor as of the date of the resubmission.

(5) Each list of resubmitted contributions shall only contain contributions previously submitted for matching and no new or additional contributions.

(6) Each resubmission shall be accompanied by a statement that the candidate has corrected his or her contributor records (including the data base for those candidates maintaining their contributor list on computer).

(d) *Certification of resubmitted contributions.* Contributions that the Commission determines to be matchable will be certified to the Secretary within 15 business days. If the candidate chooses to request the specific contributions rejected for matching pursuant to 11 CFR 9036.5(a)(2), the amount certified shall equal only the matchable amount of the particular contribution that meets the standards on resubmission, rather than the amount projected as being nonmatchable based on that contribution due to the sampling techniques used in reviewing the original submission.

(e) *Initial determinations.* If the candidate resubmits a contribution for matching and the Commission determines that the rejected contribution is still nonmatchable, the Commission will notify the candidate in writing of its determination. The Commission will advise the candidate of the legal and factual reasons for its determination and of the evidence on which that determination is based. The candidate may submit written legal or factual materials to demonstrate that the contribution is matchable within 30 calendar days after service of the Commission's notice. Such materials may be submitted by counsel if the candidate so desires.

(f) *Final determinations.* The Commission will consider any written legal or factual materials timely submitted by the candidate in making its final determination. A final determination by the Commission that a contribution is not matchable will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

§ 9036.6 Continuation of certification.

Candidates who have received matching funds and who are eligible to continue to receive such funds may continue to submit additional submissions for payment to the Commission on dates specified in the Federal Election Commission's Guideline for Presentation in Good Order. The Commission will notify each candidate of the last date on which contributions may be submitted for the first time for matching in the year following the election. The last date for first-time submissions will be either the last Monday in February or the second Monday in March of the year following

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the election, depending on the submission schedule the Commission has designated for the candidate. No contribution will be matched if it is submitted after the last submission date designated for that candidate, regardless of the date the contribution was deposited.

PART 9037—PAYMENTS

Sec.

9037.1 Payments of Presidential primary matching funds.
9037.2 Equitable distribution of funds.
9037.3 Deposits of Presidential primary matching funds.

Authority: 26 U.S.C. 9037 and 9039(b).

§ 9037.1 Payments of Presidential primary matching funds.

Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary will promptly transfer the amount certified from the matching payment account to the candidate.

§ 9037.2 Equitable distribution of funds.

In making such transfers to candidates of the same political party, the Secretary will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary will take into account, in seeking to achieve an equitable distribution of funds available in the matching payment account, the sequence in which such certifications are received.

§ 9037.3 Deposits of Presidential primary matching funds.

Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

PART 9038—EXAMINATIONS AND AUDITS

Sec.

9038.1 Audit.
9038.2 Repayments.
9038.3 Liquidation of obligations; repayment.
9038.4 Extensions of time.
9038.5 Petitions for rehearing; stays of repayment determinations.

Authority: 26 U.S.C. 9038 and 9039(b).

§ 9038.1 Audit.

(a) *General.* (1) The Commission will conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committee(s) who received Presidential primary matching funds. The audit may be conducted at any time after the date of the candidate's ineligibility.

(2) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

(3) Information obtained pursuant to any audit and examination conducted under 11 CFR 9038.1(a) (1) and (2) may be used by the Commission as the basis, or partial basis, for its repayment determinations under 11 CFR 9038.2.

(b) *Conduct of fieldwork.* (1) The Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee.

(i) *Office space and records.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall provide Commission staff with office space and committee records in accordance with the candidate and committee agreement under 11 CFR 9033.1(b)(6).

(ii) *Availability of committee personnel.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall have committee personnel present at the site of the fieldwork. Such personnel shall be familiar with the committee's records and operation and shall be available to Commission staff to answer questions and to aid in locating records.

(iii) *Failure to provide staff, records or office space.* If the candidate or his or her authorized committee(s) fail to provide adequate office space, personnel or committee records, the Commission may seek judicial intervention under 2 U.S.C. 437d or 26 U.S.C. 9040(c) to enforce the candidate and committee agreement made under 11 CFR 9033.1(b). Before seeking judicial intervention, the Commission will notify the candidate of his or her failure to comply with the agreement and will recommend corrective action to bring the candidate into compliance. Upon receipt of the Commission's notification, the candidate will have 10 calendar days in which to take the corrective action indicated or to otherwise demonstrate to the Commission in writing that he or she is complying with the candidate and committee agreement.

(iv) If, in the course of the audit process, a dispute arises over the documentation sought or other requirements of the candidate agreement, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement, within 10 calendar days after the disputed Commission staff request is made, describing the dispute and indicating the candidate's proposed alternative(s).

(2) Fieldwork will include the following steps designed to keep the candidate and committee informed as to the progress of the audit and to expedite the process:

(i) *Entrance conference.* At the outset of the fieldwork, Commission staff will hold an entrance conference, at which the candidate's representatives will be advised of the purpose of the audit and the general procedures to be followed. Future requirements of the candidate and his or her authorized committee, such as possible repayments to the United States Treasury, will also be discussed. Committee representatives shall provide information and records necessary to conduct the audit, and Commission staff will be available to answer committee questions.

(ii) *Review of records.* During the fieldwork, Commission staff will review committee records and may conduct interviews of committee personnel. Commission staff will be available to explain aspects of the audit and examination as it progresses. Additional meetings between Commission staff and committee personnel may be held from time to time during the fieldwork to discuss possible audit findings and to resolve issues arising during the course of the audit.

(iii) *Exit conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations which the Commission staff anticipates that it may present to the Commission for approval. Commission staff will advise committee representatives at this conference of the projected timetable regarding the issuance of an audit report, the committee's opportunity to respond thereto, and the Commission's initial and final repayment determinations under 11 CFR 9038.2.

(3) Commission staff may conduct additional fieldwork after the completion of the fieldwork conducted pursuant to 11 CFR 9038.1(b) (1) and (2). Factors that may necessitate such follow-up fieldwork include, but are not limited to, the following:

(i) Committee responses to audit findings;

(ii) Financial activity of the committee subsequent to the fieldwork conducted pursuant to 11 CFR 9038.1(b)(1);

(iii) Committee responses to Commission repayment determinations made under 11 CFR 9038.2.

(4) The Commission will notify the candidate and his or her authorized committee if follow-up fieldwork is necessary. The provisions of 11 CFR 9038.1(b) (1) and (2) shall apply to any additional fieldwork conducted.

(c) *Preparation of interim audit report.* (1) After the completion of the fieldwork conducted pursuant to 11 CFR 9038.1(b)(1), the Commission will issue an interim audit report to the candidate and his or her authorized committee. The interim audit report may contain Commission findings and recommendations regarding one or more of the following areas:

(i) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, Primary Matching Payment Account Act and Commission regulations;

(ii) Eligibility of the candidate to receive primary matching payments;

(iii) Accuracy of statements and reports filed with the Commission by the candidate and committee;

(iv) Compliance of the candidate and committee with applicable statutory and regulatory provisions except for those instances where the Commission has instituted an enforcement action on the matter(s) under the provisions of 2 U.S.C. 437g and 11 CFR Part 111; and

(v) Preliminary calculations regarding future repayments to the United States Treasury.

(2) The candidate and his or her authorized committee will have an opportunity to submit, in writing, within 30 calendar days after service of the interim report, legal and factual materials disputing or commenting on the contents of the interim report. Such materials may be submitted by counsel if the candidate so desires.

(3) The Commission will consider any written legal and factual materials submitted by the candidate or his or her authorized committee in accordance with 11 CFR 9038.1(c)(2) before approving and issuing an audit report to be released to the public. The contents of the publicly-released audit report may differ from that of the interim report since the Commission will consider timely submissions of legal and factual materials by the candidate or committee in response to the interim report.

(d) *Preparation of publicly-released audit report.* An audit report prepared subsequent to an interim report will be publicly released pursuant to 11 CFR 9038.1(e). This report will contain Commission findings and recommendations addressed in the interim audit report but may contain adjustments based on the candidate's response to the interim report. In addition, this report will contain an initial repayment determination made by the Commission pursuant to 11 CFR 9038.2(c)(1) in lieu of the preliminary calculations set forth in the interim report.

(e) *Public release of audit report.* (1) After the candidate and committee have had an opportunity to respond to a written interim report of the Commission, the Commission will make public the audit report prepared subsequent to the interim report, as provided in 11 CFR 9038.1(d).

(2) If the Commission determines, on the basis of information obtained under the audit and examination process, that certain matters warrant enforcement under 2 U.S.C. 437g and 11 CFR Part 111, those matters will not be contained in the publicly-released report. In such cases, the audit report will indicate that certain other matters have been referred to the Commission's Office of General Counsel.

(3) The Commission will provide the candidate and committee copies of the audit report 24 hours prior to releasing the report to the public.

(4) Addenda to the audit report may be issued from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based, in part, on follow-up fieldwork conducted under 11 CFR 9038.1(b)(3), and will be placed on the public record.

§ 9038.2 Repayments.

(a) *General.* (1) A candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section. In making repayment determinations under this section, the Commission may utilize information obtained from audits and examinations conducted pursuant to 11 CFR 9038.1 and Part 9039 or otherwise obtained by the Commission in carrying out its responsibilities under this subchapter.

(2) The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than 3 years after the end of the matching payment period.

(3) Once the candidate receives notice of the Commission's final repayment determination under this section, the candidate should give preference to the repayment over all other outstanding obligations of his or her committee, except for any federal taxes owed by the committee.

(b) *Bases for repayment.*—(1) *Payments in excess of candidate's entitlement.* The Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such excessive payments include, but are not limited to, the following:

(i) Payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 CFR 9034.5;

(ii) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the operation of the Commission's expedited payment procedures as set forth in the Federal Election Commission's Guideline For Presentation In Good Order;

(iii) Payments or portions of payments made on the basis of matched contributions later determined to have been non-matchable;

(iv) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the candidate's failure to include funds received by a fundraising representative committee under 11 CFR 9034.8 on the candidate's statement of net outstanding campaign obligations under 11 CFR 9034.5; and

(v) Payments or portions of payments made to the candidate on the basis of the debts reflected in the candidate's statement of net outstanding campaign obligations, which debts are later settled for an amount less than that stated in the statement of net outstanding campaign obligations.

(2) *Use of funds for non-qualified campaign expenses.* (i) The Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for purposes other than those set forth in (A)–(C) below:

(A) Defrayal of qualified campaign expenses;

(B) Repayment of loans which were used to defray qualified campaign expenses; and

(C) Restoration of funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses.

(ii) Examples of Commission repayment determinations under 11 CFR

9038.2(b)(2) include, but are not limited to, the following:

(A) Determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR 9035;

(B) Determinations that funds described in 11 CFR 9038.2(b)(2)(i) were expended in violation of state or federal law; and

(C) Determinations that funds described in 11 CFR 9038.2(b)(2)(i) were expended for expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.

(iii) The amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility. To determine at what point committee accounts no longer contain matching funds for the purpose of seeking repayment for non-qualified campaign expenses, the Commission will review committee expenditures from the date of the last matching fund payment to the candidate, using the assumption that the last payment has been expended on a last-in, first-out basis.

(3) *Failure to provide adequate documentation.* The Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents were not documented in accordance with 11 CFR 9033.11. The amount of any repayment sought under this section shall be determined by using the formula set forth in 11 CFR 9038.2(b)(2)(iii).

(4) *Surplus.* The Commission may determine that the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus.

(c) *Repayment determination procedures.* Commission repayment determinations will be made in accordance with the procedures set forth at 11 CFR 9038.2(c) (1) through (4), below.

(1) *Initial determination.* The Commission will provide the candidate with a written notice of its initial repayment determination(s). This notice will be included in the Commission's publicly released audit report, pursuant to 11 CFR 9038.1(d), and will set forth the legal and factual reasons for such determination(s). Such notice will also advise the candidate of the evidence upon which any such determination is based. If the candidate does not dispute an initial repayment determination of the Commission within 30 calendar days after service of the notice, such initial determination will be considered a final determination of the Commission.

(2) *Submission of written materials.* If the candidate disputes the Commission's initial repayment determination(s), he or she shall have an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice, legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. The Commission will consider any written legal and factual materials submitted by the candidate within this 30 day period in making its final repayment determination(s). Such materials may be submitted by counsel if the candidate so desires.

(3) *Oral presentation.* A candidate who has submitted written materials under 11 CFR 9038.2(c)(2) may request that the Commission provide such candidate with an opportunity to address the Commission in open session. If the Commission decides by an affirmative vote of four (4) of its members to grant the candidate's request, it will inform the candidate of the date and time set for the oral presentation. At the date and time set by the Commission, the candidate or candidate's designated representative will be allotted an amount of time in which to make an oral presentation to the Commission based upon the legal and factual materials submitted under 11 CFR 9038.2(c)(2). The candidate or representative will also have the opportunity to answer any questions from individual members of the Commission.

(4) *Final determination.* In making its final repayment determination(s), the Commission will consider any submission made under 11 CFR 9038.2(c)(2) and any oral presentation made under 11 CFR 9038.2(c)(3). A final determination that a candidate must repay a certain amount will be accompanied by a written statement of reasons for the Commission's actions. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

(d) *Repayment period.* (1) Within 90 calendar days after service of the notice of the Commission's initial repayment determination(s), the candidate shall repay to the Secretary amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 calendar days in which to make repayment.

(2) If the candidate submits written materials under 11 CFR 9038.2(c)(2) disputing the Commission's initial repayment determination(s), the time for repayment will be suspended until the Commission makes its final repayment determination(s). Within 20 calendar days after service of the notice of the Commission's final repayment determination(s), the candidate shall repay to the Secretary amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 days in which to make repayment.

(e) *Computation of time.* The time periods established by this section shall be computed in accordance with 11 CFR 111.2.

(f) *Additional repayments.* Nothing in this section will prevent the Commission from making additional repayment determinations on one or more of the bases set forth at 11 CFR 9038.2(b) after it has made a final determination on any such basis. The Commission may make additional repayment determinations where there exist facts not used as the basis for a previous final determination. Any such additional repayment determination will be made in accordance with the provisions of this section.

(g) *Newly-discovered assets.* If, after any initial or final repayment determination made under this section, a candidate or his or her authorized committee(s) receives or becomes aware of assets not previously included in any statement of net outstanding campaign obligations submitted pursuant to 11 CFR 9034.5, the candidate or his or her authorized committee(s) shall promptly notify the Commission of such newly-discovered assets. Newly-discovered assets may include refunds, rebates, late-arriving receivables, and actual receipts for capital assets in excess of the value specified in any previously-submitted statement of net outstanding campaign obligations. Newly-discovered assets may serve as a basis for additional repayment determinations under 11 CFR 9038.2(f).

(h) *Petitions for rehearing; stays pending appeal.* The candidate may file a petition for rehearing of a final repayment determination in accordance with 11 CFR 9038.5(a). The candidate may request a stay of a final repayment determination in accordance with 11 CFR 9038.5(c) pending the candidate's appeal of that repayment determination.

§ 9038.3 Liquidation of obligations; repayment.

(a) The candidate may retain amounts received from the matching payment account for a period not exceeding 6 months after the matching payment period to pay qualified campaign expenses incurred by the candidate.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) If on the last day of candidate eligibility the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus, the candidate shall within 30 calendar days of the ineligibility date repay to the Secretary an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

(2) For purposes of this subsection, total deposits shall be considered all deposits to all candidate accounts minus transfers between accounts, refunds, rebates, reimbursements, checks returned for insufficient funds, proceeds of loans and other similar amounts.

(3) Notwithstanding the payment of any amounts to the United States Treasury under this section, the Commission may make surplus repayment determination(s) which require repayment in accordance with 11 CFR 9038.2.

§ 9038.4 Extensions of time.

(a) It is the policy of the Commission that extensions of time under 11 CFR Part 9038 shall not be routinely granted.

(b) Whenever a candidate has a right or is required to take action within a period of time prescribed by 11 CFR Part 9038 or by notice given thereunder, the candidate may apply in writing to the Commission for an extension of time in which to exercise such right or take such action. The candidate shall demonstrate in the application for extension that good cause exists for his or her request.

(c) An application for extension of time shall be made at least 7 calendar days prior to the expiration of the time period for which the extension is sought. The Commission may, upon a showing of good cause, grant an extension of time to a candidate who has applied for such extension in a timely manner. The length of time of any extension granted hereunder will be decided by the Commission and may be less than the amount of time sought by the candidate in his or her application.

(d) If a candidate fails to seek an extension of time, exercise a right or take a required action prior to the expiration of a time period prescribed by 11 CFR Part 9038 the Commission may, on the candidate's showing of excusable neglect:

(i) Permit such candidate to exercise his or her right(s), or take such required action(s) after the expiration of the prescribed time period; and

(ii) Take into consideration any information obtained in connection with the exercise of any such right or taking of any such action before making decisions or determinations under 11 CFR Part 9038.

§ 9038.5 Petitions for rehearing; stays of repayment determinations.

(a) *Petitions for rehearing.* (1) Following the Commission's final determination under 11 CFR 9033.10 or 9034.5(f) or the Commission's final repayment determination under 11 CFR 9038.2(c)(4), the candidate may file a petition for rehearing setting forth the relief desired and the legal and factual basis in support. To be considered by the Commission, petitions for rehearing must:

(i) Be filed within 20 calendar days after service of the Commission's final determination;

(ii) Raise new questions of law or fact that would materially alter the Commission's final determination; and

(iii) Set forth clear and convincing grounds why such questions were not and could not have been presented during the earlier determination process.

(2) If a candidate files a timely petition under this section challenging a Commission final repayment determination, the time for repayment of the amount at issue will be suspended until the Commission serves notice on the candidate of its determination on the petition. The time periods for making repayment under 11 CFR 9038.2(d)(2) shall apply to any amounts determined to be repayable following the Commission's consideration of a petition for rehearing under this section.

(b) *Effect of failure to raise issues.* The candidate's failure to raise an argument in a timely fashion during the initial determination process or in a petition for rehearing under this section, as appropriate, shall be deemed a waiver of the candidate's right to present such arguments in any future stage of proceedings including any petition for review filed under 26 U.S.C. 9041(a). An issue is not timely raised in a petition for rehearing if it could have been raised earlier in response to the Commission's initial determination.

(c) *Stay of repayment determination pending appeal.* (1) The candidate may apply to the Commission for a stay of all or a portion of the amount determined to be repayable under this section or under 11 CFR 9038.2 pending the candidate's appeal of that repayment determination pursuant to 26 U.S.C. 9041(a). A request for a stay shall be made in writing and shall be filed within 20 calendar days after service of the Commission's decision on a petition for rehearing under paragraph (a) or, if no petition for rehearing is filed, within 20 calendar days after service of the Commission's final repayment determination under 11 CFR 9038.2(c)(4). The repayment amount requested to be stayed shall not exceed the amount at issue on appeal.

(2) The candidate's application for a stay shall demonstrate that:

(i) He or she will suffer irreparable injury in the absence of a stay; and, if so, that

(ii) He or she has made a strong showing of the likelihood of success on the merits of the judicial action;

(iii) Such relief is consistent with the public interest; and

(iv) No other party interested in the proceedings would be substantially harmed by the stay.

(3) In determining whether the candidate has made a strong showing of the likelihood of success on the merits, the Commission may consider whether the issue on appeal presents a novel or admittedly difficult legal question and whether the equities of the case suggest that the status quo should be maintained.

PART 9039—REVIEW AND INVESTIGATION AUTHORITY

Sec.

9039.1 Retention of books and records.
9039.2 Continuing review.
9039.3 Examinations and audits; investigations.

Authority: 26 U.S.C. 9039.

§ 9039.1 Retention of books and records.

The candidate and his or her authorized committee(s) shall keep all books, records and other information required under 11 CFR 9033.11, 9034.2 and Part 9036 for a period of three years pursuant to 11 CFR 102.9(c) and shall furnish such books, records and information to the Commission on request.

§ 9039.2 Continuing review.

(a) In reviewing candidate submissions made under 11 CFR Part 9036 and in otherwise carrying out its responsibilities under this subchapter,

the Commission may routinely consider information from the following sources:

(1) Any and all materials and communications which the candidate and his or her authorized committee(s) submit or provide under 11 CFR Part 9036 and in response to inquiries or requests of the Commission and its staff;

(2) Disclosure reports on file with the Commission; and

(3) Other publicly available documents.

(b) In carrying out the Commission's responsibilities under this subchapter, Commission staff may contact representatives of the candidate and his or her authorized committee(s) to discuss questions and to request documentation concerning committee activities and any submission made under 11 CFR Part 9036.

§ 9039.3 Examinations and audits; investigations.

(a) *General.* (1) The Commission will consider information obtained in its continuing review under 11 CFR 9039.2 in making any certification, determination or finding under this subchapter. If the Commission decides by an affirmative vote of four of its members that additional information must be obtained in connection with any such certification, determination or finding, it will conduct a further inquiry. A decision to conduct an inquiry under this section may be based on information that is obtained under 11 CFR 9039.2, received by the Commission from outside sources, or otherwise ascertained by the Commission in carrying out its supervisory responsibilities under the Presidential Primary Matching Payment Account Act and the Federal Election Campaign Act.

(2) An inquiry conducted under this section may be used to obtain information relevant to candidate eligibility, matchability of contributions and repayments to the United States Treasury. Information obtained during such an inquiry may be used as the basis, or partial basis, for Commission certifications, determinations and findings under 11 CFR Parts 9033, 9034, 9036 and 9038. Information thus obtained may also be the basis of, or be considered in connection with, an investigation under 2 U.S.C. 437g and 11 CFR Part 111.

(3) Before conducting an inquiry under this section, the Commission will attempt to obtain relevant information under the continuing review provisions of 11 CFR 9039.2. Matching payments will not be withheld pending the results of an inquiry under this section unless the Commission finds patent irregularities suggesting the possibility of fraud in materials submitted by, or in the activities of, the candidate or his or her authorized committee(s).

(b) *Procedures.* (1) The Commission will notify the candidate of its decision to conduct an inquiry under this section. The notice will summarize the legal and factual basis for the Commission's decision.

(2) The Commission's inquiry may include, but is not limited to, the following:

(i) A field audit of the candidate's books and records;

(ii) Field interviews of agents and representatives of the candidate and his or her authorized committee(s);

(iii) Verification of reported contributions by contacting reported contributors;

(iv) Verification of disbursement information by contacting reported vendors;

(v) Written questions under order;

(vi) Production of documents under subpoena;

(vii) Depositions.

(3) The provisions of 2 U.S.C. 437g and 11 CFR Part 111 will not apply to inquiries conducted under this section except that the provisions of 11 CFR 111.12 through 111.15 shall apply to any orders or subpoenas issued by the Commission.

4. It is proposed to amend 11 CFR by revising Parts 9001 through 9007 to read as follows:

PART 9001—SCOPE

Authority: 26 U.S.C. 9009(b).

§ 9001.1 Scope.

This subchapter governs entitlement to and use of funds certified from the Presidential Election Campaign Fund under 26 U.S.C. 9001 *et seq.* The definitions, restrictions, liabilities and obligations imposed by this subchapter are in addition to those imposed by sections 431–455 of Title 2, United States Code, and regulations prescribed thereunder (11 CFR Parts 100 through 115). Unless expressly stated to the contrary, this subchapter does not alter the effect of any definitions, restrictions, obligations and liabilities imposed by sections 431–455 of Title 2, United States Code, or regulations prescribed thereunder (11 CFR Parts 100 through 115).

PART 9002—DEFINITIONS

Sec.

9002.1 Authorized committee.
9002.2 Candidate.
9002.3 Commission.
9002.4 Eligible candidates.
9002.5 Fund.
9002.6 Major party.
9002.7 Minor party.
9002.8 New party.
9002.9 Political committee.
9002.10 Presidential election.
9002.11 Qualified campaign expense.
9002.12 Expenditure report period.
9002.13 Contribution.
9002.14 Secretary.
9002.15 Political party.

Authority: 26 U.S.C. 9002 and 9009(b).

§ 9002.1 Authorized committee.

(a) Notwithstanding the definition at 11 CFR 100.5, "authorized committee" means with respect to a candidate (as defined at 11 CFR 9002.2) of a political party for President and Vice President, any political committee that is authorized by a candidate to incur expenses on behalf of such candidate. The term "authorized committee" includes the candidate's principal campaign committee designated in accordance with 11 CFR 102.12, any political committee authorized in writing by the candidate in accordance with 11 CFR 102.13, and any political committee not disavowed by the candidate pursuant to 11 CFR 100.3(a)(3). If a party has nominated a Presidential and a Vice Presidential candidate, all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate and all political committees authorized by the Vice Presidential candidate shall also be authorized committees of the Presidential candidate.

(b) Any withdrawal of an authorization shall be in writing and shall be addressed and filed in the same manner provided for at 11 CFR 102.12 or 102.13.

(c) Any candidate nominated by a political party may designate the national committee of that political party as that candidate's authorized committee in accordance with 11 CFR 102.12(c).

(d) For purposes of this subchapter, references to the "candidate" and his or her responsibilities under this subchapter shall also be deemed to refer to the candidate's authorized committee(s).

§ 9002.2 Candidate.

(a) For the purposes of this subchapter, "candidate" means with respect to any Presidential election, an individual who—

(1) Has been nominated by a major party for election to the Office of President of the United States or the Office of Vice President of the United States; or

(2) Has qualified or consented to have his or her name appear on the general election ballot (or to have the names of electors pledged to him or her on such ballot) as the candidate of a political party for election to either such office in 10 or more States. For the purposes of this section, "political party" shall be defined in accordance with 11 CFR 9002.15.

(b) An individual who is no longer actively conducting campaigns in more than one State pursuant to 11 CFR 9004.8 shall cease to be a candidate for the purpose of this subchapter.

§ 9002.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street NW., Washington, DC 20463.

§ 9002.4 Eligible candidates.

"Eligible candidates" means those Presidential and Vice Presidential candidates who have met all applicable conditions for eligibility to receive payments from the Fund under 11 CFR Part 9003.

§ 9002.5 Fund.

"Fund" means the Presidential Election Campaign Fund established by 26 U.S.C. 9006(a).

§ 9002.6 Major party.

"Major party" means a political party whose candidate for the office of President in the preceding Presidential election received, as a candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office. For the purposes of 11 CFR 9002.6, "candidate" means, with respect to any preceding Presidential election, an individual who received popular votes for the office of President in such election.

§ 9002.7 Minor party.

"Minor party" means a political party whose candidate for the office of President in the preceding Presidential election received, as a candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office. For the purposes of 11 CFR 9002.7, "candidate" means with respect to any preceding Presidential election, an individual who received popular votes for the office of President in such election.

§ 9002.8 New party.

"New party" means a political party which is neither a major party nor a minor party.

§ 9002.9 Political committee.

For purposes of this subchapter, "political committee" means any committee, club, association, organization or other group of persons (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the election of any candidate to the office of President or Vice President of the United States; except that for the purpose of 11 CFR 9012.6, the term "political committee" shall be defined in accordance with 11 CFR 100.5.

§ 9002.10 Presidential election.

"Presidential election" means the election of Presidential and Vice Presidential electors.

§ 9002.11 Qualified campaign expense.

(a) "Qualified campaign expense" means any expenditure, including a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred to further a candidate's campaign for election to the office of President or Vice President of the United States;

(2) Incurred within the expenditure report period, as defined under 11 CFR 9002.12, or incurred before the beginning of such period in accordance with 11 CFR 9003.4 to the extent such expenditure is for property, services or facilities to be used during such period; and

(3) Neither the incurrence nor the payment of such expenditure constitutes a violation of any law of the United States, any law of the State in which such expense is incurred or paid, or any regulation prescribed under such Federal or State law, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, shall not be considered a State law for purposes of this subchapter. An expenditure which constitutes such a violation shall nevertheless count against the candidate's expenditure limitation if the expenditure meets the conditions set forth at 11 CFR 9002.11(a) (1) and (2).

(b)(1) An expenditure is made to further a Presidential or Vice Presidential candidate's campaign if it is incurred by or on behalf of such candidate or his or her authorized committee. For purposes of 11 CFR 9002.11(b)(1), any expenditure incurred by or on behalf of a Presidential candidate of a political party will also be considered an expenditure to further the campaign of the Vice Presidential candidate of that party. Any expenditure incurred by or on behalf of the Vice Presidential candidate will also be considered an expenditure to further the campaign of the Presidential candidate of that party.

(2) An expenditure is made on behalf of a candidate if it is made by—

(i) Any authorized committee or any other agent of the candidate for the purpose of making an expenditure; or

(ii) Any person authorized or requested by the candidate, by the candidate's authorized committee(s), or by an agent of the candidate or his or her authorized committee(s) to make an expenditure; or

(iii) A committee which has been requested by the candidate, the candidate's authorized committee(s), or an agent thereof to make the expenditure, even though such committee is not authorized in writing.

(3) Any expenditure incurred by a candidate or his or her authorized committee(s) to further the election of any other individual to a Federal, State or local office shall be a qualified campaign expense to the extent such expenditure is to further the candidate's own campaign for election. If the expenditure is incurred specifically to further the election of such other individuals, it will not be considered a qualified campaign expense.

(4) Expenditures by a candidate's authorized committee(s) pursuant to 11 CFR 9004.6 for the travel and related ground service costs of media shall be qualified campaign expenses. Any reimbursement for travel and related services costs received by a candidate's authorized committee shall be subject to the provisions of 11 CFR 9004.6.

(5) Legal and accounting services which are provided solely to ensure compliance with 2 U.S.C. 431 *et seq.*, or 26 U.S.C. 9001, *et seq.*, shall be qualified campaign expenses which may be paid from payments received from the Fund. If federal funds are used to pay for such services, the payments will count against the candidate's expenditure limitation. Payments for such services may also be made from an account established in accordance with 11 CFR 9003.3 or may be provided to the committee in accordance with 11 CFR 100.7(b)(14) and 100.8(b)(15). If payments for such services are made from an account established in accordance with 11 CFR 9003.3, the payments do not count against the candidate's expenditure limitation. If payments for such services are made by a minor or new party candidate from an account containing private contributions, the payments do not count against that candidate's expenditure limitation. The amount paid by the committee shall be

reported in accordance with 11 CFR Part 9006. Amounts paid by the regular employer of the person providing such services pursuant to 11 CFR 100.7(b)(14) and 100.8(b)(15) shall be reported by the recipient committee in accordance with 11 CFR 104.3(h).

(c) Expenditures incurred either before the beginning of the expenditure report period or after the last day of a candidate's eligibility will be considered qualified campaign expenses if they meet the provisions of 11 CFR 9004.4(a). Expenditures described under 11 CFR 9004.4(b) will not be considered qualified campaign expenses.

(d) Expenditures that further the election of other candidates for any public office shall be allocated in accordance with 11 CFR 106.1(a) and will be considered qualified campaign expenses only to the extent that they specifically further the election of the candidate for President or Vice President. A candidate may make expenditures under this section in conjunction with other candidates for any public office, but each candidate shall pay his or her proportionate share of the cost in accordance with 11 CFR 106.1(a).

§ 9002.12 Expenditure report period.

"Expenditure report period" means, with respect to any Presidential election, the period of time described in either paragraph (a) or (b) of this section, as appropriate.

(a) In the case of a major party, the expenditure report period begins on September 1 before the election or on the date on which the major party's presidential nominee is chosen, whichever is earlier; and the period ends 30 days after the Presidential election.

(b) In the case of a minor or new party, the period will be the same as that of the major party with the shortest expenditure report period for that Presidential election as determined under paragraph (a) of this section.

§ 9002.13 Contribution.

"Contribution" has the same meaning given the term under 2 U.S.C. 431(8), 441b and 441c, and under 11 CFR 100.7, and 11 CFR Parts 114 and 115.

§ 9002.14 Secretary.

"Secretary" means the Secretary of the Treasury.

§ 9002.15 Political party.

"Political party" means an association, committee, or organization which nominates or selects an individual for election to any Federal office, including the office of President or Vice President of the United States, whose name appears on the general election ballot as the candidate of such association, committee, or organization.

PART 9003—ELIGIBILITY FOR PAYMENTS

Sec.

9003.1 Candidate and committee agreements.
9003.2 Candidate certifications.
9003.3 Allowable contributions.
9003.4 Expenses incurred prior to the beginning of the expenditure report period or prior to receipt of Federal funds.
9003.5 Documentation of disbursements.

Authority: 26 U.S.C. 9003 and 9009(b).

§ 9003.1 Candidate and committee agreements.

(a) *General.* (1) To become eligible to receive payments under 11 CFR Part 9005, the Presidential and Vice Presidential candidates of a political party shall agree in a letter signed by the candidates to the Commission that they and their authorized committee(s) shall comply with the conditions set forth in 11 CFR 9003.1(b).

(2) Major party candidates shall sign and submit such letter to the Commission within 14 days after receiving the party's nomination for election. Minor and new party candidates shall sign and submit such letter within 14 days after such candidates have qualified to appear on the general election ballot in 10 or more states pursuant to 11 CFR 9002.2(a)(2). The Commission, on written request by a minor or new party candidate, at any time prior to the date of the general election, may extend the deadline for filing such letter except that the deadline shall be a date prior to the date of the general election.

(b) *Conditions.* The candidates shall:

(1) Agree that they have the burden of proving that disbursements made by them or any authorized committee(s) or agent(s) thereof are qualified campaign expenses as defined in 11 CFR 9002.11.

(2) Agree that they and their authorized committee(s) shall comply with the documentation requirements set forth at 11 CFR 9003.5.

(3) Agree that they and their authorized committee(s) shall provide an explanation, in addition to complying with the documentation requirements, of the connection between any disbursements made by the candidates or the authorized committee(s) of the candidates and the campaign if requested by the Commission.

(4) Agree that they and their authorized committee(s) shall keep and furnish to the Commission all documentation relating to receipts and disbursements including any books, records (including bank records for all accounts), all documentation required by this subchapter including those required to be maintained under 11 CFR 9003.5, and other information the Commission may request. The records provided shall also include production of magnetic computer tapes containing all information required by law to be maintained regarding the committee's receipts and disbursements, if the committee maintains its records on computer. Upon request, documentation explaining the computer system's software capabilities shall also be provided.

(5) Agree that they and their authorized committee(s) shall permit an audit and examination pursuant to 11 CFR Part 9007 of all receipts and disbursements including those made by the candidate, all authorized committees and any agent or person authorized to make expenditures on behalf of the candidate or committee(s). The candidate and authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 CFR Part 9007.

(6) Submit the name and mailing address of the person who is entitled to receive payments from the Fund on behalf of the candidates; the name and address of the depository designated by the candidates as required by 11 CFR Part 103 and 11 CFR 9005.2; and the name under which each account is held at the depository at which the payments from the Fund are to be deposited.

(7) Agree that they and their authorized committee(s) shall comply with the applicable requirements of 2 U.S.C. 431 *et seq.*, 26 U.S.C. 9001 *et seq.*, and the Commission's regulations at 11 CFR Parts 100–115, and 9001–9012.

(8) Agree that they and their authorized committee(s) shall pay any civil penalties included in a conciliation agreement entered into under 2 U.S.C. 437g against the candidates, any authorized committees of the candidates or any agent thereof.

§ 9003.2 Candidate certifications.

(a) *Major Party Candidates.* To be eligible to receive payments under 11 CFR Part 9005, each Presidential and Vice Presidential candidate of a major party shall, under penalty of perjury, certify to the Commission:

(1) That the candidate and his or her authorized committee(s) have not incurred and will not incur qualified

campaign expenses in excess of the aggregate payments to which they will be entitled under 11 CFR Part 9004.

(2) That no contributions have been or will be accepted by the candidate or his or her authorized committee(s); except as contributions specifically solicited for, and deposited to, the candidate's legal and accounting compliance fund established under 11 CFR 9003.3(a); or except to the extent necessary to make up any deficiency in payments received from the Fund due to the application of 11 CFR 9005.2(b).

(b) *Minor and new party candidates.* To be eligible to receive any payments under 11 CFR Part 9005, each Presidential and Vice Presidential candidate of a minor or new party shall, under penalty of perjury, certify to the Commission:

(1) That the candidate and his or her authorized committee(s) have not incurred and will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under 11 CFR 9004.1.

(2) That no contributions to defray qualified campaign expenses have been or will be accepted by the candidate or his or her authorized committee(s) except to the extent that the qualified campaign expenses incurred exceed the aggregate payments received by such candidate from the Fund under 11 CFR 9004.2.

(c) *All candidates.* To be eligible to receive any payment under 11 CFR 9004.2, the Presidential candidate of each major, minor or new party shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his or her personal funds, or the personal funds of his or her immediate family, in connection with his or her campaign for the office of President in excess of $50,000 in the aggregate.

(1) For purposes of this section, the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(2) Expenditures from personal funds made under this paragraph shall not apply against the expenditure limitations.

(3) For purposes of this section, the terms "personal funds" and "personal funds of his or her immediate family" mean:

(i) Any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either:

(A) Legal and rightful title, or

(B) An equitable interest.

(ii) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is a beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

(iii) A candidate may use a portion of assets jointly owned with his or her spouse as personal funds. The portion of the jointly owned assets that shall be considered as personal funds of the candidate shall be that portion which is the candidate's share under the instrument(s) of conveyance or ownership. If no specific share is indicated by any instrument of conveyance or ownership, the value of one-half of the property used shall be considered as personal funds of the candidate.

(4) For purposes of this section, expenditures from personal funds made by a candidate of a political party for the office of Vice President shall be considered to be expenditures made by the candidate of such party for the office of President.

(5) Contributions made by members of a candidate's family from funds which do not meet the definition of personal funds under 11 CFR 9003.2(c)(3) shall not count against such candidate's $50,000 expenditure limitation under 11 CFR 9003.2(c).

(6) Personal funds expended pursuant to this section shall be first deposited in an account established in accordance with 11 CFR 9003.3 (b) or (c).

(7) The provisions of this section shall not operate to limit the candidate's liability for, nor the candidate's ability to pay, any repayments required under 11 CFR Part 9007.

(8) The candidate's or committee's use of a credit card for which the candidate is jointly or solely liable will count against the limits of this section to the extent that the balance due is not paid by the date on which payment must be made according to the terms of the credit card agreement.

(d) *Form.* Major party candidates shall submit the certifications required under 11 CFR 9003.2 in a letter which shall be signed and submitted within 14 days after receiving the party's nomination for election. Minor and new party candidates shall sign and submit such letter within 14 days after such candidates have qualified to appear on the general election ballot in 10 or more States pursuant to 11 CFR 9002.2(a)(2). The Commission, upon written request by a minor or new party candidate made at any time prior to the date of the general election, may extend the deadline for filing such letter, except that the deadline shall be a date prior to the day of the general election.

§ 9003.3 Allowable Contributions.

(a) *Legal and accounting compliance fund—major party candidates—* (1) *Sources* (i) A major party candidate may accept contributions to a legal and accounting compliance fund if such contributions are received and disbursed in accordance with this section. A legal and accounting compliance fund may be established by such candidate prior to being nominated or selected as the candidate of a political party for the office of President or Vice President of the United States.

(A) All solicitations for contributions to this fund shall clearly state that such contributions are being solicited for this fund.

(B) Contributions to this fund shall be subject to the limitations and prohibitions of 11 CFR Parts 110, 114, and 115.

(ii) Funds remaining in the primary election account of a candidate, which funds are in excess of any amount required to be reimbursed to the Presidential Primary Matching Payment Account under 11 CFR 9038.2, may be transferred to the legal and accounting compliance fund without regard to the contribution limitations of 11 CFR Part 110 and used for any purpose permitted under this section.

(iii) Contributions that are made after the beginning of the expenditure report period but which are designated for the primary election, and contributions that exceed the contributor's limit for the primary election, may be deposited in the legal and accounting compliance fund if the candidate obtains the contributor's redesignation, or a reattribution to a joint contributor, in accordance with 11 CFR 110.1. The contributions so received and deposited shall be subject to the contribution limitations applicable for the general election, pursuant to 11 CFR 110.1(a)(2)(ii)(B).

(2) *Uses.* (i) Contributions to the legal and accounting compliance fund shall be used only for the following purposes:

(A) To defray the cost of legal and accounting services provided solely to ensure compliance with 2 U.S.C. 431 *et*

seq., and 26 U.S.C. 9001 *et seq.*, in accordance with 11 CFR 9003.3(a)(2)(ii);

(B) To defray in accordance with 11 CFR 9003.3(a)(2)(ii)(A), that portion of expenditures for payroll, overhead, and computer services related to ensuring compliance with 2 U.S.C. 431 *et seq.*, and 26 U.S.C. 9001 *et seq.*;

(C) To defray any civil or criminal penalties imposed pursuant to 2 U.S.C. 437g or 26 U.S.C. 9012;

(D) To make repayments under 11 CFR 9007.2;

(E) To defray the cost of soliciting contributions to the legal and accounting compliance fund; and

(F) To make a loan to an account established pursuant to 11 CFR 9003.4 to defray qualified campaign expenses incurred prior to the expenditure report period or prior to receipt of federal funds, provided that the amounts so loaned are restored to the legal and accounting compliance fund.

(ii) (A) Expenditures for payroll (including payroll taxes), overhead and computer services, a portion of which are related to ensuring compliance with Title 2 and Chapter 95 of Title 26, shall be initially paid from the candidate's federal fund account under 11 CFR 9005.2 and may be later reimbursed by the compliance fund. For purposes of 11 CFR 9003.3(a)(2)(i)(B), a candidate may use contributions to the compliance fund to reimburse his or her federal fund account an amount equal to 10% of the payroll and overhead expenditures of his or her national campaign headquarters and state offices. Overhead expenditures include, but are not limited to rent, utilities, office equipment, furniture, supplies and all telephone charges. In addition, a candidate may use contributions to the compliance fund to reimburse his or her federal fund account an amount equal to 70% of the costs (other than payroll) associated with computer services. Such costs include but are not limited to rental and maintenance of computer equipment, data entry services not performed by committee personnel, and related supplies. If the candidate wishes to claim a larger compliance exemption for payroll or overhead expenditures, the candidate shall establish allocation percentages for each individual who spends all or a portion of his or her time to perform duties which are considered necessary to ensure compliance with Title 2 or Chapter 95 of Title 26. The candidate shall keep detailed records to support the derivation of each percentage. Such records shall indicate which duties are considered compliance and the percentage of time each person spends on such activity. If the candidate wishes to claim a larger compliance exemption for costs associated with computer services, the candidate shall establish allocation percentages for each computer function that is considered necessary, in whole or in part, to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.* The allocation shall be based on a reasonable estimate of the costs associated with each computer function, such as the costs for data entry services performed by persons other than committee personnel and processing time. The candidate shall keep detailed records to support such calculations. The records shall indicate which computer functions are considered compliance-related and shall reflect which costs are associated with each computer function. The Commission's Financial Control and Compliance Manual for General Election Candidates Receiving Public Funding contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt compliance costs.

(B) Reimbursement from the compliance fund may be made to the separate account maintained for federal funds under 11 CFR 9005.2 for legal and accounting compliance services disbursements that are initially paid from the separate federal funds account. Such reimbursement must be made prior to any final repayment determination by the Commission pursuant to 11 CFR 9007.2. Any amounts so reimbursed to the federal fund account may not subsequently be transferred back to the legal and accounting compliance fund.

(iii) Amounts paid from this account for the purposes permitted by 11 CFR 9003.3(a)(2)(i) (A) through (E) shall not be subject to the expenditure limits of 2 U.S.C. 441a(b) and 11 CFR 110.8. (See also 11 CFR 100.8(b)(15)). When the proceeds of loans made in accordance with 11 CFR 9003.2(a)(2)(i)(F) are expended on qualified campaign expenses, such expenditures shall count against the candidate's expenditure limit.

(iv) Contributions to or funds deposited in the legal and accounting compliance fund may not be used to retire debts remaining from the Presidential primaries, except that, if after payment of all expenses relating to the general election, there are excess campaign funds, such funds may be used for any purpose permitted under 2 U.S.C. 439a and 11 CFR Part 113, including payment of primary election debts.

(3) *Deposit and disclosure.* (i) Amounts received pursuant to 11 CFR 9003.3(a)(1) shall be deposited and maintained in an account separate from that described in 11 CFR 9005.2 and shall not be commingled with any money paid to the candidate by the Secretary pursuant to 11 CFR 9005.2.

(ii) The receipts to and disbursements from this account shall be reported in a separate report in accordance with 11 CFR 9006.1(b)(2). All contributions made to this account shall be recorded in accordance with 11 CFR 102.9. Disbursements made from this account shall be documented in the same manner provided in 11 CFR 9003.5.

(b) *Contributions to defray qualified campaign expenses—major party Candidates.*

(1) A major party candidate or his or her authorized committee(s) may solicit contributions to defray qualified campaign expenses to the extent necessary to make up any deficiency in payments received from the Fund due to the application of 11 CFR 9005.2(b).

(2) Such contributions may be deposited in a separate account or may be deposited with federal funds received under 11 CFR 9005.2. Disbursements from this account shall be made only to defray qualified campaign expenses and to defray the cost of soliciting contributions to such account. All disbursements from this account shall be documented in accordance with 11 CFR 9003.5 and shall be reported in accordance with 11 CFR 9006.1.

(3) A candidate may make transfers to this account from his or her legal and accounting compliance fund.

(4) The contributions received under this section shall be subject to the limitations and prohibitions of 11 CFR Parts 110, 114 and 115 and shall be aggregated with all contributions made by the same persons to the candidate's legal and accounting compliance fund under 11 CFR 9003.3(a) for the purposes of such limitations.

(5) Any costs incurred for soliciting contributions to this account shall not be considered expenditures to the extent that the aggregate of such costs does not exceed 20 percent of the expenditure limitation under 11 CFR 9003.2(a)(1). These costs shall, however, be reported as disbursements in accordance with 11 CFR Part 104 and 11 CFR 9006.1. For purposes of this section, a candidate may exclude from the expenditure limitation an amount equal to 10% of the payroll (including payroll taxes) and overhead expenditures of his or her national campaign headquarters and state offices as exempt fundraising costs.

(6) Any costs incurred for legal and accounting services which are provided solely to ensure compliance with 2 U.S.C 431 *et seq.* and 26 U.S.C. 9001 *et seq.*

shall not count against the candidate's expenditure limitation. For purposes of this section, a candidate may exclude from the expenditure limitation an amount equal to 10% of the payroll (including payroll taxes) and overhead expenditures of his or her national campaign headquarters and state offices. In addition, a candidate may exclude from the expenditure limitation an amount equal to 70% of the costs (other than payroll) associated with computer services.

(i) For purposes of 11 CFR 9003.3(b)(6), overhead costs include, but are not limited to, rent, utilities, office equipment, furniture, supplies and all telephone charges.

(ii) For purposes of 11 CFR 9003.3(b)(6) costs associated with computer services include, but are not limited to, rental and maintenance of computer equipment, data entry services not performed by committee personnel, and related supplies.

(7) If the candidate wishes to claim a larger compliance or fundraising exemption under 11 CFR 9003.3(b) (5) or (6) for payroll and overhead expenditures, the candidate shall establish allocation percentages for each individual who spends all or a portion of his or her time to perform duties which are considered compliance or fundraising. The candidate shall keep detailed records to support the derivation of each percentage. Such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

(8) If the candidate wishes to claim a larger compliance exemption under 11 CFR 9003.3(b)(6) for costs associated with computer services, the candidate shall establish allocation percentages for each computer function that is considered necessary, in whole or in part, to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.* The allocation shall be based on a reasonable estimate of the costs associated with each computer function, such as the costs for data entry services performed by other than committee personnel and processing time. The candidate shall keep detailed records to support such calculations. The records shall indicate which computer functions are considered compliance-related and shall reflect which costs are associated with each computer function.

(9) The Commission's Financial Control and Compliance Manual for General Election Candidates Receiving Public Funding contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt compliance costs or exempt fundraising costs.

(c) *Contributions to defray qualified campaign expenses—minor and new party candidates.* (1) A minor or new party candidate may solicit contributions to defray qualified campaign expenses which exceed the amount received by such candidate from the Fund, subject to the limits of 11 CFR 9003.2(b).

(2) The contributions received under this section shall be subject to the limitations and prohibitions of 11 CFR Parts 110, 114 and 115.

(3) Such contributions may be deposited in a separate account or may be deposited with federal funds received under 11 CFR 9005.2. Disbursements from this account shall be made only for the following purposes:

(i) To defray qualified campaign expenses;

(ii) To make repayments under 11 CFR 9007.2;

(iii) To defray the cost of soliciting contributions to such account;

(iv) To defray the cost of legal and accounting services provided solely to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.*

(4) All disbursements from this account shall be documented in accordance with 11 CFR 9003.5 and shall be reported in accordance with 11 CFR Parts 104 and 9006.1.

(5) Any costs incurred for soliciting contributions to this account shall not be considered expenditures to the extent that the aggregate of such costs does not exceed 20 percent of the expenditure limitation under 11 CFR 9003.2(a)(1). These costs shall, however, be reported as disbursements in accordance with 11 CFR Part 104 and 9006.1. For purposes of this section, a candidate may exclude from the expenditure limitation an amount equal to 10% of the payroll (including payroll taxes) and overhead expenditures of his or her national campaign headquarters and state offices as exempt fundraising costs.

(6) Any costs incurred for legal and accounting services which are provided solely to ensure compliance with 2 U.S.C 431 *et seq.* and 26 U.S.C. 9001 *et seq.* shall not count against the candidate's expenditure limitation. For purposes of this section, a candidate may exclude from the expenditure limitation an amount equal to 10% of the payroll (including payroll taxes) and overhead expenditures of his or her national campaign headquarters and state offices. In addition, a candidate may exclude from the expenditure limitation an amount equal to 70% of the costs (other than payroll) associated with computer services.

(i) For purposes of 11 CFR 9003.3(c)(6), overhead costs include, but are not limited to, rent, utilities, office equipment, furniture, supplies and all telephone charges.

(ii) For purposes of 11 CFR 9003.3(c)(6) costs associated with computer services include but are not limited to, rental and maintenance of computer equipment, data entry services not performed by committee personnel, and related supplies.

(7) If the candidate wishes to claim a larger compliance or fundraising exemption under 11 CFR 9003.3(c)(6) for payroll and overhead expenditures, the candidate shall establish allocation percentages for each individual who spends all or a portion of his or her time to perform duties which are considered compliance or fundraising. The candidate shall keep detailed records to support the derivation of each percentage. Such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

(8) If the candidate wishes to claim a larger compliance exemption under 11 CFR 9003.3(c)(6) for costs associated with computer services, the candidate shall establish allocation percentages for each computer function that is considered necessary, in whole or in part, to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.* The allocation shall be based on a reasonable estimate of the costs associated with each computer function, such as the costs for data entry services performed by other than committee personnel and processing time. The candidate shall keep detailed records to support such calculations. The records shall indicate which computer functions are considered compliance-related and shall reflect which costs are associated with each computer function.

(9) The candidate shall keep and maintain a separate record of disbursements made to defray exempt legal and accounting costs under 11 CFR 9003.3(c) (6) and (7) and shall report such disbursements in accordance with 11 CFR Part 104 and 11 CFR 9006.1.

(10) The Commission's Financial Control and Compliance Manual for General Election Candidates Receiving Public Funding contains accepted alternative allocation methods for determining the amount of salaries and overhead expenditures that may be considered exempt compliance costs or exempt fundraising costs.

§ 9003.4 Expenses incurred prior to the beginning of the expenditure report period or prior to receipt of Federal funds.

(a) *Permissible Expenditures.* (1) A candidate may incur expenditures before the beginning of the expenditure report period, as defined at 11 CFR 9002.12, if such expenditures are for property, services or facilities which are to be used in connection with his or her general election campaign and which are for use during the expenditure report period. Such expenditures will be considered qualified campaign expenses. Examples of such expenditures include but are not limited to: expenditures for establishing financial accounting systems, expenditures for organizational planning and expenditures for polling.

(2) A candidate may incur qualified campaign expenses prior to receiving payments under 11 CFR Part 9005.

(b) *Sources.* (1) A candidate may obtain a loan which meets the requirements of 11 CFR 100.7(b)(11) for loans in the ordinary course of business to defray permissible expenditures described in 11 CFR 9003.4(a). A candidate receiving payments equal to the expenditure limitation in 11 CFR 110.8 shall make full repayment of principal and interest on such loans from payments received by the candidate under 11 CFR Part 9005 within 15 days of receiving such payments.

(2) A major party candidate may borrow from his or her legal and accounting compliance fund for the purposes of defraying permissible expenditures described in 11 CFR 9003.4(a). All amounts borrowed from the legal and accounting compliance fund must be restored to such fund after the beginning of the expenditure report period either from federal funds received under 11 CFR Part 9005 or private contributions received under 11 CFR 9003.3(b). For candidates receiving federal funds, restoration shall be made within 15 days after receipt of such funds.

(3) A minor or new party candidate may defray such expenditures from contributions received in accordance with 11 CFR 9003.3(c).

(4) (i) A candidate who has received federal funding under 11 CFR Part 9031 *et seq.*, may borrow from his or her primary election campaign an amount not to exceed the residual balance projected to remain in the candidate's primary account(s) on the basis of the formula set forth at 11 CFR 9038.3(c). A major party candidate receiving payments equal to the expenditure limitation shall reimburse amounts borrowed from his or her primary campaign from payments received by the candidate under 11 CFR Part 9005 within 15 days of such receipt.

(ii) A candidate who has not received federal funding during the primary campaign may borrow at any time from his or her primary account(s) to defray such expenditures, provided that a major party candidate receiving payments equal to the expenditure limitation shall reimburse all amounts borrowed from his or her primary campaign from payments received by the candidate under 11 CFR Part 9005 within 15 days of such receipt.

(5) A candidate may use personal funds in accordance with 11 CFR 9003.2(c), up to his or her $50,000 limit, to defray such expenditures.

(c) *Deposit and disclosure.* Amounts received or borrowed by a candidate under 11 CFR 9003.4(b) to defray expenditures permitted under 11 CFR 9003.4(a) shall be deposited in a separate account to be used only for such expenditures. All receipts and disbursements from such account shall be reported pursuant to 11 CFR 9006.1(a) and documented in accordance with 11 CFR 9003.5.

§ 9003.5 Documentation of disbursements.

(a) *Burden of proof.* Each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or authorized committee(s) are qualified campaign expenses as defined in 11 CFR 9002.11. The candidate and his or her authorized committee(s) shall obtain and furnish to the Commission at its request any evidence regarding qualified campaign expenses made by the candidate, his or her authorized committees and agents or persons authorized to make expenditures on behalf of the candidate or committee(s) as provided in 11 CFR 9003.5(b).

(b) *Documentation required.* (1) For disbursements in excess of $200 to a payee, the candidate shall present either:

(i) A receipted bill from the payee that states the purpose of the disbursement; or

(ii) If such a receipt is not available, a cancelled check negotiated by the payee, and

(A) One of the following documents generated by the payee: a bill, invoice, or voucher that states the purpose of the disbursement; or

(B) Where the documents specified in 11 CFR 9003.5(b)(1)(ii)(A) are not available, a voucher or contemporaneous memorandum from the candidate or the committee that states the purpose of the disbursement; or

(iii) If neither a receipted bill as specified in 11 CFR 9003.5(b)(1)(i) nor the supporting documentation specified in 11 CFR 9003.5(b)(1)(ii) is available, a cancelled check negotiated by the payee that states the purpose of the disbursement.

(iv) Where the supporting documentation required in 11 CFR 9003.5(b)(1)(i), (ii) or (iii) is not available, the candidate or committee may present a cancelled check and collateral evidence to document the qualified campaign expense. Such collateral evidence may include but is not limited to:

(A) Evidence demonstrating that the expenditure is part of an identifiable program or project which is otherwise sufficiently documented such as a disbursement which is one of a number of documented disbursements relating to a campaign mailing or to the operation of a campaign office;

(B) Evidence that the disbursement is covered by a pre-established written campaign committee policy, such as a per diem policy.

(2) For all other disbursements the candidate shall present:

(i) A record disclosing the full name and mailing address of the payee, the amount, date and purpose of the disbursement, if made from a petty cash fund; or

(ii) A cancelled check negotiated by the payee that states the full name and mailing address of the payee, and the amount, date and purpose of the disbursement.

(3) For purposes of this section:

(i) "Payee" means the person who provides the goods or services to the candidate or committee in return for the disbursement; except that an individual will be considered a payee under this section if he or she receives $500 or less advanced for travel and/or subsistence and if the individual is the recipient of the goods or services purchased.

(ii) "Purpose" means the full name and mailing address of the payee, the date and amount of the disbursement, and a brief description of the goods or services purchased.

(c) *Retention of records.* The candidate shall retain records with respect to each disbursement and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years pursuant to 11 CFR

102.9(c), and shall present these records to the Commission on request.

PART 9004—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

Sec.
9004.1 Major parties.
9004.2 Pre-election payments for minor and new party candidates.
9004.3 Post-election payments.
9004.4 Use of payments.
9004.5 Investment of public funds.
9004.6 Reimbursements for transportation and services made available to media personnel.
9004.7 Allocation of travel expenditures.
9004.8 Withdrawal by candidate.
9004.9 Net outstanding qualified campaign expenses.
9004.10 Sale of assets acquired for fundraising purposes.

Authority: 26 U.S.C. 9004 and 9009(b).

§ 9004.1 Major parties.

The eligible candidates of each major party in a Presidential election shall be entitled to equal payments under 11 CFR Part 9005 in an amount which, in the aggregate, shall not exceed $20,000,000 as adjusted by the Consumer Price Index in the manner described in 11 CFR 110.9(c).

§ 9004.2 Pre-election payments for minor and new party candidates.

(a) *Candidate of a minor party in the preceding election.* An eligible candidate of a minor party is entitled to preelection payments:

(1) If he or she received at least 5% of the total popular vote as the candidate of a minor party in the preceding election whether or not he or she is the same minor party's candidate in this election.

(2) In an amount which is equal, in the aggregate, to a proportionate share of the amount to which major party candidates are entitled under 11 CFR 9004.1. The aggregate amount received by a minor party candidate shall bear the same ratio to the amount received by the major party candidates as the number of popular votes received by the minor party Presidential candidate in the preceding Presidential election bears to the average number of popular votes received by all major party candidates in that election.

(b) *Candidate of a minor party in the current election.* The eligible candidate of a minor party whose candidate for the office of President in the preceding election received at least 5% but less than 25% of the total popular vote is eligible to receive pre-election payments. The amount which a minor party candidate is entitled to receive under this section shall be computed pursuant to 11 CFR 9004.2(a) based on the number of popular votes received by the minor party's candidate in the preceding Presidential election; however, the amount to which the minor party candidate is entitled under this section shall be reduced by the amount to which the minor party's Presidential candidate in this election is entitled under 11 CFR 9004.2(a), if any.

(c) *New party candidate.* A candidate of a new party who was a candidate for the office of President in at least 10 States in the preceding election may be eligible to receive preelection payments if he or she received at least 5% but less than 25% of the total popular vote in the preceding election. The amount which a new party candidate is entitled to receive under this section shall be computed pursuant to 11 CFR 9004.2(a) based on the number of popular votes received by the new party candidate in the preceding election. If a new party candidate is entitled to payments under this section, the amount of the entitlement shall be reduced by the amount to which the candidate is entitled under 11 CFR 9004.2(a), if any.

§ 9004.3 Post-election payments.

(a) *Minor and new party candidates.* Eligible candidates of a minor party or of a new party who, as candidates, receive 5 percent or more of the total number of popular votes cast for the office of President in the election shall be entitled to payments under 11 CFR Part 9005 equal, in the aggregate, to a proportionate share of the amount allowed for major party candidates under 11 CFR 9004.1. The amount to which a minor or new party candidate is entitled shall bear the same ratio to the amount received by the major party candidates as the number of popular votes received by the minor or new party candidate in the Presidential election bears to the average number of popular votes received by the major party candidates for President in that election.

(b) *Amount of entitlement.* The aggregate payments to which an eligible candidate shall be entitled shall not exceed an amount equal to the lower of:

(1) The amount of qualified campaign expenses incurred by such eligible candidate and his or her authorized committee(s), reduced by the amount of contributions which are received to defray qualified campaign expenses by such eligible candidate and such committee(s); or

(2) The aggregate payments to which the eligible candidates of a major party are entitled under 11 CFR 9004.1, reduced by the amount of contributions received by such eligible candidates and their authorized committees to defray qualified campaign expenses in the case of a deficiency in the Fund.

(c) *Amount of entitlement limited by pre-election payment.* If an eligible candidate is entitled to payment under 11 CFR 9004.2, the amount allowable to that candidate under this section shall also be limited to the amount, if any, by which the entitlement under 11 CFR 9004.3(a) exceeds the amount of the entitlement under 11 CFR 9004.2.

§ 9004.4 Use of Payments.

(a) *Qualified campaign expenses.* An eligible candidate shall use payments received under 11 CFR Part 9005 only for the following purposes:

(1) A candidate may use such payments to defray qualified campaign expenses;

(2) A candidate may use such payments to repay loans that meet the requirements of 11 CFR 100.7(a)(1) or 100.7(b)(11) or to otherwise restore funds (other than contributions received pursuant to 11 CFR 9003.3(b) and expended to defray qualified campaign expenses) used to defray qualified campaign expenses;

(3) A candidate may use such payments to restore funds expended in accordance with 11 CFR 9003.4 for qualified campaign expenses incurred by the candidate prior to the beginning of the expenditure report period.

(4) *Winding down costs.* The following costs shall be considered qualified campaign expenses:

(i) Costs associated with the termination of the candidate's general election campaign such as complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies; or

(ii) Costs incurred by the candidate prior to the end of the expenditure report period for which written arrangement or commitment was made on or before the close of the expenditure report period.

(b) *Non-qualified campaign expenses*—(1) *General.* The following are examples of disbursements that are not qualified campaign expenses.

(2) *Excessive expenditures.* An expenditure which is in excess of any of the limitations under 11 CFR 9003.2 shall not be considered a qualified campaign expense. The Commission will calculate the amount of expenditures attributable to these limitations using the full amounts originally charged for goods and services rendered to the committee and not the amounts for which such

obligations were later settled and paid, unless the committee can demonstrate that the lower amount actually paid reflects the true value of the goods and services received.

(3) *Expenditures incurred after the close of the expenditure report period.* Any expenditures incurred after the close of the expenditure report period, as defined in 11 CFR 9002.12, are not qualified campaign expenses except to the extent permitted under 11 CFR 9004.4(a)(4).

(4) *Civil or criminal penalties.* Civil or criminal penalties paid pursuant to the Federal Election Campaign Act are not qualified campaign expenses and cannot be defrayed from payments received under 11 CFR Part 9005. Any amounts received or expended to pay such penalties shall not be considered contributions or expenditures but all amounts so received shall be subject to the prohibitions of the Act. Amounts received and expended under this section shall be reported in accordance with 11 CFR Part 104.

(5) *Solicitation expenses.* Any expenses incurred by a major party candidate to solicit contributions to a legal and accounting compliance fund established pursuant to 11 CFR 9003.3(a) are not qualified campaign expenses and cannot be defrayed from payments received under 11 CFR Part 9005.

§ 9004.5 Investment of public funds.

Investment of public funds or any other use of public funds to generate income is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary. Any net loss resulting from the investment of public funds will be considered a non-qualified campaign expense and an amount equal to the amount of such net loss shall be repaid to the United States Treasury as provided under 11 CFR 9007.2(b)(2)(i).

§ 9004.6 Reimbursements for transportation and services made available to media personnel.

(a) If an authorized committee incurs expenditures for transportation, ground services and facilities (including air travel, ground transportation, housing, meals, telephone service, typewriters) made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall expenditure limitations of 11 CFR 9003.2 (a)(1) and (b)(1).

(b) If reimbursement for such expenditures is received by a committee, the amount of such reimbursement for each individual shall not exceed either: the individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate of the individual's pro rata share of the actual cost of the transportation and services made available. An individual's pro rata share shall be calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of the transportation and services. The total amount of reimbursements received from an individual under this section shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%.

(c) The total amount paid by an authorized committee for the cost of transportation or for ground services and facilities shall be reported as an expenditure in accordance with 11 CFR 104.3(b)(2)(i). Any reimbursement received by such committee for transportation or ground services and facilities shall be reported in accordance with 11 CFR 104.3(a)(3)(ix).

(d)(1) The committee may deduct from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9003.2 (a)(1) and (b)(1) the amount of reimbursements received for the actual cost of transportation and services provided under paragraph (a). The committee may also deduct from the overall expenditure limitation an amount of reimbursements received equal to 3% of the actual cost of tranportation and services provided under this section as the administrative cost to the committee of providing such services to media personnel and seeking reimbursement for them. If the committee has incurred higher administrative costs in providing these services, the committee must document the total cost incurred for such services in order to deduct a higher amount of reimbursements received from the overall expenditure limitation. Amounts reimbursed that exceed the amount actually paid by the committee for transportation and services provided under paragraph (a) plus the amount of administrative costs permitted by this section shall be repaid to the Treasury. Amounts paid by the committee for transportation, services and administrative costs for which no reimbursement is received will be considered qualified campaign expenses subject to the overall expenditure limitation in accordance with paragraph (a).

(2) For the purposes of this section, "administrative costs" shall include all costs incurred by the committee for making travel arrangements for media personnel and for seeking reimbursements, whether performed by committee staff or independent contractors.

§ 9004.7 Allocation of travel expenditures.

(a) Notwithstanding the provisions of 11 CFR Part 106, expenditures for travel relating to a Presidential or Vice Presidential candidate's campaign by any individual, including a candidate, shall, pursuant to the provisions of 11 CFR 9004.7(b), be qualified campaign expenses and be reported by the candidate's authorized committee(s) as expenditures.

(b)(1) For a trip which is entirely campaign-related, the total cost of the trip shall be a qualified campaign expense and a reportable expenditure.

(2) For a trip which includes campaign-related and non-campaign-related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by calculating what the trip would have cost from the point of origin of the trip to the first campaign-related stop and from the stop through each subsequent campaign-related stop to the point of origin. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related.

(3) For each trip, an itinerary shall be prepared and such itinerary shall be made available for Commission inspection.

(4) For trips by government conveyance or by charter, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign-related, shall be made available for Commission inspection.

(5) If any individual, including a candidate, uses government conveyance or accommodations paid for by a government entity for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount equal to:

(i) The first class commercial air fare plus the cost of other services, in the case of travel to a city served by a regularly scheduled commercial service; or

(ii) The commercial charter rate plus the cost of other services, in the case of travel to a city not served by a regularly scheduled commercial service.

(6) Travel expenses of a candidate's spouse and family when accompanying the candidate on campaign-related travel may be treated as qualified

campaign expenses and reportable expenditures. If the spouse or family members conduct campaign-related activities, their travel expenses shall be qualified campaign expenses and reportable expenditures.

(7) If any individual, including a candidate, incurs expenses for campaign-related travel, other than by use of government conveyance or accommodations, an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers, including the candidate, travelling for campaign purposes shall be a qualified campaign expense and shall be reported by the committee as an expenditure.

(i) If the trip is by charter, the actual cost for each passenger shall be determined by dividing the total operating cost for the charter by the total number of passengers transported. The amount which is a qualified campaign expense and a reportable expenditure shall be calculated in accordance with the formula set forth at 11 CFR 9004.7(b)(2) on the basis of the actual cost per passenger multiplied by the number of passengers travelling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation, the actual cost shall be calculated in accordance with the formula set forth at 11 CFR 9004.7(b)(2) on the basis of the commercial fare. Such actual cost shall be a qualified campaign expense and a reportable expenditure.

§ 9004.8 Withdrawal by candidate.

(a) Any individual who is not actively conducting campaigns in more than one State for the office of President or Vice President shall cease to be a candidate under 11 CFR 9002.2.

(b) An individual who ceases to be a candidate under this section shall:

(1) No longer be eligible to receive any payments under 11 CFR 9005.2 except to defray qualified campaign expenses as provided in 11 CFR 9004.4.

(2) Submit a statement, within 30 calendar days after he or she ceases to be a candidate, setting forth the information required under 11 CFR 9004.9(c).

§ 9004.9 Net outstanding qualified campaign expenses.

(a) *Candidates receiving post-election funding.* A candidate who is eligible to receive post-election payments under 11 CFR 9004.3 shall file, no later than 20 calendar days after the date of the election, a preliminary statement of that candidate's net outstanding qualified campaign expenses. The preliminary statement shall be signed by the treasurer of the candidate's principal campaign committee. The candidate's net outstanding qualified campaign expenses under this section equal the difference between 11 CFR 9004.9(a) (1) and (2).

(1) The total of:

(i) All outstanding obligations for qualified campaign expenses as of the date of the election; plus

(ii) An estimate of the amount of qualified campaign expenses that will be incurred by the end of the expenditure report period; plus

(iii) An estimate of necessary winding down costs as defined under 11 CFR 9004.4(a)(4); less

(2) The total of:

(i) Cash on hand as of the close of business on the day of the election, including: all contributions dated on or before that date; currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveller's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value;

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, refunds of deposits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b) *All candidates.* Each candidate, except for individuals who have withdrawn pursuant to 11 CFR 9004.8, shall submit a statement of net outstanding qualified campaign expenses no later than 30 calendar days after the end of the expenditure report period. This statement shall be signed by the treasurer of the candidate's principal campaign committee. The statement shall contain the information required by 11 CFR 9004.9(a) (1) and (2), except that the amount of outstanding obligations under 11 CFR 9004.9(a)(1)(i) and the amount of cash on hand, assets and receivables under 11 CFR 9004.9(a)(2) shall be complete as of the last day of the expenditure report period.

(c) *Candidates who withdraw.* An individual who ceases to be a candidate pursuant to 11 CFR 9004.8 shall file a statement of net outstanding qualified campaign expenses no later than 30 calendar days after he or she ceases to be a candidate. This statement shall be signed by the treasurer of the candidate's principal campaign committee. The statement shall contain the information required under 11 CFR 9004.9 (a) (1) and (2), except that the amount of outstanding obligations under 11 CFR 9004.9(a)(1)(i) and the amount of cash on hand, assets and receivables under 11 CFR 9004.9(a)(2) shall be complete as of the day on which the individual ceased to be a candidate.

(d) (1) *Capital assets.* For purposes of this section, the term "capital assets" means any property used in the operation of the campaign whose value exceeds $1000 on the last day of the expenditure report period or the day on which the individual ceases to be a candidate, whichever is earlier. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under 11 CFR 9004.9(d)(2). The value of a capital asset shall be the fair market value on the last day of the expenditure report period or the day on which the individual ceases to be a candidate whichever is earlier, unless the item is acquired after these dates, in which case the item will be valued on the date it is acquired.

(2) *Other assets.* The term "other assets" means any property acquired by the campaign for use in raising funds or as collateral for campaign loans "Other assets" must be included on the candidate's statement of net outstanding qualified campaign expenses if the aggregate value of such assets exceeds $5000. The value of "other assets" shall be determined by the fair market value of each item on the last day of the expenditure report period or the day on which the individual ceased to be a candidate, whichever is earlier, unless the item is acquired after these dates, in which case the item shall be valued on the date it is acquired.

(e) *Review of candidate statement.*—(1) *General.* The Commission will review the statement filed by each candidate under this section. The Commission may request further information with respect to statements filed pursuant to 11 CFR 9004.9(b) during the audit of that candidate's authorized committee(s) under 11 CFR Part 9007.

(2) *Candidate eligible for post-election funding.* (i) If, in reviewing the preliminary statement of a candidate eligible to receive post-election funding, the Commission receives information indicating that substantial assets of that candidate's authorized committee(s) have been undervalued or not included in the statement or that the amount of outstanding qualified campaign expenses has been otherwise overstated in relation to campaign assets, the Commission may decide to temporarily postpone its certification of funds to that

candidate pending a final determination of whether the candidate is entitled to all or a portion of the funds for which he or she is eligible based on the percentage of votes the candidate received in the general election.

(ii) *Initial determination.* In making a determination under 11 CFR 9004.9(e)(2)(i), the Commission will notify the candidate within 10 business days after its receipt of the statement of its initial determination that the candidate is not entitled to receive the full amount for which the candidate may be eligible. The notice will give the legal and factual reasons for the initial determination and advise the candidate of the evidence on which the Commission's initial determination is based. The candidate will be given the opportunity to revise the statement or to submit, within 10 business days, written legal or factual materials to demonstrate that the candidate has net outstanding qualified campaign expenses that entitle the candidate to post-election funds. Such materials may be submitted by counsel if the candidate so desires.

(iii) *Final determination.* The Commission will consider any written legal or factual materials submitted by the candidate before making its final determination. A final determination that the candidate is entitled to receive only a portion or no post-election funding will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the legal and factual reasons underlying the Commission's determination and will summarize the results of any investigation on which the determination is based.

(iv) If the candidate demonstrates that the amount of outstanding qualified campaign expenses still exceeds campaign assets, the Commission will certify the payment of post-election funds to which the candidate is entitled.

(v) *Petitions for rehearing.* The candidate may file a petition for rehearing of a final determination under this section in acccordance with 11 CFR 9007.5(a).

§ 9004.10 Sale of assets acquired for fundraising purposes.

(a) *General.* A minor or new party candidate may sell assets donated to the campaign or otherwise acquired for fundraising purposes subject to the limitations and prohibitions of 11 CFR 9003.2, Title 2, United States Code, and 11 CFR Parts 110 and 114. This section will only apply to major party candidates to the extent that they sell assets acquired either for fundraising purposes in connection with his or her legal and accounting compliance fund or when it is necessary to make up any deficiency in payments received from the Fund due to the application of 11 CFR 9005.2(b).

(b) *Sale after end of expenditure report period.* A minor or new party candidate, or a major party candidate in the event of a deficiency in the payments received from the Fund due to the application of 11 CFR 9005.2(b), whose outstanding debts exceed the cash on hand after the end of the expenditure report period as determined under 11 CFR 9002.12, may dispose of assets acquired for fundraising purposes in a sale to a wholesaler or other intermediary who will in turn sell such assets to the public provided that the sale to the wholesaler or intermediary is an arms-length transaction. Sales made under this subsection will not be subject to the limitations and prohibitions of Title 2, United States Code and 11 CFR Parts 110 and 114.

PART 9005—CERTIFICATION BY COMMISSION

Sec.

9005.1 Certification of payments for candidates.
9005.2 Payments to eligible candidates from the fund.

Authority: 26 U.S.C. 9005 and 9009(b).

§ 9005.1 Certification of payments for candidates.

(a) *Certification of payments for major party candidates.* Not later than 10 days after the Commission determines that the Presidential and Vice Presidential candidates of a major party have met all applicable conditions for eligibility to receive payments under 11 CFR 9003.1 and 9003.2, the Commission shall certify to the Secretary that payment in full of the amounts to which such candidates are entitled under 11 CFR Part 9004 should be made pursuant to 11 CFR 9005.2.

(b) *Certification of pre-election payments for minor and new party candidates.* (1) Not later than 10 days after a minor or new party candidate has met all applicable conditions for eligibility to receive payments under 11 CFR 9003.1, 9003.2 and 9004.2, the Commission will make an initial determination of the amount, if any, to which the candidate is entitled. The Commission will base its determination on the percentage of votes received in the official vote count certified in each State. In notifying the candidate, the Commission will give the legal and factual reasons for its determination and advise the candidate of the evidence on which the determination is based.

(2) The candidate may submit, within 15 days after the Commission's initial determination, written legal or factual materials to demonstrate that a redetermination is appropriate. Such materials may be submitted by counsel if the candidate so desires.

(3) The Commission will consider any written legal or factual materials timely submitted by the candidate in making its final determination. A final determination of certification by the Commission will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation on which the determination is based.

(c) *Certification of minor and new party candidates for post-election payments.* (1) Not later than 30 days after the general election, the Commission will determine whether a minor or new party candidate is eligible for post-election payments.

(2) The Commission's determination of eligibility will be based on the following factors:

(i) The candidate has received at least 5% or more of the total popular vote based on unofficial vote results in each State;

(ii) The candidate has filed a preliminary statement of his or her net outstanding qualified campaign expenses pursuant to 11 CFR 9004.9(a); and

(iii) The candidate has met all applicable conditions for eligibility under 11 CFR 9003.1 and 9003.2.

(3) The Commission will notify the candidate of its initial determination of the amount, if any, to which the candidate is entitled, give the legal and factual reasons for its determination and advise the candidate of the evidence on which the determination is based. The Commission will also notify the candidate that it will deduct a percentage of the amount to which the candidate is entitled based on the unofficial vote results when the Commission certifies an amount for payment to the Secretary. This deduction will be based on the average percentage differential between the unofficial and official vote results for all candidates who received public funds in the preceding Presidential general election.

(4) The candidate may submit within 15 days after the Commission's initial determination written legal or factual materials to demonstrate that a redetermination is appropriate. Such materials may be submitted by counsel if the candidate so desires.

(5) The Commission will consider any written legal or factual materials timely submitted by the candidate in making its final determination. A final determination of certification by the Commission will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation on which the determination is based.

(d) All certifications made by the Commission pursuant to this section shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under 11 CFR Part 9007 and judicial review under 26 U.S.C. 9011.

§ 9005.2 Payments to eligible candidates from the fund.

(a) Upon receipt of a certification from the Commission under 11 CFR 9005.1 for payment to the eligible Presidential and Vice Presidential candidates of a political party, the Secretary shall pay to such candidates out of the Fund the amount certified by the Commission. Amounts paid to a candidate shall be under the control of that candidate.

(b) (1) If at the time of a certification from the Commission under 11 CFR 9005.1, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he or she shall withhold an amount which is determined to be necessary to assure that the eligible candidates of each political party will receive their pro rata share.

(2) Amounts withheld under 11 CFR 9005.2(b)(1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay such amounts, or pro rata portions thereof, to all eligible candidates from whom amounts have been withheld.

(c) Payments received from the Fund by a major party candidate shall be deposited in a separate account maintained by his or her authorized committee, unless there is a deficiency in the Fund as provided under 11 CFR 9005.2(b)(1). In the case of a deficiency, the candidate may establish a separate account for payments from the Fund or may deposit such payments with contributions received pursuant to 11 CFR 9003.3(b). The account(s) shall be maintained at a State bank, federally chartered depository institution or other depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(d) No funds other than the payments received from the Treasury, reimbursements, or income generated through use of public funds in accordance with 11 CFR 9004.5, shall be deposited in the account described in 11 CFR 9005.2(c). "Reimbursements" shall include, but are not limited to, refunds of deposits, vendor refunds, reimbursements for travel expenses under 11 CFR 9004.6 and 9004.7 and reimbursements for legal and accounting costs under 11 CFR 9003.3(a)(2)(ii)(B).

PART 9006—REPORTS AND RECORDKEEPING

Sec.
9006.1 Separate reports.
9006.2 Filing dates.

Authority: 9006 and 9009(b).

§ 9006.1 Separate reports.

(a) The authorized committee(s) of a candidate shall report all expenditures to further the candidate's general election campaign in reports separate from reports of any other expenditures made by such committee(s) with respect to other elections. Such reports shall be filed pursuant to the requirements of 11 CFR Part 104.

(b) The authorized committee(s) of a candidate shall file separate reports as follows:

(1) One report shall be filed which lists all receipts and disbursements of:

(i) Contributions and loans received by a major party candidate pursuant to 11 CFR Part 9003 to make up deficiencies in Fund payments due to the application of 11 CFR Part 9005;

(ii) Contributions and loans received pursuant to 11 CFR 9003.2(b)(2) by a minor, or new party for use in the general election;

(iii) Receipts for expenses incurred before the beginning of the expenditure report period pursuant to 11 CFR 9003.4;

(iv) Personal funds expended in accordance with 11 CFR 9003.2(c); and

(v) Payments received from the Fund.

(2) A second report shall be filed which lists all receipts of and disbursements from, contributions received for the candidate's legal and accounting compliance fund in accordance with 11 CFR 9003.3(a).

§ 9006.2 Filing dates.

The reports required to be filed under 11 CFR 9006.1 shall be filed during an election year on a monthly or quarterly basis as prescribed at 11 CFR 104.5(b)(1). During a nonelection year, the candidate's principal campaign committee may elect to file reports either on a monthly or quarterly basis in accordance with 11 CFR 104.5(b)(2).

PART 9007—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
9007.1 Audits.
9007.2 Repayments.
9007.3 Extensions of time.
9007.4 Additional audits.
9007.5 Petitions for rehearing; stays of repayment determinations.

Authority: 26 U.S.C. 9007 and 9009(b).

§ 9007.1 Audits.

(a) *General.* (1) After each Presidential election, the Commission will conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate, his or her authorized committee(s), and agents of such candidates or committees. Such examination and audit will include, but will not be limited to, expenditures pursuant to 11 CFR 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 CFR 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

(2) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

(3) Information obtained pursuant to any audit and examination conducted under 11 CFR 9007.1(a) (1) and (2) may be used by the Commission as the basis, or partial basis, for its repayment determinations under 11 CFR 9007.2.

(b) *Conduct of fieldwork.* (1) The Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork will be conducted at a site provided by the committee.

(i) *Office space and records.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall provide Commission staff with office space and committee records in accordance with the candidate and committee agreement under 11 CFR 9003.1(b)(6).

(ii) *Availability of committee personnel.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall have committee personnel present at the site of the fieldwork. Such personnel shall be familiar with the committee's records

and operation and shall be available to Commission staff to answer questions and to aid in locating records.

(iii) *Failure to provide staff, records or office space.* If the candidate or his or her authorized committee(s) fail to provide adequate office space, personnel or committee records, the Commission may seek judicial intervention under 2 U.S.C. 437d or 26 U.S.C. 9010(c) to enforce the candidate and committee agreement made under 11 CFR 9003.1(b). Before seeking judicial intervention, the Commission will notify the candidate of his or her failure to comply with the agreement and will recommend corrective action to bring the candidate into compliance. Upon receipt of the Commission's notification, the candidate will have ten (10) calendar days in which to take the corrective action indicated or to otherwise demonstrate to the Commission in writing that he or she is complying with the candidate and committee agreements.

(iv) If, in the course of the audit process, a dispute arises over the documentation sought or other requirements of the candidate agreement, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within 10 days after the disputed Commission staff request is made, describing the dispute and indicating the candidate's proposed alternative(s).

(2) Fieldwork will include the following steps designed to keep the candidate and committee informed as to the progress of the audit and to expedite the process:

(i) *Entrance conference.* At the outset of the fieldwork, Commission staff will hold an entrance conference, at which the candidate's representatives will be advised of the purpose of the audit and the general procedures to be followed. Future requirements of the candidate and his or her authorized committee, such as possible repayments to the United States Treasury, will also be discussed. Committee representatives shall provide information and records necessary to conduct the audit, and Commission staff will be available to answer committee questions.

(ii) *Review of records.* During the fieldwork, Commission staff will review committee records and may conduct interviews of committee personnel. Commission staff will be available to explain aspects of the audit and examination as it progresses. Additional meetings between Commission staff and committee personnel may be held from time to time during the fieldwork to discuss possible audit findings and to resolve issues arising during the course of the audit.

(iii) *Exit conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations which the Commission staff anticipates that it may present to the Commission for approval. Commission staff will advise committee representatives at this conference of the projected timetable regarding the issuance of an audit report, the committee's opportunity to respond thereto, and the Commission's initial and final repayment determinations under 11 CFR 9007.2.

(3) Commission staff may conduct additional fieldwork after the completion of the fieldwork conducted pursuant to 11 CFR 9007.1(b) (1) and (2). Factors that may necessitate such follow-up fieldwork include, but are not limited to, the following:

(i) Committee response to audit findings;

(ii) Financial activity of the committee subsequent to the fieldwork conducted pursuant to 11 CFR 9007.1 (b)(1);

(iii) Committee responses to Commission repayment determinations made under 11 CFR 9007.2.

(4) The Commission will notify the candidate and his or her authorized committee if follow-up fieldwork is necessary. The provisions of 11 CFR 9007.1(b) (1) and (2) will apply to any additional fieldwork conducted.

(c) *Preparation of interim audit report.* (1) After the completion of the fieldwork conducted pursuant to 11 CFR 9007.1(b)(1), the Commission will issue an interim audit report to the candidate and his or her authorized committee. The interim audit report may contain Commission findings and recommendations regarding one or more of the following areas:

(i) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, Presidential Election Campaign Fund Act and Commission regulations;

(ii) Accuracy of statements and reports filed with the Commission by the candidate and committee;

(iii) Compliance of the candidate and committee with applicable statutory and regulatory provisions in those instances where the Commission has not instituted any enforcement action on the matter(s) under the provisions of 2 U.S.C. 437g and 11 CFR Part 111; and

(iv) Preliminary calculations regarding future repayments to the United States Treasury.

(2) The candidate and his or her authorized committee will have an opportunity to submit in writing within 30 calendar days of service of the interim report, legal and factual materials disputing or commenting on the contents of the interim report. Such materials may be submitted by counsel if the candidate so desires.

(3) The Commission will consider any written legal and factual materials submitted by the candidate or his or her authorized committee in accordance with 11 CFR 9007.1(c)(2) before approving and issuing an audit report to be released to the public. The contents of the publicly-released audit report may differ from that of the interim report since the Commission will consider timely submissions of legal and factual materials by the candidate or committeee in response to the interim report.

(d) *Preparation of publicly-released audit report.* An audit report prepared subsequent to an interim report will be publicly released pursuant to 11 CFR 9007.1(e). This report will contain Commission findings and recommendations addressed in the interim audit report but may contain adjustments based on the candidate's response to the interim report. In addition, this report will contain an initial repayment determination made by the Commission pursuant to 11 CFR 9007.2(c)(1) in lieu of the preliminary calculations set forth in the interim report.

(e) *Public release of audit report.* (1) After the candidate and committee have had an opportunity to respond to a written interim report of the Commission, the Commission will make public the audit report prepared subsequent to the interim report, as provided in 11 CFR 9007.1(d).

(2) If the Commission determines, on the basis of information obtained under the audit and examination process, that certain matters warrant enforcement under 2 U.S.C. 437g and 11 CFR Part 111, those matters will not be contained in the publicly-released report. In such cases, the audit report will indicate that certain other matters have been referred to the Commission's Office of General Counsel.

(3) The Commission will provide the candidate and committee copies of the audit report 24 hours prior to releasing the report to the public.

(4) Addenda to the audit report may be issued from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based in part on follow-up fieldwork

conducted under 11 CFR 9007.1(b)(3) and will be placed on the public record.

§ 9007.2 Repayments.

(a) *General.* (1) A candidate who has received payments from the Fund under 11 CFR Part 9005 shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section. In making repayment determinations under this section, the Commission may utilize information obtained from audits and examinations conducted pursuant to 11 CFR 9007.1 or otherwise obtained by the Commission in carrying out its responsibilities under this subchapter.

(2) The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than 3 years after the close of the expenditure report period.

(3) Once the candidate receives notice of the Commission's final repayment determination under this section, the candidate should give preference to the repayment over all other outstanding obligations of his or her committee, except for any federal taxes owed by the committee.

(b) *Bases for repayment.* The Commission may determine that an eligible candidate of a political party who has received payments from the Fund must repay the United States Treasury under any of the circumstances described below.

(1) *Payments in excess of candidate's entitlement.* If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the United States Treasury an amount equal to such portion.

(2) *Use of funds for non-qualified campaign expenses* (i) If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than those described in paragraphs (A) through (C) of this section, it will notify the candidate of the amount so used, and such candidate shall pay to the United States Treasury an amount equal to such amount.

(A) To defray qualified campaign expenses;

(B) To repay loans, the proceeds of which were used to defray qualified campaign expenses; and

(C) To restore funds (other than contributions which were received and expended by minor or new party candidates to defray qualified campaign expenses) which were used to defray qualified campaign expenses.

(ii) Examples of Commission repayment determinations under 11 CFR 9007.2(b)(2) include, but are not limited to the following:

(A) Determinations that a candidate, a candidate's authorized committee(s) or agent(s) have incurred expenses in excess of the aggregate payments to which an eligible major party candidate is entitled;

(B) Determinations that amounts spent by a candidate, a candidate's authorized committee(s) or agent(s) from the Fund were not documented in accordance with 11 CFR 9003.5;

(C) Determinations that any portion of the payments made to a candidate from the Fund was expended in violation of State or Federal law; and

(D) Determinations that any portion of the payments made to a candidate from the Fund was used to defray expenses resulting from a violation of State or Federal law, such as the payment of fines or penalties.

(iii) In the case of a candidate who has received contributions pursuant to 11 CFR 9003.3(b) or (c), the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for nonqualified campaign expenses as the amount of payments certified to the candidate from the Fund bears to the total amount of deposits of contributions and federal funds, as of December 31 of the Presidential election year.

(3) *Surplus.* If the Commission determines that a portion of payments from the Fund remains unspent after all qualified campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the United States Treasury that portion of surplus funds.

(4) Income on investment of payments from the fund. If the Commission determines that a candidate received any income as a result of investment or other use of payments from the Fund pursuant to 11 CFR 9004.5, it shall so notify the candidate and such candidate shall pay to the United States Treasury an amount equal to the amount determined to be income, less any Federal, State or local taxes on such income.

(5) *Unlawful acceptance of contributions by an eligible candidate of a major party.* If the Commission determines that an eligible candidate of a major party, the candidate's authorized committee(s) or agent(s) accepted contributions to defray qualified campaign expenses (other than contributions to make up deficiencies in payments from the Fund, or to defray expenses incurred for legal and accounting services in accordance with 11 CFR 9003.3(a)), it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the United States Treasury an amount equal to such amount.

(c) *Repayment determination procedures.* The Commission repayment determination will be made in accordance with the procedures set forth at 11 CFR 9007.2 (c)(1) through (c)(4).

(1) *Initial determination.* The Commission will provide the candidate with a written notice of its initial repayment determination(s). This notice will be included in the Commission's publicly-released audit report pursuant to 11 CFR 9007.1(d) and will set forth the legal and factual reasons for such determination(s). Such notice will also advise the candidate of the evidence upon which any such determination is based. If the candidate does not dispute an initial repayment determination of the Commission within 30 calendar days after service of the notice, such initial determination will be considered a final determination of the Commission.

(2) *Submission of written materials.* If the candidate disputes the Commission's initial repayment determination(s), he or she shall have an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice, legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. The Commission will consider any written legal and factual materials submitted by the candidate within this 30 day period in making its final repayment determination(s). Such materials may be submitted by counsel if the candidate so desires.

(3) *Oral presentation.* A candidate who has submitted written materials under 11 CFR 9007.2(c)(2) may request that the Commission provide such candidate with an opportunity to address the Commission in open session. If the Commission decides by an affirmative vote of four (4) of its members to grant the candidate's request, it will inform the candidate of the date and time set for the oral presentation. At the date and time set by the Commission, the candidate or candidate's designated representative will be allotted an amount of time in which to make an oral presentation to the Commission based upon the legal and factual materials submitted under 11 CFR 9007.2(c)(2). The candidate or representative will also have the opportunity to answer any questions

from individual members of the Commission.

(4) *Final determination.* In making its final repayment determination(s), the Commission will consider any submission made under 11 CFR 9007.2(c)(2) and any oral presentation made under 11 CFR 9007.2(c)(3). A final determination that a candidate must repay a certain amount will be accompanied by a written statement of reasons for the Commission's actions. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

(d) *Repayment period.* (1) Within 90 calendar days of service of the notice of the Commission's initial repayment determination(s), the candidate shall repay to the United States Treasury amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 calendar days in which to make repayment.

(2) If the candidate submits written materials under 11 CFR 9007.2(c)(2) disputing the Commission's initial repayment determination(s), the time for repayment will be suspended until the Commission makes its final repayment determination(s). Within 20 calendar days after service of the notice of the Commission's final repayment determination(s), the candidate shall repay to the United States Treasury amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 calendar days in which to make repayment.

(e) *Computation of time.* The time periods established by this section shall be computed in accordance with 11 CFR 111.2.

(f) *Additional repayments.* Nothing in this section will prevent the Commission from making additional repayment determinations on one or more of the bases set forth at 11 CFR 9007.2(b) after it has made a final determination on any such basis. The Commission may make additional repayment determinations where there exist facts not used as the basis for a previous final determination. Any such additional repayment determination will be made in accordance with the provisions of this section.

(g) *Newly-discovered assets.* If, after any initial or final repayment determination made under this section, a candidate or his or her authorized committee(s) receives or becomes aware of assets not previously included in any statement of net outstanding qualified campaign expenses submitted pursuant to 11 CFR 9004.9, the candidate or his or her authorized committee(s) shall promptly notify the Commission of such newly-discovered assets. Newly-discovered assets may include refunds, rebates, late-arriving receivables, and actual receipts for capital assets in excess of the value specified in any previously-submitted statement of net outstanding qualified campaign expenses. Newly-discovered assets may serve as a basis for additional repayment determinations under 11 CFR 9007.2(f).

(h) *Limit on repayment.* No repayment shall be required from the eligible candidates of a political party under 11 CFR 9007.2 to the extent that such repayment, when added to other repayments required from such candidates under 11 CFR 9007.2, exceeds the amount of payments received by such candidates under 11 CFR 9005.3.

(i) *Petitions for rehearing; stays pending appeal.* The candidate may file a petition for rehearing of a final repayment determination in accordance with 11 CFR 9007.5(a). The candidate may request a stay of a final repayment determination in accordance with 11 CFR 9007.5(c) pending the candidate's appeal of that repayment determination.

§ 9007.3 Extensions of time.

(a) It is the policy of the Commission that extensions of time under 11 CFR Part 9007 will not be routinely granted.

(b) Whenever a candidate has a right or is required to take action within a period of time prescribed by 11 CFR Part 9007 or by notice given thereunder, the candidate may apply in writing to the Commission for an extension of time in which to exercise such right or take such action. The candidate shall demonstrate in the application for extension that good cause exists for his or her request.

(c) An application for extension of time shall be made at least 7 calendar days prior to the expiration of the time period for which the extension is sought. The Commission may, upon a showing of good cause, grant an extension of time to a candidate who has applied for such extension in a timely manner. The length of time of any extension granted hereunder shall be decided by the Commission and may be less than the amount of time sought by the candidate in his or her application.

(d) If a candidate fails to seek an extension of time, exercise a right or take a required action prior to the expiration of a time period prescribed by 11 CFR Part 9007, the Commission may, on the candidate's showing of excusable neglect:

(1) Permit such candidate to exercise his or her right(s), or take such required action(s) after the expiration of the prescribed time period; and

(2) Take into consideration any information obtained in connection with the exercise of any such right or taking of any such action before making decisions or determinations under 11 CFR Part 9007.

§ 9007.4 Additional audits.

In accordance with 11 CFR 104.16(c), the Commission, pursuant to 11 CFR 111.10, may upon affirmative vote of four members conduct an audit and field investigation of any committee in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.

§ 9007.5 Petitions for rehearing; stays of repayment determinations.

(a) *Petitions for rehearing.* (1) Following the Commission's final repayment determination or a final determination that a candidate is not entitled to all or a portion of post-election funding under 11 CFR 9004.9(e), the candidate may file a petition for rehearing setting forth the relief desired and the legal and factual basis in support. To be considered by the Commission, petitions for rehearing must:

(i) Be filed within 20 calendar days following service of the Commission's final determination;

(ii) Raise new questions of law or fact that would materially alter the Commission's final determination; and

(iii) Set forth clear and convincing grounds why such questions were not and could not have been presented during the earlier determination process.

(2) If a candidate files a timely petition under this section challenging a Commission final repayment determination, the time for repayment will be suspended until the Commission serves notice on the candidate of its determination on the petition. The time periods for making repayment under 11 CFR 9007.2(d)(2) shall apply to any amounts determined to be repayable following the Commission's consideration of a petition for rehearing under this section.

(b) *Effect of failure to raise issues.* The candidate's failure to raise an argument in a timely fashion during the initial determination process or in a petition for rehearing under this section, as appropriate, shall be deemed a

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waiver of the candidate's right to present such arguments in any future stage of proceedings including any petition for review filed under 26 U.S.C. 9011(a). An issue is not timely raised in a petition for rehearing if it could have been raised earlier in response to the Commission's initial determination.

(c) *Stay of repayment determination pending appeal.* (1) The candidate may apply to the Commission for a stay of all or a portion of the amount determined to be repayable under this section or under 11 CFR 9007.2 pending the candidate's appeal of that repayment determination pursuant to 26 U.S.C. 9011(a). A request for a stay shall be made in writing and shall be filed within 20 calendar days after service of the Commission's decision on a petition for rehearing under paragraph (a) or, if no petition for rehearing is filed, within 20 calendar days after service of the Commission's final repayment determination under 11 CFR 9007.2(c)(4). The repayment amount requested to be stayed shall not exceed the amount at issue on appeal.

(2) The candidate's application for a stay shall demonstrate that:

(i) He or she will suffer irreparable injury in the absence of a stay; and, if so, that

(ii) He or she has made a strong showing of the likelihood of success on the merits of the judicial action;

(iii) Such relief is consistent with the public interest; and

(iv) No other party interested in the proceedings would be substantially harmed by the stay.

(3) In determining whether the candidate has made a strong showing of the likelihood of success on the merits, the Commission may consider whether the issue on appeal presents a novel or admittedly difficult legal question and whether the equities of the case suggest that the status quo should be maintained.

5. It is proposed to remove § 9012.6 and revise Part 9012 to read as follows:

PART 9012—UNAUTHORIZED EXPENDITURES AND CONTRIBUTIONS

Sec.

9012.1 Excessive expenses.
9012.2 Unauthorized acceptance of contributions.
9012.3 Unlawful use of payments received from the fund.
9012.4 Unlawful misrepresentations and falsification of statements, records or other evidence to the Commission; refusal to furnish books and records.
9012.5 Kickbacks and illegal payments.

Authority: 26 U.S.C. 9012.

§ 9012.1 Excessive expenses.

(a) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a Presidential election or the candidate's authorized committee(s) knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under 11 CFR Part 9004 with respect to such election.

(b) It shall be unlawful for the national committee of a major or minor party knowingly and willfully to incur expenses with respect to a Presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under 11 CFR Part 9008, unless the incurring of such expenses is authorized by the Commission under 11 CFR 9008.7(a)(3).

§ 9012.2 Unauthorized acceptance of contributions.

(a) It shall be unlawful for an eligible candidate of a major party in a Presidential election or any of his or her authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received from the Fund due to the application of 11 CFR 9005.2(b), or to defray expenses which would be qualified campaign expenses but for 11 CFR 9002.11(a)(3).

(b) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a Presidential election or any of his or her authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred in that election by that eligible candidate or his or her authorized committee(s).

§ 9012.3 Unlawful use of payments received from the fund.

(a) It shall be unlawful for any person who receives any payment under 11 CFR Part 9005, or to whom any portion of any payment so received is transferred, knowingly and willfully to use, or authorize the use of, such payment or any portion thereof for any purpose other than—

(1) To defray the qualified campaign expenses with respect to which such payment was made; or

(2) To repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

(b) It shall be unlawful for the national committee of a major or minor party which receives any payment under 11 CFR Part 9008 to use, or authorize the use of, such payment for any purpose other than a purpose authorized by 11 CFR 9008.6.

§ 9012.4 Unlawful misrepresentations and falsification of statements, records or other evidence to the Commission; refusal to furnish books and records.

It shall be unlawful for any person knowingly and willfully—

(a) To furnish any false, fictitious, or fraudulent evidence, books or information to the Commission under 11 CFR Parts 9001–9008, or to include in any evidence, books or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books or information relevant to a certification by the Commission or any examination and audit by the Commission under 11 CFR Parts 9001 *et seq.*; or

(b) To fail to furnish to the Commission any records, books or information requested by the Commission for purposes of 11 CFR Parts 9001 *et seq.*

§ 9012.5 Kickbacks and illegal payments.

(a) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expenses of any eligible candidate or his or her authorized committee(s).

(b) It shall be unlawful for the national committee of a major or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense incurred by such committee with respect to a Presidential nominating convention.

Dated: July 28, 1986.

Joan D. Aikens,

Chairman, Federal Election Commission.

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Tuesday
August 5, 1986

Part III

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Program: Categorical Eligibility for Certain Public Assistance and Supplemental Security Income Recipients; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 276]

Food Stamp Program: Categorical Eligibility for Certain Public Assistance and Supplemental Security Income (SSI) Recipients

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This rulemaking implements the provision in section 1507 of the Food Security Act of 1985 (Pub. L. 99–198; December 23, 1985) which mandates that households that only contain members who are recipients of public assistance or supplemental security income (SSI) benefits be categorically eligible for food stamp benefits. Categorical eligibility is being tested through September 30, 1989. Certain eligibility provisions of the Food Stamp Act, as amended, continue to apply including the prohibitions against the participation of institutionalized persons, SSI recipients in cash-out States and disqualified persons; and the work registration exemptions.

DATES: This rule is effective retroactively to December 23, 1985. State agencies shall implement the provisions of this rule immediately. Comments must be received on or before October 6, 1986, to be assured of consideration.

ADDRESSES: Comments should be submitted to Bruce A. Clutter, Chief, Eligibility and Monitoring Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 706.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour at the above address, telephone (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This action has been reviewed under Executive Order 12291 and the Secretary of Agriculture's Memorandum No. 1512–1. The Department has classified this action as non-major. The effect of this action on the economy will be less than $100 million and it will have an insignificant effect on costs or prices. Competition, employment, investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. *10.551*. For the reasons set forth in the Final Rule and related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Interim Rule

Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has determined, pursuant to 5 U.S.C. 553, that public comment on this rulemaking prior to implementation is impracticable and contrary to public interest. This rule is effective retroactively to December 23, 1985 because Pub. L. 99–198 specifically requires this effective date. However, because the Department believes that the rule may be improved by public comment, comments are solicited on this rule for 60 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in the subsequent publication of a final rule.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service has certified that this rule does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Food Stamp Program. Potential and current participants will be affected because of changes to various program policies and procedures.

Paperwork Reduction Act

The provision at 7 CFR 273.10(g)(1)(ii) requiring the State agency to tell households to inform the State agency of their eligibility for PA or SSI benefits on FNS–442, Action Taken on Your Food Stamp Case, does not alter or change burden estimates for FNS–442 as approved under OMB No. 0584–0064. The remaining provisions of this interim rule do not contain new or additional reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

Section 1507(a) of the Food Security Act of 1985 amended Section 5(a) of the Food Stamp Act to mandate categorical eligibility for households containing only recipients of aid to families with dependent children (AFDC) benefits under Title IV–A, SSI (Title XVI), adult assistance under Titles I, X, XIV and XVI (AABD) of the Social Security Act within certain restrictions. This provision expires September 30, 1989. USDA must evaluate the provision and report to Congress on the results of categorical eligibility. This rulemaking does not include any provisions on the evaluation and report as no regulatory revisions are needed to fulfill these requirements.

7 CFR 271.2 of the regulations defines public assistance (PA) as the following programs under Titles I, IV–A, X, XIV, and XVI (AABD) authorized by the Social Security Act of 1935, as amended:

—the AFDC Program
—Old-Age Assistance
—Aid to the Blind
—Aid to the Permanently and Totally Disabled
—Aid to the Aged, Blind or Disabled.

The last four programs are in operation in certain outlying territories instead of the SSI program. Pub. L. 99–198 includes all of the programs in this definition as well as the SSI program as subject to categorical eligibility.

For the purposes of this rulemaking, the term "recipients" includes those authorized to receive PA or SSI benefits. "Authorized to receive" means that an individual is considered a recipient if he or she has been determined eligible for PA or SSI benefits but that the PA or SSI benefits have not yet been paid. Therefore, any household with only members receiving or authorized to receive PA or SSI benefits is to be considered a "pure" PA/SSI household and is therefore categorically eligible if it meets the other conditions for categorical eligibility described in this rule. In addition, the term "recipient" includes persons determined eligible to receive zero benefits, e.g., persons whose benefits are being recouped and AFDC recipients whose benefits are less than $10 and are therefore not payable. In other words, to be categorically eligible, a pure PA/SSI household does not necessarily have to receive a PA/SSI check. Individuals entitled only to Medicaid and not public assistance are

not categorically eligible. Also, a household may be considered categorically eligible even if it contains both PA and SSI recipients.

Legislative Restrictions

The legislation specifies that the following provisions of the Food Stamp Act still apply to PA/SSI households that might otherwise be considered categorically eligible:

1. The disqualification requirements for persons who committed intentional program violations (section 6(b)). The legislative history (Senate Report 99–145, pp. 243–244; House Report 99–271, pp. 141–142; and House Conference Report 99–447, p. 521) clarifies the legislative provision by referring to all of the food stamp disqualification provisions, including failure to comply with the work-related or monthly reporting requirements and ineligibility due to alien or student status.

2. The work registration exemptions (section 6(d)(2)).

3. The restriction that SSI recipients in cash-out States are not eligible for food stamps because their State supplemental benefits are increased to compensate the recipient for food stamp benefits (section 6(g)).

4. The prohibition against persons in institutions receiving food stamps because their meals are provided by the institution (section 3(i)).

The specifics on how these restrictions are applied are discussed later in this preamble.

Joint Processing and Categorical Eligibility

Pub. L. 99–198 did not alter the provision in the Act requiring a single interview to determine eligibility for initial applicants for both PA and food stamps. The regulations at 7 CFR 273.2(j) implement this statutory provision. This rule revises that section, 7 CFR 273.2(j), to differentiate between the provisions on joint processing for households applying simultaneously for PA and food stamp benefits and the provisions on categorical eligibility for pure PA/SSI households.

The title of 7 CFR 273.2(j) is changed to "PA, GA, and categorically eligible households" to reflect the inclusion of procedures on categorically eligible households. Current regulations at 7 CFR 273.2(k), on joint processing for SSI cases, are revised to discuss how pure SSI households that are categorically eligible are to be handled. This provision will refer back to the applicable provisions in § 273.2(j) but will also explain any special criteria that apply to SSI households.

Introductory Text—§ 273.2(1)

The introductory text to § 273.2(j) is revised to explain that households applying for PA and food stamp benefits simultaneously are subject to the food stamp eligibility, processing, and benefit determination provisions but that categorically eligible PA/SSI households are handled differently because they are exempt from certain eligibility factors. The definition of recipient discussed earlier is also contained in this paragraph. The paragraph is also revised to explain that general assistance households may be jointly processed but shall not be considered categorically eligible.

Applicant PA Cases—§ 273.2(j)(1)(iv)

The title of paragraph § 273.(j)(1) is revised to reflect the discussion in the revised paragraph (j)(1)(iv) which establishes a procedure on how a jointly processed application is handled given the possibility that a case could turn out to be categorically eligible. The procedure would also apply if the household informed the eligibility worker that it had separately filed an application for PA or SSI benefits and that application was pending. The State agency may temporarily delay making a determination on a case with a pending PA application which appears to be potentially categorically eligible unless the household is entitled to expedited service. However, the application shall not be delayed beyond the 30th day from the date the food stamp application was filed awaiting the determination on eligibility for PA and/or SSI benefits.

If, by the 30th day from the date the food stamp application was filed, the household is determined eligible for food stamps based on categorical eligibility, food stamps would be provided back to the date of the food stamp application. If the potentially categorically eligible household is *ineligible* for food stamps, the State agency shall not take action to deny the case before the 30th day pending a decision on the household's eligibility for PA and/or SSI benefits. This is to avoid filing and processing an additional application. If the decision on the household's eligibility for PA and/or SSI benefits is not made by the 30th day, the State agency must process the case as a nonpublic assistance (NPA) food stamp case within all of the Food Stamp Program's eligibility and benefit criteria and provide benefits, if appropriate, in accordance 7 CFR 273.2(g)(1). A denied household which is potentially categorically eligible shall be told on the notice of denial to inform the State agency of its PA and/or SSI eligibility. The State agency shall ensure that the denied application of any potentially categorically eligible household is easily retrievable.

If the jointly processed household is found to be ineligible for food stamps as an NPA case but is later found to be eligible for PA and/or SSI benefits and is otherwise categorically eligible, the State agency must reevaluate the household's entitlement to food stamp benefits based on the original food stamp application and any pertinent changes that occurred since the application was filed. The State agency shall not require the household to be reinterviewed but shall update the application from other available information and/or through phone or mail contact with the household or authorized representative. If there are significant changes, the State agency shall have the household initial changes on the original application and resign and redate the application. The reevaluation would be done either at the household's request or when the State agency otherwise becomes aware of the household's eligibility for PA and/or SSI benefits. Households originally denied food stamps, but later determined categorically eligible using the same application, would be considered eligible to receive food stamps from the beginning of the period for which the PA and/or SSI benefits are paid. PA benefits are generally paid back to one of the following dates: (1) The date of application for PA benefits or (2) the date assistance is authorized. In no event, however, can food stamp benefits be provided prior to the date of the original food stamp application made on or after December 23, 1985. Restored benefits, if appropriate, would be provided for cases found categorically eligible after their initial food stamp application was denied. If the State agency delays determining eligibility on a jointly processed case until the PA decision is made and the household is determined PA eligible in the initial 30-day processing time, a categorically eligible household shall be provided benefits only back to the date of the food stamp application. Benefits would be prorated in accordance with 7 CFR 273.10 (a)(1)(ii) and (e)(2)(ii)(B). The food stamps for households originally denied NPA food stamps would be prorated for the initial month of their categorical eligibility from the date the PA benefits are payable or the date of original food stamp application, whichever is later.

To be consistent with the procedure above which provides an ineligible household that becomes categorically eligible with retroactive benefits for the

period for which the PA and/or SSI benefits are authorized, we must address how to handle eligible households which become SSI recipients and thus are entitled to the medical and uncapped shelter deductions in 7 CFR 273.9 (d)(3) and (d)(5). Because categorical eligibility is considered to have started at the beginning of the period for which the SSI benefits are authorized or the date of the food stamp application, whichever is later, entitlement to the special deductions should also begin at that time. We are therefore amending § 273.10(d) on determining deductions by adding a new paragraph (7) to explain that persons entitled to the special deductions would be eligible to receive them from the beginning of the period for which their SSI was authorized or the date of their food stamp application, whichever comes later. In addition, any denied household that becomes categorically eligible will also have its benefits restored based on entitlement to the special deductions.

Categorically Eligible Households—273.2(j)(2)(i)

The current paragraph 7 CFR 273.2(j)(2) on GA households is renumbered as § 273.2(j)(3) and the new paragraph (j)(2) discusses how to handle PA and/or SSI households that are or appear to be categorically eligible. This paragraph explains exactly what factors are accepted for food stamp eligibility without further verification. These factors are resources, gross and net income, information about the social security numbers of the household members, residency, and sponsored aliens. Factors relating to benefit determination, however, that are not verified for PA or SSI purposes (such as income disregarded for PA or SSI purposes but not for food stamps) must be verified if required under 7 CFR 273.2(f). The State agency is required to verify household composition in accordance with the regulations at 7 CFR 273.2(f) if it is questionable that the household is a pure PA/SSI household. The State agency must also verify that all persons who must be considered as members of a food stamp household are correctly included and that any member who must be excluded is properly handled. If the citizenship or alien status of a member is in question, the State agency must verify status in accordance with 7 CFR 273.2(f) (1)(ii) and (2)(ii). The State agency must assure that any person included as a household member in a categorically eligible household meets the qualifications in 7 CFR 273.4(a) on citizenship and alien status. Further, the State agency cannot allow a person or household disqualified from receiving food stamps to participate in the Food Stamp Program simply because of categorical eligibility. It is particularly important that the State agency properly apply all of the *food stamp* household provisions from 7 CFR 273.1(a)–(c) when establishing if a group of people is categorically eligible. For example, the PA assistance unit may not include everyone who should be considered a food stamp household member. Also, there may be two or more PA assistance units separately receiving PA benefits that may be categorically eligible but must be considered as one food stamp household because food is purchased and prepared in common.

The AFDC program may suspend a case subject to retrospective budgeting under 45 CFR 233.34(d) when the household is temporarily ineligible in a prior budget month. This is done primarily when the household has extra income that temporarily makes it unentitled to benefits. The suspension is to avoid administrative problems with switching the household to prospective budgeting. For food stamp purposes, if such a household is otherwise eligible, suspension by AFDC does not affect their categorical eligibility.

Institutionalized Persons—273.2(j) (i) and (iii)

Paragraph (j)(2)(ii) explains that no household that resides in a nonexempt institution, as discussed in 7 CFR 273.1(e), can be considered categorically eligible. Paragraph (j)(2)(iii)(D) prohibits any *person* residing in a nonexempt institution from participating. Any household which is a pure PA/SSI household is still considered categorically eligible even though it contains one or more persons who would otherwise be considered household members but who are institutionalized. The income and resources of the institutionalized person are not considered available to the remaining household members in accordance with 7 CFR 273.11(d). However, if the institutionalized member returns to the household, the household circumstances must be reevaluated to assure that it remains categorically eligible and that its benefits are properly calculated.

Individuals Disqualified for Intentional Program Violations—273.2(j)(2)(ii)(A)

This paragraph explains how to handle those households that cannot be considered categorically eligible because one or more members have been disqualified for an intentional Program violation (IPV). The statute specifies that the provision on disqualification for an IPV would still apply to categorically eligible households. In addition, both House Report 99–271, p. 142, and House Conference Report 99–447, p. 521, direct the Department to apply a "rule of reason" when developing the regulations on categorical eligibility so that households could not be reinstated in the program solely on the basis of categorical eligibility when a member has been disqualified for an IPV. In these situations, the nondisqualified members of the household could participate if otherwise eligible but could not participate solely on the basis of categorical eligibility. Otherwise, a household which was ineligible under the income and/or resource standards could become categorically eligible simply because its only non-AFDC/SSI member commits an IPV. Treatment of the income and resources of the disqualified member will continue to be handled in accordance with 7 CFR 273.11(c)(1).

Disqualified Households—273.2(j)(2)(ii) (B) and (C)

The legislative history (Senate Report 99–145, p. 244, House Report 99–271, p. 142, and House Conference Report 99–447, p. 521) also states that households disqualified due to a violation of food stamp rules, other than an IPV, are not to be reinstated due to categorical eligibility. Therefore, any household disqualified for failure to comply with any of the work registration, job search, voluntary quit, workfare, or monthly reporting requirements would be ineligible as required in 7 CFR 273.7 or 273.21, as appropriate, regardless of their categorically eligible status. The ineligibility of these households is provided for in § 273.2(j)(2)(ii) (B) and (C).

Households with Ineligible Aliens—273.2(j)(2)(iii)(A) Households containing ineligible aliens (considered nonhousehold members) would still be categorically eligible if they meet all the requirements. The presence of an ineligible alien would not preclude the remaining household members from being considered categorically eligible because, under section 6(f) of the Food

Stamp Act, the ineligible alien is not a member of the household. Section 273.2(j)(2)(iii)(A) contains this policy. Treatment of the income and resources of the ineligible alien will continue to be handled under 7 CFR 273.11(c)(2).

Ineligible Students and SSI Recipients in Cash-Out States—273.2(j)(2)(iii) (B) and (C) Similarly, under § 273.2(j)(2)(iii) (B) and (C) of this rule, groups which contain a member who is an ineligible student or is an SSI recipient in a cash-out State can be categorically eligible because the ineligible student or SSI recipient is not considered a household member under sections 6(e) and (6)(g) of the Food Stamp Act. The income and resources of these types of ineligible members are disregarded for the purposes of an eligibility determination as discussed in 7 CFR 273.11(d).

Work Registration Exemptions—273.2(j)(2)(iv)

The Food Security Act specified that the Food Stamp Program's work registration exemptions be used for categorically eligible cases. Paragraph (j)(2)(iv) states that the work registration exemptions in 7 CFR 273.7(b) are to be applied to members of a categorically eligible household. Many persons in categorically eligible households would be exempt from work registration because of AFDC work registration, age or disability. However, persons not exempt for these reasons or the other exemptions must meet the food stamp work requirements in 7 CFR 273.7. If any member required to work register, etc., fails to comply, the entire household is disqualified from the Food Stamp Program and thus loses its categorical eligibility.

Application Processing and Benefit Determination—273.2(j)(2)(v)

Pub. L. 99–198 did not revise any of the food stamp processing time frames, the requirements on interviews (including a single interview at application and recertification for jointly processed cases), certification periods and expedited service for categorically eligible households. To the extent possible, food stamp certification periods and PA redetermination periods should coincide which is current policy. Also, the benefit determination uses food stamp rules so the food stamp income inclusions and exclusions, deductions, and methods of determining net income are followed. However, the net income eligibility limits do not apply. Therefore, any one and two person households that are categorically eligible are entitled to at least $10. Categorically eligible households with three or more members will be entitled to benefits of at least $2 if the Thrifty Food Plan reduced by thirty percent of their net income is at least $1. Pure PA/SSI households with three or more members will be automatically entitled to a benefit determination but not necessarily to receive food stamp benefits because of the way benefit levels are calculated. A household eligible for zero benefits cannot be denied but must be suspended in accordance with 7 CFR 273.10(e)(2)(iii)(B).

Even though a PA redetermination is not timely completed for a pure PA/SSI household, the food stamp recertification must be completed in accordance with 7 CFR 273.14. Categorical eligibility is assumed in the absence of a timely PA redetermination but the food stamp calculation must be made at the time of recertification. The provisions on the deeming of certain eligibility factors, the verification provisions and the benefit determination continue to apply to categorically eligible households at recertification. If the household is subsequently terminated from PA benefits, the State agency shall follow the procedures in 7 CFR 273.12(f) (3), (4), and (5), as appropriate.

Pure PA/SSI households are exempt from the food stamp resource and gross income and net income limits but they must meet all of the food stamp criteria concerning benefit determination and have all the rights of an NPA household. Because eligibility under the Food Stamp Program's resource, gross and net income limits are "deemed," households may exceed the food stamp resource or income limits and still be eligible due to their PA/SSI status.

New paragraph § 273.2(j)(2)(v) specifies that the food stamp procedures for determining benefits must be followed and lists only those provisions that do not apply. This is in accordance with the legislative history, House Report 99–271 and Senate Report 99–145. Both reports state that benefits must continue to be calculated using food stamp rules.

Other food stamp provisions that would apply to categorically eligible households are those on fair hearings, disqualification for intentional program violations, restoration of lost benefits and claims collection procedures.

Reporting changes after certification for categorically eligible households not subject to monthly reporting would be in accordance with 7 CFR 273.12(f). Basically, a household reporting a change to its PA worker is considered to have reported the change for food stamp purposes. SSI recipients not subject to monthly reporting must report changes in accordance with 7 CFR 273.12(a). Households subject to monthly reporting must meet the requirements in 7 CFR 273.21. The State agency would act on any changes affecting food stamp benefit levels but is not required to act on changes reported by categorically eligible households in the areas of resources or other *eligibility* factors. Mass changes for categorically eligible households are handled in accordance with 7 CFR 273.12(e).

Categorically eligible households that receive food stamp benefits are subject to all of the post-certification procedures and are recertified in accordance with food stamp procedures. The provisions on jointly processed cases in 7 CFR 273.2(j)(1) and 273.14(a) apply at recertification, so that much of the information used to redetermine eligibility for PA benefits could be used for food stamp recertification. Also, the food stamp disqualification and claims recovery rules apply to categorically eligible households, as do the rules on fair hearings, restored benefits and notices. Because these households are receiving food stamp benefits, they are responsible for providing accurate information and are penalized accordingly for failure to provide such information. A food stamp claim is filed if the household is subject to a claim in accordance with 7 CFR 273.18. However, a claim could only be filed against a categorically eligible household subject to termination of its PA and/or SSI benefits after the PA and/or SSI adjustment(s) were made. If appropriate, the disqualification procedures in 7 CFR 273.16 would also apply. In addition, these households have the same rights as the NPA caseload to fair hearings and, if appropriate, continued benefits, adequate notice about changes, and restoration of lost benefits.

Categorical Eligibility for SSI Households—273.2(k)

The same procedures discussed above for PA households are applicable for SSI households including the definition of recipient, the benefit entitlement period and the reevaluation procedures. Section 273.2(k) is revised to refer back to the provisions in § 273.2(j) on PA categorical eligibility. As mentioned earlier, the State agency is required to ensure that any denied application of a potentially categorically eligible household is easily retrievable so that the household may be reevaluated for food stamp purposes. The reevaluation is to be done either at the household's request or when the State agency

becomes aware of the household's eligibility for PA or SSI benefits. For SSI cases, we urge State agencies to use the State data exchange (SDX) system to determine if the household members' SSI application has been approved or denied. We understand that SDX information is made available for Medicaid eligibility purposes and that the disposition of all applications including denials are promptly posted (within 10 days) and are available, at a minimum, on a monthly basis in each State.

Technical Amendments

Section 273.8(a) is being revised to delete the reference to the State agency option to make AFDC recipients categorically eligible for resources. Rather, the provision will explain that categorically eligible households are not subject to the resource limits and definitions. In § 273.9(a), a new sentence is added to clarify that the gross and net income eligibility standards do not apply to categorically eligible households. In § 273.10(g)(1)(ii), a new sentence is added explaining that the notice of denial must inform the household to notify the State agency of its approval to receive PA or SSI benefits in case the household is categorically eligible.

Quality Control

Currently, quality control (QC) does not cite a variance in resources if a household is properly subject to the optional resource categorical eligibility. This is true even if the household's non-excluded resources exceed the Food Stamp Program's limit. QC does this because the eligibility element of resources is superseded by categorical eligibility. The Department is continuing this principle to the new mandatory categorical eligibility.

To review categorical eligibility, QC must first verify the household's correct composition as of the review date. QC must then verify whether all actual household members received or were authorized to receive AFDC or SSI. If the household was entitled to categorical eligibility, QC need not review those elements of eligibility which are superseded by categorical eligibility. Variances cannot exist in these elements. QC is required only to review the remaining elements of eligibility and the elements of benefit level.

If the household was not entitled to categorical eligibility, QC must review all elements of eligibility and benefits. For example, if QC discovers an unreported member who received neither AFDC nor SSI, categorical eligibility would not have applied. QC would then review resources and all other elements for all members of the household.

Because categorical eligibility applies only to the elements of eligibility, QC must review benefit levels. QC must verify the household's gross income, deductions, and net income. In the event QC verified an incorrect allotment for a categorically eligible household, QC would cite a variance. As an example, QC may review a household and verify that all members received AFDC in the sample month and were thus categorically eligible. However, QC may also verify an unreported source of non-excluded income that raises the household's income and which resulted in an overissuance of benefits. QC would not cite an eligibility variance but would cite a benefit variance.

Implementation

As stated earlier, categorical eligibility was effective December 23, 1985 upon enactment of the Food Security Act. State agencies shall implement these rule changes immediately upon publication in order to promptly come into compliance with the law. The provisions in this rule shall be implemented for all eligibility determinations made on or after the date of publication. State agencies shall provide restored benefits to any household which filed an application between December 23, 1985 and implementation and which would have been determined eligible for food stamps based on categorical eligibility and entitled to benefits but was denied. The State agency must review any denial which occurred after December 23, 1985 if the household requests a review on the grounds that it was categorically eligible or when the State agency otherwise becomes aware that a case was denied that would have been categorically eligible. If it is determined that any such household was, in fact, categorically eligible, appropriate restored benefits will be made available back to the date of application or December 23, 1985, whichever is later. A case file review is not required.

We recognize, however, that this immediate implementation schedule may cause some difficulties with QC reviews. Therefore, for QC purposes only, we are allowing State agencies additional time to come into compliance with the provisions of this rule. For the period between publication and the first of the month following 30 days after publication, QC need not identify variances resulting solely from the State agency's implementation or non-implementation of this rule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

1. The authority citation for Parts 272 and 273 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(78) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(78) *Amendment 276.* (i) This rule is effective retroactively to December 23, 1985. Any household that applied and was denied benefits from that date until implementation of this rule is entitled to restored benefits if it:

(A) Was categorically eligible as defined in this rule;

(B) Is otherwise entitled to benefits; and

(C) Requests a review of its case or if the State agency otherwise becomes aware that a review is needed.

Restored benefits for these households shall be made available, if appropriate, in accordance with § 273.17 back to the date of the food stamp application or December 23, 1985, whichever is later. The State agency shall implement the changes in this rule immediately upon publication and any eligibility determination or issuance made on or after that date shall be made in accordance with this rule.

(ii) For quality control (QC) purposes only, QC is not required to identify variances resulting solely from either implementation or non-implementation of this rule between publication and October 1, 1986.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.2 [Amended]

3. In § 273.2:

a. Introductory paragraph (j) is revised in its entirety.

b. The title to paragraph (j)(1) is revised.

c. Paragraph (j)(1)(iv) is amended by:

(1) Revising the first two sentences and adding a new sentence after the second sentence.

(2) Revising the seventh sentence which begins with the phrase, "However, the State agency is not required . . ." and adding twelve new sentences after the seventh sentence.

d. Paragraphs (j)(2) and (j)(3) are redesignated as (j)(3) and (j)(4).

e. A new paragraph (j)(2) is added.

f. The introductory text of newly redesignated paragraph (j)(3)(i) is amended by adding the phrase "except for procedures concerning categorical eligibility" after the words "GA households".

g. Newly redesignated paragraph (j)(3)(ii), is amended by changing the reference to "paragraph (j)(2)(i)" to "paragraph (j)(3)(i)" and by adding the phrase "except for procedures concerning categorical eilgibility" immediately before the period at the end of paragraph (j)(3)(ii).

h. The first sentence of newly redesignated paragraph (j)(4) is amended by changing the reference from "(j)(2)" to "(j)(3)" and by adding the phrase ", except for procedures concerning categorical eligibility" immediately before the period at the end of the first sentence.

i. The third sentence of introductory paragraph (k) is removed and three new sentences are added in its place.

The revisions and additions read as follows:

§ 273.2 Application processing.

* * * * *

(j) *PA, GA, and categorically eligible households.* Households in which all members are applying for public assistance (PA) shall be allowed to apply for food stamp benefits at the same time they apply for PA benefits. These households' food stamp eligibility and benefit levels shall be based solely on food stamp eligibility criteria. However, any household in which all members are recipients of PA and/or SSI benefits shall be considered eligible for food stamps because of their PA/SSI status in accordance with § 273.2(j)(2). Recipients include individuals authorized to receive PA and/or SSI benefits but who have not yet received payment. In addition, persons are considered recipients if their PA or SSI benefits are suspended or recouped. Persons entitled to PA benefits but who are not paid such benefits because the grant is less than $10 are also considered PA recipients. Persons not receiving PA or SSI benefits who are entitled to Medicaid only shall *not* be considered recipients. Households, whether jointly processed and/or eligible because of their PA/SSI status, shall be certified in accordance with the notice, procedural and timeliness requirements of the food stamp regulations. Households in which all members are applying for State agency administered general assistance (GA) shall, at a minimum, be provided with applications for food stamp benefits and be referred to the appropriate food stamp office for an eligibility determination under certain circumstances, these households may be able to apply jointly for their GA and food stamp benefits but shall not be considered categorically eligible for food stamps.

(1) *Applicant PA households.* * * *

(iv) In order to determine if a household will be eligible due to its status as a recipient PA/SSI household, the State agency may temporarily postpone, within the 30-day processing standard, the food stamp eligibility determination if the household is not entitled to expedited service and appears to be categorically eligible. However, the State agency shall postpone denying a potentially categorically eligible household until the 30th day in case the household is determined eligible to receive PA benefits. Once the PA application is approved, the household is to be considered categorically eligible if it meets all the criteria concerning categorical eligiblity in § 273.2(j)(2). * * * However, the State agency is not required to send a notice of adverse action if the receipt of the PA grant reduces, suspends or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or when the grant is received. The case may be terminated if the household is not categorically eligible. The State agency shall ensure that the denied application of a potentially categorically eligible household is easily retrievable. For a household filing a joint application for food stamps and PA benefits or a household that has a PA application pending and is denied food stamps but is later determined eligible to receive PA benefits and is otherwise categorically eligible, the State agency shall provide benefits using the original application and any other pertinent information occurring subsequent to that application. Benefits shall be paid from the beginning of the period for which PA benefits are paid, the original food stamp application date or December 23, 1985, whichever is later. The State agency shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application resigned by the authorized representative or authorized household member. In no event can benefits be provided prior to the date of the original food stamp application filed on or after December 23, 1985. Any household determined PA eligible which is categorically eligible within the 30-day food stamp processing time shall be provided benefits back to the date of the food stamp application. Benefits shall be prorated in accordance with § 273.10 (a)(1)(ii) and (e)(2)(ii)(B). Households that file joint applications that are found categorically eligible after being denied NPA food stamps shall have their benefits for the initial month prorated from the date from which the PA benefits are payable, or the date of the original food stamp application, whichever is later. The State agency shall act on reevaluating the original application either at the household's request or when it becomes otherwise aware of the household's PA and/or SSI eligibility. The household shall be informed on the notice of denial required by § 273.10 (g)(1)(ii) to notify the State agency if its PA or SSI benefits are approved. * * *

* * * * *

(2) *Categorically Eligible Households.* (i) Any household (except those listed in (ii) below) in which all members receive or are authorized to receive PA and/or SSI benefits shall be considered eligible for food stamps because of their status as PA and/or SSI recipients unless the entire household is institutionalized as defined in § 273.1(e) or disqualified for any reason from receiving food stamps. The eligibility factors which are deemed for food stamp eligibility without the verification required in § 273.2(f) because of PA/SSI status are the resource, gross and net income limits; social security number information; sponsored alien information; and residency. If any of the following factors are questionable, the State agency shall verify, in accordance with § 273.2(f), that the household which is considered categorically eligible: (A) contains only members that are PA or SSI recipients as defined in the introductory paragraph § 273.2(j); (B) meets the household definition in § 273.1(a); (C) includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for PA or SSI purposes; and (D) includes no persons who have

been disqualified as provided for in paragraph (ii) of this subsection. Households subject to retrospective budgeting that have been suspended for PA purposes as provided for in Aid to Families with Dependent Children (AFDC) regulations, or that receive zero benefits shall continue to be considered as authorized to receive benefits from the appropriate agency. Categorical eligibility shall be assumed at recertification in the absence of a timely PA redetermination. If a recertified household is subsequently terminated from PA benefits, the procedures in § 273.12(e) (3), (4), and (5) shall be followed, as appropriate.

(ii) Under no circumstances shall any household be considered categorically eligible if any member of that household is disqualified for: (A) an intentional Program violation in accordance with § 273.16; (B) Failure to comply with monthly reporting requirements in accordance with § 273.21; or (C) Failure to comply with the work requirements in accordance with § 273.7. These households are subject to all food stamp eligibility and benefit provisions.

(iii) No person shall be included as a member in any household which is otherwise categorically eligible if that person is——

(A) An ineligible alien as defined in § 273.4;

(B) Ineligible under the student provisions in § 273.5;

(C) An SSI recipient in a cash-out State as defined in § 273.20; or

(D) Institutionalized in a nonexempt facility as defined in § 273.2.

(iv) For the purposes of work registration, the exemptions in § 273.7(b) shall be applied to individuals in categorically eligible households. Any such individual who is not exempt from work registration is subject to the other work requirements in § 273.7.

(v) When determining eligibility for a categorically eligible household all provisions of this subchapter except for those listed below shall apply:

(A) Section 273.8 except for the last sentence of paragraph (a).

(B) Section 273.9(a) except for the fourth sentence in the introductory paragraph.

(C) Section 273..10(a)(1)(i).

(D) Section 273.10(b).

(E) Section 273.10(c) for the purposes of eligibility.

(F) Section 273.10(e)(2)(iii)(A).

* * * * *

(k) *SSI households.* * * * Households applying simultaneously for SSI and food stamps shall be subject to food stamp eligibility criteria, and benefit levels shall be based solely on food stamp eligibility criteria until the household is considered categorically eligible. However, households in which all members are either PA or SSI recipients or authorized to receive PA or SSI benefits as defined in § 273.2(j) shall be food stamp eligible based on their PA/SSI status as provided for in § 273.2(j)(1)(v) and (j)(2). Households denied NPA food stamps that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients.

* * * * *

4. In § 273.8, the last sentence in paragraph (a) is removed and a new sentence added in its place to read as follows:

§ 273.8 Resource eligibility standards.

(a) *Uniform Standards.* * * * Households which are categorically eligible as defined in § 273.2(j)(2) do not have to meet the resource limits or definitions in this section.

* * * * *

5. In § 273.9(a), introductory paragraph (a) is amended by adding a new sentence after the third sentence to read as follows:

§ 273.9 Income and deductions.

(a) *Income eligibility standards.* * * * Households which are categorically eligible as defined in § 273.2(j)(2) do not have to meet either the gross or net income eligibility standards. * * *

* * * * *

6. In § 273.10:

(a) A new paragraph (d)(7) is added.

(b) In (g)(1)(ii), a new sentence is added between the second and third sentences.

The additions read as follow:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(d) *Determining deductions.* * * *

(7) Individuals entitled to the excess medical deduction under § 273.9(d)(3) and the uncapped shelter expense in § 273.9(d)(5) shall receive such deductions, if they incur such expenses. for the period for which they are authorized to receive SSI benefits or the date of the food stamp application, whichever is later as discussed in § 273.2(j). Such individuals who are entitled to restored benefits in accordance with § 273.2(j)(1)(iv) shall have their benefits restored using these special deductions if they have such expenses.

* * * * *

(g) *Certification notices to households*—(1) *Initial applications.*

* * *

(ii) * * * A household which is potentially categorically eligible but whose NPA food stamps are denied shall be asked to inform the State agency if it is approved to receive PA and/or SSI benefits. * * *

* * * * *

Dated: July 29, 1986.

Sonia F. Crow,

Acting Administrator, Food and Nutrition Service.

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August 5, 1986

Part IV

Department of the Interior

National Park Service

36 CFR Parts 60 and 63

National Register of Historic Places; Proposed Rule

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DEPARTMENT OF THE INTERIOR

36 CFR Parts 60 and 63

National Register of Historic Places

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes the procedures which implement the requirements of the National Historic Preservation Act of 1966, as amended, ("the Act") concerning the responsibility of the Secretary of the Interior for the identification of properties of historic and archeological significance through listing in, and determination of eligibility for inclusion in, the National Register of Historic Places. This proposed rule is necessary in order to consolidate and update the procedures now contained in 36 CFR Part 60, National Register of Historic Places, and 36 CFR Part 63, Determinations of Eligibility for Inclusion in the National Register of Historic Places. The intended effect of this action is to clarify, streamline, and bring up-to-date the various administrative procedures for identification of historic and archeological properties.

DATE: Comments should be submitted by October 6, 1986.

ADDRESSES: Send comments to Stephen M. Sheffield, Interagency Resources Division, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sheffield, Interagency Resources Division, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127. Telephone No. (202) 343–9500.

SUPPLEMENTARY INFORMATION: The purpose of the National Register of Historic Places is to identify districts, sites, buildings, structures, and objects associated with American history, architecture, archeology, engineering and culture that have met stringent significance criteria. These properties are worthy of consideration for preservation. The Secretary of the Interior maintains this list under the authority of section 101 (a)(1)(A) of the Act. The National Register exists to aid in preservation of properties that are significant, in part, because of their linkage to, and integrity with, their surroundings, and thus are vulnerable in a way that items removable to archives are not.

Federal agencies, State and local governments, and private individuals participate in the process of identifying and evaluating properties for the National Register. The various roles and specific responsibilities of those participants in the National Register process are described in these proposed regulations.

36 CFR Part 60, National Register of Historic Places, describes the procedures for nominating and listing properties in the National Register. It also describes related actions such as revisions to documentation, removals from the National Register, public requests for action, and appeals to the Keeper of the National Register. 36 CFR Part 63, Determinations of Eligibility for Inclusion in the National Register of Historic Places, describes the procedures for Federal agency requests for determinations of eligibility for properties that may be affected by Federal, federally assisted, or federally licensed undertakings pursuant to the requirements of section 106 of the Act.

Although some of the consequences of listing properties in the National Register and determining the eligibility of properties for inclusion in the National Register differ as further described in these procedures, both processes involve decisions concerning historic significance based on the same criteria. For this reason, the procedures in Parts 60 and 63 are being combined into one rule. Furthermore, the content of these proposed procedures has been revised because of the need to simplify and clarify National Register processes for the broad range of Federal, State, local and private participants now involved in Federal preservation activities.

Under the Act, Federal agencies and participating State governments have specific historic preservation responsibilities. Federal Preservation Officers and State Historic Preservation Officers are designated by Federal agencies and State governments to fulfill these responsibilities. In meeting the requirement to identify, evaluate, and nominate properties to the National Register, the State Historic Preservation Officers and Federal Preservation Officers apply the National Register criteria to properties which may be eligible within their respective areas of jurisdiction. At the State level, a State Review Board made up of professionals in historic preservation related disciplines advises the State Historic Preservation Officer during the nomination process.

To ensure high professional standards, the National Park Service requires that each State develop expertise in the disciplines of history, architectural history, archeology, and historical architecture on the State staff and State Review Board. Nominations are prepared under the supervision of the State Historic Preservation Officer and that official's professional staff in accordance with an approved Statewide Comprehensive Historic Preservation Plan which is intended to serve as a resource management and planning system. Setting priorities for the nomination of properties consistent with the Statewide Comprehensive Historic Preservation Plan is the responsibility of the State Historic Preservation Officer.

Federal agencies obtain qualified personnel either by having professional staffs or obtaining the services of professionals to prepare nominations. Although Federal agencies do not have to obtain State approval, Federal nominations are sent to the appropriate State Historic Preservation Officer for review and comment concerning the property's eligibility for the National Register.

Because of the considerable experience and ability of the States and Federal agencies in identifying and evaluating historic properties, and based on provisions contained in the Act, the National Park Service, in most instances, lists nominations based on the recommendation of State or Federal nominating authorities without detailed professional evaluation. However, the Keeper does perform a detailed professional evaluation of particular nominations as part of a systematic process of monitoring State and Federal historic preservation programs, and as otherwise necessary, to ensure the integrity of the National Register.

Under section 106 of the Act, Federal agencies must provide the Advisory Council on Historic Preservation an opportunity to comment on the effect of Federal, federally assisted, or federally licensed undertakings on properties which are included in or eligible for inclusion in the National Register. The Advisory Council has established procedures for compliance with section 106 in 36 CFR Part 800, Protection of Cultural and Historic Properties. The Act also requires the Secretary of the Interior to develop regulations for making determinations of eligibility of properties for inclusion in the National Register. One of the purposes of making such determinations is to assist Federal agencies in complying with section 106 of the Act. 36 CFR Part 60 describes the procedures for such determinations.

The Secretary is also authorized under the Act to develop regulations for the certification of local governments to participate in the process of nominating properties to the National Register and other Federal historic preservation

activities. The requirements for the process of certification of local governments are included in 36 CFR Part 61. The specific responsibilities of certified local governments in the process of nominating properties to the National Register are included in 36 CFR Part 60. These regulations also describe the procedures to follow for nominations of properties located in States without approved State historic preservation programs.

These regulations also provide opportunities for the public to request that nominating authorities take specific actions consistent with the procedures. Furthermore, an individual can appeal directly to the Keeper where the individual disagrees with a decision of a nominating authority, or where the individual believes that a nominating authority or the Keeper has failed to act in accordance with these regulations.

The National Park Service publishes annually in the **Federal Register** a list of properties listed in, or determined eligible for inclusion in, the National Register during the previous fiscal year (up to September 30).

Major Changes

The following is a summary of the major proposed changes from 36 CFR Parts 60 and 63 as they are currently in effect. In addition to these changes, the document reflects a considerable reorganization of existing provisions.

The rule has been reorganized to present the different phases of National Register processes each in its own section or subsection: notification, owner objection, State Review Board consideration, Certified Local Government participation, Keeper's review, removals, public requests, appeals, and requests for determinations of eligibility.

Definitions have been added, deleted, or revised as necessary. Of particular note are the following:

The definitions for Multiple Resource Format submission and Thematic Resource Format submission have been deleted. Both formats are now described as a multiple property format in § 60.6(f).

The definitions of district, site, structure, building, and object have been deleted from the definitions and are described in a new section, § 60.4, Categories of Registration.

The National Register Criteria are not included in this proposed revision to Part 60. The National Park Service is currently reviewing the criteria and related guidelines for applying the criteria to determine if revisions are necessary. If, as a result of that review, criteria changes are to be proposed, the National Park Service will publish revised criteria for comment at a later date.

Statements concerning the nominating authority's prerogative in scheduling the evaluation and nomination of properties to the National Register and the role of the Comprehensive Statewide Historic Preservation Plan have been added as § 60.7(a)(3).

The role of local governments certified by the Secretary of the Interior in the nomination process is outlined in § 60.7(b)(1) (v) and (vi) and § 60.7(e).

Under these proposed procedures, Federal agencies have the option to notify private owners and appropriate local officials when privately owned inholdings surrounded by Federal lands are included in a nomination of Federal property. Otherwise, the appropriate State Historic Preservation Officer will perform notifications to private property owners when the nomination is forwarded to the State for review. In either case, notifications to private property owners and local officials must meet all the requirements for notification in § 60.7(b).

The separate provision for concurrent State/Federal nominations, whereby both nominating authorities combine their efforts to nominate both Federal and non-Federal properties, has been deleted. Under the proposed procedures, Federal and non-Federal properties can still be combined into one nomination, and both authorities will have the opportunity to contribute to the nomination. However, only one authority will make the nomination, and, therefore, be accountable for ensuring that all procedures are complied with.

This proposed rule addresses the question of who has the authority to nominate properties on the Outer Continental Shelf outside a State's jurisdiction. For properties on the Outer Continental Shelf that are not under State jurisdiction, nominations will be made by the appropriate Federal agency. However, because of States' interest in the preservation of such properties, a provision has been added in § 60.7(b)(2)(i)(C) whereby the appropriate State Historic Preservation Officer(s) is to be notified of such a nomination by the nominating Federal agency.

Questions concerning notification for properties located on Indian lands have been addressed in this proposed rule. The State Historic Preservation Officer or Federal Preservation Officer is required to notify the chief executive officer of an Indian tribe when properties on reservation lands are considered for nomination and provide an opportunity to comment on the nomination and notify the same official again when a property is listed. In such circumstances, the chief executive officer of an Indian tribe is considered to be an Appropriate Local Official as defined in § 60.2(a). Nominating authorities are encouraged under § 60.7(b)(1)(i), but not required, to notify other interested officials, such as traditional tribal leaders, if appropriate.

These regulations include procedures for nominations by persons or local governments in States without programs approved by the Secretary under 36 CFR Part 61.

A provision has been added under § 60.7(d)(3) whereby, if the State Historic Preservation Officer disagrees with the recommendation of the State Review Board, the State Historic Preservation Officer shall notify the Board within ten days. A decision by the State Historic Preservation Officer not to nominate a property recommended by the Board can be appealed by the Board or any individual under § 60.11.

One of the requirements in section 101(a)(2)(F) of the Act is that the Secretary promulgate or revise regulations for notifying the general public when a property is being considered for inclusion in the National Register. Section 60.7(g)(1) of the proposed rule requires that the Keeper, following receipt of nominations, publish notice in the **Federal Register** that properties are being considered for listing and allow 15 days for public comment. Although this provision literally meets the requirement in the Act, the Keeper does not believe that this is necessarily the most effective or cost efficient way to notify interested parties. First, the **Federal Register** has national circulation, while the vast majority of properties nominated to the National Register are of local significance. Second, the **Federal Register** is not widely circulated among the general public. Third, it is expensive to publish notices of pending nominations in the **Federal Register**. The Keeper has considered delegating the responsibility of notifying the general public to the nominating authority so that such notices could be directed toward those individuals who would be most likely to be interested in the nominations, but the Keeper is concerned about imposing additional burdens and expenses on nominating authorities. Therefore, the Keeper invites suggestions of an alternative process that would more effectively and efficiently meet the requirement that the general public be notified of nominations.

Provision is made in § 60.7(g)(2) for the Keeper to interrupt the required 45-

day review period for nominations to consider significant new information concerning the registration of a property introduced during an appeal pursuant to § 60.11(a)(2). Such an interruption will not exceed 30 days and will not be used more than once during the review period. A similar provision has been included for the review of requests for determinations of eligibility under § 60.12(e).

Revisions to documentation are addressed in two sections. Section 60.7(h) includes provisions for revising documentation on nominations prior to listing, and § 60.8 deals with revisions to documentation on listed properties. For revisions under § 60.7(h), the Keeper does not believe that all possible situations where documentation is revised and the subsequent required actions of the nominating authority can be identified in regulations. Therefore, the nominating authority is given considerable latitude in deciding which phases of the nomination process need to be repeated and whether property owners and appropriate local officials need to be renotified when a nomination is revised depending on the nature of the revisions and how substantive they are. In doing so, nominating authorities are to act in a manner consistent with the intent of the nomination and public participation processes as outlined in these regulations.

The grounds for removal of properties from the National Register under § 60.9(a) have been reduced from four to two. Under currently effective procedures, the grounds for removal of properties from the National Register are: "(1) The property has ceased to meet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing; (2) Additional information shows that the property does not meet the National Register criteria for evaluation; (3) Error in professional judgment as to whether the property meets the criteria for evaluation; or (4) prejudicial procedural error in the nomination or listing process."

Under these proposed procedures, § 60.9(a), the two grounds for removal are "(1) the property does not now meet the National Register criteria; or, (2) there has been prejudicial procedural error in the nomination or listing process." Decisions to remove under § 60.9(a)(2) result from the discovery that prejudicial procedural errors were made by the nominating authority or the Keeper during the nomination or listing process. Whether or not a property meets the criteria does not bear on the decision to remove such property from the National Register under § 60.9(a)(2). When properties that meet the National Register criteria are removed for prejudicial procedural error, they will retain their determined eligible status and may be renominated and listed in accordance with the requirements in these procedures.

A new provision has been added as § 60.9(g) to protect an owner of a property listed in the National Register where the owner has, in good faith, qualified for a Federal income tax incentive for the certified rehabilitation of that property and such property is later removed from the National Register under the grounds in § 60.9(a). This provision, combined with § 60.9(e) which enables the Keeper to determine the date that removal from the National Register takes effect, allows the Keeper to take into account the effect of the delisting on an owner's tax circumstances.

Sections 60.10 and 60.11 describe procedures for requests from the public and appeals, respectively. Requests are appropriate when someone wants a nominating authority to initiate an action provided for in these regulations. Appeals are appropriate when someone disputes a decision by a nominating authority either on professional or procedural grounds or contends that the Keeper has failed to comply with these regulations. Requests are always made to nominating authorities, while appeals are always made to the Keeper.

Requesters are encouraged to prepare and submit documentation supporting their requests. Provision of documentation and the adequacy of such documentation will be important in determining whether and how soon the nominating authority can take action on the request. Although requests may be made without submitting documentation, because of the heavy workload of most nominating authorities, and because they retain the prerogative to establish priorities for National Register activities, it will be considerably more difficult for them to comply with requests in a timely manner, particularly requests for nominations, unless the requester has prepared historic or archeological documentation in advance of making a request. Furthermore, should an appeal be filed directly with the Keeper under 60.11 following a dispute between someone and a nominating authority concerning the adequacy of the authority's response to a request, the Keeper will take into consideration whether or not documentation was provided in support of the request and the adequacy of that documentation before making a decision on the appeal.

The Keeper's decisions on appeals shall ensure that the authority of the State Review Board to review all nominations is maintained. When a nominating authority chooses to not submit a nomination to the State Review Board, and an appeal is filed and sustained, the nominating authority shall present the nomination to the Review Board before it is considered by the Keeper.

Appeals procedures for resolving questions of historic significance of properties for Federal tax benefit certification purposes are established in 36 CFR 67.10. It should be understood that, although such appeals are processed under different regulations, the consideration of such appeals employs the same standards, guidelines, and criteria used for considering appeals under 36 CFR 60.11. In practice, the procedure in § 67.10 is functionally merged with the procedure in § 60.11.

Section 60.12 describes the procedures for determining the eligibility of properties for inclusion in the National Register at the request of Federal agencies. As noted in § 60.12(a), requests for determinations of eligibility will be supported by the same level of documentation as required for nominations. Decisions on the eligibility of properties for the National Register require a certain minimum level of information and documentation, and no more should be necessary for making decisions on nominations than for determinations of eligibility. This recognizes the inherent parity in the nature of the two decisions and should not be used to increase the amount of documentation necessary for requesting determinations of eligibility. The National Park Service will be reassessing the level of documentation necessary for both determinations of eligibility and nominations. If it is determined that unnecessary documentation requirements exist in either procedure, those requirements will be reduced appropriately.

Section 60.12(f) provides that Federal agencies, with the concurrence of the State Historic Preservation Officer, can consider properties eligible for the National Register solely for purposes of complying with section 106 of the Act without seeking a formal determination of eligibility from the Keeper. These revisions are consistent with the review and comment process established by the Advisory Council 36 CFR Part 800, the regulations that implement section 106.

However, the authority for Federal agencies and States to substitute this process for a formal determination of eligibility by the Keeper can be revoked in the case of particular Federal agencies or States if they exhibit a pattern of non-conformance with the evaluation criteria and guidelines in 36 CFR Part 60 or the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. Conformance with this standard will be monitored by the National Park Service through programmatic review of States and Federal agencies. The National Park Service will ensure that processes for deciding which properties are eligible for the National Register are implemented in such a way that the Secretary's authority to determine the eligibility of properties for the National Register under section 101(a)(2)(E) of the Act is maintained.

A statement about limitations on the release of information to the public is included in § 60.13(a).

On December 12, 1980, the Act was amended. On November 16, 1981, interim regulations for §§ 60.1, 2, 3, 4, 5, 6 (except paragraphs (i) and (m)), 9, 10, 13, 14, 15 were published in the Federal Register, effective as of that date. Also on November 16, 1981, proposed regulations for amended §§ 60.6(m), 8, 11 and 12 of 36 CFR Part 60 were published. Subsection 60.6(m) and §§ 60.11 and 60.12 were published in final on October 12, 1983. Sections 60.6(i) and 60.7 concerning nominations within the jurisdiction of certified local governments were reserved in the November 16 publication.

Rather than making the interim rule of November 16, 1981, a final rule, the National Park Service is proposing this rule for comment. One reason for this is the consolidation of two regulations into one and, consequently, the need to integrate entirely the two processes implemented in those regulations. Also, because a considerable amount of time has passed since the 1981 publication, and a great deal of experience in the use of these procedures has been gained by all the partners in the national historic preservation program, the Service wants to take full advantage of the opportunity to improve on existing procedures by involving all users in a full review and comment process.

All provisions of Part 60, with the exception of the National Register Criteria, are included in this proposed rule. The criteria, published on November 16, 1981, under § 60.4, will be redesignated to § 60.5 under the revised procedures. All other provisions of the proposed National Register procedures can be found in § 60.1 through § 60.4 and 60.6 through 60.13.

36 CFR Part 63, Determinations of Eligibility for Inclusion in the National Register of Historic Places, have been in interim effect since September 21, 1977. The rules contained in Part 63 are hereby proposed to be incorporated into 36 CFR Part 60.

These proposed regulations have been prepared in consultation with State Historic Preservation Officers, Federal agencies, the National Trust for Historic Preservation, the Advisory Council on Historic Preservation and others with concerns about the National Register.

Classification

In accordance with Executive Order 12291, the Department of the Interior has determined that these rules are not "major". In accordance with the Regulatory Flexibility Act, the Department of the Interior has determined that these rules do not have a significant economic effect on a substantial number of small entities. Such determinations were made for both 36 CFR Part 60 and Part 63. These rules contain information collection requirements which have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* and assigned clearance numbers 1024–0018 and 1024–0027.

Regulatory Impact Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 36 CFR Part 60

Historic preservation; Archeology.

The originator of these procedures is Stephen M. Sheffield of the Interagency Resources Division of the National Park Service (202/343–9500).

Dated: May 22, 1986.

William P. Horn,

Assistant Secretary, Fish and Wildlife and Parks.

For the reasons set out in the preamble, Part 60 of Title 36 of the *Code of Federal Regulations* is proposed to be amended, and Part 63 is proposed to be removed as set forth below.

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

1. The authority citation for Part 60 continues to read as follows:

Authority: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*, and Executive Order 11593.

§ 60.5 [Removed]

2. Section 60.5 is proposed to be removed.

§ 60.4 [Redesignated as § 60.5]

3. Section 60.4 is proposed to be redesignated as new 60.5.

4. Sections 60.1, 60.2, 60.3, 60.6, 60.9, 60.10, 60.11, 60.12, and 60.13 are proposed to be revised and new §§ 60.4, 60.7, and 60.8 are proposed to be added to read as follows:

§ 60.1 Authorization.

(a) The National Historic Preservation Act of 1966, as amended (the "Act"), authorizes the Secretary of the Interior to expand and maintain a National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. The Act also provides for the Secretary to determine the eligibility of properties for inclusion in the National Register. The processes described in these regulations comply with the provisions of the Act and are consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*, published in the Federal Register on September 29, 1983, and available from the Keeper of the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. (b) The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* and assigned clearance number *1024–0018* or, in the case of § 60.12(f)(2), number *1024–0027*. The information is being collected for the purpose of reviewing nominations to the National Register and will be used in determining which properties are eligible for listing. The obligation to respond is required to obtain a benefit.

§ 60.2 Definitions.

Appropriate local officials. Officials who are to be notified of nominations to, and listings in, the National Register and provided an opportunity to comment on the nomination. Generally this includes the chief elected official of the local municipal jurisdiction, or, if there is no municipal jurisdiction, the county or parish. At the discretion of the nominating authority, other officials may be notified. If the property is located on an Indian reservation, the chief executive officer of the Indian tribe is an appropriate local official for purposes of notification.

Certified local government. A local government that has been certified by the State Historic Preservation Officer and the Secretary pursuant to 36 CFR Part 61 to carry out the purposes of the National Historic Preservation Act.

Determination of eligibility. A decision by the Keeper of the National Register that a property meets the National Register criteria, although the property is not actually listed in the National Register of Historic Places.

Federal preservation officer. The official designated by the head of each Federal agency pursuant to section 110(c) of the National Historic Preservation Act who is responsible for coordinating that agency's activities under the Act including nominating properties under that agency's ownership or control to the National Register.

Keeper. The official with whom authority has been delegated by the Secretary of the Interior for expanding and monitoring the National Register of Historic Places, listing properties in the National Register, and determining the eligibility of properties for inclusion in the National Register.

Nominating authority. Person or organization authorized to nominate property to the National Register. Generally this will be the State Historic Preservation Officer or the Federal Preservation Officer. In States without approved State historic preservation programs, any person or local government may act as the nominating authority, unless the property is located within the jurisdiction of a local government certified by the Secretary of the Interior under 36 CFR Part 61, in which case the certified local government will substitute for the State as the nominating authority.

Owner(s): Those individuals, partnerships, corporations or public agencies holding fee simple title to property or equivalent under State law. The term owner or owners also means Indian tribes or members of Indian tribes who own beneficial title to Indian lands either held in trust by the United States or subject to a restriction against alienation imposed by the United States. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests in property of any nature, except for owners of Indian lands.

Registration. The process which results in historic or archeological properties being listed in the National Register.

Secretary. The Secretary of the Interior.

State. Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

State Historic Preservation Officer. The official designated by the Governor or by State law to administer the State's historic preservation program and to perform the duties described in 36 CFR 61.4 including nominating properties to the National Register.

State Review Board. A board, council, commission, or other similar collegial body provided for in 36 CFR 61.4, the members of which are appointed by the State Historic Preservation Officer, unless otherwise provided for by State law, for the purpose of, among other things, reviewing the adequacy of National Register nominations and the eligibility of nominated properties.

§ 60.3 What registration is.

(a) Registration is the result of the joint Federal/State process for evaluating the values and characteristics of historic or archeological properties and listing them in the National Register. The National Register and the record of properties determined eligible for the National Register are authoritative guides for use by Federal, State, local and Indian tribal governments, private groups and citizens in recognizing the Nation's cultural resources to determine which properties should be considered for protection from destruction or impairment. Properties are added as they are identified, evaluated, and recognized as being significant.

(b) Listing private property in the National Register or determining a property to be eligible for the National Register does not prohibit under Federal law or regulation any action which otherwise may be taken by the property owner with respect to the property. It provides recognition of the value of historic and archeological properties individually and to the Nation; provides assistance in cultural resource planning and management; defines properties' qualifications for those Federal tax incentives directed at preserving historic and archeological properties; and facilitates historic and archeological site preservation in the Nation.

(c) A property eligible under the National Register criteria can be of national, State, or local significance. These levels of significance reflect the scale of historic association of the property. The determination of the value or importance of a property will vary depending on the context of that evaluation.

(d) The National Register is a planning tool. Federal agencies that carry out, assist, or license undertakings that affect a property listed on the National Register or eligible for inclusion in the National Register must take into account the effect of the undertaking on the eligible property, and must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to section 106 of the National Historic Preservation Act. Regulations for this purpose are outlined in 36 CFR Part 800, "Protection of Historic and Cultural Properties."

(e) The National Register is used for determining preservation needs. Analysis of the content of the National Register and the record of properties determined eligible for the National Register makes it possible to partially identify needs in areas such as preservation technology, planning, survey, identification, evaluation, registration, and training.

(f) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining Control and Reclamation Act of 1977 apply. The Department of the Interior's Office of Surface Mining and Reclamation Enforcement proposed regulations entitled, "Protecting Historic Properties from Surface Coal Mining Operations," 30 CFR Parts 731, 732, 761, 772, 773, 779, 780, 783, and 784, in the **Federal Register** on March 11, 1986 (51 FR 8466).

(g) The following provisions may apply to properties listed in the National Register:

(1) Listing a property in the National Register qualifies the property to be considered for historic preservation grants-in-aid authorized by the Act.

(2) For certain properties listed in the National Register, provisions of the Internal Revenue Code encouraging the preservation of depreciable structures (as defined by the Internal Revenue Service) through special tax treatments for rehabilitation may be applicable. Whether listing of private property in the National Register is advantageous with regard to tax consequences depends on the circumstances of each property and taxpayer. Other provisions of the Code encourage the donation of preservation easements (charitable contributions of partial interests in historic property). Interested parties should refer to 36 CFR Part 67 and the Internal Revenue Code implementing regulations.

§ 60.4 Categories of registration.

The National Register and the record of properties determined eligible for the National Register are composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture and the artifacts, records, and remains which are related to those properties. Each registered property falls primarily into one of the five categories listed in this section. Examples of each type of listing can be found in National Register Bulletin Number 15, *Guidelines for Applying the Criteria of the National Register of Historic Places* (see § 60.1(a) for address).

(a) *District.* A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

(b) *Site:* A site: is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

(c) *Building.* A building, such as a house, barn, church, hotel, or similar construction, is created to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

(d) *Structure.* The term "structure" is used to distinguish from buildings those constructions made usually for purposes other than creating shelter, such as dams or bridges.

(e) *Object.* An object is constructed or sculpted and has functional, aesthetic, cultural, historic or scientific value. Although it may be, by nature or design, movable, it is associated with a specific setting or environment, such as statuary in a designed landscape, or a ship.

§ 60.6 The registration of properties.

(a) Properties are listed in the National Register of Historic Places through the following actions:

(1) The creation of historic areas of the National Park System by Acts of Congress or Executive Orders;

(2) The designation of National Historic Landmarks by the Secretary of the Interior in accordance with 36 CFR Part 65;

(3) Registrations by the Keeper following nominations made in accordance with 36 CFR Part 60;

(4) Registrations by the Keeper following appeals pursuant to 36 CFR 60.11; and,

(5) Registrations by, and at the discretion of, the Keeper in accordance with 36 CFR 60.6(e)(1).

(b) Properties are determined eligible for inclusion in the National Register through the following actions:

(1) Determinations of eligibility by the Keeper upon the request of a Federal Agency or the Advisory Council on Historic Preservation for purposes of section 106 of the Act;

(2) Determinations of eligibility by the Keeper for properties that cannot be listed in the National Register because of owner objection during the nomination process;

(3) Determinations of eligibility by the Keeper for properties that cannot be listed in the National Register because prejudicial procedural errors were made during the nomination process;

(4) Determinations of eligibility by the Keeper for properties that have been considered by the Secretary for designation as National Historic Landmarks, have not qualified for such designation, but do meet National Register criteria;

(5) Determinations of eligibility by the Keeper for properties that have been considered by the Secretary for designation as National Historic Landmarks but cannot be listed in the National Register because of owner objection during the consideration process;

(6) Certifications of districts by the Secretary as substantially meeting the requirements for listing in the National Register in accordance with 36 CFR 67.9;

(7) Determinations of Eligibility by the Keeper for properties where an appeal has been filed and sustained under 36 CFR 60.11;

(8) Determinations of Eligibility by the Keeper when an agency Federal Preservation Officer does not approve a State Historic Preservation Officer's request to nominate predominantly Federal property; and,

(9) Determinations of eligibility by, and at the discretion of, the Keeper in accordance with 36 CFR 60.6(e)(1).

(c) Properties listed in, but later removed from, the National Register because of prejudicial procedural error in accordance with § 60.9(a)(2) shall retain a determined eligible status.

(d) Certifications that properties contribute to the significance of a historic district under 36 CFR Part 67 are determinations for Federal income tax purposes only and do not affect the National Register status of such properties.

(e) Who May Seek Registration.

(1)(i) All decisions concerning listings, determinations of eligibility, removals, and revisions to documentation are made by the Keeper of the National Register or his or her designee. The Keeper has the discretion to list a property in the National Register, determine a property eligible for inclusion in the National Register, and remove properties from the National Register or the list of properties determined eligible, without nomination or request by any other authority. Such action will only be taken after compliance with the applicable notification and comment provisions in these regulations. The Keeper also has the discretion to revise documentation on listed or determined eligible properties consistent with § 60.8(b) without request by any other authority.

(ii) Only the Keeper may list districts, sites, buildings, structures and objects in the National Register. Determinations of which resources within the defined boundaries of a nomination contribute to the listing and which are non-contributing are normally made by the nominating authority in accordance with the standards and guidelines established by the Keeper, unless changed by the Keeper in accordance with the procedures for revising documentation in § 60.8.

(2)(i) The Federal Preservation Officer for each Federal Agency is authorized under section 110(a)(2) of the Act to nominate properties under the agency's control.

(ii) Federal agency officials may request the Keeper of the National Register to determine whether any property is eligible for listing in the National Register as part of compliance with section 106 of the Act. Although this does not result in registration, properties which are determined eligible can be registered if the procedural and documentation requirements of these regulations are later met.

(3) The State Historic Preservation Officer is authorized under section 101(b)(3)(B) of the Act to nominate properties within the State to the National Register. The State Historic Preservation Officer establishes, as part of the Comprehensive Statewide Historic Preservation Plan, priorities for nomination of properties meeting the National Register criteria and makes nominations in accordance with those priorities. The State Historic Preservation Officer may nominate Federal property only as provided in § 60.7(b)(2)(ii).

(4)(i) Any person or local government may nominate a property if such property is located in a State without an approved State historic preservation program.

(ii) For properties located within the jurisdiction of a Certified Local Government as defined in § 60.2(b) in States without approved programs, nominations will only be made by the Certified Local Government. In such cases, the chief elected official will perform the responsibilities of the State Historic Preservation Officer under these procedures, while the local commission will perform the responsibilities of the State Review Board described in § 60.7(d). Where properties are located within the jurisdiction of a Certified Local Government in a State with an approved program, the Certified Local Government may participate in the nomination process as described in § 60.7(b)(1) (v) and (vi) and 60.7(e) but will not directly nominate properties to the Nationsl Register.

(5) Any person may request nomination pursuant to § 60.10, Public Requests, or appeal for or against nomination pursuant to § 60.11, Appeals.

(f) Formats for Registration. Each listing in the National Register fits one of the five categories: district, site, building, structure, or object. A category of property may be nominated and listed individually; or, more than one category of property may be nominated in a multiple property format provided all the included property categories bear some significant historic or cultural relationship to each other. In either case, each district, site, building, structure, and object included in the nomination will be evaluated individually against the National Register criteria. For detailed guidance on how to use these registration formats, refer to National Register Bulletin Number 16, *Guidelines for Completing National Register of Historic Places Forms* (see § 60.1(a) for address).

§ 60.7 Nominating properties to the National Register.

(a)(1) Properties are evaluated and, if considered eligible, nominated to the National Register by the nominating authorities described in § 60.6(e). Nominating authorities identify eligible properties during surveys or other historic property identification activities, or they may be brought to the attention of the nominating authority by local governments, preservation commissions or other organizations or interested individuals.

(2) All nominations and requests for determinations of eligibility are to be made on National Register of Historic Places form #NPS 10–900. To meet documentation requirements, the forms and accompanying maps and photographs must be prepared in accordance with guidance in National Register Bulletin Number 16, *Guidelines for Completing National Register of Historic Places Forms*. Forms and technical guidance are provided upon request by the Keeper (see § 60.1(a) for address) or the State Historic Preservation Officer.

(3) Except as otherwise stipulated in these regulations, nominating authorities retain sole authority in scheduling evaluation and nomination of properties to the National Register so long as the rationale for setting priorities is clearly defined and made available to the public upon request. For nominations by State Historic Preservation Officers, priorities are to be established consistent with the Comprehensive Statewide Historic Preservation Plan. Nominations by Federal Preservation Officers should be made consistent with the *Guidelines for Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act*, available from the National Park Service (see § 60.1(a) for address). Information concerning scheduling of properties for consideration and the nominating authority's priorities is to be made available to the public. Responses to public requests under § 60.10 will be in accordance with these established priorities, and the Keeper's decisions following appeals under § 60.11 will take into account these established priorities.

(b) Notification of Intent to Nominate. Owners and appropriate local officials as defined in § 60.2 (a) and (g) will be notified that a property is being considered for nomination to the National Register. For multiple property format nominations, each district, site, building, structure and object to be included must be treated as a separate nomination for the purpose of notification.

(1) Notifications for nominations of non-Federal property will be made as follows:

(i) The State Historic Preservation Officer will notify owners and appropriate local officials of the intent to nominate a property to the National Register at least 30 but not more than 75 days before the State Review Board meeting. Required notices may vary in some details of wording as the States prefer but must include certain information prescribed by the Keeper and will provide the owner(s) with information concerning the right to concur in, or object to, the nomination of the property in accordance with § 60.7(c). The notice will give the owner(s) and appropriate local officials at least 30 but not more than 75 days to submit comments and, if appropriate, objections to the nominating authority. The National Register documentation will be available for inspection by the public in the State historic preservation office during the comment period. A copy will be made available by mail when requested by the public, or made available at a location of reasonable access to affected property owners, such as a local library, courthouse, or other public place, during the comment period. Availability of nomination information will be subject to the limitations in § 60.13(a). Although appropriate local officials are those defined in § 60.2(a), the State is encouraged to notify other interested officials, such as traditional tribal leaders, if appropriate.

(ii) Property owners will be identified from the most comprehensive, reliable, and up-to-date record of ownership available, no more than 60 days prior to the notification of intent to nominate. Usually this is the official land record or tax records. Where there is more than one owner on the record, each owner will be notified.

(iii) The State Historic Preservation Officer is responsible for notifying all owners whose names appear on the record of owners consulted. For a nomination with more than 50 property owners, the State Historic Preservation Officer may instead provide general notice to property owners concerning the intent to nominate at least 30 days but not more than 75 days before the State Review Board consideration described in § 60.7(d). As with notifications to individuals, general notices will include certain information prescribed by the Keeper and will provide the owner(s) with information concerning the right to concur in, or object to, the nomination of the property in accordance with § 60.7(c). The notice will give owner(s) at least 30 but not more than 75 days to submit objections to the nominating authority. General notices will be published as a legal notice in at least one local newspaper with general circulation in the area of the nominated property.

(iv) The commenting period following notification can be waived only when all property owners and the notified local officials have advised the State Historic Preservation Officer in writing that they agree to the waiver.

(v) Before a property or district within the jurisdiction of a Certified Local Government may be nominated by the State, the State Historic Preservation Officer will notify the owner(s), appropriate local officials and applicable historic preservation commission at least 60 but not more than 120 days prior to the State Review Board consideration. The commission,

after providing a reasonable opportunity for public comment, will prepare a report as to whether or not such property or district meets the National Register criteria and transmit such report as described in § 60.7(e).

(vi) Any additional responsibilities delegated by the State to the Certified Local Government will be performed in accordance with the requirements for States in these procedures.

(2) Notifications for nominations of Federal property will be made as follows:

(i) Nominations of Federal property by the Federal Agency.

(A) The Federal Preservation Officer will notify appropriate local officials of the intent to nominate a property at least 30 but not more than 75 days before transmitting the nomination to the State Historic Preservation Officer. The notice will provide the local officials at least 30 but not more than 75 days to comment on the nomination. In cases where the Federal Agency has total control over the property, and the Agency determines in writing that the nomination will be of no consequence or concern to the local officials, the Agency, in its discretion, need not notify such officials.

(B) Completed nominations will be forwarded by the Federal Preservation Officer to the appropriate State Historic Preservation Officer in States with approved State historic preservation programs. The State is given 45 days to review and comment regarding the adequacy of the documentation, the justification of significance of the property, and its eligibility under National Register criteria. The State Historic Preservation Officer will sign the nomination form making a recommendation concerning eligibility and return the nomination to the Federal Preservation Officer by the end of the 45-day period. The recommendation of the State Historic Preservation Officer is advisory only.

(C) For properties located on the Outer Continental Shelf, Federal agencies will forward the nomination to whichever State Historic Preservation Officer(s) would be expected to have an interest in the nomination.

(D) Where the State Historic Preservation Officer does not respond within 45 days, the Federal Preservation Officer may process the nomination without the State's opinion.

(E) When a portion of the area included in a Federal nomination is located on land not under the ownership or control of the Federal agency, but is substantially encompassed by Federal land, such as inholdings, the Federal Preservation Officer will comply with the procedures for notification to owners and appropriate local officials required for nominations of non-Federal property. Otherwise, the completed nomination form will be sent to the State Historic Preservation Officer for notification of non-Federal owners in accordance with procedures in § 60.7(b)(1).

(ii) Nominations of Federal property by the State.

(A) Where Federal property is being nominated by a State Historic Preservation Officer within the limitations provided for in § 60.7(b)(2)(ii)(B) and (C), the Federal owner will be notified and afforded the same opportunities to comment as required in the notification provisions for nomination of non-Federal properties under § 60.7(b)(1).

(B) The State Historic Preservation Officer may include Federal property in a nomination when such property lies within the boundaries of a nomination of predominantly non-Federal property.

(C) In cases where a nomination is comprised of predominantly Federal property, the State Historic Preservation Officer may nominate only with the written concurrence of the appropriate agency Federal Preservation Officer. Where such concurrence is not given within a reasonable time period, the State will request a determination of eligibility for inclusion in the National Register from the Keeper.

(3) Notifications in States without approved programs will be made as follows:

(i) For nominations in States without approved programs, property owners will be identified by the person or local government making the nomination in accordance with the requirements in § 60.7(b)(1). A record of names and addresses of owners and appropriate local officials will be obtained no more than 60 days prior to forwarding the nomination to the Keeper and will be forwarded with the nomination. The Keeper will notify, in writing, owners of property and appropriate local officials at least 30 but not more than 75 days before the beginning of the required review period described in § 60.7(g)(2) and will provide opportunities to comment and, if appropriate, object to the nomination consistent with the requirements in § 60.7(b)(1).

(ii) For nominations of property within the jurisdiction of Certified Local Governments in States without approved programs, the chief elected official will perform the notification responsibilities ordinarily undertaken by the State Historic Preservation Officer under § 60.7(b)(1).

(iii) For Federal nominations in States without approved programs, the Federal Preservation Officer is not required to notify or consult with the State government.

(c) Objections by Owners of Private Property.

(1) Upon receiving notification of the intent to nominate, any owner(s) of a private property who objects to having property listed in the National Register will provide to the nominating authority a notarized statement certifying that they are either the sole or partial owner of the property and that they object to the listing. The property will not be listed (but, if eligible, will be determined eligible for listing) if the sole owner, or a majority of the partial owners of the property, objects to listing. In the case of districts, a majority of the owners of property within the district must so object to prevent listing.

(2) Upon receipt of notarized objections to a nomination of property with multiple owners, the authority performing notification will determine whether a majority of the owners of private property listed in records specified in § 60.7(b)(1)(ii) has objected. If a person or organization whose name did not appear on the list certifies in a notarized statement that they are either the sole or partial owner of a nominated private property, that owner will be included in the determination of whether a majority of owners has objected unless the authority performing notification has sufficient reason to doubt the reliability of the statement.

(3) Each owner of private property in a nomination with multiple owners who chooses to object may register only one objection no matter how many properties or what portion of one property that party owns and regardless of whether the property contributes to the significance of the nomination.

(4) For multiple property format nominations, each district, site, building, structure and object is treated separately for the purpose of determining whether a majority of owners has objected.

(5) All written comments and notarized statements of objection to listing received by the nominating authority are forwarded to the Keeper by the nominating authority with the nomination. Where a majority of owners has objected, a statement indicating so will be forwarded with the nomination.

(6) If the owner, or a majority of owners, of private property has objected to the nomination, the nominating authority will forward the nomination to the Keeper for a determination of eligibility in accordance with § 60.7(f)(6).

(7) Subdivisions, or other transactions, which result in and/or have the purpose of altering the number of owners for purposes of these owner objection provisions, may be disregarded by the nominating authority and the Keeper in considering owner objections.

(d) State Review Board Evaluation of Proposed Nominations. The State Review Board will consider all nominations by the State Historic Preservation Officer, except as described in § 60.7(d)(4).

(1) Completed nomination forms, or similar documentation on the significance and eligibility of a property for the National Register, are evaluated by the State Review Board, without regard to owner objection. The Board will consider whether or not the property meets National Register criteria and the nomination meets documentation standards, and then will recommend to the State Historic Preservation Officer whether or not the nomination should be forwarded to the Keeper.

(2) A record of the Board's opinion about each proposed nomination will be kept as a verification of the Board's consideration, any agreement or disagreement with the State Historic Preservation Officer, and in the event of an appeal under § 60.11. This record may be in the form of minutes of the Board's meeting and will be made available to the public on request.

(3) The State Historic Preservation Officer will notify the Board within 10 days if the State Historic Preservation Officer does not concur in the Board's recommendation. Where the State Historic Preservation Officer refuses to forward a nomination that the Board considers eligible, the Board may appeal directly to the Keeper under § 60.11.

(4) Properties need not be presented to the State Review Board under the following circumstances:

(i) In cases where documentation in a nomination which has already been reviewed by the State Review Board is revised prior to listing, as described in § 60.7(h), and such revisions are of a technical nature as determined by the nominating authority, such documentation need not be again presented to the Review Board.

(ii) In cases where the boundary of an already listed property must be revised because it incorrectly locates resources as described in § 60.8(c)(2), the boundary may be revised to add land area to the listing without being reviewed by the State Review Board so long as previously unevaluated resources are not included in the revision. In such cases, the decision to revise the boundary is a technical decision to more accurately reflect the actual location of already evaluated significant resources.

(iii) In cases where significance has already been evaluated as part of the nomination and listing of other related properties, and the property under consideration is being evaluated to determine if it possesses the same qualities of significance as those already listed, such property need not be presented to the Review Board.

(e) Participation in Nomination Process by Certified Local Governments.

Within 60 days of notice from the State Historic Preservation Officer as required in § 60.7(b)(1)(v), the chief local elected official will transmit the report of the commission along with the official's recommendation to the State Historic Preservation Officer. If both the commission and the chief local elected official recommend that a property not be nominated, the State Historic Preservation Officer will take no further action, unless an appeal is filed under § 60.11. If the commission and/or the chief local elected official recommend that a property be nominated or take no action, the State Historic Preservation Officer will present the nomination for review to the State Review Board in accordance with the procedures in § 60.7(d). The State may expedite this process with the concurrence of the Certified Local Government so long as public participation opportunities have been made available. Any report and recommendation made by the Certified Local Government will be included with the comment record forwarded by the State Historic Preservation Officer to the Keeper.

(f) Transmitting the Nomination to the Keeper of the National Register.

(1) Nominations recommended by the nominating authority under the National Register criteria will be transmitted to the Keeper as soon as the documentation and procedural requirements of § 60.7 have been met.

(2) When the State Historic Preservation Officer and the State Review Board disagree on whether a property meets the National Register criteria, the State Historic Preservation Officer may choose to forward the nomination to the Keeper along with both opinions concerning whether or not the property meets the criteria.

(3) The nominating authority signs the nomination form certifying that the nomination meets the documentation and procedural requirements of § 60.7.

(4) The following will be included with nominations forwarded to the Keeper:

(i) Notarized objections received from owners of private property;

(ii) Comments received by the nominating authority;

(iii) Recommendations by Certified Local Governments for nominations of property within the jurisdiction of a Certified Local Government.

(5) In States without approved programs, the following will be included with nominations forwarded to the Keeper:

(i) Notarized objections received from owners of private property;

(ii) Comments received by the nominating authority;

(iii) The name, title, mailing address and telephone number of the nominating authority;

(iv) A statement signed by the nominating authority indicating that the nomination meets the documentation and procedural requirements of § 60.7; and,

(v) The names and mailing addresses of owners of nominated property and appropriate local officials as prescribed for State nominations.

(6) Where a property cannot be listed in the National Register because of owner objection under § 60.7(c), the nominating authority will forward the documentation to the Keeper for a determination of eligibility for inclusion in the National Register.

(g) Review and Notification by the Keeper of the National Register.

(1) When a nomination is received, the Keeper will publish a notice in the **Federal Register** stating that the property is being considered for listing in the National Register of Historic Places. A 15-day commenting period from date of publication will be provided. When necessary to assist in the preservation of historic properties, and at the discretion of the Keeper, this 15-day period may be reduced.

(2) Nominations of properties meeting the National Register criteria, meeting the documentation and procedural requirements of § 60.7, and where owner objection does not prevent listing, will be listed in the National Register within 45 days of receipt of completed documentation or, in the case of a nomination of property in a State without an approved program, within 45 days of the close of the commenting period that follows notification by the Keeper. Nominations which do not meet the requirements in § 60.7 or the National Register criteria will be returned to the nominating authority with an explanation. The Keeper may interrupt the 45-day review period if necessary in order to consider significant new information concerning the registration of a property introduced during an appeal pursuant to

§ 60.11(a)(2). Such an interruption will not be for a period exceeding 30 days and will not be used more than once during the review period for a nomination.

(3) Nominations will receive detailed evaluation by the National Park Service at the Keeper's discretion. Ordinarily, samples of nominations will be selected for such detailed evaluation to monitor the quality of documentation and assess nominating authorities' recommendations concerning eligibility. The frequency of this detailed evaluation for each State's nominations will be determined based on the results of assessments of the quality of the State's planning, personnel, policy, programming, and procedures. Such assessments are part of the State program approval process outlined in 36 CFR Part 61. However, all nominations are reviewed to ensure that essential administrative and technical information has been provided.

(4) The Keeper will inform the nominating authority that a property has been listed in the National Register. Nominating authorities will inform owners and appropriate local officials when properties are listed in the National Register. In the case of the nomination of property with more than 50 owners, owners may be notified of the listing by a general notice. In States without approved programs, the Keeper will notify owner(s) and appropriate local officials when properties are listed.

(5) Nominations accompanied by incomplete documentation will be returned to the nominating authority with an explanation of the specific deficiencies. If the specified deficiencies are corrected, and the nomination is transmitted to the Keeper, the Keeper will process the nomination in accordance with the requirements and time frames in this Section. Nominations returned by the Keeper and renominated will be considered to be revised nominations and will be processed as described in subsection (h).

(6)(i) The Keeper will make a determination of eligibility for a nomination of property that cannot be listed in the National Register because of owner objection within 45 days of receipt or, in the case of nominations of properties in States without approved programs, within 45 days of the close of comment periods following notification by the Keeper. The Keeper will notify the nominating authority and the Advisory Council on Historic Preservation that such property has been determined eligible.

(ii) The State Historic Preservation Officer will notify the owner(s) and the appropriate local officials of such determination in the same manner as notification after listing.

(iii) In the case of nominations by persons or local governments where owner(s) have objected, the Keeper will notify the appropriate local officials and the owner(s) that a determination of eligibility has been made.

(7) The Keeper will list in the National Register properties determined eligible where owners have objected upon receipt of notice that the owners no longer object to listing and after the 15-day comment period following notification in the **Federal Register** has expired. An owner's notarized statement withdrawing objections to listing should be sent to the nominating authority and subsequently transmitted by the nominating authority to the Keeper with a request that the nominated property be listed. Properties determined eligible under § 180.7(g)(7) will retain that status unless the owner withdraws the objection.

(h) Revision of a Nomination Prior to Registration.

(1) If subsequent to nomination, but prior to listing, a nominating authority proposes substantive revisions to a nomination, the nominating authority will ensure that all provisions relative to notification and comment and State Review Board evaluation are met prior to forwarding documentation on such revisions to the Keeper.

(2) Properties renominated within one year of the date of the return of the original nomination need not be reprocessed in accordance with State Review Board and other notification requirements in § 60.7 so long as property has not been added to or deleted from the nomination, substantive changes that merit such reconsideration and notifications have not been made, and the nominating authority ascertains that ownership of the property has not changed since the initial notification. Properties renominated after one year from the date of return must be reprocessed in accord with all the requirements in § 60.7 regardless of the nature of the revisions to the original documentation.

§ 60.8 Revising documentation after registration.

(a) Revising Documentation when Registered Properties are Moved. Properties which are moved will be deleted from the National Register effective the date of the move unless the Keeper has agreed prior to the move that the qualities for which the property was registered will remain unaffected by the relocation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting, and general environment.

(1) If a property on the National Register is to be moved, the nominating authority will provide the Keeper with revised National Register documentation including the following:

(i) A description of the method to be used for moving the resource;

(ii) An evaluation of the effect of the move and new setting on the property's historic integrity;

(iii) A description of the new setting and general environment including evidence that the new site itself does not possess historic or archeological significance that has been or will be adversely affected by the intrusion of the property;

(iv) Photographs showing the new location; and,

(v) A description of the proposed boundary.

(2) Any such proposal with respect to a new location will follow the procedures for notification and comment required for nominations under § 60.7. The Keeper will respond to a properly documented transmittal concerning whether or not the property will remain in the National Register within 45 days of receipt from the nominating authority, or, where there is no approved State program, within 45 days of the close of the comment period following notification by the Keeper.

(3) If the Keeper determines that the move will not result in the loss of the characteristics that make the property eligible for the National Register, and those characteristics are not lost during the move in some unforeseen manner, the property will remain in the National Register following the move. The nominating authority will, immediately following the move, forward to the Keeper documentation revising the National Register property file to reflect all changes necessary as a result of the move. Such documentation will include:

(i) The date the property was moved;

(ii) Photographs of the property on its new site;

(iii) Revised maps, including a U.S. Geological Survey (USGS) map;

(iv) Acreage information;

(v) A narrative boundary description;

(vi) New Universal Transverse Mercator (UTM) geographic location references; and,

(vii) A revised description of the property, if appropriate.

(4) If the Keeper determines that the move will result in the loss of the characteristics that make the property eligible for the National Register, or those characteristics are lost during the move in some unforeseen manner, the

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property will be deleted from the National Register effective the date of the move. In any case, properties moved and deleted from the National Register will only be considered for registration if renominated in accordance with the procedures in § 60.7. Documentation for such a nomination will include information detailed in § 60.8(a)(1) and (3).

(b) Revising Documentation on the Significance of Registered Properties.

(1) If a nominating authority seeks to revise documentation concerning the significance of properties in a manner that does not alter boundaries, the nominating authority will forward signed continuation sheets to the Keeper for review and, if appropriate, addition to the nomination file, but need not notify owners or local officials. Where such consideration involves non-Federal property, the State Historic Preservation Officer will present the revisions to the State Review Board before forwarding a recommendation to the Keeper.

(2) Decisions on the historic significance of properties within National Register districts made during reviews for Federal tax benefit certification purposes under 36 CFR Part 67 shall be consistent with the documentation already on file in the National Register. If the findings of such reviews conflict with information in previously approved National Register nomination documentation, requests to revise existing documentation shall be processed in accordance with the procedures for revising documentation in these regulations. Decisions concerning revisions can only be made by the Keeper in accordance with these procedures.

(c) Boundary revisions. (1) A boundary change that would add property to the National Register will be considered as a new property nomination. The nomination of the property proposed to be added will be processed in accordance with the requirements in § 60.7, except as described in § 60.8(c)(2). Property being added will be evaluated in the context of the associated properties already registered. Only those owners in the area of the proposed addition need be notified and will be counted in determining whether a majority of private owners object to listing.

(2) In cases where the boundary of an already listed property requires revision to locate significant resources, the boundary may be revised to add land area to the listing without being reviewed by the State Review Board so long as previously unevaluated resources are not included in the revision. In such cases, the decision to revise the boundary is a technical decision to more accurately reflect the actual location of already evaluated significant resources. In all cases where land area is proposed to be added to the National Register, owners and appropriate local officials must be notified in accordance with all the requirements in § 60.7(b).

(3) A boundary change which reduces the area of a registered property will be processed in accordance with § 60.9, concerning removing properties from the National Register.

§ 60.9 Removing properties from the National Register.

(a) Properties may be removed from the National Register by the Keeper on the following grounds:

(1) The property does not now meet the National Register criteria; or,

(2) There was prejudicial procedural error in the nomination or listing process.

(b) Because properties listed in the National Register prior to December 13, 1980 were affirmed by Congress in the National Historic Preservation Act Amendments of 1980, they may not be removed from the National Register by the Keeper on the grounds established in subsection (a)(2) of this section, and may only be removed on the grounds of subsection (a)(1) if changes to a property causing it to no longer meet National Register criteria occurred after the date it was nominated to the National Register.

(c) Prejudicial procedural errors for which a property may be removed from the National Register under the grounds in (a)(2) of this section are those errors which would affect the outcome of the nomination and listing process. Properties removed from the National Register because of prejudicial procedural error in the nomination or listing process will be reconsidered for registration after the nominating authority, or the Keeper, as appropriate, corrects the error. Renomination of such properties will be in accordance with § 60.7. Any property or district removed from the National Register for prejudicial procedural error that is otherwise eligible will be determined eligible for the National Register.

(d) Nominating authorities are required to notify the Keeper when they become aware of any properties in their area of jurisdiction that meet the grounds for removal in subsection (a).

(e) Where a property is removed from the National Register, the Keeper will determine the appropriate effective date of such removal.

(f) Properties moved and subsequently deleted from the National Register will only be considered for registration if renominated in accordance with the procedures in § 60.7. Documentation for such a nomination will include information detailed in § 60.8(a) (1) and (3).

(g) If information showing that a property does not meet the National Register criteria comes to light during a later review of documentation, such as an evaluation for a certification of significance or rehabilitation under 36 CFR Part 67 or during an audit or review of nominations during the State program approval process under 36 CFR 61.4, and the owner has made a good faith effort to comply with all applicable Federal requirements, the Keeper will remove the property from the National Register, but provision shall be made, when possible, to ensure that the owner of the property is not adversely affected by such removal.

(h) When the nominating authority recommends removal of a property from the National Register under the grounds in (a)(1), the nominating authority will notify the owner(s) and the appropriate local officials and provide them at least 30 days but not more than 75 days to comment, unless there is no question about eligibility because the property has been totally destroyed. Where a removal is being recommended by a State Historic Preservation Officer, that official will schedule the proposal for consideration by the State Review Board, except where there is no question about eligibility because the property has been totally destroyed. Recommendations for removal will be forwarded by the nominating authority to the Keeper.

(i) The Keeper will make a decision concerning the removal recommendation within 45 days of completion of all notification requirements and receipt of documentation. Upon removal, the Keeper will notify the nominating authority, and the nominating authority will notify the owner(s) and appropriate officials. In cases where the recommendation for removal has come from someone other than the State or Federal nominating authority, the Keeper will perform a detailed evaluation of the documentation.

(j) Persons or local governments recommending the removal of property, where there is no approved State historic preservation program, will include a list of the owner(s) and appropriate local officials and will forward documentation directly to the Keeper. In such cases, the Keeper will notify the owner(s) and the appropriate local officials, and provide them at least

30 days but not more than 75 days to comment, unless there is no question about eligibility because the property has been totally destroyed. Upon removal, the Keeper will notify owner(s) and appropriate local officials.

§ 60.10 Public requests for action.

(a) Any person may request in writing that a nominating authority:

(1) Nominate a property to the National Register;

(2) Recommend the removal of a property from the National Register; or

(3) Recommend revising documentation on properties listed in the National Register.

(b) Requests will set forth the reasons the action should be taken on the grounds in these regulations. Requests may be accompanied by documentation, such as completed nomination forms.

(c) The nominating authority will reply to the requestor in writing within 45 days of receipt of a request. Whether or not documentation has been submitted and the level and adequacy of such documentation will be considered by the nominating authority in responding to the request. If the request is denied, it need not be processed further, unless an appeal is filed and sustained.

(d) When a request is complied with, the nominating authority will notify the requestor of final action by the Keeper.

§ 60.11 Appeals to the keeper.

(a) Any person may appeal directly to the Keeper for any of the following reasons:

(1) When the appellant disputes a decision of a nominating authority about:

(i) Nominating a property to the National Register;

(ii) Recommending the removal of a property from the National Register; or

(iii) Revising documentation on properties listed in the National Register.

(2) Where the appellant believes that it is necessary for the Keeper to perform a detailed evaluation of a nomination during review.

(3) Where the State Historic Preservation Officer will not nominate a property because both the local commission and the chief local elected official in a Certified Local Government have recommended that the property not be nominated.

(4) Where the appellant believes that the Keeper or a nominating authority has failed to act in accordance with these procedures.

(b) Appeals must include:

(1) A statement of the reasons for the appeal; and

(2) Documentation, correspondence, and any other materials explaining the facts of the case.

(c) The Keeper will review the appeal and respond to the appellant with a written explanation either denying or sustaining the appeal within 45 days of receipt of all documentation necessary to make an informed decision on the appeal. Such 45-day period will not begin until the Keeper has obtained the nominating authority's opinion if needed. If the appeal is sustained, the Keeper will take, or request the nominating authority to take, appropriate action to comply with the requirements of this regulation. In responding to appeals, taking action, and suggesting that the State Historic Preservation Officer take action, the Keeper will take into account a State's priorities as established in the Comprehensive Statewide Historic Preservation Plan.

(d) If the Keeper is notified that the appeal itself might cause an undue delay in a project, or otherwise present a hardship, the Keeper may expedite consideration of the appeal so long as public participation opportunities have been made available.

(e) Nominating authorities will act in accordance with the keeper's requests pursuant to this section in order to maintain continued approved status under 36 CFR 61.4 for State programs and under 110(c) of the Act for Federal Preservation Officers.

(f) Although appeals concerning the historic significance of properties for Federal tax benefit certification purposes described in 36 CFR 67.10 are processed under separate regulations, such appeals are considered under substantially the same standards, guidelines, and criteria used for considering appeals under 36 CFR 60.11. The Keeper may delegate the authority to make revisions to documentation on listed properties to the Chief Appeals Officer whose responsibilities are described in 36 CFR 67.10.

(g) Properties shall be reviewed for a determination of their eligibility for inclusion in the National Register following an appeal if such properties cannot be listed.

(h) The decision of the Keeper is the final administrative decision on appeals.

§ 60.12 Federal agency requests for determination of eligibility.

(a) Federal Agency requests to the Keeper for a determination of eligibility for inclusion of a property in the National Register will include the same level of documentation as required for nominations under § 60.7(a). The request will also include the opinion of the State Historic Preservation Officer, if available.

(b) Categories of properties and formats for such requests are the same as those described for nominations in §§60.4 and 60.6(f).

(c) Following a request by a Federal Agency, the Keeper will determine whether a property is eligible for inclusion in the National Register within 45 days of receipt of adequate documentation upon which to base such a determination. Adequate documentation shall include the opinion of the State Historic Preservation Officer, except where the Federal Agency has notified the State and given the State at least 30 days to provide an opinion, and such an opinion has not been provided.

(d) If the Federal Agency's request is accompanied by a level or quality of documentation upon which the Keeper cannot base a determination of eligibility, the request will be returned to the agency with an explanation of the specific deficiencies. If the specified deficiencies are corrected, a determination of eligibility will be made within 45 days of receipt of the corrected documentation.

(e) The Keeper may interrupt the 45-day review period following receipt of adequate documentation in order to consider significant, newly introduced information concerning the determination of eligibility of a property, but only when the Keeper concludes that such information could change the determination of eligibility. Such an extension will not be for a period exceeding 30 days and will not be used more than once during the review period.

(f)(1) Subject to paragraph (3) of this subsection, property may be treated as if it is eligible for the National Register solely for purposes of Federal Agency compliance with the requirements in section 106 of the Act without a formal determination by the Keeper if both the Federal Agency Official and the appropriate State Historic Preservation Officer mutually concur in such a decision, and if the decision is consistent with evaluation criteria and guidelines in these regulations and the Secretary's Standards. Federal agencies will be asked from time to time to provide the Keeper with the information and documentation meeting the Secretary's Standards used to support such decisions.

(2) Annually, each State Historic Preservation Officer will provide the Keeper with the following information on properties that have been considered eligible by a Federal Agency Official

and the State Historic Preservation Officer since the last report of such data:

(i) The name and address of the property, including county;

(ii) Acreage information;

(iii) A narrative boundary description;

(iv) Universal Transverse Mercator (UTM) geographic location references;

(v) The class of property (site, building, object, district, or structure);

(vi) The Federal Agency and State Historic Preservation Officer considering the property to be eligible; and,

(vii) The effective date of the concurrence decision.

(3) The authorization to Federal agencies and State Historic Preservation Officers to make such considerations without formal review by the Keeper will be revoked for particular States and Federal agencies if they exhibit a pattern of non-conformance with the evaluation criteria and guidelines in these regulations or the Secretary's Standards. The Keeper will monitor State performance through the State program review process under 36 CFR Part 61 and Federal Agency performance through random reviews of documentation provided by the agencies under § 60.12(f)(1). When such authority is revoked, the Keeper will notify in writing the Advisory Council and the particular Federal Agency Official or State Historic Preservation Officer of the effective date.

(g) The Keeper will review previous determinations of eligibility or ineligibility as necessary, and may modify such determinations should evidence be presented showing conclusively that the previous determination was in error or that changed conditions warrant such modification.

§ 60.13 Miscellaneous provisions.

(a) *Release of information to public.* Neither the Keeper nor the nominating authority shall disclose to the public information relating to the location or character of historic or archeological properties when the Keeper or the nominating authority determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such properties or to the area or place where such properties are located.

(b) *Administrative process.* Administrative remedies respecting registrations, removals, or revisions to documentation will not be considered to have been exhausted until there has been compliance with these regulations, including an appeal to the Keeper pursuant to § 60.11 where permitted. In order to exhaust administrative remedies, a person seeking removal of a property from the National Register must request such a removal and appeal to the Keeper pursuant to § 60.11 even where the listing of the property was appealed in the nomination process.

§§ 60.14 and 60.15 [Removed]

5. Sections 60.14 and 60.15 are proposed to be removed.

PART 63—DETERMINATIONS OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES—[REMOVED]

6. Part 63 is proposed to be removed.

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Part V

The President

Helsinki Human Rights Day, Proclamation 5515

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Presidential Documents

Title 3—

The President

Proclamation 5515 of August 1, 1986

Helsinki Human Rights Day, 1986

By the President of the United States of America

A Proclamation

August 1, 1986, marks the eleventh anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Accords. Later this year, representatives from the signatory states will be meeting in Vienna to review implementation of these Accords, including the human rights and humanitarian provisions.

Human rights and fundamental freedoms lie at the heart of the commitments made in the Helsinki Accords of 1975 and in the follow-on Madrid Concluding Document of 1983. These documents set forth clearly a code of conduct, not only for relations among sovereign states, but also for relations between governments and their citizens. This code holds out a beacon of hope for those people in Eastern Europe and the Soviet Union who seek a freer, more just, and more secure life. We and the other Atlantic democracies will not let up in our efforts to see to it that these solemn commitments are fully honored throughout Europe.

We Americans will never waver in our commitment to implement fully the human rights and humanitarian provisions of the Helsinki Accords, not only because these freedoms are fundamental to our way of life but because of our conviction they are the God-given entitlement of every member of the human family. Let us pledge ourselves once again to do all in our power so that all people may enjoy them in peace. We also call on all 35 CSCE signatory governments to uphold these just and fundamental principles.

The Congress, by Senate Joint Resolution 371, has designated August 1, 1986, as "Helsinki Human Rights Day" and authorized and requested the President to issue a proclamation reasserting our commitment to the Helsinki Accords.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 1, 1986, as Helsinki Human Rights Day and call upon all Americans to observe this day with appropriate observances that reflect our continuing dedication to full implementation of the human rights and fundamental freedoms set forth in the Helsinki Accords.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of August, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

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VOL 51 ISS 150 AG 5 1986 UMI

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Federal Register

Vol. 51, No. 150

Tuesday, August 5, 1986

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5514.....27515
5515.....28218
Administrative Orders:
Memorandums:
July 31, 1986.....27811

7 CFR

51.....27813
272.....28196
273.....28196
908.....27816
910.....28059
911.....27517
918.....27518
1930.....27636
1944.....27636
1951.....27636
1965.....27636
Proposed Rules:
447.....27862
1065.....27553
1079.....27554
1136.....27866
1137.....27554
1139.....27555

8 CFR

238.....28060
Proposed Rules:
214.....27867
248.....27867

9 CFR

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825
Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
741.....27522
303.....27826

13 CFR

310.....27828

14 CFR

39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066
71.....27833-27835, 28067
1204.....27528
Proposed Rules:
1.....28095
36.....27556
39.....27557, 27874
73.....28095
75.....28096

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529
Proposed Rules:
240.....28096

18 CFR

37.....27835
154.....27529
157.....27529
270.....27529
271.....27529, 28068
284.....27529
Proposed Rules:
271.....28102

19 CFR

6.....27836
101.....28070
Proposed Rules:
113.....27875

21 CFR

331.....27762
332.....27762
357.....27756
369.....27756
436.....27531
440.....27531

442.....27531

23 CFR

635.....27532

24 CFR

35.....27774
207.....27837
221.....27837
300.....27838
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
510.....27793
511.....27793
570.....27793
590.....27793

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

29 CFR

1952.....27534

30 CFR

Proposed Rules:

774.....27558
910.....27559
912.....27559
921.....27559
922.....27559
933.....27559
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

32 CFR

706.....27535, 27536
90.....28092

33 CFR

161.....27839

Proposed Rules:

117.....27877

36 CFR

Proposed Rules:

7.....28107-28110
60.....28204
63.....28204

37 CFR

1.....28052
2.....28052

306.....27537

40 CFR

52.....27537, 27840, 27841
61.....27956
81.....27843-27845
271.....28094

Proposed Rules:

52.....27560, 27878
65.....28113
85.....28114
716.....27562
721.....28119
795.....27880
799.....27880

41 CFR

101-40.....27539

42 CFR

405.....27847
482.....27847

43 CFR

11.....27674

44 CFR

Proposed Rules:

81.....28119

45 CFR

1612.....27539

47 CFR

73.....27552

Proposed Rules:

0.....27566
1.....27566
21.....27566
22.....27566
23.....27566
62.....27566
73.....27566, 27567
74.....27566

48 CFR

1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848
1853.....27848

49 CFR

Proposed Rules:

391.....27567

50 CFR

641.....28094
661.....27859
674.....27860

LIST OF PUBLIC LAWS

Last List August 1, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 672/Pub. L. 99-366

To ratify the February 1, 1986, sequestration order of the President for Fiscal Year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. (July 31, 1986; 100 Stat. 773; 1 page) Price: $1.00

S. 1068/Pub. L. 99-367

OCS Paperwork and Reporting Act. (July 31, 1986; 100 Stat. 774; 1 page) Price: $1.00

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VOL 51 ISS 151 AG 6 1986 UMI

Contents

Federal Register

Vol. 51, No. 151

Wednesday, August 6, 1986

Agriculture Department
See also Soil Conservation Service
NOTICES
Agency information collection activities under OMB review, 28251

Army Department
See also Engineers Corps
NOTICES
Meetings:
Science Board, 28256
(2 documents)

Bonneville Power Administration
NOTICES
Residential exchange subsidy agreements, 28259

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Export privileges, actions affecting; appeals, etc.:
Popovitch, Felix-Constantine S. et al., 28253

Defense Department
See Army Department; Engineers Corps

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Schedules I and II—
1986 aggregate; correction, 28264

Education Department
RULES
Postsecondary education:
National direct student loan program, 28312
NOTICES
Agency information collection activities under OMB review, 28257
Grants; availability, etc.:
Deaf-blind children and youth program, 28258
Educational media research, production, distribution, and training program
Funding priorities, 28316
Strengthening research library resources program, 28258

Energy Department
See Bonneville Power Administration; Federal Energy Regulatory Commission

Engineers Corps
PROPOSED RULES
Danger zones and restricted areas:
Cooper River, SC, 28248

Environmental Protection Agency
RULES
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 28224
Hazardous waste:
Identification and listing—
Chemical Abstracts Service registry numbers, and listing corrections, 28296
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Metolachlor, 28225
Correction, 28227
Permethrin, 28226
Pirimiphos-methyl, 28223
Pesticides; tolerances in animal feeds and human foods:
Pirimiphos-methyl, 28227
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc:
Tralomethrin
Correction, 28249
NOTICES
Pesticides; experimental use permit applications:
Abbott Laboratories et al., 28272
Pesticides; receipts of State registration; correction, 28273
Pesticides; temporary tolerances:
Triclopyr, 28272
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 28273

Executive Office of the President
See Presidential Documents

Federal Communications Commission
RULES
Common carrier services:
Public land mobile services—
Cellular communications systems, construction period reduction, 28236
Telephone network, connection of telephone equipment; loop-powered repertory dialers, registration, 28237
Radio broadcasting:
FM application processing procedures; clarification
Correction, 28237
Radio services, special:
Amateur service—
Frequency coordination of repeaters, 28237
PROPOSED RULES
Frequency allocations and radio treaty matters:
UHF television band; private land mobile radio services sharing, 28249
NOTICES
Agency information collection activities under OMB review, 28275, 28276
(3 documents)
Applications, hearings, determinations, etc.:
Contemporary Communications Corp. et al., 28274
Cummings, Barry & Claudia, et al., 28273
Galesburg Broadcasting Co. et al., 28274
Telecrafter Communications Corp. et al., 28275

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 28291

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
Connecticut et al., 28230
South Carolina et al., 28232

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Ithaca, NY, et al., 28265
Natural gas certificate filings:
ANR Pipeline Co. et al., 28265
Applications, hearings, determinations, etc.:
Mobil Exploration & Producing North America Inc., 28263
Sea Robin Pipeline Co., 28262

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
Bank director responsibility, 28221

Federal Maritime Commission
NOTICES
Agreements filed, etc., 28276

Federal Reserve System
PROPOSED RULES
Truth in lending (Regulation Z):
Right of rescission, 28245
NOTICES
Meetings; Sunshine Act, 28291
Applications, hearings, determinations, etc.:
Community Banks, Inc., 28276
First Jersey National Corp. et al., 28277
Landmark Bancshares Corp., 28277
Mellon Bank Corp., 28278

Federal Trade Commission
RULES
Textile wearing apparel and piece goods, care labeling; regulatory flexibility review, 28222
NOTICES
Premerger notification waiting periods; early terminations, 28278

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 28281

Health and Human Services Department
NOTICES
Meetings:
Catastrophic Illness Private/Public Sector Advisory Committee (2 documents), 28280

Housing and Urban Development Department
PROPOSED RULES
Mortgage and loan insurance programs:
Nonentitlement to distributive shares in the event of foreclosure, 28247
NOTICES
Agency information collection activities under OMB review, 28280

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service

International Trade Administration
NOTICES
Antidumping:
Erasable programmable read only memories (EROMs) from Japan, 28253

International Trade Commission
NOTICES
Meetings; Sunshine Act, 28291, 28292
(2 documents)

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
Identification of vehicles; luxury-type limousine passenger service, 28249
NOTICES
Agreements under sections 5a and b, applications for approval, etc.:
San Joaquin Shipper's Transport, Inc., et al., 28284

Justice Department
See Drug Enforcement Administration

Land Management Bureau
RULES
Public land orders:
Oklahoma, 28229
Wisconsin and Minnesota, 28229
NOTICES
Agency information collection activities under OMB review, 28282
(2 documents)
Environmental statements; availability, etc.:
Grand Gulch and Slickhorn wilderness study areas, UT, 28282
Management framework plans, etc.:
Nevada, 28282
Organization, functions, and authority delegations:
Oil Shale Project Office, Grand Junction, CO; closure, 28283
Realty actions; sales, leases, etc.:
Colorado, 28281
Withdrawal and reservation of lands:
Colorado, 28281
Colorado; correction, 28281

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Conoco Inc., 28283

Mississippi River Commission
NOTICES
Meetings; Sunshine Act, 28292
(4 documents)

National Communications System
NOTICES
Meetings:
National Security Telecommunications Advisory Committee, 28284

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment-Technical amendments, etc., 28238

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic mackerel, squid, and butterfish, 28241
High seas salmon off Alaska, 28243
Tanner crab off Alaska, 28242
Tuna, Atlantic fisheries, 28241
(2 documents)
PROPOSED RULES
Marine mammals:
Taking incidental to commercial fishing operations, 28320
NOTICES
Meetings:
Caribbean Fishery Management Council, 28256
North Pacific Fishery Management Council, 28256

National Science Foundation
NOTICES
Meetings; Sunshine Act, 28292

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 28292
Petitions; Director's decisions:
Detroit Edison Co., 28284
Applications, hearings, determinations, etc.:
Detroit Edison Co., 28285, 28286
(2 documents)

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 28288

Presidential Documents
ADMINISTRATIVE ORDERS
Customs Valuation Code; trade determination against Taiwan (Memorandum of August 1, 1986), 28219

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 28288

Small Business Administration
NOTICES
Applications, hearings, determinations, etc.:
Astar Capital Corp., 28288
Jardine Capital Corp., 28289

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Centauri High School, CO, 28251
Highland Creek Watershed, KY, 28252
Willow Creek-Cravens Creek Watershed, MO, 28252

Transportation Department
See National Highway Traffic Safety Administration

Treasury Department
NOTICES
Agency information collection activities under OMB review, 28289

Veterans Administration
NOTICES
Privacy Act; systems of records, 28289

Separate Parts in This Issue

Part II
Environmental Protection Agency, 28296

Part III
Department of Education, 28312

Part IV
Department of Education, 28316

Part V
Department of Commerce, National Oceanic and Atmospheric Administration, 28320

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 151 AG 6 1986 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
August 1, 1986 28219

12 CFR
501 28221
522 28221
523 28221
Proposed Rules:
226 28245

16 CFR
423 28222

21 CFR
193 28223
561 28223

24 CFR
Proposed Rules:
203 28247

33 CFR
Proposed Rules:
334 28248

34 CFR
674 28312

40 CFR
65 28224
180 (4 documents) 28225–28227
261 28296
Proposed Rules:
180 28249

43 CFR
Public Land Orders:
6620 28229
6622 28229

44 CFR
64 (2 documents) 28230, 28232

47 CFR
22 28236
68 28237
73 28237
97 28237
Proposed Rules:
2 28249

49 CFR
571 28238
Proposed Rules:
1058 28249

50 CFR
285 (2 documents) 28240, 28241
655 28241
671 28242
674 28243
Proposed Rules:
216 28320

Federal Register
Vol. 51, No. 151
Wednesday, August 6, 1986

Presidential Documents

Title 3—

The President

Memorandum of August 1, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411), I have determined that use of a duty paying system to calculate customs duties by the authorities on Taiwan violates a trade agreement and is unjustifiable and unreasonable and a burden or restriction on U.S. commerce. Under Section 301 of the Trade Act, I have determined to retaliate commensurately against Taiwan so long as it fails to meet its obligations in this regard and am directing the United States Trade Representative to propose an appropriate method for such retaliation.

Reasons for Determination

In 1979 the United States and many trading partners concluded a trade agreement, the Customs Valuation Code, specifying the way in which imports are valued for purposes of calculating customs duties. That agreement allows developing countries to delay their implementation of it for a specified time period.

Through a bilateral exchange of letters, Taiwan agreed in 1979 to observe obligations "substantially the same" under this agreement as those applicable to developing countries. This means it should have implemented those obligations effective January 1, 1986.

It did not. In February it agreed to meet this obligation by July 1, 1986. Instead, it enacted a law effective July 1 under which its customs authorities calculate duties upon the basis of a duty paying system (under which values of import items are determined administratively), rather than upon "transaction value" (ordinarily the invoice price). This practice is inconsistent with Taiwan's agreement to apply "substantially the same" obligations as set forth for developing countries in the Customs Valuation Code.

I have made these determinations and directed the United States Trade Representative to propose appropriate retaliation to enforce U.S. trade rights and to respond to the Taiwan practices in question. I would strongly prefer that Taiwan adhere to its agreement to apply the Customs Valuation Code.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, August 1, 1986.

[FR Doc. 86-17773
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Rules and Regulations

Federal Register
Vol. 51, No. 151
Wednesday, August 6, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 501, 522, and 523

[No. 86-773]

Responsibility of Bank Directors

Dated: July 30, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: By this action the Federal Home Loan Bank Board ("Board") adopts a new regulation (§ 552.62) that defines the scope of responsibility of members of the boards of directors of the Federal Home Loan Banks ("Banks"). It clarifies that directors of the Banks have no responsibility for actions taken by employees of the Banks on behalf of the Board or the Federal Savings and Loan Insurance Corporation ("FSLIC"), and exempts the directors from liability for such actions. Section 501.11 is amended into paragraphs, and in paragraph (b) it specifies that Bank Presidents are Board agents for the purpose of examining member institutions. Finally, § 523.2 is deleted and a new § 501.10(d) is added to reflect the practice that supervisory agents make recommendations on applications for Bank membership.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Randy W. Thomas, (202) 377-6550, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Board and the FSLIC have assigned important regulatory functions to designated Bank officers and employees to be performed on behalf of the Board and the FSLIC. The most visible functions so assigned are review and approval of applications and other matters pursuant to delegated authority and examination and supervision of member institutions to enforce regulations and implement solutions for troubled institutions.

While Bank directors have substantial duties and responsibilities, no statutory or regulatory authority exists which authorizes or requires them to supervise or be responsible for the activities of Bank employees who perform supervisory or examination functions on behalf of the Board and the FSLIC. Both the Act and the Board's regulations make clear that it is the responsibility of the Board and not the Banks to administer and enforce the federal laws pertaining to savings and loan associations. The General Counsel of the Board has recognized the lack of supervisory authority on the part of Bank directors in a number of opinions (see Opinions of the Office of the General Counsel of the Bank Board dated September 27, 1965, May 29, 1972, and April 6, 1970).

Upon consideration of a staff memorandum and Bank Task Force recommendation, the Board has determined that the following regulatory changes are an appropriate means of defining responsibility for various actions performed by Bank officers and employees on behalf of the Board.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that notice and public procedure and the 30-day delayed effective date are unnecessary because this amendment relates solely to Board organization, procedure, and practice in that it affects the internal operations of the Federal Home Loan Bank System.

List of Subjects in 12 CFR Parts 501, 522, and 523

Claims, Conflict of interests, Federal home loan banks, Flood insurance, Mortgages, Reporting and recordkeeping requirements.

Accordingly, the Board hereby amends Part 501, Subchapter A, and Parts 522 and 523, Subchapter B, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—GENERAL

PART 501—OPERATIONS

1. The authority citation for Part 501 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071; Reorg. Plan No. 6 of 1961, *reprinted in* 12 U.S.C.A. 1437 App. (West Supp. 1986).

2. Section 501.10 is amended by adding a new paragraph (d) to read as follows:

§ 501.10 Officers as agents.

* * * * *

(d) Such agents shall consider applications for membership in the Bank and obtain any additional information they deem appropriate. Such agents shall forward completed applications with their recommendations to the Board for final action.

3. Section 501.11 is revised to read as follows:

§ 501.11 President as agent.

(a) For the following purposes, the President of each Federal Home Loan Bank also shall be the agent of the Board and the Federal Savings and Loan Insurance Corporation and counsel to the Bank shall render to said agent legal services as may be necessary to enable him properly to carry out such duties: Provided, however, that when designated by the Board, some officer or employee of the Bank other than, or in addition to, the President, may act as agent of the Board and the Federal Savings and Loan Insurance Corporation.

(b) Said agent shall represent the Board and the Federal Savings and Loan Insurance Corporation in supervising and examining Federal savings and loan associations and other institutions in the Bank's district which are insured by the Federal Savings and Loan Insurance Corporation. When, in his opinion, such action should be taken, he shall advise and endeavor to assist Federal savings and loan associations and other insured institutions in his Bank district to conduct their operations in conformity with the statutes and the rules and regulations governing them.

(c) He shall confer and negotiate, pursuant to instructions from the Board and the Federal Savings and Loan Insurance Corporation, with applicants and with officers, directors, members, or creditors of applicant institutions, individually or in group meetings, and otherwise as the Board and the Federal Savings and Loan Insurance Corporation may request in writing.

(d) He shall see that all Federal savings and loan associations and other insured institutions in his Bank district submit to him his consideration such matters as applications for Board approval of amendments to charters or by-laws, petitions for Board permission to establish branch offices, applications for Board approval of the purchase of assets or of consolidations, dissolutions, or mergers, and such other similar matters as are required to be approved by the Board or the Federal Savings and Loan Insurance Corporation under the statutes and rules and regulations. When these matters come to the attention of said agent he shall, after giving them due consideration, submit them, together with such supplemental information as may be available to him, to the Board with his recommendations thereon.

(e) After issuance by the Board of a charter for a Federal savings and loan association, said agent shall follow up the corporate actions taken by the association in the completion of its organization, and require the association to comply with the laws, the rules and regulations made thereunder, and such other requirements as may be applicable thereto.

(f) Upon receiving from the District Director-Examinations two copies of a report of a supervisory examination of a Federal savings and loan association or other insured institution, together with the District Director's analysis thereof, said agent shall make a careful study of such report and analysis, and transmit to the institution examined its copy of the report and, if necessary, a supervisory letter on stationery provided by the Board and the Federal Savings and Loan Insurance Corporation for such purposes.

(g) Said agent shall forward promptly to the Board copies of all transmittal and other supervisory letters, and reports of supervisory conferences or meetings with officers or directors of Federal savings and loan associations and other insured institutions. The Board will consider the documents so forwarded and advise the said agent concerning such matters as may appear to be appropriate.

(h) Any instructions or recommendations from the Board to the said agent with respect to his duties as agent of the Board and the Federal Savings and Loan Insurance Corporation shall be acted upon promptly.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 522—ORGANIZATION OF THE BANKS

4. The authority citation for Part 552 continues to read as follows:

Authority: Sec. 5 B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); secs. 6–7, 47 Stat. 727, 730, as amended (12 U.S.C. 1426–1427); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); sec. 207, 62 Stat. 692, as added by sec. 1a, 76 Stat. 1123, as amended (18 U.S.C. 207); sec. 602, 92 Stat. 2115, as amended (42 U.S.C. 8101 *et seq.*); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071; Reorg. Plan No. 6 of 1961, *reprinted in* 12 U.S.C.A. 1437 App. (West Supp. 1986).

5. A new § 552.62 is added under the heading "Compensation and Duties of Directors" to read as follows:

§ 552.62 Responsibility of bank directors.

Except when otherwise designated by the Board in specific instances, and notwithstanding anything to the contrary contained in this chapter V, a director of a Bank shall have no responsibility for the activities of any person acting on behalf of the Board or Federal Savings and Loan Insurance Corporation in an agency capacity (pursuant to § 501.10 or § 501.11 of this part or otherwise), and a director of a Bank shall have no liability directly or indirectly to any person (including without limitation any member, employee of the Bank, officer or director of the Bank, or contractor with or supplier to the Bank) arising out of any act or omission by any person acting in such capacity. In specific circumstances the Board may, by order or otherwise, determine whether an activity is conducted on behalf of the Board or the Federal Savings and Loan Insurance Corporation.

PART 523—MEMBERS OF BANKS

6. The authority citation for Part 523 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071, unless otherwise noted.

§ 523.2 [Removed]

7. Section 523.2 is removed.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86–17635 Filed 8–5–86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Regulatory Flexibility Act Review of the Trade Regulation Rule for Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended

AGENCY: Federal Trade Commission.

ACTION: Summary of comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) Federal Trade Commission on January 7, 1986 solicited comments on whether the Trade Regulation Rule for Care Labeling of Textile Wearing Apparel and Certain Piece Goods has had a significant economic impact on a substantial number of small entities and, if it has, whether the rule should be amended to minimize such impact. (51 FR 614). This notice summarizes the comments received in response to the January notice and sets out the Commission's actions in response to them.

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, Washington, DC 20580. Tel: (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (RFA) requires that the Federal Trade Commission conduct a periodic review of rules which have or will have a significant economic impact upon a substantial number of small entities.

The Care Labeling Rule was published in December 1971. The rule requires manufacturers and importers of textile wearing apparel and piece goods sold for the purpose of making textile wearing apparel to attach labels that disclose information for cleaning and care of each product.

The rule is intended to assist consumers in making informed purchase decisions concerning the care characteristics of competing products and to enable consumers and cleaners to avoid product damage caused by the use of improper cleaning procedures.

The rule was amended on May 20, 1983 (48 FR 22733). The amendment requires a more complete statement of the care procedures and establishes a standard for the accuracy of each care procedure on a label. The amendment also provides a glossary of standardized care terminology that can be used.

The Federal Trade Commission, in accordance with the RFA, solicited comments and data on whether the care labeling rule has had a significant economic impact on a substantial

number of small entities and if it has, whether the rule should be amended to minimize any significant economic impact on small entities. (51 FR 614).

Questions were posed on (1) the continued need for the rule, (2) the burdens, if any, compliance with the rule places on small entities, (3) changes which should be made to minimize any economic impact the rule has had on small business, (4) the extent the rule overlaps, duplicates, or conflicts with other rules, and (5) any changed conditions that may have occurred which affect the rule.

Four organizations submitted comments. Based on the comments received, the Commission has no basis to conclude that the rule has had a significant economic impact on a substantial number of small entities.

The comments indicate that there is a continued need for the rule, that it is accomplishing the objectives contemplated by the Commission by serving the interests of both consumers and industry, and that any burdens imposed by the rule are outweighed by the benefits to consumers and industry.

One change to the rule was suggested for the purpose of minimizing the impact on small entities. The International Fabricare Institute (IFI) suggested that a warning be required on garments labeled with a washing instruction if the garment could not be safely drycleaned. IFI states such an amendment could minimize the economic impact now felt by small drycleaners because of the absence of such a requirement in the rule. No data was submitted to support the existence of an economic impact under the present rule.

When the care labeling rule was amended in 1983, the Commission considered including a requirement for alternative labeling, i.e., including instructions or warnings about washing and drycleaning a garment. [See 48 FR 22733, 22742 (1983)]. The Commission decided not to include such a requirement because (1) an alternative care requirement was unnecessary to meet the basic goal of the care labeling rule, (2) market forces will prompt manufacturers to include alternative care procedures when appropriate, and (3) the record did not show that benefits of an alternative care labeling requirement would exceed its costs. In expansion of the third reason, the Commission stated that an alternative care labeling requirement would impose significant testing and substantiation costs on manufacturers. For example, it would require them to give drycleaning instructions, and to have a reasonable basis for those instructions, for all items they already label as washable. The Commission also stated that the benefits of the requirement are speculative. For example, the record does not show how many washable garments are labeled "Dryclean," what percentage of consumers owning such garments actually follow these instructions, or what percentage of such consumers would choose to wash rather than dryclean if told they could do so. Thus, the Commission concluded that the requirement for alternative care labeling was not warranted. IFI has not presented evidence that would warrant further reexamination of this issue.

According to the comments received for the current solicitation, there is no conflict between this rule and other federal rules or with state and local governmental rules. Neither have conditions changed since the promulgation of the amended rule to warrant repeal or amendment of the rule.

After carefully considering the comments received, the Commission believes that they do not present any basis to conclude that the Care Labeling Rule has had a significant impact upon a substantial number of small entities. Accordingly, the Commission has concluded that the care labeling rule should remain in its present form.

List of Subjects in 16 CFR Part 423

Clothing, Labeling, Textiles, Trade practices.

Dated: July 30, 1986.

By direction of the Commission.

Emily H. Rock,

Acting Secretary.

[FR Doc. 86-17628 Filed 8-5-86; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 3H5399/R838; FRL-3060-6]

Pirimiphos-Methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes food and feed additive regulations to permit the combined residues of the insecticide pirimiphos-methyl and its metabolites in or on certain food and feed items. This regulation to establish maximum permissible levels for the combined residues of the insecticide in or on the commodities was requested in a petition submitted by the ICI Americas, Inc.

EFFECTIVE DATE: Effective on August 6, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Lawrence J. Schnaubelt, Acting Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of June 22, 1983 (45 FR 28548), which announced that ICI Americas, Inc., Wilmington, DE 19897, had submitted a food/feed additive petition (FAP 3H5399, which was incorrectly designated as FAP 3H5398 and later corrected at 49 FR 30791; August 1, 1984) to EPA proposing to establish food/feed additive regulations for the combined residues of the insecticide pirimiphos-methyl *O*,-[2-diethylamino-6-methyl-pyrimidinyl) *O,O*-dimethyl-phosphorothioate and its metabolite *O*-[2-ethylamino-6-methylpyrimidin-4-yl) *O,O*-dimethyl phosphorothioate, and, in free and conjugated forms, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methylpyrimidin-4-ol in or on rice milling fractions at 50.0 parts per million (ppm), wheat milling fractions (except flour) at 50.0 ppm, sorghum milling fractions (except flour) at 50.0 ppm, and corn oil at 90.0 ppm.

In the Federal Register of August 1, 1984 (49 FR 30791), EPA gave notice that ICI Americas, Inc., had amended the petition by increasing the proposed tolerance levels on milling fractions (except flour) of rice to 80 ppm, adding the milling fractions of corn (except flour) at 50 ppm and increasing the commodity corn oil from 90 ppm to 110 ppm.

No comments were recevied in response to the notices of filing.

ICI Americas, Inc. subsequently amended this petition by reducing the proposed tolerance for milling fractions for corn (except flour) and sorghum (except flour) to 40.0 ppm, and corn oil to 88.0 ppm; and by withdrawing the proposals for tolerances in wheat and rice milling fractions.

The data submitted in the petitions and other relevant material have been evaluated and discussed in a related

document [PP 3F2897/R837], appearing elsewhere in this issue of the **Federal Register**, which establishes tolerances for the combined residues of the above insecticide for various raw agricultural commodities.

The nature of the residue is adequately understood. Adequate analytical methods, gas chromatography/flame photometry (parent compound plus its phosphorous containing metabolite) and gas chromatography/mass spectrometry (hydroxypyrimidine metabolites), are available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interim analytical methods package is being made available to the state pesticides enforcement chemists when requested from: Information Service Section (TS-757C), Program Management Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-3262).

The pesticide is considered useful for the purpose for which the food and feed additive regulations are sought, and it is concluded that the insecticide may be safely used when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) et seq.). Therefore, the food and feed additive regulations are established as set forth below.

Any person adversely affected by these regulations may, within 30 days, after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601-612)), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Part 561 and Part 193

Animal feeds, Pesticides and pests.

Dated: July 29, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR Chapter I is amended as follows:

1. In Part 193:

a. The authority citation continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 193.468, paragraph (c) is added, to read as follows:

§ 193.468 Pirimiphos-methyl.

* * * * *

(c) Tolerances are established for the combined residues of the insecticide pirimiphos-methyl [*0*,-[2-diethylamino-6-methyl-4-pyrimidinyl] *O,O*-dimethylphosphorothioate and its metabolite *O*-(2-ethylamino-6-methylpyrimidin-4-yl) *O,O*-dimethyl phosphorothioate and, in free and conjugated forms, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methyl-pyrimidin-4-ol in or on the following processed foods when present therein as a result of application to stored grains:

Foods	Parts per million
Corn milling fractions (except flour)	40
Corn oil	88
Sorghum milling fractions (except flour)	40

PART 561—[AMENDED]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 561.432, paragraph (c) is added, to read as follows:

§ 561.432 Pirimiphos-methyl.

* * * * *

(c) Tolerances are established for the combined residues of the insecticide pirimiphos-methyl *0*,-[2-diethylamino-6-methyl-pyrimidinyl) *O,O*-dimethyl phosphorothioate, the metabolite O-(2-ethylamino-6-methylpyrimidin-4-yl) *O,O*-dimethyl phosphorothioate and, in free and conjugated form, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methylpyrimidin-4-ol and 2-amino-6-methyl-pyrimidin-4-ol in or on the following processed feeds when present therein as a result of application to stored grains:

Foods	Parts per million
Corn milling fractions (except flour)	40
Sorghum milling fractions (except flour)	40

[FR Doc. 86-17658 Filed 8-5-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 65

[A-3-FRL-3059-2]

Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to Zapata Industries

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to Zapata Industries. The Order requires the company to bring air emissions from its miscellaneous metal parts and products surface coating facility in Schuylkill County, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 21, 1987. Because of the Administrator's approval, compliance with the Order by April 21, 1987 will preclude suits under the enforcement provisions of Section 113 of the Act or the citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Rosemarie P. Nino, Environmental Protection Specialist, Enforcement Policy and State Coordination Section (3AM21), Air Management Division, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-9839.

ADDRESSES: A copy of the Delayed Compliance Order, and supporting material, are available for public inspection and copying (for appropriate charges) during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: On February 6, 1986 the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 51, No. 25, a notice proposing approval of a Delayed Compliance Order (DCO) issued by the Pennsylvania Department of Environmental Resources to Zapata Industries. The bases for EPA's conclusion supporting the issuance of the DCO are set forth in that notice. The notice asked for public comments by March 10, 1986 on the EPA proposal.

No public comments were received in response to the Notice. The Delayed Compliance Order issued to Zapata Industries is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2).

The Order places Zapata Industries on a schedule to bring its miscellaneous metal parts and products surface coating facility in Schuylkill County into compliance as expeditiously as practicable with Title 25 Pennsylvania Code, § 129.52, Clear Coatings, a part of the federally approved Pennsylvania State Implementation Plan. The order also imposes interim requirements which meet section 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Zapata Industries to delay compliance with SIP regulations covered by the Order until April 21, 1987. EPA has determined that its approval of the Order shall be effective (the date of publication of this notice) because of the need to immediately place Zapata Industries on a federally enforceable schedule under the Clean Air Act for compliance with the applicable requirements of the Implementation Plan.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: July 28, 1986.

Lee M. Thomas,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 7413, 7601.

2. Section 65.431 is amended by adding the following entry to the table to read as follows:

§ 65.431 EPA approval of State Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Zapata Industries	West Mahoney Twp. Schuylkill County, Pennsylvania.		Feb. 6, 1986	§ 129.52 of Title 25	Apr. 21, 1987.

[FR Doc. 86-17557 Filed 8-5-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2958/R849; FRL-3059-9]

Pesticide Tolerances for Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for combined residues of the herbicide metolachlor and its metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: August 6, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of September 30, 1983 (48 FR 44903), that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had filed pesticide petition 3F2958 with EPA proposing that 40 CFR 180.368(a) be amended by establishing tolerances for combined residues of the herbicide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl-*N*-(2-methoxy-1-methylethyl)acetamide) and its metabolites, determined as the derivatives 2-((2-ethyl-6-methylphenyl)amino)-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the raw agricultural commodities almond hulls at 0.3 part per million (ppm); almond shells at 0.1 ppm; and nutmeats at 0.1 ppm.

Notice was published in the **Federal Register** of December 12, 1984 (49 FR 48376), that Ciba-Geigy amended the petition by increasing the tolerance level for almond hulls from 0.3 ppm to 0.5 ppm, deleting almond shells, and changing the commodity expression "nutmeats" to 'tree nuts" at 0.1 ppm. Ciba-Geigy subsequently withdrew, without prejudice to future filings, the amendment to increase the tolerance for almond hulls. No comments were received in response to these notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The data considered in support of these proposals include the following: a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (12.5 milligrams (mg)/kilogram (kg)); a 6-month dog feeding study with a NOEL of 100 ppm (2.5 mg/kg); a rat teratology study with no evidence of teratogenicity or any other developmental toxicity at the highest dose tested of 360 mg/kg; a rabbit teratology study with a maternal NOEL of 120 mg/kg and no evidence of teratogenicity or any other developmental toxicity at the highest dose tested of 360 mg/kg; a 2-generation rat reproduction study with a reproductive NOEL of 300 ppm (15 mg/kg) and a lowest effect level (LEL) of 1,000 ppm (50 mg/kg); a mouse dominant-lethal study negative for mutagenic effects; an AMES mutagenicity assay negative for mutagenic effects; a 2-year mouse oncogenicity study with no observed oncogenic potential at 30, 1,000, and 3,000 ppm (429 mg/kg) (highest dose tested); a repeated 2-year mouse oncogenicity study with no observed oncogenic potential at the same dose levels as the original study; a 2-year

VOL 51 ISS 151 AG 6 1986 UMI

chronic feeding/oncogenicity study in the rat (IBT validated, core supplementary) at dietary doses of 0, 30, 300, and 3,000 ppm with a statistically significant increase in primary liver neoplasms in females of the high-dose group (3,000 ppm); and repeated 2-year chronic feeding/oncogenicity study in the rat conducted at the same dietary doses as the original study with a systemic NOEL of 30 ppm (1.5 mg/kg), a systemic LEL of 300 ppm (testicular atrophy), and a statistically significant increased incidence of neoplastic liver nodules and proliferative hepatic lesions in females of the high-dose group (3,000 ppm).

Data considered desirable but lacking are additional animal metabolism studies conducted according to current guidelines. An *in vivo* cytogenetics study and two *in vitro* DNA repair studies were submitted by the petitioner and are currently under Agency review.

The Agency has evaluated dietary exposure to metolachlor residues based on the rate studies. Assuming 100 percent of the crops are treated, the "worst case" dietary risk for the proposed tolerances is calculated to be 5 incidences in 1 trillion (5.0×10^{-9}). Previously established tolerances provide a dietary oncogenic risk of 3 incidences in 1 million (3×10^{-6}). The incremental increase in risk for the proposed tolerance in the diet is 0.22 percent of the theoretical maximum residue contribution (TMRC). The total dietary "worst case" risk from established and proposed tolerance is calculated to remain as 3 incidences in 1 million ($3X10^{-6}$).

Tolerances have previously been established for residues of metolachlor ranging from 0.02 ppm in meat, milk, poultry, and eggs to 30.0 in peanut forage and hay. Based on the rat chronic feeding study with a NOEL of 30 (1.5 mg/kg/day) for nononcogenic effects and using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.015 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.9 mg/day. The TRMC from existing tolerances for a 1.5-kg diet is calculated to be 0.0699 mg/day. The proposals described above will increase the TMRC by 0.00015 mg/day (0.22 percent). Proposed and established tolerances utilize 8.38 percent of the ADI.

The pesticide is considered useful for the purpose for which the tolerances are sought. There are no regulatory actions pending against the continued registration of the pesticide. The metabolism of metolachlor in plants for the proposed tolerances is adequately understood, and an analytical method, gas chromatography, is available in the Pesticide Analytical Manual, Vol. II (metolachlor method I) for enforcement purposes. The tolerances previously established under 40 CFR 180.368(a) are adequate to cover residues that would result in meat, milk, and poultry.

Based on the information cited above, the Agency has determined that the establishment of the tolerances for residues of the pesticide in or on the commodities will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Adminstrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 28, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.368(a) is amended by adding and alphabetically inserting entries for almond hulls and tree nuts group to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * *

Commodities	Parts per million
Almond hulls	0.3
Tree nuts group	0.1

[FR Doc. 86-17550 Filed 8-5-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F3130 and 4F3131/R848; FRL-3057-4]

Pesticide Tolerances for Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide permethrin and its metabolites in or on the commodities filberts and walnuts. This regulation to establish maximum permissible levels for the combined residues of permethrin was requested pursuant to petitions by FMC Corp.

EFFECTIVE DATE: August 6, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 200 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2400.

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of October 24, 1984 (49 FR 42787) which announced that FMC Corp., Inc., Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103, had submitted pesticide petitions PP 4F3130 and 4F3131 proposing to establish tolerances in or on the raw agricultural commodities filberts and walnuts, respectively, for the combined residues of the insecticide permethrin ((3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) and its metabolites (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid (DCVA) and 3-phenoxyphenyl methanol (3-PBA).

No comments were received in response to the notice of filings.

The data submitted and other relevant material have been evaluated. The toxicological data considered in support

of the tolerances have been discussed in detail in a final rule document on permethrin published in the **Federal Register** of October 13, 1982 (47 FR 450008).

Granting these tolerances will increase their theoretical maximum residue contributions from 0.9907 to 1.3559 milligrams per day. This increase is slight, and thus the discussion of the toxicological concerns applies without revision to the newly listed commodities. The percentages of the acceptable daily intake used will increase from 45.195 to 45.196 for filberts and 45.196 to 45.20 for walnuts.

The metabolism of permethrin is adequately understood, and an adequate analytical method, gas-liquid chromatography with an electron capture detector or a mass spectrometer detector, is available for enforcement purposes. No actions are pending against continued registration of permethrin, nor are any other considerations involved in establishing the tolerances.

The tolerances established by amending 40 CFR 180.378 will be adequate to cover residues in filberts and walnuts. There are no feed items associated with filberts and walnuts, and label restrictions preclude the grazing of livestock in treated orchards or the feeding of cover crops from treated orchards to livestock. There is no reasonable expectation of secondary residues in meat, milk, poultry, and eggs as a result of these uses.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health, and they are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Dated: July 22, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as set forth below.

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378(b) is amended by adding and alphabetically inserting the following commodities to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Filberts	0.05
* * * * *	
Walnuts	0.05
* * * * *	

[FR Doc. 86–17217 Filed 8–5–86; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2720, 3F2916, 3F2957/R796; FRL–3050–2]

Pesticide Tolerances for Metolachlor

Correction

In FR Doc. 86–15984, beginning on page 25696 in the issue of Wednesday, July 16, 1986, make the following corrections:

1. On page 25696, in the middle column, in the second line, "methylphenyl" was misspelled.

2. Also on page 25696 in the middle column, in the eighth from last line, "oncogenicity" was misspelled.

3. On page 25697, in the middle column, in the second line of amendatory instruction 2, "in" should be deleted.

§ 180.368 [Corrected]

4. Also on page 25697 in the middle column, the following corrections should be made to the table in § 180.368:

a. A closing parenthesis should appear at the end of the entry for "Cattle, mbyp (except kidney and liver".

b. Under "Parts per million", the entry for "Peanuts" should read "0.5".

c. Also under "Parts per million" the entry for "Seed and pod vegetables (except soybeans)" should read "0.3".

BILLING CODE 1505-01-M

40 CFR Part 180

[PP 3F2897/R837; FRL–3060–5]

Pirimiphos-Methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide pirimiphos-methyl and its metabolites in or on certain stored grains and animal commodities. This regulation to establish maximum permissible levels for residues of pirimphos-methyl in or on the commodities was requested in a petition submitted by ICI Americas, Inc.

EFFECTIVE DATE: Effective on August 6, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Lawrence J. Schnaubelt, Acting Product Manager (PM) 12, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 22, 1983 (48 FR 28548), which announced that ICI Americas, Inc., Agric. Chemicals Div., Wilmington, DE 19897, had submitted pesticide petition 3F2897 to EPA proposing to establish tolerances for the combined residues of the insecticide pirimiphos-methyl, *O*-[2-diethyl-amino)-6-methyl-4-pyrimidinyl)*O*,*O*-dimethyl phosphorothioate, the metabolite, *O*-(2-ethylamino-6-methyl-pyrimidin-4-yl)*O*,*O*- dimethyl phosphorothioate, and, in free and conjugated form, the metabolites 2-diethylamino-6-methyl-

pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methyl-pyrimidin-4-ol in or on the commodities corn, grain sorghum, and wheat at 10.0 parts per million (ppm) and rice at 15.0 ppm.

In the **Federal Register** of March 27, 1986 (48 FR 10570), EPA gave notice that ICI Americas, Inc. had amended the petition by adding the meat and meat byproducts of poultry and the kidney and liver of cattle, goats, hogs, horses, and sheep at 2.0 ppm; eggs at 0.5 ppm; meat, fat, and meat byproducts of cattle, goats hogs horses, and sheep (except liver and kidney) and poultry fat at 0.2 ppm; and milk/milk fat at 3 ppm to reflect a tolerance for whole milk at 0.1 ppm.

There were no comments received in response to the notices of filing.

ICI Americas, Inc. subsequently amended the petition by proposing a lower tolerance of 8.0 ppm for corn and sorghum; and by withdrawing the proposals for tolerances in wheat and rice.

Elsewhere in this issue of the **Federal Register** (FAP 3H5399/R838), EPA is issuing a related document establishing food and feed additive regulations (21 CFR Parts 193 and 561) for residues of this insecticide and its cholinesterase-inhibiting metabolites in the processed commodities corn milling fractions (except flour), sorghum milling fractions (except flour), and corn oil.

Since pirimiphos-methyl is a chlolinesterase inhibitor, this chemical is being added to the list under 40 CFR 180.3(e)(5).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include a 28-day and a 56-day human study showing essentially a cholinesterase (ChE) no-observed effect level (NOEL) of 0.25 milligram (mg)/kilogram (kg) body weight (bw)/day, but with a few individuals showing some depressed ChE values; a 2-year rat feeding/oncogenicity study with a (ChE) no-observed-effect level (NOEL) of 0.5 mg/kg/bw/day and negative for oncogenic effects under the conditions of the study up to and including the highest dose tested (15 mg/kg/day); a 2-year dog feeding study showing borderline ChE inhibition at 0.5 mg/kg bw/day, the lowest dose tested, and a NOEL of 2.0 mg/kg bw/day for systemic effects; an 18 month mouse oncogenicity study that was negative for oncogenic effects under the conditions of the study up to and including the highest dose tested (70 mg/kg bw/day); a 3-generation rat reproduction study with a NOEL for reproductive effects at the highest dose tested (5.0 mg/kg bw/day); a rabbit teratology study that was negative for teratogenic effects at the highest dose tested (16 mg/kg/day); a rat teratology study that was negative for teratogenic effects at doses up to and including 15 mg/kg/day; and a 90-day delayed neurotoxicity study in the hen that was negative at doses up and including 10 mg/ks/ day (HDT). An Ames study, a structural chromosomal aberration study, and other mutagenicity studies demonstrated no genotoxic effects.

The acceptable daily intake (ADI), based on the human studies (ChE NOEL of 0.25 mg/kg bw/day) and using a 25-fold safety factor, is calculated to be 0.010 mg/kg bw/day. The 25-fold safety factor was used to account for the occasional and minimal ChE inhibition observed in these human studies. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 0.60 mg/day. The theoretical maximum residue contribution (TMRC) from the tolerances established by this rule, including the associated food additive regulation (3H5399), is calculated to be 0.5329 mg/day (1.5 kg). The existing kiwi fruit tolerance occupies 0.375 percent of the MPI, and addition of these tolerances will result in 88.82 percent of the ADI being utilized.

The nature of the residue is adequately understood. Adequate analytical methods, gas chromatography/flame photometry (parent compound plus its phosphorous containing metabolite) and gas chromatography/mass spectrometry (hydroxypyrimidine metabolites), are available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interim analytical methods package is being made available to the State pesticides enforcement chemists when requested from: By mail: Information Service Section (TS-757C), Program Management Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-3262).

Based on the above information considered by the Agency, it is concluded that the pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing tolerances or exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 29, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 346a.

2. In § 180.3, by amending paragraph (e)(5) by adding and alphabetically inserting an entry for the insecticide, to read as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) * * *

Pirimiphos-methyl *O*-[2-diethylamino-6-methyl-pyrimidinyl) *O,O*-dimethyl phosphorothioate

* * * * *

3. By revising § 180.409, to read as follows:

§ 180.409 Pirimiphos-methyl; tolerances for residues.

Tolerances are established for the combined residues of the insecticide pirimiphos-methyl, *O*-[2-diethylamino-6-methyl-pyrimidinyl) *O,O*-dimethyl phosphorothioate, the metabolite *O*-[2-ethylamino-6-methyl-pyrimidin-4-yl]

O,O-dimethyl phosphorothioate and, in free and conjugated form, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol), 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methyl-pyrimidin-4-ol in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn	8.0
Cattle fat	0.2
Cattle, kidney and liver	2.0
Cattle, mbyp	0.2
Cattle, meat	0.2
Eggs	0.5
Goats, fat	0.2
Goats, kidney and liver	2.0
Goats, mbyp	0.2
Goats, meat	0.2
Hogs, fat	0.2
Hogs, kidney and liver	2.0
Hogs, mbyp	0.2
Hogs, meat	0.2
Horses, fat	0.2
Horses, kidney and liver	2.0
Horses, mbyp	0.2
Horses, meat	0.2
Kiwifruit	5.0
Milk, fat (0.1 ppm (N) in whole milk)	3.0
Poultry, fat	0.2
Poultry, mbyp	2.0
Poultry, meat	2.0
Sheep, fat	0.2
Sheep, kidney and liver	2.0
Sheep, mbyp	0.2
Sheep, meat	0.2
Sorghum, grain	8.0

[FR Doc. 86-17659 Filed 8-5-86; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6620

[ES-15602]

Wisconsin-Minnesota; Withdrawal of Public Lands for Lower St. Croix National Scenic Riverway

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 82.83 acres for 50 years and transfers the administration of twenty-two (22) islands located in the upper of the segment of the Lower St. Croix River, in Wisconsin and Minnesota, from the Bureau of Land Management to the National Park Service. The islands will be administered as part of the National Park System. This transfer completes the designation and protection of the Lower St. Croix National Scenic Riverway. This action will close the public lands from settlement, sale, location and entry under the general land laws, but will not be subject the United States mining laws pursuant to 30 U.S.C. 48 (1982). The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Joyce Troy, Bureau of Land Management, Eastern States Office, 350 South Pickett St., Alexandria, Virginia 22304, 703-274-0122.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, but are not subject to the United States mining laws pursuant to 30 U.S.C. 48 (1982) and have been and will remain open to mineral leasing and are hereby transferred from the Bureau of Land Management to the National Park Service, and henceforth shall be administered as part of the National Park System.

Fourth Principal Meridian

T. 30 N., R. 19 W. (Wisconsin),
  Sec. 6, Unsurveyed island in W½W½.
T. 30 N., R. 20 W. (Wisconsin),
  Sec. 1, lots 17 and 18;
  Sec. 11, lots 6 and 7;
  Sec. 12, lot 6;
  Sec. 14, lot 10.
T. 30 N., R. 20 W. (Minnesota),
  Sec. 1, Lots 7, 8 and 16;
  Sec. 11, lots 5 and 8;
  Sec. 12, lots 7, 9, and 10;
  Sec. 14, lots 8 and 9.
T. 31 N., R. 19 W. (Minnesota),
  Sec. 6, unsurveyed island in E½SW¼;
  Sec. 7, unsurveyed island in W½.
T. 32 N., R. 19 W. (Minnesota),
  Sec. 5, unsurveyed island in NE¼NW¼ (National Park Service Tract 05-101);
  Unsurveyed island in NW¼NW¼ (National Park Service Tract 05-102);
  Sec. 31, unsurveyed island in NE¼NE¼.
T. 33 N., R. 19 W. (Minnesota),
  Sec. 27, unsurveyed island in NW¼ (National Park Service Tract 04-101);
  Sec. 28, unsurveyed island in S½ (National Park Service Tract 04-105).
T. 34 N., R. 19 W. (Minnesota),
  Sec. 36, unsurveyed island in N½N½ (National Park Service Tract 01-101);
  Unsurveyed island in NW¼SW¼ (National Park Service Tract 01-102).

The area described aggregates approximately 82.83 acres.

2. The above described lands shall be administered by the Secretary of the Interior, through the National Park Service, in accordance with the Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq., and the regulations relating thereto, and also in keeping with the laws and regulations relating to the administration of the National Park System, that are applicable to the said lands.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources.

4. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1417(f), the Secretary determines that the withdrawal shall be extended.

J. Steven Griles,

Assistant Secretary of the Interior.

July 21, 1986.

[FR Doc. 86-17615 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6622

[NM-54961-OK]

Oklahoma; Withdrawal of Public Lands for the Eufaula Lake Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 79.60 acres of public land from surface entry for 20 years to protect water quality for storage, easement, wildlife and recreation values. This action will facilitate transfer of jurisdiction from the Bureau of Land Management to the Corps of Engineers. The lands are not subject to the United States mining laws, and have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, (505) 988-6589.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714; it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, and entry under the general land laws, but not from leasing under the mineral leasing laws; and reserved for the Corp of Engineers, Department of the Army, for water storage, wildlife/fisheries, and recreation. The land is not

subject to the United States mining laws (30 U.S.C. Ch. 2).

Indian Meridian

T. 5 N., R. 16 E.,
Sec. 2, lot 3, SE¼NW¼.

The area described contains 79.60 acres in Pittsburg County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources. However, leases, licenses, or permits will be issued only if the Department of the Army, Corps of Engineers, Tulsa District, finds that the proposed use of the lands will not interfere with the proper operation of its water storage facility on the lands.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

J. Steven Griles,

Assistant Secretary of the Interior.

July 25, 1986.

[FR Doc. 86-17617 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6723]

Suspension of Community Eligibility; Connecticut et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the third column, as of that date, flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

[Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension]

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date[1]
Region I				
Connecticut:				
Fairfield, town of, Fairfield County	090007B	Apr. 7, 1972, Emerg.; Aug. 15, 1978, Reg.; Aug. 19, 1986, Susp.	Aug. 2, 1974, Aug. 15, 1978 and Aug. 19, 1986.	Aug. 19, 1986
Guilford, town of, New Haven County	090077B	Oct. 20, 1972, Emerg.; May 1, 1978, Reg.; Aug. 19, 1986, Susp.	Aug. 2, 1974, May 1, 1978 and Aug. 19, 1986.	Do.
Norwalk, city of, Fairfield County	090012C	Mar. 10, 1972, Emerg.; Apr. 3, 1978, Reg.; Aug. 19, 1986, Susp.	Oct. 25, 1974, Apr. 3, 1978 and Aug. 19, 1986.	Do.
Greenwich, town of, Fairfield County	090008B	Feb. 4, 1972, Emerg.; Sept. 30, 1977, Reg.; Aug. 19, 1986, Susp.	Oct. 18, 1974, Sept. 30, 1977 and Aug. 19, 1986.	Do.
New Hampshire: Lisbon, town of, Grafton County.	330083B	Apr. 18, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986 Susp.	Feb. 21, 1975, Oct. 22, 1976 and Aug. 19, 1986.	Do.
Vermont:				
Manchester, village of, Bennington County.	500179B	Sept. 10, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Oct. 13, 1974, Oct. 1, 1986 Aug. 19, 1986.	Do.
Bristol, village of, Addison County	500165B	July 24, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Dec. 13, 1974, Sept. 17, 1976 and Aug. 19, 1986.	Do.
Lincoln, town of, Addison County	500007B	Aug. 5, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Aug. 2, 1974, Oct. 1, 1976 and Aug. 19, 1986.	Do.
Region II				
New Jersey: Lincoln Park, Borrough of, Morris County.	345300B	Oct. 23, 1970, Emerg.; Sept. 10, 1971, Reg.; Aug. 19, 1986, Susp.	Sept. 15, 1971, July 1, 1974 and Aug. 6, 1976.	Do.
New York:				
Putnam, town of, Washington County	361236A	May 7, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Jan. 17, 1975 and Aug. 19, 1986	Do.
Thurman, town of, Warren County	360881A	May 24, 1979, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Aug. 20, 1976 and Aug. 19, 1986	Do.
Region V				
Indiana:				
Miami County, unincorporated areas	180409B	Mar. 11, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Feb. 3, 1976 and Aug. 19, 1986	Do.
North Manchester, town of, Wabash County.	180269C	Mar. 24, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Dec. 21, 1973, Sept. 19, 1975 and Aug. 19, 1986.	Do.
Minnesota:				
Tintah, city of, Traverse County	270462B	June 18, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Aug. 9, 1974, July 16, 1976, and Aug. 19, 1986.	Do.
Detroit Lakes, city of, Becker County	270564A	July 3, 1974, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Jan. 31, 1975 and Aug. 19, 1986	Do.
Wisconsin: Brookfield, city of, Waukesha County.	550478	Feb. 23, 1972, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Nov. 9, 1973, July 1, 1977 and Aug. 19, 1986.	Do.
Region VI				
Arkansas: Fort Smith, city of, Sebastian County.	055013C	Dec. 18, 1970, Emerg.; Aug. 27, 1971, Reg.; Aug. 19, 1986, Susp.	Aug. 28, 1971, May 29, 1981, July 1, 1984 and Aug. 19, 1986.	Do.
Texas:				
Brazoria County, unincorporated areas	485458E	June 19, 1970, Emerg.; Dec. 15, 1983, Reg.; Aug. 19, 1986, Susp.	May 8, 1971, July 1, 1974, June 10, 1977, Oct. 27, 1978, Oct. 1, 1983 and Aug. 19, 1986.	Do.
Clarendon, city of, Donley County	481584A	Apr. 8, 1983, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Aug. 19, 1986	Aug. 19, 1987.
Edgecliff Village, town of, Tarrant County.	480592B	June 5, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Dec. 26, 1973, Feb. 4, 1977 and Aug. 19, 1986.	Aug. 19, 1986
Hearne, city of, Robertson County	480542B	June 12, 1974, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Mar. 29, 1974, Feb. 20, 1976 and Aug. 19, 1986.	Do.
Region IX				
California: Seaside, city of, Monterey County.	060203C	Feb. 19, 1975, Emerg.; July 2, 1981, Reg.; Aug. 19, 1986, Susp.	June 7, 1974, Dec. 19, 1975, July 2, 1981 and Aug. 19, 1986.	Do.
Region IX: Minimal Conversions				
Pennsylvania:				
Black Lick, township of, Indiana County.	421213A	Mar. 1, 1977, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Nov. 15, 1974 and Aug. 19, 1986	Do.
Brush Valley, township of, Indiana County.	421710A	Mar. 23, 1977, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Jan. 3, 1975 and Aug. 19, 1986	Do.
Sykesville, borough of, Jefferson County.	420515B	Sept. 19, 1974, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Apr. 12, 1974, Oct. 10, 1975 and Aug. 19, 1986.	Do.
Region IV				
Alabama:				
Headland, city of, Clark County	010097B	May 9, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	June 28, 1974, Jan. 2, 1976 and Aug. 19, 1986.	Do.
Riverside, town of, St. Clair County	010268A	June 6, 1977, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Apr. 4, 1975 and Aug. 19, 1986	Do.
Kentucky:				
Clay, city of, Webster County	210222B	Jan. 29, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Feb. 1, 1974, Feb. 27, 1976 and Aug. 19, 1986.	Do.
Dawson Springs, city of, Hopkins County.	210113B	July 1, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Feb. 1, 1974, Feb. 20, 1976 and Aug. 19, 1986.	Do.
Gratz, city of, Owen County	210321	June 18, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	July 22, 1977 and Aug. 19, 1986	Do.
Hodgenville, city of, Larue County	210133B	Aug. 6, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	May 17, 1974, July 16, 1976 and Aug. 19, 1986.	Do.
Princeton, city of, Caldwell County	210031B	June 30, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	May 23, 1974, Feb. 13, 1976 and Aug. 19, 1986.	Do.
Sebree, city of, Webster County	210224B	July 7, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	May 17, 1974 Mar. 5, 1976 and Aug. 19, 1986.	Do.
Sparta, city of, Gallatin County	210079B	Feb. 3, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Feb. 1, 1974, Mar. 5, 1976 and Aug. 19, 1986.	Do.
Wickliffe, city of, Ballard County	210006B	Jan. 21, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	May 24, 1974, Jan. 30, 1976 and Aug. 19, 1986.	Do.
North Carolina: Tryon, town of, Polk County.	370271A	Mar. 5, 1974, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Apr. 16, 1976 and Aug. 19, 1986	Do.
South Carolina: Ridgeland, town of, Jasper County.	450114B	June 27, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Mar. 3, 1976, May 9, 1980 and Aug. 19, 1986.	Do.

[Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension]

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date[1]
Tennessee: Dowelltown, city of, Dekalb County.	470043B	May 22, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	June 28, 1974, Oct. 3, 1975 and Aug. 19, 1986.	Do.
Region V				
Indiana: Hamilton, town of, Steuben County.	180036C	Nov. 20, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Sept. 6, 1974, Aug. 27, 1976, Apr. 15, 77 and Aug. 19, 1986.	Do.
Michigan:				
Croswell, city of, Sanilac County	260515A	Oct. 13, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Apr. 11, 1975 and Aug. 19, 1986	Do.
Eckford, township of, Calhoun County	260653B	Dec. 16, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	July 22, 1977 and Aug. 19, 1986	Do.
Rutland, township of, Barry County	260656B	Feb. 13, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Nov. 4, 1977 and Aug. 19, 1986	Do.
Constantine, village of, St. Joseph County.	260512A	Sept. 23, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	July 25, 1975 and Aug. 19, 1986	Do.
Ohio: Grover Hill, village of, Paulding County.	390436B	Aug. 5, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	June 24, 1977 and Aug. 19, 1986	Do.
Wisconsin: Bloomington, village of, Grant County.	550146C	Aug. 1, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	June 28, 1974, May 28, 1976, July 7, 1978 and Aug. 19, 1986.	Do.
Region VII				
Iowa:				
Defiance, city of, Shelby County	190246A	Oct. 27, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Dec. 20, 1974, Dec. 20, 1974 and Aug. 19, 1986.	Do.
Fairbank, city of, Buchanen and Fayette Counties.	190329A	Sept. 21, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	July 25, 1975, July 25, 1975 and Aug. 19, 1986.	Do.
Galva, city of, Ida County	190424A	June 28, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Sept. 19, 1975 and Aug. 19, 1986	Do
Protivin, city of, Howard County	190419A	July 8, 1980, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Sept. 12, 1975 and Aug. 19, 1986	Do.
Vail, city of, Crawford County	190101A	June 30, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Feb. 7, 1975, and Aug. 19, 1986	Do.
Kansas: Walnut, city of, Crawford County	200373A	Sept. 7, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Aug. 22, 1975, and Aug. 19, 1986	Do.
Missouri:				
Ellsinore, city of, Carter County	290466B	June 2, 1977, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986 Susp.	Oct. 18, 1974, Nov. 14, 1975 and Aug. 19, 1986.	Do.
Gainsville, city of, Ozark County	290273B	Aug. 20, 1975, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.	Dec. 26, 1973, Feb. 20, 1976 and Aug. 19, 1986.	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

Issued: July 30, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-17637 Filed 8-5-86; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6724]

List of Communities Eligible for the Sale of Flood Insurance; South Carolina et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazardous Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Deputy Administrator finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, FEMA, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance-floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
South Carolina: Greenwood and Abbeville.	Ware Shoals, town of	450248	May 5, 1986, Emerg	Sept. 1, 1978.
Texas: Fort Bend	Fort Bend County Municipal Utility District No. 81 [1]	481600, new	do	
Michigan: Leelanau	Leland, township of	260760, new	do	
Texas: Montgomery	Stagecoach, town of [2]	481296A	May 1, 1986, Emerg.; May 1, 1986, Reg	Sept. 5, 1984.
New Hampshire: Coos	Jefferson, town of	330033C	June 3, 1977, Emerg.; Apr. 15, 1986, Reg.; Apr. 15, 1986, Susp.; May 1, 1986, Rein.	Feb. 21, 1975, Sept. 10, 1976, July 19, 1977, and Apr. 15, 1986.
Grafton	Thornton, town of	330075B	July 18, 1975, Emerg.; April 2, 1986, Reg.; Apr. 2, 1986, Susp.; May 7, 1986, Rein.	June 28, 1974, Mar. 25, 1976, and Apr. 2, 1986.
South Dakota: Kingsbury	Unincorporated areas	460275	May 8, 1986, Emerg	
Michigan: Charlevoix	South Arm, township of	260761, new	May 14, 1986 Emerg	
Montana: Glacier	Unincorporated areas	300151A	do	Dec. 27, 1977.
South Dakota: Davison	do	460020A	do	May 20, 1977.
Pennsylvania: Columbia	Roaring Creek, township of	421557	Apr. 30, 1979, Emerg.; Apr. 30, 1986, Reg.; Apr. 30, 1986, Susp.; May 9, 1986, Rein.	Dec. 13, 1974, Sept. 3, 1976, Apr. 30, 1986.
Florida: Madison	Lee, town of	120151	Sept. 26, 1975, Emerg.; Apr. 30, 1986, Reg.; Apr. 30, 1986, Susp.; May 14, 1986, Rein.	Sept. 6, 1974, Jan 30, 1976, and Apr. 30, 1986
Georgia: Carroll	Mount Zion, city of	130286	May 16, 1986, Emerg	July 1, 1977.
Montana: Lake	Ronan, city of	300122	do	Apr. 25, 1979.
South Dakota: Clay	Unincorporated areas	460259	do	Oct. 18, 1977.
Michigan: Delta	Cornell, township of	260762, new	May 19, 1986, Emerg	
Wisconsin: Waushara	Unincorporated areas	550540	do	June 17, 1977.
Wyoming: Hot Springs	East Thermopolis, town of	560025A	May 23, 1986, Emerg	Feb. 6, 1976, and Nov. 8, 1974.
Missouri: Ray	Orrick, city of	290309B	July 18, 1974, Emerg.; Jan. 19, 1983, Reg.; Jan. 19, 1983, Susp.; May 21, 1986, Rein.	June 21, 1977, Apr. 5, 1974, and Jan. 19, 1983.
Illinois: Lee	Ashton, village of	170415B	May 2, 1975, Emerg.; Apr. 30, 1986, Reg.; Apr. 30, 1986, Susp.; May 23, 1986, Rein.	May 3, 1974, June 11, 1976, and Apr. 30, 1986.
Michigan:				
Delta	Escanaba, township of	260387A	May 28, 1986, Emerg	Mar. 25, 1977.
Do	Garden, township of	260763, new	do	
Mackinac	Mackinac Island, city of	260764, new	do	
Tennessee: Dyer	Trimble, city of	470389, new	May 30, 1986, Emerg	
Indiana: La Porte	Unincorporated areas	180144	Jan. 15, 1976, Emerg.; Sept. 30, 1983, Susp.; June 6, 1986, Rein.	June 23, 1978.
North Carolina: Brunswick	Calabash, town of	370395	June 9, 1986, Emerg	June 10, 1977
Texas: Fort Bend [1]	Fort Bend County Municipal Utility District No. 30.	481601, new	do	
New Hampshire: Grafton	Easton, town of	330051A	Aug. 8, 1975, Emerg.; Apr. 2, 1986, Reg.; Apr. 2, 1986, Susp.; June 9, 1986, Rein.	Nov. 8, 1974, and Apr. 2, 1986.
Do	Hebron, town of	330058A	Mar. 22, 1976, Emerg.; Apr. 2, 1986, Reg.; Apr. 2, 1986, Susp.; June 9, 1986, Rein.	Jan. 3, 1975, and Apr. 2, 1986.
Missouri: Nodaway	Hopkins, city of	290489B	Feb. 18, 1975, Emerg.; Apr. 1, 1982, Reg.; Apr. 1, 1982, Susp.; June 11, 1986, Rein.	Mar. 15, 1974, and Apr. 1, 1982.
Oklahoma: Washington	Ramona, town of	400222A	Apr. 18, 1976, Emerg.; June 2, 1986, Withdrawn	Dec. 5, 1975.
Georgia: Wilkinson	Toomsboro, city of	130422	June 16, 1986, Emerg	Apr. 4, 1975.
Michigan:				
Leelanau	Empire, township of	260765, new	do	
Mackinac	Garfield, township of	260766, new	do	
Tuscola	Tuscola, township of	260527A	do	Mar. 4, 1977.
Mackinac	Moran, township of	260443	do	
Tennessee: McNairy	Unincorporated areas	470127B	do	Mar. 31, 1977, Oct. 21, 1977, and July 5, 1978
Michigan: Genesee	Linden, village of	260398A	June 16, 1986, Emerg.; June 16, 1986, Reg	Sept. 26, 1975, and Nov. 19, 1980.
Kentucky: Spencer	Unincorporated areas	210211B	Aug. 8, 1975, Emerg.; June 3, 1986, Reg.; June 3, 1986, Susp.; June 16, 1986, Rein.	Oct. 21, 1977, and June 3, 1986.
Tennessee: Loudon	Philadelphia, city of	470276B	Feb. 18, 1975, Emerg.; June 3, 1986, Reg.; June 3, Susp.; June 16, 1986, Rein.	Mar. 6, 1974, Sept. 17, 1976, and June 3, 1986.
Alabama: Cherokee	Unincorporated areas	010234A	June 24, 1986, Emerg	Feb. 16, 1979.
Illinois: Macon	Forsyth, village of	171017	do	
Oklahoma: Garfield	Unincorporated areas	400473	do	
Georgia: Meriwether	do	130473	June 25, 1986, Emerg	July 14, 1978.
Utah: Washington	Enterprise, city of	490169A	June 27, 1986, Emerg	Aug. 16, 1974.
South Dakota: Hutchinson	Unincorporated areas	460041A	do	June 3, 1977, and Oct. 18, 1977.
New York:				
Steuben	Hornby, * town of	361211A	Feb. 18, 1976, Emerg.; Apr. 15, 1986, Reg.; Apr. 15, 1986, Susp.; June 24, 1986, Rein.	Feb. 21, 1975, and Apr. 15, 1986.
Otsego	Richfield,* town of	361279B	May 10, 1977, Emerg.; Apr. 15, 1986, Reg.; Apr. 15, 1986, Susp.; June 24, 1986, Rein.	Oct. 18, 1974, Jan 2, 1976, and Apr. 15, 1986.
Do	Morris,* village of	361353B	Apr. 25, 1977, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.; June 27, 1986, Rein.	Nov. 15, 1974, May 28, 1976, and Dec. 4, 1985.
Franklin	Waverly,* town of	361126B	Jan. 22, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1986, Susp.; June 27, 1986, Rein.	Oct. 25, 1974, July 23, 1976, and Dec. 4, 1985
Otsego	Morris,* town of	361273C	Apr. 12, 1976, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; June 27, 1986, Rein.	Nov. 15, 1974, July 9, 1976, July 1, 1977, and June 27, 1986.
Do	Richfield Springs,* village of	361360A	Sept. 11, 1975, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; June 27, 1986, Rein.	Nov. 15, 1974, and Jan 3, 1986.
Iowa: Cass	Anita, city of	190048B	Apr. 11, 1975, Emerg.; June 17, 1986, Reg.; June 17, 1986, Susp.; June 20, 1986, Rein.	May 3, 1974, Oct. 31, 1975, and June 17, 1986.
Florida: Santa Rosa	Jay, town of	120339A	Jan. 13, 1976, Emerg.; May 15, 1986, Reg.; June 17, 1986, Susp.; June 30, 1986, Rein.	Oct. 10, 1975, and May 15, 1986.
Tennessee: Hamilton	Lookout Mountain, town of	470075	May 6, 1977, Emerg.; June 20, 1986, Withdrawn	May 14, 1976.
California: Lassen	Unincorporated areas	060092A	June 26, 1986, Emerg	Feb. 28, 1978.

[1] Fort Bend County Municipal Utility District No. 81 and No. 30 have adopted Fort Bend County's flood insurance study with a flood insurance rate map (FIRM) which is scheduled to take effect August 5, 1986. Fort Bend County Municipal Utility Districts No. 81 and No. 30 will be converted to the regular program on that date (8–5–86). In the interim, the communities will be entered into the emergency program and use the county's FHBM for insurance and floodplain management purposes.

[2] The Town of Stagecoach was formerly the Village Stagecoach Farms.

*Minimal conversions.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

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State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Region I			
Maine: Boothbay, town of, Lincoln County	230212B	June 3, 1986, suspension withdrawn	Feb. 7, 1975, Mar. 7, 1980, and June 3, 1986.
Massachusetts:			
Nantucket, town of, Nantucket County	250230C	do	Sept. 13, 1974, Dec. 3, 1976, Oct. 1, 1983, and June 3, 1986.
Medford, city of, Middlesex County	250205B	do	July 26, 1974, Sept. 24, 1976, and June 3, 1986.
Everett, city of, Middlesex County	250192B	do	June 7, 1974, July 30, 1976, and June 3, 1986.
Hingham, town of, Plymouth County	250268B	do	September 6, 1974, October 15, 1976, June 3, 1986.
New Hampshire: North Hampton, town of, Rockingham County	[illegible]	do	Jan. 27, 1979, and June 3, 1986.
Region IV			
New Jersey: Fairfield, Township of, Essex County	340168C	do	June 15, 1973, July 1, 1974, July 16, 1976, Mar. 1, 1984, and June 3, 1986.
Region III			
Pennsylvania: Washington, township of, Franklin County	421658C	do	Sept. 6, 1974, July 2, 1976, Feb. 11, 1977, and June 3, 1986.
Region V			
Illinois:			
Galatia, village of, Saline County	170597B	do	Mar. 1, 1974, Jan. 30, 1976, and June 3, 1986.
Randolph County, unincorporated areas	170575B	do	Dec. 20, 1974, July 15, 1977, and June 3, 1986.
Ohio: Chillicothe, city of, Ross County	390482D	do	June 28, 1974, Mar. 26, 1976, Aug. 31, 1979, Mar. 17, 1984, and June 3, 1986.
Region VI			
Texas:			
Corinth, town of, Denton County	481143B	do	July 30, 1976, May 15, 1979, and June 3, 1986.
Westworth Village, village of, Tarrant County	480616B	do	Mar. 8, 1974, June 25, 1976, and June 3, 1986.
Kansas: Sedgwick County, unincorporated areas	200321A	do	Aug. 2, 1974, and June 3, 1986.
Region VIII			
Montana: Red Lodge, city of, Carbon County	300007	do	May 19, 1981, and June 3, 1986.
Arizona: Paradise Valley, town of, Maricopa County	040049C	do	Dec. 7, 1973, May 21, 1976, May 1, 1980, and June 3, 1986.
California:			
Point Arena, city of, Mendocino County	060185C	do	Oct. 18, 1974, Dec. 26, 1975, Aug. 3, 1984, and June 3, 1986.
Mendocino County, unincorporated areas	060183C	do	Jan. 3, 1974, Apr. 25, 1978, June 1, 1983, and June 3, 1986.
Capitola, city of, Santa Cruz County	060354C	do	May 17, 1974, Mar. 19, 1976, August 15, 1984, and June 3, 1986.
Half Moon Bay, city of, San Mateo County	060319A	do	June 3, 1986.
Region X			
Oregon: Oakridge, city of, Lane County	410126B	do	Nov. 12, 1976, May 10, 1974, and June 3, 1986.
Region I			
Connecticut: Avon, town of, Hartford County	090021B	June 17, 1986 Suspension Withdrawn	January 23, 1974, May 16, 1977, and June 17, 1986.
Maine:			
Howland, town of, Penobscot County	230391A	do	August 13, 1976, and June 17, 1983.
Boothbay Harbor, town of, Lincoln County	230213B	do	February 14, 1975, August 16, 1977, and June 17, 1986.
Massachusetts:			
Yarmouth, town of, Barnstable County	250015C	do	October 18, 1974, April 2, 1977, October 1, 1983, and June 17, 1986.
Lincoln, town of, Middlesex County	250199C	do	December 13, 1984, October 15, 1976, June 1, 1978, and June 17, 1986.
New Hampshire:			
Seabrook, town of, Rockingham County	330143B	do	August 2, 1974, November 26, 1976, and June 17, 1986.
Rye, town of, Rockingham County	330141B	do	June 28, 1974, September 3, 1976, and June 17, 1986.
Rhode Island: Charlestown, town of, Washington County	445395C	do	July 13, 1972, July 1, 1974, August 20, 1976, October 1, 1983, and June 17, 1986.
Vermont: Bennington, town of, Bennington County	5000013C	do	September 13, 1974, February 18, 1977, November 1, 1977, and June 17, 1986.
Region III			
Pennsylvania:			
Bentleyville, borough of, Washington County	420846B	do	February 1, 1974, June 4, 1976, and June 17, 1986.
Waynesburg, borough of, Greene County	420480B	do	June 28, 1974, July 16, 1976, and June 17, 1986.
Freeport, borough of, Armstrong County	420095B	do	May 31, 1974, October 8, 1976, and June 17, 1986.
Southampton, township of, Franklin County	421657	do	May 31, 1974, October 8, 1976, May 15, 1986.
Region V			
Minnesota:			
Big Stone County, unincorporated areas	270652B	do	June 5, 1981, and June 17, 1986.
Browns Valley, city of, Traverse County	270480B	do	May 10, 1974, June 4, 1976, and June 17, 1986.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Chippewa County, unincorporated areas	270066B	....do	Apr. 20, 1979, and June 17, 1986.
Region VI			
Texas: Kendall County, unincorporated areas	480417B	....do	Dec. 27, 1974, May 24, 1977, and June 17, 1986.
Region IX			
California:			
Santa Cruz, city of, Santa Cruz County	060355C	....do	Mar. 8, 1974, Feb. 15, 1985, Apr. 23, 1976, and June 17, 1986.
Vista, city of, San Diego County	060297C	....do	June 14, 1974, Apr. 1, 1977, Aug. 15, 1983, and June 17, 1986.
Eureka, city of, Numboldt County	060062C	....do	May 24, 1974, Nov. 14, 1975, June 1, 1982, and June 17, 1986.
Escondido, city of, San Diego County	060290C	....do	Apr. 5, 1978, Sept. 15, 1983, and June 17, 1986.
Region VIII—Minimal Conversions			
Montana:			
Chester, town of, Liberty County	3000041	June 1, 1986, suspension withdrawn	May 10, 1974, Dec. 5, 1975, and June 1 1986.
Conrad, city of, Pondera County	3000057	....do	June 7, 1974, Dec. 5, 1975, and June 1, 1986.
Vermont:			
Fairfield, town of, Franklin County	500053B	June 3, 1986, suspension withdrawn	Jan. 10, 1975, Oct. 1, 1976, and Sept. 27, 1985.
Orwell, town of, Addison County	500168B	....do	Nov. 15, 1974, Sept. 3, 1975, and Sept 18, 1985.
Connecticut:			
Colebrook, town of, Litchfield County	090180B	....do	Mar. 20, 1979, and June 3, 1986.
Vermont:			
Guilford, town of, Windham County	500130B	....do	July 19, 1974, Dec. 10, 1976, and June 3 1986.
Region II			
New York: Wells, town of, Hamilton County	361112A	....do	Nov. 29, 1974, and June 3, 1986.
Region III			
Maryland: Church Hill, town of, Queen Annes County	240057B	....do	Aug. 16, 1974, Dec. 19, 1975, and June 3, 1986.
Region IV			
Alabama: Morris, town of, Jefferson County	010264B	....do	Nov. 8, 1976, Dec. 29, 1978, and June 3, 1986.
Florida:			
Monticello, city of, Jefferson County	120365A	....do	July 23, 1976, and June 3, 1986.
Worthington Springs, town of, Union County	120594B	....do	Nov. 13, 1978, and June 3, 1986.
North Carolina:			
Lake Waccamaw, town of, Columbus County	370069B	....do	Dec. 28, 1973, May 14, 1976, and June 3, 1986.
Walnut Cove, town of, Stokes County	370224B	....do	Feb. 8 1974, May 21, 1976, and June 3, 1986.
South Carolina:			
Mullins, city of, Marion County	450143B	....do	June 28, 1974, Apr. 2, 1976, and June 3, 1986.
Summerton, town of, Clarendon County	450054B	....do	May 24, 1974, July 25, 1975, and June 3, 1986.
Ulmer, town of, Allendale County	450012B	....do	Aug. 16, 1974, June 11, 1976, Mar. 25, 1980, and June 3, 1986.
Tennessee: Decatur, town of, Meigs County	470134E	....do	June 14, 1974, Mar. 11, 1977, Jan. 13, 1978, June 30, 1978.
Region V			
Michigan: Niles, township of, Berrien County	260041B	....do	June 21, 1974, June 18, 1976, and June 3, 1986.
Minnesota:			
Clarissa, city of, Todd County	270476B	....do	May 3, 1974, July 30, 1976, and June 3, 1986.
Nobles County, unincorporated areas	270668B	....do	May 25, 1979, and June 3, 1986.
Wisconsin: Chetek, city of, Barron County	550012B	....do	Dec. 7, 1973, May 14, 1976, and June 3, 1986.
Region VII			
Kansas: Lyndon, city of, Osage County	200251B	....do	Mar. 1, 1974, Nov. 14, 1975, and June 3, 1986.
Nebraska:			
Bristow, village of, Boyd County	310012B	....do	Jan. 3, 1975, Nov. 21, 1975, and June 3, 1986
Valparaiso, village of, Saunders County	310203B	....do	Nov. 8, 1974, Mar. 19, 1976, and June 3, 1986.
Region X			
Idaho: Butte County, unincorporated areas	160033A	....do	June 3, 1986.
Region II—Minimal Conversions			
New York: Massena, town of, St. Lawrence County	361182B	June 17, 1986, suspension withdrawn	Oct. 25, 1974, July 30, 1976, and June 17, 1986.
Region IV			
Kentucky:			
Albany, city of, Clinton County	210059B	....do	May 10, 1974, Feb. 27, 1976, and June 17, 1986.
Brandenburg, city of, Meade County	210170B	....do	May 17, 1974, Oct. 31, 1975, and June 17, 1986.
Livingston, city of, Rockcastle County	210202B	....do	Aug. 2, 1974, Feb. 20, 1976, and June 17, 1986.
South Carolina:			
Fountain Inn, town of, Greenville, Laurens Counties	450209B	....do	July 23, 1976, June 3, 1977, and June 17, 1986.
Iva, town of, Anderson County	450017B	....do	May 31, 1974, Mar. 26, 1976, and June 17, 1986.
Walhalla, town of, Oconee County	450159B	....do	June 28, 1974, June 4, 1976, and June 17, 1986.
Tennessee:			
Dandridge, town of, Jefferson County	470299A	....do	June 11, 1976, and June 17, 1986.
Mason, city of, Tipton County	470191A	....do	Oct. 1, 1976, and May 15, 1986.
Region V			
Michigan:			
Saranac, village of, Ionia County	260421B	....do	July 11, 1975, Apr. 11, 1977, and June 17, 1986.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Minnesota:			
Elgin, city of, Wabasha County	270484C	do	May 17, 1974, June 9, 1976, and Feb. 16, 1979.
Ohio:			
Liberty Center, village of, Henry County	360619B	do	Oct. 18, 1974, May 21, 1976, and June 17, 1986.
Wisconsin:			
Embarrass, village of, Waupaca County	5504958	do	Dec. 7, 1973, May 21, 1976, and June 17, 1986.
Union Grove, village of, Racine County	550586	do	Mar. 15, 1979, and June 17, 1986.
Region VII			
Iowa:			
Carroll County, unincorporated areas	190039B	do	June 17, 1977, and June 17, 1986.
Region VIII			
Montana:			
Dodson, town of, Phillips County	300053B	do	Dec. 27, 1974, and June 17, 1986.

Issued: July 30, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-17636 Filed 8-5-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 85-347]

Amendment of the Rules Concerning Cellular Construction Period

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has determined the rules governing construction of cellular systems should be modified. Specifically, the Commission will require that cellular permittees construct and begin initial operation within 18 months of station authorization. The initial phase may consist of one or more cells. This action is taken in response to comments received as a result of our Notice of Proposed Rulemaking, 50 FR 50181 (1985).

EFFECTIVE DATE: September 5, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia McClain-Hill, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, CC Docket 85-347, adopted May 15, 1986, and released May 29, 1986.

The complete text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International, Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On November 14, 1985, the Commission adopted a Notice of Proposed Rulemaking (Notice) which solicited comments concerning a proposed change in the rules to require cellular permittees to begin initial operation within 12 months of the station authorization. The Commission carefully considered the comments and adopted a rule which requires that permittees begin initial service within 18 months of station authorization. Accordingly, all holders of cellular construction permits for cellular systems beyond the top-90 markets will be required to file a Form 489 notifying the Commission that construction of the initial portion of the system has been completed and operation commenced within 18 months of the grant of their construction permits. The initial phase may consist of one or more cells and the permittee continues to have 3 years to construct and put into operation base stations providing 39 dBu coverage of 75% of the applicants authorized CGSA. If a permittee fails to comply with the 18 month initial service requirement and a timely request for extension of the deadline has not been filed, its construction permit will expire and a grant will be made to another applicant.

2. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 605(b) it is certified that the final rule will not have a significant impact on a substantial number of small entities. This action is expected to promote efficient and expedient authorization of cellular licenses and lower the administrative costs associated with the process of granting cellular licenses.

3. Authority for this rulemaking is contained in Sections 1, 4 (i) and (j), 301, 303 and 309 of the Communications Act of 1934, as amended, and section 553 of the Administrative Procedure Act.

List of Subjects in 47 CFR Part 22

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Rules Changes

PART 22—[AMENDED]

Part 22 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 22 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

2. Section 22.43 is amended by revising paragraph (c) to read as follows:

§ 22.43 Period of construction.

* * * * *

(c) *Cellular base stations.* Cellular base stations, which will provide coverage over 75% of the cellular geographic service area, as defined in § 22.903 of these rules, shall be completed and the station ready for operation within 36 months from the date the raido station authorization is granted. For systems beyond the top-90 markets, construction of an initial phase of the system, which may consist of one or more cells, must be completed, and a notification or Form 489 that the system is ready to commerce service to the public must be filed, within 18 months from the date the radio station authorization is granted. Failure to begin service in a timely manner in

accordance with this rule will result in the termination of the authorization.

* * * * *

[FR Doc. 86-17643 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 81-216; RM-2845 et al.]

Registration of Loop-Powered Repertory Dialers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended § 68.312(k) of the rules to provide that the off-hook limitations of that section will not preclude registration of loop-powered repertory dialers. The intended effect of this change is to permit registration of loop-powered repertory dialers. The rationale of this amendment is that connection of such devices to the telephone network will not cause network harm and should therefore be registrable.

EFFECTIVE DATE: This rule change is effective September 5, 1986.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1832.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's memorandum opinion and order adopted June 1986, and released June 1986, CC Docket 81-216, granting a petition for reconsideration filed by AT&T-IS of *Third Report and Order*, 51 FR 929, January 9, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Commission Decision

Part 68 of the Commission's rules 47 CFR Part 68, provides the technical and procedural standards under which customer-provided telephone equipment, systems, and protective apparatus may be directly connected to the nationwide telephone network. Compliance with those standards assures equipment manufacturers and consumers that their equipment is connectible to the network, and assures telephone companies that connection will not cause harm to the network. In *Third Report and Order* the Commission adopted § 68.312(k) of the rules which, *inter alia*, prohibits registration of terminal equipment which by design leaves the on-hook state except for the purpose of making or receiving call. In a petition for reconsideration AT&T-IS contended that this provision is too restrictive in that it would prevent registration of loop-powered automatic dialers which require that the user place the device in the off-hook state in order to program into the device telephone numbers for automatic dialing. AT&T-IS claimed that § 68.312(k) was intended to prevent registration of devices which could go off-hook for extended periods of time in contrast to programming of loop-powered dialers which are off-hook for very short periods of time and do not create any risk of network harm. Several telephone companies opposed the AT&T-IS request of the ground that the rule adopted by the Commission was properly intended to prevent registration of any terminal equipment which was designed to go off-hook except for the purpose of making or receiving a call.

In its Memorandum Opinion and Order the Commission granted the AT&T-IS petition for reconsideration and modified § 68.312(k) to permit registration of loop-powered automatic dialers. The rationale of this decision was that these devices will be off-hook only infrequently and for short durations during the programming operation and do not entail any substantial harm to the telephone network. The Commission noted that the majority of telephone company central offices already contain automated equipment which protects the network for spurious off-hook conditions caused by consumer telephone equipment. The Commission found that the telephone companies had not demonstrated that any network harm would be caused by registration of loop-powered automatic dialers.

Ordering Clauses

13. Accordingly, it is ordered, That the petition for reconsideration filed by AT&T Information Systems, Inc. is granted.

14. It is further ordered, That the petition for temporary waiver filed by AT&T Information Systems, Inc. is dismissed as moot.

15. It is further ordered, pursuant to 47 U.S.C. 151, 154(i), 154(j), 201-205, 218, 220, 313, 403, 412, and 5 U.S.C. 553, That Part 68 of the Commission's rules is amended as shown at the end of this document.

Federal Communications Commission.

William J. Tricarico,

Secretary.

List of Subjects in 47 CFR Part 68

Communication equipment, telephone.

PART 68—[AMENDED]

47 CFR Part 68 is amended as follows:

1. The authority citation for Part 68 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, 48 Stat. as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602.

2. Section 68.312 is amended to revise paragraph (k) to read as follows:

§ 68.312 On-hook Impedance Limitations.

* * * * *

(k) Registered terminal equipment and registered protective circuitry shall not by design leave the on-hook state by operations performed on tip and ring leads for any other purpose than to request service or answer an incoming call, except that terminal equipment which the user places in the off-hook state for the purpose of manually placing telephone numbers in internal memory for subsequent automatic or repertory dialing shall be registrable. Make-busy indications shall be transmitted by the use of make-busy leads only as defined in §§ 68.3 and 68.200(j).

[FR Doc. 86-17647 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Clarification of FM Application Processing Procedures

Correction

In FR Doc. 86-16155, beginning on page 26009 in the issue of Friday, July 18, 1986, make the following correction: On page 26009 in the third column, above the heading "Further Clarification of FM . . .", insert "July 24, 1984".

BILLING CODE 1505-01-M

47 CFR Part 97

[PR Docket No. 85-22]

In the Matter of Frequency Coordination of Repeaters in the Amateur Radio Service; Order

AGENCY: Federal Communications Commission.

ACTION: Dismissal of petitions for reconsideration.

VOL 51 ISS 151 AG 6 1986 UMI

SUMMARY: This Order dismisses petitions for reconsideration filed by Mark A. Kolber and Karl Victor Pagel. This action is being taken because these petitions were not timely filed.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1986.
Released: July 25, 1986.
By the Chief, Private Radio Bureau.

1. On May 2, 1986, the Commission released a *Report and Order* in this proceeding amending its rules to clarify the relationship between coordinated and non-coordinated repeater and auxiliary amateur operation. A summary of this *Report and Order* was printed in the **Federal Register** on May 12, 1986 (51 FR 17342).

2. Petitions for reconsideration of this *Report and Order* had to be filed on or before June 12, 1986. However, we have received two petitions of reconsideration filed after this date: from Mark A. Kolber (filed June 13, 1986) and from Karl Victor Pagel (filed July 8, 1986). Neither of these petitions is timely filed.

3. Accordingly, pursuant to §§ 0.131, 0.331, 1.4(b) and 1.429(d) of the Commission's rules (47 CFR 0.131, 0.331, 1.4(b) and 1.429(d)), and pursuant to section 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 303(r)), it is ordered that the petition for reconsideration of Mark A. Kolber filed June 13, 1986, is dismissed. It is further ordered that the petition for reconsideration of Karl Victor Pagel filed July 8, 1986, is dismissed.

Federal Communications Commission.

Robert S. Foosaner,

Chief, Private Radio Bureau.

[FR Doc. 86–17648 Filed 8–5–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85–10; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice makes nonsubstantive amendments to Federal Motor Vehicle Safety Standard No. 108 to remove original equipment requirements that are no longer in effect and to clarify that most of those requirements may still be met by equipment manufactured to replace such original equipment, to adopt a common typographical manner in referring to materials incorporated by reference, and to correct errors appearing in the Code of Federal Regulations.

DATE: The amendments are effective August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, (202) 366–5263, Room 5219, 400 Seventh St. SW., National Highway Traffic Safety Administration, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The agency has recently reviewed 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* as published in the Code of Federal Regulations, revised as of October 1, 1985. In so doing, it noted three subject areas where nonsubstantive amendments could be made to clarify and simplify the standard, to remove inconsistencies in titles of SAE and other materials incorporated by reference, and to correct minor errors.

Clarification of Current Coverage

Standard No. 108 contains certain requirements that applied to vehicles manufactured between certain dates in the past. For example, Paragraph S4.1.1.6 permitted stop lamps on vehicles manufactured between January 1, 1973, and September 1, 1978, to be designed to conform to SAE Standard J586b *Stop Lamps*, as an exception to the requirement for SAE J586c stop lamps in Table III. Although stop lamps meeting J586b may no longer be used as original equipment on passenger cars, their manufacture as replacements for original equipment J586b stop lamps remains permissible. Therefore, the agency is revising S4.1.1.6 in part, from "Each stop lamp on any motor vehicle manufactured between January 1, 1973, and September 1, 1978, may be designed to conform to SAE Standard J586. . . ." to "Each stop lamp manufactured to replace a stop lamp designed to conform to SAE Standard J586b *Stop Lamps*, June 1966, may also be designed to conform to SAE Standard J586b. . . ." Similar changes are made to paragraphs S4.1.1.7, S4.1.1.28, S4.1.1.29, and S4.1.1.35. Paragraphs S4.1.1.19 and 20 apply to lamps manufactured on or after January 1, 1974; there appears to be no need to retain the effective date of this requirement, nor for the effective date of the lens marking requirement in paragraph S4.1.1.21, and the second paragraph of its subsection (f). Paragraph S4.1.1.2(a) applies to plastic materials manufactured before January 1, 1976, and may be deleted. Succeeding subparagraphs are redesignated, and references to J576b are deleted.

Consistency in SAE, OSHA, and ASTM References

Titles of SAE, OSHA, and ASTM materials incorporated by reference appear at some place in the standard in quotation marks, and at other places in italics. The agency has concluded that the style of reference should be consistent, and that italics are preferable to quotation marks because the presence of incorporated materials will be more readily apparent to the reader. Changes from quotation marks to italics are made in the following paragraphs: S4.1.1.1, S4.1.1.4, S4.1.1.8, S4.1.1.13(a), (b), and (c), S4.1.1.19, S4.1.1.20, S4.1.1.22, S4.1.1.25, S4.1.1.36(b)(1) and (3), S4.1.2 (ASTM reference), S4.1.4(a) and (b), S4.2.1, S4.3.1.5, S4.3.1.7, S4.5.1, S4.5.6, S6.4(b)(1) (OSHA reference), S6.5 (ASTM reference), S6.6 (ASTM reference), and S6.7.2(b)(2) and (c)(2) (Title of Figure 7).

Typographical Errors

Typographical errors appear in the following sections and will be corrected: S4.1.1.43(c)(2), and S4.4.1 (this designation is unnecessary as there is no longer a paragraph S4.4.2, and an appropriate correction is made).

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that no regulatory impact analysis or regulatory evaluation is required.

NHTSA has analyzed this rule for purposes of the National Environmental Policy Act. There will be no effect upon the human environment because the rule makes no substantive changes.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant impact upon a substantial number of small entities. Accordingly no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and motor vehicle lighting equipment, those affected by the rule, are generally not small businesses within the meaning of

the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected since there is no effect upon costs.

The lawyer responsible for this rule is Taylor Vinson.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, tires.

PART 571—[AMENDED]

In consideration of the foregoing 49 CFR Part 571 and 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In paragraph S4.1.1.1, paragraph S4.3.1.7, and paragraph S4.5.6, the words " 'Turn Signal Lamps' " are changed to read *"Turn Signal Lamps"*.

3. In paragraph S4.1.1.4 the words " 'Sheeting and Tape, Reflective Non-exposed Lens, Adhesive Backing' " are revised to read *"Sheeting and Tape, Reflective Non-exposed Lens, Adhesive Backing"*, and the words " 'Reflex Reflectors' " are changed to read *"Reflex Reflectors"*.

4. In paragraph S4.1.1.6 the following changes are made:

(a) The first sentence is revised to read "Each stop lamp manufactured to replace a stop lamp that was designed to conform to SAE Standard J586b *Stop Lamps*, June 1966, may also be designed to conform to J586b."

(b) The third sentence is amended by inserting the words "manufactured for use" between the words "Each such lamp" and "on a passenger car".

5. In paragraph S4.1.1.7 the following changes are made:

(a) The first sentence is revised to read "Each turn signal lamp manufactured to replace a turn signal lamp that was designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, may also be designed to conform to J588d, and shall meet the photometric minimum candlepower requirements for Class A turn signal lamps specified in SAE Standard J575d, *Tests, for Motor Vehicle Lighting Devices and Components*, August 1967.

(b) The second sentence is amended by inserting the words "manufactured for use" between the words "Each such lamp" and "on a passenger car".

(c) The last sentence is amended by inserting the words "manufactured for use" between the words "Each such lamp" and "on a multipurpose passenger vehicle".

6. In paragraph S4.1.1.8 the words " 'Clearance, Side Marker, and Identification Lamps' " are changed to *"Clearance, Side Marker, and Identification Lamps"*.

7. In paragraph S4.1.1.13(a) the words " 'Dimensional Specifications for Sealed Beam Headlamp Units ' " are changed to *"Dimensional Specifications for Sealed Beam Headlamp Units for Motor Vehicles"*.

8. In paragraph S4.1.1.13(b), the words " 'Sealed Beam Headlamp Units for Motor Vehicles' " are changed to *"Sealed Beam Headlamp Units for Motor Vehicles"*.

9. In paragraph S4.1.1.13(c) and paragraph S4.1.1.36(b)(3), the words " 'Sealed Beam Headlamp Assembly' " are changed to *"Sealed Beam Headlamp Assembly"*.

10. In paragraph S4.1.1.19 the words "manufactured on or after January 1, 1974, and" are deleted.

11. In paragraph S4.1.1.20, the words "manufactured on or after January 1, 1974" are deleted.

12. In paragraphs S4.1.1.19 and S4.1.1.20, the words " 'Lamp Bulbs and Sealed Units' " are changed to *"Lamp Bulbs and Sealed Units"*

13. In paragraph S4.1.1.21 introductory text, the words "manufactured on or after July 1, 1979," are deleted.

14. The second paragraph of S4.1.1.21(f) is deleted.

15. In paragraph S4.1.1.22, the words " 'Backup Lamps' " are changed to *"Backup Lamps*, February 1968".

16. Paragraph S4.1.1.25 is amended as follows:

(a) The words " 'Dimensional Specifications for Sealed Beam Headlamp Units' " are changed to *"Dimensional Specifications for Sealed Beam Headlamp Units"*.

(b) The words " '142 mm x 200 mm Sealed Beam Headlamp Unit' " are changed to *"142 mm x 200 mm Sealed Beam Headlamp Unit"*.

17. Paragraph S4.1.1.28 is revised to read:

S4.1.1.28 Each taillamp manufactured to replace a taillamp designed to conform to SAE Standard J585d *Tail Lamps*, August 1970, may also be designed to conform to J585d.

18. Paragraph S4.1.1.29 is revised to read:

S4.1.1.29 Each turn signal lamp manufactured to replace a turn signal lamp (on a motorcycle) that was designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, may also be designed to conform to J588d.

19. Paragraph S4.1.1.35 is revised to read:

S4.1.1.35 Each headlamp manufactured to replace a headlamp designed to conform to SAE Standard J580a, *Sealed Beam Headlamp*, June 1966, may also be designed to conform to J580a.

20. Paragraph S4.1.1.36(b)(1) is revised to read:

(1) Section 4.6—Photometry of SAE J575 JUN80 *Tests for Motor Vehicle Lighting Devices and Components*.

21. The following changes are made to paragraph S4.1.1.43:

(a) In subparagraph (c)(2), the word "amiable" is changed to "aimable".

(b) In subparagraph (e), the words "August 1979" are changed to AUG79".

(c) In subparagaph (e)(5), the words "October 1980" are changed to "OCT80 *Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units*".

22. In Paragraph S4.1.1.44 subparagraph "(1)" is changed to "(a)".

23. The following changes are made to paragraph S.4.1.2:

(a) Subparagraph (a) deleted, and subparagraphs (b), (c), and (d) are redesignated "(a)", "(b)", and "(c)" respectively.

(b) Redesignated subparagraph (a) is revised to read:

(a) Plastic lenses used for inner lenses or those covered by another material and not exposed directly to sunlight shall meet the requirements of paragraphs 3.4 and 4.2 of SAE J576c when covered by the outer lens or other material;

(c) In redesignated subparagraph (b) the words " 'Haze and Luminous Transmittance of Transparent Plastic' " are changed to *"Haze and Luminous Transmittance of Transparent Plastic"*.

(d) Redesignated subparagraph (c) is revised to read:

(c) After the outdoor exposure test, plastic materials used for reflex reflectors shall meet the appearance requirements of paragraph 4.2.2 of SAE J576c.

24. In paragraph S4.1.4 (a) and (b), and in paragraph S4.2.1, the words " 'School Bus Red Signal Lamps' " are changed to *"School Bus Red Signal Lamps"*.

VOL 51 ISS 151 AG 6 1986 UMI

25. Paragraph S4.1.5 is revised to read:

S4.1.5 The color in all lamps, reflective devices, and associated equipment to which this standard applies shall comply with SAE Standard J578c, *Color Specification for Electric Signal Lighting Devices*, February 1977.

26. Paragraph S4.4 *Equipment combinations* is amended by removing the designation "S4.4.1".

27. The following changes are made to paragraph S4.5.1:

(a) The words "'Headlamp Beam Switching'" are changed to *"Headlamp Beam Switching"*.

(b) The words "'Semi-Automatic Headlamp Beam Switching Devices'" are changed to *"Semi-Automatic Headlamp Beam Switching Devices"*.

28. In paragraph S6.3 the words "'Tests for Motor Vehicle Lighting Devices and Components'" are changed to read *"Tests for Motor Vehicle Lighting Devices and Components"*.

29. In paragraph S6.4(b)(1) the words "'Handling Storage and Use of Flammable Combustible Liquids'" are changed to *"Handling Storage and Use of Flammable Combustible Liquids"*.

30. S6.5(a) the words "August 1979" are revised to read "AUG79 *Sealed Beam Headlamp Assembly*".

31. In paragraph S6.5(b) the words "'Method of Salt Spray (FOG) Testing'" are changed to *"Method of Salt Spray (FOG) Testing"*.

32. In paragraph S6.6 the words "specification for Portland Cement" are changed to *"Specification for Portland Cement"*.

33. In paragraph S6.7.2 (a)(2), (b)(2), and (c)(2) the words "'Dirt-Ambient Test Setup'" are revised to read *"Dirt/Ambient Test Setup"*.

34. In paragraph S6.7.2(c)(3) the tolerances on relative humidity of "30+10%" are changed to "30±10%".

35. In paragraph S6.8 the tolerances on temperature of "73±7−0 °F (20±4−0 °C)" are changed to "73+7−0 °F (20+4−0 °C)".

36. In S4.1.1.36(b)(3) the words "SAE J580 'Sealed Beam Headlamp Assembly' August 1979" are revised to read "SAE J580 AUG79 *Sealed Beam Headlamp Assembly*".

Because the amendments clarify and correct existing requirements and impose no additional burdens, it is hereby found that an effective date earlier than 180 days after issuance is in the public interest.

Issued on July 31, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-17578 Filed 8-5-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50239-5115]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA issues this notice to increase the quota for the Harpoon Boat permit category of giant Atlantic bluefin tuna from 60 short tons (st) to 75 st and to decrease the inseason adjustment amount from 104 st to 89 st accordingly. Regulations provide for adjustments. The increase is necessary to prevent an early closure of this segment of the fishery.

EFFECTIVE DATE: 0001 hours Eastern Daylight Time (EDT) July 31, 1986, through December 31, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 262; or David S. Crestin, 617-281-3600, extension 253. The address for both individuals is National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, MA 01930-3097.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on October 25, 1985 (50 FR 43398). Section 285.22(g) provides that the Regional Director may allocate during the fishing season any portion (from zero to 100 percent) of the inseason adjustment amount (104 st) to any segment of the fishery. The Regional Director is required to publish a notice of allocation in the **Federal Register** before such allocation becomes effective. Consistent with § 285.22(g), the Regional Director has considered the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

The Regional Director has determined that a 15-st allocation to the Harpoon Boat permit category is appropriate based on these factors.

Current landing reports indicate that the Harpoon Boat quota of 60 short tons of giant Atlantic bluefin tuna will be taken by July 31, 1986. Without an allocation from the inseason adjustment amount, fishing for giant Atlantic bluefin tuna by vessels permitted in the Harpoon Boat category will cease for the remainder of 1986. A significant increase in the number of vessels permitted in the Harpoon Boat category has occurred from 1980 to the present (30 to 245). This increase in the number of vessels actively engaged in this fishery has occurred at the same time as a substantial reduction in the Harpoon Boat quota of giant Atlantic bluefin tuna (150 st to 60 st). There is little doubt that, with the increased number of vessels permitted in the Harpoon Boat category and landings to date, a 15-st increase in the quota could be taken prior to the end of the 1986 fishing season.

An allocation of 15 st from the Inseason Adjustment Amount would leave 89 st available for potential allocation to other gear categories later in the fishing season. Based on current landings data for all gear categories in the Atlantic bluefin tuna fishery, the 89 st remaining in the Inseason Adjustment Amount should be more than sufficient to provide for potential shortages in other gear segments.

The Regional Director, therefore, increases the Harpoon Boat quota in § 285.22(b) from 60 st to 75 st and decreases the Inseason Adjustment Amount in § 285.22(g) from 104 st to 89 st. When the adjusted Harpoon Boat quota is reached, the further taking and retention of Atlantic bluefin tuna by vessels permitted in this category will be prohibited for the remainder of 1986.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: July 31, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-17663 Filed 8-1-86; 3:23 pm]

BILLING CODE 3510-22-M

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50 CFR Part 285

[Docket No. 50329-5115]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this technical amendment amending a final rule implementing the Fishery Management Plan for the Atlantic Tuna Fisheries that modified buy-boat operating procedures. The intended effect is to eliminate any possible misinterpretation of the implementing rule.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, ext. 325.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on October 25, 1985 (50 FR 43396), amending existing rules and addressing interpretations of the rules. The final rule at § 285.29(d) states that any person issued a dealer permit under § 285.28 "must retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director." The rule did not mention retention of copies of a daily report on a reporting card provided by NMFS which is addressed in §285.29(a). Therefore, NOAA amends the rule by making this addition to § 285.29(d).

List of Subjects in 50 CFR Part 285

Fisheries, Reporting and recordkeeping requirements.

Dated: August 1, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 285—[AMENDED]

For the reason set forth in the preamble, 50 CFR Part 285 is amended as follows:

1. The authority citation for Part 285 continues to read as follows:

Authority: 16 U.S.C. 971 et seq.

2. Section 285.29(d) is revised to read as follows:

§ 285.29 Dealer recordkeeping and reporting.

* * * * *

(d) Must retain in his/her possession a copy of each daily and weekly report for a period of two years from the date on which it was submitted to the Regional Director.

* * * * *

[FR Doc. 86-17560 Filed 8-5-86; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 655

[Docket No. 60107-6045]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of squid specification increase.

SUMMARY: NOAA issues this notice to increase the Initial Optimum Yield (IOY) specification for *Loligo* squid as required by regulations governing the squid fisheries. This increase is assigned to the domestic annual harvest (DAH) and makes 500 metric tons (mt) available for joint venture processing (JVP). This action is intended to foster the goal of the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) by creating benefits for the United States fishing industry.

DATES: This notice is effective August 5, 1986. Comments are invited until August 21, 1986.

ADDRESSES: Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, 2 State Fish Pier, Gloucester, MA 01930-3097. Mark on the outside of the envelope, "Comments on Squid Specifications 1986."

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600 ext. 273.

SUPPLEMENTARY INFORMATION: Under § 655.22, final initial annual specifications for squid were published on May 9, 1986 (51 FR 17189) for the fishing year April 1, 1986, to March 31, 1987. Amendment 2 to the FMP (51 FR 10457, March 27, 1986) changed the fishing year for squid to begin on January 1. On July 9, 1986, proposed adjustments to the final initial annual specifications were published (51 FR 24880) for the transitional squid fishing year April 20, 1986, through December 31, 1986. The regulations at § 655.21(b)(1)(v) further provide that these final initial annual specifications may be adjusted by the Director, Northeast Region, NMFS (Regional Director) after consultation with the Mid-Atlantic Fishery Management Council.

A joint venture application involving Unionpesca, an Italian fishing industry group, and International Seafood and Trading Company, a U.S. company, was submitted by the Italian government and presented to the Mid-Atlantic and New England Fishery Management Councils (Councils) for their recommendations. The application requested a joint venture permit to authorize Italian vessels to purchase "over-the-side" 1,500 mt of *Loligo* squid harvested by vessels of the United States. A permit was approved; however, the entire amount of *Loligo* squid requested was not released for the joint venture operation to allow the Regional Director flexibility in reallocating squid should the joint venture fail for lack of squid abundance. At a recent joint Council meeting, a second proposal was approved by both Councils which would allow this joint venture to receive additional JVP, depending on performance.

The Italian joint venture operation has been monitored and discrete amounts of squid have been released as the squid were harvested and processed by the Italian vessels. To date, this joint venture operation has been limited to 825 mt of *Loligo* Squid.

The joint venture is expected to continue to process U.S.-harvested squid, given the relatively good abundance of *Loligo* squid. Recent consultations with the Councils confirm that their original recommendations to grant the entire amount of *Loligo* squid requested by the Italian government on behalf of Unionpesca remains unchanged. Any additional releases of *Loligo* squid require adjustments to the annual specifications. After a review of the squid abundance, prevailing market conditions, and the circumstances of the joint venture, the Regional Director has determined that an increase in the IOY for *Loligo* squid to allow additional amounts to be released for this joint venture will produce maximum net benefits to the United States.

In accordance with § 655.22(f) notice is hereby given that the IOY for *Loligo* squid of 23,057 mt is increased by 500 mt to total 23,557 mt. (In the July 9, 1986, notice, the proposed IOY for the transitional year was published in error. The IOY figure of 23,155 mt should have been 23,057 mt.) This release of 500 mt allows the DAH to be increased from 22,950 mt to 23,450 mt, which will provide for the increase in the JVP amount from 825 mt to 1,325 mt. The proposed IOY, DAH, and JVP

specifications for the transitional fishing year mentioned above are hereby adjusted by adding 500 mt of *Loligo* squid to each specification.

A prior opportunity for public comment before making this adjustment has not been provided by notice since this joint venture proposal has been widely debated before both Councils. Delaying the release of this additional 500 mt of *Loligo* squid would cause this joint venture operation to cease and disadvantage U.S. harvesters in this operation. Public comments are invited, however, for 15 days after the effective date of this adjustment as to whether this adjustment should be continued, modified, or rescinded. Timely and relevant comments on the adjustment will be considered and the results published in the **Federal Register** as soon as practicable.

Other Matters

This action is taken under 50 CFR Part 655 and is in compliance with Executive Order 12291.

In view of the need to avoid disruption of domestic and foreign fisheries, NOAA has determined that delaying the effective date of this notice is impractical, unnecessary, and contrary to the public interest.

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 1, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-17662 Filed 8-5-86; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 671

[Docket No. 50950-5162]

Tanner Crab off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of season extension.

SUMMARY: The Director, Alaska Region, NMFS, (Regional Director), has determined that additional fishing time is warranted for Tanner crab (*Chionoecetes opilio*) in a portion of the Northern Subdistrict of the Bering Sea District in Registration Area J, west of 175° W. longitude and north of 58°39' N. latitude. The Secretary of Commerce (Secretary), therefore, issues this notice extending the fishing season for *C. opilio* in the above described area from August 1, 1986, until August 24, 1986. The intended effect is to allow the fishery to harvest previously unexploited stocks of *C. opilio* from an area that is mostly outside of the survey area from which optimum yield (OY) determinations have been made.

DATES: This notice is effective 12:00 noon, Alaska Daylight Savings Time (ADT), August 1, 1986. Public comments on this notice of season extension are invited until August 18, 1986.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 15-day comment period, the data on which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m. weekdays) at the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Management Biologist), 907-586-7230.

SUPPLEMENTARY INFORMATION

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), which governs this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act), provides for inseason adjustments of season and area openings and closures. Implementing regulations at § 671.27(b) specify that notices of these adjustments will be issued by the Secretary of Commerce under criteria set out in that section.

Section 671.26(f)(1) establishes six districts within Registration Area J. One of these districts is the Bering Sea District with an OY range of 20–130 million pounds for *C. opilio*. The Bering Sea District is further subdivided into three subdistricts for the purposes of managing smaller units of crab stocks. One of these is the Northern Subdistrict for which a desired harvest level of 17 to 24 million pounds for *C. opilio* was estimated on the basis of the 1985 NMFS trawl survey.

As of July 20, 1986, approximately 50 vessels have delivered about 20.4 million pounds of *C. opilio* Tanner crab from the Northern Subdistrict. Several vessels have recently encountered large concentrations of larger Tanner crab with catch per unit of effort (CPUE) reported to be in excess of 250 crabs per pot. These apparent larger populations of *C. opilio* are occurring in a portion of the subdistrict not surveyed by NMFS and, as such, are not accounted for in the determination of optimum yield or annual harvest guideline levels. The size and extent of this population is not known, but CPUE and size suggest that continued exploitation of this stock may continue without risk of overfishing.

The ending date of the fishing season for *C. opilio* for the entire Bering Sea, including the Northern Subdistrict, specified in Table 1 of § 671.21(a), is August 1, 1986. However, individual crab fishermen, the North Pacific Fishing Vessel Owners Association, and crab processors have all requested extension of the season to continue to harvest that portion of the stock which previously has not been exploited. The Secretary has reviewed the status of the *C. opilio* fishery and has concluded that the high CPUE and large size of the Tanner crabs being harvested warrant continued exploitation by the fishery in the described area until August 24, 1986. At that time, some data may be available from the 1986 NMFS trawl surveys to assess overall stock strength in portions of the Bering Sea Subdistrict.

Therefore, the Secretary extends the current fishing season for *C. opilio* in the Northern Subdistrict west of 175° W. longitude and north of 58°39' N. latitude until noon (ADT), August 24, 1986.

In light of this information, the Regional Director, in accordance with § 671.27(b), has determined that

1. Actual conditions of Tanner crab stocks in the Northern Subdistrict are substantially different from conditions anticipated at the beginning of the fishing year, because a large concentration of Tanner crabs unknown to NMFS appears to exist in the most westward portion of the Northern Subdistrict; and

2. The presence of unexpected large concentrations of Tanner crabs from this previously unexploited and mostly unsurveyed area reasonably supports the need to extend the Tanner crab fishery to allow for a wise use of the resource. There are no biological reasons which would necessitate a closure of the described area within the Northern Subdistrict. Therefore, this area will remain open to fishing for *C. opilio* until noon (ADT), August 24, 1986.

This extension will become effective after this notice is filed for public inspection with the Office of the Federal Register and the extension is publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice of extension may be submitted to the Regional Director at the address stated above. If comments are received, the necessity of this extension will be reconsidered and a subsequent notice will be published in the **Federal**

Register, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

Tanner crab stocks in a portion of the Northern Subdistrict of the Bering Sea District will be subject to underharvest unless this extension takes effect promptly, with great resulting cost to the affected members of the fishing industry. The Agency, therefore, finds for good cause that advance opportunity for public comment on this order is contrary to the public interest and that no delay should occur in its effective date.

This action is taken under the authority of 50 CFR Part 671 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and Recordkeeping requirements.

Authority: 19 U.S.C. 1801 et seq.

Dated: August 1, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-17680 Filed 8-1-86; 4:43 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 60736-6136]

High Seas Salmon Fishery off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) announces the commercial salmon fishing periods in the fishery conservation zone (FCZ) off southeast (S.E.) Alaska for 1986. The Secretary notes that the Pacific Salmon Commission (Commission) has established a base harvest limit of 254,000 chinook salmon for all commercial and recreational fisheries in S.E. Alaska in 1986. This action is necessary to bring the FCZ commercial troll fishing periods for 1986 into conformance with the Pacific Salmon Treaty (Treaty) and is intended to conserve chinook salmon stocks that contribute to the Alaska, British Columbia, Oregon, Washington, and Idaho chinook salmon fisheries.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS), 907-586-7228.

SUPPLEMENTARY INFORMATION: Section 7(a) of Pub. L. 99-5, the Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631 *et seq.*, requires the Secretary to issue conforming amendatory regulations applicable to the U.S. exclusive economic zone (coterminous with the FCZ) to fulfill U.S. treaty obligations to Canada. This action amends the regulations at 50 CFR Part 674 to adopt fishing seasons and catch limitations for 1986 that, in conjunction with similar measures adopted by the State of Alaska for its waters, will ensure that the high-seas salmon fishery is conducted in a manner that fulfills our international obligations under the Pacific Salmon Treaty.

The fishing periods and guidelines on the harvest of chinook salmon announced here were the subject of a meeting the Alaska Board of Fisheries (Board) held in Petersburg, Alaska, during December 1985. The North Pacific Fishery Management Council (Council) met in Anchorage during the week of January 12, 1986, and voted unanimously to concur with the 1986 commercial troll fishing seasons set by the Board in December. Tentative fishing periods were selected by the commercial salmon fishermen before they were adopted by the Board and the Council. The guideline on the chinook harvest by commercial salmon trollers is based on a provision in Annex IV of the Treaty. During the Council meeting, the Director, Alaska Region, NMFS (Regional Director), acting on behalf of the Secretary, consulted with the Commissioner of the Alaska Department of Fish and Game (ADF&G). The Secretary of Interior and the U.S. Coast Guard have also been consulted.

The all-salmon-species fishery will open later than last year. Since the coho fishery has usually extended beyond the chinook fishery, the delay is intended to shorten the period between closures of the two fisheries and reduce the hooking mortality of chinook incidentally caught and released during the coho-only fishery.

Under the Chinook Annex of the Treaty (Annex IV, Chapter 3), each nation is to exchange its annual fishery management plans prior to each fishing season. During the week of February 16, 1986, at a meeting of the Commission in Vancouver, B.C., the ADF&G presented its plan for managing the salmon troll fisheries. The Commission met again in Vancouver during the week of March 2. At this second meeting, the Commission established the base level of 254,000 chinook salmon for harvest by all commercial and recreational fisheries in S.E. Alaska. It also approved Alaska's proposal to go above that base provided Alaska could demonstrate to the Commission that any excess was the contribution of Alaska's new enhancement activities and that such a harvest would not extend the rebuilding schedule for chinook stocks beyond 1998.

ADF&G estimates that about 23,000 chinook can be shown to be from its new enhancement activities, bringing the total S.E. Alaska quota to 277,000 chinook salmon. Alaska will monitor the fisheries throughout the fishing season to determine the actual number of this "add-on."

Fishing Periods

The fishing periods (Alaska Daylight Time) for the commercial troll fishery in the FCZ off S.E. Alaska are as follows, unless later modified:

All salmon species

From 0001 hours on June 20, 1986, until the chinook quota is reached (probably about the end of July).

All salmon species but chinook

From the time the troll fishery havests its base quota of 212,000 chinook until 2400 hours on September 20, 1986. After the fishing season begins, NOAA may issue notices to modify the fishing seasons given above on the basis of the following or other contingencies:

(a) The fishery for all species but chinook may be closed for up to 10 days about mid-August unless an evaluation of the S.E. Alaska coho salmon runs shows them to be well above average in number of coho and that there is good inshore movement. This closure, if necessary, is designed (1) to stabilize or reduce the proportion of the coho runs harvested in the offshore and coastal fisheries, (2) to allow adequate harvests by the inside (internal waters) fisheries, and (3) to allow adequate numbers of coho to escape the fisheries and reach the spawning grounds.

(b) The fishery for chinook salmon may be allowed to resume for a short time after it has been closed if statistics on the harvest reveal that the fishery had been closed before the quota established by the Treaty had been reached and that there were enough chinook remaining for the fishery to be reopened for more than 12 hours. Any such reopening in the FCZ would be concurrent with a reopening of the fishery in Alaskan waters.

(c) If management actions need to be taken to extend the chinook fishery past the end of July, by allowing only an incidental catch of chinook during the directed coho fishery, any closures of

fishing areas will be for specific locations rather than region wide.

Chinook Harvest Guidelines

The guideline on the harvest of chinook by the summer troll fishery is 187,00 legal-sized chinook salmon. The Board derived this number from the harvest limit established by the Commission of 254,000 chinook salmon for all commercial and recreational fisheries in S.E. Alaska. The Board set the chinook harvest guideline for all the net fisheries at 20,000 chinook, for the sport fishery at 22,000 chinook, and for the troll fisheries at 212,000 chinook, of which 25,000 were allocated to the winter troll fishery and 187,000 to the summer troll fishery. The chinook harvest guideline for the commercial troll fishery applies to all areas of S.E. Alaska and the FCZ; there is no separate subquota for the troll fishery in the FCZ.

Other Matters

Under section 7(a) of the Pacific Salmon Treaty Act, this action is exempt from sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. 553–557) (and thus also from the Regulatory Flexibility Act), and the National Environmental Policy Act. It is exempt from Executive Order 12291 because it involves a foreign affairs function. It contains no requirement for collecting information for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, International organizations.

Dated: August 1, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 674 is amended as follows:

PART 674—[AMENDED]

1. The authority citation for 50 CFR Part 674 continues to read as follows:

Authority: (16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 *et seq.*)

2. In § 674.21, paragraph (a)(2) is revised to read as follows:

§ 674.21 Time and area limitations.

(a) * * *

(2) East area. Fishing periods in 1986 (Alaska Daylight Time) are as follows:

(i) All salmon species—0001 hours on June 20 until the troll fleet harvests 212,00 chinook salmon.

(ii) All salmon species but chinook—from the time the troll fleet harvests 212,00 chinook salmon until 2400 hours on September 20.

* * * * *

[FR Doc. 86–17679 Filed 8–1–86; 4:43 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 151
Wednesday, August 6, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0577]

Truth in Lending; Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to revise Regulation Z (Truth in Lending) regarding the right of rescission in closed-end credit transactions. A consumer has the right to rescind an extension of credit in most transactions in which a consumer's principal dwelling serves as security for a credit obligation, with the exception of purchase money residential mortgage loans, certain refinancings by the same creditor, and other narrowly defined transactions. The proposed amendment to Regulation Z would create a new limited exemption under which the right of rescission would not apply to an extension of credit by a new creditor that replaces a transaction secured by the consumer's principal dwelling where (1) no new advances of money are made to the consumer, (2) the annual percentage rate on the new obligation is not subject to increase after consummation and is the same as or lower than the annual percentage rate on the obligation being replaced, and (3) the new transaction does not have a balloon payment feature.

DATE: Comments must be received on or before September 10, 1986.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the 20th Street courtyard entrance, 20th Street, between C Street and Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. R-0577. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Adrienne Hurt or Leonard Chanin, Staff Attorneys, (202) 452-3867 or (202) 452-3667, Division of Consumer and Community Affairs, or Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

Section 125 of the Truth in Lending Act (TILA) provides that consumers have the right to rescind certain credit transactions in which a security interest is taken in the consumer's principal dwelling. The right of rescission was established to provide consumers an opportunity to reexamine their credit contracts and cost disclosures in order to reconsider their decision to place an important asset—the home—at risk by offering it as security for the credit extension. The rescission period runs for three business days ending on midnight of the third business day following consummation, delivery of material Truth in Lending disclosures, or delivery to the consumer of the notice of the right to rescind, whichever occurs last. Under § 226.23 of Regulation Z, which implements the act's rescission provision, a creditor is prohibited from performing services or disbursing funds, other than in escrow, during the rescission period. A consumer may waive the right to rescind where the consumer has a bona fide personal financial emergency.

With the substantial increase recently in consumer applications to refinance mortgages, primarily to take advantage of declining interest rates, the Board has received several inquiries and complaints about the effect of the TILA rescission provisions on refinancings.[1] Some consumers have complained of the inconvenience of not being allowed to receive the proceeds of a loan before the rescission period expires. The major complaint raised by consumers is that of having to pay "double interest." This situation occurs when finance charges on the new loan accrue prior to disbursement of the funds (a permissible practice is allowed under state law), while finance charges continue to accrue on the existing obligation until it is paid. In other cases the inability to obtain the loan proceeds to pay off an existing Federal Housing Administration (FHA) loan by an impending due date may result in the payment of extra charges by the consumer on the existing FHA loan for an additional month. (FHA permits lenders to charge interest to the end of the month where an obligation is not paid in full by the installation due date.) This situation may occur when the loan closing on the refinancing occurs near the payment due date of the existing FHA loan.

Most of the questions from creditors relate to compliance with the TILA rescission provisions. There also have been inquiries whether the Board could revise the rules for waiving the right of rescission where a consumer is refinancing a residential mortgage loan. Others have asked the Board to consider profiding special rules for refinancings or exempting refinancings from all or portions of the rescission rules.

Proposed Amendments

In response to the inquiries and complaints, the Board has considered whether the refinancings now covered by the rescission rules are the type of transactions in which the consumer needs the right of rescission. Both the act and the regulation exempt from the right of rescission purchase money residential mortgage transactions, certain refinancings by the same creditor of obligations already secured by the consumer's principal dwelling, and other narrowly defined transactions. The Board now proposes to expand the category of transactions that would be exempt. Under the proposal the right to rescind would not apply to an extension of credit by a new creditor that replaces a transaction secured by the consumer's principal dwelling, provided that no new advances of money are made to the consumer and the annual percentage rate (APR) for the new obligation is the same as or lower than the APR for the obligation being replaced.

The proposed exemption for refinancings by a new creditor would be limited in two additional ways to help

[1] Although the term 'refinancing" in § 226.23 of Regulation Z refers only to new transactions by the same creditor that had made the original extension of credit, the term in this discussion refers to a transaction by any creditor that satisfies and replaces an existing obligation.

VOL
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ensure that the consumer receives the right of rescission when the consumer's home is at greater risk. First, it would not apply to any refinancing with a variable rate feature. Thus, a consumer would retain the right to rescind an extension of credit secured by the home where the APR may increase after consummation. Second, a refinancing with a balloon payment feature would not be exempt from the right of rescission, even if the transaction had the same or a lower APR than the existing extension of credit.

The Board believes the exemption it proposes to add to the regulation is consistent with the purpose of the act because consumers are not taking on a higher level of debt in these refinancings than in their existing obligations, and because the likelihood of default on their new obligations is not increased. First, the exemption would apply only to extensions of credit in which the consumer does not receive additional funds that would increase the consumer's security risk, and would cover only those refinancings in which the consumer obtains the same or a lower annual percentage rate. Second, the exemption would not apply to any refinancing with a variable rate or balloon payment feature. Although these features are not necessarily disadvantageous to consumers, they may, in some cases, increase consumers' chances of defaulting on their loans and losing their homes. The Board believes that these restrictions on the new exemption appropriately limit it to refinancings in which the right of rescission is not necessary.

There may be other situations in which a refinancing satisfies the criteria for exemption in the proposal but where the protections of the act should be retained because a consumer would be placing the home at greater risk—for example, when the new loan is payable on demand. On the other hand, it is arguable that the criteria that limit the exemption to refinancings that have the same or lower APRs are unnecessary. For example, a consumer may refinance an existing loan at a higher APR to extend the term, thereby reducing the amount of the monthly payment obligations. In such cases the new loan does not necessarily place the consumer's house at greater risk even though the APR is higher on the refinancing. In addition to the issue of whether all the criteria are needed, the Board recognizes that the criteria might be defined differently to exempt more types of refinancings from the right of rescission. For example, the definition of a balloon payment feature could be modified.

The Board is therefore soliciting comment on whether the conditions included in the proposal are necessary, whether they should be revised, and whether other criteria should be added to the proposal. The Board particularly requests comment on whether the proposed exemption should be limited to refinancings that meet all of the following conditions:

- The annual percentage rate for the new transaction is the same as or lower than the annual percentage rate for the existing transaction
- The annual percentage rate for the new transaction is not subject to increase after consummation
- The new extension of credit has a balloon payment feature.

Definition of New Money in a Refinancing

Section 226.23(f)(2) of Regulation Z exempts refinancings by the same creditor from the right of rescission where no "new money" is advanced to the consumer. (See also commentary provision 226.23(f)(2)–4.) The regulation treats as new money the difference between the new "amount financed" and the unpaid principal balance plus any earned unpaid finance changes on the obligation being refinanced. Sometimes a consumer who is not receiving additional advances may finance costs associated with the closing of a refinancing, such as attorney's fees, title examination fees and insurance premiums, instead of paying them in cash or check prior to or at consummation. These charges, which are not finance charges under § 226.4, are added to the old debt to arrive at the new amount financed. Under the present rule in § 226.23(f)(2), the new transaction is rescindable to the extent of these charges. The proposed amendment to Regulation Z, new § 226.23(f)(3), also has a provision that would exempt from the right of rescission extensions of credit by new creditors in which no new money is advanced to the customer. The Board is requesting comment on whether, as provided in the proposed regulatory language, the definition of new money should be revised to provide that the right of rescission would not apply even if the creditor finances the costs associated with the closing of the new transaction. For example, if the old debt (the outstanding principal balance plus the earned finance charge) is $75,000 and the new amount financed is $75,500, with the $500 being attributable to title examination fees and insurance premiums, the right of rescission would not apply under the proposed revisions. On the other hand if the new amount financed in $80,500, with the additional $5,000 to be provided to the consumer for home repairs, the consumer would have the right to rescind. If the refinancing is with the same creditor and the consumer rescinds, rescission would be effective as to $5,000. If the new extension of credit is with a different creditor and the consumer rescinds, rescission would be effective as to the entire $80,500.

The Board solicits comment on three specific questions relating to its definition of new money, which would apply to the current exemption in § 226.23(f)(2) as well as the proposed exemption, new § 226.23(f)(3):

- Do creditors ordinarily finance costs such as attorney's fees, title examination fees, insurance premiums and similar closing charges (which are not finance charges), or are such costs normally paid in cash or check by the consumer prior to or at consummation?
- What is the average cost of these charges?
- Do consumers need the right of rescission in refinancings in which these charges are financed by the creditor?

Comments Requested

Interested persons are invited to submit written comments on the proposed amendments. Because prompt resolution of these matters is essential and in the public interest, the comment period is for 30 days. The comment period ends on September 10.

Regulatory analysis

The proposed revisions to the rescission provisions in Regulation Z would reduce the number of transactions for which creditors would need to provide consumers with a notice of their rescission rights and an opportunity to rescind. Therefore, it appears that creditors, including small entities, would not incur any additional costs as a result of the proposed changes.

List of Subjects in 12 CFR Part 226

Advertising; Banks; Banking; Consumer protection; Credit; Federal Reserve System; Finance; Penalties; Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets. Pursuant to authority granted in section 105(a) of the Truth in Lending Act, 15 U.S.C. 1604(a) the Board proposes to amend

Regulation Z (12 CFR Part 226) as follows:

PART 226—[AMENDED]

1. The authority citation for Part 226 continues to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96–221, 94 Stat. 170 (15 U.SC. 1604 et seq.).

3. Section 226.23 is proposed to be amended by revising (f)(2), adding new (f)(3) and republishing the introductory text of (f) to read as follows:

§ 226.23 Right of rescission.

* * * * *

(f) *Exempt transactions.* The right to rescind does not apply to the following:

* * *

(2) A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. If the new amount financed exceeds the unpaid principal balance►, ◄[plus] any earned unpaid finance charge on the existing debt, ►and amounts attributed solely to the costs of the refinancing or consolidation, ◄this exemption applies only to the existing debt and its security interest.

►(3) An extension of credit (other than one made by the same creditor) that replaces an existing transaction already secured by the consumer's principal dwelling if

(i) The new amount financed does not exceed the unpaid principal balance, any earned unpaid finance charges on the existing transaction, and amounts attributed solely to the costs of the new extension of credit,

(ii) The annual percentage rate for the new extension of credit is not subject to increase after consummation and is the same as or lower than the annual percentage rate for the existing transaction, and

(iii) The final payment in the new extension of credit is not more than three times greater than any other payment in that transaction.◄

* * * * *

2. § 226.23, paragraphs (f)(3)—(5) would be redesignated as § 226.23(f)(4)—(6), respectively.

By order of the Board of Governors of the Federal Reserve System August 1, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–17694 Filed 8–5–86; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R–86–1297; FR–2214]

Mortgage and Loan Insurance Programs; Nonentitlement to Distributive Shares in the Event of Foreclosure

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise 24 CFR Part 203 to describe circumstances under which a mortgagor would not be entitled to receive a share of the participating reserve account (§ 203.423). If the mortgage is foreclosed and title to the property is conveyed to a person or an entity other than the Federal Housing Commissioner, no distributive share will be payable.

Comment due date: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Fred W. Pfaender, Director, Single Family Servicing Division, Room 9176, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000. Telephone (202) 755–6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: At present, 24 CFR 203.423 states that a mortgagor is permitted to receive a share of the participating reserve account if the contract of insurance is terminated by conveyance to a person or entity other than the Commissioner, by prepayment of the mortgage, or by voluntary agreement between the mortgagor and the mortgagee with approval of the Commissioner.

The Department believes that under some circumstances the above-referenced regulation unfairly allows a mortgagor who has defaulted on his or her mortgage obligation to receive a share of the participating reserve account, when the mortgage is foreclosed, simply because title is not conveyed to the Commissioner and a mortgage insurance claim is not filed. The Department believes that mutuality benefits should be linked to successful completion of the mortgagor's obligations as a debtor—not merely to whether an insurance claim is filed. Under this proposed rule, a mortgagor default leading to foreclosure would end the mortgagor's entitlement to a distributive share.

The Department's proposal to deny a mortgagor a distributive share of the participating reserve is consistent with section 205(d) of the National Housing Act which states that no mortgagor or mortagee of any mortgage insured under section 203 shall have any vested right in a credit balance in any such account.

The restrictions contained in this rule would only be applied to mortgage insurance contracts for which conditional commitments have been issued on or after the effective date of the rule. (In the case of the Single Family Direct Endorsement program, the rule would only be applied to applications for mortgage insurance endorsement where the property appraisal report is signed by the mortgagee's approved underwriter on or after the effective date of the rule.)

On January 10, 1985, HUD published a proposed rule (50 FR 1233) (FR–1927) which would revise Part 203 by allowing mortgagees to submit claims for the payment of mortgage insurance benefits on foreclosed single family properties without conveying title to the foreclosed properties to the Secretary. Today's proposed rule (FR–2214), when published as final, will incorporate these revisions if the final version of FR–1927 is published in the **Federal Register** first.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have an significant adverse effect on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a

VOL 51 ISS 151 AUG 6 1986 UMI

substantial number of small entities. This rule denies a defaulting mortgagor a share of the participating reserve, thus appropriately distributing the costs of providing mortgage insurance.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986 under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

PART 203—[AMENDED]

Accordingly, the Department proposes to amend 24 CFR Part 203 as follows:

1. The authority citation for Part 203 would continue to read as follows:

Authority: Secs. 203 and 211 of the National Housing Act (12 U.S.C. 1709, 1517b; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Section 203.423(a) would be revised to read as follows:

§ 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account if the contract of insurance covering the mortgage is terminated

(1) By conveyance to a person or an entity other than the Commissioner (§ 203.315),

(2) By prepayment of the mortgage (§ 203.316), or

(3) By voluntary agreement with approval of the Commissioner (§ 203.317);

provided, however, paragraph (a)(1) of this section shall not apply to mortgages insured pursuant to a conditional commitment issued on or after [insert effective date] or, as appropriate, an application for mortgage insurance endorsement under the Single Family Direct Endorsement program as provided in § 203.255, where the property appraisal report is signed by the mortgagee's approved underwriter on or after [insert effective date].

* * * * *

Dated: July 31, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 86-17685 Filed 8-5-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zones and Restricted Area Regulations; Cooper River, SC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish a naval restricted area in the Cooper River in the vicinity of the Charleston Naval Shipyard, Charleston County, South Carolina. The amendment will, if approved, enlarge the existing restricted area to make it compatible with the Navy's present use of the area, and provide additional security for the Naval base.

DATES: Comments must be submitted on or before September 5, 1986.

ADDRESS: Send comments to: HQDA, DAEN–CWO–N, Washington, DC 20314–1000.

FOR FURTHER INFORMATION: Mr. Ralph Eppard or Mr. Sam Collinson at (202) 272–1783.

SUPPLEMENTARY INFORMATION: The Commander, Naval Base, Charleston, South Carolina has requested the Department of the Army amend the regulation in 33 CFR 334.460 (formerly § 207.164b). These regulations, which establish a restricted area in the Cooper River in the vicinity of the Charleston Naval Shipyard, were approved on 6 May 1960 and last amended 2 September 1978. The existing restrictions on anchoring, fishing, loitering and photographing remain unchanged and would apply to the enlarged restricted area. The title of the enforcing agency in paragraph (b)(4) is changed to reflect a change in Navy organization. No other changes are proposed.

Charts marked to show the configuration of the existing restricted area and proposed enlargement are available from the Charleston District Engineer's Office or by calling the number listed under the **"FOR FURTHER INFORMATION CONTACT"**.

Notes

1. The U.S. Army Corps of Engineers has determined that this rule is not a major rule within the meaning of Executive Order 12291 and is exempt from the general requirements of Executive Order 12291 in accordance with the exemption provided military functions.

2. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 33 CFR Part 334

Navigation, Waterways, Transportation.

For the reasons set out in the preamble, Title 33, Chapter II, Part 334 is proposed to be amended as follows:

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: (40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3).

2. Section 334.460 is amended by revising paragraphs (a)(3) *The Areas* and (b) (4) and (5) *The regulations*, as follows:

§ 334.460 Cooper River and tributaries at Charleston, S.C.; restricted areas.

(a) The areas. * * *

(3) That portion of the Cooper River beginning on the west channel edge at latitude 32°52′06″, longitude 79°57′54″; thence to the easterly shore to latitude 32°52′13″, longitude 79°57′30″; thence proceeding along the easterly shore to latitude 32°51′30″, longitude 79°56′15.5″; thence along the Cooper River to latitude 32°51′01″, longitude 79°55′50″; thence to latitude 32°50′52″, longitude 79°56′03.5″; thence to latitude 32°51′01″, longitude 79°56′07″; thence to latitude 32°51′19″, longitude 79°57′05″; thence to latitude 32°51′33″, longitude 79°57′27″; thence to latitude 32°51′48.5″, longitude 79°57′41.5″; thence to latitude 32°52′06″, longitude 79°57′54″.

* * * * *

(b) The regulations. * * *

(4) The regulations in paragraph (b) (1) and (2) of this section shall be enforced by Commander, Naval Base, Charleston, South Carolina, and such agencies as he/she may designate.

(5) The regulations in paragraph (b)(3) of this section shall be enforced by the Commanding Officer, Naval Ammunition Depot, Charleston, South Carolina, and such agencies as he/she may designate.

Dated: July 28, 1986.

Dennis J. York,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 86-17631 Filed 8-5-86; 8:45 am]

BILLING CODE 3710-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6F3309/P398; FRL-3048.2]

Pesticide Tolerance for Tralomethrin

Correction

In FR Doc. 86-15677 beginning on page 25721 in the issue of Wednesday, July 16, 1986, make the following corrections:

On page 25721, in the third column, under Supplementary Information, in the fifteenth line, at the end of the line, change the hyphen to a comma and insert "2'-".

On page 25722, in the first column, in the eighteenth line, "0.7" should read "0.75".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 85-172]

Further Sharing of the UHF Television Band by Private Land Mobile Radio Services; Order Extending Time for Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: This Order extends the time period in which to file reply comments in response to the Notice of Proposed Rulemaking in General Docket No. 85-172 (6/20/85, 50 FR 25587) concerning further sharing of the UHF television band by private land mobile radio services. It is necessary to extend the reply comment period due to the large volume of comments filed.

DATE: Reply comments may now be filed on or before August 29, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Spectrum Engineering Division, Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554, (202) 653-8116.

Adopted: July 23, 1986.
Released: July 28, 1986.
By the Office of Engineering and Technology.

1. On June 5, 1986, the Chief Engineer extended the time for filing comments in the above captioned proceeding to July 11, 1986. The time for filing reply comments was extended to July 28, 1986. This action was taken to allow sufficient time for comment on two studies which had recently been placed in the docket file. Comments on these two studies and other matters have now been received; however, due to the large volume of comments, a Request for Extension of Time for filing reply comments until August 29, 1986 has been filed by the Association of Maximum Service Telecasters (MST) and the National Association of Broadcasters (NAB).

2. As MST and NAB state, the number of pages of comments filed totals more than 800. Due to the technical nature of these comments, the Commission believes that it is unreasonable to expect reply comments to be filed by July 28, 1986. The suggested date of August 29, 1986 would seem to afford a sufficient amount of time to analyze all comments and file replies. Accordingly, we will grant MST and NAB's request.

3. This action is taken pursuant to authority found in sections 4(i), 302 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 302 and 303, and pursuant to §§ 0.31 and 0.241 of the Commission's Rules.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 86-17646 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1058

[Ex Parte No. MC-41]

Identification of Motor Vehicles; Luxury-type Limousine Passenger Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to eliminate the vehicle identification requirements for equipment with a capacity of six or fewer passengers when engaged in luxury-type limousine passenger service. Carriers offering and passengers using this type of specialized service have found that the identification of vehicles, as required by Part 1058 of Title 49 Code of Federal Regulations, detracts materially from the exclusive luxury nature of the service. The privacy and luxury image of the service is nullified by the use of the required identification of vehicles, which restricts the carrier's marketability of the service. The Commission is also proposing to eliminate an unnecessary prohibition against the use of identification plates formerly issued by the Interstate Commerce Commission.

DATE: Comments must be submitted by September 3, 1986.

ADDRESS: An original and 15 copies of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Roy M Wilkins, (202) 275-7639.

SUPPLEMENTARY INFORMATION: The current regulations, 49 CFR Part 1058, were established by orders of the Commission dated May 7, 1937, with amendments effective September 30, 1943, September 1, 1947, and January 3, 1955. The requirements are applicable to vehicles used in both property and passenger transportation performed under authority granted by the Commission.

In recent years a market has developed for a specialized type of passenger service which differs from the normal charter, special, or regular route transportation. The service utilizes limousine type vehicles with a limited passenger capacity as opposed to the service performed with buses, vans, mini-buses or even so called "stretched-limos" used for service to and from airports.

The specialized type of service being requested and offered is identified as being of a luxury nature. Privacy for the passenger or smaller passenger groups is a prime characteristic. Also, amenities not available on the usual passenger surface vehicles are made available. The service might be compared to that offered by the excutive or corporate jet aircraft when comparated with commercial airline travel.

Carriers offering and passengers using this type of specialized service have found that the identification of vehicles, as required by Part 1058 of Title 49 Code of Federal Regulations, detracts materially from the exclusive luxury nature of the service. The privacy and luxury image of the service is nullified by the use of the required identification of vehicles, which restrict the carrier's marketability of the service.

When limousines are engaged for this type of service, arrangments are usually made well in advance of the need. The details of the personalized service required, as well as time and place itineraries, eliminate any need for the person or persons using the service to be able to identify the vehicle by visible markings. The licensing requirements of

VOL 51 ISS 151 AG 6 1986 UMI

the jurisdiction in which the vehicles operate, or are domiciled, is viewed as sufficient identification.

For these reasons, the Commission is proposing to eliminate the vehicle identification requirements for limousine type vehicles of six or less passenger capacity, when used in a luxury type transportation service for passengers.

The Commission also proposes to remove the regulation found at 49 CFR § 1058.6; Use of Identification Plates Prohibited. Identfication plates were required by Commission order of May 7, 1937 (amended September 30, 1943). After the current vehicle identification regulations became effective on September 1, 1947, the display of these I.C.C. identification plates was prohibited. Thus the use of these plates has been banned for 38 years. No new I.C.C. identification plates have been issued during that period or are contemplated in the future. It is therefore being recommended that this obsolete regulation be eliminated from 49 CFR Part 1058.

Energy and Environmental Considerations

This section will not have an adverse effect on either the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rule revisions will meet the needs of passengers as required under the National Transportation Policy at 49 USC § 10101(2)(A), and will eliminate unnecessary regulations.

List of Subjects in 49 CFR Part 1058

Motor carriers.

Summary

We propose to adopt the rules set forth in Appendix A, redesignating the existing regulation at § 1058.5 as § 1058.5(a), adding a new § 1058.5(b) and removing § 1058.6.

Decided: July 25, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix A

Title 49, Code of Federal Regulations Part 1058, is proposed to be amended as follows:

PART 1058—IDENTIFICATION OF VEHICLES

1. The authority citation for 49 CFR Part 1058 would be revised to read as follows:

Authority: 49 U.S.C. 10922 and 10530; 5 U.S.C. 553.

2. Section 1058.5 would be amended by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 1058.5 Passenger vehicles.

* * * * *

(b) Sections 1058.1 through 1058.4 shall not apply to limousine-type vehicles with a capacity not to exceed six passengers when engaged in a nonscheduled, charter, luxury-type transportation service for passengers and their baggage.

§ 1058.6 [Removed]

3. Section 1058.6 would be removed.

[FR Doc. 86-17605 Filed 8-5-86; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 51, No. 151
Wednesday, August 6, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 31, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250 (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Cotton Research and Promotion Act Recordkeeping; Monthly; Annually

Farms; Businesses or other for-profit; 19,930 responses; 4,673 hours; not applicable under 3504(h).

Namoi Hacker (202) 447–2259

• Animal and Plant Health Inspection Service
7 CFR 319.76 Exotic Bee Diseases and Parasites
PPQ Form 368
On occasion

Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 210 responses; 21 hours; not applicable under 3504(h).

Philip Lima (301) 436–8393

• Farmers Home Administration
Borrower Election Statement
One time

Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 4,680 responses; 374 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736

New

• Farmers Home Administration
7 CFR 1942–C, Fire and Rescue Loans
FmHA 1942–52, –53, –54
On occasion

State or local governments; non–profit institutions; 3,450 responses; 8,952 hours; not applicable under 3504(h).

Jack Holston (202) 382–9735

Revision

• Agricultural Marketing Service
Marketing Order 982—Filberts Grown in Washington and Oregon
Board forms

Recordkeeping; On occasions; Weekly; Monthly; Semi-annually; Annually Businesses or other for-profit; 449 responses; 642 hours; not applicable under 3504(h).

Ronald L. Cioffi (202) 447–5697

• Farmers Home Administration
7 CFR 1944–A, Section 502 Rural Housing Loan Policies, Procedures and Authorizations
FmHA 431–3, 440–34, 1944–4, –6, –A6, 12, –36, FH–13
On occasion

Individuals or households; Businesses or other for-profit; Small businesses or organizations; 718,600 responses; 357,640 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736

• Farmers Home Administration
7 CFR 1924–A, Planning and Performing Construction and Other Development
FmHA 1924–1, –2, –3, –5, –6, –7, –9, –10, –11, –12, –13, –18, 424–19, CC–257
Recordkeeping; On occasion

Individuals or households; Farms, Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 759,078 responses; 262,629 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86–17676 Filed 8–5–86; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Centauri High School Critical Area Treatment RC&D Measure, Colorado; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Centauri High School Critical Area Treatment RC&D Measure, Conejos County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964–0292.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an

Environmental Impact Statement are no needed for this measure.

This land treatment measure concerns a plan to prevent wind erosion on school grounds that is damaging buildings and facilities. The planned works of improvement include establishing vegetative cover of grasses, trees, and shrubs.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: July 29, 1986

Sheldon G. Boone,

State Conservationist.

[FR Doc. 86-17614 Filed 8-5-86; 8:45 am]

BILLING CODE 3410-16-M

Highland Creek Watershed, Kentucky

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highland Creek Watershed, Henderson, Union, and Webster Counties, Kentucky.

FOR FURTHER INFORMATION CONTACT: Allan Heard, Assistant State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606-233-2747.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Geissler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned action is to install conservation practices on approximately 23,140 acres of excessively eroding cropland that will remain in cultivation and 230 acres of excessively eroding cropland that will be converted to permanent vegetative cover. This planned action will reduce upland erosion and downstream sedimentation and pollution.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Allan Heard.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: July 25, 1986.

Randall W. Giessler,

State Conservationist.

[FR Doc. 86-17655 Filed 8-5-86; 8:45 am]

BILLING CODE 3410-16-M

Willow Creek-Cravens Creek Watershed, Missouri

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Willow Creek-Cravens Creek Watershed, Ray and Lafayette Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314/875-5214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives under consideration to reach these objectives include systems of conservation land treatment, nonstructural measures, earth dams, dikes, pumping plants, and multiple-purpose channels.

A draft environmental impact statement will be prepared and is expected to be ready for circulation and review by agencies and the public by October 1987. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Future meetings will be held to coordinate planning activities. A mailing list of landowners and local, State, and Federal agencies has been assembled to announce future meetings and provide plan status. Persons or agencies desiring to be included on the mailing list should contact the Missouri SCS State Conservationist. Further information on the proposed action, may be obtained from Paul F. Larson, State Conservationist, at the above address or telephone 314/875-5214.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: July 28, 1986.

Paul F. Larson,

State Conservationist.

[FR Doc. 86-17656 Filed 8-5-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

[Docket Number 3643-07]

Felix-Constantine S. Popovitch; Order Amending Temporary Denial of Export Privileges

By Order of April 5, 1983, 48 FR 15935 (April 13, 1983), Respondent Felix-Constantine S. Popovitch and six other named individuals and companies were temporarily denied all privileges of participating in any manner or capacity in the export or reexport of U.S.-origin commodities or technical data. This Order of April 5, 1983 was issued under the authority of § 388.19 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1986)).

Respondent requested relief from this Order. Departmental Counsel filed submissions for the record opposing Respondent's request, and Respondent filed submissions in support. A June 25, 1986 Order, based on a review of both parties' submissions, concluded that the record lacked grounds for retaining Respondent in the April 3, 1983 Order. The June 25, 1986 Order, however, stayed implementation of this conclusion for the period during which Departmental Counsel could appeal it. That period has now expired without the filing of such an appeal.

Accordingly, it is hereby Ordered that, effective immediately, the Order of April 5, 1983 is amended by deleting Felix-Constantine S. Popovitch, 138 Allee de la Pointe Genete, 91190 Gif-Sur Yvette, France, from the individuals and companies named therein who are temporarily denied all U.S. export privileges.

A copy of this Amendment of the Order of April 5, 1983 shall be delivered to Respondents and shall be published in the **Federal Register**.

Dated: July 31, 1986.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 86-17660 Filed 8-5-86; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-588-504]

Erasable Programmable Read Only Memory Semiconductors From Japan; Suspension of Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the antidumping investigation involving erasable programmable read only memory semiconductors from Japan. The basis for the suspension is an agreement by the Japanese producers/exporters which account for sustantially all of the known imports of these products from Japan, to revise their prices to eliminate sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: David Mueller, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Case History

On September 30, 1985, we received a petition from Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation on behalf of the domestic manufacturers of EPROMs. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of EPROMs from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on October 21, 1985 (50 FR 43603, October 28, 1985). On November 14, 1985, the ITC determined that there is reasonable indication that imports of EPROMs from Japan are materially injuring, or are threatening material injury to, a U.S. industry (50 FR 47852, November 20, 1985).

On December 2, 1985, we presented antidumping duty questionnaires to Hitachi Ltd. (Hitachi), Fujitsu Limited (Fujitsu), Toshiba Corporation (Toshiba), and NEC Corporation (NEC). Respondents were requested to answer the questionnaire in 30 days. However, at the requests of Hitachi, Fujitsu, Toshiba, and the Japanese Ministry of International Trade and Industry (MITI), we granted an extension to January 17, 1986. On January 17, 1986, we received incomplete responses from Hitachi, Fujitsu, and Toshiba, and a letter from NEC stating that it would not respond to our questionnaire. In letters dated February 3, 1986, the Department requested supplemental information from Hitachi, Fujitsu, and Toshiba. Additional information was submitted by these respondents on February 18, 1986.

On March 17, 1986, we published a preliminary determination that EPROMs from Japan were being sold at less than fair value in the United States (51 FR 9087).

After the preliminary determination, Hitachi, Fujitsu, and Toshiba requested an extension of the final determination date. These respondents were qualified to make such a request since they accounted for more than 90 percent of exports of the merchandise to the Untied States. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we granted the requests and postponed our final determination until July 30, 1986 (51 FR 15519, April 24, 1986).

Between March 10 and April 16, and between June 10 and June 12, 1986, we conducted our verification procedures of the information provided by these respondents at their facilities in Japan and the United States. On May 27, 1986, we held a hearing to provide all interested parties with an opportunity to comment on the investigation.

Products Under Investigation

The products covered by this investigation are erasable programmable read only memories (EPROMs), which are a type of memory integrated circuit that is manufactured using variations of Metal Oxide-Semiconductor (MOS) process technology, including both Complementary (CMOS) and N-Channel (NMOS). The products include processed wafers, dice and assembled EPROMS produced in Japan and imported into the United States from Japan.

Finished EPROMs are currently provided for in the Tariff Schedules of the United States Annotated (TSUSA) under item 687.7445. Unassembled EPROMs, including unmounted chips, wafers, and dice, are provided for under TSUSA item 687.7405.

In the notice of initiation in this case, we tentatively included in the scope of this investigation processed wafers and dice produced in Japan and assembled into finished EPROMs in another

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country prior to importation into the United States from the other country. Although none of the respondents reported sales of EPROMS assembled in third countries from Japanese manufactured dice during the period of investigation, we now have information from the United States Customs Service that imports of such merchandise are occurring. Based on the information available to us we are determining that EPROMs assembled in third countries using wafers or dice processed in Japan are included within the scope of the investigation. We have also determined that a variant of EPROMs, OTPs (One-Time-Programmable read only memories) are included in the scope of the investigation. For both third country assembled EPROMs and OTPs, we have been guided by the fact that the processed dice contains all the essential electronic properties which distinguish EPROMs as a separate class of good from other semiconductors.

Suspension of the Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will eliminate sales of this merchandise to the United States at less than fair value, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734 of the Act have been met. The terms and conditions of the agreement, signed July 30, 1986, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of EPROMs from Japan effective March 19, 1986, as directed in our notice of "Antidumping Preliminary Determination of Sales at Less than Fair Value, Erasable Programmable Read Only Memory Semiconductors from Japan" is hereby terminated. Any cash deposits on entries of EPROMs from Japan pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of the publication of this suspension agreement as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 734(g) of the Act within 20 days after the date of publication of this notice. This notice is published pursuant to section 734(f)(1)(A) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Annex 1: Suspension Agreement—Erasable Programmable Read Only Memory Semiconductors From Japan

Under section 734 of the Tariff Act of 1930, as amended (19 U.S.C. 1673c) ("the Act"), and Part 353 of title 19 U.S. Code of Federal Regulations (19 CFR Part 353.42) ("the regulations"), the U.S. Department of Commerce ("the Department"), and the signatory producers/exporters of erasable programmable read only memory semiconductors from Japan enter into this suspension agreement ("the Agreement"). On the basis of this suspension agreement, the Department shall suspend its antidumping investigation initiated on October 28, 1985, (50 FR 43603) with respect to erasable programmable read only memory semiconductors from Japan, subject to the terms and provisions set out below.

A. *Product Coverage.* The merchandise subject to this Agreement is the following merchandise of Japanese origin:

(1) Erasable programmable read only memory semiconductors ("EPROMs"), whether in the form of processed wafers, unmounted die, mounted die, or assembled devices however packaged (ceramic, plastic, or other), and other merchandise of the same class or kind ("merchandise subject to this Agreement").

(2) Processed wafers and dice produced in Japan and assembled into finished EPROMs, or other merchandise of the same class or kind, in another country prior to importation into the United States.

Finished EPROMs are currently classifiable under item 687.7445 of the Tariff Schedules of the Unitd States Annotated. Unassembled EPROMs, including processed wafers and mounted and unmounted die, are currently classifiable under item 687.7405 of the Tariff Schedules of the United States Annotated.

B. *U.S. Import Coverage.* The signatory producers/exporters collectively are the producers and exporters in Japan which, during the antidumping investigation on the merchandise subject to this Agreement, accounted for substantially all (not less than 85 percent) of the merchandise imported into the United States, as provided in the regulations. The Department may at any time during the period of this Agreement require additional producers/exporters in Japan to sign this Agreement in order to ensure that not less than substantially all imports into the United States are covered by this Agreement.

In reviewing the operation of this Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in Section A of this Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: volume of trade, pattern of trade, whether or not the reseller is an original equipment manufacturer, and the reseller's purchase price.

C. *Basis of the Agreement.* On and after the effective date of this Agreement, each signatory producer/exporter individually agrees to make any necessary price revisions to eliminate completely any amount by which the foreign market value of its merchandise exceeds the United States price of its merchandise subject to this Agreement. For this purpose, the Department will determine the foreign market values in accordance with section 773(e) of the Act, and the U.S. prices in accordance with section 772 of the Act. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submitted by producers/exporters regarding projected differences in production costs within the quarter in which the information is submitted, resulting from factors such as anmticipated changes in production yield, changes in production process (e.g. die and/or wafer size), changes in production quantities or changes in production facilities.

(1) For all sales occurring between the effective date of this Agreement and October 15, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to unrelated purchasers in the United States at prices that are less than its foreign market value, as determined by the Department on the basis of information obtained during the course of the antidumping investigation and provided to parties not later than July 20, 1986.

(2) For all sales occurring between October 16, 1986 and December 31, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unrelated purchaser in the United States at prices that are less than its foreign market

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value of the merchandise, as determined by the Department of the basis of information submitted to the Department not later than August 20, 1986 and provided to parties not later than October 11, 1986.

(3) For all sales occurring after December 31, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unrelated purchaser in the United States at prices that are less than its foreign market value of the merchandise, as determined by the Department of the basis of information submitted to the Department not later than the dates specified in section D of this Agreement and provided to parties not later than December 20, March 20, June 20, and September 20 of each year. This foreign market value shall apply to sales occurring during the calendar quarter beginning on the first day of the month following the date the Department provides the foreign market value, as stated in this paragraph.

D. *Monitoring.* Each signatory producer/exporter will supply to the Department all information that the Department decides is necessary to ensure that the producer/exporter is in full compliance with the terms of this Agreement. As explained below, the Department will provide each signatory producer/exporter a detailed request for information and prescribe a required format and method of data compilation, not later than the beginning of each reporting period.

(1) *Sales Information.* The Department will require each producer/exporter to report, on computer tape in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to this Agreement, either directly or indirectly to unrelated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

The first report on sales data shall be submitted to the Department, on computer tape in the prescribed format and using the prescribed method of data compilation, not later than October 31, 1986 and shall contain the specified sales information covering the period July 1 to September 30, 1986. Subsequent reports of sales data shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year and each report shall contain the specified sales information for the quarter ending one month prior to the due date, except that if the Department receives information that a possible violation of the Agreement may have occurred, the Department may request sales data on a monthly, rather than quarterly basis.

(2) *Cost Information.* The Department will require Fujitsu, Hitachi and Toshiba (the respondents in the original investigation) to report their actual cost of production and profit data on a quarterly basis, in the prescribed format and using the prescribed method of data compilation. Each such producer/exporter also must report anticipated increases in production costs and may report anticipated decreases in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process (e.g., die and/or wafer size), changes in production quantities or changes in production facilities. Each report shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year and each report shall contain specified information for the quarter ending one month prior to the due date.

(3) *Special Adjustment of Foreign Market Value.* If the Department determines that the foreign market value it determined for a previous quarter was erroneous because the reported costs for that period were inaccurate or incomplete, or for any other reason, the Department may adjust foreign market value in a subsequent period or periods, unless the Department determines that Section G of this Agreement applies.

(4) *Verification.* Each producer/exporter agrees to permit full verification of all cost and sales information semi-annually, or more frequently, as the Department deems necessary.

(5) *Rejection of Submissions.* The Department may reject any information submitted after the deadlines set forth in this section or any information which it is unable to verify to its satisfaction. If information is not submitted in a complete and timely fashion or is not fully verifiable, the Department may calculate foreign market value and/or U.S. price based on best information available, as it determines appropriate, unless the Department determines that section G applies.

E. *Disclosure and Comment.* (1) The Department may make available to representatives of each domestic party to the proceeding, under appropriately drawn administrative protective orders, business proprietary information submitted to the Department during each quarter as well as the results of its calculations of foreign market value.

(2) Not later than September 20, 1986, and March 1, June 1, September 1, and December 1 of each year, the Department will disclose to each producer/exporter the results and the methodology of the Department's calculations of its foreign market value. At that time, the Department may also make available such information to the domestic parties to the proceeding, in accordance with paragraph E(1).

(3) Not later than seven days after the date of disclosure under paragraph E(2), the parties to the proceeding may submit written comments to the Department, not to exceed 10 pages. After reviewing these submissions, the Department will provide to each producer/exporter its foreign market value as provided in paragraph C(3). In addition, the Department may provide such information to domestic interested parties as specified in paragraph E(1).

(4) Once during each year of this Agreement, the Department shall provide an opportunity for each party to the proceeding to request a hearing on issues raised during the proceeding. If such a hearing is requested, it will be conducted in accordance with section 751 of the Act (19 U.S.C. section 1675), and applicable regulations.

F. *Signatories.* To the extent administratively feasible, the Department will calculate foreign market values based on cost data that may be submitted by any signatory producer/exporter not required to submit such data under paragraph D(2). To the extent such calculations are not administratively feasible, such producers/exporters may be assigned a foreign market value for each applicable product which is the weighted-average foreign market value of those companies for which specific foreign market values have been calculated.

G. *Violations of the Agreement.* If the Department determines that this Agreement is being or has been violated or no longer meets the requirements of section 734 (b) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the regulations.

H. *Other Provisions.* In entering into this Agreement, the signatory producers/exporters do not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value.

I. *Termination.* Absent likelihood of dumping, the Department of Commerce expects to terminate this suspended investigation in August, 1991.

J. *Definitions.* For purposes of this Agreement, the following definitions apply:

1. U.S. Price—means the price at which merchandise is sold by the producer or exporter to the first unrelated party in the United States, including the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustments affecting the net amount paid or to be paid by the unrelated purchaser, as determined by the Department under section 772 of the Act.

2. Foreign Market Value—means the constructed value of the merchandise, as determined by the Department under section 773(e) of the Act. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submited by producers/exporters regarding projected differences in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process (e.g. die and/or wafer size), changes in production quantities or changes in production facilities.

3. Producer/Exporter—means (1) the foreign manufacturer or prooducer, (2) the foreign producer or reseller which also exports, and (3) the related person by whom or for whose account the merchandise is imported into the United States, as defined in section 771(13) of the Act.

4. Date of Sale—(A) For contracts entered into prior to June 3, 1986 the date of sale is the date on which the essential terms of the contract, including price, quantity, and other terms of sale are agreed and determined, normally the date of confirmation of sale. All such contracts will be reviewed by the Department to determine if these criteria are met.

(B) For contracts entered into during the period June 30, 1986 through July 30, 1986, the date of sale is the date of shipment.

(C) For contracts entered into subsequent to July 30, 1986, the date of sale is the date on which the essential terms of the contract, including price, are agreed and determinable, normally the date of confirmation of sale.

The effective date of this Agreement is the July 30, 1986.

Signed on this 30th day of July, 1986.

For Japanese producers/exporters.

Mark W. Herlach,
NEC Corporation.
Carl W. Schwarz (See letter dated 7/30/86),
Hitachi, Ltd.
Warren E. Connelly/L. Daniel O'neil,
Fujitsu, Ltd.
Thomas P. Ondeck,
Mitsubishi Electric Corp.
David P. Houlihan,
Toshiba Corp.
John D. Greenwald (See letter of 7/30/86),
Oki Electric Industry Co., Ltd.
Thomas F. Cullen Jr.,
Texas Instruments, Japan.

For U.S. Department of Commerce.
Gilbert B. Kaplan,
Deputy Assistant Secretary For Import Administration.

[FR Doc. 86-17665 Filed 8-5-86; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date for the public meeting of the Caribbean Fishery Management Council's Administrative Subcommittee as published in the **Federal Register** (August 1, 1986, page 27575) has been changed from August 13, 1986 to August 6, 1986, to allow the Subcommittee to comply with the deadline for response to the National Oceanic and Atmospheric Administration's Blue Ribbon Panel Report. All other information remains unchanged.

For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918; telephone: (809) 753-4926.

Dated: July 31, 1986.

Richard B. Roe,
Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-17661 Filed 8-5-86; 8:45 am]
BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Plan Team for the Gulf of Alaska Groundfish Fishery Management Plan will convene a public meeting, August 25, 1986, at 9 a.m. at the National Marine Fisheries Service Northwest and Alaska Fisheries Center, 7600 Sand Point Way, Building 4, Room 2079, Seattle, WA, to evaluate the condition of the Gulf groundfish resources and to begin final drafting of Amendment 15. The public meeting may extend through August 29 if necessary.

For further information contact Steve Davis, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Dated: August 1, 1986.

Richard B. Roe,
Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-17662 Filed 8-5-86; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Thursday, 21 August 1986

Times of Meeting: 0800-2100

Place: Pentagon (2E687A), Washington, DC

Agenda: The Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle will meet to finalize the C³I Summer Study Report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,
Administrative Officer, Army Science Board.

[FR Doc. 86-17667 Filed 8-5-86; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Friday, 22 Aug. 1986
Times of Meeting: 0830–1630 hours
Place: Pentagon (Room 2A474), Washington, DC

Agenda: The Army Science Board Ad Hoc Subgroup on Chemical/Biological Warfare Intelligence will meet to discuss CBW intelligence issues, and treaty verification issues and means. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–17668 Filed 8–5–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Agency Information Collection Activities Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before September 5, 1986.

ADDRESSES: Written comments should be addressed to the office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) frequency of the collection; (5) the Affective public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specific above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated July 31, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office Postsecondary Education

Type of Review: Revision
Title: Special Condition Application for Federal Student Aid
Agency Form Number: ED 255–2
Frequency: Annually
Affected Public: individuals or households
Reporting Burden: Responses: 236,000; Burden Hours: 259,600
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This form collects data necessary to determine student eligibility for Federal Student aid when a student's family financial situation changes from the usual base year.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement
Title: Report of Handicapped Children and Youth Receiving Special Education and Related Services Under Part B of the Education of the Handicapped Act, as amended.
Agency Form Number: ED 869–5 and 869–6
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 58; Burden Hours: 13,978
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: States use this form to report the number of handicapped children and youth receiving special education and related services. The report serves as the basis for distributing Federal assistance, monitoring, implementing, and updating information.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement
Title: Report of Eligible Handicapped Children in Schools Operated or Supported by State Agencies, Chapter 1 of ECIA (SOP)
Agency Form Number: B20–16P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden Responses: 58; Burden Hours: 5,858
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0
Abstract: This report provides instructions and forms necessary for States to report the number of handicapped children and youth receiving services as a basis for distributing Federal assistance, monitoring, implementing, and reporting information.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Implementation of Least Restrictive Environment Requirements
Agency Form Number: ED 869–4
Frequency: Annually
Affected Public: State or local governments
Reporting Burden Responses: 58; Burden Hours: 232,580
Recordkeeping Burden: Recordkeepers: 0 Burden Hours: 0
Abstract: This report provides instructions and a form necessary for States to report the settings in which handicapped children receive services.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Report of: (A) Handicapped Children and Youth Exiting the Educational System (During the 1986–87 School Year); (B) Exiting Handicapped Children and Youth Who Will Not Need Services (for the 1987–88 School Year); and (C) Anticipated Services Needed by Handicapped Children and Youth (for the 1987–88 School Year).
Agency Form Number: ED 869–3
Frequency: Annually
Affected Public: State or local governments
Reporting Burden Responses: 58; Burden Hours: 13,978

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0
Abstract: This report provides instructions and forms necessary for States to report the number of handicapped youth exiting the school system and the services needed by these youths in the following year.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Report of Federal, State, and Local Funds Expended for Special Education and Related Services
Agency Form Number: ED 869–1
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 58; Burden Hours: 58,174
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0
Abstract: This report provides instructions and forms necessary for States to report the amount of funds expended for special education and related services. The form satisfies mandated reporting requirements, and the data are used by the Office of Special Education Programs for monitoring and congressional reporting purposes.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Number of Personnel Employed to Provide Special Education and Related Services to Handicapped Children and Youth
Agency Form Number: ED 869–6
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 58; Burden Hours: 13,978
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0
Abstract: This report provides instructions and a form for States to report the number of personnel that are employed to provide special education services to monitor the implementation of Federal legislation and as part of Congressionally mandated reporting information.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Number of Additional Personnel Needed to Provide Special Education and Related Services to Handicapped Children and Youth
Agency Form Number: ED 869–7
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 58; Burden Hours: 7,018
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0
Abstract: This report provides instructions and a form necessary for States to report the number of additional personnel needed to provide special education services to handicapped children and youth. This information is used to monitor the implementation of Federal programs and is a part of the Congressionally mandated reporting requirements.

[FR Doc. 86–17689 Filed 8–5–86; 8:45 am]
BILLING CODE 4000–01–M

[CFDA No. 84.091]

Notice Inviting Applications for New Awards Under the Strengthening Research Library Resources Program for Fiscal Year 1987

Purpose: Provides grants to the nation's major research libraries to maintain and strengthen their collections and to make their holdings available to other libraries whose users have need for research materials.

Deadline for Transmittal of Applications: November 7, 1986, except for institutions having previously established significance as a major research library who may submit applications until December 9, 1986.

Deadline for Intergovernmental Review Comments: February 9, 1987.

Applications Available: September 5, 1986, *Available Funds:* The Administration's budget request for fiscal year 1987 does not include funds for this program. However, applications are being invited to allow sufficient time to evaluate applications and complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program.

Estimated Range of Awards: $35,000–$350,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 28.

Project Period: 15 months.

Applicable Regulations: (a) The Strengthening Research Library Resources Program Regulations, 34 CFR Part 778, and (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Frank A. Stevens, Director, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue NW., Room 402M. Washington, DC 20208–1430. Telephone: (202) 357–6315.

Program Authority: 20 U.S.C. 1021 *et seq.*

Dated: August 1, 1986.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Reseach and Improvement.

[FR Doc. 86–17693 Filed 8–5–86; 8:45 am]
BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Deaf-Blind Children and Youth Program for Fiscal Year 1987; Grants

AGENCY: Department of Education.

ACTION: Application Notice for New Awards under the Services for Deaf-Blind Children and Youth program for Fiscal Year 1987.

Programmatic information: The purpose of this notice is to announce the availability of funds to support services to deaf-blind children and youth, technical assistance to their service providers, and dissemination of information concerning effective approaches for educating deaf-blind children and youth.

The Services for Deaf-Blind Children and Youth program was established under Pub. L. 90–247 on January 2, 1968 and is currently authorized by section 622 of Part C of the Education of the Handicapped Act (20 U.S.C. 1422). It is designed to ensure provision of direct services to children and youth for whom States are not obligated to make available a free appropriate education under Part B of the Education of the Handicapped Act and to whom the States are not providing those services under some other authority, and to enhance the effectiveness of State agencies is providing services to deaf-blind children and youth.

Public or nonprofit private agencies, institutions, or organizations may apply for an award under this program.

The Secretary will issue awards for fiscal year 1987 for new projects which address the following areas:

(a) State and multi-State projects (34 CFR 307.11);

(b) Technical assistance to State and multi-State projects (34 CFR 307.12);

(c) Technical assistance to State agencies to facilitate provision of transition services to deaf-blind youth upon their attaining the age of 22 years (34 CFR 307.13); and

(d) Dissemination of information concerning effective approaches for educating deaf-blind children and youth (34 CFR 307.15).

CFDA 84.025.—SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

(Fiscal Year 1987 Funding Competitions)

CFDA No.; section of 34 CFR 307	Area	Available funds	Estimated range of awards	Estimated average award	Estimated No. of awards	Application closing date
84.025A (§ 307.11)	Services to deaf-blind children and youth—State and multi-State projects	5,870,000	16,300–1,248,000	187,740	29	Oct. 15, 1986.
84.025C (§ 307.12)	Technical assistance to State and multi-State projects	940,000	940,000	940,000	1	Dec. 8, 1987.
84.025E (§ 307.13)	Technical assistance for transitional services	600,000	600,000	600,000	1	Dec. 8, 1987.
84.025G (§ 307.15)	Dissemination of information—services for deaf-blind children and youth	150,000	150,000	150,000	1	Dec. 8, 1987

The anticipated project period for each of these awards is up to 24 months. Estimates for these awards do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or before the date indicated on the previous chart.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA 84.025, 400 Maryland Avenue, SW., Washington, DC 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal Holidays.

Applicable regulations:

Regulations applicable to this program include the following:

(a) The regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR Part 307) published at 46 FR 28360 on July 11, 1984.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79).

Intergovernmental Review:

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Immediately upon receipt of this notice, applicants must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by the closing date indicated for the appropriate program area to the following address:

The Secretary, U.S. Department of Education, Room 4181, CFDA 84.025, 400 Maryland Avenue, SW., Washington, DC 20202.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application forms:

Application forms and program information packages are expected to be available by August 14, 1986. These may be obtained by writing to Severely Handicapped Branch, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4614 Switzer Building), Washington, DC 20202.

Further information:

For further information contact Charles Freeman, Severely Handicapped Branch, Office of Special Education Program, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3511 Switzer Building), Washington, DC 20202. Telephone (202) 732–1165.

Program authority: 20 U.S.C. 1422.

(Catalog of Federal Domestic Assistance No. 84.025; Services for Deaf-Blind Children and Youth.)

Dated: August 1, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–17692 Filed 8–5–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No. APR–86–2]

Residential Exchange Subsidy Agreements; Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice; Request for Comments. *BPA File No:* APR–86–2. BPA requests that all comments submitted contain the file number APR–86–2.

SUMMARY: On June 24, 1986, the United States Court of Appeals for the Ninth Circuit issued a remand order to BPA in *California Energy Resources Conservation and Development Commission* v. *Johnson*, No. 81–7809. *California Energy Commission* involved, among other things, review of BPA's decision to adopt section 4 of the Residential Purchase and Sale Agreements. These agreements were executed to implement the residential exchange subsidy program by which BPA provides rate relief to the residential and small farm customers of Northwest public and investor-owned utilities. *See* 16 U.S.C. 839c(c).

Section 4(a) of the Residential Purchase and Sale Agreements provides that in lieu of purchasing power from an exchaging utility under section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), BPA may acquire an equivalent amount of power from other sources if the cost of such acquisition is less than the cost of the purchase from the exchanging utility. BPA is required by section 4(a) to give the utility not less that 7 years' prior written notice of BPA's intent to use

such acquisition in lieu of the purchase from the utility. The notice is required to state the amount, duration, source, estimated cost, and estimated scheduling provisions of the intended acquisition. The Court's order in *California Energy Commission* concluded that "a limited remand is appropriate to allow respondent [Bonneville Power Administration] to clarify the record as to the basis for adoption of residential exchange contract general provision 4." Pursuant to this order, BPA is requesting comments on specific issues related to the residential exchange program and section 4 of the Residential Purchase and Sale Agreements.

Responsible Official: John Cameron, Assistant General Counsel, is the official responsible for this proceeding.

DATES: Comments should be received by BPA no later than 5 p.m., September 2, 1986. Reply comments will be received through September 22, 1986.

ADDRESS: Written comments should be submitted to Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. BPA File No. APR–86–2 should be referenced.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Johnson, Public Involvement office, at the address listed above, 509–230–3478. Oregon callers outside Portland may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048. Information may also be obtained from:

Mr. Terence G. Esvelt, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109. 206–442–4130.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Federal Building, 550 West Fort Street, Room 376, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION

I. Background

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839–839h, established a number of programs benefiting various elements of BPA's customer classes: Northwest publicly-owned "preference" utilities, Northwest investor-owned utilities (IOUs) the "Direct Service Industries" (DSIs), and utilities outside the Northwest—primarily located in California. However, programs benefiting one group of customers necessarily cause higher rates for BPA's other customers. BPA is a self-financing power marketing agency, operated according to "sound business principles." 16 U.S.C. 839e(a). Rates for the sale of electric power and transmission services are BPA's only sources of revenue. *California Energy Commission,* like virtually every challenge to a BPA action, involves a claim that BPA struck an improper balance between the interests of program beneficiaries and the interests of its ratepayers.

Northwest Power Act section 5(c) established the residential exchange program through which BPA provides rate relief to the residential and small farm customers of Northwest public and investor-owned utilities. In this paper exchange, a utility swaps its power, at the "average system cost" determined by the BPA Administrator, for BPA power, at the rate established for preference customers. The difference is equal to the subsidy given each qualifying utility. The utility, in turn, is required by section 5(c)(3) to credit the subsidy against the power bills of residential and small farm customers. During fiscal year 1986, BPA expects to provide over $191 million in subsidies to 36 utilities.

Congress apparently intended the program to reduce the rate disparity between IOUs and publicly-owned utilities with preference rights to Federal power. However, legislative history does not explain the difference between this intention and the statute. Section 5(c) allows all Northwest utilities to apply for a subsidy. Some 32 publicly-owned utilities receive both preference power and residential exchange subsidies—compared to only four IOU recipients during fiscal year 1986.

The qualifying criterion does not relate to preference; instead, it is simply a function of cost. The higher a utility's costs in relation to BPA's own rates, the higher its subsidy. Subject to the regulatory constraints described below, a qualifying utility may ask BPA to reimburse any cost remotely related to providing power or transmission services to its residential and small farm customers.

The statute and its legislative history have been subject to litigation in many actions before the Ninth Circuit, Federal district court and the Federal Energy Regulatory Commission (FERC). Even prior to this litigation, however, BPA and its ratepayers had been concerned about the potentially open-ended nature of the subsidy. Although state rate regulation screens out most costs ineligible for subsidization, there have been serious abuses of the program by utilities and their regulators.

For example, an IOU attempted to pass $73 million in residential exchange subsidies to its shareholders. Traditional rate regulation proved inadequate to protect BPA and its ratepayers from this direct violation of Northwest Power Act section 5(c)(7)(C), because the illegal pass-through was secretly arranged during *ex parte* contacts between the IOU and its state regulatory commission. The arrangement was uncovered only through extraordinary procedures that included a state freedom of information act request, contentious proceedings before BPA and before FERC, and separate state court litigation.

In another example, a publicly-owned utility attempted to attribute a prior shortfall exclusively to its residential customers and then pass the shortfall on to BPA through a retroactive subsidy application. *Central Electric Cooperative* v *Johnson,* Ninth Cir. No. 85–7242. Publicly-owned utilities in the Northwest are unregulated, so BPA provides the only external scrutiny of costs included in subsidy applications.

Congress provided BPA with two statutory mechanisms to ensure that the residential exchange program served only its intended purpose of rate relief to residential and small farm customers. Each mechanism has been the object of protracted litigation involving BPA, subsidy recipients, and ratepayers.

First, Northwest Power Act section 5(c)(7) provides that the Administrator is to determine a generic methodology for determining each utility's "average system cost of resources" eligible for subsidization. Numerous issues about interpretation and application of the Administrator's methodology are now

awaiting judicial and FERC review. In addition, BPA's fundamental authority to formulate and to amend the Administrator's average system cost methodology is subject to challenge in *Pacificorp* v. *Johnson*, Ninth Cir. Nos. 84–7569, 84–7862 and 85–7103 (argued and submitted September 10, 1985).

Second, Northwest Power Act section 5(c)(5) permits BPA to substitute lower cost resources for an exchanging utility's residential exchange resources. This is the statutory provision at issue in *California Energy Commission*. BPA's vehicle for implementing section 5(c)(5) is residential exchange contract section 4, which provides:

(a) In lieu of purchasing all or a portion of the electric power referred to in section 2 above, Bonneville may acquire an equivalent amount of electric power from other sources if the cost of such acquisition is less than the cost of purchasing the electric power referred to in section 2. For the purpose of determining the cost of any such in lieu purchase, transmission and production costs, and transmission losses, as determined by Bonneville, shall be included. Bonneville shall give the Utility not less than seven years prior written notice of Bonneville's intent to use such acquisition in lieu of purchasing all or a portion of the electric power referred to in section 2 above. This notice shall state the amount, duration, source, estimated cost and estimated scheduling provisions of the intended acquisition. Any intended acquisition shall be at least five years in duration.

(b) The Utility shall elect upon receipt of such notice: (1) to reduce, in a manner determined by Bonneville pursuant to prudent utility practice, the amount of power purchased by Bonneville pursuant to section 2 above by the amount of the intended acquisition or (2) to reduce to the cost of the intended acquisition the ASC applicable to a portion of the power purchased by Bonneville pursuant to section 2 above equal to the amount of the intended acquisition. A Utility shall have 60 working days from the receipt of the notice in subsection (a) above to elect (1) or (2). [R. A1626.]

II. The Court of Appeals' Remand Order

On November 5, 1981, the California Energy Commission, acting on behalf of BPA's California utility customers, filed a petition for review in the United States Court of Appeals for the Ninth Circuit alleging that section 4 of the standard residential exchange contract violates sections 6(b)(1) and 6(b)(3) of the Northwest Power Act, by committing BPA to acquire noneconomical resources. *California Energy Commission*, No. 81–7809, slip op. at 2–3 (February 24, 1986).

After briefing and argument by the petitioner, BPA, the DSIs and IOU intervenors, the Court of Appeals issued an opinion holding that section 4 reflected a reasonable interpretation of the Northwest Power Act. A rehearing application followed.

On March 7, 1986, the DIS intervenors filed a petition for rehearing of the Court's order with a suggestion for rehearing en banc. The DISs claimed that section 4 imposed such obstacles on BPA as to prohibit any future use of section 5(c)(5) of the Northwest Power Act. The DSIs then alleged that there was no basis in the administrative record to justify BPA in permanently foregoing the use of statutory authority designed to protect the DSIs and other BPA customers who pay the costs of the residential exchange program. The DSIs alleged that the Court failed to reach the question of whether a BPA commitment to forego any use of Northwest Power Act section 5(c)(5) was a reasonable exercise of discretion. The DSIs requested, at a minimum, the Court remand the disputed contract provision to BPA for development of a record sufficient to permit review of the reasonableness of the limitations BPA chooses to place on its section 5(c)(5) authority.

By order dated April 10, 1986, the Court directed all parties in the case to respond to the DSI petition for rehearing. Responses were filed by the California Energy Commission, Washington Water Power Company, Pacific Power & Light Company, Idaho Power Company, Puget Sound Power & Light Company, Utah Power & Light Company, and BPA. The Pacific Northwest Generating Company, representing publicly-owned utilities that receive residential exchange subsidies, filed a letter with the Court on May 7, 1986, indicating an interest in participating in any rehearing proceeding.

On June 24, 1986, the Court ordered a limited remand "to allow respondent to clarify the record as to the basis for adoption of residential exchange contract general provision 4." The Court stated that "[t]he procedure for supplementing the record is left to the discretion of the Administrator." The Court requested that BPA submit its clarification of the record within 120 days of the Court's order. In response to the Court's order, BPA intends to clarify the record as discussed below.

III. Request for Comments

The Court's remand order in *California Energy Commission* is "to allow respondent to clarify the record as to the basis for adoption of residential exchange contract general provision 4." Although the order is not specific, we believe that the Court has asked BPA to supplement the record on the issues raised by the DSIs on rehearing. The issues that seem to have troubled the Court concern (1) differentiation of the regulatory purposes of Northwest Power Act section 5(c)(7) from the purposes of section 5(c)(5); (2) the basis for adopting contract general provision 4 as a means of implementing section 5(c)(5); and (3) if, as the DSIs and California Energy Commission allege, section 4 is too impractical to be a workable provision, whether BPA was arbitrary or capricious in adopting a provision that effecively forestalled implementation of Northwest Power Act section 5(c)(5).

The Court must have been aware that this exercise would necessarily involve post hoc explanation of the contract provision. BPA reviewed the record prior to briefing this issue and discovered virtually nothing relating to contract section 4. BPA informed the Court that justification for the provision could only be based on inference drawn from comparison of several contract drafts:

Section 4 of the residential exchange subsidity contract was inserted at the insistence of utilities that were to participate in the exchange. Utility negotiators refused to execute contracts that did not commit BPA to continue the subsidy for a period of years after a section 5(c)(5) resource became available. The utilities wished to avoid fluctuations in the level of their subsidies that would result if BPA were to implement Northwest Power Act section 5(c)(5), causing the utility in question to make any of the statutory elections discussed. . . . It would be difficult for utilities to explain any fluctuations to their ratepayers.

Utility demands for advance notice ranged from five years (R. A1465) to as many as ten years (R. A1487–88). Seven years is a rule-of-thumb notification period used in actual power sale agreements, and it was suggested that seven-years notice was appropriate for residential exchange paper transactions as well (R. A1456). Because there appeared to be no serious objection from other parties to the contract negotiations, BPA acceded to the utility demands to add the seven-year notice and other reporting requirements or section 4.

Comments should include answers to the following questions. Commenters will be given the opportunity to file rebuttal comments.

1. *How Does the Purposes of Northwest Power Act Section 5(c)(7) Differ from the Purposes of Section 5(c)(5)?* BPA requests comments that address Congressional intent in enacting sections 5(c)(5) and 5(c)(7) of the Northwest Power Act, 16 U.S.C. 839c(c)(5) and (7). Specifically, what statutory objectives should be served by a provision implementing section 5(c)(5)? How, if at all, should the Administrator's discretionary authority differ between implementation of section 5(c)(5) and section 5(c)(7)?

2. *What Does the Record Reflect About the Reasons for Adopting Residential Exchange Contract Section 4?* Commenters are invited to rebut BPA's explanation of the genesis and purpose of the provision, if the record will support their rebuttal. BPA requests that comments include citations to any documents on which the commenter relies.

3. *How Would Residential Exchange Contract Section 4 Be Implemented?* The DSIs allege that residential exchange contract section 4 is unworkable. Their rehearing application states:

> Competing suppliers are unlikely to make five-year commitments seven years in advance. Thus, as a practical matter it seems that BPA knowingly agreed never to use its Section 5(c)(5) authority during the life of the exchange contracts. [DSI rehearing application at 14.]

This criticism deserves attention. Comments should analyze section 4 to explain whether the provision is workable means of making an "in-lieu" transaction under Northwest Power Act section 5(c)(5). Specific attention should be focused on the requirements of 7 years advance notice and 5-year minimum transactions. Lack of specificity in the comments might lead to an inference that there are serious unanswered questions about section 4.

4. *Is There Rebuttal to BPA's Statement That It May Use Its Own Surplus Power to Effect an In-Lieu Transaction?* A purpose of the residential exchange program was to aid the residential and small farm customers of utilities that ceased to receive a Federally underwritten power supply when that supply ran short. If BPA has surplus power available to renew that Federal power supply, using that surplus power to effect in-lieu transactions would seem to fit perfectly with statutory objectives. If there is surplus Federal power, is it necessary for BPA to wait 7 years before making that power available to an exchanging utility?

5. *Is Section 4 Duplicative of Another Provision of the Residential Exchange Contracts?* After residential exchange contract section 4 was included in a draft of the contract, section 10, the so-called "deemer" clause, was added. Under the deemer clause, each utility participating in the residential exchange has a unilateral right to "deem" its average system cost equal to the BPA preference rate whenever the former might be lower than the latter. Section 10 ensures that an exchanging utility will never face the risk of owning money to BPA—that is, the subsidy can never be reciprocal. Does the record contain information on section 10 that might explain any discrete purpose for section 4?

6. *Are There Circumstances That Might Warrant a BPA Request for a More Expansive Record Order?* If comments uncover record support for section 4, BPA will report this information to the Court in its evaluation of the supplemented record. However, if the provision remains unsubstantiated, the Court might well grant the relief requested by California Energy Commission and the DSIs. Assuming that there is no record support for section 4, should BPA request the Court for leave to conduct further administrative proceedings on an appropriate means for implementing Northwest Power Act section 5(c)(5)?

Alternatively, are there lessons for this case in the recent voluntary dismissals of 25 Ninth Circuit proceedings to review BPA decisions in its 1982 and 1983 rate cases? Every interest group represented in those two rate cases dropped nearly every petition in return for identical undertakings by other petitioners and intervenors. No refunds were provided by BPA.

Subsidy recipients and BPA ratepayers maintain over 20 actions before the Federal Energy Regulatory Commission and the U.S. Court of Appeals for the Ninth Circuit to review BPA actions under the Northwest Power Act's residential exchange provisions. Ratepayers tend to appear as respondent-intervenors in actions brought by subsidy recipients, as vice versa. Such actions include *California Energy Commission, Pacificorp* v. *Johnson, Pacific Power & Light Co.* v. *BPA*, Ninth Cir. No. 84-4072 and a host of cases involving actions on individual subsidy applications. If commenters are interested in some type of "clean sweep," like that accomplished in the BPA rate cases, they are encouraged to pursue such a resolution during, or concurrent with, this remand proceeding.

Initial comments on the preceding issues are due September 2, 1986. Parties wishing to be served with copies of the initial comments of other parties should so indicate in their initial comments. Reply comments are due September 22, 1986. All comments should be filed in duplicate. Parties with similar interests are encouraged to file joint comments. On October 22, 1986, BPA plans to file with the Court the supplemented record and BPA's evaluation of that record.

Issued in Portland, Oregon, on July 25, 1986.

James J. Jura,

Administrator.

[FR Doc. 86-17695 Filed 8-5-86; 8:45 am]

BILLING CODE 6540-01-M

Federal Energy Regulatory Commission

[Docket No. RP86-144-000, 001]

Sea Robin Pipeline Co.; Proposed Changes in FERC Gas Tariff

August 1, 1986.

Take notice that on July 30, 1986, as supplemented on July 31, 1986, Sea Robin Pipeline Company ("Sea Robin"), 600 Travis, P.O. Box 1478, Houston, Texas 77251-1478, tendered for filing proposed changes in its FERC Gas Tariff. These changes include additions to the General Terms and Conditions in Sea Robin's FERC Gas Tariff, Original Volume No. 1, by the inclusion of Substitute Original Tariff Sheet Nos. 23 and 24.

Sea Robin states that these tariff sheets set out terms and conditions for the nondiscriminatory purchase, receipt, and transportation of natural gas for Sea Robin's system supply pursuant to the Natural Gas Act ("NGA") and 18 CFR Part 154. According to Sea Robin, this tariff filing is necessitated by (1) an emergency which, in the absence of Commission action, impairs Sea Robin from purchasing, receiving and transporting gas on a nondiscriminatory basis as required by the NGA and (2) a chronic and worsening condition of excess deliverability on Sea Robin's system. Sea Robin states that both factors require immediate adoption of reasonable and nondiscriminatory operating conditions with respect to Sea Robin's purchase, receipt, and transportation of gas.

The program contained in the additional General Terms and Conditions provides for allocation of Sea Robin's purchase capacity in accordance with the following order of priorities:

1. Sea Robin shall first take, on a pro rata basis, gas under existing contracts whose production is required to prevent damage to reservoirs.

2. Sea Robin shall next take, on a pro rata basis, casinghead gas under existing contracts produced in association with oil.

3. Sea Robin shall next take, on a pro rata basis, gas under existing contracts whose production is required to prevent damage to reservoirs.

4. Sea Robin shall next take, on a pro rata basis, all remaining gas under existing contracts not included in the categories listed above.

5. Sea Robin shall next take, on a pro rata basis, gas under expired gas purchase contracts where approval to abandon the sale has not been issued.

Sea Robin asserts that good cause exists pursuant to 18 CFR 154.51 for waiver of the thirty-day notice period provided in 18 CFR 154.22, so that the tariff sheets may become effective on August 1, 1986. Sea Robin states that the tariff sheets submitted for filing herewith are in compliance with the NGA's mandate that Sea Robin's practices, including purchasing practices, are not unduly discriminatory. Sea Robin states further that the proposed operating conditions must go into effect as soon as possible to avert a situation in which Sea Robin might be compelled (a) to take gas in excess of its purchase capacity, and/or (b) to allocate its purchase capacity preferentially to a few producers rather than to all producers on a nondiscriminatory basis.

Copies of this filing have been mailed to Sea Robin's producers and jurisdictional customers, and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17638 Filed 8-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-6067-000 et al.]

Mobile Exploration and Producing, North America Inc. (Successor in Interest to The Superior Oil Company); Application

August 1, 1986.

Take notice that on July 17, 1986, Mobile Exploration and Producing North America Inc. (MEPNA), of Nine Greenway Plaza, Suite 2700, Houston, Texas 77046, filed an application pursuant to Section 7(c) of the Natural Gas Act, 15 U.S.C. 717f, and § 157.23 of the Commission's Regulations under the Natural Gas Act, to continue the service previously authorized to The Superior Oil Company (Superior). Applicant requests that the certificates currently held by Superior be amended to show Mobil Exploration and Producing North America Inc. as certificate-holder, that Mobil Exploration and Producing North America Inc. be substituted for Superior in any pending proceeding and that the rate schedules of The Superior Oil Company be redesignated as those of Mobil Exploration and Producing North America Inc., all as more fully shown in the attached Exhibit "A". The application is on file with the Commission and open to public inspection.

By Plan of Reorganization and Merger (Plan) dated April 1, 1986, The Superior Oil Company was merged into MEPNA to be effective on the date that the plan was filed in the Office of the Secretary of State of Nevada, being April 24, 1986.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 18, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "A"

Docket No.	Rate schedule No.	Buyer	Field	State
G-6149	3	Trunkline Gas. Co	Pecan Lake, *et al*	LA
G-6067	7	ANR Pipeline Co	Deep Lake, *et al*	LA
G-6170	11	Southern Natural Gas	Gwinville	MS
G-6174	13	Texas Gas Transmission	Boeco	LA
G-6169	15	United Gas Pipe Line	Baxterville	MS
G-6178	25	Colorado Interstate	Greenwood-Sparks	KS
G-6162	29	Colorado Interstate	Keyes	OK
G-6187	37	Lone Star Gas Co	Katie	OK
G-6159	39	Lone Star Gas Co	Garvin Co	OK
G-6156 [1]	43	Panhandle Eastern	Light	OK
G-8812	45	Tennessee Gas	Bayou Penchant/Four Isle	LA
G-8906	46	Northwest Central	Driftwood/Hardtner	KS
G-6175	48	Lone Star Gas Co	Katie	OK
G-6176	49	Lone Star Gas Co	Katie	OK
G-6177	50	Lone Star Gas Co	Katie	OK
G-6181	51	Lone Star Gas Co	Katie	OK
G-6168	52	Lone Star Gas Co	Katie	OK
G-6153	55	Lone Star Gas Co	Katie	OK
G-6164	56	Lone Star Gas Co	Katie	OK
G-6165	57	Lone Star Gas Co	Katie	OK
G-6166	58	Lone Star Gas Co	Katie	OK
G-6167	59	Lone Star Gas Co	Katie	OK
G-6158	60	Lone Star Gas Co	Katie	OK
G-6157	62	Lone Star Gas Co	Katie	OK
G-9873	64	Natural Gas Pipeline	Light	OK
G-9803	65	Transcontinental Gas	Live Oak	LA
G-11559	69	Texas Gas Transmission	E. Lake Palourde	LA
G-12121	71	United Gas Pipe Line	Bayou Rambio	LA
G-14674	76	Colorado Interstate	Mocane	OK
G-15431	77	El Paso Natural Gas	Aneth Area	UT
G-16380	78	Transcontinental Gas	Eugene Island 100	OCS LA
G-16754	79	United Gas Pipe Line	Theall	LA

EXHIBIT "A"—Continued

Docket No.	Rate schedule No.	Buyer	Field	State
G-16878	80	ANR Pipeline Co	Mocane-Laverne	OK
G-17412	81	United Gas Pipe Line	Sunrise	LA
G-16388	89	United Gas Pipe Line	Bayou Pendant, *et al*	LA
G-19600	91	Mountain Fuel Resources	Trail	WY
CI60-328	92	El Paso Natural gas	Mocane-Laverne	OK
CI61-87	95	Mountain Fuel Resources	Kinney	WY
CI61-168	96	Tennessee Gas	Clovelly	LA
CI61-167	97	Tennessee Gas	Cut Off	LA
CI61-1436	102	United Gas Pipe Line	N. Turtle Bayou	LA
CI61-537	103	Tennessee Gas	Lac Blanc	LA
CI60-681	104	Tennessee Gas	W. Cameron 68	OCS LA
CI61-1608	105	Northwest Central	N.E. Waynoka	OK
CI63-377	108	United Gas Pipe Line	Bayou Rambio	LA
CI64-273	110	Panhandle Eastern	Midwell	OK
CI64-836	111	KN Energy Inc	Bradshaw	KS
CI64-982	112	Florida Gas Transmission	Fausse Point	LA
CI65-1048	114	Panhandle Eastern	N.E. Putnam	OK
CI66-481	117	Arkansas Louisiana	Arkoma Area	OK
CI66-777	118	KN Energy Inc	Flat Top	WY
CI67-804	120	Mountain Fuel Resources	West Side Canal	WY
CI67-1209	121	Trunkline Gas Co	S.W. Lake Arthur	LA
CI67-1779	123	United Gas Pipe Line	N. Sunrise	LA
CI67-1360	124	United Gas Pipe Line	Kent Bayou	LA
CI68-173	125	ANR Pipeline Co	S.E. Gueydon	LA
CI68-290	126	Panhandle Eastern	N. Waynoka	OK
CI68-1091	129	Trunkline Gas Co	Twin Island	LA
CI68-1101	130	ANR Pipeline Co	Creole	LA
CI68-1409	133	Transcontinental Gas	S. Crowley	LA
CI68-1410	134	Lone Star Gas Co	Garvin Co	OK
CI68-1202	136	Texas Gas Transmission	N. Maunce	LA
CI71-55	141	Southern California Gas	Dos Cuadros	OCS CA
CI71-498	143	Tennessee Gas	Grand Isle 72	OCS LA
CI71-723	145	United Gas Pipe Line	Bayou Rambio	LA
CI71-822	147	ANR Pipeline Co	W. Cameron 71/149	OCS LA
CI71-679	148	Trunkline Gas Co	Ship Shoal 293	OCS LA
CI72-164	151	Panhandle Eastern	Light	OK
CI72-165	152	Texas Gas Transmission	S. Bosco	LA
CI72-276	154	ANR Pipeline Co	W. Cameron 71	OCS LA
CI72-350	155	Florida Gas Transmission	Bayou Mallet	LA
CI72-171	156	ANR Pipeline Co	Eugene Island 296	OCS LA
CI72-554	157	ANR Pipeline Co	Deep Lake	LA
CI73-137	158	MGPC Inc	Bear Creek	WY
CI73-334	161	ANR Pipeline Co	Eugene Island 306	OCS LA
CI74-376	165	ANR Pipeline Co	W. Cameron 71	OCS LA
CI74-273	166	Mountain Fuel Resources	West Side Canal	WY
CI74-683	167	Natural Gas Pipeline	Bayou Latenache	LA
CI74-734	168	ANR Pipeline Co	Vermilion 182	OCS LA
CI75-293	170	Transcontinental Gas	S. Crowley	LA
CI75-481	171	Transcontinental Gas	Crowley	LA
CI75-482	172	Transcontinental Gas	Crowley	LA
CI75-759	173	ANR Pipeline Co	Lewisburg	LA
CI76-329	181	ANR Pipeline Co	W. Cameron 71	OCS LA
CI75-712	182	ANR Pipeline Co	W. Cameron 71	OCS LA
CI77-200	183	ANR Pipeline Co	W. Cameron 71	OCS LA
CI77-326	184	ANR Pipeline Co	Eugene Island 296	OCS LA
CI77-488	186	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI77-543	187	Lone Star Gas Co	Garvin Co	OK
CI77-196	188	ANR Pipeline Co	Deep Lake	LA
CI78-37	198	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI78-799	201	ANR Pipeline Co	W. Cameron 71	OCS LA
CI78-794	202	ANR Pipeline Co	W. Cameron 71	OCS LA
CI78-830	203	Sea Robin Pipeline	S. Marsh Island 235	OCS LA
CI78-976	205	ANR Pipeline Co	Deep Lake	LA
CI78-1072	206	United Gas Pipe Line	Kent Bayou	LA
CI78-1160	208	ANR Pipeline Co	W. Cameron 71	OCS LA
CI78-1219	209	ANR Pipeline Co	W. Cameron 71	OCS LA
G-10338	214	Transcontinental Gas	Maxie	LA
G-17563	215	Transcontinental Gas	Sorrento	LA
G-13177	217	Columbia Gas Transmission	S. Thornwell	LA
G-14164	218	Transcontinental Gas	Lake Arthur	LA
G-14242	219	Transcontinental Gas	Willow Woods	LA
G-15819	220	Trunkline Gas Co	N. Freshwater Bayou	LA
CI63-342	222	Trunkline Gas Co	Lakeside	LA
G-10022	225	Columbia Gas Transmission	Thornwell	LA
CI66-8	227	Arkansas Louisiana Gas	N.W. Colquitt	LA
CI68-234	228	Trunkline Gas Co	S.W. Lake Arthur	LA
CI67-1651	232	Trunkline Gas Co	S. Lake Arthur	LA
CI80-159	237	ANR Pipeline Co	W. Cameron 71	OCS LA
CI80-277	241	Natural Gas Pipeline	W. Cameron 264	OCS LA
CI81-80	245	ANR Pipeline Co	W. Cameron 71	OCS LA
CI72-295	250	ANR Pipeline Co	Eugene Island 296	OCS LA
CI73-476	252	ANR Pipeline Co	Eugene Island 306	OCS LA
CI77-584	253	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI78-517	257	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI78-1258	259	Sea Robin Pipeline	S. Marsh Island 235	OCS LA
CI77-420	260	ANR Pipeline Co	Eugene Island 296	OCS LA
CI80-398	262	ANR Pipeline Co	S. Marsh Island 244	OCS LA
CI82-201	265	ANR Pipeline Co	W. Cameron 71	OCS LA
CI77-851	267	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI78-290	270	ANR Pipeline Co	S. Marsh Island 243	OCS LA
CI80-397	274	ANR Pipeline Co	S. Marsh Island 244	OCS LA

EXHIBIT "A"—Continued

Docket No.	Rate schedule No.	Buyer	Field	[illegible]
CI78-1259	275	Sea Robin Pipeline	S. Marsh Island 235	OCS LA
CI83-36	280	Texas Eastern Transmission	W. Cameron 71/149	OCS LA
CI83-254	281	Texas Gas Transmission	S. Thornwell	LA
CI84-131	282	Texas Eastern Transmission	S. Marsh Island 243	OCS LA
CI84-358	283	Columbia Gas Transmission	Vermilion 35	OCS LA
CI84-397	284	El Paso Natural Gas	Aneth Area	UT
CI80-259	285	El Paso Natural Gas	White Mesa	UT
CI84-486	286	Natural Gas Pipeline	W. Cameron 71/149	OCS LA
CI84-599	287	ANR Pipeline Co	W. Cameron 71	OCS LA
CI85-32	297	Columbia Gas Transmission	Vermilion Bay	LA
CI85-137	298	Columbia Gas Transmission	Deep Lake	LA
CI85-178	299	ANR Pipeline Co	W. Cameron 71	OCS LA

[1] Withdrawal pending.

[FR Doc. 86-17674 Filed 8-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 6872-002, 9902-000, 8578-001, and 2695-002]

City of Ithaca et al; Availability of Environmental Assessment and Finding of No Significant Impact

August 4, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project Name	State	Water body	Nearest town or county	Applicant
			Exemptions		
6872-002	Sixty Foot Dam	NY	Ithaca Reservoir	Ithaca	City of Ithaca
9902-000	Squires Dam	CA	Domestic Water Supply Conduit.	Carlsbad	Costa Real Municipal Water District
			Licenses		
8578-001	Erie Canal Lock No. 27	NY	Erie Canal	Lyons	Timothy R. Fallon
			Amendments		
2695-002	Dexter	NY	Black River	Dexter	Hydro Development Group, Inc.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17673 Filed 8-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-715-002 et al.]

ANR Pipeline Company et al.; Natural Gas Certificate Filings

July 30, 1986.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP85-715-002]

Take notice that on July 23, 1986, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-715-002 a petition pursuant to section 7(c) of the Natural Gas Act, as amended, to modify the Commission's order issued on September 20, 1985, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that on September 20, 1985, the Commission issued a certificate of public convenience and necessity authorizing ANR to transport for one year up to 10,000 Mcf per day of natural gas for Amoco Production Company (Amoco) from Amoco's Production Platform in Eugene Island Block 85, offshore Louisiana to onshore delivery points located in St. Mary, St. Landry, Acadia and Cameron Parishes, Louisiana; and to construct and operate a pipeline and related facilities to effectuate such transportation. ANR in this petition requests authority to continue the service through the contracted-for term, which ANR indicates would expire on November 19, 1990.

ANR indicates that there are no other changes in the authorized service.

Comment date: August 20, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. ANR Pipeline Company

[Docket No. CP86-620-000]

Take notice that on July 15, 1986, ANR Pipeline Company, 500 Renaissance Center, Detroit, Michigan, 48243 (Applicant), filed in Docket No. CP86-620-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide transportation services for ANR Gathering Company (ANR Gathering) on behalf of Coastal Refining and Marketing, Inc. (Coastal Refining) for the account of Coastal Eagle Point Oil Company (CEPOC), all as more fully set forth in the application on file with the Commission in the subject docket and open for public inspection.

The application indicates that the

terms and conditions of the transportation service between Applicant and ANR Gathering are set forth in the Transportation Agreement dated July 3, 1986 (Agreement). Applicant states that the Agreement provides that it will receive, transport, and deliver daily on an interruptible basis up to 50,000 dekatherms (dth) of natural gas which ANR Gathering will tender to Applicant at various points of interconnection in onshore and offshore Louisiana. Applicant will deliver the gas, less fuel use and lost and unaccounted for gas, to Transcontinental Gas Pipe Line Corporation (Transco) at the existing point of interconnection near Eunice, Louisiana. Transco will provide further transportation service for the benefit of Coastal Refining and CEPOC and deliver the gas for utilization at the Eagle Point Refinery in Eagle Point, Gloucester County, New Jersey.

As consideration for providing the transportation service, Applicant will charge Gathering rates consistent with its FERC Gas Tariff, Original Volume No. 1-A. The application further indicates that the term of the Transportation Agreement will commence on the date of initial deliveries, and continue for five years and thereafter from year to year until cancelled by either party.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. National Fuel Gas Supply Corporation

[Docket No. CP86-628-000]

Take notice that on July 18, 1986, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP86-628-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 6,000 Mcf of natural gas per day for National Fuel Gas Distribution Corporation (Distribution) for use as general system supply for a term of ten years and year to year thereafter, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

National Fuel states that the gas to be transported would be purchased by Distribution from various local producers in Chautauqua County, New York and transported by Tennessee Gas Pipeline Company (Tennessee) to the facilities of National Fuel at Tennessee's Pekin Sales Meter Station in Niagara County, New York. National Fuel asserts that it would then redeliver equivalent volumes, less shrinkage, to Distribution at National Fuel's adjacent station RM1X.

National Fuel explains that a certificate of public convenience and necessity would permit the resumption of a transportation service that had been performed by Tennessee and National Fuel under section 311 of the Natural Gas Policy Act, at Docket No. ST83-758, since December 21, 1982. National Fuel states that, due to the uncertainty surrounding the consequences of continuing its service for Distribution beyond October 31, 1985, it suspended transportation service on that date. On January 21, 1986, the Commission clarified that National Fuel's involvement in this arrangement does not qualify for transitional treatment under § 284.105 of the Commission's Regulations. It is stated that as a result, the transportation service for Distribution remains suspended.

National Fuel states that it would perform the proposed transportation service under the terms and conditions of its Rate Schedule T-1, which currently provides for a rate of 26.82 cents per Mcf and two percent shrinkage.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. National Fuel Gas Supply Corporation

[Docket No. CP86-629-000]

Take notice that on July 18, 1986, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP86-629-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities to replace and/or enlarge existing facilities. National Fuel also requests, pursuant to section 7(b) of the Natural Gas Act, permission and approval to abandon the deteriorated facilities which would be replaced. National Fuel's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel proposes to replace 4.5 miles of 12-inch bare steel pipeline, designated as Line M, located in Mineral and Victory Townships, Venango County, Pennsylvania, with an equivalent length of 16-inch coated steel pipeline. National Fuel states that Line M was originally installed in 1944 and is a main line in National Fuel's system which carries gas from various interstate sources in Pennsylvania to local markets. It is asserted that the replacement of Line M is required due to the age of the bare pipeline and, further, to increase delivery capacity of the line. It is stated that the new replacement pipeline would be located approximately 15 feet north of the existing pipeline, which would be salvaged.

National Fuel also proposes to replace 3.3 miles of 8-inch storage transmission pipeline, designated as Line G-24(S), located in Rose and Oliver Townships, Jefferson County, Pennsylvania, with an equivalent length of a combination of 8-inch and 12-inch pipelines. National Fuel states that Line G-24(S) was originally installed in 1943 and is the main storage transmission line to and from National Fuel's storage field. It is asserted that the replacement of Line G-24(S) is required to help eliminate pressure losses. It is stated that the new replacement pipeline would be located approximately 10 feet west of the existing pipeline which would be salvaged.

National Fuel estimates the cost of the Line M replacement to be $1,009,000 and the cost of the Line G-24(S) replacement to be $689,625, both of which would be financed with internally generated funds and/or interim short-term bank loans.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP86-621-000]

Take notice that on July 16, 1986, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP86-621-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Natural to transport natural gas for National Steel Corporation (National Steel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to transport up to 13.3 billion Btu per day on an interruptible basis for National Steel for a period of two years from the date of first delivery and month to month thereafter. It is stated that Natural would receive natural gas for the account of National Steel at existing interconnections in Custer County, Oklahoma, Polk County, Texas and Cameron Parish, Louisiana, and that equivalent quantities of gas would be delivered to Northern Indiana Public Service Company for National Steel's account at an existing interconnection on the border of Cook County, Illinois and Lake County, Indiana for ultimate delivery to National Steel's plant in Portage, Indiana.

Natural also requests flexible authority to add and delete delivery

points in the event that they would be necessary to support the proposed transportation service.

It is asserted that Natural would charge National Steel a transportation rate consistent with Natural's Rate Schedule T-1, effective January 1, 1986, for each million Btu of gas received by Natural for transportation as proposed. It is further stated that Natural would collect the current Gas Research Institute surcharge for each million Btu of gas redelivered to National Steel.

Natural states that the proposed transportation service would be subject to interruption at those times during which the transportation of gas would cause detriment or disadvantage to Natural or any other sales, transportation or exchange customers.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP86-632-000]

Take notice that on July 21, 1986 Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP86-632-000 an application pursuant to section 7 of the Natural Gas Act for authorization to transport up to a maximum of 6.430 billion Btu equivalent per day of natural gas on an interruptible basis for Union Carbide Corporation (Union Carbide), as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests authority to provide an interruptible transportation service for Union Carbide for a period of two years from the date of first delivery and month to month thereafter. Applicant will provide such service pursuant to the terms and conditions contained in a Gas Transportation Agreement between Applicant and Union Carbide dated June 11, 1986.

Applicant proposes to transport natural gas for the account of Union Carbide, an industrial end-user. The proposed end use of the gas is for use in gas turbines in order to generate compression for the production of the end products, oxygen and nitrogen, in Union Carbide's East Chicago and Lakeside, Indiana plants.

Applicant proposes to receive natural gas for the account of Union Carbide at the existing interconnection between the facilities of Applicant and: (1) ONG Transmission Company (ONG), an Oklahoma intrastate pipeline,[1] located in Woodward County, Oklahoma; (2) Kaiser Francis Oil Company (KF), a producer, located in Woodward County, Oklahoma; (3) Delhi Gas Pipeline Corporation (Delhi), a Texas intrastate pipeline,[1] located in Custer County, Oklahoma; (4) ONG located in Custer County, Oklahoma; (5) Delhi located in Beckham County, Oklahoma.

Applicant proposes to transport on a fully interruptible basis and will redeliver volumes of gas for the account of Union Carbide to: (1) The existing point of interconnection between the measurement facilities of Applicant and the pipeline facilities of Northern Indiana Public Service Company (NIPSCO) at Applicant's Lansing No. 3 Sales Point located at the border of Cook County, Illinois and Lake County, Indiana (Lansing); (2) the existing point of interconnection between the measurement facilities of Applicant and the pipeline facilities of NIPSCO at the Gas Sales Point located on the border of Cook County, Illinois and Lake County, Indiana (Hegewisch); (3) the existing point of interconnection between the measurement facilities of Applicant and the pipeline facilities of NIPSCO at Gas Sales Point located on the border of Kankakee[2] County, Illinois and Lake County, Indiana (North Hayden); for redelivery by NIPSCO to Union Carbide at its East Chicago and Lakeside, Indiana plants.

Applicant proposes to charge Union Carbide the following transportation rates:

Point of receipt	Point of Delivery	Transportation rate (billion Btu equivalent)
ONG-Woodward Co., OK.	Lansing, Hegewisch and North Hayden.	$303.20
KF-Woodward Co., OK.	do	303.20
ONG-Custer Co., OK	do	303.20
Delhi-Custer Co., OK	do	303.20
Delhi-Beckham Co., OK.	do	303.20

In addition, Applicant proposes to redeliver gas to Union Carbide less certain percentage reductions for fuel consumed and lost and unaccounted for gas or will charge Union Carbide for fuel consumed and lost and unaccounted for gas as provided for under the Agreement.

Applicant also proposes to charge Union Carbide the currently effective GRI surcharge as set forth on Tariff Sheet No. 5A of Applicant's Volume 1 Tariff.

No new facilities will be required for this service. Applicant requests authorization to add or delete additional receipt points in the future that may be necessary to support this service.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Northwest Central Pipeline Corporation

[Docket No. CP86-631-000]

Take notice that on July 18, 1986, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed at Docket No. CP86-631-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) partial requirements sales service under a new Rate Schedule PR in conjunction with service under new transportation rate schedules, modification of its requirements service obligations under existing Rate Schedules F, C and I to provide service in conjuction with service under Section 1(a) of Rate Schedule PR, standby sales service under existing Rate Schedules F, C, I, P, IRG and VM in conjuction with firm transportation service under certain conditions, a new, experimental interruptible deferred delivery service under Rate Schedule IDDS, and blanket authorization, with pre-granted abandonment, for Shippers under Rate Schedules FTS and ITS to utilize such service, and for all existing sales customers from time to time to convert to partial requirements service under Rate Schedule PR and to reduce the contract demand for service thereunder; and (2) blanket certificate authorization for the transportation of gas on behalf of others, with pre-granted abandonment authorization, pursuant to section 7 of the NGA and Order No. 436 issued in Docket No. RM85-1-000.

Applicant states that the requested authorizations are predicated upon the provisions of a simultaneously filed Stipulation and Agreement in Docket Nos. RP86-32, *et al.*, and, in particular, upon its proposed revised tariff sheets, as effective from time to time. Applicant states that it will provide blanket transportation for others in compliance with the conditions in § 284.221(c) of the Commission's Regulations on the basis of its Order No. 436 transportation proposal and in the Docket No. RP86-32 Stipulation. Applicant further states that it will provide firm and interruptible, transportation under proposed Rate Schedules FTS and ITS as set forth in

[1] Applicant has been informed that upon receipt of requisite Commission authorization herein, ONG and Delhi will be providing new section 311(a)(2) service under the Commission's Regulations issued under Order No. 436 and Order No. 436A.

[2] Incorrectly stated in the Agreement as Will County, Illinois.

the proposed tariff sheets of the Docket No. RP86-32 Stipulation and that the rates for such service will be in full compliance with the provisions of § 284.7 of the Commission's Regulations.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Southern Natural Gas Company

Docket Nos. CP86-609-000 and CP86-611-000

Take notice that on July 9, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket Nos. CP86-609-000 and CP86-611-000 applications pursuant to section 7(c) of the Natural Gas Act for limited-term certificates of public convenience and necessity authorizing for one year the transportation of natural gas for two existing distribution customers, all as more fully set forth in the applications which are on file with the Commissions and open to public inspection.

TRANSPORTATION DETAILS

Docket No.	Customer	Contract date	Billion Btu/day	Redelivery point
CP86-609-000	United Cities Company	June 6, 1986	80	Columbus Area Delivery Point (Columbus, Georgia).
CP86-611-000	Chattanooga Gas Company	June 30, 1986	50	Chattanooga Meter Station, Chattanooga, Tenn.

Southern requests limited-term certificates of public convenience and necessity authorizing it to transport gas on behalf of the customers listed above in accordance with the terms and conditions of transportation agreements signed on the dates listed above. It is said that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis various thermal equivalent quantities of gas per day purchased by the customers from SNG Trading Inc. Southern requests that the Commission issue limited-term certificates for a term expiring one year from the date of the Commission's order issuing the requested authorizations.

The agreements, it is said, provide that the customers would cause gas to be delivered to Southern for transportation at the various existing points of delivery on Southern's continuous pipeline system specified in the applications. Southern states that it would redeliver to the customers at the specified redelivery points, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less the customers' pro-rata share of any gas delivered for the customers' accounts which is lost or vented for any reason.

Southern states that the customers have agreed to pay Southern each month, for performing the transportation service, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to the customers under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to the customers do not exceed the daily contract demand of the customers, the transportation rate shall be 48.2 cents per million Btu equivalent in Docket No. CP86-611-000 and 39.9 cents per million Btu equivalent in docket No. CP86-609-000.

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to the agents and/or customers under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to the customers exceed the daily contract demand of the agents and/or customers, the transportation rate for the excess volumes shall be 77.6 cents per million Btu in Docket No. CP86-611-000 and 64.9 cents per million Btu in Docket No. CP86-609-000.

Southern states further that it would collect from the customers the GRI surcharge of 1.35 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern also requests flexible authority to provide transportation from additional delivery points in the event the customers obtain alternative sources of supply of natural gas. The additional transportation service, it is said, would be to the same redelivery points, the same recipients, and within the maximum daily transportation volumes of gas as stated in the applications.

Southern indicates that it would file reports providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangements would enable the customers to diversify their natural gas supply sources and to obtain gas at competitive prices. It is said that the customers have the installed capability to utilize fuel oil and have advised Southern that unless it is able to obtain the transportation services requested by Southern, they would switch to fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus it is alleged that to the extent the transportation service proposed would enable the customers to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining the customers on the system.

It is stated that Southern would receive take-or-pay credit on the gas that the customers may obtain from their suppliers. It is further stated that the gas purchased by the customers would be released by Southern and would be subject to the pricing provisions of NGPA sections 102(c), 103 and 107, as well as other sections subject to receipt of the appropriate producer abandonment authorization.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. Southern Natural Gas Company, South Georgia Natural Gas Company

[Docket No. CP86-610-000]

Take notice that on July 9, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, and South Georgia Natural Gas Company (South Georgia), 1217 Old Albany Road, Thomasville, Georgia 31792, filed in Docket No. CP86-610-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for Occidental Chemical Corporation (Occidental), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern and South Georgia propose to transport up to 16.3 billion Btu equivalent of gas per day on an interruptible basis on behalf of Occidental, which has acquired additional gas supplies from SNG Trading Inc. and Cities Service Oil and Gas Corporation (Sellers). It is stated that Occidental and South Georgia have entered into a transportation agreement

dated July 7, 1986, and that South Georgia as agent for Occidental, has entered into a transportation agreement with Southern, also dated July 7, 1986.

It is explained that Southern would receive the volumes for transportation at various existing points on its system and would redeliver an equivalent quantity less 3.25 percent of the volume transported for fuel use at an existing interconnection with South Georgia in Lee County, Alabama. It is further explained that South Georgia would receive the gas at Lee County and would redeliver an equivalent quantity less 0.5 percent of the volume transported for fuel use at four of Occidental's meter stations on South Georgia's system in Hamilton County, Florida.

Southern states that South Georgia has agreed to pay Southern each month, for performing the transportation service, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to South Georgia do not exceed the daily contract demand of South Georgia, the transportation rate shall be 39.9 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to South Georgia exceed the daily contract demand of South Georgia, the transportation rate for the excess volumes shall be 64.9 cents per million Btu.

It is further stated that Occidental has agreed to pay South Georgia each month a transportation rate of 49.88 cents per million Btu. Southern states further that it would collect from South Georgia the GRI surcharge of 1.35 centers per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed. The agreement between South Georgia and Occidental states that Occidental will reimburse South Georgia for all transportation and fuel costs South Georgia pays Southern pursuant to the agreement between South Georgia and Southern. It is further explained that Occidental will pay South Georgia the GRI surcharge of 1.35 cents per Mcf if the GRI surcharge has not otherwise been charged and collected.

Southern and South Georgia also request flexible authority to provide transportation from additional delivery points in the event Occidental obtains alternative sources of supply of natural gas. The additional transportation service, it is said, would be to the same redelivery points, the same recipients, and within the maximum daily transportation volumes of gas as stated in the application. Southern and South Georgia indicate that they would file reports providing certain information with regard to the addition of any delivery points.

Southern and South Georgia state that the transportation arrangements would enable Occidental to diversify its natural gas supply sources and to obtain gas at competitive prices. It is said that Occidental has the installed capability to utilize fuel oil and has advised Southern that it has switched to fuel oil and propane for substantially all of its energy requirements and that unless it is able to obtain the transportation services requested by Southern, and South Georgia it would continue to use fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus it is alleged that to the extent the transportation service proposed would enable Occidental to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining the customers on the system.

It is stated that Southern would receive take-or-pay credit on the gas that Occidental may obtain from its suppliers. It is further stated that the gas purchased by Occidental would be released by Southern and would be subject to the pricing provisions of NGPA section 102(c), 103 and 107, as well as other sections subject to receipt of the appropriate producer abandonment authorization.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

10. Southern Natural Gas Company

[Docket No. CP86-614-000]

Take notice that on July 11, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-614-000 an application pursuant to section 7(c) of the Natural Gas Act for limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for two agents acting on behalf of three coustomers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TRANSPORTATION DETAILS

Agent	Customer	Contract date	Billion Btu/day	Redelivery point
Atlanta Gas Light Company (Atlanta)	Florida Title Division of Sikes Corp.	June 13, 1986	1.4	Rome, Georgia.
Alabama Gas Corporation (Alagasco)	Burlington Industries, Inc. (Burlington)	June 13, 1986	.550	Anniston, Alabama.
	Tape-Craft	June 12, 1986	.630	

Southern requests a limited—term certificate of public convenience and necessity authorizing it to transport gas on behalf of the two agents and three customers listed above in accordance with the terms and conditions of transportation agreements signed on the dates specified above. It is said that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis various thermal equivanent quantities of gas per day purchased by the customers from Consolidated Fuel Supply, Inc. Southern requests that the Commission issue a limited-term certificate for a term expiring one year from the date an order is issued.

The agreements, it is said, provide that the agents would cause gas to be delivered to Southern for transportation at the various existing points of delivery on Southern's continuous pipeline system specified in the applications. Southern states that it would redeliver to the agents at various stations, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less the customers' pro-rata share of any gas delivered for the three customers' accounts which is lost or vented for any reason.

Southern states that Atlanta and Alagasco have agreed to pay Southern each month, for performing the transportation service, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to the agents under any and all transportation agreements

with Southern,[1] when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to the agents does not exceed the daily contract demand of the agents, the transportation rate shall be 48.2 cents per million Btu for Atlanta and 39.9 cents per million Btu for Alagasco.

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to the agents under any and all transportation agreements with Southern, [2] when added to the volumes of gas delivered under Southern's OCD rate schedule on such day to the agents exceeds the daily contract demand of the agents and/or customers, the transportation rate for the excess volumes shall be 77.6 cents per million Btu for Atlanta and 64.9 cents per million Btu for Alagasco. Southern states further that it would collect from the agents and/or customers the GRI surcharge of 1.35 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern also requests flexible authority to provide transportation from additional delivery points in the event the customers obtain alternative sources of supply of natural gas. The additional transportation service, it is said, would be to the same redelivery points, the same recipients, and within the maximum daily transportation volumes of gas as stated in the applications. Southern indicates that it would file reports providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangements would enable the customers to diversify their natural gas supply sources and to obtain gas at competitive prices. It is said that Burlington has the installed capability to utilize fuel oil and has advised Atlanta that unless it is able to obtain the transportation services requestd by Southern, it would switch to fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus it is alleged that to the extent the transportation service proposed would enable the customers to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining the customers on the system.

It is stated that Southern would receive take-or-pay credit on the gas that the customers may obtain from their suppliers. It is further stated that the gas purchased by the customers would be released by Southern and would be subject to the pricing provisions of NGPA section 102(c), 103 and 107, as well as other sections subject to receipt of the appropriate producer abandonment authorization.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

11. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-599-000]

Take notice that on July 2, 1986, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396 Houston, Texas 77251, filed in Docket No. CP86-599-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Bridgeline Gas Distribution Company (Bridgeline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to the dekatherm equivalent of 12,000 Mcf per day on behalf of Bridgeline, on an interruptible basis. It is explained that such natural gas would be purchased by Bridgeline for its system supply from Texaco Producing, Inc. (Texaco) in the High Island Area, Blocks 111 and A-582"C", Offshore Texas and transported by Applicant pursuant to a transportation agreement with Bridgeline dated April 1, 1986.

It is further explained, that Applicant would receive up to the dekatherm equivalent of 2,000 Mcf per day produced in High Island Block 111 at an existing point of interconnection with Texaco in such block and redeliver equivalent quantities at an existing point of interconnection between the facilities of Applicant and Riverway Gas Pipeline Company at the Paradis Gas Processing Plant (Paradis Plant) in St. Charles Parish, Louisiana. In addition, Applicant would also receive up to the dekatherm equivalent of 10,000 Mcf per day produced in High Island Block A-582"C" at an existing point of interconnection with Texaco in such block and redeliver equivalent quantities at an existing point of interconnection between the facilities of Applicant and ANR Pipeline Company (ANR) in High Island Block A-563"B".

Applicant states that it would charge Bridgeline initially 32.10 cents per dekatherm for natural gas transported from High Island Block A-563 "B". Applicant further states that it would initially retain 2.4 percent of the quantities received at High Island Block 111 to the Paradis Plant and 6.90 cents per dekatherm for natural gas transported from High Island Block A-582"C" to ANR at High Island Block 111 and none of the gas received at High Island Block A-582"C" to provide for compressor fuel and line loss make-up.

In addition to the transportation of natural gas, the proposed agreement also would provide for the transportation of liquid and liquefiable hydrocarbons. The primary term of the agreement is for two years from the date of initial deliveries, and year to year thereafter, it is stated.

Applicant states that the proposed transportation service would be rendered through use of its available existing system capacity and that no additional facilities are proposed.

Applicant submits that by filing the subject application, it is not electing "non-discriminatorty access" as such term is described and defined in §§ 284.8(b) and 284.9(b) of the Commission's Regulations (promulgated in Order No. 436).

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

12. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-623-000]

Take notice that on July 16, 1986, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-623-000 an application pursuant to section 7 of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing Applicant to transport natural gas on behalf of Coastal Eagle Point Oil Company (Coastal), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is requesting authorization in the subject application to transport on behalf of Coastal, on an interruptible basis, up to the dekatherm equivalent of 50,000 Mcf per day pursuant to a transportation agreement between Applicant and Coastal dated April 15, 1986. Applicant states that Coastal will purchase such gas from ANR Gathering Company (ANR Gathering), Transco Energy Marketing Company (TEMCO) and Coastal Oil and Gas Corporation (Coastal Oil and Gas). Pursuant to the transportation agreement, Applicant will receive such gas at the following points of receipt:

[1] Excluding a long-term transportation agreement among Southern, Alagasco and Alabama Interstate Supply dated October 1, 1984.

[2] Ibid.

Sources	Points of receipt
ANR Gathering	Existing interconnection between Transco and ANR Pipeline Company at Eunice, Acadia Parish, Louisiana.
TEMCO	Existing interconnections between Transco and the TEMCO producer sellers.
Coastal Oil and Gas (Jeffress Field Hidalgo County, Texas).	Existing interconnections between Transco and Valero Transmission Company (Valero) (1) in LaSalle County, Texas, and (2) near Transco's Station 30, Wharton County, Texas.

Applicant states that it will redeliver equivalent quantities (less compressor fuel and line loss make-up) to Coastal at the existing point of interconnection between Applicant and Coastal's Eagle Point Plant, Gloucester County, New Jersey.

For this transportation service, Applicant submits that it will retain a percentage of the gas quantities it receives for compressor fuel and line loss make-up and will charge Coastal a transportation rate based on Applicant's currently applicable Rate Schedule T–II rate, and as the same may be legally amended or superseded from time to time.

It is stated that the transportation agreement will remain in force for a primary term of five years from the date of initial deliveries, and year to year thereafter unless and until terminated by either party giving proper notice.

Applicant also states that Coastal is considering alternative sources of supply of natural gas. Such alternatives may involve different suppliers of changes in receipt points, or both, but would not involve any increase in peak day volumes to be transported by Applicant or any change in delivery points. Consequently, Applicant also requests "flexible authority" whereby it would undertake certain filing requirements to advise the Commission in the event Coastal obtains different sources of supply or if additions or deletions of receipt points are required in furtherance of the transportation authority requested herein.

Applicant also submits that by filing the subject application, it is not electing "non-discriminatory access" as such term is described and defined in §§ 284.8(b) and 284.9(b) of the Commission's Regulation (promulgated in Order No. 436.)

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

13. Tri-Energy Pipeline Company

[Docket No. CP86–627–000]

Take notice that on July 16, 1986, Tri-Energy Pipeline Company (Tri-Energy), 25 Hillchrest, Keokuk, Iowa 52632, filed in Docket No. CP86–627–000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the lease of certain pipeline facilities from Great River Gas Company (Great River), the construction of certain interconnecting pipeline facilities, and the operation of such facilities to transport natural gas for Great River, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tri-Energy proposes to lease and operate certain mainline facilities owned by Great River and construct and operate pipeline facilities necessary to interconnect the two isolated distribution systems owned by Great River in Iowa and Missouri.

Specifically, Tri-Energy and Great River have entered into a certain lease agreement dated June 9, 1986 providing for the lease to Tri-Energy of the mainline portion of Great River's distribution facilities in Missouri and Iowa. The mainline facilities to be leased in Missouri extend from panhandle's Taylor M&R tap located in Liberty Township, T58N, R5W, section 28 in Marion County, Missouri, at the southern terminus of such facilities (where Great River's facilities interconnect with Panhandle's pipeline facilities) to the Gregory Landing tap located in Clay Township, T63N, R6W, section 4 in Clark County, Missouri, near the northern terminus of Great River's Missouri facilities. Great River's mainline facilities to be leased in Iowa, extend from the South Fort Madison-Keokuk tap located in Jefferson Township, T67N, R5W, section 21 in Lee County, Iowa, at the northern terminus of such facilities (where Great River's Iowa facilities interconnect with ANR's pipeline facilities) to the Wirtz Land metering and regulating station located in Jackson Township, T65N, R5W, Section 10 in Lee County, Iowa. The facilities proposed to be leased in Missouri consist of 28.76 miles of 10.750-inch pipe and 9.66 miles of 6.625-inch pipe. The facilities proposed to be leased in Iowa consist of 10.54 miles of 6.625-inch pipe and 10.91 miles of 4.500-inch pipe. Tri-Energy will pay a rental fee to Great River of $110,200 per year.

Tri-Energy proposes constructing 13.67 miles of 6.625-inch pipe at a cost of $3.2 million extending from the Gregory Landing tap, at the northern terminus of Great River's mainline facilities to be leased in Missouri, to the Carbide Lane regulating station interconnect with Great River's distribution facilities located in Jackson Township, T65N, R5W, section 22 in Lee County, Iowa, and 1.58 miles of 4.50-inch pipe extending from Carbide Lane to the Writz Lane regulating station at the southern terminus of Great River's mainline facilities to be leased in Iowa. By means of these constructed facilities, Tri-Energy proposes to interconnect Great River's two physically isolated distribution systems. Tri-Energy would then be able to transport natural gas from the Missouri service area to the Iowa service area and vice-versa.

Pursuant to a gas transportation agreement between Tri-Energy and Great River dated June 9, 1986, Tri-Energy proposes to transport up to 26,382 Mcf of natural gas per day in interstate commerce for Great River from receipt points in Iowa to delivery points in Missouri and Iowa, and from receipt points in Missouri to delivery points in Iowa and Missouri. Tri-Energy proposes to charge Great River transportation rates designed on a modified fixed-variable basis consisting of a monthly D–1 charge of $2.021 per Mcf, a monthly D–2 charge of 5.412 cents per Mcf. The volumes proposed to be transported by Tri-Energy are Great River's total annual retail gas sales requirements as well as gas volumes to be transported further by Great River to its customers served off the facilities proposed to be leased by Tri-Energy.

Comment date: August 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing

if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17675 Filed 8-5-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 6G3306/T527; FRL-3057-5]

Triclopyr; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide triclopyr and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by Dow Chemical Co.

DATE: These temporary tolerances expire June 24, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1800).

SUPPLEMENTARY INFORMATION: Dow Chemical Co., Agricultural Products Dept., P.O. Box 1706, Midland, MI 48640, requested in pesticide petition PP 6G3306 the establishment of temporary tolerances for the combined residues of the herbicide triclopyr ([3,5,6-trichloro-2-pyridinyl]oxy acetic acid), and its metabolites 3,5,6-trichloro-2-pyridinol and 2-methoxy 3,5,6-trichloropyridine in or on the raw agricultural commodities fish at 0.2 part per million (PPM) and shellfish at 0.2 ppm. An allowable residue level of 0.5 ppm in potable water is established in compliance with the Safe Drinking Water Act (SDWA).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 464-EUP-87, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Dow Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 24, 1988. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: July 23, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-17216 Filed 8-5-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50660; FRL-3059-7]

Issuance of Experimental Use Permits; Abbott Laboratories et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-55. Issuance. Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 6.04 pounds of the plant growth regulator 6-benzyladenine on conifers including pines and firs to evaluate lateral bud set and branch development. A total of 68.5 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Louisiana, Michigan, Mississippi, New Mexico, North Carolina, Ohio, Oregon, South Carolina, Texas, Vermont, Virginia, and Washington. The experimental use permit is effective from June 23, 1986 to June 23, 1987. (Robert Taylor, PM 25, Rm. 245, CM#2 (703-557-1800)).

239-EUP-111. Extension. Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804-0036. This experimental use permit allows the use of 80 pounds of the insecticide alpha-cyano-3-phenoxybenzyl-2,2,3-

tetramethylcyclopropane-carboxylate on grapes to evaluate the control of various insect pests and mites on grapes. A total of 100 acres are involved; the program is authorized only in the States of California and New York. The experimental use permit is effective from May 10, 1986 to May 10, 1987. A temporary tolerance for residues of the active ingredient in or on grapes has been established. (George LaRocca, PM 15, Rm. 204, CM#2 (703–577–2400)).

464–EUP–87. Issuance. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 3,000 pounds (over 2 years) of the herbicide triclopyr on ditch banks to evaluate the control of aquatic weeds. A total of 300 acres are involved; the program is authorized only in the States of Alabama, California, Florida, Georgia, New Mexico, and Texas. The experimental use permit is effective from June 24, 1986 to June 24, 1988. Temporary tolerances for residues of the active ingredient in or on fish and shellfish have been established. (Robert Taylor, PM 25, Rm. 245, CM#2 (703–557–1800)).

352–EUP–122. Amendment. E.I. duPont de Nemours and Company, Wilmington, DE 19898. In the **Federal Register** of August 7, 1985 (50 FR 31917), EPA issued an experimental use permit pertaining to the extension of 352–EUP–122 to E.I. duPont de Nemours and Company. At the request of the company, the permit has been amended to add additional States and increase the amount of the active ingredient and acreage. The experimental use permit now allows the use of 91.6 pounds of the acaricide *trans*-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide on fresh market apples to evaluate the control of the European red, two-spotted spider, and McDaniel spider. A total of 487 acres are involved; the program is authorized in the States of California, Colorado, Georgia, Illinois, Indiana, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from May 31, 1986 to May 31, 1987. A temporary tolerance for residues of the active ingredient in or on fresh market apples has been established. (George LaRocca, PM 15, Rm. 204, CM#2 (703–557–2400)).

3125–EUP–196. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 978.75 pounds of the insecticide cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloro-ethenyl)-2,2-dimethyl-cyclopropanecarboxylate on apples and pears to evaluate the control of various insects and mites. A total of 1,725 acres are involved; the program is authorized only in the States of California, Colorado, Georgia, Idaho, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, and West Virginia. The experimental use permit is effective from June 6, 1986 to June 6, 1987. A temporary tolerance for residues of the active ingredient in or on apples and pears has been established. (George LaRocca, PM 15, Rm. 204, CM#2 (703–557–2400)).

34704–EUP–3. Issuance. Platte Chemical Company, P.O. Box 667, Greeley, CO 80632. This experimental use permit allows the use of 1,566 pounds of the insecticide malathion on pastures and rangeland to evaluate the control of grasshoppers. A total of 2,700 acres are involved; the program is authorized only in the States of Colorado, Idaho, New Mexico, North Dakota, South Dakota, and Wyoming. The experimental use permit is effective from June 20, 1986 to September 30, 1987. A permanent tolerance for residues of the active ingredient in or on grass and grass hay has been established (40 CFR 180.111). (William Miller, PM 16, Rm. 211, CM#2 (703–557–2600)).

Persons wishing to review these experimental use permit are referred to the designated managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: July 28, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–17450 Filed 8–5–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240070; FRL–3049–2]

State Registration of Pesticides

Correction

In FR Doc. 86–15992, beginning on page 25743 in the issue of Wednesday, July 16, 1986, make the following corrections:

1. On page 25744, in the first column, in the last line of the last paragraph under the heading "Arkansas", "week" should read "weed".

2. On page 25745, in the middle column, in the third line of the first paragraph under the heading "Mississippi", "Thiodibarb" should read "Thiodicarb".

3. Also on page 25745, in the third column, in the third line of the fourth complete paragraph, "80–VP" should read "80–WP".

4. On page 25746, in the third column, in the first line under the heading "Wisconsin", "WA" should read "WI".

5. Also on page 25746, in the third column, in the first line under the heading "Wyoming", "WA" should read "WY".

BILLING CODE 1505–01–M

[OPTS–51633; FRL–3056–9]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86–16969 beginning on page 27085 in the issue of Tuesday, July 29, 1986, make the following corrections:

1. On page 27085, in the middle column, in the 15th line of the **DATES** section, the last two numbers should read "86–1296, and 86–1297".

2. In the same column, in the 17th line of the **DATES** section, "86–1299m" should read "86–1299".

3. On page 27087, in the first column, in the 11th line under the caption "P 86–1315", "1hrs/da", should read "1hr/da".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidatd Hearing; Barry and Claudia Cummings et al.

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant	City/State	File No.	MM Docket No
A. Barry and Claudia Cummings.	Farragut, TN	BP–850705AE	86–220
B. Farragut AM Ltd.	do	BP–851202AD	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the abouve applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been

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standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants(S)
Comparative	All applicants.
Ultimate	All applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86-17642 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

Memorandum Opinion and Order; Contemporary Communications Corp. et al.

In re applications of CC Docket No. 86-316:

	File No.
Contemporary Communications Corporation.	5594-CM-P-80
Kravetz Media Corporation.	10190-CM-P-80

For construction permits in the multipoint distribution service for a new station on channel 2A at Fresno, California.

Adopted: July 21, 1986.

Released: July 28, 1986.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2A at Fresno, California. The applications are therefore mutually exclusive and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules 47 CFR 0.291, the above-captioned applications are designated for hearing, in consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. it is further ordered, That Contemporary Communications Corporation, Kravetz Media Corporation and the Chief of Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. it is futher ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 86-17649 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

Memorandum Opinion and Order; Galesburg Broadcasting Co. et al.

In re Applications of CC Docket No. 86-317:

	File No.
Galesburg Broadcasting Company.	50275-CM-P-82
Unimel, Inc	50333-CM-P-82

For Construction Permits in the Multipoint Distribution Service for a new station on Channel 1 at Galesburg, Illinois.

Adopted: July 22, 1986.

Released: July 28, 1986.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Galesburg, Illinois. The applications are therefore mutually exclusive and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Galesburg Broadcasting Company, Unimel, Inc. and

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] Consideration of these factors shall be in light of the Commission's discussion in Frank K. Spain, 77 FCC 2d 20 (1980).

BEST COPY AVAILABLE

the Chief of Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 86-17650 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

Memorandum Opinion and Order; Telecrafter Communications Corp. et al.

In re Applications of CC Docket No. 86-315:

	File No.
Telecrafter Communications Corporation.	50144-CM-P-82
Broadcast Data Corporation.	50270-CM-P-82

For Construction Permits in the Multipoint Distribution Service for a new station on Channel 1 at La Grande, Oregon;

Adopted: July 21, 1986.

Released: July 30, 1986.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at La Grande, Oregon. The applications are therefore mutually exclusive and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Telecrafter Corporation, Broadcast Data Corporation and the Chief of the Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Broadcast Data Corporation, which is a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned as follows:

(a) Without prejudice to reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 86-17641 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in Frank K. Spain, 77 FCC 2d 20 (1980).

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 31, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from Jerry Cowden, FCC, (202) 632-7513. Comments should be sent to J. Timothy Sprehe, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395-4814.

OMB Number: 3060-0149

Title: Part 63—Section 214 Application and Supplemental Information Requirements for Domestic Facilities (§§ 63.01-63.63, 63.65, 63.66, 63.71-63.601)

Action: Revision

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 230 Responses; 2,760 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-17640 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 25, 1986.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0329

Title: Equipment Authorization—Verification (§§ 2.955, 15.69(b), 15.814(b), 15.834 (b) and (c), 18.203(b))

Action: Revision

Respondents: Manufacturers of certain radiofrequency devices

Estimated Annual Burden: 5,375 Recordkeepers; 96,750 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-17644 Filed 8-5-86; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 24, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of this submission are available from Doris Benz, FCC, (202) 632–7513. Comments should be sent to J. Timothy Spraehe, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395–4814.

OMB No.: 3060–0021
Form No.: FCC 480
Title: Civil Air Patrol Radio Radio Station License
Action: Revision
Estimated Annual Burden: 1,600 Responses; 1,200 Hours.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86–17645 Filed 8–5–86; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in §572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–005200–049.
Title: Pacific Coast European Conference.
Parties: Blue Star Line, Ltd; Compagnie Generale Maritime; A/S Det Ostasiatiske Kompagni; Hapag-Lloyd Ag; Intercontinental Transport (ICT) B.V.; Johnson Line AB; Sea-Land Service, Inc.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to bring the agreement into compliance with the newly adopted rule concerning independent action provisions in conference agreements.

Agreement No.: 202–010637–015.
Title: North Europe-U.S. Atlantic Conference.
Parties: Atlantic Container Line (G.I.E.); Dart-ML Limited; Hapag-Lloyd AG; Sea-Land Service, Inc.; United States Lines, Inc.; Trans Freight Lines; Compagnie Generale Maritime (CGM); Nedlloyd Lijnen, B.V.; Gulf Container Line (GCL), B.V.
Synopsis: The proposed amendment would exclude any member of the agreement organized under FMC Agreement No. 207–009498 from the requirement that related companies offering common carrier service in the trade comply with the agreement in respect to the transport by Wallenius Line of non-containerizable cargo in any car vessel operated by Wallenius Line to any port in South Carolina, Georgia or Florida not served by roll-on/roll-off vessels of such member. The parties have requested a shortened review period.

Agreement No.: 217–010738–001.
Title: Barber Blue Sea/Open Bulk Carriers Chartering Agreement.
Parties: Barber Blue Sea Line (BBS); Open Bulk Carriers Limited (OBC).
Synopsis: The proposed amendment would clarify the geographic scope of the agreement with respect to Scandinavian ports and would include all North American ports. It would also permit BBS to retain space below deck on vessels chartered to OBC, permit the parties to take actions to avoid sales and marketing conflicts and make other non-substantive changes.

Agreement No.: 202–010789–001.
Title: Israel Westbound Conference.
Parties: Zim Israel Navigation Co., Ltd.; Farrell Lines, Inc.; Lykes Bros. Steamship Company, Inc.
Synopsis: The proposed amendment would specify that independent action rate or service items would be included in a conference tariff for use by the party effective no later than ten calendar days after receipt of the notice of independent action.

Agreement No.: 202–010790–001.
Title: Israel Eastbound Conference.
Parties: Zim Israel Navigation Co., Ltd.; Farrell Lines, Inc.; Lykes Bros. Steamship Company, Inc.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to bring the agreement into compliance with the newly adopted rule concerning independent action provisions in conference agreements.

Agreement No.: 224–010980.
Title: Stevedore and Terminal Service Agreement between Seacon Terminals, Inc., and Italia-D'Amico Joint Service.
Parties: Italian Line; d'Amico Line; Seacon Terminals, Inc. (Seacon).
Synopsis: The proposed agreement would permit Seacon to provide container terminal services at Puget Sound ports for containers to be loaded onto or discharged from container vessels owned, chartered, managed or otherwise controlled by Italia-D'Amico Joint Service on its regular service to and from the West Coast of the United States.

Agreement No.: 224–010981.
Title: Port of Seattle Terminal Agreement.
Parties: Seacon Terminals, Inc. (Contractor); United Yugoslav Line (Carrier).
Synopsis: The proposed agreement would permit the contractor to provide certain container terminal services in the Port of Seattle for containers to be loaded onto or discharged from container vessels owned, chartered, managed, or otherwise controlled by the carrier on its regular service between the West Coast of the United States and the Mediterranean. The contractor shall also provide directly or through sub-contractors all container, chassis and related equipment maintenance service which the carrier elects to have performed within the terminal facility area.

By Order of the Federal Maritime Commission.

Dated August 1, 1986.

Joseph C. Polking,
Secretary.

[FR Doc. 86–17661 Filed 8–5–86; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community Banks, Inc.; Application To Engage de Novo in Permissible Nonbaking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 US.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbaking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disptue, summarizing the evidence that would be presented at a hearing, and indication how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise, noted, comments regarding the application must be received at the Reserved Bank indicated or the offices of the Board of Governors not later than August 26, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Community Banks, Inc.*, Millersburg, Pennsylvania; to engage *de novo* through its subsidiary, Community Banks Life Insurance Company, Phoenix Arizona, in underwriting credit life, accident and health insurance as reinsurer, licensed by the State of Arizona; it will be organized and incorporated for the principal purpose of acting as a reinsurer of credit life, accident and health insurance issued by Security of America Life Insurance Company in connection with extensions of credit made by the Applicant's subsidiary banks, Upper Dauphin National Bank, Millersburg, Pennsylvania, and Peoples Bank of Shamokin, Shamokin, Pennsylvania, pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted form the offices of the Applicant's two subsidiary banks located in and serving Dauphin, Schuylkill and Northumberland of Central Pennsylvania.

Board of Governors of the Federal Reserve System, July 31, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17622 Filed 8-5-86; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 28, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation*, Jersey City, New Jersey; to acquire 100 percent of the voting shares of First National Bancorp in Fort Lee, Fort Lee, New Jersey, and thereby indirectly acquire First National Bank in Fort Lee, For Lee, New Jersey.

2. *The Hong Kong and Shanghai Banking Corporation*, Hong Kong; to acquire substantially all of the assets of Global Union Bank, New York, New York.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Midwest Corporation of Delaware*, Elmwood Park, Illinois; to acquire 100 percent of the voting shares of Illinois State Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire Illinois State Bank of Chicago, Chicago, Illinois. Comments on this application must be received by August 25, 1986.

2. *Mount Vernon Bancorp*, Mount Vernon, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Mount Vernon Bank and Trust Comapny, Mount Vernon, Iowa.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Arlington Bancshares, Inc.*, Arlington, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of South Arlington National Bank, Arlington, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 31, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17623 Filed 8-5-86; 8:45 am]

BILLING CODE 6210-01-M

Landmark Bancshares Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be

accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 28, 1986.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Landmark Bancshares Corporation*, Clayton, Missouri; to acquire 100 percent of the voting shares of MidAmerica BancSystem, Inc., Fairview Heights, Illinois, and thereby indirectly acquire MidAmerica Bank and Trust Company of Alton, Alton, Illinois; MidAmerica Bank and Trust Company of Carbondale, Carbondale, Illinois; MidAmerica Bank and Trust Company of Edgemont, East St. Louis, Illinois; MidAmerica Bank and Trust Company of Fairview Heights, Fairview Heights, Illinois; MidAmerica Bank and Trust Company of St. Clair County, O'Fallon, Illinois; and MidAmerica Bank and Trust Company of Mascoutha, Mascoutha, Illinois.

In connection with this application, Landmark Bancshares of Illinois, Inc., Clayton, Missouri, has applied to become a bank holding company by acquiring 100 percent of the voting shares of MidAmerica BancSystem, Inc., Fairview Heights, Illinois.

Landmark Bancshares Corporation and Landmark Bancshares of Illinois, Inc., both of Clayton, Missouri, have applied to acquire MidAmerica Trust Company, Fairview Heights, Illinois, and thereby engage in providing full trust services to its customers and customers of the banking subsidiaries of MidAmerica BancSystem, Inc., pursuant to § 225.25(b)(3) of the Board's Regulation Y. These activities will be conducted in the States of Illinois and Missouri.

Board of Governors of the Federal Reserve System, July 31, 1986.

James McAfee

Associate Secretary of the Board.

[FR Doc. 86-17624 Filed 8-5-86; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1445 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to engage *de novo* through its wholly-owned nonbank subsidaries, Mellon Life Insurance Company, Wilmington, Delaware and Commonwealth National Life Insurance Company, Phoenix, Arizona, in underwriting home mortgage redemption insurance.

Board of Governors of the Federal Reserve System, July 31, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17625 Filed 8-5-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-1153—Trilon Financial Corporation's proposed acquisition of voting securities of The Holden Group, Inc., (The Holden Company, UPE).	June 16, 1986.
(2) 86-1208—Kellwood Company's proposed acquisition of voting securities of Parsons Place Apparel Company Ltd., and Take I Sportswear, Inc., (Herbert Auslander UPE).	Do.
(3) 86-1215—Bergen Burnswig Corporation's proposed acquisition of assets of DiGiorgio Corporation.	Do.
(4) 86-1237—Super Valu Stores, Inc.'s proposed acquisition of assets of Associated Grocers of Colorado, Inc.	Do.
(5) 86-1244—AmenTrust Corporation's proposed acquisition of assets of Associates Commercial Corporation, (Gulf & Western, Inc., UPE).	Do.
(6) 86-1247—Crossland Savings FSB's proposed acquisition of voting securities of First Security Realty Services and First Security Services, (First Security Corporation, UPE).	Do.
(7) 86-1251—Nortek, Inc.'s proposed acquisition of assets of Home Division of LSI, (Lear Siegler Inc., UPE).	Do.
(8) 86-1252—Nortek, Inc.'s proposed acquisition of assets of Mammoth Division of LSI, (Lear Siegler, Inc., UPE).	Do.
(9) 86-1270—East Asiatic Company Ltd. A/S's proposed acquisition of voting securities of OAK Foods, Inc., (Northern Foods plc, UPE).	Do.
(10) 86-1271—Instrument Systems Corporation's proposed acquisition of voting securities of Clopay Corporation.	Do.
(11) 86-1272—Instrument Systems Corporation's proposed acquisition of voting securities of Clopay Corporation.	Do.
(12) 86-1162—Bell Atlantic Corporation's proposed acquisition of assets of Pitcairn Properties Incorporated, (The Pitcairn Company, UPE).	June 18, 1986.

Transaction	Waiting period terminated effective
(13) 86-1174—American Cyanamid Company's proposed acquisition of voting securities of Scherer-Storz, Inc., (Robert P Scherer, Jr., UPE).	Do.
(14) 86-1207—Caronan Fund I's proposed acquisition of assets of Westinghouse Electric Corporation.	Do
(15) 86-1250—Reliance Capital Group, L. P.'s proposed acquisition of voting securities of John Blair & Company.	Do.
(16) 86-1257—Koninklijke Wessanen NV's proposed acquisition of voting securities of John C. Cain. Co.	Do
(17) 86-1266—Masco Corporation's proposed acquisition of voting securities of Henredon Furniture Industries, Inc.	Do
(18) 86-1267—Masco Corporation's proposed acquisition of voting securities of Henredon Furniture Industries, Inc.	Do.
(19) 86-1268—Masco Corporation's proposed acquisition of voting securities of Henredon Furniture Industries, Inc.	Do.
(20) 86-1193—IBS Partners Ltd.'s proposed acquisition of voting securities of Burnup & Sims, Inc.	June 19, 1986.
(21) 86-1205—Towers, Perrin Forster & Crosby Inc.'s proposed acquisition of voting securities of Tillinghast, Nelson & Warren, Inc.	Do.
(22) 86-1212—AM International, Inc.'s proposed acquisition of voting securities of Nicolet Zeta Corporation (Nicolet Instrument Corporation, UPE).	Do.
(23) 86-1213—United Technologies Corporation's proposed acquisition of voting securities of Florida Air Conditioners, Inc., (James C. Van Landingham, UPE).	Do.
(24) 86-1216—Jamie Securities Co.'s proposed acquisition of voting securities of Revco D.S., Inc.	Do.
(25) 86-1269—Texas Air Corporation's proposed acquisition of voting securities of of Rocky Mountain Aviation, Inc.	Do.
(26) 86-1276—Hambleton-Hill Industries, Inc.'s, (Van E. Hill, UPE) proposed acquisition of voting securities of The 224 Company.	Do
(27) 86-1277—Hambleton-Hill Industries, Inc.'s, (Robert H. Hambleton, UPE) proposed acquisition of voting securities of The 224 Company.	Do.
(28) 86-1283—J. G. L. Investments Pty's proposed acquisition of voting securities of Victory Markets Inc.	Do.
(29) 86-1284—J. G. L. Investments Pty's proposed acquisition of voting securities of Victory Markets Inc.	Do.
(30) 86-1285—J. G. L. Investments Pty's proposed acquisition of voting securities of Victory Markets Inc.	Do.
(31) 86-1293—C. G. & T. Industries Inc.'s, (Mr. Jim R. Smith, UPE) proposed acquisition of assets of Illinois Central Gulf Railroad Company, (IC Indurtries, Inc., UPE).	Do.
(32) 86-1294—C. G. & T. Industries Inc.'s, (Mr. David W. Reed, UPE) proposed acquisition of assets of Illinois Central Gulf Railroad Company, (IC Indurtries, Inc., UPE).	Do.
(33) 86-1307—National Medical Enterprises, Inc.'s proposed acquisition of voting securities of Fortel Corporation.	Do.
(34) 86-1253—Total Petroleum's, (North America Ltd.) proposed acquisition of voting securities of AMR Energy Corporation, (AMR Corporation, UPE).	June 20, 1986.
(35) 86-1315—Bunzl Plc's proposed acquisition of voting securities of G. B. Goldman Paper Co.	June 23, 1986.
(36) 86-0235—International Minerals and Chemical Corporation's proposed acquisition of assets of Brewster Phosphates, a partnership.	June 25, 1986.
(37) 86-1225—Chrysler Corporation's proposed acquisition of voting securities of Officine Alfieri Maserati, (Alejandro de Tomaso, UPE).	Do
(38) 86-1256—Marvin Orleans' proposed acquisition of voting securities of FPA Corporation.	Do
(39) 86-1260—Material Sciences Corporation's proposed acquisition of voting securities of Scharr Industries, Inc., (Jerome M. and Marlene G. Scharr, UPE's).	Do
(40) 86-1273—Schroders Public Limited Company's proposed acquisition of voting securities of Wertheim & Co., Inc., (Werconn Limited Partnership, UPE).	Do.
(41) 86-1203—Bessemer Securities Corporation's proposed acquisition of voting securities of Standard Food Service Company, Inc. and assets of Lobota, Inc., (Mr. & Mrs. Robert Mays, Sr., UPE).	June 26, 1986.
(42) 86-1287—MTD Products Inc.'s proposed acquisition of assets of Aircap Industries, Inc.	Do.
(43) 86-1296—Dairy Mart Convenience Stores, Inc.'s proposed acquisition of voting securities of CONNA Corporation.	Do.
(44) 86-1306—F. H. Partners, L. P.'s proposed acquisition of voting securities of Fruehauf Corporation.	Do.
(45) 86-1311—PHH Group, Inc.'s proposed acquisition of voting securities of Ryan Aviation Corporation.	Do.
(46) 86-1316—Neoax, Inc.'s proposed acquisition of voting securities of Lanson Industries, Inc., (Charter Lanson, Inc., UPE).	Do
(47) 86-1320—William F. Farley's proposed acquisition of assets of Genesco Camp Division, (Genesco, Inc., UPE).	Do.
(48) 86-1324—CML Group, Inc.'s proposed acquisition of voting securities of PSI Nordictrack, Inc., (Edward A. and Florence Pauls, UPE's).	Do.
(49) 86-1325—Edward A. Pauls and Florence Pauls' proposed acquisition of voting securities of CML Group, Inc.	Do.
(50) 86-1326—Spear Leeds & Kellogg's proposed acquisition of voting securities of H. A. Brandt & Associates Inc.	Do.
(51) 86-1332—HMI Holdings, Inc. d/b/a/ Vons Grocery Company's proposed acquisition of voting securities of Pantry Food Markets, Inc. of California, (Cullum Companies, Inc., UPE).	Do.
(52) 86-1334—Delta Air Lines, Inc.'s proposed acquisition of voting securities of Comair Inc.	Do.
(53) 86-1338—Pan Am Corporation's proposed acquisition of assets of certain landing and takeoff rights and gate facilities, (Texas Air Corporation, UPE).	Do.
(54) 86-1142—Rio Tinto-Zinc Corp., PLC's proposed acquisition of voting securities of AL Tech Specialty Steel Corp., (GATX Corporation, UPE).	June 27, 1986.
(55) 86-1223—Dentsply Holdings Inc.'s proposed acquisition of assets of Cooper LaserSonics, Inc.	Do.
(56) 86-1240—Carey Energy Corporation's proposed acquisition of voting securities of Caribbean Gulf Refining Corporation, (Chevron Corporation, UPE).	Do.
(57) 86-1241—Citrus World, Inc.'s proposed acquisition of assets of Citrus Processing Operation, (Southern Fruit Distributors, Inc., UPE).	Do.
(58) 86-1246—National Healthcare, Inc.'s proposed acquisition of assets of L. V. Stabler Memorial Hospital of Greenville, Inc.; Valley View Medical Center; Cleveland Community Hospital; White County Community Hospital; Grant Buie Hospital; and Malone-Hogan Hospital, (Hospital Corporation of America, UPE).	Do.
(59) 86-1288—The Pittston Company's proposed acquisition of voting securities of Paramount Coal Corporation, (Paramount Coal Company, UPE).	Do.
(60) 86-1289—Holly Sugar Corporation's proposed acquisition of assets of Union Sugar Company and Betteravia Byproducts Company, (Sara Lee Corporation, UPE).	Do.
(61) 86-1333—GSCA Inc.'s, (John R Williams, UPE) proposed acquisition of voting securities of First Atlanta Mortgage Corporation, (First Wachovia Corporation, UPE).	Do.
(62) 86-1344—Narragansett First Fund's proposed acquisition of assets of Rockefeller Group, Inc. and voting securities of Transtower, Inc	Do.
(63) 86-1303—Sterling Drug Inc.'s proposed acquisition of voting securities of Formby's Inc., (The Procter & Gamble Company, UPE)	June 30, 1986.
(64) 86-1335—Hawker Siddeley Group Public Limited Company's proposed acquisition of voting securities of Daytronic Instrument System Corporation.	Do
(65) 86-1231—Mark Goodson's proposed acquisition of voting securities of Mark I Communications, Inc., (Film Productions, Inc., UPE).	July 3, 1986.
(66) 86-1232—Mark Goodson's proposed acquisition of voting securities of Summit Communications, Inc.	Do.
(67) 86-1235—Allen Holding Inc.'s proposed acquisition of assets of the Ticketron Division, (Control Data Corporation, UPE).	Do
(68) 86-1275—General Electric Company's proposed acquisition of voting securities of Genstar Container, (IMASCO Limited, UPE)	Do
(69) 86-1280—Martin D. Gruss' proposed acquisition of voting securities of Anderson, Clayton & Co	Do.
(70) 86-1281—Gruss Partners' proposed acquisition of voting securities of Anderson, Clayton & Co.	Do.
(71) 86-1282—Bear, Stearns & Company's proposed acquisition of voting securities of Anderson, Clayton & Co.	Do.
(72) 86-1290—Hawaiian Electric Industries, Inc.'s proposed acquisition of voting securities of Young Brothers Limited and Dillingham Tug and Barge Corporation, (Dillingham Holdings, Inc., UPE).	Do.
(73) 86-1339—Alto Co-Operative Creamery's proposed acquisition of assets of Golden Guernsey Dairy Cooperative.	Do
(74) 86-1345—Golden Guernsey Dairy Cooperative's proposed acquisition of assets of Alto Co-Operative Creamery.	Do
(75) 86-1370—Chevron Corporation's proposed acquisition of assets of North River Energy Company.	Do
(76) 86-1386—Motel 6 Operating, L. P.'s proposed acquisition assets of Motel Associates, L. P.	Do

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

C. Landis Plummer,

Acting Secretary.

[FR Doc. 86-17630 Filed 8-5-86; 8:45 am]

BILLING CODE 6750-01-M

VOL 51 ISS 151 AG 6 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet in 1986:

Name: *Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness.*

Date: August 11, 1986—2:30 p.m. until 7:00 p.m.

Place: Humphrey Auditorium, 200 Independence Ave., SW., Washington, DC 20201.

Purpose: The purpose of the Private/Public Sector Advisory Committee on Catastrophic Illness will be to: (1) Solicit input from all interested parties regarding how government and the private sector can work together to address the problems of affordable insurance for catastrophic illness: and (2) Reflect periodically the views of the interested parties as well as the constituencies represented on the Committee regarding the report on catastrophic health care which the Secretary of Health and Human Services must submit to the President by the end of the year.

Agenda: The meeting of the Private/Public Sector Advisory Committee will be a discussion session. The Private/Public Sector Advisory Committee will discuss major points and private sector inputs enunciated in the public forums. The Agenda will consist of: A welcome and opening remarks by James Balog, Chairman of the Private/Public Sector Advisory Committee and remarks from the members of the Committee.

Anyone wishing to obtain a roster of members or other relevant information should write to or call Ms. Jean-Craft Comolli, Staff Director, Private/Public Sector Advisory Committee on Catastrophic Illness, or Ms. Nancy Hobbs, Public Forum Coordinator, 612E, Humphrey Building, 200 Independence Ave., SW., Washington, DC. (202) 245–2641.

Joseph Antos,

Vice Chairman, Executive Advisory Committee

[FR Doc. 86–17808 Filed 8–5–86; 8:45 am]

BILLING CODE 4150–04–M

Secretary's Private-Public Sector Advisory Committee on Catastrophic Illness; Forum

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet in 1986:

Name: *Secretary's Private-Public Sector Advisory Committee on Catastrophic Illness.*

Date: August 12, 1986—9:00 a.m. until 4:00 p.m.

Place: Humphrey Auditorium 200 Independence Ave., SW. Washington, DC 20201.

Purpose: The purpose of the Private/Public Sector Advisory Committee on Catastrophic Illness will be to: (1) Solicit input from all interested parties regarding how government and the private sector can work together to address the problems of affordable insurance for catastrophic illness; and (2) to reflect periodically the views of the interested parties as well as the constitutencies represented on the Committee regarding the report on catastrophic health care which the Secretary of health and Human Services must submit to the President by the end of the year.

Agenda: The forum of the Private/Public Sector Advisory Committee on Catastrophic Illness will consist of a welcome and opening remarks by Chairman James Balog and members of the Committee and presentations from public witnesses.

Anyone wishng to make a presentation or receive other relevant information concerning the Committee or the forums should write to or call Ms. Jean-Craft Comolli, Staff Director, Private/Public Sector Advisory Committee on Catastrophic Illness, or Ms. Nancy Hobbs, Public Forum Coordinator, 602 E, Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. (202) 245–2641.

Joseph Antos,

Vice Chairman, Executive Advisory Committee.

[FR Doc. 86–17809 Filed 8–5–86; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–86–1627]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ADDRESS: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal

ACTION: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should sent to: Rober Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) The office if the agency to collect the information; (3) The agency form number, if applicable; (4) How frequently information submissions will be required; (5) What members of the public will be affected by the proposal; (6) An estimate of the total number of hours needed to prepare the information submission; (7) Whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other availble documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Environmental Review Procedures
Office: Community Planning and Development
Form Number: HUD–7015.15
Frequency of Submission: On Occasion

Affected Public: State or Local Governments
Estimated Burden Hours: 47,700
Status: New
Contact: Charles E. Thomsen, HUD, (202) 755-6611 Robert Fishman, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 24, 1986.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86-17687 Filed 8-5-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Permit

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Sea World, Orlando, Florida—PPT-710647

The applicant requests a permit to import a one month old South American/Amazonian manatee *(Trichechus inunguis)* recently orphaned in Guyana and now in custody of the Guyana Ministry of Agriculture which finds it is unable to adequately care for it and is prepared to release the animal to the applicant for scientific research and rehabilitation and hopefully, reintroduction to its native habitat. If the animal condition deteriorates to such an extent as to threaten its life, emergency measures will be sought to import it prior to the expiration date of this notice.

Documents and other information submitted with this application is available to the public during normal business hours (7:45 am to 4:15 pm), U.S. Fish and Wildlife Service, Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: August 1, 1986.

Earl B. Baysinger,

Chief Federal Wildlife Permit Office.

[FR Doc. 86-17678 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[CO-050-06-4212-120C2410; C-38634, C-40717, C-42677]

Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Segregation from certain public land laws and direct sale of public land to Hard Rock Paving and Redi-Mix, Inc., the Pueblo Diocese of the Catholic Church, and Mr. and Mrs. Gerald Tannehill.

SUMMARY: The following described public land is being considered for suitability for disposal by sale at no less than fair market value under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

T. 49 N., R. 9 E., NMPM, Colorado,
Sec. 8, Lots 2, 3, 4, and 5.
Contains 7.06 acres.

T. 32 N., R. 8 E., NMPM, Colorado,
Sec. 13, S½SW¼NE¼SW¼.
Contains 5.00 acres.

T. 29 S., R. 69 W., 6th P.M. Colorado,
Sec. 29, Lots 6, 7, and 8.
Contains 18.27 acres.

These lands are hereby segregated from appropriation under the public land laws, including the mining laws, pending decision and action on the sale proposal.

DATE: Comment period is 45 days from publication.

FOR FURTHER INFORMATION AND PUBLIC COMMENT: Contact the District Manager, Canon City District Office, 3080 East Main Street, P.O. Box 311, Canon City, Colorado, 81212. Comments will be evaluated by the District Manager, who may cancel or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 86-17613 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-JB-M

[CO-940-06-4220-10; C-39306]

Colorado; Hearing on Withdrawal; Keystone Ski Area

July 28, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming hearing on a pending Forest Service withdrawal application. This hearing will provide the opportunity for public involvement in the proposed withdrawal of National Forest System land for the protection of recreational values near Keystone, Colorado. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: Hearing will be held on September 11, 1986, at 7:00 p.m. All comments or requests to be heard should be made to the Colorado State Office by close of business on August 27, 1986.

ADDRESS: Silverthorne Lodge, 560 Silverthorne Lane, Silverthorne, Colorado, at the intersection of I-70 and Colorado Highway 6.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 294-7635.

SUPPLEMENTARY INFORMATION: The notice of proposed withdrawal for the Keystone Ski Area which was published October 17, 1984 (49 FR 40673-40674), as amended, is hereby modified to allow for public hearing as provided in 43 U.S.C. 1714 and 43 CFR 2310.

This hearing will be open to all interested persons; those who desire to be heard in person and those who desire to submit written statements on this subject. All comments and requests to be heard should be submitted to the Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205, by August 27, 1986.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-17620 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-JB-M

[CO-940-06-4220-10; C43906]

Colorado; Proposed Withdrawal; Opportunity for Public Hearing; Correction

July 28, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In FR Doc. 86–15044, on page 24449, in the issue of Thursday, July 3, 1986, column three, the land description should be corrected as follows:

Under the heading Sixth Principal Meridian, White River National Forest, T. 7 S., R. 78 W., the line reading "Sec. 1, lots 5, 6, 9, 10, 11, 12, S½SE¼, and" should be corrected to read "Sec. 1, lots 5, 6, 9, 10, 11, 12, W½SE¼, and".

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–17621 Filed 8–5–86; 8:45 am]

BILLING CODE 4310–JB–M

[WO–620–06–4111–2111]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paper Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget desk officer, at (202) 395–7340.

Title: Assignment of Record Title Interest in a Lease for Oil and Gas or Geothermal Resources.

Transfer of Operating Rights (Sublease) in a Lease For Oil and Gas and Geothermal Resources.

Abstract: Respondents supply information on form which is submitted to benefit the applicant by assigning/transferring interest in an oil and gas and geothermal lease.

Bureau Form Number: 3000–3, 3000–3a.

Frequency: Occasionally.

Description of Respondents: Individuals and oil, exploration and driling companies.

Annual Responses: 60,000.

Annual Burden Hours: 30,000.

Bureau Clearance Officer: Rebecca Daugherty, (202) 653–8853.

Robert H. Lawton,

Acting Assistant Director.

July 29, 1986.

[FR Doc. 86–17619 Filed 8–5–86; 8:45 am]

BILLING CODE 4310–84–M

[UT–060–06–4331–13]

Availability of Draft Environmental Assessment; Grand Gulch and Slickhorn Wilderness Study Areas, Utah

July 28, 1986.

AGENCY: Bureau of Land Management, Moab.

ACTION: Notice of availability of draft environmental assessment.

SUMMARY: The Bureau of Land Management proposes to conduct stabilization and associated archaeological excavation at nine prehistoric cultrual properties in the Grand Gulch and Slickhorn Wilderness Study Areas. The purpose of this action is to maintain the structrual and artifactual intergrity of these sites thereby protecting their scientific values while at the same time allowing for continued public (recreational) use.

Anyone who wishes to comment on the proposed action can obtain a copy of the draft environmental assessment from the San Juan Resource Area Office, 435 North Main, P.O. Box 7, Honticello, Utah 84535, (801) 587–2141. Comments should be received by September 19, 1986.

Gene Nodine,

District Manager.

[FR Doc. 86–17610 Filed 8–5–86; 8:45 am]

BILLING CODE 4310–DQ–M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted/to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement, related forms, and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget Interim Department Desk Officer, Washington, D.C. 20503, Telephone (202) 395–7340.

Title: Timber Sale Export Restrictions, 43 CFR 5400.0–3

Abstract: This form is used by purchasers of Bureau of Land Management timber to determine compliance with export restrictions

Bureau Form Numbers: 5460–17

Frequency: Occasionally.

Description of Respondents: Individuals, companies and corporations that have purchased Bureau of Land Management timber sales.

Annual Responses: 100

Annual Burden Hours: 190

Bureau Clearance Officer (alternate): Rebecca Daugherty, (202) 653–8853

Dated: June 23, 1986.

Guy E. Baier,

Acting Assistant Director, Lands and Renewable Resources.

[FR Doc. 86–17612 Filed 8–5–86; 8:45 am]

BILLING CODE 4310–84–M

[NV–050–06–4351–08]

Caliente Management Framework Plan, NV; Notice of Intent

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare an amendment to the Caliente management framework plan (MFP) and invitation for public participation in the identification of issues and review of planning criteria.

SUMMARY: This notice describes the action to be analyzed for the amendment, the geographic area that would be affected, the preliminary issue and planning criteria, the disciplines to be represented and used to prepare the plan, the kind and extent of public participation activities and the BLM offices to contact for further information.

DATES: Public comment and participation are integral parts of the planning process. Written comments on the preliminary issues and planning criteria should be sent to the District Manager, Bureau of Land Management, Las Vegas District, P.O. Box 26569, Las Vegas, NV 89126, no later than September 8, 1986. No public hearings are scheduled at this time.

FOR FURTHER INFORMATION CONTACT: Ben F. Collins, District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 388–6403.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Planning Action

The BLM Las Vegas District is beginning the process of preparing an amendment to the comprehensive land use plan for the Caliente Resource Area as described in 43 CFR 1610.5–5. The action being proposed through the amendment is for the reestablishment of desert bighorn sheep through a transplant program in the Hiko Mountain Range. The initial number will be 15–25 with subsequent releases and total eventual population based upon

monitoring studies that indicate the success of the initial transplants. The population level of desert bighorn sheep to be managed for will be based upon habitat conditions as determined through evaluations of cooperative monitoring efforts by the BLM and Nevada Department of Wildlife.

The Geographic Area Covered by the Management Framework Plan Amendment

The Hiko Mountain Range lies in southern Nevada within the Caliente Resource Area of the BLM Las Vegas District. The proposed amendment covers only that portion of the Hiko Mountain Range that is administered by the above BLM District and is located approximately four miles east of Alamo, Nevada, in Tps. 5, 6, and 7 S., R. 61 E., M.D.M., and is bordered on the north by U.S. Highway 93.

General Types of Issues Anticipated and Preliminary Planning Criteria

The public is invited to participate in the identification of issues related to the reestablishment of a desert bighorn sheep population in the Hiko Mountains. Anticipated issues include potential overlap of use areas and forage competition between domestic cattle and desert bighorn sheep, and a potential for desert bighorn sheep to occasionally enter private lands bordering historic habitat.

The planning criteria will help to determine a suitable area for the reestablishment of desert bighorn sheep where the benefits outweigh the potential conflicts with other resource uses and/or values and where a viable herd can be established. An on-the-ground analysis of the Hiko Mountain Range by Nevada Department of Wildlife has determined this to be a priority area. No new inventories are planned; updates of existing information will be done as necessary for environmental analysis of impacts of the proposal.

Three alternatives will be analyzed. A proposed action alternative, a no action alternative, and an alternative to transplant desert bighorn sheep north of Highway 93 within the BLM Ely District.

Disciplines Represented on the Planning Team

An interdisciplinary team representing wildlife and range management, planning coordination, and cultural resources will be assigned to this planning effort.

Public Participation

Public comment is solicited during this identification of issues, and the development of the criteria to guide the planning process. Upon publication of the notice of amendment decision, there will be a 30 day protest period. Persons interested in participating in the planning process should submit their name and address for inclusion on the Caliente MFP amendment mailing list to Bureau of Land Management, Las Vegas District Office, Post Office Box 26569, Las Vegas, Nevada 89126.

Location of Planning Documents

Planning documents and other pertinent materials may be examined at the Las Vegas District Office located at 4765 W. Vegas Drive, Las Vegas, Nevada between 7:30 a.m. and 4:15 p.m. Monday through Friday.

Dated: July 30, 1986.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86-17653 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-HC-M

[CO-950-06-4830-20]

Oil Shale Project Office Closure, Grand Junction, CO

The Bureau of Land Management (BLM), Colorado State Office, has announced the closure of the Oil Shale Project Office in Grand Junction, Colorado, effective September 30, 1986.

Lease records and operating files for the prototype oil shale leasing program will be transferred to the following offices: (1) Tracts Ua/Ub: Vernal District Office, 170 South 500 East, Vernal, UT 84078; and (2) Tracts Ca/Cb: Craig District Office, P.O. Box 248, Craig, CO 81626.

Effective September 1, 1986, the delegation of authority for all actions and activities presently concerning the Colorado federal oil shale leases will be transferred from the Oil Shale Project Office to the Craig District Office.

More than 8,000 documents and books at the Oil Shale Projects Office will be transferred to BLM's Denver Service Center, located at the Denver Federal Center. This historical and archival library will be cataloged under contract and integrated into the international computerized library system. This system provides 7,000 member libraries and their users immediate access to reference materials.

H. Robert Moore,

Associate State Director.

[FR Doc. 86-17610 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-JB-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations Coordination document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0577, Block 208, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrobarcons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 28, 1986.

ADDRESS: The subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCSD Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised §250.34 of Title 30 of the CFR.

Dated: July 30, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-17611 Filed 8-5-86; 8:45 am]

BILLING CODE 4310-MR-M

VOL 51 ISS 151 AG 6 1986 UMI

INTERSTATE COMMERCE COMMISSION

San Joaquin Shippers Transport, Inc., et al.; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: August 1, 1986.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) San Joaquin Shipper's Transport, Inc., 1000 E. William St., Suite 100, Carson City, NV 89701
(2) 1000 E. William St., Suite 100, Carson City, NV 89701
(3) Leonard Patzer, 1000 E. William St., Suite 100, Carson City, NV 89701
(1) Western Agricultural Lines, Inc., 4734 N. Cornelia, Fresno, CA 93711
(2) 4734 N. Cornelia, Fresno, CA 93711
(3) John Murphey, 4734 N. Cornelia, Fresno, CA 93711

Noreta R. McGee,

Secretary.

[FR Doc. 86-17654 Filed 8-5-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances; Proposed Revised 1986 Aggregate Production Quotas; Correction

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed revised 1986 aggregate production quotas; correction.

SUMMARY: This notice corrects the amount of desoxyephedrine which is to be used for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product previously published in the **Federal Register** July 7, 1986 (51 FR 24590). This amount is corrected to read 1,355,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product. There is no change in the amount of desoxyephedrine for the production of methamphetamine.

Dated: July 29, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-17627 Filed 8-5-86; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee (IES) of the National Security Telecommunications Advisory Committee (NSTAC) will be held Tuesday, August 19, 1986. The meeting will be held at the MITRE Corporation, 1820 Dolley Madison Boulevard, McClean, Virginia 22102. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.
B. Administrative remarks.
C. Briefings of industry and government activities.

Due the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

Charles F. Noll,

Captain, U.S. Navy, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 86-17669 Filed 8-5-86; 8:45 am]

BILLING CODE 3810-05-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

The Detroit Edison Co. (Fermi-2); Issuance of Director's Decison Under 10 CFR 2.206 (DD-86-10)

Notice is hereby given that the Director, Office of Inspection and Enforcement has denied a petition under 10 CFR 2.206 filed by Jennifer Puntenney on behalf of the Safe Energy Coalition of Michigan (SECOM) for immediate action. In its petition, SECOM requested that the Commission take immediate action to require the licensee to show cause why its license should not be revoked in light of the allegations set forth by the Petitioner. SECOM asserts as grounds for its request that (1) the NRC has not elevated enforcement actions against the licensee to the extent mandated by the Atomic Energy Act and the Commission's regulations, (2) continued lack of management controls at levels that meet NRC requirements have resulted in ineffective programs and incompetence at critical levels of the licensee's organization including operations, maintenance, security, and engineering, (3) twenty-six violations issued recently were willful in that they showed a careless disregard for requirements, (4) the licensee has been unable to comply with certain NRC requirements, and (5) the recently released operations improvement plan will not provide the substantive changes needed to correct the serious breakdown of operations at Fermi-2.

The SECOM request for immediate action to show cause why its license should not be revoked has been denied. The reasons for this decision are fully described in the "Director's Decision Under 10 CFR 2.206" issued on this date, which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20555, and in the local public document room for Fermi-2 located at Monroe County Library System, 3700 S. Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland, this 29th of July 1986.

For The Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-17672 Filed 8-5-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co., Wolverine Power Supply Cooperative, Inc. (Fermi-2); Exemption

I

Detroit Edison Company (DECo or the licensee) is the holder of Facility Operating License No. NPF-43 which authorizes the operation of the Fermi-2 facility at steady-state power levels not in excess of 3292 megawatts thermal. The license provides, among other things, that the facility is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a boiling water reactor (BWR) located at the licensee's site in Monroe County, Michigan.

II

The Fermi-2 facility achieved its initial criticality on June 21, 1985. In compliance with the applicable requirements of § 50.44 of 10 CFR Part 50, the primary containment of this facility, which has a boiling light-water nuclear power reactor with a Mark I type containment, was required to be inerted by December 21, 1985. The purpose of this regulatory requirement is to provide protection against hydrogen burning and explosions which might occur were gaseous hydrogen to be generated in the event of a loss-of-coolant accident. Due to an incident on July 1–2, 1985, involving errors in reactivity control, the NRC issued a Conformatory Action Letter (CAL) on July 16, 1985, limiting the Fermi-2 facility to operations at a power level not exceeding five percent of rated power. The facility operated at this ower level from then until October 11, 1985, when it was shutdown to install certain pieces of equipment.

Due to a number of other problems, including a failure of a main bearing of an emergency diesel generator, the plant has remained shutdown and is not expected to restart until late July 1986, at the earliest.

Accordingly, the licensee has been unable to proceed with, and complete, its Startup Test Program (STP) as originally planned during the initial six-month period following issuance on March 20, 1985, of the low-power Fermi-2 operating license, NPF-33. More importantly, the licensee was not able to conduct its STP within the six-month period during which the containment need not be inerted (i.e., June 21, 1985, to December 21, 1985) in accordance with 10 CFR 50.44.

In light of this restriction on power level and the delay resulting from the scheduled shutdown in early October 1985, the licensee requested an exemption, for a limited period of time, from the requirement to inert the primary containment. This request was contained in its letter dated October 9, 1985, and supplemented in its letter dated November 13, 1985. This temporary exemption would permit the licensee to continue operating the Fermi-2 facility with a noninerted containment during the balance of the inital startup test program as originally planned.

III

In its request for the subject exemption, the licensee requests an exemption from the requirement of § 50.44(c)(3)(i) to allow completion of the startup test program with a non-inerted containment. The actual time limit proposed in the requested exemption is the end of the Startup Test Program, described in Chapter 14 of the FSAR, or until the reactor core has operated for 120 effective full power days, whichever is earlier. The end of the startup test phase is determined by the completion of the 100 percent rated thermal power trip tests.

The licensee's Startup Test Program is based on maintaining the primary containment in a non-inerted condition; i.e, not removing the oxygen contained in normal air from the containment by purging with nitrogen. Completion of the Startup Test Program would normally be expected to occur within about 120 effective full power days (e.g., within 6 months at an average power level of about 70 percent). Based on this consideration, the licensee's request for an exemption will not result in a significant change, if any, in the maximum full power days of reactor core burnup which would have been accumulated had the licensee been able to conduct its startup program without any extended delays or without a restriction on power level.

The reason the licensee has proposed a maximum fuel burnup of 120 effective full power days (EFPD), as noted above, was to assure that the buildup of the fission product inventory will be limited during the startup test phase. This limitation on the fission product inventory will minimize the risk to public health and safety in two ways. First, the limit on the fission product inventory will put an upper limit on the amount of decay heat in the reactor core which would have to be removed in the event of a loss-of-collant accident (LOCA). This in turn will limit the potential rise in fuel clad temperature following a postulated LOCA. It is the value of this last parameter which determines whether there would be a fuel clad failure leading to the release of the radioactive fission products. Thus, the limit on the effective full power days proposed by the licensee will serve to minimize the probability of the release of radio activity to the environment in the event of a LOCA as well as limit the amount of radioactivity which was available for release. Secondly, the proposed limit on the integrated power history will minimize the fission product inventory in the fuel which could be released through other postulated accident scenarios such as the dropped rod accident. The NRC staff finds for these reasons, discussed above, that the level of safety provided by the proposed limited inerting exemption will not be significantly reduced, if at all, from that margin of safety implicit in the 6-month inerting exception in 10 CFR 50.44(c)(3)(i) to inerting requirements.

Since the startup tests will be performed in essentially the same manner as originally planned with respect to the magnitude and duration of power levels for these tests, the NRC staff concludes that there will be no increase in the risks of operating the Fermi-2 facility during the startup tests with the proposed limited exemption over those risks which were contemplated by the staff when the Fermi-2 facility was granted its operating license. Therefore, since there is no increase in risk caused by the mere fact of extending the time allowed for conducting the startup tests while not inerted, the NRC staff finds that operating the Fermi-2 facility during the startup test phase will be as safe under the conditions proposed for the exemption as operations would have been had the startup tests been completed in the six-month period after initial criticality.

There is also a positive benefit in operating the reactor without inerting the containment during the startup test phase because this condition would permit frequent inspections and/or the identification of potential problems which might affect safety during this period, without incurring the delay associated with deinerting and reinerting the containment. The anticipated high frequency of containment entries by plant personnel during the startup tests, together with the 24-hour periods required to deinert, would tend to discourage prompt and frequent containment entries to identify and correct any potential safety problems before they could become serious safety problems. In this regard, frequent containment entries are normally required during the startup test phase to adjust control systems,

calibrate instruments and monitor containment conditions as the plant ascends in power. Were the requested exemption not to be granted, there would be a considerable delay in the overall startup test phase which would thereby delay start of commercial operation of the Fermi-2 facility.

Accordingly, based on the foregoing discussion, the staff finds that the proposed exemption poses no increase in risk to public health and safety, and is consistent with the intent of 10 CFR 50.44 regarding containment inerting. The staff also finds that granting the proposed exemption will promote the efficient and expeditious testing of the Fermi-2 systems and components and is, therefore, in the public interest. On this basis, we find that the proposed limited exemption from § 50.44(c)(3)(i) of 10 CFR Part 50 is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(iii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances would result in an undue hardship and other costs which are significantly in excess of those contemplated when the regulation was adopted and that are significantly in excess of those incurred by others similarly situated. If the licensee were forced to inert the containment prior to completing the startup test phase solely to comply with § 50.44(c)(3)(i) of 10 CFR Part 50, an undue hardship and financial burden would result from the delay in commercial operation of the Fermi-2 facility caused by the need to deinert and reinert each time entry into the containment is required. The costs would be significantly in excess of those contemplated when the subject regulation was adopted in that the staff believed the statup test phase could be accomplished within six months of initial criticality without the need to deinert and reinert for each containment entry. The cost and hardship imposed on the licensee by failing to grant the proposed exemption would be considerably in excess of that contemplated when the rule was adopted. Therefore, the Commission hereby approves the following exemption request:

With respect to the requirement to provide an inerted atmosphere for the Fermi-2 Mark I containment no later than December 21, 1985, pursuant to § 50.44(c)(3)(i) of 10 CFR Part 50, exemption is granted from this provision for a limited period not extending beyond the completion of the 100 percent rated thermal power trip tests or until the reactor has operated for 120 effective full power days, whichever is earlier.

The Commission has further determined that the exemption does not authoirze a change in effluent types or total amounts of effluents nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Notice of Environmental Assessment and Finding of No Significant Impact prepared pursuant to 10 CFR 51.2 and 51.30 through 51.32, it is concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statement need not be prepared.

For further details with respect to this action, see the licensee's request dated October 11, 1985, and supplemented on November 13, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (51 FR 26315 dated July 22, 1986).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Gus Lainas,

Acting Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 30th day of July 1986.

[FR Doc. 86-17670 Filed 8-5-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co., Wolverine Power Supply Cooperative, Inc. (Fermi-2); Exemption

I

Detroit Edison Company (DECo or the licensee) is the holder of Facility Operating License No. NPF-43 which authorizes the operation of the Fermi-2 facility at steady-state power levels not in excess of 3292 megawatts thermal. The license provides, among other things, that the facility is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a boiling water reactor (BWR) located at the licensee's site in Monroe County, Michigan.

II

The NRC staff identified a concern with the design features of the 3/8-inch nitrogen purge line associated with the traversing in-core probe (TIP) system, in a letter dated November 21, 1985. The then current design of this line, identified as penetration X-35G in Table 6.2-2 of the Fermi-2 FSAR, was based on the classification of this penetration of primary containment by the licensee as an instrument line. This classification, if accepted by the NRC staff, would permit the licensee to install only a single check valve outside containment consistent with the guidelines in Section C.2.a of Regulatory Guide 1.11. That was the valving configuration for the subject penetration at that time.

The NRC staff disagreed with the licensee's classification for the subject containment penetration on the basis that while this line was indeed a portion of an instrument system, the line itself did not in any manner provide any function that remotely corresponds to the function of an instrument line.

In point of fact, the only purpose for this line is to remove any oxygen from the TIP system inside containment by purging this system with nitrogen. Thereafter, this line must be secured in such a fashion to maintain the nitrogen atmosphere in that portion of the TIP system inside containment. In the event of any condition which would generate an isolation signal, this line must isolate and remain closed until such time as the isolation signal is cleared.

Considering both the function and the operational requirements of this containment penetration, the NRC staff concluded that this line cannot be classified as an instrument line. (An instrument line might be expected to be operable in the event of an accident so as to follow the course of the accident; this is clearly not the intended function of penetration X-35G.) Accordingly, it is the staff's position that this penetration must comply with the provisions of General Design Criteria (GDC) 55 and 56 regarding the installation of isolation valves

In response to the NRC staff position on this matter, the licensee committed in its letter dated December 31, 1985, to revise the design features of penetration X-35G to comply with GDC 56. (The requirements for isolation valves in GDC 55 are identical to those in GDC

56.) Specifically, the licensee committed to install a check valve inside containment and an automatic isolation valve outside containment. The automatic isolation valve will receive diverse isolation signals. While the NRC staff finds that the proposed modification described above complies with the NRC staff finds that the proposed modification described above complies with the criteria in GDC 56 to install one valve inside and one valve outside containment, our evaluation of the acceptability of the proposed long-term modification cannot be completed until we receive additional information from the licensee regarding placement of the outboard isolation valve and the types of isolation signals which will actuate the automatic valve.

Because of the scope of this modification, the lead time to design this installation and the subsequent procurement of components, the licensee states, in its letter of December 31, 1985, that it cannot implement its commitment, cited above, until the first scheduled refueling outage without significantly delaying restart of the facility. (Restart of the Fermi-2 facility is presently estimated by the licensee to occur in late July 1986.) For this reason, the licensee proposed in its letter of December 31, 1985, to install an interim modification to the subject containment penetration which will provide a significantly increased containment isolation capability over that of the prior design.

This interim modification consists of two automatic ball valves outside primary containment. The valves and their installation will be incompliance with the quality assurance criteria for safety-related components and will isolate automatically on receipt of either of two diverse containment isolation signals; i.e., a signal indicating that: (a) the reactor vessel water level has fallen below Level 3; or (b) There is a high drywell pressure. Upon loss of power, these two ball valves will be closed by springs.

Because the proposed interim modification is not in full compliance with all the provisions of GDC 56, the licensee has requested an exemption from GDC 56 in accordance with 10 CFR 50.12 until it is able to come into full compliance with GDC 56 at the first scheduled refueling outage.

III

The two automatic ball valves proposed by the licensee for an interim modification of penetration X–35G meet nearly all the applicable NRC staff requirements for components serving as part of the reactor vessel pressure boundary. Namely, they will be: (1) Designed, manufactured and installed to the appropriate quality assurance standards; (2) Actuated by diverse signals; (3) Closed by springs on loss of power which is in compliance with the requirements of GDC 56; (4) Designed and installed to seismic Category I criteria; and (5) Leak tested per Appendix J to 10 CFR Part 50. The proposed interim modification differs from the requirements of GDC 56 only in that it does not include one valve inside containment. We find, however, that the proposed interim modification provides a containment isolation capability comparable to that required by GDC 56.

On the basis that the proposed interim modification of primary containment penetration X–56G will be for a limited time period and provides containment isolation capability comparable to that required by GDC 56, we find that the proposed exemption from GDC 56 poses no increase in risk to public health and safety. On this basis, we find that the proposed interim exemption from the requirement in GDC 56 of Appendix A to 10 CFR Part 50 to have one isolation valve inside and one isolation valve outside, is acceptable.

IV

Acordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(v), are present justifying the exemption, namely that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. The good faith effort by the licensee is demonstrated by its relatively prompt response to the NRC staff's position on this matter. The staff informed the licensee of its position in a letter dated November 11, 1985; the licensee acknowledged the staff's position on December 2, 1985, provided a commitment to comply with the provisions of GDC 56 in its letter dated December 20, 1985, and submitted its proposal for an interim and long-term resolution of this matter on December 31, 1985. As discussed in Section III, the licensee has indicated in its letter of December 31, 1985, that the time required to design, procure and install the long-term modification prevents it from implementing its commitment prior to the first refueling outage. Based on this prompt response and the licensee's commitment to implement the long-term resolution at the earliest practical opportunity (i.e., the first scheduled refueling outage), the Commission concludes that the licensee has made a good faith effort to come into compliance with the requirements of GDC 56. Therefore, the Commission hereby approves the following exemption:

With respect to the requirement in General Design Criterion 56 to provide each line that connects directly to the containment atmosphere and penetrates primary reactor containment, with two containment isolation valves, one inside and one outside containment, exemption is granted from this requirement for penetration X–35G for a limited period not extending beyond the first scheduled refueling outage.

The Commission has further determined that the exemption does not authorize a change in effluent types or total amounts of effluents nor an increase in power level and will not result in any significant environmental impact. In light of this determination, and as reflected in the Notice of Environmental Assessment and Finding of No Significant Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, it is concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statement need not be prepared.

For further details with respect to this section, see the licensee's request dated December 31, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (51 FR 26959 dated July 28, 1986).

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 31st day of July 1986.

For the Nuclear Regulatory Commission.

Gus Lainas,

Acting Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 17071 Filed 8–5–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of OPM Forms 1078–A and 1078–B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C. Chapter 35), this notice announces a request submitted to OMB to extend a clearance for collecting data from selected Federal agencies for general purpose statistics. OPM Forms 1078–A and 1078–B (or other automated means) are used annually to collect salary and wage data, not otherwise available to the Office of Personnel Management (OPM), from 10 agencies. The data are used by OPM to calculate the Federal pay line and to manage policy and special rate programs. For copies of this proposal call James M. Farron, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this data collection should be received within 10 working days of this publication.

ADDRESSES: Send or deliver comments to—

James M. Farron, Agency Clearance Officer, Office of Personnel Management, Room 6410, 1900 E Street NW., Washington, DC 20415
and
Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, NW., Office of Management and Budget, Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Randall T. Matke, (202) 632–5022.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86–17608 Filed 8–5–86; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Representative Payee Monitoring.
(2) Form(s) submitted: G–99c.
(3) Type of request: Revision of a currently approved collection.
(4) Frequency of use: On occasion.
(5) Respondents: Individuals or households.
(6) Annual responses: 375.
(7) Annual reporting hours: 153.
(8) Collection description: Under section 12(a) of the RRA, the Board is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to determine if a representative is handling benefit payments in the best interests of the annuitant.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86–17616 Filed 8–5–86; 8:45 am]

BILLING CODE 7905–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09–5370]

Astar Capital Corp.; Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, *et seq.*) has been filed by Astar Capital Corporation (Astar) 7282 Orangethorpe Avenue, Suite 8, Buena Park, California 90621, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1986).

The officers, directors and major shareholders of the Applicant are as follows:

George Chi-Tung Hsu, 20615 E. Appaloose Drive, Walnut, CA 91789, President and Director, 10 percent
Keiko S. Chen, 13512 Caravel Place, Cerritos, CA 90701, Secretary and Treasurer
Chen-Hong Lee, 370 North Acaso Drive, Walnut, CA 91789, Chief Financial Officer
Symeon Shi-Men Woo, 1843 Paseo Azul, Rowland Heights, CA 91748, Chairman of the Board of Directors, 10 percent
Pearl M.C. Tang, 6005 Davenport Road, Dallas, TX 75248, Director, 10 percent
Shiu-Hwei Grace Chou, 2677 Berkshire Road, Cleveland, OH 44106, Director
Lucy S. Yang, 3251 Anastacia Court, Pleasanton, CA 94566, Director
Thomas M. Lin, 4155 Dixon Drive, Hoffman Estates, IL 60195, 10 percent
Tsung Chang Yang, 3251 Anastacia Court, Pleasanton, CA 94566, 10 percent.

No other shareholder owns as much as 10 percent. The Applicant, Astar Capital Corporation, a California Corporation will begin operations with $1,000,000 paid in capital and paid in surplus. Astar Capital Corporation will conduct its activities primarily in the State of California but will consider investments in businesses in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" St., NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Buena Park, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86–17633 Filed 8–5–86; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02-5495]

Jardine Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR 107.102 (1986)) under the name of Jardine Capital Corporation (the Applicant), 8 Chatham Square, Suite 805, New York, New York 10038 for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.)* and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders of the Applicant are as follows:

Name and address	Title or relationship
Evelyn S. Dy.....	President, General Manager Director and 100% Shareholder.
Yau-Chi Wai, 173 East Broadway, New York, New York 10002.	Treasurer, Director.
John L. Milling, One Marine Plaza, North Bergen, New Jersey 07047.	Secretary, Director.

The Applicant will begin operations with a capitalization of $1,025,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA, in writing, revelant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in the New York City area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-17634 Filed 8-5-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 31, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0351
Form Number: Forms 3975, 3975A, 3975B, 3975C and 3975D
Type of Review: Revision
Title: Tax Practitioner Mailing File (TPMF)
Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal, (202) 396-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-17683 Filed 8-5-86; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of System Notice; Revised Routine Use Statement

Notice is hereby given that the VA (Veterans Administration) is considering revising routine use statement 17 for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records—VA" (58 VA 21/22/28) as set forth on page 738 of the **Federal Register** publication Privacy Act Issuances, 1984 Comp., Vol. V and amended at 50 FR 26875 (June 28, 1985); 50 FR 31453 (August 2, 1985); 51 FR 24781 (July 8, 1986); and 51 FR 25142 (July 10, 1986).

The DMDC (Defense Manpower Data Center) of the DOD (Department of Defense) and the Department of Veterans Benefits of the VA under authority of title 38, United States Code, sections 210(c)(1) and 3006 plan to conduct a series of computer data exchanges to verify eligibility to VA education benefits granted under title 38, United States Code and to prevent fraud and abuse. The data exchange will compare certain information in the data base of the DMDC of individuals on active duty with VA education benefit records to determine if the payee of education benefits is receiving the correct amount of such benefits. The goal of the data exchange is to detect instances of underpayment or overpayment of education benefits under title 38, U.S.C.

If the data exchange discloses that there is a discrepancy in the active duty service dates of an individual on active duty in DMDC record and the service dates of an individual on active duty in the DMDC record and the service dates in the individual's VA education benefit record, the VA will verify this information of the individual so identified and will make any necessary adjustment to his or her education benefits. For these individuals so identified, the VA will contact the individual and his or her branch of service to resolve the discrepancy. The proposed revision of this routine use will permit this exchange of data with the DMDC and will permit such disclosure of identifying information to branches of military service when required to verify and correct, if necessary, the amount of VA education benefits being paid.

The VA has determined that release of information for the purpose of this data exchange is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine use of the system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All relevant material received before September 2, 1986, will be considered. All written comments received will be available for public

inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until September 16, 1986.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the VA, the new routine use statement included herein is effective September 7, 1986.

Dated: July 31, 1986.

Thomas K. Turnage,

Administrator.

Notice of System of Records

In the system of records identified as 58 VA 21/22/28, "Compensation, Pension, Education and Rehabilitation Records—VA," appearing on page 738 of the **Federal Register** publication Privacy Act Issuances, 1984 Comp., Vol. V and amended at 50 FR 26875 (June 28, 1985); 50 FR 31453 (August 2, 1985); 51 FR 24781 (July 8, 1986); and 51 FR 25142 (July 10, 1986), the following routine use statement is changed to read as follows:

58 VA 21/22/28

SYSTEM NAME:

Compensation, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

17. The name, Social Security number, date of birth, branch of service, effective date of compensation, current and historical benefit pay amounts for disability, pension, or education and the amount and type of education contribution made under title 38, United States Code, chapter 32, may be disclosed to the following agencies upon their official request: Department of the Army, Navy, and Air Force; Department of Defense, Defense Manpower Data Center; Marine Corps; Department of Transportation (Coast Guard); Department of Health and Human Services; Department of Education; PHS (Public Health Service), NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps in order for these departments and agencies and the VA to reconcile the amount and/or waiver of service, department and retired pay, or to ensure that veterans and service persons who are receiving VA education benefits are being paid the correct amounts to which they are eligible. The Department of Defense will also use this information to identify retired veterans and dependent members of his or her family who have entitlement to Department of Defense benefits but who are not identified in the Defense Enrollment Eligibility Reporting System (DEERS) program and to assist in determining eligibility for CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) benefits. These records may also be disclosed as a part of an ongoing computer matching program to accomplish these purposes.

* * * * *

[FR Doc. 86-17664 Filed 8-5-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 151
Wednesday, August 6, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Reserve System	2
International Trade Commission	3, 4
Mississippi River Commission	5–8
National Science Foundation	9
Nuclear Regulatory Commission	10

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:00 p.m. on Thursday, July 31, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Citizens State Bank, Iowa Falls, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Thurday, July 31, 1986; (2) accept the bid for the transaction submitted by Green Belt Bank & Trust, Iowa Falls, Iowa, a newly-chartered State nonmember bank; (3) approve the applications of Green Belt Bank & Trust, Iowa Falls, Iowa, for Federal deposit insurance, for consent to exercise trust powers, for consent to purchase certain assets of and assume the liability to pay deposits made in Citizens State Bank, Iowa Falls, Iowa, and for consent to establish the sole branch of Citizens State Bank as a branch of Green Belt Bank & Trust; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) Adopt a resolution making funds available for the payment of insured deposits made in First National Bank in Cordell, Cordell, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, July 31, 1986; and

(C)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Eden State Bank, Eden, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, July 31, 1986; (2) accept the bid for the transaction submitted by The Eden State Bank, Eden, Texas, a newly-chartered State nonmember bank; (3) approve the applications of The Eden State Bank, Eden, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Eden State Bank, Eden, Texas; and (4) provide such financial assistance, pursuant to section (13)(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(D) Consider a personnel matter:

The meeting was recessed at 5:10 p.m. and at 6:30 p.m. that same day the meeting was reconvened, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Gering National Bank & Trust Company, Gering Nebraska, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, July 31, 1986; (2) accepted the bid for the transaction submitted by Scottsbluff National Bank and Trust Company, Scottsbluff, Nebraska; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman and seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable, that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 1, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-17745 Filed 8-4-86; 11:12 am]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, August 11, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on July 30, 1986.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17688 Filed 8-1-86; 5:10 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, August 11, 1986, at 9:30 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Investigations 701-TA-279 (P) and 731-TA-336 (P) (Porcelain on steel cooking ware from Spain)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

July 31, 1986.

[FR Doc. 86–17696 Filed 8–4–86; 9:15 am]

BILLING CODE 7020–02–M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, August 13, 1986, at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and Complaints
   Certain electrically resistive moncomponent toner (Docket Number 1330).
2. Investigation 731–TA–282 (F) (Candles from the People's Republic of China)—briefing and vote.
3. Investigation 731–TA–292 (F) (Certain welded carbon steel pipes and tubes from the People's Republic of China)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

July 31, 1986.

[FR Doc. 86–17697 Filed 8–4–86; 9:15 am]

BILLING CODE 7020–02–M

5

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 8, 1986.

PLACE: On board MV MISSISSIPPI at City Front, Cape Girardeau, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and
(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 86–17754 Filed 8–4–86; 12:04 pm]

BILLING CODE 3710–GX–M

6

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 9, 1986.

PLACE: On board MV MISSISSIPPI at City Front, vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;
(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and
District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 86–17755 Filed 8–4–86; 12:04 pm]

BILLING CODE 3710–GX–M

7

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 10:00 a.m., September 10, 1986.

PLACE: On board MV MISSISSIPPI at City Front, foot of Crawford Street, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;
(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and
(3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 86–17756 Filed 8–4–86; 12:42 pm]

BILLING CODE 3710–GX–M

8

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 12, 1986.

PLACE: On board MV MISSISSIPPI at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;
(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and
(3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 86–17757 Filed 8–4–86; 12:43 pm]

BILLING CODE 3710–GX–M

9

NATIONAL SCIENCE FOUNDATION

DATE AND TIME:

August 15, 1986
8:30–9:00 a.m.—Closed Section
9:00–11:30 a.m.—Open Session

PLACE: National Science Foundation Washington, DC.

STATUS: Most of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED AUGUST 15:

Closed Session (8:30–9:00 a.m.)

1. Minutes—June 1986 Meeting
2. NSB and NSF Staff Nominees
3. Grants, Contracts, and Programs—Action Items

Open Session (9:00–11.30 a.m.)

4. Chairman's Report
5. Minutes—June 1986 Meeting
6. Director's Report
7. Fiscal Year 1988 NSF Budget
8. Report on Presidential Young Investigators (PYI) Program
9. Status Report on Academic Scientific Instrumentation
10. Report on National Science Week—1986
11. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 86–17796 Filed 8–4–86; 3:29 pm]

BILLING CODE 7555–01–M

10

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 4, 11, 18, and 25, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 4

Tuesday, August 5

10:00 a.m.
Quarterly Source Term Briefing and Programs Initiated by Other Countries Related to Meltdown and Radiological Releases (Public Meeting)

2:00 p.m.
Briefing on Engineering Research Program (Public Meeting)

Wednesday, August 6

10:30 a.m.
Briefing by Executive Branch (Closed—Ex. 1) (Tentative)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Comanche Peak Construction Permit Extension—Certified Questions (Tentative)

Week of August 11—Tentative

Thursday, August 14

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 18—Tentative

No Commission Meetings

Week of August 25—Tentative

Thursday, August 28

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION:

Discussion of Pending Investigations (Closed—Ex. 5 & 7) was held on July 30.

Discussion of Pending Enforcement Matter (Closed—Ex. 5 & 7) was held on July 31.

Affirmation of "Braidwood—Draft Order Taking Commission Review of Subpoena Issuance" (Public Meeting) was held on July 31.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

July 31, 1986.

[FR Doc. 86–17793 Filed 8–4–86; 3:03 pm]

BILLING CODE 7590–01–M

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federal register

Wednesday
August 6, 1986

Part II

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-2987-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is amending its regulations under the Resource Conservation and Recovery Act (RCRA) to: (1) Correct 57 existing entries in the lists of commercial chemical products which are hazardous wastes when discarded, and in the list of hazardous constituents (Appendix VIII); and (2) add Chemical Abstracts Service (CAS) registry numbers to all listings.

EFFECTIVE DATE: This amendment becomes effective on August 6, 1986 1986.

ADDRESSES: The public docket for this amendment is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Superfund/Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Agnes Ortiz, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated in 40 CFR 261.33 a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.[1] 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been triple-rinsed with a solvent capable of removing the chemical, or have been decontaminated in an equivalent manner.

A chemical substance is listed in § 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it is acutely hazardous because it has been shown to be fatal to humans in low doses or is otherwise capable of causing or significantly contributing to serious illness or, in the absence of data on human toxicity, it has been shown in animal studies to have an oral (rat) LD50 of less than 50 milligrams per kilogram, a dermal (rabbit) LD50 of less than 200 milligrams per kilogram, or an inhalation (rat) LC50 of less than 2 mg/l. Chemical substances are listed in § 261.33(f), and are subject to the small quantity exclusion limit of 1000 kilograms per month,[2] if they satisfy the criteria in § 261.11(a)(1), or § 261.11(a)(3). Note, however, that on August 1, 1985, the Agency proposed to lower the small quantity generator exclusion level to 100 Kg/month for non-acutely toxic hazardous waste.

Chemicals are listed in Appendix VIII if they have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms and include such substances as those identified by the Agency's Carcinogen Assessment Group as being carcinogenic. See 40 CFR 261.11(a)(3). The significance of including a compound in Appendix VIII is threefold. First, the compound then can be cited as a basis for listing toxic wastes (see 40 CFR 261.11(a)(3)). Second, permittees are required to monitor ground water for many of these constituents under the detection, compliance, and corrective action monitoring programs of 40 CFR 264.91(a) (2) and (3). Third, the Principal Organic Hazardous Constituents specified in incineration permits are drawn from Appendix VIII (see 40 CFR 264.342).

In listing wastes in § 261.33, the Agency intends to encompass those hazardous chemical products which, for various reasons, are sometimes thrown away in pure or diluted form. The regulation is intended to designate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, that inventories have been changed, or that the product line has been changed.

II. Reason and Basis for Today's Amendment

The Agency's on-going review of the clarity and accuracy of the existing hazardous waste lists has resulted in this revision. The Chemical Abstract Service (CAS) registry numbers are being added as an identification aid, and a number of corrections are being made as well. The CAS numbers added are found in the regulation section. Note that a new format is used for Appendix VIII in the regulation section. In addition many chemical names in Appendix VIII and Sections 261.33 (e) and (f) have been changed to correspond to the name in the Chemical Abstracts Service Registry Handbook—Number Section for the listed CAS number. This corresponds to the CAS Ninth Collective Index nomenclature for most compounds.

Since this notice involves only technical corrections and clarification, no public comment period will be necessary. Under 5 U.S.C. 553(b)(B), a rule is exempt from notice and public comment requirements "when the Agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedures thereon are impractical, unnecessary, or contrary to the public interest." For the same reasons, this rule is effective immediately. See 5 U.S.C. 553(d) and 42 U.S.C. 6930(b).

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[1] The Agency will propose a new version of this provision which would include formulations with more than one active ingredient and establish a means to determine a level below which formulations of acutely hazardous wastes could be treated as hazardous wastes.

[2] The Hazardous and Solid Waste Amendments of 1984 require the promulgation of standards for hazardous waste generated in a quantity greater than 100 kilograms but less than 1000 kilograms a month. These standards may differ from those applicable to large quantity generators. Some requirements on small quantity generators are effective immediately. See Section 221 of the Amendments, 42 U.S.C. 6921(d).

A. Corrections to Appendix VIII

Following are corrections to existing Appendix VIII listings:

As listed now—	Should be changed to—
Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo, exo-1,4:5,8-dimethanonaphthalene).	Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-endo,exo-1,4:5,8-dimethanonaphthalene)
5-(Aminomethyl)-3-isoxazole (3(2H)-Isoxazolone, 5-(aminomethyl)-) 4-Aminopyridine (4-Pyridinamine).	4-Aminopyridine (4-Pyridinamine) Should be a separate listing; not combined with 5-(Aminomethyl)-3-isoxazole
N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)	N,N'-Diethylhydrazine (Hydrazine, 1,2-diethyl)
Ethyl carbamate (urethane)	Carbamic acid, ethyl ester
Glycidylaldehyde (1-propanol-2,3-epoxy)	Glycidylaldehyde (1-propanol-2,3-epoxy)
Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)	Hexachlorobutadiene (1,3-Butadiene, hexachloro-)
Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)	Hexachloroethane (Ethane, hexachloro-)
Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)	Hexachloropropene (Propene, hexachloro-)
Kepone (Decachlorooctahydro-1,3,4-methano-2H-cyclobuta[cd]-pentalene-2-one)	Kepone (Decachlorooctahydro-1,3,4-methano-2H-cyclobuta[cd]-pentalene-2-one)
2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime	2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime
Nitrobenzene	Nitrobenzene
Nitrogen mustard N-oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt).	Nitrogen mustard N-oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydrochloride salt
Nitrosopyrrolidine	N-Nitrosopyrrolidine
Propylthiouracil (Undecamethylenediamine, N,N'-bis(2-chlorobenzyl)-, dihydrochloride	Propylthiouracil (2,3-dihydro-6-propyl-2-thioxo-4(1H)-pyrimidinone)
(Above two unrelated chemical names should be separate listings as shown in right column)	Undecamethylenediamine, N,N'-bis-(2-chlorobenzyl)-, dihydrochloride (N,N'-Undecamethylenebis(2-chlorobenzylamine, dihydrochloride)
Tetrachloroethane (Ethene, 1,1,2,2-tetrachloro-)	Tetrachloroethene (Ethene, tetrachloro-)
Toluenediamine (Diaminotoluene)	Toluenediamine (Toluene, 2,5-diamine-)
Tolylene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)	Tolylene diisocyanate (Benzene, 2,4- and 2,6-diisocyanatomethyl-)
Trichloromethanethiol	Perchloromethyl mercaptan (Methanesulfenyl chloride, trichloro-)
2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)	Acetic acid, 2,4,5-trichlorophenoxy-, salts and esters (2,4,5-T, salts and esters)
2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP, Silvex)	Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP, Silvex, salts and esters)

B. Corrections to § 261.33(e)

Following are corrections to existing listings in § 261.33(e):

EPA hazardous waste No.	As listed now—	Should be changed to—
P001	3-(alpha-acetonylbenyl)-4-hydroxycoumarin and salts	3-(alpha-Acetonyl-benzyl)-4-hydroxycoumarin and salts
P006	Aluminum phosphide	Aluminum phosphide (R,T)
P008	4-aAminopyridine	4-alpha-Aminopyridine
P043	Phosphorofluoric acid, bis-(1-methylethyl)-ester	Phosphorofluoridic acid, bis(1-methylethyl) ester
P047	Phenol, 2,4-dinitro-6-methyl-	Phenol, 2-methyl-4,6-dinitro-and salts
P060	Hexachlorohexahydro-exo,exo-dimethanonaphthalene	Hexachlorohexahydro-endo,endo-dimethanonaphthalene
P089	Phosphorothoic acid, O,O-diethyl O-(p-nitrophenyl)	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester
P114	Thallium (1) selenite	Thallium (I) selenide

C. Corrections to § 261.33(f)

Following are corrections to existing listings in § 261.33(f):

Hazardous waste No.	As listed now—	Should be changed to—
U026	2-Naphthylamine, N,N'-bis(2-chloromethyl)-	2-Naphthylamine, N,N-bis(2-chloroethyl)-
U035	Butanoic acid, 4-[Bis(2-chloroethyl)amino]benzene-	Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-
U058	2H-1,3,2-Oxazaphosphorine, 2[bis(2-chloro-ethyl)amino)-tetrahydor-, oxide-2	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide
U067	Etylene dibromed	Ethylene dibromide
U087	Phosphorodithoic acid, O,O-diethyl-, S-methylester	Phosphorodithioic acid, O,O-diethyl-, S-methyl ester
U137	1,10-(1,2-phenylene)pyrene	1,10-(1,2-Phenylene)pyrene
U093	Benzenemine, N,N'-dimethyl-4-phenylazo-	Benzenamine, N, N-dimethyl-4-(phenylazo)-
U105	Benzene, 1-methyl-1,2,4-dinitro	Benzene, 1-methyl-2,4-dinitro-
U111	Di-N-propylnitrosamine	Di-n-propylnitrosamine
U111	N-Nitroso-N-propylamine	N-Nitrosodi-n-propylamine
U114	Ethylenebis(dithiocarbamic acid)	Ethylenebis(dithiocarbamic acid), salts and esters
U115	Ethlene oxide	Ethylene oxide
U118	Ethylmethacrylate	Ethyl methacrylate
U121	Methane, trichlorofluoro-	Delete one of the two entries; the compound was inadvertently listed twice.
U145	Phosphoric acid, Lead salt	Phosphoric acid, lead salt
U148	1,2-Dihydro-3,6-pyradzine-dione	1,2-Dihydro-3,6-pyndazinedione
U155	Pyridine, 2-[(2-dimethylamino)-2-thenylamino]-	Pyridine, 2-[(2-dimethylamino) ethyl]-2-phenylamino-
U163	Guanidine, N-nitroso-n-methyl-N'nitro-	Guanidine, N-nitroso-N-methyl-N'-nitro-
U166	1,4-Naphthiaquinone	1,4-Naphthoquinone
U182	1,3,5-Trioxane, 2,4,5-trimethyl-	1,3,5-Tnoxane, 2,4,6-trimethyl-
U185	Benzene, pentachloro-nitro-	Benzene, pentachloronitro-
U189	Phosphorous sulfide	Phosphorus sulfide
U202	1,2-Benzisothiazolin-3-one,1,1-dioxide	1,2-Benzisothiazilin-3-one,1,1-dioxide, and salts
U222	O-Toluidine hydrochloride	o-Toluidine hydrochloride
U234	Benzene, 1,3,5-Trinitro-	Hazardous waste number appears as "0234"; should be U234.
U237	Uracil, 5[bis(2-chloromethyl)-amino]-	Uracil, 5-[bis(2-chloroethyl)-amino]-
U240	2,44-D, salts and esters	2,4-D, salts and esters
U232	2,4,5-Tnchloroacetic acid	2,4,5-Trichloroacetic acid, salts and esters
U233	2,4,5-Trichlorophenoxypropionic acid	2,4,5-Trichlorophenoxypropionic acid, salts and esters

VOL 51 ISS 151 AG 6 1986 UMI

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this notice, the amendment is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

Today's amendment will have no economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory Flexibility analysis.

VI. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: March 5, 1986.

Thomas Devine,

Acting Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In 40 CFR 261.33, the table in paragraph (e) is revised to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

* * * * *

(e) * * *

Hazardous waste No.	Chemical abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P066	16752-77-5	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-alpha-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P010	7778-39-4	Arsenic acid
P012	1327-53-3	Arsenic oxide As_2O_3
P011	1303-28-2	Arsenic oxide As_2O_5
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P001	81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium dust
P016	542-88-1	Bis(chloromethyl) ether
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P021	592-01-8	Calcium cyanide
P022	75-15-0	Carbon bisulfide
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P029	544-92-3	Copper cyanide
P030	.....	Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropyl fluorophosphate (DEP)

Hazardous waste No.
P004
P060
P037
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P042
P101
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P070
P101
P027
P069

Hazardous waste No.	Chemical abstracts No.	Substance
P004	309-00-2	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P060	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3b]oxirane, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-
P051	72-20-8	2,7:3,6-Dimethanonaphth[2,3b]oxirane, octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-
P044	60-51-5	Dimethoate
P045	39196-18-4	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P047	[1] 534-52-1	4,6-Dinitro-o-cresol and salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramide, octamethyl-
P039	298-04-4	Disulfoton
P049	541-53-7	2,4-Dithiobiuret
P050	115-29-7	Endosulfan
P088	145-73-3	Endothal
P051	72-20-8	Endrin
P042	51-43-4	Epinephrine
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P065	628-86-4	Fulminic acid, mercury(2+)salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyltetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P064	624-83-9	Isocyanic acid, methyl ester
P060	465-73-6	Isodrin
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepen, 6,7,8,9,10,10-hexachloro- 1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	16752-77-5	Methomyl
P067	75-55-8	2-Methylaziridine
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methyllactonitrile
P071	298-00-0	Methyl parathion
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl, (T-4)-
P075	[1] 54-11-5	Nicotine and salts
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO_2
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P074	557-19-7	Nickel cyanide
P085	152-16-9	Octamethylpyrophosphoramide
P087	20816-12-0	Osmium oxide
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4-dinitro-
P047	[1] 534-52-1	Phenol, 2-methyl-4,6-dinitro- and salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoric acid, bis(1-methylethyl)- ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P099	506-61-6	Potassium silver cyanide
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-

Hazardous waste No.	Chemical abstracts No.	Substance
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	591-08-2	2-Propyn-1-ol
P008	504-24-5	Pyridinamine
P075	[1] 54-11-5	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts
P111	107-49-3	Pyrophosphonic acid, tetraethyl ester
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P107	1314-96-1	Strontium sulfide
P108	[1] 57-24-9	Strychnidin-10-one, and salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	[1] 57-24-9	Strychnine and salts
P115	10031-59-1	Sulfuric acid, thallium(I) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethylpyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphonic acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium(III) oxide
P114	12039-52-0	Thallium(I) selenite
P115	10031-59-1	Thallium(I) sulfate
P109	3689-24-5	Thiodiphosphonic acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium(V) oxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	81-81-2	Warfarin
P121	557-21-1	Zinc cyanide
P122	1314-84-7	Zinc phosphide (R,T)

[1] CAS Number given for parent compound only.

3. In 40 CFR 261.33, the table in paragraph (f) is revised to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

(f) * * *

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Hazardous waste No.	Chemical abstracts No.	Substance
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl
U112	141-78-6	Acetic acid, ethyl ester (I)
U144	301-04-2	Acetic acid, lead salt
U214	563-68-8	Acetic acid, thallium (1+) salt
U232	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole
U012	62-53-3	Aniline (I,T)
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	3,4-Benzacridine
U017	98-87-3	Benzal chloride
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-diethyl-2-propynyl)-
U018	56-55-3	Benz[a]anthracene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-

Hazardous waste No.	Chemical abstracts No.	Substance
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328	95-53-4	Benzenamine, 2-methyl-
U353	106-49-0	Benzenamine, 4-methyl-
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U019	71-43-2	Benzene
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U037	108-90-7	Benzene, chloro-
U221	25376-45-8	Benzenediamine, ar-methyl-
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexy) ester
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	117-84-0	1,2-Benzenedicarboxylic acid, di-n-octyl ester
U070	95-50-1	Benzene, 1,2-dichloro-
U071	541-73-1	Benzene, 1,3-dichloro-
U072	106-46-7	Benzene, 1,4-dichloro-
U060	72-54-8	Benzene, 1, 1'-(2,2-dichloroethylidene)bis[4-chloro-
U017	98-87-3	Benzene, (dichloromethyl)-
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	1330-20-7	Benzene, dimethyl- (I,T)
U201	108-46-3	1,3-Benzenediol
U127	118-74-1	Benzene, hexachloro-
U056	110-82-7	Benzene, hexahydro- (I)
U220	108-88-3	Benzene, methyl-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U055	98-82-8	Benzene, (1-methylethyl)- (I)
U169	98-95-3	Benzene, nitro- (I,T)
U183	608-93-5	Benzene, pentachloro-
U185	82-68-8	Benzene, pentachloronitro-
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)- (C,R,T)
U234	99-35-4	Benzene, 1,3,5-trinitro- (R,T)
U021	92-87-5	Benzidine
U202	[1] 81-07-2	1,2-Benzisothiazol-3-(2H)-one, 1,1-dioxide and salts
U203	94-58-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U064	189-55-9	Benzo[rst]pentaphene
U022	50-32-8	Benzo[a]pyrene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane (I,T)
U021	92-87-5	[1,1'-Biphenyl]-4,4'diamine
U073	91-94-1	[1,1'Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U027	39638-32-9	Bis(2-chloroisopropyl) ether
U024	111-91-1	Bis(2-chloromethoxy) ethane
U028	117-81-7	Bis(2-ethylhexyl) phthalate
U225	75-25-2	Bromoform
U030	101-55-3	4-Bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (I)
U159	78-93-3	2-Butanone (I,T)
U160	1338-23-4	2-Butanone peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S, 3R), 7aalpha]]-
U031	71-36-3	n-Butyl alcohol (I)
U136	75-60-5	Cacodylic acid
U032	13765-19-0	Calcium chromate
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114	[1] 111-54-6	Carbamodithioic acid, 1,2-ethanediylbis-,salts and esters
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl) ester
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U033	353-50-4	Carbonic difluoride
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	12789-03-6	Chlordane
U026	494-03-1	Chlornaphazine
U037	108-90-7	Chlorobenzene
U039	59-50-7	p-Chloro-m-cresol
U041	106-89-8	1-Chloro-2,3-epoxypropane
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroform

VOL 51 ISS 151 AG 6 1986 UMI

Hazardous waste No.	Chemical abstracts No.	Substance
U046	107-30-2	Chloromethyl methyl ether
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U032	13765-19-0	Chromic acid, calcium salt
U050	218-01-9	Chrysene
U051	8021-39-4	Creosote
U052	1319-77-3	Cresols (Cresylic acid)
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (I)
U246	506-68-3	Cyanogen bromide
U197	106-51-4	2,5-Cyclohexadiene-1, 4-dione
U056	110-82-7	Cyclohexane (I)
U057	108-94-1	Cyclohexanone (I)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	50-18-0	Cyclophosphamide
U240	[1] 94-75-7	2,4-D, salts and esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDD
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-1	Dichloroethyl ether
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U240	[1] 94-75-7	2,4-Dichlorophenoxyacetic acid, salts and esters
U083	78-87-5	1,2-Dichloropropane
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U108	123-91-1	1,4-Diethyleneoxide
U086	1615-80-1	N,N-Diethylhydrazine
U087	3288-58-2	O,O-Diethyl-S-methyl-dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbestrol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U093	60-11-7	Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (I)
U111	621-64-7	Di-n-propylnitrosamine
U001	75-07-0	Ethanal (I)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis- (I)
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U227	110-80-5	Ethanol, 2-ethoxy-
U359	79-00-5	Ethane, 1,1,2-trichloro-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro
U228	79-01-6	Ethene, trichloro
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U238	51-79-6	Ethyl carbamate

Hazardous waste No.
U038
U114
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U077
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U080
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U160
U138
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Hazardous waste No.	Chemical abstracts No.	Substance
U038	510-15-6	Ethyl 4,4'-dichlorobenzilate
U114	111-54-6	Ethylenebisdithiocarbamic acid, salts and esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monoethyl ether
U115	75-21-8	Ethylene oxide (I,T)
U116	96-45-7	Ethylene thiourea
U117	60-29-7	Ethyl ether (I)
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethylmethanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro- (I)
U125	98-01-1	Furfural (I)
U124	110-00-9	Furfuran (I)
U206	18883-66-4	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-
U126	765-34-4	Glycidylaldehyde
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U129	58-89-9	Hexachlorocyclohexane (gamma isomer)
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U136	75-60-5	Hydroxydimethylarsine oxide
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3cd]pyrene
U139	9004-66-4	Iron dextran
U190	85-44-9	1,3-Isobenzofurandione
U140	78-83-1	Isobutyl alcohol (I,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U143	303-34-4	Lasiocarpine
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U092	124-40-3	Methanamine, N-methyl- (I)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (I,T)
U046	107-30-2	Methane, chloromethoxy-
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U138	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-
U153	74-93-1	Methanethiol (I,T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U123	64-18-6	Methanoic acid (C,T)
U154	67-56-1	Methanol (I)
U155	91-80-5	Methapyrilene
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (I)
U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (I)
U045	74-87-3	Methyl chloride (I,T)
U156	79-22-1	Methylchlorocarbonate (I,T)
U226	71-55-6	Methylchloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (I)

Hazardous waste No.	Chemical abstracts No.	Substance
U162	80-62-6	Methyl methacrylate (I,T)
U163	70-25-7	N-Methyl-N'-nitro-N-nitrosoguanidine
U161	108-10-1	4-Methyl-2-pentanone (I)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-
U165	91-20-3	Naphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'dimethyl-(1,1'biphenyl)-4,4'-diyl)]-bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U026	494-03-1	2-Naphthylamine, N,N'-bis(2-chloromethyl)-
U167	134-32-7	1-Naphthylenamine
U168	91-59-8	2-Naphthylenamine
U217	10102-45-1	Nitric acid, thallium(1+) salt
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (I,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine
U181	99-55-8	5-Nitro-o-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U115	75-21-8	Oxirane (I,T)
U126	765-34-4	Oxiranecarboxyaldehyde
U041	106-89-8	Oxirane, (chloromethyl)-
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Pentachloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)
U242	87-86-5	Pentachlorophenol
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U048	95-57-8	Phenol, 2-chloro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	Phenol, 2,6-dichloro-
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U101	105-67-9	Phenol, 2,4-dimethyl-
U052	1319-77-3	Phenol, methyl-
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U170	100-02-7	Phenol, 4-nitro-
U242	87-86-5	Phenol, pentachloro-
U212	58-90-2	Phenol, 2,3,4,6-tetrachloro-
U230	95-94-4	Phenol, 2,4,5-trichloro-
U231	88-06-2	Phenol, 2,4,6-trichloro-
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145	7446-27-7	Phosphoric acid, lead salt
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl-, S-methyl-, ester
U189	108-95-2	Phosphorous sulfide (R)
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U179	100-75-4	Pipendine, 1-nitroso-
U192	23950-58-5	Pronamide
U194	107-10-8	1-Propanamine (I,T)
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U110	142-84-7	1-Propanamine, N-propyl- (I)
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U149	109-77-3	Propanedinitrile
U171	79-46-9	Propane, 2-nitro- (I,T)
U027	39638-32-9	Propane, 2,2'-oxybis[2-chloro-
U193	1120-71-4	1,3-Propane sultone
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U002	67-64-1	2-Propanone (I)
U084	542-75-6	1-Propene, 1,3-dichloro-
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U007	79-06-1	2-Propenamide
U243	1888-71-7	1-Propene, hexachloro-
U009	107-13-1	2-Propenenitrile
U008	79-10-7	2-Propenoic acid (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U233	93-72-1	Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U196	110-86-1	Pyridine
U191	109-06-8	Pyridine, 2-methyl-
U237	66-75-1	2,4(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U164	56-04-2	4-(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	930-55-2	Pyrrolidine, 1-nitroso-

Hazardous waste No.	Chemical abstracts No.	Substance
U200	50-55-5	Reserpine
U201	108-46-3	Resorcinol
U202	81-07-2	Saccharin and salts
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7446-34-6	Selenium sulfide (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
U233	93-72-1	Silvex
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
U189	1314-80-3	Sulfur phosphide (R)
U232	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Tetrachloroethylene
U212	58-90-2	2,3,4,6-Tetrachlorophenol
U213	109-99-9	Tetrahydrofuran (I)
U214	15843-14-8	Thallium(I) acetate
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium chloride
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide, tetramethyl-
U219	62-56-6	Thiourea
U244	137-26-8	Thiuram
U220	108-88-3	Toluene
U221	25376-45-8	Toluenediamine
U223	26471-62-5	Toluene diisocyanate (R,T)
U328	95-53-4	o-Toluidine
U353	106-49-0	p-Toluidine
U222	636-21-5	o-Toluidine hydrochloride
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Trichloroethylene
U121	75-69-4	Trichloromonofluoromethane
U230	95-95-4	2,4,5-Trichlorophenol
U231	88-06-2	2,4,6-Trichlorophenol
U234	99-35-4	sym-Trinitrobenzene (R,T)
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U235	126-72-7	Tris (2,3-dibromopropyl) phosphate
U236	72-57-1	Trypan blue
U237	66-75-1	Uracil mustard
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
U248	81-81-2	Warfarin, when present at concentrations of 0.3% or less
U239	1330-20-7	Xylene (I)
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester
U249	1314-84-7	Zinc phosphide, when present at concentrations of 10% or less

[1] CAS Number given for parent compound only.

4. Appendix VIII to Part 261 is revised to read as follows:

APPENDIX VIII.—HAZARDOUS CONSTITUENTS

Common name	Chemical abstracts name	Chemical abstracts No.
Acetonitrile	Same	75-05-8
Acetophenone	Ethanone, 1-phenyl-	98-86-2
2-Acetylaminofluorene	Acetamide, N-9H-fluoren-2-yl-	53-96-3
Acetyl chloride	Same	75-36-5
1-Acetyl-2-thiourea	Acetamide, N-(aminothioxymethyl)-	591-08-2
Acrolein	2-Propenal	107-02-8
Acrylamide	2-Propenamide	79-06-1
Acrylonitrile	2-Propenenitrile	107-13-1
Aflatoxins	Aflatoxin	1402-68-2
Aldicarb	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime	116-06-3
Aldrin	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-,(1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-	309-00-2
Allyl alcohol	2-Propen-1-ol	107-18-6
Allyl chloride	1-Propene, 3-chloro-	107-05-1
Aluminum phosphide	Same	20859-73-8
4-Aminobiphenyl	(1,1'-Biphenyl)-4-amine	92-67-1
5-(Aminomethyl)-3-isoxazolol	3(2H)-Isoxazolone, 5-(aminomethyl)-	2763-96-4
4-Aminopyridine	4-Pyridinamine	504-24-5
Amitrole	1H-1,2,4-Triazol-3-amine	61-82-5
Ammonium vanadate	Vanadic acid, ammonium salt	7803-55-6
Aniline	Benzenamine	62-53-3
Antimony and compounds, N.O.S.[1]	Antimony	7440-36-0
Aramite	Sulfurous acid, 2-chloroethyl-, 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester	140-57-8
Arsenic and compounds, N.O.S.[1]	Arsenic	7440-38-2
Arsenic acid	Arsenic acid AsH_3O_4	7778-39-4
Arsenic pentoxide	Arsenic oxide As_2O_5	1303-28-2
Arsenic trioxide	Arsenic oxide As_2O_3	1327-53-3
Auramine	Benzamine, 4,4'-carbonimidoylbis[N,N-dimethyl-	492-80-8

APPENDIX VIII.—HAZARDOUS CONSTITUENTS—Continued

Common name	Chemical abstracts name	Chemical abstracts No.
Azaserine	L-Serine, diazoacetate (ester)	115-02-6
Barium and compounds, N.O.S.[1]	Barium	7440-39-3
Barium cyanide	Same	542-62-1
Benz[c]acridine	Same	225-51-4
Benz[a]anthracene	Same	56-55-3
Benzal chloride	Benzene, (dichloromethyl)-	98-87-3
Benzene	Same	71-43-2
Benzenearsonic acid	Arsonic acid, phenyl-	98-05-5
Benzidine	[1,1'-Biphenyl]-4,4'-diamine	92-87-5
Benzo[b]fluoranthene	Benz[e]acephenanthrylene	205-99-2
Benzo[j]fluoranthene	Same	205-82-3
Benzo[a]pyrene	Same	50-32-8
p-Benzoquinone	2,5-Cyclohexadiene-1,4-dione	106-51-4
Benzotrichloride	Benzene, (trichloromethyl)-	98-07-7
Benzyl chloride	Benzene, (chloromethyl)-	100-44-7
Beryllium and compounds, N.O.S.[1]	Beryllium	7440-41-7
Bis(2-chloromethoxy)ethane	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	111-91-1
Bis(2-chloroethyl) ether	Ethane, 1,1'-oxybis[2-chloro-	111-44-4
Bis(2-chloroisopropyl) ether	Propane, 2,2'-oxybis[2-chloro-	39638-32-9
Bis(chloromethyl) ether	Methane, oxybis[chloro-	542-88-1
Bis(2-ethylhexyl) phthalate	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester	117-81-7
Bromoacetone	2-Propanone, 1-bromo-	598-31-2
Bromoform	Methane, tribromo-	75-25-2
4-Bromophenyl phenyl ether	Benzene, 1-bromo-4-phenoxy	101-55-3
Brucine	Strychnidin-10-one, 2,3-dimethoxy	357-57-3
Butyl benzyl phthalate	1,2-Benzenedicarbozylic acid, butyl phenylmethyl ester	85-68-7
Cacodylic acid	Arsenic acid, dimethyl-	75-60-5
Cadmium and compounds, N.O.S.[1]	Cadmium	7440-43-9
Calcium chromate	Chromic acid, calcium salt	13765-19-0
Calcium cyanide	Same	592-01-8
Carbon disulfide	Carbon bisulfide	75-15-0
Carbon oxyfluoride	Carbonic difluoride	353-50-4
Carbon tetrachloride	Methane, tetrachloro-	56-23-5
Chloral	Acetaldehyde, trichloro-	75-87-6
Chlorambucil	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino-	305-03-3
Chlordane, alpha and gamma isomers	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-	57-74-9
Chlorinated benzenes, N.O.S.[1]		
Chlorinated ethane, N.O.S.[1]		
Chlorinated fluorocarbons, N.O.S.[1]		
Chlorinated naphthalene, N.O.S.[1]		
Chlorinated phenol, N.O.S.[1]		
Chlornaphazine	2-Naphthalenamine, N,N-bis(2-chloroethyl)-	494-03-1
Chloroacetaldehyde	Acetaldehyde, chloro-	107-20-0
Chloroalkyl ethers, N.O.S.[1]		
p-Chloroaniline	Benzenamine, 4-chloro-	106-47-8
Chlorobenzene	Benzene, chloro-	108-90-7
Chlorobenzilate	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester	510-15-6
p-Chloro-m-cresol	Phenol, 4-chloro-3-methyl-	59-50-7
1-Chloro-2,3-epoxypropane	Oxirane, (chloromethyl)-	106-89-8
2-Chloroethyl vinyl ether	Ethene, (2-chloroethoxy)-	110-75-8
Chloroform	Methane, trichloro-	67-66-3
Chloromethyl methyl ether	Methane, chloromethoxy-	107-30-2
beta-Chloronaphthalene	Napthalene, 2-chloro-	91-58-7
o-Chlorophenol	Phenol, 2-chloro-	95-57-8
1-(o-Chlorophenyl) thiourea	Thiourea, (2-chlorophenyl)-	5344-82-1
Chloroprene	2-Chloro-1,3-butadiene	126-99-8
3-Chloropropionitrile	Propanenitrile, 3-chloro-	542-76-7
Chromium and compounds, N.O.S.[1]	Chromium	7440-47-3
Chrysene	Same	218-01-9
Citrus red No. 2	2-Naphthalenol, 1-[(2,5-dimethoxyphenyl)azo]-	6358-53-8
Coal tars		8005-45-2
Copper cyanide	Copper cyanide CuCN	544-92-3
Creosote	Same	8001-58-9
Cresols (Cresylic acid)	Phenol, methyl-	1319-77-3
Crotonaldehyde	2-Butenal	4170-30-3
Cyanides (soluble salts and complexes) N.O.S.[1]		
Cyanogen	Ethanedinitrile	460-19-5
Cyanogen bromide	Same	506-68-3
Cyanogen chloride	Same	506-77-4
Cycasin	beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl	14901-08-7
2-Cyclohexyl-4,6-dinitrophenol	Phenol, 2-cyclohexyl-4,6-dinitro-	131-89-5
Cyclophosphamide	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide	50-18-0
2,4-D, salts and esters	Acetic acid, (2,4-dichlorophenoxy)-, salts and esters	94-75-7
Daunomycin	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	20830-81-3
DDD	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-	72-54-8
DDE	Benzene, 1,1'-(dichloroethenylidene)bis[4-chloro-	72-55-9
DDT	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-	50-29-3
Diallate	Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl) ester	2303-16-4
Dibenz[a,h]acridine	Same	226-36-8
Dibenz[a,j]acridine	Same	224-42-0
Dibenz[a,h]anthracene	Same	53-70-3
7H-Dibenzo[c,g]carbazole	Same	194-59-2
Dibenzo[e,e]pyrene	Naphtho[1,2,3,4-def]chrysene	192-65-4
Dibenzo[a,h]pyrene	Dibenzo[b,def]chrysene	189-64-0
Dibenzo[a,i]pyrene	Benzo[rst]pentaphene	189-55-9
1,2-Dibromo-3-chloropropane	Propane, 1,2-dibromo-3-chloro	96-12-8
Dibutylphthalate	1,2-Benzenedicarboxylic acid, dibutyl ester	84-74-2
o-Dichlorobenzene	Benzene, 1,2-dichloro-	95-50-1
m-Dichlorobenzene	Benzene, 1,3-dichloro-	541-73-1

APPENDIX VIII.—HAZARDOUS CONSTITUENTS—Continued

Common name	Chemical abstracts name	Chemical abstracts No.
p-Dichlorobenzene	Benzene, 1,4-dichloro-	106-46-7
Dichlorobenzene, N.O.S.	Benzene, dichloro-	25321-22-6
3,3'-Dichlorobenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-	91-94-1
1,4-Dichloro-2-butene	2-Butene, 1,4-dichloro-	764-41-0
Dichlorodifluoromethane	Methane, dichlorodifluoro-	75-71-8
1,2-Dichloroethylene	Ethene, 1,2-dichloro-, (E)-	156-60-5
Dichloroethylene, N.O.S.	Dichloroethylene	25323-30-2
1,1-Dichloroethylene	Ethene, 1,1-dichloro-	75-35-4
2,4-Dichlorophenol	Phenol, 2,4-dichloro-	120-83-2
2,6-Dichlorophenol	Phenol, 2,6-dichloro-	87-65-0
Dichlorophenylarsine	Arsonous dichloride, phenyl-	696-28-6
Dichloropropane, N.O.S.[1]	Propane, dichloro-	26638-19-7
Dichloropropanol, N.O.S.[1]	Propanol, dichloro-	26545-73-3
Dichloropropene, N.O.S.[1]	1-Propene, dichloro-	26952-23-8
1,3-Dichloropropene	1-Propene, 1,3-dichloro-	542-75-6
Dieldrin	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, [1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha]-	60-57-1
1,2:3,4-Diepoxybutane	2,2'-Bioxirane	1464-53-5
Diethylarsine	Arsine, diethyl-	692-42-2
1,4 Diethyleneoxide	1,4 Dioxane	123-91-1
N,N'-Diethylhydrazine	Hydrazine, 1,2-diethyl-	1615-80-1
O,O-Diethyl S-methyldithiophosphate	Phosphorodithioic acid, O,O-diethyl S-methyl ester	3288-58-2
Diethyl-p-nitro phenyl phosphate	Phosphoric acid, diethyl-4-nitrophenyl ester	311-45-5
Diethylphthalate	1,2-Benzenedicarboxylic acid, diethyl ester	84-66-2
O,O-Diethyl O-pyrazinyl phosphorothioate	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	297-97-2
Diethylstilbesterol	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis,(E)-	56-53-1
Dihydrosafrole	1,3 Benzodioxole, 5-propyl-	94-58-6
3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol.	(+ −)-1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-	329-65-7
Diisopropylfluorophosphate(DFP)	Phosphorofluoridic acid, bis(1-methylethyl) ester	55-91-4
Dimethoate	Phosphorodithioic acid, O,O-dimethyl S-[2-	60-51-5
3,3'-Dimethoxybenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-	119-90-4
p-Dimethylaminoazobenzene	Benzenamine, N,N-dimethyl-4-(phenylazo)-	60-11-7
7,12-Dimethylbenz[a]anthracene	Benz[a]anthracene, 7,12-dimethyl-	57-97-6
3,3'-Dimethylbenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-	119-93-7
Dimethylcarbamoyl chloride	Carbamic chloride, dimethyl-	79-44-7
1,1-Dimethylhydrazine	Hydrazine, 1,1-dimethyl-	57-14-7
1,2-Dimethylhydrazine	Hydrazine, 1,2-dimethyl-	540-73-8
alpha, alpha-Dimethylphenethylamine	Benzeneethanamine, alpha,alpha-dimethyl-	122-09-8
2,4-Dimethylphenol	Phenol, 2,4-dimethyl-	105-67-9
Dimethylphthalate	1,2-Benzenedicarboxylic acid, dimethyl ester	131-11-3
Dimethyl sulfate	Sulfuric acid, dimethyl ester	77-78-1
Dinitrobenzene, N.O.S.[1]	Benzene, dinitro-	25154-54-5
4,6-Dinitro-o- cresol and salts	Phenol, 2-methyl-4,6-dinitro- and salts	534-52-1
2,4-Dinitrophenol	Phenol, 2,4-dinitro-	51-28-5
2,4-Dinitrotoluene	Benzene, 1-methyl-2,4-dinitro-	121-14-2
2,6-Dinitro toluene	Benzene, 2-methyl-1,3-dinitro-	606-20-2
Dinoseb	Phenol, 2-(1-methylpropyl)-4,6-dinitro-	88-85-7
Di-n-octylphthalate	1,2-Benzenedicarboxylic acid, dioctyl ester	117-84-0
Diphenylamine	Benzenamine, N-phenyl-	122-39-4
1,2-Diphenylhydrazine	Hydrazine, 1,2-diphenyl-	122-66-7
Di-n-propylnitrosamine	1-Propanamine, N-nitroso-N-propyl-	621-64-7
Disulfoton	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester	298-04-4
Dithiobiuret	Thioimidodicarbonic diamide	541-53-7
Endosulfan	6,9-Methano-2,4,3-benzodioxathiepen, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide	115-29-7
Endothal	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	145-73-3
Endrin	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, [1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha]-	72-20-8
Ethyl carbamate (urethane)	Carbamic acid, ethyl ester	51-79-6
Ethyl cyanide	Propanenitrile	107-12-0
Ethylenebisdithiocarbamic acid, salts and esters.	Carbamodithioic acid, 1,2-ethanediylbis-, salts and esters	111-54-6
Ethylene dibromide	Ethane, 1,2-dibromo-	106-93-4
Ethylene dichloride	Ethane, 1,2-dichloro-	107-06-2
Ethylene glycol monoethyl ether	Ethanol, 2-ethoxy-	110-80-5
Ethyleneimine	Aziridine	151-56-4
Ethylene oxide	Oxirane	75-21-8
Ethylenethiourea	2-imidazolidinethione	96-45-7
Ethylidene dichloride	Ethane, 1,1-dichloro-	75-34-3
Ethyl methacrylate	2-Propenoic acid, 2-methyl-, ethyl ester	97-63-2
Ethylmethane sulfonate	Methanesulfonic acid, ethyl ester	62-50-0
Famphur	Phosphorothioic acid, 0-[4-[(dimethylamino) sulfonyl] phenyl] O,O-dimethyl ester	52-85-7
Fluoranthene	Same	206-44-0
Fluorine	Same	7782-41-4
Fluoroacetamide	Acetamide, 2-fluoro-	640-19-7
Fluoroacetic acid, sodium salt	Acetic acid, fluoro-, sodium salt	62-74-8
Formaldehyde	Same	50-00-0
Glycidylaldehyde	Oxiranecarboxyaldehyde	765-34-4
Halomethane, N.O.S.[1]		
Heptachlor	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	76-44-8
Heptachlor epoxide	2,5-Methano-2H-indeno[1,2b]oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexahydro-alpha, beta and gamma isomers)	1024-57-3
Hexachlorobenzene	Benzene, hexachloro-	118-74-1
Hexachlorobutadiene	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87-68-3
Hexachlorocyclopentadiene	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	77-47-4
Hexachlorodibenzo-p-dioxins		
Hexachlorodibenzofurans		
Hexachloroethane	Ethane, hexachloro-	67-72-1
Hexachlorophene	Phenol, 2,2'-methylenebis[3,4,6-trichloro-	70-30-4
Hexachloropropene	1-Propene, hexachloro-	1888-71-7
Hexaethyltetraphosphate	Tetraphosphoric acid, hexaethyl ester	757-58-4
Hydrazine	Same	302-01-2

APPENDIX VIII.—HAZARDOUS CONSTITUENTS—Continued

Common name	Chemical abstracts name	Chemical abstracts No.
Hydrogen cyanide	Hydrocyanic acid	74-90-8
Hydrogen fluoride	Hydrofluoric acid	7664-39-3
Hydrogen sulfide	Same	7783-06-4
Indeno[1,2,3cd]pyrene	Same	193-39-5
Iron dextran	Same	9004-66-4
Isobutyl alcohol	1-Propanol, 2-methyl-	78-83-1
Isodrin	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro(1alpha,4alpha,4abeta,5beta,8beta,8abeta)-	465-73-6
Isosafrole	1,3-Benzodioxole, 5-(1-propenyl)-	120-58-1
Kepone	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-	143-50-0
Lasiocarpine	2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl] -2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2s,3R),7aalpha]]-.	303-34-4
Lead and compounds, N.O.S.[1]		7439-92-1
Lead acetate	Acetic acid, lead(2+) salt	301-04-2
Lead phosphate	Phosphoric acid, lead(2+) salt	7446-27-7
Lead subacetate	Lead, bis(acetato-O)tetrahydroxytri-	1335-32-6
Lindane	Cyclohexane, 1,2,3,4,5,6-Hexachloro-	58-89-9
Maleic anhydride	2,5-Furandione	108-31-6
Maleic hydrazide	3,6-Pyridazinedione, 1,2-dihydro-	123-33-1
Malononitrile	Propanedinitrile	109-77-3
Melphalan	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-	148-82-3
Mercury fulminate	Fulminic acid, mercury(2+) salt	628-86-4
Mercury and compounds N.O.S.[1]	Same	7439-97-6
Methacrylonitrile	2-Propenenitrile, 2-methyl-	126-98-7
Methapyrilene	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-	91-80-5
Methomyl	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester	16752-77-5
Methoxychlor	Benzene, 1,1'-(2,2,2-trichloroethylidene)[4-methoxy-	72-43-5
Methyl bromide	Methane, bromo-	74-83-9
Methyl chloride	Methane, chloro-	74-87-3
Methylchlorocarbonate	Carbonochloridic acid, methyl ester	79-22-1
Methyl chloroform	Ethane, 1,1,1-trichloro-	71-55-6
3-Methylcholanthrene	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	56-49-5
4,4'-Methylenebis(2-chloroaniline)	Benzenamine, 4,4'-methylenebis[2-chloro-	101-14-4
Methylene bromide	Methane, dibromo-	74-95-3
Methylene chloride	Methane, dichloro-	75-09-2
Methyl ethyl ketone (MEK)	2-Butanone	78-93-3
Methyl ethyl ketone peroxide	2-Butanone, peroxide	1338-23-4
Methyl hydrazine	Hydrazine, methyl-	60-34-4
Methyl iodide	Methane, iodo-	74-88-4
Methyl isocyanate	Methane, isocyanato-	624-83-9
2-Methyllactonitrile	Propanenitrile, 2-hydroxy-2-methyl-	75-86-5
Methyl methacrylate	2-Propenoic acid, 2-methyl-, methyl ester	80-62-6
Methyl methanesulfonate	Methanesulfonic acid, methyl ester	66-27-3
Methyl parathion	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	298-00-0
Methylthiouracil	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	56-04-2
Mitomycin C	Azirino[2',3':3,4]pyrrolo[1,2-a] indole-4,7-dione, 6-amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- [1aR-(1aalpha,8beta,8aalpha8balpha)]-.	50-07-7
MNNG	Guanidine, N-methyl-N'-nitro-N-nitroso-	70-25-7
Mustard gas	Ethane, l,l'-thiobis[2-chloro-	505-60-2
Naphthalene	Same	91-20-3
1,4-Naphthoquinone	1,4-Naphthalenedione	130-15-4
alpha-Naphthylamine	1-Naphthalenamine	134-32-7
beta-Naphthylamine	2-Naphthalenamine	91-59-8
alpha-Naphthylthiourea	Thiourea, 1-naphthalenyl-	86-88-4
Nickel and compounds, N.O.S.[1]	Same	7440-02-0
Nickel carbonyl	Nickel carbonyl, (T-4)-	13463-39-3
Nickel cyanide	Same	557-19-7
Nicotine and salts	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	54-11-5
Nitric oxide	Nitrogen oxide NO	10102-43-9
p-Nitroaniline	Benzenamine, 4-nitro-	100-01-6
Nitrobenzene	Benzene, nitro-	98-95-3
Nitrogen dioxide	Nitrogen oxide NO_2	10102-44-0
Nitrogen mustard and hydrochloride salt	Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt	51-75-2
Nitrogen mustard N-oxide and hydrochloride salt	Ethanamine, 2-chloro-N-(2-chloroethyl)-N-methyl-, N-oxide, and hydrochloride salt	126-85-2
Nitroglycerin	1,2,3-Propanetriol, trinitrate	55-63-0
p-Nitrophenol	Phenol, 4-nitro-	100-02-7
2-Nitropropane	Propane, 2-nitro-	79-46-9
4-Nitroquinoline-1-oxide	Quinoline, 4-nitro-1-oxide-	56-57-5
Nitrosamine, N.O.S.[1]		35576-91-1
N-Nitrosodi-n-butylamine	1-Butanamine, N-butyl-N-nitroso-	924-16-3
N-Nitrosodiethanolamine	Ethanol, 2,2'-(nitrosoimino)bis-	1116-54-7
N-Nitrosodiethylamine	Ethanamine, N-ethyl-N-nitroso-	55-18-5
N-Nitrosodimethylamine	Methanamine, N-methyl-N-nitroso-	62-75-9
N-Nitroso-N-ethyl urea	Urea, N-ethyl-N-nitroso-	759-73-9
N-Nitrosomethylethylamine	Ethanamine, N-methyl-N-nitroso-	10595-95-6
N-Nitroso-N-methylurea	Urea, N-methyl-N-nitroso-	684-93-5
N-Nitroso-N-methylurethane	Carbamic acid, methylnitroso-, ethyl ester	615-53-2
N-Nitrosomethylvinylamine	Vinylamine, N-methyl-N-nitroso-	4549-40-0
N-Nitrosomorpholine	Morpholine, N-nitroso-	59-89-2
N-Nitrosonornicotine	Pyridine, 3-(1-nitroso-2-pyrrolidinyl)-, (S)-	16543-55-8
N-Nitrosopiperidine	Piperidine, 1-nitroso-	100-75-4
Nitrosopyrrolidine	Pyrrolidine, 1-nitroso-	930-55-2
N-Nitrososarcosine	Glycine, N-methyl-N-nitroso-	13256-22-9
5-Nitro-o-toluidine	Benzenamine, 2-methyl-5-nitro-	99-55-8
Octamethylpyrophosphoramide	Diphosphoramide, octamethyl-	152-16-9
Osmium tetroxide	Osmium oxide (OsO_4)	20816-12-0
Paraldehyde	1,3,5-Trioxane, 2,4,6-trimethyl-	123-63-7
Parathion	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester	56-38-2
Pentachlorobenzene	Benzene, pentachloro-	608-93-5
Pentachlorodibenzo-p-dioxins		
Pentachlorodibenzofurans		

APPENDIX VIII.—HAZARDOUS CONSTITUENTS—Continued

Common name	Chemical abstracts name	Chemical abstracts No.
Pentachloroethane	Ethane, pentachloro-	76-01-7
Pentachloronitrobenzene (PCNB)	Benzene, pentachloronitro-	[illegible]
Pentachlorophenol	Phenol, pentachloro-	87-86-5
Phenacetin	Acetamide, N-(4-ethoxyphenyl)-	62-44-2
Phenol	Same	108-95-2
Phenylenediamine	Benzenediamine	25265-76-3
Phenylmercury acetate	Mercury, (acetato-O)phenyl-	62-38-4
Phenylthiourea	Thiourea, phenyl-	103-85-5
Phosgene	Carbonic dichloride	75-44-5
Phosphine	Same	7803-51-2
Phorate	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester	298-02-2
Phthalic acid esters, N.O.S.[1]		
Phthalic anhydride	1,3-Isobenzofurandione	85-44-9
2-Picoline	Pyridine, 2-methyl-	109-06-8
Polychlorinated biphenyls N.O.S.[1]		
Potassium cyanide	Same	151-50-8
Potassium silver cyanide	Argentate(1-), bis(cyano-C)-, potassium	506-61-6
Pronamide	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	23950-58-5
1,3-Propane sultone	1,2-Oxathiolane, 2,2-dioxide	1120-71-4
n-Propylamine	1-Propanamine	107-10-8
Propargyl alcohol	2-Propyn-1-ol	107-19-7
Propylene dichloride	Propane, 1,2-dichloro-	78-87-5
1,2-Propylenimine	Aziridine, 2-methyl-	75-55-8
Propylthiouracil	4(1H)-Pyrimidinone, 2,3-dihydro-6-propyl-2-thioxo-	51-52-5
Pyridine	Same	110-86-1
Reserpine	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester	50-55-5
Resorcinol	1,3-Benzenediol	108-46-3
Saccharin and salts	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide and salts	81-07-2
Safrole	1,3-Benzodioxole, 5-(2-propenyl)-	94-59-7
Selenium dioxide	Selenious acid	7783-00-8
Selenium and compounds, N.O.S.[1]	Selenium	7782-49-2
Selenium sulfide	Same	7446-34-6
Selenourea	Same	630-10-4
Silver and compounds, N.O.S.[1]	Silver	7440-22-4
Silver cyanide	Same	506-64-9
Silvex (2,4,5-TP)	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	93-72-1
Sodium cyanide	Same	143-33-9
Streptozotocin	D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-	18883-66-4
Strontium sulfide	Same	1314-96-1
Strychnine and salts	Strychnidin-10-one and salts	57-24-9
TCDD	Dibenzo[b,e] [1,4]dioxin, 2,3,7,8-tetrachloro-	1746-01-6
1,2,4,5-Tetrachlorobenzene	Benzene, 1,2,4,5-tetrachloro-	95-94-3
Tetrachlorodibenzo-p-dioxins		
Tetrachlorodibenzofurans		
Tetrachloroethane, N.O.S.[1]	Ethane, tetrachloro-, N.O.S.	25322-20-7
1,1,1,2-Tetrachloroethane	Ethane, 1,1,1,2-tetrachloro-	[illegible]
1,1,2,2-Tetrachloroethane	Ethane, 1,1,2,2-tetrachloro-	79-34-5
Tetrachloroethylene	Ethene, tetrachloro-	127-18-4
2,3,4,6-Tetrachlorophenol	Phenol, 2,3,4,6-tetrachloro-	58-90-2
Tetraethyldithiopyrophosphate	Thiodiphosphoric acid, tetraethyl ester	3689-24-5
Tetraethyl lead	Plumbane, tetraethyl-	78-00-2
Tetraethylpyrophosphate	Diphosphoric acid, tetraethyl ester	107-49-3
Tetranitromethane	Methane, tetranitro-	509-14-8
Thallium and compounds, N.O.S.[1]	Thallium	7440-28-0
Thallic oxide	Thallium (III) oxide	1314-32-5
Thallium (I) acetate	Acetic acid, thallium(1+) salt	[illegible]
Thallium (I) carbonate	Carbonic acid, dithallium(1+) salt	6533-73-9
Thallium (I) chloride	Thallium chloride	7791-12-0
Thallium (I) nitrate	Nitric acid, thallium(1+) salt	10102-45-1
Thallium selenite	Thallium selenide	12039-52-0
Thallium (I) sulfate	Sulfuric acid, thallium salt	10031-59-1
Thioacetamide	Ethanethioamide	62-55-5
Thiofanox	2-Butanone, 3,3-dimethyl-1-(methylthio)-,O-[(methylamino)carbonyl]oxime	39196-18-4
Thiomethanol	Methanethiol	74-93-1
Thiophenol	Benzenethiol	108-98-5
Thiosemicarbazide	Hydrazinecarbothioamide	79-19-6
Thiourea	Same	62-56-6
Thiram	Thioperoxydicarbonic diamide, Tetramethyl-	137-26-8
Toluene	Benzene, methyl-	108-88-3
Toluenediamine	Benzenediamine, ar-methyl-	25376-45-8
2,4-Toluenediamine	1,3-Benzenediamine, 4-methyl-	[illegible]
2,6-Toluenediamine	1,3-Benzenediamine, 2-methyl-	823-40-5
3,4-Toluenediamine	1,2-Benzenediamine, 4-methyl-	496-72-0
Toluene diisocyanate	Benzene, 2,4-diisocyanato-1-methyl-	584-84-9
p-Toluidine	Benzenamine, 4-methyl-	106-49-0
o-Toluidine hydrochloride	Benzenamine, 2-methyl-, hydrochloride	636-21-5
Toxaphene	Same	8001-35-2
1,2,4-Trichlorobenzene	Benzene, 1,2,4-trichloro	120-82-1
1,1,2-Trichloroethane	Ethane, 1,1,2-trichloro	79-00-5
Trichloroethylene	Ethene, trichloro	79-01-6
Trichloromethanethiol	Methanethiol, trichloro-	75-70-7
Trichloromonofluoromethane	Methane, trichlorofluoro-	75-69-4
2,4,5-Trichlorophenol	Phenol, 2,4,5-trichloro-	95-95-4
2,4,6-Trichlorophenol	Phenol, 2,4,6-trichloro-	88-06-2
2,4,5-T	Acetic acid, (2,4,5-trichlorophenoxy)-	[illegible]
Trichloropropane, N.O.S.		
1,2,3-Trichloropropane	Propane, 1,2,3-trichloro-	96-18-4
O,O,O-Triethylphosphorothioate	Phosphorothioic acid, O,O,O-triethyl ester	126-68-1
sym-Trinitrobenzene	Benzene, 1,3,5-trinitro	99-35-4
Tris(1-aziridinyl)phosphine sulfide	Aziridine, 1,1',1''-phosphinothioylidynetris-	52-24-4
Tris(2,3-dibromopropyl)phosphate	1-Propanol, 2, 3-dibromo-, phosphate (3:1)	126-72-7

APPENDIX VIII.—HAZARDOUS CONSTITUENTS—Continued

Common name	Chemical abstracts name	Chemical abstracts No.
Trypan blue	2,7-Naphthalendisulfonic acid, 3, 3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt	72-57-1
Uracil mustard	2,4(1H,3H)-Pyrmidinedione, 5-[bis(2-chloroethyl)amino]-	66-75-1
Same as CAS name	Undecamethylenediamine, N,N'-bis(2-chlorobenzyl)-, dihydrochloride	2056-25-9
Vanadium pentoxide	Vanadium oxide V_2O_5	1314-62-1
Vinyl chlonde	Ethene, chloro-	75-01-4
Warfarin	2 H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-	81-81-2
Zinc cyanide	Same	557-21-1
Zinc phosphide	Zinc phosphide P_2Zn_3	1314-84-7

[1] The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this appendix.

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August 6, 1986

Part III

Department of Education

34 CFR Part 674

Postsecondary Education; National Direct Student Loan Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 674

Postsecondary Education; National Direct Student Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the regulations for the National Direct Student Loan (NDSL) Program. These regulations are designed to reduce the high number of defaulted loans under the NDSL Program and the unacceptably high default rate of certain participating institutions of higher education by amending the current funding procedures. These regulations are being amended to encourage institutions to improve the management of their NDSL Programs. Institutions which reduce their default rate by increasing repayments will better preserve the NDSL fund as a revolving fund, and will increase the funds available for loans to future borrowers.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry, Chief, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, DC 20202. Telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION: Under the National Direct Student Loan (NDSL) Program, Title IV Part E of the Higher Education Act of 1965, as amended, institutions of higher education may receive Federal funds to make loans to students. The current regulations governing NDSL funding procedures provide that a participating institution may not receive a Federal Capital Contribution (FCC) under the program if its NDSL default rate exceeds 25 percent. The current regulations reduce the FCC provided to an institution with a default rate between 10 percent and 25 percent. This final regulation lowers, from 25 percent to 20 percent, the maximum default rate percentage which an institution may have and still qualify for receipt of the Federal Capital Contribution (FCC) allocation in the 1987–88 and subsequent award years. The regulation also reduces, from 10 percent to 7.5 percent, the maximum default rate percentage which an institution may have without having its FCC reduced for those same years. In addition, this regulation changes certain elements of the funding appeal process in the 1988–89 and subsequent award years.

The Secretary revised these procedures in an effort to reduce the high number of defaulted loans under the NDSL Program and the unacceptably high default rate of certain participating institutions of higher education. The following is a discussion of these final regulations, including a summary of the comments received and the Department's response to those comments.

Revisions to the Notice of Proposed Rulemaking

Only a few significant changes have been made to the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on February 13, 1986, 51 FR 5484–5488.

Section 674.2 Definitions.

- "Default or in default"—The Secretary intends to revise this definition in a separate document.

Section 674.6a Funding procedures—Federal capital contributions (FCC) for the 1986–87 and subsequent award years.

- Implementation of the revisions to current practice contained in this section has been postponed until the 1987–88 award year.

Section 674.7 Application appeal review for the 1987–88 and subsequent award years.

- A new § 674.7a contains provisions implementing a changed appeal process for the 1988–89 award year and subsequent award years.

A summary of the comments received and the Department's response to those comments follows.

General

Comment. Most of the commenters supported the Secretary's stated goals of reducing the high number of defaulted loans and the unacceptably high default rates of certain institutions. However, they questioned whether those goals can be achieved by implementing the regulations as proposed. Many felt that the sanctions in the NPRM were too drastic, and would result in the elimination of the NDSL Program. The commenters urged the Department to re-evaluate the NPRM in terms of the stated goals of reducing the default rate.

Response. Several changes have been made. As discussed in more detail in response to specific comments, the Secretary does not agree with the commenters and considers the changes made here both practical and necessary to meet the goals of reducing the high number of defaulted loans. The changes will increase collections on defaulted loans and enable participating institutions to recapture monies for their revolving funds to serve more needy students.

Comment. Most of the commenters objected to the timing of this NPRM, claiming that issuance of new rules should await the enactment of the legislation reauthorizing the Higher Education Act.

Response. Publication of the regulations is necessary at this time in order to provide institutions with adequate lead time for their implementation. If changes are necessary as a result of revised legislation, the changes will be incorporated after the legislation is enacted.

Comment. Many commenters asserted that this NPRM, if published as a final regulation, while attempting to reduce the default rates at a few institutions, would punish all participating institutions, and make many institutions ineligible to receive any FCC.

Response. No change has been made. Only institutions that do not demonstrate a serious commitment to administer properly the NDSL program will be penalized. The Secretary believes that there is no reasonable basis for providing additional FCC to an institution which is neither successful in collecting nor willing to relinquish to the Department the accounts which remain uncollectible despite responsible collection efforts.

Comment. Several commenters claimed that an institution's NDSL default rate so depends on factors beyond its control, such as the type of student served by the institution, that application of the same default rate measurement to all institutions is unfair. These commenters contended that a loan program making funds available, without credit references, to needy students can be expected to suffer a large number of defaults. Other commenters urged use of a varying penalty rate, depending on the type of institution and the composition by income and dependency status of its student body.

Response. The Secretary has observed widely differing default rates among similar types of institutions serving student populations with similar

characteristics, and believes that institutional default rates, although related to the income levels of the student body, are more related to other factors clearly within the control of the institution. The latter include not only the quality of the institution's collection activity, but also the manner and type of loan counseling given student borrowers and the degree of student satisfaction with the quality of the education provided by the school. Moreover, institutions may reduce their default rates by assigning defaulted loans to the Secretary. Recent amendments to the statute have eliminated the two-year waiting period before such defaulted loans can be assigned to the Secretary. However, the requirement that institutions perform due diligence still remains.

Therefore, for these reasons, the Secretary concludes that the establishment of a varying rate is unnecessary and these revisions do not unfairly penalize institutions.

Section 674.6a Funding Procedures—Federal capital contributions (FCC).

Comment. The largest number of commenters criticized the timing of the changes in the NDSL default rate penalty thresholds as retroactive and punitive. These commenters believed that it was unfair to publish an NPRM, not only after the reporting year had ended, but after the Department had stopped accepting assignments of notes which would have affected the default rate for that reporting year. If institutions had been able to continue to assign notes to the Department, they would have been able to reduce further the base year's (1984–85) default rate, which determined the institution's eligibility for an allocation for the application year (1986–87).

Response. In response to this public comment, the Secretary has decided to delay implementation of the new default rate penalty until the 1987–88 award year and the change in the application review procedure until 1988–89.

Comment. A number of commenters believed that there was little justification for reducing the thresholds for FCC to 7.5 percent and 20 percent from 10 percent and 25 percent. Some believed the new figures were set arbitrarily; others questioned using a "median" figure rather than a "mean" figure, as a justification for lower thresholds.

Response. No change has been made. The commenters were correct in pointing out that median figures could be much less valid as national figures; the NPRM erroneously stated that the "median" default rate had decreased from 9.56 percent to 8.96 percent; in fact, these figures are "mean" averages. The Secretary has observed that since June 30, 1980, the last year for which no default rate penalty applied, there has been a steady decline in the national default rate. The Secretary believes that this decline from 11.8 percent (1980) to 8.27 percent (1985) represents a response by institutions to the imposition of the default rate penalty.

Based on this demonstrated ability to respond to an established threshold and the recent statutory amendments on assigning defaulted loans, the Secretary considers it reasonable to expect that institutions will be able to respond satisfactorily to a further reduction in the threshold.

Comment. A number of commenters expressed the belief that the Department should not assume that all institutions can expect to increase collections in future years at the rate of 10 percent a year. They argued that many institutions that have tightened their collection practices during the past several years could not expect to see a further increase in collections. A few suggested that institutions with default rates below 7.5 percent should not be expected to increase their collections by 10 percent annually.

Response. No change has been made. Most institutions have an NDSL portfolio with potential for a 10 percent collections increase per year. However, the Secretary realizes that some institutions, particularly those with low default rates that have been in the program for a number of years, may not, for various reasons, be able to increase collections by 10 percent per year. It is for this reason that this is an allowable appeal item each year.

Comment. A few commenters suggested that the following is a simpler, shorter method of calculating the excess overdue amount: *Step 1.* Start with the institution's default rate, from which would be subtracted the acceptable default rate (7.5 percent). *Step 2.* Divide that figure by the same institutional default rate used in step one. *Step 3.* Multiply that figure by the amount of principal past due on defaulted loans.

Response. No change has been made. In determining the funds to be provided to the institution, the Department itself computes the excess overdue amount for each institution based on data provided by the institution. The commenters' suggested procedure would eliminate only one calculation, would not result in any decrease in institutional burden, and would yield no increase in accuracy. Therefore, the Secretary has decided not to adopt the commenters' suggestion.

Section 674.7 Application Appeal Review.

Comment. A number of commenters objected to the proposed regulation that changes the appeal process by deleting the option to appeal the use of current year default rate rather than the base year default rate. The commenters claimed that institutions were not provided sufficient notice to permit them to reduce their default rates to the new thresholds for the 1986–87 award year through the assignment of defaulted notes. The commenters noted that assignments, if made after November 1985, would not change the base year statistics for 1986–87 funding.

Response. A change has been made. The Secretary agrees with the commenters, and current regulations governing the appeal process will continue in effect until the 1988–89 award year, when the provisions of the new section 674.7a will apply. This will give institutions sufficient time to pursue diligently borrowers whose loans are in default. It will also allow institutions added time to execute new repayment agreements with borrowers whose loans are in default.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

These final regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern such requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 674

Education, Loan programs—education, Student aid.

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Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.038 National Direct Student Loan Program)

Dated: August 1, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 674 of Title 34 of the Code of Federal Regulations as follows:

1. The authority citation for Part 674 is revised to read as follows:

Authority: 20 U.S.C. 1087aa–1087ii, 20 U.S.C. 421–429, unless otherwise noted.

2. The table of contents is amended by revising the section headings for §§ 674.6a and 674.7, and by adding a new § 674.7a, to read as follows:

PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

* * * * *

Sec.

674.6a Funding procedures—Federal capital contributions (FCC) for the 1987–88 and subsequent award years.
674.7 Application appeal review for award years prior to the 1988–89 award year.
674.7a Application appeal review for the 1988–89 and subsequent award years.

* * * * *

3. Section 674.6 is revised to read as follows:

§ 673.6a Funding procedures—Federal capital contributions (FCC) for the 1987–88 and subsequent award years.

(a) An institution may receive a Federal capital contribution (FCC) for the 1987–88 and subsequent calculated under this section if its default rate is not more that 20 percent.

(b) An institution's FCC equals 90 percent of its—

(1) Conditional guarantee minus the sum of its reimbursements for Direct loan cancellations received in the base year and loan repayments calculated under paragraph (c) of this section:

(2) Fair share State increase; and

(3) Fair share National increase.

(c) For purposes of paragraph (b)(1) of this section—

(1) If the institution's default rate is 7.5 percent or less, the Secretary considers its loan repayments in equal 121 percent of the amount it collected in the base year; and

(2) If an institution's default rate is greater than 7.5 percent but not more than 20 percent, the Secretary considers its loan repayment to be—

(i) 121 percent of the amount collected in the base year; plus

(ii) The additional amount it would have collected in the base year if its default rate were 7.5 percent (excess overdue amount).

(3) The Secretary calculates an institution's excess overdue amount by—

(i) Determining the amount of defaulted loans that would equal a 7.5 percent default rate by multiplying the total amount of matured loans of the institution by 7.5 percent;

(ii) Substracting the amount obtained in paragraph (c)(3)(i) of this section (7.5 percent of the matured loans) from the defaulted principal amount outstanding;

(iii) Dividing the amount obtained in paragraph (c)(3)(ii) of this section by the defaulted principal amount outstanding; and

(iv) Multiplying the actual amount of principal past due on defaulted loans by the fraction obtained in paragraph (c)(3)(iii) of this section.

(d) The definitions of "default rate," "defaulted principal amount outstanding" and "matured loans" are contained in § 674.2. However, for purposes of this section, the Secretary, when calculating an institution's default rate, excludes from the numerator of that fraction the following:

(1) Notes referred to the U.S. Commissioner of Education on or before September 15, 1979, if the institution received either a notification of acceptance or a receipt from the Office of Education, and that referral has not been rescinded or rejected.

(2) Notes assigned to the United States on or before June 30 of the base year and accepted by the United States.

(3) Notes for borrowers whose accounts are past due but nor in default.

(e) No institution may receive more Federal capital contribution than it requested.

(Authority: 20 U.S.C. 1087bb.)

4. Section 674.7(a) is revised to read as follows:

§ 674.7 Application appeal review for award years prior to the 1988–89 award year.

(a) (1) An institution may appeal its computed NDSL level of expenditure and its Federal capital contribution (FCC) for award years prior to the 1988–89 award year in accordance with this section.

(2) An institution must file an appeal under this section at the time specified by the Secretary.

* * * * *

5. A new § 674.7a is added, to read as follows:

§ 674.7a Application appeal review for the 1988–89 and subsequent award years.

(a) (1) An institution may appeal its computed NDSL level of expenditure and its Federal capital contribution (FCC) for the 1988–89 and subsequent award years in accordance with this section.

(2) An institution must file an appeal under this section at the time specified by the Secretary.

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) An institution may appeal the following elements used in determining an institution's NDSL level of expenditure of its FCC:

(1) For purposes of determining an institution's FCC award, the expectation of an annual increase in its NDSL collections of 10 percent.

(2) For purposes of determining an institution's self-help need—

(i) The average cost of books and supplies;

(ii) The established expected family contributions;

(iii) The enrollment data used to determine average tuition and fee costs; and

(iv) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

(1) The extent to which the institution can justify that an increase in NDSL collections of 10 percent per year is unreasonable.

(2) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.

(3) The extent to which the institution can justify that the standard expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.

(4) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.

(5) The extent to which the institution can justify that the base year used to determine its self-help need under the fair share formula does not accurately reflect the institution's current self-help need.

(e) In establishing an institution's level of expenditure and Federal capital contribution, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary establishes an approved level of expenditure and Federal capital contribution based on procedures in §§ 674.6 and 674.6a and the appeal panel's recommendations.

Authority: 20 U.S.C. 1087bb.

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Part IV

Department of Education

Educational Media Research, Production, Distribution, and Training; Final Funding Priority for Fiscal Year 1986; Notice of Final Funding Priority for Fiscal Year 1986

VOL 51 ISS 151 AG 6 1986 UMI

DEPARTMENT OF EDUCATION

Educational Media Research, Production, Distribution, and Training; Final Funding Priority for Fiscal Year 1986

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priority for Fiscal Year 1986.

SUMMARY: The Secretary announces an annual funding priority for the Educational Media, Research, Production, Distribution, and Training program. To ensure a continuing supply of Line 21 television decoders for the Nation's hearing-impaired population, the Secretary establishes a single funding priority for fiscal year 1986 for a project to manufacture at least 33,000 additional Line 21 decoders. The Secretary gives an absolute preference to applications that meet the terms of this final priority.

EFFECTIVE DATE: This priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Malcolm J. Norwood, Division of Innovation and Development, Department of Education, 400 Maryland Ave., SW. (Room 4088, Switzer Building), Washington, DC 20202. Telephone: (202) 732-1172.

SUPPLEMENTARY INFORMATION: The Educational Media, Research, Production, Distribution and Training program is designed to promote the educational advancement of handicapped persons by providing assistance for: (a) Conducting research on the use of educational media and technology for handicapped persons; (b) Producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of handicapped persons; and (c) training persons in the use of educational media for the instruction of handicapped persons.

In 1972 the Federal Government, through the former Office of Education, initiated the development of the closed-captioned Line 21 system to make television accessible to the Nation's hearing-impaired population. Closed-captioning is a system that uses Line 21 of the broadcasting signal for the benefit of viewers with hearing impairments to transmit captions (subtitles) which may be made visible only on television sets that are equipped with decoders.

Upon completion of the development of the system, the Department supported the creation of the National Captioning Institute to provide captioning services to the broadcasting industry and helped subsidize 100,000 large-scale integrated-circuit chips which made the manufacture of Line 21 decoders possible.

The system was implemented in March 1980 and has resulted in cooperative efforts between the public and private sectors to provide closed-captioned television to hearing-impaired Americans. All major networks are making closed-captioned programs available. Federal funding supports approximately 50% of current programming, the networks support approximately 30%, and corporate advertisers, foundations, and contributions account for the remaining 20%. Closed-captioning provides the only acceptable system that makes television access for deaf persons possible. Open captioning which would appear on all television sets is disturbing to the general viewing audience and, therefore, is not an acceptable alternative to the broadcasting industry and private sector supporters of captioning services.

The original stock of Line 21 decoders was depleted during 1985. The Congress provided $1.5 million during fiscal year 1985 to assist in the underwriting of the manufacture of 50,000 more chips to ensure a continuing supply.

More recently the Senate Committee on Appropriations directed the Secretary to provide $1.0 million during fiscal year 1986 for the purpose of manufacturing additional Line 21 decoders to assure that these devices will be available to meet a continuing need.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to applications submitted under the Educational Media, Research, Production, Distribution, and Training program in fiscal year 1986 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

All applications submitted under the Educational Media, Research, Production, Distribution and Training program must address the priority for a project to manufacture at least 33,000 additional Line 21 decoders to ensure a continuing supply of these devices for the Nation's hearing-impaired population.

The selection of this final priority is based upon the Congressional appropriation report language indicating that $1.0 million should be spent under Pub. L. 98-619 to underwrite the production of 50,000 additional Line 21 decoders before the current supply is exhausted. The final priority provides for the production of at least 33,000 additional Line 21 decoders rather than 50,000. At this level, a subsidy of $30 per decoder would be provided, thereby reducing the retail price of decoders. The Department believes that pricing at a lower level is necessary in order to promote the sale of decoders.

This final priority will support a cooperative agreement with an organization which has the technical expertise and knowledge to assure that the hearing-impaired population will have a continuing supply of Line 21 decoders available.

The applicant shall submit a working plan for the subsequent production of at least 33,000 additional Line 21 decoder modules as part of the application. The plan shall provide for a fully assembled unit (i.e., large-scale-integrated (LSI) circuit chip set, circuit board, and adapter unit) with evidence of commitment from one or more manufacturers and retailers to assure production and sale of the units. The plan shall contain a timeline for testing and production and an estimated retail price for the assembled units to be marketed to hearing-impaired consumers. The plan shall also provide assurances that at least 33,000 Line 21 decoders will be produced for marketing to consumers at the estimate price. An applicant, however, could propose a project for more than 33,000 Line 21 decoders if provisions can be made for the production and marketing of that number of decoders at an acceptable price.

Summary of Comments and Responses

A notice of proposed annual funding priority was published in the **Federal Register** on June 3, 1986 at 51 FR 20234. The public was given thirty days in which to comment. Twenty comments were received; all of them supported the proposed priority. Therefore, no change has been made.

(20 U.S.C. 1451, 1452)

(Catalog of Federal Domestic Assistance No. 84.026, Educational Media Research, Production, Distribution, and Training)

Dated: August 1, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-17691 Filed 8-5-86; 8:45 am]

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VOL
51
ISS
1
5
1
AG
6
1986
UMI

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Wednesday
August 6, 1986

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations; Advance Notice of Proposed Rulemaking

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60742-6142]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, DOC.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Under the Marine Mammal Protection Act (MMPA) U.S. fishermen have an annual quota of 20,500 on the total mortality of porpoise that can be taken in fishing for yellowfin tuna in the eastern tropical Pacific (ETP). This quota could be reached in late September 1986. At that time, fishing on porpoise will be prohibited under 50 CFR 216.24 until January 1, 1987. NOAA intends to enforce this for 1986 trips by prohibiting the catching, possession, or landing of yellowfin and bigeye tuna by Class III U.S. tuna purse seine vessels fishing in the ETP unless the vessel voluntarily agrees to take an NMFS observer.

The MMPA also prohibits importation into the United States of fish products caught in a manner proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incidental to the catching of the fish. When the U.S. quota is reached, the importation of yellowfin tuna taken on porpoise, during the time of the U.S. ban on setting on porpoise, also will be prohibited. Therefore, any country wishing to import yellowfin tuna to the United States must place an observer approved by its government on any vessel for any trip, of which any part is in the ETP and from which yellowfin tuna is to be imported into the United States. The observer must verify that no sets for tuna were made on porpoise after the closure date. The imported tuna must be accompanied by a statement from a responsible official of the government to this effect. Any comments provided to the persons below will be considered in preparing subsequent actions.

DATE: Comments will be received until further notice.

ADDRESS: Comments should be sent to National Marine Fisheries Service, Southwest Region, 300 S. Ferry St., Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT:

Mr. R.B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, NMFS, Washington, D.C. 20235; 202-673-5350, or

Mr. E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 S. Ferry St., Terminal Island, CA 90731, 213-514-6196.

Dated: August 5, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-17878 Filed 8-5-86; 12:06 pm]

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Reader Aids

Federal Register

Vol. 51, No. 151

Wednesday, August 6, 1986

INFORMATION AND ASSISTANCE

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5514.....27515
5515.....28218

Administrative Orders:
Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219

7 CFR

51.....27813
272.....28196
273.....28196
908.....27816
910.....28059
911.....27517
918.....27518
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
447.....27862
1065.....27553
1079.....27554
1136.....27866
1137.....27554
1139.....27555

8 CFR

238.....28060

Proposed Rules:
214.....27867
248.....27867

9 CFR

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
741.....27522
303.....27826
501.....28221
522.....28221
523.....28221

Proposed Rules:
226.....28245

13 CFR

310.....27828

14 CFR

39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066
71.....27833-27835, 28067
1204.....27528

Proposed Rules:
1.....28095
36.....27556
39.....27557, 27874
73.....28095
75.....28096

16 CFR

423.....28222

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:
240.....28096

18 CFR

37.....27835
154.....27529
157.....27529
270.....27529
271.....27529, 28068
284.....27529

Proposed Rules:
271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:
113.....27875

VOL 51 ISS 151 AG 6 1986 UMI

21 CFR

193.....28223
331.....27762
332.....27762
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
561.....28223

23 CFR

635.....27532

24 CFR

35.....27774
207.....27837
221.....27837
300.....27838
905.....27774
965.....27774
960.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

29 CFR

1952.....27534

30 CFR

Proposed Rules:

774.....27558
910.....27559
912.....27559
921.....27559
922.....27559
933.....27559
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

32 CFR

706.....27535, 27536
90.....28092

33 CFR

161.....27839

Proposed Rules:

117.....27877
334.....28248

34 CFR

674.....28312

36 CFR

Proposed Rules:

7.....28107-28110
60.....28204
63.....28204

37 CFR

1.....28052
2.....28052
306.....27537

40 CFR

52.....27537, 27840, 27841
61.....27956
65.....28224
81.....27843-27845
180.....28225-28227
261.....28296
271.....28094

Proposed Rules:

52.....27560, 27878
65.....28113
85.....28114
180.....28249
716.....27562
721.....28119
795.....27880
799.....27880

41 CFR

101-40.....27539

42 CFR

405.....27847
482.....27847

43 CFR

11.....27674

Public Land Orders:

6620.....28229
6622.....28229

44 CFR

64.....28230, 28232

Proposed Rules:

81.....28119

45 CFR

1612.....27539

47 CFR

22.....28236
68.....28237
73.....27552, 28237
97.....28237

Proposed Rules:

0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
73.....27566, 27567
74.....27566

48 CFR

1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848
1853.....27848

49 CFR

571.....28238

Proposed Rules:

391.....27567
1058.....28249

50 CFR

216.....28320
285.....28240, 28241
641.....28094
655.....28241
661.....27859
671.....28242
674.....27860, 28243

LIST OF PUBLIC LAWS

Last List August 5, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 4409/Pub. L. 99-368

Panama Canal Commission Authorization Act, Fiscal Year 1987. (Aug. 1, 1986; 100 Stat. 775; 3 pages) Price: $1.00

H.R. 4985/Pub. L. 99-369

To authorize the distribution within the United States of the USIA film entitled "The March." (Aug. 1, 1986; 100 Stat. 778; 1 page) Price: $1.00

VOL
51
ISS
1
5
1
AG
6
1986
UMI

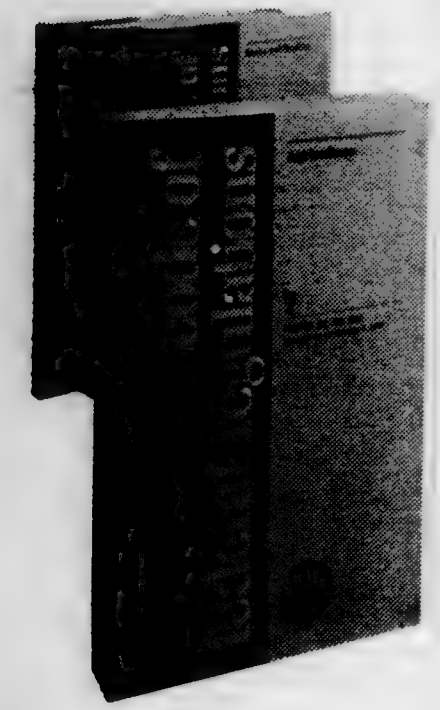

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8-7-86
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8-7-86
Vol. 51 No. 152
Pages 28321-28508

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Thursday
August 7, 1986

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51
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152
AG
7
1986
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Commo
RULES
Loan an
Cotton

Cooper
NOTICES
Meeting
Comm

Contents

Federal Register

Vol. 51, No. 152

Thursday, August 7, 1986

Agriculture Department
See Commodity Credit Corporation; Cooperative State Research Service

Air Force Department
NOTICES
Agency information collection activities under OMB review, 28410
(2 documents)

Army Department
See also Engineers Corps
NOTICES
Agency information collection activities under OMB review, 28410

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Bicentennial of the United States Constitution Commission
See Commission on the Bicentennial of the United States Constitution

Coast Guard
RULES
Drawbridge operations:
Ohio, 28380
Outer Continental Shelf activities and mobile offshore drilling units:
Workplace safety and health requirements for OCS facilities
Correction, 28381
Ports and waterways safety:
Sunshine Skyway Bridge, Tampa Bay, FL; safety zone, 28383
Tampa Bay, Hillsborough Bay and approaches, FL; safety zone, 28382

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration

Commission on the Bicentennial of the United States Constitution
RULES
Donations; policy and procedures, 28384

Commodity Credit Corporation
RULES
Loan and purchase programs:
Cotton, 28321

Cooperative State Research Service
NOTICES
Meetings:
Committee of Nine, 28396

Customs Service
PROPOSED RULES
Merchandise entry:
Steel, special summary invoices, 28390
NOTICES
Trade name recordation applications:
Christian Kim, Inc., 28480

Defense Department
See also Air Force Department; Army Department; Engineers Corps
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 28412

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation applications:
Canadian Natural Gas Clearing House (U.S.) Inc., 28413
CU Energy Marketing, Inc., 28413
Granite State Gas Transmission, Inc., 28414
Tricentrol Petroleum Marketing, Inc., 28415

Education Department
NOTICES
Meetings:
Education Statistics Advisory Council, 28412

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department
NOTICES
Grant awards:
Colorado School of Mines, 28412
Combustion Institute, 28413

Energy Information Administration
NOTICES
Petroleum supply publications; statistical data, 28415

Energy Research Office
NOTICES
Meetings:
Magnetic Fusion Advisory Committee, 28429

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
San Clemente Project, Monterey County, CA, 28411

Environmental Protection Agency
NOTICES
Hazardous waste:
Land treatment, storage, and disposal facilities; identifying areas of vulnerable hydrogeology, guidance criteria, 28429
Meetings:
Science Advisory Board, 28431
(2 documents)

Toxic and hazardous substances control:
Interagency Testing Committee; intent-to-designate category of chemicals, 28431

Federal Aviation Administration
RULES
Airworthiness directives:
British Aerospace, 28322
Pilatus Britten-Norman Ltd., 28323
Airworthiness standards, etc.:
Cabin interior materials in transport category airplanes; flammability standards
Correction, 28322
Standard instrument approach procedures, 28326
Transition areas, 28325, 28326 (3 documents)
PROPOSED RULES
Airworthiness directives:
Pilatus Britten-Norman Ltd., 28386
Rulemaking petitions; summary and disposition, 28386
Transition areas, 28388
Transition areas; correction, 28390
VOR Federal airways, 28389

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 28481 (2 documents)

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 28482

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Puerto Rico, 28432

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Ceiling prices for high cost natural gas produced from tight formations; changes to old gas pricing structure, 28331
NOTICES
Environmental statements; availability, etc.:
Kings River Basin, CA, 28416
Lehigh River Basin, PA, 28417
Pit River Basin, CA, 28418
Rogue River Basin, OR and CA, 28420
Willamette River Basin, OR, 28421
Natural gas certificate filings:
Pacific Gas Transmission Co. et al., 28422
Senior Executive Service:
Performance Review Board; membership, 28423
Applications, hearings, determinations, etc.:
Anadarko Petroleum Corp., 28423
Bangor Hydro-Electric Co., 28426
Northern Natural Gas Co. et al., 28428

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
American City Bancorp, Inc., et al., 28432
Florida Westcoast Banks, Inc., et al., 28432

Federal Trade Commission
RULES
Credit practices; cosigners; New York; exemption, 28328

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Honeoye Creek wetland project, NY, 28446

Food and Drug Administration
RULES
Color additives:
D&C Orange No. 17, 28331
D&C Red No. 19, 28346
FD&C Yellow No. 6, D&C Orange No. 17, D&C Red No. 8, 9, and 19; provisional listing, 28363
NOTICES
Laser variance approvals, etc.:
Laser Productions et al., 28433
Medical devices; premarket approval:
Abbott Anti-Delta, 28434
Bausch & Lomb (Amefocon A) Oxygen Permeable Lens, 28435
Hydrasoft XW (Methafilcon A) Hydrophilic Contact Lens, 28436
Kontur Soft EW (Methafilcon A) Hydrophilic Contact Lens, 28437
Sunsoft EW (Methafilcon A) Hydrophilic Contact Lens, 28438
Visulas Nd: YAG Laser, 28439

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 28412

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service

Health Care Financing Administration
NOTICES
Medicare:
Home health agency costs per visit; schedule of limits; correction, 28439

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
Decisions and orders, 28429

Housing and Urban Development Department
RULES
Contract Appeals Board:
National Housing Act contracts; bid protest procedures, 28364
Low income housing:
Housing assistance payments (Section 8)—
Fair market rents for new construction and substantial rehabilitation, 28486
NOTICES
Grants; availability, etc.:
Community housing resource board program, 28441

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Reclamation Bureau

Internal Revenue Service
RULES
Estate and gift taxes:
Disclaimers of property, qualified, 28365
NOTICES
Practitioner program; elimination of bulk tax forms to tax practitioners; correction, 28480

International Trade Administration
NOTICES
Antidumping:
Dynamic random access memory semiconductors of 256 kilobits and above from Japan, 28396
Export privileges, actions affecting:
Computer Hardware Vertriebs GmbH et al., 28400
Trade adjustment assistance reports:
Apple juice industry, 28396
Applications, hearings, determinations, etc.:
Argonne National Laboratory, 28401
Michigan State University, 28401
University of Kentucky et al., 28401

International Trade Commission
NOTICES
Import investigations:
Apple juice, 28448
Erasable programmable read only memories (EPROM'S) and dynamic random access memory semiconductors (DRAM'S) of 256 kilobits and above from Japan, 28452
Human-powered vehicles with combination steering, braking, and propulsion means, 28449
Iron ore pellets from Brazil, 28449
Non-contact laser precision dimensional measuring devices and components, 28451
Top-of-the-stove stainless steel cooking ware from—Korea and Taiwan, 28450
Woodworking machines, 28451

Justice Assistance Bureau
NOTICES
Grants; availability, etc.:
Criminal justice discretionary grant program, 28452

Justice Department
See Justice Assistance Bureau

Labor Department
See also Occupational Safety and Health Administration
NOTICES
Meetings:
Economic Adjustment and Worker Dislocation Task Force, 28462

Land Management Bureau
NOTICES
Alaska Native claims selection:
English Bay Corp., 28444
Closure of public lands:
Nevada, 28444
Management framework plans, etc.:
Wyoming, 28444
Meetings:
Medford District Advisory Council, 28444
Montrose District Grazing Advisory Board, 28445
Roseburg District Advisory Council, 28445
Motor vehicles; off-road vehicle designations:
Montana, 28445

Merit Systems Protection Board
RULES
Practice and procedure:
General revision
Correction, 28321
NOTICES
Practices and procedures pamphlet; call for GPO printing riders for reprinting; correction, 28463

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Amoco Production Co., 28447
Conoco Inc., 28447
Hall-Houston Oil Co., 28448
Shell Offshore Inc., 28448

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 28412

National Bureau of Standards
NOTICES
Information processing standards, Federal:
Intelligent peripheral interface and small computer system interface, 28402
States, District of Columbia, and outlying areas identification code, 28406

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 28482

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Media Arts Advisory Panel, 28463

National Institutes of Health
NOTICES
Meetings:
Learning Disabilities Interagency Committee, 28440
National Digestive Diseases Advisory Board, 28440
National Heart, Lung, and BLood Institute, 28440
Recombinant DNA Advisory Committee, 28440

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish; correction, 28385
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 28408

Nuclear Regulatory Commission
NOTICES
Petitions; Director's decisions:
Sequoyah Fuels Corp., 28463
Applications, hearings, determinations, etc.:
Duke Power Co., 28463
Niagara Mohawk Power Corp., 28464

Occupational Safety and Health Administration
RULES
Federal employee occupational safety and health programs; reporting and recordkeeping requirements, 28378

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Meetings:
Hydropower Assessment Steering Committee, 28465

Pension Benefit Guaranty Corporation
RULES
Freedom of Information Act; implementation, 28379

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 28465

Postal Service
RULES
International Mail Manual:
Surface Air Lift Services to Panama and Latin American Countries, 28383

Public Health Service
See also Food and Drug Administration; National Institutes of Health
NOTICES
Health education assistance loan (HEAL) program:
Insurance premium rate and interest rates, 28441

Reclamation Bureau
NOTICES
Realty actions; sales, leases, etc.:
Arizona, 28446

Saint Lawrence Seaway Development Corporation
NOTICES
Meetings:
Advisory Board, 28474

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 28465, 28466
(3 documents)
Meetings; Sunshine Act, 28482
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 28468, 28472
(2 documents)
National Association of Securities Dealers, Inc., 28472
Options Clearing Corp., 28466
Philadelphia Stock Exchange, Inc., 28469
Applications, hearings, determinations, etc.:
American Pathway Fund et al., 28470
Public utility holding company filings, 28472

State Department
PROPOSED RULES
Foreign diplomatic and consular missions in United States, protection; guidelines, 28391
NOTICES
Agency information collection activities under OMB review, 28473

Transportation Department
See also Coast Guard; Federal Aviation Administration; Saint Lawrence Seaway Development Corporation
NOTICES
Aviation proceedings:
Hearings etc.
U.S.-Japan small package service proceeding, 28473

Treasury Department
See also Customs Service; Internal Revenue Service
NOTICES
Bonds, Treasury:
2016 series, 28474
Notes, Treasury:
C-1996 series, 28476
S-1989 series, 28478

Veterans Administration
NOTICES
Agency information collection activities under OMB review, 28480

Separate Parts In This Issue

Part II
Department of Housing and Urban Development, 28468

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 152 AG 7 1986 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1201 28321

7 CFR
1427 28321

14 CFR
25 28322
39 (2 documents) 28322, 28323
71 (3 documents) 28325, 28326
97 28326
121 28322

Proposed Rules:
Ch. I 28386
39 28386
71 (3 documents) 28388–28390

16 CFR
444 28328

18 CFR
154 28331
157 28331
270 28331
271 28331
284 28331

19 CFR

Proposed Rules:
141 28390

21 CFR
74 (2 documents) 28331, 28346
81 (3 documents) 28331, 28346, 28363
82 (2 documents) 28331, 28346

22 CFR

Proposed Rules:
2a 28391

24 CFR
20 28364
888 28486

26 CFR
20 28365
25 28365
602 28365

29 CFR
1960 28378
2603 28379

33 CFR
117 28380
140 28381
142 28381
165 (2 documents) 28382, 28383

39 CFR
10 28383

45 CFR
2002 28384

50 CFR
672 28385

VOL
51
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152
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5 CFR P

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Rules and Regulations

Federal Register
Vol. 51, No. 152
Thursday, August 7, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEM PROTECTION BOARD

5 CFR Part 1201

Practice and Procedure

Correction

In FR Doc. 86–15280 beginning on page 25146 in the issue of Thursday, July 10, 1986, make the following corrections:

§ 1201.27 [Corrected]

1. On page 25151, in the second column, in § 1201.27(a), in the second line, "and" should read "an".

§ 1201.56 [Corrected]

2. On page 25154, in the second column, in § 1201.56(c)(3), in the fourth line, "have likely" should read "have been likely".

§ 1201.121 [Corrected]

3. On page 25159, in the second column, in § 1201.121(b), in the last line, "ro" should read "or".

§ 1201.126 [Corrected]

4. On page 25160, in the first column, in § 1201.126(e)(3), in the first line, "disciplines the" should read "discipline as".

§ 1201.157 [Corrected]

5. On page 25162, in the second column, in § 1201.157, in the third line, "by the" should read "by an".

§ 1201.165 [Corrected]

6. On page 25163, in the first column, in § 1201.165(b), in the sixth line, "applicant" should read "appellant"; and in § 1201.165(c)(2), in the fifth line, "complete" should read "completed".

§ 1201.173 [Corrected]

7. On page 25163, in the third column, in § 1201.173(f)(3), in the third line, "8:14" should read "8:15".

§ 1201.183 [Corrected]

8. On page 25164, in the third column, in the first line, the section number should read "1201.183".

9. On page 25165, in the first column, in § 1201.183(c), in the last line, "confirmation" was misspelled.

10. On page 25166, in the third column, in § 1201.212, the second line should end with "fact."; and the rest of the line, "§ 1201.213 Official notice." should be set out as a section heading.

§ 1201.214 [Corrected]

11. On page 25166, in the third column, in § 1201.214, in the second line, "sanction" should read "sanctions".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

[Amdt. 7]

CCC Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Commodity Credit Corporation (CCC) Cotton Loan Program Regulations governing the 1980 and subsequent crops of cotton concerning the packaging of cotton which is pledged to CCC as collateral for price support loans. The specifications for bale packaging materials used in wrapping cotton for 1985 that were approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) are acceptable to CCC. Therefore, CCC is incorporating these specifications by reference and will require that 1986-crop cotton pledged to CCC as collateral for price support loan be wrapped to comply with these specifications.

EFFECTIVE DATE: August 6, 1986. The Director of the Federal Register approved the incorporation by reference of the specifications effective on August 6, 1986.

ADDRESS: Harold Jamison, Cotton Grain, and Rice Price Support Division USDA–ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Grady Bilberry, Cotton, Grain, and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447–7987. The Final Impact Statement describing the options considered in developing the rule that eliminated the publishing in the **Federal Register** of packaging specifications and the impact of implementing each option is available upon request from the above-named individual.

Supplementary Information

This final action has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) Major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) Significant adverse effect on competition, employment, investment, productivity innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this rule applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, and air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

A final rule was published in the **Federal Register** on July 1, 1982, that amended the cotton loan program regulations to provide that CCC would no longer publish in the **Federal Register**

the packaging specifications acceptable to CCC for packaging cotton pledged to CCC for Price Support loans. Instead, CCC determined that the specifications for cotton bales packaging materials approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) were acceptable to CCC for packaging cotton pledged to CCC for price support loans and incorporated by reference, in accordance with 1 CFR Part 51, the specifications approved and published by the JCIBPC for 1982-crop cotton.

Since the only purpose of this final rule is to amend the cotton loan program regulations to incorporate by reference the specifications approved and published by the JCIBPC for 1986-crop cotton which are generally available and accepted by the cotton industry, it has been determined that no further public rulemaking is required.

Accordingly, the regulations governing the cotton loan program set forth at 7 CFR 1427.1 through 1427.26 are amended as stated herein in order to incorporate by reference, in accordance with 1 CFR Part 51, the packaging specifications approved and published by the JCIBPC for 1986-crop cotton.

Copies of the specifications published by the JCIBPC will be made available to the public upon request by that Committee and by county ASCS offices.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs—agriculture, Packaging and containers, Price support programs, Surety bonds, Warehouse.

Accordingly 7 CFR Part 1427 is amended as follows:

PART 1427—(AMENDED)

1. The authority citation for 7 CFR 1427.1–1427.25 reads as follows:

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070 as amended, 1072 (15 U.S.C. 714b and 714c); secs. 101, 401 and 403 of the Agricultural Act of 1949, as amended, 63 Stat. 1051, as amended, 1054, as amended (7 U.S.C. 1444, 1421 and 1423); sec. 501 of Pub. L. 99–198.

2. In § 1427.5, paragraph (l) is revised to read as follows:

§ 1427.5 Eligible cotton.

* * * * *

(l) Each bale must be packaged in materials which meet specifications adopted and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC), sponsored by the National Cotton Council of America, for bale coverings and bale ties which are identified and approved by the JCIBPC as experimental packaging material. Heads of bales must be completely covered. Copies of the 1986 Specifications for Cotton Bale Packaging Materials published by the JCIBPC which are incorporated by reference are available to the public upon request at the county ASCS office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Information with respect to experimental packaging material may be obtained from JCIBPC. This incorporation by reference was approved by the Director of the Federal Register on August 6, 1986.

Signed at Washington, DC, on July 31, 1986.

Milton J. Hertz,

Acting Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 86-17652 Filed 8-6-86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 24594, Amdt., Nos. 25-61 and 121-189]

Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule; Request for additional comments; Correction.

SUMMARY: On Monday, July 21, 1986, the Federal Aviation Administration published a Final Rule (51 FR 26206) to upgrade the fire safety standards for cabin interior materials in transport category airplanes. This document is issued to amend the closing date for comments which is incorrect as stated and to correct a formula which appears in the amendatory language.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch (ANM–112), Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, WA 98168; Telephone (206) 431–2112.

SUPPLEMENTARY INFORMATION: In FR Doc. 86–16045 beginning on page 26206 in the issue published on July 21, 1986, first column, 36th line from the top should read "**DATES:** Effective Date: August 20, 1986. The closing date for comments is January 21, 1987." At lines 42 and 43, delete the sentence "Comments due on or before September 19, 1986."

At page 26215, the formula in Appendix F to Part 25, Part IV (f) which appears in the center of the page should read as follows:

$$K_h = \frac{(F_1-F_0)}{(V_1-V_0)} \times \frac{(210.8-22)k_{cal}}{mole} \times \frac{273}{T_a} \times \frac{P-P_w}{760} \times \frac{\text{mole CH4STP}}{22.41} \times \frac{\text{WATT.min}}{.01433\text{kcal}} \times \frac{\text{kw}}{1000\text{w}}$$

Issued in Washington, DC, on July 31, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 86–17705 Filed 8–6–86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-CE-24-AD; Amendment 39-5383]

Airworthiness Directive; British Aerospace Model 3101 Jetstream Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain British Aerospace Model 3101 Jetstream airplanes modified in accordance with Arkansas Modification Center, Inc. (AMC) baggage pod Supplementary Type Certificate (STC) No. SA5900SW. The AD requires a one-time inspection of the flap torque shaft for scoring, repair or replacement of scored shafts, and rework of the baggage pod modification by relocating and adding fasteners to the installation. This action is the result of reports of scoring of the flap torque shaft caused by interference with a fastener. The AD will prevent possible scoring and failure of flap torque tube, which will prevent asymmetric

retraction of the flaps and loss of control of the airplane.

EFFECTIVE DATE: August 13, 1986.

Compliance: Required within the next 50 landings after the effective date of this AD unless already accomplished.

ADDRESSES: Arkansas Modification Center, Inc., (AMC) Mandatory Service Bulletin (MSB) 25–0001(–1) dated May 13, 1986, applicable to this AD may be obtained from AMC, Post Office Box 3356, Adams Field, Little Rock, Arkansas 72203; Telephone (501) 372–1501 and BAe Alert Service Bulletin (ASB) 27–JA850949 dated January 8, 1986, from BAe Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. William Simmons, FAA, ASW–190, 4400 Blue Mound Road, Forth Worth, Texas 76101; Telephone (512) 824–2556 or Mr. John P. Dow., Sr., FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: It has been reported on a British Aerospace Model 3101 Jetstream airplane that "Camloc" studs on the left and right hand F21 and F22 panels at fuselage station 253.3, used in the AMC STC No. SA5900SW Baggage Pod Modification can cause scoring of the flap torque shafts over their arc of movement due to interference. Scoring of the shaft results in a reduction of strength and possible failure. This can result in asymmetric retraction of flaps and subsequent loss of control of the aircraft. As a result BAe issued ASB No. 27–JA850949 dated January 8, 1986, to introduce an inspection and repair of the flap torque shafts. AMC issued Service Bulletin (S/B) No. 25–0001(–1) dated May 13, 1986, which describes rework of the baggage pod modification to prevent scoring the flap torque shaft by relocating the interfering "Camloc" fasteners and adding two additional fasteners to each of the F21 and F22 panels to eliminate drooping of these modified panels. Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring inspection of the flap torque shaft for scoring, repair or replacement of the flap torque shaft if required, and rework of the baggage pod by relocation of two (2) "Camloc" fasteners, and addition of four (4) "Camloc" fasteners on certain BAe Model 3101 airplanes modified with AMC Baggage Pod in accordance with STC No. SA5900SW. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

British Aerospace

Applies to Model 3101 (Serial Numbers 003 through 028, 028, 034, 035, 037, and 038) airplanes certified in any category which have incorporated AMC Baggage Pod Modification STC No. SA5900SW.

Compliance: Required within the next 50 landings after the effective date of this AD, unless already accomplished.

Note: If landings are not recorded, one hour time-in-service (TIS) equals two landings.

To prevent possible scoring and failure of the two flap torque tubes, and subsequent loss of control of the aircraft, accomplish the following:

(a) Inspect the flap torque shaft in accordance with BAe Alert Service Bulletin (ASB) No. 27–JA850949 dated January 8, 1986, section 2B, "Inspection/Repair", Subparagraph (1)

(1) If scored in excess of 0.030 inches in depth, before further flight replace torque shaft with a serviceable shaft.

(2) If scoring does not exceed 0.030 inches in depth:

(i) Before further flight repair in accordance within BAe ASB No. 27–JA850949 dated January 8, 1986, section 2B, "Inspection/Repair", Subparagrpah (3), and

(ii) Inspect for cracks using a dye penetrant inspection to establish integrity of the shaft. If cracks are found, before further flight, replace torque shaft with a serviceable shaft.

(b) Rework panels F21 and F22 in accordance with Arkansas Modification Center, Inc. (AMC) Mandatory Service Bulletin (MSB) No. 25–0001(–1) dated May 13, 1986, section 2A, "ACCOMPLISHMENT INSTRUCTIONS".

(c) Airplanes may be flown with the flap system rendered inoperative in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Southwest Region, Special Programs Branch, ASW–190, 4400 Blue Mound Road, Post Office Box 1689, Fort Worth, Texas 76101.

All persons affected by this proposed AD may obtain copies of Arkansas Modification Center, Inc., (AMC) Mandatory Service Bulletin (MSB) No. 25–0001(–1) dated May 13, 1986, referred to herein upon request to the Arkansas Modification Center, Inc., Post Office Box 3356, Adams Field, Little Rock, Arkansas 72203, and Alert Service Bulletin No. 27–JA85–0949 dated January 8, 1986, referred to herein upon request to the British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041 or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64105.

This amendment becomes effective on August 13, 1986.

Issued in Kansas City, Missouri, on July 29, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–17707 Filed 8–6–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–23–AD; Amendment 39–5382]

Airworthiness Directives; Pilatus Britten-Norman LTD, BN–2A Mark III Trislander Series and BN–2 Islander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD

86-07-02, applicable to all Pilatus Britten-Norman LTD, BN-2A Mark III Trislander series and BN-2 Islander series airplanes and codifies the corresponding emergency AD letter dated March 28, 1986, into the **Federal Register**. This AD requires an inspection to detect cracks in the main landing gear at the junction of the torque link lug and upper case, and the replacement of cracked parts with airworthy units. There have been numerous occurrences reported of main landing gears exhibiting fatigue cracks. Cracks in the main landing gear may cause failures of the landing gear, loss of control and possible catastrophic secondary failures to the airplane.

EFFECTIVE DATES: August 13, 1986, to all persons except those to whom it has already been made effective by priority letter from the FAA dated March 28, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: The Mandatory Service Bulletin (MSB) BN-2/SB.170 Issue 2 dated April 14, 1986, and MSB BN-2/SB.173 Issue 1 dated June 2, 1986, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: This AD, applicable to Pilatus Britten-Norman LTD, BN-2A Mark III Trislander Series and BN-2 Islander Series airplanes, is necessary to detect cracks in the main landing gear (regardless of the manufacturer of the gear) at the junction of the torque link lug and upper case, by visual means using a 10-power magnifying glass or by a dye penetrant inspection and the replacement of cracked parts with airworthy units. There have been numerous occurrences reported of main landing gears exhibiting fatigue cracks which are believed on some aircraft to have resulted in detachment of torque links under landings and taxiing loads. Cracks in the main landing gear may cause failures of the landing gear, loss of control and possible catastrophic secondary failures to the airplane.

The FAA determined that this was an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority letter dated March 28, 1986. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 86-07-02. Since the unsafe conditions described therein may still exist on other Pilatus Britten-Norman Limited, BN-2A Mark III Trislander series (all models and serial numbers) and BN-2 Islander series (all models and serial numbers) airplanes, the AD is being published in the **Federal Register** as an amemdment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed may be obtained by contacting the Rules Docket at the location under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to be by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

Britten-Norman Limited

Applies to all BN-2A Mark III Trislander Series (all Models and Serial Numbers) and BN-2 Islander Series (all Models and Serial Numbers) airplanes.

Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished within the last 100 hours time-in-service (TIS), and thereafter at intervals not to exceed 100 hours TIS from the last inspection.

To preclude possible failure of the main gear, loss of control and possible catastrophic secondary failures to the airplane, accomplish the following:

(a) Inspect the junction of the torque link lug and upper case for cracks by visual means with 10-power magnifying glass or by dye penetrant.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the inspecuon specified in paragraph (a) above can be accomplished.

(c) If cracked parts are found as a result of the inspection in paragraph (a) of this AD, prior to further flight replace the cracked parts with airworthy units.

(d) If the landing gear is replaced, only equal pairs of the same manufacturer are approved as replacement parts. Mixing of different manufacturer landing gears is not authorized.

(e) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with the other scheduled maintenance on the airplane.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa and Middle East, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

CAA-UK Airworthiness Directive No. 005-03-86 issued March 14, 1986, which uses Britten-Norman Campaign Wire BN-2/SB173 as its Mandatory Service Bulletin dated March 14, 1986, pertains to the subject of this AD.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Pilatus Britten-Norman LTD Bembridge, Isle of Wight, England, or the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 13, 1986, to all person except those to whom it has already been made effective by priority letter from the FAA

dated March 28, 1986, and is identified as AD 86-07-02.

Issued in Kansas City, Missouri, on July 29, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-177076 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASO-21]

Designation of Transition Area, Falmouth, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Falmouth, Kentucky, transition area to accommodate Instrument Flight Rule (IFR) operations at Gene Snyder Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure has been developed to serve the airport and the controlled airspace is required for IFR aeronautical activities.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Falmouth, Kentucky, transition area (51 FR 19067). This action will provide controlled airspace for aircraft executing a new instrument approach procedure to Gene Snyder Airport. The operating status of the airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposed were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Falmouth, Kentucky, transition area and lowers the base of controlled airspace in the vicinity of Gene Snyder Airport from 1,200 to 700 feet above the surface.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

Falmouth, KY—[New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Gene Snyder Airport (Lat. 38°42'12"N., Long. 84°23'33"W.); excluding that portion which coincides with the Cincinnati, KY, transition area.

Issued in East Point, Georgia, on July 29, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-17709 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-6]

Amendment to the Battle Mountain, Nevada, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment enlarges the 1,200 foot transition area at Battle Mountain, Nevada, to encompass the holding pattern for aircraft holding southwest of the Very High Frequency Omni-directional Radio Range and Tactical Air Navigational Aid (VORTAC). This will keep aircraft entirely within controlled airspace while in the holding pattern.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

History

On May 20, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Battle Mountain, Nevada, transition area (51 FR 18461). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B, dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations enlarges the 1,200 foot transition area at Battle Mountain, Nevada. This action will provide the necessary controlled airspace for aircraft holding southwest of the Battle Mountain VORTAC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities

VOL 51 ISS 152 AG 7 1986 UMI

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Battle Mountain, NV—[Amended]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lander County Airport (lat. 40°35'54" N., long. 116°52'28" W.) and within 5 miles each side of the Battle Mountain VORTAC 218° radial, extending from the VORTAC to 18 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 10 miles southeast and 13.5 miles northwest of the Battle Mountain 218° and 038° radials extending from the VORTAC to 25 miles southwest and 12 miles northwest of the VORTAC, and within 6.5 miles south and 9 miles north of the Battle Mountain VORTAC 077° and 257° radials, extending from 8 miles west to 18.5 miles east of the VORTAC.

Issued in Los Angeles, California, on July 29, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-17711 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ANM-17]

Amend Eagle, CO, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Eagle, Colorado, Transition Area. The amendment is necessary to provide controlled airspace for aircraft in a holding pattern associated with a new instrument approach procedure.

EFFECTIVE DATE: 0901 UTC, September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-533, Federal Aviation Administration, Docket No. 86-ANM-17, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2533.

SUPPLEMENTARY INFORMATION:

History

On June 9, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Eagle, Colorado, Transition Area (51 FR 20834).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will provide controlled airspace for aircraft in a holding pattern associated with a new instrument approach procedure at the Eagle County Airport, Colorado. The existing 1,200 foot transition area for the present holding pattern is no longer needed and will be eliminated by this section.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Eagle, Colorado (Amended)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Eagle County Airport (lat. 39°38'42" N, long. 106°54'43" W); within 3.5 miles each side of the 072° bearing from the Eagle County Airport extending from the 9-mile radius area to 19 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 39°11'00" N, long. 106°42'00" W; to lat. 39°11'00" N, long. 107°14'00" W; to lat. 40°21'00" W, long. 107°14'00" W; to lat. 40°21'00" N, long. 106°42'00" W; to the point of beginning excluding all controlled airspace which overlaps this airspace.

Issued in Seattle, Washington, on July 31, 1986.

William E. O'Neill,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-17710 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25048; Amdt. No. 1326]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows.

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:
1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS–230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current." It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on July 25, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective October 23, 1986

Iron Mountain/Kingsford, MI—Ford, VOR RWY 1, Amdt. 10
Iron Mountain/Kingsford, MI—Ford, VOR RWY 19, Amdt. 5
Iron Mountain/Kingsford, MI—Ford, VOR RWY 31, Amdt. 12
Iron Mountain/Kingsford, MI—Ford, VOR/DME RWY 1, Orig.
Iron Mountain/Kingsford, MI—Ford, VOR/DME RWY 19, Orig.
Iron Mountain/Kingsford, MI—Ford, VOR/DME RWY 31, Orig.
Iron Mountain/Kingsford, MI—Ford, LOC/DME BC RWY 19, Amdt. 8
Iron Mountain/Kingsford, MI—Ford, ILS RWY 1, Amdt. 7

. . . Effective September 25, 1986

Fort Wayne, IN—Smith Field, VOR RWY 13, Amdt. 6
Goshen, IN—Goshen Muni, VOR RWY 9, Amdt. 10
Goshen, IN—Goshen Muni, VOR RWY 27, Amdt. 4
Goshen, IN—Goshen Muni, LOC BC RWY 9, Orig.
Goshen, IN—Goshen Muni, LOC RWY 27, Amdt. 2
Kentland, IN—Kentland Muni, VOR–A, Amdt. 3
Kentland, IN—Kentland Muni, RNAV RWY 27, Orig.
Terre Haute, IN—Sky King, VOR–A, Amdt. 4
Marshall, MN—Marshall Muni-Ryan Field, VOR RWY 12, Amdt. 5
Marshall, MN—Marshall Muni-Ryan Field, VOR/DME RWY 30, Amdt. 1
Minneapolis, MN—Flying Cloud, MLS RWY 9R (Interim), Amdt. 3, CANCELLED
Winona, MN—Winona Muni-Max Conrad Field, VOR RWY 29, Amdt. 12
Winona, MN—Winona Muni-Max Conrad Field, VOR–A, Amdt. 10

. . . Effective August 28, 1986

Gulf Shores, AL—Jack Edwards, VOR-A, Amdt. 1
Hanford, CA—Hanford Muni, VOR-A, Amdt. 6
Merced, CA—Merced Muni, VOR RWY 30, Amdt. 12
Merced, CA—Merced Muni, ILS RWY 30, Amdt. 7
Visalia, CA—Visalia Municipal, VOR RWY 12, Amdt. 4
Deland, FL—Deland Muni-Sidney H. Taylor Fld, NDB RWY 30, Orig.
Miami, FL—Tamiami, NDB RWY 9R, Amdt. 6
Miami, FL—Tamiami, ILS RWY 9R, Amdt. 4
Atlanta, GA—DeKalb-Peachtree, NDB RWY 9, Orig
Hazlehurst, GA—Hazlehurst, VOR/DME RWY 32, Amdt. 5, CANCELLED
Hazlehurst, GA—Hazlehurst, NDB RWY 14, Amdt. 1
Richmond, KY—Madison, VOR/DME RWY 18, Amdt. 3
Richmond, KY—Madison, RNAV RWY 36, Amdt. 3
Bogalusa, LA—George R. Carr Memorial Air Fld, VOR/DME-A, Amdt. 2
Bogalusa, LA—George R. Carr Memorial Air Fld, NDB RWY 18, Amdt. 1
Cumberland, MD—Cumberland Muni, LOC-A, Amdt. 1
Cumberland, MD—Cumberland Muni, LOC/DME RWY 23, Amdt. 3
Cumberland, MD—Cumberland Muni, NDB-A, Amdt. 6
Easton, MD—Easton Muni, NDB RWY 22, Amdt. 6
Picayune, MS—Picayune Pearl River County, VOR-A, Amdt. 10
Keene, NH—Dillant-Hopkins, VOR RWY 2, Amdt. 9
Keene, NH—Dillant-Hopkins, ILS RWY 2, Amdt. 12
Rochester, NH—Skyhaven, VOR-A, Amdt. 4
Rochester, NH—Skyhaven, NDB RWY 32, Amdt. 1
Elmira, NY—Elmira/Corning Regional, ILS RWY 6, Amdt. 1
Jacksonville, NC—Albert J Ellis, NDB RWY 5, Amdt. 4
Jacksonville, NC—Albert J Ellis, ILS RWY 5, Amdt. 4
Maxton, NC—Laurinburg-Maxton, VOR/DME-A, Orig.
Southern Pines, NC—Moore County, VOR-A, Orig.
Florence, SC—Florence City-County, VOR or TACAN-A, Amdt. 4
Greenwood, SC—Greenwood County, NDB RWY 27, Orig.
Kingstree, SC—Williamsburg County, NDB RWY 14, Amdt. 3
Fayetteville, TN—Fayetteville Muni, SDF RWY 19, Amdt. 1
Fayetteville, TN—Fayetteville Muni, NDB RWY 19, Amdt. 1
Winchester, TN—Winchester Muni, NDB RWY 18, Amdt. 3
Roanoke, VA—Roanoke Regional/Woodrum Field, NDB RWY 33, Amdt. 6
Winchester, VA—Winchester Muni, VOR/DME-A, Amdt. 2
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, VOR-A, Amdt. 6
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, ILS RWY 26, Amdt. 4

. . . Effective July 18, 1986

Albert Lea, MN—Albert Lea Muni, VOR RWY 18, Amdt. 8
Albert Lea, MN—Albert Lea Muni, VOR/DME RWY 34, Amdt. 1

. . . Effective July 11, 1986

Fort Worth, TX—Bourland Field, VOR RWY 35, Amdt. 1

[FR Doc. 86-17708 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 444

Trade Regulation Rule; Credit Practices

AGENCY: Federal Trade Commission.

ACTION: Request for exemption from trade regulation rule by the State of New York Banking Department.

SUMMARY: The Federal Trade Commission hereby publishes its decision to grant a request from the State of New York for an exemption from that portion of the Commission's trade regulation rule on Credit Practices that pertains to cosigners, 16 CFR Part 444.3 (1984) (Credit Practices Rule) as to transactions covered by the New York General Obligations Law.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra M. Wilmore or Ruth R. Amberg, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 (202) 724-1100 or (202) 724-1187.

List of Subjects in 16 CFR Part 444

Consumer credit, Trade practices.

SUPPLEMENTARY INFORMATION: The Credit Practices Rule states that it is deceptive for a creditor in a transaction subject to the Rule [1] to misrepresent a cosigner's liability and unfair for a creditor to fail to disclose the cosigner's liability. The Rule requires that a particular notice be provided to potential cosigners and states that a creditor complying with that disclosure provision does not violate the prohibition against unfair and deceptive statements concerning the cosigner's liability. [2]

The Credit Practices Rule provides (Rule § 444.5, 16 CFR 444.5) that if an appropriate state agency applies for an exemption from a provision of the Rule, such exemption will be granted if the Commission determined that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Credit Practices Rule applies; and (2) The state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule's provision. Such an exemption will continue for so long as the state effectively administers and enforces its law. The result of the exemption is that the exempted provision of the Credit Practices Rule is not in effect in that state. [3]

The State of New York asserts that the New York General Obligations Law section 15-702, the General Business Law section 349, and the state enforcement scheme meet the standards for exemption contained in the Rule and requests an exemption from § 444.3 of the Rule, the section pertaining to unfair or deceptive cosigner practices, on that basis.

Pursuant to § 1.16 of the Commission's Rules of Practice, the Commission published the exemption request for public comment for 60 days to receive information from the public on whether the state requirements meet the Rule's criteria for exemption. [4]

As set forth in 16 CFR 444.5, the Commission evaluated New York State's petition for exemption to determine whether the level of protection afforded to consumers under the state law is substantially equivalent to the Credit Practices Rule and whether the state law is administered and enforced effectively. As explained in the staff guidelines, the exemption proceeding has been conducted pursuant to § 1.16 of the Commission's Rules of Practice.

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[1] The Federal Trade Commission does not have jurisdiction over banks or federally-chartered or insured savings and loan associations, so transactions by those creditors are not subject to the Rule. However, the Federal Reserve Board and the Federal Home Loan Bank Board have adopted substantially similar rules for those institutions. The FRB's rule and the FHLBB's rule may be found at 50 FR 11695 (April 29, 1985) and 50 FR 19325 (May 8, 1985), respectively. The New York Banking Department has requested an exemption from the cosigner provisions of these rules as well.

[2] In addition to the cosigner regulations described, the Credit Practices Rule also states that it is unfair for a creditor in a transaction subject to the Rule to include in a contract a provision that constitutes or contains a confession of judgment or similar waiver; a waiver of exemptions; an assignment of wages (with certain limited exceptions); or a non-purchase money security interest in household goods. The Rule states finally that it is an unfair practice for a creditor to assess multiple late fees when the only delinquency is the failure to pay a previously assessed late fee.

[3] To assist the states in applying for exemptions, the FTC has published staff guidelines for exemption proceedings under the Credit Practices Rule at 50 FR 19335, May 8, 1985.

[4] 50 FR 50178, December 9, 1985.

As indicated by the Commission in the Rule's' Statement of Basis and Purpose,

> the requirement in [10 CFR 444.5] § 444.5 that a comparable state requirement be substantially equivalent" to the Commission rule provision does not, in our view, require that the state requirement mirror exactly the Commission provison. Any differences that exist, however, should be so minor as not to deprive consumers of the level of protection guaranteed by the Commission Rule nor to complicate significantly compliance by interstate creditors. [footnote emitted] Other factors that will be considerd by the Commission in determining whether an exemption is warranted include the resources committed by the state to enforce its provisions, and the extent of any private rights of action available to aggrieved consumers, 49 FR 7740, 7783.

Contents of the New York Submission

New York has provided a copy of the relevant state statutes and a narrative statement comparing and explaining how state law and the Rule would apply to the same transaction. The submission is signed by the Deputy Superintendent of Banks for New York State.

Comments

The Commission received ten comments during the public comment period on the New York exemption petition. Six of the comments came from creditors, one comment came from a company that provides financial forms to creditors, one came from the Business Law Committee of the Banking, Corporation and Business Section of the New York State Bar Association, and one from the New York Bankers Association. The remaining comment came from the New York State Attorney General's Office.

All eight of the comments from creditors and their representatives and the comment from the Business Law Committee favored granting the exemption, on the bases that the New York Law covers most of the same transactions covered by the Rule, is substantially equivalent to the Rule, and affords greater protection to consumers because the state cosigner law is "self enforcing" and provides a private right of action. Creditors also stated that having to provide both the cosigner notice required by the Rule and the notice required by New York law is confusing to consumers and imposes an unnecessary burden on creditors.

The remaining comment came from the New York State Attorney General's office. The Attorney General expressed a preference for seeing how the Rule and the New York law would work together before an exemption was considered. This preference was based on his belief that the Rule presented no unduly burdensome compliance obligation for creditors. The Attorney General stated that the FTC-required cosigner notice is stronger and more clearly written than that required by New York, making it more effective in alerting cosigners to the nature of the liability they assume. The Attorney General stated that the federal and state requirements are not in conflict, and will supplement each other to the public's benefit.

The New York Law and the Rule

A. General

1. Coverage

New York General Business Law § 349 prohibits deceptive practices generally, and case law interpreting this provison states that the determination as to what constitutes a deceptive practice is to be made with direct reference to the rules and interpretations of the Federal Trade Commission. The New York law does not specifically prohibit unfair practices, as the Rule does. The New York General Obligations Law section 15-702 provides for written notices to be given to cosigners for consumer credit transactions and accounts. Under the New York law, a consumer credit transaction means a loan or sale pursuant to which credit is extended to a consumer primarily for personal, family, or household use. A consumer credit account means an account established pursuant to an agreement under which the creditor may permit the consumer to make purchases or obtain loans, for personal, family, or household purposes, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device as the agreement may provide. The New York law applies only to transactions where the amount financed will not exceed $25,000 or to accounts with a credit limit of no more than $25,000.

The Rule, issued pursuant to the Commission's authority under the Federal Trade Commission Act, prohibits specified unfair and deceptive practices with respect to cosigners and requires written notices to cosigners by lenders and retail installment sellers. Under the Rule, a lender is a person who engages in the business of lending money to consumers within the jurisdiction of the Federal Trade Commission. A retail installment seller is a person who sells goods or services to consumers on a deferred payment basis or pursuant to a lease-purchase arrangement within the jurisdiction of the Federal Trade Commission. The Rule sets no dollar limit on covered transactions.

2. Enforcement and Remedies

The penalty provided for violating the cosigner provisions of the New York General Obligations Law is that the creditor may not proceed directly against the cosigner as a guarantor of payment, but must exhaust all remedies, including judgment and execution, against the primary debtor first. The cosigner thus assumes the status of a guarantor for collection if the notice is not given. The petition states that the New York Banking Department considers this law to be self-enforcing. The Commission understands that to mean that a cosigner who is sued before remedies are exhausted against the primary debtor may raise the fact that the notice was not provided as an affirmative defense and that the New York Banking Department does not independently enforce this provision.

With respect to deceptive practices generally, the New York law provides a private right of action to an aggrieved consumer and provides for the state Attorney General to sue on the public's behalf. The Attorney General may obtain an injunction and restitution of money or property obtained as a result of the violative practice. A consumer injured by a violative practice may sue to enjoin the practice and to obtain actual damages or fifty dollars, whichever is greater. For willful violations, a court may award the consumer three times actual damages up to one thousand dollars. The court may also award reasonable attorney's fees.

The Rule provides for penalties of $10,000 per violation, but failure to comply with the Rule does not alter the underlying obligation. The FTC may sue to enforce the Rule, but no private right of action is provided under the Rule. After careful consideration of the two enforcement mechanisms, the Commission concludes that the private right of action under the New York law, coupled with restriction on a creditor's ability to enforce a violation contract, offer consumers substantially equivalent protection to the Rule's remedy provisions even though the penalty amount obtainable is significantly less under the New York law.

B. *The Cosigner Provisions*

The Rule states that it is a deceptive practice for a creditor to misrepresent the nature and extent of a cosigner's liability and an unfair practice for a creditor to fail to inform the cosigner prior to the time that the agreement creating the cosigner's liability is

executed of the nature of that liability. The Rule requires that a particular disclosure be provided to a consigner prior to the time that the cosigner becomes obligated, and states that a creditor providing that disclosure does not violate the prohibition against misrepresenting and failing to inform the cosigner of his or her liability.

The notice required by the Rule states: (1) That the creditor can collect from the cosigner without first trying to collect from the borrower; (2) That the notice is not the contract that makes the consigner liable; (3) That the same collection remedies may be used against the cosigner as against the borrower; (4) That if the debt goes into default, that fact could become a part of the cosigner's credit history; and (5) That the cosigner should think carefully before becoming obligated. The Rule requires that the notice to the cosigner be a separate document. The Rule does not require that the cosigner be provided with copies of other documents relevant to the transaction.

The New York law also requires a notice to cosigners. That notice and the Notice required by the Rule are similar, but not identical. Under New York law, a cosigner gets "a written notice that identifies the debt the cosigner may have to pay and reasonably informs the cosigner of his or her obligation with respect to it . . ." and a copy of all relevant documents. The New York notice states; (1) That the cosigner is obligated to pay despite not having received the loan proceeds; (2) That the creditor can collect from the cosigner even if the borrower is able to pay; and (3) That the notice is not the contract that makes the cosigner liable. The notice also identifies the debt by providing a space for the name of the borrower, the name of the creditor, and the date. New York law permits the state's cosigner notice to be a separate document or to be a part of the note or contract.

New York law prohibits deceptive acts or practices generally. The state contends that this general prohibition would cover misrepresentations concerning a cosigner's liability although such misrepresentations are not specifically prohibited by New York law as it is by the Rule. Although New York law does not prohibit "unfair" cosigner practices, as such, it does require that cosigners be given a notice similar to the one that the Commission found to be sufficient to avoid both unfairness and deception with respect to cosigners. Because they both require notices, the practical effect of the Rule and the New York law is the same. If a creditor who provides the notice required by the Rule is deemed to have complied with the Rule's requirements regarding both unfairness and deception, a creditor providing a similar notice under the New York law should be deemed to have met those requirements as well.

New York law also requires that cosigners be provided with a copy of the loan documents. In requiring the notice, the Commission made a finding of fact that consumers usually do not receive the loan documents and determined that creditors were generally not required by law to provide such documents. The Commission perceived this as an important part of the problem that requiring the notice is intended to cure.[5] In adopting the Rule, the Commission declined to include a requirement that cosigners be provided with copies of the loan documents. While the Commission believed that cosigners would benefit from having the documents, the cost that such a requirement would impose on creditors would be substantially greater than the cost of providing the notice alone.[6]

The injury identified by the Commission is addressed by New York law because creditors are required to provide the loan documents as well as a notice to the cosigner and to refrain from deceptive statements to cosigners. Therefore, the New York provision affords protection substantially equivalent to that of the Rule.

Action Taken

Based on the submission by the New York Banking Department in support of its request for an exemption and upon the comments received, the Commission has determined that the State of New York has in place a consumer credit regulatory scheme that contains protections against the cosigner abuses that the Rule is intended to eliminate and includes effective enforcement mechanisms. The Commission, therefore, grants the requested exemption on that basis, except as noted below.

The New York Attorney General's failure to endorse the exemption request does not preclude the granting of the exemption. The Attorney General's comments expressed the preference that the Rule should be given a chance to work, indicating that the petition for exemption was premature, and predicted that the Rule and the New York law would enhance each other. While deference must be given to the opinion of the Attorney General as the chief law enforcement official of the State, his views must be considered with those of creditors having actual experience with the Rule. The creditor comments reflect nearly a year of experience with the Rule, and claim that the Rule's requirements, when added to those of New York State, are redundant and confusing to consumers. It is also important to note that the Attorney General is not opposed to existing New York law, nor has he said anything to suggest that his office would not continue enforcing that law.

The Commission notes, however, that the protections offered to consumers by New York law are limited to credit transactions in which the amount financed does not exceed $25,000 or in which the credit limit does not exceed $25,000. Thus, there is no state law provision applicable to consumer credit transactions where the amount financed or the credit limit is greater than $25,000. The Commission, therefore, finds that this requirement for exemption under the Rule is not met and the exemption is not granted as to these transactions.

The exemption is denied as to transactions not subject to section 15–702 of the New York General Obligations Law and § 349 of the New York General Business Law. Because section 15–702 of the New York General Obligations Law in its present form applies to transactions in which the amount financed or the available credit limit does not exceed $25,000, the effect of the Commission's action is to deny the exemption for transactions in which the amount financed is greater than $25,000. However, should the Law be amended in the future to apply to transactions in which the amount financed is greater than $25,000, the exemption would automatically extend to such transactions without the necessity of further Commission proceedings.

As contemplated in the staff guidelines, the exemption will continue only for so long as the state effectively administers and enforces its law. To ensure that the conditions for an exemption continue to be met, the Commission hereby requires the State of New York to provide notice to the Commission of any change in its law, policies or procedures, including court decisions, that would significantly affect whether state law continues to afford

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[5] "In most jurisdictions, the creditor has no obligation to give the cosigner a copy of the contract or advise the cosigner of the extent of his or her liability." Statement of Basis and Purpose, 49 FR 7740, 7773. "Moreover, most cosigners are not provided with copies of the documents they sign or of documents received by the primary debtor." Statement of Basis or Purpose, 49 FR 7740, 7775.

[6] Statement of Basis and Purpose, 49 FR 7740, 7787.

substantially equivalent protection and whether the state is effectively enforcing the law. The Commission reserves the right to revise this reporting requirement at a later date if circumstances warrant or to request additional information if the Commission determines that this is needed.

The New York request for exemption from § 444.3 of the Commission's trade regulation rule concerning credit practices is granted as to transactions subject to section 15-702 of the New York General Obligations Law and section 349 of the New York General Business Law, and denied as to all other transactions.

By direction of the Commission.

Issued: July 30, 1986.

C. Landis Plummer,

Acting Secretary.

[FR Doc. 86-17629 Filed 8-6-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 270, 271 and 284

[Docket Nos. RM86-3-003 through RM86-3-065]

Natural Gas Policy Act; Ceiling Prices; Old Gas Pricing Structure

Issued: August 4, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order granting rehearing for further consideration.

SUMMARY: On June 6, 1986, the Federal Energy Regulatory Commission issued a final rule modifying the pricing structure of old gas and adopting regulations governing implementation of the revised pricing structure.

In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, (202) 357-8308.

Order Granting Rehearing for Further Consideration

[Docket Nos. RM86-3-003 through RM86-3-065]

Issued August 4, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon and C.M. Naeve.

On June 6, 1986, the Federal Energy Regulatory Commission issued Order No. 451 modifying the pricing structure of old gas pursuant to sections 104(b)(2) and 106(c) of the Natural Gas Policy Act of 1978 and adopting regulations governing implementation of the revised pricing structure. 51 FR 22168 (June 18, 1986). On July 3 and 7, 1986, the Commission received sixty timely requests for rehearing of the order.

In order to allow sufficient time to consider the numerous issues raised in rehearing requests, the Commission grants rehearing of its final rule solely for the purpose of further consideration. This action does not constitute a grant or denial of rehearing, either in whole or in part. As provided in § 385.713(d) of the Commission's rules of practice and procedure, no answers to the requests for rehearing will be permitted.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17685 Filed 8-6-86; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83C-0102]

Listing of D&C Orange No. 17 for Use in Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing D&C Orange No. 17 as a color additive for use in externally applied drugs and cosmetics. FDA is taking this action because it has concluded that the use of this color additive in externally applied drugs and cosmetics is safe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act. This action responds to a petition filed by the Cosmetic, Toiletry and Fragrance Association, Inc.

DATES: Effective September 9, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by September 8, 1986. FDA will publish notice of the objections that the agency has received or lack thereof in the Federal Register.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1960, Congress passed the Color Additive Amendments (the amendments). In *Certified Color Mfg. Ass'n* v. *Mathews*, 543 F.2d 284, 286-287 (D.C. Cir. 1976), the United States Court of Appeals for the District of Columbia Circuit explained the purpose of this legislation:

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. * * *

[Footnotes omitted.]

As amended, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) (the act) provides in section 706(a) (21 U.S.C. 376(a)) that a color additive will be deemed unsafe for use in food, drugs, cosmetics, and some medical devices unless FDA has issued a regulation permanently listing that color additive for its intended use. FDA will issue such a regulation only if it has been presented with data that establish with reasonable certainty that no harm will result from the use of the color additive. The burden of presenting such data is on the person who is seeking approval of the use of the additive.

In passing the amendments, Congress provided for the provisional listing of the color additives in use at that time, pending completion of the scientific investigations needed for a determination about the safety of these additives (section 203(b) of the transitional provisions of the amendments, Title II, Pub. L. 86-618, 74 Stat. 406-407 (21 U.S.C. 376, note)). Section 81.1 (21 CFR 81.1) of the agency's color additive regulations enumerates those color additives that are still provisionally listed. Among them is D&C Orange No. 17 for use in

externally applied drugs and cosmetics. Because D&C Orange No. 17 was in use at the time the amendments were enacted, it had been provisionally listed for drug and cosmetic use in the **Federal Register** of October 12, 1960 (25 FR 9759).

II. Regulatory History

A. The Color Additive

D&C Orange No. 17 is principally 1-[(2,4-dinitrophenyl)azo]-2-naphthalenol (CAS Reg. No. 3468-63-1). Although it is identified in § 82.1267 (21 CFR 82.1267) as 1-(2,4-dinitrophenylazo)-2-naphthol, these two descriptions are synonymous.

B. Color Additive Petition

D&C Orange No. 17 is the subject of a color additive petition (CAP 9C0090) that was submitted on April 14, 1969, by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), 1110 Vermont Ave. NW., Washington, DC 20005). FDA published a notice of filing of the petition in the **Federal Register** of August 6, 1973 (38 FR 21199). The petition, filed under the provisions of section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376), requested the permanent listing of D&C Orange No. 17 for coloring lipsticks, ingested drugs, and externally applied drugs and cosmetics.

In a letter dated May 14, 1974, the petitioner requested that the petition be amended to include listing D&C Orange No. 17 for eye-area use. FDA published an amended filing notice for the petition in the **Federal Register** of March 5, 1976 (41 FR 9584), to include the listing of D&C Orange No. 17 for eye-area use. FDA notified the petitioner by letters dated May 14, 1976, August 15, 1977, and August 4, 1978, of the need for data to support the use of D&C Orange No. 17 in cosmetics intended for use in the area of the eye. In a letter dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of the petition that sought approval of the use of D&C Orange No. 17 in cosmetics intended for use in the area of the eye because it appeared that the required data from eye-area studies would not be readily available.

The petitioner did not submit the required data. Therefore, in a notice published in the **Federal Register** of April 1, 1983 (48 FR 14045), FDA announced that that portion of the petition relating to the listing of D&C Orange No. 17 for eye-area use was withdrawn without prejudice to a future filing. Eye-area use of D&C Orange No. 17 had never been provisionally listed.

In the **Federal Register** of February 4, 1977 (42 FR 6991), FDA published revised provisional regulations which required new chronic toxicity studies on 31 color additives, including D&C Orange No. 17, as a condition for continued provisional listing of these additives. FDA required the new chronic studies because the toxicity studies that the petitioners had submitted were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41863):

1. Many of the studies were conducted using groups of animals i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

In the February 4, 1977, order, FDA postponed the closing date for the provisional listing of D&C Orange No. 17 until January 31, 1981, for the completion of the new chronic toxicity studies. In the **Federal Register** of March 27, 1981 (46 FR 18958), the agency established a new closing date of March 31, 1983, for the completion of the chronic toxicity studies and the submission of data to FDA on a prescribed schedule.

In the **Federal Register** of April 1, 1983 (48 FR 13976), FDA announced that the provisional listing of the use of D&C Orange No. 17 for coloring ingested drugs and cosmetics had expired (48 FR 13976) and denied that portion of the petition that requested the listing of D&C Orange No. 17 for ingested drug and cosmetic uses (48 FR 14045). FDA took the latter action because it concluded, on the basis of the animal experiments that had been performed as a condition of the provisional listing of D&C Orange No. 17, that the color additive was carcinogenic when administered in the diet of laboratory animals. As a result of these actions, D&C Orange No. 17 could not be added to ingested drugs and cosmetics after April 1, 1983. D&C Orange No. 17 remained provisionally listed for use in externally applied drugs and cosmetics.

As discussed in the **Federal Register** of April 1, 1983 (48 FR 14047), the petitioner continued to seek permanent listing for the use of this color additive in external cosmetic and drug products that are not subject to incidental ingestion. On March 22, 1983, CTFA submitted preliminary results of a percutaneous absorption study of D&C Orange No. 17. Another CTFA submission, dated April 15, 1983, included a review and analysis of scientific studies, including an assessment of the risk from the use of D&C Orange No. 17 in external cosmetic and drug products, a final report on percutaneous absorption of D&C Orange No. 17, and a discussion of the legal issues raised by external use of this color additive. The agency agreed to review these submissions before reaching a conclusion on the safety of the use of D&C Orange No. 17 in externally applied drugs and cosmetics. Because its review of the CTFA submissions and of the scientific and legal issues raised by this matter took longer than the agency anticipated, FDA had to extend the provisional listing of this color additive on a number of occasions. The agency established the current closing date of August 6, 1986, for the provisional listing of D&C Orange No. 17 for use in externally applied drugs and cosmetics by a rule published in the **Federal Register** of June 6, 1986 (51 FR 20786). In that notice, the agency also announced its decision to permanently list the color additive for its external drug and cosmetic uses. The discussion that follows sets forth the basis for that decision and the agency's conclusion that the use of D&C Orange No. 17 as a color additive in externally applied drugs and cosmetics is safe within the meaning of section 706 of the act.

C. Citizen Petition Filed by Public Citizen Health Research Group

On December 17, 1984, the Public Citizen Health Research Group (Public Citizen) petitioned FDA to ban the use of the color additives that remained provisionally listed. On January 22, 1985, Public Citizen filed a complaint in the District Court for the District of Columbia seeking the same relief. Public Citizen alleged that, by continuing to provisionally list the color additives, including D&C Orange No. 17, FDA had violated the Color Additive Amendments to the act, as well as those provisions of the Administrative Procedure Act (5 U.S.C. 706(1)) that

pertain to unreasonable delay of agency action. Public Citizen sought to enjoin FDA from using the provisional list or any other means to allow the marketing of the provisionally listed color additives.

On June 21, 1985, the Commissioner of Food and Drugs sent to Public Citizen a detailed response to the petition. In his response the Commissioner carefully reviewed and discussed the arguments and information submitted in support of the petition. The Commissioner concluded that the public health would not be endangered by the continued marketing of the color additives while scientific, legal, and policy issues were addressed and, therefore, the Commissioner denied the petition.

On February 13, 1986, Judge Stanley S. Harris granted FDA's motion for summary judgment and dismissed Public Citizen's complaint. *Public Citizen et al. v. DHHS, et al.*, No. 85–1573 (D.D.C. February 13, 1986). Public Citizen has appealed Judge Harris' decision.

III. Review of Provisionally Listed Color Additives by a Scientific Review Panel

In the proposal to extend the closing dates for the provisional listing of certain color additives, including D&C Orange No. 17 (50 FR 26377, June 26, 1985), FDA announced that the Commissioner had established a scientific review panel (panel) of Public Health Service scientists to evaluate data and report on the risk assessment issues presented by the use of six color additives: D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, D&C Orange No. 17, and FD&C Red No. 3.

FDA asked the panel to consider several scientific issues that had been raised by FDA scientists about whether a reliable assessment of the risk from the use of these additives could be conducted. Specifically, one issue was whether, for each additive, unidentified contaminants, rather than the principal color component, could be responsible for the observed carcinogenic effects in animal testing, and whether any such unknown impurities or components may be absorbed through the skin to a greater or lesser extent than other parts of the additive. The panel was charged with examining this impurities issue and further with addressing the issue of whether a risk assessment calculation could be made from the available data, and, if so, whether the risk assessments before the agency were properly calculated.

In the **Federal Register** of March 6, 1986 (51 FR 7856), FDA announced the availability of the final report of the panel. The report is entitled "Report of the Color Additive Scientific Review Panel, September 1985, Docket No. 86N–0039." A copy of the report is available to the public for review at the Dockets Management Branch (address above). Requests for copies of the report should be identified with Docket No. 86N–0039.

In the report, the panel concluded that the risk assessments submitted by the petitioner for several of the color additives, including D&C Orange No. 17, are consistent with current acceptable usages in risk assessment. The panel also concluded that legitimate issues with regard to impurities had been raised but could be addressed by making reasonable and appropriate assumptions about the possible influence that such impurities might have. The panel concluded that the range of lifetime risk presented by external exposure to D&C Orange No. 17 was extremely low. The report of the panel was also submitted to peer review and subsequently published in *Risk Analysis*, 6:2:117–154, 1986, hereby broadly providing the risk analysis assessment to the scientific community. These findings will be discussed in greater detail below.

IV. Overview of the Final Rule

FDA has evaluated all the available evidence regarding the safety of D&C Orange No. 17. Based upon this evaluation, FDA finds that the use of D&C Orange No. 17 in externally applied drugs and cosmetics is safe. Although the external uses involve, based on conservative statistical analysis, a theoretical carcinogenic risk, the agency finds that this risk is so trivial as to be effectively no risk at all. For these reasons, the agency has decided to permanently list these uses of D&C Orange No. 17.

The remainder of this document describes the information and advice relied upon by the agency in reaching its conclusion as to the safety of D&C Orange No. 17 as a color additive for externally applied drugs and cosmetics. First, the agency evaluates the available data resulting from toxicology testing of D&C Orange No. 17 and then discusses CTFA's safety evaluation of these data. Next the agency deals with CTFA's arguments and questions concerning the relevance of the toxicology tests to the determination of the safety of the external drug and cosmetic uses of D&C Orange No. 17. In the following section, FDA discusses CTFA's assessment of the extent of human exposure resulting from the external drug and cosmetic uses of D&C Orange No. 17.

In the remaining sections, FDA discusses CTFA's low dose carcinogenic risk assessment approach, the report of the panel, and the panel's conclusions regarding the propriety of relying upon the available data to conduct risk assessments for use by a government regulatory agency. The final section discusses the agency's reliance on the *de minimis* doctrine to reach the conclusion that the proscriptions of the Delaney Clause should not be invoked in this matter.

V. Toxicology Testing of D&C Orange No. 17

A. Discussion: Summary of Studies Submitted by CTFA

To establish that D&C Orange No. 17 is safe for use in drugs and cosmetics, CTFA submitted reports on a number of animal toxicity studies for the color additive. Among these studies were chronic and subchronic feeding studies in dogs and rats, a three-generation reproduction study in rats, teratology studies in rats and rabbits, a dermal study in rabbits, and an 18-month skin painting study in mice. These studies did not produce any evidence that the use of this color additive, for the petitioned uses, would be unsafe.

The 18-month skin painting study, which is relevant to the use of D&C Orange No. 17 in externally applied drugs and cosmetics, was performed using 2 groups, each consisting of 50 male and 50 female Swiss-Webster mice. One group, the controls, was treated with distilled water, while the test group was treated with D&C Orange No. 17 applied as a 1 percent aqueous suspension, in terms of the pure color. Treatment consisted of the application of 0.1 milliliter of the test material to the clipped backs of each animal two times per week. Observations were made daily for mortality and twice weekly for gross toxicity.

Animals that died, those sacrificed as being moribund, and those surviving the 18-month study were autopsied. Tissues sectioned and examined microscopically included skin and grossly abnormal organs and tissues from 27 female control animals, 25 male control animals, and all animals in the experimental group. Complete pathology was performed on five males and five females from the control animals and five males and five females from the tested group.

Results from the treated and untreated animals were essentially similar, as were survival patterns. Tissue masses were observed in the areas of repeated dermal application of the color in two mice. One was a wartlike growth that could not be located in the fixed tissue and the other was identified as a

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papilloma. Two control animals were also found to have lesions in or beneath the skin. The lesions were identified as a subcutaneous, undifferentiated sarcoma and the second as a subcutaneous anaplastic osteogenic sarcoma. Dermal effects such as acanthosis, hyperkeratosis, and dermatitis were somewhat increased in the experimental group when compared to the controls.

Although no evidence of compound-related neoplastic responses was found in these skin painting or chronic feeding studies, FDA concluded that the sensitivity of the chronic feeding studies was insufficient under current standards to provide the requisite demonstration of safety for ingested use. Therefore, in the February 4, 1977, order, FDA required additional chronic feeding studies on D&C Orange No. 17. The studies were conducted for the petitioner at Bio/dynamics, Inc., East Millstone, NJ. These studies included a long-term feeding study in mice and a chronic toxicity/carcinogenicity study, with in utero exposure to D&C Orange No. 17, in rats. The final reports for these studies (CAMF #9, Entries 510, 511, 512) were received by the agency on March 31, 1982.

The new long-term chronic studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of two species tested significantly increases the power of these tests to detect dose-related effects. The studies were designed and conducted in compliance with FDA's good laboratory practice regulations (21 CFR Part 58) and were subject to inspections by FDA officials during their course.

B. Evaluation of the Long-Term Studies

1. Long-Term Feeding Study in Rats

The long-term feeding study in rats included in utero exposure to D&C Orange No. 17. Charles River Albino (CD) rats (parental animals) were randomly assigned (60 males and 60 females per group) and mated to produce the F_1 generation. D&C Orange No. 17 was mixed with standard laboratory chow and fed ad libitum to the parental animals during their mating and gestation period and to their offspring (the F_1 generation animals) during the long-term feeding study. Two separate groups of rats served as controls.

The petitioner, in meeting with FDA on September 12, 1977, discussed the adequacy of the protocol for this chronic feeding study. FDA's scientists indicated that the proposed dosage levels (i.e., 0.00, 0.02, 0.05, and 0.10 percent) were too low. On the basis of data from earlier studies on D&C Orange No. 17, FDA's scientists concluded that survival and weight data suggested that lifetime studies could be successfully carried out in rats using 1.0 percent as the maximum dosage level. The agency, therefore, asked the petitioner to conduct an additional rat chronic feeding study with a 1.0 percent dosage level of D&C Orange No. 17 (Ref. 10). This study was carried out with the same strain of rats and with the same experimental design as the original study. It included a treatment group and a concurrent control group.

Seventy F_1 rats of each sex, obtained from the reproduction phase of the study, were randomly selected and distributed into dosage groups similar to those described above for their parental animals and were used for the chronic feeding phase of the study (26 months for males and 30 months for females). Survival and body weights of female rats from the chronic feeding phase were unaffected by treatment. However, treated male rats in this phase exhibited decreased survival as well as decreased body weights at the highest dose (1.0 percent diet) (Ref. 1). Except for discoloration of the urine, there were no hematological or clinical findings that could be ascribed to treatment. Increased deposition of pigment in the spleen of female rats was noted in the 1.0 percent group.

Among female rats, at the 1.0 percent dietary level of D&C Orange No. 17, there was a marked and statistically significant increase in animals with hepatocellular tumors (neoplastic nodules and carcinomas combined) compared to the concurrent control group animals (21/70 in the 1.0 percent dose group versus 3/70 in the concurrent control group, $p=0.0001$, prevalence analysis; 70 is the number of animals entered into the study). The denominators reflect the number of livers for which tissue was available for microscopic examination, including the 10 animals in each group which were interim sacrificed after approximately 1 year of treatment according to protocol. They represent the number of livers examined by FDA pathologists. The prevalence statistical analysis, however, is a time-adjusted test. It takes into account deaths, including interim sacrifice deaths, that are incidental to the finding of liver neoplasms. The incidence of animals with non-neoplastic liver lesions (foci of cellular alteration) was also increased among female rats in the 1.0 percent dose group when compared to the control group.

Additionally, multiple hepatocellular tumors (neoplastic nodules) were noted only in the 1.0 percent D&C Orange No. 17 treated group females. Moreover, the number of animals with multiple occurrences of foci of cellular alteration (non-neoplastic lesion) and of animals that had multiple classifications, i.e., foci of cellular alteration and neoplastic nodules, present in the same microscopic section of liver was higher among treated group females (1.0 percent dose group) than in the concurrent control group. The 1.0 percent dose group females had increased liver weights as well. The liver data in the 1.0 percent study indicate a clear-cut treatment-related effect in the occurrence of hepatocellular tumors in female rats as a result of the administration of D&C Orange No. 17. Liver weights relative to body weights were also increased in both male and female rats that received 0.10 percent D&C Orange No. 17 in the diet, indicating further that the liver is the target organ for D&C Orange No. 17 toxicity.

The petitioner provided historical control data for hepatocellular tumors in Charles River Albino female rats from 12 separate control groups from studies conducted at Bio/dynamics, Inc. The average incidence of hepatocellular tumors (neoplastic nodules and carcinomas combined) was 9.4 percent. In contrast, the incidence of hepatocellular tumors in the high-dosage (1.0 percent) group was 30 percent, far exceeding the average spontaneous incidence.

Thus, the long-term feeding exposure of Charles River CD Albino rats to a 1.0 percent dose level of D&C Orange No. 17 produced the carcinogenic effect of a statistically significant increase in the number of female rats with hepatocellular neoplasms compared to the control groups.

2. Long-Term Feeding Study in Mice

Charles River CD–1 mice of both sexes were randomly assigned to one of three treatment groups receiving D&C Orange No. 17 in the diet at concentrations of 0.025, 0.25, and 1.0 percent or to one of two control groups and fed the test diets for approximately 23 months for the males and 25 months for the females. The selection of these

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dosage levels was based on the results of a 90-day rangefinding study.

The incidence of hepatocellular neoplasms (adenomas and carcinomas) among male mice was increased in a dose-related manner ($p=0.00004$, trend test). The incidence of hepatocellular neoplasms in male mice was 8/58 and 8/59 or 16/117 for the two control groups, and 11/58, 13/57, and 19/56 for the low-, medium-, and high-dose groups, respectively. Again, as with the rats, the denominators reflect the number of livers for which tissue was available or was adequate for microscopic examination by FDA pathologists. A few missing and autolyzed tissues account for the less than 60 per group expected from the initial number of animals started on test. The appropriate time-adjusted prevalence analysis was performed on the incidences. A small increase, compared to the corresponding control group animals, in the number of female mice with hepatocellular neoplasms in the mid- and high-dose groups was also reported. Thus, the long-term feeding exposure of Charles River CD–1 mice of D&C Orange No. 17 was associated with a significant dose-related increase in the number of male mice with hepatocellular neoplasms compared to the control groups.

Survival of male mice fed the D&C Orange No. 17 diets was decreased in a dose-related manner ($p=0.0005$, Cox's time-adjusted trend test), but survival of female treated mice apparently was not adversely affected by treatment. Similarly, body weights of high-dose male mice were slightly less than controls, but no effect on body weights of treated female mice was seen.

Also, there was an increase in mortality noted in mid-dose and high-dose males as well as in mid-dose females. Aside from test material coloration of the coats of the treated animals, there were no significant treatment-related effects on general physical condition, body weights, food consumption, or incidence of palpable tissue masses. Mean hemoglobin concentration, hematocrit, and erythrocyte counts were often slightly reduced with concomitant increases in reticulocyte counts relative to control in the high-dose animals.

Microscopic examination revealed pigment deposition in the brain, spinal cord, thyroid, heart, and stomach in all treatment groups as well as in the spleen, cecum, and liver in the males and females in the high-dose group. The neurons of the brain and spinal cord of high-dose males and females were noted to have an increased incidence of neuronal basophilia. This was associated with the intracytoplasmic accumulation of pigment in animals at the high-dose level. High-dose female mice were observed to have an increased incidence of chronic myocarditis.

3. *Related information.* In addition to the results from the long-term feeding studies, D&C Orange No. 17 has been reported to be mutagenic to all standard tester strains of *Salmonella typhimurium* but not in the one mammalian system tested. One of its probable metabolites, 2,4-dinitroaniline, is also mutagenic to all tester strains, and another probable metabolite, 1-amino-2-naphthol, belongs to a chemical class that includes known carcinogens.

C. FDA's Conclusion Regarding the Ingested Uses of D&C Orange No. 17

No significant data base has been developed concerning the toxicity of D&C Orange No. 17 since the agency concluded in the **Federal Register** of April 1, 1983 (48 FR 14047), that the color additive was a carcinogen when administered in the diet of laboratory animals.

Based on these findings, the agency denied that part of CTFA's petition requesting permanent listing of D&C Orange No. 17 for use in ingested drugs and cosmetics (48 FR 14047; April 1, 1983). The agency also administratively withdrew that part of the petition requesting eye-area use because CTFA had failed to provide data in support of such a use.

VI. CTFA'S Safety Arguments

In its submissions, CTFA presented several arguments that raise questions about the relevance of the ingestion studies to a determination of the safety of the use of D&C Orange No. 17 to color externally applied drugs and cosmetics. In the following sections, the agency reproduces the arguments and its internal evaluation of them.

A. Interpretation of Maximum Tolerated Dose

In the submission dated April 15, 1983, CTFA asserted that the 1.0 percent dose level of the second rat study substantially exceeded the maximum tolerated dose and thus violated the National Cancer Institute (NCI) guidelines for carcinogenicity testing.

The NCI guidelines define the maximum tolerated dose as "the highest dose of a test agent given during the chronic study that can be predicted not to alter the animals' normal longevity from effects other than carcinogenicity" (Ref. 1). The guidelines also state that the maximum tolerated dose "should be the highest dose that causes no more than a 1.0 percent weight decrement, as compared to the appropriate control groups; and does not produce mortality, clinical signs of toxicity, or pathogenic lesions (other than those that may be related to a neoplastic response) that would be predicted to shorten the animals' natural life span" (Ref. 1). The purpose of establishing the maximum tolerated dose is to assure that the test animals are challenged but not killed by the noncarcinogenic toxic effects of high doses of a substance. Early death would obscure any carcinogenic effects of the substance being tested.

The question whether the maximum tolerated dose was exceeded is relevant only to the female rats, among whom the increase in liver neoplasms was found. The feeding of D&C Orange No. 17 at the highest dietary level to these animals had no effect on their survival when compared to the controls. Application of the NCI computer program for tumor/mortality analysis to the female survival data yields a Cox statistic (time-adjusted, continuity corrected) with a probability of 0.32 and a Breslow statistic (time-adjusted) with a probability of 0.19. These numbers indicate that the females' survival was not affected by the feeding of D&C Orance No. 17. Further, no difference in the average body weights was observed between treated and control female rats. In addition, there were no clinical signs of toxicity or postmortem lesions other than those related to the neoplastic response. Therefore, the agency concludes that, for the female rats, the maximum tolerated dose was not exceeded and that CTFA's contention that the study violated NCI guidelines for carcinogenicity testing is not substantiated.

B. Significance of Mouse Liver Tumors

In its April 15, 1983 submission, CTFA questioned the significance of the mouse liver tumors observed in the chronic tests. First, CTFA contended that reliance on the male mouse liver tumors is controversial because many strains of mice have a high incidence of liver tumors and retrovirus infection. Second, CTFA argued that the observed male mouse liver tumors were associated only with severe liver toxicity at the feeding level of 1 percent of the color additive in the diet and that this level exceeded the maximum tolerated dose. Finally, CTFA stated that, in any event, the male mouse liver tumors were statistically significant compared only to the controls in this study but not to the controls in other recent studies, thus suggesting that the tumors were not, in fact, an event worthy of attention.

Some members of the scientific community have argued that a compound should not be regarded as carcinogenic if the only evidence of carcinogenicity is an increase in hepatomas in the mouse liver because many inbred mouse strains have a high background incidence of these neoplasms. According to this argument, the tumors indicate the presence of a latent population of initiated tumor cells rather than a carcinogenic effect of the compound.

The liver, because of its location and important role in metabolism, is a frequent target organ for toxic effects of compounds administered by the oral route. Substances absorbed from the gastrointestinal tract reach the liver in amounts much higher than the amounts to which other organs are generally exposed. Metabolic conversion of a substance to a more toxic metabolite often occurs in the liver, and the liver cells are exposed to the highest concentration of the active agent. Thus, hepatotoxic effects may be the only toxic effects observed. For this reason, the agency believes that the liver tumors must be carefully considered. FDA's Cancer Assessment Committee reviewed the data and CFTA's arguments and reached the following conclusions:

CTFA's argument about the high background incidence of liver cancer in mice does not apply to the CD–1 mouse, the strain used in the mouse study. The background incidence of hepatocellular tumors in this strain is low compared to most mouse strains. Moreover, data submitted by CTFA on April 8, 1981, showed the following incidence of tumors in 16 control groups (more than 900 mice of each sex):

	Males	Females
Hepatocellular carcinoma	9.65% ± 4.25%	0.63% ± 1.03%
Hepatocellular adenoma	5.12% ± 3.82%	1.17% ± 1.21%

Thus, the incidence of hepatocellular tumors (carcinomas and adenomas) among male mice in the control groups was about 15 percent. In contrast, the incidence of hepatocellular tumors among male mice in the high-dose group was about 34 percent.

Moreover, CTFA's argument concerning exceeding the maximum tolerated dose is misplaced. The argument is only relevant to the high-dose male mouse group in which the increase in hepatocellular neoplasms was observed. Although body weights and survival of mice in this group were slightly affected, no significant treatment-related effects were observed aside from material coloration of the coats of the animals. As discussed above, the purpose of establishing the maximum tolerated dose is to assure that the test animals are appropriately challenged but are not killed by the noncarcinogenic toxic effects of high doses of the substance. In the absence of any observed significant treatment-related effects other than the hepatocellular neoplasms, the committee concluded that the maximum tolerated dose was not exceeded in the study.

Finally, CTFA's argument concerning the limited statistical significance associated with the male mouse liver tumors was evaluated. In this study with D&C Orange No. 17, the incidence of male mice with hepatocellular tumors was increased in comparison to the concurrent controls at both the mid- and high-dose levels, and the increase was dose related (Trend Test $p=0.00004$). Furthermore, the historical control and concurrent control values are very similar. Consequently, the tumor incidence in treated mice is greater than the historical control values. There is also a dose-related increase in the numbers of male mice with malignant tumors (i.e., hepatocellular carcinomas) (Trend Test $p=0.046$).

The International Expert Advisory Committee to the Nutrition Foundation (Ref. 2) described the following factors as important in determining whether the production of mouse hepatocellular tumors is the result of treatment: (1) Incidence of tumors in treated animals is clearly higher than in concurrent controls; (2) Incidence is also higher than in historical controls or dose related; (3) There is a decrease in time of onset in the treated animals; (4) There is a preponderance of malignant lesions in treated animals compared with the controls; and (5) tumors are observed at other sites in the mouse, or tumors are observed in other species. Each of these conditions was reviewed in the case of D&C Orange No. 17, and, accordingly, the committee concluded that the hepatocellular tumors observed in the male mice were the result of the ingestion of D&C Orange No. 17. (The panel also reviewed available data on the rat and mouse bioassays of D&C Orange No. 17. Although the panel reached different conclusions with respect to the mouse bioassay, this difference is inconsequential, in light of the fact that the rat has been shown to be the most sensitive test species and the 1.0 percent feeding study in rats provides the best data base from which to estimate the likely risks to man presented by exposure to the external uses of D&C Orange No. 17.)

C. Mechanism of Carcinogenicity and Significance of "Benign" Tumors

In its April 15, 1983, submission, CTFA offered the following arguments concerning the significance of benign tumors: "[In the female rat], only the incidence of benign hepatocellular adenomas (neoplastic nodules) was increased. There was no significant increase in the incidence of malignant carcinomas in the treated female. Nor was there any effect in the males fed the same level of color additive. This indicates a very weak effect apparently occurring only at high doses that are toxic to the liver. This suggests an indirect mechanism of neoplasia secondary to toxic damage." (Petitioner's Submission of April 15, 1983, p. 21.)

FDA agrees that the increase in the incidence of malignant hepatocellular carcinomas in the 1.0 percent dose group of the female rat would not be statistically significant if malignant hepatocellular carcinomas alone were considered. However, FDA notes that on the issue of "benign" and "malignant" tumors, a 1979 report of the Interagency Regulatory Liaison Group stated: "Carcinogenic and chronic toxic effects of a chemical on an organ, tissue or cell develop through a series of stages from minimal changes to advanced and possibly fatal end points. The stage reached at any particular time is related to the dose of a substance, the conditions of exposure, the time elapsed since the beginning of exposure and host susceptibility factors. Early lesions that are pathognomonic of a disease process resulting from toxic chemicals should be grouped with more advanced lesions, whether or not the animal has survived long enough for the process to develop to the latest stage." (Ref. 3.)

FDA agrees with this analysis and believes that it is appropriate to combine hepatocellular neoplasms (neoplastic nodules, adenomas, and carcinomas) for analysis because all of these lesions could be concurrent or sequential stages in the neoplastic process (Ref. 4).

In the case of D&C Orange No. 17, the incidence of female rats with benign and malignant hepatocellular tumors (neoplastic nodules and hepatocellular carcinomas, respectively) was analyzed both separately and combined. When a Fisher's Exact Test was applied to compare the incidence of animals with a neoplastic nodule in the 1 percent D&C Orange No. 17 dose group with that of the control group, a p-value of less than 0.01 was found. The agency also did a prevalence analysis, which yielded a

Cox statistic corresponding to a probability of less than 0.001, thereby reinforcing the results of the Fisher's Exact Test. The *p*-value calculated from the combined incidence of animals with a neoplastic nodule or a hepatocellular carcinoma was even smaller. This information leads the agency to conclude that D&C Orange No. 17 most likely exhibits a primary effect. CTFA has offered no evidence to the contrary.

CTFA also suggested in its submission that the female rat liver tumors in the 1 percent dose group are caused by an "indirect mechanism of neoplasia secondary to toxic damage * * *." However, CTFA has not submitted any scientific evidence to support such a hypothesis.

D. Percutaneous Absorption Studies With D&C Orange No. 17

On April 15, 1983, CTFA submitted its final report of an in vitro percutaneous absorption study on D&C Orange No. 17. An in vitro percutaneous absorption test is designed to measure the ability of a substance, such as a color additive, to penetrate excised skin under conditions simulating human use. Information on skin penetration is important for determining the systemic exposure to a color additive used in topical applications.

The study was performed, in general, in a satisfactory manner. The test data clearly show that radiolabeled material from D&C Orange No. 17 passes through the skin in small but measurable amounts. Therefore, the agency concluded that some systemic exposure to a portion of the color additive may occur from the use of externally applied drugs and cosmetics containing D&C Orange No. 17.

The assessment of the carcinogenic risk from the use of an externally applied carcinogenic color additive is determined by (1) the amount of color additive applied to the skin and the frequency of application, (2) the concentration of carcinogenic agents in the color additive, (3) the potency of the carcinogenic agents, and (4) the fraction of the applied carcinogenic agents that penetrates the skin.

The risk estimates submitted by CTFA are based on the assumptions (1) that the principal color component is the carcinogenic agent, (2) that the radiolabeled material penetrating skin is representative of the whole color additive, and (3) that 100 percent of the carcinogenic agent is absorbed from the alimentary tract into the blood stream in the animal feeding studies.

FDA's scientists questioned CTFA's assumptions because an argument could be made that a contaminant is responsible for the carcinogenic response. Color additives are not pure substances and normally contain intermediates, subsidiary colors, and other contaminants from intermediates and from side reactions. Although the carcinogenicity of D&C Orange No. 17 was revealed by an animal bioassay, the bioassay did not establish whether the carcinogenic response was produced by the principal color component or by one or more of its contaminants. It is theoretically possible that one of the contaminants could be responsible for the production of the carcinogenic response.

CTFA's assumption that the radiolabeled material was representative of the whole color additive (and, that, therefore, there is no need to be concerned with possible impurities) could not be substantiated. CTFA measured only the radioactivity of the substance that penetrated the skin and could not identify the components that actually penetrated the skin.

In addition, FDA's scientists could not determine from the data submitted by CTFA which constituents of the color additive penetrated skin, or whether impurities in the color additive would penetrate skin in the same manner as the primary color that was tested. It is possible (1) that the actual carcinogen could be a contaminant that penetrated the skin but was unlabeled and therefore undetected; (2) that virtually none of the principal color component penetrated the skin, and that the radioactive material found could be due to carcinogenic contaminants; and (3) that the degree of skin penetration by the actual carcinogenic agent is greater than that estimated by CTFA based on its assumption that the principal color component of D&C Orange No. 17 is the carcinogen.

CTFA's assumption that 100 percent of the carcinogenic agent is absorbed from the gastrointestinal tract was questioned by FDA's scientists because few chemicals are ever completely absorbed. There are many reasons for poor or limited absorption of chemical substances from the gastrointestinal tract, including (1) the instability of the chemical in acidic fluids, (2) enzymatic breakdown by digestive juices, (3) destruction by intestinal microorganisms, and (4) lack of lipid solubility.

FDA asked the panel to review CTFA's assumptions and the agency's concerns about impurities. The panel revised several of CTFA's assumptions and concluded that the agency's concerns regarding impurities, although important, could be addressed by making reasonable and appropriate assumptions about the possible effects impurities might have. The panel found it highly unlikely that impurities would significantly influence the risk assessment. The results of the panel's review are discussed in greater detail in a later section of this notice.

VII. CTFA's Assessment of Exposure to D&C Orange No. 17

In the report submitted to FDA on April 15, 1983, CTFA outlined the approach used in the CTFA risk assessments to estimate human exposure to D&C Orange No. 17. The cumulative amount of D&C Orange No. 17 absorbed by an individual was determined, based upon the products in which the color additive was used, the amount of each product used per application, the frequency of use of each product, the concentration of the color additive in each product, and the level of dermal absorption.

CTFA reported that by using both a prospective and a retrospective approach, it had determined the exposure to D&C Orange No. 17 through external cosmetic and drug product use. Data on the frequency of use of various external cosmetic and drug products came from two sources. The first is a 1-week prospective survey of female participants. The participants recorded the number of times in a week they used a range of cosmetic products including face powders and rouges, hair cosmetics, nail products, bathwater products, wash-off products, and various other externally applied cosmetic products. For products used less often than once per week, they were asked to report how often they generally used such products. The second source of data on frequency of use is from a retrospective survey of 1,129 customers of a chain of stores run by a major cosmetic manufacturer. Because the individuals in this survey were customers of specialty cosmetic stores, they are likely to have above-average usage patterns. For both sets of data, for each product, CTFA listed an average and an upper 90th percentile value of frequency of usage.

Data on the amount of each product per application were provided from the responses to a survey of CTFA member companies to obtain the results of existing studies on this subject. The values are the averages for each product as reported in CTFA's survey.

The April 15, 1983, report presented data derived from the skin absorption study conducted by Dr. Thomas J. Franz on the proportion of the D&C Orange No. 17 contained in each product that is likely to be absorbed. The skin

VOL
51
ISS
152
AG
7
1986
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absorption study conducted by Dr. Franz is described in detail in a separate report (Ref. 9). Briefly, the absorption of ^{14}C-labelled D&C Orange No. 17 through half-thickness human abdominal skin was studied using Franz diffusion cells. Absorption under each of four experimental conditions described in the study was tested on duplicate sections of skin from each of three donors. The receptor phase (isotonic saline, pH 7.6, 37 °C) was sampled for radioactivity and replaced by fresh saline at 4, 8, and 12 hours, and at 12-hour intervals until four steady-state readings were obtained, or 72 hours after application of the color additive. The daily absorption rates and the percentage of the applied color additive absorbed over 3 days were calculated.

CTFA believes that the amount of D&C Orange No. 17 applied per square centimeter in these experiments was similar to or greater than the corresponding amount that would be applied in externally applied cosmetics and drugs. Hence, it concluded that the experimental permeability data are likely to be reasonably applicable to absorption of the color additive from a cosmetic or drug applied to the skin.

CTFA provided estimates of the amount of the color additive absorbed daily by combining the information on daily usage (upper 90th percentile) of the external cosmetic and drug products with data on the D&C Orange No. 17 content of the products (average and maximum) and estimates of the proportion of the color additive absorbed. CTFA emphasized that these data were deliberately chosen to overestimate exposure.

The usage values are upper 90th percentile values. The concentration of D&C Orange No. 17 is presented both as the maximum used in any formulation of each product type and as the average concentration in formulations that contain D&C Orange No. 17. For all product categories, there are many formulations that do not contain D&C Orange No. 17. Thus, a true "average" would be much lower, and the "average" values listed greatly overestimate the extent of exposure to D&C Orange No. 17 from its use in externally applied cosmetic and drug products.

By summing the values of D&C Orange No. 17 absorbed per day for each product containing the color additive, CTFA determined the "worst case" maximum amount absorbed for all or any combination of products. Summing all values gives a daily "worst case" absorption of 0.015 to 0.021 microgram or 0.00029 to 0.00039 microgram per kilogram per day for a 53 kilogram adult female using all products containing the maximum level of D&C Orange No. 17 at the upper 90th percentile usage frequency.

The panel, at FDA's request, critically evaluated CTFA's assessments and the underlying assumptions. A discussion of the panel's evaluation is provided in a later section of this notice.

VIII. CTFA's Low-Dose Carcinogenic Risk Assessment Approach

CTFA calculated both the "best conservative estimate" and the "upper bound estimates" of risk from the use of D&C Orange No. 17 in externally applied cosmetics and drugs, using currently accepted methods of risk assessment. The low-dose risk assessment proceeds in four steps:

1. Selection of the set of data on tumor incidence judged most appropriate as the basis for inference of human risk;
2. Extrapolation of these data to provide "best estimate" calculations, thus providing a range of risk to mice and rats at low-dose levels;
3. Extrapolation of the potential risk to humans at low-dose levels; and
4. Calculation of the potential risk to humans at the likely level of exposure from known patterns of use.

CTFA acknowledged that each of these steps required the use of assumptions with varying degrees of certainty. It was standard procedure by CTFA to make highly conservative "worst case" assumptions at each step, so that the final estimates likely overstated the actual risks by large factors. In its report, CTFA presented both "best conservative estimate" and "upper bound estimate" calculations to illustrate the range of potential risk. The "best conservative estimate" was based upon the extrapolation curve that best fits the experimental data, but also included such highly conservative "worst case" elements as the assumption that an individual consumer will be in the upper 90th percentile for frequency of use of all cosmetic products and will use only those cosmetic products that contain D&C Orange No. 17 at the maximum concentration. The "upper bound estimate" includes all "worst case" assumptions.

The CTFA risk assessment combined adenomas and carcinomas from the mouse liver tumor data and used the "worst case" maximum projections of human exposure and skin penetration. The multistage extrapolation model using the "worst case" maximum human exposure provides a "best conservative estimate" of potential lifetime risk to humans of 4×10^{-11} (1 in 25 billion), and an "upper bound estimate" of 7×10^{-11} (1 in 14 billion).

For the rat liver tumors, CTFA again combined both adenomas and carcinomas in order to provide a very conservative "worst case" estimate of potential risk to humans. The multistage extrapolation model using the "worst case" maximum human exposure provided a "best conservative estimate" of potential lifetime risk to humans of 1.1×10^{-19} (1 in 10 sextillion), and an "upper bound estimate" of 2.1×10^{-10} (1 in 4.8 billion).

IX. Review of D&C Orange No. 17 by the Scientific Review Panel

FDA's evaluation of the petitions for permanent listing of these color additives, and other available information, raised questions concerning whether CTFA's risk assessment was valid. As discussed above, FDA convened the panel to address these questions. The membership of the panel is outlined in the **Federal Register** of June 26, 1985 (50 FR 26379), which is incorporated by reference.

The panel was charged to evaluate the available data, information, and views on the color additives and to provide answers to the following questions:

1. Can valid quantitative risk assessments be performed for these color additives?
2. Does the available information support the data analysis and risk assessments that have been performed and are before the agency?

X. Report of the Color Additives Scientific Review Panel

The panel evaluated the possibility of performing a scientifically valid carcinogenic risk assessment on D&C Orange No. 17 for externally applied drug and cosmetic uses. The panel did not consider risk assessments for other toxic endpoints—indeed, it was not necessary to do so because no safety concerns other than carcinogenicity have been associated with the external uses of D&C Orange No. 17. The panel's report contains a discussion on the assumptions that must be made in conducting a risk assessment and the uncertainties that are associated with such assumptions. The report is supported by several recent government agency efforts directed at developing a consensus of risk assessment: (1) The National Academy of Sciences Report on Risk Assessment; (2) The Office of Science and Technology Policy Document on Chemical Carcinogenesis; and (3) The Executive Committee, Coordinating Committee on

Environmental and Related Programs Report on Risk Assessment.

The report contains a scientific introduction section for the major topics being discussed as well as a section on the general assumptions used in risk assessment of colors. The report discusses the risk assessments for each of the color additives by discussing major topics for each and the color additive-specific assumptions used, with the focus on the risk under practical conditions of use. Each chapter also contains a risk characterization section which discusses the risk assessment of the individual color additive.

In its report, the panel critically reviewed the risk assessments submitted by CTFA. This included a detailed examination of the risk assessment methodology used by CTFA. In a summary chapter of the report (Chapter 9) the Panel stated that:

> In order to obtain a better perspective on the very complex and multifaceted problem of assessing exposure and toxic effect of the dyes, it was imperative to search for the many obvious or hidden, explicitly stated or implied assumptions associated with risk assessment of the dyes. In dissecting the presented problem into the smallest possible components, for which separate solutions might be formed, the Panel opted for starting with formulating the assumptions according to CTFA's line of reasoning (it should be emphasized, however, that CTFA made these assumptions to, presumably, derive a conservative risk estimate, while not necessarily supporting them). This was followed by a careful analysis of the validity of the statements, the possible alternatives to dealing with the gaps in knowledge and lack of information, and the quantitative assessment of the impact of the assumption on the magnitude of the risk of cancer, assuming that the dyes do pose such a risk to humans.
>
> While evaluating the many kinds of uncertainties in hazard identification, exposure assessment, and dose-response assessment, the Panel developed the view that, rather than limiting its role to analyzing CTFA's lines of reasoning, it attempt to use its analysis to generate modified risk estimates. This includes an estimate of the absorbed dose based on more "reasonable" assumptions than those used in the CTFA assessments.

In the risk characterization section in the various dye chapters in the report, the panel compared the 90th percentile and the average usage (based on reasonable estimates). For the purpose of presenting the panel's assessment of the numerous assumptions used in the CTFA risk assessments, the agency has summarized that portion of the panel's report which discusses the assumptions and the associated uncertainties. The summary below deals with assumptions which are relevant to all color additives reviewed by the panel.

A. The Panel's Assumptions Used in Hazard Identification

The panel generally accepted the assumptions used in the CTFA risk assessments largely because there seem to be no alternatives with higher degree of validity for the uncertainties involved and because they are consistent with what the panel understood FDA's policy to be. The panel believed the assumptions it relied upon to be conservative, i.e., are more likely to overestimate rather than underestimate the true risk.

The panel's assumptions concerning hazard identification were:

1. Because all six dyes of concern are animal carcinogens in some assay, they are suspect human carcinogens. (The panel made no evaluation of the weight-of-evidence for human carcinogenicity from the animal test results.)

2. Orally administered or ingested dyes are equally well absorbed in animals and humans, regardless of the test concentration of the dye and of the vehicle used.

3. Studies involving high doses of a compound under test are appropriate for low-dose extrapolation.

B. The Panel's Assumptions Used in Exposure Assessment

The panel's general assumptions regarding exposure assessments were:

1. The dyes are equally absorbed in rodents and man.

2. Dyes which penetrate the skin are as effective in evoking a carcinogenic response as if ingested.

3. For each dye, exposure is for 60 years (in contrast to CTFA's use of 70 years) and risk is not influenced by age at exposure. This results in a correction factor of 6/7.

4. An arbitrary value should be used to reflect the fact that cosmetic products contain other dyes than those of concern (or no dyes at all). Compared to the CTFA estimate, this results in a correction factor of 0.5.

5. Based on data for D&C Red No. 19 only, the average concentration of all dyes in commercial products is 25 percent of the highest concentration allowed. Compared to the CTFA estimate, this results in a correction factor of 0.25.

6. The skin model used for the skin absorption studies is appropriate for assessing the exposure to absorbed dye. Although the model is likely to overestimate the risk for products applied to the facial skin (skin penetration rates are likely to vary for different areas of the body), the model may underestimate the real absorption rate by a factor of 3.

7. In interpreting the results of the in vitro study on the absorption rates over time, the true absorption rate equals the steady state rate. Where the test did not reveal a steady state, twice the maximum rate at the end of 3 days approximates the true absorption rate.

8. Both types of CTFA surveys of the frequency of the use of dye containing products overestimate the frequency among the general population.

9. The absorbed amount of dye per day can be estimated by multiplying the amount of dye per day available for absorption by an absorption rate constant, as estimated from the in vitro tests. There is insufficient information, however, to calculate a better, less conservative estimate.

10. For each dye, the total exposure is the sum of exposures to all products containing the same dye.

11. The amount of dye-containing product per application is approximately 5 to 10 milligrams per square centimeter.

12. With the exception of nail products, the composition of the vehicle used in the commercial products does not affect the absorption rate assessed with the in vitro skin model. There is insufficient information to generate a best estimate of the absorption rate for each kind of commercial vehicle.

13. In an appropriate vehicle, there is no difference in absorption rate between a primary dye and its lake.

14. Based upon consideration of the structure and toxicity of actual impurities found in certified lots, the skin penetrance rates of subsidiary colors are not likely to be significantly different from that of the principal constituent. The skin penetrance rates of the other substances of concern (e.g., residual starting materials) have, at most, an effect of multiplying the risk by 1.2. This results in a correction of CTFA's estimate of the exposure by a factor of 1.2.

The panel's product-specific assumptions regarding exposure assessments were:

1. The absorption rate for hair cosmetics is 1.2 percent of the applied amount. This results in a correction of CTFA's estimate by a factor of 0.6.

2. No absorption occurs from dyes in nail products (CTFA assumed that 1 percent of the applied amount will penetrate the skin).

3. For bathwater products, 2 percent of the applied amount reaches the skin.

4. For wash-off products (including bathwater products), there is an absorption of 25 percent (CTFA assumed an absorption of 50 percent and excluded bathwater products from this consideration). This results in a

VOL
51
ISS
152
AG
7
1986
UMI

correction of CTFA's estimate by a factor of 2.

5. For products other than wash-off products, there is an absorption of 50 percent (CTFA assumed an absorption of 100 percent). This results in a correction of CTFA's estimate by a factor of 2.

C. The Panel's Assumptions Used in Dose-Response Assessment

1. In test animals, 50 percent of orally administered dyes are absorbed from oral studies and the carcinogenic response is caused by this absorbed portion. This results in a correction of CTFA's estimate by a factor of 2.

2. On a milligram per kilogram body weight basis, dose levels used in animal tests have the same quantitative effect on the cancer incidence in humans. There is insufficient information for assessing the best estimate of the correct dose unit for use in extrapolating animal risk to human risk of cancer.

3. The average body weight for an adult woman is 53 kilograms.

4. The linearized multistage model reflects the true relationship between dose and response. The linearized multistage model may offer no added protection, however, in the convex portion of the dose-response curve. Low-dose linearity may overestimate the risk by several orders of magnitude if low-dose linearity is not present.

5. The most sensitive animal tumor data should be used to extrapolate risk from animal data to humans.

D. The Impact of the Panel's Assumptions on CTFA's Risk Estimate

In the chapters of the report concerning specific dyes, the panel applied the foregoing product- and dye-specific assumptions and correction factors to the usage data contained in the CTFA risk assessments. The panel also applied these assumptions to the survey estimates of 90th percentile exposure (the Risk/90 values) and average and "reasonable" estimates of exposure (Risk/Rea), thereby deriving revised risk estimates.

The impact on CTFA's risk assessment of the panel's general, quantifiable assumptions concerning exposure and dose-response are:

1. For skin absorption, a correction factor of 0.8 times the CTFA estimate (6/7×0.5×0.25×3×1.2×2).

2. For incidental ingestion of lip products, a correction factor of 6/7 times the CTFA estimate (a number of factors relevant only to skin absorption or not relevant to lipstick products do not apply).

3. At low dose levels, the risk of cancer, as computed with the linearized multistage risk model, is directly proportional to the dose levels.

The panel concluded that the correction factor of 0.8 for skin absorption is inconsequential when compared to the uncertainties in the assumptions that are difficult to quantify. The panel cautioned that the correction factor for skin absorption does not mean that the risk estimate is precise within 20 percent of the actual human risk. On the contrary, the figure merely represents the fact that, for the various quantifiable assumptions, underestimations and overestimations of risk in the CTFA estimates basically cancel out.

The panel also noted that many of the assumptions are not quantifiable. The panel, following prudent public health policy, stated that it accepted assumptions which are likely to overestimate rather than underestimate risk in the cases difficult to quantify and is of the opinion that the human risk in the risk estimates it made is more likely to be over- rather than under-estimated.

E. Specific Assumptions

The panel in its review of risk assessment for D&C Orange No. 17 evaluated a number of CTFA's specific assumptions relevant to the color. The assumptions and the panel's comments are as follows:

1. CTFA assumed that for creams and oils the absorption rate is 0.01 percent per day.

The panel stated that the skin test revealed rates of 0.003 to 0.007 percent of the applied amount per 24 hours, implying an overestimation of the absorption by a factor of 2. The panel recognized that the real factor is unknown because it is not clear whether the rates refer to a maximum rate or a steady state rate.

2. CTFA assumed that the absorption rate for D&C Orange No. 17 in talc is 0.001 percent per day of the amount applied.

The panel stated that CTFA mentioned 0.001 percent absorption in its text, but printed 0.00009 percent in Table 6, which referenced Table 2 in Franz's report. The latter uses the value 0.001 percent. The panel used 0.001 percent.

3. CTFA assumed that the use of Volpo 20 in the receptor of the Franz cell will not significantly alter the skin penetration.

Based on its review of these color specific assumptions, the panel utilized the following assumptions in risk characterization:

(a) For creams and oils, the skin absorption rate is 0.005 percent per day of the amount applied, which is half the rate assumed by CTFA.

(b) For talc formulations, the skin absorption rate is 0.001 percent per day of the amount applied. This is in agreement with the rate assumed by CTFA.

(c) The low skin absorption rate of D&C Orange No. 17 is unlikely to be caused by the insolubility of the dye in the receptor phase. Replacing the usual saline receptor phase by one containing Volpo 20 did not result in increased dye penetration.

The panel also utilized the following product specific assumptions in risk characterization:

(a) For nail products, the absorption of dyes is assumed to be zero, as compared to CTFA's assumption that no dye will be absorbed through the nail but that during application 1 percent of the dye may reach the skin or cuticle, where it will be available for absorption at the usual 1 percent rate.

(b) For products other than "wash-off" products, it is assumed that not more than 50 percent of the amount applied will stay available for absorption. CTFA assumed that the applied amount equaled the available amount.

F. The Panel's Interpretation of the Long-Term Studies

Prior to revising CTFA's risk estimates, the panel evaluated the available long-term studies of D&C Orange No. 17 in laboratory animals. The panel agreed with FDA that the 1.0 percent dosage level of D&C Orange No. 17 feeding study in rats was adequate and well-controlled and resulted in a statistically significant increase in the incidence of liver tumors (hepatocellular adenoma and carcinoma) in female rats as compared to controls.

In the case of D&C Orange No. 17, as with all the color additives it reviewed, the panel did not evaluate the weight-of-evidence for carcinogenicity to humans. Rather, the panel accepted as FDA's policy that any chemical shown to induce cancer even in only one strain, gender, and species, at one dose in one experiment, is an animal carcinogen. In light of the fact that D&C Orange No. 17 is an animal carcinogen by FDA's standards, the panel considered that there was an appropriate empirical basis for estimating the possible cancer risks to man presented by the external uses of D&C Orange No. 17.

The panel reached this conclusion even though in its view the information from the D&C Orange No. 17 feeding study in mice does not provide definitive evidence that the additive is a carcinogen in mice. The panel found the

mouse study to be well-controlled but considered the observed increase in liver tumors in the high-dose male mice to be equivocal. Nevertheless, the panel did prepare revised risk estimates based on the data from the mouse study.

G. Revised Risk Estimates

The panel's final step in evaluating the adequacy of CTFA's risk estimates on the external uses of D&C Orange No. 17 was to determine the total amount of the dye absorbed per day. In light of the fact that CTFA's information on the usage frequency that indicated that D&C Orange No. 17 was present in four different groups of products, the panel calculated that amount to be:

0.00189 microgram per day as an average of the prospective survey;

0.00635 microgram per day as the upper 90th percentile of the prospective survey;

0.00367 microgram per day as an average of the retrospective survey; and

0.007 microgram per day as the upper 90th percentile of the retrospective survey.

The comparable amounts calculated according to the CTFA assumptions are the upper 90th percentiles 0.0208 microgram per day (prospective survey) and 0.01542 microgram per day (retrospective survey). The panel believed that the prospective survey yielded less biased usage frequencies. Calculation of the resulting cancer risk estimates was, therefore, based on dose estimates based on the survey. At these very low dose levels, the dose-response curve is linear, meaning that the risk is directly proportional to the dose. The panel's revised estimates are based on 53 kilograms as a lifetime weight average for women, and include the panel's general correction factor of 0.8.

The panel's revised risk estimates are as follows:

	Risk (CTFA/90)*	Risk/90	Risk/Rea
Rat	2.1×10^{-10}	5.1×10^{-11}	1.5×10^{-11}
Mouse	0.7×10^{-10}	1.7×10^{-11}	0.5×10^{-11}

*Note that CTFA does not give an average exposure estimate for D&C Orange No. 17.

Risk(CTFA/90) is the CTFA risk estimate at the upper 90th percentile of exposure.

Risk/90 is the risk estimate based on the panel's calculation at the 90th percentile of exposure.

Risk(REA) is the risk estimate based on the panel's calculation of a more reasonable estimate of exposure.

The above risk estimates are based on the reasonable estimates of exposure, whenever the panel believed that it was possible to make such an estimate. In situations where available data would allow for a choice between "degrees of reasonable estimate," the panel consistently selected the estimate associated with the higher risk.

H. The Panel's Conclusion

The panel concluded that the animal studies were properly controlled except for a lack of data on the purity of the pigment (subsidiary color) or on the levels of impurities, at least one (2,4-dinitrobenzeneamine) of which is a strong mutagen. In response to the agency's concerns regarding whether the available data and information adequately characterized the risk presented by exposure to possible impurities, the panel concluded that the level of impurities may have an impact on risk assessment only if the degree of potency of the impurities is greater, by several orders of magnitude, than the degree of potency of the pigment. Based on the strong mutagenicity of D&C Orange No. 17 without activation in several strains, the mutagenicity of the azo reduction product, and the reported mutagenicity of 2,4-dinitrobenzeneamine with or without activation, the panel concluded that it is unlikely that the carcinogenic "potency" differs from the parent compound by several orders of magnitude, and the general assumption concerning the likelihood that impurities would have no effect on the risk assessment is even more likely for this color additive.

XI. FDA's Decision to Permanently List D&C Orange No. 17

A. Reliance on Risk Estimation Techniques

The data and information regarding the safety of D&C Orange No. 17 support FDA's conclusion that the substance induces cancer when tested in laboratory animals. The data and information, however, do not support any other finding of toxicity.

In the past, because the data and information show that D&C Orange No. 17 is a carcinogen when ingested by laboratory animals, FDA in all likelihood would have terminated the provisional listing and denied CTFA's petition for the externally applied uses of D&C Orange No. 17 without any further discussion. In the present instance, however, CTFA has presented arguments that this color additive can be regulated for safe use in externally applied drugs and cosmetics. The arguments CTFA has presented are based on the premise that a determination of safety may be based on risk assessment techniques. FDA agrees that risk estimation methods are frequently helpful in evaluating the safety of carcinogenic substances. It was for these reasons that the agency requested the panel to determine whether the data and information available concerning D&C Orange No. 17 provided an adequate basis from which to make reliable risk estimations.

FDA agrees with the panel that CTFA's risk estimates on the use of D&C Orange No. 17 in externally applied drugs and cosmetics, as modified in the panel's report, represent a reliable upper bound risk and that those risk estimates can be used to evaluate the proposed external uses of D&C Orange No. 17. FDA also agrees, for the purpose of conducting a risk assessment, with the panel's resolution of the agency's concerns regarding the possible toxicity of impurities in the color additive.

B. The Safety of D&C Orange No. 17

Under section 706(b)(4) of the act (21 U.S.C. 376(b)(4)), the so-called general safety clause of the statute, FDA cannot approve a color additive for a particular use unless the data presented to FDA establish that the color additive is safe for that use. Although what is meant by safe is not explained in the general safety provision, the legislative history of the act makes clear that safety requires proof to a reasonable certainty that no harm will result from the proposed use of an additive. Because FDA considers D&C Orange No. 17 to be a carcinogen when ingested by laboratory animals, as discussed above, the Delaney Clause (section 706(b)(5)(B)(i) of the act) is applicable. A strictly literal application of the Delaney Clause would prohibit FDA from finding that D&C Orange No. 17 is safe and, therefore, prohibit FDA from permanently listing the color for externally applied uses in drugs and cosmetics. However, as seen from CTFA's and the panel's risk estimates, the calculated risk for these uses of D&C Orange No. 17 is extremely low. In fact, the level is three to four orders of magnitude lower than that level of risk which the agency accepts in other areas concerning carcinogens; for example, its procedures and criteria for permitting carcinogenic food additive residues in animal tissues under section 512(d)(1)(H) of the act, the DES proviso to the Delaney Clause (21 U.S.C. 360b(d)(1)(H)) (see 50 FR 45530, 45541; October 31, 1985; FDA refers to these procedures and criteria as the sensitivity of the method or SOM procedures). With such a negligible risk, there is no gain to the public and the statutory purpose is not implemented or served by an agency action delisting the substance.

Under these circumstances, FDA concludes that it should not interpret the Delaney Clause to require a ban on this use of D&C Orange No. 17. Therefore, FDA has decided to exercise its inherent authority under the *de minimis* doctrine

and concludes that the Delaney Clause does not require a ban in the case of the externally applied uses of D&C Orange No. 17. Because there are no other safety problems with this use of D&C Orange No. 17, FDA finds that the externally applied uses are safe.

C. CTFA's Legal Arguments

In its April 15, 1983, submission, CTFA argued that the applicable statutory authority under the act and judicial precedent authorize FDA to apply a *de minimis* interpretation of the Delaney Clause for a carcinogenic color additive that presents an insignificant risk of cancer. CTFA also argued that the Delaney Clause does not apply to the external uses of D&C Orange No. 17 because the tests on D&C Orange No. 17 are not appropriate for the evaluation of the substance.

FDA agrees with the former position and in the following section of this notice discusses the applicability of the *de minimis* doctrine to D&C Orange No. 17. The agency, however, disagrees with CTFA's latter argument, one that draws heavily on the agency's decision to list the color additive lead acetate (45 FR 72112, October 31, 1980; 46 FR 15500, March 6, 1981). CTFA's studies show that a portion of the radiolabeled material in the D&C Orange No. 17 used for percutaneous study penetrated the skin and entered the circulatory system. Under these circumstances, in the absence of any metabolic or other data suggesting that ingestion studies are inapplicable, ingestion studies are appropriate as a basis for risk assessment of the external uses of D&C Orange No. 17.

Moreover, FDA's decision concerning lead acetate was based upon the unusual combination of scientific facts, peculiar to the use of lead acetate in hair dyes, which the agency recognized "will rarely, if ever, be presented again in this context" (45 FR 72112, 72115; October 31, 1980). Similar facts do not exist in the case of D&C Orange No. 17. For example, a key factor that influenced FDA's judgment that the Delaney Clause just did not apply to lead acetate was the fact that a background level of lead is always present in the blood of humans, a background level much greater than the possible increase in lead burden that would result from the use of lead acetate in hair dyes. There is, of course, no background level of D&C Orange No. 17 in humans. The agency believes that the tests on D&C Orange No. 17 are appropriate for an evaluation of the substance under the Delaney Clause.

D. The de Minimis Doctrine and Its Applicability to D&C Orange No. 17

Two conditions must apply to justify an agency's exercise of its authority to interpret a legal requirement as not requiring action in *de minimis* situations. First, it must be consistent with the legislative design for the agency to find that a situation is trivial and, therefore, one that need not be regulated. *Alabama Power Co.* v. *Costle*, 636 F.2d 333, 360 (DC Cir. 1979). Second, it must be clear that the situation is in fact trivial, and that no real benefit will flow from regulating the particular situation. *Environmental Defense Fund* v. *Environmental Protection Agency*, 636 F.2d 1267, 1283–1284 (DC Cir. 1980). Both conditions apply here.

1. The establishment of a *de minimis* exception to the Delaney Clause is consistent with the legislative design.

In *Alabama Power Co.* v. *Costle*, supra, the court stated that the implication of *de minimis* authority is consistent with most statutes. The court stated that unless Congress has been extraordinarily rigid, there is likely a basis for an implication of such authority. *Id.* at 360–361. That Congress was not so rigid as to preclude the implication of *de minimis* authority under the Delaney Clause is evidenced both by the stated congressional intent in enacting the Delaney Clause and by the stated purpose of this provision.

The clearest statement of the congressional intent for the Delaney Clause is in the legislative history of the Color Additive Amendments of 1960. The Senate considered that the calculation of risk would permit interpretation of the Delaney Clause to allow color additives producing a negligible risk. This is clear from a colloquy on the Senate floor initiated by Senator Jacob Javits in debate on his motion to reconsider the vote to approve the Color Additive Amendments. Senator Javits, focusing on the Delaney Clause, made the record clear in discussion with Republican leader Senator Dirksen and committee chairman Senator Hill that the Senate had agreed to pass the Color Additive Amendments with the Delaney Clause based upon its understanding that the authority conferred by that clause "should be used and applied within the 'rule of reason.' " 106 Congressional Record 15381 (July 1, 1960).[1] Both Senator Dirksen and Senator Hill agreed that the "rule of reason" was to be applied in interpreting the Delaney Clause. *Id.* On that basis, Senator Javits did not pursue his motion to reconsider.

The term "rule of reason" was taken from a report to the President from the President's Science Advisory Committee and from the Departments of Agriculture and of Health, Education, and Welfare (the predecessor to the Department of Health and Human Services) that analyzed the effect of the Delaney Clause that is applicable to food additives. That report defines the "rule of reason" as meaning that: "Every statute must be interpreted in the light of reason and common understanding to reach the results intended by the legislature." 106 Congressional Record 15380. The report stated its conclusion that "an area of administrative discretion based on the rule of reason is unavoidable if the clause is to be workable." 106 Congressional Record 15381.

This report on implementation of the food additive provision, relied upon by the Senators as illustrating their understanding of the types of circumstances in which the "rule of reason" would appropriately be applied, accurately predicted the advent of the science of risk assessment. The report stated that: "From the experience obtained in animal experiments and study of humans who have been exposed to carcinogens in the course of their work the panel believes that the probability of cancer induction from a particular carcinogen in minute doses may be eventually assessed by weighing scientific evidence as it becomes available." 106 Congressional Record 15380–15381.

Thus, the Senate agreed to adopt the color additive Delaney Clause only with the understanding that the clause would be administered with "a rule of reason," premised on the expectation that scientists would be able to determine the "probability of cancer induction." Thus, far from having been "extraordinarily rigid," Congress clearly contemplated that those administering the Delaney Clause would have discretion to implement that provision in a reasonable way.[2]

[1] More recently, Senator Javits reviewed this discussion. On July 10, 1985, he sent Margaret Heckler, Secretary of the Department of Health and Human Services, a letter stating that his views had not changed since 1960. He stated that it was his continuing understanding that the rule of reason "would dictate that where the danger to the public is negligible in using products with such color additives, then use should not be prohibited." A copy of Senator Javits' letter to Secretary Heckler is included in the record of this rulemaking.

[2] This grant of discretion is not inconsistent with the fact that Congress clearly intended to prevent the imposition of a tolerance for a carcinogen. Where the probability of harm is so small as to be of no practical significance, it is reasonable and

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The purpose of the Delaney Clause in section 706 of the act is, after all, to protect the public from the possibility of increasing cancer risks through the use of color additives. It does not advance this purpose to prohibit uses that present a risk that is, for all practical purposes, zero. Congress recognized this fact in warning FDA not to "go overboard" in applying the Delaney Clause. 106 Congressional Record 15381. Thus, it is not inconsistent with the Delaney Clause to permit some uses of a carcinogenic color additive when those uses are shown to present a potential carcinogenic risk that is so trivial, based on extremely conservative statistical analyses, as to be the functional equivalent of no risk at all.

This interpretation of the Delaney Clause finds support in recent case law. In *Monsanto* v. *Kennedy*, 613 F.2d 947 (DC Cir. 1979), the court held that not all chemicals that become components of food need be considered food additives. The court stated that FDA has the authority to ignore a chemical that migrates from plastic packaging material into beverages if the amount of the chemical that migrates is *de minimis*. The court made that statement after it had found that some amount of the chemical in question would become a component of food by migration from packaging material—thus undeniably satisfying a literal reading of the statute. The court was concerned that the Commissioner may have reached his determination in the belief "that he was constrained to apply the strictly literal terms of the statute irrespective of the public health and safety considerations." 613 F.2d at 954. Accordingly, the court emphasized that there is "latitude inherent in the statutory scheme to avoid literal application of the statutory definition of 'food additive' in those *de minimis* situations that, in the informed judgment of the Commissioner, clearly present no public health or safety concerns." *Id.* Thus, the *Monsanto* decision is important to the agency's present action even though that case involved the definition of "food additive" and not the application of the Delaney Clause, and even though FDA, when it issued the order that was ultimately reviewed by the court, had not made a final determination as to the carcinogenicity of the chemical at issue, acrylonitrile monomer.

The court also held in *Monsanto* that the *"de minimis"* concept, applied to the threshold "food additive" definition, could be utilized to allow the marketing of a substance that presents no real public health risk. See 613 F.2d at 955–956. Thus, the court's decision in *Monsanto* has the practical effect of shielding substances that present effectively no carcinogenic risk from the Delaney Clause. Although the court did not explicitly interpret the Delaney Clause as inapplicable to such substances, the court presumably knew that if a carcinogenic chemical was disregarded as *de minimis* in relation to the food additive definition, the chemical would not be subject to the Delaney Clause, which applies only when that definition is met. Necessarily, therefore, the court regarded this consequence as legally warranted.

Moreover, in *Scott* v. *FDA*, 728 F.2d 322, 325 (6th Cir. 1984), the Sixth Circuit upheld the so-called constituents policy, whereby FDA may approve known carcinogens present in color additives as intermediaries or impurities present at levels too low to cause a response using conventional tests. Noting that FDA had determined the public health risk presented by D&C Green No. 5 was negligible, the court reasoned:

> * * * We find this determination by the *Monsanto* court persuasive and relevant to the particular facts of the instant case. We agree with the FDA's conclusion that since it "has discretion to find that low level migration into food of substances in indirect additives is so insignificant as to present no public health or safety concern * * * it can make a similar finding regarding a carcinogenic constituent or impurity that is present in a color additive" 47 FR 24280 (1982).

In addition to the foregoing precedents, the state of scientific knowledge about cancer when the Delaney Clause was passed also supports the implication of *de minimis* authority under the Delaney Clause and the fact that the provision could not possibly have been meant to be "extraordinarily rigid." In 1958, there were only four substances that were known to induce cancer in humans: soot, radiation, tobacco smoke, and *beta*-naphthylamine (Ref. 13). Only 20 years later, scientists had identified 37 human carcinogens and over 500 animal carcinogens (Ref. 13). This growth in knowledge is in part the result of an enormous increase in carcinogenicity testing in laboratory animals. As testing increases, more and more substances are found to induce cancer at some site in at least some strain or sex of laboratory animal. For example, of the 86 compounds tested by the National Toxicology Program (NTP) and reported between July 1981 and July 1984, 50 percent were determined to induce some carcinogenic effect (Ref. 14). (It should be noted that many of the compounds tested by NTP were, prior to testing, suspected of being carcinogenic.) Furthermore, recent short- and long-term toxicity testing has shown that a large number of substances naturally present in food are mutagenic or carcinogenic (Ref. 15).

With the advent of sensitive chemical analytical methodologies, scientists have been able to find carcinogens throughout the food supply in extremely small quantities. In 1958, the available methodologies were far less sensitive than they are today. For example, as FDA stated in its 1979 SOM proposal, the sensitivity of the methodologies increased during the period between 1958 and 1978 by "between two and five orders of magnitude" (44 FR 17070, 17075; March 20, 1979). This improved sensitivity has allowed the detection of carcinogens in the parts per trillion level so that, as one scientist has reported, "today substances can be routinely measured at concentrations up to a million times less than was possible in 1958" (Ref. 13).

There is no indication that in 1958 Congress foresaw the likelihood that, within less than 30 years after the Delaney Clause was enacted, science would have progressed so far as to be able to document the widespread presence of trace amounts of proven carcinogens in food. There is no indication that Congress anticipated the extent to which substances, then regarded either as absent from foods or as noncarcinogenic on the basis of less adequate technology, would later prove to be carcinogenic. In short, the scientific knowledge about carcinogens was much more limited in 1958 than it is today. The solution Congress decided upon in 1958 for handling added carcinogens, given that state of knowledge, was not extraordinarily rigid but was entirely reasonable, i.e., a few substances, present at levels then detectable, would be banned; most food would be unaffected.

Under these circumstances, it would not be consistent with the legislative design for FDA, today, to attempt to prohibit all added carcinogens from the food supply provided the risks presented by permitted levels are trivial. Permitting merely a *de minimis* level of risk from such carcinogens is not only sound regulatory policy but is also consistent with the underlying purpose of the Delaney Clause as enacted in 1958—the assurance that the food supply will be free from any meaningful risk of cancer presented by substances added to food.

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appropriate to apply the *"de minimis"* concept. And, doing so does not in any way reflect an intent to set a tolerance.

For all the foregoing reasons, the agency concludes that it is consistent with the Delaney Clause to permit uses of a carcinogenic color additive when those uses are shown to present a carcinogenic risk that is so trivial, based on extremely conservative statistical analyses, as to be the functional equivalent of no risk at all.

2. The risk from the use of D&C Orange No. 17 in externally applied drugs and cosmetics is, in fact, so trivial as to be effectively no risk.

According to the panel's revised risk estimates, the highest lifetime level of risk presented by the external uses of D&C Orange No. 17 is 1 in 19 billion, i.e., 5.1×10^{-11}. This is not an actuarial risk. An actuarial risk is the risk determined by the actual incidence of an event. In contrast, the computed risk is a projection based on certain conservative assumptions that do not understate risk. The assumptions that were relied upon in this computation have been stated previously in the document based on the panel's computations. The risk from the use of D&C Orange No. 17 in externally applied drugs and cosmetics will not exceed 1 in 19 billion and is likely to be somewhere between that level and zero. The 1 in 19 billion level represents a 1 in 19 billion increase in risk over the normal risk of cancer in a lifetime—not annual—risk. FDA emphasizes that the 1 in 19 billion level of risk does not mean that 1 in every 19 billion people will contract cancer as a result. Rather, in all likelihood, no one will contract cancer as a result of this exposure.

In light of the level of risk presented by the external uses of D&C Orange No. 17, FDA finds that the uses are safe, that they impose no additional risk of cancer to the public, and that any risk they may present is of no public health consequence. It is in just these circumstances, where there is no meaningful increase in public health protection from applying the strict, literal terms of a legal standard, that the courts have found the *de minimis* doctrine to be applicable. For example, the court in *Monsanto* equated "*de minimis*" with a finding that migration of an indirect food additive is "insignificant" (613 F.2d at 947) in a context where the court clearly recognized that the real question was the toxicity of a particular level of migration.

Furthermore, FDA and other regulatory agencies have, in the past, found higher risks than those presented by D&C Orange No. 17 to be permissible. For example, in the ongoing SOM rulemaking proceeding, FDA has proposed that an assay method sufficient to detect a carcinogenic residue posing a calculated upper bound risk of 1 in 1 million is appropriate because such a level imposes no additional risk of cancer to the public (see 44 FR 17070, 17093; March 20, 1979). The agency has concluded that as a result of this use of the 1 in 1 million level of risk as far as can be determined in all probability, no one will contract cancer from admittedly carcinogenic residues in edible animal tissue. (See 50 FR 45530, 45541; October 31, 1985.)

In several proceedings involving the agency's policy for carcinogenic impurities in food and color additives, FDA has also found that a risk on the order of a 1 in 1 million lifetime risk is low enough to be considered safe within the meaning of the general safety clause. See, for example, the administrative record compiled in the rulemaking on D&C Green No. 6 (47 FR 14138; April 2, 1982).

Furthermore, in a notice published in the **Federal Register** of December 18, 1985 (50 FR 51551), the agency proposed that methylene chloride when used to decaffeinate coffee is safe, in light of the fact that the potential risk posed by permitted levels of methylene chloride residue in coffee does not exceed 1 in 1 million. In that notice, the agency also suggested that the lifetime risk for this use of methylene chloride to decaffeinate coffee is *de minimis*.

Other Federal agencies have also used a 1 in 1 million level as a basis for regulatory decisionmaking permitting human exposure to carcinogens (Ref. 16). In fact, they have sometimes made regulatory decisions that have allowed a cancer risk greater than 1 in 1 million. The Occupational Safety and Health Administration (OSHA), for example, has focused its regulatory efforts on risks in the workplace that are much higher than 1 in 1 million lifetime level of risk.

For example, under the Occupational Safety and Health Act (OSH Act) (29 U.S.C. 651 et seq.), OSHA issues health standards for the workplace. Before issuing a standard, OSHA must make a formal showing of "significant risk from exposure." Accordingly, OSHA uses quantitative risk assessment to compare the magnitude of risk presented by the various possible levels of exposure to a substance before establishing a permissible exposure limit. In the **Federal Register** of January 14, 1983 (48 FR 1864), OSHA established a new permissible exposure limit for inorganic arsenic after determining the risk of lung cancer death associated with such a level would be 8 cases per 1,000 workers exposed over a working lifetime. The standard was upheld by the Ninth Circuit Court of Appeals in *ASARCO* v. *OSHA*, 746 F.2d 483 (9th Cir. 1984). In a similar action in the **Federal Register** of June 22, 1984 (49 FR 25734), OSHA published a final rule establishing a new permissible exposure limit for ethylene oxide. The new 1 part per million permissible exposure limit represented a risk of 12 to 23 excess deaths per 10,000 workers exposed over a working lifetime.

The Environmental Protection Agency (EPA) in recent years has also relied upon the 1 in 1 million lifetime level as a reasonable criterion for separating high risk problems from low risk problems presented by the wide ranging environmental contaminants EPA must regulate. In the **Federal Register** of November 23, 1984 (49 FR 46294), EPA proposed guidelines for carcinogen risk assessment. The proposal outlined a procedure for characterizing substances based on the experimental weight of evidence of carcinogenicity. For those compounds classified as known or probable human carcinogens, EPA set the 1 in 1 million risk level as the "point of departure" for determining what level of a carcinogen may cause concern.

For example, under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), EPA sets drinking water standards that contain maximum contaminant levels for toxicants, including carcinogens. Maximum contaminant levels for carcinogens that have been promulgated or proposed to date by EPA generally fall into lifetime risk ranges of 1 in 10,000 to 1 in 1 million (Ref. 17). Similarly, EPA recently proposed to establish the 1 in 1 million level as the "point of departure" in determining the level of control for all known and possible carcinogenic constituents compounds resulting from hazardous waste contamination (51 FR 1602, 1635; January 14, 1986). As an alternative, EPA proposed to consider estimates of population in determining the appropriate level of control for each constituent. Thus, if a very large number of people is believed to be potentially exposed to a very potent carcinogenic constituent released from contaminated land disposal units, EPA could decrease the level of risk to as low as 1 in 10 million. If the size of the potentially exposed population is not large, the "point of departure" would remain at the 1 in 1 million level. However, if a small number of people was believed to be exposed to the contaminant, such that the incidence of cancer would be expected to be small from the exposure, EPA would consider increasing the acceptable risk level to 1 in 100,000 or 1 in 10,000.

Although comparisons between the safety decisions made by OSHA and EPA with those made by FDA must be tempered by the fact that the decisions are made under different statutory frameworks, the decisions support the consensus proposition that a lifetime level of 1 in 1 million presents an extremely small risk.

Furthermore, FDA's conclusion that a 1 in 1 million lifetime level represents an insignificant level of risk has not been arrived at hastily. For example, when it first proposed the SOM procedures and criteria on July 19, 1973 (38 FR 19226), the agency stated that an acceptable level of risk for carcinogenic residues in edible animal tissues would be 1 in 100 million. In the Federal Register of February 22, 1977 (42 FR 10412), the agency concluded that the 1 in 100 million level was unnecessarily conservative in light of the numerous conservatisms implicit in risk assessment and because the level provided only a minor incremental increase in the degree of confidence presented by the higher 1 in 1 million level. The agency concluded that the 1 in 1 million level constituted a risk level that one could properly consider to present an insignificant public health concern (see also 44 FR 17070; March 20, 1979). In the most recent Federal Register document concerning the SOM rulemaking (50 FR 45530; October 31, 1985), the agency explained that it considered raising the level yet another order of magnitude to 1 in 100,000 but chose not to do so. FDA reasoned that in recent years the 1 in 1 million level has become a benchmark in the evaluation of the safety of carcinogenic compounds administered to food-producing animals.

Furthermore, the agency stated that there is currently widespread confidence that this level presents an insignificant risk of cancer. This point is underscored by the fact that every comment on the risk level aspect of the 1979 SOM proposal regarded the 1 in 1 million level as insignificant. In making the decision to retain the 1 in 1 million level for purposes of the SOM proceeding, FDA recognized explicitly that there may be a higher level of risk that is more appropriate to characterize as a "no residue" level, but that in light of the current uncertainties that accompany making a decision as to the most appropriate level of risk, the 1 in 1 million level was the most reasonable and defensible choice (50 FR 45542).

The level of risk presented by the external uses of D&C Orange No. 17 is extremely low. In relation to other risks regulated by FDA and other Federal agencies, the risk presented by the external uses of D&C Orange No. 17 is, indeed, trivial.

XII. Conclusion

Based on the foregoing, FDA concludes that the risk of cancer from the use of D&C Orange No. 17 in externally applied drugs and cosmetics is so low (1 in 19 billion) as to be effectively no risk, and that there would be no benefit to the public from prohibiting these uses of the color additive. Further, for the same reasons and because the available information indicates no other safety questions regarding the use of D&C Orange No. 17 in externally applied drugs and cosmetics, FDA concludes that the externally applied uses of D&C Orange No. 17 are safe. The agency is amending Part 74 to permanently list D&C Orange No. 17 for such uses.

The agency is describing the color additive in this regulation according to current Chemical Abstracts Service nomenclature, which differs somewhat from the nomenclature FDA previously used, and the agency is establishing new chemical specifications for the Part 74 listings that identify the color additive more precisely than those currently listed in 21 CFR 82.1267.

FDA is also modifying its regulations to conform them to the decisions announced in this document.

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decisions to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.24(b)(3) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354) do not apply to actions of this type.

XIII. References

The following information has been placed on file at the Dockets Management Branch (address above) and is available for review in that office between 9 a.m. and 4 p.m., Monday through Friday. The final toxicity study reports, the agency's toxicology evaluations of these studies, and other information relied upon by the agency in reaching its decision are also on file at the Dockets Management Branch for public review.

1. Sontag, J.M., N.P. Page, and U. Saffiotti, "Guidelines for Carcinogen Bioassay in Small Rodents," DHEW Publication No. (NIH) 76-801, p. 14, 1976.

2. International Expert Advisory Committee to the Nutrition Foundation, "The Relevance of Mouse Liver Hepatoma to Human Carcinogenic Risk," September 1983.

3. "Interagency Regulatory Liaison Group (1979) Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks," *Journal of the National Cancer Institute*, 63:241-268, and Federal Register 44:131:39858-39879 (July 6, 1979).

4. Jackson, B.A., "Regulatory Interpretation of Proliferative Lesions of Rodent Liver," *FDA By-lines*, #1 (January 1981).

5. Bureau of Foods' Cancer Assessment Committee Reports on Benzidine and Aniline, December 20, 1983.

6. Klaassen, C.D., "Absorption, Distribution and Excretion of Toxicants," Chapter 3 *in* "Toxicology, The Basic Science of Poisons," Casarett, L.J. and J. Doull (Eds.), Macmillan Pub. Co. Inc., New York, pp. 26-44, 1975.

7. "Report of the Color Additive Scientific Review Panel," September 1985.

8. Memorandum to File from W. Gary Flamm, "Environ Report."

9. Franz, T.J., "Percutaneous Absorption of D&C Orange No. 17 Through Human Skin In Vitro," March 25, 1983.

10. Letter from J. Schwing to N. Estrin, October 19, 1977.

11. Cancer Assessment Committee Memorandum of Conference, August 5, 1982.

12. Cancer Assessment Committee Memorandum of Conference, January 20, 1983.

13. Wilson, R., "Risks Caused By Low Levels of Pollution," *Yale Journal of Biology and Medicine*, 51:37, 46, 1978.

14. Haseman, J., et al., "Results From 86 Two-Year Carcinogenicity Studies Conducted by the National Toxicology Program," *Journal of Toxicology and Environmental Health*, 14:621, 634, 1984.

15. Ames, B., "Dietary Carcinogens and Anticarcinogens," *Science*, 221:1256, September 23, 1983.

16. Milvy, P., "A General Guideline for Management of Risk from Carcinogens," *Risk Analysis*, 6:69, 1986.

17. Crouch, E., et al., "The Risks of Drinking Water," *Water Resources Research*, 19:1359, 1983.

XIV. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 8, 1986, file with the Dockets Management Branch (**ADDRESS** above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the

regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. By adding new § 74.1267 to read as follows:

§ 74.1267 D&C Orange No. 17.

(a) *Identity.* (1) The color additive D&C Orange No. 17 is 1-[(2,4-dinitrophenyl)azo]-2-naphthalenol (CAS Reg. No. 3468–63–1). The color additive is manufactured by diazotization of 2,4-dinitrobenzeneamine in acid medium and coupling with 2-naphthalenol in acid medium.

(2) Color additive mixtures for use in externally applied drugs made with D&C Orange No. 17 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter for use in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* D&C Orange No. 17 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Volatile matter (at 135 °C), not more than 1.5 percent.
Matter insoluble in toluene, not more than 1.5 percent.
2,4-Dinitrobenzeneamine, not more than 0.2 percent.
2-Naphthalenol, not more than 1.2 percent.
4-[(2,4-Dinitrophenyl)azo]-1-naphthalenol, not more than 0.3 percent.
1-[(4-Nitrophenyl)azo]-2-naphthalenol, not more than 0.3 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color as determined by spectroscopy, not less than 95 percent.

(c) *Uses and restrictions.* The color additive D&C Orange No. 17 may be safely used for coloring externally applied drugs in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Orange No. 17 shall be certified in accordance with regulations in Part 80 of this chapter.

3. By adding new § 74.2267 to read as follows:

§ 74.2267 D&C Orange No. 17.

(a) *Identity and specifications.* The color additive D&C Orange No. 17 shall conform in identity and specifications to the requirements of § 74.1267(a)(1) and (b).

(b) *Uses and restrictions.* The color additive D&C Orange No. 17 may be safely used for coloring externally applied cosmetics in amounts consistent with current good manufacturing practice.

(c) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Orange No. 17 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. In § 81.1 *Provisional lists of color additives* by removing the entry for "D&C Orange No. 17" in paragraph (b).

§ 81.27 [Amended]

6. In § 81.27 *Conditions of provisional listing* by removing the entry for "D&C Orange No. 17" in paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

7. The authority citation for 21 CFR Part 82 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

8. By revising § 82.1267 to read as follows:

§ 82.1267 D&C Orange No. 17.

The color additive D&C Orange No. 17 shall conform in identity and specifications to the requirements of § 74.1267(a)(1) and (b) of this chapter.

Dated: July 28, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–17719 Filed 8–5–86; 8:45 am]

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21 CFR Parts 74, 81, and 82

[Docket No. 83C-0129]

Listing of D&C Red No. 19 For Use In Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing D&C Red No. 19 as a color additive for use in externally applied drugs and cosmetics. FDA is taking this action because it has concluded that the

use of this color additive in externally applied drugs and cosmetics is safe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act. This action responds to a petition filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA).

DATES: Effective September 9, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by September 8, 1986 FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register.**

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1960, Congress passed the Color Additive Amendments (the amendments). In *Certified Color Mfg. Ass'n* v. *Mathews*, 543 F.2d 284, 286–287 (D.C. Cir. 1976), the United States Court of Appeals for the District of Columbia Circuit explained the purpose of this legislation:

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. * * * [Footnotes omitted.]

As amended, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) (the act) provides in section 706(a) (21 U.S.C. 376(a)) that a color additive will be deemed unsafe for use in food, drugs, cosmetics, and some medical devices unless FDA has issued a regulation permanently listing that color additive for its intended use (21 U.S.C. 376(a)). FDA will issue such a regulation only if it has been presented with data that establish with reasonable certainty that no harm will result from the use of the color additive. The burden of presenting such data is on the person who is seeking approval of the use of the additive.

In passing the amendments, Congress provided for the provisional listing of the color additives in use at that time, pending completion of the scientific investigations needed for a determination about the safety of these additives (section 203(b) of the transitional provisions of the amendments, Title II, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note)). Section 81.1 (21 CFR 81.1) of the agency's color additive regulations enumerates those color additives that are still provisionally listed. Among them is D&C Red No. 19 for use in externally applied drugs and cosmetics.

II. Regulatory History

A. The Color Additives

The color additive D&C Red No. 19 has been in use for many years. This color additive was approved for drug and cosmetic use as a "coal tar" dye after enactment of the act in 1938 by a regulation published in the **Federal Register** of May 9, 1939 (4 FR 1922). Because D&C Red No. 19 was in use at the time the amendments were passed, FDA included it on the provisional list for use in drugs and cosmetics in the **Federal Register** of October 12, 1960 (25 FR 9759). The color additive is currently provisionally listed under § 81.1(b) for use in externally applied drugs and cosmetics, with a closing date of August 6, 1986. Specifications for certification of D&C Red No. 19 are currently listed under § 82.1319 (21 CFR 82.1319).

The color additive D&C Red No. 19 is classified as an xanthene derivative. In 21 CFR Part 82, D&C Red No. 19 is identified as principally the 3-ethochloride of 9-*o*-carboxy-phenyl-6-diethylamino-3-ethylimino-3-isoxanthene (CAS Reg. No. 81–88–9).

B. Color Additive Petition

As noted in the **Federal Register** of August 6, 1973 (38 FR 21199), D&C Red No. 19 is the subject of a petition (CAP 9C0091) filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), 1110 Vermont Ave. NW., Washington, DC 20005) for use in coloring drugs and cosmetics. The provisional listing for the color additive D&C Red No. 37, also a subject of the petition, was recently terminated by a regulation published in the **Federal Register** of June 6, 1986 (51 FR 20786). This action was taken by FDA because the petitioner, CTFA, had withdrawn that portion of its petition (CAP 9C0091) requesting the permanent listing of D&C Red No. 37. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

In the **Federal Register** of September 23, 1976 (41 FR 41863), FDA stated that the available toxicological studies were inadequate to support the permanent listing of several color additives, including D&C Red No. 19. The agency explained that the studies were deficient in the following respects:

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.
2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.
3. In a number of the studies, an insufficient number of animals was reviewed histologically.
4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.
5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of several color additives, including D&C Red No. 19, be conditioned upon at least one petitioner undertaking new chronic feeding studies for the color additive. FDA intended that the required chronic studies would provide the necessary evidence upon which to determine whether to permanently list the color additives for use in drugs and cosmetics generally under section 706 of the act.

In the **Federal Register** of February 4, 1977 (42 FR 6992), it was announced that the petitioner agreed to sponsor the required chronic toxicity studies for the color additives. After D&C Red No. 19 had been provisionally listed for use in drugs and cosmetics for several years, in the **Federal Register** of March 27, 1981 (45 FR 18954), FDA extended the provisional listing until February 28, 1983, to provide time for completion of new chronic toxicity studies of D&C Red No. 19 and for review and evaluation of these studies.

In the **Federal Register** of February 4, 1983 (48 FR 5262), FDA terminated the provisional listing, and hence the approval, of the use of D&C Red No. 19 for coloring ingested drugs and cosmetics. FDA took this action because it concluded, on the basis of the animal experiments that had been performed as

VOL
51
ISS
152
AG
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a condition of the provisional listing of this color additive, that D&C Red No. 19 is carcinogenic when administered in the diet of laboratory animals. In addition, the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., withdrew the portion of its petition that pertains to the ingested use of this color additive. Therefore, D&C Red No. 19 could not be added to ingested drugs and cosmetics after February 4, 1983. The color additive has remained provisionally listed for use in externally applied drugs and cosmetics.

As discussed in the **Federal Register** of February 4, 1983 (48 FR 5262), the petitioner continued to seek permanent listing for the use of D&C Red No. 19 in external cosmetic and drug products that are not subject to incidental ingestion. On October 15, 1982, the petitioner submitted (1) analyses of the safety and legal issues raised by the external uses of the color additive and (2) data regarding skin penetration. The agency found these skin penetration data to be inadequate for determining the extent to which the color additive would be absorbed through the skin under conditions of use.

CTFA asked the agency to delay its final decision until CTFA could perform new skin penetration studies. CTFA said that it would submit the results of those studies to the agency by early February 1983. On February 15 and 16, 1983, CTFA submitted a technical report on a percutaneous absorption study (Ref. 1), a report regarding subsidiary color content in the sample of radiolabeled color additive used in the percutaneous absorption study (Ref. 2), a review and analysis of scientific studies, and an assessment of the risk from the use of D&C Red No. 19 in external cosmetic and drug products (Ref. 3). The agency agreed to review these data, along with the various arguments that CTFA presented in its February 15, 1983, submission, before reaching a conclusion on the safety of the use of D&C Red No. 19 in externally applied drugs and cosmetics. Because its review of the CTFA submissions and of the scientific and legal issues raised by this matter took longer than the agency anticipated, FDA had to extend the provisional listing of the color additive on a number of occasions. The agency established the current closing date of August 6, 1986, for the provisional listing of D&C Red No. 19 for use in externally applied drugs and cosmetics by a rule published in the **Federal Register** of June 6, 1986 (51 FR 20786). In that notice, the agency also announced its decision to permanently list the color additive for its external drug and cosmetic uses. This notice explains the bases for that decision and the conclusion that the use of D&C Red No. 19 as a color additive in externally applied drugs and cosmetics is safe within the meaning of section 706 of the act.

C. Citizen Petition Filed by Public Citizen Health Research Group

On December 17, 1984, the Public Citizen Health Research Group (Public Citizen) petitioned FDA to ban the use of the color additives that remained provisionally listed. On January 22, 1985, Public Citizen filed a complaint in the District Court for the District of Columbia seeking the same relief. Public Citizen alleged that, by continuing to provisionally list the color additives, including D&C Red No. 19, FDA had violated the Color Additive Amendments to the act, as well as those provisions of the Administrative Procedure Act (5 U.S.C. 706(1)) that pertain to unreasonable delay of agency action. Public Citizen sought to enjoin FDA from using the provisional list or any other means to allow the marketing of the provisionally listed color additives.

On June 21, 1985, the Commissioner of Food and Drugs sent to Public Citizen a detailed response to the petition. In his response, the Commissioner carefully reviewed and discussed the arguments and information submitted in support of the petition. The Commissioner concluded that the public health would not be endangered by the continued marketing of the color additives while scientific, legal, and policy issues were addressed and, therefore, the Commissioner denied the petition.

On February 13, 1986, Judge Stanley S. Harris granted FDA's motion for summary judgment and dismissed Public Citizen's complaint. *Public Citizen et al. v. DHHS, et al.*, No. 85–1573 (D.D.C. February 13, 1986). Public Citizen has appealed Judge Harris' decision.

III. Review of Provisionally Listed Color Additives by a Scientific Review Panel

In the proposal to extend the closing dates for the provisional listing of certain color additives, including D&C Red No. 19 (50 FR 26377; June 26, 1985), FDA announced that the Commissioner had established a scientific review panel (panel) of Public Health Service scientists to evaluate data and report on the risk assessment issues presented by the use of six color additives: D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, D&C Orange No. 17, and FD&C Red No. 3.

FDA asked the panel to consider several scientific issues that had been raised by FDA scientists about whether a reliable assessment of the risk from the use of these additives could be conducted. Specifically, one issue was whether, for each additive, unidentified contaminants, rather than the principal color component, could be responsible for the observed carcinogenic effects in animal testing, and whether any such unknown impurities or components may be absorbed through the skin to a greater or lesser extent than other parts of the additive. The panel was charged with examining this impurities issue and, further, with addressing the issue of whether a risk assessment calculation could be made from the available data, and, if so, whether the risk assessments before the agency were properly calculated.

In the **Federal Register** of March 6, 1986 (51 FR 7856), FDA announced the availability of the final report of the panel. The report is entitled "Report of the Color Additive Scientific Review Panel, September 1985, Docket No. 86N–0039." A copy of the report is available to the public for review at the Dockets Management Branch (address above). Requests for copies of the report should be identified with Docket No. 86N–0039.

In the report, the panel concluded that the risk assessments submitted by the petitioners for several of the color additives, including D&C Red No. 19, are consistent with current acceptable usages in risk assessment. The panel also concluded that legitimate issues with regard to impurities had been raised but could be addressed by making reasonable and appropriate assumptions about the possible influence that such impurities might have. The panel concluded that the range of lifetime risk presented by external exposure to D&C Red No. 19 was extremely low. The report of the panel was also submitted to peer review and subsequently published in *Risk Analysis*, 6:2:117–154, 1986, thereby broadly providing the risk analysis assessment to the scientific community. These findings will be discussed in greater detail below.

IV. Overview of the Final Rule

FDA has evaluated all the available evidence regarding the safety of D&C Red 19. Based upon this evaluation, FDA finds that the use of D&C Red No. 19 in externally applied drugs and cosmetics is safe. Although the external uses involve, based on conservative statistical analysis, a theoretical carcinogenic risk, the agency finds that this risk is so trivial as to be effectively no risk at all. For these reasons, the agency has decided to permanently list these uses of D&C Red No. 19.

The remainder of this document describes the information and advice relied upon by the agency in reaching its conclusion as to the safety of D&C Red No. 19 as a color additive for externally applied drugs and cosmetics. First, the agency evaluates the available data resulting from toxicology testing of D&C Red No. 19. In the next section, the agency discusses CTFA's safety evaluation of the same data. Next the agency deals with CTFA's arguments and questions concerning the relevance of the toxicology tests to the determination of the safety of the external drug and cosmetic uses of D&C Red No. 19. In the following section, FDA discusses CTFA's assessment of the extent of human exposure resulting from the external drug and cosmetic uses of D&C Red No. 19.

In the remaining sections, FDA discusses CTFA's low dose carcinogenic risk assessment approach, the report of the panel, and the panel's conclusions regarding the propriety of relying upon the available data to conduct risk assessments for use by a government regulatory agency. The next section addresses certain concerns raised by the panel concerning the safety of D&C Red No. 19 and the agency's resolution of those concerns. The section also discusses the agency's reliance on the *de minimis* doctrine to reach the conclusion that D&C Red No. 19 is safe for use in externally applied drugs and cosmetics and that the proscriptions of the Delaney Clause should not be invoked in this matter. The final section announces the permanent listing of D&C Red No. 19 subject to certification specifications and a restriction on the extent of its use.

V. Toxicology Testing of D&C Red No. 19

A. Old Studies

The agency previously reviewed during the petition evaluation reports of several toxicity studies of D&C Red No. 19 involving rats, dogs, mice, and rabbits. The studies included acute oral toxicity studies, acute intravenous toxicity studies, subacute feeding studies, dermal toxicity studies, chronic toxicity studies, metabolism studies, teratogenicity studies, and reproductive toxicity studies. These studies did not produce any evidence of adverse effects, indicating that the color additive would be safe for the petitioned use in externally applied drugs and cosmetics. Based on data from dermal toxicity studies, D&C Red No. 19 was also not found to be carcinogenic upon biweekly application to the skin of mice over their lifetimes.

B. New Long-Term Feeding Studies

The new studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with FDA's good laboratory practice regulations (21 CFR Part 58) and were subject to FDA inspection while they were being conducted.

In accordance with § 81.27(d) of FDA's regulations (21 CFR 81.27(d), the petitioner, CTFA, submitted final reports of new chronic toxicity tests by February 28, 1982. FDA has reviewed the final reports of these studies, in which D&C Red No. 19 was administered in the diet to Charles River CD rats and Charles River CD–1 mice.

1. Mouse Study

In the CTFA-sponsored mouse study, the color additive was fed at levels of 0.005, 0.02, and 0.1 percent in the diet for 96 weeks to males and 108 weeks to females. A higher incidence of animals with hepatocellular neoplasms (carcinomas or adenomas) was observed in every female mouse dosage group than in the untreated control groups. The combined incidence of female mice with either hepatocellular adenomas or carcinomas was: high-dosage group—17/58 (17 animals with neoplasms out of 58 mice examined), mid-dosage group—7/60, low-dosage group—5/58, and control groups—4/114. The incidence of animals with hepatocellular neoplasms in the high-dosage group was significantly higher than that in the control groups using the Fisher's Exact Test ($p<0.0001$). The response observed was dose-related.

Furthermore, most of the hepatocellular neoplasms observed in the high- and mid-dosage groups of female mice were malignant neoplasms. Historical data on control animals show that female mice have a low spontaneous incidence of malignant hepatocellular neoplasms. Although the treated male mice in this study also showed an increased incidence of hepatocellular neoplasms when compared with concurrent controls, the incidence in each treated male group was within the range of historical controls. Therefore, the agency concludes from these data that dietary exposure to D&C Red No. 19 causes an increase in the number of female mice with hepatocellular neoplasms.

2. Rat Studies

CTFA sponsored two long-term feeding studies in rats in which D&C Red No. 19 was administered in the diet following in utero exposure. The first study included two control groups and three treated groups with dose levels of 0.002, 0.005, and 0.02 percent of the diet. A second study had a single dose level of 0.075 percent of the diet and a separate control group. In the second study, the number of treated male rats (18/69) with either a malignant or benign follicular cell tumor of the thyroid gland was higher than that of the controls (2/70) using the prevalence test ($p<0.0001$). An earlier chronic study in rats had displayed no treatment-related increase in tumors, but enlargement of the thyroid glands was associated with treatment (Ref. 5).

The spontaneous occurrence of follicular cell tumors of the thyroid gland was uncommon in the control groups of the recent provisional list color additive feeding studies with the same design. The agency concludes that the increased incidence of male rats with follicular cell tumors is a treatment-related effect. On the basis of this evidence, the agency concludes that, when administered in the diet, D&C Red No. 19 induces neoplasms in the thyroid gland of male rats.

In addition, in the highest dosage group (0.075 percent of the diet), the incidence of male rats with parathyroid tumors (8/55) was higher ($p=0.005$) than that of the concurrent control group (0/56). The agency has determined that this evidence is a sufficient basis upon which to conclude that the dietary treatment with D&C Red No. 19 also caused a tumorigenic effect in the parathyroid of male rats.

C. Agency Conclusion Regarding the Ingested Uses of D&C Red No. 19

No significant data base has been developed concerning the toxicity of D&C Red No. 19 since the agency concluded in the **Federal Register** of February 4, 1983 (48 FR 5262) that the color additive is carcinogenic when administered in the diet of laboratory animals. The agency's conclusion was based on the observed increased incidence of female mice with hepatocellular neoplasms and a

treatment-related increased incidence of male rats with thyroid follicular cell neoplasms and parathyroid adenomas (Ref. 6).

Based upon the petitioner's withdrawal of that part of its petition requesting permanent listing of D&C Red No. 19 for use in ingested drugs and cosmetics (48 FR 5262); and the agency's conclusion that the color additive is carcinogenic when administered in the diet, the agency terminated the provisional listing of D&C Red No. 19 for such use.

VI. CTFA'S Safety Evaluation

In its submissions, CTFA presented several arguments that raise questions about the relevance of the ingestion studies to a determination of the safety of the external uses of D&C Red No. 19. In the following sections the agency reproduces CTFA's arguments, then evaluates them.

A. Differences in Reported Incidence Figures

In its submission of February 15, 1983, CTFA noted that the data on the mouse study and the second rat study reported by FDA in its order terminating the provisional listing of D&C Red No. 19 for use in ingested cosmetics and drugs differed from those reported by the testing laboratory. CTFA stated that it was not aware of the reason for the differences.

Based on FDA's preliminary review of data from the mouse and rat chronic feeding studies, FDA concluded that it was necessary to request all available microslides of liver sections from the mouse study and of thyroid/parathyroid slides from the two rat studies with D&C Red No. 19. The purpose of the FDA histopathology review was to verify the microscopic findings presented by CTFA. Data as reported by the testing laboratory and FDA pathologists are tabulated below. The incidence is reported as the number of animals with tumors per the total number of animals suitable for evaluation.

1. Mouse Study

INCIDENCE OF MICE WITH HEPATOCELLULAR NEOPLASMS FROM THE TESTING LABORATORY'S REPORT

Treatment group	Males	Females
1 and 2 (0%)	17/119	4/115
3 (0.005%)	14/60	6/60
4 (0.02%)	12/59	8/60
5 (0.1%)	15/59	19/60

INCIDENCE OF MICE WITH HEPATOCELLULAR NEOPLASMS FROM FDA REPORT

Treatment group	Males	Females
1 and 2 (0%)	16/115	4/114
3 (0.005%)	12/58	5/58
4 (0.02%)	12/59	7/60
5 (0.1%)	15/56	17/58

FDA has combined the data on hepatocellular adenomas and carcinomas from tables in the CTFA submission into one table to make the data comparable to FDA's tabulations.

Because of differences in interpretation of the microscopic lesions by different pathologists (affecting numerator terms) and in choice of tissues suitable for histological diagnosis (affecting denominator terms), incidences reported by FDA differ slightly from those reported by the testing laboratory. The data in both presentations, however, show a dose-related increase in incidence of liver neoplasia in treated female mice and support the conclusion that dietary exposure to D&C Red No. 19 causes liver neoplasia in female mice.

2. Second Rat Study

INCIDENCE OF RATS WITH THYROID FOLLICULAR CELL TUMORS FROM THE TESTING LABORATORY'S REPORT

Treatment group	Sex	Adenomas	Carcinomas
Control (0%)	Males	2/57	1/57
	Females	2/57	0/57
Treated (0.075%)	Males	12/56	5/56
	Females	5/55	1/55

INCIDENCE OF RATS WITH THYROID FOLLICULAR CELL TUMORS FROM FDA REPORT

Treatment group	Sex	Adenomas	Carcinomas
Control (0%)	Males	1/70	1/70
	Females	2/68	0/68
Treated (0.075%)	Males	13/69	5/69
	Females	7/69	1/69

The differences in numbers of tumors (numerator terms) between the laboratory report and FDA's report are minor and are the result of interpretation by different pathologists. The denominator figures used in the FDA report reflect the total number of thyroid microslides submitted from each group, including the animals sacrificed at the 1-year-interim period. The denominator figures in the testing laboratory report do not include the interm-sacrificed animals. A treatment-related increase in incidence of male rats with thyroid follicular cell tumors is shown in both presentations. Thus, the conclusion from both presentations is the same, namely, that dietary exposure to D&C Red No. 19 causes an increase in the number of male rats with thyroid follicular cell tumors.

B. Interpretation of Maximum Tolerated Dose

In the submission dated February 15, 1983, CTFA asserted that the 0.075 percent dose level of the second rat study exceeded the maximum tolerated dose (MTD) and thus violated the National Cancer Institute (NCI) guidelines for carcinogenicity testing (National Cancer Institute, *Guidelines for Carcinogen Bioassay in Small Rodents* (1976)). CTFA claimed that this dose level exceeded the MTD because it caused a substantial reduction in body weight gain in both males and females, and that the size of the dose was a reason for questioning the carcinogenic effect observed with this dose.

The NCI Guidelines define the MTD as "the highest dose of a test agent given during the chronic study that can be predicted not to alter the animals' normal longevity from effects other than carcinogenicity." The guidelines also state that the MTD "should be the highest dose that causes no more than a 10 percent weight decrement, as compared to the appropriate control groups; and does not produce mortality, clinical signs of toxicity, or pathogenic lesions (other than those that may be related to a neoplastic response) that would be predicted to shorten the animals' natural life span."

If the MTD is exceeded, there may be an insufficient number of test animals at risk and possible late-developing tumors would not be observed. Thus, the major concern about exceeding the MTD is that an erroneous negative result may be obtained. In the present study the survival of female rats was lower than normal, which may explain the failure of females to demonstrate a significantly increased incidence of thyroid follicular cell tumors. Thus, although the NCI guidelines may have been "violated" in the case of the female rats, the effect of this would be to mask a possible carcinogenic response.

In any event, there is no indication whatsoever that the MTD was exceeded in the male rats tested. Although the treated male rats experienced a reduction in weight gain, of 8 to 9 percent, their survival was unaffected and they manifested increased numbers of tumors. Furthermore, in the male rats no clinical signs of toxicity or pathogenic lesions were noted other than those related to the neoplastic response. These facts establish that at least for the male rats, the MTD was not exceeded. Moreover, if it was exceeded

for the female rats, the effect is the loss of possible confirmatory information regarding the carcinogenicity of the compound. CTFA's arguments on this issue are of little relevance and impact.

C. Significance of Mouse Liver Tumors

In the submission dated February 15, 1983, CTFA questioned the significance of the mouse liver tumors observed in the chronic tests by contending that "* * * the natural incidence of liver cancer is relatively high in inbred mice as compared to humans and other species, possibly indicating the presence of a latent population of initiated tumor cells in these mice. Substances that induce chronic liver toxicity and cell degeneration and regeneration might thus be capable of promoting this latent population of neoplastic cells to overt neoplasm in mice." CTFA stated further that "* * * there is no agreement within the scientific community on extrapolating carcinogenesis risk to humans on the basis of evidence of liver tumors in mice," and that "some respected investigators consider the liver of the inbred mouse to be an invalid system for carcinogenicity testing."

FDA is aware that the relevance of the production of hepatocellular tumors in mice in predicting cancer risk in humans has been debated extensively over the past several years. The debate on the relevance of mouse hepatocellular tumors does not obviate the necessity for a careful evaluation of a study in which the finding occurs and of the relationship of that finding to the results in other studies with the test substance.

The liver, because of its location and important role in metabolism, is a frequent target organ for toxic effects of compounds administered by the oral route. Substances absorbed from the gastrointestinal tract reach the liver in amounts much higher than the amounts to which other organs are generally exposed. Metabolic conversion of a substance to a more toxic metabolite often occurs in the liver, and the liver cells are exposed to the highest concentration of the active agent. Thus, hepatotoxic effects may be the only toxic effects observed. For this reason the agency disagrees with CTFA's contention and believes that the liver tumors must be carefully considered.

CTFA's argument about the high incidence of liver cancer in inbred mice does not apply to the CD-1 mouse, the strain used in the mouse study. The background or control incidence of hepatocellular tumors in this strain is low compared to most mouse strains. Moreover, data submitted by CTFA on April 8, 1981, showed the following incidence of tumors in 16 control groups (more than 900 mice of each sex):

	Males	Females
Hepatocellular carcinoma	9.65±4.25%	0.63±1.03%
Hepatocellular adenoma	5.12±3.92%	1.17±1.21%

Thus, the incidence of hepatocellular tumors (carcinoma and adenoma) among female mice in the control groups was about 2 percent. In contrast, the incidence of hepatocellular tumors among female mice in the high-dose group was almost 30 percent.

The International Expert Advisory Committee to the Nutrition Foundation (the committee) described the following factors as important in determining whether the production of mouse hepatocellular tumors is the result of treatment and, therefore, relevant to an assessment of carcinogenic risk: (1) Incidence of tumors in treated animals is clearly higher than in concurrent controls; (2) incidence is also higher than in historical controls or dose related; (3) there is a decrease in time of onset in the treated animals; (4) there is a preponderance of malignant lesions in treated animals compared with the controls; and (5) tumors are observed at other sites in the mouse, or tumors are observed in other species. ("The Relevance of Mouse Liver Hepatoma to Human Carcinogenic Risk," September 1983.) Each of these factors is established in the case of D&C Red No. 19.

In the mouse study the incidence of female mice with hepatocellular tumors was, in fact, increased in comparison to the concurrent controls at both the mid- and high-dose levels, and the increase was dose related. The incidence of females with both hepatocellular carcinomas and hepatocellular adenomas in all the test groups also exceeded the range in historical controls. The combined incidence of high-dose female mice with hepatocellular neoplasms was more than 10 times the average combined incidence of historical controls with such tumors.

FDA recognizes that, with the small number of female mice with hepatocellular tumors in the control group, it is difficult to compare the time of onset of tumors in the control group with those in the treated group. However, all of the hepatocellular tumors found in the control female mice were found in animals sacrificed at completion of the study or dying within a month of completion. In contrast, hepatocellular carcinomas were found in several treated female mice dying well before completion of the study. The observation of tumors at an earlier time (particularly malignant tumors) is suggestive of a treatment effect leading to earlier onset of tumors. The hepatocellular tumors in the high-dose female group were predominantly carcinomas (malignant tumors) whereas the hepatocellular tumors in the control females were all adenomas (benign tumors).

Further, an increase in the incidence of male rats with thyroid follicular tumors (carcinomas and adenomas) and parathyroid adenomas was observed in the high-dose chronic study of D&C Red No. 19.

Thus, based on its analysis of the data using the factors outlined by the committee, FDA has concluded that the hepatocellular tumors observed in the female mice were the result of the ingestion of D&C Red No. 19 and must be considered in any evaluation of the safety of the color additive.

D. Mechanism of Carcinogenicity

CTFA stated in its submission of February 15, 1983, that it had reviewed the information available on D&C Red No. 19 to determine the likely mechanism of action of the additive. CTFA acknowledged that the precise mechanism of action could be determined only through extensive further testing but contended that the information that is currently available does not demonstrate that D&C Red No. 19 is a primary (or initiating or direct-acting or genotoxic) carcinogen.

In support of its contention, CTFA relied upon the results of four studies on the mutagenicity in *Salmonella typhimurium* (Ames test) of material identified as either D&C Red No. 19 or Rhodamine B (a common name for the color additive). In two of the studies, negative results were observed (Muzzall and Cook, *Mutation Research*, 67:1 (1979); and Green and Pasteuka, *Journal of the National Cancer Institute*, 64:665 (1980)). In the other two studies, positive results were observed in the presence of a rat-liver metabolic system (Brown et al., *Mutation Research*, 66:181 (1979); Nestmann et al., *Cancer Research*, 39:4412 (1979)). CTFA concluded that impurities could be responsible for most of the mutagenic activity observed in the latter studies. On the basis of this conclusion, CTFA asserted that D&C Red No. 19 is either not mutagenic or is a very weak mutagen, and that therefore the results are inconsistent with the color additive being a strong primary carcinogen.

CTFA's suggestion that impurities in D&C Red No. 19 were the agents

VOL 51 ISS 152 AG 7 1986 UMI

responsible for this additive's mutagenic and carcinogenic activity does not provide any assurance that the color additive does not pose a cancer risk. For example, even if the impurities are carcinogenic, the color additive itself could also be carcinogenic. In fact, the color additive as a whole, as discussed above, has been tested and found to induce cancer. Thus, FDA concludes that the arguments CTFA presented regarding mutagenicity do not provide evidence that D&C Red No. 19 is not a carcinogen.

CTFA also argued that it is possible that a secondary mechanism may have caused each of the types of tumors observed in the chronic bioassays of D&C Red No. 19. As discussed above, CTFA stated that liver cancer is relatively high in inbred mice as compared to humans and other species, possibly indicating the presence of a latent population of initiated tumor cells in these mice. CTFA also suggested that a thyroid hormone imbalance and subsequent chronic hyperplastic stimulation is possibly the mechanism for the induction of thyroid tumors in the rat. Finally, CTFA stated in its submission of February 15, 1983, that risk assessment shows that "the best-fitting version of the multistage model for the rat thyroid data contained no linear terms, only higher-order terms." CTFA stated that this type of curve is compatible with a dose-response relationship that has a threshold, and thus that this result may mean that the color additive is a secondary carcinogen.

The arguments presented by CTFA are speculative and CTFA has not submitted factual scientific evidence to support the hypothesis that D&C Red No. 19 does indeed act as a secondary carcinogen. In fact, in one of its submissions, CTFA has acknowledged that "* * * there is inadequate evidence at this time to demonstrate a secondary mechanism of action that would justify use of a safety factor approach." (See Ref. 3, NOEL Safety Factor Approach, p. 39, CTFA submission, February 15, 1983.) For all these reasons, FDA concludes that CTFA has failed to present any basis on which to find that D&C Red No. 19 is a secondary carcinogen.

E. Percutaneous Absorption Studies and Assessing the Risk From External Exposure

FDA finds that there is no reason, based on CTFA's arguments presented above, to change its conclusion, as stated in the Federal Register of February 4, 1983 (48 FR 5262), that D&C Red No. 19 is carcinogenic upon ingestion. Having made such a finding, the agency must consider the relevance of the ingestion studies to the noningested uses of the color additive (see section 706(b)(5)(B)(ii) of the act). D&C Red No. 19 induces cancer at sites remote from the alimentary tract, indicating that it is systemically absorbed before acting as a carcinogen. FDA has consistently held that ingestion studies are appropriate for evaluating the safety of the externally applied uses of such a color additive if the additive is shown to penetrate the skin. See Ref. 7, e.g., 43 FR 1101, 1103; January 6, 1978. A color additive that penetrates the skin can be distributed to remote sites in a manner analogous to the distribution that occurs when an ingested color additive enters the circulatory system from the gastrointestinal tract. Therefore, in its consideration of the safety of D&C Red No. 19, the agency evaluated the results of the percutaneous absorption studies with D&C Red No. 19.

An in vitro percutaneous absorption test is designed to measure the ability of a particular substance, such as a color additive, to penetrate excised skin under conditions simulating human use. Information on skin penetration is important in determining the exposure to a color additive used in topical applications.

FDA evaluated the first percutaneous absorption study submitted by CTFA and informed CTFA in a conference held on November 23, 1982, of the deficiencies in the study that prevented the agency from determining whether the color additives would penetrate human skin under normal conditions of use. FDA could not determine whether D&C Red No. 19 would penetrate the skin from the test data because the dosage levels of the applied color additive, the treatment of the excised skin, and the solvent systems used did not appropriately reflect the expected conditions of use of the color additive. Therefore, because of the deficiencies in the absorption study, FDA advised CTFA that the data were not sufficient to support the safety of the externally applied uses of the color additives.

CTFA notified FDA in a letter of December 9, 1982, that it intended to conduct an additional in vitro percutaneous absorption study with D&C Red No. 19 and requested that FDA review the study design. FDA reviewed the initial protocol for the study and, after the agency commented on that protocol, a subsequent protocol that CTFA had revised according to the agency's suggestions. FDA advised CTFA by letter of January 18, 1983, that it concurred with the revised protocol proposed for testing the skin permeability of D&C Red No. 19 and D&C Red No. 19 Aluminum Benzoate Lake. FDA informed the petitioner that if it submitted the data promptly, the agency would consider such data along with the other scientific and legal matters involved in the agency's decision on the listing of the color additive for external use. FDA also advised CTFA that the agency could not guarantee that percutaneous absorption studies could resolve all the scientific and legal issues involved in listing the color additive for external use. The final report of the absorption study was received by FDA on February 18, 1983.

FDA finds that the study was performed, in general, in a satisfactory manner. The test data clearly show that radiolabeled material from D&C Red No. 19 passes through the skin in small, but measurable amounts. Therefore, the agency concludes that some systemic exposure to the color additive may occur from the use of externally applied drugs and cosmetics containing D&C Red No. 19, and that the ingestion studies that show this color additive to be a carcinogen are appropriate for evaluating the safety of the externally applied uses of D&C Red No. 19 (Ref. 7).

CTFA has argued, however, that it is possible, using the data from the bioassays and the skin penetration studies, to assess the carcinogenic risks from the external use of the color additive and to use the results of that assessment in deciding on the safety of the external uses of the additive. CTFA has also argued that such an assessment demonstrates that D&C Red No. 19 is safe when used in externally applied products.

The carcinogenic risk from the use of an externally applied carcinogenic color additive is determined by (1) the amount of color additive applied to the skin and the frequency of application, (2) the concentration of carcinogenic agents in the color additive, (3) the potency of the carcinogenic agents, and (4) the fraction of the applied carcinogenic agents that penetrate the skin.

The risk estimates submitted by CTFA are based on the assumptions (1) that the principal color component is the carcinogenic agent, (2) that the radiolabeled material penetrating skin is representative of the whole color additive, and (3) that 100 percent of the carcinogenic agent is absorbed from the alimentary tract into the blood stream in the animal feeding studies.

FDA's scientists questioned CTFA's assumptions because an argument could be made that a contaminant is

responsible for the carcinogenic response. Color additives are not pure substances and normally contain intermediates, subsidiary colors, and other contaminants from intermediates and from side reactions. Although the carcinogenicity of D&C Red No. 19 was revealed by an animal bioassay, the bioassay did not establish whether the carcinogenic response was produced by the principal color component or by one or more of its contaminants. It is theoretically possible that one of the contaminants could be responsible for the production of the carcinogenic response.

CTFA's assumption that the radiolabeled material was representative of the whole color additives (and that, therefore, there is no need to be further concerned with possible impurities) could not be substantiated. CTFA measured only the radioactivity of the substance that penetrated the skin and could not identify the components that actually penetrated the skin.

Moreover, FDA's scientists could not determine from the data submitted by CTFA which constituents of the color additive penetrated skin, or whether impurities in the color additive would penetrate skin in the same manner as the primary color that was tested. It is possible (1) That the actual carcinogen could be a contaminant that penetrated the skin but was unlabeled and therefore undetected; (2) that virtually none of the principal color component penetrated the skin, and that the radioactive material found could be due to carcinogenic contaminants; and (3) that the degree of skin penetration by the actual carcinogenic agent is greater than that estimated by CTFA based on its assumption that the principal color component of D&C Red No. 19 is the carcinogen.

Another assumption by CTFA, that 100 percent of the carcinogenic agent is absorbed from the gastrointestinal tract, was questioned by FDA's scientists because few chemicals are ever completely absorbed. There are many reasons for poor or limited absorption of chemical substances from the gastrointestinal tract, including (1) The instability of the chemical in acidic fluids, (2) enzymatic breakdown by digestive juices, (3) destruction by intestinal microorcanisms, and (4) lack of lipid solubility (Ref. 8).

FDA asked the panel to review CTFA's assumptions and the agency's concerns about exposure to impurities in D&C Red No. 19. The panel revised several of CTFA's assumptions and concluded that the agency's concerns regarding impurities, although important, can be addressed by making reasonable and appropriate assumptions about the possible effects impurities might have. The panel found it highly unlikely that impurities would significantly influence the risk assessment. The results of the panel's review are discussed in greater detail in a later section of this notice.

VII. CTFA's Assessment of Exposure to D&C Red No. 19

In the report submitted to FDA on February 15, 1983, CTFA outlined the approach to estimate human exposure to D&C Red No. 19. CTFA estimated the cumulative amount of D&C Red No. 19 absorbed by an individual based upon the products in which the color additive was used, the amount of each product used per application, the frequency of use of each product, the concentration of the color additive in each product, and the level of dermal absorption.

CTFA reported that by using both a prospective and a retrospective approach, it had determined the exposure to D&C Red No. 19 through external cosmetic and drug product use. Data on the frequency of use of various external cosmetic and drug products came from two sources. The first is a 1-week prospective survey of female participants. The participants recorded the number of times in a week they used a range of cosmetic products including face powders and rouges, hair cosmetics, nail products, bathwater products, wash-off products, and various other externally applied cosmetic products. For products used less often than once per week, they were asked to report how often they generally used such products. The second source of data on frequency of use is from a retrospective survey of 1,129 customers of a chain of stores run by a major cosmetic manufacturer. Because the individuals in this survey were customers of specialty cosmetic stores, they are likely to have above-average usage patterns. For both sets of data, for each product, CTFA listed an average and an upper 90th percentile value of frequency of usage.

Data on the amount of each product per application were provided from the responses to a survey of CTFA member companies to obtain the results of existing studies on this subject. The values are the averages for each product as reported in CTFA's survey.

The February 15, 1983, report presented data derived from the skin absorption study conducted by Dr. Thomas J. Franz on the proportion of the D&C Red No. 19 contained in each product that is likely to be absorbed. The skin absorption study conducted by Dr. Franz is described in detail in a separate report (Ref. 1). Briefly, the absorption of ^{14}C-labeled color additive through half-thickness human abdominal skin was studied using Franz diffusion cells. Absorption under each of 11 experimental conditions described in the study was tested on duplicate sections of skin from each of 3 donors. The receptor phase (isotonic saline, pH 7.6, 37 °C) was sampled for radioactivity and replaced by fresh saline at 4, 8, and 12 hours, and at 12-hour intervals until four steady-state readings were obtained, or 72 hours after application of the color additive. In some exposures, sample collection continued at 12- or 24-hour intervals up to 120 hours. The hourly and daily absorption rates and the percentage of the applied color additive absorbed over 3 days were calculated.

CTFA believes that the amount of D&C Red No. 19 applied per square centimeter in these experiments was similar to or greater than the corresponding amount that would be applied in externally applied cosmetics and drugs. Hence, it concluded that the experimental permeability data are likely to be reasonably applicable to absorption of the color additive from a cosmetic or drug applied to the skin.

CTFA provided estimates of the amount of the color additive absorbed daily by combining the information on daily usage (upper 90th percentile) of the external cosmetic and drug products with data on the D&C Red No. 19 content of the products (average and maximum) and estimates of the proportion of the color additive absorbed. CTFA emphasized that these data were deliberately chosen to overestimate exposure.

The usage values are upper 90th percentile values. The concentration of D&C Red No. 19 is presented both as the maximum used in any formulation of each product type and as the average concentration in formulations that contain D&C Red No. 19. For all product categories, there are many formulations that do not contain D&C Red No. 19 and these formulations are not included in calculating the "average" values listed. Thus, a true "average" would be much lower, and the "average" values listed greatly overestimate the extent of exposure to D&C Red No. 19 from its use in externally applied cosmetic and drug products.

By summing the values of D&C Red No. 19 absorbed per day for each product containing the color additive, CTFA determined the "worst case" maximum amount absorbed for all or any combination of products. Summing

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all values gives a daily "worst case" absorption of 3.27 to 3.77 micrograms or 0.0062 to 0.071 microgram per kilogram per day for a 53 kilogram adult female using all products containing the maximum level of D&C Red No. 19 at the upper 90th percentile usage frequency.

The panel, at FDA's request, critically evaluated CTFA's assessments and underlying assumptions. A discussion of the panel's evaluation is provided in a later section of this notice.

VIII. CTFA's Low-Dose Carcinogenic Risk Assessment Approach

CTFA calculated both the "best conservative estimate" and the "upper bound estimates" of risk from the use of D&C Red No. 19 in externally applied cosmetics and drugs, using currently accepted methods of risk assessment. The low-dose risk assessment proceeds in four steps:

1. Selection of the set of data on tumor incidence judged most appropriate as the basis for inference of human risk;
2. Extrapolation of these data to provide "best estimate" calculations, thus providing a range of risk to mice and rats at low-dose levels;
3. Extrapolation of the potential risk to humans at low-dose levels; and
4. Calculation of the potential risk to humans at the likely level of exposure from known patterns of use.

CTFA acknowledged that each of these steps required the use of assumptions with varying degrees of certainty. It was standard procedure by CTFA to make highly conservative "worst case" assumptions at each step, so that the final estimates likely overstated the actual risks by large factors. In its report, CTFA presented both "best conservative estimate" and "upper bound estimate" calculations to illustrate the range of potential risk. The "best conservative estimate" was based upon the extrapolation curve that best fits the experimental data, but also included such highly conservative "worst case" elements as the assumption that an individual consumer will be in the upper 90th percentile for frequency of use of all cosmetic products and will use only those cosmetic products that contain D&C Red No. 19 at the maximum concentration. The "upper bound estimate" includes all "worst case" assumptions.

The CTFA risk assessment combined adenomas and carcinomas from the mouse liver tumor data and used the "worst case" maximum projections of human exposure and skin penetration. The multistage extrapolation model using the "worst case" maximum human exposure provides a "best conservative estimate" of potential lifetime risk to humans of 1×10^{-7} (1 in 10 million), and an "upper bound estimate" of 1.5×10^{-7} (1 in 6.7 million).

For the rat thyroid tumors, CTFA again combined both adenomas and carcinomas in order to provide a very conservative "worst case" estimate of potential risk to humans. The multistage extrapolation model using the "worst case" maximum human exposure provided a "best conservative estimate" of potential lifetime risk to humans of 2.3×10^{-14} (1 in 43 trillion) and an "upper bound estimate" of 3.1×10^{-7} (1 in 3.2 million).

IX. Review of D&C Red No. 19 by the Scientific Review Panel

FDA's evaluation of the petitions for permanent listing of these color additives, and other available information, raised questions concerning whether CTFA's risk assessment was valid. As discussed above, FDA convened the panel to address these questions. The membership of the panel is outlined in the **Federal Register** of June 26, 1985 (50 FR 26379), which is incorporated by reference.

The panel was charged to evaluate the available data, information, and views on the color additives and to provide answers to the following questions:

1. Can valid quantitative risk assessments be performed for these color additives?
2. Does the available information support the data analysis and risk assessments that have been performed and are before the agency?

X. Report of the Color Additive Scientific Review Panel

The panel evaluated the possibility of performing a scientifically valid carcinogenic risk assessment on D&C Red No. 19 for externally applied drug and cosmetic uses. The panel did not consider risk assessments for other toxic endpoints—indeed, it was not necessary to do so because no safety concerns other than carcinogenicity have been associated with the external uses of D&C Red No. 19. The panel's report contains a discussion on the assumptions that must be made in conducting a risk assessment and the uncertainties that are associated with such assumptions. The report is supported by several recent government agency efforts directed at developing a consensus of risk assessment:

(1) The National Academy of Sciences Report on Risk Assessment;

(2) The Office of Science and Technology Policy Document on Chemical Carcinogenesis and

(3) The Executive Committee, Coordinating Committee on Environmental and Related Programs Report on Risk Assessment.

The report contains a scientific introduction section for the major topics being discussed as well as a section on the general assumptions used in risk assessment of colors. The report discusses the risk assessments for each of the color additives by discussing major topics for each and the color additive-specific assumptions used, with the focus on the risk under practical conditions of use. Each chapter also contains a risk characterization section which discusses the risk assessment of the individual color additive.

In its report, the panel critically reviewed the risk assessments submitted by CTFA. This included a detailed examination of the risk assessment methodology used by CTFA. In a summary chapter of the report (Chapter 9) the Panel stated that:

> In order to obtain a better perspective on the very complex and multifaceted problem of assessing exposure and toxic effect of the dyes, it was imperative to search for the many obvious or hidden, explicitly stated or implied assumptions associated with risk assessment of the dyes. In dissecting the presented problem into the smallest possible components, for which separate solutions might be formed, the Panel opted for starting with formulating the assumptions according to CTFA's line of reasoning (it should be emphasized, however, that CTFA made these assumptions to, presumably, derive a conservative risk estimate, while not necessarily supporting them). This was followed by a careful analysis of the validity of the statements, the possible alternatives to dealing with the gaps in knowledge and lack of information, and the quantitative assessment of the impact of the assumption on the magnitude of the risk of cancer, assuming that the dyes do pose such a risk to humans.
>
> While evaluating the many kinds of uncertainties in hazard identification, exposure assessment, and dose-response assessment, the Panel developed the view that, rather than limiting its role to analyzing CTFA's lines of reasoning, it attempt to use its analysis to generate modified risk estimates. This includes an esumate of the absorbed dose based on more "reasonable" assumptions than those used in the CTFA assessments.

In the risk characterization section in the various dye chapters in the report, the panel compared the 90th percentile and the average usage (based on reasonable estimates). For the purpose of presenting the panel's assessment of the numerous assumptions used in the CTFA risk assessments, the agency has summarized that portion of the panel's report which discusses the assumptions

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and the associated uncertainties. The summary below deals with assumptions which are relevant to all color additives reviewed by the panel.

A. The Panel's Assumptions Used in Hazard Identification

The panel generally accepted the assumptions used in the CTFA risk assessments largely because there seem to be no alternatives with higher degree of validity for the uncertainties involved and because they are consistent with what the panel understood FDA's policy to be. The panel believed the assumptions it relied upon to be conservative, i.e., are more likely to overestimate rather than underestimate the true risk.

The panel's assumptions concerning hazard identification were:

1. Because all six dyes of concern are animal carcinogens in some assay, they are suspect human carcinogens. (The panel made no evaluation of the weight-of-evidence for human carcinogenicity from the test animals.)

2. Orally administered or ingested dyes are equally well absorbed in animals and humans, regardless of the test concentration of the dye and of the vehicle used.

3. Studies involving high doses of a compound under test are appropriate for low-dose extrapolation.

B. The Panel's Assumptions Used in Exposure Assessment

The panel's general assumptions regarding exposure assessments were:

1. The dyes are equally absorbed in rodents and man.

2. Dyes which penetrate the skin are as effective in evoking a carcinogenic response as if ingested.

3. For each dye, exposure is for 60 years (in contrast to CTFA's use of 70 years) and risk is not influenced by age at exposure. This results in a correction factor of 6/7.

4. An arbitrary value should be used to reflect the fact that cosmetic products contain other dyes than those of concern (or no dyes at all). Compared to the CTFA estimate, this results in a correction factor of 0.5.

5. Based on data for D&C Red No. 19 only, the average concentration of all dyes in commercial products is 25 percent of the highest concentration allowed. Compared to the CTFA estimate, this results in a correction factor of 0.25.

6. The skin model used for the skin absorption studies is appropriate for assessing the exposure to absorbed dye. Although the model is likely to overestimate the risk, for products applied to the facial skin (skin penetration rates are likely to vary for different areas of the body), the model may underestimate the real absorption rate by a factor of 3.

7. In interpreting the results of the in vitro study on the absorption rates over time, the true absorption rate equals the steady state rate. Where the test did not reveal a steady state, twice the maximum rate at the end of 3 days approximates the true absorption rate.

8. Both types of CTFA surveys of the frequency of the use of dye containing products overestimate the frequency among the general population.

9. The absorbed amount of dye per day can be estimated by multiplying the amount of dye per day available for absorption by an absorption rate constant, as estimated from the in vitro tests. There is insufficient information, however, to calculate a better, less conservative estimate.

10. For each dye, the total exposure is the sum of exposures to all products containing the same dye.

11. The amount of dye-containing product per application is approximately 5 to 10 milligrams per square centimeter.

12. With the exception of nail products, the composition of the vehicle used in the commercial products does not affect the absorption rate assessed with the in vitro skin model. There is insufficient information to generate a best estimate of the absorption rate for each kind of commercial vehicle.

13. In an appropriate vehicle, there is no difference in absorption rate between a primary dye and its lake.

14. Based upon consideration of the structure and toxicity of actual impurities found in certified lots, the skin penetrance rates of subsidiary colors are not likely to be significantly different from that of the principal constituent. The skin penetrance rates of the other substances of concern (e.g., residual starting materials) have, at most, an effect of multiplying the risk by 1.2. This results in a correction of CTFA's estimate of the exposure by a factor of 1.2.

The panel's product-specific assumptions regarding exposure assessments were:

1. The absorption rate for hair cosmetics is 1.2 percent of the applied amount. This results in a correction of CTFA's estimate by a factor of 0.6.

2. No absorption occurs from dyes in nail products (CTFA assumed that 1 percent of the applied amount will penetrate the skin).

3. For bathwater products, 2 percent of the applied amount reaches the skin.

4. For wash-off products (including bathwater products), there is an absorption of 25 percent (CTFA assumed an absorption of 50 percent and excluded bathwater products from this consideration). This results in a correction of CTFA's estimate by a factor of 2.

5. For products other than wash-off products, there is an absorption of 50 percent (CTFA assumed an absorption of 100 percent). This results in a correction of CTFA's estimate by a factor of 2.

C. The Panel's Assumptions Used in Dose-Response Assessment

1. In test animals, 50 percent of orally administered dyes are absorbed from oral studies and the carcinogenic response is caused by this absorbed portion. This results in a correction of CTFA's estimate by a factor of 2.

2. On a milligram per kilogram body weight basis, dose levels used in animal tests have the same quantitative effect on the cancer incidence in humans. There is insufficient information for assessing the best estimate of the correct dose unit for use in extrapolating animal risk to human risk of cancer.

3. The average body weight for an adult woman is 53 kilograms.

4. The linearized multistage model reflects the true relationship between dose and response. The linearized multistage model may offer no added protection, however, in the convex portion of the dose-response curve. Low-dose linearity may overestimate the risk by several orders of magnitude if low-dose linearity is not present.

5. The most sensitive animal tumor data should be used to extrapolate risk from animal data to humans.

D. The Impact of the Panel's Assumptions on CTFA's Risk Estimate

In the chapters of the report concerning specific dyes, the panel applied the foregoing product- and dye-specific assumptions and correction factors to the usage data contained in the CTFA risk assessments. The panel also applied these assumptions to the survey estimates of 90th percentile exposure (the Risk/90 values) and average and "reasonable" estimates of exposure (Risk/Rea), thereby deriving revised risk estimates.

The impact on CTFA's risk assessment of the panel's general, quantifiable assumptions concerning exposure and dose-response are:

1. For skin absorption, a correction factor of 0.8 times the CTFA estimate (6/7×0.5×0.25×3×1.2×2).

2. For incidental ingestion of lip products, a correction factor of 6/7 times the CTFA estimate (a number of factors relevant only to skin absorption or not

VOL 51 ISS 152 AG 7 1986 UMI

relevant to lipstick products do not apply).

3. At low dose levels, the risk of cancer, as computed with the linearized multistage risk model, is directly proportional to the dose levels.

The panel concluded that the correction factor of 0.8 for skin absorption is inconsequential when compared to the uncertainties in the assumptions that are difficult to quantify. The panel cautioned that the correction factor for skin absorption does not mean that the risk estimate is precise within 20 percent of the actual human risk. On the contrary, the figure merely represents the fact that, for the various quantifiable assumptions, underestimations and overestimations of risk in the CTFA estimates basically cancel out.

The panel also noted that many of the assumptions are not quantifiable. The panel, following prudent public health policy, stated that it accepted assumptions which are likely to overestimate rather than underestimate risk in the cases difficult to quantify and is of the opinion that the human risk in the risk estimates it made is more likely to be over- rather than underestimated.

E. Specific Assumptions

The panel in its review of risk assessment for D&C Red No. 19 evaluated a number of CTFA's specific assumptions relevant to the color. The assumptions and the panel's revisions are as follows:

1. The absorption rate of dyes in emulsions equals 0.25 percent per day of the amount applied to the skin. CTFA assumed a 1 percent absorption rate.

2. For products based on mineral oil, the dye absorption rate equals less than 0.25 percent per day of the applied amount, as compared to CTFA's 0.5 percent. With regard to products based on castor oil, the absorption rate equals 0.04 percent (CTFA assumed 0.5 percent).

3. For aqueous products, except for those that need adjustment, the absorption rate per day equals 1 percent.

4. For talc products, 0.002 percent per day is absorbed from the amount applied.

The panel also utilized the following product-specific assumptions in risk characterization:

1. For hair cosmetics, CTFA assumed that 2 percent of the applied amount of dye reaches the skin. This is an overestimation requiring a correction factor of 0.6.

2. For nail products, the absorption of dyes is zero. CTFA assumed that 1 percent of the dye applied is available for absorption.

3. For bathwater products, 2 percent of the applied dye reaches the skin, where it is available for absorption.

4. For "wash-off" products, regardless how short the exposure time, the absorption rate is 25 percent of that of products used continuously. CTFA assumed a 50 percent rate.

5. For products other than "wash-off" products, not more than 50 percent of the amount applied is available for absorption. CTFA assumed that 100 percent of the applied amount is available.

F. The Panel's Interpretation of the Long-Term Studies

Before revising CTFA's risk assessments, the panel evaluated the available long-term studies of D&C Red No. 19 in laboratory animals. The panel agreed with FDA that the 0.075 percent dosage level of D&C Red No. 19 feeding study in rats showed that ingestion of the color additive resulted in an increased incidence of thyroid follicular tumors (adenoma and carcinoma) in treated males as compared with controls. The panel also agreed that the study appeared to be adequate and well-controlled, but noted that there was a lack of definitive information on the purity of the dye and the presence of impurities. Supplemental information indicated that levels of organic impurities were between 2 to 4 percent. The panel also agreed with FDA's conclusions regarding the CTFA-sponsored mouse study. The panel concluded that the study showed that feeding D&C Red No. 19 resulted in liver tumors in female mice.

G. Revised Risk Estimates

The panel's final step in evaluating the adequacy of CTFA's risk assessments on the external uses of D&C Red No. 19 was to determine the total amount of dye absorbed per day. The panel applied the product and dye specific assumptions discussed above to the usage data results and calculated the total absorbed amount of dye to be:

0.42 microgram per day as an average of the prospective usage survey and 1.62 micrograms per day as the upper 90th percentile of the prospective survey (CTFA assumed 0.85 microgram per day and 3.27 micrograms per day, respectively), and

0.53 microgram per day as an average of the retrospective usage survey and 1.87 micrograms per day as the upper 90th percentile of the retrospective survey (CTFA assumed 1.06 micrograms per day and 3.77 micrograms per day, respectively).

The panel believed that the prospective survey is likely to be less biased than the retrospective study. The doses pertaining to the prospective study were, therefore, used for calculating adjusted risk estimates. At the low-dose levels resulting from use of cosmetics, using the linearized multistage extrapolation model, the dose-response curve is linear, meaning that the risk of cancer is directly proportional to the dose.

The following estimates are based on 53 kilograms as a lifetime weight average for women, and include the correction factor of 0.8 to adjust for the panel's view on the quantifiable general assumptions:

	Risk (CTFA/90)	Risk (CTFA/Avg)	Risk/90	Risk/Rea
Absorbed dose	3.27	0.85	1.62	0.42
Rat	2.7×10^{-7}	7.1×10^{-8}	1.1×10^{-7}	2.8×10^{-8}
Mouse	1.3×10^{-7}	3.4×10^{-8}	0.5×10^{-7}	1.3×10^{-8}

Risk (CTFA/90) is the CTFA risk estimate at the upper 90th percentile of exposure.
Risk (CTFA/Avg) is the CTFA risk estimate at "average" estimates of exposure.
Risk/90 is the risk estimate based on the panel's calculation at the 90th percentile of exposure.
Risk (REA) is the risk estimate based on the panel's calculation of a more reasonable estimate of exposure.
Absorbed dose is the estimated dose absorbed from external uses in micrograms per day (panel estimate of the absorbed dose based on more "reasonable" assumptions than those used in the CTFA assessments).
Rat indicates that the data were derived from a rat study.
Mouse indicates that the data were derived from a mouse study.

These risk estimates are based on the reasonable estimates of exposure, whenever the panel believed that it was possible to make such an estimate. In situations where available data would allow for a choice between "degrees of reasonable estimate," the panel consistently selected the estimate associated with the higher risk.

If the dose conversion (metameter) from rodents to humans is made on a surface area basis rather than on a body weight basis (milligrams per square meter-day rather than milligrams per kilogram-day) the risk estimates would be raised by a factor of 7 for the estimate based on rat data and 12 for the estimate based on mice. The use of an upper 95 percent confidence limit for the linearized multistage model utilized in the low-dose extrapolation probably overestimates the risk for rodents. Assuming equal susceptibility for rodents and humans, and also using the most tumor-sensitive site and species, in conjunction with conservative estimates of exposure, also probably overestimate the risks for humans.

H. The Panel's Conclusion

The panel stated in its conclusion that studies have been conducted on TLC

separated dyes that showed that impurities in the color additives (UV-absorbing) were mutagenic by the Ames test while the purified dye fraction had little indication of mutagenicity. The panel concluded that the levels of these impurities (i.e., because the levels may vary from one batch of the color additive to another) may have an impact on D&C Red No. 19 carcinogenicity. However, the panel found that because of the relatively low concentration of these impurities, their presence is not likely to alter the risk assessment calculations of risk of the entire dye by a significant degree.

Although the panel characterized the risk of exposure to D&C Red No. 19 as "low," the panel recommended that the impurities be removed before the color additive is used. The panel indicated that it believed it was possible to develop simple, cost-effective techniques for removing impurities which have significant mutagenic action. The panel noted that such a "purification step" would probably reduce the "already small risk" presented by the external uses of D&C Red No. 19.

Finally, the panel noted that the dye has been shown to be phototoxic. The panel suggested that FDA consider prescribing conditions for the use of the dye that would take into account the possibility of effects as a result of light exposure.

XI. FDA'S Decision to Permanently List D&C Red No. 19

A. Reliance on Risk Estimation Techniques

The data and information regarding the safety of D&C Red No. 19 support FDA's conclusion that the substance as a whole induces cancer when tested in laboratory animals. The data and information, however, do not support any other finding of toxicity.

In the past, because the data and information show that D&C Red No. 19 is a carcinogen when ingested by rats and mice, FDA in all likelihood would have terminated the provisional listing and denied CTFA's petition for the externally applied uses of D&C Red No. 19 without any further discussion. In the present instance, however, CTFA has presented arguments that this color additive can be regulated for safe use in externally applied drugs and cosmetics. The arguments CTFA has presented are based on the premise that a determination of safety may be based on risk assessment techniques. FDA agrees that risk assessment methods are frequently helpful in evaluating the safety of carcinogenic substances. It was for these reasons that the agency requested the panel to determine whether the data and information available concerning D&C Red No. 19 provided an adequate basis from which to make reliable risk estimations. FDA agrees with the panel that CTFA's risk estimates on the use of D&C Red No. 19 in externally applied drugs and cosmetics, as modified in the panel's report, represent a reliable upper bound risk and that those risk estimates can be used to evaluate the proposed external uses of D&C Red No. 19. FDA also agrees with the panel's resolution of the agency's concerns regarding the possible toxicity of impurities in the color additive.

B. The Safety of D&C Red No. 19

1. The Carcinogenic Risk Presented

Under section 706(b)(4) of the act (21 U.S.C. 376(b)(4)), the so-called general safety clause of the statute, FDA cannot approve a color additive for a particular use unless the data presented to FDA establish that the color additive is safe for that use. Although what is meant by safe is not explained in the general safety provision, the legislative history of the act makes clear that safety requires proof to a reasonable certainty that no harm will result from the proposed use of an additive. Because D&C Red No. 19 has been shown to be a carcinogen when ingested by laboratory animals, as discussed above, the Delaney Clause (section 706(b)(5)(B)(i) of the act) is applicable. A strictly literal application of the Delaney Clause would prohibit FDA from finding that D&C Red No. 19 is safe and, therefore, prohibit FDA from permanently listing the color for externally applied uses in drugs and cosmetics. However, as seen from CTFA's and the panel's risk estimates, the calculated risk for these uses of D&C Red No. 19 is extremely low. In fact, the level is even lower than that level of risk which the agency accepts in other areas concerning carcinogens; for example, its procedures and criteria for permitting carcinogenic food additive residues in animal tissues under section 512(d)(1)(H) of the act, the DES proviso to the Delaney Clause (21 U.S.C. 360b(d)(1)(H)) (see 50 FR 45530, 45541; October 31, 1985; FDA refers to these procedures and criteria as the sensitivity of the method or SOM procedures). The risk is even lower if the panel's concerns regarding purification of the additive are resolved. With such a negligible risk, there is no gain to the public and the statutory purpose is not implemented or served by an agency action delisting the substance.

2. Resolution of the Panel's Concerns

As discussed above, the panel noted that the impurities in the color additive might be responsible for some of its toxicity. The panel recommended, therefore, that the impurities be removed before the additive is used. The panel stated: "It should be possible to develop simple techniques which are cost-effective, and inclusion of a purification step as a criteria for certification, removing those impurities which have significant mutagenic action, would probably reduce an already small risk."

The agency has traditionally ensured purity of the color additives by batch analysis of manufactured batches. Determination of appropriate manufacturing steps to ensure purity, i.e., the ability to meet certification specifications has been left to the responsibility of the color additive manufacturer. In response to the panel's report, FDA has concluded that utilization of this traditional process will ensure the purity of D&C Red No. 19. Accordingly, the agency is establishing stringent chemical specifications regarding subsidiary colors, chemical intermediates, and other impurities found in the color additives.
The agency has determined the specification limitations for these individual entities by considering the levels found in the toxicological samples and recently certified batches. In each case, the agency has selected a lower value to be established as the specification limit for each chemical entity in the color additive. In addition, the agency will require that the lakes of the color additive D&C Red No. 19 be manufactured from previously certified batches, i.e., those batches of the straight color additive that have met the new chemical specifications regarding subsidiary colors, chemical intermediates, and other impurities found in the color additives.

The latter requirement is necessary in light of the panel's view, shared by the agency, that impurities in the color additive should be controlled. The requirement will ensure that the color additive to which the public is exposed is as close as possible to the substance that was tested and found by the agency to be safe. As an alternative to requiring that the lakes of D&C Red No. 19 be made only from certified batches of the straight color additive, the agency considered whether lakes of the color additive could be analyzed to determine the level of impurities. There are numerous difficulties in attempting such an analysis (for a dicussion of these

difficulties, see the agency's advance notice of proposed rulemaking concerning lakes of color additives (44 FR 36411, 36414, June 22, 1979)). Given these difficulties and the limitations of available chemical analytical methodologies, the agency is requiring that lakes of D&C Red No. 19 be manufactured from a batch of a certified color additive, in order to ensure that safety characteristics substantially correspond to the color that was tested, found safe, and permanently listed by this document.

In its advance notice of proposed rulemaking concerning lakes, the agency announced its intention to propose general regulations concerning the definition of lakes, the safety of lakes, and the specifications for lakes (44 FR 36411, June 22, 1979). In light of that notice, the agency when listing a color additive has in the past generally deferred final action concerning lakes of the color additive. However, because of potential variation in levels of impurities and the limitations of analytical methods described above, the agency believes it is necessary to impose the requirement for use of the certified straight color additive D&C Red No. 19 prior to laking. This will ensure that the color additive to which the consumer is exposed is as similar as possible to that found by the agency to be safe. All remaining issues involving the lakes of D&C Red No. 19 will be addressed in the agency's ongoing rulemaking proceeding announced in the June 22, 1979, notice.

3. Phototoxicity

In the conclusion of its report concerning D&C Red No. 19, the panel stated that "* * * the dye has been shown to be phototoxic." The panel also advised that "[C]onditions of its use and the possibility of effects as a result of light exposure should be considered." As part of its safety evaluation, the agency has reviewed the issue of potential phototoxicity from the use of D&C Red No. 19 in externally applied drugs and cosmetics.

Historically, the phenomenon of phototoxicity of dyes was first described in the early 1900's when it was observed that paramecium were inactivated and killed when irradiated with visible light in the presence of a dye. Later it was shown that phototoxicity in biological systems involves a combined action of visible light, a dye, and oxygen. Generally, the type of photoactive dyes that are at issue here exhibit their biological effects through a photodynamic mechanism, which leads to the formulation of a reactive species of an oxygen molecule capable of reacting with micro- and macro-constituents of the cell resulting in cell damage or death. Therefore, reactive oxygen and not the dye itself is responsible for the biologic effects. It is known that many dyes in the presence of light and oxygen are capable of producing a photodynamic response, including xanthene dyes such as D&C Red No. 19 and eosin.

Most of the studies involving phototoxicity of photodynamic dyes that are described in the scientific literature were performed in a variety of in vitro test systems ranging from bacterial systems to various cell lines. FDA believes that most photodynamically active dyes irradiated in an in vitro system under the proper conditions will inactivate or kill those cells by a photodynamic mechanism.

D&C Red No. 19, in fact, has not been tested for phototoxicity in vivo using laboratory animals. It is recognized, however, that this color additive, by virtue of its structure, spectral characteristics, and in vitro testing, has the potential of being photodynamically active. Upon review of the data, the panel reached the same conclusions regarding the phototoxicity potential of D&C Red No. 19.

Based on its safety review, the agency believes that the extrapolated risk of eliciting phototoxic responses in humans from the topical application of this color additive is low. A literature review indicates that only a few in vivo studies with photodynamic dyes have been conducted using topically applied dyes in animal models or in clinical situations. The results of these studies, however, are variable and lack reproducibility (Ref. 11). It has been reported that severe lip photodermatitis can occur when eosin, a xanthene dye, comes in contact with oral mucosa, the sensitive lip tissue which lacks the protective barrier associated with the skin on other portions of the body. In contrast, normal skin to which eosin has been applied is reported to be unaffected in the presence of light.

The evaluation of the safety data for the color additive D&C Red No. 19 does not reveal a potential phototoxicity problem from external uses of the additive. In spite of the previous widespread use of this color additive in lipsticks and lip cosmetics, there are no reported phototoxic problems. The lipstick use and other ingested drug and cosmetic uses of D&C Red No. 19 were terminated by a regulation that was published in the Federal Register of February 4, 1983 (48 FR 5262). It is generally acknowledged that lip tissue represents a most sensitive and susceptible skin site for phototoxic effects as compared to the skin covering other portions of the body. Based on the long-term history of use of D&C Red No. 19 in lipsticks and other external cosmetics without any reported phototoxicity complaints from consumers, the agency concludes that D&C Red No. 19 use does not present a phototoxic hazard to humans.

4. Conclusion

The certification requirements discussed above resolve the concerns raised by the panel and further reduce the small risk of cancer presented by the external use of D&C Red No. 19 to some indeterminable level lower than that calculated by the panel. Under these circumstances, FDA concludes that it should not interpret the Delaney Clause to require a ban on this use of D&C Red No. 19. Therefore, FDA has decided to exercise its inherent authority under the *de minimis* doctrine and concludes that the Delaney Clause does not require a ban in the case of the externally applied uses of D&C Red No. 19. Because there are no other safety problems with this use of D&C Red No. 19, FDA finds that the externally applied uses are safe.

C. CTFA's Legal Arguments

In its various submissions concerning D&C Red No. 19, CTFA argued that the applicable statutory authority under the act and judicial precedent authorize FDA to apply a *de minimis* interpretation of the Delaney Clause for a carcinogenic color additive that presents an insignificant risk of cancer. CTFA also argued that the Delaney Clause does not apply to the external uses of D&C Red No. 19 because the tests on D&C Red No. 19 are not appropriate for the evaluation of the substance.

FDA agrees with the former position and in the following section of this notice discusses the applicability of the *de minimis* doctrine to D&C Red No. 19. The agency, however, disagrees with CTFA's latter argument, one that draws heavily on the agency's decision to list the color additive lead acetate (45 FR 72112, October 31, 1980; 46 FR 15500, March 6, 1981). CTFA's studies show that D&C Red No. 19 induces cancer at sites remote from the alimentary tract, thus indicating that the color additive is systemically absorbed before acting as a carcinogen.

Under these circumstances, in the absence of any metabolic or other data suggesting that ingestion studies are inappropriate, ingestion studies are appropriate as a basis for risk assessment of externally applied uses of

a color additive. A color additive that penetrates the skin can be distributed to remote sites in a manner analogous to the distribution that occurs when an ingested color additive enters the circulatory system from the gastrointestinal tract. FDA delayed its decision on the external uses of D&C Red No. 19 to allow the petitioner time to determine whether there is skin penetration by this additive. The study submitted by the petitioner shows that a portion of the radiolabeled material in D&C Red No. 19 used for the percutaneous study did penetrate the skin and thus would enter the circulatory system.

Moreover, FDA's decision concerning lead acetate was based upon the unusual combination of scientific facts, peculiar to the use of lead acetate in hair dyes, which the agency recognized "will rarely, if ever, be presented again in this context" (45 FR 72112, 72115; October 31, 1980). Similar facts do not exist in the case of D&C Red No. 19. For example, a key factor that influenced FDA's judgment that the Delaney Clause just did not apply to lead acetate was the fact that a background level of lead is always present in the blood of humans, a background level much greater than the possible increase in lead burden that would result from the use of lead acetate in hair dyes. There is, of course, no background level of D&C Red No. 19 in humans. The agency believes that the tests on D&C Red No. 19 are appropriate for an evaluation of the substance under the Delaney Clause.

D. The de Minimis Doctrine and Its Applicability to D&C Red No. 19

Two conditions must apply to justify an agency's exercise of its authority to interpret a legal requirement as not requiring action in *de minimis* situations. First, it must be consistent with the legislative design for the agency to find that a situation is trivial and, therefore, one that need not be regulated. *Alabama Power Co.* v. *Costle*, 636 F.2d 333, 360 (DC Cir. 1979). Second, it must be clear that the situation is in fact trivial, and that no real benefit will flow from regulating the particular situation. *Environmental Defense Fund* v. *Environmental Protection Agency*, 636 F.2d 1267, 1283–1284 (DC Cir. 1980). Both conditions apply here.

1. The establishment of a *de minimis* exception to the Delaney Clause is consistent with the legislative design.

In *Alabama Power Co.* v. *Costle*, supra, the court stated that the implication of *de minimis* authority is consistent with most statutes. The court stated that unless Congress has been extraordinarily rigid, there is likely a basis for an implication of such authority. *Id.* at 360–361. That Congress was not so rigid as to preclude the implication of *de minimis* authority under the Delaney Clause is evidenced both by the stated congressional intent in enacting the Delaney Clause and by the stated purpose of this provision.

The clearest statement of the congressional intent for the Delaney Clause is in the legislative history of the Color Additive Amendments of 1960. The Senate considered that the calculation of risk would permit interpretation of the Delaney Clause to allow approval of color additives producing a negligible risk. This is clear from a colloquy on the Senate floor initiated by Senator Jacob Javits in debate on his motion to reconsider the vote to approve the Color Additive Amendments. Senator Javits, focusing on the Delaney Clause, made the record clear in discussion with Republican leader Senator Dirksen and committee chairman Senator Hill that the Senate had agreed to pass the Color Additive Amendments with the Delaney Clause based upon its understanding that the authority conferred by that clause "should be used and applied within the 'rule of reason.'" 106 Congressional Record 15381 (July 1, 1960).[1] Both Senator Dirksen and Senator Hill agreed that the "rule of reason" was to be applied in interpreting the Delaney Clause. *Id.* On that basis, Senator Javits did not pursue his motion to reconsider.

The term "rule of reason" was taken from a report to the President from the President's Science Advisory Committee and from the Departments of Agriculture and of Health, Education, and Welfare (the predecessor to the Department of Health and Human Services) that analyzed the effect of the Delaney Clause that is applicable to food additives. That report defines the "rule of reason" as meaning that: "Every statute must be interpreted in the light of reason and common understanding to reach the results intended by the legislature." 106 Congressional Record 15380. The report stated its conclusion that "an area of administrative discretion based on the rule of reason is unavoidable if the clause is to be workable." 106 Congressional Record 15381.

This report on implementation of the food additive provision, relied upon by the Senators as illustrating their understanding of the types of circumstances in which the "rule of reason" would appropriately be applied, accurately predicted the advent of the science of risk assessment. The report stated that: "From the experience obtained in animal experiments and study of humans who have been exposed to carcinogens in the course of their work the panel believes that the probability of cancer induction from a particular carcinogen in minute doses may be eventually assessed by weighing scientific evidence as it becomes available." 106 Congressional Record 15380–15381.

Thus, the Senate agreed to adopt the color additive Delaney Clause only with the understanding that the clause would be administered with "a rule of reason," premised on the expectation that scientists would be able to determine the "probability of cancer induction." Thus, far from having been "extraordinarily rigid," Congress clearly contemplated that those administering the Delaney Clause would have discretion to implement that provision in a reasonable way.[2]

The purpose of the Delaney Clause in section 706 of the act is, after all, to protect the public from the possibility of increasing cancer risks through the use of color additives. It does not advance this purpose to prohibit uses that present a risk that is, for all practical purposes, zero. Congress recognized this fact in warning FDA not to "go overboard" in applying the Delaney Clause. 106 Congressional Record 15381. Thus, it is not inconsistent with the Delaney Clause to permit some uses of a carcinogenic color additive when those uses are shown to present a potential carcinogenic risk that is so trivial, based on extremely conservative statistical analyses, as to be the functional equivalent of no risk at all.

This interpretation of the Delaney Clause finds support in recent case law. In *Monsanto* v. *Kennedy*, 613 F.2d 947 (D.C. Cir. 1979), the court held that not all chemicals that become components of food need be considered food additives. The court stated that FDA has the authority to ignore a chemical that migrates from plastic packaging material

[1] More recently, Senator Javits reviewed this discussion. On July 10, 1985, he sent Margaret Heckler, Secretary of the Department of Health and Human Services, a letter stating that his views had not changed since 1960. He stated that it was his continuing understanding that the rule of reason "would dictate that where the danger to the public is negligible in using products with such color additives, then use should not be prohibited." A copy of Senator Javits' letter to Secretary Heckler is included in the record of this rulemaking.

[2] This grant of discretion is not inconsistent with the fact that Congress clearly intended to prevent the imposition of a tolerance for a carcinogen. Where the probability of harm is so small as to be of no practical significance, it is reasonable and appropriate to apply the *"de minimis"* concept. And, doing so does not in any way reflect an intent to set a tolerance.

into beverages if the amount of the chemical that migrates is *de minimis*. The court made that statement after it had found that some amount of the chemical in question would become a component of food by migration from packaging material—thus undeniably satisfying a literal reading of the statute. The court was "* * * concerned that the Commissioner may have reached his determination in the belief that he was constrained to apply the strictly literal terms of the statute irrespective of the public health and safety considerations * * *." 613 F.2d at 954. Accordingly, the court emphasized that the "latitude inherent in the statutory scheme to avoid literal application of the statutory definition of 'food additive' in those *de minimis* situations that, in the informed judgment of the Commissioner, clearly present no public health or safety concerns." *Id.* Thus, the *Monsanto* decision is important to the agency's present action even though that case involved the definition of "food additive" and not the application of the Delaney Clause, and even though FDA, when it issued the order that was ultimately reviewed by the court, had not made a final determination as to the carcinogenicity of the chemical at issue, acrylonitrile monomer.

The court also held in *Monsanto* that the *"de minimis"* concept, applied to the threshold "food additive" definition, could be utilized to allow the marketing of a substance that presents no real public health risk. See 613 F.2d at 955–956. Thus, the court's decision in *Monsanto* has the practical effect of shielding substances that present effectively no carcinogenic risk from the Delaney Clause. Although the court did not explicitly interpret the Delaney Clause as inapplicable to such substances, the court presumably knew that if a carcinogenic chemical was disregarded as *de minimis* in relation to the food additive definition, the chemical would not be subject to the Delaney Clause, which applies only when that definition is met. Necessarily, therefore, the court regarded this consequence as legally warranted.

Moreover, in *Scott* v. *FDA* 728 F.2d 322, 325 (6th Cir. 1984), the Sixth Circuit upheld the so-called constituents policy, whereby FDA may approve known carcinogens present in color additives as intermediaries or impurities present at levels too low to cause a response using conventional tests. Noting that FDA had determined the public health risk presented by D&C Green No. 5 was negligible, the court reasoned:

> * * * We find this determination by the *Monsanto* court persuasive and relevant to the particular facts of the instant case. We agree with the FDA's conclusion that since it "has discretion to find that low level migration into food of substances in indirect additives is so insignificant as to present no public health or safety concern * * * it can make a similar finding regarding a carcinogenic constituent or impurity that is present in a color additive" 47 FR 24280 (1982).

In addition to the foregoing precedents, the state of scientific knowledge about cancer when the Delaney Clause was passed also supports the implication of *de minimis* authority under the Delaney Clause and the fact that the provision could not possibly have been meant to be "extraordinarily rigid." In 1958, there were only four substances that were known to induce cancer in humans: soot, radiation, tobacco smoke, and *beta*-naphthylamine (Ref. 12). Only 20 years later, scientists had identified 37 human carcinogens and over 500 animal carcinogens (Ref. 12). This growth in knowledge is in part the result of an enormous increase in carcinogenicity testing in laboratory animals. As testing increases, more and more substances are found to induce cancer at some site in at least some strain or sex of laboratory animal. For example, of the 86 compounds tested by the National Toxicology Program (NTP) and reported between July 1981 and July 1984, 50 percent were determined to induce some carcinogenic effect (Ref. 13). (It should be noted that many of the compounds tested by NTP were, prior to testing, suspected of being carcinogenic.) Furthermore, recent short- and long-term toxicity testing has shown that a large number of substances naturally present in food are carcinogenic (Ref. 14).

With the advent of sensitive chemical analytical methodologies, scientists have been able to find carcinogens throughout the food supply in extremely small quantities. In 1958, the available methodologies were far less sensitive than they are today. For example, as FDA stated in its 1979 SOM proposal, the sensitivity of the methodologies increased during the period between 1958 and 1978 by "between two and five orders of magnitude" (44 FR 17070, 17075; March 20, 1979). This improved sensitivity has allowed the detection of carcinogens in the parts per trillion level so that, as one scientist has reported, "today substances can be routinely measured at concentrations up to a million times less than was possible in 1958" (Ref. 12).

There is no indication that in 1958 Congress foresaw the likelihood that, within less than 30 years after the Delaney Clause was enacted, science would have progressed so far as to be able to document the widespread presence of trace amounts of proven carcinogens in food. There is no indication that Congress anticipated the extent to which substances, then regarded either as absent from foods or as noncarcinogenic on the basis of less adequate technology, would later prove to be carcinogenic. In short, the scientific knowledge about carcinogens was much more limited in 1958 than it is today. The solution Congress decided upon in 1958 for handling added carcinogens given that state of knowledge, was not extraordinarily rigid, but was entirely reasonable, i.e., a few substances, present at levels then detectable, would be banned; most food would be unaffected.

Under these circumstances, it would not be consistent with the legislative design for FDA, today, to attempt to prohibit all added carcinogens from the food supply provided the risks presented by permitted levels are trivial. Permitting merely a *de minimis* level of risk from such carcinogens is not only sound regulatory policy but is also consistent with the underlying purpose of the Delaney Clause as enacted in 1958—the assurance that the food supply will be free from any meaningful risk of cancer presented by substances added to food.

For all the foregoing reasons, the agency concludes that it is consistent with the Delaney Clause to permit uses of a carcinogenic color additive when those uses are shown to present a carcinogenic risk that is so trivial, based on extremely conservative statistical analyses, as to be the functional equivalent of no risk at all.

2. The risk from the use of D&C Red No. 19 in externally applied cosmetics is, in fact, so trivial as to be effectively no risk.

According to the panel's revised risk estimates, the highest lifetime level of risk presented to the external uses of D&C Red No. 19 is 1 in 9 million, i.e., 1.1×10^{-7}. In all likelihood the risk is much lower. This risk is not an actuarial risk. An actuarial risk is the risk determined by the actual incidence of an event. In contrast, the computed risk is a projection based on certain conservative assumptions that do not understate risk. The assumptions that were relied upon have been stated previously in the document describing the panel's computations. The risk from the use of D&C Red No. 19 in externally applied drugs and cosmetics will not exceed 1 in 9 million and is likely to be somewhere between some much lower level and zero. The 1 in 9 million level represents

a 1 in 9 million increase in risk over the normal risk of cancer in a lifetime. FDA emphasizes that this level of risk does not mean that 1 in every 9 million people will contract cancer as a result. Rather, in all likelihood, no one will contract cancer as a result of this exposure. In addition, the agency is requiring more stringent certification specifications which should lower risks.

In light of the level of risk presented by the external uses of D&C Red No. 19, FDA finds that the uses are safe, that they impose no additional risk of cancer to the public, and that any risk they may present is of no public health consequence. It is in just these circumstances, where there is no meaningful increase in public health protection from applying the strict, literal terms of a legal standard, that the courts have found the *de minimis* doctrine to be applicable. For example, the court in *Monsanto* equated *"de minimis"* with a finding that migration of an indirect food additive is "insignificant" (613 F.2d at 947) in a context where the court clearly recognized that the real question was the toxicity of a particular level of migration.

Furthermore, FDA and other regulatory agencies have, in the past, found higher risks than those presented by D&C Red No. 19 to be permissible. For example, in the ongoing SOM rulemaking proceeding, FDA has proposed that an assay method sufficient to detect a carcinogenic residue posing a calculated upper bound risk of 1 in 1 million is appropriate because such a level imposes no additional risk of cancer to the public (see 44 FR 17070, 17093; March 20, 1979). The agency has concluded that as a result of this use of the 1 in 1 million level of risk as far as can be determined in all probability, no one will contract cancer from admittedly carcinogenic residues in edible animal tissue. (See 50 FR 45530, 45541; October 31, 1985.)

In several proceedings involving the agency's policy for carcinogenic impurities in food and color additives, FDA has also found that a risk on the order of a 1 in 1 million lifetime risk is low enough to be considered safe within the meaning of the general safety clause. See, e.g., the administrative record compiled in the rulemaking on D&C Green No. 6 (47 FR 14138; April 2, 1982).

Furthermore, in a notice published in the Federal Register of December 16, 1985 (50 FR 51551), the agency proposed that methylene chloride when used to decaffeinate coffee is safe, in light of the fact that the potential risk posed by permitted levels of methylene chloride residues in coffee does not exceed a level of 1 in 1 million. In that notice, the agency also suggested that the lifetime risk for the use of methylene chloride to decaffeinate coffee is *de minimis*.

Other Federal agencies have also used a 1 in 1 million level as a basis for regulatory decisionmaking permitting human exposure to carcinogens (Ref. 15). In fact, they have sometimes made regulatory decisions that have allowed a cancer risk greater than 1 in 1 million. The Occupational Safety and Health Administration (OSHA), for example, has focused its regulatory efforts on risks in the workplace that are much higher than 1 in 1 million lifetime level of risk.

For example, under the Occupational Safety and Health Act (OSH Act) (29 U.S.C. 651 et seq.), OSHA issues health standards for the workplace. Before issuing a standard, OSHA must make a formal showing of "significant risk from exposure." Accordingly, OSHA uses quantitative risk assessment to compare the magnitude of risk presented by the various possible levels of exposure to a substance before establishing a permissible exposure limit. In the Federal Register of January 14, 1983 (48 FR 1864), OSHA established a new permissible exposure limit for inorganic arsenic after determining the risk of lung cancer death associated with such a level would be 8 cases per 1,000 workers exposed over a working lifetime. The standard was upheld by the Ninth Circuit Court of Appeals in *ASARCO* v. *OSHA*, 746 F.2d 483 (9th Cir. 1984). In a similar action in the Federal Register of June 22, 1984 (49 FR 25734), OSHA published a final rule establishing a new permissible exposure limit for ethylene oxide. The new 1 part per million permissible exposure limit represented a risk of 12 to 23 excess deaths per 10,000 workers exposed over a working lifetime.

The Environmental Protection Agency (EPA) in recent years has also relied upon the 1 in 1 million lifetime level as a reasonable criterion for separating high risk problems from low risk problems presented by the wide ranging environmental contaminants EPA must regulate. In the Federal Register of November 23, 1984 (49 FR 46294), EPA proposed guidelines for carcinogen risk assessment. The proposal outlined a procedure for characterizing substances based on the experimental weight of evidence of carcinogenicity. For those compounds classified as known or probable human carcinogens, EPA set the 1 in 1 million risk level as the "point of departure" for determining what level of a carcinogen may cause concern.

For example, under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), EPA sets drinking water standards that contain maximum contaminant levels for toxicants, including carcinogens. Maximum contaminant levels for carcinogens that have been promulgated or proposed to date by EPA generally fall into lifetime risk ranges of 1 in 10,000 to 1 in 1 million (Ref. 16). Similarly, EPA recently proposed to establish the 1 in 1 million level as the "point of departure" in determining the level of control for all known and possible carcinogenic constituents compounds resulting from hazardous waste contamination (51 FR 1602, 1635; January 14, 1986). As an alternative, EPA proposed to consider estimates of population in determining the appropriate level of control for each constituent. Thus, if a very large number of people is believed to be potentially exposed to a very potent carcinogenic constituent released from contaminated land disposal units, EPA could decrease the level of risk to as low as 1 in 10 million. If the size of the potentially exposed population is not large, the "point of departure" would remain at the 1 in 1 million level. However, if a small number of people was believed to be exposed to the contaminant, such that the incidence of cancer would be expected to be small from the exposure, EPA would consider increasing the acceptable risk level to 1 in 100,000 or 1 in 10,000.

Although comparisons between the safety decisions made by OSHA and EPA with those made by FDA must be tempered by the fact that the decisions are made under different statutory frameworks, the decisions do support the consensus proposition that a lifetime level of 1 in 1 million presents an extremely small risk.

Furthermore, FDA's conclusion that a 1 in 1 million level represents an insignificant level of risk has not been arrived at hastily. For example, when it first proposed the SOM procedures and criteria on July 19, 1973 (38 FR 19226), the agency stated that an acceptable level of risk for carcinogenic residues in edible animal tissues would be 1 in 100 million. In the Federal Register of February 22, 1977 (42 FR 10412), the agency concluded that the 1 in 100 million level was unnecessarily conservative in light of the numerous conservatisms implicit in risk assessment and because the level provided only a minor incremental increase in the degree of confidence presented by the higher 1 in 1 million level. The agency concluded that the 1 in 1 million level constituted a risk level that one could properly consider to present an insignificant public health

concern (see also 44 FR 17070; March 20, 1979). In the most recent **Federal Register** document concerning the SOM rulemaking (50 FR 45530; October 31, 1985), the agency explained that it considered raising the level yet another order of magnitude to 1 in 100,000 but chose not to do so. FDA reasoned that in recent years the 1 in 1 million level has become a benchmark in the evaluation of the safety of carcinogenic compounds administered to food-producing animals. Furthermore, the agency stated that there is currently widespread confidence that this level presents an insignificant risk of cancer. This point is underscored by the fact that every comment on the risk level aspect of the 1979 SOM proposal regarded the 1 in 1 million level as insignificant. In making the decision to retain the 1 in 1 million level for purposes of the SOM proceeding, FDA recognized explicitly that there may be a higher level of risk that is more appropriate to characterize as a "no residue" level, but that in light of the current uncertainties that accompany making a decision as to the most appropriate level of risk, the 1 in 1 million level was the most reasonable and defensible choice (50 FR 45542).

The level of risk presented by D&C Red No. 19 is extremely low. In relation to other risks regulated by FDA and other Federal agencies, the risk presented by the external uses of D&C Red No. 19 is, indeed, trivial.

XII. Conclusion

Based on the foregoing, FDA concludes that the risk of cancer presented by the use of D&C Red No. 19 in externally applied drugs and cosmetics, as limited by this action, is so low as to be essentially nonexistent. Given such a low level of risk, FDA has concluded that there is no safety gain to the public if it interpreted the Delaney Clause to require a ban on this use for the color additive. Therefore, FDA, exercising its inherent authority under the *de minimis* doctrine, concludes that the Delaney Clause does not require a ban in this situation. Because there are no other known safety problems from the use of D&C Red No. 19 for coloring externally applied cosmetics, FDA finds that the color additive is safe under the prescribed conditions of use set forth in the regulation below.

The agency is establishing new chemical specifications for the Part 74 listings that identify the color additive. D&C Red No. 19 more precisely than those currently listed in 21 CFR 82.1319.

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decisions to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any material that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.24(b)(3) (50 FR 16636; April 26, 1985) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354) do not apply to actions of this type.

XIII. References

The following information has been placed on file at the Dockets Management Branch (address above) and is available for review in that office between 9 a.m. and 4 p.m., Monday through Friday. The final toxicity study reports, the agency's toxicology evaluations of these studies, and other information relied upon by the agency in reaching its decision are also on file at the Dockets Management Branch for public review.

1. Franz, T. J., "Percutaneous Absorption of D&C Red No. 19 Through Human Skin *In Vitro*," February 1983.

2. "Determination of Subsidiary Colors in Various Lots of D&C Red No. 19 by Thin Layer Chromatography," February 1983.

3. "Final Review and Analysis of Scientific Studies and Risk Assessment Supporting the Safety of D&C Red No. 19 for use in External Cosmetics and Drug Products Not Subject to Incidental Ingestion," February 15, 1983.

4. Letter from E. Edward Kavanaugh to Gerad L. McCowin, April 29, 1986.

5. Division of Toxicology Memorandum of Toxicology Data for D&C Red Nos. 19 and 37, April 25, 1973.

6. Bureau of Foods' Cancer Assessment Committee Memorandum of Conference, August 12, 1982.

7. "Coal Tar Hair Dyes," Proposed Warning Statement, 43 FR 1101, 1103; January 6, 1978.

8. Klaassen, C. D., "Absorption, Distribution and Excretion of Toxicants," *in* "Toxicology, The Basic Science of Poisons," Chapter 3, Casarett, L.J., and J. Doull (Eds.), Macmillan Pub. Co. Inc., New York, pp. 26–44, 1975.

9. "Lead Acetate; Listing As a Color Additive in Cosmetics That Color the Hair on the Scalp," 45 FR 72112, October 31, 1980.

10. "Removal of Stay of Regulation for the Listing of Lead Acetate as a Color Additive in Cosmetics That Color the Hair on the Scalp; Confirmation of Effective Date," 46 FR 15500, March 6, 1981.

11. Kligman, A.M., and K.H. Kaidbey, "Human Models for Identification of Photosensitizing Chemicals," *Journal of the National Cancer Institute*, 69:269, 1982.

12. Wilson, R., "Risks Caused by Low Levels of Pollution, "*Yale Journal of Biology and Medicine*, 51:37, 48, 1978.

13. Haseman, J., et al., "Results From 86 Two-Year Carcinogenicity Studies Conducted by the National Toxicology Program," *Journal of Toxicology and Environmental Health*, 14:621, 634, 1984.

14. Ames, B., "Dietary Carcinogens and Anticarcinogens," *Science*, 221:1256, September 23, 1983.

15. Milvy, P., "A General Guideline for Management of Risk from Carcinogens," *Risk Analysis*, 6:69, 1986.

16. Crouch, E., et al., "The Risks of Drinking Water," *Water Resources Research, 19:1359, 1983.*

XIV. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. By adding new § 74.1319 to read as follows:

§ 74.1319 D&C Red No. 19.

(a) *Identity.* (1) The color additive D&C Red No. 19 is 9-(2-carboxyphenyl)-3,6-bis(diethylamino)-xanthylium chloride (CAS Reg. No. 81–88–9). The color additive is manufactured by heating phthalic anhydride with diethyl-*m*-aminophenol followed by saponification with base. The color is isolated as the chloride by treatment with hydrochloric acid and is further purified and dried.

(2) Color additive mixtures for use in externally applied drugs made with D&C Red No. 19 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter for use in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* D&C Red No. 19 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Volatile matter (at 135 °C), not more than 5 percent.
Total color, not less than 92 percent.
Water insoluble matter, not more than 0.25 percent.
Diethyl-*m*-aminophenol, not more than 0.1 percent.
o-(2-Hydroxy-4-diethylaminobenzoyl) benzoic acid, not more than 0.25 percent.
Phthalic acid, not more than 0.25 percent.
Triethylrhodamine, not more than 1.0 percent.
Other subsidiary colors, not more than 0.3 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.

(c) *Uses and restrictions.* The color additive D&C Red No. 19 may be safely used for coloring externally applied drugs in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 19 shall be certified in accordance with regulations in Part 80 of this chapter.

3. By adding new § 74.2319 to read as follows:

§ 74.2319 D&C Red No. 19.

(a) *Identity and specifications.* The color additive D&C Red No. 19 shall conform in identity and specifications to the requirements of § 74.1319 (a)(1) and (b).

(b) *Uses and restrictions.* The color additive D&C Red No. 19 may be safely used for coloring externally applied cosmetics in amounts consistent with current good manufacturing practice.

(c) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 19 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. In § 81.1 *Provisional lists of color additives* by removing the entry .for "D&C Red No. 19" in paragraph (b).

§ 81.27 [Amended]

6. In § 81.27 *Conditions of provisional listing* by removing the entry for "D&C Red No. 19" in paragraph (d) introductory text table.

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

7. The authority citation for 21 CFR Part 82 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

8. By revising § 82.1319 to read as follows:

§ 82.1319 D&C Red No. 19.

The color additive D&C Red No. 19 shall conform in identity and specifications to the requirements of § 74.1319 (a)(1) and (b) of this chapter. D&C Red No. 19 is restricted to use in externally applied drugs and cosmetics. D&C lakes shall be made only from batches of D&C Red No. 19 previously certified in accordance with the requirements of § 74.1319 (a)(1) and (b) of this chapter.

Dated: July 30, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–17720 Filed 8–5–86; 8:45 am]

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21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of FD&C Yellow No. 6, D&C Orange No. 17, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 19; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red. No. 8, D&C Red No. 9, and D&C Red No. 19 for use as color additives in drugs and cosmetics and for the provisional listing of FD&C Yellow No. 6 for use as a color additive in food, drugs, and cosmetics. The new closing date will be October 6, 1986. FDA has decided that this postponement is necessary (1) to provide time for the receipt and evaluation of any objections submitted in response to the final rules, published elsewhere in this issue of the Federal Register, permanently listing the external drug and cosmetic uses of D&C Orange No. 17 and D&C Red No. 19; and (2) to provide time for the preparation of documents that will explain the bases for the agency's decisions concerning the conditions under which FD&C Yellow No. 6, D&C Red No. 8, and D&C Red No. 9 may be safely used.

DATES: Effective August 6, 1986, the new closing date for FD&C Yellow No. 6, D&C Orange No. 17, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 19 will be October 6, 1986.

VOL 51 ISS 152 AG 7 1986 UMI

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of August 6, 1986, for the provisional listing of FD&C Yellow No. 6, D&C Orange No. 17, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 19 by regulation published in the **Federal Register** of June 6, 1986 (51 FR 20786). FDA extended the closing date for these color additives until August 6, 1986, to provide time for the preparation and publication of appropriate **Federal Register** documents. The regulation set forth below will postpone the August 6, 1986, closing date for the provisional listing of these color additives until October 6, 1986.

In the **Federal Register** of June 6, 1986 (51 FR 20786), FDA announced that the agency has essentially completed its review and evaluation of available information relevant to the use of these color additives in food, drugs, and cosmetics. The agency has concluded that the external drug and cosmetic uses of D&C Red No. 8, D&C Red No. 9, D&C Orange No. 17, and D&C Red No. 19, and the food, drug, and cosmetic uses of FD&C Yellow No. 6 are safe. Thus, the agency has decided to permanently list the color additives for these uses. The agency has also decided, based on its evaluation of the ingested drug and cosmetic uses of D&C Red No. 8 and D&C Red No. 9 that they are safe and may be permanently listed for these uses at significantly reduced concentrations. New certification specifications are also being developed for these color additives.

Elsewhere in this issue of the **Federal Register**, FDA is publishing final rules permanently listing the external drug and cosmetic uses of D&C Orange No. 17 and D&C Red No. 19. These final rules provide 30 days for any person who will be adversely affected by these final rules to file written objections. The postponement of the closing date for 60 days will provide time for receipt and evaluation of objections or requests for a hearing submitted in response to these final rules.

The agency has not yet completed documents fully describing the bases for its decisions concerning the conditions under which FD&C Yellow No. 6, D&C Red No. 8, and D&C Red No. 9 may be safely used. Therefore, FDA believes that it is reasonable to postpone the closing date for these colors until October 6, 1986, to provide time for the preparation and publication of appropriate **Federal Register** documents. FDA concludes that this extension is consistent with the public health and the standards set forth for continuation of provisional listing in *McIlwain* v. *Hayes*, 690 F.2d (DC Cir. 1982).

Because of the shortness of time until the August 6, 1986, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of August 6, 1986. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553(b) and (d) (1) and (3), this postponement is issued as a final regulation, effective on August 6, 1986.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* by revising the closing dates for "FD&C Yellow No. 6" in paragraph (a) and for "D&C Orange No. 17," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 19" in paragraph (b) to read "October 6, 1986."

§ 81.27 [Amended]

3. In § 81.27 *Conditions of provisional listing* by revising the closing dates for "FD&C Yellow No. 6," "D&C Orange No. 17," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 19" in paragraph (d) to read "October 6, 1986."

Dated: July 30, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-17721 Filed 8-5-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 20

[Docket No. R-86-1305; FR-2216]

Board of Contract Appeals; Bid Protest Procedures for National Housing Contracts

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Rules of the HUD Board of Contract Appeals (HUDBCA) to remove 24 CFR Part 20 Subpart C—Bid Protest Procedures for National Housing Act Contracts. Subpart C confers authority on the HUD Board of Contract Appeals to consider bid protests regarding the award of procurement and sales contracts entered into under the National Housing Act, 12 U.S.C. 1701-1749aaa-5. This rule rescinds the HUDBCA's authority to review bid protests concerning National Housing Act contracts because of the availability of administrative review at the General Accounting Office and judicial review in the United States Claims Court or U.S. District Courts.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: David T. Anderson, Chairman, Board of Contract Appeals, Room 2158, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410-5000, Telephone (202) 755-0132. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: As a result of General Accounting Office (GAO) decisions which held that GAO lacked jurisdiction over bid protests regarding the award of National Housing Act procurement contracts, on May 16, 1979, the Department promulgated regulations at 24 CFR Part 20, Subpart C, authorizing the HUD Board of Contract Appeals (HUDBCA) to decide such protests (44 FR 28762). The purpose of these regulations was to provide protesters an affordable, fair and impartial administrative review process for contract awards similar to the review procedures before GAO which were available to protesters under other Government contracts. The regulations also authorized the HUDBCA to decide protests concerning the award or proposed award of contracts for the sale or other disposition of real and related property entered into under the National Housing Act.

In 1984, Congress enacted the Competition in Contracting Act (CICA), 31 U.S.C. 3551–3556, which provides GAO with express statutory authority to decide bid protests concerning solicitations by a "Federal agency" which under the law includes any executive department, independent establishment and any wholly-owned Government corporation. On November 14, 1985 GAO held that, under CICA, GAO's jurisdiction extended to bid protests concerning National Housing Act procurements. See *CoMont Inc.* B–219730 85–2 CPD ¶555, 86 Comp. Gen. ———. (Nov. 14, 1985).

The GAO bid protest procedures promulgated under CICA provide protesters greater relief than the existing HUDBCA procedures at 24 CFR Part 20. Under the GAO procedures, contracting agencies must stay award of a contract under a protested procurement where the contracting agency receives notice of the protest prior to award unless the head of the procuring activity determines that urgent and compelling circumstances significantly affecting interests of the United States will not permit the activity to await a GAO decision. Also, where a protest is filed within 10 days after award contracting agencies must stay contract performance pending a GAO decision unless a similar finding is made by the head of the procuring activity. Additionally, under GAO procedures a successful protester may recover attorneys fees and costs. None of these remedies available at GAO is available to protesters under the HUDBCA's protest regulation; the HUD protest procedures at 24 CFR Part 20 were published prior to the enactment of CICA, and they do not advise protesters of their appeal rights to GAO and the relief available to them under the CICA.

Because GAO will now decide National Housing Act protests, the Department believes it is unnecessary at this time for the HUDBCA to continue to hear these cases under 24 CFR Part 20, Subpart C. Also, the Department believes that by failing to adequately advise protesters of their rights, its present regulations may cause confusion and forfeiture of interested parties' rights to file before GAO. Accordingly, the Department is amending its regulation to remove HUDBCA jurisdiction over these matters under Part 20 by repealing subpart C. The HUD Acquisition Regulation (HUDAR) will also be revised in another rulemaking to reflect this amendment.

In repealing Subpart C, the Department is also eliminating the bid protest procedures for protests concerning contracts for the sale or other disposition of property acquired under the National Housing Act. These procedures have rarely been used by protesters. Indeed, since the HUDBCA bid protest regulations became effective in May 1979, only seven bid protests concerning the sale of HUD properties have been filed with the HUDBCA, and only one protest has been filed since 1983. Protests concerning property sales contracts under the National Housing Act have normally been filed directly with property disposition contracting officers. In those instances where protesters have been unable to obtain relief from contracting officers, protesters have sought relief from the courts rather than administrative review by the HUDBCA. This is because a court, unlike the HUDBCA, may enjoin a sale pending resolution of the merits of a protest. In light of the fact that protesters do not use the HUDBCA bid protest review procedures for sales contracts, and because review by contracting officers and judicial review have provided ample relief, the Department has determined to remove all of the protest jurisdiction conferred upon the HUDBCA by Subpart C including responsibility for resolution of protests concerning National Housing Act sales contracts.

The Secretary has determined that notice and prior public comment concerning this rule are not necessary to protect the public interest. The rights of interested parties to an administrative review of a contracting officer's decision regarding awards of National Housing Act contracts are unaffected by this rule. Virtually all interested parties will continue to have administrative review of their protests in a forum, the GAO, which can afford greater relief to successful protesters than the HUDBCA. For sales contracts, protesters will continue to have their right to administrative review by the contracting officer followed by judicial review.

In accordance with 24 CFR 50.20(k) this rulemaking is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is procedural in nature and should impose no economic burdens on parties seeking administrative review of contracting officer decisions.

This rule was listed as item 3 on the corrections to the Department's Semiannual Agenda of Regulations published on June 11, 1986 (51 FR 21290, 21293) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog Federal Domestic Assistance includes no program covering this Part.

List of Subjects in 24 CFR Part 20

Administrative practice and procedure, Government contracts, organization and functions (Government agencies), Government procurement.

Accordingly, Title 24 of the Code of Federal Regulations Part 20 is amended as follows:

PART 20—BOARD OF CONTRACT APPEALS

1. The authority citation for 24 CFR Part 20 continues to read as follows:

Authority: The Contract Disputes Act of 1978 (41 U.S.C. 601–613); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§§ 20.15–20.25 [Removed]

2. Subpart C (§§ 20.15–20.25) of Part 20 is removed.

Dated: July 24, 1986.

John J. Knapp,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 86–17686 Filed 8–6–86; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20, 25, and 602

[T.D. 8095]

Estate and Gift Taxes; Qualified Disclaimers of Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the disclaimer of property transferred by gift or inheritance. Changes to the applicable law were made by the Tax Reform Act of 1976, the Revenue Act of 1978 and the Act of October 4, 1966. These regulations provide necessary guidance to the public for compliance with the law and affect those persons who disclaim an interest in property.

DATES: The regulations are effective for taxable transfers made after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: William A. Jackson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T: 202–566–4336, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 22, 1980, the **Federal Register** published proposed amendments to the Estate and Gift Tax Regulations (26 CFR Parts 20 and 25) under sections 2041, 2045, 2055, 2056, 2511, 2514 and 2518 of the Internal Revenue Code of 1954 (Code) (45 FR 48922). The amendments were proposed to conform the regulations to section 2009(b) of the Tax Reform Act of 1976 (90 Stat. 1893), which added section 2518 to the Code; section 702(m) of the Revenue Act of 1978 (92 Stat. 2935), which allowed a surviving spouse to receive an interest in property as a result of a qualified disclaimer by the spouse; and the Act of October 4, 1966 (80 Stat. 872), which allowed an interest disclaimed by a person other than the surviving spouse to be treated as passing from the decedent to the surviving spouse where the spouse receives the interest as a result of the disclaimer. A public hearing was held on November 18, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Summary of Revisions

Effective Dates

Sections 20.2041–3(d)(6)(i) and 25.2518–1(a) have been revised to clarify that section 2518 applies to all interests in property if the interest in the property was created by a taxable transfer made after December 31, 1976. Thus, section 2518 applies to a revocable trust created prior to December 31, 1976 if it becomes irrevocable after that date. The 9-month period in such a case would be measured from the date on which the transfer creating the interest became irrevocable.

Effect of a Qualified Disclaimer

One commentator suggested that § 25.2518–1(b) be amended to clarify that a beneficiary of a generation-skipping trust who makes a qualified disclaimer is treated as never having been a beneficiary. No revision was made in paragraph (b) of § 25.2518–1 because that paragraph already states that the disclaimed interest is treated as if it had never been transferred to the disclaimant and that the interest is treated as passing directly to the person entitled to receive the property as a result of the disclaimer.

The same commentator also suggested that § 25.2056(d)–1(a) be amended to specify the effect of a nonqualified disclaimer by a surviving spouse. No change has been made under § 25.2056(d)–1(a) because § 25.2511–1(c)(1) already specifically states that any disposition which is not a qualified disclaimer constitutes the making of a gift.

Effect of Local Law

Several commentators believed that the proposed regulation under paragraph (c)(1) of § 25.2518–1, relating to the effect of local law, is wrong because of the requirement that the disclaimer be effective under local law. In response to these comments, paragraph (c)(1) has been revised to clarify that even if the requirements of local law are not met, one can nevertheless make a qualified disclaimer under section 2518 if, under applicable local law, the interest is transferred, as a result of attempting the disclaimer, to another person without any direction on the part of the disclaimant. Mandatory actions by the disclaimant which are required under local law merely to divest ownership of the property in the disclaimant and vest it in another person will not disqualify the disclaimer for purposes of section 2518. Further, the rule under paragraph (c)(2) of § 25.2518–1 has been changed to make it clear that whether a transfer is voidable has no effect on the determination of whether a disclaimer constitutes a qualified disclaimer. This Treasury decision does not contain regulations relating to the changes made to the law by the Economic Recovery Tax Act of 1981 which allows certain transfers to be treated as qualified disclaimers even if no effective disclaimer has been made under local law. Proposed regulations relating to this change will be published shortly in another project (LR–212–81).

Beneficiary Under Twenty-one Years of Age

In order to make a qualified disclaimer under section 2518, a disclaimer must be made no later than 9 months after the transfer creating the interest in the person disclaiming, or, if later, 9 months after the day the disclaimant attains age 21. The proposed regulations have been revised to clarify in paragraph (d)(3) of § 25.2518–2 that in the case of a beneficiary of an interest in property who is under 21 years of age, any actions taken with regard to the interest by the beneficiary or a custodian prior to the beneficiary's twenty-first birthday will not be considered to be an acceptance of the interest by the beneficiary.

Joint Ownership

Several commentators believed the regulations should be revised to allow a qualified disclaimer to be made with respect to jointly owned property within 9 months of the death of the first joint tenant. Several other commentators believe that the regulations should allow at least the accretive portion to be disclaimed. Other commentators suggested that examples be inserted into the final regulations that illustrate the effect of the joint ownership rules in community property jurisdictions, the issue of acceptance, the effect of revocability, and the effect of former section 2515, relating to the creation of a joint tenancy.

A minor revision has been made in the regulations regarding the ability of a surviving joint tenant to disclaim the jointly held property. The general rule that a disclaimer of a joint interest must be made within 9 months of the transfer creating the interest remains unchanged because each joint tenant receives an interest in the entire property subject to the tenancy, as well as the rights of survivorship, at the time of the transfer creating the joint interest. See *Pearl M. Kennedy* v. *Commissioner*, Docket No. 33349–83, T.C. Memo, 1986–3, January 2, 1986. However, in the case of a joint tenancy between spouses or a tenancy by the entirety in real property created after 1976 and before 1982 where no election is made under section 2515, the surviving tenant can make a qualified disclaimer of the entire jointly held property (except any portion attributable to consideration furnished by the surviving tenant) within 9 months after the death of the first tenant to die if such tenant dies before 1982. If such tenant dies in 1982 or thereafter, the surviving tenant may only disclaim one-half of the jointly held property. In

addition, a joint tenant cannot make a qualified disclaimer of any portion of the joint interest attributable to consideration furnished by that tenant. Examples have been added to the final regulations illustrating the other issues raised by the commentator.

Surviving Spouse

Under the proposed regulations, a surviving spouse could not make a qualified disclaimer if the spouse retained the power to direct the beneficial enjoyment of disclaimed property. Several commentators believe that the Revenue Act of 1978 reversed this result. No change has been made regarding the requirements that a surviving spouse must meet in order to make a qualified disclaimer. The statute states that the interest must pass to a person without any direction on the part of the person making the disclaimer. If the spouse retains the power to direct beneficial enjoyment of the disclaimed property, the disclaimer would violate this rule.

Disclaimer of Less Than an Entire Interest

Section 25.2518–3 has been revised in response to the many comments received. Under the proposed regulations, all interests in income were treated as one separate interest and all interests in corpus were treated as another separate interest. Under the final regulations, each interest or power with respect to property that is separately created by the transferor is generally treated as a separate interest. Thus, a person could make a qualified disclaimer of one interest in corpus while retaining another interest in corpus, assuming that all other requirements of section 2518(b) have been met. However, if local law merges separately created interests, a qualified disclaimer will be allowed only if there is a disclaimer of the entire merged interest or an undivided portion of such merged interest. In addition, the final regulations provide that where a merger of separate interests would occur but for the creation by the transferor of a nominal interest, a qualified disclaimer will be allowed only if there is a disclaimer of all of the separate interests, or an undivided portion of all such interests, which would have merged but for the nominal interest.

Disclaimer of a Pecuniary Amount

Section 25.2518–3(c) of the proposed regulations has been revised to provide that a disclaimer of a specific pecuniary amount out of a pecuniary or nonpecuniary bequest or gift can be a qualified disclaimer provided that no income or other benefit of the disclaimed amount inures to the benefit of the disclaimant either prior to or subsequent to the disclaimer. Thus, following a disclaimer of a specific pecuniary amount, the disclaimed amount and any income attributable to such amount must be segregated from the portion of the gift or bequest that was not disclaimed. Further, the segregation of any assets making up the disclaimed amount must be made on the basis of the fair market value of the assets on the date of the disclaimer or on a basis fairly representative of the value changes that may have occurred between the date of the transfer and the date of the disclaimer. The final regulations also provide rules for making a disclaimer of a specific pecuniary amount after the beneficiary has already received a distribution from the gift or bequest.

Life Insurance and Annuity Contracts

Two commentators questioned the necessity of singling out life insurance proceeds and annuities because the same rules apply to such interests as apply to any other interest in property. In response to this comment, § 25.2518–4 has been deleted from the final regulations.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The notice of proposed rulemaking relating to this final rule was published before January 1, 1981. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required for this final rule.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB (control number 1545–0959).

Drafting Information

The principal author of this regulation is William A. Jackson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

26 CFR Part 602

Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 20, 25, and 602 are amended as follows:

PART 20—[AMENDED]

Paragraph 1. The authority citation for Part 20 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. Section 20.2041–3(d)(6) is revised to read as follows:

§ 20.2041–3 Powers of appointment created after October 21, 1942.

* * * * *

(c) *Releases, lapses, and disclaimers of general powers of appointment.* * * *

(6)(i) A disclaimer or renunciation of a general power of appointment created in a taxable transfer after December 31, 1976, in the person disclaiming is not considered a release of the power if the disclaimer or renunciation is a qualified disclaimer as described in section 2518 and the corresponding regulations. If the disclaimer or renunciation is not a qualified disclaimer, it is considered a release of the power by the disclaimant.

(ii) The disclaimer or renunication of a general power of appointment created in a taxable transfer before January 1, 1977, in the person disclaiming is not considered to be a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of its existence will be presumed to constitute an acceptance of the power. In any case where a power is purported to be disclaimed or renounced as to only a portion of the property subject to the power, the determination as to whether or not there has been a complete and unqualified refusal to accept the rights to which one is entitled will depend on all the facts and circumstances of the particular case, taking into account the recognition and effectiveness of such a disclaimer under local law. Such rights

refer to the incidents of the power and not to other interests of the decedent in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests.

* * * * *

Par. 3. There is added immediately after § 20.2044–1, the following new § 20.2046–1:

§ 20.2046–1 Disclaimed property.

This section shall apply to the disclaimer or renunciation of a taxable transfer creating an interest in the person disclaiming made after December 31, 1976. If a qualified disclaimer is made with respect to such a transfer, the Federal estate tax provisions are to apply with respect to the property interest disclaimed as if the interest had never been transferred to the person making the disclaimer. See section 2518 and the corresponding regulations for rules relating to a qualified disclaimer.

Par. 4. Section 20.2055–2(c) is revised to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(c) *Disclaimers*—(1) *Decedents dying after December 31, 1976.* In the case of a bequest, devise, or transfer made by a decedent dying after December 31, 1976, the amount of a bequest, devise or transfer for which a deduction is allowable under section 2055 includes an interest which falls into the bequest, devise or transfer as the result of either—

(i) A qualified disclaimer (see section 2518 and the corresponding regulations for rules relating to a qualified disclaimer), or

(ii) The complete termination of a power to consume, invade, or appropriate property for the benefit of an individual by reason of the death of such individual or for any other reason, if the termination occurs within the period of time (including extensions) for filing the decedent's Federal estate tax return and before such power has been exercised.

(2) *Decedents dying before January 1, 1977.* In the case of a bequest, devise or transfer made by a decedent dying before January 1, 1977, the amount of a bequest, devise or transfer, for which a deduction is allowable under section 2055 includes an interest which falls into the bequest, devise or transfer as a result of either—

(i) A disclaimer of a bequest, devise, transfer, or power, if the disclaimer is made within 9 months (15 months if the decedent died on or before December 31, 1970) after the decedent's death (the period of time within which the estate tax return must be filed under section 6075) or within any extension of time for filing the return granted pursuant to section 6081, and the disclaimer is irrevocable at the time the deduction is allowed, or

(ii) The complete termination of a power to consume, invade, or appropriate property for the benefit of an individual (whether the termination occurs by reason of the death of the individual, or otherwise) if the termination occurs within the period described in paragraph (c)(2)(i) of this section and before the power has been exercised. Ordinarily, a disclaimer made by a person not under any legal disability will be considered irrevocable when filed with the probate court. A disclaimer is a complete and unqualified refusal to accept the right to which one is entitled. Thus, if a beneficiary uses these rights for his own purposes, as by receiving a consideration for his formal disclaimer, he has not refused the rights to which he was entitled. There can be no disclaimer after an acceptance of these rights, expressly or impliedly. The disclaimer of a power is to be distinguished from the release or exercise of a power. The release or exercise of a power by the donee of the power in favor of a person or object described in paragraph (a) of § 20.2055–1 does not result in any deduction under section 2055 in the estate of the donor of a power (but see paragraph (b)(1) of § 20.2055–1 with respect to the donee's estate).

* * * * *

Par. 5. Section 20.2056(a)–1(a) is amended by removing the phrase "§ 20.2056(f)–1 states special rules concerning disclaimers of interests in property;" from the last sentence and inserting in its place "§§ 20.2056(d)–1 and 20.2056(d)–2 state special rules concerning disclaimers of interests in property;".

Par. 6. Section 20.2056(a)–1 (b)(2) is amended by adding "§ 20.2056(d)–(2)" to follow "§ 20.2056(d)–1,".

Par 7. Section 20.2056(d)–1 is revised to read as set forth below, and a new § 20.2056(d)–2 is added to read as set forth below:

§ 20.2056(d)–1 Marital deduction; effect of disclaimers of post-December 31, 1976 transfers.

(a) *Disclaimer by a surviving spouse.* If a surviving spouse disclaims an interest in property passing to such spouse from the decedent in a taxable transfer made after December 31, 1976, the efficacy of the disclaimer will be determined by section 2518 and the corresponding regulations. If a qualified disclaimer is determined to have been made by the surviving spouse, the property interest disclaimed is treated as if such interest had never been transferred to the surviving spouse.

(b) *Disclaimer by a person other than a surviving spouse.* If an interest in property passes to one other than the surviving spouse from a decedent in a taxable transfer made after December 31, 1976, and—

(1) The person other than the surviving spouse makes a qualified disclaimer with respect to such interest in property, and

(2) The surviving spouse is entitled to such interest in property as a result of such disclaimer, the disclaimed interest is treated as passing directly from the decedent to the surviving spouse. If the disclaimer is not a qualified disclaimer, the interest in property is considered as passing from the decedent to the person who made the disclaimer as if the disclaimer had not been made. See section 2518 and the corresponding regulations for rules relating to a qualified disclaimer.

§ 20.2056(d)–2 Marital deduction; effect of disclaimers of pre-January 1, 1977 transfers.

(a) *Disclaimer by a surviving spouse.* If an interest in property passes to a decedent's surviving spouse in a taxable transfer made by a decedent dying before January 1, 1977, and the decedent's surviving spouse makes a disclaimer of this property interest the disclaimed interest is considered as passing from the decedent to the person or persons entitled to receive the interest as a result of the disclaimer. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. It is, therefore, necessary to distinguish between the surviving spouse's disclaimer of a property interest and such surviving spouse's acceptance and subsequent disposal of a property interest. For example, if proceeds of insurance are payable to the surviving spouse and the proceeds are refused so that they consequently pass to an alternate beneficiary designated by the decedent, the proceeds are considered as having passed from the decedent to the alternate beneficiary. On the other hand, if the insurance company is directed by the surviving spouse to hold the proceeds at interest during such spouse's life and, upon this spouse's death, to pay the principal sum to another person designated by the surviving spouse, thus effecting a transfer of a remainder interest, the proceeds are considered as having

passed from the decedent to the surviving spouse. See paragraph (c) of § 20.2056(e)–2 with respect to a spouse's exercise or failure to exercise a right to take against a decedent's will.

(b) *Disclaimer by a person other than a surviving spouse*—(1) *Decedents dying after October 3, 1966 and before January 1, 1977.* This paragraph (b)(1) applies in the case of a disclaimer of property passing to one other than the surviving spouse from a decedent dying after October 3, 1966 and before January 1, 1977. If a surviving spouse is entitled to receive property from the decedent as a result of the timely disclaimer made by the disclaimant, the property received by the surviving spouse is to be treated as passing to the surviving spouse from the decedent. Both a disclaimer of property passing by the laws of intestacy or otherwise, as by insurance or by trust, and a disclaimer of bequests and devises under the will of a decedent are to be fully effective for purposes of computing the marital deduction under section 2056. A disclaimer is a complete and unqualified refusal to accept some or all of the rights to which one is entitled. It must be a valid refusal under State law and must be made without consideration. For example, a disclaimer for the benefit of a surviving spouse who promises to give or bequeath property to a child of the person who disclaims is not a disclaimer within the meaning of this paragraph (b)(1). The disclaimer must be made before the person disclaiming accepts any property under the disclaimed interest. In the case of property transferred by a decedent dying after December 31, 1970, and before January 1, 1977, the disclaimer must be made within 9 months after the decedent's death (or within any extension of time for filing the estate tax return granted pursuant to section 6081). In the case of property transferred by a decedent dying after October 3, 1966, and before January 1, 1971, the disclaimer must be made within 15 months after the decedent's death (or within any extension of time for filing the estate tax return granted pursuant to section 6081). If the disclaimer does not satisfy the requirements of this paragraph (b)(1), for the purpose of the marital deduction, the property is considered as passing from the decedent to the person who made the disclaimer as if the disclaimer had not been made.

(2) *Decedents dying after September 30, 1963 and before October 4, 1966.* This paragraph (b)(2) applies in the case of a disclaimer of property passing to one other than the surviving spouse from a decedent dying after September 30, 1963 and before October 4, 1966. If, as a result of the disclaimer by the disclaimant, the surviving spouse is entitled to receive the disclaimed property interest, then such interest shall, for the purposes of this paragraph (b)(2), be considered as passing from the decedent to the surviving spouse if the following conditions are met. First, the interest disclaimed was bequeathed or devised to the disclaimant. Second, the disclaimant disclaimed all bequests and devises under the will before the date prescribed for the filing of the estate tax return. Third, the disclaimant did not accept any property under the bequest or devise before making the disclaimer.

The interests passing by disclaimer to the surviving spouse under this paragraph (b)(2) are to qualify for the marital deduction only to the extent that, when added to any other allowable marital deduction without regard to this paragraph (b)(2), they do not exceed the greater of the deductions which would be allowable for the marital deduction without regard to the disclaimer if the surviving spouse exercised the election under State law to take against the will, or an amount equal to one-third of the decedent's adjusted gross estate. If the disclaimer does not satisfy the requirements of this paragraph (b)(2), the property is treated as passing from the decedent to the person who made the disclaimer, in the same manner as if the disclaimer had not been made.

(3) *Decedents dying before October 4, 1966.* Unless the rule of paragraph (b)(2) of this section applies, this paragraph (b)(3) applies in the case of a disclaimer of property passing to one other than the surviving spouse from a decedent dying before October 4, 1966. For the purpose of these transfers, it is unnecessary to distinguish for the purpose of the marital deduction between a disclaimer by a person other than the surviving spouse and a transfer by such person. If the surviving spouse becomes entitled to receive an interest in property from the decedent as a result of a disclaimer made by some other person, the interest is, nevertheless, considered as having passed from the decedent, not to the surviving spouse, but to the person who made the disclaimer, as though the disclaimer had not been made. If, as a result of a disclaimer made by a person other than the surviving spouse, a property interest passes to the surviving spouse under circumstances which meet the conditions set forth in § 20.2056(b)–5 (relating to a life estate with a power of appointment), the rule stated in the preceding sentence applies, not only with respect to the portion of the interest which beneficially vests in the surviving spouse, but also with respect to the portion over which such spouse acquires a power to appoint. The rule applies also in the case of proceeds under a life insurance, endowment, or annuity contract which, as a result of a disclaimer made by a person other than the surviving spouse, are held by the insurer subject to the conditions set forth in § 20.2056(b)–6.

Gift Tax Regulations

PART 25—[AMENDED]

Par. 8. The authority citation for Part 25 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. Section 25.2511–1(c) is revised to read as follows:

§ 25.2511–1 Transfers in general.

* * * * *

(c) (1) The gift tax also applies to gifts indirectly made. Thus, any transaction in which an interest in property is gratuitously passed or conferred upon another, regardless of the means or device employed, constitutes a gift subject to tax. See further § 25.2512–8 relating to transfers for insufficient consideration. However, in the case of a taxable transfer creating an interest in the person disclaiming made after December 31, 1976, this paragraph (c)(1) shall not apply to the donee if, as a result of a qualified disclaimer by the donee, the property passes to a different donee. Nor shall it apply to a donor if, as a result of a qualified disclaimer by the donee, a completed transfer of an interest in property is not effected. See section 2518 and the corresponding regulations for rules relating to a qualified disclaimer.

(2) In the case of taxable transfers creating an interest in the person disclaiming made before January 1, 1977, where the law governing the administration of the decedent's estate gives a beneficiary, heir, or next-of-kin a right completely and unqualifiedly to refuse to accept ownership of property transferred from a decedent (whether the transfer is effected by the decedent's will or by the law of descent and distribution), a refusal to accept ownership does not constitute the making of a gift if the refusal is made within a reasonable time after knowledge of the existence of the transfer. The refusal must be unequivocal and effective under the local law. There can be no refusal of ownership of property after its acceptance. In the absence of the facts to the contrary, if a person fails to refuse to accept a transfer to him of ownership of a decedent's property within a

reasonable time after learning of the existence of the transfer, he will be presumed to have accepted the property. Where the local law does not permit such a refusal, any disposition by the beneficiary, heir, or next-of-kin whereby ownership is transferred gratuitously to another constitutes the making of a gift by the beneficiary, heir, or next-of-kin. In any case where a refusal is purported to relate to only a part of the property, the determination of whether or not there has been a complete and unqualified refusal to accept ownership will depend on all of the facts and circumstances in each particular case, taking into account the recognition and effectiveness of such a purported refusal under the local law. In illustration, if Blackacre was devised to A under the decedent's will (which also provided that all lapsed legacies and devises shall go to B, the residuary beneficiary), and under the local law A could refuse to accept ownership in which case title would be considered as never having passed to A, A's refusal to accept Blackacre within a reasonable time of learning of the devise will not constitute the making of a gift by A to B. However, if a decedent who owned Greenacre died intestate with C and D as his only heirs, and under local law the heir of a decedent cannot, by refusal to accept, prevent himself from becoming an owner of intestate property, any gratuitous disposition by C (by whatever term it is known) whereby he gives up his ownership of a portion of Greenacre and D acquires the whole thereof constitutes the making of a gift by C to D.

* * * * *

Par. 10. Section 25.2514–3 is amended by revising the heading to paragraph (c), by adding headings to paragraphs (c)(1) through (c)(4), by revising paragraph (c)(5), and by adding a new paragraph (c)(6). The added and revised provisions of § 25.2514–3(c) read as follows:

§ 25.2514–3 Powers of appointment created after October 21, 1942.

* * * * *

(c) *Partial releases, lapses, and disclaimers of general powers of appointment created after October 21, 1942—(1) Partial release of power.* * * *

(2) *Power partially released before June 1, 1951.* * * *

(3) *Power partially released after May 31, 1951.* * * *

(4) *Release or lapse of power.* * * *

(5) *Disclaimer of power created after December 31, 1976.* A disclaimer or renunciation of a general power of appointment created in a taxable transfer after December 31, 1976, in the person disclaiming is not considered a release of the power for gift tax purposes if the disclaimer or renunciation is a qualified disclaimer as described in section 2518 and the corresponding regulations. If the disclaimer or renunciation is not a qualified disclaimer, it is considered a release of the power.

(6) *Disclaimer of power created before January 1, 1977.* A disclaimer or renunciation of a general power of appointment created in a taxable transfer before January 1, 1977, in the person disclaiming is not considered a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of the existence of a power shall be presumed to constitute an acceptance of the power. In any case where a power is purported to be disclaimed or renounced as to only a portion of the property subject to the power, the determination as to whether there has been a complete and unqualified refusal to accept the rights to which one is entitled will depend on all the facts and circumstances of the particular case, taking into account the recognition and effectiveness of such a disclaimer under local law. Such rights refer to the incidents of the power and not to other interests of the possessor of the power in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests.

* * * * *

Par. 11. New §§ 25.2518–1, 25.2518–2, and 25.2518–3 are added immediately after § 25.2517–1 to read as follows:

§ 25.2518–1 Qualified disclaimers of property; in general.

(a) *Applicability—(1) In general.* The rules described in §§ 25.2518–1 through 25.2518–3 apply to the qualified disclaimer of an interest in property which is created in the person disclaiming by a taxable transfer made after December 31, 1976. In general, a qualified disclaimer is an irrevocable and unqualified refusal to accept the ownership of an interest in property. For rules relating to the determination of when a transfer occurs, see § 25.2518–2 (c) (3) and (4).

(2) *Example.* The provisions of paragraph (a)(1) of this section may be illustrated by the following example:

Example. W creates an irrevocable trust on December 10, 1968, and retains the right to receive the income for life. Upon the death of W, which occurs after December 31, 1976, the trust property is distributable to W's surviving issue, *per stirpes*. The creation of the remainder interest in the trust was a taxable transfer. Therefore, section 2518 does not apply to the disclaimer of the remainder interest because the taxable transfer was made prior to January 1, 1977. If, however, W had also retained the power to designate the person or persons to receive the trust principal at her death, and as a result no taxable gift was made of the remainder interest at the time of the creation of the trust, section 2518 would apply to any disclaimer made after W's death with respect to an interest in the trust property.

(b) *Effect of a qualified disclaimer.* If a person makes a qualified disclaimer as described in section 2518(b) and § 25.2518–2, for purposes of the Federal estate, gift, and generation-skipping transfer tax provisions, the disclaimed interest in property is treated as if it had never been transferred to the person making the qualified disclaimer. Instead, it is considered as passing directly from the transferor of the property to the person entitled to receive the property as a result of the disclaimer. Accordingly, a person making a qualified disclaimer is not treated as making a gift. Similarly, the value of a decedent's gross estate for purposes of the Federal estate tax does not include the value of property with respect to which the decedent, or the decedent's executor or administrator on behalf of the decedent, has made a qualified disclaimer. If the disclaimer is not a qualified disclaimer, for the purposes of the Federal estate, gift, and generation-skipping transfer tax provisions, the disclaimer is disregarded and the disclaimant is treated as having received the interest.

(c) *Effect of local law—(1) In general—(i) Interests created before 1982.* A disclaimer of an interest created in a taxable transfer before 1982 which otherwise meets the requirements of a qualified disclaimer under section 2518 and the corresponding regulations but which, by itself, is not effective under applicable local law to divest ownership of the disclaimed property from the disclaimant and vest it in another, is nevertheless treated as a qualified disclaimer under section 2518 if, under applicable local law, the disclaimed interest in property is transferred, as a result of attempting the disclaimer, to another person without any direction on the part of the disclaimant. An interest in property will not be considered to be transferred without any direction on the part of the disclaimant if, under

applicable local law, the disclaimant has any discretion (whether or not such discretion is exercised) to determine who will receive such interest. Actions by the disclaimant which are required under local law merely to divest ownership of the property from the disclaimant and vest ownership in another person will not disqualify the disclaimer for purposes of section 2518(a). See § 25.2518–2(d)(1) for rules relating to the immediate vesting of title in the disclaimant.

(ii) *Interests created after 1981.* [Reserved].

(2) *Creditor's claims.* The fact that a disclaimer is voidable by the disclaimant's creditors has no effect on the determination of whether such disclaimer constitutes a qualified disclaimer. However, a disclaimer that is wholly void or that is voided by the disclaimant's creditors cannot be a qualified disclaimer.

(3) *Examples.* The provisions of paragraphs (c) (1) and (2) of this section may be illustrated by the following examples:

Example (1). F dies testate in State Y on June 17, 1978. G and H are beneficiaries under the will. The will provides that any disclaimed property is to pass to the residuary estate. H has no interest in the residuary estate. Under the applicable laws of State Y, a disclaimer must be made within 6 months of the death of the testator. Seven months after F's death, H disclaimed the real property H received under the will. The disclaimer statute of State Y has a provision stating that an untimely disclaimer will be treated as an assignment of the interest disclaimed to those persons who would have taken had the disclaimer been valid. Pursuant to this provision, the disclaimed property became part of the residuary estate. Assuming the remaining requirements of section 2518 are met, H has made a qualified disclaimer for purposes of section 2518 (a).

Example (2). Assume the same facts as in example (1) except that the law of State Y does not treat an ineffective disclaimer as a transfer to alternative takers. H assigns the disclaimed interest by deed to those who would have taken had the disclaimer been valid. Under these circumstances, H has not made a qualified disclaimer for purposes of section 2518 (a) because the disclaimant directed who would receive the property.

Example (3). Assume the same facts as in example (1) except that the law of State Y requires H to pay a transfer tax in order to effectuate the transfer under the ineffective disclaimer provision. H pays the transfer tax. H has make a qualified disclaimer for purposes of section 2518 (a).

(d) *Cross-reference.* For rules relating to the effect of qualified disclaimers on the estate tax charitable and marital deductions, see §§ 20.2055–2(c) and 20.2056(d)–1 respectively. For rules relating to the effect of a qualified disclaimer of a general power of appointment, see § 20.2041–3(d).

§ 25.2518–2 Requirements for a qualified disclaimer.

(a) *In general.* For the purposes of section 2518(a), a disclaimer shall be a qualified disclaimer only if it satisfies the requirements of this section. In general, to be a qualified disclaimer—

(1) The disclaimer must be irrevocable and unqualified;

(2) The disclaimer must be in writing;

(3) The writing must be delivered to the person specified in paragraph (b) (2) of this section within the time limitations specified in paragraph (c)(1) of this section;

(4) The disclaimant must not have accepted the interest disclaimed or any of its benefits; and

(5) The interest disclaimed must pass either to the spouse of the decedent or to a person other than the disclaimant without any direction on the part of the person making the disclaimer.

(b) *Writing*—(1) *Requirements.* A disclaimer is a qualified disclaimer only if it is in writing. The writing must identify the interest in property disclaimed and be signed either by the disclaimant or by the disclaimant's legal representative.

(2) *Delivery.* The writing described in paragraph (b) (1) of this section must be delivered to the transferor of the interest, the transferor's legal representative, the holder of the legal title to the property to which the interest relates, or the person in possession of such property.

(c) *Time limit*—(1) *In general.* A disclaimer is a qualified disclaimer only if the writing described in paragraph (b) (1) of this section is delivered to the persons described in paragraph (b) (2) of this section no later than the date which is 9 months after the later of—

(i) The date on which the transfer creating the interest in the disclaimant is made, or

(ii) The day on which the disclaimant attains age 21.

(2) *A timely mailing of a disclaimer treated as a timely delivery.* Although section 7502 and the regulations under that section apply only to documents to be filed with the Service, a timely mailing of a disclaimer to the person described in paragraph (b) (2) of this section is treated as a timely delivery if the mailing requirements under paragraphs (c) (1), (c) (2) and (d) of § 301.7502–1 are met. Further, if the last day of the period specified in paragraph (c) (1) of this section falls on Saturday, Sunday or a legal holiday (as defined in paragraph (b) of § 301.7503–1), then the delivery of the writing described in paragraph (b) (1) of this section shall be considered timely if delivery is made on the first succeeding day which is not Saturday, Sunday or a legal holiday. See paragraph (d) (3) of this section for rules applicable to the exception for individuals under 21 years of age.

(3) *Transfer.* For purposes of the time limitation described in paragraph (c) (1) (i) of this section, the 9-month period for making a disclaimer generally is to be determined with reference to the taxable transfer creating the interest in the disclaimant. With respect to inter vivos transfers, a taxable transfer occurs when there is a completed gift for Federal gift tax purposes regardless of whether a gift tax is imposed on the completed gift. Thus, gifts qualifying for the gift tax annual exclusion under section 2503(b) are regarded as taxable transfers for this purpose. With respect to transfers made by a decedent at death or transfers which become irrevocable at death, a taxable transfer occurs upon the date of the decedent's death. However, where there is a taxable transfer of an interest for Federal gift tax purposes and such interest is later included in the transferor's gross estate for Federal estate tax purposes, the 9-month period for making a qualified disclaimer is determined with reference to the earlier taxable transfer. In the case of a general power of appointment, the holder of the power has a 9-month period after the creation of the power in which to disclaim. A person to whom any interest in property passes by reason of the exercise or lapse of a general power may disclaim such interest within a 9-month period after the exercise or lapse. In the case of a nongeneral power of appointment, the holder of the power, permissible appointees, or takers in default of appointment must disclaim within a 9-month period after the original taxable transfer that created or authorized the creation of the power. If the transfer is for the life of an income beneficiary with succeeding interests to other persons, both the life tenant and the other remaindermen, whether their interests are vested or contingent, must disclaim no later than 9 months after the original taxable transfer. In the case of a remainder interest in property which an executor elects to treat as qualified terminable interest property under section 2056(b)(7), the remainderman must disclaim within 9 months of the transfer creating the interest, rather than 9 months from the date such interest is subject to tax under section 2044 or 2519. A person who receives an interest in property as the result of a qualified disclaimer of the interest must disclaim

the previously disclaimed interest no later than 9 months after the date of the taxable transfer creating the interest in the preceding disclaimant. Thus, if A were to make a qualified disclaimer of a specific bequest and as a result of the qualified disclaimer the property passed as part of the residue, the beneficiary of the residue could make a qualified disclaimer no later than 9 months after the date of the testator's death. See paragraph (d)(3) of this section for the time limitation rule with reference to recipients who are under 21 years of age.

(4) *Joint property*—(i) *In general.* Except as otherwise provided in paragraph (c)(4)(ii) of this section, a qualified disclaimer under section 2518(a) of an interest or any portion of an interest in a joint tenancy or a tenancy by the entirety must be made no later than 9 months after the transfer creating the tenancy. Thus, a surviving joint tenant cannot disclaim any part of the interest, including the survivorship interest, if more than 9 months have passed since the transfer creating the joint tenancy. In addition, a joint tenant cannot make a qualified disclaimer of any portion of the joint interest attributable to consideration furnished by that tenant.

(ii) *Tenancies in real property between spouses created before 1982.* In the case of joint tenancies between spouses or a tenancy by the entirety in real property created after 1976 and before 1982 where no election was made under section 2515, the surviving spouse must make a qualified disclaimer no later than 9 months after the date of death of the first spouse to die. Such a qualified disclaimer will be effective for—

(A) The entire joint interest (except any portion attributable to consideration furnished by the surviving spouse) if the date of death of the deceased spouse is before 1982; or

(B) One-half the value of the joint interest if the date of death of the deceased spouse is after 1981.
See examples (7) and (8) under paragraph (c)(5) of this section.

(5) *Examples.* The provisions of paragraphs (c)(1) through (c)(4) of this section may be illustrated by the following examples. For purposes of the following examples, assume that all beneficiaries are over 21 years of age.

Example (1). On May 13, 1978, in a transfer which constitutes a completed gift for Federal gift tax purposes, A creates a trust in which B is given a lifetime interest in the income from the trust. B is also given a nongeneral testamentary power of appointment over the corpus of the trust. The power of appointment may be exercised in favor of any of the issue of A and B. If there are no surviving issue at B's death or if the power is not exercised, the corpus is to pass to E. On May 13, 1978, A and B have two surviving children, C and D. If A, B, C or D wishes to make a qualified disclaimer, the disclaimer must be made no later than 9 months after May 13, 1978.

Example (2). Assume the same facts as in example (1) except that B is given a general power of appointment over the corpus of the trust. B exercises the general power of appointment in favor of C upon B's death on June 17, 1989. C may make a qualified disclaimer no later than 9 months after June 17, 1989. If B had died without exercising the general power of appointment, E could have made a qualified disclaimer no later than 9 months after June 17, 1989.

Example (3). F creates a trust on April 1, 1978, in which F's child G is to receive the income from the trust for life. Upon G's death, the corpus of the trust is to pass to G's child H. If either G or H wishes to make a qualified disclaimer, it must be made no later than 9 months after April 1, 1978.

Example (4). A creates a trust on February 15, 1978, in which B is named the income beneficiary for life. The trust further provides that upon B's death the proceeds of the trust are to pass to C, if then living. If C predeceases D, the proceeds shall pass to D or D's estate. To have timely disclaimers for purposes of section 2518, B, C, and D must disclaim their respective interests no later than 9 months after February 15, 1978.

Example (5). A, a resident of State Q, dies on January 10, 1979, devising certain real property to B. The disclaimer laws of State Q require that a disclaimer be made within a reasonable time after a transfer. B disclaims the entire interest in real property on November 10, 1979. Although B's disclaimer may be effective under State Q law, it is not a qualified disclaimer under section 2518 because the disclaimer was made later than 9 months after the taxable transfer to B.

Example (6). A creates a revocable trust on June 1, 1980, in which B and C are given the income interest for life. Upon the death of the last income beneficiary, the remainder interest is to pass to D. The creation of the trust is not a completed gift for Federal gift tax purposes, but each distribution of trust income to B and C is a completed gift at the date of distribution. B and C disclaim each income distribution no later than 9 months after the date of the particular distribution. In order to disclaim an income distribution in the form of a check, the recipient must return the check to the trustee uncashed along with a written disclaimer. A dies on September 1, 1982, causing the trust to become irrevocable, and the trust corpus is includible in A's gross estate for Federal estate tax purposes under section 2038. If B or C wishes to make a qualified disclaimer of his income interest, he must do so no later than 9 months after September 1, 1982. If D wishes to make a qualified disclaimer of his remainder interest, he must do so no later than 9 months after September 1, 1982.

Example (7). On March 1, 1977, H and W purchase a tract of vacant land which is conveyed to them as tenants by the entirety. The entire consideration is paid by H. H does not elect, under section 2515, to have the transaction treated as a transfer for purposes of Chapter 12. H dies on June 1, 1981. On October 1, 1981, W disclaims the property. Assuming the other requirements of section 2518(b) are satisfied, W has made a qualified disclaimer because the transfer which created W's interest is treated as not occurring until H's death since no election was made under section 2515. Had an election been made under section 2515, then W's disclaimer of any of W's interest in the property would not be a qualified disclaimer.

Example (8). Assume the same facts as in example (7) except that H dies on September 3, 1984. W has until 9 months after September 3, 1984 to make a qualified disclaimer, but she can only make a qualified disclaimer of one-half of the joint interest.

Example (9). On July 1, 1980, B transfers $10,000 to a bank account which is held jointly by B and C. Assume the transfer is not a completed gift for Federal gift tax purposes. The funds in the bank account may be withdrawn in full by either B or C at any time. C never receives funds from the bank account. B dies on August 15, 1989, and C disclaims the amount in the bank account on October 15, 1989. Assuming the remaining requirements of section 2518 (b) are satisfied, C made a qualified disclaimer under section 2518 (a) because it was made no later than 9 months after the taxable transfer that created an interest in C.

Example (10). H and W reside in State X, a community property state. On April 1, 1978, H and W purchase real property with community funds. The property is not held by H and W as jointly owned property with rights of survivorship. H and W hold the property until January 3, 1985, when H dies. H devises his portion of the property to W. On March 15, 1985, W disclaims the portion of the property devised to her by H. Assuming all the other requirements of section 2518 (b) have been met, W has made a qualified disclaimer of the interest devised to her by H. However, W could not disclaim the interest in the property that she acquired on April 1, 1978.

(d) *No acceptance of benefits*—(1) *Acceptance.* A qualified disclaimer cannot be made with respect to an interest in property if the disclaimant has accepted the interest or any of its benefits, expressly or impliedly, prior to making the disclaimer. Acceptance is manifested by an affirmative act which is consistent with ownership of the interest in property. Acts indicative of acceptance include using the property or the interest in property; accepting dividends, interest, or rents from the property; and directing others to act with respect to the property or interest in property. However, merely taking delivery of an instrument of title, without more, does not constitute acceptance. Moreover, a disclaimant is not considered to have accepted property merely because under applicable local law title to the property

vests immediately in the disclaimant upon the death of a decedent. The acceptance of one interest in property will not, by itself, constitute an acceptance of any other separate interests created by the transferor and held by the disclaimant in the same property. In the case of residential property, held in joint tenancy by some or all of the residents, a joint tenant will not be considered to have accepted the joint interest merely because the tenant resided on the property prior to disclaiming his interest in the property. The exercise of a power of appointment to any extent by the donee of the power is an acceptance of its benefits. In addition, the acceptance of any consideration in return for making the disclaimer is an acceptance of the benefits of the entire interest disclaimed.

(2) *Fiduciaries.* If a beneficiary who disclaims an interest in property is also a fiduciary, actions taken by such person in the exercise of fiduciary powers to preserve or maintain the disclaimed property shall not be treated as an acceptance of such property or any of its benefits. Under this rule, for example, an executor who is also a beneficiary may direct the harvesting of a crop or the general maintenance of a home. A fiduciary, however, cannot retain a wholly discretionary power to direct the enjoyment of the disclaimed interest. For example, a fiduciary's disclaimer of a beneficial interest does not meet the requirements of a qualified disclaimer if the fiduciary exercised or retains a discretionary power to allocate enjoyment of that interest among members of a designated class. See paragraph (e) of this section for rules relating to the effect of directing the redistribution of disclaimed property.

(3) *Under 21 years of age.* A beneficiary who is under 21 years of age has until 9 months after his twenty-first birthday in which to make a qualified disclaimer of his interest in property. Any actions taken with regard to an interest in property by a beneficiary or a custodian prior to the beneficiary's twenty-first birthday will not be an acceptance by the beneficiary of the interest.

(4) *Examples.* The provisions of paragraphs (d) (1), (2) and (3) of this section may be illustrated by the following examples:

Example (1). On April 9, 1977, A established a trust for the benefit of B, then age 22. Under the terms of the trust, the current income of the trust is to be paid quarterly to B. Additionally, one half the principal is to be distributed to B when B attains the age of 30 years. The balance of the principal is to be distributed to B when B attains the age of 40 years. Pursuant to the terms of the trust, B received a distribution of income on June 30, 1977. On August 1, 1977, B disclaimed B's right to receive both the income from the trust and the principal of the trust. B's disclaimer of the income interest is not a qualified disclaimer for purposes of section 2518(a) because B accepted income prior to making the disclaimer. B's disclaimer of the principal, however, does satisfy section 2518(b)(3). See also § 25.2518–3 for rules relating to the disclaimer of less than an entire interest in property.

Example (2). B is the recipient of certain property devised to B under the will of A. The will stated that any disclaimed property was to pass to C. B and C entered into negotiations in which it was declined that B would disclaim all enterest in the real property that was devised to B. In exchange, C promised to let B live in the family home for life. B's disclaimer is not a qualified disclaimer for purposes of section 2518(a) because B accepted consideration for making the disclaimer.

Example (3). A received a gift of Blackacre on December 25, 1978. A never resided on Blackacre but when property taxes on Blackacre became due on July 1, 1979, A paid them out personal funds. On August 15, 1979, A disclaimed the gift of Blackacre. Assuming all the requirements of section 2518 (b) have been met, A has made a qualified disclaimer of Blackacre. Merely paying the property taxes does not constitute an acceptance of Blackacre even though A's personal funds were used to pay the taxes.

Example (4). A died on February 15, 1978. Pursuant to A's will, B received a farm in State Z. B requested the executor to sell the farm and to give the proceeds to B. The executor then sold the farm pursuant to B's request. B then disclaimed $50,000 of the proceeds from the sale of the farm. B's disclaimer is not a qualified disclaimer. By requesting the executor to sell the farm B accepted the farm even though the executor may not have been legally obligated to comply with B's request. See also § 25.2518–3 for rules relating to the disclaimer of less than an entire interest in property.

Example (5). Assume the same facts as in example (4) except that instead of requesting the executor to sell the farm, B pledged the farm as security for a short-term loan which was paid off prior to distribution of the estate. B then disclaimed his interest in the farm. B's disclaimer is not a qualified disclaimer. By pledging the farm as security for the loan, B accepted the farm.

Example (6). A delivered 1,000 shares of stock in Corporation X to B as a gift on February 1, 1980. A had the shares registered in B's name on that date. On April 1, 1980, B disclaimed the interest in the 1,000 shares. Prior to making the disclaimer, B did not pledge the shares, accept any dividends or otherwise commit any acts indicative of acceptance. Assuming the remaining requirements of section 2518 are satisfied, B's disclaimer is a qualified disclaimer.

Example (7). On January 1, 1980, A created an irrevocable trust in which B was given a testamentary general power of appointment over the trust's corpus. B executed a will on June 1, 1980, in which B provided for the exercise of the power of appointment. On September 1, 1980, B disclaimed the testamentary power of appointment. Assuming the remaining requirements of section 2518 (b) are satisfied, B's disclaimer of the testamentary power of appointment is a qualified disclaimer.

Example (8). H and W reside in X, a community property state. On January 1, 1981, H and W purchase a residence with community funds. They continue to reside in the house until H dies testate on February 1, 1990. Although H could devise his portion of the residence to any person, H devised his portion of the residence to W. On September 1, 1990, W disclaims the portion of the residence devised to her pursuant to H's will but continues to live in the residence. Assuming the remaining requirements of section 2518(b) are satisfied, W's disclaimer is a qualified disclaimer under section 2518 (a). W's continued occupancy of the house prior to making the disclaimer will not by itself be treated as an acceptance of the benefits of the portion of the residence devised to her by H.

Example (9). In 1979, D established a trust for the benefit of D's minor children E and F. Under the terms of the trust, the trustee is given the power to make discretionary distributions of current income and corpus to both children. The corpus of the trust is to be distributed equally between E and F when E becomes 35 years of age. Prior to attaining the age of 21 years on April 8, 1982, E receives several distributions of income from the trust. E receives no distributions of income between April 8, 1982 and August 15, 1982, which is the date on which E disclaims all interest in the income from the trust. As a result of the disclaimer the income will be distributed to F. If the remaining requirements of section 2518 are met, E's disclaimer is a qualified disclaimer under section 2518(a). To have a qualified disclaimer of the interest in corpus, E must disclaim the interest no later than 9 months after April 8, 1982, E's 21st birthday.

Example (10). Assume the same facts as in example (9) except that E accepted a distribution of income on May 13, 1982. E's disclaimer is not a qualified disclaimer under section 2518 because by accepting an income distribution after attaining the age of 21, F accepted benefits from the income interest.

Example (11). F made a gift of 10 shares of stock to G as custodian for H under the State X Uniform Gifts to Minors Act. At the time of the gift, H was 15 years old. At age 18, the local age of majority, the 10 shares were delivered to and registered in the name of H. Between the receipt of the shares and H's 21st birthday, H received dividends from the shares. Within 9 months of attaining age 21, H disclaimed the 10 shares. Assuming H did not accept any dividends from the shares after attaining age 21, the disclaimer by H is a qualified disclaimer under section 2518.

(e) *Passage without direction by the disclaimant of beneficial enjoyment of disclaimed interest*—(1) *In general.* A disclaimer is not a qualified disclaimer unless the disclaimed interest passes without any direction on the part of the

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disclaimant to a person other than the disclaimant (except as provided in paragraph (e)(2) of this section). If there is an express or implied agreement that the disclaimed interest in property is to be given or bequeathed to a person specified by the disclaimant, the disclaimant shall be treated as directing the transfer of the property interest. The requirements of a qualified disclaimer under section 2518 are not satisfied if—

(i) The disclaimant, either alone or in conjunction with another, directs the redistribution or transfer of the property or interest in property to another person (or has the power to direct the redistribution or transfer of the property or interest in property to another person unless such power is limited by an ascertainable standard); or

(ii) The disclaimed property or interest in property passes to or for the benefit of the disclaimant as a result of the disclaimer (except as provided in paragraph (e)(2) of this section).

If a power of appointment is disclaimed, the requirements of this paragraph (e)(1) are satisfied so long as there is no direction on the part of the disclaimant with respect to the transfer of the interest subject to the power or with respect to the transfer of the power to another person. A person may make a qualified disclaimer of a beneficial interest in property even if after such disclaimer the disclaimant has a fiduciary power to distribute to designated beneficiaries, but only if the power is subject to an ascertainable standard. See examples (11) and (12) of paragraph (e)(5) of this section.

(2) *Disclaimer by surviving spouse.* In the case of a disclaimer made by a decedent's surviving spouse with respect to property transferred by the decedent, the disclaimer satisfies the requirements of this paragraph (e) if the interest passes as a result of the disclaimer without direction on the part of the surviving spouse either to the surviving spouse or to another person. If the surviving spouse, however, retains the right to direct the beneficial enjoyment of the disclaimed property in a transfer that is not subject to Federal estate and gift tax (whether as trustee or otherwise), such spouse will be treated as directing the beneficial enjoyment of the disclaimed property, unless such power is limited by an ascertainable standard. See examples (4), (5), and (6) in paragraph (e)(5) of this section.

(3) *Partial failure of disclaimer.* If a disclaimer made by a person other than the surviving spouse is not effective to pass completely an interest in property to a person other than the disclaimant because—

(i) The disclaimant also has a right to receive such property as an heir at law, residuary beneficiary, or by any other means; and

(ii) The disclaimant does not effectively disclaim these rights, the disclaimer is not a qualified disclaimer with respect to the portion of the disclaimed property which the disclaimant has a right to receive. If the portion of the disclaimed interest in property which the disclaimant has a right to receive is not severable property or an undivided portion of the property, then the disclaimer is not a qualified disclaimer with respect to any portion of the property. Thus, for example, if a disclaimant who is not a surviving spouse receives a specific bequest of a fee simple interest in property and as a result of the disclaimer of the entire interest, the property passes to a trust in which the disclaimant has a remainder interest, then the disclaimer will not be a qualified disclaimer unless the remainder interest in the property is also disclaimed. See § 25.2518–3 (a)(1)(ii) for the definition of severable property.

(4) *Effect of precatory language.* Precatory language in a disclaimer naming takers of disclaimed property will not be considered as directing the redistribution or transfer of the property or interest in property to such persons if the applicable State law gives the language no legal effect.

(5) *Examples.* The provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). A, a resident of State X, died on July 30, 1978. Pursuant to A's will, B, A's son and heir at law, received the family home. In addition, B and C each received 50 percent of A's residuary estate. B disclaimed the home. A's will made no provision for the distribution of property in the case of a beneficiary's disclaimer. Therefore, pursuant to the disclaimer laws of State X, the disclaimed property became part of the residuary estate. Because B's 50 precent share of the residuary estate will be increased by 50 percent of the value of the family home, the disclaimed property will not pass solely to another person. Consequently, B's disclaimer of the family home is a qualified disclaimer only with respect to the 50 percent portion that passes solely to C. Had B also disclaimed B's 50 percent interest in the residuary estate, the disclaimer would have been a qualified disclaimer under section 2518 of the entire interest in the home (assuming the remaining requirements of a qualified disclaimer were satisfied). Similarly, if under the laws of State X, the disclaimer has the effect of divesting B of all interest in the home, both as devisee and as a beneficiary of the residuary estate, including any property resulting from its sale, the disclaimer would be a qualified disclaimer of B's entire interest in the home.

Example (2). D, a resident of State Y, died testate on June 30, 1978. E, an heir at law of D, received specific bequests of certain severable personal property from D. E disclaimed the property transferred by D under the will. The will made no provision for the distribution of property in the case of a beneficiary's disclaimer. The disclaimer laws of State Y provide that such property shall pass to the decedent's heirs at law in the same manner as if the disclaiming beneficiary had died immediately before the testator's death. Because State Y's law treats E as predeceasing D, the property disclaimed by E does not pass to E as an heir at law or otherwise. Consequently, if the remaining requirements of section 2518(b) are satisfied, E's disclaimer is a qualified disclaimer under section 2518(a).

Example (3). Assume the same facts as in example (2) except that State Y has no provision treating the disclaimant as predeceasing the testator. E's disclaimer satisfies section 2518 (b)(4) only to the extent that E does not have a right to receive the property as an heir at law. Had E disclaimed both the share E received under D's will and E's intestate share, the requirement of section 2518 (b)(4) would have been satisfied.

Example (4). B died testate on February 13, 1980. B's will established both a marital trust and a nonmarital trust. The decedent's surviving spouse, A, is an income beneficiary of the marital trust and has a testamentary general power of appointment over its assets. A is also an income beneficiary of the nonmarital trust, but has no power to appoint or invade the corpus. The provisions of the will specify that any portion of the marital trust disclaimed is to be added to the nonmarital trust. A disclaimed 30 percent of the marital trust. (See § 25.2518–3 (b) for rules relating to the disclaimer of an undivided portion of an interest in property.) Pursuant to the will, this portion of the marital trust property was transferred to the nonmarital trust without any direction on the part of A. This disclaimer by A satisfies section 2518 (b)(4).

Example (5). Assume the same facts as in example (4) except that A, the surviving spouse, has both an income interest in the nonmarital trust and a testamentary nongeneral power to appoint among designated beneficiaries. This power is not limited by an ascertainable standard. The requirements of section 2518 (b)(4) are not satisfied unless A also disclaims the nongeneral power to appoint the portion of the trust corpus that is attributable to the property that passed to the nonmarital trust as a result of A's disclaimer. Assuming that the fair market value of the disclaimed property on the date of the disclaimer is $250,000 and that the fair market value of the nonmarital trust (including the disclaimed property) immediately after the disclaimer is $750,000, A must disclaim the power to appoint one-third of the nonmarital trust's corpus. The result is the same regardless of whether the nongeneral power is testamentary or inter vivos.

Example (6). Assume the same facts as in example (4) except that A has both an income interest in the nonmarital trust and a

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power to invade corpus if needed for A's health or maintenance. In addition, an independent trustee has power to distribute to A any portion of the corpus which the trustee determines to be desirable for A's happiness. Assuming the other requirements of section 2518 are satisfied. A may make a qualified disclaimer of interests in the marital trust without disclaiming any of A's interests in the nonmarital trust.

Example (7). B died testate on June 1, 1980. B's will created both a marital trust and a nonmarital trust. The decedent's surviving spouse, C, is an income beneficiary of the marital trust and has a testamentary general power of appointment over its assets. C is an income beneficiary of the nonmarital trust, and additionally has the noncumulative right to withdraw yearly the greater of $5,000 or 5 percent of the aggregate value of the principal. The provisions of the will specify that any portion of the marital trust disclaimed is to be added to the nonmarital trust. C disclaims 50 percent of the marital trust corpus. Pursuant to the will, this amount is transferred to the nonmarital trust. Assuming the remaining requirements of section 2518(b) are satisfied, C's disclaimer is a qualified disclaimer.

Example (8). A, a resident of State X, died on July 19, 1979. A was survived by a spouse B, and three children, C, D, and E. Pursuant to A's will, B received one-half of A's estate and the children received equal shares of the remaining one-half of the estate. B disclaimed the entire interest B had received. The will made no provisions for the distribution of property in the case of a beneficiary's disclaimer. The disclaimer laws of State X provide that under these circumstances disclaimed property passes to the decedent's heirs at law in the same manner as if the disclaiming beneficiary had died immediately before the testator's death. As a result, C, D, and E are A's only remaining heirs at law, and will divide the disclaimed property equally among themselves. B's disclaimer includes language stating that "it is my intention that C, D, and E will share equally in the division of this property as a result of my disclaimer." State X considers these to be precatory words and gives them no legal effect. B's disclaimer meets all other requirements imposed by State X on disclaimers, and is considered an effective disclaimer under which the property will vest solely in C, D, and E in equal shares without any further action required by B. Therefore, B is not treated as directing the redistribution or transfer of the property. If the remaining requirements of secton 2518 are met, B's disclaimer is a qualified disclaimer.

Example (9). C died testate on January 1, 1979. According to C's will, D was to receive ⅓ of the residuary estate with any disclaimed property going to E. D was also to receive a second ⅓ of the residuary estate with any disclaimed property going to F. Finally, D was to receive a final ⅓ of the residuary estate with any disclaimed property going to G. D specifically states that he is disclaiming the interest in which the disclaimed property is designated to pass to E. D has effectively directed that the disclaimed property will pass to E and therefore D's disclaimer is not a qualified disclaimer under section 2518(a).

Example (10). Assume the same facts as in example (9) except that C's will also states that D was to receive Blackacre and Whiteacre. C's will further provides that if D disclaimed Blackacre then such property was to pass to E and that if D disclaimed Whiteacre then Whiteacre was to pass to F. D specifically disclaims Blackacre with the intention that it pass to E. Assuming the other requirements of section 2518 are met, D has made a qualified disclaimer of Blackacre. Alternatively, D could disclaim an undivided portion of both Blackacre and Whiteacre. Assuming the other requirements of section 2518 are met, this would also be a qualified disclaimer.

Example (11). G creates an irrevocable trust on February 16, 1983, naming H, I and J as the income beneficiaries for life and F as the remainderman. F is also named the trustee and as trustee has the discretionary power to invade the corpus and make discretionary distributions to H, I or J during their lives. F disclaims the remainder interest on August 8, 1983, but retains his discretionary power to invade the corpus. F has not made a qualified disclaimer because F retains the power to direct enjoyment of the corpus and the retained fiduciary power is not limited by an ascertainable standard.

Example (12). Assume the same facts as in example (11) except that F may only invade the corpus to make distributions for the health, maintenance or support of H, I or J during their lives. If the other requirements of section 2518(b) are met, F has made a qualified disclaimer of the remainder interest because the retained fiduciary power is limited by an ascertainable standard.

§ 25.2518–3 Disclaimer of less than an entire interest.

(a) *Disclaimer of a partial interest*—(1) *In general*—(i) *Interest.* If the requirements of this section are met, the disclaimer of all or an undivided portion of any separate interest in property may be a qualified disclaimer even if the disclaimant has another interest in the same property. In general, each interest in property that is separately created by the transferor is treated as a separate interest. For example, if an income interest in securities is bequeathed to A for life, then to B for life, with the remainder interest in such securities bequeathed to A's estate, and if the remaining requirements of section 2518(b) are met, A could make a qualified disclaimer of either the income interest or the remainder, or an undivided portion of either interest. A could not, however, make a qualified disclaimer of the income interest for a certain number of years. Further, where local law merges interests separately created by the transferor, a qualified disclaimer will be allowed only if there is a disclaimer of the entire merged interest or an undivided portion of such merged interest. See example (12) in paragraph (d) of this section. See § 25.2518–3(b) for rules relating to the disclaimer of an undivided portion. Where the merger of separate interests would occur but for the creation by the transferor of a nominal interest (as defined in paragraph (a)(1)(iv) of this section), a qualified disclaimer will be allowed only if there is a disclaimer of all the separate interests, or an undivided portion of all such interests, which would have merged but for the nominal interest.

(ii) *Severable property.* A disclaimant shall be treated as making a qualified disclaimer of a separate interest in property if the disclaimer relates to severable property and the disclaimant makes a disclaimer which would be a qualified disclaimer if such property were the only property in which the disclaimant had an interest. If applicable local law does not recognize a purported disclaimer of severable property, the disclaimant must comply with the requirements of paragraph (c)(1) of § 25.2518–1 in order to make a qualified disclaimer of the severable property. Severable property is property which can be divided into separate parts each of which, after severance, maintains a complete and independent existence. For example, a legatee of shares of corporate stock may accept some shares of the stock and make a qualified disclaimer of the remaining shares.

(iii) *Powers of appointment.* A power of appointment with respect to property is treated as a separate interest in such property and such power of appointment with respect to all or an undivided portion of such property may be disclaimed independently from any other interests separately created by the transferor in the property if the requirements of section 2518(b) are met. See example (21) of paragraph (d) of this section. Further, a disclaimer of a power of appointment with respect to property is a qualified disclaimer only if any right to direct the beneficial enjoyment of the property which is retained by the disclaimant is limited by an ascertainable standard. See example (9) of paragraph (d) of this section.

(iv) *Nominal interest.* A nominal interest is an interest in property created by the transferor that—

(A) Has an actuarial value (as determined under § 20.2031–10) of less than 5 percent of the total value of the property at the time of the taxable transfer creating the interest,

(B) Prevents the merger under local law or two or more other interests created by the transferor, and

(C) Can be clearly shown from all the facts and circumstances to have been created primarily for the purpose of preventing the merger of such other interests.

Factors to be considered in determining whether an interest is created primarily for the purpose of preventing merger include (but are not limited to) the following: the relationship between the transferor and the interest holder; the

age difference between the interest holder and the beneficiary whose interests would have merged; the interest holder's state of health at the time of the taxable transfer; and, in the case of a contingent remainder, any other factors which indicate that the possibility of the interest vesting as a fee simple is so remote as to be negligible.

(2) *In trust.* A disclaimer is not a qualified disclaimer under section 2518 if the beneficiary disclaims income derived from specific property transferred in trust while continuing to accept income derived from the remaining properties in the same trust unless the disclaimer results in such property being removed from the trust and passing, without any direction on the part of the disclaimant, to persons other than the disclaimant or to the spouse of the decedent. Moreover, a disclaimer of both an income interest and a remainder interest in specific trust assets is not a qualified disclaimer if the beneficiary retains interests in other trust property unless, as a result of the disclaimer, such assets are removed from the trust and pass, without any direction on the part of the disclaimant, to persons other than the disclaimant or to the spouse of the decedent. The disclaimer of an undivided portion of an interest in a trust may be a qualified disclaimer. See also paragraph (b) of this section for rules relating to the disclaimer of an undivided portion of an interest in property.

(b) *Disclaimer of undivided portion.* A disclaimer of an undivided portion of a separate interest in property which meets the other requirements of a qualified disclaimer under section 2518(b) and the corresponding regulations is a qualified disclaimer. An undivided portion of a disclaimant's separate interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the disclaimant in such property and must extend over the entire term of the disclaimant's interest in such property and in other property into which such property is converted. A disclaimer of some specific rights while retaining other rights with respect to an interest in the property is not a qualified disclaimer of an undivided portion of the disclaimant's interest in property. Thus, for example, a disclaimer made by the devisee of a fee simple interest in Blackacre is not a qualified disclaimer if the disclaimant disclaims a remainder interest in Blackacre but retains a life estate.

(c) *Disclaimer of a pecuniary amount.* A disclaimer of a specific pecuniary amount out of a pecuniary or nonpecuniary bequest or gift which statisfies the other requirements of a qualified disclaimer under section 2518 (b) and the corresponding regulations is a qualified disclaimer provided that no income or other benefit of the disclaimed amount inures to the benefit of the disclaimant either prior to or subsequent to the disclaimer. Thus, following the disclaimer of a specific pecuniary amount from a bequest or gift, the amount disclaimed and any income attributable to such amount must be segregated from the portion of the gift or bequest that was not disclaimed. Such a segregation of assets making up the disclaimer of a pecuniary amount must be made on the basis of the fair market value of the assets on the date of the disclaimer or on a basis that is fairly representative of value changes that may have occurred between the date of transfer and the date of the disclaimer. A pecuniary amount distributed to the disclaimant from the bequest or gift prior to the disclaimer shall be treated as a distribution of corpus from the bequest or gift. However, the acceptance of a distribution from the gift or bequest shall also be considered to be an acceptance of a proportionate amount of income earned by the bequest or gift. The proportionate share of income considered to be accepted by the disclaimant shall be determined at the time of the disclaimer according to the following formula:

$$\frac{\text{Total amount of distributions received by the disclaimant out of the gift or bequest}}{\text{Total value of the gift or bequest on the date of transfer}} \times \text{Total amount of income earned by the gift or bequest between date of transfer and date of disclaimer}$$

See examples (17), (18), and (19) in § 25.2518–3(d) for illustrations of the rules set forth in this paragraph (c).

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, a resident of State Q, died on August 1, 1978. A's will included specific bequests of 100 shares of stock in X corporation; 200 shares of stock in Y corporation; 500 shares of stock in Z corporation; personal effects consisting of paintings, home furnishings, jewelry, and silver, and a 500 acre farm consisting of a residence, various outbuildings, and 500 head of cattle. The laws of State Q provide that a disclaimed interest passes in the same manner as if the disclaiming beneficiary had died immediately before the testator's death. Pursuant to A's will, B was to receive both the personal effects and the farm. C was to receive all the shares of stock in Corporation X and Y and D was to receive all the shares of stock in Corporation Z. B disclaimed 2 of the paintings and all the jewelry, C disclaimed 50 shares of Y corporation stock, and D disclaimed 100 shares of Z corporation stock. If the remaining requirements of section 2518(b) and the corresponding regulations are met, each of these disclaimers is a qualified disclaimer for purposes of section 2518(a).

Example (2). Assume the same facts as in example (1) except that D disclaimed the income interest in the shares of Z corporation stock while retaining the remainder interest in such shares. D's disclaimer is not a qualified disclaimer.

Example (3). Assume the same facts as in example (1) except that B disclaimed 300 identified acres of the 500 acres. Assuming that B's disclaimer meets the remaining requirements of section 2518(b), it is a qualified disclaimer.

Example (4). Assume the same facts as in example (1) except that A devised the income from the farm to B for life and the remainder interest to C. B disclaimed 40 percent of the income from the farm. Assuming that it meets the remaining requirements of section 2518(b), B's disclaimer of an undivided portion of the income is a qualified disclaimer.

Example (5). E died on September 13, 1978. Under the provisions of E's will, E's shares of stock in X, Y, and Z corporations were to be transferred to a trust. The trust provides that all income is to be distributed currently to F and G in equal parts until F attains the age of 45 years. At that time the corpus of the trust is to be divided equally between F and G. F disclaimed the income arising from the shares of X stock. G disclaimed 20 percent of G's interest in the trust. F's disclaimer is not a qualified disclaimer because the X stock remains in the trust. If the remaining requirements of section 2518(b) are met, G's disclaimer is a qualified disclaimer.

Example (6). Assume the same facts as in example (5) except that F disclaimed both the income interest and the remainder interest in the shares of X stock. F's disclaimer results in the X stock being transferred out of the trust to G without any direction on F's part. F's disclaimer is a qualified disclaimer under section 2518(b).

Example (7). Assume the same facts as in example (5) except that F is only an income beneficiary of the trust. The X stock remains in the trust after F's disclaimer of the income arising from the shares of X stock. F's disclaimer is not a qualified disclaimer under section 2518.

Example (8). Assume the same facts as in example (5) except that F disclaimed the entire income interest in the trust while retaining the interest F has in corpus. Alternatively, assume that G disclaimed G's

entire corpus interest while retaining G's interest in the income from the trust. If the remaining requirements of section 2518(b) are met, either disclaimer will be a qualified disclaimer.

Example (9). G creates an irrevocable trust on May 13, 1980, with H, I, and J as the income beneficiaries. In addition, H, who is the trustee, holds the power to invade corpus for H's health, maintenance, support and happiness and a testamentary power of appointment over the corpus. In the absence of the exercise of the power of appointment, the property passes to I and J in equal shares. H disclaimed the power to invade corpus for H's health, maintenance, support and happiness. Because H retained the testamentary power to appoint the property in the corpus, H's disclaimer is not a qualified disclaimer. If H also disclaimed the testamentary power of appointment, H's disclaimer would have been a qualified disclaimer.

Example (10). E creates an irrevocable trust on May 1, 1980, in which D is the income beneficiary for life. Subject to the trustee's discretion, E's children, A, B, and C, have the right to receive corpus during D's lifetime. The remainder passes to D if D survives A, B, C, and all their issue. D also holds an inter vivos power to appoint the trust corpus to A, B, and C. On September 1, 1980, D disclaimed the remainder interest. D's disclaimer is not a qualified disclaimer because D retained the power to direct the use and enjoyment of corpus during D's life.

Example (11). Under H's will, a trust is created from which W is to receive all of the income for life. The trustee has the power to invade the trust corpus for the support or maintenance of D during the life of W. The trust is to terminate at W's death, at which time the trust property is to be distributed to D. D makes a timely disclaimer of the right to corpus during W's lifetime, but does not disclaim the remainder interest. D's disclaimer is a qualified disclaimer assuming the remaining requirements of section 2518 are met.

Example (12). Under the provisions of G's will A received a life estate in a farm, and was the sole beneficiary of property in the residuary estate. The will also provided that the remainder interest in the farm pass to the residuary estate. Under local law A's interests merged to give A a fee simple in the farm. A made a timely disclaimer of the life estate. A's disclaimer of a partial interest is not a qualified disclaimer under section 2518(a). If A makes a disclaimer of the entire merged interest in the farm or an undivided portion of such merged interest then A would be making a qualified disclaimer assuming all the other requirements of section 2518(b) are met.

Example (13). A, a resident of State Z, dies on September 3, 1980. Under A's will, Blackacre is devised to C for life, then to D for 1 month, remainder to C. Had A not created D's interest, State Z law would have merged C's life estate and the remainder to C to create a fee simple interest in C. Assume that the actuarial value of D's interest is less than 5 percent of the total value of Blackacre on the date of A's death. Further assume that facts and circumstances (particularly the duration of D's interest) clearly indicate that D's interest was created primarily for the purpose of preventing the merger of C's two interests in Blackacre. D's interest in Blackacre is a nominal interest and C's two interests will, for purposes of making a qualified disclaimer, be considered to have merged. Thus, C cannot make a qualified disclaimer of his remainder while retaining the life estate. C can, however, make a qualified disclaimer of both of these interests entirely or an undivided portion of both.

Example (14). A, a resident of State X, dies on October 12, 1978. Under A's will, Blackacre was devised to B for life, then to C for life if C survives B, remainder to B's estate. On the date of A's death, B and C are both 8 year old grandchildren of A. In addition, C is in good health. The actural value of C's interest is less than 5 percent of the total value of Blackacre on the date of A's death. No facts are present which would indicate that the possibility of C's contingent interest vesting is so remote as to be negligible. Had C's contingent life estate not been created, B's life estate and remainder interests would have merged under local law to give B a fee simple interest in Blackacre. Although C's interest prevents the merger of B's two interests and has an actual value of less than 5 percent, C's interest is not a nominal interest within the meaning of § 25.2518–3(a)(1)(iv) because the facts and circumstances do not clearly indicate that the interest was created primarily for the purpose of preventing the merger of other interests in the property. Assuming all the other requirements of section 2518(b) are met, B can make a qualified disclaimer of the remainder while retaining his life estate.

Example (15). In 1981, A transfers $60,000 to a trust created for the benefit of B who was given the income interest for life and who also has a testamentary nongeneral power of appointment over the corpus. A transfers an additional $25,000 to the trust on June 1, 1984. At that time the trust corpus (exclusive of the $25,000 transfer) has a fair market value of $75,000. On January 1, 1985, B disclaims the right to receive income attributable to 25 percent of the corpus

$$\left(\frac{\$25{,}000\ (1984\ \text{transfer})}{\$100{,}000\ (\text{Fair market value of corpus immediately after the 1984 transfer})} = 25\%.\right)$$

Assuming that no distributions were made to B attributable to the $25,00, B's disclaimer is a qualified disclaimer for purposes of section 2518(a) if all the remaining requirements of section 2518(b) are met.

Example (16). Under the provisions of B's will, A is left an outright cash legacy of $50,000 and has no other interest in B's estate. A timely disclaimer by A of any stated dollar amount is a qualified disclaimer under section 2518(a).

Example (17). D bequeaths his brokerage account to E. The account consists of stocks and bonds and a cash amount earning interest. The total value of the cash and assets in the account on the date of D's death is $100,000. Four months after D's death, E makes a withdrawal of cash from the account for personal use amounting to $40,000. Eight months after D's death, E disclaims $60,000 of the account without specifying any particular assets or cash. The cumulative fair market value of the stocks and bonds in the account on the date of the disclaimer is equal to the value of such stocks and bonds on the date of D's death. The income earned by the account between the date of D's death and the date of E's disclaimer was $20,000. The amount of income earned by the account that E accepted by withdrawing $40,000 from the account prior to the disclaimer is determined by applying the formula set forth in § 25.2518–3(c) as follows:

$$\frac{\$40{,}000}{\$100{,}000} \times \$20{,}000 = \$8{,}000$$

E is considered to have accepted $8,000 of the income earned by the account. If (i) the $60,000 disclaimed by E and the $12,000 of income earned prior to the disclaimer which is attributable to that amount are segregated from the $8,000 of income E is considered to have accepted, (ii) E does not accept any benefits of the $72,000 so segregated, and (iii) the other requirements of section 2518 (b) are met, then E's disclaimer of $60,000 from the account is a qualified disclaimer.

Example (18). A bequeathed his residuary estate to B. The residuary estate had a value of $1 million on the date of A's death. Six months later, B disclaimed $200,000 out of this bequest. B received distributions of all the income from the entire estate during the period of administration. When the estate was distributed, B received the entire residuary estate except for $200,000 in cash. B did not make a qualified disclaimer since he accepted the benefits of the $200,000 during the period of estate administration.

Example (19). Assume the same facts as in example (18) except that no income was paid to B and the value of the residuary estate on the date of the disclaimer (including interest earned from date of death) was $1.5 million. In addition, as soon as B's disclaimer was made, the executor of A's estate set aside assets worth $300,000

$$\left(\frac{\$200{,}000}{\$1{,}000{,}000} \times \$1{,}500{,}000\right)$$

and the interest earned after the disclaimer on that amount in a separate fund so that none of the income was paid to B. B's disclaimer is a qualified disclaimer under section 2518(a).

Example (20). A bequeathed his residuary estate to B. B disclaims a fractional share of the residuary estate. Any disclaimed property will pass to A's surviving spouse, W. The numerator of the fraction disclaimed is the smallest amount which will allow A's estate to pass free of Federal estate tax and the denominator is the value of the residuary

estate. B's disclaimer is a qualified disclaimer.

Example (21). A created a trust on July 1, 1979. The trust provides that all current income is to be distributed equally between B and C for the life of B. B also is given a testamentary general power of appointment over the corpus. If the power is not exercised, the corpus passes to C or C's heirs. B disclaimed the testamentary power to appoint an undivided one-half of the trust corpus. Assuming the remaining requirements of section 2518(b) are satisfied, B's disclaimer is a qualified disclaimer under section 2518(a).

PART 602—[AMENDED]

Par. 12. The authority citation for Part 602 continues to read as follows:

§ 602.101 [Amended]

Par. 13. Section 602.101(c) is amended by inserting the following entry in the appropriate place in the table:

"§ 25.2518–2(b)..... 1545–0959".

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: July 16, 1986.

J. Roger Mentz,
Assistant Secretary of the Treasury.

[FR Doc. 86–17606 Filed 8–6–86; 8:45 am]
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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1960

Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Recordkeeping Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: OSHA is amending the recordkeeping requirements of its regulations on elements for Federal Employee Occupational safety and health programs. The changes hereby being made in 29 CFR Part 1960 further clarify references to maintaining records, including items on OWCP claim forms. They also clarify which items are required to be recorded on the log, and clarify the definition of hospitalization in a serious accident.

EFFECTIVE DATE: This regulation is effective on August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Plummer, Director, Office of Federal Agency Programs, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202–523–9329).

SUPPLEMENTARY INFORMATION: On January 25, 1984, the Department of Labor's Occupational Safety and Health Administration (OSHA) announced that Federal agencies would no longer be required to submit an annual summary of their occupational injuries and illnesses to the Secretary of Labor. Instead, OSHA would use data generated by the Office of Workers' Compensation Programs (OWCP) to carry out programs authorized by the Occupational Safety and Health Act of 1970, Section 19 and Executive Order 12196. Several changes to 29 CFR Part 1960, Subpart I, were published in the **Federal Register** on October 2, 1985.

The changes hereby being made in 29 CFR Part 1960 further clarify references to maintaining records, including items on OWCP claim forms. They also clarify which items are required to be recorded on the log, and clarify the definition of hospitalization in a serious accident.

These revisions are procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

This regulation eliminates references to maintaining a record and clarifies which items are required to be recorded on the log, the definition of hospitalization in a serious accident, the definition of a lost time case, and the requirement for a supplementary record. It does not add additional burden for the agencies. Therefore, it is not necessary to publish it for notice and comment pursuant to 5 U.S.C. 553(b).

Under authority granted by the United States Code, Title 5, section 7902; the Occupational Safety and Health Act, sections 19 and 24; and Executive Order 12196, the Secretary of Labor is authorized to make these procedural revisions to 29 CFR Part 1960.

Authority: This document was prepared under the direction of Mr. John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third and Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat, 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 9–83 (48 FR 35736), and Executive Order 12196, 29 CFR Part 1960 is revised to eliminate reference to a record other than the log, to clarify the requirement for supplementary records, to clarify which items are required to be recorded on the log, and to clarify the definition of hospitalization in a serious accident.

Signed at Washington, DC, this 4th day of August, 1986.

John A. Pendergrass,
Assistant Secretary.

Part 1960—[Amended]

Part 1960 of 29 CFR is amended to read as follows:

1. The authority citation for Part 1960 continues to read as follows:

Authority: Sections 19, 24, Occupational Safety and Health Act of 1970 (29 U.S.C. 668, 673); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable; E.O. 12196 (45 FR, 12769).

2. By revising paragraph (l)(4) of § 1960.2 to read as follows:

1960.2 Definitions.

* * * * *

(l) * * *

(4) The term "lost time case" means a nonfatal traumatic injury that causes any loss of time from work beyond the day or shift it occurred; or a nonfatal nontraumatic illness/disease that causes disability at any time.

* * * * *

3. By revising § 1960.67 to read as follows:

§ 1960.67 Log of occupational injuries and illnesses.

(a) Each Federal agency shall maintain a log of all occupational injuries and illnesses specified in § 1960.67(c) for each establishment. Except as provided in § 1960.71 (b) and (c), the log is to be maintained at the establishment.

(b) Within six working days after receiving information of an occupational injury or illness, apporpriate information concerning such injury or illness shall be entered on the log. The format printed in OSHA publication 2014 or an agency form with at least the same 12 data elements shall be used for the log.

(c) Any occupational injury, illness or fatality reported on a CA–1, CA–2, or

CA–6 to OWCP shall be reported on the log.

4. By revising § 1960.68 to read as follows:

§ 1960.68 Supplementary record of occupational injuries and illnesses.

In addition to the log of occupational injuries and illnesses provided for under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that an occupational injury or illness has occurred. Each Federal agency shall complete OWCP Forms CA–1, CA–2, and CA–6 in the detail required by the forms and instructions provided by the Secretary (OSHA–2014), and may be used as the supplementary record. OSHA Form No. 101 or an agency equivalent may be used as a supplementary record. Where OWCP forms are used as supplementary records, copies shall be maintained in the occupational safety and/or health office.

5. By revising § 1960.69 to read as follows:

§ 1960.69 Annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a fiscal year basis, shall compile an annual summary of occupational injuries and illnesses as prescribed in OSHA publication 2014. The summaries shall be based on the log of occupational injuries and illnesses maintained pursuant to §1960.67.

(b) At the agency's option, and consistent with the Privacy Act considerations and applicable collective bargaining agreements, the last page of the log of occupational injuries and illnesses may be posted as the annual summary of Federal occupational injuries and illnesses.

6. By revising paragraphs (a)(2) and (a)(4) of § 1960.70 to read as follows:

§ 1960.70 Reporting of serious accidents.

(a) * * *

(2) Any occupational accident which results in the inpatient hospitalization of five or more employees.

* * * * *

(4) Any occupational accident involving both Federal and non-Federal employees which results in a fatality or the inpatient hospitalization of five or more such employees.

* * * * *

7. By revising § 1960.71(b) to read as follows:

§ 1960.71 Location and utilization of records and reports.

* * * * *

(b) The log and supplementary record required by § 1960.67 and § 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain this record at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of this record. This record shall be complete and as current as possible; in no case shall more than 3 months elapse between the recording of an illness or injury occurring in an establishment and the availability of records reflecting that injury or illness at that establishment.

[FR Doc. 86–17807 Filed 8–6–86; 8:45 am]

BILLING CODE 4510–29–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PART 2603

Examination and Copying of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation which implements the Freedom of Information Act. The amendment revises the procedures that the Pension Benefit Guaranty Corporation will follow in processing requests for access to records made available by the Freedom of Information Act. This amendment is necessary because the current procedures, which require the Pension Benefit Guaranty Corporation to inscribe the date and time of receipt on the request itself and to notify the requestor of its receipt, have become extremely burdensome. The effect of the amendment is to delete the requirement that the Pension Benefit Guaranty Corporation provide the requestor with notice that the request was received.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: John R. Jacobs, Attorney, Legal Department, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, (202) 956–5023, or E. William FitzGerald, PBGC Disclosure Officer, Communication and Public Affairs Department, Code 38000, Pension Benefit Corporation, 2020 K Street, NW., Washington, DC 20006, (202) 956–5039 ((202) 956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended*, which provides for a comprehensive pension plan insurance program, established a Federal Government agency, the Pension Benefit Guaranty Corporation ("PBGC"), to administer that program.

The Freedom of Information Act (5 U.S.C. 552) provides, among other things, for public access to information from records of Government corporations, such as the PBGC. The PBGC's Examination and Copying of Pension Benefit Guaranty Corporation Records regulation, which implements the Freedom of Information Act, is set forth in 29 CFR Part 2603.

The regulation prescribes the procedures that will be followed by the PBGC in the processing of requests for access to records made available by the Freedom of Information Act. Currently, under § 2603.36(a), the PBGC, upon receipt of the request, must immediately inscribe on the request the date and time of receipt, and must give contemporaneous notice to the requestor that the request was received on such date. This requirement of contemporaneous notice has been included in the regulation since it was originally promulgated. There is, however, nothing in the Freedom of Information Act that requires a government agency to provide such notice. Compliance with the notice requirement has become increasingly burdensome to the PBGC, due to the large number of Freedom of Information Act requests that are received. Accordingly, this amendment revises the current regulation by deleting from § 2603.36(a) the requirement that the PBGC provide the requestor with contemporaneous notice that the request has been received.

This amendment makes only technical changes and does not substantively affect the public. Because this regulation relates to agency procedures and practices, it is being issued in final form without notice and opportunity for public comment. In addition, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because of the need to expedite the processing of Freedom of Information requests. Accordingly, the PBGC finds that good cause exists for making this regulation effective immediately.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because

it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers, individual industries or geographic regions, or significant adverse effects on competition employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export-markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2603

Freedom of Information.

In consideration of the foregoing, the Pension Benefit Guaranty Corporation amends Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

PART 2603—[AMENDED]

1. The authority for Part 2603 is revised to read as follows:

Authority: 5 U.S.C. 552; sec. 4002(b)(3), Pub. L. 93–406, 88 Stat. 829, 1004, as amended by sec. 403(1), Pub. L. 96–364, 94 Stat. 1208, 1302 (29 U.S.C. 1302(b)(3)).

2. In § 2603.36, paragraph (a) is revised to read as follows:

§ 2603.36 Receipt by agency of request.

(a) The disclosure officer shall, upon receipt of a request for access to records, have the date and time of such receipt immediately inscribed thereon.

* * * * *

Issued in Washington, DC, this 31st day of July, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–17819 Filed 8–6–86; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CCGD09 86–01]

Drawbridge Operation Regulations; Black River, OH

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Lorain County Engineer, Elyria, Ohio, the Coast Guard is changing the operation regulations governing the Erie Avenue bridge, mile 0.6 over the Black River at Lorain, Ohio, by permitting the number of openings to be limited during certain times and by permitting the bridge to remain closed at certain other times unless an advance notice is given to open the draw for the passage of vessels. This change is being made because of land traffic tie-ups during the day and lack of requests to have the bridge opened at night and during the winter months. This action will alleviate the traffic tie-ups and will relieve the bridge owner of the burden of having a bridgetender constantly on duty at the bridge while still providing for the reasonable needs of navigation .

EFFECTIVE DATE: These regulations become effective on September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, telephone (216) 522–3993.

SUPPLEMENTARY INFORMATION: On March 20, 1986, the Coast Guard published Proposed Rule Vol. 51, No. 54, FR 9688–9689, concerning this amendment. The Commander, Ninth Coast Guard District, also published the proposal as a Public Notice, PN 09–04/86, dated April 14, 1986. In these notices interested persons were given until May 5, 1986, and May 14, 1986, respectively, to submit comments.

Drafting Information

The drafters of these regulations are Fred H. Mieser, project officer, and Lt. R. A. Pelletier, project attorney.

Discussion of Comments

No comments were received as a result of publication in the **Federal Register**. One comment was received in response to the Public Notice. The commentor that responded to the Public Notice represented commercial navigation and requested that the removal of bridgetenders during the winter months be changed to begin January 1 instead of December 1 because of a planned increase of commercial vessel traffic during this period of time and because adverse weather conditions contribute to unpredictable vessel schedules. Since the additional bridgetender service during this period of time is a reasonable request, the final rule will reflect this change and bridgetenders will not be removed from the bridge for the winter months until January 1. However, should commercial vessel traffic be light for the period of time from December 1 through December 31, bridgetenders may be removed during this period of time on an annual basis in accordance with the provisions of § 117.45 of Title 33 of the Code of Federal Regulations.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. During the periods of time when the bridge is unattended there is little or no significant vessel traffic on the river. The periods of time when the bridge opens for the passage of pleasure craft on the regulated schedule will relieve the problem of land traffic tie-ups due to random bridge openings for these vessels while still providing for the reasonable needs of navigation. Since the impact of these regulations is expected to be so minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; AND 49 CFR 1.46 AND 13 CFR 1.05–1(g).

2. Section 117.850 is added to read as follows:

§ 117.850 Black River.

The draw of the Erie Avenue bridge, mile 0.6, at Lorain shall open on signal except as follows:

(a) From April 1 through December 31—

(1) From 7 a.m. to 6 p.m., Monday through Friday, except legal holidays, the draw need open only on the hour and half-hour for pleasure craft; however, the draw need not open for pleasure craft at 8 a.m., 3 p.m., 4 p.m. and 5 p.m. For commercial vessels the draw shall open on signal as soon as possible.

(2) From 11 a.m. to 6 p.m., Saturdays, Sundays and legal holidays, the draw need open only on the hour and half-hour for pleasure craft. For commercial vessels the draw shall open on signal as soon as possible.

(3) From 11 p.m. to 7 a.m., seven days a week and legal holidays, no

bridgetender is required to be in constant attendance and the bridge shall open on signal for pleasure craft and commercial vessels if at least a one hour advance notice is given.

(b) From January 1 through March 31, the draw shall open on signal for pleasure craft and commercial vessels if at least a twelve hour advance notice is given.

(c) At all times, the draw shall open as soon as possible for public vessels of the United States, state or local government vessels used for public safety and vessels in distress.

Dated: July 25, 1986.

A.M. Danielsen,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard Distict.

[FR Doc. 86-17779 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 140 and 142

[CGD 79-077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: An uncorrected draft of the final rule was inadvertently submitted to the **Federal Register** for publication under FR Doc. 86-15293 beginning on page 25054 in the issue of Thursday, July 10, 1986. The following corrections reflect the approved draft of the final rule:

1. On Page 25054, third column, under Background, second paragraph, line 11, change "Subpart 1" to "Subpart I".

2. On page 25055, second column, section 1(d) is revised to read, "Another respondent prefers the use of his equipment instead of the equipment specified by ANSI A10.14. Existing § 140.15, Equivalents and approved equipment, already provides for the use of nonstandard equipment when it has been shown to provide a comparable or a greater level of safety than that provided by the incorporated standards."

3. On Page 25056, first column, section 7(a) is revised to read,"Several comments suggest that the use of protective footwear be limited to areas where foot injuries might occur. Unfortunately, these injuries are not location specific. The proposed rule has been amended to provide that footwear protection is required where there is a reasonable probability for foot injury."

4. On page 25057, second column, section 12 is revised to read, "One comment concerns the possibility of contamination of eyewash equipment by requiring it to be located on the drill floor and in the mudroom. This section has been changed to allow eyewash equipment to be placed near, rather than in or on, the location where the hazard exists. The section has also been rewritten to require eyewash equipment in other locations where there is a reasonable probability that eye injuries may occur."

5. On page 25058, first column, section 16(g) is revised to read, "One comment requests that the Coast Guard wait until OSHA issues its lockout/tagout regulations to avoid conflict and confusion. OSHA already has general industry standards in 29 CFR 1910.145 (f) which give examples of wording and placement of tags. The Coast Guard will consider the adoption of OSHA lockout/tagout standards once they have been issued."

6. On page 25058, first column, in line 5 of the Incorporation by Reference section, change "ANSI 10.14-1975" to "ANSI A10.14-1975".

7. On page 25058, third column, line 5, change "$5,600,000" to "$5,000,000".

8. On page 25058, third column, line 6, change "$1,120,000" to "$1,000,000".

9. On page 25058, third column, line 19, change "$6,250,000" to "$5,600,000".

10. On page 25058, third column, line 20, change "$1,250,000" to "$1,120,000".

11. On page 25059, second column, paragraph (b) of § 140.7 is correctly revised to read as follows:

§ 140.7 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this subchapter are:

American National Standards Institute (ANSI)

1430 Broadway, New York, NY 10018

ANSI A10.14-1975—Requirements for Safety Belts, Harnesses. Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41-1983—American National Standard for Personal Protection-Protective Footwear.

ANSI Z87.1-1979—Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2-1980—Practices for Respiratory Protection.

ANSI Z89.1-1981—Safety Requirements for Industrial Head Protection.

International Maritime Organization (IMO)

IMO Sales, New York Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 10013.

IMO Assembly Resolution A.414 (XI)—Code for Construction and Equipment of Mobile Offshore Drilling Units.

12. On page 25060, first column, paragraph (a) of § 142.33 is correctly revised to read as follows:

§ 142.33 Foot protection.

(a) Personnel working in areas or engaged in activities where there is a reasonable probability for foot injury to occur shall wear footwear meeting the specifications of ANSI Z41, except when environmental conditions exist that present a hazard greater than that against which the footwear is designed to protect.

* * * * *

13. On page 25060, second column, paragraph (b) of § 142.39 is correctly revised to read as follows:

§ 142.39 Respiratory protection.

* * * * *

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmosphere—

(1) Follow the procedures stated in section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing; and

(2) Are trained in the matters set forth in section 7 of ANSI Z88.2 concerning proper use of the equipment to be used and in the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

* * * * *

14. On page 25060, second column, § 142.46 is correctly revised to read as follows:

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available near the drill floor, mudrooms, and other areas where there is a reasonable probability that eye injury may occur.

15. On page 25060, third column, § 142.64 is correctly revised to read as follows:

§ 142.64 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of portable tools, materials, and equipment not in use and be promptly cleared of substances which create a tripping or slipping hazard. When engaged in an activity on the drill floor in which the spillage of drilling fluid is inevitable, such as when pulling

wet strings of drill pipe, footwear and flooring designed to reduce slipping substantially may be used instead of keeping the drill floor free of drilling fluid during the activity.

§ 142.90 [Corrected]

16. On page 25060, third column, in line 4 of § 142.90(a), change "required paragraph (b)" to "required in paragraph (b)".

Dated: August 4, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86-17776 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD 7-85-32]

Safety Zone; Tampa Bay, Hillsborough Bay and Approaches

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations governing the movement of vessels carrying anhydrous ammonia within Tampa Bay and Hillsborough Bay, FL and their approaches, and while the vessels are moored at receiving facilities. In view of the hazards associated with vessel transport of anhydrous ammonia through heavily populated areas, the Coast Guard deems it necessary to control the movement of these vessels and establish marine safety zones surrounding these vessels in certain prescribed areas under certain conditions. The purpose of this action is to establish regulations governing vessel movement procedures that were previously implemented on a case by case basis with Captain of the Port Orders. By establishing a permanent rule the Coast Guard will enhance its ability to provide the public with the widest dissemination of the rule.

EFFECTIVE DATE: September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant (j.g.) Harry D. Craig, Telephone (305) 536-5651.

SUPPLEMENTARY INFORMATION: On November 13, 1985, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (50 FR 46781). Interested persons were requested to submit comments and two comments were received.

Drafting Information

The drafters of these regulations are Lieutenant (j.g.) Harry D. Craig, project officer, Seventh Coast Guard District Marine Safety Division, and LCDR Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

The Hillsborough County, FL Fire Department supported the proposed regulations and commented that "an accidental release of a large amount of anhydrous ammonia such as that normally carried aboard a ship, in a populated area presents a serious threat to the well-being of the community. We as a public safety agency are committed to supporting any and all feasible safeguards through which such a mishap may be prevented." The National Oceanic and Atmospheric Administration (NOAA) expressed an interest in using Tampa Bay as a prototype for developing a computer program to model hazardous materials spill trajectories. The model was not complete at the time the Final Rule was drafted, but the results will be made available at a later date. Minor typographical errors were noted in the proposed rule, but did not affect the substance or intent of the regulations.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The conditions outlined herein for moving anhydrous ammonia vessels in Tampa Bay have been followed for at least five (5) years and for each of these anhydrous ammonia vessel movements, the Captain of the Port Tampa has exercised his authority on a case by case basis and established a temporary floating safety zone in the form of Captain of the Port Orders. These Orders prescribed conditions for operations similar to those contained in this Rule. Small and large companies are aware of the scheduled anhydrous ammonia transits and adjust their movements accordingly with minimal impact.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Vessels, Waterways.

Final Regulations

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.703 is added to read as follows:

§ 165.703 Tampa Bay, Florida—Safety Zone.

(a) A floating safety zone is established consisting of an area 1000 yards fore and aft of a loaded anhydrous ammonia vessel and the width of the channel in the following areas:

(1) For inbound tank vessels loaded with anhydrous ammonia, Tampa Bay Cut "F" Channel from Lighted Buoys "3F" and "4F" north through and including Gadsden Point Cut Lighted Buoy "3" and commencing at Gadsden Point Cut Lighted Buoys "7" and "8" north and including Hillsborough Cut "C" Channel.

(i) For vessels bound for R. E. Knight Pier at Hookers Point the safety zone includes, in addition to the area in paragraph (a)(1) of this section, Hillsborough Cut "D" Channel to the southern tip of Harbor Island.

(ii) For vessels bound for the anhydrous ammonia receiving terminals to Port Sutton the safety zone includes, in addition to the area in paragraph (a)(1) of this section, Port Sutton Channel.

(2) For outbound tank vessels loaded with anhydrous ammonia the safety zone is established when the vessel departs the receiving terminal and continues through the area described in paragraph (a)(1) of this section.

(3) The floating safety zone is disestablished when the anhydrous ammonia carrier is safely moored at the anhydrous ammonia receiving facility.

(b) A safety zone is established which extends 150 feet waterside from an anhydrous ammonia vessel while it is moored at the receiving facilities at R. E. Knight on Hookers Point and W. R. Grace and International Metals and Chemicals at Port Sutton. Any vessels desiring to enter the safety zone must obtain authorization from the Captain of the Port Tampa. Vessels transiting in the vicinity of the safety zone should do so with as slow a speed as conditions permit.

(c) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(d) The Marine Safety Office Tampa will notify the maritime community of periods during which these safety zones will be in effect by providing advance notice of scheduled arrivals and departures of loaded anhydrous ammonia vessels via a marine broadcast Notice to Mariners.

(e) Should the actual time of entry of the anhydrous ammonia vessel into the safety zone vary more than one half hour from the scheduled time stated in the broadcast Notice to Mariners, the person directing the movement of the anhydrous ammonia vessel shall obtain permission from Captain of the Port Tampa before commencing the transit.

(f) Prior to commencing the movement, the person directing the movement of the anhydrous ammonia vessel shall make a security broadcast to advise mariners of the intended transit. All additional security broadcasts as recommended by the U.S. Coast Pilot 5, ATLANTIC COAST shall be made through the transit.

(g) Vessels carrying anhydrous ammonia are permitted to enter and transit Tampa Bay and Hillsborough Bay and approaches during daylight hours only with a minimum of three miles visibility.

(h) The Captain of the Port Tampa may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of port safety or environmental safety.

Dated: April 8, 1986.

R.P. Cueroni,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 86-17777 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP TAMPA Regulation 86-34]

Safety Zone Regulations; Tampa Bay

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around the new Sunshine Skyway Bridge in Tampa Bay. The zone is needed to protect vessel traffic and bridge construction personnel from a safety hazard associated with the lifting of bridge sections over the main shipping channel. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 14 July 1986. It terminates on 14 November 1986 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lt. Mike E. Maes at (813) 228 2194.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage or injury to vessel traffic and bridge construction personnel.

Drafting Information

The drafters of this regulation are LT Mike E. Maes, project officer for the Captain of the Port Tampa, and CDR Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation arise from the construction of the new Sunshine Skyway Bridge. Bridge construction engineers noted that a stable floating platform is needed during the lifting of bridge sections and that vessel wakes could adversely affect this lifting operation. At meetings held between the Coast Guard, port community interests, and bridge construction personnel, it was concluded there was a need for a fixed safety zone to protect vessel traffic and construction personnel from the inherent dangers associated with the lifting operations.

Bridge construction personnel will endeavor to minimize the impact on the shipping industry. The Captain of the Port will resolve any conflicts arising from the establishment of this safety zone. Vessels which have scheduled movements prior to the notification of a lifting operation will be given precedence. Once bridge lifting operations have been scheduled and all applicable parties alerted, vessel movements will not interfere with the lifting operation unless an emergency situation arises.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-6, and 160.5.

2. A new 165 T7-34 is added to read as follows:

§ 165.T7-34 Safety zone New Sunshine Skyway Bridge.

(a) *Location.* The following area is a safety zone: Tampa Bay Cut "A" channel at the New Sunshine Skyway Bridge, Tampa Bay, Florida a safety zone is established 1000 yards in all directions surrounding the Paschen construction barge when it is in the main shipping channel lifting bridge sections for placement on the Sunshine Skyway Bridge. The Captain of the Port will broadcast locally the actual time of the bridge lift and implement the safety zone. The safety zone will be in effect for approximately a two hour period while the lifting barge is in the shipping channel.

(b) *Effective date.* This regulation becomes effective on 14 July 1986 and terminates on 14 November 1986 unless terminated sooner by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: July 31, 1986.

H.D. Jacoby,

Commander, U.S. Coast Guard, Alternate Captain of the Port Tampa, FL.

[FR Doc. 86-17780 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Surface Air Lift Service to Panama and Certain Latin American Countries

AGENCY: Postal Service.

ACTION: Final action on International Surface Air Lift Service to Panama and certain Latin American countries.

VOL 51 ISS 152 AG 7 1986 UMI

SUMMARY: Pursuant to agreements with the postal administrations of Panama and certain Latin American countries, the Postal Service intends to begin International Surface Air Lift Service to those countries at postage rates indicated in the tables below. Service is scheduled to begin on September 6, 1986.

EFFECTIVE DATE: September 6, 1986.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on July 3, 1986 [51 FR 24391], the Postal Service announced that it was proposing to begin International Surface Air Lift Service to Panama and certain Latin American countries from New York City (J.F. Kennedy Airmail Facility). Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received. Accordingly, the Postal Service states that it intends to begin International Surface Air Lift Service to Panama and certain Latin American countries from New York City (J.F. Kennedy Airmail Facility) on September 6, 1986 at the rates indicated in the table below.

Lists of Subjects in 39 CFR Part 10

Postal service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552[a], 39 U.S.C. 401, 404, 407, 408.

INTERNATIONAL SURFACE AIR LIFT

(See following list for AMF and country groups)

Origin AMF Group	Rate Group A	Rate Group B	Rate Group C	Rate Group D	Rate Group E
a. Pound Rate:*					
(1) Regular Service:					
East	$1.95	$2.22	$2.55	$2.66	$3.40
Central	1.70	2.47	N/A	2.57	3.22
West	1.99	2.53	2.99	2.33	3.13
(2) Regular Service M-Bag:					
East	1.76	2.00	2.30	2.39	3.06
Central	1.53	2.22	N/A	2.31	2.90
West	1.79	2.28	2.69	2.10	2.82
(3) Transit Service Regular:					
East	2.27	2.41	2.70	N/A	3.60
Central	2.02	2.64	2.40	N/A	3.42
West	N/A	2.82	N/A	N/A	3.30

INTERNATIONAL SURFACE AIR LIFT—Continued

(See following list for AMF and country groups)

Origin AMF Group	Rate Group A	Rate Group B	Rate Group C	Rate Group D	Rate Group E
(4) Transit Service M-Bag:					
East	2.04	2.17	2.43	N/A	3.24
Central	1.82	1.98	2.16	N/A	3.08
West	N/A	2.54	N/A	N/A	2.97

*Contact your local postmaster or customer services representative for possible discount rates based on type of mail matter and weight of mailing.

International Surface Air Lift Service Rate Groups

Origin AMF's:[1]

East	*Central*
Boston	Chicago
New York City	Dallas
Philadelphia	Houston
Washington, DC	Miami

West

Los Angeles	San Francisco

Destination Countries for Regular and/or Transit Service:

Rate Groups

A	*B*
Belize [3]	Albania
Columbia [3]	Austria
Costa Rica [3]	Belgium
Cuba [3]	Bulgaria
Dominican Republic [3]	Czechoslovakia
Ecuador [3]	Denmark
El Salvador [3]	East Germany
Guatemala [3]	Finland
Haiti [3]	France
Honduras [3]	Great Britain
Jamaica [3]	Greece
Mexico [3]	Hungary
Netherlands Antilles [3]	Iceland
Nicaragua [3]	Ireland
Panama [2]	Italy
Trinidad & Tobago [3]	Luxembourg
Venezuela [3]	Netherlands
	Norway
	Poland
	Portugal
	Rumania
	Spain
	Sweden
	Switzerland
	West Germany
	Yugoslavia

C	*D*
Argentina [3]	Hong Kong
Bolivia [3]	India
Brazil [3]	Japan
Chile [3]	Korea, So.
French Guyana	Taiwan
Guyana [3]	
Paraguay [3]	
Peru [3]	
Suriname [3]	
Uruguay [3]	

E	
Australia	New Zealand
China, Peoples Republic	Philippines
Fiji Islands	Singapore
Malaysia	South Africa
New Guinea	Thailand

[1] All AMF's do not service all destinating countries. Contact your local postmaster or customer services representative for list of AMF's and the destinating countries served by particular AMF's.

[2] New destination country for Regular Service for New York City (J.F. Kennedy Airmail Facility).

[3] New destination countries for Transit Service for New York City (J.F. Kennedy Airmail Facility).

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–17774 Filed 8–6–86; 8:45 am]

BILLING CODE 7710–12–M

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

45 CFR Part 2002

Regulations on Donations; Policy and Procedures

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Final rule.

SUMMARY: The Commission adopts as final the interim regulations on donations which were published as an Interim Rule on January 24, 1986 (51 FR 3174). The regulations set forth general provisions governing the authority of the Commission to solicit, accept, determine the value, use and dispose of donations of money, property and personal services. The Commission is required to issue these regulations by section 5(j), Pub. L. 98–101, 97 Stat. 721.

EFFECTIVE DATE: January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Commission on the Bicentennial of the United States Constitution, 734 Jackson Place, NW., Washington, DC 20503; telephone: (202) USA–1787 or (202) 653–9800.

SUPPLEMENTARY INFORMATION: These regulations were approved by the Commission on November 25, 1985 and have governed the handling of donations since that date. They were published as an Interim Rule effective January 13, 1986 with a request for comments to be received by February 24, 1986. No

comments were received and the Commission has taken no action requiring any amendment or change in the language of the regulations as published in the Interim Rule. Announcement of the Final Rule, accordingly, constitutes a confirmation of the regulations as adopted and published on January 24, 1986.

The Interim Rule published on January 24, 1986 (51 FR 3174) is adopted as a Final Rule without change.

Authority: Pub. L. 96–101, 97 Stat. 721.

Dated: July 23, 1986.

Mark W. Cannon,

Staff Director.

[FR Doc. 86–17782 Filed 8–6–86; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 50720–5154]

Fishery Conservation and Management; Groundfish of the Gulf of Alaska

Correction

In FR Doc. 86–15031 beginning on page 24353 in the issue of Thursday, July 3, 1986, make the following correction:

On page 24354, first column, last line, insert the following after "gear":

"by July 3, 1986, and further directed sablefish fishing with hook-and-line gear".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 51, No. 152
Thursday, August 7, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-86-14]

Petitions for Rulemaking; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawls of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before October 6, 1986.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3162.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on July 31, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No	Petitioner	Description of the petition
24982	Aeroservice International Training Center	Amendment to allow alternate methods of compliance to this regulation as it applies to the 5-hours required in-flight experience for a non-pilot engineer. Petitioner proposes to use a simulator in place of aircraft. *Regulations affected:* 14 CFR 63.37. *Petitioner's reason for rule:* Current regulations limit access to the flight deck; flight hours must be accomplished on non-revenue flights; the training flights contribute to high noise levels and pollution and are very costly.
24958	Corey J. Ferguson ...	Petitioner proposes to repeal paragraph which states that a tactical instrument card issued by the U.S. Army is not acceptable to show instrument competency. *Regulations affected:* 14 CFR 61.73(g)(6). *Petitioner's reason for rule:* Petitioner believes this paragraph should be deleted since the U.S. Army no longer issues a tactical instrument certificate.

[FR Doc. 86-17713 Filed 8-6-86; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-CE-22-AD]

Airworthiness Directive; Pilatus Britten-Norman Limited, Models BN-2 and BN-2A Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman (PBN) Limited, Models BN-2 and BN-2A Islander series airplanes which would provide a suitable means of rectifying defects found in the elevator mass balance for aircraft in service, and elevator spares. Instances have been reported of the internal lead balance weights becoming loose and even detaching from its bond to the steel mounting case in the nose of the elevator horn. This shift in the elevator balance, may induce high amplitude vibrations, excessive control system wear, loss of control and possible catastrophic flutter. This AD will detect the loose balance weights and restore the correct elevator balance before any of the undesired oscillations, flutter or control system wear occurs.

DATE: Comments must be received on or before September 26, 1986.

ADDRESSES: Pilatus Britten-Norman Limited, Mandatory Service Bulletin (MSB) No. BN-2/SB.113, Issue 2 dated April 14, 1986, and recommended Service Bulletin (S/B) BN-2/SB.113, Issue 1 dated February 1, 1978, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-22-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium; Telephone 513.38.30; or Mr. Harvey A. Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-22-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Instances have been reported on Pilatus Britten-Norman Limited Models BN-2 and BN-2A Islander Airplanes, of elevator vibration, caused by the internal lead balance weight becoming detached from its bond to the steel mounting case forming the outer skin of the balance in the nose of the elevator horn. The initial construction of this assembly involves casting the lead directly into the steel case, resulting in a close fit and adhesion of the lead to the steel. In some cases, due to cooling and contraction of the two dissimilar metals, the lead became free from its steel holder, vibrated and deformed allowing ingress of moisture to cause corrosion of the steel case and has caused excessive vibrations of the elevator. As a result the manufacturer recommended the incorporation of Modification NB/M/990, as specified in Issue 1 of S/B.113 dated February 1, 1978.

Recent service difficulty reports indicate that the problem still persists on aircraft that did not incorporate Modification NB/M/990. Therefore, PBN has re-issued S/B BN-2/SB.113 as Mandatory S/B BN-2/SB.113, Issue 2 dated April 14, 1986, which if complied with, will detect the loose balance weights and restore the correct elevator balance before any undesired failures or vibrations occur, on both installed and spare elevators.

The United Kingdom Civil Aviation Authority (CAA-UK) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom has classified this BN-2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN-2/SB.113, Issue 1 dated February 1, 1978, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under the United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with the FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of BN-2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN-2/SB.113, Issue 1 dated February 1, 1978, and the mandatory classification of this Service Bulletin by the CAA-UK. Based on the foregoing, the FAA believes that the condition addressed by BN-2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN-2/SB.113, Issue 1 dated February 1, 1978, in an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require an inspection of the elevator horn balance weight, for cracks, looseness, corrosion, and repair by incorporating Modification NB/M/990.

The FAA has determined there are approximately 100 airplanes affected by the proposed AD. The cost of inspecting and modifying these airplanes according to the proposed AD is estimated to be $70 per airplane. The total cost is estimated to be $7,000 to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluaton has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Pilatus Britten-Norman Limited: Applies to Pilatus Britten-Norman Limited, Models BN-2 and BN-2A Islander airplanes.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished by incorporation of Modification NB/M/990 as noted in Britten-Norman Service Bulletin (S/B) No. BN.2/SB.113, Issue 2 dated April 14, 1986.

To prevent undesirable oscillations, flutter or control system wear, accomplish the following:

(a) Shake the elevator and aurally (by ear) determine if the mass balance weight is loose. Examine for any signs of movement, i.e., rust marks or grey lead deposits. In cases of uncertainty drill a small hole (5/32 in. dia.) in the lower case and insert a probe to feel for lead movement. Alternatively dismantle the trimming weight assembly by removal of the blind riveted end covers and by removing the balance discs (note position and sequence for re-assembly).

(1) If a loose balance weight is found prior to further flight, accomplish the following:

(i) Remove the elevator;

(ii) Drill out rivets, remove the trim weight assembly and detach the complete case from the trip rib.

(iii) Lift out the profiled lead block.

(iv) Clean the case internally to remove any corrosion by the use of emery cloth. Keep clean; do not wipe with oily or greasy rag or bond of adhesive will be impaired.

(v) Clean the lead block to obtain a corrosion free face to the steel case and

permit free fit into the case with an approximate 0.020 in. to 0.030 in. clearance.

(vi) Prepare and apply a quantity of 3M's EC2216 epoxy adhesive to the case and press in the weight to obtain a layer of adhesive all around to fill the gap between the case and lead. Allow to cure approximately 12 hours at 60 ° F to 65 ° F and re-assemble to the elevator structure.

(vii) Re-assemble trim weights and check elevator balance, adjust trim weights if necessary to restore CAA–UK approved manufacturer's correct balance.

Note.—EC2216 may be substituted by similar "low flow" epoxy adhesive provided that the gap can be adequately sealed.

(2) If no defect is found, reassemble and return the airplane to service.

(b) Aircraft may be flown accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 28, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–17712 Filed 8–6–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–ANM–7]

Proposed Alteration of Hailey, ID, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal and Reissuance of Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document withdraws an NPRM which proposed to revoke the transition area at Hailey, Idaho, and reissues it to alter the transition area to provide additional controlled airspace from 1,200 feet above the surface for aircraft executing a new instrument approach procedure to Friedman Memorial Airport. Since issuance of the original NPRM, the FAA received a request for a new instrument approach procedure. Accordingly, this notice proposes to provide controlled airspace for aircraft executing a new instrument approach procedures at Friedman Memorial Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATE: Comments must be received on or before September 23, 1986.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 86–ANM–7, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Katherine G. Paul, ANM–535, Federal Aviation Administration, Docket No. 86–ANM–7, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ANM–7". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional controlled airspace for the benefit of aircraft conducting instrument flight rules activity.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore; (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Hailey, Idaho—[REVISED]

That airspace extending upward from 1,200 feet above the surface from lat. 44°00'00"N, long. 115°00'00"W, thence eastbound to lat. 44°00'00"N, long. 114°07'00"W, thence southbound to lat. 43°17'30"N, long. 114°00'00"W, thence westbound to 43°17'30"N, long. 115°00'00"W, thence northbound to the point of beginning; and excluding that airspace overlying V–231 on the east side and V–500 on the south side of the area.

Issued in Seattle, Washington, on July 31, 1986.

William E. O'Neill,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86–17714 Filed 8–6–86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86–ASO–15]

Proposed Alteration of VOR Federal Airways V–325 and V–463—GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of two Federal Airways located between Harris, GA, Athens, GA, and Womac Intersection. This action would provide a single feeder fix for low altitude arrivals. It would also provide a smoother transition of traffic and reduce controller workload into the Atlanta terminal area.

DATE: Comments must be received on or before September 22, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 86–ASO–15, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comment to Airspace Docket No. 86–ASO–15." The postcare will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of V–463 between Harris, GA, and Womac Intersection and to realign V–325 from Athens, GA, to Womac Intersection. This action would develop a single low altitude feeder fix for low altitude aircraft into the Atlanta terminal area. This action would reduce controller workload through the alteration of the airways. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.68 dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) Is not a "major rule" under Executive Order 12291; (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) Does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V–235 [Revised]

From Columbia, SC, via Athens, GA; INT Athens 291°T(291°M) and Toccoa, GA, 222°T(222°M) radials; INT Toccoa 222°T(222°M)and Harris, GA, 187°T((187°M) radials. From INT Gadsden, AL, 091°T(089°M) and Rome, GA, 133°T(133°M) radials; Gadsden; to Muscle Shoals, AL.

V–463 [Revised]

From INT Harris, GA, 179°T(179°M) and Toccoa, GA, 222°T(222°M) radials; to Harris.

Issued in Washington, DC, on July 31, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-17715 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-20]

Proposed Designation of Transition Area; Ballinger, TX

Correction

In FR 86-15821 beginning on page 25572 in the issue of Tuesday, July 15, 1986, make the following corrections: On page 25573, in the first column, in the first paragraph, in the first line, insert "feet" after "700"; and in the seventh line, the longitude should read "99°58'27.9" W".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 141

Proposed Customs Regulations Amendment Concerning Special Summary Steel Invoices

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by adding several articles to the list of steel products subject to the requirements of the Special Summary Steel Invoice (SSSI). The U.S. Trade Representative has negotiated Voluntary Restraint Agreements (VRA) with several countries. The VRA's dictate that basic steel products from these countries cannot be entered into the U.S. for consumption without an export license. Therefore, the Department of Commerce has requested that Customs add fabricated structurals, wire rope, wire strand, and rigid conduit to the list of articles subject to the requirements of the SSSI to facilitate the collection of statistical data necessary for monitoring compliance with the VRAs.

The document invites written comments on the proposal for consideration before final regulations are prepared.

DATE: Comments must be received on or before October 6, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Robert Bujnicki, Commercial Compliance Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8121).

SUPPLEMENTARY INFORMATION:

Background

Section 141.86, Customs Regulations (19 CFR 141.86), sets forth the general information required by the Tariff Act of 1930, as amendedd (19 U.S.C. 1202 *et seq.*), to be on each invoice of imported merchandise. In addition to this information, § 141.89, Customs Regulations (19 CFR 141.89), lists certain classes of merchandise where additional invoice information is required. One such class of merchandise is certain steel products imported in shipments with an aggregate purchase price of $10,000 or over, or if from a contiguous country, $5,000 or over, listed in § 141.89(b)(2).

The extra information required concerning steel products is provided by completing the Special Summary Steel Invoice (SSSI) (Customs Form 5520). The SSSI must be submitted to Customs in duplicate at the time of filing the entry summary for each shipment of steel determined by the district director to be subject to § 141.89(b). The information which must be supplied on a SSSI, such as date of the sales agreement and price data, is used to administer and enforce antidumping laws (see 19 U.S.C. 1671 *et seq.*), as well as compliance with Voluntary Restraint Agreements (VRA).

The U.S. Trade Representative has negotiated VRAs with Austrialia, Finland, South Africa, Spain, Brazil, and Mexico. The agreements dictate that basic steel products from these countries cannot be entered into the U.S. for consumption unless accompanied by a valid export certificate. Therefore, the International Trade Administration of the Department of Commerce has requested that Customs extend SSSI coverage to include fabricated structurals, wire rope, wire strand, and rigid conduit. Therefore, Customs now proposes to add these 4 articles to the other 32 articles of steel listed in § 141.89(b)(2) that require a SSSI for shipments with an aggregate purchase price of $10,000 or over, or if from a contiguous country, $5,000 or over. The necessity for filing a SSSI is determined by what article of steel is being shipped and what its purchase price is; the country where the shipment originated is not a factor. Currently, Customs must provide copies of actual invoices to Commerce to account for these products, a task requiring additional work for Customs import specialists. The addition of these steel commodities to the list of articles subject to the requirements of the SSSI would greatly ease the process of collecting the necessary statistical information.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), or regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 141

Customs duties and inspections, Imports.

Proposed Amendment to the Regulations

It is proposed to amend Part 141, Customs Regulations (19 CFR Part 141), as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subpart G also issued under 19 U.S.C. 1505.

Section 141.89 also issued under 19 U.S.C. 1202 (Gen. Hdnote 11), 1481.

2. It is proposed to amend § 141.89(b)(2) by adding the following commodities in proper numerical order to the list of articles of steel subject to special invoice requirements:

(Note: Although not in sequence with existing numbers in § 141.89(b)(2), the numbers listed are those assigned to these articles by the American Iron and Steel Institute).

§ 141.89 Additional information for certain classes of merchandise.

* * * * *

(b) * * *
(2) * * *

(38) Fabricated structurals.
(43) Wire rope.
(44) Wire strand.
(51) Rigid conduit.

William Rosenblatt,

Acting Commissioner of Customs.

Approved: July 10, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-17731 Filed 8-6-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF STATE

22 CFR Part 2a

[SD-200]

Department of State Guidelines on Protection of Foreign Missions

AGENCY: Diplomatic Security Service, Department of State.

ACTION: Proposed rule.

SUMMARY: The Diplomatic Security Service proposes to publish and disseminate these guidelines pertaining to the management and disbursement of congressionally appropriated funds destined to improve the security environment of Foreign Diplomatic and Consular Missions and the attendant Officials resident in the United States, and to assist state and local municipalities through the reimbursement of moneys to jurisdictions whose law enforcement agencies provide "Extraordinary Protection" to the supra Missions and Officials. Fundamental guidelines are necessary to establish an equitable program that will: take into account the regional variances of police salaries, capabilities and experiences in the protective security aspects of law enforcement; consider the concentration of exile and ethnic communities that could politically impact on the security of certain foreign missions; provide security commensurate with the level of threat, and in keeping with the U.S. Government commitment to counter terrorism and fulfill its obligations under international law, treaties and conventions.

DATE: Comments must be submitted on or before October 6, 1986.

ADDRESS: Protective Liaison Division, Diplomatic Security Service, U.S. Department of State, Washington, DC, 20520.

FOR FURTHER INFORMATION CONTACT: Johnny W. Guy, or Michael J. Tretola, Protective Liaison Division, (202) 673-3881.

SUPPLEMENTARY INFORMATION: The Foreign Missions Amendments Act of 1983 (Pub. L. 98-164) sets forth a program entitled Protection of Foreign Missions and Officials, under section 605. Historically the Federal Government has relied upon state and local law enforcement authorities to provide adequate protective security measures to Foreign Missions and Officials located in their respective jurisdictions. In recent years, terrorism, demonstrative activity, and reciprocity demands from foreign governments have increased at a rate exceeding the financial and manpower capabilities of local municipalities, who repeatedly sought federal financial assistance for services they deemed were a federal responsibility inasmuch as the requests were considered beyond normal police activity extended to all persons and property within their jurisdictions. These guidelines attempt to explain the program and the conditions under which reimbursement may be claimed and approved. Circumstances and procedures are specified in a step by step regulatory manner; sources of information and contacts within the Diplomatic Security Service are provided; and definitions of pertinent language are explained. This will insure that the program will be interpreted and applied identically in jurisdictions throughout the U.S. The Department of State has realized for several years that state and local governments have been in financial diffculty with respect to the numerous requests tendered in behalf of foreign mission protection. To this end, the Diplomatic Security Service has worked in close concert with our own Legal Advisors, several major city police departments, and numerous committees and Members of Congress developing an equitable reimbursement program to alleviate much of the financial burdens previously shouldered by local municipalities. This document does not require review by OMB under EO 12291, nor under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 2a

Foreign missions, Foreign officials, Security measures

In consideration of the foregoing, the Diplomatic Security Service proposes that in Chapter I of Title 22, Code of Federal Regulations Part 2a be added as follows:

PART 2a—DEPARTMENT OF STATE GUIDELINES ON PROTECTION OF FOREIGN MISSIONS

Sec.
2a.1 Purpose.
2a.2 Definitions.
2a.3 Bureau of Diplomatic Security programs.
2a.4 Coordination with law enforcement and intelligence agencies.
2a.5 Diplomatic reciprocity.
2a.6 Location of foreign missions.
2a.7 Provision of protective services generally.
2a.8 Requests from state and local governments for protective assistance.
2a.9 Provision of protective services in cases of extraordianry protective need.
2a.10 Reimbursement for protective services provided by State and Local Authorities.
2a.11 Special rules for reimbursement.
2a.12 Extraordinary protective services in cases of urgency.
2a.13 Protective security contract services.
2a.14 Foreign Missions Act determination.
2a.15 Supplementary guidelines; State and local agreements.
2a.16 Effective date; retroactive application.
2a.17 Contact for information.

Authority: Title II of the State Department Basic Authorities Act of 1956, added by the Foreign Missions Act of 1982 (Pub. L. 97-241, 96 Stat. 273, 282), 22 U.S.C. 4301-4313; the Foreign Missions Amendments Act of 1983 (Pub. L. 98-164, section 605, 97 Stat. 1017, 1044); Title III, U.S. Code, sections 202 and 208, as amended (Pub. L. 97-418, 96 Stat. 2089); Executive Order No. 12478, effective October 1, 1984; and Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658).

§ 2a.1 Purpose.

(a) The purpose of these guidelines is to establish a program administered by the Bureau of Diplomatic Security of the Department of State, under which the Department can review and promote coordination between federal, state and local security authorities in the protection of foreign missions in the United States, and can assist in the provision of protective services for such missions. State and local governments of the United States will continue to have the primary responsibility for law enforcement within their respective jurisdictions. This program does not establish any legal entitlement to assistance either for a foreign mission or for any State or local government or authority. The Bureau of Diplomatic Security will maximize available federal

assistance through coordination of programs and through limited federal financial assistance by contract or reimbursement for certain protective services in cases of extraordinary protective need, to the extent funds are available therefore.

(b) This program will assist the United States to carry out its international obligations relating to the protection of foreign diplomatic and consular and international organization personnel and premises in the United States under the Vienna Convention on Diplomatic Relations (23 UST 3227, TIAS 7502), the Vienna Convention on Consular Relations (21 UST 77, TIAS 6820), the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (28 UST 1975, TIAS 8532), the Convention to Prevent and Punish Acts of Terrorism (27 UST 3949, TIAS 8413), international agreements relating to organizations such as the United Nations Headquarters Agreement (61 Stat. 3416, TIAS 1899 (Pub. L. 80–357), and other applicable multilateral and bilateral agreements and provisions of international law.

(c) The program will include the following—

(1) Foreign Missions, generally—Extraordinary protective services may be provided directly through the Department of State, or by reimbursement for services to state and local governments or contract;

(2) Missions to International Organizations—Extraordinary protective services may be provided by reimbursement to State or local officials, to missions to certain international organizations, such as the United Nations, under title 3 of the U.S. Code, 202 and 208.

(d) The provisions of these guidelines may be applied to protective assistance under both (a) and (b) of this section, unless otherwise stated therein or separate standards or criteria are required by applicable law. Supplementary guidelines may be issued by the Department of State from time to time in order to implement these guidelines in particular jurisdictions. This part is authorized by the Foreign Missions Act of 1982 (Pub. L. 97–241, 96 Stat. 273, 282), the Foreign Missions Amendments Act of 1983 (Pub. L. 98–164), title 3, secs. 202 and 208 of the U.S. Code, and Executive Order No. 12478.

§ 2a.2 Definitions.

For purposes of these guidelines—

(a) "Assistant Secretary" means the Assistant Secretary of State for Diplomatic Security.

(b) "Deputy Assistant Secretary" means the Deputy Assistant Secretary of State for the Diplomatic Security Service; any authority granted the Deputy Assistant Secretary under these regulations may be exercised by the Assistant Secretary as appropriate.

(c) "Foreign mission" or "foreign diplomatic mission" means;

(1) Any mission in the United States involving diplomatic, consular, or other governmental activities of a foreign government or an organization representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States, or

(2) Any public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288–288f) or a public international organizational agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; or

(3) An official mission to a public international organization, including any real property and personnel of such a mission or public international organization.

(d) "Protective service" means law enforcement and security measures employed to assure proper functioning of diplomatic activities and to prevent injury or harm to personnel or facilities of foreign missions.

(e) "Extraordinary protective need" means the existence of a threat of violence, or other circumstance, as determined by the Deputy Assistant Secretary which requires extraordinary security measures which significantly exceed those which law enforcement authorities can reasonably be expected to take.

(f) "Extraordinary protective services" means protective services provided or authorized in cases determined under these guidelines to constitute an extraordinary protective need.

(g) "Metropolitan area" means a city, county, or other political subdivision of a State, and those areas related thereto determined by the Deputy Assistant Secretary to constitute a single protective area for purposes of these regulations.

(h) "State" means a state of the United States, the District of Columbia, Puerto Rico, Guam and all territories under the jurisdiction of the United States.

(i) "United States Mission" means the official US government mission to a public international organization, such as the United States Mission to the United Nations ("USUN").

(j) Determination with respect to the meaning and applicability of terms used in the Foreign Missions Act and under these regulations are committed to the discretion of the Secretary of State.

§ 2a.3 Bureau of Diplomatic Security programs.

(a) The Bureau of Diplomatic Security will be responsible, in coordination with United States Missions as appropriate, for implementing through its constituent field offices upon request and subject to availability of resources, foreign mission security programs including, but not limited to:

(1) Assessment of available federal, state and local protective resources for a particular jurisdiction, taking into account the number of foreign missions and circumstances specific to each jurisdiction;

(2) Assistance in planning and coordinating the provision of protective security; and

(3) Regulatory functions otherwise required by these guidelines.

(b) The Protective Liaison Division (DS/PT/PL) will be the office responsible for the overall coordination of this program. Information of a potential threat to a foreign diplomatic establishment or personnel will be received and evaluated for purposes of these guidelines from:

(1) U.S. intelligence or law enforcement agencies;

(2) State or local law enforcement agencies;

(3) Bureau of Diplomatic Security Field Offices, Threat Analysis Division and Regional Security Offices;

(4) Department of State country desk offices and other appropriate regional offices, United States Missions, the Office for Counter-terrorism and Emergency Planning, the Office of Foreign Missions, and the Bureau of Intelligence and Research;

(5) Foreign diplomatic establishments;

(c) DS/PT/PL will evaluate this information in concert with the Threat Analysis Division and recommend to the Deputy Assistant Secretary the appropriate level of protective coverage required, to be reviewed daily or as required.

(d) Bureau of Diplomatic Security Field Offices, together with the appropriate United States Mission, will be responsible for the foreign diplomatic establishments in their area of jurisdiction. The Field Offices will institute necessary procedures and practices in regard to the protection of foreign missions and officials. Each

VOL 51 ISS 152 AG 7 1986 UMI

Field Office will designate an agent as Security Coordinator who will be responsible for primary coordination with DS/PT/PL, the Consular community, local law enforcement and private security firms.

§ 2a.4 Coordination with law enforcement and intelligence agencies.

(a) In order to coordinate and allocate their respective agency resources, the Deputy Assistant Secretary shall consult regularly with federal law enforcement and intelligence agencies, including the Federal Bureau of Investigation and the United States Secret Service, concerning assistance programs under these guidelines. Nothing in these guidelines shall preclude or limit the authority of the United States Secret Service to provide protective services pursuant to 3 U.S.C. 202 or 18 U.S.C. 3056 at a level commensurate with protective requirements as determined by the Secret Service.

(b) The Deputy Assistant Secretary shall consult and coordinate with state and local law enforcement agencies with respect to such matters as planning for foreign mission protection, communications coordination, and federal assistance under this part.

§ 2a.5 Diplomatic reciprocity.

(a) The Deputy Assistant Secretary shall coordinate any request by a foreign mission or by a state or local government for assistance under these guidelines for the provision of protective services with the Director of the Office of Foreign Missions of the Department of State. OFM shall review the treatment accorded United States missions abroad, and make recommendations with respect to the impact of any such services provided under these guidelines on reciprocity and national security interests of the United States.

(b) No act or omission by any governmental authority under these guidelines shall be construed either as limited or as establishing in any way the entitlement of any person, property, premises, or mission to any privileges or immunities otherwise granted or denied under applicable law.

§ 2a.6 Location of foreign missions.

(a) The Deputy Assistant Secretary shall review with the Director of the Office of Foreign Missions all existing and proposed locations of foreign missions, including, but not limited to any notification under the Foreign Missions Act to the Director by a foreign mission of a proposed acquisition, modification or use of real property. In coordination with a United States mission to an international organization, as appropriate, and with local authorities in all cases, this review shall cover security factors related to such locations, such as the availability of local resources with respect to particular locations, and whether such location might preclude adequate protection, or could result in excessive requests for assistance in providing protective services under these guidelines.

(b) The Deputy Assistant Secretary shall in appropriate cases recommend to the Director of the Office of Foreign Missions that a proposed acquisition or existing use by a foreign mission be disapproved, or conditions be attached thereto under authority of the Foreign Missions Act (22 U.S.C. 4304 and 4305) to facilitate the rendering of appropriate protection.

§ 2a.7 Provision of protective services generally.

State and local governments of the United States have as a part of their normal law enforcement functions the responsibility to provide security to persons or property within their jurisdictions, to include foreign missions. Federal assistance intended to supplement state and local protective services shall be in accordance with these guidelines or otherwise as authorized by law.

§ 2a.8 Request from State and local governments for protective assistance.

(a) In cases where a State or local authority or a foreign mission believes that an extraordinary protective need exists, it may request assistance from the Department of State in providing protective services. The Bureau of Diplomatic Security may request that protective services be provided. Requests shall be made to the Deputy Assistant Secretary (Diplomatic Security), Department of State, Washington, DC 20520 directly or through designated Bureau of Diplomatic Security Field Offices, or through a United States Mission if appropriate. A request under this paragraph, except as provided in § 2a.12 of these guidelines shall:

(1) Be preceded by consultation between State or local authorities and the appropriate Bureau of Diplomatic Security Field Office, as well as the United States Mission, as appropriate;

(2) If related to a scheduled event or visit, be submitted in advance of the anticipated extraordinary protective need;

(3) Contain sufficient detail to allow the Deputy Assistant Secretary to make an informed determination of extraordinary protective need, including: the location of the foreign mission(s) or activities, together with any secondary locations involved; a description of the circumstances believed to give rise to the extraordinary protective need, including, in the case of a diplomatic visit, the name and title of the visiting foreign official or dignitary, the temporary domicile(s) of the visiting official or dignitary, and anticipated schedule in the United States;

(4) If from a state or local agency, include a detailed estimate of the resources required to provide protective services commensurate with extraordinary protective need (including approximate number of personnel by grade or rank, services, equipment and facilities), and an estimate of the cost of such resources; and

(5) Be accompanied by a security review by the appropriate Bureau of Diplomatic Security Field Office or by the United States Mission to an international organization.

(b) In all cases involving requests for assistance in providing extraordinary protective services, except for as provided in § 2a.13, the Deputy Assistant Secretary, in consultation with the United States Mission where appropriate, shall determine whether, for purposes of these guidelines, assistance may be considered for protective services, and whether such assistance may include direct deployment of Bureau of Diplomatic Security personnel, contract security assistance or reimbursement to state and local authorities. An analysis of security factors shall take into account potential or actual violence or interruption of diplomatic activities including, but not limited to specific events or patterns of activity involving (1) confrontations between nationalist or other groups, (2) threats or acts of violence by terrorist or other groups, (3) a specific diplomatic or international occurrence, (4) demonstrations or efforts to impede the conduct of normal diplomatic activities, (5) the impact of security efforts in the United States upon security measures and safety of missions and personnel of the U.S. Government abroad, or (6) other circumstances which prevent proper conduct of foreign mission activities. Security analysis under these guidelines may be coordinated, within the Department of State, with the Director of the Office of Foreign Missions, the Director of the Office of Counter-terrorism and Emergency Planning, and the Director of Bureau of Intelligence and Research.

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§ 2a.9 Provision of protective services in cases of extraordinary protective need.

In cases determined under these guidelines to constitute an extraordinary protective need:

(a) The Deputy Assistant Secretary shall determine whether security personnel of the Department of State may be deployed;

(b) If this is not feasible, the Deputy Assistant Secretary, through the Bureau of Diplomatic Security Field Offices, or a United States Mission, as appropriate, has the delegated authority to request the assistance of other Federal law enforcement authorities in the provision of protective services;

(c) If Federal law enforcement authorities are unable to provide assistance as requested, the Deputy Assistant Secretary, or the designated representative of a United States Mission, in cases involving the metropolitan area of that mission or facilities related to United Nations missions, are authorized:

(1) To request state and local law enforcement authorities to provide the necessary protective services, or

(2) To obtain such services by contract with protective security organizations, in accordance with procedures issued by and subject to the approval of the Deputy Assistant Secretary.

§ 2a.10 Reimbursement for protective services provided by State or local authorities.

(a) The Deputy Assistant Secretary, in accordance with procedures set forth in these guidelines may, to the extent funds are available therefore, authorize reimbursement for reasonable direct expenses specifically incurred for the provision of extraordinary protective services incurred by State or local authorities under this section.

(b) No payment or reimbursement shall be directed to be paid by the Deputy Assistant Secretary pursuant to this section unless the specific type or scope of protective service has been requested in accordance with these guidelines; services may be provided under an interim cost estimate subject to such conditions as may be required by the Deputy Assistant Secretary for post-performance cost determinations.

(c) No payment or reimbursement shall be directed to be paid by the Deputy Assistant Secretary for that portion of protective services which are routine and were or could otherwise have been made available under the protective service standard of the jurisdiction.

(d) Direct overhead and administrative costs associated with an extraordinary protective service may be reimbursable on the basis of pre-performance negotiated rates, or interim rates subject to audit and redetermination by the Deputy Assistant Secretary.

(e) The provider of services or government agency to whom reimbursement is provided shall retain all documents and reimbursement or payment, for inspection or audit by representatives of the Department of State or of the Comptroller General.

§ 2a.11 Special rules for reimbursement.

Limited funds are made available to the Department of State for partial reimbursement to state or local government under two statutory programs, each of which contains separate criteria:

(a) Foreign Missions, generally—Assistance for extraordinary protective services may be provided by reimbursement, subject to the following limitations set forth in the Foreign Missions Amendments Act of 1983 (Pub. L. 98–164) as amended.

(1) No more than 20 percent of funds available for obligation under this section in any fiscal year may be obligated for protective services within any single State during that year except as otherwise provided by law.

(2) Any agreement with a State or local authority for the provision or protective services under this section shall be for a period of not to exceed ninety days in any calendar year, but such agreements may be renewed after review by the Deputy Assistant Secretary.

(3) Not less than 15 percent of funds available for obligation under this section each fiscal year, except as otherwise provided by law shall be retained as a reserve for protective services provided directly by the Deputy Assistant Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section.

(b) Missions to International Organizations—Assistance. Extraordinary protective services related to certain international organizations, such as the United Nations, may be provided by reimbursement under title 3 of the U.S. Code, sections 202, 208.

(c) Reimbursements thereunder are subject to the following limitations (Note: funds available may be used for missions qualifying under this section):

(1) The foreign missions to which the protective services are provided must be located in a metropolitan area (other than the District of Columbia) where there are located twenty or more such missions headed by full-time officers;

(2) The affected metropolitan area must request such reimbursement; and

(3) The extraordinary protective need must arise in association with a visit to or occur at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such an organization.

§ 2a.12 Extraordinary protective services in cases of urgency.

In cases of urgency, notwithstanding the requirements of sections 2a.8–2a.10 of these guidelines (but within applicable statutory limitations), Bureau of Diplomatic Security Field Offices and United States Missions, under guidelines issued by the Deputy Assistant Secretary with the concurrence of the Procurement Executive, including, as appropriate, limited field delegations of authority, may in cases of urgency approve the provision of extraordinary protective services in accordance with general cost guidelines, if any, applicable to the particular jurisdiction, or subject to post-performance cost agreement. Provision of extraordinary protective services under this section shall require a review of continuing need and shall not exceed thirty (30) days after initiation thereof.

§ 2a.13 Protective security contract services.

(a) In cases where the Deputy Assistant Secretary determines that extraordinary security services may not be appropriately implemented because of federal, state or local law enforcement resource limitations or other restrictions, necessary protective services may be obtained by contract with private security firms or provider of such services. In carrying out the purposes of this section, the Deputy Assistant Secretary is authorized to proceed to utilize the procurement authorities conferred upon the Secretary by section 208(d) of the Foreign Missions Act, in addition to such authority for obtaining contract services as may be available to the Department of State.

(b) The need for contract security services should be considered in cases where an extraordinary protective need arises in more than one jurisdiction, under circumstances where, for a particular mission the provision of protective services may be adversely affected because of state or local jurisdictional limitations.

(c) The Department Procurement Executive shall provide, for purposes of

this section, a pre-qualification procedure, including appropriate pre-award security clearance requirements for firms or security provider interested in pre-qualification. Awards for services under this section may be limited to pre-qualification bidders for reasons of time of performance, or otherwise as authorized by section 208(d) of the Foreign Missions Act.

§ 2a.14 Foreign Missions Act determination.

Promulgation of these guidelines, and the issuance of supplementary guidelines under § 2a.15 and implementing instructions where required, are determined hereby to constitute regulations or instructions pursuant to section 208(b) of the Foreign Missions Act (22 U.S.C. 4308(b)), and persons acting in compliance therewith are entitled to assert that section in accordance with its term. This § 2a.14 shall be applicable, but shall not be limited to, authorized acts or omissions of law enforcement and security personnel in jurisdictions outside those in which they are otherwise authorized to perform official functions, subject to federal law enforcement standards applicable to such acts or omissions, or in the absence of such standards, to the standards otherwise applicable in the jurisdictions involved.

§ 2a.15 Supplementary guidelines; State and local agreements.

(a) The Deputy Assistant Secretary may from time to time issue, or authorize the issuance by designated Bureau of Diplomatic Security Field Offices or United States Missions, supplementary guidelines implementing these guidelines and applicable to particular jurisdictions or to particular categories of protective security within such jurisdictions.

(b) The Deputy Assistant Secretary may enter into agreements with state and local authorities for the provision of protective services under these guidelines. Any such agreement shall be for a period of not to exceed ninety days in any calendar year, but may be renewed after review by the Deputy Assistant Secretary.

§ 2a.16 Effective date; retroactive application.

These guidelines shall be effective on the date of issuance. The provisions of these guidelines with respect to reimbursement may be applied retroactively to protective services, subject to qualification under the terms herein and ratification by the Deputy Assistant Secretary for the Diplomatic Security Service, on and after October 1, 1984.

§ 2a.17 Contact for information.

Requests for protective security assistance or for reimbursement in cases determined to constitute an extraordinary need may be forwarded to the Bureau of Diplomatic Security, Protective Liaison Division (DS/PT/PL)—Room 2435, Department of State, Washington, DC 20520, or through Department of State Field Offices of the Bureau of Diplomatic Security or the appropriate United States Mission to an international organization.

(a) State Department, Bureau of Diplomatic Security, Protective Liaison Division (DS/PT/PL) (202)—673–3881.

(b) After regular business hours, all inquiries shall be made to the Coordination Center of the Bureau of Diplomatic Security, Department of State: The Coordination Center operates on a 24-hour basis (647–2412).

(c) Office of Foreign Missions (202) 647–3416.

(d) Bureau of Diplomatic Security Field Offices:

Boston, Mass 02203, John F. Kennedy Bldg., Government Center, Room 405C (617) 223–2753

Chicago, Ill 60604, Dirksen Federal Bldg., 219 S. Dearborn Street, Suite 1378 (312) 353–6163

Dallas, Texas 75242, Federal Bldg. Room 7C–44, 110 Commerce Street (214) 767–0702

Los Angeles, California 90012, Federal Bldg., 300 N. Los Angeles Street, Room 8120 (213) 688–3290

Miami, Florida 33130, Federal Bldg., 51 SW First Avenue, Room 1627 (305) 536–5781

New York, NY 10278, 26 Federal Plaza, Suite 3409 (212) 264–1292

Philadelphia, Pennsylvania 19106, Mall Bldg., 325 Chestnut Street, Room 512 (215) 597–7435

San Francisco, California 94102, Federal Bldg., 450 Golden Gate Avenue, Room 13347 (415) 556–5097

(e) US Mission to the United Nations (USUN) Host Country Section (212) 415–4131. After regular business hours, all inquiries should be made to the Communications Section of the U.S. Mission to the United Nations. This Section operations on a 24-hour basis (212) 415–4444.

Dated: July 31, 1986.

Louis Schwartz,

Deputy Assistant Secretary for Diplomatic Security and Director, Diplomatic Security Service.

[FR Doc. 86–17749 Filed 8–6–86; 8:45 am]

BILLING CODE 4710–24–M

Notices

Federal Register
Vol. 51, No. 152
Thursday, August 7, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date and Time: September 9–11, 1986, 8:30 a.m.–4:30 p.m.

Place: Lory Student Center, Colorado State University, Ft. Collins, Colorado 80523.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 206 Justin Smith Morrill Building, Washington, DC 20251, telephone 202–447/4587

Done at Washington, DC, this 29th day of July 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–17746 Filed 8–6–86; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF COMMERCE

International Trade Administration

Apple Juice Industry Prospects for Adjustment Assistance for Firms

The Department of Commerce, pursuant to section 264 of the Trade Act of 1974, has completed a study of the firms in the apple juice industry which have been or are likely to be certified as eligible for adjustment assistance. Such a study is required whenever the U.S. International Trade Commission (USITC) conducts an investigation under section 201 of the Trade Act. A summary of Commerce's findings follows.

On May 21, 1986, the Commission determined, by a 5–1 vote, that apple juice was not being imported into the United States in such increased quantities as to be a substantial cause of injury (or threat thereof) to the domestic industry producing like or directly competitive articles.

The program of trade adjustment assistance for firms authorized by the Trade Act under Title II, Chapter 3, and administered by the International Trade Administration (ITA) in the Department of Commerce, expired on December 18, 1985. The Consolidated Budget Reconciliation Act of 1986 extends the program authorization until September 30, 1991. Technical assistance is available for trade-impacted firms, but financial assistance is no longer available. Technical assistance may be used for management and operational assistance, and for feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Under section 251 of the 1974 Trade Act, a firm may petition the Department of Commerce to be certified as eligible to apply for trade adjustment assistance. Certification requires that increased imports of articles like or directly competitive with those produced by the petitioning firm contributed importantly to: (1) Absolute declines in sales or production, or both, and (2) the separation, or threat of separation, of a significant number or proportion of its workers. A trade-impacted producer may petition the Department for certification at any time regardless of a prospective Commission finding or its results.

Although the USITC found no serious injury to the apple juice industry, the criterion upon which a firm's petition is judged for certification is somewhat less stringent. On this basis it is possible that a petitioning firm could be certified eligible to apply for adjustment assistance, assuming the other qualifying criteria are met, even though the industry received a negative Commission determination following a section 201 investigation. Within the past five years, no firms in the apple juice industry have submitted a petition to the Department of Commerce for certification to qualify for trade adjustment assistance. Because of lack of specific company data, the Department is unable to determine whether firms in the apple juice industry would likely be certified as eligible.

There are six other financial or technical assistance programs administered by Federal agencies that might facilitate the orderly adjustment of the apple juice industry. ITA also administers an industrywide trade adjustment assistance program if a substantial number of firms have been certified as eligible to apply for adjustment assistance. The Small Business Administration has three programs to qualified firms which have been adversely affected by increased imports: the Regular Business Loan Program; the Certified Development Company Program; and a Management Assistance Program. Finally, the Farmers Home Administration administers two programs that could assist firms affected by imports: The Business and Industrial Development Loans and the Community Facilities Program.

Copies of the report, "Prospects for Adjustment Assistance for Firms in the Apple Juice Industry" are available from Donald A. Hodgen, Office of Consumer Goods, Room 4312, U.S. Department of Commerce, Washington, DC 20230, telephone 202–377–3346.

H.P. Goldfield,

Assistant Secretary for Trade Development.

[FR Doc. 86–17821 Filed 8–6–86; 8:45 am]

BILLING CODE 3510–DR–M

[A–588–505]

Antidumping; Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above from Japan; Suspension of Investigation and Amendment of Preliminary Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the antidumping investigation involving dynamic random access memory semiconductors ("DRAMs") of 256 kilobits and above from Japan. The basis for the suspension is an agreement by the Japanese producer/exporters which account for substantially all of the known imports of these products from Japan to revise their prices to eliminate sales of the merchandise to the United States at less than fair value. The Department is also amending its preliminary determination to cover processed wafers and dice produced in Japan and assembled into finished DRAMs in another country prior to importation into the United States.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Stephen Munroe, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Case History

On December 6, 1985, the Department of Commerce ("the Department") initiated an antidumping duty investigation under section 732(a) of the Act to determine whether 256k and above DRAMs are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and whether these imports are materially injuring, or are threatening material injury to, a United States industry, or are materially retarding the establishment of a United States industry (50 FR 51450, December 17, 1985). The notice also indicated that the Department would examine whether sales of the subject merchandise are being made at less than the cost of production. On December 9, 1985, we notified the International Trade Commission ("ITC") of our action. On January 22, 1986, the ITC preliminary determined that there is a reasonable indication that imports of Japanese 256k and above DRAMs are materially injuring or threatening to materially injure a U.S. industry (51 FR 4661, February 6, 1986). On December 24, 1985, we presented antidumping duty questionnaries to Fujitsu Limited, Hitachi Ltd., Mitsubishi Electric Corporation, NEC Corporation, and Toshiba Corporation. Respondents were requested to answer the questionnaire within 30 days. However, at the request of the companies, we granted a two-week extension for responses to our questionnaries. On February 6, 1986, we received responses from all companies except Mitsubishi. We received Mitsubishi's response on February 13, 1986. After analysis of the responses, the Department requested supplemental information from each of the respondents. The Department received additional information from Fujitsu, Hitachi, NEC and Toshiba on February 25 and 26, 1986. Mitsubishi submitted additional information on March 6, 1986.

On March 19, 1986, we published a preliminary determination that 256k and above DRAMs from Japan were being sold at less than fair value in the United States (51 FR 9475).

After the preliminary determination, all of the respondents in this investigation requested an extension of the final determination date until not later than August 1, 1986. The respondents were qualified to make such a request since they accounted for a significant proportion of the exports of the merchandise to the United States. If exports who account for a significant proportion of exporters of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, on April 16, 1986, we granted the request and postponed our final determination (51 FR 6184).

Between March 10 and June 12, 1986, we verified the information provided by respondents at their facilities in Japan and the United States. On May 16, 1986, we held a hearing to provide all interested parties an opportunity to comment on the investigation.

Products Under Investigation

The merchandise covered by this investigation is Japanese DRAMs having a memory capacity of 256 kilobits and above, of both the N-channel and the complementary metal oxide semiconductor type, whether in the form of processed wafers, unmounted die, mounted die, or assembled devices. Processed wafers and dice produced in Japan and assembled into finished DRAMs in another country prior to importation into the United States from the other country are included in the scope of the investigation. Finished DRAMs of 256 kilobits and above are currently classified under items 687.7443 and 687.7444 of the Tariff Schedules of the United States Annotated ("TSUSA"). Unassembled DRAMs, including processed wafers and mounted and unmounted die, are currently classifiable under item 687.7405 of the TSUSA.

We have determined that 256 K and above DRAMs incorporating processed wafers and dice produced in Japan and assembled into finished DRAMs in another country prior to importation into the United States from that other country are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930 (the "Act").

In the notice of initiation of this case, we tentatively included in the scope of this investigation processed wafers and dice produced in Japan and assembled into finished DRAMs in another country. Subsequently, on January 3, 1986, we notified the ITC and interested parties that we had determined not to investigate such third-country imports. The basis for that determination was our conclusion at that time that those third-country imports were not a part of the concern which had given rise to the investigation.

Although, prior to the time of the preliminary determination, none of the respondents reported sales of 256K and above DRAMs assembled in third countries from dice manufactured in Japan, we subsequently received information from the United States Customs Service that such imports are occurring. In initial discussions of a possible suspension of the investigation, beginning on May 15, 1986, we decided that these third country imports properly were included in the scope of this investigation. The parties to the proceeding have been aware since that time that such third country products were included in the investigation. We are now making this fact public in accordance with § 353.42(i) of the Commerce Regulations, 19 CFR 353.42(i).

In reaching this conclusion, we have taken account of the fact that the processed wafer or dice is not merely a major component of the finished device, it is the sole active component. All of the electrical properties that make a DRAM a DRAM are encoded on the processed dice, and this element is not changed by the assembly process in the third country. Further, assembly is not a sophisticated process and does not alter the intended use of the merchandise. We do not, therefore, regard the packaging of the dice in a case to have altered the country of origin for purposes of the antidumping investigation, nor to have substantially transformed the dice. The Department has independent authority to determine the scope of its investigations (see, *Diversified Products Corp.* v. *United States*, 5 ITRD 1263, CIT 1983).

To determine whether sales of the subject merchandise from third countries to the United States were made at less than fair value, we

compared the United States price to the foreign market value, using the best information available, as permitted by section 733(b) of the Act. Since we did not request specific data from Japanese producers and exporters concerning the third country imports, for those companies for which a bonding rate was calculated in the March 19 determination, we are using as best information the estimated amount by which the foreign market values exceed the United States prices, as announced in that determination. For those companies for which a separate bonding rate was not calculated in the March 19 determination, we are using as best information the estimated weighted average amount by which the foreign market value exceeds the United States price for "all others," as announced in that determination. This margin is 39.68% *ad valorem*. These rates best accomplish the purpose of the Act in requiring publication of an affirmative preliminary determination upon acceptance of an agreement to suspend the investigation.

We will verify all the information used in making our final determination, in acordance with section 776(a) of the Act, if this investigation is continued under section 734(g) of the Act.

In accordance with section 733(f) of the Act, we will notify the ITC of this determination. In addition, if the investigation is continued, we will make all no nonprivileged and nonproprietary information relating to this investigation available to the Commission.

Suspension of the Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will eliminate sales of this merchandise to the United States at less than fair value, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734 of the Act have been met. The terms and conditions of the agreement, signed August 1, 1986, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumptions of 256K and above DRAMs from Japan effective March 19, 1986, as directed in our notice of "Antidumping Preliminary Determination of Sales at Less Than Fair Value, Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above from Japan" is hereby terminated. Any cash deposits on entries of 256K and above DRAMs from Japan pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of the publication of this suspension agreement as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 734(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Annex 1: Suspension Agreement—Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above From Japan

Under section 734 of the Tariff Act of 1930, as amended (19 U.S.C. 1673c) ("the Act"), and § 353.42 of title 19 U.S. Code of Federal Regulations (19 CFR Part 353) ("the regulations"), the U.S. Department of Commerce ("the Department") and the signatory producers/exporters of dynamic random access memory semiconductors with a memory capacity of 256 kilobits and above from Japan enter into this suspension agreement ("the Agreement"). On the basis of this suspension agreement, the Department shall suspend its antidumping investigation initiated on December 6, 1985, (50 FR 51450) with respect to dynamic random access memory semiconductors from Japan with a memory capacity of 256 kilobits and above, subject to the terms and provisions set out below.

A. *Product coverage.* The merchandise subject to this Agreement is the following merchandise of Japanese origin:

(1) Dynamic random access memory semiconductors with a memory capacity of 256 kilobits and above, of both the N-channel and the complemetary metal oxide semiconductor type, whether in the form of processed wafers, unmounted die, mounted die, or assembled devices however packaged (ceramic, plastic, or other), and other merchandise of the same class or kind ("merchandise subject to this Agreement").

(2) Processed wafers and dice produced in Japan and assembled into finished dynamic random access memory semiconductors with a memory capacity of 256 kilobits and above, or other merchandise of the same class or kind, in another country prior to importation into the United States.

Dynamic random access memory semiconductors with a memory capacity of 256 kilobits and above are currently classifiable under items 687.7443 and 687.7444 of the Tariff Schedules of the United States Annotated. Unassembled dynamic random access memory semiconductors, including processed wafers and mounted and unmounted die, are currently classifiable under item 687.7405 of the Tariff Schedules of the United States Annotated.

B. *U.S. import coverage.* The signatory producers/exporters collectively are the producers and exporters in Japan which, during the antidumping investigation on the merchandise subject to this Agreement, accounted for substantially all (not less than 85 percent) of the merchandise imported into the United States, as provided in the regulations. The Department may at any time during the period of this Agreement require additional producers/exporters in Japan to sign this Agreement in order to ensure that not less than substantially all imports into the United States are covered by this Agreement.

In reviewing the operation of this Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in Section A of this Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: volume of trade, pattern of trade, whether or not the reseller is an original equipment manufacturer, and the reseller's purchase price.

C. *Basis of the Agreement.* On and after the effective date of this Agreement, each signatory producer/exporter individually agrees to make any necessary price revisions to eliminate completely any amount by which the foreign market value of its merchandise exceeds the United States price of its merchandise subject to this Agreement. For this purpose, the Department will determine the foreign market values in accordance with section 773(e) of the Act, and the U.S. prices in accordance with section 772 of the Act. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submitted by producers/exporters regarding projected differences in production costs within the quarter in which the information is

submitted, resulting from factors such as anticipated changes in production yield, changes in production process (e.g., die and/or wafer size), changes in production quantities or changes in production facilities.

(1) For all sales occurring between the effective date of this Agreement and October 15, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to unrelated purchasers in the United States at prices that are less than its foreign market value, as determined by the Department on the basis of information obtained during the course of the antidumping investigation and provided to parties not later than July 20, 1986.

(2) For all sales occurring between October 16, 1986 and December 31, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unrelated purchaser in the United States at prices that are less than its foreign market value of the merchandise, as determined by the Department on the basis of information submitted to the Department not later than August 20, 1986 and provided to parties not later than October 11, 1986.

(3) For all sales occurring after December 31, 1986, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unrelated purchaser in the United States at prices that are less than its foreign market value of the merchandise, as determined by the Department on the basis of information submitted to the Department not later than the dates specified in section D of this Agreement and provided to parties not later than December 20, March 20, June 20, and September 20 of each year. This foreign market value shall apply to sales occurring during the calendar quarter beginning on the first day of the month following the date the Department provides the foreign market value, as stated in this paragraph.

D. *Monitoring.* Each signatory producer/exporter will supply to the Department all information that the Department decides is necessary to ensure that the producer/exporter is in full compliance with the terms of this Agreement. As explained below, the Department will provide each signatory producer/exporter a detailed request for information and prescribe a required format and method of data compilation, not later than the beginning of each reporting period.

(1) *Sales information.* The Department will require each producer/exporter to report, on computer tape in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to this Agreement, either directly or indirectly to unrelated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

The first report of sales data shall be submitted to the Department, on computer tape in the prescribed format and using the prescribed method of data compilation, not later than October 31, 1986 and shall contain the specified sales information covering the period July 1 to September 30, 1986. Subsequent reports of sales data shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year and each report shall contain the specified sales information for the quarter ending one month prior to the due date, except that if the Department receives information that a possible violation of the Agreement may have occurred, the Department may request sales data on a monthly, rather than quarterly basis.

(2) *Cost information.* The Department will require Fujitsu, Hitachi, NEC, Mitsubishi and Toshiba (the respondents in the original investigation) to report their actual cost of production and profit data on a quarterly basis, in the prescribed format and using the prescribed method of data compilation. Each such producer/exporter also must report anticipated increases in production costs and may report anticipated decreases in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process (e.g., die and/or wafer size), changes in production quantities or changes in production facilities. Each report shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year and each report shall contain specified information for the quarter ending one month prior to the due date.

(3) *Special adjustment of foreign market value.* If the Department determines that the foreign market value it determined for a previous quater was erroneous because the reported costs for that period were inaccurate or incomplete, or for any other reason, the Department may adjust foreign market value in a subsequent period or periods, unless the Department determines that Section G of this Agreement applies.

(4) *Verification.* Each producer/exporter agrees to permit full verficiation of all cost and sales information semi-annually, or more frequently, as the Department deems necessary.

(5) *Rejection of submissions.* The Department may reject any information submitted after the deadlines set forth in this section or any information which it is unable to verify to its satisfaction. If information is not submitted in a complete and timely fashion or is not fully verifiable, the Department may calculate foreign market value and/or U.S. price based on best information available, as it determines appropriate, unless the Department determines that section G applies.

E. *Disclosure and comment.* (1) The Department may make available to representatives of each domestic party to the proceeding, under appropriately drawn administrative protective orders, business proprietary information submitted to the Department during each quarter as well as the results of its calculations of foreign market value.

(2) Not later than September 20, 1986, and March 1, June 1, September 1, and December 1 of each year, the Department will disclose to each producer/exporter the results and the methodology of the Department's calculations of its foreign market value. At that time, the Department may also make available such information to the domestic parties to the proceeding, in accordance with paragraph E.(1).

(3) Not later than seven days after the date of disclosure under paragraph E.(2) the parties to the proceeding may submit written comments to the Department, not to exceed 10 pages. After reviewing these submissions, the Department will provide to each producer/exporter its foreign market value as provided in paragraph C.(3). In addition, the Department may provide such information to domestic interested parties as specified in paragraph E.(1).

(4) Once during each year of this Agreement, the Department shall provide an opportuity for each party to the proceeding to request a hearing on issues raised during the proceeding. If such a hearing is requested, it will be conducted in accordance with section 751 of the Act (19 U.S.C. section 1675), and applicable regulations.

F. *Signatories.* To the extent administratively feasible, the Department will calculate foreign market values based on cost data that may be submitted by any signatory producer/exporter not required to submit such data under paragraph D.(2). To the extent such calculations are not administratively feasible, such producers/exporters may be assigned a foreign market value for each applicable product which is the weighted-average foreign market value of those companies

for which specific foreign market values have been calculated.

G. *Violations of the Agreement.* If the Department determines that this Agreeemnt is being or has been violated or not longer meets the requirements of section 734 (b) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the regulations.

H. *Other provisions.* In entering into this Agreement, the signatory producers/exporters do not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value.

I. *Termination.* Absent likelihood of dumping, the Department of Commerce expects to terminate this suspended investigation in August, 1991.

J. *Definitions.* For purposes of this Agreement, the following definitions apply:

1. U.S. Price—means the price at which merchandise is sold by the producer or exporter to the first unrelated party in the United States, including the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustments affecting the net amount paid or to be paid by the unrelated purchaser, as determined by the Department under section 772 of the Act.

2. Foreign Market Value—means the constructed value of the merchandise, as determined by the Department under section 773(e) of the Act. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submitted by producers/exporters regarding projected differences in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process (e.g., die and/or wafer size), changes in production quantities or changes in production facilities.

3. Producer-Exporter—means (1) the foreign manufacturer or producer, (2) the foreign producer or reseller which also exports, and (3) the related person by whom or for whose account the merchandise is imported into the United States, as defined in section 771(13) of the Act.

4. Date of Sale.

(A) For shipments pursuant to contracts entered into prior to August 1, 1986, made on or after September 16, 1986, the date of sale is the date of shipment.

(B) For contracts entered into on or after August 1, 1986, the date of sale is the date on which the essential terms of the contract, including price, are agreed and determinable, normally the date of confirmation of sale.

5. Transition—This Agreement does not apply to shipments pursuant to contracts entered into prior to August 1, 1986, made during the period August 1, 1986 through September 15, 1986.

The effective date of this Agreement is August 1, 1986.

Signed on this —— day of ———— 1986.

For Japanese producers/exporters
Mark W. Herlach (See letter of 8–1–86)
NEC Corporation
Carl W. Schwarz (Subject to letter of 8–1–86)
Hitachi Ltd.
Warren E. Connelly/L. Daniel O'Neil
Fugitsu Ltd.
Thomas P. Ondeck
Mitsubishi
David P. Houlihan
Toshiba Corp.
John D. Greenwald (Subject to conditions of 8–1–86 letter)
Oki Electric Industry Co. Ltd.
A. Paul Victor (by Jeffery P. Bialos)
Matsushita Electronics Corporation
Thomas F. Cullen Jr.
Texas Instruments, Japan
For U.S. Department of Commerce
Gilbert B. Kaplan
Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–17818 Filed 8–6–86; 8:45 am]
BILLING CODE 3510–DS–M

[Case No. OEE–2–86]

Computer Hardware Vertriebs GmbH and Comserv Computer Leasing GmbH; Order Denying Export Privileges

In the matter of Werner Scheele, doing business as Computer Hardware Vertriebs GmbH and Comserv Computer Leasing GmbH both with addresses at Langenberger Strasse 449–451; 4300 Essen 14, Federal Republic of Germany, resondents.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 387.8 of the Export Administration Regulations (15 CFR Parts 368–399 (1986)) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Asistant Secretary for Export Enforcement to issue an order denying all export privileges to Werner Scheele, doing business as Computer Hardware Vertriebs GmbH and Comserv Computer Leasing GmbH, both of Essen, Federal Republic of Germany (hereinafter collectivley referred to as resondents).

The Department states that, in accordance with section 387.8 of the Regulations, on February 27, 1986, it isssued a letter to respondents requesting that they respond to a series of interrogatories relating to their activities involving U.S.-origin goods and technical data. The interrogatories were served on respondents on March 5, 1986. To date, respondents have failed to answer or otherwise respond to the interrogatories. Section 387.8 of the Regulations provides that, if no response is made to the interrogatories within 20 days after receipt, the person or persons to whom the interrogatories are directed may be denied export privileges for a period of five years, or until a response to the interrogatories is made or adequate reasons for the failure or refusal to respond are given.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. For a period of five years from the date of this Order, or until respondents answer the interrogatoreis, or present adequate reasons for their failure or refusal to respond, the respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in while or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which

are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. Those parties now known to be related to at least one of the respondents by affiliation in the conduct of trade, and which are accordingly subject to the provisions of this order, are:

Bengt Andersson, individually with an address at Bodalsvagen 20 XII, Lidingo, Sweden

and doing business as

BEA Computer and Beacom International AB both with addresses at Vasagatan 15–17, S–111 20 Stockholm, Sweden.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any resondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. Section 387.8(c) of the Regulations states that procedures for the application for issuance of denial orders under section 387.8(a) "shall conform substantially to that provided for temporary denial orders by § 388.19" 15 CFR § 387.8(c). In accordance with the provisions of section 388.19(e) of the Regulations, any respondent may, at any time, appeal this order by filing with the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H–6717, 14th Street and Constitution Avenue NW., Washington, DC 20230, a full written statement in support thereof.

VI. This order is effective immediately.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon the respondents and upon the named related parties.

Dated: July 31, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86–17820 Filed 8–6–86; 8:45 am]

BILLING CODE 3510–25–M

Argonne National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86–213. Applicant: Argonne National Laboratory, Argonne, IL 60439. Instrument: Electron Spectroscopy System, Model LHS–12 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products, Inc., West Germany. Intended Use: See notice at 51 FR 21013.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides heatable/coolable sample rods with a temperature range −196 °C to 1000 °C and a vacuum of 1×10^{-10} mbar. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 86–17822 Filed 8–6–86; 8:45 am]

BILLING CODE 3510–DS–M

Michigan State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–232. Applicant: Michigan State University, East Lansing, MI 48824–1226. Instrument: LAB$_6$ Modification Kit and Accessories for Electron Microscope. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 51 FR 23256.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The accessories are compatible with an instrument previously imported for the use of the applicant. The existing instrument and accessories were made by the same manufacturer. The accessories are pertinent to the intended uses. We know of no comparable domestically manufactured accessories which can be readily adapated to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 86–17823 Filed 8–6–86; 8:45 am]

BILLING CODE 3510–DS–M

University of Kentucky et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00

p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86–263. Applicant: University of Kentucky, Department of Chemistry, Chemistry-Physics Building, Room 120, Lexington, KY 40506–0055. Instrument: Accessories for Infrared Spectrometer consisting of an IMH 06 Wide Range MCT Detector and an IMG 20 Purgeable Sample Well. Manufacturer: Bomem Inc., Canada. Intended use: The instruments are accessories to be used in conjunction with an existing FTIR spectrometer which is being used for conducting a variety of spectroscopic studies in the spectral range from the far infrared to ultraviolet/visible for various chemical compounds. In addition, the instruments will be used in chemistry courses for the instruction in the principles, instrumentation, applications and techniques involved in IR (and other types of) spectroscopy. Application Received by Commissioner of Customs: July 7, 1986.

Docket No. 86–265. Applicant: Research Foundation of SUNY, Department of Chemistry, State University of NY at Buffalo, Buffalo, NY 14214. Instrument: Mass Spectrometer, Model MM70–SE. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: The instrument is intended to be used for studies of desorption processes caused by ion/atom beam at controlled surfaces. The materials to be studied will include:

(1) Intermediates in synthesis of natural products,
(2) Porphyrins,
(3) Modified cyclodextrins,
(4) Peptides,
(5) Components of glycosaminoglycans,
(6) Organic acids,
(7) Molton salts (aluminum chloride and organic chloride mixtures),
(8) Organometallics (metal carbonyl clusters, transition metal macrocyclic complexes, etc.),
(9) Polymers and
(10) Monolayers of fatty acids.

Application received by Commissioner of Customs: July 8, 1986.

Docket No. 86–266. Applicant: University of California-San Diego, Department of Neurosciences, Mail Code M–024, La Jolla, CA 92093. Instrument: Cryomicrotome, Model LKB 2250–041 with Accessories. Manufacturer: LKB Produkter, Sweden. Intended use: The instrument is intended to be used to prepare specimens for study in a project in which it is necessary to be able to analyze and compare brain structure-function relations in whole human brains in order to understand how human brains govern large-scale operations like sensory processing, decision making and behavior. Application received by Commissioner of Customs: July 15, 1986.

Docket No. 86–270. Applicant: University of California, Lawrence Livermore National Laboratory, Box 5012, Livermore, CA 94550. Instrument: CO_2 Laser Amplifier, Model TEA–622 with Accessories. Manufacturer: Lumonics Inc., Canada. Intended use: The instrument will be used for the study of the physics of high gain, optical free electron lasers (FELs). Experiments will involve probing the FEL device with a high power 10 micron wavelength laser beam and measuring the properties of the beam after it has been amplified in the FEL. These experiments will be conducted to determine the scaling potential of high gain FELs. Application received by Commissioner of Customs: July 15, 1986.

Docket No. 86–271. Applicant: Northwestern University, The Technological Institute, 2145 Sheridan Road, Evanston, IL 60201. Instrument: Electron Microscope, Model H–9000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: The instrument will be used to investigate the atomic structure of numerous materials ranging from metals to electronic materials and heterogeneous catalysts using high resolution electron microscopy. Application received by Commissioner of Customs: July 15, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 86–17824 Filed 8–6–86; 8:45 am]

BILLING CODE 3510–DS–M

National Bureau of Standards

[Docket No. 60613–6113]

Proposed Federal Information Processing Standards for Intelligent Peripheral Interface (IPI) and; Small Computer System Interface (SCSI)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Proposed Federal Information Processing Standards (FIPS).

SUMMARY: These standards are proposed for Federal use to facilitate the connection of computers to mass storage devices, such as magnetic disk and tape devices. These standards each address a different interface technology or market class. All are derived from standards development projects of X3T9, I/O Interfaces, a technical committee of Accredited Standard Committee X3, Information Processing, which operates under accreditation procedures of the American National Standards Institute (ANSI). The final FIPS will adopt specifications as approved by ANSI.

These standards are being proposed for use as alternatives to the FIPS PUB 60, I/O Channel Interface. Wherever FIPS PUB 60 plus associated power control and operational specifications are required, either of these standard interfaces can be used. FIPS PUB 111, Storage Module Interfaces, is another alternative to FIPS PUB 60, for magnetic disk drives only.

Prior to the submission of these proposed standards to the Secretary for review and approval, it is essential to assure that consideration is given to the views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Each of these proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification section which deals with the technical requirements of the standard. The technical specifications of the Small Computer System Interface are ANSI X3.131M–1986. The technical specifications of the Intelligent Peripheral Interface are ANSI X3.129M–1986, X3.147M–198X, X3.132M–198X, and X3.130M–1986. Interested parties may obtain copies of the technical specifications of these proposed Federal Information Processing Standards from the X3 Secretariat, Computer Business Equipment Manufacturers Association, 311 First Street, NW., Washington, DC 20001.

DATE: Comments and proposals must be submitted on or before November 5, 1986.

ADDRESS: Written comments on these proposed standards or any alternative proposals should be submitted to the Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS IPI and SCSI Standards, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments and proposals received in response to this notice will be made part of the public record and will be available for inspection and

copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Burr, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-3723.

Dated: July 30, 1986.

Ernest Ambler,

Director.

Proposed Federal Information Processing Standards Publication _____

(date)

annoucing the Standard for Intelligent Peripheral Interface (IPI)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Intelligent Peripheral Interface (IPI) (FIPS PUB_____).

Category of Standard. Hardware Standard, Interface.

Explantion. This standard defines the functional, electrical, and mechanical specifications for a 16-bit parallel master/slave bus interface, suitable for connecting a host computer or controller to mass storage peripherals. This standard also provides the following command set specification:

a. Device Specific Command Set for Magnetic Disk Drives for interconnecting one to eight disk drives acting as an IPI "bus slave" to a storage controller acting as an IPI "bus master". This command set places the minimum function in the drive which is consistent with a parallel bus interface; that is, data encoding/separation, serialization/deserialization, and sector or block format control.

b. Device Generic Command Set for Magnetic and Optical Disks for higher level command set for interconnecting as host computer, acting as IPI bus master, and either a storage controller or a drive with an embedded storage controller, acting as IPI bus slave.

c. Command Set for Generic Tape for interconnecting host computer, which functions as bus master, and one to eight tape storage controllers, which function as bus slaves.

This standard facilitates plug-to-plug interchangesability of storage equipment as a part of computer systems. This standard may be employed in lieu of FIPS PUB 60 and FIPS PUB 61, plus associated operational specifications (FIPS PUB 62, FIPS PUB 63, or FIPS PUB 97), whenever they would otherwise be required. Its use is encouraged for the connection of mass storage devices such as magnetic disk, optical disk, or tape drives, to minicomputer systems, where FIPS PUB 60 is not required.

The Government's intent in employing this standard is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer systems components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index.

a. FIPS PUB 60-2, I/O Channel Interface.

b. FIPS PUB 61-1, Channel Level Power Control Interface.

c. FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.

d. FIPS PUB 63-1, Operational Specifications for Variable Block Rotating Mass Storage Subsystems.

e. FIPS PUB 63-1 SUPPLEMENT, Additional Operational Specifications for Variable Block Rotating Mass Storage Subsystems.

f. FIPS PUB 97, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems.

g. FIPS PUB 111, Storage Module Interfaces (with extensions for enhanced storage module interfaces).

h. FIPS PUB _____, Small Computer System Interface (SCSI).

Objectives. The objectives of this standard are to:

—improve the interchangeability of storage equipment as part of computer systems

—reduce the cost of computer equipment by increasing alternative sources of supply

—improve the reutilization of system components

—facilitate the use of advanced technology by the Federal government.

Applicability. This standard applies to the connection of computers to storage peripheral device controllers, and is analogous to FIPS PUB 60, I/O Channel Interface, plus the operational specifications FIPS PUB 62, FIPS PUB 63, and FIPS PUB 97. When used with the device specific command set this standard is used to connect magnetic disk drives to a storage controller and is approximately analogous to FIPS PUB III, Storage Module Interstates.

For the acquisition of magnetic disk or tape drives or subsystems, this standard may be cited as an alternative to specifying FIPS PUB 60, plus one of the associated operational specifications FIPS PUB 62, FIPS PUB 63 or FIPS PUB 97, when FIPS PUB 60 would otherwise apply. This standard may also be cited as an alternative to specifying the FIPS PUB 60 and FIPS PUB 61, for the acquisition of magnetic tape drives or subsystems.

A procuring agency may require vendors to verify that the interface on their products conforms to this standard. Agencies may employ means of verification such as that prescribed for FIPS PUB 69 by the **Federal Register** notice published on December 11, 1979 (44 FR 71444). In special cases, NBS may assist agencies in evaluating conformance to this standard.

Specifications. Affixed. This standard shall be specified by American National Standards X3.129M-1986, X3.147M-198X, X3.132M-198X, and X3.130M-1986.

There are four incompatible electrical options in this standard.

1. Three-State
2. Voltage Mode Differential
3. Current Mode Differential
4. Open Emitter

The Three-State drivers use single ended signals and are suitable for short distances (5m or less) within enclosures. When the IPI bus runs entirely within one shielding cabinet, the Three-State, single-ended signals with flat ribbon cable are appropriate, and will cost less than other options.

The two differential options are similar in many respects. As compared to the Three-State and Open Emitter options, both offer improved common mode noise characteristics. Common mode noise usually results when shifts occur in the ground potential at different points in the power distribution network. Therefore it is most likely to be a problem when computer equipments are powered from different distribution circuits. Both differential options are used with twisted pair cable.

Since the current mode differential option allows the use of considerably longer cables (75m) than the voltage option (50m), the current mode differential option is recommended for Federal use whenever the IPI bus runs in

external cables between separate ADP equipments.

The open emitter option is similar to the electrical specifications of FIPS PUB 60. While this technology is well proven, it is not as fast as the other IPI options, and, when used over long distances, requires comparatively expensive coaxial cable signal paths. Use of this option by Federal Agencies is not recommended.

The IPI bus includes control signals and two 8-bit paths called BUS A and BUS B. During the various states of the bus protocol where selection, command ans status transfers take place BUS A carriers signals "out" from the host (master) to the peripheral (slave) while BUS B carries signals "in" to the host from the peripherals. There are two "Information Transfer" (data transfer) modes. In "Single Octet Mode" BUS A is always out, while BUS B is in. In "Double Octet Mode" BUS A and BUS B operate in the same direction, either in or out, and are used to transfer 16 bits in parallel.

There is no reason to require peripheral devises to be capable of Double Octet Mode operation; in general, they will do so only if their data transfer rate requirements require Double Octet Mode operation. Agencies may require that IPI hosts be capable of both Single and Double Octet Mode operations so that all IPI peripherals can be accommodated on the bus at their full transfer rate.

Implementation. This standard is effective _____. All equipment which is within the scope of the Applicability provision of FIPS PUB 60, and which is ordered on or after the effective date of this standard, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard or to FIPS PUB 60 plus associated power control and operational specification standards, or to any other permitted alternative to FIPS PUB 60, unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Waivers. Since this standard is an alternative to FIP PUB 60, plus associated power control and operational specification standards, waiver procedures for this standard shall be as designated in FIPS PUB 60. Waivers of this standard are not required where FIPS PUB 60 does not apply. Any waiver of FIPS PUB 60 also is a waiver of this standard.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications documents is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Payment may be made by check, money order, purchase order, credit card or deposit account.

Proposed Federal Information Processing Standards Publication

_____ (Dated)

Announcing the Standard for Small Computer System Interface (SCSI)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Service Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Small Computer System Interface (SCSI) (FIPS _____).

Category of Standard.

Explanation. This standard defines the functional, electrical, and mechanical specifications for an 8-bit parallel bus, suitable for connecting physically small computers to each other and to mass storage peripherals. It also defines the operational specifications (command sets) for the following devices:

a. Sequential-Access Devices (e.g., magnetic tape)
b. Direct-Access Devices (e.g., magnetic disks)
c. Printer Devices
d. Write-once Read Multiple Devices (e.g., optical disks)
e. Read-only Direct-Access Devices (e.g., read only optical disks)
f. Processor Devices

The Government's intent in employing this standard is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer systems components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index.

a. FIPS PUB 60–2, I/O Channel Interface.
b. FIPS PUB 61–1, Channel Level Power Control Interface
c. FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.
d. FIPS PUB 63–1, Operational Specifications for Variable Block Rotating Mass Storage Subsystems.
e. FIPS PUB 63–1 SUPPLEMENT, Additional Operational Specifications for Variable Block Rotating Mass Storage Subsystems.
f. FIPS PUB 97, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems.
g. FIPS PUB 111, Storage Module Interfaces (with extensions for enhanced storage module interfaces).
h. FIPS PUB _____, Intelligent Peripheral Interface.

Objectives. The objectives of this standard are to:

—improve the interchangeability of storage equipment as part of computer systems
—reduce the cost of computer equipment by increasing alternative sources of supply
—improve the reutilization of system components
—facilitate the use of advanced technology by the Federal government.

Applicability. This standard addresses the connection of small computers to peripheral devices with integral controllers. This standard is recommended for use in the acquisition of storage peripherals and small computer systems for office or laboratory use.

For the acquisition of magnetic disk subsystems, this standard may be cited as an alternative to specifying the FIPS PUB 60 and FIPS PUB 61, and either FIPS PUB 63 or FIPS PUB 97, for those instances when FIPS PUB 60 would apply. This standard may also be cited as an alternative to specifying FIPS PUB 60, FIPS PUB 61, and FIPS PUB 62, for the acquisition of magnetic tape subsystems. In general, FIPS PUB 60 does not apply to most of the small systems using this standard, and the use of this standard is recommended but not required in these cases.

A procuring agency may require vendors to verify that the interface on their products conforms to this standard. Agencies may employ means of verification such as that prescribed for FIPS PUB 60 by the **Federal Register** notice published on December 11, 1979 (44 FR 71444). In special cases, NBS may assist agencies in evaluating conformance to this standard.

Specifications. Affixed. This standard shall be specified by American National Standard X3.131M–1986.

1. Electrical Options

There are two incompatible electrical options in the specifications for the SCSI:

- Single-ended

This option is more common and less expensive and should be employed with systems where the peripherals are in very close physical proximity to the computer, preferably on or in the same rack, chassis, or desk top. The maximum length of the single-ended SCSI bus is 6 m. All Peripherals and computers connected by a single-ended SCSI bus should be powered from the same branch circuit to avoid potentially unreliable operation caused by common mode noise.

- Differential

This option is recommended for use in electrically noisy environments, such as factories or laboratories, wherever peripherals and computers are separated by more than a few meters, and wherever it is possible that peripherals and computers may be powered from different branch circuits. The differential option is more tolerant of the effects of common mode noise and allows bus lengths of up to 25 m.

2. Bus Parity

It is recommended that agencies acquiring ADP equipment using the SCSI require implementation of bus parity

3. Subsystems

Many vendors offer complete add-in storage subsystems using the SCSI for various personal and minicomputer systems. Such subsystems typically consist of:

a. An enclosure containing a power supply, one or more device controllers, and one or more Winchester disk or steaming tape drives.

b. A host adaptor which adapts the backplane bus of the host computer to the SCSI bus. This usually plugs into an expansion slot in the host computer.

c. A cable connecting the host adaptor to the subsystem.

d. A driver program which talks to the peripheral subsystem through the host adaptor. This driver frequently is included on read-only memory chips on the host adaptor.

There is no generally accepted standard for the interface between the computer and the host adaptor, and the driver program will be specific to a particular host adaptor. Moreover, many small computers support several operating systems; in general each operating system will require different driver software. The SCSI command sets offer a rich array of functionality and options. For this reason there is no guarantee that a driver program for direct-access device A will necessarily be able to properly operate direct-access device B, which implements a different set of options. It is usually possible, however, except in the case of emulating host adaptors (see below), for a knowledgable user to write a driver program which can operate device B (usually by minor modification to the driver for A) if its source program is available. It is possible to write a driver which operates a wide range of SCSI products; however such a driver may not take advantage of many optional features or may be quite complex.

There are two kinds of host adaptors: emulating or non-emulating. The emulating host adaptors are less common. They emulate a native peripheral controller of the host system, and do not, therefore require a special driver program. The host adaptor itself typically contains a microcomputer which translates native host system commands to SCSI bus commands. In general, such host adaptors are intended for particular SCSI peripheral products, and there is no user accessible driver program; therefore, it may be difficult to adapt such host adaptors to new SCSI peripheral subsystems.

4. Bus Arbitration Option

Both host adaptors and peripheral subsystems may or may not implement the bus arbitration option. A few older products may be incompatible with SCSI devices which do arbitrate. While there is no practical advantage to arbitration in many configurations where the SCSI is used to add an external disk drive to a personal computer, agencies may wish to require that all SCSI subsystems and host adaptors operate correctly with other arbitrating bus devices. With higher performance multiprogramming systems, where several storage devices may share the SCSI bus, there can be considerable performance gains when storage devices disconnect from the bus during long access delays, and this requires that bus arbitration be implemented. If two or more host computers are to share a SCSI bus, then the bus arbitration capability is required of both.

5. Levels of Conformance

Appendix E of X3.131–1986 contains recommendations on specifying levels of conformance to the Small Computer System Interface Standard. Three levels of conformance are specified.

- *Level O* is the most basic level of conformance, and products conforming to level O may be incompatible with bus arbitration. These devices are suitable for use with simple, single-user personal computer systems.
- *Level 1* devices are similar to level O, but host adaptors support arbitration.
- *Level 2* host adaptors support arbitration and other features which are desirable for performance reasons, while targets (peripherals) support all Extended commands, which enhance the functionality of devices.

In general, with current SCSI protocol integrated circuits, most of the bus hardware required for conformance level 2 is available at no extra cost; however, controller microcode and driver software requirements for conformance level 2 are more complex, and this may reasonably be reflected in the prices of products conforming to level 2. In addition, devices conforming to level 2 are likely to offer a higher general performance level, and this too may be reflected in their prices. It is nevertheless expected that nearly all newly designed SCSI products will conform to level 2, and current products conforming only to levels O and 1 will in time be supplanted by products conforming to level 2.

It is recommended that agencies procuring products using SCSI require conformance level 2 whenever:

a. The products are to be used in multi-user time sharing systems;
b. The products are to be used in a shared bus multi-processor system;
c. The products are to be used in any other high performance system;
d. The products may be used with a wide range of systems; or
e. Maximum compatibility with future products is needed.

6. Cables and Connectors

Many SCSI storage products, particularly those intended for use as personal computer add-ons, are suitable for use only on the end of a SCSI bus. That is they have only one external connector with no provision for extending the bus through the storage subsystem, and provide internal bus termination. For electrical reasons the bus should be approximately terminated at its end. Agencies intending to attach several subsystems to one SCSI bus (which supports up to eight bus devices, including host adaptors) should require that subsystems pass the bus through the enclosure and provide two external connectors, one of which is equipped with a removable terminator block. Note

that, when calculating actual bus length, the bus length inside enclosure (but not stubs off the bus), should be included. Host adaptors frequently must reside at one or the other end of the SCSI bus.

The SCSI bus uses 18 signals, plus optional Terminator Power. Three kinds of 50 conductor bus connectors are provided for in the SCSI standard. One unshielded circuit card type connector is specified in the body of the standard, while two recommended shielded cable connectors are described in Appendix D. The non-shielded device and cable connectors are normally employed to run as unshielded flat ribbon bus cable between circuit cards in a single shielding enclosure. Users are cautioned that the external use of an unshielded cable between enclosures may result in a violation of FCC Regulations, Part 15, Subpart J, governing radio frequency radiation by computer equipment in the United States, and is generally unsound practice.

Two shielded connectors are described in Appendix D. Some products do not use either of these connectors with external cables. This may be for size reasons; i.e., there may not physically be space for the standard connectors.

In differential implementations, two separate conductors (preferably twisted pairs) are required per signal, plus a path for DIFFSENS (a signal which can be used to disable differential drivers if they are inadvertently plugged in a single-ended bus) and two paths for Terminator Power. No electrical compromise need be involved in reducing the number of paths identified as Ground in the SCSI standard.

In single-ended buses a total of 30 conductive paths are assigned to ground. Conservative design rules, followed by the SCSI standard, require that signal paths be separated by ground paths. This would imply a minimum 38 pin connector. Some products with limited room for connectors employ the common but nonstandard 25 pin subminiature D connector, allowing only 6 ground paths. Satisfactory operation may be achieved in such systems provided bus lengths are kept short and equipments are powered from a common outlet. With systems or subsystems using smaller, nonstandard connectors, Federal users are cautioned against substituting longer cables than those supplied by the vendor.

Special "T" tap external connectors are available allowing the SCSI bus to continue past products supporting only one external connector. Their use by Federal users is not recommended. The length of bus inside the enclosure may exceed the .1 m (single-ended) or .2 m (differential) maximum stub length allowed by the standard, causing unreliable bus operation.

7. Data Transfer Modes

Two data transfer modes, "asynchronous and "synchronous," are defined in the standard. Most products use the asynchronous mode and all are capable of doing so. Each asynchronous transfer cycle uses a fully interlocked handshake which requires four signal propogation delays between the two SCSI ports. Where the bus length is short, on the order of 1 or 2 m, the asynchronous transfer can be as fast as the synchronous mode, however, at the maximum specified differential mode bus length of 25 m, signal propagation delays will limit the bus to a maximum transfer rate of about 1 Mbyte/sec. Synchronous mode transfers can achieve rates of 3 to 4 Mbytes/sec. across a 25 m bus. Only a few high performance storage products offer synchronous transfers and very few host adaptors can support them. More products are expected as the SCSI protocol integrated circuits supporting synchronous transfer become available.

The single-ended bus is limited to 6 m for electrical reasons. While RS-485 compatible differential drivers are able to drive lines considerably longer than the specified limit of 25 m, this 25 m constraint is due to the timings chosen for the distributed arbitration algorithm used for the SCSI. If the bus is used as a point-to-point connection between a host and one peripheral without arbitration, then operation as distances well over 25 m are possible, and fairly high transfer rates can be achieved with the synchronous transfer option.

Implementation. This standard is effective _____. All equipment which is within the scope of the Applicability provision of FIPS PUB 60, and which is ordered on or after the effective date of this standard, or procument actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard or to FIPS PUB 60 plus associated power control and operational specification standard, or to any other permitted alternative to FIPS PUB 60, unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Waivers. Since this standard is an alternative to FIPS PUB 60, plus associated power control and operational specification standards, waiver procedures for this standard shall be as designated in FIPS PUB 60. Waivers of this standard are not required where FIPS PUB 60 does not apply. Any waiver of FIPS PUB 60 also is a waiver of this standard.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Comerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Payment may be made by check, money order, purchase order, credit card or deposit account.

[FR Doc. 86-17740 Filed 8-6-86; 8:45 am]
BILLING CODE 3510-CN-M

[Docket No. 60626-6126]

Proposed Federal Information Processing Standard 5-2, Codes for the Identification of the States, the District of Columbia, and the Outlying Areas of the United States

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal information processing standard (FIPS) 5-2.

SUMMARY: This proposed standard is a revision of FIPS 5-1, States and Outlying Areas of the United States. This standard provides two-letter alphabetic codes and two-digit numeric codes for each State and the District of Columbia. These codes are unchanged from FIPS 5-1. In addition, alphabetic and numeric codes are provided for outlying areas of the United States to be consistent with those codes provided in FIPS 10-3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions, and FIPS 104-1, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval as a Federal Information Processing Standard (FIPS), it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specification section which deals with

the technical requirements of the standard. Only the announcement section is provided in this notice. Interested parties may obtain a copy of the technical specifications from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899.

DATE: Comments and proposals on this proposed FIPS must be received on or before November 5, 1986.

ADDRESS: Written comments on this proposed FIPS or any alternative proposals should be sent to the Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS 5–2, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments and proposals received in response to this notice will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–3491.

Dated: July 30, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 5–2

1986 Month Day

Announcing the Standard for Codes for the Identification of the States, the District of Columbia, and the Outlying Areas of the United States

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations.

1. *Name of Standard:* Codes for the Identification of the States, the District of Columbia, and the Outlying Areas of the United States.

2. *Category of Standard:* Federal General Data Standard, Representations and Codes.

3. *Explanation:* This standard provides a set of two-letter alphabetic codes and a set of two-digit numeric codes for representing the 50 States, the District of Columbia, and the outlying areas of the United States. The standard covers all land areas under the sovereignty of the United States, and the component areas of the Trust Territory of the Pacific Islands. The Trust Territory is administered by the United States.

4. *Approving Authority:* Secretary of Commerce.

5. *Maintenance Agency:* U.S. Department of Commerce, Bureau of the Census (Geography Division). Inquiries concerning the technical content of this standard should be addressed to: Office of the Chief, Geography Division, Bureau of the Census, Washington, DC 20233.

Change notices to this FIPS PUB will be issued by the National Bureau of Standards. Users who wish to receive such notices should complete the Change Request Form included in this FIPS PUB and return it to the address shown.

6. *Cross Index:* a. FIPS PUB 5–1, States and Outlying Areas of the United States, June 15, 1970 (the previous edition of this standard).

b. American National Standard ANSI X3.38–1972, Identification of States of the United States (including the District of Columbia) for Information Interchange.

c. American National Standard ANSI Z39.27–1984, Structure for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

d. ISO 3166–1981, Codes for the Representation of Names of Countries, a standard of the International Organization for Standardization.

e. Federal Information Processing Standard (FIPS PUB) 104–1, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty.

f. Federal Information Processing Standard (FIPS PUB) 10–3, Countries, Dependencies, Areas of Special Sovereigty, and Their Principal Administrative Divisions.

g. U.S. Postal Service Publication 65, National Five-Digit ZIP Code and Post Office Directory, 1986 Edition.

7. *Objectives:* The objectives of this standard are to improve the utilization of data resources of the Federal government and avoid unnecessary duplications and incompatibilities in the collection, processing, and dissemination of data.

8. *Applicability:* This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies, and for Federal data interchange with the non-Federal sector including industry, State, local, and other governments, and the public at large.

9. *Implementation Schedule:* The specifications herein become effective upon publication. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

10. *Specifications:* Federal Information Processing Standard 5–2 (FIPS PUB 5–2), Codes for the Identification of the States, the District of Columbia, and the Outlying Areas of the United States (affixed).

Where To Obtain Copies: Copies of this publication are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, please refer to Federal Information Processing Standards Publication 5–2 (FIPA PUB 5–2) and title. When microfiche is desired, this should be specified. Copies of other FIPS PUBS also are available from NTIS. Copies of ANSI X3.38–1972, ANSI Z39.27–1984, and ISO 3166–1981 may be obtained from American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

Federal Information Processing Standards Publication 5–2

1986 Month Day

Specifications for Codes for the Identification of the States, the District of Columbia, and the Outlying Areas of the United States

TABLE 1: FIPS State Codes for the States and the District of Columbia

This table provides the two-digit FIPS State Numeric Code and the two-letter FIPS State Alpha Code for each State and the District of Columbia. Both code sets are unchanged from the representations of Table 1 in FIPS PUB 5–1. The FIPS State Alpha Code is identical to the two-letter U.S. Postal Service (USPS) abbreviation for the entities in this table.

TABLE 2: FIPS State Codes for the Outlying Areas of the United States (including the component areas of the Trust Territory of the Pacific Islands)

This table provides the two-digit FIPS State Numeric Code and the two-letter FIPS State Alpha Code for each outlying area and for each component area of the Trust Territory of the Pacific Islands.

FIPS State Numeric Codes for American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States are

identical to those shown in FIPS PUB 5–1 of those areas. New FIPS State Numeric Codes have been assigned to the Federated States of Micronesia, the Marshall Islands, Palau, and U.S. Minor Outlying Islands.

The named areas in Table 2 and their assigned FIPS State Alpha Codes are identical to the named U.S. outlying areas and their two-letter codes specified in ISO 3166–1981, as updated. This international standard has been adopted as a national voluntary standard in the United States under ANSI Z39.27–1984, and has been implemented through FIPS PUB 104–1.

FIPS State Alpha Codes for the outlying areas are *not* identical in every case to the two-letter USPS abbreviations for the same entities. USPS abbreviations are recommended for use only in connection with addresses for mail to be delivered by the USPS, and may be found in the most recent edition of USPS Publication 65, National Five-Digit ZIP Code and Post Office Directory.

For informational purposes, the status of each area is given.

TABLE 3: FIPS State Numeric Codes for the Trust Territory of the Pacific Islands and the Individual Minor Outlaying Islands

This table provides the two-digit FIPS State Numeric Codes of FIPS PUB 5–1 for:

(a) the Trust Territory of the Pacific Islands, which is an aggregate of Federated States of Micronesia, Marshall Islands, and Palau; and

(b) the individual island territories which form the aggregate entity: U.S. Minor Outlying Islands.

The FIPS State Code for the Trust Territory should be used only when it is necessary to specify the entire territory, rather than one of the components. The FIPS State Code for an individual minor outlying island should be used only when a specific island must be identified, and a field for the FIPS County Code is not available to be used in combination with the FIPS State Code for U.S. Minor Outlying Islands (74 or UM).

TABLE 1—FIPS STATE CODES FOR THE STATES AND THE DISTRICT OF COLUMBIA

Name	FIPS State numeric code	FIPS State alpha code
Alabama	01	AL
Alaska	02	AK
Arizona	04	AZ
Arkansas	05	AR
California	06	CA
Colorado	08	CO
Connecticut	09	CT
Delaware	10	DE

TABLE 1—FIPS STATE CODES FOR THE STATES AND THE DISTRICT OF COLUMBIA—Continued

Name	FIPS State numeric code	FIPS State alpha code
District of Columbia	11	DC
Florida	12	FL
Georgia	13	GA
Hawaii	15	HI
Idaho	16	ID
Illinois	17	IL
Indiana	18	IN
Iowa	19	IA
Kansas	20	KS
Kentucky	21	KY
Louisiana	22	LA
Maine	23	ME
Maryland	24	MD
Massachusetts	25	MA
Michigan	26	MI
Minnesota	27	MN
Mississippi	28	MS
Missouri	29	MO
Montana	30	MT
Nebraska	31	NE
Nevada	32	NV
New Hampshire	33	NH

TABLE 1—FIPS STATE CODES FOR THE STATES AND THE DISTRICT OF COLUMBIA—Continued

Name	FIPS State numeric code	FIPS State alpha code
New Jersey	34	NY
New Mexico	35	NM
New York	36	NY
North Carolina	37	NC
North Dakota	38	ND
Ohio	39	OH
Oklahoma	40	OK
Oregon	41	OR
Pennsylvania	42	PA
Rhode Island	44	RI
South Carolina	45	SC
South Dakota	46	SD
Tennessee	47	TN
Texas	48	TX
Utah	49	UT
Vermont	50	VT
Virginia	51	VA
Washington	53	WA
West Virginia	54	WV
Wisconsin	55	WI
Wyoming	56	WY

TABLE 2—FIPS STATE CODES FOR OUTLYING AREAS OF THE UNITED STATES

(Including the component areas of the Trust Territory of the Pacific Islands)

Area name	FIPS State codes		Status
	Numeric	Alpha	
American Samoa	60	AS	1
Federated States of Micronesia	64	FM	4
Guam	66	GU	1
Marshall Islands	68	MH	4
Northern Mariana Islands	69	MP	3
Palau	70	PW	4
Puerto Rico	72	PR	1
U.S. Minor Outlying Islands	74	UM	2
Virgin Islands of the United States	78	VI	1

Status:

1. U.S. territory.

2. An aggregation of nine U.S. territories: Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Island. Each territory is assigned a FIPS County Code in FIPS PUB 6–3, and may be individually identified through a combination of the FIPS State Code (74 or UM) and the appropriate FIPS County Code.

3. Part of the U.S.—administered Trust Territory of the Pacific Islands, but considered a separate unit for purposes of this standard; expected to become a U.S. territory upon dissolution of the trust.

4. Part of the U.S.—administered Trust Territory of the Pacific Islands; expected to become associated with the U.S. as a "freely associated state" upon dissolution of the trust.

TABLE 3—FIPS STATE NUMERIC CODES FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE INDIVIDUAL MINOR OUTLYING ISLANDS

Area name	FIPS State numeric code
Trust Territory of the Pacific Islands	75
Baker Island	81
Howland Island	84
Jarvis Island	86
Johnston Atoll	67
Kingman Reef	89
Midway Islands	71
Navassa Island	76
Palmyra Atoll	95
Wake Island	79

[FR Doc. 86–17739 Filed 8–7–86; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Membership of the National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), NOAA announces the appointment of persons to serve as members of NOAA Performance Review Boards (PRB's). The NOAA PRB's are responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and amounts, and initial recommendations for potential rank awards. The appointment of these members to the NOAA PRB's will be for periods of 24 months service beginning August 31, 1986.

DATE: The effective date of service of appointees to the NOAA Performance Review Board is August 31, 1986.

FOR FURTHER INFORMATION CONTACT: Susan Johnson, Chief, Personnel Division, National Capital Administrative Support Center, NOAA, 11420 Rockville Pike, Rockville, Maryland 20852, (301) 443–6667.

SUPPLEMENTARY INFORMATION: The names and title of the members of the NOAA PRB's (NOAA officials unless otherwise identified) are set forth below:

Richard M. Hadsell, Director, Regional Administrative Support Center Operations Office
Dennis F. Geer, Director, National Capital Administrative Support Center
Curtis T. Hill, Director, Mountain Administrative Support Center
Kelly C. Sandy, Director, Western Administrative Support Center
Robert S. Smith, Director, Eastern Administrative Support Center
B. Kent Burton, Director, Office of Congressional Affairs
John J. Carey, Director, Office of Budget and Finance
Kathleen J. Charles, Deputy Director, Office of Budget and Finance
Timothy R. Keeney, Deputy General Counsel for Policy, Research, Services and Coastal Zone
Augustine J. LaCovey, Director, Office of Public Affairs
Joseph W. Angelovic, Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service
Izadore Barrett, Director, Southwest Fisheries Center, National Marine Fisheries Service
Henry R. Beasley, Director, Office of International Fisheries, National Marine Fisheries Service
Richard J. Berry, Director, Southeast Fisheries Center, National Marine Fisheries Service
Carmen J. Blondin, Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service
Ellsworth C. Fullerton, Director, Southwest Region, National Marine Fisheries Service
Samuel McKeen, Chief, Management and Budget Staff, National Marine Fisheries Service
Richard B. Roe, Director, Office of Fisheries Management, National Marine Fisheries Service
Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service
Bernard H. Chovitz, Chief Geodesist, Office of Charting and Geodetic Services, National Ocean Service
Bruce C. Douglas, Chief, Geodetic Research and Development Laboratory, National Ocean Service
Charles N. Ehler, Director, Office of Oceanography and Marine Assessment, National Ocean Service
William M. Kaula, Chief, National Geodetic Survey Division, National Ocean Service
Andrew Robertson, Chief, Ocean Resources Assessment Division, National Ocean Service
Peter L. Tweedt, Director, Ocean and Coastal Resource Management Office, National Ocean Service
Paul M. Wolff, Assistant Administrator for Ocean Services and Coastal Zone Management
William P. Bishop, Deputy Assistant Administrator for Satellites, National Environmental Satellite, Data, and Information Service
Michael A. Chinnery, Director, National Geophysical Data Center, National Environmental Satellite, Data, and Information Service
Kenneth D. Hadeen, Director, National Climatic Data Center, National Environmental Satellite, Data, and Information Service
Russell Koffler, Director, Office of Satellite Data Processing and Distribution, National Environmental Satellite, Data, and Information Service
Richard P. Augulis, Director, Central Region, National Weather Service
Louis J. Boezi, Chief, Advanced Systems Laboratory, National Weather Service
William D. Bonner, Director, National Meteorological Center, National Weather Service
Anthony F. Durham, Director, NEXRAD Joint Systems Program, National Weather Service
Neil L. Frank, Director, National Hurricane Center, National Weather Service
Elbert W. Friday, Deputy Assistant Administrator for Weather Services
Richard E. Hallgren, Assistant Administrator for Weather Services
Michael D. Hudlow, Director, Office of Hydrology, National Weather Service
Frederick P. Ostby, Director, National Severe Storms Forecast Center, National Weather Service
Eddie Bernard, Director, Pacific Marine Environmental Laboratory, Office of Oceanic and Atmospheric Research
Hugo F. Bezdek, Director, Atlantic Oceanographic and Meteorological Laboratories, Office of Oceanic and Atmospheric Research
Kirk Bryan, Supervisory Research Meteorologist, Geophysical Fluid Dynamics Laboratory, Office of Oceanic and Atmospheric Research
Vernon E. Derr, Director, Environmental Research Laboratories, Office of Oceanic and Atmospheric Research
Lester Machta, Director, Air Resources Laboratory, Office of Oceanic and Atmospheric Research
Jerry D. Mahlman, Director, Geophysical Fluid Dynamics Laboratories, Office of Oceanic and Atmospheric Research
Syukuro Manabe, Supervisory Research Meteorologist, Geophysical Fluid Dynamics Laboratory
Alan R. Thomas, Deputy Assistant Administrator for Oceanic and Atmospheric Research
David Alexander, Director, SES and Executive Resources, Office of Human Resources Management, Environmental Protection Agency
Joseph E. Clark, Deputy Director, National Technical Information Service
S. Richard Costa, Director, Communications and Data Systems Division, National Aeronautics & Space Administration
Harriet G. Jenkins, Assistant Administrator for Equal Opportunity Programs, National Aeronautics & Space Administration
Joe Maas, Associate Administrator, Small Business Administration
Franklin Martin, Director of Space and Earth Sciences Directorate, Goddard Space Flight Center, NASA
Roy R. Mullen, Associate Chief, National Mapping Division, United States Geological Survey
Joe D. Simmons, Deputy Director, Center for Basic Standards, National Bureau of Standards.

Dated: July 30, 1986.

J. Curtis Mack II,

Deputy Administrator.

[FR Doc. 86-17747 Filed 8-4-86; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Information Collection Requirement Submitted to OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for Trusteeship Designation in Behalf of Air Force Member Incapitated Due to Injury or Illness

Application (AFAFC Form 2192) to be appointed guardian to handle funds management for retired or active duty military members who are mentally incompetent due to injury or illness.

Individuals

Responses—122

Burden Hours—61

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTAL INFORMATION: A copy of the information collection proposal may be obtained from Ms. Sharon Cassaday, AFAFC/RP, Denver, CO 80279-5000, telephone number (303) 370-7458.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1986.

[FR Doc. 86-17742 Filed 8-6-86; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of need for and the use to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Trustee Report on Behalf of Member and Dependents

AFAFC Form O-297 is used to report the accountability of Air Force funds disbursed and/or maintained by the trustee on behalf of a mentally incompetent Air Force member.

Individuals

Responses—850

Burden Hours—1,700

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Sharon Cassaday, AFAFC/RP, Denver, CO 80279-5000, telephone number (303) 370-7458.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1986.

[FR Doc. 86-17741 Filed 8-6-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need of and uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Parents Dependency Statement, DD Form 137-3.

The information provided on DD Form 137-3, enables the Army in determining parents, parent-in-law and parents "in loco parentis" (person who stands in place of parents) dependency of service members for Basic Allowance for Quarters and medical benefits.

Responses: 12,500

Burden hours: 18,750

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone number (202) 746-0993.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, DAIM-ADI-M, Room

1C638, The Pentagon, Washington, DC 20310–0700, telephone (202) 695–1671.

Patricia A. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1986.

[FR Doc. 86–17743 Filed 8–6–86; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Environmental Statement for the San Clemente Project, California

AGENCY: Army Engineer District, San Francisco, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) for the proposed New San Clemente Project, Monterey County, California, Regulatory Permit Application No. 16516S09.

Summary

1. *Proposed Action:* The Monterey Peninsula Water Management District (MPWMD), Monterey California has applied for Department of the Army authorization, pursuant to the provisions of section 404 of the Clean Water Act (33 U.S.C. 1344), to construct a dam on the Carmel River approximately 16 miles southeast of the City of Monterey in Monterey County, California. The proposed project would be a roller compacted concrete dam ±250 feet high with a 29,000 acre-foot reservoir and a surface area of ±350 acres. The project includes a 150 foot wide spillway equipped with a stilling basin to prevent downstream river erosion. The proposed dam would be located ±3,600 feet downstream of the existing San Clemente Dam and would use the existing pumping/filter plants, wells, and pipeline. Downstream migrant fish passage would be provided by a device designed to attract fish to the dam and pass them safely to the river below. Upstream migrating fish would be trapped by a fish weir and ladder below the dam and conveyed by truck to a release point upstream of the dam. Preservation and enhancement of in-stream and riparian habitat above and below the reservoir would total approximately 760 acres. The goals of the proposed project are to (a) provide municipal water supply to meet both the short and long-term needs of the Cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, and unincorporated areas of Monterey County within the MPWMD's boundaries; (b) afford drought protection in future dry years; and (c) restore the environmental quality of the Carmel River, with particular reference to enhancement of the riparian corridor and anadromous fish resource. The Monterey Peninsula Water Management District and the U.S. Army Engineer District, San Francisco will prepare a joint State/Federal environmental document (EIR/EIS) for the New San Clemente Project.

2. *Alternatives:* MPWMD is presently developing detailed criteria relating to the project goals and will initiate a screening process to assess the feasibility of each alternative. The initial screening will determine whether significant technical, logistical, economic, environmental, or jurisdictional constraints preclude further consideration of an alternative. Those alternatives which pass the first screening will be subjected to a performance analysis, based on a computer simulation model, to determine feasibility. Alternatives being considered at this time are:

a. No Action (permit denial).

b. Project as proposed by aplicant (see Summary paragraph 1).

c. 20,000 AF—same as the applicant's proposed project except a smaller dam and a 20,000 acre-foot reservoir.

d. Off-Chanel—Dams with reservoirs would be built on tributaries to the Carmel River. Potential sites include San Clemente Creek, Cachagua Creek, and Chupines Creek. Natural inflow, pumped storage or a combination of both would be considered. In addition to the dams, this alternative would require intake structures, lift stations, outlet works and 7 to 10 miles of new pipeline and appurtenances.

e. Groundwater—(1) Development of new wells in the Seaside Aquifer. (2) Increased production from the Carmel Valley Aquifer.

f. Other Non-Structural—e.g. sediment removal, reclamation.

Additional alternatives identified during the scoping process will also be considered in the DEIS.

3. *Scoping Process:*

a. A public scoping meeting is scheduled for Wednesday, September 3, 1986 at the Seaside Council Chambers, 440 Harcourt Avenue, Seaside, California 93955. To facilitate attracting the greatest possible public participation, two scoping sessions have been scheduled: The afternoon session starts at 2:00 pm and the evening session starts at 7:30 pm. The public in general, including public and private interest groups as well as any government agency, are invited to participate in the scoping process by either attending the meeting(s) of submitting written comments. The purpose of the public scoping meetings are to identify significant issues and alternatives to be considered in the DEIS.

b. The significant issues which have been identified to date and which will be considered in the DEIS include: geology and soils; hydrology and water quality; aquatic/terrestrial flora and fauna; air quality; land use; socioeconomics; traffic, noise, archaeology, public health and safety and growth inducement. Additional significant issues identified during the scoping process will also be considered in the DEIS.

c. Environmental review and consultation as required by section 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 and 1344); section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470 *et seq.*); Executive Order 11988, "Floodplain Management," 24 May 1977; Executive Order 11990 "Protection of Wetlands," 24 May 1977; Prime and Unique Agricultural Lands, CEQ Memorandum dated 11 August 1980 and other statutes or regulations as may be required by the proposed action; will be conducted concurrently with the NEPA process.

4. It is estimated the Draft EIS will be released to the public on or about 1 March 1987.

5. Questions regarding the scoping process or preparation of the Draft EIS may be referred to Roger Golden, Environmental Branch, San Francisco District, U.S. Army Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415–974–0444). General questions concerning the processing of the permit application may be referred to Karen Mason, Regulatory Functions Branch, (415–974–0424) at the same address.

Dated: July 31, 1986.

Andrew M. Perkins, Jr.,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86–17763 Filed 8–6–86; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Roger M. Schwartz, Office of Federal Acquisition and Regulatory Policy, (202) 523–3780, or Mr. Owen Greene, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* This request covers recordkeeping and information collection requirements regarding the need for and use of jewel bearings and related items. The requirements are necessary to ensure contractor compliance with contract clauses regarding required usage of Government-owned sources of supplies for such items.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 13,500; responses, 270,000, and reporting and recordkeeping hours, 30,375.

Obtaining Copies of Proposals

Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GS Building, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0017.

Dated: August 1, 1986.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 86–17898 Filed 8–6–86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics (ACES).

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 22–23, 1986.

ADDRESS: 555 New Jersey Avenue, NW., Room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400J, Washington, DC 20208 Telephone: (202) 357–6831.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the Center for Statistics (CS) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes the following:

- Evaluation report on the Center for Statistics conducted by the Committee on National Statistics, National Research Council.
- Statistical standards for the Center.
- Review of design issues and progress in the Redesign of the Elementary and Secondary Education data system.
- Such old and new business as the Chairman or membership may put before the Council.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, NW., Room 400J, Washington, DC 20208.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–17716 Filed 8–6–86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; Colorado School of Mines

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Restricted Eligibility for Grant Award.

SUMMARY: DOE announces that it plans to award a grant to the Colorado School of Mines in the amount of $50,000 for fiscal year 1986, as the first of five projected awards of $25,000 each in partial support of the 1986 Summer Field Institute entitled "Western Energy and Mineral Opportunities, Problems and Policy Issues." Pursuant to section 600.7 (b) of the DOE Financial Assistance Rules, 10 CFR Part 600, DOE has determined that eligibility for this award shall be limited to the Colorado School of Mines.

Procurement Request Number: 01–86FE60653.000

SUPPLEMENTARY INFORMATION: Each year since 1978, the Colorado School of Mines has successfully conducted a Summer Institute on Western Energy and Minerals Opportunities which has provided important background information for Congressional and Executive staff engaged in developing energy related legislation.

The Colorado School of Mines is the only institute with eight years of previous experience in conducting this particular summer institute which has given CSM a capability that is currently unique. There is no other such source now providing a comparable session. The CSM Summer Field Institutes is primarily for senior staff members from Congress, GAO, OMB, etc. The Institute will hold its two-week programs in July and during the Congressional break in August for each year of the program.

Therefore, the DOE has determined that this award to the Colorado School of Mines on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Shirley Jones, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–4065.

Issued in Washington, D.C., on July 28, 1986.

Robert J. Walsh,

Acting Director, Contract Operations Division "A" Office of Procurement Operations.

[FR Doc. 86-17729 Filed 8-6-86; 8:45 am]

BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b) it intends to award on a restricted eligibility basis a grant to the Combustion Institute in partial support of the Twenty-First International Conference on Combustion. The DOE support under this grant will be $15,000 over a 4 month period.

Procurement Request No. 01-86FE61035.000

Project Scope: The Combustion Institute will host the Twenty-First International Symposium on Combustion at the Technical University of Munich, West Germany on August 3-8, 1986. The Combustion Institute, a non-profit higher education institute, provides the necessary medium under which the multitude of activities in the field of combustion (covering physics, chemistry, engineering) may be catalogued and published in the Institute's Conference Volumes and Journals. This conference volume aids to encourage outstanding scientists, engineers and investigators to maintain a higher level of activity and interest in combustion than they would otherwise.

The Symposium on Combustion is an activity sponsored only by the Combustion Institute. DOE has a vital interest in the research issues associated with and surrounding the activities of Combustion. Therefore, it has been determined that a grant for partial support of the planned symposium to the Combustion Institute on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on August 4, 1986.

Robert J. Walsh,

Acting Director, Contract Operations, Division "A", Office of Procurement Operations.

[FR Doc. 86-17829 Filed 8-6-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-34-NG]

Canadian Natural Gas Clearing House (United States) Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to Canadian Natural Gas Clearing House (U.S.) Inc. (Canadian Clearing House). The order issued in ERA Docket No. 86-34-NG authorizes Canadian Clearing House to import up to 75 Bcf of natural gas over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Ave. SW., Washington, DC, 20585, (202) 252-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, July 31, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-17828 Filed 8-6-86; 8:45 am]

BILLING CODE 6450-01-M

[6450-01]

[ERA Docket No. 86-42-NG]

Natural Gas Imports; CU Energy Marketing Inc. Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 15, 1986, of an application from CU Energy Marketing Inc. (CU) which is wholly-owned subsidiary of Canadian Utilities Limited, a wholly-owned subsidiary of CU Resources Inc., for blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market. Authorization is requested to import up to 200 Bcf of Canadian natural gas for a two-year term beginning on the date of first delivery of the import. CU proposes to purchase individual volumes of natural gas from various reliable Canadian suppliers and producer associations and arrange for delivery of the gas to the United States's border points of entry. Since CU intends to utilize existing pipeline facilities for the transportation of the volumes imported, the proposal does not contemplate the construction of any new domestic facilities. CU proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices or intervention, as applicable, and written comments are to be filed no later than September 8, 1986.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9394

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

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VOL 51 ISS 152 AG 7 1986 UMI

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.s.t., September 8, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto.

Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CU's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C., July 31, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–17730 Filed 8–6–86; 8:45 am]

BILLING CODE 6450–01–M

[86–43–NG]

Natural Gas Imports; Granite State Gas Transmission, Inc.; Application to Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 18, 1986, of an application filed by Granite State Gas Transmission, Inc. (Granite State) for authorization to import Canadian natural gas from Shell Canada Limited (Shell).

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 8, 1986.

FOR FURTHER INFORMATION CONTACT:

John Glynn, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252–9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252–6667

SUPPLEMENTARY INFORMATION: The applicant, a New Hampshire corporation with its principal place of business in Canton, Massachusetts, is a wholly-owned subsidiary of Northern Utilities, Inc. (Northern Utilities), which itself is a wholly-owned subsidiary of Bay State Gas Company (Bay State). Granite State owns and operates a 55-mile interstate natural gas pipeline system extending from the Massachusetts-New Hampshire border northwesterly through the New Hampshire coastal area to a terminus at Elliot, Maine. It resells the gas it purchases to only two distributors, Northern Utilities and Bay State and one direct customer, an Air Force base. The imported volumes from Shell will be used by Granite State to supplement its existing long-term gas supplies.

By its application, Granite State seeks approval to import up to 25,000 Mcf of natural gas per day on an interruptible, best efforts basis during the period November 1, 1987, through October 31, 1988. Beginning November 1, 1988, and extending through March 31, 1999, Granite State wants to be able to import up to 25,000 Mcf per day on a firm basis and an additional daily quantity of up to 15,000 Mcf on an interruptible basis. The gas would enter the United States at a point on the international border near North Troy, Vermont. In order to accomplish the delivery of this supply, Granite State intends to purchase 48 miles of natural gas pipeline facilities owned by Northern Utilities which extend from Elliot to Portland, Maine. Also, Granite State will lease 166 miles of crude oil pipeline from Portland Pipeline Corporation extending from the city of Portland northwesterly through Maine and New Hampshire to North Troy, Vermont and convert it to natural gas service.

According to the application, when firm deliveries commence on November 1, 1988, the gas sales contract between Granite State and Shell establishes a two-part demand/commodity pricing structure. For any best-efforts deliveries prior to that time, Granite State would pay a one-part rate at the border. The demand component under the two-part billing rate consists of the fixed costs incurred by Shell in connection with gathering the gas in the Province of Alberta and transportation and shipping within Canada to the export point. The commodity charge is based on a border price (initially set at $3.31 (U.S.) per MMBtu), adjusted monthly to track changes in prices of a specific mix of natural gas, No. 2 distillate oil and No. 6 residual oil in the Bay State/Northern Utilities market area, minus the demand charge, calculated on an annual average basis.

The applicant states that on the basis of March, 1986 data, the demand charge is $31.98 (U.S.) per Mcf and the commodity charge is $1.22 (U.S.) per MMBtu, which would yield a cost at the international border of $2.2714 (U.S.) per MMBtu. Either party may require that

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the pricing and price adjustment provisions for any contract year be determined by renegotiation or, failing agreement, by arbitration. The minimum bill is the monthly demand charge and there are no take-or-pay requirements. Granite State proposes to pass through to its customers the demand and commodity components of the rate it pays to Shell on an as-billed basis.

In support of its application, Granite State maintains that the proposed natural gas supply will remain competitive over the contract period and is therefore consistent with the Secretary of Energy's gas import policy. Furthermore, with the conversion of the oil pipeline, having this supply of gas available will enhance Granite State's ability to provide safe and reliable service to its customers.

The decision on this application will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of ovecoming this assertion.

Public Comment Procedures: In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m., e.s.t., September 8, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Granite State's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 1, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–17831 Filed 8–6–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–33–NG]

Tricentrol Petroleum Marketing, Inc.; Order Approving a Blanket Authorization to Import and Export Natural Gas

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order approving a blanket authorization to import and export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to Tricentrol Petroleum Marketing, Inc. (TPMI) to import Canadian natural gas and export natural gas on a short-term basis. The order issued in ERA Docket No. 86–33–NG authorizes TPMI to import 125 Bcf of Canadian natural gas per year and export 50 Bcf of natural gas for a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, August 1, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–17830 Filed 8–6–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Petroleum Supply Publications; Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning the publication of statistical tables in the *Petroleum Supply Monthly* (PSM) and *Petroleum Supply Annual* (PSA) publications.

DATE: Written comments must be received within 30 days of the publication of this notice.

ADDRESS: Send comments to Michele R. Simmons, at the address listed immediately below:

Michele R. Simmons, Petroleum Supply Division, Energy Information Administration, EI–424, Department of Energy, Mail Stop 2H–058, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5995.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Comment Procedure

I. Background

In order to fulfill its responsibilities under the Federal Energy

Administration Act of 1974 (Pub. L. 93–275) and the Department of Energy Organization Act (Pub. L. 95–91), EIA is obliged to publish, and otherwise make available to the public, high-quality statistical data that reflect national and regional petroleum supply data as accurately as possible. To meet this responsibility, as well as internal DOE requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass significant petroleum supply activities in the United States.

II. Current Actions

Through disclosure avoidance procedures, EIA seeks to maintain the confidentiality of its respondents and their data when releasing collected survey information.

EIA's disclosure avoidance standard (EIA 84–03–04) addresses statistical confidentiality and describes a method for determining whether individual cell data are sensitive or not by application of prescribed rules. Cell data are considered sensitive if one of the following occurs:

1. The non-zero value for a cell is based on the information from one or two respondents, or

2. The value for a cell is based on information from three or more respondents but the calculation of a sensitivity measure indicates that the cell should be withheld because one or two large companies dominate the cell.

Several of the detail tables in the PSM and PSA do not conform to the EIA standard. The level of detail provided in these tables has remained essentially unchanged from the level of detail provided in publications released under the auspices of the Bureau of Mines since 1917. However, in recent years the petroleum industry has undergone much change including a steady decline in the number of operable refineries and a rise in company mergers. These changes in the industry contribute to the current number of cells which fail the disclosure standard. To date, EIA has not withheld these data from publication. Except for data deemed public information and data required for regulation, EIA never divulges the name of the company associated with a given data element.

Special requests for unpublished data are subjected to disclosure avoidance procedures. Individual company data are considered to be proprietary and are not available to the public. The procedure used to protect company specific petroleum supply data is that aggregate level data must be comprised from at least three distinct companies with no one company's data predominating.

III. Comment Procedures

Written Comments

Conformance with the EIA standard could require the discontinuation of some refining district and petroleum movement information in the PSM and the PSA, withholding publication of other sensitive cells, and a sufficient number of additional cells to protect the sensitive cells. This could significantly reduce the level of information which has been available for more than 30 years, and which EIA believes is useful.

Therefore, EIA plans to continue publishing the data as in the past. This could continue some statistical disclosure in the tables of the PSM and the PSA. EIA will continue to consider company-level data proprietary in all other ways. Objections to this course of action should be provided in writing.

Issued in Washington, DC on August 1, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 86–17827 Filed 8–6–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EL85–19–105]

Kings River Basin, CA; Request for Comments on the Cumulative Environmental Impacts of Proposed Hydropower Development

August 4, 1986.

The Federal Energy Regulatory Commission (Commission) is requesting comments regarding cumulative environmental impacts [1] that may occur as a result of multiple hydropower developments proposed for the Kings River Basin, located in Fresno and Tulare Counties, California.

Information Requested

Interested persons and agencies are invited to identify those target resources that may be at risk, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice.[2] Substantive evidence should include, but should not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of July 28, 1986, the following license applications for hydropower projects were pending before the Commission:

Project No.	Project name	Type of application
3208–003	Hume Lake Project	Major license
6017–000	Ten Mile Creek Project	Do.

A map of the Kings River Basin shows the locations of these pending projects and existing projects, and is included in this notice (figure 1).

Descriptions of Proposed Projects

Hume Lake Project: The project would be located at the U.S. Forest Service's (USFS) existing Hume Lake Dam on Ten Mile Creek within the Sequoia National Forest in Fresno County, California. The proposed project would consist of: (1) A 36-inch-diameter, 6,000-foot-long, low-pressure pipe; (2) A 30-inch-diameter, 4,500-foot-long penstock; (3) A powerhouse containing a single generating unit with a rated capacity of 3.5 megawatts (MW); (4) A switchyard adjacent to the powerhouse; and (5) a 70-kV, approximately 3-mile-long transmission line connecting the powerhouse with an existing Pacific Gas and Electric Company line south of the powerhouse.

Ten Mile Creek Project: The project would be located on Ten Mile Creek, partially within the Sequoia National Forest in Fresno County, California. The proposed project would consist of: (1) A 6-foot-high steel and concrete diversion structure at elevation 3,750 feet; (2) A 30-inch-diameter pipeline 4,500 feet long and a penstock 2,100 feet long; (3) A powerhouse at elevation 2,280 feet adjacent to the Kings River containing a turbine-generator with a 4.95-MW capacity; (4) A 70-kV transmission line 6,600 feet long; and (5) An access road 1.75 miles long.

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[1] Cumulative impact is the impact on the environment which results from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or nonfederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

[2] A target resource is an important resource that could be adversely affected by two or more proposed hydropower projects.

Preliminary Review of Target Resources

The staff has examined the two applications for hydropower development and has studied comments from federal and state natural resource agencies concerning the potential for cumulative impacts from the proposed projects. The staff's preliminary analysis has identified recreational fishing and aesthetics as target resources in the Kings River Basin.

Recreational Fishing: Recreational fishing has been noted as a target resource because the Hume Lake and Ten Mile Creek projects would affect this resource located in the vicinity of the Hume Lake Recreation Unit of the Sequoia National Forest. The USFS, by telephone correspondence on December 12, 1985, has stated that sufficient minimum flows should be provided to protect the recreational fishing within the project bypass reaches of Ten Mile Creek. The drawdown at Hume Lake and flow alterations in Ten Mile Creek would affect water temperature, dissolved oxygen, and sediment transport, which in turn, may reduce water quality in Ten Mile Creek. A reduction in water quality and alteration of flows due to two projects may adversely affect fish survival. Hume Lake and Ten Mile Creek are important because they support significant public recreational fishing.

Aesthetics: The Hume Lake and Ten Mile Creek projects may impact the visual quality of the area. Fresno and Tulare Counties have recognized the importance of visual quality in the region through designating scenic highways in their general plans. The two proposed projects are located in an area that is classified by the USFS as highly distinctive with a visual quality objective of retention. A substantial portion of the transmission lines, pipelines, penstock rights-of-ways, and the powerhouses of the Hume Lake and Ten Mile Creek projects would be visible from State Route 180, a highly scenic road in the region and may alter the current visual quality objective of the USFS.

Assessment of Cumulative Impacts

In addition to the information available on the two proposed projects in the Kings River Basin, the staff will review any data provided by interested persons and agencies addressing how these pending projects may have cumulative impacts on recreational fishing, aesthetics or other target resources of tne region not yet identified by the staff.

Comments should be filed by the close of business, 9–18–86, and should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Docket No. EL85–19–105 to all comments.

For further specific information please contact Patricia E. Aspland, River Basin Coordinator, at (202) 376–9623.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17798 Filed 8–6–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85–19–106]

Lehigh River Basin, PA; Request for Comments on the Environmental Impacts of Proposed Hydropower Development

August 4, 1986.

The Federal Energy Regulatory Commission (Commission) is requesting comments regarding cumulative environmental impacts [1] that may occur as a result of multiple hydropower developments proposed for the Lehigh River Basin, located in Northhampton, Lehigh, Berks, Carbon, Monroe, Wayne, Lackawanna, and Luzerne Counties, Pennsylvania.

Information Requested

Interested persons and agencies are invited to identify those target resources that may be at risk, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice.[2] Substantive evidence should include, but not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of July 28, 1986, the following license applications for hydropower projects were pending before the Commission:

Project number	Project name	Type of application
2994–002	Beltzville Project	Major license
5146–001	Hamilton Street Project.	Major license
5833–000	Easton/Raubsville Project.	Minor license

A map of the Lehigh River Basin shows the locations of these pending projects and existing projects, and is included in this notice (figure 1).

Descriptions of Proposed Projects

Beltzville Project: The project would be located on Pohopoco Creek in Carbon County, Pennsylvania. It would utilize the U.S. Army Corps of Engineers' Beltzville Dam and Reservoir and would consist of: (1) Modification of the outlet works for project purposes; (2) a new 6.5-foot-diameter and 230-foot-long steel penstock; (3) a new powerhouse with two turbine-generator units with a total capacity of 2,150 kW; (4) a switchyard; (5) and a 1.7-mile transmission line.

Hamilton Street Project: The project would be located on the Lehigh River and Lehigh Canal in Lehigh County, Pennsylvania. The project would consist of: (1) The existing Hamilton Street Dam, a 14-foot-high, 490-foot-long concrete gravity dam; (2) an existing 82-acre reservoir; (3) a 1,700-foot-long section of the existing Lehigh Canal; (4) a proposed powerhouse to be located adjacent to the existing fish ladder at the dam and to contain an installed generating capacity of 200 kW; (5) a proposed powerhouse to be located 1,700 feet downstream of the dam and to contain an installed generating capacity of 1,830 kW; (6) a proposed 2,600-foot-long, 12-kV transmission line connecting one powerhouse to the Pennsylvania Power and Light Company's Allentown Substation; and (7) a proposed 650-foot-long, 12-kV transmission line connecting to the above transmission line.

Easton/Raubsville Project: The project would be located on the Lehigh River in Northampton Cunty, Pennsylvania. The project would be run-of-the-river and would consist of: (1) The existing Easton Dam, approximately 590-feet-long and 12-feet-high, constructed of timber cribs with concrete cap and spillway crest elevation of 170.5 feet; (2) a reservoir having minimal pondage; (3) an existing canal headworks at the right river bank and the Delaware Canal; (4) Ground Hog Locks and an intake structure with gates and trashracks; (5) the existing Raubsville Hydroelectric Station with rehabilitated turbines and two new

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[2] A target resource is an important resource that could be adversely affected by two or more proposed hydropower projects.

generators having a total rated capacity of 1500 kW; (6) a tailrace discharging into the Delaware River; and (7) a new 4.8-kV transmission line.

Preliminary Review of Target Resources

The staff has examined the three applications for hydropower development and has studied comments from federal and state natural resource agencies concerning the potential for cumulative impacts from the proposed projects. The staff's preliminary analysis has identified anadromous fish, water quality and recreation as target resources in the Lehigh River Basin.

Anadromous Fish: In June 1985, the Pennsylvania Fish Commission (PFC) began an American shad restoration management program in the Lehigh River Basin. Fry were stocked into the Lehigh River at the TriBoro Sportsman Club Access Area situated approximately 12 miles above the Hamilton Street Project, Northampton (letter from L. Young to R. Hesser, Pennsylvania Fish Commission, Bellefonte, PA, June 10, 1985). The action culminated from increased public demand for more and varied fisheries as well as the PFC's interest to restore this valuable species to its historic spawning and rearing habitat.

While the Hamilton Street Dam in Allentown has fish passage facilities, the Easton/Raubsville Dam situated down river has none. Chain Dam (FERC No. 3547), an existing project located between the Easton/Raubsville Dam and the Hamilton Street Dam, also has no fish passage facilities. Each spring, shad enter the Lehigh River from the Delaware River and are attracted to the tailwaters at the Easton/Raubsville Dam in great numbers (Hesser, 1985). However, because the Easton/Raubsville Dam and subsequently Chain Dam do not have fishways, adult shad are unable to migrate to upriver spawning sites. The PFC stated that while shad could survive as far up as the confluence of Pohocopo Creek with the Lehigh River, it is too early to tell whether they would go that far (Personal communication, Robert B. Hesser, Fishery Resources Biologist, Pennsylvania Fish Commission, Bellefonte, PA, February 6, 1986). The PFC has determined that the operators of the Easton/Raubsville Dam and Chain Dam must construct fish ladders as well as downstream migrant facilities that prevent fish from entering the canal and ultimately being injured or killed by passage through turbines. Development of these hydroelectric projects could affect the shad restoration effort in the Lehigh River by delaying upstream migration or by increasing downstream migrant mortality from entrainment and impingement.

Water Quality: Until the construction of dams on the Lehigh River in the 1820's, American shad annually migrated up the river. Added to the impediment of the dams, shad and other anadromous fish began a rapid decline with the degradation of water quality caused by the deleterious effects of particularly coal and steel plant wastes, other industrial wastes, and municipal wastes (Hesser, 1984). Such effluents significantly reduced dissolved oxygen (DO) levels which affected fish survival. Since studies conducted by the PFC from 1973 to 1976, studies by the Area Fisheries Management staff from 1980 to 1982 have determined that the overall physical, biological and chemical conditions in the river have improved. This is particularly the case for the middle and lower sections of the Lehigh River which comprise approximately 40 miles suitable for anadromous fish restoration (Hesser, 1984).

While the Beltzville Project would utilize an existing dam and reservoir, operation of the multi-level intake structure during summer months could result in the discharge of water with low DO levels. This aspect along with a drawdown of cold hypolimnetic water from the reservoir bottom, could result in the release of relatively warm water in the late summer. Additionally, the flow of the Lehigh River is regulated by the project which effectively affects water quality and quantity throughout the lower river drainage.

At the Hamilton Street Project, project operation could affect DO levels during low flow periods from reduced spillage. At the Easton/Raubsville Project, short-term impacts may result from dredging of silts during facility modifications.

Recreation: Over the years, canoeing on the Lehigh and Delaware Rivers has played a fairly important role in attracting recreationists to the area. The fact that a portion of the Lehigh Canal has been nominated for inclusion of the National Register of Historic Places, as well as the Delaware Canal having been already determined a National Historic Landmark, may account for the attractiveness of the area. In 1981 alone, more than 145,000 canoeists recreated in the Delaware River. At the Beltzville Project, an informal canoe launching and recreational area would be lost to project development. At the Easton/Raubsville Project, new facilities and transmission lines could cause impacts on scenic vistas which could reduce recreational values at sites, e.g., canoeing. Changes in water flow below the Easton/Raubsville diversion might also be increased to the extent that canoeists may no longer be able to paddle upstream as they have in the past.

Assessment of Cumulative Impacts

In addition to the information on the three proposed projects in the Lehigh River Basin, the staff will review any data provided by interested persons and agencies addressing how these pending projects may have cumulative impacts on anadromous fish, water quality, recreation or other target resources of the region not yet identified by the staff.

Comments should be filed by the close of business, September 18, 1986, and be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Docket No. EL85-19-106 on all comments.

For further specific information, please contact Andrea J. Heintzelman or Robert Grieve, River Basin Coordinators, at (202) 376-9290 or 376-9001, respectively.

Literature Cited

Hesser, Robert B. 1986. Strategic fishery management plan for American shad restoration in the Schuylkill and Lehigh River Basins. Pennsylvania Fish Commission, Bellefonte, PA.

_____. 1985 American shad restoration—Pennsylvania's challenge. Pennsylvania Angler. March 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17790 Filed 8-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-107]

Pit River Basin, CA; Request for Comments on the Cumulative Environmental Impacts of Proposed Hydropower Development

August 4, 1986.

The Federal Energy Regulatory Commission (Commission) is requesting comments regarding cumulative environmental impacts [1] that may occur

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as a result of multiple hydropower developments proposed for the Pit River Basin, located in Siskiyou, Modoc, Shasta and Lassen Counties, California.

Information Requested

Interested persons and agencies are invited to identify those target resources that may be at risk, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice.[2] Substantive evidence should include, but should not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of July 28, 1986, the following license applications for hydropower projects were pending before the Commission:

Project number	Project name	Type of application
8296-001	Muck Valley	Major license.
3863-001	Lost Creek 1	Major license.
5130-002	Lost Creek 2	Major license.
9029-000	Grasshopper Flat	Major license.

A map of the Pit River Basin shows the locations of these pending and existing projects, and is included in this notice (figure 1).

Descriptions of Proposed Projects

Muck Valley Project: The project is an application for a major license that would be located on the mainstem of the Pit River, Lassen County. The project would be constructed on private land owned by Juniper Ridge Ranches, Inc. It would consist of: (1) A 300-foot-long, 15-foot-high diversion structure; (2) a 160-foot-long, 17-foot-high intake structure; (3) a 20,000-foot-long, 10-foot-diameter tunnel to the penstock; (4) a 7,404-foot-long, 96-inch-diameter penstock; (5) a 67 foot by 78 foot powerhouse containing a single vertical turbine unit with a capacity of 30.1 MW; and (6) a 9,900-foot-long transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) line.

Lost Creek No. 1 Project: The project is an application for a minor license that would be located on Lost Creek in Shasta County. The project would be constructed partially on private property and on 75 acres of U.S. Forest Service land within Lassen National Forest. The project would consist of: (1) A 6-foot-high, 70-foot-long diversion structure at elevation 4,223 feet; (2) a 42-inch-diameter, 2,700-foot-long penstock; (3) a powerhouse containing one turbine and generator rated at 1.4 MW; and (4) a transmission line about two miles in length that would connect to an existing PG&E distribution line.

Lost Creek No. 2 Project: The project is an application for a minor license that would be located on Lost Creek in Shasta County. The project would be constructed partially on private property and on U.S. Forest Service land within Lassen National Forest. The project would consist of: (1) A 6-foot-high, 40-foot-long diversion dam at elevation 3,845 feet; (2) a 57-inch-diameter, 2,000-foot-long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 455 kW, operating under a head of 85 feet; and (4) a 2,500-foot-long transmission line that would connect with an existing PG&E line east of the project.

Grasshopper Flat Project: The project is an application for a minor license that would be located on Nelson Creek, in Shasta County. The project would be constructed entirely on private property. It would consist of: (1) A 30 foot by 50 foot diversion dam on the east fork of Nelson Creek, and a 30 foot by 125 foot diversion dam on the west fork of Nelson Creek; (2) a 6,700-foot-long penstock and a 480-foot-long penstock; (3) a 30 foot by 35 foot powerhouse containing one to three turbines with a capacity of 103 kW; and (4) a 1,500-foot-long 12-kV transmission line connecting to an existing PG&E line.

Preliminary Review of Target Resources

The staff has examined the four applications for hydropower development and has studied comments from federal and state natural resource agencies concerning the potential for cumulative impacts from the proposed projects. The staff's preliminary analysis has identified dispersed recreation, aesthetics, bald eagles, and Native American cultural resources as target resources in the Pit River Basin.

Dispersed Recreation: Dispersed recreational activities in the Pit River Basin are hiking and fishing in the backcountry, camping at primitive sites, and picnicking at undesignated roadside areas. There is an abundance of dispersed recreational opportunities in the Lassen, Modoc, Fremont, and Shasta-Trinity National Forests, which make up more than half the acreage of the Pit River Basin. Since most of the dispersed camping and fishing activities occur at lakes and along streams, multiple hydropower development could adversely affect dispersed recreational activities in the basin by reducing fishing success and dewatering or impounding free-flowing streams.

Aesthetics: Aesthetics (visual quality) in the Pit River Basin is important because most recreationists are there to enjoy the views as seen from the canyon rims, roadsides, and backcountry areas. Of special importance is the view from the Pacific Crest Trail, a nationally designated trail, that traverses the basin. Multiple hydropower development could adversely affect the visual quality of the basin by constructing man-made structures, that are not compatible with the natural setting, in areas that are highly visible to recreationists.

Bald Eagles: The bald eagle is federally-listed endangered species. The Pit River Basin supports a significant portion of California's limited number of bald eagles. There are numerous bald eagle nesting territories in the Pit River Basin, making it one of the most important bald eagle nesting areas in the state. Multiple hydropower project development could adversely affect bald eagles by increasing human disturbance, removing certain types of vegetation, reducing fish populations, and constructing above-ground transmission lines that could cause inflight collisions.

Native American Cultural Resources: Many Native American groups live in the Pit River Basin, and, consequently, there are resources that are important to their culture. These resources include: areas of religious or ceremonial value; sites of past settlement which have sentimental value to individual members of the community; sites uniformly considered important by the entire Native American community; and sites where Native Americans gather botanical resources for diet. Multiple hydropower project development in the basin could adversely affect Native American cultural resources by removing certain types of vegetation, blasting or excavating sacred areas, dewatering religiously significant waterfalls, and allowing public access to religious sites.

The Muck Valley and Grasshopper Flat Projects would be located on stream segments that are isolated from other pending FERC projects. At this preliminary stage of analysis, staff and the resource agencies have not identified cumulative adverse impacts to the target resources from the

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construction and operation of these projects.

Assessment of Cumulative Impacts

In addition to the information available on the four proposed projects in the Pit River Basin, the staff will review any data provided by interested persons and agencies addressing how these pending projects may have cumulative impacts on dispersed recreation, aesthetics, bald eagles, and Native American cultural resources or other target resources of the region not yet identified by the staff.

Comments should be filed by the close of business, September 18, 1986, and be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Docket No. EL85–19–107 on all comments.

For further information please contact Brian Romanek, River Basin Coordinator, at (202) 376–1730.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17800 Filed 8–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL85–19–108]

Rogue River Basin, OR and CA; Request for Comments on the Cumulative Environmental Impacts of Proposed Hydropower Development

August 4, 1986.

The Federal Energy Regulatory Commission (Commission) is requesting comments regarding cumulative environmental impacts [1] that may occur as a result of multiple hydropower developments proposed for the Rogue River Basin, located in Josephine, Jackson, Curry, and Klamath Counties, Oregon, and in Siskiyou and Del Norte Counties, California.

Information Requested

Interested persons and agencies are invited to identify those target resources that may be at risk, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice. [2] Substantive evidence should include, but should not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of July 28, 1986, the following license applications for hydropower projects were pending before the Commission:

Project number	Project name	Type of application
7829–000	Emigrant Dam	Major license
4732–000	Applegate Lake	Major license
6568–001	Grave Creek	Major license

A map of the Rouge River Basin shows the locations of these pending and existing projects, and is included in this notice (figure 1).

Descriptions of Proposed Projects

Emigrant Dam Project: The project would consist of: (1) A 54-inch-diameter bifurcation connected to the existing 54-inch-diameter outlet pipe of the 176-foot-high, 735-foot-long earthfill Emigrant Dam owned by the Bureau of Reclamation; (2) a 185-foot-long, 54-inch-diameter steel penstock; (3) a powerhouse containing one generating unit, rated at 1,850 kw; and (4) a 500-foot-long transmission line. The average annual energy generation is estimated to be 5.5 million kWh.

Applegate Lake Project: The project would utilize the head developed by the Corps of Engineers' existing Applegate Dam. The project would consist of: (1) Installation of a steel lining in the existing 9-foot by 14.5-foot oblong flood control conduit; (2) a bifurcation in the conduit, 50 feet upstream of the outlet portal, to which is connected a 125-foot-long, 12-foot-diameter steel penstock; (3) two outlet gates in the penstock with 7- and 5-foot-diameter branches leading to the powerhouse and a 5-foot-diameter bypass branch leading to a Howell-Bunger valve; (5) a powerhouse on the left bank of the primary stilling basin 70 feet downstream of the toc of the dam containing two generating units rated at 2.7 MW and 6.3 MW; (6) a substation adjacent to the powerhouse; and (7) a 15-mile-long, 69-kV, woodpole transmission line to the Ruch substation. The project would generate an estimated average of 37,600 MWh annually.

Grave Creek Project: The project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure at elevation 2,240 feet; (2) a 5,600-foot-long, 48-inch-diameter penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 4,000 kW at a design head of 510 feet; and (4) a 730-foot-long, 12-kV transmission line connecting to Pacific Power and Light Company's existing transmission line. The average annual energy generation is estimated to be 11.1 million kWh.

Preliminary Review of Target Resources

The staff has examined the three applications for hydropower development and has studied comments from federal and state natural resource agencies concerning the potential for cumulative impacts from proposed projects. The staff's preliminary analysis has identified anadromous fish and recreational fishing as target resources in the Rogue River Basin.

Anadromous Fish: The Rogue River and its tributaries support a renowned population of anadromous fish, principally chinook and coho salmon, and steelhead and sea-run cutthroat trout. It produces more anadromous fish than any other river in the state of Oregon. Salmon from the Rogue contribute significantly to the offshore commercial and recreational catch. The net economic contribution from this catch to the local economy has been estimated at $24 million annually.

Recreational Fishing: Recreational fishing for chinook and coho salmon and steelhead trout attracts national and international visitors. Steelhead are considered by fishermen as the premier sport fish. The sport fishery supports numerous businesses such as restaurants, tackle and boat shops, motels, charter fishing boats and more.

Eighty-five miles of the Rogue River is protected for its recreational and fishery values under the National Wild and Scenic Rivers Act. The protected segment extends from the mouth of the Applegate River downstream to the Lobster Creek Bridge (figure 1).

In its preliminary review of the Emigrant Dam Project (FERC No. 7829), the staff has found no current information to indicate that this project has the potential to interact with other projects nor anadromous fish and recreational fishing to cause cumulative impacts. The staff, however, will review any additional data which addresses the question of cumulative impacts from

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interested persons and agencies on this project and the other pending projects in the basin.

Assessment of Cumulative Impacts

In addition to the information available on the three proposed projects in the Rogue River Basin, the staff will review any data provided by interested persons and agencies addressing how those pending projects may have cumulative impacts on anadromous fish and recreational fishing or other target resources of the region not yet identified by the staff.

Comments should be filed by the close of business, 9–18–86, and be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Docket No. EL85–19–108 on all comments.

For further specific information please contact Brian Romanek, River Basin Coordinator, at (202) 376–1730.

Kenneth F. Plumb,

Secretary

[FR Doc. 86–17801 Filed 8–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL85–19–109]

Willamette River Basin, OR; Request for Comments on the Cumulative Environmental Impacts of Proposed Hydropower Development

August 4, 1986.

The Federal Energy Regulatory Commission (Commission) is requesting comments regarding cumulative environmental impacts [1] that may occur as a result of multiple hydropower developments proposed for the Willamette River Basin, located in Washington, Clackamas, Yamhill, Polk, Marion, Linn, Benton, and Lane Counties, Oregon.

Information Requested

Interested persons and agencies are invited to identify those target resources that may be at risk, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice.[2] Substantive evidence should include, but should not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of July 28, 1986, the following license applications for hydropower projects were pending before the Commission:

Project number	Project name	Type of application
3109–001	Blue River Project	Major license.
4574–002	Three Lynx Creek Project.	Minor license.
5264–007	Stone Creek-Shellrock Creek Project.	Major license.
6200–000	Cripple Creek Project.	Minor license.

A map of the Willamette River Basin shows the locations of these pending projects and existing projects and is included in this notice (figure 1).

Descriptions of Proposed Projects

Blue River Project: The project would be located at the existing Blue River Dam owned by the Department of the Army, Portland District Corps of Engineers (Corps), on Blue River, a tributary of the McKenzie River, in Lane County, Oregon. The proposed action would consist of: (1) Modifying the intake structure and outlet tunnel; (2) constructing a powerhouse, containing two generating units with a capacity of 14.23 megawatts (MW); (3) excavating a tailrace; (4) installing 1.5 miles of 115-kilovolt (kV) transmission line; and (5) upgrading 1 mile of access road.

Three Lynx Creek Project: The project would be located on Three Lynx Creek, a tributary of the Clackamas River, in Clackamas County, Oregon. The proposed project would consist of: (1) A 2-foot-high diversion structure; (2) a small settling basin; (3) a 70-inch-diameter pipeline, 2,050 feet long; (4) a powerhouse utilizing 3 turbines with a combined installed capacity of 560 kilowatts; and (5) an underground feeder that would connect to existing powerlines.

Stone Creek-Shellrock Creek Project: The project would be located on Shellrock Creek and Oak Grove Fork, tributaries of the Clackamas River, in Clackamas County, Oregon. The proposed Stone Creek Project would consist of: (1) A 6-foot-high diversion dam, located about 100 feet downstream from the confluence of Stone Creek with Oak Grove Fork; (2) a 4.6-mile-long pipeline and penstock, from 78 inches to 66 inches in diameter; (3) a powerhouse, containing a turbine-generator with an installed capacity of 12 MW; and (4) a 1.7-mile-long, 115-kV transmission line. The Shellrock Creek development would consist of: (1) A 4-foot-high diversion dam on Shellrock Creek; (2) a 3.4-mile-long pipeline and penstock, from 42 inches to 36 inches in diameter; (3) a powerhosue containing a 2.75-MW turbine-generator; and (4) a 2.7-mile-long, 115-kV transmission line. Access to the project would require building 2,300 feet of new road and upgrading 4,300 feet of existing road.

Cripple Creek Project: The project would be located on Cripple Creek, a tributary of the Clackamas River, in Clackamas County, Oregon. The proposed project would consist of: (1) A diversion structure on Cripple Creek, at elevation 2,880 feet above mean sea level (msl); (2) a 6,800-foot-long, 18-inch-diameter steel penstock; (3) a powerhouse, at elevation 1,600 feet msl, containing one generating unit with a capacity of 1.2 MW; (4) a 100-foot-long tailrace; (5) 300 feet of 13-kV-transmission line; and (6) 260 feet of new access road.

Preliminary Review of Target Resources

The staff has examined the four applications for hydropower development and has studied comments from federal and state natural resource agencies concerning the potential for cumulative impacts from the proposed projects. The staff's preliminary analysis has identified anadromous fish as the target resource in the Willamette River Basin.

In its preliminary review of the Three Lynx Creek Project (FERC No. 4574), and the Cripple Creek Project (FERC No. 6200), the staff has found no current information to indicate that these projects interact with other projects nor anadromous fish species to cause cumulative impacts. The staff, however, will review any additional data which addresses the question of cumulative impacts from interested persons and agencies on these projects and the other pending projects in the basin.

Current data indicate that anadromous fish are evident in the vicinity of the Blue River Project (FERC No. 3109) and the Stone Creek Project (FERC No. 5264). The Corps is presently conducting a study to evaluate the

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[2] A target resource is an important resource that could be adversely affected by two or more proposed hydropower projects.

potential for temperature control facilities to enhance fish populations at Willamette River Basin projects. Other resource agencies, including the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and the Oregon Department of Fish and Wildlife (ODFW) support a cumulative impact assessment of the basin.

The Northwest Power Planning Council currently coordinates a fisheries restoration plan for both resident and anadromous fish for the Columbia River Basin. Through this and other programs, various state and federal resource agencies have instituted restoration plans for the Willamette River Basin. The Commission now seeks further information as to what effect, if any, the licensing of these four hydropower projects will have on the anadromous fish restoration plans currently underway, and what appropriate mitigative techniques the staff should consider for these projects, if approved for licensing by the Commission.

Assessment of Cumulative Impacts

In addition to the information available on the four proposed projects in the Willamette River Basin, the staff will review any data provided by interested persons and agencies addressing how these pending projects may have cumulative impacts on anadromous fish or other target resources of the region not yet identified by the staff.

Comments should be filed by the close of business, September 18, 1986, and should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Docket No. EL85–19–109 to all comments.

For further specific information, please contact Patricia E. Aspland, River Basin Coordinator, at (202) 376–9623

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–17802 Filed 8–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP86–636–000, etc.]

Natural Gas Certificate Filings; Pacific Gas Transmission Co. et al.

August 4, 1986.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas Transmission Company

[Docket No. CP86–636–000]

Take notice that on July 25, 1986 Pacific Gas Transmission Company (PGT), a California Corporation whose mailing address is 160 Spear Street, San Francisco, California 94105–1570, filed an Application under section 7(c) of the Natural Gas Act for a Certificate of Public Convenience and Necessity authorizing (1) the interruptible transportation of natural gas in interstate commerce; (2) construction of a delivery tap to facilitate delivery of the transported gas; and (3) pregranted abandonment authorization upon termination of the transportation agreement.

The transportation will be accomplished by means of a delivery to PGT at Kingsgate, British Columbia of up to 30 MMcf/day of natural gas for the account of Development Associates Inc. (DA), acting on behalf of The Washington Water Power Company (WWP), and the redelivery of such natural gas, by means of the new delivery tap, to WWP at Starr Road, near Spokane, Washington. PGT estimates the new delivery tap to cost $520,000, all of which PGT claims would be paid for WWP in monthly installments. The interruptible transportation service will be accomplished through the utilization of existing capacity available on PGT's system. The term of the agreement will be for a primary term of one year, and month to month thereafter, not to exceed two years, from the date of initial deliveries or the date upon which Applicant may provide open access transportation under Order No. 436, whichever occurs first.

PGT states that the transportation charges will be based upon the cost-of-service charges to PGT's firm service customers billed pursuant to its Rate Schedules T–1, T–2 and PL–2. The unit transportation rate, it is claimed, will be redetermined each July 1, and shall be equal to the total cost-of-service billing for firm customers, less credits for interruptible transportation, during the preceding twelve month period divided by the contract volume demand miles for firm service customers. Further, PGT states that the transportation charge will be the product of the unit transportation rate, the volumes redelivered and the distance from the point of receipt to the point of delivery, which for billing purposes will be deemed to be not less than 200 miles. PGT proposes to charge WWP $.0544/Mcf plus a $.0135/Mcf GRI charge. In addition, PGT would retain 4.2% of the volumes delivered for fuel use and unaccounted for volumes.

PGT seeks a temporary order pending issuance of the requested order on the basis of the need to begin gas delivery service by November 1, 1986 and pregranted abandonment authorization to terminate service upon termination of the transportation agreement.

PGT additionally requests permission for the interruptible gas transportation agreement between PGT, DA and WWP to be filed pursuant to 18 CFR 154.52.

Comment date: August 25, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP86–133–004]

Take notice that on July 25, 1986, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86–133–004, a petition to amend the order issued May 1, 1986, in Docket No. CP86–133–000 pursuant to section 7 of the Natural Gas Act so as to authorize the transportation of up to 50 billion Btu equivalent per day of natural gas on an interruptible basis for United States Steel Corporation, now named USS, a unit of USX Corporation and for pregranted abandonment of such service (1) to an additional point of delivery in Cameron Parish, Louisiana and (2) for an additional term ending April 30, 1987.

Pursuant to Amendment No. 1 dated August 1, 1985 to the gas transportation agreement dated July 15, 1985, as amended (Agreement), Natural, TXO Production Corp. and USS propose to add an additional point of delivery at the existing point of interconnection between the measurement facilities of Natural and the pipeline facilities of Columbus Gulf Transmission Company located near Pecan Lake, Cameron Parish, Louisiana (Pecan Lake Delivery Point) for ultimate delivery to USS' Lorain and Haverhill, Ohio plants.

Also, pursuant to Amendment No. 2 dated June 6, 1986 to the Agreement, as amended, Natural, TXO Production Corp. and USS propose to extend the term of the agreement until April 30, 1987.

Natural proposes to charge USS the following transportation rates:

Point of receipt	Point of delivery	Mileage	Transportation rate/ MMBtu (cents)
Polk Co., TX	Pecan Lake	204	7.4
Zapata Co., TX [1]	Pecan Lake	544	19.6
White Co., AR [1]	Pecan Lake	595	21.5

[1] Receipt point added by Amendment No. 3 dated June 25, 1986 pursuant to authority granted in order issued May 1, 1986.

Natural proposes to reduce the volumes it redelivers to the Pecan Lake Delivery Point for the account of USS by certain percentages for gas lost and

unaccounted for and gas used in day to day pipeline operations.

Comment date: August 25, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-639-000]

Take notice that on July 28, 1986, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-639-000 an application pursuant to sections 7(b) and 16 of the Natural Gas Act for permission and approval to abandon a transportation service rendered by Transco for Mid Louisiana Gas Company (Mid Louisiana) under certificate authorization granted in Docket No. CP78-321, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that under a transportation agreement dated March 31, 1978 (Transco's Rate Schedule X-167), it transports for Mid Louisiana from a point of receipt from Tennessee Gas Pipeline Company (Tennessee) at Kinder, Allen Parish, Louisiana, to points of delivery to Mid Louisiana at Ethel, East Feliciana Parish and Hester, St. James Parish, Louisiana, up to a contract demand quantity of 4,000 dekatherms of gas per day which Mid Louisiana purchases in the Lake Washington Field, Plaquemines Parish, Louisiana, and which is transported to Kinder by Tennessee. Transco states it charges Mid Louisiana a monthly demand charge of $13,600 and retains 1.2 percent of the gas for fuel and other use.

Transco further states that the Lake Washington Field source of gas is now depleted, and that the parties have terminated the transportation agreement, effective July 8, 1986. Transco requests that the Commission authorize the proposed abandonment of the transportation service, retroactively effective as of July 8, 1986.

Transco avers that such abandonment of service to Mid Louisiana will not result in the abandonment of any of Transco's facilities since such facilities are necessary to continue various ongoing transportation, exchange and other arrangements with Mid Louisiana and Tennessee.

Comment date: August 25, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. PLumb,

Secretary.

[FR Doc. 86-17803 Filed 8-6-86; 8:45 am]

BILLING CODE 6717-01-M

Establishment of Performance Review Board: Names of Board Members

Section 4314(c) of title 5, United States Code (as amended by the Civil Service Reform Act of 1978), requires that the Federal Energy Regulatory Commission establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review, evaluate, and make a final recommendation on performance appraisals assigned to members of the Senior Executive Service in the Commission. The Performance Review Board also makes written recommendations to the Chairman, Federal Energy Regulatory Commission regarding Senior Executive Service performance bonuses, awards, and performance-related actions.

Section 4314(c) of title 5, United States Code requires that notice of appointment of Performance Review Board members be published in the **Federal Register.** The following persons have been appointed to serve on the performance review board standing register for the Federal Energy Regulatory Commission:

Susan J. Court
Kenneth M. Pusateri
Anthony F. Toronto
Joseph R. Neubeiser
Roy Stiltner
William H. Satterfield
Ernest C. Baynard, III
Michael Schopf
Christopher Warner
Russell E. Faudree, Jr.
Morris Fitzgerald
William Connelly
Joseph Frangipane
Lawrence R. Anderson
Jerry Milbourn
Gordon E. Murdock
Edward J. Fowlkes
Raymond Beirne
Joseph Solters
Robert Szekely
Howard Kilchrist
Leon J. Slavin
Randolph Mathura
Andrew Battese
Kenneth F. Plumb
Ronald A. Corso.

Issued in Washington, DC, on August 4, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17806 Filed 8-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-19337-000, et al.]

Anadarko Petroleum Corp.; Application as Successor in Interest for Certificates of Public Convenience and Necessity and for Redesignation of Related Rate Schedules

August 4, 1986.

Take notice that on July 25, 1986, Anadarko Petroleum Corporation (Applicant) of P.O. Box 1330, Houston, Texas 77251-1330, filed an application pursuant to the provisions of the Natural Gas Act, for Certificates of Public Convenience and Necessity as successor in interest to Anadarko Production Company, to continue to sell gas covered by the gas purchase contracts listed in Exhibit "A" attached hereto.

Effective August 1, 1985, Applicant acquired by assignment the interest of Anadarko Production Company,

Assignor, in certain properties described in the contracts identified in the attached Exhibit "A". Applicant requests that the Commission issue to it permanent Certificates of Public Convenience and Necessity to continue sales being made under permanent certificates issued to Anadarko Production Company in each of the dockets listed in the attached Exhibit "A" by substituting Anadarko Petroleum Corporation, in lieu of Anadarko Production Company, as certificate holder effective August 1, 1985. It is accordingly requested that the gas rate schedules of Anadarko Production Company listed on Exhibit "A" be redesignated as rate schedules of Applicant. Applicant also requests to be substituted in any pending Commission proceedings in which Anadarko Production Company is a party or an intervenor.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 18, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A.—ANADARKO PETROLEUM CORPORATION

Formerly: Anadarko Production Company, FERC gas rate Schedule No. / Now: Anadarko Petroleum Corporation, FERC gas rate Schedule No.	Certificate docket No.	Purchaser	State	County/Parish
003	G 19337	Northern Natural Gas Company	Oklahoma	Beaver.
004	G 19335	do	Kansas	Morton.
006	G 19336	do	do	Seward.
007	G 19339	do	do	Morton.
008	G 20117	Colorado Interstate Gas Corp	do	Do.
009	G 20181	do	Oklahoma	Beaver.
010	G 20176	do	do	Do.
011	G 20180	do	do	Morton.
012	G 20178	do	Kansas	Cimarron/Texas.
013	G 20179	do	Oklahoma	Beaver.
015	CI 60-699	Panhandle Eastern Pipe Line Co	do	Do.
016	CI 60-765	do	do	Beaver/Texas.
017	CI 60-801	Natural Gas Pipeline Company	do	Meade/Morton.
018	CI 60-823	Panhandle Eastern Pipe Line Co	Kansas	Texas.
019	CI 60-821	do	Oklahoma	Morton.
021	CI 60-820	do	Kansas	Beaver.
022	CI 61-61	do	Oklahoma	Morton.
024	CI 61-249	do	Kansas	Moore.
025	CI 61-543	do	Texas	Seward.
026	CI 61-542	do	Kansas	Morton.
028	CI 61-664	do	do	Hemphill.
030	CI 61-701	Natural Gas Pipeline Company	Texas	Stevens.
032	CI 61-742	Panhandle Eastern Pipe Line Co	Kansas	Morton.
034	CI 61-873	do	do	Beaver.
035	CI 61-872	do	Oklahoma	Seward/Stevens/ Morton.
036	CI 61-893	do	Kansas	Texas.
037	CI 61-964	do	Oklahoma	Stevens.
038	G 19282	do	Kansas	Grant.
039	CI 61-507	do	do	Texas.
040	CI 61-1565	do	Oklahoma	Do.
041	CI 61-1617	do	do	Morton.
042	CI 61-1618	do	Kansas	Texas.
043	CI 61-1679	do	Oklahoma	Beaver.
044	CI 61-1755	do	do	Stevens.
046	CI 62-89	do	Kansas	Seward.
047	CI 62-257	do	do	Stevens.
048	CI 62-356	Northern Natural Gas Company	do	Do.
049	CI 62-356	do	do	Do.
050	CI 62-356	do	do	Do.
051	CI 62-356	do	do	Beaver.
052	CI 62-396	Colorado Interstate Gas Corp	Oklahoma	Stevens.
054	CI 62-431	Panhandle Eastern Pipe Line Co	Kansas	Beaver.
055	CI 62-584	Northern Natural Gas Company	Oklahoma	Do.
059	CI 62-846	Panhandle Eastern Pipe Line Co	do	Texas.
060	CI 62-928	do	do	Beaver.
061	CI 62-1307	do	do	Texas.
062	CI 62-1535	do	do	Beaver.
063	CI 62-1546	do	do	Do.
064	CI 63-1	Colorado Interstate Gas Corp	do	Morton.
065	CI 63-94	Panhandle Eastern Pipe Line Co	Kansas	Beaver.
066	CI 63-93	Northern Natural Gas Company	Oklahoma	Texas.
067	CI 63-86	Panhandle Eastern Pipe Line Co	do	Beaver.
068	CI 63-609	Natural Gas Pipeline Company	do	Morton.
071	CI 63-1368	Colorado Interstate Gas Corp	Kansas	Beaver.
074	CI 64-137	Northern Natural Gas Company	Oklahoma	Texas.
075	CI 64-642	Colorado Interstate Gas Corp	do	Morton.
077	CI 64-961	Panhandle Eastern Pipe Line Co	Kansas	

EXHIBIT A.—ANADARKO PETROLEUM CORPORATION—Continued

Formerly: Anadarko Production Company, FERC gas rate Schedule No. / Now: Anadarko Petroleum Corporation, FERC gas rate Schedule No.	Certificate docket No.	Purchaser	State	County/Parish
079	CI 64-1223	Northern Natural Gas Company	do	Do.
080	CI 64-1369	Panhandle Eastern Pipe Line Co	Oklahoma	Texas.
082	CI 64-1427	do	Kansas	Morton.
084	CI 65-90	Natural Gas Pipeline Company	Texas	Moore
088	CI 65-1149	Northern Natural Gas Company	Oklahoma	Beaver.
091	CI 65-1274	Natural Gas Pipeline Company	do	Do.
092	CI 65-1276	KN Energy, Inc.	do	Do.
094	G 12755	Colorado Interstate Gas Corp.	do	Do.
095	G 15814	KN Energy, Inc.	do	Texas.
097	G 20244	Panhandle Eastern Pipe Line Co	Kansas	Edwards.
098	CI 61-183	Lone Star Gas Company	Oklahoma	Stevens.
099	CI 61-253	Northern Natural Gas Company	do	Beaver.
100	CI 61-569	Panhandle Eastern Pipe Line Co	do	Cimarron.
101	CI 61-1190	do	do	Beaver.
102	CI 62-1243	Arkansas Louisiana Gas Company	do	Latimer.
105	CI 64-786	Panhandle Eastern Pipe Line Co	do	Cimarron.
107	CI 65-265	do	do	Beaver.
109	CI 65-1307	do	Kansas	Seward.
110	G 19563	KN Energy, Inc.	Oklahoma	Texas.
111	CI 64-1123	do	do	Do.
112	CI 66-146	Panhandle Eastern Pipe Line Co	do	Beaver.
114	CI 66-292	do	Kansas	Morton.
115	CI 66-462	Natural Gas Pipeline Company	New Mexico	Eddy
118	CI 66-965	Northern Natural Gas Company	Oklahoma	Beaver.
119	CI 66-982	do	do	Texas.
120	CI 66-1147	Panhandle Eastern Pipe Line Co	do	Beaver.
121	CI 66-1148	Cities Service Gas Company	do	Woodward.
122	CI 66-1144	Panhandle Eastern Pipe Line Co	Kansas	Stevens.
123	CI 66-1301	do	do	Seward.
127	CI 67-204	do	do	Stevens.
129	CI 67-1458	ANR Pipeline Company	Oklahoma	Harper.
130	CI 67-1457	Northern Natural Gas Company	do	Beaver.
131	CI 67-1669	Panhandle Eastern Pipe Line Co. (Successor in interest to Baca Gas Gathering)	Colorado	Baca.
133	CI 66-182	Northwest Central Pipeline Co. (Successor in interest to Cities Service Gas Company)	Kansas	Seward.
134	CI 66-183	Panhandle Eastern Pipe Line Co	Oklahoma	Texas.
136	CI-66-9	ANR Pipeline Company	Louisiana	Cameron Par.
137	CI 66-284	Panhandle Eastern Pipe Line Co	Kansas	Morton.
138	CI 66-1124	Natural Gas Pipeline Company	Oklahoma	Dewey.
141	CI 69-1180	Colorado Interstate Gas Corp.	Texas	Potter.
142	CI 70-52	Panhandle Eastern Pipe Line Co	Kansas	Morton.
143	CI 70-74	do	do	Grant.
145	CI 70-493	do	do	Morton.
146	CI 70-494	do	Oklahoma	Texas.
147	CI 70-501	do	Kansas	Grant.
148	CI 70-506	do	Oklahoma	Texas.
150	CI 70-624	Texas Eastern Transmission Corp	Texas	Colorado.
151	CI 70-1049	ANR Pipeline Company	Oklahoma	Woodward.
153	CI 71-292	Colorado Interstate Gas Corp.	Kansas	Morton.
154	CI 71-281	Panhandle Eastern Pipe Line Co	Oklahoma	Texas.
156	CI 72-77	do	Kansas	Stevens.
157	CI 72-44	United Gas Pipeline Company	Louisiana	Terrebonne Par.
158	CI 72-387	Northern Natural Gas Company	Kansas	Grant.
159	CI 72-380	do	do	Do.
160	CI 72-381	do	do	Do.
161	CI 72-382	do	do	Do.
162	CI 72-383	Colorado Interstate Gas Corp.	do	Finney.
163	CI 72-384	Northern Natural Gas Company	do	Grant.
164	CI 72-399	Greeley Gas Company (Formerly Peoples Natural Gas Co.)	do	Stevens.
165	CI 72-385	Northern Natural Gas Company	do	Grant.
166	CI 72-404	Greeley Gas Company (Formerly Peoples Natural Gas Co.)	do	Stevens.
167	CI 72-407	Panhandle Eastern Pipe Line Co	do	Morton/Stevens.
168	CI 72-408	do	do	Do.
169	CI 72-409	do	do	Seward/Morton/ Stevens.
170	CI 72-421	Colorado Interstate Gas Corp.	Oklahoma	Cimarron.
172	CI 66-1006	Natural Gas Pipeline Company	Texas	Offshore/Fed.
173	CI 72-439	Greeley Gas Company (Formerly Peoples Natural Gas Co.)	Kansas	Grant/Stevens.
174	CI 72-400	Panhandle Eastern Pipe Line Co	do	Stevens.
175	CI 72-430	Northern Natural Gas Company	Oklahoma	Beaver.
176	CI 72-435	Northwest Central Pipeline Co. (Successor in interest to Cities Service Gas Company)	do	Woods.
177	CI 72-436	Panhandle Eastern Pipe Line Co.	do	Do
178	CI 72-651	do	Texas	Hemphill.
179	CI 72-642	Northern Natural Gas Company	New Mexico	Lea.
182	CI 73-120	ANR Pipeline Company	Oklahoma	Woods.
183	CI 73-121	Panhandle Eastern Pipe Line Co.	Kansas	Grant/Stevens.
185	CI 73-370	do	do	Grant.
186	CI 73-371	do	do	Do.
188	CI 73-754	Northern Natural Gas Company	Montana	Hill.
195	CI 74-47	Panhandle Eastern Pipe Line Co	Kansas	Stevens.
197	CI 74-354	do	do	Do.
201	CI 75-220	do	do	Do.
202	CI 75-222	do	Oklahoma	Texas.

EXHIBIT A.—ANADARKO PETROLEUM CORPORATION—Continued

Formerly Anadarko Production Company, FERC gas rate Schedule No. / Now Anadarko Petroleum Corporation, FERC gas rate Schedule No	Certificate docket No.	Purchaser	State	County/Parish
203	CI 74-68	Trunkline Gas Company	Louisiana	Offshore/Fed.
204	CI 74-69	do	do	Do.
205	CI 74-70	do	do	Do.
207	G 5799	Northern Natural Gas Company	Kansas	Stevens.
208	G 5999	Panhandle Eastern Pipe Line Co	do	Morton/Grant/ Stevens.
209	CI 62-28	do	do	Stevens/Grant.
210	CI 72-233	do	do	Seward.
211	CI 72-260	do	do	Stevens.
213	CI 76-43	do	Oklahoma	Texas.
214	CI 76-139	Northern Natural Gas Company	Texas	Hemphill.
215	CI 76-249	Panhandle Eastern Pipe Line Co	do	Roberts.
216	CI 76-347	do	Kansas	Stevens.
217	CI 76-140	do	Texas	Hemphill.
218	CI 76-418	do	do	Do.
219	CI 76-441	do	Kansas	Stevens.
220	CI 76-439	do	Oklahoma	Beaver.
221	CI 76-545	do	Kansas	Stevens.
222	CI 75-630	do	Oklahoma	Dewey.
223	CI 76-488	Mountain Fuel Supply Company	Wyoming	Converse.
224	CI 76-508	Panhandle Eastern Pipe Line Co	Kansas	Morton.
225	CI 76-589	do	do	Stevens.
226	CI 77-25	do	Oklahoma	Texas.
227	CI 77-83	do	Kansas	Finney.
228	CI 77-336	do	Oklahoma	Texas.
229	CI 77-410	do	Wyoming	Campbell.
230	CI 77-441	do	New Mexico	Eddy.
231	CI 77-440	do	Kansas	Harper.
232	CI 77-454	Trunkline Gas Company	Louisiana	Offshore/Fed.
233	CI 77-468	Panhandle Eastern Pipe Line Co	Oklahoma	Texas.
234	CI 77-516	do	Kansas	Stevens/Morton.
235	CI 77-606	Natural Gas Pipeline Company	Oklahoma	Texas.
236	CI 77-638	Panhandle Eastern Pipe Line Co	Kansas	Morton.
237	CI 77-775	Northern Natural Gas Company	Texas	Hemphill.
238	CI 78-29	Panhandle Eastern Pipe Line Co	Oklahoma	Texas.
240	CI 78-296	do	Kansas	Grant.
241	CI 78-578	Trunkline Gas Company	Texas	Offshore/Fed.
242	CI 78-467	El Paso Natural Gas Company	New Mexico	Lea.
249	CI 78-1256	Trunkline Gas Company	Texas	Offshore/Fed.
250	CI 79-494	do	do	Do.
251	CI 79-476	do	do	Do.
252	CI 79-594	Southern Natural Gas Company	Louisiana	Do.
253	CI 79-595	Sea Robin Pipeline Company	do	Do.
254	CI 79-597	Transcontinental Oil Company	do	Do.
255	CI 79-596	Sea Robin Pipeline Company	do	Do.
256	CI 79-567	do	do	Do.
257	CI 80-171	Northern Natural Gas Company	Oklahoma	Beaver.
258	CI 80-328	Trunkline Gas Company	Louisiana	Offshore/Fed.
260	CI 81-265	do	do	Do.
261	CI 81-369	Tennessee Gas Pipeline Company	do	Do.
262	CI 81-390	Trunkline Gas Company	do	Do.
263	CI 81-42	Panhandle Eastern Pipe Line Co	Oklahoma	Dewey.
264	CI 81-79	Sea Robin Pipeline Company	Louisiana	Offshore/Fed.
265	CI 70-566	do	do	Do.
266	CI 81-449	Northern Natural Gas Company	do	West Delta/ Offshore/Fed.
267	CI 82-301	Tennessee Gas Pipeline Company	do	Vermilion.
269	CI 83-239	El Paso Natural Gas Company	New Mexico	San Juan.
270	CI 83-261	Northern Natural Gas Company	Montana	Hill.
271	CI 83-317	Trunkline Gas Company	Texas	Offshore/Fed.
272	CI 83-318	Transcontinental Gas Pipeline	do	Do.
273	CI 85-583	Trunkline Gas Company	Louisiana	Do.

[FR Doc. 86-17797 Filed 8-6-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. FA85-48-001]

Bangor Hydro-Electric Co.; Order Establishing Hearing Procedures

Issued: August 4, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman, Charles G. Stalon, and C.M. Naeve.

On June 2, 1986, the Chief Accountant issued a letter directive which noted that Bangor Hydro-Electric Company (Bangor Hydro) disagreed with two items contained in a staff audit report prepared following an audit of the Company's books and records. The disagreement relates to Bangor Hydro's wholesale fuel adjustment clause (FAC) collection of (1) taxes, carrying charges and amortization of investment tax credits applicable to nuclear fuel and (2) estimated spent nuclear fuel disposal costs (SNFDC) for fuel burned in prior periods.[1] The staff recommended that the Company refund with interest the taxes, carrying charges less amortized investment tax credits and SNFDC from the date such costs were included in the wholesale FAC.

On June 30, 1986, Bangor Hydro responded to the letter directive stating that it did not consent to the disposition

[1] *See* Tariff Compliance Exceptions on the attached schedule.

of the above issues in accordance with the shortened procedures provided for under § 41.3 of the Commission's regulations under the Federal Power Act.[2] Accordingly, the Commission hereby sets these matters for hearing.

Any interested person seeking to participate in this docket shall file a motion to intervene under Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214) no later than 15 days after the date of publication of this order in the **Federal Register**.

The Commission orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR, Chapter I), a public hearing shall be held concerning the appropriateness of Bangor Hydro's fuel adjustment clause computations as discussed above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convence a prehearing conference in this proceeding, to be held within 30 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's regulations.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Bangor Hydro-Electric Company, Tariff Compliance Exceptions

The Company has a 7% ownership interest in Maine Yankee Atomic Power Company (Maine Yankee). The Company has not agreed to take the corrective action recommended by the staff on the following matters related to the Maine Yankee tariff billings:

1. Property taxes, carrying charges and investment tax credits included in wholesale fuel clause

Prior to March 1981, Maine Yankee improperly classified carrying charges, property taxes and amortization of investment tax credits applicable to nuclear fuel in Account 518, Nuclear fuel expense. These costs were then charged to the Company in accordance with the provisions of the power supply contract. The misclassification of these items by Maine Yankee resulted in the Company including these items in its wholesale Fuel Adjustment Clause (FAC) calculation. In 1981, the Chief Accountant of FERC directed Maine Yankee to correct its accounting and billing procedures so that the cited items would not be shown in Account 518, Nuclear fuel expense, and be billed to sponsor companies as nuclear fuel costs. Maine Yankee did comply with the Chief Accountant's letter by identifying these items as other indirect costs; however, the Company continued to include these items in its wholesale FAC calculation.

Paragraph (a)2 of § 35.14 of the Commission's regulations states, "Fuel and purchased power costs (F) shall be the cost of: (i) Fossil and nuclear fuel consumed in jointly owned or leased plants." Paragraph (a)6 of this section further states, in part, "The cost of nuclear fuel shall be as shown in Account 518 . . . ." The staff objected to the Company's practice of including these items in the wholesale FAC on the basis that items of this nature are not properly includable in Account 518.

The staff recommended that the Company: (1) Recalculate the applicable wholesale fuel adjustment clause billings excluding taxes, carrying charges, and investment tax credits from the date such costs were first billed by Maine Yankee to the current date, (2) refund the overcollected amounts, with appropriate interest, to wholesale customers which were charged, and (3) revise its procedures to exclude these items from its wholesale fuel adjustment clause in the future. The Company agreed to refund, with interest, the improper amounts collected through the wholesale FAC starting from March 1981, the date Maine Yankee specifically designated these items as non-Account 518, Nuclear fuel expenses, charges in accordance with the Chief Accountant's letter. The Company did not agree to make refunds for collections prior to March 1981.

2. Spent nuclear fuel disposal costs billed through the wholesale fuel adjustment clause

In March 1980, Maine Yankee began to bill its sponsor companies for the permanent storage costs related to spent nuclear fuel (NSF). The permanent storage costs related to SNF was to be collected over an eight-year period. Maine Yankee's net collection for NSF prior to April 1983 amounted to $47,749,854. Maine Yankee's NSF liability as determined by the Department of Energy was $50,367,641. Maine Yankee billed the difference of $2,617,787 to the sponsor companies during the period May through November of 1983.

Maine Yankee improperly classified spent nuclear fuel disposal costs (SNFDC) related to fuel burned in prior periods in Account 518, Nuclear fuel expense. These costs were then charged to the Company in accordance with the provisions of the power supply contract. The misclassification of SNFDC by Maine Yankee resulted in the Company including these items in its wholesale Fuel Adjustment Clause (FAC) calculation.

The Commission has addressed the appropriate accounting and ratemaking treatment for SNFDC related to fuel burned in prior periods in a number of rate proceedings.

The Commission first addressed the issue of including SNFDC estimates related to fuel burned in prior periods in the fuel adjustment clause in a suspension order issued to Florida Power Corporation on April 25, 1980, in Docket No. ER80–206–000 (11 FERC ¶ 61,083 at pages 61,119–122). In Florida Power, the Commission rejected the Company's filing which had included in FAC estimates of SNFDC related to fuel burned in prior periods. The Commission held that SNFDC related to prior periods could be collected through a separate (outside the FAC) rate proposal. The Commission's policy to exclude SNFDC estimates related to fuel burned in prior periods from wholesale FAC calculations was predicated on an interpretation of the requirements of Section 35.14 of the Commission's regulations.[1] The Commission held that since the fuel to which the disposal costs related was burned in a prior period, the costs were not a "current" fuel cost and thus should be excluded from FAC calculations.

The Commission next addressed the SNFDC issue in Opinion No. 118, issued on April 10, 1981, to Virginia Electric & Power Company (VEPCO) (15 FERC ¶61,052 at pages 61,103–106). VEPCO was previously charging nuclear fuel expense in Account 518 and in the FAC on the basis of an amortization rate which included positive salvage value. VEPCO requested a change in the

[2] 18 CFR Part 41.

[1] Section 35.14 provides for periodic adjustment per kwh of sales equal to the difference between the fuel [and purchased economic power] costs per kwh of sales in the base period and in the *current* period.

assumptions to reflect that there would be no reprocessing of nuclear fuel and that the Company would have to pay for permanent storage and/or disposal of the spent fuel.

In Opinion No. 118 the Commission stated that: "We are reluctant to include an amount for permanent storage at this time due to the uncertainty that exists concerning the federal reprocessing policy." However, because of the uncertainty at the time concerning the federal reprocessing policy, the Commission decided that VEPCO should recover in its current rates the portion of SNFDC applicable to transportation and interim storage, and directed that such recovery would be accomplished as follows:

1. Current Period Burn—SNFDC for nuclear fuel in the reactor shall be included by VEPCO in the base rate of its FAC, but will not be subject to automatic adjustment. If for any reason, the estimated per kilogram of disposal cost is proposed to be changed, VEPCO must submit a filing in support thereof before collecting any additional revenues associated with the proposed change.

2. Prior Period Burn—SNFDC for prior period burn and any positive salvage booked as part of the cost of nuclear fuel may be recognized in base rates, if requested and adequately supported. VEPCO was directed to account for the estimated SNFDC plus any positive salvage relative to prior burn by charges to Account 524, Miscellaneous nuclear power expenses, over a ten-year period.

VEPCO was not permitted to recover the cost for permanent storage due to the uncertainty over the government's reprocessing policy.

The recovery mechanisms established in VEPCO were subsequently endorsed in Carolina Power & Light Company, Opinion No. 132, issued November 11, 1981 (17 FERC ¶61,118 at 61,236–237) and Opinion No. 132A, issued March 7, 1984 (26 FERC ¶61,312 at 61,679–61,684) and in Boston Edison Company, Opinion No. 156, issued December 23, 1982 (21 FERC ¶61,327, at 61,878–879).

The staff recommended that the Company: (1) recompute FAC billings to wholesale customers by eliminating all estimates of SNFDC related to fuel burned in prior periods which were included in FAC billings through December 1983, and (2) make appropriate refunds, with interest computed in accordance with the Commission's regulations, to wholesale customers for these overcollections. The Company disagreed with the staff recommendation.

[FR Doc. 86–17804 Filed 8–6–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. GP86–51–000]

Northern Natural Gas Company, Division of Enron Corp. v. Cabot Pipeline Corporation and Texaco Producing Inc.; Notice of Complaint

Issued: August 5, 1986.

On July 24, 1986, Northern Natural Gas Company, a division of Enron Corp. (Northern), filed with the Federal Energy Regulatory Commission (Commission) a complaint against Cabot Pipeline Corporation (Cabot) and Texaco Producing Inc. (Texaco), pursuant to sections 5 and 16 of the Natural Gas Act, section 501 of the Natural Gas Policy Act of 1978, and Rule 206 of the Commission's Rules of Practice and Procedure. 15 U.S.C. 717d and 717o (1982); 15 U.S.C. 3411 (1982); and 18 CFR 385.206 (1986). Northern asserts that both Cabot and Texaco are purchasers of gas which the Commission has found was illegally diverted from Northern by one or more of the respondents named in the Commission's February 15, 1984 Show Cause Order in *Stowers Oil and Gas Company*, 26 FERC ¶ 61,207. *See* Opinion No. 239, issued July 12, 1985, 32 FERC ¶ 61,043; Opinion No. 247, issued December 23, 1985, 33 FERC ¶ 61,410. Northern requests the Commission to determine whether approximately $8,000,000.00 attributable to diverted gas currently held in suspense by Cabot and Texaco, and funds which could have been held in suspense by Cabot and Texaco with the exercise of due diligence, should be made available to Northern and its jurisdictional customers as a part of the remedy for the diversion of dedicated gas.

In its complaint, Northern states that Cabot and Texaco have refused during the remedy phase (Phase II) of the *Stowers* proceedings to provide Northern with information regarding their decisions to suspend payments to the respondents. According to Northern, it is evident from a prehearing conference in Phase II held on July 30, 1985, that the respondents in Phase II are in financial distress and will probably be unable to discharge, either in volumes of gas or the monetary equivalent therof, the provisions of any possible remedial order that may result from Phase II of the *Stowers* proceedings. Northern argues that the company and its jurisdictional customers are entitled to seek remedial relief out of these funds, and that the Commission should determine the disposition of the funds held in suspension by Cabot and Texaco as part of Phase II of the *Stowerts* proceedings.

Additionally, Northern questions whether Cabot and Texaco acted prudently and diligently in suspending payments to the respondents, or whether, through neglect and unwarranted delay, funds which would otherwise be available for remedial purposes have been dissipated. Northern argues that Cabot's and Texaco's refusal to provide the requested information prevents Northern and its jurisdictional customers from obtaining a meaningful remedy in the *Stowers* proceedings. Northern requests the Commission to order a hearing on the matters raised in its complaint, consolidate this hearing with the hearing scheduled to be held on August 12, 1986, in Phase II of the *Stowers* proceedings in Docket No. GP84–23–000, and determine that funds currently held by Cabot and Texaco, as well as funds which by the exercise of due diligence could have been held by these companies, attributable to volumes of gas purchased from the respondents in *Stowers* proceeding, are available to Northern and its jurisdictional customers as a remedy for the unlawful diversion of dedicated gas reserves.

Any person desiring to be heard or to protest Northern's filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1985)). All such motions of protests should be filed on or before September 4, 1986.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Northern's complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 86–17931 Filed 8–6–86; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee

Date and Time

Wednesday, August 27, 1986, 9:00am–5:00 pm
Thursday, August 28, 1986, 9:00am–3:00 pm

Location: University of Washington, McCarty Hall, South Activity Center, Seattle, Washington 98195.

Contact: Thomas G. Finn, Office of Fusion Energy, Ofice of Energy Research ER–50.2, U.S. Department of Energy, Mail Stop G–236, Washington, DC 20545. Phone: (301)–353–4941.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Agenda Outline

Wednesday, August 27, 1986—9:00 AM

1. Welcome—G. L. Woodruff
2. Recent Developments in the Fusion Program—Clarke & Meade
3. Report of Subcommittee on Mirror Program—Gottlieb
4. MFAC Discussion
   —lunch—
5. MFAC Discussion of Mirror Program and Recommendations
6. Presentation on Spectra Technology Fusion Program—Hoffman
7. Presentation on HEDL Fusion Program—Korenko
8. MFAC Discussion of Integrated International Materials Research Program
9. Public Comments (10-minute rule)
   —adjourn 5:00 PM—

Thursday, August 28, 1986—9:00 AM

1. MFAC Response on Mirror Program
2. Report on ETR Design Activities—Baldwin & Logan
3. MFAC Discussion of Panel Operating Procedures—Ribe
   —lunch—
4. Report on Environment, Safety and Economics Committee—Holdren & Logan
5. Other Business
6. Public Comments (10-minute rule)
   —adjourn 3:00 PM—

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Thomas G. Finn at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 4, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86–17825 Filed 8–6–86; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Period of May 26 Through July 18, 1986

During the Period of May 26 through July 18, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 1, 1986.

Cummings Transfer Co., Albany, Oregon—KEE–0044, Reporting Reqmts

Cummings Transfer Company filed an Application for Exception from the Form EIA–782B and Form EIA–194 reporting requirements. The exception request, if granted, would permit Cummings Transfer Company to cease filing Forms EIA–782B and EIA–194. On July 14, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86–17826 Filed 8–6–86; 8:45 am]
BILLING CODE 6450–01–M

[WH—FRL—3051–6]

Hazardous Waste Management System; Preparation of Permits for Hazardous Waste Land Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance criteria.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of an interim final guidance manual entitled, *Criteria for Identifying Areas of Vulnerable Hydrogeology Under the Resource Conservation and Recovery Act—Statutory Interpretive Guidance.* This manual presents a technical method for determining groundwater vulnerability at hazardous waste surface impoundments, waste piles, and landfills.

The Guidance Criteria document has been prepared in response to section 3004(o)(7) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Section 3004(o)(7) requires EPA to publish guidance criteria identifying areas of vulnerable hydrogeology and to promulgate regulations specifying criteria for the acceptable location of new and existing hazardous waste treatment, storage, and disposal facilities. The Guidance Criteria document responds to the first requirement. The Agency is developing options to respond to the second requirement and expects to propose regulations in 1987.

The Guidance Criteria document presents a simple technical method for determining ground-water vulnerability at hazardous waste facilities. This method requires the calculation of the time-of-travel (TOT) of ground water at the site. In general, the vulnerability criteria can provide a trigger for more detailed review and evaluation of sites that are identified as having possibly vulnerable hydrogeologies. The results of these more detailed reviews may provide a basis for eventual permit conditions or modifications in design or operating practices.

ADDRESSES: Copies of the document entitled, *Criteria for Identifying Areas of Vulnerable Hydrogeology Under the Resource Conservation and Recovery Act—Statutory Interpretive Guidance,* and supporting Appendices are available for viewing at all EPA Libraries and in the EPA RCRA Docket (Sub-basement), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, from 9:30 a.m. to 3:30 p.m., Monday through Friday, except Federal holidays, by appointment only. Appointments can be made by calling Mia Zmud at (202) 475–9327 of Kate Blow at (202) 382–4675. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost 20¢ per page. In addition, these documents are available for purchase through the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, at (703) 487–4600: *Criteria for Identifying Areas of Vulnerable Hydrogeology Under the Resource Conservation and Recovery Act—Statutory Interpretive Guidance* (NTIS # PB–86–224953)

Appendix A. *Technical Methods for Evaluating Hydrogeologic Parameters* (NTIS # PB–86–224961)

Appendix B. *Ground-Water Flow Net/Flow Line Construction and Analysis* (NTIS # PB–86–224979)

Appendix C. *Technical Methods for Calculating Time-of-Travel (TOT) in the Unsaturated Zone* (NTIS # PB–86–224987)

Appendix D. *Development of Vulnerability Criteria based on Risk Assessments and Theoretical Modeling* (NTIS # PB–86–224995)

To purchase the five document set requests NTIS # PB–86–224946.

FOR FURTHER INFORMATION CONTACT: Glen R. Galen, Office of Solid Waste (WH–565E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4658.

SUPPLEMENTARY INFORMATION: Locations with short TOTs (i.e., where the ground water moves rapidly) are considered more vulnerable than those with long TOTs. Time of travel should be calculated along a 100-foot flow line (abbreviated "TOT_{100}") originating at the base of the hazardous waste management unit. Sites used for the disposal of hazardous waste are considered vulnerable if the ground water takes less than approximately 100 years to travel 100 feet; sites at which wastes are certain to be removed from surface impoundments and waste piles at closure are vulnerable if the TOT_{100} is significantly shorter than the time that would be needed to implement a corrective action program at the site.

The main text of the manual consists of five sections. Section 1 describes how the guidance relates to the hazardous waste permitting program and other RCRA programs designed to protect ground water. EPA recognizes that vulnerable hydrogeology cannot be the sole determining factor in making decisions for the purpose of siting new or permitting existing facilities. In general, the TOT method provides a trigger for more detailed review and evaluation of sites that are identified as having possibly vulnerable hydrogeologies. The results of this more detailed review may provide a basis for eventual permit conditions or modifications in design or operating practices. The Agency is developing an Integrated Ground-Water Strategy that will examine the relationship between design and operating standards, vulnerability and corrective action requirements, and the land disposal restrictions program mandated by HSWA. The conclusions of this study will serve as factors for future rule and guidance development.

Section 2 explains the Agency's reasons for selecting the TOT method as the basis for determining vulnerability. The TOT method is useful in identifying the potential for exposure through three related pathways in the saturated zone. These exposure pathways are water well contamination, surface water contamination due to ground-water discharge, and contamination of structures or residences due to seepage of contaminants through basements. TOT is an appropriate measure of vulnerability for several reasons. It can identify those locations that minimize the potential size of a contaminant plume and maximize the time before a release from a unit can reach an aquifer; in addition, the TOT tests can be calculated with relative ease using data from a complete Part B permit application.

Section 3 presents the technical approach for calculating TOT and describes how initial calculations can be modified to account for data reliability and additional engineered containment provided by natural clay liners.

Section 4 describes situations where special engineering modifications might be used to enhance TOT. Modifying the design and operation of facilities to eliminate or minimize the potential for exposure due to migration of wastes may be appropriate in certain hydrogeologic settings. Less vulnerable ground-water conditions can be created in these settings through the use of additional passive containment barriers, such as slurry walls and grout curtains. These additional engineering measures should only be considered in non-complex settings that predominantly satisfy the tests for ground-water vulnerability. They cannot be relied upon to make an obviously vulnerable site, such as a sand and gravel aquifer, non-vulnerable. Section 4 describes the types of hydrogeologic settings in which these methods can be considered.

Section 5 provides abstracts of supporting technical documents and references.

Four important technical references are published as appendices to this guidance manual. Appendix A entitled, *Technical Methods for Evaluating Hydrogeologic Parameters,* describes how to determine hydraulic conductivity. It also discusses factors affecting hydraulic gradient and effective porosity. Appendix B is a technical resource document that describes how to construct ground-water flow nets using permit application data in order to understand flow patterns at hazardous waste facilities. Constructing flow nets for a site and using the vulnerable hydrogeology calculation can provide a tool for ensuring that a location is properly

characterized and the ground water at the site can be properly monitored. Appendix C presents methods for estimating TOT in unsaturated sediments in areas with arid or semi-arid climates where thick unsaturated zones are common. Appendix D describes EPA's analyses performed in developing the TOT criteria. It includes health risk assessments of hypothetical ground-water users at actual RCRA facilities. Case studies are used to illustrate the three potential pathways of exposure to contaminated ground water.

A draft of this document was submitted for review to the EPA Science Advisory Board, which is a public advisory group providing extramural scientific information and advice to the Administrator and other EPA officials. The Environmental Engineering Committee of the Board reviewed this document between December 1985 and June 1986 and provided written comments to EPA. The Committee's comments were considered in preparing this guidance.

This guidance is being published as 'Interim Final.' This designation allows the Agency to correct technical inaccuracies or to update technical information if necessary.

The Criteria are applicable only to hazardous waste land treatment, storage, and disposal facilities regulated under the Resource Conservation and Recovery Act, and are not intended for use under other statutory programs administered by the U.S. Environmental Protection Agency.

Dated: July 31, 1986.

J. Winston Porter,

Assistant Administrator.

[FR Doc. 86-17769 Filed 8-6-86; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL-3061-1]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Science Advisory Board's (SAB) Indoor Air Quality Research Review Panel will be held on September 3, 1986 at the U.S. Environmental Protection Agency, Environmental Research Center Main Auditorium, Alexander Drive and Route 54, Research Triangle Park, North Carolina, starting at 9:00 a.m. and ending approximately 5:00 p.m.

This meeting represents another in a continuing series of outside independent peer reviews of ongoing research and development activities of the Agency. At this meeting, the SAB Review Panel will examine the Agency's research program on indoor air quality. For further information on this research program, please contact: Mr. Scott Baker, Office of Research and Development at (202) 382-7449.

The meeting is open to the public. Any member of the public wishing further information concerning the meeting should contact Mr. Robert Flaak, Environmental Scientist, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-2552.

Dated: July 30, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86-17770 Filed 8-6-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-3060-9]

Science Advisory Board, Environmental Health Committee, Halogenated Organics Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Halogenated Organics Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on Tuesday, September 2, 1986, in Room 2034 of Breidenthal Hall at the University of Kansas; 2002 39th Street; Kansas City, Kansas 66103. The meeting will start at 9:00 a.m. and adjourn no later than 5:00 p.m.

The principal purpose of the meeting will be to review the scientific adequacy of a revised draft Health Assessment Document for Dibenzofurans prepared by the Office of Research and Development (ORD) and dated June, 1986 (EPA/600/8-86/018A). To obtain copies of the draft document, write the ORD Publications Office, Center for Environmental Research Information, U.S. EPA, Cincinnati, Ohio 45268 or call (513) 684-7562. For further information about the draft document, contact Dr. Debdas Murkerjee by mail to Environmental Criteria and Assessment Office, U.S. EPA, Cincinnati, Ohio 45268 or by phone at (513) 569-7531.

The meeting will be open to the public. Any member of the public desiring to attend or to provide comments to the Subcommittee should contact either Dr. Daniel Byrd, Executive Secretary to the Committee, or Mrs. Dorothy Clark, by telephone at (202) 382-2552 or by mail to the Science Advisory Board (A-101F), 401 M Street, SW., Washington, DC 20460, no later than close of business on July 21, 1986.

Dated: July 30, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86-17771 Filed 8-6-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-41022; FRL-3061-2]

Hexamethylenediamine; Placement in the Intent-to-Designate Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Interagency Testing Committee's (ITC) decision to include hexamethylenediamine in its intent-to-designate category of chemical substances in the ITC selection process. The decision to establish this category and the ITC's rationale for so doing was published in the Federal Register of April 4, 1985 (50 FR 13418). Comments and information are desired before the ITC designates hexamethylenediamine for priority consideration for testing requirements.

DATE: Comments and information, identified by the document control number [OPTS-41022], should be submitted on or before October 6, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail:

Robert Brink, Executive Secretary, Interagency Testing Committee (TS-792), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and phone number:

Rm. E-135, 401 M St., SW., Washington, DC 20460, (202-382-3820).

SUPPLEMENTARY INFORMATION: The ITC has established an "intent-to-designate" category of chemicals as part of its chemical selection process (50 FR 13418). Lists of chemicals in the intent-to-designate category are published in the Federal Register from time-to-time, as the need arises. The Committee cites specifically what additional information it needs on each chemical. The completeness and quality of the submitted information or data also plays a major role in the Committee's considerations. At the end of the submission period, the Committee will re-evaluate the chemical(s) in this category and make a decision regarding disposition.

The TSCA Interagency Testing Committee (ITC) intends to designate hexamethylenediamine (CAS No. 124-

09-4) for certain biodegradation testing in a future report to the EPA Administrator. The ITC is particularly interested in data on biodegradation in aerobic ponds and under both aerobic and anaerobic conditions in disposal wells, in the presence of other waste constituents typical of hexamethylenediamine production. If additional information is received by October 6, 1986, the Committee will determine whether the new information would justify modifying its intention to designate.

The information submitted will become part of the public record of the ITC review process unless it is clearly designated as Confidential Business Information (CBI). Submitters should separate CBI from other information and mark such information clearly as "TSCA CBI." It will be treated in accordance with procedures outlined in the "TSCA Confidential Business Information Security Manual."

Information or data are being solicited from industry and the public on hexamethylenediamine. Information is requested by October 6, 1986.

Dated: July 29, 1986.

Rodger L. Tatken,

Chairman, TSCA Interagency Testing Committee.

[FR Doc. 86-17772 Filed 8-6-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-768-DR]

Amendment to Notice of a Major-Disaster Declaration; Puerto Rico

AGENCY: Federal Emergency Mangement Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-768-DR), dated July 10, 1986, and related determinations.

DATED: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the Commonwealth of Puerto Rico, dated July 10, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 10, 1986:

The Municipality of Toa Baja for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-17737 Filed 8-6-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

American City Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 29, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *American City Bancorp, Inc.*, Tullahoma, Tennessee; to acquire 80 percent of the voting shares of Peoples Bancorp, Inc., Manchester, Tennessee, and thereby indirectly acquire Peoples Bank and Trust Company, Manchester, Tennessee.

2. *Pickett County Bancshares, Inc.*, Byrdstown, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of The pickett County Bank and Trust Company, Byrdstown, Tennessee.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cardinal Bancorp, Inc.*, Washington, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bancgroup and Company, Maplewood, Missouri, and thereby indirectly acquire Citizens National Bank of Greater St. Louis, Maplewood, Missouri.

2. *Valley Bancshares, Inc.*, Valley Park, Missouri; to acquire at least 84 percent of the voting shares of Meramec State Bank, Sullivan, Missouri.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Sooner Southwest Bankshares, Inc.*, Bristow, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Hugo Bankshares, Inc., Hugo, Oklahoma, and thereby indirectly acquire Security First National Bank of Hugo, Hugo, Oklahoma, and Community Bancorporation, Inc., Bristow, Oklahoma, and thereby indirectly acquire Community Bank, Bristow, Oklahoma.

Board of Governors of the Federal Reserve System, August 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17717 Filed 8-6-86; 8:45 am]

BILLING CODE 6210-01-M

Florida Westcoast Banks, Inc., et al.; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of the Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the

proposal can "reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 29, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Florida Westcoast Banks, Inc.*, Venice, Florida; to engage *de novo* through its subsidiary, FWB Appraisers, Inc., Venice, Florida, in the activity of real property appraisals pursuant to § 225.25(b)(13) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17718 Filed 8-6-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77P-0403 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 34 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information.".

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Donovan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 34 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDHR has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date/ Termination date
77P-0403 (extension)	Laser Productions, 7000 N.E. 4th Court, Miami, Florida 33138.	Laser Productions projectors, Model 2001 and Orion, and laser light shows incorporating those projectors assembled and produced by Laser Productions.	May 7, 1986. May 1, 1988
78P-0148 (extension)	Laser Media, Incorporated, 2046 Armacost Avenue, Los Angeles, California 90025.	Laser Media, Inc. LM and LMS laser projection systems, the LMT and Fiberray fiber-optically coupled projector heads, and laser shows assembled and produced by Laser Media, Inc. which incorporate any of these projection devices and/or the Stingray and Chromaray Model Series projectors.	Apr. 14, 1986. May 26, 1988.
79P-0462 (amendment)	Laser Systems, Development Corporation, 2227 East Platte Place, Colorado Springs, Colorado 80909.	Laser Systems Development Corporation Class III or Class IV laser projection system model series R-2, C-3, and C-4 and laser light shows assembled and produced by Laser Systems Development Corporation incorporating these laser projection systems.	Mar. 20, 1986. Aug. 20, 1986.
80P-0037 (extension)	School of Music, University of Iowa, Iowa City, Iowa 52242.	University of Iowa Video/Laser III Class IV Laser projector and shows incorporating this projector.	Mar. 24, 1986. May 1, 1988.
80P-0114 (extension)	Laser Fair, Incorporated, P.O. Box 903, Sterling, Colorado 80751.	Laser Fair, Inc. Laser Light Show incorporating a Laser Presentations Class IIIb Laser Projector, Model LP-4 or LP-4K(1).	May 6, 1986. June 4, 1988.
80P-0350 (extension)	Agence Publicitaire Le P.G. de Granby, Incorporated, 89, rue Alexandra, Granby (Quebec), Canada J2G2PH.	Super Laser Light Show assembled and produced by Agence Publicitaire Le P.G. de Granby, Inc. The Laser light show contains a Class IV argon-ion laser and a Science Faction Corporation Model Series SPC-2000 scanning system.	Feb. 28, 1986 Feb. 28, 1987
80P-0495 (extension)	Showlasers, Incorporated, P.O. Box 470206, Dallas, Texas 75247.	Class IV Showlasers Model LPI Laser Effects Projector containing argon krypton, or dye lasers and for laser light shows assembled and produced by Showlasers, Incorporated.	Feb. 25, 1986. Feb. 26, 1988.
81P-0001 (amendment)	Lighting Systems Design, Incorporated, 4301 Waldridge St., Orlando, Florida 32809.	Lighting Systems Design laser light shows and the incorporated Lighting Systems Design Lumia Projection System Series projectors which contain Class IV ion lasers.	Feb. 25, 1986 May 31, 1986.
81P-0361 (extension)	Siegfried and Roy Entertainment, Incorporated, dba Beyond Belief, Frontier Hotel, 3120 Las Vegas Boulevard, South, Las Vegas, Nevada 89109.	Siegfried and Roy Entertainment, Inc. "Beyond Belief" laser light show incorporating the Laser Media LMS projector.	Mar. 16, 1986 Feb. 1, 1988.
82P-0191 (extension)	Redmond Productions, P.O. Box 14607, San Francisco, California 94114.	Redmond Productions laser light shows incorporating the Spectra Physics argon-ion Model 171-09 laser light show system.	Apr. 14, 1986. June 18, 1988.
82P-0376 (amendment)	Malarkey's, 4701 North 16th Street, Phoenix, Arizona 85018.	Malarkey's laser light show incorporating a Laser Presentations Model LP-1K laser projector and a Laser System Development Model R-2(f) scanning system.	May 7, 1986 Jan. 26, 1987.

BEST COPY AVAILABLE

Docket No.	Organization granted the variance	Demonstration laser product	Effective date / Termination date
83P-0071 (extension)	Busch Entertainment Corporation, dba Busch Gardens, P.O. Drawer FO, Williamsburg, Virginia 23187	Laser light shows produced and assembled by Busch Entertainment Corporation dba Busch Gardens at the Hastings Theater incorporating a Laser Media LMS Series laser projection system	Mar. 21, 1986 Mar. 15, 1988.
83V-0132 (extension)	White Water Development, P.O. Box 377, Watkins Glen, New York 14891	White Water Development Corporation laser light show incorporating Image Engineering's Model 350 WWD laser projector	May 6, 1986 Mar. 14, 1988
83V-0175 (extension and amendment)	Laser Rays Art Productions, Incorporated, 772 San Carrizo Way, Mountain View, California 94043.	Laser light shows assembled and produced by Laser Rays Art Productions, Inc. incorporating the firm's own Class IV ion laser projection systems	Mar. 29, 1986. Mar. 13, 1986
83V-0238 (extension and amendment)	Concord Ranch, Baltimore Pike, U.S. 1, Glen Mills, Pennsylvania 19342	Concord Ranch laser light show assembled and produced by Concord Ranch with the firm's Class IV Pulsations model series ion laser projectors.	Jan. 24, 1986 Aug. 5, 1987
83V-0363 (extension)	Rochester Museum & Science Center, Strasenburgh Planetarium, 657 East Avenue, Box 1480, Rochester, New York 14603	Laser light shows assembled and produced by the Rochester Musuem and Science Center incoporting the firm's laser light show projector containing a Class IV ion laser	May 7, 1986. May 16, 1988.
83V-0412 (extension)	Western Michigan University, Dalton Center, Kalamazoo, Michigan 49008	INNOVA 90K Laser Light Shows and the Class IV ion laser projection systems and display devices assembled and produced by Western Michigan University	Feb. 18, 1986 Jan. 26, 1988
84V-0033 (extension)	Lone Star Laser Shows, Incorporated, 7563 South Freeway (Highway 288), Houston, Texas 77021	Lone Star Laser Shows, Inc., Model 2020 laser projector and shows incoporating the Lone Star 2020 projector and Laser Media Series Projectors.	Feb. 6, 1986. Feb. 22, 1988.
84V-0065 (extension)	Southern California Gas Company, 810 South Flower Street, M.L. 202D, Los Angeles, California 90017	Southern California Gas Company laser light show incorporating the Laser Media Stingray laser projector	May 1, 1986 May 17, 1988
84V-0200	Monster Music, Incorporated, 80 Grove Street, New York, New York 10014.	Laser light shows assembled and produced by Monster Music, Inc. incorporating the Class IV Laserpoint, Ltd. (England) Scorpion Series 4 argon laser projection system.	Mar. 27, 1986. Mar. 27, 1988
84V-0356 (amendment)	S.E.C.T. Incorporated, dba S.E.C.T. Theatrical Supplies, Incorporated, 406 East 18th Street, Kansas City, Missouri 44108.	Laser light shows assembled and produced by S.E.C.T., Incorporated dba S.E.C.T. Theatrical Supplies, Incorporated containing the Class IV Model 1 S.E.C.T. Laser Projector, Model ALS 5100 laser projector and an argon-ion laser	Feb. 14, 1986 Oct. 19, 1986
85V-0189 (amendment)	Todd Rogers, dba Stage Sound Incorporated, 4708 East Van Buren, Phoenix, Arizona 05006	Laser light shows and projection systems assembled and produced by Computer Graphics incorporating Laser Media's Stingray projector or Laser Systems Development Corporation's X-Y scanners.	Mar. 20, 1986 June 24, 1987
85V-0321	Creative Lighting and Production, 902 Wilkie Drive, Charleston, West Virginia 25314	Creative Lighting and Production laser light shows incorporating the Laser Media, Incorporated LMS Series Class IV ion laser projection system	Mar. 28, 1986 Mar. 28, 1988.
85V-0324 (amendment)	Laser Spectacles, Incorporated, 117 Riverside Drive, San Marcos, Texas 78666	Class IV Krypton Model 1001 and all the Luxme series laser projectors and the laser light shows produced and assembled by Laser Spectacles, Incorporated containing any of these projectors.	May 7, 1986 Aug. 1, 1987.
85V-0463	Blackstone Audio-Visual, 2217 West Braker Lane, Austin, Texas 78758.	Laser light shows produced and assembled by Blackstone Audio Visual incorporating Class IIIb or IV helium-neon, argon, krypton , or mixed gas lasers and a Laser Systems (England) Maestro S-80008 laser projector	Apr. 30, 1986. Apr. 30, 1988
86V-0025	Laser Projections, Incorporated, 1282 Timberland Drive, Marietta, Georgia 30067.	Laser light shows incorporating a Laser Media Model LMS Series laser projector containing a Class IV ion laser.	Feb. 11, 1986. Feb. 11, 1988
86V-0050	Tau Beta Pi Association, California Epsilon Chapter, 4801 Boelter Hall, U.C.L.A. Campus, Los Angeles, California 90024.	Tau Beta Pi California Epsilon Chapter, Laserama laser light show incorporating the argon and helium-neon Class IIIb Laserama Laser Projector.	May 7, 1986 May 7, 1987
86V-0090	Holo-Spectra, 7742-B Gloria, Van Nuys, California 91406.	Laser light shows assembled and produced by Holo-Spectra and incorporating the firm's Class IV Spectrascan projection system with argon, krypton, and/or helium-neon lasers.	Feb. 28, 1986. Feb. 28, 1988.
86V-0121	Lasersource, Incorporated, 3964 Shirley Drive, Southwest, Atlanta, Georgia 30336	Lasersource, Inc. laser light shows incorporating the Laser Media LM and LMS Series laser projectors	Apr. 30, 1986. Apr. 30, 1988
86V-0135	Mid-America Museum, 400 Mid-America Boulevard, Hot Spring, Arkansas 71913	Laser light shows assembled and produced by Mid-America Museum incorporating a Model C-3 Laser Systems Development Corporation Class IV laser projector	Apr. 14, 1986 Apr. 14, 1988.
86V-0146	MTA Laser, Jean Michel Jarre Project, International Media Production Corporation, 1200 Smith, Suite 2345, Houston, Texas 77002.	MTA Lasers, imported by International Media Production Corporation, for the Jean Michel Jarre Project laser light show incorporating the MTA 8102G, MTA 8301D, MTA 8302D, and MTA 8601PG projectors and Class IV argon and krypton lasers.	Apr. 2, 1986. May 2, 1986.
86V-0149	Vocalite, 16120 Kittridge Street, Van Nuys, California 91406	Laser light shows produced and assembled by Vocalite incorporating an Interscience Technology Model 100 laser projector	Apr. 7, 1986. Oct. 7, 1986.
86V-0164	La Mesquerade, 28 Piquets Lane, Woodbury, New York 11797	La Mesquerade laser light shows incorporating the Falk Special Effects, Incorporated Model B projector and Class IIIb argon lasers.	May 1, 1986. May 1, 1988.
86V-0174	Cynthia Michaels, Incorporated, 2418 Merrell Road, Dallas, Texas 75229.	OEM version of the Laserworks Alpha 100 Tnscanner projection system with a Class IIIb helium-neon laser and laser light shows assembled and produced by Cynthia Michaels, Incorporated which incorporate this projector	Apr. 25, 1986. Apr. 25, 1988.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket numbers in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-17722 Filed 8-6-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0306]

Abbott Laboratories; Premarket Approval of Abbott Anti-Delta in Vitro Radioimmunoassay for the Qualitative Determination of Total Antibody to Hepatitis Delta Antigen in Human Serum or Plasma

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Abbott Laboratories, North Chicago, IL, for premarket approval, under the Medical Device Amendments of 1976, of the ABBOTT ANTI-DELTA. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: On August 29, 1985, Abbott Laboratories, North Chicago, IL 60064, submitted to CDRH an application for premarket approval of the ABBOTT ANTI-DELTA, an in vitro radioimmunoassay device for the qualitative determination of total antibody to delta antigen (anti-delta) in human serum or plasma to aid in the diagnosis of hepatitis D virus infection in hepatitis B positive individuals.

On November 15, 1985, the Microbiology Device Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 1, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ–440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–17723 Filed 8–6–86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M–0305]

Bausch & Lomb Inc.; Premarket Approval of Bausch & Lomb® (Amefocon A) Oxygen Permeable Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Bausch & Lomb Inc., Rochester, NY, for premarket approval, under the Medical Device Amendments of 1976, of the BAUSCH & LOMB® (amefocon A) Oxygen Permeable Lens (clear and tinted). After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On August 10, 1983, Bausch & Lomb Inc., Rochester, NY 14692, submitted to CDRH an application for premarket approval of the BAUSCH & LOMB® (amefocon A) Oxygen Permeable Lens (clear and tinted). The lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit astigmatism of 4.00 diopters (D) or less that does not interfere with visual acuity. The clear and tinted lenses range in spherical powers from −9.00 D to +6.00 D. The tinted lens contains the color additive D&C Green No. 6 in accordance with the color additive listing procisions of 21 CFR 74.3206. It is to be disinfected using the chemical lens care system specified in the approved labeling.

On April 17, 1984, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 27, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from the office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the Bausch and Lomb® (amefocon A) Oxygen Permeable Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever, CDRH publishes a notice in

VOL 51 ISS 152 AG 7 1986 UMI

the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 369e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact of resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 8, 1986, file with the Docket Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority of the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–17724 Filed 8–6–86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M–0306]

Coast Vision, Inc.; Premarket Approval of Hydrasoft XW (Methafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Coast Vision, Inc., Huntington Beach, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the supplemental application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On October 2, 1985, Coast Vision, Inc., Huntington Beach, CA 92648, submitted to CDRH a supplemental application for premarket approval of the spherical Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens. The lens is indicated for extended wear from 1 to 21 days between removals for cleaning and disinfection as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit refractive astigmatism of 1.50 diopters (D) or less which does not interfere with visual acuity. The lens ranges in powers from −10.00 D to +10.00 D. The lens is to be disinfected using a chemical lens care system only.

On May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 25, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to

grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–17725 Filed 8–6–86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M–0304]

Kontur Kontact Lens Co., Inc.; Premarket Approval of Kontur Soft EW (Methafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Kontur Kontact Lens Co., Inc., Richmond, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Kontur Soft EW (methafilcon A) Hydrophilic Contact Lens. The lens is to be manufactured under an agreement with Coast Vision, Inc., Huntington Beach, CA, which has authorized Kontur Kontact Lens Co., Inc., to incorporate by reference information contained in its approved supplemental premarket approval application for the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the supplemental application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On October 2, 1985, Kontur Kontact Lens Co., Inc., Richmond, CA 94804, submitted to CDRH a supplemental application for premarket approval of the spherical Kontur Soft EW (methafilcon A) Hydrophilic Contact Lens. The lens is indicated for extended wear from 1 to 21 days between removals for cleaning and disinfecting as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit refractive astigmatism of 1.50 diopters or less that does not interfere with visual acuity. The lens ranges in powers from −10.00 diopters to +10.00 diopters. The lens is to be disinfected using a chemical lens care system. The application includes authorization from Coast Vision, Inc., Huntington Beach, CA, to incorporate by reference the information contained in its approved supplemental premarket approval application (Docket No. 86M–0306) for the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens.

On May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the referenced supplemental application. On June 25, 1986, CDRH approved the supplemental application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the Kontur Soft EW (methafilcon A) Contact Lens states that the lens is be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethyl-methacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the supplemental application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device

and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-17728 Filed 8-6-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0316]

Briggs Ophthalmics Corp.; Premarket Approval of Sunsoft EW (Methafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Briggs Ophthalmics Corp., Albuquerque, NM, for premarket approval, under the Medical Device Amendments of 1976, of the Sunsoft EW (methafilcon A) Hydrophilic Contact Lens. The lens is to be manufactured under an agreement with Coast Vision, Inc., Huntington Beach CA, which has authorized Briggs Ophthalmics Corp., to incorporate by reference information contained in its approved supplemental premarket approval application for the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the supplemental application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On October 2, 1985, Briggs Ophthalmics Corp., Albuquerque, NM 87109, submitted to CDRH a supplemental application for premarket approval of the spherical Sunsoft EW (methafilcon A) Hydrophilic Contact Lens. The lens is indicated for extended wear from 1 to 21 days between removals for cleaning and disinfecting as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit refractive astigmatism of 1.50 diopters or less that does not interfere with visual acuity. The lens ranges in powers from −10.00 diopters to +10.00 diopters. The lens is to be disinfected using a chemical lens care system. The application includes authorization from Coast Vision, Inc., Huntington Beach, CA, to incorporate by reference the information contained in its approved supplemental premarket approval application (Docket No. 86M-0306) for the Hydrasoft XW (methafilcon A) Hydrophilic Contact Lens.

On May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the referenced supplemental application. On June 25, 1986, CDRH approved the supplemental application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the Sunsoft EW (methafilcon A) Hydrophilic Contact Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other th an polymethylmethacrylate, to comply with the Federal Food, Drug, and Comestic Act (the act) 21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer of PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA's administrative practices and procedures regulations or a review of application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drugs, and Cosmetic Act (secs. 515(d), 520 (h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-17727 Filed 8-6-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0309]

Carl Zeiss, Inc.; Premarket Approval of VISULAS Nd:YAG Laser

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Carl Zeiss, Inc., Thornwood, NY, for premarket approval, under the Medical Device Amendments of 1976, of the VISULAS Nd:YAG Laser. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 8, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Phillips, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8221.

SUPPLEMENTARY INFORMATION: On November 13, 1985, Carl Zeiss, Inc., Thornwood, NY 10594, submitted to CDRH an application for premarket approval of the VISULAS Nd:YAG Laser. The VISULAS Nd:YAG Laser is a neodymium:yttrium-aluminum-garnet (Nd:YAG) ophthalmic laser that is indicated for discission of the posterior capsule of the eye (posterior capsulotomy).

On January 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 24, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Philip J. Phillips (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petition shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before September 8, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-17728 Filed 8-6-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-344-CN]

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986 but Before July 1, 1987

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final notice.

SUMMARY: This document corrects a technical error that appeared in the final notice published May 30, 1986, which set forth a schedule of limits on home health agency costs that may be reimbursed under the Medicare program. This document also lists one new Metropolitan Statistical Area designation that was announced by the Executive Office of Management and Budget subsequent to the publication of that final notice.

FOR FURTHER INFORMATION CONTACT: Steven R. Kirsh, (301) 594-9465.

SUPPLEMENTARY INFORMATION: We stated in the final notice published in the Federal Register on May 30, 1986 (51 FR 19736) that if the Executive Office of Management and Budget (EOMB) were to announce changes in the Metropolitan Statistical Area (MSA) designations before July 1, 1986, we would recalculate the wage indexes for the affected areas and direct our intermediaries to use these revised indexes in determining the limits for home health agencies (HHAs) they service. EOMB announced in a press release on June 13, 1986 (OMB 86-14) that, based on recent Bureau of the Census population data, effective June 30, 1986, OMB would be recognizing one new MSA (Merced County, California). Therefore, we have included this new MSA and its corresponding wage index value in this correction notice, along with one other correction of a technical error that appeared in the May 30, 1986 final notice. We have also recalculated the rural wage index value for California to reflect the inclusion of previous rural counties in the new MSA.

In FR Doc. 86-12279 beginning on page 19734 in the issue of Friday, May 30, 1986, make the following corrections:

A. Page 19738. In column 1, in Table IIIA titled "Wage Index for Urban Areas", the wage index value for Anaheim-Santa Ana, CA (Orange, CA), "1.2615", is corrected to "1.2616".

B. Page 19739. In column 1, a new MSA and its wage index value is inserted between the MSA entries for Memphis, TN-AR-MS (Crittenden, AR; DeSoto, MS; Shelby, TN; Tipton, TN)

and Miami-Hialeah, FL (Dade, FL), reading as follows:

"Merced, CA . . . 1.2134
Merced, CA"

C. Page 19740. In column 1, in Table IIIB titled "Wage Index for Rural Areas", the wage index value for California, "1.1457", is corrected to "1.1385".

(Sec. 1102, 1862(v) and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: July 31, 1986.

Harry A. Hadd,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-17810 Filed 8-6-86; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Interagency Committee on Learning Disabilities; Public Hearing

Notice is hereby given of a public hearing to be held by the Interagency Committee on Learning Disabilities. The meeting is scheduled for October 15, 1986, in Wilson Hall, Building 1 (Shannon Building) on the NIH Reservation in Bethesda, Maryland, starting at 9:00 a.m. The purpose of the meeting is to gather data and hear the views of individuals and organizations as they relate to the mandate given the Committee by the Congress. The meeting is open to the scientific community and the general public. Members of the Interagency Committee on Learning Disabilities will be in attendance to receive data and to hear and respond to the presentations and recommendations.

The Interagency Committee on Learning Disabilities is preparing a report on learning disabilities which will be submitted to the U.S. Congress in May of 1987. As directed by the Congress, the report will include (1) an estimate of the number of persons affected by learning disabilities and the domographic data which describes such persons; (2) a description of the current research findings on the cause, diagnosis, treatment and prevention of learning disabilities; (3) recommendations for legislative and administrative actions to increase the effectiveness of research on learning disabilities and to improve the dissemination of the findings of such research; and respecting specific priorities for research in the cause, diagnosis, treatment, and prevention of learning disabilities. The Committee is holding this public hearing as part of the information gathering activities to prepare its report. Individuals and representatives of organizations wishing to make a presentation at this hearing that is related to the Committee's mandate are requested to obtain further information from and register with the Executive Secretary of the Interagency Committee on Learning Disabilities, Dr. James F. Kavanagh, Associate Director, Center for Research for Mothers and Children, National Institute of Child Health and Human Development, Landow Building Room 7C03, 9000 Rockville Pike, Bethesda, Maryland 20892, telephone (301) 496-5097. Oral presentations at the public hearing will be limited to 15 minutes; copies of these statements should be submitted in advance to Dr. Kavanagh. Additional written material of any length may be submitted at the time of the hearing for the Committee's consideration.

Dated: July 31, 1986.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 86-17733 Filed 8-6-86; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board and its subcommittees on September 22, 1986, 8:00 a.m. to adjournment, at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Rockville, Maryland, 20852, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: July 31, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-17732 Filed 8-6-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Arteriosclerosis, Hypertension and Lipid Metalbolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, October 2-3, 1986, Building 31, Conference Room 8, C-Wing, National Institutes of Health, Bethesda, Maryland 20892. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Thursday, October 2, and from 8:30 a.m. to adjournment on Friday, October 3, to evaluate program support in Arteriosclerosis, Hypertension and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. G.C. McMillan, Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, Room 4C12, Federal Building, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: July 28, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-17734 Filed 8-6-86; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee Working Group on Definitions; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Definitions at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, on September 5, 1986, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss the definitions of "deliberate release" and "recombinant DNA" under the NIH Guidelines for Research Involving Recombinant DNA Molecules. This meeting will be open to the public.

Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Definitions, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland telephone (301) 496–6051.

Dated: July 31, 1986.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–17735 Filed 8–6–86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending September 30, 1986 and Rate of Insurance Premium"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending September 30, 1986, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9⅜ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (6.28 percent), and rounding the result (9.78 percent) upward to the nearest ⅛ percent (9⅞ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending September 30, 1986 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 10⅞ percent for the quarter ending December 31, 1985; 11 percent for the quarter ending March 31, 1986; and 10⅝ percent for the quarter ending June 30, 1986.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9⅞ percent. Using the regulatory formula [42 CFR 60.13(a)(3)] in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.28 percent); adding 3.50 percent (9.78 percent); and rounding that figure to the next higher one-eighth of 1 percent (9⅞ percent).

3. For fixed rate loans executed during the period of July 1, 1986 through September 30, 1986, and for variable rate loans executed on or after October 22, 1985, the interest rate is 9⅜ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a) (2) and (3)) and substituting the new statutory change of 3 percent, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.28 percent); adding 3.0 percent (9.28 percent) and rounding that figure to the next higher one-eighth of 1 percent (9⅜ percent).

B. Public Law 99–129 also contained modifications to the insurance premium calculation, effective 9 months after enactment of the statute (July 22, 1986). Prior to that date, in accordance with § 60.14(b) of the regulations, the insurance permium continued to be 2 percent per year of the loan principal for loans executed through the HEAL program. Effective July 22, 1986 in accordance with section 732 of the Act, as amended, the insurance premium is 8 percent of each HEAL loan. A notice announcing this change was published on June 18 (FR 22136).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans).

Dated: July 31, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–17525 Filed 8–6–86; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–86–1622; FR–2265]

Availability of Funding Under the Community Housing Resource Board Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funds availability.

SUMMARY: HUD is soliciting applications from eligible Community Housing Resource Boards (CHRBs) for funding under the CHRB Program. CHRBs must meet certain eligibility criteria in order to qualify for consideration.

DATE: Applications for funding must be submitted by September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Lydia Jackson, Office of Procurement and Contracts, Room 5260, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Application kits will be sent only upon written request made after August 7, 1986, to the Office of Procurement and Contracts at the above address. Telephone requests for application kits will not be honored.

SUPPLEMENTARY INFORMATION: This Notice of Funds Availability is issued under the regulations for the CHRB Program, published in the Federal Register on March 25, 1982 (47 FR 12926) and codified at 24 CFR Part 120. Interested CHRBs are urged to review these regulations and the factors for award in the application kit to

determine whether or not they should apply under this program

The program has two categories of funding: (1) Maintenance and (2) Improvement. A CHRB should apply for *maintenance* funding when its activities have resulted in full implementation of the terms of the Voluntary Affirmative Marketing Agreement (VAMA). CHRBs in this category will be provided funds to maintain their efforts related to the goals of the VAMA.

A CHRB should apply for *improvement* funding when the terms of the VAMA have not been fully implemented. CHRBs in this category will be provided funds to improve their capacity to achieve the goals of the VAMA.

Eligible CHRBs may apply for funds under one category only.

Program Background: Section 808(e) (3) and (5) of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3608) requires the Secretary to "cooperate with and render technical assistance to Federal, State, local and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices . . ." and to "administer the programs and activities relating to housing and urban development in a manner to affirmatively further the policies of this title."

Further, section 809 requires that "the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title . . . shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement."

In order to promote the achievement of the goal of fair housing throughout the United States, the Department of Housing and Urban Development has developed the VAMA Program. This nationwide program focuses on local efforts to assure nondiscrimination in connection with the sale, rental and financing of housing and the provision of services and facilities in connection with those activities, and to promote achievement of a condition in which individuals of similar income levels in the same housing marketing area have available to them a like range of choices in housing regardless of their race, color, religion, sex or national origin.

Consistent with its responsibilities under Title VIII, HUD has negotiated VAMAs with the National Association of Realtors, the National Association of Real Estate Brokers and the National Association of Home Builders. These agreements are intended to promote a broad equal opportunity program designed to assure that housing will be marketed on a nondiscriminatory basis. In addition, signatories to a VAMA agree to conduct certain programs and activities to acquaint communities with equal housing opportunity, to establish office procedures to ensure that there is no denial of equal professional service and to make materials available which explain the commitment of signatories to the goal of fair housing.

The VAMAs, approved by housing industry associations at the national level, are implemented locally. In addition to providing a program to promote fair housing efforts, the VAMAs commit HUD to provide technical assistance to local housing industry groups who become signatories to the agreements. Assistance in implementing VAMA commitments is provided to the local housing industry group through HUD-established CHRBs composed of representatives of community organizations dedicated to equal housing opportunity.

This program is listed in the Catalog of Federal Domestic Assistance under program number 14.401, Fair Housing Assistance Program. The requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) have been met, and the information collection requirements contained in this Notice have been approved under OMB control number 2529–0022.

Eligible Applicants

This Notice is for CHRBs that are applying for funds for the first time under this program, as well as for CHRBs that are previously funded and have successfuly completed the requirements of their previous grant. Except as explained below, CHRBs that were funded in 1985 are not eligible to apply for funds under this Notice. In order to be eligible for participation in the program for the first time, an applicant must meet the following criteria:

(a) The applicant must be a CHRB consisting of HUD-appointed representatives from community organizations or agencies dedicated to equal housing opportunity, formed to fulfill HUD's obligation to provide technical assistance to local real estate boards, homebuilder groups, or both in the implementation and monitoring of progress under the VAMA;

(b) The CHRB must have been in existence at least six months prior to the publication date of this Notice; and

(c) The CHRB must demonstrate in its application that it meets the criteria specified in § 120.15(d), 120.20, 120.25, 120.30 and 120.35 of the CHRB regulations (24 CFR Part 120).

To be eligible for refunding under the CHRB Program, an applicant must meet the eligibility criteria set forth above for first-time applications and the following additional criteria:

(a) The applicant must have successfully completed the requirements of its previous CHRB grant. An applicant will have successfully completed its grant if the Government Technical Representative has approved the CHRB's final payment voucher by August 7, 1986; and

(b) During the grant year, the applicant must have (1) carried out at least two activities that specifically address the objectives of the VAMA; (2) engaged in the identification of local problems and issues that impede equal housing opportunity; and (3) assessed local housing industry group performance under the VAMA. The applicant must submit evidence that it has met these requirements.

CHRBs that were selected in 1984 to be funded under HUD's New Horizons Program are eligible to apply for funding under this Notice.

Additionally, a CHRB funded in 1985 that received less than the amount requested in its submission may apply for funds under this Notice. Such a CHRB should apply as a first-time grantee, and it may request a grant of up to $15,000 or $25,000 (based on the size of its jurisdiction), *minus* the amount of the grant awarded under the 1985 NOFA.

Method of Distribution

Applicants for funding must submit all information required in the application kit, including a separate funding proposal, a budget and a one page synopsis of the proposed project. Maximum funding amounts will be as follows: CHRBs in jurisdictions with populations under 50,000 may apply for grants up to $15,000. CHRBs in jurisdictions with populations of 50,000 or more may apply for grants up to $25,000. Two categories of funding have been established: *maintenance*, where VAMAs have been fully implemented, and *improvement*, where VAMAs have not been fully implemented. Projects will be evaluated for funding separately within each category, to avoid a disadvantage to less experienced CHRBs.

Sixty percent of the funds to be awarded will be allocated to proposals from CHRBs seeking grants for the first

time. Forty pecent of the funds will be for proposals from CHRB seeking additional funding. If funds remain in either category (first-time or refunding) after all acceptable proposals have been funded, the remaining funds can be used for the other category. This will allow HUD to fund as many acceptable proposals as possible (regardless of their area of submission).

Although HUD does not intend to differentiate between maintenance and improvement in terms of funding levels, information received through the Voluntary Affirmative Marketing Monitoring Form, HUD 941A, indicates that a larger number of CHRBs will be funded in the improvement category, since the majority of CHRBs assist local housing industry groups that have not fully accomplished the goals of the VAMA.

It is important to note that, although funds may be used for operating costs associated with the specific funded activities of the CHRB program, all applications should use the major portion of the funds for *program costs* (as opposed to admininistrative costs).

In previous years, most responses to HUD's solicitations of applications for funding under the CHRB Program have failed to indicate the extent to which the CHRB's program would address concerns relating to the rental housing market. This year HUD wishes to assure that adequate emphasis is placed on affirmative marketing in the rental housing area. Accordingly, the selection criteria for this funding round will reflect HUD's desire that proposals include a program component relating to affirmative marketing in rental housing as part of a CHRB's overall program.

Application Requirements

Congress has appropriated $2 million to fund the fair housing technical assistance efforts of CHRBs. As indicated above, HUD intends to allocate the major part of this funding to first-time proposals for a one-year effort. Following that, CHRBs will be encouraged to seek at least part of their funding for continuing projects from other sources. Accordingly, applications from CHRBs seeking additional funding will not be accepted unless accompanied by letters of financial or in-kind support from the private sector or from State or local governmental entities. HUD believes that these funds can provide the assistance necessary to afford existing CHRBs the capability of rendering more effective assistance to local housing industry groups. As stated above, grant amounts will depend upon the size of the jurisdiction where the CHRB operates, with CHRBs in large jurisdictions receiving larger grants than those in small jurisdictions.

Since training is an essential part of this program, all funded CHRBs are required to set aside five percent of the HUD funds for training purposes. Further information on training requirements will be provided by HUD Headquarters during the funding year.

The format and content requirements for all applications are described in application kits which will be provided to each CHRB interested in applying. Application kits will be sent upon written request, made after August 7, 1986, to the HUD Office of Procurement and Contracts at the address set forth above. All applicants will receive the same application kits. Where the factors for award differ for maintenance and improvement funding, and for refunding, such differences will be explained in the kit.

In reviewing applications, the Assistant Secretary for Fair Housing and Equal Opportunity will give consideration to projects that will have a significant impact in areas with substantial minority populations. In addition, the Assistant Secretary may take into account the location of applicants, to assure a broad geographic distribution of projects under the program.

Regional Offices will be advised of the CHRBs within their jurisdictions that submit applications for funding and will be informed of the Assistant Secretary's awards in advance of public announcement. In addition, field Government Technical Monitors will be required to submit grant monitoring reports on the activities of the funded CHRBs to the Government Technical Representative, accompanied by a recommendation to approve or disapprove the payment voucher that will accompany each CHRB work product.

Selection Criteria

Projects proposed in applications will be ranked on the basis of five criteria.

The first criterion is the relationship of the proposed project to the goals of the VAMA. The principal purpose of the CHRB is to assess the implementation of the VAMA and to assist in the solution of problems associated with the implementation of the VAMA. HUD, therefore, has decided to focus on specific eligible projects that emphasize VAMA implementation and monitoring activities. Accordingly, eligible projects that will earn the maximum number of points under this first criterion are those that: (1) Will assess the effectiveness of the VAMA; (2) Will expand minority involvement in the industry; (3) Will develop cooperative solutions to problems associated with the implementation of the VAMA. Eligible projects that will receive a lower priority (*i.e.*, less completely meet the goals of the VAMA) are those that: (1) Will make information public regarding the goals of fair housing and the VAMA; (2) Will assess community fair housing needs; or (3) Will expand public awareness of housing opportunities in the community.

The other selection criteria are:

(1) The extent to which the proposed project will affect the groups the VAMA is designed to reach, e.g., significant impact in areas with substantial minority populations;

(2) The commitment of the CHRB members, as indicated through regular attendance at meetings and by demonstrated results of activities (for CHRBs requiring maintenance funding), and expected results of activities (for CHRBs requiring improvement funding);

(3) The amount of relevant professional or organizational experience, including experience in fair housing, available to the CHRB to implement the projects proposed; and

(4) The extent to which the proposed projects do not duplicate other community efforts.

The relative weights of the criteria for selection will be:

Criteria	Points
Relationship of projects to VAMA Goals [1]	[illegible]
Extent to which groups VAMA is designed to reach are affected	25
Documentation of commitment of CHRB Members	15
Experience available to implement projects	[illegible]
Extent to which projects do not duplicate other community efforts	10
Total	100

Additionally, the technical evaluation panel will take into consideration an independent performance rating of CHRBs by field offices. The details of the ratings and the integration of this rating system into the criteria for selection are contained in the application kit.

[1] Furtherance of the goals of the VAMA includes emphasis on rental housing as well as housing offered for sale. Therefore, proposals which do not include a rental housing affirmative marketing component will receive less than full credit in meeting this criterion, even if all other VAMA goals are addressed.

Notification of Applicants

All applicants will be notified by mail of the action on their applications, as soon as review and evaluation of the applications are completed. No information will be available to applicants during the period of HUD review and evaluation, except for notification to those applicants that are determined to be ineligible or late.

All awards are expected to be announced by HUD within 90 days of the final submission date. Applications for funding must be submitted by

September 8, 1986. No application received by HUD after the date will be considered, unless the application is received before awards are made and meets one of the late application exceptions set forth in the application kit.

Authority: Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–19).

Dated: August 1, 1986.

William E. Wynn,

Acting General Deputy Assistant, Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 86–17832 Filed 8–6–86; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6664–B]

Alaska Native Claims Selection; the English Bay Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613 (a), will be issued to The English Bay Corporation for 6.89 acres. The lands involved are in the vicinity of English Bay, Alaska.

U.S. Survey No. 4778, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 8, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–17761 Filed 8–6–86; 8:45 am]

BILLING CODE 4310–JA–M

[NV–060–4331–13]

Battle Mountain District, Tonopah Resource Area, Nye County, NV; Emergency Closure

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Emergency Road Closure, Nye County, Nevada.

SUMMARY: Notice is hereby given that the road which crosses the following described public lands was closed to all vehicle travel to protect cultural resources.

Mount Diablo Meridian

T. 9 N., R. 56 E.,
Sec. 24, NE¼SW¼.

Mount Diablo Meridian

T. 9 N., R. 57 E.,
Sec. 19, lot 3, NE¼SE¼N½SW¼;
Sec. 20, SE¼NW¼N½SW¼.

DATES: This action will be effective July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Terry L. Plummer, Bureau of Land Management, P.O. Box 1420, Battle Mountain, Nevada 89820.

Dated: July 30,1986.

Thomas H. Jury,

Acting District Manager.

[FR Doc. 86–17750 Filed 8–6–86; 8:45 am]

BILLING CODE 4310–HC–M

[WY–040–06–4212–08; W–96315]

Intent To Amend Big Sandy Management Framework Plan, Green River Planning Unit; Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent To Amend Big Sandy Management Framework Plan, Green River Planning Unit, Sweetwater County, Wyoming.

SUMMARY: This notice issued pursuant to 43 CFR Parts 1600 and 2200 invites public review and comment on preliminary issues and planning criteria to be used in identifying and evaluating proposals in preparing a plan amendment to address the offer for exchange of certain lands in Sweetwater County, Wyoming.

The proposed planning action involves preparation of an environmental assessment utilizing input received from the public. The environmental assessment to be issued on or about September 15, 1986, will be prepared in accordance with 40 CFR Part 1500 and will include a determination of the proposed action's consistency with the policies and programs of local, State, and other Federal agencies. Upon approval of the plan amendment by the Wyoming State Director, a public notice will be issued by the District Manager and a thirty (30) day protest period will be allowed (43 CFR 1610.5–2).

The public lands being considered for exchange are described as Section 36, T. 22 N., R. 102 W., 6th P.M., WY; containing 640 acres.

The purpose of the exchange is to acquire at the States' request 640 acres of State of Wyoming land (Section 16, T. 23 N., R. 103 W.) for off-road vehicle use. The BLM has constructed an unloading ramp and parking area in this section.

Preliminary issues identified include: Public recreation and wildlife needs, rights of permittees and lessees, interests of adjoining landowners, and consistency with the plans and programs of other governmental entities.

The following criteria, as set forth in section 206 of the Federal Land Policy and Management Act of 1976, will be used to evaluate the exchange proposals:

1. Disposal of the lands will serve important public objectives, including but not limited to recreation use.

2. Value and public objectives served by retention of the lands to be conveyed are not greater than those of the lands to be acquired.

The environmental assessment will be prepared by an interdisciplinary team which will determine the impacts of the exchange on present and future use of the affected lands and adjoining properties.

DATE: The public is invited to submit written comments, including any issues for consideration, to the following address until September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Sally J. Haverly, Realty Specialist, Green River Resource Area, Bureau of Land Management, P.O. Box 1170, Rock Springs, Wyoming 82902–1170, (307) 382–6422.

Donald H. Sweep,

District Manager.

July 28, 1986.

[FR Doc. 86–17751 Filed 8–6–86; 8:45 am]

BILLING CODE 4310–22–M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held September 4, 1986.

On September 4, the meeting will begin at 9:00 a.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

Election of officers, the Council's recommendation of the District's Public Involvement Handbook and the District's Resource Management Plan—Planning for the '90s.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board following conclusion of its other agenda items on September 4, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by September 3, 1986. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 30, 1986.

David A. Jones,

Manager.

[FR Doc. 86-17762 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-33-M

[CO-030-06-4322-02]

Montrose District Grazing Advisory Board meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Montrose District Grazing Advisory Board will be held September 11, 1986 in Montrose, Colorado.

DATE: Requests to present oral comments must be received by September 5, 1986. A meeting is scheduled September 11, 1986.

ADDRESS: District Manager, Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401.

SUPPLEMENTARY INFORMATION: The District Grazing Advisory Board meeting will convene at 10:00 a.m. in the Montrose District conference room. The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager by September 5, 1986.

The agenda will include:

1. Election of officers.
2. Update on Montrose District Planning efforts.
3. Discussion on the non-use situation.
4. Review FY87 Range Improvement project proposals.
5. Advisory Board expenditures for Range Improvement work.
6. Arrangements for the next meeting.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Dated: August 1, 1986.

Robert S. Schmidt,

Associate District Manager.

[FR Doc. 86-17759 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-JB-M

[OR-100-04-6310-02; GP6-304]

Roseburg District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management's Roseburg District Advisory Council will tour the South Umpqua Resource Area where they will observe and discuss reforestation and vegetation management practices, timber harvest and associated road construction issues, and forest practices.

DATE: September 5, 1986 at 8:15 a.m.

ADDRESS: Bureau of Land Management, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470.

SUPPLEMENTARY INFORMATION: The tour is opened to the public and time will be provided for public comment. Members of the public are responsible for their own transportation.

Summary minutes of the meeting will be maintained at the District Office and will be available for public inspection and reproduction within 30 days following meeting.

FOR FURTHER INFORMATION CONTACT: Larry Lee, BLM Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470. (Telephone (503) 672-4491, Ext. 230.)

Dated: July 29, 1986.

M.D. Berg,

District Manager.

[FR Doc. 86-17758 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-33-M

Montana Off-Road Vehicle Designation

AGENCY: Bureau of Land Management, Miles City District, Billings Resource Area.

(MT-020-06-4333-02)

ACTION: Notice to Limit Off-Road Vehicle Use on Public Land.

SUMMARY: Notice is hereby given that the use of off-road vehicles is limited on public land known as Pole Creek and Gage Dome Special Management Areas, Musselshell County, Montana in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations 43 CFR 8340.

DATES: These designations become effective August 7, 1986 and will remain in effect for a period of 5 years or until rescinded or modified by the authorized officer

These areas are designated as limited to designated open roads and trails during the regular antelope hunting season (normally from *October 1*, to *November 30*) of each year, as established by the Montana Department of Fish, Wildlife and Parks. Vehicle use may be authorized for administrative purposes during this period.

SUPPLEMENTARY INFORMATION: The 11,140 acre Pole Creek and the 6,560 acre Gage Dome areas affected by the designation as described below are administered by the Billings Resource Area, Miles City District, BLM. The designation is the result of a cooperative effort between Montana Department of Fish, Wildlife and Parks and adjacent private landowners, based upon public input from two public meetings held in Roundup and in Billings. The purpose of the limitations are to prevent damage to the vetegation and soil, open additional private lands adjacent to public lands to hunting, and to provide a higher quality hunt.

A. Pole Creek Special Management Area

This area consists of approximately 11,140 acres which is located in T. 10 N., R. 23 E., T. 10 N., R. 24 E., which is approximately 10 miles northeast of Roundup, Montana.

B. Gage Dome Special Management Area

This area consists of approximately 6,560 acres which is located in T. 9 N., R. 26 E., and T. 10 N., R. 26 E., which is approximately 5 miles northeast of Roundup, Montana.

Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

FOR FURTHER INFORMATION CONTACT: For further information about these designations contact either of the following Bureau of Land Management Officials.

Mat Millenbach, District Manager, Miles City District, P.O. Box 940, Miles City, MT 59301, 406–232–4331
Jerry Jack, Area Manager, Billings Resource Area, 810 East Main, Billings, MT 59105, 406–657–6262.

Mat Millenbach,

District Manager.

[FR Doc. 86–17760 Filed 8–6–86; 8:45 am]
BILLING CODE 4310-DN-M

Bureau of Reclamation

Realty Action; Competitive Sale of Federal Land

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The following described land has been identified for disposal under the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374). The Bureau of Reclamation will accept bids on the following land, and will reject any bid, written or oral, for less than $75,000, the appraised fair market value.

DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Schweitzer, Bureau of Reclamation, Arizona Projects Office, 23636 North Seventh Street, P.O. Box 9980, Phoenix, Arizona 85068, telephone (602) 870–6750.

Land Identified for Disposal as Follows

A parcel of land situated within the East half (E½) of Section Seventeen (17), Township Two (2) North, Range One (1) East of the Gila and Salt River Base and Meridian, city of Phoenix, Maricopa County, Arizona, and being a strip of land 25 feet in width, lying 18.5 feet North and 6.5 feet South of a line described for a ditch according to Deed Book 118, Page 279, Records of Maricopa County, Arizona.

Said above-described parcel of land contains 66,544 square feet or 1.5276 acres, more or less.

The parcel will be offered for sale through the competitive bidding process. The sale will be held at the Bureau of Reclamation, Arizona Projects Office, 23636 North Seventh Street, Phoenix, Arizona 85068, Main Conference Room on October 20, 1986, at 9:00 a.m. The Bureau of Reclamation may accept or reject any or all offers; or withdraw any land or interest in land for sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374), or other applicable laws.

The parcel is located approximately one-half mile south of Bethany Home Road adjacent and perpendicular to 99th Avenue within the incorporated city of Phoenix, county of Maricopa, State of Arizona, and has a potential for urban-suburban development. The sale is consistent with the Salt River Project and the Bureau of Reclamation land use planning and it was determined that the public interest would be served by offering these lands for sale; the parcel listed and platted is offered for sale "as is" and "where is."

Resource clearances consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et. seq.) requirements have been completed and approved. A categorical exclusion for cultural resources and a land report have been completed and approved, and are available for public review at the Bureau of Reclamation, Arizona Projects Office, 23636 North Seventh Street, Phoenix, Arizona 85068.

The deed issued for the parcel sold will be subject to right-of-way for ditches and canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 86 U.S.C. 945), and reservations for public road and utility easements identified by the city of Phoenix and the county of Maricopa. This land sale will be for surface estates only.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005. Any adverse comments will be evaluated by the Regional Director who may vacate or modify this Notice of Realty Action and issue a final determination. In the absence of any action by the Regional Director, this Notice of Realty Action will become final determination of the Department of the Interior.

Dated: July 30, 1986.

John D. Brown,

Regional Director, Lower Colorado Region, Bureau of Reclamation.

[FR Doc. 86–17744 Filed 8–6–86; 8:45 am]
BILLING CODE 4310-09-M

Fish and Wildlife Service

Availability of a Final Environmental Impact Statement on the Honeoye Creek Wetland Project, Ontario County, NY

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Enviromental Impact Statement on the Honeoye Creek Wetland Project in Ontario County, New York is available for public review. Comments and suggestions are requested. As a result of extensive interaction between the New York Department of Environmental Conservation (NYDEC), local landowners and others, subsequent to the release of the Draft EIS, a new proposed action has been developed. This alternative is entitled The Proposed Action—Cooperative Agreement Alternative. For the purpose of this alternative, the project area is defined as the regulated freshwater wetlands and a 100-foot adjacent upland area as well as property of The Nature Conservancy north and south of County Route 15.

For lands within the project area, cooperative agreement would be voluntarily entered into by the landowners, NYDEC and where appropriate the Town of Richmond. Landowners could also sell their lands to NYDEC. Such agreements would provide additional protection to the wetlands and increased levels of access for various recreational and educational activities while granting immunity to participating landowners to the use of eminent domain. Optional cooperative purchase agreements could also be negotiated for certain upland areas adjacent to the lands within the project area. Lands which are acquired, or become subject to cooperative agreements, would be developed as a Wildlife Management Area used for both consumptive and non-consumptive outdoor recreation. NYDEC will likely use use state and federal funds (Pittman-Robertson Act) for the project.

DATES: EPA published the notice of availability of the environmental impact statement in the August 1, 1986 Federal Register (51 FR 27597). Written comments are requested by September 2, 1986.

ADDRESS: Comments should be addressed to Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts, 02158.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Abele, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts, 02158 (671) 965–5100, X382 or Mr. David C. Woodruff, New York Department of Environmental Conservation, 6274 East Avon-Lima Road, Avon, New York 14414 (716) 226–2466

Individuals wishing copies of the FEIS should immediately contact either of the above individuals. Copies have been

sent to all agencies and organizations who received copies of the DEIS. Copies will be available for examination at U.S. Fish and Wildlife Service in Newton Corner, Massachusetts, New York Department of Environmental Conservation in Avon, New York and at the Town Hall in Richmond, New York.

SUPPLEMENTARY INFORMATION: This environmental impact statement addresses the acquisition and development of the Honeoye Creek wetland project area. It poses five alternative sets of actions, in addition to the proposed action and discusses how each would address the goals of the Department of Environmental Conservation; it related to the pertinent environmental characteristics of the area and it projects how the environment would be affected with the implementation of each of the six alternatives.

Within the project area at the present time, The Nature Conservancy is offering the Department of Environmental Conservation title to a large parcel of land which governs the northern end of the wetland and beyond. This alternative, known as The Nature Conservancy Alternative, involves accepting just this parcel and leaving the remainder of the wetland in private hands.

The Full Potential Alternative includes: Acquisition of real property interests to approximately 800 acres of wetlands, a 100-foot buffer around the wetlands property now owned by The Nature Conservancy north of the wetland and sufficient interests in adjacent upland parcels to give DEC sufficient control over activities which would adversely affect the wetland resource. A shallow impoundment would be created in the center of the project area. Public access, small parking areas and trails will be created.

An additional alternative involves similar land acquisition to the full potential alternative but with a smaller impoundment. With this alternative, fewer access points would be constructed. However, the same number of potholes, ponds, and nesting structures and islands would be placed on the site. The uplands would be managed to provide cover and food for wildlife. In addition, DEC would require conservation practices of permit-holders who would farm the slopes adjacent to the wetlands. This alternative is known as the Reduced Impoundment Alternative.

The Wetland Preservation Alternative includes DEC acquiring the wetland proper and a narrow, 100-foot buffer about its perimeter. DEC could insure that part of the project area, the most sensitive and valuable part, would be preserved forever. DEC would also develop access and parking areas to allow the public to enjoy the wetland resource. It would create no impoundment, potholes, nor implement other management practices to enhance the marsh environment. Additionally, it would not implement any conservation practices on the uplands.

Dale T. Coggeshall,

Acting Regional Director.

[FR Doc. 86-17657 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1089, Block 90, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on July 28, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 29, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-17764 Filed 8-7-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 7917, Block 306, Ewing Bank Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on July 31, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 31, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-17766 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4103, Block 69, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide the development and production of hydrocarbons with support activities to be conducted from a onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 31, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 1, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-17765 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Shell Offshore Inc., Unit Operator of the Brazos Block A-20 Federal Unit Agreement No. 14-08-0001-20251, submitted on July 11 and July 23, 1986, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Brazos Block A-20 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Parkway, New Orleans, Louisiana 70123.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 114, open weekdays 9:00 a.m. to 3:30 p.m., 1420 South Clearview Parkway, New Orleans, Louisiana 70123, phone (504) 736-2519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 29, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-17767 Filed 8-6-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Report to the President on Investigation No. TA-201-59]

Apple Juice; Import Investigation

June 13, 1986.

Determination

On the basis of the information developed in the subject investigation, the Commission has determined [1] that apple juice, not mixed and not containing over 1.0 percent of ethyl alcohol by volume, provided for in item 165.15 of the Tariff Schedules of the United States, is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Background

The United States International Trade Commission instituted investigation No. TA-201-59, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), in order to determine whether the above described apple juice is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The investigation resulted from a request received by the Commission on December 27, 1985, from the United States Trade Representative.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary,

[1] Commissioner Rohr dissenting.

U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 24, 1986 (51 FR 3286). The hearing was held in Washington, DC, on April 17, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act of 1974. The information in the report was obtained from responses to Commission questionnaires, fieldwork and interviews by members of the Commission's staff, other agencies, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

The Commission transmitted its determination in this investigation to the President in accordance with section 201(d)(1) of the Trade Act of 1974. The views of the Commission are contained in USITC Publication 1861 (June 1986), entitled "Apple Juice: Report to the President on Investigation No. TA-201-59 Under Section 201 of the Trade Act of 1974", together with the information obtained in the investigation.

Issued: June 13, 1986.

By order of the Commissioner.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-17699 Filed 8-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-235]

Certain Human-Powered Vehicles With Combination Steering, Braking, and Propulsion Means; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to the last three remaining respondents.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) granting a joint motion to terminate one respondent based on a settlement agreement and granting a motion to terminate one respondent based on a settlement agreement and granting a motion to terminate the two remaining respondents.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Aot of 1930 (19 U.S.C. 1337) and the Commission rule 210.53 (19 CFR 210.53).

On May 27, 1986 complainant Nashville Diversified, Inc. (NDI) and respondent Axis World Trade, Inc. (AWT), filed a joint motion (Motion No. 235-4) to terminate the investigation as to respondent AWT based on a settlement agreement. On the same day, complainant NDI filed a motion (Motion No. 235-5) to terminate the investigation as to the two remaining respondents, Cargee Enterprises Co., Ltd. (Cargee) and Cutimax Enterprises Co., Ltd. (Cutimax), without prejudice.

The presiding administrative law judge issued an ID (Order No. 7) granting the joint motion to terminate the investigation as to AWT. The ID also granted the motion to terminate the investigation as to Cargee and Cutimax, but qualified it by determining that complainant NDI may not refile another complaint under section 337 against either of those respondents on the basis of alleged infringement of U.S. Letters Patent 3,663,038 unless NDI presents evidence of changed conditions sufficient to satisfy Commission rule 211.57 (19 CFR 211.57).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: July 28, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-17700 Filed 8-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-235 (Final)]

Iron Ore Pellets From Brazil; Import Investigation

Determination

On the basis of the record[1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of iron ore pellets,[2] provided for in item 601.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Brazil.

Background

The Commission instituted this investigation effective March 22, 1985, following a preliminary determination by the Department of Commerce that imports of iron ore pellets from Brazil were being subsidized within the meaning of section 701 of the Act (19 U.S.C. 1671). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 24, 1985 (50 FR 16174). Subsequently, however, Commerce suspended its investigation on the basis of a suspension agreement with Brazil (50 FR 24265, June 10, 1985); the Commission then suspended its investigation (50 FR 25478, June 19, 1985).

Effective March 31, 1986, Commerce continued its investigation following cancellation of the suspension agreement. Consequently, effective March 31, 1986, the Commission resumed its final countervailing duty investigation (51 FR 12936, April 16, 1986). The hearing was held in Washington, DC, on June 19, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 28, 1986. The views of the Commission are contained in USITC Publication 1880 (July 1986), entitled "Iron Ore Pellets from Brazil: Determination of the Commission in Investigation No. 701-TA-235 (Final) Under the Tariff Act of

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The term iron ore pellets covers fine particles of iron oxide hardened by heating and formed into balls from ¾-inch to ¾-inch in diameter, for use in blast furnaces to obtain pig iron, reported for statistical purposes in item 601.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces unless such pellets contain more than 3 percent by weight of silica.

1930, Together With the Information Obtained in the Investigation."

Issued: July 28, 1986.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 86-17701 Filed 8-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation Nos. 731-TA-304 and 305 (Final)]

Top-of-the Stove Stainless Steel Cooking Ware From Korea and Taiwan; Import Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with these investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation Nos. 731-TA-304 and 305 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea and Taiwan of cooking ware of stainless steel, including skillets, frying pans, omelette pans, sauce pans, double boilers, stock pots, sauce pots dutch ovens, casseroles, steamers, and similar stainless steel vessels (but not including teakettles), all the foregoing for cooking on stove-top burners,[1] provided for in item 653.94 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in its preliminary determinations, to be sold in the United States at less than fair value (LTFV). Subsequently, Commerce extended its investigations and will make its final LTFV determinations on or before November 19, 1986, and the Commission will make its final injury determinations 45 days after receipt of Commerce's final determinations (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202-523-0165), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain stainless steel cooking ware from Korea and Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). These investigations were requested in a petition filed on January 21, 1986, by counsel on behalf of the Fair Trade Committee of the Cookware Manufacturers Association, Walworth, Wisconsin. In response to those petitions the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 9541, March 19, 1986).

Participation in the investigations

Persons wishing to to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in these investigations will be placed in the public record on November 10, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on November 24, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 20, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on November 20, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 20, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 1, 1986. In addition, any person who has not entered an appearance as a party to the

[1] The products are made of stainless steel and may either have plain bottoms or contain one or more layers of aluminum, copper, or carbon steel for more even heat distribution.

investigations may submit a written statement of information pertinent to the subject of these investigations on or before December 1, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: July 29, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-17703 Filed 8-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-239]

Certain Non-Contact Laser Precision Dimensional Measuring Devices and Components Thereof; Termination of Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion to terminate the investigation on the basis of a settlement agreement.

SUMMARY: On June 26, 1986, complainant Techmet Company and respondents Mitutoyo Manufacturing Company, Ltd., Mitutoyo Corporation, MTI Corporation, and MTI Engineering Corporation, filed a joint motion to terminate the investigation on the basis of a settlement agreement. On July 7, 1986, the presiding administrative law judge issued an initial determination (ID) granting the motion to terminate the investigation. Pursuant to section 337 of the Tariff Act of 1930, the Commission determined not to review the ID. The Commission's decision terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Jean Heck, Esq., Office of the General Counsel, U.S. International Trade Commission, Washington, DC 20436, telephone 202-523-1693.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.51 and 210.53 (19 CFR 210.51 and 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: August 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-17702 Filed 8-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Rejection of Motion for Modification of Final Commission Action

AGENCY: International Trade Commission.

ACTION: Rejection of a motion for modification of final Commission action pursuant to 19 CFR 211.57.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Assistant General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202-523-0311.

SUPPLEMENTARY INFORMATION: The subject investigation was conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of various woodworking machines and certain components thereof. The investigation was instituted on the basis of a complaint alleging patent infringement, registered trademark and logo infringement, common-law trademark infringement (the term "Contractor's Saw" and the external designs of certain machines), false representation of manufacturing source, passing off, and false or deceptive advertising. The complainant was Delta International Machinery Corp. There were 51 respondents, 29 of which were companies in Taiwan. *See* 49 FR 55786 (Dec. 15, 1983); 49 FR 20767 (May 16, 1984); 49 FR 23463 (June 6, 1984); Verified Revised Amended Complaint of Delta International Machinery Corp. (Apr. 6, 1984).

Twenty-two respondents from Taiwan settled with Delta and were terminated from the investigation on the basis of consent orders directing them to cease and desist from engaging in unfair acts and unfair methods of competition as provided in the settlement agreements. The settlement agreements acknowledged complainant Delta's allegations, but contained no admission that the settling respondents had engaged in infringement or any other unfair act. The settlement agreements also permitted the respondents from Taiwan to export to, import into, and sell in the United States redesigned machines that do not infringe Delta's patents and are not confusingly similar in appearance to Delta's machines. *See* Order No. 45, 50 FR 1138 (Jan. 9, 1985); Orders Nos. 47-50, 50 FR 7969 (Feb. 27, 1985), as amended at 50 FR 10326 (Mar. 14, 1985); Order No. 51, 50 FR 9142 (Mar. 6, 1985); Order No. 53, 50 FR 9141 (Mar. 6, 1985); Commission Action and Order of June 18, 1985, 50 FR 26639 (June 27, 1985).

Six respondents from Taiwan were dismissed (or a finding of "no violation" was entered) owing to lack of evidence to support Delta's allegations against them. *See* Order No. 46, 50 FR 43423 (Jan. 24, 1985); Initial Determination (ID) of Feb. 7, 1985 at 4, 50 FR 14172 (Apr. 10, 1985); 19 CFR 210.53(h); Commission Action and Order of June 18, 1985, 50 FR 26639 (June 27, 1985). The remaining respondent from Taiwan neither settled with Delta nor defended against Delta's charges. (The unfair act with which that respondent was charged was rejected by the Commission, however. Hence there was no finding of a section 337 violation by that respondent.)

The Commission's final determination concerning the violation of section 337 was negative in part and affirmative in part. See 50 FR 26639 (June 27, 1985). No violation was found in respondents' unauthorized use of the external designs of Delta's 10-inch table saw and 14-inch band saw. The Commission concluded that those designs had not acquired secondary meaning and thus were not entitled to common-law trademark protection. *See* Commission Action and Order of June 18, 1985; Opinion of Vice Chairman Liebeler et al. at 1-5, 16-28; Opinion of Chairwoman Stern at 1-5, 17-30. The Commission reached an affirmative determination on the basis

of respondents' patent infringement, registered trademark and logo infringement, common-law trademark infringement (the term "Contractor's Saw"), passing off, or false or deceptive advertising. A general exclusion order was issued to prevent future violations. *See* Commission Action and Order of June 18, 1985; Opinion of Vice Chairman Liebeler et al. at 1–5, 29–33; Additional Views of Vice Chairman Liebeler; Opinion of Chairwoman Stern at 1–5, 30–34; 50 FR 26639 (June 27, 1985); ID of Feb. 7, 1985, at 22–28, 41–42; 50 FR 14172 (Apr. 10, 1985).

Several months after the investigation had been terminated, the respondents from Taiwan filed a joint motion (Motion No. 174–78"C") for modification of the final action in this investigation, pursuant to 19 CFR 211.57. The asserted grounds were complainant Delta's alleged breach of the settlement agreements and its allegedly tortuous midconduct in the distributing an allegedly unfair and misleading patent and trademark "policing" letter. The respondents from Taiwan contended that the letter was confusing and misleading as to the Commission's findings and orders and the enforceability of the asserted patents and trademarks. The motion for modification requested the following relief: (1) That Delta be directed to cease and desist from distributing the policing letter; (2) that Delta be directed to issue clarifying letters to recipients of the policing letter; (3) that Delta be divested of the patent and trademark rights which the Commission upheld; and (4) that Delta's settlement agreements with the respondents from Taiwan be declared null and void.

After reviewing the motion, the Commission declined to accept it for further processing under 19 CFR 211.57. The Commission concluded that the paucity of substantive information and corroborating documents to support the factual allegations in the motion—coupled with the absence of a discussion of the applicable Commission precedent, judicial decisions, and/or statutory authority for granting the relief requested—constituted noncompliance with the requirement of 19 CFR 211.57(a) that motions for modification include "materials and arguments in support thereof." The Commission also found that the moving respondents did not allege actual injury caused by Delta's letter, and the motion did not demonstrate the existence of an effect or tendency to restrain or monopolize trade or commerce in the United States.

Copies of the Commission's Action and Order and all other nonconfidential documents on the record of the investigation are available for public for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0471. Copies of such documents may be obtained (at the cost of 10 cents per page) by calling or writing to the Secretary's Office.

Interested persons are encouraged to inspect or obtain copies of the exclusion order, the consent orders, the Commissioners' final opinions concerning the violation of section 337, and the parties' findings of fact concerning the violation of section 337 (some of which were adopted by the Commission). Any questions regarding the Commission's findings and orders in this investigation may be directed to the Commission attorney listed above or to Commission investigative attorney Juan Cockburn, Esq., Office of Unfair Import Investigations, Room 128, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–1272. Hearing impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: July 29, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–17704 Filed 8–6–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731-TA-288 and 300 (Final)]

Erasable Programmable Read Only Memories (EPROM's) and Dynamic Random Access Memory Semiconductors (DRAM's) of 256 Kilobits and Above From Japan

AGENCY: United States International Trade Commission.

ACTION: Indefinite postponement of schedules.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202–523–0339) or Ilene Hersher (202–523–4616), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contracting the Commission's TDD terminal on 202–724–0002.

SUMMARY: On July 31, 1986, the President announced that the United States and Japan had reached an agreement on semiconductor trade that, among other things, requires the suspension of the ongoing antidumping investigations on EPROM's and DRAM's from Japan. Accordingly, pending formal suspension of the investigations by the Department of Commerce, the Commission announces the indefinite postponement of its briefing and hearing schedules for the subject investigations.

Issued: August 4, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–17833 Filed 8–6–86; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

Criminal Justice Discretionary Grants

AGENCY: Bureau of Justice Assistance, Department of Justice, Mack M. Vines, Director.

ACTION: Final notice.

SUMMARY: The Bureau of Justice Assistance is publishing a final notice to implement the criminal justice discretionary grant program authorized by the Justice Assistance Act of 1984 Pub. L. 98–473 (Oct. 12, 1984), 42 U.S.C. 3711 et sec. This notice describes procedures and requirements for applying for and administering discretionary grant funds.

EFFECTIVE DATE: This notice is effective on August 7, 1986.

FOR FURTHER INFORMATION CONTACT: For general questions about the priorities and range of discretionary grant programs contact Curtis H. Straub II, Director, Program Policy and Management Division, Bureau of Justice Assistance, 633 Indiana Avenue NW., Washington, DC 20531, (202) 272–6838.

ADDRESS: All concept papers (original plus two copies) should be addressed to: Bureau of Justice Assistance, 633 Indiana Avenue NW., Washington, DC 20531.

ADDRESS: All final applications (original plus two copies) should be addressed to: Control Desk, Office of Comptroller, Room 948, Bureau of Justice Assistance, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The Justice Assistance Act of 1984 established the Bureau of Justice Assistance within the Office of Justice

Programs. The Act authorizes the award of discretionary grants to public and nonprofit agencies. Four purposes are specified for which discretionary grants can be made: (1) Demonstration programs; (2) educational and training programs for criminal justice personnel; (3) technical assistance to states and local governments; and (4) national or multi-state projects.

The Discretionary grant program is intended to complement and enhance the Criminal Justice Block Grant Program administered by the Bureau of Justice Assistance pursuant to Part D of the Act. These latter grants are designed to carry out state and local programs which exhibit a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders. The large investment of discretionary funds in technical assistance and training is intended as a means of quality control in a program carefully designed to eliminate red tape for the Block Grant Program. States agree to apply the Block Grant funding to proven program concepts such as are found in career criminal projects. BJA releases the funding based on this pledge and thus projects can quickly commence without bureaucratic delay. It is then the availability of technical assistance and training for all projects that helps the states fulfill their pledge and insure that these federal funds produce the optimum result intended by Congress. In related fashion, the BJA investment in demonstration projects which are in turn carefully evaluated insures a steady stream of future quality candidates for block grant funding.

Of the total funds appropriated for state and local assistance 20 percent is reserved for the discretionary grant program. The total FY 1986 and unawarded FY 1985 funds available under this announcement is approximately $12.6 million.

The Bureau published in the **Federal Register**, Vol. 51, No. 92 and solicited public comment on proposed discretionary grant regulations on May 13, 1986. Approximately 80 individuals and organizations provided written comment on the proposed priorities. Comments were generally favorable. Overall, the comments may be characterized as suggestions for the funding or particular projects or types of projects. There was wide support for organized crime/narcotics trafficking, victims and information system programs. Written responses will be sent to each individual or organization who submitted a comment.

Application and Award Process

The Bureau of Justice Assistance has made an effort to establish an open and competitive application process. Applications or concept papers are being requested from any and all eligible jurisdictions in several program areas. A panel of experts in the program field will be established to provide an objective review of the proposals and to make funding recommendations.

Because the FY 1986 funds were not available for distribution until late in the fiscal year, awards will be made in several program areas using a modified competitive process. In these areas, the Bureau will make use of non-profit organizations to assist in identifying jurisdictions which are interested in submitting an application and meet the primary technical criteria necessary for immediate program implementation. Ultimate selection of grantees from among these applicants will be made by BJA. This process will reduce time required for both the application process and the implementation phase. Jurisdictions meeting the primary technical criteria who are interested in implementing one of these programs, should contact the BJA program contact person listed in the program description, to insure that they are considered during the site selection process.

A number of projects will be awarded directly to a grantee rather than requesting applications on a competitive basis. This will be done for several reasons. First, many of the awards will be continuations of existing projects, which were originally selected on a competitive basis. Awards will be made to the present grantees to insure continuity of service. Second, several existing cooperative agreements will be supplemented to extend their grant period through the next fiscal year. Continuations beyond the end of the fiscal year will be considered for open competition. The Bureau will negotiate several awards with organizations which are uniquely qualified to provide the required service. Generally, this is a service that is an implementation phase of work previously completed by the grantee.

All grants and cooperative agreements will be reviewed to insure that they are cost effective. Geographic distribution of projects will be considered for all programs which result in implementation in several sites.

Criminal Justice Discretionary Grants

The following is an index of the programs included in this announcement:

SUBPART I—DEMONSTRATION PROGRAMS
Purpose
Evaluation of Programs
Organized Crime/Narcotics Trafficking Enforcement Program
Police/School Drug Use Prevention Program
Detection and Monitoring of Drug-Using Arrestees Program
Intensive Probation Supervision Program
Family Violence Intervention Program
SUBPART II—TECHNICAL ASSISTANCE AND TRAINING PROGRAMS
Purpose
Organized Crime/Drug Prosecution Program
Community Crime Prevention Program
Arson Training Program
Asset Forfeiture Program
Targeting Law Enforcement Resources Program
Assistance to the Courts Program
Information Systems Program
Intensive Probation Support Services Program
Victim Assistance Program
SUBPART III—NATIONAL/MULTI-STATE PROGRAMS
Purpose
National Crime Prevention Campaign
Alternatives to Deadly Force
Victims Assistance

SUBPART I—DEMONSTRATION PROGRAMS

Purpose

Demonstration programs provide a means of testing state-of-the-art knowledge in priority criminal justice areas at a variety of sites. The models are based on substantial research and program documentation. All demonstration programs will be independently evaluated. Programs that prove successful may be certified as approved programs for state Block Grant funding in future years.

Due Dates

Demonstration programs will be initiated in five program areas. The application process, which is outlined in more detail in the program description, will vary among the program areas. The due dates for concept papers and/or applications are summarized as follows:

Program	Concept paper	Application
Evaluation of Demonstration Programs		[illegible]
Organized Crime/Narcotics Trafficking		(1)
Police/School Drug Use Prevention		09/05/86
Detection and Monitoring of Drug Using Arrestees		(1)
Intensive Probation Supervision	09/05/86	10/24/86
Family Violence Intervention		(1)

[1] Invitation.

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Evaluation Component

The intent of the Demonstration Programs is to demonstrate that the program concepts being tested are valid and are transferrable to other jurisdictions. Therefore, an objective evaluation of these programs is essential. The Bureau of Justice Assistance will award a grant for the evaluation of the Organized Crime/Narcotics Trafficking Enforcement program in an amount up to $100,000. The Intensive Probation Supervision Program will be evaluated under a grant of up to $75,000. In addition, an award of up to $175,000 to evaluate the National Crime Prevention Campaign described under National/Multi-State Programs will be made. Applicants should provide the methodology to be employed in these impact evaluations, the data collection techniques and the types of data to be studied.

The Family Violence Intervention Program described in this announcement, will expand the number of sites funded under the program in FY 1985. The evaluation of these programs will be included in the original evaluation plan through a supplement of up to $75,000 to the Institute for Social Analysis. The Detection and Monitoring of Drug-Using Arrestees Projects will be evaluated under a national evaluation sponsored by the National Institute of Justice.

Applications are due by September 5, 1986.

Note.—Since there will be insufficient funding for independent data collection, each demonstration project will be required to maintain core data elements and to cooperate with the evaluator. The evaluator will assist in defining the core data elements.

For additional information on the evaluation component, contact the program contact person listed in the program description.

Organized Crime/Narcotics Trafficking Enforcement Program

Background

Drug trafficking is a major cause of violence and crime in our cities. Development of successful cases against organized crime and narcotics trafficking conspiracies and offenders require utilization of unique investigative techniques.

The diffusion of responsibility among Federal, state, and local jurisdictions for organized crime and narcotics control works to the advantage of the criminal groups. Major criminal conspiracies often span jurisdictional boundaries to the extent that two or more state or local jurisdictions may be required to respond to the same offense or conspirators. The enforcement community's response to the conspiracy/offense may be fragmented, duplicative, counterproductive, or limited resulting in lack of prosecuting or a reduction in the level of conspirator investigated/prosecuted.

A formal mechanism whereby shared interdisciplinary resources are centrally coordinated can work to immobilize targeted offenders who manage these networks and organizations.

Goal/Objective

To develop regional enforcement projects to assist state and local law enforcement agencies through joint operations with Federal personnel and to remove specifically targeted major organized crime and narcotics trafficking conspiracies and offenders through investigation, arrest, prosecution, and conviction.

Program Description

Up to ten regional enforcement projects will be funded to develop and implement centrally coordinated multijurisdictional activities to investigate and prosecute complex multistate crimes and their perpetrators. Emphasis will be on establishment of an interdisciplinary response to commonly shared major crimes throughout a regional area and a formal mechanism whereby investigative and prosecutorial resources can be allocated, focused, and managed against targeted offenses and high level offenders to achieve maximum criminal and civil remedies. Critical to the success of this program is a shared management system of intergovernmental law enforcement/prosecutorial resources.

The Bureau of Justice Assistance will accomplish this demonstration through a cooperative agreement with the Institute for Intergovernmental Research as explained below under Eligibility Criteria.

Grant Period

Projects will be funded for 18 months, with the expectation that they will go through a 3 month organization and planning phase, and a 15 month implementation phase.

Award Amounts

Up to ten awards are estimated at approximately $170,000 each.

Eligibility Criteria

Potential applicant agencies will be identified by the Institute for Intergovernmental Research (IIR), based on their observed capacity to conduct a complete and fully coordinated program. Of these agencies identified, BJA will make final site selection based on the following criteria:

—Joint agency management and direction of investigations and prosecutions including the presentation of signed formal intergovernmental agreements
—A coordinated approach to the crime problem which results in a major impact on the problem not achievable through a single agency case by case approach
—Standardized procedures for central collection and dissemination of information, for joint case administration, and for investigative techniques and approaches
—Organizational and staffing plan
—The proposed case threshold or selection criteria to be used in the selection and prosecution of complaints and
—Anticipated impact upon the criminal justice system and on the crime problem.

Due Dates

Since these funds will be contracted by IIR to BJA selected sites, after completion of the above described process, no due dates are being announced.

Contact Person

The BJA contact for additional information on this program is Richard Ward, Law Enforcement/Crime Prevention Division, (202) 272–6838.

Police/School Drug Use Prevention Program

Background

Project DARE in Los Angeles is the most comprehensive example of police/school prevention efforts being mounted around the country. DARE (which stands for Drug Abuse Resistance Education) is conducted jointly by the Los Angeles Police Department and the Los Angeles Unified School District. It is a departure from past approaches by both police and educators. The use of uniformed police officers as classroom instructors reflects strong, involved police support for demand reduction, replacing the earlier reliance on supply interdiction. The presentation of a 17 part curriculum reflects comprehensive coverage of the knowledge and skills required to deal with the complex forces that often lead young people to experiment with and use drugs, replacing the earlier reliance on the provision of information regarding drugs and the negative consequences of abuse.

Through the semester-long presentation of a highly-structured,

cumulative curriculum, DARE officers attempt to provide fifth and sixth grade students with:

- knowledge about themselves, about their peers and other societal forces that influence them and about drugs and the consequences of use and abuse
- analytical and social skills that enable them to identify, distinguish, plan for, and resist the temptations to use drugs
- motivation to employ the skills they have learned.

Two short-term evaluations have been done of this program since its inception in September of 1983. Both have found positive results. The more recent evaluation, funded by the National Institute of Justice, compared DARE students with other students and found that DARE students: were significantly less likely to accept an offer of drugs; used refusal strategies significantly more often; and indicated significantly less substance use. Plans are in place for long-term evaluation to determine the duration and scope of impact of the DARE program.

It is the intention of the Bureau of Justice Assistance to demonstrate the transferability of this program to other sites. There are obstacles to such transfer. Few other police departments could match the fulltime assignment of 19 uniformed officers as the Los Angeles Police Department did for the 1985–86 school year. The projected assignment of 52 officers in 1986–87 is clearly not subject to wide replication. The coterminous boundaries of police department/school district found in Los Angeles, which simplified some of the logistics of program delivery, are not likely to be widely duplicated.

The program itself is not as yet structured for formal transfer. Much of its discipline and success appears to be drawn from the nature of the agreement between the police and the schools, from the rigorous manner in which officers are selected for participation and from the rigorous manner in which participating officers are trained for the classroom presentation of the DARE curriculum. Although a detailed methodology manual is not anticipated in the near future, the National Institute of Justice has recently funded an "Issues and Practices Monograph" which will be available in the spring of 1987 and will describe the various elements of the DARE program in some detail.

The Bureau of Justice Assistance has determined to proceed with the demonstration of the DARE concept at this time, rather than waiting for a fully structured transfer package, for four reasons:

- The promise of school-based prevention programs in general, and police-school progams like DARE is particular, in substantial.
- There is a growing resolve among local police departments and local schools to take the necessary actions to prevent drug abuse and a large and growing demand for a thorough, effective approach.
- The planning lead time required to put in place a program like DARE is substantial. Communities should review now the organizational, administrative, and resource requirements for DARE to be able to offer an effective program in the 1987–88 school year.
- The involvement of demonstration sites at this time should accelerate and refine the process of program development and documentation necessary for future widespread transfer.

Goal/Objective

To demonstrate effective police/school efforts to reduce the level of acceptance, by school children, of drug use and to increase the capacity of school children to resist the inclination to experiment with or use drugs.

Program Description

Five to seven projects will be funded to plan for and organize the implementation of the DARE program at the demonstration sites beginning with the 1987–88 school year. It is hoped that these sites will complete a planning and organization process sufficient to to provide an actual program comparable in substantive performance to the original DARE program. Action funding for such programs could be accomplished through the Block Grant Program.

At a minimum, these planning sites must address and document the following elements:

—Program Initiation and Oversight
- garnering support from police, educators, the community
- relative roles of police and educators
- areas of required consensus
- the kinds of formal agreements needed

—Program Administration
- staff and resource requirements
- duties and lines of authority
- management/evaluation information to be collected

—Curriculum
- lead and other review roles
- modifications to DARE curriculum required
- final curriculum

—Scope of the Program
- selection of schools to be included
- outreach to private schools, other organizations
- involvement of administrators, teachers and parents at selected schools

—Instructors
- selection criteria and procedures
- training criteria and procedures
- monitoring criteria and procedures
- duration of assignment and questions of turnover

—Community Support
- public information required
- possible sources of financial support

A separate award will be made to the City of Los Angeles for the provision of program development assistance, technical assistance, and training to the planning sites. This effort will draw heavily on the documentation and expertise developed by the Los Angeles Police Department.

Grant Period

Planning/organization grants will start on or about October 1, 1986 and run through September 30, 1987.

The technical assistance and training grant will start on or about October 1, 1986 and run through December 31, 1987.

Award Amounts

Planning/organization grants will be awarded for up to $560,000. The technical assistance and training grant will be awarded for $140,000.

Eligibility Criteria

This is primarily a local government program. Of the five to seven projects anticipated, at least five will go to local governments and no more than two will go to state governments.

Priority consideration will be given to local applications which involve the fewest governmental entities and the fewest police departments and school districts.

Applications which document a history of substantial police-school cooperation will be given most favorable consideration.

Eligible applications will be reviewed in light of the six elements of coverage listed and the most thorough and responsive will be selected.

References

J.M. Pollich, "Strategies for Controlling Adolescent Drug Use," Rand Report, 1984.

C.S. Bell and R. Battjes, "Prevention Research: Deterring Drug Abuse among Children and Adolescents," (National Institute on Drug Abuse: Rockville, Maryland, 1985).

William DeJong, "Project DARE: Teaching Kids to Say No to Drugs and

Alcohol," (NCJRS: National Institute of Justice Reports, SNI 196, March 1986).

Due Dates

Full applications are due on September 5, 1986. An application kit will be made available by the Bureau of Justice Assistance upon request. The kit includes: grant-in-aid forms and guidance; a brief overview of the DARE program; the DARE training syllabus; the DARE teacher instructional packet.

Program Contract

The Bureau of Justice Assistance contact person for additional information on this program is John Gregrich, Law Enforcement/Crime Prevention Division, (202) 272–4605.

Detection and Monitoring of Drug-using Arrestees Program

Background

Over a decade of experience with programs such as TASC (Treatment Alternatives to Street Crime) and with pre-trial service agencies, buttressed by the findings of a growing body of research, supported by the National Institute of Justice (NIJ), has led to some virtually certain conclusions regarding drugs, crime, and the required criminal justice system response.

Drug-abusing offenders have been found to be more criminally active than non-abusers. Multiple drug users appear to be even more active than single drug users. Drug use is much more prevalent than had been anticipated; NIJ research indicates that over half of those arrested in two major cities over the past two years had used drugs just prior to arrest. This same research supports earlier findings that drug-using arrestees released before trial are twice as likely to be rearrested before trial than are non-users. The growth in use of less predictable, and potentially more volatile, drugs like PCP and cocaine may well exacerbate this problem. Given this risk to public safety, it is significant that self-reporting of drug use is not reliable, identifying only half of the users.

This serious, but progressively better defined, problem is balanced in part by the technical and administrative resources and experience at the disposal of the criminal justice system. Intensive monitoring of drug-using offenders, to keep them off of drugs, has been long established by TASC programs as an effective way to significantly reduce criminal activity. Recent experience with pre-trial urine testing and monitoring has yielded the same results: drug users subjected to intensive monitoring as a condition of release experienced a pre-trial rearrest rate no higher than that for non-users.

Credible and timely information, by which to identify and monitor drug users, is assured through the use of EMIT (Enzyme Multiplied Immunoassay Technique) urine testing technology. This technology has proven 97% effective, with no false positives, in identifying the presence of specific drugs. Thus, at the point of decision regarding pre-trial release, judges are provided with reliable information upon which to base release conditions and treatment referrals.

It has been long established that court involvement is essential to get drug users into monitoring and treatment programs and to keep them there. The threatened or actual use of incarceration for those who refuse or resist monitoring or treatment, is required to make such programs work. The reliability of the technology involved enables judges to exercise this authority with greater confidence.

This technology, with the administration and information systems required to support it properly, is expensive. However, the expense will be justified, in terms of public safety, if continuing NIJ research confirms the view that drug use is as prevalent nationwide as it has been documented to be in New York and in Washington, DC.

It is the intention of the Bureau of Justice Assistance to demonstrate the proper use and application of this technology in selected sites and to cooperate with the National Institute of Justice in exploring ways to reduce costs.

Goal/Objective

To demonstrate the technology and administrative procedures which have been proven effective in detecting and monitoring drug-using arrestees.

Program Description

The Bureau of Justice Assistance will accomplish this demonstration through a cooperative agreement with the Pre-trial Services Resource Center. Through the Center, up to ten demonstration sites will be funded. To accomplish this, the Center will take into account: related National Institute of Justice research; Bureau of Justice Assistance's desire to create continuing host/assistance sites for further transfer of this technology; the requirements for evaluation of this demonstration; and, its detailed knowledge of the capacities of individual sites to utilize and apply this technology.

The Center will:

—identify potential sites

—advise and make recommendations regarding the most cost-effective sites

—transfer funds to the sites selected by the Bureau of Justice Assistance and oversee the administration of those funds

—provide program development and technical assistance to the demonstration sites

—monitor the progress of the demonstration sites and report to the Bureau of Justice Assistance.

The Center will enter into such formal agreements as necessary to provide demonstration sites access to the documents and expertise of the Washington, D.C. Pre-trial Services Agency and access to the drug testing and monitoring expertise in other pre-trial services agencies and TASC programs.

Grant Period

The cooperative agreement will start on or about October 1, 1986 and run through December 31, 1987.

Award Amount

The cooperative agreement will be awarded for approximately $1.8 million dollars.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is John Gregrich, Law Enforcement/Crime Prevention Division, (202) 272–4605.

Intensive Probation Supervision Program

Background

In recent years several states have tested various models of intensive probation supervision, notably Georgia and New Jersey. States have looked at probation options as a means to restrain growth of prison populations, reduce costs associated with incarceration, satisfy the public demand for punishment of criminal offenders, and secure the public safety.

Current evaluations show that tightly managed intensive probation supervision is both safe and cost effective. It directs the offender toward productive activities that promote both personal and social responsibility. Experience to date suggests that intensive probation provides sufficient controls to markedly limit the risk to the community, as compared to regular probation and those released directly from prison.

Preliminary estimates of the Georgia program indicate a savings of $6,775 for each case diverted from prison, with a total three year saving of over $13

million. In addition, probationers donate thousands of hours of community service.

New Jersey's more recent intensive probation supervision program is reflecting similar results relative to cost savings, recidivism, and risk, and is enjoying acceptance from judges and the community.

Goal/Objective

The goal of this program is to establish a series of demonstration projects located within state probation departments that effectively develop and implement intensive probation supervision. The objectives include demonstration of effective offender rehabilitation, cost savings versus other alternatives, and community safety.

Program Description

This program is basically a replication of the intensive probation supervision models implemented in the States of Georgia and New Jersey. The program emphasizes highly-structured, non-custodial supervision as an alternative to or in conjuction with incarceration, so that the penalties are both punitive and rehabilitative. The demonstration projects should maintain an experimental character to the extent possible so as to reinforce current research findings.

Intensive probation supervision would be selected as one of a range of alternatives that a state has explored. The concept paper should explain how intensive probation fits into the total range of corrections programs contemplated. Priority will be given to statewide efforts, but a state may propose pilot efforts in two or more counties. The demonstration projects should emphasize the following:

—Intensive supervision contacts, including considerable face-to-face contacts in the field, particularly in the early phases of the project
—Community service work
—Employment and/or vocational training
—Selective intake, barring offenders convicted of violent crimes, i.e., homicide, robbery, sex crimes.
—Special counseling
—Curfews
—Frequent checks of local arrest records
—Automatic notification of arrest elsewhere via state crime information network
—Routine and unannounced alcohol and drug testing.

Applicants should indicate the legislative base for the program and how guidelines and procedures will be established. The Bureau of Justice Assistance will provide technical assistance to each site during the planning and implementation phases.

Grant Period

Projects will be funded for 18 months. Projects are expected to start no later then the fourth quarter of calendar year 1986.

Award Amounts

An estimated five project awards will be made in the range of $100,000 to $150,000 for the 18-month period. A total of $600,000 has been budgeted for this purpose.

Eligibility Criteria

Applicants should submit a concept paper of approximately 10 pages, plus a one-page summary budget. State Departments of Corrections, State courts, and probation departments are eligible.

The concept paper should provide summary descriptions of how the project will be developed and administered, including the elements listed in the Program Description Section. Projects must agree to participate in the Bureau of Justice Assistance supported training and evaluation efforts.

Selection will in part be dependent on the level, commitment, and effective utilization of an organization's own resources in the development and implementation of the project.

References

"Granting Felons Probation: Public Risks and Alternatives", National Institute of Justice study by Rand Corporation, January, 1985.

"Intensive Supervision Program: Report to the Judicial College", New Jersey Administrative Office of the Courts, November, 1985.

"Taking Quality into Account: Assessing the Benefits and Costs of New Jersey's Intensive Supervision Program", Institute for Criminal Research, Rutgers University, 1986.

"New Dimensions in Probation: Georgia's Experience with Intensive Probation Supervision (IPS)", National Institute of Justice Draft Report, 1986.

Due Dates

Concept papers of approximately 10 pages in length are due at BJA on September 5, 1986. BJA will select sites based on the recommendations of the selection panel. Final applications from the selected sites will be due by October 24, with projected award dates in mid-November, 1986.

Program Contact

The Bureau of Justice Assistance contacts for additional information on this program are: Nicholas Demos or Kim Rendelson, Courts/Corrections Division, (202) 272–4605.

Family Violence Intervention Projects Program

This program will continue the Family Violence Intervention Demonstration Program initiated with FY 1985 funds. The goal of the program is to reduce domestic violence in adult relationships by instituting a comprehensive, effective criminal justice intervention program, with an emphasis on arrest and prosecution, in domestic violence cases.

Emphasis will be on the establishment of a multi-disciplinary approach, i.e., a cooperative effort among law enforcement, prosecutors, shelter providers, social services, and the courts. Each project will establish a model that includes written policies for law enforcement's response to domestic violence cases, including reporting requirements; enforcement of restraining or no-contact orders; guidelines for determining misdemeanor vs. felony offenses; assigning a high priority to domestic violence calls by dispatchers; and a provision for training. The policies should also include the protocols established between the law enforcement agencies and the prosecutors' offices defining how cases are to be identified, charges filed, complaints issued, and cases assigned. The projects should also identify the types of services available for victims and offenders, including shelter facilities, and how networking and cooperation will be achieved.

The Bureau of Justice Assistance will provide $600,000 to support four additional projects in this program area. However, given the considerable number and high quality of applications submitted as a result of the initial program announcement, those four projects will be chosen from that already available pool of applications.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is Doug Brown, Courts/Corrections Division, (202) 272–4605.

SUBPART II—TECHNICAL ASSISTANCE/TRAINING PRIORITIES

Purpose

Through the provisions of the Justice Assistance Act of 1984, Congress has clearly intended to fund programs that will have a profound and immediate

effect on violent crime. To ensure that the Block Grant Programs mandated by Congress have every means of successful implementation, technical assistance and training support will be provided. This assistance will be extended to those projects funded under the State Block Grants, as well as, those which fit within the Congressional mandate but for which no block funds can be allocated.

Technical assistance and training will be provided at the lowest cost possible, emphasizing the use of short-term practitioner-consultants from states, and regional grouping of assistance whenever possible. Technical assistance and training support will involve: (1) The use of staff specialists from the Office of Justice Programs; (2) individual purchase orders for expert services; (3) expansion of current grants and contracts when cost effective to do so; and (4) cooperative agreements to engage nonprofit agencies.

Application deadlines and dollar amounts are noted in the program descriptions. Cooperative agreements and grants will be awarded for 100 percent of project costs. Public agencies and private non-profit organizations are eligible to apply.

Organized Crime/Drug Prosecutor Program

Background

BJA is undertaking a Demonstration Program that is designed to attack organized crime/narcotics traffickers by way of regionally based shared management and resource task forces. A secondary approach, although not yet fully developed, is in the area of statewide drug prosecution. Both of these efforts will require technical assistance in the identification of potentially eligible jurisdictions. The Demonstration Program will also require assistance in the establishment of appropriate organizational arrangements, the identification and development of specialized skills and other resources among participating agencies, continuing assessment of the shared management process, and contract administration.

Goal/Objective

The goal of this effort is the provision of technical assistance and ongoing monitoring in programs undertaken by BJA in the area of organized crime/drug trafficking. A secondary goal is the identification of states that have statewide drug prosecutors or the capability for statewide drug prosecution. Identification of these jurisdictions may lead to either a technical assistance or demonstration program in FY 1987. Contract processing and administration for the Organized Crime/Narcotics Trafficking Demonstration Program will also be an activity under this effort.

Program Description

A grant to the Institute for Intergovernmental Research (IIR) will be made for the provision of technical assistance administration and monitoring in the described areas. Specific tasks will focus on the identification of jurisdictions that possess the organizational structure, crime problems, legal authorities and resources available to successfully implement the objectives of the organized crime/narcotics trafficking demonstration program. Upon BJA selection of the participating jurisdictions the grantee will assist in the development of criteria to identify, select and prioritize investigative targets, assist in the development of cooperative interdisciplinary and interjurisdictional working relationships, develop educational and training programs to upgrade the skills of enforcement and prosecutive personnel, assist in the implementation of the shared management process, and provide for contract administration and monitoring.

In the area of statewide drug prosecution, the grantee will undertake a research effort designed to identify states with either a statewide drug prosecutor or statewide drug prosecution capability, provide assistance to the states in the further development of refinement of that capability, and respond to inquiries from State officials interested in developing a statewide drug prosecution program. It is anticipated that the TA provided under this effort may lead to the development of a Technical Assistance or Demonstration Program for FY 1987.

Grant Period

This project will be funded for 18 months.

Award Amount

One award in the amount of $250,000 will be made to the Institute for Intergovernmental Research (IIR).

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is Richard Ward, Law Enforcement/Crime Prevention Division, (202) 272–6838.

Community Crime Prevention Program

Assistance will be provided in support of Community Crime Prevention Programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime.

Technical assistance and training will be provided to Block Grant projects and a limited range of non-block grant projects through expansion of the current grant to the National Crime Prevention Council. Council staff will evaluate requests for assistance and recommend the most cost effective method of technical assistance delivery.

On-site technical assistance will be provided by a core group of experienced practitioners who will be trained and used as a team to assist state and local governments. All on-site assistance will be approved by the BJA and implemented under established procedures by the National Crime Prevention Council.

Two regional project "cluster" conferences will be conducted to distribute pertinent information and to exchange experiences on implementing crime prevention projects. A cluster conference will be held for eastern states and another for western states during 1987.

Technical Assistance will be provided by NCPC through their National Resource Library of pamphlets, brochures, slides, and literature as well as their computer center of over 25,000 active crime prevention programs

Funding

This effort will expand on the current capabilities of the National Crime Prevention Council which is already heavily involved in a number of the described components. The current Council grant will be supplemented in the amount of $800,000.

The BJA contact for additional information on this program area is Ronald Steger, Community Crime Prevention Program, 202/272–6838.

Arson for Profit Investigation Training for Prosecutors Program

Background

In 1979 the Bureau of Alcohol, Tobacco and Firearms (ATF) initiated the Arson Task Force concept as an enforcement approach to arson for profit investigations. This concept materialized into an effective approach in complex arson-for-profit investigations with its focus on the early and continued involvement of the prosecutor as an integral member of the investigative team. The prosecution of an arson case, especially one which is

primarily circumstantial in nature, requires an expertise that is usually not essential in other types of cases. As a result of the concentrated enforcement activities of the task forces, a close cooperative relationship has evolved between ATF and many state and local prosecutors, a relationship which has demonstrated that complex arson-for-profit investigations can be successfully prosecuted in both Federal and State courts. Lessons learned as a result of this approach were developed into a training program by ATF to assist State and local prosecutors gain the skills necessary to successfully prosecute cases of this nature.

Goal/Objective

The goal of this program is the presentation of the ATF developed arson-for-profit training program for state and local prosecutors.

Program Description

The arson-for-profit training program will be presented by ATF to state and local prosecutors at the Federal Law Enforcement Training Center (FLETC) at Glynco, Georgia. The training will last 4–5 days and each session will include approximately 30 students. Four to five sessions are anticipated during the course of this award. The training will include a comprehensive study of arson investigation and prosecution from origin and cause determinations to trial tactics. ATF will provide a follow-up assessment of the training effectiveness by participant critiques and responses solicited from state and local investigators from those jurisdictions that had prosecutors participate in the training.

Grant Period

The grant period will be for 18 months.

Award Amount

The award will be made for up to $100,000.

Eligibility Criteria

The training that will be provided under this program was developed in 1985 by the ATF. A cooperative agreement will be developed between BJA and ATF for the provision of training in this area.

Asset Seizure and Forfeiture Program

Background

This program is based on previous research and development funded by the National Institute of Justice, and others dealing with asset removal and forfeiture as an effective means of depriving drug traffickers of economic support and incentive. National Institute of Justice research also points to effective application of forfeiture laws and rules as a means of converting illicit capital to law enforcement purposes and generating major financial benefits to the community. Research has been conducted on enhancing the productivity of police narcotics control and asset removal strategies, and a model training curriculum for law enforcement officials and prosecutors has been developed and tested.

Goal/Objective

The BJA Asset Seizure and Forfeiture Program is designed to provide operational training and technical assistance to local law enforcement and prosecution personnel to familiarize them with the pertinent local, state, and Federal laws and protocols.

Program Description

A cooperative agreement will be negotiated to conduct training, to deliver technical assistance and to perform related tasks that may be identified during the negotiations or later. BJA will retain a strong management interest during the development and throughout the life of the program. It is to be expected that successful training and technical assistance efforts may lead to the identification of successful "model" programs that could serve as future demonstration programs. Neither funds nor methodology have been established currently for this purpose.

The recipients of BJA State Block Grant assistance will be the primary targets for the training and technical assistance program; however, other jurisdictions will be eligible providing that all interested primary targets can be accommodated. Interested officials can expect to receive ample notice of program activities/opportunities through their state criminal justice block grant coordinator and through notices in professional publications. The operational training will be delivered to small groups of states so that it can focus on respective state laws, legal culture, and specific problems. Technical assistance will be available to build on the training experience and to assist with implementation of local plans.

Grant Period

The grant period will be 18 months. It is anticipated that six months will be devoted to development and planning, including needs assessment and identifidation of state/local experts to assist in the training, followed by twelve months of operation.

Award Amounts

One award of approximately $250,000 will be made.

Eligibility Criteria

A cooperative agreement will be negotiated to further the work of the investigators who performed the initial phase work with NIJ.

References

Stellwagen and Wylie, "Strategies for Supplementing the Police Budget", National Institute of Justice, Washington, DC, May, 1985.

"The Use of Forfeitures Sanctions in Drug Cases", National Institute of Justice, Washington, DC.

"Enhancing the Productivity of Police Narcotics Control and Asset Removal Strategies—Final Report", National Criminal Justice Association, Washington, DC, June, 1986.

"State Laws and Procedures Affecting Drug Trafficking Control: A National Overview", National Criminal Justice Association, Washington, DC, February, 1986.

Program Contact

The BJA contact for additional information on this program is Richard Ward, Law Enforcement/Crime Prevention Division, (202) 272–6838.

Targeting Low Enforcement Resources Program

Background

Law enforcement agencies have traditionally been concerned with repeat offenders, but now in the face of stable or declining resources, it is essential to concentrate on identifying and successfully prosecuting the high rate offenders. The challenge is to find fiscally efficient ways to target the highly active criminal. In order to meet this challenge, law enforcement managers need practical information about new program approaches—what has been tried in other agencies, how it has worked and at what costs—to make choices consonant with the need for both public safety and fiscal prudence.

Goal/Objective

The goal of this program is to provide training and technical assistance to law enforcement executives and managers in various methods for targeting law enforcement resources on repeat offenders. The focus of this effort will be on transferring methodologies and technologies gained as a result of special initiatives developed by a number of law enforcement agencies throughout the country. As the training

and technical assistance effort develops, it is possible that several model projects will be spun off the training, based on identified successful approaches.

Program Description

The training curriculum will be developed around three basic types of career criminal programs. Pre-arrest targeting programs which use surveillance and other investigative techniques to apprehend repeat offenders during the commission of a crime, special warrant program designed to ensure for special handling of outstanding warrants on repeat offenders, and post arrest case enhancement programs that target special investigative resources on career criminal cases will form the core of the program. The underlying rationale, the benefits and limitations of each will be discussed. A detailed presentation will also be provided concerning the operational strategies and tactics used in each type of program.

Grant Period

The grant period will be 18 months.

Award Amount

One award of approximately $500,000 is anticipated.

Eligibility Criteria

A cooperative agreement will be entered into between BJA and the Police Executive Research Foundation (PERF) to continue PERF's efforts in this area and develop the described training and technical assistance program.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is Richard Ward, Law Enforcement/Crime Prevention Division, (202) 272–6838.

Technical Assistance to the Courts Program

Background

States have elected to implement programs in the areas of court delay reduction, jury management, jail overcrowding reduction, career criminal prosection, and prosecution management support systems using FY1985 and FY1986 Block grant funds. Assessments indicate jurisdictions need technical assistance and training to achieve proper implementation of intitial or enhanced programs in these areas. Current cooperative agreements with the National Center for State Courts and EMT Group, Inc will not permit delivery of necessary technical assistance and training during the implementation period of these program areas.

Goal/Objectives

To provide on-site, cross site, information dissemination, and structured training for state and local agencies implementing court improvement initiatives under the Justice Assistance Act of 1984.

Program Description

Technical assistance and training will be provided to eligible criminal justice agencies through FY1987. Emphasis will be given to those agencies receiving Block Grant funds for the purpose of implementing court delay reduction, jury management, jail overcrowding reduction, career criminal prosecution, and prosecution management support system programs.

Grant Period/Award Amounts

Up to $100,000 will be awarded to the National Center for State Courts to supplement the existing cooperative agreement and continue training services for the period from February 2, 1987 to September 30, 1987. Up to $80,000 will be awarded to EMT Group, Inc to supplement the existing cooperative agreement and continue technical services from June 1, 1987 to September 30, 1987.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program in Jay Marshall, Courts/Corrections Division, (202) 272–4601.

Information Systems Program

The existing SEARCH GROUP, INC., cooperative agreement will be extended to September 30, 1987. In addition to the continuation of the existing grant provisions of: technical assistance, (site, telephone and documentary) training at regional sites, access to public domain software, systems manuals, and revision and development of Program Briefs, the grantee will develop and distribute a resource catalog of agencies implementing Presecution Management Support Systems and a resource catalog of agencies implementing court management systems. These catalogs will identify and describe various hardware/software systems used and will serve as a resource reference for practitioners. Altheough Block Grant funded projects will receive first priority, assistance will be provided to other criminal justice entities to the degree that the cooperative agreement allows. Approximately $270,000 will be added to the current cooperative agreement.

Contact Person

The Bureau of Justice Assistance contact for additional information on this program is: Eugene H. Dzikiewicz, Courts/Corrections Division, (202) 272–6838.

Intensive Probation Support Services Program

Background

The Intensive Probation Supervision Demonstration program requires a higly structued and tightly managed probation project in five jurisdictions. Intensive probation is designed to handle an intermediate level of offender—those who are too antisocial for the relative freedom of ordinary probation, but not so serious as to require incarceration.

The Bureau of Justice Assistance is committed to providing technical assistance and training to the project staffs and other criminal justice officials in each of the demonstration sites. The technical assistance and training will assist with some of the known problems, namely: the potential for "netwidening" and intake of ordinary probationers; the issue of staff burnout; the need for sophisticated inmate screening criteria; and the criteria for revocation of probation and incarceration to provide credibility.

Goal/Objectives

The goal is to insure successful Intensive Probation Supervision Demonstration projects that draw on the best of current state models.

The objectives are:

—to provide group and project site training in organizational screening, and management techniques
—to provide experienced consultants to resolve specific management issues
—to collect and disseminate current publications on intensive probation practices
—to assist the program evaluator in setting up a uniform data system.

Program Description

A technical assistance grantee will broker technical assistance for the five Intensive Probation sites, and plan and coordinate periodic meetings of key staffs from the demonstration projects. The technical assistance grantee will draw on the experience of the IPS efforts of Georgia, New Jersey, Florida, Illinois, Arizona, and other states. An initial assignment will be writing a handbook outlining organizational issues, staff recruiting and training, risk assessment instruments, range of supervision options, and revocation criteria.

A list of consultants for various management and operational issues will be completed and consultants will be assigned as needed. The grantee will coordinate technical assistance activities and training sessions with the evaluator and assist in establishing comparable data bases for evaluation.

Grant Period

This project will be of 18 months duration and will start up simultaneously with the Demonstration Program.

Award Amounts

The Bureau of Justice Assistance will provide up to $150,000 of discretionary funds for the technical assistance effort.

Eligibility Criteria

A sole source grant will be negotiated with Rutgers University Graduate School of Criminal Justice, Newark, New Jersey. Rutgers was selected for this project because it is currently providing such technical assistance in Oregon, has been training probation and other criminal justice officials throughout the nation and assisted in the evaluations of the New Jersey and Georgia Intensive Probation programs.

References

See Intensive Probation Supervision Demonstration Program.

Due Date

A final application outlining the scope of technical assistance and training activities, a workplan, and detailed budget will be due in the Bureau of Justice Assistance by September 5, 1986.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is Nicholas Demos, Courts/Corrections Division, (202) 272–4605.

Victim Assistance Program

The existing cooperative agreement with the National Organization for Victim Assistance (NOVA) will be extended to September 30, 1987. In close cooperation with the Bureau of Justice Assistance, NOVA will continue to oversee the delivery of on-site technical assistance primarily to Block Grant recipients, and will provide additional regional training efforts. This effort will support the development and implementation of programs and projects which provide assistance to victims of crime, as provided for in the Justice Assistance Act of 1984. Recipient groups include state legislative and executive officials engaged in victim law reform organizations addressing violence within the family and law enforcement officials, and others seeking to improve victim assistance procedures and otherwise address the suffering of victims of crime. $120,000 will be added to the current cooperative agreement.

Program Contact

The BJA contact person for additional information about this program is Douglas Brown, Courts/Corrections Division (202) 272–4605.

SUBPART III—NATIONAL/MULTI-STATE PROGRAMS

Purpose

National/Multi-state programs address national priorities and initiatives that cannot be met through the State Block Grant Program. They reflect priorities or gaps in criminal justice funding that cannot be met from other sources. In addition to the programs described below the Bureau will sponsor four to six seminars to discuss state and local narcotics/drug problems. The seminars will involve "key" officials from the criminal justice community in each state. The seminar results will be documented through a formal publication. Approximately $600,000 has been allocated under this subpart to pay for the organizing of the seminars, travel costs for participants and publication and distribution of the report. Due to time constraints a national contractor will be selected by BJA to provide services related to this project.

National Crime Prevention Campaign

Background

Law enforcement in partnership with citizens have united in positive activities to combat crime. It is now estimated that 10 million American citizens participate in some kind of neighborhood crime watch activities in 30,000 communities across the country. Programs include Neighborhood Watch, escort services for the elderly, safe homes for children, home security crime prevention public education; arson prevention and urban rural crime prevention. Citizens and law enforcement working together with other local government and community resources have had an impact on restoring a sense of security to communities, schools, and the work places.

The National Citizens Crime Prevention ("McGruff") Campaign provides a national focus on these diverse efforts. This Campaign initiated in 1978 by the Office of Justice Assistance, Research and Statistics and the National Advertising Council, Inc., continue today with funding of both the Bureau of Justice Assistance and the private sector. The Secretariat for the "McGruff" campaign is the National Crime Prevention Council (NCPC) a non-profit organization that provides technical assistance, training and materials to support state and local programs and the National Crime Prevention Coalition.

The Bureau of Justice Assistance in cooperation with the National Crime Prevention Council, develops, distributes and promotes crime prevention technical assistance, training and materials to support citizens activities aimed at impacting crime through crime prevention.

Goal/Objectives

To provide in the most cost effective manner a clearinghouse for crime prevention materials, technical assistance and training through public education, workshops and demonstration programs.

Through this BJA/NCPC Cooperative Agreement, the following objectives will be achieved:

—Support for the McGruff Campaign. Current national issues will be translated into national media campaigns and supported by follow-up materials. $55 million worth of free public advertising will be secured.
—Provide crime prevention public awareness and ability to take positive action through "How to" Kits, newsletters, monographs, and booklets.
—Expand technical assistance to BJA cime prevention block grants, state crime prevention associations and programs, coalition members and citizens seeking advice and assistance.

Assistance will be provided through:

- A National Resource Library of current crime prevention literature, including pamphlets, brochures, slides, etc.
- A computer center housing information on over 25,000 active crime prevention programs.
- Comprehensive package of crime prevention materials designed specifically for BJA block grant recipients.
- Topical workshops and seminars located geographically across the country for basic and advanced programs.
- Crime prevention curriculum assistance including design of specific topical lesson plans to assist law

enforcement training academies throughout the country.

- A national research and policy forum to the crime prevention practitioner. Efforts would include: Eastern and Western Roundtable workshops for state association and state program policy makers;
- Development of crime prevention "How to" kits for seniors or teens;
- A national network of state computers interfacing with the NCPC database;
- Various task forces called by NCPC/BJA to focus on a specific issue or problem.

For the purpose of implementing these national initiatives, BJA will enter into a 12-month Cooperative Agreement with the National Crime Prevention Council, in an amount up to $1 million with a cash match of $400,000.

Program Contact

The Bureau of Justice Assistance contact for additional information on this program is Ronald Steger, (202) 272-6838.

Deadly Force Program

Background

Over the past several years a significant number of research projects have been funded to begin gathering information and to develop a knowledge base on what can be done in organizational terms by police departments to reduce the number of civilians shot by police officers without placing the officers themselves in greater jeopardy. This research has led to the development of "model policies" designed to reduce police homicide while preserving the officers' ability to fulfill their law enforcement duties and protect themselves from personal harm.

Goal/Objective

This program will develop a training and technical assistance program that is based on "model policies" for the use of deadly force and designed to upgrade police administrator's ability to identify the issues inherent in the use of deadly force and to formulate policies and procedures that are tailored to departmental needs.

Program Description

This program will provide training and technical assistance for law enforcement officers in the use of deadly force. It will be based on the research and policy development conducted by the International Association of Chiefs of Police. Information on training dates and technical assistance availability will be disseminated early in the new fiscal year.

Grant Period

This project will be 18 months in duration. It is anticipated that 3–6 months will be spent on curriculum development and course structure. The remaining 12–15 months will be spent on implementation activities.

Award Amount

The Bureau of Justice Assistance will provide up to $250,000 for this effort.

Eligibility Criteria

A national professional law enforcement organization, the International Association of Chiefs of Police (IACP), have developed the Model Policies on Use of Deadly Force. BJA will enter into a cooperative agreement with IACP to provide training in this area based on their model policies.

Contact Person

The BJA contact for additional information on this program is Richard Ward, Law Enforcement/Crime Prevention Division, (202) 272–6838.

Victims Assistance

Discretionary funds have been made available to the Office for Victims of Crime (OVC) for the purpose of implementing programs for Victim Assistance within the intent of the JAA legislation. Two grants have been awarded under the Victims Assistance Program. A cooperative agreement for the Family Violence Prevention Project was awarded for the purpose of educating and activating segments of the population which have not previously been involved in the issue of family violence. The Task Force on Families in Crisis will establish, in five sites, a Community Task Force composed of representatives of the law enforcement/criminal justice system, local government, business, religious, civic and volunteer organizations to assess the family violence problem in their communities, the level of services presently available and services needed; and develop a plan of activities to strengthen families and help prevent family violence. The Task Force on Families in Crisis will also compile and make available for national distribution, a directory of private services to families and victims of family violence including safe home networks, crisis centers, family life centers, shelters and counseling programs for abusers.

The National Network and Services Development Program enables the National Organization for Victims Assistance to resume full operation of its victim advocacy and networking efforts for four additional months. NOVA will engage in the following activities: (1) National advocacy to promote public policy change and public education through maintenance of a state legislative network and publication/distribution of a legislative advocacy information bulletin; (2) enhancement of networking via a meeting of 50–75 representatives of national organizations working in the victim services field to explore ways in which national leadership can improve networking and communications among service agencies at the local, state and national levels; (3) refinement of the Management Information System and Site Assessment Package; and (4) provision of information and referral services.

Contact Person

The contact for additional information in this program area is Verne Speirs, Administrator, Office for Victims of Crime, 202/724–5983.

Mack M. Vines,

Director.

Charles A. Lauer,

General Counsel, Office of General Counsel, Office of Justice Programs.

[FR Doc. 86–17815 Filed 8–6–86; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Task Force on Economic Adjustment and Worker Dislocation; Meeting

Notice is hereby given that the Task Force on Economic Adjustment and Worker Dislocation will hold its fourth meeting at 10:00 a.m. on Tuesday, August 20, 1986, in Room C–5515—Seminar Room 6, 200 Constitution Avenue NW., Washington, DC 20210. The public is invited to attend.

The purpose of the meeting is to discuss and ratify subcommittee progress.

For further information contact: Mr. Gerald Holmes, U.S. Department of Labor, Room S–5014, Washington, DC 20210, (202) 523–7571.

Signed at Washington, DC, this Thursday of July 31, 1986.

Michael E. Baroody,

Assistant Secretary for Policy.

[FR Doc. 86–17738 Filed 8–6–86; 8:45 am]

BILLING CODE 4510–23–M

MERIT SYSTEMS PROTECTION BOARD

Call for GPO Printing Riders for Reprinting of Rules of Practice in Proceedings Before the Merit Systems Protection Board in Pamphlet Form

Correction

In FR Doc. 86–17236 appearing on page 27475 in the issue of Thursday, July 31, 1986, make the following correction: In the second column, in the **SUPPLEMENTARY INFORMATION** paragraph, in the ninth line, "in jobs" should read "in general and especially to those employees in jobs".

BILLING CODE 1505–01–M

NATIONAL ENDOWMENT ON THE ARTS AND HUMANITIES

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Media Arts Center Section) to the National Council on the Arts will be held on August 25–27, 1986 from 9:00 a.m.–6:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: July 31, 1986.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–17752 Filed 8–6–86; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Sequoyah Fuels Corp. (Sequoyah Facility, Gore, OK); Receipt of Petition for Director's Decision

Notice is hereby given that by Petition dated July 3, 1986, Citizens' Action for a Safe Environment requested that the Director, Office of Inspection and Enforcement, stay the restart of operations of the Sequoyah Fuels facility in Gore, Oklahoma; temporarily suspend Sequoyah Fuels Corporation's (SFC's) license for the facility; serve upon SFC an Order to Show Cause why its license to operate the facility should not be suspended or revoked; and ultimately permanently revoke SFC's license to operate the facility. The Petitioner asserts, as a basis for this request, that the licensee has shown itself to be unfit to operate a facility, as evidenced by its gross negligence in the operation of the Sequoyah Fuels facility, willful violations of the requirements of its license, and making of a material false statement with regard to its probabilistic risk assessment of the likelihood of an accident involving a rupture or value failure of a hot uranium hexafluoride (UF_6) product cylinder. The Petition is being treated as a request for action under 10 CFR 2.206 and, accordingly, the staff will take appropriate action on the request within a reasonable time. A copy of the Petition is available for public inspection in the Commission's public document room at 1717 H Street NW., Washington, DC 20555 and in the local public document room for the facility located at Sallisaw City Library, 101 East Cherokee, Sallisaw, Oklahoma, 74955.

Dated at Bethesda, Maryland, this 31st day of July, 1986.

For The Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–17792 Filed 8–6–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–9 and NPF–17 issued to Duke Power Company for operation of the McGuire Nuclear Station, Units 1 and 2, located in Macklenburg County, North Carolina.

By previous notice 51 FR 23484 on June 27, 1986, the Commission discussed proposed amendments which would revise the Technical Specifications (TS) to reflect the third of several refueling stages involved in the continuing transition to the use of optimized fuel assemblies in McGuire Unit 1. The TS changes would provide for plant operation consistent with the design and safety evaluation conclusions in the licensee's McGuire Unit 1 Cycle 4 Reload Safety Evaluation (RSE) which accompanied the license's amendment request of May 15, 1986. The notice also described (1) changes in axial flux difference limits as a function of rated thermal power which are proposed for McGuire Unit 1, and (2) changes associated with a more positive moderator temperature coefficient proposed for both McGuire Unit 1 and Unit 2. Additional information in support of the May 15, 1986, request has subsequently been provided by the licensee by letters dated May 26, June 6 and June 30, 1986. These supplemental letters do not alter the proposed changes as originally requested. However, by letter dated August 4, 1986, the licensee requested additional TS changes for TS 5.3.1, "Fuel Assemblies", which were not included in previous notice 51 FR 23484. These additional proposed changes are the subject of this current notice.

The additional changes would allow use of solid stainless steel (SS) or Zircaloy rods (i.e., fillers) and the use of open water channels (i.e., vacancies) within a fuel assembly. Specifically, the existing requirement of TS 5.3.1 that the fuel assemblies contain "264 fuel rods clad with Zircaloy-4" would be changed to "264 fuel rod locations. Fuel rod locations may at any time during plant life have, as determined by cycle-specific reload analyses, any combination of (1) fuel rods clad with Zircaloy-4, (2) filler rods fabricated from Zircaloy-4 or stainless steel, or (3) vacancies." The additional changes would also delete an obsolete sentence from TS 5.3.1 which states that "The initial core loading shall have a maximum enrichment of 3.15 weight percent U–235."

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Use of solid SS or Zicaloy-4 fillers and vacancies is proposed in place of fuel rods in fuel assemblies that are

susceptible to problems such as "baffle jetting." For Unit 1 Cycle 4, the licensee's submittal of August 4, 1986 provided a revised Reload Safety Evaluation (RSE) to reflect core changes in which one fuel assembly will have eight fuel rods replaced by eight solid SS fillers, and a second fuel assembly will have eight fuel rods replaced by six solid SS fillers and two vacancies. The SS fillers and vacancies will be located at the periphery of the core (so that any water jetting across the core baffle would impinge on the SS rods and not lead to fuel rod damage) and, therefore, would have little or no effect on core performance. The two fuel assembies will meet essentially the same design requirements, satisfy the same design criteria as the original fuel assemblies, and the use of such assemblies will not result in a change to existing safety criteria and design limits. The revised RSE continues to use analytical methods previously approved by the Commission. For subsequent Unit 1 or Unit 2 cycles, cycle-specific reload analyses will continue to be performed in accordance with the Commission's regulations, as reflected in the proposed change.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7744). One of these, example (iii), involving no significant hazards considerations is ". . . a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and the NRC has previously found such methods acceptable." Based upon our review of the licensee's August 1986 letter and its revised RSE as discussed above, we find that the proposed changes to TS 5.3.1 allowing use of solid SS and Zircaloy-4 rods and vacancies in place of fuel rods match the quoted example.

Another example of actions not likely to involve significant hazards considerations is (i), "a purely administrative change to technical specifications." The proposed change to delete the obsolete sentence in existing TS 5.3.1, which applied only to the initial fuel cycles, matches this example.

Therefore, based on these considerations and the examples given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the current refueling shutdown for McGuire Unit 1. The licensee's scheduled date for completing the current refueling outage and achieving criticality is August 26, 1986. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

Normally, the Commission will not issue the amendment until the expiration of the notice period. However, should circumstances change during the notice period, the Commission may issue the license amendments before the expiration of the notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide the opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

If the proposed determination becomes final, an opportunity for a hearing will be published in the Federal Register at a later date and any hearing request will not delay the effective date of the amendments.

If the Commission decides in its final determination that the amendments do involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the Federal Register and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to B.J. Youngblood, Director of PWR Project Directorate No. 4, by collect call to 301–492–8060 or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and should cite the publication date and page number of this Federal Register notice. All comments received by August 22, 1986, will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Atkins Library, University of North Carolina, Charlotte (UNCC Section) North Carolina 28233.

Dated at Bethesda, Maryland, this 4th day of August 1986.

For The Nuclear Regulatory Commission.

Dave Wigginton,

Acting Director, PWR Project Directorate No. 4, Division of PWR Licensing–A.

[FR Doc. 86–17790 Filed 8–6–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–220]

Niagara Mohawk Power Corp.; Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Niagara Mohawk Power Corporation (the licensee) to withdraw its January 29, 1986 application for amendment to Facility Operating License No. DPR–63 issued to the licensee for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (NMP1) located in Oswego County, New York. Notice of consideration of issuances of this amendment was published in the Federal Register on April 9, 1986 (51 FR 12231).

The request proposed changes to section 3.6 of the Appendix A Technical Specifications (TS) regarding the Fire Protection Program. The amendment was to reflect: (1) Changes consistent with the Standard Technical Specifications; (2) Editorial changes; and (3) Changes reflecting plant modifications. As a result of the issuance of Generic Letter 86–10, Implementation of Fire Protection Requirements, the request for amendment is no longer required since the licensee's current fire protection program will be incorporated into the Final Safety Analysis Report.

By letter dated May 15, 1986, the licensee requested, pursuant to 10 CFR

2.107, permission to withdraw its January 29, 1986 application. The Commission has considered the licensee's request and has determined that permission to withdraw the January 29, 1986 application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated January 29, 1986, (2) the licensee's request for withdrawal dated May 15, 1986, and (3) the Commission's letter dated July 30, 1986. All of above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Dated at Bethesda, Maryland, this 30th day of July 1986.

For the Nuclear Regulatory Commission.

Jack N. Donohew, Jr.,

Acting Director, BWR Project Directorate #1, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-17791 Filed 8-6-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Standard Form 113-G

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C. Chapter 35), this notice announces a request submitted to OMB for clearance to continue to collect information for the Monthly Report of Full-time Equivalent/Work-Year Civilian Employment (Standard Form 113-G). The data collected are used by OMB and OPM to (1) monitor agencies' progress in increasing part-time employment; (2) aid OMB and the President in making decisions on agencies' budget appropriations for the next fiscal year; and (3) monitor agency work-year usage under assigned ceilings during the current fiscal year. For copies of this proposal, call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

DATE: Comment on this information collection should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James M. Farron, Agency Clearance Officer, Office of Personnel Management, Room 6410, 1900 E Street NW., Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James M. Farron, (202) 632-7714, U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-17789 Filed 8-6-86; 8:45 am]

BILLING CODE 6325-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Assessment Steering Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Hydro assessment study report (site ranking, protected areas, public review process).
- FERC update.
- Idaho hydro projects slide show.
- Other.
- Public comment.

DATE: August 21, 1986, 10:00 a.m.

ADDRESS: The meeting will be held in the Boise Municipal Airport meeting room, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, 503-222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 86-17736 Filed 8-6-86; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549

Extension

Rule 19d-1 (b) through (i)

No. 270-242

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19d-1 (b) through (i) (17 CFR 240. 19d-1 (b) through (i)) which prescribes the form and content of notices required to be filed with the Commission by self-regulatory organizations for which the Commission is the appropriate regulatory agency concerning final disciplinary actions, denials of membership, and participations or associations with a member. The potential affected persons are twenty-four self-regulatory organizations.

Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

July 31, 1986.

[FR Doc. 86-17811 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer—Kenneth Fogash, (202) 272-2142

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549

Revision

Proposed Amendment to Industry Guide 3, "Statistical Disclosure by Bank Holding Companies."

SEC File No. 270-3.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for approval a proposed amendment regarding disclosures of

outstandings to borrowers in certain foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest, and certain restructurings of outstandings to those countries.

The potential respondents include all bank holding companies that have such outstandings and file registration statements or reports pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934.

Submit comments to OMB Desk Officer: Sheri Fox, (202) 395–3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

By the Commission.

Jonathan G. Katz,

Secretary.

July 31, 1986.

[FR Doc. 86–17786 Filed 8–6–86; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549

Extension

Rule 17Ad–7

No. 270–136.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17Ad–7 (17 CFR 240.17Ad–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires registered transfer agents to retain certain records necessary to permit the appropriate regulatory agency to examine registered transfer agents for compliance with applicable Commission rules. The potential affected persons are approximately 2,500 registered transfer agents.

Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395–3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

July 31, 1986.

[FR Doc. 86–17787 Filed 8–6–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–23487; File No. SR–OCC–86–10]

Self-Regulatory Organizations; Options Clearing Corp.; Proposed Rule Change Amending Financial Requirements and Reporting Rules To Facilitate Membership of Foreign Securities Firms in Options Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on May 9, 1986, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. OCC amended the proposed rule change on July 2, 1986. The Commission is publishing this notice to solicit comment. The proposal would amend OCC's By-Laws and Rules relating to Foreign Clearing Members ("FCMs"). In general, the proposal would allow qualifying Foreign Clearing Members to elect a special membership status. That status essentially would have the effect of enabling those firms to participate directly in OCC as long as they comply with the financial reporting and financial responsibility standards of their home country.

I. Description of the Proposal

The proposal would create a new type of OCC Clearing Member, an "exempt Foreign Clearing Member" ("exempt FCM"). Article I, Section 1 (rrr) of OCC's By-Laws would be amended to expand the definition of "Foreign Securities Firm" to include an exempt FCM. It would also add the term "Canadian Clearing Member" and define it as an FCM formed and operated under the laws of Canada or a province thereof, with its principal place of business in Canada.

Under OCC Rule 310, the FCM, in its application for admission into OCC, could elect to become an exempt FCM. The election would be irrevocable, except with OCC's approval. The proposal would enable any FCM from any country to elect to become an exempt FCM. As discussed below, however, that election is not self-operative; an FCM must qualify for the status by meeting several requirements. Moreover, while the proposed amendments to OCC's By-Laws and Rules would allow any FCM to elect exempt FCM status, the proposed Interpretations and Policies ("I&Ps") to OCC's Rules limit FCMs eligible for election to become Canadian FCMs.[1]

Generally, the proposal would amend OCC's Rules to specify minimum net capital requirements for exempt Canadian FCMs; to require financial reports from exempt Canadian FCMs, audited, in some cases, consistent with Canadian accounting standards; and to require notice of changes in the exempt Canadian FCM's financial, operational or regulatory condition. These changes are described in greater detail in OCC's filing and are outlined below.

1. Minimum Capital Requirements

The proposal would amend OCC Rules 301 [2] and 302 [3] to authorize OCC to specify special initial and continuous minimum ratios of net capital to aggregate indebtedness for exempt FCMs. The proposed I&Ps under these OCC Rules would modify OCC's financial requirements for new and continuous Canadian FCMs that choose exempt FCM status. A Canadian exempt FCM that has conducted business as a broker-dealer for more than twelve months before its admission into OCC would be required to maintain, for its first three months after admission into OCC, initial "net free capital" [4] of $150,000 U.S. dollars and an amount of additional capital as specified by OCC's membership committee. OCC's membership committee would be authorized to require the electing exempt FCM to maintain net free capital equal to, at most, 10 percent of its "adjusted liabilities."[5] A Canadian

[1] OCC represents that it will consider expanding the availability of exempt FCM status to other foreign securities firms in the future.

[2] OCC Rule 301 requires OCC Clearing Members to have an initial "net capital" of not less than $150,000 and must be at least 12½ percent of the Clearing Member's "aggregate indebtedness." Moreover, the aggregate principal amount of the Clearing Member's subordination agreements which do not qualify as equity capital under Commission Rule 15c3–1(d) (17 CFR 240.15c3–1) must not initially exceed 70 percent of the Clearing Member's debt-equity ratio. If the Clearing Member elects to operate under alternative net capital requirements, then its initial net capital must total at least 5 percent of its aggregate indebtedness. "Net capital" and "aggregate indebtedness" are used as those terms are defined in Rule 15c3–1.

[3] OCC Rule 302 prohibits every Clearing Member, other than an exempt FCM, to clear any opening purchase or sale transaction when the Clearing Member's net capital is less than the greater of $100,000 or 6⅔ percent of aggregate indebtedness (for a "non-alternative formula" firm) or 2 percent of its aggregate debit items (for an "alternative formula" firm).

[4] "Net free capital" is a term of art in the Canadian broker-dealer scheme and is defined in the Joint Regulatory Financial Questionnaire and Report ("JRFQ Report"), which Canadian broker-dealers must file with Canadian regulatory authorities.

[5] "Adjusted liabilities" is also a Canadian term of art and is used as defined in the JRFQ Report.

exempt FCM that has conducted business as a broker-dealer for less than twelve months prior to admission into OCC would be required to maintain an initial net free capital of not less than ten percent of its adjusted liabilities until three months after its admission into OCC or twelve months after it began conducting business as a broker-dealer, whichever is later. After that initial period, Canadian exempt FCMs would be required to maintain minimum net free capital equal to the minimum net free capital required of an equivalent-sized member of the Investment Dealers Association of Canada ("IDAC")[6] under the terms of section 100.2 of the IDAC By-Laws.[7] The Canadian exempt FCM would be required to compute daily its net free capital and adjusted liabilities.

2. Financial Reports

OCC's proposal would adjust OCC's financial reporting and audit requirements for exempt FCMs.[8] Under new OCC Rule 306(b), exempt FCMs would be required to file with OCC such financial reports as such times as OCC may specify.[9] OCC also at any time could require exempt FCMs to file financial reports on a more frequent basis, or to file such other reports or financial statements containing additional information in such form or detail as may be prescribed by OCC.

Under new OCC Rule 308(e), OCC would be authorized to require exempt FCMs to file with OCC annual financial reports as OCC may prescribe. Those reports would have to be audited in accordance with the generally accepted auditing standards of the country in which the exempt FCM has its principal place of business by an independent public accounting firm satisfactory to OCC.[10]

The proposed I&Ps under the new Rules would require Canadian exempt FCMs to file with OCC a copy of the Joint Regulatory Financial Questionnaire ("JRFQ") Report at the same time the report is filed with its regulatory authority. The JRFQ Report is a financial report filed by the firm twice a year with Canadian financial regulatory authorities, once at the end of the fiscal year (audited) and once as of the end of another month during the year (unaudited). The fiscal year-end JRFQ Report filed with OCC must be audited and accompanied by any report in the natue of a supplemental report on material inadequacies prepared by the auditor. The proposed I&Ps also would require Canadian exempt FCMs to file with OCC a copy of its Joint Industry Monthly Financial ("JIMF") Report [11] within 30 calendar days of the end of the month (except with respect to those two months for which the exempt FCM has filed a JRFQ Report).

3. Special Surveillance Requirements

The proposal would tailor OCC's "early warning system" to the modified financial requirements for exempt FCMs.[12] Under proposed new OCC Rule 303(b), an exempt FCM would be required to inform OCC promptly (and always before 3:00 p.m. Central Time of the next business day) when it has: (1) Violated the financial responsibility or customer property protection rules or regulations of its own Foreign Regulatory Agency; (2) received a notice from that Agency; (i) Alleging a violation of those rules or regulations; (ii) informing the firm of the need to take corrective action without which those rules or regulations may be violated; or (iii) informing the firm that it triggered an early warning parameter in those rules or regulations; or (3) experienced another adverse event as OCC may specify. The proposed I&P under OCC Rule 303 would require every Canadian exempt FCM, in addition to the responsibilities described above, to notify OCC whenever its net free capital falls below the greater of $150,000 (U.S.) [13] or 120 percent of the amount of net free capital required pursuant to Section 100.2 of the By-Laws of IDAC (the "$150,000 (U.S.) or 120 percent requirement").

OCC Rule 310(c) would authorize OCC, where necessary, to convert the exempt FCM's financial information into a form consistent with the accounting concepts and principles of Commission Rule 15c3–1 (17 CFR 240.15c3–1) in evaluating an exempt FCM's compliance with the financial requirements and in determining whether to take action under OCC Rule 305. Proposed I&P No. 9 under OCC Rule 305 [14] would allow OCC to restrict certain transactions and positions of an exempt FCM where the exempt FCM gives notice to OCC of any of the events in proposed new OCC Rule 303(b) or the proposed I&P under the Rule. Under proposed new OCC Rule 1102(b), any (exempt or non-exempt) FCM also would need to notify OCC immediately if it is suspended or expelled by its Foreign Regulatory Agency or any securities exchange of which it is a member.

Under proposed new OCC Rule 304(c), OCC would be authorized to specify modified restrictions on distribution of funds by an exempt FCM. The proposed I&Ps under the Rule authorize OCC to prohibit a Canadian exempt FCM's withdrawal of funds from a subordinated loan account [15] if the withrawal would cause the Canadian FCM's net free capital to fall below the $150,000 (U.S.) or 120 percent requirement described above. The proposed I&Ps would restrict withdrawal of funds from a partnership account if the account is included in the Canadian exempt FCM's net free capital and the withdrawal would cause net free capital to fall below the $150,000 (U.S.) or 120 percent requirement. Finally, the proposed I&Ps would prohibit a Canadian exempt FCM from paying

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[6] The Investment Dealers Association of Canada is a self-regulatory organization consisting of most major Canadian securities firms. Its objectives include self-regulation of members and fostering a favorable environment for saving and investing. *See*, IDAC Constitution, section 2.

[7] Section 100.2 of IDAC's By-Laws requires IDAC broker-dealers to maintain net free capital at a percentage of adjusted liabilities as determined by a sliding scale. As the size of the broker-dealer increases, the ratio of required net free capital to adjusted liabilities decreases. Under the formula, large broker-dealers often must maintain a smaller percentage of net free capital than the 6⅔ percent requirement for FCMs and domestic Clearing Members and may be allowed to maintain a percentage as low as 5 percent. OCC states in its filing that required net free capital has been as low as 5½ percent of adjusted liabilities.

[8] OCC Rule 310 generally requires every FCM, except exempt FCMs, to file the financial reports specified in OCC Rules 306 and 308 and to prepare those reports in accordance with U.S. accounting standards and practices. *See, infra*, notes 9 and 10.

[9] OCC Rule 306 generally requires OCC Clearing Members (other than exempt FCMs) to file with OCC those monthly and quarterly financial reports required under Commission Rule 17a–5 (17 CFR 240.17a–5).

[10] OCC Rule 308 generally requires each OCC Clearing Member to file with OCC a copy of its annual report prepared in accordance with Rule 17a–5 (17 CFR 240.17a–5). Clearing Members exempt from Rule 17a-5 under paragraph (d) of that Rule also must prepare and file with OCC an annual report of financial condition, prepared in accordance with generally accepted U.S. auditing standards by a firm of independent public accounts satisfactory to OCC.

[11] The JIMF Report is a monthly financial report filed with Canadian regulatory authorities.

[12] This system is designed to provide OCC with early warning of Clearing Members experiencing financial or operational distress. *See generally*, OCC Rule 303.

[13] The manner of conversion of Canadian dollars to U.S. dollars is to be determined by OCC.

[14] OCC Rule 305 allows OCC, if it determines that the financial or operational condition of a Clearing Member makes it necessary or advisable, to impose restrictions on the Clearing Member's facilities management activities or its positions with OCC. OCC may prohibit, or merely limit, the Clearing Member's facilities management activities on the clearance of opening purchase and/or writing transactions and may require the Clearing Member to eliminate or reduce existing short positions in its account with OCC for which the underlying securities or treasury bills have not been deposited with OCC.

[15] OCC uses the term "subordinated loan" as it is used in Appendix D to Commission Rule 15c3–1 (17 CFR 240.15c3–1d).

dividends or effecting distributions to stockholders, partners or employees if net free capital would fall below the $150,000 (U.S.) or 120 percent requirement.

II. OCC's Rationale for the Proposal

OCC states in its filing that the proposal is designed to permit foreign securities firms to participate in OCC directly while complying with financial reporting and financial responsibility standards of their home country. OCC believes that if it is to facilitate internationalization of the securities markets, OCC should permit foreign participation under the regulatory and accounting standards of other nations, provided those standards yield equivalent protection for investors and other participants in the securities market.

OCC's proposal would allow only Canadian securities firms to become exempt FCMs at this time. OCC believes that the proposal would facilitate the membership of Canadian securities firms in OCC by allowing Canadian securities firms to be held to Canadian financial standards wherever possible. OCC states in its filing that a number of Canadian firms have expressed interest in joining OCC, but only if they are not required to prepare a complete set of financial reports in accordance with U.S. accounting standards and Commission requirements, in addition to the reports they already prepare for Canadian regulatory authorities. OCC states that Canadian standards, although lower than those of the United States, when combined with certain safeguards,[16] are sufficient to allow Canadian securities firms to become Clearing Members. OCC states that the data contained within the JIMF and JRFQ Reports, along with certain additional data, will be sufficient for purposes of monitoring compliance with OCC's financial requirements.

III. Request for Comments

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons can submit written comments about the proposal by filing six copies of their comments with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at OCC's principal office. All comments should refer to File No. SR–OCC–86–10 and should be submitted by August 28, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 31, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–17788 Filed 8–6–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23475; File No. SR–CBOE–86–23]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change makes three changes to the Exchange's arbitration rules. The first amendment increases from $100,000 to $500,000 the amount in controversy for the appointment of arbitration panels of as few as three arbitrators, and allows appointment of panels of three arbitrators in cases in excess of $500,000 in controversy upon consent of the parties. The second amendment allows the arbitrators to sanction a party for failure to file an answer to a claim, cross-claim or counterclaim in a timely function. The third amendment allows for assessment of a $100 fee against a party seeking to adjourning a hearing. The fee may be waived or returned by the arbitrators.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The proposed rule change amends the arbitration rules to coincide with recent amendments by the other self-regulatory organizations. The following is a summary of the major changes. First, the Director of Arbitration will be given the discretion to appoint a panel of three of five arbitrators where the amount in controversy is less than $500,000. Under the current provisions, a panel of five arbitrators is required in cases involving public customers where the amount in controversy is $100,000 or more. The change is proposed because of the increase in the number of cases in which $100,000 or more is claimed. The ability to choose a panel of three arbitrators will promote economy of effort and facilitate the scheduling of hearings which is especially important in cases that require multiple hearing sessions. The amendment also provides that even where the amount in controversy is $500,000 or more, the parties may agree in writing to a panel of three, rather than five arbitrators.

The second portion of the amendment specifies procedures the arbitrators may follow when a party fails to file an answer within the time period prescribed by the Code or any extension of that time period granted by the Director of Arbitration. While civil court practice provides recourse for the failure to submit a timely answer, the current arbitration code provisions do not explicitly provide a mechanism to

[16] OCC states that it will maintain independent surveillance of exempt FCMs, will receive notice of any violation or potential violation of exempt FCMs of Canadian rules and regulations under proposed Rule 303(b), and will subject exempt FCMs to the same net capital, margian and clearing fund requirements as other Clearing Members.

address such occurrences. Under the next provision, prior to the hearing, the adversary party must file a written objection with the Director of Arbitration requesting that the arbitrators bar the respondent, responding claimant, cross-claimant or third-party respondent, from presenting any matter, arguments, or defenses at the hearing. The party is given an opportunity to oppose the ojbection. The arbitrators in their discretion will then decide whether to grant the request.

The third portion of the proposed amendment would require the party requesting an adjournment to submit a written request for adjournment and to pay a fee equal to the filing fee, but no more than $100.[1] All parties are notified of the request and are given an opportunity to oppose it. The request and any opposition is then submitted to the panel of arbitrators. If a request is granted, the arbitrators may waive the fee or return it in the arbitration award. The fee should discourage frivolous, last minutes requests for postponement of hearing dates when a panel of arbitrators has already been appointed. The major reason for such adjournments is counsel's failure to secure all witnesses' availability for the date when it is scheduled. Such adjournments frustrate the Exchange's ability to provide an expeditious resolution to a matter submitted for arbitration. The fee is designed to recoup a portion of the administrative costs associated with rescheduling of a hearing.

The proposed rule change is consistent with the provisions of the Securities Exchange Actof 1934 and, in particular, section 6(b)(5) thereof in that the rule change is designed to protect investors and the public interest and allow for a fair forum for securities-related dispute resolution.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because the Exchange states that the proposed rule change is substantively the same as rule changes previously filed by the New York Stock Exchange, Inc. ("NYSE") and the National Association of Securities Dealers ("NASD") and approved by the Commission. The Exchange states that the rule change is designed to protect investors and the public interest by allowing for a fair forum for securities-related dispute resolution.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the rule change is substantively the same as rule changes previously filed by six other self-regulatory organizations that were approved by the Commission.[2] Those rule changes and CBOE's proposed rule change are intended to conform the exchanges' rules to recent amendments to the Securities Industry Association's ("SIA") uniform arbitration code approved by the Securities Industry Conference of Arbitration ("SICA"). The CBOE's proposed rule change will help to promote just and equitable principles of trade by ensuring that members, member organizations, and the public have an impartial forum for the resolution of their disputes.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 28, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 29, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17812 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23491; File No. 4-289]

Self Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Plan Relating to the Quarterly Reporting of Minor Disciplinary Rule Violations

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on May 2, 1986, copies of a proposed plan pursuant to Rule 19d-1(c)(2) under the Securities Exchange Act of 1934 ("Act").[1] The proposed plan specifies those uncontested minor rule violations with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) under the Act,[2] which requires that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization. In accordance with paragraph (c)(2) of Rule 19d-1, the Phlx proposed to designate certain specified violations of its Option Floor Procedure Advices as minor rule violations and requested that it be allowed to report these violations on a quarterly, instead of current, reporting basis. The Phlx proposed to include the following violations under its proposed plan: Section A of the Options Floor

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[1] The adjournment fee does not apply to claims filed under the small claims proceedings section.

[2] Similar rule changes were filed by the NASD, NYSE, Midwest, Pacific, and Philadelphia and Boston Stock exchanges. *See* Securities Exchange Act Release Nos. 23211 (May 7, 1986), and 23336 (June 18, 1986).

[1] *See* Securities Exchange Act Release No. 21013 (June 1, 1984) 49 FR 23828. The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by an SRO against any person for violation of an SRO rule that has been designated a minor rule subject to a plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine of less than $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[2] *See* letter from Douglas Block, Vice President, Phlx, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated May 1, 1986.

Procedure Advices, *Specialists*, Advices A–1 (responsibility for displaying best bid and offer); A–2 (orders to be accepted onto specialist's book); A–6 (acceptance of stop and stop limit orders). Section B, *Registered Options Traders*, Advices B–1 (responsibility to make markets); B–2 (crowd courtesy); B–3 (trading requirements); B–4 (trading from off-floor); B–5 (agency-principal restrictions); B–6 (parity); B–7 (splitting orders); B–8 (use of floor brokers). Section C, *Floor Brokers*, Advices C–1 (presence of registered options traders in trading crowd); C–2 (clocked tickets); C–3 (handling registered options trade orders); C–4 (floor brokers handling orders for same firm); C–5 ("legging" combination orders). Section E. *Staffing*, Advice E–1 (required staffing of options). Section F, *Miscellaneous*, Advices F–1 (use of indentification letters and numbers); F–2 (time-stamping and matching); F–3 (requests for sold sale designations); F–4 (orders executed as spreads, straddles, or combinations); F–5 (changes or corrections to material terms of a cleared trade); F–6 (option quote parameters).[3]

Further, the Phlx noted in its filing that there exists discretion at all levels of the disciplinary process to determine if a particular incident merits more formal disciplinary action than exists under the plan.[4] The Phlx contemplates, subject to Commission approval, the addition of other violations within the minor rule violation plan. According to the Phlx, the quarterly report to be submitted to the Commission would include for each volation the Commission file number, the name of the individual or member organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the date of disposition, and the internal file number.

Notice of the proposed plan, together with the terms of substances of the plan, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23249, May 16, 1986) and by publication in the **Federal Register** (51 FR 19278, May 28, 1986). No comments were received with respect to the proposed plan.

The Commission finds that the proposed plan is consistent with the requirements of sections 6 and 19 of the Act and the rules and regulations thereunder.

[3] *See* Securities Exchange Act Release No. 23249 (May 28, 1986) 51 FR 19278. Sanctions applicable to the minor rule violations are outlined in Exhibit B of the Phlx filing.

[4] *See* Phlx Rule 960.2, which gives the Phlx Business Conduct Committee the authority in appropriate circumstances, to issue a complaint for a violation of an Options Floor Procedure Advice.

It is therefore ordered, pursuant to Section 19d–1(c)(2) under the Act, that the proposed plan be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: August 1, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–17813 Filed 8–6–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15233; File No. 812–6393]

Application and Opportunity for Hearing; American Pathway Fund et al.

July 31, 1986.

Notice is hereby given that American Pathway Fund ("Fund") and Capital Research and Management Company ("CRMC"), at 333 South Hope Street, Los Angeles, California 90071, and any other similar funds which CRMC may manage in the future (collectively, "Applicants"), filed an application on May 23, 1986, and an amendment thereto on July 18, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants and certain life insurance companies and their separate accounts from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rule 6e–2(b)(15) and 6e–3(T)(b)(15) promulgated thereunder, to the extent necessary to permit shares of the Fund to be sold to and held by variable annuity and variable life separate accounts of both affilated ("mixed funding") and unaffiliated ("shared funding") life insurance companies. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for lthe complete text of those provisions that are relevant to the application.

According to the application, the Fund is an open-end diversified management investment company currently consisting of five separate series of shares. CRMC is is the Fund's investment adviser. Applilcants state that the Fund currently serves as the underlying investment medium for variable annuity contracts issued by American Pathway II, a separate account of Anchor National Life Insurance Company. The Fund proposes to offer its shares to other separate accounts which issue either variable annuity contracts or scheduled or flexible premium variable life insurance contracts ("Contracts"). These separate accounts will be separate accounts of either affiliated or unaffiliated insurance companies ("Participating Insurance Companies").

Rule 6e–2 and 6e–3(T) of the Act provide certain exemptions with respect to variable life insurance contracts. However, Rule 6e–2(b)(15) precludes mixed and shared funding and Rule 6e–3(T)(b)(15) precludes shared funding.

Applicants assert that following mixed and shared funding will benefit contractowners by: (1) Eliminating costs of establishing and administering separate funds; (2) allowing for the development of larger pools of assets resulting in greater cost efficiencies, diversification, and investment flexibility; (3) making the addition of new series more feasible, thus, providing contractowners with additional investment alternatives; and (4) encouraging more insurance companies to offer variable contracts, thereby increasing competition. Applicants state that the Fund's series will be managed by CRMC, subject to the discretion of the Fund's board of trustees ("Board"), in pursuit of the stated objectives of the series and consistent with their policies and will not be managed to favor or disfavor a particular type of contract or insurance company.

Applicants propose that the relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from sections 9(a), 13(a), 15(a) and 15(b) of the Act be extended to a class of insurance companies and their separate accounts which may use the Fund as an investment medium to fund Contracts (and principal underwriters and depositors of such separate accounts) to the extent necessary to permit shares of the Fund to be sold in connection with both shared and mixed funding, subject to the conditions set forth in the application and summarized below.

A. Disqualifications

Applicants assert that the same considerations that led the Commission to limit the provisions of Section 9(a) to those employees of an insurance company engaged in separate account management are equally applicable to mixed and shared funding situations. Applicants maintain that applying the requirements of Section 9(a) merely because of mixed and shared funding would decrease the net rates of return

[5] *See* 17 CFR 200.30–3(a)(44).

realized by contractowners due to increased monitoring costs.

B. Voting

Applicants represent that so long as the Commission continues to interpret sections 13(a), 15(a) and 15(b) of the Act to require pass-through voting privileges for contractowners, all contractowners will be provided voting rights with respect to Fund shares attributable to their Contracts inasmuch as all Participating Insurance Companiles will vote these shares in accordance with Contractowners' instructions. Applicants further represent that all other shares of the Fund held will be voted in the same proportion as those shares for which instructions are received. Because Rules 6e–2(b)(15) and 6e–3(T)(b)(15) allow the insurance company to disregard contractowners' voting instructions in certain limited circumstances, Applicants acknowledge that this may cause irreconcilable conflicts to develop among the separate accounts. Applicants propose to resolve such conflicts through undertakings it proposes as conditions to receipt of exemptive relief set out *infra*. Applicants state that the conditions intended to resolve such conflicts will be set forth in agreements that will be entered into by Participating Insurance Companies with respect to participation in the Fund.

C. Conditions

Applicants represent that they will comply with certain conditions set forth in the application, which are summarized as follows: (1) A majority of the Board shall consist of persons who are "interested persons" of the Fund as defined by the Act. (2) The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of contractowners of all separate accounts investing in the the Fund. (3) Participating Insurance Companies and CRMC shall report any potential or existing conflicts to the Fund's Board. Participating Insurance Companies and CRMC will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such conflicts will be a contractual obligation of all insurers investing in the Fund under their agreements governing participation in the Fund. (4) If a majority of the Board or a majority of the disinterested members of the Board determines that a material irreconcilable conflict exists, the relevant insurance companies shall, to the extent reasonably practicable (as determined by a majority of the disinterested members of the Board), take whatever steps are necessary to eliminate the irreconcilable material conflict, including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series and reinvesting such assets in a different investment medium, including another series of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (i.e., annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal. The Fund will neither be required to bear the costs of remedial actions taken to remedy a material irreconcilable conflict nor will it be requested to pay a higher investment advisory fee for the sole purpose of covering such costs. In addition, no contractowner will be required directly or indirectly to bear the direct or indirect costs of remedial actions taken to remedy a material irreconcilable conflict. A new funding medium for any Contract need not be established under this condition 4, if an offer to do so has been declined by vote of a majority of contractowners materially adversely affected by the irreconcilable material conflict. All reports received by the Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying participating insurance companies and CRMC of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request. (5) The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to all Participating Insurance Compaines. (6) Participating Insurance Compaines will provide pass-through voting privileges to all contractowners as required by the Commission. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Fund. (7) The Fund's prospectus shall disclose that (a) shares of the Fund are offered to insurance company separate accoounts funding both variable annuity and variable life insurance contracts, (b) interests of various contractowners participating in a series might be in conflict, and (c) the Board will monitor for the existence of any material conflicts and determine what action, if any, should be taken. The Fund will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. (8) If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Fund and/or the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 25, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her requet, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the

case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17783 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23485; File No. SR-CBOE-86-16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

On June 6, 1986, the Chicago Board Options Exchange, Incorporated ("CBOE"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to suspend currency options transaction fees and currency options floor charges from Monday, September 1, 1986 through Monday, August 31, 1987.

The proposed rule change was noticed in Securities Exchange Act release No. 23345 (June 19, 1986), 51 FR 23286 (June 26, 1986). No comments were received on the proposed rule change.

The rule change is designed to facilitate transactions in currency options. The purpose of this proposed rule change is to encourage the trading of foreign currency option contracts as part of a currency options permit and incentive program, which is described in a separate filing.[3] This program's primary objective is to increase the Exchange's capacity to accommodate non-market maker orders in foreign currency options.

In addition, the Exchange will not collect any dues from currency options rights or permit holders and will not collect dues in connection with currency options memberships until September 1, 1988.[4] The Exchange contends that the statutory basis for the proposed rule changes is section 6(b) of the Act in that it is designed to facilitate transactions in foreign currency options.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 30, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 17784 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23482; File No. SR-NASD-86-14]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on June 11, 1986, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to require NASD members to maintain a record of aggregate "short positions" in NASDAQ securities in all customer and proprietary firm accounts and to report such information to the NASD on a monthly basis. Members' reports will be non-public, and will be used by the NASD solely for an internal study concerning short sales.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23352, June 20, 1986) and by publication in the **Federal Register** (51 FR 23867, July 1, 1986). No comments were received with respect to the proposed filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and particularly, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a).

Jonathan G. Katz,

Secretary.

July 30, 1986.

[FR Doc. 86-17785 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24158]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

July 31, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 25, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Middle South Energy, Inc., et al. (70-7272)

Middle South Energy, Inc. ("MSE"), P.O. Box 61000, New Orleans, Louisiana 70161, Arkansas Power & Light Company ("AP&L"), P.O. Box 551, Little Rock, Arkansas 72203, Mississippi Power & Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39205, Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, New Orleans Public Service Inc. ("NOPSI"), 317

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[1] 15 U.S.C. 78s (b) (1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] *See* File No. SR-CBOE-86-13, Securities Exchange Act Release No. 23437 (June 14, 1986).

[4] In its original filing, the Exchange reserved the right to begin charging currency options transactions fees for public customer and firm proprietary orders before August 31, 1987. The Exchange subsequently deleted this language by letter from Anne Taylor, Associate General Counsel, CBOE, to Sharon Lawson, Attorney, Division of Market Regulation, dated June 23, 1986.

Baronne Street, New Orleans, Louisiana 70112, and their parent Middle South Utilities, Inc. ("MSU"), P.O. Box 61005, New Orleans, Louisiana 70161, a registered holding company, have filed a declaration pursuant to Sections 6, 7, and 12 of the Act, and Rule 50(a)(5) thereunder.

The proposed transactions relate to the issuance and sale by MSE of its First Mortgage Bonds ("Bonds") in multiple series in an aggregate principal amount not exceeding $750 million, maturing in from 5 to 30 years, by means of negotiated public sale(s) or private placement(s), from time to time through August 31, 1988, subject to Commission approval of the related Supplemental Indenture and the interest rate, security, sinking fund, redemption and other terms and conditions of such Bonds.

MSE, a wholly owned subsidiary of MSU, was formed in 1974 to construct, finance and own certain base-load generating units for MSU subsidiaries. MSE's only project to date has been the construction and financing of the Grand Gulf Nuclear Electric Generating Station ("Grand Gulf Station"), a two-unit, nuclear-fueled generating station located near Natchez, Mississippi. Unit No. 1 of the Grand Gulf Station was placed in commercial operation on July 1, 1985 at a cost (excluding nuclear fuel) for MSE's 90% interest estimated at $3.3 billion. Construction of Unit No. 2 is currently suspended. MSE continues to require substantial external financing to service its bank debt and to meet its sinking fund payments on first mortgage bonds issued during the lengthy construction period of the Grand Gulf Station. MSE proposes to issue and sell the Bonds to help meet these obligations. In addition, MSE plans limited expenditures in 1986–1988 to retrofit and upgrade Unit No. 1 and to maintain Unit No. 2.

The Bonds will be issued and sold under one or more Supplemental Indentures to MSE's existing Mortgage and Deed Trust, as supplemented. As additional security for its obligations with respect to the Bonds, MSE may be required to enter into one or more assignments, for the benefit of the holders of the Bonds, of its rights under the Availability Agreement, of June 21, 1974, as amended ("Availability Agreement"), pursuant to the terms of an additional Assignment of Availability Agreement, Consent and Agreement ("Assignment"). In such event, AP&L, LP&L, MP&L and NOPSI, parties to the Availability Agreement, may be required to consent to and join in any such Assignment. Furthermore, MSE may be required to enter into one or more assignments, for the benefit of the holders of the Bonds, of its rights under the Capital Funds Agreement of June 21, 1974 ("Capital Funds Agreement"), pursuant to the terms of an additional Supplementary Capital Funds Agreement and Assignment ("Supplementary Agreement"). In such event, MSU, a party to the Capital Funds Agreement, may be required to consent to and join in the Supplementary Agreement.

MSE may negotiate the terms and conditions of the Bond offering pursuant to an exception from the competitive bidding requirements as requested.

The Connecticut Light and Power Company (70–7273)

The Connecticut Light and Power Company ("CL&P"), an electric utility subsidiary of Northeast Utilities, P.O. Box 270, Hartford, Connecticut 06101, a registered holding company, has filed an application pursuant to Sections 9 and 10(a) of the Act.

CL&P and other New England utility companies, including the city of Burlington, Vermont, Electric Light Department ("Burlington"), are parties to a sharing agreement dated September 1, 1973, as amended ("Millstone Agreement"), pursuant to which a nuclear generating unit operating in Waterford, Connecticut, Millstone Unit No. 3 ("Millstone 3"), is owned in designated percentage shares by the parties as tenants-in-common. In accordance with the Millstone Agreement, CL&P presently owns a 52.61% (604.69 MW) interest in the site of Millstone 3.

CL&P and Burlington have entered into an agreement to transfer to CL&P, subject to receipt of necessary governmental regulatory approvals, a portion of Burlington's ownership interest. With respect to the proposed transfer, CL&P seeks authorization to acquire from Burlington a 0.3152% (3.67 MW) ownership interest in Millstone 3.

After the proposed transfer, Burlington would retain a 0.0435% (.5 MW) ownership interest in Millstone 3. The consideration to be received by Burlington from CL&P would be CL&P's release of Burlington from all liability to CL&P resulting from the payment by CL&P's service company affiliate and agent, Northeast Utilities Service Company, of Burlington's proportionate share of costs of all capital items for Millstone 3, except nuclear fuel costs (other than costs related to the initial core), from February 1982 through April 23, 1986, the date of commercial operation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–17814 Filed 8–6–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 976]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

Title of information collection—Mailing List Notice.

Originating office—Bureau of Public Affairs.

Type of request—New

Frequency—Biennial

Respondents—Individuals requesting Department of State publications.

Estimated number of responses—3,750.

Estimated number of hours needed to respond—437. Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647–4086. Comments and questions should be directed to (OMB) Francine Picoult (202) 395–7231.

Dated: July 30, 1986.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86–17748 Filed 8–6–86; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

[Docket 44016]

U.S.–Japan Small Package Service Proceeding; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, earlier scheduled to commence on October 1, 1986, has been postponed, and is now scheduled to commence on October 21, 1986, at 9:30 a.m. (local time) in Room 5332 Nassif

BEST COPY AVAILABLE

Bldg., 400 7th Street SW., Washington, DC, before the undersigned.

Dated at Washington, DC, August 4, 1985.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86-17817 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-62-M

Saint Lawrence Seaway Development Corporation

Advisory

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 10:30 a.m., September 11, 1986, at the Corporation's Administration Building, 180 Andrews Street, Massena, NY. The agenda for this meeting will be a brief business meeting followed by an inspection of the rehabilitation work at Eisenhower Lock.

Persons wishing further information should contact not later than September 2, 1986, Joan C. Hall, Advisory Board Liaison, 400 Seventh Street SW., Washington, DC 20590; 202-366-0118.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on August 4, 1986.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 86-17795 Filed 8-6-86; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 27-86]

7¼ percent Treasury Bonds of 2016

Washington, July 31, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated 7¼% Treasury Bonds of 2016 (CUSIP No. 912810 DW 5), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. Additional amounts of the Bonds may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be issued Auguest 15, 1986, and are offered as an additional amount of 7¼% Treasury Bonds of 2016 (CUSIP No. 912810 DW 5) dated May 15, 1986. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from May 15, 1986, to August 15, 1986. Interest on the Bonds offered as an additional issue is payable on a semiannual basis on November 15, 1986, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 2016, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in bearer form, but, after issuance, exchanges of bonds from book-entry form to registered definitive form, denominational exchanges thereafter of registered definitive Bonds, and transfers of Bonds in either book-entry or registered definitive form will be permitted.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Bonds offered in this circular. 3. Sale Procedures.

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, August 7, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 6, 1986, and received no later than Friday, August 15, 1986.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined

above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the dealine for receipt of tenders, tenders will be opended, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 7.88% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amont sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from May 15, 1986, to August 15, 1986, in the amount of $18.12500 per $1,000 of Bonds allotted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Friday, August 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, August 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, August 15, 1986. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are required to be assigned to "The Secretary of the Treasury for (Bonds offered by this circular) in the name of (name and taxpayer identifying number) in TREASURY DIRECT." In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering is $800,000. Separation of Bonds into their components may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.3. The Principal Component will be payable on May 15, 2016.

6.4. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.5. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amout due will be payable (without additional interest) on the next-succeeding business day.

6.6. Once a Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.7. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the

retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.8. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of May 15, 2016, CUSIP No. 912810 DW 5

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2016 due May 15, 2016, CUSIP No. 912803 AH 6.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
November 15, 1986	EH 9
May 15, 1987	EJ 5
November 15, 1987	EK 2
May 15, 1988	EL 0
November 15, 1988	EM 8
May 15, 1989	EN 6
November 15, 1989	EP 1
May 15, 1990	EQ 9
November 15, 1990	ER 7
May 15, 1991	ES 5
November 15, 1991	ET 3
May 15, 1992	EU 0
November 15, 1992	EV 8
May 15, 1993	EW 6
November 15, 1993	EX 4
May 15, 1994	EY 2
November 15, 1994	EZ 9
May 15, 1995	FA 3
November 15, 1995	FB 1
May 15, 1996	FC 9
November 15, 1996	FD 7
May 15, 1997	FE 5
November 15, 1997	FF 2
May 15, 1998	FG 0
November 15, 1998	FH 8
May 15, 1999	FJ 4
November 15, 1999	FK 1
May 15, 2000	FL 9
November 15, 2000	FM 7
May 15, 2001	FN 5
November 15, 2001	FP 0
May 15, 2002	FQ 8
November 15, 2002	FR 6
May 15, 2003	FS 4
November 15, 2003	FT 2
May 15, 2004	FU 9
November 15, 2004	FV 7
May 15, 2005	FW 5
November 15, 2005	FX 3
May 15, 2006	FY 1
November 15, 2006	FZ 8
May 15, 2007	GA 2
November 15, 2007	GB 0
May 15, 2008	GC 8
November 15, 2008	GD 6
May 15, 2009	GE 4
November 15, 2009	GF 1
May 15, 2010	JU 5
November 15, 2010	JV 3
May 15, 2011	JW 1
November 15, 2011	JX 9
May 15, 2012	JY 7
November 15, 2012	JZ 4
May 15, 2013	KA 7
November 15, 2013	KB 5
May 15, 2014	KC 3
November 15, 2014	KD 1
May 15, 2015	KE 9
November 15, 2015	KF 6
May 15, 2016	KH 2

[FR Doc. 86-17838 Filed 8-5-86; 9:52 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series No. 26-86]

7⅜% Treasury Notes of May 15, 1996, Series C-1996

Washington, July 31, 1986.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated 7⅜% Treasury Notes of May 15, 1996, Series C-1996 (CUSIP No. 912827 TQ 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be issued August 15, 1986, and are offered as an additional amount of 7⅜% Treasury Notes of May 15, 1996, Series C-1996 (CUSIP No. 912827 TQ 5) dated May 15, 1986. Payment for the Notes will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from May 15, 1986, to August 15, 1986. Interest on the Notes offered as an additional issue is payable on a semiannual basis on November 15, 1986, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other non-business day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in bearer form, but, after issuance, exchanges of Notes from book-entry form to registered definitive form, denominational exchanges thereafter of registered definitive Notes, and transfers of Notes in either book-entry or registered definitive form will be permitted.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest

Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, August 6, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 5, 1986, and received no later than Friday, August 15, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 7.70% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 97.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks, will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from May 15, 1986, to August 15, 1986, in the amount of $18.43750 per $1,000 of Notes allotted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Friday, August 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, August 13, 1986. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, August 15, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the

Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are required to be assigned to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number) in TREASURY DIRECT." In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Note are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering is $1,600,000. Separation of Notes into their components may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the Notes. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.3. The Principal Component will be payable on May 15, 1996.

6.4. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.5. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.6. Once a Note has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.7. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Note will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.8. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the Untied States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

CUSIP Numbers and designations for the principal component and interest components of Treasury Notes of May 15, 1996, Series C–1996, CUSIP No. 912827 TQ 5

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series C–1996 due May 15, 1996, CUSIP No. 912820 AG 2.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
November 15, 1986	EH 9
May 15, 1987	EJ 5
November 15, 1987	EK 2
May 15, 1988	EL 0
November 15, 1988	EM 8
May 15, 1989	EN 6
November 15, 1989	EP 1
May 15, 1990	EQ 9
November 15, 1990	ER 7
May 15, 1991	ES 5
November 15, 1991	ET 3
May 15, 1992	EU 0
November 15, 1992	EV 8
May 15, 1993	EW 6
November 15, 1993	EX 4
May 15, 1994	EY 2
November 15, 1994	EZ 9
May 15, 1995	FA 3
November 15, 1995	FB 1
May 15, 1996	FC 9

[FR Doc. 86–17839 Filed 8–5–86; 10:02 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 25–86]

Treasury Notes of August 15, 1989, Series S–1989

Washington, July 31, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated Treasury Notes of August 15, 1989, Series S–1989 (CUSIP No. 912827 TX 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks of their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated August 15, 1986, and will accrue interest from

that date, payable on a semiannual basis on February 15, 1987, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, August 5, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 4, 1986, and received no later than Friday, August 15, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount of each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Friday, August 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, August 13, 1986.

In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, August 15, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are required to be assigned to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number) in TREASURY DIRECT." In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-17840 Filed 8-5-86; 10:02 am]

BILLING CODE 4810-40-M

Customs Service

[(T.D. 86-150)]

Recordation of Trade Name: "CHRISTIAN KIM, INC."

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Recordation.

SUMMARY: On April 28, 1986, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHRISTIAN KIM, INC." was published in the **Federal Register** (51 FR 15857). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to the recordation and received not later than June 27, 1986. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "CHRISTIAN KIM, INC." is recorded as the trade name used by Christian Kim, Inc., a corporation organized under the laws of the State of California, located at 124 East Olympic Boulevard, Los Angeles, California 90015. The trade name is used in connection with footwear, manufactured in Korea.

DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

Dated: August 4, 1986.

Edward T. Rosse,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 86-17775 Filed 8-6-86; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Elimination of Bulk Tax Forms to Tax Practitioners

Correction

In FR Doc. 86-16765 appearing on page 26787 in the issue of Friday, July 25, 1986, make the following corrections:

1. In the first column, in the **"AGENCY"** caption, "International" should have read "Internal". Make the same correction in the last line of the first column.

2. In the second column, in the table, last column, "1000" should have read "1099".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 4, 1986.

By direction of the Administration.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Medicine and Surgery
2. Prosthetic Authorization and Invoice
3. VA Form 10-2421
4. Non-recurring
5. Businesses or other for-profit
6. 438,836 responses
7. 30,718 hours
8. Not applicable

[FR Doc. 86-17794 Filed 8-6-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 152
Thursday, August 7, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1, 2
Federal Election Commission	3
National Credit Union Administration	4
Securities and Exchange Commission	5

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, August 12, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Request for modification of conditions imposed in granting Federal deposit insurance:

E. F. Hutton Bank, Wilmington, Delaware.

Application for consent to merge and establish on branch:

Mutual Bank fsb, Boston, Massachusetts, for consent to merge, under its charter and with the title of "Mutual Bank," with Lincoln Savings Bank, Boston, Massachusetts, non-FDIC-insured institution, and for consent to establish the sole office of Lincoln Savings Bank as branch of the resultant bank.

Application for consent to acquire assets, assume liabilities, establish one branch are relocate said branch:

Heritage Thrift and Loan Association, Brea, California, for consent to purchase certain assets of and assume the liability to pay deposits made in the Rancho Cucamonga Branch, Rancho Cucamonga, California, of Anchor Thrift and Loan Association, Orange, California, a non-federally insured institution; for consent to establish the Rancho Cucamonga Branch as a branch of Heritage Thrift and Loan Association; and for consent to relocate the Rancho Cucamonga Branch to Suite D, 9799 Baseline Road, Rancho Cucamonga, California.

Recommendations regarding the liquidation of bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,602–NR (Amendment)
State Bank of Dannebrog, Dannebrog, Nebraska
Case No. 46,605–NR (Amendment)
Uehling State Bank, Uehling, Nebraska
Case No. 46,606–SR
Stewardship Bank of Oregon, Multnomah County (P.O. Portland), Oregon
Case No. 46,607–SR
Heritage Bank, Anaheim, California
Case No. 46,608–SR
West Coast Bank, Los Angeles (Encino), California
Case No. 46,613 (Amended)
The Bowery Savings Bank, New York City (Manhattan), New York

Memorandum and resolution regarding amendments to the delegations of authority relating to liquidation activities.

Reports of comitttees and officers:
Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Trend Analysis Report re:
Trend Analysis of Liquidation Site Audit Results (Memo dated July 16, 1986)
Summary Audit Report re:
Aurora Bank, Aurora, Colorado (2511) (Memo dated July 16, 1986)
Summary Audit Report re:
Tower Bank, National Association, Hialeah Gardens (P.O. Hialeah), Florida (2500) (Memo dated June 30, 1986)
Summary Audit Report re:
Early Savings Bank, Early, Iowa (2510) (Memo dated July 16, 1986)
Summary Audit Report re:
Farmers State Bank of Kanaranzi, Kanaranzi, Minnesota (2508) (Memo dated July 16, 1986)
Summary Audit Report re:
The First National Bank of St. Joseph, St. Joseph, Missouri (2504) (Memo dated June 27, 1986)
Summary Audit Report re:
Farmers State Bank in Afton, Oklahoma, Afton, Oklahoma (2505) (Memo dated July 16, 1986)
Summary Audit Report re:
Bank of Canton, Canton, Oklahoma (2502) (Memo dated July 10, 1986)
Summary Audit Report re:
First State Bank, Jet, Oklahoma (2508) (Memo dated July 16, 1986)
Summary Audit Report re:
The First National Bank in Terral, Terral, Oklahoma (5614) (Memo dated June 27, 1986)
Summary Audit Report re:
The Early Bank, Early, Texas (2507) (Memo dated July 16, 1986)
Summary Audit Report re:
The Citizens Bank, Ogden, Utah (2509) (Memo dated July 16, 1986)
Summary Audit Report re:
Saratoga State Bank, Saratoga, Wyoming (2503) (Memo dated July 11, 1986)
Summary Audit Report re:
Audit of Duplicate Payments Made in 1985 Through the Public Voucher Subsystem (Memo dated June 27, 1986)
Summary Audit Report re:
Vendor Controls and Payments (Memo dated June 30, 1986)

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: August 5, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary

[FR Doc. 17894 Filed 8–5–86; 3:00 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, August 12, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be

resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the Corporation's corporate activities.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: August 5, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–17895 Filed 8–5–86; 3:01 pm]

BILLING CODE 6714–01–M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 12, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, August 14, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Wahington, DC (Ninth Floor).

STATUS: This meeting will be open to the public

MATTER TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approvel of minutes
Draft AO 1986–24—William L. Fallon for Political Action for Candidate Election
Draft AO 1986–26—J. Curtis Herge for National Conservative Foundation
Routine Administrative Matter

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86–17900 Filed 8–5–86; 3:27 am]

BILLING CODE 6715–01–M

4

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 10.00 a.m., Friday, July 25, 1986.

PLACE: 1776 G Street, NW., Washington, DC 20456, 6th Floor.

STATUS: Closed.

MATTER CONSIDERED:

1. Administrative Action under section 120 of the Federal Credit Union Act.

The Board unanimously voted that Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR 86–17892 Filed 8–5–86; 2:06 pm]

BILLING CODE 7535–01–M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 4, 1986:

Closed meetings will be held on Tuesday, August 5, 1986, at 2:30 p.m. and on Friday, August 8, 1986, at 9:30 a.m. An open meeting will be held on Friday, August 8, 1986, at 10:30 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 5, 1986, at 2:30 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Friday, August 8, 1986, at 9:30 a.m., will be:

Regulatory matter regarding financial institution.

The following item previously scheduled for Thursday, August 7, 1986, at 10:00 a.m., has been rescheduled for Friday, August 8, 1986, at 10:30 a.m.:

Consideration of whether to authorize publication of a release requesting comments on the rulemaking petition submitted by the Securities Industry Association. The petition, as supplemented, proposes that the Commission adopt a rule that would allow a written confirmation of a securities purchase to be sent to investors in registered public offerings prior to the time a prospectus that meets the statutory requirements of the Securities Act of 1933 is delivered to them. Currently, a confirmation must be preceded or accompanied by a statutory prospectus. For further information, please contact Brent H. Taylor at (202) 272–2434.

The subject matter of the open meeting scheduled for Friday, August 8, 1986, at 10:30 a.m., will be:

1. Consideration of the manner in which the Commission should regulate over-the-counter trading systems such as, systems operated by the Instinet Corporation and proposed by Security Pacific National Bank. For further information, please contact William M. Harter, Jr. at (202) 2828 and Katherine A. England at (202) 272–2882.

2. Consideration of a request from Citicorp for a no-action position with respect to broker-dealer registration on behalf of certain Citicorp foreign affiliates, or in the alternative an exemption from broker-dealer registration for such foreign affiliates. For further information, please contact Robert L.D. Colby or Amy Natterson Kroll at (202) 272–2848.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272–3195.

Jonathan G. Katz,

Secretary.

August 1, 1986.

[FR Doc. 86–17816 Filed 8–4–86; 4:18 pm]

BILLING CODE 8010–01–M

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federal register

Thursday
August 7, 1986

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Fair Market Rents for New Construction and Substantial Rehabilitation—All Markets; Final Notice

VOL 51 ISS 152 AG 7 1986 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-86-1590; FR-2161]

Section 8 Housing Assistance Payments Program; Fair Market Rents for New Construction and Substantial Rehabilitation—All Markets

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents periodically, but not less frequently than annually. This document announces final, Fiscal Year 1986 Fair Market Rents for the Section 8 New Construction Program and the Section 8 Substantial Rehabilitation Program. These proposed Fair Market Rents are based primarily on the level of rentals paid for recently completed or newly-constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. They also reflect the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone (202) 426-7624. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe, and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. Total housing expense represents the total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family. Where the unit is leased to an eligible family, the housing assistance payment represents the difference between the total housing expense and the total family contribution. Initial contract rents plus any allowances for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established by the Department.

Section 8(c)(1) of the Act states that the Secretary shall establish FMRs periodically, but not less frequently than annually. Section 8(c)(1) further provides that the Department shall publish FMRs in the **Federal Register**, with reasonable time for public comment, and that the FMRs will become effective upon their publication in final form in the **Federal Register**. The Department published proposed FMRs in the **Federal Register** on April 22, 1986 (51 FR 15174), with a comment due date of May 22, 1986.

This Notice

Today's document announces the Fiscal Year 1986 FMRs for new construction and substantial rehabilitation that apply to Section 8 New Construction under Part 880, Substantial Rehabilitation under Part 881, House Finance and Development Agencies under Part 883, New Construction Set-Aside for Section 515 Rural Rental Housing Projects under Part 884, Housing for the Elderly and Handicapped under Part 885 and Disposition of HUD-owned Projects under Part 886, Subpart C.

FMRs are based primarily on the levels of rent paid for recently completed or newly constructed dwelling units of modest design within each market area, as determined by HUD Field Office Staff, trended ahead to October 1, 1987, to allow for the period of construction or rehabilitation of the projects involved. They are estimates of rentals that prospective tenants who are not receiving Federal rent subsidies would be willing and able to pay for recently completed or newly constructed dwelling units of modest design, with suitable amenities. They do not necessarily represent rents needed to support construction and operating costs.

This Notice includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structural categories (detached, semi-detached/row, walkup, 2-4 story elevator, and 5-plus story elevator buildings). Construction or rehabilitation of elevator projects for families with children is prohibited unless there is no practical alternative. Fair Market Rents for family units in elevator structures are proposed for appropriate market areas. However, the determination that there is "no practical alterntive" must be made on a project-by-project basis.

In addition, regulations provide that high-rise elevator projects *for the elderly* may be approved *only* if HUD determines that high-rise construction is appropriate after taking into account land costs, safety and security factors.

Section 202/Section 8 Projects

A. For the Section 202/Section 8 program, beginning with Federal Fiscal Year 1986 selections, the Fair Market Rents (FMRs) on which the Contract Rents will be based will be the Fair Market Rents applicable to projects for the elderly or handicapped published and in effect on the date of the Notice of Section 202 Fund Reservation. However, these FMRs may be increased by up to 10 percent with the approval of the Field Office Manager or by up to 20 percent with the approval of the Assistant Secretary for Housing—Federal Housing Commissioner.

B. For the Section 202/Section 8 program, for projects selected during Federal fiscal year 1985 and earlier, the applicable Fair Market Rents are those in effect on the date that the proposal or application for assistance was submitted to HUD (or, in the case of assistance under Part 884, by FmHA, and in the case of assistance under Part 883, by the State Agency). The following exceptions apply:

1. For all projects where the FMRs are increased after the completion date of a processing stage, the increased FMRs will apply to all subsequent processing in reviewing contract rents and utilities. (This does not apply when the borrower agrees to limit the rents to 110 percent of the FMRs in effect at the time of fund reservation in order to enter into a negotiated construction contract, as permitted under the Section 202 competitive bid procedure.) The decision concerning appropriate FMRs to use in project processing will be based upon an entire schedule, rather than selectively choosing the highest unit rents from the currently effective FMR schedule or a previously published schedule for that area.

2. For all projects where the FMRs decreased after the completion date of a processing stage, the applicable FMR will be the higher of:

(a) The FMR set forth in Schedule A of the annual publication of Fair Market Rents or

(b) The FMR set forth in a previously published schedule that was in effect at the time that the application was submitted.

C. With respect to Section 202/Section 8 Projects selected during Federal Fiscal Year 1985 and prior years where 18 months (or 24 months for non-site specific selection) *have* expired since the issuance of the Notice of Section 202 Fund Reservation *and* where an extension of the time to commence construction, substantial rehabilitation or acquisition with or without moderate rehabilitation is approved by the Department, the Federal Fiscal Year 1986 Fair Market Rent Schedule shall apply, except:

For all projects where the FMRs have been revised downward after the completion date of a processing stage, the applicable FMR shall be the higher of:

(1) The FMR set forth in Schedule A of the Fiscal Year 1986 FMRs, or

(2) The FMR set forth in a previously published schedule that was in effect at the time that the processing stage was completed.

Public Comments

The Department received eight comments on the proposed Notice. Five comments were from public housing agencies (PHAs); one was from a nonprofit housing sponsor; one from a contractor; and one from a United States Senator.

All comments included the general statement that the FMRs were inadequate for their particular jurisdiction. In addition to this general comment, the following substantive issues were raised.

1. Three commenters questioned whether the proposed rents met the HUD criteria articulated in the preamble to the proposed notice, that—

Fair Market Rents [are] based primarily on the level of rent paid for recently completed or newly constructed dwelling units of modest design within each market area, as determined by HUD Field Office staff trended to October 1, 1987, to allow for the period of construction or rehabilitation of the projects involved.

The commenters indicated that Field Office staff proposed increases that were much higher than those indicated in the proposed notice, and in one case, the Field Office submitted data to HUD headquarters recommending increases of 14 percent over the 1985 levels. The published proposed rents in this case were 3 percent over 1985 levels.

Another commenter questioned whether HUD had actually trended forward the proposed rents to the October 1, 1987 date, citing the *Engineering New Record* "Market Trends" as indicating that the construction cost index standard shows market areas to expect increases in the range of 3.3 percent for 1987. Another commenter pointed out that, while it recognizes that there may be a legitimate national concern for controlling program costs, establishing caps "will inevitably result in distortions in certain markets and in certain unit types."

We disagree with the commenters. The FMRs have their foundation in local market data, since their genesis is the annual rent survey conducted by each Field Office in preparation of the annual revisions to the FMR schedules. The preamble also states, "They also reflect the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs." Therefore, while we acknowledge that the published rents may, in some cases, be lower than the rents proposed by our Field Offices, the published rents are nonetheless consistent with the considerations specified in the preamble.

2. Almost all commenters made the general point they did not think it appropriate for the Section 8 proposed FMRs to be based on general construction data, when the only viable, remaining program using the New Construction/Substantial Rehabilitation rents where HUD–202 projects. Commenters made different, but consistent, comments to the effect that the HUD–202 Section 8 requirements, such as "site location" and distance-to-shopping requirements, as well as elevators and other amenities required for elderly and handicapped housing, make Section 202 housing more expensive than similarly constructed units not needing special designs. The only relevant comparable housing types on which to base FMRs, the commenters asserted, would be other elderly or handicapped projects. The market costs of units in these projects, because of the specialized design and site location requirements, are higher than the cost of multifamily units constructed for nonspecialized uses.

Construction cost data was never intended to be, and still is not, the primary consideration in establishing FMRs and FMR limits. Moreover, our policies and procedures strictly preclude the selection of HUD subsidized projects as rental comparables in developing FMRs for any given market area. As required by the Congress, HUD procedures for establishing FMRs for any market area rely on market rental comparables reflecting local market conditions. In addition, consistent with our regulations, the FMRs for the elderly and handicapped are increased five percent above the published FMRs specifically to take such special factors into consideration.

3. Finally, several commenters indicated that the proposed FMRs will not support the operating costs and mortgage payments for a project developed under the Section 202 program. This is despite the nonprofit status of the developer and the federally subsidized interest rates for construction and long term financing. All of these projects are coming in, the commenters claim, at or below HUD-approved estimates for Section 202 carrying charges, but their debt-retirement costs result in rents above the proposed FMRs.

The Department makes every effort to work with Section 202 borrowers to assure the development of feasible projects. These efforts include enforcement of our cost containment policies and procedures as well as other suggestions for economies in the management and operation of projects. When all of these efforts fail to produce a financially feasible project, the Department will consider requests for a special revision of one or more of the Fair Market Rent schedules. Such requests may be initiated by a Field Office at any time.

Other Information

HUD regulations in 24 CFR Part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the FMRs announced in this Notice are within the exclusion set forth in § 50.20(*l*), no environmental assessment is required, and no environmental finding has been prepared.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Housing Assistance Program (Section 8).

Dated: July 31, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Schedule A—Fair Market Rents for New Construction—Substantial Rehabilitation

Notes:

Special Category Computations

(1) FMRs for dwelling units designed for the elderly or handicapped are those

for appropriate size units, not to exceed two bedrooms for the elderly, multiplied by 1.05.

(2) Congregate housing dwelling unit FMRs are the same as for noncongregate units.

(3) Single room occupancy dwelling unit FMRs (applicable only for Substantial Rehabilitation projects) are 75 percent of those for zero-bedroom units of the same structural type.

(4) FMRs for living units in a group home developed with a direct loan under section 202 of the Housing Act of 1959 are those for zero-bedroom or a one-bedroom unit of the walk-up structural type (or if the group home contains an elevator, of the 2–4 story elevator structural type). Each living unit in a group home is composed of a bedroom plus a proportionate part of common living space ordinarily included in a living unit. One-bedroom FMRs may be applied only when the bedroom space plus the proportionate part of the common space totals at least 450 square feet.

(5) Manufactured home (unit and space) FMRs shall be 95 percent of the rents for detached units of the appropriate bedroom size (except that where a manufactured home FMR is specified in the schedule for an area, the amount on the schedule shall be the FMR).

(6) FMRs for manufactured home spaces in newly constructed or substantially rehabilitated manufactured home parks are determined by multiplying by 1.25 the FMR for the spaces published for the Existing Housing Program. (For currently effective FMRs for the Existing Housing Program, see **Federal Register** documents published on July 5, 1984 (49 FR 27658); April 16, 1985 (50 FR 14922); April 25, 1985 (50 FR 16229); and April 22, 1986 (51 FR 15120).

Rent Computations

All rents computed in accordance with this note shall be rounded down to the nearest whole dollar.

Similarly, all Fair Market Rents increased by up to 10 percent with the approval of the HUD Field Office Manager, or by up to 20 percent with the approval of the HUD Assistant Secretary for Housing should have the result rounded down to the nearest whole dollar.

BILLING CODE 4210-27-M

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION I

BOSTON REGIONAL OFFICE

MARKET: BOSTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			764	980	1068
SEMI-DETACHED/ROW	638	643	754	891	987
WALKUP	555	627	751	829	940
ELEVATOR 2-4 STY	575	699	807	1048	1196
ELEVATOR 5+ STY	575	699	807	1128	1245
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WORCESTER

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		709	906	983
565	570	701	818	938
509	542	680	771	886
520	597	715		
545	629	752		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FALL RIVER

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		732	880	896
562	567	717	869	880
528	547	677	775	813
546	567	692		
548	597	723		

EFFECTIVE DATE 100185
TRENDED DATE 100187

HARTFORD OFFICE

MARKET: HARTFORD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			676	752	774
SEMI-DETACHED/ROW	545	559	644	730	752
WALKUP	464	538	612	691	713
ELEVATOR 2-4 STY	470	546	616		
ELEVATOR 5+ STY	486	594	684		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NEW HAVEN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		657	742	793
536	541	609	719	771
463	518	587	668	691
475	533	624		
493	588	695		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NEW LONDON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		654	730	762
480	495	621	698	738
433	465	611	687	711
436	479	634		
462	530	654		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NEW MILFORD

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		610	680	698
520	525	605	675	693
436	506	575	648	670
441	513	579		
456	558	643		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WINDHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			561	621	644
SEMI-DETACHED/ROW	473	478	535	599	624
WALKUP	392	456	511	567	584
ELEVATOR 2-4 STY	415	474	522		
ELEVATOR 5+ STY	432	503	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BRIDGEPORT

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		656	700	731
537	542	625	677	708
450	521	591	657	680
456	545	598		
474	576	664		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: RIDGEFIELD

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		761	815	844
624	678	725	793	821
521	606	689	771	794
530	615	696		
546	668	769		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORWICH

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		610	680	698
529	534	605	675	693
444	517	587	649	669
451	524	592		
467	561	654		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MANCHESTER OFFICE

MARKET: MAINE STATEWIDE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		556	627	715	830
SEMI-DETACHED/ROW	437	513	586	674	781
WALKUP	392	476	558	633	714
ELEVATOR 2-4 STY	439	534	660		
ELEVATOR 5+ STY	487	585	734		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VERMONT STATE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
	575	674	757	855
479	538	634	711	803
429	502	597	673	742
487	556	659		
540	616	732		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NEW HAMPSHIRE ST.

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
	554	620	714	830
470	524	590	678	784
415	466	535	609	693
438	531	611		
487	589	679		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PROVIDENCE OFFICE

MARKET: PROVIDENCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			680	792	886
SEMI-DETACHED/ROW	413	498	577	639	690
WALKUP	371	484	558	628	674
ELEVATOR 2-4 STY	376	499	648		
ELEVATOR 5+ STY	381	504	655		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 2

BUFFALO OFFICE

MARKET: BUFFALO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			566	640	722
SEMI-DETACHED/ROW	406	426	497	584	675
WALKUP	324	383	461	541	576
ELEVATOR 2-4 STY	425	467	619		
ELEVATOR 5+ STY	462	504	656		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ELMIRA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			534	618	685
SEMI-DETACHED/ROW	334	388	487	576	642
WALKUP	290	335	441	546	619
ELEVATOR 2-4 STY	356	434	557		
ELEVATOR 5+ STY	392	470	593		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JAMESTOWN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2-	-3-	-4+
DETACHED			559	628	704
SEMI-DETACHED/ROW	411	438	509	584	667
WALKUP	337	397	471	541	625
ELEVATOR 2-4 STY	413	487	598		
ELEVATOR 5+ STY	450	524	634		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROCHESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0	-1-	-2-	-3-	-4+
DETACHED			546	611	678
SEMI-DETACHED/ROW	427	430	502	584	660
WALKUP	332	385	464	526	593
ELEVATOR 2-4 STY	428	487	584		
ELEVATOR 5+ STY	465	524	624		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ALBANY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			537	649	719
SEMI-DETACHED/ROW	391	396	474	576	638
WALKUP	337	385	452	532	603
ELEVATOR 2-4 STY	337	415	525		
ELEVATOR 5+ STY	367	454	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PLATTSBURGH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			546	644	711
SEMI-DETACHED/ROW	456	461	502	580	647
WALKUP	362	397	459	537	612
ELEVATOR 2-4 STY	403	477	580		
ELEVATOR 5+ STY	440	515	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET SYRACUSE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			554	638	730
SEMI-DETACHED/ROW	404	409	486	585	657
WALKUP	319	382	466	532	612
ELEVATOR 2-4 STY	319	425	538		
ELEVATOR 5+ STY	359	463	578		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET BINGHAMTON

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED			534	644	712
SEMI-DETACHED/ROW	388	393	474	567	630
WALKUP	335	383	450	529	597
ELEVATOR 2-4 STY	335	417	530		
ELEVATOR 5+ STY	372	443	569		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

NEW YORK REGIONAL OFFICE

MARKET: NEW YORK CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	641	646	890	1056	1290
WALKUP	580	606	826	988	1194
ELEVATOR 2-4 STY	620	797	852	1074	1261
ELEVATOR 5+ STY	808	984	1093	1388	1586
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SUFFOLK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			785	952	1061
SEMI-DETACHED/ROW	594	629	745	779	928
WALKUP	476	555	688	728	804
ELEVATOR 2-4 STY	612	719	876		
ELEVATOR 5+ STY	661	737	921		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET WESTCHESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1	-2-	-3-	-4+
DETACHED			891	1041	1140
SEMI-DETACHED/ROW	632	637	746	919	1000
WALKUP	498	594	711	859	943
ELEVATOR 2-4 STY	616	705	866	1013	
ELEVATOR 5+ STY	667	792	922		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET ORANGE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			651	739	806
SEMI-DETACHED/ROW	450	464	589	701	767
WALKUP	333	460	558	655	726
ELEVATOR 2-4 STY	536	580	733		
ELEVATOR 5+ STY	576	659	805		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROCKLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			889	956	1027
SEMI-DETACHED/ROW	547	631	786	915	993
WALKUP	469	594	742	862	954
ELEVATOR 2-4 STY	530	638	792		
ELEVATOR 5+ STY	579	690	834		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NASSAU

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			941	1074	1180
SEMI-DETACHED/ROW	552	667	861	976	1082
WALKUP	516	642	779	895	991
ELEVATOR 2-4 STY	531	657	817		
ELEVATOR 5+ STY	537	754	871		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET PUTNAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			821	944	1027
SEMI-DETACHED/ROW	548	553	704	845	922
WALKUP	447	524	604	756	877
ELEVATOR 2-4 STY	628	711	778		
ELEVATOR 5+ STY	672	773	859		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET POUGHKEEPSIE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			683	798	911
SEMI-DETACHED/ROW	463	499	594	683	750
WALKUP	398	475	582	634	704
ELEVATOR 2-4 STY	605	707	814		
ELEVATOR 5+ STY	633	734	879		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

NEWARK OFFICE

MARKET: NEWARK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			1086	1213	1290
SEMI-DETACHED/ROW	614	683	866	1004	1092
WALKUP	540	604	774	899	984
ELEVATOR 2-4 STY	624	694	884	1030	1112
ELEVATOR 5+ STY	701	786	1003	1175	1266
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORTH BERGEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			1079	1207	1283
SEMI-DETACHED/ROW	674	742	861	998	1085
WALKUP	598	661	767	891	977
ELEVATOR 2-4 STY	681	751	877	1022	1105
ELEVATOR 5+ STY	759	844	997	1168	1259
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FREEHOLD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			999	1124	1203
SEMI-DETACHED/ROW	605	674	783	917	1004
WALKUP	531	592	693	810	898
ELEVATOR 2-4 STY	612	682	796	942	1023
ELEVATOR 5+ STY	690	775	915	1086	1180
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CAMDEN

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED			952	1073	1147
SEMI-DETACHED/ROW	583	588	718	873	954
WALKUP	434	503	618	765	856
ELEVATOR 2-4 STY	559	627	763	915	996
ELEVATOR 5+ STY	638	719	895	1061	1150
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ATLANTIC CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			947	1038	1099
SEMI-DETACHED/ROW	610	615	700	835	919
WALKUP	489	547	620	742	820
ELEVATOR 2-4 STY	589	656	739	879	958
ELEVATOR 5+ STY	667	749	859	1023	1114
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BURLINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			952	1073	1147
SEMI-DETACHED/ROW	580	588	736	873	954
WALKUP	461	519	656	778	856
ELEVATOR 2-4 STY	560	627	775	915	996
ELEVATOR 5+ STY	638	719	895	1061	1150
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET GLOUCESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2-	-3-	-4+
DETACHED			952	1073	1147
SEMI-DETACHED/ROW	536	588	726	873	954
WALKUP	444	517	624	775	856
ELEVATOR 2-4 STY	560	627	773	915	996
ELEVATOR 5+ STY	638	719	896	1061	1150
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TRENTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			972	1092	1166
SEMI-DETACHED/ROW	643	661	754	891	973
WALKUP	503	573	675	797	876
ELEVATOR 2-4 STY	628	702	795	934	1014
ELEVATOR 5+ STY	718	801	914	1079	1171
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VINELAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			835	956	1030
SEMI-DETACHED/ROW	523	542	620	754	837
WALKUP	387	462	538	661	739
ELEVATOR 2-4 STY	517	589	659	798	878
ELEVATOR 5+ STY	602	682	778	943	1034
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ASBURY PARK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			958	1085	1161
SEMI-DETACHED/ROW	554	622	740	877	966
WALKUP	433	540	646	771	857
ELEVATOR 2-4 STY	561	631	757	902	983
ELEVATOR 5+ STY	638	730	876	1046	1140
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 2

CARIBBEAN OFFICE

MARKET: SAN JUAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			511	572	628
SEMI-DETACHED/ROW	405	440	491	550	577
WALKUP	337	388	458	519	570
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MAYAGUEZ

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			485	570	638
SEMI-DETACHED/ROW	425	430	475	561	637
WALKUP	321	381	428	487	560
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	360	408	507	584	629
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PONCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			473	555	601
SEMI-DETACHED/ROW	426	431	468	550	596
WALKUP	321	381	425	487	560
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	360	408	507	584	629
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ARECIBO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			485	570	638
SEMI-DETACHED/ROW	425	430	475	561	637
WALKUP	321	381	428	487	560
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	360	408	507	584	629
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ST. CROIX

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			630	688	799
SEMI-DETACHED/ROW	408	471	553	639	728
WALKUP	343	403	491	552	615
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100188
TRENDED DATE 100187

MARKET: ST. THOMAS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			667	729	822
SEMI-DETACHED/ROW	458	499	571	658	747
WALKUP	365	422	515	575	645
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OLD SAN JUAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	635	640	711	734	875
WALKUP	532	589	662	728	791
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

REGION 3

BALTIMORE OFFICE

MARKET: BALTIMORE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			708	796	935
SEMI-DETACHED/ROW	423	495	571	677	876
WALKUP	382	490	563	672	755
ELEVATOR 2-4 STY	413	516	611		
ELEVATOR 5+ STY	456	563	687		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HAGERSTOWN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			644	716	826
SEMI-DETACHED/ROW	411	460	538	626	812
WALKUP	351	455	533	621	665
ELEVATOR 2-4 STY	376	473	538		
ELEVATOR 5+ STY	432	521	652		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SALISBURY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			599	661	775
SEMI-DETACHED/ROW	418	423	487	564	726
WALKUP	323	418	481	558	628
ELEVATOR 2-4 STY	334	458	501		
ELEVATOR 5+ STY	369	481	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

CHARLESTON OFFICE

MARKET: CHARLESTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			525	623	707
SEMI-DETACHED/ROW	357	388	502	608	702
WALKUP	304	388	487	498	562
ELEVATOR 2-4 STY	398	489	552		
ELEVATOR 5+ STY	409	496	558		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BLUEFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			499	553	615
SEMI-DETACHED/ROW	304	371	461	517	556
WALKUP	291	360	420	469	516
ELEVATOR 2-4 STY	395	469	525		
ELEVATOR 5+ STY	402	475	533		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HUNTINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			478	577	628
SEMI-DETACHED/ROW	309	377	468	545	602
WALKUP	245	367	465	520	569
ELEVATOR 2-4 STY	373	443	532		
ELEVATOR 5+ STY	379	450	537		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PARKERSBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			448	517	568
SEMI-DETACHED/ROW	234	356	421	488	537
WALKUP	277	345	396	463	510
ELEVATOR 2-4 STY	384	463	561		
ELEVATOR 5+ STY	393	469	568		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WHEELING

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			492	545	610
SEMI-DETACHED/ROW	303	358	450	531	586
WALKUP	275	351	448	492	536
ELEVATOR 2-4 STY	369	441	535		
ELEVATOR 5+ STY	374	448	540		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MARTINSBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			464	545	610
SEMI-DETACHED/ROW	282	343	429	514	586
WALKUP	265	320	425	492	556
ELEVATOR 2-4 STY	418	480	511		
ELEVATOR 5+ STY	425	465	518		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FAIRMONT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			520	577	646
SEMI-DETACHED/ROW	385	434	490	553	620
WALKUP	323	403	471	520	572
ELEVATOR 2-4 STY	441	485	540		
ELEVATOR 5+ STY	449	491	546		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: POINT PLEASANT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			447	515	562
SEMI-DETACHED/ROW	283	333	417	485	534
WALKUP	242	329	409	456	507
ELEVATOR 2-4 STY	382	455	511		
ELEVATOR 5+ STY	387	465	519		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

PHILADELPHIA REGIONAL OFFICE

MARKET: PHILADELPHIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			840	711	833
SEMI-DETACHED/ROW	566	571	715	848	927
WALKUP	448	504	637	745	826
ELEVATOR 2-4 STY	544	609	736		
ELEVATOR 5+ STY	620	672	793		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ALLENTOWN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			599	666	779
SEMI-DETACHED/ROW	472	477	594	695	787
WALKUP	407	449	559	653	729
ELEVATOR 2-4 STY	481	507	595		
ELEVATOR 5+ STY	495	543	666		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: BELLEFONTE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			521	627	757
SEMI-DETACHED/ROW	480	483	591	686	746
WALKUP	384	470	550	650	699
ELEVATOR 2-4 STY	418	488	606		
ELEVATOR 5+ STY	465	524	647		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: HARRISBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			536	637	762
SEMI-DETACHED/ROW	482	487	538	683	746
WALKUP	384	449	519	640	697
ELEVATOR 2-4 STY	436	505	559		
ELEVATOR 5+ STY	472	547	608		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: LANCASTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			557	685	711
SEMI-DETACHED/ROW	448	453	545	657	684
WALKUP	374	437	682		
ELEVATOR 2-4 STY	454	525	705		
ELEVATOR 5+ STY	477	548			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: YORK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			557	685	711
SEMI-DETACHED/ROW	448	453	545	657	684
WALKUP	374	437	682		
ELEVATOR 2-4 STY	454	525	705		
ELEVATOR 5+ STY	477	548			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: READING

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			571	687	764
SEMI-DETACHED/ROW	472	477	545	648	711
WALKUP	380	458	594		
ELEVATOR 2-4 STY	434	512	659		
ELEVATOR 5+ STY	470	562			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SCRANTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			588	668	731
SEMI-DETACHED/ROW	444	506	559	641	711
WALKUP	412	465	624		
ELEVATOR 2-4 STY	476	553	664		
ELEVATOR 5+ STY	506	589			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: WELLSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			591	688	746
SEMI-DETACHED/ROW	391	483	550	650	699
WALKUP	384	470	606		
ELEVATOR 2-4 STY	418	488	647		
ELEVATOR 5+ STY	465	524			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

PITTSBURGH OFFICE

MARKET: PITTSBURGH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			840	711	833
SEMI-DETACHED/ROW	462	548	709	887	803
WALKUP	405	483	580	687	803
ELEVATOR 2-4 STY	497	556	840		
ELEVATOR 5+ STY	512	579	681		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ERIE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			599	666	779
SEMI-DETACHED/ROW	432	519	570	634	742
WALKUP	345	426	505	587	657
ELEVATOR 2-4 STY	487	540	628		
ELEVATOR 5+ STY	508	557	674		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ALTOONA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			521	627	757
SEMI-DETACHED/ROW	352	424	511	597	721
WALKUP	334	412	506	582	688
ELEVATOR 2-4 STY	487	545	577		
ELEVATOR 5+ STY	497	562	614		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: JOHNSTOWN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			536	637	762
SEMI-DETACHED/ROW	388	436	510	600	726
WALKUP	337	416	500	575	656
ELEVATOR 2-4 STY	452	486	582		
ELEVATOR 5+ STY	461	522	613		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

RICHMOND OFFICE

MARKET: NORTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			422	511	569
SEMI-DETACHED/ROW	340	351	407	506	558
WALKUP	263	321	440		
ELEVATOR 2-4 STY	292	354	526		
ELEVATOR 5+ STY	320	398			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: HARRISONBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			456	526	598
SEMI-DETACHED/ROW	360	392	451	521	579
WALKUP	306	364	485		
ELEVATOR 2-4 STY	339	397	605		
ELEVATOR 5+ STY	385	456			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: NEWPORT NEWS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			450	561	610
SEMI-DETACHED/ROW	386	391	420	502	560
WALKUP	307	348	452		
ELEVATOR 2-4 STY	340	380	633		
ELEVATOR 5+ STY	459	519			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: NORFOLK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			499	561	614
SEMI-DETACHED/ROW	413	419	478	561	607
WALKUP	353	404	511		
ELEVATOR 2-4 STY	392	437	690		
ELEVATOR 5+ STY	458	558			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: CHARLOTTESVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			518	612	650
SEMI-DETACHED/ROW	433	438	488	542	603
WALKUP	360	407	526		
ELEVATOR 2-4 STY	393	440	662		
ELEVATOR 5+ STY	434	526			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: RICHMOND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			469	548	596
SEMI-DETACHED/ROW	399	404	460	542	591
WALKUP	329	385	492		
ELEVATOR 2-4 STY	362	417	643		
ELEVATOR 5+ STY	409	498			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

WASHINGTON D.C. OFFICE

MARKET: WASHINGTON D.C.

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			668	743	838
SEMI-DETACHED/ROW	543	610	588	681	760
WALKUP	437	517	734		
ELEVATOR 2-4 STY	472	568	790		
ELEVATOR 5+ STY	529	609			
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

WILMINGTON

MARKET: WILMINGTON, DEL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			615	773	808
SEMI-DETACHED/ROW	444	449	548	659	723
WALKUP	371	430	507	590	632
ELEVATOR 2-4 STY	409	478	603		
ELEVATOR 5+ STY	435	555	615		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: DOVER, DEL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			589	705	798
SEMI-DETACHED/ROW	407	412	496	610	665
WALKUP	363	392	445	531	573
ELEVATOR 2-4 STY	369	453	536		
ELEVATOR 5+ STY	392	500	595		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

REGION 4

ATLANTA REGIONAL OFFICE

MARKET: ATLANTA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	435	465	527	636	678
WALKUP	424	450	515	623	662
ELEVATOR 2-4 STY	451	477	541		
ELEVATOR 5+ STY	505	538	616		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ALBANY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			460	527	560
SEMI-DETACHED/ROW	314	351	410	477	521
WALKUP	303	340	400	467	510
ELEVATOR 2-4 STY	328	365	425		
ELEVATOR 5+ STY	378	415	475		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: AUGUSTA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			432	507	551
SEMI-DETACHED/ROW	329	364	408	487	523
WALKUP	319	349	394	471	511
ELEVATOR 2-4 STY	347	376	421		
ELEVATOR 5+ STY	387	419	484		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: BRUNSWICK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			469	552	587
SEMI-DETACHED/ROW	340	379	431	500	557
WALKUP	329	367	426	489	534
ELEVATOR 2-4 STY	357	394	454		
ELEVATOR 5+ STY	409	445	508		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: COLUMBUS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			440	538	580
SEMI-DETACHED/ROW	318	354	396	507	545
WALKUP	304	340	383	495	533
ELEVATOR 2-4 STY	331	368	408		
ELEVATOR 5+ STY	388	425	463		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: MACON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			450	487	541
SEMI-DETACHED/ROW	341	374	419	464	521
WALKUP	337	357	408	449	500
ELEVATOR 2-4 STY	356	386	433		
ELEVATOR 5+ STY	417	449	483		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ROME

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			400	472	508
SEMI-DETACHED/ROW	284	304	348	419	466
WALKUP	253	293	348	407	454
ELEVATOR 2-4 STY	279	320	374		
ELEVATOR 5+ STY	332	372	428		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SAVANNAH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			501	581	617
SEMI-DETACHED/ROW	351	387	466	528	572
WALKUP	338	374	453	516	561
ELEVATOR 2-4 STY	365	405	479		
ELEVATOR 5+ STY	417	458	532		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: VALDOSTA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			422	483	553
SEMI-DETACHED/ROW	294	333	397	475	521
WALKUP	283	315	387	452	509
ELEVATOR 2-4 STY	309	348	415		
ELEVATOR 5+ STY	360	400	465		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

BIRMINGHAM OFFICE

MARKET: BIRMINGHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			582	745	826
SEMI-DETACHED/ROW	355	361	429	519	556
WALKUP	319	355	416	500	538
ELEVATOR 2-4 STY	330	373	440		
ELEVATOR 5+ STY	342	392	466		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: DOTHAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	629	707
SEMI-DETACHED/ROW	315	345	398	473	516
WALKUP	306	338	389	455	498
ELEVATOR 2-4 STY	319	356	413		
ELEVATOR 5+ STY	331	356	438		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: FLORENCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			546	699	786
SEMI-DETACHED/ROW	319	344	408	497	537
WALKUP	299	338	396	477	523
ELEVATOR 2-4 STY	312	351	418		
ELEVATOR 5+ STY	325	363	430		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: HUNTSVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			544	689	785
SEMI-DETACHED/ROW	373	378	451	533	579
WALKUP	315	372	445	519	571
ELEVATOR 2-4 STY	361	401	484		
ELEVATOR 5+ STY	372	420	508		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: MOBILE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			527	674	756
SEMI-DETACHED/ROW	338	365	435	521	559
WALKUP	312	353	424	501	545
ELEVATOR 2-4 STY	334	371	449		
ELEVATOR 5+ STY	346	389	472		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: MONTGOMERY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			508	647	726
SEMI-DETACHED/ROW	343	348	442	524	575
WALKUP	318	342	424	519	568
ELEVATOR 2-4 STY	330	361	448		
ELEVATOR 5+ STY	341	379	473		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: TUSCALOOSA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			546	696	778
SEMI-DETACHED/ROW	366	371	431	536	572
WALKUP	329	366	418	518	567
ELEVATOR 2-4 STY	350	384	442		
ELEVATOR 5+ STY	363	402	467		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

COLUMBIA OFFICE

MARKET: GREENVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED		458	516	600	649
SEMI-DETACHED/ROW	370	428	481	565	609
WALKUP	360	418	466	550	589
ELEVATOR 2-4 STY	454	521	591		
ELEVATOR 5+ STY	478	545	616		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENWOOD
NUMBER OF BEDROOMS

		410	464	518	561
331	383	433	489	528	
322	375	420	477	512	
414	475	529			
436	497	551			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MYRTLE BEACH
NUMBER OF BEDROOMS

	443	567	669	719
382	425	548	643	692
353	416	523	626	670
448	520	642		
471	543	666		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ORANGEBURG
NUMBER OF BEDROOMS

	416	468	523	574
322	400	452	508	559
314	392	441	497	544
399	484	537		
419	492	556		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROCKHILL
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED		484	545	614	672
SEMI-DETACHED/ROW	352	402	527	594	650
WALKUP	382	445	509	578	630
ELEVATOR 2-4 STY	443	502	606		
ELEVATOR 5+ STY	467	527	630		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COLUMBIA
NUMBER OF BEDROOMS

	489	563	630	689	
385	468	545	609	667	
375	458	521	593	646	
454	521	611			
478	545	636			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AIKEN
NUMBER OF BEDROOMS

	466	525	567	620
375	447	502	547	602
365	437	489	534	582
443	502	602		
467	527	624		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ANDERSON
NUMBER OF BEDROOMS

	444	496	561	614
326	378	413	489	528
318	369	401	477	512
407	467	504		
429	489	525		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BEAUFORT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED		505	580	669	719
SEMI-DETACHED/ROW	415	484	560	647	698
WALKUP	404	467	539	626	670
ELEVATOR 2-4 STY	467	534	642		
ELEVATOR 5+ STY	491	558	666		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHARLESTON
NUMBER OF BEDROOMS

	481	582	663	714	
382	461	561	635	684	
371	451	539	620	664	
467	534	642			
491	558	666			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FLORENCE
NUMBER OF BEDROOMS

	435	488	546	599
337	418	472	530	583
328	410	460	518	567
418	502	562		
439	527	582		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPARTANBURG
NUMBER OF BEDROOMS

	429	465	547	592
347	401	434	515	556
337	392	421	502	538
434	498	531		
457	521	553		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORTH AUGUSTA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED		466	521	567	620
SEMI-DETACHED/ROW	378	447	502	547	602
WALKUP	368	437	489	534	582
ELEVATOR 2-4 STY	443	502	499		
ELEVATOR 5+ STY	467	527	624		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

GREENSBORO OFFICE

MARKET: GREENSBORO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			472	539	639
SEMI-DETACHED/ROW	391	386	461	507	609
WALKUP	327	391	456	502	605
ELEVATOR 2-4 STY	348	415	482		
ELEVATOR 5+ STY	496	533	645		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ASHEVILLE
NUMBER OF BEDROOMS

		451	550	629	
364	369	434	528	609	
310	364	419	523	604	
345	398	453			
451	507	599			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHARLOTTE
NUMBER OF BEDROOMS

		513	596	668	
403	408	483	559	645	
345	403	478	554	640	
369	431	512			
498	534	640			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DURHAM
NUMBER OF BEDROOMS

		504	579	680	
379	384	473	568	649	
336	379	468	562	644	
389	413	500			
495	538	655			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			438	504	599
SEMI-DETACHED/ROW	330	352	424	492	557
WALKUP	284	348	418	477	552
ELEVATOR 2-4 STY	315	369	439		
ELEVATOR 5+ STY	425	493	591		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: RALEIGH
NUMBER OF BEDROOMS

		508	605	707	
423	428	499	555	638	
356	422	493	550	632	
384	443	515			
539	606	719			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WINSTON-SALEM
NUMBER OF BEDROOMS

		460	547	651	
360	371	434	508	588	
302	369	429	503	582	
330	391	458			
474	507	608			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FAYETTEVILLE
NUMBER OF BEDROOMS

		437	511	586	
340	345	409	476	547	
301	344	405	471	542	
331	376	439			
416	467	555			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WILMINGTON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			452	534	607
SEMI-DETACHED/ROW	356	361	434	493	559
WALKUP	306	356	429	488	559
ELEVATOR 2-4 STY	337	376	450		
ELEVATOR 5+ STY	442	491	590		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ELIZABETH CITY
NUMBER OF BEDROOMS

		468	555	667	
340	328	415	505	594	
277	323	409	500	589	
301	369	467			
463	540	657			

EFFECTIVE DATE 100185
TRENDED DATE 100187

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

JACKSON OFFICE

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			497	599	679
SEMI-DETACHED/ROW	363	394	431	580	654
WALKUP	345	394	445	527	589
ELEVATOR 2-4 STY	451	524	614		
ELEVATOR 5+ STY	462	538	631		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: CORINTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			406	515	594
SEMI-DETACHED/ROW	284	332	395	497	575
WALKUP	269	322	390	490	556
ELEVATOR 2-4 STY	365	460	532		
ELEVATOR 5+ STY	377	474	549		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			492	521	598
SEMI-DETACHED/ROW	363	402	466	505	588
WALKUP	327	371	444	470	541
ELEVATOR 2-4 STY	422	471	591		
ELEVATOR 5+ STY	434	485	608		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: GREENWOOD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			457	495	582
SEMI-DETACHED/ROW	339	384	442	473	572
WALKUP	302	356	419	439	504
ELEVATOR 2-4 STY	434	494	555		
ELEVATOR 5+ STY	449	510	569		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: GULFPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			482	541	620
SEMI-DETACHED/ROW	381	396	456	534	572
WALKUP	315	365	415	507	567
ELEVATOR 2-4 STY	468	541	617		
ELEVATOR 5+ STY	480	555	634		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: HATTIESBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			445	528	604
SEMI-DETACHED/ROW	311	364	428	504	575
WALKUP	273	338	410	483	516
ELEVATOR 2-4 STY	390	439	534		
ELEVATOR 5+ STY	401	453	551		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SOUTHAVEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			485	561	639
SEMI-DETACHED/ROW	328	405	467	547	629
WALKUP	315	387	462	535	602
ELEVATOR 2-4 STY	429	475	578		
ELEVATOR 5+ STY	437	488	595		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

JACKSONVILLE OFFICE

MARKET: JACKSONVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			566	662	700
SEMI-DETACHED/ROW	400	460	543	602	658
WALKUP	359	406	505	590	651
ELEVATOR 2-4 STY	423	471	590		
ELEVATOR 5+ STY	475	525	662		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: PENSACOLA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			526	585	684
SEMI-DETACHED/ROW	377	422	496	554	610
WALKUP	320	363	443	520	576
ELEVATOR 2-4 STY	370	425	513		
ELEVATOR 5+ STY	418	479	572		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: KEY WEST

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			707	781	860
SEMI-DETACHED/ROW	525	586	650	739	820
WALKUP	422	482	569	678	739
ELEVATOR 2-4 STY	490	541	673		
ELEVATOR 5+ STY	556	619	769		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: MIAMI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			707	781	860
SEMI-DETACHED/ROW	525	586	650	739	820
WALKUP	422	482	569	678	739
ELEVATOR 2-4 STY	490	541	673		
ELEVATOR 5+ STY	556	619	769		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: TAMPA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			541	615	730
SEMI-DETACHED/ROW	408	467	536	603	675
WALKUP	362	414	497	590	644
ELEVATOR 2-4 STY	453	508	623		
ELEVATOR 5+ STY	534	593	713		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: ORLANDO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			618	690	734
SEMI-DETACHED/ROW	396	454	559	624	696
WALKUP	370	429	507	575	647
ELEVATOR 2-4 STY	454	517	630		
ELEVATOR 5+ STY	527	588	696		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

NASHVILLE OFFICE

MARKET: NASHVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			478	558	599
SEMI-DETACHED/ROW	366	406	462	545	588
WALKUP	334	387	454	539	582
ELEVATOR 2-4 STY	345	406	462		
ELEVATOR 5+ STY	352	421	478		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: CLARKSVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			430	516	558
SEMI-DETACHED/ROW	315	349	419	502	545
WALKUP	287	328	414	486	539
ELEVATOR 2-4 STY	310	355	419		
ELEVATOR 5+ STY	316	376	438		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: COLUMBIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			405	500	548
SEMI-DETACHED/ROW	300	323	382	433	527
WALKUP	268	316	371	428	521
ELEVATOR 2-4 STY	275	334	379		
ELEVATOR 5+ STY	286	358	414		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: MEMPHIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			430	483	565
SEMI-DETACHED/ROW	310	353	410	459	524
WALKUP	277	310	362	436	469
ELEVATOR 2-4 STY	323	387	456		
ELEVATOR 5+ STY	363	429	498		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

NO MARKET CODE MATCH IN PRT 44306

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			410	478	560
SEMI-DETACHED/ROW	297	328	385	444	517
WALKUP	269	310	374	433	493
ELEVATOR 2-4 STY	315	355	445		
ELEVATOR 5+ STY	335	393	485		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

LOUISVILLE OFFICE

MARKET LOUISVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			546	620	695
SEMI-DETACHED/ROW	430	456	523	588	657
WALKUP	376	410	482	559	609
ELEVATOR 2-4 STY	409	443	513		
ELEVATOR 5+ STY	491	538	642		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET COVINGTON

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			520	622	715
	410	425	488	561	655
	348	388	441	543	603
	416	450	512		
	487	544	632		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET OWENSBORO

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			519	614	684
	372	399	480	567	631
	321	364	435	510	566
	409	430	513		
	453	513	617		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET PADUCAH

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			519	615	686
	372	399	480	567	631
	321	364	435	510	566
	409	443	513		
	452	511	616		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET PIKEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			571	651	714
SEMI-DETACHED/ROW	430	448	534	604	664
WALKUP	381	424	488	559	610
ELEVATOR 2-4 STY	427	457	548		
ELEVATOR 5+ STY	492	539	655		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

KNOXVILLE OFFICE

MARKET KNOXVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			450	525	560
SEMI-DETACHED/ROW	355	390	435	515	550
WALKUP	340	365	425	505	540
ELEVATOR 2-4 STY	365	385	450		
ELEVATOR 5+ STY	395	410	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET CHATTANOOGA

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			461	545	582
	410	413	450	530	567
	375	402	434	519	556
	402	424	461		
	424	450	487		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET JOHNSON CITY

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			440	510	545
	338	380	430	500	530
	325	345	420	480	520
	380	380	440		
	380	405	465		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET KINGSPORT

	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
			440	510	545
	335	360	430	500	530
	330	350	420	465	500
	360	380	440		
	380	405	465		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET OAKRIDGE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			450	525	560
SEMI-DETACHED/ROW	355	390	435	515	550
WALKUP	340	365	425	505	540
ELEVATOR 2-4 STY	365	385	450		
ELEVATOR 5+ STY	385	410	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CHICAGO REGIONAL OFFICE

MARKET: CHICAGO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			762	905	1044
SEMI-DETACHED/ROW	551	619	699	821	910
WALKUP	467	539	644	772	810
ELEVATOR 2-4 STY	499	587	692	822	824
ELEVATOR 5+ STY	540	678	804	834	882
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: BELLEVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		646	732	815
408	457	547	634	742
370	443	519	586	647
403	476	555		
475	522	606		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: MOLINE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		666	815	904
439	498	587	716	803
391	455	539	675	714
414	483	572		
467	532	655		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: SPRINGFIELD

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		665	768	871
377	429	520	607	704
343	405	484	575	657
370	441	534		
439	490	580		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: EAST ST. LOUIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			546	643	724
SEMI-DETACHED/ROW	391	441	506	581	668
WALKUP	349	403	479	545	606
ELEVATOR 2-4 STY	371	430	519		
ELEVATOR 5+ STY	449	509	597		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

CINCINNATI OFFICE

MARKET: CINCINNATI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			679	840	875
SEMI-DETACHED/ROW	418	482	548	656	724
WALKUP	337	397	500	589	657
ELEVATOR 2-4 STY	371	496	591		
ELEVATOR 5+ STY	517	608	692		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: DAYTON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		596	773	855
410	415	482	577	650
324	404	473	541	605
378	501	599		
523	614	664		
EFFECTIVE DATE				100185
TRENDED DATE				100187

CLEVELAND OFFICE

MARKET: CLEVELAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			717	786	851
SEMI-DETACHED/ROW	487	509	576	658	699
WALKUP	365	420	487	568	642
ELEVATOR 2-4 STY	374	446	554		
ELEVATOR 5+ STY	428	493	568		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: AKRON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		697	771	795
459	492	562	643	684
360	410	482	565	612
357	400	451		
365	428	485		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: FINDLAY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		587	666	723
386	417	464	563	603
321	347	407	496	550
321	347	453		
367	421	518		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: LORAIN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		587	665	733
375	380	450	526	566
275	302	371	466	505
347	365	434		
365	370	452		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: MANSFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			588	639	707
SEMI-DETACHED/ROW	435	440	486	559	622
WALKUP	322	346	393	468	525
ELEVATOR 2-4 STY	355	390	466		
ELEVATOR 5+ STY	361	415	476		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: TOLEDO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		661	733	815
413	459	525	602	642
340	378	447	545	579
362	393	481		
397	402	490		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: YOUNGSTOWN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		582	649	655
396	401	464	541	557
288	325	386	484	528
323	340	424		
330	348	432		
EFFECTIVE DATE				100185
TRENDED DATE				100187

COLUMBUS OFFICE

MARKET: COLUMBUS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			513	628	638
SEMI-DETACHED/ROW	363	393	453	526	575
WALKUP	341	382	444	505	566
ELEVATOR 2-4 STY	348	422	502		
ELEVATOR 5+ STY	392	474	565		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: ATHENS

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		474	549	609
287	353	414	469	519
266	333	402	447	497
297	375	441		
337	425	445		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: LIMA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		492	571	649
253	358	403	491	529
238	305	402	447	497
269	347	462		
329	397	522		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: NEWARK

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		507	577	647
297	335	447	497	557
255	322	427	491	541
296	364	485		
336	444	566		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			513	606	663
SEMI-DETACHED/ROW	303	375	453	506	562
WALKUP	299	366	427	492	542
ELEVATOR 2-4 STY	330	408	485		
ELEVATOR 5+ STY	378	458	560		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

MARKET: SIDNEY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		478	548	606
266	336	416	467	507
249	316	386	436	486
280	358	446		
320	408	506		
EFFECTIVE DATE				100185
TRENDED DATE				100187

MARKET: ZANESVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		507	577	633
295	355	447	497	557
272	339	408	453	503
303	381	468		
363	461	551		
EFFECTIVE DATE				100185
TRENDED DATE				100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

DETROIT OFFICE

MARKET: DETROIT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			642	708	827
SEMI-DETACHED/ROW	408	413	526	616	713
WALKUP	326	408	479	568	661
ELEVATOR 2-4 STY	359	443	498		
ELEVATOR 5+ STY	364	474	571		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FLINT

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		555	638	758
344	374	467	597	634
321	361	421	552	628
321	379	445		
333	440	523		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SAGINAW

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		515	586	625
344	346	467	532	592
292	336	404	527	587
301	369	410		
304	382	448		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ANN ARBOR

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		628	708	746
390	395	510	612	674
318	390	479	525	587
357	420	491		
356	457	519		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: YPSILANTI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			628	708	746
SEMI-DETACHED/ROW	390	395	510	612	674
WALKUP	318	390	479	525	587
ELEVATOR 2-4 STY	357	420	498		
ELEVATOR 5+ STY	356	457	519		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

INDIANAPOLIS OFFICE

MARKET: INDIANAPOLIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			567	632	697
SEMI-DETACHED/ROW	373	412	496	578	620
WALKUP	340	382	458	514	545
ELEVATOR 2-4 STY	371	405	486		
ELEVATOR 5+ STY	458	506	592		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BLOOMINGTON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		550	616	687
364	396	472	536	584
324	367	437	496	545
359	385	466		
446	493	580		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EVANSVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		537	601	665
351	398	477	543	602
318	361	437	498	538
350	384	466		
428	476	570		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FORT WAYNE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		542	604	673
365	395	472	524	585
321	362	430	482	530
355	385	458		
444	492	575		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HAMMOND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			584	651	715
SEMI-DETACHED/ROW	401	452	530	591	667
WALKUP	372	421	491	555	593
ELEVATOR 2-4 STY	413	443	518		
ELEVATOR 5+ STY	478	537	628		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAFAYETTE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		548	615	686
365	404	481	551	602
329	374	441	499	546
361	397	468		
451	501	585		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SOUTH BEND

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		568	632	705
379	421	495	566	636
333	379	444	502	554
372	403	474		
456	515	597		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TERRE HAUTE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		543	613	688
364	404	483	552	612
324	373	452	518	560
358	395	480		
433	490	582		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GARY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			584	651	715
SEMI-DETACHED/ROW	401	452	527	591	667
WALKUP	372	421	491	555	593
ELEVATOR 2-4 STY	413	443	518		
ELEVATOR 5+ STY	474	526	599		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MILWAUKEE OFFICE

MARKET: MADISON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			650	739	780
SEMI-DETACHED/ROW	359	470	555	674	717
WALKUP	360	412	497	608	
ELEVATOR 2-4 STY	376	430	518		
ELEVATOR 5+ STY	516	562	677		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: REEDSVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		593	684	720
318	417	503	623	663
313	364	454	565	
331	382	472		
460	510	632		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SUPERIOR

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		573	672	712
303	410	481	605	647
288	355	430	551	
315	372	447		
456	508	616		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MILWAUKEE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		703	770	845
402	517	603	736	776
397	456	535	661	
415	473	553		
554	616	738		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EAU CLAIRE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			526	618	655
SEMI-DETACHED/ROW	284	382	435	557	597
WALKUP	279	328	386	499	
ELEVATOR 2-4 STY	299	348	406		
ELEVATOR 5+ STY	427	478	568		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREEN BAY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		574	665	702
302	399	485	604	645
297	346	436	547	
315	364	453		
443	492	614		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WAUSAU

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		559	662	698
320	417	481	601	641
315	364	432	544	
332	382	453		
460	510	610		

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

MINNEAPOLIS-ST. PAUL OFFICE

MARKET: MINNEAPOLIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	411	416	557	640	715
WALKUP	339	390	465	594	615
ELEVATOR 2-4 STY	376	447	560		
ELEVATOR 5+ STY	394	507	640		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DULUTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	377	398	527	600	689
WALKUP	344	371	446	545	579
ELEVATOR 2-4 STY	356	425	532		
ELEVATOR 5+ STY	374	450	572		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET MANKATO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	412	424	533	606	678
WALKUP	333	372	464	535	566
ELEVATOR 2-4 STY	368	408	478		
ELEVATOR 5+ STY	382	524	621		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROCHESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	427	444	537	623	696
WALKUP	340	380	468	539	571
ELEVATOR 2-4 STY	371	412	486		
ELEVATOR 5+ STY	401	544	646		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ST. CLOUD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	359	363	485	551	615
WALKUP	301	337	419	504	525
ELEVATOR 2-4 STY	327	401	455		
ELEVATOR 5+ STY	327	466	550		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET WORTHINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	318	323	448	509	569
WALKUP	276	303	391	471	500
ELEVATOR 2-4 STY	293	359	428		
ELEVATOR 5+ STY	298	416	507		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

GRAND RAPIDS OFFICE

MARKET: MT PLEASANT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			574	680	725
SEMI-DETACHED/ROW	376	424	488	504	653
WALKUP	258	345	385	478	515
ELEVATOR 2-4 STY	366	361	402		
ELEVATOR 5+ STY	433	493	571		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GRAND RAPIDS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			570	674	707
SEMI-DETACHED/ROW	393	398	491	581	628
WALKUP	289	360	457	501	536
ELEVATOR 2-4 STY	306	379	473		
ELEVATOR 5+ STY	417	486	539		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BENTON HARBOR

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			547	650	684
SEMI-DETACHED/ROW	396	401	500	601	634
WALKUP	280	325	401	491	522
ELEVATOR 2-4 STY	297	341	418		
ELEVATOR 5+ STY	404	464	521		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BATTLE CREEK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			598	681	717
SEMI-DETACHED/ROW	393	398	492	613	660
WALKUP	279	358	440	538	568
ELEVATOR 2-4 STY	297	375	458		
ELEVATOR 5+ STY	428	498	556		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LANSING

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			572	703	744
SEMI-DETACHED/ROW	395	400	478	591	636
WALKUP	307	361	437	527	559
ELEVATOR 2-4 STY	325	379	454		
ELEVATOR 5+ STY	387	437	513		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MUSKEGON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			578	682	716
SEMI-DETACHED/ROW	445	450	534	627	666
WALKUP	294	371	439	521	532
ELEVATOR 2-4 STY	312	391	457		
ELEVATOR 5+ STY	425	496	551		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TRAVERSE CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			619	724	758
SEMI-DETACHED/ROW	459	484	543	667	704
WALKUP	297	385	435	534	573
ELEVATOR 2-4 STY	313	401	452		
ELEVATOR 5+ STY	469	542	601		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MARQUETTE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			537	643	677
SEMI-DETACHED/ROW	384	389	490	590	624
WALKUP	221	307	398	495	532
ELEVATOR 2-4 STY	237	324	415		
ELEVATOR 5+ STY	437	505	520		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			560	682	734
SEMI-DETACHED/ROW	382	387	468	578	623
WALKUP	300	372	426	523	551
ELEVATOR 2-4 STY	306	390	443		
ELEVATOR 5+ STY	444	507	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

FORT WORTH REGIONAL OFFICE

MARKET: DALLAS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			584	681	727
SEMI-DETACHED/ROW	401	425	537	633	688
WALKUP	331	398	510	589	669
ELEVATOR 2-4 STY	349	439	554		
ELEVATOR 5+ STY	490	556	715		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WICHITA FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			482	569	641
SEMI-DETACHED/ROW	315	326	429	526	590
WALKUP	274	321	399	506	582
ELEVATOR 2-4 STY	286	359	443		
ELEVATOR 5+ STY	401	482	627		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AMARILLO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			484	571	642
SEMI-DETACHED/ROW	351	355	448	527	609
WALKUP	276	319	425	490	572
ELEVATOR 2-4 STY	291	366	461		
ELEVATOR 5+ STY	408	483	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ALBUQUERQUE NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			507	592	661
SEMI-DETACHED/ROW	357	362	460	540	626
WALKUP	285	333	433	502	586
ELEVATOR 2-4 STY	299	374	470		
ELEVATOR 5+ STY	419	489	648		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SHERMAN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		450	540	612
310	315	410	484	556
256	303	390	450	524
267	335	422		
374	448	586		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SAN ANGELO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		511	636	707
329	334	455	550	641
284	329	425	511	595
299	381	472		
426	493	675		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EL PASO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		450	561	629
287	318	392	497	580
250	295	372	462	539
261	327	404		
366	439	571		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SANTA FE NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		561	729	801
352	388	489	576	672
304	360	464	536	625
318	399	503		
447	536	713		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TYLER

NUMBER OF BEDROOMS -0-	-1-	-2-	-3	-4+
		486	605	674
310	344	424	537	627
270	319	402	500	582
282	354	436		
395	475	617		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ABILENE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		494	670	748
316	350	431	547	618
275	325	409	508	592
287	360	444		
402	483	628		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MIDLAND

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		437	612	672
280	310	381	484	564
243	287	362	450	524
254	319	393		
356	427	556		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SILVER CITY NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		492	574	641
363	388	489	547	607
300	350	452	523	569
318	385	487		
419	474	629		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WACO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		468	554	622
321	337	426	502	577
265	324	404	466	543
276	347	439		
289	466	609		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LUBBOCK

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		479	585	656
306	339	417	529	607
266	314	398	492	573
278	349	430		
389	468	608		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ODESSA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		429	601	659
274	304	374	475	553
238	282	355	441	514
249	312	385		
349	419	545		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TAOS NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		517	603	673
352	357	450	533	622
279	334	428	495	577
293	368	464		
413	495	659		

EFFECTIVE DATE 100185
TRENDED DATE 100187

FORT WORTH REGIONAL OFFICE

MARKET: CLOVIS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			497	676	741
SEMI-DETACHED/ROW	335	373	434	534	623
WALKUP	293	346	412	496	578
ELEVATOR 2-4 STY	306	383	447		
ELEVATOR 5+ STY	428	513	633		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

HOUSTON OFFICE

MARKET: HOUSTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			630	771	894
SEMI-DETACHED/ROW	370	431	548	666	750
WALKUP	349	411	528	634	724
ELEVATOR 2-4 STY	408	473	607		
ELEVATOR 5+ STY	533	622	719		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EL CAMPO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			537	629	729
SEMI-DETACHED/ROW	336	370	495	595	688
WALKUP	318	361	467	567	650
ELEVATOR 2-4 STY	369	433	562		
ELEVATOR 5+ STY	450	531	656		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BEAUMONT

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		589	692	825
344	406	481	589	697
324	377	463	561	664
381	450	553		
527	560	456		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TEXAS CITY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		624	711	824
355	427	534	674	754
334	419	532	642	734
424	497	622		
533	622	719		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BRYAN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		546	723	838
349	411	521	641	723
329	391	503	597	703
383	451	578		
508	610	763		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LUFKIN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		521	611	708
310	364	473	560	633
294	347	449	525	616
338	399	524		
487	530	650		

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

LITTLE ROCK OFFICE

	MARKET: FAYETTEVILLE NUMBER OF BEDROOMS					MARKET: LITTLE ROCK NUMBER OF BEDROOMS					MARKET TEXARKANA NUMBER OF BEDROOMS					MARKET FORT SMITH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			491	572	647			513	588	672			482	561	658			464	548	624
SEMI-DETACHED/ROW	332	397	466	564	617	344	418	485	563	636	322	374	454	559	615	311	351	445	515	576
WALKUP	319	380	451	537	595	319	403	450	550	615	316	364	439	553	605	292	339	410	474	531
ELEVATOR 2-4 STY	339	407	482			348	435	490			344	393	485			321	369	452		
ELEVATOR 5+ STY	416	486	561			419	490	572			416	486	562			422	490	578		
MANUFACTURED HOME																				
EFFECTIVE DATE					100185					100185					100185					100185
TRENDED DATE					100187					100187					100187					100187

	MARKET: JONESBORO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			468	562	637
SEMI-DETACHED/ROW	320	371	454	557	608
WALKUP	301	357	430	525	573
ELEVATOR 2-4 STY	333	387	477		
ELEVATOR 5+ STY	409	479	560		
MANUFACTURED HOME					
EFFECTIVE DATE					100185
TRENDED DATE					100187

NEW ORLEANS OFFICE

	MARKET: NEW ORLEANS NUMBER OF BEDROOMS					MARKET: LAKE CHARLES NUMBER OF BEDROOMS					MARKET: LAFAYETTE NUMBER OF BEDROOMS					MARKET: BATON ROUGE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			433	508	597			382	484	574			334	418	506			415	500	591
SEMI-DETACHED/ROW	321	328	422	497	581	307	309	370	472	557	240	249	322	406	489	305	331	401	488	575
WALKUP	299	318	414	486	557	240	287	346	444	513	193	240	312	396	467	252	296	362	442	508
ELEVATOR 2-4 STY	310	329	425			251	298	357			204	251	323			263	307	373		
ELEVATOR 5+ STY	459	483	625			399	450	553			351	402	522			417	467	579		
MANUFACTURED HOME																				
EFFECTIVE DATE					100185					100185					100185					100185
TRENDED DATE					100187					100187					100187					100187

	MARKET: HOUMA NUMBER OF BEDROOMS					MARKET: SHREVEPORT NUMBER OF BEDROOMS					MARKET: ALEXANDRIA NUMBER OF BEDROOMS					MARKET: MONROE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2	-3-	-4+
DETACHED			393	504	584			483	574	667			428	503	585			440	554	633
SEMI-DETACHED/ROW	273	327	380	492	579	325	357	460	551	638	269	340	400	473	562	288	339	410	524	614
WALKUP	267	315	368	479	553	278	327	427	511	578	276	323	385	452	527	265	327	403	519	586
ELEVATOR 2-4 STY	278	326	379			319	393	447			295	352	405			282	348	422		
ELEVATOR 5+ STY	427	480	580			422	882	616			416	471	591			421	476	592		
MANUFACTURED HOME																				
EFFECTIVE DATE					100185					100185					100185					100185
TRENDED DATE					100187					100187					100187					100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

OKLAHOMA CITY OFFICE

MARKET: OKLAHOMA CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			549	660	721
SEMI-DETACHED/ROW	371	405	450	561	627
WALKUP	317	346	445	540	600
ELEVATOR 2-4 STY	334	369	480		
ELEVATOR 5+ STY	400	435	549		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ADA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		513	606	661
346	392	499	590	646
285	332	430	495	537
302	356	461		
355	392	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ARDMORE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		511	603	658
343	385	496	585	643
285	329	430	495	537
302	356	456		
355	392	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ENID

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		510	586	657
373	419	489	565	637
267	333	394	463	512
300	358	429		
325	422	499		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GUYMON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			449	550	621
SEMI-DETACHED/ROW	297	350	428	529	600
WALKUP	233	273	342	437	484
ELEVATOR 2-4 STY	250	296	377		
ELEVATOR 5+ STY	316	363	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAWTON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		522	590	676
379	405	500	577	662
284	327	416	500	567
301	351	452		
369	420	524		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SHAWNEE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		450	495	545
361	367	438	482	530
275	305	370	403	441
286	323	409		
332	369	413		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: STILLWATER

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		465	536	604
362	384	451	522	585
272	323	384	447	493
295	344	421		
331	390	458		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WOODWARD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			447	549	620
SEMI-DETACHED/ROW	295	348	426	529	599
WALKUP	233	273	342	437	484
ELEVATOR 2-4 STY	250	296	377		
ELEVATOR 5+ STY	316	363	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BARTLESVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		452	532	590
331	381	439	517	575
263	303	378	453	495
280	326	387		
316	349	439		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MC ALESTER

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		449	521	574
323	328	436	507	560
230	260	361	422	467
242	277	380		
288	323	429		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MUSKOGEE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		408	471	534
353	362	384	458	519
256	295	320	406	440
273	312	340		
323	357	390		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TULSA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			514	683	734
SEMI-DETACHED/ROW	306	346	431	581	633
WALKUP	264	301	419	557	604
ELEVATOR 2-4 STY	281	324	455		
ELEVATOR 5+ STY	347	391	525		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SAN ANTONIO OFFICE

MARKET: SAN ANTONIO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			605	708	780
SEMI-DETACHED/ROW	402	446	546	629	695
WALKUP	366	402	483	543	593
ELEVATOR 2-4 STY	426	472	592		
ELEVATOR 5+ STY	527	599	785		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AUSTIN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		679	858	947
435	499	639	785	875
398	451	588	691	773
462	524	678		
568	656	875		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET CORPUS CHRISTY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		623	690	756
386	480	596	632	697
648	431	523	539	583
414	502	632		
523	638	835		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EAGLE PASS

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HARLINGEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			569	668	778
SEMI-DETACHED/ROW	340	390	528	627	722
WALKUP	302	333	438	514	585
ELEVATOR 2-4 STY	361	398	551		
ELEVATOR 5+ STY	474	543	757		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAREDO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VICTORIA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		623	690	756
386	480	596	632	697
348	431	523	539	583
414	502	632		
523	638	835		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DEL RIO

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

KANSAS CITY REGIONAL OFFICE

	MARKET: KANSAS CITY NUMBER OF BEDROOMS					MARKET: JOPLIN NUMBER OF BEDROOMS					MARKET: ST. JOSEPH NUMBER OF BEDROOMS					MARKET: SEDALIA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	405	448	536	603	643	302	342	444	527	572	309	335	405	496	534	278	319	405	498	537
WALKUP	330	389	473	584	623	252	300	385	496	538	289	332	394	485	523	273	315	400	479	523
ELEVATOR 2-4 STY	363	406	535			318	365	455			327	375	469			332	381	476		
ELEVATOR 5+ STY	459	506	649			414	466	598			426	482	617			432	488	626		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: SPRINGFIELD NUMBER OF BEDROOMS					MARKET: TOPEKA NUMBER OF BEDROOMS					MARKET: GARDEN CITY NUMBER OF BEDROOMS					MARKET PITTSBURG NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	284	307	413	499	545	318	375	456	560	598	368	373	445	552	608	314	353	427	523	559
WALKUP	237	287	389	489	534	299	322	421	493	531	295	346	440	500	555	266	305	376	474	512
ELEVATOR 2-4 STY	283	325	406			346	400	497			337	390	487			331	384	479		
ELEVATOR 5+ STY	369	417	535			414	466	609			402	453	593			395	445	584		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: SALINA NUMBER OF BEDROOMS					MARKET: WICHITA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED										
SEMI-DETACHED/ROW	297	336	422	508	550	339	377	457	557	593
WALKUP	270	313	401	481	545	272	311	404	492	523
ELEVATOR 2-4 STY	337	394	487			344	397	497		
ELEVATOR 5+ STY	402	453	593			409	462	604		
MANUFACTURED HOME										
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187				

OMAHA OFFICE

	MARKET: OMAHA NUMBER OF BEDROOMS					MARKET: GRAND ISLAND NUMBER OF BEDROOMS					MARKET: LINCOLN NUMBER OF BEDROOMS					MARKET: NORFOLK NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	337	373	476	542	597	312	352	460	532	560	351	365	462	530	584	342	352	460	532	560
WALKUP	289	349	430	532	562	289	348	427	501	537	288	349	430	525	578	289	348	427	501	537
ELEVATOR 2-4 STY	296	392	471			296	387	471			296	394	471			296	387	471		
ELEVATOR 5+ STY	325	405	488			328	405	488			337	405	488			328	405	488		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: NORTH PLATTE NUMBER OF BEDROOMS					MARKET: SCOTTS BLUFF NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED										
SEMI-DETACHED/ROW	294	340	431	495	528	308	347	454	525	553
WALKUP	270	336	396	472	506	288	343	426	494	530
ELEVATOR 2-4 STY	283	358	451			300	381	481		
ELEVATOR 5+ STY	303	383	471			323	408	501		
MANUFACTURED HOME										
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187				

ST. LOUIS OFFICE

	MARKET: ST. LOUIS NUMBER OF BEDROOMS					MARKET: CAPE GIRARDEAU NUMBER OF BEDROOMS					MARKET COLUMBIA NUMBER OF BEDROOMS					MARKET: KIRKSVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2	-3-	-4+
DETACHED			506	713	767			423	508	556			395	519	566			431	529	570
SEMI-DETACHED/ROW	411	488	577	683	752	290	335	407	503	551	295	342	377	514	581	295	347	410	520	573
WALKUP	359	454	541	613	676	251	316	374	444	462	265	336	367	494	544	260	329	403	502	554
ELEVATOR 2-4 STY	390	489	585			278	348	420			287	361	440			283	355	448		
ELEVATOR 5+ STY	434	564	762			306	378	559			320	427	589			315	420	599		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: ROLLA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			441	532	585
SEMI-DETACHED/ROW	295	344	435	527	580
WALKUP	256	324	408	493	540
ELEVATOR 2-4 STY	278	349	440		
ELEVATOR 5+ STY	310	405	581		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

DES MOINES OFFICE

MARKET: DES MOINES

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			601	694	795
SEMI-DETACHED/ROW	410	433	520	585	669
WALKUP	332	381	443	499	553
ELEVATOR 2-4 STY	400	443	524		
ELEVATOR 5+ STY	465	518	570		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BETTENDORF

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			534	628	719
SEMI-DETACHED/ROW	342	398	468	531	635
WALKUP	287	338	408	490	561
ELEVATOR 2-4 STY	371	422	512		
ELEVATOR 5+ STY	407	464	564		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CEDAR RAPIDS

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			578	670	765
SEMI-DETACHED/ROW	353	411	510	582	670
WALKUP	293	343	439	507	575
ELEVATOR 2-4 STY	380	432	532		
ELEVATOR 5+ STY	429	477	580		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COUNCIL BLUFF

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			548	636	735
SEMI-DETACHED/ROW	388	414	495	557	633
WALKUP	310	357	420	469	520
ELEVATOR 2-4 STY	393	445	512		
ELEVATOR 5+ STY	427	483	571		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DUBUQUE

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			555	650	742
SEMI-DETACHED/ROW	358	415	488	565	657
WALKUP	302	354	423	510	577
ELEVATOR 2-4 STY	382	435	528		
ELEVATOR 5+ STY	417	477	577		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MASON CITY

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			577	670	762
SEMI-DETACHED/ROW	360	418	508	583	678
WALKUP	303	350	424	488	557
ELEVATOR 2-4 STY	384	438	525		
ELEVATOR 5+ STY	431	481	577		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SIOUX CITY

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			594	677	773
SEMI-DETACHED/ROW	379	436	524	592	678
WALKUP	314	351	436	489	568
ELEVATOR 2-4 STY	402	449	528		
ELEVATOR 5+ STY	434	487	576		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DAVENPORT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			534	628	719
SEMI-DETACHED/ROW	342	398	468	531	635
WALKUP	287	338	408	490	561
ELEVATOR 2-4 STY	371	422	512		
ELEVATOR 5+ STY	407	464	564		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WATERLOO

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			491	581	669
SEMI-DETACHED/ROW	334	388	427	500	589
WALKUP	281	330	369	448	571
ELEVATOR 2-4 STY	357	407	465		
ELEVATOR 5+ STY	390	447	515		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

REGION 8

DENVER, COLORADO REGIONAL OFFICE

MARKET: DENVER, CO

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			696	827	922
SEMI-DETACHED/ROW	[illegible]	[illegible]	587	692	781
WALKUP	360	421	463	614	697
ELEVATOR 2-4 STY	376	429	544		
ELEVATOR 5+ STY	456	467	606		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GRAND JUNCT.CO

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			549	638	680
SEMI-DETACHED/ROW	314	361	442	557	639
WALKUP	285	343	404	505	584
ELEVATOR 2-4 STY	353	404	493		
ELEVATOR 5+ STY	377	429	518		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ASPEN/VAIL

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			578	661	700
SEMI-DETACHED/ROW	356	409	496	607	653
WALKUP	328	387	458	564	613
ELEVATOR 2-4 STY	380	447	407		
ELEVATOR 5+ STY	392	457	506		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FARGO, ND

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			545	655	704
SEMI-DETACHED/ROW	329	372	463	577	663
WALKUP	276	332	427	478	614
ELEVATOR 2-4 STY	322	377	466		
ELEVATOR 5+ STY	329	387	476		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BISMARK, ND

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			515	621	662
SEMI-DETACHED/ROW	319	353	433	535	609
WALKUP	293	338	398	491	558
ELEVATOR 2-4 STY	311	358	436		
ELEVATOR 5+ STY	319	368	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DICKINSON, ND

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			476	587	654
SEMI-DETACHED/ROW	284	327	396	496	568
WALKUP	261	291	361	453	519
ELEVATOR 2-4 STY	311	355	436		
ELEVATOR 5+ STY	319	368	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HELENA, MT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			449	530	569
SEMI-DETACHED/ROW	287	341	423	520	559
WALKUP	258	316	384	493	551
ELEVATOR 2-4 STY	318	384	451		
ELEVATOR 5+ STY	331	400	464		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BILLINGS, MT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			536	609	647
SEMI-DETACHED/ROW	342	400	492	598	638
WALKUP	313	375	454	562	628
ELEVATOR 2-4 STY	347	409	530		
ELEVATOR 5+ STY	360	424	543		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREAT FALLS,MT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			475	547	588
SEMI-DETACHED/ROW	297	348	433	535	578
WALKUP	269	315	395	504	568
ELEVATOR 2-4 STY	325	379	477		
ELEVATOR 5+ STY	339	394	491		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MISSOULA, MT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			461	542	585
SEMI-DETACHED/ROW	265	317	400	521	575
WALKUP	236	304	361	471	552
ELEVATOR 2-4 STY	305	361	454		
ELEVATOR 5+ STY	331	388	482		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SALT LAKE CITY

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			532	668	734
SEMI-DETACHED/ROW	348	391	469	603	660
WALKUP	269	378	444	530	613
ELEVATOR 2-4 STY	336	442	499		
ELEVATOR 5+ STY	371	474	554		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CEDAR CITY, UT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			473	519	554
SEMI-DETACHED/ROW	335	360	424	474	509
WALKUP	260	352	404	469	490
ELEVATOR 2-4 STY	330	397	458		
ELEVATOR 5+ STY	347	441	506		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VERNAL, UT

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			475	600	699
SEMI-DETACHED/ROW	229	304	428	507	600
WALKUP	203	252	333	440	527
ELEVATOR 2-4 STY	273	329	424		
ELEVATOR 5+ STY	291	349	446		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SIOUX FALLS,SD

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			493	534	578
SEMI-DETACHED/ROW	318	361	448	503	550
WALKUP	293	336	413	489	530
ELEVATOR 2-4 STY	327	367	448		
ELEVATOR 5+ STY	334	382	459		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PIERRE, SD

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			503	546	594
SEMI-DETACHED/ROW	249	310	407	524	572
WALKUP	243	294	364	485	546
ELEVATOR 2-4 STY	292	350	431		
ELEVATOR 5+ STY	318	356	442		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: RAPID CITY, SD

NUMBER OF BEDROOMS	-0-	-1-	-2-	-3-	-4+
STRUCTURE TYPE					
DETACHED			528	641	682
SEMI-DETACHED/ROW	328	400	495	609	662
WALKUP	301	375	458	567	630
ELEVATOR 2-4 STY	334	392	495		
ELEVATOR 5+ STY	339	400	500		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 8

DENVER, COLORADO REGIONAL OFFICE

	MARKET: CASPER, WY NUMBER OF BEDROOMS					MARKET: CHEYENNE, WY NUMBER OF BEDROOMS					MARKET: CODY, WY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			539	661	751			559	675	759			539	661	751
SEMI-DETACHED/ROW	307	356	436	547	634	329	376	454	561	639	307	356	436	547	634
WALKUP	281	326	400	503	582	304	347	419	517	589	281	326	400	503	582
ELEVATOR 2-4 STY	343	395	483			365	416	502			343	395	483		
ELEVATOR 5+ STY	367	421	509			389	441	529			367	421	509		
MANUFACTURED HOME															
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

REGION 9

SAN FRANCISCO REGIONAL OFFICE

	MARKET: SAN FRANCISCO NUMBER OF BEDROOMS					MARKET: FRESNO NUMBER OF BEDROOMS					MARKET: MODESTO NUMBER OF BEDROOMS					MARKET: SAN JOSE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	802	807	1046	1209	1292	387	392	505	663	728	359	364	436	532	586	540	545	665	806	887
WALKUP	554	660	837	1020	1120	330	386	475	607	694	339	359	491	527	581	450	540	642	766	835
ELEVATOR 2-4 STY	609	735	940			414	492	613			438	492	616			482	560	648		
ELEVATOR 5+ STY	774	899	1138																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

	MARKET: OAKLAND NUMBER OF BEDROOMS					MARKET: MARIN NUMBER OF BEDROOMS					MARKET: EUREKA NUMBER OF BEDROOMS					MARKET: SANTA ROSA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	4+	-0-	-1-	2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED													583	750	833					
SEMI-DETACHED/ROW	619	624	794	908	1003	619	624	794	908	1003	291	483	497	729	819	511	516	631	785	851
WALKUP	512	596	739	837	928	512	596	739	837	928	286	398	469	671	773	438	511	631	779	837
ELEVATOR 2-4 STY	561	603	813			551	603	813			364	481	619			542	632	797		
ELEVATOR 5+ STY	752	822	1070			752	822	1070			707	847	1021							
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

	MARKET: SANTA CRUZ NUMBER OF BEDROOMS					MARKET: RENO NUMBER OF BEDROOMS					MARKET: LAS VEGAS NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	2-	-3-	-4+
DETACHED															
SEMI-DETACHED/ROW	464	488	632	806	888	486	486	571	698	768	375	430	535	658	710
WALKUP	391	465	594	766	835	402	461	546	635	704	368	413	527	648	702
ELEVATOR 2-4 STY	482	595	717			518	597	755			457	518	682		
ELEVATOR 5+ STY															
MANUFACTURED HOME															
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

HONOLULU OFFICE

	MARKET: HONOLULU NUMBER OF BEDROOMS					MARKET: GUAM NUMBER OF BEDROOMS					MARKET: KAUAI NUMBER OF BEDROOMS					MARKET: MAUI NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			825	1073	1219			644	738	829			840	976	1068			759	940	996
SEMI-DETACHED/ROW	559	580	793	948	1069	519	522	599	664	782	686	743	830	964	1056	627	705	743	929	986
WALKUP	487	559	648	941	1069	352	416	496	584		496	628	647	942	1032	459	593	716	836	893
ELEVATOR 2-4 STY	540	628	874								525	657	897			489	623	747		
ELEVATOR 5+ STY	585	746	917																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

	MARKET: HILO NUMBER OF BEDROOMS					MARKET: KONA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			591	738	857			726	861	949
SEMI-DETACHED/ROW	479	498	580	728	847	578	632	713	849	939
WALKUP	404	448	562	700	826	468	534	623	760	834
ELEVATOR 2-4 STY	436	476	584			497	583	653		
ELEVATOR 5+ STY										
MANUFACTURED HOME										
	EFFECTIVE DATE 100185 TRENDED DATE 100187					EFFECTIVE DATE 100185 TRENDED DATE 100187				

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

LOS ANGELES OFFICE

MARKET LOS ANGELES

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			791	890	1002
SEMI-DETACHED/ROW	591	633	730	828	949
WALKUP	484	558	673	802	873
ELEVATOR 2-4 STY	523	601	726	832	901
ELEVATOR 5+ STY	658	746	963		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET BAKERSFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2	3-	-4+
DETACHED			624	737	843
SEMI-DETACHED/ROW	427	448	572	699	782
WALKUP	344	422	546	674	732
ELEVATOR 2-4 STY	361	441	573		
ELEVATOR 5+ STY	516	605	792		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET SANTA BARBARA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3	-4+
DETACHED			791	879	996
SEMI-DETACHED/ROW	620	625	760	946	957
WALKUP	442	493	637	722	783
ELEVATOR 2-4 STY	460	516	659		
ELEVATOR 5+ STY	598	667	854		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET VENTURA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	3-	-4+
DETACHED			746	847	943
SEMI-DET					
WALKUP	532	551	612	747	814
ELEVATOR	473	518	580	711	760
ELEVATOR	495	539	603		
MANUFACT	644	700	807		
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET PASO ROBLES

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			723	806	876
SEMI-DETACHED/ROW	481	486	604	726	807
WALKUP	404	456	562	669	724
ELEVATOR 2-4 STY	424	476	585		
ELEVATOR 5+ STY	575	642	795		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET LANCASTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			595	685	799
SEMI-DETACHED/ROW	462	466	562	650	760
WALKUP	364	438	538	622	709
ELEVATOR 2-4 STY	389	463	562		
ELEVATOR 5+ STY	547	626	776		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET OXNARD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			746	848	943
SEMI-DETACHED/ROW	535	551	612	747	814
WALKUP	473	518	580	711	760
ELEVATOR 2-4 STY	495	539	603		
ELEVATOR 5+ STY	644	700	807		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SANTA ANA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			786	951	1035
SEMI-DETA					
WALKUP	661	666	772	934	1014
ELEVATOR	533	626	719	863	914
ELEVATOR	535	644	742		
MANUFACTU	682	804	944		
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET SAN DIEGO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3	-4+
DETACHED			658	781	864
SEMI-DETACHED/ROW	526	531	633	717	841
WALKUP	428	488	591	693	743
ELEVATOR 2-4 STY	463	534	644		
ELEVATOR 5+ STY	554	646	791		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET EL CAJON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			658	781	864
SEMI-DETACHED/ROW	526	531	633	717	841
WALKUP	428	488	591	693	743
ELEVATOR 2-4 STY	463	534	644		
ELEVATOR 5+ STY	554	646	791		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET SANTA MARIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3	-4+
DETACHED			671	762	874
SEMI-DETACHED/ROW	502	561	640	730	833
WALKUP	395	447	518	575	633
ELEVATOR 2-4 STY	417	468	539		
ELEVATOR 5+ STY	560	626	740		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SAN BERNARDINO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			598	721	811
SEMI-DETA					
WALKUP	466	492	587	682	795
ELEVATOR	413	471	554	559	729
ELEVATOR	447	491	574		
MANUFACTU	603	651	780		
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

PHOENIX OFFICE

MARKET PHOENIX

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			578	696	787
SEMI-DETACHED/ROW	416	477	571	662	726
WALKUP	397	459	544	637	679
ELEVATOR 2-4 STY	427	485	574		
ELEVATOR 5+ STY	523	597	717		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET CASA GRANDE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			506	598	669
SEMI-DETACHED/ROW	340	389	474	558	622
WALKUP	329	384	463	519	575
ELEVATOR 2-4 STY	357	412	485		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET FLAGSTAFF

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			616	708	789
SEMI-DETACHED/ROW	414	460	550	615	698
WALKUP	397	445	541	600	664
ELEVATOR 2-4 STY	423	471	567		
ELEVATOR 5+ STY	543	599	700		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: SAFFORD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			483	573	665
SEMI-DETA					
WALKUP	328	381	455	542	627
ELEVATOR	307	363	441	520	575
ELEVATOR	335	391	469		
MANUFACTU					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET TUCSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			527	636	692
SEMI-DETACHED/ROW	348	403	491	568	668
WALKUP	328	380	486	553	624
ELEVATOR 2-4 STY	358	409	516		
ELEVATOR 5+ STY	519	585	744		
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET YUMA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			539	638	732
SEMI-DETACHED/ROW	371	424	516	601	688
WALKUP	357	405	508	567	630
ELEVATOR 2-4 STY	385	433	534		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: KINGMAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			520	582	675
SEMI-DETACHED/ROW	378	415	497	561	633
WALKUP	360	410	497	547	600
ELEVATOR 2-4 STY	386	436	513		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: DOUGLAS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			502	570	688
SEMI-DETACHED/ROW	387	405	472	536	647
WALKUP	350	405	463	522	613
ELEVATOR 2-4 STY	376	431	489		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

MARKET: NOGALES

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	573	682
SEMI-DETACHED/ROW	311	370	452	534	603
WALKUP	290	353	441	518	594
ELEVATOR 2-4 STY	313	379	467		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100185				
TRENDED DATE	100187				

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

SACRAMENTO OFFICE

MARKET SACRAMENTO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			564	598	687
SEMI-DETACHED/ROW	456	471	538	592	650
WALKUP	359	427	487	585	650
ELEVATOR 2-4 STY	417	464	550		
ELEVATOR 5+ STY	582	650	739		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET REDDING

	NUMBER OF BEDROOMS				
-0	-1-	-2-	-3-	-4+	
		523	547	628	
423	444	492	541	607	
329	381	441	486	607	
374	428	529			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET PLACERVILLE

	NUMBER OF BEDROOMS			
-0-	1	2-	-3	-4+
		587	628	721
489	494	564	622	683
370	442	504	614	682
458	523	592		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET YREKA

	NUMBER OF BEDROOMS			
-0-	1	-2-	-3-	-4+
		525	614	660
400	440	505	585	630
345	375	450	555	615
365	395	470		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET S. LAKE TAHOE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			633	733	798
SEMI-DETACHED/ROW	530	535	612	710	762
WALKUP	405	478	545	653	716
ELEVATOR 2-4 STY	475	525	619		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

REGION 10

ANCHORAGE OFFICE

MARKET: ANCHORAGE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			750	830	857
SEMI-DETACHED/ROW	539	544	718	783	809
WALKUP	410	526	619	732	759
ELEVATOR 2-4 STY	431	531	680		
ELEVATOR 5+ STY	486	556	705		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FAIRBANKS

	NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+	
		738	805	876	
542	632	709	797	860	
424	535	681	747	843	
528	632	818			
593	657	843			

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET JUNEAU

	NUMBER OF BEDROOMS			
-0	-1-	-2-	-3-	-4+
		782	891	927
622	627	759	849	891
413	561	689	787	857
510	607	729		
535	632	759		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET KETCHIKAN

	NUMBER OF BEDROOMS			
-0-	-1-	-2-	-3-	4+
		687	782	870
456	557	655	745	829
434	506	594	678	752
481	572	691		
506	597	710		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KENAI PENINSULAR

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			873	1025	1203
SEMI-DETACHED/ROW	447	534	721	858	1021
WALKUP	381	454	535	599	742
ELEVATOR 2-4 STY	481	581	759		
ELEVATOR 5+ STY	506	606	784		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SITKA

	NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+	
		673	816	978	
301	407	530	665	812	
291	380	495	598	700	
390	469	669			
440	539	719			

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

PORTLAND OFFICE

MARKET: PORTLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			466	575	624
SEMI-DETACHED/ROW	298	355	422	513	562
WALKUP	286	352	408	471	548
ELEVATOR 2-4 STY	297	355	430		
ELEVATOR 5+ STY	359	426	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BEND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			356	457	510
SEMI-DETACHED/ROW	266	278	322	395	443
WALKUP	202	261	302	373	413
ELEVATOR 2-4 STY	215	280	320		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COOS BAY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2	-3-	-4+
DETACHED			356	416	463
SEMI-DETACHED/ROW	243	275	324	396	440
WALKUP	216	262	313	382	428
ELEVATOR 2-4 STY	227	275	328		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MEDFORD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	1-	-2-	-3-	-4+
DETACHED			405	474	531
SEMI-DETACHED/ROW	278	319	373	425	502
WALKUP	255	305	348	405	441
ELEVATOR 2-4 STY	269	318	360		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ONTARIO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			373	444	496
SEMI-DETACHED/ROW	225	277	331	406	451
WALKUP	208	253	321	404	439
ELEVATOR 2-4 STY	219	265	334		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WEST SALEM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			375	463	514
SEMI-DETACHED/ROW	217	286	346	415	470
WALKUP	199	250	303	396	437
ELEVATOR 2-4 STY	212	263	320		
ELEVATOR 5+ STY	293	360	444		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PENDLETON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2	-3-	-4+
DETACHED			400	463	520
SEMI-DETACHED/ROW	267	294	368	412	462
WALKUP	229	281	349	393	432
ELEVATOR 2-4 STY	242	293	363		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BOISE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			443	552	593
SEMI-DETACHED/ROW	303	334	366	475	527
WALKUP	267	317	360	453	494
ELEVATOR 2-4 STY	297	327	373		
ELEVATOR 5+ STY	360	427	489		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EUGENE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			375	472	526
SEMI-DETACHED/ROW	227	280	351	428	469
WALKUP	208	253	318	411	443
ELEVATOR 2-4 STY	221	269	336		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: IDAHO FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			333	375	418
SEMI-DETACHED/ROW	244	249	297	347	390
WALKUP	183	231	276	333	375
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MCCALL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			371	447	483
SEMI-DETACHED/ROW	208	252	329	397	432
WALKUP	184	232	311	388	412
ELEVATOR 2-4 STY	195	245	335		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: POCATELLO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			388	487	522
SEMI-DETACHED/ROW	248	268	367	443	489
WALKUP	201	251	333	402	433
ELEVATOR 2-4 STY	216	262	357		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TWIN FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			363	483	530
SEMI-DETACHED/ROW	249	257	321	381	426
WALKUP	203	245	310	367	404
ELEVATOR 2-4 STY	219	264	335		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LEWISTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			334	426	497
SEMI-DETACHED/ROW	248	253	313	373	410
WALKUP	197	236	288	357	393
ELEVATOR 2-4 STY	229	265	306		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COEUR D'ALEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			373	462	509
SEMI-DETACHED/ROW	250	260	337	394	434
WALKUP	223	238	298	374	407
ELEVATOR 2-4 STY	244	253	316		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

SEATTLE REGIONAL OFFICE

MARKET: SEATTLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			587	653	736
SEMI-DETACHED/ROW	329	404	494	586	679
WALKUP	321	399	489	556	571
ELEVATOR 2-4 STY	359	429	530		
ELEVATOR 5+ STY	402	501	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BELLINGHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			447	558	603
SEMI-DETACHED/ROW	287	328	397	489	539
WALKUP	245	313	387	472	525
ELEVATOR 2-4 STY	262	330	404		
ELEVATOR 5+ STY	392	464	573		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OLYMPIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			426	510	606
SEMI-DETACHED/ROW	323	341	367	460	546
WALKUP	246	314	362	435	519
ELEVATOR 2-4 STY	263	331	403		
ELEVATOR 5+ STY	391	463	557		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: YAKIMA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			419	525	606
SEMI-DETACHED/ROW	278	320	395	477	564
WALKUP	230	299	356	452	522
ELEVATOR 2-4 STY	246	321	372		
ELEVATOR 5+ STY	382	450	553		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPOKANE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			441	547	642
SEMI-DETACHED/ROW	269	311	388	477	561
WALKUP	236	289	357	443	502
ELEVATOR 2-4 STY	253	323	373		
ELEVATOR 5+ STY	391	442	538		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KENNEWICK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			387	458	560
SEMI-DETACHED/ROW	287	274	309	388	476
WALKUP	234	261	304	381	448
ELEVATOR 2-4 STY	276	307	380		
ELEVATOR 5+ STY	335	387	452		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

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Vol. 51, No. 152

Thursday, August 7, 1986

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FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

5514	27515
5515	28218

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219

5 CFR

1201	28321

7 CFR

51	27813
272	28196
273	28196
908	27816
910	28059
911	27517
918	27518
1427	28321
1930	27636
1944	27636
1951	27636
1965	27636

Proposed Rules:

447	27862
1065	27553
1079	27554
1136	27866
1137	27554
1139	27555

8 CFR

238	28060

Proposed Rules:

214	27867
248	27867

9 CFR

Proposed Rules:

92	27871

10 CFR

50	27817, 28044
73	27817, 27822
110	27825

Proposed Rules:

50	27872

11 CFR

Proposed Rules:

100	28154
106	28154
9001	28154
9002	28154
9003	28154
9004	28154
9005	28154
9006	28154
9007	28154
9012	28154
9031	28154
9032	28154
9033	28154
9034	28154
9035	28154
9036	28154
9037	28154
9038	28154
9039	28154

12 CFR

207	27518
220	27518
221	27518
224	27518
303	27826
501	28221
522	28221
523	28221
741	27522

Proposed Rules:

226	28245

13 CFR

310	27828

14 CFR

25	28322
39	27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323
71	27833-27835, 28067, 28325, 28326
97	28326
121	28322
1204	27528

Proposed Rules:

Ch. I	28386
1	28095
36	27556
39	27557, 27874, 28386
71	28388-28390
73	28095
75	28096

16 CFR

423	28222
444	28328

17 CFR

1	27529
5	27529
16	27529
33	27529

Proposed Rules:

240	28096

18 CFR

37	27835
154	27529, 28331
157	27529, 28331

270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331

Proposed Rules:
271.....28102

19 CFR
6.....27636
101.....28070

Proposed Rules:
113.....27675
141.....28390

21 CFR
74.....28331, 28346
81.....28331, 28346, 28363
82.....28331, 28346
193.....28223
331.....27762
332.....27762
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
561.....28223

22 CFR

Proposed Rules:
2a.....28391

23 CFR
635.....27532

24 CFR
20.....28364
35.....27774
207.....27637
221.....27837
300.....27838
888.....28486
905.....27774
965.....27774
968.....27774

Proposed Rules:
35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR
20.....28365
25.....28365
602.....28365

27 CFR
19.....28071
250.....28071
270.....28076
275.....28076
290.....28076
295.....28076
296.....28076

Proposed Rules:
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR
1952.....27534
1980.....28378
2603.....28379

30 CFR

Proposed Rules:
774.....27558
910.....27559
912.....27559
921.....27559
922.....27559
933.....27559
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

32 CFR
90.....28092
706.....27535, 27536

33 CFR
117.....28360
140.....28361
142.....28361
161.....27839
165.....28362, 28363

Proposed Rules:
117.....27877
334.....28248

34 CFR
674.....28312

36 CFR

Proposed Rules:
7.....28107-28110
60.....28204
63.....28204

37 CFR
1.....28052
2.....28052
306.....27537

39 CFR
10.....28363

40 CFR
52.....27537, 27840, 27841
61.....27956
65.....28224
81.....27843-27845
180.....28225-28227
261.....28296
271.....28094

Proposed Rules:
52.....27560, 27878
65.....28113
85.....28114
180.....28248
716.....27562
721.....28119
795.....27880
799.....27880

41 CFR
101-40.....27539

42 CFR
405.....27847
482.....27847

43 CFR
11.....27674

Public Land Orders:
6620.....28228
6622.....28229

44 CFR
64.....28230, 28232

Proposed Rules:
61.....28119

45 CFR
1612.....27539
2002.....28384

47 CFR
22.....28236
68.....28237
73.....27552, 28237
97.....28237

Proposed Rules:
0.....27566
1.....27566
2.....28248
21.....27566
22.....27566
23.....27566
62.....27566
73.....27566, 27567
74.....27566

48 CFR
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1808.....27848
1813.....27848
1814.....27848
1815.....27848
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848
1853.....27848

49 CFR
571.....28238

Proposed Rules:
391.....27567
1058.....28249

50 CFR
285.....28240, 28241
641.....28094
655.....28241
661.....27859
671.....28242
672.....28385
674.....27860, 28243

Proposed Rules:
216.....28320

LIST OF PUBLIC LAWS

Last List August 6, 1986

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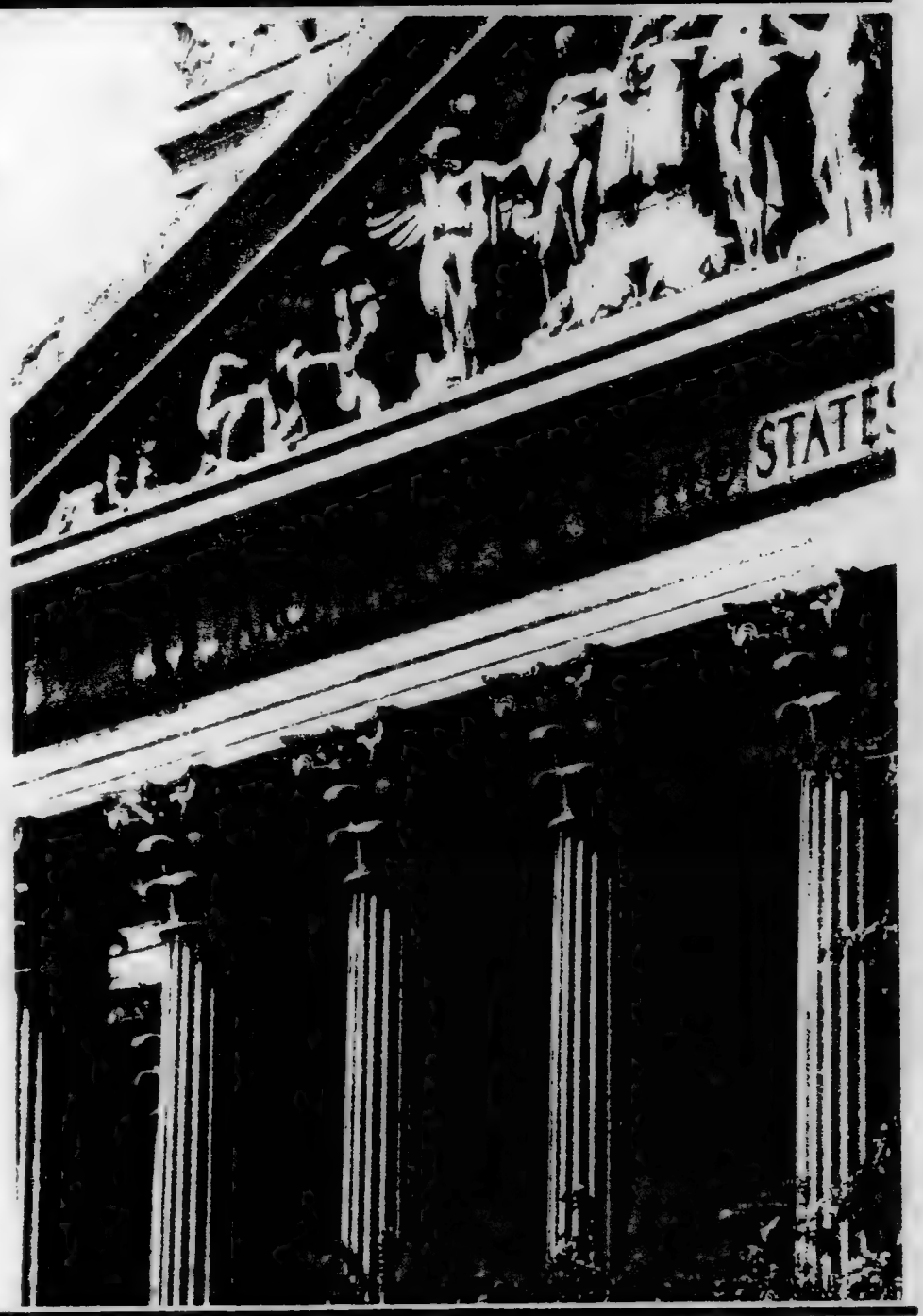

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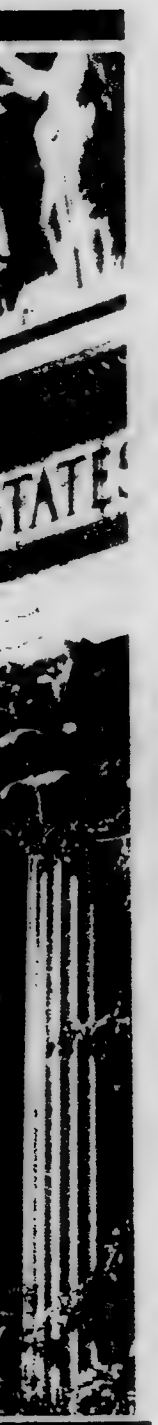

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NOTICES
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NOTICES
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Contents

Federal Register

Vol. 51, No. 153

Friday, August 8, 1986

Administrative Committee of the Federal Register
See Federal Register, Administrative Committee

Agricultural Marketing Service
RULES
Oranges (Valencia) grown in Arizona and California, 28509

Agriculture Department
See Agricultural Marketing Service; Forest Service; Soil Conservation Service

Army Department
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 28618

Centers for Disease Control
NOTICES
Meetings:
Tuberculosis preventive therapy, new approaches, 28626

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
California, 28609

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Hong Kong, 28616
Philippines, 28616
Textile consultation; review of trade:
Hong Kong, 28616
India, 28617

Consumer Product Safety Commission
RULES
Hazardous substances:
Flammability classifications, 28529

Defense Department
See Army Department

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Kaye, Maurice L., D.O.; correction, 28634

Employment and Training Administration
PROPOSED RULES
Alien temporary employment labor certification process:
Adverse effect wage rate; list additions—
Idaho, Oregon, 28599
Agriculture—
Piece rates, adjustments, 28599
NOTICES
Alien temporary agricultural employment in U.S.; adverse effect wage rates and plans; correction, 28640

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 28640

Energy Department
See Energy Information Administration; Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Reporting and recordkeeping requirements, 28618

Environmental Protection Agency
RULES
Hazardous waste:
Exports, 28664
Statutory provision and underground storage tanks, etc. (final codification); correction, 28556
Toxic substances:
Polychlorinated biphenyls (PCBs)—
Manufacturing and processing, etc.; petition responses, 28556
PROPOSED RULES
Hazardous waste program authorizations:
Colorado, 28604
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Ethylene dibromide, 28603
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 28622
Weekly receipts, 28622
Weekly receipts; correction, 28622
Pesticide registration, cancellation, etc.:
Strychnine, 28623

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
Fairchild; special conditions for use of electronic flight instrument systems, 28525
Aircraft products and parts, certification; and airworthiness standards:
Beech; special conditions for use of advanced composite materials for primary flight structure, etc., 28509
Airworthiness directives:
DeHavilland, 28527
Transition areas, 28528

Federal Energy Regulatory Commission
NOTICES
Small power production and cogeneration facilities; qualifying status:
Babcock-Ultra Power West Enfield et al., 28620
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 28621
Jupiter Energy Corp., 28621
Texas Gas Pipe Line Corp., 28622

Federal Highway Administration
PROPOSED RULES
Motor carrier safety regulations:
Safety fitness determination, 28607
NOTICES
Environmental statements; notice of intent:
Prince George's County, MD, 28648

Federal Register, Administrative Committee
RULES
Federal Register subscription rate
Correction, 28509

Federal Reserve System
PROPOSED RULES
Electronic fund transfers (Regulation E):
Service-provider periodic statements, 28589
NOTICES
Meetings; Sunshine Act, 28653
(2 documents)
Applications, hearings, determinations, etc.:
Citicorp, 28624
CoreStates Financial Corp., 28624
Liberty National Bancorp, Inc., 28625
Suffield Financial Corp. et al., 28625

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
GCS Electronics, Inc. et al., 28594

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Lincomycin—
Correction, 28547
Sponsor name and address changes—
Fermenta Animal Health Co., 28546
Food additives:
Paper and paperboard components—
1,2-Dibromo-2,4-dicyanobutane, 28545
Human drugs:
Topical otic drug products (OTC); final monograph, 28656

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
California; Todd Pacific Shipyards, 28610

Forest Service
NOTICES
Organization, functions, and authority delegations:
Forest Supervisor, Gallatin National Forest, MT, 28609

Health and Human Services Department
See also Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration; Social Security Administration
NOTICES
Agency information collection activities under OMB review, 28625

Health Care Financing Administration
RULES
Medicare:
Health maintenance organizations and competitive medical plans; payment, 28569

Housing and Urban Development Department
RULES
Government National Mortgage Association:
Securitization of adjustable rate mortgages, 28551
Mortgage and loan insurance programs:
Mutual mortgage insurance and rehabilitation loans; condition of property adjustment for damage or neglect, 28548
Nondiscrimination; families with children, 28547

Immigration and Naturalization Service
PROPOSED RULES
Nonimmigrant classification:
Temporary alien workers, 28576

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Ojo line extension-345 KV overhead transmission line and substation project, NM, 28632

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office
NOTICES
Privacy Act; systems of records, 28626

Internal Revenue Service
RULES
Income taxes:
Below-market loans
Correction, 28553

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Stainless steel cooking ware from—
Korea and Taiwan, 28610
Countervailing duties:
Leather wearing apparel from—
Mexico, 28611
Non-rubber footwear from Argentina, 28613
Welded carbon steel pipe and tube products from—
Yugoslavia, 28614
Short supply determinations; inquiry:
High grade, cold-rolled grain-oriented silicon steel, 28615
Applications, hearings, determinations, etc.:
Albany Medical School; correction, 28615
University of Pennsylvania; correction, 28615

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Chicago & North Western Transportation Co., 28633
Railroad services abandonment:
Illinois Central Gulf Railroad Co., 28633

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service; Juvenile Justice and Delinquency Prevention Office
NOTICES
Pollution control; consent judgments:
Phelps Dodge Corp., 28634

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements:
Families of missing children; psychological consequences and promising interventions, 28634

Labor Department
See Employment and Training Administration; Employment Standards Administration

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 28630
Coal leases, exploration licenses, etc.:
Utah, 28631
Environmental statements; availability, etc.:
Coal lease readjustments in wilderness study areas, UT, 28631
Meetings:
Boise District Advisory Council, 28631
Oil and gas leases:
Wyoming, 28631
Realty actions; sales, leases, etc.:
Nevada, 28631
Recreation management restrictions, etc.:
Washington County, ID, 28632

Legal Services Corporation
NOTICES
Grant awards:
Law school civil clinical programs, 28641

National Aeronautics and Space Administration
RULES
Acquisition regulations
Correction, 28574

National Highway Traffic Safety Administration
NOTICES
Motor vehicle theft prevention standard; evaluation plan, 28648

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic swordfish, 28575

National Science Foundation
NOTICES
Agency information collection activities under OMB review, 28641
Meetings:
Ocean Sciences Research Advisory Panel, 28642

Nuclear Regulatory Commission
NOTICES
Export and import license applications for nuclear facilities or materials; correction, 28642
Meetings:
Reactor Safeguards Advisory Committee, 28642
(2 documents)
Nuclear Waste Policy Act:
High-level radioactive waste program; generic technical position; availability, etc.
Correction, 28643

Patent and Trademark Office
RULES
Trademark cases:
Fees; revision
Correction, 28555
NOTICES
Meetings:
Trademark Affairs Public Advisory Committee, 28615

Personnel Management Office
PROPOSED RULES
Federal Employees' Group Life Insurance:
Premium underdeductions
Correction, 28576
Health benefits, Federal employees:
Premium underdeductions
Correction, 28576

Public Health Service
See Centers for Disease Control; Food and Drug Administration

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Cargo tank trucks; rear bumpers, 28605

Securities and Exchange Commission
PROPOSED RULES
Securities:
Bank holding companies; industry guide disclosures, 28596
NOTICES
Self-regulatory organizations; proposed rule changes:
National Securities Clearing Corp., 28643
Options Clearing Corp., 28645
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 28643
Applications, hearings, determinations, etc.:
Energy Investments, Inc., 28646
Hannaford Bros. Co., 28647

Social Security Administration
RULES
Social security benefits and supplemental security income:
Travel expenses payment; reporting and recordkeeping requirements, 28544

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Rabun County, Road Backslopes, GA, 28609

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission:
New Mexico, 28553
Texas, 28554
PROPOSED RULES
Permanent program submission:
Maryland, 28600, 28601
(2 documents)
NOTICES
Agency information collection activities under OMB review, 28633

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 28647
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 28647

Treasury Department
See also Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 28649
Bonds, Treasury:
2006 series, 28650

United States Information Agency
NOTICES
Grants; availability, etc.:
International youth exchange initiative, 28651

Separate Parts In This Issue

Part II
Department of Health and Human Services, Food and Drug Administration, 28656

Part III
Environmental Protection Agency, 28664

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 153 AG 8 1986 UMI

CFR
A cum
the Re
1 CFR
3.....
5 CFR
Propos
870.....
871.....
872.....
873.....
890.....
7 CFR
908.....
8 CFR
Propos
214.....
12 CFR
Propos
205.....
14 CFR
21 (2 d
23 (2 d
39.....
71.....
16 CFR
1500....
Propos
13.....
17 CFR
Propos
231.....
241.....
20 CFR
404.....
416.....
Propos
655 (2 d
21 CFR
176.....
344.....
510.....
520.....
522.....
546.....
558 (2 d
24 CFR
203.....
204.....
207.....
221.....
390.....
26 CFR
1.....
30 CFR
931.....
943.....
Propos
920 (2 d
37 CFR
1.....
2.....
40 CFR
260.....
261.....
262.....
263.....
264.....

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
3..... 28509

5 CFR
Proposed Rules:
870..... 28576
871..... 28576
872..... 28576
873..... 28576
890..... 28576

7 CFR
908..... 28509

8 CFR
Proposed Rules:
214..... 28509

12 CFR
Proposed Rules:
205..... 28589

14 CFR
21 (2 documents)..... 28509, 28525
23 (2 documents)..... 28509, 28525
39..... 28527
71..... 28528

16 CFR
1500..... 28529
Proposed Rules:
13..... 28594

17 CFR
Proposed Rules:
231..... 28596
241..... 28596

20 CFR
404..... 28544
416..... 28544
Proposed Rules:
655 (2 documents)..... 28599

21 CFR
176..... 28545
344..... 28656
510..... 28546
520..... 28546
522..... 28546
546..... 28546
558 (2 documents)..... 28546, 28547

24 CFR
203..... 28548
204..... 28548
207..... 28547
221..... 28547
390..... 28551

26 CFR
1..... 28553

30 CFR
931..... 28553
943..... 28554
Proposed Rules:
920 (2 documents)..... 28600, 28601

37 CFR
1..... 28555
2..... 28555

40 CFR
260..... 28664
261..... 28664
262..... 28664
263..... 28664
264..... 28556
265..... 28556
271..... 28664
761..... 28556
Proposed Rules:
180..... 28603
271..... 28604

42 CFR
417..... 28569

48 CFR
1815..... 28574
1852..... 28574

49 CFR
Proposed Rules:
173..... 28605
385..... 28607

50 CFR
604..... 28575
630..... 28575

VOL
51
ISS
153
AG
8
1986
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7 CFR Pa

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AGENCY:
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ACTION: F

SUMMARY
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Rules and Regulations

Federal Register
Vol. 51, No. 153
Friday, August 8, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 3

Federal Register Subscription Rate

Correction

In FR Doc. 86–16958 appearing on page 27017 in the issue of Tuesday, July 29, 1986, make the following correction:

In the second column, in the second line, "is a major rule" should read "is not a major rule".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 375]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 375 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period August 8–14, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 375 (§ 908.675) is effective for the period August 8–14, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The committee met publicly on August 5, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges is slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and the effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges, Valencias.

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 908.675 is added to read as follows:

§ 908.675 Valencia Orange Regulation 375.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 8, 1986, through August 14, 1986, are established as follows:

(a) District 1: 368,000 cartons;
(b) District 2: 432,000 cartons;
(c) District 3: Unlimited cartons.

Dated: August 6, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18010 Filed 8–7–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 012CE, Special Conditions No. 23-ACE-11]

Special Conditions; Beech Model 2000 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for the Beech Model 2000 series airplanes. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the

airworthiness standards of 14 CFR Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the use of advanced composite materials for primary flight structure, an electronic flight instrument system, the location of the propellers, the aerodynamic configuration, and an outward-opening, main entry door in the pressurized cabin for which the regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the Beech Model 2000 airplane.

EFFECTIVE DATE: September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Bobby W. Sexton, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1984, Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201, made application to the FAA for a type certificate for the Beech Model 2000 airplane. The proposed type design of the Beech Model 2000 airplane contains a number of novel or unusual design features not envisioned by the applicable Part 23 airworthiness standards.

Special conditions are issued, and amended as necessary, as part of the type certification basis when the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis as provided by § 21.17(a)(2).

A Notice of Proposed Special Conditions (NPRM) Notice No. 23-ACE-11, was published in the **Federal Register** on April 8, 1986 (51 FR 11933). As a result of a petition from the Air Line Pilots Association (ALPA) requesting an extension of the comment period on that notice, a Notice of Extension of Comment Period was published in the **Federal Register** on May 12, 1986 (51 FR 17362).

Notice No. 23-ACE-11 identified several design features which the FAA has found to be novel or unusual.

The main wing incorporates aerodynamic control surfaces which function as ailerons for lateral control. Additionally, these same control surfaces are designed to also function as a part of the longitudinal (pitch) control system. Movement of the control wheel in the longitudinal axis causes deflections of the forward wing control surfaces and the main wing control surfaces simultaneously. The transmitting links connected to the main wing control surfaces are directed through a mixer box which allows both lateral and longitudinal control inputs to the same control surface. A failure of a single transmitting link could affect both the longitudinal and lateral primary control systems. A single failure which would affect both longitudinal and lateral control could pose a significant problem to flight path control.

The Beech Model 2000 will be operated at high altitudes where stall-mach buffet encounters are likely to occur and the proposed operating envelope includes areas in which Mach effects may be significant. The anticipated low drag of the airplane, coupled with the unusual design features associated with the forward areodynamic surface and the proposed operating envelope, may degrade the ability of the flight crew to promptly recover from inadvertent excursions beyond maximum operating speeds.

Beech has selected airfoil designs having airfoil pressure gradient characteristics and smooth areodynamic surfaces which may be capable of supporting natural laminar flow. Changes in flying qualities and performance may occur due to the loss of natural laminar flow caused by rain, insects, ice, or other contamination adhering to aerodynamic surfaces.

The airframe is made of advanced composite material and is assembled by the extensive use of bonding. This material and its assembly is completely different from the typical semi-monicoque aluminum airframes that have been predominant since the early 1940's. Composite materials of the type used on the Beech Model 2000 are generally not susceptible to initiation of fatigue cracks by the application of repetitive loads, but are susceptible to damage in the form of cracks, breaks, and delaminations from intrinsic and discrete sources growing under application of repetitive loads.

The Beech Model 2000 has composite material outboard fins acting as vertical stabilizers, mounted via metal fittings, at the tips of the composite material wings. The design also includes a forward lifting surface (forward wing) in lieu of a horizontal tail. This surface shares lifting loads which would be carried only by the wing in a conventional design.

The fuselage design incorporates outward-opening doors in the pressure cabin. If this type of door is not properly closed and locked, or if a failure in the door or its locking mechanism occurs, the pressure in the cabin can blow the door open resulting in explosive decompression of the cabin and possible injury to its occupants.

To maintain desired flying qualities with main wing flaps extended or retracted, the forward wing sweeps fore and aft as the main wing flaps are extended or retracted. The airplane pitching moments are balanced by the synchronized motions of these sets of aerodynamic surfaces. If synchronization is not maintained, flight characteristics and control may be degraded.

The mechanisms operating the main wing flaps and the forward wing sweep are not mechanically interconnected. Each is activated independently by electric motors and non-synchronization is detected by electric monitors. These monitors are designed to detect unsynchronized conditions and stop the extension or retraction cycle at whatever position exists when the lack of synchronization is detected.

The airplane has rear-mounted pusher propellers which may be susceptible to contact with the runway surface at the maximum pitch attitude attainable during takeoffs and landings. Passenger and ground personnel may be less aware of the proximity of the propeller blades.

Because of the aft propeller location, ice shed from the wing leading edges, engine air inlet duct inertial separator, and other parts of the airplane may impact the propeller blades. Impact of shed ice fragments may have an adverse effect on the strength and fatigue characteristics of the propeller.

Additionally, because the propeller is located aft of the engine, if engine exhaust gases are discharged into the propeller disc, exhaust gases may adversely affect the strength and fatigue characteristics of the propeller material.

Small airplanes have typically been unpressurized where smoke or toxic fumes could be evacuated by opening windows or, if pressurized, have had maximum operating altitudes such that the airplane could be readily depressurized to evacuate smoke or toxic fumes without creating an unsafe condition. The Beech Model 2000 will

not have inherent smoke evacuation provisions because of higher differential pressures and longer times needed to depressurize and ventilate the cockpit because of the need for immediate supplemental oxygen at the maximum operating altitudes.

Beech has selected Cathode Ray-Tube (CRT) Electronic Display units for an integrated engine parameter display, crew alerting function, and for other cockpit instrument displays. Beech is proposing two cockpit instrument panel configurations. The Engine Indicating and Crew Alerting System (EICAS) is proposed to be standard on both configurations. The nonsymmetrical cockpit instrument panel configuration would feature one Electronic Flight Instrument System (EFIS) on the left instrument panel, the standard EICAS in the center, and back-up conventional attitude, airspeed, and altimeter instruments on the right side of the instrument panel. The optional symmetrical instrument panel configuration would feature two EFIS (one on each side), the standard EICAS in the center, and back-up, two-inch conventional third attitude, airspeed, and altimeter instruments. Included in both the symmetrical and nonsymmetrical configurations would be two Radio Tuning Units (RTU). Proposed for future inclusion in the airplane design is a Flight Management System (FMS). In addition, autopilot and yaw damper systems are proposed for the Beech Model 2000 airplane. The engine parameter displays and crew alerting functions are proposed to be integrated into a single CRT display.

It is proposed that in the event of a failure of the EICAS display CRT, the crew may display the entire EICAS information on another CRT, the Multi-function Display (MFD) CRT. The crew would have discretionary control over the MFD, and may choose to display parameters other than the EICAS information.

In the EICAS, the Interstage Turbine Temperature (ITT) and torque displays for each engine are proposed to be combined into a single circular analog display having two pointers. The ITT, torque, N1, and propeller RPM displays provide both analog scales for trend monitoring, and digital read-outs for discrete values. The digital read-outs for each parameter match the color of the corresponding pointer on the analog display.

Emissive color on a CRT display will inevitably appear differently than reflective colors on conventional electro-mechanical displays. Different intensities and color temperatures of ambient illumination will also affect the perceived colors.

Normal operating, takeoff, and precautionary range markings, required by § 23.1549 (b) and (c), are not considered practical on CRT displays. As proposed, the ITT displays are not marked with green arcs to define the normal operating ranges as required by § 23.1549(b) and the takeoff and precautionary ranges are not marked with yellow as required by § 23.1459(c). The torque displays are not marked with green arcs to define the normal operating range as required by § 23.1549(b), and the takeoff and precautionary ranges are not marked with yellow arcs as required by § 23.1549(c). The N1 display features a variable caution scale that defines the range of gas compressor speeds which is not adequate to maintain the anti-ice capability of the inlet lip of the engine.

Special conditions are necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel and unusual design features of the Beech Model 2000 airplane.

Type Certification Basis

The type certification basis for the Beech Model 2000 airplane is as follows: Part 23, effective February 1, 1965, as amended by amendments 23–1 through 23–28 and §§ 23.2 and 23.785 as amended by amendment 23–32, effective December 12, 1985; Special Federal Aviation Regulations (SFAR) No. 27, effective February 1, 1974, as amended by amendments 27–1 through 27–4; Part 36, effective December 1, 1969, as amended by amendments 36–1 through the amendment effective on the date of type certification; exemptions, if any; and the special conditions amendment adopted by this rulemaking action.

Discussion of Comments

There were seven sets of comments received by the FAA in response to Notice No. 23–ACE–11. Comments were received from the Air Line Pilots Association, Beech Aircraft Corporation, Cessna Aircraft Company, the Civil Aviation Authority of Great Britain, the Department of Aviation of Australia, the General Aviation Manufacturers Association, and the Fairchild Aircraft Corporation.

Several comments did not address specific proposed special conditions but were of a general nature. These comments are addressed first, and comments directed toward specific proposed special conditions follow.

One commenter contends that many of the proposed regulations are precedent setting, are unnecessary, and place a severe and unnecessary economic burden upon both the manufacturer and user of small airplanes. This unnecessary, additional burden makes it extremely difficult for the U.S. aviation manufacturers to maintain competitive leadership in an international arena of competition. The governmental partnership of the foreign competitor allows him to develop a competitive airplane without assuming the entire cost of these additional burdens, whereas 100 percent of the expense must be borne by the U.S. aviation manufacturers. This unnecessary, economic additional burden will require more complex airplane systems that will dictate expanded master minimum equipment list requirements for dispatch, thereby increasing the probability of preventing attainment of the airplane's full potential utility.

Finally, the commenter states that these more complex systems will also create unnecessary, additional operating costs in maintenance to the users of small airplanes over and above that of present Part 23 airplanes.

The FAA disagrees that these special conditions are unnecessary but does agree that they are precedent setting to the extent that the Beech Model 2000 airplane is precedent setting to the aviation industry. These special conditions do not require more complex systems. They are necessary to address the more complex novel or unusual design features of the Beech Model 2000 airplane and are essential to assure a level of safety for those design features equivalent to that envisioned by Part 23 for less complex designs.

Discussion of the financial involvement of foreign governments in the development of airplanes is not considered in the promulgation of Federal Aviation Regulations. However, for U.S. certification, the FAA is obligated to promulgate similar requirements for similar design features, notwithstanding whether the airplane is domestic or foreign.

It is not clear to the FAA how the economic issues cited by the commenter relate to the complexity of the airplane. The commenter did not provide sufficient information for the FAA to properly address the commenter's contention.

That commenter further contends that the FAA has attempted to change some of the Airworthiness Regulations through the normal rulemaking process without success. That commenter further contends that the FAA is seizing this opportunity to circumvent the normal process for changing rules by

imposing these regulations as special conditions upon the Beech Model 2000, because, in the FAA's view, present regulations are insufficient. That commenter does not agree that present regulations are insufficient, and contends that application of these special conditions to augment perceived deficiencies is then in effect, specific rulemaking to set the stage for application of special conditions as rules to be applied generally. Therefore, the commenter contends that changes of this magnitude should follow normal rulemaking channels and is totally inappropriate for inclusion in these special conditions.

Another commenter contends that the proposed special conditions appear to indulge subjective opinions of what some personnel wish regulations to be, rather than special conditions constrained by the boundaries specified in § 21.16.

The FAA disagrees that the intent of these special conditions is to circumvent the normal process for changing rules. These special conditions address the novel or unusual conditions described in Notice 23–ACE–11 for the Beech Model 2000 airplane for which Part 23 does not contain adequate or appropriate safety standards and are, therefore, within the boundaries of § 21.16. When the FAA determines that, as a result of changes in the aviation industry, a need exists to amend Part 23 to include requirements which address such design features, changes will be proposed using appropriate rulemaking procedures.

One commenter urges the FAA to expedite updating the rules themselves because the continued technique of the FAA setting forth design conditions on an ad hoc basis for each new design is not consistent with the avowed purpose and mission of FAA.

The FAA disagrees. When a design consists of novel or unusual design features and the Administrator finds that the airworthiness regulations do not contain adequate or appropriate safety standards for those design features, special conditions are appropriate and are within the boundaries of § 21.16. Promulgating rules, even if quickly accomplished, would not apply to the design in question because of the provisions of § 21.17.

Two commenters identify specific requirements and question why they were omitted from the special conditions. These commenters contend that additional requirements should be imposed for:

1. Windshield bird-strike tests, similar to § 25.775(b).

2. Quick-donning oxygen equipment for the crew, similar to §25.1447(c)(2), and

3. Bird-strike requirements for the forward wing.

In the case of both the windshield bird-strike test and the quick-donning oxygen equipment, the FAA finds no related novel or unusual design features on the Beech Model 2000 airplane sufficient to justify application of § 21.16. In the case of the bird-strike requirement on the forward wing, the FAA is unaware of an increase in the probability of a bird striking the horizontal surface simply because the surface is mounted forward instead of aft on the airplane. Since Part 23 has no such bird-strike requirement on an aft mounted horizontal surface, imposing one on the forward surface would be beyond the level of safety of Part 23. However, the FAA recognizes the criticality of windshield and empennage bird-strike on flight safety. The FAA is considering inclusion of appropriate requirements in future rulemaking.

One commenter observes that crew requirements are not addressed in Notice 23–ACE–11 and suggests that the special conditions include the requirement for a type-rated pilot. The FAA makes findings for minimum crew and the need for a type rating based on certification and operating requirements and the crew complement request by the applicant. Predetermining such findings by special conditions is inappropriate.

One commenter contends that the comment period chosen for these special conditions is too short. The FAA recognizes the need to provide sufficient time to allow the public to comment on proposed special conditions and also recognizes the need to provide the manufacturer with a firm certification basis in a timely manner. The comment period chosen was considered the best compromise for all parties.

One commenter agrees that Part 23, as written, is inadequate to deal with the complexities and the technically advanced nature of the Beech Model 2000 systems and states that the special conditions enhance the certification requirements and should lead to a safer airplane. That commenter is, however, concerned that, in the future, this airplane or its derivative will be operated with ten or more seats, excluding pilots seats, and may be used to carry revenue passengers. That commenter opposes the certification of any such airplane by Part 23 instead of Part 25.

The FAA has found that the Beech Model 2000, as presently proposed to the FAA, is eligible for certification using Part 23 requirements and the number of passengers is not at issue in these special conditions. If Beech had desired certification to other than the normal category of Part 23, Beech could have requested such in their application.

One commenter, in response to Special Condition No. 1, Longitudinal and Lateral Control, states that key words such as "either" or "or" should be inserted into the proposed special condition to clearly define that conditions (a) and (b) are not required to be done together. The FAA agrees that conditions (a) and (b) are not required to be accomplished concurrently. The use of key words like "either" or "or" would provide Beech with the option to accomplish either (a) or (b), but not both. The intent of the special condition is to require demonstration of both paragraphs (a) and (b) individually but not necessarily concurrently.

Another commenter refers to existing Joint Airworthiness Requirements (JAR) 25.145(e) and contends that the JARs have always assumed that adequate roll control is provided by the directional control in the event of failure of the lateral control. That commenter states that the assumption continues to be made for the Beech Model 2000 and questions whether such an assumption is valid.

The FAA is obligated to assure that the special conditions provide a level of safety consistent with the certification basis of the airplane, in this case, Part 23. This special condition requires that the Beech Model 2000 be able to establish a zero rate of descent in a landing attitude with a single link failure in the longitudinal and lateral control system similar to the requirement in existing § 23.145(e)(2)(ii) related to a single link failure in the primary longitudinal and directional control system. Accordingly, this special condition is adopted as proposed.

One commenter contends that proposed Special Condition No. 2, Buffet Onset Envelope, will require extensive testing and is precedent-setting for a Part 23 airplane. That commenter contends that at least one airplane has been certificated recently without having to comply with a similar regulation, even though that airplane operates at higher maximum speeds at the same maximum attitude as the Beech Model 2000. That commenter contends that the FAA should delete this proposed special condition due to lack of justification.

Another commenter states that the proposed criteria of this special condition is consistent with counterpart criteria administered under § 25.251(e) and § 25.1585(c). That commenter also

states that the criteria of this special condition is appropriate.

The FAA does not agree that this special condition lacks justification nor that it is precedent-setting. This special condition is identical to the requirements imposed on the Lear Fan Model 2100 airplane (48 FR 21882). The FAA position remains that the information determined as a result of this special condition is intended to show the operator those altitudes, airspeeds, weights, and center of gravity locations which the airplane may be capable of attaining by virtue of its performance but which should be avoided due to buffet onset. The first commenter does not provide specific information to support the claim relative to a previous certification without a similar requirement. However, notwithstanding previous certifications, the FAA has determined that establishment of a buffer onset envelope is necessary because the Beech Model 2000 will be operated at high altitudes where stall-mach buffet encounters are likely to occur. The FAA recognizes that the extent of testing necessary to establish this envelope may vary depending upon the margins determined during testing. Accordingly, this special condition is adopted as proposed.

Three commenters responded to Special Condition No. 3, Inadvertent Excursions Beyond Maximum Operating Speeds. Two commenters contend that this proposed special condition exceeds the level of safety for Part 23. The FAA disagrees. Sections 23.321 through 23.341 combine to define the flight envelope for the airplane. This special condition requires demonstration of the ability of the flight crew to promptly recover from speed excursions within that envelope. The ability to pull at least 1.5 *g*'s positive load factor is considered a minimum value to assure that the airplane speed does not continue to a value where recovery may not be achievable by the average pilot.

One commenter contends that this special condition would be better shown as a specific finding under § 23.253. The FAA is aware of the latitude of specific findings. However, the FAA has determined that without this special condition, no basis would exist for imposing such a required demonstration. Therefore, establishment of this special condition is appropriate.

One commenter states that the ability to pull 1.5 *g*'s could be proven by wind tunnel data and that commenter can see no reason to flight test at various weights. The FAA agrees that wind tunnel data can be used to help identify critical conditions but has determined that flight testing is necessary to assure the ability of the airplane to pull 1.5 *g*'s at critical conditions.

Two commenters contend that the demonstration of the ability to pull at least 1.5 *g* at V_D/M_{DF} exceeds the practice of Part 25. One of these commenters stated that the proposed special condition would require upset demonstrations at V_D/M_D and that demonstration to V_{DF}/M_{DF} is more appropriate. Another commenter does not define a particular reduced value of airspeed but does recommend that the demonstration speed be reduced below V_D. The FAA agrees that demonstration to V_{DF}/M_{DF} is more appropriate. The special condition is adopted with the reduction of demonstrated airspeed from V_D/M_D to V_{DF}/M_{DF}

Four commenters responded to Special Condition No. 4, Effects of Contamination on Laminar Flow Airfoils. Three commenters contend that the special condition does not have sufficient justification and should be withdrawn. One of those commenters contends that insufficient justification is presented as to where Part 23 is inadequate. The FAA disagrees that insufficient justification is provided. As stated in Notice 23-Ace-11, airfoil sections whose performance and flying qualities are substantially degraded by contamination which would normally be encountered in service were not envisioned in Part 23 requirements.

One commenter states that this special condition exceeds the level of safety of Part 23. The FAA disagrees. The special condition requires that any reductions in handling qualities or performance caused by the loss of natural laminar flow be identified and requires that the airplane comply with existing Part 23 requirements with those reductions.

Two commenters state that natural laminar flow is not new to Part 23 airplanes. One of these commenters contends that natural laminar flow has existed or certificated airplanes for over twenty years, has been operational for over forty years, and that natural laminar flow airfoils are not new to Part 23; only the recognition of natural laminar flow is new. The other commenter contends that natural laminar flow has been used in Part 25 airplanes, yet no such requirements have been imposed. The FAA understands that initial claims made during development of the Beech Model 2000 airplane implied that substantial performance would be gained by natural laminar flow. National Aeronautics and Space Administrative (NASA) research has indicated that certain natural laminar flow airfoils exhibit substantial differences in performance with and without natural laminar flow and the FAA is aware that certain experimental airplanes have exhibited these characteristics. The FAA cannot dictate the choice of airfoil section used on the airplane. However, notwithstanding previous certifications, the FAA is obligated to assure, by this special condition, that regardless of what airfoil section is chosen, the airplane exhibits safe and predictable characteristics throughout the operational envelope.

One commenter notes that NASA has shown that contamination could effect natural laminar flow, but contends that such effects are not typical of natural laminar flow airfoils. That commenter contends that NASA research indicates that airfoils can be designed without separation under turbulent boundary layers. Another commenter states that tests conducted by that commenters' company indicates that the critical performance deterioration contemplated by the special condition does not exist on contemporary airfoils and that the company was not aware of others having such deterioration experience. The FAA agrees that some natural laminar flow airfoils exist that do not have significant characteristic changes with boundary layer tripping. Since the choice of airfoil sections is left to the applicant, the proposed special condition requires demonstration that the performance of the airplane is not degraded by contamination on the airfoil and requires tests or analysis supported by tests to verify that the airplane complies with §§ 23.141 through 23.253 with contamination which would normally be encountered in service and which would cause significant adverse effects due to loss of natural laminar flow.

Two commenters express concern about the extent of effort necessary to show compliance with this special condition. One of these commenters asks the FAA to provide a clear definition of the tests and documentation necessary for compliance. The FAA considers that, at a minimum, full-scale flight testing should not be reduced below the amount necessary to prove the credibility of the wind tunnel test data. Full-scale tests beyond that minimum will be necessary if significant variations from wind tunnel test results are identified.

One commenter agrees that the FAA has properly required that compliance be shown for flight handling quality changes resulting from the loss of natural laminar flow but contends that performance losses should be determined and that those losses should be built into the basic performance data.

not simply offered as incremental corrections as implied in the special condition. The FAA disagrees that the special condition relieves the applicant from determining significant performance losses. The FAA agrees that the proposed special condition allows for incremental corrections to the performance data but disagrees that this procedure is inappropriate so long as those increments do not reduce the airplane performance below the minimum performance requirements of Part 23. The FAA recognizes that, for particular operational conditions (e.g., takeoff), it may be necessary to include these increments in the basic data to minimize the possibility of misinterpretation by the crew. In other operational conditions (e.g., cruise), incremental corrections alone may be appropriate. Accordingly, this special condition is adopted as proposed.

Five commenters responded to the Special Condition No. 5, Evaluation of Composite Structure. One commenter agrees that the current airworthiness requirements should be revised to include compostite fabrication methods but stated that the proposed special condition is too detailed and is written with only one means of compliance in mind. That commenter contends that regulations should state the basic requirements and limitations which the manufacturerer and the FAA use to develop agreeable interpretations and alternate methods of compliance. That commenter contends that the special condition should be rewritten and shortened to outline the requirements and leave the fabrication methods and design to the manufacturer. The FAA agrees that the proposed special condition is necessarily detailed and recognizes that the proposed special condition appears to restrict the applicant's use of the fatigue strength criteria presently in Part 23. It was not the intent of the FAA to go beyond the level of safety, but rather to provide an equivalent level of safety to that envisioned for Part 23 airplanes in § 23.571 Pressurized cabin, and in § 23.572 Wing and associated structured. Current criteria as developed for metals which have similar strength properties for in-plane and out-of-plane loads, known toughness properties, and known durability which has been established from many years of testing and experience. In contrast, graphite composite materials being used on the Beech Model 2000 airplane exhibit widely varying strength properties for in-plane and out-of-plane loads as well as toughness properties and durability that differ significantly from commonly used metals. Furthermore, composite materials are known to be susceptable to damage during manufacture and in service; while metals, when built into airplane structure as envisioned in §§ 23.571 and 23.572, are not likely to be so adversely affected. Because of these major differences in material physical properties, a thorough investigation is necessary to determine the ability of that airframe to withstand repetitive loads as well as damage likely to occur. The FAA has determined that, at this time, damage tolerance criteria is the only method that can readily be used to accomplish the necessary investigation for repetitive loads and damage. If subsequent information, not now available to the FAA, justifies use of different criteria, the applicant may elect, or if necessary, be required to comply with that criteria. Such action would be by amendment to these special conditions.

Two commenters contend that the proposed special condition is not sufficiently justified. One of these commenters states that the proposed special condition exceeds the boundaries of § 21.16 and questions the need to codify criteria similar to that contained in existing advisory material. In support of this position, the commenter notes that Advisory Circular (AC) 20-107A addresses composite structure and was developed as and acceptable means of compliance with requirements already in the existing rules.

The FAA disagrees that the justification for the proposed special condition is insufficient. The use of advanced composite materials and extensive bonding of these materials in primary flight structure is clearly a novel and unusual design feature with respect to the type of airplane construction envisioned by the existing airworthiness standards of Part 23 and is therefore within the scope of § 21.16.

At the request of industry, the FAA developed AC 20-107 to indicate how current standards could be implemented to take into into account the unique characteristics of composites. This was intended to be an interim measure to handle the application of composites to designs envisioned at that time and until a body of experience with the new materials could be developed. Since the development of AC 20-107 in 1978 and its revision as AC 20-107A in 1984, additional experience has been gained.

Although the Lear Fan Model 2100 Special Conditions (48 FR 21882) were in place when the 1984 revision was issued, the FAA considered in 1984 and continues to consider that all-composite airplanes are a special condition issue and that the applicable airworthiness requirements must be appropriately amended before such airplanes can be certified without special conditions. The FAA will review AC 20-107A in light of the additional experience gained and will revise the advisory circular to clarify its intended use. It is expected that a further revision will be necessary after applicable airworthiness reqirements are amended.

One commenter states that the wording of proposed special condition 5(h) prohibits the use of a non-destructive inspection techniques which assures the ultimate strength of each bonded joint and suggests changing "in lieu of" to "in the absence of." Another commenter is unaware of the existance of any such non-destructive inspection technique and interprets the special condition to therefore require proof-testing of all production joints. The FAA recognizes that currently no reliable non-destructive inspection technique exists to identify "weak bonds." However, the wording of the special condition is chosen to allow such an inspection technique if and when one is developed. The FAA finds that the wording of the special condition is appropriate as written. The FAA disagrees that proof-testing is the only other option available if non-destructive testing techniques are not reliable. Paragraph 5(h)(1) of the proposed special condition allows for design features that prevent disbonds from becoming greater than those maximum disbonds beyond which the structure can no longer support the loads specified in the special condition. Features such as mechanical fasteners or redundant designs satisfy the intent of such design features.

Three commenters express concern regarding the proposed proof-test requirement of paragraph (5)(h). One commenter states that the state-of-the-art practice is to assure the consistent performance of joints through careful control of processes and materials. Without this option, the commenter contends, limit load testing of production joints, including multiple loadings to cover all applicable loading directions, is not economical and produces opportunities for inadvertent overloads or for the creation of unobserved residual damages caused by the test itself. Another commenter states that such proof-testing provisions were not discussed or considered in government/industry review of AC 20-107A. That commenter expresses concern at the seemingly lack of confidence displayed by the FAA in

considering one of the major technological breakthroughs in recent years and requests serious reconsideration of the need for a proof test.

A third commenter recommendes that the special condition be modified to require the establishment of post-test procedures to ensure detection of any partial bond failures caused by application of the proof loading. That commenter suggests comparisons of pre-test and post-test resonant frequencies as a possible solution.

The FAA recognizes that the proof-test option is a stringent approach to assure that the airplane meets the minimum safety requirements of Part 23. The criticality of particular bonded joints, the inability to inspect the integrity of "weak bonds" by non-destructive means, and the lack of industry experience in manufacturing critical airfame major structures using such joints justifies FAA's current position. The FAA has found that failed or separated bond lines can be discovered by non-destructive inspection techniques but that bond lines that are intact but are under-strength cannot. The proof test will assure that bond lines that remain intact will carry limit load. The FAA relies on post-test, non-destructive inspection techniques to discover bond lines which have failed or separated during the load test. The FAA agrees on the need for accomplishment of post-test inspections but does not intend to regulate particular test methods.

One commenter suggests that paragraph (5)(j) be amended to read "The airplane must be shown by analysis to be free from flutter up to V_D with stiffness variations that reflect all possible combinations of damage for which residual strength is demonstrated." That commenter emphasizes that in such case, it would not be necessary to show flutter integrity to $1.2V_D$ with damage, but notes in such condition, it would be appropriate to consider a range of stiffness variations for different components, not merely consider uniform reductions in the total structure.

The FAA agrees that analysis showing freedom for flutter to V_D is sufficient for stiffness variations resulting from damage for which residual strength has been demonstrated. The special condition has been amended accordingly. However, the FAA considers that requiring demonstration of freedom from flutter with stiffness variations that reflect all possible combinations of multiple failures to be beyond the intent of this special condition. The FAA expects that single failure criteria will be applied without assuming a totally damaged airplane and that multiple failures which result from a single source of damage should be considered as a single failure.

Two commenters responded to the Special Condition No. 6, Forward Wing and Vertical Tail Loads. One of the commenters contends that the word "flight" should be removed from the second sentence in subparagraph (6)(a) to allow the use of wind tunnel data to validate load intensities and distributions. In support of that position, the commenter agrees that loads methods must be verified, but contends that flight testing is only one acceptable method. That commenter states that wind tunnel data is more consistent and of a higher quality than flight test pressure data. Additionally, that commenter contends that Beech has compared analysis versus wind tunnel data and analysis versus flight test data and has excellent agreement between flight and wind tunnel verfication methods. The FAA has concluded that flight testing is not the only acceptable method to verify load intensities and distributions over the various aerodynamic lifting and control surfaces. The FAA disagrees that the proposed special condition restricts validation to that method alone. However, as stated in the special condition, any other method chosen must be shown to be reliable or conservative for the configuration under consideration. Because of the unusual aerodynamic configuration, the FAA expects that some validation by flight test will be necessary.

One commenter supports the proposed special condition by noting that it is appropriate for the Beech Model 2000 and is consistent with yet-to-be-published FAA proposed rule changes resulting from the 1984 Part 23 Airworthiness Review.

One commenter addresses the proposed Special Condition No. 7, Doors and Exits. That commenter contends that the proposed special condition does not sufficiently justify why Part 23 is inadequate. The commenter states that it appears that the proposed special condition is extracted from § 25.785(e) without regard to differences between large and small airplanes. The commenter disagrees that the visual warning means required by subparagraph 7(c) is appropriate for small airplanes. The commenter states that such a warning is appropriate for large airplanes where the flight crew is remote from any of the multiple entries provided, but for small airplanes where the principal entry is close to the cockpit, the visual means of verification required by paragraph 7(b) is sufficient.

The FAA disagrees. Current Part 23 does not contain any airworthiness standards for the door latching and locking mechanisms. The visual warning means includes exits as well as doors. The FAA finds that the criteria provided for direct visual inspection of the locking mechanism and the visual warning means to signal a flight crewmember if any external door or exit is not fully closed and locked is consistent with the level of safety of Part 23 and is not contingent upon the door or exit location relative to the crew. Accordingly, the proposed special condition is adopted as proposed.

Two commenters responded to Special Condition No. 8, Flap Interconnection With Related Movable Surfaces. One commenter contends that since the main wing flaps and related movable surfaces must either be synchronized by mechanical connection or maintain synchronization so that the occurrences of an unsafe condition has been shown to be extremely improbable, the reliability levels between the two options should be consistent with or dictated by the same reliability levels stated in current § 23.1309. The commenter states that the reliability level identified in the proposed special condition as "extremely improbable" should be changed to "extremely remote." The other commenter contends that the term "extremely improbable" implies a requirement to demonstrate compliance to a 10^{-9} probability factor. That commenter states that the preamble text should clearly state that compliance could be shown by providing a non-critical Failure Modes and Effects Analysis (FMEA) without requiring exhaustive numerical analysis.

The reliability levels of current § 23.1309, and what was envisioned when current § 23.1309 was promulgated, were discussed in the Notice No. 23–ACE–11 relative to proposed Special Condition No. 13 and is further addressed in the disposition of comments to proposed Special Condition No. 13. To restate briefly, current § 23.1309 did not envision systems whose failure could prevent contained safe flight and landing of the airplane. Typically, asymmetric flap positions are critical to continued safe flight and landing. Therefore, § 23.701 requires a mechanical interconnect to assure asymmetric flap positions between the two sides of typical small airplanes do not occur, unless it is demonstrated the airplane can be safely flown with maximum asymmetric flap conditions.

VOL 51 ISS 153 AG 8 1986 UMI

This intent is carried into this special condition and wherein means other than mechanical interconnection are allowed, provided the level of safety intended by the mechanical interconnect requirement of current § 23.701 is maintained. As stated relative to resolving comments on proposed Special Condition No. 13, the occurrence of a failure of any system critical to continued safe flight and landing must be at least extremely improbable. Also, as stated relative to Special Condition No. 13, use of the term extremely improbable in small airplane certification is related to a failure which would create an unsafe condition and, therefore, could not be accepted. This term does not mandate a numerical analysis, but allows use of such analysis if the applicant finds it necessary to show compliance with the applicable requirement.

Relative to the recommendation to use the term "extremely remote", the FAA has determined that the use of "extremely remote" addresses less critical events than those where the term "extremely improbable" is used in these special conditions. The term "extremely improbable" is more widely used in airplane certification and is consistent with previously issued small airplane special conditions, as well as Special Condition No. 13 herein.

One commenter contends that the language chosen in the proposed special condition is confusing with respect to the differences between "individual moveable surfaces" and "considered as a single surface." The FAA expects the level of safety provided in the proposed special condition to be equivalent to that envisioned in existing § 23.701(a). Section 23.701(a) requires mechanical synchronization of flaps unless the airplane has safe flight characteristics with flaps retracted on one side and extended on the other. Similarly, one option of the proposed special condition requires the airplane to have safe flight characteristics with any combination of extreme positions of moveable surfaces unless those surfaces are mechanically connected. The FAA recognizes that requiring demonstration of relative movements between mechanically interconnected surfaces would not be consistent with the level of safety envisioned in existing Part 23, and, therefore, is not required.

Two commenters responded to Special Condition No. 9, Propeller Ground Clearance. One commenter contends that existing § 23.925 is adequate for the Beech Model 2000 airplane and that the special condition is unnecessary. Another commenter contends that since the proposed special condition would require only "positive" ground clearance of the propeller when the airplane is at the maximum pitch attitude attainable normal takeoffs, it provides less clearance than the seven inches specified in § 23.925(a). That comenter states that in the case where pilot action can reduce the ground clearance, the requirement should be more closely comparable to the clearance requirements for tail wheel airplanes where the required clearance is nine inches. That commenter states that the FAA should not accept a zero clearance since a flat tire, collapsed shock absorber, or runway surface irregularities can lead to a propeller ground strike with attendent unsafe conditions.

The FAA has determined that § 23.925 is not adequate to address propeller ground clearance for the Beech Model 2000 airplane because of the aft location of the propellers. The proposed special condition defines requirements in addition to existing § 23.925. Existing § 23.925 requires at least seven inches clearance between the propeller and the ground in the normal takeoff attitude and a positive clearance with the critical tire deflated and the strut bottomed.

In addition to those requirements, the FAA has proposed to require that a positive clearance exist between the propeller and the ground when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings. The FAA recognizes that pilot action can reduce the ground clearance for aft-mounted pusher propellers in a manner similar to, but opposite from, that of a tail wheel configured design. The intent of the proposed special condition is to provide for the case of over-rotation of the airplane under normal takeoff conditions. FAA's choice of the term "normal takeoff" was intended to preclude the need to demonstrate propeller clearance during abnormal conditions where both the tail and wing tip would be nearly in contact with the ground.

One commenter states that tail bumpers have been installed on tricycle landing gear configured airplanes for purposes other than protection of propellers. That commenter contends that the industry has been certifying airplanes with tail bumpers for a long time without a regulation for tail bumper loads. The FAA recognizes that tail bumpers are not in themselves a new feature, but the FAA considers the protection of the propellers a critical issue and, as such, finds that appropriate design standards must be developed. The proposed special condition is adopted as proposed.

No comments were received relative to Special Condition No. 10, Propeller Marking. The special condition is adopted as proposed.

One commenter responded to Special Condition No. 11, Propeller Ice and Exhaust Impingement Protection. That commenter agrees that the concern for structural integrity of the propeller during icing encounters appears to be valid but states that the requirement of subparagraph 11(a) is too broad, lacks identifiable boundaries, and could result in administration that could exceed reasonable and economically feasible considerations. The commenter states that Part 35 Airworthiness Standards: Propellers, does not establish size or quantities of ice that can be shed into the propeller without unacceptable damage. That commenter contends that the proposed special condition could be interpreted to prohibit any ice, regardless of how minor, from forming ahead of the propeller. Further, that commenter argues "forward" could involve all areas forward of the propeller not just those areas directly forward. The commenter recommends that the FAA establish boundaries to limit the areas of consideration to those within a range of striking the propellers and that the FAA establish lower limits on the size of ice particles to be considered.

The FAA does not agree that the criteria for ice impingement on the propeller is too broad. The proposed special condition is intentionally general to allow the applicant the option of either showing that ice will not accumulate or will not create a hazardous condition if it does form and is shed into the propeller disc. The FAA disagrees that this includes all areas forward of the propeller. The intent of the special conditions is to include only those areas forward of the propeller disc which are likely to accumulate ice, and are then likely to shed that ice into the propeller. The minimum size of ice is dependent on the airplane design and can be determined by analysis and tests but should not be determined by regulatory means. The special condition is adopted as proposed.

One commenter responded to Special Condition No. 12, Cockpit Smoke Evacuation. That commenter agrees that the wording of this special condition is acceptable because it is taken directly from § 25.831(d), and that the commenter's company has voluntarily been complying with § 25.831(d). The commenter states that simply adding an established airworthiness standard of

Part 25 to the certification basis of a Part 23 airplane in lieu of a special condition, would significantly reduce the issue paper/special conditions process of airplane type certification.

The FAA recognizes that simply adding a Part 25 requirement to the certification basis of a Part 23 airplane would reduce the special conditions process. The FAA also recognizes that such a procedure has been used as standard practice by the FAA in previous years. However, the significant increase in requests to add requirements from airworthiness Parts not applicable to a particular small airplane certification project resulted in a review of how this practice started and what was its effect.

As a result of this review, the FAA has determined that this practice is not appropriate for the future certification of small airplanes. The FAA will establish the certification basis for small airplanes consistent with the applicable requirements which are contained in Part 23 and any additional requirements in accordance with § 21.16.

Four commenters responded to Special Condition No. 13, Instruments, Systems, and Installations. Some of the comments were of a general nature, some spoke to preamble material and some spoke to specific issues in the special condition. The general comments are addressed first, those relative to the preamble next, and those relative to specific requirements last.

One commenter contends that the FAA is using the issue of cathoderay tube (CRT) displays to impose § 25.1309 (transport category requirements) on the whole Part 23 airplane (small airplane). The issue that resulted in Special Condition 13 is the inclusion of complex systems in this airplane that may be safety critical systems. Such systems were not envisioned when the applicable small airplane airworthiness requirements were promulgated. The Electroinc Flight Instrument Systems (EFIS) and Engine Indicating and Crew Alerting System (EICAS) planned for use in this airplane (both use CRT displays) are complex systems that may be critical to safe flight. Other systems in the airplane may be complex and/or may be critical to safe flight due to dependence on these systems or due to their effect on other systems. The features of this airplane, the composition of the crew, and the degree of dependence of the crew on each system for safe operation in normal and emergency conditions effect the criticality of such systems. If the analysis shows a system's various failure modes would not adversely effect safe flight of the airplane, the system would not be required by the special condition to provide a level of safety above what is now required for system in small airplanes. The NPRM discussed the EFIS and EICAS features, the basis for the FAA considering these systems complex, and pointed out that the small airplane airworthiness requirements, as now promulgated, did not envision complex or safety critical systems other than those systems that were not considered to have a failure mode due to the mechnical design requirements (mechanical interconnect of flaps, etc.).

One commenter contends the special condition does not provide for equipment properly qualified to a Technical Standard Order (TSO). The FAA disagrees. A TSO is a general requirement that may or may not be suitable for this airplane. The TSO process allows prior determination that an article complies with specific performance requirements in specific environmental conditions. At the time of installation in an airplane, it remains necessary to determine that the airplane environment for the affected equipment is not more severe than that environment for which the equipment was previously quaified by the TSO process. Additionally, it must be determined tht the required TSO performance is adequate for the specific airplane's needs. This situation exists for installation of all TSO'd equipment with or without a special condition.

One commenter contends that FAA is overly concerned about CRT displays and EFIS, that loss of a CRT is similar to loss of an inverter in the previous generations of instrument systems, and that the response to a failure is similar to inverter loss in which case the pilot action would be to simply switch to the back-up inverter.

The FAA disagrees. The applicable requirements envisioned single-function instruments and were formulated such that, after a failure that caused the loss of one of these single functions, the remaining required instruments provided adequate information for continued safe flight to landing. With the complex systems proposed by Beech, multiple functions can be lost with a single failure or probable combination of failures. A failure of systems that have the greatly expanded capability are of concern to the FAA because the crew can become routinely dependent on the expanding functions, and the extent of failure could have a far greater effect on the crew's ability to function adequately with the instrumentation remaining after a failure. The crew action of switching to a back-up CRT moves the information to a different location on the instrument panel. Conversely, switching to a back-up inverter brings the information back to the crew as it was and in the same place as prior to the failure. The FAA does not consider these to be similar occurrences resulting in identical pilot actions.

One commenter contends that current "conventional" instrument systems have failure modes where a single malfunction or failure could affect more than the one primary instrument display or system and that such consequences of failures should be deleted from the special condition. Specific examples were not cited. The FAA is promulgating these special conditions relative to the applicable small airplane requirements and does not consider these applicable requirements to have envisioned instrument systems where a single malfunction or failure of an instrument system could adversely affect more than one primary instrument display.

One commenter considers applicability of the special conditions to "functions that are determined to be essential for continued safe flight" to be a reasonable concept but that a definition of "continued safe flight" is needed. This commenter also offers a definition of the phrase "continued safe flight and landing" to mean "that after the failure being considered, the airplane can be flown using the emergency procedures specified in the flight manual, without exceeding its normal operating limitations, to successful termination of the flight at an airport." The FAA agrees in concept with the commenter's recommendation. However, The FAA does not intend any different meaning or more restrictive definition for the phrase "continued safe flight and landing" in the special condition than what has been applied relative to the phrases "safe flight and landing" in § 23.655, "continued safe flight and landing" in § 23.621, and "continued safe flight" in § 23.1461. Recently, the Aerospace Industries Association of America, Inc., proposed that the phrase "continued safe flight and landing" as used in the regulation, means that the airplane is capable of continued safe controlled and stable flight and landing, possibly using emergency procedures but without requiring exceptional pilot skill or strength, allowing some airplane damage as a result of the failure condition either in flight or upon landing. The FAA has determined that the phrase is understood, it is objective and general, and the FAA does not propose to issue a definition in this special condition that would make the

requirement more narrow in scope than what the requirement encompasses in Part 23.

One commenter considers the "essential loads" requirement to be justified but, as stated, it is overly complicated and seems to extend beyond the intended applicability. This commenter did not clarify where the commenter considered the proposed requirement to extend beyond the intended applicability. The FAA has reexamined the proposed requirement for clarity and applicability. The FAA has also examined the wording of SFAR 23, Sections 59(c)(1), (c)(2), and (c)(3), as recommended by the commenter. The commenter's recommended wording considers engine failures but does not consider the effect of nonessential loads on operation of the power distribution system. The recommendation relative to reducing power loads is considered equivalent to proposed special condition paragraph (c). Therefore, no changes are adopted as a result of this comment.

One commenter considers the requirement on electronic display units to require a level of safety above that of Part 23, but that the requirement is acceptable. It is not the FAA's intent to raise the level of safety by issuing these special conditions. This special condition is intended to preclude degradation in the level of safety below that envisioned by the applicable requirements of Part 23 caused by use of features in the airplane design not envisioned when those applicable requirements were promulgated.

One commenter considers the FAA's justification for the special condition to be, in part, an understanding (by the FAA) that the method of compliance with § 23.1309 is somehow limited, and that the commenter's understanding of the rule does not indicate such a limitation. This commenter also considers current § 23.1309 to be adequate and that it should be applied (without a special condition). The FAA considers the means of compliance with current § 23.1309 to be limited to the means envisioned when it was promulgated. Section 23.1309 envisions single faults of single-function instrument systems whose failure (without a failure of a second system) would not be critical to continued safe flight. When system designs integrate functions of two or more instrument system such that a single fault can affect more than one instrument system, the FAA considers a failure of such a system to be potentially more critical to safe flight than those envisioned in § 23.1309 and that § 23.1309 is not adequate for such systems.

One commenter recommends requiring the EICAS display to switch "off" when any of the three CRT guns are lost to prevent any incorrect color presentation, because color is very significant on the EICAS. The FAA agrees that color is significant on the EICAS. However, due to the number of different colors being normally displayed, and, considering that failure of any of the three color guns would result in significant color changes that would be readily apparent to the flight crew, the FAA does not consider individual color gun monitors necessary for safety on the Beech Model 2000. After failure of one of the three color guns, information would continue to be displayed that is useful to the crew for monitoring and controlling the engines. If the manufacturer chooses to incorporate a color gun monitor into the EICAS design, such an optional feature would be evaluated for compliance with the special condition like other EICAS features.

One commenter contends that the FAA presentation of essentially equivalent draft special conditions for EFIS installations on different models of small airplanes indicates a less than thorough consideration of § 21.16 criteria in favor of a prejudged position on how Part 23 requirements could be improved through unrestrained expansion. This commenter further contends statements in the preamble (51 FR 11938) are clearly explicit in stating an intent to compel a level of safety higher than present Part 23, which is clearly contrary to the provisions of § 21.16. This commenter further contends systems more complex than those addressed in the proposed special conditions have achieved transport category airplane certification without special conditions.

The FAA is aware of many planned EFIS installations in small airplanes that are novel or unusual relative to the regulations applicable to the particular small airplane model affected. Until the regulations applicable to small airplanes can be amended to consider these novel or unusual features, the FAA must issue special conditions. Where like issues are being treated on different small airplane models, the FAA considers it necessary to promulgate like special conditions. The FAA is aware that systems as complex as proposed on the Beech Model 2000 (or more complex) have been approved on transport category airplanes without special conditions. The requirements in Part 25 applicable to transport category airplanes are different than the requirements in Part 23 applicable to small airplanes. The FAA has determined the requirements in Part 25 are adequate for certification of these systems in transport category airplanes. However, those Part 25 requirements are not applicable to small airplanes and, as repeatedly stated in the preamble to the proposed special conditions, the intent of these special conditions is to assure a level of safety equivalent to the requirements *applicable to small airplanes.*

One commenter considers it premature to lock in criteria for electronic displays through special conditions excessively tailored to a single design configuration, because the commenter contends that special conditions are nearly always the precursors of amendments to rules. This commenter expresses concern that these special conditions will preclude the development of alternative designs, or philosophies for presenting operating information to the crew. This commenter urges establishment of requirements that allow latitude for alternative designs and/or growth in presentation concepts.

The FAA is aware that overly specific requirements in amendments to the airworthiness requirements can prohibit alternative designs. In contrast, special conditions can be, and normally are, much more specific because they are limited to specific designs. In this special condition, the FAA has attempted to state the requirements objectively while the preamble describes the specifics of the design of concern. The FAA has concluded that this approach will leave the necessary latitude for alternative designs while maintaining the necessary consistency between designs.

One commenter does not consider the preamble sufficiently persuasive to show that existing Part 23 standards, including the provisions of current § 23.1309, could not be administered to achieve a level of safety consistent with the intent of the Federal Aviation Act, particularly considering the effects of presently applicable § 91.30 in the development of minimum equipment lists with attendant limitations or alternative procedures. This commenter does not identify specific issues in the preamble which the commenter does not consider persuasive; therefore, the FAA cannot provide a specific response. However, the FAA does not consider § 91.30 to be germane to the initial certification of small airplanes.

One commenter asserts the special condition proposal to require that ". . . there must be no probable combination of failures that would prevent continued safe flight and landing . . ." is consistent with present § 23.1309(b). Therefore, that commenter contends that

the proposal is unnecessary, opens the possibility of various interpretations which would be burdensome on the applicant, is not justified, and should be deleted. The FAA does not agree that present § 23.1309(b) is adequate for combinations of failures that may occur in the complex systems being incorporated into the Beech Model 2000. The preamble to Notice No. 23–ACE–11 describes the proposed installations which the FAA considers advanced complex systems and describes what types of systems and equipment were envisioned when § 23.1309(b) was promulgated. The FAA position that these are complex systems is shared by other members of the aviation community. In describing the Beech Model 2000 systems, one periodical recently stated, "Relying heavily on experience gained from its work on the Boeing 757/767 program, Collins developed a digital system that incorporates over 70 electronic Line Replaceable Units (LRU), 12 full-color, cathode-ray tube (CFT) displays and two monochromatic displays to provide the Starship pilot with an avionics system that goes well beyond what to date has been available in general aviation aircraft."

The FAA does not agree that various interpretations of the special conditions will result. Uniform policy and guidance relative to small airplane certification is the responsibility of a single FAA office; i.e., the Small Airplane Certification Directorate's Regulations and Policy Office in Kansas City, Missouri.

One commenter alleges that an inconsistency exists between the preamble and the proposed special condition because the special condition states "probable combinations" and the preamble states "extremely improbable combinations". The FAA has examined the preamble material that pertains to the proposed requirement and is unable to identify the alleged inconsistency.

One commenter, citing the FAA's position that the current § 23.1309 was promulgated based on the "single-fault" or "fail-safe" concepts, agrees the single-fault concept alone may have been used in the past for compliance substantiation but disagrees that current Part 23 is based on single-fault concepts because there is no reference to single fault in Part 23. This commenter also states the assumption that the Part 23 requirements are based solely on single-fault concepts is the interpretation of the FAA. This commenter further interprets the current § 23.1309(b) language to refer to probable malfunctions or failures of the equipment, systems, and installations. Further, because the malfunction of the system function must be considered, combinations of individual equipment malfunctions must be considered in addition to single faults. The commenter states the portion of Notice No. 23–ACE–11 pertaining to § 23.1309, as written, would require the same analysis, and is, therefore, covered by the present regulation.

Another commenter states that it is inappropriate for the FAA to imply that Part 23 regulations are defunct in providing for sufficient levels of reliability. Further, the implication that a special condition is needed to provide for requirements to assure adequate reliability of system design functions is unsubstantiated by the FAA.

The FAA is aware that many certifications have been made based on agreements between applicants and the affected FAA certificating office that a specific installation meets the level of safety intended by the applicable requirements without consideration of what was envisioned by the FAA when promulgating the applicable requirements. Such certifications resulted in significant variations in application of the requirements and in the failure to process special conditions even when they were required. The fact that "single fault" is not specifically referenced in the applicable requirements does not support the position that more than "single fault" was envisioned when the applicable requirements were promulgated. The objective statement of airworthiness requirements precludes specifically stating in the requirements all possible concerns considered in promulgation of a rule. However, the systems and equipment being installed at the time a rule was promulgated and their typical failure modes are clear indications of possible concerns considered in promulgating the rule. Section 23.1309(b) was promulgated into Part 23 December 20, 1973, and was based on § 25.1309 prior to Amendment 25–13 adopted on April 8, 1970. Earlier § 25.1309 was based on Civil Air Regulation § 4b.606 as amended by amendment 4b–6, effective March 5, 1962. The formulators of those airworthiness requirements clearly did not envision the systems and equipment being proposed for the Beech Model 2000. The FAA questions the commenter's interpretation of current § 23.1309(b) to be equivalent to the proposed special condition, as § 23.1309(b) and proposed special condition 13 are obviously significantly different, as described in the Notice No. 23–ACE–11 preamble.

Proposing a special condition does not imply the existing requirement is defunct for the features envisioned when the existing requirement was promulgated. The FAA set forth, in the preamble to Notice No. 23–ACE–11, its position that § 23.1309(b) was promulgated based on single-fault criteria and systems where single faults of the instrument system would cause the loss of only one function. The FAA further set forth the position that the single-function systems envisioned for Part 23 airplanes when § 23.1309 was promulgated were not complex systems. The FAA considers the systems described in the preamble to Notice No. 23–ACE–11 to be complex systems that may have failure modes that will result in loss of more than one instrument function. Further, that if such failure modes exist, their occurrence should be limited to a level commensurate to criticality of that failure to the continued safe flight of the airplane. The FAA position remains that existing § 23.1309(b) is not adequate for such complex systems and, therefore, a special condition is needed.

One commenter alleges that the FAA's position stated in the preamble implies complex safety-critical systems have not been used in small airplanes before the Beech Model 2000 project. That commenter contends that the present King Air Model 300 safety-critical systems possess the same level of complexity as the proposed Beech Model 2000 safety-critical systems. The FAA did not intend to imply complex and/or safety-critical systems had not previously been incorporated in small airplanes. Special conditions have previously been promulgated for small airplane safety-critical systems and, in many cases, may not have been promulgated when they should have been. Failure to promulgate special conditions on past programs does not relieve the FAA from the requirements of § 21.16.

One commenter does not agree that current small airplane regulations necessarily envision only single, isolated, and independent instruments for the engine indication function. This commenter considers engine instruments to aid in normal engine operation up to maximums, but does not consider engine instruments to be safety critical systems that cannot be failure compensated by other independent means; i.e., operation below maximums by control lever placement or by use of alternate information displays.

This commenter does not cite the basis for this position. The FAA has consistently applied §§ 23.901 and 23.903 to require independence between engines and other components affecting

the operation and safety of each engine. As with other small airplane instrumentation, the engine instruments being installed at the time the applicable rules were promulgated are clear indicators of what was envisioned by that requirement. The proposed special condition clearly allows combination of these various engine instrument functions into a single instrument system; i.e., the EICAS, contrary to the requirements of § 23.901 and § 23.903. Further, the proposed special condition does not predetermine that the EICAS is a safety critical system. The proposed special condition sets forth criteria to determine if the EICAS is a safety critical system, and if so, what must be shown to assure the intended level of safety is achieved.

One commenter incorrectly cites preamble material to justify removal of reference in the preamble to current regulations being based on single-failure concepts; i.e., § 23.1309. The FAA position remains that current § 23.1309 envisions systems and equipment such that any detectable single failure of an installed system or item of equipment would not be critical to continued safe flight. This commenter also states the term "back-up instruments" as used in the preamble has ambiguous meaning.

The FAA agrees that the term "back-up instruments" is not defined in the applicable requirements but, as used in the preamble, means instrumentation the pilot would look to for specific information to make a decision or take an action when the instrumentation that would be routinely monitored for this information has become unusable. For example, rate-of-turn, slip-skid, and airspeed (needle, ball, and airspeed) indicators are required by § 91.33 as basic instrumentation for IFR flight; however, they are "back-up instruments" for attitude information when the attitude instrument (gyro horizon) fails. Relative to the special condition, Beech may choose to provide back-up instrumentation in the form of redundant instrument displays for compliance with special condition paragraphs (a)(1) and (e)(2).

Another commenter states that engine instrument indication is provided to ensure that various engine parameters are not exceeded. The method of indication should not dictate the reliability levels, but rather, this function should be designed to provide the appropriate reliability level. Therefore, preamble reference to reliability levels of traditional engine instruments is unfounded and should be deleted. Furthermore, the commenter contends that these levels are specified adequately in the present § 23.1309 and should be reflected as such in the context of the discussion. The commenter also maintains that identification of complex safety critical systems, as well as the needed requirements, are mandated by present regulation, and therefore, the special condition is not necessary.

The FAA does not agree that engine instrument indications are limited to assuring that engine limits are not exceeded. These indications are used for routine controlling of the engines. The FAA agrees that the method of indication should not dictate different reliability levels; however, the FAA's position remains that when functions are combined into one system such that a failure can cause loss of multiple functions, such a system must have an increase in reliability over a system where only one function would be lost due to a failure. This increase in reliability must be commensurate with the criticality of having lost these functions.

One commenter states comparison of "rational analysis" and "numerical analysis alone" should be deleted.

The FAA did not compare the two analyses. As stated in the notice, the use of a rational analysis for safety assessment of systems does not mandate the use of numerical analysis. However, an applicant may find it beneficial to provide such a numerical analysis.

One commenter asks to whom does the FAA consider the "single-fault" criterion an unnecessary burden?

The FAA considers it an unnecessary burden on the applicant, because, under the criteria as envisioned by the applicable requirements, no single fault could cause loss of more than one function. The burden that would result is that the proposed systems for the Beech Model 2000 would not be approvable on a small airplane. The FAA considers this an unnecessary burden that necessitates promulgation of special conditions.

One commenter considers the specific language of the premable statement, "If it is determined that the airplane includes systems that perform more critical functions, it will be necessary to show that those systems meet more stringent requirements", to be inconsistent, to be contradictory, and to promote wide disparity of interpretation. This commenter contends the cited statement implies that if the "rational analysis" determines that the airplane includes systems that perform more critical functions, it will then be necessary to show that those systems meet more requirements; therefore, this analysis is not sufficient substantiation of compliance thereby requiring a numerical analysis.

The FAA has reviewed the cited material and does not agree with the commenter's position. Requiring increased level of showing adequate safety for an identified increased level of criticality of a system, relative to what is required for a system less critical to safe flight, in consistent with showing compliance with all airworthiness requirements.

One commenter disagrees with the preamble statement that, "Systems that perform a function that is needed for continued safety of flight and landing of the airplane, whose failure would be catastrophic, would be required to meet requirements that establish either that there will be no failures of that system, or that failure is extremely improbable." This commenter states that it is impossible to show that any system will have no failures; therefore, these words have no relevant meaning and should be removed. That commenter further states that extremely improbable levels of catastrophic failure are inconsistent with that for Part 23 multiengine airplanes and reference to that level should be removed. This commenter suggests current National Transportation Safety Board (NTSB) records should reflect an appropriate safety level.

The basic issue addressed in this comment is, "Should the FAA knowingly accept systems in small airplanes where analysis shows failures of that system would be catastrophic in the flight environment for which the system is designed to function and that such failures are likely?" Small airplane requirements have never permitted a known failure condition that would be catastrophic. That level of safety continues in these special conditions. If a system is critical to the safe operation of the airplane, and the system fails to perform its intended function, an unsafe condition exists. Accordingly, under the existing small airplane certification requirements, the FAA has no provisions for the approval of such a critical system and denial of certification is required. In contrast, a procedure has been developed and successfully used in the certification of critical systems on tranport category airplanes for almost fifteen years. This procedure, found in the transport category airplane reliability requirements, is based on the theory that if the airplane manufacturer can show that the function of this system is so reliable that its failure is never

expected to occur during the life of the design, the unsafe circumstance that would result from the system's failure does not need to be considered. The FAA recognizes that this theory does not preclude the occurrence of failures but that the likelihood of failures is reduced to an extremely low level.

Under the reliability requirements of the transport category, an extremely low level of failures has been identified as a level which is extremely improbable. When the transport category airplane manufacturer has found it necessary, the FAA has accepted numerical analysis procedures as a means of showing that these critical failures will not occur.

The FAA has not knowingly accepted any unsafe design feature in small airplanes and does not find any basis for accepting an unsafe feature in small airplanes incorporating complex systems of advanced design. The special condition provides criteria for evaluating complex systems to assure no unsafe features are incorporated into the Beech Model 2000 when such systems are installed. The commenter's proposal that the FAA consult NTSB records for an acceptable level of safety for small airplanes is unacceptable to the FAA. The NTSB records will show accidents caused by pilot error which is of no concern relative to these special conditions; the records will show accidents caused by various component failures, which must be corrected by design changes mandated by airworthiness directive action, if such failures are likely to occur in other airplanes of the same design; and the records will show other accidents not relevant to this issue.

One commenter states the preamble material on digital presentation ". . . is flawed and personnel of the Directorate must know it to be flawed from precedent experience in reviewing equivalent safety findings for digital displays in existing certificated aircraft." The preamble material cited by the commenter is ". . . may not provide adequate sensory cues to the pilot as to whether the numbers are increasing or decreasing, or a sense of how fast they are changing. A digital indication may not show the normal operating range or operational limits."

In April of 1981, the FAA Headquarters issued guidance to field offices relative to digital tachometers. This guidance stated "A digital display is not an acceptable replacement for a moving pointer tachometer." In August of 1984, the Small Airplane Certificate Directorate issued guidance that reaffirmed and expanded the guidance issued by FAA Headquarters in November 1981. The Small Airplane Certification Directorate records do not reflect any equivalent safety findings as cited by the commenter.

Relative to the proposed requirement "warning information must not tend to initiate crew action which would create additional hazards" one commenter stated "One cannot imagine how a requirement could be more vaguely stated or be more impossible to administer." This commenter knew of no means which could assure that crewmembers would not make errors in reading or interpreting warning information.

The FAA agrees there is no means to assure crewmembers will not misinterpret warnings. However, the proposed requirement stated ". . . must not tend to initiate . . ." which does not require the design to preclude crew members from making errors. To the contrary, it does require the warning system design be adequate for the crew to take immediate corrective action without further study as to criticality of warning, which engine, which system, etc., the warning applies to. The commenter does not recommend any specific clarification of wording.

Referring to paragraph (a)(4) of the proposed special condition, one commenter contends the method of compliance should not change or dictate the level of reliability of the system.

The FAA agrees the method of compliance should not affect the level of system reliability requirements. Proposed paragraphs (a)(1) and (e)(2) would require that no single failure or probable combination of failures could prevent continued safe flight while paragraphs (a)(4)(i) would allow such failures to be shown to be extremely improbable if a numerical analysis is used to support the engineering examination of the affected system.

The relaxation from a no-failure condition to allowing a showing of extremely improbable (or improbable, as appropriate) should have been in proposed paragraphs (a)(1) and (e)(2) rather than including the allowance only in proposed paragraph (a)(4). Accordingly, to clarify the requirement, proposed paragraphs (a)(1) is replaced by new paragraphs (a)(1) and (a)(2) that combine previously proposed paragraphs (a)(1), (a)(4)(i) and (a)(4)(ii). Proposed paragraphs (a)(2), (a)(3), and (a)(4) are renumbered (a)(3), (a)(4), and (a)(5), respectively. Renumbered paragraph (a)(5) is reworded to clarify its intent and paragraph (e)(2) is amended to reference paragraph (a)(1) for clarity of intent.

Conclusion

This action affects only one model series of airplanes. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

Citation

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1254(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Adoption of the Special Conditions

In consideration of the foregoing, the following special conditions are issued for type certification of the Beech Model 2000 series airplanes:

1. Longitudinal and Lateral Control

In lieu of compliance with subparagraph (e) of § 23.145, the following apply: By using normal flight and power controls, except as otherwise noted in (a), (b) and (c) of this paragraph, it must be possible to establish a zero rate of descent at an attitude suitable for a controlled landing without exceeding the operational and structural limitations of the airplane—

(a) Without the use of the primary longitudinal control system;

(b) Without the use of the primary directional control;

(c) If a single failure of any one connecting or transmitting link would affect both the longitudinal and lateral primary control system, without the use of those longitudinal and lateral primary control surfaces which would be affected by that failure.

2. Buffet Onset Envelope

In addition to the requirements of §§ 23.251 and 23.1585, with the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or mach number, weight, and altitude for which the airplane is to be certificated. The buffet onset envelopes determined must be furnished as information in the airplane flight manual. This information must include envelopes of load factor, speed, weight, and altitude, which provide a sufficient range for normal operations. The buffet

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onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

3. Inadvertent Excursions Beyond Maximum Operating Speeds

In addition to the requirements of § 23.251, it must be possible to achieve a positive load factor of 1.5 for recovery from inadvertent speed excursions beyond V_{MO}/M_{MO} and up to V_{DF}/M_{DF}, for each combination of weight, altitude and center of gravity.

4. Effects of Contamination on Laminar Flow Airfoils

In the absence of specific requirements for airfoil contamination, airplane airfoil designs which have airfoil pressure gradient characteristics and smooth aerodynamic surfaces which may be capable of supporting natural laminar flow must comply with the following:

(a) It must be shown by tests or analysis supported by tests that the airplane complies with the requirements of §§ 23.141 through 23.253 with any airfoil contamination which would normally be encountered in service and which would cause significant adverse effects on the handling qualities of the airplanes resulting from the loss of laminar flow.

(b) Significant performance degradations identified as resulting from the loss of laminar flow must be provided as part of the information required by §§ 23.1585 and 23.1587.

5. Evaluation of Composite Structure

In lieu of complying with §§ 23.571 and 23.572, and in addition to the requirements of §§ 23.603 and 23.613, airframe structure, the failure of which would result in catastrophic loss of the airplane, in each wing, wing carry-through, wing attaching structure, pressurized cabin, wing mounted vertical stabilizer, wing flap, and movable control surface must be evaluated to damage tolerance criteria prescribed in paragraphs (a) through (j) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (k) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (h) of this special condition.

(a) It must be demonstrated by tests, or by analysis supported by tests, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e. between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstrations, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operations and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) The structure of the pressurized cabin must be shown by residual strength tests, or by analysis supported by residual strength tests, to be able to withstand the loads listed in subparagraphs (1) and (2) below, considered as ultimate loads, with damage consistent with the results of the damage tolerance evaluations.

(1) Critical limit flight loads with the combined effects of normal operating pressures and expected external aerodynamic pressures; and

(2) The expected external aerodynamic pressures in 1 g flight combined with a cabin differential pressure equal to 1.1 times the normal operating differential pressure without consideration of any other load.

(g) Each wing, wing carrythrough, wing attaching structure, wing flap, moveable control surface, and wing mounted vertical stabilizer structure must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(h) In lieu of a non-destructive inspection technique which assures ultimate strength of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraph (f) and (g) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(i) The effects of material variability and environmental conditions; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

(j) The airplane must be shown by analysis to be free from flutter to V_D with the extent of damage for which residual strength is demonstrated.

(k) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

6. Forward Wing and Vertical Tail Loads

(a) In addition to the requirements of paragraph 23.301(b), the following shall be required: Methods used to determine load intensities and distribution over the various aerodynamic lifting and control surfaces must be validated by flight test measurement unless the methods used for determining those loads are shown to be reliable or conservative for the configuration under consideration.

(b) In lieu of paragraph 23.301(d), the following applies: The forward lifting surface of a tandem wing configuration must meet all the requirements of Part 23, Subpart C, "Structure," applicable to a wing.

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(c) In lieu of § 23.331, the following apply:

(1) The appropriate balancing loads must be accounted for in a rational or conservative manner when determining forward and main wing loads and linear inertia loads corresponding to any of the symmetrical flight conditions specified in §§ 23.333 through 23.341.

(2) The incremental forward wing loads due to maneuvering and gusts must be reacted by the angular inertia of the airplane in a rational or conservative manner.

(3) Mutual influence of the aerodynamic surfaces must be taken into account when determining flight loads.

(d) In addition to the gust load requirements of § 23.341, the following applies:

The gust load factors for a tandem wing configuration must be computed using a rational analysis considering the gust criteria of § 23.333(c), or may be computed in accordance with § 23.341 provided the resulting load factors are shown to be conservative with respect to the gust criteria of § 23.333(c).

(e) In lieu of the balancing loads requirements of § 23.421, the following apply:

(1) A horizontal surface balancing load is a load necessary to maintain equilibrium in any specified flight condition with no pitching acceleration.

(2) Horizontal balancing surfaces must be designed for the balancing loads occurring at any point on the limit maneuvering envelope and in the flap conditions specified in § 23.345. The distribution in figure B6 of Appendix B of Part 23 may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(f) In lieu of the maneuvering load requirements of § 23.423, the following apply:

(1) Each horizontal surface with pitch control must be designed for maneuvering loads imposed by the following conditions:

(i) A sudden movement of the pitching control, at V_A, to (1) the maximum aft movement, and (2) the maximum forward movement, as limited by the control stops, or pilot effort, whichever is critical.

The average loading of B23.11 of Appendix B and the distribution in figure B7 of Appendix B may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(ii) A sudden aft-movement of the pitching control at speeds above V_A, followed by a forward movement of the pitching control resulting in the following combinations of normal and angular acceleration:

Condition	Normal acceleration(n)	Angular acceleration (radian/sec^2)
Nose up pitching	1.0	$+39/V\ n_m(n_m-1.5)$
Nose down pitching	n_m	$+39/V\ n_m(n_m-1.5)$

where—

(*a*) n_m = positive limit maneuvering load factor used in the design of the airplane; and

(*b*) V = initial speed in knots.

(2) The conditions in this section involve loads corresponding to the loads that may occur in a "checked maneuver" (a maneuver in which the pitching control is suddenly displaced in one direction and then suddenly moved in the opposite direction). The deflections and timing of the "checked maneuver" must avoid exceeding the limit maneuvering load factor. The total horizontal surface load for both down- and up-load conditions is the sum of the balancing loads at V and the specified value of the normal load factor n, plus the maneuvering load increment due to the specified value of the angular acceleration. The maneuvering load increment in figure B2 of appendix B and the distribution in figure B7 (for nose-up pitching) and in figure B8 (for nose-down pitching) of appendix B may be used only on airplane configurations with aft-mounted surfaces, unless their use elsewhere is shown to be conservative.

(g) In lieu of the gust loads requirements of § 23.425, the following apply:

(1) Each horizontal surface, other than the main wing, must be designed for loads resulting from—

(i) Gust velocities specified in § 23.333(c) with flaps retracted; and

(ii) Positive and negative gusts of 25 f.p.s. nominal intensity at V_F corresponding to the flight conditions specified in § 23.345(a)(2).

(2) When determining the total load on the horizontal surfaces for the conditions specified in subparagraph (g)(1) of this special condition, the initial balancing loads for steady unaccelerated flight at the pertinent design speeds, V_F, V_C, and V_D must first be determined. The incremental load resulting from the gusts must be added to the initial balancing load to obtain the total load.

(h) In lieu of the unsymmetrical load requirements of § 23.427, the following apply:

(1) Horizontal surfaces other than the main wing and their supporting structure must be designed for unsymmetrical loads arising from yawing and slipstream effects, in combination with the loads prescribed for the flight conditions set forth in paragraphs (e) through (g) of this special condition.

(2) In the absence of more rational data:

(i) 100 percent of the maximum loading from the symmetrical flight conditions may be assumed on the surface on one side of the plane of symmetry; and

(ii) The following percentage of that loading must be applied to the opposite side:

Percent = 100 − 10 (n-1), where n is the specified positive maneuvering load factor, but this value may not be more than 80 percent.

(3) The vertical and horizontal surfaces and supporting structures must be designed for combined vertical and horizontal surface loads resulting from each prescribed flight condition taken separately.

(i) In the absence of specific requirements for wing mounted vertical stabilizers, the following apply: Vertical stabilizers mounted on the wing must meet the applicable requirements of §§ 23.441, 23.443, and, in lieu of a more rational method, § 23.445 for vertical tail surfaces. The effect of these surfaces on the spanwise loading of the wing must also be accounted for.

7. Doors and Exits

In addition to the requirement of §§ 23.783 and 23.807, each external door and exit in a pressurized fuselage (for which the initial opening movement is not inward) must comply with the following:

(a) There must be a means to lock and safeguard each external door and exit against opening in flight either inadvertently by persons or as a result of a mechanical failure or failure of a single structural element, either during or after closure.

(b) There must be a provision for direct visual inspection of the locking mechanism by a crewmember to determine, under operational lighting conditions, or by using a flashlight or equivalent lighting source, that all external doors and exits are fully closed and locked.

(c) There must be a visual warning means to signal a flight crewmember if any external door or exit is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable.

8. Flap Interconnection With Related Movable Surfaces

In lieu of § 23.701(a):

(a) The main wing flaps and the related moveable surfaces as a system must:

(1) Be synchronized by mechanical connection; or

(2) Maintain synchronization so that the occurrence of an unsafe condition has been shown to be extremely improbable; or

(b) The airplane must be shown to have safe flight characteristics with any combination of extreme positions of individual moveable surfaces; however, mechanically interconnected surfaces are to be considered as a single surface.

9. Propeller Ground Clearance

In addition to the propeller clearance requirements of § 23.925, the following apply:

(a) The airplane must be designed such that the propellers will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings; and

(b) If a tail bumper, or an energy absorption device is provided to show compliance with paragraph (a) of this special condition, the following apply:

(1) Suitable designs loads must be established for the tail bumper or energy absorption device; and

(2) The supporting structure of the tail bumper, or energy absorption device must be designed to withstand the loads established in subparagraph (b)(1) of this special condition and inspection/replacement criteria must be established for the tail bumper, or energy absorbing device and provided as part of the information required by § 23.1529.

10. Propeller Marking

In the absence of specific regulations, the propellers must be marked so that their discs are conspicuous under normal daylight ground conditions.

11. Propeller Ice and Exhaust Gas Impingement Protection

In the absence of protection requirements for rear-mounted pusher propellers, the following apply:

(a) Ice impingement on the propeller. All areas of the airplane forward of the propellers that are likely to accumulate and shed ice into the propeller disc during any operating condition must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(b) Exhaust gas impingement on propeller. If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests, or analysis supported by tests, that the propeller material is capable of continuous safe operation.

12. Cockpit Smoke Evacuation

In the absence of specific requirements for smoke evacuation, the following apply:

If accumulation of hazardous quantities of smoke in the cockpit area is reasonably probable, smoke evacuation must be readily accomplished starting with full pressurization and without depressurization beyond safe limits.

13. Instruments, Systems, and Installations

In lieu of § 23.1309(b) and applicable requirements of Part 23 of the Federal Aviation Regulations to the contrary, for instruments, systems, and installations whose design incorporates: Electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument display or system: and/or features that make isolation and independence between powerplant instrument systems unfeasible due to use of electronic displays; or system design functions that are determined to be essential for continued safe flight and landing of the airplane, the following special condition applies:

(a) Systems and associated components must be examined separately and in relation to other airplane systems to determine if the airplane is dependent upon its function for continued safe flight and landing, and if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each system and each component identified by this examination, upon which the airplane is dependent for continued safe flight and landing, or whose failure would reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, must be designed and examined to comply with the following:

(1) It must be shown that there will be no single failure or probable combination of failures under any anticipated operating condition which would prevent the continued safe flight and landing of the airplane, or it must be shown that such failures are extremely improbable.

(2) It must be shown that there will be no other single failure or probable combination of failures under any anticipated operating condition which would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, or it must be shown that such failures are improbable.

(3) Warning information must be provided to alert the crew to unsafe system operating conditions, and to enable them to take appropriate corrective action. This warning information must not tend to initiate crew action which would create additional hazards.

(4) Compliance with the requirements of this special condition must be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider:

(i) Modes of failure, including malfunctions and damage from foreseeable sources;

(ii) Consequence of a single failure or probable combination of failures (latent or undetected);

(iii) Appropriate levels of reliability as determined by the severity of consequence;

(iv) The resulting effects on the airplane and occupants, considering the stage of flight and operating conditions; and

(v) The crew warning cues, corrective action required, and the capability of detecting faults.

(5) Numerical analysis may be used to support the engineering examination.

(b) Each item of equipment of each system, and each installation whose functioning is essential for safe operation and that requires a power supply is an "essential load" on the power supply. The power sources and its distribution system must be able to supply the following power loads in probable operating combinations and for probable durations:

(1) Loads connected to the power distribution system with the system functioning normally.

(2) Essential equipment of each system (loads) after failure of:

(i) Any one engine on the airplane, or

(ii) Any power converter, or energy storage device, or

(iii) Essential loads for which an alternate source of power is required by this special condition, after any failure or malfunction in any one power supply system, distribution system, or other utilization system.

(c) In determining compliance with subparagraph (b)(2) of this special condition, the power loads may be assumed to be reduced or shed under a

monitoring procedure consistent with safety.

(d) In showing compliance with this section with regard to the electrical power system and to equipment design and installation, critical environmental and atmospheric conditions must be considered. For electrical generation, distribution, and utilization equipment required by or used in complying with this special condition, the ability to provide continuous, safe service under foreseeable environmental and atmospheric conditions may be shown by tests, design analysis, or reference to previous comparable service experience on other airplanes.

(e) Electronic display units, including those incorporating more than one function, may be installed in lieu of mechanical or electromechanical instruments if:

(1) The display units:

(i) Are easily legible under all lighting conditions encountered in the cockpit, including direct sunlight,

(ii) Do not inhibit the primary display of attitude, airspeed, altitude, or parameters needed by any pilot to set power within powerplant limitations, while in any normal mode of operation.

(iii) Do not inhibit the primary display of engine parameters needed by any pilot to properly set or monitor powerplant limitations, while in the engine starting mode of operation.

(iv) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display units, and

(v) Incorporate visual displays of instrument markings, required §§ 23.1541 through 23.1553 or visual displays that alert the pilot to abnormal operational values, or approaches to unsafe values, of any parameter required to be displayed by Part 23 requirements.

(2) The display units, including their systems and installations, must be designed so that one display of information essential to continued safe flight and landing will remain available to the crew, without need for immediate action for continued safe operation, after any single failure or probable combination of failures that is not shown to comply with paragraph (a)(1) of this special condition.

Issued in Kansas City, Missouri, on July 29, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-17837 filed 8-7-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 013CE, Special Conditions No. 23-ACE-12]

Special Conditions; Fairchild Models SA227-AT and SA227-TT Airplanes Incorporating Electronic Flight Instrument Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for the Fairchild Aircraft Corporation Models SA227-AT and SA227-TT airplanes incorporating Electronic Flight Instrument Systems (EFIS). These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards of Part 3 of the Civil Air Regulations (CAR) and Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the use of an electronic flight instrument system for which the applicable regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional airworthiness standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards applicable to the Fairchild Aircraft Corporation Models SA227-AT and SA227-TT airplanes.

EFFECTIVE DATE: September 8, 1986.

FOR FURTHER INFORMATION CONTACT: David Warner, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1986, King Radio Corporation, 400 N. Rogers Road, Olathe, Kansas 66062, made application to the FAA for approval of installation of a Bendix EFS-10 Electronic Flight Instrument System (EFIS) on the Fairchild Aircraft Corporation Models SA227-AT and SA227-TT airplanes. This installation incorporates an electronic attitude direction indicator (EADI) and an electronic horizontal situation indicator (EHSI) in lieu of the traditional mechanical or electro-mechanical displays providing similar information to the flight crew.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane or installation. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

King Radio Corporation has proposed cathode-ray tube (CRT) electronic display units for primary attitude, heading, and navigation cockpit displays. The cockpit instrument panel configuration would feature five EFIS displays, an EADI and EHSI on the left and right instrument panels, and a multi-function display in the center panel. All other displays; i.e., airspeed, altitude, vertical speed, etc., will be conventional instruments. An optional configuration would provide for an EADI and EHSI on the pilot's side, conventional instruments on the copilot's side, and a multi-function display in the center panel.

Emissive color on a CRT display will inevitably appear different than reflective colors on conventional electro-mechanical displays. Different intensities and color temperatures of ambient illumination will also affect the perceived colors.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Model SA227-AT airplane is as follows: Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by Amendments 3-1 through 3-8; § 23.511 amended by Amendment 23-7, effective September 14, 1969; § 23.175(d) as amended by Amendment 23-14, effective December 20, 1973; Special Conditions outlined in FAA letters dated November 19, 1965, August 19, 1967, February 5, 1968, and April 4, 1968; Amendment B of SFAR No. 41, including paragraph 4(c) and the compartment interior requirements of § 25.853(a), (b), (b-1), (b-2), and (b-3) effective September 26, 1978; Part 36, Appendix F, effective December 1, 1969, as amended by Amendments 36-1 through 36-6; and these special conditions.

The type certification basis for the Fairchild Aircraft Corporation Model SA227-TT airplane is as follows: Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by

VOL 51 ISS 153 AG 8 1986 UMI

Amendments 3–1 through 3–8; § 23.903(b) as amended by Amendment 23–17 effective February 1, 1977; Special Conditions outlined in FAA letters dated November 19, 1965, August 22, 1967, Feburary 5, 1968, and April 4, 1968; SFAR No. 23.27; Amendment B of SFAR 41, including paragraph 4(c) and the compartment interior requirements of § 25.853(a), (b), (b–1), (b–2), and (b–3) effective September 26, 1978; Part 36, Appendix F effective December 1, 1969, as amended by Amendments 36–1 through 36–6; and these special conditions.

Discussion of Comments

The FAA received no comments in response to Notice No. 23–ACE–12 published in the **Federal Register** on May 29, 1968. The closing date for comments was June 30, 1986. However, Notice No. 23–ACE–11, Docket No. 012CE, (51 FR 11933, April 8, 1986) proposing substantively equivalent special conditions for installation of EFIS on the Beach Model 2000 received extensive comments. Those comments have been analyzed for disposition. Final adoption of special conditions for the Beech Model 2000 is expected to be published prior to publication of special conditions herein. Clarifying changes as a result of comments to the Beech Model 2000 Special Conditions are incorporated into the Fairchild Models SA227–AT and SA227–TT Special Conditions, section 1(a) and (b), for consistency. These changes do not change the applicable requirements.

The SA227–AT and SA227–TT airplanes may or may not incorporate SFAR 41 requirements depending on the airplane serial number in accordance with Note 11 on Type Certification Data Sheet A5SW. Since SFAR 41 contains requirements substantively equivalent to special conditions section 1(b), (c), and (d), those special conditions are redundant on airplanes that incorporate SFAR 41 in the certification basis as cited in Note 11 of the data sheet.

Conclusion

This action affects only the Fairchild Models SA227–AT and SA227–TT airplanes incorporating EFIS. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Part 21 and 23

Aviation safety, Aircraft, Air transportation, and Safety.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for the Fairchild Aircraft Corporation Models SA227–AT and SA227–TT when equipped with electronic flight instrument systems:

1. In addition to the applicable requirements of Part 3 of the Civil Air Regulations, and requirements to the contrary, for instruments, systems, and installations whose design incorporates: Electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument display or system; and/or system design functions that are determined to be essential for continued safe flight and landing of the airplane, the following special condition applies:

(a) Systems and associated components must be examined separately and in relation to other airplane systems to determine if the airplane is dependent upon its function for continued safe flight and landing, and if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each system and each component identified by this examination, upon which the airplane is dependent for continued safe flight and landing, or whose failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, must be designed and examined to comply with the following:

(1) It must be shown that there will be no single failure or probable combination of failures under any anticipated operating condition which would prevent the continued safe flight and landing of the airplane or it must be shown that such failures are extremely improbable.

(2) It must be shown that there will be no other single failure or probable combination of failures under any anticipated operating conditon which would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions or it must be shown that such failures are improbable.

(3) Warning information must be provided to alert the crew to unsafe system operating conditions, and to enable them to take appropriate corrective action. This warning information must not tend to initiate crew action which would create additional hazards.

(4) Compliance with the requirements of this special condition must be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider:

(i) Modes of failure, including malfunctions and damage from foreseeable sources;

(ii) Consequences of a single failure or probable combination of failures (latent or undetected);

(iii) Appropriate levels of reliability as determined by the severity of consequences;

(iv) The resulting effects on the airplane and occupants, considering the stage of flight and operating conditions; and

(v) The crew warning cues, corrective action required, and the capability of detecting faults.

(5) Numerical analysis may be used to support the engineering examination.

(b) Each item of equipment of each system, and each installation whose functioning is essential for safe operation and that requires a power supply is an "essential load" on the power supply. The power sources and its distribution system must be able to supply the following power loads in probable operating combinations and for probable durations:

(1) Loads connected to the power distribution system with the system functioning normally.

(2) Essential equipment of each system (loads) after failure of:

(i) Any one engine on the airplane, or

(ii) Any power converter, or energy storage device, or

(iii) Essential loads for which an alternate source of power is required by this special condition, after any failure or malfunction in any one power supply system, distribution system, or other utilization system.

(c) In determining compliance with paragraph (b)(2) of this special condition, the power loads may be assumed to be reduced or shed under a monitoring procedure consistent with safety.

(d) In showing compliance with this section with regard to the electrical power system and to equipment design and installation, critical environmental and atmospheric conditions must be considered. For electrical generation, distribution, and utilization equipment required by or used in complying with this special condition, the ability to provide continuous, safe service under foreseeable environmental and

atmospheric conditions may be shown by tests, design analysis, or reference to previous comparable service experience on other airplanes.

(e) Electronic display units, including those incorporating more than one function, may be installed in lieu of mechanical or electro-mechanical instruments if:

(1) The display units:

(i) Are easily legible under all lighting conditions encountered in the cockpit, including direct sunlight;

(ii) In any normal mode of operation do not inhibit the primary display of attitude:

(iii) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display units; and

(iv) Incorporate visual displays of instrument markings required by §§ 3.756 through 3.757, or visual displays that alert the pilot to abnormal operational values, or approaches to unsafe values, of any parameter required to be displayed by Part 3/SFAR 41 requirements.

(2) The display units, including their systems and installations, must be designed so that one display of information essential to continued safe flight and landing will remain available to the crew, without need for immediate action for continued safe operation, after any single failure or probable combination of failures that is not shown to comply with paragraph (a)(1) of this special condition.

Issued in Kansas City, Missouri, on July 28, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-17836 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-28-AD; Amdt. 39-5389]

Airworthiness Directives; DeHavilland Model DHC-3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland Model DHC-3 airplanes which requires an initial visual inspection of the elevator pushrod, the elevator and rudder pushrod to control quadrant connecting bolts and the elevator control system cables and pulleys, the replacement of unserviceable parts, and the subsequent replacement of the elevator pushrod and both the elevator and rudder pushrod to control quadrant connecting bolts with strengthened parts. This AD is based upon reports received by the Canadian Airworthiness Authority of damage to the elevator pushrod and connecting bolt, believed to be caused by high externally induced air loads on the elevators, while the airplane is parked. Since the rudder pushrod to rear quadrant attachment bolt is the same as on the elevator quadrant, replacement of this bolt is also required at the same time to prevent possible future incorrect installation. The inspection and replacement required by this AD will preclude the possible jamming or failure of the elevator controls and the possible resultant loss of the airplane.

DATE: *Effective Date:* August 15, 1986. *Compliance:* As prescribed in the body of the AD.

ADDRESSES: Service Bulletin (S/B No. 3/35, Revision A, dated April 11, 1980, and S/B No. 3/43 dated January 18, 1985, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Limited, Downsview, Ontario, Canada, M3K 1Y5. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: There have been six reported cases of bent elevator pushrods and bolts connecting the pushrods to the rear quadrant on DeHavilland Model DHC-3 airplanes which have been attributed to high external induced air loads on the elevators caused by strong wind gusts or helicopter or jet blasts while the airplane is parked. A bent pushrod or bolt could result in binding of the elevator control quardrant with the elevator pushrod resulting in restricted travel of the elevators. Continued use could result in failure of the pushrod or bolt resulting in loss of elevator control. The rudder control system is similar to the elevator control system and uses the same connecting bolt part number on the rudder quadrant. As a result, DeHavilland of Canada has issued S/B No. 3/35 and S/B No. 3/43 which recommends inspection of elevator pushrod Part Number (P/N) C3-CF-167 and attaching bolt P/N AN174-16 for damage due to bending, replacing unservicable parts with new strengthened units before further flight, and replacing serviceable rudder and elevator pushrod to quadrant bolts with new stronger bolts P/N NAS1954-24D within 100 hours time-in-service (TIS). The Transport Canada who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada has issued Canadian AD CF-85-04 which essentially requires the actions specified in DeHavilland Service Bulletins (S/B) 3/35 and S/B 3/43 and an inspection of the pushrod threaded ends for cracks to assure the continued airworthiness of the affected airplanes. On airplanes operated under Canadian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of the inspection of the elevator pushrod and connecting bolt, and the replacement of the pushrod and the elevator and rudder pushrod to quadrant connecting bolts with new stronger parts and the issuance of Canadian AD CF-85-04 by Transport Canada. Based on the foregoing, the FAA has determined that condition described herein is an unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring inspection of the elevator pushrod, the elevator pushrod to quadrant attachment bolt and the elevator control system cable and pulleys, on DeHavilland Model DHC-3 airplanes within 25 hours TIS after the effective date of this AD, before further flight replacement of an unserviceable pushrod P/N C3-CF-167 with a strengthened unit P/N C3-CF-633-1, replacement of both the rudder and elevator pushrod to quadrant connecting bolts with stronger bolts P/N NAS1954-24D if the elevator bolt is unserviceable, replacement of any unserviceable elevator control system cable or pulley, and within 60 days after the effective date of this AD, the replacement of the elevator pushrod with the strengthened pushrod P/N C3-CF-633-1 and the rudder and elevator pushrod to quadrant connecting bolts P/N AN-174-16 with stronger bolts P/N NAS1954-24D. Because an emergency condition exists

that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

DeHavilland: Applies to Model DHC–3 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, after the effective date of this AD, unless already accomplished.

To preclude loss of elevator control and to ensure proper operation of the control system, accomplish the following inspections and parts replacement:

(a) Within 25 hours time-in-service (TIS), after the effective date of this AD, visually inspect the following parts:

(1) The elevator pushrod, and the elevator pushrod to rear quadrant attachment bolt, for bending, in accordance with "ACCOMPLISHMENT INSTRUCTIONS" in DeHavilland Service Bulletins (S/B) No. 3/35, Revision A, dated April 11, 1980, and S/B No. 3/43, dated January 18, 1985.

(2) The threaded shank of the elevator pushrod rod ends, for cracks.

(3) All elevator control system cables and pulleys for damage or distortion.

(b) Replace unserviceable parts, prior to further flight, with serviceable parts as follows:

(1) Elevator pushrod, with new pushrod Part Number (P/N) C3–CF–633–1, in accordance with "ACCOMPLISHMENT INSTRUCTIONS" in DeHavilland S/B No. 3/35, Revision A, dated April 11, 1980.

(2) Elevator pushrod to rear quadrant attachment bolt with a new NAS1954–24D bolt, in accordance with paragraph (c) of this AD.

(3) Elevator control system cables and pulleys in accordance with the applicable section of the aircraft maintenance manual.

Note.—When a parked DHC–3 airplane has been subjected to wind gusts of 60 mph or greater (including helicopter or jet blasts) damage may occur to the elevator control system, and the requirements specified in paragraphs (a) and (b) of this AD should be accomplished again.

(c) If the elevator pushrod to rear quadrant attachment bolt is replaced with a NAS1954–24D bolt, replace the associated hardware and in addition, replace the rudder pushrod to rear quadrant attachment bolt with a NAS1954–24D bolt and the associated hardware in accordance with "ACCOMPLISHMENT INSTRUCTIONS" in DeHavilland S/B No. 3/43 dated January 18, 1985. Torque nuts to 65 in-pounds prior to installation of cotter pins.

(d) If no damage is found during the inspection as required by paragraph (a) of this AD, within 60 days after the effective date of this AD, unless already accomplished:

(1) Replace the elevator pushrod in accordance with paragraph (b)(1) of this AD, and

(2) Replace the elevator and rudder pushrod to rear quadrant attachment bolts in accordance with paragraph (c) of this AD.

(e) The airplane may be flown in accordance with Federal Aviation Regulations (FAR) 21.197 to a location where the requirements of this AD may be accomplished.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, New York Aircraft Certification Office, ANE–170, FAA, England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(g) Upon submission of substantiating data by an owner or operator, through an FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance intervals specified in this AD.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada, M3K 1Y5 or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 15, 1986.

Issued in Kansas City, Missouri, on July 31, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–17835 Filed 8–7–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86–AGL–14]

Establishment of Transition Area—Pontiac, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Pontiac, Illinois, transition area to accommodate a new VOR–A Instrument Approach Procedure (IAP) to Pontiac Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 27, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Pontiac, Illinois, transition area (51 FR 19069).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Pontiac, Illinois, transition area to accommodate a new VOR–A Instrument Approach Procedure (IAP) to Pontiac Municipal Airport.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Pontiac, Illinois [New]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Pontiac Municipal Airport (Lat. 40°41'30" N., Long. 88°38'15" W.) and within 2 miles either side of the Pontiac VORTAC 059 radial extending from the 5 mile radius southwest to the Pontiac VORTAC.

Issued in Des Plaines, Illinois, on July 29, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86–17834 Filed 8–7–86; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances and Articles; Amendment of Flammability Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues final amendments to regulations for classification of extremely flammable, flammable, and combustible hazardous substances which release ignitable vapors. These amendments change the definitions of these classes of hazardous substances for purposes of labeling and other requirements imposed by the Federal Hazardous Substances Act. The amendments also prescribe a different apparatus and procedure than those currently used for testing to determined flammability classification. The Commission is issuing these amendments to bring its regulations for classification of flammable hazardous substances into closer conformity with those of other Federal agencies and test methods used by voluntary standards setting organizations.

EFFECTIVE DATE: The amendments become effective August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400. Technical inquiries concerning the test apparatus and procedure specified in this rule should be directed to Donald F. McCaulley, Health Sciences Laboratory, Consumer Product Safety Commission, Washington, DC 20207; telephone (202) 245–1445.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission issues final amendments to regulations implementing the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*) and codified at 16 CFR Part 1500 which are applicable to classification of flammable hazardous substances. The amendments issued below change the definitions of the terms "extremely flammable," "flammable," and "combustible" hazardous substances in § 1500.3(c)(6). The amendments also revise provisions of § 1500.43 [1] to prescribe use of a closed-cup apparatus and procedure for determining flashpoint temperature of volatile substances. The amendment of § 1500.43 [1] issued below specifies use of the Setaflash closed tester and a procedure which closely parallels the test method designated ASTM D 3828–81 "Standard Test Methods for Flash Point by Setaflash Closed Tester," published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

[1] The revised test method appears in § 1500.43a.

A. Background

The Federal Hazardous Substances Act requires, among other things, cautionary labeling for household products that are hazardous substances because of their flammability or combustiblity. Examples of these products include gasoline, kerosene, lighter fluids, alcohol, solvents, paint, and paint thinners. Nearly 11,000 persons seek treatment in hospital emergency rooms each year for burns associated with the use of flammable liquids. At least 100 persons die each year as a result of burn injuries associated with these products. (1) *

As originally enacted in 1960, and amended in 1969, the FHSA defined the terms "extremely flammable," "flammable," and "combustible" for purposes of labeling and other requirements applicable to volatile household products on the basis of flashpoint temperature. The FHSA further required determination of flashpoint temperature by one particular test identified as the "Tagliabue Open-Cup Method."

Classification of the flammability of household products is necessary to advise consumers of the relative fire hazards presented by materials that can burn. In the classification of the flammability of materials, one property usually considered is the lowest temperature at which the material will release vapors that can be ignited by an external source of ignition. (2) This temperature, called flashpoint temperature, can be determined experimentally for liquids, viscous liquids (pastes, gels, and semi-solids) and some solid materials by a flashpoint test. Although many test methods exist for determining flashpoint temperature, they all involve slowly heating the substance to be tested in an open or closed container, while an ignition source is periodically introduced into the vapor space of the material. The lowest temperature at which the vapors ignite is the flashpoint.

While the flashpoint temperature of a substance does not by itself provide a complete evaluation of the fire hazard of a material, flashpoint testing is generally reproducible and is relatively quick and simple to perform. Additionally, the equipment used to determine flashpoint temperature is relatively inexpensive. For these reasons, determination of flashpoint temperature forms the most commonly used basis for classification

* References in parentheses are to the Bibliography at the end of this notice.

of the flammability hazards of vapor-producing materials. (2)

Section 2(1) of the FHSA (15 U.S.C. 1261(1)) currently prescribes use of the Tagliabue open-cup tester to determine flashpoint temperature for flammability classification of volatile household products. However, this apparatus is not the only item of laboratory equipment available for flashpoint testing. Other test equipment commonly used to determine flashpoint temperature includes the Setaflash closed-up tester; the Setaflash open-up tester; the Pensky-Martens closed-cup tester; the Tagliabue closed-up tester; and the Cleveland open-cup tester. (2)

The different kinds of test equipment do not usually give exactly the same flashpoint temperature for the same material, and often do not provide a constant relationship among all of the results obtained. Additionally, different test methods using the same item of test equipment can yield different flashpoint temperatures for the same material. Because various Federal agencies, and state and local governments have issued requirements for flammable materials which specify determination of flashpoint temperature using different kinds of equipment and different test methods, a lack of uniformity exists among those requirements.

In an effort to achieve greater consistency among flammability requirements of the Federal agencies, the Department of Transportation (DOT) amended its regulations applicable to labeling and shipments of hazardous materials in 1974 to make those rules generally compatible with flammability regulations issued by the Occupational Safety and Health Administration (OSHA) of the Department of Labor, and model flammability requirements published by the National Fire Protection Association. The amended requirements for labeling and shipment of hazardous materials issued by DOT are codified at 49 CFR Parts 100 through 189, and are similar to the OSHA rules codified at 29 CFR 1910.106(a) in their specification of closed-cup apparatus and test procedures for determining flashpoint temperatures of volatile materials. The amended DOT regulations also include requirements for supplementary testing to prevent incorrect classification of materials resulting from contaminants or additives that raise or lower flashpoint temperatures obtained from laboratory testing without substantially affecting the fire performance of the materials.

After DOT amended its regulations for labeling and shipment of hazardous materials, the Commission remained among a few Federal agencies which continued to specify an open-cup test method for determination of flashpoint temperatures in flammability regulations. As noted above, provisions of section 2(1) of the FHSA defined the terms "extremely flammable," "flammable," and "combustible" hazardous substances by reference to flashpoint temperatures as determined by the Tagliabue open-cup method, thereby requiring the Commission to use that particular test procedure in its administration and enforcement of the FHSA. As a result, many product labelers and manufacturers were required to perform closed-cup flashpoint tests for purposes of compliance with regulations applicable to shipment and storage of hazardous materials enforced by DOT, and open-cup flashpoint tests for purposes of product labeling and other requirements of the FHSA and implementing regulations.

In 1978, Congress amended section 2(1) of the FHSA by adding provisions which direct the Commission to issue regulations to define the terms "extremely flammable," "flammable," and "combustible" hazardous substance, and to specify the test method for defining the flammability characteristics of those categories of hazardous substances. The 1978 amendments also direct the Commission to consider definitions and test methods used by other Federal agencies in regulations governing shipments, storage, and use of flammable and combustible materials, and to the extent possible, to establish compatible definitions and test methods in the regulations implementing the FHSA. (See Pub. L. 95–631, 92 Stat. 3742, November 10, 1978.)

Until the Commission issues the regulations described in the 1978 amendments to section 2(1) of the FHSA, the definitions of the terms "extremely flammable," "flammable," and "combustible" hazardous substance as enacted in 1960 and amended in 1969 remain in effect.

B. Proposed Amendment of FHSA Flammability Regulations

In the **Federal Register** of April 26, 1984 (49 FR 17956), the Commission proposed to amend the regulations for classification of flammable hazardous substances in accordance with provisions of the 1978 amendments of the FHSA.

The Commission proposed to amend § 1500.43 [1] of the FHSA flammability regulations to prescribe a closed-cup apparatus and procedure for determining flashpoint temperatures of volatile household substances. The proposal specified use of a Setaflash closed tester, and a procedure which closely parallels the test method designated ASTM D 3828–81, "Standard Test Methods for Flash Point by Setaflash Closed Tester," published by the American Society for Testing and Materials. (9)

The Commission also proposed to amend §§ 1500.3(b)(10) and 1500.3(c)(6) of the FHSA regulations to prescribe new definitions of the terms "extremely flammable," "flammable," and "combustible" hazardous substances. In addition to providing for determination of flashpoint temperatures by use of the closed-cup apparatus and procedure described in proposed § 1500.43, the proposed amendment of § 1500.3(c)(6) specified that the term "extremely flammable" would apply to substances having a flashpoint temperature of 20 °F or lower; that the term "flammable" would apply to substancs having a flashpoint temperature above 20 °F to and including 100 °F; and that the term "combustible" would apply to substances having a flashpoint temperature above 100 °F to and including 150 °F. (9)

Existing provisions of the FHSA and §§ 1500.3(b)(10) and 1500.3(c)(6) define the term "extremely flammable" to include any substance with a flashpoint temperature of 20 °F or lower, as determined by the Tagliabue open-cup method. Existing provisions of the FHSA and implementing regulations define the term "flammable" to mean any substance with a flashpoint temperature above 20 °F to and including 80 °F; and the term "combustible" to mean any substance with a flashpoint temperature above 80 °F to and including 150 °F.

In the notice of proposal, the Commission observed that the proposed charge to the definition of the term "flammable" hazardous substance could affect products that are currently classified as "combustible" and have open-cup flashpoints from 80° F to about 110° F, or closed-cup flashpoints from about 75° F to 100° F. As a result of this proposed change, some products having flashpoints in the range described above which currently are labeled "combustible" would be reclassified as "flammable," and would require new labeling to comply with the amended regulations.

After consideration of a report on the anticipated economic consequences of the proposed change from an open-cup to a closed-cup test for determination of flashpoint temperatures for purposes of compliance with requirements of the FHSA (4), the Commission decided to add provisions to the proposed

amendment of § 1500.3(c)(6) allowing product manufacturers and labelers to continue to rely on results of open-cup flashpoint testing for purposes of compliance with FHSA requirements as long as no change is made to the formulation or labeling of the product.

In order to minimize costs to product manufacturers and labelers which might result from the proposed amendments, the Commission also decided to retain 150° F as the upper limit for classification as a "combustible" hazardous substance, rather than to extend the range of flashpoint temperatures for the "combustible" category to 200° F to achieve closer conformity with the classification system in the DOT regulations.

In the notice of proposal, the Commission observed that changing from an open-cup to a closed-cup test for determination of flashpoint temperature will benefit many product manufacturers and labelers because they will no longer be required to perform separate open-cup tests for compliance with FHSA requirements in addition to closed-cup tests for shipping and storage requirements. The Commission estimated that a reduction in testing costs of 40 percent could result for manufacturers and labelers who perform their own testing. (9) The Commission also estimated that changing from an open-cup test to a closed-cup test could reduce total testing costs for all firms subject to FHSA flammability requirements by $1 million a year. (9)

C. Comments on Proposal

In response to the notice of April 26, 1984, the Commission received comments from H.B. Fuller Co. (10), Control Data Corporation (11), Adhesives Manufacturing Association (12), Koppers Company, Inc. (13), The Adhesive and Sealant Council (14), Union Oil Company of California (15), Chemical Specialties Manufacturers Association (16), American Petroleum Institute (17), and Erdco Engineering Corporation (18). The issues raised by these comments and the Commission's resolution of those issues are discussed below.

1. *Alternate apparatus and test method.* Comments from H.B. Fuller Co. (10), Adhesives Manufacturers Association (12), The Adhesive and Sealant Council (14), and Chemical Specialties Manufacturers Association (16) urge the Commission to modify provisions of proposed § 1500.43 to specify an alternate test apparatus and procedure in addition to the Setaflash closed-cup tester and the procedure specified in the proposal. All of these comments suggested the Pensky-Martens closed-cup apparatus and ASTM test method D–93 as appropriate alternatives to the apparatus and procedure specified in the proposal. Three comments (10, 12, 14) state that regulations for classification of flammable materials issued by the Department of Transportation and the Occupational Safety and Health Administration of the Department of Labor prescribe more than one test apparatus and procedure for determining flashpoint, and include the Pensky-Martens apparatus and ASTM test method D–93 among the equipment and procedures specified in those regulations.

Comments concerning the test apparatus and procedure specified in the proposal observe that § 1500.43(a)(1) [1] of the proposal states that manufacturers and labelers of products subject to the requirements of the FHSA may use other test equipment or procedures which yield results equivalent to those obtained by using the apparatus and procedure specified in the proposed amendment. However, the comments express the view that the Commission should recognize a particular alternate apparatus and test procedure as yielding equivalent results, rather than place the burden of establishing equivalence of results on regulated firms.

The Commission's purpose in proposing to amend § 1500.43 was to change the apparatus and procedure which the Commission will use when testing products to determine if they comply with labeling or other requirements imposed under provisions of the FHSA. If the Commission made the change requested by the comments under consideration, it would be required to test products using both the Setaflash tester and procedure and the alternate apparatus and procedure, and to consider results from both tests before initiating any enforcement action. The Commission finds that specification of more than one type of apparatus and more than one test procedure in a regulation which prescribes testing to determine compliance with requirements imposed by law or regulation is not practical.

The Commission also has considered the possibility of specifying the Pensky-Martens closed-cup tester and ASTM test method D–93 rather than the apparatus and procedure set forth in the proposed amendment. However, the Commission finds that the Setaflash tester and method set forth in the proposal are more reliable and convenient for compliance testing, and in most instances will yield more reproducible results than the Pensky-Martens apparatus and ASTM test method D–93. (19) For these reasons, the amendment issued below specifies the Setaflash closed-cup tester method substantially similar to the one published in the proposal.

However, the Commission observes that for many household products, the flashpoint obtained using the Pensky-Martens closed tester and ASTM test method D–93 will be within a few degrees of the results obtained using the Setaflash closed tester and the method specified in section 1500.43 [1] as amended below. For purposes of compliance with FHSA labeling requirements for flammable or combustible hazardous substances, a manufacturer or labeler is not required to establish the precise flashpoint temperature of a particular product, but only to know if the flashpoint is 20 °F or below; between 20 °F and 100 °F; or from 100 °F to 150 °F. Manufacturers and labelers of many household products having flashpoints well above or below the break-point temperatures of 100 °F or 150 °F for classification as flammable or combustible hazardous substances may find that they can reasonably rely on the Pensky-Martens apparatus and ASTM test method D–93 to produce results equivalent to those obtained using the Setaflash apparatus. In that event, those firms may use the Pensky-Martens closed tester in accordance with provisions of § 1500.43(a)(1) as amended below.

In some cases, manufacturers and labelers of products having flashpoints within a few degrees of the break-point temperatures of 100 °F or 150 °F for classification as flammable or combustible hazardous substances may be able to rely on literature comparisons of the Setaflash and Pensky-Martens apparatus and test procedures to establish equivalence of results. In other cases, manufacturers and labelers of such products may need to conduct limited experimental testing to evaluate the equivalence of results obtained from the two items of test equipment. As long as the two items of test equipment yield equivalent results for a particular product, the manufacturer or labeler of that product may use whichever apparatus the firm considers to be appropriate.

The Commission observes that ASTM method D–93 for determining flashpoint using the Pensky-Martens closed tester contains no provision for testing materials which have flashpoints below the ambient temperature. For this reason, the Commission suggests that manufacturers and labelers should

exercise caution when evaluating the equivalence of results obtained by using the Pensky-Martens apparatus and ASTM test method D–93 with results obtained by using the Setaflash apparatus to test products with flashpoint temperatures near or below 50 °F.

2. *Flashpoint temperatures for classification of flammable and combustible hazardous substances.* As noted above, the notice of April 26, 1984, not only proposed to change the equipment and procedure which the Commission will use to determine flashpoint temperatures of volatile materials subject to regulation under the FHSA, but also proposed to change the range of flashpoint temperatures in existing regulations for classifying "flammable" and "combustible" hazardous substances. When the Commission published its notice of proposal, provisions of section 2(1) of the FHSA (15 U.S.C. 1261(1)) and 16 CFR 1500.3(b)(10) classified any substance having a flashpoint at or below 20 °F as "extremely flammable"; any substance having a flashpoint above 20 °F to and including 80 °F as "flammable"; and any substance having a flashpoint above 80 °F to and including 150 °F as "combustible." The notice of April 26, 1984, proposed to amend §§ 1500.3(b)(10) and 1500.3(c)(6) to classify any substance having a flashpoint above 20 °F to and including 100 °F as "flammable," and any substance having a flashpoint above 100 °F to and including 150 °F as combustible."

Comments from Control Data Corporation (11), Koppers Company, Inc. (13), Union Oil Company of California (15), and American Petroleum Institute (17) urge the Commission to revise the temperature range for "flammable" hazardous substances to include temperatures above 20 °F and below 100 °F. These comments state that the requested change would make the temperature range for classification of "flammable" hazardous substances in the Commission's regulation compatible with the temperature range for materials classified as "flammable" by regulations issued by the Department of Transportation (DOT) at 49 CFR 173.115 and by the Occupational Safety and Health Administration (OSHA) at 29 CFR 1910.106(a). These comments state that unless such a change is made to the Commission's proposal, a substance having a flashpoint of 100 °F would be classified as "flammable" by the Commission's regulations implementing the FHSA, but would be classified as "combustible" by regulations administered by DOT and OSHA. These comments observe that in the notice of April 26, 1984, the Commission stated that one of the purposes of the proposed amendments is to bring the Commission's regulations governing testing and classification of flammable materials into closer conformity with those of other Federal agencies.

A comment from Chemical Specialties Manufacturers Association (16) urges the Commission to retain existing provisions of the regulations implementing the FHSA which classify those substances as "flammable" which have a flashpoint above 20° F to and including 80° F. This comment states that the proposed amendment of the FHSA flammability classification regulations would have the effect of requiring many products now classified as "combustible" hazardous substances to be reclassified as "flammable" hazardous substances. The comment asserts that the notice of proposal does not adequately explain the necessity for reclassification of those products. The comment also questions the basis for a statement in the notice of proposal that few if any new costs are likely to result to manufacturers from the proposed revision of the temperature range for classification of products as "flammable" hazardous substances.

In the notice of proposal, the Commission acknowledged that revisions of the range of flashpoint temperatures for classification of a substance as "flammable" could affect some products having flashpoint temperatures between 80° F and 110° F as determined by the open-cup method by causing them to be classified as "flammable" rather than "combustible." (9) In response to the comment questioning the necessity of such reclassification, the Commission observes that one of the purposes of the proposed amendments was to achieve greater consistency of product labeling required by provisions of the FHSA and implementing regulations with labeling on cartons for shipping and storage required by regulations administered by the Department of Transportation.

In response to that portion of the comment questioning the basis of the statement that few if any new costs are likely to result to manufacturers of products from the proposed amendments, the Commission observes that revision of the flashpoint temperature range for classification of a product as a "flammable" hazardous substance will affect only those products which are already subject to combustibility or flammability labeling or other requirements of the FHSA. Manufacturers of products not previously subject to labeling or other requirements of the FHSA arising from its flammability are not affected by the proposed revision of the range of flashpoint temperatures for classification of a product as a "flammable" hazardous substance. The Commission recognizes that some costs would be associated with my change to the labeling of a product necessitated by its reclassification from a "combustible" hazardous substance to a "flammable" hazardous substance. However, the proposed amendment contained provisions to allow any firm to use the existing test procedure and classification schedule for labeling of any product subject to FHSA flammability requirements as long as no change is made in the formulation or labeling of a product. This option would minimize the potential cost of compliance with the proposed amendment.

After consideration of all of these comments, the Commission has revised § 1500.3(c)(6) of the amendments issued below to specify that substances having a flashpoint "above 20° F and below 100° F" shall be classified as "flammable." The Commission agrees with comments to the effect that this modification of the proposal will bring the Commission's regulations into closer conformity with requirements of other Federal agencies. While this modification of the proposal probably will affect a relatively small number of products, it is consistent with provisions of section 2(1) of the FHSA which require the Commission to consider definitions used by other Federal agencies, and to the extent possible, establish compatible provisions in the FHSA regulations.

Comments from Koppers Company, Inc. (13), Union Oil Company of California (15), and American Petroleum Institute (17) also urge revision of the temperature range for classification of a material as a "combustible" hazardous substance to include flashpoints above 100° F and below 200° F, thereby making the Commission's provisions for classification of "combustible" substances consistent with those in regulations issued by the Department of Transportation.

During the development of the proposed amendments, the Commission considered the possibility of revising the upper limit of the range for classification of materials as "combustible" hazardous substances to include flashpoint temperatures of 200 °F. However, a contractor's report on the economic consequences of amending the FHSA flammability regulations indicated that

such a revision would cause a large number of products not currently subject to requirements under the FHSA to be labeled as "combustible" hazardous substances. (4) To avoid the costs of new labeling to manufacturers of products not currently subject to FHSA flammability requirements, the Commission decided to leave the upper flashpoint temperature for classification as a "combustible" hazardous substance at 150 °F in the proposed amendments. (9).

Although consistency with labeling requirements of other Federal agencies is one of the Commission's objectives in this proceeding, the Commission concludes that complete achievement of that objective is not warranted in view of the costs of new labeling requirements which would be imposed on products not currently subject to provisions of the FHSA.

A comment from Control Data Corporation (11) suggests revision of the proposal to establish 141 °F as the upper limit of the flashpoint temperature range for classification of a product as a "combustible" hazardous substance. This comment states that such a revision would be consistent with labeling requirements established by the International Civil Aviation Organization and the International Maritime Organization, with recommendations of the United Nations Committee of Experts on Transportation of Dangerous Materials, and with proposed regulations published by the government of Canada in 1982.

Household products subject to regulation under the FHSA with flashpoint temperatures ranging from 141 °F to 150 °F include charcoal lighter fuels, patio torch fuels, various automotive supplies, some furniture polishes, and other household cleaning products. The Commission's experience gained from the administration and enforcement of the FHSA indicates that such products frequently present a hazard of combustibility from open-flame ignition sources when used by consumers in or around the home. (20)

As noted above, the 1978 amendments of section 2(1) of the FHSA direct the Commission to consider and seek consistency with flammability regulations established by other agencies of the United States government when issuing rules for classification and testing of flammable hazardous substances. The objective of the comment under consideration is that of obtaining consistency with flammability labeling requirements established by international organizations.

The Commission has decided not to make the revision requested by this comment because it concludes that many of the products which would be affected by a such a change present a hazard of combustibility when used in the household, and because such a change would not promote greater consistency of the Commission's regulations with flammability requirements of other agencies of the Federal government.

After consideration of all comments concerning modification of the range of flashpoint temperatures for classification of a product as a "combustible" hazardous substance, the Commission has revised § 1500.3(c)(6) of the amendments issued below to specify that substances having a flashpoint temperature "at or above 100 °F to and including 150 °F" shall be classified as "combustible."

3. *Exemption for products containing alcohol in solution.* The proposed amendment of § 1500.3(c)(6) contained language to exempt products containing "24 per cent or less alcohol by volume" from classification as a "flammable" or "combustible" hazardous substance, provided that "the remainder of the mixture does not present any flammability hazard." In the notice of proposal, the Commission stated that these provisions were similar to exemptions in the regulations issued by the Department of Transportation, and had been added to avoid overstating the flammability hazard of certain mixtures which contain alcohol. The proposal cited some liquid dishwashing detergents containing alcohol as examples of products which may have a flashpoint temperature in the "flammable" range when tested with the Setaflash closed tester, but which can be used to extinguish fires. (9)

A comment from Erdco Engineering Company (18) objects to the exemption for products containing alcohol, and asserts that the Commission has no assurance that alcohol present in such products will remain in solution at all times.

When the Commission proposed the exemption for products containing 24 percent or less alcohol by volume, it contemplated that this exemption would be available only for products containing alcohol in solution. To express this limitation on the types of products eligible for the exemption more clearly, the amendment of §1500.3(c)(6) issued below describes them as "any mixture containing 24 percent or less of water miscible alcohol, by volume, in aqueous solution."

A comment from Chemical Specialties Manufacturers Association (16) states that the proposed exemption does not state clearly how the determination will be made as to whether the "remainder of the mixture" presents a "flammability hazard." This comment suggests the addition of language to state that the remainder of the mixture shall be tested using the apparatus and procedure set forth in the proposed amendment to determine if its flashpoint temperature falls within the range of a "flammable" or "combustible" hazardous substance.

When the Commission proposed the exemption for mixtures containing alcohol, the Commission did not intend to remove the alcohol from such products and then test them to determine flashpoint. Instead, the Commission intended to exempt mixtures containing alcohol in solution from labeling requirements applicable to "flammable" or "combustible" hazardous substances as long as they do not present a flammability hazard when used by consumers. To express that intent more clearly, the amendment of § 1500.3(c)(6) issued below exempts mixtures containing 24 percent or less alcohol, by volume, in solution from classification as "flammable" or "combustible" hazardous substances provided that "the mixture does not present a significant flammability hazard when used by consumers."

4. *Flammability of products in self-pressurized containers.* Existing provisions of §§ 1500.3(c)(6) (v) and (vi) of the rules implementing the FHSA prescribe a two-step process for classification of the flammability of the contents of products in self-pressurized containers. The first step involves spraying the contents of the container in the direction of a lighted paraffin candle from a distance of six inches, measuring the distance that the flame projects, and observing whether the flame extends back to the container. This procedure is described at § 1500.45 of the existing rules. If a flame extends back to the container, the second step of the procedure is performed. This step involves exhausting the propellant from the container, removing a sample of the contents, and determining the flashpoint temperature of the contents. This procedure is described in the existing rules and in the proposal at § 1500.46.

The proposed amendments of the regulations prescribing procedures for testing substances to determine flashpoint temperatures and for classifying flammable hazardous substances did not contain any provision to change the procedures set forth in existing §1500.45. The proposed

VOL 51 ISS 153 AG 8 1986 UMI

amendments of §§ 1500.3(c)(6) and 1500.46 would affect testing and classification of products in self-pressurized containers only to the extent that a closed-cup apparatus and procedure would be used to determine flashpoint temperatures of the contents of such containers.

A comment from Control Data Corporation (11) urges the Commission to eliminate the procedures described in the proposed amendment at § 1500.46 for exhausting the propellant and removing the contents of a product from a self-pressurized container. This comment expresses the view that the procedure described in proposed §1500.46 is unnecessary and dangerous. This comment recommends that tests to determine the flashpoint temperatures of the contents of a product in a self-pressurized container should be conducted before the product is placed in the container. This comment also recommends classification of the flammability of products in self-pressurized containers on the basis of the type of gas used as the propellant.

A comment from Chemical Specialties Manufacturers Association (16) suggests elimination of the requirements in proposed § 1500.3(c)(6) for determination of the flashpoint temperature of a product in a self-pressurized container in the flammability classification of such a product. This comment states that the Aerosol Scientific Committee of Chemical Specialties Manufacturers Association has taken the position that flashpoint temperatures of products in self-pressurized containers have "insufficient correlation" with the safety of those products to be used in their classification as flammable hazardous substances. However, the comment does not make reference to any data or information considerated by the committee, or describe the process by which the committee reached its conclusion.

The Commission recognizes that the procedure for classifying products in self-pressurized containers for flammability under the FHSA has been in existence for several years, and would be modified by the proposed amendments of §§1500.3(c)(6) and 1500.46 only by specifying a closed-cup apparatus and procedure for determination of flashpoint temperatures of the contents of such products. However, consideration of the various alternative procedures for flammability classification of products in self-pressurized containers recommended in the two comments under consideration would require extensive investigation and analysis by the Commission staff. (19) At this time, the Commmission lacks the resources necessary for such an undertaking. If at some future date, resources become available for evaluation of alternative procedures for flammability classification of products in sself-pressurized containers, the Commission will consider the suggestions made in the comments under consideration. However, until the Commission is able to undertake a comprehensive review and evaluation of alternative procedures for flammability classification of products in self-pressurized containers, the Commission declines to make any of the changes recommended in these comments.

5. *Classification of a substance on the basis of other experience or data concerning its flammability hazard.* Section 1500.43(a)(4) of the proposed amendments [1] states that if experience of other data indicate that the flammability hazard of a substance is greater or less than the classification which results from determination of its flashpoint temperature in accordance with proposed § 1500.43 and provisions of proposed § 1500.3(c)(6), the Commission may "by regulation" establish a different classification for that substance. A comment from Chemical Specialties Manufacturers Association (16) observes that the language of proposed § 1500.43(a)(4) does not clearly indicate if a product manufacture or labeler may use other information or data to determine the appropriate classification of a substance in the absence of a rule issued by the Commission. This comment recommends the addition of language to the effect that product manufacturere and labelers may use experience or other reliable data indicating that the flammability hazard of a substance is greater or less than the classification which results from determination of flashpoint temperature by the method set forth in § 1500.43. This comment suggests that without such a modification, proposed § 1500.43(a)(4) would require the manufacturer or labeler of a product to petition the Commission for rulemaking to change the product's flammability classification if the firm had information indicating that the classification which results from determination of flashpoint temperature does not accurately reflect the flammability hazard of the product.

The Commission included § 1500.43(a)(4) in the proposed amendments to advise regulated firms and all other interested parties that if the Commission has reason to believe that the flammability hazard of a substance is not appropriately indicated by its classification on the basis of flashpoint temperature and that the substance should be reclassified on the basis of experience or other data or information, the Commission will initiate a rulemaking proceeding to establish a different flammability classification. Such a proceeding will give all interested parties notice of the Commission's proposed change to the classification of a substance, a statement of the Commission's reasons for proposing reclassification, and an opportunity to comment on the proposal before the Commission takes final action.

The Commission did not intend to preclude product manufacturers or labelers from using experience or other data or information as a basis for compliance with applicable labeling and other requirements of the FHSA in the absence of a Commission proceeding to reclassify a particular substance.

The Commission observes that the definition of the term "hazardous substance" in section 2(f)1(A) of the FHSA (15 U.S.C. 1261(f)1(A)) requires that a substance must not only be "flammable," as defined by section 2(1) of the FHSA and regulations issued by the Commission, but must also present a risk of "substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable use" before the substance is subject to any requirements of the FHSA as a flammable hazardous substance. This definition requires consideration of any relevant information or data concerning experience with use of a product in addition to its flammability classification based on flashpoint temperature to determine whether the product is subject to labeling or other requirements of the FHSA.

For these reasons, the Commission has modified § 1500.43(a)(4) issued below[1] to state that if the Commission has reason to believe from experience, information or other data that the flammability hazard of a substance is not appropriately characterized by its classification on the basis of flashpoint temperature and that the substance should be reclassified, the Commission will initiate a rulemaking proceeding for reclassification. The Commission has added language to state that product manufacturers and labelers may use reliable experience or other relevant information or data in addition to the flashpoint temperature of a substance as a basis for compliance with any applicable requirements of the FHSA in

the absence of a rule issued by the Commission to reclassify the substance.

6. *Reliance on open-cup tests by product manufacturers and labelers.* Section 1500.3(c)(6)(iv) of the proposed amendments states that the Commission will use the closed-cup apparatus and test procedure described in § 1500.43 of the proposal when testing for compliance with the requirements of the FHSA. However, proposed § 1500.43(c)(6)(iv) states that product manufacturers and labelers may continue to rely on properly conducted tests using the Tagliabue open-cup method and the definitions of the terms "extremely flammable," "flammable," and "combustible" which were in effect before the amendment of § 1500.3(c)(6) if all of the following conditions are met:

(1) The product was subject to FHSA requirements for "extremely flammable," "flammable," or "combustible" hazardous substances before the effective date of the amendment of § 1500.43; and

(2) No change has been made to the formulation or labeling of the product after the effective date of the amendment of § 1500.43.

The Commission included the provisions of § 1500.43(c)(6)(iv) in the proposal to minimize any adverse economic impact which the proposed amendments may have on regulated firms, particularly small businesses.

A comment from Control Data Corporation (11) objects to the provisions of proposed § 1500.3(c)(6)(iv) allowing product manufacturers and labelers to continue reliance on open-cup flashpoint tests. This comment asserts that this section of the proposal will confer no benefit on regulated firms, and may result in violation of regulations issued by the Department of Transportation and state governments. This comment states that requirements for disclosure of flashpoint temperatures as determined by closed-cup apparatus and test procedure may also be included in commercial contracts for purchase of materials.

Although this comment asserts that provisions of proposed § 1500.3(c)(6)(iv) will confer no benefit on regulated firms, the Commission has information indicating that the costs of retesting and relabeling products in accordance with provisions of the amendments issued below could be expected to range from $5,000 to $10,000 for a typical small manufacturer or labeler of products regulated under the FHSA. (4) This information also indicates that many small manufacturers would not be required to retest their products except for provisions of the amendments issued below, and in ordinary circumstances would change labels only once every five years. (4)

Provisions of proposed § 1500.3(c)(6)(iv) confer a benefit on these firms by allowing them to avoid the costs of retesting and relabeling their products solely for compliance with the amendments issued below. Instead, they may continue to use existing labels based on open-cup testing for purposes of compliance with FHSA requirements until they decide to reformulate or relabel their products in the normal course of business.

After the effective date of the amendments issued below, firms which rely on provisions of § 1500.3(c)(6)(iv) must comply with all applicable Federal and state laws and regulations requiring determination of flashpoint temperature by closed-cup testing. However, most of those firms are currently subject to Federal or state requirements based on closed-cup tests for determination of flashpoint temperature, as well as FHSA labeling requirements based on open-cup tests for flashpoint temperature. For this reason, the Commission has no reason to conclude that provisions of § 1500.3(c)(6)(iv) are likely to cause firms to violate other Federal or state laws or regulations.

As indicated by the comment under consideration, provisions of the amendments issued below which prescribe a closed-cup apparatus and procedure for determination of flashpoint temperature will be advantageous to many manufacturers and labelers of products subject to requirements of the FHSA. The ability of those firms to derive benefits of the amendments issued below after their effective date will not be affected by provisions of § 1500.3(c)(6)(iv).

A comment from Erdco Engineering Corporation (18) suggests revision of proposed § 1500.3(c)(6)(iv) to describe the open-cup test procedure set forth in § 1500.43 before the amendments issued below as "ASTM Test Method D–1310" instead of "the Tagliabue open-cup method." This comment also suggests revision of proposed Appendix I to § 1500.3 to describe the test equipment as the apparatus specified by "ASTM Test Method D–1310" rather than the "Tagliabue Open-Cup Tester," and to substitute the designation "ASTM Test Method D–92" in place of the designation "Cleveland Open-Cup (ASTM designation D–92)." This comment states that the recommended changes would allow continuous reference to a standard test method, and would reduce the use of trademarks in the description of test apparatus.

The Commission has not made the changes to § 1500.3(c)(6)(iv) and Appendix I [2] to § 1500.3 suggested by this comment. The Commission included provisions of § 1500.3(c)(6)(iv) and Appendix I in the proposed amendments to allow product manufacturers and labelers to continue to rely on tests conducted in accordance with provisions of § 1500.43 before the amendments issued below for compliance with applicable requirements of the FHSA. Appendix I to § 1500.3 [2] reprints the language of §§ 1500.3(b)(10), 1500.3(c)(6), and 1500.43 as it appeared in the Code of Federal Regulations before the amendments issued below.

Although the revisions suggested by the comment under consideration appear to be editorial and non-substantive, they could affect testing requirements if the ASTM test methods referenced in the comment were not identical in all respects to the test methods and apparatus described in § 1500.3(c)(6)(iv) and Appendix I to § 1500.3. To assure that manufacturers and labelers may continue to rely on tests conducted in accordance with § 1500.43 before its amendment, the Commission is reprinting the text of former § 1500.43 without change in Appendix I to § 1500.3 issued below.

7. *Other changes.* A comment from Erdco Engineering Corporation (18) suggests revision of proposed § 1500.43(a)(1)[1] to describe the apparatus which the Commission will use for determining flashpoint temperatures of products subject to FHSA requirements as "an equilibrium closed-cup tester with a range up to 100° C (212° F)" rather than a "Setaflash low-range closed tester." The Commission has not included this change in the amendments issued below because the Commission will use the particular item of equipment specified in proposed § 1500.43(a)(1), and no other, for purposes of compliance testing. As noted in the discussion of comments concerned with alternate test apparatus, § 1500.43(a)(1) of the amendments issued below states that manufacturers and labelers may use any item of equipment which yields equivalent results when testing to determine if their products meet applicable requirements of the FHSA and implementing regulations.

However, in response to the same comment, the Commission has revised

[2] The materials published in proposed Appendix I pertaining to § 1500.3 appears in a note following § 1500.3; a note has been added to § 1500.43 to explain conditions under which manufacturers and labelers may continue to use that test method; and the revised test method is published below as § 1500.43a.

§ 1500.43(d),[1] issued below, to set forth the dimensions and requirements of the test equipment without reference to any particular brand or manufacturer. The Commission has also eliminated the reference to a particular brand of material from footnote B of Table 3, and has described the material in generic terms, as suggested by this comment.

D. Effective Date

In the notice of proposal, the Commission stated that it was considering establishment of an effective date for the proposed amendments one year after issuance on a final basis. The Commission stated that delaying the effective date of the amendments by one year should provide sufficient time for manufacturers and labelers to perform any additional testing relabeling of products which may be required by the amended flammability regulations. The Commission expressed its desire to minimize any adverse economic consequences which the amended regulations may have for manufacturers and labelers of products which would be reclassified from "combustible" to "flammable" hazardous substances, and for small businesses.

The notice of proposal specifically solicited comment on the issue of an appropriate effective date for the amendments; however, none was received.

All information currently available to the Commission indicates that an effective date one year after issuance of the final amendments will minimize any adverse economic consequences which they may have on regulated firms, including manufacturers and labelers whose products are reclassified by the amended regulations, and small businesses. Therefore, the amendments issued below shall become effective on [insert date which is one year after date of publication].

E. Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires agencies to prepare an initial regulatory flexiblity analysis of the impact of a proposal on small businessses, unless the agency certifies in accordance with section 605 of that act that the proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, if issued on a final basis. The notice of proposal included the Commission's certification that the proposed amendments would not have a significant economic impact on a substantial number of small businesses.

In that notice, the Commission observed that provisions of proposed § 1500.3(c)(6)(iv) allow continued reliance on Tagliabue open-cup flashpoint tests by manufacturers and labelers as long as no change is made to the formulation or labeling of a product, thereby minimizing any potentially adverse economic impact of the amendments on small businesses. The notice of proposal also stated that while the amendments would in some cases decrease costs for small businesses by eliminating the need for separate open-cup testing for compliance with FHSA requirements, the potential economic benefit for most small business was not expected to be significant.

None of the comments on the proposal addressed the economic impact of the amendments on small businesses. The Commission has not received any other information concerning the economic impact of the amendments on small businesses. For these reasons, the Commission affirms the certification made in the notice of proposal that the amendments issued below will not have a significant economic impact on a substantial number of small entities, including small businesses.

F. Statutory Requirements

Section 2(1) of the FHSA, as amended, provides that in establishing definitions and test methods related to flammability and combustibility, the Commission must consider existing definitions and test methods of other Federal agencies involved with regulation of flammable and combustible substances, and to the extent possible, establish compatible definitions and test methods.

As explained in this notice and in the proposal, the Commission has considered the definitions and test methods for the flammability of hazardous substances issued by other Federal agencies, including the Department of Transportation and the Department of Labor. Based on all information currently available, the Commission concludes that the definitions and test method established by the amendments issued below are compatible to the extent possible with those of other Federal agencies.

G. Conclusion and Promulgation

After consideration of the proposal of April 26, 1984, comments received in response to that proposal, information provided by the Commission staff, and other relevant information, the Commission hereby amends the definitions of the terms "extremely flammable," "flammable," and "combustible" hazardous substances, and regulations implementing the FHSA which prescribe the apparatus and procedure for determining flashpoint temperatures of volatile substances.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Labeling.

PART 1500—[AMENDED]

Therefore, in accordance with provisions of the Federal Hazardous Substances Act (secs. 2(1), 10(a); 15 U.S.C. 1261(1), 1269(a)) and under the authority of the Consumer Product Safety Act (sec. 30(a); 15 U.S.C. 2079(a)), the Commission hereby amends Chapter II, Subchapter C, Part 1500 of Title 16 of the Code of Federal Regulations, as follows:

1. The authority citation for Part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261(1), 1269(a), 2079(a).

2. Section 1500.3 is amended by revising paragraphs (b)(10) and (c)(6) and adding a "Note" at the end of the section to read as follows:

§ 1500.3 Definitions.

* * * * *

(b) * * *

(10) The terms "extremely flammable," "flammable," and "combustible" as they apply to any substances, liquid, solid, or the contents of any self-pressurized container, are defined by regulations issued by the Commission and published at § 1500.3(c)(6).

* * * * *

(c) * * *

(6) The Consumer Product Safety Commission, by the regulations published in this section, defines the terms "extremely flammable," "flammable," and "combustible," appearing in section 2(1) of the Federal Hazardous Substances Act, as follows:

(i) The term "extremely flammable" shall apply to any substance which has a flashpoint at or below 20° F (−6.7° C) as determined by the test method described at § 1500.43, except that, any mixture having one component or more with a flashpoint higher than 20° F (−6.7° C) which comprises at least 99 percent of the total volume of the mixture is not considered to be an extremely flammable substance.

(ii) The term "flammable" shall apply to any substance having a flashpoint above 20° F (−6.7° C) and below 100° F (37.8° C), as determined by the method described at § 1500.43, except that:

(A) Any mixture having one component or more with a flashpoint at or above 100° F (37.8° C) which

comprises at least 99 percent of the total volume of the mixture is not considered to be a flammable substance; and

(B) Any mixture containing 24 percent or less of water miscible alcohols, by volume, in aqueous solution is not considered to be flammable if the mixture does not present a significant flammability hazard when used by consumers.

(iii) The term "combustible" shall apply to any substance having a flashpoint at or above 100 °F (37.8 °C) to and including 150 °F (65.6 °C) as determined by the test method described at § 1500.43, except that:

(A) Any mixture having one component or more with a flashpoint higher than 150 °F (65.6 °C) which comprises at least 99 percent of the total volume of the mixture is not considered to be a combustible hazardous substance; and

(B) Any mixture containing 24 percent or less of water miscible alcohols, by volume, in aqueous solution is not considered to be combustible if the mixture does not present a significant flammability hazard when used by consumers.

(iv) To determine flashpoint temperatures for purposes of enforcing and administering requirements of the Federal Hazardous Substances Act applicable to "extremely flammable," "flammable," and "combustible" hazardous substances, the Commission will follow the procedures set forth in § 1500.43, as amended. However, the Commission will allow manufacturers and labelers of substances and products subject to those requirements to rely on property conducted tests using the Tagliabue open-cup method which was in effect prior to the amendment of § 1500.43 (as published at 38 FR 27012, September 27, 1973 and set forth below) and the definition of the terms "extremely flammable," "flammable," and "combustible" in this section before its amendments (as published at 38 FR 27012, September 27, 1973, and amended 38 FR 30105, November 1, 1973 and set forth in the note following this section) if all of the following conditions are met;

(A) The substance or product was subject to and complied with the requirements of the Federal Hazardous Substances Act for "extremely flammable," "flammable," or "combustible" hazardous substances before the effective date of the amendment of § 1500.43; and

(B) No change has been made to the formulation or labeling of such substance or product after the effective date of the amendment of § 1500.43 to prescribe a closed-cup test apparatus and procedure.

(v) "Extremely flammable solid" means a solid substance that ignites and burns at an ambient temperature of 80 °F or less when subjected to friction, percussion, or electrical spark.

(vi) "Flammable solid" means a solid substance that, when tested by the method described in § 1500.44, ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(vii) "Extremely flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening and the flashpoint, when tested by the method described in § 1500.43 is less than 20 °F (–6.7 °C).

(viii) "Flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flame projection exceeding 18 inches is obtained at full valve opening, or flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening.

* * * * *

Note.—The definitions of "extremely flammable," "flammable," and "combustible" hazardous substances set forth above in paragraph (b)(10) and (c)(6) are effective August 10, 1987. The definitions remaining in effect until August 10, 1987, as published at 38 FR 27012, Sept. 27, 1973, and amended at 38 FR 30105, Nov. 1, 1973, are set forth below. Manufacturers and labelers of products subject to the Federal Hazardous Substances Act may continue to use these definitions for labeling of those products under the conditions set forth in § 1500.3(c)(6)(iv), as amended.

(b) * * *

(10) "Extremely flammable" shall apply to any substance which has a flashpoint at or below 20° F. as determined by the Tagliabue Open Cup Tester; "flammable" shall apply to any substance which has a flashpoint of above 20° F., to and including 80° F., as determined by the Tagliabue Open Cup Tester; and "combustible" shall apply to any substance which has a flashpoint above 80° F. to and including 150° F., as determined by the Tagliabue Open Cup Tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the Commission to be generally applicable to such materials or containers, respectively, and established by regulations issued by the Commission, which regulations shall also define the terms "flammable," "combustible," and "extremely flammable" in accord with such methods.

* * * * *

(c) * * *

(6) * * *

(i) "Extremely flammable" means any substance that has a flashpoint at or below 20° F. as determined by the method described in § 1500.43.

(ii) "Flammable" means any substance that has a flashpoint of above 20° F., to and including 80° F., as determined by the method described in § 1500.43.

3. Section 1500.43 (method for test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus) as published at 38 FR 27012, Sept. 27, 1973:, is reprinted below (see the "Note" following this section).

§ 1500.43 Method of test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus.

Scope

1. (a) This method describes a test procedure for the determination of open-cup flashpoints of volatile flammable materials having flashpoints below 175° F.

(b) This method, when applied to paints and resin solutions which tend to skin over or which are very viscous, gives less reproducible results than when applied to solvents.

Outline of Method

2. The sample is placed in the cup of a Tag Open Tester, and heated at a slow but constant rate. A small test flame is passed at a uniform rate across the cup at specified intervals. The flashpoint is taken as the lowest temperature at which application of the test flame causes the vapor at the surface of the liquid to flash, that is, ignite but not continue to burn.

Apparatus

3. The Tag open-cup tester is illustrated in Fig. 1. It consists of the following parts, which must conform to the dimensions shown, and have the additional characteristics as noted:

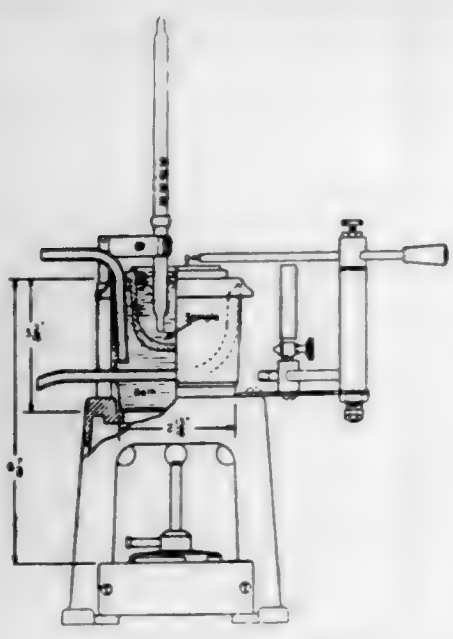

Figure 1—*Tag open-cup flash tester.*

(a) *Copper bath,* preferably equipped with a constant level overflow so placed as to maintain the bath liquid level ⅛-inch below the rim of the glass cup.

(b) *Thermometer holder.* Support firmly with ringstand and clamp.

(c) *Thermometer.* For flashpoints above 40° F., use the ASTM Tag Closed Tester Thermometer, range of +20 to +230° F., in 1° F. divisions, and conforming to thermometer 9F. of ASTM Standard E 1. For flashpoints from 20° F. to 40° F., use ASTM Tag Closed Tester, Low Range, Thermometer 57F. For flashpoints below 20° F., use ASTM Thermometer 33F. The original Tag Open-Cup (Paper Scale) Thermometer will be a permissible alternate until January 1, 1962. It is calibrated to −20° F.

(d) *Glass test cup.* Glass test cup (Fig. 2), of molded clear glass, annealed, heat-resistant, and free from surface defects.

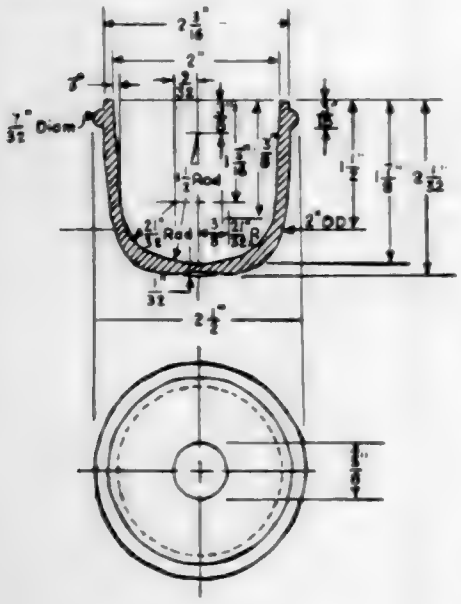

Figure 2—*Glass test cup.*

(e) *Leveling device.* Leveling device or guide, for proper adjustment of the liquid level in the cup (Fig. 3). This shall be made of No. 18-gage polished aluminum, with a projection for adjusting the liquid level when the sample is added to exactly ⅛-inch below the level of the edge or rim of the cup.

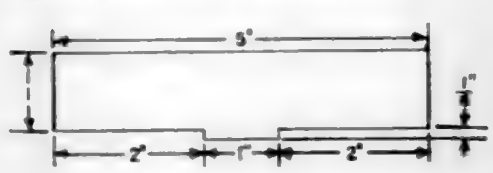

Figure 3—*Leveling device for adjusting liquid levels in test cup.*

(f) "Micro," or small gas burner of suitable dimensions for heating the bath. A screw clamp may be used to help regulate the gas. A small electric heater may be used.

(g) Ignition taper, which is a small straight, blow-pipe type gas burner. The test flame torch prescribed in the method of test for flash and fire points by Cleveland Open Cup (ASTM designation: D 92) is satisfactory.

(h) Alternative methods for maintaining the ignition taper in a fixed horizontal plane above the liquid may be used, as follows:

(1) Guide wire, 3/32-inch in diameter and 3½ inches in length, with a right-angle bend ½-inch from each end. This wire is placed snugly in holes drilled in the rim of the bath, so that the guide wire is ⅝-inch from the center of the cup and resting on the rim of the cup.

(2) Swivel-type taper holder, such as is used in ASTM METHOD D 92. The height and position of the taper are fixed by adjusting the holder on a suitable ringstand support adjacent to the flash cup.

(i) Draft shield, consisting of two rectangular sheets of noncombustible material, 24 inches × 28 inches, are fastened together along the 28-inch side, preferably by hinges. A triangular sheet, 24 inches × 24 inches × 34 inches is fastened by hinges to one of the lateral sheets (to form a top when shield is open). The interior of the draft shield shall be painted a flat black.

Procedure

4. (a) Place the tester on a solid table free of vibration, in a location free of perceptible draft, and in a dim light.

(b) Run water, brine, or water-glycol solution into the bath to a predetermined level, which will fill the bath to ⅛-inch below the top when the cup is in place. An overflow is permissible for water-level control.

(c) Firmly support the thermometer vertically halfway between the center and edge of the cup on a diameter at right angles to the guide wire, or on a diameter passing through the center of the cup and the pivot of the taper. Place so that the bottom of the bulb is ¼-inch from the inner bottom surface of the cup. If the old Tagliabue thermometer is used, immerse to well cover the mercury bulb, but not the wide body of the thermometer.

(d) Fill the glass cup with the sample liquid to a depth just ⅛-inch below the edge, as determined by the leveling device.

(e) Place the guide wire or swivel device in position, and set the draft shield around the tester so that the sides from right angles with each other and the tester is well toward the back of the shield.

(f) If a guide wire is used, the taper, when passed, should rest lightly on the wire, with the end of the jet burner just clear of the edge of the guide wire. If the swivel-type holder is used, the horizontal and vertical positions to the jet are so adjusted that the jet passes on the circumference of a circle, having a radius of at least 6 inches, across the center of the cup at right angles to the diameter passing through the thermometer, and in a plane ⅛-inch above the upper edge of the cup. The taper should be kept in the "off position, at one end or the other of the swing, except when the flame is applied.

(g) Light the ignition flame and adjust it to form a flame of spherical form matching in size the 5/32-inch sphere on the apparatus.

(h) Adjust heater source under bath so that the temperature of the sample increases at a rate of 2±0.5 °F. per minute. With viscous materials this rate of heating cannot always be obtained.

Initial Test

5. Determine an approximate flashpoint by passing the taper flame across the sample at intervals of 2 °F. Each pass must be in one direction only. The time required to pass the ignition flame across the surface of the sample should be 1 second. Remove bubbles from the surface of the sample liquid before starting a determination. Meticulous attention to all details relating to the taper, size of taper flame, and rate of passing the taper is necessary for good results. When determining the flashpoint of viscous liquids and those liquids that tend to form a film of polymer, etc., on the surface, the surface film should be disturbed mechanically each time before the taper flame is passed.

Recorded Tests

6. Repeat the procedure by cooling a fresh portion of the sample, the glass cup, the bath solution, and the thermometer at least 20 °F. below the approximate flashpoint. Resume heating, and pass the taper flame across the sample at two intervals of 2 °F. until the flashpoint occurs.

Reporting Data

7. The average of not less than three recorded tests, other than the initial test, shall be used in determining the flashpoint and flammability of the substance.

Standardization

8. (a) Make determinations in triplicate on the flashpoint of standard paraxylene and of standard isopropyl alcohol which meet the following specifications:

(i) *Specifications for p-xylene, flashpoint check grade. p-xylene shall conform to the following requirements;*

Specific gravity: 15.56 °C./15.56 °C., 0.860 minimum, 0.866 maximum

Boiling range: 2 °C. maximum from start to dry point when tested in accordance with the method of test for distillation of industrial aromatic hydrocarbons (ASTM designation: D 850), or the method of test

for distillation range of lacquer solvents and diluents (ASTM) designation D 1078). The range shall include the boiing point of pure *P*-xylene, which is 138.35 °C. (281.03 °F.).

Purity: 95 percent minimum, calculated in accordance with the method of test for determination of purity from freezing points of high-purity compounds (ASTM designation: D 1016), from the experimentally determined freezing point, measured by the method of test for measurement of freezing points of high-purity compounds for evaluation of purity (ASTM designation: D 1015).

(ii) *Specifications for ispropanol, flash point check grade.* Isopropanol shall conform to the following requirements:

Specific gravity: 0.8175 to 0.8185 at 20 °C./20 °C. as determined by means of a calibrated pycnometer.

Distillation range: Shall entirely distill within a 1.0 °C. range which shall include the temperature 80.4 °C. as determined by ASTM method D 1078.

Average these values for each compound. If the difference between the values for these two compounds is less than 15 °F. (8.5 °C.) or more than 27 °F. (16 °C.), repeat the determinations or obtain fresh standards.

(b) Calculate a correction factor as follows:

$X = 92 - A$

$Y = 71 - B$

$$\text{Correction} = (X + Y)/2.$$

Where:

A = Observed flash of *p*-xylene, and

B = Observed flash of isopropyl alcohol.

Apply this correction of all determinations. Half units in correction shall be discarded.

Precision

9. (a) For hydrocarbon solvents having flashpoints between 60 °F. and 110° F., repeatability is ± 2 °F. and the reproducibility is ± 5 °F.

(b) If results from two tests differ by more than 10° F., they shall be considered uncertain and should be checked. This calibration procedure provided in this method will cancel out the effect of barometric pressure if calibration and tests are run at the same pressure. Data supporting the precision are given Appendix III of the 1956 Report of Committee D–1 on Paint, Varnish, Lacquers and Related Products, Proceedings, Am. Soc. Testing Mats., Vol. 56 (1956).

Note.—The test apparatus and procedure described in §1500.43 may be used by manufacturers and labelers of products subject to the Federal Hazardous Substances Act to determine flashpoint temperatures of those products under the conditions set forth in § 1500.3(c)(6)(iv), as amended.

4. Section 1500.43a is added to read as follows:

§ 1500.43a Method of test for flashpoint of volatile flammable materials.

(a) *Scope.* (1) This method describes the test procedure which the Commission will use for the determination of the flashpoint of volatile flammable materials, using a Setaflash [1] low-range closed tester, or an apparatus producing equivalent results. The method described in this section is essentially a Setaflash equlibrium procedure which closely parallels the test method designated ASTM D 3828-81, "Standard Test Methods for Flash Point by Setaflash Closed Tester," published by the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. Manufacturers and labelers of products subject to labeling and other requirements under the Federal Hazardous Substances Act may use other apparatus and/or test methods which produce equivalent results.

(2) At the option of the user, the procedures described in this section may be used to determine the actual flashpoint temperature of a sample or to determine whether a product will or will not flash at a specified temperature (flash/no flash).

(3) If the substance to be tested has a viscosity greater than 150 Stokes at 77°F (25°C), see paragraph (n) of this section for modifications to the testing procedure.

(4) If the Commission has reason to believe on the basis of reliable experience or other relevant information or data that the flammability hazard of a substance is greater or less than its flammability classification based on flashpoint temperature determined in accordance with this § 1500.43a and that the substance should be reclassified, the Commission will initiate a rulemaking proceeding for reclassification of the substance. Product manufacturers and labelers may use reliable experience or other relevant information or data in addition to the flashpoint temperature of a substance as a basis for compliance with any applicable requirements of the Federal Hazardous Substances Act in the absence of a rule issued by the Commission to reclassify the substance.

(b) *Summary of test methods.* (1) Method A—Flash/No Flash Test. A specified volume of sample is introduced by a syringe into the cup of the apparatus that is set and maintained at the specified temperature. After a specific time a test flame is applied and an observation made as to whether or not a flash occurred. Test procedures are set forth in detail in § 1500.43a(i).

(2) Method B—Finite (or Actual) Flashpoint. (i) A specified voume of sample is introduced into the cup of the apparatus that is maintained at the expected flashpoint. After a specified time a test flame is applied and the observation made whether or not a flash occurred.

(ii) The specimen is removed from the cup, the cup cleaned, and the cup temperature adjusted 5 °C (9 °F), lower or higher depending on whether or not a flash occurred previously. A fresh specimen is introduced and tested. This procedure is repeated until the flashpoint is established within 5 °C (9 °F).

(iii) The procedure is then repeated at 1 °C (2 °F) intervals until the flashpoint is determined to the nearest 1 °C (2 °F).

(iv) If improved accuracy is desired the procedure is repeated at 0.5 °C (1 °F). Test procedures are set forth in detail at § 500.43a(j).

(3) The test procedures will be modified, where necessary, to ensure that the results obtained reflect the hazard of the substance under reasonably foreseeable conditions of use. Thus, for example, the material, if a mixture, will normally be tested as it comes from the container, and/or after a period of evaporation. The period of evaporation for a material which is a mixture will normally be the time required for the mixture to evaporate in an open beaker under ambient conditions to 90 percent of its original volume, or a period of four hours, whichever occurs first. However, this period of evaporation will be changed if the results obtained do not represent the hazard of the substance under reasonably foreseeable conditions of use.

[1] Setaflash is a registered trademark of Stanhope-Seta Limited, Surrey, England.

(c) *Definition of flashpoint.* The lowest temperature of the sample, corrected to a barometric pressure of 101.3 kPa (760 mm Hg), at which application of a test flame causes the vapor of the sample to ignite under specified conditions of test. The sample is deemed to have flashed when a large flame appears and instantaneously propagates itself over the surface of the sample. Occasionally, particularly near actual flashpoint, the application of the test flame will cause a halo or an enlarged flame; this is not a flash and should be ignored.

(d) *Test apparatus.* The test apparatus is an equilibrium closed-cup tester with a range up to 100 °C (212 °F). The essential dimensions and requirements are shown in figure 1 and table 3, and are described in § 1500.43a(m). Closed-cup flashpoint testers and accessories meeting these requirements are available from commercial suppliers and distributors of laboratory equipment.

(e) *Safety precautions.* The operator must exercise and take appropriate safety precautions during the initial application of the test flame to the sample. Samples containing low-flash material may give an abnormally strong flash when the test flame is first applied.

(f) *Preparation of samples.* (1) Erroneously high flashpoints may be obtained if precautions are not taken to avoid the loss of volatile material. In preliminary tests of materials taken directly from the container, do not open containers unnecessarily and make a transfer unless the sample temperature is at least 10°C (18°F) below the expected flashpoint. Do not use samples in leaky containers for this test.

(2) Do not store samples in plastic (polyethylene, polypropylene, etc.) bottles since volatile material may diffuse through the walls of the bottle.

(3) A 2-ml specimen is required for each test. If possible, obtain at least a 50-ml sample from the bulk test site and store in a clean, tightly closed container.

(g) *Preparation of apparatus.* (1) Place the tester on a level, stable surface. Unless tests are made in a draft-free area, surround the tester on three sides with a shield for protection. Do not rely on tests made in a laboratory draft hood or near ventilators.

(2) Read the manufacturer's instructions on the care and servicing of the instrument and for correct operation of its controls.

(h) *Calibration and standardization.* (1) Before initial use determine and plot the relationship between the temperature control dial and the thermometer readings at each major (numbered) dial division as follows:

Turn the temperature control knob [2] fully counterclockwise ("O" reading). Advance the temperature control knob clockwise until the indicator light is illuminated.[3] Advance the knob clockwise to the next numbered line. After the thermometer mercury column ceases to advance, record the dial reading and the temperature. Advance the knob clockwise to the next numbered line. After the thermometer mercury column ceases to advance, read the dial reading and the temperature. Repeat this procedure through the full range of the instrument. Plot the dial readings versus the respective temperatures.

(2) Standardize the instrument using sample of material meeting the specifications in table 1. If the average of two determinations falls within the acceptable limits the instrument is assumed to be operating properly. If the average of the two determinations does not fall within this range, check the manufacturer's operating and maintenance instructions and determine that they are being followed. In particular, be sure that the cup lid assembly makes a vapor-tight seal with the cup, the shutter provides a light-tight seal, and that adequate heat transfer paste surrounds the thermometer bulb and the immersed portion of the barrel.

(i) *Test Method A—for determining Flash/No Flash.*

(1) Determine the target flashpoint as follows:

(i) Target flashpoint, °C = S_c—0.25 (101.3—A)

(ii) Target flashpoint, °C = S_c—0.03 (760–B)

(iii) Target flashpoint, °F = S_f—0.06 (760–B)

where:

S_c = specification, or uncorrected target, flashpoint, °C,

S_f = specification, or uncorrected target, flashpoint, °F,

B = ambient barometric pressure, mm Hg,[4] and

A = ambient barometer pressure, kPa.[4]

(2) Inspect the inside of the sample cup, lid, and shutter mechanism for cleaniness and freedom from contamination. Use an absorbent paper tissue to wipe clean, if necessary. Put cover in place and lock securely. The filing orifice may be convenienty cleaned with a pipe cleaner.

(3) Set the instrument at the target temperature.

(i) For target temperature below ambient. The instrument power switch is to be in the off position. Fill the refigerant-charged cooling block with a suitable material.[5] Raise the lid and shutter assembly, and position the base of the block in the sample cup, being careful not to injure or mar the cup. When the thermometer reads approximately 6 to 10° C (10 to 20° F) below the target temperature, remove the cooling block and quickly dry the cup with a paper tissue to remove any moisture. Immediately close the lid and shutter assembly and secure. Prepare to introduce the sample using the syringe, both of which have been precooled to a temperature 5 to 10° C (10 to 20° F) below the target temperature.

(A) Caution: Do not cool the sample block below —38° C, the freezing point of mercury.

(B) Caution: Acetone is extremely flammable. Keep away from heat, sparks, and flames and keep container closed when not actually pouring acetone. Use only in a well-ventilated area. Avoid inhalation and contact with the eyes or skin. Use cloth or leather gloves, goggles or safety shield, and keep dry ice in a canvas bag, especially when cracking.

(ii) For target temperature above ambient. Switch the instrument on and turn the coarse temperature control knob fully clockwise (full on) causing the indicator light to illuminate.[6] When the thermometer indicates a temperature about 3° C (5° F) below the target (or specification) temperature, reduce the heat input to the sample cup by turning the coarse temperature control knob

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[2] If the instrument has two temperature control knobs, set the fine control (center, small knob) at its mid-position and allow it to remain there throughout the calibration. The calibration is determined by adjusting the coarse control (large, outer knob) only.

[3] When using the tester, it will be found that the indicator light may not illuminate and the temperature may not rise until a temperature control dial setting between one and two is reached.

[4] The barometric pressure used in this calculation must be the ambient pressure for the laboratory at the time of test. Many aneroid barometers, such as those used at weather stations and airports, are precorrected to give sea-level readings; these must not be used.

[5] If the target or specification temperature is not less than 5° C (40° F) crushed ice and water may be used as charging (cooling) fluid. If below 5° C (40° F), a suitable charging (cooling) fluid is solid carbon dioxide (dry ice) and acetone. If the refrigerant charged cooling module is unavailable, refer to the manufacturer's instruction manual for alternative methods of cooling.

[6] The target temperature may be attained by originally turning the coarse temperature control knob to the proper setting (see § 1500.43a(h)(1) for the temperature desired rather than the maximum setting (full on). The elapsed time to reach the temperature will be greater, except for maximum temperature. However, less attention will be required during the intervening period.

counter-clockwise to the desired control point (see § 1500.43a(i)(1)). When the indicator light slowly cycles on and off read the temperature on the thermometer. If necessary, adjust the fine (center) temperature control knob to obtain the desired test (target) temperature. When the test temperature is reached and the indicator lamp slowly cycles on and off, prepare to introduce the sample.

(4) Charge the syringe with a 2-ml specimen of the sample [7] to be tested; transfer the syringe to the filling orifice, taking care not to lose any sample; discharge the test specimen into the cup by full depressing the syringe plunger, remove the syringe.

(5)(i) Set the timer [8] by rotating its knob clockwise to its stop. Open the gas control valve and light the pilot and test flames. Adjust the test flame with the pinch valve to conform to the size of the 4-mm (5/32-in.) gage.

(ii) After the time signal indicates the specimen is at test temperature [8], apply the test flame by slowly and uniformly opening the shutter and closing it completely over a period of approximately 2½ s.[9] Watch closely for a flash at the cup openings.

(iii) The sample is deemed to have flashed when a large flame appears and instantaneously propagates itself over the surface of the sample (see § 1500.43a(c)).

(6) Record the test results as "flash" or "no flash" and the test temperature.

(7) Turn off the pilot and test flames using the gas control valve. Remove the sample and clean the instrument. It may be necessary to allow the cup temperature to decline to a safe level before cleaning.

(j) *Test Method B—for determining Finite or Actual Flashpoint.* (1) Inspect the inside of the sample cup, lid, and shutter mechanism for cleanliness and freedom from contamination. Use an absorbent paper tissue to wipe clean, if necessary. Put cover in place and lock securely. The filling orifice may be conveniently cleaned with a pipe cleaner.

(2) For expected flashpoints below ambient. (i) The instrument power switch is to be in off position. Fill the refrigerant-charged cooling block with a suitable material.[5] Raise the lid and shutter assembly, and position the base of the block in the sample cup, being careful not to injure or mar the cup. When the thermometer reaches a temperature 5 to 10°C (10 to 20°F) below the expected flashpoint, remove the cooling block and quickly dry the cup with a paper tissue to remove any moisture. Immediately close the lid and shutter assembly and secure. Prepare to introduce the sample using the syringe, both of which have been precooled to a temperature 5 to 10°C (10 to 20°F) below the expected temperature (See § 1500.43a(j)(5)).

(ii) Caution: Do not cool the sample block below −38°C, the freezing point of mercury.

(3) For tests where the expected flashpoint is above ambient. Turn the coarse temperature control knob fully clockwise (full on) causing the indicator light to illuminate. When the thermometer reaches a temperature 3°C (5°F) below the estimated flashpoint, turn the coarse temperature knob counter-clockwise to the dial reading representing the estimated flashpoint temperature as shown on the calibration curve (See § 1500.43a(h)(1)). When the indicator light slowly cycles on and off, read the temperature on the thermometer. If necessary, adjust the fine temperature control knob to obtain the exact desired temperature.

(4)(i) Charge the syringe [7] with a 2 ml specimen of the sample [7] to be tested; transfer the syringe to the filling orifice, taking care not to lose any sample; discharge the test specimen into the cup by fully depressing the syringe plunger; remove the syringe.

(ii) Set the timer [10] by rotating its knob clockwise to its stop. Open the gas control valve and ignite the pilot and test flames. Adjust the test flame with the pinch valve to conform to the size of the 4-mm (5/32-in.) gage.

(iii) After the audible time signal indicates the specimen is at test temperature,[10] apply the test flame by slowly and uniformly opening the shutter and then closing it completely over a period of approximately 2½ s. Watch closely for a flash at the cup opening.

(iv) The sample is deemed to have flashed only if a large flame appears and instantaneously propagates itself over the surface of the sample. (See § 1500.43a(c).)

(v) Turn off the pilot and test flames using the gas control valve. When the cup temperature declines to a safe level, remove the sample and clean the instrument.

(5)(i) If a flash was observed in § 1500.43a(j)(4)(iii) repeat the procedure given in section 1500.43a(j)(2) or (3), and in section 1500.43a(j)(4), testing a new specimen at a temperature 5°C (9°F) below that at which the flash was observed.

(ii) If necessary, repeat the procedure in § 1500.43a(j)(5)(i), lowering the temperature 5°C (9°F) each time, until no flash is observed.[9]

(iii) Proceed to § 1500.43a(j)(7).

(6)(i) If no flash was observed in § 1500.43a(j)(4)(iii) repeat the procedure given in § 1500.43a(j)(2) or (3), and in § 1500.43a(j)(4), testing a fresh specimen at a temperature 5°C (9°F) above that at which the specimen was tested in § 1500.43a(j)(4)(iii).

(ii) If necessary repeat the procedure in § 1500.43a(j)(6)(i), above, raising the temperature 5°C (9°F) each time until a flash is observed.[9]

(7) Having established a flash within two temperatures 5 °C (9 °F) apart, repeat the procedure at 1 °C (2 °F) intervals from the lower of the two temperatures until a flash is observed.[9] Record the temperature of the test when this flash occurs as the flashpoint, allowing for any known thermometer correction. Record the barometric pressure.[4]

(8) The flashpoint determined in § 1500.43a(j)(7) will be to the nearest 1 °C (2 °F). If improved accuracy is desired (that is, to the nearest 0.5 °C (1 °F)), test a fresh specimen at a temperature 0.5 °C (1 °F) below that at which the flash was observed in § 1500.43a(j)(7). If no flash is observed, the temperature recorded in § 1500.43a(j)(7), is the flashpoint to the nearest 0.5 °C (1 °F). If a flash is observed at the lower temperature, record this latter temperature as the flashpoint.

(9) Turn off the pilot and test flames using the gas control valve. When the cup temperature declines to a safe level, remove the sample and clean the instrument.

(k) *Calculations.* If it is desired to correct the observed finite flashpoint for the effect of barometric pressure, proceed as follows: Observe and record the ambient barometric pressure[4] at the time of the test. If the pressure differs from 101.3 kPa (760 mm Hg), correct the flashpoint as follows:

[7] For target or expected temperatures below ambient, both syringe and sample must be precooled to cup temperature (see § 1500.43a(i)(3)(i)) before the specimen is taken.

[8] For target temperatures below ambient, do not set the timer. Adjust the test flame and allow the temperature to rise under ambient conditions until the target temperature is reached. Immediately apply the test flame as detailed.

[9] Never apply the test flame to the specimen more than once. Fresh portions of the sample must be used for each test.

[10] For expected flashpoint below ambient, do not set the timing device. Adjust the test flame. Allow the temperature to rise under ambient conditions until the temperature reaches 5°C (9° F) below the expected flashpoint. Immediately apply the test flame.

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(1) Corrected flashpoint (°C)=C+0.25 (101.3–A)

(2) Corrected flashpoint (°F)=F+0.06 (760–B)

(3) Corrected flashpoint (°C)=C+0.03 (760–B)

Where: F=Observed flashpoint, °F,
C=observed flashpoint, °C,
B=ambient barometric pressure, mm Hg; and
A=ambient barometric pressure, kPa.

(l) *Precision.* The precision of the method as determined by statistical examination of interlaboratory results is as follows:

(1) Repeatability. The difference between two test results obtained by the same operator with the same apparatus under constant operating conditions on identical test material, would, in the long run, in the normal and correct operation of the test method, exceed the values shown in table 2 only in 1 case in 20.

(2) Reproducibility. The difference between two single and independent results obtained by different operators working in different laboratories on identical test material, would, in the long run, in the normal and correct operation of the test method, exceed the values shown in table 2 only in 1 case in 20.

(m) *Flash Test Apparatus.* (1)(i) Unit consisting of an aluminum alloy or nonrusting metal block of suitable conductivity with a cylindrical depression, or sample cup, over which is fitted a cover. A thermometer is embedded in the block.

(ii) The cover is fitted with an opening slide and a device capable of inserting an ignition flame (diameter 4±0.5 mm) into the well when the slide device shall intersect the plane of the underside of the cover. The cover is also provided with an orifice extending into the sample well for insertion of the test sample and also a suitable clamping device for securing the cover tightly to the metal block. The three openings in the cover shall be within the diameter of the sample well. When the slide is in the open position, the two openings in the slide shall coincide exactly with the two corresponding openings in the cover.

(iii) Electrical heaters are attached to the bottom of the cup in a manner that provides efficient transfer of heat. An electronic heat control is required to hold the equilibrium temperature, in a draft-free area, within 0.1 °C (0.2 °F) for the low-temperature tester. A visual indicator lamp shows when energy is or is not being applied. Energy may be supplied from 120 or 240 V, 50 or 60 Hz main service.

(2)(i) Test flame and pilot flame-regulatable test flame, for dipping into the sample cup to try for flash, and a pilot flame, to maintain the test flame, are required. These flames may be fueled by piped gas service. A gage ring 4mm (5/32 in.) in diameter, engraved on the lid near the test flame, is required to ensure uniformity in the size of the test flame.

(ii) Caution: Never recharge the self-contained gas tank at elevated temperature, or with the pilot or test flames lighted, nor in the vicinity of other flames.

(iii) Audible Signal is required. The audiable signal is given after 1 min in the case of the low-temperature tester.

(iv) Syringe. 2ml capacity, equipped with a needle suitable for use with the apparatus, adjusted to deliver 2.00± 0.05 ml.

(3) Essential dimensions of the test apparatus are set forth in table 3.

(n) *Testing high-viscosity liquids.* (1) High-viscosity materials may be added to the cup by the following procedure:

(i) Back load a 5 or 10-ml syringe with the sample to be tested and extrude 2 ml into the cup. Spread the specimen as evenly as possible over the bottom of the cup.

(ii) If the sample cannot be loaded into a syringe and extruded, other means of adding the sample to the cup may be used such as a spoon. Add approximately 2 ml of material to the spoon and then push the material from the spoon into the cup.

(iii) If the test specimen does not close the sampling port in the cup, seal the cup externally by suitable means.

(2) Using the appropriate procedure, either Method A in § 1500.43a(i) or Method B in § 1500.43a(j), determine the flashpoint of the specimen which has been added to the tester in accordance with § 1500.43a(n)(i), except that the time specified is increased from 1 to 5 minutes for samples at or above ambient temperature.

TABLE 1.—CALIBRATION OF TESTER

Material	*p*-xylene[A] (Caution).[B]
Specific gravity, 15.6/15.6°C (60/60°F).	0.850 to 0.866.
Boiling range	2°C maximum including 138.35°C (281.03°F).
Freezing point	11.23°C (52.2°F) minimum.
Flashpoint °C (acceptable range).	25.6± 0.5 (78± 1°F).

[A] Available as Flash Point Check Fluid (p-xylene) from Special Products Div., Phillips Petroleum Co., Drawer 'O,' Borger, Texas 79007.

[B] Caution: Handle xylene with care. Avoid inhalation; use only in a well-ventilated area. Avoid prolonged or repeated contact with skin. Keep away from flames and heat, except as necessary for the actual flash point determination.

TABLE 2.—REPEATABILITY AND REPRODUCIBILITY

Temperature, °C (°F)	Repeatability, °C (°F)	Reproducibility, °C (°F)
20(68)	0.5(0.9)	1.4(2.6)
70(158)	0.5(0.9)	2.9(5.3)
93(200)	1.3(2.3)	4.9(8.8)
150(300)	2.0(3.6)	7.5(13.5)
200(400)	2.6(4.7)	9.9(17.9)
260(500)	3.3(5.9)	12.4(22.3)

TABLE 3.—ESSENTIAL DIMENSIONS OF FLASH TEST APPARATUS [A, B]

Sample Block	
Block diameter	61.5–62.5
Sample well diameter	49.40–49.70
Sample well depth	9.70–10.00
Top of block to center of thermometer hole	16.00–17.00
Diameter of thermometer hole (approx.)	7.00
Cover	
Large opening length	12.42–12.47
Large opening width	10.13–10.18
Small opening length	5.05–5.10
Small opening width	7.60–7.65
Distance between extreme edges of small openings	48.37–48.32
Filling orifice diameter	4.00–4.50
Bore or filler tube	1.60–1.65
Maximum distance of filler tube from base of well with cover closed (max.)	0.76
Slide	
Large opening length	12.42–12.47
Large opening width	10.13–10.18
Small opening length	5.05–5.10
Small opening width	7.60–7.65
Near edge of large opening to end of slide	12.80–12.85
Extremes of large and small openings	30.40–30.45
Jet	
Length of jet	18.30–18.40
External diameter at end of jet	2.20–2.60
Bore of jet	1.60–1.65
Height of jet center above top surface of cover	11.00–11.20
Jet pivot to center of block with cover closed	12.68–12.72

[A] The O-seal or gasket which provides a seal when the cover is shut, should be made of a heat-resistant material capable of withstanding temperatures up to 150 °C for the low-range apparatus.

[B] When in position, the thermometer bulb should be surrounded with heat-conducting thermoplastic compound, such as a paste comprised of zinc oxide and mineral oil.

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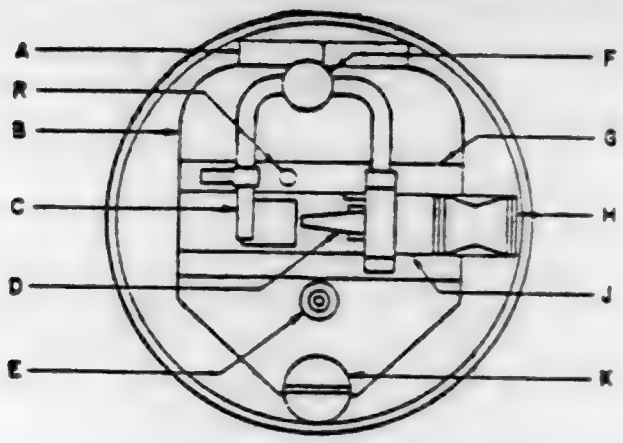

A - Hinge
B - Lid
C - Pilot flame jet
D - Test flame jet
E - Filling orifice
F - Test flame gas control screw
G - Shutter guide
H - Shutter knob
J - Shutter
K - Lid lock
L - Lid sealing O-ring
M - Thermometer
N - Sample cup
P - Thermometer pocket
R - Test flame guage

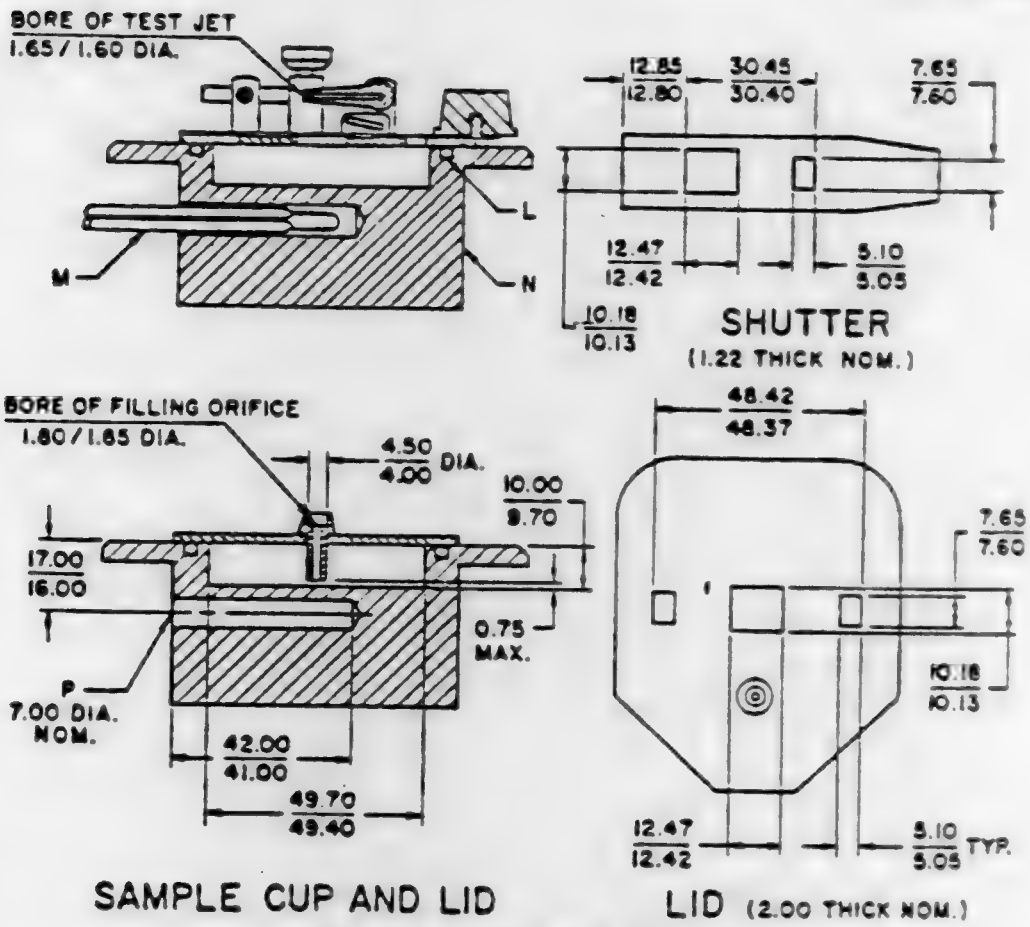

(All dimensions are in millimeters)

FIGURE 1 - Closed-cup tester

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5. Section 1500.46 is revised to read as follows:

§ 1500.46 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.

Use the apparatus described in § 1500.43a. Use some means such as dry ice in an open container to chill the pressurized container. Chill the container, the flash cup, and the bath solution of the apparatus (brine or glycol may be used) to a temperature of about 25 ° F below zero. Puncture the chilled container to exhaust the propellant. Transfer the chilled formulation to the test apparatus and test in accordance with the method described in § 1500.43a.

Effective date: These amendments shall be effective on August 10, 1987.

Dated: July 31, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Memorandum from Robert E. Frye, CPSC, to James Sharman, concerning injuries from flammable liquids; 1 page; September 20, 1985.

2. Memorandum from Donald F. McCaulley, CPSC, to George Anikis, CPSC, concerning briefing package for flashpoint changes in the FHSA; 9 pages; April 6, 1979.

3. Memorandum from Donald F. McCaulley, CPSC, to Stan Morrow, CPSC, concerning FHSA flammability test revisions, with attachments; 27 pages; February 22, 1980.

4. Final report "Flammability Criteria Changes: Consumer Products Affected and Related Economic Impacts," by Donald Slivka and John J. Scarry, Batelle, Columbus Division; 46 pages; February 27, 1980.

5. Memorandum from Julia Clones, CPSC, to Stan Morrow, CPSC, concerning FHSA test-method changes, with attachment; 4 pages; March 27, 1980.

6. Report on additional evidence in support of closed cup flashpoint method by Joseph M. Kuchta Safety Research Center, Bureau of Mines, U.S. Department of the Interior; 10 pages; June 18, 1970.

7. Memorandum from Allen F. Brauninger, OGC to the Commission concerning amendment of regulations for classification of flammable hazardous substances and specification of test method to determine flashpoint temperatures, with attachment; 55 pages; March 2, 1984.

8. Vote sheet for approval of draft **Federal Register** notice to propose amendment of regulations for classification of flammable hazardous substances and specification of test method to determine flashpoint temperatures; 1 page; March 2, 1984.

9. **Federal Register** notice proposing amendment of regulations for classification of flammable hazardous substances and specification of test method to determine flashpoint temperatures; 11 pages; April 26, 1984.

10. Comment from H.B. Fuller Company concerning proposed amendment of flammability regulations; 3 pages; June 4, 1984.

11. Comment from Control Data Corporation concerning proposed amendment of flammability regulations, with attachments; 7 pages; June 11, 1984.

12. Comment from Adhesives Manufacturers Association concerning proposed amendment of flammability regulations; 2 pages; August 7, 1984.

13. Comment from Koppers Company, Inc. concerning proposed amendment of flammability regulations; 2 pages; August 15, 1984.

14. Comment from the Adhesive and Sealant Council concerning proposed amendment of flammability regulations; 2 pages; August 22, 1984.

15. Comment from Union Oil Company of California concerning proposed amendment of flammability regulations; 1 page; August 20, 1984.

16. Comment from Chemical Specialties Manufacturers Association concerning proposed amendment of flammability regulations; 6 pages; August 23, 1984.

17. Comment from American Petroleum Institute concerning proposed amendment of flammability regulations; 2 pages; August 22, 1984.

18. Comment from Erdco Engineering Corporation concerning proposed amendment of flammability regulations; 5 pages; August 21 and August 27, 1984.

19. Memorandum from Donald F. McCaulley, HSHL, to Allen F. Brauninger, OGC, concerning issues raised by comments on proposed amendments of flammability regulations; 6 pages; March 15, 1985.

20. Memorandum from Charles M. Jacobson, CARM, to Allen F. Brauninger, OGC, concerning comment on proposed amendment of flammability regulations; 1 page; November 12, 1985.

[FR Doc. 86-17807 Filed 8-7-86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income: Payment of Travel Expenses; Office of Management and Budget Control Number

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations supply the Office of Management and Budget (OMB) control number for the information collection requirements in §§ 404.999d and 416.1499 of our final regulations on payment of travel expenses published March 14, 1986 (51 FR 8805). OMB approved the requirements April 15, 1986, under the Paperwork Reduction Act of 1980, and approval expires April 30, 1989. Upon this publication of the OMB control number, the information collection requirements in §§ 404.999d and 416.1499 become effective.

EFFECTIVE DATE: These final regulations are effective August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7519.

SUPPLEMENTARY INFORMATION: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), Federal agencies are required to obtain OMB approval of information collection requirements that are contained in any regulations published by the agencies. To implement provisions of this act, OMB issued regulations. 5 CFR Part 1320. OMB's regulations require Federal agencies to notify the public that an information collection requirement has been approved by OMB by issuing a notice in the **Federal Register**, and to display as part of the agency's regulatory text the control number assigned by OMB after approval of the requirement.

Executive Order 12291

The Assistant Secretary for Management and Budget has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

Sections 404.999d and 416.1499 of these regulations contain information collection requirements which have been approved by OMB under control number 0960-0434.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. The effect of these regulations is to permit the information collection requirements in §§ 404.999d and 416.1499 of our previously published regulations to become effective. Those regulations apply directly only to individuals. Any indirect impact on small entities that provide transportation services will be too small and diffuse to be significant. Therefore, a regulatory flexibility analysis as required by Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not necessary.

(Catalog of Federal Domestic Assistance Program Nos. 13.803—Social Security Disability Insurance; 13.802–Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance; 13.807—Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: July 10, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 1, 1986.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

PARTS 404 AND 416—[AMENDED]

Parts 404 and 416 of 20 CFR are amended as follows:

1. The authority citation for Subpart J of Part 404 is revised to read as follows, and all other authority citations which appear throughout Subpart J are removed:

Authority: Secs. 201, 204, 205, 1102, 1127, and 1631 of the Social Security Act (42 U.S.C. 401, 404, 405, 1302, 1327, and 1383); sec. 5 of Reorganization Plan No. 1 of 1953.

2. Section 404.999d is amended by revising the parenthetical note at the end to read as follows:

§ 404.999d When and how to claim reimbursement.

* * * * *

(Approved by the Office of Management and Budget under control number 0960–0434.)

3. The authority citation for Subpart N of Part 416 is revised to read as follows, and all other authority citations which appear throughout Subpart N are removed:

Authority: Secs. 205, 1102, 1631, and 1633 of the Social Security Act (42 U.S.C. 405, 1302, 1383, and 1383b).

4. Section 416.1499 is amended by revising the parenthetical note at the end to read as follows:

§ 416.1499 When and how to claim reimbursement.

* * * * *

(Approved by the Office of Management and Budget under control number 0960–0434.)

[FR Doc. 86–17883 Filed 8–7–86; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 176

[Docket No. 84F–0285]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of increased levels of 1,2-dibromo-2,4-dicyanobutane as a preservative in the manufacturer of paper and paperboard that may contact food. This action responds to a petition filed by Calgon Corp.

DATES: Effective August 8, 1986; objections by September 8, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 26, 1984 (49 FR 37850), FDA announced that a petition (FAP 4B3814) had been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of increased levels of 1,2-dibromo-2,4-dicyanobutane as a preservative in the manufacture of paper and paperboard that may contact food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petitions are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule pubished in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before September 8, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the hearing of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food and Safety and Applied Nutriton, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 176.170(b)(2) table by revising the entry for "1,2-Dibromo-2,4-dicyanobutane" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *
(2) * * *

List of substances	Limitations
* * *	* * *
1,2-Dibromo-2,4-dicyanobutane (CAS Reg. No. 35691-65-7).	For use only as a preservative at levels not more than 0.05 weight percent and not less than 0.01 weight percent in latexes used as pigment binders in coatings; in pigment slurries used in coatings; and/or in coatings themselves. The total level of the preservative in the finished coating shall not exceed 0.04 weight percent of the finished coating solids.
* * *	* * *

Dated: August 1, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 17853 Filed 8-7-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510, 520, 522, 546, and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of several new animal drug applications (NADA's) from SDS Biotech Corp. to Fermenta Animal Health Co., a subsidiary of SDS Biotech Corp.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-8243.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 7528 Auburn Rd., P.O. Box 8001, Painesville, OH 44077, filed supplemental NADA's providing for a change of sponsor from SDS Biotech Corp. Fermenta Animal Health Co. is a subsidiary of SDS Biotech Corp. The NADA's affected are:

NADA	Product	Ingredient
31-512	ATGARD V/Swine Wormer.	Dichlorvos.
33-903	TASK Dog Anthelmintic	Dichlorvos.
35-918	EQUIGARD/Horse Wormer.	Dichlorvos.
38-200	OXY WS (Turkey)	Oxytetracycline hydrochloride.
39-077	CSP 250, CSP 500 (Swine).	Chlortetracycline sulfathazole, penicillin.
40-846	ATGARD C Swine Wormer.	Dichlorvos.
43-606	ATGARD V/Swine Wormer.	Dichlorvos.
45-143	OXYJECT (Cattle)	Oxytetracycline hydrochloride.
46-699	CTC Premixes (e.g., CTC 10, CTC 50, CTC 100 MR) (Swine, Chicken, Turkey).	Chlortetracycline.
48-237	EQUIGEL Equine Anthelmintic.	Dichlorvos.
48-271	TASK TABS Anthelmintic for Cats & Puppies.	Dichlorvos.
49-032	ATGUARD C Production Efficiency Improver (Swine).	Dichlorvos.
55-429	Micro CTC-100 (Chicken, Turkey, Swine).	Chlortetracycline.
65-178	CTC Soluble (Chicken, Turkey, Swine, Cattle).	Chlortetracycline hydrochloride.
65-486	CTC Bisulfate Soluble (Chicken, Turkey).	Chlortetracycline bisulfate.
97-452	OXYJECT 100 (Cattle, Swine).	Oxytetracycline hydrochloride.
134-844	DENAGARD Soluble Antibiotic.	Tiamulin.

This action concerns a change of sponsor and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Therefore, the NADA's and the regulations are amended in 21 CFR 510.600(c) to reflect the new sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

21 CFR Part 522

Animal drugs.

21 CFR Part 546

Animal drugs, Antibiotics.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts, 510, 520, 522, 546, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in paragraph (c)(1) by removing the entry "SDS Biotech Corp." and by adding a new entry alphabetically, and in paragraph (c)(2) by removing the entry "052313" and adding a new entry numerically, to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *
(1) * * *

Firm name and address	Drug labeler code
* * *	* * *
Fermenta Animal Health Co., 7528 Auburn Rd., P.O. Box 8001, Painesville, OH 44077	054273
* * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * *
054273	Fermenta Animal Health Co., 7528 Auburn Rd., P.O. Box 8001, Painesville, OH 44077.
* * *	* * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 520.600 [Amended]

4. Section 520.600 *Dichlorvos* is amended in paragraph (c) by removing "052313" and inserting in its place "054273."

§ 520.2455 [Amended]

5. Section 520.2455 *Tiamulin* is amended in paragraph (b) by removing "052313" and inserting in its place "054273."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

6. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 522.1662a [Amended]

7. Section 522.1662a *Oxytetracycline hydrochloride injection* is amended in paragraphs (a)(2) and (g)(2) by removing "052313" and inserting in its place "054273."

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

8. The authority citation for 21 CFR Part 546 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.110c [Amended]

9. Section 546.110c *Chlortetracycline powder (chlortetracycline hydrochloride powder)* is amended in paragraph (c)(2) by removing "052313" and inserting in its place "054273."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

10. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.15 [Amended]

11. Section 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* is amended in paragraph (g)(1) in the table under "Drug sponsor" by changing "SDS Biotech Corp." to read "Fermenta Animal Health Co.," and in paragraph (g)(2) in the table under "Drug sponsor" by changing "SDS Biotech Corp." to read "Fermenta Animal Health Co."

§ 558.155 [Amended]

12. Section 558.155 *Chlortetracycline, procaine penicillin, and sulfathiazole* is amended in paragraph (a) (1) and (2) by removing "052313" and inserting in its place "054273."

§ 558.205 [Amended]

13. Section 558.205 *Dichlorvos* is amended in paragraph (a) by removing "052313" and inserting in its place "054273."

Dated: July 25, 1986.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 86–17852 Filed 8–7–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that reflected approval of a supplemental new animal drug application that provided for the safe and effective use of lincomycin. That document failed to reflect a reorganization of the regulations that FDA published in the **Federal Register** of March 3, 1986 (51 FR 7384). This document corrects that oversight.

EFFECTIVE DATE: April 9, 1986.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 86–7825 appearing on page 12137 in the issue of Wednesday, April 9, 1986, the following corrections are made:

§ 558.325 [Corrected]

1. On page 12137, third column, amendment 2. should have read "2. In § 558.325 by revising paragraph (a) and by adding new paragraph (c)(2)(v) to read as follows:"

2. On page 12137, third column, under § 558.325 *Lincomycin*, the paragraph designated as "(b)" should have been designated as "(a)" and all references in that paragraph to "(f)" should have read "(c)".

3. On page 12138, first column, under § 558.325 *Lincomycin*, the paragraph designated as "(f)" should have been designated as "(c)".

Dated: July 25, 1986.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

FR Doc. 86–17851 Filed 8–7–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing, Federal Housing Commissioner

24 CFR Parts 207 and 221

[Docket No. R–86–1301; FR–2125]

Technical Revision of Multifamily Provisions Relating To Discrimination Against Families With Children

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule revises HUD regulations in Parts 207 and 221 to clarify that the prohibition on discrimination against families with children is inapplicable to projects specifically designed for housing the elderly or handicapped. In the case of Part 207 this rule only applies to the insurance of mortgages covering existing projects. It revises existing language on this subject matter to set out the current HUD practice of requiring a nondiscrimination certification (by mortgagors)—*except* in the case of projects for the elderly or handicapped. The existing regulation purports to require a case-by-case FHA Commissioner "determination" with regard to the intended occupancy of the project. Such a determination is in fact not made separately and the rule revises the language of the regulation to more clearly reflect actual practice.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: James L. Hamernick, Office of Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–6500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under current departmental practice, mortgages for projects designed for housing the elderly or handicapped may be insured or coinsured under section 221, or under section 207 pursuant to section 223(f). The statutory provision in section 207(b)(2) of the National Housing Act, prohibiting mortgagor discrimination against families with children, is not applicable to such projects. However, current regulations in Part 221 do not recognize an exception for such projects, and the exception in current § 207.32a(h) is not a clear reflection of the actual method used to except multifamily projects from the otherwise applicable nondiscrimination requirement. This rule would revise §§ 207.32a(h) and 221.536(a) to more clearly reflect existing practice, which does not require the certification of nondiscrimination against families with children where projects are specifically designed for the elderly or handicapped.

Procedural Requirements

This rule is a procedural revision of the kind excluded by 24 CFR 50.20 from

the environmental review requirements of 24 CFR Part 50—HUD's rules implementing the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14060) under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.135 and 14.137.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule reflects no change in HUD programs or policies.

The Department usually provides for prior notice and comment, even when not required by the Administrative Procedure Act, before a rule is published for effect. Although this is the general policy of the Department, we have determined in this instance, given that the rule is merely a technical clarification of existing policy and is noncontroversial, that to delay the rule's implementation would not be in the public interest. Accordingly, the Department has determined that good cause exists for publishing these changes as a final rule.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing.

24 CFR Part 221

Mortgage insurance, Low and Moderate income housing.

Accordingly, Parts 207 and 221 are amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 207 continues to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 207.32a(h)(1) is revised to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

* * * * *

(h) *Occupancy requirements.* (1) The mortgagor shall certify under oath to the Commissioner that as long as the Commissioner is the insurer, holder or reinsurer of the mortgage, the mortgagor will not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

3. The authority citation for 24 CFR Part 221 continues to read as follows:

* * * * *

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715l); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 221.536, the introductory paragraph and paragraph (a) are revised to read as follows:

§ 221.536 Occupancy requirements applicable to all mortgagors.

The mortgagor shall certify under oath to the Commissioner that as long as the Commissioner is the insurer, holder or reinsurer of the mortgage, the mortgagor will not:

(a) Use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped;

Dated: August 5, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 86-18004 Filed 8-7-86; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Parts 203 and 204

[Docket No. R-86-0636; FR-837]

Mutual Mortgage Insurance and Rehabilitation Loans, Condition of Property—Adjustment for Damage or Neglect

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes the conditions under which HUD will accept a conveyance of a damaged single family property or an assignment of the mortgage on such a property. On August 26, 1980, the Department published an interim rule (at 45 FR 56800), which this action makes final. Among other things, this final rule states the circumstances under which HUD will accept a conveyance or mortgage assignment relating to a fire-damaged property, and states the procedures that govern whether HUD will make a deduction from the insurance benefits for which the mortgagee has made a claim, to offset the costs of repairs.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Fred Pfaender, Acting Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, (202) 755-6672 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department's regulations governing "contract rights and obligations" that pertain to its insurance of single family homes under section 203 of the National Housing Act, 12 U.S.C. 1709, appear at Subpart B of 24 CFR Part 203. This rule makes final, with amendments, the interim rule at 24 CFR 203.379. In addition, the rule makes final, without change, technical amendments that the interim rule made to 24 CFR 203.402(c) and 204.322(c).

A. Interim Rule

Section 203.379 (adjustment for damage or neglect) sets out conditions under which HUD, as insurer of the mortgage, will accept the conveyance of a property or the assignment of a mortgage on a property (where the mortgage is FHA insured), when the property has been damaged. Under the interim rule, if damage has occurred as a

result of fire, flood, earthquake, tornado, or, for mortgages insured after January 1, 1977, because the mortgagee failed to take necessary actions (delineated at 24 CFR 203.377, "Inspection and preservation of properties") to protect and preserve a vacant or abandoned property, HUD will generally not accept the property conveyance or mortgage assignment unless the damage has already been repaired. However, the rule also delineates specific conditions, that are exceptions to the general rule, under which the Department will accept a conveyance of the damaged property or assignment of the mortgage.

The first exception, 24 CFR 203.379(a), addresses the situation where a mortgagee does not wish to make repairs to the damaged property before conveying the property or assigning the mortgage to the Department. The rule states that the Department may elect to accept the conveyance or assignment, subject to its deducting from the mortgagee's (FHA) insurance benefits either: (1) The cost of making the repairs as estimated by HUD; or (2) Any hazard insurance benefit received by the mortgagee (under its hazard insurance policy), whichever amount is greater. Thus, the impact of this exception to the general rule is that the mortgagee will still bear the costs of the repairs, but will not be required to make them before the conveyance or assignment.

The second exception, 24 CFR 203.379(b), applies specifically to a conveyance or assignment related to fire-damaged property. It addresses the situation where a mortgagee, for reasons considered acceptable under the rule, has been unable to maintain fire insurance coverage that is sufficient to protect the mortgagee's "continuing interest" (*i.e.*, coverage not less than an amount sufficient to repair the damage to the property in case of a partial loss, or to pay the mortgage in full in the case of total loss). This provision recognizes the unwillingness of fire-insurance carriers to extend or renew "continuing interest" coverage, where the fair market value of the property has become less than the outstanding amount of the mortgage principal balance, or in other cases where a hazard insurance carrier considers a risk to be unacceptable (e.g., vacant properties).

Under the interim rule, the Department will accept the conveyance or assignment and pay the mortgagee the full amount of FHA benefit, subject only to the deduction of the fire insurance benefit, if any, actually received by the mortgagee. The mortgagee, however, is required to make express certifications under this part of the interim rule. In essence, the mortgagee must certify that: (1) At the time HUD insured the mortgage, the property was covered by fire insurance adequate to protect the mortgagee's continuing interest; (2) the insurer later cancelled this coverage or refused to renew it for reasons other than nonpayment of premium, and the mortgagee could not thereafter secure such coverage; (3) the mortgagee made diligent, albeit unsuccessful, efforts annually to secure replacement coverage or coverage under a FAIR Plan, at a "reasonable rate" (as defined in 24 CFR 203.379(c)); and (4) the mortgagee has complied with the requirements in 24 CFR 203.377, pertaining to protecting and preserving a property which has been vacated or abandoned.

The interim rule specifically amended the former rule at 24 CFR 203.379(b) to eliminate the requirement that a mortgagee must notify the Department within 30 days of an insurance carrier's cancellation of, or refusal to renew, a fire insurance policy. Also, the rule defined the terms "reasonable rate" and "sufficient to protect the mortgagee's continuing interest" (at 24 CFR 203.379(c) and (d) respectively), and required the mortgagee to certify (at § 203.379(b)(1)) that at the time HUD insured the mortgage, the mortgagee had fire insurance *sufficient to protect its continuing interest.* (emphasis added). Under the former rule that existed before HUD's adoption of the interim rule in 1980, a mortgagee was required to certify that at the time the mortgage was HUD-insured, the property was covered by fire insurance. The interim rule did not amend the former requirement at 24 CFR 203.379(a).

In addition, the interim rule made technical amendments to 24 CFR 203.402(c) and 204.322(c). Section 203.402 identifies items that are included in insurance benefits paid by HUD to a mortgagee in connection with a conveyed property. Section 204.322 identifies items for which insurance benefits are paid in the situation where the mortgage on a conveyed property is subject to HUD's single family coinsurance regulations. Each section contains a provision, §§ 203.402(c), and 204.322(c), respectively, that identifies "hazard insurance premiums" as an item for which benefits are paid. Each subsection states that the benefits paid will include "hazard insurance premiums . . . not in excess of a reasonable rate as defined in § 203.379(c)," (with benefits prorated to the date of disposition of the property, in the coinsurance situation). Under the interim rule at § 203.379(c), a "reasonable rate" is defined as one "not in excess of the rate or advisory rate set by the principal State-licensed rating organization for essential property insurance in the voluntary market, or if coverage is available under a FAIR Plan, the FAIR Plan rate."

B. Comments and Discussion

Two comments were submitted in response to the interim rule. The commenters expressed concern with the requirement in § 203.379(b)(1), under which a mortgagee must certify that "*at the time the mortgage was insured*, the property was covered by fire insurance in an amount and under such terms *sufficient to protect the mortgagee's continuing interest . . .*" (emphasis added). Commenters noted that even at the time of HUD's insurance endorsement, in some areas, it is becoming increasingly difficult to acquire "continuing interest" coverage. Rather, private insurance companies, and State governments offering FAIR Plans, frequently write fire insurance policies that only contemplate payments not in excess of the fair market value of a property at the time of the damage. Accordingly, commenters argue that many mortgagees will not be able to gain relief under § 203.379(b) unless the certification requirement in § 203.379(b)(1) is revised.

The Department does not by regulation require a mortgagee of an FHA-insured single-family property to acquire hazard (e.g., fire) insurance on the property. However, under the general rule at 24 CFR 203.379, and the exception at 24 CFR 203.379(a), the mortgagee must bear the cost of necessary repairs to an FHA-insured property in the event of a conveyance or assignment. For this reason, a mortgagee, for its own financial protection, may elect to acquire hazard insurance. The exception to the general rule, at 24 CFR 203.379(b)(1), is narrowly drawn to cover the singular situation where a mortgagee initially acquired fire insurance sufficient to cover its continuing interest, but subsequently, through no fault of the mortgagee's and despite diligent efforts, could not maintain such insurance coverage. The Department will absorb repair costs in this instance, because the mortgagee's changing circumstances were not forseeable at the time of insurance endorsement, and were beyond the mortgagee's control.

However, it is now necessary to revise somewhat the certification provision in § 203.379(b)(1) given the

practical problems alluded to by the commenters, and the fact that mortgagees may also be precluded from acquiring "continuing interest" type coverage under various State laws that limit hazard insurance amounts to that sufficient to restore the improvements on a property, as opposed to the value of land plus improvements. For example, see Connecticut Public Act No. 84-212, effective October 1, 1984.

In revising this certification requirement, HUD must strike a balance between, on the one hand, a "level of insurance coverage" requirement with which mortgagees can reasonably comply, and on the other, HUD's express intention (now, as always) not to be a *carte blanche* insurer against property damage to homes with HUD-insured mortgages.

The term "continuing interest" used in the regulation was coined and defined by the Department at the time it adopted the interim rule. We have since ascertained, however, that as a practical matter, this amount of coverage may not be available to a mortgagee because, at the time coverage is sought, the mortgage balance may exceed the value of the property. As noted, in some States insurance recoveries may be limited by law so as not to exceed property values. Also, an insurer may refuse to cover a property in an amount exceeding its market value. Typical hazard insurance coverage relates to the value of the insured property rather than the balance of the mortgage loan. "Cost value" coverage takes depreciation into account in calculating any insurance recovery. "Replacement cost" coverage, which commands a higher premium, does not consider depreciation, but allows a recovery sufficient to replace the property in the event of a total loss or to fully compensate for any partial damage. Since "continuing interest" coverage may not be accessible to a HUD mortgagee (and, accordingly, under § 203.379(b), in such cases the Department will become the hazard insurer), it makes little sense to require this level of coverage in the certification provision.

HUD will now revise the rule. Initially, the rule will require a mortgagee to certify that, at the time the mortgage was insured by HUD, the property was covered by fire insurance in an amount at least equal to the lesser of 100 percent of the insurable value of the improvements (*i.e.*, the value of property exclusive of land value), or the mortgage loan principal balance. This requirement recognizes the need to acquire coverage sufficient to cover the mortgagee's financial interest in the property to the fullest extent possible. If such coverage is later cancelled or not renewed for reasons other than nonpayment of premium, the certifying mortgagee (under § 203.379(b)(2) would be required to have sought a substitute hazard insurance policy, at a reasonable rate, that provided coverage equivalent to the lesser of the value of the property improvements, the mortgage balance, or if neither of these coverages is available, whatever lesser coverage is available at reasonable rates. In essence, the mortgagee must obtain the best coverage available at a reasonable rate. If a fire occurred, and this coverage proved inadequate to cover the mortgagee's financial interest in the property (*i.e.*, the mortgage principal balance) or to fully repair the property, only the amount of insurance recovery received by the mortgagee would be deducted from the HUD insurance benefits paid under a claim. If no hazard coverage was available at reasonable rates, the claim would not be surcharged.

The revised rule will ensure that a mortgagee seeking relief under the special exception provision seeks and obtains a reasonable measure of hazard insurance protection on the property at the time that HUD originally insures the mortgage. Because the final rule recognizes and addresses a potential problem that arose under the interim rule, its application shall be made retroactive to the date upon which the interim rule took effect. Thus, the rule revision will apply to mortgagees that issued mortgage loans insured by HUD on or after September 22, 1980. The revised section indicates that for loans insured by HUD before that date, the certification requirement in effect before September 22, 1980 applies.

C. Other Matters

The definition of "reasonable rate" at 24 CFR 203.379(c) does not provide for the situation where a State neither offers a FAIR Plan nor has a State-licensed rating organization for essential property insurance in the voluntary market. Where this situation occurs, the final rule provides that the Department will accept a rate as reasonable if a mortgagee provides information about available rates and the Department finds that the rates approximate the FAIR Plan rate offered for comparable coverage on a similarly situated property in a (preferably contiguous) State that offers a FAIR Plan or maintains a State-licensed rating organization.

Four technical changes have been made to the interim regulation at § 203.379(b). Language has been added to clarify that the mortgagee must make the required certification at the time that the mortgagee's claim for insurance benefits is filed. Secondly, in § 203.379(b)(2) the word "or", where it appears for the third time in the paragraph, has been changed to "and". The word "or" in the interim rule was inserted as a result of a typographical error, and a reading of the preamble discussion of the 1980 interim rule makes clear that the relief offered mortgagees under this provision is only intended in cases where insurance is cancelled or renewal refused by a carrier, *and* efforts are made to obtain replacement coverage. Section 203.379(c) has been rephrased to update and simplify it. Finally, in § 203.379(b)(3), reference to the need for FAIR Plan approval by the Federal Emergency Management Agency (FEMA) has been deleted, since FEMA no longer approves or disapproves State Fair Plans (as of September 30, 1984).

Specific instructions for complying with the certification provisions at § 203.379(b) are included in Handbook 4330.1, Administration of Insured Home Mortgages, which is being amended in harmony with this final rule.

Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environment Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The collection of information requirements contained in this rule have been approved by the Office of

Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control no. 2502–0349.

Under the Regulatory Flexibility Act, 5 U.S.C. 601, the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because the final rule, which relaxes requirements on mortgagees making certification to qualify for insurance benefits, does not effect a substantial number of small entities, nor does it significantly alter the current economic impact on mortgagees involved in the mortgage insurance program.

This rule was listed as item number 857 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number is 14.117.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 204

Mortgage insurance.

Accordingly, the Department amends 24 CFR Parts 203 and 204 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for Part 203 shall continue to read as follows:

Authority: Secs. 203 and 211, National Housing Act, (12 U.S.C. 1709 and 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); In addition, Subpart C also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Section 203.379 is revised to read as follows:

§ 203.379 Adjustment for damage or neglect.

If the property has been damaged by fire, flood, earthquake or tornado, or, for mortgages insured on or after January 1, 1977, the property has suffered damage because of the mortgagee's failure to take action as required by § 203.377, the damage must be repaired before conveyance of the property or assignment of the mortgage to the Secretary, except under the following conditions:

(a) If the prior approval of the Commissioner is obtained, there will be deducted from the insurance benefits the Commissioner's estimate of the cost of repairing the damage or any insurance recovery received by the mortgagee, whichever is greater.

(b) If the property has been damaged by fire and was not covered by fire insurance at the time of the damage, or the amount of insurance coverage was inadequate to repair fully the damage, only the amount of insurance recovery received by the mortgagee, if any, will be deducted from the insurance benefits, provided the mortgagee certifies, at the time that a claim is filed for insurance benefits, that:

(1) At the time the mortgage was insured, the property was covered by fire insurance in an amount at least equal to the lesser of (i) 100 percent of the insurable value of the improvements, or (ii) the principal loan balance of the mortgage; and

(2) The insurer later cancelled this coverage or refused to renew it for reasons other than nonpayment of premium; and

(3) Within 30 days of any cancellation or non-renewal of hazard insurance, the mortgagee notified HUD, and has made diligent efforts (within that 30 day period, and at least annually thereafter) to secure other coverage or coverage under a FAIR Plan, in an amount described in paragraph (b)(1) of this section, or if coverage to such an extent was unavailable at a reasonable rate, the greatest extent of coverage that was available at a reasonable rate; and

(4) The extent of coverage obtained by the mortgagee in accordance with paragraph (b)(3) of this section was the greatest available at a reasonable rate, or if the mortgagee was unable to obtain insurance, none was available at a reasonable rate; and

(5) The mortgagee took the actions that § 203.377 requires.

The certification requirements set out in § 203.379(b) (above) apply to any mortgage insured by HUD on or after September 22, 1980, for which a claim has not been filed before September 30, 1986. Any mortgage insured on or after September 22, 1980, for which a claim has been filed before September 30, 1986, but the claim has not been settled before that date, will be governed by § 203.379(b) (1986 Edition) as it existed immediately before September 30, 1986.

(c)(1) As used in this section, "reasonable rate" means a rate that is not in excess of the rate or advisory rate set by the principal State-licensed rating organization for essential property insurance in the voluntary market, or if coverage is available under a FAIR Plan, the FAIR Plan rate.

(2) If a State has neither a FAIR Plan nor a State-licensed rating organization for essential property insurance in the voluntary market, the mortgagee must provide to the HUD Field Office having jurisdiction, information concerning the lowest rates available from an insurer for the types of coverage involved, with a request for a determination of whether the rate is reasonable. HUD will determine the rate to be reasonable if it approximates the rate assessed for comparable insurance coverage applicable to similarly situated properties in a State that offers a FAIR Plan or maintains a State-licensed rating organization.

(Approved by the Office of Management and Budget under control number 2502–0349.)

3. Section 203.402(c) is revised to read as follows:

§ 203.402 Items included in payment—conveyed properties.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in § 203.379(c).

* * * * *

PART 204—COINSURANCE

4. The authority citation for Part 204 shall continue to read as follows:

Authority: Secs. 244 and 211, National Housing Act (12 U.S.C. 17152–9 and 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5. Section 204.322(c) is revised to read as follows:

§ 204.322 Items included in payment.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in § 203.379(c), prorated to the date of disposition of the property.

* * * * *

Dated: August 5, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 86–18005 Filed 8–7–86; 8:45 am]

BILLING CODE 4210–27–M

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24 CFR Part 390

[Docket No. R–86–1161; FR–1962]

Government National Mortgage Association; Securitization of Adjustable Payment Mortgages

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

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SUMMARY: In this final rule, the Government National Mortgage Association (GNMA) amends its regulations to provide for adjustable payment mortgage-backed securities. The amendments allow the introduction of an adjustable payment mortgage-backed securities program intended to finance adjustable rate mortgages (*i.e.*, mortgages on which the interest rate is adjusted periodically based on a published national index). The regulatory amendments also authorize the securitization of other types of adjustable payment mortgages, which may be introduced by the Federal Housing Administration (FHA) or the Veterans Administration (VA). Other technical amendments are being made to the regulation to accommodate the introduction of the GNMA II Program, to consolidate the sections dealing with issuer default, and to clarify limits on issuer eligibility to issue securities.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Louis C. Gasper, Executive Vice President, Government National Mortgage Association, Room 6100, 451 Seventh Street, SW., Washington, DC 20410; Telephone (202) 755–5926. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181 (1983 Act), approved November 30, 1983, authorized HUD to insure various kinds of mortgage instruments which do not provide for fixed-rate, level payments. Accordingly, HUD issued an interim rule for adjustable rate mortgages (ARMs) on June 6, 1984 (49 FR 23580) and will soon issue a final rule on this subject. (While HUD has proposed a rule providing for the insurance of certain single family indexed mortgages (49 FR 23063) and has statutory authority under the 1983 Act to insure other alternative mortgage instruments, including shared appreciation mortgages and various non-level payment mortgages for multifamily properties, currently HUD plans only to implement the ARMs program.)

In order to provide a secondary market for these new instruments, on June 6, 1984 (49 FR 23586), GNMA issued an interim rule amending 24 CFR Part 390, Subpart C to provide for the securitization of these types of mortgages. The interim rule also made minor miscellaneous technical amendments to Part 390.

The interim rule was written in general terms in order to accommodate a wide variety of adjustable payment mortgages. The detailed requirements for the securities and their issuance are contained in the GNMA Mortgage-Backed Securities Guide. The preamble to the interim rule, however, described the general features of the program as follows.

The program is established only under the GNMA II Program. (However, GNMA's non-level payment subprograms for graduated payment mortgage-backed securities and for growing equity mortgage-backed securities continue to be available under both GNMA I and GNMA II Programs.) The GNMA II Program is chiefly characterized by a central paying and transfer agent, a later securities payment date, and a mechanism for allowing issuers to combine small loan packages into large multiple issuer pools against which securities are issued. All loans within any one pool must have precisely the same terms. Such terms include the type of index to be applied, the method of adjusting mortgage terms based on the index, the general maturity range of mortgages within a pool, the frequency of mortgage payment adjustment, the date of mortgage payment adjustments, and the applicability of ceiling (or caps) on periodic adjustments. However, loans with different initial interest rates can be included within the same pool if the interest rates fall within a one point range. The program employs the modified pass-through approach to the issuance of securities (24 CFR 390.45) and requires that investors be provided with full disclosure of the terms of the pooled mortgages and the method by which securities payments are adjusted.

The preamble to the interim rule stated that the adjustable payment mortgage-backed securities program would be implemented through two subprograms. The first subprogram is described in revisions to the GNMA Mortgage-Backed Securities Guide (GNMA–5500.2) issued July 9, 1984 and is intended to facilitate the financing of FHA-insured ARMs. This subprogram generally provides for a highly standardized securities instrument backed by ARMs originated under essentially identical terms.

The second subprogram allows the pooling of a wide range of different types of VA and FHA-insured adjustable payment mortgages that do not meet the strict requirements of the first program. This subprogram accommodates the financing of a range of innovative mortgage instruments. The implementation of this second program through revisions to the GNMA Mortgage-Backed Securities Guide, however, has been delayed until such time as HUD may decide to issue final regulations governing other alternative mortgage instruments.

GNMA invited comments on all aspects of the adjustable payment mortgage security program as well as comments on the interim rule. In response to this request, GNMA received five comments.

Commenters generally supported the interim rule and favored the description of the GNMA adjustable payment mortgage-backed securities program. Specific comments were received supporting the pooling of loans with diffferent interest rates (within a one percentage point range) and the requirement that adjustments be rounded to the nearest one-eighth of a percentage point.

Only two areas gave rise to adverse comment. The first involved the requirement that adjustable payment mortgages be placed in GNMA II multiple issuer pools. Most commenters felt that this requirement would be beneficial since it would promote volume and liquidity in the GNMA II Program and participation by small volume issuers. One commenter, however, noted that this requirement could cause potential adverse tax consequences to home builders under the builder bond program. However, as the commenter recognized, this concern has been alleviated through the use of custom pools which contain a single loan package.

The second area of controversy involved the index that may be used to compute interest rates for adjustable rate mortgages. The comments will be addressed in the final ARM rule.

The final rule makes certain minor technical changes to the interim rule. For example, the final rule deletes the reference to indexed mortgages in § 390.45 which describes characteristics of underlying mortgages in the non-level payment mortgage-backed securities program. Currently, HUD has no plans to implement its discretionary authority to insure these types of mortgages.

Findings

In accordance with 24 CFR 50.20(f), this rulemaking is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of this rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) Cause a major increase in cost or prices for consumers,

individual industries, Federal, State or local government agencies, or geographical regions; or (3) Have a significant adverse effect on competition, employment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule merely expands the types of mortgages eligible for GNMA mortgage-backed securities to include adjustable payment mortgages. It will impose no involuntary economic benefits or burdens.

This rule was listed as item 878 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14062) under Executive Order 12291 and the Regulatory Flexibility Act.

The adjustable payment mortgage-backed securities program is not listed in the Catalog of Federal Domestic Assistance.

List of Subjects in 24 CFR Part 390

Mortgage, Securities.

Accordingly, the interim rule published on June 6, 1984 (49 FR 23586), as amended by a March 7, 1985 final rule making nomenclature changes, is adopted as final without further change, except as indicated below.

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

1. The authority citations of Part 390, Subparts A, B, C, D and E are removed, and the authority citation for Part 390 is revised to read as follows:

Authority: Secs. 306(g) and 309(a) of the National Housing Act, 12 U.S.C. 1721(g) and 1723a(a); sec. 7(d) of the Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).

§ 390.45 [Amended]

2. Paragraph (a) of § 390.45 is amended by removing the phrase ", and indexed mortgages" wherever it appears in the first sentence.

Dated: July 31, 1986.

Glenn R. Wilson, Jr.,

President, Government National Mortgage Association.

[FR Doc. 86-17919 Filed 8-7-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8093]

Income Taxes; Below-Market Loans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Corrections to temporary rules.

SUMMARY: This document contains corrections to temporary regulations that were published in the **Federal Register** on July 10, 1986 (51 FR 25032) as Treasury Decision 8093. The rules relate to the treatment for Federal income tax purposes of both the lender and the borrower in certain below market interest rate loan transactions.

FOR FURTHER INFORMATION CONTACT: Sharon Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone 202-566-3828 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this corrections notice amended temporary Income Tax Regulations (26 CFR Part 1) under section 7872 of the Internal Revenue Code of 1954.

Need for Correction

As published, Treasury Decision 8093 inadvertently omitted the word "gift" in two locations in the preamble and in one location in the text of the regulations.

Correction of Publication

Accordingly, the publication of Treasury Decision 8093, which was the subject of FR Doc. 86-15618, is corrected as follows:

Paragraph 1. In the preamble, on page 25033, first column, in the paragraph captioned "Exemptions for Loans to Charitable Organizations", the word "gift" is added in the second sentence immediately before the word "loans", and in the third sentence immediately before the first appearance of the word "loans".

§ 1.7872-5T [Corrected]

Paragraph 2. In § 1.7872-5T, paragraph (b)(9), on page 25033, second column, in the first sentence the word "Loans" is removed and the words "Gift loans" are added in its place.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-17939 Filed 8-7-86; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Permanent State Regulatory Program of New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing its decision to further extend the deadline for New Mexico to promulgate and submit rules governing the training, examination and certification of blasters. On March 3, 1986, New Mexico requested an additional year for the development of a blaster certification program. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) were required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSMRE's regulations provides that the Director, OSMRE, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. In accordance with the State's request, the Director is granting the State an additional one year extension of time to submit a proposed blaster certification program.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Room 216, Albuquerque, New Mexico 87102; Telephone (505) 766-1486.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9686). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of

explosives in surface coal mining operations within 12 months after approval of a State program or within 12 months after publication date of OSMRE's rule at 30 CFR Part 850, whichever is later. In the case of New Mexico's program, the applicable date is 12 months after publication date of OSMRE's rule, or March 4, 1984.

On March 5, 1984, New Mexico advised OSMRE that it would be unable to meet the March 4, 1984 deadline and requested an extension to develop and adopt a blaster certification program. On May 14, 1984, OSMRE granted New Mexico an extension to March 4, 1985 (49 FR 20287).

On February 6, 1985, the Director of the New Mexico Energy and Mineral Department advised OSMRE that the State would require another extension of time to submit its blaster training and examination program. On May 8, 1985, OSMRE granted New Mexico an extension to March 4, 1986 (50 FR 19356). On March 3, 1986, the Director of the Energy and Minerals Department requested another one-year extension of time for the submission of its blaster certification program. On April 29, 1986, the State of New Mexico sent details of the activities which transpired during the past year (NM-324) and the causes which delayed New Mexico's program development. This letter also explained the steps New Mexico expected to complete through June 30, 1986, including submittal of a draft proposal stating the alternative New Mexico wishes to use in order to fulfill the requirement.

In the June 9, 1986 **Federal Register** (51 FR 20843), OSMRE proposed an additional one-year extension for New Mexico to submit to OSMRE a proposed blaster certification program. Public comment on this proposal was sought for 30 days ending July 9, 1986.

Director's Determination

In accordance with the State's request, the Director has decided to extend the deadline for New Mexico to submit a proposed blaster training program until March 4, 1987. This extension will allow the Director of the New Mexico Energy and Minerals Department to develop and adopt an adequate blaster certification and training program consistent with Federal requirements.

Public Comments

The Bureau of Indian Affairs (BIA) responded to the proposed action. BIA's comments included a recommendation that the State not be granted an extension of time to submit a blaster certification program to OSMRE.

OSMRE found that the factors which delayed New Mexico's blaster certification program development included events that were both unanticipated and not totally under the State's control. Further, OSMRE determined that New Mexico had made a good faith attempt to propose a program. Therefore, the time extension request has been determined to have merit by OSMRE and the extension granted.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 1, 1986.

Brent Walquist,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 931—NEW MEXICO

1. The authority citation for 30 CFR Part 931 continues to read as follows:

Authority: Sec. 503, Pub. L. 95-87, 91 Stat. 470 (30 U.S.C. 1253), unless otherwise noted.

2. 30 CFR Part 931 is amended by revising § 931.16 to read as follows:

§ 931.16 Required program amendments.

Pursuant to 30 CFR 732.17, New Mexico is required to submit for OSMRE's approval the following proposed amendment by the dates specified.

(a) By March 4, 1987, New Mexico shall submit for OSMRE's approval:

(1) Rules governing the training, examination and certification of blasters, and

(2) A program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operations.

(b) [Reserved]

[FR Doc. 86-17872 Filed 8-7-86; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 943

Extension of Deadline for Submission of Program Amendments to the Texas Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing its decision to extend the deadline for Texas to (1) promulgate rules governing the training, examination and certification of blasters and (2) develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation. In letters dated May 6, 1986, and June 9, 1986, Texas requested a twelve-month extension of the deadline for submission of a blaster program. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSMRE's regulations provides that the Director, OSMRE, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. In accordance with the State's request, the Director is granting the State an additional twelve-month extension of time to submit a proposed blaster certification program.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSMRE's rule at 30 CFR Part 850, whichever is later. In the case of Texas' program, the applicable date was 12 months after the publication date of OSMRE's rule, or March 4, 1984.

On March 1, 1984, Texas submitted an amendment to its approved program which was intended to implement the Federal requirements for a blaster training, examination and certification program. OSMRE published a notice of public comment period and opportunity for public hearing in the **Federal Register** on March 23, 1984 (49 FR 10943). In its subsequent review of the proposed amendment, OSMRE identified several deficiences and pointed these out to the State. On June 25, 1984, Texas advised OSMRE that is would require a six-month extension of the deadline for resubmission of a blaster program to prepare necessary revisions and additions to the program. On September 21, 1984. OSMRE announced its decision to extend the deadline for submission of the blaster program to March 21, 1985 (49 FR 37062).

On March 7, 1985, Texas requested an additional four-month extension to July 15, 1985, to submit a blaster training and certification program. On June 3, 1985, OSMRE announced its decision to extend the deadline for submission of the blaster program to July 15, 1985 (50 FR 23299). On October 15, 1985, Texas requested another extension to May 15, 1986, to submit a blaster training and certification program. In the January 17, 1986 **Federal Register**, OSMRE announced its decision to extend the deadline to May 15, 1986.

In letter, dated May 6, 1986, and June 9, 1986, Texas requested an additional twelve months to submit its blaster certification program citing "continuing regulatory program changes and an unusually high demand for staff time." Texas said that there is only one operation in Texas which conducts blasting and the operation conducts limited blasting only once a year. Texas said that as a result there has been a greater public expression of need for regulation in other surface mining requirements and therefore, priority attention was being given in these areas.

In the June 19, 1986, **Federal Register** (51 FR 22310), OSMRE sought comment on Texas' request for another extension to resubmit a proposed blaster training program. Public comment on this proposal was sought for 30 days ending July 21, 1986. No comments were received during the comment period.

Section 850.12(b) of the Federal regulations provides that the Director, OSMRE may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Director's Determination

In accordance with the State's request, the Director has decided to extend the deadline until May 15, 1987, for Texas to resubmit rules governing a blaster certification and training program consistent with Federal requirements. This extension is granted in light of procedural restrictions in Texas' rulemaking schedule and Texas' explanation for its concentration of resources on other rulemaking activities.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 1, 1986.

Brent Walquist,

Acting Deputy Director, Operations and Technical Services.

PART 943—TEXAS

30 CFR Part 943 is amended as follows:

1. The authority citation for Part 943 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1201 *et seq.*].

2. 30 CFR Part 943 is amended by revising paragraph (a) of § 943.16 to read as follows:

§ 943.16 Required program amendments.

Pursuant to 30 CFR 732.17, Texas is required to submit for OSMRE's approval the following proposed program amendments by the date specified.

(a) By May 15, 1987, Texas shall submit for OSMRE's approval;

(1) Rules governing the training, examination and certification of blasters; and

(2) A program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operations.

[FR Doc. 86–17874 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 60457–6119]

Revision of Trademark Fees; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule for the revision of trademark fees that appears at page 28052 in the **Federal Register** of Monday, August 4, 1986 (51 FR 28052). This action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Margaret M. Laurence at (703) 557–3061.

The following corrections are made in FR Doc. 86–17552 beginning on page 28052 in the issue of August 4, 1986:

1. On page 28052 in the first column, the Effective Date should read: "October 4, 1986."

2. On page 28052 in the second column, in the second complete paragraph under Type of Fee, the proposed fee for Copies of trademarks should read "$1."

3. On page 28053 in the first column, the eighth line should read "adjusted fees for the three-year period."

4. On page 28053 in the first column, in the first complete paragraph, the dates of October 1, 1986 should read "October 4, 1986."

5. On page 28057 in the third column, five asterisks should appear between paragraphs (a) and (n) of § 2.6.

Dated: August 6, 1986.

Donald J. Quigg,

Assistant Secretary and Commissioner, Patents and Trademarks.

[FR Doc. 86-17987 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SWH-FRL-3058-4]

Hazardous Waste Management System; Final Codification Rule; Technical Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical correction.

SUMMARY: This document provides a technical correction to the July 15, 1985 Final Codification Rule in which EPA amended its hazardous waste regulations to incorporate statutory revisions under the Hazardous and Solid Waste Amendments of 1984. EPA is today amending the biennial report regulations to make the biennial waste minimization report applicable to all generators of hazardous waste.

EFFECTIVE DATE: August 8, 1986.

ADDRESS: The official record for the Final Codification Rule is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline (800) 424-9346 (in Washington, DC, call 382-3000), the Small Business Hotline, (800) 368-5888, or Robert Axelrad, (202) 382-5218, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984 (HSWA) which made significant changes to the management of hazardous waste under the Resource Conservation and Recovery Act (RCRA). EPA amended its existing hazardous waste regulations on July 15, 1985, to incorporate HWSA provisions with immediate or short-term effects on the regulated community (50 FR 28702) (Final Codification Rule).

One of the HSWA provisions with immediate impact on the regulated community was the amendment to section 3002(b) of RCRA which requires generators of hazardous waste to provide in biennial reports a description of their efforts to minimize waste. EPA codified this requirement by amending the generator biennial report regulation in 40 CFR 262.41. However, the amendment made in the Final Codification Rule was inadvertently made applicable only to generators who ship their waste off-site for treatment, storage, or disposal. Because the statutory requirement applies to all generators, regardless of whether their waste is managed on-site or off-site, this document corrects the omission of generators who manage their waste on-site from the regulations concerning biennial waste minimization reports. Therefore, EPA is today amending 40 CFR 264.75 and 265.75 to require biennial waste minimization reports.

List of Subjects

40 CFR Part 264

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 265

Hazardous waste, Reporting and recordkeeping requirements.

Dated: July 27, 1986.

Lee M. Thomas,

Administrator.

PART 264—[AMENDED]

Accordingly, EPA is correcting 40 CFR Parts 264 and 265 to read as follows:

1. The Authority citation for Part 264 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, of the Solid Waste Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6925).

2. Section 264.75 is amended by revising paragraph (h) and adding paragraphs (i) and (j) to read as follows:

§ 264.75 Biennial Report.

* * * * *

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.

(j) The certification signed by the owner or operator of the facility or his authorized representative.

* * * * *

PART 265—[AMENDED]

3. The authority citation for Part 265 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, and 3015, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925 and 6935).

4. Section 265.75 is amended by revising paragraph (h) and adding paragraphs (i) and (j) to read as follows:

§ 265.75 Biennial Report.

* * * * *

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.

(j) The certification signed by the owner or operator of the facility or his authorized representative.

* * * * *

[FR Doc. 86-17350 Filed 8-7-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-66008E; TSH FRL-3061-8]

Response to Exemption Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule addresses 22 petitions for exemption from the prohibition against the manufacture, processing, and distribution in commerce of PCBs. In this rule, EPA

grants 10 individual exemption petitions; grants a class exemption including 6 individual exemption petitions; grants in part and denies in part 1 exemption petition, denies 3 individual exemption petitions; and dismisses 2 individual exemption petitions.

DATES: This rule shall be promulgated for purposes of judicial review under section 19 of the Toxic Substances Control Act (TSCA) at 1 p.m. Eastern Daylight Time August 25, 1986. This rule shall become effective on September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC 20460, Toll free: (800–424–9065), In Washington, DC: (554–1404), Outside the USA: (Operator–202–554–1404).

ADDRESS: Copies of this final rule can be obtained from the TSCA Assistance Office listed above. Copies of the support documents for this final rule can be obtained by contacting: Document Control Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. All requests for copies of support documents from the public docket should reference Docket Number 68008E.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of August 29, 1985 (50 FR 35182), EPA issued a proposed rule addressing 22 petitions for exemption from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs. The August 29, 1985 Proposed PCB Exemptions Rule proposed to grant eight individual exemption petitions, grant a class exemption including six individual exemption petitions, deny six individual exemption petitions, and dismiss two individual exemption petitions. One petition was withdraw during the comment period, and one new exemption petition was accepted for consideration. Thus, 22 exemption petitions remain to be resolved. EPA is taking final action on 20 exemption petitions in this rule and is dismissing two exemption petitions.

II. Background

A. Statutory Authority

Section 6(e) of the Toxic Substances Control Act (TSCA) 15 U.S.C. 2605(e), generally prohibits the manufacture of PCBs after January 1, 1979, and the processing and distribution in commerce of PCBs after July 1, 1979.

Section 6(e)(3)(B) of TSCA provides that any person may petition the Administrator for an exemption from the prohibition against the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that "(1) an unreasonable risk of injury to health or environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl." The Administrator may set terms and conditions for an exemption and may grant an exemption for not more than 1 year.

EPA's Interim Procedural Rules for PCB Manufacturing Exemption describe the required content of manufacturing exemption petitions and the procedures EPA follows in rulemaking on exemption petitions. Those rules were published in the **Federal Register** of November 1, 1978 (43 FR 50905) and are codified at 40 CFR 750.10 through 750.21.

EPA's Interim Procedural Rules for Processing and Distribution in Commerce Exemptions describe the required content of processing and distribution in commerce exemption petitions and the procedures EPA follows in rulemaking on exemption petitions. Those rules were published in the **Federal Register** of May 31, 1979 (44 FR 31558) and are codified at 40 CFR 750.30 through 750.41.

B. History of This Rulemaking

In the **Federal Register** of July 10, 1984 (49 FR 28172), EPA promulgated the final PCBs Exclusions, Exemptions, and Use Authorizations Rule (hereinafter referred to as the Uncontrolled PCB Rule) addressing the manufacture, processing, distribution in commerce, and use of certain inadvertently generated and recycled PCBs in low level concentrations. That rule amends the PCB rule published in the **Federal Register** of October 21, 1982 (47 FR 46980) (the Closed and Controlled Waste Manufacturing Processes Rule) by excluding additional low risk processes from regulation.

In the same issue of the **Federal Register**, the final PCB Exemptions Rule (49 FR 28154) acted on 109 pending exemption petitions and deferred action on the petition from Ward Transformer and on 49 other petitions for exemption to manufacture, process, and distribute in commerce inadvertently generated PCBs. EPA believed that many of these 49 petitions may have been made unnecessary by the Uncontrolled PCBs Rule (which excluded certain low risk activities from the prohibitions on the manufacture, processing and distribution in commerce of PCBs).

In the July 10, 1984 proposed rule-related notice (49 FR 28203), EPA requested that the 49 petitioners potentially affected by the Uncontrolled PCB Rule evaluate that rule and determine whether they still needed an exemption. Any petitioner still needing an exemption was to submit written comments renewing its petition by October 1, 1984. EPA stated that the Agency would issue a notice of proposed rulemaking on any renewed petitions. Eight of the 49 petitions were renewed. The other 41 petitioners either withdrew their petitions or failed to renew their petitions by the end of the comment period.

In the July 10, 1984 proposed rule-related notice (49 FR 28203), EPA requested that Ward Transformer submit additional information, and indicated that the Agency would take final action on the Ward Transformer petition after evaluating the additional information. In the August 29, 1985 **Federal Register** (50 FR 35192), EPA issued a notice of final action denying the Ward Transformer petition.

After promulgation of the Final PCB Exemptions Rule, EPA received and accepted for consideration 14 new exemption petitions. In the **Federal Register** of August 29, 1985 (50 FR 35182), EPA issued a proposed rule addressing 22 petitions (14 new exemption petitions and eight renewals) for exemption from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs.

The August 29, 1985 proposed PCB Exemptions Rule (hereinafter "the proposed rule") proposed to grant eight individual exemption petitions, grant a class exemption including six individual exemption petitions, deny six individual exemption petitions, and dismiss two individual exemption petitions. One petition for exemption was withdrawn during the comment period because the manufacturing process will not be operating during the exemption period. One new petition for exemption to manufacture PCBs in small quantities for research and development was accepted for consideration because the petitioner showed good cause for filing late in accordance with EPA's policy statement published in the **Federal Register** of March 5, 1980 (45 FR 14247), and good cause for inclusion of the new exemption petition in this rulemaking.

The November 1, 1983 Proposed PCB Exemptions rule describes in detail the history of PCB regulations. Specific PCB

VOL 51 ISS 153 AUG 8 1986 UMI

regulations and their history are discussed in later units of this rule where applicable to the disposition of exemption petitions.

C. Effect of This Rule on Previous Policy Statements

In the **Federal Register** of January 2, 1979 (44 FR 108), EPA announced that petitioners who had previously filed manufacturing exemption petitions could continue the activities for which they sought exemption until EPA acted on their petitions. In the **Federal Register** of March 5, 1980 (45 FR 14247), EPA extended this policy to allow all petitioners to continue the activities for which they sought exemption until EPA acted on their petitions, as long as activities were underway before January 1, 1979 (for manufacturing) or July 1, 1979 (for processing and distribution in commerce).

The majority of the exemption petitions addressed in this rule are for activities which were underway prior to the effective dates of the manufacturing prohibition (January 1, 1979) and the prohibition of processing and distribution in commerce (July 1, 1979). Those petitioners whose activities were in progress prior to the effective dates of the prohibitions are authorized to continue their activities until the effective date of this final action. Since the activities were not ongoing prior to the effective dates of the above prohibitions, EPA did not allow activities under the following petitions to proceed until the effective date of this final action: the Mobay petition to distribute in commerce or export PCBs; the Dainichiseika petition to export PCBs; the Supelco petition to export PCBs; the Radian petition to export PCBs; and the ALCOA petitions to distribute in commerce, import and export PCBs.

The grandfathering policy for petitioners whose activities were ongoing prior to the effective dates of the ban on the manufacture, processing and distribution in commerce of PCBs was instituted by the Agency in 1980 because the Agency was unable to take final action on exemption petitions until PCB regulations affecting the petitioners' activities were issued. In the final PCB Exemptions Rule published in the **Federal Register** of July 10, 1984 (49 FR 28154), EPA revoked its policy of permitting activities to continue under pending exemption petitions for those pre-1979 petitions on which final action was taken. EPA reasoned that once EPA acts to grant or deny an exemption petition, that policy becomes unnecessary.

EPA will revoke the grandfathering policy for the exemption petitions included in this rulemaking. However, the Agency reserves the authority to reinstate the grandfathering policy on a case-by-case basis for petitioners who are able to show good cause for grandfathering the activity, provided that grandfathering the activity is consistent with the "unreasonable risk" and "good faith efforts" findings in this final rule.

A petitioner whose exemption is granted will be allowed to manufacture, process or distribute in commerce PCBs only for the period of time granted in the final rule. When the exemption expires, a petitioner will not be permitted to engage in such activities, even if it renews its exemption request, until (1) EPA acts on that request, or (2) the Agency determines that the petitioner has shown good cause for grandfathering the activity until final EPA action by rule. This limitation does not apply to manufacturers, processors, and distributors of PCBs in "small quantities for research and development" for whom EPA is granting exemption in Unit V.C of this final rule.

Since EPA must act on petitions for exemption from the prohibitions on PCBs by rule, and since rulemaking on exemption petitions requires a minimum of one year, persons petitioning for renewal of exemptions granted in this final rule can face a lengthy waiting period during which their activities may not continue. To reduce the negative impact of an uncertain waiting period, the Agency encourages those petitioners granted exemption in this final rule who wish to renew their petitions to file a renewal request a minimum of 6 months before the expiration of their exemption.

EPA will continue its policy of requiring petitioners submitting new exemption petitions to show "good cause" why EPA should accept the petition as described in the notice published in the **Federal Register** of March 5, 1980 (45 FR 14247). This policy applies to exemption petitions submitted by petitioners who are denied exemptions in this final rule.

III. Unreasonable Risk Finding

Section 6(e)(3)(B)(i) of TSCA requires a petitioner to show that granting an exemption would not result in an unreasonable risk of injury to health or the environment.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur against the benefits to society from granting an exemption. Specifically, EPA considers the following factors:

1. The effect of PCBs on human health and the environment, including the magnitude of PCB exposure to humans and the environment.

2. The benefits to society of granting an exemption and the reasonably ascertainable economic consequences of denying an exemption petition.

A. Effects on Human Health and the Environment

In deciding whether to grant an exemption, EPA considers the effects of PCBs on human health and the environment, including the magnitude of PCB exposure to humans and the environment. The effects of PCBs are described in various documents that are part of the rulemaking record for the PCB Ban Rule published in the **Federal Register** of May 31, 1979 (44 FR 31514). Before the proposed PCB Exemption Rule was published, EPA evaluated this information along with new information submitted to the Agency and other recent literature. The results are presented in EPA's "Response to Comments on the Health Effects of PCBs" (August 19, 1982, Docket No. OPTS–62015C). During the proposed PCB Exemptions Rule, two comments presented additional information on the adverse health effects of PCBs. EPA evaluated this information as well as other recent literature, and has determined that none of the information submitted changes EPA's conclusions about the health effects of PCBs. The results are presented in EPA's "Response to Comments on the Proposed PCB Exemptions Rule" (June 1984, Docket No. OPTS–66008A) and "Response to Comments on the Uncontrolled PCB Rule" (June 1984, Docket No. OPTS–66032A). All of these documents are included in the rulemaking record and are summarized below. Copies of these documents are available from EPA's TSCA Assistance Office (see the ADDRESS section of this Final rule.

1. Health effects. EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin, circulate throughout the body, and be stored in the fatty tissue.

Available animal studies indicate an oncogenic potential, the degree to which depends on exposure. Available epidemiologic data are not adequate to confirm or negate oncogenic potential in humans at this time. Additonal epidemiological research is needed to correlate human and animal data, but EPA finds no evidence to suggest that the animal data would not predict an oncogenic potential in humans.

In addition, EPA finds that PCBs may cause reproductive effects, developmental toxicity, and oncogenicity in humans exposed to PCBs. Available data show that some PCBs have the ability to alter reproductive processes in mammalian species, sometimes even at doses that do not cause other signs of toxicity. Animal data and limited available human data indicate that prenatal exposure to PCBs can result in various degrees of developmental toxic effects. Postnatal effects have been demonstrated in immature animals, following exposure to PCBs prenatally and via breast milk.

In some cases chloracne may occur in humans exposed to PCBs. Severe cases of chloracne are painful and disfiguring, and symptoms may persist for an extended time. Although the effects of chloracne are reversible, EPA considers these effects to be significant.

2. Environmental effects. Certain PCB congeners are among the most stable chemicals known and decompose very slowly once they are in the environment. They remain in the environment and are taken up and stored in the fatty tissue of organisms. EPA has concluded that PCBs can be concentrated in fresh water and marine organisms. The transfer of PCBs up the food chain from phytoplankton to invertebrates, fish, and mammals can result ultimately in human exposure through consumption of food sources containing PCBs. Available data show that PCBs affect the productivity of phytoplankton and the composition of phytoplankton communities, cause deleterious effects on environmentally important freshwater invertebrates, and impair reproductive success in birds and mammals.

PCBs also are toxic to mammals at very low exposure levels. The survival rate and reproductive success of fish can be adversely affected in the presence of PCBs. Various sublethal physiological effects attributed to PCBs have been recorded in the literature. Abnormalities in bone development and reproductive organs have also been demonstrated.

3. Risks. Toxicity and exposure are the two basic components of risk. Based on animal data, EPA concluded that in addition to chloracne, there is the potential for reproductive effects, developmental toxicity, and oncogenicity in humans. EPA also concluded that PCBs present a hazard to the environment.

Minimizing exposure to PCBs should minimize any potential risk. EPA takes exposure into consideration in evaluating exemption petitions.

B. Benefits and Costs

The benefits to society of granting an exemption and the reasonably ascertainable costs of denying a petition vary depending on the petitioner and the activity for which exemption is requested. EPA is taken the benefits and costs into consideration when evaluating each exemption petition. The specific benefits and costs of denying each petition are discussed in later units of this final rule.

IV. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA requires petitioners to make good faith efforts to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for PCBs before EPA can grant an exemption. EPA considers several factors in determining whether a petitioner has made good faith efforts. For each exemption petition, EPA considers the kind of exemption which the petitioner is requesting, whether substitutes exist, and whether the petitioner expended time and money to develop or search for a substitute. In each case the burden is on the petitioner to show specifically what it does to substitute non-PCBs for PCBs or to show why it does not seek to substitute non-PCBs for PCBs. EPA's evaluation of each petitioner's attempt to demonstrate a good faith effort is discussed in later units of this final rule.

V. Disposition of Exemption Petitions

A. Inadvertently Generated PCBs

The Uncontrolled PCB Rule excluded from the prohibition on the manufacture, processing, distribution in commerce, and use of PCBs those PCBs inadvertently generated in an "excluded manufacturing process." An "excluded manufacturing process" as defined at 40 CFR 761.3 is a manufacturing process or importation in which the concentration of inadvertently generated PCBs in the product is limited to an annual average of less than 25 ppm, with a 50 ppm maximum, except that the concentration of inadvertently generated PCBs in the components of detergent bars must be less than 5 ppm. Limits are also placed on the concentration of PCBs discharged to air and water from an excluded manufacturing site.

The following eight petitions for exemption to manufacture, process, and distribute in commerce inadvertently generated PCBs above allowable concentration levels for "excluded manufacturing processes" were renewed. EPA is dismissing two of these exemption petitions, granting four exemptions, and denying two exemption petitions.

1. Reed Plastics, and U.S. Printing Ink Corporation. Reed Plastics (Reed), Holden, MA 01520 (PDE–224), and U.S. Printing Ink Corporation (USPI), East Rutherford, NJ 07073 (PDE–164.3), each petitioned for individual exemptions to process pigments containing PCBs at concentrations greater than those limits placed on inadvertently generated PCBs in the Uncontrolled PCB Rule.

These companies currently have no inventories of pigment containing PCBs above these limits. However, they requested exemptions to process pigments containing PCBs above regulatory limits in the event that their suppliers exceed regulatory limits. In the August 29, 1985 proposed rule, EPA determined that Reed and USPI do not need exemptions and proposed to dismiss the petitions. EPA received no comments on the proposed dismissal of these two petitions. The Agency is dismissing both the Reed and USPI petitions because processors, distributors, and users of products generated in "excluded manufacturing processes" do not need exemptions.

The Uncontrolled PCB rule published in the **Federal Register** of July 10, 1984 (49 FR 28172), placed limits on the concentration of PCBs leaving the site of processes which generate PCBs as inadvertent byproducts. EPA also placed limits on the concentration of inadvertently generated PCBs in products imported into the United States. The processing, distribution in commerce, and use of products of "excluded manufacturing processes" are excluded from the prohibitions on the processing, distribution in commerce, and use of PCBs. Thus, the intent of the Uncontrolled PCB Rule is to limit the addition of PCBs into the environment by regulating the concentration of inadvertently generated PCBs in products at the point where the PCBs are introduced into commerce.

Processors and distributors of products containing inadvertently generated PCBs are responsible for determining that their suppliers' processes qualify as "excluded manufacturing processes," or that their suppliers have exemptions to manufacture or import, and distribute PCBs over regulatory limits. However, since EPA regulates concentrations of inadvertently generated PCBs in products at the point of the original manufacture or import of the PCBs, a manufacturer or importer can not assign its duty to comply with the limits on "excluded manufacturing processes" to downstream processors, distributors or

users. Therefore, processors and distributors of inadvertently generated PCBs should not need exemptions except where an exemption is needed to process or distribute inadvertently generated PCBs in inventories accumulated prior to the effective date of the Uncontrolled PCB Rule (October 1, 1984).

In considering petitions for exemption to manufacture, import, or distribute in commerce inventories of inadvertently generated PCBs above the limits established in the Uncontrolled PCB Rule, EPA will evaluate the exposures and risks associated with the further processing, distribution and use of the PCBs. EPA considered such exposure issues when it established average and maximum concentration levels for inadvertently generated PCBs at the point of their introduction into commerce, and included the further processing, distribution and use of those PCBs in the Uncontrolled PCB Rule.

2. Aluminum Company of America (ALCOA). Following promulgation of the Uncontrolled PCB Rule and the proposed rule-related notice in the July 10, 1984 **Federal Register** (49 FR 28172, 49 FR 28203), the Aluminum Company of America, Pittsburgh, PA 15219, renewed its petitions for exemption (a) to manufacture anhydrous aluminum chloride ($AlCl_3$) contaminated with inadvertently generated decachlorobiphenyl above allowable levels (ME–3); and (b) to distribute in commerce $AlCl_3$, containing inadvertently generated PCBs above the limits established in the Uncontrolled PCB Rule (PDE–13).

Although the plant is not in operation, ALCOA's Anderson County Works houses a process in which $AlCl_3$ is produced and 90 percent of the $AlCl_3$ is converted to aluminum metal. ALCOA provided information indicating that there would be no PCBs in the aluminum metal and that all PCBs are concentrated in process wastes which would be disposed of in accordance with EPA regulations. Thus, the 90 percent of the $AlCl_3$ which would be converted to metallic aluminum is part of an "excluded manufacturing process" since the metalic aluminum contains no PCBs and EPA considers a manufacturing process to be all of a series of unit operations at one site (a contiguous property) resulting in the production of a product. Thus, ALCOA would not need an exemption to manufacture $AlCl_3$ for use in the production of aluminum metal at Anderson County Works.

Of the $AlCl_3$ produced by the Anderson County Works process, 10 percent is not converted to aluminum metal. ALCOA petitioned for exemptions to manufacture and distribute in commerce that 10 percent of $AlCl_3$ as a product as well as to distribute in commerce a substantial amount of $AlCl_3$ in ALCOA's inventory. Although the Anderson County Works was not in operation, ALCOA's petitions requested that it be allowed to manufacture and distribute in commerce 10 percent of its $AlCl_3$ production capacity as a product should the plant be reopened within the exemption period. ALCOA specified that if an exemption were granted, the existing inventory of $AlCl_3$ would be distributed in commerce, whether or not the plant is reopened.

EPA proposed to deny both of the ALCOA exemption petitions. Due to lack of information on the downstream uses of ALCOA's $AlCl_3$, and because EPA was aware that $AlCl_3$ is commonly used in the manufacture of products such as deodorants, blood coagulants and dermatological antacids, EPA concluded that the processing and distribution in commerce of $AlCl_3$ would result in an unreasonable risk of injury to human health and the environment.

EPA was concerned that use of $AlCl_3$ containing PCBs over the limits established in the Uncontrolled PCB Rule in dermatological consumer products would result in some additional risk of consumer exposure to PCBs, and higher risks. In the proposed rule, EPA expressed concern about the possibility that several times the amount of ALCOA's existing inventory would be distributed in commerce for use in dermatological products if the plant were to become operational for a substantial portion of the 1-year exemption period. Assuming that the plant would be operational during the entire exemption period, EPA determined in the proposed rule that denial of the petitions would not result in a large economic impact to ALCOA.

In addition, EPA determined that should the plant become operational during the 1-year exemption period and ALCOA continued to produce $AlCl_3$ containing PCBs over regulatory limits, EPA would not be able to find that the petitioner had demonstrated good faith efforts because (a) information submitted by ALCOA over the past 5 years shows no significant reduction in the level of PCBs in the $AlCl_3$, and (b) there are alternative supplies of $AlCl_3$ which do not contain PCBs above the limits established in the Uncontrolled PCB Rule.

During the comment period on the proposed rule and the public meeting on November 6, 1985, ALCOA withdrew its petition for exemption to manufacture $AlCl_3$, stating that ALCOA has no plans to resume production of $AlCl_3$ for its anhydrous aluminum process. ALCOA also amended its petition for exemption to distribute in commerce $AlCl_3$ containing PCBs at concentrations above the limits established in the Uncontrolled PCB Rule. The amended petition requests exemption only to distribute in commerce its existing inventory. ALCOA also provided information on the downstream use of the $AlCl_3$ and the economic consequences to ALCOA of a petition denial.

ALCOA currently has in inventory 1,116,225 pounds of $AlCl_3$ contaminated with decachlorobiphenyl at a concentration falling in the range of 82 to 115 ppm. ALCOA stated that should EPA grant their petition to distribute the $AlCl_3$ inventory in commerce, the $AlCl_3$ will be sold only to Kemira, Incorporated of Savannah, Georgia for use in a pigment manufacturing process. ALCOA expects that 500,000 pounds of $AlCl_3$ will be sold to Kemira during the 1-year exemption period. EPA grants the ALCOA petition for exemption to distribute in commerce its existing inventory of $AlCl_3$ provided that: (i) The $AlCl_3$ is sold only to Kemira, Inc. for use in the production of pigments, or (ii) the $AlCl_3$ is sold to a company other than Kemira, Inc. for use only in the production of pigments and notice of such sale is provided to the Agency 30 days before delivery of the $AlCl_3$.

In granting the ALCOA petition to distribute in commerce its existing inventory of aluminum chloride, EPA is also exempting from the prohibitions on the processing, distribution in commerce and use of PCBs, the further processing and distribution in commerce of these PCBs. Accordingly, processors and distributors of ALCOA's inventory of $AlCl_3$ do not have to apply for separate exemptions.

Since ALCOA has approximately twice the amount of $AlCl_3$ in inventory as it expects to distribute in commerce during the 1-year exemption period, EPA anticipates that ALCOA will request a renewal of the exemption to allow further distribution in commerce at the end of the 1-year approval period. Should ALCOA request another 1-year exemption, EPA will expect the petitioner to provide sufficient information to conclude that ALCOA has acted in good faith compliance with the terms of this exemption, and that the information relied upon by the Agency in its determinations remains applicable.

a. Unreasonable risk finding. EPA has determined that granting this ALCOA exemption petition will not pose an

unreasonable risk of injury to human health or the environment. ALCOA submitted detailed information on the Kemira process which shows that the concentration of PCBs in the Kemira pigment will be about 5 ppm, and that releases to air and water from the process are well below levels specified for "excluded manufacturing processes." Further, the Agency has previously determined that pigments compose as little as 2 percent and no more than 20 percent of final consumer products.

In developing the Uncontrolled PCB Rule, the Agency determined that no unreasonable risks would result from the processing, distribution in commerce and use of inadvertently generated PCBs in pigments, assuming that pigment is contaminated with PCBs at the maximum level of 50 ppm. The exposures and associated risks involved in the distribution in commerce of the $AlCl_3$ for use in the maunfacture of pigments, as well as the further processing, distribution in commerce and use of the $AlCl_3$ are estimated to be on the same order of magnitude as the concentration levels allowed for "excluded manufacturing processes" in the Uncontrolled PCB Rule.

Based on specific information submitted by ALCOA during the comment period, EPA estimates that the economic consequences of denying the petition would involve the costs of disposing of 500,000 pounds of $AlCl_3$ (the amount to be sold during the 1-year exemption period) in accordance with the regulations on the disposal of PCBs at 40 CFR 761.60 and the lost sale value of the pigment. ALCOA specified that the cost of disposal includes the cost of rendering the material non-reactive prior to disposal. EPA concludes that the total economic consequences to ALCOA if its exemption petition were denied would be about $995,000.

After careful consideration of the risks posed by the use of the $AlCl_3$ in the production of pigment, and by the use of the pigment in downstream processes and products, EPA has determined that the economic consequences of a denial to ALCOA are not warranted when compared with the relatively low risks associated with granting this exemption.

b. Good faith efforts finding. In the proposed rule, EPA expressed concern that the petitioner had failed to demonstrate good faith efforts to reduce the concentration of PCBs in the $AlCl_3$. Since ALCOA has limited its exemption petition to existing inventory and indicated that ALCOA does not intend to produce any additional $AlCl_3$, that good faith efforts concern is no longer pertinent. The current inventory was produced by ALCOA under the EPA policy that allowed activities to continue under pending PCB exemption petitions until final EPA action (see Unit II.C). Thus, the Agency finds that the petitioner has demonstrated good faith efforts.

The Agency does not anticipate that any new petitions will be filed to distribute in commerce stocks of inadvertently generated PCBs at concentrations above regulatory limits. Any new petitioner requesting exemption to distribute in commerce inadvertently generated PCBs over regulatory limits will have a substantial burden of proof in demonstrating "good cause" for acceptance of the petition for consideration by the Agency, and in demonstrating good faith efforts.

3. American Hoechst Corporation (Hoechst). The American Hoechst Corporation, Somerville, NJ 08876, renewed its petitions for exemption (a) to import diarylide pigment containing inadvertently generated PCBs over the levels established in the Uncontrolled PCB Rule (ME–5), and (b) to distribute in commerce pigment containing inadvertently generated PCBs over the levels established in the Uncontrolled PCB Rule (PDE–70.5). EPA proposed to grant both Hoechst petitions for a period of 1 year because granting an exemption would not result in an unreasonable risk of injury to health or the environment, and the petitioner has demonstrated good faith efforts. EPA proposed, as a condition of the exemption, a requirement that Hoechst notify its customers that the concentration of PCBs in the pigment may exceed the regulatory maximum of 50 ppm. No comments were submitted during the comment period. EPA is granting both Hoechst petitions on the condition that Hoechst notify its customers that the concentration of PCBs in the pigment may exceed the regulatory maximum of 50 ppm.

a. Unreasonable risk finding. The concentrations of PCBs in the pigment, submitted as proprietary information, are only slightly above the concentration limits established in the Uncontrolled PCB Rule. The total amount of PCBs imported and distributed in commerce would be less than 2.5 lbs during the exemption period. The pigment would be distributed in commerce for use as a colorant in automotive paints, plastics, and wallpaper. EPA has previously determined that pigments generally compose no more than 20 percent of these types of final products.

American Hoechst estimated the reasonably ascertainable costs of denial to be equal to the lost value of potential sales of the imported pigment. Based on information submitted by Hoechst, EPA has determined that the costs of denial of the petitions will be substantial given the small quantity of PCBs involved. The incremental costs of denying the petitions are estimated to be in the range of $160,000 to $580,000 per lb of PCBs in the pigments, less the acquisition cost of the pigment. EPA believes the actual incremental costs to fall in the high end of the range, less acquisition costs, because of the low concentration of PCBs involved.

b. Good faith efforts finding. American Hoechst has demonstrated good faith efforts (i) to develop a substitute for the pigment, and (ii) to reduce the concentration of PCBs in the pigment. Since the submission of its original 1978 petition, Hoechst has expended substantial sums in the search for a substitute and in research to reduce the PCB concentration in the pigment. Hoechst maintains that it has thus far found no adequate substitutes. Information submitted by Hoechst since 1978 indicates that the concentration of PCBs in the product has decreased over that time. In granting the Hoechst exemption petitions, EPA presumes the petitioner's continued good faith efforts. Hoechst will have a substantial burden of proof should it apply for renewal at the end of the exemption period.

4. Dainichiseika Color & Chemicals America, Incorporated. Dainichiseika Color and Chemicals America (Dainichiseika), Clifton, NJ 07012, imported phthalocyanine blue crude from Taiwan in 1982 under a petition for exemption to import crude colorants containing PCBs at concentrations of 50 ppm or greater. EPA policy allowed the petitioner to continue activities until EPA acted on that petition. (See Unit II.C of this preamble). Before EPA acted, Dainichiseika's U.S. customer withdrew its petition for exemption to process and distribute pigments containing greater than 50 ppm PCBs, leaving Dainichiseika without a domestic buyer. Dainichiseika subsequently withdrew its pending petition for exemption to import PCBs (ME–24).

In response to the July 10, 1984 proposed rule-related notice, renewed its exemption petition to distribute its remaining inventory of 62,400 lbs of blue crude containing inadvertently generated PCBs at 80 ppm (PDE–58). The petitioner also requested that if EPA denies its petition for exemption to distribute the crude within the U.S., EPA consider a new Dainichiseika petition for exemption to (a) export the PCBs to a foreign buyer, or (b) return (export) the PCBs to the original manufacturer in Taiwan (PDE–58.1).

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VOL 51 ISS 153 AG 8 1986 UMI

EPA proposed to grant Dainichiseika a 1-year exemption to distribute in commerce its existing inventory of 62,400 lbs of phthalocyanine crude contaminated with PCBs at 80 ppm, provided that Dainichiseika notifies its customers of the PCB concentration in the crude. No comments were submitted during the comment period. Thus, EPA grants Dainichiseika a 1-year exemption to distribute in commerce its existing inventory of 62,400 pounds of phthalocyanine blue crude within the United States, provided that Dainichiseika notify its customers of the PCB concentration in the crude.

EPA has determined that no unreasonable risk of injury to health or the environment will result, and that the petitioner has demonstrated good faith efforts to comply with the letter and spirit of the PCB regulations. In granting the Dainichiseika petition to distribute in commerce its existing inventory of blue crude containing 80 ppm PCBs, EPA is also exempting from the prohibitions of the processing, distribution in commerce and use of PCBs, the further processing and distribution in commerce of these PCBs. Accordingly, processors and distributors of Dainichiseika's inventory of phthalocyanine blue crude do not have to apply for exemptions.

a. Unreasonable risk finding. In making the unreasonable risk finding for this petition, EPA considered the exposures and associated risks involved in the further processing, distribution in commerce and use of the crude. EPA previously considered these exposure issues when it excluded certain post manufacturer activities involving inadvertently generated PCBs from the section 6(e) prohibitions (see Unit V.A.1).

The exposures, and associated risks involved in the distribution in commerce of this crude, as well as the further processing, distribution in commerce and use of the crude are estimated to be on the same order of magnitude as the concentration levels allowed for "excluded manufacturing processes" in the Uncontrolled PCB Rule. The crude will be processed into pigment for use in the manufacture of plastics, paints and printing inks. The rulemaking record in that rule shows that downstream processing of pigments results in the reduction of PCB concentration in consumer products. Pigments generally compose no more than 20 percent of the final paint and printing ink products, and no more than 2 percent of final plastic products. The total amount of PCBs that will be distributed in commerce under this exemption is less than 5 lbs

Granting this exemption is consistent with the purpose of the Uncontrolled PCB Rule which is to limit the addition of PCBs into the environment by regulating the concentration of inadvertently generated PCBs in products at the point where the PCBs are introduced into commerce. No additional PCBs will be generated and introduced into commerce if this petition is granted. Less than 5 lbs of existing PCBs will be distributed in commerce under this exemption.

EPA has determined that no unreasonable risk will result from the distribution in commerce of Dainichiseika's inventory of 62,400 lbs of phthalocyanine blue crude containing 80 ppm PCBs, or from the further processing, distribution in commerce and use of this pigment. These determinations are consistent with the unreasonable risk determination made in issuing the Uncontrolled PCB Rule. The economic consequences of denying the Dainichiseika petition, including the lost sale value of the pigment and the costs of disposal in accordance with EPA regulations at 40 CFR 761.60, would be in the range of $141,000 to $163,000.

b. Good faith efforts finding. The petitioner imported the pigment under an exemption petition with the reasonable expectation that its U.S. customer could and would legally process and distribute the pigment. Dainichiseika no longer intends to import pigments containing inadvertently generated PCBs above the levels established in the Uncontrolled PCB Rule. In finding that Dainichiseika has made and is making good faith efforts to comply with the PCB regulations, EPA considered: (1) the fact that EPA policy allowed the petitioner to import the existing inventory under a pending petition; and (2) the petitioner's compliance with EPA regulations issued since the import of the PCBs.

In view of these circumstances, EPA is granting a 1-time exemption, after finding that the concentrations and quantity of PCBs in the blue crude will not pose an unreasonable risk. EPA does not anticipate that any similar exemption petitions will be filed. Any person or company filing a new exemption petition to distribute in commerce inadvertently generated PCBs over regulatory limits will have a substantial burden of proof in demonstrating "good cause" for acceptance of the petition for consideration by the Agency, and good faith efforts to comply with the PCB regulations.

5. Mobay Chemicals Corporation. Mobay (previously Harmon Colors Corporation), Union, NJ 07083, petitioned for exemption to distribute in commerce its inventory of phthalocyanine pigment containing inadvertently generated PCBs at 150 to 210 ppm (PDE-157.10). When the Mobay filed its petition in 1983, the PCB regulations prohibited the import of pigments containing greater than 50 ppm PCBs. Mobay contends that the supplier had previously assured Mobay that the pigment would not be contaminated above the 50 ppm cutoff level. Heving discovered that the pigment contained greater than 50 ppm PCBs, Mobay submitted an exemption petition to distribute in commerce its inventory of this pigment. Mobay requested that, should EPA deny Mobay's petition for exemption to distribute in commerce its inventory within the United States, Mobay be granted a 1-time exemption to return the pigments to the original manufacturer in Germany. Mobay has not been allowed to distribute this pigment in commerce under the pending petition.

EPA proposed to deny both requests by Mobay. EPA received no comments on this proposal during the comment period. EPA denies the Mobay petition for exemption to distribute in commerce pigment containing inadvertently generated PCBs, and the alternate request for exemption to return (export) the PCBs to the original German manufacturer.

a. Distribution in commerce. EPA denies the Mobay petition for exemption to distribute in commerce its inventory of pigment containing PCBs over the levels established in the Uncontrolled PCB Rule because the Agency cannot find that the petitioner has made "good faith efforts" to comply with those levels. The pigments contained PCBs well over the 50 ppm cutoff in effect at the time of import and the petitioner did not have an exemption to import PCBs above 50 ppm. Importers of PCB products are responsible for complying with the PCB regulations.

Denial of the petition will result in costs to Mobay of disposing of the pigment in accordance with the regulations at 40 CFR 761.60. EPA estimates the economic consequences of denying the petition to be in the range of $75,000 to $306,000 per lb of PCBs. EPA concludes that the cost of denying the petitions will be on the low end of the range because of the relatively high concentration of PCBs in the pigment. Further, the bulk of the cost estimate reflects the lost sale value of the pigment, which is a cost resulting from the business transaction between Mobay and its supplier rather than the

consequences of the denial or of a change in the regulatory status of the PCBs. The exemption process is not the proper mechanism for obtaining relief from the consequence of private transactions.

b. Export. In considering Mobay's request for an alternate exemption to distribute in commerce PCBs for purposes of return (export) to the foreign manufacturer, EPA considered whether the return of PCBs to a manufacturer constitutes export, and should be treated in accordance with EPA policy on exemption petitions for export of PCBs. In a policy published in the **Federal Register** of May 1, 1980 (45 FR 29115), EPA specified what petitioners who want to export PCBs must demonstrate to meet the statutory requirements of section 6(e)(3)(B) of TSCA:

i. EPA will not grant an exemption unless the nation to which export is destined has proper facilities for ultimate disposal.

ii. EPA will not grant an exemption for an export for a use which is not authorized within the United States.

iii. In the context of export, good faith efforts to find a substitute means that the burden is on the petitioner to show that there are no substitutes for the PCBs, produced either by the petitioner or a competitor, and that the petitioner proves it has expended time and money searching for a substitute.

Based on consideration of EPA's intent in issuing the above policy, the Agency has determined that petitions for exemption to return (export) to a foreign supplier should be evaluated by the same criteria as petitions for exemption to export PCBs for distribution in commerce and use. The Agency treats petitions for export of PCBs more stringently than petitions for exemption to distribute the PCBs within the United States because EPA will have no control over the distribution, use, and disposal of PCBs once the PCBs have been exported. Whether exported to a foreign customer, or reexported to a foreign supplier, the concern over the ultimate distribution, use and disposal of PCBs remains.

Pigments containing greater than the maximum concentration of 50 ppm are not authorized for use within the United States. The Agency does not know of, and the petitioner has not demonstrated, the existence of proper PCB disposal facilities within Germany. Also, the petitioner did not legally import the PCBs into the United States. In accordance with the discussion of good faith efforts above, EPA must place the responsibility for compliance with import regulations on the importer. The petitioners have, thus, failed to demonstrate "no unreasonable risk" and "good faith efforts" in accordance with the statutory standards for EPA evaluation of exemption petitions to export PCBs.

B. Processing, Distribution in Commerce, Import, and Export of Equipment Containing PCBS, and Equipment Contaminated With PCBS

EPA received from the Aluminum Company of America (ALCOA) three petitions for exemption to (1) process and distribute in commerce within the U.S. hydraulic and heat transfer systems containing PCBs and other equipment contaminated with PCBs (PDE–13.1A); (2) export hydraulic and heat transfer systems containing PCBs and other equipment contaminated with PCBs (PDE–13B); and (3) import hydraulic and heat transfer systems containing PCBs, and other equipment contaminated with PCBs (ME–3.1). EPA proposed to deny all three ALCOA petitions. ALCOA submitted written comments during the comment period and provided additional clarification during a public meeting on the proposed rule on November 6, 1985.

EPA denies the ALCOA petitions for exemption to import, and to export heat transfer and hydraulic systems, and equipment contaminated with PCBs on the surface, for reuse. EPA treats petitions for exemption to import or export much more stringently than petitions to distribute in commerce within the United States. Without specific information about the types and quantities of equipment to be distributed in commerce, and about the concentrations of PCBs involved, EPA can not determine that no unreasonable risks will result from granting the exemption to import and export equipment.

In this final rule, EPA is granting in part and denying in part ALCOA's petition for exemption to distribute in commerce heat transfer and hydraulic systems containing PCBs, and equipment contaminated with PCBs. EPA is granting the ALCOA petition to distribute in commerce PCB–containing or PCB-contaminated equipment only so far as to allow ALCOA to distribute in commerce heat transfer and hydraulic systems containing PCBs at concentrations less than 50 ppm PCBs, provided that the equipment is drained of all free-flowing liquid prior to distribution in commerce. The factors EPA considered in evaluating the ALCOA exemption petitions, the comments submitted by ALCOA during the comment period and the public meeting, and EPA's statutory findings on these petitions are discussed below.

1. ALCOA heat transfer and hydraulic systems. On May 31, 1979, the Agency authorized the non-totally enclosed use of PCBs at concentrations above 50 ppm in heat transfer and hydraulic systems. A condition of the use authorization was that all systems that ever contained PCBs at concentrations above 50 ppm were to be tested, flushed, and refilled with fluid containing less than 50 ppm PCBs at least annually until the PCB concentration in the system fell below 50 ppm. All heat transfer and hydraulic systems were to have less than 50 ppm PCBs by July 1, 1984. In the **Federal Register** of July 10, 1984 (49 FR 28172), EPA continued the use authorization for heat transfer and hydraulic systems containing less than 50 ppm PCBs. The use of heat transfer and hydraulic systems containing 50 ppm PCBs or greater is prohibited.

ALCOA has undetermined quantities of heat transfer and hydraulic systems placed in storage for salvage prior to July 1, 1979. ALCOA also owns an undetermined quantity of heat transfer and hydraulic systems currently in operation containing less than 50 ppm PCBs. ALCOA requested exemptions to distribute in commerce, export, and import these systems as salvage.

ALCOA intends to drain all systems containing between 50 and 1,000 ppm PCBs prior to sale. Equipment with greater than 1,000 ppm PCBs will also be flushed with a non-PCB solvent. Outside surfaces of all equipment will be scraped, and steam or solvent cleaned. These activities are authorized under 40 CFR 761.60 for heat transfer and hydraulic systems prior to disposal, or for servicing and maintenance by the owner, but not for purposes of processing these systems for distribution in commerce, export, or import.

In the proposed rule, EPA concluded that the petitioner had failed to demonstrate good faith efforts in its handling of heat transfer and hydraulic equipment containing PCBs. EPA was particularly concerned about the equipment placed in storage prior to July 1, 1979. The ALCOA petition indicated that most of the equipment in storage contains PCBs at 50 ppm or greater, with some containing more than 1,000 ppm PCBs. EPA stated in the proposed rule that if this equipment was placed in storage for disposal, 40 CFR 761.65(a) required disposal of the equipment before January 1, 1984. EPA noted that, if the equipment was placed in storage for reuse, the systems should all contain less than 50 ppm PCBs if ALCOA was in

compliance with the conditions of the use authorization.

EPA further concluded that granting exemptions to ALCOA to process, distribute in commerce, import, and export the heat transfer and hydraulic systems would pose an unreasonable risk of injury to health or the environment due to the high concentrations of PCBs involved and the normal leaks and spills associated with the handling of this equipment. Without specific information on the concentrations of PCBs, the number of systems, or on the amount of PCB waste that would be generated during the exemption period, EPA could not estimate the costs of denying the ALCOA petitions.

ALCOA commented that the EPA's concern that ALCOA may not be in compliance with the regulations were unfounded. ALCOA stated that they have no heat transfer or hydraulic systems which were placed in storage for disposal prior to July 1, 1979. ALCOA stated that it does have equipment in storage for reuse, some of which may have contained greater than 50 ppm PCBs, and possibly higher than 1,000 ppm PCBs. ALCOA stressed, however, that all equipment in storage was drained prior to storage. ALCOA also reiterated that all heat transfer and hydraulic systems currently used by ALCOA contain less than 50 ppm PCBs.

EPA partially grants the ALCOA distribution in commerce petition to allow the distribution in commerce of heat transfer and hydraulic systems in use, or in storage for reuse, which have been shown to contain less than 50 ppm PCBs by testing, provided that these systems are drained of all free-flowing liquids prior to distribution in commerce. EPA considered the risks associated with the continued use of this equipment in authorizing the use of systems containing less than 50 ppm and found that no unreasonable risks would result. EPA expressed concern in the proposed rule that the possible leaks and spills from this equipment during distribution in commerce may pose unreasonable risks. However, if the equipment is drained of all free flowing liquid prior to distribution in commerce, EPA finds that no unreasonable risks will result.

EPA is denying the petition to distribute in commerce equipment in storage for reuse whose fluid has not been tested and demonstrated to contain less than 50 ppm PCBs. The deadline for reducing the concentration of PCBs in heat transfer and hydraulic systems to less than 50 ppm was July 1, 1984. Any procedure for reducing the concentration of PCBs in systems which contain PCBs at concentrations of 50 ppm or greater must be approved by the appropriate EPA regional office under its enforcement authority. EPA will not grant exemptions for the distribution in commerce of materials or equipment (e.g., heat transfer and hydraulic systems containing 50 ppm or greater PCBs) which are not authorized for use. If such systems which contain 50 ppm or greater PCBs are reduced to below 50 ppm under an agreement with an EPA regional office, the systems may then be distributed in commerce under this exemption.

2. ALCOA equipment contaminated with PCBs. ALCOA has undetermined quantities and types of equipment which were never designed to contain PCBs but which are contaminated with PCBs, and anticipates that additional equipment may be found to be contaminated with PCBs during the exemption period. ALCOA requests exemptions to process, distribute in commerce, export, and import this equipment after decontamination to 50 ug/100 cm^2. ALCOA has provided little or no information on location, types and quantities of equipment contaminated with PCBs and the levels at which the equipment is contaminated. In the proposed rule, EPA concluded that the petitioner itself has no real knowledge of the magnitude of the contamination problem.

Under current EPA regulations and policies, no equipment or material contaminated with PCBs may be processed or distributed in commerce. However, EPA recognizes the tremendous economic and societal costs of prohibiting the distribution in commerce of all equipment and materials contaminated with PCBs. Therefore, EPA has maintained the policy of allowing the owners of such items to work with the EPA regional offices in decontaminating the equipment or materials. When the regional office determines the decontamination to be adequate, the items are allowed to be distributed in commerce. EPA is currently drafting a national clean-up policy to provide a framework for more consistent regional clean-up standards.

EPA concluded in the proposed rule that ALCOA should work with the EPA regional offices to decontaminate the equipment and receive approval for the sale of that equipment. EPA will not use its exemption authority to approve standards or procedures for decontaminating equipment contaminated with PCBs or to grant exemption for the distribution in commerce of such equipment. Contamination of materials and equipment from leaks, spills and other uncontrolled discharges of PCBs whose concentrations were originally 50 ppm is considered to be the improper disposal of PCBs. Therefore, the Agency's authority to require cleanup and establish cleanup standards is derived from the PCB disposal regulations. That is, before contaminated equipment or other contaminated materials can be distributed in commerce, the Agency requires cleanup of the PCB contamination to remedy the improper disposal of PCBs through spill, leaks or other uncontrolled discharges of PCBs.

During the comment period on the proposed rule and at the public meeting, ALCOA commented that while it uses other equipment contaminated with PCBs as a result of historical use in proximity to PCB-containing machinery such as hydraulic systems, the only equipment which has been designated for resale is a single forge press contaminated at low levels on the outer surface. ALCOA further commented that even if a national cleanup policy eliminated inconsistencies across the regions, ALCOA would still need an exemption to distribute in commerce equipment contaminated with PCBs because dealing with the regional offices can involve a lengthy period of review without any guarantee of approval.

EPA carefully considered the comments made by ALCOA in connection with its distribution in commerce petition as it applies to the forge press. EPA has determined that it is not appropriate for the Agency to establish a cleanup standard via the exemptions process. As regards a single forge press, ALCOA should not experience difficulty in coordinating activities with more than one regional office.

ALCOA indicated that denial of the petition to resell the forge press would result in the loss of $100,000, the resale value of the forge press. EPA estimates that the consequencez of denial would be equal to the resale value plus the cost of disposing of the forge press. The Agency further believes that ALCOA can mitigate any potential losses by decontaminating the equipment to the satisfaction of the regional office and selling the forge press. Thus, it is likely that ALCOA will suffer no economic consequences as a result of this petition denial.

The Agency's denial of the petition to resell the forge press is not based on a determination that decontamination and resale would result in an unreasonable risk. If the forge press is decontaminated to an appropriate level, the resale of the press should not pose an unreasonable

risk, particularly when balanced against the cost of disposal and the loss of resources represented by such disposal. The Agency has determined, however, that it is not within the scope of EPA's authority to grant PCB exemptions to establish cleanup standards where a mechanism already exists for establishing cleanup standards (i.e., currently through the regions, and ultimately a nationwide policy when it becomes final). Upon decontamination in accordance with regional standards, equipment may be distributed in commerce.

3. Benefits and costs. As to the distribution in commerce exemption petition as a whole, ALCOA estimated the reasonably ascertainable costs of denying the petitions based on past sales of salvage equipment. ALCOA's petitions stated that the value of equipment sold for reuse in 1982–83 totalled $2.5 million. ALCOA estimated that the value of salvage equipment sold for reuse in the first 10 months of 1984 totalled $3.5 million. EPA cannot reasonably estimate the economic consequences to ALCOA of denying the petitions without information on the types of equipment involved, the quantity of equipment involved, and the proportion of ALCOA's business which would be derived from the sales of PCB and PCB-contaminated equipment during the exemption period. Given adequate information, EPA would calculate the economic costs of denial as the sales value of the equipment less the costs to ALCOA of processing the equipment and disposing of the PCB and PCB-contaminated fluids and other wastes. A reasonable estimate of the cost of denial would be further mitigated should the petitioner be able to decontaminate the equipment to the satisfaction of the appropriate EPA regional offices and obtain permission to sell the equipment.

Absent specific information on the types and quantities of equipment which would be distributed in commerce if this exemption were granted, EPA cannot find that no unreasonable risk will result from granting the exemption.

C. Research and Development

In the **Federal Register** of July 10, 1984 (49 FR 28193), EPA authorized indefinitely the use of PCBs in "small quantities for research and development." "Small quantities for research and development" is defined at 40 CFR 761.3 as "any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of, PCBs, but not for research or analysis for the development of a PCB product." EPA concluded that authorizing this use of PCBs does not present an unreasonable risk of injury to health or the environment, considering the effects on human health and the environment; the potential for exposure to PCBs; the benefits of using PCBs and the lack; and the economic impact of various regulatory options.

In the Final PCB Exemptions Rule (49 FR 28154) EPA determined that there are no substitutes for PCBs for the continuation of important health, environmental, and analytical research, and that substitutes for PCBs in such applications will not be developed in the future. In this regard, there is a unique need for exemptions to manufacture, process, distribute in commerce, and export PCBs in small quantities for research and development. EPA determined that the manufacture, processing, distribution in commerce, export, and use of PCBs in small quantities for research and development will not pose an unreasonable risk of injury to health or the environment because of the small quantities involved and the procedures typically used to minimize human and environmental exposure to PCBs.

Based upon these prior EPA conclusions and specific information submitted by petitioners, EPA proposed to grant three individual exemptions to manufacture PCBs in small quantities for research and development, two individual exemptions to export PCBs in small quantities for research and development, and a class exemption for processors and distributors of PCBs in small quantities for research and development. No comments were received during the exemption period. One new petition for exemption to manufacture PCBs in small quantities for research and development was accepted for consideration. In this final rule, the Agency is granting four petitions to manufacture PCBs in small quantities for research and development, granting two individual petitions for exemption to export PCBs in small quantities for research and development, and is granting a class exemption for all processors and distributors of PCBs in small quantities for research and development.

In general, the goal of section 6(e) is to phase out the manufacture, processing, distribution in commerce, and use of PCBs. EPA believes that this goal does not apply to critical health, environmental, and scientific research on PCBs. In fact, some PCBs will always be needed, if only for analytical standards, to ensure that the goal of TSCA section 6(e) is being met. In the Final PCB Exemptions Rule, EPA stated that the exemptions granted in that Rule for the manufacture, processing, distribution in commerce, and export of PCBs in small quantities for research and development would be automatically renewed at the end of each year unless the petitioner changes the quantity of PCBs or manner of manufacturing, processing, distributing in commerce, or exporting PCBs.

The proposed rule stated EPA's intent to continue this policy. This final rule reaffirms the continuation of this policy. EPA will automatically renew the manufacturing and export petitions which it proposes below to grant unless the petitioner notifies EPA of a significant change in the quantity of PCBs manufactured or exported or in the manner of manufacturing or exporting the PCBs. Each year, EPA will automatically renew the class exemption for processing and distributing PCBs in commerce in small quantities for research and development until such time as EPA receives information affecting EPA's conclusion that granting the exemption will not result in an unreasonable risk of injury to health or the environment. EPA reserves the authority to exclude any processor or distributor from the class exemption upon determining that maintaining its exemption will pose an unreasonable risk of injury to health or the environment. Any changes in the disposition of individual exemptions, the class exemption, or exemptions for individuals within the class exemption would be published in a notice of proposed rulemaking. The petitioner will be allowed to continue its activities until a final rule is promulgated.

1. Manufacture and export. EPA received three petitions for exemption to manufacture small quantities of PCBs for research and development and two petitions for exemption to export small quantities of PCBs for research and development. An additional petition for exemption to manufacture PCBs in small quantities for research and development was accepted for consideration. In this final rule, EPA is granting all four petitions for exemption to manufacture PCBs in small quantities for research and development and both petitions for exemption to process and distribute in commerce PCBs for research and development.

EPA proposed to grant the Midwest Research Institute (MRI), Kansas City, MO 64110 (ME–70.1), the Radian Corporation, Austin (Radian), TX 78766

VOL 51 ISS 153 AG 8 1986 UMI

(ME–81.2), and Wellington Science USA (Wellington), College Station, TX 77840 (ME–104.1), petitions for exemptions to manufacture PCBs in small quantities for research and development.

In the proposed exemptions rule, Pathfinder Laboratories, St. Louis, MO 63146 (now a division of Sigma Aldridge Corporation, St. Louis, MO 63178), was included in the proposed granting of a class exemption for all processors and distributors of PCBs in small quantities for research and development. After publication of the proposed rule, Pathfinder Laboratories commented that when Pathfinder originally filed its petition in September 1984, it had intended to petition for exemption to manufacture, as well as to process and distribute in commerce, PCBs in small quantities for research and development. EPA reviewed the record and found that the Pathfinder petition could be interpreted to have requested a manufacturing exemption, although subsequent communications were limited to the processing and distribution in commerce petitions. EPA determined that the petitioner had shown good cause for filing a later petition and accepted the manufacturing petition for consideration (ME–76.1).

MRI, Pathfinder, and Wellington Sciences will each manufacture less than 100 grams of PCBs per year. Radian Corporation will manufacture less than 500 grams in 1 year. EPA grants all four petitions for exemption to manufacture PCBs in small quantities for research and development based on the determinations discussed in Units V.C.1.a and b.

The Radian Corporation (PDE–182.1) and Supelco, Inc., Bellefonte, PA 16823 (PDE–41.2), petitioned for exemptions to export PCBs in small quantities for research and development. Radian will export less than 500 grams of PCBs in 1 year. Supelco will export less than 5 grams of PCBs in 1 year. EPA grants both petitions for exemption to export PCBs in small quantities for research and development for reasons discussed below.

In Unit V.A.5.b. of this preamble, EPA described the Agency's criteria for the statutory determination of no unreasonable risk for exemption petitions to export PCBs. EPA treats petitions for exemption to export PCBs more stringently than petitions for exemption to distribute PCBs in commerce within the United States because EPA will have no control over the distribution, use, and disposal of the PCBs once the PCBs have been exported. Those concerns are mitigated in the export of PCBs for research and development by the viscosity, quantity, and packaging of the PCBs as well as the careful handling of the PCBs by trained personnel.

a. Unreasonable risk finding. EPA concluded that granting exemptions to manufacture and export PCBs in small quantities for research and development would not present an unreasonable risk of injury to health or the environment. All of these petitioners want to manufacture or export less than 500 grams of PCBs. The PCBs are manufactured using laboratory practices that are designed to minimize human and environmental exposure to hazardous substances. The risk of exposure to PCBs during the storage and shipment of PCBs is small because the PCBs are packaged in hermetically sealed containers, and are properly marked with warning labels. The risk of exposure to humans and the environment in the ultimate use of these PCBs is minimized by the small quantities of PCBs used in each application, the viscosity of the PCBs, and the careful handling procedures typical of laboratory work. Finally, granting these exemptions will benefit society by allowing important health, environmental, and analytical research to continue.

b. Good faith efforts finding. EPA determined in the Final PCB Exemptions Rule that the good faith efforts finding is not relevant to petitions to manufacture or export PCBs in small quantities for research and development because there are no substitutes for PCBs in health and environmental research. Pure PCBs are needed for this research because commercial PCBs contain a mixture of isomers and contaminants which may adversely affect experimental results.

2. Processing and distribution in commerce. EPA received six petitions for exemptions to process and distribute in commerce PCBs in small quantities for research and development. In addition, EPA received comments on the need for a class exemption to process and distribute PCBs in small quantities for research and development.

EPA proposed to grant a class exemption for the processing and distribution in commerce of PCBs in small quantities for research and development with certain terms and conditions. No comments were received on the proposed class exemption. One company included in the class exemption did clarify its petition to indicate a change in the ownership of the company. In this final rule EPA is granting a class exemption to all processors and distributors of PCBs in small quantities for research and development under the terms and conditions proposed on August 29, 1985.

The class exemption includes all persons or business entities which process and distribute in commerce PCBs in accordance with the definition of "small quantities for research and development" as specified at 40 CFR 761.3. EPA places the following terms and conditions on the class exemption: (a) That all processors and distributors maintain records of their PCB activities for a period of 5 years; and (b) that any person or company that expects to process or distribute in commerce 100 grams (.22 lb) or more PCBs for research and development in 1 year report to EPA and identify the sites of PCB activities and the quantity of PCBs to be processed or distributed in commerce.

The following six companies which submitted individual petitions for exemption to process and distribute in commerce PCBs in small quantities for research and development are included in the class exemption: Alltech Applied Sciences (PDE–41.1); Midwest Research Institute (PDE–151.1); Pathfinder Laboratories (now a subsidiary of Sigma Aldridge; PDE–174.2); Radian Corporation (PDE–182.2); Supelco Incorporated (PDE–41–3); and Wellington Sciences USA (PDE–297.1). EPA reserves the right to exclude any individual from the class peitition for rulemaking.

EPA has determined that there is a unique need for exemptions to process and distribute in commerce PCBs in small quantities for research and development. EPA believes that this need can best be met by granting a class exemption to all processors and distributors of PCBs in small quantities for research and development. Based on information submitted in, and pertaining to, petitions for processing and distribution in commerce of PCBs in small quantities for research and development, EPA has concluded that all processing and distribution in commerce exemption petitions would be granted provided that the definition of "small quantities for research and development" is met.

Because of the nature of research and development activities, the absence of a class exemption causes special difficulties, and places substantial burdens on EPA as well as on processors and distributors. EPA has determined that petitions to process and distribute in commerce PCBs in small quantities for research and development which provide sufficient data on handling procedures would be granted by EPA. This class petition would eliminate the unnecessary use of

resources in filing, evaluating and acting on those petitions.

EPA is placing the reporting requirement on processors and distributors of 100 grams or more PCBs to ensure that unreasonable risks to health or the environment will not be posed by commerical processors and distributors handling large quantities of PCBs per year. However, EPA is not placing a reporting requirement on processors and distributors handling less than 100 grams per year because the Agency has concluded that the lack of a reporting requirement does not pose an unreasonable risk in situations such as those discussed below.

Many users of PCBs who wish to return analytical standards to the supplier because of over-shipment or the delivery of incorrect standards, must petition for exemption and wait for a minimum of 1 year due to the lengthy exemption process, or dispose of the PCBs. These standards, if returned, can be used by another company. EPA has also received comments indicating that if used standards could be returned to processors (repackaged in hermetically sealed containers of a volume of no more than 5 ml), many could be reprocessed under controlled conditions and reused. Thus, this class exemption will potentially reduce the need to manufacture and dispose of additional PCBs for use in research and development.

In addition, many users of PCBs in research and development are involved, in the course of their work, in activities technically classified as processing and distribution in commerce. These users are currently processing and distributing in commerce, without an exemption, under the assumption that these activities are functions of use and thus authorized as use.

a. Unreasonable risk finding. EPA has previously determined that the processing and distribution of PCBs in small quantities for research and development do not pose unreasonable risks of injury to health and the environment. Most of the processors and distributors included in this exemption would be handling less than 100 grams of PCBs per year. Commercial distributors of analytical standards for research and development who would process 100 grams or more of PCBs in 1 year would be required to report to EPA. The PCBs will be processed using laboratory standards designed to minimize human and environmental exposure to hazardous substances. They will be packaged and distributed in hermetically sealed containers in quantities no larger than 5 ml.

Granting the exemption will benefit society by allowing health, environmental, and analytical research to continue. Granting the exemption will encourage the recycling and reuse of PCBs in controlled laboratory settings and discourage additional manufacture and import of PCBs for research and development. Furthermore, substantial numbers of petitions for exemption which would otherwise be filed, processed, and ultimately granted, will be avoided by granting the class exemption. EPA has estimated the incremental costs of filing one exemption petition to be $17,400. The incremental cost of EPA of processing an exemption petition is estimated to be $7,700.

b. Good faith efforts finding. EPA has determined that the good faith efforts finding is not relevant here, because there are no substitutes for PCBs in health and environmental research. Pure PCBs are needed for this research because commercial PCBs contain a mixture of isomers and contaminants which may adversely affect experimental results.

VI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and therefore subject to the requirement that a regulatory impact analysis be prepared. EPA has determined that this final rule is not a "major rule" as that term is defined in section 1(b) of the Executive Order because (a) the annual effect on the economy will be an order of magnitude less than $100 million; (b) it will not cause any noticeable increase in costs or prices for any sector of the economy or for any geographic region; and (c) it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets.

Although this final rule is not a major rule, EPA has assessed the economic impact of the rule using guidance in the Executive Order to the extent possible. This final rule was submitted to the Office of Management and Budget (OMB) for review prior to publication, as required by the Executive Order.

VII. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (the Act), 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with any rulemaking for which EPA must issue a general notice of proposed rulemaking. The initial regulatory flexibility analysis must describe the effect of a rule on small business entities.

Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA is denying no exemption petitions submitted by small businesses. Therefore, in accordance with section 605(b) of the Act and the authority delegated to me to act on petitions submitted under TSCA section 6(e)(3)(B), I certify that this rule will not have a significant impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, authorizes the Director of OMB to review certain information collection requests by Federal agencies. EPA's original request to collect information for rulemaking on PCB exemption petitions was approved by OMB and was assigned OMB Control Number 2000–0466. EPA's subsequent requests to collect information for rulemakings on PCB exemption petitions, and for recordkeeping and reporting conditions to PCB exemptions granted by the Agency, have been approved under OMB Control Number 2070–0021.

IX. Official Rulemaking Record

EPA has established a public record for this proceeding (docket number OPTS–66008E) which, along with a complete index, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days in (Rm. E–107, 401 M St., SW., Washington, DC 20460). All of the information originally submitted in docket number OPTS–66001 (manufacturing exemptions) and OPTS–66002 (processing and distribution in commerce exemptions) was consolidated into docket number OPTS–66008. Information and comments submitted in response to the July 10, 1984 proposed rule-related notice (49 FR 28203) were filed in docket number OPTS–66008B.

In accordance with the requirements of section 19(a)(3) of TSCA, EPA is issuing the following list of documents which constitutes the record of this rulemaking.

A. Previous Rulemaking Records

(1) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs)

VOL 51 ISS 153 AG 8 1986 UMI

Disposal and Marking Rule," Docket No. OPTS–68005, 43 FR 7150, February 17, 1978.

(2) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions Rule," 44 FR 31514, May 31, 1979.

(3) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Proposed Rulemaking for PCB Manufacturing, Exemptions," Docket No. OPTS–66001, 44 FR 31564, May 31, 1979.

(4) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Electrical Equipment," Docket No. OPTS–62015, 47 FR 37342, August 25, 1982.

(5) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes," Docket No. OPTS–62017, 47 FR 46980, October 21, 1982.

(6) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Amendment to Use Authorization for PCB Railroad Transformers," Docket No. OPTS–62020, 48 FR 124, January 3, 1983.

(7) "Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce Exceptions: Proposed Rule," Docket No. OPTS–66008, 48 FR 50486, November 1, 1983.

(8) "Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Response to Individual and Class Petitions for Exemptions," Docket No. OPTS–66008A, 49 FR 28154, July 10, 1984.

(9) "Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions, and Use Prohibitions; Exclusions, Exemptions, and Use Authorizations," Docket No. OPTS–62032A, 49 FR 28172, July 10, 1984.

(10) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions: Use in Microscopy and Research and Development," Docket No. OPTS–62031A, 49 FR 28193, July 10, 1984.

(11) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions: Response to Exemption Petitions; Proposed Rule," Docket No. OPTS–66008C, 50 FR 35182, August 29, 1985.

B. Federal Register Notices

(12) 43 FR 50905, November 1, 1978, USEPA, "Procedures for Rulemaking under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Polychlorinated Biphenyls (PCBs) Ban Exemption."

(13) 44 FR 108, January 2, 1979, USEPA, "Polychlorinated Biphenyls (PCBs); Policy for Implementation and Enforcement."

(14) 44 FR 31514, May 31, 1979, USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions."

(15) 44 FR 31558, May 31, 1979, USEPA, "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Exemptions from the Polychlorinated Biphenyls (PCBs) Processing and Distribution in Commerce Prohibitions."

(16) 45 FR 14247, March 5, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Statement of Policy on All Future Exemption Petitions."

(17) 45 FR 29115, May 1, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Expiration of Open Border Policy for PCB Disposal."

(18) 47 FR 46980, October 21, 1982, USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes."

(19) 49 FR 28154, July 10, 1984, USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Response to Individual and Class Petitions for Exemptions."

(20) 49 FR 28172, July 10, 1984, USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Exclusions, Exemptions, and Use Authorizations."

(21) 49 FR 28193, July 10, 1984, USEPA, "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions Use in Microscopy and Research and Development."

(22) 49 FR 28203, July 10, 1984, USEPA, "Polychlorinated Biphenyls (PCBs); Request for Additional Comments on Certain Individual and Class Petitions for Exemption."

(23) 50 FR 19170, July 17, 1985, USEPA, "Polychlorinated Biphenyls in Electrical Transformers, Final Rule."

(24) 50 FR 35201, August 29, 1986, USEPA, "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing Distribution in Commerce and Use Prohibitions; Response to Ward Transformer Company Petition; Notice of Final Action."

(25) 50 FR 35182, August 29, 1986, USEPA, "Polychlorinated Biphenyls (PCBs); Manufacturing, and Distribution in Commerce and Use Prohibitions; Response to Exemption Petitions; Proposed Rule."

C. Support Documents

(26) USEPA, OPTS, EED, "Response to Comments on the Proposed PCB Exemptions Rule" (June 1984).

(27) USEPA, OPTS, ETD, "PCB Exemption Petitions Economic Impact Analysis" (April 1984).

(28) USEPA, OPTS, ETD, "PCB Exemption Petitions Economic Impact Analysis" (May 1985).

(29) USEPA, OPTS, ETD, "Addendum to PCB Exemption Petitions Economic Analysis" (January 1986).

(30) USEPA, OPTS, HERD, "Response to Comments on the Health Effects of PCBs" (August 1982).

(31) USEPA, OTS, "Support Document/Voluntary Environmental Impact Statement and PCB Manufacturing, Processing, Distribution in Commerce, and Use in Ban Regulation: Economic Impact Analysis" (April 1979).

D. Other References

(32) Manufacturing Exemption Petitions and Related Communications in Docket No. OPTS–66001.

(33) Processing and Distribution in Commerce Exemption Petitions and Related Communications in Docket No. OPTS–66002.

(34) PCB Exemption Petitions, Additional Data and Related Communications in Docket No. OPTS–66008B.

(35) Comments and Telephone Communications on Exemption Petitions in Docket No. OPTS–66008C.

(36) Record of Public Meeting on the Proposed Exemptions Rule, November 6, 1985, in Docket No. OPTS–66008C.

List of Subjects in 40 CFR Part 761

Hazardous substances, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: July 1, 1986.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

Therefore 40 CFR Part 761 is amended as follows:

PART 761—[AMENDED]

1. The authority citation for Part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611.

2. In § 761.80, by adding paragraphs (f)(4), (5), (6) and (7), (m)(5) and (6), and (o), (p), (q) and (r), and revising paragraphs (g) and (n) to read as follows:

§ 761.80 Manufacturing, processing, and distribution in commerce exemptions.

* * * * *

(f) * * *

(4) Midwest Research Institute, Kansas City, MO 64110 (ME–70.1).

(5) Pathfinder Laboratories, St. Louis, MO 63146 (A division of Sigma Aldridge Corporation, St. Louis, MO, 63178) (ME–76).

(6) Radian Corp., Austin, TX 78766 (ME–81.2).

(7) Wellington Sciences USA, College Station, TX 77840 (ME–104.1).

(g) The Administrator grants a class exemption to all processors and distributors of PCBs in small quantities for research and development provided that the following conditions are met:

(1) All processors and distributors must maintain records of their PCB activities for a period of 5 years.

(2) Any person or company which expects to process or distribute in commerce 100 grams (.22 lb) or more PCBs in 1 year must report to EPA identifying the sites of PCB activities and the quantity of PCBs to be processed or distributed in commerce.

* * * * *

(m) * * *

(5) Supelco, Inc., Bellefonte, PA 16823–0048 (PDE–41.2).

(6) Radian Corp., Austin, TX 78766 (PDE–182.1).

(n) The 1-year exemption granted to petitioners in paragraphs (f), (g), and (m) of this section shall be renewed automatically unless a petitioner notifies EPA of any increase in the amount of PCBs to be manufactured, imported, or exported or any change in the manner of manufacture, import, or export of PCBs. EPA will consider the submission of such information to be a renewed petition for exemption. EPA will evaluate the information in the renewed exemption petition, issue a proposed rule for public comment, and issue either a final rule granting the exemption or a notice denying the exemption. Until EPA acts on the petition, the petitioner will be allowed to continue the activities for which it requests exemption.

(o) The 1-year class exemption granted to all processors and distributors of PCBs in small quantities for research and development in paragraph (g) of this section shall be renewed automatically unless information is submitted affecting EPA's conclusion that the class exemption, or the activities of any individual or company included in the exemption, will not pose an unreasonable risk of injury to health or the environment. EPA will evaluate the information, issue a proposed rule for public comment, and issue a final rule affecting the class exemption or individuals or companies included in the class exemption. Until EPA issues a final rule, individuals and companies included in the class exemption will be allowed to continue processing and distributing PCBs in small quantities for research and development.

(p) The Administrator grants the following petitioners an exemption for 1 year to import inadvertently generated PCBs at concentrations above those specified for "excluded manufacturing processes" at § 761.3:

(1) American Hoechst Corp., Somerville, NJ 08876 (ME–5).

(i) The exemption is limited to the pigment specified in the American Hoechst petition.

(ii) [Reserved]

(2) [Reserved]

(q) The Administrator grants the following petitioners, and their customers, an exemption for 1 year to process and distribute in commerce inadvertently generated PCBs at concentration above those specified for "excluded manufacturing processes" at § 761.3 provided that the conditions for each exemption are met:

(1) Aluminum Company of America, Pittsburgh, PA 15219 (PDE–13).

(i) The exemption is limited to the sale of 1,116,225 lbs of aluminum chloride for use in the production of pigments.

(ii) The Agency must be notified 30 days prior to delivery if the aluminum chloride is to be sold to a company other than Kemira, Incorporated of Savannah, Georgia.

(2) American Hoechst Corp., Somerville, NJ 08876 (PDE–13).

(i) The petitioner must notify customers that the product may contain PCBs over the 50 ppm maximum concentration level for inadvertently generated PCBs.

(ii) The exemption is limited to the pigment specified in the American Hoechst petition.

(3) Dainichiseika Color & Chemicals America, Inc., Clifton, NJ 07012 (PDE–58).

(i) The petitioners must notify customers that the product contains PCBs over the 50 ppm maximum concentration level for inadvertently generated PCBs.

(ii) The exemption is limited to the 62,400 lbs of phthalocyanine blue crude in Dainichiseika's inventory.

(r) The Administrator grants the following petitioners a 1-year exemption to distribute in commerce heat transfer and hydraulic systems containing less than 50 ppm PCBs, provided that the systems are drained prior to distribution in commerce.

(1) Aluminum Company of America, Pittsburgh, PA 15219.

(2) [Reserved]

[FR Doc. 86–17884 Filed 8–7–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[BERC–247–F]

Medicare Program; Payment to Health Maintenance Organizations and Competitive Medical Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule makes several changes to the regulations that implement legislation regarding Medicare reimbursement for health care services provided by eligible health maintenance organizations and competitive medical plans. The changes involve rules governing supervision of clinical psychologists, continuing membership for non-residents, and administration of the benefit stabilization fund. We are also responding to the comments we received on the final rule with comment period published on January 10, 1985 (50 FR 1314).

EFFECTIVE DATE: These regulations are effective on September 8, 1986.

FOR FURTHER INFORMATION CONTACT:

Frank Emerson (Reimbursement), (301) 597–1807.

Rita McGrath (Coverage), (301) 594–8558.

SUPPLEMENTARY INFORMATION:

I. Background

On May 25, 1984, we published a proposed rule in the Federal Register (49 FR 22198) concerning Medicare payments to health maintenance organizations (HMOs) and competitive medical plans (CMPs). In that rule, we

VOL 51 ISS 153 AG 8 1986 UMI

solicited comments on proposed regulations implementing amendments to sections 1861 and 1876 of the Social Security Act (the Act). These amendments were enacted by section 114 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248).

On July 18, 1984, Congress enacted the Deficit Reduction Act of 1984 (Pub. L. 98-369). Sections 2322 and 2350 of Division B of that law further amended sections 1861 and 1876 of the Act and required implementing changes in regulations. We issued the necessary changes in our final rule concerning HMOs and CMPs published in the **Federal Register** on January 10, 1985 (50 FR 1314). Because the Pub. L. 98-369 changes were not contained in the May 25, 1984 proposed rule, we provided a 30-day period for public comment on these provisions. The final rule set forth all regulations concerning HMOs and CMPs in 42 CFR Part 417.

The Pub. L. 98-369 amendments to sections 1861 and 1876 of the Act provided for the following:

- Organizations with risk contracts can allow the services of clinical psychologists (as defined by the Secretary), and the services and supplies incident to their services, to be furnished without the direct personal supervision of a physician (section 1861(s)(2)(H)(ii) of the Act).
- With the Secretary's approval and for a period of less than five years, an organization with a risk contract may have a part of the value of the additional benefits it is required to provide withheld and reserved by the Secretary for subsequent annual contract periods. These funds can only be used to stabilize and prevent undue fluctuation in the additional benefits offered in those subsequent periods (section 1876(g)(5) of the Act).
- Organizations with risk contracts are permitted to elect to have direct reimbursement made by HCFA to skilled nursing facilities (SNFs) that furnish covered services to the organizations' Medicare enrollees (section 1876(g)(4)(A) of the Act).

The regulations sections affected by these amendments and revised in our January 10, 1985 final rule with comment period are as follows:

- Services by clinical psychologists in risk organizations—§ 417.416
- Establishment of benefit stabilization funds—§§ 417.401, 417.442, 417.592, 417.594, 417.596, and 417.597
- Direct payments to SNFs—§ 417.586

We stipulated in the January 10, 1985 final rule with comment period that we were providing the 30-day comment period only for the regulations that implemented the Pub. L. 98-369 changes. We further stated that, if changes to the regulations became necessary as a result of the public comments, we would issue another final rule and address those comments regarding the Pub. L. 98-369 amendments.

II. Discussion of Comments

We received comments from one psychological association, one health association, and one health plan on the regulations changes implementing the Pub. L 98-369 amendments. A discussion of the comments and our responses to them are provided below.

Benefit Stabilization Fund

Comment: One commenter believes that the annual savings limit of 15 percent for benefit stabilization funds and the cumulative savings limit of 25 percent for these funds are too restrictive (§ 417.596(c)). The commenter recommended limits of 50 and 100 percent respectively.

Response: We believe that the current limits provide a basis for reasonable stabilization of additional benefits from year to year. We have received no data, information, or analysis to indicate that higher limits are necessary. In addition, we are concerned that unduly high limits would tend to subvert the statutory intent (section 1876(g)(2) of the Act) that savings be used primarily to provide additional benefits to current enrollees during the contract period for which the savings are earned. Finally, it should be noted that § 417.596(c)(3) permits HCFA to approve a higher *annual* limit for the benefit stabilization fund if an organization demonstrates to our satisfaction that a higher amount is needed. We will continue to examine the limits (including the appropriateness of using savings as the basis for establishing the limits) and, if necessary, subsequently revise the regulations.

Comment: A commenter stated that benefit stabilization fund accounts should earn interest since the interest would benefit Medicare enrollees of the organizations.

Response: We believe that payment of interest would be inappropriate because the money in the benefit stabilization fund does not belong to the organization until the organization withdraws it. As we explained in our January 10, 1985 final rule with comment period (50 FR 1336), money that is withheld for the purpose of a benefit stabilization fund is reserved in the Medicare Trust Funds. The amounts credited to a stabilization fund represent the portion of an organization's monthly Medicare per capita payment that the organization wants deferred under the provisions of § 417.596. We do not consider this deferred portion to belong to the organization in the year of the per capita payment for several reasons. First, the organization does not actually receive it in the year of the per capita payment. When the actual payments are made in subsequent years, they will represent additional amounts to the per capita payments that the organization would normally receive. Thus, during the period when money is held in the benefit stabilization fund (and, therefore, not available to the organization), it is not an obligation of the Trust Funds. In addition, we believe the requirement in the law that money remaining in an organization's benefit stabilization fund account after four years must revert to the use of the Trust Funds indicates the law's intent that the money does not belong to the organization unless it is withdrawn by the organization.

Comment: One commenter suggested that two additional criteria be added to § 417.597(b) under which money from the benefit stabilization fund could be withdrawn. The commenter recommended that we (1) consider an HMO's or CMP's underestimate of the number of current nonrisk enrollees who select special supplemental benefits and (2) allow the money to be used for various broadly defined "other uses" as long as the uses are documented to HCFA's satisfaction. (Special supplemental benefits are provided at an organization's option and funded from the savings an organization achieves, as described in § 417.444(b). Current nonrisk enrollees are individuals who have been enrolled in the organization since the time that the organization was paid by Medicare on a reasonable cost basis. Although the organization now has a risk reimbursement contract with Medicare, it continues to be paid by Medicare for these enrollees on a cost basis. In addition, these individuals cannot be converted to risk status immediately because of the statutorily imposed requirements for phasing in their conversion (see § 417.446). An organization may wish to offer special supplemental benefits to this group of enrollees to afford them some of the advantages available to other enrollees in the same organization who are enrolled on a risk basis.)

Another commenter maintained that the criteria in § 417.597 are too restrictive.

Response: Generally, we believe that the criteria serve to implement the statute. We also believe that the situation that would result from the commenter's first concern is already

covered in § 417.597(b)(3). This section provides that it is acceptable to withdraw funds from the benefit stabilization fund if the—

1. Revenue requirements in the new contract are significantly higher than the requirements for the previous contract period;

2. Additional benefits being provided are the same as those in the previous contract period; and

3. ACR for the new contract period would result in an additional benefits package that is less in total value than that of the prior contract period, if a withdrawal is not made from the benefit stabilization fund.

On the other hand, broadly defined "other uses" of stabilization fund money would be inappropriate considering the purpose of the benefit stabilization fund. That is, the fund is to be used only to prevent excessive fluctuation of additional and special supplemental benefits that are provided by the organization to its Medicare enrollees in subsequent contract periods and excessive increases in enrollee premiums for these additional benefits (§ 417.596(a)).

Comment: One commenter believes that the time allowed for exchange of information between HCFA and an HMO or CMP prior to the start of a contract period is inadequate for benefit stabilization fund purposes. The information exchange concerns the organization's ACR and average per capita rate of payment. The commenter believes that additional time is needed for organizations to determine the appropriate amount of contributions or withdrawals, and to inform Medicare enrollees of changes in benefits or premiums.

Response: Benefit stabilization fund amounts are dependent upon the organization's average per capita rate of payment and ACR. These factors are used to establish limits on amounts that can be withheld in a fund and withdrawn from a fund, and are developed through the exchange of information between HCFA and the HMO or CMP according to certain time-frames.

An organization's request to have money withheld in a benefit stabilization fund or to withdraw money from a fund must be made when the organization notifies HCFA of its ACR and average per capita rates of payment in preparation for its next contract period (§§ 417.596(b) and 417.597(a)). The organization must provide this information to us not later than 45 days before the beginning of the contract period (§ 417.592(d)). In developing this information, the organization uses its per capita rate of payment for each class of Medicare enrollees. We make these rates available to each organization no later than 90 days before the beginning of the organization's contract period (§ 417.584(b)(2)).

We recognize that some organizations, especially those in their initial contract periods, may experience problems in this area. However, we believe that the time allowed is reasonable and of sufficient length for organizations that have already demonstrated their capacity to bear the risk of potential losses by meeting the eligibility requirements for a risk contract. Once new organizations gain more experience, they will be better able to cope with this timeframe.

Comment: One commenter suggested that amounts remaining in a benefit stabilization fund after the end of the four year availability period should be used for the benefit of enrollees and not revert to the Medicare Trust Funds (§ 417.597(e)(2)).

Response: The reversion to the Medicare Trust Funds of amounts remaining in a benefit stabilization fund after the end of the availability period is mandated by section 1876(g)(5) of the Act, as enacted by Pub. L. 98–369.

Definition of Clinical Psychologist

Comment: One commenter objected to the definition of clinical psychologist that we used in § 417.416(d)(2). We stated that a clinical psychologist is an individual who—

- Holds a doctoral degree in psychology from a program in clinical psychology that is approved by the American Psychological Association or an adjudged equivalent program, or has attained recognition of competency through the American Board of Examiners for Professional Psychology or through endorsement by the individual's State psychological association;
- Is licensed or certified at the independent practice level of psychology in the State in which he or she practices; and
- Possesses two years of supervised clinical experience at least one of which is postdegree.

The commenter suggested that we—

- Recognize psychologists who possess doctoral degrees in psychology (rather than specifically in clinical psychology) from any educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation;
- Recognize clinical psychologists who are listed in a national register of health service providers in psychology that the Secretary deems appropriate; and
- Delete the reference to an endorsement by an individual's State psychology association.

Response: We agree that doctoral degrees from educational institutions accredited by an organization recognized by the Council on Post-Secondary Accreditation should be recognized since that organization is an association of recognized accrediting bodies that adhere to a national set of standards. We also agree that the reference to an endorsement by the individual's State psychology association should be deleted because it is not the practice of State psychology associations to endorse the competency of individuals. Section 417.416(d)(2) is being revised accordingly. However, we believe that we must retain the requirement that these degrees be in the field of clinical psychology. Broadening this designation would be beyond the scope of the statute (section 1861(s)(2)(H)(ii) of the Act), which refers to services "by a clinical psychologist".

We do not believe that clinical psychologists who are listed in a national register of health service providers in psychology should be recognized because it would be too difficult, administratively, to determine which registries are "appropriate".

III. Other Changes

We are also revising §§ 417.448 and 417.460(a)(2)(iv). These changes clarify our policy concerning—

- Medicare's liability and an organization's liability for services received by enrollees who are permitted by their HMO or CMP to remain as members after they move out of the area serviced by the organization; and
- Liability for any emergency or urgently needed services received by enrollees.

As published in our January 10, 1985 final rule, the regulations do not specify that Medicare is not separately liable for payment for services provided to certain individuals enrolled in HMOs or CMPs who obtain emergency and urgently needed services (§ 417.448) or who permanently move out of the organization's area and continue their membership (§ 417.460(a)(2)(iv)). We are revising these provisions to clarify that Medicare's capitation payment to an organization discharges Medicare's financial responsibility, and to specify when an organization with a risk contract is and is not financially responsible for services not provided directly or arranged for by the organization. The organization must pay

for any emergency or urgently needed services (defined in § 417.401) an enrollee receives. Additionally, the HMO or CMP must pay for all benefits covered under the plan that are obtained by its enrollees who leave the organization's geographic area for more than 90 days and remain as members. However, the organization and the enrollee may mutually agree on certain restrictions not related to coverage of services, such as a requirement that the enrollee receive services at an affiliated plan, if the affiliated plan is available and accessible to the enrollee. We are also revising § 417.460(a)(2)(iv) to clarify that enrollees who leave their organization's geographic area and remain members must obtain care from their own organization whenever they return to their organization's geographic area (that is, that payment will not be made separately by Medicare and that the organization is only required to pay for services furnished by other entities or individuals in cases of emergency, when the enrollee is present in the geographic area).

Finally, we are making the following technical changes:

- We are correcting outdated cross-references in § 417.401.
- We are correcting a cross-reference in § 417.416(d)(1) by replacing the reference to § 481.2 with §491.2. 42 CFR Part 481 was redesignated as Part 491 on August 16, 1985 (50 FR 33034).
- In § 417.416(d)(2), we are clarifying our original intent that an organization must have a risk contract in effect before permitting the services of clinical psychologists to be furnished without the direct personal supervision of a physician.
- We are correcting the cross-references in §§ 417.239 (b) and (c) to §§ 405.626 (a) and (b) to read § 489.18(a)(1) and § 489.18(a)(2) respectively. These corrections are due to the redesignation of §§ 405.602 through 405.626 to a new Part 489 that was published in the **Federal Register** on April 4, 1980 (45 FR 22933).
- We are correcting the cross-references in § 417.554 by replacing the reference to the prospective payment regulations in §§ 405.470 through 405.477 with Part 412. We redesignated these regulations as the new Part 412 in the **Federal Register** (50 FR 12740) on March 29, 1985.

IV. Summary of Changes

The changes that we are making to the regulations published January 10, 1985 are summarized as follows:

- Section 417.401—We are correcting outdated cross-references.
- Section 417.416(d)(1)—We are making a technical correction to a cross-reference.
- Section 417.416(d)(2)—We are clarifying that an organization must have a risk contract in effect before permitting the services of clinical psychologists to be furnished without the direct personal supervision of a physician.
- Section 417.416(d)(2)(i)—We are revising the definition of clinical psychologist.
- Sections 417.448 and 417.460(a)(2)(iv)—We are revising §§ 417.448 and 417.460(a)(2)(iv) to specify that Medicare's capitation payment to an organization discharges Medicare's financial responsibility. We are also revising § 417.460(a)(2)(iv) to clarify an HMO's or CMP's obligations for furnishing services and reimbursing for services to enrollees who leave their organization's geographic area and then subsequently return.
- Sections 417.239 and 417.554—We are making a technical correction to the cross-references.
- Section 417.597(b)—We are adding another qualifying situation to the criteria we use to approve an organization's request for a withdrawal from its benefit stabilization fund.

V. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is defined as any document that is likely to: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulation changes we are making in this final rule will neither result in an annual economic impact of $100 million or more nor meet any other criterion of the Executive Order. We have determined that this final rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all HMOs and CMPs participating in Medicare as small entities.

Most clinical psychologists will have doctoral degrees from an appropriate institution or will meet the criteria described in § 417.416(d)(2)(ii) and (iii). Therefore, we expect this change to have no adverse impact on their employment. Further, the added flexibility may benefit some HMOs and CMPs.

We are revising §§ 417.448 and 417.460(a)(2)(iv) to clarify our original intent that HMOs and CMPs must pay for services under the conditions specified in these sections and that enrollees who leave their organizations' geographic areas and remain members must obtain care from their organizations whenever they return to their geographic areas.

Those clarifications have little impact. HMOs and CMPs will continue to receive their regular capitation payments. If an enrollee obtains emergency or urgently needed services or permanently moves out of the area of the organization and continues membership, he or she will still have covered services paid for under § 417.440.

We expect the impact of this change concerning withdrawal from a benefit stabilization fund to be minimal. If an organization's average of its per capita rates of payment is more than its ACR, the organization must provide its Medicare enrollees with additional benefits from the resultant savings. The organization may have withheld, in a benefit stabilization fund, a part of the value of the additional benefits.

HMOs and CMPs that are converting from cost to risk contracts can receive reimbursement for new enrollees. Under current regulations, for every two new enrollees, they can convert one current nonrisk enrollee to the new reimbursement system. Current nonrisk enrollees are enrollees of HMOs and CMPs that had a cost contract prior to February 1, 1985 and that have converted to a risk contract. These nonrisk enrollees are not automatically entitled to the additional benefits given to risk enrollees until conversion occurs, under the two for one rule. However, these nonrisk enrollees may, if the organization agrees, be given the option of enrolling in a plan for special supplemental benefits that, as stated earlier, is also funded from the savings described above. Therefore, if a large number of nonrisk enrollees elect this

option, there will be less money available per capita for additional benefits for risk enrollees. If the number of nonrisk enrollees electing to receive the special supplemental benefits is underestimated, the organization may need to withdraw funds from the benefit stabilization fund to pay for the special supplemental benefits. Under existing rules, there is no way to withdraw funds from the fund to pay these benefits.

This new rule provides an additional condition under which money can be withdrawn from the benefit stabilization fund. Thus, organizations will have more flexibility and could possibly avoid potentially adverse consequences. We expect organizations to estimate accurately the number of nonrisk enrollees electing special supplemental benefits. Therefore, we expect only a small percentage of those selecting the fund option to have to withdraw from the fund because they underestimated the number of current nonrisk Medicare enrollees.

Further, as of October 4, 1985, only two of 67 organizations that had signed risk contracts had elected the fund option. This represents approximately three percent of risk contracts signed through October 4, 1985. We consider this an indication that HMOs generally are not selecting the benefit stabilization fund option.

We have determined, and the Secretary certifies, that these final regulations will not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

VI. Other Required Information

A. Waiver of Proposed Rulemaking for Certain Sections

As previously discussed, the revisions to §§ 417.448 and 417.460 merely clarify that (1) Medicare's capitation payment to an HMO or CMP discharges Medicare's financial responsibility and (2) enrollees who leave their organization's geographic area and remain members must obtain non-emergency care from their own organization whenever they return to their organization's geographic area (that is, the HMO or CMP is not generally liable for payment for non-emergency or non-urgent services furnished by others when the enrollee is within the HMO's or CMP's geographic area). Also, the changes to §§ 417.416(d)(1) and (d)(2), and 417.554 are merely technical corrections.

These actions do not change any policy and result in no additional burdens on beneficiaries or HMOs or CMPs. The applicable provisions were already implemented in our January 10, 1985 publication after previous public comment. Accordingly, we believe this constitutes good cause for waiving the proposed rulemaking procedure, since it would be both impractical and unnecessary in this case.

B. Paperwork Burden

Section 417.448(d)(2) of this final rule contains a collection of information requirement that is subject to Office of Management and Budget (OMB) review under section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This colection of information requirement is currently approved under OMB control number 0938–0406.

List of Subjects in 42 CFR Part 417

Administrative practice and procedures, Health Maintenance Organization (HMO), Medicare.

42 CFR Part 417 is amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for Part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1871, 1874, and 1876 of the Social Security Act as amended (42 U.S.C. 1302, 1395(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); section 114(c) of Pub. L. 97–248 (42 U.S.C. 1395mm note); and section 1301 of the Public Health Service Act (42 U.S.C. 300e).

§ 417.40 [Amended]

2. In § 417.401, the definitions for "Entity with an existing cost contract" and "Entity with an existing risksharing contract" are amended by replacing the references to "Subpart T of Part 405 of this chapter" with "Subpart B of this Part".

3. In § 417.416, paragraph (d) introductory text is republished and paragraphs (d)(1), (d)(2), and (d)(2)(i) are revised to read as follows:

§ 417.416 Qualifying conditions: Furnishing of services.

* * * * *

(d) *Exceptions to physician supervision.* The following services may be furnished without the direct personal supervision of a physician:

(1) The organization may permit the services of physician assistants and nurse practitioners (as defined in § 491.2 of this chapter), and the services and supplies incident to their services, to be furnished without the direct personal supervision of a physician. For purposes of this section, the definitions of physician assistants' and nurse practitioners' services and the services and supplies incident to their services for rural health clinics as specified in §§ 405.2414 and 405.2415 of this chapter are applicable.

(2) An organization that contracts on a risk basis may permit the services of clinical psychologists, and the services and supplies incident to their professional services, to be furnished without the direct personal supervision of a physician. For purposes of this section, a clinical psychologist is defined as an individual who—

(i) Holds a doctoral degree in psychology from a program in clinical psychology of an educational institution that is accredited by an organization recognized by the Council on Post-Secondary Accreditation;

* * * * *

4. Section 417.448 is revised to read as follows:

§ 417.448 Restriction on payments for services received by Medicare enrollees of risk organizations.

(a) *Basic Rule.* Except for emergency and urgently needed services as defined in § 417.401, risk organizations are not required to make payments to or on behalf of certain Medicare enrollees, for any services received by the enrollees that are not provided—

(1) Directly by the organization; or

(2) Through arrangements made by the organization.

(b) *Application.* The restriction on payments for services imposed by paragraph (a) of this section applies to services received by—

(1) New Medicare enrollees;

(2) Current nonrisk Medicare enrollees who convert to risk reimbursement; and

(3) Current nonrisk Medicare enrollees who elect special supplemental benefit plans.

(c) *End of Restriction.* The restriction on payments imposed by paragraph (a) of this section ends when a Medicare enrollee—

(1) Is disenrolled; or

(2) Permanently leaves the geographic area serviced by the risk organization and the organization and enrollee make arrangements for membership to continue as provided in § 417.460(a)(2)(iv).

(d) *Timing.* The effective dates for the end of the restriction on payments, as discussed in paragraph (c) of this section, are as follows:

(1) *Disenrollment*—As of the first day of the month in which termination of

enrollment is effective, as provided in § 417.460(b)(3).

(2) *Permanent move.*—As of the first day of the first month following the month in which the enrollee notifies the organization, as required in § 417.436(a)(4), that he or she has permanently moved out of the geographic area served by the risk organization.

5. In § 417.460, paragraph (a) introductory text is republished and paragraph (a)(2)(iv) is revised to read as follows:

§ 417.460 Disenrollment of beneficiaries and termination of payments to an organization.

(a) *Disenrollment of health insurance program beneficiaries.* An organization may not, orally or in writing, or by any action or inaction, request or encourage a Medicare enrollee to disenroll, except in the following circumstances:

* * * * *

(2) Enrollee moves out of the organization's geographic area—

(iv) *Exception.* An organization may retain a Medicare enrollee who permanently moves out of the organization's geographic area as a member, if the enrollee agrees. For purposes of this exception, the following provisions apply:

(A) A permanent move means an uninterrupted absence of more than 90 days from the organization's geographic area.

(B) The organization and the enrollee may mutually agree upon restrictions for obtaining services while the enrollee resides out of the organization's geographic area. However, restrictions may not be imposed on the scope of services described in § 417.440.

(C) If the enrollee returns to the organization's geographic area, the restrictions under § 417.448(a) prohibiting Medicare payment for services not provided or arranged for by the organization apply again immediately.

(D) Organizations that choose to exercise this exception must make the option available to all Medicare enrollees who permanently move out of the organization's geographic area. (However, organizations that are affiliated with other organizations may limit this option to enrollees who move to the geographic area served by the other organizations.)

* * * * *

6. Section 417.554 is revised to read as follows:

§ 417.554 Apportionment: Provider services furnished directly by the organization.

The Medicare share of the cost of covered services furnished to Medicare enrollees by providers that are owned or operated by the organization or are related to the organization by common ownership or control must be determined in accordance with the apportionment methods set forth in §§ 405.452, 405.453, 405.480, and Part 412 of this chapter.

7. Section 417.597 is amended by revising paragraph (b) to read as follows:

§ 417.597 Withdrawal from a benefit stabilization fund.

* * * * *

(b) *Criteria for HCFA approval.* HCFA will approve an organization's request for a withdrawal from its benefit stabilization fund for use during the next contract period only if—

(1) The organization's average of its per capita rates of payment for the next contract period is less than that of the previous contract period;

(2) The organization's ACR for the next contract period is significantly higher than that of the previous contract period;

(3) The organization's revenue requirements for the next contract period for providing the additional benefits it provided during the previous contract period is significantly higher than the requirements for that previous period and the ACR for the next contract period results in an additional benefits package that is less in total value than that of the previous contract period; or

(4) The organization underestimated the number of current nonrisk Medicare enrollees who enrolled in a plan for special supplemental benefits as described in section 417.444(b).

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance Program, and No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: May 19, 1986.

William L. Roper,

Administrator, Health Care, Financing Administration.

Approved: July 18, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-17897 Filed 8-7-86; 8:45 am]

BILLING CODE 4120-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815 and 1852

Acquisition Regulations; Technical Amendment

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: An inadvertent discrepancy between the Code of Federal Regulations and the NASA FAR Supplement is corrected. This document removes sections 1815.412, "Late proposals and modifications" and 1852.215-10, "Late submissions, modifications, and withdrawals of proposals".

EFFECTIVE DATE: December 18, 1984.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

SUPPLEMENTARY INFORMATION: The preamble of a final rule published at 50 FR 784 (January 7, 1985) stated that sections 1815.412 and 1852.215-10 were deleted. While the comparable sections (18-15.412 and 18-52.215-10) were removed from the NASA FAR Supplement, as of December 18, 1984, the necessary **Federal Register** amendatory language was inadvertently omitted. This technical amendment, therefore, brings the CFR and the regulations which have actually appeared in the NFS since December 18, 1984, into agreement.

List of Subjects in 48 CFR Parts 1815 and 1852

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1815 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1815—CONTRACTING BY NEGOTIATION

1815.412 [Removed]

2. Section 1815.412 is removed.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1852.2—Texts of Provisions and Clauses

1852.215-10 [Removed]

3. Section 1852.215-10 is removed.

[FR Doc. 86-17850 Filed 8-7-86; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 604 and 630

[Docket No. 60593-6093]

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule to make effective two sections in the final rule implementing the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP) and to amend a table specifying OMB Control Numbers for NOAA Information Collection Requirements (ICR). The Office of Management and Budget (OMB) has approved collection of information requirements for daily and trip records of persons permitted in this fishery. The intent is to make effective the two sections with these requirements.

EFFECTIVE DATE: Sections 630.5 (b) and (c) are effective August 7, 1986 through October 31, 1987.

FOR FURTHER INFORMATION CONTACT: William B. Jackson (Fishery Management Specialist), 202-673-5315.

SUPPLEMENTARY INFORMATION: On June 4, 1986 (51 FR 20297), NOAA published a final rule implementing portions of the FMP. The rule was issued prior to approval by OMB of the ICR in § 630.5 (b) and (c); these were not effective on June 29, 1986, when the rest of the rule was implemented. A notice was to be published in the **Federal Register** when NOAA received the OMB control number, making these sections effective.

Sections 630.5 (b) and (c) have been approved by OMB under OMB control number 0648-0016. OMB approved the information collection for these sections for use through October 31, 1987, "so that a year's worth of baseline data can be collected for this fishery". Additionally, OMB noted that NOAA will explore the possibility of instituting a statistical sample in order to reduce the burden on affected fishermen, should it resubmit this collection for clearance in the future. Therefore, NOAA makes these sections effective through October 31, 1987.

(16 U.S.C. 1801 *et seq.*)

Dated: August 5, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

NOAA amends 50 CFR Part 604 as set forth below:

PART 604—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 604 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

2. The table in § 604.1 is amended by removing "§ 630.5" and inserting "630.5(a)" in its place, and by adding the following entries in numerical order by section number:

§ 604.1 OMB control numbers assigned under the Paperwork Reduction Act.

* * * * *

50 CFR part or section where the information collection requirement is located	Current OMB control No. (all numbers begin 0648-)
* * * * *	
§ 630.5(a)	-0013
§ 630.5 (b) and (c)	-0016
* * * * *	

[FR Doc. 86-17924 Filed 8-7-86; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 153
Friday, August 8, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872 and 873

Federal Employees' Group Life Insurance; Underdeductions of Premiums

Correction

In FR Doc. 86–15882 beginning on page 25532 in the issue of Tuesday, July 15, 1986, make the following corrections:

1. On page 25532, second column, third paragraph, eighteenth line, "decreased" should have read "deceased".

2. In the third column, in amendatory instruction 2, third line, "underreduction" should have read "underdeduction".

3. In the third column, in § 870.103, the definition for "Underdeduction" contained several typographical errors and should have appeared as set forth below:

§ 870.103 [Corrected]

* * * * *

"Underdeduction" means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This definition includes both nondeductions (when none of the required amount was withheld) and partial deductions (when only part of the required amount was withheld). Withholdings are not required while an individual is in a nonpay status; therefore, the nonpayment of premiums, in this instance, does not result in an underdeduction.

§ 872.401 [Corrected]

4. On page 25533, second column, in § 872.401(h), sixth line, insert "has" between "that" and "occurred".

§ 873.401 [Corrected]

5. On page 25533, in § 873.401(f), third column, first line, "waiver" should have read "waive".

BILLING CODE 1505–01–M

5 CFR Part 890

Federal Employees Health Benefits; Underdeductions of Premiums

Correction

In FR Doc. 86–15881 beginning on page 25533 in the issue of Tuesday, July 15, 1986, make the following corrections:

1. On page 25533, third column, in the **"SUMMARY"**, second line from the bottom, insert the word "after" in front of "determining".

2. In the same column, in the **"ADDRESS"** caption, second line, "Regional" should have read "Reginald". In the fourth line from the bottom, "undereduction" should have read "underdeduction".

3. On page 25534, first column, fifteenth line, "not later" should have read "no later". In the same column, second complete paragraph, in the ninth line, "pursing" should have read "pursuing" and in the twelfth line, "application" should have read "applicable". Also in the first column, last line, "amended" should have read "amend".

PART 890—[CORRECTED]

4. On page 25534, second column, in the authority citation, second line from the bottom, "89–615" should have read "98–615".

BILLING CODE 1505–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations of the Immigration and Naturalization Service relating to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. 1101. This nonimmigrant category applies to an alien having a residence in a foreign country which he or she has no intention of abandoning, who is coming to the United States temporarily to perform services or labor or to receive training. The alien may be classified under section 101(a)(15)(H)(i) as an alien of distinguished merit and ability, or under section 101(a)(15)(H)(ii) as an alien who is coming to perform temporary services or labor, or under section 101(a)(15)(H)(iii) as an alien who is coming as a trainee. These classifications are assigned nonimmigrant visa symbols H–1, H–2, and H–3 respectively.

The Service published a proposal rule on May 21, 1986 at 51 FR 18591 which included changes concerning "H–1" nonimmigrants. Those changes have been incorporated in this proposed rule. They define temporariness and include the dual intent concept for both employer and the alien. There were no substantive changes to provisions for "H–2" or "H–3" nonimmigrants in the prior proposal.

The purpose of this proposed rule is to clarify Service requirements for classification, admission, and maintenance of status under this nonimmigrant category; to make the requirements easy for the public to understand and comply with; and to consolidate into regulation numerous policies that are embodied in precedent decisions, Operations Instructions, and other policy issuances.

The proposed rule would delineate the different filing requirements for certain types of petitions and specify which beneficiaries may be included on the various types of petitions. A main objective of the rule is to establish realistic standards for determining who qualifies as an alien of distinguished merit and ability for H–1 classification. In this respect, the rule would define profession and list the eligibility criteria for a number of the professions and a person who is preeminent in his or her field. The rule would also clarify the licensure requirement for H–1 classification.

The rule would make other technical amendments designed to promote consistency in adjudicating H petitions. Some requirements would be made more definitive, such as those relating to accompanying aliens, documentation of qualifications of aliens, restrictions on training programs, revocation of approved petitions, and limits on a

temporary stay in the United States. Other requirements for obtaining benefits, such as those for extension of visa petitions and validity periods of petitions, would be modified to better accommodate the business needs of employers.

The Service believes that these revisions would clarify policy as it related to the H nonimmigrant category for the public and the field; would facilitate the admission of exceptional, professional, and skilled workers needed by businesses and other organizations; would curb abuses; and would promote consistency in Service determinations.

DATE: Comments must be received on or before October 7, 1986.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For substantive information: Flora T. Richardson, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3946.

For general information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service; 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: Section 101(a)(15)(H) of the Immigration and Nationality Act was established in 1952 to include a new class of nonimmigrant aliens who would be coming to the United States to engage in employment. In this provision, Congress sought to grant the Attorney General sufficient authority to admit temporarily certain alien workers (industrial, agricultural, or other) for the purpose of alleviating labor shortages as they exist or may develop in certain areas or certain branches of American productive enterprises, particularly in periods of intensified production. This provision also enables foreign trainees to acquire knowledge of American industrial, agricultural, and business methods.

There are three visa symbols to distinguish the nonimmigrant classifications provided for under section 101(a)(15)(H). They are described as follows:

- "H–1" refers to an alien of distinguished merit and ability who is coming temporarily to the United States to perform services of an exceptional nature requiring such merit and ability. In the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, the alien must be coming pursuant to an invitation from a public or nonpublic private educational research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency. Although the services to be performed may be temporary or permanent in nature, it must be established that the employment is only for a temporary period.

- "H–2" refers to an alien who is coming temporarily to the United States to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country, but the H–2 classification does not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession. The employer's need for the services or labor to be performed must be temporary in nature. This classification requires a temporary labor certification issued by the Secretary of Labor or the Governor of Guam or a notice that certification cannot be made prior to the filing of a petition with the service.

- "H–3" refers to an alien who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training. The alien may receive training from an employer in any field other than graduate medical training, such as agriculture, commerce, communication, finance, government, or the professions. This classification may not be used when all of the training will be at an academic or vocational institution.

The Service has responsibility for reviewing the services, labor or training and for determining whether the alien who is to perform them is eligible for classification under section 101(a)(15)(H). These proposed regulations set forth the procedures whereby the benefits under section 101(a)(15)(H) may be applied for, granted, denied, extended, revoked, or appealed.

This proposed rule, for the most part, simply states existing Service policy regarding the H classification in regulatory form. Wherever a change in policy is being proposed, or wherever Service policy is being clarified, it will be evident in the discussion of the substantive proposed amendments below:

Discussion of Proposed Amendments

1. Filing of Petitions

A petition to classify a worker under section 101(a)(15)(H) may be filed by a United States or foreign employer with the Service office which has jurisdiction over the area of intended employment. Such a petition generally involves one employer, one beneficiary, and employment in one location. The Service accommodates other types of petitions; however, due to the increasing complexities of the situations involved and the workload generated by these situations, it is necessary to specifically describe filing requirements for other types of petitions as follows:

(A) Services or training in more than one location. When the services or training will be performed in more than one location, the Service has previously allowed the petitioner to file the petition in any one of the locations where the services will be performed. This has created a situation where some petitioners "shop around" for the location where they are least likely to receive an unfavorable determination and generally where staff have the least experience in handling the particular type of application. In addition, the Service has difficulty in tracking such petitions when complaints arise, especially in the entertainment industry, because it cannot be determined in a timely manner just where the petition will be filed. For control purposes, the petitioner would be required to file the petition with the Service office which has jurisdiction over the area where the petitioner is located. If the petitioner is a foreign employer, the petition will be filed with the Service office which has jurisdiction over the area where the employment or training will begin.

(B) Agents as petitioners. In recognition of the fact that certain services involve workers who are traditionally self-employed or who use agents to arrange their employment with numerous employers, the Service would permit an established agent to file a petition as the employer. The agent, however, would be required to guarantee the terms of employment by contractual agreement with the beneficiary and specify the booked engagements for the period of time requested.

(C) Multiple beneficiaries on an H–1 petition. The H–1 classification requires separate documentation which shows that each individual qualifies as a professional or person of preeminence, except where the person is a member of a professional sports team or performing ensemble and the reputation of the team

or ensemble as a whole is evaluated for H–1 classification, or an accompanying alien to an individual, sports team, or performing ensemble of distinguished merit and ability.

In view of this, the rule would clarify that the filing of a separate petition for each H–1 beneficiary is required unless the alien is an accompanying alien or a member of a professional sports team, or a member of a performing ensemble in the entertainment industry.

(D) Unnamed beneficiaries. There are certain limited circumstances in which the Service will adjudicate H–2 petitions where the actual beneficiaries have not been identified. However, the exact number of workers needed must be reflected in the labor certification and the petition before each is approved. The situtations generally involve large numbers of workers in unskilled or journeyman occupations. In any case, the names of the beneficiaries must be provided to the American consulate or port of entry before the beneficiaries may obtain a visa or be admitted to the United States. To control the use of this type of petition, the Service proposes to limit H–2 petitions with unnamed beneficiaries to those involving seasonal agricultural and logging workers and those involving more than 25 construction-related workers where the workers will be applying for visas at the same consulate or applying for admission at the same port of entry.

(E) Substitution of beneficiaries. An approved H petition is generally limited to the named beneficiary(ies). This rule would clarify that substitution of beneficiaries may be made only in approved petitions involving unnamed beneficiaries and H–1 sports teams or performing ensembles such as hockey teams, orchestras, dance troupes, and theatrical groups. In all other cases, a new petition is required.

2. H–1 Petition for an Alien of Distinguished Merit and Ability

The rule would explain and clarify Service criteria for determining H–1 classification, including the licensing requirements, and define an accompanying alien and other terms used in this rule.

(A) Standards for H–1 classification. For an alien to be accorded H–1 classification, it must be established that the alien is of distinguished merit and ability and that the services to be performed require such merit and ability. Distinguished merit and ability may be established in one of two ways. First, aliens who are members of the professions within the meaning of section 101(a)(32) of the Act, 8 U.S.C. 1101(a)(32), are classifiable as aliens of distinguished merit and ability; *Matter of Essex Cryogenics Industries, Inc.*, 14 I&N Dec. 196 (Dep. Assoc. Comm. 1972), *Matter of General Atomic Company*, 17 I&N Dec. 532 (Com. 1980). Second, aliens who are prominent, reowned, or preeminent in their field of endeavor are classifiable as aliens of distinguished merit and ability, *Matter of Shaw*, 11 I&N Dec. 227 (D.D 1965).

The legislative history (House Report 91–851, U.S. Code Cong. and Ad. News 2751–2755 (1970) indicates that Congress expressed satisfaction with judicial and administrative interpretations of "distinguished merit and ability" and declare that this term "implies a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person so described is prominent or has a high level of education in his field of endeavor".

Heretofore, the Service has not consolidated into regulation the standards for determining who qualifies as a member of the professions or a person of preeminence in his or her field. The proposed rule would describe the current criteria for qualification based on case law, and would add two new categories of preeminence (one related to the performing arts and one related to business). It would also clarify and simplify the rules for determining when a person may be deemed a professional by virtue of education and experience. These changes are believed to be flexible enough to accommodate expanding labor market needs and changes.

(1) Criteria for a member of the professions. The term "profession" as defined in section 101(a)(32) of the Act includes but is not limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries. This rule would consolidate into regulation the Service's criteria for determining what occupations other than those specified in the Act constitute "professions". The basic definition of "profession" was set forth in *Matter of Shin*, 11 I&N Dec. 686 (D.D 1966) and has been followed ever since:

> The term "profession" refers to a status which requires knowledge of an advanced type in a given field of science or learning gained by a prolonged course of specialized instruction and study.
>
> In addition to the foregoing, a guideline to what constitutes a 'profession' within the meaning of the Act is found in a characteristic common to each of the vocations named in the subsection under reference [sec. 101(a)(32)].
>
> That common denominator is the fact that all require specialized education that is normally attained through high education of a type for which at least a bachelor's degree can be obtained, or through equivalent specialized instruction and experience in lieu thereof. An example of the latter lies in the field of law wherein many members of that profession have obtained their knowledge through the medium of intensive work, instruction and study in that activity under the guidance of members of that profession.
>
> To summarize, the vacations included in the term "profession" in our modern, highly industrialized society are constantly expanding, consistent with the greater knowledge and specialized training that such a society demands. These could well include, in addition to various scientific fields, highly specialized activities in business administration, finance, journalism, and the like provided that the particular activity required at least a baccalaureate level of special knowledge, not merely skill. The mere acquisition of a degree or equivalent experience does not, of itself, qualify a person as a member of a "profession". The knowledge acquired must also be of (a) nature that is a realistic prerequisite to entry into the particular field of endeavor.

This rule would set forth the definition of "profession" and the standards for qualifying as a member of the professions. A "profession" means an occupation which requires theoretical and practical application of a body of specialized knowledge to fully perform the occupation in such fields of human endeavor as: architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, law, and theology. A profession requires completion of a specific course of education at an accredited college or university, culminating in a baccalaureate or higher degree in a specific professional field, and attainment of such degree or its equivalent is the minimum requirement for entry into the profession in the United States. There are two categories of persons who do not meet these requirements but are nevertheless regarded as professionals. The first category is persons who, after passage of normal professional tests and requirements, are granted full state licenses to practice the profession. This occurs rarely and mainly relates to persons who, after "reading the law" and passing the bar examination, are authorizd to practice law despite their lack of a legal degree. The second and more important category is persons who lack the requirement degree but, by virtue of a combination of academic training, experience and accomplishments, are in fact lawfully practicing at a professional level. (Persons who, because of lack of training or licensure, cannot qualify as professionals may, if they have achieved positions of responsibility and

significance, qualify as "preeminent". See discussion below.)

The definition of professional and the acceptance of full state licensure as the equivalent of the required degree represent long-standing policy. The Service has also long recognized that a combination of education, experience and accomplishment may result in training which is equivalent to the professional training which is normally gained through attainment of a professional degree. However, the proposed rule would specify the extent and type of education and experience required in order for a person to qualify as a professional. Adoption of such a rule would make it easier for the public to understand the criteria for qualification, and would simplify administration for the Service.

To qualify as a member of the professions, the alien is required to:

- Hold a United States baccalaureate or higher degree required by the profession from an accredited college or university, or
- Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the profession from an accredited college or university, or
- Hold an unrestricted state license which authorizes him or her to fully practice the profession and be engaged in that profession, or
- Have completed at least two years of college-level training in the profession, have demonstrated that he or she has for at least the past five years worked full-time in positions which normally require the services of a professional, and have attained certain professional achievements and recognition.

(2) Criteria for preeminence. The basic standard for preeminence is the possession of skills and recognition substantially above those ordinarily encountered, to the extent that a person so described is preeminent in his or her field of endeavor; *Matter of Shaw*, 11 I&N Dec. 277 (D.D. 1965). Although existing regulations set forth in detail the documentation which must be attached to a petition to establish preeminence, this rule would establish definitive standards for determining preeminence in two new categories. Preeminence could be established by an individual alien or by a team or ensemble consisting of a group of aliens. The alien(s) would be required to:

- Have sustained national or international acclaim and recognition as an individual or a team or ensemble; or
- Be a performing artist or a performing ensemble which is recognized by cultural organizations, critics, and other experts in the entertainment industry for excellence in developing, interpreting or representing a clearly identifiable and unique ethnic, cultural, musical, theatrical or other performing art; be coming to the United States for one period of 60 days or less in a year solely to perform at a cultural event to further the understanding of or development of that performing art form; and be sponsored a nonprofit educational, cultural, or governmental organization which has a history of promoting such international cultural activities and exchanges; or
- Have exceptional career achievement in business in executive, managerial, or highly technical positions as evidenced by certain factors described in this proposed rule.

The new criteria reflected in the last two standards would recognize certain unique performing artists or ensembles which previously have not qualified for H–1 classification but clearly possess qualifications which are exceptional in nature, and certain persons with exceptional career achievement in business. The Service does not believe that inclusion of such persons under the H–1 classification will have an adverse impact on the labor market nor would it diminish the stringent standards for distinguished merit and ability previously required for H–1 classification.

The rule would include in the H–1 distinguished merit and ability category, performing artists who are recognized exponents of unique forms of artistic expression which by their nature cannot receive the national or international acclaim which is possible in what might be termed the mainstream arts. Performing artists and ensembles in this subcategory must still be recognized for their excellence and significance in minor or narrow performing art forms by authorities in ethno-musicology, drama, dance, etc. For example, H–1 classification could be accorded to an experimental theater group recognized for excellence by the British Council and sought out by a nonprofit theater project in the United States which receives its funds from the National Endowment for the Arts and whose primary purpose is to promote cultural appreciation and understanding. Classification and admission of these performing artists would be limited to a specific cultural event and a short time period.

The rule would also rectify the situation whereby certain aliens with substantial amounts of work experience and significant achievements in business are employed in high-level positions requiring a broad range of responsibilities but cannot qualify for H–1 classification as professionals or persons of preeminence by current standards, while a recent college graduate in a profession, such as engineering, can qualify. The Service believes that such persons are beneficial to the American labor market and should qualify for H–1 classification.

(b) Licensure for H–1 classification. This rule would clarify the licensure requirement for H–1 classification. The Service has long held that an alien who is accorded H–1 classification must be able to engage in his profession immediately upon entering the United States; *Matter of St. Joseph's Hospital*, 14 I&N 202 (1972). It then follows that if a profession requires a state or local license for an individual to practice that profession, an alien seeking H–1 classification in that profession must have that license to be found qualified to enter the United States and immediately engage in the profession. A temporary license is acceptable if the alien is authorized to fully perform the duties of the profession under applicable state law.

There are two exceptions to the licensure requirement. First, where a State allows an individual to fully practice a profession under the supervision of licensed senior or supervisory personnel, H–1 classification may be accorded. Second, where a foreign professional nurse has passed the Commission on Graduates of Foreign Nursing Schools examination and met other prescribed requirements, H–1 classification may be accorded.

(c) Accompanying alien. For the past several years, the Service by regulation has permitted aliens who are essential to a performance to accompany alien entertainers of distinguished merit and ability to the United States under the same H–1 classification as the performer. This privilige includes only those highly skilled support staff who possess such unique qualifications, experience with the performer(s), and knowledge of the performance as to render success of the performance dependent upon their participation.

The Service has received numerous complaints from labor organizations regarding the application of this provision in the field. Aliens have been allowed to accompany all types of workers in the entertainment industry, including technical and craft personnel, although it could not be demonstrated that success of a performance depended on participation of the specific individuals.

This rule would authorize accompanying alien status only for highly skilled, essential support staff

VOL 51 ISS 153 AG 8 1986 UMI

who accompany professional sports teams and performing artists coming to the United States to perform before an audience.

2. H–2 Petition for Alien To Perform Temporary Services or Labor

(A) Labor certification. Every petition to classify an alien as an H–2 temporary nonimmigrant worker must have attached to it either a labor certification or a notice that such certification cannot be made, from the Secretary of Labor or the Governor of Guam. This rule would limit the term of a labor certification to one year. This provision would merely set forth in the regulations what is the actual practice of the Secretary of Labor and the Governor of Guam in issuing temporary labor certifications.

The rule sets forth Service requirements for countervailing evidence when the petitioner receives a notice that a certification cannot be made. The petitioner is required to address availability or nonavailability of U.S. workers, the prevailing wage rate, and each of the reasons why the Secretary of Labor or the Governor of Guam could not grant the labor certification.

Minor technical changes would be made to temporary labor certification procedures for the Territory of Guam to give the Governor authority to expedite the processing of applications in emergent situations and to clarify approval and reporting requirements. For normal processing of temporary labor certification applications, the employer must still place a job order with the Employment Service system for a period of 30 days. This rule would allow the Governor, at his discretion, to reduce this period by as much as 20 days for applications in the entertainment industry. This rule would also clarify that the Commissioner of Immigration and Naturalization must approve specific construction wage rates on Guam prior to implementation of new rates; specify the frequency of wage surveys; and require the Governor of Guam to furnish quarterly reports of labor certification workload and determinations.

(B) Evidence. The rule would specify the evidence that is required to accompany an H–2 petition. In particular, the petitioner would be required to provide documentation that the alien qualifies for the job offer as specified in the labor certification, except in petitions involving unnamed beneficiaries

3. H–3 Petition for an Alien Trainee

Restrictions on training programs. When an employee is not of distinguished merit and ability or the petitioner cannot obtain a temporary labor certification, the Service has observed that the H–3 classification is often requested to enable the alien to engage in actual employment under the guise of a training program. This rule would specify the restrictions on training programs which the Service considers in adjudicating H–3 petitions. A training program is inappropriate when it:

- Deals in generalities with no fixed schedule, objectives, or means of evaluation;
- Is incompatible with the nature of the petitioner's business or enterprise;
- Is on behalf of a beneficiary who appears to already possess substantial training and expertise in the proposed field;
- Is in a field in which it is unlikely that the knowledge or skills could be used in the beneficiary's native country;
- Does not establish that the training is purposeful and incidental to productive employment;
- Is designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States;
- Does not establish that the petitioner has the physical plant and sufficiently trained manpower to provide the training specified; or
- Is designed to extend the total allowable period of practical training previously authorized a nonimmigrant student.

4. Other Technical Amendments

(A) Approval and validity of petitions. For the convenience of petitioners and beneficiaries, the Service would modify the approval period of an H petition. If the petition is approved before the date the petitioner indicates that the services or labor or training will begin, the approved petition would reflect the actual dates requested by the petitioner, not to exceed the limits specified by these regulations, and the date the petition is actually approved. In no case would the beginning date of the petition's period of approval be earlier than the date the petition is actually approved. In this way, the petitioner and beneficiary will not lose part of the approval period while they wait for the date services are expected to begin or for the alien to make preparations to come to the United States.

The validity period for which an H–3 petition may be authorized would be modified to reflect the purpose of the alien's temporary stay in the United States. Although current regulations provide for approval of training programs for the documented length of the training program, we now believe that an outer limit on a training program is necessary. A training program would be approved for the documented length of the training program not to exceed 18 months. The Service believes that this period of time is sufficient to satisfy the objectives of a training program and the intent of Congress. This period of time also coincides with the International Communication Agency's limit for exchange visitors who are business and industrial trainees.

(B) Extension of visa petition and extension of stay application procedures. Current regulations require the filing and approval of an abbreviated visa petition and an application for extension of stay in order to extend the beneficiary's stay in the United States. This procedure would be amended to require only the filing of an application for extension of stay by the beneficary, accompanied by a letter (or labor certification in H–2 cases) from the employer restating the terms and conditions of employment as specified in the original petition. No action would be taken with respect to the visa petition if the beneficiary's application for extension of stay were denied. Approval of the beneficiary's application for extension of stay would automatically extend the visa petition for the same period. This change in procedure would reduce workload in our Regional Adjudication Centers, where petition extensions constitute a significant portion of their workload. The procedure will also reduce the burden and cost to employers involved in this procedure.

(C) Limits on a temporary stay (temporariness). As with H–1 and L applicants in a prior proposed rulemaking, we believe that adoption of a generous but specific limit on a temporary stay in the United States in the H–3 category would curb abuses and best serve the interests of the Service and the affected public. Our current regulations already limit the stay of an H–2 beneficiary in the United States to three years. We propose to limit the stay of an H–3 beneficiary to 18 months. We believe that an eighteen-month period is sufficient to accomplish the purpose of entering the United States in the H–3 classification. Extension of stay in increments of six months would be granted in the H–3 classification as long as the total period of stay did not exceed 18 months. After an H–2 beneficiary has spent three years in the United States, and an H–3 beneficiary has spent 18 months in the United States, this rule would require that a new petition for the alien in the same

classification would not be approved unless the alien departed voluntarily and resided outside the United States for six months.

(D) Effect of obtaining a labor certification or filing a preference petition in the H–2 and H–3 classifications. The rule would specify that approval of a permanent labor certification or the filing of a preference petition for an H–2 or H–3 alien beneficiary in the same or a different job or training position with the same employer would be ground to deny a new petition or the alien's application for an extension of stay. This is because:

(1) H–2 classification. In the case of an H–2 beneficiary, the employer previously submitted satisfactory representations that the need for the skills or labor was temporary. If the employer's need has changed, the beneficiary no longer qualifies for H–2 classification in the same job. To avoid abuses of the H–2 classification, the Service would also not accept representations that the permanent services would be in a different job when the labor certification or preference petition is filed by the same employer.

(2) H–3 beneficiary. In the case of an H–3 beneficiary, the employer was required to demonstrate that the training position was to benefit the beneficiary in pursuing a career outside the United States. When that same employer obtains a labor certification or files a preference petition for the beneficiary, the Service would conclude that the purpose of the training was to recruit and train the alien to ultimately staff a position in the United States.

The Service believes that the proposed changes reflected in this proposed rule will benefit the public to the extent that they clarify requirements, curb abuses, and make the H category more useful to businesses and other organizations. They would make clear Service policy regarding admission, the alien's temporary stay in the United States, and requirements for petitioners and beneficiaries who seek approval or classification under the H nonimmigrant category.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, aliens, employment, student, and passports and visas.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations would be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 is revised to read as follows:

Authority: Secs. 101, 103, 212, 214, and 248, as amended; 8 U.S.C. 1101, 1103, 1182, 1184, and 1258.

2. Section 214.2 would be amended by revising paragraph (h) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) *Temporary employees*—(1) *Admission of temporary employees*—(i) *General.* Under section 101(a)(15)(H) of the Act, an alien having a residence in a foreign country which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services or labor for or to receive training from an employer, if petitioned for by that employer. Under this nonimmigrant category, the alien may be classified under section 101(a)(15)(H)(i) as an alien of distinguished merit and ability, or under section 101(a)(15)(H)(ii) as an alien who is coming to perform temporary services or labor, or under section 101(a)(15)(H)(iii) as an alien who is coming as a trainee. These classifications are commonly called H–1, H–2, and H–3 respectively. The employer must file a petition with the Service for review of the services or training and for a determination of the alien's eligibility for classification as a temporary employee or trainee, before the alien may apply for a visa or seek admission to the United States. These regulations set forth the standards and procedures whereby these classifications may be applied for and granted, denied, extended, revoked, or appealed.

(ii) *Description of Classifications.* (A) "H–1" refers to an alien who is of distinguished merit and ability and who is coming temporarily to the United States to perform services of an exceptional nature requiring such merit and ability. In the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, the alien must be coming pursuant to an invitation from a public or nonprofit private educational research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency. Although the services to be performed may be temporary or permanent in nature, it must be established that the employment is only for a temporary period.

(B) "H–2" refers to an alien who is coming temporarily to the United States to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country. This classification does not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession. The employer's need for the services or labor to be performed must be temporary in nature. This classification requires a temporary labor certification issued by the Secretary of Labor or the Governor of Guam or a notice from one of them that certification cannot be made prior to the filing of a petition with the Service.

(C) "H–3" refers to an alien who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training. The alien may receive training from an employer in any field other than graduate medical education, such as agriculture, commerce, communication, finance, government, or the professions. This classification may not be used when all of the training will be at an academic or vocational institution.

(2) *Petitions*—(i) *Filing of petitions.*—(A) *Services or training in one location.* An employer seeking to classify an alien as an H–1, H–2, or H–3 temporary employee shall file a petition in duplicate on Form I–120H with the Service office which has jurisdiction over the area where the alien will perform services or receive training. The employer may be a United States or foreign employer.

(B) *Services or training in more than one location.* A petition which requires services to be performed or training to be received in more than one location must include an itinerary with the dates and locations of the services or training and must be filed with the Service office which has jurisdiction over the area where the petitioner is located. If the petitioner is a foreign employer, the petition shall be filed with the Service office which has jurisdiction over the area where the employment will begin.

(C) *Services or training for more than one employer.* If the beneficiary will perform services for or receive training from more than one employer, each

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employer must file a separate petition with the Service office which has jurisdiction over the area where the alien will perform services or receive training. The alien may work part-time for multiple employers provided each has an approved petition for the alien.

(D) *Change in employment or training.* If the alien is in the United States and decides to change employers, the new employer must file a new petition on Form I–129H. If the alien is accorded the same H classification, an extension of stay is not required until the alien's previously authorized stay is about to expire. If the new petition is accompanied by an application for extension of stay on Form I–539 and the new petition is approved, the extension of stay may be granted for the validity of the approved petition.

(E) *Amended petition.* The petitioner shall file an amended petition with the Service office where the original petition was filed to reflect any changes in the terms and conditions of employment and any changes which affect the beneficiary's eligibility under section 101(a)(15)(H) of the Act.

(F) *Agents as petitioners.* In occupations where workers traditionally are self-employed or use agents to arrange their employment, an established agent may file the petition as the employer. The agent must have a contract with the alien wherein the agent guarantees the salary and other terms of employment and specifies the booked engagements for the period of time requested. The contract between the agent and the alien must be signed and dated by the agent and the alien.

(ii) *Multiple beneficiaries*—(A) *H–1 petitions.* More than one beneficiary may be included in an H–1 petition if they are members of a professional sports team, or they are performing artists with an ensemble of distinguished merit and ability coming to the United States to perform services in the entertainment industry, or they are accompanying aliens, as defined in paragraph (h)(3)(i)(B)(*4*), for a performing artist or ensemble. The petition shall include the name and title of each beneficiary. They must also be applying for visas at the same consulate or applying for admission at the same port of entry.

(B) *H–2 and H–3 petitions.* More than one beneficiary may be included in an H–2 or H–3 petition if the beneficiaries will be performing the same service or receiving the same training in the same geographical area. They must also be applying for visas at the same consulate or applying for admission at the same port of entry.

(iii) *Unnamed beneficiaries.* Every I–129H petition must include the names of beneficiaries and other required information when filed, except H–2 petitions for seasonal agricultural or logging workers and H–2 petitions involving more than 25 skilled construction-related workers. Such H–2 petitions will be handled as follows:

(A) *Beneficiaries without visas.* For those beneficiaries who are not required to obtain nonimmigrant visas, names must be submitted to the designated port of entry as soon as such information is available. When it is impractical to submit the required information, the port shall be advised of the number expected to arrive at such port so that no more persons are admitted than the number for which the petition is approved.

(B) *Beneficiaries with visas.* For those beneficiaries who require visas, the petition may be approved and forwarded to the specified consular post with the remarks block endorsed: "Information relating to individual beneficiaries will be forthcoming from petitioner." The petitioner shall furnish the required information to the consular post as soon as such information is available.

(iv) *Substitution of beneficiaries.* Substitution of beneficiaries may be made only in approved petitions involving unnamed beneficiaries or H–1 sports teams or performing ensembles, such as hockey teams, orchestras, dance troupes, and casts for theatrical productions. To request a substitution, the petitioner shall notify the consular office at which the alien will apply for a visa or the port of entry where the alien will apply for admission.

(3) *Petition for alien of distinguished merit and ability (H–1)*—(i)—*Standards for H–1 classification.* H–1 classification may be granted to an individual in his own capacity, based on a petition filed on behalf of that individual, or in his capacity as a member of a group, based on a petition filed on behalf of the group, or to an accompanying alien as defined in paragraph (h)(3)(i)(B)(*4*), and included in the same petition for an individual or group of distinguished merit and ability.

(A) *Types of H–1 classification: (1) H–1 classification in individual capacity.* H–1 classification may be granted to an alien who is of distinguished merit and ability. An alien of distinguished merit and ability is one who is a member of the professions or who is preeminent in his or her field and who is coming to the United States to perform services which require a professional or person of preeminence.

(*2*) *H–1 classification as a member of a group.* A group of distinguished merit and ability is a professional sports team or a performing ensemble which is preeminent in its field and is coming to the United States to perform services which require a group of preeminence. A person who is a member of a group of distinguished merit and ability may be granted H–1 classification based on that relationship, but may not perform services separate and apart from the group unless he or she is granted H–1 classification in an individual capacity.

(*3*) *H–1 classification as an accompanying alien.* A person who is an accompanyng alien, as defined in paragaph (h)(3)(i)(B)(*4*), to an individual or group of distinguished merit and ability may be granted H–1 classification based on that relationship. The H–1 classification derived from the individual or group of distinguished merit and ability does not entitle an accompanying alien to individual H–1 classification when the alien will perform services separate and apart from the individual or group of distinguished merit and ability.

(B) *Definitions:*

(*1*) "Profession" means an occupation which requires theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation in such fields of human endeavor as: architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, law, theology, and the arts. A profession requires completion of a specific course of education at an accredited college or university, culminating in a baccalaureate or higher degree in a specific occupational specialty, where attainment of such degree or its equivalent is the minimum requirement for entry into the profession in the United States. There are two categories of persons who do not meet these requirements but are nevertheless regarded as professionals. They are persons who, after passage of normal professional tests and requirements, are granted full state licenses to practice the profession and persons who lack the required degree but, by virtue of a combination of academic training, experience, and accomplishments are in fact lawfully practicing at a professional level.

(*2*) "Preeminence" means exceptional ability in a field evidenced by a degree of skill and/or recognition substantially above that ordinarily encountered.

(*3*) "Performing ensemble" means a group of persons established as one united entity to provide some form of entertainment before an audience and the reputation of the team or ensemble as a whole is considered in determining

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whether it is of distinguished merit and ability.

(4) "Accompanying alien" means a support person such as a manager, trainer, producer, musical accompanist, and other highly skilled, essential person determined by the district director to be necessary for the successful performance of an H–1 individual, sports team, or ensemble performing before an audience. Such alien must possess unique qualifications, experience with the performer(s), and critical knowledge of the performance so as to render success of the performance dependent upon his or her participation.

(5) "Recognized authority" means a person who is an expert or an organization which has expertise in a particular field, possesses special skills or knowledge in that field, and is acknowledged by the Service as an accepted source of information.

(C) *Criteria for a member of the professions.* To qualify as a member of the professions, the alien must:

(1) Hold a United States baccalaureate or higher degree required by the profession from an accredited college or university, or

(2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the profession from an accredited college or university, or

(3) Hold an unrestricted state license which authorizes him or her to fully practice the profession and be engaged in that profession in the state of intended employment, or

(4) Have completed at least two years of college-level training in the profession, have demonstrated that he or she has for at least the past five years worked full-time in positions which normally require the services of a professional, and have attained professional achievements and recognition. The experience must include substantially all of the theoretical and practical application of specialized knowledge required at the professional level of the occupation, and the alien may establish that he or she has professional achievements and recognition by submitting at least two different types of documentation such as:

(*i*) Recognition of achievements by experts or recognized authorities in the professional field;

(*ii*) Membership in associations in the professional field which require outstanding achievements of their members;

(iii) Published material in professional publications by the alien or about the alien's work in the professional field;

(iv) Work experience in the profession for a well-known and prestigious organization or firm; or

(v) Acceptance into a graduate-level program in the profession at an accredited college or university in the United States.

(D) *Criteria for preeminence.* Preeminence in a field may be established by an individual alien or by a team or ensemble consisting of a group of aliens. The reputation of the team or ensemble, not the qualifications or accomplishments of individual members, shall be evaluated for H–1 classification. The alien(s) must:

(1) Have sustained national or international acclaim and recognition as an individual or team or ensemble; or

(2) Be a performing artist who, or a performing ensemble which is recognized by organizations, critics, and other experts in the entertainment industry for excellence in developing, interpreting, or representing a clearly identifiable and unique ethnic, cultural, musical, theatrical or other performing art; be coming to the United States for a period of 60 days or less in a year expressly for a cultural event to further the understanding of or development of that performing art form; and be sponsored by a nonprofit educational, cultural, or governmental organization which has a history of promoting such international cultural activities and exchanges; or

(3) Have exceptional career achievement in business in executive, managerial, or highly technical positions evidenced by at least three significant factors such as:

(i) Managerial responsibility for a large corporation or other large organization;

(ii) At least 15 years of progressively responsible experience culminating in a top level executive, managerial, or technical position that requires a broad range of responsibilities;

(iii) A salary in excess of $100,000 per year;

(iv) Responsibility for at least 500 employees;

(v) Original development of a system or product which has major significance to the industry in which the alien is employed; or

(vi) Recognition for achievements and significant contributions to an industry or field by experts in that industry or field.

(E) *Licensure for H–1 classification—(1) General.* If a profession requires a state or local license for an individual to fully perform the duties at the professional level, an alien (except a professional nurse) seeking H–1 classification in that profession must have that license to be found qualified to enter the United States and immediately engage in employment in the profession.

(2) Temporary licensure. If a temporary license is available and the alien is allowed to perform the duties of the profession without a permanent license, the district director shall examine the nature and degree of performance of the duties, the degree of supervision received, and any limitations placed on the alien. If an analysis of the facts demonstrates that the alien under supervision is authorized to fully perform the duties of the profession, H–1 classification may be granted.

(3) Professional duties without licensure. In certain professions which generally require licensure, a state may allow an individual to fully practice the profession under the supervision of licensed senior or supervisory personnel in that profession. In such cases, the district director shall also examine the nature and degree of the performance of duties. If an analysis of the facts demonstrates that the alien under supervision could fully perform the duties of the profession, H–1 classification may be granted.

(4) Professional nurses. In lieu of licensure, professional nurses shall provide the evidence required in paragraph (h)(3)(v).

(5) Limitation on approval of petition. In any profession, including professional nursing, where licensure is required, the H–1 petition may only be approved for a period of one year unless the alien already has a permanent license to practice the profession. An alien who is accorded H–1 classification without the permanent license may not be granted an extension of stay after the one year or accorded a new H–1 classification unless he or she has obtained a permanent license in the state of intended employment.

(iii) *General documentary requirements for H–1 classification.* An H–1 petition filed on Form I–129H shall be accompanied by:

(A) Documentation, certifications, affidavits, degrees, diplomas, writings, reviews, or any other evidence sufficient to establish that the beneficiary is a person of distinguished merit and ability as described in paragraphs (h)(3)(i)(B) and (C) and that the services the beneficiary is to perform require a person of such merit and ability. The evidence shall conform to the following:

(*1*) School records, diplomas, and similar documentation submitted must reflect periods of attendance, courses of study, and similar pertinent data and be

VOL 51 ISS 153 AG 8 1986 UMI

executed by the person in charge of the records of the educational or other institution, firm, or establishment where education or training was acquired;

(*2*) Affidavits submitted by present or former employers or recognized experts certifying to the expertise and exceptional ability of the beneficiary shall describe the beneficiary's experience and ability, and must set forth the expertise of the affiant and the manner in which the affiant acquired such information.

(B) Copies of any written contracts between the petitioner and beneficiary, or a summary of the terms of the oral contract or agreement under which the beneficiary will be employed, if there is no written contract, shall be submitted.

(iii) *H–1 petitions in the entertainment industry*—(A) *Evidence.* The H–1 petition for an alien or ensemble in the entertainment industry claiming preeminence shall establish that preeminence by furnishing documentation, such as the following, that the alien or ensemble:

(*1*) Has performed and will perform as a star or featured entertainer in a major production, as evidenced by playbills, critical reviews, advertisements, publicity releases, advertisements by the petitioner, and contracts;

(*2*) Has been the recipient of national, international, or other significant awards for performances;

(*3*) Has achieved national or international acclaim, as evidenced by reviews in major newspapers, trade journals, and magazines;

(*4*) Has appeared and will appear in theaters, concert halls, night clubs, and other establishments which have a distinguished reputation;

(*5*) Has performed in repertory companies, ballet groups, orchestras, or other productions which have a distinguished reputation;

(*6*) Has extensive commercial successes, as evidenced by such indicia as box office grosses and record sales reported in trade journals and other publications;

(*7*) Has received recognition from organizations, recognized critics, or other experts in the field in which the alien is engaged; and

(*8*) Has commanded and now commands a high salary and other remuneration for performances, as evidenced by contracts.

(B) *Adjudication of petition*—(*1*) *Procedure.* (i) In determining whether an alien in the entertainment industry is of distinguished merit and ability and whether the services require a person of such merit and ability, the district director shall consider, but shall not be limited to, evidence described in paragraph (h)(3)(iii)(A) and, where he/she deems necessary, may require further evidence on any of those or other appropriate factors.

(*ii*) The district director may decide not to require documentation of any of the factors in paragraph (h)(3)(iii)(A) if the alien or ensemble is of such distinguished merit and ability that the name or reputation standing by itself would be sufficient to establish without any question that the alien or ensemble is coming to the United States to perform services which require such merit and ability.

(*iii*) The district director shall approve or deny the petition based on the information in the record when he or she has no doubt about H–1 eligibility or ineligibility. In all other cases, before making a decision, the district director shall consult unions, other organizations, or recognized critics or experts in the appropriate entertainment field regarding the qualifications of the alien and the nature of the services to be performed.

(*2*) *Advisory opinions.* An advisory opinion shall include a detailed written recitation of the facts and data considered in rendering the opinion, except that it may be furnished orally by an appropriate official, subject to later confirmation in writing, when requested in a case deemed by the district director to be of an emergent nature; shall be signed by a duly authorized and responsible official of the union or other organization consulted, and shall be submitted to the district director on or before the date fixed by him, which shall not exceed 15 days from the date on which the opinion was requested. Advisory opinions shall be nonbinding upon the Service.

(*C*) *Accompanying alien.* An accompanying alien may be given the same H–1 classification as the performer(s) with the notation "Accompanying Alien", if included in the same or a separate petition. The petitioner must establish that an accompanying alien possesses such unique qualifications, experience with the performer(s), and critical knowledge of the performance as to render success of the performance dependent upon his or her participation.

(iv) *H–1 petitions for physicians*—(A) *Beneficiary requirements.* An H–1 petition for a physician shall be accompanied by evidence that the physician:

(*1*) Has a license to practice medicine in the state of intended employment if the physician will perform any direct patient care and

(*2*) Has a full and unrestricted license to practice medicine in a foreign state, or

(*3*) Has graduated from a medical school in the United States or in a foreign state.

(B) *H–1 classification for alien graduates of foreign medical schools*—(*1*) *Petitioner requirements.* If the alien graduated from a medical school in a foreign state, the petitioner must establish that:

(*i*) The alien physician is coming to the United States primarily to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency at the invitation of that institution or agency, and

(*ii*) No patient care activities will be performed, except those that are incidental to the physician's teaching or research.

(*2*) A physician who graduated from a medical school in a foreign state and who is of national or international renown in the field of medicine is exempt from the requirements in paragraph (h)(3)(iv)(B)(1).

(C) *H–1 classification for alien graduates of United States medical schools.* An alien who graduated from a medical school in the United States and who is in all respects qualified for nonimmigrant classification under section 101(a)(15)(H)(i) of the Act is eligible for that classification in order to participate in a medical residency in the United States and to perform any other services as a member of this medical profession, including services primarily involving direct patient care.

(v) *H–1 petitions for professional nurses*—(A) *Beneficiary requirements.* An H–1 petition for a professional nurse shall be accompanied by evidence that the nurse:

(*1*) Has obtained a full and unrestricted license to practice professional nursing in the country where the beneficiary obtained nursing education, or has obtained his or her nursing education in the United States or Canada, and

(*2*) Has passed the examination given by the Commission on Graduates of Foreign Nursing Schools, or has obtained a full and unrestricted license to practice professional nursing in the state of intended employment.

(B) *Petitioner requirements.* The petitioner must provide a statement certifying that the beneficiary is fully qualified and eligible under the laws governing the place of intended employment to engage in the practice of professional nursing immediately upon admission to the United States, and that

under those laws, the petitioner is authorized to employ the beneficiary to perform services as a professional nurse. If the laws governing the place where the services will be performed place any limitations on the services to be rendered by the beneficiary, the statement shall contain details as to the limitations. The district director shall consider any limitations in determining whether the services which the beneficiary would perform are those of a professional nurse.

(4) *Petition for alien to perform temporary services or labor (H–2)*—(i) *General.* An H–2 temporary worker shall be coming temporarily to the United States to perform temporary services or labor, if unemployed persons capable of performing such services or labor cannot be found in this country. The test for determining "temporary services or labor" for H–2 classification is whether the need of the employer for the duties to be performed is temporary. It is the nature of the need, not the nature of the duties, that is controlling.

(ii) *Procedures.* (A) Prior to filing a petition with the district director to classify an alien as an H–2 worker, the employer shall apply for a temporary labor certification with the Secretary of Labor for all areas of the United States, except the Territory of Guam. Authority to issue temporary labor certifications for Guam has been delegated to the Governor of Guam. The labor certification shall be advice to the district director on whether or not unemployed persons capable of performing the temporary services or labor are available in the United States and whether or not the wages and working conditions are prevailing for the area of intended employment.

(B) The Secretary of Labor and the Governor of Guam shall establish procedures consistent with these regulations for administering the temporary labor certification process.

(C) After obtaining a determination from the Secretary of Labor or the Governor of Guam, as appropriate, the employer shall file a petition on Form I–129H, accompanied by the labor certification determination and supporting documents, with the district director having jurisdiction over the area of intended employment.

(iii) *Labor certifications, except Guam*—(A) *Secretary of Labor's determination.* An H–2 petition for temporary employment in the United States, except for temporary employment on Guam, shall be accompanied by a labor certification determination that is either:

(*1*) A certification from the Secretary of Labor stating that qualified persons in the United States are not available and that the employment of a nonimmigrant alien will not adversely affect wages and working conditions of workers in the United States similarly employed; or

(*2*) A notice detailing the reasons why such certification cannot be made.

(B) *Validity of the labor certification.* The Secretary of Labor may issue a temporary labor certification for a period up to one year.

(C) *U.S. Virgin Islands.* Temporary labor certifications filed under section 101(a)(15)(H)(ii) of the Act for employment in the United States Virgin Islands may be approved only for entertainers or athletes for periods not to exceed 45 days.

(D) *Attachment to petition.* The employer may file a petition accompanied by either one of the Secretary of Labor's determinations with the district director. If the employer received a notice from the Secretary of Labor or the Secretary's designee that certification cannot be made, the employer shall present countervailing evidence that qualified persons in the United States are not available and that the employment policies of the Department of Labor have been observed. All such evidence submitted will be considered in adjudicating the petition.

(E) *Countervailing evidence.* The countervailing evidence presented by the petitioner shall be in writing and shall address availability of U.S. workers, the prevailing wage rate, and each of the reasons why the Secretary of Labor could not make the required certification. The petitioner may also provide other appropriate information in support of the petition. The district director, at his discretion, may require additional supporting evidence.

(iv) *Labor certification for Guam*—(A) *Governor of Guam's determination.* An H–2 petition for temporary employment on Guam shall be accompanied by a labor certification determination that is either:

(*1*) A certification from the Governor of Guam stating that qualified residents in the United States are not available to perform the required services and that the employment of a nonimmigrant alien will not adversely affect the wages and working conditions of United States resident workers who are similarly employed on Guam; or

(*2*) A notice detailing the reasons why such certification cannot be made.

(B) *Validity of the labor certification.* The Governor of Guam or his designee may issue a temporary labor certification for a period up to one year.

(C) *Attachments to petition.* The employer may file a petition accompanied by either one of these determinations. If the employer receives a notice from the Governor of Guam or the Governor's designee that certification cannot be made, the employer shall present countervailing evidence that qualified persons in the United States are not available and that the employment policies of the Government of Guam have been observed. All such evidence submitted will be considered in adjudicating the petition.

(d) *Countervailing evidence.* The countervailing evidence presented by the petitioner shall be in writing and shall address availability of U.S. workers, the prevailing wage rate, and each of the reasons why the Governor of Guam could not make the required certification. The petitioner may also provide any other appropriate information in support of the petition. The district director, at his discretion, may require additional supporting evidence.

(E) *Criteria for Guam labor certifications.* The Governor of Guam shall establish systematic methods for determining the prevailing wage rates and working conditions for individual occupations on Guam and for making determinations as to availability of qualified United States residents.

(1) Prevailing wages and working conditions. The system to determine wages and working conditions must provide for consideration of wage rates and emloyment conditions for occupations in both the private and public sections, in Guam and/or in the United States (as defined in section 101(a)(38) of the Act), and may not consider wages and working conditions outside of the United States. If the systems will include utilization of advisory opinions and consultations, they must be provided by officially sanctioned groups which reflect a balance of the interests of the private and public sectors, government, unions and management.

(2) Availability of United States workers. The system for determining availability of qualified United States workers must require the prospective employer to:

(i) Advertise the availability of the position for a minimum of three consecutive days in the newspaper of largest daily circulation on Guam;

(ii) Place a job offer with an appropriate agency of the Territorial Government which operates as a job referral service at least 30 days in advance of the need for the services to commence, except that for applications in the entertainment industry, the 30-day

period may be reduced by the Governor by not more than 20 days;

(iii) Conduct appropriate recruitment in other areas of the United States and its territories if sufficient qualified United States construction workers are not available on Guam to fill a job. The Governor may require a job order to be placed more than 30 days in advance of need to accommodate such recruitment;

(iv) Report to the appropriate agency or Governor's designee the names of all United States resident workers who applied for the position, indicating those hired or the job-related reasons for not hiring;

(v) Offer all special considerations to all United States resident workers that the employer provides to nonimmigrant alien workers, such as the payment of transportation expenses;

(vi) Meet the prevailing wage rates and working conditions determined under the wages and working conditions system by the Governor or his designee; and

(vii) Agree to meet all Federal and Territorial requirements relating to employment, such as nondiscrimination, occupational safety, and minimum wage requirements.

(F) *Approval and publication of employment systems on Guam—(1) Systems.* The Commissioner of Immigration and Naturalization must approve the system to determine prevailing wages and working conditions and the system to determine availability of United States resident workers and any future modifications of the systems prior to implementation. If the Commissioner, in consultation with the Secretary of Labor, finds that the systems or modified systems meet the requirements of this subsection, the Commissioner shall publish them in the **Federal Register** and the Governor shall publish them as a public record in Guam.

(2) Approval of construction wage rates. The Commissioner must approve specific wage data and rates used for construction occupations on Guam prior to implementation of new rates. The Governor shall submit new wage survey data and proposed rates to the Commissioner for approval at least eight weeks before his authority to use existing rates expires. Surveys shall be conducted at least every two years, unless the Commissioner prescribes a lesser period.

(G) *Reporting.* The Governor shall provide the Commissioner statistical data on temporary labor certification workload and determinations. This information shall be submitted quarterly no later than 30 days after the quarter ends.

(H) *Invalidation of temporary labor certification issued by the Governor of Guam—(1) General.* A temporary labor certification issued by the Governor of Guam or the Governor's designee may be invalidated by a district director if it is determined by the district director or a court of law that the certification request involved fraud or willful misrepresentation. A temporary labor certification may also be invalidated if the district director determines that the certification was improvidently issued.

(2) Notice of intent to invalidate. If the district director intends to invalidate a temporary labor certification, a notice of intent shall be served upon the employer, detailing the reasons for the intended invalidation. The employer shall have 20 days in which to file a written response in rebuttal of the notice of intent. The district director shall consider all evidence submitted upon rebuttal in reaching a decision.

(3) Appeal of invalidation. An applicant employer may appeal the invalidation of a temporary labor certification in accordance with Part 103 of this chapter.

(v) *Evidence for H–2 petitions.* An H–2 petition filed on Form I–129H shall be accompanied by:

(A) *Labor certification or notice.* A temporary labor certification or a notice that certification cannot be made, issued by the Secretary of Labor or the Governor of Guam, as appropriate;

(B) *Countervailing evidence.* Evidence to rebut the Secretary of Labor's or the Governor of Guam's notice that certification cannot be made, if appropriate;

(C) *Alien's qualifications.* Documentation that the alien qualifies for the job offer as specified in the application for labor certification, except in petitions involving unnamed beneficiaries; and

(D) *Statement of need.* A statement describing in detail the situation or conditions which make it necessary to bring the alien to the United States and whether the need is temporary, seasonal, or permanent. If the need is temporary or seasonal, the statement shall indicate whether the situation or conditions are expected to be recurrent.

(5) *Petition for alien trainee (H–3)*—(i) *General.* The H–3 trainee is a nonimmigrant who seeks to enter the United States at the invitation of an organization or individual for the purpose of receiving instruction in any field of endeavor, such as agriculture, commerce, communication, finance, government, transportation, or the professions, as well as training in a purely industrial establishment. This category shall not apply to physicians, who are statutorily ineligible for H–3 classification to receive any type of graduate medical education or training.

(A) *Externs.* A hospital approved by the American Medical Association or the American Osteopathic Association for either an internship or residence program may petition to classify as an H–3 trainee a medical student attending a medical school abroad, if the alien will engage in employment as an extern during his/her medical school vacation.

(B) *Nurses.* A petitioner may seek H–3 classification for a nurse who is not H–1 if it can be established that there is a genuine need for the nurse to receive a brief period of training that is unavailable in the alien's native country and such training is designed to benefit the nurse and the overseas employer upon the nurse's return to the country of origin, if:

(1) The beneficiary has obtained a full and unrestricted license to practice professional nursing in the country where the beneficiary obtained nursing education, or such education was obtained in the United States or Canada; and

(2) The petitioner provides a statement certifying that the beneficiary is fully qualified under the laws governing the place where the training will be received to engage in such training, and that under those laws the petitioner is authorized to give the beneficiary the desired training.

(ii) *Evidence—(A) Conditions.* The petitioner is required to demonstrate that:

(1) The proposed training is not available in the alien's own country;

(2) The beneficiary will not be placed in a position which is in the normal operation of the business and in which citizens and resident workers are regularly employed;

(3) The beneficiary will not engage in productive employment unless such employment is incidental and necessary to the training; and

(4) The training will benefit the beneficiary in pursuing a specific job outside the United States to which the beneficiary will return.

(B) *Description of training program.* Each petition for a trainee must include a statement which:

(1) Describes the kind of training to be given;

(2) Sets forth the proportion of time that will be devoted to productive employment;

(3) Shows the number of hours that will be spent, respectively, in classroom instruction and in on-the-job training without supervision;

(4) Describes the position or duties for which this training will prepare the alien; and

(5) Indicates the reasons why such training cannot be obtained in the alien's country and why it is necessary for the alien to be trained in the United States.

(C) *Other factors.* The source of any remuneration received by the trainee and whether or not any benefit will accrue to the petitioner are immaterial to the petition.

(iii) *Restrictions.* A training program may not be approved which:

(A) Deals in generalities with no fixed schedule, objectives, or means of evaluation;

(B) Is incompatible with the nature of the petitioner's business or enterprise;

(C) Is on behalf of a beneficiary who appears to already possess substantial training and expertise in the proposed field;

(D) Is in a field in which it is unlikely that the knowledge or skills could be used in the beneficiary's native country;

(E) Is repetitious of the beneficiary's present knowledge; and will be incidental to productive employment;

(F) Will result in productive employment beyond that which is incidental to and necessary to the training.

(G) Is designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States;

(H) Does not establish that the petitioner has the physical plant and sufficiently trained manpower to provide the training specified; or

(I) Is designed to extend the total allowable period of practical training previously authorized a nonimmigrant student.

(6) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and § 214.2(h) of this part may be accepted without the original, if the copy bears a certification by an attorney in accordance with § 204.2(j) of this chapter. However, the original document shall be submitted if requested by the district director.

(7) *Approval and validity of petition*—(i) *General.* The district director shall consider all the evidence submitted and such other evidence as he may independently require to assist his adjudication. The district director shall notify the petitioner on Form I–171C of the approval of a petition filed on Form I–129H. The approval shall be as follows:

(A) Form I–171C shall include the beneficiary(ies) name(s) and classification and the petition's period of validity. A petition for more than one beneficiary may be approved in whole or in part. Form I–171C shall cover only those beneficiaries approved for classification under section 101(a)(15)(H) of the Act.

(B) The petition may not be approved earlier than six months before the date of actual need for the beneficiary's services or training.

(C) If the petition is approved before the date the petitioner indicates that the services or labor or training will begin, the approved petition's validity period shall reflect the actual dates requested by the petitioner, not to exceed the limits specified in paragraph (h)(7)(ii) of this section, and the date the petition was approved. In no case shall the beginning date of the petition's period of approval be earlier than the date the petition was approved.

(D) If the period of services or training requested by the petitioner exceeds the limit specified in paragraph (h)(7)(ii) of this section, the petition shall be approved only up to the limit specified in that subparagraph.

(ii) *H–1 petition.* An approved petition for an alien classified under section 101(a)(15)(H)(i) of the Act is valid for the period of established need for the beneficiary's temporary services, but not to exceed three years.

(iii) *H–2 petition*—(A) *Labor certification attached.* If a certification by the Secretary of Labor or the Governor of Guam is attached to a petition to accord an alien a classification under section 101(a)(15)(H)(ii) of the Act, the approval of the petition is valid to the date to which the certification is valid, not to exceed one year.

(B) *Notice that certification cannot be made attached*—(1) *Countervailing evidence.* If the petitioner submits a notice from the Secretary of Labor or the Governor of Guam that certification cannot be made, the petitioner shall be informed that he/she may submit countervailing evidence to the district director as specified in paragraphs (h)(iii)(E) and (h)(iv)(D), if he/she has not already done so.

(2) *Approval.* In any case where the district director decides not to deny the petition and believes that approval of the H–2 petition is warranted despite the issuance of a notice by the Secretary of Labor or the Governor of Guam that certification cannot be made, the decison shall be certified to the Commissioner pursuant to 8 CFR 103.4. In emergent situations, the certification may be presented telephonically to the Chief of the Administrative Appeals Unit, Central Office. If approved, the petition is valid for the period of established need not to exced one year. There is no appeal from a decision which has been certified to the Commissioner.

(iv) *H–3 petition.* An approved petition for an alien classified under section 101(a)(15)(H)(iii) of the Act is valid for the documented length of the approved training program, not to exceed 18 months.

(v) *Spouse and dependents.* The spouse and minor children of the beneficiary are entitled to nonimmigrant H classification if accompanying or following to join the beneficiary in the United States. Neither the spouse nor a child of the beneficiary may accept employment unless he or she is the beneficiary of an approved petition filed in his or her behalf and has been granted a nonimmigrant classification authorizing his or her employment.

(8) *Denial of petition*—(i) *Multiple beneficiaries.* A petition for multiple beneficiaries may be denied in whole or in part.

(ii) *Notice of intent to deny.* When an adverse decision is proposed on the basis of evidence not submitted by the petitioner, the district director shall notify the petitioner of the intent to deny the petition and the basis for the denial. The petitioner may inspect and rebut the evidence and will be granted a period of 20 days from the date of the notice in which to do so. All relevant rebutal material will be considered in making a final decision.

(iii) *Notice of denial.* The petitioner shall be notified of Form I–292 of the decision, the reasons for the denial, and the right to appeal the denial under section 103 of this chapter.

(9) *Revocation of approval of petition*—(i) *General.* The petitioner shall immediately notify the Service of any changes in the employment of a beneficiary which would affect eligibility under section 101(a)(15)(H) and these regulations.

(ii) *Automatic revocation.* The approval of any peition is automatically revoked if the petitioner goes out of business or files a written withdrawal of the petition.

(iii) *Revocation on notice*—(A) *Grounds for revocation.* The district director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he/she finds that:

(1) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition or if the beneficiary is no longer receiving training as specified in the petition; or

(2) The statement of facts contained in the petition was not true and correct; or

(3) The petitioner omitted material facts; or

(4) The petitioner violated requirements of section 101(a)(15)(H) of the Act and these regulations; or

(5) The approval of the petition was incorrectly granted.

(B) *Notice and decision.* The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 20 days of receipt of the notice. The district director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised Form I–171C shall be sent to the petitioner with the revocation notice.

(10) *Appeal of a denial or a revocation of a petition*—(i) *Denial.* A petition denied in whole or in part may be appealed under Part 103 of this chapter.

(ii) *Revocations.* A petition that has been revoked on notice in whole or in part may be appealed under Part 103 of this chapter. Automatic revocations may not be appealed.

(11) *Admission*—(i) *General.* A beneficiary may apply for admission to the United States only during the validity period of the petition. The authorized period of the beneficiary's admission shall not exceed the validity of the petition.

(ii) *H–1 limitation on admission.* An alien who has spent five or, in certain extraordinary circumstances, six years in the United States under section 101(a)(15)(H)(i) of the Act may not change status to or be readmitted to the United States under another H or L nonimmigrant visa classification unless the alien has resided and been physically present outside the United States for the immediate prior year. In view of this restriction, a new petition shall not be approved for an alien who has spent five (or six, if applicable) years is the United States under section 101(a)(15)(H)(i) unless the alien has resided and been physically present outside the United States for the immediate prior year. The petitioner shall provide information about the alien's employment, place of residence, and the dates and purpose of any trips to the United States for the previous year.

(iii) *H–2 and H–3 limitation on admission.* An alien who has spent three years in the United States under section 101(a)(15)(H)(ii) or 18 months under section 101(a)(15)(H)((iii) of the Act may not change status to or be readmitted to the United States under the H or L visa classification unless the alien has resided and been physically present outside the United States for the immediate prior six months. In views of this restriction, a new petition shall not be approved for an alien who has spent three years in the United States under section 101(a)(15)(H)(ii) or 18 months under section 101(a)(15)(H)(iii) unless the alien has resided and been physically present outside the United States for the immediate prior six months. The petitioner shall provide information about the alien's employment, place of residence, and the dates and purpose of any trips to the United States for the previous six months.

(iv) *Exception.* The limitations in paragraphs (h)(11) (ii) and (iii) of this section shall not apply to aliens whose authorized periods of stay in the United States are short, infrequent, and based on new petitions, such as entertainers.

(12) *Extension of visa petition validity.* A visa petition under section 101(a)(15)(H) shall be automatically extended, without the filing of Form I–129H, if the district director extends the stay of the alien beneficiary(ies) in accordance with paragraph (h)(13) of this section. A new Form I–171C shall be issued to the petitioner at the same time that the beneficiary is notified that his or her extension of stay application has been approved. The dates of extension shall be the same for the petition and the beneficiary's extension of stay. No action shall be taken on the visa petition if the alien's application for extension of stay is denied.

(13) *Extension of stay*—(i) *Procedure*—(A) *H–1 and H–3 beneficiaries.* If maintaining status, the beneficiary of an H–1 or H–3 petition may apply for an extension of stay by submitting an application for extension of stay, a copy of Form I–171C, and a letter from the petitioner which describes the beneficiary's current duties, hours of work, and salary; indicates whether the terms and conditions of the original petition have changed, gives the reasons for the extension, and specifies the new dates of employment or training requested.

(B) *H–2 beneficiaries.* the petitioner must obtain a new labor certification or a notice that certification cannot be made in order for the H–2 beneficiary to apply for an extension of stay. If maintaining status, the H–2 beneficiary may apply for an extension of stay by submitting an application for extension of stay, a copy of the original petition approval notice, Form I–171C, and the new labor certification or notice with countervailing evidence.

(C) *Multiple beneficiaries.* An application for an extension of stay on behalf of multiple beneficiaries covered by the same original petition must be filed by each individual alien, except that in the case of an extension of stay for an ensemble or professional sports team performing as a group, only one application for extension of stay is required with an attached list of beneficiaries.

(ii) *Extension periods*—(A) *H–1 extension of stay.* An extension of stay may be authorized for a period of up to two years for a beneficiary of an H–1 petition. The alien's total period of stay may not exceed five years, except in extraordinary circumstances. Beyond five years an extension of stay, not to exceed one year, may be granted under extraordinary circumstances. Extraordinary circumstances shall exist when the district director finds that termination of the alien's services will impose extreme hardship on the petitioner's business operation or that the alien's service are required in the national welfare, safety or security interests of the United States. No further extensions may be granted. If the district director decides that approval of the one-year extension is warranted because of extraordinary circumstances, the decision shall be certified to the Administrative Appeals Unit before service on the alien.

(B) *H–2 extension of stay.* An extension of stay may be authorized for the validity of the labor certification not to exceed one year for a beneficiary of an H–2 petition. The alien's total period of stay as an H–2 worker may not exceed three years, except that in the Virgin Islands, the alien's total period of stay may not exceed 45 days.

(C) *H–3 extension of stay.* An extension of stay may be authorized for a period of up to six months of the beneficiary of an H–3 petition. The alien's total period of stay as an H–3 trainee, however, may not exceed 18 months.

(iii) *Denial of extension of stay.* If an H beneficiary's request for extension of stay is denied, the alien shall be notified of the reasons for the denial. There is no appeal from the denial of an alien's application for an extension of stay.

(14) *Effect of approval of a permanent labor certification of filing of a preference petition on H classification*—(i) *H–1 classification*—(A) *Petitioner.* The approval of a permanent labor certification or the filing of a preference petition for an alien is not by itself a ground to deny an H–1 petition or a request to extend an H–1 petition if the district director, in his judgment,

determines that certain conditions are met.

(*1*) The dates of employment must be within the limit for which an H–1 petition may be authorized or extended, and

(*2*) The petitioner must establish that temporary classification is not being requested for the principal purpose of enabling the employee to enter the United States permanently in advance of the availability of a visa number.

(B) *Beneficiary.* The approval of a labor certification or the filing of a preference petition is not by itself ground to deny an alien's application for admission, change of status, or extension of stay if the district director, in his judgment, determines that certain conditions are met.

(*1*) The alien must demonstrate that he/she has not abandoned residence abroad, and

(*2*) The alien must establish that he or she intends to enter and remain in the United States only in accordance with any authorized stay and to return abroad voluntarily at or before termination of that authorization.

(ii) *H–2 and H–3 classification.* The approval of a permanent labor certification or the filing of a preference petition for an alien in the same or a different job or training position and for the same petitioner shall be a ground to deny the alien's request for extension of stay.

(15) *Effect of strike.* (i) A petition to classify an alien as a nonimmigrant as defined in section 101(a)(15)(H) of the Act shall be denied if the Secretary of Labor certifies to the Commissioner of Immigration and Naturalization that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizen or lawful resident workers.

(ii) If a petition has been approved, but the beneficiary has not yet entered the United States to take up the approved employment or training, and the Secretary of Labor certifies to the Commissioner of Immigration and Naturalization that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizens or lawful permanent resident workers, the approval of the petition is automatically suspended and the application for admission on the basis of the petition shall be denied.

(iii) If a petition has been approved, the beneficiary has entered the United States to take up the employment or training, the beneficiary is not an "employee" as defined in the National Labor Relations Act ("NLRA") [29 U.S.C. 152(3)], and the Secretary of Labor certifies to the Commissioner of Immigration and Naturalization that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and place of employment or training, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizens or lawful permanent resident workers, the approval of the petition is automatically suspended.

(iv) If a petition has been approved, the beneficiary has entered the United States to take up employment, and the beneficiary is an "employee" within the definition of the NLRA, the existence of a strike in the occupation at the place of employment shall result in suspension of the beneficiary's authorization to work, unless the employer establishes to the satisfaction of the Secretary of Labor, who in turn certifies to the Commissioner of Immigration and Naturalization, that less than 30 percent of the work force in the occupation at the place of employment are U.S. citizens or lawful permanent resident workers, provided that the Secretary of Labor also certifies that the strike has been authorized by a majority of such U.S. citizen or lawful permanent resident workers who voted, or a majority of such workers are participating in the strike.

(v) As used in this section, "place of employment" means any place where the employer or a joint employer does business.

(6) *Use of Form I–171C.* The Service shall notify the petitioner on Form I–171C whenever a visa petition or extension of a visa petition is approved under the H classification. The petitioner may furnish an original Form I–171C to any one of the beneficiaries who desires to depart from and return to the United States within the period for which the visa petition is valid. Additional original forms may be requested from the Service. The petitioner may not duplicate the original form received from the Service, except where the alien is applying for an extension of stay.

(i) *Application for a new or revalidated visa.* A beneficiary who is required to present a visa for admission and whose visa will have expired before the date of his or her intended return may use Form I–171C, as stated on the form, to apply for a new or revalidated visa.

(ii) *Application for readmission to the United States.* If the beneficiary is exempt from the visa requirement, the beneficiary may present the original Form I–171C at the United States port of entry upon return to be considered for readmission until the expiration date of the validity of the visa petition as shown on Form I–171C.

* * * * *

Dated: July 25, 1986.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 86–17936 Filed 8–7–86; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R–0578]

Electronic Fund Transfers; Service-Provider Periodic Statements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*), implemented by Regulation E, establishes the legal framework for providing electronic fund transfer (EFT) services to consumers. It requires financial institutions to make initial disclosures concerning the EFT services they offer and provide periodic account statements; limits consumer liability for unauthorized EFTs; and requires institutions promptly to investigate and resolve consumers' claims of EFT errors, for example.

Regulation E establishes specific requirements for service-providing institutions, such as retailers, that offer EFT services by issuing to consumers debit cards or other devices for accessing checking or other deposit accounts. It requires these service providers to comply with almost all the requirements of the act and regulation, including sending consumers periodic statements showing the EFTs made with the access device.

Some service providers have asked the Board to amend the regulation. They express concern that, because of the costs involved, the periodic statement requirement impedes the growth of EFT systems that use the automated clearing house system to clear point-of-sale and automated-teller-machine transactions, and that the costs exceed consumer benefits presently derived from the

periodic statements. The Board believes that the requirement for periodic statements from service providers may well pose a barrier to the development and widespread use of these POS/ACH systems, thereby limiting new EFT services to consumers. In addition, the Board believes that consumer protections can be ensured by other means.

The Board proposes to amend Regulation E to (1) eliminate the periodic statement requirement for service providers, (2) require instead that service providers furnish the necessary information to the financial institutions holding the consumers' accounts for inclusion on their periodic statements, and (3) make other changes to ensure consumer protections and clarify the responsibilities of service providers and account-holding institutions.

DATES: Comments must be received on or before October 10, 1986.

ADDRESSES: Comments may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the guard station at the courtyard entrance to the Eccles Building (Attention: Mail Services), on 20th Street between Constitution Avenue and C Street NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. All material submitted should refer to Docket No. R–0578.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst (Senior Attorney) or John C. Wood (Senior Attorney), Division of Consumer and Community Affairs, Board of Governor of the Federal Reserve System, Washington, DC 20551, (202) 452–3667. Regarding the regulatory analysis, contact: Frederick J. Schroeder (Economist), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–2584. For Telecommunications Device for the Deaf (TDD) users, contact: Earnestine Hill or Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

(1) Background

The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*), implemented by Regulation E (12 CFR Part 205), establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer (EFT) services and of financial institutions that offer such services. The act applies to all types of EFT services provided to consumers, including debits and credits to consumers' accounts through the automated clearing house system, automated teller machine transactions, and point-of-sale debit card transactions.

Although the act is directed principally at financial institutions that hold consumers' accounts, the statute also provides for other providers of EFT services to be covered by the act and implementing regulation. Provisions in the Board's Regulation E carry out this statutory directive. The regulation makes clear that its coverage applies not only to the traditional financial institution but also to "any person who issues an access device and agrees with a consumer to provide electronic fund transfer services" (section 205.2(i)). Such persons may contract with consumers, for example, to provide them with ATM or POS transaction capability, telephone bill payment, or home banking services. In some cases the service-providing institution will, for example, issue both a debit card and personal identification number (PIN) to the consumer for initiating transfers. In other cases, the service provider may allow the consumer to use a card issued by the consumer's account-holding institution or by some other entity.

Section 205.14 of Regulation E requires that service providers comply with all requirements of the act and regulation that relate to the service or to EFTs made by the consumer under the service. This includes compliance with the initial and periodic disclosure requirements, the limitations on consumer liability, and the error resolution procedures. The account-holding institution, on the other hand, currently has no responsibilities under the regulation with respect to EFTs initiated through the service provider, except to cooperate with the service provider's investigation and resolution of errors.

In the past year, the Board has received numerous inquiries (from representatives of both account-holding financial institutions and current and prospective service providers) about the specific responsibilities of service providers under Regulation E. Much of the interest results from changes taking place in EFT services—specifically, the growing interest in using the automated clearing house system (ACH) to process ATM and POS transactions. In fact, the National Automated Clearing House Association (NACHA) has amended its rules to facilitate use of the ACH for processing POS and ATM transactions, and has specifically requested that the Board amend Regulation E to make it consistent with the NACHA rules.

Those NACHA amendments—scheduled to take effect in early 1987—require account-holding financial institutions participating in the ACH to identify POS/ACH transactions on their periodic statements in accordance with Regulation E. To facilitate compliance with this provision, the revised NACHA rules will also require institutions initiating the transfers to include in the ACH messages the information needed by account-holding institutions to comply with Regulation E.

Use of the ACH to process POS and ATM transactions enables persons wishing to provide EFT services to consumers to do so without entering into a specific agreement with each account-holding institution on which they may be collecting funds. If a service provider does not have direct access to the ACH for clearing transactions, it can contract with a financial institution to process the transactions on its behalf.

(2) Periodic Statement Requirement

The inquiries received by the Board about the responsibilities of service providers have focused primarily on periodic statement requirements. Regulation E requires that periodic statements be sent to consumers at least monthly if EFTs occurred on their accounts, and at least quarterly if no transfers occurred.

Some industry representatives have expressed concern that requiring a periodic statement from service providers is hampering the development of POS/ACH services. They favor eliminating the requirement. They say that the associated costs are high, that the information on the service-provider's statement duplicates that given by the account-holding institution, and that getting two statements can even be confusing to the consumer.

Other institutions have complained that service providers are not giving periodic statements, and oppose elimination of the requirement. They argue that eliminating the service-provider statement will result in a reduction of consumer protection, will give a competitive advantage to service providers, and will mean increased costs for account-holding institutions.

The Board on several occasions has exercised its rulemaking authority under the EFTA in response to concerns that compliance costs related to a particular regulatory provision exceeded the benefits accruing from it; that the regulation resulted in high compliance costs for small institutions; and that a regulatory requirement might inhibit evolving services. The possible elimination of the periodic statement requirement involves some of the same types of considerations. In particular, it involves the weighing of the costs and benefits of a regulatory requirement and

of the effect that the requirement might have on the development of an EFT service.

(3) The Cost of the Service-Provider Periodic Statement

The cost to service providers of furnishing a periodic statement for POS/ACH transactions appears to represent a potential obstacle to widespread development of POS/ACH systems. Industry representatives estimate the cost to a company that is currently preparing periodic statements—for example, for credit card accounts—at approximately 30 cents per statement. For service providers that do not currently issue periodic statements, such as grocery stores, they say the costs would be even higher—an estimated 50 to 75 cents per statement, assuming a large statement volume. (The figure is the per-statement cost only, not including the start-up costs.) These companies would contract with a third party, such as a bank or credit card processor, to prepare the periodic statements.

One advantage of the POS/ACH approach is that it provides a means of offering consumers EFT services at a low cost. However, some claim that the cost advantage of the POS/ACH approach disappears if the service provider, such as the retailer, is required to furnish a periodic statement.

(4) The Need for the Service-Provider Statement

The parties that favor eliminating the periodic statement requirement have suggeted that consumers are, or could be, confused by receiving two statements. The periodic statement sent by the service provider likely will cover a different time period than the one issued by the accout holder. As a result, some transactions will probably not match those listed on the statement from the account-holding financial institution. The information also will be different. For example, the transaction date on the service provider's statement will be the date the consumer made the transaction, while the date on the account-holding institution's statement will be the date the transaction is posted to the consumer's account. However, whether consumers would be confused by these discrepancies is unclear. Most consumers are probably familiar with statement cycles and may understand, for example, that a transaction made on a specific date may not show up on their statement for the month in which it was made.

Those requesting elimination of the statement requirement also claim that the periodic statement given by the service provider furnishes no additional information or protection to the consumer. Although this may be true in some cases, the Board believes that eliminating the periodic statement requirement for service providers—without making other changes to the regulation to provide this information to consumers—could result in some consumers not receiving important information that is currently required by Regulation E. For example, the statement from the account-holding financial institution may lack a full description of the EFTs, such as the terminal location or the name of the party to or from whom funds were transferred, information that currently is required only on the statement from the service provider. Other information not duplicated on the account-holding institution's statement is the service provider's telephone number and address (to be used by the consumer to inquire about EFTs or allege an error).

(5) Feasibility and Effect of Regulatory Changes

The Board is proposing to require account-holding financial institutions to provide the transaction identification information on their periodic statements. Representatives of account-holding institutions suggest that eliminating the service provider periodic statement and requiring account-holding institutions to comply with the transaction identification requirements will increase their periodic statement and customer service costs. They believe that these higher costs will result from operational changes and from increased inquiries and requests for resolution of errors.

The Board believes it is unclear whether the proposed changes would result in substantial costs for account-holding institutions. Many account-holding institutions currently provide periodic statements that identify consumers' POS/ACH transactions in accordance with Regulation E. In addition, the Board believes that most financial institutions are capable of providing descriptive transaction information for POS/ACH transactions on or with periodic statements at small additional costs. (The regulation allows institutions to comply with the transaction identification requirements by providing the information on documents accompanying the periodic statement; thus, institutions may be able to comply with the proposed change without making major operational changes. See footnote 4 to § 205.9(b)(1).)

An increase in POS/ACH transactions activity could of course lead to an account-holding institution's receiving increased customer service inquiries. The Board believes, however, that eliminating the service provider statement requirement, and requiring the account-holding institution to furnish the transaction identification information on its statement, should not, by itself, result in significantly increased inquiries and costs. Regardless of whether the consumer receives a periodic statement from the service provider, because the transactions appear on the statement from the account-holding institution (if only as debits), some consumers will probably direct questions to the account-holding institution in any case.

Moreover, under the existing regulation the account-holding institution is not responsible for resolution of any alleged errors related to these POS/ACH transactions. This has been and would continue to be the responsibility of the service provider. In fact, under the proposal the service provider would remain subject to all of the regulatory requirements except that of providing a separate periodic statement. In addition, the account-holding financial institution would continue to have very limited responsibilities with respect to the transfers resulting from the POS/ACH transactions. The clarification of these points (and suggested changes to the regulation relative to disclosures by the service provider) should address the concerns regarding increased inquiries to account-holding institutions. These clarifications should also avoid any loss of consumer protection.

The Board is concerned about the possibility that the effects of these changes on some account-holding institutions may be substantial, and is also sensitive to the claim by some institutions that the proposed changes may result in a competitive advantage for service providers. Furthermore, some of the institutions that would be affected are small financial institutions. Many of them are currently exempt from compliance with Regulation E because of an exemption for institutions with assets of less than $25 million, applicable to preauthorized EFTs such as payroll deposits and monthly payments of insurance premiums. The Board believes that undue burdens should not be placed on these institutions.

The Board would like comment specifically on the following:

- The nature and the amount of the costs that would be imposed on account-holding institutions by the proposed changes.
- The reasons for the belief that the proposed changes would result in a

competitive advantage for service providers.

• The possible effects of the proposed changes on small institutions that are currently exempt from Regulation E.

• The costs that are, or would be, incurred by service providers to provide periodic statements to consumers.

• The possible effects of the Board's eliminating the periodic statement requirement (as well as the possible effects of the Board's failing to take such action) on account-holding institutions, service providers, and consumers.

(6) Discussion of Proposed Changes

Based on the foregoing, the Board proposes to make the following specific changes to Regulation E:

1. Eliminate the periodic statement requirement for service providers, on the condition that they furnish the transaction information to the account-holding financial institution in a form that will allow the latter to include it on or with the periodic statement given to the consumer.

The costs associated with the furnishing of periodic statements by service providers appear to exceed the benefit to consumer resulting from the requirement. In many cases the information is duplicative of information appearing on the statement already provided by the account-holding institution. Other changes recommended below should ensure that the elimination of this requirement will not result in a significant loss of consumer protections.

2. Require the account-holding institution to furnish the transaction identification information to the consumer on or with its own periodic statement.

The effect of this proposed change on most account-holding institutions should not be substantial. Many account-holding institutions currently provide statements that identify POS/ACH transactions in conformity with Regulation E requirements. Moreover, the changes to the NACHA rules scheduled to take effect in early 1987 would require certain other institutions to do so. Also, the regulation allows institutions to provide the information on documents accompanying periodic statements, which means that major operational changes may not be necessary. However, because of concern about the effects the proposed changes might have on some account-holding institutions—in particular small financial institutions—the Board specifically requests comment, as noted above, about the costs they would incur if the proposed changes are adopted.

3. Require the service provider to furnish the consumer with the address and telephone number to be used for inquiries by—

(a) Printing the information on receipts furnished with each transaction, or

(b) Providing the consumer with a quarterly notice of this information.

It is important for the consumer to have the address and telephone number of the service provider. This proposed change would ensure that consumers receive this information on an ongoing basis, even though the service provider would no longer be providing the information on a periodic statement. The service provider would have the option of choosing one method or the other.

4. Modify the initial disclosure requirements applicable to service providers to require that they disclose to the consumers at the time they issue the access device—

(a) That because no periodic statements will be issued summarizing transactions made with the access device, the consumer should retain all receipts to verify the accuracy of statements furnished by the account-holding institution,

(b) That the consumer should report the loss or theft of the access device to the service provider immediately (and if the card used as the access device was issued by the account-holding institution or another entity, that the consumer should notify both the service provider and the card issuer), and

(c) That all inquiries relating to transactions initiated through the service provider by use of the card must be made to the service provider.

These disclosures are necessary to ensure that the consumer knows which institution to contact with respect to questions about transactions made through the service provider, and to minimize the number of inquiries that will be directed to the account-holding institution.

5. Extend the time allowed to the consumer for notifying the service provider of the loss or theft of an access device and for error allegations in those cases when notice is delayed due to the consumer's having notified the account-holding institution, or another party, in error.

Situations involving EFT services by persons other than the account-holding institution inevitably result in some consumer confusion about who should be notified regarding an error or loss or theft of an access device. Currently, the regulation provides for an extension of the time period available to the consumer for alleging errors in such cases. The proposed change would provide for similar extensions of time for notification of loss or theft of an access device.

In accordance with section 3507 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.13, the proposed revisions to Regulation E that pertain to third party disclosures will be submitted as appropriate to the Board for review (under authority delegated to the Board by Office of Management and Budget) after consideration of the comments received during the 60-day comment period.

(7) Regulatory Analysis

The proposed amendments would change the way in which documentation is provided to consumers by requiring that account-holding institutions provide all the required information. A consumer would receive all the required periodic statement documentation directly from the financial institution holding the account from which the funds were debited. Service providers would be required to furnish to account-holding institutions all the transaction information necessary for proper documentation. Furthermore, service providers would be required to inform consumers of the telephone number and address they should use to report errors or lost or stolen debit cards.

Consumers would receive no less information under the proposed amendments than under the present rule. Moreover, some consumer confusion could be reduced as duplicative disclosures are eliminated.[1] If the proposal is adopted, account-holding institutions may incur increased costs from having to include additional information in periodic statements. The amendments are not expected to lead to a significant increase in the number of periodic statements that account holding instititions deliver to consumers, however, because most institutions already provide periodic statements for transaction accounts.

The cost burden of providing the additional information is not likely to be great for account-holding institutions as a group. Most point-of-sale (POS) transactions involve accounts at financial institutions that already are able to comply with the periodic statement requirements of the act and regulation. The economic burden for

[1] Disclosures and other consumer rights in EFT do not appear to be a problem for consumers. Available evidence suggests that consumers are satisfied with their EFT accounts. The number of account errors and unauthorized transfers is negligible both in absolute terms and relative to the volume of EFT transactions occurring in the payments system.

each institution would depend on its ability to disclose the required information on or with periodic statements, and some institutions would have to devote additional resources to data processing and perhaps to error resolution. The aggregate economic burden on account-holding institutions is thought to be negligible.

For service-providing institutions (such as supermarkets, gasoline retailers, and other merchants) that issue debit cards but do not hold consumer accounts, the cost savings would be substantial. This is so because the amendments would make the clearing of POS transactions through the automated clearing house (ACH) more attractive. The greatest economic benefit of the proposed amendments would arise in the future as the volume of POS transactions increases. It is likely that more institution (i.e., retailers) would be able to justify allowing consumers to make POS transactions if the amendments are adopted, and that more access devices would be issued to consumers. It is also believed that adoption of the amendments would have a salutary effect on the evolution of the payments system by reducing the average system-wide compliance cost per POS transaction.

There are obvious cost advantages to retailers in choosing the ACH method of clearing. It has been estimated that clearing a POS transaction indirectly through the ACH system costs about 20 cents at the margin, including the costs of fraud and float. Clearing a POS transaction directly (on-line) from a consumer account costs a retailer about 50 cents at the margin.

This economic advantage is reduced by Regulation E if the retailer has to provide periodic statements to its card holders. Estimates of the cost of producing a periodic statement vary from a minimum of about 30 cents at the margin to a maximum of about 75 cents at the margin, although the average cost per transaction will depend on the number of transactions a consumr makes per month with the retailer. Assuming that the consumer makes only one transaction per month, the retailer's total cost for that consumer would be at least 50 cents: 20 cents to clear, and 30 cents for the statement. Even if the consumer makes several transactions per month , the cost advantage of ACH clearing to the retailer is partly offset by periodic statement costs, and is less than it would be if the proposed amendments were adopted.

The Board has long advocated the use of the nation's automated clearing house network as a cost-saving alternative to paper check transactions. Point-of sale transactions cleared through the ACH system are functionally no different from paper checks and have the potential to generate cost savings by displacing paper checks. To the extent that the proposed amendments reduce the cost to merchants of offering electronic point-of-sale transactions, these transactions could displace payments by paper checks at point of sale and thereby reduce the overall costs to society of operating the payments system.

Significant progress toward standardization of electronic debit and credit items has been made. In early 1987, new NACHA rules will require all financial institutions that participate in the ACH to identify point-of-sale transactions in accordance with the requirements of Regulation E. This development ensures that electronic items originated through the ACH include all information required for account-holding institutions to make periodic statement disclosures in compliance with Regulation E.

There is no indication that small financial institutions as a group would be unduly disadvantaged by the proposed amendments. Many small institutions, because they already participate in ACH direct deposit programs or automated teller machine networks, currently are able to comply with the periodic statement requirements of the act and regulation. It is possible, however, that certain small institutions could face substantially greater compliance costs as a result of the proposed amendments. Currently, pre-authorized transfers to or from a small institution (one with assets of $25 million or less) are exempt from the periodic statement requirements of the act and regulation. The proposed amendments would place some additional compliance burden on these exempt institutions by requiring that they send complying periodic statements to consumers who have POS debit transactions posted to their accounts. For certain small institutions, this burden could be substantial if the method of producing periodic statements had to be fundamentally changed.

A couple of factors would appear to mitigate this concern. First, any POS debit item received over the ACH system by a small financial institution would contain all the necessary information needed to post the item to the consumer's account. Second, small institutions not currently able to disclose the required information with their periodic statements likely can get assistance at reasonable cost from their correspondent banks or from service bureaus that specialize in data processing applications for small financial institutions. The Board solicits data on the cost to financial institutions, both large and small, of complying with the proposed amendments to the regulation.

In summary, with the proposed amendments the payments system as a whole is likely to realize significant cost savings as electronic point-of-sale transactions increase in volume and relative importance. Consumers are likely to benefit from lower transaction costs and increased efficiency in the payment system as the volume of electronic point-of-sale transactions increses. Moreover, with the proposed amendments, there would be no loss of consumer protections ensured by the act.

List of Subjects in 12 CFR Part 205

Banks, banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

(8) Regulatory Text.

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows, while language that would be removed is set off with brackets.

Pursuant to the authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C 1693b, the Board proposes to amend Regulation E, 12 CFR Part 205, as follows:

PART 205—[AMENDED]

1. The authority citation for Part 205 continues to read as follows:

Authority: Pub. L. 95-630, 92 Stat. 3730 (15 U.S.C. 1693b).

2. Section 205.14 is amended by revising paragraph (a)(2) and the portion of paragraph (b) beginning with the last phrase of the introductory text to read as follows:

§ 205.14 Services offered by financial institutions not holding consumer's account.

(a) * * *

(2) ►(i)◄ Sections 205.7, 205.8, and 205.9 shall require the service-providing institution to provide those disclosures and documentation that are within its knowledge and the purview of its relationship with the consumer.

►(ii) the service-providing institution need not furnish a periodic statement to the consumer under § 205.9(b), but shall instead

(A) Provide the transaction information to the account-holding financial institution, identifying each

transaction in accordance with § 205.9(b)(1):

(B) Furnish the consumer with the address and telephone number to be used for inquiries and for reporting the loss or theft of the access device or unauthorized transfers appearing on periodic statement by:

(*1*) Printing the information on receipts furnished with each transaction, or

(*2*) Providing the consumer with a quarterly notice of this information;

(C) Disclose to the consumer at the time of issuing an access device

(*1*) That it will not be furnishing periodic statements summarizing transactions, and that the consumer should retain all receipts to verify the accuracy of the statement received from the account-holding financial institution,

(*2*) That the consumer should notify the service-providing institution at once of the loss or theft of the access device, and, if the access device is a card issued by another institution, that the consumer should notify the card-issuing institution as well, and

(*3*) That all inquiries relating to transaction with the service-providing institution must be made to the service-provider; and

(D) Extend by a reasonable time the time periods within which notice must be received concerning loss or theft of an access device or of unauthorized transfers appearing on a periodic statement, or concerning an error, if a delay in notifying the service-providing institution was due to the fact that the consumer initially notified or attempted to notify the account-holding institution.◄

* * * * *

(b) * * *

except that the account-holding institution shall comply with►:◄ [section 205.11 by—]

►(1) Section 205.9(b), by including on its periodic statement the information required by paragraph (b)(1) for each transaction from the service-providing institution debited or credited to the account during the cycle.◄

[(1)]►(2) Section 205.11 by (i)◄ Promptly providing, upon the request of service-providing institution, information or copies of documents required for the purpose of investigating alleged errors or furnishing copies of documents to the consumer; and

[(2)]►(ii)◄ Honoring debits to the account in accordance with section 205.11(f)(2).

►(3) An account-holding institution has no liability for failure to provide the information required by paragraph (b)(1) of this section if the failure is due to its not having received from the service providing institution the information necessary for compliance.◄

* * * * *

By order of the Board of Governors of the Federal Reserve System, August 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17862 Filed 8-7-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 852 3075]

GCS Electronics, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Costa Mesa, Calif. electronics company from making unsubstantiated claims about the capabilities of its portable "Mark II Executive Phone."

DATE: Comments will be received until October 7, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-407, C. Lee Peeler, Washington, DC 20580. (202) 376-8617.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with an accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Mobile telephones, Trade practices.

In the Matter of GCS Electronics, Inc., a corporation and Gene Comfort, individually and as an officer of said corporation.

[File No. 852 3075]

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of GCS Electronics, Inc., a corporation, and Gene Comfort, individually and as an officer of said corporation, and it now appearing that GCS Electronics, Inc., a corporation, and Gene Comfort, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between GCS Electronics, Inc., by its duly authorized officer, and Gene Comfort, individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed respondent, GCS Electronics Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3200 Park Center Drive, 7th Floor, in the City of Costa Mesa, State of California.

Proposed respondent Gene Comfort is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation. His office and place of business is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is provisionally accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this

agreement and so notify respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

"Range-related claim" means any general or specific, oral or written representation that, directly or by implication, describes or refers to the distance over which a radiotelephone communications device will receive and transmit signals that are of commercially useable quality.

I

It is ordered that respondents GCS Electronics, Inc., a corporation, its successors and assigns, and its officers, and Gene Comfort, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any mobile telephone or other radiotelephone communications device in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing in any manner, directly or by implication, any performance characteristic of any such device unless at the time of such representation, respondents possess and rely upon a reasonable basis for such representation, consisting of competent and reliable evidence which substantiates such representation.

B. Making any range-related claim about any such device which uses the phrase "up to" or words of similar import unless the maximum level of performance can be achieved by an appreciable number of consumers; and further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the maximum level of performance, cease and desist from failing to disclose clearly and prominently the class of consumers who can achieve the maximum level of performance.

C. Misrepresenting in any manner, directly or by implication, the range or coverage of any such device.

D. Misrepresenting in any manner, directly or by implication, the ability of any such device to transmit and receive messages simultaneously.

II

It is further ordered that for three years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this Order; and

B. All test reports, studies, surveys or other materials in their possession or control that contradict, qualify or call into question such representation or the basis upon which respondents relied for such representation.

III

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations under this Order.

IV

It is further ordered that the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this Order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any obligation arising under this Order.

V

It is further ordered that respondents shall, within sixty (60) days after service of this Order upon them, file with the Commission a written report setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from GCS Electronics, Inc., and its President, Gene Comfort.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns advertising for a portable mobile telephone called the Mark II Executive Phone. GCS

Electronics, Inc., is a California corporation based in Costa Mesa, California, that manufactures, distributes and sells the Mark II Executive Phone. Gene Comfort is President of GCS Electronics, Inc.

The Commission's complaint in this matter charges GCS and Gene Comfort with disseminating advertisements containing false and misleading representations concerning the Mark II Executive Phone. The complaint alleges that the respondents represented that the Mark II would provide an up to 50-mile range over which users can make and receive calls and would allow the user to speak and listen simultaneously. In fact, the complaint charges, these claims are false or misleading because few, if any, users can achieve a 50-mile range and users must push a button to talk and release the button to listen. According to the complaint, respondents also represented that they possessed a reasonable basis for these claims when, in fact, they did not have such a reasonable basis.

The consent order contains provisions designed to remedy the advertising violations charged and to prevent GCS Electronics, Inc. and Gene Comfort from engaging in similar acts and practices in the future.

Part I.A. of the order requires the respondents to cease and desist, in connection with the advertising, sale or distribution of any mobile telephone or other radiotelephone communications device, from representing any performance characteristic of any such device unless respondents possess and rely upon a reasonable basis for such representation at the time that it is made.

Part I.B. of the order prohibits any range-related claim about any such device which uses the phrase "up to" or words of similar import unless the maximum level of performance can be achieved by an appreciable number of consumers. In those instances where consumers could not foresee the major factors or conditions affecting the maximum level of performance, respondents must disclose clearly and prominently the class of consumers who can achieve the maximum level.

Part I.C. and I.D. of the order prohibits respondents for misrepresenting the range or coverage of any radiotelephone communications device, or the ability of any such device to transmit and receive messages simultaneously.

Parts II. through V. of the order are standard order provisions requiring respondents to retain substantiation for any claims covered by any provision of the order, to notify the Commission of any change in Mr. Comfort's employment, and to report to the Commission on respondents' compliance with the terms of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-17877 Filed 8-7-86; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231 and 241

[Release Nos. 33-6654, 34-23489; File No. S7-19-86]

Proposed Revisions to Industry Guide Disclosures by Bank Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to Industry Guides.

SUMMARY: The Commission today authorized publication, for comment, of proposed amendments to the Industry Guides for Statistical Disclosure by Bank Holding Companies, regarding disclosures of outstandings to borrowers in certain foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest, and certain restructurings of outstandings to those countries. Industry Guides serve as expressions of the policies and practices of the Division of Corporation Finance. They are of assistance to issuers, their counsel and others preparing registration statements and reports, as well as to the Commission's staff.

DATE: Comments must be received on or before September 30, 1986.

ADDRESS: Five copies of comment letters should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7-19-86. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack or Edmund Coulson, Office of the Chief Accountant (202-272-2130), or Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Commission today authorized publication, for comment, of proposed amendments to the Industry Guides for Statistical Disclosure by Bank Holding Companies ("Guide 3") regarding disclosure of outstandings [1] to borrowers in certain foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest, and certain restructurings of outstandings to those countries. The proposed amendments are intended to enable users of bank holding company ("BHC") financial reports ("users") to better assess BHCs' exposures to certain foreign countries and the impact of significant restructurings of those exposures. The proposed amendments are based largely on views of the Commission staff previously expressed in interpretive letters regarding disclosures of significant foreign debt restructurings.

II. Background

The Division of Corporation Finance ("the Division") notes that, for some time, exposure of U.S. BHCs to countries experiencing economic difficulties has concerned the financial community. Further, the Division notes widely-held expectations that the foreign debt situation will continue to be problematic, and that foreign debt restructurings may continue to occur, for the forseeable future.

III. Discussion of Existing Disclosure Guidance and Proposed Amendments

A. Countries Experiencing Liquidity Problems

Where current conditions in a foreign country give rise to liquidity problems [2]

[1] Outstandings to a foreign country (or "cross-border out-standings") include loans, accrued interest, acceptances, interest-bearing deposits or investments, and other monetary assets which are denominated in U.S. dollars or other non-local currency.

[2] It is important to distinguish liquidity problems from credit problems in countries that are currently unable to fully service their debts. Unlike credit problems, liquidity problems (i.e., current inability to raise sufficient amounts of U.S. currency to meet principal or interest repayment obligations to U.S. banks) do not necessarily affect the assessment of whether loans will ultimately be uncollectible. The amendments being proposed today do not affect current guidance regarding disclosure of loans beset by credit problems.

that are expected to have a material impact on timely repayment of principal or interest, Item III.C.3. of Guide 3 in its present form calls for "disclosure of the nature and impact of such developments".

The proposed amendments are intended to elicit uniform disclosure of information the Division believes may be important to users regarding outstandings to these countries. In addition to the discussion of the "nature and impact" of developments currently called for, the amended guidance would call for an analysis of changes in aggregate outstandings to the countries that would include new outstandings, repayments of principal and interest, the amount of interest income recorded on outstandings to the countries, and other significant changes. The tabular analysis of changes in outstandings is intended to provide users with a concise picture of whether and, if so, how, a BHC's exposure to the countries has increased or decreased on a net basis.

Letters issued by the Commission staff regarding disclosures to be made in connection with certain major foreign debt restructurings (see discussion in section III.B.) called for, among other disclosures, information with respect to aggregate outstandings to the countries involved such as the amounts of new outstandings repayments of principal and interest, and interest income recorded. The Division believes that these types of disclosures may be important with regard to each country experiencing liquidity problems that are expected to have a material impact on timely debt servicing, and perhaps should be disclosed irrespective of whether restructurings of those countries' debts occur within any given reporting period.

The Division is seeking comment on these proposed disclosures, both as to content and format, and the possibility of alternative or additional disclosures to help users evaluate BHCs' exposures to borrowers in countries that are experiencing liquidity problems.

B. Restructurings of Outstandings to Countries Experiencing Liquidity Problems

Presently, Staff Accounting Bulletin ("SAB") No. 49A calls for discussions of restructuring negotiations, a "general description" of restructuring agreements, the impact on maturities of existing loans and unpaid interest, and commitments to extend additional loans or to maintain deposits in the debtor country. Since the issuance of SAB 49A, however, the staff has issued interpretive letters in response to requests from banking industry representatives, expressing its views that certain additional and more specific disclosures would be expected regarding restructurings of significant amounts of Brazilian, Mexican Argentine and Venezuelan public and/or private sector debt.

Specifically, the banking industry representatives requested the staff's views as to whether the restructurings should be reported as "troubled debt restructurings" in accordance with Statement of Financial Accounting Standards No. 15 ("FAS 15"),[3] and what disclosure would be expected in filings with the Commission. The staff reviewed the terms of each restructuring and concluded that determination of whether the restructurings met the definition of "troubled" under FAS 15[4] was the responsibility of each affected registrant. The staff did, however, express its views in letters to the industry representatives concerning what disclosures would be expected in filings with the Commission irrespective of whether FAS 15 were deemed to be applicable.

The proposed amendments would codify disclosure guidance regarding significant restructurings of outstandings to countries that are experiencing liquidity problems, largely along the lines of the guidance set forth in the staff's letters. The proposed disclosures are intended to enable users to better assess the impact of significant foreign debt restructurings by prescribing:

(a) A concise tabular presentation of pre- and Post-restructuring maturities and interest rates on the restructured outstandings;

(b) A description of commitments arising in connection with the restructurings; and (c) The amounts of outstandings that have been removed or are expected to be removed from nonaccrual status as a result of the restructurings.

Item III.C.1. of Guide 3 in its present form calls for reporting of aggregate amounts of what are commonly referred to as "problem" or "nonperforming" loans, which include, among other categories, loans that are troubled debt restructurings ("TDRs") as defined in FAS 15. There are practical difficulties in determining whether a major foreign debt restructuring is in fact a TDR, and what disclosures should be made if it is a TDR.[5]

The proposed disclosure guidance would apply regardless of whether a foreign debt restructuring were deemed a TDR, and would call for disclosures that are intended to better enable users to assess the financial statement impact of restructurings than would the disclosures required by FAS 15 with respect to a TDR. The proposed guidance is intended to enable users to assess for themselves whether restructured foreign outstanding should be considered "problem loans" and, on that basis, the proposed amendments would provide that any foreign debt restructuring that is disclosed pursuant to the new guidance and which occurred for reasons unrelated to concerns as to ultimate collectibiltiy need not be reported as a troubled debt restructuring pursuant to Item III.C.1. of Guide 3.

The Division is seeking comment on these proposals for separate disclosure of signficant foreign debt restructurings, both as to the content and format, and the possibility of alternative or additional disclosures to help users assess the impact of such restructurings.

IV. Applicability of Proposed Disclosure Guidance

Guide 3 in its present form calls for identification of individual countries and disclosure of aggregate amounts of outstandings thereto, individually, only if such amounts exceed one percent of a registrant's total assets. The proposed amendments would not change this. The analysis of changes in aggregate outstandings to countries experiencing liquidity problems would be called for only where aggregate outstandings to such a country exceed one percent of total assets. The disclosures regarding foreign debt restructurings would be called for only if aggregate outstandings to a country exceed one percent of total assets and a material portion of those outstandings is restructured either during or subsequent to the most recent fiscal year, or if a registrant expects on the basis of tentative agreements that a material portion will be restructured.

The Division is seeking comments on these proposed disclosure thresholds, which are consistent with existing

[3] Statement of Financial Accounting Standards No. 15: *Accounting by Debtors and Creditors for Troubled Debt Restructurings* (Stamford, CT: Financial Accounting Standards Board, 1977).

[4] FAS 15 states that a troubled debt restructuring occurs if a creditor, for economic or legal reasons related to a debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider.

[5] For example, it may be difficult to assess whether the post-restructuring interest rate is below market rates for similar loans, because there may be no sources of significant amounts of new loans to the country, other than the lenders participating in the restructuring. FAS 15 calls for disclosures regarding TDRs that are effected through modifications of terms (e.g., interest rates and/or maturities) only if the post-restructuring interest rates are below market rates.

disclosure guidance, and possibilities for alternative thresholds.

While the proposed disclosure guidance regarding outstandings to countries with liquidity problems and regarding restructurings are discussed separately throughout this Release, there may of course be cases where both types of disclosures would be called for with respect to one or more particular countries in any given reporting period. In such cases, it would seem appropriate that registrants attempt to present the disclosures in a manner that would facilitate user understanding—e.g., to the extent practicable, the disclousers should be presented together rather than in different sections of filings.

V. Request for Comment

The Division invites written comments from users and preparers of BHC financial reports and other interested parties on any or all aspects of the proposed amendments. However, the Division is particularly interested in receiving comments regarding:

(a) Expected benefits (quantified, to the extent practicable), and usefulness of each proposed item of disclosure or any suggested alternative disclosures;

(b) The cost (quantified, to the extent practicable) to preparers of BHC financial reports of providing the proposed disclosures or any suggested alternative disclosures;

(c) Means for presentation of the proposed disclosures or any suggested alternative disclosures in a focused, meaningful and understandable format;

(d) Alternatives to the proposed determination of when the proposed disclosures or any suggested alternative disclosures should be provided; and

(e) Whether the proposed amendments would have an adverse impact on competition.

List of Subjects in 17 CFR Parts 231 and 241

Accounting, Reporting and recordkeeping requirements, securities.

In accordance with the foregoing, it is proposed to amend the Industry Guides and 17 CFR Chapter II as follows:

SECURITIES ACT INDUSTRY GUIDES

1. By amending the Securities Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] by revising Instruction (4) to Item III.C.1., and revising Instruction (6) to Item III.C.3., to read as follows:

Guide 3—Statistical Disclosure by Bank Holding Companies

* * * * *

III. Loan Portfolio

* * * * *

C. Risk Elements

* * * * *

1. Nonaccrual, past due and restructured loans.

* * * * *

Instructions.

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(4) No loans shall be excluded from the amounts presented, except that loans to foreign borrowers which are restructured for reasons other than concerns as to ultimate collectibility and which are included in amounts disclosed pursuant to Instruction (6)(d) to Item III.C.3 need not be included in amounts reported pursuant to Item III.C.1.(c). Supplemental disclosures may be made to facilitate understanding of the aggregate amounts reported. These disclosures may include, for example, information as to the nature of the loans, any guarantees, the extent of collateral, or amounts in process of collection.

* * * * *

3. Foreign Outstandings.

* * * * *

Instructions.

* * * * *

(6) Where current conditions in a foreign country give rise to liquidity problems which are expected to have a material impact on the timely repayment of interest or principal on the country's private or public sector debt, furnish:

(a) A description of the nature and impact of such developments.

(b) An analysis of the changes in aggregate outstandings to private and public sector borrowers in each such country (except that a country need not be included if aggregate outstandings to all borrowers in the country at the end of the most recent reported period do not exceed 1% of total assets), for the most recent reported period, in the following format:

	Country A		Country B	
	Private sector	Public sector	Private sector	Public sector
Aggregate outstandings at (beginning of period)	$X	$X	$X	$X
Additional outstandings	X	X	X	X
Interest accrued	X	X	X	X
Collection of:				
Principal	X	X	X	X
Accrued interest	X	X	X	X
Other changes (describe if significant)	X	X	X	X
Aggregate outstandings at (end of period)	X	X	X	X

(c) The amounts reported as interest income and the amounts of interest collected during the most recent reported period on the outstandings disclosed pursuant to subpart (b) of this Instruction, if, because all or a portion of the outstandings were on a nonaccrual basis, such amounts are not approximately equal to the amounts disclosed pursuant to subpart (b) on the lines entitled "Interest accrued" and "Collections of accrued interest" respectively.

(d) The following information, if a material portion of the outstandings to any country that is identified pursuant to subpart (b) of this Instruction is restructured during or subsequent to the most recent fiscal year or if the registrant expects on the basis of tentative agreements that such amounts of outstandings will be restructured (explaining that the information is subject to change, if applicable):

(i) Information describing the pre- and post-restructuring repayment terms of the outstandings restructured or to be restructured, including at a minimum the following (in tabular format such as the following):

	Country A	Country B
Amount restructured	$X	$X
Weighted average year of maturity (including any grace periods):		
Pre-restructuring	19XX	19XX
Post-restructuring	19YY	19YY
Weighted average interest rate:		
Pre-restructuring (percent)	X	X
Post-restructuring (percent)	Y	Y

(ii) A description of commitments (e.g., new money provisions; agreements to re-lend, or to maintain on deposit, repayments of principal or interest within the country) arising or expected to arise in connection with the restructuring(s).

(iii) The amount of outstandings, separately as to each country, that has been removed or is expected to be removed from nonaccrual status as a result of the restructuring(s).

* * * * *

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. By amending Part 231 by adding this Release to the list of interpretive releases set forth thereunder.

EXCHANGE ACT INDUSTRY GUIDES

3. By conforming Exchange Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] to Securities Industry Guide 3, amended as proposed herein.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. By amending Part 241 by adding this Release to the list of interpretive releases set forth thereunder.

July 31, 1986.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–17925 Filed 8–7–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rates for Idaho and Oregon; Reopening of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the comment period on a proposed rule to amend the regulations for the certification for temporary employment of nonimmigrant aliens in agriculture in the United States to add the States of Idaho and Oregon to the list of States for which adverse effect wage rates (AEWRs) are computed and published annually.

DATE: The public is invited to submit written comments on the proposed rule on or before September 8, 1986.

ADDRESS: Sent written comments to: Assistant Secretary of Labor, Employment and Training Administration, Room 8100—Patrick Henry Building, 601 D Street NW., Washington, DC 20213, Attention: Mr. Robert A. Schaerfl, Director, United States Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening, Telephone: (202) 376–6228.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 8, 1986, at 51 FR 11942, the Employment and Training Administration (ETA) published a notice of proposed rulemaking to amend its regulations at 20 CFR 655.207(b)(2) to add the States of Idaho and Oregon to the list of States for which the Director, U.S. Employment Service, must compute and publish annually adverse effect wage rates (AEWRs) for the temporary employment of aliens in agricultural occupations. An AEWR is a minimum wage rate which DOL has determined must be offered and paid by the employers proposing to employ nonimmigrant alien agricultural workers (so-called "H–2 workers") in the United States. The AEWRs for Idaho and Oregon will be established and set to prevent the employment of these aliens from having an adverse effect on the wages of similarly employed United States workers.

The public was invited to submit written comments on the proposed rule to ETA on or before May 8, 1986. Many individuals submitting comments on the proposed rule requested an extension of the comment period, primarily because they believed the complexity of the rule required more time for examination of the issues involved. They requested an extension of time to allow the public to submit additional information which they believe DOL should consider before a final decision is reached on the rulemaking.

DOL has determined, therefore, to grant the above-referenced requests, and, in this one instance in this rulemaking, to reopen the comment period for an additional 30 days after the publication of this notice in the **Federal Register.**

Accordingly, the comment period on the proposed rule published in FR Doc. 86–7736 at 51 FR 11942 on April 8, 1986, is hereby reopened for a period concluding on the date set forth above in the "DATE" section.

Signed at Washington, DC, this 30th day of July, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86–17901 Filed 8–7–86; 8:45 am]

BILLING CODE 4510-30-M

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adjustments to Piece Rates; Reopening of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the comment period on a proposed rule to amend the regulations for the certification for temporary employment of nonimmigrant aliens in agriculture in the United States. The proposed rule would amend the procedures for adjustment of piece rates employers offer and pay to United States and alien agricultural workers.

DATE: The public is invited to submit written comments on the proposed rule on or before September 8, 1986.

ADDRESS: Send written comments to: Assistant Secretary of Labor, Employment and Training Administraton, Room 8100—Patrick Henry Building, 601 D Street NW., Washington, DC 20213, Attention: Mr. Robert A. Schaerfl, Director, U.S. Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening, Telephone: (202) 376–6228.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1986, at 51 FR 20516, the Employment and Training Administration (ETA) published a notice of proposed rulemaking to amend its regulations at 20 CFR Part 655 for the certification for temporary employment of nonimmigrant aliens in agriculture in the United States. The proposed rule would amend the procedures for adjustment of piece rates which H–2 employers must offer and pay to their agricultural workers. The rule would require each piece rate to be no less than the prevailing piece rate for the crop activity in the area of employment. It would also discontinue the requirement that piece rates be designed to procduce average hourly earnings at least equal to the adverse effect wage rate (AEWR), and would make provision for justifiable productivity increases.

The public was invited to submit written comments on the proposed rule to ETA on or before July 7, 1986. Several commenters submitting comments on the proposed rule requested an extension of the comment period, primarily because they believed the complexity of the rule required more time for analysis. They requested an extension of time to allow the public to submit additional information which they believe DOL should consider before a final decision is reached on the rulemaking.

DOL has determined, therefore, to grant the above-referenced requests, and, in this one instance in this rulemaking, to reopen the comment period for an additional 30 days after the publication of this notice in the **Federal Register.**

Accordingly, the comment period on the proposed rule published in FR Doc. 86–12611 at 51 FR 20516 on June 5, 1986, is hereby reopened for a period concluding on the date set forth above in the "**DATE**" section.

VOL 51 ISS 153 AG 8 1986 UMI

Signed at Washington, DC, this 30th day of July, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-17902 Filed 8-7-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and hearing on the substantive adequacy of certain program amendments submitted by the State of Maryland as modifications to its permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Maryland submission contains revisions to the Code of Maryland Regulations (COMAR) at 08.13.09.07 concerning coal exploration activities and revisions to Section 7-507 of the Annotated Code of Maryland with regard to the State obtaining written consent of landowners for access across certain private property not otherwise accessible from a public road to inspect open-pit mining or prospecting operations. These amendments are intended to satisfy the requirements of 30 CFR 920.16(a-d) as set forth in the November 18, 1985 **Federal Register** (50 FR 47379-47386). Also, Maryland has submitted for approval statutory revisions concerning notification by the operator of any changes in officers, directors, principal owners or resident agents of any coal mining operations, and authorization of any financial institution or Federal credit union in the State to issue a certificate of deposit in lieu of a corporate surety as security for a performance bond.

This notice sets forth the times and locations that the Maryland program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on September 8, 1986 to be considered. A public hearing on the proposal will be held upon request from 7:00 p.m. to 9:00 p.m. August 26, 1986 at the Maryland Bureau of Mines listed below under "**ADDRESSES**". Any person interested in making an oral or written presentation at the hearing should contact Mr. James C. Blankenship, Jr., at the OSMRE Charleston Field Office by the close of business on or before the fifth day prior to the hearing. If no one contacts Mr. Blankenship to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Blankenship, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

The public hearing will be held upon request at: Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532.

See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the Maryland program, the amendments and the administrative record on the Maryland program are available. Each requester may receive, free of charge, one single copy of the proposed program amendments by contacting the OSMRE Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION: Copies of the proposed modifications, the Maryland program, and the administrative record on the Maryland program are available for public review and copying at the OSMRE offices and the Office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement
Charleston Field Office
603 Morris Street
Charleston, West Virginia 25301
Telephone: (304) 347-7158

Office of Surface Mining Reclamation and Enforcement
Administrative Record
1100 "L" Street, NW.
Washington, DC 20240
Telephone: (202) 343-4855

Maryland Bureau of Mines
69 Hill Street
Frostburg, Maryland 21532
Telephone: (301) 689-4136

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following location:

Office of Surface Mining Reclamation and Enforcement
Morgantown Area Office
75 High Street, Room 229
Morgantown, West Virginia 26505
Telephone: (304) 291-4004

I. Background on the Maryland Program

On March 3, 1980, OSMRE received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430-79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214-7217).

On January 13, August 7, October 10, November 9, 1984, and June 5, 1985, the State of Maryland submitted proposed statutory and regulatory modifications to its approved permanent regulatory program. On November 18, 1985, the Director of OSMRE approved, with certain exceptions, the aforementioned amendments submitted by the State.

II. Submission of Program Amendments

As required, on December 23, 1985, and January 14, 1986, the State of Maryland submitted statutory and regulatory revisions to its permanent regulatory program (Administrative Record Nos. MD 331 and 332). The proposed amendments are intended to satisfy all the requirements of 30 CFR 920.16 (a), (c) and (d). The existing required amendments provide that:

(a) Maryland's program at COMAR 08.13.09.07 does not provide that coal exploration activities on lands designated be approved by the regulatory authority as required by 30 CFR 772.12;

(b) Maryland's program at COMAR 08.13.09.07G(5)(a) does not prohibit the disturbance of habitats of unusually high value and critical habitats of endangered or threatened species during coal exploration activities as required by 30 CFR 815.15(a);

(c) The State program at COMAR 08.13.09.07G(5)(k) does not require the use of sediment control structures during coal exploration activities as provided by 30 CFR 815.15(i); and

(d) The Maryland program at section 7–507(c)(1) of Title 7 of the Annotated Code of Maryland does not provide for right of entry in accordance with section 517 of SMCRA and 30 CFR 840.12.

In addition to the proposed statutory provisions regarding right of entry, the December 23, 1985 submission also contained statutory revisions concerning notification by the operator of any change in control or ownership of the operation, replacement of water supplies, and restoration of offsite damage due to mining (Administrative Record No. MD 331).

On January 25, 1986, Maryland submitted proposed legislation which would authorize any financial institution in the State to issue a certificate of deposit in lieu of a corporate surety for a revegetation bond (Administrative Record No. MD 330).

On February 21, 1986, OSMRE acknowledged receipt of the amendments and requested that Maryland reconsider the submissions. Because some of the proposed legislation was expected to be amended prior to adoption and one bill was not likely to be approved by the Maryland General Assembly, OSMRE requested that only the right to entry legislation be considered with the proposed coal exploration regulations (Administrative Record No. MD 333).

On March 18, 1986, Maryland concurred with OSMRE's request of February 21, 1986, and withdrew all proposed legislation except that concerning right of entry (Administrative Record No. MD 334).

On May 15, 1986, Maryland submitted to OSMRE revised House Bill 540 as adopted by the General Assembly and signed by the Governor on May 13, 1986. House Bill 540, which was initially submitted to OSMRE on December 23, 1985, was amended by the General Assembly and contains provisions regarding right of entry and notification by the operator of changes in officers, directors, principal owners or resident agents of the operation. Senate Bill 256, which was initially submitted to OSMRE on January 24, 1986, provides for the issuance of a certificate of deposit in lieu of a corporate surety. It also passed the General Assembly with amendments and was signed by the Governor on May 13, 1985. Proposed legislation that was submitted earlier concerning restoration of offsite damage due to mining and replacement of water supplies failed to pass the General Assembly (Administrative Record No. MD 336).

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments from the public on the adequacy of the proposed statutory and regulatory revisions to Maryland's permanent regulatory program. Specifically, OSMRE is soliciting comments on Maryland's proposed revision to its coal exploration regulations which were submitted on January 17, 1986, and the State's statutory revision on May 15, 1986, regarding right of entry, notification of changes to officers, directors, principal owners or resident agents of coal mining operations, and authorization of any financial institution or Federal credit union in the State to issue a certificate of deposit in lieu of a corporate surety as security for a performance bond. Due to the nature of the amendments, a thirty-day comment period has been provided and a public hearing will be held upon request to receive comments on the proposed amendments.

III. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to the section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for action directly related to approval or conditional approval of a State regulatory program. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review of OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 4, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Services.

[FR Doc. 86–17875 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–05–M

Office of the Surface Mining and Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and hearing on the substantive adequacy of amendments submitted by the State of Maryland as modifications to its permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments contain both emergency regulations and proposed permanent program regulations for permitting and regulating previously unpermitted coal preparation plants in the State. The revisions are intended to satisfy the requirements of OSMRE's interim-final rule of July 10, 1985, regarding coal preparation plants.

This notice sets forth the times and locations that the Maryland program and amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if requested.

DATES: Written comments relating to the proposed amendments must be received on or before 4:00 p.m. on September 8, 1986 to be considered. A public hearing on the proposal will be held upon request from 7:00 p.m. to 9:00 p.m. on August 28, 1986. Any person interested in making an oral or written presentation at the hearing should contact Mr. James C. Blankenship, Jr., at the OSMRE Charleston Field Office by the close of business on or before the fifth day prior to the hearing. If no one has contacted Mr. Blankenship to express an interest in participating in the hearing by that date, the hearing will

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not be held. If only one person has so contacted Mr. Blankenship, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301. The public hearing will be held at the Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: Copies of the proposed modifications, the Maryland program, and the administrative record on the Maryland program are available for public review and copying at the OSMRE offices and the Office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one single copy of the proposed program amendments by contacting the OSMRE Charleston Field Office listed above.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW., Room 5315, Washington, DC 20240. Telephone: (202) 343–5492

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532. Telephone: (301) 689–4136

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following location: Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505. Telephone: (304) 291–4004.

I. Background on the Maryland Program

On March 3, 1980, OSMRE received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217). Subsequent actions concerning the Maryland program which led to further required amendments are discussed at 50 FR 47379–47386 (November 18, 1985) and are contained in 30 CFR 920.16.

II. Submission of Program Amendments

On March 18, 1986, Maryland submitted to OSMRE proposed emergency and permanent program regulations concerning coal processing plants, support facilities and related definitions (Administrative Record No. MD 334).

On April 23, 1986, Maryland resubmitted its emergency regulations regarding coal preparation plants (Administrative Record No. MD 335). The regulations are the same as the draft emergency regulations which were submitted on March 18, 1986, except for COMAR 08.13.09.01B.(14) and 08.13.09.03G. According to Maryland, the changes to the regulations are in format only and the intent of the regulations has not changed. The emergency regulations were approved by Maryland's Administrative, Executive and Legislative Review Committee and took effect on March 25, 1986. The revisions are intended to satisfy OSMRE's interim final rule of July 10, 1985, and bring additional coal preparation plants and other off-site facilities under the State's permanent program regulations (50 FR 28186–28190). This action is being taken as a result of, and in compliance with, the District Court for the District of Columbia's July 6, 1984, ruling in *In Re: Permanent Surface Mining Regulation Litigation II, Civil Action No. 79–1144*. The Court ruled that the Secretary's definitions for coal preparation plant and support facilities improperly narrowed the regulatory scope of SMCRA. The Court held that processing facilities which in any way leach, chemically process, or physically process coal should be regulated as coal preparation plants, even if they do not separate coal from its impurities. The proposed Maryland amendment is intended to bring these facilities under the jurisdiction of the Maryland program in accordance with the Court's decision. Maryland proposes to amend its definition of coal preparation plant at COMAR 08.13.09.01B, revise its permitting requirements at COMAR 08.13.09.03, and amend its special performance standards for coal preparation plants at COMAR 08.13.09.28.

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments from the public on the adequacy of the proposed revisions to Maryland's permanent regulatory program. Due to the nature of the amendments, a thirty-day comment period has been provided and a public hearing will be held upon request to receive comments on the proposed amendments.

III. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to the section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects In 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 4, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Services Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86–17873 Filed 8–7–86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300149; FRL-3062-3]

Tolerance for Ethylene Dibromide on Mangoes Proposed Extension of Expiration Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed extension of rule.

SUMMARY: This notice proposes that the tolerance for residues of ethylane dibromide (EDB) *per se* of .03 ppm (30 ppb) in the edible pulp of mangoes that have been fumigated after harvest with the insecticide ethylene dibromide (EDB) in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture be extended from its expiration date of September 30, 1986 for an additional year to September 30, 1987. The comment period on this action had been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety, and environmental protection, under the Agreement on Technical Barriers to Trade (Standards Code).

DATE: Comments, identified by the document control number [OPP-300149], must be received on or before September 8, 1986. Any comments submitted in a language other than English must be accompanied by an English translation.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail, Linda K. Vlier, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7760).

SUPPLEMENTARY INFORMATION: EPA issued a rule, published in the **Federal Register** of February 14, 1986 (51 FR 5682), which established a tolerance of 30 ppb (.03 ppm) in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) in the edible pulp of the raw agricultural commodity mangoes resulting from the fumigation of this commodity after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. That rule expires on September 30, 1986. In the **Federal Register** notice establishing this rule, the Agency noted that a one-year renewal would be considered if by September, 1986 the U.S. Department of Agriculture (USDA) and the exporting countries have substantially moved toward completion of the basic research required to establish alternative fruit fly disinfestation protocols, and data indicate that implementation of non-EDB fruit fly disinfestation techniques by the 1987/1988 season is probable. The Agency has received information from the USDA and the North American Mango Importer's Association (NAMIA) indicating that the USDA, in cooperation with Haiti and Mexico (the principal countries exporting mangoes to the United States), has substantially completed research required to establish the hot water treatment as an alternative fruit fly disinfestation method and that final approval and implementation of this hot water treatment is probable by the 1987/1988 harvest season.

A detailed progress report, dated June 18, 1986, on the research conducted by the Agricultural Research Service, USDA provides a schedule for the projected completion of the laboratory tests and confirmatory tests for the fruit fly species of concern for Haiti and Mexico. For Haiti, two fruit fly species, the Caribbean and the West Indian, are of concern on one mango variety, the Francis mango. The laboratory tests have been completed on the Caribbean fruit fly, and confirmatory tests were 25 percent complete as of June 18, with a projected completion date of September 1986. At a water temperature of 115°F, the projected immersion time is 56 minutes to reach quarantine security (with upper and lower confidence limits of 76.9 and 45.9 minutes). These immersion times are well below the time (2½ hours) at which phytotoxicity is first encountered under simulated commercial conditions. Laboratory tests for the West Indian fruit fly have been initiated and completion is anticipated in September 1986. The confirmatory tests for this species have a likely completion date of December 1986 (or March 1987 if unforeseen contingencies arise).

There are four varieties of Mexican mangoes, namely Hadens, Kent, Keitt, and Tommy Atkins, and two species of fruit flies, the Mexican fruit fly and the West Indian fruit fly, which are of quarantine concern. Laboratory tests have been initiated for the Hadens and Tommy Atkins varieties with an expected completion date of September 1986; the confirmatory tests are scheduled for completion by December 1986. Efficacy tests have been completed for the Hadens variety at the 115°F immersion temperature. No phytotoxic effects were noted after immersion at 115°F up to 2 hours; the quarantine security dosage is in the range of 68.4 minutes. Tests have not het been initiated for the West Indian fruit fly, but the completion of the testing is anticipated to occur as early as January 1987. The USDA anticipates completion of laboratory testing of the Kent and Keitt mango varieties by September 1986, and the confirmatory tests by December 1986. EPA has been assured by USDA that all laboratory tests will be completed this season, and that confirmatory testing will be completed, at the latest, by August 1987. Extensive efforts to accelerate the necessary research and assure approval of the hot water treatment at the earliest feasible date have been detailed in the June 18, Agricultural Research Service Progress Report.

Based on test results to date, USDA has furthermore assured EPA that sufficient research has been completed to demonstrate that the hot water immersion techique at 115°F will be effective in achieving quarantine control without causing phytotoxicity to the mangoes. USDA has also noted that this method has the additional benefit of decay control.

The documents supporting this proposal are available at the address identified above. The Agency has evaluated the risks resulting from the extension of this tolerance rule, and has

concluded that the risk is acceptable for this one-year period. The reasons for this conclusion have been discussed at length in the previous rulemaking documents for this tolerance rule, published in the **Federal Register** of August 10, 1984 (49 FR 32088); January 17, 1985 (50 FR 2547); November 27, 1985 (50 Fr 48799); and February 14, 1986 (51 FR 5682). In light of the considerations discussed above, the Agency believes that the criteria for a 1-year extension of the tolerance rule in 40 CFR 180.397 for residues of 30 ppb (.03 ppm) EBD *per se* in the edible pulp of mangoes fumigated in accordance with USDA Programs have been satisfied, and accordingly proposes the extension of this rule until September 30, 1987. The Agency will not be receptive to any extension of this rule beyond September 30, 1987.

The nature of the residue is adequately understood. An adequate analytical method, using a gas chromatograph equipped with an electron device capable of measuring residue levels of EDB *per se*, is available for enforcement purposes. Based on the information considered above and in the referenced documents, the extension of this tolerance until September 30, 1987 will protect the public health. Therefore, it is proposed that the tolerance be extended as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains EDB may request that this rulemaking proposal to extend the tolerance for EDB *per se* in the edible pulp of mangoes be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on the proposed regulation to extend the tolerance for EDB *per se* in the edible pulp of mangoes. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to facilitate the work of the Agency and of other interested in reviewing the comments. Any comments submitted in a language other than English must be accompanied by an English translation. The Agency will not address comments not submitted in English. All written comments filed pursuant to this notice will be available for public inspection in the Program Management and Support Division at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The record in support of the tolerance rule for EDB on mangoes issued on February 14, 1986, and this extension will also be available for public inspection at the above address.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.397(c) is revised to read as follows:

§ 180.397 Ethylene dibromide; tolerances for residues.

* * * * *

(c) Tolerances are established for residues of ethylene dibromide *per se* in or on the following raw agricultural commodities resulting from use of ethylene dibromide as a fumigant after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture.

Commodities	Parts per million	Expiration date
Mangoes	.03	Sept. 30, 1987.

[FR Doc. 86-17885 Filed 8-7-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-8-FRL-3062-5]

Colorado; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of Colorado for a program revision for the hazardous components of radioactive mixed wastes and public comment period.

SUMMARY: Colorado has applied for final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Colorado's revision application and has made a decision, subject to public review and comment and submission of additional information by the State of Colorado that Colorado's hazardous waste program revision for the hazardous components of radioactive mixed wastes satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Colorado's hazardous waste program revision for the hazardous components of radioactive mixed wastes. Colorado's application for a program revision is available for public review and comment.

DATE: Comments on Colorado's program revision application must be received by the close of business on September 8, 1986.

ADDRESSES: Copies of Colorado's program revision application are available from 8:30 A.M. to 4:30 P.M. Monday through Friday at the following addresses for inspection and copying: Waste Management Division, Colorado Department of Health, 4210 East 11th Avenue, Denver, Colorado 80220; U.S. EPA Headquarters Library, PM 211A, 401 M Street SW., Washington, DC 20460, Phone: 202/382-5926; U.S. EPA Region VIII, Library, One Denver Place, Suite 215, 999 18th Street, Denver, Colorado 80202-2413, Phone: 303/293-1444, Dolores Eddy, Librarian. Written comments should be sent to Charles Brinkman, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202-2413, Phone: 303/293-1794.

FOR FURTHER INFORMATION CONTACT: Charles Brinkman, One Denver Place,

Suite 1300, 999 18th Street, Denver, Colorado 80202–2413, Phone: 303/293–1794.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–266 and 124 and 270. On July 3, 1986, EPA published a **Federal Register** Notice pursuant to 40 CFR 271.9 which requires States to have authority to regulate the hazardous components of radioactive mixed wastes in order to maintain authorization to administer the State's hazardous waste program pursuant to Subtitle C of RCRA.

B. Colorado

Colorado received final authorization for its hazardous waste program on November 2, 1984. On July 17, 1986, Colorado submitted a program revision application for additional program approval for the hazardous components of radioactive mixed wastes. Today, Colorado is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(4).

EPA has reviewed Colorado's application and has made a tentative determination that Colorado's program revision will satisfy all the requirements necessary for final authorization if Colorado adds certain information to its Program Description. Specifically;

(1) The revised Program Description submitted on July 23, 1986, does not address in adequate detail the State agency staffing and funding to carry out the hazardous components of radioactive mixed wastes program. No information was provided regarding the number of staff available in the Radiation Division to carry out the hazardous components of radioactive mixed wastes activities and their professional backgrounds; and

(2) The State did not provide numerical estimates in the revised Program Description, based on available data, of the radioactive mixed wastes handlers within the State.

EPA's tentative determination to authorize the State is based on Colorado's commitment to provide the proposed revisions in the application before EPA's final decision. Colorado intends to provide these revisions by August 15, 1986. Because the Colorado Department of Health has a certified health physicist on the Hazardous Waste Division staff and additionally has been conducting a radiation program for the past 15 years, EPA does not foresee the State not being able to submit adequate documentation. Consequently, EPA intends to grant Colorado final authorization for this program revision. The public may submit written comments on EPA's decision up until September 7, 1986. Copies of Colorado's application for the program revision and EPA's comments are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice.

Approval of Colorado's program revision for the hazardous components of radioactive mixed wastes shall become effective when the Regional Administrator's final approval is published in the **Federal Register**. If adverse comment pertaining to Colorado's program revision discussed in this notice is received, EPA will publish either (1) a notice of disapproval or (2) a final determination approving the revision, which would include appropriate response to any comments.

The Colorado program revision for which this authorization modification decision is proposed allows Colorado to regulate the hazardous components of radioactive mixed wastes—those wastes that contain hazardous wastes subject to RCRA and radioactive wastes subject to the Atomic Energy Act (AEA).

Colorado has not requested hazardous waste program responsibility on Indian lands. The Environmental Protection Agency retains all hazard waste authority under RCRA which applies to Indian lands in Colorado.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Colorado's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administration practice and procedures, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 31, 1986.

John G. Welles,

Regional Administrator.

[FR Doc. 86–17975 Filed 8–7–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM–183B; Notice No. 86–6]

Rear Bumpers on Cargo Tank Truck

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The RSPA and the Bureau of Motor Carrier Safety (BMCS) are proposing to provide a period of 36 months to allow rear bumpers to be installed on cargo tank trucks (power units), commonly called bobtails, being operated in combination with cargo tank full trailers. Cargo tank trucks operated separately must be equipped with a rear bumper as required by 49 CFR 178.340–(b).

This action is being taken to provide a reasonable time frame which would allow operators of cargo tank trucks operated in combination with cargo tank full trailers to modify their units by adding the required rear bumper. It has been brought to the attention of the RSPA and the BMCS that there are approximately 3500 units operating primarily in the western States which do not comply with the required rear bumper specifications. Strict enforcement of the rear bumper requirement would necessitate removal of all affected units from operations, thus seriously affecting the ability of the industry to accomplish gasoline and fuel oil deliveries.

DATES: Comments must be received by September 22, 1986.

ADDRESSES: Address comments to the Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addresses stamped post card. The Dockets Branch is located in Room 8426 of the Nassif Builing, 400 7th Street SW Washington, DC. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Fulnecky (202) 755–1011, Office hours are 7:45 a.m. to 4:15 p.m., Bureau of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation, Washington, DC 20590

or

James K. O'Steen (202) 755–4906, Office hours are 8:00 a.m. to 4:30 p.m., Office of Hazardous Materials Transportation, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION: Section 178.340–8(b) has been in effect since December, 1967 and similar bumper requirements have been in effect since the early 1940's for previously manufactured specification cargo tanks. This section requires that all cargo tanks must be protected by the use of rear bumpers. However, a large number of cargo tank trucks (commonly called bob-tails) used in combination with cargo tank full trailers have been manufactured without rear bumpers. The number of units manufactured without rear bumpers is estimated to be approximately 3500. These combination units are used primarily for the transportation of gasoline, fuel oil and other petroleum distillate products.

As a result of accidents and incidents involving the transportation of hazardous materials in cargo tanks, increased emphasis has been placed on cargo tank compliance for the past few years. This increased emphasis, combined with research efforts evaluating the integrity of all specification cargo tanks and increased adoption and enforcement of the Hazardous Materials Regulations (HMR's) by individual States, has resulted in disclosure of violations of the HMR's with respect to cargo tank operation and manufacture. One area specifically indentified was the lack of rear bumpers on cargo tank trucks operated in and out of combination with cargo tank full trailers.

In March, 1983, the California Highway Patrol (CHP) requested an interpretation regarding the rear bumper requirements for a three-axle cargo tank truck towing a towing a two-axle cargo tank trailer. A letter of interpretation was issued by the BMCS, in coordination with the RSPA, to the CHP in April, 1983, which stated:

> Section 178.340–8(b) specifically requires that "every" cargo tank be provided with a rear bumper. In the example sited two cargo tanks are present, the cargo tank attached to the towing unit and the cargo tank attached to the trailer. Therefore, both cargo tanks must be equipped with rear bumpers as required by this section.

Similar letters of interpretation were issued to carriers and manufacturers during 1983. Subsequently, the CHP issued a directive stating that no enforcement actions would be taken regarding the absence of rear bumpers due to petitions for rulemaking filed with the RSPA by industry representatives requesting relaxation of the rear bumper requirements for "doubles" and a pending rulemaking action regarding cargo tanks by the DOT. However, in December 1983 the CHP Cargo Tank Advisory Committee, comprised of the CHP, State Fire Marshal, proprietary carriers, for-hire carriers, petroleum companies, tank manufacturers and DOT, was advised that the present requirement for rear bumpers on all cargo tanks was in effect and enforceable by the BMCS whether or not the CHP withheld enforcement.

The RSPA and BMCS published a joint rulemaking regarding manufacture, testing and in-use requirements for cargo tanks (HM–183, 183A) on September 17, 1985. In this NPRM, the petitions for rule change requesting that rear end tank protection be required only on the rearmost unit of a "double" cargo tank motor vehicle configuration were denied stating:

> . . . The petitioners argued that the present requirement adds cost and weight to the cargo tank configuration with no safety benefits. We do not agree. We believe that the forward unit of a "double" is vulnerable to rear-end tank damage particularly in turning maneuvers. This vulnerability increases in proportion to the length of the draw bar between the cargo tank units. The forward unit of a "double" is at times operated without the protection afforded by the rear units. Operation of such a forward unit, whether with a full load or with only residual lading presents an unacceptable risk. . . .

As part of the administrative proceedings on Docket HM–183, 183A, two public hearings and two public meetings were conducted. At the public hearing in Burlingame, California, held in December, 1985, the DOT again stated that rear bumpers are required on all cargo tanks and that those without rear bumpers are in violation of the regulations. It remains our opinion that rear bumpers are required on all cargo tank motor vehicles. These rear bumpers provide protection to the tank and associated piping in the event of a rear-end collision.

Several enforcement cases involving the lack of a rear bumper on cargo tanks were initiated in 1985. Subsequent to the NPRM and enforcement cases, representatives of the affected industry requested a meeting with the RSPA and BMCS. These representatives indicated that if immediate compliance was required, the economic impact of removing all cargo tanks that are not in compliance would be harmful to the economy. Additionally, it was stated that such an action would also serve to threaten public safety in that enough petroleum products might not be delivered to support public or private transportation as well as emergency response units. It was also stated that the lack of enforcement of this requirement for more than 40 years fostered the belief by manufacturers and cargo tank operators that such cargo tanks complied with the regulations.

We do not concur with the argument that lack of enforcement indicated acceptance of cargo tanks manufactured without rear bumpers. It is our opinion that the regulation requiring rear bumpers is quite clear and that cargo tanks manufactured without the rear bumpers are in violation of the regulations. Additionally, the Federal Motor Carrier Safety Regulations (FMCSR's) (49 CFR Parts 350 through 399) require rear end protection on each motor vehicle. Therefore, the rear bumper is used to comply not only with the HMR's, but also, with the FMCSR's.

However, we do acknowledge that strict enforcement of the rear bumper requirement could cause hardship both for motor carriers and the public in general. Because of the potential hardship, we are proposing to allow a 36 month time period for cargo tank operators to bring their units into compliance. By allowing this time period, little, if any, interruption of petroleum product delivery should occur. This proposal would also allow motor carriers the ability to bring into compliance portions of their fleets on a periodic basis, thus eliminating the potential for removing all non-complying units at a single time.

It should be noted, however, that the proposed 36 month compliance period applies only to those units that are operated in "double" combinations. If a cargo tank truck is operated without the cargo tank full trailer attached, a rear bumper is mandatory. Operation of the cargo tank truck without a rear bumper would be a violation of the regulations and would be subject to enforcement and penalty actions.

Alternative

Industry representatives have indicated that they know of no incidents that have occurred due to a lack of a rear bumper on the cargo tank truck. Additionally, the Truck Trailer Manufacturers Association has requested a grandfathering of existing cargo tank trucks from the rear bumper requirements and suggested a modification to the regulations which would require such cargo tank trucks to be operated only in combination when no bumper is present.

In order to fully assess the requirement for a rear bumper on these combination units, we are requesting information regarding accident history and other pertinent comments regarding the need for a rear bumper. Additionally, OHMT and BMCS are requesting that interested persons submit constructive comments, together with supporting data, for or against the rules proposed in this notice. The submission of general comments without supporting data or documentation will not assist OHMT and BMCS in the development of a final rule. OHMT and BMCS are particularly interested in receiving constructive comments in the following areas:

(1) What would be the incremental costs of requiring a rear bumper to be installed on presently non-complying units?

(2) Presently, a cargo tank manufacturer is required to certify that the cargo tank is manufactured in accordance with all applicable requirements. The manufacturer of the cargo tank may not know if the cargo tank truck is to be operated in combination with a cargo tank full trailer. What method of certification would be necessary for the cargo tank manufacturer to assure that the cargo tank truck complies only when operated in combination with a cargo tank full trailer?

(3) What marking should be required to be displayed on the cargo tank truck to indicate that a bumper is required when it is not being operated in combination?

(4) Should a existing cargo tank truck be grandfathered, while newly manufactured cargo tanks be required to be equipped with a rear bumper?

(5) Does tow bar length have any effect on safety, particularly in cornering maneuvers where the cargo tank truck could be struck from the rear?

(6) How would compliance with the bumper strength requirements be met when a temporary bumper is installed on the cargo tank truck when not operated in combination with a cargo tank full trailer? What is the likelihood that the temporary bumper may or may not be installed properly?

(2) How frequently are cargo tank trucks, without rear bumpers, operated not in combination with a full trailer?

Administrative Notice

Based on limited information available concerning the size and nature of entities likely to be affected, I certifiy that this regulation, if promulgated, will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, in view of the type of changes, RSPA has further determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will not affect not-for-profit enterprises, or small governmental jurisdicitons; and (4) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A draft regulatory evaluation is available for review in the Docket.

List of Subjects in 49 CFR Part 173

Shippers—General requirements for shipments and packagings.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

PART 173—SHIPPERS–GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, unless otherwise noted.

2. In § 173.33, paragraph (a)(2) would be added as follows:

§ 173.33 Qualification, maintenance and use of cargo tanks.

(a) * * *

(2) Notwithstanding the requirement of paragraph (b) of this section, the requirement for rear bumpers as specified for specification MC 300, 301, 302, 305, and 306 (section 178.340–8) cargo tanks, does not apply to a cargo tank truck (power unit), manufactured prior to (publication of the Final Rule) and used to transport gasoline and other petroleum distillate products, operated in combination with a cargo tank full trailer until (36 months after publication of the Final Rule). However, this exception does not apply when a cargo tank truck (power unit) is operated without cargo tank full trailer.

* * * * *

Issued in Washington, DC on Aug. 1, 1986 under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86–17881 Filed 8–7–86; 8:45 am]

BILLING CODE 4910–60–M

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. MC–123; Notice No. 86–10]

Safety Fitness Determination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA issued a notice of proposed rulemaking which was published in the **Federal Register** June 25, (51 FR 23088) with the comment period closing on August 11. An extension of the closing date has been requested in which the petitioner believes there are a number of critical issues raised that cannot be fully evaluated within the time currently provided. The closing date is therefore being extended to September 12.

DATE: Comments must be received on or before September 12, 1986.

ADDRESS: All comments should refer to the docket number which appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transporttion, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety (202) 366–2983; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are

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from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA received a petition from the American Trucking Associations requesting a 45-day extension of the comment period. The ATA believes there are a number of critical issues raised which cannot be fully evaluated within the currently provided time. This request has merit and therefore the comment period is being extended to September 12, 1986.

List of Subjects in 49 CFR Part 385

Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: August 5, 1986.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 86-17943 Filed 8-7-86; 8:45 am]

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Notices

Federal Register
Vol. 51, No. 153
Friday, August 8, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Rabun County Road Backslopes Critical Area Treatment Measure, Georgia; Finding of No Significant Impacts

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impacts.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Rabun County Road Backslopes Critical Area Treatment Measure, Rabun County, Georgia.

FOR FURTHER INFORMATION CONTACT: B.C. Graham, State Conservationist, Soil Conservation Service, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; telephone: 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, B.C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan for the treatment of critically eroding roadbank areas. The planned works as described in the Finding of No Significant Impact consists of the establishment of erosion control vegetation on 31.5 acres.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, Federal, State, and local agencies, and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. B.C. Graham. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: August 1, 1986.

B.C. Graham,

State Conservationist.

[FR Doc. 86–17843 Filed 8–7–86; 8:45 am]

BILLING CODE 3410–16–M

Forest Service

Delegation of Authority To Issue and Terminate Certain Easements; Regional Forester, Northern Region

AGENCY: Forest Service, USDA.

ACTION: Notice; Delegation of authority.

SUMMARY: The Regional Forester of the Northern Region of the Forest Service has delegated to the Forest Supervisor of the Gallatin National Forest, Montana, the authority to execute, and, with consent of grantees, to terminate the following easements executed pursuant to the National Forest Roads and Trails Act of 1964 (78 Stat 1089; 16 U.S.C. 533): cost-share, noncost-share, forest road, and private road easements. This delegation has been made and issued as a Regional Supplement to Forest Service Manual Chapter 2730—Road and Trail Rights-of-Way Grants, pusuant to the delegations of authority to the Chief of the Forest Service at 7 CFR 2.60, the redelegation of authority from the Chief to Regional Foresters dated August 11, 1984 (49 FR 34283), and Chief's direction on issuing delegations set forth in Forest Service manual Chapter 1230—Delegations of Authority.

EFFECTIVE DATE: This delegation became effective August 1, 1986 and shall remain in effect through December 31, 1988, unless terminated sooner.

George M. Fleming,

Acting Regional Forester.

August 1,1986.

[FR Doc. 86–17842 Filed 8–7–86; 8:45am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a community forum of the California Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 6:00 pm on August 15, 1986, at the Saddleback Inn, Portola Room, 1660 East First Street, Santa Ana, California. The purpose of the community forum is to learn of civil rights concerns and issues in Orange County.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Maxwell Greenberg or Philip Montez, Director of the Western Regional Office at (213)894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five, (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 24, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–17858 Filed 8–7–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 27-86]

Foreign-Trade Zone 50;—Long Beach, CA; Application for Subzone Todd Pacific Shipyards, Los Angeles

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Long Beach, grantee of FTZ 50, requesting special-purpose subzone status for the shipyard of Todd Pacific Shipyards Corporation (Todd) in Los Angeles, California, within the Los Angeles/Long Beach Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 20.

The shipyard covers 109 acres at the head of the San Pedro Channel in the Port of Los Angeles, Pacific Avenue and Front Streets, Los Angeles. The facility is used for the construction and repair of commercial and military vessels, employing 1700 persons. A significant proportion of future contracts are expected to be with foreign countries. Foreign components to be used include steel construction materials for hull and superstructure, piping, tubing, fittings, cable, anchors, valves, engines, pumps, gears, motors, winches, and navigation and communication equipment.

Zone procedures will help Todd reduce costs on its current orders and compete internationally for new contracts. Most of the imported components are subject to significant duties while the finished products, as oceangoing vessels, are duty-free.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman) Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John H. Heinrich, District Director, U.S. Customs Service, Pacific Region, 300 South Ferry St., Terminal Island, San Pedro, CA 90731; and Colonel Dennis F. Butler, District Engineer, U.S. Army Engineer District Los Angeles, P.O. Box 2711, Los Angeles, CA 90053.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 18, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 11777 San Vincente Blvd., Rm. 800, Los Angeles, CA 90049

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th & Pennsylvania NW., Washington, DC 20230

Dated: August 4, 1986.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 86-17908 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[(A-580-601) and (C-580-602) the Republic of Korea and (A-583-609) and (C-583-604) Taiwan]

Postponement of Final Antidumping Duty Determinations and Postponement of the Deadline for Final Countervailing Duty Determinations; Certain Stainless Steel Cooking Ware From the Republic of Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determinations involving certain stainless steel cooking ware from the Republic of Korea (Korea) and Taiwan are being postponed until not later than November 19, 1986, as permitted in section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to section 705 (a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determinations on certain stainless steel cooking ware from Korea and Taiwan is also extended until November 19, 1986, to coincide with the revised date of the final antidumping duty determinations.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Rick Herring (Korea) (202) 377-0167 or Jack Davies (Taiwan) 377-1785. Written inquiries should be addressed to the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, Attn: Room B-099.

SUPPLEMENTARY INFORMATION: On January 21, 1986, we received antidumping duty and countervailing duty petitions filed in proper form by the Fair Trade Committee of the Cookware Manufacturers Association. The Department found that the petitions contained sufficient grounds on which to initiate investigations, and on February 1, 1986, the Department initiated countervailing duty investigations on certain stainless steel cooking ware from Korea and Taiwan (51 FR 6019, 6020: February 19, 1986) and antidumping duty investigations on certain stainless steel cooking ware from Korea and Taiwan (51 FR 6018, 6019: February 19, 1986).

On April 16, 1986, we issued preliminary negative countervailing duty determinations on Korea and Taiwan (51 FR 15520, 15523: April 24, 1986). These notices stated that we expected to issue our final determinations by June 30, 1986.

On April 23, 1986, petitioners requested, and the Department subsequently granted, pursuant to section 705(a)(1) of the Act, a postponement of the deadline for the final countervailing duty determinations in the investigations of the subject merchandise from Korean and Taiwan to coincide with the final determinations in the antidumping duty investigations (51 FR 16882: May 7, 1986).

On June 30, 1986, the Department preliminarily determined that certain stainless steel cooking ware from Korea and Taiwan, are being, or are likely to be, sold in the United States at less than fair value (51 FR 24583, 24586: July 7, 1986). These notices stated that we would issue our final determinations by September 15, 1986.

On July 1, 1986, counsel for four of the five respondents in the antidumping duty investigation of certain stainless cooking ware from Korea requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination in accordance with section 735(a)(2)(A) of the Act. On July 15, 1986, counsel for two of the three respondents from Taiwan filed a similar request. The respondents in both investigations are qualified to make this request because they are exporters who account for a significant proportion of exports to the United States of the merchandise under investigation. If qualified exporters properly request a postponement after an affirmative preliminary antidumping duty determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the period for the final determinations in these cases is hereby

extended. We intend to issue the final determinations no later than November 19, 1986.

Since, pursuant to section 705(a)(1) of the Act, the Department has postponed the deadline for the final countervailing duty determinations in the investigations of the subject merchandise from Korea and Taiwan to coincide with the final determinations in the antidumping duty investigations, the final countervailing duty determinations are also extended until November 19, 1986.

The U.S. International Trade Commission is being advised of the postponements in accordance with sections 735(d) and 705(d) of the Act.

The public hearing in the countervailing duty investigation regarding Taiwan, originally scheduled for August 6, has been rescheduled to 10:00 a.m. on August 15 in Room 3708. Pre-hearing briefs will be due by August 8. The public hearing in the antidumping duty investigation regarding Taiwan, originally scheduled for August 22, has been postponed until 10:00 a.m. on October 10 in Room 3708. Pre-hearing briefs will be due by October 3.

The public hearing in the antidumping duty investigation regarding Korea, originally scheduled for August 19, has been postpond until September 19. The time and room have not changed. Pre-hearing briefs will be due on September 12.

In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determinations or, if a hearing is held, within seven days after the hearing transcript is available.

This notice is published pursuant to sections 735(d) and 705(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-17909 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-001]

Leather Wearing Apparel From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 8, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Mexico. The review covers the period July 1, 1983 through June 30, 1984 and nine programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the bounty or grant to be zero for three firms and 11.75 percent *ad valorem* for all other firms.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot or Bernard Carreau, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 11964) the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Mexico (46 FR 21357). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican leather wearing apparel. Such merchandise is currently classifiable under items 791.620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel.

The review covers the period July 1, 1983 through June 30, 1984 and nine programs: (1) CEDI; (2) FOMEX; (3) CEPROFI; (4) FOGAIN; (5) FONEI; (6) state tax incentives; (7) import duty reductions and exemptions; (8) NDP preferential discounts; and (9) Article 94 of the Banking Law.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the Mexican government.

Comment 1: The Mexican government states that its response covered companies which account for almost 85 percent of the imports, a percentage recognized by United States law as "sufficiently all." Therefore, the Department should not have considered the response to be deficient. Further, the Department's alleged difficulty in determining the actual level of exports during the period of review is "rendered invalid" by the existence of the Department's Bureau of the Census IM-146 import statistics, which have been used in other cases as a good estimate of the value and volume of imports. Since the case involves very small firms that are spread along the Mexican-U.S. border, the Mexican government contends that there are many exports not accurately quantified by Mexican Customs and that the U.S. import statistics are a better estimate.

Department's Position: The term "substantially all" is defined as no less than 85 percent of imports in § 355.31(c) of the Commerce Regulations and in the Senate Finance Committee and House Ways and Means Commitee reports on the Trade Agreements Act of 1979 (S. Rep. No. 96-249, at 54; H. Rep. No. 96-317, at 54). The regulations and the reports refer to the phrase in section 704 of the Tariff Act regarding the percentage of imports that must be covered by an agreement forming the basis of the suspension of an investigation. The phrase does not control orders or administrative review of orders. Furthermore, as noted in the preliminary results of this review, ". . . any weighted-average countervailing duty rate for firms not certified to have a zero rate would have been based on imports of only one firm which accounted for less than 1.5 percent of total imports and approximately 5 percent of the imports subject to the weighted-average rate."

We only use IM-146 statistics as approximations; they cannot correspond exactly with Mexican export figures because of differences in product coverage and in the methods of compilation. Although one of our concerns is with the total percentage covered by the response, we are also concerned with the possibility that the response is skewed toward exporters who did not receive benefits. That information is not available from the IM-146 statistics. We cannot be sure the response covers an adequate number of exporters unless we know the relative size of exporters not covered in our sample.

Comment 2: The Mexican government argues that the Department's statement that the universe of exporters is well over 50 may overestimate the real number of exporters. The Mexican government has found that companies which were exporting during "the first period of investigation" are no longer exporting and furthermore, some of them no longer even exist.

Department's Position: The Mexican government has not stated how many leather wearing apparel exporters it believes there are. It has not demonstrated the inaccuracy of our figure but merely surmised a smaller number. Because we do not know exactly what the number of exporters (or potential exporters) was during the review period, we must rely on the best information available, the number of exporters in the past.

Comment 3: The Mexican government denies the Department's assertion about the position of the Mexican government—that, if a firm chooses not to reply, that firm need not be included in the data for the review. Rather, the Mexican government's position is that if one or more companies do not provide their individual company information, the Mexican government is powerless to provide the missing data. Mexican law requires confidential treatment for all banking, tax, and other specific information from private companies unless those companies consent to the release of that information. Even if the government could release such confidential data, information based only on government agency files would not give an accurate view of the companies' benefits. Relevant differences between company and official information can only be explained by the company (e.g., actual dates of receipt of the benefits, amounts allocated to the product under investigation, amounts corresponding to exports to the United States, etc.). Furthermore, no Mexican government agency keeps sales and production figures for individual Mexican companies.

Department's Position: We agree that it may not be possible to calculate an accurate beenfit using only information from Mexican government files. However, that information would at least point out which leather wearing apparel firms have received benefits. Without the government information, we cannot determine which firms should be investigated more thoroughly.

While the Mexican government maintains that confidentiality requirements prevent it from releasing information to us concerning non-responding firms, it has not provided any alternative method by which we can be satisfied that the information in the questionnaire response accurately reflects the benefits provided to leather wearing apparel exporters. We are particularly concerned that firms receiving substantial benefits would be more likely not to provide information to the Mexican government, resulting in a questionnaire response that includes only firms receiving few or not benefits.

Comment 4: The Mexican government argues that, even if the Department decides to base its final results of administrative review on the "best information available," it should use information from the same case and not from other cases, where products, companies and circumstances are essentially different. For example, CEPROFI benefits for leather wearing apparel have ranged from 0.54 percent to 1.06 percent in the past, so it is not fair to use in this review a rate from another case of 4.25 percent for CEPROFI.

Department's Position: Benefits vary over time within the same industry as well as between industries. Confining ourselves to previous rates established in the same case would encourage firms not to respond unless the response would lower the existing rate.

Comment 5: Aside from the Department's never having found FONEI benefits to have been given to leather wearing apparel firms in the past, the Mexican government argues that it is unfair to use a rate of 7.02 percent, since that rate comes from a preliminary determination (47 FR 56377, December 16, 1982) which the Department changed to 0.17 percent in its final determination (48 FR 9834, March 2, 1983).

Department's Position: The determinations cited by the Mexican government are from the Department's investigation of certain iron-metal construction castings from Mexico. However, the 7.02 percent rate that we used in the preliminary results of review in this case was from the final countervailing duty determination on portland hydraulic cement and cement clinker from Mexico (48 FR 43063, September 21, 1983).

The cement investigation covered calendar year 1982 rather than our current review period. Our objective was to use the best available information of a contemporaneous period, and consequently we now determine the FONEI rate should be 1.25 percent *ad valorem* based on the final determination on lime from Mexico (49 FR 35672, September 11, 1984), which covered calendar year 1983.

Comment 6: In the case of suspension agreements, if signatory companies account for "substantially all" imports of the merchandise under investigation, the Department can accept the agreement. In practice, small exporters not party to the agreement receive the same treatment and benefits from the suspension of investigation as do large exporters provided that the small exporters do not account for more than 15 percent of total imports. The Mexican government argues that, similarly, the small exporters of leather wearing apparel should receive the same treatment that the Department is giving to the large exporters in this review, i.e., zeor rates.

Department's Position: The procedures for suspension agreements do not apply to countervailing duty orders or section 751 reviews of orders. Furthermore, there is no basis whatsoever for giving zero rates to small exporters merely because the firms that qualify for zero rates are large exporters.

Comment 7: Under the terms of the "Understanding between the United States and Mexico" signed on April 23, 1985, preferences and benefits given by the Mexican government have been substantially reduced, decreasing the level of any potential benefit to the recipients. In this context, the Mexican government believes that the Department should establish a zero rate of cash deposit for all firms.

Department's Position: The Mexican government has not provided specific information on how its reductions have affected the benefits in this case. Furthermore, total benefits depend on the extent to which firms decide to take advantage of available benefits. A higher participation rate, even at lower benefit rates, could result in an increase in the weighted-average benefits received. We do not believe there is any reason to set a deposit rate at zero simply because of a reduction in the maximum benefit available.

Final Results of the Review

After considering all of the comments received, we determine the total bounty or grant during the period of review to be zero for the firms of Elegance de Baja California, S.A., Karen Internacional, S.A. de C.V., and Manufacturas Industriales de Nogales, S.A., and 11.75 percent *ad valorem* for all other firms.

The Department will instruct the Customs Service not to assess countervailing duties on shipment of this merchandise from the three zero-rate firms, and to assess countervailing duties of 11.75 percent of the f.o.b. invoice price on shipments from all other firms, exporter on or after July 1, 1983 and on or before June 30, 1984.

The Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the three zero-rate firms, and to collect a cash deposit of 11.75 percent of the f.o.b. invoice price

on shipments from all other firms, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Furthermore, the Department has determined not to revoke the countervailing duty order with respect to Elegance de Baja California, S.A. Karen Internacional, S.A. de C.V., and Manufacturas Industriales de Nogales. S.A. As we noted in the preliminary results of this review, our decision not to revoke in the previous review is now before the United States Court of International Trade.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: August 4, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-17910 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-052]

Non-Rubber Footwear From Argentina; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on non-rubber footwear from Argentina. The review covers the period January 1, 1983 through December 31, 1983 and three programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant for the period of review to be 0.02 percent *ad valorem*, a rate we consider *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Sylvia Chadwick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 39889) the final results of its last administrative review of the countervailing duty order on non-rubber footwear from Argentina (44 FR 3474, January 17, 1979). We began this review of the order under our old regulations. On October 15, 1985, after the promulgation of our new regulations, the petitioner requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of the order. We published the new initiation on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Argentine footwear described in Part 1A of Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5480, 700.5700 through 700.7100, and 700.9000.

The review covers the period January 1, 1983 through December 31, 1983 and three programs: (1) The reembolso, a cash rebate of taxes; (2) pre-export financing; and (3) post-export financing.

Analysis of Programs

(1) Reembolso

The reembolso is a cash rebate of taxes, paid upon exportation of merchandise as a percentage of the f.o.b. invoice price. Although the Government of Argentina rebates upon exportation ostensibly all indirect taxes borne by the exported product, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs that are physically incorporated in the exported product (*see* Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (*see* Annex 1.2 of Part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a bounty or grant.

To calculate the benefit on non-rubber footwear, we allowed the rebate of indirect taxes on raw materials, which constitute the bulk of the taxes. In addition, we allowed the rebate of final stage indirect taxes. We disallowed the rebates of taxes on labor, on "indirect expenditures" such as administrative expenses, and on other items not physically incorporated.

During the period of review, the reembolso rate for non-rubber footwear was 5 percent (Resolution 8, July 5, 1982). The Argentine government based its reembolso rate for 1983 on a 1981 government study of the tax incidence on non-rubber footwear. Based on our analysis of the total tax incidence, we have found that indirect taxes on physically incorporated inputs and final stage indirect taxes on non-rubber footwear amount to 14.91 percent *ad valorem*. Therefore, we preliminarily find no overrebate of indirect taxes for the period of review.

(2) Pre-export Financing

The preferential financing program makes pre-export loans, in pesos indexed to U.S. dollars, available to exporters at an interest rate of one percent. Such funds are available for a period of up to 180 days, and are to be repaid no later than 60 days after the export date. The funds are provided by the Central Bank of Argentina and disbursed by private commercial banks to individual borrowers.

In 1983, the Central Bank limited potential loan amounts for exporters on non-rubber footwear to 80 percent of the contracted f.o.b. price. However, because exporters of non-rubber footwear from Argentina did not use this program during 1983, we preliminarily determine that the preferential pre-export program did not confer a benefit during the review period.

(3) Post-export Financing

The Central Bank makes post-export financing available to exporters through Circular OPRAC 1-8. The Central Bank limits loans under OPRAC 1-8 to 30 percent of the peso equivalent of the foreign currency used in the export transaction. The length of the loan is limited to 180 days, and interest must be paid quarterly. The interest rate charged is the *tasa regulada* (see below). Exporters of non-rubber footwear received four OPRAC 1-8 loans in 1983.

To determine if loans under OPRAC 1-8 to non-rubber footwear exporters constitute a bounty or grant, we compared the rate of interest charged on those loans with a national average commercial rate. We used as our benchmark the weighted average of various forms of comparable short-term borrowings available from Argentine banks during the period of review.

During 1983, the Central Bank required commercial banks to make ordinary short-term loans at an interest rate which is set monthly, the *tasa*

regulada. In addition, from January through July, commercial banks were allowed to lend a portion of their deposits at an unregulated rate, the *tasa libre*. During the months of August and September 1983, at the direction of the Central Bank, all short-term bank lending was at the *tasa regulada*. In October 1983, acceptance lending at an unregulated rate became available. Banks brought cash-rich and cash-poor companies together and, acting as an intermediary, endorsed loan agreements between the firms.

While lending at the *tasa regulada* rate made up about 80 percent of bank lending during 1983, the rate alone does not adequately represent the national average commercial rate for comparable alternative short-term borrowing. Because the amount of lending which could occur at the *tasa regulada* was restricted by the Central Bank, it is likely that a firm could not fulfill all of its short-term export financing requirements at the *tasa regulada*. We consider the most likely secondary sources of borrowing to be the *tasa libre* and acceptance rate lending. (*See* the final affirmative countervailing duty determination and countervailing duty order on oil country tubular goods from Argentina (49 FR 46564, November 27, 1984).)

We have therefore calculated a weighted-average effective benchmark rate for 180-day loans which includes the *tasa regulada* during all of 1983, the *tasa libre* during January through July 1983, and the acceptance rate from October through December 1983. This rate best represents the national average rate for comparable alternative short-term borrowing. Comparing the benchmark rate with the effective rate for the four OPRAC 1–9 loans with interest payments during the review period (there were no 1982 OPRAC 1–9 loans with interest payments in 1983), we preliminarily determine the bounty or grant from this program to be 0.02 percent *ad valorem*.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 0.02 percent *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

The Department therefore intends to instruct the Customs Service not to assess countervailing duties on shipments of this merchandise exported on or after January 1, 1983 and on or before December 31, 1983.

Further, the Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of non-rubber footwear from Argentina entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 55 days after the date of publication or the last workday preceding. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: July 26, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-17911 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-479-503]

Certain Welded Carbon Steel Pipe and Tube Products From Yugoslavia; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty orders.

SUMMARY: On May 29, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty orders on certain welded carbon steel pipe and tube products from Yugoslavia and announced its tentative determination to revoke the orders. The review covers the period from October 16, 1985.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the orders, and we are revoking the orders. In accordance with the petitioners' notification, the revocation will apply to welded carbon steel pipe and tube products entered, or withdrawn from warehouse, for consumption on or after October 16, 1985.

EFFECTIVE DATE: October 16, 1985.

FOR FURTHER INFORMATION CONTACT: John Miller of Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 19376) the preliminary results of its changed circumstances administrative review of the countervailing duty orders on certain welded carbon steel pipe and tube products from Yugoslavia (50 FR 41546, December 31, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Yugoslavian welded carbon steel pipe and tube products of the following description: (1) Welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness, currently classifiable under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA), commonly referred to in the industry as standard pipe or structural tubing, produced to various ASTM specifications, most notably A–120, A–53 or A–153; and (2) welded carbon steel line pipe with an outside diameter of 0.375 inch or more but not over 16 inches, and with a wall thickness of not less than 0.65 inch, currently classifiable under items 610.3208 and 610.3209 of the TSUSA, produced to various API specifications for line pipe, most notably API–5L or API–5LX. The review covers the period from October 16, 1985.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. As a result of our review, we determine that domestic interested parties are no longer interested in continuation of the countervailing duty orders on certain welded carbon steel pipe and tube products from Yugoslavia and that the orders should be revoked on this basis.

Therefore, we are revoking the orders on certain welded carbon steel pipe and tube products from Yugoslavia effective October 16, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 16, 1985 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: August 4, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-17912 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review of High-Grade, Cold-Rolled, Grain-Oriented Silicon Steel ("High-Tech" Silicon Steel) Used in the Manufacture of Power Transformers and Distribution Transformers; Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to "high-tech" silicon steel.

EFFECTIVE DATE: Comments must be submitted no later than ten days after publication of this notice.

ADDRESS: Please send all comments to: Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Room 3099, 202/377-3833, Office of Agreements Compliance, Import Administration, 14th and Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category [including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors], an additional tonnage shall be allowed for such category or sub-category. . . ."

We have received a short supply request for "high-tech" silicon steel meeting the following specifications:

Distribution Transformers

High permeability, grain-oriented, silicon steel, with a thickness of .009" Core loss (energy consumed): One hundred percent of materials to be .40 watts loss per pound maximum, at 15 kilogauss induction and 60 cycles per second, concurrently measuring .56 watts loss per pound maximum, at 17 kilogauss induction, 60 cycles per second. Fifty percent of the material to be .38 watts loss per pound maximum at 15 kilogauss induction and 60 cycles per second, concurrently measuring .53 watts loss per pound maximum, at 17 kilogauss induction, 60 cycles per second. All core loss is measured by using standard Epstein testing procedures.

Power Transformers

High permeability, grain-oriented, silicon steel, with a thickness of .009" or less. Core loss (energy consumed): One hundred percent of this material to be .53 watts loss per pound maximum, at 17 kilogauss induction at 60 cycles per second. Fifty percent of the material to be .49 watts loss per pound maximum, at 17 kilogauss induction and 60 cycles per second. All core loss is measured using standard full-sheet testing procedures.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days after publication of this notice. Comments should focus on the economic factors involved in granting or denying this request. Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly label the business proprietary portion of the submission and also include a submission without business proprietary information which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-3099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86-17913 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Pennsylvania; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

Correction

In FR Doc. 86-16404, beginning on page 26286, in the issue of Tuesday, July 22, 1986, make the following correction:

On page 26286, third column, second paragraph, fourth line, "Model JEM-400EX" should read "Model JEM-4000EX".

Billing Code 1505-01-M

Notice of Applications for Duty-Free Entry of Scientific Instruments; Albany Medical School

Correction

In FR Doc. 86-16400, beginning on page 26287, in the issue of Tuesday, July 22, 1986, make the following correction:

On page 26288, second column, first paragraph, fourth line, before "NY" insert "Albany".

BILLING CODE 1505-01-M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

The Public Advisory Committee for Trademark Affairs will meet from 8:30 a.m. until 5:00 p.m. on September 4, 1986, at the U.S. Patent and Trademark Office in Room 11C24 of Building 3, Crystal Plaza, located at 2021 Jefferson Davis Highway, Arlington, Virginia.

The agenda for the meeting is as follows:

(1) Status of Trademark Examining Operation Activities

(2) Operations of the Trademark Trial and Appeal Board

(3) Post-Registration Activities

(4) Quality of the Registration Process

(5) Financial Reports

(6) Automation Activities

VOL 51 ISS 153 AG 8 1986 UMI

The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come first-served basis.

If time permits, oral comments by the public of three (3) minutes on each topic within the above agenda will be allowed. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request.

For further information, contact Ellen J. Seeherman, Office of the Assistant Commissioner for Trademarks, Room CP3–11C17, Patent and Trademark Office, Washington, DC 20231. Telephone: 703–557–7464.

Dated: August 4, 1986.

Approved:

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 86–17876 Filed 8–7–86; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of Calls on Categories 349 (Cotton Brassieres) and 670 pt. (Man-Made Fiber Luggage) From Hong Kong

August 1, 1986.

On October 24, 1985 and July 3, 1986 notices were published in the **Federal Register** (50 FR 43265 and 51 FR 24428), annnouncing that on September 27, 1985 and May 30, 1986 the Government of the United States had requested the Government of Hong Kong to enter into consultations concerning exports to the United States of textile products in Categories 670 pt. and 349, respectively, produced or manufactured in Hong Kong. The purpose of this notice is to announce that the United States Government has concluded that there is no need to establish limits for cotton and man-made fiber textile products in these categories at this time.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–17904 Filed 8–7–86; 8:45 am]

BILLING CODE 3510–DR–M

Amending the Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in the Philippines

August 3, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 11, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 20, 1985 (50 FR 52830) established limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. In consultations held in June 1986, the Governments of the United States and the Republic of the Philippines agreed to amend their Bilateral Cotton, Wool and Man-Made Fiber Texile Agreement of November 24, 1982, as amended, to increase the designated consultation level for Category 363 from 2,763,348 numbers to 3,763,348 numbers for the period which began on January 1, 1986 and extends through December 31, 1986. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to increase the designated consultation level for Category 363 to the agreed level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 5, 1986.

August 3, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 20, 1985, which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on August 11, 1986, the directive of December 20, 1985 is hereby further amended to increase the level for Category 363 to 3,763,348 numbers.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–17905 Filed 8–7–86; 8:45 am]

BILLING CODE 3510–DR–M

Requesting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong to Review Trade in Category 611

August 3, 1986.

On July 17, 1986, the Government of the United States requested consultations with the Government of Hong Kong with respect to man-made fiber fabric, wholly of spun yarns of non-cellulosic fibers in Category 611. This request was made on the basis of the agreement, effected by exchange of notes dated June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two governments, the United States may request the Government of Hong Kong to limit exports in Category 611, produced or manufactured in Hong Kong and exported to the United States during 1986. The United States reserves the right to control imports at the established limit.

Anyone wishing to comment or provide data or information regarding the treatment of Category 611 under the agreement with Hong Kong, or on any other aspect thereof, or to comment on

domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreement considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 5, 1986.

FR Doc. 86-17906 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of India on Category 369pt. (Shop Towels)

August 5, 1986.

On June 30, 1986, the Government of the United States requested consultations with the Government of India with respect to Category 369pt. (shop towels in TSUSA number 366.2840). This request was made on the basis of the bilateral agreement of December 21, 1982, as amended, between the Governments of the United States and India relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United States has decided to control imports during the ninety-day consultation period which began on June 30, 1986 and extends through September 27, 1986 at a level of 128,610 pounds. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may establish a prorated specific limit of 223,494 pounds for Category 369pt. for the entry and withdrawal from warehouse for consumption of textile products, produced or manufactured in India and exported during the period beginning on June 30, 1986 and extending through December 31, 1986.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of imports of cotton textile products in Category 369pt., produced or manufactured in India and exported during the ninety-day period which began on June 30, 1986 and extends through September 27, 1986 in excess of the established limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 369pt. under the agreement with India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 5, 1986.

India—Market Statement

Category 369 Part—Cotton Shop Towels

June 1986.

Summary and Conclusions

U.S. imports of Category 369 PT—cotton shop towels—from India were 464,423 pounds (509,780 dozen) during the year ending Apil 1986. In the first four months of 1986 alone, India exported 321,686 pounds (360,416 dozen) cotton shop towels. This is 38 times the amount imported a year ago and 119 percent above the calendar year 1985 level. India is the third largest major supplier of cotton shop towels during the first four months of 1986. The sharp and substantial increase of low-valued imports of cotton shop towels from India is disrupting in U.S. market.

U.S. Market

The U.S. cotton shop towel market is adversely affected by imports. The U.S. producer's share of the market for domestically produced and imported cotton shop towels in 1985 was 49 percent compared with 59 percent in 1981. The U.S. market for shop towels was disrupted by imports in 1985. The market continues to be disrupted by imports in 1986 and India's position as a major supplier of these towels makes it a major contributor to the market disruption.

U.S. Production

U.S. production of cotton shop towels declined 22 percent from 162 million units in 1981 to 126 million units in the 1982 recession year. Production regained some of the loss in 1983 and 1984, reaching a level of 138 million units in 1984, up 10 percent over the 1982 recession level, but 15 percent below the 1981 level and lower than any level on record prior to 1982. Production in 1985 was 131 million units, down 5 percent from 1984.

U.S. Imports

U.S. imports of Category 369 Pt., after remaining relatively flat at 94 million units during 1982 and 1983 due in part to the soft domestic market and the antidumping and countervailing duty actions initiated by the United States with specific major suppliers, increased substantially in 1984. Imports in 1984 soared to a record high of 158 million units. Although imports in 1985 were down, due to the imposition of limits on two major suppliers, import penetration continues at the same high rate as in 1984.

Import Penetration

The ratio of imports to domestic production increased from 69 percent in 1982 to 106 percent in 1985.

Import Value

Imports from India are entered under TSUSA No. 366.2840—cotton shop towels, not ornamented not jacguard-figured. The duty-

paid landed value of these imports from India are below the U.S. producer price for comparable towels.

August 5, 1986

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 11, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 369pt. (only TSUSA number 366.2840), produced or manufactured in India and exported during the ninety-day period which began on June 30, 1986 and extends through September 27, 1986, in excess of 128,610 pounds.[1]

Textile products in Category 369pt. which have been exported to the United States prior to June 30, 1986 shall not be subject to this directive.

Textile products in Category 369pt., which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-17907 Filed 8-7-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after June 29, 1986.

DEPARTMENT OF DEFENSE

Department of the Army

Department of the Army Performance Review Boards

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of additional members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Chief, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310-0300, (202) 697-2204.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Publication of this notice amends previous notice to account for additions to the membership of those boards previously published.

The additional members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Brigadier General Edward R. Baldwin, Jr., Deputy Commanding General for Research and Development, U.S. Army Communications Electronics Command.

2. Brigadier General Richard D. Beltson, Deputy Command General, Armament and Munitions, U.S. Army Armament, Munitions and Chemical Command.

3. Brigadier General Harry D. Walker, Commander, U.S. Army Security Affairs Command.

4. Brigadier General Michael J. Pepe, Deputy Chief of Staff for Procurement, Headquarters, U.S. Army Materiel Command.

5. Brigadier General Billy J. Stalcup, Deputy Chief of Staff for Supply, Maintenance and Transportation, Headquarters, U.S. Army Materiel Command.

6. Brigadier General Donald R. Williamson, Deputy Chief of Staff for Readiness, Headquarters, U.S. Army Materiel Command.

Karen K. Robinson,

Personnel Staffing and Employee Relations Specialist, Senior Executive Service Office.

[FR Doc. 86-17863 Filed 8-7-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Energy Information Administration

Changes to DOE Energy Information Reporting and Record-keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of energy information reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, are no longer included in these notices.

During the third quarter of fiscal year 1986 (April 1, 1986 through June 30, 1986), changes were made to the October 1, 1985, inventory of DOE information collections, which was published in the **Federal Register**, 50 FR 50938 (December 13, 1985). Changes made during the first two quarters were published in the **Federal Register**, 51 FR 5756 (February 18, 1986), and 51 FR 17514 (May 13, 1986), respectively. The third quarter changes are listed below, and include new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control or form number, the title, the OMB control number, and the OMB approval expiration date are listed by the DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. For revised information collections, a brief summary of the type of revision is noted.

Information collections not utilizing structured forms are designated by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, EI-73, Energy Information Administration, Mail Stop 1H-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 252-2171.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI-22, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 252-8800.

Issued in Washington, DC. August 5, 1986.

Dr. H. A. Merklein,

Administrator, Energy Information Administration.

NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Energy Information Administration			
EIA-846(F)	Manufacturing Energy Consumption Survey	19050169	3/31/89	
	Federal Energy Regulatory Commission			
FERC-589	Hydropower Relicensing Study Questionnaire	190201145	9/30/86	

DOE ENERGY INFORMATION COLLECTIONS EXTENDED

DOE No.	Title	OMB control No	Expiration date	CFR citation
	Civilian Radioactive Waste Management			
NWPA-830R [1]	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—	19010260	03/31/89	10 CFR 961
NWPA-830R-A-F [1]	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Annual Report.	19010260	03/31/89	10 CFR 961
NWPA-830R-G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Quarterly Report—Standard Remittance Advice—Annex A.	19010260	03/31/89	10 CFR 961
	Conservation and Renewable Energy			
CE-189C	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Corporate Reporting Form.	19040044	09/30/86	10 CFR 445.21,.22,.26
CE-189P	Industrial Energy Conservation Program for Energy Efficiency Improovement and Recovered Materials Utilization—Plant Reporting Form.	19040044	09/30/86	10 CFR 445.21,.22,.26
CE-189S	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials utilization—Sponsor Reporting Form.	19040044	09/30/86	10 CFR 445.21,.22,.22,.26
	Federal Energy Regulatory Commission			
FERC-521 [1]	Payments for Benefits from Headwater Improvements	19020087	06/30/89	18 CFR 11.26-11.31, 13.1
FERC-525 [1]	Financial Audit	19020092	03/31/89	18 CFR 101, 201
FERC-561 [1]	Report of Interlocking Directorates	19020099	04/30/89	18 CFR 46.6
FERC-576 [1]	Report On Service Interruptions on Pipeline Systems	19020004	03/31/89	10 CFR 260.9
FERC-577 [1]	Environmental Impact Statement (Pipeline Certificates)	19020128	09/30/86	18 CFR 157.14, 2.80, 2.82
	International Affairs and Energy Emergencies			
IE-417R [1]	Power System Emergency Report	19010288	06/31/86	10 CFR 205.350-.355

[1] Does not utilize a structured form.

REINSTATED DOE ENERGY INFORMATION COLLECTIONS

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Energy Information Administration			
EIA-97	Boiler Order Report	19050167	03/31/87	
	Fossil Energy			
FE-748	Enhanced Oil Recovery Annual Report	19050135	03/31/89	

DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

DOE No.	Title	OMB control No.	Discontinued date	CFR citation
	Energy Information Administration			
EIA-846	Manufacturing Energy Consumption Survey (Pilot Test)	19050166	04/30/86	
EIA-870	Natural Gas Compression Costs Survey	19050170	05/31/86	

CHANGES IN CONTINUING DOE ENERGY INFORMATION COLLECTIONS

DOE numbers as previously listed	Changes
Energy Information Administration	
EIA-1, 3, 4, 5, 6, 7A, and 20	Expiration date for OMB approval has been revised to 3/31/87 for all six forms.
Federal Energy Regulatory Commission	
FERC-520 [1]	Revisions to the reporting requirements.
FERC-555 [1]	Revisions to the reporting requirements.

[1] Does not utilize a structured form.

[FR Doc. 86-17940 Filed 8-7-86; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF85-334-001, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Babcock-Ultra Power West Enfield, et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Babcock-Ultra Power West Enfield

[Docket No. QF85-334-001]

August 1, 1986.

On July 15, 1986, Babcock-Ultra Power West Enfield (Applicant), of 16485 Von Karman Avenue, Irvine, California, 92714, submitted for filing an application for recertification of a facility as a qualifying small power facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The purpose of this application is to inform the Commission of a change in ownership and financing for the above facility, located near West Enfield, in Penobscot County, Maine. In the newly reorganized joint venture, Ultra Power 4 incorporated (renamed Santa Rita West Enfield, Inc.) (SRWE) which owned a thirty-three percent (33%) interest in Babcock-Ultra Power West Enfield, was sold to Santa Rita Energy, Inc., a Delaware corporation, which is a wholly-owned subsidiary of Rincon Investing Company, an Arizona corporation, which is a wholly-owned subsidiary of Tucson Resources, Inc., a Delaware corporation, which is a wholly-owned subsidiary of the Tucson Electric Power Company, a publicly-held Arizona corporation.

2. Babcock-Ultra Power West Enfield

[Docket No. QF85-335-001]

On July 15, 1986, Babcock-Ultra Power Jonesboro (Applicant), of 16485 Von Karman Avenue, Irvine, California, 92714, submitted for filing an application for recertification of a facility as a qualifying small power facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The purpose of this application is to inform the Commission of a change in ownership and financing for the above facility, located near Jonesboro in Washington County, Maine. In the newly reorganized joint venture, Ultra Power 4 incorporated (renamed Santa Rita Jonesboro, Inc.) (SRJ) which owned a thirty-three percent (33%) interest in Babcock-Ultra Power Jonesboro, was sold to Santa Rita Energy, Inc., a Delaware corporation, which is a wholly-owned subsidiary of Rincon Investing Company, an Arizona corporation, which is a wholly-owned subsidiary of Tucson Resources, Inc., a Delaware corporation, which is a wholly-owned subsidiary of the Tucson Electric Power Company, a publicly-held Arizona corporation.

3. Colmac Energy, Inc.

[Docket No. QF86-856-000]

August 4, 1986.

On July 23, 1986, Colmac Energy, Inc. (Applicant), of 640 State Street, P.O. Box 250, El Centro, California 92244, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Riverside County, California. The facility will consist of a fluidized bed combustion steam generator and a steam turbine generator. The electric power production capacity will be 49.9 megawatts. The primary energy source will be biomass in the form of waste wood. Natural gas will be used for start-up and such use will not exceed two percent of the total energy input to the facility in any calender year.

4. Connecticut Resources Recovery Authority

[Docket No. QF86-933-000]

August 4, 1986.

On July 22, 1986, Connecticut Resources Recovery Authority (Applicant), of 179 Allyn Street, Hartford, Connecticut 06103, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Wallingford, Connecticut. The facility will consist of controlled excess air, multi-chambered, mass-burning furnaces, waste heat steam generators and a steam turbine generator. The net electric power production capacity will be 9.8 megawatts. The primary energy source will be biomass in the form of municipal solid waste. No. 2 fuel oil, will be used for start-ups, emergencies and flame stabilization.

5. E.I. du Pont de Nemours & Company

[Docket No. QF86-912-000]

August 4, 1986.

On July 22, 1986, E.I. du Pont de Nemours & Company (Applicant), of 1007 Market Street, Wilmington, Delaware 19898, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Beaumont Works in Nederland, Texas. The facility will consist of a combustion turbine-generator, and a heat recovery steam generator (HRSG). The steam from the HRSG will be used for process application at the du Pont facility. The electric power production capacity of the facility will be 12.0 MW. The primary energy source will be natual gas. The installation of the facility is anticipated to commence in the first quarter of 1988.

6. E.I. du Pont de Nemours & Company

[Docket No. QF86-923-000]

August 4, 1986.

On July 22, 1986, E.I. du Pont de Nemours & Company (Applicant), of 1007 Market Street, Wilmington, Delaware 19898, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Beaumont Works in Nederland, Texas. The facility will consist of a combustion turbine-

generator. Thermal energy recovered from the turbine will be used as preheated combustion air for a natural gas-fired process furnace. The electric power production capacity of the facility will be 21.8 MW. The primary energy source will be natnal gas. The installation of the facility is expected to commence in the first quarter of 1987.

7. First Energy Associates

[Docket No. QF86-926-001]

August 4, 1986.

On July 17, 1986, First Energy Associates (Applicant), of 71 Spit Brook Road, Nashua, New Hampshire 03060, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of th Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located in St. Albans, Vermont. The facility will consist of a combustion turbine generating unit, a waste heat recovery steam generator, and an extraction steam turbine generating unit. Extraction steam and chilled water produced by the facility will be sold to the St. Albans Creamery for process heating and post-pasteurization product cooling and refrigeration. The net electric power production capacity of the facility will be 39.81 MW. The primary energy source will be natnral gas. The installation of the facility will begin in April, 1987.

8. IPT Patterson Cogeneration, Inc.

[Docket No. QF86-401-001]

August 4, 1986.

On July 16, 1986, IPT Patterson Cogeneration, Inc. (Applicant), of 2800 West Bayshore Road, Palo Alto, California 94303, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Patterson, California and will consist of a combustion turbine generator and a heat recovery steam generator (HRSG). Steam recovered from HRSG will be used to blanch vegetables prior to freezing. The maximum net electric power production capacity of the facility will be 5800 kW. The primary energy source will be natural gas.

9. Pittsburgh Alternative Power Corporation

[Docket No. QF86-934-000]

August 4, 1986.

On July 24, 1986, Pittsburgh Alternative Power Corporation (Applicant), of 11 Broadway, Suite 1701, New York, New York 10004, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The toppingcycle cogeneration facility will be located on Grand Avenue on Neville Island, Allegheny County, Pennsylvania. The facility will consist of two fluidized bed combustion boilers, one extraction/condensing steam turbine generator, and related auxiliary equipment. Applicant states that the primary energy source of the facility will be waste in the form of bituminous coal refuse. The useful thermal output of the facility will be used by several industrial plants for chemical processing. The net electric power production capacity of the facility will be 100 megawatts.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17864 Filed 8-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-21-024]

Columbia Gas Transmission Corp.; Compliance Filing

August 4, 1986.

Take notice that on June 27, 1986, Columbia Gas Transmission Corporation (Columbia) tendered for filing a report setting forth it sactual commodity gas costs on a unit of sales basis for twelve months, ended March 31, 1986, in accordance with Article II and the procedures set forth in Appendix B of the April 4, 1985, Stipulation and Agreement (Stipulation) in Docket Nos. TA82-1-21-001, *et al.*, which was approved by the Commission's Order dated June 14, 1985, as modified by Order dated June 25, 1985.

Columbia states that because its commodity gas costs are higher than "the benchmark" rate for the subject period, no adjustment to Columbia's commodity rate effective September 1, 1986 will be made.

Columbia has sent copies of this filing to all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 11, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17932 Filed 8-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-80-001]

Jupiter Energy Corp.; Compliance Filing

August 4, 1986.

Take notice that on July 29, 1986, Jupiter Energy Corporation (Jupiter) tendered for filing First Revised Sheet Nos. 4, 5, and 6 to its FERC Gas Tariff, Original Volume No. 1. Jupiter states these sheets are in compliance with Ordering Paragraph (C) of the Commission's order issued in Docket No. RP86-80-000 on June 20, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214,

BEST COPY AVAILABLE

385.211 (1985)). All such motions or protests should be filed on or before August 11, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17933 Filed 8-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-58-000, 001, 002, 003]

Texas Gas Pipe Line Corp.; Amended Tariff Filing

August 4, 1986.

Take notice that on June 25, 1986, Texas Gas Pipe Line Corporation (Texas Gas) tendered for filing Sixteenth Revised Sheet No. 4a to its FERC Gas Tariff, Second Revised Volume No. 1. Texas Gas states that Sixteenth Revised Sheet No. 4a reflects a net decrease of 143.22 cents per Mcf at 14.65 psia in the commodity charge of its Rate Schedules G-1 and G-2. The proposed effective date of the sheet is June 1, 1986. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until July 18, 1986. On June 26, 1986 and July 16, 1986, Texas Gas filed amendments to its original filing to make minor corrections.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 11, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-17934 Filed 8-7-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3058-5]

Availability of Environmental Impact Statements

Correction

In FR Doc. 86-17403 appearing on page 27597 in the issue of Friday, August 1, 1986, make the following correction in the second column under **Amended Notices** in the first line:

The EIS No. should read "750360".

BILLING CODE 1505-01-M

[ER-FRL-3061-3]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed July 28, 1986 through August 1, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860303, Final, NOA, VA, Commonwealth of Virginia Coastal Resources Management Program, Due: September 8, 1986, Contact: Joseph Uravitch, (202) 673-5138.

EIS No. 860304, Final, AFS, AR, Ozark-St. Francis National Forests, Land and Resource Management Plan, Due: September 8, 1986, Contact: James Crouch, (501) 968-2354.

EIS No. 860305, Draft, COE, VT, Missisquoi River Flood Control Plan, Richmond Village, Franklin County, Due: September 22, 1986, Contact: Karen Gustina, (212) 264-4662.

EIS No. 860306, Draft, AFS, AZ, Kaibab National Forest, Land and Resource Management Plan, Coconino, Yavapai, and Mohave Counties, Due: November 7, 1986, Contact: L.A. Lindquist, (602) 635-2681.

EIS No. 860307, Final, AFS, NM, AZ, Coronado National Forest, Land and Resource Management Plan, Wilderness Suitability, Due: September 8, 1986, Contact: R.B. Tippeconnic, (602) 629-6805.

Amended Notices

EIS No. 750360, Draft, FHW, LA, Eden Isles Interchange Construction, I-10 Access Point, St. Tammany Parish, Published FR 8-1-86 — Incorrect status.

EIS No. 860220, DRevised, UAF, AZ, Sells Military Operations Area/Air Traffic Control Assigned Airspace Supersonic Flight Operations Overlying Tohono O'odham Indian Reservation and Organ Pipe Cactus National Monument, Continuation, Pima County, Due: October 10, 1986, Published FR 6-13-86—Review period extended.

EIS No. 860258, Draft, BIA, AZ, San Xavier/Tucson Planned Community Development, Lease Approval, Due: September 7, 1986, Published FR 7-11-86—Review period extended.

Dated: August 5, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-17921 Filed 8-7-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3061-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 21, 1986 through July 25, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D1-AFS-L61148-WA, Rating EC2, Okanogan Nat'l Forest, Land and Resource Mgmt. Plan, WA. SUMMARY: EPA has environmental concerns because the process for managing forest activities is not clear enough to assure us that adverse environmental effects, particularly to water quality and fisheries, will be prevented. The draft EIS maintains that there are no substantial differences among the alternatives in terms of water quality and fishery impacts. However, there are insufficient data in the draft EIS to document this.

ERP No. D-ASC-D99169-00, Rating EC2, United States Acreage Adjustment Programs for Agricultural Commodities, Reducing Production Surplus Corps, U.S. SUMMARY: EPA feels that the acreage adjustment programs have the potential to contribute significantly to the reduction of nonpoint source pollution impacts on the waters of the U.S. However, EPA is concerned that the draft EIS is unclear as to how the programs are to be implemented. The connection between the programs as described in the draft EIS and the rules that carry them out must be more clearly described.

ERP No. D–COE–F36100–MI, Rating EC2, Ecorse Creek Drainage Basin Flood Protection Plan, Construction, Operation and Maintenance, MI. SUMMARY: EPA's review resulted in concerns regarding ground and surface water impacts. More information was requested regarding geology, hydrology, and sediment contamination. EPA recommended implementation of oil skimmers and aeration devices.

ERP No. D–FHW–K40155–CA, Rating EO2, CA–71 Improvements, Holt Ave. Interchange Near CA–10 to CA–91, Right-of-Way Acquisition, CA SUMMARY: EPA expressed objections to the project because of: (1) Potentially adverse impacts to air quality in an area with serious existing air pollution problems, (2) lack of adequate information to evaluate noise impacts, and (3) inadequate information on air and noise mitigation measures. EPA requested that FHWA prepare a revised draft EIS to address these issues or, alternatively, the opportunity to comment on these chapters of the final EIS before it is filed.

ERP No. D–IBR–J31018–UT, Rating EC2, Uinta Basin Unit, Construction and Operation, Colorado River Water Quality Improvement Program, UT. SUMMARY: EPA identified concerns with the proposed alternatives and suggested an additional alternative, selective land retirement, be considered in detail. EPA indicated the wetland analysis, "saved" water analysis, salinity source analysis, and cumulative impact assessment be expanded to adequately document project related effects.

Final EISs

ERP No. F–AFS–J65142–UT, Fishlake Nat'l Forest, Land and Resource Mgmt. Plan, UT. SUMMARY: Though noting positive revisions over the draft EIS, EPA's review still had concerns regarding methods and requirements for protection of water quality standards, including antidegradation requirements. Other concerns relating to cumulative impact assessment processes and methodologies, aquatic life/habitat protection goals and monitoring, lack of rangeland condition information and improvement goals, lack of additional disclosure of impacts by alternative, water quality monitoring, goals for only slight improvement in riparian habitat, and inter-agency coordination also need to be further addressed. EPA requested a written response to help resolve the concerns.

ERP No. F–AFS–J62005–MT, Lewis and Clark Nat'l Forest, 1986–1990 Noxious Weed Control Programs, MT. SUMMARY: EPA reviewed the final EIS and our previous concerns were addressed in a satisfactory fashion.

ERP No. F–BLM–K65102–NV, Elko Resource Area, Resource Mgmt. Plan and Wilderness Designation Study, N. Fork, Buckhorn and Tuscarora Planning Units, NV. SUMMARY: EPA expressed an ongoing concern about the lack of information on herbicides uses and impacts, and requested that the Record of Decision indicate that the method of vegetation manipulation (herbicide use and/or controlled burning) be deferred until herbicides analyses are reviewed by EPA and other interested parties.

ERP No. F–COE–K36034–TT, Susupe-Chalan Kanoa Area Flood Control Study, Saipan, TT. SUMMARY: EPA expressed environmental concerns with respect to potential adverse impacts to water quality and recommended coordination with the Commonwealth of the Northern Mariana Islands Division of Environmental Quality to assure compliance with water quality standards.

ERP No. F–UMT–K54015–CA, San Diego East Urban Corridor Transportation Improvement, CA. SUMMARY: The final EIS addressed EPA's prior concerns.

Regulations

ERP No. R–GSA–A99171–00, 41 CFR Part 101–20, Smoking Regulations (51 FR 18805). SUMMARY: EPA supports the Regulation, which is similar to the EPA's proposed regulations; both require the designation of smoking areas and recognize that passive smoking is also a health hazard. Clarification was request on a number of terms and it was recommended that formal procedures be established for the implementation and enforcement of the policy.

Dated: August 5, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86–17922 Filed 8–7–86; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3061–5 Docket No. 560]

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Strychnine: Notice of Hearing to Reconsider Registration Cancellation

AGENCY: Environmental Protection Agency.

ACTION: Scheduling public hearing in this proceeding to reconsider the March, 1972, cancellation of registration of strychnine for controlling skunks to suppress rabies.

SUMMARY: Notice is hereby given, pursuant to 40 CFR 164.6, that a public hearing is hereby scheduled to convene in EPA Headquarters, Room 2409, 401 "M" Street, SW., Washington, DC 20460, on Tuesday, October 7, 1986, beginning at 10 a.m., in a proceeding commenced by Notice of Hearing of the Administrator of the U.S. EPA on June 13, 1986, 51 FR 21617. As announced by said Notice of the Administrator, said hearing will be held to reconsider the cancellation (March, 1972) of registration of strychnine for controlling skunks to suppress rabies in areas where rabid animals have been found, for the reason that the Agency has found that substantial new evidence may exist which warrants such reconsideration (51 FR 21621, citing 40 CFR 164.131).

The Administrator's said Notice required that any person wishing to participate in this proceeding should file, by July 14, 1986, written response to the Administrator's Statement of Issues (51 FR 21622) which should state the respective position and interest of each such person.

The following have made such filing, pursuant to the provisions of 40 CFR 164.24:

State of Wyoming (through its Department of Agriculture);

State of South Dakota (on behalf of its Department of Game, Fish and Parks);

State of Montana (through its Department of Livestock);

Dodie Teigen, Capitol Star Route, Capitol, MT 59324, and

U.S. Department of Agriculture, Washington, DC.

At said hearing, the Order of Proceeding and Burden of Proof shall be that provided by 40 CFR 164.80. The need for field hearing sessions at locations other than Washington, DC, will be considered on a showing of good cause by the parties.

A prehearing conference has not been and will not be scheduled herein for the reason that I find it would delay rather than expedite these proceedings.

For further information concerning other details of these proceedings, interested persons are referred to the docket of this proceeding on file with Ms. Bessie Hammiel, Hearing Clerk (A–110), Room 3708, U.S. Environmental Protection Agency, Waterside Mall, 401 "M" St., SW., Washington, DC 20460.

Dated: July 25, 1986.

Marvin E. Jones,

Administrative Law Judge.

[FR Doc. 86–17808 Filed 8–7–86; 8:45 am]

BILLING CODE 6560–50–M

VOL 51 ISS 153 AG 8 1986 UMI

FEDERAL RESERVE SYSTEM

Citicorp; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 1, 1986.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary of the Board) 20th and Constitution Avenue, NW., Washington, DC 20551:

1. *Citicorp*, New York, New York; Bankers Trust New York Corporation, New York, New York; The Chase Manhattan Corporation, New York, New York; Chemical New York Corporation, New York, New York; Irving Bank Corporation, New York, New York; The Hong Kong and Shanghai Banking Corporation, Hong Kong; HSBC Holdings B.V., Amsterdam, The Netherlands; Kellett, N.V., Curacao, Netherlands Antilles; Marine Midland Banks, Incorporated, Buffalo, New York; Manufacturers Hanover Corporation, New York, New York; J.P. Morgan & Co., Incorporated, New York, New York; and Midland Bank PLC, London, England; to acquire Liberty Brokerage, Inc., New York, New York, and thereby engage in providing securities brokerage services consisting of buying and selling U.S. Government securities solely as agent for the account of its customers, primarily institutions that have been designated by the Federal Reserve Bank of New York as primary dealers or that are in the process of applying for such designation, but not including underwriting and dealing or investment advice or research services pursuant to § 225.25(b)(15) of the Board's Regulation Y. Comments on these applications should be sent to the Federal Reserve Bnak of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045.

BankAmerica Corporation, San Francisco, California and First Interstate Bancorp, Los Angeles, California, have also applies to acquire Liberty Brokerage, Inc., New York, New York. Comments on these applications should be sent to the Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105.

Continental Illinois Corporation, Chicago, Illinois, and First Chicago Corporation, Chicago, Illinois, have also applied to acquire Liberty Brokerage Inc., New York, New York. Comments on these applications should be sent to the Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690.

Board of Governors of the Federal Reserve System, August 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17859 Filed 8-7-86; 8:45 am]

BILLING CODE 6210-01-M

CoresStates Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 29, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CoreStates Financial Corp.*, Philadephia, Pennsylvania; to acquire 100 percent of the voting shares of New Jersey National Corporation, Ewing Township, New Jersey, and thereby indirectly acquire New Jersey National Bank, Trenton, New Jersey.

Applicant has also applied to acquire New Jersey National Leasing Company, Ewing Township, New Jersey, and thereby engage, under certain conditions, as an agent, broker, or advisor in leasing personal property, equipment and real property, and to make or acquire loans or other

extensions of credit pursuant to § 225.25(b) (1) and (5) of the Board's Regulation Y; Bancorp's International Trading Company, Somerset, New Jersey, and thereby engage in activities related to international trade, and to operate principally for the purposes of exporting goods and services produced in the United States or for purposes of facilitating the exportation of goods and services produced in the United States by unaffiliated persons by providing export trade services pursuant to section 4(c)(14) of the Bank Holding Company Act; and Underwood Mortgage & Title Company, Ewing Township, New Jersey, and thereby engage in the mortgage servicing business, originating, placing and servicing mortgages pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17860 Filed 8-7-86; 8:45 am]

BILLING CODE 6210-01-M

Liberty National Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 29, 1986.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Liberty National Bancorp,* Inc., Louisville, Kentucky; to acquire the successor by merger of Corydon State Bancorp, Corydon, Indiana, and thereby indirectly acquire The Corydon State Bank, Corydon, Indiana.

In connection with this application, CSB Bancshares, Inc., Louisville, Kentucky, has applied to become a bank holding company by merging with Corydon State Bancorp, Corydon, Indiana.

Board of Governors of the Federal Reserve System, August 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17861 Filed 8-7-86; 8:45 am]

BILLING CODE 6210-01-M

Suffield Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 3, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Suffield Financial Corporation,* Suffield, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Suffield Savings Bank, Suffield, Connecticut.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *United Bankers, Inc.,* Waco, Texas; to acquire 100 percent of the voting shares of First National Bank, Sherman, Texas.

Board of Governors of the Federal Reserve System, August 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-17936 Filed 8-7-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 1, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

National Institutes of Health

Subject: Scientific and Technical Competency Form—New
Respondents: Individuals or households; Federal Agencies or employees
Subject: Obligated Service for Mental Health Traineeships—Extension—(0930-0074)
Respondents: Individuals or households; Non-profit institutions

Office of Assistant Secretary for Health

Subject: 1987 National Health Interview Survey—Revision—(0937-0021)
Respondents: Individuals or households
OMB Desk Officer: Bruce Artim

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of package)
Subject: Office of Child Support Enforcement, Financial/Statistical Report—Extension—(0960-0410)
Respondents: State or local governments
Subject: Report of Continuing Disability Interview—Revision—(0960-0072)
Respondents: Individuals or households
Subject: Request for Waiver and Recovery Questionnaire—Revision—(0960-0037)
Respondents: Individuals or households

VOL 51 ISS 153 AG 8 1986 UMI

Subject: Quarterly Application for Grant Award—Revision—(0960–0239)
Respondents: State or local governments
Subject: Quarterly Report of Collections—Extension—(0960–0238)
Respondents: State or local governments
Subject: Semi-Annual Budget Estimates—Extension—(0960–0226)
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

[Call Reports Clearance Officer on 202–472–4415 for copies of package)
Subject: Survey of Indian Child Welfare and Implementation of the Indian Child Welfare Act and Section 428 of the Adoption Assistance and Child Welfare Act of 1980—New—
Respondents: State or local governments; Non-profit institutions; Small businesses or organizations
OMB Desk Officer: Judy A. McIntosh

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503

ATTN: (name of OMB Desk Officer)

Dated: August 4, 1986.

Barbara S. Wamsley,

Acting Deputy Assistant Secretary for Management, Analysis and Systems.

[FR Doc. 86–17923 Filed 8–7–86; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

New Approaches for Tuberculosis Preventive Therapy; Meeting

The Division of Tuberculosis Control, Center for Prevention Services (CPS), Centers for Disease Control (CDC), Atlanta, Georgia, will convene a meeting to discuss current practices in tuberculosis preventive therapy, the role of existing and newly developed drugs in short-course preventive therapy for tuberculosis, and a protocol for a clinical trial of new short-course preventive therapy regimens.

The meeting will be open to the public for observation and participation, limited only by the space available.

Date: September 8–10, 1986.

Time: 8:00 a.m.–5:00 p.m.

Place: Hotel Tower Place, 3340 Peachtree Road, NE., Atlanta, Georgia 30020.

Additional information may be obtained from: Richard J. O'Brien, M.D., Chief, Clinical Research Branch, Division of Tuberculosis Control, CPS, CDC, 1600 Clifton Road, NE., Atlanta, GA 30333, Telephones: FTS: 236–2523, Commercial: 404/329–2523.

Dated: August 1, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–17866 Filed 8–7–86; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register.** The changes are a result of a review conducted pursuant to the provisions of paragraph 3, Appendix I to Office of Management and Budget Circular Number A–130. The Circular requires, among other things, the periodic review of Privacy Act systems of records notices and publication in the **Federal Register** of any required changes or amendments. The revised notices are published in their entirety below.

The systems of records notices being revised and the dates of their previous publication in the **Federal Register** are:

1. Privacy Act Files—Interior, Office of the Secretary-57 (47 FR 27979, June 28, 1982).

2. Administrative Operations Records on Employees, Department System—Interior, Office of the Secretary-58 (49 FR 8681, March 8, 1984).

3. Biography File—Interior, Office of the Secretary-65 (46 FR 12147, February 12, 1981).

4. Freedom of Information Appeal Files—Interior, Office of the Secretary–69 (47 FR 27980, June 28, 1982).

5. Freedom of Information Request Files System—Interior, Office of the Secretary–71 (46 FR 12147, February 12, 1981).

In all five notices, the retention and disposal statements are amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum dated June 11, 1985, to Agency Records Officers. The existing routine disclosure statements for litigation purposes in OS–57, OS–58, OS–69, and OS–71 are revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act.

New compatible routine disclosure statements are added to two notices. In OS–65, a statement regarding disclosures to the Department of Justice for litigation purposes has been added. The existing routine use in OS–71 concerning disclosures to Federal agencies having a subject matter interest in an FOIA request or appeal is expanded to include State and local agencies, and a routine disclosure to congressional offices is added.

The system location portion of the notice for OS–57 is corrected to add an additional statement describing records maintained in offices of systems managers and other officials authorized to receive access and amendment requests from individuals. A corresponding correction has been made to the statement describing categories of individuals. Also, the statement concerning the primary uses of the records is amended to add program administration and reporting purposes.

The description of individuals covered by system notice, OS–69, is revised to remove redundant material, and the categories of records statement is clarified. The notice also is amended to reflect the maintenance of certain information on a microcomputer for appeal tracking purposes.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before September 8, 1986, will be considered. The notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: July 31, 1986.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/OS–57

SYSTEM NAME:

Privacy Act Files—Interior, Office of the Secretary—57.

SYSTEM LOCATION:

(1) Office of Information Resources Management, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C.20240. (2) Offices of Privacy Act Officers of each bureau of the Department. (See Appendix for addresses of bureau headquarters offices.) (3) Offices of Systems Managers and other officials authorized to recieve requests for notification and access and petitions for amendments. (See pertinent system notices for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have submitted requests for notification, access or amendment of their records maintained as systems of records under the Privacy Act. (2) Individuals who have filed Privacy Act appeals with Assistant Secretary—Policy, Budget, and Administration under the department's regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, appeals, decesions and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The primary uses of the records are for action on requests and appeals of Privacy Act matters and to gather program administration information for management and reporting purposes. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevent or necessary to the litigation and is compatible with the purpose for which the records were complied; (3) of information indicating a violation or potential violation of a statute, regulation, rule,order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with General Records Schedule No. 14, Items 25 and 26.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records in the Office of Information Resources Mgt:,Chief, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) For other records: Bureau Privacy Act Officers or System Managers. [See Appendix for addresses of bureau headquarters offices or pertinent systems of records notices for System Manager addresses.

NOTIFICATION PROCEDURE:

Contact the pertinent System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access should be addressed to any office or offices to which the requester has submitted a request for access or an appeal. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71

RECORDS SOURCE CATEGORIES:

Individuals on whom records are kept, Department employees who act on requests and appeals received from individuals.

INTERIOR/OS–58

SYSTEM NAME:

Administrative Operations Records on Employees, Department System—Interior, Office of the Secretar–58.

SYSTEM LOCATION:

All Departmental bureaus and offices including regional and field facilities thereof.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Department of the Interior, and independent agencies and commissions for which the Department provides administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records involving administrative and operational relationships between the employee and the office in which the employee works, which include: Workload and productivity records for scheduling purposes; travel activity and budgets; accident and safety records, property accountability; studies and special projects; committee and detail assignments; locator indexes, parking space assignments, mailing lists, and similar records. Records that identify employees and their organization, location, position title, occupational series and grade, office telephone number, functional or organizational titles assigned for program management purposes, home address and telephone number, and other related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 5105–5115, 5501–5516, 5701–5709, 31 U.S.C. 66a, 240–243, 40 U.S.C. 483(b), 43 U.S.C. 1467, 44 U.S.C. 3101, Executive Order No. 11807.

ROUTINE USES OF RECORDS MAINTAINED IH THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are administrative in nature and reflect the employee's relationship to the activities and functions of the office. They are also used to prepare and maintain data bases, directories, and listings showing organizational and functional position assignments; staffing tables; listings for budget, organizational, space, administrative services, and training planning purposes; and the preparation of employee telephone directories. Disclosures outside the Department of

the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to other Federal agencies for related program management purposes; (5) to the public in the form of agency telephone directories.

POLICY AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders or card files in file cabinets, word processing media, microfiche, or computer files.

RETRIEVABILITY:

By name or control number assigned to employee.

SAFEGUARDS:

In accordance with the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained until completion of work project or activity to which the record pertains, or until separation of the employee, at which time the record is disposed of in accordance with appropriate records schedules. Depending on the subject matter of the records, various disposal schedules may apply to the records in this system. In addition to pertinent bureau schedules, certain General Records Schedules (GRS) may typically apply as follows: GRS 2, item 12; GRS 6, item 5; GRS 11, items 1,3,4; GRS 13, item 5; GRS 16, item 12; GRS 18, items 13,17; GRS 20, item 29; GRS 23, items 1,2,5.

SYSTEM MANAGER(S) AND ADDRESS:

For the records located in the office in which the individual is (or was) employed, the appropriate personnel or administrative officer. For records related to special listings or directories of employees related to organizational, functional, or program assignments, the office maintaining the listing or directory.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the pertinent personnel office of the organization or office in which the individual is (or was) employed, or the office maintaining the listing or directory containing information about the individual. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records should be addressed to the pertinent personnel office of the facility at which he/she is (or was) employed, or the office maintaining the listing or directory containing information about the individual. See 43 CFR 2.61 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is obtained through internal office procedures with which the individual is involved. Other sources are official agency records or documents designating employees to serve in special functional or organizational assignments.

INTERIOR/OS-0965

SYSTEM NAME:

Biography File—Interior, Office of the Secretary—0965.

SYSTEM LOCATION:

(1) Office of Public Affairs, Research Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington D.C. 20240. (2) Bureau public information offices in the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Geological Survey, the National Park Service, the U.S. Fish and Wildlife Service, Bureau of Land Management (BLM), Bureau of Mines, Office of Surface Mining (OSM), and the Minerals Management Service. (See System Manager paragraph for addresses.).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officials of the Department of the Interior, including the Secretary, Assistant Secretaries, heads of Bureaus and Offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records are biographical sketches, notes, resume, and news releases generally containing the individual's name, place and date of birth, education, military service, work experience, publications, membership in professional or scientific societies, marital status plus occasional newspaper clippings about the individual and in some cases a photograph of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Statutes 5 USC 301, 3101, 43 USC 1467, 44 USC 3101, 30, USC 1, 3, 5–097.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to maintain biographic information on key officials of the Department. Disclosures outside the Department of the Interior may be made (1) to the news media and public for public information purposes; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE—Biographies are in press release form, maintained in file folders.

RETRIEVABILITY

Alphabetized by name.

SAFEGUARDS

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL

Maintained and destroyed in accordance with General Records Schedule No. 14, item 6.

SYSTEM MANAGER(S) AND ADDRESS:

(Unless otherwise noted, the address for all managers is U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240. (1) For the Office of Public Affairs. (2) For the Bureau of Indian Affairs: Director, Public Information Staff, Bureau of Indian Affairs. (3) For the Bureau of Reclamation: Director, Office of Public Affairs, Bureau of Reclamation. (4) For the Geological Survey: Public Affairs Officer, U.S. Geological Survey, the National Center, Reston, Virginia 22092. (5) For BLM: Chief, Office of Public Affairs (130), Bureau of Land Management. (6) For the National Park Service: Chief, Office of Public Affairs, National Park Service. (7) For the Fish and Wildlife Service: Assistant Director—Public Affairs, U.S. Fish and Wildlife Service. (8) For the Bureau of Mines: Chief, Office of Technical Information, Bureau of Mines, 2401 E Street, N.W., Washington, D.C. 20241. (9) For OSM: Chief, Public Affairs Staff, Office of Surface Mining. (10) For MMS: Chief, Office of Minerals Management Information, Minerals Management Service.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as the above. The request must be in writing, signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data furnished by the individual, newspaper clippings, and published materials.

INTERIOR/OS-69

SYSTEM NAME:

Freedom of Information Appeal Files—Interior, Office of the Secretary—69.

SYSTEM LOCATION:

(1) Office of Information Resources Management, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Office of Public Affairs, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed appeals under Department of the Interior Freedom of Information appeal procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeal, Recommendations of the Office of the Solicitor and other Departmental Officials, final decisions on appeals, extension of time, initial decisions issued by bureaus and offices, related records, and records to track the processing of appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to support review and decision-making for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision: (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) of information indicating a violation or potenital violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders. Appeal tracking information is maintained on magnetic media for use in a micro-computer.

RETRIEVABILITY:

Manual records are indexed by appeal number. A cross-reference list permits retrieval of records by appellant's neme.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are destroyed four years after final determination by agency, or three years after final adjudication by courts, in accordance with General Records Schedule No. 14, item 17.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Appeals Officer, Office of Information Resources Management, Division of Directives and Regulatory Mgt. U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Officials of bureaus and offices of the Department, appellants.

Interior/OS-71

SYSTEM NAME:

Freedom of Information Request Files System—Interior, Office of the Secretary—71.

SYSTEM LOCATION:

All facilities of the Department of the Interior which have received requests under the Freedom of Information Act seeking access to or copies of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted Freedom of Information requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, responses, related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer Freedom of Information requests. Disclosures outside the Department of the Interior may be made (1) to other Federal, State, and local agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICY AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and on computer magnetic media.

RETRIEVABILITY:

Retrieved by name of person making request.

SAFEGUARDS:

Maintained with the minimum safeguards prescribed in 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with General Records Schedule No. 14, items 16 and 18.

SYSTEM MANAGER(S) AND ADDRESS:

For the office or bureau for which each is responsible, the head of each office making up the Office of the Secretary, each other Departmental office and each bureau. (See Appendix for addresses of office and bureau headquarters offices.)

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records in the system shall be addressed to each facility to which an individual has submitted a Freedom of Information request. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to each facility to which the requester has submitted a Freedom of Information request. See 43 CFR 2.63 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Requesters, internally generated documents, and employees processing the requests.

[FR Doc. 86-17869 Filed 8-7-86; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: Coal Exploration and Mining Operations Reporting (43 CFR Part 3480).

Abstract: Lessees, licensees, and/or operators involved in operations for the discovery, testing, development, mining or processing of Federal coal shall conform to the provisions of applicable regulations, the terms and conditions of the lease, license or permit, the requirements or approved exploration and/or mining plans, and orders and instructions issued by the authorized officer pursuant to 43 CFR Part 3480. This information is required to ensure orderly and efficient development, mining, preparation and handling operations for Federal coal through compliance with the 43 CFR Part 3480 regulations.

The information is being collected to permit the authorized officer to determine whether proposed and existing exploration and mining operations for Federal coal are in compliance with the applciable statutory and regulatory requirements.

The information required in the exploration plan is contained in 43 CFR Part 3482 and states "the operator/lessee shall submit five copies of exploration plans to the authorized officer. Exploration plans shall be consistent with and responsive to the requirements of the Federal lease or license for the protection of recoverable coal reserves and other resources and for the reclamation of the surface of the lands affected by the operations." The information required in the resource recovery and protection plan is contained in 43 CFR Part 3482. This information is needed to show that the proposed operation meets the requirements of the Mineral Leasing Act of 1920, as amended, development, production, resource recovery and protection, diligent development, continued operation, maximum economic recovery, and the rules of 43 CFR Part 3480 for the Life of the mine. Normally this information is received on "an occasion" basis and does not require formal or routine reporting. Further requirements are given in this part for mining operations maps. These maps are required to be furnished to the authorized officer annually or as otherwise needed.

The information collection requirement contained at § 3482.1, 3482.2, 3482.3, 3483.3, 3483.4, 3484.1, 3485.1, 3485.2, 3486.3 and 3487.1 of this title have been approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1004-0143.

The information may be collected from some operators/lessees/licensees to either provide data so that proposed operations may be approved or to enable the monitoring of compliance with approvals already granted. The information will be used to grant approval to begin or alter operations or to allow operations to continue. The obligation to respond is required to obtain the benefit under the Federal lease.

Frequency: On occasion, and annually
Description of Respondents Coal lessees, licensees and operators
Annual Reponses: 1,422
Annual Burden Hours: 30,998
Bureau Clearance Officer: Rebecca Daugherty (202) 653–8853

Dated: June 17, 1986.

John E. Lutz,

Assistant Director, Energy & Mineral Resources.

[FR Doc. 86–17870 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–84–M

[U–60019]

Utah; Invitation to Participate in Coal Exploration Program; Utah Power and Light Co.

Utah Power & Light Company is inviting all qualified parties to participate in the drilling of an exploration drill hole located on unleased federal coal on East Mountain, 13 miles west of Huntington, Utah. The drill hole is situated west of Federal coal lease U–06039 in Emergy County, Utah. The area is further described as follows:

T. 16 S., R. 7 E., SLM, Utah
Sec. 30, lot 2.
Containing 22.65 acres

Any party electing to participate in this drill hole must send written notice of such election to the Bureau of Land Management, 324 South State Street, Room 400, Salt Lake City, Utah 84111–2303; and to D. W. Jense, Utah Power & Light Company, P.O. Box 899, Salt Lake City, UT 84110. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register.**

Any party wishing to participate in this drill hole must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rate basis. A copy of the exploration plan, as submitted by Utah Power & Light Company is available for public review during normal business hours in the same BLM office as mentioned above under Serial Number U–06019.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–17867 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–DQ–M

Environmental Statements; Proposal Concerning 17 Coal Lease Readjustments in Wilderness Study Areas

AGENCY: Bureau of Land Management, Cedar City District, Cedar City, Utah, Interior.

ACTION: Notice of availability of a Draft Environmental Assessment.

SUMMARY: The Bureau of Land Management, Cedar City District is proposing to adjust the following coal leases U–24427, U–096476, U–096477, U–098786, U–0103108, U–0101140, U–0101141, U–0103131, U–0103132, U–0103133, U–098783, U–098784, U–098785, U–098787, U–0115791, U–0115793 and U–0130988. Each of these leases have been evaluated and additional stipulations are proposed for the leases to increase the level of environmental protection and other considerations.

The Wilderness study areas involved are Carcass Canyon (076), Burning Hills (079), 50-Mile Mountain (080) Death Ridge (078) and Wahweap (248).

A Draft Environmental Assessment has been prepared on this proposal and is now available for public review and comment. Comments should be submitted by September 10, 1986.

ADDRESS: To obtain a copy of these documents or to obtain additional information on the proposal, contact Dave Everett, Environmental Specialist at the Bureau of Land Management, Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720 or telephone at 801–586–2401.

Dated: August 1, 1986.

Morgan S. Jensen,

District Manager.

[FR Doc. 86–17844 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–DQ–M

[ID–010–06–4351–02]

Boise District, Idaho Advisory Council Meeting

AGENCY: Bureau of Land Management, Boise District Office, Interior.

ACTION: Boise District, Idaho, Advisory Council Meeting.

SUMMARY: In accordance with Pub. L. 92–463, the Federal Advisory Committee Act, and Pub. L. 94–579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Advisory Council will meet on August 27 and 28, 1986, from 8:00 a.m. to 4:00 p.m. the first day and from 8:00 a.m. to 12:00 p.m. the second day.

SUPPLEMENTARY INFORMATION: The meeting will begin at 8:00 a.m. each day in the lower conference room at the Bureau of Land Management, Boise District Office, at 3948 Development Avenue in Boise, Idaho. The main agenda item is a discussion of the Riparian Management Pilot Project. The first day will consist primarily of a field tour of sites and will leave the District Office at 9:00 a.m. A public comment period is scheduled from 10:00 a.m. to 11:00 a.m. on the second day, August 28.

FOR FURTHER INFORMATION CONTACT: Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334–1582. Minutes of the meeting will be available for public inspection at the District Office.

July 30, 1986.

J. David Brunner,

District Manager.

FR Doc. 86–17845 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–GG–M

[WY–920–06–4990–14; W–92013]

Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–92013 for lands in Goshen County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16–⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–92013 effective October 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86–17846 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–22–M

[NV–930–06–4212–11; N–43025]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

The following described public land within the City of Mesquite, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43

U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice is the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 13 S., R. 71E.,
Sec. 9, lots 1 and 11, NE¼NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, SE¼N½SE¼NW¼, SW¼SE¼SE¼NW¼, W½E½, NE¼SW¼, W½NE¼SW¼, NW¼SW¼.

This parcel of land contains approximately 248 acres. The City of Mesquite intends to use the land for golf course purposes. Initially, the lands will be leased without an option to purchase pending the resolution of conflicting mining claims. Once these claims have been abandoned or relinquished, an option to purchase will be included in the lease. However, until such time, the holder of said claims may exercise his rights under applicable laws. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1980, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for the City of Mesquite.

2. Those rights for the existing road to the city landfill which have been granted under R.S. 2477.

3. Certain mining claims filed pursuant to the mining laws of the United States, 30 U.S.C. et. seq. A lease will be made subject to those claims and to any and all rights that the holders thereof may have pursuant to the laws of the United States and the State of Nevada. The rights of the holder of said mining claims include the right to continue to prospect for, mine, and remove locatable minerals on the lands and, upon compliance with the applicable laws of the United States and the State of Nevada, to fee title to the lands, if a valid discovery was made prior to the classification of the lands. If the claims are abandoned or relinquished, the land would not be open to further location.

4. Those rights for communication site purposes which have been granted to Clark County School District, its successors or assigns, by Permit No. N–3886 under the Act of March 4, 1911, 36 Stat. 1253, 43 USC 961.

5. Those rights for communication site purposes which have been granted to KNPR Radio, its successors or assigns, by Permit No. N–41365 under the Act of October 21, 1976, 90 Stat. 2776, 43 USC 1716.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Dated: July 28, 1986.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 86–17847 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–HC–M

[ID–010–06–4333–12]

Recareation Management Restrictions; Washington County, ID

AGENCY: Bureau of Land Management Interior.

ACTION: Notice of Camping Order for Washington County and Steck Campground.

SUMMARY: Pursuant to 43 CFR 8365.1–2 and 1–6, the following acts are prohibited on Bureau of Land Management lands or facilities within Washington County (including Steck Campground):

a. Camping longer than the period of time permitted by the authorized officer; or

b. Leaving personal property unattended longer than 10 days (72 hours at Steck Campground) unless authorized.

The authorized camping period limit will be 14 consecutive days in any 28 day period.

The purpose of the limitation is to protect public lands from undue and sustained impacts and, in the case of Steck Campground, to promote the best use by the most number of people.

Violation of the prohibited acts is punishable by fines of $30 and $15, respectively.

DATE: This action is effective August 8, 1986.

FOR FURTHER INFORMATION CONTACT: George Farrow or Dick Geier at the BLM, Boise District Office, (208) 334–1582.

Richard A. Geier,

Cascade Area Manager.

July 31, 1986.

[FR Doc. 86–17848 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–GG–M

Bureau of Indian Affairs

Availability of a Final Environmental Impact Statement (FEIS) on the Proposed Ojo Line Extension—345 kV Overhead Transmission Line and Substation Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement (FEIS) on the proposed Ojo Line Extension—345 kV Overhead Transmission Line and Substation is available for public review. The proposed action consists of 45–47 miles of 345 kV overhead transmission line from a new substation in the Coyote, New Mexico area, through the Jemez Mountains to a new substation in the Los Alamos Area, and then continuing to Public Service Company of New Mexico's (PNM) existing Norton Switching Station. One other alignment through the Jemez Mountains, two 45–50 mile alignments from PNM's existing Ojo Switching Station to the Norton Station, and a 345 kV line from the Norton Station to a new substation in the Los Alamos area are also discussed along with the no action alternative.

DATE: September 8, 1986.

ADDRESS: Comments should be addressed to Mr. Sidney L. Mills, Area Director, Albuquerque Area Office, P.O. Box 8327, Albuquerque, New Mexico 87198.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Allan, Area Environmental Protection Specialist, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 8327, Albuquerque, New Mexico 87198, telephone (505) 766–3374. Individuals wishing copies of this FEIS should contact the above named individual.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior, has prepared a FEIS on its proposal to grant in conjunction with the Bureau of Land Management (BLM), the U.S. Forest Service (USFS), and U.S. Department of Energy (DOE), rights-of-way and approvals for said rights-of-way to PNM for the purpose of constructing a 345 kV overhead transmission line and associated substation in north-central New Mexico.

This project has been designed to satisfy two needs: (1) PNM and Plains Electric Generation and Transmission Cooperative, Inc.'s transmission requirements and system reliability needs for north-central New Mexico, and (2) the transmission needs of the Los Alamos Service Area.

The project will result in increased electrical system reliability in an area of increasing electrical demand, and adverse impacts to the visual and biotic resources of the Jemez Mountains.

The principal alternatives under consideration that were analyzed and evaluated during planning are: (1) The Coyote-Los Alamos-Norton alernative (W–1 or W–2 Route. W–2 being the proposed action), consisting of a new line from the proposed Coyote Station to be located at an undetermined point roughly eight to 13 miles west of Abiquiu along the existing San Juan-Ojo 345 kV line. The line continues south over the Jemez Mountains (Santa Fe National Forest) into Los Alamos, and then into the Norton Switching Station; (2) the Ojo-Norton-Los Alamos Alternative (E–1 or E–2 Route), a new line from Ojo Switching Station (roughly eight miles northwest of Espanola, near Medanales, in the area of confluence of the Rio Chama and Rio Ojo Caliente) south to Norton Switching Station (approximately 6.5 miles southeast of White Rock, and 10 miles northwest of Santa Fe), and then northwest approximately 17 miles into Los Alamos; and (3) the no action alternative.

Dated: August 4, 1986.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 86–17893 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–02–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer and to the Office of Management and Budget Interior Desk Officer, Washington, DC 20503, telephone 202–395–7340.

Title: Restrictions of Financial Interests of State Employees, 30 CFR Part 705.

Abstract: Respondents supply information on employment and financial interests. The information is used to determine if respondents are in compliance with section 517(g) of the Surface Mining Control and Reclamation Act of 1977 which places an absolute prohibition on having a direct or indirect financial interest in underground or surface coal mining operations.

Bureau Form Number: OSMRE–23

Frequency: Entrance on duty and annually

Description of Respondents: Any State regulatory authority employee or member of advisory boards and commissioners established in accordance with State law or regulation to represent multiple interests who performs any function or duty under the Act is required to file a statement of employment and financial interests.

Annual Responses: 1,969

Annual Burden Hours: 660

Bureau Clearance Officer: Darlene Boyd, 202–343–5447

Dated: June 26, 1986.

Carson W. Culp, Jr.,

Assistant Director, Budget and Administration.

[FR Doc. 86–17868 Filed 8–7–86; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30871]

Chicago and North Western Transportation Co.—Trackage Rights—Burlington Northern Railroad Co.; Exemption

Burlington Northern Railroad Company (BN) has agreed to grant overhead trackage rights to Chicago and North Western Transportation Company (CNW) (1) between milepost 9.3 at Minneapolis Junction and milepost 21.1 at Coon Creek, and (2) between milepost 136.9 at Coon Creek and milepost 71.9 at Hinckley, a total distance of 76.8 miles in Minnesota. The trackage rights were effective on July 18, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: July 28, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86–17880 Filed 8–7–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-142)]

Illinois Central Gulf Railroad Company—Abandonment in Jackson and Williamson Counties, IL; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its 15.79-mile rail line (a) between Carbondale (milepost 0.9) and Herrin (milepost 12.57) and (b) between Herrin (milepost 94.0) and milepost 89.88 north of Herrin in Jackson and Williamson Counties, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1127.

Noreta R. McGee,

Secretary.

[FR Doc. 86-17879 Filed 8-7-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Phelps Dodge Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Order in *United States* v. *Phelps Dodge Corporation*, Civil Action No. 86-424, was lodged on july 29, 1986, with the United States District Court for the District of Arizona. Defendant Phelps Dodge owns and operates a primary copper smelter in Douglas, Arizona. The proposed Consent Order requires the defendant to bring the facility into compliance with the federally enforceable Arizona State Implementation Plan (Arizona SIP). The facility is in violation of the limitations established by the Arizona SIP for the control of emissions of particulate matter (PM) and sulfur dioxide (SO_2). The Consent Order requires the defendant to bring the facility into full compliance with these limitations by January 15, 1987, by means of closure. The Consent Decree also requires defendant to 1) reduce emissions of SO_2 and PM in the interim, 2) pay stipulated penalties for violations of the National Ambient Air Quality Standard for SO_2, 3) pay stipulated penalties for short-term SO_2 concentrations at specified levels, and 4) pay a $400,000 penalty for past violations of the Arizona SIP provision governing PM.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Phelps Dodge Corporation*, D.J. reference #90-5-2-1-871.

The proposed Consent Order may be examined at the Office of the United States Attorney for the District of Arizona, Suite 310, 120 West Broadway, Tucson, Arizona, 85701; the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, 10th and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $20.60 payable to the Treasurer of the United States for a copy including all appendices, or in the amount of $3.80 for a copy of the body of the proposed Consent Order only.

F. Henry Habicht II,

Assistant Attorney General Land and Natural Resources Division.

FR Doc. 86-17849 Filed 8-7-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Maurice L. Kaye, D.O.; Denial of Application for Registration

Correction

In FR Doc. 86-17022 beginning on page 27268 in the issue of Wednesday, July 30, 1986, make the following correction:

On page 27269, in the second column, sixth line, "Schedule VI" should read "Schedule IV".

BILLING CODE 1505-01-M

Office of Juvenile Justice and Delinquency Prevention

Program Announcement: Families of Missing Children; Psychological Consequences and Promising Interventions

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of issuance of a solicitation for applications to conduct a research program on the psychological consequences of missing and sexually exploited children.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 406(a)(4) (A) and (B) of the Missing Children's Assistant Act, Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, announces a new OJJDP initiative entitled, "Families of Missing Children: Psychological Consequences and Promising Interventions." The primary goal of this research is to increase our knowledge of and develop effective treatment alternatives for the psychological consequences of families with missing and sexually exploited children.

OJJDP's National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) invites public agencies and nonprofit private organizations, or combinations thereof, to submit competitive grant applications to design and conduct a study of the psychological consequences of families with missing and sexually exploited children. One research agency will be selected to conduct the study at three to five sites. Each site must have an established and fully operational missing children's program.

It is anticipated that this initiative will entail three years of funding and program activity at a total cost of $1,250,000. Up to $250,000 has been allocated for the first year of the initiative. Only one project will be funded.

The deadline for submission of applications is November 15, 1986. Notification of intent to apply is required by September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Catherine P. Sanders, Research and Program Development Division, NIJJDP, 633 Indiana Avenue NW., Room 782, Washington, DC 20531, Telephone (202) 724-5929.

SUPPLEMENTARY INFORMATION: Request for Proposals—Families of Missing Children: Psychological Consequences and Promising Interventions.

Table of Contents

I. Introduction and Background
II. Program Goal and Objectives
III. Research Strategy
IV. Major Responsibilities of the Successful Applicant
V. Eligibility Requirements
VI. Dollar Amount and Duration
VII. Minimum Program Application Requirements
VIII. Selection Procedures and Criteria
IX. Procedures and Deadline for Submission of Applications
X. Civil Rights Compliance
XI. Footnotes

I. Introduction and Background

This solicitation to conduct research on families with missing children is issued by the Research and Program Development Division (R&PDD) of the Office of Juvenile Justice and

Delinquency Prevention (OJJDP). The solicitation addresses the Missing Childern's Assistance Act which authorizes the OJJDP to "make grants to and enter into contracts with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed to increase knowledge of and develop effective treatment pertaining to the psychological consequences of: (1) The abduction of a child, both during the period of disappearance and after the child is recovered, and (2) the sexual exploitation of a missing child." (Title IV, Section 406(a)(4) (A) and (B)).

Pursuant to section 403(l) (A) and (B) of the Missing Children Assistance Act, the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individuals' legal custodian if: (1) The circumstances surrounding such individual's disappearances indicate that such individual may possibly have been removed by another from control of such individual's legal custodian without such custodian's consent; or (2) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited.

The Office of Juvenile Justice and Delinquency Prevention hereby invites applications for a program of research on Families of Missing Children: Psychological Consequences and Promising Interventions. To understand the program's goal, objectives, and strategy, it is necessary to examine the scope of the problem.

Concern for the number of reported cases of missing children, (e.g., family abductions, nonfamily abductions, runaways and throwaways), has raised the public's demand for increased knowledge and development of effective treatment for the adverse psychological consequences of abduction and sexual exploitation. The subject is a complex one to address because very little empirical research has been conducted in the area. Even where data are available, the task of interpretation is difficult given the multiple levels of victimization and differences according to age and sex of the missing and sexually exploited child. Reviews of the literature on this topic suggest that missing, sexually exploited children and their families can be psychologically scarred and suffer emotional distress for life.

A variety of issues needs to be studied to determine how the experience of missing children affects, over time, the lives of victimized children and their families. These issues range from the time of first report of missing and to whom reported; to the types and amount of support/treatment services that are available to families of missing children; to the kinds of long-term follow-up services available; to the kinds of psychological and physical care available to families of recovered and non-recovered children. Limited documentation is currently available regarding the actual operations of local missing children's programs and their delivery of promising interventions.

A significant percentage of missing children are missing as a result of family or parental abductions, commonly called "snatchings."(*1*) The motivation behind child snatching may range from a genuine concern for the child, to revenge directed against the legal guardian. However, the child is almost always the victim. These children may be used as psychological weapons against the custodial parent or relative.

Little is known about the specific psychological effects of sexual abuse in conjunction with a parental kidnapping. Data are available on the effects of parental kidnapping itself, but the data make no special reference to the situation of sexually abused, kidnapped children. It is believed that not many of these children are sexually abused. If sexual abuse did occur, we would expect these children to experience many of the same effects as other sexual abuse victims with the added burden of coping with the impact of potental abduction.(*2*) Agopian, in a 1984 study, provided data on the effects of parental kidnapping by itself.(*3*) Common reactions among all victims were fear, worrying and agony. Reactions among the children depended on the age of the child, the length of abduction, and the treatment experienced while suppressed. Short-term abductees experienced nightmares, fear of strangers and fear of a second abduction. Long-term abductees tended to develop an affection for and identification with the abducting parent. Other symptoms included secrecy, frequent lying, and difficulty interacting with other children. Younger children experience a particular difficultly after their abductions because many do not remember the custodial parent upon return.(*4*) More research is needed with larger samples to reveal other similarities and dissimilarities in reactions to this form of abduction, and to identify responses that can alleviate these symptoms.

The group of missing children who are the object of the most public concern are those abducted by nonfamily persons or strangers. Virtually nothing is known about the impact of sexual exploitation among stranger abducted children. It is assumed by the public and by many authorities that stranger abductions occur primarily for purposes of sexual abuse;(*5*) or are committed by emotionally disturbed individuals, pedophiles, serial murderers, or those who want to sell abducted children on the black market.(*6*) However, these assumptions have not been empirically substantiated.

In a series of research products, Terr(*7*) chronicled the short- and long-term effects of stranger abductions on a group of school aged kidnapped victims. Terr's research, which was conducted over a four year period, uncovered symptoms characteristic of a post traumatic stress syndrome. The trauma experienced by these children was purely psychological with no concomitant serious physical injury to the children. All children showed some post traumatic stress with many symptoms still present four years after the kidnapping. From this research, it would seem that stranger abduction alone produces long-lasing effects on its victims. Children sexually abused during such abductions undoubtedlys suffer these kinds of effects as well.

Perhaps the kind of situation experienced by sexually expolited, stranger abducted children is best approximated by the experiece of children involved in extrafamilial sex rings. Few investigations have focused on the impact of involvement in sex rings and pornography on children. Burgess et al., (1984)(*8*) in a study of 62 child and adolescent vicitims involved in sex rings and pornography, reported the children displayed the same symptoms of post traumatic stress response. These responses included reexperiencing the events through intrusive thoughts and flashbacks; diminished responsiveness to others and the environment; lack of trust in people; withdrawal, acting out, periods of autonomic arousal, especially hyperalertness; and internal tension such as somatic compliants, bed-wetting and general malaise.

Research needs to be done to determine whether sexual abuse was part of the motivation for the abduction, whether any sexual acts were carried out in the course of the abduction and the psychological effects of different abduction experiences.

The bulk of research attention in the area of sexual exploitation and missing children has been on the runaway youth. Throwaway/push-out children have typically been seen as a sub-type of runaway children and will be treated as such for the purpose of this study. Findings from previous research indicate

VOL 51 ISS 153 AG 8 1986 UMI

that runaway suffer numerous harms while away from home including prostitution, involvement in pornography, coercive sexual abuse, robbery, burglary, drug use and general victimization such as assult. Of these, prostitution is the main type of sexual exploitation involving runaways.(*9*)

Browne and Finkelhor,(*10*) in a 1985 review article chronicled the short- and long-term effects of female child sexual victimization. According to these authors, initial effects included fear, anxiety, depression, anger, hostility, aggression and sexually inappropriate behavior. Long-term effects included depression and self-destructive behavior, anxiety, feelings of isolation and stigma, poor self esteem, difficulty, in trusting others, a tendency toward revictimization, substance abuse and sexual maladjustment. The Brown and Finkelhor profile of the more seriously victimized female is almost synonymous with the profile of the juvenile female prostitute. Without much specific knowledge, we can only speculate on how these traumatic events impact, over time, the subsequent lives of runaway children.

The U.S. Congress took important steps to address this problem by passing the Missing Children Act in 1982 (Pub. L. 97–292, 96 Stat. 1259, 28 U.S.C. sections 1 note, 534) and, in 1984, the Missing Children's Assistance Act, Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. In June 1984, the National Center for Missing and Exploited Children (NCMEC) was established as part of the Federal government's commitment to the issue of missing children. The NCMEC serves as a clearinghouse of information and assistance concerning missing children and the criminal and sexual exploitation of children.

To further support the Federal government's role in addressing the Missing Children issue, the Attorney General appointed nine members to a statutory Advisory Board on missing children. One of the purposes of the Board is to clarify the issue of missing and exploited children and recommend concrete action to alleviate the associated problems. This research program is specifically designed to inform and implement the Advisory Board's recommendations.

II. Program Goal and Objectives

A. Program goal

To increase our knowledge of and develop effective treatment alternatives pertaining to the psychological consequences for the parents, the missing child, and for other siblings during the period of disappearance and after the child is recovered; including the consequences of any abuse or sexual exploitation a missing child may have experienced.

B. Major Objectives

1. To describe the dynamics and psychological consequences of abduction of a child for both the family and the child.
2. To determine high risk factors for sexual exploitation among missing children.
3. To determine what factors in the missing experience seem to make a difference in terms of ameliorating short and long-term consequences.
4. To identify and document promising treatment alternatives for families of missing children.

III. Research Strategy

The target population for this research includes all categories of missing children, which encompass parental abductions, stranger abductions, runaways, and throwaways/pushouts. The research program is designed to identify effective treatment strategies for ameliorating the adverse psychological consequences of abduction and sexual exploitation.

One award will be made to a research agency to conduct the study at three to five sites. Applicant organizations will apply directly for the grant award and may choose to provide limited support through contracts to the sites to cover on-site costs critical for conducting the research. This would include costs for the research psychologist, training and travel for key field staff and volunteers, and other costs associated with data collection. No funds are to be used to supplement existing services.

Each participating site must be an operational missing children's program (List of Missing Children's Programs available upon request) which has instituted a sufficient case flow, a referral mechanism, and intervention services. Sufficient caseflow should be defined in terms of the proposed research questions, and should determine, in part, the analysis plan. The program will require a collaborative effort at each site between the researcher and the missing children's program. The researcher, in conjunction with the sites, must document that the program has established continuing contact with clients so that the psychological consequences can be assessed throughout the missing child experience.

The applicant must secure cooperation and provide written verification from the program sites that each is willing and ready to participate in the study. There are no restrictions on missing children's programs agreeing to collaborate with more than one research organization during this application process, as only one applicant will be selected to conduct this study. Because a principal focus of this research initiative is to provide for intensive assessment of parental and nonfamily abductions it is necessary to carefully select study sites which operate in jurisdictions with sufficient prevalence of this phenomenon to answer the research questions.

Each site must employ a full time research psychologist with psychometric, counseling, and crisis intervention skills to assess the psychological characteristics of the families at various stages. The psychologists must assist the research organization in developing and refining the research design and data collection instruments, sensitizing the design to individual sites, and documenting the services provided to the study sample. The research psychologists would also train and supervise those program staff/volunteers involved in data collection. These planning activities should take place during the first six to nine months of the study.

Data collection should begin with the first contact made by the parents/guardians to the center. At this point, the police may have already been contacted, and the initial search for the child may have begun. The missing children's program immediately begins to assist the parents with whatever services are needed at this time. These might include: notification of proper authorities and the national, state and local missing children's networks; assistance with media/public service announcements; assistance with law enforcement interviews; and development of a strategy for reducing stress to the family. Retrospective data from the pre-missing period should also be collected during this period. This inquiry should focus on both positive and negative family experiences prior to the child becoming missing.

During the period of nonrecovery, the study should document the level and nature of psychological services provided to both parents and siblings and the manner in which the services were provided. During the period when the child is recovered, data should be gathered on the mental health and medical services provided to the family. For those recovered children who must enter the judicial system, data should be gathered on the program's services to

lessen the continued stress to the child and family.

Throughout the course of program contacts, the research psychologists and trained staff/volunteers will document the various interventions and assess psychological consequences for the child and family. The researcher should attempt to adopt a core set of measures across sites to allow for comparisons and the development of a larger aggregate data base. Issues that might be examined include:

1. What did the child experience while missing? In the case of abduction, how did the abductor successfully manipulate the child's continued separation from his/her family? Was the child abused or sexually exploited?

2. What are the psychological consequences for the abducted child, and how do they affect the child's ability to return home to his/her family?

3. How does the recovered child and family cope with judicial system involvement, and reintegration into the school church and community?

4. What capabilities does a family need to cope with a long-term missing child, the recovery of a missing child, the determination of death, nonrecovery of the child, or the disclosure of the sexual exploitation?

5. Are there specific support services needed by the family at critical stages during the time the child is missing and after recovery?

6. What are the psychological consequences of those children and families who receive varying levels and types of intervention?

7. Were family life stress indicators (e.g., alcohol or drug abuse, unemployment, separation or divorce) present, and did these increase the child's vulnerability for becoming missing?

Given the sensitive and traumatic nature of the problem being investigated, the study population should have access to appropriate services. Therefore, the primary sample should be exclusively comprised of those families who make contact with or are referred to the missing children's program. (It is recognized that families of known pushouts and throwaways are less likely to contact a center for help). Applicants are encouraged to explore the possibility of establishing appropriate comparison or control groups to define more clearly the psychological consquences and treatment needs of the missing children and their families.

IV. Major Responsibilities of the Successful Applicant

The research organization in conjunction with the targeted sites selected to conduct this research project will be responsible for all aspects of the project design, implementation, and product development.

A. Activities and Functions—Year I

The initial award will support the first year of project activities. These will include the following:

1. Conduct of planning activities.
2. Completion of a refined and detailed research design.
3. Development of a comprehensive workplan for the implementation of refined design.
4. Selection of or development and pretesting of data collection instruments.
5. Ensuring full access to all study data sources.
6. Development of a detailed plan for confidentiality of data.
7. Initiation of study sample and production of baseline data on client characteristics and services provided.
8. Documentation of each center's services for the purpose of constructing client-based instruments.
9. Provision of technical assistance and training for data collection.

B. Activities and Functions—Year II

1. Continue implementation of the research design.
2. Preliminary analysis of data and provision of feedback to program sites.
3. Ongoing assessment of the validity and reliability of measurement techniques and instruments.
4. Communication of findings through the production of interim reports and issue papers.
5. Coordination and data sharing among sites involved in the program.

C. Activities and Functions—Year III

1. Follow-up data collection on psychological impact of the total experience.
2. Conduct of data analysis and interpretation of results.
3. Continued coordination and data sharing among sites involved in this program.
4. Communication of findings through the production of issues papers (e.g., policies and practices necessary for future research and program development), final reports, technical assistance and training manuals. Emphasis should be placed on developing products suitable for widespread publication and dissemination.

The researcher should plan to produce documents which clearly convey significant findings and practical applications for policymakers, practitioners, and other researchers throughout the study period.

V. Eligibility Criteria

Eligible applicants include public or private nonprofit research organizations or combinations thereof. The applicant must have prior experience in the design, conduct and implementation of research, and in the development, maintenance and analysis of data bases involving assessment of psychological functioning.

Applicants may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the primary applicant and any co-applicants are designated as such. The applicant and any co-applicants must have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Dollar Amount and Duration

Up to $250,000 has been allocated for the initial 12-month award to one organization competitively selected under this initiative. It is anticipated that this initiative will entail three years of research activities (i.e., a three year project period). The initial award will provide support for year I activities. Up to $500,000 will be allocated for each of the second and third 12-month budget periods.

Funding of each noncompeting continuation grant, i.e., each of the two additional 12 month budget periods, within the approved three year project period may be withheld for justifiable reasons. They include: (1) There is no continued need for further research; (2) the grantee is delinquent in submitting required reports; (3) adequate grantor agency funds are not available to support the project; (4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; (5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; (6) outstanding audit exceptions have not been cleared; and (7) any other reason which would indicate that continued funding would not be in the best interests of the Government.

VOL
51
ISS
153
AG
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VII. Minimum Program Application Requirements

All applicants must submit a completed Application for Federal Assistance (Standard Form 424), including a program narrative, a detailed budget and a budget narrative. The program narrative shall not exceed 75 double-spaced pages in length.

In submitting joint applications, the relationships among the parties must be set forth in the application. As a general rule, research organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered as co-applicants. Those research organizations which are primarily procuring services or products from another organization would not be considered as co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicant. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicant.

In addition to the requirements specified in the instructions for preparation of Standard Form 424, the following information must be included in the application:

A. A review of the literature relevant to the psychological consequences of missing and sexually exploited children. Discuss promising approaches for improvement of national policies and practices.

B. A problem statement which clearly documents the nature and extent of the problems of families with missing and exploited children in the selected jurisdictions. Provide a brief description of the services and treatment alternatives provided by each program.

1. Identify the criteria utilized in the selection of study sites and provide data to justify those selections. Discuss each program's readiness and willingness to participate in the study.

2. Discuss the current process for providing services and treatment for the adverse psychological consequences of abduction and sexual exploitation in each of the targeted sites.

3. Provide statistics regarding actual number of cases handled annually by each missing children's program. Specify the number of cases utilizing the following categories: family abductions, nonfamily abductions, runaways, and sexually abused.

C. A succinct statement of your understanding of the goal and objectives of the program of research on Families of Missing Children: Psychological Consequences and Promising Interventions.

D. A complete discussion of the proposed research design and methodology including:

1. Delineation of the theoretical framework developed to specifically guide the identification and assessment of problems among the programs' client populations.

2. Presentation of your specific study's goals and objectives.

3. Description of the key research questions to be investigated.

4. Description of the proposed sample. Include a discussion of the expected refusal and attrition rates, and justification that the proposed sample size is adequate for the research questions to be addressed. Provide a discussion of plans to establish and maintain contact with the subjects so that the psychological consequences can be assessed throughout the missing child experience. Consider the feasibility of establishing appropriate comparison/control groups.

5. Description of key variables to be assessed, and the plans for development and pretesting of instruments.

6. Discussion of plans for data collection and statistical analysis.

7. Specification of data sources and inclusion of letters from cognizant agencies verifying data access.

8. A Privacy Certificate describing procedures to be followed to assure confidentiality of data in accordance with funding agency regulations, copies of which are available upon request.

9. Written verification from authorized officials, of all parties involved in this program (e.g., missing children's program, protective service, law enforcement), of their commitment to collaborate in the research program planning, and implementation. The missing children's program should verify that they understand the type of data they will be asked to provide.

E. A detailed workplan for Year I activities which includes identification of major milestones, designation of organizational responsibilites, and a schedule for completion of tasks and products. The nature and utility of products should be discussed. Also, include a preliminary workplan for completion of Year II and Year III activities.

F. A description of the project management structure which includes proposed staffing plans, brief position descriptions which delineate roles and responsibilities, description of relevant staff experience and expertise, and resumes of key project staff (include as an appendix to the application). The project director must devote a minimum of fifty percent (50%) of his/her time to this effort.

G. An organizational capability statement which describes relevant organizational experience and demonstrates that the applicant has the substantive and financial capability to effectively administer the research project.

H. A detailed budget for Year I program activities. The budget should also include funds for a three person advisory board to meet twice for two days during the first year.

I. An estimated budget of annual costs for conducting Year II and III activities through the conclusion of the project period.

J. If it is determined to be necessary for the research organization to provide financial support from the grant award to another organization to cover costs critical for research program implementation, the application must include: a statement of work for the proposed contract; and the procedures to be followed for competitive selection *or* a justification for noncompetitive award for these support services where a single contractor has the capability to provide specified services.

K. The applicant and collaborating missing children's centers must indicate a willingness to host an on-site visit by OJJDP staff and/or Peer Review Panel members to verify information provided in the application.

VIII. Selection Procedures and Criteria

All applications received in response to this solicitation will be reviewed in terms of their potential contribution to the state-of-the-art, the rigor and feasibility of the research design, and their innovativeness in responding to key issues in the implementation of the study. Applications will be evaluated by an external peer review panel according to the OJJDP Competition and Peer Review Policy, 29 CFR Part 34, Subpart B. Site visits may be conducted by peer review panelists and/or OJJDP staff to verify information provided by the applicant ranked as best qualified for further consideration.

Specifically, applications will be rated according to the following criteria and weights:

A. The problem to be addressed is clearly stated including evidence of knowledge of related literature and justification for site selection (refer to Section VII A, B)	15
B. An understanding of the goal and objectives of this research program is clearly articulated, including an assessment of the degree to which the proposed project would further these objectives (refer to Section VII, C, D. 2)	10
C. The research design and methodology is sound and contains program elements directly linked to the achievement of project objectives (refer to Section VII D)	35
D. The workplan is adequate, clear and feasible and will support the development of useful products (refer to Section VII E)	10
E. The project management structure is adequate to successfully conduct the project (refer to Section VII F)	15
F. Organizational capability is demonstrated at a level sufficient to successfully support the project (refer to Section VII G)	5
G. Budget costs are reasonable, complete and appropriate in comparison to the activities proposed to be undertaken (refer to Section VII, H, I, J)	10

The application receiving the highest total score on the above criteria will be recommended for funding consideration to the Administrator, OJJDP. In addition to the scores based upon the above weighted criteria, the final selection process will also include consideration of diversity of the study population and sensitivity to measurement issues to be studied. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary reviews, will assist the Administrator's consideration of competing applications and selection of the application for funding. The final award decision will be made by the OJJDP Administrator. Pursuant to section 406 (b) and (c), in considering grant applications under this title, the Administrator shall give priority to applicants who have demonstrated or demonstrate ability in: locating missing children or locating and reuniting missing children with their legal custodians; providing other services to missing children or their families; or conducting research relating to missing children; and which utilize volunteer assistance in providing services to missing children and their families. The Administrator shall give first priority to applicants qualifying with demonstrated ability in locating and reuniting children with their legal custodians and providing other services to missing children or their families.

Furthermore, in order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

IX. Procedures and Deadlines for Submission of Applications

A. Applicants which plan to respond to this announcement are requested to submit written notification of their intent to apply to NIJJDP/OJJDP by September 30, 1986. Such notification should specify: the name of the applicant organization, mailing address, telephone number, and primary contact person.

B. Applicants must submit the original signed application and three copies to NIJJDP/OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

C. The deadline for submission of applications is *November 15, 1986*. All applications must be postmarked by the U.S. Postal Service or hand delivered on or before November 15, 1986. Hand delivered applications must be taken to the NIJJDP/OJJDP between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

D. The mailing address for all correspondence (e.g., applications, notification of intent to apply, requests for forms) related to this program announcement is as follows: Catherine P. Sanders, NIJJDP/OJJDP, U.S. Department of Justice, 633 Indiana Avenue NW., Room 782, Washington, DC 20531.

X. Civil Rights Compliance

A. All recipients of OJJDP assistance must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended; Title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 32, Subparts, C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, natural origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (CRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request, timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s) such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any grant award.

XI. Footnotes

(1) "Child Sexual Abuse and Exploitation and the Particular Vulnerability of Runaway and Abducted Children—Kentucky's Response to a Growing National Tragedy," *Final Report of the Kentucky Task Force on Exploited and Missing Children*, (September, 1983).

(2) G.T. Hotaling and D. Finkelhor, *The Sexual Exploitation of Missing Children: A Research Review*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (Washington, DC, October, 1985).

(3) M. Agopian, "The Impact on Children of Abduction by Parents," Child Welfare, 63(6): 511–519, (1984).

(4) G.T. Hotaling and D. Finkelhor, *The Sexual Exploitation of Missing Children: A Research Review*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (Washington, DC, October, 1985).

(5) Ibid.

(6) U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *America's Missing and Exploited Children: Their Safety and Their Future*, report prepared by the Attorney General's Advisory Board on Missing Children, (Washington, DC, March, 1986).

(7) L. Terr, "Children of Chowchilla: A Study of Psychic Trauma," (1979); "Psychic Trauma in Children: Observations Following the Chowchilla School-bus Kidnapping," *American Journal of Psychiatry*, 138(1), pp. 144–19, (1981); "Chowchilla Revisited: The Effects of Psychic Trauma Four Years After a Schoolbus Kidnapping," *American Journal of Psychiatry*, 140(12), pp. 1543–1550, (1983); and "Time Sense Following Psychic Trauma: A Clinical Study of Ten Adults and Twenty

Children," *American Journal of Orthopsychiatry* 53(2); pp. 244–260. (1983).

(8) A.W. Burgess, C.R. Hartman, et al., "The Impact of Child Pornography and Sex Rings on Child Victims and Their Families," In A.W. Burgess, (Ed.) *Child Pornography and Sex Rings*, Lexington, MA: Lexington Books, (1984).

(9) G.T. Hotaling and D. Finkelhor, *The Sexual Exploitation of Missing Children: A Research Review*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (Washington, DC, October, 1985).

(10) A. Browne and D. Finkelhor, *The Import of Child Sexual Abuse: A Review of the Research*, Psychological Bulletin (in press), 1986.

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 86–17937 Filed 8–7–86; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: 1986 Adverse Effect Wage Rates; Correction

AGENCY: Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates for 1986; correction.

SUMMARY: This notice corrects the notice of 1986 adverse effect wage rates published by the U.S. Employment Service in the **Federal Register** at 51 FR 25409 on July 14, 1986 (FR Doc. 86–15722). In the third sentence of the third full paragraph in the first column on page 25410, the words "last year's" are corrected to read "the 1981". All other language in the notice remains unchanged.

Signed in Washington, DC, this 5th day of August, 1986.

Robert A. Schaerfl,

Director, U.S. Employment Service.

[FR Doc. 86–17903 Filed 8–7–86; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed n 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW, Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number (s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT86–1 (Jan. 3, 1986) ..... pp. 67–68
District of Columbia:
DC86–1 (Jan. 3, 1986) ..... p. 80 pp. 87–88
Pennsylvania:
PA86–4 (Jan. 3, 1986) ..... pp. 821–827, pp. 827a–827b
Pennsylvania:
PA86–5 (Jan. 3, 1986) ..... p. 830
Pennsylvania:
PA86–10 (Jan. 3, 1986) ..... p. 880
Pennsylvania:
PA86–12 (Jan. 3, 1986) ..... pp. 887–888
Pennsylvania:
PA86–14 (Jan. 3, 1986) ..... p. 894
Virginia:
VA86–5 (Jan. 3, 1986)..... p. 1065

Volume II

Iowa:
IA86–1 (Jan. 3, 1986) ..... pp. 24, 26
Iowa:
IA86–2 (Jan. 3, 1986) ..... pp. 29, 31
Iowa:
IA86–3 (Jan. 3, 1986) ..... p. 35
Illinois:
IL86–5 (Jan. 3, 1986) ..... pp. 116, 119
Illinois:
IL86–8 (Jan. 3, 1986) ..... p. 131
Illinois:
IL86–11 (Jan. 3, 1986) ..... p. 146
Kansas:
KS86–8 (Jan. 3, 1986)..... pp. 335–337

Kansas:
KS86-9 (Jan. 3, 1986)..... p. 342
Missouri:
MO86-8 (Jan. 3, 1986)..... p.595
Nebraska:
NE86-1 (Jan. 3, 1986)..... p. 618
Nebraska:
NE86-3 (Jan. 3, 1986)..... p. 624
Texas:
TX86-1 (Jan. 3, 1986)..... pp. 841-842
Texas:
TX86-9 (Jan. 3, 1986)..... p. 868
Texas:
TX86-12 (Jan. 3, 1986)..... p. 876
Texas:
TX86-16 (Jan. 3, 1986)..... p. 887
Wisconsin:
WI86-4 (Jan. 3, 1986)..... p. 956
Wisconsin:
WI86-14 (Jan. 3, 1986)..... p. 1008
Wisconsin:
WI86-15 (Jan. 3, 1986)..... p. 1011
Listing by Location (index).. p. xxi
Volume III
California:
CA86-2 (Jan. 3, 1986)..... pp. 45-59
Montana:
MT86-1 (Jan. 3, 1986)..... p. 152 pp. 155-161

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed At Washington, DC, this 1st Day of August 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-17866 Filed 8-7-86; 8:45 am]

BILLING CODE 4510-27-M

LEGAL SERVICES CORPORATION

Grant Awards for Expansion and Development of Law School Civil Clinical Programs

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant awards.

SUMMARY: The Legal Services Corporation (LSC) announces the award of grants for the expansion and development of Law School Civil Clinical programs to assist LSC-eligible clients with their civil legal cases. Pursuant to the Corporation's announcement of funding availability in Volume 51, No. 110, page 20901 of the **Federal Register** of June 9, 1986, a total of $618,532.00 will be awarded to the following 15 schools:

Name of school	Amount
Brooklyn Law School, Brooklyn, New York	$50,000.00
Capital University, Columbus, Ohio	13,250.00
Gonzaga University, Spokane, Washington	50,000.00
Lewis and Clark College, Northwestern School of Law, Portland, Oregon	25,300.00
Southern Methodist University, Dallas, Texas	50,000.00
Stanford University, Stanford, California	50,000.00
State University of New York at Buffalo, Buffalo, New York	48,945.00
Thomas M. Cooley Law School, Lansing, Michigan	32,385.00
University of Chicago, Chicago, Illinois	50,000.00
University of North Dakota, Grand Forks, North Dakota	29,880.00
University of Notre Dame, Notre Dame, Indiana	49,172.00
University of the Pacific, McGeorge School of Law, Sacramento, California	50,000.00
University of Utah, Salt Lake City, Utah	45,400.00
Valparaiso University, Valparaiso, Indiana	24,200.00
Yeshiva University Benjamin N. Cardozo School of Law, New York, New York	50,000.00

Each grant will be for a term of twelve (12) months for each grantee. In order to stimulate the training and recruitment of skilled law students, all grants will be awarded pursuant to sections 1006(a)(1)(B) and 1006(a)(3)(A) of the Legal Services Corporation Act of 1974, as amended. This public notice is issued pursuant to section 1007(f) of this Act, with a request for comments and recommendations for a period of thirty (30) days from date of publication of this notice. Grant awards will not become effective and grant funds will not be distributed prior to expiration of this thirty-day period.

DATE: All comments and recommendations must be received by the Program Development and Substantive Support Division of the Legal Services Corporation within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Charles T. Moses, III, Legal Services Corporation, Program Development and Substantive Support Division, 400 Virginia Avenue SW., Washington, DC 20024-2751, (202) 863-1837.

SUPPLEMENTARY INFORMATION: The purpose of this program is to increase the pool of high caliber, well-trained students who would be interested in working for local legal services offices, and in improving and augmenting existing LSC grantees' current level of service delivery. These clinics will encourage future lawyers to become interested in the provision of legal services to poor persons, acting either as legal aid attorneys or through pro bono or reduced fee efforts as members of the private bar. By helping to develop law school clinics, the Corporation would thereby also educate and sensitize law students to the problems of poor persons. Through this program, a "recruitment bank" of experienced attorneys would develop for placement in legal services offices throughout the nation upon graduation. Another goal of the project is to increase the cooperation between established law schools and all segments of the legal community.

This grant is designed to provide monetary assistance for expansion and development of law school clinical programs which address the civil legal needs of low-income persons. This expansion could include increasing the number of supervising attorneys and participating students, developing new areas of clinical coverage, providing legal services to LSC-eligible clients who are not otherwise receiving legal assistance, developing projects which provide services to underserved segments of the population.

James H. Wentzel,

President, Legal Services Corporation.

[FR Doc. 86-17896 Filed 8-7-86; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities Under OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9421

OMB Desk Officer: Carlos Tellez, (202) 395-7340

Title: Survey of Applicants for NSF Research Grants

Affected Public: Individuals

Number of Responses: 14,000 responses; total of 7,000 hours.

Abstract: NSF decisions to support or decline proposed research projects

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are based in part on advice of expert reviewers. Survey would gather views of classes of applicants (e.g., women, new researchers, from smaller institutions, etc.) about their interaction with NSF and some related management/funding issues. Only prior survey, ten years ago, led to important changes in review process.

Dated: August 4, 1986.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 86-17855 Filed 8-7-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ocean Sciences Research.

Date and time: August 23-29, 1986, 8:30 a.m.-6:00 p.m.

Place: Rooms 523, 628, 1242, and 1243, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Michael R. Reeve, Acting Head, Ocean Sciences Research Section, Room 611, National Science Foundation, Washington, DC 20550, telephone (202) 357-7924.

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 55b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

August 4, 1986.

[FR Doc. 86-17856 Filed 8-7-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Application for Licenses to Export and Import Nuclear Facilities or Materials; Correction

In **Federal Register** Docket 86-16768 appearing on page 26783 in the issue of Friday, July 25, 1986, make the following correction to the table "NRC Export Applications". In the fourth column "Material in Kilograms"; Total isotope reading "'245.773" should have read "205.773."

Dated in Bethesda, Maryland, this 1st day of August 1986.

For the Nuclear Regulatory Commission.

John Philips,

Acting Director, Division of Rules and Records, Office of Administration.

[FR Doc. 86-17914 Filed 8-7-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Nuclear Plant Chemistry; Meeting

The ACRS Subcommittee on Nuclear Plant Chemistry will hold a meeting on August 26, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, August 26, 1986-8:30 a.m. until the conclusion of business

The Subcommittee will discuss various topics relevant to plant chemistry, i.e., NaOH in containment spray, suppression pool scrubbing, H2 water chemistry, etc.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statement will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and question may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this subject.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 5, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-17916 Filed 8-7-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on August 27, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, August 27, 1986—8:30 A.M. until the conclusion of business

The Subcommittee will continue its review of the RES-proposed revision to the ECCS Rule (10 CFR 50.46 and Appendix K).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

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The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 5, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-17915 Filed 8-7-86; 8:45 am]

BILLING CODE 7590-01-M

Availability of Draft Generic Technical Position on Items and Activities in the High-Level Waste Geologic Repository Program Subject to 10 CFR Part 60 Quality Assurance Requirements

Correction

In FR Doc. 86-17276 appearing on page 27477 in the issue of Thursday, July 31, 1986, make the following corrections:

1. In the second column, fourth line from the bottom, "the" should read "The".

2. In the third column, fifth line from the top, insert "rule" at the end of the line.

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

August 4, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Harley Davidson, Inc.
Common Stock, $0.01 Par Value (File No. 7-9107)

Robert Halmi, Inc.
Common Stock, $0.01 Par Value (File No. 7-9108)

Collin Foods, Inc.
Warrants (File No. 7-9109)

American Express Company
Warrants (File No. 7-9110)

Scandinavi Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-9111)

FGIC Corporation
Common Stock, $1.00 Par Value (File No. 7-9112)

Bernard Chaus, Inc.
Common Stock, $0.01 Par Value (File No. 7-9113)

Decision/Capital Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-9114)

Toll Brother, Inc.
Common Stock, $.01 Par Value (File No. 7-9115)

Hannaford Brothers, Company
Common Stock, $0.75 Par Value (File No. 7-9116)

Pennwalt Corporation
$2.50 Cumulative Convertible Preferred Stock,
$0.01 Par Value (File No. 7-9117)

Pennwalt Corporation
$1.60 Cumulative Convertible, 2nd Preferred Stock,
Par Value $1.00 (File No. 7-9118)

Stone Containers Corporation
$3.50 Cumulative Convertible, Exchangeable Preferred Stock, No Par Value (File No. 7-9119)

Safeway Stores Incorporated
Common Stock Rights (File No. 7-9120)

Snyder Oil Partners (Delaware)
Units of Limited Partnership Interest (File No. 7-9121)

Marantz Company, Inc. (Delaware)
Common Stock, $1.00 Par Value (File No. 7-9122)

ACI Holding, Inc.
Common Stock, $1.00 Par Value (File No. 7-9123)

ACI Holding, Inc.
$1.20 Convertible, Exchangeable, Preferred Stock,
$1.00 Par Value (File No. 7-9124)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 23, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17928 Filed 8-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23488; File No. SR-NSCC-86-07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval to a Proposed Rule Change

On June 4, 1986, The National Securities Clearing Corporation ("NSCC") submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") concerning the Automated Customer Account Transfer Service ("ACATS"). NSCC requested accelerated approval of the proposal. The Commission published notice of the proposal in the **Federal Register** on July 11, 1986, to solicit public comment.[1] No comment letters were received. This Order approves the proposal on an accelerated basis.

I. Description of the Proposal

The proposed rule change would modify NSCC Rule 50 [2] to alter NSCC's

[1] Securities Exchange Act Release No. 23401 (July 7, 1986), 51 FR 25280 (July 11, 1986).

[2] The Commission approved NSCC Rule 50 in Securities Exchange Act Release No. 22481 (September 30, 1985), 50 FR 41274 (October 9, 1985) (File No. SR-NCSS-85-07). NSCC Rule 50 imposes on NSCC members specific, uniform transfer procedures that for the first time automate the customer account transfer process. Generally, the Rule provides that an NSCC member of whom a customer's securities account is to be transferred ("Receiving Member") may initiate the transfer by filing with NSCC a Transfer Initiation Request ("TIR"). NSCC makes the TIR available to the NSCC member who carries the customer account ("Carrying Member"). Within time frames established by the appropriate Designated Examining Authority ("DEA") (*e.g.*, the New York Stock Exchange, Inc. ("NYSE")), the Delivering Member must accept or reject the request by forwarding the appropriate form to NSCC. NSCC then forwards this information to the Receiving Member who must accept, request an adjustment to, or reject the account transfer, again within the time frame established by the DEA. If the Receiving Member accepts (*i.e.*, validates) the transfer instructions, or does nothing, NSCC will enter all items in that account into its automated accounting

Continued

guarantee of ACATS deliveries in certain circumstances. Section 10 of Rule 50 provides that when a Receiving Member accepts a customer account transfer, NSCC enters all continuous net settlement ("CNS")-eligible items [2] in that account into its CNS accounting operation as of the third business day after trade date ("T+3"), unless the Receiving Member notifies NSCC otherwise. Normally, once the positions are netted, NSCC becomes the *contra* party representing the opposite side and, in effect, guarantees the other side's performance.

NSCC's proposal would adjust NSCC's CNS settlement guarantee for ACATS transfers to eliminate NSCC's guarantee to ACATS Receiving Members if the Delivering Member fails-to-deliver and fails to pay any portion of its money settlement obligation to NSCC on settlement day (T+5). Thus, the proposal would authorize NSCC, if it so determines, to eliminate the member's open CNS ACAT deliver obligations from the CNS accounting operation and reverse related credits of the Receiving Member.[4] If NSCC so determines, the ACATS item is exited from NSCC and the parties to the transaction must settle the transaction, it at all, outside NSCC.[5] NSCC will continue to guarantee settlement of ACATS CNS-processed transfers, but only if the Delivering Member: (1) Satisfies its ACATS-related CNS securities delivery obligations on settlement day; or (2) pays its money settlement obligation due NSCC on settlement day, including marks-to-the-market due NSCC with respect to CNS ACATS fails.

II. NSCC's Rationale for the Proposal

NSCC believes the proposal is consistent with the purposes and requirements of section 17A of the Act because it would enable NSCC to safeguard securities and funds within its custody or control or for which it is responsible. NSCC states in its filing that, because Rule 50 affords ACATS CNS items the same guarantees as other CNS items, NSCC is exposed to considerable financial risk. Because ACATS items enter the CNS system at no value, when the position is marked on T+5, NSCC, as the guarantor and *contra* party, becomes liable to the Receiving Member for the entire value of the position if the Delivering Member fails to pay the "full value" mark. [6]

NSCC also believes that there is good cause for approving the proposed rule change on an accelerated basis. The NYSE and the national Association of Securities Dealers ("NASD") recently have mandated use of ACATS[7] and NSCC's risk has increased along with increased use of the service. NSCC believes that acceptance of this risk is no longer permissible.

III. Discussion

The Commission believes that the proposed rule change is consistent with section 17A of the Act and, therefore, is approving the proposed rule change. As discussed below, the Commission agrees with NSCC that the proposal will enable NSCC to safeguard securities and funds within its custody or control or for which it is responsible by eliminating the risk posed by guaranteeing all ACATS-CNS settlement obligations.

As discussed in Securities Exchange Act Release No. 23401,[8] the Commission acknowledges the critical differences between processing regular-way and ACATS CNS items. Unlike ordinary CNS items which enter CNS at contract value, ACATS CNS items enter CNS unvalued, reflecting their true nature as "free" transfers. To enable CNS use for ACATS, however, ACATS items need to be valued. Therefore, ACATS items like all CNS items, are marked-to-the-market on the morning of settlement day, *i.e.*, T+5. The ACATS items thus are marked to their full value as of the prior day's closing price. On the morning of settlement day, the Delivering Member's CNS projection report shows a short securities position and its CNS accounting summary shows a cash debit for the "full value" mark. Conversely, the Receiving Member's projection report shows a long securities position and the summary shows a cash credit for the mark. If the Delivering Member fulfills his ACATS delivery obligation on T+5, the Delivering Member's short position is cancelled and the money debit for the mark is offset by a credit. At the same time, the Receiving Member's long position is offset and the money credit is debited, wiping out the mark. The result is a "free" transfer of securities; no money is paid by either the Delivering or Receiving Member.

The Commission recognizes that under NSCC Rule 50 in its current form, NSCC may be at risk for the full market value of the ACATS position. If the

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systems. Settlement of ACATS items generally occurs two business days later. *See also* NYSE Rule 412, approved by the Commission in Securities Exchange Act Release No. 22883 (November 26, 1985), 50 FR 49538 (December 3, 1985); and Securities Exchange Act Release No. 22941 (February 24, 1986), 51 FR 7170 (February 28, 1986) and Securities Exchange Act Release No 22948 (January 25, 1986), 51 FR 7870 (March 6, 1986), approving similar rules of the National Association of Securities Dealers, Inc. ("NASD") and the Municipal Securities Rulemaking Board ("MSRB").

[2] NSCC's CNS system summarizes and nets together each member's daily transactions in each issue with any previous open positions to create a single net long or short position.

[4] To eliminate the ACATS delivery obligation for CNS and to reverse related debits and credits, NSCC must unwind the neeting process. NSCC's CNS system now tracks separately every ACATS item and the identities of the original Receiving and Delivering Members throughout the settlement process, even if the netting process causes one or both to "net out." ACATS CNS reversals will work like this: Broker A, the Receiving Member, has requested Broker B, the Delivering Member, via ACATS, to deliver 100 shares of IMB. Assuming no problems, that transfer flows into CNS as of T+3. The obligations are netted. On the morning of T+5, settlement day, Broker B has a total CNS IBM delivery obligation to NSCC for 200 shares, 100 relating to the ACATS item and 100 relating to other CNS activity. Broker B, however, fails-to-deliver 100 shares; the other 100 shares are allocated by NSCC for delivery to Broker C. Broker B also fails to pay to NSCC its mark-to-the-market on the failed delivery (or any portion of its net money settlement payment obligation for that day).

In the meantime, the CNS system allocates 100 shares of IBM for delivery to Broker A, the Receiving Member. NSCC, in this situtation, can take following action. First, the 100 share delivery from Broker B to Broker C, a "regular-way" CNS delivery, will be guaranteed by NSCC. Second, NSCC will identify all ACATS Receiving Members that were due to receive IBM from Broker B, the Delivering Member, before the netting occurred. NSCC will discover Broker A. NSCC also will see that Broker A was allocated 100 shares of IBM. Third, NSCC will reverse that CNS delivery to Broker A and reallocate it to another NSCC Member with a net long CNS IBM position. Broker A and Broker B can settle this customer transfer item outside NSCC. Moreover, all preliminary CNS money debits and credits relating to the ACATS item are reversed by NSCC.

[5] NSCC does not guarantee account transfers relating to non-CNS eligible items and CNS items that are specified to be delivered ex-CNS. For those items, NSCC produces automated customer account receive and deliver orders. These receive and deliver orders contain customer account information and direct the appropriate NSCC members to settle the transaction. On settlement day, NSCC credits and debits the appropriate members' settlement accounts for the value of the items indicated on the receive and deliver orders, but actual delivery and money settlement are the responsibility of the Receiving and Delivering Members.

[6] "Regular-way" CNS transactions are entered into the system at their contract value and NSCC collects marks-to-the-market on fails-to-deliver equal to the difference between the fail's contract value and market price as of the market close on the previous business day. Thus, regular-way CNS marks necessarily are for much smaller amounts than CNS ACATS-related "full value" marks. Moreover, because ordinary CNS deliveries are for value, NSCC can expect a CNS receiver to pay NSCC for delivered securities. This payment from the receiver, together with the mark-to-the market payment from the deliverer respecting the fail, in all likelihood should offset almost all of NSCC's market risks.

[7] *See* Securities Exchange Act Release Nos. 22883 (November 26, 1985), 50 FR 49636 (December 3, 1985) and 22941 (February 24, 1986), 51 FR 7170 (February 28, 1986).

[8] (July 7, 1986), 51 FR 25280 (July 11, 1986).

Delivering Member fails-to-deliver but pays the "full value" mark, NSCC still will be able to perform its obligations to the *contra* party by buying-in or borrowing the securities. On the other hand, if the Delivering Member fails to deliver and fails to pay the "full value" mark, NSCC, as the *contra* party and guarantor, still must deliver the securities to the Receiving Member. Yet, because the Delivering Member has failed to pay the mark, NSCC has received no funds to cover NSCC's payment obligation on T+5 and the delivery obligation associated with the ACATS CNS item. Moreover, even if NSCC bought-in or borrowed securities for delivery to the Receiving Member, NSCC could not expect to be paid by the Receiving Member; the accounting entries just would "wash."

In light of NSCC's financial risk, the Commission agrees with NSCC that it is appropriate to adjust its CNS settlement guarantee for ACATS Receiving Members if the Delivering Member fails-to-deliver and fails to pay any portion of the entire money settlement obligation on settlement day. The Commission recognizes the important function ACATS serves in promoting the prompt and accurate transfer of customer accounts and believes that NSCC, and consequently its clearing community, should not be exposed to increased financial risk from its ACATS-related activity. Furthermore, to the extent an ACATS transfer is not processed because of a Delivering Member's default on settlement date, customers of the defaulting member who had sought the ACATS transfer would continue to be protected up to the amount of coverage provided under the Securities Investor Protection Act of 1970.[9]

Finally, the Commission finds good cause to approve the proposal on an accelerated basis. When the ACATS service was first offered, participation was limited and the risks to NSCC were limited. The NYSE and the NASD, however, recently have mandated use of ACATS. Due to the increased risk posed by increased use of the service, the Commission has determined that it is appropriate to approve the proposed rule change before the thirtieth day after notice of the filing appeared in the Federal Register.

On the basis of the foregoing, the Commission finds that NSCC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

Accordingly, It Is Therefore Ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR-NSCC-86-07) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 31, 1986.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-17926 Filed 8-7-86; 8:45 am]
BILLING CODE 8010-01-M

[9] 15 U.S.C. 78aaa-78111.

[Release No. 34-23492; File No. SR-OCC-86-16]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Proposed Rule Change Establishing Procedures for Filing, Revoking or Modifying Exercise Notices After the 7:00 P.M. Deadline

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on July 31, 1986, the Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit OCC, in its discretion, to allow Clearing Members to file, revoke, or modify exercise notices after the 7:00 P.M. deadline prescribed in OCC's Rules for the purpose of correcting bona fide errors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC Rule 801(a) sets a deadline of 7:00 P.M. (Central Time) for the filing of exercise notices. Exercise notices filed prior to 7:00 P.M. may be revoked or modified until that time for the purpose of correcting bona fide errors on the part of the Clearing Member or a customer.

On a number of occasions, Clearing Members have failed to discover material errors until after the 7:00 P.M. deadline. Such errors may take the form of mistakes in notices submitted (*e.g.*, wrong series, account type, sub-account, or quantity) or omissions (*e.g.*, failure to file an exercise notice in response to a timely exercise instruction from a customer). Inability to correct such errors can cause substantial losses. Clearing Members have therefore requested that OCC examine the feasibility of permitting exceptions to the 7:00 P.M. deadline.

The 7:00 P.M. deadline was imposed for operational reasons. OCC's nightly processing begins at approximately 8:30 P.M., and the time between 7:00 P.M. and 8:30 P.M. is needed to edit Clearing Member input. However, OCC does have the capacity to accept a limited amount of additional input, including corrections of input previously submitted, during the editing process. As long as the additional input remains limited in amount, acceptance would not appreciably extend nightly processing time.

Acceptance of additional exercise input becomes more difficult once nightly processing begins, and grows increasingly difficult as the night progresses, because operations previously performed would have to be redone to take the new input into account. A point would eventually be reached where the acceptance of new exercise input would threaten OCC's ability to complete its processing on a timely basis. That point will vary in time from night to night, depending on such factors as the volume of data being processed, the presence or absence of operational problems, etc.

For these reasons, OCC has concluded that the present 7:00 P.M. deadline must be retained, but that OCC should have the ability to make exceptions in cases where it can safety do so, provided that safeguards are established to ensure that such exceptions are an infrequent occurrence.

Proposed Rule 801(e) would authorize specified senior officers of OCC, in their discretion, to permit late filings of exercise notices and late revocations or modifications of exercise notices previously filed (referred to collectively herein as "late filings"), solely for the purpose of correcting bona fide errors on the part of Clearing Members or their customers, subject to certain conditions.

The first condition relates to timing. The late filing would have to be submitted at a time early enough, in the judgment of the officer making the decision, to allow OCC to complete its nightly processing on a reasonably timely basis notwithstanding any resulting delay. As practical matter, late filing submitted before 8:30 P.M. would ordinarily satisfy this condition, because they could be processed together with timely filings. Filing submitted after 8:30 P.M. would have a more disruptive effect on the processing cycle, and would be evaluated on a case-by-case basis, but with a view towards accepting them if possible where the alternative might be a substantial loss for a Clearing Member or its customer.

The second condition is payment of a sizeable late charge. The purpose of this requirement is threefold. First, it would create an incentive for Clearing Members and their customers [1] to exercise care in connection with exercise instructions, so as to minimize the number of mistake requiring late filings. Second, it would tend to ensure that the late filing procedure would be used only in cases involving substantial loss potential, and therefore warranting the interruption of OCC's normal processing cycle. Third, it would compensate OCC for the cost of developing the special systems needed to accommodate late filings and the additional processing time involved.

The third condition is that the Clearing Member deliver to OCC and to each affected Exchange, within two business days after submitting a late filing, a memorandum describing the error that give rise to the filing. The purpose of this requirement is to facilitate verification that late filings are in fact attributable to bona fide errors.

Finally, submission of late filings would be deemed a violation of the procedures of OCC, and would be subject to disciplinary action in appropriate cases.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934 (the "Act") because it would further the public interest by adopting a more flexible system for correction of exercise notices, thereby reducing the potential for losses to Clearing Members caused by errors or omissions in exercise activity.

B. Self-Regulatory Organization's Statment on Burden on Competition

OCC does not believes that the filing will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was prompted by concerns expressed by Clearing Members. However, formal comments were not requested or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 1, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17927 Filed 8-7-86; 8:45 am]

BILLING CODE 8010-01-M

[1] OCC assumes that Clearing Members would pass on late charges to their customers in cases where it was the customer's error that necessitated the late filing.

[Release No. 35-24156-A; 31-816]

Energy Investments, Inc.; Supplemental Notice of Application Requesting an Order Pursuant to Section 2(a)(3) Declaring It not To Be an "Electric Utility Company"

August 1, 1986.

Energy Investments, Inc. ("Energy"), 10700 East 350 Highway, Kansas City, Missouri 64138, has filed an application with this Commission pursuant to section 2(a)(3) of the Public Utility Holding Company Act of 1935 ("Act") requesting an order declaring that it will not become an "electric utility company" within the meaning of section 2(a)(3) of the Act as a result of transactions set forth in the application which were summarized in a notice issued by the Commission on July 24, 1986 (HCAR No. 24156).

That notice incorrectly referenced the S.E.C. file number as "38-816" rather than the correct, above-referenced number of "31-816". The July 24, 1986 notice also did not include the address of Energy as stated above.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 18, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicant at the adddress specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17929 Filed 8-7-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7603]

Issuer Delisting; Application To Withdraw From Listing and Registration; Hannaford Bros. Co. (Common Stock, $.75 Par Value)

August 4, 1986.

Hannaford Bros. Co. has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock was listed and began trading on the New York Stock Excange, Inc. ("NYSE") on July 18, 1986.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before August 25, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-17930 Filed 8-7-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending—Aug. 1, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44196—R-1—R-4

Parties: Members of International Air Transport Association.
Date Filed: July 25, 1986.
Subject: North/Central Pacific Cargo Rates.
Proposed Effective Date: October 1, 1986.

Docket No. 44216—R-1—R-7

Parties: Members of International Air Transport Association.
Date Filed: August 1, 1986.
Subject: South Atlantic Cargo Rates.
Proposed Effective Date: October 1, 1986.

Docket No. 44217

Parties: Members of International Air Transport Association.
Date Filed: August 1, 1986.
Subject: Passenger Fare Adjustment-Lebanon.
Proposed Effective Date: August 21, 1986.

Docket No. 44218—R-1 & R-2

Parties: Members of International Air Transport Association.
Date Filed: August 1, 1986.
Subject: Commodity Rates—Auckland-US.
Proposed Effective Date: July 27, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-17941 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 1, 1986

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44205

Date Filed: July 29, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 26, 1986.
Description: Application of Compagnie National Air France, pursuant to section 402 of the Act and Subpart Q of the Regulations, requests renewal of its foreign air carrier permit to serve Anchorage, Alaska on a stopover basis.

Docket No. 44214

Date Filed: July 30, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 28, 1986.
Description: Application of Pan Am Shuttle, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to engage in interstate and overseas air transportation, and requests that it be found fit to engage in such transportation.

Docket No. 44208

Date Filed: July 30, 1986.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 27, 1986.
Description: Application of Amerijet International, Inc. pursuant to section 401(d)(1)(3) of the Act and Subpart Q of the Regulations, requests authority to engage in foreign air transportation of persons, property and mail:

Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and, on the other:

(a) Any point in Canada;

(b) Any point in Mexico;

(c) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Winward Islands, and any other foreign place located in the Gulf of Mexico or Caribbean Sea;

(d) Any point in Central or South America;

(e) Any point in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; and

(f) Any point in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-17942 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement: Prince George's County, MD; MD Route 5

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an enviromental impact statement is being prepared for the proposed widening and interchange improvements on Maryland Route 5 from U.S. 301 Interstate Route I-95.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineers, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, telephone 301/962-4010, and/or Mr. Louis Eg, Deputy Director, Project Development Division, Maryland State Highway Administration, 707 North Calvert Street, Room 310, Baltimore, Maryland 21202, telephone 301/659-1130.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, is preparing an environmental impact statement to develop an acceptable alternate to widen a 10 mile portion of MD 5 to 6 through-lanes.

Interchange improvements would be included to address safety/capacity problems. At-grade inrtersections would be replaced with interchanges where feasible.

In addition to the No-Build, two Build alternates are under consideration. Alternate 2 proposes the reconstruction of MD 5 as an access-controlled freeway. One lane in each direction would be added in the median and signalized intersections would be eliminated. New interchanges would be constructed at Accokeek & Relocated Brandywine Roads, Surratts Road, Coventry Way, and Maryland Route 337 (Allentown Road). The interchange with I-95 would be reconstructed to include directional ramps from northbound Maryland Route 5 to westbound I-95, and from westbound I-95 to southbound Maryland Route 5. A new interchange at Maryland Route 223 is programmed as a separate project to be constructed beginning in 1989. Bridges overpassing Maryland Route 5 are proposed at Maryland Route 373 and Burch Hill Road. Maryland Route 5 would overpass Deerpond Lane. Manchester Drive, Schultz Road-Malcolm Road, and Moore Road intersections would be eliminated.

Alternate 3 proposes the reconstruction of Maryland Route 5 as an access-controlled freeway. One lane in each direction would be added in the median and traffic signals eliminated. Interchanges would be provided at the same locations as in Alternate 2 and at Burch Hill Road Extended. A bridge overpassing Maryland Route 5 is proposed at Medford Avenue Extended. The Moore Road, Earnshaw Road, and Manchester Drive intersectins would be eliminated. Right turn movements would be permitted to and from Schultz Road, to and from Deerpond Lane, from southbound MD 5 to Old Branch Avenue, and from Old Alexandria Ferry Road to northbound MD 5.

An alternates public meeting has been held. A public hearing will be held after circulation of the DEIS. A public notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The Draft EIS will be available for public and agency review and comment prior to the public hearing. To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.)

Fred J. Hempel,

Assistant Division Administrator, Baltimore, Maryland.

[FR Doc. 86-17753 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. T84-01; Notice 10]

Evaluation Plan for the Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of its Evaluation Plan for the Theft Prevention Standard. The plan provides the methodology by which the agency proposes to evaluate the effectiveness of the Theft Prevention Standard developed by NHTSA as required under Title VI—Theft Prevention of the Motor Vehicle Information and Cost Savings Act. The plan was developed in response to the Congressional requiremnt that the Secretary submit a comprehensive report not later than five years after promulgation of the Theft Prevention Standard as well as Executive Order 12291 which provides for Government-wide review of existing major Federal Regulations. The agency seeks public review and comment on this evaluation plan.

DATE: Comments must be reaceived no later than September 22, 1986.

ADDRESSES: Interested persons may obtain a copy of the evaluation plan free of charge by sending a self-addressed mailing label to Ms. Glorious Harris (NAD-51), National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. All comments should refer to the docket and notice number of this notice and be submitted to Docket Section, Room 5109, Nassif Buiding, 400 Seventh St., SW, Washington, DC 20590. [Docket hours, 8:00 a.m.-4:00 p.m., Monday through Friday].

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Direactor, Office of Standards Evaluation, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: With the passage of the Motor Vehicle Theft Law Enforcement Act of 1984, Congress amended the Motor Vehicle Information and Cost Savings Act by the creation of Title VI—Theft Prevention.

The new Title VI mandates a comprehensive program of vehicle theft countermeasures including:

- Inscribing or affixing identification numbers onto certain major original equipment and replacement parts for passenger car lines with high theft rates,
- Broadening Federal criminal penalties for motor vehicle theft,
- Imposing new criminal sanctions against tampering with identification markings, and
- Imposing tighter controls on the import and export of motor vehicles.

Under Title VI, the National Highway Traffic Safety Administration (NHTSA) is charged with:

- Selecting the parts to be marked with the appropriate identification mumbers,

• Establishing the criteria for the selection of high theft lines and making the selections,

• Establishing the performance criteria for inscribing or affixing the appropriate identification numbers to the specified original equipment and replacement parts for the passenger car lines selected, and

• Specifying the manner and form for compliance certification and who will be authorized to certify compliance.

Congress has also mandated that the Secretary shall submit a report not later than five years after promulgation of the standard required by Title VI. Included in the report shall be the following in accordance with paragraphs (2) and (3) of subsection 614 (b):

A. Methods and procedures used by public and private entities for collecting, compiling and disseminating information concerning the theft and recovery of passenger cars, trucks, multipurpose vehicles, and motorcycles.

B. Number of motor vehicles stolen and recovered annually.

C. Extent to which vehicles stolen are dismantled or exported.

D. Description of the market for stolen parts.

E. Costs to manufacturers and consumers, and the benefits of the theft prevention regulation.

F. Federal, State and local experience in making arrests and prosecuting persons for violating the 1984 Act.

G. Premiums charged by insurers for comprehensive coverage for vehicles subject to the Act and any changes to these premiums due to this title.

H. Adequacy and effectiveness of Federal and State laws and law enforcement mechanisms aimed at preventing the distribution and sale of used parts removed from stolen vehicles.

I. Assessment of whether the identification of parts in vehicle classes other than passenger cars would be beneficial.

J. Any other information available to the Secretary concerning the impact of the Act.

The evaluation plan presents the scope and proposed approach by which NHTSA intends to address the above questions. The primary objectives of the evaluation are:

• To compare the magnitude of vehicle theft before and after enactment of the Theft Prevention Standard;

• To measure the effectiveness of vehicle theft countermeasures over time after promulgation of the standard;

• To determine the benefits accruing from the standard including changes in insurance premiums and payouts;

• To determine the costs imposed by the standard including incremental per vehicle and parts marking costs.

To achieve these objectives, seven specific projects are planned including:

• A vehicle fleet analysis;

• A theft data collection/analysis study to measure changes in theft rates over time resulting from the standard;

• A case study of the marketplace for stolen cars and parts to measure the impacts of the standard on car theft rings, stolen parts distribution networks, and the end users of stolen parts;

• A survey of States and localities to take a before/after measure of arrests and convictions for car theft;

• A survey of procedures used by insurance companies, Government agencies and trade associations to ascertain the quality of their vehicle theft data and uses thereof;

• A manufacturing cost/retail price analysis of vehicle and replacement parts marking methods costs and retail price impacts resulting from the standard requirements, and

• A comparative analysis using the change in payout distribution before and after the standard is in effect. A similar study will be made on the effects of the standard on premium rates.

NHTSA welcomes public review of the evaluation plan and invites all interested parties to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(15 U.S.C. 2034; Delegation of Authority at 49 CFR 1.50 and 49 CFR 501.8)

Adele Spielberger,

Associate Administrator for Plans and Policy.

[FR Doc. 86-17857 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB No. 1545-0047
Form No. Forms 990, Schedule A (Form 990)
Type of Review: Revision
Title: Return of Organization Exempt from Income Tax Organization Exempt Under 501(c)(3)

OMB No. 1545-0089
Form No. Forms 1040NR
Type of Review: Revision
Title: U.S. Nonresident Alien Income Tax Return

OMB No. 1545-0155
Form No. Forms 3468
Type of Review: Revision
Title: Computation of Investment Credit

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 4, 1986.

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86-17865 Filed 8-7-86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Amendment to Department Circular—Public Debt Series—No. 4–86]

9⅜ percent Treasury Bonds of 2006

Washington, July 25, 1986.

Department of the Treasury Circular, Public Debt Series-No. 4–86, dated January 2, 1986, as supplemented, descriptive of 9⅜ percent Treasury Bonds of 2006, hereafter referred to as Bonds, is hereby amended effective August 15, 1986.

The following Section and Subsections in the original circular dated January 2, 1986, are hereby redesignated:

from 6. to 7.
from 6.1. to 7.1.
from 6.2. to 7.2.

Subsections 2.6. and 6.3. in the original circular are replaced by the Subsections 2.6. and 7.3. below and, in addition, the following Sections and Subsections are now included. The other terms and conditions remain unchanged.

2. Description of Securities

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component) and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Subsection 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering is $64,000.

6.3. Only Bonds in book-entry from may be separated into their components. Such separation may be effected at any time from the effective date of the amendment to this circular until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable of February 15, 2006.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6 In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this circular.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,
Fiscal Assistant Secretary.

CUSIP Numbers and Designations for the Principal Component and Interest Components of 9⅜ Percent Treasury Bonds of February 15, 2006, CUSIP No. 912810 DU 9

The Principal Component is designated 9⅜ persent Treasury Principal (TPRN) 2006 due February 15, 2006, CUSIP No. 912803 AJ 2.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
February 15, 1987	AZ 3
August 15, 1987	BA 7
February 15, 1988	BB 5
August 15, 1988	BC 3
February 15, 1989	BD 1
August 15, 1989	BE 9
February 15, 1990	BF 6
August 15, 1990	BG 4
February 15, 1991	BH 2
August 15, 1991	BJ 8
February 15, 1992	BK 5
August 15, 1992	BL 3
February 15, 1993	BM 1
August 15, 1993	BN 9
February 15, 1994	BP 4
August 15, 1994	BQ 2
February 15, 1995	BR 0
August 15, 1995	BS 8
February 15, 1996	BT 6
August 15, 1996	BU 3
February 15, 1997	BV 1
August 15, 1997	BW 9
February 15, 1998	BX 7
August 15, 1998	BY 5
February 15, 1999	BZ 2
August 15, 1999	CA 6
February 15, 2000	CB 4
August 15, 2000	CC 2
February 15, 2001	CD 0
August 15, 2001	CE 8
February 15, 2002	CF 5
August 15, 2002	CG 3
February 15, 2003	CH 1
August 15, 2003	CJ 7
February 15, 2004	CK 4
August 15, 2004	CL 2
February 15, 2005	CM 0
August 15, 2005	CN 8
February 15, 2006	CP 3

[FR Doc. 86–17841 Filed 8–7–86; 8:45 am]

BILLING CODE 4810–40–M

UNITED STATES INFORMATION AGENCY

International Youth Exchange Initiative Invitation for Proposals for Youth Exchanges with the Federal Republic of Germany

The United States Information Agency (USIA) announces a program of selective assistance through limited grant support to private not-for-profit organizations for programs that promote an expansion of international youth exchanges with the Federal Republic of Germany. This program has been approved by OMB Clearance No. 3116–0159 (expiration date 12–31–87).

Organizations interested in such exchanges should request further information from the International Youth Exchange Staff at the address listed at the end of this announcement.

Grant funding will generally be for 12–18 month periods. All proposals will be judged on a competitive basis. Criteria for judging proposals are listed below.

Eligibility

Academic, cultural, not-for-profit youth exchange and youth-serving organizations are eligible to apply. General guidelines for the Bureau of Educational and Cultural Affairs require that grants to organizations that have worked in the youth exchange field for less than four years may not exceed $60,000. Organizations must be capable of meeting the "Criteria for Teenager Exchange Visitor Programs" or "Criteria for Practical Trainees" which may be found in law libraries in the Code of Federal Regulation under 22 CFR Part 514 recently amended by notice published in the **Federal Register** (see 50 FR 31709, August 6, 1985) or may be obtained by writing to the Youth Exchange Staff, USIA, Washington, DC 20547.

Program Content

All proposals must justify projects in terms of the desirable outcome of the grant. An organization should be prepared to describe its current situation, its goal and the steps that are necessary to accomplish this goal. Objectives should be quantified wherever possible (e.g. to increase the number of exchange participants from 50 to 100 by June 1988). The justification must specify why the organization needs partial U.S. Government funding to accomplish its objectives above and beyond the private sector funds its plans to devote to the project.

Types of Projects

Proposals for partial funding of youth exchanges between American and German organizations for projects to be initiated between May and December 1987 are invited in the following categories: (1) Expansion of three-four week long high school classroom-to-classroom exchanges, including development of approrpiate materials on American society, government, and foreign policy; (2) thematic projects; (3) work project exchanges. Thematic exchanges should be for a minimum of four weeks for 10–16 students (and adult chaperone) aged 15–25, should be essentially one-community based, and should include orientations and debriefings for both German and American participants. Priority areas for thematic projects are journalism, the sciences, the arts, foreign policy, government (civic education), and the environment. Work projects or volunteer internships should be 6 weeks or longer. All American organizations should have identified German partners.

Review Criteria

Proposals will be judged on the extent to which projects address the following criteria:

Justification—Reviewers look for realistic, quantifiable goals, and clear directions; the need for public funds to achieve the objectives must also be adequately justified.

Networking—Certain projects involve matching the organizational experience and capability of an exchange group with the resources of a youth-serving organization or network with facilities, youth memberships, community access, etc. These proposals will be judged on their potential for forging these relationships and generating viable exchange activities.

Cost-sharing—The proposal should detail and extent of financial and in-kind support from participating organizations, schools, families, communities, counterpart German organizations, and government agencies.

Special consideration will be given to efforts to assist economically disadvantaged youth and increase the ethnic and regional diversity of American participants in exchanges, and efforts to mainstream disabled youth into exchange activities.

Reciprocity—The exchanges must be two way and as balanced (Germans/Americans) as possible.

Cost-effectiveness—The project should demonstrate greatest return for each federal dollar invested, and reasonable per capita cost in comparison with other proposals submitted.

Quality—Proposals are judged in terms of the program features which enhance the educational value of the exchange and povide for extensive interaction between exchange visitors and their host communities (e.g., homestays, joint work projects).

Organizational Competency—The proposal should attest to the ability of the organization to field adequate resources to carry out a quality exchange. Priority is given to proposals from national organizations rather than local chapters.

Self-management—The organization should demonstrate the ability to administer the project without extensive subcontracting to other not-for-profit or profit-making organizations. Where such arrangements exist, an organization should provide a copy of the service agreement.

Length of Stay—Projects that provide for longer stays than the minimum required are frequently judged as more competitive than shorter exchanges.

The following are ineligible for support under this competition:

—Sports Exchanges.
—Research studies.
—Study for post-secondary academic credit or degree programs.
—Travel/observation tours and "hotel-hopping" delegations.
—School tuition.
—Stipends to host families.
—Performing arts tours.
—Projects designed to assist organizations start an affiliate in a foreign country. Organizations should demonstrate that such a base has been established before seeking grant funds to assist in expansion.
—Projects requesting funding for development or purchase of orientation materials on the Federal Republic of Germany.
—Projects designed to promote or advertise the general program of an organization.
—Any project which is designed to lobby elected officials, promote politically partisan views, or whose aim is to promote religious activities.
—Conferences, except as part of a program that meets other criteria listed (i.e., length of stay, project model).

In the absence of special circumstances, the following should be understood to be of low priority for purposes of this competition:

—Full program support (i.e. grant funding for all costs of the exchange).

—Support for exchange activities already being carried out.

U.S. participants in all grant-funded exchange projects must be American citizens or permanent residents as a matter of policy.

Proposal Format

Interested organizations should write or call the International Youth Exchange Staff for guidelines which specify what should be included in the narrative portion of the proposal, how budgets should be designed, and what attachments ae required. The proposal should include a statement about the type of visa that will be used to bring the German youth to the U.S.

Review Process

Proposals (original and 12 copies) should be received in USIA no later than November 1, 1986. Following an initial screening for eligibility and completeness, proposals will be reviewed by a USIA advisory panel. Final decisions are made by the Associate Director for Educational and Cultural Affairs.

For further information contact the International Youth Exchange Staff (E/YX), Bureau of Educational and Cultural Affairs, U.S. Information Agency, Washington, DC 20547 or call 202–485–7299.

Dated: July 31, 1986.

Robert R. Gosende,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 86–17871 Filed 8–7–86; 8:45 am]

BILLING CODE 8230–01–M

VOL 51 ISS 153 AG 8 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 153
Friday, August 8, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Reserve System	1, 2

1

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, August 13, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carreied forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded anouncement of bank and bank holding company applications scheduled for the meeting.

Dated: August 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–17935 Filed 8–5–86; 4:26 pm]

BILLING CODE 6210–01–M

2

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 51 FR 27307, July 30, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Wednesday, August 6,1986.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Proposed Board comments to the Office of Management and Budget on draft legislation implementing the Report of the Task Group on Regulation of Financial Services.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 6, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–17982 Filed 8–6–86; 12:55 pm]

BILLING CODE 6210–01–M

VOL
51
ISS
1
53
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8
1986
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federal register

Friday
August 8, 1986

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 344

Topical Otic Drug Products for Over-the-Counter Human Use; Final Monograph; Final Rule

VOL 51 ISS 153 AG 8 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 344

[Docket No. 77N-0334]

Topical Otic Drug Products for Over-the-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) topical otic drug products (drug products for the ear) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on topical otic drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 16, 1977 (42 FR 63556), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC topical otic drug products, together with the recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention Treatment Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by March 16, 1978. Reply comments in response to comments filed in the initial comment period could be submitted by April 14, 1978.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for topical otic drug products was published in the **Federal Register** of July 9, 1982 (47 FR 30012). Interested persons were invited to file by September 7, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by November 9, 1982. New data could have been submitted until September 11, 1983. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC topical otic drug products.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph state, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulaton for OTC topical otic drug products (47 FR 30013), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after August 10, 1987 no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC topical otic drug products, five drug manufacturers, one association for drug manufacturers, and one college of pharmacy submitted comments. Copies of comments received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final monograph, the agency has considered all comments and the changes in the procedural regulations.

This final monograph applies only to earwax removal aids. Active ingredients for claims for the prevention of swimmer's ear and treatment of water-clogged ears were submitted in comments to the tentative final monograph. They were not included in the Panel's report, nor considered by the agency in the tentative final monograph on topical otic drug products. Therefore, in order to obtain public comment on these active ingredients and claims, the agency published a proposed rule to amend the tentative final monograph for OTC topical otic drug products to include drugs used for the prevention of swimmer's ear and the treatment of water-clogged ears in the **Federal Register** of July 30, 1986 (51 FR 27366).

I. The Agency's Conclusions on the Comments

A. General Comments on Topical Otic Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v.

Weinberger, 512 F.2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmacetical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *Aff'd*, 637 F.2d 887 (2d Cir. 1981).

2. One comment contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims to the exclusion of what the comment described as other truthful, accurate, not misleading, and intelligible labeling for the products.

During the course of the OTC drug review, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph. (This policy has become known as the "exclusivity policy.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12). For example, the labeling in this final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity policy" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. In a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002), FDA announced that a hearing would be held to assist the agency in resolving this issue. On September 29, 1982, FDA conducted an open public forum at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monographs for nighttime sleep-aides and stimulants (published in the **Federal Register** of June 13, 1978; 43 FR 25544).

After considering the testimony presented at the hearing and the written comments submitted to the record, in the **Federal Register** of April 22, 1985 (50 FR 15810), FDA proposed to change its exclusivity policy for the labeling of OTC drug products. In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing the exclusivity policy and establishing three alternatives for stating the indications for use in OTC drug labeling. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either: (1) The specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph.

In the tentative final monograph (47 FR 30020), supplemental language relating to indications had been proposed and captioned as *Other Allowable Statements*. Under FDA's revised exclusivity policy (51 FR 16258), such statements are included at the tentative final stage as examples of other truthful and nonmisleading language that would be allowed elsewhere in the labeling without prior FDA review. In accordance with the revised exclusivity policy, such statements would not be included in a final monograph. However, the agency has decided that, because these additional terms have been reviewed by FDA, they should be incorporated, wherever possible, in final OTC drug monographs under the heading "Indications" as part of the indications developed under that monograph.

3. One comment from a small manufacturer stated that the 12-month period of time provided for manufacturers to comply with the final monograph is too restrictive. The company requested that this time period be expanded to 18 months or at least long enough to use existing supplies of cartons and labels. The company explained that to keep costs as low as possible, labels are ordered in large quantities that will provide an 18-month supply. Consequently, meeting the present 12-month requirement could result in the manufacturer having a surplus of unusable labels. The company argued that the cost of unusable labels could increase company costs, thus increasing the cost of the product to the consumer and possibly adversely affecting sales of the product.

In some advance notices of proposed rulemaking previously published in the OTC drug review, the agency suggested a 6-month effective date for monograph conditions. However, as explained in the tentative final monograph (proposed rule) for OTC topical otic drug products (47 FR 30012), the agency concluded that, generally, it is more reasonable to have a final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that this period of time should enable most manufacturers to reformulate, relabel, or take other steps necessary to comply with a new monograph with a minimum disruption of the marketplace, thereby reducing economic loss and ensuring that consumers have continued access to safe and effective OTC drug products. However, in an assessment of the economic impacts of the OTC drug review, the agency concluded that although the OTC drug review was not a major rule as defined in Executive Order 12291, significantly large impacts might be experienced by some small firms in some years (Ref. 1).

Nevertheless, FDA has a statutory mandate to assure that OTC drug products are safe and effective for their intended use and are properly labeled. The statute does not allow FDA to waive these important public health considerations even though additional costs may be incurred by a manufacturer in order to achieve compliance with a monograph.

Reference

(1) "Assessment of the Economic Impacts of the OTC Drug Review Process," Docket No. 82N–0143, Dockets Management Branch.

4. One comment questioned the meaning of the word "effective." The comment asked FDA to consider whether consumer acceptance and usage of a product, without the use of coercive advertising, indicates some effectiveness of the product. The comment stated that some drugs are more effective than others and questioned whether this means that the less effective drugs are considered as being not effective at all.

As defined in § 330.10(a)(4)(ii), effectiveness means a reasonable expectation that, in a significant proportion of the target population, the pharmacological effect of the drug, when

used under adequate directions for use and warnings against unsafe use, will provide clinically significant relief of the type claimed. The regulation provides that reports of significant human experience during marketing may be used to corroborate controlled clinical investigations and other studies, in order to establish general recognition of the effectiveness of a drug. However, isolated case reports, random experience, and reports lacking the details that permit scientific evaluation are not considered. Without more substantive data, mere consumer acceptance and usage of a product is not enough to constitute proof of effectiveness.

With regard to the comment's inquiry concerning "less effective drugs," the agency does not consider the comparative efficacy of a drug in determining general recognition of effectiveness; it only considers that the drug has been shown to be effective based on the standards discussed above.

B. Comments on Topical Otic Drug Ingredients

5. One manufacturer expressed concern about the agency's decision to reclassify glycerin as an earwax removal aid from Category I to Category III "so that studies may be performed to establish effectiveness." The manufacturer stated that in response to the advance notice of proposed rulemaking on OTC topical otic drugs, it reformulated its earwax product to contain only glycerin as an active ingredient. The propylene gylcol in the product was removed. However, the comment asserted that because of the reclassification of glycerin to Category III, the expensive process of reformulation and relabeling will have to be repeated. The comment maintained that it is unfair and costly for the agency to urge manufacturers to comply with advance proposals and then change the Panel's recommendation.

Since the beginning of the OTC drug review, the agency has stated that a panel's findings are prepared independently of FDA and do not necessarily reflect the agency's position. Although the agency encourages manufacturers to comply voluntarily with a panel's recommendations in formulating and labeling their products prior to the effective date of a final monograph, manufacturers are at risk because a panel's recommendation may be accepted, rejected, or modified by the agency in the tentative final and final monographs. This concept was discussed in the preamble to each Panel's report including the report on OTC otic drug products. (See, e.g., 42 FR 63556.) The agency does not modify a panel's recommendations arbitrarily. Before making any change, the agency carefully considers all relevant data and information.

The agency reclassified glycerin as an earwax removal aid from Category I to Category III in the tentative final monograph because there were no well-controlled studies that demonstrated effectiveness. The only published effectiveness study cited by the Panel (42 FR 63562) was an in vitro study that showed that glycerin had no effect on earwax after 60 minutes and caused only surface softening of earwax after 24 hours (47 FR 30014). Therefore, there was no basis for the agency to accept the Panel's Category I classification of glycerin as an earwax removal aid. In addition, because no data were submitted after publication of the tentative final monograph to establish the effectiveness of glycerin as an earwax removal aid, it is not being included in this final monograph.

This final monograph is effective 12 months after the date of publication in the **Federal Register**. Thus, manufacturers will have a reasonable period of time to reformulate and relabel currently marketed products to comply with the monograph.

C. Comments on Labeling of Topical Otic Drug Products

6. Two comments disagreed with the agency's proposed substitution of the word "doctor" for "physician" in OTC drug labeling. One comment stated that because "physician" is a term that is recognized by people of all ages and social and economic levels, there is no need for the change, which would be costly and provide no benefit. The comment further contended that physician is a more accurate term, whereas "doctor" is a broad term that could confuse and mislead the lay person into taking advice on medication from persons other than medical doctors, such as optometrists, podiatrists, and chiropractors. The other comment favored the use of easily understood language in labeling, but noted that both "doctor" and "physician" are accurate and meaningful and argued that the use of either term should be allowed.

The agency recognizes that the term "doctor" is not a precise synonym for the word "physician," but believes that the terms are frequently used interchangeably by consumers and that the word "doctor" is likely to be more commonly used and better understood by consumers. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician." Based on comments submitted following publication of these tentative final monographs, the agency has determined that final monographs will give manufacturers the option of using either the word "physician" or the word "doctor." This final monograph includes that option.

7. One comment suggested that, in the interest of consumer education, the warning, "Never use instruments such as cotton swabs, toothpicks, or hairpins to remove wax from ear canal" be required. To preclude the use of unsafe instruments to remove the earwax softened by carbamide peroxide, the comment also suggested that the phrase "the only medically approved way for safely removing earwax" be permitted in the labeling of carbamide peroxide that is packaged with a rubber bulb ear syringe for the purpose of flushing the ear.

The comment submitted no data in support of its request. Based on data and information that are available, the agency concludes that the warnings proposed in the tentative final monograph adequately inform consumers how to use these products safely and that it is unnecessary to require the comment's suggested warning in the labeling of topical otic drug products. However, as long as the required warning appears on the product's label, the agency has no objection to the information described in the comment also appearing in some other portion of the label. Such information may not appear in any portion of the labeling that is required by the monograph.

The phrase "the only medically approved way for safely removing earwax" is not being included in the monograph for use in labeling unit packages containing carbamide peroxide and a rubber bulb ear syringe. By appearing on such packages, the phrase would imply that a rubber bulb ear syringe used in conjunction with carbamide peroxide constitutes the only medically approved way of safely removing earwax. In fact, carbamide peroxide alone may safely remove earwax.

The agency stated in the tentative final monograph that the use of an irrigation syringe in the ear should be limited as much as possible (47 FR 30018). The directions in § 344.50(d) for using a rubber bulb ear syringe are include in the monograph only to assist in the removal of any earwax that may

remain after 4 days of treatment with carbamide peroxide. The agency therefore objects to any labeling that might infer that a rubber bulb ear syringe must be used to remove earwax safely.

8. Two comments suggested that the warning in § 344.50(c)(3) that states "Do not use for more than 4 days; if excessive earwax remains after use of this product, consult a doctor" be revised because it does not indicate clearly that the 4-day limitation applies to each episode of excessive earwax. One comment pointed out that many individuals are subject to chronic accumulation of earwax and will, accordingly, use these products routinely for recurring accumulation. Therefore, the comments suggested that the warning be revised by adding a phrase such as "for each occurrence of accumulated earwax" or "during any episode" to make it clearer to the user that the 4–day limitation applies to each episode of excessive earwax.

The agency believes that the present warning in § 344.50(c)(3), concerning the limitation of use for not more than 4 days, in conjunction with the directions for use in § 344.50(d), which instruct consumers to use the product twice daily for up to 4 days, is adequate to inform consumers that the 4-day limitation applies to each episode of excessive earwax accumulation. The labeling of many OCT drug products contains limitations on the number of days that the product should be used, and the agency believes that it is reasonable to expect that consumers will understand that the 4-day limitation applies to each episode of excessive earwax.

9. One comment stated that anhydrous glycerin can cause a painful, burning sensation in the eyes, and suggested that the labeling instructions should anticipate accidental contact. The comment recommended that the proposed warning in § 344.50(c)(4) "Avoid contact with the eyes," be expanded by adding the following sentences: "If accidental contact occurs, wash eye with water. Consult physician if pain or irritation persists."

The agency concludes that it is not necessary to expand the warning in § 344.50(c)(4) because glycerin does not cause any serious effects. Although anhydrous glycerin can cause irritation and stinging of the eyes, anhydrous glycerin has accepted medical usage as an agent to facilitate ophthalmoscopic examination and to reduce corneal edema (Refs. 1, 2, and 3). Accordingly, the agency is not expanding the warning in the monograph as suggested by the comment. As long as the required warning appears on the products's label, the agency has no objection to the statements described in the comment also appearing in some other portion of the label.

Such information may not appear in any portion of the labeling that is required by the monograph.

References

(1) Smith, M. B., "Ocular Toxicity," Publishing Sciences Group, Acton, MA, p. 54, 1976.

(2) "AMA Drug Evaluations—1983," 5th Ed., American Medical Association, Chicago, IL, pp. 506–507, 1983.

(3) Gennaro, A., editor, "Remington's Pharmaceutical Sciences," 17th Ed., Mack Publishing Co., Easton, PA, p. 1308, 1985.

10. One comment stated that the directions for use of an ear syringe could be more instructive to the user and suggested that the directions in § 344.50(d) be worded as follows: "Any wax remaining after treatment should be removed once a day by gently flushing the ear with warm (body temperature) water, using a soft rubber bulb ear syringe. Place tip of washer at outer edge of ear canal."

The agency believes that the directions as proposed in the tentative final monograph are sufficient for OTC use of earwax removal aids. The agency does not agree with the comment's wording "Any wax remaining after treatment should be removed once a day . . ." because such information is misleading and implies that the ear syringe should be used each day after the treatment, whereas the ear syringe should only be used after treatment is completed if there is still wax remaining in the ear after 4 days of treatment.

In addition, the agency believes that the term "warm water" is understood by consumers and that it is not necessary to require in the monograph that the term "(body temperature)" be added to the directions. Manufacturers may, however, add terms such as "(body temperature)" to the directions of products if they believe that they enhance consumer understanding. They may also add additional information in the directions regarding the proper use of the bulb ear syringe, such as suggested by the comment, provided that the information is true and not misleading. Therefore, the agency's proposed directions in § 344.50(d) will be included in the final monograph without revision.

11. Three comments objected to the directions statement in § 344.50(d), "Children under 12 years of age: consult a doctor." The comments contended that the agency's basis for this age restriction, i.e., that the studies submitted in support of the use of carbamide peroxide in children were supervised by a physician (47 FR 30017), is not valid. The comments stated that all clinical studies are professionally supervised and that these studies were conducted under the supervision of a physician not because of safety concerns, but to assure that they were conducted under controlled conditions to support efficacy and to monitor any side effects that might occur. The comments contended that the studies demonstrate that earwax removal aid products can be safely used in children 2 to under 12 years of age.

One of the comments stated that restricting the use of carbamide peroxide in children under 12 years of age will force consumers to use primitive methods for removal of earwax in this age group. Another comment from a manufacturer stated that the Panel's and the agency's concerns that parents would unnecessarily use earwax removal aids to routinely clean the ears of their children are unfounded. The manufacturer explained that there is a target population of individuals who chronically accumulate earwax and who would derive benefit from cleaning the ears to prevent irritation and potential subsequent infection. The manufacturer submitted a summary of the results of a 1980 opinion poll which indicated that, in 5 percent of the surveyed families, earwax buildup occurred in children 12 years of age or under (Ref. 1). The manufacturer also stated that in the past 18 months it had received only one product-related report associated with the use of its earwax removal aid product in children per 2 million bottles sold and argued that "such a rate of reported occurrence does not indicate a need to restrict the use of the drug to adults and children 12 and over."

In the tentative final monograph for topical otic drug products, the agency stated that an earwax removal aid should not be used in children unless a physician has made a determination that there is a need to use such a product (47 FR 30017). This was based on the fact that earwax is derived from the watery secretions of the apocrine glands and the oily secretions of the sebaceous glands (Ref. 2) and on the fact that the apocrine glands are not active until puberty (42 FR 63558). Thus, these directions were proposed because excessive earwax is less likely to occur in children under 12 years of age, not because physicians had supervised the clinical studies and examined the ears of children as alleged by the comment.

The agency recognizes that some children under 12 years of age may have excessive earwax accumulation as indicated by the submitted opinion poll (Ref. 1). However, in cases where children under 12 years of age are suspected of having excessive earwax accumulation, a physician should be consulted to make a professional diagnosis and to recommend the proper treatment. A physician's diagnosis is particularly important in children under 12 years of age because young children may not often exhibit symptoms of serious ear problems or are unable to describe the symptoms of abnormal conditions to their parents. For example, the symptoms of otitis media (an inflammatory condition of the middle ear that occurs most often during childhood) include pain, hearing loss, and fever. However, in chronic serous otitis media there is impaired hearing, but the child may not have acute symptoms and pain is usually absent (Ref. 2). Such ear disorders would be difficult for parents to distinguish from excessive earwax. These ear disorders are serious and can result in hearing loss if untreated. Therefore, it is especially important for a physician to determine the appropriate treatment for the child's condition. The physician may recommend use of an OTC earwax removal aid if it is appropriate.

The agency does not believe that advising consultation with a doctor for children under 12 years of age, in the labeling of earwax removal aids, would force consumers to use primitive methods to remove excessive earwax in children in this age group. On the contrary, this direction should alert consumers to consult a physician before routinely cleaning the ears of children with an earwax removal aid, which might not be necessary and might delay needed medical attention. The direction thus promotes better ear care. Therefore, the agency is including in § 344.50(d) of this final monograph a direction restricting the use of an earwax removal aid to adults and children over 12 years of age.

References

(1) Comment No. C00009, Docket No. 77N–0334, Dockets Management Branch.

(2) Miller, K. O., "Otic Products," *in* "Handbook of Nonprescription Drugs," 7th Ed., American Pharmaceutical Association, Washington, pp. 402–403 and 406–408, 1982.

12. One comment disagreed with the proposed directions statement in § 344.50(d) for earwax removal aids that reads "Children under 12 years of age: consult a doctor." The comment suggested that the statement be revised to read: "Children under 12 should be supervised in the use of this product. For children under 2, there is no recommended dosage except under the advice and supervision of a doctor."

The agency does not agree with the comment's suggested revision. As stated in comment 11 above, earwax removal aids should not be used in children under 12 years of age except as recommended by a physician. If a physician recommends that an earwax removal aid be used in a child under 12 years of age, the agency expects that the child would be supervised in the use of the product.

II. Summary of Significant Change From the Proposed Rule

In accord with the revised "exclusivity" policy, the agency is amending § 344.50(b) under the heading "Indications" to include some of the supplemental language that was previously included in the "Other Allowable Statements" section of the tentative final monograph (see comment 2 above). The resulting indication which includes the additional optional terms "soften" and "loosen" reads as follows: "For occasional use as an aid to" (which may be followed by: "soften, loosen, and") "remove excessive wax."

III. The Agency's Final Conclusions on OTC Topical OTIC Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC topical otic drug products are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the only ingredient that has been determined to be monograph condition is carbamide peroxide 6.5 percent formulated in an anhydrous glycerin vehicle. Glycerin, antipyrine, and benzocaine, which were also considered in this rulemaking, have been determined to be nonmonograph ingredients. All other ingredients are considered nonmonograph ingredients. Any drug product marketed for use as an OTC topical otic drug that is not in conformance with the monograph (21 CFR Part 344) will be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) and misbranded under section 502(a) of the act (21 U.S.C. 352(a)) and may not be marketed for this use unless it is the subject of an approved NDA.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 30019). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC topical otic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC topical otic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 344

OTC drugs, Topical otic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 344, to read as follows:

PART 344—TOPICAL OTIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.

344.1 Scope.
344.3 Definitions.

Subpart B—Active Ingredients

344.10 Topical otic active ingredient.

Subpart C—Labeling

344.50 Labeling of topical otic drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart A—General Provisions

§ 344.1 Scope.

(a) An over-the-counter topical otic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part in addition to each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 344.3 Definitions.

As used in this part:

(a) *Anhydrous glycerin.* An ingredient that may be prepared by heating glycerin U.S.P. at 150° C for 2 hours to drive off the moisture content.

(b) *Earwax removal aid.* A drug used in the external ear canal that aids in the removal of excessive earwax.

Subpart B—Active Ingredients

§ 344.10 Topical otic active ingredient.

The active ingredient of the product consists of carbamide peroxide 6.5 percent formulated in an anhydrous glycerin vehicle.

Subpart C—Labeling

§ 344.50 Labeling of topical otic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "earwax removal aid."

(b) *Indication.* The labeling of the product states, under the heading "Indication," the following: "For occasional use as an aid to" (which may be followed by: "soften, loosen, and") "remove excessive earwax." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not use if you have ear drainage or discharge, ear pain, irritation, or rash in the ear or are dizzy; consult a doctor."

(2) "Do not use if you have an injury or perforation (hole) of the ear drum or after ear surgery unless directed by a doctor."

(3) "Do not use for more than 4 days; if excessive earwax remains after use of this product, consult a doctor."

(4) "Avoid contact with the eyes."

(d) *Directions.* The labeling of the product contains the following statement under the heading "Directions": FOR USE IN THE EAR ONLY. Adults and children over 12 years of age: tilt head sideways and place 5 to 10 drops into ear. Tip of applicator should not enter ear canal. Keep drops in ear for several minutes by keeping head tilted or placing cotton in the ear. Use twice daily for up to 4 days if needed, or as directed by a doctor. Any wax remaining after treatment may be removed by gently flushing the ear with warm water, using a soft rubber bulb ear syringe. Children under 12 years of age: consult a doctor.

(e) *Optional wording.* The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

Dated: May 3, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-17854 Filed 8-7-86; 8:45 am]

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federal register

Friday
August 8, 1986

Part III

Environmental Protection Agency

40 CFR Parts 260, 261, 262, 263, and 271
Hazardous Waste Management System; Exports of Hazardous Waste; Final Rule

VOL 51 ISS 153 AG 8 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, and 271

[SW-FRL-3038-3]

Hazardous Waste Management System; Exports of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On March 13, 1986, the U.S. Environmental Protection Agency (EPA) proposed regulations under the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), that would apply to exports of hazardous waste (51 FR 10146). EPA is today promulgating the final regulations on this subject. Consistent with HSWA, the regulations prohibit the export of hazardous waste unless certain requirements are met. These requirements include advance written notification to EPA of the plan to export hazardous waste, prior written consent to such plan by the receiving country, attachment of a copy of the receiving country's written consent to the manifest accompanying each waste shipment, and conformance of the shipment to such consent. In addition to provisions concerning the preceding requirements, today's rule includes provisions governing special manifest requirements, exception reporting, annual reporting, recordkeeping, transporter responsibilities, confidentiality, and State authorization.

DATES: Effective Date: November 8, 1986. Exports are prohibited on or after the effective date except in compliance with these regulations. Accordingly, unless consent by the receiving country has been obtained by that date, an export cannot take place. EPA will begin accepting notifications in accordance with these regulations immediately in order to allow time to obtain consent from a receiving country by the effective date of these regulations. Exporters are, therefore, encouraged to submit notifications expeditiously in order to allow time to obtain consent by November 8, 1986, for exports to occur on or soon after that date.

ADDRESSES: The OSW docket is located at: EPA RCRA Docket (Sub-basement), 401 M Street, SW., Washington, DC 20460.

The docket is open from 9:30 to 3:30 Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials. Call Mia Zmud at 475–9327 or Kate Blow at 382–4675 for appointments. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: Carolyn K. Barley, (202) 382–2217, Office of Solid Waste, Room S–257 (WH–563), 401 M Street, SW., Washington, DC 20460 or the toll-free RCRA Hotline: (800) 424–9346 (in Washington, DC, call (202) 382–3000).

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background and Summary of Final Rule
  A. Existing Export Regulations
  B. The Hazardous and Solid Waste Amendments of 1984
  C. March 13, 1986 Proposed Rule
  D. Summary of Final Rule
III. Responses to Comments and Analysis of Issues
  A. Applicability and General Requirements [§§ 262.50, 262.52]
  B. Definitions [§ 262.51]
  1. Definition of "Receiving Country"
  2. Definition of "Exporter"
  a. Appropriate Liabilities and Responsibilities
  b. Applicability of the Export Requirements to Certain Hazardous Wastes
  (1) Comments Suggesting that EPA Narrow the Applicability of Section 3017
  (2) Comments Suggesting that EPA Broaden the Applicability of Section 3017
  (3) Other Issues Related to the Applicability of 3017
  3. Other Definitions
  C. Notifications of Intent to Export [§ 262.53]
  1. Sixty Day Advance Time
  2. Separate Notification for Each Shipment
  3. Notification Period (12 months vs. 24 months) [§ 262.53]
  4. Renotification [§ 262.53]
  D. Procedures for the Transmission of Notification, Consent or Objection
  E. Special Manifest Requirements [§ 262.54]
  F. Annual Reports, Recordkeeping, and Exception Reports [§ 262.55, 262.56, 262.57]
  G. Transporter Responsibilities
  H. Small Quantity Generators
  I. State Authority
  1. Effect on State Authorization
  2. Universe of "Hazardous Wastes" in Authorized States
  J. Confidentiality
IV. Enforcement
  A. EPA
  B. U.S. Customs Service
  C. Other Agencies
V. Effective Date of Final Regulations
VI. Economic, Environmental and Regulatory Impacts
  A. Impact on Small Quantity Generators
  B. Executive Order 12291—Regulatory Impact
  C. Paperwork Reduction Act
  D. Regulatory Flexibility Analysis
VII. List of Subjects

I. Authority

These regulations are being promulgated under the authority of sections 2002(a), 3002, 3003, 3006, 3007, 3008 and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6922, 6923, 6926, 6927, and 6937.

II. Background and Summary of Final Rule

A. Existing Export Regulations

On February 26, 1980, EPA promulgated regulations under the Resource Conservation and Recovery Act of 1976 (RCRA) governing exports of hazardous waste. 45 FR 12732, 12743–12744 (codified at 40 CFR Parts 262 and 263). These regulations place certain requirements on generators and transporters regarding exports of hazardous waste in light of the special circumstances involved in international shipments. Since RCRA did not expressly address exports of hazardous waste, these provisions were promulgated primarily under RCRA sections 3002 (Standards Applicable to Generators of Hazardous Waste) and 3003 (Standards Applicable to Transporters of Hazardous Waste) and are limited in scope. A detailed description of EPA's existing export regulations can be found in the Supplemental Information accompanying the proposed rule for Exports of Hazardous Waste. 51 FR 8744 (March 13, 1986).

B. The Hazardous and Solid Waste Amendments of 1984

On November 8, 1984, the President signed into law a set of comprehensive amendments to RCRA, entitled the Hazardous and Solid Waste Amendments of 1984 (HSWA). These comprehensive amendments have far-reaching ramifications for EPA's hazardous waste regulatory program. Among other things, they add a new Section 3017 to RCRA specifically addressing hazardous waste exports.

Generally, subsection (a) of section 3017 provides that, beginning 24 months after enactment of HSWA, the export of hazardous waste is prohibited unless the person exporting such waste: (1) Has provided notification to the Administrator; (2) the government of the receiving country has consented to accept the waste; (3) a copy of the receiving country's written consent is attached to the manifest which accompanies the waste shipment and; (4) the shipment conforms to the terms

of such consent. In lieu of meeting the above requirements, a person may export hazardous waste if the United States and the government of the receiving country have entered into an international agreement establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous waste and the shipment conforms to the terms of such agreement.

Subsection (c) of section 3017 sets forth the requirement to notify the administrator before the shipment leaves the United States and specifies the information to be included in such notification. Subsections (d) and (e) establish procedures for obtaining the receiving country's consent to accept the waste. Subsection (f) addresses the effect of an international agreement on the requirements of Section 3017. Subsection (b) requires the Administrator to promulgate regulations necessary to implement section 3017. Subsection (h) provides that section 3017 does not preclude the Administrator from establishing other standards for the export of hazardous waste under sections 3002 and 3003 of RCRA. Congress also amended section 3008 of RCRA to provide criminal penalties for knowingly exporting hazardous waste without the consent of the receiving country or in violation of an existing international agreement between the United States and the receiving country.

Section 3017 of HSWA contains one additional requirement with which exporters were required to comply immediately upon enactment of HSWA: Subsection (g) requires any person exporting hazardous waste to file with the Administrator, no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous year. EPA codified this particular statutory requirement in its export regulations on July 15, 1985. 50 FR 28702, 28746.

C. March 13, 1986 Proposed Rule

On March 13, 1986, EPA proposed to amend its hazardous waste export regulations to implement section 3017 and thereby improve its current program governing exports. 51 FR 8744. These specific amendments were placed in a revised Subpart E of 40 CFR Part 262. Because Subpart E currently includes special requirements governing imports of hazardous waste and the disposition of waste pesticides by farmers, these provisions were proposed to be moved to new Subparts F and G respectively with no substantive changes. Amendments were also proposed to 40 CFR Parts 260 regarding confidentiality, Part 263 pertaining to transporters of hazardous waste, and Part 271 with respect to State authorization.

Readers should refer to the proposed rule for a discussion of the content, alternatives considered, and rationale for the positions taken in the proposal.

D. Summary of the Final Rule

Today's final rule on the export of hazardous waste adopts most of the provisions of the proposed rule with certain modifications. In summary, today's rule prohibits exports of hazardous waste unless: (1) Notification of the intent to export is provided to the Administrator; (2) prior written consent is obtained from the receiving country; (3) a copy of the prior written consent is attached to the manifest; and (4) the shipment conforms to the terms of the written consent.

Changes arising out of comments on the proposed rule concern primarily: (1) The definition of exporter; (2) the definitions of receiving and transit countries; (3) collection of a copy of the manifest by U.S. Customs at the U.S. point of departure; (4) hazardous wastes for which notification and consent is required; (5) the period of time covered by a notification; (6) the effective date of the regulations; and (7) special requirements for exports by rail.

In addition to today's final rule on the export of hazardous waste, readers should be aware that pursuant to section 6(e) of the Toxic Substances Control Act, EPA has banned the export of polychlorinated biphenyls (PCBs) of 50 PPM or greater in the absence of an exemption. See 40 CFR 761.10. Today's rule on the export of hazardous waste does not affect this prohibition.

III. Responses to Comments and Analysis of Issues

This section of the preamble addresses the major comments received by EPA on the proposed rule and describes the Agency's position on the major issues raised in the proposal and during the comment period. A separate background document responds to each comment received on the proposal which is not responded to in this preamble as part of the record for this rulemaking. Provisions retained as proposed and not discussed in this preamble are retained for the reasons set forth in the preamble to the proposed rule.

A. Applicability and General Requirements [§§ 262.50, 262.52]

Section 262.50 describes the applicability of Subpart E. Since EPA is changing the definition of exporter [discussed in Section III.B.2. below], this section provides that Subpart E requirements are applicable not only to persons required to initiate the manifest which specifies a treatment, storage, or disposal facility (TSDF) in the receiving country as the designated facility but also to any intermediaries arranging for the export (i.e., export brokers). A reference to the requirements applicable to transporters transporting waste for export has also been added to this provision to direct transporters' attention to the applicable requirements of Part 263. As explained in the proposal, the special export requirements apply in addition to any applicable domestic requirements which apply independently (e.g., Part 262 requirements applicable to generators) except to the extent Subpart E specifically provides otherwise.

As in the proposal, this section also provides that the export requirements apply to all exports of hazardous waste unless an international agreement is entered into between the United States and the importing country which sets forth different requirements. As the United States has yet to enter into any such agreements, § 262.58 is reserved to address any agreements the United States may enter into in the future.

Section 262.53 summarizes the requirements applicable to exports. Some minor language changes have been made to this section to again reference transporter requirements of Part 263 and to reflect the delineation of responsibilities between transporters and other "exporters" of hazardous waste as discussed in Section III.B.2 below.

B. Definitions [§ 262.51]

1. Definition of "Receiving Country"

In the March 13, 1986 proposed rule, EPA defined "receiving country" as the foreign country of "ultimate destination" of a hazardous waste. It was EPA's intent to distinguish "receiving country" from "transit country" which was defined as any foreign country through which a hazardous waste passes en route to a receiving country. Prior consent was proposed to be required only from "receiving countries" not "transit countries." The Agency proposed, however, to exercise its discretion under Section 3017(h) to provide notification to transit countries.

EPA specifically requested comments concerning its proposed definition of receiving country, recognizing the importance of the term as used in section 3017. Various alternatives available for defining this term were noted in the proposal such as defining "receiving country" as: (1) All countries through which the waste passes; (2) the first country the waste enters; or, (3) the final destination of the waste. A number of comments were received on this issue, many of which were in agreement with the Agency's definition. However, some commenters recommended expanding the definition of "receiving country" to include any foreign country the waste passes through en route to its ultimate destination, i.e., "transit country."

The primary concern of these commenters was that, under the language of EPA's definition of receiving country, long-term storage or treatment could occur in a "transit country" without its consent so long as the waste would subsequently be sent elsewhere. Moreover, EPA would have no authority to prohibit long-term storage or treatment in a transit country where the transit country objected to the shipment. The scenario was presented where an exporter intended to ship a waste first to country "A" for treatment, then to country "B" for multi-year storage while the "ultimate" disposal facility in country "C" was prepared to receive and dispose of the waste. Under this scenario, even if countries "A" and "B" objected to the shipment, EPA would have no authority to prohibit the shipment to those countries. Concern was expressed that this would encourage unscrupulous exporters to evade consent requirements with sham long-term treatment and storage. In addition, the dangers involved in storing and/or treating the waste were suggested to be of equal concern as those involved in the ultimate disposal of the waste.

EPA is also concerned about long-term storage and/or treatment of U.S. waste in a foreign country. In fact, EPA's proposal explained that its intent was to require consent from the "ultimate destination" of the waste in contrast to countries where mere *transportation through* or *temporary* storage *incidental to transportation* was to occur.

The proposal, however, envisioned that although there may be several transit countries involved, there would be only one "ultimate destination" of the waste. The scenarios presented by commenters have brought to EPA's attention that not only was EPA's proposed regulatory language ambiguous but that there may be, in rare circumstances, more than one country in which something more than mere transportation and/or temporary storage incidental thereto could occur. In order to ensure that prior consent is obtained from countries, in which treatment and/or long-term storage is to occur, the final rule defines "receiving country" as the foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except for temporary storage incidental to transportation). The final rule also redefines "transit country" as any foreign country, other than a receiving country, through which a hazardous waste is transported. These definitions reflect the intent of the proposal to exempt from the prior consent requirement mere transportation through or temporary storage incidental to transportation with the added recognition that, in rare circumstances, there may be more than one "receiving country."

In redefining the term "receiving country," EPA recognizes that there may be limits to an exporter's knowledge of further shipment of U.S. generated hazardous wastes from a treatment, storage or disposal facility (TSDF) in one foreign country to another. Thus, EPA interprets the term "receiving country" to include only those countries to which an exporters knows or can reasonably ascertain that the waste will be sent for treatment, storage or disposal. EPA cannot hold exporters responsible for independent decisions by foreign TSDFs to further export a hazardous waste.

The primary exporter is responsible for properly designating a country as a transit country. If any uncertainty arises regarding whether certain "storage" occurring in a foreign country is "storage incidental to transportation," primary exporters should refer, for guidance, to the preamble to the rule clarifying when a transporter handling shipments of hazardous waste domestically is required to obtain a storage permit. See 45 FR 86966 (December 31, 1980). Thus, in determining whether a country is a receiving country or a transit country, the factors to be considered are the nature of the handling of the waste in such country and the length of time the waste remains in such country. EPA is not at this time, however, placing a time limit on the length of time considered "temporary storage incidental to transportation." One of the commenters suggesting a broader definition of receiving country also recognized the need for an exception for temporary storage incidental to transportation. That commenter recommended a 10-day limit consistent with domestic requirements. See 45 FR 86966 (December 31, 1980). EPA, however, does not feel it appropriate to impose a specific time limitation on storage incidental to transportation where exports are concerned. The time limitation in the rule referenced above was reached based upon the general nature of the transportation domestically. International transportation, on the other hand, may vary among foreign countries. EPA does not have, at this time, information which would allow it to devise a generally applicable time limitation for storage incidental to transportation internationally. To ensure the proper implementation of today's regulation, EPA will selectively review notifications to ensure that countries designated by exporters as transit countries are not, in fact, receiving countries. If EPA determines that a country is improperly designated as a transit country, it will require that country's prior consent to the waste shipment.

In EPA's view, the final definitions of receiving and transit countries and the decision to require notification of transit countries and both notification of and prior consent from receiving countries is consistent with the statute and best implements Congressional intent in enacting section 3017. Congress did not define the term "receiving country" in section 3017. The statutory language uses the term "receiving country" in the singular form which arguably indicates that Congress contemplated only one receiving country. On the other hand, however, use of the singular version may simply reflect the assumption that exports commonly would involve only one receiving country. The statutory language also provides for notification of the *treatment, storage or disposal* facility abroad to which the waste will be sent. This language arguably indicates that Congress contemplated notification of any country in which "treatment," storage" or "disposal" occurs. However, this notification requirement is qualified by the term "ultimate" treatment, storage or disposal facility. This arguably indicates that "receiving country" encompasses only the final destination of the waste with the phrase "treatment, storage or disposal facility" being used simply as the common phrase for identifying the hazardous waste facility which is the "ultimate" destination. To complicate matters further, however, "ultimate" storage is a contradiction in terms since EPA has defined "storage" as the holding of hazardous waste for a

temporary period *at the end of which the hazardous waste is treated, disposed of or stored elsewhere.* Thus, technically, storage could never be "ultimate," yet Congress used the term "storage" and must have intended it to have some content. An argument could be made that "ultimate" means the TSDF in a *single* foreign country when the waste is temporarily stored in such country and then moved to another facility in that same country for disposal. In this vein, the phrase "treatment, storage or disposal facility" would arguably evidence intent that notification and prior consent be obtained from any country in which treatment, storage or disposal occurs. Unfortunately, the legislative history of section 3017 does not shed any light on Congress' intent regarding the content of "receiving country."

In view of the ambiguity of this term, EPA believes that it is best defined as the country in which treatment, storage or disposal occurs but not a country in which mere transportation (including temporary storage incidental to transportation occurs. Neither the statutory language nor legislative history evidences a clear intent to require both notification and prior consent for mere transportation through a foreign country which would include, consistent with domestic transportation, temporary storage incidental to transportation.

In EPA's view, Congress was concerned with informing a foreign country *and obtaining the prior consent* from a country which is actually ending up with the waste whether through disposal, treatment or long-term storage. In other words, Congressional concern was with countries truly accepting the waste and taking significant action to deal with the waste. Generally, the considerations and ramifications for these countries will be different from and greater than those of countries in which only transportation occurs. Moreover, treatment and long-term storage in a foreign country can be a means to avoid domestic regulation of hazardous waste disposition and can pose problems similar to the actual disposal of hazardous wastes. For example, a surface impoundment engaged in "long term storage" of a waste is likely to present risks similar to an impoundment engaged in "disposal" of a waste, assuming the unit is designed, operated and located in a similar manner. Consent from foreign countries in which treatment or storage (other than incidental to transportation) occurs also is necessary to protect against attempts to avoid consent requirements by labeling particular activities as long-term storage or treatment.

EPA believes that concerns associated solely with transportation through a country are addressed through notification alone which will provide a country with information to enable it to respond to accidents which may occur during transportation. Response is also assisted, and protection afforded for such activities, through the container, labeling and placarding requirements imposed on the transportation of hazardous waste both domestically and by other countries. The notification of transit countries also allows such country to take action to prohibit the entry of such waste into its borders. The treatment of transit countries in the final rule also furthers Congressional intent to impose a minimum of additional regulatory burdens on U.S. generators and administrative burdens on EPA while establishing a more comprehensive and responsible export policy. See 130 Cong. Rec. S9152 (daily ed. July 25, 1984); 129 Cong. Rec. H8163 (daily ed. October 6, 1983). Finally, EPA's definitions of receiving and transit countries and its decision to require prior consent of receiving countries and notification for transit countries is consistent with a new draft decision recently issued by the Organization for Economic Cooperation and Development (OECD) concerning the transboundary movement of hazardous wastes. (Draft Council Decision and Recommendation on Exports of Hazardous Waste from the OECD Area, March, 1986.)

2. Definition of Exporter

a. *Appropriate Liabilities and Responsibilities.* In the proposed rule, EPA defined "exporter" to be the person who is required to prepare the manifest in accordance with 40 CFR Part 262, Subpart B for a shipment of hazardous waste that specifies a TSDF in the receiving country as the facility to which the waste will be sent. Thus, for example, the exporter could be the generator in one case (*see* 40 CFR 260.10, 262.20), the owner or operator of a treatment, storage or disposal facility who initiates a shipment of hazardous waste in another (*see* 40 CFR 264.71(c), 265.71(c)), or a transporter who mixes hazardous waste of different DOT shipping descriptions in yet another (*see* 40 CFR 263.10(c)(2)). The proposal also discussed an alternative definition of exporter—any person who intends to export a hazardous waste. Under this definition, all parties involved in the export (i.e., the generator or person required to assume generator responsibilities, transporter, and any export broker) would be required to comply with all of the export requirements and could be held liable for any failure to do so. Under such a definition, however, only one party would be expected to assume and perform particular duties (such as providing notification) on behalf of all the parties. The proposal noted that this alternative was similar to the treatment afforded generators where several persons meet the definition of generator (*see* 45 FR 72024 (Oct. 30, 1980)).

EPA rejected this alternative primarily because: (1) It is difficult to define the point at which intent to export occurs and the manifest constitutes clear evidence of such intent (e.g., a question arises as to whether an initial generator who sends its waste to a domestic recycling facility and that facility subsequently exports the waste for further recycling "intends" to export); (2) where several parties meet the definition of "exporter," confusion might occur regarding which party should provide notification on behalf of all the parties potentially causing delay and/or duplicative notification; (3) parties such as transporters should not be subject to liability for responsibilities more appropriately placed on generators or persons required to assume generator responsibilities; and, (4) the party preparing the manifest generally appeared to be in the best position to supply EPA with the information required in the notification, receive the EPA Acknowledgment of Consent for attachment to the manifest, and ensure that the shipment conformed with the terms of the receiving country's consent.

While some commenters supported EPA's proposed definition of exporter, others suggested that full potential liability for export notification and other violations should be placed on all parties engaged in the export. One commenter suggested that EPA could avoid duplicative notification by requiring transporters and brokers to submit a copy of the relevant notification and other documents with an appropriate certification, thereby creating an incentive for such persons to verify the information obtained from the person preparing the manifest. One commenter was especially concerned that, under the proposed rule, waste transporters and brokers who often actually arrange for the domestic transport, international transit, and ultimate treatment, storage, and disposal of the waste would be largely exempt from enforcement.

The Agency agrees, at least in part, with the concerns expressed by these

commenters. Although the Agency suggested in the preamble that the preparer of the manifest designating a foreign TSDF would remain liable for any violations of the duties imposed upon him when performed by a broker on his behalf, the Agency agrees with the commenter that brokers arranging for the export should also be held directly responsible for accurate notification and compliance with the consent of the receiving country. These persons are acting on behalf of the party required to initiate the manifest and often may be similarly situated. For example, a broker would be knowledgeable of most information required in a notification since he would be arranging for the export. Therefore, the Agency has added to the definition of exporter "any intermediary arranging for the export."

The term "intermediary" means "broker." An intermediary/broker is a party who arranges for an export by acting as a middleman between the party originating the manifest and another party involved in the export such as the transporter or foreign waste management facility. An intermediary/broker can be licensed or unlicensed, an agent or an indepentent contractor. The term "intermediary" excludes transporters, provided the transporter's role is limited to transporting the waste. The term would, however, include transporters if the transporter were also taking on intermediary responsibilities such as arranging for the management of the waste with the foreign TSDF.

With regard to the responsibilities and liabilities of transporters transporting waste for export, EPA is not, for the most part, making the changes suggested by these commenters. The proposed rule included two significant amendments to § 263.20. One prohibited a transporter from accepting a waste from an exporter unless an EPA Acknowledgment of Consent was attached to the manifest. The other required transporters to ensure that the EPA Acknowledgement of Consent accompanied the hazardous waste en route. In addition, existing regulations require transporters to send a copy of the manifest back to the generator (§ 263.20(g)) and to deliver the entire quantity of hazardous waste to the place outside the United States designated by the generator (§ 263.21(a)(4)). These duties parallel the duties placed on transporters of domestic waste shipments. EPA does not believe that transporters of hazardous waste for export should be held responsible for other elements of the notification and consent, such as ensuring that the waste meets the description contained in the notification or that the quantity of waste consented to by the receiving country has not been exceeded. EPA does not believe it necessary or practical to require transporters to verify that the waste matches the description contained in the notification. This could be construed to necessitate periodic sampling and waste analysis by transporters who are generally not qualified to undertake these actions. In addition, it is possible that the originator of the manifest may employ a number of transporters to transport waste covered by a single notification. It does not seem equitable or practical to require each transporter to ensure that the total quantity consented to by the receiving country has not been exceeded.

Of course, if the transporter knows or is willfully blind to the fact that the waste does not conform with the terms of the consent, he may nonetheless be subject to criminal enforcement action under section 3008(d). In view of the availability of criminal sanctions for such actions, EPA is adding to the requirements applicable to transporters, the requirement that a transporter may not accept a waste for export where he knows the shipment does not conform to the Acknowledgement of Consent. Thus, whereas a transporter has no affirmative duty to ensure conformance of the shipment with the consent, if he is aware that the shipment is not in conformity, he has the duty to refuse to transport the waste.

To clarify its criminal enforcement authority under section 3008(d)(6) against a transporter who knowingly exports hazardous waste without the consent of the receiving country, the Agency is making another change to the definition of exporter. In so doing, EPA wishes to preclude any misunderstanding about the reach of seciton 3008(d) which might otherwise have been caused by the definiton of "exporter" for Subpart E purposes. Therefore, in order to make clear its criminal enforcement authority under section 3008(d) while clearly delineating the limited administrative responsibilities of transporters, the final rule uses the term "primary exporter" to refer to the person defined as an "exporter" in the proposed rule, and, as discussed previously, any intermediary arranging for the export. This change makes clear that these persons are not the only parties which are "exporters" subject to certain responsibilities under section 3017 and criminal enforcement action under Section 308. Transporters transporting hazardous waste for export are also a type of "exporter."

The responsibilities of the primary exporter are contained in Part 262, Subpart E. Although under this revised definition, there may be more than one party acting as the primary exporter, e.g., "the person required to initiate the manifest . . . and any intermediary arranging for the export,' the Agency expects one party to submit the notification, keep the required records, and submit the required annual report, etc. on behalf of all the parties. These parties should decide amongst themselves which party should perform these functions on behalf of the other parties meeting the definition of "primary exporter." This is similar to the situation where several parties meet the definition of generator. See 45 FR 72024, 72026 (October 30, 1980). Enforcement actions can, however, be taken against all primary exporters where equitable and in the public interest.

The responsibilities of transporters are identified in 40 CFR Part 263. These responsibilities include the two amendments to § 263.20 included in the proposed rule (with a minor adjustment for rail transportation discussed at Section G below), the existing requirements of §§ 263.20(g), 263.21 and 263.22(d), and the new requirements that a transporter may not accept hazardous waste for export if he knows the shipment does not conform with the Acknowledgment of Consent and he must deliver a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States (discussed at Section E below). In EPA's view, Section 3017 accords it the discretion to determine who constitutes the "person who exports" or "person who intends to export" and to delineate the responsibilities of each person involved consistent with the intent of section 3017.

At the suggestion of commenters, EPA is also making one other change to the definition of exporter. Rather than define "primary exporter" as the person required to "prepare" a manifest, the final rule defines "primary exporter" as the person required to "originate" a manifest designating a foreign TSDF. The purpose of this revision is to make clear that it was and remains EPA's intent that liability is not solely on the individual who physically completes the manifest but rather on the person responsible for originating the manifest. It should be noted that "person" is broadly defined in § 260.10 to include, among others, individuals, corporations, and partnerships. An entity such as a corporation may comprise many individuals. Thus, many individuals can, in appropriate circumstances, be held

liable for non-compliance with the requirements applicable to a primary exporter. For example, the corporate president, vice-president, facility manager, and environmental officer may all be subject to criminal enforcement action under section 3008(d)(6) where such persons decide to export hazardous waste without the consent of the receiving country. EPA emphasizes that the definition of primary exporter does not limit EPA's authority to enforce criminally under section 3008(d)(6) against such parties. *Cf. United States v. Johnson & Towers, Inc.*, 741 F. 2d 662, 667 (3rd Cir. 1984) *cert. denied*, 105 S. Ct. 1171 (1985) (holding that definition of "person" for purposes of knowing unpermitted disposal of hazardous waste under section 3008(d)(2) is not limited to the "owners or operators" regulated under RCRA administrative requirements but rather extends as well to individual employees of the entity disposing of the waste).

b. Applicability of the Export Requirements to Certain Hazardous Wastes. Under EPA's proposed definition of "exporter," the regulations governing exports would be applicable to exports of hazardous waste initiated by persons required to prepare a manifest under 40 CFR Part 262, Subpart B or an equivalent provision in an authorized State program. Thus, exports of any hazardous wastes that are exempt from the manifest requirements of Part 262, Subpart B would not be subject to any of the export requirements. Accordingly, such hazardous wastes as samples, residues in empty containers, wastes generated in product transportation vehicles, certain wastes when recycled, and wastes generated by small quantity generators of less than 100 kg/mo would be excluded from the export requirements. *See*, e.g., 40 CFR 261.4(c) and (d), 261.5, 261.6, and 261.7. In the preamble to the proposed rule, EPA questioned whether Congress intended to regulate for export wastes not regulated domestically and requested comment on whether EPA should expand the wastes subject to section 3017.

(1) *Comments Suggesting that EPA Narrow the Applicability of Section 3017.* Several commenters focused on recycled waste and suggested that all hazardous waste exported for use, reuse, reclamation or other recycling be exempt from the export requirements even when subject to the manifest requirement. Various reasons for this position were put forth including: (1) Additional administrative costs created by the regulations of hazardous waste exported for recycling could damage or destroy the economic viability of such recycling and result in environmentally less preferable management; (2) due to the volatility of prices paid for recycled metals in international trade, the delay caused by waiting for the receiving country's consent could have a significant adverse economic impact; (3) recyclers have an economic incentive to be certain that their wastes are in fact recycled; therefore, more secure handling of wastes intended for recycling is assured; and (4) the stigma involved in treating hazardous wastes intended for recycling as "hazardous waste" might cause the receiving country to refuse consent. These commenters further argued that there is no indication of Congressional intent to include hazardous wastes for recycling under section 3017; in their view, the phrase "treatment, storage or disposal" as used in section 3017 does not include recycling. Lastly, these commenters cite other sections of RCRA and its legislative history as an indication of Congressional intent to foster all types of recycling of hazardous waste.

EPA does not agree that all hazardous wastes exported for use, reuse, reclamation or other recycling should be exempt from the export requirements. EPA's authority to regulate materials for recycling under Subtitle C has been fully discussed in other rule-makings and need not be repeated in detail here. *See* 48 FR 14472 (April 4, 1983); 50 FR 614 (January 4, 1985). Hazardous waste recycling and ancillary activities are within the statutory meanings of the terms "treatment, storage and disposal." In view of the absence of statutory language limiting the reach of these terms for purposes of section 3017, EPA does not believe Congress intended to exempt hazardous wastes for recycling which EPA fully regulates domestically. Similarly, the argument that hazardous wastes that are recycled do not require regulations because they are inherently valuable and do not generally pose significant risks also has been refuted elsewhere. *See*, e.g., 48 FR at 14473 *et seq;* 50 FR at 617–18. Moreover, although EPA is sympathetic to any impacts the requirement of consent may have with respect to some wastes when exported for recycling, where EPA has made the determination that a hazardous waste recycling activity poses sufficient risk domestically to be subjected to full regulation, there is no justification sufficient to override the need of a foreign country receiving such wastes to be accorded notification and the opportunity to accept or reject such waste. Full regulation domestically is clear evidence that this is the type of waste for which foreign countries would also wish to receive notice and have the means by which to reject such waste and police activities involving such wastes. Narrowing the applicability of section 3017 as these commenters suggested might also encourage sham recycling activities. The potential for this is increased in the context of exports since the foreign facility is outside EPA's jurisdiction, thus making enforcement by EPA more difficult. Accordingly, the final rule continues to apply to all wastes for recycling, which are required to be manifested.

To accommodate commenters' concerns regarding stigmatization of exported recycled hazardous wastes by labeling these materials "hazardous wastes," EPA recommends that exporters include information in their notifications indicating that the waste involved is a "recyclable material" (see 40 CFR 261.6(a)(1)). EPA can then pass this information on to the foreign countries involved. EPA also is doubtful that the possibility of stigmatization or the economic impacts some commenters fear will prove significant. As a result of international discussion and agreement, many countries have become knowledgeable regarding the issue of transboundary movements of hazardous waste. For example, joint decisions and recommendations have been generated under the auspices of the Organization for Economic Cooperation and Development and by the Commission of European Communities. Accordingly, in many cases where recycling of a valuable material is involved, it is likely that the countries involved will demonstrate a sufficient degree of sophistication to respond appropriately and expeditiously to notifications concerning such activities. Moreover, in view of the means EPA intends to use to transmit information, delay on the United States' part and any consequent economic impacts which might result therefrom are unlikely.

The Agency wishes to point out that a relatively narrow set of hazardous secondary materials are not defined as solid wastes and, therefore, are not hazardous wastes when recycled in a particular manner (e.g., listed commercial chemical products that are to be reclaimed (50 FR 614, 619, *codified at* 40 CFR 261.2)). Thus, these materials would not be subject to the export requirements.[1] Exporters of such

[1] These same listed commercial chemical products would, however, be a hazardous waste when, for example "used in a manner constituting disposal." *Id.*

materials, nevertheless, should keep in mind that they have the burden of proof to show that such materials are to be recycled in a manner bringing them outside the scope of "solid waste." *See* 50 FR at 642 and 40 CFR 261.2(f). Exporters "must keep whatever records or other means of substantiating their claims that they are not managing a solid waste because of the way the material is to be recycled." 50 FR at 642–643. This might include, for example, a description of the foreign recycling facility, evidence that the recycling facility is licensed or otherwise qualified by the foreign jurisdiction, and/or a copy of the contract indicating the terms of the transaction. *See* also *United States v. Hayes International Corp.*, 786 F.2d 1499, (11th Cir. 1986) (in a prosecution under Section 3008(d)(1) of RCRA for the knowing transportation of waste to an unpermitted facility, the court rejected defendant's claim that it believed the hazardous waste at issue was being recycled, where evidence indicated the lack of a good faith belief).

EPA is aware of evidence that certain materials that have been exported ostensibly for recycling were actually examples of sham recycling. Improper disposal was intended and in fact occurred. For example, a 41-count indictment charging conspiracy, mail fraud, and utilization of false statements was returned on April 17, 1986, by a federal grand jury sitting in the Southern District of California against four officers and owners of two corporations that were allegedly, among other things, claiming to be recycling waste when in fact they knew it was being illegally disposed of in Mexico.

Any notification, consent or annual report based on false representations is invalid. Thus, persons exporting hazardous waste are subject to civil and criminal enforcement actions. These actions are based upon the fact that the exporter did not comply with applicable notification, consent and/or annual report requirements.

Another extremely small group of hazardous secondary materials, although considered hazardous wastes, are either fully exempt or partially exempt from regulation by EPA domestically. *See* 40 CFR 261.6(a)(2) and (3) (50 FR 614, 665 (January 4, 1985)). Exporters of such secondary materials should keep in mind that the burden of proof is also on the exporter to demonstrate that such waste falls within one of these exemptions. The applicability of the export requirements to these wastes when exported is discussed in detail below in conjunction with other wastes for which manifests are not required domestically.

EPA also wishes to note that if, as a result of promulgating a new hazardous waste characteristic, adding additional wastes to the list of hazardous wastes, or other regulatory changes, additional wastes become subject to manifesting, exporters of such waste must also comply with the requirements promulgated in today's rule.

(2) *Comments Suggesting that EPA Broaden the Applicability of section 3017.* Some commenters supported the Agency's proposal to exempt from the export requirements those wastes that are presently exempted from manifest requirements. One commenter, however, objected to this scheme suggesting that the language of section 3017 (which states that ". . . no person shall export any hazardous waste identified or listed under this subtitle" unless the requirements of section 3017 are met) clearly indicates Congressional intent to subject all hazardous wastes to the export requirements of section 3017. EPA does not agree that Congress intended to require notification and consent for all hazardous wastes in view of the statutory language itself and the established domestic RCRA program.

EPA's regulatory definition of "hazardous waste" is a broad one. It includes all solid wastes which are listed hazardous wastes or which exhibit the characteristic of ignitability, corrosivity, reactivity, or EP toxicity. Generally, hazardous wastes (whether listed or characteristic) are subject to the generally applicable regulations governing their generation, transportation, treatment, storage and disposal. *See* 40 CFR Parts 262, 263, 264 and 265. However, there are a very small number of "hazardous wastes" which EPA, for one reason or another, has totally exempted from domestic regulation. These include, for example, residues under certain specified amounts in empty containers and scrap metal (if it demonstrates a characteristic of hazardous waste) when sent for recycling. 40 CFR 261.7, 261.6(a)(3)(iv). In EPA's view, Congress could not have intended to regulate for export those "hazardous wastes" which EPA does not regulate domestically. It is highly unlikely that Congress would have been more concerned about wastes exported than wastes in its own backyard. For example, as Representative Mikulski, the sponsor of section 3017, stated:

> Our own country will have safeguards from the ill effects of hazardous waste upon passage of [HSWA]. We should take an equally firm stand on the transportation of hazardous waste bound for export to other countries. 129 Cong. Rec. H8163 (daily ed. October 6, 1983) [emphasis added].

An "equally firm" stand on exports would not require regulation of a waste for export not regulated domestically.

Nor does EPA agree that section 3017 is clear on its face regarding its scope of coverage. Although section 3017(a) does include language prohibiting the export of "any hazardous waste" unless certain conditions are met, one of those conditions is the requirement to attach a copy of the receiving country's consent "to the *manifest* accompanying the hazardous waste shipment" [emphasis added]. And, in transmitting notification to a receiving country, section 3017 includes a requirement that EPA, in conjunction with the Department of State, include "a description of the Federal regulations which would apply to the treatment, storage and disposal of the hazardous waste in the United States." These requirements evidence an intent on Congress' part to encompass something less than "all hazardous wastes" since where a waste is not regulated domestically, consent could *not* be attached to the manifest nor would there be any regulations for EPA to describe which govern the domestic treatment, storage or disposal of such wastes. Thus, EPA does not believe that Congress mandated notifying a foreign country of a "hazard" the United States itself does not believe of sufficient concern to regulate domestically.

The question of the reach of section 3017 also arises with respect to certain hazardous wastes which are regulated minimally domestically, although excluded from the generally applicable requirements placed on the generation, transportation, treatment, storage and disposal of hazardous wastes. These include, for example, samples for testing and wastes generated by small quantity generators generating less than 100 kg/mo of hazardous waste. *See* 40 CFR 261.4(d); 261.5 FR at 10174 (March 24, 1986).[2]

EPA does not believe that application of the export requirements was intended for those wastes excluded from the generally applicable manifesting requirement even though some de minimus requirements are imposed domestically. In EPA's view, the function served by the manifest domestically is similar to the function served by the notification and consent internationally. The manifest notifies persons receiving the waste or handling the waste of the nature of the materials

[2] The final rule as it applies to small quantity generators is also discussed at Section H of this preamble.

being dealt with and as such affords such persons the opportunity to reject the waste or, if accepted, provides sufficient information to ensure proper handling of the waste. The manifest also serves as a tracking mechanism which allows policing of hazardous waste management and allows action to be taken against persons improperly handling the waste. Similarly, the notification requirement for exports notifies the foreign country receiving the waste of the nature of the materials and as such affords the receiving country the opportunity to reject the waste or if accepted, allows it to have information sufficient to enable it to deal with the waste. The consent requirement allows the foreign country to take action to prohibit unsafe or inadequate handling of a waste by withholding consent.

In EPA's view, therefore, the lack of imposition of the manifest requirement domestically indicates that such wastes do not reach a level of concern to necessitate notice or a mechanism by which action can be taken to police or enforce against improper handling of these wastes. Accordingly, it is unnecessary to impose an equivalent mechanism on exports of these wastes. It also is doubtful that Congress intended to regulate a waste for export more stringently than domestically. Since no tracking mechanism is available domestically for EPA to know whether such a waste ultimately was exported or actually remained in this country, no similar mechanism is necessary for foreign countries. Moreover, in many cases it is unlikely that, in view of the reasons for excluding such wastes from the manifest requirement, these are the types of wastes for which Congress intended notification and consent. For example, in view of the de minimus amounts and practical safeguards involved in dealing with samples, it is unlikely that a significant environmental problem could result or that a foreign country would be significantly concerned about such wastes. *See* 46 FR at 47428 (September 25, 1981).

Accordingly, EPA is not expanding the scope of section 3017 beyond those wastes for which manifesting is required domestically, with one exception. That exception is spent industrial ethyl alcohol when exported for reclamation. This particular hazardous waste presents a special situation. This waste was exempted from regulation by EPA domestically in view of the fact that the Bureau of Alcohol, Tobacco and Firearms already imposes notice and tracking requirements similar to those imposed generally by EPA on hazardous wastes domestically. EPA regulation, therefore, was considered redundant. *See* 50 FR at 649 (January 4, 1985). Since notice and tracking requirements are placed on these wastes domestically in lieu of EPA's requirements, EPA believes that this is the type of waste for which notification and consent should apply for exports. Thus, the final regulation includes an amendment to 40 CFR 261.6 regarding spent industrial ethyl alcohol when exported for recycling. That provision requires that, in the absence of an applicable international agreement specifying different requirements, the person initiating the export of such material and any intermediary arranging for the shipment must: (1) Provide notification to EPA; (2) export only with the consent of the receiving country and in conformance with such consent; (3) provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the material for export; (4) submit an annual report; and, (5) retain certain records. The "person initiating the shipment" is intended to mean the person who would have been required to prepare the manifest but for the exemption in existing 40 CFR 261.6(a)(3)(i). In addition, the final rule requires transporters carrying such materials to refuse to accept such shipment if he knows that it is inconsistent with the Acknowledgment of Consent, ensure that the EPA Acknowledgment of Consent accompanies the waste and that the waste is delivered to the facility designated by the person initiating the shipment. These requirements meet the statutory minimum of section 3017 plus a recordkeeping requirement for enforcement purposes. All other requirements applicable to other exports will not apply to exports of industrial ethyl alcohol exported for recycling since they are essentially tied to the EPA manifesting system or are inapplicable domestically.

(3) *Other Issues Related to the Applicability of section 3017.* One foreign government commented that the definition of exporter should apply to persons required to prepare a manifest both for waste subject to EPA's regulations as well as waste considered hazardous by the transit and receiving countries. Although EPA supports such an approach in principal, it believes that if a foreign receiving country wishes to expand the universe of waste for which it receives notification, this can best be accomplished through an international agreement between the country and the United States. Moreover, it is questionable whether section 3017 provides authority for EPA to regulate any materials for export that are not "hazardous wastes" identified or listed under RCRA.

Several commenters requested clarification of the applicability of the definition of exporter to certain specific situations. One commenter presented the situation where multiple generators send their waste to a domestic facility for recycling and the recycler later exports still bottoms and other byproducts of the recycling process for use as fuel. In this scenario, the recycler would be the party who originates the manifest designating a foreign TSDF, and thus would be the primary exporter. The initial generators would have designated the domestic facility on their manifests and therefore would not meet the definition of primary exporter. Of course, if the initial generator knew that its waste was being exported by the recycler without the consent of the receiving country, and yet continued to ship waste to that recycler or agreed to participate in the scheme, the initial generator might well be subject to criminal charges for aiding and abetting the recycler and/or conspiring with the recycler to violate section 3008.

Another commenter requested clarification on the aplicability of the export requirements when hazardous waste is generated in Alaska and transported through Canada to a facility in the continental United States. This commenter noted that, apparently, EPA did not intend to require notification of Canada under such circumstances since the term "transit country" was proposed to be defined as the country through which a hazardous waste passes "en route to a receiving country." The phrase "en route to a receiving country" was used in the proposal simply to denote short-term storage that may occur "en route." EPA did not intend this language to exempt such shipments from the notification requirement applicable to transit countries. To make this clear, the phrase "en route to a receiving country" has been deleted in the final rule. This action is consistent with an OECD decision to which the United States is a signatory. Decision and Recommendation of the Council on Transboundary Movement of Hazardous Waste, February 1, 1984.

Two commenters urged the Agency to broaden the exemption for certain samples from the export requirements. These commenters requested that EPA broaden the sample exemption to cover hazardous waste samples exported for the purpose of determining: (1) Whether the foreign facility will accept the waste

stream; (2) the treatment, storage, or disposal measures the foreign facility would use; and (3) the price the foreign facility would charge for the treatment, storage, or disposal of the waste. Existing §261.4(d) conditionally exempts from Subtitle C requirements, any sample of solid waste that is collected "for the sole purpose of testing to determine its characteristic or composition." Because such samples are not subject to the manifest requirements of Part 262, Subpart B, they are exempt from the export requirements. The Agency believes that this comment has merit, not only in the context of exports but also for the management of samples domestically. However, the Agency believes that creating such an exemption would require further analysis for both exports and domestic shipments, and if deemed appropriate, proposal for public comment. The Agency questions what the appropriate conditions for such an exemption would be. For example, the Agency would want to consider whether a quantity limitation or some type of limit on the types of waste covered by the exemption would be desirable. Accordingly, the Agency will consider these suggestions for possible further regulatory action and is not expanding the scope of the § 261.4(d) sample exemption at this time. Unless and until future regulatory action is taken, exports of hazardous waste samples outside the scope of § 261.4(d) must comply with the export requirements. Alternatively, foreign waste management facilities could contract with laboratories in the United States to do any necessary analysis.

3. *Other Definitions.* In its proposed rule, EPA proposed definitions for two additional terms—"EPA Acknowledgment of Consent" and "Consignee." The definition of "EPA Acknowledgment of Consent" has not been changed from the proposed rule. A full discussion of comments and EPA's plans regarding the EPA Acknowledgment of Consent is set forth in Section III. D. of this preamble.

Two comments were received on the proposed definition of "Consignee.' in the proposal, "Consignee" was defined as the ultimate treatment, storage, or disposal facility to which the hazardous waste will be sent in the receiving country. One commenter suggested adding "recycling" to the list of facility types, since the proposal intended to cover wastes exported for recycling. EPA does not believe that this change is necessary because, as discussed above, the term "treatment" clearly covers recycling (see, e.g., 40 CFR 260.10).

The second commenter objected to the use of the word "ultimate" in the definition of "Consignee," suggesting that in the case of hazardous wastes that are exported for recycling, storage or treatment, the initial TSDF that receives the waste may transfer certain portions of the waste to a second TSDF. According to this commenter, exporters frequently have no knowledge of or control over such secondary transfers and may be unable to identify, especially prospectively, such secondary TSDF's. EPA acknowledges that further management of an exported waste may occur after it is sent to a foreign TSDF which is beyond the control or knowledge of the exporter. A foreign TSDF may on its own initiative decide to send waste to another TSDF. EPA did not intend to require an exporter to specify actions which occur in a foreign country unknown to him or beyond the scope of his control. EPA used the adjective "ultimate," consistent with the statutory language of Section 3017, to distinguish between the facility to which the waste is being sent for treatment, storage or disposal in a receiving country and a facility *in that same country* at which a shipment may be stored incidental to transportation (e.g., at transfer facilities, loading docks). For example, if a waste is being exported to London, England via Portsmouth, England and the waste is held temporarily in Portsmouth awaiting transportation to London, the consignee would be the facility in London.[3]

The type of storage incidental to transportation which EPA intended to distinguish from the "ultimate" destination of the waste is similar to that type of storage discussed in the preamble to the rule clarifying when a transporter handling shipments of hazardous waste is required to obtain a storage facility permit.

See 45 FR 86966 [Dec. 31, 1980]. However, for purposes of determining who is the consignee, as between a temporary storage facility at which the waste may be stored incidental to transportation and the ultimate destination of the waste, no time limit on the length of such storage is being proposed as is the case in the rule referenced above. EPA believes it would be extremely difficult, if not impossible due to unforeseen events occurring in transit abroad, for an exporter to know prospectively whether a shipment might be stored, for example, for more than ten days at a storage facility in the course of transportation and would thus become the consignee. Accordingly, the consignee is the facility of ultimate destination of the waste in a receiving country and not a temporary storage facility where a waste may be stored for a short period of time incidental to transportation.

Thus, EPA interprets the term "ultimate TSDF" to mean the final destination of the waste in a receiving country known to the exporter. In view of its interpretation of this term, EPA finds it unnecessary to change the language of the proposed rule.

C. Notifications of Intent to Export [§ 262.53]

EPA received a number of comments on the subject of notification. These comments focused on four issues related to the notification: (1) The 60-day advance time suggested for submission of the notification; (2) separate notification for each shipment; (3) the period covered by the notification; and (4) renotification.

Subsection (c) of section 3017 requires that any person who intends to export a hazardous waste shall, before such waste is scheduled to leave the United States, provide notification to the Administrator. The purpose of this notification is to provide sufficient information so that a receiving country can make an informed decision on whether to accept the waste and, if so, to manage it in an environmentally sound manner. The notification is also intended to ensure that environmental, public health, and U.S. foreign policy interests are safeguarded and to assist EPA in determining the amounts and ultimate destination of exports of U.S. generated hazardous waste so as to enable EPA and Congress to gauge whether the right to export is being abused.

The regulatory notification requirements are intended to implement the broad statutory requirements for notification set forth in section 3017(c) and ensure that sufficient information is obtained to satisfy Congressional intent.

1. Sixty-Day Advance Time

Section 262.53(a) of the proposed rule suggested that the exporter submit notification to the Agency 60 days before the waste was scheduled to leave the United States. This 60-day advance time represented EPA's best estimate of the amount of time it would take to notify a receiving country, obtain consent, and transmit such consent to the exporter. EPA noted in the proposal that the statute itself sets forth the time

[3] In view of the changes in the definition of receiving country, it should be noted that there may be more than one consignee in those rare circumstances where there is more than one receiving country.

frame (30 days) within which a complete notification must be transmitted to the receiving country after receipt by EPA and the time frame (30 days) within which the consent or objection must be transmitted to the exporter after receipt by the Secretary of State. Since EPA believed the information could be transmitted in less time than statutorily required (see discussion in Section III.D), this 60-day advance time allowed approximately thirty days for the receiving country to provide its consent or objection to the Department of State.

EPA received several comments on the 60-day advance time. Most of the commenters focused their responses primarily on the 30-day period for a receiving country to transmit its consent or objection to the Department of State. One commenter stated that 30 days was an adequate period for dissenting governments to protest shipments. The commenter added that a longer period would cause unnecessary and costly delays in disposing of wastes. Another commenter proposed that a receiving country should be deemed to have given its consent if it fails to respond to EPA's notice within 30 days.

Other commenters expressed a concern that a 60-day advance notice was inadequate and that a 90-day advance notice would be necessary. One commenter in favor of a 90-day advance time stated that the 60-day notice would cause delays in exporting waste. Another commenter expressed the view that a 60-day advance time was too long. This commenter maintained that 30 days would be sufficient and proposed a "fast track" system to expedite EPA transmission.

After reviewing the comments, EPA has decided to retain the 60-day advance time as the recommended submittal time. This period should provide time for EPA, the Department of State, and the receiving country to process the notification and transmit the receiving country's consent or objection to the exporter. In fact, the amount of time estimated for EPA and the Department of State to transmit information already reflects a "fast track" system to expedite transmission. Therefore, EPA does not believe, at this time, that it would be appropriate to shorten the suggested time frame. Of course, exporters may submit notifications at a later date since the 60-day advance time is solely a recommended minimum advance time. Exporters should keep in mind, however, that this could increase the risks of a delay in receipt of consent and consequent delay in shipment.

EPA disagrees with the commenter's recommendation that failure by a receiving country to respond to a notification should be considered consent. EPA cannot require a foreign country to respond within a specific number of days. Moreover, EPA does not have the authority to assume consent if there is no response within a specific time period because the statute prohibits exports in the absence of written consent. With respect to those exporters who believe the 60-day advance time is too short, EPA notes that exporters may always submit notifications further in advance if they so desire.

EPA reminds exporters that the 60-day advance time is only EPA's best estimate of the time transmission of information will take. A receiving country may take longer to respond than estimated. Accordingly, regardless of the time when a notice is submitted (even if submitted 60 days or more in advance), the shipment cannot take place until consent has been obtained. Exporters therefore, are encouraged to submit notifications at the earliest possible date.

2. Separate Notification for Each Shipment

The proposed rule provided that a single notification could cover more than one shipment; a separate piece of paper providing notification for each shipment would not be necessary. This was considered consistent with legislative intent since the statute itself specifies that a notification include information on the "frequency of shipment." Since the statute was not clear on this point, however, the Agency specifically requested comments regarding whether separate notification should be required for each shipment.

The vast majority of commenters stated that separate notification was unnecessary. Several commenters noted that such notification would be burdensome to the Agency as well as to industry. Another commenter found separate notifications for each shipment to be contrary to Congressional intent since the statute requires that the "frequency of shipment" be specified in the notification. Only one commenter supported separate notification for each shipment. This commenter, however, stressed that such notification would be the ideal. EPA agrees with the majority of commenters that Congress did not intend notification for each shipment, and that such notification would create unnecessary burdens on industry, the Agency, and foreign countries. As a result, separate notification for each shipment is not required in the final rule.

3. Notification Period (24 Months vs. 12 Months) [§ 262.53]

In its proposal, EPA indicated that a notification could cover a period of up to 24 months. The Agency also requested comment on the alternative of allowing notifications to cover only a 12-month period. Comments received on this issue were divided.

Except for one comment, those in favor of a 24-month period did not provide EPA with a reason why they favored this time period over the 12-month period. The commenter who did provide an explanation suggested that a two-year period would provide the receiving country with time to become familiar with the characteristics of the hazardous waste and to determine whether the facilities were able to properly dispose of the hazardous waste.

Other comments supported the change to a 12-month notification period. Several commenters suggested that because of the difficulties in forecasting export activities over a 24-month period, numerous renotifications would be required, resulting in no net reduction of the burden on exporters. A commenter in support of the 12-month period said that it would improve the accuracy of the estimated number and quantity of shipments identified in a notification. One commenter was concerned that foreign countries would be reluctant to consent to exports for a period as long as 24 months, resulting in the need for protracted negotiations with the receiving country. Another commenter explained that the 12-month time period would allow the receiving country to have greater control over the shipments across the border.

EPA finds the comments in favor of a 12-month notification persuasive and agrees that the better view is to allow notifications to cover a maximum of 12 months rather than 24. In addition, EPA notes that since governments within some countries tend to change rapidly and records may be lost or misplaced or policy changes may occur, the more frequent annual notice would provide more current information to foreign governments than would a 24 month notice. Finally, the amount and detail of information on the effects of hazardous waste on human health and the environment is always increasing, and annual reviews of consent would allow reassessment of any new data.

One commenter asserted that, in view of its regular standard exportation practices, annual or biennial "renotification" for unchanged practices should not be required where a single

notification provides a complete and accurate picture of the waste exportation practices that will occur. Recognizing that practices which deviate from the notification could be enforceable violations of RCRA, this commenter felt that a notification should be allowed to cover any period of time so long as the initial notification fully and accurately reflects the notifier's practices. EPA does not believe that submittal of the notification on an annual basis presents a burden to exporters since such a requirement would only entail duplication of the original notification. Moreover, prudent planning by the exporter should prevent any interruption in exports which might result as a consequence of awaiting new consent. Further, annual notification provides receiving countries with a formal mechanism to review information relative to incoming shipments in light of any new developments which may occur within that country within the previous 12-month period.

4. Renotification [§ 262.53]

Paragraph (c) of proposed § 262.53 required renotification and new consent from the receiving country for changes in the conditions specified in the original notification. Two commenters suggested that renotification should not be required for small variations in shipping procedures and routes.

EPA believes there is some merit to these comments. In fact, the proposal represented an attempt to build into the notification requirements the flexibility to allow for minor changes without renotification and consent. For example, it was proposed that notification include the "estimated" number of shipments of the hazardous waste. Upon re-examination of the issue of notification, however, EPA has decided that some minor regulatory changes would be appropriate. Whereas EPA believes that renotification is necessary where material conditions in the original notification change (since this may affect the original consent granted by the receiving country), it does not believe that certain minor deviations from the original notification warrant renotification and additional consent. In EPA's view, certain notification information is more for informational purposes than integral to a decision to accept or reject a waste. Accordingly, EPA believes that it is doubtful that such deviations would be of sufficient concern to a foreign country for it to wish to reconsider its consent. Moreover, renotification for minor deviations in certain information would put unnecessary burdens on foreign countries, EPA and exporters. And, in view of the need for at least a two-month advance notification, exporters may not at that date have highly detailed information on an export.

In determining what types of changes should trigger the need for renotification and consent, EPA considered which items are most likely to be highly variable and more importantly, which items would be likely to affect the receiving country's consent. For example, EPA believes that any increase over the estimated quantity of waste to be exported should require renotification and consent. However, EPA has concluded that decreases in the quantity exported would not be likely to affect the receiving country's consent and, therefore, is not requiring renotification for such changes. EPA also is requiring renotification and consent for any changes in the waste description, consignee, ports of entry to and departure from a foreign country, the manner in which the waste will be treated, stored or disposed of in the receiving country, the name of any transit countries, the handling of the waste in transit countries, important factors for a receiving country in determining whether to accept or reject a hazardous waste or for a transit country to take appropriate action. Although renotification will be required for changes in the ports of entry to and departure from transit countries, the names of any transit countries, the appropriate length of time the waste will remain in transit countries, and the nature of the handling of the waste in such countries, consent of the receiving country will not be required for these changes since they are unlikely to affect the receiving country's original consent. However, when the Agency receives notification for these types of changes, it will provide notice of them to any affected transit country.

Renotification will not be required when there is a change in the mode of transportation to be utilized. An exporter may not know sufficiently in advance the highly specific details on how the waste is to be transported. Moreover, the mode of transportation may change en route. For example, transportation which was originally planned to take place by truck may be changed at the last minute to railroad due to unexpected events. EPA also will not require renotifications when there is a change in the type of container in which the waste will be transported. The exporter must already meet the specific container requirements of the Department of Transportation, as well as any such requirements of all transit and receiving countries. Moreover, exporters must be allowed to repackage containers damaged en route. Renotification will also not be required for changes in the exporter's telephone number since such a change should not affect the receiving country's consent.

The changes noted above are consistent with Section 3017 since the statutory language itself in several respects builds in flexibility in the notification requirements in an effort to achieve the same result as these more specific regulatory provisions. In addition, in the absence of these changes, exporters are likely, for example, to simply list all possible ways a waste may be transported to avoid renotification. Under such circumstances, a foreign country would be receiving no more specific information on these elements. Accordingly, § 262.53(c) has been changed to require renotification for all changes in the original notification except for changes in the exporter's telephone number, mode of transportation, type of container, and decreases in quantity. In addition, the regulatory language has been modified to make clear that consent of the receiving country is not required for changes to the information noted above which is pertinent to transit countries.

EPA is also concerned about the language of proposed § 262.53(a)(2)(ii) which required that the notification contain "the estimated number of shipments of the hazardous waste and the approximate date of each shipment." Commenters stated that the requirement to estimate the number and total quantity is meaningless and explained that waste generation is never preplanned and exact, therefore, information on the amount of waste generated cannot be exact. Other commenters disagreed with the requirement to include the date of shipment, also explaining that waste generation is never preplanned and exact, consequently, information on the shipment dates cannot be exact. Other commenters also disagreed with the requirement to include the date of shipment, explaining that it is not always feasible to know even 60 days in advance of a shipment the exact date when waste will be transported. The commenters suggested that EPA require the expected frequency of shipment rather than the exact date.

Although the notification requirement as proposed only required the *approximate* dates and estimated number of shipments, EPA notes that no guidance was provided on how much deviation from the approximate date and estimated number of shipments was

allowable without the need for renotification. To avoid the uncertainty inherent in the proposed language, and in view of the comments received expressing concern with this requirement, EPA has chosen to adopt, in the final rule, the statutory language requiring notification of "the estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported." EPA believes this change clearly meets Congressional intent for notification while providing important flexibility to exporters.

Except for the changes regarding notification discussed above, EPA is retaining § 262.53 as proposed for the reasons set forth in the preamble to the proposal.

D. Procedures for the Transmission of Notification, Consent or Objection

Subsections (d) and (e) of section 3017 require the Department of State to transmit notification of the intended export to the government of the receiving country within thirty days of receipt by EPA of a complete notification from the primary exporter. EPA must then notify the primary exporter of the receiving country's consent or objection to the intended export within thirty days of receipt of a response by the Department of State. Because the exchange of information among EPA, the Department of State, receiving countries and transit countries is administrative in nature and imposes no requirements on the public, EPA did not propose specific procedures to implement these statutory requirements.

As discussed in the proposal, EPA and the Department of State plan to telegraphically transmit the notification as well as the receiving country's response. Notifications would be sent from EPA to the Department of State for transmission to the U.S. Embassy in the receiving country. The U.S. Embassy would forward the information to appropriate authorities in the receiving country in translation, if necessary, with a request for an expeditious written response. Upon receipt of this written response, it would be translated by the U.S. Embassy in the receiving country, if necessary, and cabled to the Department of State for transmission to EPA. Where the terms of the receiving country's consent are understandable only by reference to the export notification (e.g., the receiving country simply references a notification and gives consent without reiterating terms described in the notification), the cable will also include relevant portions of such notification. Where the receiving country fully consented to the export or consented with specified modifications, this cable would constitute the EPA Acknowledgment of Consent and would be sent to the primary exporter for attachment to the manifest. Where the foreign country reject the shipment, EPA would so notify the primary exporter in writing. Meanwhile, the original written communication from the receiving country would be sent to the Department of State in Washington in the diplomatic pouch mail. This document would then be forwarded to EPA for retention. A copy would also be forwarded to the exporter.

As required by section 3017, in notifying receiving countries of intended shipments, the government of the receiving country would also be advised that United States' law prohibits the export of hazardous waste unless the receiving country consents to accept the waste. The notification would include a request to provide the Department of State with a response to the notification which either consents to the full terms of the notification, consents to the notification with specified modifications, or rejects receipt of the hazardous waste. Also in accordance with statutory requirements, a description of the Federal regulations which would apply to the treatment, storage, and disposal of hazardous waste in the United States would be provided to the receiving country.

While most commenters favored EPA's suggested procedure of using the cable as the EPA Acknowledgment of Consent, several commenters maintained that an exact duplicate or mechanical reproduction of the actual written consent must be used in lieu of a cable. These commenters suggested that EPA's proposal was contrary to the plain language of the statute and voiced concern over the possibility of human error in transcribing information into a cable or in translating such information.

In EPA's view, transcription of a receiving country's consent into a cable and attachment of such cable to the manifest meets the statutory requirement that a "copy" of the receiving country's written consent be attached to the manifest accompanying the waste shipment. The term "copy" is not limited to a "photo" copy or other mechanical reproduction but can include typed or handwritten "copies." Moreover, EPA believes that "copy" is broad enough to encompass a translation of a receiving country's consent. EPA also believes that the statute accords EPA the discretion to implement the export requirements in a workable and practical fashion. In EPA's view, this necessitates use of telegraphic communications.

U.S. Embassy personnel will be well qualified to translate the receiving country's response and, as indicated in the proposal, EPA will work closely with the Department of State to ensure that cables prepared by the U.S. Embassy include an exact reiteration or translation of the receiving country's consent. EPA remains concerned that mailing actual reproductions of documents will cause unnecessary delays that can be avoided by the use of cables. Without the use of cables, it would be necessary to increase, and possibly significantly increase, the advance time for submission of notifications. This would require exporters to project their export plans even further into the future when submitting their notifications, risking an increase in the number of renotifications necessary and consequent burdens on EPA, exporters, foreign countries and the Department of State. In addition, were EPA to require that the actual consent document be mailed, transmission would be dependent on a postal system over which neither EPA nor the Department of State would have control. It would be unfair to leave exporters dependent upon postal systems which, in some countries, are of questionable reliabilty. Nor does EPA believe it would be appropriate to use the Department of State's diplomatic pouch mail. The Department of State has indicated that while diplomatic pouch mail is generally received within two weeks, in some instances it can take from three to six weeks and, therefore, transmission could exceed the 30-day time frame provided by the statute for transmission of consent to the exporter upon receipt by the Secretary of State.[4]

One commenter suggested that, although a facsimile of the written consent should be provided the exporter, a Department of State translation might also be helpful. However, this commenter believed that exporters should, nonetheless, be held to compliance with the foreign language

[4] One commenter suggested that the statutory time frame problem could be resolved by defining receipt by the Secretary of State as receipt by the Department of State in Washington. Generally, the U.S. Embassy in a foreign country is the representative of the Secretary of State and, therefore, the better view is that receipt by the Embassy is receipt by the Secretary of State. Even were this suggestion adopted, however, the problem would remain that notifications would need to be submitted further in advance thereby risking a consequent increase in burdens on all parties involved due to the increased likelihood that renotification would be necessary for changes in the shipment.

version. EPA notes in response to this comment that it would not take enforcement action against an exporter who relied in good faith on an Embassy translation. Moreover, it would be unfair to require reliance on the foreign language version under such circumstances. Any difficulties arising out of an erroneous translation by the United States is a matter best dealt with by the governments of the countries involved and is a matter of foreign relations appropriately left to the Department of State. Furthermore, were exporters held to the foreign language version, exporters might feel the need to obtain their own translations which could result in various versions of the consent. This could cause needless complications. With use of the Department of State translation, exporters and EPA will be relying on the same translation. Accordingly, EPA is retaining its definition of Acknowledgment of Consent and the procedures for transmission of the notification and consent as proposed except in one respect. To assist in expediting transmission, the final rule adds a requirement that exporters mark the envelope containing the notification "Attention: Notification to Export."

With regard to transit countries, transmission of notification will proceed similar to that for receiving countries. EPA will notify primary exporters of any response of a transit country. As noted earlier, EPA strongly urges exporters to reroute wastes objected to by transit countries since transit countries may take action to prohibit entry.

E. Special Manifest Requirements [§ 262.54]

This section sets forth special manifest requirements pertaining to exports of hazardous waste in light of the special circumstances relative to such shipments. The final rule adopts the provisions as proposed for the reasons set forth in the preamble to the proposed rule except in one significant respect.

During the development of the proposed rule, EPA considered requiring the transporter to deliver a copy of the manifest to a U.S. Customs official at the point the waste leaves the United States. Customs officials would periodically forward the copies it collected to EPA. Such a requirement would serve as a means to assist EPA in enforcing section 3017. The Agency decided not to propose this requirement because it had no evidence that exporters were violating current notification requirements. In addition, the Agency was of the opinion that copies of manifests retained by generators could be obtained (e.g., for comparison with notification and consent documents) if concerns arose about violations of section 3017.

The Agency received comments both opposing this requirement as well as strongly urging the Agency to reconsider its decision on this subject. After evaluating the comments received on this issue, obtaining further information on violations of existing notification requirements, and reconsidering the advantages and disadvantages of the collection of manifest copies, EPA has determined that submission of the manifest at the border should be required. Thus, § 262.54(i) of today's rule requires the primary exporter to provide the transporter with an additional copy of the manifest and § 263.20(g)(4) requires the transporter to deliver a copy of the manifest to the Customs official at the point the waste leaves the United States. This is a new tracking device intended to assist EPA in working with the U.S. Customs Service to establish an effective program to monitor and spot-check exports of hazardous waste. This requirement will allow the Agency to monitor closely the generator's compliance with the EPA Acknowledgment of Consent, coordinate enforcement actions with foreign countries, establish trends and patterns for enforcement and program development, and respond to Congressional inquiries. It also provides clear evidence of an important element of proof in enforcement actions (i.e., that an export did or did not occur) and serves as a deterrent to illegal activities. Moreover, this requirement will allow EPA to respond promptly to hazardous waste incidents in foreign countries. Routine submission of these documents to EPA is important in light of foreign policy concerns involved in exporting hazardous wastes. The diplomatic ramifications of improper shipments of United States' wastes could have a significant impact on the United States as a responsible member of the international community.

The Agency believes that the need for an additional copy of the manifest will result in an insignificant increase in the paperwork burden on the regulated community since this requirement does not include preparation of any additional information but only requires an additional copy of existing information.

F. Annual Reports, Recordkeeping, and Exception Reports [§§ 262.55, 262.56, 262.57]

Section 3017(g) of RCRA imposes a new annual reporting requirement for exports of hazardous waste. The annual reports should be sent to the Office of International Activities (A-106), United States Environmental Protection Agency, Washington, D.C. 20460. Comments received regarding the proposed rule's annual reporting requirement were largely favorable.

One commenter noted that meeting the annual report requirement for exported wastes would be very easy for exporters who reside in States, such as New York, which already require such reports. Another commenter proposed the creation of an annual report form. Since the number of exporters filing annual reports is expected to be very small, the Agency does not believe that an annual report form is necessary in order to enable it to process annual reports. Nor does the Agency believe that expenditure of the resources necessary to develop and print annual report forms is justified in view of the relatively small number of exports.

One commenter explained that submittal of the annual report would be unrealistic since its members presently do not submit reports and, therefore, do not maintain records on export shipments. This commenter also stated that EPA could easily obtain the material found in the annual report from the biennial report, and that requiring both is unnecessary. EPA notes, in response to this commenter, that section 3017 of RCRA requires annual submissions of information on exports. Therefore, annual reporting is a statutory requirement and information submitted biennially would not meet this requirement. Since commenters did not refute EPA's assertion that most generators retain separate records on domestic shipments and exports, EPA does not believe that the administrative burden on exporters to file annual reports on exports and biennial reports on domestic waste management is excessive. Also, as discussed in the proposal, EPA believes that this approach is administratively less burdensome on the Agency.

A second commenter questioned whether information found in the annual reports could be more readily obtained from computerized notice records. Because the annual report is a statutory requirement, regarding what actually occurred, the notice records cannot be used as a substitute. The annual reporting information will tend to be more specific than the notification information. For example, it will provide information of the actual quantity exported if under the amount estimated in the prior notification.

Accordingly, EPA has retained the annual reporting requirement as

proposed except in one respect. One commenter stated that, by exempting generators who file annual reports from reporting exports on the biennial report form, EPA cannot exempt exporters from the new HSWA waste minimization requirements of section 3002(a)(6) (C) and (D). EPA does not believe that exporters will be exempt from such requirements in most cases based upon the assumption that, generally, an exporter will not only export waste but also will ship some wastes off-site for treatment, storage or disposal domestically. Accordingly, the requirements of section 3002(a)(6) (C) and (D) will be met for all wastes by filing the biennial report as required by 40 CFR 262.41. Nevertheless, to cover the annual circumstance where a person exports all his hazardous wastes, the final rule includes a requirement that unless provided pursuant to 40 CFR 261.41, an exporter must include in the annual report submitted in even numbered years: (1) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and (2) a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984. Small quantity generators generating less than 1,000 kg/mo are exempt from this requirement consistent with 40 CFR 262.44 (*See* 51 FR 10148, 10176 (March 24, 1986)). Exporters of spent industrial ethyl alcohol for reclamation are also exempt since this requirement does not otherwise apply to such wastes.

With regard to the proposed recordkeeping and exception reporting requirements, EPA received no significant comments on these provisions. Accordingly, EPA is retaining §§ 262.55 and 262.57 as proposed for the reasons set forth in the preamble to the proposed rule.

G. Transporter Responsibilities

The March 13, 1986 proposal amended § 263.20 to prohibit a transporter from accepting waste from an exporter unless, in addition to a manifest, an EPA Acknowledgment of Consent was attached to the manifest. EPA also proposed to amend this section to require transporters to ensure that an EPA Acknowledgment of Consent accompanied the waste en route. No changes were proposed regarding other requirements of Part 263 applicable to transporters transporting waste for export. *See* 40 CFR 263.20(g), 263.21, 263.22(d). As discussed in Section III.B. of this preamble, EPA is retaining these requirements as proposed and is adding the additional requirements that the transporter deliver a copy of the manifest to a U.S. Customs official at the point the waste leaves the United States and that the transporter refuse to accept hazardous waste for export if he knows it does not conform to the Acknowledgment of Consent.

One further change is also being made in the transporter requirements. This pertains to exports by rail. In drafting the proposed rule, EPA recognized that existing domestic regulations for shipments by rail do not require that the manifest travel with the waste shipment nor do they require that intermediate rail transporters sign the manifest. *See* 40 CFR 263.21(d). Instead, a shipping paper is required to accompany the waste and the manifest must be sent to the next non-rail transporter, the TSDF, or, for exports, the last rail transporter designated to handle the waste in the United States. These special requirements were imposed on rail transporters due to the special nature of the railroad industry in recognition that railroads have sophisticated computerized tracking information systems. If the manifest system were applied to the rail system without adjustment, normal operating practices would be so disrupted as to effectively prevent the use of this method of transportation. *See* 45 FR 86970, 86971 (December 31, 1980). In the rail system, shipping papers are left with railcars at interchange points to be picked up by the transferee railroad. Thus, no face-to-face contact occurs and the normal manifest system is unworkable.

In keeping with the existing system for railroads, EPA's proposed export provisions required the Acknowledgment of Consent to be attached to the shipping paper in lieu of the manifest. In commenting on the proposal, the Association of American Railroads, brought to EPA's attention that the rail industry is now moving toward a system where there will be no exchange of papers between rail carriers. Each rail carrier will have its own shipping paper issued through a computerized system and therefore not even an exchange of a shipping paper will occur by leaving the shipping paper with the rail car. Instead, each rail carrier operator would carry its own shipping paper for the shipment. In the rail industry's view, the proposed export requirements represented a step backward since the requirement that the Acknowledgment of Consent be attached to the shipping paper would require that papers be passed from rail carrier to rail carrier and the new "paperless" exchange would be unworkable. This commenter, therefore, suggested that the Acknowledgment of Consent be attached to the manifest which is forwarded ahead to the last rail transporter to carry waste in the U.S.

EPA did not intend to prevent or discourage the use of rail transportation through the export requirements. Nor does EPA believe that this was Congress' intent. In fact, EPA's intent in the proposal was to accommodate the special circumstances of the rail industry while ensuring that the purpose and intent of section 3017 was met. However, while EPA understands that attachment to a shipping paper under the new rail system may not be workable, it is difficult to understand why a copy of the Acknowledgment of Consent cannot be left in the rail car with the shipment. This would not require any face-to-face contact since the document would simply travel with the rail car as it is passed from one railroad to another. Accordingly, the final rule provides that the Acknowledgment of Consent simply accompany the waste shipment for shipments by rail and need not be attached to the shipping paper. Consistent with section 3017, this will allow the consent to accompany the waste shipment.[5] EPA invites further comment on this issue and will consider further modification to this requirement once the new "paperless" rail system is implemented if it can be shown that this requirement essentially prohibits exports by rail.

H. Small Quantity Generators

As previously discussed in Section III.B.4 of this preamble, EPA proposed to define an exporter as the person required to prepare the manifest pursuant to 40 CFR Part 262, Subpart B for a shipment of hazardous waste that specifies a treatment, storage, or disposal facility in the receiving country to which the waste will be sent. Under the rules existing at the time of the March 13, 1986 proposal, generators of less than 1000 kg/mo of hazardous waste in a calendar month (i.e., small quantity generators) were not subject to Subpart B of Part 262 (or any other Part 262–266 or 270 regulations),[6] provided

[5] The proposed rule also allowed the Acknowledgment of Consent to be attached to the shipping paper for exports by water (bulk shipment) in view of the domestic scheme for this type of transportation. The final rule does not change the proposal with regard to these exports since there were no comments suggesting that this would be a significant problem.

[6] Generators of between 100–1000 kg/mo were required by Section 3001(d)(3) of HSWA to manifest any waste shipped off-site with a single copy of the Uniform Hazardous Waste Manifest beginning July 1985.

the small quantity generator complied with § 262.11 (hazardous waste determination) and ensured delivery of his waste to an on-site facility or off-site facility either of which met one of five criteria:

1. Permitted under Part 270;
2. In interim status under Parts 270 and 265;
3. Authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 271;
4. Permitted, licensed, or registered by a State to manage municipal or industrial solid waste; or
5. A facility which beneficially uses, reuses, or legitimately recycles or reclaims its waste or treats its waste prior to beneficial use, reuse, or legitimate recycling or reclamation.

As the preamble to the proposal noted, it appeared that, technically, a small quantity generator who exported his waste would be subject to then-existing export requirements since he would be unable to comply with any of the above requirements. The proposed rule did not propose to change this result. Therefore, under the proposed rule, small quantity generators who exported their wastes would have been subject to full Part 262 requirements, including the proposed export requirements, while small quantity generators who shipped to any of the five kinds of domestic facilities identified above would continue to be exempt from the Part 262 requirements. The proposal indicated that EPA would be considering whether this was the appropriate treatment of small quantity generators in the final rule. In so doing, EPA would specifically consider any changes which ultimately might be made in the small quantity generator provisions being considered in a separate rulemaking (50 FR 31278 (August 1, 1985)). In addition, EPA would consider whether there should be more concern for a waste exported than dealt with domestically.

Since the March 13, 1986 proposal on exports, EPA has published its final rules for generators of less than 1000 kg/mo at 51 FR 10146 (March 24, 1986). In general, that rulemaking subjects generators of 100–1000 kg/mo to most of the hazardous waste management regulations, including the Part 262 multiple copy manifest requirements and retains the current exemption for generators of less than 100 kg/mo from the Part 262 manifesting and other regulatory requirements.

In determining the final export requirements appropriate for generators of less than 100 kg/mo of hazardous waste, EPA has decided to exempt these generators from the export requirements to be consistent with the Agency's domestic policy with respect to these generators. As discussed at Section III.B.2. above, in EPA's view, only those wastes for which manifests are required domestically are the types of wastes that are properly the subject of section 3017. Moreover, as EPA stated in the March 24, 1986 final rule, it had no data to indicate that additional regulation of generators of less than 100 kg/mo of hazardous waste would provide any significant additional level of environmental protection. Generators of less than 100 kg/mo of hazardous waste account for only 0.07 percent of the total quantity of hazardous waste generated nationally. A review of damage cases also indicated that very few incidents involved quantities below 100 kg. Finally, it does not appear that the effect of the then-existing regulatory language which subjected exports by these generators to Part 262 requirements was intentional.

Accordingly, the final rule modifies § 261.5 to make clear that these generators are exempt from Part 262 requirements for exports as well as for domestic shipments. Any concerns that a foreign country may have about receiving such wastes can be resolved through a bilateral agreement by including the requirement that generators of less than 100 kg/mo provide notification for exports of hazardous wastes.

Generators of 100–1000 kg/mo will be subject to the export rules since under the March 24, 1986 final rule, they are now subject to manifesting requirements.

I. State Authority

1. Effect on State Authorization

Consistent with existing procedures, the proposal provided that States could not assume the authority to receive notifications of intent to export. In addition, States would not be authorized to transmit such information to foreign countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. In EPA's view, foreign policy interests and exporters' interests in expeditious processing were better served by EPA's retaining these functions. This would provide the Department of State with a single point of contact in administering the export program and will better allow for uniformity and expeditious transmission of information between the United States and foreign countries. With the exception of these functions, EPA proposed that States include requirements equivalent to those promulgated today.

EPA specifically requested comments on this approach. As no comments were received objecting to the notification process set forth in the proposed rule, EPA has retained the language of the proposed rule in this respect. However, the final rule includes changes to proposal § 271.11 to require State programs to include a requirement that, for exports, a transporter may not accept a waste for export if he knows it does not conform to the Acknowledgment of Consent and must deliver a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States. These changes simply reflect the addition of these requirements to the Federal requirements discussed above.

2. Universe of "Hazardous Waste" in Authorized States

In the preamble to the proposed rule, EPA explained that where a State has obtained authorization, "hazardous waste" for purposes of the export requirements would be the authorized State's universe of hazardous wastes plus wastes EPA identifies or lists pursuant to HSWA. EPA requested comments on the alternative of basing implementation on the Federal universe of hazardous wastes.

Comments received on this issue were divided. One commenter stated that the approach proposed could result in inconsistencies among States which would be confusing to foreign countries. In addition, such an approach could create unfair burdens on persons exporting from certain States. This commenter also stated that EPA's concern that exporters would have to become familiar with both Federal and State universes of hazardous waste if only the Federal universe was regulated was unfounded.

This commenter further stated that since any authorized State's universe of hazardous wastes must include at least the entire Federal universe, exporters would have little difficulty familiarizing themselves with the Federal universe. In addition, this commenter noted that the use of the Federal universe would be simpler for persons who export from more than one State, obviating the need for detailed knowledge of the universe of hazardous wastes in every State where such persons engage in the export business.

Commenters supporting EPA's approach argued that all wastes considered hazardous at the point of origination should be subject to the

export requirements to assure proper management and disposition.

After reviewing the comments received on the proposed approach and the implications of such an approach, EPA has determined that basing implementation on the authorized State universe plus those wastes identified or listed by EPA pursuant to HSWA remains the better approach. The "authorized State universe" of hazardous wastes consists of: (1) Those wastes in the Federal universe for which the State was authorized at the time it first received final authorization and (2) any wastes subsequently identified or listed by EPA for which the State has received authorization (by filing a request for approval of a program revision). The authorized State universe does not include wastes which are identified or listed by the State as hazardous wastes under State law but are not identified or listed as such by EPA. *See* 40 CFR 271.1(i)(2).

This approach is consistent with EPA's usual interpretation of the phrase "hazardous wastes identified or listed under this subtitle." The only period of time when any inconsistency among States might occur is during the period allowed States to update their programs to add a non-HSWA waste newly listed or identified by EPA. See 40 CFR 271.21 (Amendments to this section were proposed on January 1986 at 51 FR 496–504.) Only during this period might a particular waste from State A be subject to the export requirements (because State A's program revision is approved early) while the same waste from State B would not be subject to the export requirements (because State B's program revision is approved later than State A's). EPA does not believe that the potential for this inconsistency merits deviating from its usual interpretation of the phrase "identified or listed under this subtitle." Moreover, were export requirements applicable to the Federal universe, more wastes would be subject to the export requirements than are regulated on a national level domestically. This would be inconsistent with the intent to treat wastes for export similar to wastes dealt with domestically. Similarly, a material newly listed by EPA and stored in a State during the time period allowed a State to revise its program to add such waste, would not be subject to regulation while stored but would be subject to regulation once the export of such waste was initiated. Thus, materials exported would become subject to regulation ahead of the time States are required to regulate the waste domestically. This would make little sense.

To what extent commenters may be suggesting that EPA also regulate wastes listed by a State beyond those regulated Federally, EPA also rejects this approach as inconsistent with its usual interpretation of "identified or listed" under this Subtitle. In addition, EPA would not have the authority to enforce violations with respect to such wastes which would make little sense with respect to a program primarily Federally implemented. Thus, under this final rule, hazardous wastes identified or listed by the State as part of its authorized program which are broader in scope (not in the Federal universe) will not be subject to the export regulations.

J. Confidentiality

EPA proposed to amend § 260.2 to provide that information for which a claim of confidentiality is made will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B, except that information contained in a notification of intent to export a hazardous waste will be provided to appropriate authorities in receiving countries and the Department of State, regardless of such a claim. Information would otherwise be disclosed to the public and transit countries in accordance with 40 CFR Part 2. The final rule adopts this provision as proposed.

As the preamble to the proposal explained, this approach to the confidentiality of section 3017 notices was based upon EPA's interpretation of RCRA. There is an apparent conflict on the face of the statute between section 3007(b) and section 3017. Section 3007(b) could be read as prohibiting all disclosure of any confidential business information contained in a notice of intent to export. However, this reading would contradict section 3017.

Because the statute must be interpreted to give the fullest possible effect on both section 3007(b) and section 3017, EPA interprets section 3017 to require provision of the notification information to a receiving country through the Department of State even if the information in the notice is confidential, but to prohibit disclosure by EPA of such confidential business information to other persons. The purpose of the notification is to allow receiving countries to make an informed decision as to whether to accept the waste and, if accepted, how to deal with that waste. Moreover, section 3017 prohibits the export of hazardous waste in the absence of consent by the receiving country. Thus, unless such information can be divulged to the Department of State and receiving countries, informed consent could not be obtained and the export would be prohibited.

If a claim of confidentiality is asserted as to any notification information, EPA will exercise its discretion to determine whether it is the type of information that is important for a transit country to know. For example, it would be important for a transit country to know the type and amounts of waste but probably not important for it to know the port of entry to a receiving country. If the information claimed confidential is deemed to be information of which a transit country should know, the time frame set forth in section 3017(d) for submission of a "complete" notification to a receiving country will not begin to run until a determination by EPA of the validity of any such claim has been made. Only upon EPA's completion of the processing of the confidentiality claim will the notification information be provided to receiving countries and any nonconfidential information provided to transit countries. Since an export cannot take place in the absence of the consent of the receiving country, exporters should be aware that claims of confidentiality could, therefore, significantly delay shipment.

EPA received comments on this subject which stated that the availability of export information should not be abridged. EPA does not believe that the final rule in any way abridges the availability of export information contrary to Congressional intent. In fact, as EPA noted in the proposal, it does not believe that notification information generally is entitled to treatment as confidential business information. It has been EPA's experience that existing notifications, which consist of identification of the exporter, waste and consignee, have not been claimed by exporters to be confidential.

Another commenter questioned why EPA could not provide confidential information to a transit country. As discussed above, EPA believes that the only correct reading of sections 3007(b) and 3017 precludes disclosure of confidential information to parties other than receiving countries and the Department of State. However, EPA notes that a transit country that is not satisfied with the information it receives from the notification may take action to prohibit the waste from entering the country.

IV. Enforcement

A. EPA

Noncompliance with RCRA section 3017 or regulations promulgated thereunder is subject to civil and criminal enforcement action under section 3008. As the legislative history of section 3017 states:

> The requirements of this section should be vigorously enforced using all the tools of Section 3008. To accomplish this, the Agency should work with the U.S. Customs Service to establish an effective program to monitor and spotcheck international shipments of hazardous waste to assure compliance with the requirements of the section. Violations should then be vigorously pursued. S. Rep. No. 98–284, 98th Cong., 1st sess. 46.

Most important, HSWA includes an amendment to section 3008(d) of RCRA authorizing criminal penalties against any person who exports a hazardous waste without the consent of the receiving country or in nonconformance with an international agreement between the U.S. and a receiving country. Section 3008(d)(6) establishes incarceration of up to two years and/or a fine of $50,000 per day for knowingly exporting a hazardous waste without consent or in violation of a bilateral agreement. Penalties and prison terms may be doubled for second offenses. EPA intends to prosecute violators to the fullest extent.

Subsection (d)(6) of section 3008 subjects to criminal sanctions "any person who knowingly exports" hazardous waste to a foreign country without that sovereign's consent. The receiving country's consent is premised on the correctness of the data on the export notification. "Consent" based upon the false representation of the exporter is invalid.

The following examples of knowing exportation are meant to illustrate (but do not limit) cases in which the Agency would find that the receiving country's consent has not been given and criminal enforcement might be pursued:

1. Exportation of hazardous waste without notification (or without renotification as required under 40 CFR 262.53(c));
2. Exportation of hazardous waste after notification but without consent (or after renotification but without consent based on the renotification); or
3. Exportation of hazardous waste with "consent" based on false representation(s) in the notification.

In the enforcement of these regulations, EPA may also use section 3008(d)(3) of RCRA (which prohibits the knowing omission of material information or the making of a false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for compliance with Subtitle C (e.g., the notification of intent of export)). These two violations are each punishable by up to two years imprisonment and/or a fine of $50,000. (Potential fines and prison terms are doubled for second offenses.)

B. U.S. Customs Service

The new HSWA provision on the export of hazardous waste raises issues concerning cooperation between EPA and the U.S. Customs Service on enforcement matters. As noted above, Congress intended that EPA "should work with the U.S. Customs Service to establish an effective program to monitor and spotcheck international shipments of hazardous waste to assure compliance with the requirements of [section 3017]." To further this legislative intent, EPA has consulted with and is continuing to consult with the U.S. Customs Service in order to develop an effective program to monitor and spotcheck hazardous waste exports.

The United States Customs Service has independent authority to stop, inspect, search, seize, and detain suspected illegal exports of hazardous waste under the Export Administration Act, 50 U.S.C. App. 2411, as amended by the Export Administration Amendments Act of 1985, Pub. L. No. 99–64, 99 Stat. 120 (1985), case law, and U.S. Customs Service regulations (e.g., 19 CFR Part 162). Exporters who violate the Export Administration Act or U.S. Customs Service regulations may also be subject to enforcement actions under those authorities.

C. Other Agencies

Exporters of hazardous waste also may be required to comply with pertinent export control laws and regulations issued by other agencies. For example, regulations promulgated by the Bureau of the Census of the Department of Commerce require exporters to file Shipper's Export Declarations for shipments valued over $1,000. 15 CFR Part 30. It may very well be possible that hazardous waste exported for purposes of recycling would have a value of $1,000. On January 1, 1986, the Bureau of Census created a new statistical reporting number for hazardous waste within the "Schedule B—Statistical Classification of Domestic and Foreign Commodities Exported from the United States." This number (818.8000) must be used in preparing shipper Export Declarations as required by 13 U.S.C. 301, and 15 CFR 30.7.

Failure to file a Shipper's Export Delcaration is subject to civil penalties as authorized by 13 U.S.C. 305. It is also unlawful to knowingly make false or misleading representations in such documents. This constitutes a violation of the Export Administration Act. To knowingly and willfully make false or misleading statements relating to information on the Shipper's Export Declaration is a criminal offense subject to penalties as provided for in 18 U.S.C. 1001.

V. Effective Date of the Final Regulations

EPA proposed that any final regulatory provisions issued pursuant to section 3017(c) setting forth export notification requirements shall become effective 30 days after promulgation. It was EPA's position that, although the statute specifies a 180-day effective date, the statute also accorded EPA the discretion to shorten that time period under appropriate circumstances.

Several commenters expressed serious concern with the 30-day effective date, reading EPA's statement on this issue to mean that exports taking place starting 30 days after the date of publication of the final rule would be subject not only to the notification requirement but also the consent requirement. It was not EPA's intent, however, to require both notification and consent for shipments occurring 30 days after promulgation. Rather, EPA intended the date occurring 30 days after promulgation to be the point at which it would begin processing notifications. Consent would not be necessary until the November 8, 1986 statutory deadline.

Accordingly, to effectuate EPA's intent and to provide time for consent to be obtained for shipments occurring on or soon after November 8, 1986, the final rule provides that the regulations are effective November 8, 1986, but that EPA will begin accepting notifications immediately for shipments to occur on or after that date. This should allow time to process notifications in order to obtain consent by the statutory deadline and thereby avoid any hiatus in exports of hazardous waste.

Another commenter asserted that EPA has no authority to shorten the 180-day effective date. However, as explained in the preamble to the proposal, EPA interprets the statute to afford it the discretion to shorten this time period. Section 3010(b) provides that regulations promulgated under Subtitle C shall have an effective date six months after the date of promulgation. That section also allows the Administrator to provide for a shorter period prior to the effective date under specified conditions. Section

3017(b) also sets forth the requirement that regulations be effective six months (180 days) after promulgation. However, it does not mention specifically the Administrator's discretion to allow a shorter time. Thus, the question arises as to whether section 3010(b) or section 3017(b) is controlling. It is EPA's view that section 3010(b) is controlling. Where Congress intended that the Administrator have no discretion to shorten the period prior to the effective date, Congress used specific language to that effect. For example, section 3001(d)(9) (Small Quantity Generator Waste) provides that "the last sentence of § 3010(b) shall not apply to regulations promulgated under this Section." Accordingly, since Congress did not specifically provide otherwise under section 3017, the Administrator retains the authority to shorten this period.

EPA believes a shorter effective date is appropriate with respect to the export rule because the regulated community does not need six months to come into compliance with these rules. These rules are not complex and simply involve the exchange of general information. Moreover, because of the date of promulgation of this final rule, these regulations cannot be effectuated by November 8, 1986,[7] and still allow for a 180 day period prior to the effective date. Yet, EPA believes it is important to have rules in effect to properly implement section 3017 by that date.

Assuming, however, that section 3010(b) is not controlling, EPA believes that its scheme for effectuation of these rules is also authorized by section 3017 itself. Section 3017 specifies several dates by which certain acts should occur: 24 months for full statutory implementation; 12 months for implementation of the notification requirements of subsection (c); 12 months for enactment of regulations to implement the section; and, 180 days before the effective date of the regulations. Exactly how these time frames were intended to work together is unclear. For example, regulations need not be promulgated for 12 months but notification requirements were required to go into effect in 12 months. At the same time, 180 days was specified as the time between promulgation and effectuation of regulations. The various time frames established in section 3017 do not, on their face, logically interrelate, nor is it apparent which time frame would control if any slippage were to occur. In view of the lack of clarity of the statutory language in this respect, it is EPA's position that the time for full implementation of section 3017 must take precedence over the number of days between the promulgation date and effective date of the implementing notes. This scheme comports with Congressional intent that this section go into effect by November 8, 1986, and that regulations be in place by that time. Where EPA is unable to satisfy both of these statutory time frames, the November 8, 1986, deadline for implementing section 3017 is more important than the number of days between promulgation of the rule and its effective date.

[7] Section 3017(a) requires compliance with export requirements 24 months after enactment of HSWA (November 8, 1986).

VI. Economic, Environmental and Regulatory Impacts

A. Impact on Small Quantity Generators

Because of the limited number of generators of between 100–1000 kg/mo EPA expects will export hazardous waste, the impact on small quantity generators should be minimal.

B. Executive Order 12291—Regulatory Impact

Executive Order 12291 (46 FR 13193, February 9, 1981) requires that a regulatory agency determine whether a new regulation will be "major" and if so, that a Regulatory Impact Analysis be conducted.

The Administrator has determined that today's final rule is not a major rule, because it has total estimated costs of less than $100 million per year, and has no significant adverse economic effects.

While EPA recognizes that some companies may experience economic dislocation if there are significant delays in processing notifications and consents, the Agency believes that judicious planning on the part of these companies could eliminate or lessen the impact of such delays, if any. As stated in the preamble to the proposed rule (51 FR 10146, March 13, 1986), EPA will process all notifications and written consents as expeditiously as possible.

C. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2050–0035.

D. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, a Regulatory Flexibility Analysis must be performed if the regulatory requirements have a significant impact on a substantial number of small entities. No Regulatory Flexibility Analysis is required where the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Since 1980, generators exporting hazardous waste have been required by EPA to notify the Administrator four weeks before the initial shipment of hazardous waste to each country in each calendar year. Based upon an analysis of those notifications received, the Agency has determined that no small entitles have filed notifications of intent to export. EPA does not anticipate that the universe of generators exporting hazardous waste will significantly change in the future. Therefore, this rule is not expected to have a significant economic impact on a substantial number of small entities and does not require a Regulatory Flexibility Analysis. Therefore, pursuant to 5 USC §601(b), I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous waste, Liquids in landsfills.

40 CFR Part 261

Intergovernmental relations, Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 262

Hazardous material transportation, Hazardous waste, Imports, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Waste minimization.

40 CFR Part 263

Hazardous material transportation, Waste treatment and disposal.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping

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requirements, Water pollution control, Water supply.

Lee M. Thomas,
Administrator.
August 5, 1986.

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for Part 260 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, 3014, 3015, 3017, 3018, 3019 and 7004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974).

2. Section 260.2 is amended by revising paragraph (b) to read as follows:

§ 260.2 Availability of information; confidentiality of information.

* * * * *

(b) Any person who submits information to EPA in accordance with Parts 260 through 266 of this chapter may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in § 2.203(b) of this chapter. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Part 2, Subpart B, of this chapter except that information required by § 262.53(a) which is submitted in notification of intent to export a hazardous waste will be provided to the Department of State and the appropriate authorities in a receiving country regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for Part 261 is revised to read as follows:

Authority: Secs. 1006, 2002(a), 3001, 3002, and 3017 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, 6922, and 6937).

4. Section 261.6 is amended by revising paragraphs (a)(3)(i) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *
(3) * * *
(i) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in § 262.58:

(A) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to a primary exporter in §§ 262.53, 262.56 (a)(1)–(4), (6), and (b), and 262.57, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Subpart E of Part 262, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

(B) Transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA Acknowledgment of Consent, must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and must ensure that it is delivered to the facility designated by the person initiating the shipment.

* * * * *

5. Section 261.5 is amended by revising paragraphs (f)(3) and (g)(3) to read as follows:

§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

* * * * *

(f) * * *

(3) A conditionally exempt small quantity generator may either treat or dispose of his acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

* * * * *

(g) * * *

(3) A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

6. The authority citation for Part 262 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3002, 3003, 3004, 3005, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6906, 6912(a), 6922, 6923, 6924, 6925, and 6937).

7. Section 262.41 is amended by revising the introductory text to paragraph (a), (a)(3), (a)(4) and (a)(5), and adding a sentence at the end of paragraph (b) to read as follows:

§ 262.41 Biennial Report.

(a) A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700–13A, must cover generator activities during the previous year, and must include the following information:

* * * * *

(3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

(4) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States;

(5) A description, EPA hazardous waste number (from 40 CFR Part 261, Subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number of each such off-site facility to which waste was shipped.

* * * * *

(b) * * *

Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth at 40 CFR 262.56.

8. 40 CFR Part 262 is amended by revising Subpart E to read as follows:

Subpart E—Exports of Hazardous Waste

Sec.
262.50 Applicability.
262.51 Definitions.
262.52 General requirements.
262.53 Notification of intent to export.
262.54 Special manifest requirements.
262.55 Exception reports.
262.56 Annual reports.
262.57 Recordkeeping.
262.58 International agreements. [Reserved]

Subpart E—Exports of Hazardous Waste

§ 262.50 Applicability.

This subpart establishes requirements applicable to exports of hazardous waste. Except to the extent § 262.58 provides otherwise, a primary exporter

of hazardous waste must comply with the special requirements of this subpart and a transporter transporting hazardous waste for export must comply with applicable requirements of Part 263. Section 262.58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries.

§ 262.51 Definitions.

In addition to the definitions set forth at 40 CFR 260.10, the following definitions apply to this subpart:

"Consignee" means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

"EPA Acknowledgment of Consent" means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

"Primary Exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 CFR Part 262, Subpart B, or equivalent State provision, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

"Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transportation).

"Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.

§ 262.52 General requirements.

Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this Subpart and Part 263. Exports of hazardous waste are prohibited unless:

(a) Notification in accordance with § 262.53 has been provided;

(b) The receiving country has consented to accept the hazardous waste;

(c) A copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

(d) The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgment of Consent.

(Approved by the Office of Management and Budget under control number 2050–0035)

§ 262.53 Notification of intent to export.

(a) A primary exporter of hazardous waste must notify EPA of an intended export before such waste is scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the primary exporter, and include the following information:

(1) Name, mailing address, telephone number and EPA ID number of the primary exporter;

(2) By consignee, for each hazardous waste type:

(i) A description of the hazardous waste and the EPA hazardous waste number (from 40 CFR Part 261, Subparts C and D), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR Part 171–177;

(ii) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported.

(iii) The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700–22);

(iv) All points of entry to and departure from each foreign country through which the hazardous waste will pass;

(v) A description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));

(vi) A description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

(vii) The name and site address of the consignee and any alternate consignee; and

(viii) The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there;

(b) Notification shall be sent to the Office of International Activities (A–106), EPA, 401 M Street, SW., Washington, DC 20460 with "Attention: Notification to Export" prominently displayed on the front of the envelope.

(c) Except for changes to the telephone number in paragraph (a)(1) of this section, changes to paragraph (a)(2)(v) of this section and decreases in the quantity indicated pursuant to paragraph (a)(2)(iii) of this section when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to paragraph (a)(2)(viii) of this section and in the ports of entry to and departure from transit countries pursuant to paragraph (a)(2)(iv) of this section) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.

(d) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(e) In conjunction with the Department of State, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(f) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA Acknowledgment of Consent to the primary exporter for purposes of § 262.54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

(Approved by the Office of Management and Budget under control number 2050–0035)

§ 262.54 Special manifest requirements.

A primary exporter must comply with the manifest requirements of 40 CFR 262.20–262.23 except that:

(a) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter must enter the name and site address of the consignee;

(b) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.

(c) In Special Handling Instructions and Additional Information, the primary exporter must identify the point of departure from the United States;

(d) The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent";

(e) In lieu of the requirements of § 262.21, the primary exporter must obtain the manifest form from the primary exporter's State if that State supplies the manifest form and requires its use. If the primary exporter's State does not supply the manifest form, the primary exporter may obtain a manifest form from any source.

(f) The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in 40 CFR 264.72(a)) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.

(g) In lieu of the requirements of § 262.20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(1) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with § 262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or

(2) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

(3) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

(h) The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA Acknowledgment of Consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA Acknowledgment of Consent to the shipping paper.

(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with § 263.20(g)(4).

(Approved by the Office of Management and Budget under control number 2050–0035)

§ 262.55 Exception reports.

In lieu of the requirements of § 262.42, a primary exporter must file an exception report with the Administrator if:

(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter;

(b) Within ninety (90) days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received;

(c) The waste is returned to the United States.

(Approved by the Office of Management and Budget and assigned under control number 2050–0035)

§ 262.56 Annual reports.

(a) Primary exporters of hazardous waste shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

(1) The EPA identification number, name, and mailing and site address of the exporter;

(2) The calendar year covered by the report;

(3) The name and site address of each consignee;

(4) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR Part 261, Subpart C or D), DOT hazard class, the name and US EPA ID number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

(5) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in a calendar month, unless provided pursuant to § 262.41, in even numbered years:

(i) a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(6) A certification signed by the primary exporter which states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately rsponsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Reports shall be sent to the following address: Office of International Activities (A–106), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

(Approved by the Office of Management and Budget under control number 2050–0035)

§ 262.57 Recordkeeping.

(a) For all exports a primary exporter must:

(1) Keep a copy of each notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(2) Keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(3) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and

(4) Keep a copy of each annual report for a period of at least three years from the due date of the report.

(b) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

(Approved by the Office of Management and Budget under control number 2050–0035)

§ 262.58 International agreements. [(Reserved)]

9. Title 40 CFR Part 262 is amended by adding new Subpart F to read as follows:

Subpart F—Imports of Hazardous Waste

Sec.
262.60 Imports of hazardous waste.

Subpart F—Imports of Hazardous Waste

§ 262.60 Imports of hazardous waste.

(a) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.

(b) When importing hazardous waste, a person must meet all the requirements of § 262.20(a) for the manifest except that:

(1) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports hazardous waste must obtain the manifest form from the consignment State if the State supplies the manifest and requires its use. If the consignment State does not supply the manifest form, then the manifest form may be obtained from any source.

10. Title 40 CFR Part 262 is amended by adding a new Subpart G to read as follows:

Subpart G—Farmers

§ 262.70 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this part or other standards in 40 CFR Part 270, 264 or 265 for those wastes provided he triple rinses each emptied pesticide container in accordance with § 261.7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

Appendix—Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700–22 and 8700–22A and Their Instructions)

11. The instructions to the Uniform Hazardous Waste Manifest form in the Appendix to Part 262 is amended to add under Item 16 a new paragraph after the first paragraph as follows:

* * * * *

Primary exporters shipping hazardous wastes to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA Acknowledgment of Consent to the shipment."

* * * * *

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

12. The authority citation for Part 263 is revised to read as follows:

Authority: Secs. 2002(a), 3002, 3003, 3004, 3005 and 3017 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. 6912, 6922, 6923, 6924, 6925 and 6937).

13. Section 263.20 is amended by revising paragraphs (a), (c), (e)(2), (f)(2) and (g)(3) and by adding paragraph (g)(4) to read as follows:

§ 263.20 The manifest system.

(a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 40 CFR 262.20. In the case of exports, a transporter may not accept such waste from a primary exporter or other person (1) if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and (2) unless, in addition to a manifest signed in accordance with the provisions of 40 CFR 262.20, such waste is also accompanied by an EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

* * * * *

(c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.

* * * * *

(e) * * *

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and

* * * * *

(f) * * *

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

* * * * *

(g) * * *

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

14. The authority citation for Part 271 continues to read as follows:

Authority: Secs. 1006, 2002(a), and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6926).

§ 271.1 [Amended]

15. Section 271.1 paragraph (j) is amended by adding the following entry to Table 1 in chronological order:

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Date	Title of regulation
* * * * *	
[Insert date of publication].....	Exports of hazardous waste.

16. Section 271.10 is amended by revising paragraph (e) to read as follows except for the note which remains unchanged.

§ 271.10 Requirements for generators of hazardous wastes.

* * * * *

(e) The State program shall provide requirements respecting international shipments which are equivalent to those at 40 CFR Part 262 Subparts E and F, except that:

(1) Advance notification, annual reports and exception reports in accordance with 40 CFR 262.53, 262.55 and 262.56 shall be filed with the Administrator; States may require that copies of the documents referenced also be filed with the State Director; and

(2) The Administrator will notify foreign countries of intended exports in conjunction with the Department of State and primary exporters of foreign countries' responses in accordance with 40 CFR 262.53.

* * * * *

17. Section 271.11 is amended by revising paragraph (c) to read as follows:

§ 271.11 Requirements for transporters of hazardous wastes.

* * * * *

(c) The State must require the transporter to carry the manifest during transport, except in the case of shipments by rail or water specified in 40 CFR 263.20 (e) and (f) and to deliver waste only to the facility designated on the manifest. The State program shall provide requirements for shipments by rail or water equivalent to those under 40 CFR 263.20 (e) and (f). For exports of hazardous waste, the State must require the transporter to refuse to accept hazardous waste for export if he knows the shipment does not conform to the EPA Acknowledgment of Consent, to carry an EPA Acknowledgment of Consent to the shipment, and to provide a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States.

* * * * *

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27515-27
27811-28
28059-28
28219-28
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Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218

Administrative Orders:

Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219

5 CFR

1201.....28321

Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

51.....27813
272.....28196
273.....28196
908.....27816, 28509
910.....28059
911.....27517
918.....27518
1427.....28321
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
447.....27862
1065.....27553
1079.....27554
1136.....27866
1137.....27554
1139.....27555

8 CFR

238.....28060

Proposed Rules:
214.....27867, 28509
248.....27867

9 CFR

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221
523.....28221
741.....27522

Proposed Rules:
205.....28589
226.....28245

13 CFR

310.....27828

14 CFR

21.....28509-28525
23.....28509-28525
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527
71.....27833-27835, 28067, 28325, 28326, 28528
97.....28326
121.....28322
1204.....27528

Proposed Rules:
Ch. I.....28386
1.....28095
36.....27556
39.....27557, 27874, 28386
71.....28388-28390
73.....28095
75.....28096

16 CFR

423.....28222
444.....28328
1500.....28529

Proposed Rules:
13.....28594

17 CFR

1 27529
5 27529
16 27529
33 27529

Proposed Rules:

231 28596
240 28096
241 28596

18 CFR

37 27835
154 ..... 27529, 28331
157 ..... 27529, 28331
270 ..... 27529, 28331
271 ..... 27529, 28068, 28331
284 ..... 27529. 28331

Proposed Rules:

271 28102

19 CFR

6 27836
101 28070

Proposed Rules:

113 27875
141 28390

20 CFR

404 28544
416 28544

Proposed Rules:

655 28599

21 CFR

74 ..... 28331, 28346
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
176 28545
193 28223
331 27762
332 27762
344 28556
357 27756
369 27756
436 27531
440 27531
442 27531
510 28546
520 28546
522 28546
546 28546
558 ..... 28546, 28547
561 28223

22 CFR

Proposed Rules:

2a 28391

23 CFR

635 27532

24 CFR

20 28364
35 27774
203 28548
204 28548
207 ..... 27837, 28547
221 ..... 27837, 28547
300 27838
390 28551
888 28486
905 27774
965 27774
968 27774

Proposed Rules:

35 27793
203 28247
510 27793
511 27793
570 27793
590 27793

26 CFR

1 28553
20 28365
25 28365
602 28365

27 CFR

19 28071
250 28071
270 28078
275 28078
290 28078
295 28078
296 28078

Proposed Rules:

270 28106
275 28106
290 28106
295 28106
296 28106

29 CFR

1952 27534
1960 28378
2603 28379

30 CFR

931 28553
943 28554

Proposed Rules:

774 27558
910 27559
912 27559
920 ..... 28600, 28601
921 27559
922 27559
933 27559
937 27559
939 27559
941 27559
947 27559
950 27560

32 CFR

90 28092
706 ..... 27535, 27536

33 CFR

117 28380
140 28381
142 28381
161 27839
165 ..... 28382, 28383

Proposed Rules:

117 27877
334 28248

34 CFR

674 28312

36 CFR

Proposed Rules:

7 28107–28110
60 28204
63 28204

37 CFR

1 ..... 28052, 28555
2 ..... 28052, 28555
306 27537

39 CFR

10 28383

40 CFR

52 ..... 27537, 27840, 27841
61 27956
65 28224
81 27843–27845
180 28225–28227
260 28664
261 ..... 28296, 28664
262 28664
263 28664
264 28556
265 28556
271 ..... 28094, 28664
761 28558

Proposed Rules:

52 ..... 27560, 27878
65 28113
85 28114
180 ..... 28249, 28603
271 28604
716 27562
721 28119
795 27880
799 27880

41 CFR

101–40 27539

42 CFR

405 27847
417 28569
482 27847

43 CFR

11 27674

Public Land Orders:

6620 28229
6622 28229

44 CFR

64 ..... 28230, 28232

Proposed Rules:

81 28119

45 CFR

1612 27539
2002 28384

47 CFR

22 28236
68 28237
73 ..... 27552, 28237
97 28237

Proposed Rules:

0 27566
1 27566
2 28249
21 27566
22 27566
23 27566
62 27566
73 ..... 27566, 27567
74 27566

48 CFR

1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 ..... 27848, 28574
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 ..... 27848, 28574
1853 27848

49 CFR

571 28238

Proposed Rules:

173 28605
385 28607
391 27567
1058 28249

50 CFR

285 ..... 28240, 28241
604 28575
630 28575
641 28094
655 28241
661 27859
671 28242
672 28385
674 ..... 27860, 28243

Proposed Rules:

216 28320

LIST OF PUBLIC LAWS

Last List August 7, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S. 415/Pub. L. 99–372

Handicapped Children's Protection Act of 1986. (Aug. 5, 1986; 100 Stat. 796; 3 pages) Price: $1.00

.....27848
.....27848
.....27848
848, 28574
.....27848
.....27848
.....27848
.....27848
.....27848
.....27848
.....27848
.....27848
.....27848
.....27848
848, 28574
.....27848

.....28238

.....28605
.....28607
.....27567
.....28249

240, 28241
.....28575
.....28575
.....28094
.....28241
.....27859
.....28242
.....28385
860, 28243

.....28320

LAWS

1986

list of
current
s which
ral laws.
not
deral
be ordered
let form
laws")
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shington,
202-275-

372
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VOL
51
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51
ISS
153
AG
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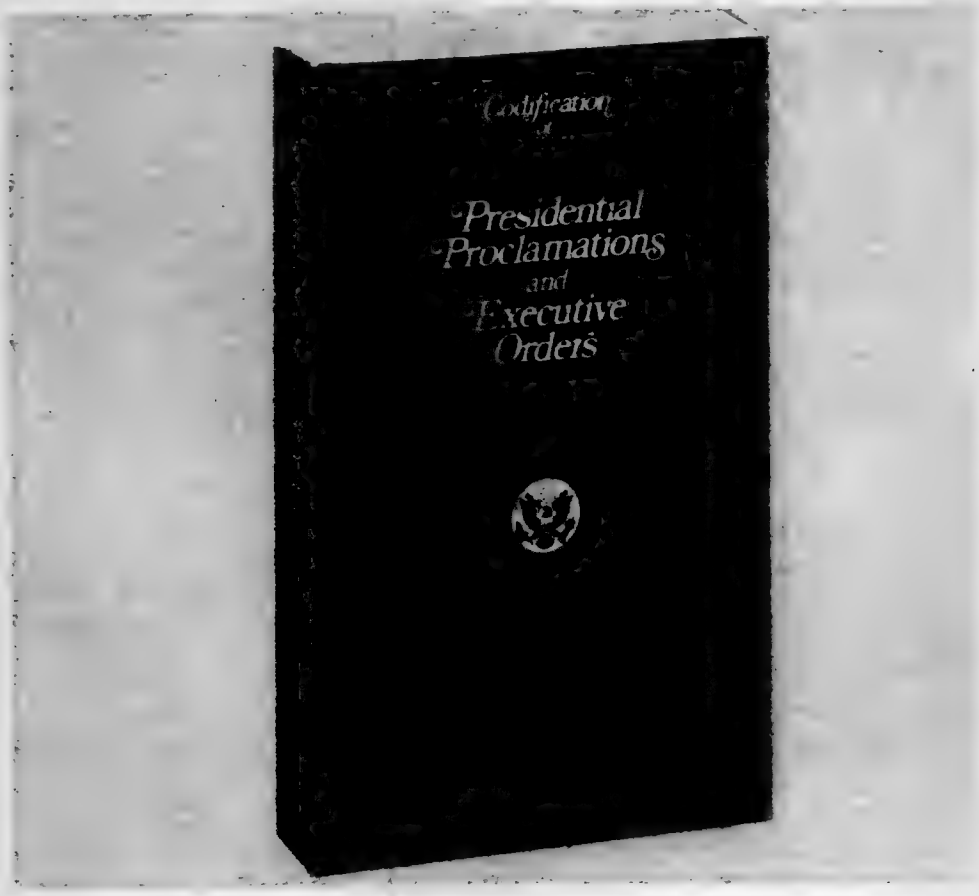

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Vol. 51
Pages

8-11-86
Vol. 51 No. 154
Pages 28687-28798

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August 11, 1986

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VOL
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154
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11
1986
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Contents

Federal Register

Vol. 51, No. 154

Monday, August 11, 1986

Agricultural Marketing Service
RULES
Milk marketing orders:
Texas et al., 28687
Tobacco inspection:
Tobacco, flue-cured; grade standards
Correction, 28687
PROPOSED RULES
Milk marketing orders:
Nebraska-Western Iowa, 28721
Pineapple juice; grade standards, 28719

Agriculture Department
See Agricultural Marketing Service; Rural Electrification Administration

Air Force Department
NOTICES
Procurement:
Contracts—
Conversion determinations, 28741
(2 documents)

Army Department
NOTICES
Meetings:
Military Personal Property Claims Symposium, 28741

Coast Guard
RULES
Drawbridge operations:
Atlantic Intracoastal Waterway, Core Creek, NC, 28707
Regattas and marine parades:
Colorado River, AZ, 28706

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office

Defense Department
See Air Force Department; Army Department

Drug Enforcement Administration
RULES
Schedules of controlled substances:
1-Methyl-4-phenyl-4-propionoxypiperidine (MPPP), etc., 28695
PROPOSED RULES
Schedules of controlled substances:
1-Methyl-4-phenyl-4-propionoxypiperidine (MPPP), etc., 28725
Tiletamine and zolazepam, 28727

Education Department
NOTICES
Grants; availability, etc.:
Projects with industry; funding priorities, 28742
Meetings:
Indian Education National Advisory Council, 28743

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Grants, State and local assistance:
Asbestos hazard abatement (schools) program; class deviations, 28710
PROPOSED RULES
Water pollution control:
National primary drinking water regulations—
Surface water sources filter criteria; meeting, 28730
NOTICES
Agency information collection activities under OMB review, 28756
Air programs; fuel and fuel additive waivers:
American Methyl Corp., 28757
Toxic and hazardous substances control:
Testing consent agreement development, 28758

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 28691
PROPOSED RULES
Air traffic rules, special:
Rulemaking petition; Pan Am, slot allocations, 28725
NOTICES
Airport noise compatibility program:
Baton Rouge Metropolitan Airport, LA, 28792

Federal Communications Commission
NOTICES
Agency information collection activities under OMB review, 28759
Rulemaking proceedings; petitions filed, granted, denied, etc., 28759
Travel reimbursement experiment; quarterly report, 28759
Applications, hearings, determinations, etc.:
French Creek Communications, Inc., et al., 28759

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 28797

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Canal Electric Co. et al., 28744
Central Maine Power Co. et al., 28746
Iowa Power & Light Co. et al., 28747
Environmental statements; availability, etc.:
Irvine Ranch Water District et al., 28749
Hydroelectric applications, 28749
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 28746
Coquina Oil Corp. et al., 28743
East Tennessee Natural Gas Co., 28746
Midwestern Gas Transmission Co., 28744
Northern Natural Gas Co. et al., 28755
Pacific Power & Light Co., 28746
Sun Exploration & Production Co., 28744

VOL 51 ISS 154 AG 11 1986 UMI

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
Bank director responsibility
Correction, 28690

Federal Maritime Commission
NOTICES
Agreements filed, etc., 28763
Tariffs, inactive; cancellation, 28763

Federal Trade Commission
RULES
Prohibited trade practices:
American Academy of Optometry, Inc., 28694
Brog, Roy, 28694
Lithium Corp. of America, 28694
United Brands Co., 28695

Food and Drug Administration
NOTICES
Animal drugs, feeds, and related products:
Albers dimetridazole premix; approval withdrawn, 28764
Label statements regarding FDA approval; compliance policy guide, availability, 28765
Medical devices; premarket approval:
Autopheresis-C Plasmapheresis System, 28765

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; National Institutes of Health

Health Care Financing Administration
RULES
Medicare:
Reasonable charge limitations, 28710
NOTICES
Medicare:
Economic index, 28766

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements:
Advanced nurse education, nurse practitioner and midwifery, and nursing special project grants, 28777

Housing and Urban Development Department
RULES
Minimum property standards:
Care-type housing, 28696
Mortgage and loan insurance programs:
Multifamily housing projects—
Assignment of insured mortgages, 28699
Slum clearance and urban renewal:
Rental rehabilitation program, 28703

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
Native Village of Minto, 28779

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office

International Trade Administration
RULES
Export licensing:
Commodity control list—
General license value limit (GLV), 28693
Spain; COCOM membership, 28692
NOTICES
Antidumping:
Carbon steel butt-weld pipe fittings from—
Brazil, 28733
Japan, 28734
Taiwan, 28735
Paint filters and strainers from Brazil, 28737
Stainless steel and strip products from France, 28738
Stainless steel sheet and strip products from West Germany, 28738
Countervailing duties:
Paint filters and strainers from Brazil, 28739
Meetings:
Military Critical Technologies List Implementation Technical Advisory Committee and President's Export Council, 28740
Short supply determinations; inquiry:
Coated carbon steel sheet and strip, 28740

Interstate Commerce Commission
PROPOSED RULES
Tariffs and schedules:
Short notice effectiveness for independently filed rail carrier rates, 28731
NOTICES
Railroad operation, acquistion, construction, etc.:
Soo Line Railroad Co., 28782

Justice Department
See Drug Enforcement Administration; Justice Programs Office

Justice Programs Office
NOTICES
Grants; availability, etc.:
Law enforcement training and technical assistance grants, 28782

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
California, 28780
Resource management plans, etc.:
Kemmerer Resource Area, WY, 28780

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Sohio Petroleum Co., 28781

National Highway Traffic Safety Administration
PROPOSED RULES
Fuel economy standards:
Passenger automobiles
Correction, 28730

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 28777, 28778 (2 documents)

National Heart, Lung, and Blood Institute, 28778

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 28717
(2 documents)
PROPOSED RULES
Fishery conservation and management:
Foreign fishing; permits, 28731
NOTICES
Permits:
Marine mammals, 28741

National Park Service
NOTICES
Closure of facilities:
Olympic National Park, WA; temporary road closure, 28781
Meetings:
Chesapeake and Ohio Canal National Historical Park Commission, 28781

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Virginia Electric & Power Co. et al., 28784

Patent and Trademark Office
RULES
Trademark cases:
Practice rules, 28707

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities under OMB review, 28785

Public Health Service
See Food and Drug Administration; Health Resources and Services Administration; National Institutes of Health

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 28794
(2 documents)

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
Primary support documents; power requirements studies, 28722

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 28785
Meetings; Sunshine Act, 28797
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 28786, 28788
(2 documents)
Depository Trust Co., 28786
Applications, hearings, determinations, etc.:
InfraRed Associates, Inc., 28785

Small Business Administration
NOTICES
Disaster loan areas:
Pennsylvania, 28791
License surrenders:
Funds, Inc., 28791
Applications, hearings, determinations, etc.:
RIHT Capital Corp., 28792

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
Iowa, 28729

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration
NOTICES
Aviation proceedings:
Manila International Airport, Philippines; security measures determination, 28792

Treasury Department
NOTICES
Agency information collection activities under OMB review, 28795

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL
51
ISS
154
AG
11
1986
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
29 28687
1064 28687
1102 28687
1106 28687
1108 28687
1126 28687
1138 28687
Proposed Rules:
52 28719
1065 28721
1709 28722

12 CFR
522 28690

14 CFR
39 28691
Proposed Rules:
Ch. I 28725

15 CFR
370 28692
371 28692
373 28692
374 28692
379 28692
399 (2 documents) 28692, 28693

16 CFR
13 (4 documents) 28694, 28695

21 CFR
1308 28695
Proposed Rules:
1308 (2 documents) 28725, 28727

24 CFR
200 28696
207 28699
251 28699
255 28699
511 28703

30 CFR
Proposed Rules:
915 28729

33 CFR
100 28706
117 28707

37 CFR
2 28707

40 CFR
33 28710
Proposed Rules:
141 28730

42 CFR
405 28710

49 CFR
Proposed Rules:
531 28730
1312 28731

50 CFR
661 (2 documents) 28717
Proposed Rules:
611 28731

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Rules and Regulations

Federal Register
Vol. 51, No. 154
Monday, August 11, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Grade Standards for Flue-Cured Tobacco; Correction

AGENCY: Agricultural Marketing Service.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 86–15644, beginning on page 25027, in the issue of Thursday, July 10, 1986, concerning grade standards for flue-cured tobacco, the section number in amendment 6 and the section heading was incorrectly designated. This document corrects those designations.

FOR FURTHER INFORMATION CONTACT: Lionel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250; Telephone (202) 447–2567.

Corrections

FR Doc. 86–15644 is corrected as follows:

A. On page 25027, the language in amendment 6 which added § 29.1048 is corrected to read as follows:

"6. A new § 29.1049 is added to read as follows:".

B. The section number which now reads "§ 29.1048" in the section heading is correctly designated as "§ 29.1049".

Dated: July 31, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–17917 Filed 8–8–86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1064, 1102, 1106, 1108, 1126 and 1136

[Docket Nos. AO-231-A54 et al.]

Milk in the Texas and Certain Other Marketing Areas; Interim Amendments to Orders

7 CFR Parts	Marketing areas	Docket Nos.
1126	Texas	AO–231–A54
1064	Greater Kansas City	AO–23–A67
1102	Fort Smith, Arkansas	AO–237–A34–RO1
1106	Southwest Plains	AO–210–A45–RO1
1108	Central Arkansas	AO–243–A39
1136	Rio Grande Valley	AO–335–A32

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rules.

SUMMARY: This action modifies on an interim basis the plant location adjustments to prices under the Texas, Greater Kansas City, Southwest Plains and Central Arkansas milk orders based on industry proposals considered at a public hearing held March 4–7, 1986. The location adjustment provisions of the four orders are amended to conform prices under such orders with the higher Class I differentials mandated by the Food Security Act of 1985. Also, certain changes are adopted to assure the proper intra-market alignment of prices under the orders. More than the necessary two-thirds of the producers in each of the four markets has approved the interim amendments.

No changes for the Fort Smith, Arkansas and Rio Grande Valley orders are warranted on the basis of the hearing record. Amendments to the Memphis, Tennessee order were considered at the hearing also. A prior emergency final decision and an amended order to deal with the proposed changes for this market were issued separately.

This hearing proceeding reopened an earlier proceeding for the Southwest Plains and Fort Smith, Arkansas orders to consider a merger of the two orders plus an expansion of the merged marketing area to include presently unregulated territory in southwest Missouri and northwest Arkansas. The earlier proceeding was reopened for the limited purpose of receiving evidence with respect to the economic and marketing conditions which relate to the location adjustment provisions of the merged and expanded Southwest Plains marketing area. A separate decision to deal with these issues and conclude the prior proceeding for the two markets will be issued later.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued February 14, 1986; published February 21, 1986 (51 FR 6250).

Emergency Final Decision: Issued May 8, 1986; published May 16, 1986 (51 FR 17982).

Final Order: Issued June 4, 1986; published June 10, 1986 (51 FR 20955).

Tentative Decision: Issued July 9, 1986; published July 15, 1986 (51 FR 25539).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended on an interim basis, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the orders as hereby amended on an interim basis, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended on an interim basis regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make these interim amendments to each of the aforesaid orders effective September 1, 1986. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing areas.

The interim amendments to these orders are known to handlers. The tentative decision of the Deputy Assistant Secretary containing all interim amendments to these orders was issued July 9, 1986 (51 FR 25539). The changes effected by these interim amendments will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these interim amendments to each of the aforesaid orders effective September 1, 1986, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after publication in the Federal Register.

(Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of these interim amendments to each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders: and

(3) The issuance of these interim amendments to each of the specified orders is approved by more than the necessary two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Parts 1064, 1106, 1108, and 1126

Milk marketing orders, Milk, Dairy products.

Order Relative To Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The authority citation for 7 CFR Parts 1064, 1106, 1108 and 1126 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. In § 1064.52, paragraph (a) is revised to read as follows:

§ 1064.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located outside the marketing area and more than 70 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Hall in Kansas City, Missouri, or Topeka, Kansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1064.50(a) shall be reduced by a per hundredweight rate of 1.7 cents for each 10 miles or fraction thereof that such plant is located from the nearer City Hall.

* * * * *

PART 1102—MILK IN THE FORT SMITH, ARKANSAS MARKETING AREA

Note.—No amendatory action taken.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. Section 1106.2 is revised to read as follows:

§ 1106.2 Southwest Plains marketing area.

The "Southwest Plains marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the following counties, and all territory occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone I

In the State of Oklahoma

Caddo	Lincoln
Canadian	McClain McIntosh
Cleveland	Okfuskee
Coal	Oklahoma
Garvin	Pittsburg
Grady	Pontotoc
Haskell	Pottawatomie
Hughes	Seminole
Latimer	Sequoyah
LeFlore	

Zone II

In the State of Oklahoma

Atoka	Johnston
Bryan	Kiowa
Carter	Love
Choctaw	Marshall
Comanche	McCurtain
Cotton	Murray
Greer	Pushmataha
Harmon	Stephens
Jackson	Tillman
Jefferson	

Zone III

In the State of Oklahoma

Adair	Major
Alfalfa	Mayes
Beaver	Muskogee
Beckham	Noble
Blaine	Nowata
Cherokee	Okmulgee
Cimarron	Osage
Craig	Ottawa
Creek	Pawnee
Custer	Payne
Delaware	Roger Mills
Dewey	Rogers
Ellis	Texas
Garfield	Tulsa
Grant	Wagoner
Harper	Washita
Kay	Washington
Kingfisher	Woodward
Logan	Woods

Zone IV

In the State of Kansas

Allen	Labette
Barber	Marion
Barton	McPherson
Bourbon	Montgomery
Butler	Neosho
Chatauqua	Pawnee
Cherokee	Pratt
Comanche	Reno
Cowley	Rice
Crawford	Rush
Edwards	Russell
Ellis	Sedgwick
Harper	Stafford
Harvey	Sumner
Kingman	Wilson
Kiowa	

In the State of Missouri

Barton	Newton
Jasper	Vernon

Zone V

In the State of Kansas

Clark	Lane
Finney	Meade
Ford	Morton
Gove	Ness
Grant	Scott
Gray	Seward
Greeley	Stanton
Hamilton	Stevens
Haskell	Trego
Hodgeman	Wichita
Kearny	

2. In § 1106.52, paragraph (a) is revised to read as follows:

§ 1106.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1106.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1106.50(a) shall be adjusted by the amount stated in paragraphs (a)(1) through (9) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1106.2, the adjustment shall be as follows:

Adjustment per Hundredweight

Zone I	No Adjustment.
Zone II	Plus 23 cents.
Zone III	Minus 18 cents.
Zone IV	Minus 47 cents.
Zone V	Minus 27 cents.

(2) For a plant located in any of the following Kansas counties, the adjustment shall be as follows:

(i) *Minus 85 cents.* Anderson, Atchison, Brown, Chase, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Morris, Nemaha, Osage, Ottawa, Pottawatomie, Republic, Riley, Saline, Shawnee, Wabaunsee, Washington and Wyandotte.

(ii) *Minus 47 cents.* Elk, Greenwood and Woodson.

(iii) *Minus 27 cents.* Cheyenne, Decatur, Ellsworth, Graham, Jewell, Lincoln, Logan, Mitchell, Norton, Osborne, Phillips, Rawlings, Rooks, Sheridan, Sherman, Smith, Thomas and Wallace.

(3) For a plant located in the State of Missouri, the adjustment shall be as follows:

(i) *Minus 58 cents.* In the county of Barry, Butler, Carter, Cedar, Christian, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Gasconade, Greene, Howell, Iron, Laclede, Lawrence, Madison, Maries, McDonald, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Phelps, Polk, Pulaski, Reynolds, Ripley, Scott, Shannon, Stoddard, Stone, Taney, Texas, Wayne, Webster or Wright.

(ii) *Minus 76 cents.* In the county of Jefferson, St. Charles, or St. Louis or in the city of St. Louis.

(iii) *Minus 85 cents.* In any other county that is outside the marketing area and also outside the designated pricing area described in paragraph (a)(3)(i) or (a)(3)(ii) of this section.

(4) For a plant located in the State of Arkansas, the adjustment shall be the difference (plus or minus) between the applicable Class I price effective at such plant location under the Central Arkansas order (Part 1108) and the Class I price specified in § 1106.50(a).

(5) For a plant located in the State of Louisiana, the plus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Greater Louisiana order (Part 1096) and the Class I price specified in § 1106.50(a).

(6) For a plant located in any of the following territory in the State of Texas, the adjustment shall be as follows:

(i) In the Texas marketing area, the plus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Texas order (Part 1126) and the Class I price specified in § 1106.50(a).

(ii) In the Texas Panhandle marketing area or in Lipscomb County, Texas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Texas Panhandle order (Part 1132) and the Class I price specified in § 1106.50(a).

(iii) In the Lubbock-Plainview, Texas, marketing area or in Parmer County, Texas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Lubbock-Plainview, Texas, order (Part 1120) and the Class I price specified in § 1106.50(a).

(iv) In the county of Bowie or Cass, the adjustment shall be plus 31 cents.

(v) In any other territory that is outside the marketing area of any Federal order and also outside the designated pricing areas described in paragraphs (a)(6) (i) through (iv) of this section, the adjustment shall be plus 2.25 cents per hundredweight for each 10 miles or fraction thereof that such plant is from the City Hall in Oklahoma City, Oklahoma (based on the shortest hard-surfaced highway distance as determined by the market administrator).

(7) For a plant located in the Rio Grande Valley marketing area and the New Mexico counties of Catron, Colfax, Hidalgo or Union, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Rio Grande Valley order (Part 1138) and the Class I price specified in § 1106.50(a).

(8) For a plant located in the State of Colorado, the adjustment shall be as follows:

(i) In the Eastern Colorado marketing area or in the county of Baca, Bent or Prowers, the adjustment shall be the difference (plus or minus) between the applicable Class I price effective at such plant location under the Eastern Colorado order (Part 1137) and the Class I price specified in § 1106.50(a).

(ii) In any other territory that is outside the Rio Grande Valley marketing area and outside the designated pricing area described in paragraph (a)(8)(i), the adjustment shall be minus 77 cents.

(9) For a plant located outside the designated pricing areas described in paragraphs (a)(1) through (8) of this section, the adjustment shall be minus 18 cents plus an additional reduction of 2.25 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the City Hall in Tulsa or Ponca City, Oklahoma (based on the shortest hard-surfaced highway distance as determined by the market administrator).

* * * * *

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.52, paragraph (a) is revised to read as follows:

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1108.9(c) and which is classified as Class I milk without movement in bulk form to another pool plant at which a higher Class I price applies, the price specified in § 1108.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (6) of this section for the location of such plant:

(1) For a plant located in the State of Arkansas, the adjustment shall be as follows:

(i) In the counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittenden, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff, or Yell, no adjustment shall apply;

(ii) In any county lying north of any county specified in paragraph (a)(1)(i) of this section, the adjustment shall be minus 22 cents; and

(iii) In any county lying south of any county specified in paragraph (a)(1)(i) of this section, the adjustment shall be plus 31 cents.

(2) For a plant located in the State of Oklahoma or Tennessee, no adjustment shall apply.

(3) For a plant located in the Texas county of Bowie or Cass, the adjustment shall be plus 31 cents.

(4) For a plant located in the State of Louisiana, Mississippi or Texas (except the counties of Bowie and Cass), the adjustment shall be plus 2.1 cents per hundredweight for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the nearer of the County Courthouse in Forrest City, Arkansas, or the State Capitol in Little Rock, Arkansas, (based on the shortest, hard-surfaced highway distance as determined by the market administrator).

(5) For a plant located in any of the following Missouri counties, the adjustment shall be minus 58 cents.

Barry	McDonald
Cedar	Ozark
Christian	Polk
Dade	Pulaski
Dallas	Stone
Douglas	Taney
Greene	Texas
Howell	Webster
Laclede	Wright
Lawrence	

(6) For a plant located outside the designated pricing areas specified in paragraphs (a) (1) through (5) of this section, the adjustment shall be minus 2.1 cents per hundredweight for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the nearer of the County Courthouse in Forrest City, Arkansas, or the State Capitol in Little Rock, Arkansas (based on the shortest hard-surfaced highway distance as determined by the market administrator).

* * * * *

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.52, paragraph (a) is revised to read as follows:

§ 1126.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1126.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1126.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (10) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1126.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone I	No adjustment.
Zone 1–A	Minus 25 cents.
Zone 2	No adjustment.
Zone 3	Plus 15 cents.
Zone 4	Plus 18 cents.
Zone 5	Plus 20 cents.
Zone 6	No adjustment.
Zone 7	Plus 30 cents.
Zone 8	Plus 54 cents.
Zone 9	Plus 42 cents.
Zone 10	Plus 53 cents.
Zone 11	Plus 66 cents.
Zone 12	Plus 75 cents.

(2) For a plant located in the Texas Panhandle marketing area or in Lipscomb County, Texas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Texas Panhandle order (Part 1132) and the Class I price specified in § 1126.50(a).

(3) For a plant located in the Lubbock-Plainview, Texas, marketing area or in Parmer County, Texas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Lubbock-Plainview, Texas order (Part 1120) and the Class I price specified in § 1126.50(a).

(4) For a plant located in Bowie or Cass County, Texas, the adjustment shall be minus 20 cents.

(5) For a plant located in the State of Texas and outside the designated pricing areas described in paragraphs (a) (1) through (9) of this section, the adjustment shall be the adjustment applicable at the nearer of Corpus Christi, San Angelo, or San Antonio, Texas.

(6) For a plant located in the Rio Grande Valley marketing area or the New Mexico counties of Catron, Colfax, Hidalgo or Union, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Rio Grande Valley order (Part 1138) and the Class I price specified in § 1126.50(a).

(7) For a plant located in the Southwest Plains marketing area or in the Missouri counties listed below, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Southwest Plains order (Part 1106) and the Class I price specified in § 1126.50(a).

Barry	McDonald
Cedar	Ozark
Christian	Polk
Dade	Pulaski
Dallas	Stone
Douglas	Taney
Greene	Texas
Howell	Webster
Laclede	Wright
Lawrence	

(8) For a plant located in the State of Arkansas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Central Arkansas order (Part 1108) and the Class I price specified in § 1126.50(a).

(9) For a plant located in the State of Louisiana, no adjustment shall apply.

(10) For a plant located outside the designated pricing areas described in paragraphs (a) (1) through (9) of this section, the adjustment shall be minus 2.2 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the City Hall in Dallas, Texas (based on the shortest hard-surfaced highway distance as determined by the market administrator).

* * * * *

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

Note.—No amendatory action taken.

Effective date: September 1, 1986.

Signed at Washington, DC, on August 5, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-17962 Filed 8-8-86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 522

[No. 86-773]

Responsibility of Bank Directors

Correction

In FR Doc. 86-17635 beginning on page 28221 in the issue of Wednesday, August 6, 1986, make the following corrections:

§ 522.62 [Corrected]

On page 28222, in the second column, "552" should read "522" in amendatory instructions 4 and 5 and in the section heading immediately following.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-63-AD; Amdt. 39-5390]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 747 airplanes, which requires repetitive inspections for cracking, and repair, as necessary, of lower lobe body frames (sections 42 and 46) of the fuselage. This action is prompted by a recent finding of numerous body frame structure cracks in the lower lobe of the fuselage. Failure of the structure could lead to rapid decompression.

DATES: Effective September 17, 1986.

ADDRESSES: Information on the required inspection and copies of the applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection for cracking, and repair, as necessary, of the lower lobe body frames (sections 42 and 46) of the fuselage, was published in the **Federal Register** on May 15, 1986 (51 FR 17743). The comment period for the proposal closed on July 7, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Comments were received from the Air Transportation Association (ATA) of America on behalf of one ATA member. The member airline questioned the need for conservative compliance periods (300 landings for aircraft with more than 12,000 landings, and 800 landings for aircraft with between 10,000 and 12,000 landings) based upon their own recent negative findings on airplanes with between 13,300 to 14,000 landings. The member also requested an increase of the proposed compliance periods to 1,000 landings for all airplanes with over 10,000 landings. This increase would allow the inspections to be performed concurrently with scheduled heavy maintenance visits. The member airline referred to those airplanes discussed in the proposed rule, that had more than 16,000 landings before significant cracking was found, as being additional justification for the requested increase in the compliance period. The FAA does not concur. The inspections of aircraft that have accumulated more than 10,000 landings, need to commence as quickly as practicable. Inspection results, reported to the FAA, disclosed that there have been six airplanes with less than 10,000 landings (one mentioned in the NPRM had 6,874 landings) that have been found to have cracking of an individual body frame, and one airplane with 12,483 cycles had significant cracking of two adjacent frames.

The FAA has reviewed and approved Revision 1 of Boeing Service Bulletin 747-53A2259, dated April 18, 1986. The revision changes certain part numbers but does not alter the applicability of the service bulletin or increase the burden of compliance for any operator. The AD has been changed to incorporate Revision 1.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above and editorial changes.

It is estimated that 112 airplanes of U.S. registry will be affected by this AD, that it will take approximately 370 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,657,600.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule, will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 747 series airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Alert Service Bulletins 747-53A2259, Revision 1, dated April 18, 1986, and 747-53A2237, Revision 1, dated March 28, 1986, certificated in any category.

To detect cracking of body frame structure in the lower lobe (sections 42 and 46) of the fuselage, accomplish the following, unless already accomplished:

A. For airplanes listed in Boeing Alert Service Bulletin 747-53A2237, Revision 1, dated March 28, 1986:

1. Perform a detailed visual inspection for frame cracking from fuselage station 540 to 760, and 1820 to 1900, stringers 35 left to 42 left, in accordance with section III of Boeing Service Bulletin 747-53A2237, Revision 1, dated March 28, 1986, or later FAA-approved revisions, in accordance with the following schedule after the effective date of this AD:

a. Within 300 landings for airplanes that have accumulated more than 12,000 landings on the effective date of this AD.

b. Within 800 landings for airplanes that have accumulated 10,000 to 12,000 landings on the effective date of this AD.

c. Within 800 landings or prior to the accumulation of 10,000 landings, whichever occurs later, for airplanes that have accumulated less than 10,000 landings on the effective date of this AD.

2. If cracking is found, repair in accordance with FAA-approved procedures prior to further flight.

3. Repeat the inspections required by paragraph A.1., above, at intervals not to exceed 3,000 landings until terminating action is performed.

4. Modification of the frames in accordance with Boeing Service Bulletin 747-53A2237, Revision 1, dated March 28, 1986, or later FAA-approved revisions constitutes terminating action for the repetitive inspection requirement of this paragraph.

B. For airplanes listed in Boeing Alert Service Bulletin 747-53A2259, Revision 1, dated April 18, 1986:

1. Perform a visual inspection of cargo side guide support brackets from fuselage station 1500 to 1800, right and left hand side, for a proper machined taper in accordance with

section III of Boeing Service Bulletin 747-53A2259, Revision 1, dated April 18, 1986, or later FAA-approved revisions, in accordance with the following schedule after the effective date of this AD:

a. Within 300 landings for airplanes that have accumulated more than 12,000 landings on the effective date of this AD.

b. Within 800 landings for airplanes that have accumulated 10,000 to 12,000 landings on the effective date of this AD.

c. Within 800 landings or prior to the accumulation of 10,000 landings, whichever occurs later, for airplanes that have accumulated less than 10,000 landings on the effective date of AD.

2. If any cargo side guide support bracket is improperly tapered, perform a detailed visual inspection of the frame area adjacent to the untapered bracket for cracking in accordance with Boeing Service Bulletin 747-53A2259, Revision 1, dated April 18, 1986, or later FAA-approved revisions.

3. Repeat the inspections required by paragraph B.2., above, at intervals not to exceed 3,000 landings until terminating action is performed.

4. If cracking is found, repair in accordance with FAA-approved precedures prior to further flight.

5. Installation of a tapered strap adjacent to the affected brackets in accordance with Boeing Service Bulletin 747-53A2259, Revision 1, dated April 18, 1986, or later FAA-approved revisions constitutes terminating action for the repetitive inspection requirements of this paragraph.

C. For Boeing Model 747SR airplanes only, based on continued mixed operation of cabin pressure differentials, the initial inspection thresholds and reinspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor.

D. For the purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 psi.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressured to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 17, 1986.

Issued in Seattle, Washington, on August 4, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-17946 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 371, 373, 374, 379 and 399

[Docket No. 60607-6107]

Exports to Spain and COCOM Membership

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Spain has joined the Coordinating Committee, or COCOM, a multilateral organization that cooperates in restricting strategic exports to controlled countries. Other members of COCOM include Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Turkey, the United Kingdom and the United States. In addition, Spain has agreed to place all of its nuclear facilities under international safeguards. As a result, the Department of Commerce is providing Spain the same favored treatment as other COCOM participating countries including, with the Department of Energy concurrence, the removal of restrictions that were applied under our nuclear non-proliferation policy. The Export Administration Regulations (15 CFR Parts 368-399) are now being amended to reflect Spain's new status as a COCOM member and the higher threshold of control for nuclear non-proliferation items destined to Spain.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Philip Markley, Country Policy, Strategic Planning and Policy Division, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone (202) 377-4439).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

15 CFR Part 370

Administrative practice and procedure, Spain.

15 CFR Parts 371, 373, 374, and 399

Exports, Spain.

15 CFR Part 379

Exports, Science and technology, Spain.

PARTS 370, 371, 373, 374, 379, AND 399—[AMENDED]

Accordingly, Parts 370, 371, 373, 374, 379, and 399 of the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

1. The authority citations for 15 CFR Parts 370 and 374 continue to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L.

99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. The authority citations for 15 CFR Parts 371, 373, 379, and 399 continue to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

§ 370.2 [Amended]

3. In § 370.2, in the definition of *COCOM (Coordinating Committee)*, add "Spain," after "Portugal," and before "Turkey".

§ 370.14 [Amended]

4. In § 370.14, add "Spain," after "Portugal," and before "Turkey".

§ 371.8 [Amended]

5. In § 371.8, in paragraph (b), add "Spain," after "Portugal," and before "Turkey".

6. Part 373 is amended by adding "Spain" in alphabetical order to Supplement No. 2, Computer-Consignee Destinations (List A).

§ 374.3 [Amended]

7. In § 374.3, in paragraph (e)(1)(ii), add "Spain," after "Portugal," and before "Turkey".

§ 379.4 [Amended]

8. In § 379.4, in the Note after paragraph (f)(2)(ii)(*c*), in the undesignated paragraph after item 2 under the Note, add "Spain," after "Portugal," and before "Turkey".

§ 399.1 [Amended]

9. In § 399.1, in the third sentence under paragraph (f)(3)(i), add "Spain," after "Portugal," and before "Turkey".

Dated: August 6, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–18035 Filed 8–8–86; 8:45 am]

BILLING CODE 3510–DT–M

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15 CFR Part 399

[Docket No. 60471–6071]

Revision of GLV $ Value Limits; Three Entries on the Commodity Control List

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The "GLV $ Value Limit" for an entry of the Commodity Control List sets forth the maximum value of a commodity that may be exported under General (export) License GLV.

On May 29, 1985 (50 FR 21800–21801), Export Administration published a final rule that, among other changes to the Export Administration Regulations, raised the GLV $ Value Limit of entry 1746A (covering certain polymeric substances and manufactures) from $100 to $200.

On July 3, 1985 (50 FR 27420), Export Administration published a final rule making another revision to the GLV $ Value Limit, which specifically mentioned $ value restrictions on the export of police-model helmets. However, this new rule inadvertently changed the GLV $ Value Limit back to $100.

This rule revises the GLV $ Value Limit for entry 1746A to reflect the special restrictions on police-model helmets as well as the $200 GLV limit on other items.

In addition, this rule revises the GLV $ Value Limit for entries 5510D, covering doppler sonar navigation equipment, and 1542A, covering cold cathode tubes and switches. The GLV License is not applicable for exports of 5510D items to most destinations because other general export licenses may apply; the GLV license cannot be used for exports of 1542A items because the $ value limit is $0.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377–4819.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, P.O. Box 273, U.S. Department of Commerce, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not involve a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

PART 399—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*, E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5510D is amended by revising the GLV $ Value Limit to read "$500 for Country Group Q. General License GLV is not applicable to other destinations; however, another general license may apply."

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1542A is amended by revising the GLV $ Value Limit to read "$0 to all destinations."

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids,

Petroleum Products and Related Materials), ECCN 1746A is amended by revising the GLV $ Value Limit to read "For police-model helmets containing 50% or more aromatic polyamide fiber by value, the $ value limit is $200 only to Australia, Japan, New Zealand and members of NATO and $0 to all other destinations. For items other than such police-model helmets, the $ value limit is $200 to Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations."

Dated: August 6, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-17947 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3193]

American Academy of Optometry, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, prohibits a Washington, DC-based professional association from restricting or declaring unethical any truthful advertising, solicitation of patients or choice of a location to practice.

DATE: Complaint and Order issued July 21, 1986.[1]

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Gee, FTC/B-823, Washington, DC 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: On Friday, May 9, 1986, there was published in the **Federal Register**, 51 FR 17197, a proposed consent agreement with analysis In the Matter of American Academy of Optometry, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.475 To restrict competition in buying. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Advertising, Optometrists, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-17978 Filed 8-8-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket 9197]

Roy Brog; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a former chairman of the board of a Salt Lake City, Utah manufacturer and distributor of a dry milk substitute, among other things, to cease making any representations concerning the health benefits or expected shelf life for "Meadow Fresh White", a powdered, dairy-based milk substitute, or other food products, without reliable and competent substantiation. Also, respondent is prohibited from excluding some distributors in computing "average" distributor earnings without proper disclosures concerning the method of computation.

DATE: Complaint issued Sept. 10, 1985. Decision issued July 15, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Lawrence Hodapp, FTC/H-238A, Washington, DC 20580. (202) 523-3660.

SUPPLEMENTARY INFORMATION: On Monday, April 28, 1986, there was published in the **Federal Register**, 51 FR 15792, a proposed consent agreement with analysis In the Matter of Roy Brog, individually and as a former officer of Meadow Fresh Farms, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages, or connections; § 13.15-80 Earnings and profits; § 13.170 Qualities or properties of product or service; § 13.170-52 Medicinal, therapeutic, healthful, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1615 Earnings and profits.

List of Subjects in 16 CFR Part 13

Powdered milk products, Trade practices.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-17980 Filed 8-8-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Dkt. C-3194]

Lithium Corp. of America; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th St. and Pa. Ave., NW., Washington, DC 20580.

unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Gastonia, North Carolina chemical company from entering into any agreements fixing prices or restricting sales of any lithium product. Additionally, respondent is prohibited from acting as an agent for any lithium producer when such action might unreasonably restrain competition.

DATE: Complaint and Order issued July 22, 1986.[1]

FOR FURTHER INFORMATION CONTACT: FTC/G–402, Jerry Philpott, Washington, DC 20580. (202) 254–7051.

SUPPLEMENTARY INFORMATION: On Monday, May 5, 1986, there was published in the **Federal Register**, 51 FR 16566, a proposed consent agreement with analysis In the Matter of Lithium Corporation of America, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.433 To fix prices. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Chemicals, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–17979 Filed 8–8–86; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available for inspection at the Commission's Public Reference Branch, Room H–130, 6th St. & Pa. Ave., NW., Washington, DC 20580.

16 CFR Part 13

[Dkt. 8835]

United Brands Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: The Federal Trade Commission has set aside a 1974 order (39 FR 22139) that required respondent to file special reports with the FTC about the company's access to land commercially suitable for lettuce cultivation. The Commission ruled that any competitive issues that might be raised do not exist since respondent is no longer in the lettuce business.

DATES: Order issued May 14, 1974. Set Aside Order issued July 29, 1986.

FOR FURTHER INFORMATION CONTACT: Elliot Feinberg, FTC/L–301, Washington, DC 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of United Brands Company, a corporation.

List of Subjects in 16 CFR Part 13

Lettuce, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Order Reopening and Setting Aside Order Requiring Filing of Special Report

Commissioners: Daniel Oliver, Chairman, Patricia P. Bailey, Terry Calvani, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

In the Matter of United Brands Co., a corporation.

Issued on May 14, 1974.

By a petition filed on April 29, 1986, United Brands Company ("UBC") requests that the Commission reopen the proceeding in Docket No. 8835 and modify the Order Requiring Filing of Special Report issued by the Commission on May 14, 1974. Pursuant to § 2.51 of the Commission's Rules of Practice, UBC's petition was placed on the public record for comment. No comments were received.

Upon consideration of UBC's petition and supporting materials, and other relevant information, the Commission now finds that changed conditions of fact and the public interest warrant reopening the proceeding and setting aside the Order Requiring Filing of Special Report. The record demonstrates that the competitive concerns the order intended to address no longer exist and termination of the order to relieve UBC of compliance costs is in the public interest.

Accordingly, it is ordered that this matter be, and hereby is, reopened and that the Commission's Order Requiring Filing of Special Report be, and hereby is, set aside.

By direction of the Commission.

Issued: July 29, 1986.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–17977 Filed 8–8–86; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Extension of Temporary Placement of 1-Methyl-4-phenyl-4-propionoxypiperidine (MPPP) and 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP) into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to extend the temporary scheduling of the narcotic substances 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP) and 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP) into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). The temporary scheduling of MPPP and PEPAP was due to expire on August 12, 1986. This notice will extend the time period for six months or until MPPP and PEPAP are placed in Schedule I pursuant to the scheduling procedure outlined in 21 U.S.C. 811(a), whichever occurs first.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

On July 10, 1985, the Administrator of the Drug Enforcement Administration issued a final rule in the Federal Register temporarily placing MPPP and PEPAP into Schedule I of the CSA pursuant to the emergency scheduling provisions of 21 U.S.C. 811(h). This action which became effective on August 12, 1985 was based on a finding by the Administrator that the emergency scheduling of MPPP and PEPAP was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA [21 U.S.C. 811(h)(2)] provides that the emergency scheduling of a substance expires at the end of one year from the effective date of the order. However, if a rulemaking proceeding to schedule the substance has been initiated pursuant to section 201(a)(1) of the CSA (21 U.S.C. 811(a)(1)), the temporary scheduling may be extended for up to six months. Under this provision, the temporary scheduling of MPPP and PEPAP which is due to expire on August 12, 1986 will be extended until February 12, 1987 or until the date on which a final rule, published as a result of the formal rulemaking proceeding, is effective, whichever occurs first.

Pursuant to 21 U.S.C. 811(h)(2) and since proceedings have been initiated in accordance with 21 U.S.C. 811(a)(1) to schedule MPPP and PEPAP, the Administrator hereby orders that the temporary scheduling of MPPP and PEPAP be extended to February 12, 1987 or until the conclusion of the rulemaking proceeding, whichever occurs first.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the extended scheduling of MPPP and PEPAP in Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The substances MPPP and PEPAP have no legitimate use or manufacturer in the United States.

It has been determined that the extension of the temporary placement of MPPP and PEPAP into schedule I of the CSA under the emergency scheduling provision is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

Dated: August 5, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86–17948 Filed 8–8–86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–86–1219; FR–1776]

Changes to the Minimum Property Standards (MPS) for Care-Type Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule changes the basic structure of HUD's Minimum Property Standards for Care-Type Housing. HUD Handbook 4920.1, which contained the MPS for such structures, has been withdrawn. Instead, the Department will rely on local or State codes that a HUD Field Office has verified as being comparable to one of the national model codes, or on the provisions of nationally recognized model building codes. The requirements in HUD Handbook 4910.1, "Minimum Property Standards for Multifamily Housing" which has now been retitled "Minimum Property Standards for Housing", will now apply to care-type housing also, and provide requirements that are unlikely to be contained in local, State or model codes. These changes will preserve the quality of care-type housing and protect the Department's insurance fund while simplifying construction requirements.

This rule also deletes certain referenced standards from the MPS, and references the Uniform Federal Accessibility Standards as the design and construction criteria for handicapped persons.

EFFECTIVE DATE: October 3, 1986.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Manufactured Housing and Construction Standards Division, Room 9152, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–8000, telephone (202) 755–6590. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: Section 232 of the National Housing Act, 12 U.S.C. 1715w, as amended by section 437 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, 97 Stat. 1153, 1222, authorizes the Secretary of Housing and Urban Development "to insure any mortgage which covers a new or rehabilitated nursing home or intermediate care facility or combined nursing home and intermediate care facility or a board and care home. . . ." (*See* 12 U.S.C. 1715w[d]). The Secretary may insure such mortgages "upon such terms and conditions as he may prescribe. . . ." (*See* 12 U.S.C. 1715w[c]). Similarly, section 242 and Title XI of the National Housing Act authorize the Secretary to insure mortgages covering hospitals and group practice facilities. Such mortgages may be insured under such terms and conditions as the Secretary may prescribe (*See* 12 U.S.C. 1715z–7, 12 U.S.C. 1749aaa–1749aaa–5). Accordingly, the Secretary prescribed standards for determining the acceptability of care-type housing for purposes of mortgage insurance by issuing the Minimum Property Standards (MPS) for Care-Type Housing. The MPS for Care-Type Housing were published as HUD Handbook 4920.1, and were incorporated into the Department's regulations by authority of 24 CFR 200.927.

On February 15, 1985, the Department published at 50 FR 6359 a proposed rule to change the basic structure of the MPS. That rule proposed that the Department eliminate HUD Handbook 4920.1, which contains the MPS for care-type housing, and instead rely upon acceptable local or State codes or designated nationally recognized model building codes to provide the health and safety criteria for care-type housing. The rule also proposed that the Department apply the requirements of the MPS for Multifamily Housing in HUD Handbook 4910.1 to care-type housing as well. Finally, the rule proposed to revise the MPS in Handbook 4910.1 to reflect the inclusion of care-type housing and appropriate standards that are referenced in the MPS and in Appendix A of 24 CFR Part 200.

The Department has evaluated these proposed changes in light of the recent amendment to section 526 of the National Housing Act, 12 U.S.C. 1735f–4 by section 405 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, 97 Stat. 1153 (1983). As amended, section 526(b) permits the Secretary to require, with respect to health and safety, that properties other than manufactured homes "comply with one of the nationally recognized model building codes, or with a State or local building code based on one of the nationally recognized model building codes or their equivalent." The Secretary is "responsible for determining the comparability of the State and local codes to such model codes. . . ."

I. The Final Rule

A. General

As stated in the February 15, 1985 proposed rule, the Department is withdrawing the handbook which contains the MPS for care-type housing. In its place, the Minimum Property Standards for Multifamily Housing, 24 CFR 200.925a–c, have been changed to serve as the Minimum Property Standards for care-type housing. Essentially, this has been accomplished by amending the language of 24 CFR 200.925a–c so that it applies both to multifamily and to care-type structures.

Under §§ 200.925a–c, as now changed, HUD will rely upon local or State codes or nationally recognized model codes to provide most of the criteria for its care-type construction standards. The Department will rely upon a local or State code only after it has been determined by the Department to be comparable to one of the nationally recognized model building codes or its equivalent. In some areas, the Department may partially accept a local or State code. In such areas, the Department will rely upon the local or State code, plus those provisions of one of the nationally recognized model codes identified by the local HUD Field Office in accordance with the table set forth in Appendix J of HUD Handbook 4910.1, now retitled "Minimum Property Standards for Housing" and identified in § 200.929(b)(2). In areas where a local or State code has not been accepted or partially accepted by the Department, the Department will require compliance with one of the nationally recognized model codes identified in 24 CFR 200.925c(a).

In all instances, the Department will require compliance with the standards retained in HUD Handbook 4910.1, which has been retitled "MPS for Housing." In this handbook, the Department has set forth standards relating to durability, energy and certain other matters. The handbook has been changed so as to be consistent with this rule. Copies of the changes will be provided automatically by the Government Printing Office to previous purchasers of the Handbook and to others upon request.

For a discussion of the application of §§ 200.925a–c, the standard for determining the comparability of local and State codes and other relevant matters, see the preamble to the final changing the Minimum Property Standards for Multifamily Housing, 49 FR 18690, May 1, 1984.

In order for a code to be approved for multifamily structures, the residential portions of the code must be reviewed and accepted. Similarly, in order for a code to be accepted for care-type structures, the institutional portions of the code must be reviewed and accepted. Therefore, if a jurisdiction's code has been accepted for the construction of multifamily structures, that jurisdiction's code will still have to be reviewed to determine whether it is acceptable for the construction of care-type structures.

It should be noted that the Department of Health and Human Services (HHS) requires, as a condition for participation in the Medicare Program, that care-type structures comply with the requirements of the Life Safety Code, National Fire Protection Association (NFPA) 101 or a State code that is deemed adequate. This final rule would not affect HHS requirements.

B. Referenced Standards

As stated in the proposed rule of February 15, 1985, the final rule changes the design and construction criteria for handicapped persons that were in HUD Handbook 4910.1. Instead of requiring compliance with the "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People" that are in ANSI A117.1–80 as published by the American National Standards Institute (ANSI), the Department will reference the Uniform Federal Accessibility Standards (UFAS) at 24 CFR Part 40, Appendix A, and delete the reference to ANSI A117.1–80 in 24 CFR Part 200, Appendix A. Certain aspects of design and construction applicable to housing for the elderly would also comply with the UFAS.

The final rule also deletes the reference in Appendix A of 24 CFR Part 200, and in the MPS, to ANSI A208.1–79 "Mat Formed Wood Particleboard". The Department has determined that, without additional coating or processing, this material is not appropriate for exterior wall finishes.

C. One and Two Family MPS

The Department has decided to retitle HUD Handbook 4910.1 "MPS for Housing", instead of "MPS for Multifamily and Care-Type Housing", and to incorporate the rules for one and two family dwellings, at 24 CFR 200.926, as Appendix K in Handbook 4910.1. Including the rules for one and two family dwellings in the Handbook will make referencing them easier for builders and other users of both documents.

II. Public Comments

The Department received 28 comments. Two supported the proposed rule without change while the remainder requested changes to the following energy efficiency, fire safety, accessibility or carpet provisions.

A. Energy Efficiency

Both the proposed and final rules, in adopting the MPS for Multifamily Housing, require compliance with provisions of the CABO Model Energy Code, 1983 Edition (*See* Minimum Property Standards for Housing, Handbook 4910.1, section 607–1.1). In addition, the MPS for Multifamily Housing contains a specific provision which deals with the energy efficiency of masonry buildings. That provision permits the energy design of a property to take into consideration thermal mass of building components only to the extent that the Department is provided with empirical evidence that "quantifies the effect of thermal mass with respect to the specific geographical location in question and with respect to the specific type of construction in question." *Id.*, section 607–1.2.

Twenty-one of the twenty-eight public comments concerned the method for determining the energy efficiency of masonry buildings. The primary issue raised by these commenters was that buildings with heavy-weight masonry components should be provided with a prescriptive way to receive credit for the effects of masonry on building energy efficiency. They suggested that Appendix J of the Standard Building Code would be an acceptable method for calculating the effects of masonry thermal mass, and requested that it be incorporated in the final rule as an acceptable method for providing the "empirical evidence" required by section 607–1.2 of Handbook 4910.1, referenced in the proposed rule. The procedures contained in Appendix J of the Standard Building Code attempt to quantify a complex phenomenon. The Department has concluded, however, that these procedures lack a sufficient engineering basis to justify their acceptance.

In the final rule changing the MPS for Multifamily Housing (49 FR 18690, May 1, 1984), the Department concluded that some difference in requirements may be appropriate, based upon the greater mass of masonry structures. However, the Department was unable at that time to determine exactly what differences would be appropiate for various types of construction in different parts of the country. Since publication of that rule, the Department has not obtained the information and data necessary to permit it to make this determination now.

Information regarding thermal mass has been and still is being developed by organizations such as the Department of Energy, the National Bureau of Standards, Oak Ridge National Laboratories and Lawrence Berkeley Laboratory. In addition, the Department expects that the American Society of Heating, Refrigeration and Air-conditioning Engineers (ASHRAE) and other similar organizations will eventually develop standards for thermal mass effects. When additional data and information are available, HUD will be in a position to complete work related to thermal mass and provide a prescriptive way to present "empirical evidence".

HUD, in the interim, does not wish to preclude energy credits being given for thermal mass and continues to believe that this can best be done on a case-by-case basis. The Department of Energy, the National Bureau of Standards, Oak Ridge National Laboratories and Lawrence Berkeley Laboratory believe that reasonably accurate thermal mass analysis can be obtained using the DOE II and BLAST computer programs, which are available to the public sector. Such analysis has been, is and can be used to develop the empirical data required by section 607–1.2 of Handbook 4910.1.

The Department has therefore concluded that the energy efficiency requirements contained in the MPS for Multifamily Housing are appropriate as well for care-type housing as proposed.

Some commenters also asked that HUD retain Local Acceptable Standards (LAS's) for masonry thermal mass in Arizona and Florida until HUD completes work related to the thermal mass issue. HUD will continue to retain LAS's for thermal mass in Arizona and Florida until it completes work related to this issue.

B. Fire Safety

Two commenters were concerned because some fire resistance ratings in model codes are less restrictive than those now in the MPS for Care-type Housing. The commenters were particularly concerned about the ratings for unprotected wood frame construction, rated construction between patient rooms, and compartmentation.

Several nursing home fires in the early seventies prompted improvements in fire safety features such as smoke detectors, sprinkler systems and compartmentation. HUD's means of improving the MPS, however, did not always match other standard setters' methods of accomplishing the same end. Care-type housing that has been built since then with either the improvements in the MPS or model codes, however, has had an excellent fire safety record.

The Department has reviewed these improved fire safety requirements in the model codes, in detail, and found them to provide protection to nursing home patients that is comparable to that previously provided by the MPS for Care-type Housing. Therefore, the Department has concluded that it would be appropriate to rely upon the fire safety requirements of the model codes referenced in the MPS, HUD Handbook 4910.1.

C. Accessibility

Two comments concerned HUD's decision to reference the Uniform Federal Accessibility Standards (UFAS) in the proposed rule. One comment supported the proposed rule. The other comment recommended that HUD continue to reference the ANSI (American National Standards Institute) accessibility standard used in most model, State and local building codes and thereby minimize unnecessary conflicts and possible increased costs.

Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968, however, require federally funded buildings to comply with UFAS, a standard that now differs little from the recently revised ANSI standard. Although all housing assisted by HUD is not federally funded, additional regulations for other housing assisted by HUD would be confusing. HUD has therefore decided to reference UFAS for all housing as proposed.

D. Carpet

One commenter asked whether or not the proposed rule included a reference to HUD's Use of Materials Bulletin (UM) 44c as the standard for carpet. The comment stressed the importance that such a reference be included because it is the only national standard for carpet.

Section 509–4 in HUD Handbook 4910.1 now requires carpet to comply with UM 44c. With this final rule, Handbook 4910.1 will continue to reference UM 44c.

III. Miscellaneous Information

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule does not alter the current practice by which care-type housing is designed or constructed. This rule will generally reduce the existing burden of compliance for both small and large entities. In all cases, care-type structures must be built in compliance with local codes. Upon the effective date of this rule, the Department generally will accept such compliance as satisfying the Department's concerns relating to the health and safety aspects of those structures.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of Rules Docket Clerk at Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

This rule was listed as Sequence Number 854 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 at 51 FR 14036 under the Executive Order 12291 and the Regulatory Flexibility Act.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2502–0321.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

Accordingly, 24 CFR Part 200 is amended as follows:

PART 200—INTRODUCTION

Subpart S—Minimum Property Standards

1. The authority citation for 24 CFR Part 200 is revised to read as follows:

Authority: Titles I and II of the National Housing Act (12 U.S.C. 1701–1715z–18); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart G is issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

2. Section 200.925a is amended by revising the section heading and paragraph (c) introductory text, and adding the OMB number to the end of the section to read as follows:

§ 200.925a Multifamily and care-type minimum property standards.

* * * * *

(c) *Standard for Evaluating Local Building Codes.* The Secretary shall compare the portions of a local or State building code applicable to residential or institutional occupancy, as appropriate, submitted under § 200.925a(d) to the list of construction related areas contained in § 200.925b.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 2502–0321)

3. Section 200.925b is amended by revising the section heading to read as follows:

§ 200.925b Residential and institutional building code comparison items.

4. Section 200.925c is amended by revising paragraph (b)(1)(i) to read as follows:

§ 200.925c Model codes.

* * * * *

(b) * * *

(1) * * *

(i) Those provisions of the model codes that do not pertain to residential or institutional buildings.

* * * * *

5. 24 CFR Part 200 is revised by removing the word "multifamily" and inserting, in its place, the words "multifamily or care-type" wherever the word appears in each of the sections listed below:

§ 200.925a(a) introductory text, (d)(1)(i)(A), (d)(3)(i), and (ii).

§ 200.925c(b)(1) introductory text, and (ii), and (c) introductory text.

6. Section 200.929 is amended by revising paragraph (b)(2) as set forth below, by removing paragraph (b)(3), and by redesignating paragraph (b)(4) as new (b)(3), and amending newly redesignated paragraph (b)(3) by changing the reference to "paragraphs (b) (1), (2), and (3) of this section" to read "paragraphs (b) (1) and (2) of this section".

§ 200.929 Description and identification of minimum property standards.

* * * * *

(b) * * *

(2) MPS for Housing 4910.1, 1984 edition with changes. This volume applies to buildings and sites designed and used for normal multifamily occupancy, including both unsubsidized and subsidized insured housing, and to caretype housing insured under the National Housing Act.

* * * * *

7. Appendix A to Part 200 is changed by removing the references to "ANSI A117.1–80, Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," and "ANSI A208.1–79, Mat Formed Wood Particleboard", and by changing the title to read as follows:

Appendix A to Part 200—Standards Incorporated by Reference in the Minimum Property Standards for Housing. (HUD 4910.1)

Dated: July 31, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing–Deputy Federal Housing Commissioner.

[FR Doc. 86–17920 Filed 8–8–86; 8:45 am]

BILLING CODE 4210–27–M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 251 and 255

[Docket No. R–86–1207; FR–1768]

Multifamily Housing Mortgage Insurance Assignment of Interests in Insured Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR 207.261, 251.106 and 255.106 to permit an insured mortgagee (or coinsured lender) to transfer partial interests in an insured (or coinsured) multifamily mortgage or pool of multifamily mortgages through a mortgage participation agreement, without prior HUD consent. These transfers are subject to certain conditions designed to preserve the rights, benefits, and obligations of affected parties.

EFFECTIVE DATE: October 3, 1986.

FOR FURTHER INFORMATION CONTACT: James T. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 426–3970 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: HUD's regulation at 24 CFR 207.261(e) governs transfers of partial interests in insured multifamily housing mortgages through the use of mortgage participation agreements or arrangements. Under this regulation, an approved mortgagee may transfer a partial interest in an insured multifamily mortgage through a participation agreement or arrangement without the approval of the Federal Housing Commissioner if: (1) The insured mortgage is held by an approved mortgagee (principal mortgagee) subject to the inspection and supervision of a government agency authorized to make periodic audits; (2) the principal mortgagee retains a stated beneficial interest in the insured mortgage; (3) the holders of the partial interests fall within a described class; and (4) the participation agreement provides that the principal mortgagee will remain the holder of record and that the Commissioner will have no obligation to deal with any party except the mortgagee of record.

On October 10, 1984, the Department published a proposed rule to amend § 207.261 (49 FR 39688). The proposed rule would add a new paragraph (f). This paragraph would permit the sale or transfer of beneficial interests in all or any portion of an insured multifamily mortgage or pool of mortgages, without HUD approval, through the sale of mortgage participation certificates. The sale or transfer would be subject to the following conditions: (1) The insured mortgage or mortgages must be held by an approved mortgagee subject to the inspection and supervision of a government agency authorized to make periodic audits; (2) the insured mortgagee must retain legal title to the mortgage; and (3) the agreement under which the interest is transferred will provide that the insured mortgagee will remain the mortgagee of record, that neither HUD nor the mortgagor will have any obligation to recognize or deal with any party except the mortgagee of record (or a servicing agent in the case of the mortgagor), and that the mortgage documents will remain in the custody of the insured mortgagee (or a custodial

agent). HUD believed that this amendment would encourage the addition of capital into the mortgage markets by permitting insured mortgagees to more freely transfer interests in insured mortgages.

Interested parties were invited to submit comments by December 10, 1984. HUD received four comments, all of which indicated support for the proposed rule. However, based on commenters' suggested changes, the final rule differs from the proposed rule in some material respects, as discussed below.

Transfer Under Participation Agreements or Arrangements

The proposed rule would apply to transfers made through mortgage participation certificates. Transfers of interests under other forms of participation agreements or arrangements would be subject to the more rigorous requirements of 24 CFR 207.261(e). While the commenters generally supported the addition of new paragraph (f), some urged the Department to make similar changes to the provisions governing transfer of interests under other forms of mortgage participation agreements and arrangements.

We agree. There is no legal need to distinguish between the interest created by a transfer under a mortgage participation agreement or arrangement and that created under a mortgage participation certificate. Nor can the Department identify any compelling policy justification for treating these transfers differently. Accordingly, the final rule has been revised to apply the same requirements for all transfers of partial interests under participation agreements or arrangements.

Applicability to Parts 251 and 255

The proposed amendments were applicable to Part 207 and did not affect Part 251—Coinsurance for the Construction or Substantial Rehabilitation of Multifamily Housing Projects, and Part 255—Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects. One commenter urged that the changes to Part 207 should also be reflected in these two parts.

The notice of proposed rulemaking did not specifically state that the proposed rule would be applicable to coinsured mortgages. However, the purpose of the proposed rule was to encourage the addition of capital into the mortgage market by liberalizing the procedures requiring prior HUD approval for the transfer of interests in multifamily mortgages. Since the provisions governing the sale and assignment of coinsured mortgages under parts 251 and 255 are similar to and based upon the procedures in existing § 207.261, and since the amendment of Parts 251 and 255 procedures will also further the announced purpose of adding capital to the mortgage market, the Department has concluded that the suggested changes are within the scope of this rulemaking and should be incorporated in this final rule.

The extension of this rule to coinsured mortgages should not have a significant detrimental impact on any party since the requirements for transfer are generally less stringent than provided under existing rules. Moreover, in the past HUD has approved, on a case-by-case basis, the transfer of partial interests in coinsured mortgages through mortgage participation agreements that do not meet the stated requirements of § 251.106 or § 255.106. HUD has found that its interests and the interests of the mortgagor and the holders of the partial interests can be adequately protected by the restrictions included in this amendment to § 207.261, as discussed below. These conditions are included in the amendments to Parts 251 and 255.

In addition to the conditions imposed in § 207.261, the coinsurance provisions also include conditions designed to alert potential investors concerning the nature of the interest that they have acquired. Mortgagees holding mortgages under Part 207 are insured by a Federal Housing Administration insurance fund against risk of significant loss under the contract of mortgage insurance. Thus, if the participants share in the insurance payments in the same manner as the mortgage payments, these mortgagees do not pass a risk of significant loss to the transferee under a mortgage participation arrangement. Under the coinsurance programs, however, the coinsuring lender assumes a risk of significant loss and may effectively pass this risk to holders of participating interests, unless the participation agreement or arrangement provides that the holders are entitled to receive funds other than the insurnace payment. In the past, this situation was acceptable because the coinsurance provisions permitted transfers to a limited class of more sophisticated investors (*ie.*, lenders approved by the Commissioner or qualified pension funds, retirement funds and profit sharing plans). The final coinsurance regulations adopted here, however, include no restrictions on the class of transferees. The Department fears that many of these new, potentially unsophisticated, transferees may confuse the coinsurance programs with other FHA mortgage insurance programs, or otherwise may be unaware of their risk of loss under the coinsurance program.

To alert these investors to their potential risk, the coinsurance regulations require that the instrument under which the interest in the coinsured mortgage is transferred (including such documents as the declaration of trust, participation agreement and participation certifiate) disclose: (1) That the coinsured lender has assumed a specified portion of the risk of loss on the insured mortgage or pool or mortgages; (2) whether the transfer will shift any portion of this risk of loss to the holder of the partial interest; and (3) that no FHA-administered insurance fund will pay benefits to protect against any risk of loss assumed by the coinsured lender and transferred to any holder of the partial interest.

Protection of GNMA interests

The final rule contains two clarifying changes affecting the Government National Mortgage Association (GNMA).

Existing § 207.261 does not address the transfer of interests in, or assignment of, mortgages backing GNMA securities. Existing coinsurance regulations, on the other hand, include conditions specifically designed to protect the interests of GNMA in similar transactions. (*See* §§ 251.106(d) and 255.106(d), redesignated as §§ 251.106(c) and 255.106(c) in this final rule.) The Department is concerned that the presence of GNMA requirements in Parts 251 and 255 and the absence of any similar requirements in Part 207 erroneously suggest that mortgages under Part 207 are assignable and partial interests are transferable, without regard to GNMA. To correct this potential ambiguity, GNMA's existing policies regarding such sales and transfers have been incorporated in revised § 207.261(f).

Additionally, this final rule clarifies the GNMA requirements for the assignment of, and the transfer of partial interests in, coinsured mortgages under Part 255. Currently, Part 255 requires GNMA approval for the assignment of coinsured mortgages that are used to back securities guaranteed by GNMA. The regulation does not, however, contain provisions to protect GNMA interests in transactions involving the transfer of *partial* interests in such mortgages. This rule adds a provision (§ 255.106(c)(2)) providing GNMA safeguards similar to those provided in §§ 207.261(f) and 251.106(c)(2) with respect to such partial interests. Any

partial interest in the coinsured mortgage must terminate as of the time of release (delivery) of GNMA guaranteed Project Loan Certificates. No partial interest may exist in a mortgage backing GNMA Project Loan Certificates. (Unlike § 251.106, revised § 255.106 does not refer to GNMA Construction Loan Certificates, because coinsured mortgages under Part 255 involve the purchase or refinancing of existing multifamily projects. Thus, these mortgages are not used to back such certificates.)

While these two technical changes were not included in the proposed rule, the Department has concluded that it is unnecessary to seek public comment on these issues. These amendments are relatively minor and should have an insignficant impact. They represent a mere codification of existing GNMA policy. No one should be affected by this change since all parties are already acting under the policy expressed in the revision.

Form of Agreement

Two commenters suggested that the final rule should be revised to provide specifically that partial interests may be transferred under either a trust agreement or a participation agreement.

As long as the substantive requirements of the rule are satisifed, the type of participation agreement or arrangement employed to transfer the partial interest is not restricted by the Department. For clarity, however, the final rule will specifically refer to transfers "under a participation agreement or arrangement (such as a declaration of trust or the issuance of pass-through certificates)."

Periodic Examination of Books and Accounts of Holder-Mortgagee

As proposed, § 207.261(f)(1) would require that legal title to the insured mortgage or mortgages must be held by an approved mortgagee "subject to the inspection of a governmental agency authorized by law to make periodic examinations of its books and accounts." One commenter suggested that the inspection requirement be eliminated.

This inspection requirement essentially limits the class of qualified transferors to supervised mortgagees under 24 CFR 203.3. Upon reconsideration, the Department has concluded that as long as a mortgagee satisfies the requirements necessary to maintain its FHA-approved mortgagee status, a further test of eligibility is not necessary. (This result is in accordance with other HUD regulations governing the transfer of interests under participation agreements, e.g., 24 CFR 203.435(a), 203.495(a), 251.106(c)(1)(i) and 255.106(c)(1)(i). These latter two regulations have been redesignated as §§ 251.106(b)(1) and 255.106(b)(1) in this rule.) The final rule has been amended accordingly.

Perfection of Security Interests

Under the proposed regulations, HUD requires that legal title to, and custody of, the insured mortgage remain with the insured mortgagee or an agent of the insured mortgagee.

One commenter objected to this requirement claiming that "institutional investors and lenders purchasing beneficial interest certificates in the insured mortgage, or a trustee acting for such purchasers, would require a perfected, first lien security interest in the collateral of the insured mortgage and its proceeds. Depending on local law, such perfection may require a recorded assignment for security purposes and delivery of the mortgage documents for security purposes to the trustee or secured party." The commenter urged a revision which would "permit a perfected security assignment in the holder of 100% of the beneficial interest in the mortgage while maintaining the role of the HUD-approved mortgagee of record." This recommendation is not adopted in the final rule.

Under local law, perfection of the security interest usually requires the transferee to obtain custody of the mortgage documents, assignment of the mortgage and endorsement of the note, and recordation of these items in appropriate land records. Despite the fact that these actions would be made only for security purposes, the legal effect of these actions is that the transferee becomes the mortgagee under the insured loan. To protect HUD's interests and to assure that such transferees are capable of fulfilling their duties under the contract of insurance, it has been HUD's consistent policy to permit such transfers only under §§ 207.261 (c) or (d), 251.106(a) or 255.106(a).

Moreover, the Department is not convinced that this rule is unworkable without the proposed revision. As noted above, HUD has approved, on a case-by-case basis, a number of transfers of 100 percent of the beneficial interest in mortgages. These transfers have been successfully consummated without the changes suggested by the commenter.

Miscellaneous

This final rule has eliminated the requirement that the principal mortgagee or principal lender must retain custody of the mortgage documents. The Department has concluded that this requirement is overly restrictive in light of the remaining requirements that legal title to the insured mortgage or mortgages must be held by the principal mortgagee (or principal lender). Other minor editorial and clarifying changes have been made to the text of the final rule.

Findings

This rule does not constitute a "major rule" as that term is term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued on February 17, 1981. Analysis of the rule indicates that it will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, at the address listed above.

Under 5 U.S.C. 605 (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a siginficant economic impact on a substantial number of small entities. The final rule merely liberalizes present procedure by eliminating the need to request prior HUD approval for certain transfers of partial interests in multifamily mortgages.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The OMB control number is 2502–0331.

This rule was listed as item 864 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14059) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are: 14.134, 14.135, 14.137 and 14.155.

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List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 251

Mortgage insurance, Coinsurance of multifamily mortgages.

24 CFR Part 255

Mortgage insurance, Coinsurance of multifamily mortgages.

Accordingly, 24 CFR Parts 207, 251 and 255 are amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for Part 207 continues to read as follows:

Authority: Secs. 207 and 211 of the National Housing Act (12 U.S.C. 1713 and 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 207.261 is amended by revising paragraphs (e) and (f) to read as follows:

§ 207.261 Assignment of insured mortgages.

* * * * *

(e) *Transfer of partial interest under participation agreement.* A partial interest in an insured mortgage or pool of insured mortgages may be transferred under a participation agreement or arrangement (such as a declaration of trust or the issuance of pass-through certificates), without obtaining the approval of the Commissioner, if the following conditions are met:

(1) Legal title to the insured mortgage or mortgages shall be held by an approved mortgagee which, for the purposes of this paragraph (e), shall be referred to as the principal mortgagee;

(2) The participation agreement, declaration of trust or other instrument under which the partial interest is transferred shall provide that: (i) The principal mortgagee shall remain mortgagee of record under the contract of mortgage insurance; (ii) the Commissioner shall have no obligation to recognize or deal with anyone other than the principal mortgagee with respect to the rights, benefits, and obligations of the mortgagee under the contract of insurance; and (iii) the mortgagor shall have no obligation to recognize or do business with anyone other than the principal mortgagee or its servicing agent with respect to rights, benefits, and obligations of the mortgagor or the mortgagee under the mortgage.

(f) *Government National Mortgage Association requirements.* (1) If the insured mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval is required for the assignment of the pooled mortgage.

(2) When an insured mortgage is to be in a GNMA mortgage pool backing one or more GNMA Project Loan Certificates, the mortgagee-issuer and the holder of a partial interest under paragraph (e) of this section must certify that the interest shall terminate as of the release (delivery) of the Project Loan Certificates. No partial interest may exist in mortgages backing GNMA Construction Loan Certificates or GNMA Project Loan Certificates.

* * * * *

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

3. The authority citation for Part 251 is revised to read as follows:

Authority: Secs. 211 and 244, National Housing Act (12 U.S.C. 1715b and 1715z(9); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Section 251.106 is revised to read as follows:

§ 251.106 Assignment of and participation in coinsured mortgages.

(a) *Assignment of coinsured mortgage.* (1) A lender may assign a coinsured mortgage to another lender if the following requirements are satisfied:

(i) The assignee is a HUD-approved coinsuring lender;

(ii) The lender shows good cause for the assignment;

(iii) The Commissioner finds that the assignment is for good cause and that there will be no disadvantage to HUD; and

(iv) The Commissioner gives prior written approval for the assignment and any risk allocation between assignor and assignee.

(2) The lender must inform HUD promptly following the assignment of any coinsured mortgage. The lender will not be relieved of its obligation to pay Mortgage Insurance Premiums until HUD has received this notice.

(b) *Transfer of partial interest under participation agreement.* A partial interest in a coinsured mortgage or pool of coinsured mortgages may be transferred under a participation agreement or arrangement (such as a declaration of trust or the issuance of pass-through certificates), without obtaining the approval of the Commissioner, if the following conditions are met:

(1) Legal title to the coinsured mortgage or mortgages shall be held by an approved coinsuring lender, which shall for purposes of this paragraph (b), be referred to as the principal lender;

(2) The participation agreement, declaration of trust or other instrument under which the partial interest is transferred shall provide that: (i) The principal lender shall remain the lender of record under the contract of coinsurance; (ii) the Commissioner shall have no obligation to recognize or do business with anyone other than the principal lender with respect to the rights, benefits and obligations of the lender under the contract of coinsurance; and (iii) the mortgagor shall have no obligation to recognize or do business with anyone other than the principal lender or its servicing agent with respect to the rights, benefits and obligations of the mortgagor or the lender under the coinsured mortgage; and

(3) The participation agreement, declaration of trust or other instrument under which the interest is transferred shall disclose: (i) That the principal lender has assumed a stated percentage of the risk of loss under the coinsured mortgage or mortgages; (ii) whether the transfer of the partial interest will shift any portion of the risk of loss to the holder of the partial interest; and (iii) that no insurance fund administered by HUD will pay benefits to protect against any risk of loss assumed by the principal lender and transferred to the holder of the partial interest.

(c) *Government National Mortgage Association requirements.* (1) If the Coinsured Mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval is required for the assignment of the pooled mortgage.

(2) When a coinsured mortgage is to be in a GNMA mortgage pool backing one or more GNMA Project Loan Certificates, the lender-issuer and the holder of a partial interest under paragraph (b) of this section must certify that the interest shall terminate as of the release (delivery) of the Project Loan Certificates. No partial interest may exist in mortgages backing GNMA Construction Loan Certificates or GNMA Project Loan Certificates.

(Approved by the Office of Management and Budget under OMB Control Number 2502–0331)

BEST COPY AVAILABLE

PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS

5. The authority citation for Part 255 is revised to read as follows:

Authority: Secs. 211 and 244, National Housing Act (12 U.S.C. 1715b and 1715z(9); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. Section 255.106 is revised to read as follows:

§ 255.106 Assignment of and participation in coinsured mortgages.

(a) *Assignment of coinsured mortgage.* (1) A lender may assign a coinsured mortgage to another lender if the following requirements are satisfied:

(i) The assignee is a HUD-approved coinsuring lender;

(ii) The lender shows good cause for the assignment;

(iii) The Commissioner finds that the assignment is for good cause and that there will be no disadvantage to HUD; and

(iv) The Commissioner gives prior written approval for the assignment and any risk allocation between assignor and assignee.

(2) The lender must inform HUD promptly following the assignment of any coinsured mortgage. The lender will not be relieved of its obligation to pay mortgage insurance premiums until HUD has received this notice.

(b) *Transfer of partial interest under participation agreement.* A partial interest in a coinsured mortgage or pool of coinsured mortgages may be transferred under a participation agreement or arrangement (such as a declaration of trust or the issuance of pass-through certificates), without obtaining the approval of the Commissioner, if the following conditions are met:

(1) Legal title to the coinsured mortgage or mortgages shall be held by an approved coinsuring lender, which shall for purposes of this paragraph (b), be referred to as the principal lender;

(2) The participation agreement, declaration of trust or other instrument under which the partial interest is transferred shall provide that: (i) The principal lender shall remain the lender of record under the Contract of Coinsurance; (ii) the Commissioner shall have no obligation to recognize or do business with anyone other than the principal lender with respect to the rights, benefits or obligations of the lender under the Contract of Coinsurance; and (iii) the mortgagor shall have no obligation to recognize or do business with anyone other than the principal lender or its servicing agent with respect to the rights, benefits and obligations of the mortgagor or the lender under the coinsured mortgage; and

(3) The participation agreement, declaration of trust or other instrument under which the interest is transferred shall disclose: (i) That the principal lender has assumed a stated percentage of the risk of loss under the coinsured mortgage or mortgagees; (ii) whether the transfer of the partial interest will shift any portion of the risk of loss to the holder of the partial interest; and (iii) that no insurance fund administered by HUD will pay benefits to protect against the risk of loss assumed by the principal lender and transferred to the holder of the partial interest.

(c) *Government National Mortgage Association Requirements.* (1) If the coinsured mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval is required for the assignment of the pooled mortgage.

(2) When a coinsured mortgage is to be in a GNMA mortgage pool backing one or more Project Loan Certificates, the lender-issuer and the holder of a partial interest under paragraph (b) of this section must certify that the interest shall terminate as of the release (delivery) of the Project Loan Certificates. No partial interest may exist in mortgages backing GNMA Project Loan Certificates.

(Approved by the Office of Management and Budget under OMB Control Number 0502–0331)

Dated: August 6, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86–18079 Filed 8–6–86; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

[Docket No. R–86–1302; FR–2254]

Rental Rehabilitation Program; Revision to Mandatory Deobligation of Grant Amounts and Other Miscellaneous Revisions

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: The current regulations require that HUD deobligate any rental rehabilitation grant amounts that are not committed to specific local projects within two years of receipt by the grantee (three years, if a State distributed the grant amount to State recipients) or are not expended for eligible costs within four years of receipt by the grantee (five years, if a State distributed the grant amount to State recipients). This rule provides that, on a case-by-case basis, HUD may extend for one year any of these time periods. This revision is intended to avoid deobligation of grant amounts in situations where the grantee's overall administrative performance has been sound and the amounts are likely to be used by the original grantee within the extended period. HUD retains discretionary authority to deobligate grant amounts that are not committed to specific local projects in conformity with the schedule submitted by the grantee as part of its program description. In addition, this rule makes a change to conform the rental rehabilitation regulations to an amendment to the authorizing legislation effected by the Technical Amendments Act of 1984 and revises the formula for calculating allocations to permit data for areas eligible for assistance under Title V of the Housing Act of 1949 to be used in calculating allocations for urban counties and cities.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Acting Director, Rental Rehabilitation Division, Office of Urban Rehabilitation, Room 7164, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000, telephone (202) 755–5970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 17 of the United States Housing Act of 1937 (the 1937 Act), 42 U.S.C. 1437o, established the Rental Rehabilitation Program. This Program provides grants to States and units of general local government to help support the rehabilitation of privately owned real property to be used for primarily residential rental purposes. The program is designed to increase the supply of standard housing units affordable to lower income families. This objective is achieved by: (1) Providing Rental

Rehabilitation grant amounts to assist in the rehabilitation of existing units, and (2) authorizing the use of rental housing assistance, provided under section 8 of the 1937 Act, to lower income families to help them afford the rent for units in projects assisted with program funds, or to find alternative housing. The program was implemented by interim regulations published on April 20, 1984, at 49 FR 16936.

Extension of Periods That Trigger Mandatory Deobligation of Grant Amounts Provision

Section 17(b)(3) of the 1937 Act authorizes the Secretary "to reallocate such amounts among grantees . . . in carrying out activities under this section in accordance with their specified schedules. Reallocations under this paragraph shall be designed to encourage use of these resources expeditiously, consistent with the sound development and administration of the grantees' rental rehabilitation programs."

Reallocations are governed by 24 CFR 511.33. As noted in § 511.33(a), grant amounts that are available for reallocation come from three sources—(1) Formula allocations that are not received by eligible cities, urban counties or consortia; (2) deobligations of grant amounts based on the progress of a grantee in carrying out its rental rehabilitation program, as provided in § 511.33(c); and (3) actions based upon reviews and audits as provided in Subparts H and I of Part 511.

This rule revises the conditions under which grant amounts may be deobligated under § 511.33(c). Section 511.33(c), as promulgated by the interim rule, gives HUD the discretion to deobligate grant amounts that are not committed to specific local projects in conformity with the schedule submitted by the grantee, and identifies several factors which will be considered in determining whether to deobligate grant amounts. Paragraph (c) also provides that HUD must deobligate any rental rehabilitation grant amounts that are not committed to specific local projects within two years of receipt by the grantee (three years, if a State distributed the grant amounts to State recipients) or are not expended within four years of receipt by the grantee (five years, if a State distributed the grant amounts to State recipients). None of the public comments submitted in response to the interim rule concerned § 511.33.

The Department, based upon its experience in administering the rental rehabilitation program, believes that it is in the interest of sound program administration to have the ability to extend by one year the respective time periods that trigger the mandatory deobligation of rental rehabilitation grant amounts. In an attempt to avoid this mandatory deobligation provision under the original time periods, certain grantees could enter into commitments before they had completely developed sound programs or thoroughly evaluated project feasibility. In addition, other grantees that have developed sound programs and have committed some, but not all, of their grant amounts could lose grant amounts that ultimely could be more expeditiously used if these grantees were given additional time, rather than if the grant amounts were reallocated to other grantees. Adding the authority to extend, on a case-by-case basis, the periods that trigger the requirement to deobligate grant amounts should minimize the risk of inappropriate deobligations. The revision does not affect HUD's discretionary authority to deobligate grant amounts that are not committed to specific local projects in conformity with the schedule submitted by the grantee as part of its program descriptions.

The Department, therefore, is revising § 511.33(c) by adding a sentence to paragraph (c), that provides that HUD, on a case-by-case basis, may extend by one year any of the time periods that trigger the requirement to deobligate grant amounts.

Conforming Rule Revision Based on the Technical Amendments Act of 1984

Section 511.50 of the Interim rule authorizes a State that elects to administer a Rental Rehabilitation Program to carry out eligible activities: (1) In cities having populations of less than 50,000, and (2) in cities and urban counties whose allocations are below the minimum allocation amount provided in § 511.31. Section 511.50 implemented section 17(e)(1) of the 1937 Act as originally enacted. Section 103(e)(1)(B) of the Housing and Community Development Technical Amendments Act of 1984 (Pub. L. 98–479) amended the range of section 17(e)(1) of the United States Housing Act of 1937 by eliminating reference to "cities with populations of less than fifty thousand" and substituting "units of general local government and areas of the State that do not receive allocations under subsection (6)." This rule revises § 511.50 to conform to this statutory amendment.

Neither the statutory amendment nor the conforming rule revision affects the prohibition against using State program (either State-administered or HUD-administered) rental rehabilitation grant resources in areas that are eligible for assistance under Title V of the Housing Act of 1949 (42 U.S.C. 1471). It should be noted that a jurisdiction that is notified of an allocation of less than $50,000 and elects under § 511.31(b) (as revised at 51 FR 20221, June 3, 1986) *not* to receive its allocation may participate in the State program. Any allocation below $50,000 that is not received by a city, urban county or consortium is added to the allocation for the State program in which the city, urban county or consortium is located. Such an allocation, as any other allocation to the State program, may not be used in a Title V-eligible area, no matter where the Title V-eligible area is located.

Limiting Exclusion of Title V-Eligible Area Data to States and Consortia Formula Allocations

Section 17(b) provides that the Secretary shall allocate rental rehabilitation funds based on a formula prescribed by the Secretary by regulations, taking into account various "objectively measurable conditions" and "excluding data relating to . . . areas eligible for assistance under Title V of the Housing Act of 1949." Section 511.30(d) currently provides that HUD will exclude data concerning rental units located in Title V-eligible areas from *all* formula allocations. HUD, however, in each notice of formula allocations that has been published since the inception of the Rental Rehabilitation Program, has waived § 511.30(d) to avoid the exclusion of Title V-eligible area data in determining urban county and city allocations. The Department took these actions because excluding Title V-eligible area data tends to understate urban county allocations, viewed on a per capita basis, and adversely affects achievement of the purposes of the Rental Rehabilitation Program.

Because the statutory prohibition on the use of rental rehabilitation funds in Title V-eligible areas applies only to State allocations (see section 17(e)(1) of the 1937 Act), section 17(b) may be construed as excluding Title V-eligible area data only from the calculation of formula allocations for States and for consortia. (Consortia are subject to the exclusion of Title V data because an allocation to a consortium is deducted from the allocation to the State in which the units of general local government making up the consortium are located. If consortia were not covered, the Title V limitations on State allocations could be circumvented by the formation of consortia with Title V-eligible areas.)

None of the public comments submitted in response to the interim rule

concerned the scope of the exclusion of Title V-eligible area data in determining formula allocations. The Department is revising § 511.30(d) to exclude Title V-eligible area data that apply to areas that are included in the determination of formual allocations for States and consortia, namely, areas that are not located within cities having populations of 50,000 or more or within urban counties. These Title V-eligible area data are excluded from both the total national data and the data for a State or a consortium. This revision enables the Department to determine formula allocations as it has in the past but without the need for waiving § 511.30(d).

Other Information

A Finding on No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entitites, because statutorily eligible grantees and State recipients are relatively larger cities, urban counties or States, and the rental rehabilitation grant amounts to be made available to any grantee are relatively small in relation to other sources of Federal funding for State and local government and in relation to private investment in rental housing.

The subject matter of this rulemaking action relates to grants and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions containing such subject matter to public comment either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that notice and prior public procedure is unnecessary and that good cause exists for making this rule effective as soon after publication as possible. The revision to § 511.50 merely conforms that section to section 17(e)(1) of the 1937 Act, as amended by section 103(e)(1)(B) of the Technical Amendments Act of 1984. No additional public comment is needed with respect to the revision of the deobligation requirement in § 511.33(c), since the public had the opportunity to comment on this provision in the interim rule and it was reasonably foreseeable that the Department might alter the mandatory deobligation provision. Public comment is not needed with respect to the narrowing of the prohibition of use of Title V-area data in calculating formula allocations under § 511.30(d), because this last revision conforms the rule to the practice the Department has been following since the inception of the program.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986, (51 FR 14036) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.230.

List of Subjects in 24 CFR Part 511

Administrative practice and procedure, Grant programs—Housing and community development, Low and moderate income housing, Rental rehabilitation grants, Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR 511 as follows:

PART 511—RENTAL REHABILITATION GRANT PROGRAM

The authority citation for Part 511 continues to read as follows:

Authority: Sec. 17, U.S. Housing Act of 1937 (42 U.S.C. 1437o); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 511.30, paragraph (d)(1) is revised to read as follows:

§ 511.30 Allocation formula.

* * * * *

(d) *Calculating the formula.* (1) The formula is an equation with the data for each entity referred to in paragraph (a) of this section expressed as a numerator for each factor and the total national data for each factor expressed as a denominator. This ratio is then multiplied by the amount available for allocation. Data for areas eligible for assistance under Title V of the Housing Act of 1949 (Title V-eligible area data) are excluded from the data for a State or a consortium. Title V-eligible area data for States and consortia are also excluded from the total national data.

* * * * *

3. In § 511.33, paragraph (c) is revised to read as follows:

§ 511.33 Reallocation of rental rehabilitation grant amounts.

* * * * *

(c) *Progress in carrying out rental rehabilitation programs.* Begining in fiscal year 1985, HUD may deobligate rental rehabilitation grant amounts that are not committed to specific local projects in conformity with the schedule submitted by the grantee as part of its program description. Before deobligating grant amounts, HUD will consult with the affected grantee and take into account factors such as the timing of the grantee's program year (including the effect of any delays in obligation of funds by HUD); a reasonable start-up time for implementing a new program; if applicable, the timing of State distributions to State recipients; the timing of expected project approvals for projects in the grantee's pipeline; climatic or other considerations affecting rehabilitation work schedules; and other relevant considerations. HUD will deobligate any rental rehabilitation grant amounts that are not committed to specific local projects within two years of receipt by the grantee (three years in the case of a State that distributes rental rehabilitation grant amounts to State recipients) or expended for eligible rehabilitation costs within four years of receipt by the grantee (five years in the case of State that distributes rental rehabilitation grant amounts to State recipients, HUD, on a case-by-case basis, may extend for an additional year any of the time periods referred to in the preceding sentence.

* * * * *

4. Section 511.50 is revised to read as follows:

§511.50 State election to administer a rental rehabilitation program.

Rental rehabilitation grant allocations for States, determined under Subpart D for any fiscal year, will be administered by the State (as provided in § 511.51) or by HUD (as provided by § 511.52), at the election of the State. HUD will administer the allocation for any State

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that does not notify the responsible HUD field office of its election to administer its allocation within 30 days of the date stated in a written notification to the State of its allocation for each fiscal year. State allocations may be used to carry out eligible rehabilitation activities in accordance with the requirements of this part in units of general local government that do not receive allocations under § 511.30 and in cities and urban counties whose allocations are below the minimum amount specified in §511.31, but may not be used in areas that are eligible for assistance under Title V of the Housing Act of 1949.

Dated: August 6, 1986.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 86-18078 Filed 8-8-86; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 86-1102]

Marine Events on the Colorado River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will establish special local regulations during all the current annual marine events on the Lower Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona). Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during each event.

EFFECTIVE DATE: These regulations become effective on July 31, 1986.

FOR FURTHER INFORMATION CONTACT: YN3 Tracy Dolan, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822-5399, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Due to the annual nature, publicity, and tradition of these events, adequate public notice has been given. Therefore, proposed rules were not published in advance.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 86-1102) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are YN3 Tracy Dolan, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, and LT David S. Riley, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

The Eleventh Coast Guard District boundaries encompass the Colorado River, from the Glen Canyon National Recreation Area to the Mexican border. The Coast Guard shares concurrent jurisdiction of the river with various Federal, state and local agencies. Numerous recreational marine events are held throughout the year, and coordinating these events becomes a complex and time consuming task in which many entities become affected. A Coast Guard-National Park Service agreement exists for both the Glen Canyon and Lake Mead National Recreational Areas. Applicants shall contact the cognizant authority for approval of events in these areas.

Each year various Yacht Clubs, Associations, and Chambers of Commerce sponsor marine events on the Colorado River, especially between Davis Dam and Headgate Dam. These events usually consist of high speed boat races involving a large number of participants. Because of the annual nature of these events, the Coast Guard has decided to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations to facilitate in the planning and organization for these events in the future. The Coast Guard will provide the public full and adequate notice of these events by publicizing them in the Eleventh Coast Guard District Local Notice to Mariners.

Due to the nature of these events, a potential hazard to navigation exists. It is necessary to control vessel traffic to avoid any potential mishap; regulated areas will be established, and vessels desiring to transit these areas may do so only during the times specified and/or with clearance from a designated official vessel.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated areas will be in effect for a short period of time.

In addition, the added tourism to these areas stimulates economic growth and usually mitigates the economic impact and/or inconveniences imposed on a minute number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(b) and 33 CFR 100.35.

2. By adding a § 100.1102 to read as follows:

§ 100.1102 Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

(a) *General.* Sponsors are informed that ample lead time is required to inform all Federal, state, local agencies and/or other interested parties and to provide the sponsor the best support to ensure the safety of life and property. A Coast Guard-National Park Service agreement exists for both the Glen Canyon and Lake Mead National Recreational Areas; applicants shall contact the cognizant authority for approval of events in these areas.

(b) The following Special Local Regulations will be issued for the events listed in Table 1. Further information on exact dates, times, and details concerning number and type of participants and an exact geographical description of the areas will be published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list, contact: Commander (oan), Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822-5399.

(c) *Special local regulations:* All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state, local law enforcement, and/or sponsor provided vessels assigned and/or approved by Commander, Eleventh Coast Guard District, to patrol each event.

(1) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given. Failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the Commander, Eleventh Coast Guard District. As the Commander's representative, the Patrol Commander may terminate the event at any time it is deemed necessary for the protection of life and property. The Patrol Commander may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

Table 1

National Jet Boat Association Regatta

Sponsor: National Jet Boat Association
Date: 3 weekend events between February and June; 3 weekend events between September and December
Where: that portion of Lake Moovalya, Parker, Arizona between Headgate Dam and 1.5 miles north.

Parker Enduro

Sponsor: Parker Area Chamber of Commerce
Date: Early weekend in March
Where: that portion of Lake Moovalya, Parker, Arizona between river miles 179 and 185 (between the Roadrunner Resort and Headgate Dam).

Bullhead City Boat Drags

Sponsor: Sunshine Promotions
Date: 2 to 4 weekend events between March and October
Where: that portion of the Colorado River starting from the entrance of Riviera Marina, Riviera, Arizona to 2200 feet north.

Laughlin Classic

Sponsor: Laughlin Chamber of Commerce
Date: Weekend in May or June
Where: that portion of the Colorado River at Laughlin, Nevada, from the Pioneer Hotel to the Edgewater Hotel.

Parker Thanksgiving Regatta

Sponsor: Southern California Speedboat Club
Date: Four-day event during Thanksgiving
Where: that portion of Lake Moovalya, Parker, Arizona between the northern and southern boundries of La Paz County Park.

Lake Havasu Waterski Shows

Sponsor: Lake Havasu Waterski Club
Date: Various 2 hour weekend shows throughout the year
Where: that portion of the Bridgewater Channel, Lake Havasu, Arizona, 200 yards north and south of the London Bridge.

Lake Havasu Classic

Sponsor: Havasu Sports Federation
Date: 5 day event during Thanksgiving weekend
Where: that portion of Thompson Bay, Lake Havasu, Arizona starting approximately 100 yards on bearing of 130° T off Spectator Point, thence due north approximately 2200 yards, thence due west approximately 2400 yards, thence back to the starting point.

Campbell Boat Owners Association Regatta

Sponsor: Campbell Boat Owners Association
Date: Weekend in September
Where: that portion of Thompson Bay, Lake Havasu, Arizona starting approximatley 100 yards on bearing of 130° T off Spectator Point, thence due north approximately 2200 yards, thence due west approximately 2400 yards, thence back to the starting point.

Dated: July 31, 1986.

A. Bruce Beran,

Rear Admiral, U.S. Coast Guard— Commander, Eleventh Coast Guard District.

[FR Doc. 86-17778 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5-86-16]

Temporary Deviation From Drawbridge Operation Regulations for Bridge Across Atlantic Intracoastal Waterway, at Core Creek, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule; temporary deviation.

SUMMARY: The Coast Guard has granted a temporary deviation from the regulations for the drawbridge across the Atlantic Intracoastal Waterway at mile 195.8, Core Creek, at Beaufort, North Carolina. The purpose of this deviation from the regulations is to allow the project contractor for the U.S. Army Corps of Engineers, the owner of the bridge, to repair the bridge. The repairs are expected to be completed in less than 60 days.

DATES: This temporary deviation from the regulations becomes effective on July 14, 1986, and will terminate upon completion of the work and further public notice. A definite termination date for completion of the work cannot be given because the extent of the repairs is not know at this time.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Fifth Coast Guard District (804) 398-6222.

SUPPLEMENTARY INFORMATION: *Drafting information:* The drafters of this notice are Ann B. Deaton, project officer, and LT Wade A. Mitchell, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Deviation From Drawbridge Regulations

In consideration of the foregoing, the regulations in § 117.5 of Title 33, Code of Federal Regulations, do not apply to the bridge across the Atlantic Intracoastal Waterway, mile 195.8, at Core Creek, Beaufort, North Carolina.

From Monday through Friday, the bridge will be closed to boat traffic from 10 a.m. to 3 p.m. The bridge will open for boat traffic on the hour and the half-hour from 6 a.m. to 10 a.m., and again from 3 p.m. to 7 p.m. From 7 p.m. to 6 a.m., the bridge will open on signal. On weekends, the bridge will open on signal from 7 p.m. on Friday through 6 a.m. on Monday.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g), 117.35.

Dated: July 30, 1986.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 86-17781 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 40557-6118]

Miscellaneous Amendments of Trademark Rules

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in trademark cases to correct two cross-references and a spelling error; to bring §§ 2.104 and 2.112(a) into conformity with sections 13 and 14 of the Trademark Act; to make § 2.114(c), which relates to the withdrawal of a petition for

cancellation, consistent with corresponding § 2.106(c), which relates to the withdrawal of an opposition; and to specify that the Trademark Trial and Appeal Board may, in its discretion, grant a § 2.132(a) motion even if the motion was filed after the opening of the testimony period of the moving party.

EFFECTIVE DATE: September 10, 1986.

FOR FURTHER INFORMATION CONTACT: Miss Janet E. Rice by telephone at (703) 557–3551 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: Miss Janet E. Rice, Crystal Square 5, Suite 1008, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Amendments to §§ 2.1, 2.101, 2.104, 2.112, 2.114, 2.132, and 2.145 were proposed in a rulemaking notice published in the **Federal Register** on June 11, 1984 at 49 FR 24033 and in the *Official Gazette* of July 3, 1984 at 1044 O.G. 2. Interested parties were requested to submit written comments on or before July 18, 1984. Written comments were submitted by one individual and one organization.

The purpose of these amendments is to make three "housekeeping" corrections; to bring the language of two rules into conformity with the corresponding provisions of the Trademark Act of 1946; and to modify a particular practice.

Several of the rules of practice in trademark cases were amended, effective February 27, 1983, by a final rule notice published in the **Federal Register** on January 28, 1983 at 48 FR 3972 and in the *Official Gazette* of February 22, 1983 at 1027 O.G. 129. A substantial number of other rules of practice in trademark cases were amended, effective June 22, 1983, by final rule notice published in the **Federal Register** on May 23, 1983 at 48 FR 23122 and in the *Official Gazette* of June 21, 1983 at 1031 O.G. 13. As a result of these rule amendments, three further rule amendments of a "housekeeping" nature are now necessary. First, because the rule amendments included changes in some section numbers and in the location of some provisions, the cross-reference portions of §§ 2.1 and 2.145(d)(1) are being corrected. Second, § 2.101(b), as amended effective February 27, 1983, contains a spelling error which is being corrected. Third, § 2.114(c), which relates to the withdrawal of a petition for cancellation, is being amended so that it will be consistent with § 2.106(c), as amended effective June 22, 1983, which relates to the withdrawal of an opposition.

Additionally, § 2.104 (which lists the content requirements for an opposition) and § 2.112(a) (which lists the content requirements for a petition for cancellation) are being amended to bring them into conformity with sections 13 and 14 of the Trademark Act. These amendments are being made as a result of a comment contained in the recent case of Selva & Sons, Inc. v. Nina Footwear, Inc., 705 F.2d 1316, 217 USPQ 641 (Fed. Cir. 1983). The comment, which appears in footnote 6 at page 648, reads as follows:

> 37 CFR 2.112 commands that a petition for cancellation "set forth a short and plain statement showing how the petitioner is or will be damaged by the registration." This directive is not, however, reflective of 15 USC 1064, which states that a petition to cancel the registration of a mark may be filed "by any person who *believes* that he is or will be damaged by the registration." (Emphasis ours.) Nor is it consistent with recent case law, discussed infra.

Finally, § 2.132, as amended effective June 22, 1983, permits any party in the position of defendant to file a motion to dismiss for failure to take testimony where plaintiff has either (1) failed to take testimony or offer any other evidence (§ 2.132(a)) or (2) offered no evidence other than copies of Patent and Trademark Office records and such evidence is insufficient to show that upon the law and the facts plaintiff is entitled to relief (§ 2.132(b)). Paragraph (c) of the section, adopted effective June 22, 1983, provides that any motion filed under paragraph (a) or (b) must be filed before the opening of the testimony period of the moving party. However, in those cases where a plaintiff's testimony period has expired and plaintiff has in fact failed to take testimony or offer any other evidence in his behalf, it is in the interests of justice and judicial economy to grant a motion to dismiss under § 2.132(a) even if the motion was not filed until after the opening of the defendant's testimony period. Accordingly, the Patent and Trademark office is amending Rule § 2.132(c) to specify that the Trademark Trial and Appeal Board may grant such a motion even if the motion was not filed until after the opening of the testimony period of the moving party.

Discussion of Specific Sections Being Changed

Section 2.1 provides in part that §§ 1.1 to 1.26 of Part I of Title 37 of the Code of Federal Regulations are applicable to trademark cases except such parts thereof which specifically refer to patents and except § 1.22 to the extent that it is inconsistent with §§ 2.85(e), 2.101(c) or 2.162(d). However, the pertinent provisions in § 2.101(c) were relocated in modified form in § 2.101(d) by amendment effective February 27, 1983. Further by amendment effective February 27, 1983, § 2.111(c) adopted provisions which amplify that part of § 2.85(e) relating to petitions for cancellation. Accordingly, the cross-reference portion of § 2.1 is being amended by changing "§ 2.101(c)" to "§ 2.101(d)" and by adding a cross-reference to § 2.111(c).

Section 2.101(b) is being amended by changing the spelling of the word "Principle" to "Principal".

Section 2.104 is being amended by deleting the requirement that the opposition "set forth a short and plain statement showing how the opposer would be damaged by the registration of the opposed mark" and substituting therefor a requirement that the opposition "set forth a short and plain statement showing why the opposer believes he would be damaged by the registration of the opposed mark." The substitute requirement is in conformity with Section 13 of the Trademark Act, which states that any person "who believes that he would be damaged by the registration of a mark upon the principal register" may file an opposition in the Patent and Trademark Office.

Section 2.112(a) is being amended by deleting the requirement that the petition to cancel "set forth a short and plain statement showing how the petitioner is or will be damaged by the registration" and substituting therefor a requirement that the petition to cancel "set forth a short and plain statement showing why the petitioner believes he is or will be damaged by the registration." The substitute requirement is in conformity with section 14 of the Trademark Act, which states that a petition to cancel the registration of a mark may be filed "by any person who believes that he is or will be damaged by the registration."

Section 2.114(c), which provides in part that after an answer to a petition for cancellation is filed the petition may not be withdrawn without prejudice except with the consent of the registrant, is being amended to require the *written* consent of the registrant. The requirement is in conformity with the existing practice under § 2.114(c) and consistent with § 2.106(c), which, as amended effective June 22, 1983, provides in part that after the answer to an opposition is filed, the opposition may not be withdrawn without prejudice except with the written consent of applicant.

Section 2.132(c), which provides that any motion filed under paragraph (a) or (b) of the section must be filed before the opening of the testimony period of the moving party, is being amended to specify that the Trademark Trial and Appeal Board may in its discretion grant a motion filed under paragraph (a) even if the motion was filed after the opening of the testimony period of the moving party.

Section 2.145(d)(1), which governs the time for filing an appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action, provides in part that if a request for rehearing or reconsideration or modification of the decision is filed within the time specified in § 2.129(c) or § 2.144, or within any extension of time granted thereunder, the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. Prior to June 22, 1983, § 2.129(c) governed the filing of any request for rehearing or reconsideration or modification of a decision of the Trademark Trial and Appeal Board, including a decision on a motion which is finally dispositive of a case. However, under the trademark rules as amended effective June 22, 1983, a request for rehearing or reconsideration or modification of a decision issued after final hearing is governed by § 2.129(c), but a request for rehearing, etc., of a decision on a motion which is finally dispositive of a case is governed by § 2.127(b). Accordingly, § 2.145(d)(1) is being amended to include a cross-reference to § 2.127(b).

Response to Comments on the Rules

Comments responding to the notice of proposed rulemaking were submitted by the committee of one organization and by one individual. These comments have been given careful consideration. However, the only suggested modification has not been adopted.

Comment: The organization's committee indicated that while it believed that some of the proposed amendments would have a substantive effect on practice before the Patent and Trademark Office, it found no reason not to endorse their enactment.

Response: The Patent and Trademark Office agrees that some of the amendments will have a substantive effect on practice before the Office.

Comment: With respect to the proposal to amend §§ 2.104 and 2.112(a) to bring them into conformity with the language of sections 13 and 14 of the Act relating to standing, i.e., to require that an opposition and a petition for cancellation, respectively, set forth a short and plain statement showing why the plaintiff believes he would be damaged by the registration of the mark in question, one individual, noting "... the recent changes in the 'standing' doctrine from a 'damage' showing to a 'real interest in the proceeding' showing, . . .", suggested that it might be less confusing if the two rules were amended to provide that opposers and petitioners must set forth a statement showing why (or how) they have "a real interest in the proceeding" rather than why they believe they will be damaged.

Response: The suggested modification is appealing because it reflects current case law. Nevertheless, since case law interpretation of statutory provisions is subject to change, it is concluded that the better approach is to incorporate into the rules the statutory wording, rather than case law language. Further, inasmuch as the "real interest" language is a legal concept which has no specific meaning apart from case law, it appears that the statutory "belief in damage" language is the more readily understandable way of expressing the standing requirement. Accordingly, the suggested modification has not been adopted.

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The General Counsel has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The rule change includes no additional or increased fees. Substantive rights to use valuable trademarks are not adversely affected.

This rule change does not contain a collection of information requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant, adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subject Terms in 37 CFR Part 2

Administrative practice and procedures, Courts, Lawyers, Trademark.

After consideration of the comments received and pursuant to the authority contained in Section 41 of the Trademark Act of July 5, 1946, as amended, and in 35 U.S.C. 6, Part 2 of Title 37 of The Code of Federal Regulations is amended as set forth below.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for Part 2 is revised to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 6, unless otherwise noted.

2. Section 2.1 is revised to read as follows:

§ 2.1 Sections of Part 1 applicable.

Sections 1.1 to 1.26 of this chapter are applicable to trademark cases except such parts thereof which specifically refer to patents and except § 1.22 to the extent that it is inconsistent with §§ 2.85(e), 2.101(d), 2.111(c) or § 2.162(d). Other sections of Part 1 incorporated by reference or referred to in particular sections of this part are also applicable to trademark cases.

3. Section 2.101 is amended by revising paragraph (b) to read as follows:

§ 2.101 Filing an opposition.

* * * * *

(b) Any person who believes that he would be damaged by the registration of a mark on the Principal Register may oppose the same by filing an opposition which should be addressed to the Trademark Trial and Appeal Board.

* * * * *

4. Section 2.104 is revised to read as follows:

§ 2.104 Contents of opposition.

The opposition must set forth a short and plain statement showing why the opposer believes he would be damaged by the registration of the opposed mark and state the grounds for opposition. A duplicate copy of the opposition, including exhibits, shall be filed with the opposition.

5. Section 2.112 is amended by revising paragraph (a) to read as follows:

§ 2.112 Contents of petition for cancellation.

(a) The petition to cancel must set forth a short and plain statement showing why the petitioner believes he is or will be damaged by the registration, state the grounds for cancellation, and indicate the respondent party to whom notification shall be sent. A duplicate copy of the petition, including exhibits, shall be filed with the petition.

* * * * *

6. Section 2.114 is amended by revising paragraph (c) to read as follows:

§ 2.114 Answer.

* * * * *

(c) The petition for cancellation may be withdrawn without prejudice before the answer is filed. After the answer is filed, the petition may not be withdrawn without prejudice except with the written consent of the registrant.

7. Section 2.132 is amended by revising paragraph (c) to read as follows:

§ 2.132 Involuntary dismissal for failure to take testimony.

* * * * *

(c) A motion filed under paragraph (a) or (b) of this section must be filed before the opening of the testimony period of the moving party, except that the Trademark Trial and Appeal Board may in its discretion grant a motion under paragraph (a) even if the motion was filed after the opening of the testimony period of the moving party.

8. Section 2.145 is amended by revising paragraph (d)(1) to read as follows:

§ 2.145 Appeal to court and civil action.

* * * * *

(d) Time for appeal or civil action. (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (paragraph (b) of this section), or for commencing a civil action (paragraph (c) of this section), is sixty days from the date of the decision of the Trademark Trial and Appeal Board or the Commissioner, as the case may be. If a request for rehearing or reconsideration or modification of the decision is filed within the time specified in §§ 2.127(b), 2.129(c) or 2.144, or within any extension of time granted thereunder, the time for filing an appeal or commencing a civil action shall expire at the end of the sixty day period or thirty days after action on the request, whichever is later. The sixty and thirty day periods may be extended by the Commissioner upon a showing of sufficient cause.

* * * * *

Dated: June 20, 1986.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 86-17998 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 33

[OA-FRL-3062-6]

Asbestos Hazard Abatement (Schools) Program

AGENCY: Environmental Protection Agency.

ACTION: Deviation from rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a class deviation from the provision of 40 CFR 33.250, 33.305 and 33.310 of its Procurement Under Assistance Agreements regulation to permit recipients of assistance agreements for EPA's Asbestos Hazard Abatement (Schools) Program to use the Small Purchase Procurement procedures of 40 CFR Part 33 where appropriate if the aggregate amount involved in any one procurement transaction does not exceed $25,000 including overhead and profit. The deviation from 40 CFR 33.250 extends only to transactions not exceeding $25,000. The deviation is limited to procurements to be funded under agreements entered into during Fiscal Year 1986.

DATE: The class deviation became effective August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Paul F. Wagner, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. (202) 382-5292.

Dated: August 4, 1986.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

Dated: July 31, 1986.

John A Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-17974 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-349-FC]

Medicare Program; Reasonable Charge Limitations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule implements section 9304(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 which enacted section 1842(b)(8) of the Social Security Act (Act). In accordance with section 1842(b)(8) of the Act, we specify the circumstances under which HCFA or its Medicare Part B carriers will consider establishing special reasonable charge payment limits for services (including supplies and equipment) reimbursed under Part B of the Medicare program. The rule describes the factors HCFA or a carrier will consider and the procedures it will follow in establishing them. The limits would be either an upper limit to correct a grossly excessive charge or a lower limit to correct a grossly deficient charge. In either case, the limit would be either a specific dollar amount, or a special method used in determining reasonable charges to be allowed for a particular service or category of service.

The purpose of this rule is to establish a stronger framework for setting special reasonable charge limits for services when the standard reimbursement methodology results in payments that are grossly excessive or deficient. A related purpose is to protect the Medicare program from excessive outlays and to prevent any adverse effects on both Medicare beneficiaries and consumers in general that we believe would result from a lack of such limits. The rule also will protect suppliers from reimbursement that is grossly deficient.

DATES:

Effective Date: These regulations are effective September 10, 1986. (See section IV for a discussion of the effect of these rules on existing special limits.)

Comment period: Although these regulations are final, we will consider comments on the material that concerns reasonable charge amounts that are deficient (42 CFR 405.502(g)(1)(ii)) and special limits set by carriers. These provisions were not included in the proposed rule and are being issued in final for the reasons explained in section

IV, Waiver of Proposed Rulemaking in the Supplementary Information, below. We will consider comments on that material only and revise the regulations as necessary. To be considered, comments must be received at the appropriate address, as provided below, no later than 5:00 p.m. on October 10, 1986.

ADDRESSES:

Mail comments to the following address:
Health Care Financing Administration, Department of Health and Human Services. Attention: BERC–349–FC, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC–349–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave. SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT:
Ronald Wren, (301) 594–7107.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1842(b)(3) of the Social Security Act requires that all payments under Part B of the Medicare program must be reasonable.

Reasonable charge determinations under Part B are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for a service is generally the lowest of (1) the actual charge, (2) the customary charge made by a particular supplier, or (3) the prevailing charge, which is set at the 75th percentile in the range of customary charges for similar services in the locality. For nonphysician medical services, the reasonable charge is the lowest of four factors. These include the three factors cited above and an inflation-indexed charge. An economic index limits the annual increases in prevailing charges for physicians' services.

This standard method of determining the reasonable charge for a service can, in some instances, result in payments that may not be reasonable. This may occur, for example when (1) the marketplace is not truly competitive because of limited suppliers; (2) the Medicare and Medicaid programs are the primary source of payment for a service; (3) the charge involves the use of new, expensive technology for which there is not an extensive charge history; (4) the charges do not reflect changing technology or increased facility with that technology (for example, when first done, a medical procedure may require considerable skill and entail substantial risk, but becomes more routine with additional experience); (5) prevailing charges in a locality are clearly out-of-line with prevailing charges in other localities; or (6) charges are grossly in excess of acquisition or production costs.

Historically, our Medicare Part B carriers have dealt with these situations locally under the authority of 42 CFR 405.502(a)(7). That section provides that the carriers may consider factors other than those described above in determining whether a charge is inherently reasonable.

In order to consider on a national basis other factors that would ensure a charge is inherently reasonable, we published, on February 18, 1986, a proposed rule (51 FR 5726) that would allow us to adopt special national reasonable charge limits. The proposal was issued consistent with the Medicare statute that authorizes the Secretary to adopt special reasonable charge limits when the usual reimbursement mechanism under Part B of the program does not yield the desired result of reasonable payment. (See S. Rep. No. 1230 92d Cong., 2d Sess. 193 (1972).) The proposal specified the circumstances under which HCFA would consider establishing special reasonable charge limits for services reimbursed under Part B of the Medicare program, as well as the procedures HCFA would follow in setting the limits. In the proposed rule, we stated that the limits would apply only to those cases in which the application of the reasonable charge methodology results in charges that are excessive. We did not apply the limits to cases that would result in a deficient reasonable charge.

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. 99–272) was enacted. Sections 9304(a) of COBRA enacted a new section 1842(b)(8) of the Act to require that the Secretary describe in regulations the factors to be used in determining the cases in which the application of the reasonable charge methodology results in a charge that is grossly excessive *or* grossly deficient. It also requires the Secretary to provide in regulations the factors to be considered in those cases in establishing a reasonable charge that is realistic and equitable.

We have interpreted the provisions of section 1842(b)(8) of the Act to apply not only to HCFA's authority to establish national reasonable charge limits, but also to the carriers' authority to establish carrier level reasonable charge limits on grossly excessive or deficient charges. Thus, these final regulations describe circumstances and factors to be used by both HCFA and the carriers in setting reasonable charge limits on grossly excessive or deficient charges.

The provisions of the proposed rule, the comments we received, our responses to those comments, and the changes we are making to implement the provisions of section 1842(b)(8) of the Act are discussed below.

II. Proposed Regulations

We proposed to add a new paragraph (g) to 42 CFR 405.502 which concerns the determination of reasonable charges. The proposal specified that we may establish national reasonable charge limits for a category of service if we determine that the standard procedures for calculating reasonable charges result in unreasonably excessive charges. (Note: A category of service could contain only one particular service.) We specified that in determining the need for and in setting special payment limits, we would use available information relevant to the category of service.

The proposed regulations at § 405.502(g)(1) described the factors to be considered in determining the need for and setting a limit. The proposed factors included, but were not limited to, the following:

- Price markup.
- Utilization.
- Differences in charges to large volume purchasers.
- Cost.
- Charges in other areas
- Other relevant factors.

In the proposal, we stated that after reviewing the available data on a specific category of service, we would determine whether a special reasonable charge limit is appropriate and, if so, what type and amount of limit is needed.

The proposed regulations specified that we would publish any proposed limit as a notice in the **Federal Register** and provide an opportunity for public comments. Then, we would publish our final determination and our response to

those comments, in the **Federal Register**. The proposal provided that each notice published in the **Federal Register** would also set forth the criteria and circumstances, if any, under which a carrier may grant an exception to the specific limit. Thus, beneficiaries and suppliers would be able to request an exception to the limit if the criteria and circumstances for an exception, issued with the notice of the limit, are met.

The preamble to the proposed rule also stated that an individual carrier or groups of carriers would retain their present authority specified at 42 CFR 405.502(a)(7) to make inherent reasonableness determinations (which may involve setting a reasonable charge limit a specific locality) without publishing a notice in the **Federal Register**.

III. Discussion of Comments

In response to the proposed rule, we received approximately 170 timely items of correspondence from individual physicians and other health care professionals, and from associations representing durable medical equipment suppliers or other health care professionals. The specific comments and our responses to these comments follow:

A. Authority

Comment: Many commenters believe that the proposed rule exceeded HCFA's statutory authority and that we were attempting to establish fiscal constraints for Part B expenditures without congressional direction.

Response: We believe that the regulation is completely consistent with HCFA's statutory authority. Sections 1833 and 1842(b)(2) of the Act, which authorize the payment of "reasonable" charges under Part B, do not specify exactly how to determine which charges are "reasonable" in amount. Instead, section 1842(b)(3) provides that, in determining what is reasonable, "there shall be taken into consideration" the supplier's customary charges for the service and the prevailing charges in the locality, while leaving open the possibility of considering all other information bearing on the reasonableness of the charge. Thus, the statute permits evaluating all relevant information in determining whether a charge is "reasonable," as that term is commonly understood, rather than determining the allowed charge by some mechanical formula. Consistent with the flexibility permitted by statute, longstanding Medicare regulations have required consideration of a variety of criteria including, as specified in 42 CFR 405.402(a)(7), "[o]ther factors that may be found necessary and appropriate with respect to a specific item or service to use in judging whether the charge is inherently reasonable."

That the statute provides for these flexible criteria has been recognized by Congress. When the reasonable charge provisions were revised in 1972, the Senate Finance Committee noted that "present law provides authority for special reasonable charge rules and limits with respect to any item for service for which such special rules are found to be necessary and appropriate." S. Rep. No. 92–1230, 92d Cong., 2d Sess. 193 (1972). Similarly, the House Ways and Means Committee, after explaining the basic system of reliance on customary and prevailing charges, noted that "In a relatively small number of situations, additional rules are used to judge the reasonableness of charges." H.R. Rep. No. 92–231, 92d Cong., 1st Sess. 85 (1971). These regulations simply provide additional detail concerning the factors that have long been used in judging the reasonableness of charges.

Also, contrary to the assertions of some commenters, we believe that the Department has full authority to instruct the carriers on the criteria to be used in determining reasonable charges. Although the statute requires the carriers to make various determinations with respect to reasonable charges, these provisions cannot be interpreted as immunizing the carriers from Departmental direction. It would be implausible to interpret the statute as giving private organizations the unbridled authority to expend tens of billions of dollars of Federal funds without Department control.

This interpretation is consistent with the Department's practice since the beginning of the Medicare program. For example, as enacted in 1965, the Medicare statute prescribed only that customary and prevailing charges should be considered in determining reasonable charges; no definitions of customary or prevailing charges were included in the statute. Definitions were, however, developed by the Department and imposed on the carriers. In 1972 Congress incorporated these definitions into the statute but, in so doing, did not in any way imply that the Department lacked authority to promulgate instructions governing the carriers. The House Ways and Means Committee stated only that it "believes it desirable to embody in the statute the limitations on medical charges recognized as prevailing now set forth in Medicare regulations . . . . . " H. Rep. No. 92–231, *supra*, at 87. The Senate Finance Committee used similar language. S. Rep. No. 92–1230, *supra*, at 192.

If there were any doubt about the Department's authority to direct the carriers in this respect, it was resolved by section 9304 of COBRA, which unambiguously directed the Secretary to issue regulations describing the factors to be used in determining whether a charge is, by reason of its grossly excessive or grossly deficient amount, not inherently reasonable.

Comment: Approximately 40 commenters expressed concern that certain provisions may have an adverse effect on the medical industry, beneficiaries, assignment rates, and quality of health care. The commenters recommended that the regulation be withdrawn entirely. This was based upon concerns that HCFA lacks the statutory authority to implement the proposed rule.

Response: This recommendation cannot be adopted. As discussed above, the Medicare statute at section 1842(b)(3), and at section 1842(b)(8) which was added by COBRA, provides the authority for the regulations being adopted. The provisions of this rule have been devised to be consistent with the congressional intent that Medicare program costs be reasonable, and we will make every effort to see that any limits are equitable and responsive to the medical needs of our beneficiaries. We will use this authority selectively and only if the usual customary and prevailing charges are found to be grossly excessive or deficient. If reimbursement is fair and reasonable, we believe that most physicians and suppliers will continue to accept assignment while maintaining quality standards.

B. Extension of Comment Period

Comment: Several commenters requested an extension of the comment period on the proposed rule.

Response: We agreed with this suggestion and provided an additional 15 days to comment (see 51 FR 10033, dated March 24, 1986). We believe that the extension provided sufficient opportunity for the public to comment. We did not extend the comment period further because of the limited time available for the timely implementation of any proposed limits. Furthermore, commenters offered no indication of what additional analysis or information might be forthcoming that would have a bearing on establishing the special limits.

C. Factors

Comment: Many commenters expressed the concern that the proposed rule is overly vague and should specify

the criteria for selecting services considered overpriced.

Response: While we do not agree that the proposed rule is vague, we acknowledge that it is written in general terms. As explained in the proposed rule, the circumstances that create an inherently unreasonable charge pattern vary from case to case. Thus, we proposed, in general terms, the factors for determining the need for a limit and for setting the amount. As specified in the proposed rule, when proposed limits for specific services are published in the **Federal Register**, we will include a detailed description of how the proposed limits were calculated or decided upon as well as the information or data used in the calculation, and an opportunity to comment on the details of each circumstance.

In identifying specific services or products for possible application of a special reasonable charge limit, a variety of methods will be used. We will consider information in medical literature, studies by organizations such as the General Accounting Office and the HHS Office of the Inspector General, outside research studies such as those dealing with resource cost-based relative value systems and other data. We note that as required by section 1842(b)(8) of the Act, we are including the factors to be used in determining the cases in which the application of the reasonable charge methodology results in a charge that is grossly excessive or grossly deficient. It also requires the Secretary to provide in regulations the factors to be considered in establishing a limit on the reasonable charge. The limit on the reasonable charge would be an upper limit to correct a grossly excessive charge or a lower limit to correct a grossly deficient charge.

Comment: A number of commenters asked for a clarification of the utilization factor that we included in the proposed list of factors that would be used in determining the need for a limit, and in calculating a limit. The commenters wanted to know what constitutes a "cost-effective utilization" rate and how we would compute it.

Response: In the proposed rule, we stated that, "HCFA may impute a reasonable rate of use for a category of service in order to arrive at cost-effective utilization." Our intention was and is that when relevant, any proposed limits or special factors would assume an appropriate utilization rate. For example, if a new technology emerges which we determine should be subject to a national reasonable charge limit (because application of the standard reasonable charge methodology results in excessive charges), we might consider what utilization rate would exist when the procedure becomes more established. This is similar to the approach used by HCFA in operational instructions to the carriers on establishing a reasonable charge for magnetic resonance imaging (MCM section 5246.2). We have no intention in using this provision to "ration" services as suggested by one commenter. We are revising the regulations to clairfy our intent.

D. Impact Analysis

Comment: Several commenters criticized the proposed rule because it did not include a regulatory impact analysis.

Response: This regulation merely establishes the authority to determine reasonable charge limits, and does not establish any actual limits. As noted in the regulatory impact statement published in the proposed rule, with respect to limits established by HCFA, we would observe notice and comment procedures and perform a regulatory impact analysis, as appropriate, on a notice implementing this authority. Any economic effects ascribed to this regulation, in and of itself, would be purely speculative and practically inestimable.

E. Provisions for Deficient Amounts

Comment: Many commenters suggested that the proposed rule should have provided for an increase in deficient amounts.

Response: As we noted in the preamble. We believe the situations were the reasonable charge mechanism results in a significantly deficient amount are virtually non-existent. This is because the reasonable charges are established based on the charges imposed by the industry itself. Moreover, we pointed out that there is an existing procedure to deal with unusually low customary charges (Medicare Carriers Manual, Part III, section 5010.2, "Equity Adjustments in Customary Charge Screens"). The new section 1842(b)(8) of the Act, however, now directs the Secretary to establish regulations describing the factors relating to reasonable charges which are inherently unreasonable by reason of being grossly deficient and we have reflected this in the final rule. We will consider establishing lower limits to deal with "grossly deficient" cases in the following situations: (1) Changing technology substantially increases resource requirements, or (2) There has been a substantial and sudden increase in acquisition or production costs. However, we are not aware of any situations where this has occurred. We would welcome public comment on these and other situations where upward adjustments might be appropriate. In establishing the lower limits we will consider the same six factors described in the proposal (that is, price mark-up, utilization, difference in charges, costs, charges in other localities, and other relevant factors).

F. Limited Impact

Comment: Another comment was that the proposed rule singles out a segment of the medical profession.

Response: The language of the proposed rule does not refer to or limit particular medical services. Rather, it refers to situations where standard methods of determining the reasonable charge for a service can result in payments that may not be reasonable. In this regard, it reflects the intent of the original Medicare legislation as recalled in the 1972 Senate Finance Committee Report accompanying Pub. L. 92-603. Further, section 1842(b)(8) of the Act makes no distinction among any Part B services paid on a reasonable charge basis.

G. Adjustments for Geographic Differences

Comment: One commenter suggested that we allow adjustments on limits based on geographic differences.

Response: We agree that where appropriate we should recognize geographic differences in payment.

H. Industry Input

Comment: Another comment was that the proposed rule does not provide an opportunity for the industry to meet with HCFA staff on establishing limits.

Response: Our relationship with the health care industry has been a productive one for many years. We have welcomed the constructive comments and suggestions we have received from the health industry, both in writing and in numerous meetings. We expect this dialogue to continue with the implementation of special reasonable charge limits and assure the industry that there will be opportunities for input and meetings with HCFA staff as specific limits are developed.

IV. Provisions of the Final Rule

We are adopting the provisions set forth in the proposed rule with certain revisions. We have restructured the format and made technical and clarifying changes. Additionally, we are making changes consistent with the requirements of section 1842(b)(8) of the Act.

VOL 51 ISS 154 AUG 11 1986 UMI

We are revising § 405.502(a)(7) which describes the authority to use other factors in making a determination of inherent reasonableness. We are clarifying that other factors which may be considered include the special reasonable charge limits described in § 405.502(g).

As previously discussed, section 1842(b)(8) of the Act requires that we describe in regulations the factors to be used in determining the cases in which the application of the reasonable charge methodology results in a charge that is grossly excessive or grossly deficient. It also requires us to specify the factors to be considered in establishing a limit on the reasonable charge.

We have interpreted section 1842(b)(8) of the Act as applying not only to HCFA's authority to establish national reasonable charge limits, but also to the carriers' authority to establish carrier level reasonable charge limits on grossly excessive or deficient charges. Therefore, we are specifying in regulations the factors used by both HCFA and the carriers in setting limits on grossly excessive or grossly deficient charges and are revising the proposed § 405.502(g) to reflect this change.

Also consistent with the provisions of section 1842(b)(8) of the Act, we are adding a provision at 42 CFR 405.502 that will permit us to establish a special reasonable charge limit in cases in which the application of the reasonable charge methodology results in charges that are deficient. We are changing the wording of the proposed § 405.502(g) to specify that the limit on the reasonable charge is an upper limit to correct a grossly excessive charge or a lower limit to correct a grossly deficient charge.

The proposed rule at § 405.502(g)(1) had stated that we would consider certain factors in determining the need for a limit, and in calculating a limit. In the final rule, we will distinguish between the circumstances under which HCFA or a carrier may determine the need for a limit (see § 405.502(g)(1) of these final rules) and those used to establish a limit (see § 405.502(g)(2) of these final rules).

Section 405.502(g)(1)(i) of the final rule describes the circumstances in which application of the reasonable charge methodology results in grossly excessive charges and under which HCFA or a carrier may determine the need for a special upper limit. In the preamble of the proposed regulations, we had listed these circumstances but had not included them in the proposed regulations text. In this final rule, we are adding the list to the regulations text. The circumstances that may result in grossly excessive charges include, but are not limited to the following:

- The marketplace is not competitive.
- Medicare is the primary source for payment.
- The charge involves the use of new technology for which an extensive charge history does not exist.
- The charges do not reflect changing technology, increased facility with that technology or changes in acquisition or supplier costs.
- Prevailing charges in a locality are grossly in excess of prevailing charges in other localities.
- Charges are grossly in excess of acquisition or production costs.

At § 405.502(g)(1)(ii), we are adding the circumstances in which the application of the reasonable charge methodology may result in deficient charges and under which HCFA or a carrier may determine the need for a special lower limit. The circumstances include, but are not limited to the following:

- Changing technology substantially increases resource requirements.
- There has been a substantial and sudden increase in acquisition or production costs.

We are listing separately at § 405.502(g)(2) the circumstances that HCFA or a carrier will consider in establishing a limit. We are essentially using the same factors that we presented in the proposed rule at § 405.502(g)(1) (i)–(vi). These factors will apply to limits that are intended to correct both grossly excessive and deficient charge amounts. We are revising the factor concerning price markups to clarify that HCFA or a carrier may consider the markup on similar services if data on a particular category of service are not available. We also are revising the factor concerning utilization to clarify our intent that HCFA or a carrier will impute a reasonable rate of use in establishing a limit, but we are not attempting to "ration" services. Finally, we are revising the factor concerning costs to clarify that HCFA or a carrier will consider data on acquisition or production costs.

In this final rule, we are deleting the provision of the proposed § 405.502(g)(2)(i) that permitted a beneficiary or supplier to request an exception to a special reasonable charge limit. We are deleting this provision because individual requests for exceptions are already provided for under § 405.506. That section gives carriers authority to reimburse additional amounts if there are unusual circumstances or medical complications requiring additional time, effort, or expense that support an additional charge, and if it is acceptable medical practice in the locality to make an extra charge in the specific cases. In addition, if the exception criteria specified in a **Federal Register** notice setting forth a national limit are met, carriers will apply the exceptions to their entire service area.

We also are deleting the provision of the proposed § 405.502(g)(2)(ii) that stated that the carriers will grant an exception to the special limits if the exceptions criteria specified in the **Federal Register** notice are met. We are deleting this provision because it is not necessary to specify that the carriers have this authority. The final rule will continue to state, as did the proposed rule, that any criteria and circumstances under which a carrier may grant an exception will be included in the **Federal Register** publication announcing the limit.

The proposed requirements regarding the publication in the **Federal Register** of a proposed and final national limit (set by HCFA) that specify the exceptions procedure will apply to limits established to correct a grossly deficient, as well as an excessive, charge that results from the application of the reasonable charge methodology.

As in the proposed rule, we note that the individual carriers retain their existing authority (under § 405.502(a)(7)) to make inherent reasonableness determinations so that they can control unreasonable payments peculiar to their service area. However, we are modifying the final rule consistent with the provisions of section 1842(b)(8) of the Act to make it clear that the factors to be used in determining the cases in which the reasonable charge methodology may result in a grossly excessive or deficient charges and the factors to be considered in establishing a limit are the same for HCFA and the carriers. We also are modifying the Medicare Carriers Manual, Part III, Section 5246, "Consideration of Other Factors in Determining that Charges are Inherently Reasonable" to conform to these changes.

Limits previously established by carriers will be subject to the factors specified in this regulation if applied after the effective date of the regulation. Since the factors are similar to those that have been used by carriers in the past in determining limits, this should not necessitate major changes, but the carriers will revise any existing limits if necessary to satisfy the requirements in the regulations. Carriers will be instructed to review their existing use of

factors other than customary and prevailing charges to assure that such use is consistent with the regulations with respect to both the circumstances of application and the factors to be used. Carriers will undertake this review during their annual update of reasonable charge screens and will complete their review prior to January 1, 1987. Where limits previously established by carriers are otherwise consistent with the regulations, carriers may continue to apply special limits without obtaining comments from affected suppliers. When a change in the limits is required, the limits will be proposed following the procedures specified in the regulations.

In this final rule, we specify that when carriers propose to use their authority to make inherent reasonableness determinations, they are instructed to inform the affected suppliers or physicians of the factors considered in establishing the limit. Because of congressional and industry concern about the manner in which some carriers exercise this authority, we are specifying in this rule and adding to the carrier guidelines a requirement that carriers, in the future, obtain comments from affected groups on every proposed general application of their inherent reasonableness authority. This rule provided that after evaluating the comments received, the carrier must inform the affected suppliers or physicians of any final limit established. The limit will be effective for services furnished no fewer than 30 days after the date of the carrier's notification. This procedure will not apply when a carrier, in reviewing a specific charge, determines that it is unreasonable. When carrier determinations of reasonable allowances, which are based on factors other than customary and prevailing charges, are lower than the reasonable charge limits established by HCFA, the carrier determination will remain in effect.

V. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to meet criteria for a "major rule". A major rule is one that would result in—

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation will have no direct effect on the economy or on Federal or State expenditures. It specifies rules under which special limits might be established. Therefore, we conclude that this rule, in itself, will have no effect on the economy and no threshold criteria under E.O. 12291 would be exceeded. Consequently, a regulatory impact analysis is not required. However, in developing future **Federal Register** notices to promulgate limits under this rule, we will consider the economic impact of the limits and, if appropriate, prepare a regulatory impact analysis.

B. Regulatory Flexibility Act

We prepare and publish a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a regulation will not have a significant impact on a substantial number of small entities. As discussed above, this regulation will not, in itself, have an economic impact. Indirectly, it might result in future issuances whereby small entities might be affected. However, in each of these cases, procedures consistent with the RFA will be followed and a regulatory flexibility analysis performed, if warranted. Therefore, we conclude, and the Secretary certifies, that these regulations will not have a significant economic impact on a substantial number of small entities.

VI. Waiver of Proposed Rulemaking

It is our practice to publish a general notice of proposed rulemaking in the **Federal Register**, and afford prior public comment on proposed rules. Such notice includes a statement of the time, place, and nature of rulemaking proceedings, reference to the legal authority under which the rule is proposed, and the terms or substance of the proposed rule or a description of the subjects and issues involved. However, we omit a notice of proposed rulemaking when we find good cause that such a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest. In those cases, we incorporate a statement of the finding and its reasons in the rule issued.

These rules include amendments to the regulations that were not presented in the proposed rule but are necessary for the implementation of section 9304(a) of COBRA. That section enacted section 1842(b)(8) of the Act to require the Secretary to issue regulations that set forth the factors to be used in determining the cases in which the application of the reasonable charge methodology results in a reasonable charge that is grossly excessive or grossly deficient. It also requires the Secretary to provide in regulations the factors to be considered in establishing a limit on the reasonable charge. We believe that section 1842(b)(8) of the Act requires us to include in the regulations the factors used by carriers in determining the need for a limit. We have also specified the procedures that they will follow in establishing limits on grossly excessive or grossly deficient charges. The procedures described in this final rule that apply to the limits on grossly excessive or grossly deficient charges set by carriers under § 405.502(a)(7), which permits the carrier to consider other factors in determining the inherent reasonableness of a service, are new. Additionally, the proposed rule only addressed the factors to be considered in establishing a limit in the case of excessive charges. Thus, the examples of the circumstances that must exist before we will consider establishing a limit for excessive charges and all the provisions concerning deficient charges are new.

We believe that it is unnecessary to provide a notice of proposed rulemaking to apply to the carriers the factors previously proposed to govern HCFA's actions. Although the notice of proposed rulemaking solicited comment on the factors in the context of their use by HCFA, there is no reason to believe that commenters would have a different analysis if the factors were being applied by the carriers.

We also believe that it is unnecessary to provide another notice of proposed rulemaking for the provision that sets forth the circumstances that HCFA or a carrier would consider before establishing a limit for grossly excessive charges. Although this material was not included in the proposed regulations text, it was included in the preamble to the proposed rule. Consequently, the public was informed of our intent and had the opportunity to comment.

Finally, we believe that it would be unnecessary and contrary to the public interest to provide a notice of proposed rulemaking with respect to special limits that may be established if the application of the reasonable charge methodology results in grossly deficient charges. In considering the need for these limits and in calculating the limits,

VOL 51 ISS 154 AG 11 1986 UMI

HCPA or a carrier generally will use the same factors and procedures that applied to grossly excessive charges and were set forth in the proposed rule. Finalizing this rule is clearly in the interest of the affected suppliers, because the limits that may be established if grossly deficient charges exist, will exceed the amount that is calculated under the standard reasonable charge methodology. We believe that it is contrary to the public interest to provide a notice of proposed rulemaking since it would delay the implementation of these provisions.

VII. Public Comments

We are inviting comments on certain provisions of this final rule that implement the aspects of section 1842(b)(8) of the Act, as enacted by COBRA, that concern deficient charges and that were not included in the notice of proposed rulemaking published on February 18, 1986. Because of the large number of items of correspondence we normally receive, we are not able to acknowledge or respond to them individually. However, we will consider all comments relating to the provisions concerning deficient charges contained in section 1842(b)(8) of the Act that we receive by the date and time specified in the "Dates" section of this preamble. If, as a result of these public comments, we conclude that changes in these final rules are needed, we will respond to the comments and include the changes in a future **Federal Register** publication.

All other provisions included in these final regulations were included in the proposed rule, and we are responding in this document to comments received on these provisions. Therefore, if another **Federal Register** publication is necessary, we expect to address only comments about the provisions of these regulations that implement the provisions of section 1842(b)(8) of the Act, regarding deficient charges and special reasonable charge limits set by carriers, which were not included in the February 18, 1986 proposed rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405, Subpart E is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

1. The authority citation for Subpart E continues to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842 (b) and (h), 1861 (b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886 and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u (b) and (h), 1395x (b) and (v), 1395y (a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww and 1395xx).

2. In § 405.502, the introductory language for paragraph (a) is republished, paragraph (a)(7) is revised and a new paragraph (g) is added to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are furnished and charged for. The criteria for determining what charges are reasonable include:

* * * * *

(7) Other factors that may be found necessary and appropriate with respect to a category of service to use in judging whether the charge is inherently reasonable. This includes special reasonable charge limits (which may be either upper or lower limits) established by HCFA or a carrier if it determines that the standard rules for calculating reasonable charges set forth in this subpart result in grossly deficient or excessive charges. The determination of these limits is described in paragraph (g) of this section.

* * * * *

(g) *Determination of reasonable charges in special circumstances.* HCFA or a carrier may establish special reasonable charge limits for a category of service if it determines that the standard rules for calculating reasonable charges set forth in this subpart result in grossly deficient or excessive charges. The limit on the reasonable charge is an upper limit to correct a grossly excessive charge or a lower limit to correct a grossly deficient charge. The limits are either a specific dollar amount, or are based on a special method to be used in determining reasonable charges to be allowed.

(1) *Application.*—(i) *Grossly excessive charges.* HCFA or a carrier may make a determination that the standard rules for calculating reasonable charges set forth in this subpart result in grossly excessive charges. Examples of the circumstances which may result in grossly excessive charges include, but are not limited to the following:

(A) The marketplace is not competitive.

(B) Medicare is the primary source for payment.

(C) The charges involve the use of new technology for which an extensive charge history does not exist.

(D) The charges do not reflect changing technology, increased facility with that technology, or changes in acquisition or supplier costs.

(E) Prevailing charges in a locality are grossly in excess of prevailing charges in other localities.

(F) Charges are grossly in excess of acquisition or production costs.

(ii) *Grossly deficient charges.* HCFA or a carrier may make a determination that the standard rules for calculating reasonable charges set forth in this subpart result in grossly deficient charges. Examples of the circumstances which may result in grossly deficient charges include, but are not limited to the following:

(A) Changing technology substantially increases resource requirements.

(B) There has been a substantial and sudden increase in acquisition or production costs.

(2) *Factors considered.* In establishing a limit, HCFA or a carrier considers the available information that is relevant to the category of service and establishes a reasonable limit that is realistic and equitable. The factors to be considered in establishing a specific dollar amount or special method may include:

(i) *Price markup.* This is the relationship between the retail and wholesale prices or manufacturer's costs of a category of service. If information on a particular category of service is not available, HCFA or a carrier may consider the markup on similar services and information on general industry pricing trends.

(ii) *Differences in charges.* HCFA or a carrier may consider the differences in charges to non-Medicare and Medicare patients or to institutions and other large volume purchasers.

(iii) *Costs.* HCFA or a carrier may consider data on acquisition or produciton costs.

(iv) *Utilization.* HCFA or a carrier may impute a reasonable rate of use for a category of service and consider unit costs based on efficient utilization.

(v) *Charges in other localities.*

(iv) *Other relevant factors.*

(3) *Publication of national limits.* HCFA publishes in the **Federal Register** a notice of a proposed and final special reasonable charge limit before the limit is adopted. The notice sets forth in the **Federal Register** the criteria and circumstances, if any, under which a carrier may grant an exception to the limit.

(4) *Carrier level limits.* After September 10, 1986, a carrier proposing to establish a generally applicable special reasonable charge limit must inform the affected suppliers or physicians of the factors considered in establishing the limit as described in paragraphs (g)(1) and (2) of this section and solicit comments. After evaluating the comments received, the carrier must inform the affected suppliers or physicians of any final limit established. The limit is effective for services furnished no fewer than 30 days after the date of the carrier's notification.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 21, 1986.

William L. Roper,

Administator, Health Care Financing Administration.

Approved July 31, 1986.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 86-17898 Filed 8-8-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60489-6089]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends an emergency interim rule which authorized the deviation from the framework allocation schedule for coho salmon north of Cape Falcon, Oregon, and the modification of the framework provisions for inseason ocean salmon management off the coasts of Washington, Oregon, and California until August 13, 1986. It is necessary to extend this emergency rule for an additional 90 days, through November 11, 1986, because the conditions requiring the emergency measure still exist. This action is intended to optimize the salmon harvest and alleviate continuing depressed economic conditions in coastal communities associated with the fishing industry and related businesses.

EFFECTIVE DATE: The extended emergency rule is effective at 0001 hours local time, August 14, 1986, until 2400 hours local time, November 11, 1986.

ADDRESSES: Comments on this rule may be submitted to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry St., Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; or E. Charles Fullerton, 213-514-6196.

SUPPLEMENTARY INFORMATION: Under section 305(e)(2) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule on May 15, 1986 (51 FR 18451, May 20, 1986) to protect depressed runs of chinook and coho salmon and to provide maximum opportunity for ocean harvest to help alleviate the depressed economic conditions in coastal communities.

The emergency rule deviates from the framework sliding scale which allocates coho salmon to commercial and recreational fisheries north of Cape Falcon, Oregon. The 1986 allocation is intended to minimize impacts on critical codo and chinook stocks and maximize ocean harvest by each user group north of Cape Falcon. The emergency rule also clarifies, broadens in scope and intent, and adds optional provisions to the framework inseason management provisions. The 1986 inseason management provisions are intended to prevent management problems encountered in 1985 by increasing Federal inseason management flexibility.

Classification

The Pacific Fishery Management Council requested that the Secretary extend this emergency rule for one additional period of not more than 90 days since the conditions within the fishery requiring the original emergency rule still exist. This action is authorized by section 305(e)(3) of the Magnuson Act. The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided for in section 8(a)(1) of the order. This rule is being reported to the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that order.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 5, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-18000 Filed 8-6-86; 8:45 am]

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50 CFR Part 661

[Docket No. 60489-6089]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces a delay in the reopening of the non-Indian commercial salmon fishery in the fishery conservation zone (FCZ) from the U.S.-Canada border to Carroll Island, Washington, for 24 hours. This fishery will reopen at 0001 hours Pacific Daylight Time (PDT) August 8, 1986 instead of at 0001 hours PDT August 7, 1986. This delay is necessary to better balance the impacts on the remaining quotas in the two areas of the commercial fishery north of Cape Falcon, Oregon. This action is intended to maximize ocean harvest of chinook and coho salmon without exceeding the established quotas.

DATES: Delay of reopening of the FCZ from the U.S.-Canada border to Carroll Island, Washington, to commercial salmon fishing is in effect beginning 0001 hours PDT through 2400 hours PDT on August 7, 1986. This area will reopen to commercial salmon fishing at 0001 hours PDT August 8, 1986. Comments on this notice will be received until August 22, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed

VOL
51
ISS
154
AG
11
1986
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under a framework fishery management plan (50 CFR Part 661). The framework regulations were modified by an emergency rule (51 FR 18451, May 20, 1986) which established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated treaty Indian fishing rights, and the ocean allocation scheme in the framework amendment. All inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial, and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

In its preseason notice of 1986 management measures (51 FR 15620, May 5, 1986) NOAA announced the commercial fishery for all salmon species in two areas, from the U.S.-Canada border to Carroll Island, Washington, and from Leadbetter Point, Washington, to Cape Falcon, Oregon, as August 2 through August 3, and August 7 through the earliest of September 15 or attainment of subarea quotas of either chinook or coho salmon. Based upon current fishing rates, it was determined that a 24-hour delay in the reopening of the commercial fishery from the U.S.-Canada border to Carroll Island, Washington, would better balance the impacts on the remaining quotas in these two areas.

After consideration of the factors listed above, the Secretary has determined this 24-hour delay in reopening is consistent with the criteria in the emergency rule, and therefore issues this notice reopening the commercial fishery in the FCZ from the U.S.-Canada border to Carroll Island, Washington, at 0001 hours PDT August 8, 1986 instead of at 0001 hours PDT August 7, 1986. This notice does not apply to treaty Indian fisheries operating in the same area or to other fisheries which may be operating in other areas.

The Regional Director consulted with the Director of the Washington Department of Fisheries (WDF) and the Chairman of the Pacific Fishery Management Council regarding this delay in reopening. The WDF Director confirmed that Washington will delay reopening the commerical fishery in State waters adjacent to this area of the FCZ for 24 hours until 0001 hours PDT August 8, 1986.

Other Matters

This action is taken under the authority of 50 Part CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: August 6, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-18034 Filed 8-6-86; 4:42 pm]

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Proposed Rules

Federal Register
Vol. 51, No. 154
Monday, August 11, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Pineapple Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the current voluntary U.S. Standards for Grades of Canned Pineapple Juice. The proposed rule was developed by the U.S. Department of Agriculture (USDA) at the request of major segments of the canned pineapple juice industry. Its effect would be to improve the standards by: (1) Aligning the U.S. grade standards with the Food and Drug Administration (FDA) standards; (2) providing grade standards for pineapple juice from concentrate; (3) establishing a minimum soluble solids content of 12.8 degrees Brix for pineapple juice from concentrate in line with FDA requirements; (4) simplifying and clarifying the two standards (pineapple juice and pineapple juice from concentrate) to include definitions of terms and easy-to-read tables; (5) redesignating the grade name "U.S. Grade C" in the current canned pineapple juice standards to "U.S. Grade B"; (6) replacing dual grade nomenclature with single letter grade designations; and (7) removing the word "canned" from the canned pineapple juice grade standards so that the standards can be used for other types of processing and packaging. This proposed rule also includes conforming and editorial changes.

DATE: Comments must be received on or before October 10, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2085, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This rule proposes amendments to the U.S. standards for grades of pineapple juice. Such standards are voluntary, and the intent of this proposal is to improve and update them mainly by providing for the grading of juice from concentrate.

Because of their relationship to the Food and Drug Administration (FDA) standards, the current U.S. grade standards for canned pineapple juice include standards for pineapple juice from concentrate. For the benefit of the users of the standards, this proposed rule would add the term "pineapple juice from concentrate" to the product description section of the standards.

The FDA on November 23, 1982 (47 FR 52771) amended 21 CFR 146.185 by changing the minimum soluble solids content requirement for pineapple juice from concentrate from 13.5° Brix to 12.8° Brix. This proposed rule would adjust the standards for minimum soluble solids content of pineapple juice from concentrate to parallel the requirements of FDA.

In this proposal, two easy-to-read separate tables for determining quality grade levels would be added—one for pineapple juice and another for pineapple juice from concentrate. The proposal would also provide a "Definitions of terms" section for further clarification.

Canned pineapple juice grade standards currently have quality levels of "U.S. Grade A" and "U.S. Grade C." Most other U.S. grade standards for juices have quality levels of "U.S. Grade A" and "U.S. Grade B." When revising grade standards with grade designations of U.S. Grade A and U.S. Grade C, it is Agency policy to retain U.S. Grade A and redesignate U.S. Grade C to U.S. Grade B. This proposal would change the grade designation of "U.S. Grade C" to "U.S. Grade B." The quality requirements of the second grade level would not be changed, only the nomenclature from "U.S. Grade C" to "U.S. Grade B." The proposal would also implement the USDA policy of replacing dual grade nomenclature with single letter designations. Under the proposal, "U.S. Grade A" (or "U.S. Fancy") would simply become "U.S. Grade A." These changes are being proposed to provide consistency between grade standards and eliminate confusion due to the absence of an intervening grade (U.S. Grade B).

Innovations in processing practices for pineapple juice have brought about methods of marketing pineapple juice in containers other than hermetically sealed cans. The FDA on August 13, 1985 (50 FR 32560) amended 21 CFR 146.185 by removing all references to the words "canned" and "canning" and adding the word "processing" where appropriate, consistent with the use of other methods of preservation. So that the standards can be used for these other types of processing and packaging, this proposed rule would eliminate the word "canned" from the canned pineapple juice grade standards.

The proposed change would also provide a uniform format consistent with recent revisions of other U.S. grade standards. The proposed format would be designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables would

replace the textual description in existing standards. These changes would assure a better understanding and a uniform application of the standards. Other sections would be modified to conform with these changes.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, it is proposed to amend 7 CFR Part 52 as set forth below:

1. The authority citation for Part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205; 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624.

2. Subpart-United States Standards for Grades of Canned Pineapple Juice (7 CFR 52.1761–52.1772) would be revised to read as follows:

Subpart—United States Standards for Grades of Pineapple Juice

Sec.

52.1761 Product description.
52.1762 Styles.
52.1763 Definitions of terms.
52.1764 Recommended sample unit sizes.
52.1765 Grades.
52.1766 Factors of quality and analysis.
52.1767 Fill of container.
52.1768 Requirements for grades.
52.1769 Sample size.
52.1770 Lot requirements.

§ 52.1761 Product description.

(a) *Pineapple juice* is the product as defined in the Standards for Pineapple juice (21 CFR 146.185), issued under the Federal Food, Drug, and Cosmetic Act.

(b) *Pineapple juice from concentrate* is the product as defined in the Standards for Pineapple juice (21 CFR 146.185), issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.1762 Styles.

(a) Unsweetened.

(b) Sweetened.

§ 52.1763 Definitions of terms.

In these U.S. Standards, unless otherwise required by the context, the following terms shall be construed to mean:

(a) *Acid* means the grams of acid contained in 100 milliliters of the juice (calculated as anhydrous citric acid).

(b) *Brix* means the soluble solids content as determined by the method prescribed in the Official Methods of Analysis of the Association of Official Analytical Chemists—solids by means of spindle (Association of Official Analytical Chemists, Inc., Official Methods of Analysis of the Association of Official Analytical Chemists). This text is updated periodically, and any update or change in the method of analysis would be incorporated, as warranted, in the latest edition. The Brix may be determined by any other method that gives equivalent results.

(c) *Brix/acid ratio* means the ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 milliliters of the juice.

(d) *Color.*

(1) Pineapple juice.

(i) *Very good* color means the juice possesses a bright typical varietal color ranging from light yellowish beige to a golden amber or golden pinkish cast typical of freshly pressed and properly processed juice from mature, well-ripened pineapple.

(ii) *Good* color means the juice possesses a typical varietal color which may be slightly dull (but not off-color) yet normal for freshly pressed and properly processed juice from mature, well-ripened pineapple.

(2) Pineapple juice from concentrate.

(i) *Very good* color means the juice possesses a typical varietal color ranging from light yellowish beige to a golden amber or golden pinkish cast typical of reconstituted and properly processed juice from mature, well-ripened pineapple.

(ii) *Good* color means the juice possesses a typical varietal color which may be slightly dull (but not off-color), yet normal for reconstituted and properly processed juice from mature, well-ripened pineapple.

(e) *Defects* means excess pulp, dark specks, pieces of shell, seeds, or other coarse or hard substances that are objectionable particles.

(1) *Practically free* from defects means the defects that are present do not more than slightly affect the appearance or palatability of the juice.

(2) *Reasonably free* from defects means the defects that are present do not more than materially affect the appearance or palatability of the juice.

(f) *Finely divided insoluble solids* means the particles in the juice that separate from suspension by centrifuging.

(g) *Flavor.*

(1) *Very good* flavor means the juice possesses a distinct varietal flavor that is typical of freshly extracted juice (pineapple juice) or typical of reconstituted juice (pineapple juice from concentrate) that is properly processed from mature, well-ripened pineapple.

(2) *Good* flavor means the juice possesses a normal varietal flavor that may be slightly caramelized but is not off-flavor.

(h) *Sample unit* means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity.

§ 52.1764 Recommended sample unit sizes.

The factors of quality and analysis may be determined based on the following sample unit sizes:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more container; or

(d) A representative portion of processed product stored or held in bulk containers.

§ 52.1765 Grades.

(a) *U.S. Grade A* is the quality of pineapple juice or pineapple juice from concentrate that meets the applicable requirements of Table I or Table II.

(b) *U.S. Grade B* is the quality of pineapple juice or pineapple juice from concentrate that meets the applicable requirements of Table I or Table II.

(c) *Substandard* is the quality of pineapple juice or pineapple juice from concentrate that fails to meet the requirements for U.S. Grade B.

§ 52.1766 Factors of quality and analysis.

The grade of a lot of pineapple juice or pineapple juice from concentrate is based on observation and analysis of the juice for the following quality and analytical factors:

(a) *Quality:*

(1) Color;

(2) Defects;

(3) Flavor; and

(4) Total Score.

(b) *Analytical:*

(1) Acid measurements;

(2) Brix measurement;

(3) Brix/acid ratio; and

(4) Finely divided insoluble solids.

(c) The relative importance of each quality factor if expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors:	Points
Color	20
Defects	40
Flavor	40
Total score	100

(d) The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, 17 to 20 points means 17, 18, 19, or 20 points) and

the score points shall be prorated relative to the degree of excellence for each factor.

§ 52.1767 Fill of container.

The standard of fill of container for pineapple juice or pineapple juice from concentrate is a fill of not less than 90 percent of the total capacity of the container except when the food is frozen. Pineapple juice or pineapple juice from concentrate that does not meet this requirement is "Below Standard in Fill."

§ 52.1768 Requirements for grades.

TABLE I.— PINEAPPLE JUICE

Factors	Grade A	Grade B
Quality:		
Color	Very good	Good.
Score points	17 to 20	14 to 16.
Defects	Practically free	Reasonably free.
Score points	34 to 40	28 to 33.
Flavor	Very Good	Good.
Score points	34 to 40	28 to 33.
Total score (minimum)	85 points	70 points.

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Acid: (maximum)	1.10 g/100 ml	1.10 g/100 ml	1.35 g/100 ml	1.35 g/100 ml
Brix: (minimum)	12.0°	12.5°	10.5°	11.0°
Soluble pineapple juice solids (percent by weight of finished product prior to addition of sweetener); (minimum).	12.0	12.0	10.5	10.5
Brix/acid ratio: (mimimum)	12.0:1	12.01:1	12.0:1	12.0:1
Finely divided insoluble solids (percent by volume): Range.	5 to 26%	5 to 26%	5 to 30%	5 to 30%

TABLE II.—PINEAPPLE JUICE FROM CONCENTRATE

Factors	Grade A	Grade B
Quality:		
Color	Very good	Good.
Score points	17 to 20	14 to 16.
Defects	Practically free	Reasonably free.
Score points	34 to 60	28 to 33.
Flavor	Very good	Good.
Score points	34 to 40	28 to 33.
Total score (minimum)	85 points	70 points.

Factor	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Acid: (maximum)	1.10 g/100 ml	1.10 g/100 ml	1.35 g/100 ml	1.35 g/100 ml
Brix: (minimum)	12.8°	13.0°	12.8°	13.0°
Soluble pineapple juice solids (percent by weight of finished product prior to addition of sweetener): (minimum).	12.8	12.8	12.8	12.8
Brix/acid ratio: (minimum)	12.0:1	12.0:1	12.0:1	12.0:1
Finely divided insoluble solids (percent by volume): Range.	5 to 26 percent.	5 to 26 percent.	5 to 30 percent.	5 to 30 percent

§ 52.1769 Sample size.

The sample size used to determine whether pineapple juice meets the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.1770 Lot requirements.

A lot of pineapple juice or pineapple juice from concentrate is considered as meeting the requirements for quality if:

(a) The requirements specified in Table I or II, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1 through 52.83 are met.

Done at Washington, DC, on August 4, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-17918 Filed 8-8-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Notice of Proposed Temporary Revision of Diversion Limitation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily certain provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would relax for the months of September through December 1986 the limits on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than August 10, 1986..

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as

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amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of September through December 1986.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September 1986 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the diversion limitation percentages set forth in § 1065.13(d). The revisions would be applicable for the months of September through December 1986. The specific revisions would increase the diversion limitation percentages for the months of September through December 1986 by 20 percentage points from the present 40 percent to 60 percent. The order's diversion limits were revised temporarily from 50 to 60 percent for the months of May through August 1986.

Section 1065.13(d) of the Nebraska-Western Iowa milk order allows the Director of the Dairy Division to increase the diversion limitation percentages by up to 20 percentage points during any month to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc. (AMPI), a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of September through December 1986, the percentage of allowable diversions be increased 20 percentage points.

The cooperative states that producer milk pooled under the order during the first six months of 1986 increased 11 percent over the same period in 1985. AMPI believes that the percentage of production increase will decline somewhat as a result of the Dairy Termination Program, but that production will not drop below 1985 levels before the end of 1986. The cooperative therefore expects to have a larger surplus of milk to dispose of in the fall of 1986 than in the same period last year, when a temporary revision of the diversion limits was also necessary.

According to the association, the milk surplus to the fluid needs of the market must go to manufacturing facilities. For the purposes of preserving milk quality by requiring less pumping and allowing milk to be moved in the most efficient manner possible, the cooperative states that the most desirable way of handling the additional milk is to ship it directly to nonpool plants. AMPI believes that the proposed temporary increase in diversion limits will have no effect on the ability of distributing plants to obtain needed supplies of milk for Class I use, and will prevent shipments merely for the purpose of assuring that dairy farmers historically associated with the market will continue to have their milk priced under the order.

PART 1065—AMENDED

Therefore, it may be appropriate to relax the aforementioned provisions of § 1065.13(d) for the months of September through December 1986 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1065

Milk Marketing Orders,
Milk,
Dairy Products.

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, DC, on: August 6, 1986.

C. H. Plumb

Acting Director, Dairy Division.

[FR Doc. 86–18011 Filed 8–8–86; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1709

Criteria for the Development, Approval and Use of Power Requirements Studies Prepared by REA Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR 1700 by adding part 1709—PRIMARY SUPPORT DOCUMENTS, subpart A—Power Requirements Study, sections 1709.1–1709.6. The proposed rule will set forth the rules and procedures to be followed by REA and its borrowers for the development, approval and use of Power Requirement Studies (PRS). Currently, this material is set forth in REA Bulletin 120–1 "Development, Approval and Use of Power Requirements Studies." The primary purposes of this proposed rulemaking action are to (1) codify the regulations, (2) eliminate reference to the suggested procedure set forth in the Appendix to Bulletin 120–1 and (3) reduce Federal regulations. This proposed rule will impact only REA electric program borrowers.

DATE: Public comments must be received no later than October 10, 1986.

ADDRESS: Submit written comments to Archie W. Cain, Director, Electric Staff Division, Rural Electrification Administration, Room 1246 South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division at the above address, telephone number (202) 382–1920. The Draft Impact Analysis describing the options considered in developing and implementing the proposal is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq., 1921 et seq.) (Act), REA proposes to amend its policy as set forth in REA Bulletin 120–1, "Development, Approval and Use of Power Requirements Studies."

This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. It will not (1) have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or price for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and, therefore, has been determined "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)),

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and therefore, does not require an environmental impact statement or an environmental assessment. This is listed in the Catalog of Federal Domestic Assistance under No. 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR 3015 subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

The purpose of the present bulletin and the proposed rule is to provide the borrower and REA with the best information available on future electric power requirements of Rural Electrification Act beneficiaries. The proposed rule permits each borrower to determine the most appropriate method for developing its PRS. When making this determination, the borrower must consider its individual needs and resources as well as Rural Electrification Act requirements. REA recognizes that load projections are based on specific assumptions, available data, available resources and available methodology at the time the PRS is developed.

Section 1709.5 requires power supply borrowers and their members to develop a PRS Work Plan (PRS Work Plan is defined in text of Proposed Rule). This Work Plan, once approved by REA, becomes mandatory procedure for the power supply borrower and its members.

Each member system of a power supply borrower shall participate in the development of its power supplier's PRS Work Plan and PRS. The power supplier's PRS must include a PRS for each member system. The member system PRS after approval by REA will be acceptable to REA as support for the member's request for REA financial assistance.

Distribution borrowers which are not members of a power supply borrower are exempt form § 1709.5.

Distribution borrowers not subject to section 1709.5 must support their choice of procedure in their PRS. Each such borrower is to formally apprise REA of its decision prior to committing significant time and resources to its PRS.

List of Subjects in 7 CFR 1709

Administrative practices and procedures, Electric utilities, Loan programs—Energy.

In view of the above, 7 CFR 1700 is amended by adding a new Part 1709, Primary Support Documents, Consisting of Subpart A—Power Requirements Studies, to read as follows:

PART 1709—PRIMARY SUPPORT DOCUMENTS

Subpart A—Power Requirements Studies

Sec.

1709.1 General.
1709.2 Definitions.
1709.3 Basic policies.
1709.4 PRS for distribution borrowers.
1709.5 PRS for power supply borrowers and their members.
1709.6 Basic criteria for REA approval of a PRS.

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

Subpart A—Power Requirements Studies

§ 1709.1 General.

This subpart sets forth the policies, procedures and criteria for the development, approval and use of Power Requirements Studies satisfactory to REA as prepared by electric borrowers.

§ 1709.2 Definitions.

(a) "PRS" means Power Requirements Study or Power Requirements Studies. A Power Requirements Study is the study of an electric borrower's electric system loads, its service area, its members, its cost of electric service and the past, present, and future of the economic outlook of its service area, in order to obtain valid estimates of the borrower's future electric system loads.

(b) "PRS Work Plan" is the plan of work to be used by a borrower in the development of its PRS.

§ 1709.3 Basic policies.

(a) *Prerequisite for financial assistance.* An REA-approved PRS is a prerequisite for REA approval of an electric borrower's request for loans, loan guarantees or other financial assistance pursuant to the Rural Electrification Act. The PRS shall be used in engineering, environmental and financial studies relating to major requests for financial assistance from REA.

(b) *Current information.* A PRS approved and updated within the previous 12 months is normally considered current by REA for the purposes of supporting a request for financial assistance.

(c) *Responsibility for studies.* Each electric distribution borrower and each power supply borrower is responsible for developing and maintaining a valid and current PRS for its system.

(d) *Coordination of studies.* Power supply borrowers and their members shall coordinate the development and maintenance of their respective PRS, as well as the PRS Work Plan discussed in section 1709.5.

(e) *Consistent forecasts.* Any PRS submitted to REA shall be consistent with other forecasts that the borrower is required to develop for state or Federal regulatory bodies.

(f) *Borrower determines method.* Each borrower shall consider its individual needs and resources when developing or adopting a method for its PRS. REA recognizes that load projections are based on specific assumptions, available data, industry-accepted methodologies and other resources at the time the PRS is developed.

(g) *Load management.* All reasonable electric utility industry accepted load management techniques must be evaluated to estimate how they could influence the use of electricity by resulting in the reduction of peak demand, improving load factors or otherwise help to utilize resources to best advantage consistent with sound economies and acceptable standards of service. See REA Bulletin 140–1, Load Management Programs.

§ 1709.4 PRS for distribution borrowers.

(a) *General.* This section sets forth the requirements for the development and maintenance of PRS for electric distribution borrowers. The requirements of this section apply to all electric distribution borrowers regardless of their source of power supply.

(b) *Purpose of a distribution borrower's PRS.* A distribution borrower's PRS is the study of the borrower's past and present electric system loads, its service area, its members, its costs, and the economic outlook of its service area to: (1) Determine what factors influence the borrower's electric system kW and kWh requirements and (2) develop valid estimates of the type and magnitude of the borrower's future electric system loads in terms of the number of consumers served and their kWh usage by class as well as system kW demand for each of the next 10 years.

(c) *Use of study.* The distribution borrower's PRS shall be used in:

(1) Engineering studies of the borrower's existing and planned electric system,

(2) Studies of the borrower's existing and planned loan management program,

(3) Present rate analysis and future rate studies,

(4) Financial forecasts, and

(5) Loan feasibility studies.

The distribution borrower's PRS shall also be used by the power supply

borrower of which it is a member in the development of the power supply borrower's PRS.

(d) *Basic components of a distribution borrower's PRS.* (1) Evaluation of the personnel, data processing, data and methodology resources available. The evaluation shall consider both internal and external resources.

(2) Advise REA of the time and resources the borrower will use in the development of the PRS.

(3) Analyses of the borrower's electric system loads, service area, members, and cost of electric service adjusted for weather conditions, economic conditions and load management programs as appropriate.

(4) Development of the assumptions and forecasts using the judgment and knowledge gained through (i) an intimate familiarity with the subject system, (ii) general experience and (iii) external inputs, as appropriate.

(5) Subject assumptions to rigorous sensitivity tests.

(6) Establishment of a sound basis for the tracking and evaluation of the PRS.

(e) *Documentation.* The PRS shall include: (1) A discussion that describes the resources available to the borrower and how those resources were utilized in the preparation of its PRS. Resources which must be discussed include data availability, data processing equipment and programs, qualified personnel and managerial inputs, among others.

(2) A discussion that describes and explains the analysis of the borrower's electric system loads and other pertinent information. Maps shall be used whenever practical in descriptions of the service area's geography and land use. Graphs and spreadsheets of all tabular data considered in the analysis, such as 120 months of the data now reported on REA Form 7, part R, as well as weather, economic, demographic, and power cost data shall be included. Revenues must be adjusted for economic conditions. All sources of data and information must be clearly identified and dated in this discussion.

(3) A discussion that describes and explains all assumptions, and other considerations, including load management considerations as well as the methods and procedures used to develop future electric system load projections. The addition or cancellation of a major capital project by a borrower's power supplier will normally have a significant effect on wholesale and retail rates or revenue requirements. Therefore sensitivity analyses reflecting these possibilities shall be included. When power is purchased from an REA-financed power supplier the power supplier's, most recent forecasted rates or revenue requirements for wholesale power must be used. The assumptions used in the forecast of rates or revenue requirements for wholesale power must be discussed, regardless of power supplier.

(4) A graphical and spreadsheet presentation of the estimated high, most probable and low power requirement scenarios by usage classifications and system totals. High and low scenarios are necessary to take into account the variability of weather, although other factors may also need to be considered as determined by the borrower or REA.

(5) A summary of the results on REA Forms 341 and 345. These forms are available on request from REA.

(6) A recommendation as to how the borrower's future PRS could be improved through the use of improved resources, data collection and coordination with its power supplier.

(7) Establishment of procedures which will provide a sound basis for the tracking and evaluation of the PRS.

(8) A discussion of borrower's coordination with REA and its power supplier. If a borrower is a member of a power supply borrower, the member must send the power supply borrower monthly load data as it becomes available. REA Form 7 may be used for this purpose. The borrower shall participate in workshops and meetings with the power supplier concerning PRS.

(9) Rural Electrification Act (RE Act) beneficiary and non-RE Act beneficiary loads must be identified and catalogued.

(10) Approval of the PRS by the borrower's Board of Directors.

§ 1709.5 PRS for power supply borrowers and their members.

(a) *General.* This section sets forth the requirements for the development and maintainance of PRS for power supply borrowers and their members. Power supply borrowers shall annualy provide REA with a PRS which meets the conditions and terms of this section.

(b) *Purpose of Power Supply Borrower's PRS.* A power supply borrower's PRS is the study of the borrower's past and present electric system loads, its service area, its members and the economic outlook of its service area to: (1) determine what factors influenced those electric system loads and (2) develop valid estimates of future electric system loads in terms of system total, each member system, ultimate consumer classifications, and ultimate consumer for each of the next 15 years.

(c) *Use of study.* The power supply borrower's PRS shall provide a basis for engineering studies of the existing and planned generation, transmission and load management systems, rate analysis, financial studies and forecasts, risk analyses and loan feasibility studies. The power supply borrower's PRS shall also be used by its members in the development of the members' PRS.

(d) *PRS work plan.* Each power supply borrower shall prepare a PRS Work Plan which recommends the procedures for the development, approval and use of the PRS for its service area. The PRS Work Plan establishes the criteria, resources, method, and schedule required for the preparation of PRS satisfactory to the power supply borrower, its members and REA. This work plan shall be approved by the power supply borrower's Board of Directors before submittal to REA for final approval.

(1) The power supply borrower shall make available in formats acceptable to REA all documents, information, data, working papers and other documentation which REA may deem necessary for review and approval of the power supply borrower's PRS Work Plan as well as its PRS.

(2) Formal REA review and approval of a power supply borrower's PRS will normally begin only after the PRS Work Plan has been approved by the borrower's Board of Directors and REA. Amendments to the Work Plan can be made by the borrower at any time subject to REA approval. REA is under no obligation to accept or continue to accept a PRS Work Plan that has been previously approved if the PRS Work Plan did not produce a valid PRS as determined by REA.

(3) Power supply borrowers shall design their PRS Work Plan to:

(i) Produce a valid and fully-documented PRS every year considering such factors as the cost of electric service to the consumer, economic conditions, and system weather sensitivity, as well as, including an evaluation of past and future kWh and kW demand in its service area and; past and future load management programs, among others. The PRS must use completely valid, accessible and verifiable techniques such as econometric and end-use modeling or a combination thereof.

(ii) Provide for distribution and power supply member input and concurrence.

(iii) Provide for an interactive and ongoing REA review of the process during the development of the PRS.

(iv) Provide for improvement of future PRS by developing improved resources and data collection.

(v) Include periodic consumer surveys coordinated with its member systems to

provide data regarding appliance and equipment saturation and use. Surveys of each member system shall be conducted as a block at least every 3 years.

(vi) Provide for a sound basis for annually tracking and evaluating the PRS by the power supply borrower, its members, and REA.

(e) *Coordination between power supply borrowers and their members.* Each member system of a power supply borrower shall participate in the development of the PRS Work Plan and the power supply borrower's PRS. The power supply borrower shall provide certification of such participation and other coordination activities. A PRS of a distribution borrower developed in conformance with an REA-approved PRS Work Plan shall be used as support of the distribution borrower's request for REA financial assistance, subject to an independent REA review and approval of the distribution borrower's PRS.

(f) *Special waiver.* REA may grant a waiver of all or part of this subpart on a case-by-case basis, if in its judgment, such a waiver is warranted. Such a waiver must be requested by the borrower's Board of Directors with adequate supporting documentation to thoroughly identify the specific circumstances which have caused the request.

§ 1709.6 Basic Criteria for REA Approval of a PRS.

This section sets forth the basic criteria for REA for approval of a PRS for a distribution or power supply borrower.

(a) The PRS has objectively taken into consideration all relevant factors that impact the consumption of electricity and demonstrates an in-depth knowledge and understanding of those factors.

(b) The PRS includes an estimate of the accuracy and the range of possible outcomes as well as identifying the most probable outcome.

(c) The borrower's top management is thoroughly familiar with the development and preparation of the PRS, including its assumptions, and can support and defend it responsibly.

(d) A sound basis for the tracking and evaluation of the PRS is included to determine if the PRS Work Plan should be revised.

(e) A sound basis exists for the collection of relevant data for future PRS.

(f) The PRS accurately identifies Rural Electrification Act beneficiary needs and non-RE Act beneficiary needs.

(g) The borrower has used sufficient and reasonable resources, assumptions and methods to develop an adequate study. The PRS is adequately documented to allow for a thorough and independent review.

(h) The PRS of a power supply organization and its members were effectively coordinated and each includes input from consumer surveys coordinated by the power supplier. This paragraph applies only if the power supply organization is an REA borrower.

(i) The PRS has been approved by the borrower's Board of Directors.

Dated: May 21, 1986.

Harold V. Hunter,

Administrator.

[FR Doc. 86-18012 Filed 8-8-86; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-86-15; Docket 25059]

Summary of Rulemaking Petition Received From Pan Am Corporation

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of petition for rulemaking.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of a petition by Pan Am Corporation, on behalf of Pan Am Shuttle, Inc., seeking to reallocate 12 operating slots at LaGuardia Airport to petitioner. The slots are currently included in the category reserved for use by general aviation operators. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before October 10, 1986.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket [AGC-204], Docket No. 25059, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Leonard Smith, telephone (202) 267-3073.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket [AGC-204], Room 916, FAA Headquarters Building [FOB-10A], Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

Petitioner requests on behalf of Pan Am Shuttle, Inc., that the requirements of the High Density Traffic Airport Rule, 14 CFR Part 93, Subpart K, be amended to transfer 12 slots currently allocated for general aviation operations at LaGuardia Airport to petitioner. The High Density Traffic Airport Rule currently limits the number of air carrier, commuter, and other operations at O'Hare International Airport in Chicago, LaGuardia and Kennedy International Airports in New York, and Washington National Airport in Washington, DC. Petitioner requests that 12 of the slots currently reserved for "other" operations at LaGuardia Airport be changed to air carrier category slots and allocated to petitioner, to provide additional slots for a Washington, DC-New York-Boston shuttle operation which petitioner plans to initiate. The requested change would amend § 93.123(a) of the Federal Aviation Regulations, 14 CFR 93.123(a).

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on August 5, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement.

[FR Doc. 86-17944 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of 1-Methyl-4-phenyl-4-propionoxypiperidine (MPPP) and 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP) into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement

Administration (DEA) to place the narcotic substances 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP) and 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP) into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This proposed action by the DEA Administrator is based on data gathered and reviewed by DEA and independently evaluated by the Acting Assistant Secretary for Health, Department of Health and Human Services. If finalized, this proposed action would impose the regulatory control mechanisms and criminal sanctions of Schedule I on the manufacture, distribution and possession of MPPP and PEPAP.

DATE: Comments must be submitted on or before September 10, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: On July 10, 1985, the Administrator of the Drug Enforcement Administration issued a final rule in the Federal Register temporarily placing MPPP and PEPAP into Schedule I of the CSA pursuant to the emergency scheduling provisions of 21 U.S.C. 811 (h). This action which became effective on August 12, 1985 was based on a finding by the Administrator that the emergency scheduling of MPPP and PEPAP was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) provides that the emergency scheduling of a substance expires at the end of one year from the effective date of the order. However, if a rulemaking proceeding to schedule the substance has been initiated pursuant to section 201(a)(1) of the CSA (21 U.S.C. 811(a)(1)), the temporary scheduling may be extended for up to six months. Under this provision, the temporary scheduling of MPPP and PEPAP which would expire on August 12, 1986 may be extended until February 12, 1987. This extension is being ordered by the Administrator of DEA in a separate action.

Since the temporary scheduling of MPPP and PEPAP, DEA has continued to gather information regarding the abuse and abuse potential of MPPP and PEPAP and the clandestine manufacture, distribution and trafficking of this substance. By letter dated June 12, 1986, the DEA Administrator submitted the data which DEA had gathered regarding MPPP and PEPAP to the Acting Assistant Secretary for Health, Department of Health and Human Services. In accordance with the provisions of 21 U.S.C. 811(b), the DEA Administrator also requested a scientific and medical evaluation of the relevant information and a scheduling recommendation for MPPP and PEPAP from the Assistant Secretary for Health. On July 23, 1986, the DEA Administrator received a reply from the Assistant Secretary for Health recommending that MPPP and PEPAP be placed into Schedule I of the CSA. A portion of the letter is set forth below:

> At my direction, the Food and Drug Administration (FDA) prepared a written evaluation of the document which you provided. That agency also determined that no applications are on file for investigations of these substances for any therapeutic indication. The National Institute on Drug Abuse was notified of the proposed control recommendation and has concurred with the recommendation which the FDA forwarded to my office. Both agencies find that MPPP and PEPAP meet the criteria for control in Schedule I of the Controlled Substances Act. I agree with the finding and recommend that MPPP and PEPAP be controlled in Schedule I of the Controlled Substances Act. You should find attached the document which I received from the FDA which formed the basis for my recommendation.

Briefly, the information gathered and reviewed by DEA and the scientific and medical evaluation by the Assistant Secretary for Health shows that MPPP and PEPAP: (1) Are potent anologs of meperidine, a Schedule II narcotic substance, (2) produce the narcotic effects of typical morphine-like compounds including physical dependence after chronic administration, (3) are not approved for marketing by the Food and Drug Administration or commercially available in the United States, (4) are manufactured in clandestine laboratories, (5) have been identified by forensic laboratories in submissions of drug evidence from the West Coast, (6) have been associated with the production of drug-induced Parkinson's disease in a number of users, and (7) continue to pose a threat to the public health and safety.

Based on the information gathered and reviewed by DEA and relying on the scientific and medical evaluation and scheduling recommendation of the Assistant Secretary for Health in accordance with 21 U.S.C. 811(c), the Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a), finds that:

1. Based on information now available, MPPP and PEPAP have a high potential for abuse;

2. MPPP and PEPAP have no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of MPPP or PEPAP under medical supervision.

The Administrator further finds that MPPP and PEPAP are opiates as defined in 21 U.S.C. 802(18) since they have an addiction-forming and addiction-sustaining liability similar to that of morphine. Consequently, MPPP and PEPAP are narcotics since the definition of a narcotic, as stated in 21 U.S.C. 802(17)(A) includes: "Opium, opiates, derivatives of opium and opiates."

Interested persons are invited to submit their comments, objections or requests for hearing in writing with regard to this proposal. Requests for a hearing should state with particularity the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

In the event that comments, objections or requests for a hearing raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice in the Federal Register, summarizing the issues to be heard and setting the time for the hearing which will not be less than 30 days after the date of the notice.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the proposed placement of MPPP and PEPAP into Schedule I of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The substances MPPP and PEPAP, proposed for control in this notice, have no legitimate use or manufacturer in the United States. In accordance with the provisions of Title 21, United States Code, section 811(a), this proposal to place MPPP and PEPAP into Schedule I is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice Regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.11 is amended by adding new paragraphs (b)(31) and (b)(39), and redesignating the existing paragraphs (b)(31) through (b)(37) and (b)(38) through (b)(46) as (b)(32) through (b)(38) and (b)(40) through (b)(48), respectively:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(31) 1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP)	9661

* * * * *

(39) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP)	9663

* * * * *

Dated: August 5, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-17949 Filed 8-8-86; 8:45 am]

BILLING CODE 4410-09-M

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21 CFR Part 1308

Schedules of Controlled Substances; Placement of Tiletamine and Zolazepam Into Schedule I and the Placement Of Certain Preparations Which Contain Both Tiletamine and Zolazepam Into Schedule III

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration. It proposes the placement of the substances, tiletamine and zolazepam, into Schedule I of the Controlled Substances Act and the placement of preparations which contain equal amounts of both tiletamine and zolazepam into Schedule III. This action reinstates an action which was proposed in 1981 and not completed. The effect of this action is to facilitate the marketing of a veterinary pharmaceutical product and to discourage the abuse of the product and the individual ingredients.

DATE: Comments must be submitted on or before September 10, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537. Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

A proposed rule was published in the **Federal Register** on July 9, 1981 (46 FR 35529-35531), proposing that the substances, tiletamine and zolazepam, be placed into Schedule I and that preparations containing equal weights of both be placed into Schedule III of the Controlled Substances ACt (CSA) (21 U.S.C. 801 et seq.). The action was initiated in response to a letter from the then Acting Assistant Secretary for Health, Department of Health and Human Services, which recommended that tiletamine and zolazepam be placed into Schedule III when the Food and Drug Administration (FDA) approved the new Animal Drug Application (NADA) for Telazol®. Comments supporting the proposed action were received from the American Veterinary Medical Association. The American Association of Zoo Veterinarians and the Warner-Lambert Company objected to the placement of tiletamine and zolazepam into Schedule I and the Warner-Lambert Company, the sponsor of the NADA, requested an administrative hearing.

On December 8, 1981, the then Administrator of the Drug Enforcement Administration (DEA), withdrew the proposed rule as it applied to the control of tiletamine and zolazepam and reaffirmed the proposed placement of preparations containing equal amounts of both substances into Schedule III (46 FR 60008-60009). The Administrator denied the request for a hearing since withdrawal of the proposed action seemed to obviate its necessity and stated that the drug control action, as it applied to the mixture, would be finalized when the FDA approved the NADA for Telazol®. No comments or objections were received in response to that announcement.

On April 9, 1982, the then Acting Director of the FDA Bureau of Veterinary Medicine, announced approval of a NADA for Telazol® (47 FR 15328-15329). The DEA proposal to place preparations containing equal amounts of tiletamine and zolazepam into Schedule III of the CSA was not finalized. In view of the time which has elapsed since the former Administrator issued the proposed rule, the current Administrator is initiating the drug control process anew and is again proposing that tiletamine and zolazepam be placed into Schedule I and that preparations containing equal weights of each substance be placed into Schedule III.

The former Administrator of the Drug Enforcement Administration received a letter dated March 18, 1981 from the then Acting Assistant Secretary for Health, on behalf of the former Secretary of the Department of Health and Human Services, recommending that tiletamine and zolazepam be placed into Schedule III of the CSA if and when the FDA approved the NADA for Telazol®. Enclosed with the letter from the Acting Assistant Secretary was a scientific and medical evaluation which listed the factors which the Act requires the Secretary to consider, and summarized the matters considered by the Acting Assistant Secretary in recommending the control of tiletamine, zolazepam and the veterinary product under the Controlled Substances Act. The factors considered by the Secretary for each entity were:

(1) Its actual or relative potential for abuse.

(2) Scientific evidence of its pharmacological effects, if known.

(3) The state of current scientific knowledge regarding the drug or other substance.

(4) Its history and current pattern of abuse.

(5) The scope, duration and significance of abuse.

(6) What, if any, risk there is to the public health.

(7) Its psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under the Controlled Substances Act.

The Administrator, in accordance with section 201(b) of the ACT [21 U.S.C. 811(b)], has relied on the scientific and medical evaluations and the

VOL 51 ISS 154 AG 11 1986 UMI

recommendations of the Acting Assistant Secretary for Health, which were provided pursuant to section 201(f) of the Act [21 U.S.C. 811(f)].

Under 21 U.S.C. 811(a), the Administrator must apply the provisions of 21 U.S.C. 812 when considering whether to add a drug or other substance to a schedule. Title 21, United States Code, section 812(b) provides that a drug or other substance must have an accepted medical use in treatment in the United States in order that it be considered for placement into Schedules II, III, IV or V. That section also provides that a drug or other substance which has no currently accepted medical use in treatment in the United States be considered for placement into Schedule I.

The Administrator finds that approval of the NADA for the tiletamine-zolazepam combination product means that the product has an accepted medical use in treatment in the United States. The letter of the then Acting Assistant Secretary of Health was silent with respect to whether approval of the NADA confers accepted medical use status on the individual components of a veterinary combination product. However, the then Acting Director of the FDA Bureau of Veterinary Medicine specifically advised that neither of the ingredients, taken separately, had an acceptance in treatment in the United States. Currently neither tiletamine nor zolazepam is approved for marketing in the United States in single entity preparations for use in medical treatment.

Tiletamine, a chemical analog of phencyclidine (PCP), has pharmacological properties similar to that Schedule II substance. In addition, when administered alone, convulsive seizures and clonic muscular reactions result in some species of animals. When zolazepam is combined with tiletamine, the convulsive and clonic muscular reactions are absent. Currently there is no approved veterinary use for tiletamine as a single entity. Tiletamine is a hallucinogenic substance. In that PCP has been demonstrated to have a high potential for abuse, the Administrator finds in relation to the substance tiletamine, its salts, isomers, and salts of isomers that:

(1) Tiletamine has a high potential for abuse.

(2) Tiletamine has no currently accepted medical use in treatment in the United States.

(3) There is a lack of accepted safety for use of tiletmaine under medical supervision.

Zolazepam is chemically and pharmacologically related to chlordiazepoxide, diazepam and other benzodiazepines in Schedule IV. In addition, when administered alone, zolazepam produces bizarre behavioral reactions in some species of animals. When combined with tiletamine, the behavioral effects are absent. Acute lethality data indicate that zolazepam is considerably more toxic than the beonzodiazepines which are currently available for use in medical treatment. Although zolazepam has not been tested in human subjects, nor have animal studies been conducted to precisely determine the relative abuse potential of the substance, zolazepam is chemically and pharmacologically similar to other benzodiazepines which have been subject to a considerable amount of abuse and have presented unexpectedly severe medical consequences when withdrawal is attempted. Unlike these other benzodiazepines, the toxicity of zolazepam is significantly greater, the substance has not been accepted for use as a single entity, and its safety for use under medical supervision has not been established. Therefore, the Administrator finds in relation to the substance, zolazepam, its salts, isomers, and salts of isomers that:

(1) Zolazepam has a high potential for abuse.

(2) Zolazepam has not currently accepted medical use in treatment in the United States.

(3) There is a lack of accepted safety for use of zolazepam under medical supervision.

In 1982, the FDA Bureau of Veterinary Medicine (currently, the FDA Center for Veterinary Medicine) approved a NADA for a mixture of tiletamine hydrochloride and zolazepam hydrochloride for use as an anesthetic agent in dogs and cats. As the product has not been marketed, no data are available on actual human abuse. The abuse potential of the mixture was evaluated in animal studies and the then Acting Assistant Secretary found that the mixture has a potential for abuse less than the drugs or other substances in Schedules I and II. The pharmacological profile of the mixture is similar to that of PCP, and the data are consistent with the concept that the mixture will initiate and maintain self-administration behavior. The mixture was found to have positive reinforcing properties in drug-experienced rhesus monkeys, indicating that ingestion of the drug may produce high psychological dependence in humans. Unlimited access to the mixture resulted in a mild to moderate withdrawal syndrome in monkeys, indicating that the mixture produces moderate or low physical dependence.

The Administrator finds in relation to a mixture of equal weights of tiletamine and zolazepam and salts thereof that:

(1) The above described mixture has a potential for abuse less than the drugs or other substances in Schedules I and II.

(2) The above described mixture has an accepted medical use in treatment in the United States.

(3) Abuse of the above described mixture may lead to moderate or low physical dependence or high psychological dependence.

Interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. In the event comments, objections or requests for a hearing received in response to this proposal raise one or more issues which warrant a hearing, the Administrator will publish in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and set the time for the hearing that will not be less that 30 days after the date of the order. If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue a final order pursuant to 21 CFR 1308.48 without a hearing.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of tiletamine and zolazepam into Schedule I and the placement of commercial products which contain equal quantities of tiletamine and zolazepam into Schedule III of the Controlled Substances Act will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). These proposed drug control actions relate to the initial control of two substances which are not marketed in the United States and to an approved product which may be used in medical treatment in the United States but which has not yet been marketed. Commercial products with contain tiletamine and zolazepam will be used in veterinary clinics. This rule, if finalized, will cause such establishments to handle products which contain tiletamine and zolazepam in a manner identical to that already

used in relation to other Schedule III products.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to place tiletamine and zolazepam into Schedule I and certain preparations thereof into Schedule III, is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Pursuant to the authority vested in the Attorney General by section 201(a) of the CSA [21 U.S.C. 811(a)] as redelegated to the Administrator of the Drug Enforcement Administration by 28 CFR 0.100, and for the reasons set forth above, the Administrator hereby proposes to amend 21 CFR Part 1308 as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Paragraph (d) of § 1308.11 is amended by adding a new subparagraph (25) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) Hallucinogenic substances. * * *

(25) Tiletamine 7290
Some trade or other names: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

* * * * *

3. Paragraph (e) of § 1308.11 is amended by adding a new subparagraph (3) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(e) Depressants. * * *

(3) Zolazepam 2930
Some trade or other names: 4-(o-flurophenyl)-6,8-dihydro-1,3,8-trimethylpyrazole-[3,4,e] [1,4]-diazepin-7(1H)-one.

* * * * *

4. Paragraph (c) of § 1308.1 is amended by redesignating the existing paragraphs (c)(4) through (c)(11) as (c)(5) through (c)(12) and adding a new paragraph (c)(4), reading as follows:

§ 1308.13 Schedule III.

* * * * *

(c) Depressants. * * *

(4) Any compound, mixture or preparation containing equal weights of both tiletamine and zolazepam or any salt thereof and not mixed with other psychoactive substances. 7295

* * * * *

Dated: August 5, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-17950 Filed 8-8-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Iowa Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by Iowa as an amendment to the State's permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted by letter dated June 16, 1986, consists of proposed changes that reorganize Iowa's State government. The proposed amendment would transfer all of the functions of Iowa's Department of Soil Conservation—including coal regulation and abandoned mine lands—to the newly created Division of Soil Conservation in the Iowa Department of Agriculture and Land Stewardship.

This notice sets forth the times and locations that the Iowa program and the proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., September 10, 1986 will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Iowa regulatory program. If requested, a public hearing on the proposed amendments has been scheduled for September 1, 1986. Any person interested in speaking at the hearing should contact Mr. William J. Kovacic at the address or telephone number listed below by August 26, 1986. If no person has contacted Mr. Kovacic by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administative Record.

ADDRESSES: The public hearing if requested, is scheduled for 1:00 p.m. at the Kansas City Field Office, 1103 Grand Avenue, Kansas City, Missouri 64106.

Written comments and requests for an opportunity to speak at the hearing should be directed to Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

Copies of the Iowa program, the proposed modification to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Kansas City Field Office.

Office of Surface Mining Reclamation and Enforcement
Room 5315A
1100 L Street, NW.
Washington, DC 20240

Iowa Department of Soil Conservation
Wallace State Office Building
Des Moines, Iowa 50319

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Background to the Iowa Program

The Iowa program was conditionally approved by notice published in the January 21, 1981 Federal Register (48 FR

5885). The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register**. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 915.11 and 915.15.

II. Submission of Revisions

By letter dated June 16, 1986, the Iowa Department of Soil Conservation submitted a proposed amendment that would transfer the functions of the coal regulatory program from the Department of Soil Conservation to the Division of Soil Conservation in the Department of Agriculture and Land Stewardship. This action is part of a reorganization of the Iowa State government.

The full text of the proposed program amendments submitted by Iowa is available for public inspection at the addresses listed above. Upon request to OSMRE's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks public comment on whether the proposed amendments meet the requirement for approval pursuant to 30 CFR 732.17 and 732.15. If approved, the amendments will become part of the Iowa program.

III. Procedural Matters

1. *Compliance with the National Environmental Policy Act*

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C., 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act*

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act*

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining Intergovernmental relations, Surface mining, Underground mining.

Dated: August 4, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-18003 Filed 8-8-86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[OW-FRL-3062-4]

Water Pollution Control; National Drinking Water Regulations; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Discussion of Criteria to be Included in Proposal; Notice of Public Meeting.

SUMMARY: EPA intends to propose criteria by which states determine which public drinking water systems, using surface water sources, will be required to filter. A two day public meeting will be held to discuss (1) draft criteria for determining which systems, using surface water sources, will need to install filtration treatment technologies and (2) draft criteria for assuring that "filtration" is being satisfactorily practiced where it is required. State and local public health officials, public drinking water system managers and engineers, academia, consultants, public interest groups, and interested citizens are encouraged to attend.

DATE: September 10 & 11, 1986, from 9:00 am to 4:00 pm.

ADDRESS: The meeting will be held at: EPA Conference Room #3, North Conference Area, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Hogan, Criteria and Standards Division, Office of Drinking Water, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202-382-7575).

SUPPLEMENTARY INFORMATION:

Legislative Mandate

The 1986 Amendments to the Safe Drinking Water Act require EPA to promulgate a regulation, by December 19, 1987, that specifies criteria by which states will determine which public drinking water systems, using surface source waters, will be required to filter.

Format

The meeting will begin with a presentation by EPA which will summarize the criteria that EPA is currently considering for the proposed rule. Members of the public will then be given an opportunity to make statements or presentations on issues relevant to the draft criteria. Most of the program will involve an informal open discussion of issues.

Registration and Availability of Draft Criteria

Any person wishing to attend the public meeting and to receive a copy of the draft criteria to be discussed should inform Mr. Patrick Hogan, by August 29, 202-382-7575. At that time, please inform Mr. Hogan if you intend to make a presentation. (Presentations should be limited to ten (10) minutes or less). After August 29, please contact Ms. Colleen Campbell on 202-382-3027 for information. Due to the large number of persons who may wish to participate in this meeting, the location indicated above may need to be changed. Please inquire through Ms. Campbell after August 30, 1986, to determine if there has been a change in location for the meeting.

Dated: August 4, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 86-17976 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. FE-85-01; Notice 5]

Passenger Automobile Average Fuel Economy Standards; Model Years 1987-88

Correction

In FR Doc. 86-17209 beginning on page 27224 in the issue of Wednesday, July 30, 1986, make the following correction:

On page 27228, second column, fourth paragraph, ninth line, "May" should have read "MY".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. 346 (Sub-No. 22) [1]]

Short Notice Effectiveness for Independently Filed Rail Carrier Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to 49 U.S.C. 10762(d)(1) and a petition filed by members of the Western Railroad Traffic Association, the Commission is considering reducing the notice period required for independently filed rate reductions and new rates. These filings would be permitted to become effective on 1-day's notice. The Commission finds that there has been no showing of cause to justify reduction of the statutory notice period for rail rate increases.

DATE: Comments are due by September 25, 1986.

ADDRESS: Send an original and 10 copies of comments referring to Ex Parte No. 346 (Sub-No. 22) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Lee A. Alexander, (202) 275–6442 or Larry Badian, (202) 275–6440.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275–7428.

This action will not significantly affect either the quality of the human environment or energy conservation.

The Commission certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, because it would reduce the regulatory delay for new rate filings and rate reductions and allow rail carriers to compete more effectively with other modes.

[1] Originally docketed as No. 39672, *Western Railroads—Petition to Establish Rulemaking Proceeding—Short Notice Effectiveness For Independently Filed Rail Carrier Rates.*

List of Subjects in 49 CFR Part 1312

Railroads, Freight tariffs.

Decided: August 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andree, and Lamboley. Chairman Gradison and Commissioner Andre concurred with separate expressions.

Noreta R. McGee,

Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 would be revised to read as follows:

Authority: 49 U.S.C. 10708(d)(1) and (2) and 10762, 5 U.S.C. 553.

2. A new paragraph (E) is proposed to be added to § 1312.4(e)(1)(i) to read as follows:

§ 1312.4 Filing tariffs.

* * * * *

(e) * * *
(1) * * *
(i) * * *

(E) For independently set rates of rail carriers the general rule is 1-day's notice for reductions and new rates. *See* § 1312.39(h) for details.

* * * * *

§ 1312.39 [Amended]

3. The heading of § 1312.39(h) would be revised to read as follows:

(h) *Freight rate tariffs and classifications of railroads, motor common carriers of property and freight forwarders—notice for independent rate changes.*

4. A new sentence would be added to § 1312.39(h)(2) to read as follows:

"This provision does not apply to rail freight rate tariff increases. Such filings shall be made on statutory notice, *i.e.*, 20 days. *See* § 1312.4(e)(i)(1)(A)."

[FR Doc. 86–18016 Filed 8–8–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 60739–6139]

Fishery Conservation and Management; Foreign Fishing Permits

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) is seeking information on whether changes in foreign fishing permit conditions and restrictions are necessary and appropriate to protect the interests of the U.S. fishing industry. Written comments are invited and provide an opportunity for the public to participate in developing this information. NMFS will review information received to determine if changes should be made in foreign fishing permits, and determine the changes which would be consistent with existing provisions of the Magnuson Fishery Conservation and Management Act.

DATE: Written comments must be received by NMFS on or before September 25, 1986.

ADDRESSES: Send written comments to Fees, Permits, and Regulations Division, F/M12, National Marine Fisheries Service, Suite 900, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, NMFS, 202–673–5315.

SUPPLEMENTARY INFORMATION:

Background

Section 204(b)(7) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that the Secretary establish conditions and restrictions in each foreign fishing permit.

Section 204(b)(7) reads as follows:

(7) ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c) (1), (2), and (3).

(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United

States harvested fish which may be received at sea from vessels of the United States.

(F) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

Section 204(b)(6) covers approval of foreign applications and paragraph (6)(B) specifically pertains to applications to receive fish at sea from U.S. vessels. The reference to paragraphs (1), (2), and (3) of section 201(C) incorporates the requirements of the Governing International Fisheries Agreement as conditions of a permit. Conditions and restrictions described in paragraphs (A)–(D) of section 204(b)(7) are transmitted to each fishing nation prior to issuing a permit for vessels of that nation in a calendar year, and each nation must provide written agreement that its vessels will abide by these conditions and restrictions while fishing during that calendar year.

The remaining paragraphs have been the matters which stimulate wide ranging discussions and interpretations. In prescribing necessary and appropriate conditions and restrictions under paragraphs (E) and (F), the Secretary considers recommendations on each application provided by the appropriate Regional Fishery Management Councils (Councils), public comments, and also views of the Department of State and the Coast Guard.

The opinions expressed to date on the range of conditions and restrictions which should be applied under paragraphs (E) and (F) mainly favor their use to control the operations of foreign vessels receiving U.S. harvested fish (joint venture vessels). However, if NOAA were to apply the favored conditions and restrictions, a result would be indirect restriction on the operations of U.S. fishing vessels through provisions of the Magnuson Act which specifically address only foreign fishing. Certain restrictions have been applied to foreign vessels to protect the national security, and such restrictions are currently authorized by the foreign fishing regulations. No similar provision exists in the regulations for achieving broad economic objectives. Thus, NOAA believes this issue must be thoroughly discussed with the U.S. fishing industry.

The following represent the types of foreign fishing conditions and restrictions recommended to NOAA.

- Restrict foreign joint venture vessels from operating near domestic shoreside fish processing plants by applying area and time closures, or not approving joint ventures in certain fisheries which are otherwise available for joint ventures under section 204(b)(6).
- Terminate a country's or a foreign company's joint venture fishery if that nation or foreign company does not actively try to receive fish or fails to receive fish from U.S. fishermen in the amounts or at the rates proposed in its application.
- Terminate a joint venture fishery or directed fishery if a foreign operator or nation does not initiate, consummate or maintain purchases of shoreside fish products at specified levels, or in the amounts discussed at the time the foreign fishing application was considered by the concerned Regional Council.
- Require that any product from a joint venture fishery or directed fishery not reenter the United States if it is also available from domestic processors.
- Require a foreign fishing company to post a bond to guarantee payment of a court judgment to satisfy a contractual business agreement with a U.S. party.
- Allocate portions of the U.S. harvest to foreign joint venture vessels in direct relation to the amounts of fish purchased ashore.
- Impose equalization fees on foreign vessels processing in the EEZ fish received from domestic harvesting vessels.

Congress has considered whether the Magnuson Act, including the subject provisions of section 204, should be amended. Many members of the U.S. fishing industry expressed their views to Congress that section 204(b)(7)(F) should be expanded or clarified specifically to allow the Secretary to impose conditions and restrictions on foreign fishing permits based on general economic considerations which would benefit the U.S. industry. Although it has not amended section 204, it is possible that the Congress may address this issue in the future.

In order to assess current views on appropriate and necessary conditions and restrictions which might be applied under the Magnuson Act, NOAA offers this opportunity for the public to provide views and information on such conditions and restrictions and the objectives to be achieved by their application. NOAA also invites comments on the procedures for applying such conditions and restrictions—that is, through fishery management plans, an Agency policy statement, general foreign fishing regulations, or some other means. Comments are also requested on whether the current system of conditioning permits provides for adequate management of foreign fishing. NOAA will share these comments with Regional Councils which make recommendations on foreign fishing applications. It will then review the information derived through this notice, and where appropriate, consider whether future decisions on foreign fishing permits should include such conditions and restrictions. NOAA may propose regulations or issue a policy statement to clarify the position of the Agency on such conditions and restrictions if warranted.

Dated: August 6, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-18001 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 154
Monday, August 11, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-602]

Antidumping; Certain Carbon Steel Butt-Weld Pipe Fittings From Brazil; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

SUMMARY: We have preliminarily determined that certain carbon steel butt-weld pipe fittings from Brazil are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of carbon steel butt-weld pipe fittings from Brazil that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by October 20, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Ready (202–377–2613) or John Brinkmann Jr. (202–377–3965), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain carbon steel butt-weld pipe fittings from Brazil are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The weighted-average margin applicable to all exporters is 52.25 percent.

Case History

On February 24, 1986, we received a petition in proper form filed by the U.S. Butt-Weld Fitting Committee, in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on March 17, 1986 (March 24, 1986, 51 FR 10069), and notified the ITC of our action.

On April 2, 1986, the ITC found that there is a reasonable indication that imports of certain carbon steel butt-weld pipe fittings from Brazil are materially injuring a U.S. industry (U.S. ITC Pub. No. 1834, April, 1986).

On April 24, 1986, we presented a questionnaire to counsel for Conforja, S/A. (Conforja), the only Brazilian exporter of the subject merchandise to the United States. On June 17, 1986, we received a letter from Conforja indicating that it did not intend to reply to the questionnaire.

Standing Issue

One U.S. producer, Tube Turns, Inc., opposes this investigation and maintains that the petition was not filed "on behalf of" a U.S. industry, as is required by section 732(b)(1) of the Act.

As we have previously stated, see *e.g., Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, 51 FR 10041, 10043 (March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. No such showing has been made in this case. Tube Turns, the only member of the domestic industry to oppose the investigation, does not represent a major proportion of that industry.

Scope of Investigation

The products covered by this investigation are carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, that have been formed in the shape of elbows, tees, reducers, etc., and have been advanced after forging. These advancements may include any one or more of the following: Coining, heat treatment, shot blasting, grinding, die stamping or painting. These fittings are currently provided for under item 610.8800 of the *Tariff Schedules of the United States Annotated, (TSUSA).*

The period of investigation for this case is September 1, 1985 through February 28, 1986.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. Because there was no response to our questionnaire, we used United States price and foreign market value provided in the petition as the best information available pursuant to section 776(b) of the Act.

United States Price

Petitioner based United States price on the average customs unit values from Bureau of Census statistics of the subject merchandise imported from Brazil during the period January through October 1985.

Foreign Market Value

Petitioner based foreign market value on constructed value as defined in section 773(e) of the Act. The cost of materials and fabrication was calculated by petitioner based on United States manufacturing inputs and Brazilian values. To the sum of materials and fabrication cost, petitioner added the statutory minimums of 10 and 8 percent for general expenses and profit, respectively. Petitioner then added United States costs for packing.

Verification

As provided in section 776(a) of the Act, if we receive a timely and complete response, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of certain carbon steel butt-weld pipe fittings from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchanise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted-average margin percentage
All manufacturers, producers, or exporters	52.25

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on September 4, 1986, at the United States Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 28, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86-17988 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-602]

Antidumping; Certain Carbon Steel Butt-Weld Pipe Fittings From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

SUMMARY: We have preliminarily determined that certain carbon steel butt-weld pipe fittings from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel butt-weld pipe fittings from Japan that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by October 20, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Karen DiBenedetto, (202-377-1778) or Mary S. Clapp, (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain carbon steel butt-weld pipe fittings from Japan are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The weighted-average margin applicable to all exporters is 59.60 percent.

Case History

On February 24, 1986, we received a petition in proper form filed by the U.S. Butt-Weld Fittings Committee, in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to intitate an antidumping duty investigation. We initiated the investigation on March 17, 1986 (March 24, 1986, 51 FR 10070), and notified the ITC of our action.

On April 2, 1986, the ITC found that there is a reasonable indication that imports of certain carbon steel butt-weld pipe fittings from Japan are materially injuring a U.S. industry (U.S. ITC Pub. No. 1834, April, 1986).

On April 28, 1986, we presented questionnaires to company officials at Awaji Sangyo K.K. and Nippon Benkan Kogyo Co. Ltd. An extension of time in which to respond was granted to both companies which account for approximately 80 percent of the exports to the United States during the period of investigation. On June 1986, we received the narrative versions of the questionnaire responses. On June 20, 1986, we received the computer tape version of the responses from both companies. Both of the questionnaire responses were insufficient. They did not include full product descriptions thus, we were unable to make such or similar merchandise comparisions. In one response, we could not determine whether certain sales were to home market or third country customers. The responses also contain contradictory information. In addition, the computer data bases did not fully reflect the information in the response or printed data bases. We are requesting corrected responses. Also, responsents did not

submit proper non-proprietary summaries on a timely basis.

Standing Issue

One U.S. producer, Tube Turns, Inc., opposes this investigation and maintains that the petition was not filed "on behalf of" a U.S. industry, as is required by section 732(b)(1) of the Act.

As we have previously stated, see *e.g., Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada,* 51 FR 10041, 10043 (March 24, 1986), neither the Act nor the Commerce Regulations require a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. No such showing has been made in this case. Tube Turns, the only member of the domestic industry to oppose the investigation, does not represent a major proportion of that industry. (We note that Tube Turns is also related to a Japanese producer of the subject merchandise, and, as such, could be excluded from the definition of the domestic industry pursuant to section 771(4)(B) of the Act, for purposes of measuring standing. However, because the opposition does not come close to representing a majority of the industry, it is not necessary for us to resolve the question of whether such an exclusion is appropriate.)

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, that have been formed in the shape of elbows, tees, reducers, etc., and have been advanced after forging. These advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping, or painting. These fittings are currently provided for under item 610.8800 of the *Tariff Schedules of the United States Annotated, (TSUSA).* The period of investigation is September 1, 1985 through February 28, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. Because the questionnaire responses were improperly filed, as discussed above, both United States price and foreign market value were taken from the petition as representing the best information available pursuant to section 776(b) of the Act.

United States Price

Petitioner based United States price on C.I.F., duty-paid, discounted price list prices to the United States. Deductions were made for estimated U.S. inland freight, brokers fees, customs duties, ocean freight, and insurance.

Foreign Market Value

Petitioner based foreign market value on home market list ex-factory prices less discounts.

Verification

As provided in section 776(a) of the Act, if we receive timely, complete, and properly filed responses, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of certain carbon steel butt-weld pipe fittings from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Awaji Sangyo, K.K.	59.60
Nippon Benkan Kogyo Co. Ltd.	59.60
All other manufacturers/producers/exporters	59.60

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1:30 p.m. on September 3, 1986, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 27, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 17989 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-605]

Antidumping; Certain Carbon Steel Butt-Weld Pipe Fittings From Taiwan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

SUMMARY: We have preliminarily determined that certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings) from Taiwan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all

entries of butt-weld pipe fittings from Taiwan that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by October 20, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Mark McDonough (202–377–3798) or Mary S. Clapp (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that butt-weld pipe fittings from Taiwan are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The dumping margins range from 4.38 percent to 87.30 percent, and the weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On February 24, 1986, we received a petition in proper form filed by the U.S. Butt-Weld Fittings Committee, in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on March 17, 1986 (March 24, 1986, 51 FR 10069), and notified the ITC of our action.

On April 2, 1986, the ITC found that there is a reasonable indication that imports of butt-weld pipe fittings from Taiwan are materially injuring a U.S. industry (U.S. ITC Pub. No. 1834, April, 1986).

We presented questionnaires to Rigid Industries (Rigid) on May 1, 1986, to Chup Hsin Enterprises (Chup Hsin) and Gei Bey Corporation (Gei Bey) on May 22, 1986, and to Chung Ming Pipe Fitting Manufacturing Company, Ltd. (C.M.) on May 24, 1986, since we had information indicating that they accounted for approximately 95 percent of the exports to the United States during the period of investigation. A response was received on June 13, 1986, from Rigid. Responses were received from C.M. on June 23, 1986, and June 27, 1986, following the request for and approval of a two-week extension in the due date. C.M.'s response lacked sufficient detail in its product descriptions to permit proper product comparisons. In addition, many entries in the computer sales listings were unclear as to their meaning and the units in which they were denominated. Also, C.M. did not submit a proper non-proprietary summary on a timely basis. Gei Bey and Chup Hsin did not respond.

Standing Issue

One U.S. producer, Tube Turns, Inc., opposes this investigation and maintains that the petition was not filed "on behalf of" a U.S. industry, as is required by section 732(b)(1) of the Act.

As we have previously stated, see *e. g., Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, 51 FR 10041, 10043 (March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. No such showing has been made in this case. Tube Turns, the only member of the domestic industry to oppose the investigation, does not represent a major proportion of that industry.

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, that have been formed in the shape of elbows, tees, reducers, etc., and have been advanced after forging. These advancements may include any one or more of the following: Coining, heat treatment, shot blasting, grinding, die stamping or painting. These fittings are currently provided for under item 610.8800 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

The period of investigation is September 1, 1985, through February 28, 1986.

Fair Value Comparison

To determine whether sales of the subject merchandise by Rigid in the United States were made at less than fair value, we compared the United States price with the foreign market value as specified below. Since C.M.'s response was not sufficient and Gei Bey and Chup Hsin did not respond, we based United States price and foreign market value of the best information available in accordance with section 776(b) of the Act.

United States Price

As provided for in section 772(b) of the Act, for sales by Rigid, we based United States price on purchase price because the butt-weld pipe fittings were sold to unrelated purchasers in the United States prior to importation. We made deductions from C.I.F. prices for ocean freight, marine insurance, brokerage, and foreign inland freight. Duty drawback was added in accordance with § 353.10(d)(ii) of our regulations.

Since C.M.'s response was incomplete and Gei Bey and Chup Hsin did not respond, we calculated purchase price for these three companies on the basis of offers by a Taiwan manufacturer, as provided in the petition, as the best information available. This price represents offers for sale to the United States to unrelated purchasers, reduced by estimated costs of importation, as provided in section 772(d)(2) of the Act.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for Rigid on sales in the home market. We made deductions from delivered prices for inland freight and insurance. We made an adjustment for differences in credit terms between the respective markets, in accordance with § 353.15 of our regulations. For comparisons involving commissions on the U.S. sales, we made an allowance for selling expenses in the home market (19 CFR 353.15(c)). We also deducted home market packing costs and added U.S. packing costs.

For C.M., Gei Bey and Chup Hsin, we used information provided by the petitioner as the best information available to determine foreign market value. Petitioner based foreign market value on constructed value. The cost of materials and fabrication was calculated by petitioner based on U.S. manufacturing inputs and by applying Taiwanese values, where appropriate. To the sum of materials and fabrication cost, petitioner added the statutory minimums of ten and eight percent for

general expenses and profit, respectively. Petitioner then added U.S. costs for packing.

Verification

As provided in section 776(b) of the Act, if we receive timely and complete responses, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of butt-weld pipe fittings from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.**

The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Rigid	4.38
C.M.	57.30
Gei Bey	57.30
Chup Hsin	57.30
All Others	51.11

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on September 5, 1986, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 29, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86–17990 Filed 8–8–86; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–607]

Paint Filters and Strainers from Brazil; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether paint filters and strainers from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 29, 1986, and we will make ours on or before December 22, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Judith L. Nehring or Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1776 or 377–5288.

SUPPLEMENTARY INFORMATION:

The Petition

On July 15, 1986, we received a petition in proper form filed by the Louis M. Gerson Co., Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on paint filters and strainers from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether paint filters and strainers from Brazil are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 22, 1986.

Scope of Investigation

The products covered by this investigation are paint filters and strainers of paper, containing cotton gauze, provided for in item 256.080 of the *Tariff Schedules of the United States, Annotated (TSUSA),* and paint filters and strainers of cotton gauze, containing paper, provided for in item 386.5300.

United States Price and Foreign Market Value

In its calculation of sales at less than fair value, the petitioner based United States price on actual sales or offers made by a United States purchaser of Brazilian paint filters and strainers, with

VOL 51 ISS 154 AG 11 1986 UMI

deductions for foreign inland freight, warehousing and loading charges; ocean freight and marine insurance; island freight, brokerage and unloading charges in the U.S.; and United States importer's markup. The petitioner based foreign market value on the c.i.f. price at which this merchandise is sold to a European purchaser with deductions for Brazilian inland freight, warehousing and loading charges; ocean freight and marine insurance; and European inland freight.

The petitioner alleged sales at less than cost of production relative to third county sales only, as it avers there are insufficient sales in the home market for comparisons. The petition does contain some information that sales to at least one third country may be at less than cost of production. If, during the course of the investigation, we determine that there is not a viable home market, we will commence a cost of production investigation relative to third country sales. Based on the comparison of values caluclated by the foregoing methods, the petitioner arrived at a weighted-average dumping margin of 22.96 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 29, 1986, whether there is a reasonable indication that imports of paint filters and strainers from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86-17991 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-010]

Certain Stainless Steel and Strip Products From France; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order.

SUMMARY: On May 30, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain stainless steel sheet and strip products from France and announced its tentative determination to revoke the order. The review covers the period from March 1, 1986

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. We therefore determine that domestic interested parties are no longer interested in continuation of the order and we are revoking the order. In accordance with the petitioner's notification, the revocation will apply to certain stainless steel sheet and strip products exported on or after March 1, 1986.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 19581) the preliminary results of its changed circumstances administrative review of the antidumping duty order on certain stainless steel sheet and strip products from France (48 FR 28520, June 22, 1983). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of stainless steel sheet and strip products, either hot- or cold-rolled, excluding hot- or cold-rolled stainless sheet and strip not over 0.01 inch in thickness, currently classifiable under items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. As a result of this review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on certain stainless steel sheet and strip products from France and that the order should be revoked on this basis.

Therefore, we are revoking the order on certain stainless steel sheet and strip products from France effective March 1, 1986. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of certain stainless steel sheet and strip products from France which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

This administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: July 27, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-17992 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-013]

Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumpting Duty Order

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order.

SUMMARY: On May 30, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany and announced its tentative determination to revoke the order. The review covers the period from March 1, 1986.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. We therefore determine that domestic interested parties are no longer interested in continuation of the order, and we are revoking the order. In accordance with the petitioner's notification, the revocation will apply to certain stainless steel sheet and strip products exported on or after March 1, 1986.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 19582) the preliminary results of its changed circumstances administrative review of the antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany (48 FR 28680, June 23, 1983). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of stainless steel sheet and strip products, either hot- or cold-rolled, excluding hot- or cold-rolled stainless sheet and strip not over 0.01 inch in thickness, currently classifiable under items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. As a result of this review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany and that the order should be revoked on this basis.

Therefore, we are revoking the order on certain stainless steel sheet and strip products from the Federal Republic of Germany effective March 1, 1986. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumpting duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of certain stainless steel sheet and strip products from the Federal Republic of Germany which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

This administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: August 4, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, for Import Administration.

[FR Doc. 86–17993 Filed 8–8–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–606]

Initiation of Countervailing Duty Investigation: Paint Filters, and Strainers From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of paint filters and strainers, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 29, and we will make our preliminary determination on or before October 8, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Bradford Ward, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202/377–3174 or 202/377–2239.

SUPPLEMENTARY INFORMATION:

The Petition

On July 15, 1986, we received a petition in proper form filed by the Louis M. Gerson Co., Inc., a domestic producer of paint filters and strainers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of paint filters and strainers receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). In addition, the petition alleges that such imports materially injure, or threaten material injury to, a U.S. industry producing a like product. Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry.

Initiative of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the imposition of countervailing duties,m and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on paint filters and strainers from Brazil and have found that it meets the requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of paint filters and strainers as described in the "Scope of Investigation" section of this notice receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before October 3, 1986.

Scope of Investigation

The products covered by this investigation are paint filters and strainers of paper, containing cotton quaze, provided for in item 256.9080 of the *Tariff Schedules of the United States Annotated (TSUSA)*, and paint filters and strainers of cotton gauze, containing paper, provided for in item 386.5300 of the TSUSA.

Allegations of Subsidies

The petition lists a number of practices by the government of Brazil which allegedly confer subsidies to manufacturers, producers, or exporters in Brazil of paint filters and strainers. We are initiating an investigation on the following programs:

- Working Capital Financing for Exporters
- Preferential Export Financing for Trading Companies
- Export Financing Under the CIC-CREGE 14–11 Circular
- Financing for Storage of Exports
- PROEX Export Financing
- Resolution 68 (FINEX) Financing
- Resolution 509 (FINEX) Financing
- BEFIEX
- Income Tax Exemptions for Export Earnings
- CIEX
- Accelerated Depreciation for Brazilian-Made Capital Equipment
- FINEP/ADTEN Long-Term Loans

We are not initiating an investigation on the following programs:

- Banco Nacional de Desenvolviemento Economico e Social (BNDES) Loans

The Department has previously investigated BNDES long-term loans and has found that these loans are not limited to a specific enterprise or industry or group of enterprises or industries. *See Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Brazil*, 49 FR 17988. Because petitioner has not submitted any new evidence or alleged changed circumstances with respect to BNDES long-term loans, we are not initiating an investigation of this program.

- IPI Export Credit Premium

The Department has previously investigated this program and has determined that the program has been terminated by the Government of Brazil. However, we will investigate the possible continued receipt of benefits under this program pursuant to long-term BEFIEX contracts as noted above. *See Final Affirmative Countervailing Duty Determination: Certain Heavy Iron Construction Castings from Brazil*, 51 FR 9491.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information in our files. We will also allow the ITC access to all privileged and proprietary information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 29, 1986, whether there is a reasonable indication that imports of paint filters and strainers from Brazil materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to statutory procedures. This notice is published pursuant to section 702(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86–17994 Filed 8–8–86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Coated Carbon Steel Sheet and Strip: Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.–EC Arrangement on Certain Steel Products with respect to certain teflon coated carbon steel sheet and strip.

DATES: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received a short supply request for cold rolled teflon coated carbon steel sheet and strip, in thicknesses ranging from 0.18 to 0.28 mm and widths ranging from 105 to 508 mm, having a one-sided chromed teflon coating of 23 to 26 microns, to be used in the production of automotive engine gaskets. Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–17996 Filed 8–8–86; 8:45 am]

BILLING CODE 3510-DS-M

The MCTL Implementation Technical Advisory Committee and the Special Licensing Working Group of the President's Export Council Subcommittee on Export Administration; Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee and the Special Licensing Working Group of the President's Export Council Subcommittee on Export Administration will be held Thursday, September 4, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 6029, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises and assists the Office of Export Administration in the implementation of the Militarily Critical Technologies List

(MCTL) into the Export Administration Regulations and provides for continuing review to update the Regulations as needed.

The Committees will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes, contact Ruth D. Fitts, 202–377–2583.

Dated: August 6, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86–17995 Filed 8–8–86; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit; Gulf Exhibition Corporation (P80D)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Gulf Exhibition Corporation.

b. Address: Gulfarium on Highway 98, Fort Walton Beach, Florida 32548.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphins (*Tursiops truncatus*); 2.

4. Type of Take: Permanent removal from the wild for captive maintenance.

5. Location of Activity: Destin, Fort Walton Beach, Florida.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following office(s):

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 1, 1986.

Henry R. Beasley,

Director, Office of International Fisheries, National Marine Fisheries Service.

[FR Doc. 86–18002 Filed 8–8–86; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command's Military Personal Property Claims Symposium; Open Meeting

Announcement is made of meeting of the Military Personal Property Claims Symposium. This meeting will be held on 28 August 1986 at the Spring Hill Motor Lodge, 5666 Columbia Pike, Falls Church, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to Personal Property Traffic Management Regulation (DoD 4500.34–R), and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 18 August 1986.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 86–17973 Filed 8–8–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Air Force

Air Force Activities for Conversion to Contract; Indian Springs, NV

ACTION: Notice.

The Air Force recently determined that the Indian Springs Air Force Auxiliary Field Base Operating Support function at Indian Springs, NV will be examined for conversion to contract.

For further information contact Mr. Ross Clark, HQ TAC/XPMP, Langley AFB, VA, telephone (804) 764–5174.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–17964 Filed 8–8–86; 8:45 am]

BILLING CODE 3910–01–M

Air Force Activities for Conversion to Contract; Shemya AFB, AK

ACTION: Notice.

The Air Force recently determined that the Defense Satellite Communications System Satellite Earth Terminal function at Shemya AFB, AK will be examined for conversion to contract.

For further information contact Ms. Jean Webster, HQ AFCC/XPMQA, Scott AFB, IL, telephone (618) 256–5255.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–17963 Filed 8–8–86; 8:45 am]

BILLING CODE 3910–01–M

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VOL 51 ISS 154 AG 11 1986 UMI

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services

Projects With Industry; Fiscal Year 1987 Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priorities for Fiscal Year 1987.

SUMMARY: The Secretary proposes annual funding priorities for the Projects With Industry program. The Secretary proposes three priorities to direct funds to the areas of greatest need during fiscal year 1987. The proposed priorities would support applications which propose to: (1) Provide training and supportive services for handicapped individuals at actual job sites with subsequent employment in the competitive labor market, (2) provide training and employment through formal agreements with businesses and industries, coalitions, and consortia among businesses, industries and labor unions; (3) provide training and employment to handicapped individuals as they prepare to leave educational settings. These priorities will ensure wide and effective use of program funds.

DATES: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before the 30th day after publication of this Notice in the **Federal Register.**

ADDRESS: All written comments and suggestions should be addressed to: Ms. Patricia A. Morrissey, Deputy Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Room 3030, Switzer Building, 400 Maryland Avenue, SW., MS–2304, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Arthur W. Cox, Telephone: (202) 732–1333.

SUPPLEMENTARY INFORMATION: The Projects With Industry (PWI) program was established under Pub. L. 90–391 in 1968 and is currently authorized by section 621 of Title VI of the Rehabilitation Act of 1973, as amended, by Pub. L. 95–602 and Pub. L. 98–221. Program regulations are established at 34 CFR Parts 369 and 379. Amendments to these regulations were published in the **Federal Register** on September 23, 1985 (50 FR 38628). The purpose of the program is to promote and develop working partnerships between the rehabilitation community and business, industry, labor organizations or trade associations. Through the development of such partnerships, handicapped individuals are to be provided with training, employment, and supportive services within business, industry or other realistic work settings to prepare them for competitive employment. In addition, projects will provide supportive services as required to maintain the handicapped individual's employment. Projects may also provide other services including: (a) The development and modification of jobs to accommodate the expected needs of such individuals, (b) the distribution of special aids, appliances, or adapted equipment, and (c) the modification of facilities or equipment of the employer that are to be used by handicapped individuals.

Section 621(a)(2) of the Act specifies that agreements under the PWI program shall be jointly developed by the Commissioner of the Rehabilitation Services Administration, the prospective employer, and to the extent practical, the appropriate designated State unit and the handicapped individual involved. Such agreements are to specify the terms of training and employment under the project and other provisions required by law or agreed upon by the participating parties. Awards will be made in the priority areas described below.

Eligible Applicants

Individual employers, designated State units, other entities such as non-profit organizations, trade associations, labor unions, and profit making organizations are aligible applicants under this program.

Funds Available

Although final action on the fiscal year 1987 appropriation has not as yet been taken, the Department has requested $13,000,000 for this program in fiscal year 1987. All of the $13,000,000 will be available for new PWI in fiscal year 1987, to be divided as follows: Priority 1: $4,000,000; Priority 2: $3,000,000; Priority 3: $3,000,000 and $3,000,000 for other PWI applications which do not fall under any of the three priorities. Funding for projects in each of these priorities may range from $100,000 to $400,000 per project.

Proposed Priorities

In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c), the Secretary proposes to give absolute preference to applications submitted in fiscal year 1987, in response to one of the following priorities.

Priority 1

Priority wil be given to applications proposing to provide training and necessary supportive services at actual job sites to help prepare handicapped individuals to engage in competitive employment. Employment following training will be in the competitive labor market, either at the actual training site or another employment site.

Priority 2

Priority will be given to applications proposing to provide training, supportive services, job development and placement with a number of different businesses and industries. This could include coalitions of independent industries with formal agreements to provide training and job placement, labor unions having agreements with a number of different industries, or single industries with multiple work sites, for example. Under this priority the provision of training and other services would lead to job placements at a variety of work sites.

Priority 3

Priority will be given to applications proposing to provide training and supportive services to prepare handicapped individuals for competitive employment as they begin to leave the educational system, including postsecondary educational programs.

A fourth category will be established for those Projects With Industry applications received having a program emphasis on targeted goals and objectives that do not fall within one of the three established priorities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed annual priorities. Written comnents and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues final priorities. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in room 3030, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(29 U.S.C. 795g)

(Catalog of Federal Domestic Assistance No. 84.128, Rehabilitation Services—Special Projects)

Dated: August 6, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–18006 Filed 8–8–86; 8:45 am]

BILLING CODE 4000–01–M

BEST COPY AVAILABLE

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 16–17, 1986, 9:00 A.M. until conclusion of business each day.

ADDRESS: Tribal Conference Room, Seminole Tribe of Florida, 6073 Stirling Road, Hollywood, FL 33024 (305/583–7112).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 2000 L Street NW., Suite 574, Washington, DC 20036 (202/634–6160).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to education programs benefiting Indian children and adults.

The meeting will be open to the public. The proposed agenda includes:

(1) Chairman's Report;
(2) Executive Director's Report;
(3) Action on previous minutes;
(4) Committee discussions and reports;
(5) NACIE Budget—FY '86 & '87;
(6) Plans for future NACIE activities;
(7) Regular Council business;
(8) Public Testimony;
(9) On-site visits.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 2000 L Street NW., Suite 574, Washington, DC 20036.

Dated: August 6, 1986.

Signed at Washington, DC.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 86–17997 Filed 8–8–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI86–580–000 et al.]

Coquina Oil Corporation et al.; Applications for Abandonment and Blanket Limited-Term Certificate

August 6, 1986.

Take notice that each of the applicants listed herein have filed applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service or for a blanket limited-term certificate to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 adn 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per manufacturer 1,000 ft [3]	Pressure base
CI86–580–000, B, July 14, 1986 [1]	Coquina Oil Corporation, P.O. Drawer 2960, Midland, Texas 79702.	Transcontinental Gas Pipe Line Corporation, Ezra Alderman No. 1 Well, West Stuart Field, La Salle County, Texas.	(2)	
CI86–615–000, A, July 29, 1986	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221–2880.	(3)		
CI86–621–000, B, July 29, 1986	do	Texas Gas Transmission Corporation, Carthage Field, Panola County, Texas.	(4)	

[1] Additional information received July 30, 1986.

[2] Coquina, a small producer certificate holder in Docket No. CS66–101, requests authorization to abandon its sale of gas to Transcontinental from the Ezra Alderman No. 1 well which produces NGPA section 104 post-1974 gas. Coquina states that the well has remaining recoverable reserves of 66,000 Mcf. Coquina states that the primary term of the gas purchase contract dated February 10, 1959, expired September 1, 1980; either party may terminate the contract on any annual anniversary thereafter by giving written notice; and that neither party has given notice to terminate. Coquina states that Transcontinental curtailed production 60% for the period from January 1, 1986 through May 31, 1986, and that near 100% curtailment is expected. Coquina states it is subject to substantially reduced takes without payment. Coquina proposes to sell the gas to Transco Energy Marketing Company

[3] Applicant requests, in Docket No. CI86–615–000, a blanket, limited-term certificate for a period of two-years to make sales for resale in interstate commerce of gas which is released and is subject to the limited-term abandonment in Docket No. CI86–621–000.

[4] Applicant requests a limited-term abandonment for a period of two-years of certain sales to Texas Gas Transmission Corporation (Texas Gas). Applicant states that Texas Gas has projected that it will take less than 10% of Applicants deliverability through the next two years, and as such Applicant states it is subject to substantially reduced takes without payment. Applicant states that Texas Gas has agreed to release all NGA gas not needed by Texas Gas for a two-year period in order to allow Applicant to market such gas elsewhere. Applicant states that those sales are made under its Gas Rate Schedule Nos. 28, 105, 310, and 434; and, that sales are authorized in Docket Nos. G–8648, G–18243, G–2991, and CI66–172, respectively. Applicant states that Texas Gas will receive take-or-pay relief for gas released and sold elsewhere and that Texas Gas will retain the right to recall the gas to meet its market demands. Applicant states that the gas qualifies under NGPA sections 104 (replacement/recompletion) and 108, and that the estimated deliverability is approximately 7,901 MMcf/d.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total succession.

[Docket No. TA86-4-5-002]

Midwestern Gas Transmission Co.; Compliance Filing

August 6, 1986.

Take notice that on July 29, 1986, Midwestern Gas Transmission Company (Midwestern) filed Second Substitute Nineteenth Revised Sheet No. 5 and Third Revised Sheet No. 163 to Original Volume No. 1 of its FERC Gas Tariff, to be effective July 1, 1986.

Midwestern states that the purpose of this filing is to (1) track a revision to the Gas Rate charged by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., as required by the Commission's June 30, 1986 Order in this proceeding, and (2) revise its Southern System PGA clause consistent with Ordering Paragraph (D) of the June 30 Order.

Midwestern states that copies of the filing have been mailed to all of its juisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214, 385.211). All such motions or protests should be filed on or before August 13, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18019 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI79-359-001, et al.[1]]

Sun Exploration and Production Co.; Applications for Abandonment and Blanket Limited-Term Certificate

August 6, 1986.

Take notice that Sun Exploration and Production Company has filed pursuant applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service, or for a blanket limited-term certificate to sell natural gas in interstate commerce, as described herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 25, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI78-359-001, B, 7-16-86	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Trunkline Gas Company, East High Island Block A-369 and A-370, Offshore Texas.	(1)	
CI78-1009-001, B, 7-16-86	do	Trunkline Gas Company, East High Island Block A-327, and A-332, Offshore Texas.	(1)	
CI79-410-001, B, 7-16-86	do	Trunkline Gas Company, High Island Block A-511, Offshore Texas.	(1)	
CI86-598-000, A, 7-22-86	do	Trunkline Gas Company, Various Blocks, Offshore Texas and Louisiana.	(2)	

[1] Sun intends to exercise its reservation for 20% of its interest in gas produced from dedicated acreage in accordance with section (5) of Article IV of the contract as amended.
[2] Sun requests a three-year blanket, limited-term certificate to make sales for resale in interstate commerce of gas which is released and for which permanent abandonment has been requested in Docket Nos. CI73-878-001, CI73-879-001, CI73-880-001, CI78-359-001, CI78-1009-001 and CI79-410-001. Abandonment applications in Docket Nos. CI73-878-001, CI73-879-001 and CI73-880-001 were noticed November 13, 1985 and published in the Federal Register on November 20, 1985 (50 FR 47825).
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-18015 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES86-47-000 et al.]

Electric Rate and Corporate Regulation Filings; Canal Electric Co. et al.

Take notice that the following filings have been made with the Commission:

1. Canal Electric Company

[Docket No. ES86-47-000]

August 4, 1986.

Take notice that on July 25, 1986, Canal Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $110 million of short-term debt on or before December 31, 1988 with a final maturity no later than December 31, 1989.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER85-738-005]

August 5, 1986.

Take notice that on July 28, 1986, Pacific Gas and Electric Company (PG&E) tendered for filing a compliance report in reference to the settlement agreement between PG&E and the city of Oakland in Docket No. ER85-738, designated as PG&E rate schedule No. 95 and made effective as of Nobember 3,

1985. The Commission ordered PG&E to refund with interest any amounts collected in excess of the settlement rate levels.

The report shows monthly billing determinants, dates of payment, revenues under the prior rates and under the settlement rates, the monthly amount of the refund and the monthly interest for the entire refund period.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. The Connecticut Light and Power Company

[Docket No. ER86-611-000]

August 5, 1986.

Take notice that on July 25, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a sales agreement (Sales Agreement) with Respect Montville and Middletown Units between CL&P and Fitchburg Gas and Electric Light Company (FG&E) dated as of July 1, 1986.

CL&P states that the rate schedule provides for a sale to FG&E of capacity and energy from CL&P's Montville Units Nos. 5 and 6 and Middletown Units Nos. 2, 3, and 4 (the Units) during the period November 1, 1986 to October 31, 1992, together with related transmission service.

CL&P requests that the Commission permit the rate schedule filed to become effective on November 1, 1986.

CL&P states that the capacity charge rate for the first twenty-four months for the proposed service is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate. The capacity charge for the remainder of the term is determined on a cost-of-service basis at the time that the Sales Agreement was executed. The monthly transmission charge rate is equal to one-twelfth of the annual average cost of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Sales Agreement was executed and is determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/kW-month) and (ii) the number of kilowatts of winter capability which PG&E is entitled to receive during such month. This charge is reduced to give due recognition of the payments made by PG&E to intervening systems providing transmission service over Pool Transmission Facilities for the delivery of the purchase provided under the Sales Agreement. The Energy Charge and the Station Service Energy Charge are based on PG&E's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive these charges.

CL&P states that the services to be provided under the Sales Agreement are similar to the services provided by CL&P pursuant to purchase agreements with Vermont Electric Generation and Transmission Cooperative, Inc. (FERC Rate Schedule Nos. CL&P 349), with Newport Electric Corporation (FERC Rate Schedule No. CL&P 350), and with UNITIL Power Corp. (filed with FERC by letter dated July 18, 1986).

CL&P states that a copy of this filing has been mailed to FB&E, Fitchburg, MA.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. The Connecticut Light and Power Company

[Docket No. ER86-616-000]

August 5, 1986.

Take notice that on July 28, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a sales agreement (Agreement) with respect to Montville Unit No. 6, New Haven Harbor and Newington between the Connecticut Light and Power Company and the New England Power Company (NEPCO) dated as of November 1, 1985.

CL&P states that the rate schedule provides for a sale to NEPCO of capacity and associated energy from CL&P's Motiville Unit No. 6, and from two units in which CL&P has entitlements, New Haven Harbor and Newington ("Unit", collectively the "Units"), together with related transmission service. The Agreement commenced on November 1, 1985 and it terminates on thirty days written notice.

CL&P requests that the Commission waive its standard notice period and permit the rate schedule to become effective as of November 1, 1985.

CL&P states that the Capacity Charge for the Units is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate. The Energy Charge is based on NEPCO's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge.

CL&P states that a copy of this filing has been mailed to NEPCO, Westborough, MA.

CL&P further states that the filing is in accordance with Part 35 of Commission's Regulations.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Virginia Electric and Power Company

[Docket No. ER85-400-009]

August 5, 1986.

Take notice that on July 18, 1986, Virginia electric and Power Company (VEPCO) tendered for filing a compliance report after being ordered by the Commission to issue refund to wholesale municipalities and electric cooperatives.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Upper Peninsula Generating Company

[Docket No. PS86-48-000]

August 4, 1986.

Take notice that on July 28, Upper Peninsula Generating Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204(a) of the Federal Power Act, to issue short-term notes of an aggregate principal amount of up to $60,000,000. The Applicant has proposed to issue secured and unsecured promissory notes of a principal amount of up to $60,000,000 outstanding at any one time, of which up to $5,000,000 may be issued to Cliffs Electric Service Company with the remainder issuable to commercial banks from which the Applicant may borrow, for periods not exceeding twelve months from the date of orignial issuance, extension of renewal. The notes will be issued on or before August 1, 1988 and will have a final maturity date not later than August 1, 1990.

Comment date: August 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18008 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-143-000]

Columbia Gas Transmission Corp. Proposed Changes In FERC Gas Tariff

August 6, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 28, 1986, tendered for filing the proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Third Revised Sheet No. 66 Original Sheet No. 66A

Columbia states that the foregoing tariff sheets are being filed to recover take-or-pay costs which its pipeline suppliers are proposing to directly bill to Columbia in various proceedings. While Columbia strongly opposes these direct billing schemes, it is constrained to make this filing in order to have some means of recovery of these costs from its customers, without subjecting itself to being placed at a competitive disadvantage vis-a-vis these pipeline suppliers.

Columbia urges the Commission to address the proper methods of pipeline recovery of prudently incurred take-or-pay costs and other contract reformation costs on a generic basis in the context of Columbia's Petition for Rulemaking in Docket No. RM86-10. In the alternative, Columbia requests that the instant filing be consolidated with the proceeding in *Tennessee Gas Pipeline Co.*, Docket No. RP86-119-000, which is currently set for expedited hearing.

Columbia states that it will promptly withdraw the instant filing in the event the Commission rejects proposals made by other pipelines to directly bill and target their take-or-pay costs.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 13, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18023 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-2-002]

East Tennessee Natural Gas Co.; Compliance Filing

August 6, 1986.

Take notice that on July 29, 1986, East Tennessee Natural Gas Company (East Tennessee) filed Substitute Nineteenth Revised Sheet No. 4 and Sixth Revised Sheet No. 122 to Original Volume No. 1 of its FERC Gas Tariff, to be effective July 1, 1986.

East Tennessee states that the propose of this filing is to (1) track a revision to the Gas Rate charged by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., as required by the Commission's June 27, 1986 Letter Order in this proceeding, and (2) revise its PGA clause consistent with the June 27 Letter Order.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected states regulatory commissions.

Any person desiring to be heard or to protect said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 13, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18018 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[EC86-25-000]

Pacific Power & Light Co., Application

August 6, 1986.

Take notice that on July 28, 1986, PacifiCorp dba Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to section 203 of the Federal Power Act, seeking an order (1) authorizing it to purchase, acquire, and take securities of other public utilities, (2) modifying the reporting requirement of 18 CFR 33.8 to require only an annual report, and (3) waiving the Exhibit D filing requirements in part. Purchases of utility securities will be part of a passive investment program and are not designed to obtain or exercise control over any utility.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 18, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18021 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES86-50-000, et al.]

Electric rate and corporate regulations filings; Central Maine Power Co., et al.

August 6, 1986.

Take notice that the following filings have been made with the Commission:

1. Central Maine Power Company

[Docket No. ES86-50-000]

Take notice that on July 29, 1986, Central Maine Power Company (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking authority to issue on or before December 31, 1987, Bank Notes and Commercial Paper maturing one year or less after the date of issuance in an aggregate principal amount not

exceeding $120,000,000 outstanding at any time.

Comment date: August 28, 1986, in accordance with Standard Paragraph E at the end of this document.

2. Central Power & Light Company

[Docket No. ER86-613-000]

Take notice that on July 28, 1986, Central Power and Light Company ("Company") tendered for filing a change in rate for 1986, under the Transmission Services Agreement ("Agreement") between Company and Houston Lighting and Power ("HL&P"). Accompanying the filing is an April 10, 1986 amendment to the transmission agreement, the Rate Schedule change (designated TS No. 69 revised, supplement No. 3) and a cost of service study. The Company has requested that the rate schedule change be made effective as of January 1, 1986.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Citizens Energy Corporation

[Docket No. ER86-444-000]

Take notice that on July 25, 1986, Citizens Energy Corporation ("Citizens") tendered for filing an amendment to its April 28, 1986 filing of agreements for the purchase and resale of interruptible economy energy.

The amendment to Citizens' initial filing provides additional cost data requested by Commission staff concerning Citizens' purchases from the Utah Municipal Power Agency ("UMPA") and resales to the Department of Water and Power of the City of Los Angeles ("Los Angeles") of interruptible economy energy. The amendment includes an agreement extending the term of Citizens' agreement with UMPA. The amendment also provides additional information concerning Citizens' Special Financial Assistance fund which will provide emergency financial assistance to low-income retail customers of UMPA and Los Angeles.

Copies of the filing were served upon Los Angeles and UMPA.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Green Mountain Power Corporation

[Docket No. ER86-624-000]

The filing Company submits the following:

Take notice that on July 31, 1986, Green Mountain Power Corporation ("GMP") tendered for filing as a rate schedule to be effective November 1, 1986, an executed agreement dated as of June 20, 1986, between GMP and Pitchburg Gas & Electric Light Company ("FG&E"). The proposed rate schedule provides for the sale of capacity and energy by GMP to FG&E.

Copies of the filing were served on FG&E, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Green Mountain Power Corporation

[Docket No. ER86-625-000]

Take notice that on July 31, 1986, Green Mountain Power Corporation ("GMP") tendered for filing as a rate schedule to be effective October 1, 1986, an executed agreement dated as of June 20, 1986, between GMP and UNITIL Power Corp. ("UNITIL Power"). The proposed rate schedule provides for the sale of capacity and energy by GMP to UNITIL Power.

Copies of the filing were served on UNITIL Power, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Electric Power Company

[Docket No. ES86-51-000]

Take notice that on July 29, 1986, Maine Electric Power Company, (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking authority to issue on or before December 31, 1987, Bank Notes and Commercial Paper maturing one year or less after the date of issuance in an aggregate principal amount not exceeding $9,500,000 outstanding at any time.

Comment date: August 28, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Yankee Atomic Power Company

[Docket No. ES86-49-000]

Take notice that on July 29, 1986, Maine Yankee Atomic Power Company, (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking authority to issue on or before December 31, 1987, Bank Notes and Commercial Paper maturing one year or less after the date of issuance in an aggregate principal amount not exceeding $21,000,000 outstanding at any time.

Comment date: August 28, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18022 Filed 8-8-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-606-000, et al.]

Electric Rate and Corporate Regulation Filings; Iowa Power and Light Co. et al.

August 1, 1986.

Take notice that the following filings have been made with the Commission:

1. Iowa Power and Light Company

[Docket No. ER86-606-000]

Take notice that on July 25, 1986, Iowa Power and Light Company ("Iowa Power") tendered for filing an amendment to its June 5, 1986 filing in this docket concerning a rate schedule ("Schedule"), between Iowa Power and Union Electric Company ("Union Electric"), dated June 25, 1986.

The amendment consists of a description of how the energy charge was determined.

Iowa Power requests that the Commission waive its prior notice requirements and accept the Schedule for filing with an effective date of June 29, 1986.

Copies of this filing were served upon Union Electric and the Iowa State Commerce Commission.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Otter Tail Power Company

[Docket No. ER86-618-000]

Take notice that on July 25, 1986, Otter Tail Power Company (OTP) tendered for filing a new Electric Service Tariff, Partial Requirements Controlled Load

Electric Service. The proposed rate would decrease revenues by approximately $7,900.00 based on the 12-month period ending April 21, 1986. The decrease is the result of billing a decreased demand due to the demand credit allowed for in the Partial Requirements Controlled Load Electric Service as Compared to the billing on Partial Requirements Electric Service.

The proposed experimental rate is being initiated at the request of municipality interested in having OTP operate their proposed load control system.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Mexico

[Docket No. ER86-617-000]

Take notice that on July 28, 1986, Public Service Company of New Mexico (PNM) submitted for filing Amendment No. 1 dated January 22, 1986, amending the PNM and M-S-R Public Power Agency (M-S-R) Service Schedule A to the Interconnection Agreement, dated September 26, 1983. The Amendment permits the seller to offer economy energy at rates which permit the actual cost to generate such energy. PNM also submitted for filing information concerning PNM's fully allocated costs to provide economy energy service under this Amendment.

Copies of the filing have been served upon M-S-R and the New Mexico Public Service Commission.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this document.

4. Commonwealth Edison Company

[Docket No. ER86-615-000]

Take notice that on July 28, 1986, Commonwealth Edison Company (CEC) tendered for filing proposed new rates and contracts applicable to certain full requirements wholesale municipal customers, namely, the Cities of Batavia, Naperville and St. Charles, Illinois.

The Company states that the filing is required to provide load certainty and stability in the current competitive market. The contracts provide for a term of ten and one-half years. Based upon usage during the twelve months ending May 30, 1986 and compared with rates currently in effect, a revenue decrease to the Company of approximately $8,911,832 will result.

Copies of the filing were served upon the municipalities affected by the filing and the Illinois Commerce Commission.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company of New York, Inc.

[Docket No. ER86-609-000]

Take notice that on July 24, 1986, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing, as an initial rate schedule, an agreement to sell capacity to Long Island Lighting Company ("LILCO"). The agreement provides for a capacity charge of $76.49 per megawatt per day for 150 megawatts and an energy charge based upon incremental costs of generation.

Con Edison requests waiver of the notice requirements of § 35.3 of the Commission's regulations so that the Rate Schedule can be made effective as of April 27, 1986.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Gulf Power Company

[Docket No. ER86-614-000]

Take notice that on July 28, 1986, Gulf Power Company (Gulf) tendered for filing Supplements to its FERC Electric tariffs providing for changes in loads for service by Gulf to Choctawhatchee Electric Cooperative, Inc. and West Florida Electric Cooperative Association. These tariff supplements are proposed to be effective for service commencing on June 1, 1986, and Gulf therefore requests waiver of the Commission's notice requirements to allow such effective dates.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER86-612-000]

Take notice that on July 28, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change rates for firm transmission service as embodied in Edison's agreements with the following entities:

	Rate schedule FERC No.
City of Burbank	175
City of Glendale	176
City of Pasadena	177

Edison requests waiver of the Commission's prior notice requirement and an effective date of January 1, 1986, for these rate changes.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Appalachian Power Company

[Docket No. ER85-610-000]

Take notice that on July 25, 1986, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliated Indiana & Michigan Electric Company (I&ME), Modification No. 21, dated April 30, 1986 to the Interconnection Agreement dated November 1, 1961 between Northern Indiana Public Service Company (NIPS) and I&ME, I&ME's Rate Schedule FERC No. 22.

Sections 1 through 4 of this Agreement update the Short Term Power, Emergency Energy, Interchange Power, and Limited Term Power Service Schedules to comply with present FERC Rulemaking and insure uniform rates from I&ME for the same service to unaffiliated system companeis. There schedules are the same as schedules previously filed by I&ME and accepted for filing by the Federal Energy Regulatory Commission (FERC).

AEP requests that this Modification become effective in two parts, allowing the 2.75 mills per kilowatthour transmission rate for Emergency Energy to become effective as of November 3, 1985 and the remainder of this Modification to become effective immediately. These effective dates would update I&ME's rates with NIPS to levels in effect between I&ME and other interconnected electric utility systems for the time periods specified allowing I&ME to charge similar rates for similar services.

Copies of this filing were served upon the Northern Indiana Public Service Company, the Michigan Public Service Commission, and the Public Service Commission of Indiana.

Comment date: August 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Montaup Electric Company

[Docket No. ER85-106-004]

Take notice that on July 24, 1986, Montaup Electric Company (Montaup) tendered for filing a compliance report in support of credits issued to Montaup's M-Rate customers, pursuant to Article 1-2 of the subject Settlement Agreement.

Credits for the first adjustment period from June 6, 1985 through February 28,

1986 were applied to M-Rate customers' billings for the month of March in April, 1986.

Comment date: August 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18007 Filed 8-6-86; 8:45 am]

BILLING CODE 6717-01-M

Irvine Ranch Water District et al.; Availability of Environmental Assessment and Finding of No Significant Impact

August 6, 1986.

	Project No.
Irvine Ranch Water District	9700-000
Weisenberger Mills	9684-000
Central Maine Power Company	2531-005
Trinity River Authority of Texas	3285-002
Lind and Associates	5192-002
Chocura Forestlands Limited Partnership	9687-000
Conejos Water Conservancy Dist. & Prodek, Inc.	9839-000
State of California, Dept. of Water Resources	2100-029
Sacramento Municipal Utility District	2101-013
Fieldcrest Mills	2655-001
Glen Park Associates & Niagara Mohawk Power Corp.	4796-013
Colorado Hydro Power Corporation	7266-007

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town or county	Applicant
Exemptions					
9700-000	Zone 1 Reservoir	CA	Sand Canyon	Irvine	Irvine Ranch Water District.
9684-000	Weisenberger Mill	KY	South Elkhorn Creek	Midway	Weisenberger Mills.
Licenses					
2531-005	West Buxton	ME	Saco River	West Buxton	Central Maine Power Co.
3285-002	Lake Livingston	TX	Trinity River	Livingston	Trinity River Authority of Texas.
5192-002	Upper Rock Creek	CA	Rock Creek	Placerville	Lind and Associates.
9687-000	Lovell River/White Brook	NH	Lovell River and White Brook	Moultonboro	Chocura Forestlands Limited Partnership.
9839-000	Platoro Dams	CO	Conejos River	Alamosa	Conejos Water Conservancy District and Prodek, Inc.
Amendments					
2100-029	Thermalito Transmission Line	CA	Feather River	Oroville	State of California, Department of Water Resources.
2101-013	Upper American River	CA	Upper American River	Kyburz	Sacramento Municipal Utility District.
2655-001	Eagle and Phenix Mills	GA/AL	Chattahoochee River	Columbus	Fieldcrest Mills.
4796-013	Glen Park	NY	Black River	Glen Park	Glen Park Associates and Niagara Mohawk Power Corp.
7266-007	Taylor Park Dam	CO	Taylor River	Gunnison	Colorado Hydro-Power Corp.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 18024 Filed 8-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6913-001 et al.]

Hydroelectric Applications (Weber Basin Water Conservancy District et al.); Application Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: License (over 5 MW).

b. Project No.: 6913-001.

c. Date Filed: May 30, 1985.

d. Applicant: Weber Basin Water Conservancy District.

e. Name of Project: West Gateway.

f. Location: Weber River in Davis County, Utah: Section 25, Township 5N, Range 1W, Salt Lake Base and Meridian.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ivan Flint, Secretary-Manager, Weber Basin Water Conservancy District, 2837 East Highway 193, Layton, UT 84041.

i. Comment Date: September 15, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Stoddard Diversion, Gateway Canal & Tunnel, and Davis Bifurcation (operated and maintained by the Applicant), and would consist of: (1) An intake structure connecting to the Davis Bifurcation; (2) a steel penstock, 60 inches in diameter

and 1,970 feet long; (3) a powerhouse containing two 5-MW Targo turbine-generator units having a total rated capacity of 9,510 kW and operating under a net head of 301.5 feet; (4) a tailrace, 30 feet long, returning flow to the Weber River; (5) a 46-kV transmission line, 500 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 23,000,000 kWh. This application was filed during the term of the Applicant's preliminary permit for Project No. 6913.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

2a. Type of Application: License (Over 5MW).

b. Project No.: 7435-002.

c. Date Filed: February 10, 1986.

d. Applicant: City of Dothan, Alabama.

e. Name of Project: Claiborne Water Power Project.

f. Location: On the Alabama River in Monroe County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Larry C. Register, Mayor, City of Dothan, P.O Box 2128, Dothan, AL 36301, (205) 793-6100.

i. Comment Date: September 15, 1986.

j. Description of Project: The project would utilize the existing U.S. Army Corps of Engineers Claiborne Lock and Dam and reservoir, having a maximum operating upper pool elevation of 35 feet msl and would consist of: (1) An approach channel approximately 400 feet long and 170 feet wide excavated upstream of the Claiborne Dam west abutment; (2) a new reinforced concrete powerhouse 130 feet long, 170 feet wide and 85 feet high constructed inshore of the west abutment containing six identical tubular Kaplan turbine/generator units totaling 17,700 kW at 18 feet rated net head; (3) a new tailrace channel approximately 700 feet long and 170 feet wide; (4) an overhead 115-kV transmission line approximately 5 miles long connecting with an existing Alabama Power Company line; and (5) appurtenant facilities. The Applicant estimates the average annual energy production to be 80,500 MWh.

k. Purpose of Project: All project energy would be used by the city of Dothan.

l. This notice also consists of the following standard paragraphs: A3, A9, B, & C.

2a. Type of Application: Major License (over 5MW).

b. Project No.: P-8854-001.

c. Date Filed: November 29, 1985.

d. Applicant: Noah Corporation.

e. Name of Project: Hildebrand Project.

f. Location: On the Monongahela River in Monongalia County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: James B. Price, Noah Corporation, 120 Calumet Court, Aiken, SC 29801, (803) 649-1115.

i. Comment Date: September 19, 1986.

j. Description of Project: The proposed project would use the existing Corps of Engineers' Hildebrand Lock and Dam and would consist of: (1) A concrete intake channel approximately 110 feet long and 45 feet wide that will replace the dam's right fixed weir; (2) a powerhouse and integral intake structure located at the end of the intake channel housing one turbine-generator with a capacity of 9.6 MW and an average annual output of 32.9 GWh; (3) an excavated tailrace approximately 90 feet wide; (4) a switchyard located near the powerhouse; and (5) a 2,420-foot-long transmission line from the switchyard to a 23-kV substation owned by the Monongahela Power Company. The applicant estimates the total project cost to be $12,280,000 in 1988 dollars.

k. Purpose of Project: Project energy would be sold to the Monongahela Power Company.

l. A preliminary permit for this project was issued to the applicant on April 18, 1985. This license application was filed within the term of the permit.

m. The notice also consists of the following standard paragraphs: A3, A9, B, C.

4a. Type of Application: Major License, less than 5 MW.

b. Project No.: 9074-000.

c. Date Filed: March 29, 1985.

d. Applicant: Adirondack Hydro Development Corporation.

e. Name of Project: Warrensburg.

f. Location: Schroon River, Warren County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Malcolm M. Preston, Adirondack Hydro Development Corporation, Potsdam Industrial Plaza, Potsdam, NY 13676, (315) 265-8080.

i. Comment Date: September 18, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing dam with a 188-foot-long, 24-foot-high concrete gravity spillway surmounted by 3-foot-high flashboards, and a 100-foot-long wingwall; (2) a 35-acre impoundment at elevation 645 feet m.s.l. having a gross storage capacity of 500 acre-feet; (3) an existing 100-foot-long, 32-foot-wide concrete forebay structure integral with the dam's spillway; (4) a proposed 30-foot-square reinforced concrete powerhouse containing two generating units rated at 2,520 kW and 315 kW at an average head of 22.5 feet, having a combined hydraulic capacity of 1,350 cfs, and an average annual output of 10.5 GWh; (5) an excavated tailrace with a normal tailwater elevation of 616 feet; (6) a switchyard; and (7) a 700-foot-long, 34.5-kV transmission line. The applicant estimates the project will cost $9,500,000. Project power would be sold to Niagara Mohawk Power Corporation. The existing facilities are owned by Warrensburg Board and Paper Corporation.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

5a. Type of Application: Preliminary Permit.

b. Project No.: 9656-001.

c. Date Filed: December 3, 1985.

d. Applicant: Marble Creek Hydro, Inc.

e. Name of Project: Marble Creek.

f. Location: In St. Joe National Forest, on Marble Creek in Shoshone County, Idaho. Township 45N, Range 3E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: James R. Morris, P.O. Box 1016, Lewiston, ID 83501, (208) 799-1352.

i. Comment Date: September 5, 1986.

j. Competing Application: Project No. 9684-000, Date Filed 12/3/85; Project No. 9666-000, Date Filed 12/3/85; Due Date: September 5, 1986.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion weir at elevation 1,580 feet; (2) a 4,130-foot-long, 84-inch-diameter steel conduit; (3) a powerhouse containing two generators with a combined capacity of 3.95 MW and an average generation of 17,201 MWh; and (4) a 1.8-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $385,000. No new roads would be constructed or

drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

6a. Type of Application: Preliminary Permit.

b. Project No.: 9664–000.

c. Date Filed: December 3, 1985.

d. Applicant: St. Joe River Rafters.

e. Name of Project: Marble Creek.

f. Location: In St. Joe National Forest, on Marble Creek, in Shoshone County, Idaho. Township 45N and Range 3E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Louis Rosenman, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, DC 20036, (202) 457–7500.

i. Comment Date: September 5, 1986.

j. Competing Application: Project No. 9656–000, Date Filed: 12/03/85; Project No. 9666–001, Date Filed: 12/03/85.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion dam at elevation 2,560 feet; (2) a 4,150-foot-long, 60-inch-diameter penstock; (3) a powerhouse containing one generating unit with a capacity of 1,610 kW and an average annual generation of 7.9 GWh; and (4) a 1.8-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks insurance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $145,000. No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

7a. Type of Application: Preliminary Permit.

b. Project No.: 9666–000.

c. Date Filed: December 3, 1985.

d. Applicant: Marble Creek Associates.

e. Name of Project: Marble Creek.

f. Location: In St. Joe National Forest on Marble Creek, Township 45N, Range 3E, in Shoshone County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mike Graham, 484 East 300 North, Manti, UT 84642, (801) 835–0202.

i. Comment Date: September 5, 1986.

j. Competing Application: Project No. 9656–001, Date Filed: 12/03/85; Project No. 9664–001, Date Filed: 12/03/85; Due Date: September 5, 1986.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion dam at elevation 2,600 feet; (2) a 4,150-foot-long, 60-inch-diameter penstock; (3) a powerhouse containing a generating unit with a capacity of 1,610 kW and an average annual generation of 7,927,800 kWh; and (4) a 1.8-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $85,000. No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A8, B, C, D2.

8a. Type of Application: Minor License.

b. Project No.: 9694–000.

c. Date Filed: December 19, 1985.

d. Applicant: Power Resources Development Corporation.

e. Name of Project: Fine Project.

f. Location: On the Oswegatchie River East Branch, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Roger P. Swanson, President, Power Resources Development Corporation, 66 East Fourth Street, P.O. Box 2027, Oswego, NY 13126, 315–343–1954.

i. Comment Date: September 12, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 70-foot-long, 10-foot-high reinforced concrete diversion dam with a crest elevation of 980 feet msl; (2) a 12 acre reservoir with a gross storage capacity of 60 acre feet; (3) two 4-foot-high by 30-foot-long steel taintor gates, and one sluice gate, for flood flow control; (4) a 30-foot-wide, 12-foot-long and 16-foot-high reinforced concrete intake structure with three steel vertical head gates, and stop log gates; (5) a 17.5-foot-high, 28.75-foot-long trash rack; (6) a 500-foot-long, 108-inch-diameter steel penstock; (7) a 4-foot-high by 75-foot-long reinforced concrete diversion wall; (8) two submersible bulb turbine-generating units at the dam, to provide by-pass flows, rated at 105 kW and 54 kW at a net head of 11.0 feet and a total hydraulic capacity of 210 cfs discharging into the Oswegatchie River East Branch at a normal tailwater elevation of 968 feet msl; (9) a 43-foot-long, 30-foot-wide and 16-foot-high reinforced concrete main powerhouse containing two generating units rated at 750 kW and 540 kW at a net head of 30.0 feet and a total hydraulic capacity of 600 cfs, discharging into two reinforced concrete tailraces each about 8 feet high and 11 feet wide; (10) an excavated tailrace canal approximately 200 feet long, 25 feet wide, and 4 feet deep, discharging into the Oswegatchie River East Branch at a normal tailwater elevation of 948.5 feet msl; (11) a 250-foot-long access road to the powerhouse and a 175 feet long extension to the headworks; (12) 300 and 200 feet long, 4.8–kV transmission lines connecting to a Niagara Mohawk Power Corporation distribution line; and (13) appurtenant facilities. The Applicant estimates the average annual energy generation to be approximately 7.0 GWh.

k. Purpose of Project: The power will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

9a. Type of Application: Minor License.

b. Project No.: 9709–000.

c. Date Filed: December 24, 1985.

d. Applicant: Trafalgar Power, Inc.

e. Name of Project: Herkimer Project.

f. Location: West Canada Creek in Herkimer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) – 825(r).h.

Contact Person: Mr. Arthur H. Steckler, Trafalgar Power, Inc., Smith and Canal Streets, Franklin, NH 03035, (603) 934–4202.

i. Comment Date: September 11, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing timber crib dam consisting of: (a) a 9-foot-high, 95-foot-long section with a crest elevation of 420.0 feet m.s.l.; and (b) a 12-foot-high, 145-foot-long section with a crest elevation of 419.2 feet m.s.l.; (2) a reservoir with a surface area of 19 acres, a storage capacity of 163 acre-feet, and a normal water surface elevation of 420.5 feet m.s.l. with; (3) new timber flashboards; (4) an existing intake structure; (5) a new reinforced concrete and steel powerhouse containing two generating units with a capacity of 525 kW each for a total installed capacity of 1,050 kW; (6) a new transmission line, 50 feet long; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 6,125,000 kWh. The existing dam is owned by the Pennsylvania Egg Carton Company, Herkimer, New York.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10a. Type of Application: Preliminary Permit.

b. Project No.: 9874-000.

c. Date Filed: April 16, 1986.

d. Applicant: Rough and Ready Hydro Company.

e. Name of Project: Upper Watertown Dam.

f. Location: On the Rock River in the city of Watertown, Jefferson County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Elaine Hitchcock, Principal, Rough and Ready Hydro Company, 423 Green Tree Road, Kohler, WI 53044, (414) 452–2624.

i. Comment Date: September 18, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing concrete and timber Upper Watertown Dam approximately 175 feet long and 12 feet high; (2) an existing 64 acre reservoir having a storage capacity of 550 acre-feet at a normal maximum surface elevation of 821 msl; (3) an existing reinforced concrete powerhouse approximately 94 feet by 38 feet containing two turbine/generator units having a total installed capacity of 400 kW operating at 12 feet of hydraulic head; (4) an existing tailrace channel; and (5) appurtenant facilities. An existing 8.3-kV distribution line is available at the site. The existing facilities would be rehabilitated and put back into service. The applicant estimates that the average annual energy generation would be 1,550,000 kWh. The project dam is owned by the Wisconsin Electric Power Company.

k. Purpose of Project: The applicant intends to sell the power generated at the proposed facility to the Wisconsin Electric Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time applicant would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $125,000.

11a. Type of Application: Preliminary Permit.

b. Project No.: 10003-000.

c. Date Filed: May 30, 1986.

d. Applicant: Mr. John H. McCann, Jr.

e. Name of Project: Oneco Pond.

f. Location: On the Moosup River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John H. McCann, Jr., Box 429, Oneco, CT 06373; Jeffrey Marlowe, New Found Power Company, Inc., P.O. Box 576, Hope Valley, RI 02832, (401) 539–2398.

i. Comment Date: September 19, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) The existing 9-foot-high and 98-foot-long concrete and stone masonry Oneco Pond Dam with spillway crest elevation of 350 feet mean sea level; (2) a small impoundment; (3) an existing 10-foot-wide, 65-foot-long open canal; (4) an existing 64-foot-long underground conduit; (5) an existing 65-foot-long open canal; (6) an existing powerhouse with 3 new turbine-generator units with a total installed capacity of 60 kW; (7) an existing 100-foot-long tailrace; and (8) other appurtenances. The existing facilities are owned by the Applicant. The Applicant estimates an average annual generation of 210,000 kWh.

k. Purpose of Project: Project energy would be utilized in the adjacent McCann Manufacturing Company and the excess would be sold to Northeast Utilities Service Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. During the term of the permit the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $7,000.

12a. Type of Application: Major License under 5MW.

b. Project No: 9340-000.

c. Date Filed: July 10, 1985.

d. Applicant: Lawrence E. Smith and Veronic P. Smith.

e. Name of Project: Kezar Falls.

f. Location: On the Ossipee River in York and Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Warren A. Guninan, Power Technics, Inc., P.O. Box 1469, Dover, NH 03820, (603) 335–2006.

i. Comment Date: September 26, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing Kezar Falls Lower Dam and the Kezar Falls Upper Dam owned by the applicants. The proposed facilities at the Kezar Falls Lower Dam consist of: (1) An existing 19-foot-high and 450-foot-long concrete dam with an existing spillway crest elevation of 343 feet NGVD with new 2-foot-high flashboards; (2) an existing 30-acre surface reservoir with a storage capacity of 150 acre-feet at elevation 350 feet NGVD; (3) an existing 900-foot-long earthen dike adjacent to an intake canal with three 8-foot by 8-foot sluice gates at the head of the canal; (4) an existing 27-foot-wide and 57-foot-long concrete powerhouse containing an existing turbine/generator with an installed capacity of 500 kW and a proposed turbine/generator for a total capacity of 905 kW; (5) a proposed 21.5-foot-wide and 25.5-foot-long concrete powerhouse to be located at the right abutment of the dam, and containing one turbine/generator for an installed capacity of 147 kW; (6) a proposed 7.5-foot-deep by 20-foot-wide and 100-foot-long flume from the left bank to the new powerhouse; (7) an existing tailrace 300 feet long; (8) an existing 150-foot-long transmission line from the existing powerhouse to a Central Maine Power substation, and a new 650-foot-long transmission line from the new powerhouse to the Central Maine Power substation; and (9) appurtenant facilities.

The proposed facilities at the Kezar Falls Upper Dam consist of: (1) an existing 13-foot-high and 270-foot-long concrete dam with an existing spillway crest elevation of 364.9 feet NGVD with new 1.5-foot-high flashboards (2) an existing 25-acre surface reservoir with a storage capacity of 130 acre-feet at elevation 370.9 feet NGVD; (3) an existing 270-foot-long rock-filled, timber-crib overflow dike; (4) an existing 150-foot-long intake canal; (5) a proposed intake structure having two head gates; (6) an existing 24-foot-wide and 35-foot-long concrete powerhouse to contain one turbine/generator with an installed capacity of 340 kW; (7) a proposed 21.5-foot-wide and 25.5-foot-long concrete powerhouse to contain one turbine/generator with an installed capacity of 223 kW; (8) an existing 30-foot-long transmission line and a proposed 450-foot-long transmission line; and (9) appurtenant facilities. The total estimated average annual energy

produced by the project would be 7,929,000 kWh operating under a net hydraulic head of 13 feet.

k. Purpose of Project: Project power will be sold to the Central Maine Power Company.

l. This notice also consist of the following standard paragraphs; A3, A9, A8, B, C, Dl.

13a. Type of Application: Major License, Less than 5 MW.

b. Project No.: 7395–001.

c. Date Filed: November 4, 1985.

d. Applicant: W.M. Lewis & Associates, Inc.

e. Name of Project: East Fork Dam.

f. Location: East Fork of the Little Miami River in Clermont County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Terrence L. Turner, W.M. Lewis & Associates, Inc., P.O. Box 1383, Portsmouth, OH 45662, (614) 354–3238.

i. Comment Date: September 5, 1986.

j. Competing Applications: Project No. 9578, Date Filed: 11–1–85; and Project No. 9591, Date Filed: 11–1–85.

k. Description of project: The proposed project would utilize the U.S. Army Corps of Engineers' East Fork dam and William H. Harsha Lake and would consist of: (1) A reinforced concrete intake structure containing a 100-inch-diameter butterfly valve and a ten-foot-long conical transition section converging to (2) a 715-foot-long, 96-inch-diameter tunnel and steel penstock; (3) a 135-foot-high, 20-foot-diameter surge tank; (4) two 66-inch-diameter and one 36-inch-diameter steel penstocks 330-feet-long; (5) a 44-foot by 88-foot semi-outdoor type powerhouse containing 3 units, one rated at 300-kW and two rated at 1,850-kW each; (6) a 70-foot-long trapezoidal tailrace channel with a botton width of 45-feet; (7) a 2,500-foot-long, 12.5-kV transmission line from a small switching station adjacent to the powerhouse to an existing 12.5-kV line. The average annual energy generation is estimated to be 15.8-GWh. The applicant estimates that the project construction cost would be $7,905,000. Project power would be sold.

l. This notice also consists of the following standard paragraph; A3, A9, B, C, and Dl.

14a. Type of Application: New Major License.

b. Project No.: P–2528–002.

c. Date Filed: December 27, 1984.

d. Applicant: Central Maine Power Company.

e. Name of Project: Cataract.

f. Location: On the Saco River in York County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gerald C. Poulin, Vice President, Engineering, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623–3521.

i. Comment Date: September 29, 1986.

j. Description of Project: The existing project works currently licensed are: (1) Two existing dams the Cataract Dam and the West Channel Dam, the Cataract Dam consists of an overflow section with a fixed crest at elevation 40 feet USGS, Four 4-foot-high and 90-foot-long flashboards, the West Channel Dam consists of an overflow section with a crest elevation at 40.5 feet USGS with 4-foot-high flashboards; (2) both dams create a 14-acre reservoir with a normal surface elevation of 44 feet USGS with a storage capacity of 1.2 million cubic feet; (3) two additional existing dams the Bradbury Dam and the Springs Dam, the Bradbury Dam consists of two overflow sections both with a fixed crest at elevation 47.7 feet USGS and 20-inch pintype flashboards; (4) both dams create a 350-acre reservoir with a normal surface elevation of 49.2 feet USGS with a storage capacity of 31 million cubic feet; (5) an existing steel and brick powerhouse which contains one turbine/generator with a total rated capacity of 6,650 kW; and (6) appurtenant facilities.

The redeveloped project would consist of: (1) Renovating the existing head works at the existing West Channel Dam; (2) renovate a portion of the existing closed canal system; (3) rehabilitate two non-project turbine/generater NKL units rated at 480 kW and 420 kW for a total installed capacity of 900 kW; (4) a new substation that would connect to an existing 34.5-kV transmission line; and (5) appurtenant facilities. The project facilities are owned by the Central Maine Power Company.

The Applicant estimates the average annual generation would be 50,500,000 kWh. The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. The Applicant's estimated net investment in the project would amount to $2,649,700.

k. Purpose of Project: Project power would continue to be sold to the customers of Central Maine Power.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

15a. Type of Application: Preliminary Permit.

b. Project No.: 10016–000.

c. Date Filed: June 10, 1986.

d. Applicant: Perkinsville Hydro Associates.

e. Name of Project: Perkinsville.

f. Location: On the Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Robert Evans King, 170 Barretts Mill Road, Concord, MA 01742, (603) 224–8333.

i. Comment Date: September 29, 1986.

j. Description of Project: The proposed run-of-river project would utilize the U.S. Army Corps of Engineers' Perkinsville Dam and reservoir and would consist of: (1) A new 6-foot-diameter and 200-foot-long concrete penstock; (2) a new powerhouse with 2 turbine-generator units with a total installed capacity of 300 kW; (3) a new 100-foot-long tailrace; (4) a new 3,000-foot-long transmission line; and (5) other appurtenances. Applicant estimates an average annual generation of 1,500,000 kWh.

k. Purpose of Project: Project energy would be sold to Central Vermont Public Service Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. During the term of the permit the applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $12,000.

16a. Type of Application: Preliminary Permit.

b. Project No.: P–10038–000.

c. Date Filed: July 14, 1986.

d. Applicant: Summit Hydropower.

e. Name of Project: Cargill Falls.

f. Location: On the Quinebaug River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Duncan Broatch, Summit Hydropower, P.O. Box 122, Putnam, CT 06260, (203) 928–2002.

i. Comment Date: October 8, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 25-foot-high and 100-foot-long dam with a spillway crest elevation of 248 msl; (2) an existing 3-acre reservoir with a storage capacity of 15-acre-feet at 248 msl; (3) an existing 20-foot-long and 15-foot-wide forebay area; (4) a proposed penstock 10 feet in diameter

approximately 50 feet long; (5) a proposed powerhouse to contain two turbine/generators for a total installed capacity of 1200 kW which discharges into a river course 50 feet down stream from the toe of the dam; (6) an existing 23-kV three phase transmission line 85 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 5,256,000 kWh under a hydraulic head of 25 feet. The owner of the dam is the Town of Putnam.

k. Purpose of Project: Project power will be sold to the Northeast Utilities Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

17a. Type of Application: Exemption (5MW or less).

b. Project No: 10004–000.

c. Date Filed: May 30, 1986.

d. Applicant: City of Ypsilanti, Michigan.

e. Name of Project: Peninsular Paper Hydro Dam Project.

f. Location: On the Huron River in Washtenaw County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791–825(r).

h. Contact Person: Donald P. Weaver, Ayres, Lewis & May Inc., 2330 E. Stadium Blvd., Ann Arbor, MI 48104, (313) 971–7800.

i. Comment Date: September 15, 1986.

j. Description of Project: The existing dam is owned by the Peninsular Paper Company, which gave the City of Ypsilanti, Michigan the option and right to purchase the dam for a sum of one dollar. The proposed project would consist of: (1) A reinforced concrete dam, which is approximately 250 feet long and 18 feet high; (2) an existing reservoir with a surface area of 66 acres and a storage capacity of 707 acre-feet at powerpool elevation of 712.75 feet m.s.l; (3) an existing powerhouse that would include the installation of two, 262-kW generating units; (4) proposed excavation of forebay and tailrace areas; (5) a proposed 4.8-kV transmission line; and (6) appurtenant facilities. The estimated average annual energy output is 3,000,000 kWh.

k. Purpose of Project: Power produced at the project would be sold to Detroit Edison Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

18a. Type of Application: Preliminary Permit.

b. Project No.: 10029–000.

c. Date Filed: July 7, 1986.

d. Applicant: Albert S.J. Stovall.

e. Name of Project: Andrews Mill Site.

f. Location: On the South Fork of Broad River, near Carlton and Elberton, Madison and Oglethrope Counties, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Albert S.J. Stovall, 3863 Ingraham, B103, San Diego, CA 92109, (619) 483–8421.

i. Comment Date: September 22, 1986.

j. Competing Application: Project No. 9872–000, Date Filed: January 3, 1986.

k. Description of Project: The proposed project would consist of: (1) A proposed concrete dam approximately 10 feet high and 300 feet long; (2) a proposed 70-acre reservoir with a storage capacity of 210 acre-feet at a normal water surface elevation of 475 feet msl; (3) a proposed canal 9 feet deep, 15 feet wide, and 2,000 feet long; (4) a proposed reinforced concrete penstock 5 feet by 5 feet and 400 feet long; (5) a proposed concrete and masonry powerhouse 25 feet by 30 feet housing one 250-kW hydropower unit and one 750-kW hydropower unit for a total capacity of 1,000 kW; (6) a proposed tailrace 20 feet long; (7) a proposed 24-kV transmission line approximately one mile long; (8) appurtenant facilities; and (9) restoration of the mill located at the site. The applicant estimates that the average annual energy generation would be 8 GWh. The project energy would be sold to Georgia Power Company. The project site is owned by the applicant.

l. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

m. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that no cash outlay will be necessary to perform the work under the preliminary permit.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later

than 120 days after the specified comment data for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant spcified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 6, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18009 Filed 8–8–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP–86–51–000]

Northern Natural Gas Co., Division of Enron Corp. v. Cabot Pipeline Corp. and Texaco Producing Inc.; Complaint

Issued: August 5, 1986.

On July 24, 1986, Northern Natural Gas Company, a division of Enron Corp. (Northern), filed with the Federal Energy Regulatory Commission (Commission) a complaint against Cabot Pipeline Corporation (Cabot) and Texaco Producing Inc. (Texaco), pursuant to

sections 5 and 16 of the Natural Gas Act, section 501 of the Natural Gas Policy Act of 1978, and Rule 206 of the Commission's Rules of Practice and Procedure. 15 U.S.C. 717d and 717o (1982); 15 U.S.C. 3411 (1982); and 18 CFR 385.206 (1986). Northern asserts that both Cabot and Texaco are purchasers of gas which the Commission has found was illegally diverted from Northern by one or more of the respondents named in the Commission's February 15, 1984 Show Cause Order in *Stowers Oil and Gas Company*, 26 FERC ¶ 61,207. *See* Opinion No. 239, issued July 12, 1985, 32 FERC ¶ 61,043; Opinion No. 247, issued December 23, 1985, 33 FERC ¶ 61,410. Northern requests the Commission to determine whether approximately $8,000,000.00 attributable to diverted gas currently held in suspense by Cabot and Texaco, and funds which could have been held in suspense by Cabot and Texaco with the exercise of due diligence, should be made available to Northern and its jurisdictional customers as a part of the remedy for the diversion of dedicated gas.

In its complaint, Northern states that Cabot and Texaco have refused during the remedy phase (Phase II) of the *Stowers* proceedings to provide Northern with information regarding their decisions to suspend payments to the respondents. According to Northern, it is evident from a prehearing conference in Phase II held on July 30, 1985, that the respondents in Phase II are in financial distress and will probably be unable to discharge, either in volumes of gas or the monetary equivalent thereof, the provisions of any possible remedial order that may result from Phase II of the *Stowers* proceedings. Northern argues that the company and its jurisdictional customers are entitled to seek remedial relief out of these funds, and that the Commission should determine the disposition of the funds held in suspension by Cabot and Texaco as part of Phase II of the *Stowers* proceedings.

Additionally, Northern questions whether Cabot and Texaco acted prudently and diligently in suspending payments to the respondents, or whether, through neglect and unwarranted delay, funds which would otherwise be available for remedial purposes have been dissipated. Northern argues that Cabot's and Texaco's refusal to provide the requested information prevents Northern and its jurisdictional customers from obtaining a meaningful remedy in the *Stowers* proceedings. Northern requests the Commission to order a hearing on the matters raised in its complaint, consolidate this hearing with the hearing scheduled to be held on August 12, 1986, in Phase II of the *Stowers* proceedings in Docket No. GP84–23–000, and determine that funds currently held by Cabot and Texaco, as well as funds which by the exercise of due diligence could have been held by these companies, attributable to volumes of gas purchased from the respondents in *Stowers* proceeding, are available to Northern and its jurisdictional customers as a remedy for the unlawful diversion of dedicated gas reserves.

Any person desiring to be heard or to protest Northern's filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1985)). All such motions or protests should be filed on or before September 4, 1986.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Northern's complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18020 Filed 8–8–86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3061-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of the Administrator

Title: Hazardous Substance Response Fund Contractor Cost Report (EPA ICR #0788). (This is an extension of a currently approved ICR; no changes are proposed.)

Abstract: EPA collects daily reports from contractors on costs incurred during the cleanup of a hazardous substance release. The Agency uses the data to verify vouchers submitted by the contractors, avoid overspending of appropriation funds, and support reimbursement claims.

Respondents: Contractors doing cleanup for EPA of hazardous substance spills.

Office of Air and Radiation

Title: Information Request for Development of National Emission Standard (NESHAP) for Chromium Emissions from Cooling Towers (EPA ICR #1308). (This is a new collection.)

Abstract: The purpose of this information collection request is to gather from owners and operators of process and comfort cooling towers data that will be used to develop national emission standards for regulating chromium emissions to the ambient air. The information request will require a one-time response.

Respondents: Owners and operators of process and comfort cooling towers.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0167, Letter of Verification of Test Parameters and Parts Lists—Light Duty Vehicles and Light Duty Trucks, was approved 7/23/86 (OMB #2060–0024; expires 7/31/89).

EPA ICR #0619, Mobile Source Emission Factor Survey, was approved 7/23/86 (OMB #2060–0078; expires 7/31/89).

EPA ICR #1053, New Source Performance Standards (NSPS) for Electric Utility Steam Generating Units (Subpart DA)—Information Requirements, was approved 7/22/86 (OMB #2060–0023; expires 7/31/89).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Rick Otis (ICR #0788), or Wayne Leiss (ICR #1308) Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503.

Dated: August 4, 1986.

David Schwarz

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-17886 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

[OMS-FRL-3062-7]

Fuels and Fuel Additives; Denial of Application for a Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of waiver denial.

SUMMARY: Pursuant to section 211(f) of the Clean Air Act (Act), the Environmental Protection Agency is denying a waiver requested by American Methyl Corporation (American Methyl) for a proprietary fuel known as Petrocoal. On September 28, 1981, EPA granted a waiver to American Methyl for Petrocoal. Subsequently, the United States Court of Appeals for the District of Columbia Circuit vacated EPA's September 28, 1981 action and ordered the Agency to review its decision de novo based on the record existing as of September 28, 1981. In accordance with the Court of Appeals decision, EPA has considered the original waiver application for Petrocoal submitted by American Methyl and has decided to deny the waiver for reasons discussed in the Decision Document, which is available in the public docket.

DATE: Effective August 4, 1986.

ADDRESS: Copies of the information relative to this waiver application, including the Administrator's decision document, are available for inspection in public docket EN-81-8 at the Central Docket Section (LE-131A) of EPA, Gallery-1, West Tower, 401 M Street SW., Washington, DC 20460, (202) 382-7548 between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Sylvia I. Correa, Attorney/Advisor, Fuels Section, Field Operations and Support Division (EN-397F), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-2635.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Act, 42 U.S.C. 7545(f)(1), generally prohibits the introduction into commerce of certain new automotive fuels and fuel additives. Section 211(f)(4) of the Act provides that the Administrator of the EPA, upon application by a fuel or fuel additive manufacturer, may waive the prohibitions established under section 211(f) if the Administrator determines that the applicant has established that such fuel or fuel additives will not cause any vehicle to fail to meet applicable emissions standards.

American Methyl[1] submitted an application for a waiver for a proprietary fuel known as "Petrocoal" on February 20, 1981. Petrocoal consists of up to 12 percent by volume of methanol, up to six percent by volume of certain four-carbon alcohols, a proprietary inhibitor ranging from 0.023 grams to 0.033 grams per gallon (of the finished fuel), and the remainder unleaded gasoline. A **Federal Register** notice was published April 13, 1981, (46 FR 21695) acknowledging receipt of the application and soliciting comments. On September 28, 1981, the Administrator granted the waiver subject to certain conditions. A **Federal Register** notice of that decision was published on October 5, 1981, (46 FR 48975).

On December 4, 1981, the Motor Vehicle Manufacturers Association (MVMA) filed with EPA a petition seeking administrative reconsideration of EPA's decision. Also on December 4, 1981, MVMA filed a timely petition for review of the waiver grant in the U.S. Court of Appeals for the District of Columbia Circuit. *MVMA* v. *EPA*, No. 81-2276. American Methyl joined in the litigation as an intervenor.

On March 28, 1984, (49 FR 11879) the Agency granted MVMA's petition for reconsideration and proposed to revoke the waiver under section 211(f). Shortly thereafter, the Court of Appeals granted a stay of proceedings in the *MVMA* case pending a final administrative decision by EPA.

On May 25, 1984, however, American Methyl petitioned the same Court of Appeals for review of the proposed revocation on the ground that section 211(f) did not authorize such action by the Agency. That Court subsequently held that EPA was not authorized to revoke the waiver under section 211(f), although it might control or prohibit marketing of the product pursuant to section 211(c). *American Methyl Corp.* v. *EPA*, 749 F.2d 826 (1984).

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[1] Until June 30, 1982, American Methyl was incorporated under the name "Anafuel Unlimited." For the sake of clarity, its current name will be used.

Subsequently, the *MVMA* lawsuit was reactivated and on July 26, 1985, the Court of Appeals vacated the Administrator's decision granting the waiver for Petrocoal, thereby making the Petrocoal waiver void, and remanded the matter to the Agency to make a determination as to whether to grant such a waiver on the basis of the record existing at the time of the original waiver decision. *MVMA* v. *EPA*, 768 F.2d 385. The issuance of the mandate implementing its order was stayed, however, pending American Methyl's unsuccessful request for rehearing by the Court of Appeals and its subsequent petition for certiorari to the Supreme Court. That petition was denied on January 21, 1986. *American Methyl Corp.* v. *MVMA*, ___ U.S. ___, 106 S. Ct. 852. On February 5, 1986, the Court of Appeals issued its mandate in the *MVMA* case.

On March 17, 1986 (51 FR 9114), EPA published a **Federal Register** notice announcing that it would consider the original waiver application for Petrocoal de novo, based on the record existing prior to September 28, 1981, in accordance with the order in the *MVMA* case.

On March 27, 1986, American Methyl and others petitioned the Court of Appeals for review of EPA's March 17, 1986 notice and for a declaratory judgment that continued sale of Petrocoal could be prohibited only by a rulemaking in accordance with the provisions of section 211(c) of the Act. On April 14, 1986, the Court summarily dismissed those petitions, stating that its decision in *MVMA* v. *EPA* made it clear that Petrocoal never received a valid waiver. *American Methyl Corp.* v. *EPA*, Nos. 86-1126, 86-1190.

For reasons specified in the decision document (available as described above), I have determined that American Methyl has not met the burden established under section 211(f)(4) necessary to obtain a waiver for Petrocoal. The data which American Methyl submitted in support of its request fails to meet the statutory requirement that it demonstrate that Petrocoal does not cause or contribute to a failure of vehicles to meet emission standards with respect to which they have been certified pursuant to section 206 of the Act.

EPA has determined that this action does not meet any of the criteria for classification as a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because EPA is not

required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

This is final Agency action of national applicability. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) of the Act, judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of the date of publication of this notice. Under section 307(b)(2), judicial review may not be obtained in any subsequent judicial proceeding brought by the Agency to enforce the statutory prohibitions.

Dated: August 4, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-17856 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00071 (FRL-3064-3)]

Testing Consent Agreement Development for Chemical Substances Under TSCA Section 4; Solicitation for Public Participation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued an Interim Final Rule that amends EPA's regulations for the development and implementation of testing requirements under section 4 of the Toxic Substances Control Act (TSCA). These amendments provide for testing consent agreements between EPA and affected manufacturers, processors, and interested parties for the development of testing programs. In this notice, EPA is soliciting public participation in the consent agreement process for aniline (CAS No. 62-53-3) and seven substituted anilines: 2-chloroaniline (CAS No. 95-51-2), 4-chloroaniline (CAS No. 106-47-8), 3,4-dichloroaniline (CAS No. 95-76-1), 2-nitroaniline (CAS No. 88-74-4), 4-nitroaniline (CAS No. 100-01-6), 2,4-dinitroaniline (CAS No. 97-02-9), and 2,6-dichloro-4-nitroaniline (CAS No. 99-30-9), and invites persons interested in participating in or monitoring negotiations for the development of a consent agreement to identify themselves as "interested parties". A public meeting is announced to discuss EPA's preliminary testing determinations for these chemicals.

DATES: Submit written notice of interest to be designated an interested party on or before September 4, 1986. A public meeting will be held on August 21, 1986.

ADDRESS: Submit written notice of interest in being designated an "interested party" in triplicate identified by the document control number (OPTS-00071) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, DC 20460. Toll Free: (800-424-9065). In Washington, DC: (554-1404). Outside the United States: (Operator-202-554-1404).

Persons interested in attending the public meeting should notify EPA by telephone on or before August 15, 1986.

SUPPLEMENTARY INFORMATION: EPA has issued amendments to the procedural regulations in 40 CFR Part 790, published in the **Federal Register** of June 30, 1986 (51 FR 23706), which govern the development and implementation of testing requirements under section 4 of TSCA. These amendments establish procedures for using enforceable consent agreements to develop testing requirements under section 4 of the Act. This notice serves three purposes under those procedures. First, it announces a public meeting to initiate testing negotiations for the chemicals. Second, it requests "interested parties" who wish to participate in testing negotiations for eight chemicals recommended to EPA by the Interagency Testing Committee (ITC) to identify themselves to EPA. Third, it proposes a target schedule for implementation of the consent agreement process for the chemical substances under consideration.

I. Identification of Interested Parties

Under 40 CFR 790.22, the testing negotiation procedures are initiated by the publication of a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations for the development of a consent agreement to notify the Agency in writing. Those individuals and groups who respond to EPA's notice by the deadline established in the notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. These "interested parties" will not incur any obligations by being designated "interested parties". The procedures for these negotiations are described in 40 CFR 790.22. Eight chemical substances now are being considered for testing consent agreements. These substances are:

1. Aniline (CAS No. 62-53-3).
2. 2-Chloroaniline (CAS No. 95-51-2).
3. 4-Chloroaniline (CAS No. 106-47-8).
4. 3, 4-Dichloroaniline (CAS No. 95-76-1).
5. 2-Nitroaniline (CAS No. 88-74-4).
6. 4-Nitroaniline (CAS No. 100-01-6).
7. 2,4-Dinitroaniline (CAS No. 97-02-9).
8. 2,6-Dichloro-4-nitroaniline (CAS No. 99-30-9).

All eight substances are members of the category, "aniline and chloro-, bromo-, and/or nitroanilines" designated by the ITC for testing in its Fourth Report; EPA responded to the ITC by publishing an Advance Notice of Proposed Rulemaking on the category in the **Federal Register** of January 3, 1984 (49 FR 108). Individuals and groups desiring to have the status of "interested parties" in the development of testing consent agreements for any of these chemicals should submit a written notice of this fact to the Agency at the address given above on or before September 4, 1986. EPA is initiating the consent agreement process rather than rulemaking for these designated chemicals because the Agency believes the consent agreement process will lead to the development of necessary test data significantly earlier than formal rulemaking.

II. Public Meetings

A public meeting will be held to discuss EPA's tentative evaluation of testing needs for these chemicals on August 21, 1986 at 1:30 p.m. This meeting will be held in Rm. 103, Northwest Mall, EPA Headquarters, 401 M st., SW., Washington, DC 20460. Persons interested in attending this meeting should notify the EPA TSCA Assistance Office by telephone at the telephone numbers listed above on or before August 15, 1986.

III. Timetable for Negotiating Consent Agreements

In accordance with the procedures for the development of consent agreements established in 40 CFR 790.22, the following target schedule is established for aniline, 2-chloroaniline, 4-chloroaniline, 3,4-dichloroaniline, 2-nitroaniline, 4-nitroaniline, 2,4-dinitroaniline, and 2,6-dichloro-4-nitroaniline:

August 21, 1986—Public meeting to discuss EPA's preliminary testing decisions.

September 4, 1986—Deadline for notice of interested party designation.
October 30, 1986—Decision by EPA on whether to use consent order or test rule.
December 11, 1986—Draft consent order sent to interested parties for comment (if EPA decides to use consent order).
March 5, 1987—Issue consent order.

or

April 16, 1987—Issue notice of proposed rulemaking for test rule.

(Authority: 15 U.S.C. 2603.)

Dated: August 4, 1986.

J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86-18118 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

August 1, 1986.

The following information collection requirement has been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3507). For further information contact Doris Benz, FCC, (202) 632-7512.

OMB No.: 3060-0027

Title: Application for Construction Permit for Commercial Broadcast Station

Form No.: FCC 301

The revised application form FCC 301 has been approved for use through 2/29/89. The April 1985 edition with an OMB expiration date of 12/31/87 will remain in use until revised forms are available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-17983 Filed 8-8-86; 8:45 am]

BILLING CODE 6712-01-M

New AM Stations; Applications for Consolidated Hearing; French Creek Communications, Inc. and Custer Communications

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant	City/State	File No.	MM docket No.
A. French Creek Communications, Inc.	Custer, SD	BP-850529AB	86-321
B. Custer Communications, Inc.	Custer, SD	BP-851202AH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading:	*Applicant(s)*
Comparative	All applicants.
Ultimate	All applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86-17986 Filed 8-8-86; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1608]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Opposition to these petitions must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Karns and Maryville, Tennessee) (MM Docket No. 85-311, RM's 5032 & 5229). Number of petitions received: 1.

Federal Communications Commission.

William J. Tricarico,

Secretary.

July 31, 1986.

[FR Doc. 86-17984 Filed 8-8-86; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Authority Report

AGENCY: Federal Communications Commission.

ACTION: Publishing of report on travel reimbursement authority.

SUMMARY: In Pub. L. 99-272, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by each event and prepare a report of all reimbursements allowed and provide copies of each report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done until September 30, 1987. In addition, the Federal Communications Commission must publish each report in the Federal Register until September 30, 1987.

DATE: This report is for the period from October 1, 1985 through June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION: The report for the period October 1, 1985 through June 30, 1986 is as follows:

Federal Communications Commission Travel Reimbursement Program October 1, 1985—June 30, 1986 Summary Report

Total Number of Sponsored Events	43
Total Number of Sponsoring Organizations	35
Total Number of Commissioners/ Employees Attending	72

Total Amount of Reimbursement Expected:
Transportation.....$19,468.60
Subsistence.....$10,481.27
Other Expenses.....$2,295.92
Total.....$32,245.79

Individual Event Reports Attached.

Federal Communications Commission Travel Reimbursement Program Individual Event Report

Sponsoring Organization: National Cable Television Association, 1724 Massachusetts Avenue NW., Washington, DC 20036.
Date of the Event: March 16–18, 1986.
Description of the Event: To participate in the National Cable TV Convention in Dallas, Texas.
Commissioners Attending:
Commissioner Mimi Weyforth Dawson
Commissioner Dennis Patrick
Other Employees Attending:
Daniel Brenner, Senior Advisor to Chairman Fowler
Brian Fontes, Special Assistant—Office of Commissioner Quello
Bradley Holmes, Attorney Adviser—Office of Commissioner Patrick
Thomas Herwitz, Attorney Adviser—Office of Chairman Fowler
John Richards, Attorney Adviser—Office of Commissioner Dawson
John Kamp, Attorney Adviser—Office of Congressional and Public Affairs
Albert Halprin, Chief, Common Carrier Bureau
Amount of Reimbursement:
Transportation.....$2,146.00
Subsistence.....$1,097.29
Other Expenses.....$193.70
Total.....$3,436.99

Sponsoring Organization: National Association of Broadcasters, 1771 N. Street N.W., Washington, DC 20036.
Date of the Event: April 11–15, 1986.
Description of the Event: To participate in the National Association of Broadcasters 64th Annual Convention and International Exhibition in Dallas, Texas.
Commissioners Attending:
Commissioner Mimi Weyforth Dawson
Commissioner James Quello
Commissioner Dennis Patrick
Other Employees Attending:
Diane Killory, Senior Advisor to Commissioner Patrick
Larry Eads, Chief, Audio Services Division—Mass Media Bureau
James Shook, Attorney Adviser—Mass Media Bureau
Daniel Brenner, Senior Advisor to Chairman Fowler
Roy Stewart, Chief, Video Services Division—Mass Media Bureau
Ralph Haller, Supervisory Electronics Engineer—Mass Media Bureau
John Reiser, Electronics Engineer—Mass Media Bureau
William Hassinger, Electronics Engineer—Mass Media Bureau
Robert Cleveland, Physical Scientist—Office of Engineering & Technology
Thomas Stanley—Chief Engineer—Office of Engineering & Technology
Kenneth Howard—Attorney Advisor to Commissioner Quello
Robert Pettit—Senior Advisor to Commissioner Dawson
Amount of Reimbursement:
Transportation.....$3,915.00
Subsistence.....$3,588.09
Other Expenses.....$651.30
Total.....$8,154.39

Sponsoring Organization: Special Industrial Radio Service Association, Inc., 1700 N. Moore Street, Suite 910, Rossyln, VA 22209.
Date of the Event: October 2–5, 1985.
Description of the Event: Keynote speaker at the 1985 Annual Membership Meetings for the Special Industrial Radio Service Association (SIRSA) in Seattle, Washington.
Commissioners Attending: N/A.
Other Employee(s) Attending: Richard Smith, Chief, Field Operations Bureau.
Amount of Reimbursement:
Transportation.....$432.00
Subsistence.....$139.00
Other Expenses.....$40.00
Total.....$611.00

Sponsoring Organization: Bell South Corporation, 1819 L Street NW., Suite 1000, Washington, DC 20036.
Date of the Event: October 6–7, 1985.
Description of the Event: To participate in a symposium sponsored by the Communications Society of the Institute of Electrical and Electronic Engineers in Destin, Florida.
Commissioners Attending: N/A.
Other Employee(s) Attending: Janice Obuchowski, Legal Assistant to Chairman Fowler.
Amount of Reimbursement:
Transportation.....$324.00
Subsistence.....$75.00
Other Expenses.....$16.10
Total.....$415.10

Sponsoring Organization: United States Telephone Association, 900 19th Street NW., Suite 800, Washington, DC 20006.
Date of the Event: October 13–16, 1985.
Description of the Event: To attend and participate in the 88th Annual National Convention of the U.S. Telephone Association in San Antonio, Texas.
Commissioners Attending: Chairman Mark Fowler.
Other Employee(s) Attending: Jerald Fritz, Chief of Staff—Office of Chairman Fowler.
Amount of Reimbursement:
Transportation.....$564.00
Subsistence.....$231.66
Other Expenses.....$35.00
Total.....$830.66

Sponsoring Organization: Securities Industry Association, 120 Broadway, New York, NY 10271.
Date of the Event: October 2–3, 1985.
Description of the Event: Speaker at the SIA Communications/Microcomputer Conference in New York City.
Commissioners Attending: N/A.
Other Employee(s) Attending: Peter Pitsch, Chief, Office of Plans and Policy.
Amount of Reimbursement:
Transportation.....$150.00
Subsistence.....$30.00
Other Expenses.....$39.46
Total.....$219.46

Sponsoring Organization: Bell Communications Research Company, 2101 L Street NW., Washington, DC 20037.
Date of the Event: October 21–22, 1985.
Description of the Event: Participate as speaker in a Bell Company Fundamental Network Planning Conference in Huron, Ohio.
Commissioners Attending: N/A.
Other Employee(s) Attending: Thomas Spavins, Deputy Chief—Office of Plans and Policy.
Amount of Reimbursement:
Transportation.....$186.00
Subsistence.....$50.00
Other Expenses.....$20.70
Total.....$236.70

Sponsoring Organization: Southwestern Bell Telephone Company, 1667 K Street NW., Suite 1000, Washington, DC 20006.
Date of the Event: October 31, 1985–November 1, 1985.
Description of the Event: To participate in the Southwestern Bell Legal Conference in St. Louis, Missouri.
Commissioners Attending: N/A.
Other Employee(s) Attending: Jack Smith, General Counsel.
Amount of Reimbursement:
Transportation.....$222.00
Subsistence.....$75.00
Other Expenses.....$0
Total.....$297.00

Sponsoring Organization: Southwestern Bell Telephone Company, 1667 K Street NW., Suite 1000, Washington, DC 20006.
Date of the Event: November 13–14, 1985.
Description of the Event: To address Southwestern Bell Telephone Company personnel on the mechanics of filing interstate tariffs in St. Louis, Missouri.
Commissioners Attending: N/A.
Other Employee(s) Attending: Judith Nitsche, Supervisory Public Utilities Specialist—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$222.00
Subsistence.....$81.94
Other Expenses.....$0
Total.....$303.94

Sponsoring Organization: AT&T Communications, 295 North Maple Avenue, Room 17–5232B2, Basking Ridge, NJ 07920.
Date of the Event: October 22–23, 1985.
Description of the Event: To speak at the 800 Club membership meeting in Chicago, Illinois.
Commissioners Attending: N/A.
Other Employee(s) Attending: Peter Pitsch, Chief, Office of Plans and Policy.
Amount of Reimbursement:
Transportation.....$318.00
Subsistence.....$77.00
Other Expenses.....$59.14
Total.....$454.14

Sponsoring Organization: National Radio Broadcasters Association, 400 Radio Road, Charlotte, NC 28216.
Date of the Event: January 17–21, 1986.
Description of the Event: To participate in the NRBA Seminar in Dallas, Texas.
Commissioners Attending: N/A.
Other Employee(s) Attending: James McKinney, Chief, Mass Media Bureau.

Amount of Reimbursement:
Transportation.....$47.00
Subsistence.....$75.00
Other Expenses.....$0
Total.....$122.00

Sponsoring Organization: Association of Independent Television Stations, Inc., 1200 Eighteen St. NW., Washington, DC 20036.
Date of the Event: January 1–8, 1986.
Description of the Event: To participate at INTV's 13th Annual Convention in Los Angeles, California.
Commissioners Attending: Commissioner Dennis Patrick.
Other Employee(s) Attending:
Thomas Herwitz, Attorney Adviser—Office of Chairman Fowler;
James McKinney, Chief, Mass Media Bureau.

Amount of Reimbursement:
Transportation.....$930.00
Subsistence.....$665.12
Other Expenses.....$117.20
Total.....$1,718.32

Sponsoring Organization: Northern Telecom, Inc., 6201 Oakton Street, Morton Grove, IL 60053–2722.
Date of the Event: January 12–14, 1986.
Description of the Event: To attend and participate on panel "Symposium Teleprocessing in the Central Office" sponsored by Northern Telecom in San Francisco, California.
Commissioners Attending: N/A.
Other Employee(s) Attending:
Jerald Fritz, Chief of Staff—Office of Chairman Fowler
Peter Pitsch, Chief, Office of Plans & Policy

Amount of Reimbursement:
Transportation.....$715.00
Subsistence.....$150.00
Other Expenses.....$96.50
Total.....$961.50

Sponsoring Organization: Cahners Exposition Group, 999 Summer Street, P.O. Box 3833, Stamford, CT 06905.
Date of the Event: October 15, 1985.
Description of the Event: To give speech at INFO '85 in New York City.
Commissioners Attending: N/A.
Other Employee(s) Attending: Gerald Brock, Industry Economist—Office of Plans & Policy.

Amount of Reimbursement:
Transportation.....$106.00
Subsistence.....$0
Other Expenses.....$42.20
Total.....$148.20

Sponsoring Organization: Bell Communications Research Company, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039–2729.
Date of the Event: January 14–17, 1986.
Description of the Event: To address the "Economic Alternatives for NTS Cost Recovery" forum sponsored by Bell Communications Research Company in Salt Lake City, Utah.
Commissioners Attending: N/A.
Other Employee(s) Attending: Gerald Brock, Industry Economist—Office of Plans & Policy.

Amount of Reimbursement:
Transportation.....$372.00
Subsistence.....$229.00
Other Expenses.....$26.00
Total.....$627.00

Sponsoring Organization: United States Telephone Association, 1801 K Street NW., Suite 1201, Washington, DC 20006.
Date of the Event: February 3–4, 1986.
Description of the Event: To participate in USTA's "Western Telecommunications Showcase" in Dallas, Texas.
Commissioners Attending: N/A.
Other Employee(s) Attending: Janice Obuchowski, Legal Assistant to Chairman Fowler.

Amount of Reimbursement:
Transportation.....$234.00
Subsistence.....$58.87
Other Expenses.....$45.20
Total.....$338.07

Sponsoring Organization: Charles River Associates, Incorporated, John Hancock Tower, 200 Clarendon Street, Boston, MA 02116.
Date of the Event: April 18, 1986.
Description of the Event: To participate in Charles River Associates' Fourth Annual Antitrust Conference in Boston, Massachusetts.
Commissioners Attending: N/A.
Other Employee(s) Attending: Thomas Spavins, Deputy Chief—Office of Plans & Policy.

Amount of Reimbursement:
Transportation.....$128.00
Subsistence.....0
Other Expenses.....$87.25
Total.....$215.25

Sponsoring Organization: Bell South Corporation, 1819 L Street NW., Suite 1000, Washington, DC 20036.
Date of the Event: October 15–16, 1985.
Description of the Event: Participate in a "Management Forum" in Atlanta, Georgia.
Commissioners Attending: N/A.
Other Employee(s) Attending: Thomas Spavins, Deputy Chief—Office of Plans & Policy.

Amount of Reimbursement:
Transportation.....$210.00
Subsistence.....$85.65
Other Expenses.....$57.10
Total.....$352.75

Sponsoring Organization: NATPE International, 342 Madison Avenue, Suite 933, New York, NY 10173.
Date of the Event: January 17–21, 1986.
Description of the Event: To participate in the annual NATPE convention in New Orleans, Louisiana.
Commissioners Attending: N/A.
Other Employee(s) Attending: James McKinney, Chief, Mass Media Bureau.

Amount of Reimbursement:
Transportation.....$277.00
Subsistence.....$225.00
Other Expenses.....$34.10
Total.....$536.10

Sponsoring Organization: Competitive Telecommunications Association, 308 East Capitol Street, Suite 10, Washington, DC 20003.
Date of the Event: October 6–7, 1985.
Description of the Event: To participate in a panel discussion on telecommunications issues at the Comptel Seminar in Miami, Florida.
Commissioners Attending: N/A.
Other Employee(s) Attending: John Cimko, Jr., Chief, Tariff Division—Common Carrier Bureau.

Amount of Reimbursement:
Transportation.....$220.00
Subsistence.....$75.00
Other Expenses.....$32.88
Total.....$327.88

Sponsoring Organization: GTE Service Corporation, P.O. Box 2800, Irving, Texas 75062.
Date of the Event: March 12–14, 1986.
Description of the Event: Training session on how to file tariffs pursuant to Part 61 of the Commission's Rules in Dallas, Texas.
Commissioners Attending: N/A.
Other Employee(s) Attending: James Lichford, Public Utilities Specialist—Common Carrier Bureau.

Amount of Reimbursement:
Transportation.....$178.00
Subsistence.....$153.75
Other Expenses.....$22.00
Total.....$353.75

Sponsoring Organization: Broadcast Financial Management Association, 701 Lee Street, Suite 1010, Des Plaines, IL 60016.
Date of the Event: April 27–30, 1986.
Description of the Event: To attend the Broadcasters Financial Management Annual Convention in Los Angeles, California.
Commissioners Attending: N/A.
Other Employee(s) Attending: Daniel Brenner, Senior Advisor to Chairman Fowler.

Amount of Reimbursement:
Transportation.....$304.00
Subsistence.....0
Other Expenses.....$20.00
Total.....$324.00

Sponsoring Organization: Nevada Telephone Association, P.O. Box 70670, Reno, Nevada 89570.
Date of the Event: May 14–15, 1986.
Description of the Event: To give a speech at the Telecommunications Conference in Las Vegas & Reno, Nevada.
Commissioners Attending: N/A.
Other Employee(s) Attending: James Schlichting, Attorney Adviser—Common Carrier Bureau.

Amount of Reimbursement:
Transportation.....$370.00
Subsistence.....$288.00
Other Expenses.....$30.00
Total.....$688.00

Sponsoring Organization: Oregon Independent Telephone Association, 555 Union Street NE., Salem, Oregon 97301.
Date of the Event: May 9, 1986.
Description of the Event: Speaker at the OITA Annual Meeting in Warm Springs, Oregon.
Commissioners Attending: N/A.
Other Employee(s) Attending: Albert Halprin, Chief, Common Carrier Bureau.

Amount of Reimbursement:
Transportation.....$278.00
Subsistence.....$187.50
Other Expenses.....$25.00
Total.....$490.50

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Sponsoring Organization: Mountain Bell, 400 Tijeras NW., Station 731, Albuquerque, New Mexico 87102.
Dates of the Event: June 15–18, 1986.
Description of the Event:To speak at the 1986 Western Conference of Public Service Commissioners meeting in Santa Fe, New Mexico.
Commissioners Attending: N/A.
Other Employee(s) Attending: Bill Maher, Attorney Adviser—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$372.00
Subsistence.....$150.00
Other Expenses.....$101.38
Total.....$623.38

Sponsoring Organization: Bell Atlantic, 1133 Twentieth Street NW., Suite 810, Washington, DC 20036.
Date of the Event: May 16, 1986.
Description of the Event: To speak at Bell Atlantic Conference in Atlantic City, New Jersey.
Commissioners Attending: N/A.
Other Employee(s) Attending: Jerald Fritz, Chief of Staff—Office of the Chairman.
Amount of Reimbursement:
Transportation.....$138.00
Subsistence.....—0—
Other Expenses.....—0—
Total.....$138.00

Sponsoring Organization: Northern Telecom Inc., 2100 Lakeside Blvd., Richardson, TX 75081–1599.
Dates of the Event: May 15–16, 1986.
Description of the Event: To speak at the 1986 Northern Telecom Conference in San Francisco, California.
Commissioners Attending: N/A.
Other Employee(s) Attending: Thomas Sugrue, Chief, Policy & Program Planning Division—Common Carrier Bureau.
6Amount of Reimbursement:
Transportation.....$410.00
Subsistence.....$225.00
Other Expenses.....$20.00
Total.....$655.00

Sponsoring Organization: North Carolina Telephone Association, Inc., 3717 National Drive, Suite 105, Raleigh, NC 27612.
Date of the Event: May 15, 1986.
Description of the Event: Speak at the North Carolina Telephone Association in Greensboro, North Carolina.
Commissioners Attending: N/A.
Other Employee(s) Attending: Colleen Boothby, General Attorney—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$266.00
Subsistence.....$74.00
Other Expenses.....$25.00
Total.....$365.00

Sponsoring Organization: United States Telephone Association, 900 19th Street NW., Suite 800, Washington, DC 20006.
Date of the Event: May 20, 1986.
Description of the Event: Participating in the USTA Eastern Telecommunications Showcase Seminar on Computer III in Atlanta, Georgia.
Commissioners Attending: N/A.
Other Employee(s) Attending: Albert Halprin, Chief, Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$218.00
Subsistence.....$86.20
Other Expenses.....$51.00
Total.....$355.20

Sponsoring Organization: Society of Cable Television Engineers, Inc., P.O. Box 2389, West Chester, PA 19382.
Dates of the Event: June 12–15, 1986.
Description of the Event: Attending and participating in workshops held at the Annual Technical Conference (Cable-Tec Expo '86) of the Society of Cable Television Engineers (SCTE) in Phoenix, Arizona.
Commissioners Attending: N/A.
Other Employee(s) Attending: Sydney Bradfield, Supervisory Electronics Engineer—Mass Media Bureau.
Amount of Reimbursement:
Transportation.....$390.00
Subsistence.....$225.00
Other Expenses.....0
Total.....$615.00

Sponsoring Organization: United States Telephone Association, 900 19th Street NW., Suite 800, Washington, DC 200006.
Date of the Event: June 9, 1986.
Description of the Event: Speak at the Southeastern Assocaiton of Regulatory Utilities Commissioners in Biloxi, Mississippi.
Commissioners Attending: N/A.
Other Employee(s) Attending: Ann Stevens, Supervisory General Attorney—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$198.00
Subsistence.....$100.00
Other Expenses.....$75.00
Total.....$373.00

Sponsoring Organization: Shack, Buenzkle & Hill, 1140 Connecticut Avenue, Suite 1005, Washington, DC 20036.
Date of the Event: June 8, 1986.
Description of the Event: To speak at the Associated Telephone Answering Exchange, Inc. (ATAE) annual meeting in Nashville, Tennessee.
Commissioners Attending: N/A.
Other Employee(s) Attending: David Siddall, Attorney Adviser—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$282.00
Subsistence.....$80.00
Other Expenses.....$32.15
Total.....$394.15

Sponsoring Organization: Bell Tri-Co Services, 1600 7th Avenue, Room 1203, Seattle, WA 98191.
Date of the Event: June 24, 1986.
Description of the Event: Conduct a one-day training session on the process of filing tariffs for staff of US West in Seattle, Washington.
Commissioners Attending: N/A.
Other Employee(s) Attending: Judith Nitsche, Supervisory Public Utilities Specialist—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$360.00
Subsistence.....$225.00
Other Expenses.....$70.00
Total.....$655.00

Sponsoring Organization: Bell Atlantic, 1133 Twentieth Street NW., Suite 810, Washington, DC 20036.
Date of the Event: June 19, 1986.
Description of the Event: To speak at the Bell Atlantic Public Relations Conference in Charlottesville, Virginia.
Commissioners Attending: N/A.
Other Employee(s) Attending: Susan O'Connell, Attorney Advisor—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$129.00
Subsistence.....$75.00
Other Expenses.....$50.00
Total.....$254.00

Sponsoring Organization: Pennsylvania Independent Telephone Association, 212 Locust Street, Suite 404, Harrisburg, PA 17108.
Date of the Event: June 25, 1986.
Description of the Event: To speak to the Pennsylvania Independent Telephone Association (PITA) membership at Seven Springs Mountain Resort in Champion, Pennsylvania.
Commissioners Attending: N/A.
Other Employee(s) Attending: James Schlichting, Attorney Adviser—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$82.00
Subsistence.....$75.00
Other Expenses.....0
Total.....$157.00

Sponsoring Organization: Bell Atlantic, 1133 Twentieth Streert NW., Suite 810, Washington, DC 20036.
Date of the Event: June 24, 1986.
Description of the Event: To speak at a seminar on Separation, Settlements and Access Charges sponsored by Bell Atlantic in Philadelphia, Pennsylvania.
Commissioners Attending: N/A.
Other Employee(s) Attending:
Normandie Holmes, Public Utilities Specialist—Common Carrier Bureau.
Michael Wilson, Supervisory Auditor—Common Carrier Bureau.
Amount of Reimbursement:
Transportation.....$99.00
Subsistence.....0
Other Expenses.....$56.80
Total.....$155.80

Sponsoring Organization: Utilities Telecommunications Council, 1150 17th Street NW., Suite 1000, Washington, DC 20036.
Date of the Event: June 22–26, 1986.
Description of the Event: To attend annual meeting with Utilities Telecommunications Council (UTC) in Kansas City, Missouri.
Commissioners Attending: N/A.
Other Employee(s) Attending: Frederick Day, Supervisory Attorney Adviser—Private Radio Bureau.
Amount of Reimbursement:
Transportation.....$218.00
Subsistence.....$50.00
Other Expenses.....0
Total.....$268.00

Sponsoring Organization: Delaware Broadcaster's Association, Inc., Route 1—Box 559, St Michaels, Maryland 21663.
Date of the Event: June 19–21, 1986.

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Description of the Event: Participate in the Maryland/Washington, DC/Delaware Broadcasters Convention in Ocean City, MD.
Commissioners Attending: Commissioner Mimi Weyforth Dawson.
Other Employee(s) Attending: John Kamp, Attorney Adviser—Office of Congressional and Public Affairs.
Amount of Reimbursement:

Transportation	$127.10
Subsistence	$225.00
Other Expenses	$20.00
Total	$372.10

Sponsoring Organization: EMF Foundation, 53 Chemin Des Hauts-Crets, Ch–1223 Cologny/Geneve, Switzerland.
Date of the Event: February 1–6, 1986.
Description of the Event: To participate in EMF Foundation's World Economic Forum in Zurich, Switzerland.
Commissioners Attending: Chairman Mark Fowler.
Other Employee(s) Attending: N/A.
Amount of Reimbursement:

Transportation	$1,555.00
Subsistence	$305.50
Other Expenses	0
Total	$1,860.50

Sponsoring Organization: The Gleaner Company, LTD, 7 North Street, P.O. Box 40, Kingston, Jamaica—West Indies.
Date of the Event: November 17–19, 1985.
Description of the Event: To speak at function sponsored by The Gleaner Company Ltd on FCC operations in Kingston, Jamaica.
Commissioners Attending: N/A.
Other Employee(s) Attending: Thomas Herwitz, Legal Assistant—Office of Chairman Fowler.
Amount of Reimbursement:

Transportation	498.00
Subsistence	229.00
Other Expenses	0
Total	727.00

Sponsoring Organization: Friedman, Leads, Shorenstein and Armenakis, Attorneys at Law, 655 Third Avenue, New York, NY 10017.
Date of the Event: June 9, 1986.
Description of the Event: To address the New York Chapter of the Federal Communications Bar Association in New York City.
Commissioners Attending: N/A.
Other Employee(s) Attending: Jack Smith, General Counsel.
Amount of Reimbursement:

Transportation	161.00
Subsistence	0
Other Expenses	0
Total	161.00

Sponsoring Organization: Mr. Peter Huber, P.C., 103 8th Street NE., Washington, DC 20002.
Date of the Event: May 15–18, 1986.
Description of the Event: To observe a voice storage and retrieval system in St. Louis, Missouri.
Commissioners Attending: N/A.
Other Employee(s) Attending: Florence Setzer, Industry Economist—Office of Plans & Policy.
Amount of Reimbursement:

Transportation	230.00
Subsistence	80.00
Other Expenses	16.00
Total	326.70

Sponsoring Organization: Communications Magazine, 6530 South Yosemite, Englewood, Colorado 80111.
Date of the Event: April 23, 1986.
Description of the Event: To participate in the National Land Mobile Exposition in Las Vegas, Nevada.
Commissioners Attending: N/A.
Other Employee(s) Attending:
Robert Foosaner, Chief, Private Radio Bureau
Riley Hollingsworth, Supervisory General Attorney—Private Radio Bureau
Amount of Reimbursement:

Transportation	881.50
Subsistence	638.00
Other Expenses	87.76
Total	1,607.26

Federal Communications Commission.
William J. Tricarico
Secretary.
[FR Doc. 86–17985 Filed 8–8–86; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.
Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.
Agreement No.: 212–010286–009
Title: Italy-U.S.A. North Atlantic Pool Agreement
Parties:
Costa Container Lines
Farrell Lines, Inc.
Jugolinija
Medamerica Express Service
Nedlloyd Lines
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.
Synopsis: The proposed amendment would revise the amounts to be paid into the common fund by agreement members whose pool freight earnings exceed their maximum pool shares.
Agreement No.: 224–010720–002
Title: Port of Palm Beach Terminal Agreement
Parties: Port of Palm Beach District CHO Properties, Inc.
Synopsis: The proposed amendment would modify and restate the minimum annual wharfage fee provisions of the agreement, with all other terms and conditions remaining in force.

By Order of the Federal Maritime Commission.
Dated: August 6, 1986.
Joseph C. Polking,
Secretary.
[FR Doc. 86–17968 Filed 8–8–86; 8:45 am]
BILLING CODE 6730-01-M

Inactive Tariffs—Bureau of Tariffs; Intent to Cancel

The foreign commerce files of the Federal Maritime Commission contain numerous tariffs which have been classified as inactive due to (1) the Commission staff's inability to contact the tariff filers at the addresses shown on the tariffs; or (2) advice from the carrier or its agent that the tariffs no longer cover a common carrier service and the failure of the carrier to cancel the tariff(s) upon written request. The tariff publications of the following carriers, including their last known address as indicated by their tariffs, fall into the inactive category:

Carrier	Tariff
Adamello Lines, Inc., c/o P & B Steamship Agencies, Inc., 3785 N.W. 82nd Avenue, Suite 104, Miami, Florida 33166.	FMC No. 2.
Aimaut Express, Inc., 225 Broadway, New York, New York 10017	FMC No. 1
Alfa Line Ltd., 938 N.E. 1st Avenue, Miami, Florida 33132.	FMC No. 5.
Allied Shipping Co. Inc., d/b/a Allied Lines, 3785 NW 82nd Ave., Suite 104, Miami, Florida 33166.	FMC No. 1
Alpha Lines, Inc., 7927 Jones Branch Drive, McLean, Virginia 22102	FMC No. 1
American Coastal Line Joint Venture, Inc., 305 Broadway—12th Floor, New York, New York 10007.	FMC Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17
American Shipping Company, Inc., S.A., 7809 N.W. 72nd Avenue, Medley, Florida 33166.	FMC No. 6
Banpet International Inc., 354 South Spring Street, Los Angeles, California 90013	FMC No. 1.
Barlovento Line, Inc., 3701 N.W. South River Drive, Miami, Florida 33142.	FMC No. 1.
Benovi Line S.A., 3611 N.W. South River Drive, Miami, Florida 33142.	FMC No. 1.
Bestway Ocean Express Transport, Inc., 515 River Road, Clifton, New Jersey 07014	FMC No. 1
Carib Transport Ltd., 3163 N.W. South River Drive, Miami, Florida 33142.	FMC No. 2.
Carmindale Shipping and Trading, S.A., 1240 South East, No. 10 Court, Hialeah, Florida 33142.	FMC No. 1.
Central Marine Lines, Inc., P.O. Box 15169, 2333 Tchoupitoulas Street, New Orleans, Louisiana 70130.	FMC Nos. 1, 2, 3, 5, 7

Carrier	Tariff
Columbus Line Container Service, 2323 South Voss Road, #100, Houston, Texas 77057	FMC No. 1.
Compagnie Maritime D'Affretement, c/o CMA, 17 Battery Place, New York, New York 10004.	FMC Nos. 2, 7, 9, 10, 11, 12, 13, 14.
Consolidado Nautico S.A., 3233 N.W. 38th Street, Miami, Florida 33142.	FMC No. 1.
Contract Marine Carriers, Inc., 501 South 14th Street, Richmond, Virginia 23219	FMC Nos. 1, 2, 5, 6, 10, 11.
Doma Export Company, 215 East Kinney Street, Newark, New Jersey 07105.	FMC No. 1.
Dominicana Shipping Company, 1257 St. Nicholas Avenue, New York, New York 10032.	FMC No. 1.
EKL Line, E and L Building, 444 T MW Street, Ermita, Manila, Philippines.	FMC No. 1.
Gulf International Shipping & Chartering, Inc., d/b/a Caribbean Marine Services, 3829 Veterans Boulevard, Suite 201, Metairie, Louisiana 70002.	FMC Nos. 1, 2.
Halla Maritime Corporation, One Market Plaza, Steuart Tower, Suite 1006, San Francisco, California 94105.	FMC No. 2.
Imex Shipping Inc., P.O. Box 5169, Newark, New Jersey 07105.	FMC No. 1.
Interports Line Ltd., P.O. Box 650051, Miami, Florida 33165.	FMC No. 1.
IPS Med-Gulf, Inc., 160 Broadway, New York, New York 10038.	FMC No. 1.
Kosta International Corp., 2031 N.W. 89th Place, Miami, Florida 33172.	FMC No. 1.
Manila Cargo Express Consolidators, 240 Berry Street, San Francisco, California 94104.	FMC No. 1.
Mer-Line Shipping Company, P.O. Box 60504 AMF, Houston, Texas 77205.	FMC No. 1.
Merengue Lines, Inc., 3701 N.W. South River Drive, Miami, Florida 33142.	FMC No. 1.
Miami-Cascos Shipping Limited, 2974 N.W North River Drive, Miami, Florida 33142.	FMC No. 1.
Nigeria America Line, One World Trade Center, New York, New York 10048.	FMC Nos. 5, 6, 11, 12, 13.
Nordic Shipping Corp., 505 North Belt., Suite 320, Houston, Texas 77060.	FMC No. 1.
Ocean Lines N.V. Inc., 200 North Loop West, P.O. Box 7527, Houston, Texas 77270.	FMC No. 2.
Olympic Steamship, Inc., P.O. Box 52367, San Juan, Puerto Rico 00903.	FMC No. 1.
Omega Ocean Carriers, Inc., 216 North Sycamore Street, Petersburg, Virginia 23803.	FMC No. 1.
P&M Line, 165515 Hedgecroft, Suite 306, Houston, Texas 77060.	FMC No. 1.
Pacific Motor Trucking Company, 1766 El Camino Real, Burlingame, California 94070.	FMC No. 1.
Pep Line Ltd., 1842 International Trade Mart, New Orleans, Louisiana 70130.	FMC No. 1.
Rainbow Express Inc., P.O. Box 3980, Carolina, Puerto Rico 00628.	FMC No. 1.
Rotterdam Express Line, The, Div. of World Shipping, Ltd., 35 E. Wacker Drive, Chicago, Illinois 60601.	FMC No. 1.
Roy L. Hendricks & Company, 1241 Arlington Road, Jacksonville, Florida 32211	FMC No. 1.
Rush International Corporation, P.O. Box 52251, Houston, Texas 77052.	FMC No. 2.
Rush International Corporation, c/o Ocean International Corporation, 314 Texas Avenue, 15th Floor, Houston, Texas 77002.	FMC No. 2.
Seafreight Inc., P.O. Box 10358, Chicago, Illinois 60610.	FMC No. 2.
Shipco Ocean Services, 9460 Clinton Dr., Building 52, Houston, Texas 77029.	FMC No. 1.
Shippers Management International, Inc., 4647 Long Beach Blvd., Long Beach, California 90805.	FMC No. 1.
Shoyo Shipping Co., Ltd., 3992 San Rafael Avenue, Los Angeles, California 90065.	FMC No. 1.
South Sea Shipping Corp., 612 E. Grassy Spran Road, Yonkers, New York 10710.	FMC Nos. 1, 2, 3, 4.
States Africa Line, Inc., c/o US. Maritime Agencies, 40 Rector Street, Suite 1505, New York, New York 10006.	FMC Nos. 1, 2.
Strachan World Services, c/o Strachan Shipping Company of Texas, P.O. Box 52490, Houston, Texas 77052-0490.	FMC No. 1.
TMS Line, 2100 Travis Street, Suite 515, Houston, Texas 77002.	FMC No. 2.
Tank Traffic America, Inc., P.O. Box 60741 AMF, Houston, Texas 77205.	FMC No. 1.
Trans Intermodal Transport, 1500 West 8th St., Los Angeles, California 90813.	FMC No. 1.
Trans-Caribbean Lines, Inc., 3301 N.W. South River Drive, Miami, Florida 33142.	FMC No. 12.
Trans-Caribbean Shipping, Ltd., 2nd Floor, 654 Sacramento Street, San Francisco, California 94111.	FMC No. 1.
Trans Viking International, Inc., 9859 Valverde Street, Houston, Texas 77063.	FMC No. 1.
Transnational Inc., c/o Load Line, Inc., Route 4, Box 1, Beaumont, Texas 77705.	FMC No. 1.
Transnational Inc., 2340 Trisay Lane, Houston, Texas 77043.	FMC No. 1.
Transoceanic Container Corporation, 42 Broadway, New York, New York 10004.	FMC No. 1.
Transrapid Line Ltd., 3233 N.W. 38th Street, Miami, Florida 33142.	FMC Nos. 1, 2.
Turk & Cacos Traders Limited, c/o Scandinavian Shipping Services N.V., 727 N.E. 3rd Avenue, Fort Lauderdale, Florida 33304.	FMC No. 1.
Universal Lines, Inc., 7809 N.W. 72nd Avenue, Medley, Florida 33166.	FMC No. 1.
Universal Shipping Agency, Inc., 5350 N.W. 77th Court, Suite 4, Miami, Florida 33166.	FMC No. 1.
Valmar De Navegacion, S.A., 7940 N.W. 60th Street, Miami, Florida 33166.	FMC No. 3.
Victoria Marine Shipping, Inc., 400 S.W. First Avenue, Miami, Florida 33130.	FMC No. 1.
Westchase Ocean Systems, 900 Richmond Ave., Suite 355, Houston, Texas 77042.	FMC No. 1.
World Shipping Line, Inc., 4942 West Rosecrans Avenue, Hawthorne, California 90250.	FMC No. 1.

Inactive tariffs reflect inaccurate information and serve no useful purpose in the Commission's active files. Accordingly, the Commission proposes to cancel the above listed tariffs in the absence of a showing of good cause why they should not be cancelled.

Now, therefore it is ordered, That the above carriers advise the Federal Maritime Commission's Director, Bureau of Tariffs at 1100 L Street NW., Washington, DC 20573, in writing within 30 days after the publication of this Order in the **Federal Register** of any reason why the Commission should not cancel their respective inactive tariffs;

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the carriers listed herein;

It is further ordered, That the tariffs of all carriers named herein not responding to this Order will be cancelled;

It is further ordered, That this notice be published in the **Federal Register** and a copy thereof filed with any tariff cancelled pursuant to this notice.

This Order is issued pursuant to authority delegated by 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86-17969 Filed 8-8-86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Albers Dimetridazole Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Manna Pro Corp. covering use of Albers Dimetridazole Premix in manufacturing medicated turkey feed for prevention and control of blackhead and to stimulate growth and improve feed efficiency. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Vitolis Vengris, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Manna Pro Corp., P.O. Box 92959, Los Angeles, CA 90009, is sponsor of NADA 36-826 providing for Albers Dimetridazole Premix, which is used for manufacturing medicated turkey feed for prevention and control of blackhead and to stimulate growth and improve feed efficiency. The application was originally approved on January 10, 1968. In a letter dated April 2, 1986, the sponsor requested withdrawal of approval of the NADA because the drug product is no longer being marketed. The sponsor also waived an opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 **WITHDRAWAL OF APPROVAL OF APPLICATIONS** (21 CFR 514.115), notice is given that approval of NADA 36-826 for Albers Dimetridazole Premix is hereby withdrawn, effective August 21, 1986.

Dated: July 29, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-17958 Filed 8-8-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0288]

HemaScience, Inc.; Premarket Approval of the Autopheresis-C™ Plasmapheresis System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by HemaScience, Inc., Santa Ana, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Autopheresis-C™ Plasmapheresis System. After reviewing the recommendation of the Blood Products Advisory Committee, FDA's Center for Drugs and Biologics (CDB) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 10, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sharon Risso, Center for Drugs and Biologics (HFN-825), Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20892, 301-443-5433.

SUPPLEMENTARY INFORMATION: On April 1, 1985, HemaScience, Inc., Santa Ana, CA 92705, submitted to CDB an application for premarket approval of the Autopheresis-C™ Plasmapheresis System, indicated for collection of Source Plasma and Plasma by membrane filtration by automated methods.

On April 24, 1985, the Blood Products Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On March 24, 1986, CDB approved the application by a letter to the applicant from the Director of the Office of Biologics Research and Review, CDB.

A summary of the safety and effectiveness data on which CDB based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDB—contact Sukza Hwangbo (HFN-825), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 10, 1986, file with the Dockets Management Branch (**ADDRESS** above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10).

Dated: August 2, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-17957 Filed 8-8-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86D-0287]

Label Statements Regarding FDA Approval; Availability of Compliance Policy Guide 7125.01

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7125.01 concerning the use of statements regarding FDA approval in labeling and advertising of approved new animal drugs.

ADDRESS: Requests for single copies of Compliance Policy Guide 7125.01 and any written comments may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Sending two self-addressed adhesive labels will assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3044.

SUPPLEMENTARY INFORMATION: Under section 301(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(l)), manufacturers of medical devices and human drugs are precluded from labeling, advertising, or promoting their products as approved by FDA. There is no similar statutory prohibition, however, concerning new animal drugs. FDA believes that the fact that a new animal drug is approved by the agency may be useful information to consumers. Accordingly, Compliance Policy Guide 7125.01 establishes agency policy for permitting manufacturers to convey to consumers that a new animal drug is, indeed, approved by FDA.

Compliance Policy Guide 7125.01 is designed to ensure that labeling and promotional material concerning whether a new animal drug is FDA approved are accurate and appropriate. For example, it would not be appropriate to represent a new animal drug as approved for an indication for which it is not approved. In order to assure that references are accurate and appropriate, the Compliance Policy Guide incorporates the requirements of 21 CFR 514.1(b)(3) and 514.8 (a) and (d), by providing that a manufacturer must submit a supplemental new animal drug application for any reference that appears on the labeling of a new animal drug and that relates to the product's approval status. The Compliance Policy Guide also provides for use of statements regarding new animal drug application approval in promotional material. Manufacturers must submit to FDA all promotional material for approved products at the time of initial dissemination of the information and must continue to submit all prescription animal drug advertising at the time of initial publication of the information (see 21 CFR 510.300).

Written comments and requests for single copies of Compliance Policy Guide 7125.01 may be sent to the Dockets Management Branch (address above). All inquiries and comments should refer to Docket No. 86D–0287. In accordance with 21 CFR 10.85(d) (3) and (i), any person may submit written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy.

The Compliance Policy Guide and all comments will be available for public examination at the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Comments will be considered in determining if the Compliance Policy Guide requires further revision, now or in the future. However, the agency will not defer regulatory action, if needed, pending any such revision.

Dated: August 4, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–17955 Filed 8–8–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BERC–377–PN]

Medicare Program; Medicare Economic Index

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice proposes to revise the Medicare economic index (MEI) to reflect a more accurate representation of changes in physicians' office space expenses. Since the MEI is cumulative, we would recompute the index base to its beginnings in calendar year 1971, in order to ensure that the index values for prospectively affected periods are accurately calibrated.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on September 25, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–377–PNC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC–377–PNC. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Bernard Patashnik, (301) 597–1334.

SUPPLEMENTARY INFORMATION:

I. Background

Payment under Medicare Part B for a physician's service is based on a reasonable charge which may not exceed the lowest of: (1) The physician's actual charge for the service, (2) his or her customary charge for that service, or (3) the prevailing charges of physicians for similar services in the locality. The prevailing charge for a service, before adjustment by the MEI, is calculated at the 75th percentile of physicians' customary charges. Section 1842(b)(3) of the Social Security Act and our regulations at 42 CFR 405.504 require that the prevailing charge for a physician service in a locality not exceed the level in effect for that service in the locality on June 30, 1973, except to the extent justified on the basis of appropriate indicators of economic change.

To accomplish this, we have established a MEI for the purpose of determining prevailing charge levels. The basis for this index is set forth in § 405.504(a)(3). The index is comprised of two components: one measuring changes in general earnings levels (attributable to factors other than changes in productivity) and the other measuring changes in expenses of the kind incurred by physicians in the practice of medicine. The physician practice expense portion is currently composed of six components: (1) Salaries and wages; (2) office space; (3) drugs and supplies; (4) automobile expense; (5) malpractice insurance premiums; and (6) all other, miscellaneous expenses.

Before enactment of the Deficit Reduction Act (DRA) of 1984 (Pub. L. 98–369), section 1842(b) of the Social Security Act (the Act) provided that the prevailing charge levels that are used to determine the Part B reasonable charges of physicians and suppliers must be updated at the beginning of each 12-month period beginning July 1 (commonly called the fee screen year, or FSY) to reflect charges for the calendar year preceding the update. However, section 2306(a) of the DRA provided that during the 15-month period beginning July 1, 1984 and ending September 30, 1985, the prevailing charge and customary charge levels for physician services must be limited to the levels set or recognized for the 12-month period beginning July 1, 1983. Section 2306(b) of the DRA, amended section 1842(b) to provide that the FSY update occur on October 1, 1985 instead of July 1, 1985, and on October 1 of all subsequent years, to reflect the actual charges for the April 1 through March 31 period preceding the update.

Subsequent legislation, including the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. 99–272), extended the 15-month freeze through April 30, 1986 for participating physicians, and through December 31, 1986 for physicians that do not participate in the Medicare program. COBRA also made other changes in the way Medicare pays for physicians' services. It provided that: (a) The preliminary charges for participating physicians' services, determined in accordance with the MEI that was published in the **Federal Register** on September 30, 1985, be increased by one percent during the May 1, 1986 through December 31, 1986 period; (b) beginning with January 1, 1987 prevailing charges for participating physicians be updated on January 1 of each year, to reflect the charges for the July 1 through June 30 period preceding the update; and (c) beginning with January 1, 1987, prevailing charges for nonparticipating physicians be updated on January 1 of each year to the level of the prevailing charges that were applicable to participating physicians' services in the preceding year. Accordingly, FSY 1987 will begin on January 1, 1987, and future FSYs will begin on each subsequent January 1.

II. Calculating the Medicare Economic Index

The Senate Finance Committee Report on Pub. L. 92–603 (1972 Amendments to the Social Security Act) explained that the MEI is intended to reflect inflationary trends accurately. See, generally, Senate Report No. 92–1230, 92 Cong. 2d Session (1972), pages 190–194. To obtain information on income and expenses, HCFA has in the past contracted for a national survey of 5,000 physicians. For the index that was published in the **Federal Register** on September 30, 1985 (50 FR 39941) we used an analysis of the data that

showed that the expenses of medical practice for self-employed physicians account for approximately 40 percent of the gross income of practice, and net income accounts for approximately 60 percent of gross income. We verified that the estimated physician practice expenses are approximately 40 percent of the gross income of practice with data from other sources.

Based on analysis of the data, we also calculated weights for each type of practice expense by determining the ratio of the expense of each element to total practice expenses. For example, the salaries and wages element (based on the Bureau of Labor Statistics' index of the hourly earnings of non-supervisory personnel in finance, insurance and real estate) account for 47 percent of all the practice expenses of a self-employed physician. The survey was based on a national probability sample of physicians, and the results are representative of the distribution of physicians in the United States.

III. The Medicare Economic Index is Overstated

The first MEI that was published in the **Federal Register** on June 16, 1975, and all subsequent MEIs have been overstated because of the use of inappropriate data in measuring changes in physicians' office space expenses and miscellaneous expenses. The Housing component of the Bureau of Labor Statistics' (BLS) Consumer Price Index-W Series for Urban Wage Earners and Clerical Workers (CPI–W) has been used as the proxy for physicians' office space expenses. The entire CPI–W (All Items) which include and is, therefore, affected by the Housing component, has been used as a proxy for physicians' miscellaneous practice expenses in calculating the MEI.

In January 1983, the Bureau of Labor Statistics introduced a change in the homeownership subcomponent of the Housing component of the CPI for All Urban Consumers (CPI–U). Beginning with that month, the homeownership subcomponent has reflected changes in a measure of rental equivalence rather than in the asset value of housing (that is, in house prices, mortgage rates, insurance, etc.) The CPI–W was similarly revised in January 1985.

The rental equivalence approach is intended to measure changes in "implicit rent"; that is, in the rental income the owners of housing units forego when they occupy housing themselves instead of renting it out. The Housing component of the CPI (both U and W series) therefore no longer reflects changes in house prices and mortgage rates. In addition, the Housing component that reflects rental equivalence is more appropriate for MEI purposes, since the average physician's office space expenses are not directly affected by current changes in house prices and interest rates.

IV. Proposed Recomputation of the Medicare Economic Index

A. Proposed Recomputation

The MEI for a given period is established by determining the appropriate increase over the index value for a prior period. It is, therefore, a cumulative index whose values are affected by previous MEI calculations. Thus, there is a need to restate the MEIs for past periods using more appropriate data, as well as to ensure the use of appropriate data for the future. It is appropriate to calculate future MEIs to reflect the more accurate CPI proxies for physicians' office space and miscellaneous expenses by using the revised Housing component of the CPI and the revised CPI (All Items). However, the previous MEI calculations will need to be restated as explained above.

The use of the most accurate and appropriate data available is implicit in any statutory provision such as the fourth sentence of section 1842(b)(3) of the Medicare law, which permits increases above carrier prevailing charge levels for the year ending June 30, 1973 only on the basis of appropriate economic index data that justify the increases. It is also consistent with Medicare's practice of computing each new MEI on the basis of the previous MEI, restated to reflect BLS and other data that have become available since the previous index was published.

We, therefore, propose that the MEI be revised to reflect physicians' office space expenses and miscellaneous expenses more accurately.

B. Data To Be Used

The data to be used for this purpose will be derived, in part, from a CPI–U–XI series, which was one of several measures BLS developed to demonstrate the effect different homeownership concepts and techniques could have on the CPI–U. In the CPI–U–XI series, the CIP–U homeownership subcomponents of the Housing component, that reflected homeownership expenses (house prices, mortgage interest, property taxes, and insurance, maintenance and repairs) were replaced by a single measure of change that reflected the price movement of the U.S. residential rent index (a BLS index that measures changes in residential rents).

The CPI–U–XI series, based on this "rent substitution" technique, is the direct antecedent of the rental equivalence method BLS has adopted. A similar experimental version of the CIP–W was not created by BLS, and is, therefore, not available for use in the MEI. The BLS discontinued the experimental CPI–U–XI series in 1983, since it had served its purpose and had been replaced by the use of rental equivalence in the CPI–U.

We propose that all previous MEI calculations be restated using the rates of change in (a) the U.S. residential rent index as the MEI proxy for physicians' office space expenses and the CPI–U–XI (All Items) as the MEI proxy for physicians' miscellaneous expenses for periods before the CPI–U reflected rental equivalence, and (b) the Housing component of the CPI–U and the CPI–U (All Items) for subsequent periods. We also propose that the rates of change in the Housing component of the CPI–U and in the CPI–U (All Items) be used in subsequent MEI calculations.

It should be noted that although the CPI–U–XI rose more slowly than the CPI–U from mid-1977 until mid-1982 (when interest rates were rising rapidly), it rose more rapidly than the CPI–U beginning in mid-1982. Thus, the change to use of a measure of rental equivalence may have the effect of increasing or decreasing the MEI calculation for any given period, in comparison with what the calculation would have been if the former measure of homeownership costs had been retained.

Table I illustrates how the revised index methodology would have affected the MEI that was published in the **Federal Register** on September 30, 1985 (50 FR 39941), and the previous MEIs. Lines 2 and 5 on tables II and III illustrate how the information in Tables A and B in the MEI notice that was published in the **Federal Register** on September 30, 1985 would be changed under the proposed revised index methodology.

Based upon the revised methodology, we expect that the cumulative MEI will be about 2 percent lower than what it would have been at the time of the next prevailing charge update. The actual effect of this reduciton on physician prevailing charges is mitigated by section 9301 of Pub. L. 99–272, which moved the MEI update from October 1, 1986 to January 1, 1987 and every January thereafter. The movement of the update from October 1, 1986 to January 1, 1987 will result in an MEI update based on 15 months of inflation rather than on 12 months of inflation. The

additional three months of inflation will partially offset the reduction in the MEI due to the revised methodology. As a result, we expect both the participating and non-participating physicians' prevailing charge levels will increase on January 1, 1987. The actual MEI for FSY 1987 (beginning January 1, 1987) will be calculated later this year based on the most recent data available at the time, and it will then be published in the Federal Register.

TABLE I.—EFFECT OF THE USE OF CPI RENTAL AND RENTAL EQUIVALENCE DATA

	Fee screen year—										
	1976	1977	1978	1979	1980	1981	1982	1983	1984 [1]	1985 [2]	1986 [1]
Actual MEIs published in Federal Register	1.179	1.276	1.357	1.426	1.533	1.659	1.790	1.948	2.063	(2)	2.126
Proposed MEI recalculations [3]	1.173	1.250	1.321	1.397	1.494	1.618	1.755	1.909	2.014	(2)	2.080

[1] Pursuant to Pub. L. 98-369 and subsequent legislation, the prevailing charges that were determined on the basis of the MEI for FSY 1984 were in effect for the period from July 1, 1983 through April 30, 1986 for participating physicians' services, and will remain in effect through December 31, 1986 for non-participating physicians' services.

[2] Not used.

[3] The proposed MEI recalculations would be used only in calculating the MEI for the year beginning on January 1, 1987 and for subsequent years. Medicare prevailing charge calculations for prior periods will not be retroactively revised.

BILLING CODE 4120-01-M

VOL 51 ISS 154 AG 11 1986 UMI

Table II.--COMPONENT VALUES OF THE ECONOMIC INDEX

			1971 Base Value	1974 Value	1975 Value	1976 Value	1977 Value	1978 Value	1979 Value	1980 Value	1981 Value	1982 Value	1984[1/] Value	1985[1/] Value
1.	Hourly earnings of nonsupervisory workers in finance, insurance, and real estate		3.22	3.77	4.06	4.27	4.54	4.89	5.27	5.79	6.31	6.78	7.38	7.70
2.	Housing component of the consumer price index	(As published in Federal Register on 9-30-85)	123.4	148.8	164.5	174.6	186.5	202.6	227.5	263.2	293.2	314.7	323.5	332.5
		(Revised values based on proposed NEI methodology)	157.7	178.7	188.0	198.2	210.1	224.5	240.9	262.3	285.0	306.7	326.2	339.7
3.	Private transportation component of the consumer price index		116.6	136.6	149.8	164.5	176.6	185.3	212.9	250.1	279.4	290.1	300.7	312.2

1/ Represents the 12-month period ending March 31 of the year indicated.

			1971 Base Value	1974 Value	1975 Value	1976 Value	1977 Value	1978 Value	1979 Value	1980 Value	1981 Value	1982 Value	1984[1/] Value	1985[1/] Value
4.	Drugs and pharmaceutical component of the producer price index		102.4	112.7	126.6	134.0	140.5	148.1	159.4	174.5	193.5	210.1	229.5	243.9
5.	All other, miscellaneous, expenses (tied to the entire consumer price index)	(As published in Federal Register on 9-30-85)	121.3	147.7	161.2	170.5	181.5	195.3	217.7	247.0	272.3	288.6	300.0	310.3
		(Revised values based on proposed MEI methodology)	129.1	155.6	168.4	178.0	189.3	202.3	221.7	246.5	270.0	286.6	301.7	313.9
6.	Premiums for malpractice insurance		-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
7.	Average weekly earnings of production and nonsupervisory workers		127.31	154.76	163.53	175.45	189.00	203.70	219.91	235.10	255.20	266.92	284.47	295.52
8.	Index of output per man-hour of employed nonfarm worker		89.7	92.9	94.8	97.8	100.0	100.6	99.0	98.3	99.8	100.0	104.3	106.5

1/ Represents the 12-month period ending March 31 of the year indicated.

Table III.--INCREASE VALUES OF THE COMPONENTS OF THE ECONOMIC INDEX

			Ratio[1/] of 1974 Values to 1971 Values	Ratio[2/] of 1975 Values to 1974 Values	Ratio[3/] of 1976 Values to 1975 Values	Ratio[3/] of 1977 Values to 1976 Values	Ratio[3/] of 1978 Values to 1977 Values	Ratio[4/] of 1979 Values to 1978 Values
1.	Hourly earnings of nonsupervisory workers in finance, insurance, and real estate		1.1708	1.0769	1.0517	1.0632	1.0771	1.0777
2.	Housing component of the consumer price index	(As published in Federal Register on 9-30-85)	1.2058	1.1055	1.0614	1.0682	1.0863	1.1229
		(Revised values based on proposed MEI methodology)	1.1337	1.0518	1.0541	1.0602	1.0686	1.0732
3.	Private transportation component of the consumer price index		1.1715	1.0966	1.0981	1.0736	1.0493	1.1489

1/ The weights, excluding the malpractice component, were derived from Medical Economics (November 20, 1972) and Profile of Medical Practice (1974 Edition). The values are 0.37, 0.14, 0.06, 0.09, and 0.34 for components one through five, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

2/ The weights, including the malpractice component, were derived from Medical Economics (December 8, 1975) and Profile of Medical Practice (1974 Edition). The values are 0.37, 0.15, 0.07, 0.09, 0.28 and 0.04 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

3/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1977. The values are 0.43, 0.10, 0.05, 0.08, 0.27, and 0.07 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

4/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1980. The values are 0.44, 0.22, 0.06, 0.11, 0.04, 0.13 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

			Ratio[2/] of 1974 Values to 1971 Values	Ratio[2/] of 1975 Values to 1974 Values	Ratio[3/] of 1976 Values to 1975 Values	Ratio[3/] of 1977 Values to 1976 Values	Ratio[3/] of 1978 Values to 1977 Values	Ratio[4/] of 1979 Values to 1978 Values
4.	Drugs and pharmaceutical component of the producer price index		1.1006	1.1253	1.0585	1.0485	1.0541	1.0763
5.	All other, miscellaneous, expenses (tied to the entire consumer price index)	(As published in Federal Register on 9-30-85)	1.2176	1.0914	1.0577	1.0645	1.0760	1.1147
		(Revised values based on proposed MEI methodology)	1.2057	1.0821	1.0574	1.0633	1.0684	1.0961
6.	Premiums for malpractice insurance[5/]		------	1.84	1.417	1.103	1.0085	.9210

2/ The weights, including the malpractice component, were derived from Medical Economics (December 8, 1975) and Profile of Medical Practice (1974 Edition). The values are 0.37, 0.15, 0.07, 0.09, 0.28 and 0.04 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

3/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1977. The values are 0.43, 0.10, 0.05, 0.08, 0.27, and 0.07 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

4/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1980. The values are 0.44, 0.22, 0.06, 0.11, 0.04, 0.13 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

5/ Derived from a survey of several major insurers.

		Ratio[2/] of 1972 Values to 1971 Values	Ratio[2/] of 1975 Values to 1974 Values	Ratio[3/] of 1976 Values to 1975 Values	Ratio[3/] of 1977 Values to 1976 Values	Ratio[3/] of 1978 Values to 1977 Values	Ratio[4/] of 1979 Values to 1978 Values
7.	Average weekly earnings of production and nonsupervisory workers	1.2156	1.0567	1.0729	1.0772	1.0778	1.0796
8.	Index of output per man-hour of employed nonfarm workers	1.0357	1.0205	1.0316	1.0225	1.0060	.9841
9.	Change in average weekly earnings net of change in output per man-hour	1.1737	1.0355	1.0400	1.0535	1.0714	1.0970

2/ The weights, including the malpractice component, were derived from Medical Economics (December 8, 1975) and Profile of Medical Practice (1974 Edition). The values are 0.37, 0.15, 0.07, 0.09, 0.28 and 0.04 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

3/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1977. The values are 0.43, 0.10, 0.05, 0.08, 0.27, and 0.07 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

4/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1980. The values are 0.44, 0.22, 0.06, 0.11, 0.04, 0.13 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

Table IIIa.--INCREASE VALUE OF THE COMPONENTS OF THE ECONOMIC INDEX

			Ratio[1/] of 1980 Values to 1979 Values	Ratio[2/] of 1981 Values to 1980 Values	Ratio[2/] of 1982 Values to 1981 Values	Ratio[2/] of 1985 Values to 1984 Values
1.	Hourly earnings of nonsupervisory workers in finance, insurance, and real estate		1.0987	1.0898	1.0745	1.0434
2.	Housing component of the consumer price index	(As published in Federal Register on 9-30-85)	1.1569	1.1140	1.0733	1.0278
		(Revised values based on proposed MEI methodology)	1.0885	1.0866	1.0762	1.0414
3.	Private transportation component of the consumer price index		1.1747	1.1172	1.0383	1.0382
4.	Drugs and pharmaceutical component of the producer price index		1.0947	1.1089	1.0858	1.0627
5.	All other, miscellaneous, expenses (tied to the entire consumer price index)	(As published in Federal Register on 9-30-85)	1.1346	1.1024	1.0599	1.0343
		(Revised values based on proposed MEI methodology)	1.1118	1.0953	1.0615	1.0404
6.	Premiums for malpractice insurance[3/]		1.0526	1.2357	1.1481	1.1627

1/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1981. The values are 0.43, 0.25, 0.07, 0.10, 0.04, 0.11 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

2/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1982. The values are 0.47, 0.23, 0.07, 0.09, 0.04, 0.10 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

3/ Derived from a survey of several major insurers.

		Ratio[1/] of 1980 Values to 1979 Values	Ratio[2/] of 1981 Values to 1980 Values	Ratio[2/] of 1982 Values to 1981 Values	Ratio[2/] of 1985 Values to 1984 Values
7.	Average weekly earnings of production and nonsupervisory workers	1.0691	1.0855	1.0459	1.0388
8.	Index of output per man-hour of employed nonfarm workers	.9929	1.0153	1.0020	1.0211
9.	Change in average weekly earnings net of change in output per man-hour	1.0767	1.0691	1.0438	1.0173

1/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1981. The values are 0.43, 0.25, 0.07, 0.10, 0.04, 0.11 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earnings was used.

2/ The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1982. The values are 0.47, 0.23, 0.07, 0.09, 0.04, 0.10 for components one through six, respectively. In addition to the above weights, a 40-60% breakdown of gross income between office practice costs and physicians' earings was used.

BILLING CODE 4120-01-C

V. Regulatory Impact Analysis

A. Introduction

Executive Order (EO) 12291 requires us to prepare and publish an initial regulatory impact analysis for proposed notices such as this if the implementation of the notice would meet the criteria of a "major rule". A notice would be considered a major rule if its implementation would be likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we prepare and publish an initial regulatory flexibility analysis, consistent with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 through 612), for proposed notices such as this unless the Secretary certifies that implementation of the notice would not have a significant economic impact on a substantial number of small entities. We treat all physicians as small entities for purposes of the RFA, and this notice therefore clearly would affect a substantial number of small entities. However, it is our practice not to consider an economic impact on small entities to be significant unless their annual total costs or revenues would be increased or decreased by at least 3 percent.

This restatement of the historically-based level of the economic index would result in substantial spending reductions by the Medicare program compared to the Part B expenditures we project would occur absent this change. We estimate that savings over the next five fiscal years (FYs) would be as follows:

	Savings
Fiscal year:	
1987	$28,000,000
1988	210,000,000
1989	320,000,000
1990	375,000,000
1991	425,000,000

Clearly, this would exceed the $100 million threshold established by E.O. 12291. Therefore, this proposed notice is a major rule and an initial regulatory impact analysis is required. However, FY 1987 cash benefit payments for the physicians' services to which the economic index applies are estimated to be nearly $20 billion. The annual savings are less than 2 percent; therefore, there would not be a significant impact on physicians.

The potential impact on physicians should be viewed in terms of the proportion of their gross incomes that they derive from Medicare, and the estimated magnitude of the impact the proposed change in the methodology will have on the MEI itself. It has been estimated that in 1981, Medicare accounted for 17 percent of all physicians' total gross incomes. It is unlikely that these proportions have changed very drastically since 1981. A physician could suffer an equivalent reduction in his potential total gross income only if: (a) All of the increase were "lost" because of the proposed change in the MEI methodology; and (b) the physician accepted assignment for all claims and derived all income solely from Medicare. This combination of factors is unlikely to occur for the vast majority of physicians.

The relative impact on the average annual income of physicians would not approach 3 percent per year. Therefore, we have determined, and the Secretary certifies, that this proposed change in the way in which the MEI is calculated would not have a significant economic impact on a substantial number of small entities. Accordingly, the following discussion, in combination with the other sections of this notice, constitutes an initial regulatory impact analysis, but is not an initial regulatory flexibility analysis.

B. Expected Outcomes

Most of the approximately 400,00 active non-Federal physicians treat some Medicare patients. Pediatricians and some other specialists treat relatively few, because their patient populations are drawn primarily from groups unlikely to be eligible for Medicare benefits. Certain other specialists, such as specialists in geriatric medicine, receive a large portion of their income for services furnished to Medicare beneficiaries.

There is no simple way to estimate the percentage of physicians whose charges are above prevailing charge levels. There are approximately 7,500 procedure codes in the payment system under which physicians can bill for services. A physician's charge may be above the prevailing charge level for some services and below it for others. For this reason, analyses have focused on the percentage of program payments determined by prevailing charges. According to Congressional Budget Office estimates, in 1984, for the country as a whole, 55 percent of reasonable charges were determined by prevailing charges. In a recent Office of Technology Assessment report, data from a study of Medicare payments in South Carolina in 1983 were reported. According to this study, 43.2 percent of approved charges for all specialities combined were determined by adjusted prevailing charges. This percentage varied with respect to individual specialties from 14.6 percent for ophthalmology to 59 percent for family practice.

Some physicians will therefore be impacted by the proposed change in the MEI method to a greater extent than others. Physicians who accept assignments of Medicare benefits and physicians who furnish services that are heavily utilized by Medicare beneficiaries will be more affected than others.

Although the projected Medicare savings represent monies that would otherwise have been paid for physicians' services, we do not expect individual physicians to experience, in comparision with proper periods, a decline in payments per service, or a reduction in total revenue solely because of the change in the MEI calculation method. Rather, we expect that the change will limit increases in the Medicare prevailing charges for FSY 1986 above the levels permitted by the MEI for fiscal year 1986.

The magnitude of the change on individual prevailing charges actually will be quite small, as is illustrated by Table I. The reduction in the MEI increase may affect the decisions of some physicians as to whether to particiapte or accept assignment on an individual case basis. Thus, there may be some effects on the out-of-procket expenses of beneficiaries who become liable for charges in excess of the Medicare program payment when there is no assignment. However, beneficiaries generally would be advantaged by this change whenever the physician accepts assignment, since this revision of the MEI would, in those cases, also limit the rate of increase of coinsurance liability.

C. Conclusion

As discussed above, we believe that any adverse impact resulting from this proposal would be widely dispersed. In any additional case, the effect of the proposed correction of the MEI would be relatively small. On the other hand, because the volume of services and aggregate program expenditures affected are large, the savings to the

Medicare program are substantial. We have concluded that to fail to correct the overstatement of the MEI would result in an indefinite continuation of unjustifiably high expenditures. Thus, our fiduciary responsibility for the Part B Trust fund requires us to propose this change. Further, since the MEI is used in conformance with a statutory requirement we have an obligation to calculate and use the MEI as correctly as possible.

VI. Paperwork Reduction Act of 1980

This proposed notice contains no information collection requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 301 et seq.).

VII. Response to Comments

Because of the large number of comments we receive on proposed notices, we cannot acknowledge or respond to them individually. However, we will consider all coments and respond to them when we issue the Medicare economic index later this year.

(Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u); 42 C.F.R. 405.504)

(Catalog of Federal Domestic Assistance, Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 19, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 29, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-17809 Filed 8-8-86; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Application Announcement for Advanced Nurse Education Grants, Nurse Practitioner and Nurse Midwifery Grants, and Nursing Special Project Grants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for the following nursing programs will be accepted in Fiscal Year 1987 and invites comments on proposed special considerations:

(1) Advanced Nurse Education Grants

(2) Nurse Practitioner and Nurse Midwifery Grants

(3) Nursing Special Project Grants

The Nurse Education Amendments of 1985 (Pub. L. 99-92) amends and extends sections 821, 822(a) and 820, and, further, the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) amends sections (820(d), 821(a), and 822(a), Title VIII, of the Public Health Service Act.

Funding is available for Fiscal Year 1986, but the Administration's budget request for Fiscal Year 1987 does not include funding for these programs.

Advanced Nurse Education Grants

Section 821 of the Public Health Service Act, and 42 CFR Part 57, Subpart Z, authorize assistance to meet the costs of projects to (a) plan, develop and operate, (b) expand, or (c) maintain programs which lead to masters' and doctoral degrees and which prepare nurses to serve as nurse educators, administrators, or researchers or to serve in clinical nurse specialties determined by the Secretary to require advanced education.

Section 821(a), as amended by Pub. L. 99-129, requires that the Secretary shall give priority in geriatric and gerentological nursing.

Eligible Applicants: Public and nonprofit private collegiate schools of nursing.

This program is listed at 13.299 in the Catalog of Federal Domestic Assistance.

Nurse Practitioner and Nurse Midwifery Grants

Section 822(a), of the Public Health Service Act, and 42 CFR Part 57, Subpart Y, authorize assistance to plan, develop and operate, expand or maintain programs for the education of nurse practitioners and nurse midwives.

In accordance with the statute, the Secretary will give special consideration to applications for grants for programs for the training of nurse practitioners and nurse midwives who will practice in health manpower shortage areas (designated under section 332) and for programs for the education of nurse practitioners which emphasize education with respect to the special problems of geriatric patients (particularly problems in the delivery of preventive care, acute and long-term care; including home health care and institutional care to such patients) and education to meet the particular needs of nursing home patients and patients who are confined to their homes.

Eligible Applicants: Public or nonprofit private schools of nursing, and public health, public or nonprofit private schools of medicine which received grants or contracts prior to October 1, 1985, or public or nonprofit private hospitals and other public or nonprofit private entities.

This program is listed at 13.298 in the Catalog of Federal Domestic Assistance.

Nursing Special Project Grants

Section 820 of the Public Health Service Act, and 42 CFR Part 57, Subpart T, authorize assistance in meeting the costs of special projects to carry out the following designated purposes:

(1) To increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary of Health and Human Services, by:

(A) Identifying, recruiting, and selecting such individuals,

(B) Facilitating the entry of such individuals into schools of nursing,

(C) Providing counseling or other services designed to assist such individuals to complete successfully their nursing education,

(D) Providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

(E) Paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education, and

(F) Publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

(2) To provide continuing education for nurses;

(3) To provide appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire again actively to engage in the nursing profession;

(4) To demonstrate improved geriatric training in preventive care, acute care and long term care (including home health care and institutional care);

(5) To help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel (including nursing personnel who are bilingual) needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care; or

(6) To provide training and education to upgrade the skills of licensed vocational practical or vocational nurses, nursing assistants, and other paraprofessional nursing personnel.

Under Pub. L. 99-92, funds appropriated for special project grants

are earmarked as follows: 20 percent for projects to increase education opportunities for individuals from disadvantaged backgrounds (which may include stipends) (Purpose 1); 20 percent to demonstrate improved geriatric training (Purpose 4); and 10 percent to help increase the supply or improve the distribution by geographic area or by specialty groups of adequately trained nursing personnel (Purpose 5). The remaining 50 percent of appropriated funds are for Purposes (2), (3) and (6).

Eligible Applicants: Public or nonprofit private schools of nursing or other public or nonprofit private entities.

This program is listed at 13.359 in the Catalog of Federal Domestic Assistance.

Application Deadlines

Three review cycles are held annually for Advanced Nurse Education Grants, Nurse Practitioner and Nurse Midwifery Grants, and Nursing Special Project Grants. The application deadline dates are November 1, March 1 and July 1.

Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline date, and received in time for submission to the independent review group.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

The standard application form and specific instructions for each of the above grant programs have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

For specific guidelines and information regarding these programs, contact:

Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 5C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5786.

Questions regarding grants policy should be directed to:

Grants Management Officer, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915.

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Proposed Special Considerations

Special considerations are proposed for a 30-day public comment period, as follows:

For *Advanced Nurse Education Grants* and for *Nurse Practitioner and Nurse Midwifery Grants*. Those applicants that indicate a clear, financial need, plan to sustain programs beyond the period during which Federal assistance is available, and have either a 3-year average enrollment of minority students in graduate nursing education in excess of the national average or have proposed new projects aimed at attracting minority students will receive special consideration. The current national average of graduate minority students in nursing is four percent.

Under *Special Project Grants*. Special consideration will be given to those projects under Purpose 1 (to increase nursing education opportunities for individuals from disadvantaged backgrounds) that propose to use at least 20 percent of grant funding as stipends given directly to nursing students.

Special consideration will be given to special projects under Purposes 1 through 6 that plan to continue beyond the period in which Federal funding is available and meet a clear, financial need.

Interested persons are invited to comment on the proposed special considerations. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1987 award cycle, this comment period has been reduced to 30 days. All comments received on or before September 10, 1986 will be considered before final special considerations are established. No funds will be allocated or final selections made until a final notice is published indicating the special considerations to be applied.

Written comments should be addressed to:

Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Rm. 5C–26, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: August 4, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–17954 Filed 8–8–86; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute on October 23–24, 1986 at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 3, Bethesda, Maryland 20892.

The entire meeting, from 8:30 a.m. on October 23 to adjournment on October 24 will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases' programs and Committee plans for fiscal year 1988. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21 National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–17961 Filed 8–8–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Prevention and Control, Cancer Control Science Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Control Science Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, August 21.

1986, Building 31, Conference Room 2, 9000 Rockville Pika, Bethesda, Maryland 20892. The entire meeting will be open to the public from 9:00 a.m. to adjournment, and the current and future programs of the Cancer Control Science Program will be discussed. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708), will provide summaries of meetings and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, Blair Building, Room 1A07, Bethesda, Maryland 20892, (301/427–8630) will furnish substantive program information.

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–17959 Filed 8–8–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; NCI Thyroid/Iodine–131 Assessments Committee, Division of Cancer Etiology; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the NCI Thyroid/Iodine-131 Assessments Committee, Division of Cancer Etiology on September 29–30, 1986, Building 31, A Wing, Conference Room 3, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting will be open to the public from 9:00 a.m.–5:00 p.m. both days. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708), will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the NCI Thyroid/Iodine-131 Assessments Committee, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6027) will furnish substantive program information.

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–17960 Filed 8–8–86; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Village of Minto Liquor Ordinance

July 22, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Village of Minto, Alaska is publishing a notice to inform the public of the adoption of a Liquor ordinance. The ordinance provides for a complete prohibition over the possession, use and distribution of alcohol within the Indian country under the jurisdiction of the Native Village of Minto. The Native Village of Minto has adopted this ordinance as a deterrent to criminal actions, accidental deaths and to promote the safety of its citizens.

EFFECTIVE DATE: This notice is effective August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Hazel E. Elbert, Deputy to the Assistant Secretary—Indian Affairs (Tribal Services), Room 4600, Bureau of Indian Affairs, 18th and C Streets, Washington, DC 20245, telephone (202) 343–2111.

SUPPLEMENTARY INFORMATION: In 1980, Alaska enacted a State local option law which authorized villages to conduct a local referendum on restricting alcohol (AS 04.11, 400–504, Ch 131 S.L.A., 1980). In July 1983, Minto voted in favor of a local option to ban importation of alcohol into the village. Generally, the village has found the local option to be a failure because State laws do not adequately address violations, therefore, the village is taking steps to control alcohol through its tribal system. It is expected the tribal system contemplated in the ordinance will meet with more success in dealing with alcohol related problems.

Native Village of Minto, Alaska; Ordinance Prohibiting the Introduction, Use Sale, and Distribution of Alcohol

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Minto Liquor Ordinance was duly adopted by the Village Council of Minto on February 14, 1985. The instant ordinance provides for the complete prohibition of alcohol within areas of Indian country under the jurisdiction of the Native Village of Minto. The ordinance reads as follows:

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

Code of Village Regulations, Minto, Alaska

Chapter 100—Definitions and Scope

10.01 *Enabling Action:* Pursuant to the authority granted to the Village Council under Article IV of the Bylaws of the Village of Minto, the Village Council enacts the following to the code of village regulations.

10.05 *Village Regulations, Purpose:* To set forth a code of village regulations that will govern the conduct of the people within the boundaries of the Minto Village so that no infringement will be made upon individual rights or the peace and dignity of the people, the village, and State of Alaska.

10.10 *Village Regulations:* Are the rules that all persons shall obey when within the boundaries of the Minto Village and Corporation land. Regulations shall be enacted by the council to protect the life, property, and welfare of the people and village. New rules may be enacted to the regulations by the council as the need arises.

10.15 *Minto Village Boundaries:* The boundaries of the Minto Village shall include all lands within the exterior boundary of lands selected under the Alaska Native Claims Settlement Act by Minto Village.

10.20 *Village Council:* For the purpose of these regulations, the village council shall mean the council members as provided under Article III of the Bylaws of the Village of Minto.

10.30 *Village Member:* A village member shall be as defined under Article II of the Bylaws of the Village of Minto and shall include all stockholders of the Minto Native Corporation. For purposes of law enforcement, a person need not reside in Minto.

10.40 *Village VPSO:* For the purposes of these regulations, the Village Public Safety Officer shall be a person appointed or so designated by the village council, and shall serve at the pleasure of the Council.

10.50 *Dry Village:* A dry village shall mean that no alcoholic beverages shall be transported to, sold or consumed by any person or persons within the boundaries of the Minto Village Corporation Land.

10.55 *Alcohol, or Intoxicating Beverages:* Shall include all forms of

alcohol or intoxicating beverages which are manufactured, sold, and commonly used for human consumption.

10.60 *Hallucinogenic Drugs and Substances:* Shall include all those drugs and substance which are illegal under state and federal laws.

10.65 *Possession:* Possession shall mean on his person, under his control, or on his property. It shall also mean on her person, under her control, or on her property.

10.70 *Weapons:* Weapons shall mean all rifles, shotguns, hand guns, knives, and bow and arrows, or any other instruments that are dangerous when used against or to the disavantage of any person or persons.

10.75 *Surface Vehicles:* Surface vehicles shall include all motor vehicles driven within the boundaries of the Minto Village Corporation Land.

10.80 *Speed:* Speed shall mean the rate of motion of any surface motordriven vehicle within the boundaries of the Minto Village Corporation Land.

10.85 *Summer Months:* Shall be from the last day of school in the Spring to the first day of school in the Fall.

10.90 *Minors:* Shall include all persons under the age of eighteen (18).

Code of Village Regulations, Minto, Alaska

Chapter 20—Liquor Control

Purpose of this regulation is to provide for a dry village as clearly mandated by the people in the form of a petition against the drug and alcohol abuse and the resulting disorder and problems which occur as a direct result of such abuse.

20.01 *Regulation:* No person or persons will transport to, or cause to be transported to the Village of Minto, intoxicating liquor for the purpose of selling or consuming such intoxicating liquor within the boundaries of the Minto Village.

20.05 *Possession:* No person or persons will possess by consumption or otherwise intoxicating liquor within the boundaries of the Minto Village.

20.10 *Complaint and Enforcement:* This chapter shall be enforced by the Minto Village Court system as a civil matter under section 90.20 of this Code. In addition, to village enforcement of this chapter, a person unlawfully introduces, possesses and/or sells intoxicating beverages contrary to the 18 U.S.C. 1161 (or any subsequently enacted law relating to State regulation of intoxicating beverages in Indian country) by: (a) Introducing, selling or possessing intoxicating beverages within the Indian country of the Village of Minto contrary to this chapter, and (b) such a determination is found pursuant to the tribal judicial code, and (c) said person fails to comply with a duly entered tribal court order. The Village Court System of Minto is hereby authorized to request federal enforcement of 18 U.S.C. 1161 (or any subsequently enacted federal regulation of intoxicating beverages in Indian country) in the event that this section is violated.

Certification

I, */s/ Carlos Frank, Sr.* Chief of the Native Village of Minto hereby certify that on *2-14-85*, the Minto Village Council adopted the above Code of Village Regulations.

/s/ Carlos Frank, Sr.,

Chief.

ATTEST: /s/ Norma L. Charli,

Secretary.

[FR Doc. 86-17965 Filed 8-8-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CA-940-06-4212-13; CA 15566]

California; Exchange of Public and Private Lands in Riverside County and Opening Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire non-Federal land for use in Federal programs. It will provide improved and more efficient management of Federal land. The exchange was consistent with the Bureau's land management plans. The public interest was well served through completion of this exchange. The land acquired in this exchange will be open to the operation of the public land laws and to the full operation of the United States mining laws and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT. Viola Andrade, California State Office, (916) 978-4815.

The United States issued an exchange conveyance document to DC Land Company on April 3, 1986, under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), for the following described land:

San Bernardino Meridian, California

T. 2 S., R. 3 E.,
Sec. 11, Lot 1.
T. 2 S., R. 4 E.,
Sec. 18, Lots 1 and 2, SE¼NE¼, E½SE¼, S½NW¼SE¼, and SW¼SE¼.

Containing 387.11 acres of public land.

In exchange for these lands, the United States acquired the following described land from the DC Land Company:

San Bernardino Meridian, California

T. 2 S., R. 3 E.,
Sec. 13, W½;
Sec. 14, all.

Containing 960 acres of non-Federal land.

A cash payment in the amount of $ 7,000 has been paid to the United States by the DC Land Company to equalize values between the non-Federal land and the public land.

At 10 a.m. on September 10, 1986, the non-Federal lands described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 10, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on September 10, 1986, the non-Federal lands described above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: August 1, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86-17966 Filed 8-8-86; 8:45 am]

BILLING CODE 4310-40-M

[WY-040-06-4410-8]

Availability of Resource Management Plan Record of Decision and Rangeland Program Summary; Kemmerer Resource Area, Rock Springs District, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Public notice that the Wyoming State Director has approved, in a Record of Decision (ROD), the Resource Management Plan (RMP) and issued the Rangeland Program Summary (RPS) for the Kemmerer Resource Area.

SUMMARY: The approved plan will be implemented on about 1.6 million acres of public land and about 1.8 million acres of Federal mineral estate. The ROD adopted the plan presented in the

final Environmental Impact Statement (EIS). This plan will guide management of the Kemmerer Resource Area.

Location of documents: The ROD and associated draft and final EIS's for the management plan and the RPS are available to the public upon request to: Alan Stein, Team Leader, Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 18902–1869, Phone (307) 382–5350.

Public participation: The public was invited to participate in the planning process during issue identification, development of planning criteria, a 90-day comment period on the draft EIS, two public meetings on the draft EIS, and a 30-day protest period on the final EIS. No protests were received.

SUPPLEMENTARY INFORMATION: Six alternatives were analyzed in the EIS. Each alternative was a complete plan for managing the Resource Area. The alternatives resolved the issues in different ways and emphasized different resource uses.

The approved plan describes the multiple use objectives to be achieved and provides guidance to achieve the objectives. It provides the Area Manager with flexibility to exercise discretion, on a case-by-case basis, to develop mitigation to achieve the objectives of the RMP.

Progress toward accomplishing the objectives of the RMP will be monitored. The plan will be maintained to keep it current. It may be amended or revised if the situation in the Resource Area results in a need to consider changing multiple use objectives.

Hillary A. Oden,

State Director.

[FR Doc. 86–17152 Filed 8–8–86; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Development Operations Coordination Document; Sohio Petroleum Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Sohio Petroleum Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6572, Block 143, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 31, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m. Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated August 4, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–17987 Filed 8–8–86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Temporary Road Closure

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the entire length (12.1 miles) of the Soleduck Road in Olympic National Park, Washington, will be closed to all public vehicular tariffic while the road is being reconstructed. The purposes of such a closure is to expedite construction, reduce construction costs, protect park resources, and provide for visitor safeguards.

DATES: This action is effective as of October 5, 1986 and continues through May 20, 1988.

ADDRESSES: Copies of an Environmental Assessment describing the road reconstruction project are available upon request at the following location:

Superintendent, Olympic National Park, 600 East Park Ave., Port Angeles, Washington 98362.

FOR FURTHER INFORMATION CONTACT: Assistant Superintendent, John Teichert at the address given above; telephone (206) 452–4501, FTS 396–4213.

SUPPLEMENTARY INFORMATION: 36 CFR 1.5(b)

Robert S. Chandler,

Superintendent.

[FR Doc. 86–18032 Filed 8–8–86; 8:45 am]

BILLING CODE 4310-70-M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, September 20, 1986, at 1:00 p.m. at the Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by *Pub. L. 91–664* to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

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Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, DC
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. Ted Troxell, Cumberland, Maryland
Mr. John D. Miller, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, DC
Mr. Barry Passett, Washington, DC
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Mr. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Old and new business
2. Superintendent's report
3. Committee reports; Plans and Projects Committee; Recreation Policies and Issues Committee; Resource Protection Committee
4. Public comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historic Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 1, 1986.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 86-18033 Filed 8-8-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30573]

Soo Line Railroad Co.; Trackage Rights; Chicago and Northwestern Transportation Co.; Exemption

Chicago and Northwestern Transportation Company has agreed to grant overhead trackage rights to Soo Line Railroad Company between milepost 344.1 at Inver Grove and milepost 333.8 at Rosemont, MN. The trackage rights will be effective on July 29, 1986.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: August 1, 1986.

By the Commission, Jane F. Makall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18013 Filed 8-8-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Law Enforcement Training and Technical Assistance Grants

AGENCY: Office for Victims of Crime, Office of Justice Programs, Department of Justice (DOJ).

ACTION: Notice of the availability of funds and request for applications for Law Enforcement Training and Technical Assistance Grants.

SUMMARY: Fiscal Year 1985 and fiscal year 1986 funds are available to provide regionally-based training and technical assistance to local and state law enforcement agencies in methods for responding to incidents of family violence. Office for Victims of Crime (OVC) anticipates that $550,000 will be available.

DATE: Applications for these funds must be received by September 2, 1986.

ADDRESS: Address applications to: The Office for Victims of Crime, National Victims Resource Center, 633 Indiana Avenue, NW., Washington, DC 20531. Attention: John Veen.

FOR FURTHER INFORMATION CONTACT: John Veen (202) 272-8600.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1984, the President signed into law the Child Abuse Amendments of 1984 (Pub. L. 98-457, 42 U.S.C. 10401 et seq.). Title III of these Amendments, entitled the "Family Violence Prevention and Services Act" (the Act), enumerates the agencies' responsibilities, pursuant to section 311 of the Act, "Law Enforcement Training and Technical Assistance Grants and Contracts." To carry out these responsibilities a transfer of funds from the Secretary of Health and Human Services to the Attorney General of the United States is underway.

The overall purposes of the Act are to assist states in efforts to prevent family violence, to provide immediate shelter and related assistance for victims of family violence and their dependents, to provide for technical assistance and training relating to family violence programs for state and local public agencies (including law enforcement agencies), nonprofit organizations, and other appropriate indivdiuals.

Section 311 of the Act provides for regionally-based training and technical assistance to personnel of local and state law enforcement agencies to prepare them with the means for responding to incidents of family violence. The Act states that "applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to improved techniques for responding to incidents of family violence by law enforcement offices" shall be given priority.

This announcement applies only to section 311 of the Act. Also, for the purposes of this program announcement, the term "family violence" means any act or threatened act of violence, including any forceful detention of an individual, which:

a. Results or threatens to result in physical injury; and

b. Is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

Statement of the Problem

The problem of family violence has existed for generations, yet it only recently has it begun to receive any degree of attention. In September 1984,

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the Attorney General's Task Force on Family Violence issued its final report. The report contained a discussion of how a law enforcement agency is usually the first and often the only agency called upon to intervene in family violence incidents, and how, in a large number of law enforcement agencies around the country, calls involving family violence are usually given a low priority because police have traditionally reflected community attitudes which considered violence within the family a private, less serious matter than violence between strangers. It stated that:

> Police dispatchers and emergency call operators, carrying out the community's priorities and law enforcement agency practices, may often give the impression that a family violence call is a nuisance. Accordingly, minimal information is requested from the caller and the dispatcher or emergency call operator assigns it a low dispatch priority. Consequently, intervention by the patrol officer may be slow and inconsistent.

It further stated that:

> Once on the scene, the patrol officer generally focuses on the relationship between the family members rather than the crime committed by the abuser. Officers have been trained to mediate the situation without making an arrest, and, in some cases, no report is filed. Believing eventual formal prosecution uncertain, the responding officer may attempt to dissaude the victim from pressing charges or even filing report.

Family violence is a criminal activity that often results in serious injury and/or death. The F.B.I. reported that nearly 20 percent of all homicides in this country occur among family members. Testimony presented to the Attorney General's Task Force on Family Violence showed that "in one city, police had been called at least once before in 85 percent of spouse assault and homicide cases," and that "in 50 percent of these cases the police had responded five times to family violence incidents prior to the homicide."

To reduce this escalation of violence and prevent these frequently tragic consequences, the Attorney General's Task Force on Family Violence made several recommendations for the law enforcement community. Among the recommendations were that:

1. All law enforcement agencies should publish operational procedures that establish family violence as a priority respnose and require officers to file written reports on all incidents. In addition, the operational procedures should require officers to perform a variety of activities to assist the victim.

2. Consistent with state law, the chief executive of every law enforcement agency should establish arrest as the preferred response in cases of family violence.

3. Law enforcement officers should respond without delay to calls involving violations or protection orders.

4. Law enforcement officials should maintain a current file of all protection orders valid in their jurisdiction.

5. Federal, state, and local government agencies should train relevant personnel to diagnose and appropriately intervene in family violence cases.

These recommendations were made knowing that while some law enforcement agencies have made significant progress in responding to family violence incidents, many had not. Lack of progress among many law enforcement agencies was attributed to insufficient information regarding appropriate strategies or procedures needed in responding to family violence cases or strongly held attitudes and beliefs regarding the nature of family violence.

The Office of Justice Programs is issuing this program announcement to enhance the manner in which law enforcement agencies respond to family violence incidents.

Program Description

The grantee selected will be required to perform the following tasks:

1. Conduct a survey and collect current literature on family violence training, including visual aids, training curricula, training models, and existing training programs.

2. Develop model operational procedures that would require officers to:

- Process all complaints of family violence as reported criminal offenses.
- Presume that arrest, consistent with state law, is the appropriate response in situations involving serious injury to the victim, use or threatened use of a weapon, violation of a protection order, or other imminent danger to the victim. If an arrest is not made, the officer should clearly document his reasons in the incident report.
- Provide the victim and the abuser with a statement of victim's rights. The officer should inform both parties that any person who assaults a household member has violated the law. The officer should inform victims that they have the right to be protected from further assault and abuse, to press criminal charges against the abuser and obtain an order of protection from the court.
- Take a written statement from the victim in order to assist in the effective criminal prosecution of the offender.
- Complete a written report documenting the officer's observations of the victim, abuser, visible injuries, weapons present, and any other circumstances or facts significant to the abuse situation. When possible, the officer should photograph any personal injuries or property damage sustained by the victim.
- Interview the parties separately so that the victim can speak freely without being inhibited by the presence of the offender.
- Instruct the abuser to leave the premises. This should be the preferred action when an arrest is not made. If the victim chooses to leave the residence, the officer should standby and preserve the peace. The officer should remain at the home for a reasonable period of time to allow the victim to remove personal and necessary belongings.
- Inform the victim about a shelter or other appropriate victim assistance services if available in the community.
- Arrange or provide transportation for the victim to a shelter, medical treatment facility, or other appropriate assistance agency.
- Verify the existence of an order of protection at a central warrants unit if the offense involves the violation of such an order.
- Provide the victim with an information card that specifically notes the officer's name, badge number, report number and follow-up telephone number.

3. Develop a series of training video tapes, and trainers' guides which address, at a minimum, family violence situations commonly encountered by law enforcement officers. The tapes would depict various family violence incidents to which law enforcement officers commonly respond and would also depict the proper way to intervene. The trainer's guide would explain what procedures to use and why they are to be used.

4. Develop a series of training sessions (no fewer than 4) for chief executives of law enforcement agencies. The executive training sessions should focus on providing management with a clear understanding of the family violence problem and the need for well-trained personnel at every other level. The focus of this training should be on development of effective departmental policy and procedures in responding to family violence cases and on developing a better understanding of the problem. Training should be multidisciplinary in nature and should include shelter providers and domestic violence victims.

5. Develop a procedure for responding to requests for information and assistance from various law enforcement agencies. The procedure should outline and describe how individual technical assistance and information requests would be processed.

6. Develop and utilize a multidisciplinary advisory board for project activities.

Selection Criteria

The selection of the grantee will be based on:

1. Understanding of the problem.
2. Appropriateness of program design approach.
3. Soundness of methodology.
4. Financial and technical capability of the organization.
5. Cost effectiveness.
6. Accuracy and completeness of required information.
7. The expertise and background of the employees assigned to the effort.

Funds Available

Up to $550,000 will be available from the Office of Victims of Crime for the purpose of awarding one grant (cooperative agreement) in accordance with the provisions of Section 311 of the Act.

Grant Period and Award Amount

The award (cooperative agreement) will be for eighteen months and will cover 100% of the project costs (no matching funds required). The total award amount for this project will be a maximum of $550,000.

Eligible Applicants

Eligible applicants are private nonprofit organizations or governmental units which have experience in providing training and technical assistance on a national and/or regional basis to personnel of local and state law enforcement agencies related to the prevention of and response to family violence incidents.

Submission Deadlines

Applications must be submitted by September 2, 1986. Applications which are hand delivered must be received by the close of business (5:00 p.m.) September 2, 1986.

Applications

Applicants should submit *three* (3) copies of their complete proposal by the deadline established above. Submissions must include:

A. A completed and signed Federal Assistance application on the current Standard Form 424. Copies of the required forms, and any information or clarification regarding them may be obtained by writing or calling the Office for Victims of Crime, National Victims Resource Center, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724-5947. The applicant may also call the program office, National Victims Initiative Section, (202) 272-6500 with respect to substantive issues.

B. An abstract of the full proposal, not to exceed one page.

C. A program narrative of not more than ten (10) single-spaced typed pages should include:

1. A clear, concise statement of the issues surrounding the problem area. A discussion of the relationship of the proposed work to the existing training literature is also expected;

2. A clear statement of the project objectives including a list of the major milestones of events, activities, and products, and a timetable for completion;

3. A clear statement which describes the approach and strategy to be utilized in responding to each of the tasks identified in the program description.

4. The proposed organization and management plan to be used including, at a minimum, the staffing of the project (with their experience) and the time commitments of key staff to individual project tasks. A full time project director must be allocated to the project.

D. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, project advisory board costs, and overhead, and a short narrative explanation (justification) of each budgeted cost;

E. Copies of vitae for the professional staff which summarize education, research and training experience, and bibliographic information related to the proposed work. Detailed technical material that supports or supplements the description of the proposed effort, but is not integral to it, should be included in an appendix.

All three copies of the application must be sent or hand delivered to: Office for Victims of Crime, National Victims Resource Center, 633 Indiana Avenue, NW., WAshington, DC 20531.

For further information, contact: John Veen, National Victims Initiative Section (202) 272-6500.

Notification under Executive Order 12372

This program, recently authorized and funded by Congress, provides support for training and technical assistance for law enforcement and other personnel to assist in addressing issues related to family violence. The Department of Health and Human Services, under whose authority these funds are transferred to the Department of Justice, will propose to exclude this program from coverage under Executive Order 12372. This training and technical assistance program is national in scope and the statutory requirement for "regionally based training" will be offered by the single national grantee in only a few cities/states nationwide. Therefore, the requirements of Executive Order 12372 are waived.

Lois Haight Harrington,

Assistant Attorney General, Office of Justice Programs.

Verne L. Speirs,

Administrator, Office for Victims of Crime.

[FR Doc. 86-18062 Filed 8-8-86; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co. and Old Dominion Electric Cooperative, North Anna Power Station, Units No. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses No. NPF-4 and No. NPF-7 issued to Virginia Electric and Power Company and Old Dominion Electric Cooperative (the licensee), for operation of North Anna Power Station, Units No. 1 and 2, located in Louisa County, Virginia.

Environmental Assessment

Identification of Proposed Action:

This Environmental Assessment is written in connection with the proposed core uprate for the North Anna Power Station, Units No. 1 and 2 (NA-1&2) in response to the licensee's application for amendments dated May 2, 1985, as supplemented February 6, April 30, June 4, and July 3, 1986. The proposed action would upgrade the rated core power level for NA-1&2 from the current level of 2775 Megawatts-thermal (MWt) to 2893 MWt, and upgade the Nuclear Steam Supply (NSSS) thermal power from the current level of 2787 MWt to 2905 MWt. This uprate would represent an increase of approximately 4.5 percent over the current rated core power and NSSS thermal power.

The Need for the Proposed Action

The proposed action would increase the electrical output for each unit by 32

Megawatts-electrical (MWe) and thus provide additional electric power to the grid which services the rapidly expanding commercial and domestic areas in the State of Virginia.

Environmental Impacts of the Proposed Action

A slight change in environmental impact can be expected for the proposed increase in power. The proposed core uprating is projected to increase the rejected heat by approximately 4.5 percent. However, the Environmental Report (Appendix K) and the NRC approved Final Environmental Impact Statement (FEIS), as amended, have already addressed plant operation up to a stretch NSSS power rating of 2910 MWt. Thus, the 4.5 percent increase in rejected heat has already been evaluated and determined to not significantly impact on the quality of the human environment. Also, the proposed increase in the NSSS power (2905 MWt) involves no significant change in types or significant increase in the amount of any effluents that may be released offsite which has not already been evaluated and approved in the FEIS (as amended) for a NSSS power rating of 2910 MWt. Similarly, as enveloped by the FEIS (as amended), there would be no significant increase in individual or cumulative occupational radiation exposure.

Alternatives to the Proposed Action

The principal alternative to the proposed action would be to deny the requested amendments. This alternative would be in contradiction to the fact that the NA-1&2 Environmental Report and the NRC approved Final Environmental Impact Statements (FEIS), as amended, have already addressed operation up to a stretch power rating of 2910 MWt.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for North Anna Power Station, Units No. 1 and 2, as amended.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments. Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendments dated May 2, 1985, as supplemented February 6, April 30, June 4, and July 3, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Bethesda, Maryland, this 5th day of August, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing—A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-18017 Filed 8-8-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval Under the Paperwork Reduction Act of Information Collection

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB extension of approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) has requested approval by the Office of Management and Budget (OMB) for an extension of the expiration date of a currently approved information collection request (1212-0030) without any change in the substance or in the method of collection. Current approval of the information collection is scheduled to expire on August 31, 1986. The information collection, which is not contained in a regulation, is a survey of insurance company rates for pricing annuity contracts that is conducted under the auspices of the American Council of Life Insurance. The effect of this notice is to advise the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-956-5050 (202-956-5059 for TTY and TDD). (These are not toll-free numbers.)

Issued at Washington, DC, this 20th day of July 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-17981 Filed 8-8-86; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension

Rule: 17a-4, No. 270-242.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a-4 (17 CFR 240.17a-4) which requires exchange members, brokers and dealers to preserve for prescribed periods of time certain records required to be made by Rule 17a-3 and other Commission Rules.

The potential affected persons are 8800 broker-dealers. Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

August 1, 1986.

[FR Doc. 86-18027 Filed 8-8-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-740]

Application and Opportunity for Hearing; InfraRed Associates, Inc.

August 5, 1986.

Notice is hereby given that InfraRed Associates, Inc., (Applicant) has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as

amended, (the "1934 Act") for an order exempting the Applicant from the registration requirements under section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any intersted person not later than September 1, 1986, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18031 Filed 8-8-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23506; File No. SR-CBOE-86-24]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1986 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Comission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would give the Exchange the option to add a third consecutive expiration month to those expiration months presently available for trading in the Standard and Poor's 500 Stock Index (SPX), making a total of six instead of five SPX expiration months.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to give the Exchange the option of adding a third consecutive expiration month in the Standard and Poor's 500 Stock Index (SPX). After the July expiration, the expiration months available for trading in SPX will be August, September, December, March and June; under the proposed pattrern, the expiration months available for trading would be August, September, October, December, March and June. Before the Exchange applies this rule change to the Standard and Poor's 100 Stock Index (OEX), the Exchange will file a rule change pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the Act) and pursuan to SEC Release Number 34-23257 approving SR-CBOE-86-04. The statutory basis for the proposed change is Section 6(b)(5) of the Act, in that it is designed to facilitate transactions in SPX option contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competiton

This proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Member, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regualtory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institue proceedings to detemine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foegoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 2, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 5, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18029 Filed 8-8-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23498; File No. SR-DTC-85-04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change By The Depository Trust Co.

On November 12, 1985, the Depository Trust Company ("DYC") submitted a proposed rule change pursuant to

section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposed rule change revises DTC's rules concerning disciplinary actions and decisions affecting access to DTC facilities and services, consistent with section 17A of the Act and Division of Market Regulation Standards for the Registration of Clearing Agencies (the "Standards").[1] More specifically, the proposed rule change authorizes disciplinary actions for violations of DTC's rules and procedures and sets forth procedures for review of recommendations imposing disciplinary sanctions, denying applicants' participation in DTC, and prohibiting or limiting a participant's access to DTC's services. Notice of the proposed rule change appeared in the Federal Register on November 25, 1985.[2] No comments were received.

Subsequent to its filing, DTC filed two amendments to the proposal. On February 5, 1986, DTC filed an amendment to its proposal, among other things, reinstituting issuer and participant opportunity to seek Board review of DTC management decisions making particular securities ineligible for DTC services. On July 31, 1986, DTC filed a second amendment clarifying a member's right to and procedures for a review by the Board of Directors of a hearing panel's decision. As discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change would revise DTC Rules 21 and 22 to specify the circumstances when, and procedures by which, DTC is authorized to discipline participants or pledgees for a violation of DTC Rules and procedures. Revised Rule 22 also would authorize applicants, participants and pledgees to appeal corporate decisions directly affecting their use of DTC services.

Revised Rule 21 would authorize DTC to discipline participants or pledgees for violations of DTC Rules, procedures or agreements; for errors, delays or other conduct detrimental to DTC's participants' or pledgees' operations; or for not providing adequate facilities for its business with the corporation. Available sanctions would include, amont others, censure, expulsion, suspension, limitations on member's activity and fines.[3]

To initiate a disciplinary action, revised DTC Rule 21 would require DTC to send to the affected participant or pledgee a written statement describing: the reason for the proposed disciplinary action; the proposed sanction; and the participant's or pledgee's right to respond to and contest, in accordance with revised DTC Rule 22, DTC's allegations and proposed sanctions. Unless the participant or pledgee responded within five business days, revised DTC Rule 21 would authorize DTC's Chairman of the Board, President or Secretary to impose the proposed sanction.

Revised DTC Rule 21 would authorize the imposition of sanctions immediately in cases where DTC summarily suspends and closes out the accounts of a participant or pledgee pursuant section 17A(b)(5)(C) of the Act. As amended on February 5, 1986, DTC Rule 21 would note that particpants or pledgees summarily suspended will be afforded an opportunity for a hearing promptly, that the appropriate regulatory agency for the participant or pledgee may stay any such summary suspension and the procedures to obtain such a stay are specified in section 19 of the Act.

Revised DTC Rule 22 sets forth procedures for participants who wish to contest proposed disciplinary actions and denials of access. The recommendations or decisions that may be contested include: (1) Imposition of a disciplinary sanction pursuant to DTC Rule 21; (2) termination of a pledge agreement under DTC Rule 2 Section 3; (3) summary suspension and closing of a participants account; and (4) ceasing to act for a participant pursuant to DTC Rules 10, 11 or 12. An applicant also may contest a denial of its application to become a participant. The February amendment also would authorize an issuer or participant to contest a decision denying or terminating a security's depository-eligibility status.

Under Revised DTC Rule 22, the request to contest a disciplinary action must be received by DTC in writing within the applicable time period specified in the Rule 21, [4] must specify the proposed action to be contested, must list the name of the interested person or his representative and must include a copy of DTC's statement describing the proposed action. Within 15 days after filing the notice, the interested person or its representative must submit a clear and concise written statement regarding DTC's proposed action, the basis for objecting to the proposed action and whether the interested person will be represented by counsel at the hearing. Failure to file the written statement within the appropriate time period will constitute a waiver by the interested person of its right to a hearing. DTC, however, has stated that it would grant extensions in extenuating circumstances.

After DTC receives the interested person's notice and statement, DTC would be required to notify the interested person of the date, time and place of the hearing at least 5 business days prior to the hearing. The revised rule would authorize DTC to establish a pool of participants' employees or partners to serve as panel members. Section 3 of the Rule would direct DTC's Chairman of the Board of Directors to select a one-member panel for actions concerning proposed fines of $5,000 or less and at least a two-member panel for proposed fines in excess of $5,000 and all other proposed sanctions. In the event a two-member panel is unable to reach a decision, the Rule specifies that DTC's Board of Directors hear the matter.

Revised DTC Rule 22 Section 4 would grant the interested person an opportunity to be heard at the hearing and be respresented by counsel. That section also would require DTC to make and keep a record of any hearing held pursuant to DTC Rule 22.

Revised DTC Rule 22 Section 5 would require the Panel to notify the interested person in writing of its decision within 10 business days after the hearing. At a minimum, the Panel's decision would be required to set forth the act or practice the interested person performed or failed to perform, the specific provisions of DTC's rules or procedures violated by the interested person, the sanction to be imposed, and the reason for imposing that sanction.The decision of the Panel would be deemed final.

Once the hearing panel has rendered a decision, the intersted person may appeal the decision to the Board of Directors by written motion within five (5) business days after issuance of the panel's written decision. The granting of any such motion for review shall be within the sole discretion of the Board of Directors. In addition, the Board of Directors, within 75 days after the panel's written decision, may review that decision on its own motion. The Board of Directors may reduce the sanction imposed or may affirm or reverse the decision in whole or in part. A decision is deemed final when the interested person fails to exercise the right to appeal or when the interest

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[1] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980) ("Standards Release").

[2] Securities Exchange Act Release No. 22632 (November 15, 1985) 50 FR 48515 (November 26, 1985).

[3] The list of available sanctions would include the entire array of sanctions authorized in section 17A.

[4] For summary actions, the interested person will have 3 days to file such statement.

person is notified of the Board of Directors' decision.

II. DTC's Rationale

DTC believes that the proposal is consistent with section 17A(b)(3) and 17A(b)(5) of the Act for several reasons. First, the proposed amendments provide authority for appropriate disciplinary actions for violations of DTC's rules. Second, the proposed amendments provide fair procedures with respect to disciplining participants, denying participation status to any applicant, denying or terminating a security's depository-eligibility status and prohibiting or limiting any person's access to DTC's services. Finally, DTC believes these amendments will conform DTC's disciplianry procedures to Division of Market Regulation's Standards.

III. Discussion

The Act requires clearing agencies to have authority to discipline participants for violations of clearing agency rules and to select appropriate sanctions from the list set forth in section 17A(b)(3)(G) of the Act.[5] The Act also requires clearing agency disciplinary procedures to be fair. Thus, participants charged with a violation must be afforded the right to a fair and impartial hearing,[6] a request for which should stay the imposition of a proposed sanction unless the sanction is a summary suspension.[7] To assure impartiality, the hearing panel should be composed of directors or other persons disinterested in the initial disciplinary decision.

When the Commission approved DTC's application for registration as a clearing agency in 1983, DTC undertook to amend its rules to conform to the Act in these matters.[8] The Commission believes the proposed rule changes satisfy that undertaking, are consistent with the Act, and should be approved.

The Commission believes that the proposed rule change is consistent with sections 17A(b)(3) and 17A(b)(5) of the Act because it provides authority for appropriate disciplinary actions for violations of DTC's rules and fair procedures with respect to disciplining participants, denying participation status to any applicant, denying or terminating a security's depository-eligibilty status and prohibiting or limiting any persons's access to DTC's services. DTC's proposal to expand available sanctions to include those listed in section 17A(b)(3)(G) of the Act is consistent with the Act's objective to allow self-regulatory organizations wide descretion in disciplining their participants. This proposal will grant DTC greater flexibility to impose appropriate sanctions in particular cases.

The Commission also believes that DTC's proposed changes to its hearing procedures are designed to assure fair process to persons accused of violating DTC's rules. The proposal creates a pool of disinterested and impartial persons to serve as panel members, and provides the right to a fair and impartial hearing before the imposition of any proposed sanction. Although some matters will be heard by a two-member panel and could result in a deadlock between the panel members, the proposal specifies that in such cases the matter will be heard by DTC's Board of Directors. The Commission understands that DTC has not been successful in recruiting a large pool of potential panel members. Accordingly, the use of two-member panels coupled with Board of Director review of deadlocked decisions appears to be an appropriate allocation of limited resources consistent with assuring interested persons fair process.

The Commission believes that the proposed amendments concerning review of hearing panel decisions are consistent with the Act. First, all persons aggrieved by a panel decision may petition DTC's Board of Directors to review that decision. Second, DTC's Board of Directors, on its own motion, may decide to review the hearing panel's decision. The Commission understands that the Board of Directors, when reviewing a decision on its own motion, may affirm or reverse the decision (in whole or in part) and may reduce the recommended sanction, but may not increase the sanction imposed by the hearing panel. Finally, an interested person, after exhausting all rights of review under DTC rules, may appeal any disciplinary action to its appropriate regulatory agency.

IV. Conclusion

For the reasons discussed above, the Commission finds that DTC's proposed rule change is consistent with section 17A of the Act in that the proposal provides DTC with authority to appropriately discipline participants for violation of its rules and provides its participants with the right to a fair and impartial hearing.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-85-04) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 4, 1986.

Jonathan G. Katz,

Secretary.

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BILLING CODE 8010-01-M

[5] Statutory sanctions include: "expulsion, suspensions, limitation of activities, functions, and operations, fines, censure, or any other fitting sanction." Section 17A(b)(3)(G) of the Act.

[6] *See* section 17A(b)(3)(H) and (b)(5) of the Act; Standards Release, 45 FR at 41925. *See generally In Re Charles H. Ross, Inc.*, Securities Exchange Act Release No. 16230 (October 1, 1979), 18 SEC Docket 557 (October 16, 1979).

[7] See section 17A(b)(5)(C) of the Act.

[8] *See* Securities Exchange Act Release No. 20221 (September 23, 1983) 48 FR 45167 at 45179 note 131.

[Release No. 34-23490; File Nos. SR-CBOE-85-32 and SR-CBOE-85-16]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the Chicago Board Options Exchange, Inc.

I. Introduction

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Commission two proposed rule changes relating to the operation of the CBOE's Retail Automatic Execution System ("RAES" or "System"). The first proposal requests permanent approval of the use of RAES for options on the Standard and Poor's 100 Index ("OEX"). The second proposal seeks Commission authorization for a six-month pilot using RAES for the execution of selected classes of individual stock options.[3]

RAES has operated as a pilot program in a limited number of OEX series since February 1, 1985.[4] Under the pilot, RAES automatically executes public customer market and marketable limit orders of ten or fewer contracts entered into the System against participating market makers in the CBOE trading crowd at the best bid or offer quoted on the CBOE floor at the time of the order's entry into RAES.[5] If the best bid or offer is

[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The proposals were noticed, respectively, in Securities Exchange Act Release Nos. 22274 (July 29, 1985), 50 FR 31284 (File No. SR-CBOE-85-32), 22270 (July 28, 1985), 50 FR 31449 (File No. SR-CBOE-85-16, Amendment No. 2), and 23331 (June 17, 1986), 51 FR 23286 (File No. SR-CBOE-85-16, Amendment No. 4).

[4] A RAES OEX pilot was initially approved in Securities Exchange Act Release No. 21695 (January 28, 1985), 50 FR 4823 (File No. SR-CBOE-84-30).

[5] CBOE market makers who participate in RAES in OEX, in effect provide public customers whose orders are executed through RAES with firm quotes for orders up to ten contracts.

represented by the public limit order book, the RAES order trades with a CBOE market maker at that price as an exception to CBOE priority rules.[6] As initially proposed, the individual stock options pilot would have operated in the same manner as the OEX RAES pilot.

Upon consideration of the CBOE's request for a six-month RAES equities pilot and permanent approval of RAES for OEX, the Commission issued a release in January 1986 ("January Release") requesting interested individuals and the retail firm community to comment on various issues raised by the operation of RAES.[7] Specifically, the Commission requested commentators to assess the benefits and costs of RAES in both individual stock options and OEX; the potential harm to investors and the market caused by RAES' inability to interact with customer limit orders on the book; and whether certain modifications to RAES which would preserve the priority of customer book orders were feasible and should be made. The five firms responding to the January Release commented favorably on RAES' use in OEX, but generally opposed the use of RAES in its initial form for individual stock options.[8] In recognition of these comments and the concerns of the Commission as expressed in the January Release, the CBOE proposed to modify its RAES equities options pilot.[9] These modifications and the opinions of the commentators are discussed in detail below.

II. Summary of Public Comments

Each of the five retail firms responding to the Commission's request for comments suggested that the RAES pilot in individual stock options, as initially proposed by the CBOE in July 1985, not be approved because of the possibility that public customer limit orders on the equities books would be "stranded" to some degree by the operation of RAES, *i.e.*, these orders possibly would not receive an execution before a price change or the end of the trading day, even though they were otherwise entitled to executions (but for the operation of RAES) under the CBOE priority rule. The firms concluded that the lack of limit order protection would present more of a problem in equity options than in OEX, because of the generally low trading volume in most individual stock options.[10] For example, Shearson Lehman advised the Commission to "go slowly" in authorizing an equities pilot, because "here we very likely would have priority problems."[11] Merrill Lynch commented that "[because] of the lack of liquidity in many of the equity options, limit orders on the book will be frozen out to a much greater extent than in the OEX crowd."[12]

One firm, Paine Webber, drew some distinction between high and low volume equity options. Paine Webber stated that a pilot limited to high volume options would be acceptable. Paine Webber also commented. however, that for individual options with consistently wide spreads, "the lack of book priority could force a greater use of market orders. . . ."[13] In contrast, Dean Witter reasoned that while a pilot in active equities would have the advantage of attracting order flow because customers would receive better service, the System should still be required to interface with the limit order book because the book is used more frequently in equities than in OEX.

Two firms, Merrill Lynch and Paine Webber, also commented on the CBOE argument that it market makers would not voluntarily participate in RAES and thereby commit themselves to providing ten-contract firm quotes if they were not permitted to trade ahead of the limit order book. Both firms discounted this argument, with Merrill Lynch noting that market makers on other exchanges have not found it necessary to trade ahead of the public in order to earn a livelihood.[14] Paine Webber commented that CBOE market makers who want to participate in RAES should be required to commit themselves to the system for a minimum period of time and a certain number of contracts.[15]

III. The RAES Equities Pilot

In rule filings and letters submitted to the Commission over the past year, the CBOE has discussed the benefits provided to public customers and retail firms by the operation of RAES in OEX, and has advocated that these benefits be extended to public customers trading in individual stock options by piloting RAES in equity options in the same menner as it has been piloted in OEX. CBOE maintains that the RAES exception to limit order priority has had a minimal negative impact on the limit order book in OEX, in terms of the number of public customer orders that have not received executions due to intervening RAES trades with CBOE market makers.[16] CBOE believes that if RAES were piloted in equity options with the same exception from CBOE priority rules, it also would have a minimal effect on customer book limit orders. In addition, the CBOE believes that RAES in its current form provides customer protection

> at least comparable, if not superior, to . . . specialist options trading systems. . . . To require CBOE to integrate the book with RAES, either in OEX or in equities, would be to hold CBOE to a standard to which other exchanges . . . have not been held.[17]

Although the CBOE believes that Commission approval of a RAES equities pilot which does not provide limit order protection is warranted,[18]

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[6] Under CBOE priority rules, the orders of public customers on the book have time priority over any other orders at the same price. *See* CBOE Rule 6.45.

[7] *See* Securities Exchange Act Release No. 22817 (January 21, 1986), 51 FR 3547.

[8] The Commission received letters from the following firms: Dean Witter Reynolds, Inc. ("Dean Witter"); Merrill Lynch & Co., Inc. ("Merrill Lynch"); Paine Webber, Inc. ("Paine Webber"); Shearson Lehman Brothers ("Shearson Lehman"); and Smith Barney, Harris Upham & Co., Inc. ("Smith Barney").

[9] *See* Amendment No. 4 to File No. SR–CBOE–85–16, noticed in Securities Exchange Act Release No. 23331 (June 17, 1986), 51 FR 23286, *supra* note 3.

[10] For example, in April 1986, the average daily volume of OEX was 512,128, whereas the volume of International Business Machines ("IBM"), the top equity class for April, was 51,154. With the exception of American Telephone and Telegraph ("AT&T"), (which had an average daily trading volume of 13,584), the remaining top ten options classes had average daily trading volumes of less than 10,000 contracts.

[11] Letter from Richard Donsky, Executive Vice President, Option Department, Shearson Lehman, to Eneida Rosa, Branch Chief, Division of Market Regulation, SEC, dated March 18, 1986 ("Shearson Letter"), at 2.

[12] Letter from Roger C. Wilson, Vice President, Corporate Staff, Manager, Policy Analysis, Merrill Lynch, to John Wheeler, Secretary, SEC, dated March 14, 1986 ("Merrill Lynch Letter"), at 3.

[13] Letter from Bruce A. Bursey, Manager, National Options, Paine Webber, to John Wheeler, Secretary, SEC, dated March 7, 1986 ("Paine Webber Letter"), at 2–3.

[14] Merrill Lynch Letter at 3.

[15] Paine Webber Letter at 3. In June 1986, the CBOE did commence a six month pilot which imposes certain participation requirements on those market makers who elect to participate in RAES. Under the pilot, individual market makers must remain on the System for the duration of the week in which they sign on to RAES, and on the following expiration Friday, which they are present on the trading floor. Market makers who are members of a joint account or nominees of a member organization, unlike individual market makers, may not remove themselves from the system by leaving the trading floor. For a complete description of the pilot, *see* Securities Exchange Act Release No. 23313 (June 10, 1986), 51 FR 22368 (File No. SR–CBOE–86–10).

[16] CBOE statistics indicate that the percentage of limit orders on the OEX book that did not receive executions even though RAES orders were executed at the same price, ranged from a high of 1.6% in November 1985 (when the total number of unexecuted book orders equaled 1,112), to a low of 0.1% in April 1986 (when unexecuted book orders totaled 1,425). *See* letter from Frederic M. Krieger, Associate General Counsel, CBOE, to John P. Wheeler, III, Secretary, SEC, dated May 30, 1986 ("CBOE Comment letter"), at *Exhibit B*.

[17] *Id.* at 4.

[18] Id.

the CBOE has proposed to experiment, for the purposes of a pilot, with a modified RAES program that will allow RAES orders to trade with the book in certain equities options classes, where operationally feasible. Under this proposal, RAES would be piloted for six months in six classes of equity options[19] and, with the exception of IBM, limit orders on the books in the piloted equities classes would receive executions in accordance with CBOE priority rule if they represented the best bid or offer in the market. CBOE proposes to provide limit order protection for customer book orders by means of manual comparison of the book's position with RAES executions. In the event a book order represents the best bid or offer and a RAES order has been executed at that price against a CBOE market maker, the Exchange also will require that market maker to trade with the customer order on the book. Because of the manual nature of this system, the CBOE believes that providing limit order protection for IBM options is not feasible, given that option's high trading volume. Accordingly, the CBOE proposes to pilot RAES in IBM in the same manner as it has been piloted in OEX.

In addition, the proposal would allow the Exchange, in the other piloted opitons classes, to suspend book priority in the event of "unusual market conditions." These conditions generally would be characterized by trading activity that materially interfered with the ability of Exchange personnel to handle the manual tasks necessary to interface the book with RAES. For example, one of the guidelines the CBOE may consider in calling a suspension in a particular class is an increase in daily trading volume to 20,000 or more contracts.[20] Suspension of book priority would require the concurrence of the CBOE Executive Committee Chairman and the President, or their designees.

[19] The CBOE has indicated its intention to pilot RAES in IBM, Eastman Kodak, AT&T, General Motors, Sears, and General Electric. If necessary (*e.g.*, in the event of an extraordinary change in trading circumstances), the Exchange may replace any of these classes with options of comparble volume and activity during the course of the pilot. *See* CBOE Comment Letter at 5.

[20] Average daily volume in the five classes the CBOE initially has selected for inclusion in the pilot (excluding IBM) ranged between 4,000 and 15,000 contracts during March and April 1986. The unusual market condition exception would not be uniformly triggered if an option reached 20,000 contract trading volume; rather, the Commission expects the CBOE to do a factual analysis of whether serious operational difficulties are occurring because of the manual RAES override.

IV. Discussion

a. The RAES Equities Pilot

In the January Release, the Commission discussed a number of concerns it had with the RAES equities pilot as originally proposed by the CBOE. First, because the pilot did not include any mechanism whereby customer orders on the book could be executed against RAES orders, the Commission requested comment on whether a significant number of customer limit orders on the equities books would not receive executions even though RAES orders were executed at prices equal to the book's bid or offer, and even though those limit orders were first in time. The Commission believed that missed executions might discourage customers from entering limit orders, which in turn could negatively impact the pricing efficiency of the market, particularly in less active option classes. Second, the Commission requested comment on whether the possible adverse impact of RAES on public customers who choose to place limit orders on the equities books is outweighed by the need, from an operational standpoint, for an automatic execution system for individual stock options. In this regard, the Commission noted the significant differences in trading volume between OEX and equity options. Third, the Commission requested comment on whether a pilot which did not test the feasibility of incorporating limit order protection systems into RAES, would yield useful data regarding the impact of RAES on customer limit orders on the equities books, and the willingness of CBOE market makers to participate in a RAES system that did provide limit order protection.

The Commission believes that the modifications recently proposed by the CBOE to the equities pilot adequately address these concerns, at least for the purposes of implementing RAES in selected equity options on a pilot basis.[21] As modified, the pilot ensures that public customers who have limit orders on the books in the piloted equity classes (with the exception of IBM) will not be disadvantaged by the operation of RAES. Limit orders on these equities books will be guaranteed executions if the book represents the best bid or offer and a RAES order has traded at that price. Because the CBOE must rely on manual intervention at the present time to provide limit order protection in those option classes in which RAES would operate, the Exchange is unable to protect limit orders in high volume situations without sacrificing the efficiencies of an automatic execution system. Therefore, under the pilot, limit order protection may be suspended by the CBOE in the piloted option classes as a result of unusual market conditions, and will not extend to IBM options. The CBOE has indicated to the Commission that it does not expect the need to suspend book priority to arise during the course of the pilot. The CBOE has further represented that it will closely monitor the use of RAES in IBM so as to gauge its impact on the limit order book. While the Commission remains concerned over any reductions in public protection, we believe the pilot as modified will yield important data on the impact of RAES on customer limit orders in both moderate and high volume trading situations.[22] Also, at the pilot's conclusion the Commission will be able better to assess the costs and benefits of providing limit order protection in an automatic execution system.

The pilot also will provide information regarding the willingness of CBOE market makers to voluntarily participate in an automated execution system without the benefit of trading ahead of the book. In the past, the CBOE has maintained that market maker priority over the limit order book is a necessary *quid pro quo* for participation in a system that requires market makers to provide firm quotes.[23] As noted above,

[21] The Commission notes that no adverse comments were received regarding the proposed modifications, although, as stated previously, the Commission received several letters objecting to the start-up of the RAES equity options pilot as initially proposed.

[22] In this regard, the CBOE has represented that it will monitor the operational efficiencies of the modified RAES program and its impact on the equities limit order books, and the operation of RAES in IBM. Among the aspects of the pilot the CBOE will monitor are the following: (1) The number of instances in which a RAES order is executed at the book's bid or offer; (2) the number of instances in which orders on the IBM book do not receive executions at the price of a RAES transaction; (3) the efficiency with which limit orders in the piloted equity options are executed (*e.g.*, the turnaround time between an order printing at the post and assignment of that order to a market maker; and instances in which the parties to a trade are not established); (4) the number of market makers participating in the pilot in each of the piloted equity classes and in IBM; (5) any change in the order entry methods of public customers; and (6) any change in the quality of the market for both the equity classes and IBM.

[23] The Commission notes that the American Stock Exchange, Inc. ("Amex"), which currently is piloting an automatic execution system ("AUTO-EX") in connection with its Major Market Index, does not allow its market makers to trade ahead of the book, but rather ensures market maker participation in AUTO-EX by imposing certain requirements on those Amex members who elect to participate in the System.

several public commentators disagreed with this assumption.

Finally, the Commission believes that the pilot is appropriate because it will enable lthe Commission to elicit comments from participating retail firms regarding the efficiencies of a modified RAES system and its impact on the order entry methods of public customers. The Commission encourages participating firms to monitor customer use and reaction to RAES as piloted in the six individual stock options.

b. The OEX Proposal

In the January Release the Commission identified a number of concerns it had with the use of RAES in OEX that have been discussed above in connection with the equities pilot. For example, the Commission expressed concern about the extent to which public customers who place their orders on the OEX book are disadvantaged by the operation of RAES. The Commission requested comment on whether the cost to these customers in terms of missed executions is outweighed by the benefits of RAES. With one exception,[24] the retail firms which responded to the Release expressed the opinion that the benefits derived from improved executions and markets for customer orders outweigh the disadvantage of no limit order protection in RAES in OEX.[25] The Commission has reviewed these comments carefully and has concluded that permanent approval of the use of RAES in OEX is consistent with the Act.

The Commission is cognizant of the substantial benefits provided by RAES to public customers of OEX and firms using the System. RAES has made significant contributions to the OEX market by increasing the efficiencies of order entry and handling, and adding to the confidence of public customers whose orders are executed through RAES. Because of the present technical limitations of the CBOE's order routing system, it does not appear possible at the current time for the CBOE to preserve the efficiencies of RAES while providing protection for the customer book limit orders in OEX. The high trading volume in OEX (averaging over 500,000 contracts per day in April 1986) effectively precludes protection of the OEX book by means of manual intervention similar to that proposed for the RAES equities pilot. Moreover, the CBOE lacks the technical capabilities at the present time to electronically link its limit order books with RAES. Given these technical impediments, the Commission believes that, on balance, the benefits of RAES for the market in OEX weigh in favor of permanent approval of the System for OEX.

The Commission emphasizes, however, that in approving RAES for OEX it does not necessarily agree that enhanced execution efficiency and limit order protection are mutually exclusive.[26] For example, a system has been implemented on another option exchange which substantially replicates the RAES execution efficiencies without sacrificing book priority.[27] Moreover, the Commission accepts the good faith of CBOE's representations that it is continuing to explore the development of an electronic limit order book which would allow for the full integration of the limit order book with RAES.[28] Although the Commission does not believe it is necessary to tie approval of RAES to such future technological developments, the Commission does expect the CBOE will provide a high priority to its program to automate its limit order books, and to full integration of RAES with public limit orders.

IV. Conclusion

The Commission has carefully reviewed the proposal for a six month RAES equities pilot, and the proposal for permanent approval of RAES in OEX, and has concluded that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, the requirements of sections 6 and 11A. Based on the preceding discussion, the Commission believes that both the equities pilot program and the OEX proposal provide sufficient investor protection while facilitating options trading.

It is therefore ordered, pursuant to section 19(b)92) of the Act, that the proposed rule changes be, and hereby are, approved.

By the Commission.

Dated: August 1, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18028 Filed 8-8-86; 8:45 am]

BILLING CODE 8010-01-M

[24] Merrill Lynch stated that it is opposed to permanent approval of RAES for both OEX and equity options without limit order protection. *See* Merrill Lynch Letter at 1.

[25] Among the benefits cited by the commentators are increased speed of execution; firm quotes for up to ten contracts; decreased instances where, due to delays in transmitting orders to the floor and having them represented in the trading crowd, customers either miss the market or obtain a less favorable execution than expected; reduced paper flow (which reduces the burden on a firm's floor brokerage operation); and more opportunity for a firm's floor brokers to work large orders that are not eligible for RAES execution.

[26] Nor does the Commission necessarily agree that operational necessity generally justifies reducing the protection accorded certain customer orders.

[27] *See* Securities Exchange Act Release No. 22610 (November 8, 1985), 50 FR 47480, approving a proposal by the Amex to pilot its automatic execution system ("AUTO-EX") in selected series of its Major Market Index option.

[28] *See* letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated April 9, 1985.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2244]

Pennsylvania; Declaration of Disaster Area

Lancaster County in the State of Pennsylvania constitutes a disaster area as a result of flooding caused by heavy rains which occurred on July 25 and 26, 1986. Applications for physical damage may be filed until the close of business on October 3, 1986, and for economic injury until the close of business on May 4, 1987, at the address listed below: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring Street, SW., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

The interest rates are:

Homeowners with credit available elsewhere—8.000%
Homeowners without credit available elsewhere—4.000%
Businesses with credit available elsewhere—8.000%
Businesses without credit available elsewhere—4.000%
Businesses (EIDL) without credit available elsewhere—4.000%
Other (non-profit organizations including charitable and regligious organizations)—10.500%

The number assigned to this disaster is 224406 for physical damage and for economic injury the number is 642200.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 4, 1986.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86-17951 Filed 8-8-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0179]

Surrender of License; Funds, Inc.

Notice is hereby given that Funds, Inc., 1930 George Street, Melrose Park, Illinois 60160 has surrendered its License to operate as a Small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Funds, Inc. was licensed by the Small Business Administration on February 28, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on July 22, 1986, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: August 5, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-17953 Filed 8-8-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0320]

RIHT Capital Corp.; Filing of an Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to Section 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1986)) for the transfer of ownership and control of RIHT Capital Corporation (the Licensee), One Hospital Trust Plaza, Providence, Rhode Island 02903, a Federal Licensee under the Small Business Investment Act of 1958, as amended, (the Act) (15 U.S.C. 661 *et seq*). The proposed transfer of control of RIHT Capital Corporation, which was licensed June 29, 1982, is subject to the prior written approval of SBA.

At the present time the Licensee has 5,500 shares of voting common stock issued and outstanding. It is proposed that Rhode Island Hospital Trust National Bank will transfer its 5,000 shares of the voting common stock for certain shares in two classes of non-voting preferred stock of the Licensee.

The proposed officers, directors and shareholders of the voting securities of the Licensee will be as follows:

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Title or relationship	Percentage of shares owned
T Eugene Smith, Suite 308, 1033 North Fairfax St., Alexandria, VA 22314.	Chairman of the Board, Director.	26.67
Peter D. Van Oosterhout, 796 Huntington Building, Cleveland, Ohio 44115.	President, Director	33.33
Robert A. Comey, One Hospital Trust Plaza, Providence, RI 02903.	Vice President	
Peter C. Canepa, One Hospital Trust Plaza, Providence, RI 02903.	Vice President, Treasurer, Assistant Secretary.	
Alden M. Anderson, One Hospital Trust Plaza, Providence, RI 02903.	Director	
Cyrus A. Ansary, Room 925, 1725 K Street NW., Washington, D.C. 20006.	Director	13.33
Stephen Hartwell, 6th Floor, 1101 Vermont Avenue, NW., Washington, D.C. 20005.	Director	13.33
Henry W. Levine, 1201 Pennsylvania Ave., Washington, D.C. 20044.	Director	
Paul V. Zehfuss, Suite 308, 1033 North Fairfax St., Alexandria, VA 22314.	Secretary, Director	6.67
Paul V. Zehfuss, trustee under agreement Paul E. Zehfuss, Suite 308, 1033 North Fairfax St., Alexandria, VA 22314.	Shareholder	6.67
Alice G. Banyasz, 796 Huntington Bank Building, Cleveland, Ohio 44115.	Assistant Secretary	

It is proposed that upon the change of control the name of the Licensee will be changed to River Capital Corporation.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Providence, Rhode Island area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 4, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-17952 Filed 8-8-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Manila International Airport

Pursuant to section 1115(d) of the Federal Aviation Act, on May 8, 1986, I notified the Government of the Philippines that I had determined that Manila International Airport, Manila, the Philippines, did not maintain and administer effective security measures. Ninety days have elapsed since my determination, and I have found that Manila International Airport still does not maintain and administer effective security measures. My determination is based on Federal Aviation Administration assessments which reveal that security measures used at the airport do not meet the standards established by the International Civil Aviation Organization.

I have directed that a copy of this notice be published in the **Federal Register**, that my determination be displayed prominently in all U.S. airports regularly being served by scheduled air carrier operations, and that the news media be notified of my determination. In addition, as a result of this determination, all air carriers and foreign air carriers (and their agents) providing service between the United States and Manila Airport must provide notice of my determination to any passenger purchasing a ticket for transportation between the United States and Manila Airport, with such notice to be made by written material included on or with such ticket.

Elizabeth Hanford Dole,

Secretary of Transportation.

Dated: August 5, 1986.

[FR Doc. 86-18036 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Baton Rouge Metropolitan Airport, Baton Rouge, LA; Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Greater Baton Rouge Airport District under the provisions of Title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96-193) and 14 CFR Part 150. These findings are made

in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On March 7, 1986, the FAA determined that the noise exposure maps submitted by the Greater Baton Rouge Airport District under Part 150 were in compliance with applicable requirements. On June 25, 1986, the Administrator approved the Baton Rouge Metropolitan Airport noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Baton Rouge Metropolitan Airport noise compatibility program is June 25, 1986.

FOR FURTHER INFORMATION CONTACT: Donald C. Harris, Federal Aviation Administration, Airports Division, ASW–611C, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877–2609 or FTS 734–2609. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Baton Rouge Metropolitan Airport, effective June 25, 1986.

Under section 104(a) of the Aviation Safety and Noise Abatement Act (ASNA) of 1979, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with FAR Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Aviation Safety and Noise Abatement Act of 1979, and is limited to the following determinations:

The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government.

Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA's Airports District Office in Houston, Texas.

The Greater Baton Rouge Airport District submitted to the FAA on April 29, 1985, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from August 7, 1984, through April 23, 1985. The Baton Rouge Metropolitan Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 7, 1986. Notice of this determination was published in the **Federal Register** on March 21, 1986.

The Baton Rouge Metropolitan Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on March 7, 1986, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 16 proposed actions for noise mitigation, on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective June 25, 1986.

Outright approval was granted for 15 of 16 program elements. Construction of the new general aviation runway was disapproved for purposes of FAR Part 150 because it is being constructed for purposes other than noise abatement. Airport improvement actions include construction of a 1,200-foot runway extension, construction of noise barriers, and land acquisition. Aircraft operational procedures include reduced thrust departure procedures, encouragement of compliance with FAR Part 36, and implementation of an informal runway use program. Land use controls include comprehensive planning, compatible land use zoning, aviation easements and subdivision regulations, zoning policy guidelines, and acoustical treatment of Brownfields Elementary School. The program also establishes a noise abatement committee and noise complaint monitoring system, acquisition of development rights and distribution of noise abatement information to airport users.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on June 25, 1986. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Greater Baton Rouge Airport District.

Issued in Fort Worth, Texas, on July 17, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 86–17045 Filed 8–8–86; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Applications for Exemptions of Hazardous Materials

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes September 11, 1986.

ADDRESS: Address Comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9641-N	Ulrich Chemical, Inc., Indianapolis, IN	49 CFR 173.258(b)	To authorize shipment of nitric acid, 60-68% aqueous solutions, classed as an oxidizer, in stainless steel tote tanks of 345 gallon capacity. (mode 1).
9642-N	Allied Corporation, Morristown, NJ	49 CFR 173.245(a)	To authorize transportation of a used fluorocarbon catalyst, a corrosive liquid, n.o.s., classed as a corrosive material, in DOT Specification 106A500X and 110A500W multi-unit tank car tanks. (mode 2).
9643-N	Eastman Kodak Company, Rochester, NY	49 CFR 172.300, 172.400, 177.848(f), Part 173.	To authorize certain compatible hazard classes to be transported, under special conditions, between two facilities for a distance of 3/10 of a mile in non-DOT specification packaging without marking and labeling and without meeting segregration requirements. (mode 1).
9644-N	Atlas Powder Company, Dallas, TX	49 CFR 178.218-11(a)	To manufacture, mark and sell a DOT Specification 23G cylindrical fiberboard box tested at one-year intervals, instead of 6 month intervals, for shipment of certain Class A explosives. (mode 1).
9645-N	Bonar Rosedale Plastics Ltd., Lindsay, Ont. Canada.	49 CFR Part 173, Subparts D, F	To manufacture, mark and sell non-DOT specification rotationally molded polyethylene containers of up to 300 gallon capacity enclosed in a plastic exterior frame for shipment of certain flammable or corrosive materials. (modes 1, 2).
9646-N	U.S. Department of Defense, Falls Church, VA.	49 CFR 174.81	To authorize certain Class A, B and C explosives and corrosive materials to be shipped together in a freight container secured to a rail car. (mode 2).
9647-N	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.66	To authorize shipment of detonators, Class A explosive, in military specification packagings. (modes 1, 2, 3).
9648-N	Morton Thiokol, Inc., Elkton, MD	49 CFR 173.92(c)	To authorize shipment of Class B rocket motors with igniters installed. (mode 1).
9649-N	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.421(b) and (d)	To authorize small arms ammunition, Class C explosive and ammunition for cannon with solid projectile, Class B explosive (munitions) containing depleted uranium to be shipped with higher surface radiation levels and without marking radioactive on packagings. (modes 1, 2, 3)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 5, 1986.

J. Suzanne Hedgepeth, *Chief*
Exemptions Branch Office of Hazardous Materials Transportation.

[FR Doc. 86-17971 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption of Hazardous Materials

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes August 27, 1986.

ADDRESS: Address Comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
868-X	U.S. Department of Defense, Falls Church, VA.	868
3630-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	3630
3768-X	Vanchem, Inc., Lockport, NY	3768
4850-X	Owen Oil Tools, Inc., Fort Worth, TX.	4850
5403-X	Halliburton Services, Duncan, OK.	5403
5403-X	Vann Systems, Division of Halliburton Company, Houston, TX.	5403
5649-X	Great Lakes Chemical Corporation, Adrian, MI.	5649

VOL 51 ISS 154 AG 11 1986 UMI

Application No.	Applicant	Renewal of exemption
5820-X	ICI Americas, Incorporated, Wilmington, DE.	5820
6117-X	Montana Sulphur & Chemical Company, Billings, MT.	6117
6296-X	Rhone-Poulenc Inc., Monmouth Junction, NJ.	6296
6296-X	American Cyanamid Company, Wayne, NJ.	6296
6369-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6369
6543-X	Union Carbide Corporation, Danbury, CT.	6543
6762-X	Taylor Chemicals, Inc., Sparks, MD.	6762
6874-X	ICI Americas, Incorporated, Wilmington, DE.	6874
6874-X	Degussa Corporation, Teterboro, NJ.	6874
6874-X	E.I. du Pont de Nemours & Company, Wilmington, DE.	6874
7041-X	Ethyl Corp., Baton Rouge, LA	7041
7052-X	ETC Laboratories, Inc., Norwood, MA.	7052
7060-X	Federal Express Corporation, Memphis, TN.	7060
7227-X	Richmond Lox Equipment Company, Livermore, CA.	7227
7247-X	U.S. Department of Defense, Falls Church, Va.	7247
7650-X	ICI Americas, Incorporated, Wilmington, DE.	7650
7719-X	Turner, Sycamore, IL	7719
7730-X	The Western Company of North America, Fort Worth, TX.	7730
7943-X	Hasa Chemicals, Inc., Saugus, CA.	7943
7943-X	Willard Products, Redwood City, CA.	7943
7943-X	All Pure Chemical Company, Inc., Tracy, CA.	7943
7943-X	Alstar Company, Tracy CA	7943
7951-X	Avoset Food Corporation, Pleasanton, CA.	7951
7951-X	Longlife Dairy Products Company, Inc., Jacksonville, FL.	7951
8008-X	Wheaton Aerosols Co., Mays Landing, NJ.	8008
8035-X	NL McCullough/NL Industries, Inc., Houston, TX.	8035
8059-X	EFI Corporate, d/b/a EFIC, San Jose, CA.	8059
8111-X	U.S. Department of Energy, Washington, DC.	8111
8378-X	Sigma Chemical Company, St. Louis, MO.	8378
8431-X	Dow Chemical Co., Midland, MI.	8431
8445-X	Waste Conversion, Inc., Colmar, PA.	8445
8451-X	U.S. Department of Defense, Falls Church, VA.	8451
8473-X	Degussa AG, Frankfurt, West Germany.	8473
8526-X	Phelco Inc. Trucking, Hazelwood, MO.	8526
8538-X	Hercules, Incorporated, Wilmington, DE.	8538
8545-X	Hercules, Incorporated, Wilmington, DE.	8545
8549-X	United Pumping Service, Inc., City of Industry, CA.	8549
8867-X	3M Transportation, St. Paul, MN.	8867
8873-X	Stauffer Chemical Company, Westport, CT.	8873
8878-X	Amalgamet Canada—Division of Premetalco Inc., Toronto, Ontario, Canada.	8878
8891-X	BIC Corporation, Milford, CT	8891
8911-X	Olin Corp., East Alton, IL	8911
8913-X	Eurotainer, S.A., Paris, France	8913
8920-X	Applied Environments Corporation, San Fernando, CA.	8920
8921-X	Hoover Group, Inc., Beatrice, NE.	8921
8943-X	BASF Wyandotte Corporation, Parsippeny, NJ.	8943
8966-X	All Pure Chemical Company, Inc., Tracy, CA.	8966
9016-X	Van Leer Verpackungen, Hamburg, West Germany [1].	9016
9168-X	All-Pak, Inc., Pittsburgh, PA [2]	9168
9182-X	Stoneco, Inc., Dacono, CO	9182
9212-X	Gibson Cryogenics, Inc., Ogden, UT.	9212
9253-X	Wiva Verpakkingen B.V., Oosterhout, Netherlands.	9253
9262-X	Owen Oil Tools Inc., Fort Worth, TX.	9262
9266-X	ANF-Industrie, Paris, France	9266
9277-X	American Cyanamid Company, Wayne, NJ.	9277
9282-X	Halocarbon Products Corporation, Hackensack, NJ.	9282
9283-X	Vanen Associates, Palo Alto, CA.	9283
9307-X	Better Methods, Inc., Paterson, NH.	9307
9348-X	Duracell Inc., Bethel, CT [3]	9348
9348-X	Duracell Inc., Bethel, CT [4]	9348
9421-X	Taylor-Wharten, Div. of Harsco Corp., Harrisburg, PA [5].	9421
9498-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE [6].	9498
9607-X	Danworth Company, Avon, CT	9607

[1] To authorize an addition non-DOT specification fiber drum with a steel bottom and top head for shipment of nitrocellulose

[2] To authorize those flammable solids requiring dangerous when wet label to be shipped under special condition without table.

[3] To authorize cargo-only aircraft as an additional mode of transportation.

[4] To amend exemption to ship lithium-manganese dioxide type batteries containing not more than 6 grams of lithium and up to 12 cells per battery.

[5] To authorize the manufacture of cylinders with a wall thickness of .230 inch minimum.

[6] To authorize water as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
2582-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	2582
4453-P	Douglas Explosives, Inc., Philipsburg, PA.	4453
4453-P	Laverty Supply, Inc., Indianola, IA.	4453
4884-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	4884
5038-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	5038
5206-P	Laverty Supply, Inc., Indianola, IA.	5206
5206-P	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	5206
5600-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	5600
6325-P	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	6325
6325-P	Douglas Explosives, Inc., Philipsburg, PA.	6325
6543-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	6543
6765-P	Messer Griesheim Industries, Inc., Valley Forge, PA.	6765
6902-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	6902
7052-P	Schlumberger Well Services, Rosharon, TX.	7052
7607-P	HDR Infrastructure, Inc., Omaha, NE.	7607
7716-P	Atlas Powder Company, Dallas, TX.	7716
7835-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	7835
7987-P	Chase Bag Company, Oak Brook, IL.	7987
8156-P	Solkatronic Chemicals, Inc., Fairfield, NJ.	8156
8230-P	J.T. Baker Chemical Co., Philipsburg, NJ.	8230
8352-P	Chase Bag Company, Oak Brook, IL.	8352
8378-P	Aldrich Chemical Company, Inc., Milwaukee, WI.	8378
8453-P	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	8453
8453-P	Pacific Motor Transport, Tenino, WA.	8453
8453-P	Pacific Powder Company, Tenino, WA.	8453
8489-P	Chase Bag Company, Oak Brook, IL.	8489
8554-P	Green Mountain Explosives, Inc., Bradford, VT.	8554
8554-P	Olson Explosives, Inc., Decorah, IA.	8554
8627-P	Ancor Services, Inc., Kilgore, TX.	8627
8723-P	H.L.&A.G. Belsinger, Inc., Bridgeville, PA.	8723
8931-P	Noranda Sales Corporation, Toronto, Canada.	8931
9015-P	Chase Bag Company, Oak Brook, IL.	9015
9110-P	Chase Bag Company, Oak Brook, IL.	9110
9281-P	Jet Research Center, Inc., Arlington, TX [1].	9281
9487-P	Chem-Tech, Ltd., Des Moines, IA.	9487
9498-P	Chase Bag Company, Oak Brook, IL.	9498
9617-P	Piedmont Explosives, Inc., Statesville, NC.	9617
9623-P	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9623
9623-P	Austin Powder Company, Cleveland, OH.	9623

[1] Request party status and to authorize additional Class C explosive and to use fiberboard tubes as optional dividers.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 5, 1986.

J. Suzanne Hedgepeth,

Chief Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-17970 Filed 8-8-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Dated: August 4, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0034.
Form Number: None.

Type of Review: Extension.
Title: Fiduciary Powers.
OMB Number: 1557–0139.
Form Number: None.
Type of Review: Extension.
Title: Adjustable-Rate Mortgages.
OMB Number: 1557–0148.
Form Number: None.
Type of Review: Extension.
Title: Operating Subsidiaries.
OMB Number: 1557–0154.
Form Number: None.
Type of Review: Extension.
Title: Investment in Bank Premises or Stock of a Corporate Holding Premises.
OMB Number: 1557–0155.
Form Number: None.
Type of Review: Extension.
Title: Limitations on Payment of Dividends.

Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Internal Revenue Service

OMB Number: New.
Form Number: IRS Form 8453-F.
Type of Review: New.
Title: U.S. Fiduciary Income Tax Declaration for Magnetic/Electronic Filing.
OMB Number: 1545–0090.
Form Number: IRS Forms 1040SS, 1040SS (NMI), and 1040-PR.
Type of Review: Revision.
Title: U.S. Self-Employment Tax Return, Self-Employment Tax Return Northern Mariana Islands, and Planilla Para La Declaration De La Contribucion Federal Sobre El Trabajo Por Cuenta Propia-Puerto Rico.
OMB Number: 1545–0193.
Form Number: IRS Form 4972.
Type of Review: Revision.
Title: Special 10-Year Averaging Method.

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,
Departmental Reports Management Office.
[FR Doc. 86–18025 Filed 8–8–86; 8:45 am]
BILLING CODE 4810-25-M

VOL 51 ISS 154 AG 11 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 154
Monday, August 11, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Securities and Exchange Commission	2

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 pm. on Tuesday, August 5, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a recommendation regarding the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act' (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Dated: August 6, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18059 Filed 8-7-86; 11:02 am]

BILLING CODE 6714-01-M

2

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [51 FR 26338 JULY 22, 1986 & 51 FR 26628 JULY 24, 1986].

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED:

Thursday, July 17, 1986.
Monday, July 21, 1986.

CHANGE IN THE MEETING: Additional meeting/items.

The following item was considered at a closed meeting scheduled on Friday, July 25, 1986, at 5:30 p.m.

Consideration of *amicus* participation.

The following additional item was considered at a closed meeting scheduled for Wednesday, July 30, 1986, at 9:15 a.m.

Institution of injunction action.

Commissioner Fleischman, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald A Schy at (202) 272-2468.

Jonathan G. Katz,

Secretary.

August 5, 1986.

[FR Doc. 86-18026 Filed 8-6-86; 8:45 am]

BILLING CODE 8010-01-M

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51
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27515-
27811-
28059-
28219-
28321-
28509-
28687-

Reader Aids

Federal Register

Vol. 51, No. 154

Monday, August 11, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

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Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218
Administrative Orders:
Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219

5 CFR

1201.....28321
Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

29.....28687
51.....27813
272.....28196
273.....28196
908.....27816, 28509
910.....28059
911.....27517
918.....27518
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1427.....28321
1930.....27636
1944.....27636
1951.....27636
1965.....27636
Proposed Rules:
52.....28719
447.....27862
1065.....27553, 28721
1079.....27554
1136.....27866
1137.....27554
1139.....27555
1709.....28722

8 CFR

238.....28060
Proposed Rules:
214.....27867, 28576
248.....27867

9 CFR

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825
Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221, 28690
523.....28221
741.....27522
Proposed Rules:
205.....28589
226.....28245

13 CFR

310.....27828

14 CFR

21.....28509-28525
23.....28509-28525
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691
71.....27833-27835, 28067, 28325, 28326, 28528
97.....28326
121.....28322
1204.....27528
Proposed Rules:
Ch. I.....28386, 28725

1 28095
36 27556
39 ..... 27557, 27874, 28386
71 28388–28390
73 28095
75 28096

15 CFR

370 28692
371 28692
373 28692
374 28692
379 28692
399 ..... 28692, 28693

16 CFR

13 ..... 28694, 28695
423 28222
444 28328
1500 28529

Proposed Rules:

13 28594

17 CFR

1 27529
5 27529
16 27529
33 27529

Proposed Rules:

231 28596
240 28096
241 28596

18 CFR

37 27835
154 ..... 27529, 28331
157 ..... 27529, 28331
270 ..... 27529, 28331
271 ..... 27529, 28068, 28331
284 ..... 27529, 28331

Proposed Rules:

271 28102

19 CFR

6 27836
101 28070

Proposed Rules:

113 27875
141 28390

20 CFR

404 28544
416 28544

Proposed Rules:

655 28599

21 CFR

74 ..... 28331, 28346
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
176 28545
193 28223
331 27762
332 27762
344 28556
357 27756
369 27756
436 27531
440 27531
442 27531
510 28546
520 28546
522 28546
546 28546
558 ..... 28546, 28547
561 28223
1308 28695

Proposed Rules:

1308 ..... 28725, 28727

22 CFR

Proposed Rules:

2a 28391

23 CFR

635 27532

24 CFR

20 28364
35 27774
200 28696
203 28548
204 28548
207 ..... 27837, 28547, 28699
221 ..... 27837, 28547
251 28699
255 28699
300 27838
390 28551
511 28703
888 28486
905 27774
965 27774
968 27774

Proposed Rules:

35 27793
203 28247
510 27793
511 27793
570 27793
590 27793

26 CFR

1 28553
20 28365
25 28365
602 28365

27 CFR

19 28071
250 28071
270 28078
275 28078
290 28078
295 28078
296 28078

Proposed Rules:

270 28106
275 28106
290 28106
295 28106
296 28106

29 CFR

1952 27534
1960 28378
2603 28379

30 CFR

931 28553
943 28554

Proposed Rules:

774 27558
910 27559
912 27559
915 28729
920 ..... 28600, 28601
921 27559
922 27559
933 27559
937 27559
939 27559
941 27559
947 27559
950 27560

32 CFR

90 28092
706 ..... 27535, 27536

33 CFR

100 28706
117 ..... 28380, 28707
140 28381
142 28381
161 27839
165 ..... 28382, 28383

Proposed Rules:

117 27877
334 28248

34 CFR

674 28312

36 CFR

Proposed Rules:

7 28107–28110
60 28204
63 28204

37 CFR

1 ..... 28052, 28555
2 ..... 28052, 28555, 28707
306 27537

39 CFR

10 28383

40 CFR

33 28710
52 ..... 27537, 27840, 27841
61 27956
65 28224
81 27843–27845
180 28225–28227
260 28664
261 ..... 28296, 28664
262 28664
263 28664
264 28556
265 28556
271 ..... 28094, 28664
761 28556

Proposed Rules:

52 ..... 27560, 27878
65 28113
85 28114
141 28730
180 ..... 28249, 28603
271 28604
716 27562
721 28119
795 27880
799 27880

41 CFR

101–40 27539

42 CFR

405 ..... 27847, 28710
417 28569
482 27847

43 CFR

11 27674

Public Land Orders:

6620 28229
6622 28229

44 CFR

64 ..... 28230, 28232

Proposed Rules:

81 28119

45 CFR

1612 27539
2002 28384

47 CFR

22 28236
68 28237
73 ..... 27552, 28237
97 28237

Proposed Rules:

0 27566
1 27566
2 28249
21 27566
22 27566
23 27566
62 27566
73 ..... 27566, 27567
74 27566

48 CFR

1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 ..... 27848, 28574
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 ..... 27848, 28574
1853 27848

49 CFR

571 28238

Proposed Rules:

173 28605
385 28607
391 27567
531 28730
1058 28249
1312 28731

50 CFR

285 ..... 28240, 28241
604 28575
630 28575
641 28094
655 28241
661 ..... 27859, 28717
671 28242
672 28385
674 ..... 27860, 28243

Proposed Rules:
216..... 28320
611..... 28731

LIST OF PUBLIC LAWS

Last List August 8, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 623/Pub. L. 99-372

To authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week. (Aug. 6, 1986; 100 Stat. 799; 1 page) Price: $1.00

S.J. Res. 371/Pub. L. 99-374

To designate August 1, 1986, as "Helsinki Human Rights Day." (Aug. 6, 1986; 100 Stat. 800; 3 pages) Price: $1.00

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $595.00 domestic, $148.75 additional for foreign mailing.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1985 Compilation and Parts 100 and 101)	14.00	[5] Jan. 1, 1986
4	11.00	Jan. 1, 1986
5 Parts:		
1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
53–209	14.00	Jan. 1, 1986
210–299	21.00	Jan. 1, 1986
300–399	11.00	Jan. 1, 1986
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	9.50	Jan. 1, 1986
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
1500–1899	7.00	Jan. 1, 1986
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	7.00	Jan. 1, 1986
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1986
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	8.50	Jan. 1, 1986
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1986
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	7.00	Jan. 1, 1986
300–399	20.00	Jan. 1, 1986
400–End	15.00	Jan. 1, 1986

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	18.00	Jan. 1, 1986
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
1–149	15.00	Apr. 1, 1986
150–399	25.00	Apr. 1, 1986
400–End	6.50	Apr. 1, 1986
*19	29.00	Apr. 1, 1986
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
*1300–End	6.50	Apr. 1, 1986
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	16.00	July 1, 1985
29 Parts:		
0–99	11.00	July 1, 1985
100–499	5.00	July 1, 1985
500–899	19.00	July 1, 1985
900–1899	7.00	July 1, 1985
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[3] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
200–699	6.00	July 1, 1985
700–End	13.00	July 1, 1985
31 Parts:		
0–199	8.50	July 1, 1985
200–End	11.00	July 1, 1985

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VOL 51 ISS 154 AG 11 1986 UMI

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Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[3] July 1, 1984
1–39, Vol. II	19.00	[3] July 1, 1984
1–39, Vol. III	18.00	[3] July 1, 1984
1–189	13.00	July 1, 1985
190–399	16.00	July 1, 1985
400–629	15.00	July 1, 1985
630–699	12.00	[2] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[4] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[4] July 1, 1984
3–6	14.00	[4] July 1, 1984
7	6.00	[4] July 1, 1984
8	4.50	[4] July 1, 1984
9	13.00	[4] July 1, 1984
10–17	9.50	[4] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[4] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[4] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[4] July 1, 1984
19–100	13.00	[4] July 1, 1984
1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	16.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
48 Chapters:		
1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
3–6	13.00	Oct. 1, 1985
7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	19.00	Nov. 1, 1985
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
1300–End	2.25	Oct. 1, 1985
50 Parts:		
1–199	11.00	Oct. 1, 1985
200–End	19.00	Oct. 1, 1985
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

VOL
51
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VOL 51 ISS 155 AG 12 1986 UMI

Contents

Federal Register
Vol. 51, No. 155
Tuesday, August 12, 1986

ACTION
NOTICES
Grants; availability, etc.:
Special volunteer programs, 28848

Agricultural Marketing Service
RULES
Hops of domestic production; correction, 28802
Pistachio nuts, in-shell; grade standards; correction, 28802
PROPOSED RULES
Milk marketing orders:
Upper Midwest et al., 28819

Agricultural Stabilization and Conservation Service
NOTICES
Marketing quotas and acreage allotments:
Tobacco, 28849, 28850
(2 documents)

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation
RULES
World market price determinations:
Rice, 28800

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
Light (lite); use in labeling and advertising, 28836

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Cattle from Canada, 28805

Army Department
NOTICES
Military traffic management:
Interstate movement of household goods; rate table adjustment for accessorial services, 28862

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Centers for Disease Control
NOTICES
Committees; establishment, renewals, terminations, etc.:
Mine Health Research Advisory Committee (NIOSH); nominations for membership, 28889

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
India, 28860
Textile consultations; review of trade:
Mauritius, 28861

Commodity Credit Corporation
RULES
Loan and purchase programs:
Emergency feed program, 28803
NOTICES
Loan and purchase programs:
Wool and mohair, 28852

Consumer Product Safety Commission
NOTICES
Johnson & Johnson Baby Products Co.; prehearing conference, 28862

Defense Department
See Army Department

Delaware River Basin Commission
RULES
Basin regulations:
Water code and quality standards; seasonal disinfection, 28810

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Green's Prescription Center, 28897

Employment and Training Administration
PROPOSED RULES
Unemployment compensation program:
Unemployment insurance quality control program Correction, 28840
NOTICES
Adjustment assistance:
Alta Products, Inc., 28902
Laurie Lace Corp. et al., 28902
Mountain City Manufacturing et al., 28905
Tractech, Inc., 28905
Weyerhaeuser Co., 28906
Job Training Partnership Act:
Migrant and seasonal farmworker programs—Grantee selection procedures, 28900

Energy Department
See also Energy Information Administration; Federal Energy Regulatory Commission
NOTICES
Atomic energy agreements; subsequent arrangements:
European Atomic Energy Community, 28862
International Atomic Energy Agency, 28863
Japan, 28863
Sweden, 28863
Nuclear waste management:
Civilian radioactive waste management—Transportation institutional plan, 28863

Energy Information Administration
NOTICES
Forms; availability, etc.:
Petroleum marketing program survey forms, 28864

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Massachusetts, 28813
PROPOSED RULES
Asbestos-containing materials in schools; inspection, notification, management plans, and technical assistance, 28912
Toxic substances:
Testing requirements—
1,1-Dichloroethylene, 28840
NOTICES
Air pollution control; new motor vehicles and engines:
Final agency actions, 28872
Meetings:
National Air Pollution Control Techniques Advisory Committee, 28873
Toxic and hazardous substances control:
Premanufacture exemption applications, 28874, 28886 (2 documents)
Premanufacture notices receipts, 28874–28882 (3 documents)
Testing consent agreement development, 28886

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
Allison, 28806
Pratt & Whitney, 28807
Jet routes, 28809
(2 documents)
PROPOSED RULES
Airworthiness directives:
Boeing, 28832

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 28865
Carnegie Natural Gas Co., 28865
Columbia Gas Transmission Corp., 28865
Consolidated Gas Transmission Corp., 28866
Kansas Power & Light Co. et al., 28866
Mississippi River Transmission Corp., 28867 (2 documents)
Natural Gas Pipeline Co. of America, 28868
Panhandle Eastern Pipe Line Co., 28868
SKZ Inc. et al., 28870
Tennessee Gas Pipeline Co., 28870
Trunkline Gas Co., 28870

Federal Home Loan Bank Board
NOTICES
Meetings; Sunshine Act, 28912

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
BankEast Corp. et al., 28887
Seashore Bank Shares, Inc., et al., 28887

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Upper Colorado River Basin, CO, UT, and WY; fish recovery program
Republication, 28891

Food and Drug Administration
RULES
Human drugs:
Prescription drugs without approved or abbreviated new drug applications; adverse experience; reporting and recordkeeping requirements; correction, 28810

General Services Administration
RULES
Acquisition regulations:
Contract clauses, allocation of orders, etc., 28815
NOTICES
Federal Information Resources Management Regulation:
ADP and Telecommunications Standards Index; ordering procedures, 28888

Health and Human Services Department
See also Centers for Disease Control; Food and Drug Administration; Social Security Administration
NOTICES
Meetings:
Catastrophic Illness Private/Public Sector Advisory Committee, 28888

Immigration and Naturalization Service
NOTICES
Applications and petitions; direct mail to Regional Adjudications Centers, St. Albans, VT; correction, 28899

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; National Park Service; Reclamation Bureau
PROPOSED RULES
Hearings and appeals procedures:
Indian probate proceedings—
Hearing transcripts, 28846

Internal Revenue Service
NOTICES
Organization, functions, and authority delegations:
Acting Commissioner, 28911

International Trade Administration
NOTICES
Antidumping:
Urea from—
East Germany, 28854
Romania, 28855
U.S.S.R., 28857
Applications, hearings, determinations, etc.:
Louisiana State University, 28858
Northwestern University et al., 28858
State University of New York, 28859
University of Alaska et al., 28859
University of California, 28860

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
Cost ratio for recyclables, 28847

NOTICES
Railroad operation, acquisition, construction, etc.:
Chicago & North Western Transportation Co. et al., 28897
Union Pacific Corp. et al., 28896
Railroad services abandonment:
Baltimore & Ohio Railroad Co., 28897

Justice Department
See Drug Enforcement Administration; Immigration and Naturalization Service

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 28899
Committees; establishment, renewals, terminations, etc.:
Trade Negotiations and Trade Policy Labor Advisory Committee, 28899

Land Management Bureau
NOTICES
Alaska Native claims selection:
Afognak Native Corp., 28889
Kake Tribal Corp., 28889
Kaktovik Inupiat Corp., 28889
Closure of public lands:
California, 28890
Meetings:
Burley District Grazing Advisory Board, 28890
Canon City District Grazing Advisory Board, 28890
Resource management plans, etc.:
Medicine Bow and Divide Resources Areas, WY, 28890

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Amherst Coal Co., 28906
Cimaron Minerals, Inc., 28906
Consol Pennsylvania Coal Co., 28906
Mine Hill Coal Co. No. 50, 28907

National Credit Union Administration
NOTICES
Agency information collection activities under OMB review, 28907

National Foundation on the Arts and Humanities
NOTICES
Senior Executive Service:
Performance Review Board; membership, 28907

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 28860
(2 documents)

National Park Service
NOTICES
Historic Places National Register; pending nominations:
Alabama et al., 28894

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 28912

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
National Aeronautics and Space Administration, 28908
(2 documents)

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
RULES
Health benefits, Federal employees:
Open season and payment restoration to qualified providers in medically underserved areas, 28799
Pay administration:
Prevailing rate systems; Federal Wage System employees in foreign areas and U.S. possessions; publication policy, 28799
NOTICES
Agency information collection activities under OMB review, 28909
(2 documents)

Postal Service
NOTICES
Meetings; Sunshine Act, 28912

Public Health Service
See Centers for Disease Control; Food and Drug Administration

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Garrison Diversion Unit, ND, 28891

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
ML Venture Partners I, L. P., et al., 28909

Social Security Administration
PROPOSED RULES
Social security benefits, supplemental security income, and black lung benefits:
Own-motion review of fee determinations, 28834

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Committees; establishment, renewals, terminations, etc.:
Trade Negotiations and Trade Policy Labor Advisory Committee [**Editorial Note:** For a document on this subject, see entry under Labor Department.], 28899

Transportation Department
See Federal Aviation Administration

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service

VOL 51 ISS 155 AG 12 1986 UMI

RULES
Prepayment of loans made by Federal Financing Bank and guaranteed by Rural Electrification Administration, 28810
NOTICES
Notes, Treasury:
S-1989 series, 28910

Separate Parts In This Issue

Part II
Environmental Protection Agency, 28914

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR P

A cumu
the Rec

5 CFR
532.....
890.....
7 CFR
26.....
51.....
991.....
1475....
Propose
1065....
1068....
1079....
9 CFR
92.....
14 CFR
39 (2 do
75 (2 do
Propose
39.....
18 CFR
410.....
20 CFR
Propose
404.....
410.....
416.....
21 CFR
211.....
310.....
314.....
27 CFR
Propose
4.....
5.....
7.....
29 CFR
Propose
602.....
31 CFR
16.....
40 CFR
52.....
Propose
763.....
799.....
43 CFR
Propose
4.....
46 CFR
522.....
552.....
49 CFR
Propose
Ch. X....

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
532 28799
890 28799

7 CFR
26 28800
51 28802
991 28802
1475 28803

Proposed Rules:
1065 28819
1068 28819
1079 28819

9 CFR
92 28805

14 CFR
39 (2 documents) 28806, 28807
75 (2 documents) 28809

Proposed Rules:
39 28832

18 CFR
410 28810

20 CFR

Proposed Rules:
404 28834
410 28834
416 28834

21 CFR
211 28810
310 28810
314 28810

27 CFR

Proposed Rules:
4 28836
5 28836
7 28836

29 CFR

Proposed Rules:
602 28840

31 CFR
16 28810

40 CFR
52 28813

Proposed Rules:
763 28914
799 28840

43 CFR

Proposed Rules:
4 28846

48 CFR
522 28815
552 28815

49 CFR

Proposed Rules:
Ch. X 28847

VOL
51
ISS
155
AG
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1986
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5 CFR P

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AGENCY:
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ACTION:

SUMMAR
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Rules and Regulations

Federal Register
Vol. 51, No. 155
Tuesday, August 12, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending its regulations governing the establishment and adjustment of appropriated and nonappropriated fund wage schedules in foreign areas and certain U.S. possessions and territories. These revisions will delete the provisions which require that rates be published in the **Federal Register** and, in doing so, will eliminate procedural delays in issuing the overseas schedule.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Allan Summers, (202) 632–7830.

SUPPLEMENTARY INFORMATION: Notice of the proposed regulation changes governing the publication of rates for the overseas schedule was published on April 22, 1986 (51 FR 15010). The public comment period ended June 23, 1986. We received three written comments—one each from an employee organization, a Federal agency, and an individual. All were in favor of the proposed change.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is amending 5 CFR Part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for Part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; Section 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

§ 532.233 [Amended]

2. In § 532.233, paragraph (f) is removed.

§ 532.235 [Amended]

3. In § 532.235, paragraph (e) is removed.

FR Doc. 86–18038 Filed 8–11–86; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations under the Federal Employees Health Benefits (FEHB) Program to reflect two statutory changes brought about by the Federal Employees Benefits Improvement Act of 1986. These regulations will specify the conditions requiring OPM to hold an open season and restore payment to all qualified providers in Medically Underserved Areas effective January 1, 1985.

DATES: Interim regulations are effective August 12, 1986.

Comments must be received on or before September 11, 1986.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Pay and Benefits Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Myers, (202) 632–0003.

SUPPLEMENTARY INFORMATION: Pub. L. 99–251, enacted on February 27, 1986, and entitled the "Federal Employees Benefits Improvement Act of 1986," amended the FEHB law in several substantive and technical areas. Two areas that require regulatory revisions are outlined in the following paragraphs:

(1) Pub. L. 99–251 requires OPM to conduct an open season of at least 3 weeks' duration if the rates or benefits of any of the health plans change, if a newly-approved health plan is offered, or if an existing health plan ceases to participate in the Program at the end of a contract year.

(2) Pub. L. 99–251 requires restoration of payment to all qualified providers in Medically Underserved Areas effective January 1, 1985. The previous legislation, which permitted such payment by health plans other than comprehensive medical plans for services provided on and after January 1, 1980, expired December 31, 1984. OPM will resume its annual review of current data on primary medical care manpower shortage areas and State populations, and will again publish an amendment to its regulations (5 CFR Part 890, Subpart G) if it determines that the status of any State has changed for purposes of 5 U.S.C. 8902(m)(2). For 1987, OPM has determined that the States that are Medically Underserved Areas effective January 1, 1986 will not change.

Waiver of Notice of Proposed Rulemaking and 30-day Delay in Effectiveness Date

Under sections 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days. These regulations are being made effective immediately because the provisions of Pub. L. 99–251 necessitating the changes became effective either upon enactment of the law or on a retroactive basis.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a signficant economic impact on a substantial number of small entities because they primarily affect Federal employees, annuitants, and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedures, Government employees, Health insurance.

U.S. Office of Personnel Management.
Constance Horner,
Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, OPM is amending 5 CFR Part 890 as follows:

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under 5 U.S.C. 1104 and Sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; Sec. 890.301 also issued under 5 U.S.C. 8905(b); Sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

2. In § 890.301, paragraph (d) is revised to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) *Open season.* (1) An open season will be held from the Monday of the second full workweek in November through the Friday of the first full workweek in December in any year—

(i) That precedes a year during which the rates or benefits of any health benefits plan in the program will change; or

(ii) That precedes a year during which a newly-approved plan will begin participation in the Program; or

(iii) At the end of which an existing health benefits plan will cease to participate in the Program.

(2) The Director of the Office of Personnel Management may modify the dates specified in this paragraph or announce additional open seasons. Announcements of open seasons will be made by OPM in Federal Personnel Manual (FPM) Bulletins.

(3) During open season—

(i) An eligible unenrolled employee may register to be enrolled.

(ii) An enrolled employee, annuitant, or former spouse may change to another plan, another option, or from self alone to self and family, or may make any combination of these changes.

* * * * *

3. In § 890.701, the second sentence of the paragraph defining "Medically underserved area" is removed and the following three sentences are added to the end of the definition to read as follows:

§ 890.701 Definitions.

* * * * *

"Medically underserved area" * * * OPM has determined that effective January 1, 1985, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Georgia, Louisiana, Mississippi, and West Virginia. Claims for services provided in 1985 must be submitted by December 31, 1987, notwithstanding time limits governing submission of other claims in the plan brochures. OPM has determined that effective January 1, 1986, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Louisiana, Mississippi, West Virginia, and Wyoming.

4. In § 890.702, paragraph (b) is revised to read as follows:

§ 890.702 Payment to any licensed practitioner.

* * * * *

(b) Paragraph (a) of this section applies only to health services provided under contracts which became effective after December 31, 1979.

[FR Doc. 86–18037 Filed 8–11–86; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 26

Determination of World Price for Rice

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to (1) prescribe the formula by which the Secretary of Agriculture will determine the prevailing world market price for rice, adjusted to U.S. quality and location, and (2) provide a mechanism by which such price will be announced periodically. These actions are required by sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: April 15, 1986.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Eugene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3740 South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–5954.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major". It has been determined that these provisions will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this notice applies are: Title-Rice Production Stabilization, Number 10.065, and Title-Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

I have determined that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

It has been determined by an environmental evaluation that this notice will have no significant impact on the quality of the human environment.

Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 101(i)(1)(B)(ii) and section 101A(a)(5)(B) of the Agricultural Act of 1949, as amended, provided that the Secretary of Agriculture shall prescribe by regulation: (1) a formula to define the prevailing world market price for rice; and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

The prevailing world market price for rice, as determined in accordance with the formula set forth in this rule, shall be utilized under several provisions of the

rice program for the 1985 through 1990 crops of rice which are designed to make domestically produced rice competitive in the world market.

A proposed rule prescribing a formula for determining the prevailing world market price for rice and a mechanism for announcing such price was published in the **Federal Register** on March 21, 1986 (51 FR 9940) and provided for a 15-day comment period which ended on April 7, 1986. During that period, comments were received from one U.S. trade association, one foreign government, one U.S. producer cooperative, one U.S. rice mill, one rice exporting company, and one foreign rice milling association. All of the comments received were considered in developing this final rule.

On April 11, 1986, the Department issued a press release which announced the world price of rice based upon the formula contained in this final rule. Announcements of the world price of rice have been issued subsequently to the original announcement and shall be announced weekly, as provided in the final rule.

Discussion of Comments

Five comments were received regarding the provision in the proposed rule to value broken kernels based on their domestic market price. One of the comments favored the use of domestic prices; three of the comments proposed that broken kernels be valued based on their world price; and one suggested that a world price be determined for brewers rice separately for mother broken kernel prices. After reviewing these comments, it has been determined that the use of domestic prices for valuing broken kernels is appropriate because broken kernels are largely marketed as a rice-milling by-product in the U.S. Price information regarding such U.S. sales is regularly available and can be related to known quality factors. It has also been determined that the value of broken kernels should be based on the domestic prices of broken kernels of all sizes and § 26.12(b)(2) of the final rule has been changed accordingly.

Two comments suggested that world milled-rice prices should not be adjusted to a U.S. grade No. 2 equivalent quality as provided in § 26.11(a) of the proposed rule. These comments asserted that individual world prices should be separately adjusted to their rough rice equivalent prices from which the lowest price would be used to calculate the world prices of rice, loan rate basis. After reviewing the comments received on this issue, it has been determined that the proposed rule should not be changed. It is appropriate to include in the formula this adjustment in order to reflect the quality and value differences that exist in the world rice market. In addition, the lowest world price does not necessarily best reflect the prevailing world market price of rice.

One comment proposed that U.S. rice export prices should be included in the calculation of the world market price because the U.S. has a substantial share of the world rice trade. The proposed rule did not exclude U.S. rice prices from the formula calculation of the prevailing world market price of rice. Currently, export prices of U.S. rice are not competitive in world trade and are higher than the price level at which most rice is traded in the world market. Export prices of U.S. rice may be included in the calculation of the world price when those prices are reflective of the price level at which most rice is traded in the world market.

Two comments suggested that medium and short grain rice be considered as equivalent classes for the purpose of deriving world prices by class. USDA recognizes that medium and short grain rices may be considered substitutes in domestic or export markets. However, the formula incorporates estimates of national average milling outturns which are different for medium and short grain classes. For this reason, and because the Agricultural Act of 1949, as amended, specifically provides that prevailing world market prices be determined for separate classes of rice, this suggestion is not incorporated in the final rule.

One comment suggested that export costs of interest, banking charges, storage, and administrative costs be included in the calculation of costs of exporting rice. It has been determined that this would be an appropriate change to the proposed formula and this suggestion has been incorporated in § 26.12(b) of the final rule.

One comment suggested that the cost of transporting rice from county storage to mill locations be included as an adjustment to rough rice prices. It has been determined that this adjustment would be appropriate and, therefore, this suggestion has been incorporated in § 26.12(b)(5)(iii) of the final rule.

One comment suggested that adjustments should be included, where appropriate, for credit concessions, barter sale, government-to-government sales provisions, and special post-milling processes, coating, and premixes when adjusting prices at which rice has been sold in world markets to the proposed standard basis of U.S. grade No. 2, 4 percent broken kernels. It has been determined that this would be an appropriate change to the proposed formula and this suggestion has been incorporated in § 26.11(a) of the final rule.

One comment suggested that world prices should be announced on Tuesdays rather than Fridays as provided in the proposed rule. It has been determined that the announcement of world prices of rice on Tuesdays would be more compatible with U.S. trade practices and § 26.12(c) of the final rule has been amended accordingly.

One comment suggested that announced world prices should be effective immediately upon announcement. It has been determined that making announced prices effective immediately upon announcement would improve program administration and effectiveness. Accordingly, § 26.12(c) has been changed to provide that the prevailing world market price shall be effective immediately upon announcement.

No other changes have been made in the rule as proposed.

List of Subjects in 7 CFR Part 26

Rice, World market price.

Final Rule

Accordingly, 7 CFR Part 26, is amended by adding a new Subpart B—Determination of World Market Price for Rice as follows:

PART 26—[AMENDED]

Subpart B—Determination of World Market Price for Rice

Sec.
26.10 Applicability.
26.11 Determination of the prevailing world market price for a class of rice.
26.12 Adjustment of world price to loan rate basis.

Authority: Secs. 801, 802, Pub. L. 99–198 (7 U.S.C. 1441, 1441–1).

Subpart B—Determination of World Market Price for Rice

§ 26.10 Applicability.

This subpart sets forth the procedures for determining the prevailing world market price for a class of rice (adjusted to United States quality and location) and the mechanism for periodically announcing such price as required by sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

§ 26.11 Determination of the prevailing world market price for a class of rice.

(a) The prevailing world market price for a class of rice shall be determined by the Secretary of Agriculture based upon a review of prices at which rice is being

sold in world markets and a weighting of such prices through the use of information such as changes in supply and demand of rice, tender offers, credit concessions, barter sales, government-to-government sales, special processing costs for coatings or premixes, and other relevant price indicators, and shall be expressed in U.S. equivalent values (free-on-board (FOB) vessel, U.S. port of export) per hundredweight as follows:

(1) U.S. grade No. 2, 4 percent broken kernels, long grain milled rice;

(2) U.S. grade No. 2, 4 percent broken kernels, medium grain milled rice; and

(3) U.S. grade No. 2, 4 percent broken kernels, short grain milled rice.

(b) Export transactions involving rice and all other related market information will be monitored on a continuous basis for the purpose of paragraph (a) of this section. Relevant information may be obtained for this purpose from U.S. Department of Agriculture field reports, international organizations, public or private research entities, international rice brokers, and any other source of reliable market information.

§ 26.12 Adjustment of world price to loan rate basis.

(a) The prevailing world market price for a class of rice adjusted to U.S. quality and location (hereinafter referred to as the "adjusted world price, loan rate basis"), which is determined in accordance with paragraph (b) of this section, shall be applicable to the programs of the Department of Agriculture for the 1985 through 1990 crops of rice as provided in sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

(b) The adjusted world price, loan rate basis, for each class of rice shall equal the prevailing world market price for a class of rice (U.S. equivalent value) as determined in accordance with § 26.11 and adjusted to U.S. quality and location as follows:

(1) The prevailing world market price for a class of rice (U.S. equivalent value) determined in accordance with § 26.11 shall be adjusted to reflect an FOB mill position by deducting from such calculated price an amount which is equal to the estimated national average costs associated with—

(i) The use of bags for the export of U.S. rice; and

(ii) The transfer of such rice from a mill location to FOB vessel (U.S. port of export) with such costs including, but not limited to, freight, unloading, wharfage, insurance, inspection, fumigation, stevedoring, interest, banking changes, storage, and administrative costs.

(2) The price determined in accordance with paragraph (b)(1) of this section shall be adjusted to reflect the market value of the total quantity of whole kernels contained in such milled rice by deducting the value of broken kernels contained therein, with such value of the broken kernels to be determined by multiplying the quantity of such broken kernels (4% per hundredweight) by the market value of such broken kernels. The market value of broken kernels shall be based upon the estimated domestic market values of all sizes of broken kernels.

(3) The price determined in accordance with paragraph (b)(2) of this section shall be adjusted to reflect the per pound market value of whole kernels by dividing the price by the quantity of whole milled kernels contained in the milled rice (96% per hundredweight).

(4) The price determined in accordance with paragraph (b)(3) of this section shall be adjusted to reflect the market value of whole kernels contained in 100 pounds of rough rice by multiplying such price by the estimated national average quantity of whole kernel rice by class obtained from milling 100 pounds of rough rice.

(5) The price determined in accordance with paragraph (b)(4) of this section shall be adjusted to reflect the total market value of rough rice by—

(i) Adding to such price—

(A) the market value of bran contained in the rough rice, computed by multiplying the domestic unit market value of bran by the estimated national average quantity of bran produced in milling 100 pounds of rice; and

(B) The market value of broken kernels contained in the rough rice, computed by multiplying the estimated domestic market values of all sizes of broken kernels by the estimated national average quantity of broken kernels produced in milling 100 pounds of rice;

(ii) Deducting from such price an estimated cost of milling rough rice; and

(iii) Deducting from such price an estimated cost of transporting rough rice from farm to mill locations.

(6) The price determined in accordance with paragraph (b)(5) of this section shall be adjusted to a whole kernel loan rate basis by deducting the estimated domestic market value of the total quantity of broken kernels contained in such rice and dividing the resulting value by the estimated national average quantity of milled whole kernels produced in milling 100 pounds of rice.

(c) The adjusted world prices for rice, loan rate basis, shall be determined by the Secretary of Agriculture and shall be announced, to the extent practicable, on or after 3:00 p.m. Eastern time each Tuesday continuing through the last Tuesday of July 1991, but may be announced more or less frequently, as determined by the Secretary. In the event that Tuesday is a non-workday, the determination will be announced the next workday. The announced prices will be effective upon announcement and will remain effective until the next world price is announced.

Signed at Washington, DC, on July 23, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86-18093 Filed 8-11-86; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Pistachio Nuts in the Shell

Correction

In FR Doc. 86-17478 beginning on page 27813 in the issue of Monday, August 4, 1986, make the following correction: On page 27814, in the third column, in § 51.2541(d), in the last line, "hold" should read "hole".

BILLING CODE 1505-01-M

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7 CFR Part 991

Hops of Domestic Production, Marketing Order 991; Termination of Certain Provisions and Referendum Order; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of Certain Provisions, reinstatement of other provisions into the CFR and referendum order; correction.

SUMMARY: This action corrects an error with respect to the termination, in part, of § 991.231 of the rules and regulations of Marketing Order No. 991 (7 CFR Part 991). Section 991.231 was terminated, in part, effective August 1, 1986, and published in the July 31, 1986, **Federal Register** (51 FR 27400; FR Doc. 86-17237).

That document terminated a portion of § 991.231 pertaining to minimum quality standards, which should remain in effect.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, (202) 447-5697.

SUPPLEMENTARY INFORMATION: The Department published an action in the **Federal Register** on July 31, 1986 (51 FR 27400; FR Doc. 86–17237) which terminated certain provisions of Marketing Order No. 991, Hops of Domestic Production, and the administrative rules and regulations issued thereunder, because the Secretary of Agriculture determined that such provisions obstruct and do not tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). However, only those portions of § 991.231 which related to the terminated volume control provisions of the marketing order were to be terminated. Section 991.231 as published in the **Federal Register** terminated more of that section than intended. It was intended that all portions of § 991.231 pertaining to minimum quality standards should remain in effect. Thus, the publication of that section is corrected so that only the words ", nor the Committee accept for reserve pooling,", wherever they appear, are terminated from § 991.231.

Accordingly, § 991.231 of Subpart—Administrative Rules and Regulations (7 CFR Part 991) as terminated, in part, and published in the July 31, 1986, **Federal Register** (51 FR 27400; FR DOC. 86–17237), is correctly revised to read as follows:

PART 991—[CORRECTED]

§ 991.231 Minimum quality standards.

(a) *Hops.* No handler shall acquire, use, or sell hops which have a leaf and stem content of more than 8 percent, as determined by the Federal-State Inspection Service: *Provided,* That lupulin, including lupulin sweepings, that have been packaged and so identified by Committee approved seals or stencils, shall be exempt from this leaf and stem requirement.

(b) *Lupulin, including lupulin sweepings.* No handler shall acquire, use, or sell lupulin, including lupulin sweepings, unless 95 percent by weight of such lupulin, including lupulin sweepings, will pass through a number 10 mesh screen as determined by the Federal-State Inspection Service.

Dated: August 6, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–18089 Filed 8–11–86; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Feed Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend the Emergency Feed Program Regulations in order to (1) provide that applications for assistance under the Emergency Feed Program will be accepted beginning August 8, 1986, (2) increase the maximum cost share amount from 3 cents per pound feed grain equivalent to 5 cents per pound feed grain equivalent; (3) make poultry eligible for assistance under the Emergency Feed Program; (4) change an eligibility requirement with respect to the consideration of the quantity of feed that a person has which is suitable for each of such person's respective type of livestock; and (5) provide that payments will be made in the form of commodity certificates. Other changes of an administrative nature are also included in this amendment.

DATES: This interim rule shall become effective for any EFP application filed after August 8, 1986. Comments must be received on or before September 11, 1986 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Jerry Newcomb, Emergency Operations and Livestock Programs Division, USDA ASCS, P.O. Box 2415, Room 4095 South Building, Washington, DC 20013, (202) 447–5621.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as not "not major" since it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this Interim Rules applies to are Title—Emergency Feed Program; Number—10.066 as found in the catalog of Federal Domestic Assistance Programs.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Because of the serious drought in the Southeastern part of the United States, it has been determined that this rule shall become effective upon filing this interim rule with the **Federal Register** without prior opportunity for public comment. However, comments on this interim rule are requested. All comments must be received within 30 days after publication of this interim rule in order to be assured of consideration.

The Emergency Feed Program is authorized by section 1105 of the Food and Agriculture Act of 1977, as amended (the "1977 Act"). The program is designed to assist in the preservation and maintenance of livestock in any area of the United States including Puerto Rico, Guam, and Virgin Islands where because of flood, drought, fire, hurricane, earthquake, storm or other natural disaster, the Secretary determines that an emergency exists. In order to receive assistance under the program, a livestock owner must because of conditions created by the disaster: (1) Have suffered a substantial loss in the livestock feed normally produced on the farm for such owner's livestock; (2) not have sufficient feed that has adequate nutritive value and is suitable for each of such owner's respective particular types of livestock for the estimated period of the emergency; and (3) be required to make feed purchases during the period of the emergency in quantities larger than such owner would normally make.

Under the provisions of this interim rule, the Commodity Credit Corporation (CCC) will accept applications for assistance under the Emergency Feed Program beginning August 8, 1986. The program will continue until such time as the Executive Vice President, CCC, announces its termination. This program will be implemented to assist producers in the purchase of livestock feed needed during the emergency period.

This interim rule amends 7 CFR 1475.56(a) to increase the maximum cost share rate from 3 cents per pound feed grain equivalent to 5 cents per pound feed grain equivalent. Discussions with Agricultural Stabilization and Conservation Service ("ASCS") State offices indicate that prices being paid for feed in the drought areas are currently exceeding 6 cents per pound. Continuation of the present 3 cent payment limitation would restrict many

producers to a 30 to 40 percent cost-share, rather than a cost share approximating 50 percent of the feed cost. The additional assistance is critical for continuing livestock production for many producers during the period of the emergency.

Section 1111 of the Food and Agriculture Act of 1981 amended section 1105 of the 1977 Act to include poultry in the program authorized by the 1977 Act. Accordingly, 7 CFR 1475.52(m) is amended to include poultry. Eligible poultry will be limited to chickens, turkeys, geese and ducks which have been owned by the applicant at least 3 months prior to the date of application for assistance under the program.

Section 1763 of the Food Security Act of 1985 further amended section 1105 of the 1977 Act with respect to eligibility requirements for assistance under the program. Section 1105 initially provided that eligible persons were persons who do not have sufficient feed for such persons' livestock. As amended, section 1105 now provides that eligible persons are persons who do not have sufficient feed that has adequate nutritive value and is suitable for each of such persons' respective particular types of livestock. As a result of this amendment, the amount of a producer's assistance could be increased by the amount of feed on a producer's farm that is not suitable feed for eligible livestock owned by the producer. Accordingly, 7 CFR 1475.54 is amended to reflect this change.

CCC may provide other forms of assistance to eligible persons, including the sale of CCC-owned inventory at less than market prices. It has been determined that the commodities obtained by a person from such sales should not also be subject to a cost share reimbursement under the Emergency Feed Program. Accordingly, 7 CFR 1475.52(h) is amended to provide that grain purchased from CCC will not be subject to cost share assistance.

When the program was operated previously, cost share payments were issued by CCC through ASCS county offices in the form of a check. In order to provide greater utilization of CCC-owned inventory, payments made under this program will now be made in the form of commodity certificates issued in accordance with 7 CFR Part 770.

Other changes of an administrative nature are made by this interim rule including an amendment to 7 CFR 1475.56(b) to clarify that in order for purchased feed to be eligible for cost sharing, it must have been purchased after the beginning of the crop year in which the producer's loss of livestock feed production was computed.

7 CFR 1475.58(c) currently provides that the county ASC committee may deny program participation to any person for a period of from one to three years, if it is determined that such person knowingly made a false statement for the purpose of obtaining benefits under the program. It has been determined that the denial of program benefits for three years is unduly harsh. Accordingly, this interim rule amends 7 CFR 1475.58(c) to provide that program participation may be denied by the county ASC committee for the crop year in which a person knowingly made a false statement for the purpose of obtaining benefits under the program.

The information collection requirements of this subpart shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

Interim Rule

Accordingly, Subpart—Emergency Feed Program, 7 CFR 1475 is amended as follows:

1. The authority citation for Subpart—Emergency Feed Program continues to read as follows:

Authority: Sec. 1105 of the Food and Agriculture Act of 1977, 91 Stat. 955, as amended (7 U.S.C. 2267).

2. Section 1475.52 of the regulations is amended by revising paragraphs (h), (l), (m), and (n) to read as follows:

§ 1475.52 Definitions.

* * * * *

(h) "Eligible Feed" means any type of feed (feed grain, mixed feed, liquid supplemental feed, roughage, pasture, forage, etc.) that best suits the owner's livestock operation, is consistent with acceptable feeding practices and which was not produced by the applicant or upon which assistance has not been paid. Any type of feed not normally considered a feed grain, such as wheat, but which is purchased under the program for livestock feed shall be considered a feed grain when making determinations of feed loss and feed available under § 1475.55(d) and (e). Eligible feed does not include commodities purchased from CCC.

(l) "Livestock" means beef and dairy cattle, horses, mules, sheep, goats, swine and poultry. Buffalo and beefalo are also included when maintained on the same basis as beef cattle in support of the beef industry.

(m) "Eligible livestock" means livestock (excluding poultry) which have been owned by the applicant for at least six months prior to the date of application. Livestock maintained in a feedlot will be considered to be eligible livestock only if the feedlot is owned by the applicant, and all the cattle in the feedlot are owned by the applicant. Notwithstanding any other provision of this paragraph, eligible livestock may include livestock (excluding poultry) owned less than six months or poultry owned less than three months when inherited by the applicant or born as offspring of eligible livestock. Work horses and mules shall be considered to be eligible livestock only if they are used for pulling equipment or for riding purposes necessary to the applicant's agricultural operations. Eligible livestock does not include horses and mules kept in excess of the number needed to produce food and fiber on the applicant's farm. Eligible livestock includes poultry which are chickens, turkeys, geese and ducks and which are owned by the applicant for a least three months prior to the date of application for assistance under the program.

(n) "Eligible animal units" means "eligible livestock" computed as follows: (1) 2.00 units—one dairy cow, one bull two years old or more, (2) 1.00 unit—one horse, mule, bull, cow, heifer or steer one year old or more (excluding dairy cows and bulls two years old or more); two cattle, horses or mules less than one year old and more than six months old; five swine less than six months old; five sheep or goats (excluding lambs and kids); seven lambs and kids: twenty turkeys, geese or ducks weighing eight pound or over per bird; fifty turkeys, geese, or ducks weighing less th an eight pounds per bird; of fifty chickens.

* * * * * *

3. Section 1475.53 of the regulations is revised to read as follows:

§ 1475.53 Availability.

Benefits under the program shall be available to any owner of livestock which are maintained in any area of the United States, including Puerto Rico, Guam, and the Virgin Islands, where the Secretary of Agriculture has determined that an emergency exists due to flood, drought, fire, hurricane, earthquake, storm, or other natural disaster.

4. Section 1475.54 of the regulations is amended by revising paragraph (a) to read as follows:

§ 1475.54 Owner eligibility.

* * * * *

(a) *General.* The disaster has caused a substantial loss of production of feed normally produced for the owner's livestock on the farm owned or operated under a bona fide lease by the owner, (2) the owner does not have sufficient

feed that has adequate nutritive value and is suitable of each of such owner's respective particular types of livestock, and (3) the owner is required to purchase a quantity of feed greater than normal during the crop year.

* * * * *

5. Section 1475.55 of the regulations is amended by revising paragraphs (d)(3), (e)(2), and (e)(3) to read as follows:

§ 1475.55 Application and approval.

* * * * *

(d) * * *

(3) Any loss of production otherwise computed shall be reduced: (i) By the amount of loss attributable to acreage of pasture for which any deferred grazing payment may have been earned in the current crop year; (ii) by the amount of any disaster payments received in the crop year for feed grain and (iii) by the amount of any benefits received through insurance or any other indemnification for current year feed lost either in storage or during production. Where the feeding period begins on or after August 6, 1986, such payment or reimbursement shall be converted to grain equivalent based on the larger of 10 cents per pound or the local market buying price of the crop at the time the application is filed.

* * * * *

(e) * * *

(2) The amount of feed otherwise determined to be on hand shall be (i) reduced by the amount of any purchased feed on hand or any feed which is determined by the county committee to be unsuitable for the owner's livestock; and (ii) increased by the amount of any disaster payments received in the crop year for feed grain and the amount of any benefits received through any Federally subsidized insurance for current year feed lost either in storage or during production.

(3) The determination of feed on hand shall exclude any feed grain (i) reserved specifically for consumption by the applicant's ineligible livestock or which is reserved for use as seed to plant crops on the owner's farm(s) for the next harvest or (ii) of the prior crop year placed in storage under a CCC loan, or used as collateral for a loan and any feed (hay, grain etc.) purchased for resale. Feed utilized in a feedlot for the commercial feeding of livestock is not considered feed purchased for resale and shall be included as feed available.

6. Section 1475.56 of the regulatons is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1475.56 Amount of assistance.

(a) Based on the presentation of acceptable evidence of purchase, the owner shall be reimbursed with commodity certificates issued in accordance with Part 770 of this chapter at the rate of 50 percent of the cost of eligible feed purchased not to exceed 5 cents per pound feed grain equivalent. In no case may assistance be provided on an amount greater than the total feed allowance computed according to § 1475.55(f)(3).

(b) Acceptable evidence of purchase shall be limited to a sales document or receipt (1) which shall be signed by the seller (signature of seller may be waived when applicant certifies that is not convenient to obtain and the county committee is satisfied the document is a bona fide document), (2) which contains the date of purchase, amount, kind, price of feed purchased, and dates or expected dates of delivery, and (3) where the date of purchase of the feed was after the beginning of the crop year on which the owner's loss of production was computed.

(c) Eligible costs of purchased feed are limited to the purchase price of the point of possession and may include:

(1) Items of cost normally associated with the preparation of mixed feed.

(2) The cost of leasing or purchasing temporary pasture, range or other grazing: Provided, the resulting assistance does not exceed the smaller of (i) 50 percent of the cost of the grazing per eligible animal unit per day or (ii) 50 cents per day per animal unit.

(3) The cost of feed for eligible livestock in a feedlot: Provided, assistance is limited to the smaller of (i) 50 percent of the cost per eligible animal unit per day or (ii) 50 cents per day per eligible animal unit.

5. Section 1475.58 of the regulations is amended by revising paragraph (c) to read as follows:

§ 1475.58 Violations.

* * * * *

(c) The county committee may deny cost share assistance under the program to any person for the current crop year if it is determined that such person knowingly made a false statement for the purpose of obtaining benefits under the program.

Signed at Washington, DC, on August 7, 1986.

Milton J. Hertz

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-18174 Filed 8-8-86; 10:13 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-055]

Cattle From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Part 92 by designating the Canadian provinces of Ontario and Quebec as brucellosis certified free provinces and by allowing cattle classified as cattle from brucellosis certified free provinces of Canada to enter into the United States at certain existing ports of entry. These amendments are necessary to relieve restrictions on the importation of certain cattle from Canada since it has been determined that these provinces are free of brucellosis.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, Chief Staff Veterinarian, Import—Export and Emergency Planning Staff, VS, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases. Section 92.20 of the regulations contains specific provisions concerning the importation into the United States of cattle from Canada.

A document published in the **Federal Register** on February 26, 1986 (51 FR 6742-6743), proposed to amend the regulations by designating the Canadian provinces of Ontario and Quebec as brucellosis certified free provinces and by allowing cattle classified as cattle from brucellosis certified free provinces of Canada to enter into the United States at certain existing ports of entry.

Comments were solicited concerning the proposal for a 60-day comment period ending April 28, 1986. The only comment received was from a State department of agriculture. The commenter indicated support for the proposed change if cattle imported from Canada are accompanied by health certificates and if they are properly identified. The regulations in § 92.20(a)

require a health certificate issued or endorsed by a salaried veterinarian of the Canadian government showing that the cattle have been inspected and found to be free from any evidence of communicable disease and that, as far as can be determined, they have not been exposed to any such disease during the preceding 60 days. Also, the regulations in § 92.20(d) require that the following information relating to identification be included on a health certificate: dates and places of testing, names of the consignor and consignee, and descriptions of the cattle, including breed, ages, markings, and tattoo and eartag numbers. Therefore, no changes are made based on this comment.

Based on the rationale set forth in the proposal and in this document, the regulations are amended as proposed.

Effective Date

This final rule is made effective on the date of publication. The final rule relieves certain restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete these restrictions.

Executive Order 12291 and Regulatory Flexibility Act

This rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is anticipated that this rule will not have a significant effect on the number of cattle imported into the United States from Canada and that there will be no significant change with respect to the cost of importing cattle into the United States from Canada.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, the regulations in 9 CFR Part 92 are amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.1(w) is revised to read:

§ 92.1 Definitions.

* * * * *

(w) *Brucellosis certified free provinces of Canada.* Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland (including Labrador), Nova Scotia, Ontario, Quebec, Prince Edward Island, and Saskatchewan, known in Canada as brucellosis accredited free provinces.

* * * * *

3. The sixth sentence of paragraph (c)(2) of § 92.20 is revised to read as follows:

§ 92.20 Cattle from Canada.

* * * * *

(c) * * *

(2) * * * Cattle to be imported into the United States from brucellosis certified free provinces of Canada shall be moved entirely within the boundaries of the brucellosis certified free provinces of Canada from the farm of origin directly to the United States ports of entry of Eastport, Idaho; Houlton and Jackman, Maine; Detroit, Port Huron, and Sault Ste. Marie, Michigan; Opheim, Raymond, and Sweetgrass, Montana; Alexandria Bay, Buffalo, Champlain, Ogdensburg, and Rooseveltown, New York; Dunseith, Pembina, and Portal, North Dakota; Derby Line and Highgate Springs, Vermont; and Blaine, Lynden, Oroville, and Sumas, Washington; or moved in a vehicle sealed with Canadian governmental seals.

* * * * *

Done at Washington, DC, this 6th day of August 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-18073 Filed 8-11-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-28; Amendment No. 39-5366]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation, Allison Model 250-C28B and -C28C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires monitoring for excessive oil consumption and/or smoking on deceleration/shutdown until installation of Number 8 Bearing Scavenge Line Air/Oil Centrifugal Separator Assembly, P/N 23034722, on certain Allison Model 250-C28B and -C28C engines required not later than January 31, 1987. The AD is needed to prevent possible internal oil fires that could lead to an on-speed first stage turbine wheel failure/uncontained failure.

DATE: Effective August 13, 1986.

Compliance schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of August 13, 1986.

ADDRESSES: The applicable commercial engine bulletin (CEB) may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of the CEB is contained in the Rules Docket at the Office of Regional Counsel, FAA, ATTN: Rules Docket No. 86-ANE-28, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312-694-7132.

SUPPLEMENTARY INFORMATION: There have been reports of excessive Number 8 bearing oil sump pressure resulting in internal oil firms on certain Model 250–C28B and –C28C engines. This condition can lead to cracks under the rim of the first stage of the gas generator turbine rotor. These cracks can progress to where an on-speed first stage turbine wheel failure/uncontained failure occurs. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires monitoring for excessive oil consumption and/or smoking on deceleration/shutdown until installation of Number 8 Bearing Scavenge Line Air/Oil Centrifugal Separator Assembly, P/N 23034722, on certain Allison Model 250–C28B and –C28C engines required not later than January 31, 1987.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39.

Air Transportation, Engines, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Allison Gas Turbine Division, General Motors Corp. (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250–C28B and –C28C engines installed in aircraft certificated in any category. The following engine models and turbine serial numbers are affected:

Engine model	Engine Serial No.	Turbine Serial No.
250–C28B	CAE 860011 thru 860787.	CAT 70011 thru 70804.
250–C28C	CAE 280001 thru 280097.	CAT 28001 thru 28098.

EXCEPT:

Existing Model 250–C28B and –C28C engines which have incorporated Allison Commercial Engine Alert Bulletin CEB–A–72–2138 dated May 15, 1986, or FAA approved equivalent.

Compliance is required as indicated unless already accomplished.

To prevent possible internal oil fires that can cause cracks under the rim of the first stage turbine wheel which can progress to an on-speed failure/uncontained failure, accomplish the following:

(a) Maintain a record of oil consumed and flight hours, beginning on the effective date of this AD, until compliance with Paragraph (c).

(b) Troubleshoot and repair, before further flight, any engine that exhibits any of the following conditions:

(1) High oil consumption (1 quart in 5 hours, .05 gallons per hour, or .19 liters per hour) or significant step change of 100% or greater in oil consumption.

(2) Excessive smoking or deceleration and/or shutdown with or without associated high oil consumption or significant increase in oil consumption.

Notes.—(1) The checks required by Paragraph (a), (b)(1), and (b)(2) of this AD may be performed by the pilot and must be recorded in accordance with FAR 43.9.

(2) Allison Model 250–C28 Series Operations and Maintenance/Overhaul Manual addresses troubleshooting and repairs.

(c) Install Number 8 Bearing Scavenge Line Air/Oil Centrifugal Separator Assembly, P/N 23034772, in accordance with Allison Commercial Engine Alert Bulletin CEB A–72–2138 dated May 15, 1986, or FAA approved equivalent, not later than January 31, 1987.

Note.—Installation of the Number 8 Bearing Scavenge Line Air/Oil Centrifugal Separator Assembly, P/N 23034772, does not relieve the operator of proper monitoring of oil consumption, changes in oil consumption or smoking during operation as described in the Model 250–C28 Series Engine Operations and Maintenance Manual.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office may adjust the compliance time specified in this AD.

Allison Commercial Engine Alert Bulletin CEB–A–72–2138 dated May 15, 1986, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, IN 46206–0420. This document also may be examined at the Office of Regional Counsel, FAA, ATTN: Rules Docket No. 86–ANE–28, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective August 13, 1986.

Issued in Burlington, Massachusetts, on July 17, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86–18044 Filed 8–11–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket Number 85–ANE–34; Amdt. 39–5372]

Airworthiness Directives; Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires ongoing inspection of combustion chambers on certain PW JT8D engines. The amendment is needed to correct an omission, clarify existing repair criteria, and allow one time repair of circumferential cracks in the 2–3 seam area of non-fusion weld overlayed chambers.

DATES: Effective August 8, 1986.

Compliance Schedule—As prescribed in the body of the AD.

Comments for inclusion in the docket must be received on or before October 10, 1986.

Incorporation by Reference—Approved by the Director of the Federal Register effective on August 8, 1986.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 85–ANE–34, 12 New England Executive Park, Burlington, Massachusetts 01803.

or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 85–ANE–34".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable section of the engine manual may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. A copy of the applicable section of the engine manual is contained in Rules Docket Number 85–ANE–34, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jim Jones, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7121.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–5277 (51 FR 12684), AD 86–09–02, which currently requires ongoing inspection of combustion chambers on certain PW JT8D engines. After issuing Amendment 39–5277 the FAA determined that, as a result of continued engineering analytical evaluation and service experience, weld repair in the combustion chamber 2–3 seam area is in a non-oxidized zone, and is not exposed to the level of thermal fatigue and distress as other liners in the chamber. Cracking in the 2–3 seam area results from thermally induced mechanical stress, and the metallurgical properties in that area are less susceptible to deterioration. Therefore, it is determined that a relaxation of the repairable crack length limits in the 2–3 seam area is possible, provided that a 360° fusion weld overlay is accomplished following repair. Additionally, patch repair is added to the repair provisions of Paragraph (d)(4), to correct an inadvertent omission in the original AD. A clarification paragraph regarding 2–3 seam area crack length accountability is also added because of the difficulty in interpretation of the repairability criteria noted by some operators. This amendment is considered relaxatory, and the immediate adoption of this regulation is necessary to relieve the shortage of replacement parts that are required for the accomplishment of AD 86–09–02. Therefore, the FAA is amending AD 86–09–02, Amendment 39–5277, by adding patch repair to the provisions of Paragraph (d)(4), clarifying the interpretation of previous weld repairs in or near the 2–3 seam area on fusion weld overlayed chambers, and allowing in the 2–3 seam area of non-fusion weld overlayed (or partially overlayed) chambers, one time repair of circumferential cracks up to 5 inches individual and 7 inches cumulative with at least 1 inch circumferential separation between adjacent cracks. Combustion chambers repaired to the new 2–3 seam provisions will be inspected per category 3 requirements.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule which involves requirements affecting flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the Director. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available for examination in the Rules Docket at the address given above. A report summarizing each FAA-public contact, concerned with the substance of this AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85–ANE–34". The postcard will be date/time stamped and returned to the commenter.

Conclusion: The FAA has determined that this regulation is relaxatory and is not considered to be major under Executive Order 12291. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is negligible.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending § 39.13, Amendment 39–5277 (51 FR 12684), Airworthiness Directive (AD) 86–09–02, as follows:

(a) Add to the beginning of Paragraph (d) the words: "Except as provided for in Paragraph (e) below, . . .".

(b) Add at the end of Paragraph (d)(4) the words: "or patch repaired.".

(c) Add a new Paragraph (d)(7) to read: "Previous 2–3 seam area weld repairs that are engulfed by the fusion weld overlayed bead, and are not visible, are not to be included in the crack length indications of Paragraphs (5) and (6) above for determining repairability.".

(d) Add a new Paragraph (e) to read: "Combustion chambers removed from service with the 2–3 seam not fusion weld overlayed (or with a partial overlay), may have the 2–3 seam area weld repaired beyond the limitations of Paragraph (d) above as follows:

(1) Individual circumferential cracks up to 5 inches.

(2) Cumulative circumferential cracks up to 7 inches with 1 inch or greater separation between adjacent cracks.

(3) Previous 2–3 seam circumferential weld repairs that have not recracked, regardless of time in service, should not be included in the crack length indications for determining repairability under this paragraph.

(4) Repair must be accomplished per PW JT8D Engine Manual (EM) 481672, Section 72–41–14, Repair 06 (Temporary Revision Number 72–2741, dated March 31, 1986), or FAA approved equivalent.

(5) A complete 360° fusion weld overlay must be accomplished following the weld repair per PW EM 481672, Section 72–41–14, pages 1–4 of Repair 33 (Temporary Revision Number 72–2824, dated March 31, 1986), or FAA approved equivalent.".

Pratt & Whitney JT8D EM 481672, Section 72–41–14, Repair 06 (Temporary Revision Number 72–2741, dated March 31, 1986) and pages 1–4 of Repair 33 (Temporary Revision Number 72–2824, dated March 31, 1986), identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket Number 85–ANE–34, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on August 8, 1986.

This amendment amends Amendment 39–5277 (51 FR 12684), AD 86–09–02.

Issued in Burlington, Massachusetts, on July 31, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86–18055 Filed 8–8–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 86–AWA–13]

Establishment of Jet Route J–212—AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action suspends until further notice a final rule which would have established Jet Route J–212 in the vicinity of Buckeye, AZ, effective August 28, 1986. Due to air traffic control (ATC) sectorization and minimum en route altitude problems associated with the jet route, the effective date of the rule is suspended until further notice pending correction of J–212 to conform to ATC needs.

EFFECTIVE DATE: This suspension is effective August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9254.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 86–13564, published on June 17, 1986, established Jet Route J–212 in the vicinity of Buckeye, AZ, effective August 28, 1986 (51 FR 21902). This action was taken in conjunction with a companion docket (ASD 85–SWA–48) to realign other jet routes in the area. Both dockets were implemented as a result of analysis and study of air traffic flows in the area with the objective of optimizing the limited airspace available. Due to ATC sector and high minimum en route altitude problems associated with the new jet route in the Los Angeles Air Route Traffic Control Center, the FAA has concluded that this rule should be suspended until further notice pending a correction to resolve the problems associated with J–212.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Accordingly, pursuant to the authority delegated to me, the effective date of the final rule published on page 21902 of the **Federal Register** on June 17, 1986, is suspended until further notice.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on August 5, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18041 Filed 8–11–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 85–AWA–48]

Realignment and Revocation of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action suspends until further notice a final rule which would have realigned Jet Routes J–4, J–104, J–169 and J–50 and revoked J–181 in Arizona and California, effective on August 28, 1986. A companion docket is also being suspended due to air traffic control (ATC) sectorization and minimum en route altitude problems. Since improved flow of traffic relies on simultaneous application of both dockets, this rule is suspended until further notice pending solution of the problems associated with the related action.

EFFECTIVE DATE: This suspension is effective August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9254.

SUPPLEMENTARY INFORMATION:

History

A Final Rule was published on April 23, 1986, that realigned Jet Routes J–4, J–104, J–169, J–50 and revoked J–181 (51 FR 15310). On June 17, 1986, a correction to the final rule was published changing the effective date to August 28, 1986 (51 FR 21904). This action was taken in conjunction with a related airspace docket, 86–AWA–13, with the objective of improving the efficiency of air traffic flow in the area. The final rule issued in Docket 86–AWA–13, which established J–212, is being suspended pending resolution of ATC sector and minimum en route altitude problems associated with the route. Since the objective of improved traffic flow depends upon simultaneous application of both

VOL 51 ISS 155 AG 12 1986 UMI

dockets, the FAA has concluded that this rule should be suspended pending action to resolve the problems associated with Docket 86–AWA–13.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Accordingly, pursuant to the authority delegated to me, the effective date of the final rule published on page 15310 of the **Federal Register** on April 23, 1986, is suspended until further notice.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on August 5, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18042 Filed 8–11–86; 8:45 am]

BILLING CODE 4910–13–M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Amendment of Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its July 30, 1986 business meeting the Delaware River Basin Commission amended its *Water Code* and *Administrative Manual—Part III Water Quality Regulations* in relation to interstate disinfection requirements. The amendment suspends stream bacterial criteria for Delaware River Zones 2, 3 and 4 (from Trenton to Marcus Hook) for a limited period of time to conduct a two-year study to determine whether water quality in shellfishing areas can be adequately protected if dischargers in Zones 2–4 are allowed to practice seasonal disinfection.

EFFECTIVE DATE: October 1, 1987.

ADDRESS: Copies of the Commission's *Water Code* and *Administrative Manual—Part III Water Quality Regulations* are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883–9500.

SUPPLEMENTARY INFORMATION: The Commission held a public hearing on this amendment on July 30, 1986 as noticed in the June 17, 1986 **Federal Register**, Vol. 51, No. 116. At that time, it was believed that related State standards could be revised by October 1, 1986. It has since been determined that applicable Pennsylvania standards cannot be revised in time. Consequently, the study has been rescheduled to begin one year later, October 1, 1987. Based upon testimony received and further deliberation, the Commission has temporarily amended its *Water Code* and *Administrative Manual–Part III Water Quality Regulations.*

List of Subjects in 18 CFR Part 410

Water pollution control.

PART 410—[AMENDED]

1. The authority citation for 18 CFR Part 410 continues to read as follows:

Authority: Delaware River Basin Compact (75 Stat. 688).

2. The *Water Code* and *Administrative Manual—Part III Water Quality Regulations*, which are referenced in 18 CFR Part 410, are amended by inserting the following new temporary section in section 3.30 to read:

The application of subsections 3.30.2C8, 3.30.3C8, and 3.30.4C8 to all existing dischargers in Zones 2, 3 and 4 is temporarily suspended from October 1, 1987 to April 30, 1988 unless reinstated earlier in whole or in part by order of the Executive Director. This section shall expire on May 1, 1988.

Delaware River Basin Compact, 75 Stat. 688.

Susan M. Weisman,

Secretary.

August 5, 1986.

[FR Doc. 86–18046 Filed 8–11–86; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 211, 310, and 314

[Docket No. 84N–0311]

Adverse Drug Experience Reporting Requirements for Marketed Prescription Drugs Without Approved New Drug or Abbreviated New Drug Applications

Correction

In FR Doc. 86–14881 beginning on page 24476 in the issue of Thursday, July 3, 1986, make the following correction: On page 24477, in the second column, in the second complete paragraph, in the eighth line from the botton, "Poisson" was misspelled.

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

31 CFR Part 16

Interim Regulations Governing Prepayment of Loans Made by the Federal Financing Bank and Guaranteed by the Rural Electrification Administration

AGENCY: Department of the Treasury.

ACTION: Interim regulations; request for comments.

SUMMARY: The regulations which follow implement the provisions of the undesignated paragraph relating to the prepayment of loans by rural electric and telephone systems of Chapter I of Title I of the Act entitled "An Act Making Urgent Supplemental Appropriations for the Fiscal Year Ending September 30, 1986, and for Other Purposes" (Pub. L. No. 99–349), enacted July 2, 1986 ("Act"). The Act imposes strict limitations on loans that may be prepaid. The Act specifies that certain loans held by the Federal Financing Bank ("FFB"), a wholly-owned government instrumentality under the supervision of the Secretary of the Treasury, and guaranteed by the Administrator of the Rural Electrification Administration ("REA") could be prepaid by the borrower without payment of any premium otherwise legally due the FFB unless the Secretary of the Treasury determines that such prepayment would have an adverse effect on the operation of the FFB.

DATE: This interim regulation is effective on August 12, 1986. However, before

issuing final regulations, the Department will consider comments submitted by the public. Comments must be received on or before September 11, 1986.

ADDRESS: Send comments to the Office of the General Counsel, Department of the Treasury, Room 2026, 15th Street and Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: John E. Bowman, Senior Counsel for Finance, Office of the General Counsel, Department of the Treasury, (202) 566-8737.

Procedural Requirements

The interim rule is not a major rule for purposes of Executive Order 12291. Any annual effect on the economy or increase in costs for any Federal agency associated with the rule results directly from the Act and not from its implementation by the Department. Moreover, since the Act requires that these regulations be published and effective within 30 days of July 2, 1986, it is impracticable to follow the procedures of the Executive Order pursuant to section 8(a)(2) thereof.

Although public comments are being solicited with respect to this interim rule, the notice and public procedure requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). In addition, because the Act requires that these regulations are to be published and effective within thirty days of July 2, 1986, the Department finds that notice and public procedure thereon are impracticable in accordance with 5 U.S.C. 553(b)(B) and that good cause exists to dispense with the requirement for a delayed effective date in accordance with 5 U.S.C. 553(d)(3). As no notice of proposed rulemaking is required, this interim rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The requirements to collect information contained in these interim regulations have been reviewed and approved by the Office of Management and Budget pursuant to section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Comments on these requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of the Secretary, Washington, DC 20503, and to the Department of the Treasury at the address previously specified.

Subtitle A of Title 31, Code of Federal Regulations, is amended by adding Part 16 to read as follows:

PART 16—REGULATIONS GOVERNING THE PREPAYMENT OF LOANS MADE BY THE FEDERAL FINANCING BANK AND GUARANTEED BY THE RURAL ELECTRIFICATION ADMINISTRATION

Subpart A—Definitions

Sec.
16.100 Definitions.

Subpart B—Qualifications for Prepayment

16.200 General rule.
16.201 Lessening the threat of bankruptcy.
16.202 Substantial savings to customers.
16.203 Adverse effect on the operation of the FFB.

Subpart C—Procedures

16.300 Certification by the borrower.
16.301 Verification by the Administrator.
16.302 Notification by the Secretary.
16.303 OMB Control Number.

Authority: Title I, Chapter I, Pub. L. 99-349; 31 U.S.C. 321.

Subpart A—Definitions:

§ 16.100 Definitions.

In this Part, unless the context indicates otherwise:

(a) "Act" means Chapter I of Title I of the Act entitled "An Act Making Urgent Supplemental Appropriations for the Fiscal Year Ending September 30, 1986, and for Other Purposes" (Pub. L. No. 99-349).

(b) "Administrator" means the Administrator of the Rural Electrification Administration.

(c) "Borrower" means any entity defined in sections 904 or 922 of the Rural Electrification Act of 1936, as amended (7 U.S.C. section 901, *et. seq.*), ("React") which had outstanding on July 2, 1986, a loan from the FFB, which loan is guaranteed by the Administrator pursuant to Section 936 of the React.

(d) "Customer" means any person or entity receiving central station electric service or telephone service on a retail basis from a borrower or a member of a borrower.

(e) "FFB" means the Federal Financing Bank.

(f) "Loan" means the entire amount of any obligation, note, bond or other instrument of indebtedness ("Note") of the borrower in favor of the FFB which shall have been outstanding on July 2, 1986. Any Note(s) issued subsequent to the issue date of an original Note in substitution for all or part of the original Note shall, together with the original Note, be deemed one and the same Note.

(g) "Secretary" means the Secretary of the Treasury.

Subpart B—Qualification for Prepayment

§ 16.200 General rule.

To qualify for prepayment of a loan pursuant to the Act, (1) a borrower must certify either that prepayment will lessen the threat of bankruptcy to the borrower as described in § 16.201 below, or that prepayment will result in substantial savings to its customers as described in § 16.202 below, and (2) the Secretary must determine that in his opinion prepayment will not adversely affect the operation of the FFB as described in § 16.203 below.

§ 16.201 Lessening the threat of bankruptcy.

A borrower will be deemed to face a threat of bankruptcy if it is currently unable to meet a substantial portion of its debt service payments to the FFB and other creditors as they fall due in the ordinary course of business or if the borrower may reasonably anticipate, based on cash flow projections, that within the next 6 months it will become unable to pay a substantial portion of its debts as they fall due in the ordinary course of business. To establish that prepayment will lessen the threat of bankruptcy a borrower must show either that prepayment will improve the borrower's cash flow so that the borrower will cease to be unable to pay all or a substantial portion of its debts as they fall due in the ordinary course of business or, if the borrower is participating in a workout plan with its creditors to avoid a probable bankruptcy, that the prepayment will have a significant effect on meeting the objectives of the plan. To be eligible under this provision the borrower must be able to demonstrate that a good faith effort has been made to increase electric or telephone service rates to customers to meet operational and debt service costs. Such efforts would be evidenced by rate filings for increases with State regulatory authorities over the 24 months previous to the application date or increases or evidence of imposition of rate increases by the borrower.

§ 16.202 Substantial savings to customers.

To establish that prepayment will result in substantial savings to customers, a borrower must show that prepayment will result in an immediate reduction in the annual rates of all customers of a borrower equal to a savings of 25% or more of the total dollar amount which would otherwise be paid during the 12 month period immediately

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following the date of prepayment for telephone or electric service by a customer. Such reduction must result solely from lower annual accrued (whether or not paid) interest costs required on the same principal balance of the loan following prepayment to the FFB and refinancing.

§ 16.203 Adverse effect on the operation of the FFB.

The FFB was established by Congress expressly to assure the coordination of all Federal and federally assisted borrowing programs with overall Federal fiscal and debt management policies so as to reduce the costs of Federal and federally assisted borrowings from the public and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions through the purchase of obligations issued, sold, or guaranteed by Federal agencies (12 U.S.C. 2281 *et seq.*). In part to implement these goals, the policies and guidelines for Federal credit programs set forth in Circular No. A–70 (Revised) of the Office of Management and Budget generally require that borrowings backed by a 100% Federal guarantee be held only by the FFB or another Federal agency, since such fully guaranteed loans are the credit risk equivalent of a Treasury security. Under OMB Circular No. A–70, the Secretary may waive this requirement if he determines that the loans will be financed in a manner that is least disruptive of the private financial markets. OMB Circular No. A–70 generally directs that loans from private lenders should be structured so that the Federal guarantee does not exceed 80% of the amount borrowed.

The Act provides the Secretary with the discretion, in a particular case of a borrower most in need of financial assistance, to permit a prepayment. In determining in the individual case whether prepayment will adversely affect the operation of the FFB, the Secretary will take into consideration the following factors:

(a) Whether a refinancing involves the issuance in the private market of obligations or derivatives of obligations on which the United States guarantees more than 80% of the payments of principal and interest;

(b) Whether a refinancing involves the issuance in the private market or obligations that are transferrable to third parties without the prior written consent of the Secretary subsequent to initial sale or placement in the private market;

(c) The cost to the FFB of prepayment of a loan by the borrower at par, considering the price the FFB otherwise would be entitled to receive (other than pursuant to the Act).

Subpart C—Procedures

§ 16.300 Certification by the borrower.

(a) *Lessening the threat of bankruptcy of the borrower.* Any borrower seeking to prepay a loan under this subsection shall submit to the Administrator a written statement certifying to the Secretary that prepayment of the loan will lessen the threat of bankruptcy of the borrower. Such statement shall be signed by the chief executive officer of the borrower and shall include and incorporate by reference the following information:

(1) The loan the borrower wishes to prepay.

(2) A certified resolution of the board of directors of the borrower approving the certification to the Secretary pursuant to this section and approving the request for prepayment of the loan.

(3) A detailed analysis certified by a public accounting firm satisfactory to the Secretary of the borrower's cash flow for the next 6 months showing:

(i) That the borrower is unable to meet a substantial portion of its debt service payments to the FFB and other creditors as they fall due in the ordinary course of business, or that the borrower may reasonably anticipate, based on cash flow projections, that within the next 6 months it will become unable to pay a substantial portion of its debts as they fall due in the ordinary course of business; and

(ii) That prepayment will improve the borrower's cash flow so that either the borrower will cease to be unable to pay all or a substantial portion of its debts as they fall due in the ordinary course of business or the prepayment will have a significant effect on meeting the objectives of a workout plan the borrower is then participating in with its creditors to avoid a probable bankruptcy.

(4) A certified copy of all documents of the borrower which will show a description of rates charged by the borrower to each customer category over the past 24 months and all rate filings during this period and the disposition of each.

(5) A statement of expected costs before and after prepayment/refinancing showing expected principal amortization and interest costs, together with underlying interest rates, actual or assumed. Interest costs under the refinancing should include all fees and commissions for legal, underwriting, servicing, and any other costs incurred as a result of refinancing.

(6) A copy of a firm commitment from a purchaser/lender that includes:

(i) Interest rate commitments,

(ii) The expiration of such interest rate commitments,

(iii) A statement that either the obligations shall not be transferrable or assignable by the purchaser/lender purchasing such obligations to another party under any circumstances without specific written consent of the Secretary or that the obligations may be freely transferrable or assignable only as an undivided pro rata interest in a pool of obligations no more than 80% of which (on a par value basis at any time over the life of the pool) is made up of obligations guaranteed by the Administrator pursuant to the REAct. The remaining obligations making up the pool shall not be guaranteed, collateralized or secured in any manner whatsoever, in whole or in part, directly or indirectly by an obligation of the United States Government or any of its agencies.

(7) A certificate of incumbency for the chief executive officer signing the statement.

(b) *Substantial savings to customers.* Any borrower seeking to prepay a loan under this subsection shall submit to the Administrator a written statement certifying to the Secretary that prepayment of the loan will result in substantial savings to customers of at least 25% on an annual basis. Such statement shall be signed by the chief executive officer of the borrower and shall include and incorporate by reference the following information:

(1) The loan the borrower wishes to prepay.

(2) A certified resolution of the board of directors of the borrower approving the statement to be submitted to the Administrator pursuant to this section and approving the request for prepayment of the loan.

(3) A detailed analysis, certified by a public accounting firm satisfactory to the Secretary, showing that the annual interest savings to the borrower, expressed as a percentage of its total operating revenues (including any patronage capital), during the 12 month period immediately following the date of prepayment shall equal or exceed 25%.

(4) A certified resolution of the board of directors of the borrower approving the lower rate to customers on which the analysis in paragraph (b)(3) of this section is based. If the borrower is subject to regulation by a public utility commission, a copy, certified by the board of directors of the borrower, of the appropriate application to the commission requesting the lower rate.

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(5) A statement of expected costs before and after prepayment/refinancing showing expected principal amortization and interest costs, together with underlying interest rates, actual or assumed. Interest costs under the refinancing should include all fees and commissions for legal, underwriting, servicing, and any other costs incurred as a result of refinancing.

(6) A copy of a firm commitment from a purchaser/lender that includes:

(i) Interest rate commitments,

(ii) The expiration of such interest rate commitments,

(iii) A statement that either the obligations shall not be transferable or assignable by the purchaser/lender purchasing such obligations to another party under any circumstances without specific written consent of the Secretary or that the obligations may be freely transferable or assignable only as an undivided pro rata interest in a pool of obligations no more than 80% of which (on a par value basis at any time over the life of the pool) is made up of obligations guaranteed by the Administrator pursuant to the REAct. The remaining obligations making up the pool shall not be guaranteed, collateralized or secured in any manner whatsoever, in whole or in part, directly or indirectly by an obligation of the United States Government or any of its agencies.

(7) A certificate of incumbency for the chief executive officer signing the statement.

§ 16.301 Verification by the Administrator.

(a) Upon receipt of a certification described in § 16.300 the Administrator shall review the certification and the accompanying material for accuracy and completeness. If the Administrator finds the certification in order, he shall forward it to the Secretary accompanied by a statement by the Administrator that the certification contains all the information required by § 16.300 above, that any historical data used in the required analysis are accurate and conform to information provided to the REA in accordance with REA filing requirements and that assumptions used in the analysis are reasonable in the opinion of the Administrator. The Administrator shall also affirm to the Secretary that the REA guarantee on amounts loaned or to be advanced by the FFB to the borrower subsequent to July 2, 1986, under a Note which has been prepaid as to the outstanding loan thereunder, shall continue in full force and effect in accordance with the terms of the applicable agreement between REA and the FFB.

(b) In the event that the Administrator is unable to make the findings specified in paragraph (a) of this section, the Administrator shall return the certification to the borrower submitting it and require such additional information as the Administrator determines is necessary to make such findings.

§ 16.302 Notification by the Secretary.

Upon receipt of the certification of a borrower in accordance with § 16.300 above and the statement of the Administrator required under § 16.301 above, the Secretary shall review the information and shall determine whether prepayment of a loan by the borrower will have an adverse effect on the operation of the FFB, as described above in § 16.203. The Secretary shall notify the borrower and the Administrator whether prepayment will be permitted or denied because of adverse effect on the FFB.

§ 16.303 OMB Control Number.

The information collection requirements in this part were approved by the Office of Management and Budget under control no. 1505–0094.

Dated: August 7, 1986.

Charles O. Sethness,

Assistant Secretary of the Treasury (Domestic Finance).

[FR Doc. 86–18060 Filed 8–7–86; 2:32 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3063-2]

Approval and Promulgation of Implementation Plans; Massachusetts; Temporary Sulfur-in-Fuel Revision for the Boston Housing Authority's Mary Ellen McCormick, and Maverick Family Development Facilities in Boston

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a revision to the Massachusetts State Implementation Plan (SIP) which will allow the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities in Boston, Massachusetts to increase the sulfur content of their residual fuel oil for up to 30 months. The burning of less expensive, higher sulfur content fuel oil will provide these sources with some of the capital needed to implement permanent energy conservation measures.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, (617) 223–5133; (FTS) 223–5133.

ADDRESSES: Copies of the Massachusetts submittal, which is incorporated by reference, are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 2313, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC; and the Department of Environmental Quality Engineering, 8th Floor, One Winter Street, Boston, Massachusetts 02108.

SUPPLEMENTARY INFORMATION: On February 19, 1986, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a SIP revision for the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities, in Boston, Massachusetts. The revision allows the burning of 2.2% sulfur fuel oil in their boilers for 30 months or less. During this time period, the Boston Housing Authority's facilities have committed to implementing permanent energy conservation measures. The facilities will use the savings realized during the temporary (30 months or less) utilization of less expensive 2.2% sulfur fuel oil to defray the costs of implementing the permanent energy conservation measures. The facilities will return to burning 0.5% sulfur fuel oil by February 12, 1989.

Background

This temporary sulfur-in-fuel revision is being approved pursuant to the provisions of Regulation 310 CMR 7.19, "Interim Sulfur-in-Fuel Limitation for Fossil Fuel Utilization Facilities Pending Energy Conservation Measures." EPA approved the addition of this regulation to the Massachusetts SIP on March 19, 1981, (46 FR 82677). It specifies the requirements and conditions which sources must meet in order to qualify for temporary sulfur-in-fuel relaxations and the procedures which the Massachusetts DEQE must use to determine that the emissions will not violate any National Ambient Air Quality Standards (NAAQS). Only sources rated at less than 250 million Btu per hour heat input, which are currently burning residual fuel oil, and have made a commitment to

either (a) convert to an alternate fuel, or (b) implement conservation measures, are eligible for a temporary sulfur-in-fuel revision not to exceed 30 months. Further details on the requirements of Regulation 310 CMR 7.19 and EPA's reasons for approving it were discussed in a Notice of Proposed Rulemaking (NPR) published on December 16, 1980 (45 FR 82675). In the NPR, EPA also proposed approval of all individual sources that meet the eligibility requirements of this regulation.

EPA Evaluation

EPA has determined that the DEQE has approved the Boston Housing Authority's request to burn higher sulfur fuel oil at their Mary Ellen McCormick and Maverick Family Development facilities in accordance with the provisions of Regulation 310 CMR 7.19, and agrees that no air quality standards will be violated by the temporary burning of 2.2% sulfur fuel oil at these facilities. EPA received no comments on its December 16, 1980 (45 FR 82675) proposal to approve individual sources of sulfur-in-fuel relaxations, and DEQE received no comments on its proposed approval of the temporary sulfur-in-fuel relaxation at the Boston Housing Authority facilities in Boston. Since the public has had these other opportunities to comment, and since the Boston Housing Authority's facilities are small sources (each piece of equipment is less than 250 million Btu per hour heat input), EPA is taking final action today to approve this SIP revision without first publishing a new proposed rulemaking. EPA believes that publishing a new NPR is unnecessary. EPA finds good cause for making this action effective immediately because the implementation plan is already in effect under State law and imposes no additional regulatory burden.

Final Action

EPA is approving the proposed temporary sulfur-in-fuel relaxation to burn 2.2% sulfur fuel oil for the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities.

Under 5 U.S.C. section 605(b), the Administrator has certified that this action will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropirate circuit by October 14, 1986. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Note.—Incorporation by Reference for the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 1, 1986.

Lee M. Thomas,

Administrator.

Part 52, Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart W—Massachusetts

2. Section 52.1120, paragraph (c)(70) is added as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(70) A revision submitted on February 19, 1986 allowing the burning of 2.2% sulfur content fuel oil at the Boston Housing Authority, Mary Ellen McCormick and Maverick Family Development facilities in Boston, Massachusetts for a period of up to 30 months, commencing on August 12, 1986.

(i) *Incorporation by reference.*

(A) Letters dated August 30, 1985 and July 11, 1985 for the Mary Ellen McCormick and Maverick Family Development Facilities, respectively, from Richard J. Chalpin, Acting Regional Engineer, allowing the temporary use of less expensive 2.2% sulfur fuel oil for 30 months from August 12, 1986; the savings from which will be used to implement permanent energy conservation measures to reduce the on-site consumption of the petroleum products. At the end of the temporary use period, the Boston Housing Authority, Mary Ellen McCormick and Maverick Family Development facilities will return to the use of 0.5% sulfur fuel oil. The particulate emission rate for these facilities will not exceed 0.12 lbs per million BTU.

(B) Statements of Agreement both signed October 28, 1985 by Doris Bunte, Administrator of Boston Housing Authority.

(C) Memorandum from Bruce K. Maillet to S. Russell Sylva dated January 9, 1986, subject: Decision Memo.

2. Section 52.1167, is amended by adding the following source to Table 52.1167 under the entry "310 CMR 7.19" to read as follows:

§ 52.1167 EPA-approved Massachusetts state regulations.

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved section
•	•	•	•	•	•	•
310 CMR 7.19	Interim sulfur-in-fuel limitations for fossil fuel utilities pending conversion to an alternative fuel or implementation of permanent energy conservation measures.	2/19/86	[Federal Register publication date].	[Federal Register No.].	70	Mary Ellen McCormick and Maiverick Family Deveopment facilities in the Boston Housing Authority, Boston to burn 2.2% until [30 months from *FR* citation].

* * * * *

[FR Doc. 86-18094 Filed 8-11-86; 8:45 am]
BILLING CODE 6820-61-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 522 and 552

[APD 2800.12 CHGE 29]

General Services Administration Acquisition Regulation; Price Adjustment and Allocation of Order Clauses

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Service Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise the contract clauses at § 552.219–71, Allocation of Orders—Partially Set-Aside Items, and § 552.222–43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts). The revision to the Allocation of Orders clause clarifies when the splitting of orders will being if the set-aside portion is awarded to a contractor other than the one receiving the award on the corresponding non-set-aside portion. The revisions to the Price Adjustment clauses clarify the applicability of the ceiling to price adjustments when no Service Contract Act wage determination is issued by the Department of Labor (DOL). In addition, revisions to § 522.1006 make the inclusion of a price adjustment clause optional in fixed price service contracts that do not exceed the small purchase limitation. Other minor editorial changes are made in Parts 552 and 552 for clarity. The intended effect is to clarify contract clauses for the benefit of contractors and GSA contracting officers.

EFFECTIVE DATE: July 10, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations, (202) 523–4765.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1986, the General Services Administration (GSA) published in the **Federal Register** (51 FR 6012) GSAR Notice 5–98 inviting comments from interested parties on these proposed changes to the regulation and provided a 30-day comment period. No comments were received from the public. Comments from various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The revisions clarify contract clauses which are already in use throughout the agency. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 522 and 552.

Government procurement.

1. The authority citation for 48 CFR Parts, 522 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 522.1005 is revised to read as follows:

§ 522.1005 Clause for contracts of $2,500 or less.

The contracting officer shall insert the clause at GSAR 552.222–83, Service Contract Act of 1965-Contracts of $2,500 or less, in solicitations and contracts if the contract amount is expected to be $2,500 or less and the Service Contract Act of 1965 applies. With respect to blanket purchase agreements and basic ordering agreements, the amount to be compared to the dollar threshold is the total dollar amount of orders reasonably expected to be placed in a 1-year period.

3. Section 522.1006 is revised to read as follows:

§ 522.1006 Clauses for contracts over $2,500.

(a) The contracting officer shall insert the clause at GSAR 552.222–84, Service Contract Act of 1965 (as amended), in solicitations and contracts if the contract is subject to the Service Contract Act of 1965 and is (1) expected to exceed $2,500 or (2) for an indefinite dollar amount and the contracting officer expects the contract amount to exceed $2,500 during any 12-month period. For blanket purchase agreements and basic ordering agreements, the amount to be compared to the dollar threshold is the total dollar amount of orders reasonably expected to be placed in a 1-year period.

(b) Price-adjustment clauses.

(1) Except as required by paragraph (b)(2) of this section, the contracting officer shall insert the clause at GSAR 552.222–86, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiyear and Option Contracts) or another clause authorized by FAR 16.203–4 (d) which accomplishes the same purpose, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at GSAR 552.222–84, Service Contract Act of 1965 (as amended), and is a multiyear contract, or a contract with options to renew that is expected to exceed the small purchase limitation. The clause is optional for small purchases.

(2) The contracting officer shall insert a clause substantially the same as one of the clauses at GSAR 552.222–43, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiyear and Option Contracts) or another clause authorized by FAR 16.203–4 (d) which accomplishes the same purpose, in solicitations and fixed price contracts for building services when the contracts contains the clause at GSAR 552.222–84, Service Contract Act of 1965, and is a multiyear contract or a contract with options to renew that is expected to exceed the small purchase limitation. When it is expected that the contract will be negotiated based on certified cost and pricing data, the clause at GSAR 552.222–86 should be used. The clause is optional for small purchases.

(3) The contracting officer shall insert the clause at GSAR 552.222–85, Fair Labor Standards Act and Service Contract Act-Price Adjustment, in solicitations and contracts if the contract is expected to be a fixed price service contract containing the clause at GSAR 552.222–84, Service Contract Act of 1965 (as amended), that exceeds the small purchase limitation and is not a multiyear contract, or is not a contract with options to renew. The clause is optional for small purchases.

(4) The clauses prescribed in this paragraph GSAR 522.1006(b) cover situations in which revised minimum wage rates are applied to contracts by operation of law, or by revision of a wage determination before: (i) Exercise of a contract option or (ii) extension of a multiyear contract into a new program year. If an economic price adjustment clause is developed under FAR 16.203–4 and included in a solicitation contract,

the clauses prescribed in this section normally will not be used. If they are used, the contracting officer must ensure the clauses do not conflict or overlap.

4. Section 522.1007 is revised to read as follows:

§ 522.1007 Notice of intention to make a service contract.

(a) The Department of Labor (DOL) has issued a Service Contract Act Directory of Occupations to use in determining job classifications when procuring services. The directory contains occupational titles and descriptions that contracting offices must use when listing on SF 98a the classes of service employees to be used. When contracting officers are unable to find an appropriate title or description in the directory, they must develop and submit an appropriate occupational title and description for the work to DOL with the SF 98 request. See Appendix C in the GSAR looseleaf for the Service Contract Act Directory of Occupations.

(b) Requests to expedite wage determinations or to check the status of a request may be made by the contracting officer directly to the Wage and Hour Administrator.

5. Section 522.1008 is revised to read as follows:

§ 522.1008 Wage determinations and collective bargaining agreements.

For the purposes of this subpart, the agency labor advisor is the contracting office's assigned legal counsel.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Sections 552.219–71 is revised to read as follows:

§ 552.219–71 Allocation of Orders—Partially Set-Aside Items.

As prescribed in GSAR 519.502–3(b)(1), insert the following clause:

Allocation of Orders—Partially Set-Aside Items (June 1986)

Where the set-aside portion of an item or group of items is awarded to a Contractor other than the one receiving the award on the corresponding non-set-aside portion, the Government will divide the requirements to be ordered between the two Contractors with the objective of achieving, as nearly as possible, a 50/50 division of the total value of orders placed after the award of the set-aside portion. In no case will this division vary by more than a 60/40 division (with either the non-set-aside or set-aside Contractor receiving the larger portion) from the time of the award of the set-aside portion.

(End of clause)

7. Section 552.222–43 is revised to read as follows:

§ 552.222–43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts).

(a) As prescribed in GSAR 522.1006(b)(2), insert the following clause:

Fair Labor Standards Act and Service Contract Act—Price Adjustment (Option Contract) (June 1986)

(a) The Contractor warrants that the prices in this contract do not include an allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits, issued under the Service Contract Act of 1965 (41 U.S.C. 351–358) by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current at the beginning of each renewal option period, shall apply to any renewal of this contract. When a determination does not apply to the renewal option period, the current Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) will apply to any renewal of this contract.

(c) The *_____ option price(s) will be adjusted upward or downward by the contracting officer, using the formula in paragraph (e) of this clause, when each option is exercised with the adjusted price to be effective beginning the first day of the option period. The Contracting Officer shall notify the Contractor of the adjusted price and incorporate, by contract modification, the most recent wage determination issued under the Service Contract Act of 1965.

(d) In determining the percentage of increase or decrease in labor costs, the wage determination being applied to the option period will be compared with the wage determination that applied during the initial contract period. If a wage determination is not issued for the initial contract period, but is issued for the option period, or if a wage determination is issued for the initial contract period, but not for the option period, the adjustment will be based on the increase or decrease in wages and fringe benefits that the Contractor must pay his employees, under the Fair Labor Standards Act versus the wage determination issued under the Service Contract Act.

(e) **_____ percent of the *_____ option price(s) will be adjusted upward or downward based on the percentage increase or decrease in the minimum hourly wages and fringe benefits to be paid ***_____ under this contract. The *_____ option price(s) will be adjusted using the formula contained herein, provided that the *_____ contract price(s) for the first option period as adjusted does not exceed the *_____ price(s) for the initial contract period by more than **** percent. If the *_____ prices after adjustment exceed the initial contract period by more than **** percent, the ceiling price (the *_____ price for the initial period increased by ****_____ percent) will be the contract price for the first option period. Similarly, the contract price(s) for the second option period as adjusted may not exceed the *_____ price(s) for the first option period by more than ****_____ percent. If the *_____ price(s) after adjustment exceed the contract price(s) for the first option period by more than *** percent, the ceiling price(s) (the *_____ prices for the first option period increased by ****_____ percent) will be the contract price(s) for the second option period.

(End of Clause)

*The contracting officer should insert a description of the unit price, e.g., monthly, hourly, etc.

**The contracting officer should insert the percentage of the option price(s) to be adjusted. The percentage to be used is based on the portion of the total price that represents the labor and labor burden cost.

*** The contracting officer should insert the class of service employee listed in the wage determination that will perform most of the work required by the contract, e.g., janitor, guard, mechanic, etc.

**** The contracting officer should insert a percentage that reflects past increases of wage rates in the locality where services will be performed. For example, if increases over the past 3 years have been 5 percent, 7 percent, and 8 percent, the contracting officer should establish a ceiling of 10 percent. The ceiling is intended to force contractors to bargain with local unions to keep wage increases reasonable from year to year.

Alternate I (June 1986)

To adjust the option price for material as well as labor, the basic clause may be modified by deleting paragraph (e) and substituting the following as paragraph (e).

"(e) *_____ percent of the **_____ option prices(s) will be adjusted upward or downward based on the percentage increase or decrease in the minimum hourly wages and fringe benefits to be paid ***_____ under this contract. *_____ percent of the **_____ option price(s) will be adjusted upward or downward based upon the percentage increase or decrease in material cost reflected on the ***_____ published by the U.S. Department of Labor, Bureau of Labor Statistics. The material cost price adjustment for the first option period will be based on the increase or decrease in wholesale prices for ****_____ period beginning with the month in which the offers were submitted for the requirement. The price adjustment for the second option period will be based upon the increase or decrease in the wholesale prices for the ****_____ period beginning with the month in which the offers were submitted for the requirement. The **_____ option price(s) will be adjusted using the formula contained herein, provided that the total **_____ contract price(s) for the first option period as adjusted does not exceed the **_____ price(s) for the initial contract period by more than *****_____ percent. If the **_____ price(s) after adjustment exceed the initial period by more than *****_____ percent, the ceiling price(s) (the **_____ price(s) for the initial period increased by *****_____ percent) will be the contract price(s) for the first option period. Similarly, the contract price(s) for the second option period as adjusted may not exceed the

**_____ price(s) for the first option period by more than *****_____ percent. If the **_____ price(s) after adjustment exceeds the contract price(s) for the first option period by more than *****_____ percent, the ceiling price(s) (the **_____ price for the first option period increased by *****_____ percent) will be the contract price(s) for the second option period."

(End of clause)

*The contracting officer should insert the percentage of the option price(s) to be adjusted. the percentages to be used are based on the portion of the total price that represents the labor cost (first blank) and the material costs (second blank).

**The contracting officer should insert a description of the unit price, e.g., monthly, hourly, etc.

***The contracting officer should insert the class of service employee listed in the wage determination in the first blank and the index that will be used to compute the adjustment for material cost increases, e.g., Wholesale Commodity Prices for General Purpose Machinery and Equipment, code 114, in the second blank.

****The contracting officer should insert the period of time to be used for computing the adjustment, e.g., 1 year, etc. The first blank will normally read "1 year," the second "2 years."

*****The contracting officer should insert a percentage that reflects the past increases for wages and materials.

(b) As prescribed in GSAR 522.1006(b)(2), insert the following clause:

Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear Contract) (June 1986)

(a) The Contractor warrants that the prices in this contract do not include an allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The *_____ price(s) will be adjusted upward or downward before the end of the first year of the contract period, with the adjusted price to be effective beginning the first day of the thirteenth month. The *_____ price(s) will be adjusted again before the end of the second year of the contract period with the adjusted price(s) to be effective beginning the first day of the twenty-fifth month.

(c) The Contracting Officer shall notify the Contractor of the adjusted price(s) and incorporate, by contract modification, the most recent wage determination issued under the Service Contract Act of 1965 by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor (DOL). If a wage determination is not issued by the DOL, the Federal minimum wage established by Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 206) applies to this contract.

(d) In determining the percentage of the increase or decrease in labor cost, the wage determination being applied to the second or third year will be compared with the wage determination that applied to the first year. If a wage determination is not issued for the initial 12-month period but is issued for the second or third year period, or if a wage determination is issued for the initial contract period but not for the second or third period, the adjustment will be based on the increase or decrease in wages and fringe benefits that the contractor must pay the employees under the Fair Labor Standards Act versus the wage determination issued under the Service Contract Act.

(e) **_____ percent of the *_____ price(s) will be adjusted upward or downward based on the percentage increase or decrease in the minimum hourly wages and fringe benefits to be paid ***_____ in the locality where the contract work is to be performed as determined by the Administrator, U.S. Department of Labor, and stated on the Register of Wage Determinations and fringe benefits issued under the Service Contract Act of 1965 provided that the *_____ contract price(s) is not escalated more than ****_____ percent per year.

(End of Clause)

*The contracting officer should insert a description of the unit price, e.g., monthly, hourly, etc.

**The contracting officer should insert the percentage of the contract price(s) to be adjusted. The percentage to be used is based on the portion of the total price that represents the labor and labor burden costs.

***The contracting officer should insert the class of service employee listed in the wage determination that is expected to perform most of the work required by the contract, e.g., elevator mechanic, maintenance mechanic, etc.

****The contracting officer should insert a percentage that reflects the past increases of wage rates in the locality where services will be performed. For example, if increases over the past 3 years have been 5 percent, 7 percent, and 8 percent, the contracting officer should establish a ceiling of 10 percent. The ceiling is intended to force contractors to bargain with local unions to keep wage increases reasonable from year to year.

Alternate I (June 1986)

To provide for adjusting the contract price for materials as well as labor, the basic clause may be modified by deleting paragraph (e) and substituting the following paragraph (e).

"(e) *_____ percent of the **_____ price(s) will be adjusted upward or downward based on the percentage increase or decrease in the minimum hourly wages and fringe benefits to be paid ***_____ under this contract and *_____ percent of the **_____ price will be adjusted upward or downward based upon the percentage increase or decrease in material cost reflected on the ***_____ published by the U.S. Department of Labor, Bureau of Labor Statistics, provided that the total **_____ contract price(s) is not escalated more than *****_____ percent per year. The first material price adjustment will be based on the increase or decrease in wholesale price for the ****_____ period beginning with the month in which the offers were submitted for the requirement. The second material price adjustment will be based upon the increase or decrease in the wholesale prices for the ****_____ period beginning with the month in which offers were submitted for the requirements."

*The contracting officer should insert the percentage of the contract price(s) to be adjusted. The percentages to be used are based on the portion of the total price that represents the labor costs (first blank) and the material costs (second blank).

**The contracting officer should insert a description of the unit price, e.g., monthly, hourly, etc.

***The contracting officer should insert the class of service employee listed in the wage determination in the first blank and the index that will be used to compute the adjustment for material cost increases, e.g., Wholesale Commodity Prices for General Purpose Machinery and Equipment, code 114, in the second blank.

****The contracting officer should insert the period of time to be used for computing the adjustment, e.g., 1 year, etc. The first blank will normally read "1 year" the second "2 years".

*****The contracting officer should insert a percentage that reflects past increases for wages and materials.

8. Section 522.222–84 is revised to read as follows:

§ 552.222–84 Service Contract Act of 1965 (as amended).

As prescribed in section 522.1006(a), insert the Service Contract Act of 1965 clause contained on the April 1984 edition of the GSA Form 2166, Service Contract Act of 1965 (as amended) in solicitations and contracts when the contract is subject to the Service Contract Act of 1965 and is (a) for over $2,500 or (b) for an indefinite dollar amount and the contracting officer expects the contract amount will exceed $2,500 during any 12-month period. The GSA Form 2166 may be used or its contents repeated verbatim in solicitations and contracts. With respect to blanket purchase agreements and basic ordering agreements, the amount to be compared to the dollar threshold is the total dollar amount of orders reasonably expected to be placed in a 1-year period.

9. Section 552.222–85 is amended by revising the introductory paragraph to read as follows:

§ 552.222–85 Fair Labor Standards Act and Service Contract Act-Price Adjustment.

As prescribed in GSAR 522.1006(b)(3) insert the following clause:

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10. Section 552.222–86 is amended by revising the introductory paragraph to read as follows:

§ 552.222–86 Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiyear and Option Contracts).

As prescribed in GSAR 522.1006(b)(1) insert the following clause:

* * * * *

Dated: July 10, 1986.

Patricia A. Szarvo,

Associate Administrator for Acquisition Policy.

[FR Doc. 86–18048 Filed 8–11–86; 8:45 am]

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Proposed Rules

Federal Register
Vol. 51, No. 155
Tuesday, August 12, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1065, 1068, and 1079

[Docket Nos. A0-178-A40, A0-86-A44, and A0-295-A37]

Milk in the Upper Midwest, Nebraska-Western Iowa, and Iowa Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the plant location adjustments for the Nebraska-Western Iowa, and Iowa Federal milk marketing orders. Proposed changes for the Upper Midwest order are denied. The proposed amendments would change the location adjustment provisions in the Nebraska and Iowa orders to conform with the new Class I differentials mandated by the Food Security Act of 1985, effective on May 1, 1986. The recommended changes are based on the record of a public hearing held in Minneapolis, Minnesota on April 8–10, 1986, in response to industry proposals.

DATE: Comments are due on or before August 27, 1986.

ADDRESS: Comments (five copies) should be filed with the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 7 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed amendments modify the transportation allowances provided under two orders to make them conform more closely to the economic conditions that currently exist in the marketplace. The main economic condition involved is the Class I differentials that became effective May 1, 1986, as mandated by the Food Security Act of 1985, and the costs of transporting milk as reflected in such Class I differentials. Reflection of these changed marketing conditions through amendments to plant location adjustments to order prices will result in a minor price reduction for some regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued February 25, 1986; published March 3, 1986 (51 FR 7280).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Midwest, Nebraska-Western Iowa, and Iowa marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, on or before 15 days after publication in the **Federal Register**. Five copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Minneapolis, Minnesota on April 8–10, 1986, pursuant to notice thereof issued February 25, 1986 (51 FR 7280).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. However, no participants at the hearing testified about any potentially adverse impact of any of the proposals on small businesses.

The material issues on the record of the hearing relate to:

1. The location adjustment provisions of the following orders:

A. Upper Midwest;
B. Nebraska-Western Iowa;
C. Iowa; and

2. Whether emergency conditions warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Background

The Food Security Act of 1985 increased the Class I milk price differentials in 35 of the 44 Federal milk marketing orders. The Class I differential is the dollar amount specified in each Federal order that is added to the Minnesota-Wisconsin manufacturing grade milk price for the second preceding month to establish for each order the minimum Class I milk price for the current month. The three orders that are involved in this proceeding are among the 35 orders in which increased Class I differentials became effective May 1, 1986.

Since the late 1960's, Class I milk pricing within the system of Fedeal milk order markets has been based on the principle that as distance from the heavy milk producing area (Eau Claire, Wisconsin, for example) increased, the minimum order Class I price for the various markets increased proportionately to reflect the cost of alternative supplies. Under this system, prices in the local markets would not be expected to exceed the cost of milk from

reserve supply sources. Thus, there has been in place a pricing system that generally reflected a milk transportation cost of 1.05 cents per hundredweight per 10 miles to the Southeast, South, or Southwest from Eau Claire.

The mandated differential increases per hundredweight in the markets at issue in this proceeding were 8 cents for the Upper Midwest order and 15 cents for the Iowa and Nebraska-Western Iowa orders. Thus, the Class I price spreads between the Upper Midwest order and the other two orders are now 7 cents per hundredweight larger than prior to May 1, 1986. It is within this context that the proposals were sought and the hearing held.

1A. *The location adjustment provisions of the Upper Midwest order.*

The Upper Midwest order currently provides four milk pricing zones. Zone 1 is comprised of a 3-county metropolitan area that includes the twin cities of Minneapolis and St. Paul, Minnesota, and all other territory not specifically included in Zones 2, 3, or 4.

Zone 2 contains 49 Minnesota counties, 15 Wisconsin counties, four Michigan counties and one Iowa county.

Zone 3 is made up of 28 Wisconsin counties and Zone 4 includes 13 Wisconsin counties.

This pricing structure has been in effect since the Upper Midwest order became effective in 1976, except that in 1982 Washington County was removed from Zone 2 and added to the twin cities metropolitan portion of Zone 1.

At the present time, the Class I price to handlers and the uniform price to producers is adjusted for location as follows:

Zone	Adjustment
1	No adjustment.
2	Minus 6 cents.
3	Minus 10 cents.
4	Minus 16 cents.

The current location adjustments should be continued without any changes.

Proposals to amend the Upper Midwest order were proposed by Associated Milk Producers, Inc. (AMPI), Mid-America Dairymen, Inc. (Mid-Am), and the National Farmers' Organization, Inc. (NFO).

AMPI proposed that the Minnesota counties of Anoka, Carver, Dakota and Scott be removed from Zone 2 (minus 6 cents) and be a part of Zone 1 (no adjustment).

AMPI also proposed a new Zone 5 to include the Minnesota counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lyon, Martin, Mower, Murray, Olmsted, Redwood, Watonwan and the Iowa counties of Howard, Kossuth, Mitchell, Winnebago, Winneshiek and Worth. The location adjustment for Zone 5 would be plus 3 cents.

Mid-Am proposed that the Upper Midwest order continue to have four pricing zones as follows:

Zone	Adjustment
1	No adjustment.
2	Minus 7 cents.
3	Minus 10 cents.
4	Minus 16 cents.

Mid-Am's proposed Zone 2 would include the Iowa counties of Howard, Kossuth, Mitchell, Winnebago, Winneshiek, and Worth, and the Minnesota counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lyon, Martin, Mower, Murry, Olmsted, Redwood and Watonwan. At the hearing Mid-Am modified proposal no. 5 so that it was exactly the same as AMPI's proposals.

NFO proposed that the present Zone 2 be expanded to include the Minnesota county of Lac Qui Parle and the South Dakota counties of Brown, Day, Edmunds, Grant, Marshall, McPherson, Roberts and Walworth. At the hearing, however, NFO abandoned their proposal.

A witness for AMPI testified that the Minnesota counties of Anoka, Carver, Dakota and Scott should be removed from Zone 2 and placed in Zone 1. The witness referred to the 1976 final decision of the Upper Midwest order, which concluded that there was not enough milk produced in Zone 1 to satisfy all of the fluid demand on a day-to-day basis throughout the year and, therefore, it was necessary to provide a differential to implement the movement of supplemental supplies from Zone 2.

In his opinion, supplemental supplies also are needed for distributing plants located in Carver and Dakota counties. Dakota County, he said had nine percent less milk in December 1985 than in December 1973. He maintained that the metropolitan population is encroaching on the counties and is forming a common distribution area.

The AMPI witness indicated that the Minneapolis-St. Paul fluid milk handlers face considerable competition for sales in and around this area from fluid milk plants located in Zone 2 who are paying 6 cents less for their milk than handlers in Zone 1. On cross-examination, he said that Minneapolis-St. Paul fluid milk plants compete in this 7-county area with the Marigold Foods plant located at Rochester, Minnesota (Olmsted County), two small handlers located in Brown County, Minnesota, a handler located at Fargo, North Dakota, and a handler located at Duluth, Minnesota.

Including Carver and Dakota counties in Zone 1, AMPI's witness maintained, would give producers delivering to distributing plants in these counties a 6-cent higher price. Products delivering their milk to distributing plants in the nearby Minnesota counties of Hennepin, Ramsey, and Washington (Zone 1) are receiving 6 cents more than producers in delivering to distributing plants in Zone 2. Although Anoka and Scott counties do not contain any distributing plants, they should be included, he said, because these two counties would be bordered on three sides by Zone 1 counties and including these counties in Zone 1 would make for a contiguous common area.

The proponent's witness stated that the only manufacturing plants located in the four counties that they proposed to add to Zone 1 are the Marigold Foods plant located in Dakota County and an AMPI plant located in Scott County. The witness said that in 1985 a significant amount of milk associated with the AMPI plant in Scott County was shipped to a distributing plant in Zone 1 and, therefore, would receive the 6-cent higher Zone 1 price regardless of whether Scott County was added to Zone 1.

On cross-examination, the witness stated that he did not have any data to show that supplies needed by distributing plants located in Carver and Dakota counties exceeded the milk supplies available in these two counties. Producers in Scott County, he said, deliver into Carver and Dakota county and there are producers from Scott County who deliver into Hennepin, Ramsey, and Washington counties. The additional 6 cents that these producers receive for deliveries into Zone 1, the witness said, is at least partial compensation for the additional transportation costs that they incur. He indicated that if Scott County were not included in Zone 1, there would be a 6-cent location credit on milk moving to the Marigold Foods manufacturing plant in Dakota County.

The proponent witness, on cross-examination stated that there are ample milk supplies available relatively close to the Minnesota-St. Paul area. He also indicated that there is more overlap in competition for fluid milk sales in this 7-county area than there was 10 years ago and that these handlers are not all paying the same price for their milk supply.

AMPI's proposal to add the Minnesota counties of Anoka, Carver, Dakota and Scott to Zone 1 was supported in its

entirety by three proprietary handlers and Mid-Am. Land O'Lakes, Inc. (LOL), in their brief, supported adding only Carver County and the City of Hastings in Dakota County. Kraft, Inc., although not offering testimony at the hearing, filed a brief opposing the addition of Anoka and Scott counties. Le Suer Cheese Company, Inc. opposed the inclusion of Scott County and NFO opposed the inclusion of Anoka and Scott counties. Oak Grove Dairy objected, in their brief, to Carver County. Falls Dairy Company, Universal Foods and Twin Town Cheese Factory (Falls Dairy, et al.) objected to the addition of Scott County.

A witness for Marigold Foods (Marigold) testified in support of the AMPI proposals. He stated that Marigold operates distributing plants at Rochester, Minneapolis, and Duluth and a manufacturing plant at Farmington in Dakota County.

Since about 1976, he said, fluid milk plants are concentrating in the areas of what is referred to as the 5 or 7-county metro area of Minneapolis-St. Paul, plus the Minnesota area of Rochester and Duluth, and Fargo, North Dakota. The witness indicated that packaged milk from all these plants move both within and among orders in substantial amounts and in all directions. The witness indicated the Marigold plant at Minneapolis sells about 55 percent of its packaged milk in Zone 1 and about 45 percent in Zone 2. Its Rochester plant, he said, sells about 65 percent in Zone 1 and 35 percent in Zone 2 and their Duluth plant disposes of approximately 71 percent of its fulid milk products into Zone 1 and 29 percent into Zone 2.

On cross-examination, the Marigold witness acknowledged that AMPI's proposal would cost them 6 cents on the movement of bulk milk from their manufacturing plant at Farmington to their distributing plant at Rochester. He said this was because the order presently provides 6 cents on the movement of this milk and this 6 cents would not be available to them if Dakota County were added to Zone 1. The witness indicated, however, that Marigold is willing to give up the 6 cents on this milk movement in order to create more equity among all fluid milk plants with whom they compete throughout Zone 2.

The witness said that Marigold now moves more packaged milk "back out" from the metropolitan Minnespolis-St. Paul area than in 1976. He indicated that there were more fluid milk handlers operating in Zone 2 in the past and, therefore, there was less movement of packaged fluid milk products from Zone 1 to Zone 2

The Marigold witness said that there are only two fully regulated distributing plants in the four counties proposed to be deleted from Zone 2 and added to Zone 1: Oak Grove Dairy in Carver County, and Hastings Cooperative Creamery Company in Dakota County.

The Marigold witness stated that even though there are no distributing plants in Anoka and Scott counties, these counties should be added to Zone 1 because they are contiguous to the present Zone 1 area where there is substantial competiton for fluid milk sales. Also, he said, there is enough population in these two counties that it is possible a processing plant could be constructed there which could cause a competitive problem in the future. The witness acknowledged that location of the manufacturing plant in Scott County could provide a disincentive for milk to be moved from that plant to a distributing plant if Scott County were in Zone 1.

Witness for two proprietary handlers located in Zone 1 briefly testified in support of the inclusion of the proposed four counties into Zone 1.

At the hearing a witness for Falls Dairy, et al., all of whom are located in Zone 3, expressed reservations about the proposal to expand Zone 1. In their brief, however, they stated that they are opposed to the proposal.

A witness for Land O'Lakes, Inc. (LOL), opposed the proposal to expand Zone 1 by adding four Zone 2 counties. He maintained that adding Scott County to Zone 1 would increase the price that producers would receive at the AMPI manufacturing plant located at New Prague in Scott County. LOL, he said, operates a reserve supply plant in Rice County, which adjoins Scott County. Therefore, these two plants with similar operations would be competing for a milk supply, but the AMPI plant would be able to pay producers 6 cents more under the order.

LOL, in its brief, supported adding Carver County and the City of Hastings in Dakota County to Zone 1. In the brief, LOL pointed out that the manufacturing facilities located in Scott and Dakota counties transfer milk to distributing plants. In LOL's view, this would not promote orderly marketing because there would be no incentive to transfer milk from the two manufacturing plants to distributing plants. Also LOL claimed that pool funds would be redistributed in favor of producers whose milk is received and priced at the two manufacturing plants at the expense of producers whose milk is received and priced at all other locations.

A witness for Le Sueur Cheese Company also testified in opposition to the proposal to add the four counties to Zone 1. He testified that they operate a reserve supply plant in Le Sueur County and they were concerned that these proposals would disrupt the competitive situation in this area for milk supplies.

In their briefs, Le Sueur Cheese and Glencoe Butter and Produce Association opposed adding Scott County to Zone 1. Both contended that the AMPI plant in Scott County competes for a milk supply from the same area that they do and, therefore, AMPI would have a competitive advantage in acquiring milk supplies because of the additional 6 cents that AMPI would be able to pay.

A witness for Oak Grove Dairy (Oak Grove), a handler that operates a pool distributing plant located in Carver County, opposed adding Carver County to Zone 1. The witness said that it does not take the same price to get milk to the Oak Grove plant that it does to get milk to a plant in Minneapolis-St. Paul. He said that Carver County is distinct from Hennepin and Ramsey counties in that Carver is a rural county and the other two counties are urban. Carver County, he said, produced more milk than Hennepin and Ramsey counties combined and that Carver County has only a fraction of their population.

The Oak Grove witness stated that the minus 6 cents will continue to provide an adequate incentive to move milk to its plant without causing any disruption in the competitive balance among plants distributing in the Minneapolis-St. Paul area. According to the witness, marketing conditions have not changed since the 1976 merger decision and the 6-cent increase in the Class I differential for the Upper Midwest order should not have any effect on the long-existing price relationship between the Minneapolis-St. Paul handlers and Oak Grove.

The Oak Grove spokesman stated that about 60 percent of its milk supply is direct-shipped milk within a 25-mile radius of its plant and that the plant receives milk from the counties of Carver, Wright, McLeod, Sibley and Scott. Oak Grove's brief notes that its plant is the only distributing plant in this 5-county area. The brief further pointed out that milk production in these five counties accounts for more than nine percent of the total milk pooled on the Upper Midwest market, and that production in these counties has increased at a lesser rate than the total of the milk pooled under this order.

NFO supported the addition of Carver and Dakota counties only. In their brief, NFO pointed out that the number of handlers in the Upper Midwest order has declined while the sales area of

those that remain has expanded. Therefore, NFO claims, the remaining handlers have a higher degree of overlap in distribution, suggesting the need for uniform Class I pricing.

NFO's brief stated that the 6-cent differential between Zone 1 and Zone 2 covers part of the cost of moving milk to distributing plants and should be applicable at fluid milk plants in Carver and Dakota counties. NFO opposed the inclusion of Scott County in Zone 1 because it would create unnecessary and inequitable competitive problems among various supply plants and manufacturing plants in Central Minnesota. To increase the price at the AMPI manufacturing plant in Scott County by 6 cents would give it an unfair competitive advantage in acquiring a supply of milk and would eliminate the incentive for this plant to make milk available to distributing plants, according to NFO.

The proposal to shift four Zone 2 counties to Zone 1 is denied. Various alternatives to the proposal were proposed in the testimony at the hearing and in briefs filed by interested parties.

The addition of Anoka and Scott counties was opposed on the basis that there are no pool distributing plants located within those counties, and that higher prices at any manufacturing plants in those counties would discourage the movement of milk to Zone 1 distributing plant handlers that compete for supplies of milk in these counties.

Anoka and Scott counties are contiguous to other counties that are in Zone 1. Although there are no distributing plants in either county, there is a reserve supply plant located in Scott County. The plant is at New Prague, Minnesota, is operated by AMPI, and was described as a small nonfat dry milk plant. In 1985, a significant amount of New Prague Grade A milk was shipped to a distributing plant in Zone, 1, and to a plant at Farmington, Minnesota. The milk at the Farmington plant is used for Class II uses or is shipped to the Marigold distributing plant in Minneapolis (Zone 1).

Both counties should remain in Zone 2. There is no evidence, in either case, to support a higher price. Adoption of a higher price in these two counties would simply remove the 6 cents per hundredweight incentive that now exists for milk to move to distributing plants in Zone 1.

Similarly, Carver County should not be added to Zone 1, even though there is one distributing plant in the county. Oak Grove Dairy, in Norwood, Minnesota, is in Carver County. Oak Grove obtains 60 percent of its milk supplies from farms located within about 25 miles of the plant. The remainder of Oak Grove's milk supply comes from Glencoe, Minnesota, which is 12 miles west of Norwood (McLeod County) and from Litchfield, Minnesota, which is about 50 miles northwest of Norwood (Meeker County). Norwood, on the other hand, is about 40 miles southwest of downtown Minneapolis, and is on the western side of Carver County. The plant is located in a more rural county (1983 population—38,600), and on the opposite side of the county from an area where the record indicates that the metropolitan area is expanding. Thus, the plant is more appropriately described as located in a production area rather than in the heart of the metropolitan area.

The Norwood handler maintained that it cost producers or cooperatives less to supply the Oak Grove plant than to ship milk to plants located in Hennepin, Ramsey, or Washington counties. The brief submitted by Oak Grove Dairy quotes from the 1976 final decision, which found that Carver County should not be included in Zone 1. We must conclude from the evidence contained in this proceeding that there is no basis for reaching a different conclusion now.

The situation for Dakota County is not the same as for Carver County. However, the same conclusion must be reached. A pool distributing plant, which is operated by Hastings Cooperative Creamery Company, is located in Hastings, Minnesota. Marigold Foods operates a reserve supply plant at Farmington, which also is in Dakota County.

The city of Hastings is just across the county line from the southern boundary of Washington County, which is in Zone 1. Thus, the Hastings Cooperative's distributing plant is in closer proximity to the metropolitan counties presently included in Zone 1. Dakota County is an urban county, having a 1983 population of over 207,000 persons.

One basis of opposition to including Dakota County in Zone 1 was that it would result in a 6-cent increase in returns for producer milk delivered to a manufacturing plant. Marigold's witness indicated that the 6-cent differential between Farmington and Minneapolis helped cover the cost of moving bulk milk from Farmington to the Minneapolis distributing plant also operated by Marigold. Marigold nevertheless supported shifting Dakota County to Zone 1.

One approach to overcoming the concern about increasing returns for milk delivered to a manufacturing plant would be to just add the city of Hastings to Zone 1, as was suggested. However, the record in this proceeding simply does not warrant such a decision.

The principal argument for adding Carver and Dakota counties to Zone 1 was that the distributing plants in those two counties compete with Zone 1 plants for sales over a broad geographic area. This argument, by itself, is not a sufficient reason to increase the Class I and blend prices at a given plant location.

The principal function of a location adjustment is to reflect the cost of moving milk from the production area to distributing plants located in or near the major population (consuming) centers of the market, and to provide a price that will attract an adequate supply of milk to such locations. Location adjustments may also be used to achieve price alignment between plants subject to different orders.

There is no basis in the record of this proceeding for concluding that higher Class I and blend prices are needed at the Dakota County plants, especially the Hastings plant. There is no information in the record about where the plant obtains its milk supplies or whether there has been any problem attracting adequate supplies of milk.

Moreover, the production-by-county data provided in the market administrator's exhibit indicate that December 1985 milk production in Dakota County was over 7.3 million pounds. Since the record does not indicate the size of the Class I operation at the Hastings plant, or where the milk produced in Dakota County is used, there is not basis for concluding that a higher price is needed, either for Dakota County or for just the city of Hastings. Dakota County, in its entirety, should remain in Zone 2.

Similarly, the order should not be amended to provide a new Zone 5. AMPI proposed (Proposal no. 3) that a new Zone 5 be created that would include the Minnesota counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lyon, Martin, Mower, Murray, Olmsted, Redwood and Watonwan as well as the Iowa counties of Howard, Kossuth, Mitchell, Winnebago and Worth.

The proponent's witness testified that blend prices should increase about 4 cents for the proposed Zone 5 of the Upper Midwest order. This calculation, he said, is based on multiplying the Class I utilization percentage for that market by the increase in the Class I differential (14%×$.08=$.01). This 1-cent increase plus the proposed 3-cent location adjustment for Zone 5 would result in a 4-cent increase in blend prices for producers in Zone 5. Similar

calculations provided by an exhibit submitted by the proponents projected that blend prices under surrounding orders would increase in the proposed Zone 5 area by about 4 to 6 cents per hundredweight. The purpose of the exhibit was to show that the proposed 3-cent adjustment would maintain blend price alignment in the proposed Zone 5 area.

The AMPI witness stated that the proposed Zone 5 is the primary area of the Upper Midwest market where both milk procurement and Class I sales operlap amoung surrounding orders. Because of the new Class I differentials, the Order 68 price in this area needs to be adjusted, he maintained.

AMPI's spokeman said that Brown and Olmsted counties are the only proposed Zone 5 counties with distributing plants. Excluding Brown and Olmsted counties, the remaining proposed Zone 5 counties have more than two-thirds of their remaining milk pooled under the Nebraska-Western Iowa or Iowa orders. Each of the proposed Zone 5 counties has some milk pooled on one of these two neighboring markets and there is considerable blend price competition between these orders. He said that blend prices, premiums, and shipping requirements, for example, can cause milk to move from one market to another, but that it was important to maintain historical price relationships between competing and overlapping procurement areas. AMPI maintains that a higher price at Rochester, Minnesota ((Olmsted County) is needed because the difference between the new Class I differentials applicable to Minnesapolis and the orders is too large.

Proponent's witness stated that the Marigold fluid milk plant at Rochester is one of the largest in the Upper Midwest, and that it purchases a substantial amount of the milk produced in Olmsted County and distributes packaged milk throughout Iowa, Illinois, Wisconsin and Minnesota.

The witness indicated that the proposals to enlarge Zone 1 and create a new Zone 5 represent a compromise between and the need to maintain reasonable blend price relationships as they have been in the past and also recognizes the need to maintain Class I price alignment among competing handlers.

AMPI in their brief, referred to Exhibit no. 15 and said that the plus 3-cent adjustment for Zone 5 with a $1.23 Class I differential at Rochester results in better alignment with nearby markets and other basing points. The plus 3-cent adjustment will provide competitive equity between the Upper Midwest handlers located in the southern part of this market and handlers regulated under adjoining orders.

The AMPI proposal was supported by the spokesman for Marigold. He said that Marigold sells a substantial amount of packaged milk below the top tier of Iowa counties, and outside Zones 1 and 2 of the Upper MIdwest order. He said that while this proposal would put Marigold at a disadvantage with Zone 1 handlers, Mid-Am's orginal proposals nos. 5 and 6 would create an even greater discrepancy between Zone 1 of the Upper Midwest order and the proposed new Zone 5.

Swiss Valley Farms, Co. filed a brief in support of the AMPI proposal for a new Zone 5 and said that it would better align blend prices between the adjoining counties of the Upper Midwest and Iowa orders.

Mid-Am, as indicated previously, amended their proposals no. 5 and 6 so that they were identical to the AMPI proposals. In their brief, however, they said that they supported including only Olmsted County in a new Zone 5.

At the hearing, the witness for Falls Dairy, et al. testified in opposition to the propose new Zone 5. He contended that the proposed plus 3-cent location adjustment for this area would violate the principal of flat or zone down-pricing from major consumption areas within the order. The proposal would also create some inequity between Marigold at Rochester and the two fluid milk plants located in Brown County who compete with the Mineapolis-St. Paul handlers, in his view.

The witness stated that this proposal also would create some equity problems between producers in Zone 5 and other producers on the Upper Midwest order. He contended that the proposal is an attempt to solve a problem of inequity caused by the mandated Class I price increase of 15 cents for the Iowa order and an 8-cent increase for the Upper Midwest order.

The spokesman for Falls Dairy, et al. maintained that this proposal would impede the flow of milk southward by a higher-priced zone in Southern Minnesota and northern Iowa. In the absence of this proposal, he said, some milk may move from the Upper Midwest order to the Iowa order and milk from the Iowa order may move to a higher-priced zone to the south and that there is nothing wrong with such milk movements. Inter-market Class I price aligment problems should not be solved at the expense of maintaining price aligment betwen handlers and producers within the Upper Midwest order, according to the Falls Dairy, et al. witness.

A spokesman for LOL testified in opposition to the proposed Zone 5 on the basis that it would create some distored competitive relationships similar to that described with respect to adding Scott County to Zone 1.

LOL, the spokesman said, operates a cheese plant at Pine Island, Minnesota, just one mile north of Olmsted County in Goodhue County. This plant competes for a milk supply over the same territory as the AMPI manufacturing plant at Rochester. Thus, he contended that the AMPI proposal would put LOL at a 9 cent competitive disadvantage (minum 6 cents in Zone 2 combined with a plus 3 cents in Zone 5).

The LOL witness disagreed with the AMPI position that their proposals would properly neutralize the impact on blend prices. Differences in blend prices, he said, are a normal and healthy adjustment associated with higher Class I prices. Higher Class I prices exist in markets with higher Class I utilization and therefore represent a greater need for Class I milk. Federal orders, he said, have a natural adjusting mechanism in that as the Class I utilization and Class I prices are higher, blend prices will be higher, thereby, attracting additional milk supplies. In its brief, LOL expressed the view that all markets in the region are abundantly supplied with milk, so minor shifts of milk in Southern Minnesota among markets will have no damaging impact.

The LOL brief further contends that even if substantial blend price difference exist among markets, they can be largerly dealt with through the ability of the cooperatives to reblend the proceeds from the sale of their member's milk.

LOL's brief also stated that a new Zone 5 would redistribute pool funds in favor of AMPI at Rochester and New Ulm, and to a lesser extent, LOL at Mountain Lake, Minnesota, at the expense of producers whose milk is priced at all other locations. Producers whose milk is processed at a Zone 5 manufacturing facility, said LOL, would receive a more favorable price than producers whose milk was processed in a Minneapolis-St. Paul distributing plant.

A witness for the Le Sueur Cheese Company (Le Sueur), testified that Le Sueur operates a reserve pool supply plant and a chees manufacturing operation in Le Sueur County (Zone 2), Minnesota. Le Sueur also opposed the Zone 5 proposal. At the hearing and in their brief, Le Sueur indicated concern about the adverse impact that this proposal would have among competing handlers in acquiring milk supplies in

the Zone 5 area. The Le Sueur witness stated that Le Sueur already has a 6-cent disadvantage in competing with the AMPI plant in Scott County, and that the AMPI proposal would increase this disadvantage an additional 3 cents.

NFO supported creating a Zone 5 consisting of only Olmsted County. The NFO witness stated that Olmsted County is unique and that the two fluid milk plants in Brown County are small volume plants with sales only in the Upper Midwest order.

In its brief, NFO stated that including Olmsted County in Zone 5 is appropriate because of the distribution pattern of the Rochester plant. Outside of Olmsted County, there are no other metropolitan centers, or major distributing plants in the counties of southern Minnesota or northern Iowa. There are, the brief notes, a number of reserve supply plants including the AMPI manufacturing plant in Brown County. The AMPI plant and other plants located in the proposed Zone 5 compete with plants located in Zone 2 for milk supplies. This proposal would increase the blend price at manufacturing plants in the proposed Zone 5. This price difference would amount to 9 cents and could lead to disorderly marketing conditions in areas of procurement overlap.

In NFO's view, any substantial misalignment of prices in those areas should be addressed in connection with the proposed amendments to the Nebraska-Western Iowa and Iowa orders. If prices are appropriately aligned, blend prices of the other orders attract milk to those orders and that is an appropriate situation that should not be addressed by creating an inappropriate plus differential in the Upper Midwest order.

A representative of Anderson-Erickson Dairy Company (A–E), a handler fully regulated under the Iowa order, testified in support of the proposals to amend the Upper Midwest order.

In its brief, A–E stated that the proposal to create a plus 3-cent location adjustment is the only proposal which can be said to be necessitated by the new prices established by the Food Security Act of 1985. In their view, this proposal to create a new Zone 5 would improve the alignment between the new base price at Minneapolis-St. Paul and the price in Iowa. The brief, concluded, however, that the plus 3-cent location adjustment should apply for milk delivered to plants in Olmsted County, Minnesota.

Kraft, Inc. filed a brief and stated that the propoosal for a plus 3-cent location adjustment for southern Minnesota should apply, if at all, only to Olmsted County. The AMPI proposal, in Kraft's view, represents an attempt to use this proceeding to gain an advantage for its own manufacturing operations to the disadvantage of competitors in adjacent counties. Kraft contends that it is unnecessary to raise prices, predominately to manufacturing plants, outside of Rochester.

Mid-Am, as indicated previously, amended their proposals for the Upper Midwest order so that they were identical to the AMPI proposals. The Mid-Am brief, however, suggested that only Olmsted County be added to Zone 5.

At the hearing, the Mid-Am witness said the plus 3-cent location adjustment for Olmsted County would improve the alignment between the Upper Midwest and Iowa orders and would help cover the cost of supplying milk to the Rochester location. Olmsted County was their main concern because of the Marigold plant at Rochester which has considerable distribution in Iowa.

Mid-Am's brief stated that to the extent producer milk in the proposed Zone 5 counties exceeds the amount of producer milk classified in Class I in the same counties, the blend price to all producers will be reduced and producers in Zone 5 would be rewarded for producing milk for non-Class I purposes. In Mid-Am's view, limiting the 3-cent location adjustment to only Olmsted County would minimize this unwarranted result.

The proposal to create a new Zone 5 consisting of 13 Minnesota counties and six Iowa counties should not be adopted.

The area that AMPI proposed to include in Zone 5 is an area where substantial overlap of milk procurement occurs for the Upper Midwest, Nebraska-Western Iowa, and Iowa orders. Three of the counties in the proposed Zone 5 have pool plants located in them. In Minnesota there are two distributing plants in Brown County, and a distributing plant in Olmsted County. There is a reserve supply plant in Winneshiek County, Iowa. In addition, there are several nonpool plants that receive milk diveted under the Iowa order, and at least some nonpool plants that receive milk diverted under the Upper Midwest order in these counties. In the latter case, testimony by witnesses for the various parties reveals the presence of manufacturing plants in Brown, Olmsted, and Goodhue Counties in Minnesota. There may be others. The record indicates there is keen competition for milk supplies in this area. Some of the competition must be from manufacturing plants that are not pool plants under any of the three orders being considered here.

The two pool distributing plants in Brown County are small operations that dispose of most of their Class I milk in the Upper Midwest market. There is no basis in the record for concluding that a higher price is needed to help attract milk to distributing plants in Brown County. The distributing plant in Olmsted County is a relatively large plant that distributes milk over a wide area that includes sales in competition with handlers regulated under the Iowa, Nebraska-Western Iowa, and Eastern South Dakota orders. Also the plant secures part of its supply from sources other than Olmsted County, including sources in Wisconsin.

Rochester is about 85 miles south (and a little east) of Minneapolis-St. Paul. It is closer to the boundary of the Upper Midwest and Iowa marketing areas than it is to the twin cities. Since the Rochester distributing plant is so located, and competes with handlers regulated under other orders subject to higher Class I milk prices, it is important that there be reasonable alignment of Class I prices between Rochester and the Nebraska-Western Iowa, and Iowa orders.

Prior to May 1, 1986, the Class I price at Rochester under the Upper Midwest order was 28 cents less than the base zone Class I prices at Omaha, Nebraska, and Des Moines, Iowa. On May 1, the difference increased to 35 cents per hundredweight. Thus, adding 3 cents to the Class I price at Rochester would restore reasonable alignment of Class I prices between the Upper Midwest order at Rochester and the Class I prices at the principal consumption centers of the Nebraska-Western Iowa, and Iowa orders. Inter-order Class I price alignment is one of the functions of location adjustments. However, increasing the Class I price 3 cents per hundredweight at Rochester would create an unacceptable pricing difference between the plants in Rochester and a manufacturing plant located at Pine Island in Goodhue County. The matter of price alignment with other order plants will be addressed through revising the location adjustment rate in the Nebraska-Western Iowa, and Iowa orders.

The distance from Pine Island to Rochester is approximately 17 miles. Rochester (Olmsted County) is in Zone 1, which has a zero location adjustment. Pine Island (Goodhue County) is in Zone 2, which has a minus 6-cent location adjustment. Adding 3 cents to Class I and uniform prices for Olmsted County would create a 9-cent differential

between Goodhue and Olmsted counties. At 17 miles, the rate per 10 miles would be about 4.5 cents per hundredweight, which exceeds the cost of hauling milk. Such a price differential would tend to result in milk being moved just to get the higher price, perhaps at one manufacturing plant rather than another. Moreover, there is no sound basis for increasing producer returns for milk delivered to a manufacturing plant that also is located in Rochester. Therefore, even Olmsted County, by itself, should not be designated as a separate pricing zone with a higher price.

A major argument in support of the proposed Zone 5 was that the higher price to Upper Midwest producers in the area would maintain a historical blend price relationship in an area where there is a substantial overlap of milk procurement for several orders.

As noted earlier, the procurement overlap in the proposed Zone 5 area is substantial. Nevertheless, it is not a function of location adjustment provisions to provide alignment of blend prices among orders in a common procurement area.

The record indicates that cooperatives may, and do, shift milk from one order to another when it is in their best interests to do so. Blend prices of course may be affected by adding milk to the pools, or removing it from the pools. There is no basis for concluding that any alignment of blend prices that was achieved by the application of location adjustments would or should endure. The blend price for a particular order results from a combination of the Class I price and the percentage of the market's milk priced as Class I milk. If the blend price in one market is higher than for another order with respect to a common production area, it should serve to attract more milk to the order that has the higher price. Over time, as milk shifts from one market to another, blend price alignment should result. If blend prices are improperly aligned, the adjustment should be made through changing the Class I differential, not through location adjustments in the milkshed.

1B. *Plant location adjustments for Nebraska-Western Iowa.*

The Nebraska-Western Iowa order should be amended to provide a higher rate of location adjustment for plants located outside of the present Zones 1 and 2. As recommended, the plant location adjustment rate of 1.5 cents per 10 miles per hundredweight would be increased to 1.7-cents with respect to plants located outside of Zones 1 and 2 but located in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota (east of State Highway 73 only), or Wisconsin. Norfolk and Omaha would continue to be basing points.

The Nebraska-Western Iowa Order presently provides for two zones with a zero location adjustment for Zone 1 and a plus 15.0-cent location adjustment for two Zone 2. This decision does not recommend any changes to these two zones, or to the 15-cent location adjustment for Zone 2. Zone 1 includes 55 Nebraska counties and Zone 2 includes 13 Nebraska counties.

The order also provides that at a plant located outside of Zone 1 and 2 but located in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota (east State Highway 73 only), or Wisconsin, the location adjustment shall be 1.5 cents per 10 miles or fraction thereof (the shortest hard-surfaced highway and/or all weather road distance as measured by the market administrator) that such plant is located from the nearer to the city halls in Norfolk or Omaha, Nebraska. At any other location, no adjustment applies.

Proposals to amend the Nebraska-Western Iowa order were filed by Gillette Dairy, Inc. (Gillette), Mid-Am, Neu Cheese Company and Orchard Dairy, Inc., and Wells Dairy, Inc. (Wells). At the hearing, AMPI also proposed changing this order.

Gillette proposed that the Nebraska counties of Boone, Madison, and Stanton be removed from Zone 1 and that Norfolk, Nebraska be remove as a basing point leaving only Omaha, Nebraska as a basing point.

Gillette's spokesman testified that they operate a fluid milk plant at Norfolk (Madison County), Nebraska, and for several years have competed with Wells, the operator of a fliud milk plant at Le Mars (Plymouth County), Iowa. The witness said that both Gillette and Wells are fully regulated plants and that Wells receives a minus 16.5-cent location adjustment; Gillette, he said, does not receive any location adjustment because it is located at Norfolk.

The witness for Gillette said that this 16.5 cent price advantage that Wells has is not necessary to provide an adequate supply of milk for Gillette. Both Norfolk and Le Mars, he said, are small population centers compared to Omaha, Nebraska.

Gillette's witness testified that location adjustments have been used to reflect a lesser value for milk at points some distance (production area) from the major population centers. A minus differential for Le Mars, he said, fits the pattern in this market with the exception that the differential should be based off of Omaha. The witness said that the same reasons that warrant a lower price for Le Mars as compared to Omaha are valid for a lower price at Norfolk as compared to Omaha. The spokesman said that there is not rational basis for a price difference between Le Mars and Norfolk.

The spokesman for Gillette stated that one way of measuring whether an area has a sufficient or surplus of milk is to compare the population in an area with the pounds of milk produced in that area. He said that milk production in Madison County and the counties adjacent or within 10 miles of it in December 1985 was 12.5 million pounds. According to the witness the population in that same area was 111,078 and results in a daily ratio per capita of 3.6 pounds per day. This ratio, he said, compares to a U.S. average of .058 pounds per day of fluid use and a 1.42 pounds per day of total dairy products use. Therefore, he said, the Norfolk area can be called a surplus production area.

The witness testified that milk production in Plymouth County in Iowa and adjacent counties or within 10 miles of it was 12.2 million pounds for December 1985. He said that the population of this area was 233,197 and results in a ratio of 1.6 pounds of milk production per capita per day and, therefore, is a surplus production area. A similar computation for the Omaha area, he said, results in a ratio of 0.4 pounds and, therefore, it is an area that must attract milk.

The spokesman for Gillette said that a more complex measurement of an area's milk needs is to compare the milk production in the direct-shipped area of a local market to the needs of the fluid milk distributing plants. The witness said that it is reasonable to presume that a plant receiving a significant portion of its milk from supply plants has needs beyond the production available in the direct-shipped area. By this standard, he said, Plymouth and adjacent counties would be a deficit area, while Madison and adjacent counties have a surplus of milk production. The Gillette spokesman said that Gillette receives almost all of its milk directly from farms. This standard of measurement, he said, supports a lower price for Norfolk.

The witness for Gillette stated that since there is no need to attract milk to Norfolk, that Norfolk is not a logical point from which to start such a measurement. Omaha, he said, is the logical point to start and the rate of 1.5 cents now used would produce a minus 18 cents for Norfolk which is 111 miles from Omaha and a minus location adjustment of 19.5 cents for Le Mars which is 122 miles from Omaha.

The witness said Gillette distributes milk to the northeast of Norfolk where it competes with milk originating in a lower priced zone and has been serving this area for over 30 years. In the last five years, he said, Gillette has lost a number of accounts in the Norfolk area to Wells because of the lower cost available to Wells.

No parties, either at the hearing or in briefs, supported the Gillette proposals.

A witness for Wells testified in opposition to the Gillette proposals. The witness said that the Gillette plant in the only distributing plant in the counties of Boone, Madison or Stanton. The Gillette proposals, he said, have nothing to do with the new Class I differentials and that the net effect to Gillette through its proposals would be an 18-cent location adjustment in place of its zero location adjustment.

The spokesman for Wells stated that Gillette is simply trying to gain a competitive advantage over Wells. The witness referred to the 1981 decision for this market that he said concluded that milk marketing would best be served by the Gillette plant being in Zone 1 and the Wells plant benefiting from a 1.5-cent per 10 mile location adjustment. The witness indicated that there have been no changes in Gillette's purchasing patterns with respect to raw milk since the 1980 hearing that would justify any change in Gillette's location adjustment.

The Wells' witness noted that most of Gillette's sales are southwest of Norfolk and that the Department concluded in the earlier decision that since Gillette sold its packaged milk in the area southwest of Norfolk, it would retain its competitive advantage over Le Mars even if Le Mars received a higher location adjustment.

The witness stated that the use of Norfolk and Omaha as basing points results in price alignment with federal orders to the north and west. The witness said that these basing points provide the necessary price alignment to the various plant locations within the marketing area. The spokesman said that nothing has changed in the last five years and that Norfolk is an appropriate basing point because Class I differentials increase as you move west from the Minnesota-Wisconsin area. The plus 15-cent location adjustment, he said, for plants in Zone 2 of the Nebraska-Western Iowa order reflects this milk pricing policy. The witness stated that the Class I differential for the Eastern Colorado order was 70 cents higher than the Nebraska-Western Iowa order and that the Food Security Act of 1985 has increased this difference to 98 cents.

A witness for AMPI testified that AMPI was opposed to all other proposals to amend the Nebraska-Western Iowa order except their own. In their brief, they stated that Gillette's proposals, as well as proposals by Neu Cheese Company and Orchard Dairy, were abandoned by their proponents in favor of the Mid-Am modified proposal no. 10, which is discussed later.

The witness for A–E voiced opposition to all the proposals to change the Nebraska-Western Iowa order. The A–E brief supported only the AMPI proposal to impose a plus 3-cent location adjustment for Olmsted county in the Upper Midwest order. The brief further commented that with this change, no other changes would be necessary in the Nebraska-Western Iowa or Iowa orders and that the adoption of any other changes would distort existing alignment without having any impact of fluid milk supplies.

Mid-Am proposed that the present Zone 1 of the Nebraska-Western Iowa order be amended by deleting the Nebraska counties of Madison and Stanton and adding the Nebraska county of Washington. A new Zone 3 would be added consisting of the Nebraska counties of Antelope, Burt, Cuming, Holt, Madison, Pierce, Stanton, Thurston, and Wayne. Also, their proposal would create a new Zone 4 consisting of Dakota and Dixon counties in Nebraska and Plymouth and Woodbury counties in Iowa. The proposed rate of location adjustment was as follows:

Zone	Adjustment
1	No adjustment.
2	Plus 15 cents.
3	Minus 10 cents.
4	Minus 15 cents.

For a plant located outside of Zones 1, 2, 3, and 4 and in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota (east of State Highway 73 only), or Wisconsin, the price would be reduced by 2.0 cents per 10 miles or fraction thereof (by shortest hard-surfaced highway as measured by the market administrator) that such plant is located from the city hall in Omaha, Nebraska. At any other location, no adjustment would apply.

At the hearing, Mid-Am modified their proposal. As modified, Zone 3 would include the Nebraska counties of Pierce, Wayne, Thurston, Madison, Stanton, Cuming, and Burt with a minus location adjustment of 10 cents. Zone 4 would include the Nebraska counties of Holt, Knox, Antelope, Cedar, Dixon, and Dakota, and the Iowa counties of Plymouth and Woodbury with a location adjustment of minus 15 cents. Washington County in Nebraska would be added to Zone 1. Zones 1 and 2, except for adding Washington County to Zone 1, would remain as the order presently provides. Norfolk would also be used as a basing point.

The spokesman for Mid-Am testified that the milkshed for the Nebraska-Western Iowa order extends about 350 miles north of Omaha into North Dakota. Exhibit 5, he says, shows that the amount of milk in South Dakota increased 20 percent between December 1983 and December 1985 while the total milk pooled on the Nebraska-Western Iowa order increased less than eight percent.

The Mid-Am witness said that in designing the proper pricing structure for the Nebraska-Western Iowa order, the first and foremost consideration must be to provide the proper economic incentive to transport milk from the production areas such as South Dakota to the fluid milk distributing areas. The spokesman for Mid-Am said that the combined population of Douglas County (Omaha) and Council Bluffs (Iowa) was 454,333 or about 28 percent of the total of Nebraska plus Council Bluffs.

The spokesman for Mid-Am said that, in determining the proper location adjustment, unless the price is reduced at distant points, pool proceeds would be utilized to pay producers for freight not actually incurred, resulting in lower blend prices to other producers. The rate of location adjustment, he said, should be established at a level that will provide an economic incentive for milk to move from distant points to the central market such as Omaha and at the same time will not result in a penalty for shipping to the central market. Both objectives, he said, can be met by providing that the location adjustment rate be approximately the same as the cost of transporting milk from distant points to the central market.

At the present time, the witness said, the cost of hauling bulk milk is about 3.5 cents per 10 miles per hundredweight. Nevertheless, a rate of 2.0 cents was proposed for two reasons. First, he said, the 2.0-cent rate is the approximate location adjustment rate between Eau Claire and Omaha as reflected in the Class I differentials provided by the Food Security Act of 1985. Second, the resulting Class I differential at the South Dakota locations of Corsica, Freeman, Lake Preston, and Sioux Falls as well as

Dawson, Minnesota, will be approximately the same as those provided by the Upper Midwest and Eastern South Dakota orders.

The Mid-Am witness stated that the new Upper Midwest Class I differential at Dawson, Minnesota, for example, would be $1.20 and it would be $1.21 under the Nebraska-Western Iowa order. At Sioux Falls, he said, the new Eastern South Dakota Class I differential would be $1.50. The Nebraska-Western Iowa adjusted Class I differential at Sioux Falls would be $1.47 under their proposal. Their proposed Zone 3, he said, provides a reasonable relationship between Norfolk and Omaha and their proposed Zone 4 provides an economic incentive for milk to move from the five plants in the proposed Zone 4 to the major population area.

The Mid-Am witness further said that under their proposal the Wells plant in Plymouth County would receive a 15-cent location adjustment, and Gillette at Norfolk would receive a 10-cent location adjustment. He said that the pricing points in South Dakota or outside of the proposed Zone 4 would be calculated at the rate of 2 cents from Norfolk but that sum would be subtraced from the Omaha price rather than the Norfolk price.

The witness further stated that about 50 percent of the milk needed at Omaha is supplied from direct-shipped milk aroung Omaha and that the remainder comes from Iowa. Also, the witness stated that even though there is little milk from South Dakota moving to Omaha, that there still should be an incentive for that milk to move.

The Mid-Am proposal was supported by Neu Cheese and Gillettee. NFO in its brief, supported the proposal with some modifications. Beatrice Dairy Products (Beatrice), and Wells opposed the modified Mid-Am proposal. A–E opposed any changes to the Nebraska-Western Iowa order. The LOL brief suggested several changes to the Mid-Am proposal.

Neu Cheese and Orchard Dairy proposed adding 10 Nebraska counties and two Iowa counties to Zone 1. Their proposal would delete Norfolk as a basing point. At the hearing, the owner and President of Neu Cheese stated that they could support the modified Mid-Am proposal. This modified proposal, he said, would make them competitive with other nearby plants and the elimination of Norfolk as a basing point would also make the costs of acquiring milk more competitive between manufacturing plants.

At the hearing, counsel for Neu Cheese stated that Neu Cheese and Orchard Dairy had not abandoned their proposal but that they could support the modified Mid-Am proposal. Their brief stated that the price at their locations should be the same as those plants in Zone 1. They said the Secretary should adopt location adjustments with as small a differential as possible between their location and Norfolk and Zone 1 (Omaha), and in no event greater, than the modified Mid-Am proposal.

The witness for Gillette stated that Gillette also had not abandoned its proposal but that Gillette could support the modified Mid-Am proposal. Gillette's witness said that the two proposals were consistent insofar as they tend to equate the applicable prices at Le Mars and Norfolk.

NFO's brief supported the Mid-Am proposal with a modification to provide that when milk is priced based on a plant's distance from Norfolk, that the Norfolk price be used and that the Norfolk price be reduced by an additional 2 cents for each 10 miles that a plant is distant from Norfolk. In NFO's view, this would avoid a situation in areas just outside Zone 4 where the price would be higher than in Zone 4. NFO stated in their brief that basing the price at locations such as Freeman, South Dakota on the Norfolk price also would provide an additional incentive to move milk from Freeman to points of Class I need such as Omaha and Le Mars.

Beatrice, the operator of a distributing plant in Lincoln, Nebraska, opposed the Mid-Am modified proposal. A spokesman for Beatrice stated that the new mandated Class I differential increases for the Nebraska-Western Iowa order and surrounding orders do not significantly change the relative pricing relationships between the orders. He further maintained that the Omaha market is adequately supplied with fluid milk under the current provisions of the order. Also, the cretation of new pricing zones within the Nebraska-Western Iowa order is unnecessary and would disrupt competitive relationships.

Wells also opposed the Mid-Am proposal. The reasons for opposing the Mid-Am proposal, according to the spokesman, were very similar to the reasons presented in opposition to the Gillette proposal. Wells expressed the view that the creation of a new Zone 4 would affect only the Wells plant at Le Mars. The Mid-Am proposal, Wells noted, would decrease the present location adjsutment of Le Mars from 16.5 cents to 15 cents and would change the location adjustment applicable at Norfolk from zero to a minus 10 cents. Also, the Mid-Am proposal would apply the location adjustment rate of 2 cents per 10 miles from either Norfolk or Omaha, for plants outside of these zones. This, in Wells' view, would only affect manufacturing plants because there are no pool distributing plants geographically located that could be subject to the 2-cent location adjustment rate.

Wells, in its brief, charged that the Mid-Am proposal to provide a minus 10-cent location adjustment at Norfolk is not unbiased. The brief noted that Mid-Am has an ownership interest in Gillette and, therefore, has a direct vested interest in the location adjustment received by Gillette.

The Well's brief stated that the record contains no substantial evidence to support putting Le Mars in a special zone and thus reducing its current location adjustment. The Mid-Am proposal, in Wells' view, would provide the AMPI plant at Sibley, Iowa, with a minus 36-cent location adjustment. Sibley is only a short distance away from Le Mars. This minus 36-cent location adjustment, according to the brief, appears to be aimed more at inflicting an economic injury upon a competitive cooperative than toward establishing appropriate location adjustments in response to the Food Security Act of 1985.

Wells proposed that the rate of location adjustment for plants outside Zones 1 and 2 but subject to the Nebraska-Western Iowa order, be changed from 1.5 to 2.8 cents per 10 miles and that Norfolk be retained as a pricing point.

The spokesman testified that because of its location, Wells is sensitive to competition from plants located in neighboring orders. Lakeside Dairy (Sioux Falls, South Dakota) is about 85 miles from Le Mars; Anderson-Erickson and Prairie Farms (Des Moines, Iowa) are about 225 miles; Oak Grove (Norwood, Minn.) is about 176 miles; and Marigold (Rochester, Minn.) is about 240 miles from Le Mars. Wells, he said, distributes about 11 percent of its fluid milk products in the Upper Midwest order, eight percent in the Iowa order, 21 percent in the Eastern South Dakota order, 14 percent in Iowa outside of any order, and 47 percent in Nebraska-Western Iowa. The witness said that Wells purchases about 50 percent of its milk from producers within the State of Iowa, 23 percent from farms in South Dakota and 27 percent from producers in Minnesota.

The spokesman testified that a 2.2-cent location adjustment rate per 10 miles would be adequate to restore the current price relationship between the

Le Mars plant and the plants subject to the Upper Midwest order, the Eastern South Dakota order, and the Iowa order. However, the Well's witness said, the Food Security Act of 1985 requires that location adjustments more closely reflect the actual costs of transporting bulk milk. Thus, Wells proposed a location adjustment rate of 2.8 cents, whereas the actual cost is between 3 and 3.4 cents per 10 miles. The witness, in referring to Wells' exhibit, said that the current cost for hauling bulk milk is 3.3 cents.

Wells' witness said that while the Le Mars plant would benefit from a 30.8-cent lower price than plants located in Zone 1, the actual transportation costs of bulk milk for the 125 mile distance from Le Mars to Omaha is over 36 cents. The 30.8-cent location adjustment, he said, would not be disruptive to Zone 1 handlers in competing with Wells for sales in Omaha. Zone 1 handlers, in his view, would still have the cost advantage over Wells for retail sales in Lincoln.

In its brief, Wells maintained that its proposal would not be disruptive with respect to handlers in any neighborhing orders. The brief noted that no pool distributing plant operator located in either the Eastern South Dakota or Upper Midwest orders appeared at the hearing in opposition to the proposal.

The proposed 2.8 cents per 10 miles location adjustment rate was not supported at the hearing or in brief by any proprietary handlers or cooperative associations. A–E did not want any changes to the Nebraska-Western Iowa order, and LOL's brief proposed several changes.

The witness for AMPI stated that they were opposed to the Wells proposal. That opposition was amplified in AMPI's brief, which claimed that the purpose of the Wells proposal was to achieve a competitive advantage over the handlers in surrounding markets.

AMPI noted that the Wells proposal would provide a Class I differential at Le Mars of $1.44 while Wells' competitor in Sioux Falls, South Dakota, will have its Class I differential increased from $1.40 to $1.50. A–E in Des Moines, Iowa, another Wells' competitor, will have its Class I differential increased from $1.40 to $1.55, and Gillette's Class I differential will be increased from $1.60 to $1.75.

LOL, in its breif, proposed a $1.65 Class I differential for Madison County. In LOL's view, Norfolk and Madison County are part of the general supply area for Omaha, and should be priced in a manner that reflects part of the transportation cost to the central market.

LOL opposed the proposed Zone 4 because there are three manufacturing plants located in this proposed zone. The milk supply for these plants, LOL said, has to be delivered to pool distributing plants in Norfolk and/or Omaha to qualify for pooling. The marketing arrangements for this milk, according to LOL, are no different than for milk from South Dakota, Minnesota or Iowa that is pooled on this order and, therefore, all milk from supply plants moving to distributing plants should be priced on the basis of its distance from the market.

In LOL's view, Norfolk should be maintained as a basing point with a 10-cent lower price than Omaha. Norfolk represents a fluid milk market for much of the producer milk located in northern Nebraska and South Dakota and, therefore, it should be a basing point. The price at Norfolk, according to LOL, should be lower because Norfolk is located within the larger procurement area of the Omaha market.

LOL, in its brief, urged that the rate of location adjustment be 2.0 cents per 10 miles. Such rate, in LOL's view, would more closely reflect the differences in Class I prices resulting from the mandated Class I price increases and would also provide a greater price credit for hauling milk long distances to the fluid market.

AMPI proposed that the Nebraska-Western Iowa order be restructured by deleting the Nebraska counties of Madison and Stanton from Zone 1, and adding to Zone 1 the Nebraska county of Washington.

A new Zone 3 would be created that would include the Nebraska counties of Burt, Cumming, Madison and Stanton and the Iowa counties of Cass, Crawford, Freemont, Harrison, Mills, Monona, Montgomery, Page Pottawattamie and Shelby.

Also, a new Zone 4 would be created that would include the Nebraska counties of Antelope, Cedar, Dakota, Dixon, Knox, Pierce, Thurston and Wayne.

The rate of location adjustment proposed would be as follows:

Zone	Adjustment
1	No adjustment.
2	Plus 15 cents.
3	Minus 10 cents.
4	Minus 13 cents.

For a plant located outside of Zone 1, 2, 3, and 4 and in the States of Iowa, Minnesota, Nebraska, North Dakota, South Dakota (east of State Highway 73 only), or Wisconsin, the price would be reduced by 13 cents and by an additional 1.7 cents per 10 miles or fraction thereof (by shortest hard-surfaced highway and/or all weather road distance as measured by the market administrator) that such plant is located more than 75 miles from the nearer of the city halls in Norfolk or Omaha, Nebraska. At any other location, no adjustment would apply.

However, AMPI, in its brief, stated that no changes in the location adjustment provisions are warranted. Therefore, no further consideration of the AMPI proposed modification is necessary.

As indicated previously, the location adjustment rate of 1.5-cents per 10 miles per hundredweight should be increased to 1.7-cents with respect to a plant located outside of Zones 1 and 2 and located in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota (east of State Highway 73 only), or Wisconsin. Norfolk and Omaha would continue to be basing points.

This 0.2-cent increase in the location adjustment rate reflects that transportation costs of hauling bulk milk have increased. It is undisputed on the record that actual hauling costs at the present time exceed 3.0-cents per 10 miles per hundredweight. The use of a rate higher than 1.7 cents for the Nebraska-Western Iowa or Iowa markets, however, would create some misalignment problems with other orders at major population centers where distributing plants are located. Some examples of misalignment problems that would arise by the use of a rate higher than 1.7 cents is set forth later in this decision.

Mid-Am and Wells both proposed the use of a location adjustment rate higher than 1.7 cents at certain plant locations. The Mid-Am proposal would apply a location adjustment rate of 2.0-cents for plants outside of their proposed Zones 1 through 4 but located within the States of Nebraska, Iowa, Minnesota, North Dakota, Wisconsin or parts of South Dakota.

The Mid-Am proposal would restructure the Nebraska-Western Iowa order by creating two additional zones. The proposal would not change the counties included in the present Zone 2 or the amount of the location adjustment for that zone.

The Wells' proposals would apply a location adjustment rate of 2.8-cents with respect to plants located outside of the present Zones 1 and 2 but geographically located in the same areas as defined in the present plant location adjustment provisions.

The Gillette proposal to remove the Nebraska counties of Boone, Madison,

and Stanton from Zone 1 and to eliminate Norfolk as a basing point should not be adopted. Gillette's primary concern is competition for retail sales with Wells. The witness for Gillette indicated that Gillette sells most of its packaged milk in areas southwest of Norfolk. Wells is located at Le Mars in Plymouth County, Iowa, which is approximately 100 miles northeast of Norfolk. Thus, the 16.5 cents higher price that Gillette incurs, as the result of being located in Norfolk, does not cover the costs that Wells would incur in hauling packaged milk from Le Mars to Norfolk.

Much of the testimony presented on this issue dealt with the competition for sales of packaged milk among the various handlers. The sales area for packaged milk is not a key factor to consider in determining plant location adjustments. The areas where a handler chooses to sell packaged milk reflect a business decision on the handler's part and, as such, is subject to change.

One of the proposed findings included in the brief submitted on behalf of Neu Cheese and Orchard Dairy would conclude that milk from specific counties moves in a specific direction. This finding is rejected. While the evidence shows that plants in the Omaha area are supplied primarily with milk produced in Nebraska and Iowa, it is not possible to demonstrate from the record that milk from any particular county moves to any particular plant. Moreover, there is no reason to conclude that distributing plants are experiencing any substantial difficulty in acquiring a supply of milk.

Only one instance of difficulty attracting adequate supplies of milk to a distributing plant was alluded to in the testimony of Wells Dairy. However, Wells' own proposal would, if adopted, result in a lower Class I price at the Le Mars location, which would be expected to make it more difficult to attract milk.

The Omaha-Lincoln area comprises the major consumption center in the Nebraska-Western Iowa market. But this has long been the case, and the fact is that fluid milk plants in this area are supplied almost totally by milk produced in Nebraska and Iowa.

The record further shows that although dairy farms in South Dakota produced a larger proportion of the total milk pooled under the order in December 1985 than in December 1983, the South Dakota milk does not generally move to the Omaha area. Some of it does move into the Norfolk plants, according to the testimony. The current organization of zones and location adjustments accommodates that movement. However, in the fall months the limited movements of supply plant milk from Norfolk to Omaha may include South Dakota milk.

The purpose of location adjustments is to provide an incentive for milk to move from the production areas to distributing plants located at or near major population centers and to provide a price that will attract an adequate supply of milk to such locations. Location adjustments may also be used to achieve price alignment between plants subject to different orders.

The recently mandated Class I differential for the Upper Midwest order is $1.20. An adjustment rate of 2.0-cents per ten miles between Omaha, Nebraska, and Minneapolis, Minnesota, a distance of 360 miles, would result in a location adjustment of 72.0 cents. The new Omaha Class I differential of $1.75 less the 72 cents results in an Order 65 Class I differential at Minneapolis of $1.03 or 17 cents less than the $1.20 Minneapolis Class I differential under the Upper Midwest order. A 1.7-cent adjustment rate (61.0 cents) between these same locations would provide a Class I differential at Minneapolis of $1.14, or just 6 cents less than the $1.20 Upper Midwest differential.

Similarly, the new Class I differential at Sioux Falls, South Dakota, under the Eastern South Dakota order in $1.50. It is 139 miles from Norfolk to Sioux Falls, so the location adjustment at 2.0 cents per 10 miles would be 28 cents. The Norfolk Class I differential, $1.75, minus 28 cents would yield an adjusted differential at Sioux Falls of $1.47. Using 1.7 cent per 10 miles gives an adjustment of 23.8 cents, or an adjusted Class I differential at Sioux Falls of $1.512, which is only 1.2 cents different than the $1.50 Class I differential under the Eastern South Dakota order.

These examples demonstrate that the 1.7-cent adjustment rate more nearly reflects the Class I price alignment established between these major population centers by the Congressionally mandated differentials. In addition the 1.7-cent rate provides more incentive under the order for milk to move from production areas to major population centers where distributing plants are located.

Finally, Norfolk should be continued as a basing point. Madison County is one of the more populated counties in northeastern Nebraska and there is a distributing plant at that location. Also, Norfolk has been a basing point for many years. Norfolk, Omaha, and Lincoln historically have been in the base zone of the order. There is no compelling reason to change this historic relationship on the basis of this proceeding.

For these and other reasons set forth in the foregoing discussion, it is concluded that the most appropriate action for this market is to disturb the current situation the least amount necessary to recognize the impact of the Class I differentials that became effective May 1, 1986. This will be accomplished by adopting a 1.7-cents per 10 miles per hundredweight location adjustment rate and otherwise leaving in place the current pricing structure.

1C. *Plant location adjustment for Iowa.*

The Iowa order should be amended to provide a higher rate of location adjustment for plants located in Zone 3. For Zone 3, the price would be reduced by 7 cents and by an additional 1.7 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the nearer of the Post Offices of Ames, Marshalltown, or Cedar Rapids, Iowa.

The Iowa order provides for three zones. Zone 1 includes the territory both inside and outside the marketing area not included in Zones 2 and 3.

Zone 2 includes 15 Iowa counties.

Zone 3 includes 32 Iowa counties, the States of Minnesota, Wisconsin, and that portion of Illinois that is north of Interstate 80.

The Iowa order presently provides for a zero location adjustment for Zone 1 and a minus 7.0 cents for Zone 2. For Zone 3, the price is reduced by 7 cents and by an additional 1.5 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the nearer of the Post Offices of Ames, Marshalltown, or Cedar Rapids, Iowa.

Mid-Am and NFO both proposed changes to the Iowa order.

The proposal by Mid-Am would increase the location adjustment rate from 1.5 to 2.0 cents for plants located in Zone 3. the NFO proposal would provide for five zones as follows:

Zone 1 would include the territory both inside and outside the marketing area not included in Zones 2 through 5.

Zone 2 would include the Iowa counties of Benton, Cedar, Clinton, Iowa, Johnson, Jones, Keokuk, Linn, Louisa, Marshall, Muscatine, Poweshiek, Scott, Tama, and Washington, and the Illinois counties of Henry, Mercer and Rock Island.

Zone 3 would include the Iowa counties of Black Hawk, Brenner, Buchanan, Butler, Cerro Gordo, Chickasaw, Delaware, Dubuque,

Fayette, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Jackson, Pocahontas, Webster and Wright.

Zone 4 would include the Iowa counties of Allamakee, Clay, Clayton, Dickinson, Emmet, Howard, Kossuth, O'Brien, Osceola, Palo Alto, Winnebago and Winneshiek.

Zone 5 would include the States of Minnesota, and Wisconsin, and that portion of the State of Illinois that is north of Interstate 80.

The NFO proposed location adjustment rates were as follows:

Zone	Adjustment
1	No adjustment.
2	Minus 10 cents.
3	Minus 20 cents.
4	Minus 30 cents.

In Zone 5, the price would be reduced by the greater of 30 cents or an amount equal to 2.0 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the Post Office in Des Moines, Iowa.

In the notice of hearing the Iowa county of Pocahontas was included in Zone 4. At the hearing, NFO modified their proposal by placing Pocahontas in Zone 3.

At the hearing, the witness for Mid-Am stated that in considering changes in the pricing structure of the Iowa order, the first and foremost consideration must be to provide the economic incentive for bulk milk to move from the production area to the Class I distributing area. The witness said that the 1980 population for Polk County (Des Moines) was 303,170 and 169,775 for Linn County (Cedar Rapids).

The Mid-Am spokesman said that at the present time, the cost of transporting bulk milk is about 3.5 cents per hundredweight per 10 miles. The witness said that Mid-Am chose the rate of 2.0 cents because it is about the same as the location adjustment rate between Eau Claire, Wisconsin and Des Moines as reflected in the Class I differentials provided by the Food Security Act of 1985.

In their brief, Mid-Am indicated that the NFO proposal provides for a comprehensive restructuring of the location adjustment section of the Iowa order. The NFO proposal, they said, provides the appropriate Class I price relationship between the Iowa order, the Upper Midwest and Chicago orders at plants located in Minnesota and Wisconsin. Mid-Am endorsed the NFO proposal, and emphasized the need for more incentive for Wisconsin milk supplies to move into the major metropolitan areas of the Iowa order.

LOL, in their brief, suggested the use of a 2.0-cent location adjustment rate, which would provide a greater amount of pool compensation for the cost of hauling milk for Class I use. LOL noted that most of the milk delivered to Des Moines originates in northeastern Iowa.

The Mid-Am proposal was opposed by Swiss Valley Farms and Wisconsin Dairies (Swiss, et al.), and AMPI. A–E stated that they were opposed to any changes to the Iowa order.

The witness for Swiss, et al. stated that they were opposed to any changes in the location adjustment provisions of the Iowa order. In their view, the Congressional intent of the Food Security Act of 1985 was to raise Class I prices in the Iowa order by 15 cents and not allow the 15 cents to be applied discriminately.

In their brief, Swiss, et al. pointed out than no fluid milk handlers testified that they have experienced any shortage of milk for Class I use. The NFO proposal, says Swiss, et al., would increase benefits to only direct-shipped milk received in Zones 1 and 2, while penalizing all producers whose milk is received in Zone 3.

The spokesman for NFO, in support of the NFO proposal, said that the most important problem to be addressed is the need to align Iowa prices with those in the nearby reserve supply areas in Minnesota and Wisconsin. In the Iowa order, he said, pooling can be accomplished with very little or no milk moving to the fluid milk markets because of order provisions such as unit pooling, 9(c) provisions, as well as the relaxed shipping percentages during recent years. The NFO proposal, he said, would eliminate the present dual system of flat price zones for part of the state and plant-specific prices elsewhere.

The NFO brief stated that the proposed Zone 4, which represents the tier of counties along the Minnesota and Wisconsin borders, would provide the appropriate pricing for producer milk in those locations to align blend prices with the Upper Midwest and the Chicago orders. The brief states that substantial quantities of Wisconsin milk have recently been pooled on the Iowa order because of misalignment of prices in the Wisconsin area.

NFO comments in their brief that to obtain good alignment in the Wisconsin area it is necessary to remove the eastern Iowa basing points from the order and use only Des Moines to facilitate nearly precise alignment in both Minnesota and Wisconsin.

Kraft, in their brief, stated that the NFO proposal was an equitable proposal. In Kraft's view the need to attract milk from distant sources to Iowa's metropolitan areas is not critical, therefore, location adjustments need not fully or even approximately account for actual costs of transportation at the 3.4-cent rate referred to by Congress. On the other hand, Kraft notes that if location adjustment rates are inadequate as they presently are, then distant manufacturing plants will be compensated for transportation which never takes place and will result in a reduction of blend prices to producers who deliver to the major population centers.

AMPI opposed both the Mid-Am and NFO proposals. They pointed out that both proposals were opposed by A–E, and Swiss, et al. AMPI noted that all opposing parties testified that no change in the pricing structure was warranted on the basis of the Class I differential changes mandated by Congress.

In their brief, AMPI stated that the Eau Claire-Des Moines price difference offered by the Mid-Am witness as the basis for increasing the location adjustment rate to 2.0 cents does not support the increase. AMPI stated that the 51-cent difference ($1.55–$1.04) when divided by the 270 mile distance results in a location adjustment rate of $.0169 and a similar adjustment rate at several other Iowa locations.

The AMPI brief also commented that the mandated Class I price increase of 14 cents for the Chicago order and 15 cents for the Iowa orders provides no support for NFO's proposed pricing structure. The NFO proposal, they said, would result in changes in price and value at each of 37 locations (exhibit 7) ranging from 2 to 24 cents.

The proposal to restructure the pricing zones of the Iowa order should not be adopted. The principal issue raised by the proponents was that blend prices under this order should approximately equate with blend prices under the Chicago Regional order at several Wisconsin locations. NFO's proposal was designed to provide such alignment through location adjustments and related provisions.

As evidence of disorderly marketing conditions, NFO pointed to a substantial increase in Wisconsin-produced milk being pooled under the Iowa order in December 1985 compared to December 1983. In December 1983, milk produced in Wisconsin comprised 7.3 percent of the Iowa order's producer milk. In December 1985, Wisconsin production amounted to 17.6 percent of the milk pooled under the order. Compared to 1983, 1985 receipts from farms in Illinois and Missouri also increased as a

percent of the total. The main change in the opposite direction was in Iowa, which dropped from just above two-thirds of the total to just under two-thirds, and Minnesota, which fell from 21.8 percent of the total in December 1983, to 11.4 percent in December 1985. Total producer milk in December 1985 was up 11.7 percent from December 1983. These changes were cited as resulting from misalignment of producer blend prices between the Chicago Regional and Iowa orders in areas of production overlap, i.e., Southwestern Wisconsin. In NFO's view, the Iowa price adjusted to the Wisconsin locations is too high relative to the Chicago order price at those locations.

The concept of using location adjustments to achieve blend price alignment must be rejected. While it may be possible to equalize prices at a given location, there is no assurance that the alignment would be maintained. Blend prices are primarily a function of Class I price levels and Class I utilization of producer milk. The level of Class I utilization is determined by the amount of producer milk pooled relative to the demand for Class I use.

The proposal would attempt to provide the blend price alignment desired by NFO through two changes in location adjustments. One factor would be to declare Des Moines as the single basing point for computing location adjustments. The other change would fix a minimum 30-cent location adjustment at locations in Illinois north of Interstate 80 and in Minnesota and Wisconsin. If a location adjustment, based on the distance from Des Moines to the applicable plant at a rate of 2.0 cents per 10 miles, exceeded 30 cents, the higher rate would be applicable. The effects of these changes would be substantial at some Wisconsin plant locations. For example, the Iowa order location adjustment at a Shullsburg, Wisconsin, plant currently is 22 cents. As proposed by NFO, the location adjustment would jump to 44 cents per hundredweight.

Shullsburg is in Zone 9 of the Chicago order. The Zone 9 location adjustment is 21.2 cents per hundredweight. In December 1985, the Chicago order blend price adjusted to Shullsburg was $11.65 minus 21.2 cents zone differential, or $11.438 per hundredweight.[1] The Iowa order blend price for the same month at Shullsburg was $11.72 minus 22 cents zone differential, or $11.50. Thus the Iowa order blend price at Shullsburg was about 6 cents higher than the Chicago blend price. If the NFO proposal had been in effect, the Iowa blend would have been only $11.72 minus 44 cents, or $11.28, a difference of 15.8 cents in the opposite direction.

Thus, if the NFO proposal were adopted, the pendulum could swing the other way, which would likely discourage the pooling of milk supplies from the Shullsburg area on the Iowa order. However, there is no assurance that these price differences would be maintained. A change in the location adjustment provisions of the Chicago order could change the relationship again.

This example merely serves to demonstrate that location adjustments are not an appropriate device to achieve equality of blend prices. If prices are determined to be misaligned to the extent that disorderly marketing conditions exist, other means should be utilized to change the alignment.

As has been noted in recapping the testimony, there was substantial opposition to the proposals by other cooperatives and proprietary handlers. One point of view was that if the proposed plus 3-cents adjustment at Rochester, Minnesota, was adopted, there would be no need for any changes to the Iowa order.

The record does not provide compelling evidence that any serious marketing problems need to be addressed by changing the location adjustment zones of the order. The higher Class I differential (effective May 1, 1986) uniformly affects all handlers regulated under the Iowa order.

The mandated Class I differentials did not present any siginficant alignment changes with respect to the Chicago Regional order, since the difference in the increase between Iowa and that order was only 1 cent. As noted earlier, there was no change in alignment between the Nebraska-Western Iowa and Iowa orders, except that as recommended in this decision, the location adjustment applicable to Wells Dairy will increase from 16.5 to 18.7 cents.

We do not conclude that disorderly marketing conditions exist just because the proportion of milk pooled on the Iowa order from Wisconsin sources increased from December 1983 to December 1985. Total producer milk pooled in December 1985 was 11.7 percent greater than in December 1983. However, the percentage utilized as Class I milk was slightly higher in December 1985. Moreover, as long as the pooling provisions of the orders accommodate the shifting of milk supplies between orders with minimal performance requirements, handlers may be expected to take advantage of such provisions whenever there is an economic incentive to do so.

There is no question that inter-order Class I price alignment to the north was changed by the Class I differentials that became effective May 1, 1986. Nevertheless, even the proposed 2.0 cents per 10 miles location adjustment rate is more than the amount needed to restore alignment of Class I prices. In fact, the rate per 10 miles reflected in the mandated Class I differentials for the Iowa and Upper Midwest orders indicates that a rate of 1.7 cents per 10 miles is necessary to provide appropriate inter-market price alignment. The difference between the Class I differential for these two markets was increased 7 cents per hundredweight by the mandated differentials to 35 cents per hundredweight. The distance between Des Moines and the nearest Upper Midwest distributing plant at Rochester is 207 miles, which yields a rate of 1.69 cents per 10 miles per hundredweight. Thus, a change in the current rate of 1.5 cents per 10 miles to 1.7 cents is considered appropriate to maintain Class I price alignment.

Additionally, it is concluded that some increase should be incorporated into the location adjustment rate in recognition that hauling rates are now higher than when the current rate was adopted. Thus, the rate per 10 miles should be increased to 1.7 cents per 10 miles per hundredweight to equate the Iowa order Class I price to the Upper Midwest Class I price in the vicinity of Rochester, Minnesota, where handlers under both orders compete in the procurement of milk supplies.

2. *Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions.*

The notice of hearing stated that evidence will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision

[1] Official Notice is taken for FEDERAL MILK ORDER MARKET STATISTICS for DECEMBER 1985, FMOS–312, Published May 1986, by the Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250.

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VOL 51 ISS 155 AG 12 1986 UMI

under the rules of practice and procedure with respect to proposals nos. 1 through 15. At the hearing, counsel for Wells' Dairy Inc. stated that the orders should be amended by May 1, 1986, because the Food Security Act of 1985 mandated that the new Class I differentials for these three markets be effective on May 1, 1986. Mid-Am's brief urged issuance of a decision and amendment of the orders at the earliest possible date. No other parties requested the omission of a recommended decision. One proprietary handler, in its brief, commented that the omission of a recommended decision would be an abuse of the Secretary's discretion because the record would not support such a finding. We conclude that no information of a compelling nature was presented on the record from which to conclude that the issuance of a recommended decision should be omitted. Accordingly, a recommended decision has been issued.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders as amended regulating the handling of milk in the Nebraska-Western Iowa and Iowa marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Parts 1065 and 1079

Milk marketing orders, Milk, Dairy products.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

No amendatory action taken.

1. The authority citation for 7 CFR Parts 1065 and 1079 continues to read as follows:

Authority. (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

§ 1065.52 [Amended]

2. In § 1065.52, paragraph (b)(3) is amended by changing the number "1.5" to read "1.7."

PART 1079—MILK IN THE IOWA MARKETING AREA

§ 1079.52 [Amended]

3. In § 1079.52, paragraph (b)(3) is amended by changing the number "1.5" to read "1.7"

Signed at Washington, DC, on: August 6, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–18070 Filed 8–11–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–148–AD]

Airworthiness Directives; Boeing Models 727 and 737 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede an existing AD that requires inspection and modification of the "B" system hydraulic pump on certain Boeing Model 727 and 737 series airplanes. This AD would require incorporation of the ground fault protection system which is an optional terminating action of the existing AD or replacement of the hydraulic pumps with improved pumps. This action is prompted by two recent reports of pump failures which caused fires which extensively damaged the Model 737 airplanes.

DATE: Comments must be received no later than October 6, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–148–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office; telephone (206) 431–2942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All

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communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-148-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Supplementary Information

Airworthiness Directive AD 76-22-08 was issued October 27, 1976, after several reports of fires in the area of the pump installation. The AD requires installation of a protective sleeve and periodic inspections for fuel leaks of the compartment where the hydraulic pump is located on certain Boeing Model 727 and 737 series airplanes. The AD allowed operators to terminate the periodic inspections by installing a ground fault protection system in the affected hydraulic pump motor electrical circuit. Two recent incidents, however, made it evident that the continued inspection and the protective sleeve are not adequate to prevent a pump failure/fire, and that additional action is required.

One incident involved a fire in the undercarriage bay of a Boeing Model 737 while it was preparing to take off. The fire originated with the "B" system number 2 A.C. hydraulic pump which is an Abex unit. The relevant circuit breaker failed to protect the pump, although it was subsequently found to have tripped at some stage during the event. The pump motor had been equipped with insulating liners in accordance with AD 76-22-08. The liner had melted and was found at one end of the pump. The airplane did not incorporate a ground fault protection system. The second incident is similar to the above and is still under investigation.

The FAA has reviewed and approved Boeing Service Bulletin 727-29-47, Revision 2, dated October 8, 1976, and 737-29-1029, Revision 2, dated October 8, 1976, which describe installation of the ground fault protection system. Service Bulletins 727-29-55, and 737-29-1036, both dated April 30, 1980, describe replacement of the pumps with improved models.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede an existing AD and require the installation of ground fault protection to the existing pumps, or installation of improved pumps, in accordance with the service bulletin previously mentioned.

It is estimated 186 Model 727 and 94 Model 737 airplanes of U.S registry would be affected by this AD and that parts would cost $2,650 per airplane, and it would take approximately 24 manhours per airplane to install the ground fault protection circuit breakers. New pumps for the Model 727 are estimated to cost $10,000 and take 10 manhours to install. Upgraded pumps for the Model 737 would cost $8,400 and take 12 manhours to install. The estimated labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators would be $2,769,120 to replace the pumps, or $1,010,800 to install a ground fault protection system.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Models 727 and 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

PART 39—[Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

Boeing: Applies to Boeing Models 727, 737-100, and 737-200 series airplanes, equipped with hydraulic system "B" Abex P/N 57186 pump motor, certificated in any category. Compliance required as indicated unless already accomplished.

To prevent a hydraulic system "B" Abex P/N 57186 pump motor internal wiring fault from buring a hole in the case and igniting the escaping hydraulic fluid, which could ignite fuel leakage, accomplish the following:

A. Within one year after the effective date of the AD either:

1. Install the ground fault protection systems in the hydraulic system "B" Abex pump motor electric power circuits in accordance with Boeing Service Bulletin 727-29-47, Revision 2, dated October 8, 1976, or 737-29-1029, Revision 2, dated October 8, 1976, or later FAA-approved revisions; or

2. Install the improved hydraulic "B" system motor driven pumps in accordance with Boeing Service Bulletin 727-29-55 dated April 30, 1980, or 737-29-1036, dated April 30, 1980, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD. This supercedes AD 76-22-08, Amendment 39-2762.

All persons affected by this proposal who have not already received the Service Bulletins specified in this AD may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 5, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18043 Filed 8-11-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404, 410, and 416

Federal Old-Age, Survivors, and Disability Insurance; Supplemental Security Income for the Aged, Blind, and Disabled; Federal Mine Safety and Health Act of 1977; Own-Motion Review of Fee Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: We propose to revise our regulations on review of fee determinations approved for services provided by representatives of claimants in proceedings before the Social Security Administration (SSA) under titles II and XVI of the Social Security Act (the Act) and under title IV of the Federal Mine Safety and Health Act of 1977 (Black Lung Benefits). These proposed rules, if adopted, will allow SSA on its own motion to review and revise fee determinations which are based on improper application of the statute or regulations, or an error of fact.

DATE: Your comments will be considered if we receive them no later than October 14, 1986.

ADDRESSES: Send your written comments to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–6629.

SUPPLEMENTARY INFORMATION:

Background

Under sections 206 and 1631 of the Act, and under section 413 of the Federal Mine Safety and Health Act of 1977 (which incorporates by reference section 206), we are authorized in accordance with regulations to set a reasonable fee for service rendered by the representatives (attorney or nonattorney) of claimants in proceedings before the Secretary of Health and Human Services (the Secretary). The current regulations provide that within 30 days either the claimant or representative may request a review of our fee determination. If the request is filed timely, an authorized SSA official who did not take part in the fee determination being questioned will review the determination and may affirm, increase, or decrease the fee amount. This determination is not subject to further review. The current regulations provide for the initiation of a fee review only if it is requested by the claimant or the representative and do not provide for the initiation of such a review by SSA. Thus, if there is an error in a fee determination, we have no means to correct the error unless the claimant or the representative timely requests review.

Proposed Change

The proposed regulations would allow us to review and correct erroneous fee determinations which were based on improper application of the statute or regulations, or on an error of fact. The proposed regulations include a 120-day time limit within which we may initiate a review on our own motion and specify the limited conditions under which we may initiate own-motion review. The proposed regulations permit input from the claimant or representative during the own-motion review process and grant both parties the right to request administrative review of the fee determination after own-motion review.

Own-Motion Review

Our current regulations do not provide for us to initiate an own-motion review of fee determinations, although they do provide for a review that is initiated by either the claimant or representative. We believe we have a duty to review on our own motion and to correct those fee determinations based on improper application of the statute or regulations, or on an error of fact, in order to efficiently and equitably administer programs that are our responsibility.

Current regulations (20 CFR 404.1720(d)), 410.686b(e), 416.1520(d) provide for an administrative review if the claimant or representative files a request within 30 days after the date of the notice of the original fee determination. We believe that this time period would not be adequate for us to initiate an own-motion review. We believe a 120-day period is needed to identify cases for review and to associate and evaluate any new evidence that may be available. Unlike a request for fee review from the claimant or representative, the decision to initiate own-motion review may require development and the evaluation and verification of newly discovered facts that conflict with the record evidence. This process would require additional time.

Notification of the Own-Motion Review

When a case is identified for an own-motion review, we will mail a notice to the last known address of both the claimant and the representative. This notice will advise the claimant and the representative that we are conducting an own-motion review and will invite the submission of any additional evidence or comments. After our review, we will mail a notice of our determination, which will either affirm or revise the original fee determination and explain the right to an administrative appeal of this determination.

Review Level

These proposed regulations provide that the own-motion review will be performed at the same administrative level as the original fee determination. If the claimant or the representative of the claimant disagrees with a fee determination after own-motion review, they may request review of the fee determination by filing a timely request with SSA.

Why We Initiate an Own-Motion Review

We select a case for own-motion review to ensure the correctness of the fee determination. We may review for possible improper application of the statute or regulations, or for possible error of fact. An error of fact may be a clerical error (e.g., a typing error or a miscalculation) or conflicting information that requires verification to ascertain what is correct (e.g., new and material evidence is received).

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations will affect only individuals. Therefore, a regulatory

flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.804 Social Security—Survivors Insurance; 13.806 Black Lung Benefits—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors, and Disability.

20 CFR Part 410

Administrative practice and procedure, Black lung benefits, Death benefits, Disability benefits, Miners.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: May 13, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: June 13, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Subpart R of Part 404, Subpart F of Part 410, and Subpart O of Part 416 of Chapter III of Title 20, Code of Federal Regulations, are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Part 404, Subpart R is revised to read as follows:

Authority: Secs. 205, 206, and 1102, Social Security Act; 49 Stat. 647, 53 Stat. 1368 and 1372; 42 U.S.C. 405, 406, and 1302.

2. Section 404.1720 is amended by adding paragraph (e):

§ 404.1720 Fee for a representative's services.

* * * * *

(e) *Own-motion review of fee determinations.*—(1) *When we may conduct own-motion review.* Anytime within 120 days after the date of the notice of a fee determination, we may decide to review the fee determination on our own motion. We may review a determination if:

(i) It is clear on the face of the record that an improper application of the statute or regulations was made in the fee determination; or

(ii) There is an error of fact which could affect the fee determination (some examples are a clerical error, a miscalculation, or new and material evidence is received).

(2) *Notification of own-motion review.* If we decide to review a fee determination on our own motion, we will within 120 days after the date of the notice of the initial fee determination mail notices to both you and your representative at the last known addresses stating the reason for the review, and inviting the submission of any comments or additional evidence you may have. After our review, we will affirm or revise the fee determination and will mail notices of our decision to you and to your representative.

(3) *Request for review after own-motion review.* You or your representative may request a review of a fee determination issued under this paragraph by following the procedure set forth in paragraph (d) of this section.

PART 410—[AMENDED]

3. The authority citation for Part 410, Subpart F is revised to read as set forth below and the authority citation following § 410.699a is removed.

Authority: Secs. 411, 413, 426, 507, and 508, Federal Mine Safety and Health Act of 1977; 83 Stat. 793 and 794; 30 U.S.C. 921, 923, 936, 956, and 957.

4. Section 410.686b is amended by adding paragraph (f):

§ 410.686b Fee for services performed for an individual before the Social Security Administration.

* * * * *

(f) *Own-motion review of fee determinations.*—(1) *When we may conduct own-motion review.* Anytime within 120 days after the date of the notice of a fee determination, we may decide to review the fee determination on our own motion. We may review a determination if:

(i) It is clear on the face of the record that an improper application of the statute or regulations was made in the fee determination: or

(ii) There is an error of fact which could affect the fee determination (some examples are a clerical error, a miscalculation, or new and material evidence is received).

(2) *Notification of own-motion review.* If we decide to review a fee determination on our own motion, we will within 120 days after the date of the notice of the initial fee determination mail notices to both you and your representative at the last known addresses stating the reason for the review, and inviting the submission of any comments or additional evidence you may have. After our review, we will affirm or revise the fee determination and will mail notices of our decision to you and to your representative.

(3) *Request for review after own-motion review.* You or your representative may request a review of a fee determination issued under this paragraph by following the procedure set forth in paragraph (e) of this section.

PART 416—[AMENDED]

5. The authority citation for Part 416, Subpart 0 is revised to read as follows:

Authority: Secs. 1102 and 1631, Social Security Act; 49 Stat. 647, 86 Stat. 1475; 42 U.S.C. 1302 and 1383.

6. Section 416.1520 is amended by adding paragraph (e):

§ 416.1520 Fee for a representative's services.

* * * * *

(e) *Own-motion review of fee determinations.*—(1) *When we may conduct own-motion review.* Anytime within 120 days after the date of the notice of a fee determination, we may decide to review the fee determination on our own motion. We may review a determination if:

(i) It is clear on the face of the record that an improper application of the statute or regulations was made in the fee determination; or

(ii) There is an error of fact which could affect the fee determination (some examples are a clerical error, a miscalculation, or new and material evidence is received).

(2) *Notification of own-motion review.* If we decide to review a fee determination on our own motion, we will within 120 days after the date of the notice of the initial fee determination mail notices to both you and your representative at the last known addresses stating the reason for the review, and inviting the submission of any comments or additional evidence you may have. After our review, we will affirm or revise the fee determination and will mail notices of our decision to you and to your representative.

(3) *Request for review after own-motion review.* You or your representative may request a review of a fee determination issued under this paragraph by following the procedure set forth in paragraph (d) of this section.

[FR Doc. 86-18106 Filed 8-11-86; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[Notice No. 600; Ref: Notice No. 362]

Use of the Word "Light" (Lite) in the Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of an overall revision in the labeling and advertising requirements, ATF is proposing to issue regulations addressing the use of the work "light" (lite) in the labeling and advertising of wine, distilled spirits, and malt beverages. This notice will: (1) Prescribe new regulations; (2) amend current regulations; and (3) incorporate and/or modify prior ATF decisions of labeling and advertising matters issued as rulings, specifically ATF Rul. 80–3, A.T.F. Q.B. 1980–2, 13, into regulations; (4) incorporate other ATF policies into regulations; and (5) incorporate into the regulations ATF Rul. 84–1, A.T.F. Q.B. 1984–2, 35, dealing with low or reduced alcohol malt beverages

These proposals, if adopted, will provide a concise meaning to "light" (lite). This in turn, will provide industry with guidelines on the use of these terms and will minimize consumer confusion in this complex area.

DATE: Comments must be received on or before November 10, 1986.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attn: Notice No. 600.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

Notice No. 362 (December 19, 1980, 45 FR 83530) addressed the use of the word "light" (lite) to a limited extent. Basically, it was proposed that when the word "light" (lite) was used as part of the brand or product name on a label, it must have been accompanied by a statement of average analysis (calorie, carbohydrate, fat, and protein content). No statement of average analysis was required, however, if the word was used in accordance with the current regulations, such as "light wine," or if it was used to describe a characteristic of the product, such as "light taste," "light flavor," etc. Most commenters agreed with the intent and purpose of the proposals, that is, to provide guidelines for the use of "light" (lite). However, the commenters stated that the proposals would require major label revisions.

As expressed in the comments received in response to Notice No. 362, the word "light," especially for malt beverages, has traditionally referred to color, flavor, or taste. Such use of the word extends back many years to describe beers brewed in the style of the renowned light beer of Pilsen, Czechoslovakia. However, as one commenter pointed out, "it is clear that in determining whether a product label or advertisement is misleading, it is the understanding of the ordinary consumer that controls. To many, if not most people in America today, the word "light" in connection with food or drink connotes low or lower calorie content." This statement reflects the view of many of the commenters, both industry and consumers alike. It also expresses the view of the Bureau.

ATF believes further discussion on use of the word "light" (lite) is needed, since this notice proposes additional requirements not originally made in Notice No. 362. In addition, this notice will address a petition received, which requested mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on low or reduced calorie products designated as "light" (lite).

Therefore, to assure everyone the opportunity to comment, we are opening the issue for further comment.

Center for Science Petition

Subsequent to the proposals in Notice No. 362, a petition was submitted by the Center for Science in the Public Interest (Center), requesting mandatory caloric content labeling for all alcohol beverages, as well as the establishment of maximum calorie limits on alcohol beverages designated as "light" (lite) or low-calorie. The upper limit proposed for malt beverages was 100 calories per 12 fl. oz. A malt beverage containing more than 100 calories could not be labeled as "light" (lite).

Having carefully analyzed and evaluated the Center's petition, the Bureau believes that mandatory caloric labeling of all alcohol beverages is unnecessary. In their petition, which deals primarily with the role of alcohol consumption and its contribution to obesity, the Center makes reference to a publication of the Nutrition Foundation, an organization sponsored by the food industry. In that publication, the Foundation cautioned that for someone trying to diet, "[a]lcoholic drinks, of course, are a hazard." Therefore, ATF believes that consumers who wish to regulate their caloric intake will not purchase a "regular" product, but will choose one labeled as "light" (lite), which will have the caloric information disclosed, as part of the statement of average analysis.

The Bureau believes that establishing upper limits on low-calorie alcohol beverages is also unnecessary. Although there is a variance in calories among "light" (lite) alcohol products, particularly malt beverages, in many cases the calories are prominently displayed on a front label. Under these proposed regulations, all statements of caloric content will be required to appear on the brand (front) label, separate and apart from other information. Therefore, the calorie conscious consumer will have the option of purchasing a low calorie beverage with a minimal amount of calories, or one with more calories, but still less than the "regular" product. ATF believes that truthful and accurate disclosure of the caloric content will give the consumer adequate information to make an informed decision as to which products are low enough in calories for his or her dietary needs. Accordingly, ATF does not believe it is necessary to establish an upper limit for alcohol beverages labeled as low-calorie or "light" (lite).

Comparison of "Light" (Lite) to Regular Products

The words "light" or "lite" on labels, and in the advertising of low or reduced calories alcohol beverages, have historically been used (though not required) in comparison to a company's own regular product. For example, as discussed in the Center's petition, one "light" beer is currently labeled as containing 134 calories per 12 fl. oz. However, ATF believes there is no consumer confusion or deception here. The particular product mentioned clearly states that it has fewer calories than the regular one, and indicates the calories on the label.

Previously, brewers of low or reduced calorie products, in accordance with ATF Rul. 80–3, could only make comparisons to their own regular product or a competitor's low or reduced calorie product labeled in accordance with that ruling. Brewers could not compare their low calorie product with a competitor's regular one. However, ATF is now proposing that a low or reduced calorie product can be compared to a

competitor's regular product, in light of its recent decision on reduced alcohol beer (ATF Rul. 84–1). Briefly stated, the comparison of a producer's low or reduced alcohol beer may be made with a competitor's "regular" beer, provided it is not false, misleading, or disparaging of the competitor's product, as prescribed by law (27 U.S.C. 205 (e)(4) and (f)(4). Similarly, a brewer may now compare his "light," low calorie product with a competitor's specifically identified regular product. However, brewers may not compare their low calorie product to "regular" beers in general, which is prohibited under the present requirements. For example, a brewer could not label or advertise his "light" (lite) low calorie beer as "containing ⅓ fewer calories than regular beer."

ATF believes the word "light" (lite) on the label of a food or alcohol beverage connotes to consumers a product that has fewer calories "than something." For example, a "lite" pancake syrup may be labeled as containing less calories than "regular" syrup. A "lite" beer may be labeled as containing "25% less calories than our regular beer." In either case, however, the consumer is given a reference point, and the particular low-calorie product has fewer calories than "something else."

Since most products designated as "light" (lite) usually contain fewer calories than the producer's regular product, ATF requests comment on whether a fractional standard (e.g., ⅓ fewer) should be established before a product can be labeled as "light" (lite).

Under these proposed regulations, the number of calories must be stated on the brand label per serving size (container size for malt beverages less than 12 fl. oz.), as mandatory information, in the correct size of type, separate and apart from other information. Since the caloric content wil be readily available on the label, the consumer will be able to make a more informed choice as to which low-calorie alcohol beverage to purchase.

Consumer Understanding of "Light" (Lite)

Historically, ATF believes "light" had two generally understood meanings in reference to beer. One meaning referred to the color of the beer ("light" as opposed to "dark" beer). The other meaning referred to taste.

However, over the years the words "light" and "lite" have been used extensively and interchangeably to denote (and connote) low-calorie products, both in foods and in non-alcohol and alcohol beverages. As a result, many consumers now generally associate the words "light" and/or "lite" with a reduced caloric content, even though the product may not be low in calories. For example, under the current alcohol regulations, wine having an alcohol content between 7 percent and 14 percent by volume may be labeled and advertised as "light wine." ATF believes that many consumers have come to interpret this designation as meaning the product is low in calories, when in fact, and in many cases, it is not.

Some distilled spirits products also use the words "light" and/or "lite." For example, a rum may be designated as "light," denoting color. A whisky may be referred to as "light," in regard to its taste. One distilled spirits product has been designated as "lite" and states the calories as required, but is not a reduced calorie product since the caloric content of this product is comparable to similar distilled spirits at the same proof. It is easy to see how, with the continued use of the words "light" and "lite" over the years, some consumers may believe the above products are all low or lower in calories.

The Bureau believes that, in an effort to preclude consumer deception and confusion, and as part of its consumer protection responsibilities as mandated by law, a regulatory standard for the use of the words "light" and "lite" needs to be established.

Light Whisky

Under the present regulations, "light whisky" is an acceptable designation for whisky which is produced in the U.S. at more than 160° proof, and stored in used or uncharred new oak containers. The word "light" as it is used here, is not intended to imply a low-calorie product. However, as previously mentioned, it is conceivable that some consumers might interpret this designation "light whisky" as denoting a low or reduced calorie whisky. The possibility of changing the name of this standard of identity, or even eliminating it, due to the small market for light whisky, was addressed in Notice No. 480 (48 FR 35460, August 4, 1983). Of the respondents commenting on "light whisky," the majority favored retaining the current name and class and type for "light whisky." In addition, the most common reason given for retaining the designation was that it has good consumer understanding as a specific product, and is not associated with reduced calories. Since the rulemaking process has not been completed on Notice No. 480, ATF, at this time, is not proposing to make any changes in the standard of identity for "light whisky."

Other Distilled Spirits

As mentioned previously, "light" on a distilled spirits label has usually referred to color and/or taste. Just recently, the words "light" and "lite" have appeared on labels of distilled spirits, denoting a low or reduced calorie product. Generally, these products are also labeled as "Diluted," that is, a product which is bottled at less than the required minimum bottling proof specified in the regulations. For example, a vodka bottled at less than 80 proof would be labeled as "Diluted Vodka," followed by the actual proof.

Therefore, ATF is proposing that no distilled spirit bottled at or above 80 proof may be labeled as "light" (lite), with a reference to low or reduced calorie content. ATF believes that most "straight" distilled spirits (vodka, rum, gin, etc.) purchased by consumers contain approximately 80 to 86 proof. To label such a product as "light" (lite), simply because it has less calories than the producer's similar product of 100 proof is misleading, since many people don't consume the higher proof product.

Again, the above proposal represent those of the Bureau. ATF still requests alternative suggestions and ideas on addressing use of the word "light" (lite) on distilled spirits products.

Light Wine

Under the present regulations in 27 CFR 4.21, certain types of wine containing 14 percent or less alcohol by volume may be designated as "light," e.g., "light wine," "light citrus wine," and "light apple wine." In lieu of the word "light," however, the word "table" may be used. For example, "table wine," "citrus table wine," or "apple table wine." As mentioned previously, ATF believes that many consumers have come to interpret a product designated as "light wine" to be low or lower in calories.

Therefore, ATF is proposing to eliminate the designation "light wine," "light citrus wine," etc. However, winemakers will still be able to designate wines containing 14 percent or less alcohol by volume as "table wine," "citrus table wine," "apple table wine," etc.

Light Sherry, Light Port, etc.

As defined in the standards of identity, 27 CFR 4.21, "light sherry" is dessert wine having an alcohol content in excess of 14 percent by volume, but less than 17 percent. "Light port," "light angelica," "light madeira," and "light muscatel" are dessert wines having an alcohol content in excess of 14 percent by volume, but less than 18 percent. As

with "light whisky," ATF believes it is possible that a consumer might receive the erroneous impression that such products are low or reduced in calories. ATF wishes to solicit comments on this issue. Specifically, do consumers believe such a product is lower in calories? And, if so, is there an alternative word that can be used in lieu of "light" to denote such products? In the event a substitute word can be used, the word "light" in "light sherry", "light port," etc. can be deleted.

Statements of Average Analysis

ATF is proposing that use of the word "light" on a label will require a statement of average analysis, except in certain instances. Those instances are: 1) when "light" is used as authorized in the regulations ("light sherry," "light port," "light whisky"), or; 2) when the word "light" is used to describe a characteristic of the product ("light taste," "light body," etc.). In addition, use of the word "lite" in any instance will require a statement of average analysis.

As mentioned, ATF is proposing to require the caloric content portion of the average analysis statement to appear on the brand label, in the correct size of type, separate and apart from other information. ATF believes this requirement will provide the calorie conscious consumer with the desired information, as well as facilitating cross comparisons among various brands, resulting in a more informed choice.

The remainder of the required average analysis statement (carbohydrate, fat and protein content), may appear on a front, back or side label.

These proposed regulations, as specified in Notice No. 362, will also provide tolerances for labeling with respect to average analysis statements. To privide uniformity in regard to determining caloric content and carbohydrate content, the Bureau is proposing to incorporate by reference the appropriate analysis methods.

The method for determining the carbohydrate content of wine is set forth in the *Official Methods of Analysis of the Association of Official Analytical Chemists,* Thirteenth Edition, 1980, Chapter 11. The formula for calculating the caloric content of wine is set forth in the *Association of Official Analytical Chemists Journal,* Vol. 62, No. 2, March 1979.

The method of determining the caloric and carbohydrate content of malt beverages and distilled spirits is set forth in the *Official Methods of Analysis of the Association of Official Analytical Chemists,* Thirteenth Edition, 1980, Chapter 10

In ATF Rul. 80–3, ATF established tolerance ranges for labeled statements of calories, carbohydrate, protein, and fat contents. ATF is proposing to continue the same tolerance ranges in the proposed regulations. The caloric content statement on labels of alcohol beverages is acceptable as long as the caloric content is within the tolerance plus (+) 5 and minus (−) 10 calories of the labeled caloric content. For example, a wine label showing 70 calories per 100 ml will be acceptable if the ATF analysis of the product shows a caloric content between 60 and 75 calories.

The statements of carbohydrate and fat contents on labels of alcohol beverages will be acceptable provided the carbohydrate and fat contents are within a reasonable range below the labeled amount but, in no case, more than 20 percent above the labeled amount. For example, a wine label showing 2.0 grams per 100 ml carbohydrates, will be acceptable if the ATF analysis of the product shows a carbohydrate content which is under 2.0 grams (within good manufacturing practice limitations), but not more than 2.4 grams.

The statement of protein content on labels of alcohol beverages will be acceptable as long as the protein content is within a reasonable range above the labeled amount, but in no case is less than 80 percent of the labeled amount. For example, a wine label showing 1.0 gram protein per 100 ml, will be acceptable if the ATF analysis of the product shows a protein content which is more than 1.0 gram (within good manufacturing practice limitations), but not less than 0.8 gram.

Statements of average analysis for wine and distilled spirits will be based on serving sizes. The serving size for wine will be 100 ml. As to serving size for distilled spirits, ATF proposed in Notice No. 362 a serving size of 200 ml. However, it was pointed out, both in comments and oral testimony, that the normal consumption size of distilled spirits was considerably less than 200 ml. ATF agrees with this and is amending the original proposal to reflect the usual and normal serving size of distilled spirits. Consumers have a wide range of proof choices in distilled spirits products, the more popular ranging from 24 proof to 100 proof. ATF is making allowances for this, and is now proposing the serving size to be 50 ml for straight products, such as gin, vodka and bourbon, or any distilled spirits product over 50 proof. For products that are 50 proof and under, such as certain liqueurs, cordials and pre-mixed cocktails, the serving size will be 100 ml.

For malt beverages, the statement of average analysis shall be per container size (if less than 12 fl. oz.) or serving size, i.e., 12 fl. oz. No average analysis statement will be required to appear on kegs since they are not the normal and usual consumer package. If a consumer wishes to know the caloric content of a malt beverage packaged in kegs, the information is readily available on bottles or cans of the same brand.

In addition, the average analysis statement for all alcohol beverages will be optional in advertising.

The type size requirement for the caloric content portion of the average analysis statement appearing on the brand label will be the same as the other mandatory information for wine, distilled spirits and malt beverages. That is, the caloric content statement on a wine label must be in the size of type as specified in 27 CFR 4.38(b). For distilled spirits, it would be 27 CFR 5.33(b), and in the case of malt beverages, 27 CFR 7.28(b).

The remainder of the average analysis statement (carbohydrate, fat and protein content) must be at least one millimeter on large containers, and one-half millimeter on small containers. This is the same size type requirement proposed in Notice No. 362.

Comparative Advertising

Specific caloric or carbohydrate comparisons may be made in the advertising of alcohol beverages, provided the product is labeled with a statement of average analysis. These comparisons may not be misleading or disparaging of a competitor's product, as specified in the FAA Act, 27 U.S.C. 205(f).

Examples of allowable comparisons with a competitor's product for wine are: "100 calories per 100 ml—50 calories (or ⅓) fewer than *competitor's name* Light Wine;" "100 calories per 100 ml—50 calories (or ⅓) fewer than *competitor's name* regular wine;" "3.0 grams carbohydrates per 100 ml—1.5 grams (or ⅓) fewer than *competitor's name* Light Wine;" "*Brand name* contains 75 calories per 100 ml while *competitor's name*) Light Wine contains 110 calories per 100 ml;" "*Brand name* contains 2.0 grams carbohydrates per 100 ml while *competitor's name* Light Wine contains 3.0 grams per 100 ml." The serving size, "per 100 ml," shall be specified for any such caloric or carbohydrate content statements.

Comparisons of caloric or carbohydrate content of a wine a producer has labeled as "light" (lite) may be made to an equal volume of the producer's regular wine. Examples of

allowable comparisons are: "100 calories per 100 ml—50 calories (or ⅓) fewer than our regular wine;" or "3.0 grams carbohydrates per 100 ml—1.5 grams (or ⅓) fewer than our regular wine." The serving size, "per 100 ml," shall be specified for any such caloric or carbohydrate content statements.

Examples of allowable comparisons for a distilled spirit, such as a vodka (over 50 proof) are: "100 calories per 50 ml—50 calories (or ⅓) fewer than *competitor's name* Light Vodka;" "100 calories per 50 ml—50 calories (or ⅓) fewer than *competitor's name* regular (vodka), rum, etc.);" *"Brand name* contains 100 calories per 50 ml while, *competitor's name* Light Vodka contains 150 calories per 50 ml;" "*Brand name* contains 3.0 grams carbohydrates per 50 ml while *competitor's name* Light Vodka contains 4.5 grams per 50 ml." The serving size, "per 50 ml" or "per 100 ml," shall be specific for any such caloric or carbohydrate content statements.

Comparisons of caloric or carbohydrate content of a distilled spirit a producer has labeled as "light" (lite) may be made to an equal volume of the producer's regular distilled spirit. Examples of allowable comparisons on a product over 50 proof are: "100 calories per 50 ml—50 calories (or ⅓) fewer than our regular (*vodka, rum, etc.*)," or "3.0 grams carbohydrates per 50 ml—1.5 grams (⅓) fewer than our regular (*vodka, rum. etc.*);" The serving size, "per 50 ml" or "per 100 ml," shall be specified for any such caloric or carbohydrate content statements.

Examples of allowable comparisons with a competitior's product for malt beverages are: "80 calories per 12 fl. oz.—40 calories (or ⅓) fewer than *competitor's name* Light Beer;" "90 calories per 12 fl. oz.—45 calaories (or ⅓) fewer than *competitor's name* Regular Beer;" "2.8 grams carbohydrates per 12 fl. oz—1.4 grams (or ⅓) fewer than *competitor's name* Light Beer;" *"Brand name* contains 80 calories per 12 fl. oz. while *competitor's name* Light Beer contains 106 calories per fl. oz." *"Brand name* contains 2.6 grams carbpohydrates per 12 fl. oz. while *competitor's name* Light Beer contains 3.0 grams carbohydrates per 12 fl. oz. The container size or serving size shall be specified for any such caloric or carbohydrate content statements.

Comparisons between the caloric or carbohydrate contents of a malt beverage a brewer has labeled as "light" (lite) may be made to an equal volume of the same brewer's regular beer. Examples of allowable comparisons are: "90 calories per 12 fl. oz.—45 calories (or ⅓) fewer than our regular beer;" "2.6 grams carbohydrates per 12 fl. oz.—1.3 grams (or ⅓) fewer than our regular beer." The container size or serving size shall be specified for any such caloric or carbohydrate content statements.

Low or Reduced Alcohol Malt Beverages

ATF is proposing to incorporate into the regulations ATF Rul. 84–1 (A.T.F. Q.B. 1984–2, 35). In that ruling, ATF permitted malt beverage products containing less than 2.5 percent alcohol by volume to be labled and advertised as a reduced alcohol or low alcohol malt beverage.

Further, labeling and advertising for reduced or low alcohol malt beverages may use statements comparing the alcohol content of the reduced or low alcohol product to the alcohol content of the brewer's regular malt beverage or to any other specific brand of a regular malt beverage. An example of a permissible statement would be, "This product contains less than half the alcohol contained in *Brand name* beer."

However, in accordance with 27 U.S.C. 205(f) of the Federal Alcohol Administration Act (FAA Act), such comparative statements may not refer to the actual alcohol content of either of the products being compared.

Specific Proposals

(1) Under the present regulations, "light wine" and "table wine" are acceptable designations for certain wines containing between 7 percent and 14 percent alcohol by volume. The Bureau is proposing to retain the "table wine" designation, but delete the "light wine" designation. The Bureau is soliciting suggestions for any terms to replace "light wine," which will not be misleading or deceptive.

(2) "Light" or "Lite" may be used as part of the brand or poduct name on the label for malt beverages, wine, or distilled spirits (if less than 80 proof), only when accompanied by a statement of average analysis; except that when the word "light" is used only as specifically authorized or required under §§ 4.21(a)(3), 4.34(a), 5.22(b)(3) or 5.35(a), no statement of average analysis is required. In addition, the word "light" (lite) may not be used if it implies a low or reduced caloric product, when in fact it is not.

(3) The word "light" may be used to describe a sensory characteristic of the product, without a statement of average analysis appearing on the label, e.g., "light color," "light taste," "light flavor," etc. provided that the word "light" is:

(a) Not placed so as to be confused with the class and type designation required by § 4.34 or § 5.35.

(b) Not more prominent than any word it may modify.

(4) The Bureau is proposing that the caloric content portion of the average analysis statement (per serving size, or container size for malt beverages less than 12 fl. oz.), appear on the brand label, in the correct size of type, separate and apart from other information. The remainder of the average analysis statement may appear anywhere on the label, in printing of at least one millimeter on large containers, and one-half millimeter on small containers.

(5) Malt beverages containing less than 2.5 percent alcohol by volume may be labeled and advertised as a reduced or low alcohol malt beverage.

Public Participation

ATF requests comments from all interested persons on the above proposals or any additional suggestions. Although the Bureau is not proposing an upper limit on caloric content to be eligible to be labeled as "light" (lite), or mandatory caloric labeling of all alcohol beverages, we are soliciting comments on these issues. Should there be mandatory caloric labeling on all alcohol beverages, and/or upper limits on alcohol beverages designated as "light" (lite)? In addition, if you think there should be an upper limit, what amount would you suggest, and why? Further, if the regulations are adopted as proposed, what will be a sufficient transition period in which to deplete present label supplies and redesign conforming labels? All comments received on or before the closing date will be carefully considered. Comments received after the closing data and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Signficant adverse effects on competition, employment, investment, productivity, or on the ability of United State-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens of a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The requirement to collect information proposed in this notice has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35. Comments relating to ATF's compliance with 5 CFR Part 1320—Controlling Paperwork Burdens on the Public should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503.

Disclosure

Copies of this noitice and all comments received pursuant to the notice are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4406, Ariel Rios Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20226.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 5

Advertising, Consumer protection Customs duties and inspection, Imports, Labeling Liquors, Packaging and containers.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, and Labeling.

Authority and Issuance

Accordingly, the Director is issuing this notice of proposed rulemaking under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended, 27 U.S.C. 205.

Signed: March 21, 1986.

W. T. Drake,

Acting Director.

Approved: April 30, 1986.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 86–18058 Filed 8–7–86; 11:26 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Part 602

Closing Date for Comments on Notice of Proposed Rules For Federal-State Unemployment Compensation Program; Unemployment Insurance Quality Control Program; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of correction of closing date for comments.

SUMMARY: This notice corrects the date of closing for comments on the Notice of Proposed Rulemaking published in the **Federal Register** on July 25, 1986, (51 FR 26846) concerning the establishment of a permanent quality control (QC) program in the Federal-State Unemployment Compensation Program. The former closing date for comments was August 25, 1986. The corrected closing date is close of business on September 9, 1986. The address for comments remains unchanged.

DATE: Written comments must be received by the close of business on September 9, 1986.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding (202) 376–6636.

Dated: July 29, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86–17598 Filed 8–11–86; 8:45 am]

BILLING CODE 4510-30-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS–42082 (FRL–3031–2)]

Toxic Substances, 1,1-Dichloroethylene; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that manufacturers and processors of 1,1-dichloroethylene [CAS No. 75–35–4] be required, under section 4 of the Toxic Substances Control Act (TSCA), to conduct distribution, excretion and metabolism (DEM) studies and a two-year inhalation oncogenicity bioassay in mice. The Agency proposes to delay the initiation of the oncogenicity testing until after the DEM data have been completed and evaluated.

DATES: Submit written comments on or before October 14, 1986. If persons request an opportunity to submit oral comment by September 26, 1986, EPA will hold a public meeting on this rule in Washington, DC. For further information on arranging to speak at the meeting see Unit VIII of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS–42082), in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St., SW., Washington, DC 20460, Toll free: (800–424–9065), In Washington, DC:

(554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Chemical Recommendation

1,1-Dichloroethylene (vinylidene chloride) was recommended for testing by EPA's Office of Air Quality Planning and Standards. The chemical had been considered for regulation as a potentially toxic air pollutant under the Clean Air Act, but the decision was made not to regulate at that time (50 FR 32632; August 13, 1985). This decision was made because the available information was insufficient to support a decision to regulate, although some data suggest that this chemical may be an oncogen. The Agency proposes to use the testing authority of section 4 of TSCA to obtain data needed to better assess the oncogenic potential of 1,1-dichloroethylene.

B. Test Rule Development Under TSCA

Under section 4(a) of TSCA, EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture.

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the findings under section 4(a)(1)(A)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to the chemical. In making the finding under section 4(a)(1)(A)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's approach to determining when these findings apply is described in detail in its first and second proposed test rules, published in the Federal Register of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300).

In evaluating the testing recommendations for 1,1-dichloroethylene, EPA considered all available relevant information, including published and unpublished data available to the Agency. From its evaluation, EPA is proposing health effects testing requirements for 1,1-dichloroethylene under section 4(a)(1)(A).

II. Review of Relevant Data

Most of the following material has been reviewed by the Environmental Protection Agency in a published Health Assessment Document (Ref. 1).

1,1-Dichloroethylene production capacity in the United States is approximately 150 million pounds per year (Economic Analysis Support Document). Virtually all of the chemical produced is used in the production of polymers. About 4 percent of 1,1-dichloroethylene is used as a chemical intermediate for non-polymer products.

Because of its high volatility, 1,1-dichloroethylene is lost to the atmosphere during manufacture of the monomer and polymer. The estimated total emission to all media from manufacturing and processing facilities is 1.3 million pounds per year. The estimated median ambient air level in urban/suburban areas of the U.S. is 0.005 parts per billion (ppb). However, for ambient air in the vicinity of point sources of emission the measured median concentration value is substantially higher (2.2 ppb). The estimated population residing within 5 miles of plants producing or processing 1,1-dichloroethylene totals 3.6 million (Ref. 1).

EPA has evaluated 18 chronic studies in animals for evidence of oncogenicity. Positive results were seen in one inhalation study (Ref. 2). "Swiss" mice were exposed to 10 or 25 parts per million (ppm) 1,1-dichloroethylene 4 hours per day, 4 to 5 days per week for 52 weeks. The experiment was terminated at 126 weeks. A significant increase in kidney adenocarcinomas was observed in male mice at 25 ppm, but not at 10 ppm or in controls. Mice were also exposed at higher dose levels, 200, 100 and 50 ppm, but exposure was discontinued because of toxicity after 2 days at the two highest doses, and after 1 week at 50 ppm. These animals were held for the remainder of the 126-week experiment. No renal adenocarcinomas were seen in the animals at 200 or 100 ppm exposure, but two were seen at the 50 ppm level. This study by Maltoni et al. was considered by EPA to provide limited evidence of animal oncogenicity (Ref. 1).

The remaining 17 animal bioassays provide no evidence of oncogenicity. All but one of these studies had significant flaws in design. These included studies in three species (mouse, rat, hamster) by five routes of administration (gavage, ingestion, inhalation, skin-painting, subcutaneous (sc) injection). The Chinese hamster study was by inhalation at the same doses and under the same conditions seen in the mouse study discussed earlier (Ref. 2). The five mouse studies which showed no oncogenic effect used four different strains of mice ($B6C3F_1$, CD, CD–1, Ha-ICR) by four routes of administration (gavage, inhalation, skin-painting, sc injection). The 11 rat studies utilized four different strains of rat (Fischer 344, Sprague-Dawley, CD, Wistar) by three different routes of administration (gavage, ingestion, inhalation).

Exposure to the chemical in these studies ranged from a minimum of one month in two inhalation studies in rats and mice, with 13 months observation, to a maximum of lifetime exposure in the skin-painting and sc injection studies in mice. However, the skin-painting study only included three applications per week and the sc injection study only treated the animals once a week.

The negative findings in these studies may be partially explained by study characteristics such as: dosing regimens of less than 2 years duration; less than a maximally tolerated dose; differences in routes of administration; and testing at a single dose level. These limitations individually or in combination reduce the sensitivity of detecting a positive response (Ref. 1).

The only study considered by EPA to have an adequate protocol to demonstrate a chemical's lack of oncogenic potential was the National Toxicology Program's (NTP) two-year gavage study of 1,1-dichloroethylene in F344 rats and $B6C3F_1$ mice (Ref. 3).

However, this study may not have achieved a sufficiently high dose. Although chronic renal inflammation was seen in high-dose (5 mg/kg) rats of both sexes and increased necrosis of the liver appeared in high-dose (10 mg/kg) male mice and low-dose (2 mg/kg) female mice, no effects on weight or survival on either sex of either species were observed. While the cumulative dose of the NTP high-dose mouse gavage study (130 mg) and the Maltoni 25 ppm mouse inhalation group (112.5 mg) are roughly equivalent, there is a possibility that the route of administration and the strain of mouse used made a difference in the results because of differences in distribution and metabolism in the tissue or if normal metabolic routes are overcome. Further discussion of these areas is detailed in Unit IV.

The authors of an epidemiologic study of 1,1-dichloroethylene (Ref. 4) concluded that it showed no oncogenic effect attributable to the chemical. EPA has reviewed the study (Ref. 1) and has determined that the population examined in this study may be too small to evaluate oncogenic potential for a weak oncogen.

EPA has reviewed several other studies that provide suggestive evidence of 1,1-dichloroethylene's oncogenic potential (Ref. 1). These include several positive responses in bacterial and yeast mutagenicity studies, one positive plant mutagenicity study, binding of 1,1-dichloroethylene to mammalian DNA, and an increase in unscheduled DNA synthesis in mammalian cells. 1,1-Dichloroethylene also acted as an initiator in a mouse skin-painting study, although it did not act as a complete oncogen. Finally 1,1-dichloroethylene is structurally related to a known human oncogen, chloroethylene (vinyl chloride).

III. Findings

EPA finds under TSCA section 4(a)(1)(A) that the manufacture and processing of 1,1-dichloroethylene and its subsequent inhalation by the population living near manufacturing and processing plants may present an unreasonable risk of oncogenicity. These findings are based on: (1) The positive evidence of oncogenicity for 1,1-dichloroethylene in the Maltoni study; (2) its mutagenicity in several test systems; (3) its interaction with DNA; (4) its activity as a tumor initiator; and (5) its structural relationship to chloroethylene. The Agency also finds that available data, as described in Unit II, are not sufficient to reasonably determine or predict the effects to human health of exposure to 1,1-dichloroethylene and that testing is necessary to develop such data.

IV. Proposed Rule

A. Proposed Testing and Test Standards

The Agency is proposing that comparative DEM studies be done as specified in 40 CFR 798.7475 as published in the **Federal Register** of November 6, 1985 (50 FR 46116). These studies shall be done in two mouse strains, the "Swiss" strain used by Maltoni (Ref. 2) and the $B6C3F_1$ strain used by the NTP (Ref. 3). The DEM tests are being proposed because of the differences in protocol and outcome between the negative in the gavage NTP and the positive in the Maltoni inhalation studies. The Maltoni study (Ref. 2) showed renal adenocarcinomas, as well as liver and kidney toxicity in mice. In the mice used for the NTP study only hepatotoxicity was seen (Ref. 3). It may be that the "Swiss" mice used by Maltoni are more sensitive than other strains of mice. It may also be that the maximum tolerated dose was not attained in the NTP study. Furthermore, it is known that differential toxicity may occur as a result of different routes of administration. With dichloromethane, for example, lung oncogenicity was seen in animals exposed by inhalation, but not in those treated orally. Some evidence suggests that differences in the route of administration may be significant for 1,1-dichloroethylene as well. Oral and inhalation exposures are associated with greater distribution of 1,1-dichloroethylene to the liver and kidney, respectively. The influence of these differences in distribution upon potential oncogenic responses are unknown. For 1,1-dichloroethylene, the one gavage study in mice (Ref. 3) may or may not have been adequate, but all three of the known mouse inhalation studies are known to be inadequate, in part because of insufficient periods of exposure and/or observation. However, one of these studies, the Maltoni bioassay (Ref. 2), did give a positive oncogenicity response.

The proposed DEM tests should determine if metabolic and disposition differences due to the strain of mouse or the route of administration may account for the differences in the results of the existing bioassays. The results will be used in decision-making and to aid in the design of the oncogenicity bioassay.

EPA is also proposing that an oncogenicity test be conducted on 1,1-dichloroethylene in accordance with the TSCA test guidelines for oncogenicity specified in 40 CFR 798.3300, published in the **Federal Register** of September 27, 1985 (50 FR 39252) and modified as proposed in the **Federal Register** of January 14, 1986 (51 FR 1522). This testing shall be performed with the "Swiss" mouse, because of its demonstrated sensitivity, and the route of exposure shall be by inhalation.

B. Test Substance

The proposed test substance is 1,1-dichloroethylene (CAS No. 75-35-4), of at least 99.8 percent purity, which is a commercially available grade.

C. Persons Required To Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because EPA has found that existing data and experience are insufficient to reasonably determine or predict the effects of the manufacture or processing of 1,1-dichloroethylene on the potential for oncogenicity, the Agency is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process 1,1-dichloroethylene at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time after the submission of the last final report required under the test rule equal to that which was required to develop data, if more than 5 years.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate on such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described in 40 CFR Part 790.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for 1,1-dichloroethylene. The EPA is interested in evaluating the effects attributable to 1,1-dichloroethylene itself and has specified a nearly pure substance for testing.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans no later than 45 days before the start of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing that the DEM testing be completed and the final report submitted to EPA within 15 months of the effective date of this test rule. The oncogenicity testing shall be completed and the final report submitted to EPA within 66 months of the effective date of this test rule. Progress reports for each proposed test are required at 6-month intervals starting 6 months from the effective date of the final test rule.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) appear in 40 CFR Part 707. In brief, as of the effective date of this test rule, an exporter of 1,1-dichloroethylene must report to EPA the first annual export or intended export of 1,1-dichloroethylene to any one country. EPA will notify the foreign country about the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated EPA representatives to determine compliance with any final rule for 1,1-dichloroethylene. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, and that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers that fail to submit a letter of intent or an exemption request and that continue manufacturing after the deadlines for such submissions. This provision would also apply to processors that fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (see 40 CFR 790.28(b)). Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

VOL 51 ISS 155 AG 12 1986 UMI

V. Issues for Comment

1. Are the existing studies of 1,1-dichloroethylene's oncogenic potential adequate to assess the risks of exposure to this substance?

2. The Agency is proposing both the DEM studies and the inhalation bioassay at this time. EPA is requiring the DEM work to be completed before the bioassay is initiated, and the results of the earlier tests to be used to help design the bioassay. Are the DEM studies appropriate for this purpose? Should be bioassay be finalized only after review by the Agency of the DEM results, to allow EPA to include necessary modifications? Will the DEM studies be useful in helping address the need for the bioassay?

3. The Agency is basing the need for a further oncogenicity bioassay in mice on the differential response that can be seen in animal bioassays depending on the route of exposure. EPA solicits comments on this justification.

4. Should EPA require an epidemiology study for 1,1-dichloroethylene in lieu of a 2-year animal bioassay, and can appropriate cohorts be identified? While EPA considers the Ott study (Ref. 4) to be inadequate to determine that 1,1-dichloroethylene is not a human oncogen, it is possible that a well-designed study with a sufficient number of workers followed for a long enough time may be a better choice for evaluating the possible oncogenicity of the compound.

5. Because of the narrow range of toxicity of 1,1-dichloroethylene (Ref. 2) and the lack of positive results seen in most of these bioassays, some modifications to these studies have been considered. Among the possible changes are an increase in the size of the groups to increase the power of the bioassay, particularly at lower doses. The compound is known to have a shorter half-life in the body than some of the other chlorinated ethylenes (e.g., tetrachloroethylene), and using a lower dose while increasing the daily time of exposure to a greater proportion of a 24-hour day would more realistically represent the type of human exposure upon which this proposed rule is based (persons living in the vicinity of the manufacturing or processing plants). The third possible alteration also deals with this exposure problem. Should EPA consider exposing the animals in utero and beyond through exposure of the dams, and/or exposing them to the chemical directly at a younger age? The Agency requests comments on these possible modifications to the proposed testing.

6. Should EPA require that two species be tested in the oncogenicity study in conformance with the Agency's normal test guidelines or are adequate data now available to indicate that the mouse is the most sensitive species and that testing should be limited to that species? In addition, is the "Swiss" mouse the most appropriate strain in which to perform the inhalation bioassay?

VI. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical or chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for the chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Total testing costs for the proposed rule for 1,1-dichloroethylene are estimated to range from $734,990 to $959,308. The estimated costs for the comparative oral and inhalation DEM studies for this test rule range from $144,613 to $191,673, while the costs for the other proposed testing, the mouse inhalation bioassay, range from $590,376 to $767,634. The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $190,448 to $248,573. Based on the estimated 1984 production of 150 million pounds, the unit test cost is 0.17 cent per pound. In relation to the current list price of 30 to 37 cents per pound for 1,1-dichloroethylene, this cost is equivalent to 0.45 to 0.55 percent of unit value.

The Level I economic analysis indicates that the potential for adverse economic effects due to the estimated test cost is low. This condition is based on the following observations: (1) Demand for 1,1-dichloroethylene appears relatively inelastic owing to its dominant use as a captive intermediate; (2) the market expectations for 1,1-dichloroethylene are optimistic; and (3) the estimated unit test costs are very low. A Level II analysis is not necessary.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82–140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

VIII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, D.C. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, D.C.: (554–1404); Outside the U.S.A. (Operator—202–554–1404), by September 26, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

IX. Public Record

EPA has established a record for this rulemaking, (docket number OPTS–42082). This record contains the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentationn

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Air Pollution Control; Decision Not To Require Vinylidene Chloride and Solicitation of Information (50 FR 32632; August 13, 1985).

(b) Notice of final rule on EPA's TSCA good laboratory practice standards (48 FR 53922; November 29, 1983).

(c) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(d) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(e) Toxic Substances Control Act Test Guidelines; Final Rules (50 FR 39252; September 27, 1985).

(f) Revisions to the Toxic Substances Control Act Test Guidelnes Proposed Rule (51 FR 1522; January 14, 1986).

(2) Support document consisting of 1,1-dichloroethylene's economic analysis.

(3) Communications before proposal; contact report of telephone coversation.

B. References

(1) U.S. Environmental Protection Agency. "Heath Assessment Document for Vinylidene Chloride". Washington, DC: Office of Health and Environmental Assessment. EPA Report No. 600/8–83–031F (1985).

(2) Maltoni, C., Lefemine, G., Chieco, P., Cotti, G., and Patella, v. *Experimental Research on Vinylidene Chloride Carcinogenesis.* Princeton, N.J.: Princeton Scientific Publishers, Inc. (1985).

(3) National Toxicology Program. "NTP Technical Report on the Carcinogenesis Bioassay of Vinylidene Chloride (CAS No. 75–35–4) in F344/N Rats and B6C3F$_1$/N Mice (Gavage Study)". Washington, DC: National Toxicology Program. NIH Publication No. 82–1784 (1982).

(4) Ott, M.G., Fishbeck, M.D., Townsend, J.C. and Schneider, E.J. "A Health Study of Employees Exposed to Vinylidene Chloride". *Journal of Occupational Medicine* 18: 735–738 (1976).

X. Other Regulatory Requirements

A Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not expected to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place, NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: August 4, 1986.

Victor J. Kimm,

Acting Assistant Administrator, for Pesticides, and Toxic Substances.

PART 799—[AMENDED]

Therefore it is proposed that 40 CFR Part 799 be amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By adding § 799.1545 to read as follows:

§ 799.1545 1,1-Dichloroethylene.

(a) *Identification of test substance.* (1) 1,1-Dichloroethylene (CAS No. 75–35–4) shall be tested in accordance with this section.

(2) 1,1-Dichloroethylene of at least 99.8-percent purity shall be used as the test substance.

(b) *Person required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process 1,1-dihloroethylene, other than as an impurity, from the effective date of this section (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests in accordance with Part 792 of this chapter, and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter.

(c) *Health effects*—(1) *Distribution, excretion and metabolism*—(i) *Required testing.* (A) Distribution, excretion and metabolism tests shall be conducted with 1,1-dichloroethylene in accordance with § 798.7475 of this chapter.

(B) Modifications. The following modifications to § 798.7475 of this chapter are required.

(*1*) *Species.* The requirement under § 798.7475(c)(1)(i) shall be modified so that 1,1-dichloroethylene shall be tested in two strains of mice, the "Swiss" mouse used by Maltoni et al. (1985) as cited under paragraph (d) of this section and the B6C3F$_1$ strain of mouse.

(*2*) *Age.* The requirement under § 798.7475(c)(1)(ii) is modified so that 1,1-dichloroethylene shall be tested in mice 6 to 8 weeks old.

(*3*) *Animal care.* The requirement under § 798.7475(c)(1)(iii) is modified so that food and water are provided *ad libitum*, except during the exposure period in the inhalation studies.

(*4*) *Kinetic studies.* The requirements under § 798.7475(c)(2)(iii) (B) (*1*), (*2*), and (*3*) are modified so that they are no longer required. This modification will also cancel the requirement under § 798.7475(c)(2)(iii)(D).

(*5*) *Repeated dosing study.* The requirement under § 798.7475(c)(2)(iii)(E) is modified so that the test species shall undergo repeated dosing by inhalation as well as by oral administration. Mice of both strains (4 animals from each sex) shall receive daily 6-hour exposure to non-radioactive test substance in air for 7 days, followed the next day by a 6-hour exposure to the radioactively by labeled test substance in air. Both high and low-dose levels shall be tested under each route of administration in each strain for each sex. Exposure to

non-radioactive test substance shall be re-instituted following exposure to the label, and shall be continued until sacrifice.

(6) *Blood levels.* The requirement under § 798.7475(c)(3)(i) (A) is modified so that blod levels need by taken only at sacrifice.

(7) *Expired air, urinary and fecal excretion.* The requirement under § 798.7475(c)(3)(i)(B) is modified so that animals in the oral and inhalation repeated dosing studies shall be included. When collection of excreta is ended, the animals shall be sacrificed to determine tissue distribution of the label.

(8) *Tissue distribution.* The requirement under § 798.7475(c)(3)(i)(C) is modified to reduce the number of tissues and organs to be examined for ^{14}C-labeled compounds. Only the liver and kidney need to be checked. However, these tissues shall be analyzed to determine the ^{14}C-label's distribution within the cell, e.g., protein-bound, DNA-bound, or free in the cytoplasm.

(9) *Biotransformation.* The requirement under § 798.7475(c)(3)(ii) is modified to include all repeated dosing groups

(10) *Biotransformation changes.* The requirement under § 798.7475(c)(3)(iii) is modified to add the comparison of the ^{14}C-labeled components of urine collected at 24 and 48 hours after dosing group F, with that collected at similar times in the repeated inhalation dosing studies.

(11) *Test report.* The requirement under § 798.7475(d)(3)(v) is modified so that only the kidney and liver distribution and analysis shall be reported.

(ii) *Reporting requirements.* (A) The distribution, excretion and metabolism testing shall be completed and final results submitted to the Agency with 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(2) *Oncogenic effects*—(i) *Required testing.* Oncogenicity tests shall be conducted in "Swiss" mice by inhalation with 1,1-dichloroethylene, in accordance with § 798.3300 of this chapter.

(ii) *Reporting requirements.* (A) The oncogenicity testing shall be completed and final results submitted to the Agency within 66 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(d) *Reference.* Maltoni, C., Lefemine, G., Chieco, P., Cotti, G., Patella, V. *Experimental Research on Vinylidene Chloride Carcinogenesis.* Princetion, N.J.: Princetion Scientific Publishers, Inc. (1985).

(Approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 86-18129 Filed 8-11-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule.

SUMMARY: This Office is proposing to amend its regulations requiring a hearing transcript to be prepared in all Indian probate proceedings. Because many probate hearings do not involve disputes over questions of fact, the mandatory transcription of all cases has resulted in needless burdens on both Departmental personnel and budgets. The amended regulations would eliminate the requirement of a transcript in every case. It is anticipated that, absent appeal, an administrative law judge will not have a transcript prepared when the hearing testimony merely confirms and does not add to the heirship data provided to the administrative law judge by the Bureau of Indian Affairs. Conforming regulations would provide procedures to be followed when a transcript is not prepared.

DATE: Comments must be received on or before October 14, 1986.

ADDRESS: Comments may be mailed to Bruce A. Johnson, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Bruce A. Johnson, Deputy Director, Office of Hearings and Appeals, (703) 235-3810.

SUPPLEMENTARY INFORMATION: Current Department regulations in 43 CFR 4.231(b) require the transcription of all Indian probate hearings. Because it has been determined that transcription is not necessary in many cases, the Department is proposing to amend that regulation to allow for discretion in deciding whether or not a transcript of a particular hearing is necessary.

If transcription is made discretionary, certain other regulations must also be amended to take into account the possibility that a transcript might not have been prepared. Thus, 43 CFR 4.231(b) is further amended to provide for the retention of verbatim recordings of those hearings that are not transcribed until the time allowed for rehearing or appeal has expired.

Under 43 CFR 4.236(a)(3), the official probate record prepared by the Judge and returned to the Bureau of Indian Affairs must include the hearing transcript. This regulation would be amended to show that a transcript might not have been prepared.

43 CFR 4.320(c), which provides procedures to be followed when an Indian probate decision is appealed to the Board of Indian Appeals, would also be amended to require the preparation of a transcript in any appealed case.

Finally, 43 CFR 4.323 would be amended to show that any transcript prepared because of an appeal would become part of the original record after decision by the Board.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendment concerns internal Departmental procedures only.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*

The Department of the Interior has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321-4347).

This rule was written by Paul T. Baird, Director, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Indians.

Dated: July 28, 1986.

Paul T. Baird,

Director.

PART 4—[AMENDED]

43 CFR Part 4 is proposed to be amended as follows:

1. The authority citation for Part 4, Subpart D, continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

2. Section 4.231(b) is proposed to be revised to read as follows:

§ 4.231 Hearings.

* * * * *

(b) The proceedings of hearings shall be recorded verbatim.

* * * * *

3. Section 4.236 (a)(3) and (b) are proposed to be revised to read as follows:

§ 4.236 Record.

(a) * * *

(3) The record of the evidence received at the hearing, including any transcript made of the testimony;

* * * * *

(b) The administrative law judge shall lodge the original record with the designated title plant in accordance with 25 CFR Part 150. A duplicate copy shall be lodged with the Superintendent originating the probate. A partial record may also be furnished to the Superintendents of other affected agencies. In those cases in which a hearing transcript has not been prepared, the verbatim recording of the hearing shall be retained in the office of the administrative law judge issuing the decision until the time allowed for rehearing or appeal has expired. In cases in which a transcript is not prepared, the original record returned to the title plant shall contain a statement indicating no transcript was prepared.

* * * * *

4. Section 4.320(c) is proposed to be revised to read as follows:

§ 4.320 Who may appeal; scope of review.

* * * * *

(c) *Action by administrative law judge; record inspection.* The administrative law judge, upon receiving a copy of the notice of appeal, shall notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f), to the title plant designated under § 4.236(b). The duplicate record shall be conformed to the original by the title plant and shall thereafter be available for inspection either at the title plant or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the administrative law judge shall have a transcript prepared which shall be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

5. Section 4.323 is proposed to be revised to read as follows:

§ 4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcript prepared because of the appeal and the Board's decision, shall be forwarded by the Board to the title plant designated under § 4.236(b). Upon receipt of the record by the title plant, the duplicate record required by § 4.320(c) shall be conformed to the original and forwarded to the Superintendent concerned.

[FR Doc. 86-18116 Filed 8-11-86; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 394 (Sub-3)]

Cost Ratio for Recyclables; Compliance Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments and replies.

SUMMARY: This notice extends the due dates for filing comments and replies as requested by the Norfolk Southern because of the complex issues.

DATES: Initial comments due September 15, 1986; replies due October 15, 1986.

ADDRESS: Send comments and replies referring to Ex Parte no. 394 (Sub No. 3) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Thomas E. Dahl, (202) 275-6448 or 275-7693.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking published June 16, 1986 (51 FR 21780), set August 15 and September 15, 1986 for filing initial and reply comments, respectively. Norfolk Southern, Inc. filed a request August 5, 1986, to extend the due dates for initial comments to September 15, 1986 and reply comments to October 15, 1986. The extension is necessary for the carriers and National Association of Recycling Industries (NARI) to confer on a joint proposal in conjunction with the requested comments. NARI concurs with the request.

An extension is warranted because of the complex issues. This will enable all parties to better define their positions and will better assist the Commission in reaching its ultimate decision.

Decided: August 6, 1986.

By the Commission, Heather J. Gradison, Chairman.

Noreta McGee,

Secretary.

[FR Doc. 86-18145 Filed 8-11-86; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 51, No. 155
Tuesday, August 12, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Special Volunteer Programs; Availability of Funds; Demonstration Grants for Farms Affected by Drought in the Southern and Eastern United States

A. The Office of Voluntarism Initiatives of ACTION announces the availability of funds during fiscal year 1986 for demonstration grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, Title I, Part C, 42 U.S.C. 4992).

The purpose of this program is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to economic dislocation, by encouraging and enabling persons for all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

Priority consideration will be given to operating projects at the state and local level which use volunteers to address to problem of farm families and rural communities impacted by the recent drought in the Southern and Eastern United States encompassing the affected counties in the Southern and Eastern United States. Projects must utilize volunteers to assist these families and rural communities with financial counselling, vocational training and career training. In addition, volunteers will link those families or individual members with individuals, groups, organizations and agencies that can help them discover new ways to increase income from alternative employment, both on and off the farm. Projects to assist agriculturally dependent communities to cope with probems caused by the drought and/or to deversify their economies will be considered.

B. *Eligible Applicants.* Only applicants from private, non-profit incorporated organizations and public agencies will be considered.

C. *Available Fund and Scope of the Grant.* ACTION anticipates awarding grants ranging in size from $40,000 to a maximum of $100,000, the latter based on the development of statewide or a comparably large geographical area.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate any specific amount of money for demonstration grants.

D. *General Criteria for Grant Selection.* Grant applications will be reviewed and evaluated in comparison with the criteria outlined below, as appropriate, as well as conformance to the instructions included in the application. Grant applications that have demonstrated competence in using volunteers to work with farm families and rural communities affected by the drought will be given preference.

1. Potential to recruit and train volunteers in areas of priority.

2. Promise of developing innovations of knowledge in solving problems of farm families and rural communities that are significant to national program development.

3. Potential for replication of the project model including: Plans for implementation and dissemination of results of the project including any products such as reports and manuals for use by others.

4. Carefully formulated measurable time phased objectives and feasibility of methods for meeting those objectives.

5. Capability of proposed staff.

6. Likelihood of completion of project within proposed timetable.

7. Feasibility of proposed budget.

8. Adequacy of plans for data gathering and evaluation.

9. Letters of support from collaborating agencies and organizations where such could be expected to contribute to the value or success of the project.

10. Plans for continuation of the activities and self-sufficiency of the program following the completion of the project supported by ACTION funds.

11. While specific levels of matching funds are not a requirement for grants, evidence of local public and private sector support (financial and in-kind) is strongly encouraged and will be considered in the decision making process. Applicants capable of such contributions should specify the sources and nature of in-kind and other non-federal contributions. These contributions must be deemed allowable costs in accordance with ACTION requirements.

E. *Application Review Process.* ACTION's Demonstration Grants Division, in the Office of Voluntarism Initiatives, which has expertise in volunteer demonstration programs, will review and evaluate all eligible applications submitted under this announcement. ACTION's Associate Director for the Office of Voluntarism Initiatives will make the final selection from among the highest ranked applications. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

F. *Application Submission and Deadline.* One signed original and two copies of all completed applications must be submitted to the Associate Director for the Office of Voluntarism Initiatives, Room M–516, 806 Connecticut Avenue, NW., Washington, DC 20525. The deadline for receipt of applications is September 5, 1986. Only those applications that are received by 5:00 p.m. on this date will be eligible. All grant applications must consist of:

a. Application for Federal Assistance (SF 424, Pages 1–2 and ACTION Form A–1017, pages 3–7) with a narrative budget justification and a narrative of project goals and objectives.

b. CPA certification of accounting capability.

c. Articles of Incorporation.

d. Proof of non-profit status or an application for non-profit status, which should be made through documentation.

e. Resume of candidates for the position of project director, if available, or the resume of the director of the applicant agency or project.

f. Organization chart of the applicant organization showing how the project is related to the organization.

To receive an application form, please call ACTION's Office of Voluntarism Initiatives, (202) 634–9749.

Dated: August 8, 1986.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 86-18220 Filed 8-11-86; 8:45 am]

BILLING CODE 8050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1986-87 National Marketing Quota for Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determinations of 1986-87 Burley Tobacco marketing quota.

SUMMARY: The purpose of this notice is to affirm determinations made by the Secretary of Agriculture with respect to the 1986 crop of burley tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended (the Act). In addition to other determinations, the Secretary of Agriculture determined the 1986 marketing quota for burley tobacco to be 493.5 million pounds, approximately 6 percent below last year's quota.

This notice also affirms the proclamation made by the Secretary on February 28, 1986 that marketing quotas will be in effect for burley tobacco for three marketing years beginning October 1, 1986 and sets forth the results of the referendum held during the period March 24-27, 1986, in which producers of burley tobacco approved marketing quotas for the 1986-87, 1987-88, and 1988-89 marketing years.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5187.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loans and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On December 17, 1985 (50 FR 51438) a notice of proposed determinations was published with respect to the following determinations for the 1986-87 marketing year for tobacco:

1. The amount of the national marketing quota;
2. The reserve supply level;
3. The national reserve:
   A. For establishing new farms, and
   B. For making corrections and adjusting inequities in old farms;
4. The price support level for burley tobacco if marketing quotas are in effect or not disapproved by producers; and
5. The burley tobacco producer referendum.

Since the 1985-86 marketing year is the last of the three consecutive years for which marketing quotas previously proclaimed on a poundage basis will be in effect, section 319(b) of the Act, (U.S.C. 1314c(d)) provides that the Secretary shall proclaim marketing quotas for burley tobacco on a poundage basis for the 1986-87, 1987-88, and 1988-89 marketing years.

On February 28, 1986, a burley tobacco national marketing quota of 525 million pounds was announced. During the period March 24-27, 1986, eligible burley producers voted in a referendum to determine whether such producers disapprove marketing quotas for the 1986-87, 1987-88, and 1988-89 marketing years for burley tobacco. Of the producers voting, 97.0 percent favored marketing quotas. Accordingly, such quotas are in effect for the 1986-87 marketing year. Subsequently, on April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (The "1985 Act") was approved. Title I of the 1985 Act amended several provisions of the 1938 Act and the Agricultural Act of 1949, as amended, with respect to the tobacco price support and production adjustment program. Sections 1103 and 1104 of the 1985 Act amended several provisions of the 1938 Act with respect to the determination of marketing quotas for burley tobacco, including an amendment to section 319(a) of the 1938 Act (7 U.S.C. 1314e(a)) which provides "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act." Therefore, the previous announcement made on February 28, 1986, that the 1986 burley marketing quota would be 535 million pounds is void. Accordingly, this notice affirms the determination made on April 25, 1986 that the 1986 burley tobacco marketing quota would be 493.5 million pounds.

Section 319(c) of the 1938 Act (7 U.S.C. 1314e) provides, in part, that the national marketing quota for a marketing year for burley tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, necessary to adjust loan stocks to the reserve stock level. Section 319(c)(1) further provides that, with respect to the 1986 through 1989 marketing years, any reduction in the national marketing quota being determined shall not exceed six percent of the previous year's national marketing quota.

The "reserve stock level" is defined in section 301(b)(14)(D) of the 1938 Act as the greater of 50 million pounds or 15 percent of the national marketing quota for burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 1103 of the 1985 Act added section 320A to the 1938 Act to provide that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall

submit to the Secretary a statement of purchase intentions for the 1986 crop of burley. Six such manufacturers were required to submit such a statement. The total intended purchases of such manufacturers is 303.7 million pounds.

Exports, as recorded by the Bureau of Census for 1983–84, 1984–85, and 1985–86 marketing years (October–September) averaged 93.7 million pounds declared weight, or 145.3 million pounds, farm sales weight. Since the last year marketing year data is incomplete, an estimate made by Economic Research Service, USDA has been used. Further, some domestic cigarette manufacturers export a certain amount of processed tobacco (blends) which are counted as the domestic manufacturers' purchase intentions and some domestic leaf exports may include blends of foreign-grown tobacco as well as domestic-grown tobaccos. Therefore, in order to establish a burley tobacco national marketing quota in accordance with section 319(c) of the 1938 Act, a downward adjustment in reported exports in the amount of 24.8 million pounds is necessary to establish the total quantity of burley tobacco estimated to have been purchased on the average, during the 1983–84, 1984–85, and 1985–86 marketing years. Accordingly, for the purpose of determining the 1986 marketing quota for burley tobacco, exports have been determined to be 120.5 million pounds.

The reserve stock level is 79 million pounds. This is 15 percent of the national marketing quota for the 1985–86 quota of 525 million pounds. The 1985-crop inventory of the two burley associations is 83 million pounds. This total excludes pre-1985 crops tobacco of 494 million pounds which may be purchased by cigarette manufacturers in accordance with section 1109 of the 1985 Act. The Act further provides for initially attaining the reserve stock level over a period of 5 years. In addition, any downward adjustment in such inventories may not exceed the greater of 35 million pounds or 50 percent of the amount which loan stocks exceed the reserve stock level. Since the loan inventory only exceeds the reserve stock level by 4 million pounds it has been determined that the reserve stock level will be attained initially in the 1986 marketing year. Accordingly, the quantity determined to decrease the associations' inventory to reach the reserve stock level is 4.0 million pounds.

Adding these three components, 303.7 million pounds, 120.5 million pounds, and −4.0 million pounds results in a total of 420.2 million pounds. Since this total, including the 3 percent discretionary increase provided in accordance with section 319(c)(7 U.S.C. 1314e) is less than 94 percent of the national marketing quota established for the 1985 crop of burley tobacco, the 1986 marketing quota for burley tobacco is hereby determined to be 493.5 million pounds, the minimum provided by the 1938 Act.

The Secretary has determined to establish a national reserve for the 1986 crop of burley tobacco of 157,000 pounds.

Proclamation of National Marketing Quotas

Since the 1985–86 marketing year is the last of 3 consecutive marketing years for which marketing quotas previously proclaimed will be in effect for burley tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1986, October 1, 1987, and October 1, 1988 is hereby proclaimed.

Determinations 1986–87 Marketing Year

Accordingly, the following determinations have been made for burley tobacco for the marketing year beginning October 1, 1986:

(A) Marketing quotas shall be in effect for the 1986–87 marketing year for burley tobacco. In a referendum held during the period March 24–27, 1986, 97.0 percent of producers of burley tobacco voted in favor of marketing quotas.

The following is a summary, by State, of the results of each referendum:

State	Yes	No	Total
Alabama	3	0	3
Arkansas	4	0	4
Georgia	59	3	62
Illinois	0	0	0
Indiana	5,640	250	5,890
Kansas	17	0	17
Kentucky	107,541	1,773	109,314
Missouri	719	35	754
North Carolina	7,423	238	7,661
Ohio	6,997	240	7,237
South Carolina	0	0	0
Tennessee	38,986	2,445	41,431
Virginia	7,885	466	8,351
West Virginia	1,496	67	1,563
Totals	176,770	5,517	182,287

(B) *National marketing quota.* The national marketing quota for the marketing year beginning October 1, 1986 is determined to be 493.5 million pounds.

(C) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm quotas and for establishing quotas for new farms has been determined to be 157,000 pounds.

(D) *National factor.* The national factor is determined to be 0.94.

Authority: Secs. 301, 319, 375, 52 Stat. 38, as amended, 65 Stat. 23, 52 Stat. 66, as amended (7 U.S.C. 1301, 1314e, 1375).

Signed at Washington, DC on August 6, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-18071 Filed 8-11-86; 8:45 am]

BILLING CODE 3410-05-M

Flue-Cured Tobacco; 1986–87 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1986–87 national marketing quota and announcement of Flue-cured tobacco referendum results.

SUMMARY: The purpose of this notice is to affirm determinations made by the Secretary of Agriculture with respect to the 1986 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"), including the determination that the 1986 marketing quota for flue-cured tobacco is 728.5 million pounds and that the national acreage allotment for flue-cured tobacco shall be 366,264.45 acres.

This notice also affirms the proclamation made by the Secretary on December 31, 1985 that marketing quotas will be in effect for flue-cured tobacco for three marketing years beginning July 1, 1986 and sets forth the results of the referendum held during the period March 10–13, 1986, in which producers of flue-cured tobacco approved marketing quotas for the 1986–87, 1987–88, and 1988–89 marketing years.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–5187.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On October 17, 1985 (50 FR 42067) a notice of proposed determinations was published with respect to the following determinations for the 1986–87 marketing year for flue-cured tobacco:

1. The amount of the national marketing quota;
2. The national average yield goal;
3. The reserve supply level;
4. The national acreage reserve:

A. For establishing acreage allotments for new farms, and

B. For making corrections and adjusting inequities in old farms;

5. The marketing of N2 or other ineligible grades of tobacco;
6. The price support level for flue-cured tobacco if marketing quotas are in effect or not disapproved by producers; and
7. The flue-cured tobacco producer referendum.

Since the 1985–86 marketing year is the last of the three consecutive years for which marketing quotas previously proclaimed on an acreage-poundage basis will be in effect, section 317(d) of the 1938 Act (U.S.C. 1314c(d)) provides that the Secretary shall proclaim marketing quotas for flue-cured tobacco on either an acreage basis or an acreage-poundage basis for the 1986–87, 1987–88, and 1988–89 marketing years, whichever the Secretary determines would result in a more effective quota. It has been determined that, in view of the better supply control resulting from the acreage-poundage quota program beginning in 1965, a more effective quota would result by continuing marketing quotas on an acreage-poundage basis.

On December 31, 1985, a flue-cured tobacco acreage allotment of 380,593 acres and a marketing quota of 757 million pounds was announced by the Acting Secretary. During the period March 10–13, 1986, flue-cured producers voted in a referendum to determine whether such producers disapprove marketing quotas for the 1986–87, 1987–88, and 1988–89 marketing years for flue-cured tobacco. Of the producers voting, 93.7 percent favored marketing quotas. Accordingly, marketing quotas are in effect for the 1986–87 marketing year.

Subsequently, on April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (The "1985 Act") was approved. Title I of the 1985 Act amended several provisions of the 1938 Act and the Agricultural Act of 1949, as amended, with respect to the tobacco price support and production adjustment program. Sections 1103 and 1104 of the 1985 Act amended several provisions of the 1938 Act with respect to the determination of marketing quotas for flue-cured tobacco, including an amendment to section 317(d) of the 1938 Act (7 U.S.C. 1314c(d)) which provides "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for flue-cured tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act." Accordingly, the announcement of December 31, 1985, with respect to the marketing quota and acreage allotment for the 1986 crop of flue-cured tobacco is void. This notice sets forth the determination of the 1986 flue-cured tobacco marketing quota and acreage allotment which have been determined in accordance with the 1938 Act, as amended by the 1985 Act, and affirms the announcement made on June 17, 1986 that the national marketing quota for the 1986 crop of flue-cured tobacco is 728.5 million pounds.

Section 317(a)(1) of the 1938 Act (7 U.S.C. 1314c(a)(1)) provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, necessary to adjust loan stocks to the reserve stock level. Section 317(a)(1)(c) further provides that, with respect to the 1986 through 1989 marketing years, any reduction in the national marketing quota being determined shall not exceed six percent of the previous year's national marketing quota.

The "reserve stock level" is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 1103 of the 1985 Act added section 320A to the 1938 Act to provide that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1986 crop of flue-cured. Six such manufacturers were required to submit such a statement. The total intended purchases of such manufacturers is 360.7 million pounds.

Exports, as recorded by the Bureau of Census for 1983–84, 1984–85, and 1985–86 marketing years (July-June) averaged 320 million pounds declared weight, or 471 million pounds, farm sales weight. Since the export data with respect to the 1985–86 marketing year is incomplete, an estimate made by Economic Research Service, USDA has been used for such marketing year. Further, some domestic cigarette manufacturers export a certain amount of processed tobacco (blends of two or more types or kinds of tobacco) which are counted as the domestic manufacturers' purchase intentions and some domestic leaf exports may include blends of foreign-grown tobacco as well as domestic-grown tobaccos.

Therefore, in order to establish a flue-cured tobacco national marketing quota in accordance with section 317(a) of the 1938 Act, a downward adjustment in reported exports in the amount of 127.7 million pounds is necessary to establish the total quantity of flue-cured tobacco estimated to have been exported on the average, during the 1983–84, 1984–85, and 1985–86 marketing years. Accordingly, for the purpose of determining the 1986 marketing quota for flue-cured tobacco, exports have been determined to be 343.3 million pounds.

The reserve stock level is 116 million pounds. This is 15 percent of the national marketing quota for the 1985–86 quota of 775 million pounds. The 1985-

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crop inventory of Flue-cured Tobacco Cooperative Stabilization Corporation is 127.3 million pounds. This total excludes pre-1985 crops tobacco of 586 million pounds which may be purchased by cigarette manufacturers in accordance with section 1109 of the 1985 Act. Accordingly, the quantity determined to decrease this inventory to reach the reserve stock level is 11.3 million pounds.

Adding these three components, 360.7 million pounds, 343.0 million pounds, and −11.3 million pounds results in a total of 692.4 million pounds. Since this total, including the 3 percent discretionary increase provided in accordance with section 317(a)(1)(A) (7 U.S.C. 1314c(a)(1)(A)) is less than 94 percent of the national marketing quota established for the 1985 crop of flue-cured tobacco, the 1986 marketing quota for flue-cured tobacco is hereby determined to be 728.5 million pounds, the minimum provided by the 1938 Act.

Section 317(a) of the 1938 Act (7 U.S.C. 1314c(a)), provides that, beginning in 1983 and at 5 year intervals thereafter, the farm acreage allotment and preliminary farm yield for each farm shall be adjusted to reflect increases or decreases in the past 5 years' moving county average yield per acre and the national average yield goal shall be adjusted to the past 5 years' moving national average yield. Accordingly, it has been determined that the national average yield goal of 1989 pounds per acre will be the national average yield goal for the 1986–87 marketing year.

In accordance with section 317(a)(3) of the Act (7 U.S.C. 1314c(a)(3)), the national acreage allotment for the 1986 crop of flue-cured tobacco is determined to be 366,264.45 acres, which is the result of dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the Act (7 U.S.C. 1314c(e)), the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1986 crop of flue-cured tobacco of 1,356 acres is adequate for these purposes.

Proclamation of National Marketing Quotas

Since the 1985–86 marketing year is the last of 3 consecutive marketing years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning July 1, 1986, July 1, 1987, and July 1, 1988 is hereby proclaimed.

Determinations 1986–87 Marketing Year

Accordingly, the following determinations have been made for flue-cured tobacco for the marketing year beginning July 1, 1986:

(A) Marketing quotas shall be in effect for the 1986–87 marketing year for flue-cured tobacco. In a referendum held during the period March 10–13, 1986, 93.7 percent of producers of flue-cured tobacco voted in favor of marketing quotas.

The following is a summary, by State, of the results of each referendum:

State	Yes	No	Total
Alabama	41	3	44
Florida	1,223	133	1,356
Georgia	7,411	788	8,199
North Carolina	52,720	3,149	55,869
South Carolina	6,554	399	6,953
Virginia	10,239	814	11,053
Totals	78,188	5,286	83,474

(B) *National marketing quota.* The national marketing quota on an acreage-poundage basis for the marketing year beginning July 1, 1986 is determined to be 728.5 million pounds, the minimum provided by the 1938 Act. This determination is based on domestic cigarette manufacturers' intended purchases of 360.7 million pounds exports of 343.0 million pounds, and a downward reserve stock level adjustment of 11.3 million pounds. No discretionary adjustment was made in the total of the three components because any upward adjustment would have still resulted in the establishment of a national marketing quota below the minimum quota allowable level.

(C) *National average-yield goal.* The national average yield goal is determined to be 1,989 pounds per acre.

(D) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined to be 366,264.45 acres. This allotment is determined by dividing the national marketing quota of 728.5 million pounds by the national average yield goal of 1,989 pounds.

(E) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms has been determined to be 1,356 acres.

(F) *National acreage factor.* The national acreage factor is determined to be 0.94.

(G) *National yield factor.* The national yield factor is determined and announced to be .8955.

(H) *Types of tobacco.* It has been determined that types 11, 12, 13, and 14 of flue-cured tobacco shall constitute one kind of tobacco for the 1986–87, 1987–88, and 1988–89 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of these types of flue-cured tobacco.

Authority: Secs. 301, 313, 317, 375, 52 Stat. 38 as amended, 47 as amended, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375).

Signed at Washington, DC on August 6, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-18072 Filed 8-11-86; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Final Determinations Regarding Support Prices for Wool and Mohair for the 1986 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of final determinations.

SUMMARY: This notice sets forth the final determinations concerning the price support levels for wool and mohair for the 1986 marketing year. These determinations are required to be made pursuant to the National Wool Act of 1954 ("the Wool Act"), as amended.

EFFECTIVE DATE: August 12, 1986.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3758, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 475–4645. The Final Regulatory Impact Analysis describing the actions taken in this notice of determinations and their impact is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major." It has been determined that these final determinations will not result in: (1) An

annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that the Commodity Credit Corporation (CCC) publish a notice of proposed rulemaking in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published by 48 FR 29115 (June 24, 1983).

The title and number of the Federal assistance program to which this notice applies are: Title: National Wool Act Payment, Number: 10.059, as found in the Catalog of Federal Domestic Assistance.

Background

Section 703(a) of the Wool Act was amended by section 201 of the Food Security Act of 1985 to authorize the Secretary of Agriculture to support the price of wool and mohair marketed through December 31, 1990. Section 703(a) further provides that the Secretary shall support the prices of wool and mohair to producers by means of loans, purchases, payments or other operations. Section 704 of the Wool Act provides that if payments are utilized as a means of price support, the payments shall be in such amount as the Secretary determines to be sufficient, when added to the national average price received by all producers, to give producers a national average return for the commodity equal to the support level.

With respect to the 1986 through 1990 marketing years, section 703(b) of the Wool Act provides that the price support level for shorn wool shall be 77.5 percent of an amount which is determined by multiplying 62 cents (the support price in 1986) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent.

Section 703(c) of the Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the Support price for shorn wool, as the Secretary of Agriculture determines will maintain normal marketing practices for pulled wool, and as the Secretary determines is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Section 703(c) further provides that the support price for mohair must be within a range of 15 percentum above or below the comparable percentage of parity at which shorn wool is supported.

Proposed Determinations

On May 15, 1986, a notice of proposed determinations was published at 51 FR 17759 concerning the methods of calculating the price support level for pulled wool and for mohair for the 1986 marketing year.

The notice also indicated that based on current reported parity indices the calculation for the 1986 shorn wool support price (grease basis) is $1.78 per pound computed as follows:

(1) Average parity index, calendar years 1982–1984	1103.0
(2) Average parity index, calendar years 1958–1960	297.3
(3) Ratio of 1103.0 to 297.3	3.7101
(4) 3.7101 × 62 cents per pound (1985 support price)	$2.3003
(5) 77.5% × 2.3003	$1.7827
(6) 1.7827 rounded to nearest full cent	$1.78

With respect to the method of calculating the support price for pulled wool for the 1986 marketing year, the notice provided that the support price cannot be determined until the 1986 average market price for shorn wool is calculated, which would occur by April 1987. Once the average market price for shorn wool is known, the support price for pulled wool would be determined by subtracting the 1986 average market price for shorn wool from the 1986 support price of shorn wool and multiplying that number by 5 pounds per 100 pounds live weight of unshorn lambs. The result would then be multiplied by 80 percent which is a quality adjustment factor which recognizes that unshorn lamb pelts contain a shorter staple and a lower quality wool than wool shorn from other sheep.

With respect to the method of calculating the support price for Mohair, the notice provided that the support price for mohair for the 1986 marketing year would be determined based on the October 1985 parity prices for mohair and shorn wool and that the following percentages were being considered in the final computation of the mohair support price:

(1) 85 percent of the percent of parity at which shorn wool is supported.

(2) A percentage equal to the percent of parity at which shorn wool is supported.

(3) 115 percent of the percent of parity at which shorn wool is supported.

Discussion of Comments

A total of seven comments (6 with respect to mohair and 1 with respect to both wool and mohair) were received. Of the comments received with regard to mohair, all recommended that mohair be supported at a percentage of parity equal to the percentage of parity at which shorn wool is supported. These comments on the proposed determinations were not adopted. It has been determined that mohair should be supported at a level of 85 percent of the percent of parity at which shorn wool is supported. No additional incentives for the production of mohair are necessary due to the result of recent shifts in the industry from raising sheep to goats. Even with mohair supported at 85 percent of the percent of parity at which wool is supported, the 1986 mohair support price would be the second highest since the program began. At that level of supported projected government outlays in 1986 would be the highest in the history of the program and would contribute about one third of producers' projected total income from mohair.

The one comment received with respect to pulled wool supported the formula proposed, which is the same as that currently in use for determining the pulled wool payment rate.

After taking the foregoing comments into consideration, and in order to implement the statutory requirement that the Secretary shall support the prices of wool and mohair for the 1986 through 1990 marketing years, the following determinations have been made with respect to the wool and mohair price support programs for the 1986 through 1990 marketing years.

Final Determinations

1. The price of wool and mohair will be supported for the 1986 through 1990

marketing years by means of payments to producers.

2. The support price for shorn wool for the 1986 marketing year calculated in accordance with the formula contained in section 703 of the Wool Act and based upon the most recently reported parity indices is $1.78 per pound, grease basis. The calculation is as follows:

The average parity index for shorn wool during the 3-year period 1982–84 is 1104.3. The average parity index for shorn wool during the 3-year base period of 1958–1960 is 297.3. The ratio of these indices is 3.7144. The result of multiplying 3.7144 by the 1985 support price of 62 cents per pound is $2.3029. Applying the formula prescribed in section 703(b) of the Wool Act, 77.5 percent of $2.3029 is $1.78 when rounded to the nearest full cent.

3. The support price for pulled wool for the 1986 marketing year cannot be determined until after the close of the 1986 marketing year. The method for calculating the support price for pulled wool for the 1986 marketing year shall be as follows. Once the 1986 average market price for shorn wool is known, the support price for pulled wool will be determined by subtracting the 1986 average market price for shorn wool from the 1986 support price of shorn wool and multiplying that number by 5 pounds per 100 pounds live weight of unshorn lambs. The result is then multiplied by 80 percent, a quality adjustment factor which recognizes that unshorn lamb pelts contain a shorter staple and a lower quality wool than wool shorn from other sheep.

4. The supoort price for mohair for the 1986 marketing year shall be 85 percent of the comparable percent of parity at which shorn wool is supported. The support price for mohair for the 1986 markeing year is $4.93 per pound. The support price for mohair is based on the October 1985 parity prices for mohair and wool and is calculated as follows:

The October 1985 parity prices for shorn wool and mohair are $2.32 and $7.56 per pound, respectively. The support price for shorn wool for the 1986 marketing year as calculated in accordance with the formula set forth in section 703(b) of the Wool Act is $1.78 per pound or 76.7 percent of the October 1985 parity price for shorn wool. The level of price support for mohair for the 1986 marketing year is equal to 85 percent of the percentage of the parity price at which shorn wool is supported (76.7 percent), which is equal to 65.2 percent of the mohair parity price. Accordingly 65.2 percent of the October 1985 parity price for mohair at $7.56 per pound results in a support price for mohair for the 1986 marketing year of $4.93 per pound.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787))

Signed at Washington, DC on August 4, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86–18074 Filed 8–11–86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–429–601]

Urea From the German Democratic Republic; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether urea from the German Democratic Republic (GDR) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 2, 1986, and we will make ours on or before December 23, 1986.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Crowe (202–377–4087) or Mary S. Clapp (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1986, we received a petition in proper form filed by the Ad Hoc Committee of Domestic Nitrogen Producers, a coalition of major U.S. producers of urea and other nitrogen fertilizers. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the GDR are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Petitioner was unable to obtain actual prices of GDR urea sold to importers in the United States. Therefore, the United States price is based on U.S. import statistics. Using these statistics, petitioner calculated a weighted-average f.o.b. import price for the period October 1985 through March 1986. The import price was adjusted for foreign inland freight based upon freight charges in a surrogate country as described below. Petitioner had no information concerning other charges or expenses incident to bringing urea from the GDR to the United States. Petitioner also asserts that a significant portion of U.S. urea imports may be obtained through countertrade transactions in which the declared transaction values of the imports may not reflect actual payments by U.S. importers. Petitioner further alleges that countertrade results in distortions that would affect our normal less-than-fair-value analysis. We will examine these transactions to determine what effects, if any, the countertrade transactions have on prices to the United States. We invite comments on how to analyze the effects of countertrade transactions in the context of an antidumping duty investigation.

Petitioner has also alleged that certain importers may be selling urea to unrelated purchasers in the United States at prices below acquisition and marketing costs, so-called middleman dumping. Absent an allegation of a relationship between the exporters and importers or the importers acting as agents for the exporters, we have no basis for investigating the prices charged by the importers. Therefore, we do not plan to investigate this allegation at this time.

Petitioner, alleging that the GDR is a state-controlled-economy country, derived foreign market value from information on the production of the merchandise in a non-state-controlled-economy country (surrogate country) in accordance with the provisions of section 773(c) of the Act and 19 CFR 353.8. Petitioner asserts that the Federal Republic of Germany (FRG), Italy, and France are suitable surrogate countries for the GDR for purposes of this investigation. In selecting the FRG as the most appropriate surrogate country, petitioner considered the following factors: Similar industrial infrastructures, comparable percentages of labor forces in industrial sectors, percent of manufacturing value-added represented by the chemical industry, and the Department's prior designations of the FRG as a suitable surrogate for the GDR

in the investigations of *Potassium Chloride from the German Democratic Republic* 50 FR 4559 (1985) and *Unrefined Montan Wax from the German Democratic Republic* 46 FR 38555 (1981).

Petitioner rejects prices of urea sold in the FRG as a suitable basis for determining foreign market value, alleging that prices in the FRG are artificially depressed by sales of urea by non-market-economy producers and that urea is being sold in the FRG at less than the cost of production. Petitioner further alleges that the same conditions exist in other potential surrogates and that prices must be rejected on a world-wide basis.

Petitioner therefore based foreign market value on constructed value calculations. Petitioner presented two separate constructed values. The first is derived from U.S. producers' costs, adjusted for known differences in the cost of inputs in the FRG in accordance with 19 CFR 353.36(a)(7). For purposes of this analysis, petitioner adjusted for differences in the prices of natural gas, electricity and labor in the FRG.

The second constructed value calculation is based upon average factors of production of urea in developed countries (which petitioner alleges may be representative of GDR production) valued in the FRG. Petitioner suggests this method as an alternative to relying upon U.S. import statistics, in the event that the Department is unable to find an acceptable, cooperative surrogate. The latter methodology is in accordance with 19 CFR 353.8(c). Based upon the foreign market values derived by the two methods, petitioner alleges dumping margins of 167 and 196 percent, respectively.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on urea from the GDR and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether urea from the GDR is being, or is likely to be, sold in the United States at less than fair value.

In the course of our investigation, we will determine whether the economy of the GDR is state-controlled to an extent that sales of such or similar merchandise in the home market or to third country markets do not permit determination of foreign market value. If the GDR is determined to be a state-controlled economy, we will then choose a non-state-controlled economy surrogate country for purposes of determining foreign market value. If our investigation proceeds normally, we will make our preliminary determination by December 23, 1986.

Scope of Investigation

The product covered by this investigation is urea, a high-nitrogen content fertilizer which is produced by reacting ammonia with carbon dioxide. The product is currently classified under the *Tariff Schedules of the United States Annotated* (TSUSA) item 480.3000.

Petitioner has requested that in order to avoid possible circumvention of an eventual antidumping duty order we include in the scope of the investigation nitrogen solutions currently classified under TSUSA item 480.6550, as well as solid urea mixed with other fertilizers as currently classifed under TSUSA item 480.8030. Merchandise classified under these two items will be subject to the investigation only if the predominant component is urea.

Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to imports of urea from the GDR. We will determine whether critical circumstances exist with respect to these imports in our preliminary determination, and if the investigation proceeds normally, in our final determination.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 2, 1986, whether there is a reasonable indication that imports of urea from the GDR are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 5, 1986.

[FR Doc. 86-18106 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-601]

Urea From the Socialist Republic of Romania; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether urea from the Socialist Republic of Romania (Romania) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 2, 1986, and we will make ours on or before December 23, 1986.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Crowe (202-377-4087) or Mary S. Clapp (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1986, we received a petition in proper form filed by the Ad Hoc Committee of Domestic Nitrogen Producers, a coalition of major U.S. producers of urea and other nitrogen fertilizers. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Romania are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material

injury, or threaten material injury, to a United States industry.

Petitioner was unable to obtain actual prices of Romanian urea sold to importers in the United States. Therefore, the United States price is based on U.S. import statistics. Using these statistics, petitioner calculated a weighted-average f.o.b. import price for the period October 1985 through March 1986. The import price was adjusted for foreign inland freight based upon freight charges in a surrogate country as described below. Petitioner had no information concerning other charges or expenses incident to bringing urea from Romania to the United States. Petitioner also asserts that a significant portion of U.S. urea imports may be obtained through countertrade transactions in which the declared transaction values of the imports may not reflect actual payments by U.S. importers. Petitioner further alleges that countertrade results in distortions that would affect our normal less-than-fair-value analysis. We will examine these transactions to determine what effects, if any, the countertrade transactions have on prices to the United States. We invite comments on how to analyze the effects of countertrade transactions in the context of an antidumping duty investigation.

Petitioner has also alleged that certain importers may be selling urea to unrelated purchasers in the United States at prices below acquisition and marketing costs, so-called middleman dumping. Absent an allegation of a relationship between the exporters and importers, or the importers acting as agents for the exporters, we have no basis for investigating the prices charged by the importers. Therefore, we do not plan to investigate this allegation at this time.

Petitioner, alleging that Romania is a state-controlled-economy country, derived foreign market value from information on the production of the merchandise in a non-state-controlled-economy country (surrogate country) in accordance with the provisions of section 773(c) of the Act and 19 CFR 353.8. Petitioner alleges that the Federal Republic of Germany (FRG) is the appropriate surrogate country for Romania for purposes of this investigation. In selecting the FRG as a surrogate country, petitioner considered the following factors: infrastructure development, a similar percentage of manufacturing value-added represented by the chemical industry, and the availability of information on production in the FRG.

Petitioner rejects prices of urea sold in the FRG as a suitable basis for determining foreign market value, alleging that prices in the FRG are artificially depressed by sales of urea by non-market-economy producers and that urea is being sold in the FRG at less than the cost of production. Petitioner further alleges that the same conditions exist in other potential surrogates and that prices must be rejected on a world-wide basis.

Petitioner therefore based foreign market value on constructed value calculations. Petitioner presented two separate constructed values. The first is derived from U.S. producers' costs, adjusted for known differences in the cost of inputs in the FRG in accordance with 19 CFR 353.36(a)(7). For purposes of this analysis, petitioner adjusted for differences in the prices of natural gas, electricity and labor in the FRG. The second constructed value calculation is based upon average factors of production of urea in developed countries (which petitioner alleges may be representative of Romanian production) valued in the FRG. Petitioner suggests this method as an alternative to relying upon U.S. import statistics, in the event that the Department is unable to find an acceptable, cooperative surrogate. The latter methodology is in accordance with 19 CFR 353.8(c). Based upon the foreign market value derived by the two methods, petitioner alleges dumping margins of 211 and 245 percent, respectively.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on urea from Romania and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether urea from Romania is being, or is likely to be, sold in the United States at less than fair value.

In the course of our investigation, we will determine whether the economy of Romania is state-controlled to an extent that sales of such or similar merchandise in the home market or to third country markets do not permit determination of foreign market value. If Romania is determined to be a state-controlled economy, we will then choose a non-state-controlled economy surrogate country for purposes of determining foreign market value. If our investigation proceeds normally, we will make our preliminary determination by December 23, 1986.

Scope of Investigation

The product covered by this investigation is urea, a high-nitrogen content fertilizer which is produced by reacting ammonia with carbon dioxide. The product is classified under the *Tariff Schedules of the United States Annotated* (TSUSA) item 480.3000.

Petitioner has requested that in order to avoid possible circumvention of an eventual antidumping duty order we include in the scope of the investigation nitrogen solutions currently classified under TSUSA item 480.6550, as well as solid urea mixed with other fertilizers as currently classified under TSUSA item 480.8030. Merchandise classified under these two items will be subject to the investigation only if the predominant component is urea.

Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to imports of urea from Romania. We will determine whether critical circumstances exist with respect to these imports in our preliminary determination, and if the investigation proceeds normally, in our final determination.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 2, 1986, whether there is a reasonable indication that imports of urea from Romania are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will

terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 5, 1986.

[FR Doc. 86-18109 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-601]

Urea From the Union of Soviet Socialist Republics; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether urea from the Union of Soviet Socialist Republics (USSR) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 2, 1986, and we will make ours on or before December 23, 1986.

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Crowe, (202-377-4087) or Mary S. Clapp (202-377-1769) Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1986, we received a petition in proper form filed by the Ad Hoc Committee of Domestic Nitrogen Producers, a coalition of major U.S. producers of urea and other nitrogen fertilizers. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the USSR are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Petitioner was unable to obtain actual prices of Soviet urea sold to importers in the United States. Therefore, the United States price is based on U.S. import statistics. Using these statistics, petitioner calculated a weighted-average f.o.b. import price for the period October 1985 through March 1986. The import price was adjusted for foreign inland freight based upon freight charges in a surrogate country as described below. Petitioner had no information concerning other charges or expenses incident to bringing Soviet urea to the United States. Petitioner also asserts that a significant portion of U.S. urea imports may be obtained through countertrade transactions in which the declared transaction values of the imports may not reflect actual payments by U.S. importers. Petitioner further alleges that countertrade results in distortions that would affect our normal less-than-fair-value analysis. We will examine these transactions to determine what effects, if any, the countertrade transactions have on prices to the United States. We invite comments on how to analyze the effects of countertrade transactions in the context of an antidumping duty investigation.

Petitioner has also alleged that certain importers may be selling urea to unrelated purchasers in the United States at prices below acquisition and marketing costs, so-called middleman dumping. Absent an allegation of a relationship between the exporters and importers, or the importers acting as agents for the exporters, we have no basis for investigating the prices charged by the importers. Therefore, we do not plan to investigate this allegation at this time.

Petitioner, alleging that the USSR is a state-controlled-economy country, derived foreign market value from information on the production of the merchandise in a non-state-controlled-economy country (surrogate country) in accordance with the provisions of section 773(c) of the Act and 19 CFR 353.8. Petitioner asserts that the Federal Republic of Germany (FRG), Italy, and France are suitable surrogate countries for the USSR for purposes of this investigation. In selecting the FRG as the most appropriate surrogate country, petitioner considered the following factors: per capita gross national product, infrastructure development, urea capacity, average plant capacity, overall labor force distribution, percent of manufacturing value-added represented by the chemical industry, the fact that the FRG is a major purchaser to Soviet natural gas, the availability of information on production in the FRG, and the Department's recent designation of the FRG as a suitable surrogate for the USSR in the investigation of *Potassium Chloride from the Union of Soviet Socialist Republics* 50 FR 4562 (1985).

Petitioner rejects prices of urea sold in the FRG as a suitable basis for determining foreign market value, alleging that prices in the FRG are artificially depressed by sales of urea by non-market-economy producers and that urea is being sold in the FRG at less than the cost of production. Petitioner further alleges that the same conditions exist in other potential surrogates and that prices must be rejected on a world-wide basis.

Petitioner therefore based foreign market value on constructed value calculations. Petitioner presented two separate constructed values. The first is derived from U.S. producers' costs, adjusted for known differences in the cost of inputs in the FRG in accordance with 19 CFR 353.36(a)(7). For purposes of this analysis, petitioner adjusted for differences in the prices of natural gas, electricity and labor in the FRG.

The second constructed value calculation is based upon average factors of production of urea in developed countries (which petitioner alleges may be representative of USSR production) valued in the FRG. Petitioner suggests this method as an alternative to relying upon U.S. import statistics, in the event that the Department is unable to find an acceptable, cooperative surrogate. The latter methodology is in accordance with 19 CFR 353.8(c). Based upon the foreign market values derived by the two methods, petitioner alleges dumping margins of 241 and 279 percent, respectively.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on urea from the USSR and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether urea from the USSR is being, or is likely to be, sold in the United States at less than fair value.

In the course of our investigation, we will determine whether the economy of the USSR is state-controlled to an extent that sales of such or similar merchandise in the home market or to third country markets do not permit determination of foreign market value. If the USSR is determined to be a state-controlled economy, we will then choose a non-state-controlled economy surrogate country for purposes of determining foreign market value. If our investigation proceeds normally, we will make our preliminary determination by December 23, 1986.

Scope of Investigation

The product covered by this investigation is urea, a high-nitrogen content fertilizer which is produced by reacting ammonia with carbon dioxide. The product is currently classified under the *Tariff Schedules of the United States Annotated* (TSUSA) item 480.3000.

Petitioner has requested that in order to avoid possible circumvention of an eventual antidumping duty order we include in the scope of the investigation nitrogen solutions currently classified under TSUSA item 480.6550, as well as solid urea mixed with other fertilizers as currently classified under TSUSA item 480.8030. Merchandise classified under these two items will be subject to the investigation only if the predominant component is urea.

Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to these imports of urea from the USSR. We will determine whether critical circumstances exist with respect to these imports in our preliminary determination, and if the investigation proceeds normally, in our final determination.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 2, 1986, whether there is a reasonable indication that imports of urea from the USSR are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 5, 1986.

[FR Doc. 86-18110 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

Louisiana State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation act of 1966 (Public Law 89-651, 808 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 86-209. Applicant: Louisiana State University, Baton Rouge, LA 70803-7511. Instrument: Isotope Ratio Mass Spectrometer, Model Delta E with Accessories. Manufacturer: Finnigan MAT, West Germany Intended Use: See notice at 51 FR 21012.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (August 16, 1985).

Reasons: The foreign article is a fully automated multicollector instrument capable of simultaneous recording of three ion beams and a high internal precision (<0.02‰ for nitrogen).

This capability is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument".

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, neither was contacted nor received a response from the only domestic manufacturer to a formal request for quotation it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105 Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18111 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

Northwestern University et al., Applications for Duty-Free Entry of Scientific Instruments.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR 301), we invited comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 30.15 (a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 86-272. Applicant: Northwestern University, The Technological Institute, 2145 Sheridan Road, Evanston, IL 60201. Instrument:

Electron Microscope, Model H–9000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: The instrument will be used to investigate the atomic structure of numerous materials ranging from metals to electronic materials and heterogeneous catalysts using high resolution electron microscopy. Application received by Commissioner of Customs: July 15, 1986.

Docket Number: 86–273. Applicant: University of California at Santa Barbara, Purchasing Department, Santa Barbara, CA 93106. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: The instrument will be used for studies of various aspects of vertebrate retinal cell biology, genetics and development of Tetrahymena, cytoskeletal proteins extracted from bovine brain and synaptic vesicles isolated from electric fish, Torpedo. The instrument will also be used for educational purposes in the courses Biology 596 and Biology 221. Application received by Commissioner of Customs: July 15, 1986.

Docket Number: 86–274. Applicant: Worcester Foundation for Experimental Bilogy, 222 Maple Avenue, Shrewsbury, MA 01545. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: Philips Instruments Inc., The Netherlands. Intended use: The instrument will be used in research involving studies in the areas of cell, developmental and reproductive biology dealing mainly with cytoskeleton and cell membranes. Application received by Commissioner of Customs: July 15, 1986.

Docket Number: 86–275. Applicant: Trustees of Dartmouth College, P.O. Box 7, Hanover, NH 03755. Instrument: Electron Microscope, Model JEM–2000 FX/SIP/DP with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: The instrument is intended to be used to examine a wide variety of biological and non-biological materials. All these materials will have a wide range of physical and chemical characteristics and will range in organization from amorphous to highly crystalline, and from tissues to individual molecules. Experiments to be performed will include full morphological, chemical and structural analyses. These will involve imaging in bright field, dark field, various STEM imaging modes and X-ray micro-analyses. The objectives of the research activities will be to understand the organization of the materials on as fine scale as possible in order to further particular research programs. The instrument will also be an integral part of several undergraduate and graduate courses. Application received by Commissioner of Customs: July 15, 1986.

Docket Number: 86–276. Applicant: Boston University School of Medicine, School of Public Health, 80 East Concord Street, Boston, MA 02118. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: The instrument will be used for studies of pathogenic bacteria, bacterial plasmids and DNA, viruses and proteins. Experiments will be conducted to: (1) obtain a fundamental understanding of the 'virulence' factors associated with bacterial pathogens with respect to their epidemiology and function in the pathogenic process, and the regulation of their expression and (2) decipher the basic mechanisms involved in the determination of viral capsid size. The instrument will also be used for teaching competency in electron microscopy such that students will subsequently be able to use the electron microscope for their own research interests in an independent manner. Application received by Commissioner of Customs: July 15, 1986.

Docket Number: 86–277. Applicant: Woods Hole Oceanographic Institution, Water Street, Woods Hole, MA 02543. Instrument: Mass Spectrometer, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used for studies of the rates of certain photochemical reactions in marine systems, especially the formation of the superoxide ion-radical (O_2-) and other reactive chemical species, such as free radicals. Application received by Commissioner of Customs: July 15, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18112 Filed 8–11–86; 8:45 am]

BILLING CODE 3510–DS–M

State University of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 86–121. Applicant: State University of New York, New York, NY 10010. Instrument: CRT Display Unit and GRSYS–2 Microprocessor Grating Generator with Interface Hardware. Manufacturer: Joyce Electronics, Ltd., United Kingdom. Intended use: See notice at 51 FR 7845.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high luminance (mean of 300 candelas per square meter) and raster rotation through 360 degrees. The National Institutes of Health advises in its memorandum dated July 11, 1986 that (1) this capability is pertient to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18113 Filed 8–11–86; 8:45 am]

BILLING CODE 3510–DS–M

University of Alaska et al., Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 86–210. Applicant: University of Alaska, Fairbands, AK 99701. Instrument: Electron Microscope, Model EM 109. Manufacturer:

Carl Zeiss, West Germany. Intended use: See notice at 51 FR 21012. Instrument ordered: January 24, 1986.

Docket number: 86–215. Applicant: The University of Wyoming, Laramine, WY 82071. Instrument: Electron Microscope, Model H–7000 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. INTENDED USE: See notice at 51 FR 22096. Instrument Ordered: March 27, 1986.

Docket number: 86-216 Applicant: University of New Mexico, Albuquerque, NM 87131. Instrument: Electron Microscope Model H-600-3 with Accessories. Manufacturer: Hitachi Instruments, Japan. Intended use: See notice at 51 FR 22096. Instrument ordered: February 2, 1986.

Docket number: 86-220. Applicant: Bronx Municipal Hospital Center, Bronx, NY 10461. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 22844. Application Received by Commissioner of Customs: May 30, 1986.

Docket number: 86-221. Applicant: Albert Einstein College of Medicine, Bronx, NY 10461. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 22844. Instrument ordered: March 8, 1985.

Docket number: 86-224. Applicant: University of Maryland at Baltimore, Baltimore, MD 21201. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 22844. Instrument ordered: March 25, 1986.

Comments: None reveived.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18114 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 86-235. Applicant: University of California, Livermore, CA 94550. Instrument: ICP Mass Spectrometer, Model PlasmaQuad. Manufacturer: V.G. Isotopes, Ltd., United Kingdom. Intended use: See notice at 51 FR 23256.

Comments: None Received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides simultaneous qualitative and semi-quantitative data for major, minor and trace constituents and abundance sensitivity of at least 10^{-8} for both high and low mass. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18115 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will convene separate public meetings at the Fort Brown Motor Hotel, 1900 East Elizabeth Street, Brownsville, TX, and also at Stokley Hall, Civic Center Complex, 600 International Boulevard, Brownsville, TX, as follows:

Council—will convene September 10, 1986, at 8:30 a.m. at Stokley Hall and recess at 5 p.m.; reconvene September 11 at the Fort Brown Motor Hotel at 8:30 a.m. and recess at 5 p.m.; reconvene September 12 at 8:30 a.m. and adjourn at noon to: (1) Review the proposed emergency rule and Secretarial Fishery Management Plan (FMP), on the red drum fishery, public scoping session on Council Red Drum FMP and (2) review public comments and take action on the Shrimp Amendment Options Paper.

Committees—will convene September 8, 1986, with the Red Drum Management Committee, at 8:30 a.m., adjourn at 5 p.m. and reconvene September 9 at 8:30 a.m. with the Swordfish Management, Habitat and Environmental Protection, Mackerel Management, and Advisory Panel Selection Committees. All of these Committee meetings will be held at the Fort Brown Motor Hotel.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; (813) 228-2815.

Dated: August 5, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18060 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene a joint public meeting of its standing Scientific and Statistical, Special Red Drum, and Mackerel Scientific and Statistical Committees, September 2-3, 1986, at the Ramada Inn, 5303 West Kennedy Boulevard, Tampa, FL, to review the Secretarial Red Drum Fishery Management Plan (FMP), and Amendment 2 to the Migratory Coastal Pelagics (Mackerel) FMP. For further information contact Wayne E. Swingle, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228-2815.

Dated: August 6, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18061 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton Textile Products Produced or Manufactured in India

August 7, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 13,

1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 27, 1985, a notice was published in the **Federal Register** (50 FR 52985) which established limits for certain cotton, wool and man-made fiber textile products, including Categories 313 (cotton sheeting) and 363 (cotton towels), produced or manufactured in India and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986.

At the request of the Government of India, swing is being applied to the restraint limit previously established for cotton textile products in Category 313, increasing it from 11,687,396 square yards to 12,505,514 square yards, for the current agreement year. The limit for Category 363 is being reduced from 18,375,645 numbers to 16,739,409 numbers to account for the amount of swing applied to Category 313, as provided by the agreement between the Governments of the United States and India of December 21, 1982, as amended.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits for these categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives issued to you on December 23, 1985 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on August 13, 1986, the directive of December 23, 1985 is hereby amended to include the following adjusted restraint limits: [1]

Category	Adjusted Limits [2]
313	12,505,514 square yards.
363	16,739,409 numbers.

[2] The limits have not been adjusted to account for any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Ronald I. Levin

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–18090 Filed 8–11–86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With Mauritius on Trade in Category 331

August 5, 1986.

On June 27, 1986 the Government of the United States, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of Mauritius to enter into consultations concerning exports to the United States of cotton gloves in Category 331, produced or manufactured in Mauritius.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish a limit for entry and withdrawal from warehouse for consumption of textile products in this category, produced or manufactured in Mauritius and exported to the United States during the twelve-month period which began on June 27, 1986 and extends through June 26, 1987, at a level of 244,950 dozen pairs.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 331 is invited to submit such comments or information in ten copies to the Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Mauritius—Market Statement Category 331—Cotton Gloves

June 1986.

Summary and Conclusions

U.S. imports of Category 331 from Mauritius were 294,950 dozen pairs during year-ending April 1986, over three times the 85,500 dozen pairs imported in the same period of 1985. In 1984, imports of Category 331 from Mauritius were 33,500 dozen pairs and soared to 198,150 dozen pairs in 1985. Imports reached 148,800 dozen pairs in the first four months of 1986, a 186 percent increase over the same period in 1985.

The U.S. market for Category 331 has been disrupted by imports. The sharp and substantial increase in imports from Mauritius has contributed to this disruption and continuation of the growth would create a real risk of further disruption.

U.S. Production and Market Share

Between 1981 and 1983, U.S. production of cotton gloves declined 31 percent. In 1982, U.S. production fell 26 percent to 15,436,000 dozen pairs. This trend continued in 1983 as production declined an additional 7 percent. In 1984, U.S. production rose moderately, but remained 21 percent below the 1981 level of 20,861,000 dozen pairs. During the four-year period ending with 1984, the market for cotton gloves declined 5 percent from 33,858,000 dozen pairs to 32,028,000 dozen pairs and the domestic producers' share of the market fell from 62 percent in 1981 to 51 percent in 1984.

[1] The agreement provides, in part, that: (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

U.S. Imports and Import Penetration

U.S. imports of Category 331 increased 20 percent between 1981 and 1984, rising from 12,997,000 dozen pairs in 1981 to 15,550,000 dozen pairs in 1984. Imports continued to rise in 1985 increasing 5 percent to 16,205,000 dozen pairs. The import to production ratio correspondingly rose from 62 percent in 1981 to 94 percent in 1984.

Duty-Paid Values and U.S. Producer's Prices

One hundred percent of Category 331 imports during the first four months of 1986 from Mauritius entered under TSUSA number 704.4506—cotton gloves and glove linings, not woven, not ornamented, without fourchettes or sidewalls, lisle type, no pile, not brushed or napped. These garments from Mauritius entered the U.S. at landed, duty paid values below U.S. producer's prices for comparable garments.

[FR Doc. 86-18091 Filed 8-11-86; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 86-1]

Johnson & Johnson Baby Products Co. Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of prehearing conference.

DATE: This notice announces a prehearing conference to be held in the matter of Johnson & Johnson Baby Products Company, on August 22, 1986, at 10:00 a.m.

ADDRESS: The prehearing conference will be in the Conference Room, Third Floor, 1111-18th Street NW., Washington, D.C.. For additional information contact: Sheldon D. Butts Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6800.

Notice of Prehearing Conference

Please take notice that a prehearing conference in this proceeding will be held at 10:00 a.m., on August 22, 1986, in the Conference Room, Third Floor, 1111-18th Street NW., Washington, DC, for the purposes outlined in 16 CFR 1025.21(a). The Presiding Officer will be Administrative Law Judge Paul L. Brady. The following issues will be discussed:

1. Establishment of a time schedule for the completion of formal discovery.

2. Establishment of a time schedule for the exchange of final witness lists, prepared testimony and documents, including proposed exhibits.

3. Scheduling the date, and place of the adjudicative hearing.

4. Such other matters as may aid in the efficient presentation or disposition of the matters raised in this proceeding.

Dated: August 7, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86-18190 Filed 8-11-86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command Directorate of Personal Property; Interstate Program

AGENCY: Military Traffic Management Command (MTMC).

ACTION: Notice of invitation to comment on changes in Military Traffic Management Command rate solicitation 6-3.

SUMMARY: MTMC is planning to institute a one time only adjustment of rate tables for accessorial services performed during the interstate movement of household goods. This adjustment will be based on changes in the Consumer Price Index (CPI). Your comments are requested for inclusion in the modification of Rate Solicitation 6-3. Comments from carriers, as well as any other interested persons, parties or agencies, are being solicited for the following proposed provision:

a. Rates paid for accessorial services, except packing, will be adjusted to reflect changes in the Consumer Price Index. Baseline rates for linehaul transportation and packing will remain the same.

b. The adjustments will reflect CPI changes over the period November 1983 to December 1987 inclusive. Changes for 1987 will be based on projections by Office of Management and Budget. Adjustments will go into effect on May 1, 1987. Each rate item will be adjusted by the level of increase in the CPI over the measured period.

c. This proposal is one time only in that MTMC is committed to finding an acquisition procedure which will reqmire independant pricing for all services.

This invitation consists of ideas and issues identified by MTMC. Freight forwarders/carriers interested in participating in the program must write to this office in order to receive a copy of the solicitation.

DATES: Submit written comments by September 15, 1986.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Jeffry McKenzie, HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041-5050. Commercial Phone (202) 756-1190

Address Comments To: HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041-5050

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301-2314 and DOD Directives 4500.9 and 4500.34.

Joseph R. Marotta,

Colonel, General Staff, Director of Personal Property.

[FR Doc. 86-18087 Filed 8-11-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangement With European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2189) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 8 kilograms of irradiated research reactor fuel of United States origin from the FRG reactor for reprocessing and storage at Department of Energy facilities. The return of highly enriched uranium to the United States is consistent with United States nonproliferation policy in that it serves to reduce the amount of highly enriched uranium abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 5, 1986.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-18062 Filed 8-11-86; 8:45 am]

BILLING CODE 6450-01-M

Atomic Energy Agreement; Proposed Subsequent Arrangement With International Atomic Energy Agency

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale: Contract Number S-BR-37, for the National Nuclear Energy Commission, Rio de Janeiro, Brazil, 94.357 grams of normal uranium, 2.001 grams of uranium depleted in the isotope U-235, and 65.74 grams of uranium enriched to an average of 8.75% in U-235, for use as standard reference material.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 5, 1986.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-18063 Filed 8-11-86; 8:45 am]

BILLING CODE 6450-01-M

Atomic Energy Agreements; Proposed Subsequent Arrangement With Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 15 kilograms of irradiated research reactor fuel of United States origin from the JMTR reactor in Japan for reprocessing and storage in Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent with United States nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect on sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 5, 1986.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-18064 Filed 8-11-86; 8:45 am]

BILLING CODE 6450-01-M

Atomic Energy Agreements; Proposed Subsequent Arrangement With Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S-SW-63, for the sale of 339.17 grams of natural uranium to ASEA-ATOM Sweden, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 5, 1986.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-18065 Filed 8-6-86; 8:45 am]

BILLING CODE 6450-01-M

Civilian Radioactive Waste Management Transportation Institutional Plan Availability

AGENCY: Department of Energy.

ACTION: Notice of availability of the civilian radioactive waste management transportation institutional plan.

The Office of Civilian Radioactive Waste Management (OCRWM), U.S. Department of Energy, has developed a Transportation Institutional Plan related to responsibilities assigned by the Nuclear Waste Policy Act of 1982. The document contains information on the plans and strategies for interaction with institutions affected by the transport of high-level waste under the provisions of the Act.

For planning purposes, the institutions have been divided into six main categories: Intergovernmental including other Federal agencies as well as State, Tribal, and local governments; the electric utilities; the transportation industry; the news media; special interest groups; and the public. Planned interaction with these groups will identify both opportunities for cooperative effort and transportation issues of concern. A primary purpose of the Transportation Institutional Plan is to establish a process for addressing and resolving these concerns.

In September 1985, a Draft Transportation Institutional Plan was released for public review. Comments received on the draft have been incorporated in this revised document.

Copies of the Transportation Institutional Plan may be obtained after August 15, 1986, by telephoning (202) 252-5575, by direct pickup from, or by request in writing to:

Office of Public Affairs, U.S. Department of Energy, Room 1E-206, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585

Copies of the document will also be available by writing:

Technical Information Division, Office of Scientific and Technical Information, Technical Information Center, P.O. Box 62, Oak Ridge, TN 37831

Issued in Washington, DC, July 29, 1986.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 86-18061 Filed 8-11-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Petroleum Marketing Division (PMD) Survey Forms

AGENCY: Energy Information Administration, DOE.

ACTION: Solicitation of comments concerning extension and proposed changes to the Petroleum Marketing Program survey forms.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning proposed extensions and revisions to the petroleum marketing survey forms.

DATE: Written comments must be submitted on or before September 11, 1986.

ADDRESS: Send written comments to Dr. John S. Cook, Director, Petroleum Marketing Division, Energy Information Administration, Department of Energy, Mail Stop 2H-056, EI-43, 1000 Independence Ave., SW., Washington, DC 20585.

Requests for copies of the following forms and instructions should be directed to Mrs. Sharon Underwood at the address above or telephone (202) 252-5214.

Forms EIA-14, EIA-182, EIA-782A, EIA-782B, EIA-782C, EIA-821, EIA-856, EIA-863.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Department of Energy (DOE) Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obligated to publish, and otherwise make available to the public, high-quality statistical data that accurately reflect national and regional petroleum marketing activity.

To meet this responsibility, as well as internal DOE requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass major petroleum marketing activities in the United States.

II. Current Actions

In keeping with its mandated responsibilities, EIA proposes to extend for 3 years the following petroleum marketing data collection forms:

Refiners' Monthly Cost Report (Form EIA-14)
Domestic Crude Oil First Purchase Report (Form EIA-182) (monthly)
Refiner's/Gas Plant Operators' Monthly Petroleum Product Sales Report (Form EIA-782A)
Reseller/Retailers' Monthly Petroleum Product Sales Report (Form EIA-782B)
Monthly Report of Petroleum Products Sold into States for Consumption (Form EIA-782C)
Annual Fuel Oil and Kerosene Sales Report (Form EIA-821)
Monthly Foreign Crude Oil Acquisition Report (Form EIA-856)
Petroleum Product Sales Identification Survey (Form EIA-863) (triennial)

EIA only proposes minor modifications to the forms to decrease respondent burden, increase reporting accuracy, and reduce ambiguity in the instructions. All petroleum marketing surveys will require that all revisions be submitted within 120 days after the end of the reference month. The other proposed changes are summarized below:

1. Refiners' Monthly Cost Report (Form EIA-14):

a. Separate current period activity from prior period adjustments when those adjustments exceed 3 percent.

2. Domestic Crude Oil First Purchase Report (Form EIA-182):

a. Reduce current reporting by eliminating the data elements "type of reporter" and "type of firm".

b. Revise the threshold for revisions/prior period adjustments to 3 percent for both volume and price data.

c. Clarify the use of the terms "gross" and "net", and the instructions on who should report buy/sell transactions.

3. Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report (Form EIA-782A):

a. Disaggregate sales to refiners and gas plant operators as a separate class of wholesale trade.

4. Reseller/Retailers' Monthly Petroleum Product Sales Report (Form EIA-782B):

a. Disaggregate sales to refiners and gas plant operators as a separate class of wholesale trade.

5. Monthly Report of Petroleum Products Sold into States for Consumption (Form EIA-782C):

a. Eliminate the requirement for a respondent to determine, if a sale is the first sale into a State.

b. Disaggregate the "actual sales" column into two distinct categories, including sales "to other EIA-782C respondents' and "to non-EIA-782C respondents."

c. Begin requiring respondents to annually update a list of all subsidiaries that are involved in the sales of petroleum products.

6. Annual Fuel Oil and Kerosene Sales Report (Form EIA-821):

a. Data elements and instructions remain unchanged.

7. Monthly Foreign Crude Oil Acquisition Report (Form EIA-856):

a. Modify the reporting instructions for reporting a "best estimate' of crude oil cargo costs, if the actual cost is not known when the EIA-856 is submitted. In the cases where cost is determined upon, or after landing (for example, in netback transactions), the respondent will be instructed to submit all cargo data except the financial information. When cost become available, the respondent will file it via the form's resubmission provisions.

b. Add new contract codes for new types of transactions (for example, netback pricing). Add new point codes to delineate cargos whose acquisition point differs from its terms of agreement.

8. Petroleum Product Sales Indentification Survey (Form EIA-863):

a. Data elements and instructions remain unchanged.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extensions within 30 days of the publication of this notice. The following general guidelines are provide to assist in the preparation of responses. When providing comments, please indicate to which form(s) each comment applies.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

B. Can the data submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will you require to complete and submit the required form(s)?

E. What is the estimated cost of completing this form(s), including the direct and indirect costs associated with the data collection? Direct cost should include all costs, such as administrative costs directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purposes would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them?

What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in the petroleum marketing surveys.

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval of these data surveys and will become a matter of public record.

Issued in Washington, DC, August 5, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 86-18067 Filed 8-11-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA86-17-20-000 and 001]

Algonquin Gas Transmission Co., Proposed Changes in FERC Gas Tariff

August 7, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on July 31, 1986, tendered for filing Sixteenth Revised Sheet No. 201 and Seventh Revised Sheet No. 231 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Sixteenth Revised Sheet No. 201 and Seventh Revised Sheet No. 231 are being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision as set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The rates as shown on Sixteenth Revised Sheet No. 201 reflect an adjustment to amortize the June 30, 1986 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account No. 191). Seventh Revised Sheet No. 231 reflects Projected Incremental Pricing Surcharges for the period September, 1986 through February, 1987.

Algonquin Gas proposes the effective date of Sixteenth Revised Sheet No. 201 and Seventh Revised Sheet No. 231 to be September 1, 1986.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before 8-14-86. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18096 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-63-000, 001]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

August 7, 1986.

Take notice that Carnegie Natural Gas Company, ("Carnegie") on August 1, 1986, tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, six copies each of the following revised tariff sheets:

First Revised Sheet No. 47
First Revised Sheet No. 48

The above revised tariff sheets are being issued to reflect a reduction in purchased gas cost reflecting cost reductions Carnegie has experienced from its pipeline supplier, Texas Eastern Transmission Corporation ("TETCO"), and from a modification of purchase pattern in its producer purchases. The effect of such cost reductions is to change its demand component from $7.9571/Dth to $10.2654/Dth and its commodity component from $3.6255 to $2.7763, the combined effect of which results in an overall reduction of its LVWS Rate. Carnegie's current interruptible rate of $3.8871/Dth is likewise reduced to $3.1138 for its LVIS Rate.

The above described changes in rates primarily reflect the current rates charged to Carnegie by its pipeline supplier, TETCO. Carnegie's existing rates are the initial rates proposed in FERC Docket No. CP85-406-000, which service was approved by Commission Order on June 3, 1986, and filed on July 1, 1986, in compliance with the Commission's Order.

The proposed effective date of the above tariff sheets is September 1, 1986.

Carnegie respectfully requests waiver of any provisions of its tariff, and any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective September 1, 1986, so as to provide rate reduction as soon as possible and to have said reduction commerce on the first day of a billing period.

Copies of the filing were served on Carnegie's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18097 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-21-000, 001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1986, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on September 1, 1986:

One hundred and ninth Revised Sheet No. 16
Ninth Revised Sheet No. 16B
Forty-fourth Revised Sheet No. 64
Thirty-first Revised Sheet No. 64A
Twenty-fifth Revised Sheet No. 64B
Sixth Revised Sheet No. 64C
Fifth Revised Sheet No. 64D
Third Revised Sheet No. 64D1
First Revised Sheet No. 64D2

Columbia states that consistent with the terms of the Stipulation and Agreement in Docket No. TA82-1-21-001, *et al.*, approved by the Commission's order dated June 14, 1985, as modified by order dated June 25, 1985, this filing reflects only changes in Columbia's demand charges applicable to its sales rate schedules.

Columbia further states that the rates set forth on one hundred and ninth Revised Sheet No. 16 reflect a $1.214/Dth increase in the Demand Rate

Applicable to Non-Shielded Customers and a $.998/Dth increase in Demand Rate Applicable to Shielded Customers, which results in an approximate increase of $36.8 million for the subject PGA period. This increase is comprised of the net of (1) a Demand Purchased Gas Cost Adjustment which reflects an increase in the current cost of gas, and (2) a net decrease in the Demand Surcharge Adjustment.

In addition, this filing includes an amended PGA Tariff to reflect the elimination of the procedures which (1) allocate purchased gas costs to Rate Schedule SGES and (2) develop the Purchased Gas Surcharge Applicable to Rate Schedules SGES.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capital Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and procedure. All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18098 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-22-000, 001]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1986.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on August 1, 1986, filed a revised tariff sheet pursuant to sections 12 (PGA Clause), 12A (Incremental Pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Eleventh Revised Sheet No. 31 to Original Volume No. 1 of Consolidated's tariff, provide for Consolidated's semiannual PGA to be effective September 1, 1986.

Consolidated has included in its filing:

(a) Rate increase from pipeline suppliers in the amount of $47.7 million;

(b) Rate decreases from producer suppliers in the amount of $24.7 million;

(c) A surcharge of 12.42 cents per dekatherm to recoup amounts accumulated in Account 191, Unrecovered Purchased Gas Costs;

(d) A refund credit of 12.98 cents per dekatherm to flow through supplier refunds.

Copies of the filing were served upon Consolidated's sales customers as well as interested state commissions.

Concurrently with these PGA changes, Consolidated also includes a separately stated rate surcharge to recover its funding of take-or-pay payments made by Tennessee Gas Pipeline Company under the procedures approved in the Commission's order issued on April 16, 1985, in *Columbia Gas Transmission Corporation* v. *Tennessee Gas Pipeline Company, et al.*, in Docket Nos. RP83-8, *et al.* The take-or-pay surcharge is 0.05 cents per dekatherm.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure (18 CFR §§ 385.214 and 385.211). All motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18099 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-46-000]

The Kansas Power & Light Co. v. Northwest Central Pipeline Corp., Mobil Oil Corp., Phillips Petroleum Co., and ARCO Oil and Gas Co., a Division of Atlantic Richfield Co., Complaint

August 7, 1986.

On July 10, 1986, The Kansas Power and Light Company (KPL) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of practice and procedure, 18 CFR 385.206. KPL requests the Production-Related Costs Board (Board) to find that the 5.0 cents per MMBtu delivery allowance previously paid by Northwest Central Pipeline Corporation (NWC) to Mobil Oil Corporation (Mobil), Phillips Petroleum Company and ARCO Oil and Gas Company, a Division of Atlantic Richfield Company (collectively referred to as the "subject producers") and subsequently passed on as charges to NWC's customers, including KPL, for production-related services, were prohibited under the effective gas sales contracts and under the terms of Commission Order No. 94.

On November 14, 1985, NWC filed in Docket No. GP86-10-000 a request asking the Board to determine whether the 5.0 cents per MMBtu allowance previously paid for production-related delivery services was expressly authorized under gas sales contracts with Mobil. Inasmuch as both contract parties, NWC and Mobil, agreed the amounts were expressly authorized by the contracts, NWC's filing was dismissed by the Board by order of June 20, 1986 as not fulfilling the requirements under § 271.1105(d). The order noted that KPL had filed an intervention which challenged the parties' interpretation of their contracts, and also informed KPL that if it wanted to continue its challenge to the contract interpretation, it could file a complaint with the Board. It has not done so and KPL incorporates by reference material previously filed in Docket No. GP86-10-000.

In order No. 94-A [1] the Commission stated:

> Should a contract contain both a provision specifying an amount to be paid for delivering gas and an area rate clause, the specific provision will control unless the two are phrased as operating in the alternative. If the two are phrased as operating in the alternative, the parties must mutually agree as to which will control.

KPL states that the contracts under dispute, between NWC and the subject producers, contain both specific contractual provisions for production-related costs allowances and area rate clauses. The specific provisions permit maximum allowances of only 1.0 cent or 2.5 cents per Mcf for delivery and compression compared to the 5.0 cents per MMBtu delivery allowance prescribed in § 271.1104(d)(1)(i) which was paid by NWC to the subject producers.

KPL claims that NWC's payments of the 5.0 cents delivery allowance to the subject producers are improper because the contracts do not specify that the area rate clauses operate in the alternative to the lower, specific

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[1] FERC Statutes & Regulations, Regulations Preambles (1982-1985), ¶ 30,419 at p. 30,380.

delivery allowances set forth in the disputed contracts as required by Order No. 94–A.

KPL requests that the Board direct repayment by the subject producers to NWC for refund, with interest, to NWC's customers of the disputed production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), NWC and the subject producers must file answers to KPL's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. NWC and the subject producers should file their answers with the Commission not later than August 28, 1986.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than August 28, 1986.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 86–18094 Filed 8–11–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86–149–000]

Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1986.

Take notice that on August 4, 1986, Mississippi River Transmission Corporation (MRT) submitted for filing Original Sheet Nos. 59A and 59B to its FERC Gas Tariff, Second Revised Volume No. 1. The Proposed effective date for each of the tariff sheets is September 1, 1986.

MRT states that the above-referenced tariff sheets revise Paragraph 17 (Purchase Gas Cost Adjustment) of the General Terms and Conditions of MRT's FERC Gas Tariff, Second Revised Volume No. 1. MRT claims that the revision is limited solely to the addition of a new Paragraph 17.5 "Interim Commodity Unit Adjustments Between Effective Dates" (Interim Adjustment) which, if approved, would permit MRT, from time to time and at any time in its sole discretion, to adjust its jurisdictional rates between Purchased Gas Adjustment (PGA) Effective Dates to recognize the effect of a change in the cost of purchased gas from that reflected in MRT's immediately preceding semiannual PGA filing. It is indicated that the filings will be limited to current commodity cost of gas adjustments only, and may reflect changes in the commodity cost of gas from either pipeline or producer suppliers, or both.

MRT proposes that the Interim Adjustment may reflect either an increase or decrease in MRT's jurisdictional rates, provided however, that MRT shall be precluded from adjusting its rates, pursuant to the new Section 17.5, above the level established in MRT's last approved semiannual Purchase Gas Cost Adjustment filing.

MRT states that tariff sheets being filed require it to file Interim Adjustments with the FERC at least one (1) day prior to the proposed effective date. Such filing will not be subject to the notice requirements established by the Commission's Regulations. However, at the time of each Interim Adjustment filing, MRT will serve the tariff change and supporting computations on its affected customers, state commissions, and any other interested persons.

MRT states that the tariff changes proposed would provide greater flexibility within the PGA framework by permitting MRT to adjust its jurisdictional rates in response to changes in purchased gas costs more frequently than twice a year, and thereby better match the level of gas costs included in MRT's jurisdictional rates with the level of gas costs expected to be incurred.

MRT requests waiver of the Commission's PGA regulations (§ 154.38(d)(4)), and notice requirements (§ 154.22) to permit the implementation of MRT's flexible PGA proposal.

MRT states that a copy of this filing is being mailed to each of MRT's jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18100 Filed 8–11–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86–6–25–000, 001]

Mississippi River Transmission Corp.; Rate Change Filing

August 7, 1986.

Take notice that on August 1, 1986 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Sixteenth Revised Sheet No. 4 and Sixth Revised Sheet No. 4A to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of September 1, 1986 is proposed.

Sixteenth Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. Mississippi states that the filing reflects a decrease under Rate Schedule CD–1 of $.799 per Mcf in Demand Charge D–1, an increase of $0.397 per Mcf in the D–2 Demand Charge and a commodity rate decrease of $.3763 per Mcf. The single part rate under Rate Schedule SGS–1 reflects a purchased gas cost decrease of $.4139 per Mcf. The overall cost impact of such rate changes when applied to annual jurisdictional billing determinants is a $48 million reduction.

Mississippi states that Sixth Revised Sheet No. 4A indicates zero incremental pricing surcharges.

Mississippi also submits for filing Third Revised Sheet No. 41 and Substitute Third Revised Sheet No. 52 to be effective to September 1, 1986 and July 1, 1985, respectively. Mississippi states that such tariff pages reflect changes of an administrative nature. Third Revised Sheet No. 41 modifies Paragraph 17.12 to reflect all "pipeline suppliers" rather than "Natural Gas Pipeline Company of America" for the purchased gas cost flow through of D–2 Demand Charges so identified and billed to MRT. Substitute Third Revised Sheet No. 52 reflects language requested by FERC technical staff to clarify in Paragraph 17.44 the handling of out of balance concurrent gas exchanges.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of practice and procedure (18 CFR 385.211, 385.215). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18104 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-146-000]

Natural Gas Pipeline Co. of America; Change in FERC Gas Tariff

August 7, 1986.

Take Notice that on August 1, 1986, Natural Gas Pipeline Company of America (Natural) submitted for filing to be a part of its FERC Gas Tariff, Second Revised Volume No. 2, tariff sheets to be effective July 1, 1986.

Natural states that the purpose of the filing is to revise the rates under Rate Schedules X-142 through X-152 to reflect the rate levels authorized for Rate Schedule TRT-1.

A copy of this filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18105 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-28-000, 001]

Panhandle Eastern Pipe Line Co.; Change in Tariff

August 7, 1986.

Take notice that on August 1, 1986 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fifty-Sixth Revised Sheet No. 3-A
Thirty-Third Revised Sheet No. 3-B
Fifteenth Revised Sheet No. 3-C.1
Fifteenth Revised Sheet No. 3-C.2
Fifteenth Revised Sheet No. 3-C.3

The proposed effective date of these revised tariff sheets is September 1, 1986.

Panhandle states that these revised tariff sheets reflect a commodity rate decrease of (54.06¢) per Dt. This decrease includes:

(1) A (48.60¢) per Dt decrease in the surcharge for the current period amortization of the Deferred Account Balance at May 31, 1983, pursuant to Docket No. TA83-2-28-000;

(2) A (5.68¢) per Dt decrease in the projected purchased gas cost component; and

(3) A 0.22¢ per Dt increase in the surcharge to recover the Current Deferred Account Balance at May 31, 1986 and related carrying charges.

Panhandle further states that the revised tariff sheets filed herewith reflect the following changes to Panhandle's D_1 and D_2 demand rates:

(1) An increase of $.21 for D_1 and 0.90¢ for D_2, pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) An increase of $.03 for D_1 and .12¢ for D_2, to reflect an increase in the section 18.4 pipeline supplier demand costs.

Additionally, the revised tariff sheets filed herewith reflect Projected Incremental Pricing Surcharges in accordance with section 21 of the General Terms and Conditions of Panhandle's Tariff.

Panhandle has included in this filing projected gas purchase volumes from its suppliers for the six (6) month period commencing September 1, 1986, as detailed in section 18.2, Schedule A.

Panhandle's previous PGA filing, effective March 1, 1986 through August 31, 1986, includes the last six-months of the three-year amortization of the deferred account balance at May 31, 1983 as approved by the Commission Order dated August 31, 1983 in Docket No. TA83-2-28-000. Therefore, Panhandle has in the instant filing reflected the elimination of the currently effective surcharge of 48.60¢ per Dt which was designed to recover this amortized deferred account balance through the period ending August 31, 1986. Moreover, Panhandle will continue to record the actual recoveries of these amortized amounts through August 31, 1986. Panhandle will, after completion of the actual recovery of the balance in Sub-Account 191.1005 at August 31, 1986, flow-through any remaining overrecovery or underrecovery in Panhandle's next regularly scheduled PGA filing.

A report which shows producer-supplier refunds recovered through billing adjustments is submitted in section 18.2 of this filing.

Panhandle's Schedule A included herein reflects costs under the Commission's Order No. 94-A for gas to be acquired by Panhandle during the six-month period commencing September 1, 1986. Panhandle will supply to the Commission within thirty (30) days hereof, under separate cover, additional workpapers containing the information requried under § 271.1104(f) of the Commission's Regulations for production-related costs reflected in this filing to the extent such information has not already been provided.

On November 14, 1985 in Docket No. RP85-203 the Commission issued an order granting Panhandle's petition to institute a direct billing procedure for retroactive production-related cost. Pursuant to the Commission's order, Panhandle established a separate sub-account, Sub-Account 191.1012, to account for this procedure. Panhandle charged to this sub-account its payments to suppliers and is crediting the amounts received under its direct billing procedure. The amounts in this production-related cost sub-account are not included in the PGA calculations, and therefore they do not affect in any manner the instant PGA rate adjustments.

Panhandle states that it is also filing herewith six (6) copies each of the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 43.4.2
Original Sheet No. 43.4.3

The proposed effective date of these revised sheets is September 1, 1986.

Panhandle is proposing to revise section 18 (Purchased Gas Cost Rate Adjustment (PGA)) of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, to permit Panhandle to make appropriate changes from time to time, in its gas rates in order to recognize in a more timely manner, the rate impact of known and measurable changes in the current cost of purchased gas included in the rates established in the most recent PGA filing.

Currently, Panhandle is permitted to adjust its jurisdictional rates pursuant to the Commission's PGA Regulations semi-annually on March 1 and September 1 of each calendar year by filing the appropriate tariff sheets and supporting materially by January 29 and August 1, respectively. Because of the semi-annual nature of Panhandle's PGA provisions, major changes in Panhandle's purchased gas costs due to changes in price, contract renegotiations, changes in the purchase mix, changes in sales volumes or actions taken by Panhandle to reduce its gas costs can not currently be reflected in a timely manner in its jurisdictional rates. The proposed new "flexible" PGA tariff provisions will provide Panhandle with the means to adjust its jurisdictional rates between the semi-annual effective dates of adjustment to respond to the changes in its revised average cost of gas more quickly than twice a year. These proposed tariff changes also will allow Panhandle's customers to receive the benefits of reduced purchased gas costs almost immediately while protecting its customers by not allowing a rate to be charged higher than the rate established in the last PGA filing not governed by the interim provisions.

Given the competitive situation in Panhandle's market areas, Panhandle's sales can fluctuate greatly because of rate differences of a few cents per dekatherm. Additionally, under Panhandle's current tariff provisions, Panhandle cannot adjust its jurisdictional rates between the effective dates of adjustments to respond to changes in its gas costs more quickly than twice a year. Panhandle's gas costs could also be reduced by increasing its sales level. Again however, Panhandle's current PGA tariff provisions preclude Panhandle from passing any reductions through to its jurisdictional customers in a timely manner. These proposed revisions to Section 18 would permit Panhandle to adjust its gas rates by giving at least twenty-four (24) hours notice to reflect known and measurable changes in Panhandle's purchased gas costs and sales for the remainder of the regular PGA period.

The revisions to section 18 include the following provisions:

(a) Panhandle will continue to file semi-annual PGAs to be effective March 1 and September 1;

(b) Panhandle will be permitted to file from time to time at its discretion to adjust its jurisdictional rate to reflect a revised current cost of gas;

(c) The interim rate adjustment will allow Panhandle to reflect changes in purchased gas costs by adjusting its commodity sales rates to levels no higher than those established in Panhandle's last PGA filing not governed by the interim provisions;

(d) Provides for the Commission, all affected customers, state commissions or any other persons to raise in Panhandle's next regular PGA filing any issues concerning the interim adjustment to assure the adjustments, if any, are just and reasonable;

(e) Actual cost of purchased gas shall exclude retroactive payments, refunds, other out-of-period adjustments and the effect of concurrent exchange gas imbalances; and

(f) Proposal will allow Panhandle to respond to the current competitive situation in its markets and pass through to its jurisdictional customers the benefits of reduced gas costs.

Similar to other recently approved flexible PGA tariffs, Panhandle's proposed tariff sheets include the provision requiring Panhandle to demonstrate in subsequent PGA filings that its actions were appropriate and that it is entitled to recover the deferred purchased gas costs which may result. In recognizing the fact that Panhandle may not be able to control its average cost of purchased gas, Panhandle's potential liability and demonstration of appropriateness will be limited only to amounts in excess of three (3) percent of the known and measurable changes in the actual cost of purchased gas during any portion of the PGA period in which Panhandle has elected to use the proposed interim rate adjustment pursuant to the revisions to Section 18 as set forth in this filing. However, Panhandle shall support its deferred balances, if any, including the three (3) percent margin, to the extent that it is required to demonstrate the adjustments were not used to track known and measurable changes in gas costs.

Because these interim rate adjustment filings pursuant to the revisions in section 18 are interim adjustments to existing rates and because supporting detail will be provided in subsequent PGA filings, the revisions to section 18 provide that Panhandle shall give appropriate notice by filing with the Commission and serving its affected customers and state commissions at least twenty-four (24) hours prior to the effective date of such interim rate change.The interim tariff change will consist of revised tariff sheet(s) reflecting the revised cost of purchased gas and summary computation sheets showing the calculation of the interim rate adjustment using the same methodology as reflected in Panhandle's currently effective semi-annual PGA adjustment, and will be based on its estimates of purchases, costs and sales for the remainder of the semi-annual PGA period. This interim rate adjustment filing will not be subject to the notice requirements established by the Commission's Regulations.

Panhandle respectively requests that the Commission grant waiver of § 154.38(d)(4) (the PGA regulations) and § 154.22 (the 30-day notice requirement) of the Commission's Regulations in order to implement the instant flexible PGA proposal.

To the extent required, if any, Panhandle requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets submitted herewith, to become effective September 1, 1986, as previously described.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18101 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-44-000]

SKZ Inc. v. Tennessee Gas Pipeline Co.; Complaint

August 7, 1986.

On June 25, 1986, SKZ Inc. (SKZ), successor to Towner Petroleum Company (Towner), filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. SKZ requests the Production-Related Costs Board (Board) to find that Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) is in violation of 18 CFR 271.1104 by refusing to reimburse SKZ for $295,774.31 in production-related costs incurred between June 1981 through December 1984.

SKZ states that on September 19, 1980, Towner (seller) and Tennessee (buyer) entered into a 20-year gas sale contract covering sales located in Guernsey and Noble Counties, Ohio. Towner commenced sales to Tennessee in June 1981 pursuant to Commission Order No. 411. On December 27, 1985, following the corporate reorganization of Towner under Chapter 11 of the Bankruptcy Code, the name Towner was changed to SKZ. SKZ was granted a small producer certificate in Docket No. CS86-47-000 by Commission order of April 24, 1986.

SKZ farther states that under the terms of the 1980 agreement, Tennessee agreed to reimburse Towner for various production-related costs, including dehydration. Tennessee has previously reimbursed Towner for other production-related costs related to the subject sale, transmission and compression, but has refused to reimburse Towner/SKZ for retroactive dehydration costs.

SKZ requests the Board to issue an order directing Tennessee to pay the $295,774.31 dehydration costs plus contractual interest of 9 percent.

Under the Rules 206(d) and 213(a), 18 CFR 385.206(b) and 385.213(a), Tennessee must file an answer to SKZ's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Tennessee shall file its answer with the Commission not later than August 28, 1986.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than August 28, 1986.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18095 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-147-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Tariff Change

August 7, 1986.

Take notice that on August 1, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing First Revised Sheet No. 98, to First Revised Volume No. 1 of its FERC Gas Tariff.

The proposed effective date for this revised tariff is September 1, 1986.

Tennessee states that it is modifying the Fuel and Losses provision of its Rate Schedule IT to eliminate Tennessee's option to provide gas to shippers for fuel and losses associated with interruptible transportation. Upon the effective date of the revised tariff sheet, Tennessee will retain appropriate quantities of gas tendered for interruptible transportation by all shippers for fuel and losses.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18102 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-[illegible]-000, 001]

Trunkline Gas Co., Change in Tariff

August 7, 1986.

Take notice that on August 1, 1986 Trunkline Gas Company (Trunkline) tendered for filing Fiftieth Revised Sheet No. 3-A and Thirteenth Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1.

The proposed effective date of these revised tariff sheets is September 1, 1986.

Trunkline states that these revised tariff sheets reflect a commodity rate decrease of (20.76¢) per Dt. This decrease includes:

(1) A (72.15¢) per Dt decrease in the surcharge for the current period amortization of the Deferred Account Balance at May 31, 1983 pursuant to Docket No. TA83-2-30-000;

(2) A 4.20¢ per Dt increase in the surcharge to recover transportation refunds pursuant to the Commission's Orders dated October 25, 1985 and February 20, 1986 in Docket Nos. RP83-93, *et al.*;

(3) A 2.08¢ per Dt increase in the carrying cost surcharge account balance; and

(4) A 45.11¢ per Dt increase in the projected purchased gas cost component.

Trunkline further states that the revised tariff sheets filed herewith reflect Projected Incremental Pricing Surcharges in accordance with Section 21 of the General Terms and Conditions in Trunkline's Tariff.

Trunkline has included in this filing projected gas purchase volumes from its producer-suppliers for the twelve (12) month period commencing September 1, 1986, as detailed in section 18, Schedule A.

Trunkline's previous PGA filing, effective March 1, 1986 through August 31, 1986, includes the last six-months of the three-year amortization of the deferred account balance at May 31, 1983 as approved by Commission Order dated August 31, 1983 in Docket No. TA83-2-30-000. Therefore, Trunkline has in the instant filing reflected the elimination of the currently effective surcharge of 72.15¢ per Dt which was designed to recover this amortized deferred account balance through the period ending August 31, 1986. Moreover, Trunkline will continue to record the actual recoveries of these amortized amounts through August 31, 1986. Trunkline will, after completion of the actual recovery of the balance in Sub-Account 191.1005 at August 31, 1986, flow-through any remaining

overrecovery or underrecovery in Trunkline's next regularly scheduled PGA filing.

In accordance with the Commission's Order dated October 28, 1985 in Docket No. TA83–2–30–000 which approved the collection of associated carrying charges for the full amortization period, rather than just the initial twelve-month period, as affirmed by the Commission's Order denying rehearing issued February 28, 1986, Trunkline has reflected in the instant filing an adjustment in rates, with the attendant supporting workpapers, which would properly collect the additional carrying charges associated with the three years of the amortization period. However, Trunkline has made the decision to forego at this time the collection of these interest costs, although it is authorized to collect these amounts. Trunkline reserves the right to include such amounts for collection in an appropriate subsequent filing. Therefore, the instant filing reflects an adjustment removing the 19.38¢ per Dt surcharge associated with the recovery of these carrying charges for the rates effective during this PGA period.

Trunkline's previous PGA filing in Docket Nos. TA86–2–30–000 and TA86–2–30–001 (March 1, 1986 PGA) included a line-item adjustment which projected a potential purchased gas cost reduction associated with its ongoing negotiations with its producer-suppliers during the six-month PGA period ending August 31, 1986. The Commission's Order issued February 28, 1986 in Docket Nos. TA86–2–30–000 and TA86–2–30–001, accepted this adjustment, subject to Trunkline assuming the risk of any undercollection that might result and the burden of showing why it should be permitted to recover any such undercollection.

Inasmuch as the instant filing includes only the first three (3) months (March-May) of the six-month PGA period, Trunkline is unable to determine at this time the full impact of its projected cost of gas reduction because the full six-month period has not elapsed, and because negotiations are continuing with its producer-suppliers. Trunkline will meet the burden of responsibility it has with respect to any undercollections that occurred, if any, during the full six-month PGA period, and will be able to do so when it can review the deferred account activities for the entire March through August 1986 period. Accordingly, as the Commission has required of the pipelines where the deferred accounting period has not been concluded, Trunkline has in the instant PGA filing excluded the unrecovered purchased gas costs for March through May 1986, and any effects of such costs, pertaining to Trunkline's PGA line-item adjustment which are subject to the "at risk" condition imposed by the Commission in Docket Nos. TA86–2–30–000 and TA86–2–30–001. Trunkline's holding in abeyance the recovery of any such amounts in its deferred purchase gas cost account at this time is without prejudice to Trunkline's rights (1) to recover subsequently any net deferrals incurred during the period March through August 1986, and (2) to collect carrying charges on all amounts for which it is able to meet the burden of proof imposed in the underlying docket.

Trunkline has also included in the instant filing a debit adjustment of $3,884,799 to its Deferred Purchased Gas Cost Account No. 191 to reflect the refund amount paid by Trunkline to its transportation customers in accordance with the Commission's Orders dated October 25, 1985 and February 20, 1986 in Docket Nos. RP83–93, *et al.*

A report which shows producer-supplier refunds recovered through billing adjustments is not provided in this filing because Trunkline has not recovered any such producer-supplier refunds through billing adjustments.

Trunkline's Schedule A included herein reflects costs under the Commission's Order No. 94–A for gas to be acquired by Trunkline during the twelve-month period commencing September 1, 1986. Trunkline will supply to the Commission within thirty (30) days hereof, under separate cover, additional workpapers containing the information required under Section 271.1104(f) of the Commission's Regulations for production-related costs reflected in this filing to the extent such information has not already been provided.

Trunkline further states that it is also submitting herewith for filing six (6) copies each of the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Tenth Revised Sheet No. 21–F
Fourth Revised Sheet No. 21–I

The proposed effective date of these revised sheets is March 1, 1986.

On March 5, 1986, in Docket Nos. TA86–2–30–000 and TA86–2–30–001 Trunkline filed Tenth Revised Sheet No. 21–F and Second Revised Sheet No. 21–F.1 to conform its PGA tariff language to implement the Commission's adjusted methodology for the treatment of concurrent exchange imbalances. Trunkline's March 5, 1986 tariff sheets were accepted by letter order dated May 9, 1986 with an effective date of March 1, 1986. First Substitute Tenth Revised Sheet No. 21–F and Fourth Revised Sheet No. 21–I submitted herewith reflect additional modifications of Trunkline's PGA tariff to clarify the implementation of the Commission's new methodology for the treatment of exchange gas imbalances.

The instant filing utilizes the Commission's adjusted methodology for treatment of concurrent exchange imbalances in compliance with the Commission's Order issued February 28, 1986, and letter order issued May 9, 1986, in Docket Nos. TA86–2–30–000 and TA86–2–30–001. Accordingly, Trunkline has included a one-time adjustment to the Account No. 191 to reflect the appropriate concurrent exchange balance. This one-time adjustment reflects the elimination of a cumulative exchange-out position as of February 28, 1986. Submitted herewith are workpapers supporting this one-time adjustment, monthly concurrent exchange gas volumes and costs, and monthly concurrent exchange gas costs elimination for purposes of computing carrying charges.

On November 14, 1985 in Docket No. RP85–202 the Commission issued an order granting Trunkline's petition to institute a direct billing procedure for retroactive production-related costs. Pursuant to the Commission's order, Trunkline established a separate sub-account, Sub-Account 191.1009, to account for this procedure. Trunkline charged to this sub-account its payments to producer-suppliers and is crediting the amounts received under its direct billing procedure. The amounts in this production-related cost sub-account are not included in the PGA calculations, and therefore they do not affect in any manner the instant PGA rate adjustments.

Trunkline states that it is also filing herewith six (6) copies each of the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 21–J.1
Original Sheet No. 21–J.2

The proposed effective date of these tariff sheets is September 1, 1986.

Trunkline is proposing to revise section 18 (Purchased Gas Cost Rate Adjustment (PGA)) of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, to permit Trunkline to make appropriate changes from time to time, in its gas rates in order to recognize in a more timely manner, the rate impact of known and measurable changes in the current cost of purchased gas included in the rates established in the most recent PGA filing.

BEST COPY AVAILABLE

Currently, Trunkline is permitted to adjust its jurisdictional rates pursuant to the Commission's PGA Regulations annually on September 1 of each calendar year by filing the appropriate tariff sheets and supporting material by August 1. Because of the annual nature of Trunkline's PGA provisions, major changes in Trunkline's purchased gas costs due to changes in price, contract renegotiations, changes in the purchase mix, changes in the sales volumes or other actions taken by Trunkline to reduce its gas costs can not currently be reflected in a timely manner in its jurisdictional rates. The proposed new "flexible" PGA tariff provisions will provide Trunkline with the means to adjust its jurisdictional rates between the annual effective dates of adjustment to respond to the changes in its revised average cost of gas more quickly than once a year. These proposed tariff changes also will allow Trunkline's customers to receive the benefits of reduced purchased gas costs almost immediately while protecting its customers by not allowing a rate to be charged higher than the rate established in the last PGA filing not governed by the interim provisions.

Given the competitive situation in Trunkline's market areas, Trunkline's sales can fluctuate greatly because of rate differences of a few cents per dekatherm. Additionally, under Trunkline's current tariff provisions, Trunkline cannot adjust its jurisdictional rates between the effective dates of adjustments to respond to changes in its gas costs more quickly than once a year. Trunkline's gas costs could also be reduced by increasing its sales level. Again however, Trunkline's current PGA tariff provisions preclude Trunkline from passing any reductions through to its jurisdictional customers in a timely manner. These proposed revisions to section 18 would permit Trunkline to adjust its gas rates by giving at least twenty-four (24) hours notice to reflect known and measurable changes in Trunkline's purchased gas costs and sales for the remainder of the regular PGA period.

The revisions to section 18 include the following provisions:

(a) Trunkline will continue to file an annual PGA to be effective September 1;

(b) Trunkline will be permitted to file from time to time at its discretion to adjust its jurisdictional rates to reflect a revised current cost of gas;

(c) The interim rate adjustment will allow Trunkline to reflect changes in purchased gas costs by adjusting its commodity sales rates to levels no higher than those established in Trunkline's last PGA filing not governed by the interim provisions;

(d) Provides for the Commission, all affected customers, state commissions or any other persons to raise in Trunkline's next regular PGA filing any issues concerning the interim adjustment to assure that the adjustments, if any, are just and reasonable;

(e) Actual cost of purchased gas shall exclude retroactive payments, refunds, other out-of-period adjustments and the effect of concurrent exchange gas imbalances; and

(f) Proposal will allow Trunkline to respond to the current competitive situation in its markets and pass through to its jurisdictional customers the benefits of any reduced gas costs.

Similar to other recently approved flexible PGA tariffs, Trunkline's proposed tariff sheets include the provision requiring Trunkline to demonstrate in subsequent PGA filings that its actions were appropriate and that it is entitled to recover any deferred purchased gas costs which may result. In recognizing the fact that Trunkline may not be able to control its average cost of purchased gas, Trunkline's potential liability and demonstration of appropriateness will be limited only to amounts in excess of three (3) percent of the known and measurable changes in the actual cost of purchased gas during any portion of the PGA period in which Trunkline has elected to use the proposed interim rate adjustment pursuant to the revisions to Section 18 as set forth in this filing. However, Trunkline shall support its deferred balances, if any, including the three (3) percent margin, to the extent that it is required to demonstrate the adjustments were not used to track known and measurable changes in gas costs.

Because these interim rate adjustments filings pursuant to the revisions in Section 18 are interim adjustments to existing rates and because supporting detail will be provided in subsequent PGA filings, the revisions to Section 18 provide that Trunkline shall give appropriate notice by filing with the Commission and serving its affected customers and state commissions at least twenty-four (24) hours prior to the effective date of such interim rate change. The interim tariff change will consist of revised tariff sheet(s) reflecting the revised cost of purchased gas and summary computations sheets showing the calculation of the interim rate adjustment using the same methodology as reflected in Trunkline's currently effective annual PGA adjustment, and will be basded on its estimates of purchases, costs and sales for the remainder of the annual PGA period. This interim rate adjustment filing will not be subject to the notice requirements established by the Commission's Regulations.

Trunkline respectively requests that the Commission grant waiver of § 154.38 (d)(4) (the PGA regulations) and § 154.22 (the 30-day notice requirement) of the Commission's Regulations in order to implement the instant flexible PGA proposal.

To the extent required, if any, Trunkline requests that the Commission grant such waivers as may be necessary for acceptance of the tariffs sheets submitted herewith, to become effective March 1, 1986, or September 1, 1986, as previously described.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18103 Filed 8-11-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OMS-FRL-3063-1]

Final Agency Actions Regarding the Motor Vehicle Provisions of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of mobile source final agency actions.

SUMMARY: This notice announces final EPA actions taken in conjunction with its mobile source program. With the exception of the final actions taken with respect to Azle Research Labs, Inc. (Azle), Custom Engineering, Inc. (Custom), and Fairway Environmental

Engineering (Fairway), persons seeking judicial review of these final actions must petition the United States Court of Appeals for the District of Columbia Circuit for review of these actions. Persons seeking judicial review of final action taken with regard to certain import testing laboratories and their test results must petition the United States Court of Appeals for the Fifth Circuit for review of the decision concerning Azle, and the Ninth Circuit for review of the decisions concerning Custom and Fairway. Failure to petitoin for review of any of these actions on or before October 14, 1986 will preclude a challenge later in an EPA enforcement action.

FOR FURTHER INFORMATION CONTACT: Steven M. Spiegel, Attorney/Advisor, Manufacturers Operations Division, (EN–340F), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–2526.

SUPPLEMENTARY INFORMATION: EPA has determined that all of the actions summarized below are final. Where possible, the specific date on which the action became final is specified.

Under section 307(b)(1) of the Clean Air Act (Act), EPA has determined that, except for the decisions on the import testing laboratories, these actions are nationally applicable. Accordingly, judicial review of these actions, exclusive of those pertaining to testing laboratories, is available *only* by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit on or before October 14, 1986. EPA has determined that the decisions on the import testing laboratories are locally or regionally applicable. Accordingly, judicial review of either the Custom or Fairway decisions is available only by filing a petition for review in the United States Court of Appeals for the Ninth Circuit, and judicial review of the Azle decision is available only by filing a petition for review in the United States Court of Appeals for the Fifth Circuit on or before October 14, 1986. Under Section 307(b)(2) of the Act, these final actions may not be challenged later in civil or criminal proceedings brought by EPA to enforce these actions.

The following EPA actions regarding motor vehicles have become final:

1. In a letter dated September 12, 1985, General Motors Corporation (GM) submitted a plan to remedy the oxides of nitrogen (NOx) nonconformities in 1979 and 1980 GM vehicles of engine families 920X2EU and 02S4V. EPA approved this plan as a remedy for the NOx nonconformities in a letter dated October 7, 1985. Therefore, on October 7, 1985, EPA's approval of GM's remedial plan for engine families 920X2EU and 02S4V became final.

2. GM submitted remedial plans in a December 12, 1984 letter, which were amended by July 31, 1985 and August 23, 1985 letters, to remedy the NOx nonconformities in 1978 engine families 840B2/840E5VU and 810Y2 and 1980 engine family 04E2A. EPA approved these plans in a letter dated December 9, 1985, as a remedy for the NOx nonconformities in these engine families. Therefore, on December 9, 1985, EPA's approval of GM's remedial plans for engine families 840B2/840E5VU, 810Y2 and 04E2A became final.

3. By letter of March 4, 1986, GM submitted a plan to remedy the hydrocarbon (HC) nonconformity in those 1980 GM vehicles of engine family 03L4F with 5.0-liter engines. EPA approved this plan as a remedy for the HC nonconformity in a letter dated March 11, 1986. The plan was submitted under the terms of a negotiated settlement between EPA and GM of administrative litigation involving this engine family. The remainder of the vehicles in the engine family which have 5.7 liter engines were not included in the recall plan since additional testing showed lower emissions for those vehicles. Based on a joint motion filed by EPA and GM, the Administrative Law Judge dismissed the administrative proceeding with prejudice on March 25, 1986. Therefore, on March 11, 1986, EPA's approval of GM's remedial plan for engine family 03L4F became final.

4. GM submitted a revised remedial plan by letter of March 26, 1986, to remedy the carbon monoxide (CO) nonconformity in 1975 GM vehicles of engine family 60V45. EPA approved this plan as a remedy for the CO nonconformity in a letter dated April 3, 1986. GM submitted this revised plan subsequent to the April 29, 1985, denial of certiorari by the U.S. Supreme Court to review a decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). *General Motors Corp. v. Thomas*, 742 F.2d 1561 (D.C. Cir. 1984) (*en banc*), *cert. denied*, 105 S. Ct. 2153 (1985). The D.C. Circuit upheld EPA's June 1980 partial disapproval of GM's earlier plan which would not have remedied those vehicles which exceeded their useful lives (five years or 50,000 miles) at the time they are brought in for repair. On April 3, 1986, EPA's approval of GM's revised remedial plan for engine family 60V45 became final.

5. By letter of September 5, 1985, EPA removed Azle Research Labs, Inc., (Azle) of Azle, Texas, for at least one year from the list of laboratories recognized as capable of performing the Federal Test Procedure (FTP) for determining emissions compliance of imported nonconforming vehicles under 40 CFR 85.1504. EPA found Azle was not capable of performing the FTP due to inadequacies in its testing procedures and laboratory personnel which were found in the course of an inspection of the laboratory and a review of its test packet submissions. Further, EPA decided to reject all pending test packets from Azle. This decision became final on September 5, 1985.

6. By letter of December 3, 1985, EPA removed Custom Engineering, Inc., (Custom), of Garden Grove, California, for at least three years from the list of laboratories recognized as capable of performing the FTP. EPA found Custom was not capable of performing the FTP due to apparent fraud and inadequancies in its testing procedures which were found in the course of an inspection and a review of its test packet submissions. Further, EPA decided to reject all pending test packets from Custom. This decision became final on December 3, 1985.

7. By letter of March 6, 1986 EPA removed Fairway Environmental Engineering, Inc., (Fairway), for at least three years from the list of laboratories recognized as capable of performing the FTP. EPA found Fairway was not capable of performing the FTP due to the submission of false or fradulent information and inadequacies in its testing procedures which were found in the course of an inspection and a review of its test packet submissions. Further, EPA decided to reject all pending test packets from Fairway. This decision became final on March 6, 1986.

Dated: August 6, 1986.

Richard D. Wilson,

Director, Office of Mobile Sources.

[FR Doc. 86–18085 Filed 8–11–86; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–3062–9]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

ACTION: Notice of open meeting.

SUMMARY: A meeting of the National Air Pollution Control Techniques Advisory Committee will be held at the Sheraton University Center, Greenbriar Ballroom (2nd Floor), 2800 Middleton Avenue at Morreene Road and 15–501, Durham, North Carolina 27705. The commercial telephone number is (919) 383–8575.

DATES: September 17 and 18, 1986.

FOR FURTHER INFORMATION CONTACT: All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by September 9, 1985. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

September 17 (Wednesday)–9:00 a.m.

Primary Aluminum, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clear Air Act).

Residential wood combustion units, Status Report to the Committee on Regulatory Development (section 111 of the Clear Air Act).

Hazardous organics, National Emission Standards for Hazardous Air Pollutants (section 112 of the Clear Air Act).

Chromium—Comfort cooling towers, Status Report to the Committee on Regulatory Development (section 112 of the Clear Air Act).

September 18 (Thursday)–9:00 a.m.

Asbestos, Revision of National Emission Standards for Hazardous Air Pollutants (section 112 of the Clear Air Act).

Refinery fuel gas, Review of Standards of Performance for New Stationary Sources (section 111 of the Clear Air Act).

The dockets containing material relevant to primary aluminum (A–86–07), residential wood combustion (A–84–49), hazardous organics (A–86–11), chromium—comfort cooling towers (A–86–10), asbestos (A–80–47), and refinery fuel gas (A–84–44) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, SW., Washington, DC 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

(Pub. L. 92–463)

Dated: August 7, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86–18060 Filed 8–11–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59228; FRL–3063–7]

Ammonio Derivative of a Copolymer of Polyalkyl Glycols Toluene Diisocyanated and Alkyl Polyamine; Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: August 27, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–59225]" and the specific TME number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E–201, 401 M Street SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 86–54

Close of Review Period. September 4, 1986.

Manufacturer. Tennant Company.

Chemical. (G) Ammonio derivative of a copolymer of polyalkyl glycols toluene diisocyanate, an alkyl polyamine.

Use/Production. (S) Curing agent for aqueous epoxy resin dispersion. Prod. range: Confidential.

Toxicity Data. No data on PMN substance submitted.

Exposure. Manufacturer: dermal and inhalation, a total of 15 workers, up to 15 hrs/day.

Environmental Release/Disposal. No release.

Dated: August 4, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–18121 Filed 8–11–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59778; FRL–3063–6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any persons who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of eleven such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86–195, 86–196, 86–197 and 86–198, August 7, 1986.

Y 86–199, August 10, 1986.

Y 86–200, 86–201, 86–202, 86–203 and 86–204, August 11, 1986.

Y 86–205, August 13, 1986

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–

794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-195

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Site-limited and industrial spray applied coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-196

Manufacturer. Confidential.
Chemical. (S) Polymer of 4,4-isopropylidenedicyclohexanol epichlorolydrin bisphenol A linseed fatty acids conjugated tall oil fatty acids glacial acrylic acid butyl acrylate stryrene.
Use/Production. (S) Industrial polymer for industrial metal coatings. Prod. range: 45,000 to 115,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/day, up to 5 day/yr.
Environmental Release/Disposal. 24 kg/batch released to air and landfill. Disposal by publicly owned treatment works (POTW) and incineration.

Y 86-197

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 1 worker.
Environmental Release/Disposal. No data submitted.

Y 86-198

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 1 worker.
Environmental Release/Disposal. No data submitted.

Y 86-199

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-200

Importer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Import. (G) Metal coatings, Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No release.

Y 86-201

Manufacturer. Confidential.
Chemical. (G) Acrylic modified epoxy.
Use/Production. (G) Resin, for coastings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-202

Manufacturer. Confidential.
Chemical. (G) Saturated polyester.
Use/Production. (G) Molding resin additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-203

Manufacturer. Confidential.
Chemical. (G) Saturated polyester.
Use/Production. (G) Molding resin additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-204

Importer. Dynamit Nobel Chemical.
Chemical. (G) Polyester resin or aryl dicarboxylic acids plus alkane diols.
Use/Import. (S) Industrial metal decorating and protecting laquers and enamels. Import range: 180,000 to 450,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-205

Manufacturer. Confidential.
Chemical. (G) Water reducible alkyd resin.
Use/Production. (G) Manufacture of clear and pigmented water reducible metal coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: August 4, 1986.

Denise Devos,
Acting Division Director, Information Management Division.

[FR Doc. 86-18120 Filed 8-11-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51634; FRL-3064-6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of eighty-six such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-1322, 86-1323, 86-1324, 86-1325 and 86-1326, October 15, 1986.
P 86-1327, 86-1328, 86-1329, 86-1330, 86-1331 and 86-1332, October 18, 1986.
P 86-1333, 86-1334, 86-1335, 86-1336, 86-1337, 86-1338, 86-1339, 86-1340, 86-1341, 86-1342, 86-1343, 86-1344 and 86-1345, October 20, 1986.
P 86-1346 and 86-1347, October 21, 1986.
P 86-1348, October 22, 1986.
P 86-1351, August 24, 1986.
P 86-1352, 86-1353, 86-1354, 86-1355, 86-1356, 86-1357, 86-1358, 86-1359, 86-1360, 86-1361, 86-1362, 86-1363, 86-1364, 86-1365, 86-1366, 86-1368, 86-1369, 86-1370, 86-1371, 86-1372, 86-1373, 86-1374, 86-1375, 86-1376, 86-1377, 86-1378, 86-1379, 86-1380, 86-1381, 86-1382, 86-1383, 86-1384, 86-1385, 86-1386, 86-1387, 86-1388, 86-1389, 86-1390, 86-1391, 86-1392, 86-1393, 86-1394, 86-1395, 86-1396, 86-1397, 86-1398, 86-1399, 86-1400, 86-1401, 86-1402, 86-1403, 86-1404, 86-1405, 86-1406, 86-1407, 86-1408, 86-1409 and 86-1410, October 22, 1986.

Written comments by:

P 86-1322, 86-1323, 86-1324, 86-1325 and 86-1326, September 16, 1986.
P 86-1327, 86-1328, 86-1329, 86-1330, 86-1331 and 86-1332, September 18, 1986.
P 86-1333, 86-1334, 86-1335, 86-1336, 86-1337, 86-1338, 86-1339, 86-1340, 86-1341, 86-1342, 86-1343, 86-1344, and 86-1345, September 20, 1986
P 86-1346 and 86-1347, September 21, 1986
P 86-1348, September 22, 1986
P 86-1351, July 25, 1986.
P 86-1352, 86-1353, 86-1354, 86-1355, 86-1356, 86-1357, 86-1358, 86-1359, 86-1360, 86-1361, 86-1362, 86-1363, 86-1364, 86-1365, 86-1366, 86-1368, 86-1369, 86-1370, 86-1371, 86-1372, 86-1373, 86-1374, 86-1375, 86-1376, 86-1377, 86-1378, 86-1379, 86-1380, 86-1381, 86-1382, 86-1383, 86-1384, 86-1385, 86-1386, 86-1387, 86-1388, 86-1389, 86-1390, 86-1391, 86-1392, 86-1393, 86-1394, 86-1395, 86-1396, 86-1397, 86-1398, 86-1399, 86-1400, 86-1401, 86-1402, 86-1403, 86-1404, 86-1405, 86-1406, 86-1407, 86-1408, 86-1409, and 86-1410, September 22, 1986

ADDRESS: Written comments, identified by the document control number "[OPTS-51634]" and the specific PMN number should be sent to: Document Control Office (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-1322

Manufacturer. Ethyl Corporation.
Chemical. (G) Aromatic diamine, thio-methylated.
Use/Production. (S) Curative or chain extender for polyurethane cast molded elastomer production. Prod. range: Confidential.
Toxicity Data. Acute oral: 1,515 mg/kg; Acute dermal: >2 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant; Amest test: Non-mutagenic; HPC/DNA Repair: no genotoxic; CHO/HGPRT: No genotoxic; In vitro cytogenetic: Toxic.
Exposure. Confidential.
Environmental Release/ Disposals. Confidential.

P 86-1323

Manufacturer. Confidential.
Chemical. (G) Substituted vinyl acetate/ethylene polymer.
Use/Production. (G) Industrial polymeric bonding of cellulosic fibers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1324

Manufacturer. Confidential.
Chemical. (G) Copolymer of methacrylic esters.
Use/Production. (S) Industrial, commercial, and consumer general purpose coating, modifier for coatings, inks and adhesives. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1325

Manufacturer. Confidential.
Chemical. (G) Functional acrylate methacrylate polymer.
Use/Production. (S) Industrial automotive coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 29 workers, up to 8 hrs/da, up to 90 da/yr.
Environmental Release/Disposal. 8 to 140 kg/batch released to land.

P 86-1326

Importer. Confidential.
Chemical. (G) RTV-1 silicone rubber actoxy crosslinker.
Use/Import. (G) Destructive use.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-1327

Manufacturer. Confidential.
Chemical. (G) Non-paintable silicone wax.
Use/Manufacturer. (G) Defoamer agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1328

Manufacture. Confidential.
Chemical. (G) Substituted polyhydroxy aromatic compound.
Use/Production. (G) Metal treatment for corrosion inhibition. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation; Skin—Moderate.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by on site treatment plant

P 86-1329

Manufacturer. H. B. Fuller Company.
Chemical. (G) C_{18} unsaturated dimer, sebacic acid, peperazine, ethylenediamine, hydrocarbonamine polymer.
Use/Production. (S) Industrial adhesive. Prod. range: 200,000 to 800,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal, a total of 6 workers, up to 6 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 20 kg/batch released to water.

P 86-1330

Manufacturer. Ferro Corporation.
Chemical. (G) Methylesters of a carboxylic acid in solution.
Use/Production. (G) Site-limited and industrial monomer for high temperature laminating resin and prerequisite. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-1331

Manufacturer. PMC Specialties Group, Inc.
Chemical. (G) Alkyl benzotriazole.
Use/Production. (S) Corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW).

P 86-1332

Manufacturer. PMC Specialties Group, Inc.
Chemical. (G) Alkyl benzotriazole sodium salt solution.
Use/Production. (S) Corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by POTW.

P 86-1333

Importer. Albright and Wilson, Inc.
Chemical. (G) Mixed haloalkyl phosphates.

Use/Import. (G) Flame retardant. Import range: Confidential

Toxicity Data. Ames test: Not mutagenic; Micronucleus study: Negative; Acute oral; Males—2,236 mg/kg, Females—2,489 mg/kg, Combined—2,359 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1334

Manufacturer. Werner G. Smith, Inc.

Chemical. (S) Monohydric alcohol ester of tall oil fatty acids, oxidized fatty acids, tall oil ester of heavy oxo alcohol distillation bottoms, oxidized.

Use/Production. (S) Industrial leather treating chemicals additive as a lubricant in can making. Prod. range: 240,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal, a total of 20 workers up to 6 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. 2 to 10 kg/batch released to water. Disposal by POTW.

P 86–1335

Manufacturer. Confidential.

Chemical. (G) Alkyldiol polyester polyurethane.

Use/Production. (G) New substance will be used in preparation of coatings. Prod. range: 40,000 to 251,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 45 workers, up to 8 hrs/da, up to 47 da/yr.

Environmental Release/Disposal. 1 to 325 kg/batch released to land.

P 86–1336

Manufacturer. Confidential.

Chemical. (G) Hexanediol polyester polyurethane.

Use/Production. (G) New substance will be used in preparation of coatings. Prod. range: 40,000 to 250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 45 workers, up to 8 hrs/da, up to 47 da/yr.

Environmental Release/Disposal. 1 to 5 kg/batch released to land.

P 86–1337

Manufacturer. Confidential.

Chemical. (G) Polyester of 1,6-hexanediol.

Use/Production. (S) Site-limited and industrial isolated intermediate. Prod. range; 66,000 to 405,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 52 workers, up to 8 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 1 to 207 kg/batch released to land.

P 86–1338

Manufacturer. Confidential.

Chemical. (G) Alkanediol polyester polyurethane.

Use/Production. (G) New substance will be used in preparation of coatings. Prod. range: 40,000 to 250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 2 hrs/da, up to 14 da/yr.

Environmental Release/Disposal. 1 to 19 kg/batch released to land.

P 86–1339

Manufacturer. Confidential.

Chemical. (G) Mercapto functional paintable silicone fluid.

Use/Production. (G) Mold release agent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1340

Manufacturer. The Dow Chemical Company.

Chemical. (G) Unsaturated aromatic hydrocarbon.

Use/Production. (S) Electronic protective polymers. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg; Skin sensitization: Irritant; Irritation: Eye—Irritant.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1341

Manufacturer. The Dow Chemical Company.

Chemical. (G) Unsaturated aromatic hydrocarbon.

Use/Production. (S) Intermediate for electronic protective polymer and polymer manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1342

Manufacturer. Confidential.

Chemical. (G) Acrylate capped brominated polyether ester of benzophenone tetracarboxylic dianhydride reaction product with isocyanate adduct of alkoxylated polyol.

Use/Production. (S) Electronic photoresist and solder mask. Prod range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86–1343

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyether urethane.

Use/Production. (S) Industrial, commercial and consumer coating and adhesive. Prod. range: 20,000 to 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 4 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Minimal release.

P 86–1344

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester urethane.

Use/Production. (S) Industrial, commercial and consumer coating and adhesive. Prod. range: 20,000 to 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 4 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Minimal release.

P 86–1345

Importer. DSM Resins, Inc.

Chemical. (G) Polyurethane modified polymer.

Use/Import. (S) Coatings for plastics. Prod range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1346

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene diol.

Use/Production. (G) Intermediate in polyol synthesis. Prod. range: Confidential.

Toxicity Data. Acute oral: 790 mg/kg; Irritation: Skin—Irritant; Ames test: Non-mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1347

Manufacturer. Confidential.

Chemical. (G) Perfluoro dialkanol of iodobenzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 422 mg/kg; Ames test: Not-mutagenic; Skin Sensitization: Severe.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1348

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl polyol.
Use/Production. (G) Protective coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1351

Importer. Confidential.
Chemical. (G) Potassium alkenyl succinate.
Use/Import. (G) Polyvinyl chloride additive. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1352

Manufacturer. Koppers Company, Inc.
Chemical. (G) Dialkylated naphthalene sulfonic acid calcium salt.
Use/Production. (G) Coating and lube oil component. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation: Eye—Mild; Inhalation: >5 mg/1; Ames test: Non-mutagenic; Skin Sensitization: Mild.
Exposure. Manufacture and processing: dermal.
Environmental Release/Disposal. Confidential.

P 86-1353

Importer. Himont, Inc.
Chemical. (G) Dialkyl dimethoxysilane.
Use/Import. (G) Co-catalyst in plastic manufacture. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 3 hrs/da, up to 300 da/yr.
Environmental Release/Disposal. No release.

P 86-1354

Importer. Shin-Etsu Silicones of America, Inc.
Chemical. (G) Siloxanes and silicones, alkyl methyl, dimethyl-.
Use/Import. (S) Base oil for greases, lubricant by itself or with others. Import range: 500 to 2,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1355

Importer. Shin-Etsu Silicones of America, Inc.
Chemical. (G) Amino functional polydimethylsiloxane.
Use/Import. (G) Finishing agent or softner for polyester cotton fibers. Import range: 7,000 to 10,000 kg/yr.
Toxicity Data. Irritation: Eye—More irritating; Skin sensitization: Moderate.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1356

Importer. Shin-Etsu Silicones of America, Inc.
Chemical. (G) Vinylsiloxy and hydroxy terminated fluorosilicone gum.
Use/Import. (S) Industrial ingredient for silicone rubber compound. Import range: 500 to 3,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-1357

Manufacturer. Confidential.
Chemical. (G) (Alkylarylheterocycle) alkenyl substituted quinolinium salt with trifluoromethanesulfonic acid.
Use/Production. (G) Contained use in an article. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 36 workers, up to 0.5 hr/da, up to 4 da/yr.
Environmental Release/Disposal. No release.

P 86-1358

Manufacturer. Confidential.
Chemical. (G) Hydroxy substituted benzoic acid derivative.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 50,000 to 100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 85 workers, up to 1 hr/da, up to 20 da/yr.
Environmental Release/Disposal. Confidential.

P 86-1359

Manufacturer. Confidential.
Chemical. (G) Alkyl and aryl substituted quinoline.
Use/Production. (G) Chemical intermediate. Prod. range: 5 to 100 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 11 workers, up to 0.3 hr/da, up to 4 da/yr.
Environmental Release/Disposal. Minimal release to air.

P 86-1360

Manufacturer. Confidential.
Chemical. (G) Dialkyl quinoline.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 5 to 100 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 17 workers, up to 0.4 hr/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to air.

P 86-1361

Manufacturer. Confidential.
Chemical. (G) Di(alkylaryl) substituted cyclopropene.
Use/Production. (G) Chemical intermediate. Prod. range: 10 to 200 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 18 workers, up to 0.5 hr/da, up to 2 da/yr.
Environmental Release/Disposal. Minimal release to air. Disposal by incineration.

P 86-1362

Manufacturer. Confidential.
Chemical. (G) Alkylarylindole, alkyl and oxo substituted dioxane.
Use/Production. (G) Chemical intermediate. Prod. range: 10 to 300 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 6 workers, up to 0.5 hr/da, up to 2 da/yr.
Environmental Release/Disposal. No release.

P 86-1363

Manufacturer. Confidential.
Chemical. (G) Dialkyl quinolinium methylsulfate.
Use/Production. (G) Chemical intermediate. Prod. range: 10 to 250 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 8 workers, up to 0.5 hr/da, up to 20 da/yr.
Environmental Release/Disposal. No release.

P 86-1364

Importer. Confidential.
Chemical. (G) 1, 1' biphenyl, substituted.
Use/Import. (G) Colorant for plastics. Import range: Confidential.
Toxicity Data. Acute oral: >15,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Confidential. Manufacture, processing, use: dermal,
Environmental Release/Disposal. Confidential. No data submitted.

P 86-1365

Importer. Biosynth-International.

Chemical. (S) Indole-3-butyric acid, potassium salt.

Use/Import. (S) Industrial promote and accelerate root formation of plant clippings. Import range: 5 to 25 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-1368

Manufacturer. Confidential.

Chemical. (G) Nitrogen heterocycle.

Use/Production. (S) Industrial and commercial corrosion inhibitor in gas wells. Prod. range: Confidential.

Toxicity Data. Acute oral: Males—3.0 g/kg, Females—2.6 g/kg, Combined—2.8 g/kg. Irritation: Skin—Severe, Eye—Severe.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1369

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Evironmental Release/Disposal. Confidential.

P 86-1370

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Evironmental Release/Disposal. Confidential.

P 86-1371

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Evironmental Release/Disposal. Confidential.

P 86-1372

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Evironmental Release/Disposal. Confidential.

P 86-1373

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1374

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1375

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1376

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1377

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1378

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1379

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1380

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1381

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin-Irritant, Eye-Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye,—Irritant; Ames test: Non-mutagenic: Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1383

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe: Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1384

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant: Ames Test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1385

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames Test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1386

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames Test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential
Environmental Release/Disposal. Confidential.

P 86-1387

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames Test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1388

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl perfluoro dialkanol of benzene.
Use/Production. (G) Chemical Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: Males—1.86 mL/kg, Females—1.08 mL/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1389

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl benzene epoxy ether.
Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severer; Acute oral: > 4.0 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1390

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl epoxy either.
Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1391

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl benzene epoxy either.
Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1392

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl benzene epoxy ether.
Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral:> 4.0 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1393

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl benzene epoxy ether.
Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1394

Manufacturer. Confidential.
Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1395

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1396

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1397

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1398

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidenital.

P 86-1399

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range; Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1400

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range; Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1401

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range; Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1402

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range; Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1403

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range; Confidential.

Toxicity Data Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Severe; Acute oral: >4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1404

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1405

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1406

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1407

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1408

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1409

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1410

Manufacturer. Confidential.

Chemical. (G) Perfluoro alkyl benzene epoxy ether.

Use/Production. (G) Producing resins and polymers for coatings. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant; Ames test; Non-mutagenic; Skin sensitization: Severe; Acute oral: > 4.0 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: August 4, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-18117 Filed 8-11-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51635; FRL-3084-5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifty-one such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-1367, October 22, 1986.

P 86-1411, 86-1412, 86-1413, 86-1414, 86-1415, 86-1416, 86-1417, 86-1418, 86-1419, 86-1420, 86-1421, 86-1422, 86-1423, 86-1424, 86-1425, 86-1426, 86-1427, 86-1428, 86-1429, 86-1430, 86-1431, 86-1432, 86-1433, 86-1434, 86-1435, 86-1436, 86-1437, 86-1438, and 86-1439, October 26, 1986.

P 86-1440, 86-1441, 86-1442, 86-1443, 86-1444, 86-1445, 86-1446, 86-1447, 86-1448, 86-1449, 86-1450, 86-1451, 86-1452, 86-1453, 86-1454, 86-1455, 86-1456, 86-1457, 86-1458, 86-1459, and 86-1460, October 27, 1986.

Written comments by:

P 86-1367, Sepember 22, 1986.

P 86-1411, 86-1412, 86-1413, 86-1414, 86-1415, 86-1416, 86-1417, 86-1418, 86-1419, 86-1420, 86-1421, 86-1422, 86-1423, 86-1424, 86-1425, 86-1426, 86-1427, 86-1428, 86-1429, 86-1430, 86-1431, 86-1432, 86-1433, 86-1434, 86-1435, 86-1436, 86-1437, 86-1438, and 86-1439, September 26, 1986.

P 86-1440, 86-1441, 86-1442, 86-1443, 86-1444, 86-1445, 86-1446, 86-1447, 86-1448, 86-1449, 86-1450, 86-1451, 86-1452, 86-1453, 86-1454, 86-1455, 86-1456, 86-1457, 86-1458, 86-1459, and 86-1460, September 27, 1986.

number "[OPTS-51635]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3531.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-1367

Manufacturer. Lonza Incorporated.

Chemical. (G) Acetoacet amide.

Use/Production (S) Industrial intermediate for agriculture chemicals. Prod. range: Confidential

Toxicity Data. Acute oral: 5000 mg/kg; Irritation: Skin-Slight.

Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da.

Environmental Release/Disposal. Less than 1 lb released to air.

P 86-1411

Importer. American Hoechst Corporation.

Chemical. (G) Urethane additive for electrophoresis.

Use/Import. (S) Industrial resin for pigment dispersion. Import range: 2,500 to 7,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 1 worker.

Environmental Release/Disposal. No data submitted.

P 86-1412

Importer. American Hoechst Corporation.

Chemical. (G) Urethane additive for electrophoresis.

Use/Import. (S) Industrial resin for pigment dispersion. Import range: 2,500 to 7,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 1 worker.

Environmental Release/Disposal. Minimal release.

P 86-1413

Importer. American Hoechst Corporation.

Chemical. (G) Polyester modified epoxy resin.

Use/Import. (S) Industrial binder for paints. Import range: 300,000 to 1,500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 1 worker.

Environmental Release/Disposal. Minimal release.

P 86-1414

Importer. American Hoechst Corporation.

Chemical. (G) Polyester resin.

Use/Import. (S) Industrial polyester resin binder for paints. Import range: 40,000 to 120,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 1 worker.

Environmental Release/Disposal. minimal release.

P 86-1415

Importer. American Hoechst Corporation.

Chemical. (G) Epoxy resin.
Use/Import. (S) Industrial binder for paints. Import range: 100,000 to 500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1415

Importer. American Hoechst Corporation.
Chemical. (G) Epoxy resin.
Use/Import. (S) Industrial modifier for resin binder for paints. Import range: 10,000 to 50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1417

Importer. American Hoechst Corporation.
Chemical. (G) Epoxy modified polyester resin..
Use/Import. (S) Industrial resin for pigment dispersion. Import range: 2,500 to 7,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1418

Importer. American Hoechst Corporation.
Chemical. (G) Fatty acid ester.
Use/Import. (S) Industrial intermediate for polyester resin manufacture. Import range: 2,500 to 7,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1419

Importer. American Hoechst Corporation.
Chemical. (G) Modified epoxy diamine resin.
Use/Import. (S) Industrial binder for paints. Import range: 100,000 to 300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, up to 1 worker.
Environmental Release/Disposal. Minimal release

P 86–1420

Importer. American Hoechst Corporation.
Chemical. (G) Polyester resin.
Use/Import. (S) Industrial paint binder. Import range: 10,000 to 30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, up to 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1421

Importer. American Hoechst Corporation.
Chemical. (G) Modified epoxy resin.
Use/Import. (S) Industrial flow control for paints. Import range: 2,500 to 7,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, up to 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1422

Importer. American Hoechst Corporation.
Chemical. (G) Modified acrylic resin.
Use/Import. (S) Industrial crosslinking agent for paints. Import range: 20,000 to 60,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, up to 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1423

Importer. American Hoechst Corporation.
Chemical. (G) Epoxy modified acrylic resin.
Use/Import. (S) Industrial crosslinking agent for paints. Import range: 20,000 to 60,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, up to 1 worker.
Environmental Release/Disposal. Minimal release.

P 86–1424

Manufacturer. Confidential.
Chemical. (G) Dibenzoate ester.
Use/Production. (G) Plasticizer for open, non-dispersive uses. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Slight, Eye—Mild; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1425

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. (G) Coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1426

Importer. Confidential.
Chemical. (G) Phenolic acrylic.
Use/Import. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1427

Importer. Confidential.
Chemical. (G) Phenolic acrylic.
Use/Import. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1428

Manufacturer. Confidential.
Chemical. (G) Phenolic acrylic.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1429

Manufacturer. Confidential.
Chemical. (G) Phenolic acrylic.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1430

Manufacturer. Confidential.
Chemical. (G) Phenolic acrylic/polyester resin.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1431

Manufacturer. Confidential.
Chemical. (G) Phenolic acrylic.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1432

Manufacturer. Confidential.

Chemical. (G) Phenolic acrylic/polyester resin.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1433

Manufacturer. Confidential.
Chemical. (G) Phenolic polyester resin.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1434

Manufacturer. Confidential.
Chemical. (G) Phenolic polyester resin.
Use/Production. (G) Coating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1435

Manufacturer. Confidential.
Chemical. (G) Methylenebis(isocyanatocyclohexane), polymer with hydroxy polyester acrylate.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da, up to 22 da/yr.
Environmental Release/Disposal. 1–5 kg/day and 120 kg/yr released to land with 0.03 kg/day released to air. Disposal by incineration and sanitary landfill.

P 86–1436

Manufacturer. Confidential.
Chemical. (G) Methylenebis(isocyanatocyclohexane), polymer with alkanediol, phthalic anhydride, tone M–100 and polyalkylenetriol.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da, up to 22 da/yr.
Environmental Release/Disposal. 1–30 kg/day and 120 kg/yr released to land with 0.03 kg/day released to air. Disposal by incineration and sanitary landfill.

P 86–1437

Manufacture. Confidential.
Chemical. (G) Polymer of phthalic anhydride, alkanediol and polalkylenetriol.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 0.75 hr/da, up to 1 da/yr.
Environmental Release/Disposal. 140 kg/batch released to land. Disposal by incineration and sanitary landfill.

P 86–1438

Importer. Confidential.
Chemical. (G) Saturated polyester.
Use/Import. (S) Industrial resin used to prepare powered ployester coatings. Import range: 50,000 to 300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No release.

P 86–1439

Manufacturer. Hercules Incorporated.
Chemical. (G) Substituted benzene-terpene resin.
Use/Production. (S) Industrial, commercial, and consumer tackifier resin for adhesives. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 6 hrs/da, up to 55 da/yr
Environmental Release/Disposal. 1 to 48 kg/batch released to land with 0.5 kg/batch released to air. Disposal by sanitary landfill.

P 86–1440

Importer. Sieflor Corporation.
Chemical. (G) Phthalane carboxylic acid ethoxyethylester.
Use/Import. (S) Industrial disperse dye for polyester fiber. Import range: 1,000 to 5,000 kg/yr.
Toxicity Data. Ames test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No release.

P 86–1441

Importer. Confidential.
Chemical. (G) Pyrrolopyrrol.
Use/Import. (G) Industrial colorant for coatings. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic; Skin Sensitization: Non-Sensitizer; LC_{50} 24 hr (Daphnia magna): > 100 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1442

Manufacturer. Diamond Shamrock Chemicals Company.
Chemical. (S) Polyester aromatic urethane.
Use/Production. (G) Polyurethane intermediate. Prod. range: Confidential.
Toxicity Data. No data on PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1443

Manufacturer. Confidential.
Chemical. (G) Siliconized epoxy resin.
Use/Production. (S) Used in specialty paint systems that require chemical and temperature resistance, Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1444

Manufacturer. Confidential.
Chemical. (S) 4-hydroxy-3-nitrobenzoic acid, methyl ester.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 60,000 to 120,000 kg/yr..
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 40 workers, up to 1 hr/day, up to 20 day/yr.
Environmental Release/Disposal. Less than 10 kg/batch. Disposal by incineration.

P 86–1444

Manufacturer. Confidential.
Chemical. (G) Vegetable oil polyamide resin.
Use/Production. (G) Polymeric vehicle for printing ink. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by publicly owned treatment work (POTW).

P 86–1446

Importer. Nuodex, Inc.
Chemical. (S) 1,4-benzenedicarboxylic acid, polymer with 1,2 benzenedicarboxylic acid, 1,4-butanediol and 1,6 hexanediol.
Use/Import. (S) Industrial hot-metal adhesive. Import range: 2,000 to 5,000 kg/yr.
Toxicity Data. Acute oral: <10,000 mg/kg; Irritation: Skin—Non-irritant,

Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. Minimal release.

P 86-1447

Importer. Confidential.
Chemical. (G) Hydroxyl-terminated polyester polyol.
Use/Import. (S) Industrial rigid polyurethane foam. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Minimal exposure.
Environmental Release/Disposal. No data submitted.

P 86-1448

Manufacturer. Confidential.
Chemical. (G) Thixotropic alkyd resin.
Use/Production. (S) Thixotropic alkyd is blended with medium and long oil alkyds to improve flow and brushability. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1449

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Used in industrial primer applications, it affords fast dry, hardness and chemical resistance when blended with conventional primer systems. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1450

Manufacturer. Confidential.
Chemical. (G) Polyfunctional methacrylate of polyisocyanate adduct of alkoxylated polyol.
Use/Production. (S) Graphic arts printing plant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-1451

Manufacturer. Confidential.
Chemical. (G) Vegetable fatty acid amide.
Use/Production. (G) Additive for newsinks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-1452

Importer. Confidential.
Chemical. (G) Alkanolamine adduct of acrylate oligomer.
Use/Import. (G) Protective and decorative coatings. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-1453

Manufacturer. Confidential.
Chemical. (S) Siloxanes and silicones, di-me hydrogen terminated, reaction product with allyl glycidy ether.
Use/Production. (G) Plastics additive. Prod. range: Confidential.
Toxicity Data. Acute Oral: 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight; Ames test: Non-mutagenic; Skin Sensitization—Non-irritant.
Exposure. Manufacture: dermal, a total of 2 workers, up to 4 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 1 kg/batch releases to Land. Disposal by landfill.

P 86-1454

Manufacturer. Confidential.
Chemical. (G) Thixotropic alkyd resin.
Use/Production. (D) This "soft gel" thixotropic resin is used as a modifier in long oil alkyds to improve flow. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confindential.

P 86-1455

Manufacturer. Confindential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Resin is used with nitrocellulose to form protective primer coatings. It can be used alone for the same purposes. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confindential.

P 86-1456

Importer. Nuodex, Inc.
Chemical. (G) Copolyamide from dicarbonic acid, lactam and diamines.
Use/Import. (S) Industrial sheeting for optical cables and sprayed dye coatings. Import range: 5,000 to 20,000 kg/yr.
Toxicity Data. Acute oral: 10,000 mg/kg; Irritation: Skin—Non-irritant; Ames test: Non-mutagenic.
Exposure. Processing: inhalation.
Environmental Release/Disposal. No release.

P 86-1457

Manufacturer. The Minnesota Mining and Manufacturing Company.
Chemical. (G) Substituted bisbenzophenone.
Use/Production. (G) Polymer stabilizer. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 28 workers, up to 8 hrs/da, up to 8 da/yr.
Environmental Release/Disposal. 0.5 kg/batch released to land. Disposal by privately owned treatment works, incineration and approved landfill.

P 86-1458

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confindential.

P 86-1459

Manufacturer. Confindential.
Chemical. (G) Polymer of alkanolamines, alkanediols, aliphatic and aromatic acids.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 5 workers, up to 1 hr/da, up to 30 da/yr.
Environmental Release/Disposal. 1 to 10 kg/batch released to land. Disposal by dumpsite.

P 86-1460

Manufacturer. Confindential.
Chemical. (S) Polymer of Desmodur W, Duracarb 122, Dianol 2210 hydroxy ethyl acrylate, and jeffamine D-230.
Use/Production. (S) A radiation cure coating for industrial use. Prod. range: 2,000 to 200,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Minimal release to air. Disposal by biological treatment lagoon and licensed landfill.

Dated: August 5, 1986.

Denise Devon,

Acting Division Director, Information Management Division

[FR Doc. 86-18119 Filed 8-11-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59227; FRL-3063-8]

Guar Gum, 2-Hydroxypropyl Ether Glyoxal-Crosslinked

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: August 27, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59227]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-55

Close of Review Period. September 12, 1986.

Manufacturer. Lyndal Chemical Company

Chemical. (S) Guar gum, 2-hydroxypropyl ether glyoxal-crosslinked.

Use/Production. (G) Water gel explosives, fraturing oil wells. Prod range: 5,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal , a total of 10 workers, up to 8 hrs/day, up to 200 day/yr.

Environmental Release/Disposal. Release to air. Disposal by bag house.

Dated: August 5, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-18122 Filed 8-11-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42087; FRL-3064-2]

Testing Consent Agreement Development for 2-Ethylhexanol; Solicitation for Interested Parties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's procedures for requiring the testing of chemical substances and mixtures under section 4 of the Toxic Substances Control Act (TSCA) include the adoption of enforceable consent agreements (ECAs) and the promulgation of test rules. ECAs may be adopted where consensus on an industry test program is reached in a timely manner by EPA, affected manufacturers and/or processors, and other interested parties. If timely consensus cannot be reached or appears unlikely, and the Agency makes certain statutory findings under TSCA, EPA issues test rules. In this notice, EPA announces its tentative evaluation of testing needs for 2-ethylhexanol (EH; CAS. No. 104-76-7), announces a public meeting to discuss such testing, and requests all persons desiring to have the status of "interested parties" in any negotiations of an ECA for EH to notify EPA of that interest.

DATES: Submit written notice of interest to be designated an interested party on or before August 26, 1986. A public meeting will be held on August 26, 1986.

ADDRESS: Submit written request to be an "interested party" in triplicate, identified by the document control number (OPTS-42087) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC (554-1404), Outside the USA: (Operator-202-554-1404). Persons interested in attending the public meeting should notify EPA by telephone on or before August 18, 1986.

SUPPLEMENTARY INFORMATION: EPA has issued amendments to the procedural regulations in 40 CFR Part 790 (51 FR 23706; June 30, 1986), which govern the development and implementation of testing requirements under section 4 of TSCA. These amendments establish procedures for using ECAs to develop testing requirements under section 4 of the Act. This notice serves three purposes under those procedures. First, it requests "interested persons" who wish to participate in testing negotiations for EH to identify themselves to EPA. Second, it announces a public meeting to initiate testing negotiations for this chemical. Third, it proposes a target schedule for implementation of the consent agreement process.

I. Identification of Interested Parties

Under 40 CFR 790.22, the testing negotiation procedures are initiated by the publication of a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations for thd development of an ECA to notify the Agency in writing. Those individuals and groups who respond to EPA's notice by the deadline established in the notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. These "interested parties" will not incur any obligations by being designated "interested parties". The procedures for these negotiations are described in 40 CFR 790.22. Individuals and groups desiring to have the status of "interested parties" in the development of the ECA for EH should submit a written request to the Agency at the address given above on or before August 26, 1986.

II. Public Meeting

A public meeting will be held on August 26, 1986, in Rm. 103, Northeast Mall, EPA Headquarters, 401 M St. SW., Washington, DC 20460, to announce EPA's preliminary testing determination for oncogenicity testing of EH and to initiate testing negotiations. Persons interested in attending this meeting should notify the EPA TSCA Assistance Office by telephone at the telephone numbers listed above on or before August 18, 1986.

III. Timetable For Negotiating Test Agreement

In accordance with the procedures for the development of ECAs established in 40 CFR 790.22, and the Agency's plans to propose a test rule for EH by early 1987 (if an ECA cannot be developed in that time) the following target schedule is established for EH.

August 26, 1986—Public meeting to initiate testing negotiations. Also, deadline for notice of interested party designation.

November 4, 1986—Decision by EPA on whether to use consent order or test rule.

December 2, 1986—Draft consent order sent to interested parties (if EPA decides to use consent order).

March 24, 1987—Issuance of consent order.

Authority: 15 U.S.C. 2603.

Dated: August 4, 1986.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86-18128 Filed 8-11-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

BankEast Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 2, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BankEast Corporation,* Manchester, New Hampshire; to engage *de novo* through its subsidiary, a corporation being formed in Manchester, New Hampshire, in making, acquiring, and servicing loans or other extensions of credit for the purpose of financing the payment of insurance premiums by the borrower, for its own account and the account of others pursuant to § 225.25(b)(1)(i) and (iv) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F & M Financial Services Corporation,* Menomonee Falls, Wisconsin; to engage *de novo* through its subsidiary, F & M Trust Company, Inc., Menomonee Falls, Wisconsin, in all of the functions and activities authorized under Wisconsin law for a trust company bank pursuant to § 225.25(b)(3) of the Board's Regulation Y.

2. *Northern Trust Corporation,* Chicago, Illinois; to engage *de novo* through its subsidiary, Northern Capital Markets Corporation, Chicago, Illinois, in acting as an investment or financial advisor to the extent of providing financial advice to state and local governments such as with respect to the issuance of securities pursuant to § 225.25(b)(4)(v) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wells Fargo and Company,* San Francisco, California; to expand through its subsidiary, Central Western Insurance Company, Phoenix, Arizona, its approved activity of underwriting credit life insurance which is directly related to extensions of credit. This activity will be conducted in the states of Arizona, California, Colorado, Idaho, Maryland, Oklahoma, Texas, Utah, Virginia, and the District of Columbia.

Board of Governors of the Federal Reserve System, August 6, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18052 Filed 8-11-86; 8:45 am]

BILLING CODE 6210-01-M

Seashore Bank Shares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 3, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Seashore Bank Shares, Inc.,* Seabrook, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Seabrook and Trust Company, Seabrook, New Hampshire.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bryn Mawr Bank Corporation,* Bryn Mawr, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Bryn Mawr Trust Company, Bryn Mawr, Pennsylvania.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation,* Charlotte, North Carolina; to acquire 100 percent of the voting shares of Bank of Waynesboro, Waynesboro, Georgia.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *BNB Bancorp, Inc.,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Belmont National Bank of Chicago, Chicago, Illinois. Comments on this application must be received by August 29, 1986.

2. *First Community Bankshares,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers Bank, Milton, Wisconsin. Comments on this application must be received by September 1, 1986.

E. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cotton Exchange Bancshares, Inc.,* Kennett, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Cotton Exchange Bank, Kennett, Missouri. Comments on this application must be received by August 26, 1986.

2. *Old National Bancorp,* Evansville, Indiana; to acquire 100 percent of the voting shares of Clinton State Bank, Clinton, Indiana. Comments on this application must be received by August 26, 1986.

F. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dickey County Bancorporation,* Ellendale, North Dakota; to acquire 89.7 percent of the voting shares of The First National Bank of Oakes, Oakes, North Dakota.

2. *Dickey County Bancorporation,* Ellendale, North Dakota; to acquire 16.1 percent of the voting shares of Liberty National Bank and Trust Company, Dickinson, North Dakota.

3. *Minnesota Valley Financial Services, Inc.,* St. Paul, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Courtland State Bank, Courtland, Minnesota.

Board of Governors of the Federal Reserve System, August 6, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18053 Filed 8-11-86; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[FIRMR Bulletin 25, Revision 1]

ADP and Telecommunications Standards Index

AGENCY: Information Resources Management Service, GSA.

ACTION: Information notice.

SUMMARY: This Federal Information Resources Management Regulation (FIRMR) bulletin advises agencies that a new updated version for 1986 of the GSA handbook, ADP and Telecommunications Standards Index, will be available upon written request. The handbook is not a regulation. However, it restates the standard FIRMR Part 201-8 terminology to be used in the implementation of automatic data processing and telecommunications standards as well as providing guidance and information to agencies in applying standards to acquisition actions.

FOR FURTHER INFORMATION CONTACT: Standards Branch (KMPS), Information Resources Management Service, telephone (202) 566-1180 or FTS, 566-1180.

FIRMR Bulletin 25—Revision 1

July 29, 1986.

To: Heads of Federal agencies

Subject: ADP and Telecommunications Standards Index (replaces FIRMR Bulletin 25)

1. *Purpose.* This bulletin revision advises agencies that a new, updated version for 1986 of the GSA handbook, ADP and Telecommunications Standards Index, will be available upon written request.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled or superseded.

3. *Content of handbook.*

a. The handbook guides agencies in applying ADP and telecommunications data, applications, hardware, and software standards to the acquisition and use of ADP and telecommunications equipment and services. It specifies standard terminology for use in requirements documents, including solicitations, for each standard.

b. The handbook also includes a section categorizing standards by subject matter, and a section discussing the efforts by Federal and national activities to develop and approve ADP and telecommunications standards.

4. *Regulatory relationship.* The handbook is not a regulation. It restates the standard FIRMR 201.8 terminology to be used in the implementation of ADP and telecommunications standards in requirements documents.

5. *Availability.*

a. The handbook is revised on a yearly basis. Updated issues are expected to be available on or after August 1, of each year.

b. Limited copies of the handbook are available without charge to all Federal agencies. Requests for copies should be submitted in writing each year to the General Services Administration, Information Resources Management Service (IRMS), Standards Branch (KMPS), Washington, DC 20405.

6. *Information.* Additional information concerning the index can be obtained by contacting IRMS, Standards Branch (KMPS): Telephone (202) 566-1180 or FTS, 566-1180.

7. *Cancellation.* This bulletin cancels FIRMR Bulletin 25, dated July 22, 1985.

Frank J. Carr,

Commissioner.

[FR Doc. 86-18047 Filed 8-11-86; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness; Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet in 1986:

Name: *Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness*

Date: *August 19, 1986,* 1:00 p.m. until 4:00 p.m.

Place: Humphrey Auditorium, 200 Independence Avenue SW., Washington, DC 20201.

Purpose: The purpose of the Private/Public Sector Advisory Committee on Catastrophic Illness will be to: (1) Solicit input from all interested parties regarding how government and the private sector can work together to address the problems of affordable insurance for catastrophic illness; and (2) Reflect periodically the views of the interested parties as well as the constituencies represented on the Committee regarding the report on catastrophic health care which the Secretary of Health and Human Services must submit to the President by the end of the year.

Agenda: The Private/Public Sector Advisory Committee will discuss major points and private sector inputs enunciated in the public forums. The Agenda will consist of welcome and opening remarks by James Balog, Chairman of the Private/Public Sector Advisory Committee and remarks from the Committee Members.

Anyone wishing to obtain a roster of members or other relevant information should write to or call Ms. Jean-Craft Comolli, Staff Director, Private/Public Sector Advisory Committee on Catastrophic Illness, or Ms. Nancy Hobbs, Public Forum Coordinator, 602E, Humphrey Building, 200 Independence Avenue SW., Washington, DC (202) 245-2641.

Joseph Antos,

Vice Chairman, Executive Advisory Committee.

[FR Doc. 86-18204 Filed 8-11-86; 8:45 pm]

BILLING CODE 4159-04-M

Centers for Disease Control

Request for Nominations of Candidates To Serve on the Mine Health Research Advisory Committee

The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), is soliciting nominations for membership on the Mine Health Research Advisory Committee (MHRAC). On December 24, 1986, two vacancies will occur. The MHRAC, which is authorized by the Federal Mine Safety and Health Act of 1977, advises the Department of Health and Human Services on matters related to intramural and extramural health research for the nation's miners. The direction, scope, and scientific quality of the NIOSH mine health research program are considered by the Committee.

A range of disciplines is represented on the Committee, including occupational medicine, industrial hygiene, pulmonary medicine, radiology, pathology, epidemiology, biostatistics, public health, environmental health, and industrial medicine. Mining experience is desirable, but it is not necessary for every position on the Committee. Emphasis is placed on scientific credentials.

The following information is requested: name, affiliation, address, telephone number, and a recent curriculum vitae. Nominations should be sent by August 28, 1986, to:

Mr. Robert E. Glenn, Executive Secretary, MHRAC, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888, Telephones: FTS: 923-4474, Commercial: 304/291-4474.

Dated: August 5, 1986.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-18076 Filed 8-11-86; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6894-A]

Alaska Native Claims Selection; Afognak Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Afognak Native Corporation for approximately 0.25 acre. The lands involved are within Sec. 24, T. 26 S., R. 22 W., Seward Meridian, in the vicinity of Port Lions, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks in the *Kodiak Daily Mirror*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ([907] 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 11, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18051 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6982-B, AA-6982-D]

Alaska Native Claims Selection, Kake Tribal Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Kake Tribal Corporation for approximately 510.25 acres. The lands involved are in the vicinity of Kake, Alaska.

Copper River Meridian, Alaska

T. 55 S., R. 72 E. (Surveyed)
T. 57 S., R. 73 E. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the *Juneau Empire*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 11, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18088 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-JA-M

[F-14878-A]

Alaska Native Claims Selection; Kaktovik Inupiat Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 1431(g)(3) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (ANILCA), 94 Stat. 2371, 2539, will be issued to Kaktovik Inupiat Corporation for approximately 103 acres. The lands involved are those lands identified in Public Land Order 6615 located in T. 9 N., R. 34 E., Umiat Meridian, in the vicinity of Kaktovik, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks in the *Tundra Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 11, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18050 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-JA-M

[CA-050-06-4333-12]

Emergency Closure of Fiske Creek Road, Yolo County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of road closure.

SUMMARY: Pursuant to 43 CFR 8364.1, the Bureau of Land Management is closing the Fiske Creek Road located on public lands in Yolo County to protect people and property from hazardous conditions. The road closure is an emergency measure which will continue in effect until the road is repaired. Vehicle use is prohibited except for administrative and emergency use. The road is closed in Township 12 North, Range 4 West, Sections 29, 32 and 33, MDM.

DATES: This closure is effective on the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gretchen Smyth, Clear Lake Resource Area Manager, Bureau of Land Management, 555 Leslie Street, Ukiah, CA 95482-5599, Telephone: (707)462-3873.

Dated: July 28, 1986.

Van W. Manning,

District Manager.

[FR Doc. 86-18089 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-40-M

Burley District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting and agenda for Burley District Grazing Advisory Board.

SUMMARY: Notice is hereby given that the Burley District Grazing Advisory Board will meet on September 17 and 18, 1986.

The meeting will convene at 9:30 a.m. on September 17, 1986 in the conference room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho. (The 18th will be a tour and will convene at the District Office at 8:00 a.m.)

Agenda items for the meeting will include: (1) Organization of the Board; (2) Review of range improvement projects for fiscal year 1987; (3) Review of proposed grazing plans; (4) Policy for user involvement in projects where Federal costs exceed "fair share" of the project; (5) Items of information: (a) Review of fiscal year 1986 range improvement projects; (b) Review of weed control activities and possibilities of funding; (c) Review of 1986 grasshopper control activities; (d) Review District's proposed riparian program; (e) Review 1986 fire activities; (f) Tour Deep Creek Resource Area to view and discuss proposed grazing actions, proposed projects, prescribed burns and maintenance of existing projects.

The public is invited to attend the meeting and tour, however, those of the public who wish to attend must furnish their own transportation and food. Interested persons may make an oral statement to the Board beginning at 10:00 a.m. or they may file written statements for the Board's consideration. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Anyone wishing to make an oral statement or file a written statement must contact the District Manager by September 16, 1986 for inclusion in the meeting schedule.

Detailed minutes of the Board meeting will be maintained in the District Office and will be available for public inspection during regular business hours, (7:45 a.m. to 4:30 p.m., Monday thru Friday) within 30 days following the meeting.

DATE: September 17 and 18, 1986.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho, 83318.

FOR FURTHER INFORMATION CONTACT: John Davis, Burley District Manager, (208) 678-5514.

Dated: August 4, 1986.

John S. Davis,

District Manager.

[FR Doc. 86-18049 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-GG-M

[CO-050-06-4322-02-OC2410]

Canon City District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Grazing advisory board public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Canon City District Grazing Advisory Board to be held at 10:00 a.m., Thursday, September 11, 1986 at Chaffee County Bank, 146 'G' Street, Salida, Colorado. Agenda of this meeting will include: (1) election of officers, (2) expenditure of range betterment funds, (3) proposals for expenditure of range improvement funds for fiscal year 1987, (4) update on current issues dealing with grazing management programs in the district.

The meeting will be open to the public. Facilities and space to accommodate members of the public are limited and persons will be accommodated on a first served basis. Any member of the public may file with the Board a written statement concerning matters to be discussed. A portion of the meeting time will be set aside at 2:00 p.m., to hear members of the public. Minutes of the meeting will be made available for public inspection 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Donnie Sparks, District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, (303) 275-0631.

Kevin Anderson,

Acting District Manager.

[FR Doc. 86-18045 Filed 8-11-86; 8:45 am]

BILLING CODE 4310-JB-M

[WY-030-86-4410-8]

Rawlins District, Divide and Medicine Bow Resource Areas, Albany, Carbon, Laramie, and Portion of Sweetwater Counties, Wyoming; Notice of Scoping Meetings

AGENCY: Bureau of Land Management.

ACTION: Notice of scoping meetings on Medicine Bow and Divide Resource Management Plans (RMPs).

SUMMARY: This notice gives the times and locations of public scoping meeting to be held in conjunction with the Medicine Bow and Divide Resource Area planning process. The scoping process is intended to assist BLM in determining the significant issues,

discuss possible resource management conflicts, propose alternatives, and identify available pertinent data.

DATES: Public scoping meetings will be held at the following locations.

August 25, 7:00 p.m.—Community Hall, Medicine Bow, Wyoming
August 26, 7:00 p.m.—BLM District Office, Rawlins, Wyoming
August 27, 7:00 p.m.—High School Cafeteria, Saratoga, Wyoming
August 28, 7:00 p.m.—University of Wyoming Student Union, Laramie, Wyoming
September 2, 7:00 p.m.—Senior Citizens Center, Baggs, Wyoming
September 3, 7:00 p.m.—West Elementary School, Wheatland, Wyoming

ADDRESS: Medicine Bow and Divide RMP Team Leader, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324–7171.

FOR FURTHER INFORMATION CONTACT: John Husband, Team Leader, at the above address.

SUPPLEMENTARY INFORMATION: Notification of places and dates of meeting will also be published in local newspapers.

Hillary A. Oden,
State Director.

[FR Doc. 86–18284 Filed 8–11–86; 10:50 am]
BILLING CODE 4310-22-M

Bureau of Reclamation

Garrison Diversion Unit, North Dakota; Intent to Prepare a Supplement to a Draft Supplemental Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a Supplement to the Draft Supplemental Environmental Statement (DES 86–9) for the Garrison Diversion Unit (GDU) in North Dakota. The supplement will address changes from the Commission Plan due to the Garrison Diversion Unit Reformulation Act of 1986.

The Garrison Diversion Unit will deliver Missouri River water for agriculture, recreation, fish and wildlife, and municipal, rural, and industrial uses in North Dakota. The primary features include three reservoirs, five canals, 25 or more pumping plants, 13 irrigation areas, and municipal, rural, and industrial water systems for up to 130 communities.

The supplement will amend the previous draft environmental statement (DES 86–9) to address changes in some of the features due to the Reformulation Act. The document will identify and assess impacts of ongoing work and describe additional studies being undertaken pursuant to the Act. The supplement will include the following: description of changes in the plan, additional studies required, and items deferred until a comprehensive report on the James River is completed and submitted to the Congress. The supplement will be provided for public review and comment. One document will then be prepared, which will respond to comments received on both DES 86–9 and the supplement, and be filed as the final supplemental environmental statement for the Garrison Diversion Unit.

There will be two scoping meetings to discuss the James River studies, the supplement, and the procedure to be used in developing the final environmental statement. Those meetings will be held on August 26, 1986, at 7:00 p.m. at the Doublewood Ramada Inn, Bismarck, North Dakota and on August 28, 1986 at 8:00 p.m. at the Spink County Senior Citizens Center, 521 North Main, Redfield, South Dakota.

The contact persons for this supplement to the draft supplemental environmental statement are Timothy J. Keller, Chief, Technical Support Division, Missouri-Souris Projects Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58502, telephone (701) 255–4011, extension 541, or Robert Schroeder, Regional Environmental Affairs Officer, Missouri Basin Regional Office, Bureau of Reclamation, P.O. Box 36900, Billings, Montana 59107–6900, telephone (406) 657–6558.

Dated: August 7, 1986.

William C. Klostermeyer,
Commissioner.

[FR Doc. 86–18092 Filed 8–11–86; 8:45 am]
BILLING CODE 4310-09-M

Fish and Wildlife Service

Intent To Prepare an Environmental Assessment on a Proposed Action To Recover Rare and Endangered Fish in the Upper Colorado River Basin; Republication

[**Editorial Note:** The following document was originally published at page 27256 in the issue of Wednesday, July 30, 1986. The document is being republished in its entirety because of typesetting errors.]

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (Service) is preparing an environmental assessment on a proposed implementation program to recover four rare and endangered fish species in the Upper Colorado River Basin. This notice is being furnished in accordance with the CEQ Regulations for implementing the National Environmental Policy Act (40 CFR 1501.7(b)(3)). We solicit public comment on impacts likely to result from the proposed action and alternatives, as well as suggestions on alternative means to protect and recover these fish species in a manner compatible with continued water development and State water allocation systems. Suggestions and information received will assist us in determining the scope of issues to be addressed and in evaluating their significance in the environmental assessment.

DATES: Written comments should be received by August 29, 1986.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Barry Mulder, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225, (303) 236–7398, FTS 776–7398.

SUPPLEMENTARY INFORMATION:

I. Purpose and Need for Action

The purpose of the action is to protect and recover four rare fish species in the Upper Colorado River Basin in a manner that allows continued water development and that is consistent with State water rights systems, interstate compacts, and court decrees that allocate the rights to use Colorado River water among the States.

The four fish species of concern are the Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), bonytail chub (*Gila elegans*), and razorback sucker (*Xyrauchen texanus*). The first three species are listed as endangered, and the fourth is a candidate for listing under the Endangered Species Act of 1973, as amended. The ultimate goal of the recovery implementation program is to delist the three endangered species and to manage the razorback sucker so it would not need the protection of the Endangered Species Act.

Though once abundant in the upper basin, these fish are now threatened with extinction. Their decline is attributed to a number of factors, ranging from habitat reduction or alteration to introduction of nonnative species. The Service has stated that

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continued water development within the upper basin is likely to further jeopardize these fishes' existence unless project impacts are offset by measures that preserve or improve these species' current status.

II. Affected Environment

The proposed action will occur in the Upper Colorado River Basin above Glen Canyon Dam, excluding the San Juan River. This area encloses the principal remaining habitat for the four fishes in the upper basin, as well as those waters (mainstem and tributaries) with potential to cause significant downstream impacts to the fish or their habitat. The affected area is located in Colorado, Utah, and Wyoming. (See map below)

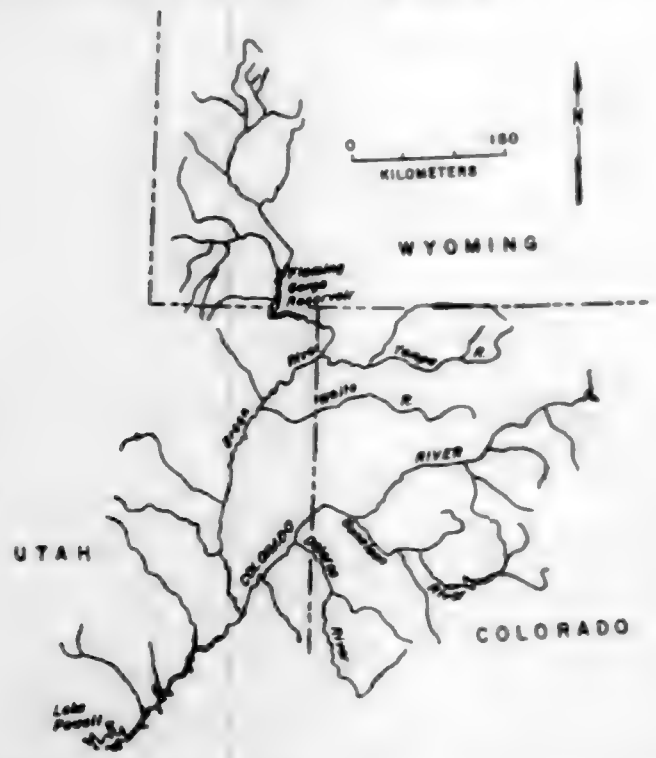

III. Description of the Proposed Action and Major Alternatives

We invite public comment on impacts likely to result from the actions described below, as well as suggestions on alternative means to protect and recover the four rare and endangered fish species in a manner compatible with continued water development and State water allocation systems.

A. Proposed Action

Preamble. The proposed action was developed by a subcommittee of the Upper Colorado River Basin Coordinating Committee. The Coordinating Committee is composed of representatives from the States of Colorado, Utah, and Wyoming; Bureau of Reclamation; Fish and Wildlife Service; private water development interests; and environmental organizations. The Department of the Interior is considering adopting their draft proposal for a cooperative Federal/State/private program as the preferred means for resolving water use conflicts involving rare and endangered fish and water development actions, as follows:

1. *Administration.* A Recovery Implementation Committee representing Federal, State, private water development, and conservation interests in the upper basin would oversee implementation of recovery actions for the four rare and endangered fish species. This committee would make recommendations to the Secretary of the Interior and the States, who would use their independent authorities to make and implement final decisions.

2. *Recovery Timeframe.* 15 years, estimated.

3. *Recovery Actions.*

a. *Habitat management.* (1) Determine the locations, times, and quantities of instream flows needed to protect and recover the fish and, through cooperation, prioritize work in this area.

(2) Evaluate alternative means for providing necessary flows. Once obtained, instream flows would be appropriated, acquired and administered under State law. Federal condemnation of water rights would not occur under the proposed action. Potential sources of water may include:

(a) Allocating and releasing water from Federal storage projects. For example, through the section 7 consultation process, the Bureau of Reclamation would withhold from sale 5,000 acre-feet of water at Ruedi Reservoir. This water would tentatively be released in the months of July–September, as needed.

(b) Refining operations at Federal reservoirs. For example, the Bureau of Reclamation would refine operations at:

(i) Ruedi Reservoir—would release an additional 5,000 acre-feet in the months of July–September on an average of 4 out of 5 years (supplementing the 5,000 acre-feet withheld from sale noted in A.3.a.(2)(a) above).

(ii) Flaming Gorge Reservoir—until section 7 consultation is completed, has adopted an interim flow release schedule intended to improve rare and endangered fish spawning and survival. Ongoing research would determine a more permanent flow release pattern which would be outlined in the biological opinion planned to be completed in 1989.

(iii) Blue Mesa Reservoir—until section 7 consultation is completed, will release water to ensure that a 2,000 cubic feet/second minimum flow occurs below the confluence of the Gunnison and Colorado Rivers on an average of 9 out of 10 years. Research would determine a more permanent flow release pattern to be outlined in the completed biological opinion.

(c) Purchasing or leasing existing water rights, on a willing seller basis, and converting these rights into instream flow rights.

(d) Investigating the feasibility of acquiring "excess" water resulting from agricultural water conservation and salinity control projects and converting acquired water into instream flows.

(e) Investigating changing the point of diversion for senior water rights to downstream locations.

(f) Investigating acquisition of nontributary ground water that could be pumped and put into streams.

(g) Applying for original appropriation of instream flows in surface streams.

(3) When section 7 consultation is conducted on future projects:

(a) The Secretary of the Interior would recommend reasonable and prudent alternatives, where possible, to offset nondepletion impacts of water projects jeopardizing the endangered fish, e.g., direct impacts caused by construction, inundation, or water quality changes resulting from reservoir operations.

(b) Since the proposed action establishes a commitment and mechanism to assure instream flows are acquired and protected under State law, the Service would consider these recovery actions as offsetting depletion impacts of most projects. Projects would be considered to have addressed depletion impacts by making contributions as described in A.4.c

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below toward the recovery implementation program. However, if there are instances where project depletions are likely to jeopardize fish, the Service and Recovery Implementation Committee, where possible, would identify measures to offset these impacts, and implementation of these measures would be given immediate attention.

b. *Habitat development and maintenance.* The locations and degree to which any of the following techniques would be implemented would be determined after experimentation and consideration of effectiveness, cost, relationship to other recovery measures, and secondary impacts.

(1) Create backwaters to enhance young-of-year fish production. Backwaters can be created by manipulating river flow, connecting existing gravel pits/ponds to the river, or physically constructing backwaters.

(2) Increase spawning habitat by improving access to existing, unused spawning areas (e.g., fish passage structures), reintroducing eggs/larvae into suitable unoccupied habitat, modifying instream characteristics to create new spawning habitat, or constructing spawning habitat within the natural stream channel or in modified side channels.

(3) Create wintering habitat by building jetties.

(4) Build fish passage facilites to reestablish Colorado squawfish in parts of their historic range, e.g., above Redlands Diversion Dam, Taylor Draw Dam, and Palisades.

c. *Artificial propagation and stocking of rare and endangered fish species.* (1) Use hatcheries as refugia to safeguard against disease and possible extinction.

(2) Raise fish in hatcheries and/or grow-out (rearing) ponds and use them for basic research studies.

(3) Immediately introduce the bonytail chub, which appears in imminent danger of extinction in the upper basin.

(4) Augment existing populations of Colorado squawfish, humpback chub, and razorback sucker through stocking only after artificial propagation techniques have been thoroughly investigated.

d. *Nonnative species and sportfishing management.* Competition and predation from nonnative species is believed to contribute to the decline of the four rare and endangered species. In addition, fishermen have caught endangered fish while seining for bait or angling. The following actions would be carried out by Federal or State agencies, as appropriate, to reduce future losses:

(1) Confine future stocking of nonnative fish shown to pose a threat to the rare and endangered fish to areas off the mainstem where absence of potential conflict with rare and endangered fish can be demonstrated.

(2) For nonnative fish shown to pose a threat to the survival of rare and endangered fish, investigate the feasibility of selectively removing them from areas considered essential to the latter species.

(3) Review sportfishing practices and regulations to reduce the likelihood of incidental take of rare and endangered fishes, e.g., permanent or seasonal closures of fishing areas where incidental take is a serious problem; prohibition of seining in spawning areas, young-of-year habitat, and juvenile nursery areas; restrictions on use of live bait.

(4) Implement an information and education program to educate the fishing public on rare and endangered fish.

e. *Research, monitoring, and data management.* (1) Implement a comprehensive research program to provide basic biological information on the fishes, to test management approaches, and to investigate institutional or administrative actions.

(2) Track the overall status and trends of rare and endangered fish populations within the upper basin with a monitoring program.

(3) Establish a centralized data management system.

4. *Funding—a. Special.* Congress would be requested to establish two special funds:

(1) Water rights fund ($10 million): Used to acquire water rights to secure instream flows for the rare and endangered fishes.

(2) Construction fund ($5 million): Used for recovery actions involving capital expenditures, e.g., constructing hatchery or fish passage facilities, changing the point of diversion of a water right, or modifying habitat.

b. *Annual.* $2.4 million would be provided yearly for recovery actions. The Federal share would total $2.1 million, and the States' share, $300,000.

c. *Intermittent.* Private water developers would contribute a one-time amount of $10/acre-foot (based on average annual depletion and adjusted annually for inflation) for new water depletion projects that have not yet complied with section 7 of the Endangered Species Act. Contributions may also be made by conservation groups and private entities.

B. "No Action" Alternative

Preamble. Since the Endangered Species Act requires the Federal government to protect and recover listed species, the "No Action" alternative has been construed to mean "status quo," i.e., continuation of current actions.

For example, Federal dams in the upper basin are required to comply constantly with section 7 of the Endangered Species Act. Dam operations must not jeopardize the survival of listed species and, where possible, should help conserve these species. These dams are being studied to determine if: (a) Water is available for instream flow needs and, (b) flow releases can be modified to increase production or survivorship of rare and endangered fishes. These actions would be implemented even if the proposed action is not adopted, and will be common to all alternatives under investigation.

(Note. These actions are denoted as recovery actions A.3.a.(2)(a) and A.3.a.(2)(b) under the proposed action.)

The "No Action" alternative is as follows:

1. *Administration.* There would be no Federal/State/private oversight committee. Instead, the various agencies and developers would coordinate as needed on a project-by-project basis. The Service would review water projects through section 7 consultation and develop reasonable and prudent alternatives for projects likely to jeopardize endangered fish. The Bureau of Reclamation would ensure its projects are not likely to jeopardize the fish. The States would continue current efforts, as funds permit. It is presumed the States would not administer instream flows for the rare and endangered fishes.

2. *Recovery Timeframe.* Indefinite (greater than 15 years).

3. *Recovery Actions.* The recovery actions outlined in the proposed action would take place as described, except as follows:

a. Recovery actions that would not be undertaken due to lack of funds:

(1) Nearly all water acquisition measures [A.3.a.(2)(c)–(g)].

(2) Construction of fish passage facilities at sites other than Redlands Diversion Dam [A.3.b.(4)].

b. Recovery actions that would be undertaken, but at a slower pace than in the Proposed Action due to lack of funds:

(1) Determination of needed instream flows [A.3.a.(1)].

(2) Creation of backwaters, spawning habitat, and wintering habitat [A.3.b.(1)–(3)].

(3) All artificial propagation and reintroduction efforts, except for maintenance of hatcheries as refugia [A.3.c.(2)–(4)].

(4) All nonnative species and sportfishing management efforts [A.3.d.(1)–(4)].

(5) All research, monitoring, and data management efforts [A.3.e.(1)–(3)].

c. Recovery actions that would be substantively different from those in the proposed action:

(1) For section 7 consultation, each project would be individually evaluated to determine the best mix of measures to offset impacts. In order to avoid jeopardy to the fish, project sponsors could be required to modify proposed structures, provide flows, and/or contribute funds for recovery implementation actions in some cases (per the existing depletion formula).

(2) The razorback sucker would likely be listed under the Endangered Species Act.

(3) Releases from Federal reservoirs would not be legally protected as instream flow rights.

4. *Funding.* The existing level of funding would continue; i.e., approximately $1.6 million annually would be directed toward recovering the rare and endangered fish, of which $1.5 million would be Federal funds and $100,000 would be State funds. Some money could continue to be contributed by water developers with small projects with correspondingly small depletions (See recovery action B.3.c.(1)).

C. "Federal Action Only" Alternative

1. *Administration.* A Recovery Implementation Committee representing only Federal agencies involved in Upper Colorado River Basin resource management would use their authorities and resources to recover the fish. It is assumed that the States would continue their current level of effort, as funds permit.

2. *Recovery Timeframe.* Indefinite (greater than 15 years).

3. *Recovery Actions.* The recovery actions outlined in the proposed action would take place as described, except as follows:

a. Recovery actions that would be undertaken, but may proceed at a lower level of effort than in the proposed action due to the need for State cooperation and/or concurrence:

(1) Reintroduction efforts [A.3.c.(3), (4)].

(2) Efforts to control nonnative fish species and sportfishing [A.3.d.(1)–(3)].

b. Recovery actions substantively different from those in the proposed action:

(1) For section 7 consultation, each project would be individually evaluated to determine the best mix of measures to offset impacts. In order to avoid jeopardy to the fish, project sponsors could be required to modify proposed structures, provide flows, and/or contribute funds for recovery implementation actions. Under this alternative, project sponsors' contributions may be used to acquire water rights.

(2) If necessary, Federal condemnation of water rights would be considered to secure water for the fish.

(3) The razorback sucker could be listed under the Endangered Species Act.

c. Recovery actions that would be managed differently from those in the proposed action:

(1) Overall, the Federal government would take a proportionately stronger role in determining and implementing recovery actions for the four fishes in the upper basin.

(2) The Federal government will encourage the States to administer water rights (obtained as described in A.3.a.(2)(a)–(g)) under State water law. However, if the States do not agree to State administration, acquisition by the United States of instream flows under section 5 of the Endangered Species Act would be investigated. Assuming these flows could be legally protected, these instream flow rights would be held in the name of the United States, and administered by the States.

4. *Funding.* The construction fund and annual funding levels would be equal to the Federal funding levels in the proposed action. Congress would be requested to authorize a water rights fund only if water acquired by the Federal government under section 5 of the Endangered Species Act could be protected as an instream flow right under State or Federal law. Private water developers could be requested to contribute toward recovery efforts as described in C.3.b.(1) above.

III. Impacts of the Proposed Action

Comments are invited on the direct, indirect, and cumulative impacts likely to result from implementing the proposed action and major alternatives. Areas of potential impact include:

A. Target species
  1. Federally listed species—Colorado squawfish, humpback chub, bonytail chub
  2. Candidate species—razorback sucker
B. Nontarget species
  1. Aquatic
    a. Native fish species other than target species
    b. Nonnative fish species
    c. Sport fish species
  2. Terrestrial
    a. Sport species
    b. Migratory birds
    c. Endangered species
C. Recreation
  1. Sportfishing
    a. Reservoir
    b. Stream
  2. Rafting/Boating
D. Electricity production
  1. Hydropower
  2. Nonhydropower
E. Energy development
F. Agricultural production
  1. Crops
  2. Livestock
G. Municipal/Industrial
  1. Urban growth
  2. Industrial development
H. Water quality
  1. Salinity
  2. Temperature
I. Visual/aesthetic
J. Historical/archaeological/cultural
K. Land management agencies
L. Habitats of Federal concern
  1. Floodplains
  2. Wetlands

A more detailed explanation of the proposed action may be obtained by calling or writing the contact person identified at the beginning of this notice.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), CEQ Regulations to implement NEPA (40 CFR Parts 1500–1508), other appropriate Federal regulations, and Department of the Interior and Service procedures for compliance with these regulations.

We estimate that the draft environmental assessment will be completed by September 1986.

Dated: July 23, 1986.

Galen L. Buterbaugh,

Regional Director.

[FR Doc. 86–17059 Filed 7–29–86; 8:45 am]

BILLING CODE 1505-01-M

National Park Service

National Register of Historic Places, Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 2, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register. National Park Service. U.S. Department of the Interior, Washington, DC 20243. Written

comment should be submitted by August 27, 1986.

Patrick Andrus,

Acting Chief of Registration, National Register.

ALABAMA

Butler County

Greenville, *Commerce Street Residential Historic District (Greenville MRA)*, W. Commerce and Pine Sts.
Greenville, *East Commerce Street Historic District (Greenville MRA)*, Roughly bounded by Cedar, Chesnut, Commerce, and Hickory Sts.
Greenville, *Fort Dale—College Street Historic District (Greenville MRA)*, Roughly bounded by Fort Dale, Hamilton, and N. College Sts.
Greenville, *King Street Historic District (Greenville MRA)*, Roughly bounded by W. Commerce, Oliver, Milner, and King Sts.
Greenville, *Post Office Historic District (Greenville MRA)*, W. Commerce and Fort Dale Sts.
Greenville, *South Greenville Historic District (Greenville MRA)*, Roughly bounded by Walnut, S. Conecuh, Parmer, Church, Herbert, Caldwell, and Milner Sts.
Greenville, *South Street Historic District (Greenville MRA)*, Roughly bounded by South, Oliver, and McKenzie Sts.
Greenville, *West Commerce Street Historic District (Greenville MRA)*, Roughly bounded by W. Commerce, Bolling, and Milner Sts., and L & N R.R.

Jefferson County

Birimingham, *Agee House*, 1804 Twelfth Ave., S.
Birmingham, *Anderson Place Historic District*, Roughly bounded by Fourteenth Ave., Eighteenth St., Sixteenth Ave., and Fifteenth St.
Birmingham, *Bottega Favorita*, 2240—2244 Highland Ave.
Birmingham, *Five Points South Historic District (Boundary Increase)*, Roughly bounded by Twelth Ave., Nineteenth St., Thirteenth Ave., and Seventeenth St.
Birmingham, *St. Andrew's Episcopal Church*, 1164 Eleventh St., S.

Talladega County

Talladega, *Averiett, Benjamin H., House (Benjamin H. Averiett House TR)*, AL 8.
Talladega, *Averiett, William, House (Benjamin H. Averiett House TR)*, Off AL 8.
Talladega, *Goodwin—Hamilton House (Benjamin H. Averiett Houses TR)*, Marble Valley Rd.
Talladega, *Welch—Averiett House (Benjamin H. Averiett Houses TR)*,, AL 8.

ARIZONA

Gila County

Globe, *Globe Commercial and Civic Historic District*, Roughly along N. Broad St. from Willow St. to Tebbs St.

CALIFORNIA

Los Angeles County

Hollywood, *Villa Bonita*, 1617 Hillcrest Rd.

Napa County

Napa, *Hennessey, Dr. Edwin, House*, 1727 Main St.

San Mateo County

Menlo Park, *Barron—Latham—Hopkins Gate Lodge*, 555 Ravenswood Ave.

Ventura County

Fillmore, *Bardsdale Methodist Episcopal Church*, 1418 Bardsdale Ave.

CONNECTICUT

Hartford County

Bristol, Federal Hill Historic District, *Roughly bounded by Summer, Maple, Woodland, Goodwin, and High Sts.*
West Hartford, *Beardsly—Mix House (Eighteenth-Century Houses of West Hartford TR)*, 81 Rockledge Dr.
West Hartford, *Brace, Moses—Codwell, Uriah, House (Eighteenth-Century Houses of West Hartford TR)*, 11 Flagg Rd.
West Hartford, *Butler House (Eighteenth-Century Houses of West Hartford TR)*, 253 N. Main St.
West Hartford, *Butler, James, House (Eighteenth-Century Houses of West Hartford TR)*, 239 N. Main St.
West Hartford, *Colton, Benjamin, House (Eighteenth-Century Houses of West Hartford TR)*, 25 Sedgwick Rd.
West Hartford, *Farnswoarth, Samuel, House (Eighteenth-Century Houses of West Hartford TR)*, 537 Mountain Rd.
West Hartford, *Gillett, Asa, House*, (Eighteenth-Century Houses of West Hartford TR).
West Hartford, *Gillett, Asa, House (Eighteenth-Century Houses of West Hartford TR)*, 202 S. Main St.
West Hartford, *Goodman, Timothy, House (Eighteenth-Century Houses of West Hartford TR)*, 567 Quaker La., S.
West Hartford, *House at 847 Main Street, North (Eighteenth-Century Houses of West Hartford TR)*, 847 Main St., N.
West Hartford, *Seymour, Elisha, Jr., House (Eighteenth-Century Houses of West Hartford TR)*, 410 and 412 Park Rd.
West Hartford, *Stanley—Woodruff—Allen House (Eighteenth-Century Houses of West Hartford TR)*, 37 Buena Vista Rd.
West Hartford, *Steele, Allyn, Hoyse (Eighteenth-Century Houses of West Hartford TR)*, 114 N. Main St.
West Hartford, *Wells, John, Jr., House (Eighteenth-Century Houses of West Hartford TR)*, 505 Mountain Rd.
West Hartford, *Whitman House (Eighteenth-Century Houses of West Hartford TR)*, 208 N. Main St.
New Haven, *Edgewood Park Historic District*, Roughly bounded by Whalley Ave., Elm St., W. Park and Sherman Ave., Boulevard, and Derby and Yale Aves.

GEORGIA

Hart County

Hartwell, *Adams—Matheson House (Hartwell MRA)*, 116 Athens St.
Hartwell, Benson Street—Forest Avenue Residential Historic District (Hartwell MRA), Roughly along Benson St. from Forest Ave. to Adams St. and along Forest Ave. From Railroad St. to Garrison Rd.
Hartwell, *Best, Allie M., House (Hartwell MRA)*, 122 Athens St.
Hartwell, *Candler—Linder House (Hartwell MRA)*, Johnson St.
Hartwell, *Fortson, H. E., House (Hartwell MRA)*, 221 Richardson St.
Hartwell, *Franklin Light and Power Company Steam Generating Station (Hartwell MRA)*, Leard St. at railroad track
Hartwell, *Franklin Street—College Avenue Residential Historic District (Hartwell MRA)*, Roughly bounded by Johnson St., Cleveland Ave., First, and Carter Sts.
Hartwell, *Gulley—Vickery—Blackwell House (Hartwell MRA)*, 115 Franklin St.
Hartwell, *Hartwell City School (Hartwell MRA)*, College Ave.
Hartwell, *Hartwell Commercial Historic District (Hartwell MRA)*, Roughly bounded by Franklin St., Forest Ave., Railroad and Jackson Sts.
Hartwell, *Hartwell Methodist Church, South (Hartwell MRA)*, Howell St.
Hartwell, *Horton—Vickery House (Hartwell MRA)*, 101 Vickery St.
Hartwell, *Jones, J. Pearl, House (Hartwell MRA)*, 401 Athens St.
Hartwell, *Kendrick—Matheson House (Hartwell MRA)*, 212 Athens St.
Hartwell, *Kidd, Charles I., House (Hartwell MRA)*, 304 W. Howell St.
Hartwell, *Linder, Roscoe Conklin, House (Hartwell MRA)*, 118 Athens St.
Hartwell, *McCurry—Kidd House (Hartwell MRA)*, 602 W. Howell St.
Hartwell, *McMullan—Vickery Farm (Hartwell MRA)*, 602 Forest Ave.
Hartwell, *Meredith, Dr. Owen, House (Hartwell MRA)*, 605 Benson St.
Hartwell, *Meyer, Saul, House (Hartwell MRA)*, 304 W. Johnson St.
Hartwell, *Morrison, Jackson, House (Hartwell MRA)*, 439 Rome St.
Hartwell, *Pure Oil Service Station (Hartwell MRA)*, Howell St. at Jackson St.
Hartwell, *Satterfield, Emory Edward, House (Hartwell MRA)*, 504 W. Howell St.
Hartwell, *Skelton, Alexander Stephens, House (Hartwell MRA)*, 214 Athens St.
Hartwell, *Teasley, Ralph, House (Hartwell MRA)*, 421 W. Howell St.
Hartwell, *Teasley, Thomas William, House (Hartwell MRA)*, 417 W. Howell St.
Hartwell, *Teasley—Holland House (Hartwell MRA)*, 416 W. Howell St.
Hartwell, *Temple, John Roland, House (Hartwell MRA)*, 129 Athens St.
Hartwell, *Temple—Skelton House (Hartwell MRA)*, 201 Athens St.
Hartwell, *Underwood, John, House (Hartwell MRA)*, 825 S. Jackson St.
Hartwell, *Whithman Cotton Mills Village Historic District (Hartwell MRA)*, Along Liberty Circle, Jackson and Webb Sts.

LOUISIANA

Claiborne Parish

Homer, *Homer Historic District*, Roughly bounded by E. Main, S. Third, W. Main, and N. Second Sts.

MASSACHUSETTS

Middlesex County

Cambridge, *Brooks, Luther, House (Cambridge MRA)*, 34 Kirkland St.
Cambridge, *Building at 16 Prescott Street (Cambridge MRA)*, 16 Prescott St.
Cambridge, *Divinity Hall (Cambridge MRA)*, 12 Divinity Ave.
Cambridge, *Harvard Houses Historic District (Cambridge MRA)*, Roughly bounded by Banks, Putnam, Cowperwaite, Grant, Dewolf, Mt. Auburn, Plympton, and Boylston Sts., and Memorial Dr.
Cambridge, *Harvard Observatory (Cambridge MRA)*, 60 Garden St.
Cambridge, *Lovering, Joseph, House (Cambridge MRA)*, 38 Kirkland St.
Cambridge, *Treadwell—Sparks House (Cambridge MRA)*, 21 Kirkland St.
Cambridge, *University Museum (Cambridge MRA)*, Divinity Ave.

MICHIGAN

Emmet County

Petoskey, *Allen, J.B., (Petoskey MRA)*, 822 Grove St.
Petoskey, *Bartram, Isaac, House (Petoskey MRA)*, 508 Wachtel Ave.
Petoskey, *Carmichael, W. S., House (Petoskey MRA)*, 301 Jackson St.
Petoskey, *Debenham, I. N., House (Petoskey MRA)*, 1101 Emmet St.
Petoskey, *East Mitchell Street Historic District (Petoskey MRA)*, Roughly bounded by Rose, Kalamazoo, State, Howard, Michigan, and Division
Petoskey, *Fochtman, Gerhard, House (Petoskey MRA)*, 1004 waukazoo Ave.
Petoskey, *Fourth Ward Polling Place (Petoskey MRA)*, 209 Washington St.
Petoskey, *Fryman, Meyer, House (Petoskey MRA)*, 211 Michigan St.
Petoskey, *Grace Methodist Episcopal Church (Petoskey MRA)*, 625 Connable St.
Petoskey, *Hobbins, Bert and John, House (Petoskey MRA)*, 1024 Emmet St.
Petoskey, *Hosman and Wheeler Meat Market (Petoskey MRA)*, 612 Ingalls Ave.
Petoskey, *Kabler, John, House (Petoskey MRA)*, 415 Jackson St.
Petoskey, *Lesher, Frank, House (Petoskey MRA)*, 122 Sheridan St.
Petoskey, *Malin, A., House (Petoskey MRA)*, 54 Bridge St.
Petoskey, *Markle, George and Eugene, House (Petoskey MRA)*, 701 Kalamazoo St.
Petoskey, *McManus, George, House (Petoskey MRA)*, 121 State St.
Petoskey, *Meyers, Elias, House (Petoskey MRA)*, 912 Baxter St.
Petoskey, *Miller, Jacob, House (Petoskey MRA)*, 307 Jackson St.
Petoskey, *Mineral Well Park Pavillion (Petoskey MRA)*, W. Lake St.
Petoskey, *Nyman, John, House (Petoskey MRA)*, 915 Emmet St.
Petoskey, *Olin, G. W., House (Petoskey MRA)*, 610 Kalamazoo St.
Petoskey, *Pennington, Sarah, House (Petoskey MRA)*, 719 Maple St.
Petoskey, *Petoskey Downtown Historic District (Petoskey MRA)*, Roughly bounded by Rose, Division, Michigan, and Petoskey
Petoskey, *Petoskey Grocery Company Building (Petoskey MRA)*, 616 Petoskey St.
Petoskey, *Petoskey Public Works Utility Building (Petoskey MRA)*, 106 W. Lake St.
Petoskey, *Rehkopf, Phillip, House (Petoskey MRA)*, 918 Howard St.
Petoskey, *Schantz, George, House and Store (Petoskey MRA)*, 534 Wachtel Ave.
Petoskey, *Schapler, Frank, House (Petoskey MRA)*, 106 E. Lake St.
Petoskey, *Seventh Day Adventist Church (Petoskey MRA)*, 224 Michigan St.
Petoskey, *Shafer's Grocery and Residence (Petoskey MRA)*, 1018 Emmet St.
Petoskey, *Stout House (Petoskey MRA)*, 606 Grove St.
Petoskey, *Trinity Evangelical Church (Petoskey MRA)*, 219 State St.
Petoskey, *VanZolenburg, Jacob, House (Petoskey MRA)*, 203 State St.
Petoskey, *Wells, J. M., House (Petoskey MRA)*, 203 W. Lake St.
Petoskey, *West Mitchell Street Bridge (Petoskey MRA)*, W. Mitchelkl St. at Bear River
Petoskey, *Zion Evangelical Lutheran Church (Petoskey MRA)*, 610 Pedtoskey St.

NEVADA

White Pine County

Ely, *White Pine County Courthouse*, Campton St.

NEW JERSEY

Essex County

Newark, *Stanley Theater*, 985 S. Orange Ave.

Union County

Elizabeth, *Belcher—Odgen Mansion—Price, Benjamin—Price—Brittan Houses District*, Corner of E. Jersey and Catherine Sts.

NEW YORK

Westchester County

North Salem, *Union Hall*, NY 116 and Keeler La.

NORTH CAROLINA

Bertie County

Rhodes Site (31Br90),

Moore County

Gordon Payne Site (31Mr15),

Randolph County

Thayer Farm Site (31Rd10),

TEXAS

Grayson County

Van Alstyne, *Umphress—Taylor House*, 301 Paris St.

VERMONT

Windsor County

Springfield, *Springfield Downtown Historic District (Boundary Increase)*, Roughly Brookline Apartments on Wall St., Park St., and along the Black River

VIRGINIA

Newport News (Independent City)

North End Historic District, Roughly bounded by Sixty-eighth St., Warwick Blvd., Fiftieth St., and Huntington Ave.

The Fifteen-Day Commenting Period is to be waived for the following properties in order to meet the condition of a Memorandum of Agreement between the Advisory Council on Historic Preservation and the State Historic Preservation Office.

MONTANA

Valley County

Fort Peck, *Administration Building (Fort Peck MRA)*, E. Kansas Ave.
Fort Peck, *Employee's Hotel and Garage (Fort Peck MRA)*, S. Missouri Ave.
Fort Peck, *Fort Peck Dam (Fort Peck MRA)*, On Missouri River.
Fort Peck, *Fort Peck Original Residences Historic District (Fort Peck MRA)*, 1101—1112 E. Kansas.
Fort Peck, *Garage and Fire Station (Fort Peck MRA)*, Gasconade St.
Fort Peck, *Hospital (Fort Peck MRA)*, S. Platte St.
Fort Peck, *Recreation Hall (Fort Peck MRA)*, Missouri Ave.
Fort Peck, *School (Fort Peck MRA)*, N. Missouri Ave.

[FR Doc. 86-18131 Filed 8-11-86; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Decision No. 5; Finance Docket No. 30800]

Union Pacific Corp., Union Pacific Railroad Co. and Missouri Pacific Railroad Co.; Intent To Seek Control of Missouri-Kansas-Texas Railroad Co.[1]

Decided: August 5, 1986.

Pursuant to 49 C.F.R. 1180.4(b), the Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP), Missouri Pacific Railroad Company (MP), and Missouri-Kansas-Texas Railroad Company (MKT) have notified the Commission of their intent to file an application seeking Commission approval and authorization, under 49 U.S.C. 11343 *et seq.*, for UPC and its subsidiary, MP, to acquire control of MKT and for the consolidation of MKT into MP.

MKT is a rail carrier and owns a motor carrier subsidiary and other rail carrier subsidiaries. It, in turn, is owned by Katy Industries, Inc. (Katy). Under an agreement dated June 3, 1986, MKT will enter into an agreement of merger with a new MP subsidiary prior to the end of July 1986. That merger agreement will be submitted to MKT shareholders for approval. MP proposes to acquire shares of MKT common stock owned by Katy in exchange for cash and an installment note issued by MP and guaranteed by

[1] Originally entitled Union Pacific Corporation and Missouri Pacific Railroad Company—Control—Missouri-Kansas-Texas Railroad Company.

UPC. Immediately thereafter, the new MP subsidiary will be merged into MKT, thus making MKT a wholly-owned subsidiary of MP. As a consequence, UPC, which also owns UP and MP, will acquire control over MKT and its common carrier subsidiaries. The properties of MKT then will be consolidated with those of MP.

The applicants indicate their intention to submit a traffic diversion study initially conducted using 1984 traffic data, but which also takes account of 1985 traffic. Their impact analyses will otherwise use 1985 data, to the extent practicable. Applicants intend to file their application on or about November 14, 1986.

Because the application, involves the control of two or more Class I railroads, it is a major transaction under 49 C.F.R. 1180.2(a) and is subject to the requirements in 49 C.F.R. Part 1180 for major transactions. Subsequent to the publication of this notice, the Commission will issue a decision delineating what additional information must be filed in order to complete the application. *See* 49 C.F.R. 1180.4(b)(2)(v). Modification of the requirements may there be ordered in response to appropriate requests or on our own motion. We will establish a procedural schedule after the application has been filed and accepted as complete.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18146 Filed 8-1-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket Nos. 30833 and 30834]

Chicago and North Western Transportation Co., Western Railroad Properties, Inc., and Burlington Northern Railroad Co.; Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from 49 U.S.C. 11343 the acquisition and operation by Chicago and North Western Transportation Company and Western Railroad Properties, Incorporated of an undivided one-half interest in Burlington Northern Railroad Company's interest in a line extending approximately nine miles north from Coal Creek Jct. in the Powder River Basin of Wyoming. The Commission also exempts from 49 U.S.C. 11301 the proposed financing to carry out the transaction.

DATES: This decision is effective on September 11, 1986. Petitions to stay must be filed by August 22, 1986, and petitions for reconsideration must be filed by September 2, 1986.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 30833 and 30834 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) L. John Osborn, Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, 1660 L Street, N.W., Suite 1000, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Donald Shaw, Jr., (202) 7693.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.D. InfoSystems, Inc. Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: August 5, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18148 Filed 8-11-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19; Sub-No. 119x]

The Baltimore and Ohio Railroad Co., Exemption for Abandonment in Fayette County, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commission exempts from the requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by the Baltimore and Ohio Railroad Company of approximately 1.84 miles of track in Fayette County, PA, subject to conditions for protection of emloyees.

DATE: This exemption is effective on September 11, 1986. Petition to stay must be filed August 22, 1986. Petitions for reconsideration must be filed by September 2, 1986.

ADDRESS: Send pleadings referring to AB-19 (Sub-No. 119X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7693.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289/4357 (DC Metropolitan area) or toll free (800) 424-5403

Decided: August 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18147 Filed 8-11-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ozell Green, d/b/a Green's Prescription Center; Revocation of Registration and Denial of Pending Applications

On March 24, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ozell Green (Respondent), trading as Green's Prescription Center, 648 West South Street, Orlando, Florida 32805, proposing to revoke Respondent's DEA Certificate of Registration, AG5091587, and to deny the application for renewal executed by Respondent on September 28, 1985, for registration as a retail pharmacy under 21 U.S.C. 823(f). Subsequent to the issuance of the Order to Show Cause, it was discovered that Respondent also submitted a later renewal application which was executed on January 12, 1986. Both applications for registration, along with the proposed revocation action, will be considered in the Administrator's final order. The statutory predicate for seeking the revocation of Respondent's current registration and denying the pending applications for renewal is that: (1) On October 11, 1985, Respondent, the proprietor and registered pharmacist of Green's Prescription Center, was convicted in the Ninth Circuit Court of Florida for Orange County, of two counts of delivering a controlled substance in violation of Florida Criminal Code 893.13(1)(a)(1) and 893.03(2)(a)(1), both second degree felony offenses relating to controlled substances, and two counts of delivering a controlled substance in violation of Florida Criminal Code 893.13(1)(a)(2) and 893.03(4)(h), both third degree

felony offenses relating to controlled substances; and (2) On February 6, 1986, the State of Florida, Department of Professional Regulation, Board of Pharmacy, issued a final order revoking Respondent's license to practice pharmacy in the State of Florida, and consequently, he is not authorized to handle controlled substances in the State of Florida. Respondent, through his attorney, replied to the Order to Show Cause by letter dated April 23, 1986. In the letter, he specifically waived his opportunity for a hearing on the issues set forth in the Order to Show Cause. Instead, Respondent opted to submit a written statement explaining his position in the matter. Therefore, the Administrator finds that Respondent has waived his opportunity for a hearing. 21 CFR 1301.54(c). The Administrator enters this final order based on the record as it appears, which includes Respondent's statement of position. 21 CFR 1301.54(c), 1301.54(d) and 1301.54(e).

The Administrator finds that the Orlando Metropolitan Bureau of Investigations (MBI) was notified by a confidential informant that Respondent was selling controlled substances from Green's Prescription Center without the required prescriptions. Based on this information, MBI planned an undercover operation which was conducted from August 1984 through December 11, 1984. As a result of the undercover operation, MBI made fourteen undercover purchases of Diazepam, a Schedule IV controlled substance, from Respondent. In each of these purchases, Respondent did not request a prescription before dispensing the requested drugs. A total of 1,102 Diazepam tablets were purchased from Respondent during the undercover operation. In addition, undercover agents were also able to purchase several tablets of Tylenol-3 with Codeine from Respondent, on at least two occasions, without prescriptions. As a result of the information and controlled substances obtained during the undercover operations, Respondent was arrested on February 15, 1985. After entering pleas of guilty, Respondent was convicted on October 11, 1985, in the Ninth Circuit Court of Florida for Orange County of two counts of delivering a controlled substance in violation of Florida Criminal Code 893.13(1)(a)(1) and 893.03(2)(a)(1), both second degree felony offenses relating to controlled substances, and two counts of delivering a controlled substance in violation of Florida Criminal Code 893.13(1)(a)(2) and 893.03(4)(h), both third degree felony offenses relating to controlled substances.

The Administrator also finds that on February 5, 1986, the Florida Department of Professional Regulation, Board of Pharmacy, issued a final order revoking Respondent's license to practice pharmacy in the State of Florida. In the same action, the Board of Pharmacy placed Green's Prescription Center on probation for a period of five years. Under the terms of the final order, Respondent is not permitted to enter the prescription area of the pharmacy during its probationary period, nor is he allowed to become involved in the ordering or receiving of controlled substances. In addition, the Florida Board of Pharmacy must review and approve any pharmacist the pharmacy seeks to employ. Also, the Florida Department of Professional Regulation will conduct three inspections per year at the expense of the pharmacy.

Respondent was, at the time of his offenses, and is currently, the proprietor and former registered pharmacist of Green's Prescription Center. He was also the registered pharmacist responsible for operating the pharmacy. Based upon his convictions for controlled substance violations which are directly linked to his practice as a pharmacist, and the revocation of his pharmacist's license, the Administrator finds a lawful basis to revoke the current pharmacy registration and all pending applications for renewal of the DEA registration of Green's Prescription Center. 21 U.S.C. 824(a)(2) and 824(a)(3).

In response to the Order to Show Cause, Respondent argues that the pharmacy's DEA registration should not be revoked or suspended. Instead, he urges the Administrator to enter an order consistent with that issued by the Florida Board of Pharmacy. He further claims that:

> Green's Prescription Center is under very strict probation, and there is no reason to suspect violations of criminal or civil laws regarding controlled substances will occur at Green's Prescription Center in the future. Allowing Green's Prescription Center to continue to dispense controlled substances under the direction of a qualified pharmacist will enable Respondent Ozell Green to continue to own and operate the business which supports his family even though he has lost his right to practice pharmacy. Such a result will ensure adequate safeguards for the protection of the public. [Respondents' Response to Order to Show Cause and Waiver of Hearing, paragraph 5.]

The Administrator rejects this argument. DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer, or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. See *Ozie T. Faison d/b/a Smith Discount Drugs*, Docket No. 8537, 51 FR 16403 (1986); *Diodo Leduc d/b/a Farmacia Leduc*, Docket No. 855, 51 FR 12751 (1986); *Spoon's Pharmacy*, Docket No. 8442, 50 FR 46520 (1985); *Daniel Levine, t/a Gladstone Pharmacy*, Docket No. 84–20, 50 FR 32651 (1985); *Coolidge Drugs, Inc., d/b/a/ The Apothecary*, 50 FR 31785 (1985); *Medicine Shoppe*, 50 FR 30533 (1985); *B. Ruppe Drugstore, Inc.*, Docket No. 84–16, 50 FR 23203 (1985); *K & B Successors, Inc.*, Docket No. 82–15, 49 FR 34588 (1984). The Administrator finds nothing in Respondent's argument which would warrant a departure from these earlier rulings.

In the present matter, Respondent seeks to retain his position as sole proprietor of Green's Prescription Center. He attempts to support his position by explaining that the limitations placed upon him by the Florida Board of Pharmacy are adequate to protect the public from future diversion of controlled substances at the pharmacy. Although the Florida Board of Pharmacy order prohibits Respondent from physically entering the pharmacy area of the store, and from ordering and handling the controlled substances, he still continues to manage and control the pharmacy, hires and fires the registered pharmacist, and as owner, has total access to the pharmacy area at all hours, day and night, when no one is present to observe his activities. The Administrator finds that based on Respondent's conduct which led to his ultimate arrest and conviction, his continued association with Green's Prescription Center would be inconsistent with the public interest as manifested in the Controlled Substances Act. The Administrator also finds that Respondent's continued ownership and presence in the store would allow him to exert his influence, albeit indirectly, over the dispensing activities of the pharmacy. In addition, by allowing the pharmacy its continued registration, Respondent would be allowed to profit from the pharmacy's dispensing of controlled substances under the registration he so blatantly abused. The Administrator concludes that, in addition to there being a lawful basis to support revocation of the pharmacy's registration, the continued registration of Green's Prescription Center is wholly inconsistent with the public interest.

Therefore, having concluded that there is a lawful basis for the revocation of Respondent's registration and for the denial of the applications for renewal, and having further concluded that under the facts and circumstances presented in this case the registration should be revoked and the applications for renewal be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration AG5091587, previously issued to Green's Prescription Center, be, and it hereby is revoked. The Administrator further orders that the applications of Green's Prescription Center for renewal of its DEA Certificate of Registration, be, and hereby are denied.

This order is effective September 11, 1986.

Dated: August 6, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-18056 Filed 8-11-86; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

Direct Mail of Applications and Petitions to the Regional Adjudications Center in St. Albans, VT

Correction

In the issue of Tuesday, July 1, 1986, in the document beginning on page 23848 in the second column, make the following corrections:

1. On page 23848, third column, under "Applications and Petitions", second line, "Finance" should read "Fiance".

2. On page 23849, first column, in the FR docket line, "86-14884" should read "86-14884".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, telephone (202) 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Departmental Management (Labor Management Relations and Cooperative Programs)
Airline Employee Protection Program 29 CFR Part 220
1225-0024
On occasion; semi-annually; other (other time list)
Individuals or households
35 responses; 3,509 hours

Pub. L. 95-504 provides for (1) hiring preference for protected airline employees and (2) an airline job vacancy list. The list of protected employees and the notification of certain carrier personnel actions will permit verification that a statutory right has been honored; the job vacancy listing is required by statute.

Employment and Training Administration
Standard Questionnaire for Manufacturing Firms
1205-0194 ETA 8561 A,B,C
On Occasion
Businesses or other-for-profit; Small businesses or organizations
700 Respondents; 2,800 hours; 3 forms

Data and information needed to prepare Secretary of Labor reports to the President under sections 202 and 224 of the Trade Act of 1974 as amended which are used in determining type(s) of import relief, if any, to be granted to import impacted industries.

Occupational Safety and Health Administration
Organizational statement for fire brigades
1218-0075
On occasion
Businesses or other for-profit
2,750 responses; 269 hours

The organizational statement describes what the fire brigade is expected to do, and will help employees understand their duties and responsibilities as fire brigade members. It will also inform compliance officers of the type of firefighting which will be performed, and if the level of training is consistent with that type of firefighting.

Signed at Washington, DC, this 7th day of August 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-18132 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-65-M

Renewal of Labor Advisory Committee for Trade Negotiations and Trade Policy

The Secretary of Labor and the United States Trade Representative have taken steps to renew the Labor Advisory Committee for Trade Negotiations and Trade Policy. The Committee and subcommittees will be chartered pursuant to section 135(c) (1-2) of the Trade Act of 1974 (19 U.S.C. 2155(c) (1-

VOL 51 ISS 155 AG 12 1986 UMI

2), as amended, and Executive Order No. 11846, March 27, 1975 (19 U.S.C. 2111 nt). The charter of the Committee will be filed 15 days from the date of this notice.

The Labor Advisory Committee for Trade Negotiations and Trade Policy consults with, and makes recommendations to the Secretary of Labor and to the United States Trade Representative on issues of general policy matters concerning labor and trade negotiations, operations of any trade agreement once entered into, and other matters arising in connection with the administration of the trade policy of the United States.

The Committee will meet at irregular intervals at the call of the Secretary of Labor and the United States Trade Representative. The frequency of committee meetings will be approximately two or three times per year, depending upon the needs of the Secretary of Labor and the United States Trade Representative. The Steering Subcommittee will meet monthly. Other subcommittees may meet on an ad hoc basis.

Representatives from the private sector wishing further information or to be considered for appointment to serve on the committee should contact: Mr. Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Frances Perkins Department of Labor Building, Room S5325, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 523–6565.

Signed at Washington, DC, this 7th day of August 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86–18133 Filed 8–11–86; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Job Training Partnership Act; Migrant and Seasonal Farmworker Programs; Grantee Selection Procedures

AGENCY: Employmemt and Training Administration, Labor.

ACTION: Notice of results of review of grantee selection procedures.

SUMMARY: The Department of Labor (DOL) is announcing changes in the competitive procedures for selecting Job Training Partnership Act (JTPA), Migrant and Seasonal Farmworker Program grantees. The next cycle of such selection actions will cover JTPA Program Years 1987 and 1988 (July 1, 1987 through June 30, 1989). These changes provide for the assignment of five extra points to the one application recommended by the Governor, the restructuring of the rating factors and the distributing of the rating points to allow more points for "familiarity with the area to be served" including linkages and coordination; and strengthening the implementation of "Intergovernmental Review of Federal Programs."

EFFECTIVE DATE: August 12, 1986.

FOR FURTHER INFORMATION CONTACT: Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 376–1226.

SUPPLEMENTARY INFORMATION: On December 3, 1985, the DOL published in the **Federal Register**, at 50 FR 49626, an Interim Notice proposing changes in the selection procedures for migrant and seasonal farmworker program grantees under section 402 of JTPA. The DOL suggested seven options which allow the Governors more involvement and/or give local organizations some form of preference in the JTPA, section 402, grantee selection process. The seven options were suggested in response to "complaints which indicated that the Governors should be more involved in the decision-making process and that local organizations should receive some form of preference in the selection of JTPA, section 402, grantees for their States." The seven options were designed to "ensure that all valid interests in the . . . selection process are considered." Written comments from interested parties were requested by February 3, 1986. Forty-eight responses arrived by that date, including 11 from Governors or their representatives; 26 from JTPA, section 402, grantee officials; 2 each from Private Industry Councils, private non-profit organizations, county governments, and Section 402 grantee associations; and 1 each from a Service Delivery Area, a private citizen, and an association of Governors. Six additional responses were received after the due date. The intent of this notice is to announce that the grantee selection procedures for JTPA, section 402, will be changed by the adoption of Options, I, II, and III.

Options Selected in the Review Process (Options I, II, III)

Option I proposed the assignment of five extra rating points in the competition to the one application recommended by the Governor. This option received the highest number of favorable comments of any one option, and was supported by 9 of the 10 State government-affiliated respondents who commented on the option.

Proponents, such as the National Governors' Association, view Option I as a means of providing the Governor with "a meaningful involvement in the decision-making process" and with "flexibility . . . in dealing with State issues" since he or she "could consider such factors as the extent of linkages and coordination with other pertinent State programs" in deciding which applicant to recommend. To the extent that State agencies are required to advise the Governor on labor market conditions and the needs and effectiveness of training and employment programs within the State, the Governor is capable of determining which applicant could provide effective delivery of services to farmworkers. Other respondents point to JTPA's emphasis at Section 121 on the Governor's role in preparing goals and objectives for job training and placement programs within the State and establishing criteria for coordinating JTPA activities with programs and services provided by State and local education and training agencies as an indication of the appropriateness of assigning weight to the Governor's recommendation.

The resultant selection, they believe, is more likely to be a program that is integrated with the State's other training an employment services.

Critics of Option I are concerned that the award of extra points undermines the existing competitive process which is properly unbiased, objective and safeguarded from political considerations. Some feel that a political influence could be exerted by a State agency applicant, making it likely that it would automatically be the recipient of the extra rating points. The very awarding of extra points is believed by opponents to be inconsistent with standard government procurement policies, effectively politicizing the procurement process.

In the judgement of the DOL, assigning five extra rating points to the one application recommended by the Governor is advisable because of the incentive it is likely to provide for applicant organizations to be knowledgeable about a State's overall priorities and emphases in employment training, so that better coordination may be planned for and achieved. To this same end, Governors may be encouraged to improve their Intergovernmental Review Process to better identify the one applicant which can best serve the State's needs.

A rating system that is weighted in the direction of crediting coordinated services in consistent with the selection of Options II and III (see discussion below), and with JTPA. JTPA, section 402(d), states that the Secretary of Labor

"shall consult with appropriate State and local officials" in administering section 402 programs. In light of the clear desire expressed by the respondent Governors that they be more involved in the grantee selection process, assigning five additional rating points to their most preferred applicant is an acceptable way of fulfilling the consultation requirement. The DOL does not view this action as either subjectivizing or politicizing the competitive procurement process.

Option II proposed restructuring the rating factors along the lines of the review standards cited in the Migrant and Seasonal Farmworker (MSFW) regulations at 20 CFR 633.203, and a redistribution of the rating points to allow more points for "familiarity with the area to be served" and "linkages and coordination."

Those who wrote in favor of Option II focused on the importance, in the words of a private non-profit respondent, of the program operator's "intimate knowledge and understanding of the problems of migrant and seasonal farmworkers of the particular local." The knowledge to which the writer refers is "of the clients, job market, training opportunities, successful training programs, political structure, and the community in general."

This knowledge in turn increases the likelihood of effective linkages with other organizations and the accompanying coordination of services to the target population.

Those who submitted comments opposed to Option II feel that it is inappropriate to allocate more rating points to knowledge of the community and the existence of ties to local program because this factor, along with "an understanding of the problems of migrant and seasonal farmworkers," would make the first two rating factors equal in points to administrative and programmatic capability. This arguably would be a retreat from the performance orientation of the current rating system, and inconsistent with the DOL's emphasis on responsibility reviews, performance standards, audits and monitoring visits throughout the performance period. Furthermore, opponents argue, the existing numerical rating system allows the DOL to judge each applicant's capabilities, including those that may be location-specific, against congressionally-established criteria.

The DOL favors this Option because the restructuring is consistent with MSFW regulations at 20 CFR 633.203 governing the review of funding requests. The rating factors as listed below are required by the regulations to be identified as review standards in the Solicitation for Grant Application (SGA):

A. An understanding of the problems of migrant and seasonal farmworkers. (Range 0 to 20 points)

B. A familiarity with the area to be served. (Range 0 to 20 points)

C. A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers. (Range 0 to 30 points)

D. General administrative and financial management capability. (Range 0 to 30 points)

E. Prior performance with respect to financial management, audit, and program outcomes (covered under the responsibility review or preaward survey).

The rating points listed above are slightly different from those published in the Interim Notice of December 3, 1985. Option II originally proposed a total of 50 points for factors A and B, as opposed to only 30 points for similar content areas in the SGA for Program Year 1985 (**Federal Register**, October 19, 1984, 49 FR 41120). The DOL's final procedure published today allows 40 points for Factors A and B, and allocates 30 points each for administrative and programmatic capability. the DOL believes, in light of comments received, that the 40/60 proportion is the desirable allocation under JTPA.

The redistribution of rating points will presumably be advantageous to those organizations most familiar with a locality's needs and resources. The DOL considers this shift to be advisable because an applicant's analysis of the needs of the target group in a specific locale, as informed by a working knowledge of the characteristics and structures of the area; and the proposed program's potential to address local needs, as supported by the involvement of appropriate area agencies and programs, must serve as one important guideline in selecting the program with the most effective service mix and delivery system.

Option III proposed strengthening the implementation of E.O. 12372, the "Intergovernmental Review of Federal Porgrams," by specifying in each future SGA the timeframe for (1) comments from the State, Single Point of Contact or others, (2) responses from the applicant regarding those comments, and (3) the DOL's actions regarding the comments and responses.

The DOL agrees with the proponents of this Option that the intent of E.O. 12372, *i.e.*, intergovernmental cooperation and Federal agency responsiveness to State and local officials, is consistent with the requirement in JTPA, section 402(d), of consultation with those officials in the administration of migrant and seasonal farmworker programs. Strengthening the implementation of E.O. 12372 through the establishment of definite timeframes would likely facilitate the State review process and also allow the DOL to address comments from the State on section 402 applications. As noted by the Association of Farmworker Opportunity Programs (AFOP), "for the Department to outline the timeframe . . . would help to reduce the level of misunderstanding that currently exists on the part of commentors and applicants."

Opponents expressed the concern that a State agency may receive an unfair advantage if State clearinghouses are able to review and respond to all proposals prior to their submission to the DOL. In order to maintain the integrity of the competitive process, simultaneous submission of applications to both State clearinghouses and the DOL will continue as required under 20 CFR 633.202(d). Critics also questioned in general terms the necessity of applying what one viewed as "more stringent guidelines than are already required by the Executive Order." The DOL chooses to strengthen the implementation of E.O. 12372 in the manner described above as a positive improvement for the benefit of all parties and as a demonstration of our interest in consulting with the State.

Options Rejected in the Review Process (IV, V, VI, VII)

Options IV, V, and VI proposed awarding additional rating points to in-State applicants, limiting competition to in-State applicants, and giving preference to in-State applicants if they obtain a minimum passing score in the competition and, if they are the current grantee, pass the responsibility review.

Section 402 grantee-affiliated commentors responded with almost unanimous opposition to each of Options IV, V, and VI. These respondents stressed in their remarks that awarding additional rating points, whether or not an applicant demonstrates acceptable performance levels, constitutes preferential treatment and is an arbitrary inhibitor of what must be a fair and open competition. In the words of the AFOP, "legislatively unauthorized restrictions to the competitive process would appear to be in violation of the Federal acquisition regulations which govern these actions."

Proponents of Options IV, V, and VI (24 favorable comments out of 114 recorded on these options) argued that in-State organizations are inherently more capable than out-of-State organizations in effectively delivering multi-faceted training and employment services. Being based within the State to be served, in-State organizations are more likely to know the characteristics, structures, and resources of the target area, and to have linkages which allow for greater coordination with other area service-providers and programs. Applicant based out-of-State are necessarily less accessible and accountable to the target population and, to the exent that they are larger than single-State grantees, have an unfair advantage during the procurement process.

The DOL concurs with the arguments of the opponents of Options IV through VI primarily because section 402(c)(1) of JTPA requires the use of selection procedures consistent with standard Government procurement policies in the grant award process. The legislative intent for an open and fair competition must not be compromised by either a restriction on which organizations apply (as in Option V), or by any preferential treatment (as in Options IV and VI) arising from factors other than the merits of an application as rated by uniformly-applied criteria. Limiting or influencing the competitive process by the use of the hard-to-define "in-State" label would exclude organizations with excellent track records in operating Section 402 programs, and would handicap the DOL's ability to ensure that migrant and seasonal farmworkers receive the most effective training and employment services.

Furthermore, it has been the experience of the DOL that close proximity to a target area or to an indigenous group of agricultural workers is certainly no guarantee that an organization can deliver services effectively in that locality, just as remoteness is no guarantee that it cannot. Applicants who do possess a familarity with an area to be served will have the opportunity to demonstrate it, and to be rated accordingly (see the discussion of Option II above). What one respondent called "presumed 'omniscience' regarding local farmworker problems and the area to be served" by in-State organizations will not result in the award of automatic rating points.

Option VII would award additional rating points for an applicant's "proposed leveraging or matching with non-Federal funds." This option produced only 6 favorable comments to the effect that the infusion of additional resources from a variety of funding sources would enhance the delivery of JTPA, section 402, programs and is in the best interest of farmworkers. Criticism of this proposal centers on the lack of any affirmative language regarding leveraging in JTPA. This "strongly suggests," in the words of a section 402 grantee, "Congressional agreement that allocation of resources . . . should not depend . . . on a commitment of State or local dollars for those purposes." Additional objectors note the difficulty of holding applicants accountable for the successful acquisition of proposed matching funds.

The DOL accepts the argument that Option VII would have an adverse and inequitable effect on many private non-profit organizations. The ability of such organizations to compete fairly with public agencies and SDAs would be severely constrained, due to the latter groups' greater ability to leverage State and local funds.

Signed at Washington DC, this 6th day of August, 1986.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

[FR Doc. 86-18139 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,103]

Alta Products, Inc., Wilkes-Barre, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 17, 1986 in response to a worker petition received on December 27, 1985 which was filed on behalf of workers and former workers of Alta Products Corporation, Wilkes-Barre, Pennsylvania.

Alta Products, Incorporated, Wilkes-Barre, Pennsylvania ceased production and terminated all production workers on May 31, 1985 and closed the plant permanently on June 7, 1985. All workers were previously covered up to December 15, 1985 under an existing Trade adjustment Assistance Certification (TA-W-14,586), impact date of April 5, 1982 and an expiration date of December 15, 1985.

The investigation revealed no new evidence of production occurring at the subject firm following its closure June 7, 1985. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 22nd day of July 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-18134 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Laurie Lace Corp.; et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 28, 1986–August 1, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a signficant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,883; Laurie Lace Corp., West New York, NJ

TA-W-16,940; Swissloom Emb. Works, West New York, NJ

TA-W-16,816; Don Rite Embroidery Co., Fairview, NJ

TA-W-16,851; Herman Ott Embroidery Corp., Fairview, NJ

TA-W-16,891; M & V Embroidery, Union City, NJ

TA-W-16,898; Matthew Embroidery Corp., Fairview, NJ

TA-W-16,900; Metropolitan Embroidery Co., North Bergen, NJ

TA-W-16,908; Neil Embroidery Corp., Cliffside Park, NJ

TA-W-16,760; Shepard Niles, Inc., Montoun Falls, NJ

TA–W–17,227; Hibbing Taconite Co., Hibbing, MN
TA–W–16,727; Emmaus Manufacturing, Emmaus, PA
TA–W–17,071; Greda Fashions, Patchogue, NJ
TA–W–17,147; Roessing Bronze Co., Mars, PA
TA–W–17,060; Hercules, Inc., Covington, VA
TA–W–16,777; Ansonia Cutters, Inc., Guttenburg, NJ
TA–W–16,822; Eureka Cutting Service, North Bergen, NJ
TA–W–16,824; Excellent Thread & Scallop Cutting Corp., Cliffside Park, NJ
TA–W–16,860; Imperial Embroidery Co., Union City, NJ
TA–W–16,921; Rivera Embroidery Corp., West New York, NJ
TA–W–16,797; Calta Embroidery Co., Union City, NJ
TA–W–17,196; USS (formerly United States Steel Corp.), Forged Circular Products, Operations, McKees Rocks, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–16,764; ACE Shiffli Emblem Co., Inc., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,776; Ann Del Embroidery, Cliffside Park, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,791; Belve Thread & Scallop Cutting, Gutteenburg, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,804; Columbia Embroidery Works, Inc., Union City, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,829; Flair Embroideries, North Bergen, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,839; Gold Star Embroidery Corp., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,882; J. Schwarzwald & Sons Inc., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,868; Joan Embroidery Co., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,871; Jonic Embroidery Corp., North Bergen, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,884; Linmark Schiffli Embroideries, Edgewater, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,906; National Embroidery Company, Guttenberg, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,913; Philette Embroidery Corp., Fairview, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,918; Ro-Nat Embroidery Corp., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,956; W.R. Cutting Works, Union City, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–17,246; International Coal Processing Corp., Slickville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,214; McGraw Edison Service, Bluefiled, WV

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,195; Suntec Industries, Inc. Rockford, IL

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,692; NAE Co., Lynn, MA

Aggregate U.S. imports of rectifiers did not increase as required for certification.

TA–W–17,133; Motion Picture Screen Cartoonist, Local 841, New York, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–16,781; Art Embroidery Corp., West New York, NJ

The investigation revealed that criterion (2) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,929; Sequins International, Englewood, NJ

The investigation revealed that criterion (2) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,937; Superior Thread & Scallop Cuttng Co., Guttenberg, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–16,942; Threadways Embroidery,. Inc., Ft Lees, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–17,156; International Paper Co., Liquid Packaging Div., Turlock, CA

Aggregate U.S. imports of sanitary food containers are negligible.

TA–W–17,254; United Nuclear Corp., Churchrock Operation, Gallup, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,253; Silver King Mine, Inc., North and South Morton Ranch Uranium Project, Casper, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,163; Pickands Mather Services, Inc., Hoyt Lakes, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-16,792; Berger Brothers Embroidery , West New York, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-17,260; Glasscrafters, Inc., Ft. Smith, AR

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before June 1, 1986.

TA-W-17,327; United Technologies, Essex Group, Orleans, IN

A certification was issued covering all workers involved in operations related to the cutting, terminating and bunching of ignition wire sets in the Ignition Wire Kit Department of United Technologies, Inc., Essex Group Orleans, IN. separated on or after March 24, 1985 and before December 31, 1995.

TA-W-17,166; General Electric Co., Hermetic Motor Div., Tiffin, OH

A certification was issud covering all workers of the firm separated on or after January 20, 1985 and before May 15, 1986

TA-W-17,130; Design Innovations, Inc., Long Island City, NY

A certification was issued covering all workers of the firm separated on or after January 8, 1985 and before December 31, 1985.

TA-W-17,203; Navistar International Memphis, TN

A certification was issued covering all workers of the firm separated on or after January 2, 1985 and before January 1, 1985.

TA-W-17,124; Modulus Gary Screw & Bolt Company, Gary, IN

A certification was issued covering all workers of the firm separated on or after May 9, 1985.

TA-W-17,140; Remco, Inc., Bridgeport, CT

A certification was issued covering all workers of the firm separated on or after January 10, 1985 and before January 21, 1986.

TA-W-17,181; Morganstern Pants Co., Fredricksburg, VA

A certification was issued covering all workers of the firm separated on or after January 24, 1985 and before May 18, 1986.

TA-W-17,210; Armstrong Rubber Co., Hanford, CA

A certification was issued covering all workers of the firm separated on or after February 10, 1985.

TA-W-17,201; Delval Mfg Co., Willow Grove, PA

A certification was issued covering all workers of the firm separated on or after September 1, 1985.

TA-W-17,174; Oakley Fashions, Jackson, TN

A certification was issued covering all workers of the firm separated on or after January 31, 1985 and before November 30, 1985.

TA-W-17,126; West Company, Newton, NJ

A certification was issued covering all workers of the firm separated on or after December 16, 1984 and before January 29, 1986.

TA-W-16,986; Wilson Sporting Goods Co., Grand Rapids, MI

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before October 1, 1985.

TA-W-17,249; Lake Region Lumber Co., Casco, ME

A certification was issued covering all workers of the firm separated on or after February 18, 1985 and before May 31, 1986.

TA-W-17,167; McKeesport Steel Foundry, Inc., McKeesport, PA

A certification was issued covering all workers of the firm separated on or after April 1, 1985.

TA-W-16,685; Antmart, Portage, PA

A certification was issued covering all workers of the firm separated on or after June 1, 1985 and before July 26, 1985.

TA-W-17,108; Harmony Design, Inc., Boulder, CO

A certification was issued covering all workers of the firm separated on or after December 12, 1984 and before December 31, 1985.

TA-W-16,672; Elder Mfg Co., Dexter, MO

A certification was issued covering all workers of the firm separated on or after November 15, 1984.

TA-W-17,084; Elder Mfg Co., Bloomfield, MO

A certification was issued covering all workers of the firm separated on or after December 16, 1984.

TA-W-17,143; Elder Mfg Co., Webb City, MO

A certification was issued covering all workers of the firm separated on or after November 1, 1985 and before January 1, 1986.

TA-W-16,698; Powermatic Division of Stanwich Industries, McMinnville, TN

A certification was issued covering all workers of the firm separated on or after November 14, 1984.

TA-W-17,053; Allied Chemical Co., Baltimore, MD

A certification was issued covering all workers of the firm separated on or after December 10, 1984.

TA-W-17,069; Deltro, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after December 10, 1984 and before December 1, 1985.

TA-W-17,060; Seetheart Sportswear Corp., New York, NY

A certification was issued covering all workers of the firm separated on or after December 10, 1984 and before March 15, 1985.

TA-W-17,159; Riley Creek Lumber Co., Laclede, ID

A certification was issued covering all workers of the firm separated on or after January 5, 1985.

TA-W-17,131; Lancaster Glass Corp., Lancaster, OH

A certification was issued covering all workers of the firm separated on or after December 20, 1984.

TA-W-16,721; Dana Corp., Plant 6, Richmond, IN

A certification was issued covering all workers of the firm separated on or after November 19, 1984.

TA-W-16,984; Universal Optical Co., East Providence, RI

A certification was issued covering all workers of the firm separated on or after October 25, 1984.

TA-W-17,127; American Borate Co., Billie Mine, Death Valley, CA

A certification was issued covering all workers of the firm separated on or after December 30, 1984.

TA-W-17,128; American Borate Co., Lathrop Mill, Armagosa Valley, NV

A certification was issued covering all workers of the firm separated on or after March 15, 1985.

TA-W-17,129; American Borate Co., Dunn Mill, Yermo, CA

A certification was issued covering all workers of the firm separated on or after March 15, 1985.

I hereby certify that the aforementioned determinations were issued during the period July 28, 1986–August 1, 1986. Copies of these determinations are available for inspection Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 5, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-18135 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

Investigation Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Mountain City Manufacturing et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 4th day of August 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Mountain City Manufacturing) (workers)	Forest City, NY	7/24/86	7/21/86	TA-W-17,776	Bathroom products.
Hoover and Allison (workers)	Xenia, OH	7/21/86	7/15/86	TA-W-17,777	Plastic parts.
A & E Data Tech (workers)	Alburn AL	7/24/86	7/16/86	TA-W-17,778	Plastic parts.
Stamper Drilling Corp. (workers)	Waller, TX	7/22/86	7/14/86	TA-W-17,779	Locate and supply oil and natural gas.
TRW Bearings Division (workers)	Jonestown, NY	7/21/86	7/16/86	TA-W-17,780	Single roll bearings.
Newpark Drilling Fluids (workers)	Houston, TX	6/19/86	4/18/86	TA-W-17,781	Drilling fluids.
Parker Drilling (workers)	Odessa, TX	6/17/86	5/30/86	TA-W-17,782	Drilling contractor.
Sabine Ranch (workers)	Hampshire, TX	7/22/86	7/15/86	TA-W-17,783	Oil and hand exploration.
Boveird Supply Co. (workers)	Williston, ND	7/17/86	7/11/86	TA-W-17,784	Sales of oil supply material.
Lynco Drilling Co. (workers)	Levelland, TX	7/22/86	6/19/86	TA-W-17,785	Worked on drilling rigs.
Plastronics Inc. (workers)	Milwaukee, WI	7/23/86	7/9/86	TA-W-17,786	Plastic medical devices
Jones and Vining (workers)	Lewiston, ME	7/24/86	7/21/86	TA-W-17,787	Shoe soles.
Sun Supply (workers)	Billings, MT	7/10/86	7/1/86	TA-W-17,788	Oil field supplies.
BJM Drilling and Exploration (workers)	Midland, TX	7/25/86	7/19/86	TA-W-17,789	Drill oil wells.
The Western Co. of North America (workers)	Forth Worth, TX	7/25/86	7/15/86	TA-W-17,790	Service petroleum production and drilling.
Teledyne Firth Sterling (workers)	Houston, TX	7/25/86	7/22/86	TA-W-17,791	Fungsten mining products.
J.W. Humbard (workers)	Midland, TX	7/25/86	7/17/86	TA-W-17,792	Oil.
Exxon Production Research Co. (workers)	Houston, TX	7/23/86	7/14/86	TA-W-17,793	Petroleum.
Premier Resources Ltd. (workers)	Denver, CO	7/28/86	7/14/86	TA-W-17,794	Produces oil and gas.
Baron Blouse & Sportswear Co. (workers)	Hazelton, PA	7/29/86	7/22/86	TA-W-17,795	Women's blouses.
Oxford Chemical (union) (IBEW)	Brunswick, NJ	7/29/86	7/21/86	TA-W-17,796	Printing vinyl materials and tablecloths.
Creations by Kenacott (workers)	New York, NY	7/28/86	7/21/86	TA-W-17,797	Manufacturing leathers and outerwear.
Wes Tex. Drilling (workers)	Abilene, TX	7/28/86	7/15/86	TA-W-17,798	Oil.
Wellex A Division of Hollburton (workers)	Casper, WY	6/20/86	6/16/86	TA-W-17,799	Services to oil companies for the production.
Rogers Exploration, Inc. (workers)	Dallas, TX	7/24/86	7/19/86	TA-W-17,800	Oil and gas exploration.
R&S Well Service Inc. (company)	Thermopolis, WY	7/21/86	7/0/86	TA-W-17,801	Well servicing.
Weyerhouse Company (IWA)	Klamath Falls, OR	7/16/86	7/8/86	TA-W-17,802	Logs and lumber.
Schlumberger Offshore Services (workers)	Victoria, TX	7/22/86	7/18/86	TA-W-17,803	Oil well servicing.
Bflo Jewelry case (RWDSY)	Buffalo, NY	7/8/86	6/12/86	TA-W-17,804	Jewelry cases.
White Sides Casing (workers)	Laredo, TX	7/29/86	7/22/86	TA-W-17,805	Run casing (tubing) into well to produce oil and gas.
Bearden Drlg. Co. (workers)	Wichita Falls, TX	7/21/86	7/26/86	TA-W-17,806	Drilled holes for oil and gas.
Moldcast Lighting Co. (IBEW)	Pine Brook, NJ	7/24/86	7/15/86	TA-W-17,807	Manufacturers outdoor lighting fixtures.
Wellman Industries (workers)	Longview, TX	7/18/86	7/11/86	TA-W-17,808	Pressure vessels for refineries.
Fansteal Inc. (IAM)	North Chicago, IL	7/25/86	7/21/86	TA-W-17,809	Electrical contacts.
Corsicana (workers)	Dallas, TX	7/25/86	7/21/86	TA-W-17,810	Men's slacks.
Ring Finishing Inc. (workers)	Warren, MI	7/21/86	7/8/86	TA-W-17,811	Metal finishers, buffing.
General Electric, (workers)	Owensboro, KY	7/24/86	7/21/86	TA-W-17,812	Electric motor.

[FR Doc. 86-18136 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,061]

Tractech, Inc., Mercury Products Division, Canton, OH; Affirmative Determination Regarding Application for Reconsideration.

By an application dated July 17, 1986, the Machinists Union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers at the Mercury Products Division of Tractech, Inc., Canton, Ohio. The determination was published in the Federal Register on July 1, 1986 (51 FR 23852).

The application claims, among other things, that casting which the Canton plant once machined are now being machined and imported from Canada.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore granted.

Signed at Washington, D.C., this 30th day of July 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 86-18137 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,219]

Weyerhaeuser Co., Everett Wood Products Division, Everett, WA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 18, 1986 in response to a worker petition which was filed by the International Woodworkers of America on behalf of workers at Weyerhaeuser Company, Everett Wood Products Division, Everett, Washington.

A negative determination applicable to the petitioning group of workers was issued on May 16, 1985 (TA-W-15,769). There has been no sales or production at the facility since November 1984. No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC., this 22nd day of July 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-18138 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-86-111-C]

Amherst Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amherst Coal Company, Lundale, West Virginia 25631 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Paragon Mine (I.D. No. 46-01367) located in Logan County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 27 to 54 inches in height with ascending and descending grades creating dips and rolls.

3. Petitioner states that use of canopies in certain mining heights could dislodge the roof bolts. In addition, the canopies decrease the operator's visibility and create extremely cramped working conditions.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virgina 22203. All comments must be postmarked or received in that office on or before September 11, 1986. Copies of the petition are available for inspection at that address.

Dated: August 6, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-18140 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-124-C]

Cimaron Minerals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cimaron Minerals, Inc., 109 BroadBottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 15-15505) located in Pikeville County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs and canopies be installed on the mine's electric face equipment.

2. The Elkhorn seam ranges from 35 to 52 inches in height with ascending and descending grades.

3. Petitioner states that use of canopies in certain mining heights would result in a diminution of safety for the miners affected because the canopies could dislodge roof supports and entrap the equipment. In addition, the canopies decrease the operator's visibility and create discomfort to the operator, increasing the changes for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 11, 1986. Copies of the petition are available for inspection at that address.

Dated: August 6, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-18141 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-116-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machnies.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the

hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 11, 1986. Copies of the petition are available for inspection at that address.

Dated: August 6, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 18142 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-125-C]

Mine Hill Coal Co. No. 50; Petition for Modification of Application of Mandatory Safety Standard

Mine Hill Coal Company No. 50, P.O. Box 819, Minersville, Pennsylvania 17954 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Little Buck Mountain Slope (I.D. No. 36-07548) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute; and that the minimum quantity of air reaching each working face be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine, which also has no history of an ignition, explosion, mine fire or harmful quantities of carbon dioxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 11, 1986. Copies of the petition are available for inspection at that address:

Dated: August 6, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-18143 Filed 8-11-86; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Performance Review Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces membership in the National Endowment for the Humanities' Performance Review Board

DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Jack A. Crowder Jr., Director of Personnel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S. Code, requires each agency to establish in accordance with the regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board should review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendation to the appointing authority relative to the performance of the senior executive. This notice gives the current membership of the Performance Review Board and rescinds any previously published notice of membership.

The members of the Performance Review Board are: (1) Chairman, Thomas Kingston, Assistant Chairman for Programs; (2) Susan Metts, Director of Administration; (3) Stephen Cherrington, Director, Office of Planning and Budget, and Alternate, Richard Ekman, Director, Division of Research Programs.

Lynne Cheney,

Chairperson.

[FR Doc. 86-18077 Filed 8-11-86; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget For Clearance

The following packages are being submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Certification (State Supervisory Authority) (OMB No. 3133-0009).

Respondent: State regulatory authorities.

Abstract: A state supervisor may certify the insurability of state chartered credit unions applying for Federal insurance.

Subject: Records Preservation Program (OMB No. 3133-0032).

Respondents: Federally Insured Credit Unions.

Abstract: Federally insured credit unions are required to establish a Records Program for storage of copies of vital records at an off site location.

Subject: Federal Credit Union Membership (OMB No. 3133-0052).

Respondents: Federal Credit Unions.

Abstract: Persons applying for Federal credit union membership must complete a membership application and any

action taken on the application must be recorded and retained.

Subject: Supervisory Committee Records.

Respondents: Federal Credit Unions.

Abstract: The supervisory committee must prepare, maintain and have custody of full and correct records of all actions taken by the committee.

Subject: Investigation Report, Report of Officials, Management Report for New Federal Credit Unions (OMB No. 3133–0015).

Respondent: Federal Credit Union Organizers.

Abstract: Section 104 of the Federal Credit Union Act (12 USC 1754) requires that before approving any organization certificate (new Federal credit union charter application) NCUA determine: (1) whether the organization certificate conforms to requirements of statute; (2) the general character and fitness of the subscribers to the charter; and (3) the economic advisability of establishing the proposed Federal credit union.

Subject: Report of Officials 12 USC 1761(b) (OMB No. 3133–0053).

Respondents: Federal Credit Unions.

Abstract: All Federal credit unions are required to provide a list of all board and committee members and officers to the NCUA within 10 days after its annual election.

Subject: Board Meeting Minutes—Bylaw Article VIII Section 8 (OMB No. 3133–0057).

Respondents: Federal Credit Unions.

Abstract: This bylaw requires Federal credit unions to prepare and maintain full and correct records of all meetings of members and the board.

OMB Desk Officer: Robert Neal.

Copies of the above information collection clearance packages may be obtained by calling the National Credit Union Administration, Administrative Office on (202) 357–1055.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: August 6, 1986.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 86–18075 Filed 8–11–86; 8:45 am]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–30]

Notice of Consideration of Application for Reinstatement and Renewal of Reactor Facility License; National Aeronautics and Space Administration

The United States Nuclear Regulatory Commission (the Commission) is considering reinstatement and renewal of Facility License No. TR–93, issued to the National Aeronautics and Space Administration (NASA) to possess-but-not-operate the Plum Mock-Up Brook Reactor located at the Plum Brook Reactor Facility, Lewis Research Center, Plum Brook Station, Sandusky, Ohio.

By amendment dated July 26, 1973, the Plum Brook Test Reactor was issued a license "To-Possess-But-Not-Operate." By letter dated March 27, 1980, as supplemented, NASA requested authorization to dismantle both the Plum Brook Test Reactor (PBTR) and Plum Brook Mock-Up Reactor (PBMUR) to dispose of the component parts and terminate licenses Nos. TR–3 and R–93. Following review of the NASA applications, NRC issued an "Order Authorizing Dismantling of Facilities and Disposition of Component Parts," dated May 26, 1981.

By application dated July 26, 1985, NASA requested that NRC rescind the "Order" of May 26, 1981, and reinstate the facilities to a status of "To-Possess-But-Operate." NASA cited budget limitations as the reason for not being able to implement the May 26, 1981 "Order."

The reinstatement and renewal would extend the expiration date of Facility Operating License No. TR–93 for ten years from the date of issuance, in accordance with the licensee's application dated July 26, 1985.

Prior to a decision to reinstate and renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, see the application for reinstatement and renewal dated July 26, 1985; which is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

Dated at Bethesda, Maryland, August 5, 1986.

For the Nuclear Regulatory Commission.

O.D.T. Lynch, Jr.,

Acting Director, Standardization and Special Projects Directorate, Division of PWR Licensing–B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–18128 Filed 8–11–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–185]

Notice of Consideration of Application for Reinstatement and Renewal of Reactor Facility License; National Aeronautics and Space Administration

The United States Nuclear Regulatory Commission (the Commission) is considering reinstatement and renewal of Facility License No. R–39, issued to the National Aeronautics and Space Administration (NASA) to possess-but-not-operate the Plum Brook Mock-Up Reactor located at the Plum Brook Reactor Facility, Lewis Research Center, Plum Brook Station, Sandusky, Ohio.

By amendment dated July 26, 1973, the Plum Brook Mock-Up Reactor was issued a license "To-Possess-But-Not-Operate." By letter dated March 27, 1980, as supplemented, NASA requested authorization to dismantle both the Plum Brook Test Reactor (BPTR) and Plum Brook Mock-Up Reactor (PBMUR) to dispose of the component parts and terminate licenses Nos. TR–3 and R–93. Following review of the NASA applications, NRC issued an "Order Authorizing Dismantling of Facilities and Disposition of Component Parts," dated May 26, 1981.

By application dated July 26, 1985, NASA requested that NRC rescind the "Order" of May 26, 1981, and reinstate the facilities to a status of "To-Possess-But-Operate." NASA cited budget limitations as the reason for not being able to implement the May 26, 1981 "Order."

The reinstatement and renewal would extend the expiration date of Facility Operating License No. R–39 for ten years from the date of issuance, in accordance with the licensee's application dated July 26, 1985.

Prior to a decision to reinstate and renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, see the application for reinstatement and renewal dated July 26, 1985; which is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this August 5, 1986.

For The Nuclear Regulatory Commission.

O.D.T. Lynch, Jr.,

Acting Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86-18127 Filed 8-11-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Proposed Information Collection for OMB Review

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed form RI 25-2, application for minimum annuity for survivor annuitants.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed information collection from the public. Form RI 25-2, Application for Minimum Annuity, was developed by the Office of Personnel Management (OPM) for use by surviving spouses and children of former Federal employees to apply for minimum annuity benefits as established under Public Law 93-273 and amended by Public Law 99-251. For copies of this proposal call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

ADDRESSES: Send or deliver comments within 10 working days from the date of publication to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-18039 Filed 8-11-86; 8:45 am]

BILLING CODE 6325-01-M

Notice of Proposed Information Collection for OMB Review

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed form RI 20-1, application for minimum annuity for retirees.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed information collection from the public. Form RI 20-1, Application for Minimum Annuity, was developed by the Office of Personnel Management (OPM) for use by retired former Federal employees to apply for minimum annuity benefits as established under Public Law 93-273 and amended by Public Law 99-251. For copies of this proposal call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

ADDRESSES: Send or deliver comments within 10 working days from the date of publication to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-18040 Filed 8-11-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15234; (File No. 812-6355)]

ML Venture Partners I, L.P., et al.; Notice of Application for Order Allowing Certain Joint Transactions

August 5, 1986.

Notice is hereby given that ML Venture Partners I, L.P. ("VENTURE"), 717 Fifth Avenue, New York, New York 10022, and Merrill Lynch KECALP L.P. 1984 ("KECALP 1984") and Merrill Lynch KECALP L.P. 1986 ("KECALP 1986"), One Liberty Plaza, 165 Broadway, New York, New York 10080, filed an application on April 22, 1986, and an amendment thereto on July 28, 1986, for a Commission order, under section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting the acquisition of securities of (i) Data Technology Corporation ("Data") by VENTURE and KECALP 1986; (ii) Intek Diagnostics, Inc. ("Intek") by VENTURE, KECALP 1984 and KECALP 1986; and (iii) BehaviorTech, Inc. ("BehaviorTech") by VENTURE, KECALP 1984 and KECALP 1986 (VENTURE, KECALP 1984 and KECALP 1986 collectively, "Applicants"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

The application states that VENTURE, a business development company under the Act, has as its investment objective long-term capital appreciation which it pursues by making venture capital investments. The application further states that VENTURE has five general partners, four of whom are individuals ("Individual General Partners"), and in accordance with section 56(a) of the Act, a majority of whom are not "interested persons" under section 2(a)(19) of the Act. Applicants state that VENTURE's managing general partner is Merrill Lynch Venture Capital Co., L.P. ("Managing General Partner"), which is responsible for identification and management of VENTURE's investments. The general partner of the Managing General Partner is Merrill Lynch Venture Capital Inc. ("Management Company"), which is also the management company for VENTURE. The Management Company is an indirect subsidiary of Merrill

Lynch & Co., Inc. ("ML & Co."), a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services.

Applicants state that KECALP 1984 and KECALP 1986 (together, "KECALP Partnerships"), each has as its investment objective long-term capital appreciation. Each KECALP Partnership is an "employees' securities company" under section 2(a)(13) of the Act, and operates in accordance with the terms of an exemptive order granted pursuant to Section 6(b) of the Act. Investment Company Act Release No. 12363 (Apr. 8, 1982) ("KECALP Order"). The general partner for each KECALP Partnership is KECALP Inc. ("KECALP General Partner"), a wholly-owned subsidiary of ML & Co. The KECALP General Partner is responsible for managing and making investment decisions for the KECALP Partnerships. All investments made by the KECALP Partnerships are approved by the Investment Committee ("Investment Committee") of the Board of Directors of the KECALP General Partner.

Applicants state that Data manufactures controllers for disk storage systems and intends to manufacture a new disk drive incorporating newly-developed technology. On March 14, 1986, VENTURE acquired 347,944 shares of Series A Preferred Stock of Data at $2.50 per share and has agreed to purchase an additional 272,056 shares at $2.50 per share. KECALP 1986 has conditionally agreed to purchase 80,000 shares of such stock, also at $2.50 per share.

Applicants also state that Intek is engaged in developing and manufacturing immunological products for the diagnosis of lung cancer. In April 1984, VENTURE invested $1 million in Intek and on January 22, 1986, purchased 2.4 million units ("Units") of Intek securities at $0.25 each. (Each Unit consists of one share of Intek common stock and one share of Intek preferred stock.) In addition, VENTURE invested $150,000 through the exercise of warrants at an exercise price of $0.05 for each Intek share of common stock. Further, on March 31, 1986, VENTURE purchased an additional one million Units for $250,000. The KECALP Partnerships have conditionally agreed to each purchase 400,000 Units at $0.25 each.

Applicants further state that BehaviorTech has developed a proprietary learning system which utilizes micro-computer based training courses for its customers. On March 14, 1986, VENTURE acquired 7,500 shares of convertible preferred stock of BehaviorTech at $66.66 per share. KECALP 1986 and KECALP 1984 have conditionally agreed to purchase 1,500 and 1,050 shares, respectively, of convertible preferred stock of BehaviorTech, also at $66.66 per share.

In support of their request, Applicants represent that the Investment Committee (on behalf of the KECALP Partnerships) and the Individual General Partners (on behalf of VENTURE) reviewed the proposed investments in detail. Applicants also represent that the members of the Investment Committee and the Individual General Partners are sophisticated and experienced in valuing securities and evaluating financial transactions generally, and that with regard to the proposed transactions, they considered all relevant information including the fairness of the prices to be paid by VENTURE and the KECALP Partnerships and the difference in the amounts proposed to be invested by each.

The Investment Committee also was aware that the KECALP Partnerships will be required by Data, Intek and BehaviorTech to pay interest as a result of the KACALP Partnerships' delayed payments for its investments. The Individual General Partners and the Investment Committee further determined that the differences among Applicants regarding the proposed transactions were based on appropriate business decisions and that the proposed transactions are fair and reasonable and would not disadvantage VENTURE or either KECALP Partnership.

Applicants also represent that in connection with the Individual General Partners' and Investment Committee's deliberations and determinations regarding VENTURE's and the KECALP Partnerships' participations in the proposed transactions, appropriate record-keeping will be maintained and made available for inspection by the Commission in accordance with the Act.

Further, Applicants state that the KECALP Partnerships' prospectuses indicate that affiliates of ML & Co. would be involved in identifying and investing in many of the KECALP Partnerships' investments. The prospectus of VENTURE indicates that it may be a co-investor in portfolio companies with certain affiliates. Applicants also state that under the terms of the KECALP Order, the KECALP Partnerships are permitted to engage in transactions in which certain affiliated persons of the KECALP Partnerships also may be participants. Applicants believe that the KECALP Order was intended to exempt other parties to the transaction, such as VENTURE, from the prohibitions of Section 17(d) of the Act when a transaction falls within the terms of the KECALP Order. However, because of the applicability of section 57(a)(4) of the Act to VENTURE, Applicants seek relief pursuant to section 57(i) of the Act, under section 17(d) of the Act and Rule 17(d)(1) thereunder, allowing the proposed purchases.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18130 Filed 8-11-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 25-86]

Treasury Notes of Series S-1989

Washington, August 6, 1986.

The Secretary announced on August 5, 1986, that the interest rate on the notes designated Series S-1989, described in Department Circular—Public Debt Series—No. 25-86 dated July 31, 1986, will be 6⅝ percent. Interest on the notes will be payable at the rate of 6⅝ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-18057 Filed 8-11-86; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

[Delegation Order No. 67 (Rev. 17)]

Delegation of Authority

AGENCY: Internal Revenue Service; Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, Lawrence B. Gibbs, Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Melva E. Scruggs, PM:S:FM:I, 1111 Constitution Avenue NW., Room 3526, Washington, DC 20224, (202) 566-4273 (Not a Toll-Free telephone number).

Martha M. Seeman,

Chief, Information and Productivity Improvement Branch.

Order No. 67 (Rev. 17)

Effective date: 8-4-86

Signing the Commissioner's Name or on His Behalf

Effective 9:00 a.m., August 4, 1986, all outstanding authorizations to sign the name of, or on behalf of James I. Owens, Acting Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of Lawrence B. Gibbs Commissioner of Internal Revenue.

Delegation Order No. 67 (Rev. 16), effective May, 1, 1986, is superseded.

Dated: August 4, 1986.

Approved:

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 86-18144 Filed 8-11-86; 8:45 am]

BILLING CODE 4830-01-M

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Sunshine Act Meetings

Federal Register
Vol. 51, No. 155
Tuesday, August 12, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Home Loan Bank Board	1
National Transportation Safety Board	2
Postal Service (Board of Governors)	3

1

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: At 10:30 A.M., Friday, August 15, 1986.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, DC

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED:

Regulatory Capital Requirements of Insured Institutions
Liquidity Requirements
Nationwide Lending; Loan Participations; Loan Recordkeeping Requirements
Loans to One Borrower
Conversions from Mutual to Stock Form

John M. Buckley, Jr.,
Executive Secretary.
[FR Doc. 86-18205 Filed 8-8-86; 12:47 pm]
BILLING CODE 6720-01-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Tuesday, August 19, 1986.

PLACE: NTSB Board Room, Eight Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first three iems will be open to the public; the last items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Derailment of St. Louis Southwestern Railway Company (Cotton Belt) Freight Train Extra 4835 North and Release of Hazardous Materials near Pine Bluff, Arkansas
2. *Highway Accident Report:* Tractor-Semitrailer/Wagon Runaway, Collision and Fire in Van Buren, Arkansas
3. *Aircraft Incident Summary Report:* USAir, Flight 4381, McDonnell-Douglas DC-9, N965VJ Erie, Pennsylvania
4. *Opinion and Order:* Administrator v. Doty, Docket SE-7018; disposition of appeals of the Administrator and the respondent
5. *Opinion and Order:* Administrator v. Demar, Docket Se-6323, disposition of respondent's appeal

FOR MORE INFORMATION CONTACT: H. Ray Smith (202) 382-6525.

H. Ray Smith,
Federal Register Liaison Officer.
August 8, 1986.
[FR Doc. 86-18213 Filed 8-8-86; 2:27 pm]
BILLING CODE 7533-01-M

3

POSTAL SERVICE

(Board of Governors)

Notice of Vote to Close Meeting

At its meeting on August 5, 1986, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for September 8, 1986, in Washington, D.C. The meeting will concern consideration of two capital investments: (1) Procurement of MPLSMs (multi-position letter sorting machines) and (2) Queens, NY, General Mail Facility project.

The meeting is expected to be attended by the following persons: Governors Camp, Griesemer, McConnell, McKean, Peters, Ryan and Setrakian; Postmaster General Tisch, Deputy Postmaster General Strange; Secretary to the Board Harris; General Counsel Cox; and Counsel to the Governors Califano.

The Board determined that pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, discussion of the matter is exempt from the open meeting requirement of the Government in the Sunshine Act, [5 U.S.C. 552b(b)], because it is likely to disclose information the premature disclosure of which would likely significantly frustrate implementation of proposed procurement actions.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,
Secretary.
[FR Doc. 86-18212 Files 8-8-86; 2:10 p.m.]
BILLING CODE 7710-12-M

BEST COPY AVAILABLE

federal register

Tuesday
August 12, 1986

Part II

Environmental Protection Agency

40 CFR Part 763

Asbestos-Containing Materials in Schools; Inspection, Notification, Management Plans, and Technical Assistance; Advance Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62048; FRL-3063-4]

Asbestos-Containing Materials in Schools; Inspection, Notification, Management Plans, and Technical Assistance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: EPA is soliciting comments on the future direction of its program to reduce risks from asbestos in schools. EPA currently uses guidance and technical assistance, with limited Federal regulation, to motivate schools to abate asbestos risks. EPA is considering whether to implement its current approach more aggressively or to selectively incorporate a greater emphasis on Federal regulation. EPA seeks comment and information on this issue. Commenters should consider their preferences in the context of the limited resources available to administer current or future Federal programs. After review of these submissions, EPA may propose further regulatory requirements under section 6(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2605(a)). In fiscal year 1987, EPA expects either to propose additional Federal regulations or publish reasons why it believes additional regulations are not necessary.

DATE: Comments regarding this document must be submitted by October 14, 1986.

ADDRESSES: Comments should be submitted to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-209, 401 M St., SW., Washington, DC 20460.

Comments should include the document control number (OPTS-62048) and will be available for reviewing and copying from 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays, in Room NE-G004 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, Office of TSCA Assistance (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC (554-1404), Outside the USA (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA's asbestos in schools program has been described extensively in previous **Federal Register** notices. *See* "Friable Asbestos-Containing Materials in Schools: Proposed Identification and Notification" in the **Federal Register** of September 17, 1980 (45 FR 61966); "Asbestos; Friable Asbestos-Containing Materials in Schools; Identification and Notification" in the **Federal Register** of May 27, 1982 (47 FR 23360); "Asbestos; Response to Citizens' Petition" in the **Federal Register** of March 7, 1984 (49 FR 8450). The program is briefly summarized in the "Background" section below.

A major issue in this ANPR is the appropriate Federal role regarding asbestos in schools. EPA believes that a major Federal role is to provide education through guidance and technical assistance and that certain limited Federal regulation is appropriate. The Agency, however, has stopped short of requiring abatement because it believes that it is more appropriate for State or local government officials to make abatement decisions. However, a number of parties have argued that the Federal government should undertake a major new regulatory effort to require local jurisdictions to undertake abatement.

I. Background

A. EPA's Technical Assistance Program

Since 1979, EPA staff have assisted schools and other building owners in identifying and controlling asbestos-containing materials in their buildings. The Agency has responded to thousands of requests for assistance through telephone consultations, site visits, seminars, and symposia. Through a cooperative agreement with the American Association of Retired Persons (AARP), EPA has hired architects, engineers, and other professionals to provide on-site assistance to schools and other building owners. With AARP assistance many school officials and building owners have effectively and safely dealt with asbestos-containing materials in a way which is most appropriate, given the building's particular hazard situation.

In addition, EPA has published state-of-the-art guidance to help identify and control asbestos in buildings. EPA's principal asbestos guidance document, "Guidance for Controlling Asbestos-Containing Materials in Buildings," was expanded and updated in June 1985, based on recommendations from recognized national experts. The document provides criteria for building owners to use in deciding which abatement method is most appropriate for each particular situation. Some damaged and exposed materials require immediate corrective action; others may be satisfactorily managed by an operations and maintenance plan. Approximately 125,000 copies of the original or revised guidance document have been delivered to schools and other building owners across the nation.

An important EPA goal has been to provide training for people involved in all aspects of the identification and control of asbestos. EPA has established five Asbestos Information and Training Centers to provide information concerning the identification and abatement of asbestos hazards and to train people in proper asbestos abatement techniques. The five centers are located at the Georgia Institute of Technology in Atlanta, the University of Kansas in Kansas City, Tufts University in Medford, Massachusetts, the University of Illinois in Chicago, and the University of California at Berkeley.

Courses attended by more than 5,000 buillding owners and managers, maintenance personnel, school officials, architects, consultants, and abatement contractors have been taught at the centers since December 1984.

Finally, because of the large number of asbestos abatement projects and the short-term nature of many of them, EPA believes that contractors should be State certified and that States should oversee projects to assure that they are properly performed. EPA has provided models for State certification legislation and start-up funding for the initiation of 27 State oversight programs. A year ago only four States had functioning certification programs; now 14 States have active programs, and 8 more have passed legislation to establish such programs.

B. EPA's Regulatory Program

In the **Federal Register** of May 27, 1982 (47 FR 23360), EPA issued a final school identification and notification rule (hereinafter called the 1982 Asbestos-in-Schools Rule). This rule required school officials by June 28, 1983, to inspect all school buildings for friable materials, take a minimum of three samples of each type of friable material found, analyze samples using Polarized Light Microscopy (PLM) to determine if asbestos is present, and keep records of the findings.

School district officials who found friable asbestos-containing materials (ACM) are required to notify employees of the location of the materials, post a notification form in the primary administrative and custodial offices and faculty common rooms, provide maintenance and custodial employees with a guide for reducing asbestos

exposure, and notify parent-teacher associations or parents directly of the inspection results.

EPA also issued a rule to protect public employees in those States not covered by the current asbestos standard issued by the Occupational Safety and Health Administration (OSHA). This rule complements the OSHA asbestos regulations that protect private sector workers from exosure to asbestos in occupational settings. The rule requires specific work practices, personal protective equipment, environmental monitoring, medical exams, and other provisions. The EPA rule also includes a provision not in the OSHA rule, i.e., notification to EPA generally 10 days before an asbestos abatement project is begun when public employees are doing the work. In the **Federal Register** of June 20, 1986 (51 FR 22612), OSHA published revised regulations regarding occupational asbestos exposure. EPA expects to revise its rule to include new provisions which are included in the OSHA regulations.

C. Purposes of This ANPR

A number of factors have led EPA to begin a formal proceeding to obtain further public reaction to its program:

1. EPA's expanded technical assistance program has been in effect for over 1 year and is at a point where reevaluation is appropriate.

2. In March 1986, the EPA Inspector General (IG) published a review of EPA's asbestos program. The IG concluded that the 1982 Asbestos-in-Schools Rule needs additional requirements to protect students and school employees from asbestos hazards. One problem emphasized by the IG is that initial sampling might not have been adequate to completely characterize the presence of asbestos-containing materials completely.

3. An internal EPA work group has been meeting since October 1985 to discuss ways to encourage schools to reinspect their building to detect asbestos that may have become damaged since the first inspection, encapsulations which may have deteriorated, or problem areas which may have been missed during the initial inspection.

4. A number of interested and knowledgeable groups, including the Service Employees International Union (SEIU), the Safe Building Alliance, the National Parent Teachers Association, the National Education Association, the National Association of School Boards, the Council on Private Education, and others have been meeting to discuss reinspection and contractor certification issues. In 1986 these meetings led to the introduction of two bills (S. 2083 and H.R. 5073) to require additional Federal rulemaking regarding asbestos in schools.

5. The SEIU filed a citizens' petition under section 21 of TSCA, 15 U.S.C. 2620, in November 1983, requesting that EPA promulgate additional rules covering asbestos in schools and other public and commercial buildings. EPA's response and subsequent actions on asbestos rulemaking are the subject of a pending lawsuit filed by SEIU in the United States District Court for the District of Columbia, *Service Employees International Union (SEIU)* v. *Thomas* (Civil Action No. 84–2790) D.D.C. EPA's position in this ANPR is the same as that stated in the SEIU case; however, EPA is continually reevaluating its program and is interested in obtaining additional views and data.

II. Data Requested

EPA is requesting information in this ANPR that would be needed if the Agency decides to issue additional rules affecting asbestos in schools under TSCA section 6(a) or which would be helpful in directing EPA's technical assistance program. Section 6(a) authorizes EPA to promulgate rules if the Agency finds that a chemical substance presents an unreasonable risk. A substance presents an unreasonable risk if its health or environmental risks outweigh the costs to society of reducing those risks. The specific factors EPA must consider in determining whether a risk is unreasonable are delineated in section 6(c) and include the health effects of a substance, the magnitude of exposure of the substance to humans, and the economic consequences of regulation. Accordingly, this section discusses the relevant information EPA possesses and suggests areas where additional information would assist the Agency.

Determining whether an unreasonable risk exists requires more than identifying the presence of asbestos. It requires an examination of the reduction in risk and associated costs of the various actions that could be taken. Making this finding exclusively at the Federal level may be ineffective since the risks from exposure to asbestos fibers vary greatly from school to school and within rooms in a particular building. The magnitude of risk varies depending on the degree of physical damage, the degree of accessibility and activity near the asbestos, and other factors. The costs of such abatement are also quite variable depending upon the amount of asbestos-containing material, condition of the asbestos, type of action taken (removal, encapsulation, etc.), and other factors such as the need to evacuate the building during removal.

The following sections will present EPA's data regarding the magnitude of the asbestos-in-schools problem, request comments regarding the information EPA has been using, and solicit new information. Unit III below will discuss and solicit comments on alternative approaches to EPA's current program.

A. Health Effects

Inhaled asbestos is a human carcinogen that has been shown to be a cause of lung cancer, mesothelioma, and asbestosis. There are documented cases of mesothelioma, linked to extremely brief exposure to high concentrations of asbestos or long-term exposure to low concentrations. More detailed discussion of the health effects of asbestos may be found in the preamble to the EPA proposed rule in the **Federal Register** of January 29, 1986 (51 FR 3738) to ban certain asbestos products and to phase out other asbestos products, in the "Report to the United States Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Asbestos," and in the National Research Council's "Asbestiform Fibers: Nonoccupational Health Risks."

EPA is interested in receiving new information on asbestos-related disease, especially cases of disease suffered by custodial workers and other school employees.

B. Magnitude of Exposures in Schools

Estimating exposure involves evaluating the potential for fiber release and the number of persons exposed. Prevalent levels of airborne asbestos in buildings with asbestos-containing materials may be 10 to 100 times higher than levels in the outdoor ambient air. After a review of available data, EPA estimated in the 1982 rule that prevalent airborne levels of asbestos in schools ranged from 57 to 270 nanograms per cubic meter (ng/m^3). EPA also estimated that levels could be as high as 500 ng/m^3 in schools with deteriorating or damaged friable asbestos-containing material.

Peak exposures may be of greater concern than the daily concentrations of asbestos in the air. Peak exposures can occur when asbestos containing materials are disturbed during routine maintenance or repair activity, or damaged as a result of roof leaks or vandalism. For the 1982 rule, EPA estimated that peak levels could be in excess of 500,000 ng/m^3, or more than 1,000 times above prevalent levels in schools with asbestos-containing

materials. These levels could be reached periodically as disturbing activities reoccur. For the 1982 rule, EPA did not quantify the amount of asbestos inhaled by students and school employees as a result of these peak exposures because of the extreme variability in the occurrence of these peaks.

In 1984, EPA conducted a national telephone survey (Evaluation of the Asbestos-in-Schools Identification and Notification Rule). As a part of that survey, EPA gathered information on the number of schools with friable asbestos and the number of students and other employees in those schools. According to the survey an estimated 34,800 schools had friable asbestos-containing material; an estimated 15,035,000 students and an estimated 1,386,000 school employees were potentially exposed to asbesto in those schools.

In addition, EPA has information that some schools may not have located all friable asbestos-containing materials during the initial inspection, that some friable asbestos-containing material which was encapsulated may have deteriorated, and that some asbestos-containing material that was not friable in 1983 may have become friable since then.

In summary, to analyze further the degree of potential risk presented by asbestos in schools, EPA is interested in receiving additional exposure information, including: estimates of prevalent daily levels and peak levels of asbestos fibers in schools; how frequently these peak levels occur; estimates of the number of schools with friable asbestos-containing material and with asbestos-containing material that could become friable in the future; the number of students and employees exposed in those schools; the amount of asbestos-containing material that has become friable since 1983 because of water damage or other factors; amount of encapsulated asbestos-containing material that has deteriorated since 1983; estimates of the number of schools which have voluntarily reinspected using EPA's updated inspection and sampling guidance; and estimates of the number of schools that have removed asbestos.

C. Economic Effects

EPA has prepared rough estimates of the costs of various activities schools might undertake if they reinspect for the presence of asbestos. The average cost of reinspection, sampling, analysis, and report writing is estimated to be $1,300 per primary or secondary school, where inspection is done to determine if asbestos is present in friable materials. If no friable materials are found through the inspection, the costs would be approximately $500 per school. If inspection and sampling are required for *all* ACM, the cost for inspection, sampling, analysis, and report writing would be approximately $2,000 per school.

The costs of notifying parents by mail is estimated to be approximately $340 per school. The estimated costs of notifying the Parent Teacher Association is $40 per school. The estimated cost of developing a school plan for special operations and maintenance to limit asbestos exposure is $175 on average. The annual cost of carrying out such a plan is approximately $800 per school. If there were a requirement to remove badly damaged asbestos, the average cost per school would be approximately $57,000 per school. This estimate assumes 5,700 square feet of asbestos must be removed at $10 per square foot. Obviously, each cost estimate may vary significantly depending on the size of the school, the extent of the asbestos problem, and specific requirements of a reinspect rule. EPA requests comments and other data on these unit cost estimates, especially actual costs associated with sampling and asbestos removal.

III. Regulatory and Nonregulatory Options for Reviewing Risks Posed by Asbestos in Schools

EPA has examined the regulatory and nonregulatory options available for various future directions and believes there are three broad approaches. These include:

1. Continued enforcement of the 1982 Asbestos-in-Schools Rule coupled with an expanded technical and compliance assistance program;

2. Additional Federal regulations covering a range of activities that may include school reinspections, contractor training and certification programs at the State level, and minimum competency requirements for people involved in all phases of asbestos identification and control; and

3. A combination of very specific additional regulations and expansion of selected portions of EPA's technical assistance program.

The Agency requests comments on the benefits or drawbacks of implementing each of these alternatives. It is important to emphasize that EPA's resources for the asbestos program are finite. Commenters would be most helpful if they specified which activities described below were considered to be most or least beneficial. As a result of comments and information received, EPA intends to structure a program to include the most effective combination of activities that can be managed within available resources.

A. Continued Enforcement and Expanded Technical Assistance Programs

The first approach is to focus EPA efforts on production of specific "how-to" guidance coupled with an effort to raise public and school district awareness of EPA's existing requirements.

1. *Compliance assistance for the 1982 Asbestos-In-Schools Rule.* EPA would expand its program of compliance assistance designed to assure that schools have completely complied with the 1982 Asbestos-In-Schools Rule, identified all areas where asbestos-containing material may be present, and had sampled all areas according to EPA guidance. In schools where asbestos remains, EPA would encourage voluntary reinspections and implementation of operations and maintenance programs as officials were made aware of the potential for deterioration of asbestos-containing material. Technical assistance and specific guidance (described below) would be available to assist officials in making decisions about abatement on a case-by-case basis.

2. *Develop a comprehensive general awareness program.* EPA would attempt to raise the level of public understanding about EPA's requirements, the benefits of reinspection, the need for an operations and maintenance program, those conditions which warrant abatement, and those which probably do not. EPA could use television or radio advertisements to provide PTA's, school boards, or custodians specific information.

3. *Publish additional guidance materials.* Since 1979, EPA has revised a series of state-of-the-art technical guidance documents. These documents have been widely distributed to schools, States, architects, engineers, and variety of other professionals involved in the identification and control of asbestos in buildings. EPA intends to develop several specific new guidance documents. The goal of these guidance documents is to encourage schools to voluntarily reinspect their buildings and to take safe and effective action if necessary.

EPA is developing a simple but effective procedure for school officials to identify particularly hazardous asbestos-containing material. This procedure is based on an expanded version of EPA's existing process for setting priorities for loan and grant

applications under the Asbestos School Hazard Abatement Act. This procedure will identify asbestos projects needing immediate abatement. EPA is also planning to issue a guideline for identifying asbestos in good condition which should be monitored and carefully maintained in place rather than removed. EPA will continue to stress that all asbestos projects which do not clearly fall in either of the above categories require case-by-case evaluation by a trained professional. EPA believes that with this guidance, building owners and professionals who evaluate buildings will be able to set priorities and schedules for abating potential asbestos hazards in their buildings. EPA favors a qualitative evaluation, but continues to consider information about air monitoring as an assessment tool.

EPA also plans to issue specific and separate guidance on: (1) proper operations and maintenance procedures for asbestos-containing materials left in place; (2) work practices which incorporate new OSHA requirements to protect workers and building occupants during abatement; and (3) qualifications for professionals involved in inspection, plan development, and abatement.

4. *Expanded model training programs.* Last year EPA began distributing a model abatement contractor certification program to all States. The model has two parts: A 4-day model contractor training program developed for EPA by the Georgia Institute of Technology and a model licensing program developed for EPA by the State of Maryland. The success of this program was discussed previously.

EPA is currently developing another model program for persons who inspect buildings for the presence of asbestos-containing materials. EPA will encourage States to develop certification and training programs for inspectors similar to those in place for abatement contractors. EPA intends to use an existing State program as the basis for the model. This model will include training requirements for inspectors, practices for proper inspection techniques, and identification of homogenous sampling areas. Information from a recently published guidance document entitled "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials" will be incorporated into the program. EPA will distribute this model inspection program to all interested States, and will provide training for inspectors through the university training centers.

Finally, EPA is working with the National Bureau of Standards (NBS) to develop a laboratory accreditation program for laboratories which perform asbestos analyses. Model test methods for laboratories will also be developed.

5. *Comments.* EPA would like commenters to compare this approach, which emphasizes technical and compliance assistance, with other approaches described in this ANPR. Specifically, EPA requests comments on expanding EPA's program to assist schools in complying with the 1982 rule and technical issues which should be addressed in proposed guidance documents. EPA requests comments on the efficacy of air monitoring, either as the principal assessment mechanism or as one factor in the assessment process. EPA would also like to have information on existing programs which use air monitoring as an assessment tool. In that regard, EPA requests information on the method of analysis (Phase Contrast Microscopy, Scanning Electron Microscopy, or Transmission Electron Microscopy) that should be used for air-monitoring samples. Commenters would be most helpful if they supplied data regarding costs, availability, and utility of various analytical methods. Comments are also requested concerning elements to include in EPA's model State certification and training programs, incentives for States to adopt such programs, and the development and implementation of a laboratory accreditation program for asbestos analysis by the National Bureau of Standards.

B. Full Regulatory Approach

A second approach is to issue a comprehensive set of regulations revising the 1982 school inspection rule to require a reinspection program; set minimum standards for professionals engaged in asbestos identification, analytical planning, and abatement functions; regulate disposal of asbestos waste; and require States to adopt their own regulatory programs. This type of approach is envisioned in the two bills introduced in the Congress as S. 2083 and H.R. 5073. Current guidance and technical assistance would, by comparision, assume a reduced role.

1. *Revised Asbestos-In-Schools Rule.* If the need for additional regulatory requirements for schools is established, the following issues could be considered by EPA.

a. *Coverage.* EPA's 1982 Asbestos-In-Schools Rule covers nonprofit private and public primary and secondary education agencies. For purposes of this rule, EPA used the Department of Education definition contained in the Elementary and Secondary Education Act of 1965. The March 1986 Inspector General's report recommended expanded coverage to incorporate the 12.4 million students and faculty present in colleges and universities. EPA believed that the 1982 rule protected the most susceptible population and initially focused EPA's enforcement efforts on a manageable group of buildings.

b. *Inspection and sampling.* EPA's 1982 rule requires a one-time inspection for *friable* ACM. The Agency has defined friable as "materials which when dry may be crumbled, pulverized, or reduced to powder by hand pressure." EPA has found that, over time some nonfriable ACM can deteriorate and become friable. If damaged, these newly friable materials release fibers and cause exposures. EPA could require schools to periodically reinspect and sample materials as they become friable to identify whether they contain asbestos. Alternatively, EPA could require a one-time inspection and sampling of both friable ACM and ACM that could become friable. As part of an operations and maintenance plan, persons could periodically check the condition of the material which is known to contain asbestos. With respect to sampling, the 1982 rule required that three samples be collected per homogeneous sampling area. A recently published guidance document entitled "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials," recommends a minimum of 3, 5, or 7 samples per sampling area for friable surfacing materials, depending on the size of the area. That document also recommends separate analyses for each sample rather than composite analyses.

c. *Notification.* EPA's 1982 rule required one-time notification to parent-teacher associations and employees if asbestos is found in a school. Thus, employees and parents of school children arriving after the initial notification would not necessarily be notified whether the school contains friable asbestos-containing materials. Some parties believe that active notification can contribute to public anxiety about the presence of asbestos and may have contributed to some hasty and unnecessary abatement actions. The bills pending in Congress would require schools simply to make the inspection report and any resulting plan available to parents and employees.

d. *Management plan.* The EPA's 1982 rule does not require development of an asbestos management plan. EPA's guidance documents recommend the development of such a plan for all schools where asbestos has been identified. EPA could require that a

management plan be developed to summarize information found during and inspection, assess the ACM for friability or damage and potential for fiber release, set priorities for abatement projects, and institute an operations and maintenance program for all asbestos-containing materials in the building. Some parties have suggested that EPA require schools to abate materials found to be particularly hazardous and to certify when abatement is completed.

There are several options regarding review of any management plan. One option would be to require a school to solicit comment from the community and local elected officials on the adequacy of the management plan and its cost effectiveness. If necessary, the school would have to revise the plan based on these comments. A second option is to require that plans be reviewed by appropriate State officials. Reviews of these plans may involve visits to buildings by trained and experienced evaluators. EPA is concerned that resources to manage and implement such a review may be insufficient to provide at timely and informed response to school officials.

e. *Recordkeeping and reporting.* EPA's 1982 rule requires the retention of records in both the school and Local Education Agency (LEA) files regarding inspection results. LEA's were required to keep summary data in their files concerning all schools in the district. EPA is also considering requiring school districts to report summary inspection data to a governmental agency, a recommendation made by the Inspector General. In this regard, EPA is considering two options: reporting to State agencies and reporting directly to EPA.

f. *Exemptions.* EPA's 1982 rule contains exemptions for schools that could demonstrate that their previous actions met specific regulatory requirements. EPA is evaluating the effects of these existing exemptions as well as possible effect of other exemptions if a new rule is promulgated.

First, schools that adequately inspected, sampled, and analyzed for asbestos were exempt from those requirements of the 1982 rule. If it decides to pursue a regulatory approach, EPA would continue to exempt for additional regulatory requirements those schools that had adequately inspected and collected samples. However, EPA has found, as a result of compliance monitoring inspections for this rule, that many schools which believed they had completed an adequate inspection had actually incorrectly inspected and/or sampled their buildings. In addition, the Inspector General reported that some schools did not sample for asbestos in a statistically valid manner.

EPA is aware that several States have established their own programs which require the inspection and sampling of schools for the presence of asbestos. Another option is to exempt from all regulatory requirements schools in those States with program that are substantially equivalent to those EPA might require.

A variation would be to exempt only those schools which have properly inspected and developed adequate asbestos management plans. To be exempt, schools would have to demonstrate that these plans had been developed using qualified personnel and criteria equivalent to those EPA might require. In addition, schools would have to meet the same review or availability criteria that were published in EPA's rule. A third option would be to exempt from some of all requirements, those schools which had satisfactorily abated all asbestos-contining materials. In the 1982 rule, EPA exempted schools that has either removed or encapsulated friable asbestos-containing material from all regulatory requirements. EPA has questions regarding the life cycle of encapsulation projects and whether abatement other than removal should qualify for an exemption from further requirements.

Finally, exemptions could continue to be granted based on building records. Schools that could document through building records that at the time their building was constructed no ACM was used would be exempt from all rule requirements. However, EPA has found that building records can be unreliable indicators of the presence of asbestos-containing materials in buildings and material not banned under the Clean Air Act which was used in schools after 1979.

2. *Other regulatory requirements.* EPA could impose regulatory requirements in addition to revisions to the 1982 Asbestos-in-Schools Rule. EPA requests comments on these requirements, as well as the need for other regulatory requirements not listed in this section.

a. *Qualifications for inspectors, plan developers, and contractors.* Several parties have suggested that the States should be required to implement EPA's proposed model program to train persons who inspect buildings, develop management plans, and conduct abatement work. EPA requests comments on the need to require training or certification of such persons, the quality of work done by nontrained/certified persons, what such requirements should consist of, and the ability of States to implement and enforce such requirements.

b. *Disposal regulations.* Since 1973, under section 112 of the Clean Air Act (CAA), EPA has required that certain disposal practices be followed after asbestos has been removed. EPA is currently revising the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) which address asbestos and is considering revisions to the disposal provisions. In addition, in 1984 EPA published a document entitled "Asbestos Waste Management Guidance" that summarizes EPA's recommendations for state-of-the-art work practices that should be implemented at an abatement site and landfill. EPA has reviewed this document, existing CAA regulations and other legal authorities available to the Agency, and believes revised regulations under the CAA will address existing disposal problems.

c. *Clearance levels following abatement actions.* EPA's guidance documents have suggested air-monitoring criteria for reoccupancy after an abatement project has been completed as an adjunct to a thorough visual inspection of the abatment site. EPA's suggested criteria are contained in Apendix M of EPA's "Guidance for Controlling Friable Asbestos-Containing Materials" and in a second EPA publication, "Measuring Airborne asbestos Levels Following Abatement Action." In this document, criteria are suggested for both the Phase Contrast (PCM) optical method of analysis and Transmission Electron Microscopy (TEM). TEM is identified as the technical method of choice for analysis, but PCM is suggested as an alternative method since TEM has limitations owing to its greater cost and limited availability. Scanning Electron Microscopy (SEM) has been considered as an alternative method for analysis, but is not suggested for use since no standardized analysis procedures are available. EPA has entered into a cooperative agreement with the National Bureau of Standards to develop a standard protocol for SEM. The draft protocol will be available this fall, and the final protocol is expected to be available in the fall of 1987.

Several States have adopted their own clearance criteria using air monitoring. EPA has gathered information on the following States with mandatory clearance standards for reoccupancy of a building area following completion of an abatement project:

State	Clearance level in fibers/cc	Method of measurement
Illinois	0.01 level in work area ≤ ambient.	PCM, TEM.
Iowa	0.1	PCM or fibrous aerosol monitor.
Maryland	0.1	PCM.
New Jersey	0.01	PCM.
Oklahoma	Less that .005	PCM.
Rhode Island	0.01; 0.0003 being considered.	PCM.
South Carolina	0.01 level in work area ≤ ambient.	PCM, TEM.

d. *Work practices.* OSHA issued in the **Federal Register** of June 20, 1986 (51 FR 22612), a new asbestos standard for the construction section. It applies during all types of construction activities, including asbestos abatement. The OSHA rule establishes a PEL of 0.2 f/cc and requires a number of work practices. The rule also generally requires the use of negative pressure enclosures and the construction of a decontamination area consisting of a clean room, a shower, and an equipment room during asbestos removal, demolition, or renovation projects. The rule further requires that these projects be supervised by a person trained at a comprehensive course such as those offered by the EPA University Training Centers discussed in unit I.A. of this document. EPA reviewed and submitted comments about the OSHA rule and believes it will help address the problem of employee exposure during asbestos abatement projects.

3. *Comments.* In addition to comparing this alternative with the others described herein, EPA asks for specific comments on this regulatory approach to reinspection. Commenters should address whether the Agency should expand its regulatory coverage to include colleges and universities, whether a requirement to reinspect should be one time or periodic and if periodic, how often. EPA seeks comments about enforcement issues raised by expanding its program to cover colleges and universities and adding new regulatory requirements for all schools. EPA also asks for comments on sanctions which could be imposed if new regulations are violated. The Agency also solicits comments on the types of ACM which should be included in a reinspection; all ACM, some subset of ACM, some subset of ACM, or just friable ACM. In that regard, the Agency solicits comments on the adequacy of the definition of "friable" as used in the 1982 rule. Specifically, the Agency requests comments on whether such materials as covered pipe wrap with intact lagging but friable material underneath or material which is only friable in part should be considered friable for the purposes of reinspection. EPA also solicits comments on its revised sampling scheme and the most effective method of notifying parents and employees about the inspection results.

With respect to development and review of an asbestos management plan, EPA solicits comments on the essential elements of such a plan and whether school districts should be required to have a plan in every instance where asbestos-containing material is present. EPA seeks comment on whether abatement should be required given that local conditions vary greatly. If commenters believe abatement should be required, comments are solicited on the appropriate deadline for abatement and details on how the requirement should be implemented. EPA also solicits comments on the most effective review process for management plans and the current and proposed recordkeeping requirements.

EPA requests comments on appropriate exemptions for any reinspection requirements which might be imposed. In order to evaluate the validity of exempting schools covered by State requirements, EPA solicits information on the content of State requirements for school inspections, specifically areas where State rules agree or differ from any approach EPA might propose. EPA also solicits comments on how EPA should assure the validity of these exemptions.

With respect to other possible regulatory requirements, EPA requests comments on the need to require States to adopt additional legislation and the ability of States to take on a larger role to enforce such legislation. With respect to clearance levels following abatement actions, EPA is interested in receiving comments about the following four issues. First, should EPA require a specific air-monitoring level for clearance after an abatement action? Second, which air-monitoring method should be required if EPA does set such a clearance level? Third, if TEM were a requirement, are enough laboratories with facilities for TEM analysis available to provide timely, reasonably priced service? Fourth, should SEM be listed as an alternative analysis method or should it supplant TEM as an alternative method?

c. *Combine revised regulations and technical assistance activities.* The third approach that EPA is considering is a combination of expanded technical assistance activities and a revised asbestos-in-schools rule. Under this approach EPA would expand the technical assistance program to include new guidance on: (1) Identifying asbestos hazards that should be abated immediately and asbestos in good condition that may be left in place and carefully monitored; (2) developing operations and maintenance plans for asbestos in buildings; (3) model State programs for training asbestos abatement workers, inspectors, and plan developers; and (4) recommended work practices for removing, encapsulating, or enclosing asbestos.

The basic requirements of a reinspection rule EPA would consider pending receipt of comments from this notice are: (1) coverage only of schools subject to the 1982 rule, i.e., not colleges and universities. Schools that could document that they had removed all asbestos in the building would be exempt from reinspection requirements; (2) one-time inspection and sampling for ACM, both friable and nonfriable. The rule would specify what materials had to be sampled, and the number of samples of friable surfacing materials would be consistent with the revised sampling guidance. Schools that had already conducted inspections and sampling of all asbestos-containing products consistent with procedures in this revised rule would be exempt from these requirements. Schools that had adequately reinspected only part of their building would not have to reinspect that part. Schools would have to possess documentation to prove that they qualified for these exemptions. Reinspections of ACM to check for friability and damage would have to occur yearly; (3) schools would be required to develop asbestos management plans if ACM is present. Management plans must include operations and maintenance of ACM left in place and a schedule for abatement of material defined as hazardous by EPA. Plan review by State officials would not be required. The plan would be available for public comment along with inspection results; and (4) current recordkeeping and reporting requirements would be left in place.

With respect to other regulatory requirements EPA would not require States to adopt legislation to certify and train inspectors or abatement contractors. Rather, EPA would continue with its model program approach combined with technical assistance. EPA would establish an asbestos disposal workgroup of representatives from the toxic substances, air, and hazardous waste programs. This workgroup would concentrate on the Clean Air Act Section 112 revisions to the asbestos regulations as the vehicle for addressing asbestos disposal issues.

VOL
51
ISS
155
AG
12
1986
UMI

Finally, EPA intends to continue to recommend a reentry standard rather than impose a mandatory standard. This recommended reentry standard would be included in the model State plan for schools inspections.

EPA solicits comments on whether this is the most appropriate combination of regulatory and nonregulatory elements, and technical issues which should be considered.

III. Public Record

EPA has established a record for this proceeding (docket control number OPTS–62048). A public version of the record, without any confidential business information, is available from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. G–004 NE Mall, 401 M St., SW., Washington, D.C.

The record includes information considered by EPA in developing this ANPR. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information: (1) **Federal Register** Notices, (2) support documents, and (3) reports.

IV. References

1. USEPA, Friable Asbestos-Containing Materials in Schools: Proposed Identification and Notification (45 FR 61966; Sept. 17, 1980).

2. USEPA, Friable Asbestos-Containing Materials in Schools: Identification and Notification (47 FR 23360; May 27, 1982).

3. USEPA, Asbestos: Response to Citizens Petition (49 FR 8450; March 7, 1984) (49 FR 24522, June 14, 1984).

4. USEPA, "Guidance for Controlling Asbestos-Containing Materials in Buildings," EPA 560/5–85–024, June 1985.

5. "Consolidated Report of Audit on EPA's Asbestos-In-School Program," Report of Audit EIE15–05–0084–60279, March 27, 1986.

6. USEPA, Asbestos: Proposed Mining and Import Restrictions and Proposed Manufacturing Importation and Processing Prohibitions (51 FR 62036; January 29, 1986)

7. USCPSC, "Report to the U.S. Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Asbestos," July 1983.

8. National Research Council, "Non-Occupational Health Risks of Asbestos Fibers," National Academy Press. Washington, D.C. (1984).

9. USEPA, "Evaluation of the Asbestos-in-School Identification and Notification Rule," EPA 560/5–84–005, October 1984.

10. USEPA, "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials," EPA 560/5–85–030a, October 1985.

11. USEPA, National Emission Standards for Hazardous Air Pollutants; Amendments to Asbestos Standard; Final Rule (49 FR 13661; April 5, 1984).

12. USEPA, Toxic Substances; Asbestos Abatement Projects; Final Rule (51 FR 62044A; April 25, 1986).

13. USDOL, OSHA. Occupational Exposure to Asbestos, Final Rules (51 FR 22612; June 20, 1986).

14. USEPA, "Measuring Airborne Asbestos Following An Abatement Action," EPA 600/4–85–049.

List of Subjects in 40 CFR Part 763

Environmental protection, Hazardous substances, Recordkeeping and reporting requirement, Asbestos.

Authority: 15 U.S.C. 2605 and 2607(c).

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Lee M. Thomas,

Administrator.

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General i
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Laws
President
Executive
Public Pa
Weekly C
United St
Other Se
Library
Privacy A
TDD for
FEDERAL
27515–278
27811–280
28059–282
28219–283
28321–285
28509–286
28687–287
28799–289

Reader Aids

Federal Register

Vol. 51, No. 155

Tuesday, August 12, 1986

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General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218
Administrative Orders:
Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219

5 CFR

532.....28799
890.....28799
1201.....28321
Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

26.....28800
29.....28687
51.....27813, 28802
272.....28196
273.....28196
908.....27816, 28509
910.....28059
911.....27517
918.....27518
991.....28802
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1427.....28321
1475.....28803
1930.....27636
1944.....27636
1951.....27636
1965.....27636
Proposed Rules:
52.....28719
447.....27862
1065.....27553, 28721, 28819
1068.....28819
1079.....27554, 28819
1136.....27866
1137.....27554
1139.....27555
1709.....28722

8 CFR

238.....28060
Proposed Rules:
214.....27867, 28576
248.....27867

9 CFR

92.....28805
Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825
Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221, 28690
523.....28221
741.....27522
Proposed Rules:
205.....28589
226.....28245

13 CFR

310.....27828

14 CFR

21.....28509-28525
23.....28509-28525
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807
71.....27833-27835, 28067, 28325, 28326, 28528

75 28809
97 28326
121 28322
1204 27526

Proposed Rules:
Ch. I 28386, 28725
1 28095
36 27556
39 ..... 27557, 27874, 28386, 28832
71 28388–28390
73 28095
75 28096

15 CFR

370 28692
371 28692
373 28692
374 28692
379 28692
399 ..... 28692, 28693

16 CFR

13 ..... 28694, 28695
423 28222
444 28328
1500 28529

Proposed Rules:
13 28594

17 CFR

1 27529
5 27529
16 27529
33 27529

Proposed Rules:
231 28596
240 28096
241 28596

18 CFR

37 27835
154 ..... 27529, 28331
157 ..... 27529, 28331
270 ..... 27529, 28331
271 ..... 27529, 28068, 28331
284 ..... 27529, 28331
410 28810

Proposed Rules:
271 28102

19 CFR

6 27836
101 28070

Proposed Rules:
113 27875
141 28390

20 CFR

404 28544
416 28544

Proposed Rules:
404 28834
410 28834
416 28834
655 28599

21 CFR

74 ..... 28331, 28346
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
176 28545
193 28223
211 28810
310 28810
314 28810
331 27762
332 27762
344 28556
357 27756
369 27756
436 27531
440 27531
442 27531
510 28546
520 28546
522 28546
546 28546
558 ..... 28546, 28547
561 28223
1308 28695

Proposed Rules:
1308 ..... 28725, 28727

22 CFR

Proposed Rules:
2a 28391

23 CFR

635 27532

24 CFR

20 28364
35 27774
200 28696
203 28548
204 28548
207 ..... 27837, 28547, 28699
221 ..... 27837, 28547
251 28699
255 28699
300 27838
390 28551
511 28703
888 28486
905 27774
965 27774
968 27774

Proposed Rules:
35 27793
203 28247
510 27793
511 27793
570 27793
590 27793

26 CFR

1 28553
20 28365
25 28365
602 28365

27 CFR

19 28071
250 28071
270 28078
275 28078
290 28078
295 28078
296 28078

Proposed Rules:
4 28836
5 28836
7 28836
270 28106
275 28106
290 28106
295 28106
296 28106

29 CFR

1952 27534
1960 28378
2603 28379

Proposed Rules:
602 28840

30 CFR

931 28553
943 28554

Proposed Rules:
774 27558
910 27559
912 27559
915 28729
920 ..... 28600, 28601
921 27559
922 27559
933 27559
937 27559
939 27559
941 27559
947 27559
950 27560

31 CFR

16 28810

32 CFR

90 28092
706 ..... 27535, 27536

33 CFR

100 28706
117 ..... 28380, 28707
140 28381
142 28381
161 27839
165 ..... 28382, 28383

Proposed Rules:
117 27877
334 28248

34 CFR

674 28312

36 CFR

Proposed Rules:
7 28107–28110
60 28204
63 28204

37 CFR

1 ..... 28052, 28555
2 ..... 28052, 28555, 28707
306 27537

39 CFR

10 28383

40 CFR

33 28710
52 ..... 27537, 27840, 27841, 28813
61 27956
65 28224
81 27843–27845
180 28225–28227
260 28664
261 ..... 28296, 28664
262 28664
263 28664
264 28556
265 28556
271 ..... 28094, 28664
761 28556

Proposed Rules:
52 ..... 27560, 27878
65 28113
85 28114
141 28730
180 ..... 28249, 28603
271 28604
716 27562
721 28119
763 28914
795 27880
799 ..... 27880, 28840

41 CFR

101–40 27539

42 CFR

405 ..... 27847, 28710
417 28569
482 27847

43 CFR

11 27674

Public Land Orders:
6620 28229
6622 28229

Proposed Rules:
4 28846

44 CFR

64 ..... 28230, 28232

Proposed Rules:
81 28119

45 CFR

1612 27539
2002 28384

47 CFR

22 28236
68 28237
73 ..... 27552, 28237
97 28237

Proposed Rules:
0 27566
1 27566
2 28249
21 27566
22 27566
23 27566
62 27566
73 ..... 27586, 27567
74 27566

48 CFR

522 28815
552 28815
1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 ..... 27848, 28574
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 27848
1853 27848

49 CFR

571 28116

Proposed Rules:
Ch. X 28116
173 28116
385 28116
391 28116
531 28116
1058 28116
1312 28116

50 CFR

285 28696
604 28696
630 28696
641 28696
655 28696
661 28696
671 28696
672 28696
674 28696

Proposed Rules:
216 28696
611 28696

LIST OF

Last List

This is a
public bill
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Register
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H.R. 140

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conserva
years 19
(Aug. 7,
1 page)

H.R. 443

To amen
"An Act
the Gene
Women's
1986; 10
Price: $1.

1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

49 CFR

571.....28238

Proposed Rules:

Ch. X.....28847
173.....28605
385.....28607
391.....27567
531.....28730
1058.....28249
1312.....28731

50 CFR

285.....28240, 28241
604.....28575
630.....28575
641.....28094
655.....28241
661.....27859, 28717
671.....28242
672.....28385
674.....27860, 28243

Proposed Rules:

216.....28320
611.....28731

LIST OF PUBLIC LAWS

Last List August 8, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1406/Pub. L. 99-375

To authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988. (Aug. 7, 1986; 100 Stat. 803; 1 page) Price: $1.00

H.R. 4434/Pub. L. 99-376

To amend the Act entitled "An Act granting a charter to the General Federation of Women's Clubs." (Aug. 7, 1986; 100 Stat. 804; 1 page) Price: $1.00

VOL
51
ISS
1
55
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AG
12
1986
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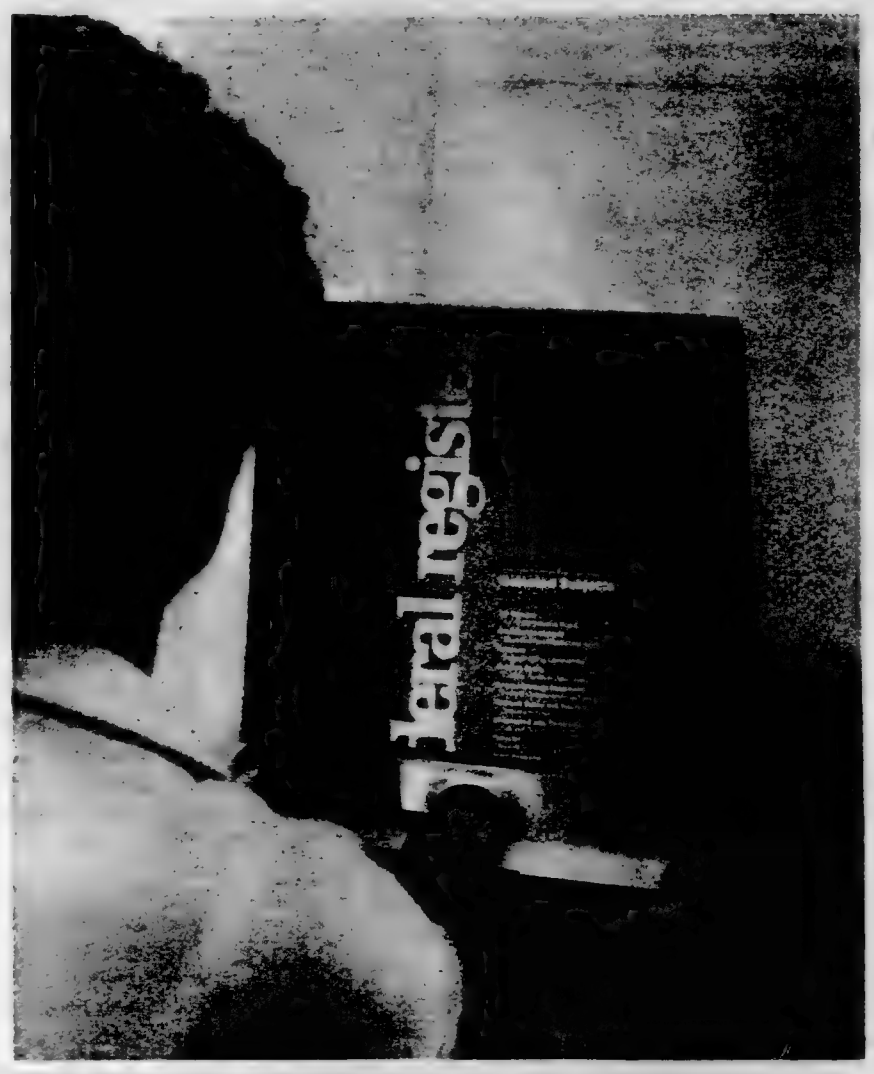

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VOL
51
ISS
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VOL
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Wednesday
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VOL
51
ISS
156
AG
13
1986
UMI

8-13-86
Vol. 51
Pages

8-13-86
Vol. 51 No. 156
Pages 28921-29084

federal register

Wednesday
August 13, 1986

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VOL
51
ISS
156
AG
13
1986
UMI

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RESERVATIONS: Doris Tucker 202–523–3419

Agricu
RULES
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RULES
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2

Contents

Federal Register

Vol. 51, No. 156

Wednesday, August 13, 1986

Agricultural Marketing Service
RULES
Olives grown in California, 28922

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
Feed grain, rice, cotton, and wheat—
Food Security Act; upland cotton commodity certificates, etc., 28921

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation

Army Department
See Engineers Corps

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Connecticut, 28969

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration
RULES
Nondiscrimination on the basis of age in federally-assisted programs, 28925

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Brazil, 28969, 28970
(2 documents)
Malaysia, 28972
Uruguay, 28972
Textile consultation; review of trade:
Brazil, 28970

Commodity Credit Corporation
RULES
Loan and purchase programs:
Cotton, grains, etc.—
Food Security Act; upland cotton commodity certificates, etc., 28921

Copyright Royalty Tribunal
NOTICES
Cable royalty fees:
Distribution proceedings, 28973

Defense Department
See also Engineers Corps; Navy Department
RULES
Acquisition regulations:
Foreign military sales, contract financing; program payment rates, 28946
Federal Acquisition Regulation (FAR):
Ammunition and explosives contracts; safety precautions, 28943

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Bryant, Gary B., M.D., 28991

Energy Department
See also Energy Information Administration; Federal Energy Regulatory Commission
NOTICES
Grant awards:
Garfield County Department of Development, CO, 28973

Energy Information Administration
NOTICES
Forms; availability, etc.:
Solar thermal collector manufacturers and photovoltaic module manufacturers surveys, 28974

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Devils Lake, ND, 28973

Environmental Protection Agency
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Triforine, 28959
NOTICES
Pesticide, food, and feed additive petitions:
Borderland Products, Inc., et al., 28979
Pesticide registration, cancellation, etc.:
Mobay Chemical Corp., 28979
Registration standards—
Availability, etc., 28980

Federal Aviation Administration
RULES
VOR Federal airways, 28923
PROPOSED RULES
Jet routes, 28957
Terminal control areas, 28956
VOR Federal airways and jet routes, 28957
NOTICES
Technical standard orders:
Aircraft torso restraint systems, 29042

Federal Communications Commission
RULES
Radio stations; table of assignments:
Arkansas, 28942
Hawaii, 28942
Missouri, 28942
Nevada, 28943
PROPOSED RULES
Television stations; table of assignments:
Oregon, 28961
NOTICES
Agency information collection activities under OMB review, 28980
Applications, hearings, determinations, etc.:
Family Stations, Inc., et al., 28980

VOL 51 ISS 156 AG 13 1986 UMI

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Green Mountain Power Corp. et al., 28975
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 28976
Natural Gas Policy Act:
Well category determinations, etc., 28977
Applications, hearings, determinations, etc.:
ANR Pipeline Co. et al., 28978
Pacific Gas Transmission Co., 28978
Southern Natural Gas Co., 28978

Federal Home Loan Bank Board
NOTICES
Applications, hearings, determinations, etc.:
Shelton Savings & Loan Association, 28981

Federal Maritime Commission
NOTICES
Agreements filed, etc., 28981
Freight forwarder licenses:
AAA Forwarding Co. et al., 28981
Lyon Worldwide Shipping, Inc., et al., 28981

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 29043
Applications, hearings, determinations, etc.:
Citizens & Southern Corp., 28982
Howells Investment Co. et al., 28982

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds and notes, U.S. Savings:
Series A, B, C, D, E, F, G, H, J, K, EE, and HH
Correction, 28933

Fish and Wildlife Service
RULES
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 28946

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Ivermectin injection
Correction, 28932
Color additives:
[Phthalocyaninato(2-)] copper; migration from nonabsorbable sutures, 28929
Food additives:
Adjuvants, production aids, and sanitizers—
Ethoxylated octadecylamine reacted with octadecanoic acid, 28930

Foreign Assets Control Office
RULES
South African transactions and sanctions; reporting and recordkeeping requirements, 28933

Health and Human Services Department
See also Food and Drug Administration; National Institutes of Health; Public Health Service
PROPOSED RULES
Grants, administration:
Prior approval for budget revisions, nonconstruction projects; indirect and direct costs, 28960
NOTICES
Grants, administration:
Reimbursement of indirect costs, 28983

Immigration and Naturalization Service
RULES
Transportation line contracts:
United Airlines, Inc., 28923

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service

International Trade Administration
PROPOSED RULES
Antidumping duties; revision, 29046
NOTICES
Export privileges, actions affecting:
Suin, S.A., et al.; correction, 28969

International Trade Commission
NOTICES
Import investigations:
Dynamic random access memories, components and products containing same, 28988
Glass tempering systems, 28988
Miniature hacksaws, 28989

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
Rail abandonment; use of rights-of-way as trails, 28962
NOTICES
Railroad services abandonment:
Vermont et al., 28989

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
Brazos River Authority et al., 28990
Goldome FSB et al., 28990
North American Products Acquisition Corp., 28991
Omark Caribbean, Inc., 28991

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Livestock grazing, 28987
Organization, functions, and authority delegations:
Colorado State Office; address change, 28987
Realty actions; sales, leases, etc.:
Montana; correction, 28987

Legal Services Corporation
RULES
Cost standards and procedures, 29076

Minerals Management Service
NOTICES
Meetings:
Royalty Management Advisory Committee, 28987

National Aeronautics and Space Administration
RULES
Organization, functions, and authority delegations:
Contract Adjustment Board, 28924

National Institutes of Health
NOTICES
Committees; establishment, renewals, terminations, etc.:
Biophysical Chemistry Study Section et al., 28984
Meetings:
National Heart, Lung, and Blood Institute, 28985
National Institute of Child Health and Human Development, 28985
National Institute of Dental Research, 28985
National Library of Medicine, 28986
Research Grants Division study sections, 28984

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 28954
PROPOSED RULES
Marine mammals:
Commercial fishing operations—
Taking and importing; yellowfin tuna, 28963

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Alamo et al., 28935
USS Arkansas, 28933
USS Charles F. Adams et al., 28934
USS Haleakala, 28939
USS Luce et al., 28939
USS Mars, 28935
USS McCloy, 28936
USS Nitro, 28940
USS Pensacola, 28937
USS Pyro, 28941
USS Rodney M. Davis, 28937
USS White Plains, 28938

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 29043
Operating licenses, amendments; no significant hazards considerations:
Bi-weekly notices, 28992
Petitions; Director's decisions:
Commonwealth Edison Co., 29022
Senior Executive Service:
Performance Review Board; membership, 29023
Applications, hearings, determinations, etc.:
GPU Nuclear Corp. et al., 29023
Maryview Hospital, 29025
Pacific Gas & Electric Co., 29026

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans:
Bond/escrow exemption requests—
CHF Industries, Inc., 29026

Postal Service
PROPOSED RULES
International Mail Manual:
Express Mail Service—
Chile, India, and Senegal, 28958
NOTICES
INTELPOST service rates and fees; proposed, 29027
Privacy Act:
Systems of records, 29028

Public Health Service
See also Food and Drug Administration; National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Health Office, 28986

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Reportable quantity of hazardous substances, 28962

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 29037, 29038 (2 documents)
National Association of Securities Dealers, Inc., 29039
Pacific Stock Exchange, Inc., 29039
Applications, hearings, determinations, etc.:
Centennial Government Trust, 29040
Centennial Tax Exempt Trust, 29040

Small Business Administration
NOTICES
Disaster loan areas:
New York, 29042
Applications, hearings, determinations, etc.:
New West Partners II, 29041
Onondaga Venture Capital Fund, Inc., 29041

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration; Research and Special Programs Administration

Treasury Department
See Fiscal Service; Foreign Assets Control Office

Separate Parts In This Issue

Part II
Department of Commerce, International Trade Administration, 29046

Part III
Legal Services Corporation, 29076

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL
51
ISS
156
AG
13
1986
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
770.....28921
932.....28922

8 CFR
238.....28923

14 CFR
71.....28923
1209.....28924

Proposed Rules:
71 (2 documents).....28956, 28957
75 (2 documents).....28957

15 CFR
20.....28925

19 CFR

Proposed Rules:
353.....29046

21 CFR
74.....28929
178.....28930
522.....28932
556.....28932

31 CFR
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

32 CFR
706 (12 documents).....28933–28941

39 CFR

Proposed Rules:
10.....28958

40 CFR

Proposed Rules:
180.....28959

45 CFR
1630.....29076

Proposed Rules:
74.....28960

47 CFR
73 (4 documents).....28942, 28943

Proposed Rules:
73.....28961

48 CFR
223.....28943
228.....28943
232.....28946
242.....28943
252.....28943

49 CFR

Proposed Rules:
171.....28962
172.....28962
173.....28962
1152.....28962

50 CFR
20.....28946
661.....28954

Proposed Rules:
216.....28963

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Rules and Regulations

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

7 CFR Part 770

Food Security Act; Interim Rule

AGENCY: Commodity Credit Corporation and Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The Food Security Act of 1985 (the "1985 Act"), approved on December 23, 1985, amended the Agricultural Act of 1949 (the "1949 Act") to authorize price support, payment and production adjustment programs for the 1986 through 1990 crops of rice, upland cotton, feed grains and wheat. An interim rule was published on March 11, 1986 (51 FR 8428), which set forth the terms and conditions of these programs. The Food Security Improvements Act of 1986 (the "1986 Act"), approved on March 20, 1986, further amended the 1949 Act with respect to such programs. Another interim rule was published on June 16, 1986 (51 FR 21828) to amend the regulations found at 7 CFR Part 713 to implement the provisions of the 1986 Act and to amend certain other provisions of the regulations found at 7 CFR Parts 713, 770, 795 and 1425.

This interim rule amends the regulations found at 7 CFR 770.4 (g)(2) with respect to commodity certificates issued as payments to first handlers of upland cotton and inventory protection payments with respect to upland cotton to make them applicable also to commodity certificates which are issued as payments to upland cotton producers who agree to forgo obtaining loans and with are issued as additional yield payments to upland cotton producers whose farm program payment yields were reduced below the farm program payment yield for the 1985 crop year. Under the amended regulations, certificates issued as loan deficiency payments and as additional yield payments to producers of upland cotton will be treated in the same manner with respect to the exchange of the certificates for CCC-owned upland cotton as certificates issued as payments to first handlers of upland cotton.

Since this interim rule amends provisions of Title 7 of the Code of Federal Regulations which were added by interim rules published on March 11, 1986 (51 FR 8428) and June 16, 1986 (51 FR 21828), the comment periods for the previously published interim rules have been extended to coincide with the comment period applicable to this interim rule.

EFFECTIVE DATES: August 1, 1986. Comments must be received on or before August 28, 1986, in order to be assured of consideration. The comment periods for the interim rules published at 51 FR 8428, March 11, 1986 and at 51 FR 21828, June 16, 1986 are extended to August 28, 1986.

ADDRESS: Send comments to: Director, Cotton, Grain, And Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Tom VonGarlem, Assistant Deputy Administrator, State and County Operations, ASCS, P.O., Box 22415, Washington, DC, (202) 447–6761.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy or $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Impact Analyses are being prepared with respect to the programs for the 1986 crops of wheat, feed grains, cotton and rice. Copies of the analyses will be available to the public from Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Ave., P.O., Box 2415, Washington, DC 20013.

The titles and number of the Federal Assistance Programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Rice Production Stabilization—10.065; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, Published at 48 FR 29115 (June 24, 1983).

Producers have already begun harvest of the 1986 crop of upland cotton and will be immediately requesting loan deficiency payments and additional yield payments. It has been determined, therefore, that the rules governing certificates issued as loan deficiency payments and additional yield payments shall be effective August 1, 1986. However, comments are requested with respect to this interim rule and such comments, in addition to the comments received in response to the interim rules published on March 11, 1986 (51 FR 8428) and June 16, 1986 (51 FR 21828), shall be considered in developing the final rule.

Changed Provisions

The regulations found at 7 CFR 770.4(g)(2) with respect to commodity certificates issued as payments to first handlers and inventory protection payments for upland cotton and

amended to make them applicable to commodity certificates which are issued as payments to upland cotton producers who agree to forgo obtaining loans and those which are issued as additional yield payments to upland cotton producers whose farm program payment yields were reduced below the farm program payment yield for the 1985 crop year. The regulations are also amended for clarity.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support programs, Wheat and Rice.

Accordingly, the regulations found at Part 770 of Chapter VII of Title 7 of the Code of Federal Regulations are amended as follows:

PART 770—[AMENDED]

1. The authority citation for part 770 continues to read as follows:

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c); secs. 101A, 103A, 105C, 107C, 107D, 107E, and 405 of the Agricultural Act of 1949, as amended; 99 Stat 1419, as amended, 1407, as amended, 1395, as amended, 1446, 1383, as amended, 63 Stat. 1054, as amended (7 U.S.C. 1441-1, 1444-1, 1444b, 1444b-2, 1444-3, 1444b-4, 1445d, and 1425).

2. Section 770.4 (g)(2) is revised to read as follows:

§ 770.4 Commodity certificates.

* * * * *

(g) *"Generic" and commodity-specific commodity certificates.*

* * * * *

(2) *Upland cotton—Payments to first handlers, payments to producers who agree to forgo obtaining loans, additional yield payments, and inventory protection payments.* Nothwithstanding any other provision of this section, a certificate issued as payment to first handlers of cotton, as payment to upland cotton producers who agree to forgo obtaining price support loans, or as an additional yield payment to producers of upland cotton, as determined by CCC in accordance with sections 103A(a)(5)(D)(ii), 103A(b), and 506(b)(2), respectively, of the Agricultural Act of 1949, as amended, may not be exchange for CCC-owned upland cotton until after the expiration of five months following the month in which such certificate is issued. Certificates issued as payments which are determined to be necessary to make raw upland cotton in inventory on August 1, 1986, available at competitive prices as determined by CCC in accordance with section 103A(a)(5)(D)(ii) of the Agricultural Act of 1949, as amended, may be exchanged for CCC-owned upland cotton only during such period or periods as may be determined and announced by CCC.

* * * * *

Signed at Washington, DC, on August 6, 1986.

Milt Hertz,

Acting Executive Vice President, Commodity Credit Corporation and Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-18068 Filed 8-12-86; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 932

Grade and Size Requirements for Limited Use Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule extends until July 31, 1987, the grade and size requirements for processed olives which are used in the production of limited use styles olives (such as halved, segmented, sliced, or chopped canned ripe olives). This action permits the use of olives too small to be desirable for use as whole (pitted or unpitted) ripe olives in the production of other styles of olives.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action was recommended by the California Olive Committee at its meeting of July 8, 1986, and will continue a relaxation of the regulation which allows the use of smaller olives for limited purposes. The committee works with the Department in administering the marketing agreement and order.

Section 932.52(a)(3) provides that processed olives smaller than the sizes prescribed for whole and pitted styles may be used annually for limited use. The subparagraph further provides for the establishment of a size tolerance as recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in the various size categories.

The committee recommended that the grade and size requirements in effect for limited use olives for the 1985-86 crop year also apply for the 1986-87 crop year (August 1-July 31). This will allow handlers to take advantage of the strong demand for halved, segmented, sliced, and chopped canned ripe olives by allowing the use of olives too small to be used as whole or pitted olives. The effect of the action will be to enhance supplies and give handlers additional marketing flexibility.

After consideration of all relevent matter presented, including the recommendation of the committee, it is determined that the grade and size requirements in effect for limited use olives during the 1985-86 crop year shall apply during the 1986-87 season, and that the use of small olives for such purposes during the 1986-87 season will tend to effectuate the declared policy of the act.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) There is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act; (2) handlers are aware of this action as proposed by the California Olive Committee; (3) compliance with this regulation will require no special preparation by handlers because this regulation is the

same as the one for the 1985–86 season; and (4) this action relieves restrictions on handlers.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

1. The authority citation for 7 CFR Part 932 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 932.153 is revised to read as follows:

§ 932.153 Establishment of grade and size requirements for processed 1986–87 crop year olives for limited use.

(a) *Grade.* On and after August 1, 1986, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1986, and meet the grade requirements specified in § 932.52(a)(1) as modified by § 932.149.

(b) *Sizes.* On and after August 1, 1986, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1986, through July 31, 1987, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1986, or after July 31, 1987.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided,* That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/90 pound;

(3) Variety Group 1 olives of the Ascolano, Barouni, of St. Agostino varieties shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/140 pound;

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound: *Provided,* That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/180 pound;

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

Dated: August 8, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18223 Filed 8–12–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of United Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of transportation lines which have entered into agreements with the Service for the preinspection of their passengers and crew at locations outside the United States by adding the name of United Airlines, Inc.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with United Airlines, Inc. on August 4, 1986, to provide for the preinspection of their passengers and crew as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crew upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds transportation lines' names to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Aliens, Common carriers, Government contracts, Inspections, Transportation lines.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.4 [Amended]

2. In § 238.4 Preinspection outside the United States, the listing of transportation lines is amended by adding the name United Airlines, Inc. under "at Calgary."

Dated: August 5, 1986.

Harriet B. Marple,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86–18207 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ASO–10]

Alteration of VOR Federal Airway V–512

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes that portion of V–512 which is aligned from Lexington, KY, to Elkins, WV. This airway is not utilized and except for one segment is identical to existing airways.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace–Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On May 23, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke that portion of V–512 which is aligned from Lexington, KY, to Elkins, WV, via Newcombe, KY, and Charleston, WV (51 FR 18895). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes that portion of V-512 which is aligned from Lexington, KY, to Elkins, WV, via Newcombe, KY, and Charleston, WV. The airway is not utilized and except for one segment is identical to other existing airways. Revocation precludes dual numbering and resolves current boundary as well as air traffic control computer problems experienced between Charleston and Elkins.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-512 [Amended]

By removing the words "Lexington; Newcombe, KY; Charleston, WV; INT Charleston 083° and Elkins, WV, 228° radials; to Elkins" and by substituting the words "to Lexington."

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-18149 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1209

Boards and Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration is amending 14 CFR 1209 by revising Subpart 1209.3, "Contract Adjustment Board." The proposed changes will conform the regulation with the way the Board is actually organized and understood by the general public. This revision reflects a change in the cite to the applicable procurement regulations and a change in the cite to the NASA Management Instruction which sets forth the standards and procedures governing requests for extraordinary contractual adjustments.

Since this action is internal and administrative in nature and does not affect the existing regulations, notice and public comment are not required.

EFFECTIVE DATE: August 13, 1986.

ADDRESS: Contract Adjustment Board, Code GG, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Helen S. Kupperman, 202-453-2465.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act; 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1209

Contract Adjustment Board, Organizations and functions.

PART 1209—BOARDS AND COMMITTEES

14 CFR Part 1209 is amended by revising Subpart 1209.3 to read as follows:

Subpart 1209.3—Contract Adjustment Board

Sec.

1209.300 Scope.
1209.301 Authority.
1209.302 Establishment of Board.
1209.303 Functions of Board.
1209.304 Membership.
1209.305 Legal advice and assistance.

Authority: Pub. L. 85-804 and 42 U.S.C. 2473(c)(1).

Subpart 1209.3—Contract Adjustment Board

§ 1209.300 Scope.

This subpart continues in effect the Contract Adjustment Board (hereinafter referred to as "the Board") to consider and dispose of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as NASA).

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50 U.S.C. 1431-35) (hereinafter referred to as "the Act"), empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever the President deems that such action would facilitate the national defense.

(b) Executive Order No. 10789, dated November 14, 1958 (23 FR 8897), authorizes the Administrator, NASA, to exercise the authority conferred by the Act and to prescribe regulations for the carrying out of such authority.

(c) Federal Acquisition Regulation (FAR), Part 50, April 1, 1985, and NASA/FAR Supplement 84-2, Part 18-50, October 19, 1984, establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by NASA contractors.

§ 1209.302 Establishment of Board.

The Board was established on May 15, 1961, and is continued in effect by NASA Management Instruction (NMI) 1152.5 and this regulation.

§ 1209.303 Functions of Board.

(a) The Board is authorized to act for and exercise the authority of the Administrator in cases involving request by NASA contractors for extraordinary contractual adjustments under the Act. Such authority will be exercised in accordance with the standards and procedures established by the

Administrator, subject to such limitations as the Administrator may prescribe.

(b) The Board shall have the power to approve, authorize or direct any action, including the modification or release of any obligations, and to make determinations and findings which are necessary or appropriate for the conduct of its functions, and may adopt such rules of procedure as it considers desirable.

(c) The concurring vote of a majority of the total Board membership shall constitute an action of the Board. Decisions of the Board shall be final but the Board may reconsider and modify, correct or reverse any Board decision previously made.

§ 1209.304 Membership.

The Board will consist of a chairperson and four other members, all of whom shall be appointed by the Administrator.

§ 1209.305 Legal advice and assistance.

The General Counsel of NASA shall provide the Board with all necessary advice and assistance.

James C. Fletcher,

Administrator.

[FR Doc. 86-18168 Filed 8-12-86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

15 CFR Part 20

[Docket No. 60467-6067]

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (DOC) is required to issue regulations implementing the Age Discrimination Act (Act) of 1975, as amended. The DOC is issuing specific regulations to carry out this responsibility which will apply to all entities within the Department that administer programs of Federal financial assistance. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on a particular age group. The Act excludes from its coverage most employment practices. The Department of Commerce has no statutory, regulatory or administrative age distinctions; however, we must ensure that adequate and effective protection is provided for any person who may have a compliant under this statute.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cizek, Chief, Compliance Division, Office of Civil Rights, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4993.

SUPPLEMENTARY INFORMATION: The history of the Act can be found in the background section of the general regulations issued by the Department of Health, Education and Welfare (HEW), now the Department of Health and Human Services (HHS), to implement the Act and to guide the development of each agency's specific regulations. *See* 44 FR 33768 (June 12, 1979). The Act is designed to prohibit discrimination on the basis of age in programs or activities which receive Federal financial assistance. The Act also contains certain exceptions which permit, under certain circumstances, age distinctions and factors other than age to continue in use. The Act applies to persons of all ages.

Proposed DOC regulations were published at 45 FR 46437 on July 10, 1980. No comments were received relative to those proposed regulations. The final rules were cleared by HHS on September 10, 1985, as consistent with their final regulations with no revisions necessary.

Although the Act generally covers all programs and activities which receive Federal financial assistance, it does not apply to any age distinction "established under authority of any law" which provides benefits or establishes criteria for participation on the basis of age or in age-related terms. Thus, age, distinctions which are "established under authority of any law" may continue in use. The phrase "any law" means Federal statutes, State statutes or local statutes adopted by elected, general purpose legislative bodies.

The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles. The regulations cover any program or activity which is both a program of Federal financial assistance and provides employment. The Age Discrimination in Employment Act (ADEA) of 1967, as amended, administered by the Equal Employment Opportunity Commission, prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in public service employment programs, must look to the ADEA for relief, not to the Age Discrimination Act (ADA). The ADA authorizes a complainant to bring a private lawsuit after the exhaustion of administrative remedies.

The DOC programs of Federal financial assistance are listed in 15 CFR Part 8 Appendix A. The list of programs covered by Title VI of the Civil Rights Act of 1964, 43 FR 49303 (October 23, 1978) and 44 FR 12642 (March 8, 1979) is being revised.

By separate document a new Appendix B will be added to 15 CFR Part 8 reflecting that DOC has no age distinctions which appear in Federal statutes and regulations which affect the agency's programs of Federal financial assistance.

Executive Order 12291

This final rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the rule simply establishes basic substantive and procedural elements necessary for the Department to carry out its responsibility under the Age Discrimination Act of 1975. The statutory requirements can be easily integrated into existing nondiscrimination activities and compliance procedures. As a result, neither an initial nor final Regultory Flexibility Analysis has been or will be prepared.

Paper Reduction Act

Under section 3518 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.(c), the information contained in this regulation is not subject to the

Office of Management and Budget review and approval.

List of Subjects in 15 CFR Part 20

Aged; Grants administration.

Katherine M. Bulow,

Assistant Secretary for Administration.

Part 20 is added to Title 15 of the Code of Federal Regulations to read as follows:

PART 20—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

20.1 The purpose of DOC's age discrimination regulations.
20.2 Programs to which these regulations apply.
20.3 Definitions.

Subpart B—Standards for Determining Age Discrimination

20.4 Rules against age discrimination.
20.5 Exceptions to the rules.
20.6 Burden of proof.

Subpart C—Responsibilities of DOC Recipients

20.7 General responsibilities.
20.8 Notice to subrecipients.
20.9 Information requirements.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

20.10 Compliance reviews.
20.11 Complaints.
20.12 Mediation.
20.13 Investigation.
20.14 Prohibition against intimidation or retaliation.
20.15 Compliance procedure.
20.16 Hearings, decisions, post-termination proceedings.
20.17 Remedial action by recipients.
20.18 Alternative funds disbursal procedure.
20.19 Private lawsuits after exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. Sec. 6101 *et seq.* and the government-wide regulations implementing the Act, 45 CFR Part 90.

Subpart A—General

§ 20.1 The purpose of DOC's age discrimination regulations.

The purpose of these regulations is to set out DOC's policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR Part 90. The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 20.2 Programs to which these regulations apply.

(a) The Act and these regulations apply to each DOC recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by any entity of DOC.

(b) The Act and these regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice or any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment.

§ 20.3 Definitions.

As used in these regulations, the following terms are defined as follows:

(a) "Act" means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94–135).

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) "Age" means how old a person is, or the number of years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example: "children," "adult," "older persons," but not "student").

(f) "Agency" means a Federal department or agency that is empowered to extend financial assistance.

(g) "DOC" means the U.S. Department of Commerce.

(h) "Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds; or

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced considerations; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(j) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(k) "Secretary" means the Secretary of Commerce or his or her designee.

(l) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(m) "Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(n) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 20.4 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 20.5.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or

take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragaph (b) of this section do not necessarily constitute a complete list.

(d) If a recipient operating a program provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program, notwithstanding the provisions of § 20.5.

§ 20.5 Exceptions to the rules.

(a) *Normal operations or statutory objective of any program or activity.* A recipient is permitted to take an action otherwise prohibited by § 20.4 if the action reasonably considers age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action meets this standard if:

(1) Age is used as a measure or approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective or the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual bases.

(b) *Reasonable factors other than age.* A recipient is permitted to take an action otherwise prohibited by § 20.4 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 20.6 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 20.5 is on the recipient of Federal financial assistance.

Subpart C—Responsibilities of DOC Recipients

§ 20.7 General responsibilities.

Each DOC recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act, the general regulations, and these regulations, and shall take steps to eliminate violation of the Act.

(a) Each DOC recipient will provide an assurance that the program for which it is receiving Federal financial assistance will be conducted in compliance with all requirements for the Act and these and other DOC regulations. A recipient also has responsibility to maintain records, provide information, and to afford DOC reasonable access to its records and facilities to the extent necessary to determine whether it is in compliance with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) To assess the recipient's compliance with the Act, DOC may, as part of a compliance review under § 20.10 or a complaint investigation under § 20.11, require a recipient employing the equivalent or 15 or more employees, to complete, in a manner specified by the responsible Department official, a written self-evaluation of any age distinction imposed in its program or activity receiving Federal financial assistance from DOC.

(2) Whenever an assessment indicates a violation of the Act and the DOC regulations, the recipient shall take corrective action.

§ 20.8 Notice of subrecipients

Where a recipient passes on Federal financial assistant from DOC to subrecipients, the recipient shall give subrecipients written notice of their obligations under the Act and these regulations.

§ 20.9 Information requirements

Upon DOC's request, each recipient shall provide access and make information available for DOC to determine whether the recipient is complying with the Act and these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 20.10 Compliance reviews.

(a) DOC may conduct compliance reviews and pre-award reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. DOC may conduct such review even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of the Act and these regulations has occurred.

(b) If a compliance review of pre-award review indicates a violation of the Act or these regulations, DOC will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, DOC will arrange for enforcement as described in § 20.15.

§ 20.11 Complaints.

(a) Any person, individually, or as a member of a class, or on behalf of others, may file a complaint with DOC alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, DOC may extend this time limit.

(b) DOC will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which: identifies the parties involved and the date the complainant first had knowledge of the alleged violation; describes generally the action or practice complained of; and is signed by the complainant;

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint;

(3) Considering as the filing date, the date on which a complaint is sufficient to be processed;

(4) Notifiying the complainant and the recipient of their rights and obligations under the compliant procedure, including the right to have a representative at all stages of the process;

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact DOC for information and assistance regarding the complaint resolution process.

(c) DOC will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 20.12 Mediation.

(a) DOC will refer to a mediation service designated by the Secretary all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exception; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or to make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to DOC. DOC will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator is required to protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained, in the course of the mediation process without prior approval of the head or the mediation service.

(e) The mediation will proceed for a maximum of 60 days after a complaint is filed with DOC. Mediation ends if:

(1) 60 days elapse from the time DOC receives the complaint; *or*

(2) Prior to the end of that 60-day period, an agreement is reached; *or*

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to DOC.

§ 20.13 Investigation.

(a) Informal investigation:

(1) DOC will investigate complaints that are unresolved after mediatioin or are reopended because of a violation of a mediation agreement.

(2) As part of the initial investigation, DOC will use informal factfinding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. DOC may seek the assistance of any involved State program agency.

(3) DOC will put any agreement in writing and have it signed by the parties and an authorized offical at DOC.

(4) The settlement shall not affect the operation of any other enforcement effort of DOC, including compliance reviews and investigation or other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation: If DOC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, DOC will attempt to obtain voluntary compliance. If DOC cannot obtain voluntary compliance, it will begin enforcement as described in § 8a.15.

§ 20.14 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of DOC's investigation, conciliation, and enforcement process.

§ 20.15 Compliance procedure.

(a) DOC may enforce the Act and these regulations by:

(1) Terminating the Federal financial assistance to the recipient under the program or activity found to have violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. If a case is settled during mediation, or prior to hearing, Federal financial assistance to the program will not be terminated.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) DOC will limit any termination under this section to the particular recipient and particular program or activity or part of such program and activity DOC finds in violation of these regulations. DOC will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from DOC.

(c) DOC will take no action under paragraph (a) until:

(1) The head of the organization providing the financial assistance has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a).

(d) DOC also may defer granting new Federal financial assistance to a recipient when a hearing under § 20.16 is initiated.

(1) New Federal financial assistance from DOC includes all assistance for which DOC requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from DOC does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 20.16.

(2) DOC will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 20.16. DOC will not continue a deferral for more than 60 days unless a hearing has begun within that time, or the time for beginning the hearing has been extended by mutual consent of the recipient and the head of the organization providing Federal financial assistance. DOC will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) DOC will limit any deferral to the particular recipient and particular program or activity or part of such program or activity DOC finds in violation of these regulations. DOC will not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not, and would not in connection with the new funds, receive Federal financial assistance for DOC.

§ 20.16 Hearings, decisions, post-termination proceedings.

Certain DOC procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to DOC enforcement of these regulations. They are found in 15 CFR Part 8, § 8.12 and § 8.13.

§ 20.17 Remedial action by recipients.

(a) Where DOC finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that DOC may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that

has discriminated, DOC may require both recipients to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 20.18 Alternative funds disbursal procedure.

(a) When, under the provisions of these regulations, DOC terminates the funding of a recipient, the Secretary may, using undisbursed funds from the terminated award, make a new award to an alternate recipient, *i.e.* any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 20.19 Private lawsuits after exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhuastion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and DOC has made no finding with regard to the complaint; or

(2) DOC issues any finding in favor of the recipient.

(b) If DOC fails to make a finding within 180 days or issues a finding in favor of recipient, DOC shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring civil action for injunctive relief; and

(3) Inform the complainant that:

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) The notice shall contain the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) The complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

[FR Doc. 86-18156 Filed 8-12-86; 8:45 am]
BILLING CODE 3510-BP-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 86N-0282; Formerly Docket No. 83C-0130]

[Phthalocyaninato(2-)] Copper; Migration from Nonabsorbable Sutures

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by removing the provision that prohibits the migration of [phthalocyaninato(2-)] copper from nonabsorbable sutures to the surrounding tissues when the sutures are used for the purposes specified in their labeling. FDA is taking this action based on a proposal published previously in the **Federal Register**. The proposal made clear that the restriction is impractical and unnecessary to assure the safety or suitability of the use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures.

DATES: Effective September 15, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by September 12, 1986. FDA will publish notice of the objections received or lack thereof in the **Federal Register**.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 25, 1985 (50 FR 16310), FDA proposed that 21 CFR Part 74 be amended in § 74.3045 (21 CFR 74.3045) by removing paragraph (c)(1)(iii). As explained in the proposal, paragraph (c)(1)(iii) contains the provision that prohibits the migration of [phthalocyaninato(2-)] copper from a suture to surrounding tissues under the conditions of use. FDA is taking this action because, as explained in the proposal, the restriction is not necessary to assure the safety or suitability of the use of [phthalocyaninato(2-)] copper in sutures.

In the proposed rule, FDA gave interested persons until June 24, 1985, to file comments. The agency did not receive any comments on the proposed rule. Therefore, FDA is publishing the final rule without change.

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (April 25, 1985; 50 FR 16310). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

Any person who will be adversely affected by this regulation may at any time on or before September 12, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this

document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 74.3045 [Amended]

2. Section 74.3045 [*Phthalocyaninato(2-)*] copper is amended by removing paragraph (c)(1)(iii).

Dated: August 6, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18218 Filed 8-8-86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 84F-0170]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a mixture of reaction products, produced by reacting octadecylamine with ethylene oxide and further reacting this product with octadecanoic acid, as an antistatic agent for polypropylene film. This action responds to a petition filed by Matsumoto Yushi-Seiyaku Co., Ltd.

DATES: Effective August 13, 1986; objections by September 12, 1986. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 178.3130 effective August 13, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 14, 1984 (49 FR 24601), FDA announced that a petition (FAP 4B3801) has been filed by Matsumoto Yushi-Seiyaku Co., Ltd., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, proposing that § 178.3130 (21 CFR 178.3130) be amended to provide for the safe use of ethoxylated octadecylamine (ethylene oxide reacted with octadecylamine) reacted with octadecanoic acid as an antistatic agent in polypropylene films complying with 21 CFR 177.1520.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. Although ethoxylated octadecylamine reacted with octadecanoic acid has not been found to cause cancer, it may contain mimute amounts of ethylene oxide and 1,4-dioxane as byproducts of its production. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additive Amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of other color additives and food additives on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for these decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, published in the **Federal Register** of April 2, 1982 (47 FR 14464).

The agency now believes that the Delaney or anticancer clause is applicable only when the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of ethoxylated octadecylamine reacted

with octadecanoic acid will result in extremely low levels of exposure to this additive. The agency has calculated an estimated daily intake of ethoxylated octadecylamine reacted with octadecanoic acid based on considerations such as the migration of the additive under the most severe intended use conditions and the probable concentration of the additive in the daily diet from food-contact articles that contain this substance. The estimated daily intake for the additive is 0.19 milligram per day (0.64 part per million in the diet) for a 60 kilogram person.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2) and has not required such testing here. Because ethoxylated octadecylamine reacted with octadecanoic acid has not been shown to cause cancer, the anticancer clause does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that it has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities ethylene oxide and 1,4-dioxane has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,4-Dioxane

Based on the fraction of the daily diet that may be in contact with surfaces containing ethoxylated octadecyamine reacted with octadecanoic acid, as well as the level of 1,4-dioxane that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to 1,4-dioxane from the use of this additive to be 0.7 nanogram per person per day. The agency used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 4) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of ethoxylated octadecylamine reacted with octadecanoic acid. The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an estimate of the upper bound level of lifetime human risk from potential exposure to 1,4-dioxane stemming from the proposed use of ethoxylated octadecylamine reacted with octadecanoic acid could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive. Based on a worst case exposure of 0.7 nanogram per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,4-dioxane from the use of ethoxylated octadecylamine reacted with octadecanoic acid is $3X10^{-11}$ or less than 3 in 100 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that results from the proposed use of ethoxylated octadecylamine reacted with octadecanoci acid.

B. Ethylene Oxide

Based on the fraction of the daily diet that may be in contact with surfaces containing ethoxylated octadecylamine reacted with octadecanoic acid, as well as the level of ethylene oxide that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to ethylene oxide from the use of this additive to be 0.7 nanogram per person per day. The agency used data in a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, West Germany (Ref. 3), to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of this additive. The results of the bioassay on ethylene oxide demonstrated that this material was carcinogenic for feamle rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinoma of the forestomach and carcinoma in situ of the glandular stomach.

The Center for Food Safety and Applied Nutrition's Cancer Assessement Committee reviewed this bioassay and other relevant data available in the literature and concluded that this information on ethylene oxide supported the finding of carcinogenicity. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to ethylene oxide could be made from the bioassay.

Based on a worst case exposure of 0.7 nanogram per person per day, FDA estimates, using a linear proporational model, that the upper bound limit of lifetime risk from potential exposure to ethylene oxide from the use of ethoxylated octadecylamine reacted with octadecanoic is $1X10^{-9}$ or less than 1 in 1 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that results from the use of ethoxylated octadecylamine reacted with octadecanoic acid.

C. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of the ethylene oxide and 1,4-dioxane impurities in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the levels at which ethylene oxide and 1,4-dioxane are used in production of the additive, the agency would not expect these impurities to become components

of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 1 billion.

D. Conclusion on Safety

FDA has evaluated the available toxicity data and the exposure calculation for the additive and has determined that the additive is safe for its proposed use.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?," Committee on Agriculture, Nutrition, and Forestry, United States Senate, July 1979, p. 59.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," October 24, 1983, Cambridge, MA.

3. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

4. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

5. Memorandum dated February 13, 1986, from Food Additive Chemistry Evaluation Branch to Indirect Additives Branch, "Exposure to Ethylene Oxiode (EO) and 1,4-Dioxane (DX)."

Any person who will be adversely affected by this regulation may at any time on or before September 12, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.3130(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

List of substances	Limitations
* * *	* *
Octadecanoic acid 2-[2-hydroxyethyl) octadecylamino]ethyl ester (CAS Reg. No. 52497-24-2), (octadecylimino) diethylene distearate (CAS Reg. No. 94945-28-5), and octadecyl bis(hydroxyethyl)amine (CAS Reg. No. 10213-78-2), as the major components of a mixture prepared by reacting ethylene oxide with octadecylamine and further reacting this product with octadecanoic acid, such that the final product has: a maximum acid value of 5 mg KOH/g and total amine value of 86 ±6 mg KOH/g as determined by a method entitled "Total Amine Value," which is incorporated by reference. Copies of the method are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408..	For use only as an antistatic agent at levels such that the product of film thickness in microns times the weight percent additive does not exceed 16, in polypropylene films complying with § 177.1520(c)1.1 of this chapter, and used for packaging food (except for food containing more than 8 percent alcohol) under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.
* * * * *	

Dated: August 6, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18219 Filed 8-12-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

Correction

In FR Doc. 86-16938, beginning on page 27020, in the issue of Tuesday, July 29, 1986, make the following corrections:

1. On page 27021, first column, fourth line in the "For Further Information Contact" caption, the telephone number is corrected to read "301-443-4913".

§ 552.1192 [Corrected]

2. On the same page, second column, § 552.1192 (d)(4)(ii), last line, "scabiei" was misspelled.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 315, 332, 352, and 353

[Department of the Treasury Circular No. 530, 11th Revision; No. 905, Seventh Revision; Public Debt Series Nos. 2–80, Second Revision, and 3–80]

U.S. Savings Notes and U.S. Savings Bonds; Series A, B, C, D, E, F, G, H, J, K, EE, and HH

Correction.

In FR Doc. 86–14782 beginning on page 23752 in the issue of Tuesday, July 1, 1986, the **EFFECTIVE DATE** should have read "December 28, 1986".

BILLING CODE 1505–01–M

Office of Foreign Assets Control

31 CFR Parts 545 and 550

South African Transactions Regulations; Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Treasury Department is amending the South African Transactions Regulations and the Libyan Sanctions Regulations to reflect approval by the Office of Management and Budget ("OMB") of information collection provisions contained in those regulations.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel. (202) 376–0408.

SUPPLEMENTARY INFORMATION: The South African Transactions Regulations, 31 CFR Part 545 (50 FR 41662, October 15, 1985; and 50 FR 46726, November 12, 1985), were issued by the Treasury Department in implementation of Executive Order 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) and Executive Order 12535 of October 1, 1985 (50 FR 40325, October 3, 1985).

The Libyan Sanctions Regulations, 31 CFR Part 550 (51 FR 1354, January 10, 1986; 51 FR 2462, January 16, 1986; 51 FR 19751, June 2, 1986; 51 FR 22802, June 23, 1986; 51 FR 25634, July 15, 1986; and 51 FR 26687, July 25, 1986), were issued by Treasury in implementation of Executive Order 12543 of January 7, 1986 (51 FR 875, January 9, 1986) and Executive Order 12544 of January 8, 1986 (51 FR 1235, January 10, 1986).

The South African Transactions Regulations and the Libyan Sanctions Regulations are being amended to insert notices of OMB approval of information collection provisions contained in those regulations.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Parts 545 and 550

Reporting and recordkeeping requirements.

PART 545—SOUTH AFRICAN TRANSACTIONS REGULATIONS

31 CFR Chapter V, Part 545, is amended as set forth below:

1. The authority citation for Part 545 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12532, 50 FR 36861, September 10, 1985; E.O. 12535, 50 FR 40325, October 3, 1985.

2. The table of contents for Part 545 is amended by removing the word "[Reserved]" from the entry for § 545.901 and inserting "Paperwork Reduction Act Notice" in its place.

Subpart I—Miscellaneous

3. Section 545.901 is added to read as follows:

§ 545.901 Paperwork Reduction Act Notice.

The information collection requirements in §§ 545.503, 545.504, 545.601, and 545.602 have been approved by the Office of Management and Budget and assigned control number 1505–0091.

PART 550—LIBYAN SANCTIONS REGULATIONS

31 CFR Chapter V, Part 550, is amended as set forth below:

1. The authority citation for Part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12543, 51 FR 875, January 9, 1986; E.O. 12544, 51 FR 1235, January 10, 1986.

Subpart I—Miscellaneous

2. Section 550.901 is revised to read as follows:

§ 550.901 Paperwork Reduction Act Notice.

The information collection requirements in §§ 550.210(d), 550.511 (g) and (h), 550.568 (b), (c), and (i), 550.601, 550.602, and 550.801(b) (2), (3), and (5) have been approved by the Office of Management and Budget and assigned control number 1505–0092. The information collection requirements in §§ 550.560 (c) and (d) and 550.605 have been approved by the Office of Management and Budget and assigned control number 1505–0093.

Dated: August 11, 1986.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

[FR Doc. 86–18338 Filed 8–11–86; 1:39 pm]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS ARKANSAS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Sectetary of the Navy has determined that USS ARKANSAS (CG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the

Secretary of the Navy has certified that USS ARKANSAS (CGN 41) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a) (i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a) (ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a) (i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS ARKANSAS	CGN 41	N/A	N/A	N/A	N/A	N/A	"	"	18

Dated: July 24, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18170 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS CHARLES F. ADAMS et al.

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DD 3), USS BARNEY (DDG 6), USS HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DDG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are vessels of the Navy which, due to their special construction and purpose, cannot compy fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 2232-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DDG 3), USS BARNEY (DDG 6), HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DDG 3), USS BARNEY (DDG 6), USS HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DDG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to these vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unecessary, and contray to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(A)(i), Annex I
USS CHARLES F. ADAMS	(DDG 2)	2.38
USS JOHN KING	(DDG 3)	2.3
USS BARNEY	(DDG 6)	2.42
USS HENRY B. WILSON	(DDG 7)	2.25
USS LYNDE MC CORMICK	(DDG 8)	2.4
USS ROBINSON	(DDG 12)	2.4
USS BUCHANAN	(DDG 14)	2.35
USS BERKELEY	(DDG 15)	2.38
USS RICHARD E. BYRD	(DDG 23)	2.04

Dated: July 24, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18171 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

Department of the Navy

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS ALAMO and USS HERMITAGE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS ALAMO (LSD 33) and USS HERMITAGE (LSD 34) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval dock landing ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS ALAMO (LSD 33) and U.S.S. *Hermitage* (LSD 34) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as dock landing ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ALAMO	LSD 33	N/A	N/A	N/A	N/A	N/A	N/A	×	47
USS HERMITAGE	LSD 34	N/A	N/A	N/A	N/A	N/A	N/A	×	55

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18169 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS MARS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has

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determined that USS MARS (AFS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MARS (AFS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage, horizontal separation attained.
USS MARS	AFS 1	N/A	N/A	N/A	N/A	N/A	N/A	×	99

Dated: July 14, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18175 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Mc CLOY

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Mc CLOY (FF 1038) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Mc CLOY (FF 1038) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Sec. 2(a)(i), Annex I
USS Mc CLOY	FF 1038	1.6

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18176 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS PORTLAND and USS PENSACOLA

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS PORTLAND (LSD 37) and USC PENSACOLA (LSD 38) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval dock landings ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS PORTLAND (LSD 37) and U.S.S. *Pensacola* (LSD 38) are vessels of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as dock landing ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as folllows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS PORTLAND	LSD 37	N/A	N/A	N/A	N/A	N/A	N/A	×	—
USS PENSACOLA	LSD 38	N/A	N/A	N/A	N/A	N/A	N/A	×	—

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18178 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS RODNEY M. DAVIS

AGENCY: The Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS RODNEY M. DAVIS (FFG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 29, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS RODNEY M. DAVIS (FFG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of the forward masthead light; Annex I, section 2(a)(i), regarding the height

above the hull of the forward masthead light; and Annex I, section 3(b), regarding the horizontal relationship of the side-lights to the forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS RODNEY M. DAVIS (FFG 60) is a member of the FFG 7 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this vessel.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from the prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i), Annex I
USS RODNEY M. DAVIS.	FFG 60	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel: Table Four.

8. * * *

USS RODNEY M. DAVIS ..... FFG 60

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel:

9. * * *

Vessel	Number	Distance of side-lights forward of masthead light in meters
USS RODNEY M. DAVIS.	FFG 60	2.75

Dated: July 29, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18180 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS WHITE PLAINS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS WHITE PLAINS (AFS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS WHITE PLAINS (AFS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above the hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light not less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS WHITE PLAINS	AFS 4	N/A	N/A	N/A	N/A	N/A	N/A	×	96

Dated: July 14, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18181 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; USS HALEAKALA

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS HALEAKALA (AE 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS HALEAKALA (AE 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS HALEAKALA	AE 25	N/A	N/A	N/A	N/A	N/A	N/A	×	87

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18172 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; USS Luce et al.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS LUCE (DDG 38), USS COONTZ (DDG 40), USS KING (DDG 41), USS MAHAN (DDG 42), USS WILLIAM V. PRATT (DDG 44), and USS DEWEY (DDG 45) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval

destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS LUCE (DDG 38), USS COONTZ (DDG 40), USS KING (DDG 41), USS MAHAN (DDG 42), USS WILLIAM V. PRATT (DDG 44), and USS DEWEY (DDG 45) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of the forward masthead light, and Annex I, section 3(a), regarding the location of the forward masthead light in the forward quarter of the ship and the horizontal distance between the forward and after masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessels. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels, ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Four of § 706.2 is amended by adding to the existing paragraph 22 the following vessels:

Table Four

* * * * *

Vessel	Number	Obscured angles relative to ship's heading
USS LUCE	DDG 38	18.4° and 341.6°
USS COONTZ	DDG 40	18.4° and 341.6°
USS KING	DDG 41	18.4° and 341.6°
USS MAHAN	DDG 42	18.4° and 341.6°
USS WILLIAM V. PRATT.	DDG 44	18.4° and 341.6°
USS DEWEY	DDG 45	18.7° and 341.3°

2. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS LUCE	DDG 38	N/A	N/A	N/A	N/A	N/A	×	×	24
USS COONTZ	DDG 40	N/A	N/A	N/A	N/A	N/A	×	×	24
USS KING	DDG 41	N/A	N/A	N/A	N/A	N/A	×	×	23
USS MAHAN	DDG 42	N/A	N/A	N/A	N/A	N/A	×	×	23
USS WILLIAM V. PRATT	DDG 44	N/A	N/A	N/A	N/A	N/A	×	×	24
USS DEWEY	DDG 45	N/A	N/A	N/A	N/A	N/A	×	×	23

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86–18173 Filed 8–12–86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendent of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS NITRO

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, (1972 COLREGS), to reflect that the Secretary of the Navy has determined that USS NITRO (AE 23) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS NITRO (AE 23) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is

impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS NITRO	AE 23	N/A	N/A	N/A	N/A	N/A	N/A	×	86

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18177 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collision at Sea, 1972; USS PYRO

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS PYRO (AE 24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS PYRO (AE 24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	After masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
SS PYRO	AE 24	N/A	N/A	N/A	N/A	N/A	N/A	×	87

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18179 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-256; RM-4924]

Radio Broadcasting Services; Hoxie, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 283A to Hoxie, Arkansas as that community's first local service, in response to a petition filed by Dennis Mitchell.

With this action, this proceeding is terminated.

DATES: Effective September 11, 1986; The window period for filing applications will open on September 12, 1986, and close on October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-256, adopted July 21, 1986, and released August 4, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) the Table of Allotments is amended by adding the following:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Hoxie, AR	283A

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18185 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-261; RM-4951]

Radio Broadcasting Services; Paauilo, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Class C Channel 279 for Channel 240A at Paauilo, Hawaii, and modifies the permit for Station KCHR (FM) to specify the new channel at the request of Hamakua Broadcasting Corporation. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-261, adopted July 3, 1986, and released August 4, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 is revised to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) is amended by revising the following entry:

§ 73.202(b) Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Paauilo, HI	279

Mark N. Lipp,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18186 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-384; RM-4985]

Radio Broadcasting Services; Willow Springs, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 262C2 to Willow Springs, Missouri, in response to a petition filed by Woodridge Enterprises, Inc., and modifies the construction permit of Woodridge Enterprises, Inc., to specify operation on Channel 262C2. This allotment could provide Willow Springs with its first wide area coverage channel. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-384, adopted July 21, 1986, and released August 4, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following entry in the FM Table of Allotments:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Willow Springs, MO	282C2

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18187 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-70; RM-5131]

Radio Broadcasting Services; Las Vegas and North Las Vagas, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 278 for Channel 277 at Las Vegas, Nevada, and Channel 282 for Channel 281 at North Las Vegas, Nevada, at the request of Holiday Broadcasting Company, licensee of Station KCRR, Bullhead City, Arizona. The substitution of channels could permit Station KCRR to resume operation with its full authorized facilities. The applicants for the Las Vegas and North Las Vegas allotments can amend their applications without loss of cut-off status. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-70, adopted June 21, 1986, and released August 5, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) is amended by adding the following channels and community:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Las Vegas, NV	222, 226, 242, 246, 253, 270, 278, 286C2, 293.
North Las Vegas, NV	282.

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18188 Filed 8-12-86; 8:45 am]
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DEPARTMENT OF DEFENSE

48 CFR Parts 223, 228, 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Safety Precautions for Ammunition and Explosives

AGENCY: Department of Defense (DoD).

ACTION: Interim rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to DFARS section 228.7102 and the clause at DFARS 252.228-7007. The changes: (i) revise and relocate § 228.7102 to a new Subpart 223.70; (ii) revise and relocate the clause at 252.228-7007 to § 223.7001; (iii) require a preaward safety survey of prospective contractors and subcontractors before award of contracts involving ammunition and explosives; (iv) require contractors to provide notification of subcontract placement; (v) provide authorized representation access to contractor and subcontractor facilities for the purpose of evaluating compliance with contractual safety requirements; and (vi) add a new clause at DFARS 252.223-7002 which requires contractors to obtain contracting officer approval before changing any place of performance of ammunition and explosives work.

DATE: Comments should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before October 14, 1986 to be considered in the formation of a final rule. Please cite DAR Case 85-16 in all correspondence related to this subject .

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o. OASD(A&L) (M&RS), Room 3C841, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense has prescribed ammunition and explosive safety standards in DoD Manual 4145.26-M for work performed under DoD contracts by contractors. Such standards are necessary in order to minimize the potential for mishaps that could interrupt DoD operations, delay project/product completion dates, adversely impact upon the DoD production base or capability, damage or destroy DoD-owned material/equipment, cause injury to DoD personnel, or endanger the safety of the general public. Presently, the language contained in 252.228-7007 requires contractors to comply with DoD 4125.26-M, DoD Contractors' Safety Manual for Ammunition and Explosives. During the transition from the DAR to the DFARS, coverage enabling the contracting officer to direct the contractor to cease operations was inadvertently omitted. This omission leaves contracting officers without a remedy in certain circumstances where the safety of Government personnel or contract performance may be endangered by the failure of the contractor to comply with the safety requirements of its contract. Public comments are necessary, but the regulation must be issued immediately because these urgent and compelling circumstances make waiting through the publicizing period impracticable. Therefore, these revisions are published as an interim rule, after which any comments received will be considered in the formulation of a final rule.

B. Determination To Issue a Temporary Regulation

A determination has been made under the authority of the Secretary of Defense that the regulations promulgated by the Military Departments must be issued as temporary regulations in compliance with section 22 of the Office of Federal Procurement Policy Act, as amended.

C. Regulatory Flexibility Act

The changes to DFARS 223, 228, 242 and 252 do not appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In FY 1985 only 2% of

VOL 51 ISS 156 AG 13 1986 UMI

the total dollar value of awards was made to contractors for ammunition. Of that percent, only 10% of the total dollar value of awards was made to small business. Comments are invited.

D. Paperwork Reduction Act

The rule contains information collection requirements which require approval of OMB under 44 U.S.C. 3501 et seq. The collection of information requirements has been submitted to OMB for review under Section 3504(h) of the act. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for DoD.

List of Subjects in 48 CFR Parts 223, 228, 242 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, 48 CFR Parts 223, 228, 242 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223, 228, 242 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

2. A new Subpart 223.70, consisting of Sections 223.7001 through 223.7004, is added to read as follows:

Subpart 223.70—Safety Precautions for Ammunition and Explosives

Sec.
223.7001 Definition.
223.7002 Policy and contract clauses.
223.7003 Preaward considerations.
223.7004 Postaward considerations.

Subpart 223.70—Safety Precautions for Ammunition and Explosives

223.7001 Definition.

The term "ammunition and explosives", as used in this subpart, means liquid and solid propellants and explosives, pyrotechnics, incendiaries and smokes in any of the following: bulk form, ammunition, rockets, missiles, warheads, devices, and components thereof, except for wholly inert items.

223.7002 Policy and contract clauses.

(a) The requirements of DoD 4145.26–M, "DoD Contractors' Safety Manual for Ammunition and Explosives", are to be applied to all contracts involving ammunition or explosives. To accomplish this policy, all solicitations/requests for quotations, and resulting contracts involving development, testing, research, manufacturing, handling, loading, assembling, packaging, storage, transportation, renovation, demilitarization, modification, repair, disposal, inspection, or other use of ammunition and explosives shall include, in its entirety, the clause set forth in 252.223–7001, except as noted below:

(i) The clause is not to be included in contracts solely because of inert components containing no explosives, propellants, or pyrotechnics.

(ii) The clause is not to be included in contracts which are solely for flammable liquids, acids, oxidizers, powdered metals, or other materials having fire or explosive characteristics. However, the clause shall be included in contracts which require the use or incorporation of such materials for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition or explosive end item, or a weapon system.

(iii) When work is to be performed on a Government-owned installation, ammunition and explosives regulations of the DoD Component or installation for handling ammunition and explosives may be used to supplement or substitute for DoD 4145.26–M (the manual). The regulations used to supplement or substitute for the manual must be cited in the contract.

(b) The purpose of incorporating the DoD Manual into the contract is to minimize the potential for mishaps that could interrupt DoD operations, delay project/product completion dates, adversely impact upon DoD production base or capabilities, damage or destroy DoD-owned material/equipment, or cause injury to DoD personnel.

(c) The clause at 252.223–7002 shall be inserted in all solicitations and contracts containing the clause at 252.223–7001.

223.7003 Preaward considerations.

(a) The contracting officer shall obtain a preaward ammunition and explosives safety survey before awarding any contract (including purchase orders) involving ammunition and explosives. When the prospective contractor proposes subcontracting any ammunition and explosives work, the preaward safety survey will also include the subcontractor(s) facility.

(b) Omission of the clause from solicitations and contracts referred to in 223.7002, or waiver of mandatory requirements of the manual prior to contract award, must be approved by the HCA or designee. When mandatory requirements of the manual are to be waived prior to award, the specific requirements to be waived must be set forth in the solicitation or by modification thereto. When requested deviations from mandatory requirements of the manual are rejected by the HCA or designee, but the prospective contractor proposes corrective action acceptable for compliance, then the contractor's proposed corrective actions must be set forth in the schedule of the resulting contract. All requested waivers, deviations, or omissions of the clause must be reviewed by safety personnel responsible for ammunition and explosives safety prior to forwarding for HCA or designee approval.

(c) In contracts involving shipment of ammunition and explosives, applicable Department of Transportation (DOT)/Military Traffic Management Command (MTMC) requirements and other needed transportation, packaging, marking, and labeling requirements will be addressed within the schedule of the contract.

(d) The contracting office will include instructions within the contract concerning final disposition of excess (to include defective/reject) Government-Furnished Material (GFM) containing ammunition and explosives.

223.7004 Postaward considerations.

(a) Compliance with the standards required by the clause is the responsibility of the contractor (see 242.302(a)(39)). Contract administration personnel have the responsibility to verify that these contract requirements are being implemented in a manner which will tend to reduce or eliminate the probability of a mishap occurrence to the maximum extent practicable. As provided in the clause, the standards of the manual are to be applied only to the contractor's operations relating or exposed to ammunition and explosives.

(b) The contracting officer will review contractor requests for waiver of contractual safety standards and submissions for site plan modification or construction review. The manual requires the contractor to submit these requests through the ACO. If the request for review does not include the ACO review and recommendation, coordination with the ACO or return of the submission to the ACO is required. The contracting officer must also obtain a review and recommendation from the appropriate servicing safety department responsible for ammunition and explosives safety. The approval/disapproval determination by the contracting officer should be made to the contractor, through the ACO, as soon as practicable.

(c) *Subcontracts.* (1) The clause at 252.223–7001 requires the contractor to

notify the contracting officer prior to placing subcontracts for ammunition and explosives. When notifications are received, the contracting officer should, in coordination with safety personnel, request supporting contract administration in accordance with FAR 42.204, and should normally request supporting administration when the nature of the subcontract work potentially endangers Government property, Government personnel, production capability or contract completion.

(2) When a preaward safety survey identifies areas in which the subcontractor is in noncompliance with the manual and those noncompliances could be corrected prior to the starting up of production, the contracting officer shall require a preoperations survey to verify that the corrections have been made.

(3) When postaward safety reviews by the Government uncover safety deficiencies in the subcontractor's, operation (whether or not they are immediately corrected or correctable), the cognizant ACO for the subcontractor shall be informed. The ACO cognizant of the subcontractor shall immediately notify the ACO cognizant of the prime contractor, who shall formally notify the prime contractor of the subcontractor deficiencies requiring correction. In the event of critical safety deficiencies, the foregoing notifications shall be accomplished by the most expeditious means available.

PART 228—BONDS AND INSURANCE

228.7102 [Removed]

3. Section 228.7102 is removed.

PART 242—CONTRACT ADMINISTRATION

4. Section 242.302 is amended by adding paragraph (a)(39) to read as follows:

242.302 Contract administration functions.

(a) * * *

(39) For contracts containing ammunition and explosive requirements, see 223.70.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.217-7242 [Amended]

5. Section 252.217-7242 is amended by revising the words "clause 252.228-7007 (SEP 1970)" to read "clauses 252.223-7001 (JUL 1986) and 252.223-7002 (JUL 1986)".

6. Sections 252.223-7001 and 252.223-7002 are added to read as follows:

252.223-7001 Safety precautions for ammunition and explosives.

As prescribed in 223.7002(a), insert the following clause in solicitations and contracts.

Safety Precautions For Ammunition and Explosives (Jul 1986)

(a) The term "ammunition and explosives" means liquid and solid propellants and explosives, pyrotechnics, incendiaries and smokes in any of the following: bulk form, ammunitions, rockets, missiles, warheads, devices and components thereof, except for wholly inert items.

(b) The Contractor shall comply with the DoD Contractors' Safety Manual for Ammunition and Explosives (DoD Manual 4145.26-M) (the manual) in effect on the date of the solicitation for this contract, and any other additional requirements included in the schedule of the contract. The Contractor shall allow authorized Government representatives to evaluate safety programs, implementation, and facilities and, in this respect, shall allow the Government access to Contractor facilities, personnel and safety program documentation.

(c) If the Contracting Officer notifies the Contractor of any noncompliance with the manual or schedule provisions, the Contracting shall take immediate steps to correct the noncompliance. Within thirty (30) days (or such other period as the Contracting Officer may direct) from the date of notification, the Contractor shall inform the Contracting Officer of the results of the corrective actions taken. Costs incurred by the Contractor to correct noncompliances with the manual will not, unless otherwise specified within the contract, be reimbursable.

(d) If the Contractor has been notified of a noncompliance and fails or refuses to take corrective action within the time specified by the Contracting Officer, the Contractor may be directed to cease performance on all or part of this contract until the Contracting Officer determines that satisfactory corrective action has been taken. The Contracting Officer may at any time remove Government personnel whenever the Contractor is in noncompliance with the safety requirements of this clause. Either action by the Contracting Officer shall not entitle the Contractor to an adjustment of the contract price or the delivery or performance schedule unless it is later determined that the Contractor had in fact complied with the manual or schedule provisions. In such a case, an equitable adjustment will be made in accordance with the procedures provided for in the clause of this contract entitled "Changes".

(e) The Contractor shall immediately notify the Contracting Officer after an accident involving ammunition or explosives. The Contractor shall also, in accordance with this contract or as required by the Contracting Officer, conduct an investigation and submit a written report of the accident to the Contracting Officer.

(f) Neither the requirements of this clause, nor any act or failure to act by the Government in surveillance of this contract, shall affect or relieve the Contractor of responsibility for the safety of the Contractor's personnel and property, for the safety of the Government's personnel and property, and for the safety of the general public in connection with the performance of this contract.

(g) The frequency or number of Government inspections and the degree of surveillance which the Government exercises with respect to the enforcement of the contract terms and conditions is a matter solely within the discretion of the Government, and does not relieve the Contractor of responsibility for performance of the contract. Nor shall any act or failure to act by the Government in surveillance or enforcement of this contract impose or add to any liability of the Government.

(h) The Contractor shall insert this clause, including this paragraph (h), with appropriate changes in the designation of the parties, in every subcontract hereunder which involves ammunition or explosives as defined in paragraph (a) above, except for: subcontracts for inert components containing no explosives, propellants, or pyrotechnics or subcontracts for flammable liquids, acids, powdered metals or other materials having fire or explosive characteristics unless the subcontractor is using or incorporating these materials for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition and explosive and item, or a weapon system. Such clause shall include a provision allowing authorized Government safety representatives to evaluate subcontractor safety programs, implemenation, and facilities as determined necessary. NOTE: All safety communiques from the Government Contracting Officer or authorized representative will be to the prime Contractor, although copies may be furnished to the subcontractor involved. Prime contractors shall change references to the "Government" to cite the name of the prime Contractor while assuring that the subcontractor(s) understand and agree to the Government's right to access to review compliance with contract safety requirements. In addition, the prime Contractor or higher level subcontractors shall include provisions to allow direction to cease performance of the subcontract as a result of a serious uncorrected or recurring safety deficiency potentially causing an imminent hazard to DoD personnel, property or contract performance.

(i) The Contractor shall notify the Contracting Officer, or authorized representative, prior to issuing any subcontract when it involves ammunition or explosives. In the event that the proposed subcontract represents a change in place of performance, the Contractor shall request approval for such change in accordance with the clause of this contract entitled "Change in Place of Performance—Ammunition and Explosives".

(j) Nothing contained herein shall relieve the Contractor from complying with

applicable Federal, state, and local laws, ordinances, codes, and regulations (including the obtaining of licenses and permits) in connection with the performance of this contract.
(End of clause)

252.223-7002 Change in place of performance—ammunition and explosives.

As prescribed in 223.7002(b), insert the following clause in solicitations and contracts.

Change in Place of Performance—Ammunition and Explosives (Jul 1986)

(a) The Offeror must stipulate in the Place of Performance Clause included in this solicitation (FAR 52.214-14 or FAR 52.215.20) information pertinent to the place of performance of all ammunition and explosives work covered by the Safety Precautions for Ammunition and Explosives Clause (DFARS 252.223-7001). Failure to furnish this information with the offer may result in rejection of the offer.

(b) No change in the place(s) of performance shall be permitted between the opening/closing date of the solicitation/Request for Quotation and the award except where time permits and then only upon receipt of the Contracting Officer's written approval.

(c) Any change in place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the Contracting Officer.
(End of clause)

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48 CFR Part 232

Department of Defense Federal Acquisition Regulation Supplement; Contract Financing

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved a change to the coverage in the DoD FAR Supplement at 232.501-1 to make the progress payment rates for Foreign Military Sales (FMS) Contracts the same level as provided by DoD on domestic defense contracts. This means that the progress payment rate would be 80% for other than small businesses and 90% for small businesses.

EFFECTIVE DATE: On all contracts awarded on or after 1 August 1986.

FOR FURTHER INFORMATION CONTACT: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)DARS, c/o OASD(A&L) (MRS), Room 3C841, The Pentagon Washington, DC 20301-3062 (202-697-7266).

SUPPLEMENTARY INFORMATION:

A. Background

These changes are made in a response to a recommendation contained in DoD Defense Financial and Investment Review (DFAIR). DFAIR had concluded that the working capital requirements on FMS contracts were higher than experienced on domestic defense contracts. Thus the progress payment rates should not be different. The Defense Acquisition Regulatory Council published a proposed rule in the **Federal Register** on June 3, 1986 (51 FR 19865). Only one substantive comment was received and that comment principally concerned the timing of the change and not the change itself. The profit recognition that will be given to FMS contracts will be considered in a future change to DoD's profit as a whole. DFAIR had found that current levels of profit on FMS contracts were substantially higher than on domestic defense contracts. Compensating adjustments for lowering the FMS progress payments are not necessary at this time. Interested parties may submit proposed revisions to this supplement directly to the DAR Council.

B. Regulatory Flexibility Act

A Regulatory Flexibility Analysis was performed and provided to the Chief Counsel of Advocacy of the Small Business Administration as a result of the proposed rule published in the **Federal Register** on June 3, 1986 (51 FR 19865). There were no public comments received that addressed the Regulatory Flexibility Analysis. Therefore, the analysis as originally proposed has not been changed.

C. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 232

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority citation for 48 CFR Part 232 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 232—CONTRACT FINANCING

2. Section 232.501-1 is amended by revising paragraph (a) to read as follows:

232.501-1 Customary progress payment rates.

(a) The customary progress payment rate applicable to Foreign Military Sales requirements is the same as that applicable to DoD requirements. The customary progress payment rate for flexible progress payments is the rate determined by use of either the CASH II or CASH III computer program as applicable in accordance with the requirements of 232.502-1(71).

* * * * *

[FR Doc. 86-18194 Filed 8-12-86; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States for the 1986-87 Season

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e., the outer limits for dates and times when shooting may begin and end, hunting areas, and the numbers of birds which may be taken and possessed) for early-season migratory bird hunting regulations from which States may select season dates and daily bag and possession limits for the 1986-87 season. These seasons may open prior to October 1, 1986, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and extended falconry seasons.

DATES: Effective on August 13, 1986. Selected season dates are to be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for

publication in the **Federal Register** as amendments to §§ 20.103 through 20.106 and 20.109 of 50 CFR Part 20.

ADDRESSES: Season selections from States are to be mailed to: Director (FWS/MBMO U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, Washington, DC 20240. Comments received are available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, DC 20240, telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On March 21, 1986, the U.S. Fish and Wildlife Service published for public comment in the **Federal Register** (51 FR 9854) initial proposals to amend 50 CFR Part 20, with comment periods ending June 19, 1986, for Alaska, Hawaii, Puerto Rico and the Virgin Islands frameworks; July 14, 1986, for other early-season frameworks; and August 25, 1986, for late-season frameworks. The March 21, 1986, document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of Subpart K. A supplemental proposed rulemaking for both the early and late hunting season frameworks appeared in the **Federal Register** dated June 6, 1986 (51 FR 20677).

On June 19, 1986, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, bank-tailed pigeons, white-winged and white-tipped doves, sandhill cranes and other species. The meeting was announced in the **Federal Register** on March 21, 1986, (51 FR 9854) and June 6, 1986 (51 FR 20677). Proposed hunting regulations were discussed for these species and for common snipe; rails; common moorhens and purple gallinules; September teal seasons in the Mississippi and Central Flyways; experimental early duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; special sea duck seasons in the Atlantic Flyway; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; extended falconry seasons and hunting regulations for Alaska, Puerto Rico and the Virgin Islands. Public comments on these matters were received.

On July 3, 1986, the Service published in the **Federal Register** (51 FR 24415) a third document in the series of proposed and final rulemaking documents dealing specifically with proposed frameworks for the 1986–87 season from which, when finalized, wildlife conservation agency officials may select season dates and bag limits for hunting certain migratory birds in their respective jurisdictions during the 1986–87 season. On July 25, 1986, the Service published in the **Federal Register** (51 FR 26712) a fourth document in the series which dealt specifically with final frameworks for Alaska, Puerto Rico and the Virgin Islands.

This rulemaking is the fifth in the series and deals specifically with final frameworks for other early-season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1986–87 season. These seasons may open prior to October 1, 1986, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and extended falconry seasons.

These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Review of Public Comments

The Service has already responded to earlier comments on proposed regulations published in the **Federal Register** on March 21, 1986, (51 FR 9854) and June 6, 1986, (51 FR 20677), and discussed at the June 19, 1986, public hearing in Washington, D.C. These responses appeared in the **Federal Register** on June 6, 1986, (51 FR 20677), July 3, 1986, (51 FR 24415), and July 25, 1986 (51 FR 26712). Nine additional comments, relating to proposed early-season frameworks, have been received and are discussed here. They are discussed in the same order as the items to which they apply are listed in previous 1986 **Federal Register** publications.

8. *Experimental September duck seasons.* In the March 21, 1986, **Federal Register** (at 51 FR 9862), the Service proposed to continue the experimental September duck hunting seasons in Iowa, Kentucky, Tennessee and Florida in 1986 unless the final progress reports provide evidence of a detrimental effect on any segment of the duck resource. The Service noted in the June 6, 1986, **Federal Register** (at 51 FR 20679) the Mississippi Flyway Council Lower Region Regulations Committee's recommendation for continuation of the experimental September duck hunting seasons in Kentucky and Tennessee in 1986, with modification if deemed necessary after evaluation of the final reports. In the July 3, 1986, **Federal Register** (at 51 FR 24420), the Service stated that while September duck seasons are in principle a feasible harvest management strategy, the current situation with regard to their evaluation and their suitability for widespread application is under review. The Service indicated the flyway-wide aspects of the management of target species will be reviewed with the appropriate flyway council to effectively evaluate September duck seasons. The Service proposed to continue in 1986 the experimental September duck seasons in Iowa, Kentucky, Tennessee and Florida under the same regulatory provisions as provided during the study periods with the exception of a restriction in Kentucky and Tennessee that only 2 of the 4 ducks permitted in the daily bag may be wood ducks. The Service proposed the change because of concern over the decrease in the survival rate of wood ducks measured by the experimental studies in these two States.

(a) Kentucky has indicated it feels the Service's proposal to reduce the bag limit on wood ducks is premature for 1986. The State has recommended that the frameworks for the 1986 experimental season be the same as those of 1985 and that the implications of the survival and recovery rates for local wood duck populations measured by its study be considered by the Mississippi Flyway Council and the Service during the coming year.

Response. A recent report completed by the Service, at the request of the Mississippi Flyway Council, indicates that the experimental September duck seasons in Kentucky and Tennessee provided a considerable amount of additional recreation and probably reduced the survival rates of wood ducks. The reduced survival, as well as increases in band recovery rates have raised the Service's concerns about the impact of special seasons on the status of local wood duck populations. It is difficult to assess the impact of changes in recovery rates, harvest and survival rates on local wood duck numbers

VOL
51
ISS
156
AG
13
1986
UMI

without additional information on recruitment. However, in light of these recent findings the Service does not believe it prudent to continue the experimental season in both States without change, and intends to consult with the Flyway Council on the matter.

(b) Tennessee has requested that the Service defer action on any changes in the State's experimental September duck season until the respective States, in conjunction with the Mississippi Flyway Council and Technical Section, have had an opportunity to review study findings. The State suggested that the survival rates of wood ducks measured by its study might not be significantly different from the survival rates of wood ducks of the Mississippi Flyway (minus Tennessee and Kentucky).

Response. In responding above to a similar comment from Kentucky, the Service notes that although it is difficult to assess the impact of changes in recovery rates, survival rates, and harvest of local wood duck numbers without additional information on recruitment, in light of recent findings, to continue the experimental September duck season in Tennessee or Kentucky without change would not be prudent waterfowl management.

(c) Florida has expressed concern that although its request for operational status of its experimental September duck season was endorsed by the Atlantic Flyway Council and Technical Section in 1985, the Service is proposing to continue the State's September season on an experimental basis in 1986.

Response. In the July 3, 1986, **Federal Register** (at 51 FR 24418), the Service noted that the Memorandum of Agreement between the Service and Florida for the State's experimental September duck season specifically asked that the impacts of the season on resident wood duck populations be assessed by banding. Results of the banding information provided in Florida's final report on its study were less than adequate to appraise impacts stemming from the increased harvest. The Service noted the difficulty in obtaining sufficient samples of banded wood ducks but indicated operational status cannot be granted in the absence of this information. The Service feels the September duck season in Florida should be continued experimental in 1986–87 with the conditions that adequate pre-season bandings of wood ducks be obtained, and that the overall approach to the experiment be modified as needed.

(d) The Wildlife Management Institute urged that experimental September duck seasons continue to be monitored carefully and regulatory adjustments be made to ensure increasing populations of the waterfowl species involved.

Response. The experimental September duck seasons will continue to be monitored, and the regulatory measures for these seasons, established in this document, are designed to avoid jeopardizing any segment of the duck resource.

14. *Frameworks for geese and brant in the conterminous United States—outside dates, season length and bag limits.* In the June 6, 1986, **Federal Register** (at 51 FR 20680), the service gave notice of the Mississippi Flyway Council Upper Region Regulations Committee's endorsement of Michigan's request for an early September Canada goose hunting season (focused on local giant Canada geese) and solicited comments on the same. In the **Federal Register** of July 3, 1986 (at 51 FR 24420), the Service noted receipt of additional information from Michigan dated June 3, 1986, in support of its request for an 8-day early September (8th–15th) Canada goose season limited to the Lower Peninsula (exclusive of major goose migration/concentration areas) and two small areas on the Upper Peninsula. In responding to the additional information, the Service indicated it still feels acceptable evidence is lacking concerning the numbers and distribution of migrant geese in the designated hunt area during the requested season.

(a) In response to the July 3, 1986, **Federal Register** document, Michigan provided more data on July 11, 1986, concerning Canada goose neckband observations and migration counts for the State. The State indicated that neckbanding and observation data confirm that very few migrant Canada geese would be present in southwest Michigan during the proposed September 8–15, 1986, season. However, the State indicated that the likelihood of unintended harvest of some migrant Canada geese during the proposed early season is greater than it originally expected near the Fish Point Wildlife Area and the Shiawassee River State Game Area, and therefore proposed to expand the closed zone around both areas.

Response. The Service believes the additional information provided supports the contention that few migrant geese are present in the proposed hunt areas in early September. There are still concerns, however, that population surveys indicate numbers of migrant Canada geese on some areas increase sharply after September 10, observations of neck-collared Canada geese in early September are either limited or missing in many areas and there are few measurements of goose parts from geese taken during early September.

The Service believes an experimental early September season (6 consecutive days) on giant Canada geese in Michigan is warranted and the regulatory measures established in this document permit such a season, provided the following conditions are met and a Memorandum of Agreement governing the experimental season is developed by the Service and Michigan.

1. Outside dates for the season are September 1 and September 10.

2. The State must conduct neck collar observations and population surveys throughout the first half of September in all hunt areas.

3. The State must collect sufficient data to ascertain the probable source population of the Canada geese in the bag.

4. The State will report in writing on the results of this early season prior to the Service's June 1987 early-season regulations meeting.

In view of the interest in both early and late experimental seasons to aid in control of nuisance Canada geese and the acknowledged widespread growth of local nesting Canada goose populations, the Service requests the Mississippi Flyway Council and other interested Councils to develop flyway plans including criteria for proposal, implementation and evaluation of such seasons. These plans should be developed prior to advancing proposals for such seasons. Service personnel will discuss this topic in detail at coming Technical Section and Council Meetings.

(b) The Little Prairie Hunt Club of Saginaw, Michigan expressed support for an early September Canada goose season in Michigan to control local giant Canada geese, and urged the Service to consider such a season. The Club indicated that there are rapidly expanding local goose populations that have a potential for crop depredation or nuisance problems, and that an early goose season would provide an excellent opportunity to obtain significant data needed for population control in the future.

Response. The Service agrees an early goose season is appropriate under the conditions outlined in the response to 14(a). above.

(c) The Chief Wildlife Biologist of Michigan State University's Kellogg Bird Sanctuary expressed his feelings that an early September Canada goose season would have little or no adverse impact on migrant geese, but may be an ideal time to subject local giant Canada geese to additional harvest pressure. He further indicated he felt migrant and

local Canada goose populations are robust enough to stand the additional harvest of an early September hunting season.

Response. The Service will permit an early goose season in Michigan as outlined in the respone to 14(a). above.

21. *Woodcock.* (a) The Wildlife Management Institute expressed support for restrictive regulations for woodcock in the Atlantic Flyway, and urged that efforts should continue to be directed toward encouraging increases in the eastern woodcock population.

Response. The Service appreciates the concern of the Wildlife Management Institute over the population status of the woodcock in the Atlantic Flyway. In 1985 the Service initiated a program of restrictive hunting regulations for woodcock in the Atlantic Flyway to bring harvest opportunities to a level commensurate with current population status. The regulatory measures established in this document reflect no change in the 1986–87 season frameworks for woodcock from those of 1985–86.

(b) New Jersey reiterated its request for a proportionate penalty for selecting zoning as a woodcock harvest strategy when compared to the season length framework for other Atlantic Flyway States. The State indicated it felt the 67 percent reduction in woodcock harvest it experienced in 1985 from that of 1984 is excessive, and that the Service should give more consideration to the numerous studies and findings the State conducted to evaluate the effects of zoning on the woodcock harvest.

Response. As noted in the June 6, 1986, **Federal Register** (at 51 FR 20681), the 10-day penalty taken by New Jersey for selecting its option to zone for woodcock hunting is longstanding and the Service feels it should be continued in 1986–87. The Service believes zoning has the potential to increase the harvest of woodcock and therefore questions the wisdom of offering the option to zone for woodcock hunting. The Service notes that all other Atlantic Flyway states are offered a 45-day season but are not permitted zones for woodcock. New Jersey may select a 45-day season provided they do not zone.

(c) The Virginia Quail Association requested that Virginia be permitted to establish an east and a west zone for woodcock hunting because of the two woodcock migration corridors within the State.

Response. The Service notes this request, but does not support such action at a time when a program of restrictive woodcock hunting regulations has been established to bring harvest opportunities to a level commensurate with the current population.

23. *Mourning doves.* Mr. Donald Heintzelman, representing the Wildlife Information Center, Inc. (hereinafter WIC) reemphasized his objections to mourning dove hunting as stated at the Public Hearing for Early Season Regulations. He particularly objected to hunting being permitted in the Western Management Unit due to a downward population trend. He also contended the dove hunting in September resulted in doves with young being killed by hunters. He claimed that dove hunting resulted in other protected wildlife being slaughtered indiscriminately as evidenced by WIC data. Based on WIC surveys in California and Pennsylvania, Mr. Heintzelman also claimed that the majority of Americans did not favor hunting, therefore, hunting should be prohibited.

Response. The Service has responded previously to similar comments by Mr. Heintzelman in the July 3, 1986, **Federal Register** (51 FR 24417). The Service again expresses its concern for the dove population decline in the Western Management Unit. A subcommittee of the Western Migratory Upland Game Bird Technical Committee which includes Service representatives is investigating the reasons for this decline. The Services supports this effort and awaits the findings of the subcommittee.

The Service responded to Mr. Heintzelman on the subject of September hunting in 51 FR 24417 (July 3, 1986). A number of references were made to previous **Federal Registers** in which this issue was discussed. In the July 12, 1982, **Federal Register** (47 FR 30163–30164), for example, the Service reported on an extensive dove nesting study. A report was subsequently prepared and distributed in 1982 entitled Mourning Dove Nesting: Seasonal Patterns and Effects of September Hunting. The study concluded that dove hunting under current regulations has no detectable effect on recruitment of fledglings into the mourning dove population.

Regarding the indiscriminate slaughter of other protected wildlife by dove hunters, the Service has not received any quantitative evidence from the WIC or other sources for evaluation, indicating other wildlife populations are being adversely affected in conjunction with dove hunting. Although the Service recognizes that some misidentification does occur in conjunction with dove hunting and species other than doves may be killed, it is not believed to be a significant factor.

Concerning public attitudes toward hunting, the Service notes once again that the Migratory Bird Treaty Act of 1918 specifically recognizes hunting as a legitimate use of the migratory game bird resource. Wildlife populations are a renewable resource and provide recreation to millions of Americans both hunters and nonhunters. Careful studies of the attitudes of people throughout the United States indicate that, while a majority of people do not hunt, they do not oppose hunting (Kellert 1979).

24. *White-winged doves.* (a) The Wildlife Management Institute expressed support for the Service's proposal to permit Texas a 4-day white-winged dove season in the State's special white-winged dove area of its South Dove Zone, but cautioned that the large take of whitewings in Mexico should be monitored carefully to avoid an excessive harvest.

Response. The Service notes the Wildlife Management Institute's support for the regulations frameworks for white-winged doves in Texas. Regarding the hunting of whitewings in Mexico, the Service has no control of migratory game bird harvest there, but recognizes that American hunters presently harvest substantial numbers of white-winged doves in northeastern Mexico each year. Through the U.S.-Mexico Joint Agreement on Wildlife Conservation, the Service and Mexico's Direccion General de Conservacion Ecologica de Recursos Naturales are monitoring whitewing populations in both countries. It is believed that the current level of harvest is commensurate with the present population size. However, accelerated agricultural development in northeastern Mexico is threatening whitewing nesting habitat through deforestation. Both official and private efforts are being made to safeguard the 20–22 major nesting colonies to ensure continued high population levels. If the clearing of native brush habitat continues and whitewing populations subsequently are reduced in Mexico, the need for modified harvest management strategies will be brought to the attention of the Joint Committee.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which

serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act "[and]" . . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." The Service therefore initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 23, 1986, the Chief, Office of Endangered Species, concluded that the proposed actions were not likely to jeopardize the continued existence of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated March 21, 1986 (51 FR 9860), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Memorandum of Law

The Service published its Memorandum of Law, as required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 25, 1986 (51 FR 26712).

Authorship

The primary author of this final rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rules were published March 21, June 6, and July 3, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates, shooting hours and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 703 et seq.), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico and Virgin Islands for the 1986–87 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1986–87 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.) as amended.

Final Regulations Frameworks for 1986–87 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, bag limits shooting hours and outside dates within which States may select seasons for mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal in September; experimental September duck season in Iowa, Florida, Kentucky and Tennessee; an experimental September Canada goose season in Michigan; see ducks (scoters, eiders, and oldsquaw) in certain defined areas of the Atlantic Flyway; sandhill cranes; sandhill cranes-Canada geese in southwestern Wyoming; and extended falconry seasons. For the guidance of State conservation agencies, these frameworks are summarized below.

Notice

Any State desiring its hunting seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens and purple gallinules, sandhill cranes or extended falconry seasons to open in September must make its selection no later than July 31, 1986. States desiring these seasons to open after September 30 may make their selections at the time they select regular waterfowl seasons. Season selections for the five States offered experimental September waterfowl seasons and Wyoming special sandhill crane-Canada goose season must also be made by July 31, 1986.

Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than July 31, 1986. Those desiring this season to open after September may make their selections when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between ½ hour before sunrise and sunset daily for all species except as noted below. The

hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates: Between September 1, 1986, and January 15, 1987, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississipi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively. Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Shooting Hours: Between ½ hour before sunrise and sunset daily.

Zoning: Alabama, Georgia, Illinois, Louisiana and *Mississippi,* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties, North Zone: Remainder of the State.

Georgia—The Northern Zone shall be that portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northwest along Highway 301 to the South Carolina line.

Illinois—U.S. Highway 36.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississpppi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana and Mississppi may commence no earlier than September 20, 1986.

D. Regulations for bag and possession limits, seasons length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wymong)

Hunting Seasons and Daily Bag Possession Limits:

Not more than 70 days with bag possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning: In addition to the basic framework and the alternative, Texas may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Forth Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; than east on Interstate 10 to Orange, Texas.

Special, White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South Zones.

Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into more than 2 periods, except that, in that portion of Texas where the special 4-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1986 and January 25, 1987; the South zone between September 20, 1986 and January 25, 1987.

C. Except during the special 4-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves, (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah and Washington)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

In all states except Arizona, not more than 60 days with bag and possession limits 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and *Texas* (except as shown below) may select hunting seasons between September 1 and December 31, 1986. *Florida* may select hunting seasons between September 1, 1986 and January 15, 1987.

Arizona may select a hunting season of not more thant 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the *Nevada* counties of Clark and Nye, and the *California* counties of Imperial, Riverside and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively, with a 70-day season, or 15 and 30 if the 60-day option for mourning doves is selected; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate including no more than two mourning doves and two white-tipped doves per day; and the possession limit may not exceed 20 white-winged, mourning and white-tipped doves in the aggregate including no more than four mourning doves and four white-tipped doves in possession.

and

In addition, *Texas* may also select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1986, and January 25, 1987, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 of which may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 of which may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1986, and January 15, 1987, and coinciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected); however, for either option, the bag and possession limits of white-winged doves may not exceed 4 and 8, respectively.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington and the Nevada counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.

Outside Dates: Between September 1, 1986, and January 15, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with a bag and possession limit of 5.

Zoning: California may select hunting seasons of 30 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico and Utah.

Outside Dates: Between September 1 and November 30, 1986.,

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and south along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1986, in the North Zone and October 1 and November 30, 1986, in the South Zone.

Rails

(Clapper, King, Sora and Virginia)

Outside Dates: States included herein may select seasons between September 1, 1986, and January 20, 1987, on clapper, king, sora and Virginia rails as follows:

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits: In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* 10 and 20 respectively, singly or in the aggregate to these two species. In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi and Central [1] Flyways and portions of Colorado, Montana, New Mexico and Wyoming in the Pacific Flyway,[2] 25 daily and 25 in possession, singly or in the aggregate of the two species.

Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1986, and January 31, 1987. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1986, and February 28, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with bag and possession limits of 3 and 6, respectively; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with bag and possession limits of 5 and 10, respectively. Seasons may be split into two segments.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1986, and February 28, 1987. In *Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland* and *Virginia* the

season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 107 days in the Atlantic, Mississippi and Central Flyways and 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico. In the remainder of the Pacific Flyway the season shall coincide with the duck seasons. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens and Purple Gallinules

Outside Dates: September 1, 1986, through January 20, 1987, in the Atlantic and Mississippi Flyways and September 1, 1986, through January 18, 1987, in the Central Flyway. States in the Pacific Flyway must select their hunting seasons to coincide with their duck seasons.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi and Central Flyways; in the Pacific Flyway seasons must be the same as the duck seasons. Seasons may be split. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively; except the daily bag and possession limits in the Pacific Flyway may not exceed 25 coots and common moorhens, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Seasons not to exceed 58 days between September 1, 1986, and February 28, 1987, may be selected in the following States: *Colorado* (the Central Flyway portion except the San Luis Valley); *Kansas; Montana* (the Central Flyway portion except that area south of I–90 and west of the Bighorn River); *North Dakota* (west of U.S. 281); *South Dakota;* and *Wyoming* (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1986 and February 28, 1987 may be selected in the following States: *New Mexico* (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); *Oklahoma* (that portion west of I–35); and *Texas* (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary).

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have in his possession while hunting, a valid Federal sandhill crane hunting permit.

Special Seasons in the Pacific Flyway: Arizona may select a sandhill crane season subject to the following conditions:

1. The season may not exceed 6 days in November 1986.
2. The hunting area is confined to Game Management Units 30A, 30B, 31, and 32.
3. Each hunter must obtain and have in possession while hunting a special permit issued by the State. No more than 200 permits may be issued. Each permittee may take 2 sandhill cranes per season.
4. Emergency closures for all crane hunting may be invoked as necessary.

Special Sandhill Crane-Canada Goose Season

Wyoming may select a season(s) on sandhill cranes and Canada geese subject to the following conditions:

1. Outside dates for the season(s) are September 1–22, 1986.
2. Hunting will be by State permit.
3. No more than 125 permits may be issued for the Bear River drainage and 125 permits issued for Star Valley, all in Lincoln County. Each permittee may take 2 sandhill cranes and 3 Canada geese per season.
4. No more than 75 permits may be issued in the Eden-Farson Agricultural Project in Sweetwater and Sublette Counties, each permittee may take no more than 3 cranes and 1 goose per season, and the season may not exceed 14 days.
5. Emergency closures for all crane hunting may be invoked as necessary.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1986, and January 20, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island* and *Connecticut;* in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean water of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island and emergent vegetation in *Delaware, Maryland, North Carolina* and *Virginia;* and provided that any such areas have been described, delineated and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional of point-system daily bag and possession limits.

Deferred Selection: Any State desiring its sea duck season to open in September must make its selection no later than July 31, 1986. Any State desiring its sea duck season to open after September may make its selection at the time it selects its waterfowl season.

September Teal Season

Outside Dates: Between September 1 and September 30, 1986, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico,* (Central Flyway portion only), *Ohio Oklahoma, Tennessee* and *Texas* in areas delineated by State regulations.

Hunting Seasons, and Bag and Possession Limits: Not to exceed 9 consecutive days, with bag and possession limits of 4 and 8, respectively.

Shooting Hours: From sunrise to sunset daily.

Deadline: States must advise the Service of season dates and special

VOL
51
ISS
156
AG
13
1986
UMI

provisions to protect non-target species by July 31, 1986.

Special September Duck Seasons

Iowa September Duck Season: Iowa may experimentally hold a portion of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment on the season. In 1986, the 5-day season segment may commence no earlier than September 20, with daily bag and possession limits being the same as those in effect during the 1986 regular duck season.

Florida September Duck Season: An experimental 5-consecutive-day duck season may be selected in September subject to the following conditions:

1. The season will be in lieu of the extra teal option.

2. The daily bag limit will be 4 ducks, no more than one of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.

Tennessee, and Kentucky September Duck Seasons: Experimental 5-consecutive-day duck seasons may be selected in September by *Tennessee* and *Kentucky* subject to the following conditions:

1. The seasons will be in lieu of September teal seasons.

2. The daily bag limit will be 4 ducks, no more than 2 of which may be wood ducks, and no more than 1 of which may be a species other than teal or wood duck. The possession limit will be double the daily bag limit.

Special Early September Canada Goose Season

Michigan September Canada Goose Season: An experimental 6-consecutive-day Canada goose season may be selected in September by *Michigan* subject to the following conditions:

1. Outside dates for the season are September 1–10, 1986.

2. The daily bag limit will be 2 Canada geese, and the possession limit will be double the daily bag limit.

3. Areas opened to the hunting of Canada geese are limited to the Lower Peninsula (exclusive of major goose migration/concentration areas) and must be described, delineated and designated as such in the State's hunting regulations.

Special Falconry Regulations

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season for falconry season) exceed 107 days for a species in one geographical area.

Dated: August 5, 1986.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-18225 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the treaty Indian salmon fishery in the fishery conservation zone (FCZ) from the U.S.-Canada border to Point Chehalis, Washington, at midnight August 8, 1986, because the chinook salmon quota has been met. The Director, Northwest Region, NMFS (Regional Director), has determined that the ocean quota of 12,500 chinook salmon for the treaty Indian tribes will be reached by that time and date. This action is required by the ocean salmon regulations, and is intended to ensure conservation of chinook salmon.

EFFECTIVE DATE: Closure of the FCZ from the U.S.-Canada border to Point Chehalis, Washington (46°53'18" N. latitude), to treaty Indian salmon fishing is effective at 2400 hours Pacific Daylight Time, August 8, 1986. Comments on this notice will be received until August 22, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a) (1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached." The regulations further specify at § 661.10 that: "Except as otherwise provided in this part, treaty Indian fishing in any part of the fishery management area is subject to the provisions of this part, the Magnuson Act, and any other regulations issued under the Magnuson Act."

Management measures for 1986 were effective on April 30, 1986 (51 FR 16520, May 5, 1986). Under these regulations, the treaty Indian ocean fishery for all species except coho extended from May 1 to the earlier of May 31 or the chinook quota. The treaty Indian ocean fishery for all salmon species opened on June 1, 1986, and extends until the earliest of October 31 or the chinook or coho quota in the Makah fishing area is reached and until the earliest of September 15 or the chinook or coho quota in the Quileute, Hoh, and Quinault fishing areas is reached. Treaty Indian quotas are 12,500 chinook and 86,000 coho (or a ratio of 1 chinook to nearly 7 coho).

Early in July, it became apparent that treaty Indian fishermen were harvesting a higher percentage of chinook salmon

in their catch than would allow full attainment of both chinook and coho quota. Through June 29, 7,410 chinook and 18,826 coho were landed, a ratio of approximately 1 chinook for each 2.5 coho. Continued unrestricted fishing for both species would have resulted in the treaty Indian chinook quota being met, and the fishery closed, with 25,093 coho salmon remaining in the quota.

The Pacific Fishery Management Council (Council) considered this ratio problem at its July 9–10 meeting in Portland, Oregon, and recommended to the tribes that they act to close their fisheries until early August, when coho salmon would be larger and more abundant. Rather than implementing a closure, the tribes elected to establish by tribal regulations or guidelines a "ratio" fishery requiring or advising their fishermen to land only 1 chinook for each 20 coho landed. The actual ratio of chinook to coho salmon landed subsequent to tribal action was variable. By July 25, an estimated 900 chinook and 22,700 coho remained to be caught in the treaty Indian ocean salmon quotas, or a ratio of 1 chinook for 25 coho salmon.

In mid-July, members of the Council's Salmon Plan Development Team (Team) estimated that about 350 chinook would be killed as a result of being hooked and released in the tribal ratio fishery. Their estimate was based on the ratio of chinook to coho (1:10) in landings during the week of July 7–13 and the standard assumption that thirty percent of salmon hooked and released die. Applied to the approximately 1,170 chinook remaining in the quota, the tribal ratio fishery of 1 chinook to 20 coho (rather than the 1:10 ratio which prevailed in the unrestricted fishery between July 7–13) would mean that 1 chinook would be released for each one landed and that thirty percent of these would die, yielding a hooking mortality of 350 chinook.

When a ratio fishery is imposed, there is always an associated hooking mortality. Sound management of the ocean salmon fisheries therefore requires inclusion of an estimate of hooking mortality as a component of ocean quotas whenever hooking mortalities occur, and hooking mortality always has been included as a part of the ocean catch whenever quotas are computed. Establishment and modification of hooking mortality also are expressly authorized by an emergency rule (51 FR 18451, May 20, 1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation schemes in the framework amendment (49 FR 43679, October 31, 1984). In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

After consideration of the factors and criteria in the emergency rule, and after consultation with the affected treaty tribes, the Regional Director decided to apply a 250 chinook hooking mortality toward achievement of the treaty Indian ocean salmon quotas and advised the treaty Indian tribes of his decision on August 1. He chose a smaller number than that recommended by the Team because data on the actual ratio of chinook to coho in the ocean are extremely variable, the use of the smaller number would provide the tribes the longest possible season consistent with the Federal obligation to close the fishery on attainment of the chinook quota, his concern for the sound principle of accounting for hooking mortality in a ratio fishery, and his concern that the tribes may have been unaware of his obligation to apply hooking mortality in every ocean fishery.

Based on the best available information, the treaty Indian ocean fishery is projected to reach its 12,500 chinook salmon quota by midnight August 8, 1986. Depending upon the ratio of chinook to coho landed, approximately 3,400–6,400 coho salmon are expected to remain unharvested in the treaty Indian coho salmon quota.

The Regional Director consulted with the Washington Department of Fisheries (WDF), the Oregon Department of Fish and Wildlife, the Pacific Fishery Management Council, the Washington coastal Indian tribes, the Muckleshoot Tribe, and Columbia River Indian tribes, regarding his proposed action to close the treaty Indian ocean salmon fisheries at midnight on August 8, 1986. The WDF Director confirmed that the State will close the treaty Indian fishery in State waters adjacent to this area of the FCZ effective midnight August 8, 1986. Representatives of the Hoh and Quileute Indian tribes indicated their intent to implement tribal ordinances closing their ocean salmon fisheries in concert with this State and Federal action. The Quinault Indian ocean salmon fishery already has been closed by tribal ordinance. The Makah tribal representative opposed a closure, and it is uncertain whether the Tribe will comply with the Federal closure.

Representatives of the Columbia River Indian tribes and the Muckleshoot Tribe urged that the treaty Indian ocean salmon fisheries be closed when the quota was projected to be reached. The Regional Director considered not only the preseason regulations governing the ocean salmon fisheries, but also the effect of an over-quota harvest in the ocean on treaty Indian and non-Indian fisheries in Puget Sound and in the Columbia River. Federal closure when the quota is reached is mandated by the Federal regulations cited above, a 1982 order of the U.S. District Court in *Hoh et al.* v. *Baldrige*, and an understanding reached among the United States, the States of Washington and Oregon, and the tribes who are parties to *U.S.* v. *Oregon and Wahington* (1986 Ocean and In-River Management Agreement for Upper Columbia River Fall Chinook and Coho Salmon).

Therefore, the Secretary issues this notice to close the treaty Indian salmon fishery in the FCZ from the U.S.-Canada border to Point Chehalis, Washington, effective at midnight August 8, 1986. This notice does not apply to non-Indian fisheries operating in the same area or to other salmon fisheries which may be operating in other areas.

Pursuant to § 661.21(a)(2) of the framework salmon regulations, the Secretary will consider reopening the treaty Indian ocean salmon fisheries if he finds that the actual catch has been overestimated and that part of the tribal quota remains, that a reopening of the fishery is consistent with the management objectives for the affected species, and that the additional open period is no less than 24 hours.

Other Matters

This notice is provided under § 661.23 and is in compliance with Executive order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: August 8, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86–18231 Filed 8–8–86; 4:20 pm]

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VOL
51
ISS
156
AG
13
1986
UMI

Proposed Rules

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-30]

Proposed Alteration of Detroit, MI, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter slightly one of the areas of the Detroit, MI, Terminal Control Area (TCA). To ensure containment of instrument approaches to Runways 21R and 27 within TCA airspace, Area "B" would be expanded slightly to the east and northeast. In addition, this proposal would correct an error relative to the correct charting of navigational aid magnetic radials which describe TCA airspace and which were incorrectly depited on the October 1985 TCA chart. This correction would apply to all four areas of the TCA.

DATE: Comments must be received on or before September 29, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-30, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify slightly Area "B" of the Detroit, MI, TCA. After the major reconfiguration of the TCA effective October 1985, it was found that Area "B" did not entirely contain an instrument approach to Runway 21R and two instrument approaches to Runway 27. To provide necessary containment, Area "B" would be expanded laterally to the northeast and east. The proposed lateral extension is 1 NM to the northeast and the widest point of extension is approximately 2 NM to the east. In addition, it was found that the navigational aid radials used to describe and chart the TCA were not the original magnetic radials which should have appeared on the chart. Rather, the original magnetic radials were incorrectly interpreted to be true radials and then converted to magnetic radials for purposes of charting. This proposal would correct that error by ensuring that the original magnetic radials used to describe the boundaries are the radials used to chart the TCA. All four areas of the TCA would be affected by this correction. Section 71.401(b) of Part 71 of the Federal Aviation Regulations was republished in Handbank 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore — (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1345(a), 1510; Executive Order 10845; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.401 [Amended]

2. Section 71.401(b) is amended as follows:

Detroit, MI [Amended]

In Area A, wherever "050° radial" appears substitute "047° T(050° M) radial" Remove the present Area B and substitute the following:

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits of the airspace beginning at the intersection of the I–DTW 7-mile DME arc and the Willow Run VOR 047° T(050° M) radial; thence northeast on the Willow Run VOR 047° T(050° M) radial until intercepting the I–DTW 8-mile DME arc; thence clockwise along the I–DTW 8-mile DME arc until intercepting the Willow Run VOR 091° T(095° M) radial, eastbound on the Willow Run VOR 091° T(095° M) radial until the United States shoreline, southbound along the United States shoreline until intercepting the Willow Run VOR 101° T(105° M) radial; thence on a 215° T(220° M) bearing from that intersection until intercepting the I–DTW 11-mile DME arc; thence clockwise along the I–DTW 11-mile DME arc until intercepting the Willow Run VOR 186° T(190° M) radial; thence northeast to the point where the I–DTW 7-mile DME arc intercepts the Detroit Willow Run Airport, MI, Control Zone; thence counterclockwise along the I–DTW 7-mile DME arc to the point of origin.

In Area C, wherever "200° radial" appears substitute "197° T(200° M) radial", wherever "226° radial" appears substitute "220° T(226° M) radial" and wherever "323° radial" appears substitute "317° T(323° M) radial".

In Area D, wherever "050° radial" appears substitute "317° T(323° M) radial", wherever "226° radial" appears substitute "220° T(226° M) radial" and wherever "200° radial" appears substitute "197° T(200° M) radial".

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18152 Filed 8–12–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 85–ASO–6]

Proposed Alteration of VOR Federal Airways and Jet Routes—Fort Myers, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 85–ASO–6, which was published in the **Federal Register** on July 1, 1985. The notice proposed to amend various routes in southern Florida by aligning them with a relocated navigational aid near Fort Meyers, FL. The relocation action has been postponed.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On July 1, 1985, a Notice of Proposed Rulemaking was published in the **Federal Register** to realign various VOR Federal Airways and Jet Routes in the vicinity of Fort Meyers, FL (50 FR 27014). Because of encroachment and possible loss of land lease, the Fort Meyers, FL, navigational aid was to be relocated to an on-airport site and was to be renamed the Lee County, FL, VORTAC. The relocation of the Fort Myers, FL, VORTAC was anticipated in early 1986. However, the relocation is now scheduled for mid-1987. An exact rescheduling date is predicated on funding availability. The FAA has concluded that the notice should be withdrawn.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 85–ASO–6, as published in the **Federal Register** on July 1, 1985, (50 FR 27014), is hereby withdrawn.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.)

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18151 Filed 8–12–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 86–ASO–5]

Proposed Alteration of Jet Route J–89–GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign J–89 between Lakeland, FL, and Atlanta, GA. This action would provide improved en route navigation for pilots, thereby aiding them in maintaining course, and would increase system capacity by permitting a reduction in the minimum en route altitude.

DATES: Comments must be received on or before September 29, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 86–ASO–5, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office to the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation, Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and engergy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ASO–5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J–89 between Lakeland, FL, and Atlanta, GA. J–89 is presently aligned as a direct route between these VORTAC's. However, due to the excessive distance, aircraft are required to maintain a high minimum en route flight level. The proposed realignment of J–89 over Valdosta, GA, which is midway between Lakeland and Atlanta, would permit lower minimum usable flight levels and would increase flight level availability for use on that route segment. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7600.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—[AMENDED]

1. The authority citation for Part 75 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–89 [Amended]

By removing the words "via Atlanta, GA;" and by substituting the words "via Valdosta, GA; Atlanta, GA;"

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18150 Filed 8–12–86; 8:45 am]

BILLING CODE 4910–13–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to Chile, India and Senegal

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to agreements with the postal administrations of Chile, India and Senegal, the Postal Service intends to begin Express Mail International Service with these countries at postage rates indicated in the tables below.

DATE: Comments must be received on or before September 12, 1986.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Chile, India and Senegal at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

CHILE, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [3] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20

CHILE, EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

INDIA, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	[illegible]	2	[illegible]
3	42.80	3	34.80
4	48.70	4	40.70
5	54.60	5	46.50
6	60.50	6	52.50
7	66.40	7	58.40
8	72.30	8	64.30
9	78.20	9	70.20
10	84.10	10	76.10
11	90.00	11	82.00
12	[illegible]	12	87.90
13	101.80	13	93.80
14	107.70	14	99.70
15	113.60	15	105.60
16	119.50	16	111.50
17	125.40	17	117.40
18	131.30	18	123.30
19	137.20	19	129.20
20	143.10	20	135.10
21	149.00	21	141.00
22	154.90	22	146.90
23	160.80	23	152.80
24	166.70	24	158.70
25	172.60	25	164.60
26	178.50	26	170.50
27	184.40	27	176.40
28	190.30	28	182.30
29	196.20	29	188.20
30	202.10	30	194.10
31	208.00	31	200.00
32	213.90	32	205.90
33	219.80	33	211.80
34	225.70	34	217.70
35	231.60	35	223.60
36	237.50	36	229.50
37	243.40	37	235.40
38	249.30	38	241.30
39	255.20	39	247.20
40	261.10	40	253.10
41	276.00	41	259.00
42	272.90	42	264.90
43	278.80	43	270.80
44	284.70	44	276.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

SENEGAL, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	[illegible]
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	[illegible]	8	[illegible]
9	70.20	9	62.20
10	75.10	10	67.10
11	[illegible]	11	72.00
12	[illegible]	12	76.90
13	[illegible]	13	81.80
14	94.70	14	86.70
15	[illegible]	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-18210 Filed 8-12-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5E3249/P399; FRL-3064-9]

Pesticide Tolerance for Triforine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the fungicide triforine in or on the raw agricultural commodity asparagus. The proposed regulation to establish a maximum permissible level for residues of triforine in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3249/P399], should be received on or before September 12, 1986.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3249 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Arizona and California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proose the establishment of a tolerance for residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis (2,2,2-

trichloroethylidene)]bis(formamide)) in or on the raw agricultural commodity asparagus at 0.01 part per million (ppm). The petitioner proposed that use on asparagus be limited to Arizona and California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study with a non-observed-effect level (NOEL) of 2.5 milligrams (mg)/kilogram (kg) of bodyweight (bw)/day. Systemic effects (siderosis of Kepffer cells and bone marrow) were observed at the 25.0 mg/kg bw/day dose level.

2. A 2-year rat oncogenicity/chronic feeding study with a NOEL of 31.25 mg/kg bw/day. The systemic effect (anemia) was observed at the 156.25 mg/kg bw/day dose level. The chemical was not considered to be oncogenic at any of the doses tested (0, 1.25, 6.25, 31.25, and 156.25 mg/kg bw/day) under the conditions of the study.

3. An 18-month mouse oncogenicity study. Under the conditions of the study, the chemical was not considered to be oncogenic at any of the doses tested (0, 4.3, 21.4, and 107 mg/kg bw/day).

4. A rat teratology study that indicated no teratogenic effects up to 1,600 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effect was at 800 mg/kg bw under the conditions of the study.

5. A rabbit teratology study that indicated no teratogenic effects up to 125 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effects was 5 mg/kg bw under the conditions of the study.

6. A three-generation rat reproduction study indicated no reproductive effects up to 125 mg/kg bw/day dose level under the conditions of the study.

7. Two rat metabolism studies that adequately identified the major metabolites.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 2.5 mg/kg bw/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.1859 mg/day; the current action will increase the TMRC by 0.00002 mg/day (0.01 percent). Published tolerances utilize 12.40 percent of the ADI; the current action will not utilize any additional percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using an electron capture detector, is available in Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, and the fact that asparagus is not considered to be an animal feed commodity, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3249/P399]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: August 1, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.382 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.382 Triforine; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis(formamide)) in or on the following raw agricultural commodities:

Commodities	Parts per million
Asparagus	0.01

[FR Doc. 86–18208 Filed 8–12–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 74

Administration of Grants; Prior Approval for Budget Revisions, Nonconstruction Projects, Transfer of Amounts Budgeted for Direct Costs To Absorb Increases in Indirect Costs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services offers interested parties an opportunity to comment on a proposed amendment of its grants administration regulations. The amendment would require prior approval for the transfer of amounts budgeted for direct costs to absorb increases in indirect costs.

This proposal is part of a broader plan to change Departmental policy concerning the reimbursement of indirect costs under project grants and cooperative agreements. Other aspects of this plan are set forth in our companion proposal to amend HHS Grants Administration Manual Chapter 6–150. That proposal is published elsewhere in today's **Federal Register**. We offer both proposals in response to a recommendation by the Office of Science and Technology Policy that HHS adopt certain of the indirect cost reimbursement practices of the National Science Foundation and other Federal agencies.

This proposal would affect HHS project grants and cooperative agreements which provide for reimbursement of indirect costs. It would not affect block grants since they are not subject to Part 74. It also would not affect mandatory grants (i.e. formula grants or open-ended entitlement programs such as AFDC, Medicaid, and Child Support Enforcement) because § 74.100(b) exempts them from the CFR provision being amended.

DATE: Comments must be received by October 14, 1986.

ADDRESS: Comments should be submitted in writing to Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Room 513D, 200 Independence Avenue, SW., Washington, DC 20201. All written comments pursuant to this notice will be available for pubic inspection during normal working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Strauch (202) 245–7565.

SUPPLEMENTARY INFORMATION: HHS has long had a policy of full reimbursement of the indirect costs allocable to its grants and cooperative agreements. Under this policy HHS makes supplemental awards where necessary to cover indirect cost increases beyond the amounts originally awarded. The Department is proposing in a companion notice published elsewhere in today's **Federal Register** to discontinue making such supplemental awards (with certain exceptions). This change is being undertaken in response to a recommendation by the Office of Science and Technology Policy designed to help contain the growth of the indirect cost portion of Federal grant programs and to bring HHS practice more into line with that of other Federal agencies.

This notice proposes to change 45 CFR 74.105(a)(1) to require recipients to obtain prior approval from the HHS awarding agency for any budget revision which would transfer amounts budgeted for direct costs to absorb increases in indirect costs. As discussed more fully in our companion notice elsewhere in today's **Federal Register**, this change will result in some savings to HHS' awarding agencies, but more importantly, it will protect HHS grant-supported projects from risk of adverse programmatic effects due to reductions in direct cost budgets to cover increased indirect costs.

The Department has determined that this action is not a major rule under Executive Order 12291. I also hereby certify that this rule will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule places no information collection or recordkeeping requirements on recipients; therefore OMB approval under the Paperwork Reduction Act is not required.

List of Subjects in 45 CFR Part 74

Accounting, Administrative practice and procedures, Grant programs—health, Grant programs—social programs, Grants administration.

Accordingly, HHS proposes to amend 45 CFR Part 74 as set forth below.

Dated: July 9, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 74—[AMENDED]

1. The authority citation continues to read:

Authority: 5 U.S.C. 301; sec. 74.62(a) and Appendix J also issued under sec. 7505 Pub. L. 96–502, 96 Stat. 2333 (31 U.S.C. 7505).

2. In § 74.105, paragraph (a)(1) is amended by adding the words "or vice versa". As revised paragraph (a)(1) reads as follows:

§ 74.105 Budget revisions-nonconstruction grants.

(a) * * *

(1) Involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs or vice versa, or

* * * * * *

[FR Doc. 86–17585 Filed 8–12–86; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–319, RM–5463]

TV Broadcasting Services; Grants Pass, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Freedom Communications, Inc. proposing to assign UHF–TV Channel 30+ to Grants Pass, Oregon. Freedom states that it will apply for use of the channel as a satellite of its Station KTVL(TV) operation at Meford, Oregon.

DATES: Comments must be filed on or before September 25, 1986, and reply comments on or before October 10, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Gary M. Epstein, Esq., Joseph D. Sullivan, Esq., Latham, Watkins & Hills, 1333 New Hampshire Ave., NW., Suite 1200, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–319, adopted July 21, 1986, and released August 4, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contract.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18189 Filed 8-12-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM-145E; Notice No. 86-5]

Reportable Quantity of Hazardous Substances; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of time to file comments.

SUMMARY: On June 23, 1986, RSPA published a notice of proposed rulemaking (NPRM) under Docket HM-145E [51 FR 22902]. This NPRM proposed to amend the Hazardous Materials Regulations (HMR) by adding certain hazardous substances and their reportable quantities to the Hazardous Materials Table at § 172.101. In order to evaluate the proposals contained in the NPRM, the Hazardous Materials Advisory Council (HMAC) has requested that the comment period of the NPRM be extended for 60 days. RSPA concurs with their request and this Notice extends that comment period.

DATE: The date for filing the comments is extended from August 25, 1986 to October 26, 1986.

ADDRESS: Address comments to the Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Lee Jackson (202) 366-4488 or George Cushmac (202) 366-4545, Office of Hazardous Materials Transportation, RSPA, Washington, DC 20590.

Issued in Washington, DC, on July 30, 1986 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86-18222 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 13)]

Rail Abandonments; Use Of Rights-of-Way as Trails; Supplemental Trails Act Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its rules governing implementation of section 208 of the National Trails System Act Amendments of 1983 at 49 CFR 1152.29(b)(1) to provide for a certification process for: (1) Nonprotested abandonment cases; and (2) protested but noninvestigated abandonment cases. The current rules do not provide a certification process when a timely Trails Act Statement is filed in either of these 2 types of cases. A process must be established where trail use has been sought for the Commission timely to obtain information from applicant railroads as to their willingness to negotiate agreements for interim trail use.

DATE: Comments are due September 12, 1986.

ADDRESS: An original and 10 copies of comments referring to Ex Parte No. 274 (Sub-No. 13) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7693.

SUPPLEMENTARY INFORMATION: The text of the proposed rules follows as an appendix to this notice.

Additional information is contained in the Commission's full decision. To obtain a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275-7428.

This action will enhance the quality of the human environment and conserve energy resources by providing the public with new opportunities for creating recreational trails, utilizing alternative forms of transportation, and preserving transportation corridors along rail rights-of-way.

We certify that these rule changes will not have a significant economic impact on a substantial number of small entities. The rules implement a statutory provision allowing persons to use rail property for trails after it has been authorized for abandonment.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads, Environment.

Decided: August 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix—Proposed Additions to 49 CFR Part 1152

PART 1152—[AMENDED]

1. The authority citation for 49 CFR Part 1152 would be revised to read as follows:

Authority: 49 U.S.C. 10321, 10362, 10505, 10903 *et seq.*; 16 U.S.C. 1247(d); 31 U.S.C. 9701; 45 U.S.C. 904 and 915; and 5 U.S.C. 553, 559 and 704.

§ 1152.29 [Amended]

2. Section 1152.29 is proposed to be amended by adding new paragraphs (b)(1) (i) and (ii).

§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.

* * * * *

(b)(1) * * *

(i) In a nonprotested proceeding, when a timely Trails Act statement is filed, the Director of the Office of Proceedings, on the 35th day after the abandonment application is filed, will issue a decision that either: (A) Finds that trails use is not feasible; or (B) finds that trails use is feasible and directs the railroad to notify the Commission within 5 days whether it intends to negotiate an agreement. If trails use is not feasible, if it is feasible but the railroad does not intend to negotiate an agreement, or if the railroad does not timely notify the Commission of its intention to negotiate, the case will be handled under existing procedures and a Certificate and Decision permitting abandonment will be issued by day 45. If the railroad is willing to negotiate an agreement, the Director will issue a Notice of Findings and a Decision and Certificate of Interim Trail Use or Abandonment by day 45.

(ii) In a protested but noninvestigated proceeding, when a timely Trails Act statement is filed and the Director

determines that no investigation is to be undertaken, the Director will issue a noninvestigation decision within 45 days after the application is filed that will include a finding that either: (A) Trails use is not feasible; or (B) trails use is feasible and directing the railroad to notify the Commission within 10 days whether it intends to negotiate an agreement. If trails use is not feasible, if it is feasible but the railroad does not intend to negotiate an agreement, or if the railroad does not timely notify the Commission of its intention to negotiate, the case will be handled under existing procedures, and a decision on the merits will be issued by day 75. If the railroad is willing to negotiate an agreement, and the public convenience and necessity are found to permit abandonment, the Commission by day 75 will issue a Notice of Findings and a Decision and Certificate of Interim Trail Use or Abandonment.

* * * * *

[FR Doc. 86-18198 Filed 8-12-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60224-6024]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: In response to a 1984 amendment to the Marine Mammal Protection Act (MMPA), the NMFS proposes to amend the marine mammal regulations regarding the importation of yellowfin tuna caught with purse seines in the eastern tropical Pacific Ocean (ETP). Under this rule, any nation that wishes to export yellowfin tuna to the United States and has purse seine vessels in the ETP must provide documentary evidence that the nation has adopted a regulatory program governing the incidental taking (mortality) of marine mammals in the fishery that is comparable to the program of the United States. The nation also must provide documentation that the average rate of incidental mortality of porpoise in the fishery by its vessels is comparable to the rate of incidental mortality of porpoise from fishing by the U.S. fleet.

DATE: Comments on the proposed rule must be postmarked on or before October 14, 1986.

ADDRESS: Comments should be addressed to Robert B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235. An Environmental Assessment/Regulatory Impact Review is also available upon request.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (Marine Resource Management Specialist) NMFS, 202-673-5351.

SUPPLEMENTARY INFORMATION:

Background

The NMFS published regulations in the **Federal Register** on December 23, 1977 (42 FR 64548-60), governing the taking of marine mammals incidental to commercial fishing operations. These regulations were repromulgated on October 31, 1980 (45 FR 72178-96). Included in these regulations are provisions concerning the importation of yellowfin tuna and tuna products from nations whose vessels participate in the yellowfin tuna purse seine fishery in the ETP. Effective January 1, 1978, these importation provisions made the importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator). The Assistant Administrator must find (a) that the fishing operations of the nation concerned "... are conducted in conformance with U.S. regulations and standards ..." or (b) that ... "although not in conformance with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations." These findings are subject to an annual review in which the information items in 50 CFR 216.24(e)(5)(ii) are updated for the previous calendar year.

Since 1978, 18 nations, in addition to the United States have purse seined in the ETP for some or all of the time. In this period, findings have been made for the following countries: Bermuda, the Cayman Islands, Canada, Costa Rica, Ecuador, El Salvador, Korea, Mexico, Netherlands Antilles, New Zealand, Panama, Spain and Venezuela. Mexico, The Congo, Peru, Spain, Senegal and the Union of Soviet Socialist Republics (U.S.S.R.) have been prohibited from exporting yellowfin tuna to the United States during some period of time under these regulations. The Congo and Senegal subsequently removed their fleets from the ETP, while Peru removed its larger purse seine vessels from active fishing operations in the ETP. The U.S.S.R. remains embargoed. The Republic of Korea, Netherlands Antilles, Nicaragua, and New Zealand have not purse seined in this area in recent years. All other listed nations currently have findings of conformance. Additional information can be found at 50 FR 3950, January 29, 1985; 48 FR 56886, December 27, 1983; 48 FR 30422, July 1, 1983; 48 FR 14431, April 4, 1983; 47 FR 11307, March 16, 1982; and, 46 FR 10074, February 5, 1981.

The most recent information available indicates that the active international purse seine fleets that fish for yellowfin tuna associated with porpoise in the ETP are as follows:

Nation	No. of vessels
Cayman Islands	1
Costa Rica	1
Ecuador	4
Mexico	[illegible]
Panama	[illegible]
Spain	1
U.S.S.R.	1
Vanuatu	2
Venezuela	12
United States	[illegible]

Non-U.S. fleets substantially increased their fishing for yellowfin tuna associated with porpoise in the ETP in 1984. The Inter-American Tropical Tuna Commission (IATTC) estimated that non-U.S. vessels harvested a total of 111,500 tons of tuna on porpoise in the 1979-83 period, an average of about 22,300 tons per year. It has been estimated that in 1984 effort on porpoise was up 50 percent over 1983, no doubt related to the fact that the catch of yellowfin per porpoise set was more than 75 percent higher than in 1983. The non-U.S. fleets are estimated to have taken 36,000 tons of tuna in porpoise sets in 1984. Reports through the first half of 1985 indicate that catch rates continue to be high and that fishing on porpoise is the predominant fishing technique at the present time. In late July 1984, the estimated yellowfin tuna catch in the Commission's Yellowfin Regulatory Area (CYRA) (Figure 1) was 72,400 tons, up 20,200 tons from 1983; in late July 1985, the CYRA catch was 131,000 tons of yellowfin tuna. Similarly, the estimated total fleet capacity in the CYRA in July 1985 was 65,335 short tons, up about 40 percent from 47,535 short tons in July 1984.

Public Law 98-364

On July 17, 1984, the President signed into law an act (Pub. L. 98-364) reauthorizing and amending the MMPA. One amendment is to ensure that nations exporting yellowfin tuna to the United States harvested with purse seines in the ETP have in place a regulatory program for the protection of

porpoise in the fishery which is comparable to the program of the United States. It further requires documentation that the average rate of incidental taking of marine mammals by vessels of the harvesting nation in the ETP tuna fishery is comparable to that of the United States.

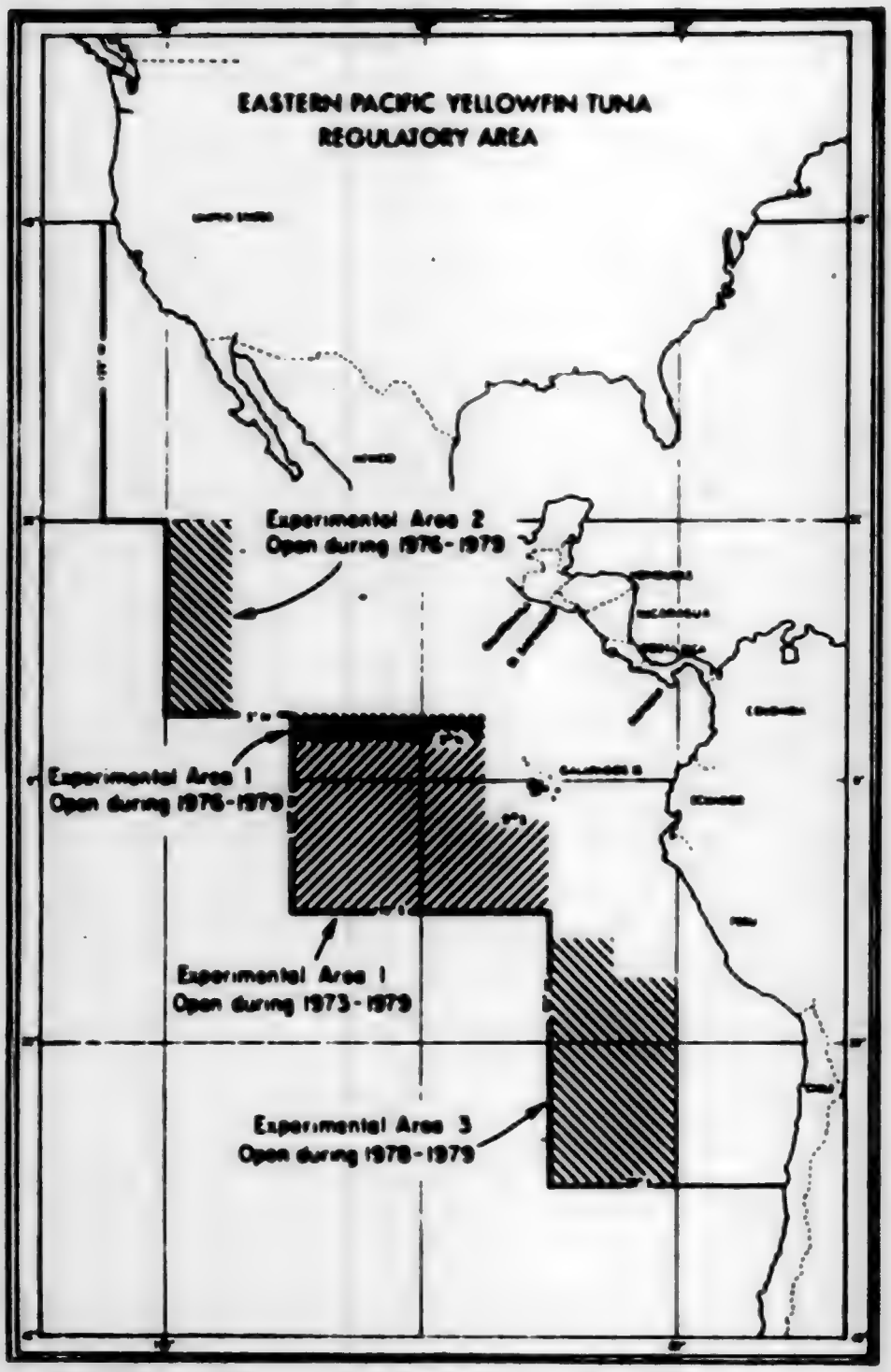

FIGURE 1. The Commission's Yellowfin Regulatory Area (CYRA).

The House Committee on Merchant Marine and Fisheries noted that the regulatory program of the United States is quite extensive and detailed (see H.R. Report 98–758, p. 8). The Committee in reporting this legislation stated that it does not intend to require that the regulatory program of foreign countries should be identical to that of the United States. Programs which require the basic equipment and techniques used to protect porpoises and have as their purpose the minimization of the number of animals incidently taken would be comparable as long as they provided a level of protection that is substantially equivalent to that of the U.S. program. Similarly, the Committee recognized that the average rate of incidental taking will vary from year to year. The Committee does not intend for the importation of tuna products to be banned from a nation if the rate of incidental taking is slightly higher in any given year. However, the report of levels or rates of incidental mortality being consistently higher than those of the United States or significantly higher in any given year should result in the prohibition of imports.

Several important points must be made in this context. First, the statute clearly requires the Secretary to evaluate performance on a country-by-country basis. Second, the Congress indicated NMFS should continue to encourage foreign nations which have not already done so to implement observer programs either on their own or in cooperation with the IATTC. Third, the Congress intended NMFS to require estimates of incidental take that are equivalent in accuracy and reliability to observer data obtained in the U.S. and the IATTC observer programs. In summary, the Congress expects that the importation regulations will result in demonstrable evidence that nations wanting to export to the United States yellowfin tuna caught by purse seining in the ETP have effective programs to prevent or reduce porpoise mortality.

Proposed Action

Keeping in mind the intentions of the Congress and the broader context of the MMPA amendments of 1984, the NMFS is proposing a performance-based import certification program consistent in principle with the performance-based porpoise protection program being implemented for U.S. vessels which take marine mannals incidental to yellowfin tuna purse seine fishing. This certification program is a new approach, elements of which may be modified by NMFS as new information becomes available and if experience demonstrates better ways to achieve lower mortality.

A two-part test will be used to determine whether to grant or extend a finding of conformance for any individual nation. First, each nation must be found to have a regulatory program to protect porpoise that is comparable to the program of the United States. This evaluation will consider the regulations and laws which govern the gear and techniques which each nation's vessels must use to prevent or minimize porpoise mortality when purse seining for yellowfin with porpoise. Second, the effectiveness of each nation's requirements will be assessed. Each nation must demonstrate using reliable data that the rates of incidental mortality of porpoise per set on porpoise

and per ton of tuna taken with porpoise from fishing by its vessels are comparable to the incidental rates of porpoise mortality achieved by U.S. vessels. Each of these tests will be applied each year, as described below.

Initial Certification

All current nation findings of conformance will terminate on December 31, 1986, or ninety days after publication of final rulemaking, whichever is later. Any nation having vessels using purse seine gear in the ETP which desires to export yellowfin tuna or tuna products to the United States after that date must submit documentation to support a new finding. The Assistant Administrator will review each nation's submission for completeness and will assess each nation's described program for comparability with the U.S. program. He may request additional information from the nation before issuing a finding. It is noted that the U.S. program is extensive and detailed, and other nations' programs need not be equally detailed to be found "comparable" to the U.S. program. However, an affirmative finding is likely to be issued if the program contains provisions similar to those in the U.S. program described below. Copies of the relevant U.S. regulations will be provided to all interested nations. Each nation's submission must contain sufficient detail so that the Assistant Administrator will be able to determine that the nation's program is comparable in substance and effectiveness to the U.S. program. At a minimum, the documentation must contain:

1. A description of gear and procedural requirements, including copies of relevant laws and implementing regulations, to reduce or prevent the incident mortality and injury of porpoise in purse seine fishing by its vessels;

2. A description of the method (for example, observers' data) by which the incidental mortality of marine mammals is monitored and by which annual species mortality and fleet mortality rates are estimated. If the nation is not participating in the IATTC observer program, but is conducting an independent observer program, the nation must provide details regarding the number and percentage of trips covered, training requirements for observers, the data collected by observers, and the agency to contact for additional information;

3. A description of the methods used to identify problems and solutions to improve the performance of individual fishermen in reducing incidental mortality and how they will be advised;

4. A list of the purse seine vessels in the nation's fleet in 1985 and 1986, with an indication of the status of each vessel in 1986, for example, actively fishing in the ETP, actively fishing in other waters, or inactive; and

5. Data on the performance of its vessels in the previous year including: Total number of purse seine sets; total number of purse seine sets on porpoise; total tons of yellowfin tuna caught by purse seine; total tons of yellowfin tuna caught by purse seine sets on porpoise; total number of porpoise (by species) killed or seriously injured; the number of sets in which more than 15 animals were killed and total mortality from such sets; and, the number of sets in which zero (0) animals were killed.

For the initial documentation, the nations must submit the information required by paragraph 5 for both 1984 and 1985.

As a guide for comparability, the U.S. program has four primary components:

a. Annual limits on incidental mortality of marine mammals, both cumulatively and by species/stock;

b. Porpoise saving gear, equipment and procedural requirements and guidelines;

c. An observer program to monitor the effectiveness of porpoise rescue gear and procedures and record the incidental mortality and serious injury of porpoise associated with U.S. vessels' fishing; and

d. A peer advisory group to identify problems and solutions to improve the performance of individual fishermen in reducing incidental porpoise mortality.

If the Assistant Administrator finds that a nation's program is comparable to the U.S. program, and the nation's kill rate is comparable to the U.S. kill rate, he will issue a finding to that effect to the harvesting nation.

Annual Review

Commencing in July 1987, the Assistant Administrator will annually review all existing findings. The Assistant Administrator will require that each nation submit an annual report if it desires an extension of an affirmative finding for the following year. This annual report will update the information in the original submission as well as provide data on the performance by its vessels in the previous year. The annual report will present the following:

1. Any changes in the gear, equipment, or procedural requirements (including copies of relevant laws, etc.) governing incidental taking of porpoise by the nation's ETP purse seine vessels;

2. Any changes in the number, name or status of vessels on the vessel list submitted orginally;

3. Actions (e.g., participation in IATTC workshops) taken by the nation in the past year to reduce or prevent porpoise mortality and serious injury associated with fishing by its vessels; and,

4. Data on the performance of its vessels in the previous year, including—

Total number of purse seine sets,

Total number of purse seine sets on porpoise,

Total tons of yellowfin tuna caught by purse seine,

Total tons of yellowfin tuna caught by purse seine sets on porpoise,

Total number of marine mammals (by species) killed and seriously injured,

The number of sets in which more than 15 animals were killed, and the total mortality from such high mortality sets,

The number of sets in which zero (0) animals were killed.

This report must describe in detail the method used to obtain these data and must include a certification of the accuracy and authenticity of the data submitted. In this context, the NMFS recognizes the role filled by the IATTC in collecting data on incidental marine mammal mortality and serious injury through its observer program and in estimating total mortality associate with U.S. and non-U.S. fishing. This observer-program is comparable to the U.S. observer program and, as now constituted, provides reliable data to estimate total mortality and rates of mortality for vessels from participating nations. These data and resulting estimates represent the best scientific information available for the purposes of these regulations and will be used to monitor mortality in the fishery. If the above data are submitted to the Assistant Administrator by the IATTC on behalf of the nation requesting certification, those data will be deemed certified as authentic and accurate under these regulations. Similarly, if the data are submitted by the requesting nation and IATTC certifies that the data are accurate, the date will meet this certification requirement. A nation not participating in the IATTC observer program must be able to demonstrate that its data are of comparable accuracy and reliability. The first such annual report will be due July 31, 1987, to cover fishing in the 1986 fishing year.

The Assistant Administrator will review each such report carefully to decide whether to extend or terminate a finding under this program. First, the Assistant Administrator will determine if the nation's protection program

continues to be comparable to the U.S. program. Second, the Assistant Administrator will evaluate the performance of the fleet of that nation with respect to mortality rates. This evaluation will consider the following factors for the nation's fleet in the previous year:

Mortality of porpoise per ton of yellowfin tuna taken on porpoise,

Mortality of porpoise per purse seine set on tuna,

Number of sets with more than 15 porpoise killed,

Proportion of total mortality associated with high mortality sets,

Number of zero (0) mortality sets,

Species composition of total mortality,

Statistical reliability of the mortality estimate for the nation's fleet,

Actions taken or planned to be taken (e.g., new monitoring procedures, participation in IATTC workshops) to reduce future mortality rates.

A negative finding would be likely if the nation's vessels have had mortality per ton and per set rates that were 50 percent or more higher than such rates for U.S. vessels and those rates are not attributable to problems which can be and are expected to be resolved in the next year.

A special note is in order regarding the statistical reliability of mortality estimates for nations with small fleets. The NMFS is aware that such mortality estimates are likely to be highly variable, because a single but not necessarily representative sample may be used as the basis for estimating total mortality for the fleet's total activity during a year. Whether the NMFS would take adverse actions against a nation with a small fleet because of an estimate of unusually high mortality levels or rates for that fleet would depend on such factors as the reliability of the estimate and the change for previous reports. Possible ways to place the one-year estimates in perspective are to use two- or three-year cumulative samples to derive mortality estimates or pooling of samples for nations having small fleets to derive a more reliable composite mortality estimate. The NMFS notes, however, that a nation with a small fleet from which a single sample led to an unusually high mortality estimate must describe in its annual report the measures that are being or have been taken to reduce the likelihood of recurrence of such results.

Subsequent Annual Review

In future years, the general procedure will be to receive annual estimates of total porpoise mortality and mortality by species/stock from the IATTC; to receive annual reports with detailed fleet level data so that the Assistant Administrator can determine whether each nation's porpoise protection program continues to be comparable to the U.S. program and whether any nation's fleet is experiencing significantly higher porpoise mortality rates than the U.S. fleet; and to announce findings at least 60 days before the start of each new calendar year.

Additional Modifications

This rule also proposes to eliminate the requirement that certain fish and fish products, including yellowfin tuna, be accompanied by either a Fisheries Certificate of Origin or a Yellowfin Certificate of Origin because NMFS has found that some of the information required by these forms is not necessary to implement the MMPA and the remaining useful information will be required on the entry documents. Finally, sections covering the importation of salmon and halibut have been revised to eliminate some confusing sections that have never been used. The NMFS has decided that the proposed language accomplishes what is necessary and eliminates some confusing, redundant language.

Classification

The NMFS has determined that the proposed modification to the regulations being made at 50 CFR 216.24(e) will not have a significant impact on the human environment. The NMFS has prepared an Environmental Assessment (EA) on the proposed modification. The finding of that EA was that no significant impact on the human environment would occur from the change and that no Environmental Impact Statement is required. The EA is available upon request (see ADDRESS).

The NOAA Administrator has determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The estimated economic impact of tuna import prohibitions, if any, could be expected to result in short-term slight positive benefit to U.S. fishermen and a short-term slight negative impact on tuna processors if affirmative findings are not made for a nation now exporting ETP tuna to U.S. processors. This impact would exist until such time as any reduction in imports is made up by exports from other areas of the world, especially the western Pacific nations which are not affected by this action. The NMFS has prepared a regulatory impact review as part of its EA which concludes that this rule will not result in (1) an annual major increase in costs or prices for consumers, individual industries or government agencies; (2) an annual effect on the economy of $100 million or more; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of the review is available upon request (see ADDRESS).

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed modification to the regulations will not have a significant economic impact on a substantial number of small entities. The impact, if any, would be limited to the single remaining tuna canning plant in California and the tuna processing facilities in Puerto Rico, Hawaii, and American Samoa. These facilities are by definition not small businesses. It would also affect an unknown number of import-export businesses. The impact on these industries is believed to be insignificant since the availability of yellowfin tuna is world-wide and alternate markets are readily available. As a result, a regulatory flexibility analysis was not prepared on this action.

This rule contains collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The collections which are subject to the Act are found at § 216.24(e)(3) and § 216.24(e)(4) and have been approved by the Office of Management and Budget under control number 0648–0040.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: August 7, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for Part 216 continues to read as follows:

Authority: 16 U.S.C. 1361–1407.

2. Section 216.3 is amended by adding in alphabetical order two new definitions, one for "ETP", and one for "harvesting nation", to read as follows:

§ 216.3 Definitions.

* * * * *

"ETP" means eastern tropical Pacific Ocean.

* * * * *

"Harvesting nation" means the country under whose flag are documented fish catching vessels from which are caught fish that are a part of any cargo or shipment of fish to be imported into the United States regardless of any intervening transshipments.

* * * * *

3. Section 216.24 is amended by revising paragraphs (e) (1), (2), (3), (4), and (5) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) *Importation.* (1) It is illegal to import into the United States any fish, whether fresh, frozen or otherwise prepared, if such fish have been caught with commercial fishing technology which results in the incidental kill or incidental serius injury of ocean mammals in excess of that allowed under this part for U.S. fishermen.

(2) The following fish and categories of fish, which the Assistant Administrator has determined may be involved with commercial fishing operations which cause the death or injury of marine mammals, are subject to the requirements of this section:

(i) *Yellowfin tuna.* The following U.S. Tariff Schedule Item Numbers identify the categories of tuna and tuna products under which yellowfin tuna is imported into the United States and which the Assistant Administrator has determined are involved with commercial fishing operations which cause the death or injury of marine mammals, and are subject to the restrictions of paragraphs (e)(3) and (e)(5) of this section:

110.10–20 Tuna; yellowfin, whole fish.
110.10–25 Tuna; yellowfin, eviscerated, head on.
110.10–30 Tuna; yellowfin, eviscerated, head off.
110.10–37 Tuna; yellowfin, other.
112.30–40 Tuna; canned, other than white meat, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.
112.34–00 Tuna; canned, other, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.
112.90–00 Tuna; canned, other, in oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.

(ii) *Salmon and halibut.* The following U.S. Tariff Schedule Item Numbers identify the categories of salmon and halibut products which are imported into the United States and are subject to the restrictions of paragraphs (e)(3) and (e)(4) of this section:

110.20–25 Halibut, fresh or chilled.
110.20–30 Halibut, frozen.
110.20–45 Salmon, fresh or chilled.
110.10–50 Salmon, frozen.
110.70–40 Halibut, other—except portion controlled steaks.
111.48–00 Salmon, salted.
111.88–00 Salmon, smoked or kippered.
112.18–00 Salmon, preserved, not in oil.

(3) All shipments of fish and fish products listed in paragraph (e)(2) of this section, from any nation, may not be entered into the United States for consumption or withdrawn from warehouse for consumption unless accompanied by a commercial invoice and/or a bill of lading indicating the:

(i) Nation of registry of the fishing vessel(s) involved;

(ii) Exporter (name and address);

(iii) Consignee (name and address); and

(iv) Identity and quantity of the fish or fish products to be imported.

(4) *Salmon and halibut.* All shipments of fish and fish products listed in paragraph (e)(2)(ii) of this section, from any nation, may not be entered into the United States for consumption or withdrawn from warehouse for consumption unless one of the following is met:

(i) The shipment is accompanied by a statement by a responsible official of the harvesting nation or the master of the vessel which caught the fish that such fish were not caught in a manner prohibited for U.S. fishermen by these regulations. The statement will identify the species, quantity, and exporter of the fish to which the statement refers, and be submitted at the time of importation; or

(ii) A responsible official of the harvesting nation may certify to the Assistant Administrator that all of its flag vessels are fishing in conformance with these regulations or that the fishing technology practiced by the harvesting nation with respect to the species of fish presented for importation into the United States does not result in a rate of serious injury or death to marine mammals in excess of that which results from U.S. commercial fishing operations as prescribed by these regulations. Upon receipt of a statement of conformance, the Assistant Administrator may then make a finding, and publish such finding in the **Federal Register**, that fish imports listed in paragraph (e)(2) from the nation were not caught with commercial fishing technology which results in the incidential kill or incidental serious injury of ocean mammals in excess of U.S. standards.

(5)(i) *Yellowfin tuna.* Any tuna or tuna products in the classifications listed in paragraph (e)(2)(i) of this section, from nations whose vessels operate in the eastern tropical Pacific Ocean (ETP) tuna purse seine fishery, as determined by the Assistant Administrator, may not enter into the United States for consumption or subsequently withdrawn from a warehouse for consumption unless the Assistant Administrator makes a finding in consultation with the U.S. Department of State, and publishes such finding in the **Federal Register** that (A) the government of the harvesting nation has adopted a regulatory program governing the incidental taking of marine mammals in the course of such harvesting that is comparable to the regulatory program of the United States; and (B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of marine mammals by U.S. vessels in the course of such harvesting. Upon such a finding unloading may be allowed during the period of validity specified in the finding.

(ii) A harvesting nation desiring to obtain a finding which will allow it to export into the United States products listed in paragraph (e)(2)(i) of this section, must submit by appropriate government official, to the Assistant Administrator the following information at least 120 days before the harvesting nation wants to begin exportation to the United States:

(A) A detailed description of the nation's regulatory program governing incidental taking of porpoise in the purse seine fishery for yellowfin tuna, including (*1*) A description, with copies of relevant laws and implementing regulations, of the gear and procedures required in the fishery to protect porpoise; (*2*) A detailed description of the method (e.g., international or national observer records) by which the incidental mortality of marine mammals will be monitored and by which annual species mortality and fleet mortality rates are estimated; and (*3*) A description of the methods used to identify problems and solutions to improve the performance of individual fishermen in reducing incidental mortality and how they will be advised.

(B) A list of its vessels which purse seine for yellowfin tuna in the ETP,

indicating the status of each such vessel (actively fishing in ETP, fishing in other waters, in port for repairs, inactive).

(C) Data on the performance of its vessels in the previous year including:

(1) Total number of purse seine sets;

(2) Total number of purse seine sets on porpoise;

(3) Total tons of yellowfin tuna caught by purse seine;

(4) Total tons of yellowfin tuna caught by purse seine sets on porpoise;

(5) Total numberr of porpoise (by species stock) killed or seriously injured;

(6) The number of sets in which more than 15 animals were killed and total mortality from such sets;

(7) The number of sets in which zero (0) animals were killed;

(iii) The Assistant Administrator's determination on a nation's initial finding will be announced within 120 days of receipt of the information described in section (e)(5)(ii) and will be published in the **Federal Register**. A finding will be valid only for the calendar year for which it was issued.

(iv) A harvesting nation for which a positive finding under this section is in effect may request a renewal of such a finding for the subsequent calendar year by submitting, by the appropriate government official, to the Assistant Administrator the following information by July 31 of the current year:

(A) A description (with copies of relevant new laws and regulations) of any changes in the regulatory program of that nation governing incidental taking of porpoise in the yellowfin tuna purse seine fishery by its vessels;

(B) Any changes in the names of status of vessels on the nation's list of vessels which may be involved in the taking of marine mammals incidental to yellowfin tuna purse seining in the following year.

(C) Data on the performance of its vessels in the previous year including:

(1) Total number of purse seine sets;

(2) Total number of purse seine sets on porpoise;

(3) Toal tons of yellowfin tuna caught by purse seine;

(4) Total tons of yellowfin tuna caught by purse seine sets on porpoise;

(5) Total number of porpoise (by species) killed or seriously injured;

(6) The number of sets in which more than 15 animals were killed and total mortality from such sets; and

(7) The number of sets in which zero (0) animals were killed.

(D) A description of the actions taken by the nation in the previous year to achieve greater reductions in marine mammal mortality incidental to purse seining by its vessels.

(E) A certification of authenticity and accuracy of the data listed in (C) above. This requirement will be met if data are provided directly to the Assistant Administrator by the Inter-American Tropical Tuna Commission (IATTC) on behalf of the harvesting nation or if the IATTC certifies that the information provided by the nation is accurate.

(v) The Assistant Administrator will renew existing findings, or reject findings based on the following:

(A) A request for renewal of a finding for the subsequent year will be granted, if the harvesting nation has provided all information required by paragraphs (e)(5)(ii) and (e)(5)(iv) of this section and the Assistant Administrator has found that the nation's program is comparable to that of the United States and that porpoise mortality rates of the harvesting nation are comparable to the average rate of incidental taking of porpoise by U.S. vessels in the course of such tuna harvesting.

(B) The Assistant Administrator will consider the following factors in making this determination for each nation:

(1) Mortality of porpoise per ton of tuna;

(2) Mortality of porpoise per set on porpoise;

(3) The proportion of total porpoise mortality associated with high mortality (more than 15 animals killed) sets;

(4) The proportion of total sets resulting in zero mortality;

(5) The species composition of total mortality;

(6) The reliability of mortality estimates for the vessel(s) covered;

(7) Any actions taken or planned to be taken by the requesting nation to achieve reduction in rates of porpoise mortality by vessels of that nation; and

(8) The trends in vessel performance and the size of the nation's fleet.

(C) A negative finding will be likely *(1)* if a nation's vessels have porpoise mortality per set and per ton rates that are 50 percent higher than such rates for U.S. vessels in the same period and such high rates cannot be attributed to a high incidence of problem sets which are correctable and will be addressed in the next year; or *(2)* if the estimates of porpoise mortality submitted by the harvesting nation are considered to be unreliable; or *(3)* if changes made in the nation's program make it such that it is no longer comparable to the U.S. program.

(vi) The Assistant Administrator may require verification of statements made in connection with requests to allow importations. The Assistant Administrator may reconsider a finding upon a request from, and the submission of additional information from, the country of origin.

(vii)(A) Any finding in effect on the date that the final rule becomes effective will terminate on December 31, 1986, or ninety days after the final rule, whichever is later.

(B) Notwithstanding paragraphs (e)(5)(ii) and (iii), a harvesting nation desiring to export yellowfin tuna to the United States after the effective date described in paragraph (e)(5)(vii)(A), must submit information described in paragraph (e)(5)(ii) above no later than sixty (60) days after the final rule is published. The information to be submitted under paragraph (e)(5)(ii)(B) must cover 1985 and 1986. The information to be submitted under paragraph (e)(5)(ii)(C) must cover 1984 and 1985.

(C) Paragraph (e)(5)(vii) is effective only until September 1, 1987.

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[FR Doc. 86-18184 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

Connecticut Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 5:00 p.m. on September 8, 1986, at Yale University, Phelps Hall, Room 402, College Street, New Haven, Connecticut. The purpose of the meeting is to discuss aspects of affirmative action in the construction industry as part of the Committee's current study.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson James Stewart or Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671, (TDD 617/223–0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 8, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–18195 Filed 8–12–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

[Docket Numbers 2639–01, 2639–02, 2639–03]

Export Privileges in the Matters of Suin, S.A., et al.

Correction

In FR. Doc. 86–11559, beginning on page 18820, in the issue of Thursday, May 22, 1986, make the following corrections:

On page 18821, first column, second paragraph, the names and addresses of the Respondents are corrected to read as follows:

Suin, S.A.
with addresses at both
Calle Clot 194
Barcelona 27, Spain
and
Paseo and Manual Girona, 11 Bajos
Ctra. N–340 Km 243'400
Vilaseca (Tarragona), Spain

Carlos Mira Gallart,
a/k/a Carlos Mira,
with addresses at both
Barcelona and Tarragona, Spain
and
Hernandez Inglesias No. 4
Madrid 27, Spain
and

SIC, S.A.
Avda De Chile 40
2–0 1–A
Barcelona 28, Spain,

BILLING CODE 1505–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limit for Certain Cotton Textile Products Produced or Manufactured in Brazil

August 8, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist (202) 377–4212.

Background

On March 19, 1986, a notice was published in the **Federal Register** (51 FR 9503) which established an import control limit for cotton textile products in Category 341, produced or manufactured in Brazil and exported during the ninety-day period which began on February 28, 1986 and extended through May 28, 1986. The notice also stated that, if no mutually satisfactory solution is reached on a level for this category during consultations, the United States Government, pursuant to the agreement, may establish a prorated specific limit for the period immediately following the ninety-day consultation period. Inasmuch as no solution was reached, the United States Government has decided to establish a prorated specific limit of 138,673 dozen for Category 341 for the period which began on May 29, 1986 and extends through March 31, 1987.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Brazil, further notice will be published in the **Federal Register**.

In the event the limit established for the ninety-day period has been exceeded, such excess amount, if allowed to enter, will be charged to the level established for the designated prorated period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 8, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement effected by exchange of notes dated August 7 and 29, 1985, between the Governments of the United States and Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the

VOL 51 ISS 156 AG 13 1986 UMI

United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 341, produced or manufactured in Brazil and exported during the period which began on May 29, 1986 and extends through March 31, 1987, in excess of 138,673 dozen.

Textile products in Category 341 exported during the ninety-day period which began on February 28, 1986 and which are in excess of the level established for the ninety-day period shall be charged to the prorated level beginning on May 29, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18226 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton and Man-made Fiber Textile Products Produced or Manufactured in Brazil

August 7, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4112.

Background

On March 21, 1986 a notice dated March 18, 1986 was published in the **Federal Register** (51 FR 9875) announcing import restraint limits for certain categories of cotton, wool and man-made fiber textile products, including Categories 300/301, 313, 350, 361 and 604, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to reduce the limits established for Categories 300/301, 313, and 350 to account for carryforward applied and used during the previous agreement year which began on April 1, 1985 and extended through March 31, 1986. The limit for cotton textile products in Category 361 is being increased by 7,306 dozen to account for carryforward in this amount previously charged but not used. In addition, charges amounting to 217,966 pounds are being applied to the restraint limit established for man-made fiber textiles in Category 604 as a result of an administrative arrangement effected under the terms of the bilateral agreement and described in the directive to the Commissioner of Customs, published in the **Federal Register** on February 19, 1986 (51 FR 6024).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

This letter amends, but does not cancel, the directive of March 18, 1986, which directed you to prohibit entry of certain categories of cotton, wool and man-made fiber textile and textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987, in excess of designated restraint limits.

Effective on August 14, 1986, the directive of March 18, 1986 is hereby amended to adjust the restraint limits for the following categories, according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil: [1]

Category	Adjusted 12-month limit [1]
300/301	8,383,217 pounds
313	30,201,269 square yards
350	50,000 dozen
361	457,306 numbers

[1] The limits have not been adjusted to account for any imports exported after March 31, 1986.

Also effective on August 14, 1986, you are directed to charge 217,966 pounds to the restraint limit established in the directive of March 18, 1986 for man-made fiber textile products in Category 604.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs except to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18227 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of The Federative Republic of Brazil on Category 314/320 pt.

August 7, 1986.

On May 30, 1986, the Government of the United States requested consultations with the Government of the Federative Republic of Brazil with respect to cotton poplin and broadcloth in Category 314/320 pt. (only TSUS items 320.—, through 331.— with statistical suffixes 21, 22, 24, 26, 72, 74, and 76). This request was made on the basis of the agreement between the Governments of the United States and the Federative Republic of Brazil relating to trade in cotton, wool, and man-made fiber textile products, effected by exchange of notes dated August 7 and 29, 1985. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United States has

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded by designated percentages; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

decided to control imports during the ninety-day consultation period which began on May 30, 1986 and extends through August 27, 1986, at a level of 718,308 square yards. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the bilateral agreement, may establish a prorated specific limit of 2,064,679 square yards for the entry and withdrawal from warehouse for consumption of cotton textile products in this category, produced or manufactured in Brazil and exported during the period which began on May 30, 1986 and extends through March 31, 1987.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit imports of textile products in Category 314/320 pt., produced or manufactured in Brazil and exported during the aforementioned ninety-day period, in excess of the designated limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement concerning this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with Brazil, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice, will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Brazil—Market Statement

Category 314/320 Pt.—Cotton Poplin and Broadcloth

May 1986.

Summary and Conclusions

United States imports of cotton poplin and broadcloth—Category 314/320 Pt.—from Brazil were 2.2 million yards for the year ending March 1986. This compares with 1.1 million yards for the same period one year earlier.

The market for cotton poplin and broadcloth fabric is being disrupted by imports and imports from Brazil contributed to the market disruption. Continuation of the growth of imports from Brazil would further the disruption.

Production and Market Share

U.S. production of cotton poplin and broadcloth continues to decline. Production in 1984 declined 10.3 percent from its 1983 level and experienced an additional 12.8 percent decline in 1985.

The U.S. producers' share of the market for domestically produced and imported fabric (Category 314) dropped from 63 percent in 1983 to 50 in 1984 percent. The domestic producers' market share in 1985 was 47 percent. When Category 320 Pt. poplin and broadcloth fabric is included, the domestic producers' market share falls to 27 percent in 1985. Category 320 pt. poplin and broadcloth import data are not available prior to 1985.

Imports and Import Penetration

Category 314 imports of cotton poplin and broadcloth fabric from all sources reached 73.5 million square yards in 1984, 49 percent above the 1983 level. Imports declined 3 percent, 2.2 million square yards, in 1985. However, Category 314 imports are up 55 percent, 9.6 million square yards, in the first quarter of 1986. Year ending March 1986 imports reached 80.8 million square yards. When category 320 part imports are included, cotton poplin and broadcloth fabric imports reached 178.4 million square yards in 1985 and 194.8 million square yards in the year ending March 1986.

The ratio of imports to domestic production increased from 60 percent in 1983 to 99 percent in 1984 to 111 percent in 1985. When Category 320 Pt. poplin and broadcloth imports are included, the ratio increased to 277 percent in 1985.

Import Values

Approximately 82 percent of Brazil's Category 314/320 Pt. imports are entered under TSUSA 322.3923. These are cotton colored poplin/broadcloth not over 5.9 oz. per square yard of 30 yarn count. These fabrics are being entered at duty-paid values well below the U.S. producer prices for comparable fabrics.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 7 and 29, 1985 between the Government of the United States and Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 314/320 pt.,[1] produced or manufactured in Brazil and exported during the ninety-day period indicated below:

Category	Ninety-day level[2]	Period
314/320 pt.	718,308 square yards	May 30, 1986—Aug. 27, 1986.

[2] The limit has not been adjusted to account for any imports exported after May 29, 1986.

Textile products in Category 314/320 pt. which have been exported to the United States prior to May 30, 1986 shall not be subject to this directive.

Textile products in Category 314/320 pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] In Category 320, only TSUS items 320.—, through 331.—with statistical suffixes 21, 22, 24, 26, 72, 74, and 76.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18230 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limit for Certain Man-Made Fiber Apparel Products Produced or Manufactured in Malaysia

August 7, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 14, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212.

Background

On December 27, 1985, a notice was published in the **Federal Register** (50 FR 52990), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including women's, girls' and infants' blouses and shirts of man-made fibers in Category 641, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. In the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to reduce the 1986 base limit for Category 641 from 604,200 dozen to 486,656 dozen to account for overshipments from the previous agreement year which began on January 1, 1985 and extended through December 31, 1985 amounting to 117,544 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1985 which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on August 14, 1986, the directive of December 23, 1985 is hereby amended to reduce the limit established for man-made fiber textile products in Category 641 to 486,656 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18228 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Controlling Imports of Certain Wool Apparel Products Produced or Manufactured in Uruguay

August 7, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Wool Textile Agreement, effected by exchange of notes dated January 23, 1984, as amended, between the Governments of the United States and Uruguay establishes specific restraint limits of 20,064 dozen for men's and boys' wool coats in Category 434, 40,906 dozen for wool coats in Category 435, and 27,270 dozen for wool skirts in Category 442, produced or manufactured in Uruguay and exported during the agreement year beginning on July 1, 1986 and extending through June 30, 1987. The letter which follows this notice directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 434, 435 and 442, produced or manufactured in Uruguay and exported during the year beginning on July 1, 1986, in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in categories 434, 435 and 442, produced or manufactured in Uruguay and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987, in excess of the following restraint limits:

Category	12-mo. Restraint limit [1]
434	20,064 dozen.
435	40,906 dozen.
442	27,270 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1986.

In carrying out this directive entries of wool textile products in Categories 434 and 435, produced or manufactured in Uruguay, which has been exported on and after July 1, 1985 and extending through June 30, 1986 shall, to extent of any unfilled balances, be charged to the limits established for such

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

goods during that twelve-month period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive. Wool textile products in Category 442 which have not been exported before July 1, 1986 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

These limits are subject to adjustment in the future according to the provisions of the bilateral agreement, as amended, which provide, in part, that: (1) The specific limits may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising from the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for the consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18229 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 85-3-85CA]

Cable Royalty Fees; Termination of Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: Turner Broadcasting Systems, Inc. (TBS) petitioned the Copyright Royalty Tribunal to initiate a cable rate adjustment proceeding. The proceeding commenced on July 15, 1986. Now, in response to a Motion of Discontinuance filed by TBS, the Tribunal has determined to terminate the proceeding.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036. 202-653-5175.

SUPPLEMENTARY INFORMATION: In response to a petition filed by Turner Broadcasting Systems, Inc. (TBS), the Copyright Royalty Tribunal commenced a cable copyright rate adjustment proceeding relating solely to the specific issue raised by TBS. 51 FR 25590 (July 15, 1986). On August 6, 1986, TBS filed a Motion for Discontinuance of the proceeding. We will accept TBS's motion. Effective immediately, the 1985 cable rate adjustment proceeding is terminated.

Dated: August 7, 1986.

Edward W. Ray,

Chairman.

[FR Doc. 86-18155 Filed 8-12-86; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (EIS) for a Proposed Flood Control Project at Devils Lake, ND.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft EIS.

SUMMARY: The St. Paul District, Corps of Engineers, is investigating various measures to reduce damages caused by rising lake levels in the Devils Lake basin of North Dakota. An EIS will be prepared for this feasibility study because some of the damage-reduction measures would have significant environmental impacts and would require mitigation for losses to fish and wildlife resources.

Various flood damage reduction measures have been identified: no action, outlets to the Sheyenne River, increasing water storage in nearby lakes and wetlands, levees, evacuation, and combinations of these measures.

An extensive public involvement process began in 1983 prior to the publication of a reconnaissance report in November 1984. Numerous public and agency meetings have been held since that time to help identify problems, needs, and significant issues. The scoping process has been initiated through these meetings. Significant issues identified to date for discussion in the draft EIS are as follows:

1. Reduction of flood damages caused by the rising lake levels.

2. Fish and wildlife resource preservation, including the fishery, waterfowl, and terrestrial vegetation.

3. Maintenance of the water quality of surface waters.

4. Control of wetland drainage.

5. Cultural resource preservation.

6. Scenic and recreational qualities.

7. Social resources.

Additional issues of significance will be identified through meetings with representatives of Federal, State, and local agencies; interested citizens groups; and individual citizens. Anyone interested in participating in this scoping process and the development of the draft EIS is invited to contact the St. Paul District, Corps of Engineers, as soon as possible.

The environmental review of the project will be conducted according to the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, and applicable Corps of Engineers regulations and guidance.

The draft EIS will probably be available to the public during the second quarter of fiscal year 1987 (January 1987-March 1987).

Questions about the proposed action and the draft EIS should be directed to Colonel Joseph Briggs, District Engineer, U.S. Army Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101-1479.

Dated: August 4, 1986.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer for the Federal Register.

[FR Doc. 86-18157 Filed 8-12-86; 8:45 am]

BILLING CODE 3710-CY-M

DEPARTMENT OF ENERGY

Restriction of Eligibility for Grant Award

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7 (b), it intends to award on restricted basis a continuation grant to Garfield County, Colorado, Department of Development in support of the Technology Transfer of a Comprehensive Process for Evaluating and permitting Large Scale Energy Development Projects.

The DOE support under this grant will be $51,000 over a fifteen month period.

Procurement Request No: 01-86FE60562.001

Project Scope

The objective of this grant is to provide a broader awareness and working knowledge of the analytical products formulating comprehensive process for evaluating and permitting large-scale energy development project, developed by Garfield County, provide technical assistance to certain local governments to implement and test the transferability of certain analytical and review techniques and to allow for further refinement of the project.

In support of this effort, Technology Transfer Conferences will be held (one in the West, another in the East) to transfer to interested public and private entities the products that have been developed. Also, a Technology Transfer Conference will be held to transfer lessons learned and technology developed to Western Colorado Counties.

Garfield County Department of Development has developed the analytical techniques that will assist government entities in expeditiously and efficiently evaluating and permitting energy resource development projects in a technically, environmentally, socially and economically acceptable manner. As DOE is vitally interested in the transfer of Garfield County's developed analytical techniques to other governmental entities, it has been determined that the grant award on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–1024.

Issued in Washington, DC, on August 7, 1986.

Robert J. Walsh,

Acting Director, Contract Operations, Division "A", Office of Procurement Operations.

[FR Doc. 86–18066 Filed 8–12–86; 8:45 am]

BILLING CODE 6450–0–M

Energy Information Administration

Solicitation of Comments

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Solicitation of comments on CE–63A (Solar Thermal Collector Manufacturers Survey) and CE–63B (Photovoltaic Module Manufacturers Survey).

SUMMARY: The Department of Energy (DOE) is seeking comments on the proposed survey forms for its annual Solar Termal Collector Manufacturers Survey (CD–63A) and Photovoltaic Module Manufacturers Survey (CE–63B). These forms will be used to continue the DOE survey program which began in 1975 and was last conducted for 1984. These are general purpose statistical surveys conducted for nonregulatory purposes. They are being designed to meet the needs of public and private data users in addition to meeting legislative requirements as specified in section 13(b) of the Federal Energy Administrative Act of 1974 (Pub. L. 93–275) which states . . .

All persons owning or operating facilities on business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the Secretary such information and periodic reports, records, documents, and other data relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development as the Secretary may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.

DATE: Written responses on the proposed forms should be submitted on or before September 12, 1986.

ADDRESS: Send comments to the address listed below.

For Further Information or Copies of the Proposed Forms Contact: John Carlin, Energy Information Administration, U.S. Department of Energy, Mail Stop BG–094, 1000 Independence Ave., SW, Washington, DC 20585, Telephone: (202) 252–9775.

SUPPLEMENTARY INFORMATION:

I. Background
II. Written Comments

I. *Background.* Forms CE–63A and CE–63B supersede the Form EIA–63, titled *Solar Collector Manufacturing Activity,* which was previously used for this survey program.

The following three modifications have been made: 1. The forms have been divided into two parts (EIA–63 changed to CE–63A and CE–63B). The Energy Information Administration (EIA) designation has been changed to CE because the current project is being sponsored by the Department of Energy's Office of Conservation and Renewable Energy (CE). The EIA is managing the survey and report preparation effort. The CE–63A form requests information on solar thermal collectors and the CE–63B form requests information on the photovoltaic modules. This revision will allow the EIA to send the appropriate form to each company. In the past, some firms were confused by a request for data that was not relevant to them. Also, this will decrease the amount of paperwork sent to each company.

2. Several of the questions have been eliminated and several of the categories have been combined or changed to reflect the current market. Data are only being collected for items that provided useful information in the past. This should lessen the burden on the industry.

3. In the past, data for solar thermal collectors were published according to the State in which a company's headquarters was located. This approach did not provide useful State level data because there is no reason to assume that there is a strong relationship between the State in which a company's headquarters is located and the primary State or States of business operations.

For these reasons, the solar thermal collector form asks where the collectors are manufactured and shipped. This will provide useful insight as to which states have the greatest penetration of solar collectors.

II. *Written Comments.* The following general guidelines are provided to assist in the preparation of comments. When providing comments, please indicate to which form the comment applies, CE–63A or CE–63B.

As a potential data user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use these data? Please be specific.

C. How could the forms be improved to better meet your specific data needs?

D. Are there any alternative sources of these data? What are they? Do you use them? What are their deficiencies?

As a potential respondent:

A. Are the instructions clear and sufficient?

B. How can the forms be improved?

C. Can the data be submitted using the definitions included in the instructions?

D. What is the estimated cost of completing the forms, including the direct and indirect costs associated with the data collection? Direct costs should include all costs directly attributable to providing the information (such as administrative costs).

E. Do you know of other Federal, State, or local agencies that collect similar data? If so, specify the agency and the means of collection.

The EIA is also interested in receiving comments from other persons regarding their views on the need for this information.

Comments or summaries of comments submitted in response to this notice will be included in the request for Office of

Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, DC, on August 7, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 86-18206 Filed 8-12-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-623-000; et al.]

Electric Rate and Corporate Regulation Filings; Green Mountain Power Corp. et al.

August 7, 1986.

Take notice that the following filings have been made with the Commission:

1. Green Mountain Power Corporation

[Docket No. ER86-623-000]

Take notice that on July 31, 1986, Green Mountain Power Corporation (GMP) tendered for filing as a rate schedule to be effective October 1, 1986, an executed agreement dated as of March 28, 1986, between GMP and UNITIL Power Corp. ("UNITILPower"). The proposed rate schedule provides for the sale of capacity and energy by GMP to UNITIL Power.

Copies of the filing were served on UNITIL Power, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Illinois Power Company

[Docket No. ER86-540-000]

Take notice on July 30, 1986, Illinois Power Company ("the Company"), tendered for filing a Revised Statement BM for Period II in support of the Power Coordination Agreement between Illinois Power Company and Illinois Municipal Electric Agency, dated June 2, 1986 ("Power Coordination Agreement"), which was previously filed with the Commission on June 13, 1986.

The Company states that the Power Coordination Agreement provides for a hybrid of services, consisting of partial requirements services, interchange services, and wheeling services. The Power Coordination Agreement will supersede and replace agreements for purchase of power currently in effect between the Company and nine partial requirements customers and two full requirements customers.

The Company with the concurrence of the Illinois Municipal Electric Agency requests that the Commission grant a waiver of its notice requirement pursuant to § 35.11 of the Commission's regulations and allow the filing to become effective on July 1, 1986, without suspension to achieve the effective date provided in the Power Coordination Agreement.

Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER86-549-000]

Take notice that on July 30, 1986, Illinois Power Company ("the Company") tendered for filing a Revised Statement BM for Period II in support of an Agreement for Purchase of Power (Full Requirement Wholesale Electric Service for Resale) by Mt. Carmel Public Utility Co. from Illinois Power Company dated June 5, 1986 ("Agreement for Purchase of Power"). This Agreement under FERC Electric Tariff, Original Volume No. 1 applicable to Mt. Carmel Public Utility Co. was previously filed with the Commission on June 20, 1986.

The proposed changes would initially increase revenue from jurisdictional sales and service by approximately $571,532 based on the twelve month period ending June 30, 1987. Thereafter, for a five year term, rates would be adjusted quarterly based on changes in an index of the rates of 24 electric utilities in Illinois and seven other midwestern states. However, the rates may not exceed seasonal limiters established in the Agreement for Purchase of Power.

The Company states that with the present rates it would earn an inadequate rate of return on electric sales to these customers during the twelve months ending June 30, 1987. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for increases in costs. The Company proposes that the increased rates become effective on July 1, 1986 as agreed to by the Company and Mt. Carmel Public Utility Co. and requests that the Commission grant a waiver of its notice requirements pursuant of Section 35.11 of the Commission's regulations.

Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Power and Light Company

[Docket No. ER86-608-000]

Take notice that on July 24, 1986, Iowa Power and Light Company tendered for filing a Rate Schedule ("Schedule"), between Iowa Power and Union Electric Company ("Union Electric"), dated June 25, 1986.

The schedule provides for the sale of firm power and energy from Iowa Power to Union Electric between June 29, 1986 and August 30, 1986.

Iowa Power requests that the Commission waive its prior notice requirements and accept the Schedule for filing with an effective date of June 29, 1986.

Copies of this filing were served upon Union Electric and the Iowa State Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Niagara Mohawk Power Corporation

[Docket No. EC86-24-000]

Take notice that on July 25, 1986, Niagara Mohawk Power Corporation filed it application seeking (1) a declaratory order pursuant to Rule 207(a)(2) of the FERC regulations that the owner/lessors of the Volney-Marcy transmission line (the Line) will not, as a result of their ownership of the Line, become "public utilities" as that term is defined in the Federal Power Act, and (2) approval, pursuant to section 203(a) of the Federal Power Act, of Niagara Mohawk's proposed sale.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Company

[Docket No. ER85-738-005]

Take notice that on July 29, 1986, Pacific Gas and Electric Company (PG and (E) tendered for filing a compliance report in reference to the order to refund with interest any amounts collected in excess of the settlement rate levels.

The report shows monthly billing determinants, dates of payment, revenues under the prior rates and under the settlement rates, the monthy amount of the refund and the monthly interest for the entire refund report.

Copies of the compliance report were supplied to California Public Utilities Commission and the City of Oakland.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

BEST COPY AVAILABLE

7. Philadelphia Electric Company

[Docket No. ER86-622-000]

Take notice that on July 31, 1986, Philadelphia Electric Company tendered for filing a proposal concerning increased rates for service to Conowingo Power Company (Conowingo). The proposed changes would increase revenues from jurisdictional sales and service by $12,000,000, or 44.3 percent, based on the 12-month period ending December 31, 1986.

The company states that this proposed increase in rates is highly conservative, and as such, rates requested by this filing should be made effective after the minimum one day suspension period.

Copies of this filing were supplied to the Conowingo Power Company, Public Service Commission of Maryland, Pennsylvania Public Utility Commission and the People's Counsel.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18253 filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3766-000 et al.]

Amoco Production Co. et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

August 8, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 26, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3766-000, D, July 28, 1986	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	Tennessee Gas Pipeline Company, Columbus Field, Colorado County, Texas.	(1)	
G-5664-000, D, July 28, 1986	....do	Tennessee Gas Pipline Company, Lucky Field, Matagorda County, Texas.	(2)	
G-7522-000, D, July 28, 1986	....do	Tennessee Gas Pipeline Company, Chesterville Field, Colorado County, Texas.	(3)	
CI72-118-000, D, July 28, 1986	....do	Tennessee Gas Pipeline Company, East Placedo Field, Victoria County, Texas.	(4)	
CI67-557-002, D, July 28, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Trunkline Gas Company, East Lake Arthur Field, Jefferson Davis Parish, Louisiana.	(5)	
CI73-188-001, D, July 28, 1986	Phillips Petroleum Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Columbia Gas Transmission Corporation, West German Block 146, Offshore, Louisiana.	(6)	
CI86-600-000, D, July 24, 1986	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company, Portion of Ship Shoal Block 198, Offshore Louisiana.	(7)	
CI86-601-000, (CI63-1335), B, July 25, 1986.	Sun Exploration & Petroleum Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Northwest Central Pipe Line Corporation, Northwest Lovedale Field, Harper County, Oklahoma.	(8)	
CI86-603-000 (CI80-128) B, July 28, 1986.	BHP Petroleum (Americas) Inc., P.O. Box 1201, Wichita, Kansas 67201.	Southern Natural Gas Company, Hub Field, Marion County, Mississippi.	(9)	
CI86-606-000, (G-10133-001), B, July 28, 1986.	CNG Producing Company, P.O. Box 2115, Tulsa, Okla. 74101.	ANR Pipeline Company, Certain acreage in Woodward County, Oklahoma.	(10)	
CI86-616-000, (CI78-214), D, July 25, 1986.	Sun Exploration & Production Co.	Williston Basin Interstate Pipeline Company, Brorson Field, Richland County, Montana.	(11)	
CI86-617-000, (CI67-928), B, July 28, 1986.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	El Paso Natural Gas Company, Sonora Field, Sutton County, Texas.	(12)	
CI86-618-000, (G-16104), B, July 28, 1986.	Sun Exploration & Production Co.	Northern Natural Gas Company, Guyman-Hugton Field, Texas County, Oklahoma.	(13)	
CI86-619-000, (G-4903), July 28, 1986.	Amoco Production Company, P.O. Box 3092, Houston, Texas 7723.	Tennessee Gas Pipeline Company, East Bay City Field, Matagroda County, Texas.	(14)	
CI86-32-002, C, July 31, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Bridgeline Gas Distribution Company, Portions of Eugene Island Block 26, Offshore Louisiana.	(15)	
CI86-623-000, (CI83-45-000), B, July 30, 1986.	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, Texas 79189-2009.	Transcontinental Gas Pipe Line Corp., High Island Block 22-L State Tract, Offshore Texas.	(16)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-624-000, B, July 31, 1986	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Westar Transmission Company, Buckles-Colby No. 2 gas well, Kermit Keystone Field, Winkler County, Texas.	(17)	
CI86-625-000, F, Aug. 1, 1986	Mobil Oil Corporation (Succ. in Interest to Apexco Inc.), Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Natural Gas Pipeline Company of America, Certain acreage in Custer County, Oklahoma.	(18)	
CI61-886p000, D, Aug. 4, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Panhandle Eastern Pipeline Company, Nye South Field, Beaver County, Oklahoma.	(19)	

[1] Leona K. Moebes Lease sold effective 10-1-85 to McPhaul Energy.
[2] The last producing well on the Insall Gas Unit was plugged and abandoned in September 1983.
[3] By assignment, Amoco sold its interest in the Stephens Gas Unit to Clark Sherwood. Phillips Petroleum Co. plugged its Poole Unit Well No. 1 in December 1979, thereby terminating its Poole Unit in which Amoco held a 5% W.I.
[4] By assignment dated 12-5-57 and amended by supplemental assignment dated 9-26-58, Amoco sold its rights in the Vandenberge and Hill Lease to Westland Oil Development Corporation.
[5] Deletion by acreage. ARCO no longer owns an interest in acreage to be deleted.
[6] Applicant is filing under Gas Purchase and Sales Agreement dated 7-3-86.
[7] Applicant is filing under Gas Purchase Agreement dated 5-1-70, amended by Amendment dated 7-18-86.
[8] Property sold to Ward Petroleum Corporation.
[9] BHP Petroleum (Americas) Inc. has assigned all of its rights, title and interest in all acreage covered under Rate Schedule No. 70 to GKM, Inc., effective 7-1-84 pursuant to Assignment and Conveyance.
[10] By assignment of oil and gas lease or leases effective 6-1-86, CNG Producing Company assigned all of its right, title and interest in and to that certain producing acreage as covered by CNG's GRS #77.
[11] Property sold to Farmers Union Central Exchange, Inc.
[12] Effective 8-1-83, ARCO assigned all of its remaining interest subject to this Certificate and Rate Schedule No. 589 to Dicon Enterprise, Inc.
[13] Property sold to Kenneth W. Cory.
[14] The Hardy Gas Unit was released by Amoco in 1979. The last producing well on the Millican Gas Unit was plugged and abandoned on 3-31-83. The last producing well on the Barth Gas Unit was plugged and abandoned on 3-2-81. Effective 10-1-85, Amoco sold all of its interest in the remaining acreage covered by the related Rate Schedule No. 83 to W. C. Martin, Inc., Riseden LTD., Inc., and Natural Gas Management Co.
[15] Applicant is filing under a Gas Sales and Purchase Contract dated 10-17-85, amended by Amendment dated 7-17-86.
[16] Production ceased and depletion of reserves.
[17] By Assignment effective 9-1-71, Conoco's interest in the Buckles-Colby No. 2 well was conveyed to J. W. Thrasher.
[18] By an assignment dated 2-23-77, Apexco Inc. conveyed to Mobil a certain part of its interest in five leases.
[19] The 8-3-61 contract expired by its own terms on 5-11-86. The State Sands Unit well, located on the "A" Whitaker Lease has been plugged and abandoned.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-18254 Filed 8-12-86; 8:45 am]
BILLING CODE 6717-01-M

Natural Gas Policy Act; Well Category Determination, etc.; Protest To Determinations by a Jurisdictional Agency, Motion To Intervene, and Motion To Consolidate

August 8, 1986.

In the matter of Colorado Oil & Gas Conservation Commission, Section 107(c)(5) NGPA Determinations John P. Lockridge Operator Inc. Lippert #21-30 Well JD86-23514, Docket No. GP86-43-000 and Colorado Oil and Gas Conservation Commission, Section 107(c)(5) NGPA Determinations John P. Lockridge Operator Inc. Helling #32-35 Well JD86-27160, Docket No. GP86-47-000.

On June 16, 1986, and July 11, 1986, Northwest Central Pipeline Company (Northwest Central) filed to protest the above-referenced tight formation well category determinations under the Natural Gas Policy Act of 1978 (NGPA) [1] made by the Colorado Oil and Gas Conservation Commission (Colorado). Northwest Central also moved to intervene in these proceedings pursuant to the Commission's Rule 214.[2] Additionally, Northwest Central moved under Rule 212 [3] to consolidate the referenced protests and their previously filed related protest in Docket No. GP86-35-000.[4] Northwest Central asks that the Commission reverse or remand the subject determinations.

Northwest Central states that Colorado has made an NGPA section 107(c)(5) determination for each of the wells at issue. These determinations became final by operation of NGPA section 503(b) 45 days after the Commission received notice. Each determination was based on the fact that each well qualifies as an NGPA section 103 category well and is located in a designated tight formation.[5] Under the Commission's regulations, one of the definitional prerequisites for qualification as new onshore tight formation gas is that the gas is new natural gas as defined in NGPA section 102(c) or is gas produced through a new onshore production well as defined in NGPA section 103(c).[6]

Northwest Central states that while each of the subject wells qualifies for both the section 103(c) and section 102(c) categories, only the facts to support a section 103(c) qualification were included in the applications for section 107(c)(5) determinations. Northwest Central states further that pursuant to section 121 of the NGPA, as implemented by the Commission in Order No. 406,[7] section 102(c) gas and section 103(c) gas produced from completion locations deeper than 5,000 feet are deregulated effective January 1, 1985.

Northwest Central avers that all of the gas produced from the wells which are the subject of its protest could qualify as for decontrol under section 102(c), but not under section 103(c) since the well completion depths are less than 5,000 feet. Northwest Central has itself attempted to obtain the section 102(c) determinations from Colorado has denied Northwest Central standing to file such applications. Under Colorado's rules, only working interest owners are permitted to seek such determinations. Northwest Central protests what it terms Colorado's refusal to confirm the deregulated status of the subject gas. Northwest Central specifically requests that it be permitted to intervene and that the Commission find that the subject NGPA section 107(c)(5) determinations are not supported by substantial evidence and should be reversed or remanded by the Commission.

Any person desiring to be heard or to protest Northwest Central's filings should file, within 10 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rules 214 or 211 of the Commission's Rules of Practice and Procedure.[8] Filings should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not

[1] 15 U.S.C. 3301-3432 (1982).
[2] 18 CFR 385.214 (1986).
[3] 18 CFR 385.212 (1986).
[4] 51 FR 23578 (June 23, 1986).

[5] The Niobrara Formation in Colorado, Docket No. RM79-76 (Colorado-3). *See* 18 CFR 271.703(d)(20) (1986).
[6] 18 CFR 271.703(b)(2) (1986).
[7] Deregulation and other pricing changes on January 1, 1986, under the Natural Gas Policy Act, 49 FR 46874 (Nov. 29, 1984), reh'g denied, 49 FR 50637 (Dec. 31, 1984).

[8] 18 CFR 385.214 or 385.211 (1986).

make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18255 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-39-000]

ANR Pipeline Co. v. The Northwestern Mutual Life Insurance Co.; Complaint

August 8, 1986.

On June 2, 1986, ANR Pipeline Company (ANR) filed a complaint against the Northwestern Mutual Life Insurance Company (Northwestern Mutual). ANR requests that the Commission issue an order finding that Northwestern Mutual's demand for take or pay prepayments under the gas purchase agreements at issue constitutes a demand for payment of a price in excess of the maximum lawful price ceilings established under Title I of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3311-3320 (1982). [1]

ANR states it has been unable to take certain quantities of gas under several gas purchase contracts with Northwestern Mutual that contain take or pay clauses. Northwestern Mutual asserted that ANR has incurred prepayment obligations under the take or pay clauses, while ANR asserts that supervening events amount to *force majeure* under the contract that suspend ANR's obligations.[2] Although the contracts with Northwestern Mutual provide an opportunity for ANR to accept delivery of the gas prepurchased under take or pay provisions, ANR states that force *majeure* conditions and reservoir depletion caused by other producers may preclude it from taking advantage of that opportunity.

If ANR is unable to take the gas for which it has paid through take or pay prepayments, ANR asserts that Northwestern Mutual will have received payments for gas never delivered According to ANR, this would consititute a violation of NGPA section 504(a)(1), 15 U.S.C. 3414(a)(1) (1982), because Northwestern Mutual has already received the maximum lawful price for all gas actually sold and delivered under the relevant contracts. ANR assets that receipt of additional value in the form of take or pay payments which cannot be recouped increases the price of natural gas actually delivered by Northwestern Mutual above the maximum lawful price permitted under Title I of the NGPA

Any person desires to be heard or to make protest to the complaint should file, on or before September 8, 1986, with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1986)). All protests filed will be considered, but will not make the protestants parties to the proceeding. Answers to the complaint should be made under Rules 206 and 213 (18 CFR 385.206 and 385.213 (1986)) on or before September 8, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18256 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-148-000]

Pacific Gas Transmission Co.; Tariff Filing

August 8, 1986.

Take notice that on August 4, 1986, Pacific Gas Transmission Company (PGT) tendered for filing Original Sheet No. 99 to its FERC Gas Tariff, First Revised Volume No. 1.

PGT states that this tariff sheet reflects establishment of PGT's new Rate Schedule IT-1 for the continuation of interruptible service to Pacific Interstate Transmission Company (PITCO), which service has been authorized since August 30, 1981. PGT has submitted this filing to conform with the requirements of §§ 284.7(b)(2) and 284.105 of the Commission's Regulations. The PGT/PITCO transportation arrangement is grandfathered in as much as the August 30, 1981, contract with PITCO has been in effect continuously and service thereunder has been performed by PGT. PGT has not performed such transportation subsequent to July 1, 1986, when the § 284.7 rate format became obligatory. This filing is intended to satisfy that requirement.

PGT requests that the Commission grant any waivers necessary so that this tariff sheet become effective August 15, 1986. Copies of this filing have been sent to the affected customer, jurisdictional customers and applicable state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18257 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-281-002]

Southern Natural Gas Co.; Compliance Filing

August 8, 1986.

Take notice that on July 28, 1986, Southern Natural Gas Company (Southern) tendered for filing Seventh Revised Sheet No. 30D to its FERC Gas Tariff, Sixth Revised Volume No. 1.

Southern states that Seventh Revised Sheet No. 30D if filed pursuant to Ordering Paragraph (D) of the Commission's order which issued June 3, 1986, in Docket No. CP86-281-000. Southern's proposed tariff sheet set forth the rates to be effective under its Flexible Discount Rate Schedule during August of 1986.

Southern requests an effective date of August 1, 1986. Copies of this filing were mailed to Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 15, 1986. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

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[1] ANR purchases natural gas from Northwestern Mutual under several natural gas purchase contracts. The three contracts at issue cover Block A-341 (February 11, 1980), Blocks A-382, A-572, A-573 (August 4, 1978), and Blocks A-334 and A-335 (April 27, 1978), High Island Area, Offshore Texas.

[2] Northwestern Mutual is seeking to have ANR's *force majeure* defense delcared invalid. The Northwestern Mutual Life Insurance Company v. ANR Pipeline Co., in the District Court of Harris County, Texas, 164th Judicial District (No. 86-20020), filed May 2, 1986.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18258 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[PF-462; FRL-3061-7]

Pesticide Tolerance Petitions; Borderland Products Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment to, and withdrawal of, pesticide tolerance petitions for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-462] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to:

Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Registration Division (TS-767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/telephone number	Address
William Miller, PM-16	Rm. 211, CM #2, 703-557-2600	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202
Henry M. Jacoby, PM-21	Rm. 227, CM #2, 703-557-1900	Do.

SUPPLEMENTARY INFORMATION: EPA has received requests to amend and/or withdraw pesticide (PP) and food additive (FAP) tolerance petitions. The petitions, published in the **Federal Register** as follows, proposed the establishment of tolerances for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *PP 6F3328.* 51 FR 12925, April 16, 1986. Borderland Products, Inc., P.O. Box 1005, Buffalo, NY 14240. Proposed amending 40 CFR 180.320 by establishing tolerances for the combined residues of the insecticide and bird repellent 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on rice grain and straw at 0.04 part per million (ppm).

Borderland Products, Inc. has amended the petition by increasing the tolerance limitations on rice grain to 0.05 ppm and rice straw to 0.20 ppm.

The proposed analytical method for determining residues is gas chromatographic procedure using a flame photometric detector. (PM-16).

2. *FAP 5H5447.* 49 FR 48374, December 12, 1984. E.I. du Pont de Nemours & Company, Walker's Mill, Barley Mill Plaza, Wilmington, DE 19898. Proposed amending 21 CFR Part 193 by establishing a regulation permitting residues of the fungicide bis(4-fluorophenyl)methyl(1*H*-1,2,4-triazol-1-y1-methyl)silane in peanut oil at 1.5 ppm.

E.I. du Pont de Nemours & Company has withdrawn the petition without prejudice to future filing as provided in 40 CFR 180.8. (PM-21).

Authority: 21 U.S.C. 346a.

Dated: July 31, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-17887 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30270; FRL-3064-1]

Mobay Chemical Corp.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to conditionally register a pesticide product involving a changed use pattern pursuant to the provision of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by September 12, 1986.

ADDRESS: By mail submit comments identified by the document control number [OPP-30270] and the file symbol (3125-GTU) to:

Information Services Section (TS-757C), Program Management and Support Division, Attn: Product Manager (PM) 16, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, Attn: PM 16, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4

p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: William Miller, PM 16, (703–557–2600).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted an application to EPA to conditionally register the pesticide product Monitor® 7.5% Insecticide, EPA File Symbol 3125–GTU, containing the active ingredient *O,S*-dimethyl phosphoramidothioate at 7.5 percent, the product involves a changed use pattern pursuant to the provision of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use, to include in its presently registered agricultural use, a new homeowners use to control insects on ornamental plants and garden vegetables. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: July 31, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–18124 Filed 8–12–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36117A; FRL–3063–9]

Pesticide Registration Standards; Availability for Comment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: EPA is extending the period for submittal of comments concerning the proposed pesticide Registration Standard for paraquat. Notice of the availability of this Registration Standard was published in the **Federal Register** of June 4, 1986 (51 FR 20343).

DATE: The comment period will now close on September 4, 1986.

ADDRESSES: Send three copies of written comments, identified with the docket number 1910–42–5, by mail to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: To request a copy of the Registration Standard, to request information concerning the public docket, or to request an index to the public docket, contact Frances Mann of the Information Services Section in Rm. 236, at the address given above (703–557–3262).

For technical questions related to the paraquat Registration Standard, contact Robert Taylor, Product Manager 25 (703–557–1900).

Copies of the paraquat Registration Standard are also available for inspection and copying in the EPA Regional Offices listed in the **Federal Register** notice (51 FR 20344).

SUPPLEMENTARY INFORMATION: EPA issued a notice informing the public of the availability for comment of Registration Standards for three chemicals. The notice was published in the **Federal Register** of June 4, 1986 (51 FR 20343). EPA has received a request for an extension of the comment period on the paraquat Registration Standard from the Chevron Chemical Company. Chevron explained that there had been a delay in their receipt of some of the documents in the Registration Standard and therefore they would need more time to study and comment on the Standard.

The Agency agrees that the additional time would be beneficial to ensure the submission of complete responses to the notice. Therefore, all interested persons will have until September 4, 1986 to submit comments. Comments received on or before that date will be considered. Comments received after September 4, 1986, will be considered to the extent possible.

All written comments filed will be available for public inspection in the office of the Document Control Officer at the address given above from 8 to 4 p.m. Monday through Friday, excluding legal holidays. See the June 4, 1986 notice for additional guidance on submitting comments, including instructions on submitting confidential business information.

Dated: August 4, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86–18123 Filed 8–12–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

August 5, 1986.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact FCC, Doris Benz (202) 632–7513.

OMB No.: 3060–0366.

Title: Amendment of Part 67 of the Commission's Rules and Establishment of a Federal-State Joint Board to Conform the Separations Manual to the Revised Uniform System of Accounts—CC Docket No. 86–297.

Expiration Date: October 31, 1986.

OMB No.: 3060–0367.

Title: MTS and WATS Market Structure: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board—CC Docket No. 78–72 and CC Docket No. 80–286.

Expiration Date: October 31, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–18190 Filed 8–12–86; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Family Stations, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Family Stations, Inc	Muskegon, MI.	BPED–830225AL	86–318
B. Echo Broadcasting, Inc	Zeeland, MI.	BPED–830603AN	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues

whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Air Hazard	A
2. Financial	B
3. 307(b)—Noncommercial Educational	A, B
4. Contingent Comparative—Noncommercial Educational	A, B
5. Ultimate	A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202)857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86-18191 Filed 8-12-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-496]

Shelton Savings and Loan Association, Shelton, CT; Final Action; Approval of Conversion Application

Dated: August 7, 1986.

Notice is hereby given that on July 25, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Shelton Savings and Loan Association, Shelton, Connecticut for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Boston, One Financial Center, 20th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-18192 Filed 8-12-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010730-001.

Title: Los Angeles Terminal Agreement.

Parties: The City of Los Angeles (City); L.A. Cruise Ship Terminals (L.A. Cruise).

Synopsis: The proposed amendment would permit the City to provide L.A. Cruise an area adjacent to Berth 93A in the Port of Los Angeles for use as a temporary passenger handling facility until construction of a permanent facility can be completed. The parties have requested a shortened review period.

Agreement No.: 202-010982.

Title: Bahamas Shipowners Association Agreement.

Parties: Tropical Shipping and Construction Co., Ltd.; Universal Alco Ltd.

Synopsis: The proposed agreement would permit the parties to discuss and agree, on a voluntary basis, on rates, charges, rules classifications, and practices governing the transportation of cargo, whether moving in all water or in through transportation service under bill of lading between ports of the United States located between Jacksonville and Key West, Florida, on the one hand, and ports in the Bahamas and Turks, Caicos and Providenciales Islands, on the other hand, including points within the Continental United States (excluding Hawaii and Alaska) and points in nations of the Bahamas and Turks, Caicos and Providenciales Islands via such ports.

By Order of the Federal Maritime Commission.

Dated: August 8, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18202 Filed 8-12-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; AAA Forwarding Co.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

AAA Forwarding Company, 419 Laura Ann, Collierville, TN 38017. Officers: B.B. Derrick, Partner Edward E. LaRue, Partner John C. LaRue, Partner

Nationwide International Forwarders and Brokers, Inc., d.b.a. Nationwide International, 4795 N.W. 72nd Avenue, Miami, FL 33166. Officer: Sharon Lopez Garcia, President

Nik & Associates, 5758 W. Century Blvd., S-213, Baldwin Park, CA 91706. Officer: Miodrag Nikolic, President

Honeybee International Forwarding, 5167 Azusa Canyon Road, Baldwin Park, CA 91706. Officer: Samih Abushoushed, President

Generoso R. Calderon d.b.a. E.R.C. International Freight Forwarders, 2330 W. Temple Street, Suite C, Los Angeles, CA 90026

Jang Kyun Park d.b.a. J.K. International, 3020 16th Street, San Francisco, CA 94103

Adept International Forwarders, Inc., 43-60 168th Street, Flushing, NY 11358. Officer: Joseph D. Boscarino, President/Director.

Dated: August 8, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18200 Filed 8-12-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Lyon Worldwide Shipping, Inc., et al.

Notice is hereby given that the following ocean freight forwarder

licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2820.
Name: Lyon Worldwide Shipping, Inc.
Address: 3633 136th Place, SE., Bellevue, WA 98006.
Date Revoked: June 30, 1986.
Reason: Surrendered license voluntarily.

License Number: 43.
Name: Allworld Forwarding Co., Inc.
Address: 214–16 41st Ave., Bayside, NY 11361.
Date Revoked: July 25, 1986.
Reason: Failed to maintain a valid surety bond.

License Number: 2941.
Name: Buschmann International, Inc.
Address: 8152 Loch Raven Blvd., Baltimore, MD 21204.
Date Revoked: July 23, 1986.
Reason: Surrendered license voluntarily.

License Number: 237.
Name: Atlas Agencies, Inc.
Address: 2080 Talleyrand Ave., Jacksonville, FL 32206.
Date Revoked: July 30, 1986.
Reason: Surrendered license voluntarily.

License Number: 1841.
Name: Donnell Customs Services, Inc.
Address: 2780 Des Plaines Ave., Des Plaines, IL 60018.
Date Revoked: August 1, 1986.
Reason: Surrendered license voluntarily.

Robert G. Drew,
Director, Bureau of Tariffs.

[FR Doc. 86–18201 Filed 8–12–86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of, Acquisition by, or Merger of Bank Holding Companies; The Citizens and Southern Corporation

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than September 4, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Citizens and Southern Corporation,* Atlanta, Georgia, and Citizens and Southern Florida Corporation, Fort Lauderdale, Florida; to acquire 100 percent of the voting shares of First National Bank, Winter Park, Winter Park, Florida; Bank of the Islands, Sanibel, Florida; Community National Bank, Kissimmee, Florida; and First National Bank, Seminole County, Longwood, Florida.

Board of Governors of the Federal Reserve System, August 7, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86–18182 Filed 8–12–86; 8:45 am]
BILLING CODE 6210-01-M

Applications to Engage de Novo in Permissible Nonbanking Activities; Howells Investment Co. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 1986.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Howells Investment Company,* Howells, Nebraska; to engage directly in the sale and servicing of credit life, accident, and health insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the area served by a subsidiary bank, approximately 15 miles north, 15 miles south, 6 miles west, and 6 miles east of the town of Howells, Nebraska.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Longview Financial Corporation,* Longview, Texas; to engage *de novo* through its subsidiary Longview Financial Services Company, Longview, Texas, in providing discount securities brokerage activities including certain securities credit and incidental activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California; to acquire 50 percent of the stock of Sumitrust Security Pacific Investment Managers, Inc., Los Angeles, California, a Delaware corporation, and thereby engage through a joint venture in acting as investment or financial advisor to the extent of: (i) Serving as the advisory company for a mortgage or real estate investment trust, (ii) serving as investment advisor (as

defined in section 2(a)(20) of the Investment company Act of 1940, 15 U.S.C. 80a-2(a)(20) to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company; (iii) providing portfolio investment advice to any other person; (iv) furnishing general economic information and advice, general economic statistical forecasting services and industry studies; and (v) providing financial advice to state and local governments, such as with respect to the issuance of their securities; all to the extent authorized by § 225.25(b)(4) of the Board's Regulation Y. The activities will be conducted from an office of Sumitrust Security Pacific Investment Managers, Inc., located in Los Angeles, California, serving the United States and the District of Columbia.

Board of Governors of the Federal Reserve System, August 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18183 Filed 8-12-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Grants Administration; Reimbursement of Indirect Costs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed change in departmental policy, rquests for comments.

SUMMARY: The Department of Health and Human Services offers interested parties an opportunity to comment on proposed changes to its departmental policy concerning the reimbursement of indirect costs under those project grants and cooperative agreements where the Department currently reimburses full indirect costs. This policy is published in Chapter 6-150 of the HHS Grants Administration Manual.

Three major changes to Departmental policy are proposed. First, all grant applications reviewed by grant review panels would be required to show both the direct and indirect costs requested by the applicant. Second, the Department would, except in several specifically identified circumstances, no longer issue supplemental awards to cover indirect cost increases beyond the amounts originally awarded. Finally, the amount of indirect costs awarded would be treated as a ceiling: If actual indirect costs exceed that amount, the excess may not be charged to the grant without prior approval from the granting agency. A companion notice of proposed rulemaking, adding this prior approval requirement to the Department's grants administration regulations in 45 CFR Part 74, is published elsewhere in today's **Federal Register**.

We propose these changes in response to a recommendation by the Office of Science and Technology Policy that HHS adopt certain of the indirect cost reimbursement practices of the National Science Foundation and other Federal Departments.

DATE: Comments must be received by October 14, 1986.

ADDRESS: Comments on the proposed changes should be submitted in writing to Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Room 513D, 200 Independence Avenue, SW., Washington, DC 20201. All written comments pursuant to this notice will be available for public inspection during normal working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Strauch (202) 245-7565.

SUPPLEMENTARY INFORMATION:

Background

Rising indirect cost rates have been the focus of increasing concern by a wide spectrum of parties including Congress and Federal officials. Studies by the Congress, HHS, the Office of Science and Technology Policy, GAO and the HHS Inspector General have all addressed the subject in recent years. The Office of Science and Technology Policy (OSTP) recently reported that, starting from the old statutory ceiling of 20% (which was abolished in 1966), university indirect cost rates had grown by 1981 to a national composite of 30% at NIH and 25% at NSF, and by 1984 to 31.2% of total research costs at NIH. OSTP recommended that the Department adopt NSF practices of including the indirect cost portion of a research project budget in the application. This would mean that peer review groups would see the total funds being requested, and not merely the direct costs. OSTP indicated that under such a system the total amount of an award, both direct and indirect, should be fixed over the grant period. We propose to implement OSTP's recommendation by revising Grants Administration Manual Chapter 6-150 as indicated in the following sections.

Peer Review

At present, Departmental policy is silent on this subject. As a result practices of our awarding agencies vary. In the Public Health Service, peer review groups for research grant applications review the direct costs requested by research grant applicants but do not see the amount being requested for indirect costs. Other awarding agencies generally include both direct and indirect costs in the applications reviewed by such panels. Paragraph 6-150-201 of the proposed revision would require all applications reviewed by any grant application review panel to show both direct and indirect costs requested. This would enable reviewers to reach more informed judgments about the overall cost of proposed projects, because they would see the total estimated costs, and not merely the direct costs. However, the proposed vision states explicitly that the review panels would have no authority to change the indirect cost rates or restrict their application. Negotiating indirect cost rates would continue as the responsibility of the various negotiation offices of the cognizant Federal agency—in HHS, our Regional Divisions of Cost Allocation. Making sure that the rates are properly used would continue as the responsibility of grants management officials, financial management officials, or both, in our awarding agencies.

Amount of Indirect Costs Awarded

Under current policy, HHS granting agencies make supplemental awards, subject to the availability of appropriations, whenever the grantee's actual indirect costs allocable to grants exceed the amounts which have been awarded. These supplemental awards total about $40 million annually. Paragraph 6-150-20 D of the proposed revision would eliminate this practice of providing additional funds, except in the following circumstances:

(a) An error made by the granting agency in computing the award;

(b) The restoration of funds previously recaptured by the Department as part of a grantee's unobligated balance;

(c) New or delinquent grantees for whom valid rates are subsequently established; and

(d) Expansion or extension of projects (limited to the indirect costs attributable to any additional direct costs awarded).

In addition, paragraph 6-150-20 D would provide that the amount of indirect costs awarded (or as subsequently amended) is a ceiling amount beyond which the grantee may not charge the grant except with the prior approval of the awarding agency. In other words, grantees would be required to obtain prior approval for any

rebudgeting of grant funds from direct costs to indirect costs. Finally, paragraph 6–150–50 A.1.b. would be revised to eliminate the existing restrictions on an awarding agency's authority to reduce an award to reflect a lower indirect cost rate subsequently established (and thus reduce the indirect cost ceiling). As mentioned earlier, a companion proposal to add this prior approval requirement to the Department's grants administration regulations at 45 CFR Part 74 is published in today's **Federal Register**.

Scope of Proposed Changes

The Office of Science and Technology Policy's recommendation mentions only research grants. However, we believe that too many difficulties would be encountered in having a separate set of policies for non-research project grants. This would not be in the best interests of either the Department or its grantees. In addition, we believe that the issues are essentially the same in non-research programs. Consequently, we propose to apply the new policies to all affected project grants and cooperative agreements.

Other Proposed Revisions

In addition to the conforming changes needed throughout the chapter to reflect the policy changes discussed above, we are taking this opportunity to make a number of editorial improvements as well as changes to reflect current terminology and Departmental organization. Also, we are clarifying the limited extent to which formula grants are affected by the chapter and the fact that policy concerning Public Assistance Programs is contained in a different chapter. Finally, we are proposing to reduce the time period for submission of summary expenditure report adjustment sheets from 1 year to 6 months and to recognize existing Departmental practice of not reimbursing indirect costs under grants to Federal organizations or in support of conferences.

Effects of Proposal

We cannot quantify with any assurance the effects of these proposed changes since we cannot predict either the extent to which rebudgeting will be approved by the awarding offices or the actions which may be taken by grantees to minimize the impact of these changes. We estimate as a maximum, that $40 million, out of total annual indirect costs awarded of about $1 billion, could be saved. In addition, some small savings for awarding agencies and grantees will result from eliminating many of the grant amendments and financial report submissions now needed.

Accordingly, HHS proposes to amend its Grants Administration Manual as discussed above. Interested parties may obtain a copy of the proposed revised chapter 6–150 by contacting the Office of Assistance and Cost Policy at (202) 245–7565 or at the address provided in this notice for the submission of comments.

Dated: July 9, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 86–17586 Filed 8–12–86; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

Committee Reestablishments; Biophysical Chemistry Study Section et al.

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92–463, 86 Stat. 770–776] and the Health Research Extension Act of 1985, November 20, 1985 [Pub. L. 99–158, Section 402(b)(6)], the Director, National Institutes of Health, announces the reestablishment, effective September 1, 1986, of the following committees:

Biophysical Chemistry Study Section
Human Development and Aging Study Section
Immunobiology Study Section
Molecular and Cellular Biophysics Study Section
Neurology A Study Section
Orthopedics and Musculoskeletal Study Section
Physiological Chemistry Study Section
Respiratory and Applied Physiology Study Section

The duration of these committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: August 8, 1986.

James B. Wyngaarden, M.D.

Director, National Institutes of Health.

[FR Doc. 86–18247 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for September 1986, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	September 1986 meetings	Time	Location
Behavioral and Neurosciences–1, Ms. Janet Cuca, Rm. A13, Tel. 301–496–5352	Sept. 25–26	8:00	Wellington Hotel, Washington, DC.
Behavioral and Neurosciences–2, Ms. Janet Cuca, Rm. A13, Tel. 301–496–5352.	Sept. 19	8:30	Room 8, Bldg 31C, Bethesda MD.
Biomedical Sciences—2, Dr. Daniel Eskinazi, Rm. A10, Tel 301–496–1067.	Sept. 18–19	8:30	Crowne Plaza, Rockville, MD.
Biomedical Sciences—3, Dr. Charles Baker, Rm. A10, Tel. 301–496–7150.	Sept. 16–17	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—4, Dr. Charles Baker, Rm. A10, Tel 301–496–7150.	Sept. 24–25	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—5, Dr. Bert Wilson, Rm. A25, Tel. 301–496–7800.	Sept. 22–23	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Biomedical Sciences—6, Dr. Zain-Ul-Abedin, Rm. A10, Tel. 301–496–3117.	Sept. 18–19	8:30	Room 9, Bldg. 31A, Bethesda, MD.
Clinical Sciences—1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301–496–7510.	Sept. 18–19	8:30	Holiday Inn, Bethesda, MD.

Study section	September 1986 meetings	Time	Location
Clinical Sciences—2, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Sept. 22	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Clinical Sciences—3, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Sept. 12	8:30	Holiday Inn, Bethesda MD.
Clinical Sciences—4, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Sept. 19	9:00	Room 8, Bldg. 31C, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer. NIH.

[FR Doc. 86-18252 Filed 8-12-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Manpower Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, October 16-17, 1986, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Manpower Subcommittee of the above Council will meet on October 15, 1986, at 1:00 p.m. and 8:00 p.m. respectively, in Building 31, Conference Rooms 9 and 10.

The Council meeting will be open to the public on October 16 from 9:00 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the Council meeting will be closed to the public from approximately 3:30 p.m. on October 16 to adjournment on October 17 for the review, discussion, and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Manpower Subcommittee of the above Council on October 15, will be closed from 1:00 p.m. and 8:00 p.m., respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Henry G. Roscoe, Acting Executive Secretary of the Council, Westwood Building, Room 7A-17, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7225, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated August 4, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-18248 Filed 8-12-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, September 22-23, 1986, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on September 22 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on September 22 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Contraceptive Development and Contraceptive Evaluation Branches of the Center for Population Research. The meeting will be open on September 23 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on September 22 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, the meeting will be closed to the public on September 23 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20892 Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos.13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-18249 Filed 8-12-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, in September 24, 1986, Conference Room 6, Building 31C, and September 25, 1986, Conference Room 9, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to recess on September 24 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on September 25 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and individual programs and projects conducted by the NIDR Intramural Program. These discussions could reveal confidential trade secrets or commercial property such as

VOL 51 ISS 156 AG 13 1986 UMI

patentable material, and personal information concerning individuals associated with the applications and the Program, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Executive Secretary, National Advisory Dental Research Concil, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892, (telephone 301 496–7723) will furnish roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.121—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–18250 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meetings of the Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on October 23–24, 1986, convening each day at 8:30 a.m. in Classroom B1N30 of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on October 24, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on October 22 from 3:00 p.m. to 4:00 p.m. in the 5th-Floor Conference Room of the Lister Hill Center Building.

The meeting on October 23 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on October 23 from 11:00 a.m. to 5:00 p.m., and on October 24, from 8:30 a.m. to adjournment; and the subcommittee meeting on October 22 from 3:00 p.m. to 4:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial propety, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–18251 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 51 FR 8034, March 7, 1986) is amended to reflect a realignment of several functions in the Administrative Services Center, Office of Management, Office of the Assistant Secretary for Health (ASC/OM/OASH).

Office of the Assistant Secretary for Health

Under Chapter HA, Office of the Assistant Secretary for Health, Section HA–20, Functions, Office of Management (HAU), delete *Administrative Services Center (HAU1),* in its entirety and substitute the following:

Administrative Services Center (HAU1)

The Director of the Administrative Services Center plans, coordinates and provides a combination of administrative and technical services designed to serve Public Health Service (PHS) activities nationwide and those agencies and Office of the Assistant Secretary for Health staff components located at PHS headquarters throughout the Washington, DC metropolitan area.

Provides administrative operations, such as, building management, lease management, and procurement for employees and organizations located at headquarters.

Develops Public Health Service policy and procedures for printing, duplicating, and property management. Provides Public Health Service claims, distribution, and library services. Serves as liaison with other components of the Department, GAS, and GPO.

Division of Administrative Operations (HAU15)

The Director of the Division of Administrative Operations plans, coordinates and provides a variety of administrative support services for the Office of the Assistant Secretary for Health and the health agencies. These services include planning, organizing, directing, coordinating and evaluating the conduct of all administrative management affairs for ASC; providing a total PHS claims program (i.e. investigation, evaluation and recommendation for disposition of a wide variety of claims, etc.); and providing mission-related library services to personnel of the Public Health Service and other agencies within the Department, appropriate libraries, educational institutions, research agencies, organizations, and individuals.

Division of Acquisitions Management (HAU16)

The Director of the Division of Acquisitions Management provides centralized program and administrative contracting and related services including analysis, evaluation, and recommendation of policies and procedures for all Office of the Assistant Secretary for Health activities. Provides centralized administrative contracting, including ADP, for PHS agencies at headquarters. Directs and coordinates a centralized acquisition program for the purchase of all supplies, equipment, and services from mandatory sources (Federal Supply Schedules and other Government agencies), open market, or by contract, either sealed bid or negotiated. Provides contract audit and fiancial review services and control of fraud, waste and abuse. Develops procedures for administration of the acquisition program and works with the

many Federal organizations to insure all laws and regulations are properly interpreted and implemented.

Division of Property Management (HAU17)

The Director of the Division of Property Management develops and promulgates logistical policies, procedures and systems for PHS-wide application. Plans, coordinates, and provides a variety of real and personal property management activities for the Office of the Assistant Secretary for Health and the health agencies. Provides the following related services: building security and safety program, including facility emergency plan; lease management; building management and operations; building alteration, repair and maintenance program; parking management, information/locator services; photo identification (ID); travel management; supply management and inventory management. Provides a shipping, receiving and laboring service and operates a property management and surplus property utilization and disposal system.

Division of Technical Support (HAU18)

The Division plans, coordinates, and provides a variety of support services for the Office of the Assistant Secretary for Health and the PHS agencies at headquarters. These services are: printing and reproduction management, including operation of copy centers; telecommunications management; mail and messenger services; motor pool management; support services for conference room and training facilities; visual aids and graphics art services; photography services; and internal data processing support. Provides nationwide PHS Printing Management Policy and procedural guidance.

Effective date: August 5, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86-18203 Filed 8-12-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-220-4322-02]

Livestock Grazing Environmental Impact Statements—Fiscal Year 1987

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As required by the Court Order in *Natural Resource Defense Council, Inc., et al.,* v. *Morton, et al.,* Civil Action No. 1983-73, this notice identifies seven Resource Management Plans (RMP) and associated environmental impact statements (EIS) covering the effects of livestock grazing scheduled for completion by the Bureau of Land Management during Fiscal Year 1987.

FOR FURTHER INFORMATION CONTACT: Billy Templeton, Chief, Division of Rangeland Resources, Bureau of Land Management (220), 18th & C Streets, NW., Washington, DC 20240 (202/653-9193).

SUPPLEMENTARY INFORMATION: In accordance with the Court Order in *Natural Resource Defense Council Inc., et al.,* v. *Morton et al.,* Civil Action No. 1983-73, the following described EIS's, involving 6,224,000 acres of public lands, are scheduled for completion during Fiscal Year 1987.

Resource Management Plans

[Public Land in Thousands of Acres]

EIS Name	Acres	Description
Cascade	514	An area in west central Idaho within the Boise District and Cascade Resource Area.
Pocatello (Caribou).	145	An area in southeastern Idaho within the Idaho Falls District and the Pocatello Resource Area.
Farmington	802	An area in northwestern New Mexico within the Albuquerque District and the Farmington Resource Area.
Taos	628	An area in northeastern New Mexico within the Albuquerque District and the Taos Resource Area.
San Juan	2,270	An area in southeastern Utah within the Moab District and the San Juan Resource Area.
Pinedale	924	An area in northwestern Wyoming within the Rock Springs District and the Pinedale Resource Area.
Washakie	1,141	An area in North Central Wyoming within the Worland District and Washakie Resource Area.

Dated: July 29, 1986.

Billy R. Templeton,

Acting Assistant Director, Lands and Renewable Resources.

[FR Doc. 86-18167 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-84-M

[CO-950-06-4352-11]

Colorado State Office; Change of Location

The Bureau of Land Management (BLM), Colorado State Office, will move from downtown Denver to Lakewood, effective September 12, 1986. The new mailing address will be: 2850 Youngfield Street, Lakewood, Colorado 80215.

The Public Room, containing more than 350,000 official case files of lands and minerals transactions for the 8.5 million surface and 27.2 million subsurface acres of public lands in Colorado, will be closed from September 2-11. The office will reopen at 8:00 a.m., September 12, with a new telephone number (303) 236-2100.

During the Public Room closure no new filings or assessments for mining claims will be accepted; no copies of land status plats or map sales will be conducted; and there will be no phone service. The 90-day filing requirement for mining claims is extended to eight working days during the move.

Neil Morck,

State Director.

[FR Doc. 86-18158 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-JB-M

[M-64872; MT-020-06-4212-13]

Montana; Realty Action

Correction

In FR Doc. 86-16788 beginning on page 26754 in the issue of Friday, July 25, 1986, make the following correction: On page 26754, in the third column, in the first line under "T. 8 N., R. 53 E.,", "S½E¼" should read "S½SE¼".

BILLING CODE 1505-01-M

Minerals Management Service

Royalty Management Advisory Committee, Production Accounting and Auditing System Onshore Conversion Working Panel; Meetings

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Meetings.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that the Production Accounting and Auditing System (PAAS) Onshore Conversion Working Panel, established by the Royalty Management Advisory Committee, will meet in Dallas, Texas, at the location and on the dates indicated below.

The PAAS Onshore Conversion Working Panel will submit recommendations to the Advisory Committee regarding the feasibility and practicality of converting onshore Federal and/or Indian leases to PAAS as well as recommendations regarding the report and findings of the Mineral Lease Information Study. (See Supplementary Information Section below.) The Panel will also advise if there are other alternatives that should be considered. The Panel held their last meeting on July 31 and August 1, 1986.

which was announced in the **Federal Register** on July 14, 1986.

DATES: The PAAS Onshore Conversion Review Working Panel will conduct two meetings during August and September 1986 at the Holiday Inn Crown Plaza Hotel, 4099 Valley View, Dallas, Texas. The meeting dates are August 13 and 14, 1986 and September 16 and 17, 1986.

The Panel will meet from 8 a.m. to 5 p.m. daily. The conference room will be available for an evening session on the first day of each meeting, should the panel elect to hold such a session.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted within 14 calendar days from the last day of the first session. Written comments for the second session are due to the Panel by 3 p.m. on September 17, 1986. Written comments shall be submitted to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: MMS implemented PAAS for all reporters of offshore lease production and for a select number of reporters of onshore lease production who were included in the pilot phase of the PAAS implementation. Although most of the royalties are generated by Federal oil and gas production from offshore leases, there are relatively few offshore Federal leases and wells compared to onshore Federal leases and wells. A Department of the Interior (DOI) project, the Mineral Lease Information Study, was begun in the fall of 1985 to evaluate the cost effectiveness of PAAS and to recommend whether additional onshore Federal and Indian leases should be converted to PAAS.

The PAAS Onshore Conversion Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the DOI and the MMS. Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panel will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: August 6, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-18154 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same; Commission Decision Denying Application for Interlocutory Review of Order No. 22

AGENCY: International Trade Commission.

ACTION: Denial of application for interlocutory review of presiding administrative law judge's order.

SUMMARY: The application of complainant Texas Instruments, Inc. (TI) for interlocutory review of the presiding administrative law judge's (ALJ) ruling (Order No. 22) granting the motion of respondents NEC Corporation and NEC Electronics Inc.'s (NEC) to strike portions of complaints TI's Supplement to Confidential Exhibit BC-1 (Motion No. 242-28) is denied.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington DC 20436, telephone 202-523-0359.

SUPPLEMENTARY INFORMATION: On May 21, 1986, NEC filed a motion to strike that portion of TI's Supplement to Confidential Exhibit BC-1 which alleged infringement of a patent which had not previously been asserted against respondent NEC, arguing that inclusion of this patent expanded the scope of the investigation, and that this could be done only by amendment of the notice and complaint. Motion No. 242-28. The ALJ granted NEC's motion. Order No. 22 (June 4, 1986). TI sought reconsideration of the ALJ's ruling, or in the alternative leave to appeal Order No. 22 to the Commission. The ALJ denied TI's motion for reconsideration, but granted leave to file an application for interlocutory review of Order No. 22. Order No. 36 (June 17, 1986).

On June 25, 1986, TI filed an application for interlocutory review of Order No. 22 pursuant to Commission rule 210.70(b). On July 2, 1986, NEC filed its opposition to TI's application for interloctory review. On July 7, 1986, the Commission investigative attorney filed a response to the application, recommending that the application be granted but taking no position concerning the substance of the appeal.

This action is taken pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.70(b).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are availalbe for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By Order of the Commission.

Issued: August 5, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-18244 Filed 8-12-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-171]

Certain Glass Tempering Systems; Dissolution of Limited Exclusion Order

AGENCY: International Trade Commission.

ACTION: Dissolution of limited exclusion order.

SUMMARY: Notice is hereby given that the Commission has determined to dissolve the limited exclusion order issued at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

SUPPLEMENTARY INFORMATION: The presiding administrative law judge issued an initial determination (ID) on August 15, 1984, in which she determined that there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the unauthorized importation or sale of certain glass tempering systems including frictionally driven oscillating roller hearth furnaces which infringe claim 1 of U.S. Letters Patent 3,994,711 (the '711 patent) owned by compaint Glasstech, Inc. On

September 17, 1984, the Commission issued a notice that it had determined not to review the ID (49 FR 37858), thereby finding a violation of section 337 in the unauthorized importation or sale of certain glass tempering systems including frictionally driven oscillating roller hearth furnaces which infringe claim 1 of the '711 patent, the effect or tendency of which was to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The Commission issued a limited exclusion order in the investigation on November 16, 1984. The order prohibited entry of glass tempering systems that infringe claim 1 of the '711 patent and are manufactured by or on behalf of respondent AB Kyro OY of Finland or related businesses, except under license of the patent owner.

On March 14, 1986, respondent AB Kyro OY filed a motion (Motion No. 171–31"C") seeking dissolution of the exclusion order in view of a U.S. District Court consent judgment entered between complainant and AB Kyro OY. Complainant Glasstech and the Commission investigative attorney filed responses to the motion. Complainant Glasstech does not object to the dissolution of the order in view of the consent judgment and the Commission investigative attorney supports dissolution.

On May 5, 1986, the Commission issued a **Federal Register** notice seeking further comment on the motion, after provisionally accepting the motion pursuant to section 211.57(b) of the Commission's Rules of Practice and Procedure (19 CFR 211.57(b)). No additional comments were received.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: August 1, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18245 Filed 8–12–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-237]

Certain Miniature Hacksaws; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of respondent Oxwall Tool Co.,Inc. (Oxwell) on the basis of a consent order.

SUMMARY: The Commission has determined not to review an initial determination (ID) (Order No. 22) terminating Oxwall as a respondent in the above-captioned investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1641.

SUPPLEMENTARY INFORMATION: On June 24, 1986, complainant The Stanley Works (Stanley) entered into a consent order agreement, which incorporated a proposed consent order, with respondent Oxwall. On the basis of the consent order agreement, a joint motion to terminate the investigation (Motion No. 237–23) was filed on June 24, 1986, by Stanley, respondent Oxwall, and the Commission investigative attorney. On July 8, 1986, the presiding administrative law judge issued an ID terminating the investigation with respect to the respondent Oxwall on the basis of the proposed consent order. The Commission has received no petitions for review of the ID or comments from Government agencies or the public.

Termination of the investigation as to respondent Oxwall on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), and 19 CFR 210.51, and 211.21.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. international Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: August 6, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18246 Filed 8–12–86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-265 (Sub-No. 2X)]

State of Vermont and Vermont Railway, Inc., Exemption for Discontinuance of Service in Bennington Co., VT

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of service by the State of Vermont and Vermont Railway, Inc. over approximately 367 feet of rail line in Bennington County, VT, subject to standard labor protective conditions.

DATES: This exemption will be effective on September 12, 1986. Petitions to stay must be filed by August 25, 1986. Petitions for reconsideration must be filed by September 2, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–265 (Sub-No. 2X) to:

(1) Office of the Secretary Case Control Branch Interstate Commerce Commission Washington, DC 20423

(2) Petitioners' representatives: For the State of Vermont: John K. Dunleavy, 133 State Street, Montpelier, VT 05602

For the Vermont Railway, Inc.: John R. Pennington, One Railway Lane, Burlington, VT 05401

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: August 6, 1986.

By the Commission, Chairman Gradison,Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–18199 Filed 8–12–86; 8:45 am]

BILLING CODE 7035-01-M

VOL 51 ISS 156 AG 13 1986 UMI

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Brazos River Authority et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on July 29, 1986, a proposed consent decree in *United States v. Brazos River Authority et al.*, Civil Action No. W–85CA–91, was lodged with the United States District Court for the Western District of Texas, Waco Division. This consent decree settles a lawsuit filed April 18, 1985, pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, for injunctive relief and for assessment of a civil penalty against Brazos River Authority ("BRA"). The complaint alleged, among other things, that BRA violated its National Pollutant Discharge Elimination System ("NPDES") permits by failing to submit approvable pretreatment programs to the United States Environmental Protection Agency ("EPA") in accordance with the schedules for submission contained in the permits and by discharging pollutants from its sewage treatment facilities in excess of the limitations contained in its permits. The complaint alleged that BRA's violations of its NPDES permits constituted violations of section 301 of the Act, 33 U.S.C. 1311, and entitled the United States pursuant to section 309 of the Act, 33 U.S.C. 1319, to obtain a permanent or temporary injunction and recover a civil penalty of not more than $10,000 per day of violation.

The State of Texas was named as a defendant pursuant to section 309(e) of the Act, 33 U.S.C. 1319(e), which states that a State shall be liable for payment of a judgment, or any expenses incurred as a result of complying with any judgment, entered against a municipality to the extent that State laws prevent the municipality from raising revenues needed to comply with the judgment.

Under the terms of the proposed consent decree, BRA agrees to comply with all pretreatment implementation requirements contained in BRA's NPDES permits. Also, six months after the lodging of the consent decree and every three months thereafter, BRA will submit to EPA a "Pretreatment Implementation Status Report" for each of BRA's three now-approved pretreatment programs that will include, among other things: information concerning sampling of influent to BRA's treatment facilities; a list of industrial users ("IUs") subject to the pretreatment programs; lists of IU permits issued and IUs that have been inspected; and a report of BRA's actions to assure compliance with the pretreatment programs. The consent decree also contains a provision for the payment of stipulated penalties for any violation of the requirements of the compliance program set forth in the decree. Finally, the proposed decree calls for BRA to pay a civil penalty of $91,000 with respect to the claims asserted by the United States in its complaint.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Brazos River Authority et al.*, D.J. Ref. 90–5–1–1–2357.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Bian Beverly, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–9974

United States Attorney's Office

Contact: Raymond A. Nowak, Assistant United States Attorney, Western District of Texas, 655 E. Durango Boulevard, G–13, San Antonio, Texas 78206, (512) 229–6500

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $1.20 payable to Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–18159 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act; Goldome FSB, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Goldome FSB, et al.*, Civil Action No. CIV–85–25E, has been lodged in the United States District Court for the Western District of New York.

The proposed consent decree concerns violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos codified at 40 CFR 61.20, *et seq.* (1983) and the Clean Air Act, 42 U.S.C. 7401, *et seq.* during the demolition of an office building in Buffalo, New York. The proposed decree requires the defendants to comply with the Clean Air Act and the asbestos NESHAP regulations. The proposed decree requires payment of a $50,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Goldome FSB, et al.*, D.J. Ref. No. 90–5–2–1–761.

The proposed consent decree may be examined at the Office of the United States Attorney, 502 U.S. Courthouse, Court and Franklin Streets, Buffalo, New York 14202, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86–18160 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

Pursuant to the Clean Air Act; North American Products Acquisition Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. North American Products Acquisition Corp.*, Civil Action No. 85–2959, has been lodged in the United States District Court for the District of New Jersey.

The proposed consent decree concerns violations of the New Jersey State Implementation Plan ("New Jersey SIP") N.J.A.C. 7:27—16, and the Clean Air Act, 42 U.S.C. 7401, *et seq.* The violations occurred during the manufacture of various cook-out implements at the defendant's Raritan, New Jersey facility. The manufacturing process includes the application of coatings containing excessive amounts of volatile organic substances ("VOS"). The proposed decree requires the defendant to comply with the VOS emissions limitations set forth in N.J.A.C. 7:27–18.5 of the New Jersey SIP. The proposed decree also requires North American Products Acquisition Corp. to pay a $26,000 civil penalty for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. North American Products Acquisition Corp.*, D.J. Ref. No. 90–5–2–1–820.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey 07102 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86–18161 Filed 8–12–86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to The Clean Water Act; Omark Caribbean, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Omark Caribbean, Inc.*, Civil No. 85–0280(HL) has been lodged in the United States District Court for the District of Puerto Rico.

The proposed consent decree concerns violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and Omark Caribbean, Inc.'s National Pollutant Discharge Elimination System permits. These violations have occurred in connection with the operation of Omark's saw chain manufacturing facility in Bayamon, Puerto Rico. The proposed decree requires the defendant to eliminate all discharges of pollutants at the Bayamon facility by June 30, 1986. The proposed decree also requires Omark to pay a $550,000 civil penalty over 2 years for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Omark Caribbean, Inc.*, D.J. Ref. No. 90–5–1–1–2305.

The proposed consent decree may be examined at the Office of the United States Attorney, Room 101, Federal Office Building, Carlos E. Chardon Street, Hato Rey, Puerto Rico 00918, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.20 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86–18162 Filed 8–12–86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Gary B. Bryant, M.D.; Denial of Application

On May 16, 1986 the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Gary B. Bryant, M.D. of 306 West Main Street, Woodbury, Tennessee 37190, an Order to Show Cause proposing to deny his application, executed on February 4, 1985, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that the registration of Dr. Bryant would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was sent to Dr. Bryant by registered mail. DEA received the return receipt which indicated that the Order to Show Cause was received on May 31, 1986. More than thirty days have passed since the Order to Show Cause was served and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and (d), Dr. Bryant is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file 21 CFR 1301.57.

The Administrator finds that beginning in January 1983, the Benton County Sheriff's Department conducted an investigation into the prescribing practices of Dr. Bryant. This investigation revealed that Dr. Bryant wrote prescriptions for Percodan, a Schedule II controlled substance, for certain "patients". These individuals had the prescriptions filled at a local pharmacy and brought the Percodan tablets to Dr. Bryant. In exchange for the Percodan tablets, Dr. Bryant then wrote prescriptions for other controlled substances for these individuals for no legitimate medical need. The investigation further revealed that Dr. Bryant and his wife both took Percodan orally and by injection.

During the course of the investigation and undercover agent of the Benton County Sheriff's Office went to Dr. Bryant's office on two separate occasions and received controlled substances or prescriptions for controlled substances, including Percodan, Valium, and Anexsia D, from Dr. Bryant. Anexsia D is a Schedule III controlled substance and Valium is a Schedule IV controlled substance. During both of these visits, the undercover agent advised Dr. Bryant that there was nothing physically wrong

with her but that the drugs made her feel good.

As a result of this investigation, on May 10, 1985, Dr. Bryant was convicted in the Circuit Court of Benton County, Tennessee of three counts of unlawful dispensing of controlled substances not in the course of legitimate medical practice in violation of Tennessee Code Annotated 53–11–401(a)(1). These are felony convictions relating to controlled substances.

Subsequent to Dr. Bryant's conviction, on January 7, 1986, the Tennessee Board of Medical Examiners suspended his license to practice medicine in the State of Tennessee for five years. Consequently, Dr. Bryant is not authorized to handle controlled substances in the State of Tennessee. The Drug Enforcement Administration cannot register a practitioner to handle controlled substances who is not duly authorized to handle controlled substances in the State in which he does business. 21 U.S.C 823(f). The Administrator and all of his predecessors have consistently held that they cannot register practitioners who lack state authorization to handle controlled substances. See, *Meyer Liebowitz, M.D.*, 51 FR 11854, (1986); *Rex A. Pittenger, M.D.*, Docket No. 85–52, 51 FR 5422 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1985); *Sam S. Misasi D.O.*, 50 FR 11469 (1985).

The Administrator concludes that the registration of Dr. Bryant would be inconsistent with the public interest. Dr. Bryant has demonstrated that he cannot be trusted to responsibly handle controlled substances. Not only did Dr. Bryant use his previous DEA registration to prescribe controlled substances for individuals who had no legitimate medical need for the drugs, but he also used his controlled substances prescribing privileges to fraudulently obtain Percodan to maintain his own drug habit and that of his wife. Dr. Bryant's application for registration must be denied.

Having considered the record in this matter, the Administrator hereby denies Dr. Gary B. Bryant's application, executed on February 4, 1985, for registration as a practitioner under 21 U.S.C. 823(f), pursuants to the powers vested in the Attorney General in 21 U.S.C. 823 and delegated to the Administrator of the Drug Enforcement Administration in 21 U.S.C. 871 and 28 CFR 0.100, for reason that the registration of Gary B. Bryant, M.D. would be inconsistent with the public interest, said denial effective immediately.

Dated: August 6, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–18217 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on Wednesday, July 30, 1986 (51 FR 27276) through August 4, 1986.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice.

By September 12, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: July 8, 1986.

Description of amendment request: The proposed amendment would delete the maximum total fuel rod uranium weight of 1,766 grams from Technical Specification 5.3.1. The specification relates to the design features of the reactor core fuel assemblies. One of the several descriptive features shown in 5.3.1 is the uranium maximum weight of 1,766 grams which has little safety significance.

Basis for proposed no significant hazards consideration determination: The licensee provided a significant hazards evaluation per 10 CFR 50.92 concluding that the change does not involve a significant hazards consideration. The licensee's basis is briefly restated as follows: (1) Accidents previously evaluated are unaffected since accidents are based on other fuel design constraints and not directly on fuel rod uranium weight; (2) new or different accidents would not be created since the fuel rod is similar to previous fuel; and (3) no reduction in margin would result since the margin of safety is maintained by adherence to other fuel related Technical Specifications.

We agree with the licensee's analysis. In addition, the Commission has previously issued a final determination along with License Amendment No. 56 on April 22, 1986, for Farley Unit 2. In that determination, we found the action to involve a no significant hazards consideration. Our basis for a proposed no significant hazards consideration for Unit 1 is as follows: (1) The action is an identical action found to be a no significant hazards consideration on Unit 2, and (2) Commission example "vi" (48 FR 14870) also fits the proposed change. Example "vi" states: "... a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method." Therefore, the Commission proposes that the change is not a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: Ernest L. Blake, Esquire, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: April 2, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) for the H.B. Robinson Steam Electric Plant, Unit No. 2. The proposed revision, in part, involves changes due to:

(1) CORPORATE REORGANIZATION—Due to a recent reorganization of the corporate management structure, the "Corporate Organization Chart" depicted in Figure

6.2–1 on page 6.2–3 of the TS must be modified to reflect the current management structure. Sections 6.5.2, 6.5.2.1, 6.5.2.2.C, and 6.5.3.4 will be updated to reflect the revised organization titles.

This change involves several areas within the corporate organization where managerial responsibilities have been realigned and departments restructured in order to provide better continuity in the areas of responsibilities within departments and sections and to better utilize the specific expertise of the individuals filling managerial positions. The change does not reflect any major change in management philosophy or corporate directives which might adversely affect the quality of the technical or managerial support of the plant.

(2) POSITION TITLE CHANGE—On Figure 6.2–2, page 6.2–4 of the TS, the position of "Principal Engineer Operations" will be retitled as "Operations Support Supervisor." This title more appropriately relates to the support functions of this group and is more consistent with the title of the other position of "Operating Supervisor" which reports to the "Manager Operations." This is a title change only and does not involve any change of qualifications or responsibilities associated with the position.

(3) FACILITY STAFF QUALIFICATIONS—TS 6.3.1 currently requires each member of the Plant and Control & Administrative staff to meet ANSI N18.1–1971 qualifications. Amendment No. 84 reflected the new organization for the Robinson Nuclear Project. The proposed TS extends this requirement to include other Robinson Nuclear Project positions appearing on the organizational chart in Figure 6.2–2 that perform functions comparable to those delineated in ANSI N18.1–1971.

(4) PLANT NUCLEAR SAFETY COMMITTEE (PNSC) MEMBERSHIP—This change will increase the PNSC membership by adding the Manager of Design Engineering and the Manager of Control and Administration. Specifically, this change affects the PNSC composition as specified in Section 6.5.1.6.2 of the TS.

(5) PLANT MODIFICATION APPROVAL AUTHORITY—Section 6.5.1.2.3, page 6.5–4 of the TS establishes authority for final approval modification packages. This change would further restrict the list of authorized positions by removing the "Manager—Technical Support" from that list. This is a more restrictive amendment since modification authorization must now come from either the "Manager, Robinson Nuclear Project," or "General Manager, Robinson Plant" or their designee.

Portions of the proposed amendment relating to placing organizational changes in effect prior to receipt of the approved amendment are not a part of this notice. Commission action is held in abeyance for additional basis from the licensee.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 17751): Example (i) states, "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Example (ii) states, "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

Changes (1) and (2), as discussed above, are proposed to reflect the correct management structure in the Technical Specifications and clarify titles to make them consistent with the titles of other positions.

Organizational changes are contained in Section 6.0, Administrative Controls, of the TS. Revising personnel titles to match management structures correctly, and to clarify titles for more consistency, with other similar positions is administrative and therefore similar to example (i) above.

Changes (3), (4) and (5), although administrative in nature, add additional requirements for staff training (3), increases the PNSC membership by providing a more comprehensive review of safety issues (4), and restricts the list of authorized approval authority for modification packages by deleting one authorization (5). These changes add additional limitation, restrictions or controls not presently included in the Technical Specification. Therefore, the changes are clearly encompassed by example (ii) above.

Based on the above discussions, the NRC staff proposes to determine that this proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

Commonwealth Edison Company Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendments request: June 27, 1986.

Description of amendments request: These proposed amendments, if approved, would revise the La Salle Unit 1 Operating License No. NPF–11 and La Salle Unit 2 Operating License No. NPF–18 by modifying Technical Specifications Section 3.4.5, Bases Section 3/4.4.5 and Administrative Controls Section 6.6.A.2. In accordance with Generic Letter 85–19, the Technical Specifications changes would amend the reporting requirements for iodine spiking to eliminate the short term reporting requirements of Sections 3.4.5.b and 3.4.5.c and add similar information to the Annual Report, Section 6.6.A.2. Additionally the amendments would eliminate the existing requirements to shut the plants down if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.

These changes of reporting requirements for iodine spiking are being requested in conformance with the Generic Letter to delete unnecessary reporting requirements. The information to be included in the Annual Reports is similar to that previously required in the Licensee Event Reports but would be changed to designate more precisely the information required in specific activity analyses and relocate the requirement for reporting to the administrative section of the Technical Specifications.

The quality of nuclear fuel and fuel management has been greatly improved in recent years, such that normal coolant iodine activity is maintained well below the minimum limits. Appropriate actions would be initiated long before accumulating 800 hours above the iodine activity limit. In addition, 10 CFR 50.72(b)(1)(ii) requires that the NRC be notified immediately of serious principal safety barrier degradation occurring during operation; therefore, these Technical Specification limits are no longer necessary.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in

the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendments per 10 CFR 50.92 do not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change merely relaxes the reporting requirements for primary coolant iodine spiking and eliminates the 800 hour/year cumulative run time limit (Operation with high iodine activity). The change does not alter the Technical Specification limits for primary coolant activity, nor does it change the 48 hour shutdown requirement; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the iodine limit has no effect on accident initiation; or (3) involve a significant reduction in a margin of safety because the change to relax the reporting requirements has no effect on the margin of safety, and the change to eliminate the 800 hour/year limit for operation with high iodine activity is justified based on improvements in nuclear fuel which have made this requirement unnecessary.

Based on our review of the proposed modifications, the staff finds that there exists reasonable assurance that these proposed changes will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the La Salle Units 1 and 2 Operating Licenses involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for the Licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue NW., Washington, DC 20036.

NRC Project Director: Elinor Adensam.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Dates of amendment request: September 27, 1985, as amended by letter dated July 15, 1986.

Description of amendment request: The proposed amendment to Operating License NPF–43 makes additions to the Fermi-2 Technical Specifications regarding the independent alternate shutdown system which will be used in the event of a fire in the Fermi-2 facility affecting safety-related systems.

The licensee first proposed this amendment in its letter dated September 27, 1985. This original request was noticed in the **Federal Register** (50 FR 46523) on November 8, 1985. As a part of its application, the licensee proposed certain surveillance frequencies for components of the system that the staff found unacceptable. On July 15, 1986, the licensee amended its application to propose more restrictive action statements regarding operability of the Combustion Turbine Generator (CTG), more frequent testing of the Standby Feedwater System, and revised the discussion in the bases regarding an acceptable alternative power source. The licensee further requested renumbering of the current Technical Specification Section 3.7.9 and associated bases section to be renumbered as Section 3.7.10. To effect this request will require renumbering Technical Specifications Section 3/4.7.9 to 3/4.7.10 as the surveillance requirements are an integral part of the Technical Specification 3.7.9.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's amendment application has been made in conjunction with the installation of the independent alternate shutdown system. Installation of this system was performed in compliance with Condition 2.C(9) of the Fermi-2 full power license, NPF–43.

While there are existing shutdown systems, they are dependent on equipment in the relay room and the control room. The shutdown system installed is independent of equipment in both the control and relay rooms. This independent, alternate shutdown system has been evaluated in Supplements 5 and 6 of the staff's Safety Evaluation Report (SER). The licensee's application of September 27, 1985, proposed Technical Specifications for this system. The changes proposed in the licensee's July 15, 1986, amendment to their application are more restrictive than those proposed earlier with regard to timing requirements for actions to be taken for an inoperable CTG and testing frequency for the Standby Feedwater System.

Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of the Fermi-2 facility in accordance with the proposed amendment will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Neither the probability nor the consequences of a fire will be changed since the proposed addition to the Fermi-2 Technical Specifications is being made in conjunction with the addition of design features to the facility which will further mitigate the consequences of certain postulated accidents (i.e., fires); (2) create the possibility of a new or different kind of accident from any accident previously evaluated. The capability of the Fermi-2 facility to be brought to a cold shutdown condition in the event of a fire using alternate shutdown systems has been previously evaluated in the staff's SER and in Supplements 1, 2, 3, and 4 to the SER. The additional design features being installed provide an independent, alternate means of cooling the reactor core in the event of a fire and do not involve a new or different kind of accident; and (3) involve a significant reduction in a margin of safety since the proposed change enhances the capability of the plant personnel to respond to postulated large fires.

The Commission has provided examples of amendments that are not likely to involve significant hazards considerations (51 FR 7744). One of these, example (i), a purely administrative change to technical specifications, is considered applicable to the licensee's proposed renumbering of current Technical Specification Section 3/4.7.9 to 3/4.7.10.

On the above mentioned bases, the staff proposes to determine that this amendment which makes additions to the Fermi-2 Technical Specifications, involves no significant hazards considerations.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, 2000 Second Avenue, Detroit, Michigan 48826.

NRC Project Director: Elinor G. Adensam.

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Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 4.4.4.3 and 4.4.4.4 to reflect the upgrade of the Reactor Coolant System power operated relief valves (PORVs) to safety grade for Catawba Unit 1 as described in the Catawba Final Safety Analysis Report (FSAR) and as approved by the NRC staff in Section 5.4.4 of Supplement 2 to the Catawba Safety Evaluation Report (SER). The upgrade will be accomplished during the first refueling outage currently scheduled for late August but no later than September 28, 1986.

Since the Unit 2 PORVs were upgraded prior to fuel loading, the combined TS document for both Units contained separate TS for Units 1 and 2. The proposed change would eliminate the existing TS 4.4.4.3 which was applicable to Unit 1 only and modify the existing TS 4.4.4.4 so that it would be applicable to both Units 1 and 2. Thus, the modified TS 4.4.4.4 becomes TS 4.4.4.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the upgrade of the PORVs to safety grade would provide additional assurance that the PORVs will function as intended if called upon. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the upgrade of the PORVs will not change the manner in which the facility is operated. Finally, it would not (3) involve a significant reduction in a margin of safety because the upgrade would provide additional assurance that the PORVs will operate as designed to depressurize the Reactor Coolant System in the event of a steam generator tube rupture event. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Caroline 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Caroline 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al, Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendment would revise License Condition 2.C.(16) of Catawba Unit 1 Facility Operating License, NPF–35, to allow an extension of time for the resolution of the steam generator tube rupture (SGTR) analysis. The extension would be for one complete cycle of operation and would be accomplished by replacing "first" by "second" in License Condition 2.C.(16). This Condition will then read: "Prior to startup following the second refueling outage, Duke Power Company shall submit. . . ." The licensee, together with a number of utilities utilizing the Westinghouse NSSS, has formed an Owners Group to address the licensing issues associated with the SGTR event on a generic basis. In December 1984, the group submitted WCAP–10698 titled "SGTR Analysis Methodology to Determine the Margin to Steam Generator Overfill," which presented the development of a design basis SGTR analysis methodology. On May 24, 1985, the group submitted Supplement 1 to WCAP–10698 titled "Evaluation of Offsite Radiation Doses for a SGTR Accident" which presented an evaluation of potential offsite doses for a design basis SGTR in the absence of steam generator overfill. On February 28, 1986, the group submitted WCAP–11002 titled "Evaluation of Steam Generator Overfill due to a SGTR Accident."

WCAP–10698 and WCAP–11002 are currently under review by the staff. The staff's Safety Evaluation Report on Supplement 1 to WCAP–10698 was transmitted to the group by letter dated December 17, 1985. Although significant progress has been made in addressing the SGTR issue, additional time is needed for the staff to complete its reviews of the Owners Group reports. It is expected that additional plant specific submittals will be needed in order to demonstrate that the above generic reports are applicable to Catawba. Furthermore, the licensee concluded that the extension does not involve any adverse safety considerations because the reports submitted to date indicate: (1) That the operators can respond to a design basis SGTR and perform the required recovery actions to terminate the primary to secondary leakage before steam generator overfill occurs, and (2) that the offsite radiation doses for a design basis SGTR will be less than the allowable limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because those depend on the applicable Technical Specification surveillance requirements and the mechanisms that cause SGTR events. The extension of the completion and approval date for SGTR analysis would not change applicable Technical Specification surveillance requirements and would not affect the mechanisms that cause SGTR events. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed extension introduces no new modes of facility operation and no physical modifications are required to be performed to the facility. Finally, it would not (3) involve a significant reduction in a margin of safety because the extension of the analysis completion and approval date would not affect any mechanism that causes SGTR event, and would not change the design or operation of the facility. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al, Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendment would revise License Condition 2.C.(12)(a) of Catawba Unit 1 Facility Operating License, NPF–35, to (1) allow an extension of time for the resolution of the accumulator tank instrumentation issue and (2) modify License Condition 2.C.(12)(a) to make it consistent with License Condition 2.C.(8)(a) of Catawba Unit 2 Facility Operating License, NPF–52, issued on May 15, 1986, because the same issue is applicable to both units. The extension of time would be for two complete cycles of operation. The modified License Condition 2.C.(12)(a) would then read "Prior to startup following the third refueling outage, Duke Power Company shall provide qualified accumulator discharge instrumentation." The above issue is related to Generic Letter 82–33, Supplement 1 to NUREG–0737, regarding Requirements for Emergency Response Capabilities. It was also discussed in Section 7.5.2 of Supplements 4 and 5 to the Catawba Safety Evaluation (SER). The Catawba Unit 1 operating license was conditioned to require that modifications be implemented for the items listed below consistent with the guidance of Regulatory Guide 1.97, Revision 2, unless prior approval of an alternate design of these items is granted by the NRC staff before startup following the first refueling outage. These items, as listed in License Condition 2.C.(12)(a) and in Duke Power Company's letter of September 26, 1983, were:

(a) Reactor coolant system cold leg water temperature;
(b) Containment sump water level;
(c) Residual heat removal heat exchanger outlet temperature;
(d) Accumulator tank level and pressure;
(e) Steam generator pressure;
(f) Containment sump water temperature;
(g) Chemical and volume control system makeup flow and letdown flow;
(h) Emergency ventilation damper position;
(i) Area radiation;
(j) Plant airborne and area radiation.

Subsequent Duke Power Company submittals and staff reviews, as documented in Supplement 5 to the Catawba SER issued in February 1986, resolved all the above items except for item (d). Furthermore, the staff slightly modified that item to require Duke to designate either level or pressure as the key variable to be upgraded. This variable is currently under additional staff review and further discussion with Duke is expected. Assuming that Duke plans to upgrade either the accumulator level or pressure instrumentation, it is estimated that approximately 23 months lead time would be required for implementation during a refueling outage. This would coincide with the end of the cycle 3 refueling outage currently scheduled to begin in January 1989.

The primary function of the accumulator pressure or level instrumentation is to monitor the pre-accident status of the accumulators to assure that the passive safety system is in a ready state to serve its safety function. The licensee stated that the accumulator tank level or pressure are not referenced in any emergency procedure covering design basis events which may cause a harsh environment. No operator actions in these procedures are based on accumulator indications. Therefore, the licensee concluded that extension of the date for upgrading the accumulator pressure or level instrumentation until startup following the third refueling outage does not involve any adverse safety considerations.

Deletion of the items other than accumulator tank level or pressure has no safety implications, since such a change simply removes those items which have been reviewed and approved by the staff in accordance with the license condition.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed extension of time needed to upgrade the accumulator discharge level or pressure would not affect the capability of the current instrumentation, as it exists at the facility, to provide pre-accident monitoring of the status of the cold-leg accumulators and as such has no effect on the cause mechanism or the consequences of an accident. The modification of License Condition 2.C.(12)(a) to delete the remaining items would have no impact because these items were reviewed and found acceptable by the staff as documented in Supplement 5 to Catawba SER.

Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed extension would not affect any mechanism that causes accidents and would not change the operation of the facility.

The modification of License Condition 2.C.(12)(a) would have no impact for the same reason stated above. Finally, it would not (3) involve a significant reduction in a margin of safety because the current instrumentation, as it exists at the facility, is fully qualified for its intended function of preaccident monitoring of the cold-leg accumulators.

Deletion of the remaining items in License Condition 2.C.(12)(a) would have no impact because these items were found acceptable by the staff. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) and Bases for plant systems that are affected by the addition of the Boron Dilution Mitigation System at Catawba Unit 1.

This system provides automatic actions for mitigating a boron dilution event and will be installed during the first refueling outage currently scheduled to start in late August but no later than September 28, 1986. Such a system will not be installed at Catawba Unit 2 until its first refueling outage. Thus, it is necessary to provide separate TS for each Unit.

Accordingly, with the exception of the proposed change to Surveillance Requirement 4.9.1.3 which affects Units 1 and 2, the existing TS would be retained for Catawba Unit 2 and the proposed changes would affect Catawba Unit 1. The changes would be accomplished by (1) stating that the following TS are applicable to Unit 2 only: 4.1.1.1.3; 4.1.1.1.4; 4.1.1.2.2; 3.3.1, Table 3.3–1, item 6.b.; 4.3.1.1, Table 4.3–1, part of notation 9; and 3/4.9.2, (2) adding the following TS for Unit 1 only: 3.3.1, Table 3.3–1, item 6.b.; 3/4.3.3.12

(Boron Dilution Mitigation System); and 3/4.9.2 (Instrumentation), (3) modifying Surveillance Requirements 4.9.1.3 to reflect that isolation of the Reactor Makeup Water Supply can be more easily achieved by closing valve NV-230 in lieu of closing valves NV-231, NV-237, NV-240, NV-241, and NV-244 because NV-230 is located upstream of all other valves. Bases 3/4.3.3.12 related to the Boron Dilution Mitigation System were added, and Bases 3/4.9.2 related to Instrumentation were slightly expanded.

The proposed changes to the TS are required to ensure proper operation and surveillance of the Boron Dilution Mitigation System at Catawba Nuclear Station, Unit 1. This system was added to meet the requirements of Section 15.4.6 of the Standard Review Plan (SRP) which requires that at least a 15-minute interval be available between the time when an alarm announces an unplanned moderator dilution and the time of loss of shutdown margin during power operation, hot standby, hot and cold shutdown, and startup. A 30-minute interval must be available during refueling. Section 15.2.4.2 of the Catawba Safety Evaluation Report discusses the NRC staff's requirements regarding Inadvertent Boron Dilution Event.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are necessary to reflect the addition of a system, at Catawba Unit 1, that meets the requirements of Section 15.4.6 of the SRP. For Catawba Unit 2 the existing Technical Specifications remain applicable. The proposed change to Surveillance Requirement 4.9.1.3 provides the same isolation required by the existing Surveillance Requirements.

Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the addition of the Boron Dilution Mitigation System would not affect the plant systems, at Catawba Unit 1, other than those required to mitigate a boron dilution event, and would enhance the manner in which the facility is operated. For Catawba Unit 2 there is no change in the design or operation of the facility. The proposed change to Surveillance Requirement 4.9.1.3 would enhance operation by making the required isolation easier to perform.

Finally, it would not (3) involve a significant reduction in a margin of safety because the addition of this system at Catawba Unit 1 would enhance the safety margin. For Catawba Unit 2 there is no change in the safety margin. The proposed change to Surveillance Requirement 4.9.1.3 would not affect the safety margin.

Accordingly, the Commission has determined that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: July 8, 1986.

Description of amendment request: The licensee proposes to modify Technical Specification 5.6.1 entitled "Fuel Storage Criticality." Presently, this specification details (1) the physical spacing requirements for new fuel storage and spent fuel storage, (2) the reactor physics criticality requirements for spent fuel storage, and (3) the maximum U-235 weight percent (currently 3.7) that can be stored in the spent fuel pool.

The modified Technical Specifications would divide the requirements into two sections: The first section, 5.6.1.a, will address spent fuel storage and the second section, 5.6.1.b, will address new fuel storage. The spent fuel section requirements will retain the current physical spacing and reactor physics criticality requirements but increase the maximum U-235 enrichment that can be stored in the pool. The proposed value is 4.0 weight percent. It will also include the minimum pool boron concentration of 1720 ppm, as stated in the updated Safety Analysis Report. The new fuel section requirements will delete the current physical spacing requirement, add a reactor physics criticality requirement, and also increase the maximum U-235 enrichment that can be stored in the pool. The proposed value is 4.0 weight percent, the same proposed value for the spent fuel pool. Although the physical spacing requirement of the new fuel storage racks will be deleted, the racks will not be physically modified, and the spacing will remain the same. The added reactor physics criticality requirement includes the actual physical spacing.

The licensee states that the changes will increase flexibility in fuel management and will accommodate storage of higher enrichments for possible use in future cycles.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

> The requested change does not increase the probability or consequences of accidents previously analyzed. Since the configuration of the plant and the mode of operation remain unchanged, the probability of accidents previously analyzed remains unchanged.
>
> FPL has identified the following potential accident scenarios whose consequences would be affected by the proposed change.
>
> A. A fuel assembly drop in the spent fuel pool.
>
> B. Loss of spent fuel pool cooling system and makeup.
>
> C. Spent fuel cask drop.
>
> For A, the criticality acceptance criterion is not violated as identified in Section 3.3 of the Safety Analysis Report. The radiological consequences of this type of accident are bounded by the fuel handling accident analyzed in the FSAR because this application is not intended for extended burnup operation. In particular, the assumptions used in the FSAR fuel handling accident (i.e. burnup, fractional release, etc) are still bounding for the higher enriched fuel assemblies. Based on this discussion, it is concluded that the proposed amendment will not result in an increase of the probability or consequences from the previously evaluated fuel handling accident.
>
> The consequences of B, "loss of spent fuel cooling system and makeup" will not be affected since this application is not intended to qualify the fuel for extended burnup operation. The increase in U-235 enrichment linear loading will not affect the decay heat

characteristics of the fuel assembly or the previous FSAR evaluation (Section 9.1.3) of the loss of spent fuel cooling system and makeup. Based on this, it is concluded that the proposed increase in the U–235 enrichment linear loading will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The consequences of C, "a spent fuel cask drop", will not be affected by an increase in linear loading since this application is not intended to qualify the fuel for extended burnup nor is the configuration of the storage racks being altered. Therefore, the consequences of a cask drop accident are still bounded by the previously evaluated FSAR Chapter 15 cask drop analysis. In conclusion, the proposed amendment will not result in an increase of the probability or consequences of an accident previously evaluated for a cask drop.

Based on the above findings, the proposed amendment to increase the maximum allowable U–235 linear loading and corresponding enrichment does not result in an increase in the probability or consequences of an accident previously evaluated.

In connection with the second standard, the licensee states that:

The requested change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant configuration and the manner in which it is operated remain the same. The proposed change does not constitute any change in the procedures for plant operation or hardware. In addition, FPL has evaluated the proposed technical specification changes in accordance with the guidance of the NRC position paper entitled "OT Position for Review and Acceptance of Spent Fuel Storage Handling Applications", and appropriate Industry Codes and Standards as listed in the Reference section of the Safety Analysis Report. Based on this evaluation, FPL finds that the proposed technical specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Regarding the third standard, the licensee states that:

The proposed change does not involve a significant reduction in a margin of safety. As described in the attached Safety Analysis Report, the new fuel storage rack calculated keff of 0.925 (95% confidence level) is considerably lower than the established acceptance criteria of less than or equal to 0.98 keff. The 0.918 keff (95% confidence level) calculated for the spent fuel pool and 0.924 keff (95% confidence level) calculated for the fuel handling structures is also considerably lower than the established acceptance criteria of less than or equal to 0.95 keff. It is important to note that the above calculated neutron multiplication factors include all the necessary biases and uncertainties.

As noted above, the required acceptance criteria (less than or equal to 0.95 keff under optimum moderation conditions and less than or equal to 0.95 under fully flooded conditions for the new fuel storage racks, less than or equal to 0.95 keff for the spent fuel pool and fuel handling structures) have been adhered to in the criticality analysis performed in support of this proposed technical specification change. Specifically the 0.02 delta keff and 0.05 delta keff criticality margin of safety required for the new fuel storage area under optimum moderation and fully flooded conditions respectively, and the 0.05 delta keff criticality margin of safety required for the spent fuel storage area and fuel handling structures have been maintained as specified in the attached Safety Analysis Report.

Based on the previous discussion' the proposed amendment to increase the fuel storage U–235 linear loading and corresponding enrichment will not involve a significant reduction in the margin of safety for nuclear criticality.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, it appears that the standards have been met because (1) the licensee addressed the appropriate considerations such as criticality, decay heat removal, and accident scenarios, and applied appropriate acceptance criteria; and (2) there will be no physical modifications to the new fuel storage racks or spent fuel storage racks.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant. Unit No. 2, St. Lucie County, Florida

Date of application of amendment: July 15, 1986.

Brief description of amendment: The licensee proposes to change the Reactor Coolant System Pressure/Temperature (P/T) limit figures as contained in TS 3/4.4.9.1 entitled "Pressure/Temperature Limits—Reactor Coolant System." Technical Specification 4.4.9.1.2 requires the reactor vessel irradiation surveillance specimens to be removed and examined periodically and the results used to update the P/T limits. The first capsule containing the specimens was required to be removed at one effective full power year. The specimen results were used to develop the new P/T limit figures. Specifically, existing figures 3.4–2, 3.4–3, and 3.4–4 will be deleted, and proposed figures 3.4–2 through 3.4–15 will be added. Existing figures 3.4–2, 3.4–3, and 3.4–4 contain the P/T limits for 0 to 2 calendar years of operation, 2 to 10 calendar years of operation, and 10 to 40 calendar years of operation, respectively. Proposed figures 3.4–2, 3.4–4, 3.4–6, 3.4–8, 3.4–10, 3.4–12, and 3.4–14 will contain the P/T limits for heatup and core critical for 0 to 5 effective full power years (EFPY) of operation, 5 to 10 EFPY, 10 to 15 EFPY, 15 to 20 EFPY, 20 to 25 EFPY, 25 to 30 EFPY, and 30 to 32 EFPY, respectively. Proposed figures 3.4–3, 3.4–5, 3.4–7, 3.4–9, 3.4–11, 3.4–13, and 3.4–15 will contain the P/T limits for cooldown and inservice test for 0 to 5 EFPY, 5 to 10 EFPY, 10 to 15 EFPY, 15 to 20 EFPY, 20 to 25 EFPY, 25 to 30 EFPY, and 30 to 32 EFPY, respectively. As can be seen, the limits will now be a function of EFPY instead of calendar years of operation. Thirty two (32) EFPY equals forty (40) calendar years of operation.

The licensee also proposes to change the Technical Specifications which address overpressure protection systems as contained in TS 3/4.9.3 entitled "Reactor Coolant System Overpressure Protection Systems." This specification needs to be changed because it depends upon the P/T limits that are proposed to be changed. Specifically, the licensee proposes to change the lift (pressure relief) setting of the power–operated relief valves. The licensee also proposes to add the shutdown cooling system relief valves as overpressure protection devices. In addition, the reactor coolant system (RCS) cold leg temperature specification in the applicability statement will be changed from a constant value as a function of time to a variable value as a function of time. The variable RCS cold leg temperature values will be contained in new Table 3.4–3. Time will be expressed in EFPY.

Also, the Bases section of the Technical Specifications will be changed to reflect the above discussed changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards considerations exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

The pressure/temperature (P/T) limit curves in the Technical Specifications are conservatively generated in accordance with the fracture toughness requirements of 10 CFR 50 Appendix G as supplemented by the ASME Code Section III, Appendix G. The RT_{NDT} values for the revised curves are based on Regulatory Guide 1.99, Revision 02 (Draft) shift predictions and Combustion Engineering flux attenuation factors. The analysis of reactor vessel material irradiation surveillance specimens are used to verify the validity of the fluence predictions and the P/T limit curves. Use of the revised curves in conjunction with the surveillance specimen program ensures that the reactor coolant pressure boundary will behave in a nonbrittle manner and that the possibility of rapidly propagating facture is eliminated.

In conjunction with revising the P/T limit curves, a low temperature overpressure protection analysis has been performed to establish the configuration and PORV setpoints of the Unit 2 overpressure protection system.

To ensure compliance with the P/T limit curves, overpressure protection is provided to keep the RCS pressure below the P/T limits for any given temperature after the initiation of assumed pressure transients (energy-addition and mass-addition transients) while operating below the temperature at which the pressurizer safety valves provide overpressure protection during heatup and cooldown.

The revised P/T curves and LTOP system do not represent a significant change in the configuration or operation of the plant. The results of the LTOP analysis show that the limiting pressures for a given temperature are not exceeded for the assumed transients and that reactor vessel integrity is maintained. Thus, the proposed amendment does not involve an increase in the probabillty or consequences of events previously evaluated.

In connection with the second standard, the licensee states that:

The evaluation performed by Combustion Engineering has resulted in revised P/T limits based on the fracture toughness requirements of 10 CFR 50 Appendix G, and in a revised low temperature overpressure protection system based on standard energy-addition and mass-addition transients. Use of the revised limits/setpoints will not create the possibility of a new or different kind of accident from any previously evaluated.

Regarding the third standard, the licensee states that:

The proposed amendment will not involve a significant reduction in a margin of safety, because the fracture toughness requirements of 10 CFR Part 50 Appendix G are satisfied and conservative operating restrictions are applied for the purpose of low temperature overpressure protection.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, it appears that the proposed amendment does not involve an increase in the probability or consequences of events previously evaluated and that the proposed amendment will not create the possibility or a new or different kind of accident from any previously evaluated because the licensee did address the usual technical areas of concern in updating the P/T limit figures and changing the low temperature overpressurization specification. Likewise, it does not appear that the margin of safety is reduced because the licensee used Appendix G in the formulation of the figure changes and it does appear that conservative operating restrictions were applied for the purpose of low temperature overpressure protection.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: July 10, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications for the Control Room Emergency Ventilation System, add Technical Specifications for the Chlorine Detection System, and make a number of editorial changes. The changes to the Control Room Emergency Ventilation System have been grouped as follows: (1) Adoption of the 1980 version of ANSI N510 standard for testing of ventilation systems, (2) extending the time that a filter train can be inoperable from 24 to 72 hours, (3) clarifying the pressure boundaries with the system, (4) adding requirements for modes 5 and 6, (5) adding limits on the amount of outdoor makeup air allowed to ensure habitability during a radiological-type accident, (6) clarifying the system description and related requirements to make the original Technical Specification approach more consistent with actual plant design, and (7) adding leak testing requirements after taking samples from charcoal filters and deleting leak testing of HEPA filters following charcoal tray reinstallation. For purposes of this notice, group (8) is addition of the chlorine detection technical specifications and group (9) is editorial changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to achieve consistency, correct an error, or a change in nomenclature. The proposed editorial changes by the licensee are directly related to this example. Another example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The changes to add modes 5 and 6 requirements for control room emergency vent systems, add limits on the amount of outdoor makeup air allowed during operations designed to account for radiological-type accidents, add chlorine detection technical specifications, and to add leak testing of charcoal filters after sample collection are all directly related to this example. The remaining changes have been examined for significance as follows. The removal of the requirement to leak test HEPA filters following charcoal filter sampling and reinstallation is to achieve consistency with industry standards and regulatory practice. The HEPA filters are located in different sections of the filter housing, and removing a charcoal tray for a sample is not expected to impact the leakage characteristics of the HEPA units. Deleting the HEPA filter leak tests currently required for each charcoal filter reinstallation will not result in or involve a significant increase in the probability or consequences of an accident previously evaluated nor will it create the possibility of a new or different kind of accident. Since the HEPA filter installation remains unchanged and the previous leak test remains valid, this proposed change does not involve a significant reduction in a margin of safety.

The proposed change to adopt the 1980 version of ANSI N510 testing requirement is to recognize that the Cook ventilation systems were operational before the ANSI N510–1975 testing requirements and are not

designed to the ANSI N509–1976 design requirements. The proposed 1980 version of ANSI N510 recognizes this and the proposed change is to make the Cook control room emergency ventilation system consistent with the intent of the industry standard. Since the 1980 version corresponds more closely to the Cook system design and the testing remains consistent with industry testing requirements, the changes do not significantly increase the probability or consequences of previously analyzed accidents nor do they create the possibility of a new or different kind of accident. Since the 1980 version is the current industry standard and generally consistent with current plant practice, the change does not involve a significant reduction in a margin of safety.

The proposed change to increase the filter train inoperability from 24 hours to 72 hours is to allow sufficient time to correctly repack and test the charcoal filters. It was also recognized when the technical specifications were first issued that some changes may be necessary as operating experience was gained. The licensee can institute additional measures to assure protection in the control room if one train is in repair and the remaining systems fail during an accident. Since no physical changes will be necessary to the plant, this change will not increase the probability of an accident previously evaluated. Since the filter train will be out of service for a longer period, the significance of the consequences of an accident requiring a control room filter could be increased. The additional measures available to the operators, the decreased likelihood of personal errors involved in the repair, and the unlikely occurrence of an accident during the increased out of service time all make the increases in accident consequences insignificant. There will be no changes to plant design or operations, therefore, the change would not create an accident of a new or different kind than previously analyzed. The confidence gained by careful and orderly repair of the filter train along with the alternatives available to the operation (use of the other control room system for a brief period), are sufficient to offset any minor reduction in the margin of safety. The overall reduction, if any, is believed to be insignificant.

The proposed change to the control room boundary for determining an acceptable positive pressure is consistent with the intent of protecting the operators against in-leakage of radioactive gases following an accident. The licensee definition of boundary is therefore consistent with the intent of the technical specification. The licensee also proposes to establish testing of the adjacent rooms served by the ventilation system. Since no changes in plant operation or procedures are proposed and the ventilation system adequately serves the pressure boundary, this change does not result in a significant change to the probability or consequences of a previously evaluated accident nor does it create the possibility of a new or different kind of accident. These changes do not delete or reduce in any way previous requirements for safety, thus, they do not reduce previous margins of safety. The last proposed change is to clarify the systems description and separate the testing requirements and acceptance criteria during the recirculation mode. The proposed change recognizes that test signals from each unit may automatically start the systems and the tests must assure that either unit is capable of generating the appropriate signal. The design requirements for the system as listed in the surveillance requirements are clearly identified as applicable in the recirculation mode. These changes of clarity do not change the probability or consequences of a previously analyzed accident nor do they create a new or difference kind of accident. There is no change in the plant design or operation as a result of the change, therefore, there is no change in the margin of safety.

On the basis of all the above considerations the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room Location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Kansas Gas & Electric Company, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 4, 1986, as supplemented by letter dated July 29, 1986.

Description of amendment request: By letter dated March 4, 1986, the licensee requested revision of Wolf Creek Generating Station, Technical Specification Figure 6.2–1, Figure 6.2–2, and Section 6.5.2.2 to reflect a title change, a change in reporting relationship, the correction of typographical errors, addition and deletion of groups from the Nuclear Unit Organization chart, the addition of positions and groups to the Nuclear Department organization, and two changes in membership to the Nuclear Safety Review Committee. Notice of this request, was published in the **Federal Register** on July 30, 1986, (51 FR 27285). By letter dated July 29, 1986, the licensee supplemented the original amendment request to reflect a change in reporting relationship, add a new member to the Nuclear Safety Review Committee, and change the titles of two positions.

Basis for proposed no significant hazards consideration determination: The first reporting revision changes the reporting relationship of the Manager, Licensing in Figure 6.2–1 such that this position will report directly to the Director, Engineering Technical Services rather than reporting to the Director, Engineering indirectly through the Manager, Nuclear Services. This change represents an organizational enhancement by altering reporting relationships. This does not constitute a change in job responsibilities or overall organizational commitments.

The second change adds the position of Nuclear Coordinator to the Nuclear Safety and Review Committee in Specification 6.5.2.2. This is a new position added to the committee roster that enhances the level of expertise on the committee.

The final two changes revise the titles of the Manager, Quality Assurance (Home Office) and the Manager, Quality Assurance (WCGS) in Figure 6.2.1 by replacing them by the Manager, Quality Assurance and the Manager, Supplier Quality respectively. These requested changes result from a reorganization within the Quality Branch which consolidates all personnel of each quality discipline under the same manager and do not cause the overall quality commitments of the Quality Branch to decrease.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples of amendments that are not likely to involve Significant Hazards Considerations (51 FR 7744). Among those examples are (i) "A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature" and (ii) "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification . . . ."

The above requested revisions to the Wolf Creek Generating Station, Technical Specification Figure 6.2–1 and

Section 6.5.2.2 are similar to the above cited examples that are not likely to involve significant hazards considerations and do not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Based on this information and utilizing the guidance provided by the Commission, the requested license amendment does not present significant hazards.

Local Public Document Room location: The William Allen White Library, Emporia State University, Emporia, Kansas; and the Washburn University School of Law, Topeka, Kansas.

Attorney for licensee: Jay Silburg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 1800 M Street NW., Washington, DC, 20036.

NRC Project Director: B.J. Youngblood.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: April 15, 1986 as supplemented July 29, 1986.

Description of amendment request. The amendment as proposed would change the operating license and Technical Specifications to permit licensed activities to be under the control of a new corporation jointly established by the Wolf Creek owners.

Kansas Gas and Electric Company (KG&E), Kansas City Power and Light Company (KCPL), and Kansas Electric Power Cooperative, Inc. (KEPCO), the owners, are the holders of Facility Operating License NPF-42 which authorizes KG&E to act as agent for KCPL and KEPCO and to use and operate Wolf Creek Generating Station in accordance with the procedures and limitations set forth in the license. The owners have jointly established a new corporation, the wolf Creek Nuclear Operating Corporation, to operate the station. The owners intend that the Operating Corporation assume all responsibilities for operation now held by KG&E. Ownership would remain with the owners and would not be transferred to the Operating Corporation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making no significant hazard determinations by providing certain examples (51 FR 7744) of amendments that are considered not likely to involve significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety because the changes relate to organizational modifications only and do not involve any changes to the number or technical qualifications of operating personnel nor do they involve changes in plant equipment or plant systems. VP Nuclear Operation continues to report directly to the President and Chief Executive Officer of the Operating Organization. Therefore, this change does not adversely affect nuclear plant management. In addition, the licensee has indicated that the new operating organization is an "Electric Utility" as defined in 10 CFR 50.2. Accordingly, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia Kansas, 66801 and Washburn University School of Law Library, Topeka, Kansas.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment requests: January 29, 1986, as amended April 14 and July 16, 1986.

Description of amendment request: The amendment would make six changes in the Technical Specifications: (1) Change the names and valve numbers of certain plant service water system valves listed in Technical Specification Tables 3.6.4-1, 3.8.4.1-1, and 3.8.4.2-1 to reflect the incorporation of those valves into the drywell chilled water system: (2) clarify which quality assurance records specified in Technical Specification 6.10.2.i must be retained for the duration of the operating license; (3) change Technical Specification 3/4.6.5 "Drywell Post-LOCA vacuum Breakers" to reflect the installation of position indicators for the vacuum breaker check valves; (4) delete reference to Specification 6.9.1.13.f in Technical Specification 3.12 "Radiological Environmental Monitoring"; (5) change Technical Specification 3/4.1.3 "Control Rods" to reflect installation in the control rod scram discharge volume system of diverse and redundant level instrumentation and redundant vent and drain valves and, (6) change notes in Technical Specification Tables 3.3.3-1 and 4.3.3.1-1 to make permanent the temporary condition allowing the HPCS activation signals of Drywell Pressure-High and Manual Initiation to be inoperable when the reactor water level is higher than Level 8 and reactor pressure is less than 600 psig.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the **Federal Register** on March 6, 1986, (51 FR 7744).

The licensee has provided an analysis of significant hazards considerations in its January 29, April 14 and July 16, 1986, submittals. The licensee has concluded, with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's amendment request. A summary of staff's review follows.

Changes (1), (2), and (4) of the proposed amendment are similar to example (i) in 48 FR 14870. Example (i) is a purely administrative change to

Technical Specifications: e.g., a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. Change (1) would change only names and identification numbers for certain plant service water (PSW) system valves listed in Technical Specifications tables. The new names and numbers identify the valves as belonging to the drywell chilled water (DCW) system. The DCW system was installed to increase the drywell cooling capability of the PSW system. The DCW system used the existing PSW valves and piping but nomenclature of the valves was not changed at the time of installation. The proposed change will make the valves listed in Technical Specifications reflect the system with which they are now associated and will permit name plates, labels and tags to identify them as DCW valves instead of PSW valves. The Technical Specifications requirements are unaffected by this nomenclature change. Change (2) would achieve consistency between Technical Specification (TS) 6.10.1 which requires certain records to be retained for five years and T.S. 6.10.2 which requires certain records to be retained for the duration of the operating license. The individual records identified in T.S. 6.10.1.a, T.S. 6.10.1.b, and T.S. 6.10.1.d are part of the quality assurance records identified as a whole in T.S. 6.10.1.i "Records of Quality Assurance activities required by the operational Quality Assurance Manual." Change (2) would add the phrase "not listed in Specification 6.10.1" after "Manual" in T.S. 6.10.2.i to achieve consistency between the two specifications. Change (4) would correct an error in Technical Specification 3.12 "Radiological Environmental Monitoring" by deleting a reference to Technical Specification 6.9.1.13.f. Specification 6.9.1.13.f had been previously deleted by a license amendment in response to Generic Letter 83–43 regarding implementation of 10 CFR 50.73 "License Event Reporting System." It was intended to delete all references to this specification throughout the Technical Specifications, but the reference in T.S. 3.12 was inadvertently not deleted.

Another example provided by the Commission of actions likely to involve no significant hazards considerations (v) is a relief granted from an operating restriction that was imposed because construction was not completed. Change (3) is similar to this example. License Condition 2.C.(35) requires that position indicators for drywell vacuum breaker check valves be installed prior to startup following the first refueling outage. An action statement and two surveillance requirements were added by Note 1 to Technical Specification 3/4.6.5 "Drywell Post LOCA Vacuum Breakers" until the position indicators are installed and operable. The licensee has previously submitted the proposed design changes by letter dated May 24, 1985, and the staff has previously reviewed and accepted the proposed design changes by letter dated July 23, 1985. Change (3) would delete Note 1 to T.S. 3/4.6.5 and specify the actions to be taken if a vacuum breaker or its associated isolation valve is found to be inoperable or if the position indicators for these valves is found to be inoperable by the surveillance tests.

Change (5) would provide Technical Specification changes needed for operation with new equipment to be installed in the control rod scram discharge volume (SDV) system. License Condition 2.C.(15) requires the installation prior to startup following the first refueling shutdown of diverse and redundant level instrumentation and redundant vent and drain valves. The redundant level instrumentation will provide redundant trip signals to the reactor protection system before the scram discharge volume is overfilled with water. The redundant signal to RPS will help to ensure that the reactor is shutdown before the scram discharge volume is filled to the point that sufficient volume is not available to accept the discharge from the control rod drive system during control rod scram. The redundant scram discharge volume vent and drain valves in series with the present vent and drain valves will provide additional assurance that the scram discharge volume will isolate on a control rod scram signal. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the design change increases the reliability of the reactor protection system and the scram discharge volume isolation function and does not change the accident mitigation function. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design change adds redundant reactor protection trip signals and redundant scram discharge volume isolation valves. The proposed change does not involve a significant reduction in the margin of safety because there is no change in the level instrumentation control rod scram setpoint nor in the isolation valve closing time.

Change (6) would modify the note in Technical Specification Table 3.3.3–1, "ECCS Actuation Instrumentation," and Table 4.3.3.1–1, "ECCS Actuation Instrumentation Surveillance Requirements," by deleting the phrase "Prior to STARTUP following the first refueling outage." The deletion of this phase from the note to the two tables makes the note applicable for the duration of the operating license. The note modifies the Technical Specifications on the high pressure core spray (HPCS) system actuation instrumentation such that the injection function of Drywell Pressure-High and Manual Initiation are not required to be OPERABLE when the indicated water level on the wide range instrument is greater than Level 8 coincident with the reactor pressure being less than 600 psig. The effect of this note on plant safe operation was previously analyzed by the licensee and accepted by the NRC staff in its safety evaluation attached to Amendment 10 to the GGNS low power license (September 28, 1983). The limitation in the note to allow such operation only prior to startup following the first refueling outage was included until the accuracy of the water level instrumentation could be determined. The accuracy of the installed water level instrumentation was analyzed by the licensee and accepted by the NRC staff in its letter dated March 10, 1985. Because Change (6) does not change equipment, procedures or conditions for operation from those previously analyzed and because the reason for the time limitation (uncertainty in water level instrumentation accuracy) has been satisfactorily addressed in a previous safety evaluation, the change would not: (1) Involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 24, 1986.

Description of amendment request: The amendment would modify the Technical Specifications to clarify the role of written procedures. Technical Specification 6.3.2 presently specifies that written procedures shall be "provided and adhered to." The proposed amendment would revise 6.3.2 to specify that written procedures shall be "established, implemented, and maintained." The proposed wording is consistent with Standard Technical Specifications (NUREG–0123) and would eliminate misinterpretations.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

(1) The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change simply clarifies one minor administrative item. The change does not alter existing equipment, surveillances or procedures. Consequently, the staff has determined that this change does not increase the possibility or consequences of an accident previously evaluated.

(2) The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not introduce any changes to the present facility systems, structures, or equipment or to the present modes of operation but provides clarification only. Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because due to the purely administrative nature of the change, it does not affect any equipment or procedures that would affect a margin of safety. No protective system setpoints or operating limitations would change. The added clarity provided by this change will not result in any reduction in the margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 188 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Daniel R. Muller.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 24 and July 22, 1986, superseding application dated September 6, 1978, as revised July 2 and October 5, 1982.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) to permit operation of the plant with only one recirculation loop in operation. Specifically, the proposed TS changes are as follows:

1. Average Power Range Monitor (APRM) Scram and Rod Block: (a) In Section 2.1, change the formula for the APRM scram trip setting to include a factor to account for reverse flow through the inactive jet pumps during periods of single loop operation (SLO) and define this factor for both SLO and two loop operation; (b) Add GE Report NEDO–24271, "Monticello Nuclear Generating Plant Single Loop Operation," dated July 1980 to Section 2.3 references; (c) change the expression for the Upscale APRM Rod Block in Table 3.2.3, item 3.a to include the factor to account for SLO and define this factor in note 2 to Table 3.2.3.

2. In Sections 3.5 and 4.5, delete Specifications I and add Specification H, "Recirculation System " Limiting Conditions for Operation and Surveillance Requirements as related to operation of the plant with one recirculation loop in operation.

3. Fuel Thermal Characteristics: (a) Add a multiplying factor for SLO which would reduce the Maximum Average Planer Linear Heat Generation Rate (MAPLHGR) limit by 15%; (b) Specify that the single loop operating limit minimum critical power ratio (OLMCPR) be 0.01 greater than the corresponding two loop OLMCPR; (c) Specify the MCPR safety limit for SLO be increased by 0.01; and (4) Add GE Report NEDO–24271, "Monticello Nuclear Generating Plant Single Loop Operation," dated July 1980, to the listed Section 3.11 references.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the licensee has provided the analysis. With respect to Item (1) above, the licensee states:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed technique for determining the APRM flux scram trip setpoint will not change the characteristics of Monticello reactor operation. The indicated flow correction factor for SLO is used to establish the relationship between the acceptable operating region of the power-flow map and the trip setpoint for two recirculation loop operation. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have been analyzed and the results presented in the Monticello USAR. [Updated Safety Analysis Report.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO–24271 "Monticello Single Loop Operation," June 1980 and subsequent reload analyses. Acceptable margins of safety are therefore preserved by the proposed changes.

The proposed changes are related to the methods used in the calculation of a safety system setpoint based upon previously published and approved information. While these changes may result in some change in the probability or consequences of a

previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (2), the licensee's analysis states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed addition to the Technical Specifications will not involve significant reductions in current safety margins. Trip setpoints and safety setpoints have been reevaluated to preserve current safety margins without significantly reducing operational flexibility. Additional surveillance will be done, and restrictions placed on neutron flux and core plate delta P noise. This will aid the operations staff in detecting, and mitigating, core limit cycle oscillations in the unlikely event they should occur. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation will not create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have been analyzed and the results presented in the Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO–24271 "Monticello Single Loop Operation," June 1980 and subsequent reload analyses.

The proposed changes are related to surveillance requirements and operational limitations. while these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (3), the licensee's analyses states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not significantly reduce any safety margins or significantly increase the probability of a previously evaluated accident. Changes to the MAPLHGR and MCPR limits have been evaluated for Single Loop Operation using the same techniques that were used for two loop operation. Adjustments to these parameters for single loop operation were derived to preserve margins of safety.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have previously been analyzed and the results presented in the Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO–24271 "Monticello Single Loop Operation," June 1980, and subsequent reload analyses.

The proposed changes are related to limiting safety settings. While these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (3), the licensee's analyses states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not significantly reduce an safety margins or significantly increase the probability of a previously evaluated accident. Changes to the MAPLHGR and MCPR limits have been evaluated for Single Loop Operation using the same techniques that were used for two loop oeration. Adjustments to these parameters for single loop operation were derived to preserve margins to safety.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transiets which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have previously been analyzed. All abnormal operating transients Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO–24271 "Monticello Single Loop Operation," June 1980, and subsequent reload analyses.

The proposed changes are related to limited safety settings. While these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 1, 1986, superseding application dated January 30, 1976, as revised May 4, 1976.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to conform to the NRC Standard TS for Appendix J testing, including the staff approved modifications and exemptions. These proposed changes would also clarify and eliminate a number of interpretation problems. Specifically, the amendment would revise the wording of TS Section 4.7.A.2, "Primary Containment Integrity" and associated bases to conform to the wording of NRC Standard TS (NUREG–0123), Revision 3, Section 4.6.1. The additional requested changes are as follows:

a. Airlock testing requirements for Type B testing as approved by NRC letter dated June 3, 1984.

b. Increase the TS value of Pa, Peak Containment Accident Pressure from 41 psig to 42 psig as a result of new analysis performed by General Electric Company.

c. Deletion of requirement for inerting system makeup monitoring as specified in Section 4.7.A.2.6. This is not a requirement in the Standard TS and the plant's operating history has proven that this requirement is impractical.

d. The Bases for Sections 3.7 and 4.7 have been revised to reflect the above changes.

VOL 51 ISS 156 AG 13 1986 UMI

e. Action statements consistent with NUREG–0123 have been included in Section 3.7.A.2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would revise the Technical Specifications to conform to the requirements of Appendix J to 10 CFR Part 50 except in those cases where exemptions have been granted by the Commission. The proposed wording conforms to the requirements of the NRC Standard Technical Specifications, NUREG–0123.

These changes are being proposed following a detailed NRC staff review of Monticello compliance with the requirements of Appendix J. Following this review, and the resolution of exemptions requested by Northern States Power Company, a number of plant modifications were designed to permit Appendix J testing. Technical Specifications conforming to NUREG–0123 and Appendix J are now being requested.

The proposed requirements are very similar to the original Technical Specification requirements. Except for the deletion of a meaningless and unnecessary requirement to monitor nitrogen makeup, no significant changes are proposed in the type of testing to be conducted or the frequency of testing. Proposed test acceptance criteria, while different in several instances, are very similar to existing criteria. The proposed addition of action statements and updating of the Bases will improve the clarity of the Technical Specifications. For these reasons the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes deal exclusively with surveillance testing requirements except for the addition of action statements which apply when containment integrity deficiencies exist and the updating of the Bases. The action statements conform to the requirements of NUREG–0123. No new type of testing is proposed. The changes involve deletion of an unnecessary test, a small change in test pressure, and changes to conform acceptance criteria to current NRC standards. For these reasons the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

As discussed above, the proposed changes update the Technical Specifications to conform to the requirements of 10 CFR Part 50, Appendix J in all areas except where exemptions have been granted by the Commission. Following modifications to achieve conformance to Appendix J and revision of the Technical Specifications to conform to NRC guidance, the margins of safety related to containment integrity will be enhanced. While there are some changes in the leakage test acceptance criteria to conform to current NRC guidance, none of these are deemed significant.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (March 6, 1986, 51 FR 7751). Addition to action statements for limiting conditions for operation are similar to example (ii) since they consist of additional limitations, restrictions, or controls not presently included in the TS. The other items are similar to example (vii) since they can be best described as changes to conform the license to changes in the regulations, where the license changes result in very minor changes to facility operations clearly in keeping with the regulations. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. In addition, these changes are encompassed by the Commission's Sholly Coordinator examples (ii) and (vii) of amendments not likely to involve significant hazards considerations. Therefore, based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW, Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 12, 1986.

Description of amendment request: The proposed amendment would relocate the hydrogen monitor trip function from the recombiner train trip logic to the offgas compressor trip logic. This would allow offgas flow to continue to flow in those portions of the system able to withstand a hydrogen detonation while operators investigate hydrogen monitor trips. The change would increase plant reliability by providing more time for operators to respond to hydrogen monitor trips.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analysis using the standards in 10 CFR 50.92, about the issue of no significant hazards considerations. Therefore, in accordance with 10 CFR 50.92, the following analysis has been performed by the licensee.

1. *The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed Technical Specification change will transfer the high hydrogen monitor trip from recombiner inlet valve closure to compressor trip. This change will have no adverse safety significance. It will allow operators greater flexibility in dealing with spurious hydrogen monitor trips.

The offgas system is designed to withstand the pressure encountered from a hydrogen detonation from an initial operating pressure of 20 psia assuming a stoichiometric hydrogen and oxygen mixture. The Standard Review Plan, Section 11.3, "Gaseous Waste Management System," provides guidance for systems being designed to withstand a hydrogen explosion. It's recommendation is that piping be designed to 350 psia. As a minimum, all piping in the offgas system meets this recommendation except the compressed gas storage tanks. The compressed gas storage tanks are designed for a maximum pressure of 330 psig. The system upstream of the compressors normally operates at 12 psia. On sensing high hydrogen, the compressors would isolate [be tripped and stop operating] and pressure would slowly build up in the 42-inch delay line (approximate volume of 4650 cubic feet). Up to several hours would be available for an operator to investigate and correct the source of the monitor trip. Prior to reaching 17 psia, the manual bypass valve to the stack could be opened providing additional time to resolve the problem without resulting in a scram from loss of condenser vacuum. Bypassing the holdup system is permitted for a period of up to seven days by the existing Technical Specifications. 10 CFR Part 20 and Appendix I guidelines would still be satisfied at the site boundary.

The proposed logic modification will continue to isolate [i.e., no flow through the offgas compressor] the most probable ignition

source, the offgas compressors, before a flammable mixture of hydrogen and oxygen is reached. A flammable mixture will not be allowed to reach the compressed gas storage tanks.

The lower limit of flammability is four percent hydrogen by volume. Because of mixing in the 42-inch delay line downstream of the recombiners, the volumetric concentration of hydrogen will not exceed 2.5 percent at the compressors' suction prior to isolation (assuming a catastrophic failure of the recombiners).

Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed amendment involves a logic modification and procedural changes only. No safety analyses are affected. No new or different accident type is created. The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *The proposed amendment will not involve a significant reduction in the margin of safety.*

For the past 10 years the recombiners have performed reliably. Hydrogen analyzer trips have occurred periodically, however. These were spurious and caused by analyzer sensitivity to moisture in the sample stream. Prior to the installation of the modified Offgas System, potentially explosive hydrogen and oxygen mixtures were safely handled without incident. In the event a detonation should occur, the system with the compressed storage subsystem isolated is designed for the pressures encountered and thus will maintain its design integrity. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: July 17, 1986.

Brief description of amendment: The amendment would change the Technical Specifications to provide Main Steam Isolation to avoid overpressurization of containment in the event of a Main Steam Line Break with continued feedwater addition.

Basis for proposed no significant hazards consideration determination: In response to IE Bulletin 80–04, the logic to close the Main Steam Isolation Valves was duplicated for the Main Feedwater Isolation Valves and renamed "Steam Generator Isolation Signal." As a result of these changes, the Technical Specifications need to be changed to accomplish the following:

1. Correct the wording of Specification 2.14. The specification currently states that the "setting limits and permissible bypasses shall be as stated in Table 2–1." Table 2–1 does not contain permissible bypasses, so this statement has been reworded.

2. A paragraph has been added to 2.14 Basis items (1) and (4) to discuss the steam generator isolation signal. Additionally, Section 2.14 References have been changed from FSAR to the current terminology, USAR.

3. Item e, Steam Generator Isolation, has been added as a channel of functional Unit 1, High Containment Pressure, of Table 2–1.

4. Table 2–1 Item 4a has been reworded to "Steam Generator Isolation" from "Steam Line Isolation."

5. The wording of Specification 2.15 has been revised to more accurately reflect the contents of Tables 2–2 through 2–5.

6. Table 2–4 has been modified to correctly specify those signals which comprise a signal to isolate the steamline.

The addition of the signal, correctly defined, to the Technical Specifications will alleviate a portion of the confusion on this subject. It should also be noted that the mode of operation (or isolation) has not changed, it has only been clarified.

The staff has conducted a preliminary review of the licensee's submittal and agrees that these changes serve to clarify the Technical Specifications concerning the Steam Generator Isolation Signal and that there has been no change in the method of operation, only clarification of existing operating practices. As a result, the staff has concluded that the changes requested meet the criteria of 10 CFR 50.92 in that they do not: (i) Involve any significant increases in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Based on this, the Commission proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: July 17, 1986.

Brief description of amendment: The proposed amendment would change the expiration date for the Fort Calhoun Station, Unit No. 1 Operating License, DPR–40 from June 7, 2008 to August 9, 2013.

Basis for proposed no significant hazards consideration determination: The currently licensed term for Fort Calhoun Station, Unit No. 1, is 40 years commencing with the issuance of the construction permit. The construction permit was issued to the Omaha Public Power District on June 7, 1968. Construction activities were completed 5 years later and the operating license was issued on August 9, 1973. The effective operating license term resulting from the construction activities is just slightly more than 35 years. The licensee's application requests a 40-year operating license term for Fort Calhoun Station, Unit No. 1, commencing with the operating license issuance date of August 9, 1973.

The licensee's request for extension of the operating license is based on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not require replacement during the plant lifetime, design features were incorporated that maximize the inspectability of structures, systems, and equipment. Surveillance and maintenance practices that are implemented in accordance with the ASME Code and the unit Technical Specifications provide assurance that any degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at full power with a plant capacity factor of 80% (32 effective full power years). Analyses have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. Calculations, based on a 40 year operating life, were made in accordance with the requirements of 10 CFR 50.61 and found to be below the screening criteria. In addition, to these

calculation, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with the requirements of 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear power plants", identifying qualified lifetimes for this equipment. These lifetimes are incorporated into equipment maintenance and replacement practices to insure that all safety-related electrical equipment remains qualified and available to perform its safety function throughout a 40 year lifetime.

Based upon the above, it is concluded that the extension of the operating license for Ft. Calhoun Station, Unit No. 1, to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging that are required to be addressed have been addressed. Since the proposed amendment does not involve changes in the Technical Specifications or safety analysis, the staff concludes that it meets the criteria of 10 CFR 50.92 in that it does not: (i) Involve any significant increases in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Based on this, the Commission proposes to determine that the proposed amendment, which provides for a 40 year operating life for Fort Calhoun Station, Unit No. 1, involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Dates of amendment request: April 23, 1986, revised July 17, 1986.

Description of amendment request: The licensee in letters dated April 23, 1986 and July 17, 1986, requested changes to Technical Specification 3.8.1.1 which would reduce the number of required diesel generator starts when in a Limiting Condition of Operation (LCO) or during the 18 month surveillance tests. The licensee states that the proposed changes are consistent with NRC Generic Letter 84–15 and do not reduce the ability of the diesels to mitigate the consequences of an accident but are intended to increase the diesel's reliability by not causing undue wear due to excessive testing.

The licensee has reviewed the pertinent sections of the Final Safety Analysis Report (FSAR) and the staff's Safety Evaluation Report (SER) and finds that the proposed changes do not invalidate either of these documents. Technical Specification 3.8.1.1 has been changed in the following ways: Footnote # has been deleted. This footnote was incorporated to allow the licensee to tie-in the fifth diesel generator. Since all work associated with tying in the new "E" diesel has been completed this footnote is obsolete and is being removed. This is an administrative change. Action Statement A has been modified in accordance with Generic Letter 84–15, in that when one offsite circuit is out of service the licensee will be required to test the remaining diesels within 24 hours of entering the LCO. Proposed Action Statement B was previously part of Action Statement A. This new Action Statement B is in accordance with Generic Letter 84–15 and fulfills the LCO requirements when declaring one required diesel generator out of service. Separating Action A into proposed Actions A and B is an administrative change to provide clarity. Proposed Action Statement C is applicable when one offsite circuit and one required diesel generator are inoperable. This action statement has also been modified in accordance with Generic Letter 84–15. Proposed Action Statement D includes a change in labeling as a result of splitting Action A into Proposed Actions A and B. This change is purely administrative. Proposed Action Statement E requires the licensee to perform Surveillance Requirements 4.8.1.1.2.a.4 within eight hours after a loss of both offsite circuits as opposed to within four hours. This change is also consistent with Generic Letter 84–15. Proposed Action Statement F requires the licensee to perform Surveillance Requirement 4.8.1.1.1.a within one hour and every eight hours thereafter upon the loss of two required diesel generators. Presently the licensee is required to perform Surveillance Requirement 4.8.1.1.1.a within one hour. The licensee's proposed change adds an additional restriction.

Surveillance Requirement 4.8.1.1.2.d.3 contains a typographical error in that generator voltage should not exceed 4560 volts not 4360 volts, as presently written. This is an administrative change.

Proposed Surveillance Requirement 4.8.1.1.2.d.4 will demonstrate the diesel's ability to respond to a loss-of-offsite power (LOOP) in conjunction with an ECCS actuation test signal, a LOOP by itself, and an ECCS signal without a LOOP. These three cases will be demonstrated with only one start of the diesel.

There are three changes in this surveillance requirement: (1) the diesel will not be started for the simulated LOOP by itself; (2) the diesel will not be started for the ECCS actuation test signal, with a LOOP; and (3) a new surveillance has been incorporated which describes testing of the LOCA relays.

These safety functions occur as a result of loss-of-offsite power (LOOP), ECCS actuation signal (LOCA), a combination of a LOOP and a LOCA signal, and either a LOOP or a LOCA signal.

The circuits for LOOP and LOCA are independent. Testing these functions simultaneously is acceptable. The only advantage of testing these functions non-concurrently is to verify that one signal is not dependent upon the other signal. However, there is no reason to assume that the circuits have become dependent upon each other since no design changes have been incorporated.

Testing for actions which occur as a result of concurrent LOOP and LOCA signals should be tested with concurrent LOOP and LOCA signals. Since both signals are required for actuation, both signals should be present during testing.

Testing for either a LOOP or a LOCA signal is the only test where each signal should be individually actuated. One trip is defeated while the other is tested. Then the other trip is defeated while the first trip is tested.

Testing of the LOOP and LOCA functions concurrently can perform the intended function as long as those functions which occur due to either signal (i.e. the logic circuitry upstream of the diesel start signal) are tested with only one signal at a time. This proposed surveillance requirement would replace Surveillance Requirements 4.8.1.1.2.d. 4 and 5.

Proposed Surveillance Requirement 4.8.1.1.2.d.5 is presently labeled 4.8.1.1.2.d.7 and requires a 24 hour load test with a restart requirement within five minutes. The licensee proposes to delete this restart requirement from the 24 hour load run section and place the restart requirement in Proposed Surveillance Requirement 4.8.1.1.2.d.6.

This proposed change will allow the licensee to fulfill the five minute restart requirement after completing a one hour 4000 KW run or within five minutes of reaching stable operating temperature.

Proposed Surveillance Requirement 4.8.1.1.2.d.7 currently labeled 4.8.1.1.2.d.8 requires a verification to assure that the auto-connected loads to each required diesel generator do not exceed the 2000 hour rating of 4700 KW. The licensee proposes to verify these loads by calculation. The licensee states that it is more suitable to verify this number by calculation rather than test since all the auto connected loads are known and the sum of these loads can be compared to the 2000 hour rating, two unit loads could be considered and that during a test all auto connected loads would not necessarily be running at full load.

The licensee proposes to delete Surveillance Requirement 4.8.1.1.2.d.11 which requires the verification that the fuel transfer pump in fact transfers fuel from each tank to the engine mounted day tank of each diesel generator. Regulatory Guide 1.108 recommends this surveillance if the practice is part of normal operating practices. The licensee states that at Susquehanna, this transferring is not part of normal operating procedure and was not taken credit for in any safety analyses. Fuel transfer from the fuel oil tank to the corresponding diesel generator day tank is tested every 31 days.

The licensee proposes to modify Surveillance Requirement 4.8.1.1.2.d.13. The requirement will be relabeled 4.8.1.1.2.d.11. The proposed change will clarify how the diesel generator lockout features work. This change is administrative.

The licensee has proposed a change to Table 4.8.1.1.2–1 which lists the frequency of diesel tests as a function of failures. The proposed change changes the valid tests per nuclear unit basis to a per diesel generator basis.This change to a per diesel generator basis would not allow all diesels to be penalized by increasing testing of all diesels if all diesels are not a problem.

The licensee has proposed a change to Surveillance Requirement 4.8.1.1.3 which requires all diesel failures, valid or non-valid, to be reported to the Commission. The proposed change revises the method for determining the number of failures in the last 100 valid tests from a per nuclear unit basis to a per diesel generator basis. This change is consistent with the change to Table 4.8.1.1.2–1 as discussed above, and is administrative in nature.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has stated that the proposed changes do not: (1) Involve an increase in the probability or consequences of an accident previously evaluated. The proposed changes reduce test frequencies and modify loading requirements consistent with manufacturer's recommendations. These changes are expected to enhance diesel reliability by minimizing severe test conditions and excessive starts. Since the changes only involve diesel loadings and test frequencies, and there are no physical modifications to the diesel generators as a result of these changes, the limiting accident is still the failure of one diesel generator which has been evaluated in § 8.3 of the FSAR; (2) create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in (1), the proposed changes should enhance diesel reliability. Any accident subsequent to these changes would be no worse than the failure of a diesel generator which has already been evaluated; or (3) involve a reduction in a margin of safety. The margin of safety has been determined acceptable assuming the loss of one diesel generator. The proposed changes will enhance diesel reliability thereby reducing the probability of a loss of a diesel generator.

The NRC staff agrees with the licensee's evaluation in these regards and proposes to find the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington DC 20036.

Project Director: Elinor G. Adensam.

Pennsylvania Power & Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Dates of amendment request: April 30, June 19, and July 25, 1986.

Description of amendment request: The proposed amendment would revise the Unit 2 Technical Specifications (TS) to support the operation of Susquehanna Steam Electric Station (SSES), Unit 2 at full rated power during the upcoming Cycle 2. The proposed amendment request, to support this reload, would change the Technical Specifications in the following areas: (1) Establish operating limits for all fuel types for upcoming Cycle 2 operation; (2) establish the Average Power Range Monitor setpoints; (3) reflect the replacement of approximately 42 percent of the core with ENC 9x9 fuel assemblies (the original core was all GE fuel); and (4) modify the bases section.

To support the license amendment request for operation of Susquehanna Unit 2 during Cycle 2, the licensee submitted as attachments to the application the following:

I. Susquehanna Unit 2 Cycle 2 Reload Analysis Design and Safety Analyses (XN–NF–86–06).

II. Susquehanna Unit 2 Cycle 2 Plant Transient Analysis (XN–NF–86–55).

III. Susquehanna LOCA–ECCS Analysis MAPLHGR results for 9x9 Fuel (XN–NF–86–65).

IV. Susquehanna Unit 2 Cycle 2 Proposed Startup Physics Tests Summary Description.

V. Susquehanna Unit 2 Cycle 2 Stability Test Program.

VI. Susquehanna SES Unit 2 Cycle 2 Reload Summary Report.

During the first refueling outage, PP&L will be replacing approximately 42 percent of the previous Cycle 1 core with fresh ENC 9x9 fuel assemblies. The ENC 9x9 fuel is the first use of 9x9 fuel at the Susquehanna facilities. Due to differences in the ENC 9x9 fuel from the previously used GE 8x8 fuel, several Technical Specification changes are proposed to incorporate the additional safety analyses performed for Cycle 2.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an

accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

This reload will consist of replacing 324 fuel assemblies (approximately 42 percent) of the previous Cycle 1 core with fresh ENC 9x9/3.31 w/o U235 (XN–1) fuel assemblies. The Unit 2 Cycle 2 (U2C2) XN–1 fuel is the ENC 9x9 design, which has similar operating characteristics (thermal–hydraulic and nuclear) to the GE P8x8R fuel that will remain in the core. The mechanical and nuclear design differences of the 9x9 ENC fuel required new analyses to be performed. These included analyzing for anticipated operational occurrences, performing LOCA and MAPLHGR analyses for the XN–1 fuel, and analyzing for the rapid drop of a high worth control rod to assure that excessive energy would not be deposited in the fuel. Analyses for normal operation of the reactor consisted of fuel evaluations in the areas of mechanical, thermal-hydraulic, and nuclear design. In addition, changes were also implemented to the core monitoring system and supplemental analyses were performed to reevaluate the expanded power flow map region for Cycle 2 operation. The use of the ENC 9x9 Type XN–1 fuel assemblies and the associated analytical methods used for Cycle 2 reload analyses have been previously approved by the Commission's staff for use in other boiling water reactors (BWR's). Based on limited operating experience at Dresden-2, the staff has reviewed the operating characteristics of 9x9 fuel based on surveillance data collected at Dresden-2. In addition to the reload analyses provided by PP&L and Exxon, PP&L has submitted a proposed stability surveillance and test program for U2C2. Based on previous experience, the staff has determined that only small differences result between the use of Exxon and GE analytical methods. The core loading pattern for U2C2 is the same as that approved for the previous core at this facility. The core is essentially a conventional scatter loading pattern with the lowest reactivity bundles placed in the periphery region of the core. The loading pattern was designed to maximize the operating cycle length consistent with the constraints on power peaking. This core reload involves the use of fuel assemblies that are not significantly different from those previously found acceptable to the Commission for a previous core at the Dresden facility. This amendment request would change the Technical Specifications by providing new operating limits associated with the Cycle 2 reload. These operating limits are based on the new core physics and are within acceptable criteria. In the analyses supporting this reload, there have been no significant changes in the acceptance criteria for the Technical Specifications.

(A) The licensee has proposed several definition changes to the Technical Specifications. The first definition change is Definition 1.2—Average Exposure. This change reflects the addition of an average exposure definition appropriate for Exxon (ENC) fuel. The ENC POWERPLEX core monitoring system determines Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) based on average bundle exposure rather than average planar exposure, which is the related term for GE fuel. This definition merely provides the appropriate identification for determining MAPLHGR limits for ENC fuel. Additionally this change does not impact that definition applicable to GE fuel. The second definition change is Definition 1.13—Fraction of Limiting Power Density (FLPD). This definition has been altered to reflect the appropriate Linear Heat Generation Rate used in determining FLPD. This was necessary since a Linear Heat Generation Rate curve was also specifically provided for determining Average Power Range Monitor (APRM) setpoints. Specification 3/4.1.2—Reactivity Anomalies, has been altered to reflect how the POWERPLEX monitoring system detects reactivity anomalies; POWERPLEX monitors k_{∞}, which provides a more direct measurement of reactivity than the previous monitoring of rod density.

The Commission has provided examples of the types of changes not likely to involve a significant hazards consideration (51 FR 7744). The above changes fall under example (i), a change that is administrative in nature, as all of the above changes are incorporated to provide information for ENC fuel which is consistent with that already provided for the existing GE fuel.

(B) Specification 3/4.2.1—Average Planar Linear Heat Generation Rate (APLHGR) has been changed to (1) reflect the use of the revised Definition 1.2, discussed above, (2) reflect changes to the remaining GE MAPLHGR figures by incorporating consistent units, (3) reflect the removal of all GE 0.711 percent enriched fuel, and (4) reflect the addition of the appropriate limits for all Cycle 2 ENC 9x9 (XN–1) fuel. These proposed changes do not (1) involve a significant increase in the probability or consequences of an accident previously evaluated. All of the changes to Specification 3/4.2.1 are administrative except for the new XN–1 fuel limits. Figures 3.2.1–1 and 3.2.1–2 for GE fuel have been altered to provide consistency with new Figure 3.2.1–3. Figures 3.2.1–1 and 3.2.1–2 units have been changed from "MWD/t" to "MWD/MT". The current Figure 3.2.1–3 has been deleted since the 0.711 percent enriched GE fuel has been removed. New Figure 3.2.1–3 illustrates the MAPLHGR limits for ENC 9x9 XN–1 fuel. These limits are based upon an ENC analysis of the Loss of Coolant Accident (LOCA) as described in XN–NF–86–60. Based on this analysis, operation within the proposed MAPLHGR limits will ensure that the Peak Cladding Temperature (PCT) remains below 2200 °F, local Zr–H_20 reaction remains below 17 percent, and core-wide hydrogen production remains below 1 percent for the limiting LOCA as required by 10 CFR 50.

With respect to GE fuel, the licensee's Reload Summary Report shows that the XN–1 fuel is hydraulically and neutronically compatible with GE fuel. Therefore, the existing MAPLHGR limits, based on the GE LOCA analysis provided in the FSAR, remain applicable for Unit 2 Cycle 2 operation with GE fuel.

The proposed changes do not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, because the operating characteristics of the ENC 9x9 fuel do not significantly differ from those of the GE 8x8 fuel. The differences in the fuels are physical.

The proposed changes do not (3) involve a significant reduction in the margin of safety as the analyses were in accordance with the regulations, the methodologies contain similar inherent conservatisms to those used to support the initial core, and the proposed limits are within the acceptance criteria.

(C) Specification 3/4.2.2—Average Power Range Monitor (APRM) setpoints have been changed to explicitly define T (T=Lowest value of the ratio of Fraction of Rated Thermal Power (FRTP) divided by the Maximum Fraction of Limiting Power Density (MFLPD)) for the GE and ENC fuel. T for ENC fuel is dependent on a transient-based Linear Heat Generation Rate (LHGR). As a result, a new Figure 3.2.2–1 has been incorporated. This change does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated since the method used for determining T for the

new ENC 9x9 fuel provides an equivalent amount of protection for the ENC fuel as that provided for the existing GE fuel. For ENC fuel, the T factor is modified by an exposure-dependent LHGR which is based on Exxon's "Protection Against Fuel Failure" (PAFF) line shown in XN–NF–85–67, Revision 1. This LHGR is provided in new Figure 3.2.2–1. Under this limit, cladding and fuel integrity are protected during Anticipated Operational Occurrences (AOO's), including an overpower condition for transients initiated from partial power. Therefore, this change will ensure fuel design limits are not violated. This change does not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, as the applicable change for the GE fuel is administrative, and the change for the ENC fuel, namely the new LHGR limit provides assurance that the cladding and fuel integrity are protected during AOO's. This change does not (3) involve a significant reduction in the margin of safety since the analytical methods used in developing the appropriate limits are shown to provide appropriate protection against one percent clad strain and fuel centerline melting.

(D) Specification 3/4.2.3—Minimum Critical Power Ratio (MCPR), has been revised to address the addition of ENC 9x9 fuel. This proposed change does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated as the changes to this specification are consistent with the acceptable methodologies being utilized to determine MCPR operating limits. As detailed in the Susquehanna SES Unit 2 Cycle 2 Reload Summary Report, delta Critical Power Ratio (CPR) results for local transients and core wide transients have been completed based on approved methods.

The plant transient model used to evaluate the system affects of the Feedwater Controller Failure (FWCF) and Load Rejection Without Bypass (LRWOB) transients is ENC's COTRANSA code. This output will be utilized by the XCOBRA–T methodology to determine delta CPRs. The COTRANSA code has been used in previous approved licensing submittals. The XCOBRA–T code is appropriate for use in this application because it provides a more realistic treatment of transient phenomena than previously utilized methods and has been benchmarked against transient critical heat flux tests as reported in the licensee's reload submittal.

This proposed change does not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, as the analytical methods used to determine the MCPR limits contain the same inherent conservatisms as those used for the previous core. This proposed change does not (3) significantly reduce the margin of safety. The analytical methods used for determining MCPR limits are more realistic and meet all pertinent regulatory requirements.

(E) Specification 3/4.2.4—Linear Heat Generation Rate (LHGR), has been changed to provide appropriate limits for ENC fuel. The existing GE LHGR limit remains. This change does not (1) result in a significant increase in the probability or consequences of an accident previously evaluated since new specification 3/4.2.4.2 and Figure 3.2.4.2–1 reflect appropriate LHGR limits for ENC fuel under steady-state conditions. The figure is based on information provided in the fuel mechanical design analysis (XN–NF–85–67, Rev. 1) and assures margin to design limits for the life of the fuel. Addition of these limits to ENC fuel does not (2) create the possibility of a new or different accident because this new control has been shown to ensure compliance with all relevant fuel mechanical design criteria. Nor do these limits (3) significantly reduce the margin of safety because by its nature of ensuring compliance with all relevant fuel mechanical design criteria they ensure appropriate safety margin.

(F) Specification 3/4.3.4.2, End-of-Cycle Recirculation Pump Trip System Instrumentation (EOC–RPT), has been changed to incorporate into this specification action statements to ensure compliance with appropriate MCPR limits when EOC–RPT is inoperable. This action statement was previously contained in the MCPR specification but has been moved for clarity in defining operator action. The requirements are consistent with those in the current MCPR Specification; as a result this change is administrative and falls under the Commission's example (i).

(G) Specification 3/4.7.8—Main Turbine Bypass System has been changed. This change is similar to that proposed for Specification 3/4.3.4.2 and is proposed to make this specification consistent with the changes to 3/4.2.3, Minimum Critical Power Ratio. A footnote has been added to Specification 3/4.7.8. This footnote merely replaces a requirement previously contained in the MCPR Specification. Since this change is consistent with the requirements in the current MCPR specification, no change in level of control has occurred. Therefore, this change is administrative and falls under example (i) of the Commission.

(H) Specification 5.3.1—Fuel Assemblies has been changed. This specification previously only provided GE P8X8R general core design information. The proposed changes provide the same information for the ENC fuel being introduced in Cycle 2 and are administrative in nature and fall under example (i) of the Commission's examples.

(I) Specification 3/4.4.1.1.2—Recirculation Loops—Single Loop Operation, has been changed to preclude extended operation with one recirculation loop out-of-service. Since this specification previously allowed such operation, this change constitutes an additional restriction which is much more conservative than the current provisions, and therefore falls under example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications of the Commission's examples of changes not likely to involve a significant hazards consideration.

Based on the foregoing discussion, the NRC staff proposes to find that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for the licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: June 4, 1986.

Description of amendment request: The licensee provided the following description:

The application for revision to the Indian Point 3 Technical Specifications would provide for the use of a temporary closure plate in place of the equipment door during refueling operations. Also included are editorial changes to Section 3.8.

The current Indian Point 3 Technical Specifications require that the equipment door and at least one door in each personnel air lock shall be properly closed during refueling operations. This

requirement has been imposed to ensure a barrier that will restrict direct release from the containment in the event of a postulated accident.

During refueling operations the reactor is cooled below 140 °F, is depressurized and open to containment. The IP-3 Technical Specifications require that whenever movement of irradiated fuel is made, the minimum water level in the area of movement shall be maintained 23 feet over the top of the reactor pressure vessel flange. Also to ensure redundant decay heat removal capability, at least two of the following requirements must be met:

(a) No. 31 residual heat removal pump and heat exchanger, together with their associated piping and valves are operable.

(b) No. 32 residual heat removal pump and heat exchanger, together with their associated piping and valves are operable.

(c) The water level in the refueling cavity above the top of the reactor vessel flange is equal to or greater than 23 feet.

The licensee considers a postulated fuel handling accident the most limiting accident with regard to the installation of a temporary closure plate.

The Fuel Handling System is designed to minimize the possibility of mishandling or maloperations that cause fuel damage and potential fission product release. The reactor is refueled with equipment designed to handle the spent fuel underwater from the time it leaves the reactor vessel until it is placed in a cask for shipment from the site. Boric acid is added to the water to ensure subcritical conditions during refueling. Therefore, if a fuel handling accident inside containment does occur, the impact and damage of the fuel assembly takes place underwater. Under these conditions there is no potential for a rapid release of energy to the containment which might cause an increase in pressure. The evaluation of a postulated fuel handling accident is discussed in detail in Section 14.2 of IP-3's FSAR.

The closure plate that would be installed, will be designed to a pressure which ensures containment integrity during refueling operations. This temporary closure plate will provide the same level of protection as that of the equipment door for the fuel handling accident by restricting direct leakage from the containment to the environment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of this change:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not increase the probability or consequences of an accident previously evaluated. Since redundant decay heat removal capability is provided, and a postulated fuel handling accident will occur underwater, there is no potential for a rapid release of energy to the containment.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The temporary closure plate will be seismically designed to ensure no breach of containment as a result of a seismic event. This plate will provide the same level of protection as that of the equipment door by restricting containment leakage to the environment.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed change of installing a closure plate during refueling operations in place of the equipment door does not involve a significant reduction in a margin of safety. The plate will be seismically installed and designed to a pressure which ensures containment integrity during refueling operations.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: June 13, 1986.

Description of amendment request: This revision to the Indian Point 3 Technical Specifications seeks to increase the maximum fuel enrichment to 4.3 w/o U-235 from the current Technical Specification maximum allowable enrichment of 3.4 w/o U-235.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's discussion of these standards as they relate to this amendment follows:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The increased fuel enrichment of up to 4.3 w/o U-235 will not affect the core operating parameters, such as power level, reactor coolant temperature, reactor coolant pressure and core peaking factors. These parameters are considered in detail in the core reload safety evaluations. As such, the operating transient analyses are not impacted solely by a change in the maximum allowable fuel enrichment.

The higher enrichments will facilitate extended fuel cycles. An extended fuel cycle will not increase the fuel rod gap activity since the activity reaches an equilibrium value prior to the end of the current fuel cycle. As such, the off-site dose consequences of a fuel handling accident will not be increased due to an extended fuel cycle.

In conclusion, the proposed Technical Specifications change for maximum allowable enrichment and fuel storage will not increase the probability or consequences of the FSAR design basis accidents.

(2) Does the proposed license amendment create the possibility of a

new or different kind of accident from any accident previously evaluated? The proposed change seeks to increase the enrichment of the fuel pellets only. No hardware changes are necessary. The maximum power operation level will not be increased. As such, the requested change will not create a new or different kind of accident.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The analysis provided by the licensee shows that the criticality design criteria of k_{eff} less than or equal to 0.95 will not be exceeded if the fuel is loaded into the spent fuel cells per Technical Specification 3.8.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: February 6, 1986.

Description of amendments request: The proposed amendment change would revise Salem Units 1 and 2 Technical Specification Sections 4.9.6.1, 3.9.7 and 4.9.7 to reduce the loads handled over the spent fuel pools. Accordingly, Technical Specifications 3.9.7 and 4.9.7 would be revised to reflect the derating of the fuel handling cranes. Technical Specification 4.9.6.1 would be revised to clarify that the load cut-off for the manipulator crane is set to include the heavy load plus the weight of the crane mast and gripper.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exits by providing certain examples (51 FR 7744). This request would reduce the allowable heavy loads traveling over the spent fuel pools. As such, the change corresponds to Example (ii), a change that constitutes a more stringent limitation not presently included in the technical specifications. Therfore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: Steven A. Varga.

South Carolina Electric and Gas Company' South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: June 20, 1986.

Description of amendment request: The requested amendment involves administrative changes to Technical Specification sections 3/4.5.4, Table 4.3–8, Table 4.3–9, Table 4.3–2, and 3/4.2.4 bases. The changes involve renumbering of sections, terminology changes for consistency, typographical corrections, and clarification of the notes to Tables 4.3–8, and 4.3–9 as to what instrument analog channel operation tests must demonstrate.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. One of the examples of actions likely to involve no significant hazards considerations relates to a purely administrative change to Technical Specifications such as a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The proposed changes involving renumbering of Technical Specification sections, terminology changes for consistency, and typographical corrections are similar to that example. However, the clarification of the notes to Tables 4.3–8 and 4.3–9 do not match any of the examples.

The licensee has identified portions of the Technical Specifications dealing with radiation monitors which need clarification. As identified in Tables 4.3–8 and 4.3–9, an analog channel operation test is required of effluent monitoring instrumentation. Notes contained in the tables pertaining to certain monitors indicate that this test shall also demonstrate that automatic isolation of the pathway and control room alarm annunciation occurs if certain conditions exist. One of these conditions (existing Item 4 of the notes) is the instrument controls not set in the operate mode. The licensee's position has always been that when those radiation monitors to which the notes apply are placed in the bypass position (via the Normal/Bypass switch) for the performance of a test procedure, the monitors are considered inoperable and the applicable action statement is applied. The purpose and incorporation of the Normal/Bypass switch in the original design of the systems was to defeat the interlock function during calibration and maintenance to allow implementation of action statements without the need to temporarily lift leads and/or install jumpers. Therefore, the Normal/Bypass switch is not considered to be one of the instrument controls as stated in existing Item 4 of the notes. A second condition, loss of flow or low flow will also initiate an alarm. To describe existing system function the low flow (alarm only) and Normal/Bypass switch set in Bypass (alarm only) items should be added to existing Notes 1 and 5 on page 3/4 3–72 and to existing Note 1 on page 3/4 3–79. In addition the low flow item should be added to Note 2 on page 3/4 3–79. Table 4.3–8 does not reference Note 2 on page 3/4.3–72; therefore Note 2 on page 3/4.3–72 should be deleted and existing Notes 3, 4 and 5 be renumbered 2, 3 and 4 respectively.

The staff has reviewed the licensee's request for the above change and determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the changes clarify existing Technical Specification surveillance requirements, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because the Technical Specification effluent monitoring requirements are not being changed. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2 , Hamilton County, Tennessee

Date of amendment request: June 20, 1986.

Description of amendment request: The proposed amendments would delete from the Design Features Section 5.3.1 of the Sequoyah Technical Specifications (TS) the maximum fuel rod weight limit of 1,766 grams of uranium. The purpose of the change would be to permit the use of assemblies slightly over the weight limit. Fuel weights have increased slightly due to recent changes to the fuel design, including chamfered pellets with reduced dish and nominal density increase.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of previously evaluated accidents?

Response: The change In fuel rod weight that cou1d occur without a Technical Specification limit is small because other fuel design constraints such as rod diameter, gap size, UO_2 density, fuel active lengths, etc., limit the variation in rod weights. The current safety analyses are not based on fuel rod weights, but more on parameters such as power thermal conductivity, fuel dimensions, etc. These parameters are either: (1) not affected at all by fuel rod weight, or (2) are only slightly affected. However, a review of parameters which may be affected indicates that a change in fuel weight does not cause other parameters to exceed the values assumed in the safety analyses, or to cause acceptance criteria to be exceeded. The slight effects are such that the monitored nuclear parameters (power, power distribution, nuclear coeficients, etc.) remain within their Technical Specification limits. Thus, it is concluded that the changes does not involve a signficant increase in the probability or consequences of previously evaluated accidents.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluted?

Response: The possibility of a new or different kind of accident from any previously evaluated has been considered and is not affected by this change. All of the fuel is contained in the fuel rod which is of the same dimensions and designed to function the same as previous fuel. The existing new and spent fuel criticality analyses bound the changes observed. Therefore, this change does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The margin of safety is maintained by adherence to other Technical Specification limits and the FSAR Design Bases. The deletion of fuel rod weight limits in Technical Specifications Design Features Section 5.3.1 does not directly affect any safety system or safety limits. Because safety margins are maintained by other limiting Technical Specifications, Design Features Section 5.3.1 will not affect the margin of safety.

Based on the above analysis, the licensee concluded that the proposed amendments do not involve significant hazards considerations. The staff has reviewed the licensee's signficant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a signficant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: January 14, 1986.

Description of amendment request: The purpose of the proposed amendment is to revise Callaway Technical Specification Sections 3/4.7.1.6 and B3/4.7.1.6 to add a new technical specification which requires the operability of at least three of the four installed steam generator atmospheric relief valves to ensure that reactor decay heat can be dissipated to the atmosphere in the event of a steam generator tube rupture and loss of offsite power.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7744). One of the examples (ii) of these actions involving no significant hazards consideration relates to a change which constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed changes are similar in nature to the example provided by the Commission. The changes to the Callaway Technical Specifications add a new technical specification requiring the operability of at least three of the four installed steam generator atmospheric relief valves in Modes 1, 2, and 3, and also add a Section B3/4.7.1.6 to the Technical Specification bases that provides additional clarification regarding Section 3/4.7.1.6. These proposed changes introduce additional management controls not presently in the Technical Specifications and, therefore, involve no significant hazards. These requests do not involve a significant increase in the probability or consequence of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Based on this information, the requested license amendment does not present a significant hazard.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: January 24, 1986, May 13, 1986, and June 9, 1986.

Description of amendment request: By letters dated January 24, 1986, May 13, 1986 and June 9, 1986, the licensee, Vermont Yankee Nuclear Power Corporation, submitted a proposed license amendment for NRC review and approval which would revise the Vermont Yankee Technical Specifications with respect to certain radiological effluent requirements. These changes would:

(1) Specify action to be taken when the plant stack noble gas activity monitor is unavailable.

(2) Clarify location requirements for sample points for airborne iodine and particulate off site air monitoring stations.

(3) Delete confusing definitions for radioactive material and contamination from the Definitions sections of Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change which constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, for example, a more stringent surveillance requirement. As described above, the change specifying the required action when the plant stack noble gas activity monitor is unavailable (item 1) constitutes an additional limitation and control not presently included in the Technical Specifications for Vermont Yankee, and is similar to example (ii).

Another of the Commission's examples (i) states: A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. Proposed changes described in items (2) and (3) fall within the envelope of example (i) since the changes would clarify requirements without changing the intention and would remove confusing definitions. These changes would not alter the intention of the existing Technical Specifications but would remove ambiguity, and therefore are similar to example (i).

Accordingly, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Daniel R. Muller.

Virginia Electric and Power Company, Docket No. 50–338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: July 11, 1986.

Description of amendment request: The proposed amendment would reinstate the North Anna–1 (NA–1) Technical Specification (TS) 3.4.9.1.C. By administrative error, the NA–1 TS 3.4.9.1.C was deleted in the NA–1 License Amendment No. 74, issued January 15, 1986. TS 3.4.9.1.C specifies "a maximum temperature change of less than or equal to 10 °F in any one hour period during inservice hydrostatic and leak testing operations above the heatup and cooldown limit curves." An identical requirement is presently specified in the NA–2 TS, and Station Operating Procedures for both NA–1&2 presently contain the necessary restrictions on temperature changes during inservice hydrostatic and leak testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples which were published in the Federal Register on March 6, 1986 (51 FR 7751). Example (i) states: "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change is enveloped by example (i) above, since the proposed change would reinstate the NA–1 TS 3.4.9.1.C which was deleted by administrative error in the NA–1 Amendment No. 74, issued January 15, 1986. Accordingly, the Commission proposes to determine this change involves no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: July 14, 1986.

Description of amendment requests: The proposed change will modify Section 6 of the Surry Technical Specifications to reflect a company reorganization in which the Quality Assurance (QA) organization will now report to the Senior Vice President—Engineering and Construction, rather than to the Senior Vice President—Power Operations. The amendments will also correct the titles of several on-site and off-site supervisors.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a proposed license amendment involves significant hazards considerations. The licensee has reviewed its amendment request and determined that the proposed amendments would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. This change would merely revise where the QA organization reports to enhance independence and correct titles in the on-site and off-site organization charts. Thus, this change does not change plant design or operation and cannot increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. It has been determined that a new or different kind of accident will not be possible due to this change. Realigning the QA organization with Engineering and Construction and revising supervisor titles does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. This change does not involve a change in the basis for any Technical Specification or the Updated Final Safety Analysis Report accident analysis. Therefore, the change does not involve a significant reduction in the margin of safety.

Based on the above analysis, the licensee concluded that its request for amendments involves no significant hazards consideration. The staff has reviewed the licensee's no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the requested amendments involve no significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Lester S. Rubenstein.

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Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of amendment request: May 27, 1986

Description of amendment request: This proposed amendment, if approved, would revise the WNP–2 Operating License, NPF–21, by modifying Technical Specifications Section 3.4.5, Bases Section 3/4.4.5 and Administrative Controls Section 6.9.1.5. In accordance with Generic Letter 85–19, the Technical Specifications changes would amend the reporting requirements for iodine spiking to eliminate the short term reporting requirements of Sections 3.4.5.b and 3.4.5.c and add similar information to the Annual Report, Section 6.9.1.5. Additionally the amendment would eliminate the existing requirements to shut the plant down if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.

These changes of reporting requirements for iodine spiking are being requested in conformance with the Generic Letter to delete unnecessary reporting requirements. The information to be included in the Annual Report is similar to that previously required in the Licensee Event Report but would be changed to designate more precisely the information required in specific activity analyses and relocate the requirement for reporting to the administrative section of the Technical Specifications.

The quality of nuclear fuel and fuel management has been greatly improved in recent years, such that normal coolant iodine activity is maintained well below the minimum limits. Appropriate actions would be initiated long before accumulating 800 hours above the iodine activity limit. In addition, 10 CFR 50.72 (b)(1)(ii) requires that the NRC be notified immediately of serious principal safety barrier degradation occurring during operation; therefore, these Technical Specification limits are no longer necessary.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment per 10 CFR 50.92 does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment affects only data accumulation and in no way affects the design or performance of the nuclear fuel; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the change affects only the reporting requirements from a short-term report—Special Report or Licensee Event Report—to an item which is included in the Annual Report and does not impact the actions required as a result of primary coolant activity increase (iodine spiking); or (3) involve a significant reduction in a margin of safety because the same limits are applied in monitoring iodine activity in the primary coolant and the same actions are required to place the plant in an isolated and safe condition if the limits are exceeded.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP–2 Operating License involves no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire; Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036.

NRC Project Director: Elinor Adensam.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 6, 1985 as supplemented by letters dated July 29, August 15, August 30, September 11, September 12, November 1, and December 12, 1985, and March 14, March 15, June 5, and June 9, 1986.

Description of amendment request: The amendment would revise Section 5.6 "Fuel Storage" of the Technical Specifications to allow increased spent fuel storage capacity. This increased capacity would be obtained by replacing the spent fuel racks in the upper containment pool and in the spent fuel storage pool with high density spent fuel racks. This spent fuel reracking would increase the upper containment pool capacity used for temporary storage during refueling from 170 to 800 fuel assemblies and increase the spent fuel pool capacity used for long term storage during plant operation from 1270 to 4348 fuel assemblies. However, the number of fuel assemblies to be stored in the spent fuel pool would be limited by Technical Specifications to 2324. The amendment would also change the Technical Specifications by reducing the limiting spent fuel pool water temperature from 150 °F to 140 °F.

Date of publication of individual notice in **Federal Register**: July 18, 1986 (51 FR 26078).

Expiration date of individual notice: August 18, 1986.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10

CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: June 9, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications concerning the surveillance requirement for Control Element Assemblies.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 76.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in Federal Register: June 20, 1986 (51 FR 22584).

The Commission's related evaluation of the amendment is contained in a Safety Evaluated dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: September 16, 1985

Brief Description of Amendment: The amendment revised the Technical Specifications pertaining to the Core Protection Calculator (CPC) addressable constants and the reactor protection system surveillance requirements.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 77.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in Federal Register: December 4, 1985 (50 FR 49779 at 49781).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: March 14, 1986.

Brief Description of Amendment: The amendment deleted facility license condition 2.C.(7) relating to the US/International Atomic Energy Agency Safeguards program.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 78.

Facility Operating License No. NPF–6: Amendment revised the operating license.

Date of Initial Notice in Federal Register: April 23, 1986 (51 FR 15393).

The Commission's related evaluation of the amendment is contained in a letter dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: February 27, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications pertaining to the Core Protection Calculators (CPC) as a part of the CPC Improvement Program.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 79.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in Federal Register: June 18, 1986 (51 FR 22228).

The Commission's related evaluation of the amendment is contained in a Safety Evaluated dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 28, 1985.

Brief description of amendment: The amendment adds a provision to the Technical Specifications to allow the shift compliment and fire brigade to be one less than the minimum requirement for a period not to exceed two hours.

Date of issuance: July 29, 1986.

Effective date: July 29, 1986.

Amendment No. 100.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 4, 1985 (50 FR 49781).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: October 9, 1985.

Brief description of amendment: The amendment revises the Technical Specifications by updating the allowable method for data collection during excore detector calibration, and also involves changes of an editorial nature, such as consistency of terminology, correction of a figure number and adding a reference document.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 101.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 4, 1985 (50 FR 49782).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket No. 50–010, Dresden Nuclear Power Station, Unit 1, Grundy County, Illinois

Date of application for amendment: January 7, 1986.

Brief description of amendment: The amendment modifies License No. DPR–2 to permit the Commonwealth Edison Co. to possess the Dresden Nuclear Power Station, Unit 1, but not to operate it, as the unit is permanently shutdown.

Date of issuance: July 23, 1986.

Effective Date: July 23, 1986.

Amendment No.: 36.

Facility Operating License No. DPR–2. Amendment revised the license.

Date of initial notice in **Federal Register**: June 4, 1986 at 51 FR 20369.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1986.

No significant hazards consideration comments received: None.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of application for amendment: February 21, 1986, as supplemented April 18, 1986.

Brief description of amendment: The amendment changes the nuclear limits to reflect the Cycle 10 9x9 reload, incorporates an expanded power/flow operating map, deletes the license condition for Single Loop Operation (SLO) and incorporates SLO provisions in the body of the Technical Specifications, incorporates Linear Heat Generation Rate (LHGR) limits for Exxon 8x8 and 9x9 fuel as a limiting condition for operation and incorporates reactor stability monitoring and restrictions on the allowable operation conditions during SLO.

Date of issuance: July 24, 1986.

Effective date: July 24, 1986.

Amendment No. 87.

Facility Operating License No. DPR–25. The amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register**: May 7, 1986 (51 FR 16923).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of application for amendment: June 10, 1986.

Brief description of amendment: This amendment revises the La Salle Unit 1 Technical Specifications to correct the Rod Block Monitor setpoints for both dual and single loop operation. On October 22, 1985, as supplemented on March 21, 1986, the licensee transmitted the Unit 1, Cycle 2 Reload package which was approved by the staff on May 9, 1985. The licensee, in this Cycle 2 Reload submittal, failed to modify the Rod Block Monitor setpoints to the corrected values which decreased by 2% as a result of new analyses performed for the Cycle 2 Reload. To conform to the new approved setpoints, the licensee submitted a request for amendment to Table 3.3.6–2 to incorporate the corrected setpoints. In addition, an administrative change was requested to correct an error in the Index to the Technical Specifications by deleting reference to a non-existent specification.

The above items addressed in this amendment will be incorporated into the Technical Specifications prior to startup after the first refueling outage.

Date of Issuance: July 25, 1986.

Effective Date: July 25, 1986.

Amendment No.: 45.

Facility Operating License No. NPF–11: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register**: June 25, 1986 (51 FR 23173).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: June 18, 1985.

Description of amendment request: The amendment revises the Technical Specifications to provide for reporting of relief and safety valve challenges in the Monthly Operating Report and to conform the wording concerning the Monthly Operating Report to the Standard Technical Specification wording. The June 18, 1985 amendment application concerned several topics. The other topics are the subject of separate amendments.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No.: 114.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 28, 1985 (50 FR 34936).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Dairyland Power Cooperative, Docket, No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: February 21, 1986.

Brief description of amendment: Minor wording changes in the technical specification on reactor coolant chemistry to help ensure that plant personnel will uniformly interpret the necessary action to be taken if conductivity, pH or chloride concentration normal operating limits are exceeded.

Date of Issuance: July 15, 1986.

Effective date: July 15, 1986.

Amendment No. 50.

Provisional Operating License No. DPR–45. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 7, 1986 (51 FR 16928).

The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated July 15, 1986. No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: September 29, 1982 as revised October 29, 1982, September 16, 1985, and April 1, 1986.

Brief description of amendment: The amendment involves the consolidation and clarification of operability and surveillance requirements for the emergency core cooling system (ECCS).

Date of Issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No. 51.

Provisional Operating License No. DPR-45. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 23, 1983 (48 FR 49583); April 7, 1986 (51 FR 16925). The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: October 9, 1985 and supplemented on November 13, 1985.

Brief description of amendment: This amendment revises the Fermi-2 Technical Specifications to permit postponement of the inerting of the Fermi-2 primary containment from December 21, 1985, until either completion of the startup test program or until the reactor has operated for 120 effective full power days, whichever is earlier. This change is reflected in changes to Technical Specification 3/4.10.5 on page 3/4 10-5.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 3.

Facility Operating License No. NPF-43: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register**: Individual November 29, 1985 (50 FR 49145).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan..

Date of application for amendments: May 10, 1983, as supplemented by letter dated June 20, 1986.

Brief description of amendments: The amendments revise the Technical Specifications to remove the duplicative inservice inspection and testing surveillance requirements for Unit 1, remove the duplicative operable surveillance requirements for Unit 1, and correct the charging pump discharge pressure during shutdown for Unit 2. The Unit 1 inservice inspection and testing requirements, with the exception of pump testing frequency, are now contained in Section Xl of the ASME Boiler and Pressure Vessel Code as may be modified by written relief. By letter dated June 20, 1986, the licensee withdrew the request to change the pump test frequency from 31 to 90 days as allowed by the ASME Code, until the necessary safety analyses could be performed with reduced pump discharge pressure. That proposed change will be the subject of new and separate proposed license amendments and notice.

Date of issuance: July 29, 1986.

Effective date: July 29, 1986.

Amendment Nos.: 98 and 85.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1983 (48 FR 33081).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 29, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 9, 1986.

Brief description of amendment: The amendment revised the DAEC Technical Specifications to (a) conform to the Commission's rule 10 CFR 50.49 related to environmental qualifications of safety related electrical equipment, (b) achieve consistency throughout the Technical Specifications, (c) correct errors caused by previous amendments, and (d) correct typographical errors.

Date of issuance: July 9, 1986.

Effective date: July 9, 1986.

Amendment No.: 133.

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 26, 1986 (51 FR 10462).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984, as revised October 11, 1985 and January 13, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate the limiting conditions for operation for post accident containment pressure monitor, water level monitor, and hydrogen monitor.

Date of issuance: July 21, 1986.

Effective date: July 21, 1986 to be implemented within 30 days.

Amendment No.: 134.

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 22, 1984 (49 FR 10736).

The October 11, 1985 and January 13, 1986 submittals provided clarifying information. These submittals did not change the initial notice published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 27, 1985, as supplemented January 31, 1986.

Brief description of amendment: Changes license condition 2.C.(33)(d)(2) to be consistent with the schedular requirements of the January 25, 1985, amendment to 10 CFR 50.44.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No. 13.

Facility Operating License No. NPF-29. This amendment revised the License.

Date of initial notice in **Federal Register**: March 26, 1986 (51 FR 10466).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 4, 1986.

Brief description of amendment: Changes in Technical Specifications Section 6.0, "Administrative Controls." Specifically, revisions in the positions in the Unit organization and modifications to the composition of the Plant Safety Review Committee.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No. 14.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1986 (51 FR 22240).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Pennsylvania Power & Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: May 14, 1986.

Brief description of amendments: The Unit 1 and Unit 2 Technical Specifications have been changed in order to allow the licensee to optionally define secondary containment as Zone III during operational conditions 4 and 5 with condition "*" in effect, no operations with the potential for draining the reactor vessel (OPDRVs) in progress, and Zone I and/or Zone II isolated from Zone III.

Date of issuance: August 1, 1986.

Effective date: Upon issuance.

Amendment Nos. 59 and 27.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: July 2, 1986 (51 FR 24260).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 1, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 18, 1985.

Brief description of amendments: These amendments permit certain changes to the Technical Specifications regarding plant organization as specified in Section 6 (Administrative Controls) and revised organization charts as requested. The NRC staff is still reviewing two of the proposed changes identified as Items (6) and (10) in the licensee's submittal.

Date of issuance: July 9, 1986.

Effective date: July 9, 1986.

Amendments Nos.: 118 and 122.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 29, 1986 (51 FR 3717).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 9, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 21, 1985, as supplemented April 22, 1986.

Brief description of amendments: The amendments revise the Technical Specifications to add surveillance and operability requirements pertaining to Appendix R modifications involving fire doors and penetration seals.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendments Nos.: 119 and 123.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1985 (50 FR 20985) and May 21, 1986 (51 FR 18693).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 9, 1986.

Brief description of amendment: The amendment deletes the requirement for shut down if primary coolant iodine activity limits are exceeded for 800 hours in a 12-month period. In addition, this change revises the reporting requirements related to primary coolant specific activity levels. The amendment request is in response to Generic Letter 85-19.

Date of issuance: July 25, 1986.

Effective date: July 25, 1986.

Amendment No.: 118.

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 4, 1986 (51 FR 20372).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendments: April 7, 1986.

Brief description of amendments: The amendment deletes Technical Specification 3.4.10.1.d which allowed the licensee to perform an evaluation to determine the consequences of continued operation with reduced structural integrity of ASME Code Class 1, 2, and 3 components. This request is

in response to the staff's February 10, 1986 letter requesting the licensee to review Technical Specification 3.4.10.1.d.

Date of issuance: July 28, 1986.

Effective date: July 28, 1986.

Amendment No.: 119.

Facility Operating Licenses Nos. DPR–80 and DPR–82: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 4, 1986 (51 FR 20371).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: March 17, 1986.

Brief description of amendment: The amendment changes Technical Specification (TS) 6.2.2, "Administrative Controls—Unit Staff," by clarifying that the Director, Nuclear Plant Operations does not need to review individual overtime during extended shutdown periods. The amendment also changes TS 3.5.3, "ECCS Subsystems—Tavg Less than 350 °F," by clarifying the residual heat removal system can be aligned to the reactor coolant system during Mode 4 operation and manual alignment to the refueling water storage tank would be utilized upon receipt of a safety injection signal. The amendment is effective as of its date of issuance and shall be implemented within 30 days of issuance.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No. 51.

Facility Operating License No. NPF–12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 4, 1986 (51 FR 20374).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 22, 1985.

Brief description of amendments: The amendments change the Technical Specifications related to the Reactor Trip System instrumentation trip setpoints.

Date of issuance: July 28, 1986.

Effective date: July 28, 1986.

Amendment Nos.: 44 and 36.

Facility Operating License Nos. DPR–77 and DPR–79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 4, 1985 (50 FR 49793).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated. For further details with respect to the action see (1) the application for amendment,

VOL 51 ISS 156 AG 13 1986 UMI

(2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 12, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Georgia Power Company, Olgethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: July 28, 1986.

Brief description of amendment: It consists of one time only changes to the Technical Specifications to allow the unit operate with the 2C diesel generator inoperable during the period July 26, 1986 to August 4, 1986.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 63.

Facility Operating License No. NPF–5. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration. No.

The Commission's related evaluation of the amendment, consultation with the State of Georgia, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 30, 1986.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland this 7th day of August, 1986.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–18125 Filed 8–12–86; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–373, 50–374

Commonwealth Edison Co., LaSalle Nuclear Station; Receipt of Petition

Notice is hereby given that, by its Petition dated July 25, 1986, the Village of Seneca, Illionis (Petitioner) requested that the Nuclear Regulatory Commission

revoke the operating license for the LaSalle Nuclear Station of the Commonwealth Edison Company due to alleged inadequacies in the area of emergency planning. The Petitioner raised a number of emergency planning issues regarding the adequacy of notification procedures, evacuation planning for the village of Seneca given its arterial network and high transient weekend population, and the efficacy of using volunteers to undertake emergency planning measures during a disaster. A relevant consideration with respect to this Petition is the fact that the Villege of Seneca has formally withdrawn from the emergency plan for the LaSalle Nuclear Station.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, Washington, DC 20555 and at the Local Public Document Room for the LaSalle generating Station located at Public Library of Illinois Valley Community College, Rural Route Number 1, Ogelsby, Illinois 61348.

Dated at Bethesda, Maryland, this 6th day of August, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-18239 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

Edward L. Jordan, Director, Division of Emergency Preparedness and Engineering Response, Office of Inspection and Enforcement

Ronald M. Scroggins, Director, Office of Resource Management.

In addition to the above appointments, the following members are continuing on the PRB:

Guy A. Arlotto, Director, Division of Engineering Safety, Office of Nuclear Regulatory Research

Robert M. Bernero, Director, Division of Boiling Water Reactor Licensing, Office of Nuclear Reactor Regulation

Richard E. Cunningham, Director, Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards

James A. Fitzgerald, Assistant General Counsel for Adjudications and Opinions, Office of the General Counsel

Robert D. Martin, Regional Administrator, Region IV

Donald B. Mausshardt, Deputy Director, Office of Nuclear Material Safety and Safeguards

James P. Murray, Associate General Counsel for Hearings and Enforcement, Office of the General Counsel

James H. Sniezek, Deputy Executive Director for Regional Operations and Generic Requirements

Richard H. Vollmer, Deputy Director, Office of Nuclear Reactor Regulations.

William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, continues as an ex officio nonvoting member.

The NRC Performance Review Board Panel consists of Clemens J. Heltemes, Jr., Director, Office for Analysis and Evaluation of Operational Data, Thomas E. Murley, Regional Administrator, Region I, and Jack W. Roe, Deputy Executive Director for Operations.

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: James P. Murray, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301-492-7503.

Dated at Bethesda, Maryland, this 6th of August 1986.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Chairman, Executive Resources Board.

[FR Doc. 86-18240 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; GPU Corp., et al.

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation and Jersey Central Power and Light Company, for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

The proposed amendment would make changes to sections 3.5 and 4.5, Containment, of the Appendix A Technical Specifications (TS) to account for proposed changes to the existing requirements on containment leakage testing in accordance with the licensee's application dated July 25, 1986. The licensee is proposing to add a new requirement in TS 3.5.A.3.b on when an inoperable air lock must be returned to service before the reactor is shut down. The Applicability and Objectives sections in TS section 4.5 are being revised to list the major surveillances and tests described in section 4.5 and to refer to Appendix J to 10 CFR Part 50 and ANSI/ANS Standard 56.8-1981, respectively. The licensee is also proposing to revise existing TS 4.5.A through TS 4.5.L. The existing TS 4.5.G through TS 4.5.K are only being renumbered and there is no proposed revision to the existing TS requirements. Existing TS 4.5.L is a previously deleted TS and the existing TS 4.5.K is proposed to be renumbered TS 4.5.L to fill the previously deleted TS.

The licensee is proposing to revise the requirements in TS 4.5.A through 4.5.F. These TS affect the following existing requirements: (a) Integrated primary containment leakage rate test, (b) acceptance criteria, (c) corrective action, (d) frequency of integrated leak rate tests, (e) local leak rate tests, and (f) corrective action. The new TS will be numbered TS 4.5.A through TS 4.5.G. The licensee is proposing a new TS section, 4.5.G, on the frequency for the local leak rate tests. The title for TS 4.5.E is proposed to be changed to "Type B and Type C Local Leak Rate Tests (LLRT)."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

VOL 51 ISS 156 AG 13 1986 UMI

involve a significant reduction in a margin of safety.

The basis for this proposed determination is the following. Appendix J to 10 CFR Part 50 was published on February 14, 1973. On August 7, 1975, the NRC requested Jersey Central Power and Light (JCP&L) Company to review its containment leakage testing progam for Oyster Creek and the associated TS, for compliance with the requirements of Appendix J.

JCP&L responded by letter dated December 24, 1975, which was supplemented by letters dated August 12, 1976, November 22, 1978 and June 27, 1980.

NRC letter dated March 4, 1982 transmitted the staff's Safety Evaluation (SE) of the above Appendix J review for the Oyster Creek Nuclear Generating Station. Consistent with this SE, and by a letter dated September 25, 1984 GPU Nuclear Corporation (GPUN) submitted TS Change Request No. 130 to change TS 4.5.F.1.B. In the NRC staff June/July Progress Review meeting with GPUN on July 31 and August 1, 1985, the licensee agreed to withdraw TS Change Request No. 130. The withdrawal was confirmed by NRC letter dated August 26, 1985.

GPUN is now submitting TS Change Request No. 126. Change No. 126 addresses the program which verifies that the leakage from the primary containment, both integrated and local, is maintained within specific values as outlined in Appendix J of 10 CFR Part 50, and as detailed in ANSI/ANS Standard 56.8–1981. The major modifications incorporated in the Integrated Leak Rate Testing (LLRT) Program are the establishment of a stabilization period for internal containment pressure, and a verification test to help check the accuracy of leakage detection methods. The leakage limits are also more closely defined in this proposed revision. The new section on "Corrective Action" gives detailed options on what may be done to limit leakage during the primary containment integrated leak rate test (PCILRT). This specification allows for repairs and local testing of the repairs. It also allows for the re-commencement of the PCILRT without the required stabilization period if containment was not depressurized. The testing frequency of 3 times in 10 years, or approximately every 40 months is established and the reference to doing the pre-operational test is eliminated.

The major modification to the LLRT program is the modification to the drywell airlock test. The 35 psig peak pressure airlock test required by Appendix J is established, but because of concerns described in NUREG/CR–4398 the frequency of airlock tests at 35 psig will be limited. When permissible a 10 psig test will be utilized. The acceptance criteria for the LLRT program is established as well as a testing frequency for it. The proposed amendment would add a limiting condition for operation (LCO) in TS section 3.5 to limit plant operation when the airlock is not operable.

There is no plant configuration change nvolved with this TS change request. The testing described is a surveillance program designed to verify primary containment integrity. The program outlined is designed to bring the current program in conformance with the requirements of Appendix J to 10 CFR Part 50 as detailed in ANSI/ANS 56.8–1981.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 for determining when a significant hazard consideration is likely not to exists by providing certain examples as discussed in the **Federal Register** on March 6, 1986 (51 FR 7751). Example (i) relates to a purely administrative change to Technical Specifications, i.e., a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; i.e., a more stringent surveillance requirement. Example (vii) relates to a change to make a license conform to changes in the regulations, when the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change in the numbering scheme is clearly an administrative change as described in example (i). The addition of Specification 3.5.A.3.b is consistent with both examples (ii) and (vii). The modifications and additions made to Specifications 4.5.A through 4.5.G are related to example (ii) in that a more stringent and comprehensive surveillance requirement is established. Example (vii) also relates in that the surveillance program, in the form presented in this proposal, is defined by a regulation to which the license is conforming to by the proposed amendment.

In addition, the proposed changes to the TS will not involve a significant hazards consideration because operation of Oyster Creek Nuclear Generating Station in accordance with these changes would:

(1) Not involve a significant increase in the probability or consequences of an accident previously evaluated. This amendment re-defines the leak rate testing program for primary containment. This program is designed to ensure that the primary containment is able to perform its design function. That function is to contain the energy and the radioactive release of the design basis loss of coolant accident. Therefore, this change cannot increase the probability or consequences of an accident previously evaluated.

(2) Not create the possibility of a new or different kind of accident from any previously analyzed. It has been determined that, because this amendment more clearly establishes the requirements and methods of testing the primary containment integrity and does not involve a change in the containment configuration, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Not involve a significant reduction in a margin of safety. This proposed amendment has increased the requirements, as established in Appendix J, in the TS that the primary containment must meet to be considered operable. Therefore, this change will not reduce the margin of safety.

This proposed amendment reflects the rquirements of Apendix J to 10 CFR Part 50 as described in ANSI/ANS Standard 56.8–1981. No changes proposed in this amendment are outside the scope of those two documents.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, DC.

By September 12, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance

with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be pemitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the procceding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW Washington, DC. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John A. Zwolinski, Director, BWR Project Directorate #1, Division of BWR Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and to Ernest L. Blake, Jr., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Local Public Document Room located at the Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Bethesda, Maryland, this 8th day of August 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing.

[FR Doc. 86–18238 Filed 8–12–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–03347, License No. 45–10831–02, EA 86–107]

Maryview Hospital; Confirmatory Order Modifying License

I

Maryview Hospital, 3636 High Street, Portsmouth, VA 23707 (the licensee) holds Byproduct Material License No. 45–10831–02, which authorizes the licensee to possess and use various radiopharmaceuticals and sealed sources for diagnosis and treatment of humans. The license was renewed on April 8, 1985 and will expire on April 30, 1990.

II

On April 9, 1986 a patient was scheduled to receive a therapy dose of phosphorus–32 as colloidal chromic phosphate. However, the patient was administered a therapy dose of phosphorus–32 as sodium phosphate. The difference in chemical form resulted in an unintended dose of several hundred rads to the patient's bone marrow. The licensee identified and reported the misadministration to the NRC on April 9, 1986, the day it occurred.

The circumstances surrounding the misadministration were reviewed during

a special safety inspection that was conducted by the NRC Region II staff on April 11, 1986. It was determined that the misadministration resulted from a failure of the licensee to require that written prescriptions be used for ordering therapy doses. In this case, a verbal order was misinterpreted after being relayed through a third party.

The NRC is concerned that the circumstances surrounding the misadministration reflect inadequate control over the safe use of licensed material. On April 10, 1986 Region II issued a Confirmation of Action Letter documenting commitments made by the licensee to establish and implement written procedures for ordering licensed material for therapy doses by written prescription as described in Appendix E of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs," to prevent such misadministrations in the future. These commitments also were discussed at an Enforcement Conference on May 2, 1986. Implementation of these corrective actions should provide greater assurance that future radiopharmaceutical therapies will be performed as prescribed. Because of the importance of these commitments to the safe and appropriate use of licensed material, I have determined that the public health, safety, and interest require that the licensee's commitments should be confirmed by an immediately effective Order.

III

In view of the foregoing and pursuant to sections 81, 161(b), and 161(o) of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Parts 30 and 35, it is hereby ordered, effective immediately, that:

1. The licensee shall implement procedures for ordering and receiving licensed material for therapy doses including the use of written requests as described in items 1 and 2 of Appendix E of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs."

2. The licensee shall ensure that individuals administering therapy doses verify each patient dose as described in item 6.b. of Appendix G of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs."

The Regional Administrator, NRC Region II, may relax or terminate any of the preceding conditions for good cause.

IV

The licensee or any other person adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be sent, within 20 days of the date of issuance of this Order, to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of any hearing request also shall be sent to the Assistant General Counsel for Enforcement at the same address. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or any person who has an interest adversely affected by this Order, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 7th day of August 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-18241 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133-OLA ASLBP No. 86-536-07 LA]

Pacific Gas and Electric Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Pacific Gas and Electric Company

Humboldt Bay Power Plant, Unit No. 3, Facility Operating License No. DPR-7

This Board is being established pursuant to a notice published by the Commission on July 3, 1986 in the **Federal Register** (51 FR 24458-59) entitled "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing." The proposed amendment is in response to Licensee's application and Environmental Report dated July 30, 1984, as revised through June 12, 1986, related to decommissioning the facility.

The Board is comprised of the following administrative judges:

Dr. Robert M. Lazo, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washingotn, DC 20555

Dr. Peter A. Morris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Bethesda, Maryland, this 7th day of August, 1986.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-18260 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

[Case No. 120-570]

Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: CHF Industries, Inc. (Cameo Curtains)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from CHF Industries, Inc., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. ERISA authorizes the PBGC to grant an exemption from this requirement after giving interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Commenters must submit comments on or before September 29, 1986.

ADDRESSES: Commenters should address all written comments to: Director, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. The exemption request and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–956–5050 (202–956–5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides that a bona fide arm's-length sale of assets to an unrelated party by an employer that contributes to a multiemployer pension plan will not result in a withdrawal if three conditions are met. These conditions, listed in section 4204(a)(A)(1)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years before the year of sale or the seller's required annual contribution for the plan year before the year of sale; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay its liability to the plan, the seller will be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of plans with the least practicable intrusion into normal business transactions. The granting of an exemption from the requirements of section 4204(a)(1) (B) or (C) is not a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC will approve an exemption request if it determines that approval of the exemption—

(1) Will more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Will not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed exemption.

The Request

The PBGC has received a request from CHF Industries, Inc. ("CHF"), to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. (The request antedates the amendments to 29 CFR Part 2643 that were published in the **Federal Register** on May 31, 1984 (49 FR 22635).) The applicant represents, among other things, as follows:

(1) Effective January 3, 1983, CHF purchased the assets of M&HR Corp. (formerly Cameo Curtains, Inc.) ("M&HR").

(2) In connection with the sale, CHF assumed M&HR's obligation to contribute to the ILGWU National Retirement Fund ("the Fund").

(3) The Fund has informed CHF that the amount of the bond or escrow required of CHF under section 4204(a)(1)(B) is $43,687. The estimated amount of the withdrawal liability that M&HR would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $345,000.

(4) CHF stated that the request for an exemption should be granted on a *de minimis* basis. Based on information provided to CHF by the Fund, the average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred were $144,505,961. Thus, the amount of the bond/escrow is about three-hundredths of one percent of the amount of employer contributions. The PBGC is considering granting this request on a *de minimis* basis.

(5) The applicant has sent a copy of this request (excluding copies of financial statements included with the request) to the Fund and the collective bargaining representatives of the former employees of M&HR by certified mail, return receipt requested.

Comments

The PBGC invites all interested persons to submit written comments on the pending exemption request to the above address by September 29, 1986. The PBGC will make all comments a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, DC, on this 7th day of August 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–16164 Filed 8–12–86; 8:45 am]

BILLING CODE 7708–01–M

POSTAL SERVICE

Proposed Changes in INTELPOST Service Rates and Fees

AGENCY: Postal Service.

ACTION: Notice with invitation for public comment.

SUMMARY: To reflect cost increases and changes in the methods of providing the service, the Postal Service proposes new INTELPOST Service rates and fees.

Present INTELPOST postage rates consist of a single uniform rate of $5.00 a page, regardless of the number of pages sent by the customer. This rate was established when INTELPOST service was a new experimental service provided by means of a distributed computer network interconnected by leased lines, for which only estimated mail volume statistics were available. The proposed rate is $10.00 for the first page of a document and $6.00 for the second and each additional page. The proposal reflects: (a) Increases in the level of costs associated with the provision of the service; (b) changes in the method of providing the service; (c) higher costs for the first page of each document; and, (d) the fact that the service, although still in an experimental stage, is no longer new to the market.

The proposal also would simplify the special handling and delivery fee

structure for INTELPOST service by including a new $5.00 special handling and delivery fee which does not vary from country to country. The present practice is to charge a different special handling and delivery fee based on the destinating countries' charge for such additional service.

DATE: Comments must be received on or before September 11, 1986.

ADDRESS: Written comments should be provided to the Director, Office of Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West SW., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTAL INFORMATION: INTELPOST Service is the fastest international postal service for documents, in which the exchange of mail between U.S. and foreign post offices is accomplished by means of electronic facsimile technology. A detailed description of the service is published in Notice 82A, the U.S. Postal Service's "INTELPOST Directory and User's Guide" (September 1985).[1]

In order to obtain the views of customers and other interested parties, the Postal Service has decided to invite public comments on the proposed changes in INTELPOST service rates and fees before initiating any changes in Notice 82A, referred to above. If the proposal is adopted, a notice of the adoption of the proposal will be published in the **Federal Register.**

Authority: 39 U.S.C. 401, 403, 404, 407, 410.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–18163 Filed 8–12–86; 8:45 am]

BILLING CODE 7710–12–M

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Final and Interim Notice of modifications to existing systems of records.

SUMMARY: The purposes of this notice are: (1) To expand the population of individuals covered by two Postal Service systems of records, USPS 050.020 and USPS 120.070. These changes are necessary due to the Civil Service Retirement Spouse Equity Act of 1984 (Pub. L. 98–615) which requires the Postal Service to maintain information on certain former spouses who may be eligible for health benefits coverage under the Federal Employees Health Benefits Program; (2) to publish notice of the deletion of two temporary routine uses (29 and 33) to system 050.020; and (3) to make revisions to the "Retention and Disposal" sections of systems: USPS 010.010, USPS 010.020, USPS 050.020, USPS 120.035, USPS 120.151, USPS 120.152 and USPS 140.020.

EFFECTIVE DATE: Part 1 of this notice is effective on an interim basis, on August 13, 1986, in order to correspond with the implementation provisions of Pub. L. 98–615. However, interested persons are invited to submit written data, views, or arguments concerning the changes in compliance with 5 U.S.C. 552a(e)(11). Comments must be received on or before September 12, 1986. Parts 2 and 3 are effective August 13, 1986.

ADDRESS: Comments on Part 1 may be mailed to the Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–5010 or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in Room 8121.

FOR FURTHER INFORMATION CONTACT: Rubenia Carter, Records Officer (202) 268–4872.

SUPPLEMENTARY INFORMATION:

PART 1—System Modification to Expand the Population Covered

Under the provisions of Pub. L. 98–615, certain former spouses of Federal/Postal Service employees and Civil Service Retirement annuitants may qualify for health benefits coverage under the Federal Employees Health Benefits Program. As a result, the Postal Service will maintain health benefits information pertaining to former spouses of current and former postal employees who qualify and apply for health benefits coverage. A complete statement of the existence and character of systems 050.020 and 120.070 last appeared in 50 FR 28863 dated July 16, 1985, and 40 FR 10980 dated March 15, 1983, respectively. Therefore, systems 050.020 and 120.070 must be modified as follows to describe the expansion of the population of individuals covered by those systems that will be necessary to administer this activity:

USPS 050.020, Finance Records—Payroll System

Categories of Individuals Covered by the System

Change to read: "Current and former USPS employees; postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits coverage under Pub. L. 98–615."

USPS 120.070, Personnel Records—General Personnel Folder (Official Personnel Folders and records related thereto)

Categories of Individuals Covered by the System

Change to read: "Present and former USPS employees; and certain former spouses of current and former postal employees who qualify and apply for Federal Employees Health Benefits coverage under Pub. L. 98–615."

PART 2—Deletion of two temporary Routine Uses

Temporary Routine Uses No. 30 and No. 34 to system 050.020 were published in 49 FR 37488 and 50 FR 6067 dated September 24, 1984, and February 13, 1985, respectively, to be in effect for a period of one year from dates of publication. These routine uses were subsequently renumbered 29 and 33. See 50 FR 28862. While in effect, Routine Use 29 allowed for the disclosure to the DC Department of Human Resources (DC–DHS) of information about particular postal employees to identify welfare recipients who are employed by the Postal Service in the District of Columbia, and in the States of Maryland and Virginia and who have not reported their earnings from postal employment to the DC–DHS. Routine Use 33 allowed on a one-time basis, the disclosure to the Office of the Philadelphia, Pennsylvania School District (PSD) and the City of Philadelphia (CP), of information to be used to identify postal employees who may have fraudulently received compensation benefits from either the Postal Service, the PSD or the CP.

The effective period of one year elapsed for Routine Use 29 on September 24, 1985, and for Routine Use 33 on February 13, 1986. Routine uses 29 and 33 are being deleted, and existing routine uses 30, 31 and 32 are renumbered 29, 30 and 31, respectively.

PART 3—Minor Modification to Existing Systems

The Postal Service published final notices that, among other things, changed the "Retention and Disposal"

[1] This document may be obtained by writing or calling the Office of Marketing, Market Development Division, U.S.P.S. Headquarters, 475 L'Enfant Plaza West SW., Washington, DC 20260–6331, telephone (202) 268–2275.

sections of several of its systems of records, e.g., **Federal Register** notice dated July 16, 1985, (50 FR 28863) affected system USPS 050.020, and notice dated November 15, 1985, (50 FR 47311) affected USPS systems 010.010, 010.020, 120.035, 120.151, 120.152, and 140.020. The notices changed the "Retention and Disposal" sections of these systems to read: "See USPS records control schedules." However, reconsideration has been given to this matter and it has been determined that Postal Service systems should contain the specific retention and disposal information as part of the systems descriptions for ease of reference purposes. Therefore, the term "See USPS records control schedules" is being deleted from the above-mentioned systems and replaced with specific retention and disposal information as indicated below. Accordingly, this constitutes final notice of changes to the "Retention and Disposal" sections of those systems.

USPS 010.010, Collection and Delivery Records—Address Change and Mail Forwarding Records

Retention and Disposal

Change to read "a. Source document retained for 18 months from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 18 months from effective date. At the end of the period, the tapes are erased."

USPS 010.020, Collection and Delivery Records—Boxholder Records

Retention and Disposal

Change to read "a. Boxholder Applications—Destroy 2 years after termination of the rental.

b. Post Office Box Renter Register for Caller Service Fees—Destroy 2 years from date of last entry on card. If automated, delete this customer's record upon termination of the box rental or caller service.

c. Post Office Box and Caller Service Records: (1) Closed Files and Index Cards—Destroy 6 months from date of closing. (2) Closed Appeal Files—Destroy when 1-year old."

USPS 050.020, Finance Records—Payroll System

Retention and Disposal

Change to read "a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (other than payroll) and local payroll records—Destroy when 3-years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

USPS 120.035, Personnel Records—Employee Accident Records and Exposure Records

Retention and Disposal

Change to read "Records are maintained locally for 2 years. Copies are maintained at National Headquarters for 5 years following the end of the calendar year to which they relate as required by OSHA."

USPS 120.151, Personnel Records—Recruiting, Examining and Appointment Records

Retention and Disposal

Change to read "a. Applications for Employment—Dispose of upon expiration of eligibility, unless extended for an additional year at the request of the eligible.

b. Applications for Master Instructor Positions—Destroy 3 years after date of selection.

c. Employment Registers: (i) Notice of Rating Card—Forward to applicant. (ii) Record and Register Cards—Destroy when 10-years old.

d. Outside Applicant Files: (i) Successful Applicant Files—Move PS 50B or PS 52, as appropriate, to the OPF. Dispose of all other forms and papers when 6-months old. (ii) Unsuccessful Applicant File—Dispose of when 1 year old."

USPS 120.152, Personnel Records—Career Development, Training, and Training Evaluation Records

Retention and Disposal

Change to read "a. Management Training Program Records: (1) Trainee's Individual Files—Destroy 5 years from the date trainee leaves the program. (2) Trainee Travel Records—Destroy 1 year from date trainee leaves program. (3) Travel files of postal manager in connection with program—dispose of when 1-year old.

b. Nomination for Executive Leadership Files—Destroy 1 year from date of selection.

c. Employee Training Files—Destroy 5 years from date of training.

d. Case Examination Records—Destroy 1 year from date of separation of employee.

Certain records of examinations are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records."

USPS 140.020, Postage—Postage Meter Records

Retention and Disposal

Change to read "Records are maintained for 1 year after final entry or the duration of the license and then destroyed by shredding."

A complete statement of these systems as revised appears below.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers requesting mail forwarding services from their local postal facilities and any postal customers who are victims of a disaster who have requested mail forwarding services through the Red Cross.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) To provide mail forwarding and address correction services to postal customers who have changed address; and (2) To provide address information to the Red Cross about a postal customer who has been relocated because of a disaster.

Use—

1. Disclosure of the address of any named individual may be made from a permanent address change record to the public, upon request.

Note.—Temporary changes of address will not be furnished except by the postmaster upon a showing of a compelling emergency situation, or to a Federal, State, or local government agency showing proper identification and providing proper certification that the information is required in the course of a criminal investigation.

2. Disclosure may be made to a congressional office from the record or

an individual in response to an inquiry from the congressional office made at the request of the individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

RETRIEVABILITY:

This system of records is indexed by names and address. Information may be retrieved by route number of ZIP Code where a computerized system is in use.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Source document retained for 18 months from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 18 months from effective date. At the end of that period, the tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department, Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholder Records, 010.020.

SYSTEM LOCATION:

Post Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who have applied for or expressed an interest in post office box or caller services, whether for private or public use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are in printed or card form and contain name, addresses, telephone number, record of payment, post office box service preference and the names of persons or agents whether family members, business associates, or employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosure of the name, address, and telephone number may be made from the post office box application form, to the public, upon request, when the box is being used for the purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

9. Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETRIEVABILITY:

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

SAFEGUARDS:

Access limited to employees working in the boxholder section.

RETENTION AND DISPOSAL:

a. Boxholder Applications—Destroy 2 years after termination of the rental.

b. Post Office Box Renter Register for Caller Service Fees—Destroy 2 years from date of last entry on card. If automated, delete this customer's record upon termination of the box rental or caller service.

c. Post Office Box and Caller Service Records:

1. Closed Files and Index Cards—Destroy 6 months from date of closing.

2. Closed Appeal Files—Destroy when 1 year old.

SYSTEM MANAGER(S) ADDRESS:

APMG, Delivery Service Department.

APMG, Department of the Controller, Headquarters.

APMG, Rates & Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits coverage under Pub. L. 98-615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003.5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of the managerial duties.

2. To provide information to USPS management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.

3. To compile various lists and mailing list, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W-2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state, and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W-2 form.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees, Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Ages Survivors and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or

other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a date source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies, may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individual for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93-647.

26. Disclosure of informaton about particular postal employees may be made to requesting states in connection with approval computer matching programs, limited to only those data elements considered relevant to making a determination of eligibility under unemployment insurance programs administered by the states (and by those states to local governments); to improve program integrity; and to collect debts and overpayments owed to those governments and their components.

27. To union-sponsored insurance carriers for the purposes of determining eligibility for coverage and payments of benefits under union-sponsored non-Federal insurance plans and transferring related records as appropriate.

28. Disclosure of information about particular current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owned under those programs.

29. (Temp.) To provide the Department of Housing and Urban Development the names, social security account numbers and home addresses of postal employees for the purpose of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Housing and Urban Development and for taking subsequent actions to collect those debts.

Note.—This routine use will be in effect for a period of five years ending September 24, 1989.

30. To provide to the Department of Defense (DOD) upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purposes of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

31. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status informaton to the Postal Service and the Congress.

POLICE AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (Other than payroll) and local payroll records—Destroy when 3 years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Department of the Controller and APMG, Employee Relations Departments at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 120.035

SYSTEM NAME:

Personnel Records-Employee Accident Records, and Exposure Records, 120.035

SYSTEM LOCATION:

Safety offices in any USPS facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees that experience an on-the-job accident and/or an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational accident injury and illness logs, forms, reports, and summaries. Name, address, sex, age, and type of accident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91–596, Executive Order 12196, and 29 CFR Part 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

To assist postal managers in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. To provide for the uniform collection and compilation of occupational safety and health data, for proper evaluation and necessary corrective action.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

4. Disclosure may be made to a court, claimant, party in litigation—or counsel for a claimant or party when necessary to facilitate settlement or attempts at settlement of claims involving the accident.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

10. May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on index cards, magnetic tape, microfilm, preprinted forms, logs, and computer reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Maintained in closed file cabinets within secured facilities, and are also protected by computer password and tape or disk library physical security.

RETENTION AND DISPOSAL:

Records are maintained locally for 2 years. Copies are maintained at National Headquarters for 5 years following the end of the calendar year to which they relate as required by OSHA.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees about submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

USPS Accident Reports and OWCP claim forms.

USPS 120.070

SYSTEM NAME:

Personnel Records—General Personnel Folder (Official Personnel folders and records related thereto), 120.070.

SYSTEM LOCATION:

Personnel Offices of all USPS facilities; St. Louis Personnel Records Centers, E&LR Information Centers and National Test Administration Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former USPS employees, and certain former spouses of current and former postal employees who apply

for Federal Employee Health Benefits coverage under Pub. L. 98–615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, resumes, merit evaluations, promotion/salary change and other personnel actions, letters of commendation, records of disciplinary actions, letters of commendation, records of disciplinary action, health benefit and life insurance elections and other documents pertaining to preemployment, prior Federal employment and current service as prescribed by USPS directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 1005 42 U.S.C. 2000e–16. Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by administrators in Personnel Office and by individual employee supervisors to perform routine personnel functions.

Use—

1. To provide information to a prospective employer of a USPS employee or former USPS employee.

2. To provide statistical reports to Congress, agencies, and the public on characteristics of the USPS work force.

3. To provide information or disclose to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary.

4. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

6. To provide data for the compilation of a local seniority list that is used by management to make decisions pertaining to appointment and assignments among craft personnel. The list is posted in local facilities where it may be reviewed by USPS employees.

7. Transfer to the OPM upon retirement of an employee for processing retirement benefits.

8. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

10. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

11. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding, to which the Postal Service is party before a court or administrative body.

12. Disclosure of relevant and necessary information pertaining to an employee's participation in health, life insurance and retirement programs may be made to the Office of Personnel Management and private carriers for the provision of related benefits to the participant (also see USPS 050.020).

13. Disclosure of minority designation codes may be made to the Equal Employment Opportunity Commission for the oversight and enforcement of Federal EEO regulations.

14. Disclosure of records of discipline relating to individual employees may be made to State Employment Security Agencies at the initial determination level of the unemployment compensation claim process.

15. Disclosure may be made to the Merit Systems Protection Board from the record of an individual to the extent that the information is relevant and necessary to a decision on appeal over which the Board has jurisdiction.

16. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the request record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

17. Inactive folders are transferred to the GSA National Personnel Records Center for storage.

18. Information pertaining to an employee who is a retired military officer will be furnished to the appropriate service finance center as required under the provisions of the Dual Compensation Act.

19. May be disclosed to a Federal or State agency, providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

20. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, preprinted forms, Official Personnel Folders, magnetic tape and other computer storage devices.

RETRIEVABILITY:

Employee name and location of employment and social security number.

SAFEGUARDS:

Folders are maintained in locked cabinets to which only authorized personnel have access and are also protected by computer passwords and tape or disc library physical security.

RETENTION AND DISPOSAL:

Change to read "a. Official Personnel Folder (OPF) Records—These records are considered to be permanent and are maintained until employee is separated, and then are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment.

b. Personnel Work Sheets—Destroy 30 days after a new PS 50 is issued.

c. Temporary Records of Individual Employees—Destroy when 2 years old, upon separation, or upon transfer of employee, whichever is sooner.

d. Service Record Cards—Destroy 3 years after separation or transfer of employee."

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to gain access to their Official Personnel Folders should submit requests to the facility head where employed. Headquarters employees should submit requests to the System Manager. Former Postal Service employees should submit request to any

Postal Service facility head giving name, date of birth and social security number. Former Post Office Department employees having no Postal Service employment (prior to July 1971) should submit the request to the Office of Personnel Management (formerly the U.S. Civil Service Commission).

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual employee, personal references, former employers and USPS 050.020 (Finance Records—Payroll System).

USPS 120.151

SYSTEM NAME:

Personnel Records—Recruiting, Examining and Appointment Records, 120.151.

SYSTEM LOCATION:

U.S. Postal Service personnel offices and/or other offices within Postal Service facilities authorized to engage in recruiting or examining activities or make appointments to positions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and professional resumes, personal applications, test scores, medical assessment, academic transcripts, letters of recommendation, employment certifications, medical records, and registers of eligibles. Restricted medical records are accumulated and temporarily maintained by personnel offices prior to transmittal to medical facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401,1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers, personnel officials and medical officers information in recruiting and recommending appointment of qualified persons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violating or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring of retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Job applicant name and/or social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinents under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

a. Applications for Employment—Dispose of upon expiration of eligibility, unless extended for an additional year at the request of the eligible. b. Applications for Master Instructor Positions—Destroy 3 years after date of selection. c. Employment Registers:

(i) Notice of Rating Card—Forward to applicant.

(ii) Record and Register Cards—Destroy when 10 years old. d. Outside Applicant Files:

(i) Successful Applicant Files—Move PS 50B or PS 52 as appropriate, to the OPF. Dispose of all other forms and papers when 6 months old.

(ii) Unsuccessful Applicant File—Dispose of when 1 year old.

SYSTEM MANAGER(S) AND ADDRESS:

APMG Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information is contained on them in this system of records should address inquiries to the head of the facility to which job applications was made. Inquiries should contain full name, social security number, and if applicable, approximate date of application submitted and residence.

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual, school officials, former employers, supervisors, named references, Veterans Administration and State Division of Vocational Rehabilitation Counselors.

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SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development, Training, and Training Evaluation Records, 120.152

SYSTEM LOCATION:

Postal Education and Development Centers [PEDCs] and other facilities within the Postal Service where career development training, and curriculum evaluation activities are authorized.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Career development records, applications for and record of postal and non-postal training, and records containing student and manager evaluations of training received. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge, career goals, education, and work histories or summaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide managers, supervisors, and training and development professionals with decision-making information for employee career development, training, and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613 and the contents of the requested record are needed by the investigator in the performance of his duty—to investigating a discrimination issues involved in the complaint.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVABILITY, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

a. Management Training Program Records: (1) Trainee's Individual Files—Destroy 5 years from the date trainee leaves the program. (2) Trainee Travel Records—Destroy 1 year from date trainee leaves program. (3) Travel files of postal manager in connection with program—dispose of when 1 year old.

b. Nomination for Executive Leadership Files—Destroy 1 year from date of selection.

c. Employee Training Files—Destroy 5 years from date of training.

d. Case Examinaton Records—Destroy 1 year from date of separation of employee.

Certain records of examinations are maintained as part of USPA 120.120, Personnel Records—Personnel Research and Test Validation Records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee relations Department, APMG, Real Estate and Buildings Department, and APMG Customer Services Department Headquarters

NOTIFICATION PROCEDURE:

Current and former filed employees wishing to know whether information is contained on them in this system of records should address inquires to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURES above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURES above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject, subject's employment records and his/her supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 140.020

SYSTEM NAME:

Postage—Postage Meter Records. 140.020.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postage meter users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer name and address, license application, and transaction documents.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable responsible administration of postage meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. To disclose identity and address of meter user and identity of agent or user to any member of public upon request.

3. Pursuant to the National Labor Relations Act records form this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of and individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms.

RETRIEVABILITY:

Records are indexed by customer name and by numeric file of postage meters.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilites.

RETENTION AND DISPOSAL:

Records are maintained for 1 year after final entry or the duration of the license and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

RECORD ACCESS PROCEDURE:

See "NOTIFICATION"above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and officials making entries to reflect activities.

[FR Doc. 86-18211 Filed 8-12-86; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23511; File No. SR-CBOE-86-27]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to American-Style Foreign Currency Option Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1986 the Chicago Board Options Exchange, Incorporated filed with the Securities and Echange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed changes to the Exchange's foreign currency option trading rules in Chapter 22 will enable the Exchange to list for trading American-style foreign currency option contracts in addition to the European-style foreign currency option contracts listed now in the British pound, Canadian dollar, French franc, Japanese yen, Swiss franc and West German mark. The American-style contracts will be one half the size of the European-style contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to enable the Exchange to list for trading American-style foreign currency option contracts that are one half the size of the Exchange's European-style contracts. The Commission has approved the concept of the multiple listing of nonequity options in its Release Number 34-18297 dated December 2, 1981. The earliest that the Exchange would list these contracts is September 15, 1986.

The differences in the two styles of contracts will be emphasized in the Exchange's educational efforts that will begin in August in order to minimize customer confusion. In addition to explanations in the Exchange's currency option newsletter, specification cards will be sent out and personal visits will be made to firms to clarify the differences for both clerks and brokers. Because the market is a professional one with a relatively small number of investors, the differences should be understood before trading begins on the Exchange in the American-style contracts.

The Exchange's proposed position and exercise limits are the same two types of limits customers have now. The only change in currency options margin requirements provides that American contracts can be spread off or straddled with European contracts on the Exchange or on other exchanges. In addition, CBOE American currency option contracts can be spread off or straddled with similar contracts on other exchanges, just as other dually listed option contracts are margined as offsets. This appraoch is consistent with the Options Clearing Corporation's margin methodology which groups all options having the same underlying security.

The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that the proposed change is designed to facilitate transactions in foreign currency option contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose a burden on competition, since it is designed to enhance competition by means of the multiple listing of nonequity option contracts, a concept already approved by th Commission.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commisson's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18232 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23510; File No. SR-CBOE-86-26]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Index Option Escrow Receipt Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The index option escrow receipt pilot program, set forth in Exchange Rule 24.11(d), is extended through February 20, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose and statutory basis for the proposed rule change were set forth in SR-CBOE-84-28. *See also* SEC Release 34-22323, 50 FR 33439 (Aug. 19, 1985), in which the Commission approved the one year pilot program. Due to the delays in the start-up of the program in 1985, the program has thus far only really been effective for nine months. Extension of the pilot program for an additional six months will enable market participants to use the program for a sufficient period of time to provide more data for the Exchange to assess the efficacy of the program, and to include such additional information in the report to the Commission on the pilot program. See SEC Release 34-22323 at note 19.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such finding will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18233 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23508; File No. SR-NASD-86-16]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc.

The National Association of Securities Dealers, Inc. ("NASD") submitted on June 24, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Schedule D of the NASD's By-Laws. The proposal modifies the NASD's existing terminal equipment and query charges and creates a new charge applicable to terminal equipment supplied by a subscriber in substitution for NASDAQ equipment.

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23370, June 26, 1986) and by publication in the **Federal Register** (51 FR 24279, July 2, 1986). No comments were received with respect to the proposed rule change. The NASD submitted on July 17, 1986 a letter[1] describing the nature of systems operation functions and costs and the basis for determination of general and administrative expenses, in order to provide a more complete explanation of these cost elements.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder. The Commission also finds that the NASD's letter dated July 17, 1986 provides a reasonable basis for determination of system operations and general and administrative costs, and is consistent with section 15A(b)(5) of the Act which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates and controls.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 5, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18234 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23512; File No. SR-PSE-86-16]

Self-Regulatory Organizations; Proposed Rule Change by The Pacific Stock Exchange Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission on the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its rule filing, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes that with respect to near term options which are just at, just in, and just out-of-the-money, that trading crowds will provide "ten-up" markets in response to non-broker dealer, public order flow. The rule change provides that Order Book Officials will ensure, through an allotment procedure, that when Market Makers are making the best bid and/or offer, that orders will be filled to a minimum depth of ten contracts by the Market Makers in the trading crowd. The provision does not require however, that crowds should be held to a depth of ten contracts when the best bid and/or offer is not that of a Market Maker in the trading crowd.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to increase the liquidity in the more popular option series for the benefit of public participation. Specifically, the PSE has singled out the near term options with strike prices nearest the current price of the underlying security for this provision. Historically, these series attract the most attention and the PSE's proposal is designed to ensure adequate liquidity for the order size most associated with such public interest.

A guarantee of ten contract liquidity is geared to eliminating partially-filled retail orders which tend to boost commission costs for retail customers. By ensuring ten contract liquidity, most public orders should be filled in their entirety. This should reduce the overall transaction costs for public customers of the Exchange. The PSE may in the future expand such liquidity requirements to additional options series.

The PSE believes that this requirement is specifically in keeping with section 6 of the Act because it will facilitate transactions in securities and protect investors and the public interest. The whole thrust of the PSE's proposal is to facilitate the completion of customer orders.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and

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[1] Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, July 17, 1986. File No. SR-NASD-86-16.

in particular, the requirements of section 6 and the rules and regulations thereunder.

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18235 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15236; File No. 811-3259]

Centennial Government Trust; Application For an Order Declaring That Applicant Has Ceased to be an Investment Company

August 6, 1986.

Notice is hereby given that Centennial Government Trust ("Applicant"), 3410 South Galena Street, Denver, Colorado 80231, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on September 9, 1981. It also filed a registration statement pursuant to the Securities Act of 1933 in order to make a public offering of common stock, and this registration statement became effective on December 1, 1981. Applicant also states that it was organized as a business trust under the laws of the Commonwealth of Massachusetts. According to the application, on July 3, 1985, the Board of Trustees of Applicant, including a majority of its dependent Trustees, adopted and recommended to the shareholders an Agreement and Plan of Reorganization ("Plan"), which was subsequently approved on September 26, 1985, and the transaction closed on September 27, 1985. The Plan provided for a reorganization under which all of the assets of Applicant were exchanged for shares of Daily Cash Government Fund, open-end investment company, having equal value on the closing date. Applicant states that it does not currently have any shareholders; it does not have any assets or liabilities; it is not a party to any litigation or administrative proceeding and it does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that on March 5, 1986, it filed to effect its dissolution with the proper Massachusetts authorities.

Notice is further given that any interested person wishing to request a hearing on a application may, not later than August 29, 1986, at 5:30 p.m., do so by submitting a writtren request setting forth the nature of his interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon the Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18236 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15237; File No. 811-3209]

Centennial Tax Exempt Trust; Notice of Application for an Order Declaring That Applicant Has Ceased to be an Investment Company

August 6, 1986.

Notice is hereby given that Centennial Tax Exempt Trust ("Applicant"), 3410 South Galena Street, Denver, Colorado 80231, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on June 24, 1981. It also filed a registration statement pursuant to the Securities Act of 1933 in order to make a public offering of common stock, and this registration statement became effective on October 28, 1981. Applicant also states that it was organized as a business trust under the laws of the Commonwealth of Massachusetts. According to the application, on July 3, 1985, the Board of Trustees of Applicant, including a majority of its independent Trustees, adopted and recommended to the shareholders an Agreement and Plan of Reorganization ("Plan"), which was subsequently approved on September 26, 1985, and the transaction closed on September 27, 1985. The Plan provided for a reorganization under which all of the assets of Applicant were exchanged for shares of Daily Cash Tax Exempt Fund Inc., a registered, open-end investment company, having equal value on the closing date. Applicant states that it does not currently have any

shareholders; it does not have any assets or liabilities; it is not a party to any litigation or administrative proceeding and it does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that on March 5, 1986, it filed to effect its dissolution with the proper Massachusetts authorities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 29, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon the Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18237 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0373]

Application for License To Operate as a Small Business Investment Company; New West Partners II

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR § 107.102 (1986)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et. seq.), and the Rules and Regulations promulgated thereunder.

Applicant: New West Partners II

Address: 4350 Executive Drive, Suite 206, San Diego, California 92121

The proposed manager, corporate general partner and general partners of the Applicant are as follows:

Name	Position	Percent ownership
Timothy P. Haidinger, 4350 Executive Dr., San Diego, CA 92121.	Manager	0
New West Ventures II, 4350 Executive Dr., San Diego, CA 92121.	Corporate General Partner.	5.1
Don Oliphant, 4350 Executive Dr., San Diego, CA 92121.	General Partner	0
Ron McMahon, 4350 Executive Dr., San Diego, CA 92121.	General Partner	0

There is no owner of a ten (10) percent or more interest in the Applicant.

The applicant, a California limited partnership, will begin operations with $1,000,000 of private capital and conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the San Diego, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 4, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-18215 Filed 8-12-86; 8:45 am]

BILLING CODE 8025-01-M

Application for a License To Operate as a Small Business Investment Company; Onondaga Venture Capital Fund, Inc.

[License Application No. 02/02-0498]

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), has been filed by Onondaga Venture Capital Fund, Inc. (applicant), 327 State Tower Bldg., Syracuse, New York 13202, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1986).

The officers and directors of the Applicant, and their percentages of shareholdings are a follows:

Name and address	Title	Percent of ownership
Chris J. Witting, 518 Bradford Pkwy., Syracuse, NY 13224.	Chairman of the Board, Director.	1.41844
Alfred M. Lichtman, Apt. G-304, 7770 Lakeside Blvd., Boca Raton, FL 33434.	President, Director.	1.41844
Edward S. Green 5043 E. Lake Road, Cazenovia, NY 13035.	Treasurer, Director.	1.41844
John F. X. Mannion 7664 Hunt Lane, Fayetteville, NY 13066.	Secretary, Director.	1.41844
Robert F. Baldwin, 5109 Hoag Lane, Fayetteville, NY 13066.	Asst. Secretary	-0-
Irving W. Schwartz, 6 E. Shore Path, Cazenovia, NY 13035.	Executive Vice President.	0.70922
James F. Abbatiello, 108 Grenfell Road, DeWitt, NY 13214.	Director	1.41844
Irving J. Bronstein, 819 Kimry Moor, Fayetteville, NY 13061.	Director	1.41844
David H. Northrup, 1252 James Street, Syracuse, NY 13203.	Director	1.41844
Henry A. Panasci, Jr., 3000 Howlett Hill Road, Camillus, NY 13031.	Director	[illegible]
Richard C. Pietrafesa, 104 Wendell Terrace, Syracuse, NY 13203.	Director	1.41844

Approximately sixty additional shareholders, none of whom will own as much as 10 percent, will own balance of the Applicant's issued and outstanding stock.

The Applicant, a New York corporation, will begin operations with a capitalization of $2,450,000 and will conduct its operations principally in the State of New York.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Syracuse, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 5, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-18216 Filed 8-12-86; 8:45 am]

BILLING CODE 8225-01-M

[Declaration of Disaster Loan Area #2245]

Declaration of Disaster Loan Area; New York

Chautauqua County and the adjacent Counties of Cattaraugus and Erie in the State of New York constitute a disaster area because of flooding which occurred during the period July 18-20, 1986. Applications for loans for physical damage may be filed until the close of business on October 6, 1986, and for economic injury until the close of business on May 6, 1987, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410. or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

The interest rates are:

	(percent)
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Businesses (edl) Without Credit Available Elsewhere	4.000
Other (non-profit Organizations Including Charitable and Religious Organizations)	10.500

The number assigned to this disaster is 224506 for physical damage and for economic injury the number is 642400.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: August 6, 1986.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86-18214 Filed 8-12-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Torso Restraint Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO-C114 prescribes the minimum performance standards that aircraft torso restraint systems must meet to be identified with the marking "TSO-C114."

DATE: Comments must identify the TSO file number and be received on or before November 28, 1986.

ADDRESS: Send all comments on the proposed technical standard order to: Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO-C114, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Or Deliver Comments To: Federal Aviation Administration, Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 426-8395.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

Proposed TSO-C114 is a new TSO to cover torso restraint systems consisting of pelvic restraints and upper torso restraints intended for use in rotorcraft and normal, utility, and acrobatic category airplanes. A pelvic restraint (safety belt) is that portion of a torso restraint system intended to restrain movement of the pelvis. An upper torso restraint (shoulder harness) is that portion of a torso restraint system intended to restrain movement of the chest and shoulders. In the new TSO, the rated strength of pelvic restraints has been set at 13.3 kN (3,000 lbs.), and the rated strength of upper torso restraints has been established and set at 11.1 kN (2,500 lbs.). Only synthetic materials are allowed for webbing, and the webbing width may not be less than 45.7 mm (1.8 inches) where it contacts an occupant. A single buckle for release has been proposed, and the proposed TSO requires fatigue testing of buckle latches, automatic locking retractors, and emergency locking retractors.

TSO-C22f will continue to cover safety belts (lap belts or seat belts for pelvic restraint only) intended for use in rotorcraft and airplanes not required to have shoulder harnesses. While the standards in TSO-C22f may be changed, those standards continue to apply to other safety belts, especially those manufactured for transport airplanes, even if all future rotorcraft and small, fixed-wing aircraft have torso restraint systems only. The rated strength of TSO-C22f safety belts remains at 6.65 kN (1,500 lbs.). The nominal width of TSO-C22f safety belt webbing is still 50 mm (2.0 inches); however, a minimum width of 47.4 mm (1.875 inches) has been acceptable under TSO-C22f.

How To Obtain Copies

A copy of the proposed TSO-C114 may be obtained by contacting the person under "For Further Information Contact." TSO-C114 references SAE AS 8043, dated March 1986, for the minimum performance standards. SAE AS 8043 may be purchased from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

Issued in Washington, DC, August 4, 1986.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division Office of Airworthiness.

[FR Doc. 86-18153 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Reserve System	1
Nuclear Regulatory Commission	2

1

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 12:00 Noon, Monday, August 18, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Building proposals and budget regarding the Charlotte Branch of the Federal Reserve Bank of Richmond.
2. Proposed acquisition of real property by a Federal Reserve Bank.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18242 Filed 8-8-86; 4:39 pm]

BILLING CODE 6210-01-M

2

NUCLEAR REGULATORY COMMISSION.

DATE: Weeks of August 11, 18, 25, and September 1, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 11

Thursday, August 14

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 18—Tentative

No Commission Meetings

Week of August 25—Tentative

Thursday, August 28.

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of September 1—Tentative

Wednesday, September 3.

2:00 p.m.
Briefing on IAEA Chermobyl Meeting (Open/Closed to be Determined)

Thursday, September 4.

2:00 p.m.
Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Comanche Peak Construction Permit Extension (*Postponed* from August 6)

Friday, September 5.

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Perry-1 (Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "Policy Statement on Radioactive Waste Below Regulatory Concern" (Public Meeting) was held on August 6.

TO VERIFY STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Andrew L. Bates,

Office of the Secretary.

August 7, 1986.

[FR Doc. 86-18261 Filed 8-8-86; 5:02 pm]

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VOL
51
ISS
1
5
6
AG
13
1986
UMI

federal register

Wednesday
August 13, 1986

Part II

Department of Commerce

International Trade Administration

19 CFR Part 353
Antidumping Duties; Proposed Rule

VOL 51 ISS 156 AG 13 1986 UMI

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

[Docket No. 60604-6104]

Antidumping Duties

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Proposed rule and request for comments.

SUMMARY: The International Trade Administration proposes to revise its regulations to implement the provisions in Title VI of the Trade and Tariff Act of 1984 concerning antidumping duties and modify in other respects provisions in the current version of Part 353. The modifications are intended to improve administration of the antidumping duty provisions of the Tariff Act of 1930.

DATE: Written comments must be received not later than October 14, 1986.

ADDRESS: Address wriltten comments (10 copies) to Gilbert B. Kaplan, Deputy Assistant Secretary for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Deputy Chief Counsel for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230. (202) 377-1411.

SUPPLEMENTARY INFORMATION:

Classification: Executive Order 12291. The International Trade Administration ("ITA") has determined that this proposed revision of the current antidumping duty regulations in 19 Code of Federal Regulations ("CFR") Part 353 is not a major rule as defined in section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981) because it will not: (1) have a major monetary effect on the economy; (2) result in a major increase in costs or prices; or (3) have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

Paperwork Reduction Act. The information collection requirement contained in 19 CFR Part 353 has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and has been assigned OMB control number 0625-0105.

Regulatory Flexibility Act. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small business entities because, to the extent it changes existing practices, the proposed rule simply improves the administration of the antidumping duty provisions of the Tariff Act of 1930, as amended. As a result, an initial Regulatory Flexibility Analysis was not prepared.

Background: The current antidumping duty regulations in subparts A, B, C, and D of 19 CFR Part 353 (45 FR 8182; February 6, 1980, as amended by 49 FR 22466, May 30, 1984) are based on Subtitles B, C, and D of Title I of the Trade Agreements Act of 1979 ("Trade Agreements Act"), which amended Title VII of the Tariff Act of 1930 (19 U.S.C. Subtitle IV, Parts II and IV) ("Tariff Act"). Title VI of the Trade and Tariff Act of 1984 (Pub. L. 98-573; October 30, 1984) ("1984 Act") amended those provisions, effective on the dates specified in the interim-final rule adding a new subpart D to 19 CFR Part 353 (50 FR 5746, February 12, 1985).

Some of the proposed changes to the current antidumping duty regulations are necessary to implement the amendments made by the 1984 Act. Other proposed changes (1) incorporate existing administrative interpretations and practices, not currently stated in the regulations, that will continue under the amended statute; (2) improve administrative efficiency in antidumping duty proceedings; or (3) simplify the language of existing regulations. The proposed text of Part 353 would replace the entire current text of Part 353.

Grammatical changes throughout the text of the proposed regulations are the use of the word "Secretary" in place of "administering authority," use of the active rather than passive voice, and simplification of sentence structure. When possible, cross references to other sections of this part replace references to the Tariff Act.

The provisions of subparts A, B, and C of this proposed rule are identical or very similar in most respects to the provisions of subparts A, B, and C of the proposed rule on countervailing duties (19 CFR Part 355), which was published in the **Federal Register** on June 10, 1985 (50 FR 24207). The Department is evaluating the public comments received on that proposed rule. Publication of subparts A, B, and C of the proposed rule on antidumping duties does not imply that the Department has rejected the earlier comments or that the Department will publish its final rule on countervailing duties without changing its proposed rule. To the extent that any member of the public desires to submit the same comment or comments on this proposed rule as submitted in response to the proposed rule on countervailing duties, the commenter should merely incorporate the earlier comment or comments by reference.

Other changes in the regulations incorporated in this proposed rule are described in the following section-by-section analysis.

1. *Section 353.1.* This section corresponds to section 353.0 of the current regulation. The paragraph on environmental impact statements is deleted. Reference to Title VI of the 1984 Act is added.

2. *Section 353.2* This section corresponds to §§ 353.11 and 353.12 of the current regulation.

Paragraphs (a), (b), (c), (d), (e), and (p) revise only for clarity the corresponding definitions of the current regulation.

The definition of "determination" in section 353.11 of the current regulation is deleted because it is not needed.

Paragraph (f), which defines "dumping margin" for the first time in the regulations, reflects current practice.

Paragraph (g) is a new definition of "factual information," a term used throughout the proposed rule, especially in § 353.31. Factual information and argument (written and oral) describe the submissions which may be made to the Department during a proceeding.

Paragraph (h), which defines "home market country" for the first time in the regulations, reflects current practice.

Paragraph (i), a new definition of "importer," reflects current practice.

The current definition of "industry" is clarified in paragraph (j) of the proposed rule to highlights those aspects of the statutory definition (section 771(4) of the Tariff Act) regarding whether the petitioner has filed "on behalf of" an industry, as required by section 732(b)(1) of the Tariff Act. The modification does not change current practice. The Department would consult with the International Trade Commission on the decision concerning the "like product."

Paragraph (k)(6) of the proposed rule is added to the definition of "interested party" to include coalitions of firms, unions, or trade associations that have individual standing, as defined in paragraph (k) (3), (4), or (5). The change conforms the definition to section 771(9) of the Tariff Act, as amended by section 612(a) of the 1984 Act. The word "seller" replaces "wholesaler" in paragraph (k)(3) to clarify that the provision includes all sellers (except retail sellers) rather than only sellers at the wholesale level of trade. This change is consistent

with current practice. Otherwise, the definition of "interested party" is changed for clarity only.

The definition of "investigation", in paragraph (1), is revised to include investigations that begin with a notice of continuation of an investigation under § 353.18(i), or a notice of resumption of an investigation under § 353.19 after the Secretary cancels a suspension agreement. It also includes a reference to investigations that end with a notice of suspension of investigation.

Paragraph (m), which is new, is a definition of "the merchandise." The definition avoids continual repetition throughout the proposed regulations of "the class or kind or merchandise subject to the proceeding which has either been imported or sold, or is likely to be sold, for importation."

The definition of "order" in § 353.11 of the current regulation is revised, because orders are sufficiently described in § 353.21. In paragraph (n) of the proposed rule, we note that the term includes "finding," the equivalent term used in the Antidumping Act of 1921, which was repealed by the Trade Agreements Act.

The definition of "party to the proceeding" in paragraph (o) requires, instead of the current written request, that an interested party actively participate in the particular segment of the proceeding that is judicially reviewable. In order to participate in litigation under section 516A(d) of the Tariff Act, an interested party must be a party to the proceeding. Active participation in the proceeding is a reasonable prerequisite for the right to participate in judicial review of the results.

The definition of "proceeding" in paragraph (q) is revised to cover dismissal of a petition prior to initiation of an investigation, rescission of an initiation, and termination of a suspended investigation.

The new definitions of "producer" and "production" in paragraph (r) are intended to simplify regulatory language by substituting a single word for the phrase "manufacturer or producer" or "manufacture and production" wherever it appears.

Paragraph (s) of the proposed rule defines for the first time the word "reseller." The definition is consistent with section 614 of the 1984 Act. Use of the word "reseller" rather than "exporter" in the proposed rule focuses attention on selling activity, which is important in calculating foreign market value, rather than on shipping activity, which is not. The word "exporter" is used in the sections of the proposed rule concerning suspension agreements (primarily §§ 353.18 and 353.19) to limit the term, consistent with the Tariff Act, only to a foreign producer or reseller that sells and ships to the United States. When used in reference to suspension agreements, "exporter" does not include an exporter who ships but does not sell. The word "exporter" also is used in § 353.41 (c) and (d) concerning "exporter's sales price," because in this context "exporter" has a limited statutory definition. See preamble comments on § 353.41 (c) and (d) of the proposed rule.

Paragraph (t) of the proposed rule includes for the first time definitions of "sale" and "likely sale." The definition of "likely sale" implements section 731(a) of the Tariff Act, as amended by section 602(b) of the 1984 Act. Only in the event that no sale has been consummated will the Secretary consider likely sales, as defined in this subsection. "Likely sale" means an offer that the seller has made irrevocable for a period of time. The definition of "sale" is based on current practice. A "sale" includes a contract to sell, even though during the proceeding the contract may be contingent on a future event or occurrence, may not have been reduced to writing, or may not yet be complete in every detail.

The definition of "Secretary" in paragraph (u) is amended to summarize current delegations of authority from the Secretary of Commerce and thereby clarify the references to "Secretary" throughout the regulations.

3. *Section 353.3.* Sections 353.25 through 352.31 of the current regulation are completely reorganized and modified, as explained below. Generally, the regulatory procedures for release of proprietary information under administrative protective order are simplified, in accordance with the amendments to section 777 of the Tariff Act made by the 1984 Act.

Rewritten under a new section title, § 353.3 describes in paragraphs (a) and (b) the two types of records of the proceeding, the official record and the public record. For the purposes of the judicial review, the official record under section 516A(b)(2) of the Tariff Act is the official record of the judicially reviewable segment of a proceeding. For example, the record we would file with the court in the event of a judicial challenge to the final results of administrative review issued by the Secretary under § 353.22(c) are the documents pertinent to that particular administrative review. Unless those documents had been used by the Department in the later review, we would not include documents pertinent to an earlier administrative review, or to the investigation, unless those documents had been resubmitted during the review being challenged, in accordance with these proposed rules, and were pertinent to the review. This reflects our current practice. The public record is available for inspection and copying, as described in the proposed rule.

Paragraph (c) of § 353.25 of the current regulation, concerning reports on the progress of investigations, is deleted because it is unnecessary. No report has ever been requested. The public file provides an accurate record of the progress of the investigation.

Paragraph (c) of the revised regulation retains the basic requirement for protection of the record that is stated in paragraph (d) of the current § 353.25. Submission of the official record to the court for the purpose of judicial review is addressed in section 516A(b)(2) of the Tariff Act and in court rules. Reference to submission to the court is deleted in the revised version of this paragraph (d), because these rules do not address procedures for judicial review.

4. *Section 353.4.* Section 353.4 defines each of the four types of information that may be contained in the official file of the proceeding: public, proprietary, privileged, and classified. The term "proprietary" is used throughout the revised regulation in place of the term "confidential" (the term used in the current regulations) to describe the type of business information defined in paragraph (b) of this section. "Proprietary" more accurately describes this category of information and eliminates possible confusion with the national security classification of "confidential."

Paragraph (a) of the proposed rule generally tracks the substance of the current regulation in § 353.29(b). Written argument, which is described in § 353.38 of the proposed rule, normally is public rather than proprietary.

Paragraph (b) of the proposed revision provides a more specific and complete list of information normally considered proprietary than does § 353.29(c) of the current regulation. The list reflects the agency's experience with the various types of proprietary and other information submitted in proceedings. We have found that many of the disagreements over disclosure may be traced to the inappropriate designation of information as proprietary.

Paragraphs (c) and (d) of the proposed revision are new, although they do not change Department practice. They are intended to complete the definition of the types of information in the official record. Factual information does not

acquire national security "classified" status merely because a foreign government submits it to the Secretary. The Department will continue its practice of ensuring that transmission of information through a foreign government is not used to avoid disclosure of publicly available information or of proprietary business information. Of course, during the Secretary's consideration of the request, a document submitted by a government with a request that it be held in confidence will be accorded such treatment, consistent with Executive Order 12356.

5. *Section 353.5.* This section, which corresponds to § 353.70 of the current regulation, concerns the effective dates of amendments to the Tariff Act made by the 1984 Act. Section 353.70 was published as an interim final rule on February 12, 1985 (50 FR 5746).

6. *Section 353.11.* This section corresponds to § 353.35 of the current regulation. By use of the term "the merchandise," paragraph (a) and later sections of the proposed rules incorporate the concept of likely sales for importation that was added explicitly to section 731(a) of the Tariff Act by section 802 of the 1984 Act. See preamble comment on § 353.2(m). The phrase "home country" is defined in § 353.2(h). As under § 353.35(b) of the current regulation, paragraph (a)(1) of the proposed rule provides for consultation with the Commission on the description of the merchandise. Commission access to information is governed by § 353.32(f)(3) of the proposed rule.

Paragraph (c) of the proposed rule implements section 609 of the 1984 Act.

7. *Section 353.12.* This section corresponds to § 353.36 of the current regulation. Paragraph (a) of the proposed rule states the general requirements for filing a petition found in § 353.36 of the current regulation. Coalitions of domestic interested parties have the ability to file petitions, consistent with section 612(a)(3) of the 1984 Act. See H.R. Rep. No. 98–1156, 98th Cong., 2d Sess. at 175 (1984) ("Conference Report").

Paragraph (b) of the proposed rule, entitled "Contents of Petition," corresponds to paragraphs (a)(1) through (a)(13) of § 353.36 of the current regulation, with some modifications. Paragraph (b)(2) of the proposed rule combines paragraphs (a)(2) and (a)(12) of the current regulation.

Paragraph (b)(4) clarifies that the petitioner's description of the merchandise does not necessarily determine the scope of an investigation initiated under § 353.13. In some instances the Secretary may expand or contract the class or kind of merchandise under investigation to conduct an adequate investigation.

Paragraph (b)(6) requires reasonable quantification of the share of total exports to the United States accounted for by each exporter or producer the petitioner believes is selling at less than fair value. This change is consistent with current practice.

Paragraph (b)(7) highlights the requirement that petitioner document allegations of sales at less than fair value. This includes information that sales are being made at less than the cost of production, which is the subject of paragraph (a)(9) of the current regulation. Such documentation helps the Department to judge quickly the adequacy of a petition and to prepare the questionnaires referred to in § 353.31 of the proposed rule.

Paragraph (b)(8) of the proposed rule, which corresponds to paragraph (a)(8) of the current regulation, is revised for clarity.

Paragraph (b)(9) of the proposed rule, which corresponds to paragraph (a)(10) of the current regulation, is revised for clarity.

Paragraph (b)(10), which corresponds to paragraph (a)(11) of the current regulation, reflects the new definition of likely sales for importation. See preamble comment on § 353.2(s).

The requirement at the end of paragraph (a) of the current regulation, concerning forms for submission of petitions, is deleted. The only form for petitions is stated in paragraph (b) of the proposed rule.

The requirement in paragraph (b) of the current regulation, concerning English translations, is stated in § 353.31(f) of the proposed rule.

Paragraphs (c) and (e) of the proposed rule clarify the simultaneous filing requirement for petitions and amendments to petitions contained in paragraphs (c) and (e) of the current regulation. Paragraphs (c) and (e) of the proposed rule also include a filing certification requirement and a reference to the time limits in § 353.31.

Paragraph (d) is revised for clarity.

Paragraph (f) of the proposed rule corresponds to portions of paragraph (a) and to paragraph (f) of the current regulation. It cross-references the requirements of paragraphs (d), (e), (f), and (g) of § 353.31 concerning where to file, time of delivery, format, and number of copies. Section 353.31(d) also states the time at which the Department considers a document filed.

Paragraph (g) is revised for clarity.

Paragraph (h), which is new, implements section 221 of the 1984 Act, which explicitly requires the Department to provide technical assistance to eligible small businesses in the preparation and filing of petitions under this section. Paragraph (h) (2) is revised to identify specifically the person to contact for additional information on filing any petition.

Paragraph (i), which is new, limits communication, before the Secretary determines whether or not to initiate an investigation under § 353.13, between the Secretary and persons that might be respondents in the investigation. The paragraph is consistent with the decision of the Court of Appeals for the Federal Circuit in *United States v. Roses, Inc.*, 706 F.2d 1563 (1983).

8. *Section 353.13.* This section corresponds to § 353.37 of the current regulation. Paragraph (a) of the proposed rule corresponds to paragraph (a) and portions of paragraph (b) of the current regulation. The last sentence of paragraph (a) of the current regulation is now incorporated in § 353.31(d) of the proposed rule.

Paragraph (b) of the proposed rule conforms the contents of the notice of initiation published under this section to that for notices of self-initiation under § 353.11.

Paragraph (c) reflects the Secretary's authority to dismiss a petition in whole or in part. An example of partial dismissal is the Secretary's decision not to initiate a cost of production investigation when the allegation of below-cost sales does not meet the Secretary's threshold requirements.

Paragraph (d) of the current regulation, which concerns notice to the Commission of the Secretary's decision, appears in paragraphs (b) and (c) of the proposed rule.

9. *Section 353.14.* This section corresponds to section 353.45 of the current regulation. It specifies the requirements for requests for exclusion from an order, including certifications. The Secretary will not extend the time limit for submission of requests for exclusion. Once submitted, a request for exclusion may not be withdrawn, because the Secretary's investigation will be structured to take account of the request for exclusion. The certification requirement is intended to eliminate frivolous requests.

Under paragraph (c), the Secretary will investigate requests for exclusion "to the extent practicable," which means that the Secretary will consider in each investigation the specific administrative burden created by the requests. Where the Secretary decides that the administrative burden of investigating each request for exclusion

is too great, given the statutory time limits, the Secretary may refuse to act on any or all of the requests.

10. *Section 353.15.* This section corresponds to section 353.39 of the current regulation. In paragraph (a)(1), the current reference to "best information available" is changed in the proposed rule to read "available information." "Available information" is not limited to the "best information available" within the meaning of § 353.37. The phrase "dumping margin" is defined in § 353.2. For purposes of establishing the amount of a bond or deposit of estimated dumping duties, the Department calculates a weighted-average for each person investigated. The Department also calculates an aggregate weighted average dumping margin to apply to all other persons, including producers and resellers that ship to the United States for the first time after the date of publication of the Secretary's preliminary determination.

Paragraphs (a)(2) and (a)(3) of the proposed rule, which describe the Secretary's preliminary determination, consolidate provisions in paragraph (a) and (e) of the current regulation and, in paragraph (a)(2)(iii), add a reference to a preliminary finding of critical circumstances. Provisional measures are limited to cash deposit or bond, the current practice.

Paragraph (a)(4) states that the notice will include an invitation for argument on the Secretary's preliminary determination.

Paragraph (a)(5) reflects the notice requirements of section 733(f) of the Tariff Act. This revision of section 353.39(a) of the current regulation does not change current practice.

Paragraphs (b) and (c) of the proposed rule correspond to paragraphs (c) and (b), respectively, of the current regulation, except that the notice and publication requirements in paragraphs (c)(3) and (b) of the current regulation appear in paragraph (e) of the proposed rule. Paragraph (c)(2)(i) is revised in paragraph (b)(2)(i) of the proposed rule to reflect current practice, and paragraphs (c)(2) (ii) and (iii) are revised in paragraphs (b)(2) (ii) and (iii) to conform to the similar test for "extraordinary circumstances" in § 353.18(d). Paragraph (c) states that the Secretary will grant a timely request from petitioner to postpone the preliminary determination, unless the Secretary finds compelling reasons to deny the request. This reflects current practice and Congressional intent.

Paragraph (d) of the proposed rule consolidates all notice requirements for the postponements of the preliminary determination described in this section.

Paragraph (e), concerning waiver of verification, corresponds to paragraph (d) of the current regulation. It is revised for clarity.

Paragraph (f), which corresponds to paragraph (f) of the current regulation, no longer contains the requirement that the Commission "confirm" the obligation not to disclose "confidential" (proprietary) information. Confirmation is unnecessary, given the limitations on disclosure stated in this paragraph and in § 353.32(f) of the proposed rule.

Paragraph (g) reflects current practice concerning the disclosure conference, a meeting with a party to the proceeding at which a knowledgeable employee of the Department reviews calculations illustrative of the preliminary determination.

11. *Section 353.16.* This section corresponds to § 353.40 of the current regulation. Paragraph (a) of the current regulation, reorganized for clarity, is incorporated in paragraphs (a) and (b) of the proposed rule. Paragraph (a) of the proposed rule states the general requirements concerning critical circumstances allegations and clarifies that the Secretary may investigate critical circumstances on the Secretary's own initiative in investigations self-initiated under § 353.11. Paragraph (b) of the proposed rule states the conditions for, and timing of, a preliminary finding of critical circumstances.

The word "finding" is used throughout the proposed rule to describe what in the Tariff Act and in the current regulation are called "determinations" of critical circumstances. The change is not substantive. It is intended to differentiate clearly in the regulation a determination regarding critical circumstances from a preliminary determination under § 353.15 or a final determination under § 353.20. The use of the term "finding" in this section should not be confused with a "finding" that is included in the definition of "order" in § 353.2. In the latter context, "finding" is a term of art used in the Antidumping Act of 1921 in the sense that the term "order" is used in § 353.21.

Paragraph (b)(2) of the proposed rule incorporates the notice and publication requirements of paragraphs (b) and (d) of the current regulation.

Paragraph (c), which corresponds to paragraph (c) of the current regulation, is revised for clarity only. If the Secretary makes an affirmative preliminary finding of critical circumstances after an affirmative preliminary determination under § 353.15, the Secretary will amend the order (referred to in this paragraph) suspending liquidation.

Paragraph (d) states that the Secretary will make a final finding of critical circumstances under certain conditions. The paragraph is based on portions of paragraph (a) of the current regulation and on section 735 (a)(3) and (c)(4) of the Tariff Act, as added by section 605(b) of the 1984 Act.

Paragraph (e), which is new, states that in making findings regarding critical circumstances in self-initiated investigations, the Secretary is not bound by the time limits that apply to findings in investigations based on a petition under § 353.12.

Paragraphs (f) and (g) describe what the Secretary normally will examine in deciding whether there have been "massive imports" in a "relatively short period," two of the statutory elements of the critical circumstances finding. The criteria described in the proposed rule are intended to clarify the bases for the Secretary's critical circumstances findings without adversely affecting the Secretary's administrative discretion. If the imports have accounted for a preponderance of the U.S. apparent consumption of the merchandise during the relatively short period, the Secretary might consider the imports massive, even if the increase is less than 15 percent over the base period described in this paragraph.

12. Section 353.17. This section corresponds to § 353.41 of the current regulation. Paragraph (a) implements section 734(a)(1) of the Tariff Act, as amended by section 604(b)(1) of the 1984 Act. The proposed rule clearly states the Secretary's authority to terminate self-initiated investigations.

Paragraph (b) is new. Paragraphs (b)(1) and (b)(2) implement section 734(a)(2) of the Tariff Act, as added by section 604(b)(1) of the 1984 Act. Under the 1984 Act, the Secretary must consider special "public interest" factors before terminating an investigation upon withdrawal of the petition based on the Secretary's acceptance of a quantitative restriction agreement.

Paragraph (c) revises paragraph (b) of the current regulation for clarity.

Paragraph (d), although a new provision, reflects section 734(f) of the Tariff Act and current practice.

13. Section 353.18. This section corresponds to section 353.42 of the current regulation. Paragraph (a) of the proposed rule states the public interest requirement in paragraph (f) of the current regulation, which is deleted as a separate paragraph. "Exporters" means producers or resellers that export the merchandise to the United States. See the definition of "reseller" in § 353.2(s).

Paragraph (b) of the proposed rule reorganizes for clarity the corresponding paragraph of the current regulation. Paragraph (b)(1) states the public interest requirement in paragraph (f) of the current regulation.

Paragraph (c) provides for measurement of "substantially all" of the imports based either on the volume or on the value of imports, an addition to the current regulation that is consistent with the language and purpose of the Tariff Act. The portion of paragraph (c) of the current regulation that concerns modification of agreements during administrative reviews is incorporated in § 353.22 of the proposed rule.

Paragraphs (d) and (e) are revised for clarity.

Paragraph (f) revises for clarity paragraph (g) of the current regulation.

Paragraph (g) of the proposed rule sets forth in more explicit detail than corresponding paragraph (h) of the current regulation the applicable procedures for suspension of investigation. Paragraph (g)(1), as revised, requires the exporters to submit a proposed suspension agreement not later than 45 days before the scheduled date for the final determination, a requirement intended to give the Secretary and domestic interested parties adequate time to review and, if appropriate, suggest revisions to the proposed agreement. Paragraph (g)(3) includes a time limit for submitting comments on a proposed suspension agreement. While time may be very restrictive for commenting on a proposed suspension agreement, nothing is served by the Secretary's receipt of comments too late to consider them.

Paragraph (h) provides for publication in the **Federal Register** of the text of the suspension agreement, which is the current practice. The third sentence of this paragraph, which is new, provides the Secretary with explicit authority to incorporate into a suspension agreement factural and legal conclusions reached after a preliminary determination including the results of a final determination in an investigation continued under paragraph (i). In addition, paragraph (h) of the proposed rule, which incorporates the substance of paragraphs (i), (j), and (k) of the current regulation, is revised for clarity.

Paragraph (i) corresponds to subsection (1) of the current regulation. The only substantive change is the reference to § 353.2(k)(6), the amended definition of interested party which is explained above under that section.

Paragraph (j) adds to paragraph (g) of the current regulation provisions for the treatment of excess entries of the merchandise under a suspension agreement, such as an agreement that exports will not increase during the interim period for elimination of sales at less than fair value.

14. *Section 355.19.* This section, which corresponds to § 353.43 of the current regulation, states the applicable procedures when the Secretary decides or has reason to believe either that any signatory exporter has violated a suspension agreement, or that the agreement is no longer in the public interest or no longer subject to effective monitoring.

Paragraph (a) of the proposed rule, like paragraph (a) of the current regulation, provides for an expedited determination without prior notice or opportunity for comment. The Secretary would use the "fast track" approach in paragraph (a) when the Secretary decides that the record shows clear evidence of violation by any signatory exporter and that notice and comment are unnecessary. Paragraph (a)(4) provides that, if appropriate, the Secretary will notify the Commissioner of Customs of the determination, in accordance with section 734(i)(1)(D) of the Tariff Act, as amended by section 604(b)(4)(C) of the 1984 Act. The Commissioner would take action, if appropriate, under section 734(i)(2) of the Tariff Act, if the violation was intentional.

Paragraph (b) establishes a procedure for notice and comment on suspected violations or when the Secretary has reason to believe that a suspension agreement no longer meets the public interest or monitoring requirements of the Tariff Act. After the comment period, the Secretary would take appropriate action, which would mean the steps outlined in paragraph (a) (issuing an antidumping duty order or resuming the investigation) if the Secretary finds a violation. If the Secretary does not determine that the agreement has been violated, the Secretary may nonetheless take action to correct any deficiencies in the agreement, including revising the agreement or cancelling it under paragraph (a). In revising an agreement under paragraph (a), the Secretary could for example, convert a suspension agreement eliminating injurious effect to one eliminating completely sales at less than foreign market value.

Paragraph (c), which is new, allows the Secretary to include in an agreement additional signatory exporters. It codifies current administrative practice.

Paragraph (d) of the proposed rule, which is new, defines "violation." References in the current regulation to "breach" and "intentional violation" are omitted from the proposed rule in favor of a straight-forward definition of a violation as significant noncompliance with an agreement's terms. If the Secretary finds an insignificant deviation, the Secretary would not consider the agreement to have been violated but could find the agreement is lacking under the public interest standards. Paragraph (c) of the current regulation (intentional violations), as noted above, is dealt with in proposed paragraph (a).

15. *Section 355.20.* This section corresponds to § 353.44 of the current regulation. Paragraph (a) of the proposed rule incorporates paragraphs (a), (c), (e), (f), and (g) of the current regulation but provides a more specific description, consistent with current practice, of the action the Secretary takes when the final determination is affirmative.

Paragraph (b) is revised to state that the Secretary will grant a timely request from the appropriate party to postpone the final determination, unless the Secretary finds compelling reasons to deny the request. This reflects current practice and Congressional intent.

Paragraph (c) of the proposed rule, which is new, provides the rates applicable to an individual producer or reseller that fails to satisfy the requirements for exclusion stated in §§ 353.14 and 353.21.

Paragraph (d) of the current regulation, concerning disclosure conferences, is covered in paragraph (h) of § 353.15 of the proposed rule. Paragraph (e) of the current regulation is covered in §§ 353.38 of the proposed rule, which concerns written argument and hearings.

Paragraph (d) of the proposed rule is new. It reflects current practice on sharing information with the Commission. See comment on proposed § 353.15(g).

Paragraph (e), which corresponds to paragraphs (h) and (i) of the current regulation, provides a more detailed explanation of the effect, under current practice, of negative final determinations.

16. *Section 355.21.* This section corresponds to § 353.48 of the current regulation, except as noted below. Paragraph (a) of the proposed rule modifies paragraph (a) of the current regulation to clarify the relationship between this section and section 751 of the Tariff Act, as amended by section 611(a)(2)(A) of the 1984 Act. Under current practice, the Secretary notifies the Customs Service of the amount of antidumping duty to assess at the

completion of each administrative review under section 751.

Paragraph (b) of the proposed rule, which corresponds to paragraph (a)(3) of the current regulation, is revised to state more accurately the amount of the cash deposit of estimated duty.

Paragraph (c) of the proposed rule corresponds to portions of § 353.45 of the current regulation.

Paragraph (d) implements section 736(b)(2) of the Tariff Act, which generally limits assessment to future entries only if the Commission's affirmative final determination finds threat of material injury or material retardation of the establishment of an industry. There is no corresponding provision in the current regulation.

17. *Section 353.22.* This section corresponds to § 353.53 of the antidumping regulations in effect prior to August 13, 1985. Paragraph (a) of the proposed rule implements section 751(a) of the Tariff Act, as amended by section 611(a)(2)(A) of the 1984 Act. These amendments provide for administrative reviews upon request rather than automatically in each proceeding on an annual basis.

On August 13, 1985, the agency published in the **Federal Register** (50 FR 32556) an interim-final and final rule to replace paragraphs (a), (c), and (d) of § 353.53 with a new § 353.53a. The interim-final rule provides procedures to control administrative review during the transition to full implementation of section 611(a)(2) of the 1984 Act. Full implementation will occur on the date that the agency publishes in the **Federal Register** the final rule for this part (19 CFR Part 353). The final rule published at 50 FR 32556 provides procedures to control administrative reviews of unreviewed entries of the merchandise during a period or periods ending prior to September 1, 1985, covered by orders, findings, and suspension agreements published in the **Federal Register** before September 1, 1984. See paragraphs (a)(5) and (b)(3) of § 353.53a (50 FR 32556; August 13, 1985). Both the interim-final and final rules remain in effect.

Paragraph (a) of the proposed rule is identical to paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of § 353.53a, the interim-final rule. Section 353.53a(a)(5) of the interim-final rule (which applies only to orders, findings, and suspension agreements published before September 1, 1984) and § 353.53a(b)(3) of the final rule, are not included because they are transition provisions.

Paragraph (b) of the proposed rule is identical to paragraphs (b)(1) and (b)(2) of § 353.53a(b)(3), the interim-final rule.

Paragraph (c) of the proposed rule is identical to paragraph (c) of § 353.53a, except for deletion of the transition provision in § 353.53a(c)(1) which established a special rule for initiating administrative review of periods prior to the most recent 12-month period. Paragraph (c) of the proposed rule also corresponds to paragraphs (c) and (d) of § 353.53 prior to the amendment published on August 13, 1985.

Paragraph (d) of the proposed rule cross-references § 353.19, concerning cancellation and revision of suspension agreements, and provides that the Secretary may delay publishing final results of administrative review while reviewing the status of the suspension agreement under § 353.19.

For suspended investigations, note that if the Secretary does not receive a timely request under paragraph (a)(4), the period reviewable under paragraph (b) will no longer be reviewable.

Paragraph (e) of the proposed rule corresponds to paragraph (d) of § 353.53a, except for deletion of the transition provision (§ 353.53a(d)(2)) relating to assessment of duty on entries made prior to the most recent 12-month period. Paragraph (e) provides for assessment of antidumping duties at the rate of the cash deposit of estimated antidumping duties required at the time of entry of the merchandise, when the Secretary has received no request, under subsection (a), for an administrative review. This implements Congressional intent that the Secretary provide by regulation for duty assessment on entries for which no review has been requested (Conference Report at 181). This provision also provides for continuation of the cash deposit of estimated antidumping duties at the latest determined rate.

Paragraph (e) of the current regulation, § 353.53(e), is not included in the proposed rule because this paragraph was deleted by a final rule published separately in the **Federal Register** (51 FR 25195; July 11, 1986).

Paragraph (f) of the proposed rule corresponds to § 353.53(b) of the current regulation but provides a more detailed statement of procedures applicable to changed circumstances reviews. The Secretary may initiate at any time (except as provided in paragraph (f)(2)) a review based on changed circumstances. At the beginning of the review, if the Secretary has information sufficient to form the basis for the preliminary results, and the Secretary concludes that expedited action is warranted, the Secretary under subsection (f)(3) may combine the notices of initiation and preliminary results.

Paragraph (g) corresponds to § 353.49 of the current regulation. Paragraph (g)(3) specifies each action the Secretary will take in an expedited review requested under paragraph (g)(1). This paragraph revises § 353.49 for clarity only.

18. *Section 353.23.* This section corresponds to § 353.50 of the current regulation. The title is changed to Provisional Measures Deposit Cap to describe the subject more accurately. The phrase "under the Secretary's affirmative preliminary or affirmative final determination," which is new, clarifies that the dumping margin established in the Secretary's final determination becomes the maximum amount which the Secretary may assess on entries made between publication of that determination and publication of the Commission's final affirmative determination. The dumping margin set by the Secretary's preliminary determination will be the assessment ceiling for entries made up to the date of publication of the Secretary's final determination.

19. *Section 353.24.* This section corresponds to section 353.52 of the current regulation. Paragraph (a) of the proposed rule implements section 778(a) of the Tariff Act, as amended by section 621 of the 1984 Act. It states that the requirement for interest applies to entries made on or after the date of publication of the Secretary's order.

Paragraph (b) implements section 778(b) of the Tariff Act, as amended by section 621 of the 1984 Act. That amendment makes interest payable at the Internal Revenue Code rates in effect while the particular entry remains unliquidated.

Paragraph (c), which reflects current practice, clarifies the period for which the Customs Service calculates interest on overpayments and underpayments.

20. *Section 353.25.* This section corresponds to section 353.54 of the current regulation but is rewritten to provide a detailed statement of the standards and procedures for revocation of orders and termination of suspended investigations. In the proposed rule, paragraph (a) provides for revocation or termination based on the absence of dumping, paragraph (d) provides for revocation or termination based on changed circumstances, and paragraph (e) provides for revocation or termination based on injury reconsideration by the Commission.

Paragraph (a) provides two separate standards for revocation based on the absence of dumping. Revocations under paragraph (a) would be based only on a demonstrated absence of dumping. Revocations under paragraph (a) could not be based on a period of no

shipments, unlike the practice under the current regulations. Our experience has shown that the absence of shipments may be a less reliable standard for determining whether the purposes of the antidumping law will be served than is the absence of sales at less than foreign market value. Periods of no shipments may, however, be considered under paragraph (d).

Paragraph (a)(1) provides for revocation or termination of an order or suspension agreement based on the absence of dumping, for a period of at least three years, by all producers and resellers covered by the order or suspension agreement at the time of revocation. Paragraph (a)(2) provides for partial revocation of an order based on the absence of dumping, for a period of at least three years, by one or more (but not all) producers or resellers covered by the order. Each type of revocation or termination under paragraph (a) also is premised on the Secretary's finding that it is not likely that the person or persons will in the future sell the merchandise at less than foreign market value. Under paragraph (a)(2), revocation for an individual producer or reseller which the Secretary previously has found to have sold the merchandise at less than fair market value is also contingent on an agreement to immediate reinstatement of the order if the Secretary later finds that the producer or reseller sold the merchandise at less than fair market value.

Paragraph (b) states the requirements for requests for each type of revocation or termination described in paragraph (a), including for each a certification requirement and, as appropriate, the agreement described in paragraph (a)(2)(iii). The individual producer or reseller submits the request for revocation. For revocation or termination under paragraph (a)(1), the certification of every producer and reseller is required.

Paragraph (c) describes the procedures applicable in the administrative review based on a request for revocation or termination under paragraph (b). The procedures add to or modify slightly those for an administrative review described in § 353.22(c) of the proposed rule. A revocation or termination under paragraph (a) is effective for all merchandise entered, or withdrawn from warehouse, for consumption, on or after the first day after the period of review.

Paragraph (d), concerning revocation or termination based on changed circumstances, is new. The subject is addressed only in passing in paragraph (c) of the current regulation. Paragraph (d)(1) states the criteria for revocation or termination under this paragraph.

Paragraph (d)(2) authorizes the Secretary to conduct an administrative review for the purpose of deciding whether the criteria for revocation or termination under paragraph (d)(1) are met. The Secretary may conduct the review at any time that the Secretary concludes from available information that the revocation or termination may be warranted. Consistent with the legislative history of the 1984 Act, paragraph (d)(2) also provides that an affirmative statement of no interest from the petitioner is sufficient for the Secretary to initiate a changed circumstances review to consider revocation. See Conference Report at 181.

Paragraph (d)(3) adds to or modifies slightly the procedures applicable to an administrative review described in § 353.22(f) of the proposed rule.

Paragraph (d)(4) provides for possible revocation of an order or termination of a suspended investigation based on an absence of interest (as demonstrated by the absence of requests for administrative review) for a period of five consecutive years. This "sunset" provision will eliminate old orders and suspended investigations no longer of interest to domestic interested parties. Prior to revoking or terminating under this subsection, the Secretary will, in addition to publishing notice in the **Federal Register**, write individually to each known producer and seller of the like product in the United States. If any producer or seller, or any other interested party, objected, the Secretary would not revoke the order or terminate the suspended investigation under paragraph (d)(4).

Paragraph (d)(5), concerning the ending of suspension of liquidation and refund of cash deposits, corresponds to paragraph (c)(3) of this section.

Paragraph (e) provides for revocation or termination based on injury reconsideration by the Commission. This provision was reserved in paragraph (d) of the current regulation.

21. *Section 353.26.* This section, which corresponds to section 353.55 of the current regulation, is changed only for clarity.

22. *Section 353.31.* This section, which corresponds to portions of § 353.46 of the current regulation, concerns submission of factual information. Submission of written argument, the other portion of section 353.46 of the current regulation, is addressed in proposed § 353.38.

Paragraphs (a) through (d) are new. The Secretary will consider only those submissions which conform to the timing and other requirements of this section. Paragraph (a)(1) establishes time limits for submission of factual information, and paragraph (a)(2) states the consequences of late submission. Paragraph (a)(2) is derived from paragraph (a)(1) of the current regulation. "Factual information" is defined in proposed section 353.2(g).

Paragraph (b) provides that the Secretary may request submission of factual information at any time during a proceeding. Paragraph (b)(2) addresses the subject of time limits for responses to the Secretary's questionnaire and other requests for factual information and, given the need for timely analysis of responses and planning of veritification activities, limits the Secretary's authority to consider unsolicited questionnaire responses. Paragraph (b)(3) provides that under certain conditions the Secretary may extend the time limit for responding to a request and lists the employees of the Department who may approve (in writing) such an extension.

Paragraph (c) establishes the time limit for submission of an allegation of sales below the cost of production that was not included in the original petition and provides for an extension of the time limit under certain conditions. It also bars submission after the preliminary determination of challenges to a petitioner's standing. Standing is important; however, it is also complex and the Department needs time to gather and evaluate the facts. Under paragraph (c)(3), only certain specified employees of the Department may authorize extensions. We expect the discretion to extend time limits under paragraphs (a), (b), and (c) to be exercised sparingly.

Paragraphs (d) and (e) correspond to paragraphs (a)(1) and (a)(2) of the current regulation, which was adopted as a final rule on May 30, 1984 (49 FR 22467). Paragraph (d) specifies, in accordance with current practice, when the Secretary considers a document received. Paragraph (e) includes minor modifications of the current regulation and, in addition, includes a new paragraph (3) on submission of computer tapes and printouts. Tape submissions may be required unless the Department finds the firm does not maintain records in computerized form or otherwise could not submit a computer tape response without unreasonable additional burden. As provided in this paragraph, the Department intends to reject nonconforming submissions.

Paragraph (f), which is new, contains the requirement for submission of an English translation of any document

submitted in a foreign language. The similar requirement in section 353.12(b) of the current regulations is limited to petitions.

Paragraph (g) of the proposed rule modifies the service requirements in paragraph (a)(3) of the current regulation by limiting service generally to interested parties on the Department's service list. The proposed rule also establishes a more specific certificate of service requirement.

Paragraph (h) establishes a service list for each proceeding that will be maintained and available to the public in the Import Administration's Central Records Unit. The corresponding provision concerning designation of agents appears in paragraph (b) of the current regulation.

23. Section 353.32. This section of the proposed rule covers the material in sections 353.27 and 353.28 of the current regulation, modified as explained below.

Paragraph (a) restates the requirement in the first three sentences of section 353.28(a) of the current regulation.

Paragraph (b) of the proposed rule covers other portions of § 353.28(a) of the current regulation. Section 619(3) of the 1984 Act amends section 777 of the Tariff Act to require the submitter requesting proprietary treatment either to summarize for public release each portion of the submitted information (in sufficient detail to permit a reasonable understanding of the substance of the information) or to justify specifically why, as to each portion, summarization is impossible. The proposed rule reflects this statutory amendment and includes a special provision concerning summaries of voluminous information. The "brief" nonproprietary statement, permitted by current section 353.28(a)(3) if the submitter agrees to release under administrative protective order, is no longer consistent with section 777 of the Tariff Act as amended by section 619(3) of the 1984 Act.

Paragraph (c) modifies the provision in paragraph (a) of the current regulation concerning the submitter's agreement to disclose proprietary information under administrative protective order. Section 619(3) of the 1984 Act amends section 777 of the Tariff Act to require that requests for proprietary treatment be accompanied by the submitter's statement either agreeing or objecting to disclosure. The proposed rule clarifies that an objection to disclosure must include supporting arguments. The submitter should include in the objection any argument against disclosure to particular individuals who have requested disclosure. The Secretary may permit subsequent argument from the submitter only when submission of a request for disclosure raises compelling issues that the submitter could not have anticipated—for example, the identity of the representative who submits the request for disclosure, as may be the case when the requester becomes a party to the proceeding after the information is submitted.

Paragraph (d) corresponds to § 353.28(b) and portions of § 353.28(e) in the current regulation. If the Secretary returns information because the submitter failed to provide an adequate summary, agreement to disclose, or the statements described in this revised section, the Secretary will give the submitter an additional 48 hours to return the information with a proper request for proprietary treatment. If the deadline for submitting the information has passed at the time the Secretary returns it, the Secretary will extend the deadline by 48 hours. If a conforming request is not submitted within 48 hours, however, the Secretary will not consider the information in the proceeding.

Paragraph (e) corresponds to § 353.28(c) of the current regulation.

Paragraph (f) incorporates the limitations on disclosure of proprietary information, under administrative protective order and otherwise, that are stated in § 353.27 and 353.28(d) of the current regulations. The Department does not intend to change its current practice of not disclosing proprietary information submitted by one foreign firm to its foreign competitor. Since § 353.32 of the proposed rule concerns only proprietary information of a business nature, references in the current regulations to classified information are deleted. Paragraph (f)(4) of the proposed rule, which is new, authorizes release of proprietary information to a Customs Service employee for use in a fraud investigation. The revision is required by section 619(2) of the 1984 Act, which amends section 777(b) of the Tariff Act.

Paragraph (g) incorporates without change most of the substance of § 353.28(e) of the current regulation.

24. Section 353.33. This section, which states that information which is classified or privileged is exempt from disclosure, consolidates in one place the similar statements in § 353.27, 353.28 (a) and (d), and 353.30(a) of the current regulation.

25. Section 353.34. The proposed rule revises current procedures for submission of requests for disclosure of proprietary information under administrative protective order, for the purpose of making the procedure more efficient and more responsive to the needs of parties to the proceeding. The revision is intended to ensure timely action on requests for disclosure and is more specific as to protection of information disclosed. This section replaces § 353.30 of the current regulation.

Paragraph (a) states the considerations relevant to the Secretary's decision whether or not to issue an administrative protective order. The Secretary will consider whether the requester has stated a sufficient need for the information, would protect adequately the information, and the probable effectiveness of the available sanctions in the event of a violation of the order. The Secretary will also consider whether disclosure will adversely affect the Secretary's ability to obtain proprietary information in subsequent proceedings. As under current practice, proprietary information is released under administrative protective order only to aid the requester's ability to assist the Department in reaching an accurate and reasoned result in the administrative decision process.

Paragraph (b) implements section 619(4) of the 1984 Act, which authorizes standing requests for disclosure of information for the duration of each segment of a proceeding that culminates in a judicially reviewable decision. The interested party's representative must request disclosure at the earliest opportunity, which is defined in the proposed rule as 10 days after the later of the date the requesting interested party becomes a party to the proceeding or the date notice of initiation is published in the **Federal Register**. In addition, the Secretary will not consider requests received later than 10 days after the date of publication of the Secretary's preliminary determination or preliminary results of administrative review. The request must cover all proprietary information which the representative wants disclosed, whether or not in the record of the proceeding at the time the request is filed. The request must be submitted on the standard form provided by the Secretary (not a retyped copy or modified version of the form). The form (Form ITA–367) is drafted specifically to satisfy the requirements of section 777 of the Tariff Act. The regulation recognizes that the standard in section 777(c) for particularity of description of requested information must be read in light of the 1984 Act's provision for requesting information before the Department receives it, or even before the information exists. Consistent with the current practice, in-house (e.g., corporate) counsel are subject to the same rules as other

attorneys who request disclosure. The statement in current § 353.30(a)(3) that disclosure generally will be made only to attorneys subject ot disbarment for violation has been deleted. Economic and other consultants to a party's attorneys have played an increasingly significant role in recent years. We will continue to insist that the party's attorney (and the law firm) take responsibility for violation of an administrative protective order by consultants assisting the attorney in the proceeding.

Paragraph (b)(3) lists the obligations that are imposed on the representative to whom the Secretary discloses the information under administrative protective order. Paragraph (b)(4) lists possible sanctions for violation of the order. The representative must acknowledge those possibilities in the request. Paragraphs (b) (3) and (4) of the proposed rule correspond to paragraphs (b), (c), and (e) of the current regulation.

Paragraph (c) of the proposed rule is based on paragraph (a)(4) of the current regulation, with the addition of a 24-hour time limit on withdrawal of information that the Secretary decides, over the submitter's objection, to disclose under protective order.

Paragraph (d) permits the representative to retain the proprietary information, subject to the terms of the administrative protective order, after the Secretary has reached the judicially reviewable decision, for a limited period of time and under specific conditions. Before the administrative protective order lapses, the proposed rule requires that the proprietary information either be subject to the terms of an existing judicial protective order or that the representative destroy or return the proprietary information and certify to the Secretary full compliance with the terms of the order (including return or destruction of the information). The provisions of paragraph (d) are more specific and comprehensive than the corresponding provisions of paragraph (d) of the current regulation. They also take account of the potential for inefficiency in the current regulation that requires the representative to destroy notes based on proprietary information before any party decides to sue. We emphasize that this permission to retain proprietary information for a limited time after the Secretary has made the judicially reviewable decision may be withdrawn by the Secretary under the terms of paragraph (d)(1). In no event will the Secretary release additional proprietary information after making a judicially reviewable decision, because the need to prepare for judicial review is not an adequate reason for additional disclosure. As stated earlier, release under administrative protective order is intended to benefit the Secretary's administrative decision by full participation of parties—no such benefit can result once the administrative process is concluded.

Paragraph (e) states that the General Counsel of the Department will investigate each alleged violation of an administrative protective order and prepare a report to the Secretary. There is no corresponding provision in the current regulations. The Department intends firm and effective enforcement of administrative protective orders.

26. *Section 353.35.* The proposed rule retains the requirement in § 353.26 of the current regulation for preparation of memoranda of *ex parte* meetings during administrative reviews. Section 619(1) of the 1984 Act added this requirement to section 777(a)(3) of the Tariff Act, which previously appeared to limit the requirement to the investigation phase of a proceeding. The Secretary, rather than a party to the proceeding, prepares the memorandum. This is consistent with current practice.

27. *Section 353.36.* The proposed rule separates the provisions in § 353.51 of the current regulation into two separate sections. Section 353.36 covers verification of information, and § 353.37 covers the use of best information available, a concept not limited to the verification process.

Paragraphs (a) and (b) of the proposed rule implement section 776(a) of the Tariff Act, as amended by section 618 of the 1984 Act. In addition to the specific verification requirements in that amendment (paragraph (a)(1)(v)), the proposed rule includes in paragraph (a)(1)(iv) authority for verifications in administrative reviews whenever "the Secretary decides that there is good cause for verification." As noted by the Committee of Conference on page 177 of its report, section 618 of the 1984 Act generally codifies the current practice of verifying information relied upon in a final determination in an investigation and in later decisions which warrant verification. Specifically, the Secretary is to conduct a verification before revoking an order, in whole or in part, or if the Secretary decides that good cause to verify exists. In addition, the Secretary will carry out a verification if a timely written request for verification is submitted by a domestic interested party in a proceeding in which the Secretary has not conducted verification during either of the two immediately preceding reviews. Section 618 implicity overrule *Al Tech Specialty Steel Corp. v. United States*, 6 CIT ——, 575 F. Supp. 1277 (1983), *aff'd*, 745 F.2d 632 (Fed. Cir. 1984).

Paragraph (a)(2) implements for administrative reviews of orders and agreements the authority to use generally recognized sampling techniques, confirmed in section 777A of the Act, as added by section 620 of the 1984 Act.

Paragraph (b) corresponds to the second sentence of paragraph (a) of the current regulation as to notice of the methods and procedures used to verify.

Paragraph (c) of the proposed rule clarifies paragraph (c) of the current regulation and the current practice concerning verification procedures.

Paragraphs (d) and (e) of the current regulation are incorporated in §353.31 of the proposed rule.

28. *Section 353.37.* This section, which is new, corresponds to § 353.51(b) of the current regulation. The proposed rule reflects current administrative practice. Legislative history to the 1984 Act confirms the Congressional intent to apply the concept of "best information available" to administrative reviews and other portions of a proceeding in addition to investigations. Conference Report at 177.

29. *Section 353.38.* This section of the proposed rule concerns written arguments, addressed in § 353.46 of the current regulation, and also broadens and modifies substantially the current regulation on hearings in § 353.35.

Paragraph (a) of the proposed rule establishes the procedures and requirements for all written argument after the Secretary's preliminary determination or preliminary results of administrative review. "Written argument" means all written submissions after the preliminary determination or preliminary results of administrative review that are not "factual information" and includes legal and policy contentions concerning the proceeding. Under paragraph (a), any interested party and any agency of the U.S. Government may submit written arguments but must do so in the "Case brief" or the "rubuttal brief," as described in paragraphs (b) and (c), or in response to a request of the Secretary. As with factual information, the Secretary will not consider, or retain in the record, written argument which is untimely or otherwise does not follow these rules.

Paragraph (b) describes the case brief and establishes time limits for submission. The case brief is a complete presentation of each argument that the party or the agency wants the Secretary to consider in making a final

determination or the final results of administrative review. The case brief must also contain any request for a hearing the party wants on arguments raised in the brief. In an administrative review, an interested party may address only arguments specifically identified in the case brief for hearing presentation. The Department intends to implement this requirement by practice, to the extent possible, in investigations.

Paragraph (c) describes the rebuttal brief and establishes time limits for its submission. In the rebuttal brief, an interested party may request a hearing specifically to present rebuttal arguments on issues that are identified and discussed in the rebuttal brief. To the extent possible in investigations, and in all administrative reviews, rebuttal at the hearing is limited to arguments specifically identified in the rebuttal brief for such presentation.

Paragraph (d) states special service requirements for case and rebuttal briefs in recognition of the tight time frames for submission of briefs by the parties and decisions by the Department in the proceeding. The rebuttal brief will usually be due seven days after the case brief, which ordinarily is due 35 days (30 days in an administrative review) after publication of the Secretary's preliminary determination (or preliminary results).

Paragraph (e) states when the Secretary will hold a hearing, if requested, and the procedural rules that apply to hearings. Paragraph (1) concerns the availability of verbatim transcripts. Paragraph (2) specifies which employees of the Department may chair a hearing. Paragraph (3) states rules for conduct of the hearing. The chair may request post-hearing briefs on specific issues; these requests will be the exception, rather than the rule.

Paragraphs (f) and (g) cross-reference the filing requirements stated in § 353.31 (d) and (e) of the proposed rule.

30. *Subpart D.* Subpart D of the proposed rule collects in one subpart all of the provisions in the current regulations that explain the calculation of United States price and foreign market value. Except as indicated in the section-by-section analysis below, the current regulations are revised only for clarity and to conform the terminology with that used in other sections of the proposed rule. All changes not described in the section-by-section analysis below are stylistic and conforming changes only.

Section 353.2 of the current regulation ("Definition of foreign market value") is deleted because it is unnecessary. All of subpart D of the proposed rule, except §§ 353.41 and 353.42, describes how foreign market value is calculated.

Section 353.57 of the current regulation ("Entered value not controlling") also is deleted because it is unnecessary. Other sections of part 353, such as those on verification (section 353.36) and the use of best information available (section 33.37), clearly establish the Secretary's authority to disregard entered values claimed by importers.

31. *Section 353.41.* This section of the proposed rule is section 353.10 of the current regulations. Paragraph (a) is revised to include a reference to the definition of "sale" and "likely sale" in § 353.2(t). See preamble discussion of that section of the proposed rule.

Paragraph (b) implements in the regulations section 614 of the 1984 Act by adding a reference to "resellers" to the definition of purchase price. Conforming changes also are made in other sections of the proposed rule by use of the word "reseller" in place of the word "exporter." See preamble comments on § 353.2(s) of the proposed rule. The word "reseller" is sufficiently broad in meaning to include exporters (other than producers) that resell the merchandise. "Reseller" is defined in § 353.2(s) of the proposed rule.

As used in paragraphs (c) and (d) of § 353.41 of the proposed rule, the word "exporter" means the person or persons described in section 771(13) of the Tariff Act. This definition is incorporated by reference in paragraph (c) of the proposed rule, the first place in this section when the word "exporter" appears. Therefore, in paragraph (d) it is not necessary to employ the phrase "in the United States" to define what is meant by the phrase "by or for the account of the exporter." Deletion of the phrase "in the United States", which appears in the current regulation, does not change current administrative practice.

32. *Section 353.42.* Paragraphs (a) and (b) of the proposed rule are §§ 353.1 and 353.38, respectively, of the current regulations. The reference to "dollar volume of exports" in § 353.38(a) is changed in § 353.42(b)(1) of the proposed rule to "dollar value or volume" of the merchandise. The change provides the Secretary with necessary discretion to select appropriate comparison sales and is consistent with current practice.

33. *Section 353.43.* Paragraphs (a), (b), and (c) of the proposed rule are §§ 353.17, 353.18, and 353.3(b) of the current regulations. Paragraph (a) clarifies the situations in which the Secretary will base foreign market value on offers for sale. For purposes of calculating foreign market value, the Secretary may use a sale or offer for sale, as explained in paragraph (a) of this section. For purposes of calculating U.S. price, the Secretary may use a sale or likely sale, as explained in § 353.41(a).

34. *Section 353.44.* This section of the proposed rule is § 353.20 of the current regulations.

35. *Section 353.45.* This section of the proposed rule is § 353.22 of the current regulations. The word "reseller" is defined in § 353.2(s) of the proposed rule.

36. *Section 353.46.* Paragraphs (a) and (b) of the proposed rule correspond to § 353.3 of the current regulations. In paragraph (a)(1), the reference to "commercial" (rather than "wholesale") quantities implements section 615(2) of the 1984 Act. Portions of paragraph (a) of § 353.3 of the current regulations concerning the time of sale are replaced by paragraph (a)(2) of the proposed rule. Paragraph (a)(2) implements section 615(1) of the 1984 Act. The phrase "home market country" is defined in § 353.2(h) of the proposed rule.

Paragraph (c) of the proposed rule is § 353.21 of the current regulations.

37. *Section 353.47.* This section, which is new, implements section 615(3) of the 1984 Act. It applies under certain conditions when the merchandise enters the commerce of an intermediate country. The situation described in this section is not transshipment, which is covered in § 353.46(c) of the proposed rule.

38. *Section 353.48.* Paragraphs (a) and (b) of the proposed rule is § 353.4 of the current regulations. Paragraph (c) adds a definition of "third country," which reflects current practice.

39. *Section 353.49.* This section of the proposed rule is § 353.5 of the current regulations. Portions of paragraph (a) of the current regulation concerning the time of sale are replaced by paragraph (a)(2) of the proposed rule, which implements section 615(1) of the 1984 Act.

40. *Section 353.50.* This section of the proposed rule is § 353.6 of the current regulations. Portions of paragraph (a) of the current regulation, concerning the time of the calculation, are replaced by paragraph (b), which implements section 615(1) of the 1984 Act. The reference in paragraph (a)(2) to "commercial" (rather than "wholesale") quantities implements section 615(2) of the 1984 Act.

41. *Section 353.51.* This section of the proposed rule is § 353.7 of the current regulations. The last sentence of paragraph (b) of the current regulation

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now appears as paragraph (c) of the proposed rule.

42. *Section 353.52.* This section of the proposed rule is § 353.8 of the current regulations.

43. *Section 353.53.* This section of the proposed rule is § 353.9 of the current regulations.

44. *Section 353.54.* This section of the proposed rule is § 353.13 of the current regulations.

45. *Section 353.55.* This section of the proposed rule is § 353.14 of the current regulations. Paragraph (c) of the current regulation is deleted because in substance it is identical to § 353.3(b) of the proposed rule and properly belongs in that section.

46. *Section 353.55.* This section of the proposed rule is § 353.16 of the current regulations.

47. *Section 353.57.* This section of the proposed rule is § 353.16 of the current regulations. The section is divided into paragraphs (a) and (b) for clarity only.

48. *Section 353.58.* This section of the proposed rule is § 353.19 of the current regulations.

49. *Section 353.59.* This section of the proposed rule is § 353.23 of the current regulations. The last sentence of paragraph (a) of the current regulation is deleted because it is redundant. The reference to "United States price" in paragraph (b) implements section 777A of the Tariff Act as added by section 620 of the 1984 Act.

50. *Section 353.60.* This section of the proposed rule is § 353.56 of the current regulations.

Drafting Information: The principal authors of this document are Stephen J. Powell and Robert F. Seely of the Office of General Counsel, U.S. Department of Commerce, and Leonard M. Shambon and Richard W. Moreland of the Import Administration, International Trade Administration, U.S. Department of Commerce. Other personnel in the Office of General Counsel and the Import Administration also provided valuable assistance.

List of Subjects in 19 CFR Part 353

Business and industry, Foreign trade, Imports, Trade practices.

Dated: August 5, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

1. For the reasons stated in the preamble, we proposed to revise 19 CFR Part 353 as follows:

PART 353—ANTIDUMPING DUTIES

Subpart A—Scope and Definitions

Sec.
353.1. Scope.
353.2. Definitions.
353.3. Record of proceedings.
353.4. Public, proprietary, privileged, and classified information.
353.5. Trade and Tariff Act of 1984—Effective date.

Subpart B—Antidumping Duty Procedures

353.11. Self-initiation.
353.12. Petition requirements.
353.13. Determination of sufficiency of petition.
353.14. Request for exclusion from antidumping duty order.
353.15. Preliminary determination.
353.16. Critical circumstances findings.
353.17. Termination of investigation.
353.18. Suspension of investigation.
353.19. Violation of agreement.
353.20. Final determination.
353.21. Antidumping duty order.
353.22. Administrative review of orders and suspension agreements.
353.23. Provisional measures deposit cap.
353.24. Interest on certain overpayments and underpayments.
353.25. Revocation of order; termination of suspended investigation.
353.26. Reimbursement of antidumping duties.

Subpart C—Information and Argument

353.31. Submission of factual information.
353.32. Request for proprietary treatment of information.
353.33. Information exempt from disclosure.
353.34. Disclosure of proprietary information under administrative protective order.
353.35. Ex parte meeting.
353.36. Verification of information.
353.37. Best information available.
353.38. Written argument and hearings.

Subpart D—Calculation of United States Price, Fair Value, and Foreign Market Value

353.41. Calculation of United States price.
353.42. Fair value.
353.43. Sales used in calculating foreign market value.
353.44. Sales at varying prices.
353.45. Transactions between related persons.
353.46. Calculation of foreign market value based on price in the home market country.
353.47. Exportation from an intermediate country.
353.48. Calculation of foreign market value if sales in the home market country are inadequate.
353.49 Calculation of foreign market value based on sales to a third country.
353.50 Calculation of foreign market value based on constructed value.
353.51 Calculation of foreign market value if sales are made at less than cost of production.
353.52 Calculation of foreign market value of merchandise from state-controlled-economy countries.
353.53 Calculation of foreign market value based on sales by a multinational corporation.
353.54 Claims for adjustment to foreign market value.
353.55 Differences in quantities.
353.56 Differences in circumstances of sale.
353.57 Differences in physical characteristics.
353.58 Level of trade.
353.59 Disregarding insignificant adjustments; use of averaging and sampling.
353.60 Conversion of currency.

Authority: 5 U.S.C. 301; Subtitle IV Parts II, III, and IV of the Tariff Act of 1930, as amended by Title I the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 150, 162, and Title VI of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 2948, 3024 (19 U.S.C. 1673–1673g; 1675; 1677; and 1677a–1677h) and section 221 (19 U.S.C. 1339) of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 2948, 2989 (19 U.S.C. 1339).

Subpart A—Scope and Definitions

§ 353.1 Scope.

This part sets forth procedures and rules applicable to proceedings under Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1516a and 1673–1677h (the "Act"), relating to the imposition of antidumping duties. This part incorporates the regulatory changes made pursuant to Title VI of the Trade and Tariff Act of 1984 (Pub. L. 98–573; October 30, 1984).

§ 353.2 Definitions.

(a) *Act.* "Act" means the Tariff Act of 1930, as amended.

(b) *Commission.* "Commission" means the United States International Trade Commission.

(c) *Country.* "Country" means a foreign country or a political subdivision, dependent territory or possession of a foreign county.

(d) *Customs Service.* "Customs Service" means the United States Customs Service of the United States Department of the Treasury.

(e) *Department.* "Department" means the United States Department of Commerce.

(F) *Dumping Margin.* "Dumping margin" means the difference between the United States price of the merchandise and the foreign market value of such or similar merchandise.

(g) *Factual Information.* "Factual information" means:

(1) Initial and supplemental questionnaire responses;

(2) Data or statements of fact in support of allegations;

(3) Other data or statements of facts; and

(4) Documentary evidence.

(h) *Home Market Country.* The "home market country" is the country in which the merchandise is produced.

(i) *Importer.* "Importer" means the person by whom, or for whose account, the merchandise is imported.

(j) *Industry.* "Industry" means the producers in the United States collectively of the like product, except those producers in the United States that the Secretary excludes under section 771(4) (B) of the Act on the grounds that they are also importers (or are related to importers, producers, or exporters) of the merchandise. Under section 771(4) (C) of the Act, an "industry" may mean producers in the United States, as defined above in this paragraph, in a particular market in the United States if such producers sell all or almost all of their production of the like product in that market and if the demand for the like product in that market is not supplied to any substantial degree by producers of the like product located elsewhere in the United States.

(k) *Interested Party.* "Interested party" means—

(1) A producer, exporter, or United States importer or the merchandise, or a trade or business association a majority of the members of which are importers of the merchandise;

(2) The government of the home market country;

(3) A producer or seller (other than a retailer) in the United States of the like product;

(4) A certified or recognized union or group of workers which is representative of the industry or of sellers (other than retailers) in the United States of the like product;

(5) A trade or business association a majority of the members of which are producers or sellers (other than retailers) in the United States of the like product; or

(6) An association a majority of the members of which are interested parties, as defined in paragraph 3, 4, or 5 above.

(l) *Investigation.* An "investigation" begins on the date of the publication of notice of initiation, resumption, or continuation of investigation and ends on the date of publication of the earliest of (1) notice of termination of investigation, (2) notice of rescission of investigation, (3) notice of a negative determination that has the effect of terminating the proceeding, (4) notice of suspension of investigation, or (5) an order.

(m) *The Merchandise.* "The merchandise" means the class or kind of merchandise imported or sold, or likely to be sold for importation into the United States, that is the subject of the proceeding.

(n) *Order.* An "order" is an order issued by the Secretary under § 352.21 or a finding under the Antidumping Act of 1921.

(o) *Party to the Proceeding.* "Party to the proceeding" means any interested party, within the meaning of paragraph (k) of this section which has actively participated, through written submissions of factual information or written argument, in a particular decision by the Secretary subject to judicial review. Participation in a prior reviewable decision will not confer on any interested party "party to the proceeding" status in a subsequent decision by the Secretary subject to judicial review.

(p) *Person.* "Person" includes any "interested party" as well as any other individual, enterprise, or entity, as appropriate.

(q) *Proceeding.* A "proceeding" begins on the date of the filing of a petition or publication of a notice of initiation under § 353.11, and ends on the date of the publication of the earliest of notice of (1) dismissal of petition, (2) rescission of initiation, (3) termination of investigation, (4) negative determination that has the effect of terminating the proceeding, (5) revocation of an order, or (6) termination of a suspended investigation.

(r) *Producer; Production.* "Producer" means a manufacturer or producer. "Production" means manufacture or production.

(s) *Reseller.* "Reseller" means the foreign reseller, exporter, or other person (other than the producer) whose sales the Secretary uses to calculate foreign market value.

(t) *Sale; Likely Sale.* A "sale" includes a contract to sell and a lease that is equivalent to a sale. A "likely sale" means a person's irrevocable offer to sell.

(u) *Secretary.* "Secretary" means the Secretary of Commerce or a designee. The Secretary has delegated to the Assistant Secretary for Trade Administration the authority to make final determinations under §§ 353.18(i) and 353.20. The Deputy Assistant Secretary for Import Administration has other delegated authority relating to antidumping duties.

§ 353.3 Record of proceedings.

(a) *Official record.* The Secretary will maintain in the Import Administration Central Records Unit, at the location stated in § 353.31(d), an official record of each proceeding. The Secretary will include in the record all factual information, written argument, or other material developed by, presented to, or obtained by the Secretary during the course of the proceeding which pertains to the proceeding. It will include governmental memoranda pertaining to the proceeding, memoranda of *ex parte* meetings, determinations, notices published in the **Federal Register**, and transcripts of hearings. It will not include any factual information, written argument, or other material which is not timely filed or which the Secretary returns to the submitter under § 353.32(d) or § 353.34(c). The record will contain material that is public, proprietary, privileged, and classified. For purposes of section 516A(b)(2) of the Act, the record is the official record of each judicially reviewable segment of the proceeding.

(b) *Public record.* The Secretary will maintain in the Central Records Unit a public record of each proceeding. The record will consist of all material described in paragraph (a) of this section that the Secretary decides may be disclosed to the general public. The public record will be available to the public for inspection and copying in the Central Records Unit, as provided in § 353.31(d). The Secretary will charge an appropriate fee for providing copies of documents.

(c) *Protection of records.* Unless ordered by the Secretary or required by law, no record or portion of a record will be removed from the Department.

§ 353.4 Public, proprietary, privileged, and classified information.

(a) *Public information.* The Secretary normally will consider the following to be public information:

(1) Factual information of a type that has been published or otherwise made available to the public by the person submitting it;

(2) Factual information that is not designated proprietary by the person submitting it;

(3) Factual information which, although designated proprietary by the person submitting it, is in a form which cannot be associated with or otherwise used to identify activities of a particular person;

(4) Laws, regulations, decrees, orders, and other official documents of a country, including English translations; and

(5) Written argument relating to the proceeding.

(b) *Proprietary information.* The Secretary normally will consider the

following factual information to be proprietary information, if so designated by the submitter:

(1) Business or trade secrets concerning the nature of a product or production process;

(2) Production costs (but not the identity of the production components unless a particular component is a trade secret);

(3) Distribution costs (but not channels of distribution);

(4) Terms of sale (but not terms of sale offered to the public);

(5) Prices of individuals sales, likely sales, or other offers (but not (i) components of prices, such as transportation, if based on published schedules, (ii) dates of sale, (iii) product description except as described in paragraph (b)(1), or (iv) order numbers);

(6) The names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, unless the destination or designation would reveal the name);

(7) The exact amount of the dumping margin on individual sales;

(8) The names of particular persons from whom proprietary information was obtained; and

(9) Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter.

(c) *Privileged information.* The Secretary will consider information privileged if, based on principles of law concerning privileged information, the Secretary decides that the information should not be released to the public or to parties to the proceeding.

(d) *Classified information.* Classified information is information that is classified under Executive Order No. 12356 of April 2, 1982 (43 FR 28949) or successor executive order, if applicable.

§ 353.5 Trade and Tariff Act of 1984—effective date.

In accordance with section 626 of the Trade and Tariff Act of 1984 (Pub. L. 98–573) (for purposes of this subpart, referred to as "the 1984 Act"), the amendments to the Act made by Title VI of the 1984 Act are effective as follows:

(a) Except as provided in paragraphs (b), (c), and (d) of this section, all amendments made by Title VI of the 1984 Act which affect authorities administered by the Secretary are effective on October 30, 1984.

(b) Amendments made by sections 602, 609, 611, 612, and 620 of the 1984 Act which affect authorities administered by the Secretary take effect immediately with respect to all investigations and administrative reviews begun on or after October 30, 1984.

(c) Amendments made by section 623 of the 1984 Act, regarding judicial review, apply with respect to civil actions pending on, or filed on or after October 30, 1984.

(d) Nothwithstanding the provisions of paragraphs (a) and (b), the Secretary may implement the amendments of the 1984 Act at a date later than October 30, 1984, if the Secretary determines that implementation in accordance with paragraph (a) or (b) of this section would prevent the Department from complying with other requirements of law.

Subpart B—Antidumping Duty Procedures

§ 353.11 Self-initiation.

(a) In General. (1) If the Secretary determines from available information, including information obtained during a period of monitoring under paragraph (c) of this section, that an investigation is warranted with respect to the merchandise, the Secretary will initiate an investigation and publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Investigation."

(2) The notice will include:

(i) A description of the merchandise, after consultation as appropriate with the Commission;

(ii) The name of the home market country and, if the merchandise is imported from a country other than the home market country, the name of the intermediate country (§ 353.47) or country through which the merchandise is transshipped (§ 353.46(c)); and

(iii) A summary of the available information that would, if accurate, support the imposition of antidumping duties.

(b) Information provided to the Commission. The Secretary will notify the Commission at the time of initiation of the investigation and will make available to it and to its employees directly involved in the proceeding all information upon which the Secretary based the initiation and which the Commission may consider relevant to its injury determinations.

(c) Persistent dumping monitoring. (1) The Secretary may monitor, for a period not to exceed one year, imports from an additional supplier country of the same class or kind as the merchandise which is subject to two or more orders under this part if the Secretary concludes from available information, including information in a request for monitoring under this paragraph, that:

(i) There is reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries; and

(ii) This extraordinary pattern is causing a serious commercial problem for the industry.

(2) For the purposes of this section, "additional supplier country" means a country regarding which no order is in effect and no investigation is pending under this part as to the class or kind of merchandise referred to in paragraph (c)(1) of this section.

(3) To the extent practicable, the Secretary will expedite any investigation initiated under paragraph (a) of this section as a result of monitoring under paragraph (c)(1) of this section.

§ 353.12 Petition requirements.

(a) *In general.* Any interested party, as defined in paragraphs (k) (3), (4), (5), or (6) of § 353.2, may file on behalf of an industry a petition under this section requesting the imposition of antidumping duties equal to the alleged amount of the dumping margin, if that person has reason to believe that:

(1) The merchandise is being, or is likely to be, sold at less than fair value; and

(2) That industry is materially injured, is threatened with material injury, or its establishment is materially retarded by the merchandise.

(b) *Contents of petition.* The petition shall contain the following, to the extent reasonably available to the petitioner:

(1) The name and address of the petitioner and any person the petitioner represents;

(2) The identity of the industry on behalf of which the petitioner is filing, including the names and addresses of other persons in the industry (If numerous, provide information at least for persons that individually accounted for two percent or more of the industry during the most recent 12-month period.);

(3) A statement indicating whether the petitioner has filed for import relief under sections 337 or 702 of the Act (19 U.S.C. 1337, 1671a), sections 201 or 301 of the Trade Act of 1974 (19 U.S.C. 2251 or 2411), or section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) with respect to the merchandise;

(4) A detailed description of the merchandise that defines the requested scope of the investigation, including technical characteristics and uses of the merchandise, and its current tariff classification under the Tariff Schedules of the United States;

(5) The name of the home market country and, if the merchandise is imported from a country other than the

home market country, the name of the intermediate country (§ 353.47) or the country through which the merchandise is transshipped (§ 353.48 (c));

(6) The names and addresses of each person the petitioner believes sells the merchandise at less than fair value and the proportion of total exports to the United States which each person accounted for during the most recent 12-month period (If numerous, provide information at least for persons that individually accounted for two percent or more of the exports.);

(7) All factual information (particularly documentary evidence) relevant to the calculation of the United States price of the merchandise and the foreign market value of such or similar merchandise, in accordance with Subpart D of this part. (If unable to furnish information on foreign sales or costs, provide information on production costs in the United States, adjusted to reflect production costs in the country of exportation of the merchandise.);

(8) If the merchandise is from a country that the Secretary has found to be a state-controlled-economy country, factual information relevant to the calculation of foreign market value, as provided in subpart D of this part, using a method described in § 353.52.

(9) The volume and value of the merchandise (including information on individual sales, customers, and prices) during the most recent two-year period, and any other recent period that the petitioner believes to be more representative, or, if the merchandise was not imported during the two-year period, information as to the likelihood of its sale for importation;

(10) The name and address of each person the petitioner believes imports or, if there were no importations, is likely to import the merchandise;

(11) Factual information regarding material injury, threat of material injury, or material retardation, as described in 19 CFR 207.11 and 207.26;

(12) If the petitioner alleges "critical circumstances" under § 353.16, factual information regarding:

(i) Material injury which is difficult to repair;

(ii) Massive imports is a relatively short period; and

(iii) Either: (A) A history of dumping; or

(B) The importer's knowledge that the reseller was selling the merchandise at less than its foreign market value, as described in § 353.16(a); and

(13) Any other factual information on which the petitioner relies.

(c) *Simultaneous filing with Commission.* The petitioner must file a copy of the petition with the Commission and the Secretary on the same day and so certify in submitting the petition to the Secretary.

(d) *Proprietary status of information.* The Secretary will not consider any petition which contains factual information for which the petitioner requests proprietary treatment unless the petitioner meets the requirements of § 353.32.

(e) *Amendment of petition.* The Secretary will allow timely amendment of the petition. The petitioner must file an amendment with the Commission and the Secretary on the same day and so certify in submitting the amendment to the Secretary. The timeliness of new allegations is controlled under § 353.31.

(f) *Where to file; time of filing; format and number of copies.* The requirements of § 353.31 (d), (e), (f) and (g) apply to this section.

(g) *Notification of representative of the home market country.* Upon receipt of a petition, the Secretary will deliver a public version of the petition, as described in § 353.31(e)(2), to a representative in Washington, D.C., of the government of the home market country.

(h) *Assistance to small businesses; additional information.* (1) The Secretary will provide technical assistance to eligible small businesses, as defined in section 339 of the Act, to enable them to prepare and file petitions. The Secretary may deny assistance if the Secretary concludes that the petition, if filed, could not satisfy the requirements of § 353.13.

(2) For additional information concerning petitions, contact the Director, Office of Investigations, Import Administration, International Trade Administration, Room 3065, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230; (202) 377–5497.

(i) *Limitation of communication before initiation.* Before the Secretary decides whether to initiate an investigation, the Secretary will not accept from an interested party, as defined in paragraph (1) or (2) of § 353.2(k), oral or written communication regarding a petition except inquiries concerning the status of the proceeding.

[The information collection requirements in paragraph (b) of this section have been approved by the Office of Management and Budget under control number 0625–0105]

§ 353.13 Determination of sufficiency of petition.

(a) *Determination of sufficiency.* Not later than 20 days after a petition is filed under § 353.12, the Secretary will determine whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731(a) of the Act, contains information reasonably available to the petitioner supporting the allegations, and is filed by an interested party as defined in paragraph (3), (4), (5), or (6) of § 353.2(k).

(b) *Notice of initiation.* If the Secretary determines that the petition is sufficient under paragraph (a), the Secretary will initiate an investigation and publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Investigation." The notice will include the information described in § 353.11(a). The Secretary will notify the Commission at the time of initiation of the investigation and will make available to it and to its employees directly involved in the proceeding all information upon which the Secretary based the initiation and which the Commission may consider relevant to its injury determinations.

(c) *Insufficiency of petition.* If the Secretary determines that a petition is insufficient under paragraph (a) of this section, the Secretary will dismiss the petition in whole or in part and, if appropriate, terminate the proceeding. The Secretary will notify the petitioner in writing of the reasons for dismissal, notify the Commission of the dismissal and publish in the **Federal Register** a notice of "Dismissal of Antidumpting Duty Petition", summarizing the reasons for dismissal.

§ 353.14 Request for exclusion from antidumping duty order.

(a) Any producer or reseller that desires exclusion from an antidumping duty order must submit to the Secretary, not later than 30 days after the date of publication of the notice of initiation under § 353.11 or § 353.13, an irrevocable written request for exclusion.

(b) The person must submit with the request: (1) The person's certification that:

(i) There is no dumping margin on the merchandise sold or likely to be sold, as defined in §353.2(t), by the person during the minimum period described in § 353.42(b)(1); and

(ii) The person will not in the future sell the merchandise at less than foreign market value; and

(2) If the person is not the producer of the merchandise, the certification under paragraph (b)(1) of this section of the suppliers and producers of the merchandise.

(c) The Secretary will investigate requests for exclusion to the extent practicable in each investigation.

§ 353.15 Preliminary determination.

(a) *In general.* (1) Not later than 160 days after the date of filing of a petition or the date of publication of a notice of initiation under § 353.11, the Secretary will make a determination based on the available information at the time whether there is a reasonable basis to believe that the merchandise is being sold at less than fair value. The Secretary will not make the determination unless the Commission has made an affirmative preliminary determination.

(2) The Secretary's determination will include:

(i) The factual and legal conclusions on which the determination is based;

(ii) The estimated weighted-average dumping margin, if any, for each person investigated; and

(iii) If appropriate, a preliminary finding on critical circumstances under § 353.16(b)(2)(i).

(3) If affirmative, the Secretary's determination will also:

(i) Order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the Secretary's preliminary determination; and

(ii) Impose provisional measures by instructing the Customs Service to require for each entry of the merchandise suspended under paragraph (a)(3)(i) of this section a cash deposit on bond equal to the estimated weighted-average dumping margin.

(4) The Secretary will publish in the **Federal Register** a notice of "Affirmative (Negative) Preliminary Antidumping Duty Determination," including the estimated weighted-average dumping margin, if any, and an invitation for argument consistent with § 353.38.

(5) The Secretary will notify all parties to the proceeding and the Commission.

(b) *Postponement in extraordinary complicated investigation.* If the Secretary decides the investigation is extraordinarily complicated, the Secretary may postpone the preliminary determination to not later than 210 days after the proceeding begins. The Secretary will base the decision on express findings that:

(1) The respondent parties to the proceeding are cooperating in the investigation;

(2) The investigation is extraordinarily complicated by reason of (i) the large number of complex nature of the transactions or adjustments under subpart D of this part, (ii) Novel issues raised, or (iii) the large number of producers and resellers; and

(3) Additional time is needed to make the preliminary determination.

(c) *Postponement at the request of the petitioner.* If, not later than 25 days before the scheduled date for the Secretary's preliminary determination, the petitioner requests a postponement and states the reasons for the request, the Secretary will postpone the preliminary determination to not later than 210 days after the date of filing of the petition, unless the Secretary finds compelling reasons to deny the request.

(d) *Notice of postponement.* If the Secretary decides to postpone the preliminary determination under paragraph (b) or (c) of this section, the Secretary will notify all parties to the proceeding not later than 20 days before the scheduled date for the Secretary's preliminary determination and will publish in the **Federal Register** a notice of "Postponement of Preliminary Antidumping Duty Determination," stating the reasons for the postponement.

(e) *Expedited preliminary determination.* Not later than 75 days after the initiation of an investigation under § 353.13, the Secretary will review the record of the first 60 days of the investigation. If the available information is sufficient for the Secretary to make a preliminary determination, the Secretary will disclose to the petitioner, and any interested party that has requested disclosure, all available public and proprietary information (subject to the requirements of § 353.34). If, not later than three government business days after disclosure, each party to whom disclosure was made furnishes an irrevocable written waiver of verification and agrees to a preliminary determination based on information in the record on the sixtieth day of the investigation, the Secretary will make an expedited preliminary determination not later than 90 days after initiation of the investigation.

(f) *Commission access to information.* The Secretary will make available to the Commission and to employees of the Commission directly involved in the proceeding all information upon which the Secretary based the determination and which the Commission may consider relevant to its injury determination.

(g) *Disclosure.* Promptly after making the preliminary determination, the Secretary will provide to parties to the proceeding which request disclosure a further explanation of the determination.

§ 353.16 Critical circumstances findings.

(a) *In general.* If a petitioner submits to the Secretary a written allegation of critical circumstances, with reasonably available factual information supporting the allegation, not later than 21 days before the scheduled date of the Secretary's final determination, or on the Secretary's own initiative in an investigation under § 353.11, the Secretary will make a finding whether:

(1)(i) There is a history of dumping in the United States or elsewhere of the same class or kind as the merchandise subject to the investigation; or

(ii) The importer knew or should have known that the exporter was selling the merchandise at less than its foreign market value; and

(2) There have been massive imports of the merchandise over a relatively short period.

(b) *Preliminary finding.* (1) If the petitioner submits the allegation of critical circumstances not later than 30 days before the scheduled date for the Secretary's final determination under § 353.20, the Secretary, based on the available information, will make a preliminary finding whether there is a reasonable basis to believe that critical circumstances as described in paragraph (a) of this section exist.

(2) The Secretary will issue the preliminary finding: (i) As part of the Secretary's preliminary determination under § 353.15, if the allegation is submitted not later than 20 days before the scheduled date for the preliminary determination; or

(ii) Not later than 30 days after the petitioner submits the allegation, if the allegation is submitted later than 20 days before the scheduled date for the Secretary's preliminary determination.

The Secretary will notify the Commission and publish in the **Federal Register** a notice of the preliminary finding.

(c) *Suspension of liquidation.* If the Secretary makes an affirmative preliminary finding of critical circumstances as part of an affirmative preliminary determination, the Secretary will order the suspension of liquidation of all entries of the merchandise. If the Secretary makes an affirmative preliminary finding of critical circumstances after an affirmative preliminary determination under § 353.15, the Secretary will amend the order suspending liquidation. Any suspension of liquidation that the Secretary orders at this time, or ordered previously under § 353.15, will apply to all entries of the merchandise entered, or withdrawn from warehouse, for

consumption on or after 90 days before the date of the order of suspension of liquidation.

(d) *Final finding.* For any allegation submitted not later than 21 days before the scheduled date for the Secretary's final determination under § 353.20, the Secretary will make a final finding on critical circumstances. If the final finding is affirmative and if the Secretary did not make an affirmative preliminary finding of critical circumstances, the Secretary will order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after 90 days before the date the Secretary ordered suspension of liquidation either as part of an affirmative preliminary or final determination. If the final finding is negative and if the Secretary made an affirmative preliminary finding of critical circumstances, the Secretary will end the retroactive suspension of liquidation ordered under paragraph (c) of this section, and will instruct the Customs Service to release the cash deposit or bond.

(e) *Findings in self-initiated investigations.* In investigations initiated under § 353.11, the Secretary will make a preliminary and final finding on critical circumstances without regard to the time limits in paragraphs (b) and (d) of this section.

(f) *Massive imports.* (1) In determining for the purpose of paragraph (a) of this section whether imports of the merchandise have been massive, the Secretary normally will examine: (i) The volume and value of the imports;

(ii) Seasonal trends; and

(iii) the share of domestic consumption accounted for by the imports.

(2) In general, unless the imports during the period identified in paragraph (g) of this section have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.

(g) *Relatively short period.* For the purpose of paragraph (a) of this section, the Secretary normally will consider the period beginning on the date the proceeding begins and ending on the date the Secretary orders suspension of liquidation. However, if the Secretary finds that importers, or exporting producers or resellers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider the period from that earlier time to the date the Secretary ordered suspension of liquidation.

§353.17 Termination of investigation.

(a) *Withdrawal of petition.* (1) Except as provided in paragraph (b), the Secretary may terminate an investigation upon withdrawal of the petition by the petitioner or on the Secretary's own initiative in an investigation initiated under § 353.11, after notifying all parties to the proceeding and after consultation with the Commission. The Secretary may not terminate an investigation unless the Secretary concludes the termination is in the public interest.

(2) If the Secretary terminates an investigation, the Secretary will publish in the **Federal Register** a notice of "Termination of Antidumping Duty Investigation" together with, when appropriate, a copy of any correspondence with the petitioner forming the basis of the withdrawal and the termination.

(b) *Withdrawal of petition based on acceptance of quantitative restriction agreements.* (1) The Secretary may not terminate under paragraph (a) of this section an investigation by accepting an understanding or other kind of agreement with the government of the affected country to restrict the volume of the merchandise unless the Secretary, taking into account the factors listed in section 734(a)(2)(B) of the Act, is satisfied that termination is in the public interest.

(2) In deciding for the purpose of paragraph (b)(1) of this section whether termination is in the public interest, the Secretary, to the extent practicable, will consult with representatives of potentially affected United States consuming industries and potentially affected persons in the industry, including persons not parties to the proceeding.

(c) *Negative determination.* An investigation terminates, without further comment or action, upon publication in the **Federal Register** of the Secretary's negative final determination or the Commission's negative preliminary or final determination.

(d) *End of suspension of liquidation.* If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension ended on the date of publication of the notice of termination under paragraph (a) of this section or on the date of publication of a negative determination referred to in paragraph (c) of this section and will instruct the Customs Service to release the cash deposit or bond.

§ 353.18 Suspension of investigation.

(a) *Agreement to eliminate completely sales at less than foreign market value or to cease exports.* If the Secretary is satisfied that suspension is in the public interest, the Secretary may suspend an investigation at any time before the Secretary's final determination by accepting an agreement with exporters (producers and resellers) that account for substantially all of the merchandise:

(1) To eliminate completely sales at less than foreign market value with respect to the merchandise, effective on the date of suspension of investigation; or

(2) To cease exports of the merchandise, not later than 180 days after the date of publication of the notice of suspension of investigation.

(b) *Agreement eliminating injurious effect.* (1) As provided in this paragraph and paragraph (b)(2) or (b)(3) of this section, the Secretary may suspend an investigation at any time before the Secretary's final determination if the Secretary:

(i) Is satisfied that the proposed suspension is in the public interest;

(ii) Finds that extraordinary circumstances are present; and

(iii) Finds that the agreement will eliminate completely the injurious effect of the merchandise.

(2) The Secretary may suspend an investigation under paragraph (b)(1) of this section by accepting an agreement with exporters that account for substantially all of the merchandise, if the Secretary finds that:

(i) The agreement will prevent the suppression or undercutting by the merchandise of prices or like products produced in the United States; and

(ii) The agreement will ensure that, for each entry of each exporter, the dumping margin will not exceed 15 percent of the weighted-average dumping margin stated in the Secretary's preliminary determination (or final determination in investigations continued under § 353.18(i)).

(c) *Definition of "substantially all".* For purposes of paragraphs (a) and (b)(2) of this section, exporters who account for "substantially all" of the merchandise means exporters that have accounted for not less than 85 percent by value or volume of the merchandise during the period for which the Department is measuring benefits in the investigation or other period that the Secretary considers representative.

(d) *Definition of "extraordinary circumstances".* For purposes of paragraph (b) of this section, "extraordinary circumstances" means circumstances in which:

(1) Suspension of the investigation will be more beneficial to the industry

than continuation of the investigation, and

(2) There are a large number of transactions or adjustments under Subpart D of this part, the issues raised are novel, or the number of producers and exporters is large.

(e) *Monitoring.* The Secretary will not accept an agreement unless effective monitoring of the agreement by the Secretary is practicable. In monitoring an agreement under paragraph (b) of this section, the Secretary will not be obliged to ascertain on a continuing basis the prices in the United States of the merchandise or of like products produced in the United States.

(f) *Exports not to increase during interim period.* The Secretary will not accept an agreement under paragraph (a)(2) of this section unless the agreement ensures that the quantity of the merchandise exported during the interim period for elimination of sales at less than fair value or cessation of exports does not exceed the quantity of the merchandise exported during a period of comparable duration that the Secretary considers representative.

(g) *Procedure for suspension of investigation.* (1) The exporters shall submit to the Secretary a proposed agreement not later than 45 days before the scheduled date for the Secretary's final determination under § 353.20.

(2) The Secretary will: (i) Not later than 30 days before the date the Secretary suspends the investigation, notify all parties to the proceeding of the proposed suspension and provide to the petitioner a copy of the agreement preliminarily accepted by the Secretary (The agreement shall contain the procedures for monitoring compliance and a statement of the compatibility of the agreement with the requirements of this section); and

(ii) Consult with the petitioner concerning the proposed suspension.

(3) The Secretary will provide all interested parties and United States government agencies an opportunity to submit, not later than five days before the scheduled date for the Secretary's final determination, written argument and factual information concerning the proposed suspension.

(h) *Acceptance of agreement.* If the Secretary accepts an agreement to suspend an investigation, the Secretary will publish in the **Federal Register** a notice of "Suspension of Antidumping Duty Investigation," including the text of the agreement. If the Secretary has not already published a notice of affirmative preliminary determination, the Secretary will include that notice. In accepting an agreement, the Secretary may rely on factual or legal conclusions the Secretary reached in or after the affirmative preliminary determination.

(1) If the Secretary suspends an investigation based on an agreement under paragraph (a) of this section, the Secretary will not order the suspension of liquidation of entries of the merchandise. If the Secretary previously order suspension of liquidation, the Secretary will order the suspension of liquidation ended on the effective date of notice of suspension of investigation and will instruct the Customs Service to release the cash deposit or bond.

(2) If the Secretary suspends an investigation based on an agreement under paragraph (b) of this section, the Secretary will order the suspension of liquidation to continue or begin, as appropriate. The suspension of liquidation will not end until the Commission completes any requested review, under section 734(h) of the Act, of the agreement. If the Commission receives no request for review within 20 days after the date of publication of the notice of suspension of investigation, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release the cash deposit or bond.

(3) If the Commission undertakes a review under section 734(h) of the Act of an agreement and determines that the agreement will not eliminate the injurious effect, the Secretary will resume the investigation on the date of publication of the Commission's determination as if the Secretary's affirmative preliminary determination had been made on that date. If the Commission determines that the agreement will eliminate the injurious effect, the Secretary will continue the suspension of investigation and order the suspension of liquidation ended on the date of publication of the Commission's determination, and will instruct the Customs Service to release the cash deposit bond.

(i) *Continuation of investigation.* (1) Not later than 20 days after the date of publication of the notice of suspension of investigation, an exporter or exporters accounting for a significant proportion of exports of the merchandise or an interested party, as defined in paragraph (k) (3), (4), (5), or (6) of § 353.2, may request in writing that the Secretary continue the investigation. The party shall simultaneously file a request with the Commission to continue its investigation.

(2) Upon receiving the request, the Secretary and the Commission will continue the investigation. If the Secretary and the Commission make affirmative final determinations, the suspension agreement will remain in effect in accordance with the factual and legal conclusions in the Secretary's final determination. This paragraph (i) does not affect the provisions of paragraph (h) of this section regarding suspension of liquidation.

(j) *Merchandise imported in excess of allowed quantity.* (1) The Secretary may instruct the Customs Service not to accept entries, or withdrawals from warehouse, for consumption of the merchandise in excess of any quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section.

(2) Imports in excess of the quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section may be exported or destroyed under Customs supervision.

§ 353.19 Violation of agreement.

(a) *Immediate determination.* If the Secretary determines that a signatory exporter has violated a suspension agreement, the Secretary, without right of comment, will take the following action:

(1) Order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after:

(i) Ninety days before the date of publication of the notice of cancellation of agreement, or

(ii) If later, the date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which was in violation of the agreement;

(2) If the investigation was not completed under § 353.18(i), resume the investigation as if the Secretary made an affirmative preliminary determination on the date of publication of the notice of cancellation and impose provisional measures by instructing the Customs Service to require for each entry of the merchandise suspended under paragraph (a)(1) of this section a cash deposit equal to the estimated weighted-average dumping margin determined in the affirmative final determination;

(3) If the investigation was completed under § 353.18(i), issue an antidumping duty order for all entries subject to suspension of liquidation under paragraph (a)(1) of this section and instruct the Customs Service to require for each entry of the merchandise suspended under this paragraph a cash deposit or bond equal to the estimated weighted-average dumping margin determined in the affirmative preliminary determination;

(4) Notify all persons who are or were parties to the proceeding, the Commission, and, if appropriate, the Commissioner of Customs; and

(5) Publish in the **Federal Register** a notice of "Antidumping Duty Order

(Resumption of Antidumping Duty Investigation); Cancellation of Suspension Agreement."

(b) *Determination after notice and comment.* (1) Notwithstanding paragraph (a) of this section, if the Secretary has reason to believe that a signatory exporter has violated an agreement or that an agreement no longer meets the requirements of section 734(d) of the Act, the Secretary will publish in the **Federal Register** a notice of "Invitation for Comment on Antidumping Duty Suspension Agreement."

(2) After publication of the notice inviting comment the Secretary will:

(i) If the Secretary determines that any signatory exporter has violated the agreement, take appropriate action as described in paragraphs (a) (1) through (5) of this section; or

(ii) If the Secretary determines that the agreement no longer meets the requirements of section 734(d)(1) of the Act:

(A) Take appropriate action as described in paragraphs (a) (1) through (5) of this section, except that, for paragraph (a)(1)(ii) of this section, the date shall be the date of first entry of the merchandise under the agreement;

(B) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.18(a) (whether or not the Secretary accepted the original agreement under that section and paragraph) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 734(d)(1) of the Act, and publish in the **Federal Register** a notice of "Revision of Agreement Suspending Antidumping Duty Investigation;" or

(C) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.16(b) (whether or not the Secretary accepted the original agreement under that section and paragraph) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 734(d)(1) of the Act, and publish in the **Federal Register** a notice of "Revision of Agreement Suspending Antidumping Duty Investigation." If the Secretary continues to suspend an investigation based on a revised agreement accepted under § 353.18(b), the Secretary will order suspension of liquidation to begin. The suspension will not end until the Commission completes any requested review, under section 734(h) of the Act, of the agreement. If the Commission receives no request for review within 20 days after the date of publication of the notice of the revision, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release the cash deposit or bond. If the Commission undertakes a review under section 734(h) of the Act, the provisions of § 353.18(h)(3) will apply.

(iii) If the Secretary decides neither to consider the order violated nor to revise the agreement, the Secretary will publish in the **Federal Register** a notice of the Secretary's decision under paragraph (b)(2) of this section, including a statement of the factual and legal conclusions on which the decision is based.

(c) If the Secretary decides that the agreement no longer meets the requirements of § 353.18(b)(1)(iii) or that the signatory exporters no longer account for substantially all of the merchandise, the Secretary may revise the agreement to include additional signatory exporters.

(d) *Definition of "Violation."* For the purpose of this section, "violation" means significant noncompliance with the terms of a suspension agreement caused by an act or omission of a signatory exporter.

§ 353.20 Final determination.

(a) *In general.* (1) Not later than 75 days after the date of publication of the Secretary's preliminary determination, the Secretary will make a final determination whether the merchandise is being sold at less than fair value.

(2) The Secretary's determination will include:

(i) The factual and legal conclusions on which the determination is based;

(ii) The estimated weighted-average dumping margin, if any, for each person investigated; and

(iii) If appropriate, a final finding on critical circumstances under § 353.16.

(3) If affirmative, the Secretary's determination will also:

(i) Unless previously ordered by the Secretary, order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the Secretary's final determination; and

(ii) Instruct the Customs Service to require, for each suspended entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the Secretary's final determination, a cash deposit or bond equal to the estimated weighted-average dumping margin determined under this paragraph (a) of this section.

(4) The Secretary will publishing in the **Federal Register** a notice of "Affirmative (Negative) Final Antidumping Duty Determination," including the estimated weighted-average dumping margins, if any.

(5) The Secretary will notify all parties to the proceeding and the Commission.

(b) *Postponement of final determination.* If, not later than the scheduled date for the Secretary's final determination, the petitioner in a proceeding in which the Secretary issued a negative preliminary determination, or the producers or resellers of a significant proportion of the merchandise in a proceeding in which the Secretary issued an affirmative preliminary determination, request in writing a postponement and state the reasons for the request, the Secretary will postpone the final determination to not later than 135 days after the date of the preliminary determination, unless the Secretary finds compelling reasons to deny the request.

(c) *Effect of decision not to exclude from order.* If the Secretary finds that a producer or reseller requesting exclusion under § 353.14 sold the merchandise at less than fair value, the Secretary will state in the affirmative final determination the estimated weighted-average dumping margin for that producer or reseller.

(d) *Commission access to information.* The Secretary will make available to the Commission and to employees of the Commission directly involved in the proceeding all information upon which the Secretary based the final determination and which the Commission may consider relevant to its injury determination.

(e) *Effect of negative final determination.* An investigation terminates, without further comment or action, upon publication in the **Federal Register** of the Secretary's or the Commission's negative final determination. If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension ended on the date of publication of the notice of negative final determination and will instruct the Customs Service to release the cash deposit or bond.

§ 353.21 Antidumping duty order.

Not later than seven days after receipt of the notice of the Commission's affirmative final determination under section 735 of the Act, the Secretary will publish in the **Federal Register** an "Antidumping Duty Order" that:

(a) Instructs the Customs Service to assess antidumping duties on the merchandise, in accordance with the Secretary's instructions at the completion of each administrative review requested under § 353.22(a) or, if not requested, in accordance with the Secretary's instructions under § 353.22(g);

(b) For each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the order, instructs the Customs Service to require a cash deposit of estimated antidumping duties equal to the amount of the estimated weighted-average dumping margin stated in the Secretary's final determination;

(c) Excludes from the application of the order any producer or reseller that complies with the requirements of § 353.14 and for whom the Secretary finds that there was no weighted-average dumping margin during the period for which the Department measured dumping in the investigation; and

(d) Orders the suspension of liquidation ended for all entries of the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's final determination, and instructs the Customs Service to release the cash deposit or bond on those entries, if in its final determination, the Commission found a threat of material injury or material retardation of the establishment of an industry, unless the Commission in its final determination also found that, absent the suspension of liquidation ordered under § 353.15(a), it would have found material injury.

§ 353.22 Administrative review of orders and suspension agreements.

(a) *Request for administrative review.* (1) Each year during the anniversary month of the publication of an order (the calendar month in which the anniversary of the date of publication of the order or finding occurred), an interested party, as defined in paragraph (k) (2), (3), (4), (5), or (6) of § 353.2, may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers.

(2) During the same month, a producer or reseller covered by an order may request in writing that the Secretary conduct an administrative review of only that person.

(3) During the same month, an importer of the merchandise may request in writing that the Secretary conduct an administrative review of only a producer or reseller of the merchandise imported by that importer.

(4) Each year during the anniversary month of the publication of a suspension of investigation (the calendar month in which the anniversary of the date of publication of the suspension of investigation occurred), an interested party, as defined in § 353.2(k), may request in writing that the Secretary conduct an administrative review of all exporters covered by an agreement on which suspension of investigation was based.

(b) *Period under review.* (1) Except as provided in paragraph (b)(2) of this section, an administrative review under paragraph (a) normally will cover, as appropriate, entries, exports, or sales of the merchandise during the 12 months immediately preceding the most recent anniversary month.

(2) For requests received during the first anniversary month after publication of an order or suspension of investigation, the review under paragraph (a) of this section will cover, as appropriate, entries, exports, or sales during the period from the date of suspension of liquidation under this part or suspension of investigation to the end of the month immediately preceding the first anniversary month.

(c) *Procedures.* After receipt of a timely request under paragraph (a), or on the Secretary's own initiative when appropriate, the Secretary will:

(1) Not later than 10 days after the anniversary month, publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Administrative Review;"

(2) Normally not later than 30 days after the date of publication of the notice of initiation, send to appropriate interested parties or a sample of interested parties questionnaires requesting factual information for the review;

(3) Conduct, if appropriate, a verification under § 353.36(a)(1) (iii) or (iv);

(4) Issue preliminary results of review, based on the available information, that include:

(i) The factual and legal conclusion on which the preliminary results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's preliminary conclusions with respect to the status of, and compliance with, the agreement;

(5) Publish in the **Federal Register** a notice of "Preliminary Results of Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(6) Promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the preliminary results;

(7) Not later than 365 days after the month of the Secretary's initiation of the review, issue final results of review that include: (i) The factual and legal conclusions on which the final results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's conclusions with respect to the status of, and compliance with, the agreement;

(8) Publish in the **Federal Register** a notice of "Final Results of Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and notify all parties to the proceeding;

(9) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section and to collect a cash deposit of estimated antidumping duties on future entries.

(d) *Possible cancellation or revision of suspension agreement.* If during an administrative review, the Secretary determines or has reason to believe that a signatory exporter has violated a suspension agreement or that the agreement no longer meets the requirements of § 353.18, the Secretary will take appropriate action under § 353.19. The Secretary may toll the time limit in paragraph (c)(7) of this section while taking action under § 353.19(b).

(e) *Automatic assessment of duty.* (1) For orders, if the Secretary does not receive a timely request under paragraph (a)(1), (a)(2) or (a)(3) of this section, the Secretary, without additional notice, will instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section, at rates equal to the cash deposit of (or bond for) estimated antidumping duties required on that merchandise at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposits previously ordered.

(2) If the Secretary receives a timely request under paragraph (a)(1), (a)(2) or (a)(3) of this section, the Secretary in accordance with paragraph (d)(1) of this section will instruct the Customs Service to assess antidumping duties, and to

continue to collect the cash deposits, on the merchandise not covered by the request.

(f) *Changed circumstances review.* (1) If the Secretary concludes from available information, including information in a request under this paragraph for an administrative review, that changed circumstances sufficient to warrant a review exist, the Secretary will:

(i) Publish in the **Federal Register** a notice of "Initiation of Changed Circumstances Antidumping Duty Administrataive Review";

(ii) If necessary, send to appropriate interested parties or a sample of interested parties questionnaires requesting factual information for the review;

(iii) Issue preliminary results of review based on the available information that include the factual and legal conclusions on which the preliminary results are based and any action the Secretary proposes based on the preliminary results;

(iv) Publish in the **Federal Register** a notice of "Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review," including an invitation for argument consistent with § 353.38;

(v) Notify all parties to the proceeding of the preliminary results;

(vi) If appropriate, promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the preliminany results;

(vii) Not later than 270 days after the date of the Secretary's initiation of the review, issue final results of review that include the factual and legal conclusions on which the final results are based and any action, including action under paragraph (c)(9) of this section and § 353.25(d), that the Secretary will take based on the final results;

(viii) Publish in the **Federal Register** a notice of "Final Results of Changed Circumstances Antidumping Duty Administrative Review;" and

(ix) Notify all parties to the proceeding.

(2) The Secretary will not initiate an administrative review under paragraph (f)(1) of this section before the end of the second annual anniversary month after the date of publication of the Secretary's affirmative preliminary determination or suspension of investigation, unless the Secretary finds that good cause exists.

(3) If the Secretary concludes that expedited action is warranted, the Secretary may combine the notices identified in paragraphs (e)(1)(i) and (e)(1)(iv) of this section in a notice of "Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review." In that event, the notification required in paragraph (e)(1)(v) of this section will be given to all interested parties included on the Department's service list described in § 353.31(h).

(g) *Expedited review.* (1) Not later than seven days after publication of an antidumping duty order, a producer or reseller may request in writing that the Secretary conduct an expedited administrative review for that producer's or reseller's shipments of the merchandise entered, or withdrawn from warehouse, for consumption:

(i) On or after the date of publication of the Secretary's affirmative preliminary determination or, if the Secretary's preliminary determination was negative, the Secretary's final determination, and

(ii) Before the date of publication of the Commission's final determination.

(2) The request must be accompanied by information the Secretary deems necessary to calculate the dumping margin, if any.

(3) If, based upon the information submitted with the request, the Secretary concludes that the dumping margin may be determined not later than 90 days after the date of publication of the order, the Secretary may conduct an expedited administrative review of the requesting producer or reseller.

(4) If the Secretary decides to conduct an expedited review, the Secretary will:

(i) Publish in the **Federal Register** a notice of "Initiation of Expedited Antidumping Duty Administrative Review," which will include an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(ii) Instruct the Customs Service to accept, in lieu of the cash deposit of estimated antidumping duties under § 353.21(b), a bond for each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of initiation and through the date not later than 90 days after the date of publication of the order;

(iii) Conduct a verification under § 353.36(a)(1)(ii);

(iv) Provide to parties to the proceeding which request disclosure an explanation of the Secretary's analysis;

(v) Issue final results of review that include:

(A) The factual and legal conclusions on which the final results are based; and

(B) The weighted-average dumping margin, if any, during the period of review for each person reviewed;

(vii) Publish in the **Federal Register** a notice of "Final Results of Expedited Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and notify all parties to the proceeding;

(viii) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (g)(1) and to collect a cash deposit of estimated antidumping duties on future entries.

§ 353.23 Provisional measures deposit cap.

This section applies to the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's notice of affirmative final determination. If the cash deposit or bond required under the Secretary's affirmative preliminary or affirmative final determination is different from the dumping margin the Secretary calculates under § 353.22, the Secretary will instruct the Customs Service to disregard the difference to the extent that the cash deposit or bond is less than the dumping margin and to assess antidumping duties equal to the dumping margin calculated under § 353.22 if the cash deposit or bond is more than the dumping margin.

§ 353.24 Interest on certain overpayments and underpayments.

(a) *In general.* The Secretary will instruct the Customs Service to pay or collect, as appropriate, interest on the difference between the cash deposit of estimated antidumping duties and the assessed antidumping duties on entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of an antidumping duty order.

(b) *Rate.* The rate or rates of interest payable or collectible under paragraph (a) for any period of time are the rates established under paragraph 6621 of the Internal Revenue Code of 1954.

(c) *Period.* The Secretary will instruct the Customs Service to calculate interest for each entry from the date that a cash deposit is required to be deposited for the entry through the date of liquidation of the entry.

§ 353.25 Revocation of order; termination of suspended investigation.

(a) *Revocation or termination based on absence of dumping.* (1) The Secretary may revoke an order or terminate a suspended investigation if the Secretary concludes that:

(i) All producers and resellers covered at the time of revocation by the order or the suspension agreement have sold the merchandise at not less than foreign market value for a period of at least three consecutive years; and

(ii) It is not likely that those persons will in the future sell the merchandise at less than foreign market value.

(2) The Secretary may revoke an order in part if the Secretary concludes that:

(i) One or more producers or resellers covered by the order have sold the merchandise at not less than foreign market value for a period of at least three consecutive years;

(ii) It is not likely that those persons will in the future sell the merchandise at less than foreign market value; and

(iii) For producers or resellers that the Secretary previously has determined to have sold the merchandise at less than fair value or foreign market value, the producers or resellers agree in writing to the immediate reinstatement of the order, as long as any producer or reseller is subject to the order, if the Secretary concludes under § 353.22(f) that the producer or reseller, subsequent to the revocation, sold the merchandise at less than foreign market value.

(b) *Request for revocation or termination.* During the third and subsequent annual anniversary months of the publication of an order or suspension of investigation (the calendar month in which the anniversary of the date of publication of the order or suspension occurred), a producer or reseller may request in writing that the Secretary revoke under paragraph (a) of this section an order or terminate a suspended investigation with regard to that person if the person submits with the request:

(1) The person's certification that the person sold the merchandise at not less than foreign market value during the period described in § 353.22(b), and that in the future the person will not sell the merchandise at less than foreign market value; and

(2) If applicable, the agreement described in paragraph (a)(2)(iii) of this section.

(c) *Procedures.* (1) After receipt of a timely request under paragraph (b) of this section, the Secretary will consider the request as including a request for an administrative review and will conduct a review under § 353.22(c).

(2) In addition to the requirements of § 353.22(c), the Secretary will:

(i) Publish with the notice of initiation, under § 353.22(c)(1), a notice of "Request for Revocation of Order (in Part)" or, if appropriate, "Request for Termination of Suspended Investigation;"

(ii) Conduct a verification, under § 353.36(a)(1)(iii);

(iii) Include in the preliminary results of review, under § 355.22(c)(4), the Secretary's decision whether there is a reasonable basis to believe that the requirements for revocation or termination are met;

(iv) If the Secretary's preliminary decision under paragraph (c)(2)(iii) of this section is affirmative, publish with the notice of preliminary results of review, under § 353.22(c)(5), a notice of "Intent to Revoke Order (in Part)" or, if appropriate, "Intent to Terminate Suspended Investigation;"

(v) Include in the final results of review, under § 353.22(c)(7), the Secretary's final decision whether the requirements for revocation or termination are met; and

(vi) If the Secretary's final decision under paragraph (c)(2)(v) of this section is affirmative, publish with the notice of final results of review, under § 353.22(c)(8), a notice of "Revocation of Order (in Part)" or, if appropriate, "Termination of Suspended Investigation."

(3) If the Secretary revokes an order or revokes an order in part, the Secretary will order the suspension of liquidation ended for the merchandise covered by the revocation on the first day after the period under review, and will instruct the Customs Service to release the cash deposit or bond, if any.

(d) *Revocation or termination based on changed circumstances.* (1) The Secretary may revoke an order, revoke an order in part, or terminate a suspended investigation if the Secretary concludes that:

(i) The order or suspended investigation is no longer of interest to interested parties, as defined in paragraphs (3), (4), (5), and (6) of § 353.2(k); or

(ii) Other changed circumstances sufficient to warrant revocation or termination exist.

(2) If at any time the Secretary concludes from the available information, including an affirmative statement of no interest from the petitioner in the proceeding, that changed circumstances sufficient to warrant revocation or termination may exist, the Secretary will conduct an administrative review under § 353.22(f).

(3) In addition to the requirements of § 353.22(f), the Secretary will:

(i) Publish with the notice of initiation, under § 353.22(f)(1)(i), a notice of "Consideration of Revocation of Order (in Part)" or, if appropriate, "Consideration of Termination of Suspended Investigation;"

(ii) Conduct a verification, if appropriate, under § 353.36(a)(1)(iv);

(iii) Include in the preliminary results of review, under § 353.22 (f)(1)(iii), the Secretary's decision whether there is a reasonable basis to believe that the requirements for revocation or termination based on changed circumstances are met;

(iv) If the Secretary's preliminary decision under paragraph (d)(3)(iii) of this section is affirmative, publish with the notice of preliminary results of review, under § 353.22(f)(1)(iv), a notice of "Intent to Revoke Order (in Part)" or, if appropriate, "Intent to Terminate Suspended Investigation;"

(v) Include in the final results of review, under § 353.22(f)(1)(vii), the Secretary's final decision whether the requirements for revocation or termination based on changed circumstances are met; and

(vi) If the Secretary's final decision under paragraph (d)(3)(v) is affirmative, publish with the notice of final results of review, under § 353.22(f)(1)(viii), a notice of "Revocation of Order (in Part)" or, if appropriate, "Termination of Suspended Investigation."

(4)(i) If for four consecutive annual anniversay months no interested party requested an administrative review, under § 353.22(a), of an order or suspended investigation, not later than the first day of the fifth consecutive annual anniversary month, the Secretary will publish in the **Federal Register**, a notice of "Intent to Revoke Order" or, if appropriate, "Intent to Terminate Suspended Investigation."

(ii) Not later than the date of publication of the notice described in paragraph (d)(4)(i), the Secretary will serve written notice of the intent to revoke or terminate on each party to the proceeding listed on the Department's service list and on any other person which the Secretary has reason to believe produces or sells a like product in the United States.

(iii) If by the last day of that fifth annual anniversary month no interested party objects, or requests an administrative review under § 353.22(a), the Secretary at that time will conclude that the requirements of paragraph (d)(1)(i) for revocation or termination are met, revoke the order or terminate the suspended investigation, and publish in the **Federal Register** the notice described in paragraph (d)(3)(vi).

(5) If the Secretary under paragraph (d) revokes an order or revokes an order in part, the Secretary will order the suspension of liquidation ended for the merchandise covered by the revocation on the effective date of the notice of

revocation, and will instruct the Customs Service to release the cash deposit or bond, if any.

(e) *Revocation or termination based on injury reconsideration.* If the Commission issues negative final results of administrative review under section 751(b) of the Act, the Secretary will revoke the order or terminate the suspended investigation, and will publish in the **Federal Register** a notice of "Revocation of Antidumping Duty Order" or, if appropriate, "Termination of Suspended Antidumping Duty Investigation."

§ 353.26 Reimbursement of antidumping duties.

(a) *In general.* (1) In calculating the United States price, the Secretary will deduct the amount of any antidumping duty which the producer or reseller:

(i) Paid directly on behalf of the importer; or

(ii) Reimbursed to the importer.

(2) The Secretary will not deduct the amount of the antidumping duty paid or reimbursed if the producer or reseller granted to the importer before initiation of the investigation a warranty of nonapplicability of antidumping duties with respect to merchandise which was:

(i) Sold before the date of publication of the Secretary's order suspending liquidation; and

(ii) Exported before the date of publication of the Secretary's final determination.

Ordinarily, the Secretary will deduct for reimbursement of antidumping duties only once in the calculation of the United States price.

(b) *Certificate.* The importer shall file prior to liquidation a certificate in the following form with the appropriate District Director of Customs:

> I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller, or exporter, of all or any part of the antidumping duties assessed upon the following importations of _____ (commodity) from _____ (country): (List entry numbers) which have been purchasd on or after _____ (date of publication of notice suspending liquidation in **Federal Register**) or purchased before _____ (same date) but exported on or after _____ (date of final determination of sales at less than fair value).

(c) *Presumption.* The Secretary may presume from an importer's failure to file the certificate required in paragraph (b) that the producer or reseller paid or reimbursed the antidumping duties.

Subpart C—Information and Argument

§ 353.31 Submission of factual information.

(a) *Time limits in general.* (1) All submissions of factual information for the Secretary's consideration shall be submitted not later than:

(i) For the Secretary's final determination, seven days before the scheduled date on which the verification is to commence;

(ii) For the Secretary's final results of an administrative review under § 353.22 (c) or (f), the earlier of the date of publication of the notice of preliminary results of review or 180 days after the date of publication of the notice of initiation of the review; or

(iii) For the Secretary's final results of an expedited review under § 353.22(g), a date specified by the Secretary.

(2) The Secretary will not consider in the final determination or the final results, or retain in the record of the proceeding, any factual information submitted after the applicable time limit.

(b) *Questionnaire responses and other submissions on request.* (1) Notwithstanding paragraph (a), the Secretary may request any person to submit factual information at any time during a proceeding.

(2) In the Secretary's written request to an interested party for a response to a questionnaire or for other factual information, the Secretary will specify the time limit for response. The Secretary normally will not consider or retain in the record of the proceeding unsolicited questionnaire responses, and in no event will the Secretary consider unsolicited questionnaire responses submitted after the date of publication of the Secretary's preliminary determination.

(3) Ordinarily, the Secretary will not extend the time limit stated in the questionnaire or request for other factual information. Before the time limit expires, the recipient of the Secretary's request may request an extension. The request must be in writing and state the reasons for the request. Only the following employees of the Department may approve an extension: the Deputy Assistant Secretary for Import Administration, the Director of the Office of Investigations, the Director of the Office of Compliance, and the division director responsible for the proceeding. An extension must be approved in writing.

(4) Subject to the other provisions of paragraphs (b)(1) through (b)(3), questionnaire responses in administrative reviews must be submitted not later than 60 days after the date of receipt of the questionnaire.

(c) *Time limits for certain allegations.* (1) The Secretary will not consider any allegation of sales below the cost of production that is submitted by the petitioner or other interested party described in paragraph (k) (3), (4), (5), or (6) of § 353.32, later than:

(i) In an investigation, 45 days before the scheduled date for the Secretary's preliminary determination, unless a relevant response is, in the Secretary's view, untimely or incomplete;

(ii) In an administrative review under § 353.22 (c) or (f), 120 days after the date of publication of the notice of initiation of the review; or

(iii) In an expedited review under § 353.22(g), 10 days after the date of publication of the notice of initiation of the review.

(2) The Secretary will not consider any allegation in an investigation that the petitioner lacks standing unless the allegation is submitted, together with supporting factual information, not later than 10 days before the scheduled date for the Secretary's preliminary determination.

(3) Any interested party may request in writing not later than the time limits specified in paragraph (c) (1) or (2) an extension of those time limits. If the Assistant Secretary for Trade Administration in an investigation, or the Deputy Assistant Secretary for Import Administration in an administrative review, concludes that an extension would facilitate the proper administration of the law, the Assistant Secretary or Deputy Assistant Secretary may grant an extension of not longer than 10 days in an investigation or 30 days in an administrative review.

(d) *Where to file; time of filing.* Address and submit documents to the Secretary of Commerce, Attention: Import Administration, Central Records Unit, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th St., NW., Washington, DC 20230, between the hours of 8:30 a.m. and 5:00 p.m. on government business days. For all time limits in this part, the Secretary will consider documents received when stamped by the Central Records Unit with the date and time of receipt. If the time limit expires on a non-business day, the Secretary will accept documents that are filed on the next following government business day.

(e) *Format and Number of Copies.*— (1) *In general.* Unless the Secretary alters the requirements of paragraphs (e) (1) through (3), submitters shall make all submissions in the format specified in this paragraph (e). The Secretary may refuse to accept for the record of the proceeding any submission that does not

conform to the requirements of this paragraph (e).

(2) *Documents.* In an investigation, submit 10 copies of any document, except a computer printout, and, if a person has requested that the Secretary treat portions of the document as proprietary information, submit five copies of a public version of the document, including the public summary required under § 353.32(b), as a substitute for the portions for which the person has requested proprietary treatment. In an administrative review submit five copies and three copies respectively. In all proceedings, submit documents on letter-size paper, double-spaced, and securely bind each copy as a single document with any letter of transmittal as the first page of the document. Mark the first page of each document in the upper right hand corner with the following information in the following format:

(i) On the first line, except for a petition, the Department case number;

(ii) On the second line, the total number of pages in the document including cover pages, appendices, and any unnumbered pages;

(iii) On the third line, state whether the document is for an investigation or an administrative review and, if the latter, the period of review; and

(iv) On the fourth and subsequent lines, state whether or not the document contains classified, privileged, or proprietary information and the applicable page numbers.

(3) *Computer tapes and printout.* The Secretary may require submission of factual information on computer tape unless the Secretary decides that the submitter does not maintain records in computerized form or otherwise cannot supply the requested information on computer tape without unreasonable additional burden in time and expense. In an investigation or administrative review, submit three copies of any computer printout and public version of the printout.

(f) *Translation to English.* Unless the Secretary waives in writing this requirement for an individual document, any document submitted which is in a foreign language must be accompanied by an English translation.

(g) *Service of copies on other parties.* The submitter of a document shall serve a copy, by mail or personal service, on any interested party on the Department's service list. The submitter shall attach to each document a certificate of service listing the parties served and, for each, the date and method of service.

(h) *Service list.* The Central Records Unit will maintain and make available a service list for each proceeding. Each interested party who asks to be on the service list shall designate a person to receive service of documents filed in a proceeding.

§ 353.32 Request for proprietary treatment of information.

(a) *Submission and content of request.* (1) Any person who submits factual information to the Secretary in connection with a proceeding may request that the Secretary treat that information, or any specified part, as proprietary.

(2) The submitter shall identify proprietary information on each page by placing brackets around the proprietary information and clearly stating at the top of each page "Proprietary Treatment Requested." The submitter shall provide a full explanation why each piece of factual information subject to the request is entitled to proprietary treatment under § 353.4. The request and explanation shall be a part of or securely bound with the document containing the information.

(b) *Public summary.* All requests for proprietary treatment shall include or be accompanied by:

(1) An adequate public summary of all proprietary information, incorporated in the public version of the document, (Generally, numeric data are adequately summarized if grouped or presented in terms of indices or figures within 10 percent of the actual figure and, if an individual portion of the data is voluminous, at least one percent of that portion is individually summarized in this manner.); or

(2) A statement itemizing those portions of the proprietary information which cannot be summarized adequately and all arguments supporting that conclusion for each portion.

(c) *Agreement to release.* All requests for proprietary treatment shall include either an agreement to permit disclosure under administrative protective order, or a statement itemizing which portions of the proprietary information should not be released under administrative protective order and all arguments supporting that conclusion for each portion. The Secretary ordinarily will not provide the submitter further opportunity for argument on whether to grant a request for disclosure under administrative protective order.

(d) *Return of information as a result of nonconforming request.* The Secretary may return to the submitter any factual information for which the submitter requested proprietary treatment when the request does not conform to the requirements of this section. If the Secretary returns the information, the Secretary will provide an explanation of the reasons why it does not conform and will not consider it unless it is resubmitted with a new request which complies with the requirements of this section not later than 48 hours after the return.

(e) *Status during consideration of request.* While considering whether to grant a request for proprietary treatment, the Secretary will not disclose or make public the information. The Secretary normally will decide not later than 14 days after the Secretary receives the request.

(f) *Treatment of proprietary information.* Unless the Secretary otherwise provides, the person to whom the Secretary discloses information shall not disclose the information to any other person. The Secretary may disclose factual information which the Secretary decides is proprietary only to:

(1) A representative of an interested party who requests and is granted an administrative protective order under § 353.34;

(2) An employee of the Department of Commerce directly involved in the proceeding for which the information is submitted;

(3) An employee of the Commission directly involved in the proceeding for which the information is submitted;

(4) An employee of the Customs Service for use in connection with a fraud investigation concerning the merchandise; and

(5) Any person to whom the submitter specifically authorizes (in writing) disclosure.

(g) *Denial of request for proprietary treatment.* If the Secretary decides that the factual information does not warrant proprietary treatment in whole or in part, the Secretary will notify the submitter. Unless the submitter agrees that the information be considered public, the Secretary will return it and not consider it in the proceeding.

§ 353.33 Information exempt from disclosure.

Privileged or classified information is exempt from disclosure to the public or to representatives of interested parties.

§ 353.34 Disclosure of proprietary information under administrative protective order.

(a) *In general.* The Secretary may disclose proprietary information under an administrative protective order to an attorney or other representative of an interested party if the Secretary decides that the representative has stated a sufficient need for disclosure and would adequately protect the proprietary

status of the information disclosed. In deciding whether to disclose information under administrative protective order, the Secretary will consider the probable effectiveness of sanctions for violation of the order, including those described in paragraph (b)(4). The Secretary will also consider the ability of the Secretary to obtain factual information in the future.

(b) *Request for disclosure.* (1) A representative must file a request for disclosure under administrative protective order not later than 10 days after the later of:

(i) The date of publication in the **Federal Register** of the notice of initiation under § 353.11 or § 353.13, or the notice of initiation of administrative review under § 353.22; or

(ii) The date the representative's client or employer becomes a party to the proceeding, but in no event later than 10 days after the date of publication of the Secretary's preliminary determination or preliminary results of administrative review.

(2) The representative must file the request for disclosure on the standard form provided by the Secretary (Form ITA–367). The standard form will require only such particularity in the description of the requested information as is consistent with both the criteria the Secretary uses to decide whether to disclose, and with the fact that a request may be made for factual information not yet submitted.

(3) The request shall obligate the representative:

(i) Not to disclose the proprietary information to anyone other than the submitter and other persons authorized by an administrative protective order to have access to the information;

(ii) To use the information solely for the segment of the proceeding then in progress;

(iii) To ensure the security of the proprietary information at all times; and

(iv) To report promptly to the Secretary any apparent violation of the terms of the protective order.

(4) The request shall contain an acknowledgment by the representative that violation of the order may:

(i) Subject the following persons to prohibition from practice before the Department for up to seven years following the Secretary's decision that a violation has occurred:

(A) The representative;

(B) Any firm or business of which the representative is a partner, associate, or employee; and

(C) The representative's partners, associates, employer, and employees;

(ii) In the case of an attorney, lead to the Secretary's referral of the violation to the disciplinary panel of appropriate bar associations; and

(iii) Subject the representative and the client or employer to other administrative sanctions, including removal from the official record of any factual information or written argument submitted on behalf of the interested party.

(c) *Opportunity to withdraw proprietary information.* If the Secretary decides to disclose proprietary information under administrative protective order without the consent of the submitter, the Secretary will notify the submitter of the decision and permit the submitter to withdraw the information from the official record within 24 hours. The Secretary will not consider withdrawn information.

(d) *Disposition of proprietary information disclosed under administrative protective order.* (1) At the expiration of the time for filing for judicial review of a decision by the Secretary, if there is no filing by any party to the proceeding, or at an earlier date the Secretary decides appropriate, the representative must return or destroy all proprietary information released under this section and all other materials containing the proprietary information (such as notes or memoranda). The representative at that time must certify to the Secretary full compliance with the terms of the protective order and the return or destruction of all proprietary information.

(2) The representative of a party to the proceeding that files for judicial review or intervenes in the judicial review may retain the proprietary information, provided that the party applies for a court protective order for the information not later than 15 days after the Secretary files the administrative record with the court. If the court denies the party's application for a court protective order, the representative must return or destroy the proprietary information and all other materials containing the proprietary information not later than 48 hours after the court's decision and certify to the Secretary as provided under paragraph (d)(1).

(e) *Violation of administrative protective order.* The Secretary will refer to the General Counsel of the Department any allegation of a violation of an administrative protective order, and the General Counsel will then investigate the allegation and prepare a report and recommendation (including recommended sanctions, if appropriate) for the Secretary, who will decide.

§ 353.35 Ex Parte Meeting.

The Secretary will prepare for the official record a written memorandum of an *ex parte* meeting between any person providing factual information in connection with a proceeding and the person to whom the Secretary has delegated the authority to make determinations or the person making a final recommendation to that person. The memorandum will include the date, time, and place of the meeting, the identity and affiliation of all persons present, and a public summary of the factual information submitted.

§ 353.36 Verification of Information.

(a) *In General.* (1) The Secretary will verify all factual information the Secretary relies on in:

(i) A final determination under § 353.18(i) or § 353.20;

(ii) The final results of an expedited review under § 353.22(g);

(iii) A revocation under § 353.25;

(iv) The final results of an administrative review under § 353.22 (c) or (f) if the Secretary decides that good cause for verification exists; and

(v) The final results of an administrative review under § 353.22(c) if:

(A) An interested party, as defined in paragraph (3), (4), (5), or (6) of § 353.2(k), not later than 120 days after the date of publication of the notice of initiation of review, submits a written request for verification; and

(B) The Secretary conducted no verification under this paragraph during either of the two immediately preceding administrative reviews.

(2) If the Secretary decides that, because of the large number of producers and resellers included in an administrative review, it is impractical to verify relevant factual information for each person, the Secretary may select and verify a sample. The Secretary will apply the results of the verification of the sample to all producers and resellers included in the review.

(b) *Notice of verification.* In publishing a notice of final determination, revocation, or final results of administrative review, the Secretary will report the methods and procedures used to verify under this section.

(c) *Procedures for verification.* In verifying under this section, the Secretary will notify the government of the foreign country in which verification takes place that employees of the Department will visit with producers or resellers in order to verify the accuracy of submitted factual information. As part of the verification, employees of the

Department will request access to all files, records, and personnel of the producers, resellers, importers, or unrelated purchasers which the Secretary considers relevant to factual information submitted.

§ 353.37 Best information available.

(a) *Use of best information available.* The Secretary may use the best information available whenever the Secretary:

(1) Does not receive a complete, accurate, and timely response to the Secretary's request for factual information; or

(2) Is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted.

(b) *What is best information available.* The best information available includes the factual information submitted in support of the petition or subsequently submitted by interested parties, as defined in paragraph (k), (3), (4), (5), or (6) of § 353.2. If an interested party refuses to provide factual information requested by the Secretary or otherwise impedes the proceeding, the Secretary may take that into account in determining what is the best information available.

§ 353.38 Written argument and hearings.

(a) *Written argument.* The Secretary will consider in making the final determination under § 353.18(i) or § 353.20 or final results under § 353.22 only written arguments in case or rebuttal briefs filed within the time limits in this section. The Secretary will not consider or retain in the record of the proceeding any written argument, unless requested by the Secretary, that is submitted after the time limits specified in this section. At any time during the proceeding, the Secretary may request written argument on any issue from any interested party or United States government agency.

(b) *Case brief; request for hearing.* (1) Any interested party or United States government agency may submit a "case brief":

(i) not later than 35 days after the date of publication of the Secretary's preliminary determination in an investigation, unless the Secretary alters this time limit;

(ii) Not later than 30 days after the date of publication of the preliminary results of administrative review under § 353.22 (c) or (f); or

(iii) At any time specified by the Secretary in an expedited review under § 353.22(g).

(2) The case brief shall: (i) Separately identify and present in full all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results, including any arguments presented before the date of publication and the preliminary determination or preliminary results; and

(ii) Include any request for the Secretary to hold a public hearing on any of the arguments raised in the case brief. At a hearing in an administrative review, an interested party or agency may make an affirmative presentation only on arguments included in that party's case brief and identified in the brief for affirmative presentation at the hearing.

(c) *Rebuttal brief; request for hearing.* Not later than the time limit stated in the notice of the Secretary's preliminary determination or preliminary results (or otherwise specified by the Secretary for an expedited review under § 353.22(g)), ordinarily seven days after the time limit for filing the case brief, any interested party or United States government agency may submit a "rebuttal brief." The rebuttal brief shall:

(1) Only respond to arguments raised in case briefs and shall separately identify and present in full all rebuttal arguments; and

(2) Include any request for the Secretary to hold a public hearing on any of the arguments raised in the rebuttal brief. At a hearing in an administrative review, an interested party or agency may make a rebuttal presentation only on arguments included in that party's rebuttal brief and identified in the brief for rebuttal presentation at the hearing.

(d) *Service of briefs.* The submitter of either a case or rebuttal brief shall serve a copy of that brief on any interested party on the Department's service list. If the party has designated under § 353.31(h) an agent in the United States, serve that agent either by personal service on the same day the brief is filed with the Secretary or by overnight mail or courier on the next day and, if the party has designated an agent outside the United States, serve that agent by first class airmail. The submitter shall attach to each brief a certificate of service listing the parties (including agents) served and, for each, the date and method of service.

(e) *Hearings.* If an interested party submits a request under paragraph (b) or (c), the Secretary will hold a public hearing on the date stated in the notice of the Secretary's preliminary determination or preliminary results of administrative review (or otherwise specified by the Secretary in an expedited review under § 353.22(g)), unless the Secretary alters the date. Ordinarily, the hearing will be held, in an investigation, seven days after the scheduled date for submission of rebuttal briefs and, in an administrative review, 14 days after the scheduled date for submission of rebuttal briefs.

(1) The Secretary will place a verbatim transcript of the hearing in the public and official records of the proceeding and will announce at the hearing how interested parties may obtain copies of the transcript.

(2) One of the following employees of the Department will chair the hearing: the Deputy Assistant Secretary for Import Administration, the Director of the Office of Investigations, the Director of the Office of Compliance, or another supervisory employee of the Department responsible for the proceeding.

(3) The hearing is not subject to the Administrative Procedure Act. Witness testimony, if any, shall not be under oath or subject to cross-examination by another interested party or witness. During the hearing, the chair may question any interested party or witness and may permit interested parties to present an additional round of rebuttal argument.

(f) *Where to file; time of filing.* The requirements in § 353.31(d) apply to this section.

(g) *Format and number of copies.* The requirements in § 353.31(e) apply to this section, except that in an administrative review submit 10 copies of each brief and five copies of the public version, including the public summary required under § 353.32(b).

Subpart D—Calculation of United States Price, Fair Value, and Foreign Market Value

§ 353.41 Calculation of United States price.

(a) *In general.* "United States price" means the purchase price or the exporter's sales price of the merchandise, as appropriate. In calculating the United States price, the Secretary will use sales or, in the absence of sales, likely sales, as defined in § 353.2(t).

(b) *Purchase price.* "Purchase price" means the price at which the merchandise is sold or likely to be sold prior to the date of importation, by the producer or a reseller of the merchandise for exportation to the United States. The Secretary will make appropriate adjustments for costs and expenses under paragraph (d) of this section if they are not reflected in the sales price to the importer. Whenever purchase price is used and there is reason to believe that the sales price to

the importer does not reflect the cost and expenses incident to bringing the merchandise from the country of exportation, then the Secretary will make appropriate adjustments for such cost and expenses under paragraph (d) of this section.

(c) *Exporter's sales price.* "Exporter's sales price" means the price at which merchandise is sold or likely to be sold in the United States, before or after the time of importation, by or for the account of the exporter (defined in section 771(13) of the Act), as adjusted under paragraphs (d) and (e).

(d) *Adjustments to United States price.* (1) The Secretary will increase the United States price by:

(i) When not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States;

(ii) The amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of exportation of the merchandise;

(iii) The amount of any taxes imposed in the country of exportation directly on the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise, but only to the extent that such taxes are added to or included in the price of such or similar merchandise sold in the country of exportation; and

(iv) The amount of any countervailing duty imposed on the merchandise to offset an export subsidy.

(2) The Secretary will reduce the United States price by the amount, if included in the price, of:

(i) Except as provided in paragraph (d)(1)(iv), any cost and expenses, and United States import duties incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

(ii) Any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise, other than an export tax, duty, or other charge described in section 771(6)(C) of the Act.

(e) *Additional adjustments to exporter's sales price.* The Secretary also will reduce the exporter's sales price by the amount of:

(1) Commissions for selling in the United States the merchandise.

(2) Expenses generally incurred by or for the account of the exporter in selling the merchandise, or attributable under generally accepted accounting principles to the merchandise; and

(3) Any increased value resulting from a process of production or assembly performed on the merchandise after importation and before sale to a person who is not the exporter of the merchandise, which value the Secretary generally will determine from the cost of material, fabrication and other expenses incurred in such production or assembly.

§ 353.42 Fair value.

(a) *Relationship to foreign market value.* Fair value, used during the investigation phase of a proceeding, is an estimate of foreign market value. Except as otherwise specifically noted, a reference in this subpart to "foreign market value" applies to "fair value," but a reference to "fair value" in this subpart does not necessarily apply to "foreign market value."

(b) *Sales examined.* (1) The Secretary normally will examine not less than 60 percent of the dollar value or volume of the merchandise sold during a period of at least 150 days prior to and 30 days after the first day of the month during which the petition was filed or the Secretary initiated the investigation under § 353.11, but the Secretary may examine the merchandise for any additional or alternative period the Secretary concludes is appropriate.

(2) If the Secretary examines less than 85 percent of the dollar value or volume of the merchandise sold during the period described in paragraph (b)(1), the Secretary will notify the affected foreign government what percentage of total sales are being examined.

§ 353.43 Sales used in calculating foreign market value.

(a) *Sales and offers for sale.* In calculating foreign market value, the Secretary will use sales, as defined in § 353.2(t), and offers for sale, but the Secretary normally will consider offers only in the absence of sales and only if the Secretary concludes that acceptance of the offer can be reasonably expected.

(b) *Fictitious sales and offers.* In calculating foreign market value, the Secretary will reject any fictitious sale or offer.

(c) *Restricted sales.* When sales used to calculate foreign market value are restricted, the Secretary will adjust the price, as appropriate, to compensate for restrictions that affect the value of the merchandise to the purchasers.

§ 353.44 Sales at varying prices.

(a) *Weighted average price or prices.* If the sales which the Secretary may use to calculate foreign market value vary in price (after allowances provided for in §§ 353.55, 353.56, 353.57, and 353.58), the Secretary normally will calculate foreign market value based on the weighted average of those prices.

(b) *Preponderant price.* If not less than 80 percent of the sales which the Secretary may use to calculate foreign market value during the period under examination were made at the same price, the Secretary will calculate foreign market value based on the sales at that price.

(c) *Other reasonable method.* If the Secretary decides that paragraph (b) does not apply and that paragraph (a) is inappropriate, the Secretary will use any other method for calculating foreign market value which the Secretary deems appropriate.

(d) *Sales below cost of production.* For purposes of paragraph (a) or (b), the Secretary will not use sales disregarded under § 353.51.

§ 353.45 Transactions between related persons.

(a) *Sales to a related person.* If a producer or reseller sold such or similar merchandise to a person related as described in section 771(13) of the Act, the Secretary ordinarily will calculate foreign market value based on that sale only if satisfied that the price is comparable to the price at which the producer or reseller sold such or similar merchandise to a person not related to the seller.

(b) *Sales through a related person.* If a producer or reseller sold such or similar merchandise through a person related as described in section 771(13) of the Act, the Secretary may calculate foreign market value based on the sale by such related person.

§ 353.46 Calculation of foreign market value based on price in the home market country.

(a) *In general.* (1) The Secretary ordinarily will calculate the foreign market value of the merchandise based on the price at which such or similar merchandise is sold or offered for sale in the principal markets of the home market country, in the usual commercial quantities and in the ordinary course of trade for home consumption, plus, when not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(2) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the producer or reseller sells the merchandise for exportation to the United States.

(3) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(b) *Ordinary course of trade.* In determining the ordinary course of trade, the Secretary will consider the conditions and practices which, for a reasonable period prior to the time described in paragraph (a)(2), have been normal in the trade of merchandise of the same class or kind in the home market country.

(c) *Transshipments.* If the merchandise is not imported directly from the home market country but is merely transshipped through another country, the Secretary will not, except under § 353.47, calculate foreign market value based on the price at which such or similar merchandise is sold in the country of transshipment.

§ 353.47 Exportation from an intermediate country.

The Secretary will calculate the foreign market value of such or similar merchandise based on sales in the intermediate country rather than sales in the home market country if:

(a) A reseller in an intermediate country purchases the merchandise from the producer;

(b) The producer of the merchandise does not know (at the time of the sale to that reseller) the country to which such reseller intends to export the merchandise;

(c) The merchandise enters the commerce of the intermediate country but is not substantially transformed in that country; and

(d) The merchandise subsequently is exported to the United States.

§ 353.48 Calculation of foreign market value if sales in the home market country are inadequate.

(a) *In general.* Except as provided in § 353.53, if the quantity of such or similar merchandise sold during the period being examined for consumption in the home market country is so small in relation to the quantity sold for exportation to third countries (normally, less than five percent of the amount sold to third countries) that it is an inadequate basis for the foreign market value of the merchandise, the Secretary will calculate the foreign market value of the merchandise under either § 353.49 or § 353.50.

(b) *Preference for third country sales.* The Secretary normally will prefer foreign market value based on sales to a third country rather than on constructed value if adequate information is available and can be verified within the time required.

(c) *Definition of "third country."* For purposes of this section and of § 353.49, a "third country" means any country other than the home market country or the United States.

§ 353.49 Calculation of foreign market value based on sales to a third country.

(a) *In general.* (1) If foreign market value is based on sales to a third country, the Secretary will calculate the foreign market value based on the price at which such or similar merchandise is sold or offered for sale to a third country, plus, when not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(2) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the producer or a reseller sells the merchandise for exportation to the United States.

(3) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(b) *Selection of third country.* The Secretary generally will select the third country based on the following criteria:

(1) Such or similar merchandise exported to the country is more similar to the merchandise exported to the United States than is such or similar merchandise exported to other countries, and the Secretary decides that the volume of sales to the country is adequate;

(2) The volume of sales to the country is the largest to any country other than the home market country or the United States; and

(3) The market in the country, in terms of organization and development, is most like the United States market.

(c) *Selection of more than one third country.* In order to find adequate sales under paragraph (b), the Secretary may aggregate sales to more than a single third country.

§ 353.50 Calculation of foreign market value based on constructed value.

(a) *Method of calculating constructed value.* If foreign market value is based on constructed value, the Secretary will calculate the foreign market value by adding:

(1) The cost of materials used in producing such or similar merchandise (exclusive of any internal tax in the home market country applied directly to the materials or their disposition, but remitted or refunded upon exportation) and the cost of fabrication or other processing of any kind used in producing such or similar merchandise, at a time specified in paragraph (b) which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) General expenses and profit usually reflected in sales of merchandise of the same class or kind as the merchandise by producers in the home market country, in the usual commercial quantities and in the ordinary course of trade, except that the amount for general expenses shall not be less than 10 percent of the cost under paragraph (a)(1) and the amount for profit shall not be less than 8 percent of the sum of the amount for general expenses and the cost under paragraph (a)(1); and

(3) The cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(b) *Time for calculating constructed value.* (1) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate constructed value, under paragraph (a), based on the relevant costs and expenses at a time preceding the time the producer or a reseller sells the merchandise for exportation to the United States.

(2) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate constructed value, under paragraph (a), based on the relevant costs and expenses at a time preceding the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(c) *Transactions with related parties.* In calculating constructed value under paragraph (a), the Secretary may disregard any direct or indirect transaction between persons related under section 773(e)(3) of the Act for any element of value required to be considered under paragraph (a) that does not fairly reflect the usual amount for sales in that market of that element. If the Secretary disregards a transaction and there are no other transactions available for consideration, the Secretary will calculate the amount based on available information as to what the amount would have been if the transaction had occurred between persons not related.

§ 353.51 Calculation of foreign market value if sales are made at less than cost of production.

(a) *Disregarding sales at less than cost.* If the Secretary has reasonable grounds to believe or suspect that the sales on which the Secretary could base the calculation of foreign market value under § 353.46, 353.49, or 353.53 are at prices less than the cost of production, the Secretary, in calculating foreign market value, will disregard such sales if they:

(1) Have been made over an extended period and in substantial quantities, and

(2) Are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade.

(b) *Use of constructed value if above cost sales are inadequate.* If the Secretary disregards sales under paragraph (a), and concludes that the remaining sales at not less than the cost of production are inadequate for calculating foreign market value, the Secretary will calculate foreign market value based on constructed value under § 353.50.

(c) *Calculation of cost of production.* The Secretary will calculate the cost of production based on the cost of materials, fabrication, and general expenses, but excluding profit, incurred in producing such or similar merchandise.

§ 353.52 Calculation of foreign market value of merchandise from state-controlled-economy countries.

(a) *In general.* If the Secretary determines that the economy of the home market country is state-controlled to the extent that sales or offers of sales of such or similar merchandise in that country or to a third country do not permit calculation of foreign market value under § 353.46, § 353.49, or § 353.53, the Secretary will calculate foreign market value based on, in order of preference:

(1) The prices, calculated in accordance with § 353.46 or § 353.49, at which such or similar merchandise produced in a non-state-controlled-economy country is sold either:

(i) For consumption in that country; or

(ii) To another country, including the United States; or

(2) The constructed value of such or similar merchandise in a non-state-controlled-economy country, calculated in accordance with § 353.50.

(b) *Comparability of economies.* For purposes of paragraph (a), the Secretary will select, in order of preference, prices or costs in:

(1) A non-state-controlled-economy country other than the United States at a stage of economic development that the Secretary concludes is comparable to that of the home market country, based on generally recognized criteria, including per capita gross national product and infrastructure development (particularly in the industry producing such or similar merchandise);

(2) A non-state-controlled-economy country other than the United States that is not at a stage of economic development comparable to that of the home market country (in which case the Secretary will adjust the foreign market value for known differences in the costs of material and fabrication); or

(3) The United States.

(c) *Use of factors of production.*—If such or similar merchandise is not produced in a non-state-controlled-economy country which the Secretary concludes to be comparable in terms of economic development to the home market country, the Secretary may calculate the foreign market value using constructed value based on factors of production incurred in the home market country in producing the merchandise, including, but not limited to, hours of labor required, quantities of raw materials employed, and amounts of energy consumed, if the Secretary obtains and verifies such information from the producer of the merchandise in the home market country. The Secretary will value the factors of production in a non-state-controlled-economy country which the Secretary considers comparable in economic development to the home market country. The Secretary will include in this calculation of constructed value an amount for general expenses and profit, as required by section 773(e)(1)(B) of the Act, and the cost of containers, coverings, and other expenses, as required by section 773(e)(1)(C) of the Act.

§ 353.53 Calculation of foreign market value based on sales by a multinational corporation.

The Secretary will calculate the foreign market value of merchandise sold by certain multinational corporations described in section 773(d) of the Act in accordance with provisions of that section.

§ 353.54 Claims for adjustment to foreign market value.

Any interested party that claims an adjustment under §§ 353.55 through 353.58 must establish the claim to the satisfaction of the Secretary.

§ 353.55 Differences in quantities.

(a) *In general.* In comparing the United States price with foreign market value, the Secretary normally will use sales of comparable quantities of merchandise. The Secretary will make a reasonable allowance for any difference in quantities, to the extent that the Secretary is satisfied that the amount of any price differential is wholly or partly due to that difference in quantities. In making the allowance, the Secretary will consider, among other things, the practice of the industry in the relevant country with respect to affording quantity discounts to those who purchase in the ordinary course of trade.

(b) *Sales with quantity discount in calculating foreign market value.* The Secretary will calculate foreign market value based on sales with quantity discounts if:

(1) During the period examined or during a more representative period, the producer or reseller granted quantity discounts of at least the same magnitude on 20 percent or more of sales of such or similar merchandise for the relevant country; or

(2) The producer demonstrates to the Secretary's satisfaction that the discounts reflect savings specifically attributable to the production of the different quantities.

(c) *Sales with quantity discounts in calculating weighted-average foreign market value.* If the producer or reseller does not satisfy the conditions in paragraph (b), the Secretary will calculate foreign market value based on a weighted average price or prices that include sales at a discount.

§ 353.56 Differences in circumstances of sale.

(a) *In general.* (1) In calculating foreign market value, the Secretary will make a reasonable allowance for a bona fide difference in the circumstances of the sales compared if the Secretary is satisfied that the amount of any price differential is wholly or partly due to such difference. In general, the Secretary will limit allowances to those circumstances which bear a direct relationship to the sales compared.

(2) Differences in circumstances of sale for which the Secretary will make reasonable allowances normally are those involving differences in commission, credit terms, guarantees, warranties, technical assistance, and servicing. The Secretary also will make reasonable allowances for differences in selling costs (such as advertising) incurred by the producer or reseller but normally only to the extent that such costs are assumed by the producer or reseller on behalf of the purchaser from that producer or reseller.

(b) *Special rule.* (1) Notwithstanding paragraph (a), the Secretary normally will make a reasonable allowance for other selling expenses if the Secretary

makes a reasonable allowance for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, but the Secretary will limit the amount of such allowance to the amount of the other selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

(2) In comparisons with exporter's sales price, the Secretary will make a reasonable deduction from foreign market value for all selling expenses, other than those described in paragraph (a) (1) or (2), incurred in the relevant country up to the amount of the selling expenses, other than those described in paragraph (a) (1) or (2), incurred in the United States.

(c) *Reasonable allowance.* In deciding what is a reasonable allowance for any difference in circumstances of sale, the Secretary normally will consider the cost of such difference to the producer or reseller but, if appropriate, may also consider the effect of such difference on the market value of the merchandise.

§ 353.57 Differences in Physical Characteristics.

(a) *In General.* In calculating foreign market value, the Secretary will make a reasonable allowance for differences in the physical characteristics of merchandise compared to the extent that the Secretary is satisfied that the amount of any price differential is wholly or partly due to such difference.

(b) *Reasonable Allowance.* In deciding what is a reasonable allowance for any difference in physical characteristics, the Secretary normally will consider differences in the cost of production but, where appropriate, may also consider differences in the market value. The Secretary will not consider differences in cost of production when compared merchandise has identical physical characteristics.

§ 353.58 Level of Trade.

The Secretary normally will calculate foreign market value and United States price based on sales at the same commercial level of trade. If sales at the same commercial level of trade are insufficient in number to permit an adequate comparison, the Secretary will calculate foreign market value based on sales of such or similar merchandise at the most comparable commercial level of trade as the sales of the merchandise and make appropriate adjustments for differences affecting price comparability.

§ 353.59 Disregarding Insignificant adjustments; use of averaging and sampling.

(a) *Insignificant Adjustments.* The Secretary may disregard adjustments to foreign market value which are insignificant. Ordinarily, the Secretary will disregard individual adjustments having an ad valorem effect of less than 0.33 percent, or any group of adjustments having an ad valorem effect of less than 1.0 percent, of the foreign market value. Groups of adjustments are differences in circumstances of sale, differences in the physical characteristics of the merchandise, and differences in the levels of trade.

(b) *Averaging or Sampling.* (1) In calculating United States price or foreign market value, the Secretary may use averaging or generally recognized sampling techniques whenever a significant volume of sales or number of adjustments are involved.

(2) The Secretary will select the appropriate representative samples.

§ 353.60 Conversion of currency.

(a) *Rule for conversion.* The Secretary will convert, under section 522 of the Act (31 U.S.C. 5151(c)), a foreign currency into the equivalent amount of United States currency at the rates in effect on the dates described in §§ 353.46, 353.49, or 353.50, as appropriate

(b) *Special rules for investigation.* For purposes of investigations, producers, resellers, and importers will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where the price of the merchandise is affected by temporary exchange rate fluctuations, the Secretary will not take into account in fair value comparisons any difference between United States price and foreign market value resulting solely from such exchange rate fluctuation.

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Part III

Legal Services Corporation

45 CFR Part 1630
Costs Standards and Procedures; Final Rule

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LEGAL SERVICES CORPORATION

45 CFR Part 1630

Costs Standards and Procedures

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule establishes a new Part 1630 prescribing standards and procedures for determining allowable costs for grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act (Act), and for recovering disallowed costs. The Legal Services Corporation ("Corporation" or "LSC") has not previously promulgated regulations establishing a comprehensive set of costs standards and procedures, except to the extent that they were contained in the Audit and Accounting Guide for Recipients and Auditors (Audit Guide) and in LSC Instruction 83–6. This new rule is intended to provide recipients with clear and simple standards and procedures so recipients can determine which costs are allowable, which costs require prior approval, how such approval is obtained, and how review of disallowed costs is obtained.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: John H. Bayly, Jr., General Counsel, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024–2751, (202) 863–1820.

SUPPLEMENTARY INFORMATION: On February 20, 1985, the Corporation published a revision of the Audit Guide for comment (50 FR 7150). As comments were received and reviewed and revision progressed, it became evident that separate regulations establishing costs standards and procedures for resolution of questioned costs issues should be developed. Accordingly, on August 29, 1985, the Corporation published in the **Federal Register** a proposed new Part 1630 on costs standards and procedures (50 FR 35102). The revised Audit Guide was published on November 29, 1985 (50 FR 49276). After review of comments received and further study, the Corporation, on April 21, 1986, published a revised Part 1630 for further comment (51 FR 13532). Eighty-two timely comments were received and an additional forty-two thereafter. All comments were considered. In addition, two Committees of LSC's Board of Directors ("Board"), the Committee on Operations and Regulations, and the Committee on Audit and Appropriations, heard comments at several meetings. During the same period, Corporation staff has had informal discussions with commenters. After carefully considering all oral and written comments, the Board on June 27, 1986, adopted a final rule. This final rule establishes a new Part 1630 to prescribe standards and procedures for determining allowable costs for recipients of grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act ("Act"), (42 U.S.C. 2996 et seq.), and for recovering disallowed costs.

For some time the Corporation, through the Board Committees on Audit and Appropriations, and on Operations and Regulations, has been working with Corporate staff to improve Corporate and recipient accountability for the federal funds entrusted to the Corporation. The need for clear and concise standards governing the determination of allowable costs, and for recovery of misspent tax dollars, became abundantly clear in the process of developing a comprehensive revision of the Audit Guide and in the processing of costs disputes. Numerous items of questioned costs had remained unresolved for several years, and had occasioned sporadic adversarial activity which left programs uncertain of what to expect. Many of the pending items resulted from failure of various programs to obtain prior approval of certain obviously necessary expenditures, even though such programs had requested approval repeatedly from an LSC regional office for more than a year. Some programs had good reason to believe that the Corporation's regional offices would not give approval in a reasonable and timely manner, and simply ignored the prior approval requirement so that they could continue to serve clients in a business-like manner.

As these understandable problems with regional offices (especially the Southern Regional Office) came to the attention of new Corporate managers, priority was given to resolving back issues and to approving many pending items in situations where it was clear that the expenditure was reasonable and necessary for the service of clients, even though prior approval had not been obtained as required. As a means of eliminating future problems of this type, Corporate staff proposed new language for this regulation to prevent the Corporation from challenging costs because of lack of prior approval, unless the Corporation had made timely objection to the request for approval. The Corporation intends to give priority to ensuring prompt response to all such requests, especially those needing expedited action. This concern is explained further under § 1630.6 below.

The Corporation has utilized the wealth of guidance and experience developed by federal agencies in their efforts to safeguard tax dollars granted to a wide variety of entities. Various Circulars of the Office of Management and Budget (OMB) reflect the wisdom and experience accumulated over time by federal entities. Circular A–122 ("Cost Principles for Non-profit Organizations") was particularly instructive and many sections of Part 1630 were patterned on its provisions. Although the Corporation has adopted, adapted, or incorporated by reference many of the standards and policies of the Circulars, it has, nevertheless, taken care to make such modifications and changes as it felt necessary to meet the needs of providers of legal services and to ensure accountability for federal grant funds under the Act.

The following provisions are of particular significance:

Section 1630.2 Definitions.

Section 1630.2 defines "questioned costs", "allowed costs" and "disallowed costs".

As proposed, these definitions and several other sections could have been interpreted to reach private as well as federal funds beyond the mandate of section 1010(c) of the LSC Act. That section forbids recipients from expending private funds for any purpose forbidden by the Act. Many commenters questioned our approach. Some questioned our authority to examine any expenditure of private funds. The Board has no doubt about its authority to carry out the Congressional purpose concerning section 1010(c), or any other provision of the Act. It recognizes, however, that the across-the-board approach of applying section 1010(c) to the entire regulation could present unforeseeable situations and uncertainties. Accordingly, the Board decided to address section 1010(c) in a completely new section of the regulations and make clear that the restrictions of the other sections of this part apply only to LSC funds. Accordingly, a new section 1630.12 has been added to address private funds in relation to section 1010(c). All other references to such funds, in the definitions or elsewhere in the regulations, have been deleted.

Section 1630.2 also defines "recipient". A "recipient" under this part is not the same as a "recipient" under section 1600.1 of the regulations or as defined in section 1002(6) of the Act. Both of those definitions deal only with

a "recipient" under section 1006(a)(1)(A) of the Act. Since this part sets costs standards and procedures for all grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Act, the definition of "recipient" for purposes of this part is expanded to reach all those receiving grants or contracts under these provisions.

Section 1630.3 Burden of Proof.

Paragraph (a) of the section places the burden of proof on the recipient at all times. This is appropriate since the recipient is responsible for the activities and expenditures involved, as well as for all supporting documentation. Paragraph (b) clarifies that where a recipient claims that the funds used to pay for a questioned cost are not subject to a particular restriction, the recipient has the burden of showing that the funds were not subject to the restriction. A recurring problem has been caused where recipients have accumulated fund balances from successive years' fundings, and have claimed that payments for activities forbidden by particular appropriations riders or other restrictions were made from fund balances of earlier years when the particular prohibitions or restrictions were not applicable.

Many comments focused on proposed § 1630.3(b)(2) which established a presumption in situations where funds having different restrictions are held or are accounted for in such a manner that auditors have difficulty tracking funds and determining if all restrictions have been obeyed. Many commenters appeared concerned that the prohibition against commingling funds in the same account would be too great a burden for programs. The Corporation decided that since the section requires the program to bear the burden of proof, a specific prohibition against commingling unrestricted funds in the same account with funds subject to a statutory restriction was unnecessary. If a recipient has ever commingled funds, its burden would be difficult to meet.

Section 1630.4 Standards governing allowability of costs under Corporation grants or contracts.

Section 1630.4 sets forth the basic standards and criteria which govern the allowability of costs for grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Act.

Several comments complained about the clarity of the terminology used in this section. Words such as "total costs," "direct costs," "indirect costs," "allowable costs," "unallowable costs," and "allocable costs" were cited as examples of uncertain meaning. These terms are taken from the circulars and are words of art used consistently when discussing federal costs principles. They are the subject of authoritative and neutral interpretations and rulings by numerous courts and agencies and can be interpreted by reference to relevant literature and consultation with experts. Reliance on standard language and interpretations to the extent practicable should give maximum consistency and predictability of result to recipient decision-makers.

Paragraph (a) establishes nine general criteria governing allowability of costs. These criteria do not apply to non-LSC funds.

Paragraph (a)(1) provides that the expenditure must actually have been incurred during the term of the grant or contract. Some commenters were concerned that the paragraph could forbid the use of funds carried over to the next year pursuant to Part 1628. The paragraph makes specific reference to Part 1628 to clarify that there is no intent to change the scope of that Part. Several commenters were also concerned that the paragraph could forbid accrual accounting. There is no such intention. The phrase "actually incurred after the effective date of the grant or contract" is consistent with the accrual method of recording expenses and revenues.

Paragraph (a)(2) provides that the cost must be reasonable and necessary for (1) the provision of legal services to eligible clients, or (2) the accomplishment of another function specified in the grant or contract application as approved by the Corporation. Although the language as originally proposed was quite similar to the pertinent federal circular language from which it was derived, commenters were concerned that the reference to "another function" could be construed to exclude activities now being performed because they were not "legal services for eligible clients." Accordingly, the second half of the provision has been revised to specify that where an activity is identified and supported in the application and specifically approved by the Corporation it is allowable.

Paragraphs (a)(5) and (a)(6) are not redundant, as some commenters may have believed. Paragraph (5) means that a recipient cannot have two standards, one for Corporation work and one for non-Corporation work. The purpose is simple: to prevent "gold-plating" of those activities funded by tax funds, whether as a way of shifting costs to those activities (e.g., paying staff a much higher rate on LSC work than on other work) or from misguided generosity or lax management. Paragraph (5) does permit a recipient to use LSC funds to pay for overhead for activities that could be charged to LSC funds where the grant from non-LSC sources does not provide for overhead. The provision deals only with business, managerial, accounting, and similar policies. It does not address programmatic or legal strategy decisions. Paragraph (6) means that accounting practices must be consistent over time. For example, a recipient could not change allocations as follows: allocate the salary costs of its administrative staff to an LSC-funded activity as opposed to a non-LSC eligible activity such as criminal defense work, for the first time period (e.g., month, quarter) on the basis of the number of active LSC eligible versus non-LSC eligible cases, for the second period allocate on the number that are closed during the period, and for the third period allocate on the number of attorneys in respective divisions, each time using a basis that maximizes the allocation of costs to the LSC-supported activity. Changes in accounting practices should be infrequent, well-justified, noted in financial reports, and, when significant, discussed in advance with LSC.

Paragraph (a)(8) is a standard federal provision to ensure that, where a federal program requires the grantee to raise matching funds to expand the services provided with limited federal funds, these funds must be raised from a source other than the federal treasury and taxpayer. The paragraph provides that a cost allowed against a grant or contract of the Corporation may not also be used as matching funds to meet the non-federal share of another federal program. Various commenters were concerned that other program funds, such as those from Administration on Aging, could be affected by the provision. Accordingly, the proviso "unless permitted by law" has been replaced with a requirement that the agency whose funds are being matched shall determine in writing that Corporation funds may be used for the non-federal matching requirements of the laws the agency enforces. Where a *bona fide* written determination is made by the federal, state, or local agency providing funding to the recipient, the use of LSC funds for matching purposes will not be questioned by LSC pursuant to this provision.

Paragraph (a)(9) provides for adequate and contemporaneous documentation of records and for their availability during normal business hours. As published for comment, this provision also sought to ensure that there would be no opportunity for alteration between the

time records are requested and the time an auditor or other LSC representative is given access to the records. This proposal was made to avoid situations where records might be changed to avoid discovery of violations or unallowable costs. Many commenters noted that it is common for mistakes, and other changes and corrections, to be made at the end of a fiscal period to balance the books, and that this is normal accounting practice. Some noted that they have to delete confidential client information before opening their books and noted that such deletions could be considered "alterations". The Corporation's sole concern was with the danger of deliberate alteration for improper purpose, e.g. deception. Routine corrections of errors and of mistakes, which are generally accepted in accounting and auditing, and removal of client names, and other information to protect client rights, were not our concern. It is fundamental to an audit that the auditor must be able to assure that there is no opportunity for alteration or creation of records between the time the auditor indicates interest in particular records or transactions by making specific requests and the time access to such records is provided. In addition, materials properly subject to the attorney-client privilege should not be intermingled with fiscal records. A recipient could violate section 1006(b)(3) of the Act through a breach in client confidentiality if it does not generally restrict a client's secrets to that client's case file but scatters them through other records. Where an auditor seeks records, such as those relating to client trust funds or to expenditures in support of particular cases, it is acceptable if the records are pulled from their normal file and privileged information is obscured or redacted in the presence of the auditor.

It was suggested that the phrase "upon reasonable notice" be inserted before the words "during normal business hours". Notice that is reasonable under the circumstances is now provided as a matter of course on all visits, and this practice will continue. In instances where there are indications of some kind of misconduct, routine notice procedures could provide time and opportunity to create, alter, hide or destroy records. An unannounced visit during normal business hours would be "reasonable" under such circumstances. Consequently, the suggested language could not properly be used to deny access. It could be an excuse, however, to delay or otherwise frustrate access. Accordingly, the proposal was rejected.

Section 1630.4(b) deals with reasonableness of costs. The test is the behavior of a prudent person under the circumstances. The section notes that in the case of recipients which receive the bulk of their funds from the Corporation or other federal sources, where there is no competitive market or business test, particular care must be taken in determining the reasonableness of expenditures.

Several commenters were concerned about the reference and suggestions were made that the language be changed or modified. No change has been made, however, because the Corporation does not believe that change would improve the Provision. The language recognizes that where a recipient does not have a continuing competitive obligation to control costs, it may not expend sufficient energy in that area. It is the obligation of the auditor or monitor to recognize this possible tendency and to be particularly alert in this area.

Several commenters were also concerned about the directive in paragraph (3) of section 1630.4(b) to look at whether the individuals concerned acted with prudence, considering their responsibilities to the clients, the recipients, the public at large, the Corporation, and the federal government. Several commenters suggested that the individuals involved have no obligations to the public at large or to the federal government. The Corporation disagrees. Congress has made very clear that the Corporation is responsible directly to it. H.Rep.No. 95–310, 95th Congress, 1st Sess., May 13, 1977, p.6; S. Rep.No. 95–172, 95th Cong., 1st Sess., May 16, 1977, p.3. The Corporation is required to assure that recipients comply with the provisions of relevant laws and regulations, and with the terms of the awards. Consequently, it seems clear that those who work for recipients or carry out program objectives for them are responsible to the taxpayers through the Corporation and the Congress. No change has been made in the provision.

Section 4(c) deals with allocable costs. A cost is allocable to a particular cost objective in Proportion to the relative benefits received. An allocable cost must also be treated consistently with other costs incurred for the same purpose in like circumstances. Consistent treatment in allocating among cost objectives is a basic goal.

Paragraphs (c)(1) (i), (ii) and (iii) provide specific guidelines for allocating costs. Paragraph (c)(1)(i) states that if a cost is incurred specifically for a grant or contract the cost must be allocated to that grant or contract. The attorney exclusively serving LSC clients is an example where costs are incurred specifically for the LSC grant or contract. Paragraph (c)(1)(ii) applies to cases where costs benefit more than one cost objective and can be allocated in reasonable proportion to the benefits received. An attorney serving eligible clients 60% of the time and participating in non-LSC activities 40% of the time must have his or her salary and benefits allocated accordingly. Paragraph (c)(1)(iii) provides for the allowability of costs having no direct relationship to any particular cost objective. Overhead, continuing legal education, and subscriptions may be examples of necessary costs which in some circumstances may not have a direct relationship to any particular cost objective. These costs must be allocated on a reasonable basis, in accordance with the relative benefits received, to the various cost objectives.
For example, the cost of electricity may be allocated to cost objectives based on the percentage of staff time devoted to each cost objective.

Paragraph (c)(2) states that costs allocable to a particular cost objective may not be shifted to other Corporation grants or contracts to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms or conditions of the grant or contract. This paragraph does not restrict the allocation of costs to particular cost objectives. An activity may be proper under a number of cost objectives, and an allocation of costs to any one of these cost objectives is permissible. However, allocation of costs to cost objectives which are restricted with respect to such funds is impermissible. This paragraph is consistent with the principles in paragraph (1) of this section and ensures an accurate accounting and proper cost allocation for every cost objective. It forbids a grantee or contractor from shifting costs from a grant or contract awarded by a non-LSC source to a a Corporation grant or contract when the costs could not have been borne by the Corporation award in the first place. A recipient could not meet a funding deficiency in a non-LSC account with LSC funds if the activities funded in the non-LSC account could not be undertaken with LSC funds. Thus, a recipient could not shift costs from a public funding source to a Corporation grant or contract if the non-LSC grant was awarded to provide criminal representation or to undertake activities restricted by Part 1612. This paragraph does not require a program to reject funding from any source that did

not include funds sufficient to cover all indirect costs associated with the activity funded so long as the activity funded serves LSC-eligible clients and cases. This paragraph permits a program to charge the basic LSC field grant for activities partially, but not wholly, funded by other sources, so long as the activities funded consist of services for LSC-eligible clients.

There will usually not be a serious "allocation" problem regarding LSC funds if all of a recipient's activity is eligible for LSC funding under its grant or contract, even though a recipient may receive other funds. When a recipient has both an LSC function and a non-LSC function (e.g., criminal defense work), all or some of its costs must be "allocated" between these two functions. For example, if a staff attorney works exclusively serving eligible LSC clients, the attorney's salary and benefits would be allocable to the LSC grant or contract. On the other hand, if an attorney works 60% of the time serving eligible LSC clients and 40% of the time in non-LSC activities, the attorney's salary and benefits must be allocated proportionately between the LSC grant or contract and some other cost objective (grant, project, service or other activity). Section 1630.4(c) repeats in standard grant accounting terms, the general principle that this division must be done on some kind of rational basis reflecting the benefits of the work performed for each cost objective. If the recipient has two divisions, such as an LSC division and a criminal division, and neither works in the other's area, all direct costs of the LSC division would be charged to LSC without the need for allocation; only "joint" costs, such as rent, utilities, or the salaries of administrative employees who perform management and accounting work for both divisions, would have to the "allocated". Whenever possible, costs should be charged directly. Thus, if the two divisions are housed in separately rented buildings, each could be charged its own rent. Some phone systems have the capacity to charge all long-distance calls to the division of the employee making that call, or even to the particular case being worked upon. Depending upon actual circumstances, accountants may agree upon a number of ways of making allocations, such as attorney hours, number of cases, number of employees, total direct costs, etc. For instance, if the LSC division of a program incurred $200,000 in directly chargeable costs and the criminal division of that program incurred $100,000 in such costs, LSC's share of a total of $90,000 in general overhead (e.g., program director's salary, administrative staff) would be $60,000, were the allocation based on the proportion of direct costs.

Paragraph (e) defines program income in terms consistent with Attachment D to Circular A–110 ("Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations—Uniform Administrative Requirements"). Some commenters were concerned about the effect of the new definition on fund balance calculations. Section 1628.2(a) of the regulations defines LSC "support" for fund balance calculation purposes as including (1) the basic award, (2) any income (including interest) derived from it, and (3) attorneys' fees, proceeds from sale of assets, and any other compensation or income attributable to the award. Paragraph (e) defines "program income" as including attorneys fees, proceeds from the sale of assets, service fees, and interest income. In effect, it defines "program income" as including all the items added to the basic award by § 1628.2(a) in arriving at LSC "support". This definition should have no effect on fund balance calculations.

A number of commenters were critical of the inclusion in program income of attorneys' fees awarded in cases funded with LSC grant funds. When the grant or contract pays all the costs of a particular activity, it is to be expected that revenue from that activity is treated as derived from the grant or contract and subject to all the current LSC restrictions. Since the definition is completely consistent with the definition of LSC "support" in § 1628.2(a), and with the fund balance calculation process, we do not believe that the criticisms raise valid concerns.

In order to ensure that such revenue need not be recognized before payment was assured, the proposed paragraph (e) provided that program income was to be applied as a credit against grant or contract costs charged the Corporation at the time of actual receipt. Although the net result would not have been affected, this would have changed the method of calculating the fund balance. We have deleted the provision to eliminate any confusion concerning the calculation process and will rely upon generally accepted accounting practices which do not require the recognition of speculative revenue.

Advance Understandings

Paragraph (2) of § 1630.4(f) is a revision of proposed paragraphs (b) and (c) of § 1630.5 as published April 21, 1986. New paragraph (2) recommends that recipients try to enter into advance understandings in the sensitive areas of expenditures for travel and fees for training, for conferences, meetings where political activity is encouraged, or where staff of other LSC recipients are the primary participants, and for branch offices where a primary use is lobbying, legislative advocacy or formal rulemaking.

As originally proposed, § 1630.5 (b) and (c) would have required prior approval by the Corporation for certain travel, meetings and conferences, and office expense associated with lobbying, legislative advocacy, and formal rulemaking. Commenters were very concerned about the administrative and other burdens which such prior approvals would have placed on recipients and on the Corporation. A number of commenters noted that they had had delays of various lengths getting approvals under existing prior approval provisions. In the past, such approval authority was delegated to regional offices and there were, all too often, unreasonable delays. The Corporation has corrected these management problems and could now handle the requests for approval efficiently and on a timely basis. It decided, however, to place the proposed provisions of §§ 1630.5 (b) and (c) in the advance understanding section to express the Corporation's concern that recipients should ensure that all such expenditures are reasonable, necessary, and in full compliance with all applicable restrictions on the use of LSC funds. Due attention to these concerns will be exercised during audits and monitoring of recipients. The requirements for prior approval of these expenditures were accordingly deleted.

Guidance

Section 1630.4(g) provides that the OMB Circulars will be used for guidance in resolving cost questions to the extent that they are not inconsistent with applicable laws, rules, regulations, guidelines, and instructions and with the Audit Guide. These Circulars have already benefited from review and comment, have been in operation for many years, and have been the subject of extended interpretation and implementation. They are an excellent and neutral source of cost and accounting principles and decisions that can resolve many issues that will arise under this part but which the Corporation cannot now reasonably foresee.

Unallowable Costs and Prior Approvals

Section 1630.5(b) provides for prior approval of certain expenditures. In

response to comments, language was inserted to state that approval will not be denied unless the cost would be inconsistent with the standards and policies of this part, including the criteria set forth or incorporated by reference in §§ 1630.4 and 1630.5 or elsewhere in Part 1630. Normally, prior approval will be valid for only one year. For example, where a program obtains approval of a purchase on January 21, 1986, and does not complete the purchase by January 21, 1987, it must seek approval again. If the approval is for a lease which would last for several years or a contract for the purchase of property, then the approval allows compliance with the lease or contract if executed within a year; extensions, renewals, or modifications, of course, require approval if such actions, standing alone, would so require.

Cost of Counsel

For many years the Corporation has required recipients to get prior approval for costs of consultants and outside counsel in all matters (including those in which the Corporation has an adverse interest) in which the recipient—rather than an eligible client—is represented and the cost exceeds a set minimum. It was originally proposed that cost of counsel in a matter in which the Corporation is an opposing party or has an opposing interest should be unallowable. The rationale was that it was illogical to provide funds for others to litigate against the Corportion and that other grant programs do not allow such costs. Many commenters vigorously opposed the proposal. Some claimed that it would create ethical problems and cited Rule 3.7 of the Model Rules of Professional Conduct and DR 5–101(B) and DR 5–102 of the Code of Professional Responsibility of the American Bar Association. We do not agree that the cited provisions necessarily posed ethical problems. See, e.g., ANNOTATED CODE OF PROFESSIONAL RESPONSIBILITY, DR 5–101(B) and DR 5–102 (1979), comment, pages 212–221, and D.C. Bar Legal Ethics Committee, Op. 44 (1978) and Op.125 (1983).

Commenters also pointed out that under the Circulars and interpretations of them, costs of counsel may be charged against an award for services associated with protests or appeals within the administrative agency process up to and including any decision by the head of the agency. Litigation against the granting agency, however, is not chargeable against the award. The Corporation has concluded that it should rely upon the precedent of general federal grant law, incorporated by reference in § 1630.4(g), and permit programs to use in-house staff or retained counsel, and charge their costs to LSC funds, for all stages of negotiations and proceedings which are within the internal administrative structure of the Corporation. Thus, programs can charge LSC funds for costs of counsel and expenses in all proceedings brought by the Corporation to suspend, terminate, or deny refunding. This approach was adopted because it addressed many of the concerns raised by programs about the more restrictive requirement and was generally consistent with the approach used by other federal agencies in dealing with grantees. Under current practice, the Corporation has not exercised its prior approval authority for contracts entered into by programs with attorneys for such representation. Corporate practice will not be modified to insist upon prior approval pursuant to § 1630.5(b)(3) for such contracts except through formal issuance of an instruction pursuant to section 1006(e) of the Act.

Although cost of counsel in these situations will not be subject to prior approval, it will, like any other cost, be subject to later audit. The Project Advisory Group, for instance, recognized in its June 20, 1986 memorandum to the Board that "LSC retains full ability to review costs incurred in retaining counsel in disputes with LSC after the fact. Sections 1630.4 and 1630.5(a) still apply to all funds which did not receive prior approval."

Section 1630.6 Effect of absence of prior approval.

Under § 1630.6, the Corporation cannot claim lack of prior approval where it fails to act on time. The principal criticism of this section was that it contained no separate criteria for prior approval. In response to comments, language has been inserted in § 1630.5(b) as discussed above.

Several commenters were concerned about the time intervals provided for in this section, particularly where a quick response would be needed to avoid harm or loss. The Corporation intends to make every reasonable effort to respond promptly to all program requests for approval, especially if the program presents information which indicates that a quick response is necessary. For example, if a program would incur substantial harm from a delayed response to a request for approval of a consultant contract, the Corporation will attempt to respond in a timely manner so that the loss or harm can be avoided. While the Corporation must make a written request for additional information within 45 days after receipt, it will endeavor to request such additional information as soon as possible, both orally and in writing.

Section 1630.8 Recovery of disallowed costs.

Under § 1630.8, disallowed funds are recovered from future checks or by direct payment or otherwise. Comments criticized the version of this provision that was published in the **Federal Register** because it could be construed to prevent a program from seeking equitable or other relief from recovery of a disallowed cost where it chooses to appeal to the President under § 1630.7(c). The final rule has eliminated the problem by moving the relevant provisions of former § 1630.8 into § 1630.7. Other comments raised concern about the policy of recovering income derived from a disallowed cost. Generally, we believe that derivative income will not occur in most disallowed costs cases. Where such income can be identified and traced, however, we think it should be recovered so that there is no monetary incentive to spend funds on unallowable items.

Comments have also questioned our authority to recover income derived from disallowed expenditures. No basis has been given for this contention. It is a basic principle of statutory construction that express authority to administer a program carries with it implied authority to do what is necessary to implement the express authority. SUTHERLAND, STATUTORY CONSTRUCTION. Section 55.04 (4th ed. 1973) and cases cited thereat; *Chevron, U.S.A., Inc.* v. *National Resources Defense Council, Inc.*, 104 S. Ct 2778 (1984).

Section 1630.9 Other remedies; effect on other parts.

This section provides that the Corporation will require necessary steps by recipients to correct deficiencies. In addition, action pursuant to Parts 1606, 1623, and 1625 may be required. Referrals may also be made to law enforcement agencies and bar associations, as appropriate. This section also provides that recovery of a questioned cost is not to be construed as a termination or a denial of refunding under Parts 1606 or 1625.

Some commenters have stated that any recovery of a questioned cost is subject to section 1011 of the Act and an appropriate proceeding thereunder. They cited *East Arkansas Legal*

Services v. *LSC*, 742 F.2d 1472 (D.C. Cir. 1984) but did not explain in detail application of its reasoning to proceedings under this Part. *East Arkansas Legal Services* v. *L.S.C., supra.* involved reduction of a recipient's grant to offset part of a fund balance carried over from a prior year. The circuit court concluded that reduction was subject to a Section 1011 proceeding. Because of the vastly different considerations at issue here, we do not think that Congress intended to require section 1011 proceedings for the recovery of misspent funds or that the language of the cited case governs the concerns here addressed or precludes the Corporation from adopting the interpretation of Section 1011 set forth in this section.

Section 1630.12 Non-public funds.

This section provides that if an activity is in violation of section 1010(c) of the Act, which forbids recipients from doing anything prohibited by the Act, the cost of the activity cannot be charged to nonpublic funds. It also provides that the Corporation will take from Corporation funds an amount not to exceed the amount disallowed. Congress has prohibited certain uses of non-public funds and empowered the Corporation to enforce this prohibition; for small violations, a proportionate and reasonable monetary penalty is preferable to termination or denial of refunding.

Many comments criticized various aspects of the way former versions of Part 1630 handled non-public funds. Many comments asserted that the Corporation has no authority to deduct from Corporation funds an amount equal to the disallowance. They contended that our implementation of section 1010(c) of the Act was limited to Part 1610 of the Corporation's regulations. Many commenters noted that it did not seem clear in several sections of the regulation (1630.4(b); 1630.5(c); 1630.5(e)) whether the same criteria were used for Corporation and non-public funds.

In response to the comments, the Board decided to treat non-public funds in a separate new § 1630.12. Conforming changes were made to §§ 1630.4, 1630.5, and 1630.6 to eliminate any confusion.

List of Subjects in 45 CFR Part 1630

Accounting, Government contracts, Grant programs, Legal services, Questioned costs.

For the reasons set out in the preamble, a new Part 1630 is added to 45 CFR, Chapter XVI, as follows:

PART 1630—COSTS STANDARDS AND PROCEDURES

Sec.

1630.1 Purpose.
1630.2 Definitions.
1630.3 Burden of proof.
1630.4 Standards governing allowability of costs under Corporation grants or contracts.
1630.5 Costs specifically unallowable under Corporation grants and contracts.
1630.6 Effect of absence of prior approval.
1630.7 Review and appeal process.
1630.8 Recovery of disallowed costs.
1630.9 Other remedies; effect on other parts.
1630.10 Responsibility of subgrantees and subcontractors.
1630.11 Time.
1630.12 Non-public funds.

Authority: 42 U.S.C. 2996e, 2996f, 2996g, 2996h(c)(1), and 2996i(c).

§ 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs incurred by recipients of the Corporation. The Corporation has considered the standardized policies developed over years of federal experience with assistance to nonprofit organizations, and has adopted, or adapted, many of these policies where appropriate for the funding of legal services for eligible clients.

§ 1630.2 Definitions.

(a) A "questioned cost" is a charge or proposed charge to a recipient's Corporation funds which could be determined to be ineligible.

(b) An "allowed cost" is a cost that, after investigation, the Corporation has determined to be eligible for payment from a recipient's Corporation funds.

(c) A "disallowed cost" is a cost which has been determined to be ineligible for payment from a recipient's Corporation funds and includes any income the recipient may have derived from activities supported by that cost, including proceeds from the sale of assets and interest.

(d) "Recipient" as used in this part means any grantee or contractor receiving funds from the Corporation under sections 1006(a)(1) or 1006(a)(3) of the Act.

§ 1630.3 Burden of proof.

(a) The recipient shall at all times have the burden of proof under this Part.

(b) If a recipient defends a questioned cost on the basis that the funds used were not subject to the restriction cited by the Corporation, the recipient has the burden of proving that the funds actually expended were not in fact subject to that restriction.

§ 1630.4 Standards governing allowability of costs under Corporation grants or contracts.

(a) *General criteria.* Expenditures by a recipient are allowable under the recipient's grant or contract only if the recipient can demonstrate that the cost was:

(1) Actually incurred during the effective term of the grant or contract (unless allowed by Part 1628) and the recipient was liable for payment;

(2) Reasonable and necessary for the provision of legal services for eligible clients or for the accomplishment of another function specified in the grant or contract application as approved by the Corporation;

(3) Allocable to such function(s);

(4) In compliance with the Act, applicable appropriation acts, Corporation rules, regulations, guidelines, and instructions, the Corporation Audit and Accounting Guide for Recipients and Auditors, and the terms and conditions of the grant or contract;

(5) Consistent with policies and procedures that apply uniformly to both Corporation-financed and other activities of the recipient;

(6) Accorded consistent treatment;

(7) Determined in accordance with generally accepted accounting principles;

(8) Not included as a cost or used to meet cost sharing or matching requirements of any other federally financed program, unless the agency whose funds are being matched determines in writing that Corporation funds may be used for federal matching purposes; and

(9) Adequately and contemporaneously documented and the Corporation was given access during normal business hours to the documentation as filed in the recipient's normal business records.

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. If a cost is disallowed solely on the ground that it is excessive, only the amount that is larger than reasonable shall be disallowed. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with recipients, or separate divisions thereof, which receive the preponderance of their support from grants or contracts with the Corporation

or federal agencies, rather than through the sale of goods and services in free markets. In determining the reasonableness of a given cost, consideration shall be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the recipient or the performance of the grant or contract;

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, federal and state laws and regulations, and the terms and conditions of the grant or contract;

(3) Whether the individuals concerned acted with prudence under the circumstances, considering their responsibilities to the recipient, its clients and employees, the public at large, the Corporation, and the federal government; and

(4) Significant deviations from the established practices of the recipient which may unjustifiably increase the grant or contract costs.

(c) *Allocable costs.* (1) A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Corporation grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(i) Is incurred specifically for the grant or contract;

(ii) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or

(iii) Is necessary to the overall operation of the recipient, although a direct relationship to any particular cost objective cannot be shown.

(2) Any cost allocable to a particular grant or contract or other cost objective under these principles may not be shifted to other Corporation grants or contracts to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms or conditions of the grant or contract.

(d) *Applicable credits.* (1) A recipient must deduct all applicable credits, as defined in paragraph (2) below, from the costs it charges to a grant or contract from the Corporation.

(2) The term "applicable credits" refers to those receipts or reductions of expenditures which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the recipient relate to allowable costs they shall be credited to the grant or contract either as a cost reduction or cash refund, as appropriate.

(e) *Program income.* Program income represents gross income earned by the recipient from Corporation-supported activities, and includes, but is not limited to, income from service fees (including attorneys' fees and costs), sales of commodities and property, and interest earned on grant or contract advances or other funds.

(f) *Advance understandings.* (1) Under any given grant or contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with recipients that receive a preponderance of their support from the Corporation. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the Office of Monitoring, Audit, and Compliance in advance of incurring special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element. Acceptance of the annual budget as part of the renewal of funding does not constitute an "advance understanding" or "approval", unless the cost or expenditure is identified and specifications of the purpose, amount, and all other information necessary to evaluate the necessity and reasonableness of the cost are included and explicit approval of the specific transaction is included with approval of the grant application.

(2) Because there is significant potential for disagreement regarding the reasonableness, necessity, or allowability of costs allocable to the following activities, recipients are encouraged to seek advance understandings regarding—

(i) Conduct of or attendance at meetings (attended primarily by employees of other LSC recipients or a purpose of which is to encourage political activity), conferences, symposia, or training projects by participants, trainees, trainers, or employees;

(ii) Maintenance or occupancy of a branch office if a primary use of that office is to support legislative advocacy, formal rulemaking, or lobbying.

(g) *Guidance.* The Circulars of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations acts, this part, the Audit and Accounting Guide for Recipients and Auditors, and Corporation rules, regulations, guidelines, and instructions.

§ 1630.5 Costs specifically unallowable under Corporation grants and contracts.

(a) No cost allocable to an activity that violates the Act, other provisions of law, Corporation rules, regulations, guidelines, instructions, or the terms of a recipient's grant or contract agreement may be charged to Corporation funds.

(b) Without prior approval of the Corporation (which approval shall not be withheld unless the Corporation determines that the cost would be inconsistent with the standards and policies of this part and which shall be valid for no more than one year), no cost allocable to any of the following may be charged to Corporation funds:

(1) The cost of a lease or purchase of equipment, furniture, books or similar personal property if the single item or combined purchase price is in excess of $10,000. In the case of a lease, the purchase price is determined by the prevailing market rate for purchase of the property leased, not by the lease price. "Combined purchase price" means the total cost of all the components of a system, such as a computer or telephone system, in which the components are planned as integral parts of the system or lease process. The addition of books to an existing library purchased during a prior audit year, of new printers to an existing computer system purchased during a prior audit year, or of new furniture to office furniture purchased during a prior audit year would not require prior approval unless the additions had a combined purchase price in excess of $10,000. When purchases or leases are made for more than one office, the "combined purchase price" includes the cost of all new system components for all offices affected;

(2) Purchases of real property;

(3) Consultant contracts in excess of $5,000 or consultant fees in excess of $261 per eight-hour day or $35 per hour except that (i) the retention of expert witnesses or other consultants or attorneys secured on behalf of eligible clients shall not be considered consultant services, and (ii) audit services shall not be considered as consultant services, but other services that may be provided by a recipient's auditor, such as the preparation of interim financial reports or tax reports, shall be considered consultant services

and shall require approval if the fees exceed the limits established by this subparagraph.

§ 1630.6 Effect of absence of prior approval.

The Corporation may not assert the absence of its approval as a basis for disallowance of a cost if it has not provided written notice to a recipient that it objects to a proposed cost expenditure involving Corporation funds, or to a proposed action that could result in a cost expenditure that the recipient will charge to Corporation funds, within sixty (60) days of receipt by the Office of Monitoring, Audit, and Compliance of a request for such approval, or within thirty (30) days of the receipt by that Office of all requested information about the proposal. The Corporation must make written request for additional information within forty five (45) days of the receipt by the Office of Monitoring, Audit, and Compliance of the request for approval. This section does not apply to requests for approval made prior to the effective date of this regulation. If the request for prior approval is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial.

§ 1630.7 Review and appeal process.

(a) When it questions a cost incurred by a recipient, the Corporation shall give written notice to the recipient and the Chairperson of its governing body stating the dollar amount of the cost and the factual and legal basis for questioning it. Such notice must be provided no more than six (6) years after the recipient incurred the cost or expended the funds.

(b) The recipient may respond with written evidence and argument to show that the cost was allowable, that the Corporation, for equitable, practical, or other reasons, should not recover all, or part of the amount, or that the recovery should be made in installments. If the recipient fails to respond within thirty (30) days of its receipt of notice, the cost shall be disallowed.

(c) Within forty-five (45) days of receiving the recipient's written response to the notice of questioned cost, the Corporation shall issue a determination that the cost has been allowed or disallowed and advise the recipient of the method and schedule for collection of any disallowed costs.

(d) Within thirty (30) days after it receives a determination from the Corporation that a questioned cost has been disallowed, a recipient may send a written request for review to the President of the Corporation, stating its reasons in detail.

(e) Within thirty (30) days after receipt of the written request for review, the President shall either adopt, modify, or reverse the determination. The decision shall be based on the written record, consisting of the notice, the recipient's response, the Corporation's determination, the recipient's request for review, and any response and analysis sent to the President by Corporate staff. The decision of the President, or his or her designee, shall become final upon receipt by the recipient of written notice of the decision. The Corporation shall send a copy of the staff's response and analysis to the recipient at the time it sends the President's decision.

(f) If the President has had prior involvement in the consideration of the issue, another executive employee who has had no prior involvement shall be designated to hear and decide the request for review.

§ 1630.8 Recovery of disallowed costs.

After completion of all action under § 1630.7, the Corporation shall recover, in the form of a reduction in future grant checks or direct payment or otherwise, an amount not to exceed the total disallowed cost and any additional income derived from activities supported or assets purchased by means of the disallowed cost.

§ 1630.9 Other remedies; effect on other parts.

(a) In all cases in which a cost has been disallowed by the Corporation, the Corporation shall require that the recipient take the action needed to prevent recurrence of the activity that gave rise to such disallowed cost. In cases of serious financial mismanagement, fraud, or defalcation of funds, the Corporation may take appropriate action pursuant to Parts 1606, 1623, and 1625 of its regulations and shall make such referrals and recommendations as the circumstances warrant.

(b) Recovery of questioned costs by any means under this part is not to be construed to affect permanently the annualized funding level of the recipient, or to constitute a termination of financial assistance under Part 1606, a suspension of funding under Part 1623, or a denial of refunding under Part 1625.

§ 1630.10 Responsibility of subgrantees and subcontractors.

When disallowed costs arise from expenditures incurred under a subgrant or subcontract of Corporation funds, the recipient and the subrecipient or subcontractor will be held jointly and severally responsible for the actions of the subrecipient or subcontractor, as provided in 45 CFR Part 1627, and will be subject to all remedies available under this Part.

§ 1630.11 Time.

(a) *Computation.* Time limits specified in this Part shall be computed in accordance with Rules 6(a) and 6(e) of the Federal Rules of Civil Procedure.

(b) *Enlargement.* The President of the Corporation may, on written request for good cause shown, grant an enlargement of time and shall so notify the recipient in writing.

§ 1630.12 Non-public funds.

(a) No cost allocable to an activity that violates section 1010(c) of the Act or Part 1610 of these regulations may be charged to non-public funds.

(b) The Corporation shall, pursuant to this part, collect from the recipient's Corporation funds an amount not to exceed the amount of non-public funds allocated to such violation and any additional income derived therefrom.

Dated: August 6, 1986.

John H. Bayly, Jr.,

General Counsel.

[FR Doc. 86-18262 Filed 8-12-86; 8:45 am]

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VOL
51
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27515-27
27811-28
28059-28
28219-28
28321-28
28509-28
28687-28
28799-28
28921-29

Reader Aids

Federal Register

Vol. 51, No. 158

Wednesday, August 13, 1986

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Code of Federal Regulations

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Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5236

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218

Administrative Orders:
Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219

5 CFR

532.....28799
890.....28799
1201.....28321

Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

26.....28800
29.....28687
51.....27813, 28802
272.....28196
273.....28196
770.....28921
908.....27816, 28509
910.....28059
911.....27517
918.....27518
932.....28922
991.....28802
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1427.....28321
1475.....28803
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
52.....28719
447.....27862
1065.....27553, 28721, 28819
1068.....28819
1079.....27554, 28819
1136.....27866
1137.....27554
1139.....27555
1709.....28722

8 CFR

238.....28060, 28923

Proposed Rules:
214.....27867, 28576
248.....27867

9 CFR

92.....28805

Proposed Rules:
92.....27871

10 CFR

50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221, 28690
523.....28221
741.....27522

Proposed Rules:
205.....28589
226.....28245

13 CFR

310.....27828

14 CFR

21.....28509-28525
23.....28509-28525
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807

71.....27833–27835, 28067, 28325, 28326, 28528, 28923
75.....28809
97.....28326
121.....28322
1204.....27528
1209.....28924

Proposed Rules:
Ch. I.....28386, 28725
1.....28095
36.....27556
39.....27557, 27874, 28386, 28832
71.....28388–28390, 28956, 28957
73.....28095
75.....28096, 28957

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695
423.....28222
444.....28328
1500.....28529

Proposed Rules:
13.....28594

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:
231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529. 28331
410.....28810

Proposed Rules:
271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:
113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:
404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546
520.....28546
522.....28546, 28932
546.....28546
556.....28932
558.....28546, 28547
561.....28223
1308.....28695

Proposed Rules:
1308.....28725, 28727

22 CFR

Proposed Rules:
2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
888.....28486
905.....27774
965.....27774
968.....27774

Proposed Rules:
35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:
4.....28836
5.....28836
7.....28836
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

29 CFR

1952.....27534
1960.....28378
2603.....28379

Proposed Rules:
602.....28840

30 CFR

931.....28553
943.....28554

Proposed Rules:
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

32 CFR

90.....28092
706.....27535, 27536, 28933–28941

33 CFR

100.....28706
117.....28380, 28707
140.....28381
142.....28381
161.....27839
165.....28382, 28383

Proposed Rules:
117.....27877
334.....28248

34 CFR

674.....28312

36 CFR

Proposed Rules:
7.....28107–28110
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

39 CFR

10.....28383

Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813
61.....27956
65.....28224
81.....27843–27845
180.....28225–28227
260.....28664
261.....28296, 28664
262.....28664
263.....28664
264.....28556
265.....28556
271.....28094, 28664
761.....28556

Proposed Rules:
52.....27560, 27878
65.....28113
85.....28114
141.....28730
180.....28249, 28603, 28959
271.....28604
716.....27562
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–40.....27539

42 CFR

405.....27847, 28710
417.....28569
482.....27847

43 CFR

11.....27674

Public Land Orders:
6620.....28229
6622.....28229

Proposed Rules:
4.....28846

44 CFR

64.....28230, 28232

Proposed Rules:
81.....28119

45 CFR

1612.....27539
1630.....29076
2002.....28384

Proposed Rules:
74.....28960

47 CFR

22.....28236
68.....28237
73.....27552, 28237, 28942, 28943
97.....28237

Proposed Rules:
0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
73.....27566, 27567, 28961
74.....27566

48 CFR

223.....28943
228.....
232.....
242.....
252.....
522.....
552.....
1801.....
1804.....
1805.....
1806.....
1807.....
1809.....
1813.....
1814.....
1815.....
1819.....
1825.....
1827.....
1832.....
1836.....
1837.....
1839.....
1842.....
1845.....
1847.....
1851.....
1852.....
1853.....

49 CFR

571.....

Proposed R
Ch. X.....
171.....
172.....
173.....
385.....
391.....
531.....
1058.....
1152.....
1312.....

50 CFR

20.....
285.....
604.....
630.....
641.....
655.....
661.....
671.....
672.....
674.....

Proposed R
216.....
611.....

LIST OF

Last List A
This is a c
public bills
session of
have beco
The text o
published i
Register b
in individua
(referred to
from the S
Documents
Printing Of
DC 20402
3030).

VOL 51 ISS 156 AG 13 1986 UMI

228.....28943
232.....28946
242.....28943
252.....28943
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

49 CFR

571.....28238

Proposed Rules:

Ch. X.....28847
171.....28962
172.....28962
173.....28605, 28962
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241
604.....28575
630.....28575
641.....28094
655.....28241
661.....27859, 28717, 28954
671.....28242
672.....28385
674.....27860, 28243

Proposed Rules:

216.....28320, 28963
611.....28731

LIST OF PUBLIC LAWS

Last List August 12, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1904/Pub. L. 99-377

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S.J. 356/Pub. L. 99-378

To recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy. (Aug. 8, 1986; 100 Stat. 807; 1 page) Price: $1.00

VOL
51
ISS
1
56
AG
13
1986
UMI

VOL
51
ISS
156
AG
13
1986
UMI

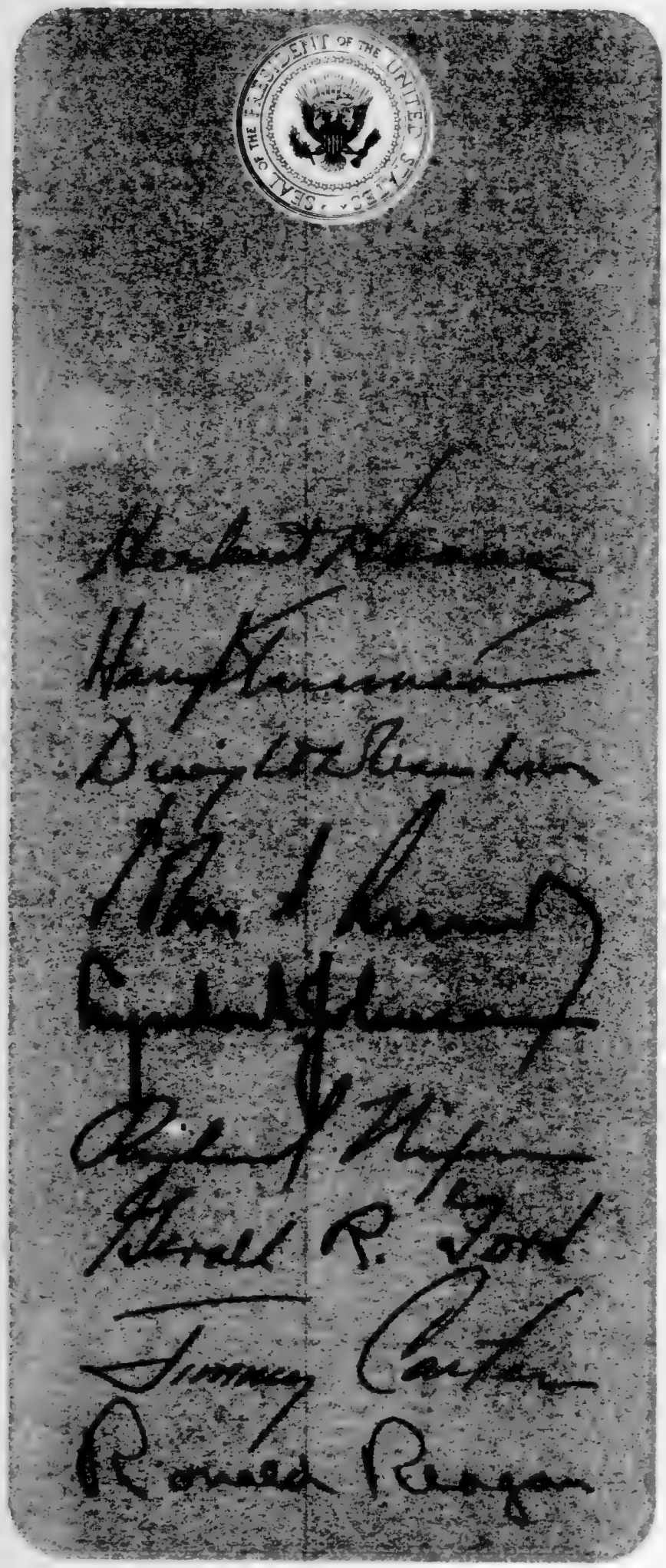

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1980–81
(Book I) $21.00
1980–81
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VOL
51
ISS
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VOL
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Vol. 51

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VOL
51
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157
AG
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1986
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8-14-8
Vol. 51
Pages

8-14-86
Vol. 51 No. 157
Pages 29085-29200

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Thursday
August 14, 1986

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VOL
51
ISS
157
AG
14
1986
UMI

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Contents

Federal Register

Vol. 51, No. 157

Thursday, August 14, 1986

Agricultural Marketing Service
PROPOSED RULES
Spearmint oil produced in Far West, 29109

Agriculture Department
See also Agricultural Marketing Service; Cooperative State Research Service; Forest Service; Soil Conservation Service
NOTICES
Agency information collection activities under OMB review, 29133

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Allied Finance Adjusters Conference, Inc., 29172
National cooperative research notifications:
Portland Cement Association, 29173

Army Department
PROPOSED RULES
Military reservations and national cemeteries:
Arlington National Cemetery; violator sanctions, 29115

Coast Guard
RULES
Drawbridge operations:
Florida, 29101
PROPOSED RULES
Lifesaving equipment:
Servicing of inflatable liferafts, 29117
Passenger and tank vessels, etc.:
Drydocking and tailshaft examination intervals, 29116

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 29151

Comptroller of the Currency
RULES
National banks:
Bank directors; required notification to nominate; CFR Part removed, 29089
Investment securities; eligibility for purchase, dealing in, underwriting, etc., 29085

Consumer Product Safety Commission
RULES
Hazardous substances:
Strong sensitizer; definition, 29094

Cooperative State Research Service
NOTICES
Meetings:
Science and Education Research Grants Program Policy Advisory Committee, 29134
Technological Options to Improve the Nutritional Attributes of Animal Products Committee, 29133

Customs Service
NOTICES
Tuna and tuna products from Mexico; importation prohibition removed, 29183

Defense Department
See also Army Department
NOTICES
Federal Acquisition Regulation (FAR):
Pension costs, 29188

Education Department
RULES
Educational research and improvement:
National diffusion network, 29190
Postsecondary education:
Institutional aid programs, 29196

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Nuclear waste management:
Radioactive waste management system—
From-reactor cask procurement; comment responses, availability, 29152

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
Sampling location acceptability; alternative procedure Correction, 29104
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
New Hampshire, 29116
NOTICES
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 29156
Water pollution; discharge of pollutants (NPDES):
Idaho, 29156

Equal Employment Opportunity Commission
RULES
Procedural regulations:
Petitions to revoke or modify subpoenas, etc., 29098

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Allison, 29090
Piper, 29092
SOCATA, 29093
PROPOSED RULES
Airworthiness directives:
British Aerospace, 29110

VOL 51 ISS 157 AG 14 1986 UMI

NOTICES
Technical standard orders:
Aircraft seats and berths, 29183

Federal Communications Commission
RULES
Radio services, special:
Aviation services—
Digital administrative communications; transmission of messages on aeronautical enroute frequencies, 29106
Radio stations; table of assignments:
Arizona, 29105
North Carolina, 29105
PROPOSED RULES
Common carrier services:
Federal-State Joint Board; Separations Manual; conforming amendments, 29126
Radio services, special:
Private land mobile services—
Transmitters with external frequency controls, 29130
Radio stations; table of assignments:
Louisiana, 29128
Tennessee, 29129
Texas, 29129
Television stations; table of assignments:
New York et al., 29130
NOTICES
Agency information collection activities under OMB review, 29156
Applications, hearings, determinations, etc.:
Grants, NM, et al., 29156

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 29185

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 29185

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Idaho Power Co. et al., 29152
Environmental statements; availability, etc.:
Mega Hydro, Inc., et al., 29153
Natural gas certificate filings:
Sea Robin Pipeline Co. et al., 29153
Preliminary permits surrender:
Burlington Energy Development Associates et al., 29155
Small power production and cogeneration facilities; qualifying status:
Chevron Chemical Co. et al., 29155

Federal Maritime Commission
PROPOSED RULES
Practice and procedure:
Miscellaneous amendments, 29124

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
San Bancorp et al., 29157
Sumitomo Trust & Banking Co., Ltd., et al., 29157

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 29170

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Narasin, 29097
NOTICES
Medical devices; premarket approval:
Durasoft 4 (Ofilcon A) Hydrophilic Contact Lens, 29158

Forest Service
NOTICES
Environmental statements; availability, etc.:
Tongass National Forest, AK, 29134, 29140 (3 documents)
National Forest System lands; rights-of-way authorization; rental fee policy, 29134
Timber sales, national forest:
Information reporting system; draft report availability, 29141

General Services Administration
RULES
Property management:
Supply and procurement—
Special buying services, 29104
PROPOSED RULES
Acquisition regulations:
GSAR Acquisition Circulars AC-86-1 and AC-86-4; incorporation, 29131
NOTICES
Federal Acquisition Regulation (FAR):
Pension costs, 29188

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—
California, 29158

Health Resources and Services Administration
NOTICES
Meetings; advisory committees:
November, 29160

Immigration and Naturalization Service
RULES
Transportation line contracts:
Malaysian Airline System, 29085

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Pig iron from Canada, 29142
Sorbitol from France, 29143

Countervailing duties:
Carbon steel wire rod from—
Malaysia, 29145
Stainless steel plate from—
United Kingdom, 29144
Viscose rayon staple fiber from Sweden, 29145
Trade adjustment assistance determination petitions:
Andre Industries, Inc., et al., 29148
Applications, hearings, determinations, etc.:
Fox Chase Cancer Center et al., 29151
Georgia Scientific & Research Foundation et al., 29149
Research Foundation of State University of New York et al., 29150

Justice Department
See also Antitrust Division; Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
Century Utilities, Inc., 29170
Stockton Port District, 29171
Privacy Act; systems of records, 29171

Land Management Bureau
NOTICES
Alaska Native claims selection:
AHTNA, Inc., 29160
Belkofski Corp., 29160
Doyon, Ltd., 29160, 29161
(2 documents)
Haida Corp., 29161
Iqfijouaq Co., 29161
King Cove Corp., 29162
Leisnoi, Inc., 29162
Sanak Corp., 29162
Sealaska Corp., 29162, 29163
(2 documents)
Yak-Tat-Kwaan, Inc., 29163
Committees; establishment, renewals, terminations, etc.:
Fort Union Regional Coal Team; draft charter, 29163
Management framework plans, etc.:
Utah, 29164
Meetings:
Butte District Advisory Council, 29164
Butte District Grazing Advisory Board, 29164
Coos Bay District Advisory Council, 29165
Safford District Advisory Council, 29165
Opening of public lands:
Washington, 29165
Realty actions; sales, leases, etc.:
Arizona, 29166
(2 documents)
Wyoming; correction, 29167
Recreation management restrictions, etc.:
Emerald Empire Resource Area, ID, 29167
Yuma District, AZ, and California Desert District, CA; long-term visitor permit program, 29167
Survey plat filings:
Nevada, 29168
New Mexico, 29168, 29169
(4 documents)
Wilderness areas; characteristics, inventories, etc.:
Nevada, 29169

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Pension costs, 29188

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
High seas salmon off Alaska, 29107
PROPOSED RULES
Fishery conservation and management:
Atlantic swordfish, 29132
Western Pacific pelagic fisheries; foreign fishing, 29131

National Park Service
RULES
Special regulations:
Yosemite National Park, CA; El Portal Administrative Site, 29101

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Duke Power Co., 29173

Presidential Documents
PROCLAMATIONS
Special observances:
Neighborhood Crime Watch Day, National (Proc. 5516), 29200

Public Health Service
See Food and Drug Administration; Health Resources and Services Administration

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 29186
Self-regulatory organizations:
International Securities Clearing Corp.; clearing agency registration, 29184
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 29175, 29176
(2 documents)
New York Stock Exchange, Inc., 29177
Pacific Securities Depository Trust Co., 29179
Philadelphia Stock Exchange, Inc., 29179
Applications, hearings, determinations, etc.:
Public utility holding company filings, 29181

Small Business Administration
NOTICES
Meetings:
National Advisory Council, 29181
(2 documents)
Meetings; State advisory councils:
South Carolina, 29181
Texas, 29181
Applications, hearings, determinations, etc.:
Miami Valley Capital, Inc., 29182

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Northwest Cherokee Watershed, SC, 29141
Trumbull County Joint Vocational School Land Drainage, OH, 29142

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission:
Alabama, 29098
Indiana, 29100

PROPOSED RULES
Permanent program submission:
Ohio, 29112

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Coast Guard; Federal Aviation Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
Suncoast Airlines, Inc., 29182
Tatonduk Flying Service, 29182
Texas-Mexico service case, 29182

Treasury Department
See also Comptroller of the Currency; Customs Service
PROPOSED RULES
Practice before Internal Revenue Service:
Tax returns and tax return preparation; due diligence in giving advice, etc., 29113

Veterans Administration
NOTICES
Meetings:
Cooperative Studies Evaluation Committee, 29184
Rehabilitation Advisory Committee, 29184

Separate Parts In This Issue

Part II
Department of Defense; General Services Administration; National Aeronautics and Space Administration, 29188

Part III
Department of Education, 29190

Part IV
Department of Education, 29196

Part V
The President, 29200

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 157 AG 14 1986 UMI

CFR P
A cumu
the Rea
3 CFR
Proclam
5516.....
7 CFR
Propose
985.....
8 CFR
238.....
12 CFR
1.....
17.....
14 CFR
39 (3 do
Propose
39.....
16 CFR
1500.....
21 CFR
556.....
558.....
29 CFR
1601.....
30 CFR
901.....
914.....
Propose
935.....
31 CFR
Propose
10.....
32 CFR
Propose
553.....
33 CFR
117.....
34 CFR
624.....
796.....
36 CFR
34.....
40 CFR
60.....
Propose
52.....
41 CFR
101-26.
46 CFR
Propose
31.....
61.....
71.....
91.....
160.....
167.....
169.....
189.....
502.....
47 CFR
73 (2 do
87.....
Propose
67.....
73 (4 do
90.....

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5516.....29200

7 CFR
Proposed Rules:
985.....29109

8 CFR
238.....29085

12 CFR
1.....29085
17.....29089

14 CFR
39 (3 documents).....29090, 29092, 29093
Proposed Rules:
39.....29110

16 CFR
1500.....29094

21 CFR
556.....29097
558.....29097

29 CFR
1601.....29098

30 CFR
901.....29098
914.....29100
Proposed Rules:
935.....29112

31 CFR
Proposed Rules:
10.....29113

32 CFR
Proposed Rules:
553.....29115

33 CFR
117.....29101

34 CFR
624.....29196
796.....29190

36 CFR
34.....29101

40 CFR
60.....29104
Proposed Rules:
52.....29116

41 CFR
101-26.....29104

46 CFR
Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR
73 (2 documents).....29105
87.....29106
Proposed Rules:
67.....29126
73 (4 documents).....29128-29130
90.....29130

48 CFR
Proposed Rules:
501.....29131
513.....29131
553.....29131

50 CFR
674.....29107
Proposed Rules:
611.....29131
630.....29132
685.....29131

VOL
51
ISS
157
AG
14
1986
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Rule

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DEPART

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8 CFR P

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AGENCY:
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ACTION:

SUMMAR
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Rules and Regulations

Federal Register
Vol. 51, No. 157
Thursday, August 14, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Malaysian Airline System

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Malaysian Airline System to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: July 30, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Malaysian Airline System on July 30, 1986 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Malaysian Airline System.

* * * * *

Dated: August 7, 1986.

Harriet B. Marple,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-18342 Filed 8-13-86; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 1

[Docket No. 86-17]

Eligibility of Securities for Purchase, Dealing in, Underwriting and Holding by National Banks; Rulings Issued by the Comptroller

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of rulings.

SUMMARY: The Office of the Comptroller of the Currency ("Comptroller") is publishing investment securities rulings issued since 1983 that are of significant public interest. The rulings are issued to advise banks on the application of federal banking laws and regulations to securities which the banks hold, or desire to purchase, deal in or underwrite.

EFFECTIVE DATE: The rulings became effective when originally issued in letter form. The date of issuance is indicated in parentheses at the end of each ruling.

FOR FURTHER INFORMATION CONTACT: Larry J. Stein, Senior Attorney, Legal Advisory Services Division, (202) 447-1880.

ADDRESS: Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On December 26, 1979, the Comptroller discontinued the codification of individual investment securities rulings in 12 CFR Part 1 (44 FR 76263). On February 11, 1980, the Comptroller determined that certain individual rulings issued since December 1978, but not published in the **Federal Register**, were sufficiently significant to warrant their publication (45 FR 8934). The same determination was made with respect to rulings issued during 1980, (46 FR 16240 of March 12, 1981); 1981 (47 FR 18323 of April 29, 1982); and 1982 (48 FR 8427 of March 1, 1983).

The rulings in question were issued in response to specific requests from banks or bank counsel made in accordance with 12 CFR 1.9 relating to the application of federal banking laws and regulations to securities which the banks hold, or desire to purchase, deal in, or underwrite.

List of Subjects in 12 CFR Part 1

National banks, Investment securities.

Text of Rulings

These rulings are numbered in sequence to those published earlier in order to facilitate reference.

508 Canadian Time Deposit Receipts
509 City of Portland, Oregon, Tax-exempt Commercial Paper, Tax Anticipation Notes
510 Atlanta Downtown Development Authority Bonds (Underground Atlanta Project)
511 North Caroline Medical Care Commission Bonds
512 Blount County, Tennessee, Hospital Refunding Revenue Bonds, Series 1984
513 Federal National Mortgage Association Japanese Yen Debentures
514 Separate Trading of Registered Interest and Principal of Securities ("STRIPS")

508 Canadian Time Deposit Receipts

(a) *Request.* Ruling on whether Canadian Time Deposit Receipts are subject to the 10 percent limitation imposed under 12 CFR 1.3(d).

(b) *Opinion.* Part 1 of Chapter 12 of the Code of Federal Regulations applies to the purchase, sale, dealing in, underwriting and holding of securities by national banks and state banks which are members of the Federal Reserve System. Section 1.3(d) specifically defines "type II security", stating:

> The term "Type II security" means a security which a bank may deal in, underwrite, purchase, and sell for its own account, subject to a 10 percent limitation. These include obligations of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the Tennessee Valley Authority, and obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university or dormitory purposes.

(c) *Ruling.* Canadian Time Deposit Receipts are registered receipts issued by Canadian banks in exchange for United States dollar deposits. The deposits are of a fixed term and are generally negotiable. Essentially the Canadian Time Deposit Receipts are short term deposits of U.S. dollars maintained at Canadian banks which are in the nature of certificates of deposit. There is nothing to suggest that Canadian Time Deposit Receipts are investment securities as defined by 12 CFR 1.3. Therefore, these receipts would not be subject to the 10 percent limitation of 12 CFR 1.3(d).

(Letter dated February 25, 1983.)

509 City of Portland, Oregon, Tax-exempt Commercial Paper, Tax Anticipation Notes

(a) *Request.* Ruling on eligibility of City of Portland, Oregon, tax-exempt commercial paper, Tax Anticipation Notes ("the Notes"), Commercial Paper Series 1983, for purchase, dealing in, underwriting and unlimited holding by national banks under 12 U.S.C. 24(7).

(b) *Opinion.* (1) The Oregon Legislature has authorized the city of Portland to borrow in anticipation of taxes by using tax-exempt commercial paper. The city will issue the tax-exempt commercial paper and a revolving note in an aggregate principal amount of not more than $24,375,000. The city has declared an *ad valorem* property tax levy for the current fiscal year of $51,170,000. According to City of Portland Ordinance No. 155214, the full faith and credit of the city is pledged to the "punctual payment" of the principal of and interest on the Notes. The Notes shall be paid from taxes within the limits established by Article XI, Section 11 of the Oregon Constitution, and from other available funds of the city.

(2) Article XI, Section 11 establishes a six percent limit on the taxing power of taxing units, including cities. Under this limitation, the revenue from the basic tax levied for general purposes each year may not exceed the highest revenue from such levy in any of the three previous years by more than six percent without approval of the electorate by a majority vote to increase the amount of the tax base. The city's obligation to support its tax-exempt commercial paper represents, according to the ordinance, a full faith and credit obligation supported by general fund revenues with the taxing power pledged for payment under the limits of Article XI of the Oregon Constitution.

(c) *Ruling.* (1) Type I securities include general obligations of a state or political subdivision, which means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation. 12 CFR 1.3(g). Based on the information provided in the City of Portland Ordinance, the Notes qualify as Type I securities.

(2) As noted, the state constitution limits the taxing power of the city to the six percent figure previously discussed. The tax levy for the current fiscal year appears more than sufficient to meet the city's obligation under the Notes. In the case of anticipation notes generally, it is particularly relevant to analyze the issuer's projected cash flow throughout the year in order to determine whether its financial resources are sufficient for the timely repayment of the notes. Letter ruling 494, July 28, 1980, 46 FR 16244 (1981). See also letter ruling 497, September 29, 1980, 47 FR 18323 (1982).

(3) Quantitative restrictions on the general powers of taxation of a state or political subdivision do not disqualify an obligation supported by such limited taxing powers. The eligibility of such obligations is determined by reviewing, on a case-by-case basis, whether tax revenues available are sufficient for "full and timely payment" of interest on, and principal of, the obligation. 12 CFR 1.130(a). Based on these considerations, these Notes are eligible for dealing in, underwriting, and unlimited holding under the authority of 12 U.S.C. 24(7).

(Letter dated May 25, 1984.)

510 Atlanta Downtown Development Authority Bonds (Underground Atlanta Project)

(a) *Request.* Ruling on the eligibility of Atlanta Downtown Development Authority Bonds (Underground Atlanta Project), for purchase, dealing in, underwriting and unlimited holding by national banks under 12 U.S.C. 24(7).

(b) *Opinion.* (1) The Atlanta Downtown Development Authority ("the Authority") is a public body corporate and politic created by an amendment to the Constitution of the State of Georgia and the Downtown Development Authorities Law (Ga. Laws 1981, p. 1744). The Authority proposes to acquire and redevelop an area of the central business district commonly known as "Underground Atlanta." A portion of the project will be paid for by the issuance of bonds of the Authority in the amount of approximately $80 million. The bonds will be used to acquire or construct plazas, parks, malls, terraces, streets, sidewalks, bridges and parking garages and to finance commercial facilities such as shops, restaurants, stores and offices.

(2) The city has promised that in the event that the revenues and receipts from the project are not sufficient to pay the principal and interest on the bonds, the city will pay the Authority an amount equal to such deficiency but not to exceed 90 percent of the principal and interest then due on the bonds. The undertaking of the city to make such payments will be a general obligation payable from any funds of the city and with respect to which the full faith and credit of the city will be pledged.

(3) In addition, there will be established initially from the proceeds of the bonds and held by an independent trustee, a debt service reserve fund. The amount initially deposited in the reserve fund, together with the investment earnings thereon, will always be sufficient to pay 10 percent of the principal balance of the bonds then outstanding plus interest to accrue on the bonds during the succeeding 12 months. The reserve fund will be invested solely in marketable direct obligations of, or marketable obligations fully guaranteed by the United States Government. If at any time there is not otherwise available sufficient revenues and receipts from the project to pay for the principal and interest on the bonds on any interest or principal payment date, such deficiency shall be paid from the funds on deposit in the reserve fund. Upon such payment from the reserve fund, the city shall be

obligated to levy, at the earliest lawful date, an *ad valorem* tax in an amount sufficient to replenish the reserve fund and to pay that amount to the Authority for deposit in the reserve fund.

(c) *Ruling.* The city's guaranty of 90 percent of the principal and interest due on the Bonds is a direct pledge of its full faith and credit, and its obligation to levy *ad valorem* taxes to maintain the reserve fund at 10 percent of the principal balance of the bonds then outstanding plus interest to accrue during the succeeding 12 months is an indirect pledge of its full faith and credit. 12 CFR 1.120(e). Accordingly, the $80,000,000 Atlanta Downtown Development Authority Bonds are general obligations of a State or political subdivision thereof under 12 U.S.C. 24(7) and are eligible for purchase, dealing in, underwriting and unlimited holding by a national bank.

(Letter dated July 30, 1984.)

511 North Carolina Medical Care Commission Bonds

(a) *Request.* Ruling on the eligibility of revenue bonds ("the Bonds") issued by North Carolina Medical Care Commission ("Commission") for purchase, dealing in, underwriting and holding subject to the ten percent limitation which applies to Type II securities. 12 CFR 1.3(d).

(b) *Opinion.* (1) The Bonds will be issued by the Commission and the proceeds will be provided to Carolina Medicorp, Inc. under a master trust indenture to finance the construction of certain improvements to be made by Carolina Medicorp for the benefit of one of its subsidiaries, Forsyth Memorial Hospital.

(2) The Commission was created under Part 10, Article 3 of Chapter 143B of the North Carolina General Statutes and by virtue of its statutory creation qualifies as an agency of the State of North Carolina. It is contemplated that the Bonds would be issued by the Commission under authority granted to the Commission by Section 131A of the North Carolina General Statutes. Carolina Medicorp, Inc. is a non-profit tax-exempt corporation organized under 501(c)(3) of the Internal Revenue Code and is the parent holding company for Forsyth County Hospital Authority, Inc., Foundation Health Systems Corporation and Carolina Medicorp Enterprises, Inc. Forsyth County Hospital Authority, Inc. manages Forsyth Memorial Hospital which is unincorporated.

(3) Forsyth County Hospital Authority has entered into an affiliation agreement with Wake Forest University and the Bowman Gray School of Medicine at Wake Forest University ("the Medical School") and the North Carolina Baptist Hospital. All training in obstetrics and prenatal care for residents at the Medical School is done at Forsyth Memorial. Additionally, approximately 100 physicians who are a part of the clinical facility at the Medical School also hold residencies at Forsyth Memorial; several full time professors at the Medical School also work and teach at Forsyth Memorial. In addition to the consolidated services, Forsyth Memorial, North Carolina Baptist and the Medical School have also established the following areas of affiliation which provide for the periodic training of residents from the Medical School at Forsyth Memorial: (a) Medical services, (b) general surgery, (c) psychiatry, (d) physical rehabilitation services, and (e) emergency room services. These services provide for the elective rotation of residents from time to time to provide in-hospital training for the various residents of the Medical School.

(4) Forsyth Memorial maintains affiliation agreements with several other educational institutions in the area as follows:

(a) Forsyth Memorial provides course work and training leading to an associate degree and graduate degree in nursing for Winston-Salem State University, Forsyth Technical Institute, University of North Carolina at Greensboro and Surry Community College.

These courses are conducted at Forsyth Memorial in specially designed classrooms and provide practical experience for nursing students in the various hospital services.

(b) Forsyth Memorial provides a cooperative program with the University of North Carolina at Chapel Hill wherein certain obstetrics anesthesia residents receive training at the hospital.

(c) Forsyth provides local community college students with paramedic training, radiation technology training, and training for technicians in respiratory therapy.

(c) *Ruling.* The Bonds are issued by an agency of a state for university purposes and are eligible under 12 U.S.C. 24(7) for dealing in, underwriting and holding by national banks within the 10 percent limit with respect to aggregate holdings of obligations issued by the Commission.

(Letter dated July 31, 1984.)

512 Blount County, Tennessee, Hospital Refunding Revenue Bonds, Series 1984

(a) *Request.* Ruling on the eligibility of the proposed Blount County, Tennessee, Hospital Refunding Revenue Bonds, Series 1984 ("the Bonds") as Type II investment securities eligible for national banks to deal in, underwrite, purchase and sell subject to the 10 percent limit set forth at 12 CFR 1.7.

(b) *Opinion.* (1) Blount County owns Blount County Memorial Hospital. The Board of County Commissioners authorized and issued $15,000,000 Hospital Bonds, Series 1982 of Blount County, Tennessee, dated January 1, 1982 ("the Refunded Bonds"), for the purpose of constructing and equipping an addition to the hospital. The Refunded Bonds are general obligation bonds payable from taxes levied without limit as to rate or amount on taxable property in the county and are also secured by a pledge of the revenues to be derived from the operation of the hospital. The county has now determined that "it is necessary for the efficient and effective operation" of the hospital to refund the Refunded Bonds. The newly-issued Bonds will be payable solely by the revenues to be derived from the operation of the hospital. The county is authorized to issue the Bonds under the provisions of the County Recovery and Post War Aid Act of 1945 (§§ 5-11-101, *et seq.*, Tennessee Code Annotated).

(2) There is an affiliation agreement between the hospital and the University of Tennessee. Under this agreement, the hospital provides clinical training for the University's College of Nursing, Baccalaureate Candidate nursing students. In addition, the following relationships exist between the hospital and the university:

(a) Fifteen to 20 physicians on the University of Tennessee staff currently serve on the hospital's consulting staff.

(b) Ten to 20 physicians on the medical staff of the hospital currently hold faculty teaching positions at the University of Tennessee.

(c) The hospital sponsors a full-time two-year teaching and training program for radiology students. At the end of the two-year formal program the students are eligible to become certified as registered radiologic technologists. The hospital currently has 12 students enrolled in this two-year school.

(d) The hospital provides clinical training for students enrolled in its practical nurse program. The program is a formal 13-month program. Upon completion of the program, the students are eligible to become licensed as Licensed Practical Nurses. The hospital currently has 30 students enrolled in this program.

(e) The hospital provides clinical training for student nurse externs from the University of Tennessee College of Nursing and other colleges in the area. The hospital currently has 10 students enrolled in this program.

(f) The medical staff of the hospital participates in a formal continuing medical education program. This program is approved by the American Medical Association for Category I, Continuing Medical Education credit. The program is available to all physicians on the hospital medical staff. The hospital has approximately 90 physicians currently enrolled in this program.

(3) Obligations which finance the construction or improvement of facilities used by a hospital qualify as Type II investment securities provided that the hospital is a department or division of a university or otherwise provides a "sufficient *nexus*" with university purposes, such as an affiliation agreement between the university and the hospital, faculty positions of the hospital staff, and training of medical students, interns, residents, and nurses. 12 CFR 1.140(b)(2).

A Type II security is defined to include "obligations issued by any State or political subdivision . . . for housing, university or dormitory purposes." 12 CFR 1.3(d). This regulation is derived from a 1968 amendment to 12 U.S.C. 24(7). Act of Aug. 1, 1968, Pub. L. No. 90-448, § 1705(h), 82 Stat. 605 (1968). The amendment established but did not define "housing, university or dormitory purposes." The Comptroller has, however, interpreted this provision broadly to permit the underwriting of various housing and university-related revenue bonds by national banks. We have recognized that, though the legislative history of the amendment is of little assistance in determining what Congress meant by "university purpose," there is no doubt that the intent of the amendment was to lower the borrowing costs of universities. It was intended to permit universities to finance capital projects with the largest possible markets. Letter from Chief Counsel John E. Shockey [1978–1979 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,076 (Dec. 13, 1977).

(4) The proceeds of the Bonds will be used to refund all of the Refunded Bonds. Although the proceeds of the Bonds will not go directly to finance the project (i.e., they will be used to "defease" the Refunded Bonds), such proceeds will directly reduce the costs of the project. Further, such a reduction in financing costs will make it easier for the hospital to borrow in the future.

(c) *Ruling.* The intent of the 1968 amendment was to lower the borrowing costs of universities. Permitting a national bank to deal in, underwrite and hold this type of refunding bond issue would help reduce the cost of the project and lower overall borrowing costs. We hold, therefore, that such refunding bonds, the proceeds of which are used directly to reduce the cost of a specific project, are issued for "university purposes" and should be considered Type II securities eligible for national banks to deal in, underwrite and hold within the ten percent limitation set forth at 12 CFR 1.7. Such refunding bonds, however, constitute bank eligible Type II securities only where their proceeds are used to refund or "defease" previously-issued national bank-eligible investment securities.

(Letter dated October 26, 1984.)

513 Federal National Mortgage Association Japanese Yen Debentures

(a) *Request.* Ruling on eligibility of the 6.35 percent Japanese Yen Debentures Due 1992 ("Debentures") issued by the Federal National Mortgage Association ("Corporation") for purchase, dealing in, underwriting and unlimited holding by national banks under 12 U.S.C. 24(7).

(b) *Opinion.* (1) The Debentures are unsecured general obligations of the Corporation issued under the authority of Section 304(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(b)). They will mature on November 15, 1992, and are not subject to redemption prior to maturity. The principal of and interest on the Debentures are denominated and payable in Japanese yen. The aggregate principal amount of the Debentures is yen 30 billion (apx. U.S. $141.6 million at current exchange rates), and the Debentures are available in denominations of yen one million (currently apx. U.S. $4,719.00) and integral multiples thereof. Purchasers of the Debentures will be required to pay for them in Japanese yen. The Debentures bear interest at the fixed rates of 6.35 percent per annum, payable each May 15th and November 15th.

(2) The First Boston Corporation is prepared to undertake to convert dollars or other freely convertible currencies into Japanese yen to enable the purchasers to pay for the Debentures in Japanese yen. The Bank of Tokyo Trust Company, New York, New York, as a part of such bank's regular foreign exchange services, is also prepared, subject to any applicable laws or regulations, to convert dollars or other freely convertible currencies into Japanese yen to enable the purchasers to pay for the Debentures in Japanese yen and, at the request of any holder of Debentures, to exchange, as of each payment date, the amount then payable to such holder for any freely convertible currency (which shall include the dollar) specified in such request.

(3) Paragraph Seventh of 12 U.S.C. Section 24 provides in relevant part that:

> The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to . . . obligations, participations, or other instruments of or issued by the Federal National Mortgage Association. . . .

(c) *Ruling.* (1) According to the offering circular, dated October 17, 1985, the Debentures are unsecured general obligations of the Corporation and do not constitute a debt or obligation of the United States. It is clear that the Debentures meet the requirements of Paragraph Seventh because they are obligations issued by the Corporation. Nothing in the statute or implementing regulation at 12 CFR Part 1 requires that the described obligations be denominated or payable in U.S. dollars. Therefore, the Debentures are obligations eligible for purchase, dealing in, underwriting and unlimited holding by national banks under 12 U.S.C. 24(7).

(2) There is, of course, the risk to the investor that the value of the Japanese yen will decline in relation to that of the U.S. dollar, but that risk is not substantively different from the risk—incurred even with respect to obligations denominated in U.S. dollars—that market interest rates will rise above the interest rate payable on the obligation. A domestic bank which has no foreign-denominated business may—from the viewpoint of safety and soundness—be better advised, instead, to acquire similar U.S. dollar-denominated securities of the same issuer. Depending on the portfolio of the individual bank investor, an investment in obligations denominated in foreign currency may not always represent "prudent banking judgment." *See* 12 CFR 1.4. Banks which choose to hold foreign-denominated securities should be able to demonstrate an ability to manage appropriately the resulting foreign exchange risk. A discussion of the standards for controlling foreign exchange risk is contained in section 823 of the *Comptroller's Handbook for National Bank Examiners.*

(Letter dated March 26, 1986.)

514 Separate Trading of Registered Interest and Principal of Securities ("STRIPS")

(a) *Request.* Ruling on eligibility of STRIPS for purchase, dealing in, underwriting and unlimited holding by national banks under 12 U.S.C. 24(7).

(b) *Opinion.* (1) Under the STRIPS program, selected Treasury securities may be maintained in the book-entry

system operated by Federal Reserve Banks in a manner that permits separate trading and ownership of the interest and principal payments. According to a May 29, 1986 memorandum from Walter T. Eccard, Assistant General Counsel for Banking and Finance, Department of the Treasury, to Jordan Luke, Deputy Chief Counsel (Policy) of this Office, "these payments of principal and interest are backed by the full faith and credit of the United States."

(2) In addition, unlike previously-issued zero-coupon instruments collateralized by interests in definitive securities, the U.S. Government securities underlying the STRIPS program are uniformly maintained in book entry form. The greater degree of practical liquidity and the increased certainty of investor control over the underlying securities resulting from use of the book entry system mitigates many of our supervisory objections to bank investment in earlier forms of zero-coupon instruments collateralized by definitive securities.

(3) Currently, each Treasury marketable security has a unique CUSIP ("Committee on Uniform Securities Identification Procedures") number that identifies the security for maintenance and transfer purposes. Under the STRIPS program, to facilitate identification of the component parts, each principal and interest component will be assigned a separate CUSIP number. For example, a Treasury 10-year note eligible in STRIPS form could be held either as the fully constituted note under its own CUSIP number or as 21 separate payments, with 21 separate CUSIP numbers identifying each of 20 semiannual interest components and the principal component.

(4) Treasury will not itself be issuing zero-coupon securities under this new program. The Treasury will continue to auction its securities in the same manner; however, for selected issues, it will be possible for a depository financial institution that maintains a book-entry account at a Federal Reserve Bank to request that the securities be separated into their component parts (principal and interest). Each component will be tradable separately and thus may be separately owned. Financial institutions will have the option to obtain the securities as STRIPS, either on the date of original issue or thereafter.

(5) In general, Treasury plans to make the STRIPS program available for new securities with 10 or more years of original maturity. It does not plan to make the program available for Treasury notes and bonds issued before July 1984 because of their different tax treatment under the provisions of the Tax Reform Act of 1984.

(c) *Ruling.* The term "Type I security" is defined in 12 CFR 1.3(c) as "a security which a bank may deal in, underwrite, purchase and sell for its own account without limitation. These securities include obligations of the United States, general obligations of any State of the United States or any political subdivision thereof, and other obligations listed in paragraph Seventh of 12 U.S.C. 24." Therefore, STRIPS qualify as Type I securities, and are eligible for purchase, dealing in, underwriting and unlimited investment by national banks, because they are "backed by the full faith and credit of the United States," *i.e.*, they are obligations of the United States within the meaning of 12 U.S.C. 24(7) and 12 CFR 1.3(c).

(Letter dated June 25, 1986.)

Dated: August 8, 1986.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 86-18392 Filed 8-13-86; 8:45 am]

BILLING CODE 4810-33-M

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12 CFR Part 17

[Docket No. 86-18]

Required Notification to Nominate Bank Directors

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is rescinding Part 17, which provides that a national bank may require any shareholder who intends to nominate a candidate to the board of directors, other than a candidate proposed by the bank's management, to notify the bank and the Office at least 14 but not more than 50 days in advance of the shareholder meeting called for the election of directors. The Office has determined that Part 17 served no significant regulatory purpose and is not required in order for national banks to have notification requirements. The rescission of this regulation should not affect existing notification requirements in a bank's articles of association or bylaws, nor will it prevent a bank from adopting reasonable notification requirements in the future.

EFFECTIVE DATE: September 15, 1986.

FOR FURTHER INFORMATION CONTACT: Susan L. Blankenheimer, Attorney, Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219, (202) 447-1632.

SUPPLEMENTARY INFORMATION:

Background

This action involves a regulation which permits a national bank to adopt an article of association or bylaw requiring any shareholder who intends to nominate a candidate to the board of directors, other than a candidate proposed by the bank's management, to notify the bank and the Comptroller in advance of the shareholder meeting called for the election of directors.

On April 14, 1980, the Office published for comment a proposed rescission of Part 17 (45 FR 25076). Upon reviewing the comments, the Office was unsure whether commenters understood that even if the regulation were rescinded a bank could still require prior notification to the bank in its articles of association or bylaws. Therefore, the Office in August 1985 again proposed rescinding the regulation. (50 FR 34159).

The Office requested specific comment on the following issues:

(1) The regulatory purpose to be served by this regulation and the legal ability of a national bank to adopt similar requirements in the absence of the regulation;

(2) The treatment of nonmanagement nominees since similar notice is not required for management nominees;

(3) The application of 12 CFR Part 17 as a method to restrict the exercise of cumulative voting rights provided by statute (12 U.S.C. 61);

(4) Whether any useful purpose is served by the current provision stating that "any nomination for director not made in accordance [with this regulation] may be disregarded and the votes cast for such nominee may be disregarded by the vote teller." Under this language, management could refuse to accept the nominees of a minority shareholder, and the votes intended therefore, on the basis that 12 CFR Part 17 was not precisely followed; and

(5) The alternatives available.

Twenty-two comments were received.

Summary of the Comments

Of the twenty-two responses, five favored rescission of the regulation, sixteen favored retention or revision, and one expressed no opinion with respect to retention or rescission. Those advocating rescission argued that Part 17 serves no present or future regulatory purpose, that its elimination would not be detrimental to minority shareholders, and that such a federal regulation is unnecessary because a bank is free to adopt similar notification provisions in

VOL 51 ISS 157 AG 14 1986 UMI

its articles or bylaws. One of the bank commenters, however, stated that it approved elimination of the rule only if it could retain provisions in its bylaws requiring prior bank notification of both management and non-management candidates to the board of directors.

Among the commenters who favored retention of Part 17 in some form, three sought elimination of the requirement that the Comptroller's Office be notified, one favored a requirement that management nominees also be required to provide notice to the bank of their intention to seek a seat on the board of directors, and two advocated reducing the time period for notice to the bank to fourteen days prior to a meeting. Those who favored retention of Part 17 without any modification focused their comments on the regulatory purposes to be served by the regulation and did not, for the most part, respond to the other issues which we specifically requested comment. Most stated that the regulation gives bank management time to investigate unknown nominees and thereby prevent unqualified or dishonest persons from becoming a member of the board or gaining control of the bank. It was also suggested that the regulation reduces the likelihood of disorderly shareholder meetings. Nearly half of those who favored retention of the regulation failed to specify why they believed it should be retained.

After carefully considering all of the comments and in light of the Office's experience in administering the regulation, the Office has decided to rescind Part 17. As a legal matter, a national bank, absent the regulation, could adopt reasonable notification requirements in its articles of association or bylaws. Under federal law, a national bank has broad authority to prescribe bylaws regulating the manner in which its board of directors are elected or appointed. 12 U.S.C. 24 (Sixth). The only limitation courts have imposed is that the bylaws be "reasonable." *See McKee and Company* v. *First National Bank of San Diego*, 265 F.Supp. 1 (S.D. Cal. 1967), *aff'd.*, 397 F.2d 248 (9th Cir. 1968).

In addition, in terms of the Office's broad supervisory interest with respect to national bank directors, the notification requirement serves little useful purpose, especially considering other means available to the Office. For example, independent of the notification requirement of Part 17, the Office receives written notification of the names of all directors following their selection to the board and, as part of the examination process, the Office reviews the conduct of directors. In addition, with the enactment in 1978 of the Change in Bank Control Act (CBCA), 12 U.S.C. 1817(j)(1), the Office has the means to prevent undesirable individuals, including bank directors, from securing control of a bank. The prior notification requirement of the CBCA applies to any person seeking to acquire control, not just non-management candidates for directors, and therefore is a more effective regulatory means of screening directors than the narrowly focused Part 17.

Rescission of Part 17 should have no effect on existing bank notification requirements in articles of association or bylaws, nor will its rescission prevent a bank from adopting reasonable notification requirements in the future.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Office finds that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

This rule is not classified as a "major rule" and, therefore, does not require a regulatory impact analysis.

List of Subjects in 12 CFR Part 17

National banks, Nomination of directors.

Authority and Issuance

Under the Comptroller of the Currency's authority in 12 U.S.C. 93a and for the reasons set out in the preamble, 12 CFR Chapter I is amended as follows:

PART 17—[REMOVED]

1. Part 17 is removed.

Dated: June 4, 1986.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 86-18393 Filed 8-13-86; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-43; Amdt. No. 39-5368]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation, Allison Model 250-C28 and -C30 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment which amends Amendment 39-5188, 51 FR 732, Airworthiness Directive (AD) 85-25-07, effective January 6, 1986, which was previously made effective as to all known U.S. owners and operators of certain Allison Model 250-C28 and -C30 Series engines by individual letters. The AD requires repetitive inspections of outer combustion case assembly P/Ns 6899237 and 23009569 until mandatory replacement with P/Ns 23030910 and 23030911, respectively, is accomplished on certain Model 250-C28 and -C30 Series engines. The AD is needed to prevent possible failure of outer combustion case assembly P/Ns 6899237 and 23009569 which could result in an inflight sudden loss of power/shutdown.

DATES: Effective August 15, 1986, as to all persons except those persons to whom it was made effective by Priority Letter AD No. 85-25-07 R1, issued January 22, 1986.

Compliance schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of Federal Register on August 15, 1986.

ADDRESSES: The applicable commerical engine bulletin (CEB) may be obtained from Allison Gas Turbine Division, General Motors Corporation P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of the CEB is contained in the Rules Docket at the Office of Regional Counsel, FAA ATTN: Rules Docket No. 85-ANE-43, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312-694-7132.

SUPPLEMENTARY INFORMATION: On January 22, 1986, Revision 1 to AD 85-25-07 was issued by Priority Letter AD No. 85-25-07 R1 and made effective immediately as to all known U.S. owners and operators of certain Allison Model 250-C28 and -C30 series engines. The Priority Letter revision to AD 85-25-07 required repetitive inspections of outer combustion case assembly P/Ns 6899237 and 23009569 until mandatory replacement with P/Ns 23030910 and 23030911, respectively, is accomplished. The priority revision was necessary because of a report that the inspection

interval of the initial issue of AD 85–25–07 might be inadequate to detect a crack in outer combustion assemply P/Ns 6899237 and 23009569 before progressing to failure. As outer combustion case failure can result in an inflight sudden loss of power/shutdown. Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD revision effective immediately by individual letters issued January 22, 1986, as to all known U.S. owners and operators of certain Allison Model 250–C28 and –C30 Series engines. These conditions still exist, and the AD revision with minor administrative changes is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation of analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Engines, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation of Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new amendment which amends Amendment 39–5188, 51 FR 732, AD 85–25–07, effective January 6, 1986. The AD is being restated in its entirety for clarity.

85–25–07 R1 Allison Gas Turbine Division, General Motors Corp. (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250–C28 and –C30 Series engines which incorporate outer combustion case assembly P/N 6899237 or 23009569, installed in aircraft certificated in any category.

Compliance is required as indicated unless already accomplished. To prevent possible cracks at the butt or seam welds on outer combustion case P/Ns 6899237 and 23009569 from progressing to a point where the case could rupture and cause an inflight sudden loss of power/shutdown, accomplish the following:

(a) Model 250–C28B, –C28C, –C30, –C30P, –C30R, and –C30S engines

Inspect outer combustion assembly P/N 6899237 or 23009569 in accordance with the following:

(1) Prior to next flight, and at daily intervals thereafter, until compliance with paragraphs (b) or (c), as appropriate, is accomplished, using a bright light (flashlight or equivalent) and mirror, inspect all of the outer combustion case welds which are located as follows:

(i) Horizontal butt welds on outer surface and between the air discharge tube attachment flanges and gas producer attachment flange on forward side.

(ii) Both forward and aft circumferential seam welds between outer case and inner liner.

(iii) Welds for attaching bosses for fuel nozzle, both combustion case drain valves, and both igniter plugs.

Notes: 1. Pay particular attention to welds in areas defined in subparagraphs (i) and where these horizontal welds meet the circumferential welds defined in subparagraph (ii).

2. The above daily inspection may be performed by the pilot and must be recorded in accordance with FAR § 43.9.

Detection of any crack(s) requires removal of the outer combustion case from service before further flight.

(2) Within the next five hours time-in-service, unless already accomplished within the last 20 hours time-in-service, and thereafter at intervals not to exceed 25 hours time-in-service from the last inspection, until compliance with paragraphs (b) or (c), as appropriate, is accomplished, in addition to paragraph (1) above, inspect the areas of horizontal butt weld between the air discharge tube attachment flanges and gas producer attachment flange on the forward side of the outer combustion case as follows:

(i) Apply dye penetrant, dye check, or other appropriate penetrant to the designated areas which will reveal crack(s), or

(ii) Apply a soap solution to the designated areas and, using a suitable power source to motor engine to at least 20% N_1, look for bubbles to reveal if any crack(s) are present.

Detection of any crack(s) requires removal of the outer combustion case from service before further flight.

(b) Model 250–C30 and –C30S engines installed in Sikorsky Model S–76A rotorcraft

Within the next 150 hours time-in-service after the effective date of this AD, but not later than January 31, 1986, perform the following:

Replace/modify outer combustion case assembly P/Ns 6899237 and 23009569 with/to P/Ns 23030910 and 23030911, respectively, in accordance with Allison CEB–A–72–2113/3115, Revision 2, dated January 15, 1986, or prior issues, or FAA approved equivalent.

(c) Model 250–C28B, –C28C, –C30, –C30P, –C30R, and –C30S engines installed in other than Sikorsky S–76A rotocraft

At the next turbine repair/overhaul event, but not later than June 30, 1986, perform the following:

Replace/modify outer combustion case assembly P/Ns 6899237 and 23009569 with/to P/Ns 23030910 and 23030911, respectively, in accordance with Allison CEB–A–72–2113/3115, Revision 2, dated January 15, 1986, or prior issues, or FAA approved equivalent.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office may adjust the compliance time specified in this AD.

Allison CEB–A–72–2113/3115, Revision 2, dated January 15, 1986, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206–0420. This document also may be examined at the Office of Regional Counsel, FAA, ATTN: Rules Docket No. 85–ANE–43, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective, August 15, 1986, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD No. 85–25–07 R1, issued January 22, 1986, which contained this amendment.

This amendment amends Amendment 39–5188, 51 FR 732, AD 85–25–07, effective January 6, 1986.

Issued in Burlington, Massachusetts, on July 23, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86–18264 Filed 8–13–86; 8:45 am]

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VOL 51 ISS 157 AG 14 1986 UMI

14 CFR Part 39

[Docket No. 86-CE-29-AD; Amdt. 39-5393]

Airworthiness Directives; Piper Models PA-28, PA-32, and PA-34 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Models PA-28, PA-32 and PA-34 airplanes, which supersedes AD 80-24-03, Amendment 39-3978. The new AD requires replacement of the ammeter with a shunted ammeter kit which will eliminate full electrical power passing through the ammeter gauge. This AD is prompted by continuing reports of heat damaged ammeters and smoke in the cockpit caused by shorting ammeter terminal posts. A shorted condition at the ammeter could result in complete electrical failure, and/or fire, or smoke in the cockpit. This action will assure proper operation of the airplane's electrical system and eliminate the smoke generating conditions at the airplane's ammeter electrical connections.

EFFECTIVE DATE: August 21, 1986.

Compliance: Required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: Piper Aircraft Corporation Service Bulletin (S/B) No. 811A, dated May 12, 1986, and Ammeter Replacement Kit, Piper Part No. 765-186, may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (303) 567-4361. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Bill H. Trammell, ACE-130A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: There have been reports of heat damaged ammeters and loosening and shorting of the ammeter terminal posts in certain Piper Models PA-28, PA-32, and PA-34 airplanes which resulted in smoke in the cockpit and unscheduled/emergency landings. Piper issued S/B No. 698 which substituted a nylon washer for the original phenolic washer at the terminal posts. This was the subject of AD 80-24-03. Subsequent to accomplishment of this AD, which incorporated S/B No. 698, ammeter problems continued to be reported. In the past five year period, 39 occurrences were reported with 28 in the last two years. As a result of these continued occurrences, Piper issued S/B No. 811A which requires replacement of the ammeter with a shunted ammenter kit. This kit eliminates full electrical power passing through the ammeter gauge. Since a condition still exists which could result in complete electrical failure or fire or smoke in the cockpit, an AD, superseding AD 80-24-03, is being issued requiring compliance with Piper S/B No. 811A on certain Piper Aircraft Corporation Model PA28, PA-32 and PA-34 airplanes. The applicability of this amendment contains additional serial numbers of airplanes which includes serial numbers of airplanes not modified as production airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct this condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft safety.

Adoption of the Amendment

PART 39 – [AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Piper Aircraft Corporation: Applies to the following Piper models and serial numbers certificated in any category; except those airplanes equipped with ninety (90) ampere alternators:

Models affected	Serial numbers affected
PA-28150/160 Cherokee.	28-3378 thru 28-4377
PA-28-180 Archer.	28-3378 thru 28-7505259 and 28-E13
PA-28-181 Archer II.	28-7690001 thru 28-8190279, 28-8290017, 28-8290018, 28-8290028, 28-8290033, 28-8290034 and 28-8290036
PA-28-235 Cherokee.	28-10720 thru 28-7710089 and 28-E11
PA-28-236 Dakota.	28-7911001 thru 28-8511020
PA-28-201T Turbo Dakota.	28-7921001 thru 28-7921091
PA-28R-180 Arrow I.	28R-30004 thru 28R-30481, 28R-30483 thru 28R-7130013
PA-28R-200 Arrow II.	28R-30482, 28R-35001 thru 28R-7635545
PA-28R-201 Arrow III.	28R-7737001 thru 28R-7837317
PA-28R-201T Turbo Arrow III.	28R-7703001 thru 28R-7803373
PA-28RT-201 Arrow IV.	28R-7918001 thru 28R-8218026
PA-28RT-201T Turbo Arrow IV.	28R-7931001 thru 28R-8631006
PA-32-260 Cherokee.	32-1 thru 32-7800006
PA-32-300 Cherokee Six.	32-40000 thru 32-7940290
PA-32R-300 Lance.	32R-7680001 thru 32R-7680068
PA-32RT-300 Lance II.	32R-7685001 thru 32R-7985105
PA-32RT-300T Turbo Lance II.	32R-7787001 thru 32R-7987126
PA-32-301 Saratoga.	32-8006001 thru 32-8106067
PA-32-301T Turbo Saratoga.	32-8024001 thru 32-8124030
PA-32R-301 Saratoga SP.	32R-8013001 thru 32R-8113094
PA-32R-301T Turbo Saratoga SP.	32R-8029001 thru 32R-8129090
PA-34-200T Seneca II.	34-7570001 thru 34-8170092

Compliance: Required as indicated, unless already accomplished. To prevent smoke in the cockpit and possibly complete electrical failure resulting from shorting of ammeter terminal posts, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, replace the ammeter(s) with Ammeter Replacement Kit(s), Piper Part No. 765-186, on the above listed airplanes in accordance with the instruction contained in Piper Service Bulletin No. 811A, dated May 12, 1986.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance if used, must be approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

All persons affected by this directive may obtain copies of the document(s)

referred to herein upon request to Piper Aircraft Corp., 2926 Piper Drive, Vero Beach, Florida 32960, or the FAA, Rules Docket, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This AD supersedes AD 80-24-03, Amendment 39-3978.

This amendment becomes effective on August 21, 1986.

Issued in Kansas City, Missouri, on August 6, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 86-18265 Filed 8-13-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-CE-31-AD; Amdt. 39-5392]

Airworthiness Directives; SOCATA Model TB20 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SOCATA Model TB20 airplanes which requires mandatory replacement and modification of the elevator tab control to the elevator tab lever attachments. SOCATTA has reported that users of Model TB20 airplanes have noted abnormal play in the tab control. Play in the tab attachment can contribute to looseness of the tab control and lead to control breakdown. This modification will eliminate abnormal play in the tab control and will ensure integrity of the trim control system.

DATE: Effective Date: September 22, 1986. Compliance: As specified in the body of the AD.

ADDRESSES: SOCATA Service Bulletin (S/B) No. 24, dated January 1985, applicable to this AD may be obtained from SOCATA Groupe Aerospatiale, B.P. 38, 65001 Tarbes, France; Telephone (62) 93.97.30. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. T. Ebina, Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. John P. Dow Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the SOCATA Model TB20 airplane elevator tab and controls, as described in the SOCATA S/B No. 24 dated January 1985, on certain Model TB20 airplanes, was published in the **Federal Register** on October 2, 1985 (50 FR 40201). The proposal resulted from a report from SOCATA that some users of its Model TB20 airplanes have noted play in the radial direction of the elevator tab control to the elevator tab lever attachment. SOCATA has determiend that any play in the radial direction of this attachment is unsafe and can lead to a control breakdown. As a result, SOCATA issued S/B No. 24, dated January 1985, which requires modification of the attachments of the elevator tab control to the elevator tab levers to assure integrity of the control system. The Director General of Civil Aviation (DGAC) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in France has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this section has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of S/B No. 24, dated January 1985, and the mandatory classification of this Service Bulletin by the DGAC. Based on the foregoing, the FAA has determined that the condition addressed by S/B No. 24, dated January 1985, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States, and issued the above cited proposal for amending Part 39. Interested persons have been afforded an opportunity to comment on the proposal.

One comment was received which confirmed that the modification in accordance with S/B No. 24 has been completed on all U.S. registered SOCATA Model TB20 airplanes. Because of assured compliance, the commenter felt that an AD was not necessary.

The FAA has considered this opinion and has the following comment. There is no assurance that in the future unmodified Model TB20 airplanes that are not under the current jurisdiction of the FAA may be imported from countries with which the United States has no bilateral agreement. There would be no requirement, in such a case, for the U.S. operator to comply with SOCATA S/B No. 24. This necessitates issuance of an AD to preclude this occurrence. No comments or objections were received on the FAA determination of the $35 per airplane related cost to the public. The FAA has subsequently determined that this regulation only involves airplanes which may be imported in the future and does not involve present domestic airplanes, therefore, there is no cost to the public associated with the issuance of this AD. Accordingly, the proposal is adopted without change. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Socata: Applies to Model TB20 (Serial Numbers up to and including No. 479) airplanes certificated in any category.

Compliance: Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To assure the integrity of the trim control system, accomplish the following:

(a) Replace the attachment of the elevator tab control to the elevator tab levers in accordance with *Operation II* of the

Description paragraph of SOCATA Service Bulletin (S/B) No. 24, dated January 1985, as follows:

(1) Remove and discard the bolt, washers, spacer, nut and pin attaching the elevator trim tab rod eye-end-fitting to the trim tab levers. (Ref. Detail A of the figure in SOCATA Service Bulletin No. 24).

(2) Measure the rod length in order to reposition the eye-end-fitting.

(3) Remove the eye-end-fitting.

(4) Bore the eye-end-fitting at dia. 10 mm (.3937 inches + .0009, — .0000).

(5) Bore the two tab levers at dia. 6 mm (.2363 inches + .0007, — .0000).

(6) Grease the new bolt of dia. 6 mm (nominal 0.24 in.).

(7) Install the eye-end-fitting at the rod length measured using a new lock plate (Z00.5544.1.10.000).

(8) Install the dia. 6 mm bolt, the spacer and washer according to Detail A of the figure shown in SOCATA S/B No. 24.

(9) Tighten the castellated nut (apply a tightening torque of 0.42 m.daN — 37 inch.Pound), if necessary loosen to the lower notch.

(10) Install pin and grease.

(11) Bore the tab levers according to Detail B of the figure shown in SOCATA S/B No. 24 to 5 mm (.1969 inches + .0003, —.000) diameter.

(12) Grease the bolt.

(13) Install the spacer, the dia. 5 mm (nominal 0.20 in.) bolt, the washer and nut according to Detail B of the figure in SOCATA S/B No. 24.

(14) Tighten the nut (apply a tightening torque of 0.25 m.daN — 23 inch.Pound).

(15) Check the tab deflection angles (SOCATA TB20 Maintenance Manual (Section V.5)).

(b) Aircraft may be flown in accordance with Federal Aviation Regulation § 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to SOCATA Groupe Aerospatiale, B. P. 38, 65001 Tarbes, France; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on September 22, 1986.

Issued in Kansas City, Missouri, on August 6, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 86–18286 Filed 8–13–86; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances; Supplementary Definition of Strong Sensitizer

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues a rule supplementing the definition of "strong sensitizer" in the Federal Hazardous Substances Act. The supplementary definition clarifies how the statutory definition should be interpreted in view of current scientific knowledge and explains the factors the Commission would consider in determining whether a substance is a strong sensitizer.

EFFECTIVE DATE: September 15, 1986.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

Background

The Federal Hazardous Substances Act ("FHSA" or "the Act"), 15 U.S.C. 1261–1276, was enacted on July 12, 1960. Included within the Act's definition of "hazardous substance" is "a strong sensitizer," 15 U.S.C. 1261(f)(1)(iv). Section 2(k) of the FHSA, 15 U.S.C. 1261(k), defines "strong sensitizer" as:

> A substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the [Consumer Product Safety Commission]. Before designating any substance as a strong sensitizer, the [Commission], upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

This definition is restated in the regulations under the FHSA published at 16 CFR 1500.3(b)(9).

On August 12, 1961, the Food and Drug Administration (which at that time administered the FHSA) issued regulations under the FHSA which supplemented the statutory definition of strong sensitizer. 26 FR 7334 (21 CFR 191.10(i)). In 1973, the responsibility for the administration of the FHSA was transferred to the Consumer Product Safety Commission, and the supplementary definition of strong sensitizer referred to above was recodified at 16 CFR 1500.3(c)(5).

Since that supplementary definition was issued in 1961, there have been many advances in understanding the basic principles involved in allergic hypersensitivity mechanisms. Based on modern concepts of immunology, the definition of strong sensitizer previously set forth in 16 CFR 1500.3(c)(5) was incorrect in at least two aspects. Therefore, on May 30, 1984, the Commission revoked the supplemental definition in § 1500.3(c)(5) and reserved that section. 49 FR 22464. [4] [1] In revoking the supplemental definition, the Commission noted that it had taken steps to establish an advisory panel on allergic sensitization which would have as one of its tasks the evaluation and refinement of terms and criteria used in defining strong sensitizers.

In September 1984, the Commission established the Technical Advisory Panel on Allergic Sensitization ("TAPAS") to assist the staff in developing appropriate terms and criteria for a supplemental definition of strong sensitizer that would reflect current scientific theory. The staff and the TAPAS developed new supplemental definitions to explain how the statutory definition of strong sensitizer would be applied. [5–9]

On November 7, 1985, the Commission proposed the supplemental definitions as interpretative rules under the FHSA. 50 FR 46300. No comments were received on the proposal.

Issues Addressed by the Supplemental Definition

The text of the definition of "strong sensitizer" in section 2(k) of the FHSA, 15 U.S.C. 1261(k), is reproduced above in the **"Background"** section of this notice. The way in which various terms in the statutory definition are explained or supplemented in the supplementary definition is described below.

Allergic. The supplemental definition, at subsection (i), points out that an "allergic" response is one that is directed by the immune system. Thus, the sensitization reaction is not caused by irritant or other nonallergenic qualities of the substance. [1 at ii–iii] The Commission staff and the TAPAS considered whether the term "allergic" should apply to substances that produce reactions similar to those caused by the immune system but which are not caused in this manner. These substances are sometimes referred to as

[1] Number in brackets indicate the number of the relevant document in the record, as listed in the Appendix to this notice.

"pseudoallergens. It was decided that pseudoallergens were not properly included in a statutory definition limited to substances that produce hypersensitivity reactions by an allergic process. [7 at 4, 8 at 2–4]

Reapplication of the substance. [See generally 7 at 4–5, 8 at 4] a sensitivity reaction does not occur as soon as one is first exposed to the substance; there must be a latent period during which immune cells become sensitized. After the immune response has developed, the sensitized tissue may react upon subsequent exposure to very small amounts of the sensitizing agent. [1 at ii–iii]

The fact that some time is needed for the development of the immune response is reflected in the specification in the statutory definition of "strong sensitizer" that the substance produce a "hypersensitivity which becomes evident on reapplication of the same substance." Some substances, however, can produce a sensitivity reaction as the result of the person's first known exposure. Some of these reactions occur because the person, without his or her knowledge, has been exposed to the substance in the past. Also, some substances have the ability to cross-react, so that a sensitivity to one substance will produce a sensitivity reaction upon exposure to a similar substance to which the person has not been previously exposed.

Some substances, however, have the ability to produce a sensitivity reaction solely as the result of a person's first exposure to the substance. This process is called active sensitization. Active sensitizers tend to be the more potent of the substances that can cause sensitization, and it may be that the ability of active sensitizers to persist in or on the body is sufficiently great, in comparison to the time needed for the development of sensitization, that one exposure serves as both application and reapplication. [8 at 4] The supplemental definition of strong sensitizer clarifies in subsection (i) that active sensitizers are included within the class of substances that can be determined to be strong sensitizers. This view was recommended by the TAPAS. [8 at 4] The Commission interprets the relevant portion of the statutory definition of strong sensitizer, that the strong sensitizer shall produce a hypersensitivity that becomes evident on reapplication of the substance, as referring to the mechanism by which sensitivity is thought to develop rather than as intended to exclude from the category of strong sensitizers those substances that are capable of active sensitization. In the first place, there is no reason to believe that the Congress intended to exclude from the category of strong sensitizers some of the strongest sensitizers that exist. Also, it is likely that the physiological effect of active sensitizers is equivalent to reapplication of the sensitizer. In any event, even where a sensitivity reaction may occur on first exposure to an active sensitizer, the fact that the reaction is one of hypersensitivity will evidence itself on reapplication of the substance, thereby satisfying the statutory definition in this regard. Thus, the Commission concludes that including active sensitizers within the category of strong sensitizers is consistent with the definition of strong sensitizer in the FHSA.

Photodynamic. The statutory definition specifies that the hypersensitivity must be caused by an "allergic" or "photodynamic" process. The supplemental definition discusses what is meant by allergic, as discussed above. As the Commission pointed out when the previous supplemental definition was revoked, photodynamic reactions should be considered as a type of phototoxic reaction. 49 FR 22464, 22465. [4] Phototoxic chemicals are thought to act through a mechanism similar to irritation and not to require prior exposure. How the present knowledge about how photodynamic chemicals function and are defined would relate to the statutory definition of strong sensitizer is a complex question that the Commission believes should be addressed in the context of a particular chemical. In addition, the Commission's staff is not aware of any household product subject to the FHSA that would cause significant exposure of consumers to a photodynamic chemical. Therefore, the Commission has decided not to attempt at this time to issue a supplemental definition concerning strong sensitizers that cause hypersensitivity by a photodynamic process. The Commission notes, however, that regardless of whether a photodynamic chemical may properly be considered a strong sensitizer, it, in an appropriate cause could be considered a hazardous substance under the FHSA by virtue of its being toxic, FHSA section 2(f)(1)(A)(i), 15 U.S.C. 1261(f)(1)(A)(i).

Route of exposure. The supplemental definition, at subsection (v), points out that the sensitivity reaction may occur after the sensitizer is applied to the body's tissues by contact, ingestion, or inhalation and that relevant exposure is not limited to skin contact.

Normal living tissue. The statutory definition of strong sensitizer specifies that the hypersensitivity is caused on "normal living tissue." The supplemental definition, at subsection (v), makes explicit what is well known to allergists, dematologists, toxicologists, internists, pulmonary specialists, etc.: that targets for hypersensitivity reactions include the skin and other organ systems, such as the respiratory or gastrointestinal tracts, either singularly or in combination.

Severity of reaction. One of the factors the Commission is required by the statutory definition of strong sensitizer to consider before determining that a particular substance is a strong sensitizer is the severity of reaction that would be caused by the substance. The supplemental definition, at subsection (iii), points out that the minimal severity of reaction for this purpose is that the sensitizer produce a clinically important allergic reaction and gives examples of reactions that would be deemed clinically important. Such reactions would include physical discomfort, distress, hardship, and functional or structural impairment. The supplemental definition further points out that these may not necessarily require medical treatment or produce loss of functional activities.

Significant potential for causing hypersensitivity. The statutory definition of strong sensitizer requires that, before designating a substance as a strong sensitizer, the Commission "upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity." The supplemental definition at subsection (iv) points out that whether a substance has a significant potential for causing hypersensitivity is a relative determination that must be made separately for each substance under consideration. The determination may be based on the chemical or functional properties of the substance, documented medical evidence of allergic reactions obtained from epidemiological surveys or individual case reports, controlled *in vitro* or *in vivo* experimental assays, or susceptibility profiles in normal (healthy) or allergic subjects.

The ultimate determination that a substance is a strong sensitizer. The ultimate determination that a substance is a strong sensitizer is one that must be made as a matter of the Commission's judgment after considering the factors discussed above. Subsection (ii) of the supplementary definition notes that in making this determination the Commission shall consider the available data for a number of factors. These

VOL 51 ISS 157 AG 14 1986 UMI

factors would include any or all of the following, as available:

Quantitative or qualitative risk assessment, frequency of occurrence and range of severity of reactions in normal or susceptible populations, the result of experimental assays in animals or humans (considering dose-response factors), with human data taking precedence over animal data, other data on potency or bioavailability of sensitizers, data on reactions to a cross-reacting substance or to a chemical that metabolizes or degrades to form the same or a cross-reacting substance, the threshold of human sensitivity, epidemiological studies, case histories, occupational studies, and other appropriate *in vivo* and *in vitro* test studies.

The Commission believes the supplemental definition will convey useful information concerning the Commission's views on the scope of the statutory definition and the types of information the Commission will consider in making any determinations that a substance is a strong sensitizer. The ultimate determination that a substance is a strong sensitizer, however, is largely the result of the exercise of Commission judgment and policy. Thus, it is not appropriate to attempt to fashion specific criteria by which to determine that substances are or are not strong sensitizers.

The Commission also notes that even where a chemical is determined to be a strong sensitizer, section 2(f)(1)(A) of the FHSA requires that in order for a strong sensitizer to be a hazardous substance, it must be capable of causing "substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." 15 U.S.C. 1261(f)(1)(A). This latter determination requires consideration of the route and level of exposure that can be expected to be presented by the substance as incorporated in the particular household product involved. Theoretically, a determination that a substance is a strong sensitizer could be made on the basis of the general attributes of the chemical as they relate to sensitization. In practice, however, the Commission expects that the nature and level of the exposure to the chemical from the use of reasonably foreseeable misuse of the product would be taken into consideration during a proceeding to determine whether a particular substance is a strong sensitizer.

Environmental Considerations

The supplemental definition is an interpretive rule issued under section 10 of the FHSA (15 U.S.C. 1269), explaining the Commission's views on the current requirements of section 2 of the FHSA (15 U.S.C. 1261) concerning strong sensitizers and discussing the factors the Commission intends to use in future determinations that a substance is a strong sensitizer. However, interested members of the public are free to argue, in any future proceeding to declare a substance a strong sensitizer, that other interpretations of the FHSA are in fact more appropriate. In addition, such arguments may be made in any judicial review of the Commission's determination that a substance is a strong sensitizer. Therefore, the Commission's supplemental definition is intended to be informative and advisory concerning the Commission's views on the requirements of the FHSA. The definition, however, is not binding in and of itself. Therefore, no product will be directly affected by the issuance of this interpretative rule. Therefore, the Commission concludes that the supplemental definition issued below will have little or no potential for affecting the human environment and that neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR Part 1021.

Regulatory Flexibility Act Certification

For the reasons explained in the preceding paragraph, no products will be directly affected by the rule issued below. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

Conclusion

For the reasons discussed above, the Commission amends 16 CFR Part 1500 to read as follows:

PART 1500—[AMENDED]

1. The authority citation for Part 1500 is revised to read as follows:

Authority: 15 U.S.C. 1261–1276.

2. Section 1500.3 is amended by adding paragraph (c)(5) to read as follows:

§ 1500.3 Definitions.

* * * * *

(c) * * *

(5) The definition of "strong sensitizer" in section 2(k) of the Federal Hazardous Substances Act [restated in 16 CFR 1500.3(b)(9)] is supplemented by the following definitions:

(i) *Sensitizer.* A "sensitizer" is a substance that will induce an immunologically-mediated (allergic) response, including allergic photosensitivity. This allergic reaction will become evident upon reexposure to the same substance. Occasionally, a sensitizer will induce and elicit an allergic response on first exposure by virtue of active sensitization.

(ii) *Strong.* In determining that a substance is a "strong" sensitizer, the Commission shall consider the available data for a number of factors. These factors should include any or all of the following (if available): Quantitative or qualitative risk assessment, frequency of occurrence and range of severity of reactions in healthy or susceptible populations, the result of experimental assays in animals or humans (considering dose-response factors), with human data taking precedence over animal data, other data on potency or bioavailability of sensitizers, data on reactions to a cross-reacting substance or to a chemical that metabolizes or degrades to form the same or a cross-reacting substance, the threshold of human sensitivity, epidemiological studies, case histories, occupational studies, and other appropriate *in vivo* and *in vitro* test studies.

(iii) *Severity of reaction.* The minimal severity of reaction for the purpose of designating a material as a "strong sensitizer" is a clinically important allergic reaction. For example, strong sensitizers may produce substantial illness, including any or all of the following: physical discomfort, distress, hardship, and functional or structural impairment. These may, but not necessarily, require medical treatment or produce loss of functional activities.

(iv) *Significant potential for causing hypersensitivity.* "Significant potential for causing hypersensitivity" is a relative determination that must be made separately for each substance. It may be based upon the chemical or functional properties of the substance, documented medical evidence of allergic reactions obtained from epidemiological surveys or individual case reports, controlled in *vitro* or *in vivo* experimental assays, or susceptibility profiles in normal or allergic subjects.

(v) *Normal living tissue.* The allergic hypersensitivity reaction occurs in normal living tissues, including the skin and other organ systems, such as the respiratory or gastrointestinal tract, either singularly or in combination, following sensitization by contact, ingestion, or inhalation.

* * * * *

Dated: August 8, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix—List of Relevant Documents in the record

1. Report to CPSC, "Strong Sensitizers Final Monograph," submitted by J.T. Maddock, M. Sittenfield, and D. Nell, Auerbach Associates, Inc., November 18, 1977.
2. Comment on proposed revocation of definition of strong sensitizer from Burlington Industries, Inc.
3. Memorandum to the Commission from the Directorate for Health Sciences, "Final Rule to Revoke the Regulatory Definition of Strong Senitizer," dated April 13, 1984.
4. **Federal Register** notice to revoke the regulatory supplemental definition of strong sensitizer and remove and reserve 16 CFR 1500.3(c)(5). 49 FR 22484; May 30, 1984.
5. Directorate for Health Sciences memorandum, "Supplemental Definitions to the 'Strong Sensitizer' Definition in the Federal Hazardous Substances Act," dated June 26, 1985.
6. "Technical Advisory Panel on Allergic Sensitization [TAPAS] Paper concerning a Supplemental Definition to the Strong Sensitizer Definition in the Federal Hazardous Substances Act."
7. Minutes of the November 19–20, 1984, TAPAS meeting.
8. Minutes of the March 4, 1985, TAPAS meeting.
9. Draft minutes of the June 24, 1985, TAPAS meeting.
10. "Briefing Package on a Proposed Definition to Supplement the Federal Hazardous Substances Act Definition of Strong Sensitizer," dated September 23, 1985.
11. Memorandum to Commissioner Saundra Brown Armstrong from the Directorate for Health Sciences, "Applicability of the Draft Supplemental Definitions for Strong Sensitizer to Sensitization of Nails or Hair," dated October 22, 1985.

[FR Doc. 86–18259 Filed 8–13–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Narasin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Products Co., providing for safe and effective use of a Type A narasin article to make a Type C broiler feed used for prevention of certain forms of coccidiosis. FDA is also amending the regulations to provide for the safe concentrations of narasin residues in edible chicken tissues.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46285, filed NADA 118–980. The NADA provides for use of Monteban® (narasin) Type A articles containing 36, 45, 54, 72, and 90 grams per pound narasin to make Type C broiler feeds containing 54 to 72 grams narasin per ton used to prevent certain forms of *Eimeria* coccidiosis. The NADA is approved and the regulations are amended accordingly. The regulations are also amended to provide for safe concentrations of narasin residues in edible chicken tissues. The basis for approval of the NADA is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. By adding new § 556.428 to read as follows:

§ 556.428 Narasin.

A tolerance for narasin residues in chickens is not needed. The safe concentrations for total narasin residues in uncooked edible chicken tissues are: 0.6 part per million in muscle; 1.8 parts per million in liver; 1.2 parts per million in skin with adhering fat and fat. A tolerance refers to the concentration of marker residues in the target tissue used to monitor for total drug residues in the target animals. A safe concentration refers to the total residue concentration considered safe in edible tissues.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. Section 558.4 is amended in paragraph (d) in the table entitled "Category I" by adding a new entry alphabetically to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

CATEGORY I

Drug	Assay limits type A percent [1]	Type B maximum (200x)	Assay limits (percent of labeled amount) Type B/C [2]
* * *	* *	* *	*
Narasin	90–110	7.2 g/lb. (1.6%).	85–115
* * *	* *	* *	*

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

* * * * *

5. By adding new § 558.363 to read as follows:

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§ 558.363 Narasin.

(a) *Approvals.* Type A medicated articles; 36, 45, 54, 72, and 90 grams per pound to 000986 in § 510.600 of this chapter.

(b) *Tolerances.* See § 556.428 of this chapter.

(c) *Conditions of use.*—(1) *Amount.* 54 to 72 grams per ton.

(2) *Indications for use.* For prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(3) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Do not allow adult turkeys, horses, or other equines access to narasin formulations. Ingestion of narasin by these species has been fatal.

Dated: August 8, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-18280 Filed 8-13-86; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; Petitions to the Commission to Revoke or Modify a Subpoena; Revision of Authority Citation

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is revising its regulation concerning petitions to revoke or modify subpoenas issued by the Commission. The new regulation streamlines the subpoena appeal process and will expedite determinations on petitions to revoke or modify.

DATES: September 15, 1986.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, or James M. Lager, Staff Attorney, at (202) 634-6690.

SUPPLEMENTARY INFORMATION: The Commission is revising its subpoena appeal regulations to eliminate the delay between the filing of a petition to revoke or modify a Commission subpoena and a determination on the petition. The new regulation permits the General Counsel or issuing Director to grant a petition to revoke or modify. If the General Counsel or issuing Director would deny the petition, the petition and the General Counsel's or Director's comments will be sent to the Commission for a final determination. In addition, the revision includes stylistic changes to clarify the regulation. The authority citation has also been revised to provide official citations.

For the Commission.

Clarence Thomas,

Chairman.

PART 1601—[AMENDED]

29 CFR Part 1601 is revised to read as follows:

1. The authority citation for Part 1601 is revised to read as follows:

Authority: Title VII of the Civil Rights Act of 1964, as amended, Pub. L. No. 88-352, 78 Stat. 253; Pub. L. No. 89-554, 80 Stat. 662; Pub. L. No. 92-261, 86 Stat. 103, Pub. L. No. 95-555, 92 Stat. 2076; Pub. L. No. 95-598, 92 Stat. 269 (42 U.S.C. 2000e to 2000e-17).

2. Section 1601.16(b) is revised to read as follows:

§ 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

* * * * *

(b) (1) Any person served with a subpoena who intends not to comply shall petition the issuing Director or petition the General Counsel, if the subpoena is issued by a Commissioner, to seek its revocation or modification. Petitions must be mailed to the Director or General Counsel, as appropriate, within five days (excluding Saturdays, Sundays and Federal legal holidays) after service of the subpoena. Petitions to the General Counsel shall be mailed to 2401 E Street, NW., Washington, DC 20507. A copy of the petition shall also be served upon the issuing official.

(2) The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the basis for noncompliance with the subpoena. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight calendar days after receipt or as soon as practicable, the General Counsel or Director, as appropriate, shall either grant the petition to revoke or modify in its entirety or make a proposed determination on the petition, stating reasons, and submit the petition and proposed determination to the Commission for its review and final determination. A Commissioner who has issued a subpoena shall abstain from reviewing a petition concerning that subpoena. The Commission shall serve a copy of the final determination on the petitioner.

* * * * *

[FR Doc. 86-18388 Filed 8-13-86; 8:45 am]

BILLING CODE 6750-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Approval of Permanent Program Amendments From the State of Alabama Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: The Director, OSMRE, is announcing the approval of program amendments submitted by Alabama to modify its approved permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments were submitted on May 7, 1986, and are contained in Alabama Senate Bill 445. The amendments extend the existence of the Alabama Surface Mining Commission (ASMC) and amend sections of the Code of Alabama 1975.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSMRE, has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 901 codifying decisions concerning the Alabama program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: August 14, 1986 .

FOR FURTHER INFORMATION CONTACT: Mark Boster, Acting Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254-0890.

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SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020 (May 20, 1982) and 48 FR 34026 (July 27, 1983). Subsequent actions concerning the Alabama program are identified in 30 CFR 901.15.

II. Proposed Amendment

On May 7, 1986, Alabama submitted proposed amendments to its approved regulatory program, contained in Alabama Senate Bill 445 (S. 445). The bill relates to the Alabama Sunset Law, and continues the existence and functioning of the ASMC. The bill also amends sections 9–16–73, 9–16–74, 9–16–78, 9–16–85 and 9–16–88 of the Code of Alabama 1975 relating to surface mining statutory requirements.

On June 9, 1986, OSME announced receipt of the amendments and procedures for a public comment period and for a public hearing on the substantive adequacy of the proposed amendments (51 FR 20841). Since no requests for a public hearing were received, the public hearing scheduled for July 7, 1986, was not held. The comment period ended on July 9, 1986.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the amendments submitted by Alabama on May 7, 1986, contained in Senate Bill 445, meet the requirements of SMCRA and 30 CFR Chapter VII. Only those provisions of particular interest are discussed in the specific findings which follow, and lack of discussion of a specific provision does not indicate or imply any deficiency in the provision.

1. Section 1 of S. 445 declares that the Sunset Committee recommends the continuance of the Alabama Surface Mining Commission until October 1, 1987, with the additional recommendation for statutory changes in section 3 of the bill. Section 2 of S. 445 continues the existence of the ASMC and sections 9–16–70 through 9–16–107 of the Code of Alabama 1975 until October 1, 1987. The section provides that the Sunset Committee will review the ASMC between the 1986 and 1987 Regular Legislative Sessions and that the ASMC will be terminated October 1, 1987, unless a bill passes at the 1987 Regular Session to continue the ASMC.

The Director finds that these sections of S. 445 continue the permanent regulatory program in Alabama that was previously approved by the Secretary on May 20, 1982 (47 FR 22020) and are therefore consistent with and no less effective than the Federal requirements.

2. Section 3 of S. 445 amends sections 9–16–73, 9–16–74, 9–16–78, 9–16–85 and 9–16–88 of the Code of Alabama 1975.

Section 9–16–73 of the Code of Alabama concens the composition of the ASMC and how its members are determined. It is amended in paragraph (e) to provide that the ASMC director must have a working knowledge of the Federal and State surface mining laws and regulations. Section 3 is also amended to add paragraph (k) which establishes a subcommittee of the Legislative Sunset Committee to be known as the Legislative Surface Mining Oversight Committee. The Committee shall be consulted on all proposed revisions of the commission's rules and regulations. The section is further amended to add paragraph (1) to provide that the ASMC shall appoint a technical assistance to serve as a liaison between the ASMC and the oversight committee. The Director finds no conflict with the oversight committee. The Director finds no conflict with the requirements of SCMRA and the Federal regulations, and finds the amendments consistent with Federal requirements.

Section 9–16–74 of the Alabama Code contains the powers conferred on the ASMC. The section is amended to stipulate that the ASMC has the power to adopt, amend, suspend, repeal and enforce reasonably necessary rules and regulations, "provided such rules and regulations shall not be more stringent than those promulgated by federal law, or rule or regulation, to control surface coal mining operations . . ." Since neither SMCRA nor the Federal regulations contain language which would require a State to adopt standards more stringent than the Federal standards, the Director finds the Alabama amendment consistent with the Federal requirements.

Section 9–16–78 of the Alabama Code is amended to add paragraph (d) which provides that hearing officers' offices and facilities for holding and conducting hearings will be located in a separate facility from the facility in which the ASMC is located. The amendment also places restrictions on ex-parte communications relating to ASMC business or proposed or pending cases. The Director finds no conflict with the provisions of SMCRA or the Federal regulations and finds, therefore, that the Alabama amendment is consistent with Federal requirements.

Section 9–16–85 of the Code of Alabama is amended to require the regulatory authority to grant, require modification of, or deny a permit within 30 days following public notification and opportunity for a public hearing. The previous language allowed 60 days. The Director finds the Alabama amendment to be consistent with SMCRA sections 510(a) and 514(b) and no less effective than 30 CFR 773.15(a), which require the regulatory authority to grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority.

Section 9–16–88 of the Code of Alabama is amended to require that, if an informal conference is held on an initial or revised permit application, the regulatory authority shall issue a written finding granting or denying the permit in whole or in part and stating the reasons therefor within 30 days of the hearings. The previous language allowed 60 days. Section 514(a) of SMCRA specifies that if informal conferences are held for initial or revised permits, the regulatory authority shall issue a finding granting or denying or denying the permit in whole or in part and stating reasons, within 60 days of the hearings. The director finds that although the State's amended language provides less review time for the regulatory authority than does the Federal statute, the State's 30-day limit would fall within the 60 days as specified by the Federal language and is therefore consistent with and no less stringent than the Federal provisions.

4. Section 4 of S. 445 states that the legislature concurs in the recommendation of the Sunset Committee as provided in sections 1, 2 and 3 of the bill. Section 5 establishes severability of the provisions of the bill. Section 6 repeals all laws or parts of laws in conflict with the provisions of the bill. The section expressly repeals Rulemaking 85–2, of September 17, 1985, concerning the ASMC rules at 880–X–2E. The section provides that rules proposed subsequent to 90 days following S. 445 becoming law, shall be promulgated pursuant to the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975. Section 7 of S. 445 states that the Act shall become effective immediately upon approval by the governor or upon its otherwise becoming a law.

The Director finds no conflict with any Federal provisions. The Director notes that the provision in section 6 which repeals laws or parts of laws in conflict with the bill, does not exempt the State from obtaining the Director's approval for the repeal of any part of the approved Alabama program that may be in conflict with the specific provision in section 3 of the bill, regarding State regulations more stringent than the

VOL 51 ISS 157 AG 14 1986 UMI

Federal provisions. Federal action on Alabama's Rulemaking 85–2 of September 17, 1985, has already been withdrawn in response to Alabama's request of May 7, 1986 (51 FR 19858, June 3, 1986). The rulemaking pertained to requirements for operations extracting coal incidental to extraction of other minerals. The Director finds, therefore, that sections 4 through 8 of S. 445 are consistent with the Federal requirements.

IV. Public Comments

No public comments were received on this rulemaking.

V. Director's Decision

The Director, based on the findings above, is approving the May 7, 1986 amendments to the Alabama program contained in Senate Bill 445. The Director is amending 30 CFR Part 901 to reflect the approval of the above State program modifications.

VI. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substanital number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Undergound mining.

Dated: August 8, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Services.

PART 901—ALABAMA

30 CFR Part 901 is amended as follows:

1. The authority citation for Part 901 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 901.15 is amended by adding a new paragraph (h) to read as follows:

§ 901.15 Approval of regulatory program amendments.

* * * * *

(h) Amendments to the Alabama permanent regulatory program submitted to OSMRE on May 7, 1986, as contained in Alabama Senate Bill 445 are approved effective August 14, 1986.

[FR Doc. 86–18352 Filed 8–13–86; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 914

Approval of Permanent Program Amendment From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of an amendment to the Indiana Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSMRE pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On May 29, 1986, Indiana submitted an amendment to its program to amend the Indiana regulations concerning permit fees.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSMRE, has determined that the amendment meets the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the amendment. The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071–32108). Subsequent actions concerning the Indiana program are identified in 30 CFR 914.15 and 30 CFR 914.16.

II. Discussion of Proposed Amendment

On May 29, 1986, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The amendment modifies the Indiana regulations at 310 IAC 12–3–8 to require that permit applications be accompanied by fees of $100 per application filed, and $100 for each acre or fraction thereof described in the application and for which fees have not been previously paid.

OSMRE published a notice in the **Federal Register** on July 3, 1986, announcing receipt of the proposed program amendments and procedures for the public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendments (51 FR 24387). The public comment period ended August 4, 1986. There was no request for a public hearing and the hearing scheduled for July 28, 1986, was not held.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendment submitted by Indiana on May 29, 1986, meets the requirements of SMCRA and 30 CFR Chapter VII.

Indiana has amended its rules at 310 IAC 12–3–8 for permit fees, to require that each application for a surface coal mining and reclamation permit be accompanied by a fee of $100, plus $100 for each acre or fraction thereof described in the permit application for

which fees have not been paid previously.

Section 507(a) of SMCRA provides that applications for a surface coal mining and reclamation permit be accompanied by a fee as determined by the regulatory authority. The Director finds, therefore, that the Indiana amendment is consistent with and no less stringent than the Federal requirements.

IV. Public Comments

No public comments were received on this rulemaking.

V. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory amendment as submitted on May 29, 1986, under the provisions of 30 CFR 732.17. The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

VI. Procedural Matters

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 8, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Service.

PART 914—INDIANA

30 CFR Part 914 is amended as follows:

1. The authority citation for Part 914 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 914.15 is amended by adding a new paragraph (n) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(n) Amendments to the Indiana regulations at 310 IAC 12–3–8 regarding permit fees, submitted by the Indiana Department of Natural Resources to OSMRE on May 29, 1986, are approved effective August 14, 1986.

[FR Doc. 18353 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8–86–06]

Drawbridge Operation Regulations; Blackwater River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule—Revocation.

SUMMARY: This amendment revokes the regulations for the Seaboard System Railroad Bridge over Blackwater River, mile 2.8 at Milton, Florida, because the drawbridge has been replaced by a fixed bridge. Notice and public procedure have been omitted from this action due to removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on September 15, 1986.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information

The drafters of this rule are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3).

§ 117.271 [Amended]

2. Section 117.271(b) is revoked.

Dated: July 30, 1986.

E.B. Acklin,

Acting Commander.

[FR Doc. 86–18359 Filed 8–13–86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 34

Yosemite National Park, CA; El Portal Administrative Site Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: These regulations provide for use and management, protection of natural and cultural resources, and fire protection within the El Portal Administrative Site. The action will promote the orderly use and management of the administrative site in furtherance of the implementation of the Yosemite General Management Plan and assure a timely and effective official response to law enforcement and fire emergencies in this isolated rural community.

EFFECTIVE DATE: September 15, 1986.

FOR FURTHER INFORMATION CONTACT: John M. Morehead, Superintendent, Yosemite National Park, P.O. Box 577, Yosemite, CA 95389, Telephone: (209) 372–0201.

VOL
51
ISS
157
AG
14
1986
UMI

SUPPLEMENTARY INFORMATION:

Background

The Act of September 2, 1958, (72 Stat. 1772; 16 U.S.C. 47–1(*e*)) established the El Portal Administrative Site, west of Yosemite National Park, directing the Secretary of the Interior to administer the site so that certain facilities and services could be located outside the park. The legislation provided that the administrative site would not be subject to the laws and regulations governing the park. To this end, the legislation further provided that the Secretary shall have supervision, management and control of the area and shall make and publish such rules and regulations as he/she may deem necessary and proper for its use and management.

The regulations set forth below are the product of a process that began with the Yosemite General Management Plan. As currently envisioned, El Portal will serve as a combined residential area, administrative site and visitor information area. The concepts for the development of the El Portal Administrative Site have been considered and, as appropriate, incorporated into the regulations.

Generally, the rules for the administrative site follow the intent of the regulations used within other National Park Service areas.

Natural and cultural resource protection rules, such as those relating to camping, the use of firearms, fishing, sanitation, scientific specimens and wildlife, follow closely the wording of similar regulations in effect within park boundaries or are adopted from the general regulations. The section on fire prevention and fire protection is promulgated to protect residents, visitors, property and resources within the administrative site.

Visitor protection rules, keeping of the peace, orderly management, special events, property security, controlled substances, and boating also follow the rules in effect within other National Park Service areas or adopt the same. The El Portal Administrative Site is not part of the park so the level of restriction is generally lower than would apply within Yosemite National Park.

Boating regulations are those necessary to provide for the protection of aquatic resources, safety of persons and orderly management of boating activities.

Protective custody regulations parallel those applicable elsewhere in the state of California and assure that the National Park Service will handle these situations in a manner consistent with California codes which are necessary to provide for the safety and protection of juveniles and mentally impaired persons. However, in reviewing the protective custody provisions of proposed paragraph 34.9(d) pertaining to persons who are under the influence of alcohol, the National Park Service has determined that these provisions are not essential to the effective management of the administrative site. Therefore, those provisions have been deleted from the final rule.

Vehicle and traffic regulations are limited to those necessary to provide for public safety and effective management of traffic on the road system of the administrative site. Unless specifically addressed by the provisions of this rulemaking traffic and the use of vehicles within El Portal are governed by State law. The regulations in this part will supercede any conflicting or duplicating provisions of State law.

The adopted regulations for commercial and private operations are those necessary to support and provide essential services for the administration of Yosemite National Park. A permit is required for certain business activities.

Summary of Public Comments

The National Park Service published a proposed rule and requested public comments on this rulemaking on February 25, 1986 (51 FR 6561); written comments were received from two public agencies. One written comment was received from the Office of the Federal Defender, Eastern District of California, suggesting that all sections of *36 CFR, PART 4—Vehicles and Traffic Safety* be adopted in the interest of uniform enforcement in the park and administrative site. The National Park Service has considered this comment and has included *36 CFR 4.6 Driving under the influence of intoxicating liquor or drugs* by adoption as part of tha final rule. One written comment was received from the Department of California Highway Patrol advising that the State of California will continue to maintain exclusive enforcement jurisdiction regarding the vehicle code and vehicle related crimes as well as accident investigation responsibilities on all county roads and state highways in the El Portal area. The National Park Service is in agreement. Two written comments were received from a National Park Service official suggesting an addition to the Background statement regarding state vehicle and traffic rules and an addition to provide for future changes under § 34.5 Applicable regulations. Both of these suggestions are included in the final rule.

Drafting Information

The following individuals participated in the drafting of these regulations: Steve Hickman, Harry Steed, James Tucker and Don Cross; all of Yosemite National Park.

Paperwork Reduction Act

The information collection requirements needed to issue permits under this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026.

Compliance With Other Laws

The Department of the Interior has determined that this is not a major rule under Executive Order 12291 (February 19, 1981), and certifies that the document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that while several businesses already operate within El Portal under permit or contract from the National Park Service, little should change under the regulations. Security and fire protection should be enhanced, creating a more secure business environment.

The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent owners or occupants.

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 34

National parks, Administrative site, Penalties, Traffic regulations.

In consideration of the foregoing, 36 CFR Chapter I is amended by adding a new Part 34, to read as follows:

PART 34—EL PORTAL ADMINISTRATIVE SITE REGULATIONS

Sec.
34.1 Purpose.
34.2 Applicability and scope.
34.3 Penalties.
34.4 Definitions.
34.5 Applicable regulations.
34.6 Fires.
34.7 Cultivation of controlled substances.
34.8 Preservation of natural, cultural and archeological resources.
34.9 Protective custody.
34.10 Saddle and pack animals.
34.11 Boating operations.
34.12 Information collection.

Authority: 16 U.S.C. 1, 3, 47–1, 460l–6a(e).

§ 34.1 Purpose.

These regulations provide for the protection of persons, property and natural and cultural resources within the El Portal Administrative Site.

§ 34.2 Applicability and scope.

(a) The regulations in this part apply to all persons entering, using, visiting, residing on or otherwise within the boundaries of the El Portal Administrative Site. All regulations apply throughout the site, with certain specific exceptions provided for leased lands.

(b) The regulations in this part may be enforced only by persons authorized to enforce the other provisions of this chapter.

§ 34.3 Penalties.

(a) A person convicted of violating a provision of the regulations contained in this part shall be punished by a fine not exceeding $500 or by imprisonment not exceeding 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

(b) Notwithstanding the provision of paragraph (a) of this section, a person convicted of violating § 34.5(b)(15) of this chapter shall be punished by a fine of not more than $100.

§ 34.4 Definitions.

When used in regulations in this part:

"Administrative site" means all of the federally owned or controlled lands and waters administered by the National Park Service pursuant to 16 U.S.C. 47–1 (72 Stat. 1772), in the vicinity of El Portal, California.

"Leased lands" means all lands within the administrative site in which there is a lawful possessory interest in addition to that of the National Park Service, which have been leased, permitted or otherwise assigned by the Superintendent. All other lands within the administrative site are nonleased lands.

§ 34.5 Applicable regulations.

The following sections and paragraphs of this chapter, as amended from time to time, apply to the administrative site and are hereby incorporated and made a part of this part except as modified by the regulations in this part:

(a) *General Provisions.*

(1) 1.2(e) Applicability and scope; exception for administrative activities.

(2) 1.4 Definitions.

(3) 1.5 Closures and public use limits.

(4) 1.6 Permits.

(5) 1.7 Public notice.

(b) *Resource Protection, Public Use and Recreation.*

(1) 2.1 Preservation of natural, cultural and archeological resources.

(2) 2.2 Wildlife protection.

(3) 2.3 (a), (c) and (f) Fishing.

(4) 2.4 Weapons, traps and nets.

(5) 2.5 Research specimens.

(6) 2.10 Camping and food storage.

(7) 2.11 Picnicking.

(8) 2.12 Audio disturbances.

(9) 2.13 Fires.

(10) 2.14 Sanitation.

(11) 2.15 (a) (1), (3), (4) and (5); (c); (d); (e) and (f) Pets.

(12) 2.17 Aircraft and air delivery.

(13) 2.21 Smoking.

(14) 2.22 Property.

(15) 2.23 Recreation fees.

(16) 2.30 Misappropriation of property and services.

(17) 2.31 Trespassing, tampering and vandalism.

(18) 2.32 Interfering with agency function.

(19) 2.33 Report of injury or damage.

(20) 2.34 Disorderly conduct.

(21) 2.35 Alcoholic beverages and controlled substances.

(22) 2.36 (a) Gambling.

(23) 2.37 Noncommercial soliciting.

(24) 2.38 Explosives.

(25) 2.50 Special events.

(26) 2.51 Public assemblies, meetings.

(27) 2.52 Sale or distribution of printed matter.

(28) 2.61 Residing on Federal lands.

(29) 2.62 Memorialization.

(c) *Boating and Water Use Activities.*

(1) 3.1 Applicable regulations.

(2) 3.3 Permits.

(3) 3.4 Accidents.

(4) 3.5 Inspections.

(5) 3.6 (a) and (b) Prohibited operations.

(6) 3.21 (a) (1), (2) and (b) Swimming and bathing.

(d) *Vehicles and Traffic Safety.*

(1) 4.1 State law applicable.

(2) 4.6 Driving under influence of intoxicating liquor or drugs.

(3) 4.11 (a) and (b) Load, weight, length, and width limitations.

(4) 4.14 Reckless or careless driving.

(5) 4.15 Report of vehicle accident.

(6) 4.17 Speed limits.

(7) 4.18 Traffic control and signs.

(8) 4.19 (a) and (c)(2) Travel on roads and designated routes.

(e) *Commercial and Private Operations.*

(1) 5.1 Advertisements.

(2) 5.2 Alcoholic beverages; sale of intoxicants.

(3) 5.3 Business operations.

(4) 5.5 Commercial photography.

(5) 5.7 Construction of buildings or other facilities.

(6) 5.8 Discrimination in employment practices.

(7) 5.9 Discrimination in furnishing public accommodations and transportation services.

(8) 5.13 Nuisances.

(9) 5.14 Prospecting, mining, and mineral leasing.

§ 34.6 Fires.

(a) All wildland, vehicular or structural fires shall be reported to the Superintendent immediately.

(b) Nonconflicting provisions of the California State Forest and Fire Laws and Regulations are adopted as a part of this part. Violation of any of these regulations is prohibited.

(c) The kindling of any open fire, including the burning of debris, is prohibited without a permit from the Superintendent.

(d) On undeveloped, untended or otherwise open land, operating any equipment powered by an internal combustion engine without a spark arrestor maintained in effective working order is prohibited. Such spark arrestor shall also meet either the USDA Forest Service Standard 5100–1*a* or the Society of Automotive Engineers Recommended Practice J335 or J350.

(e) The Superintendent may, during periods of high fire danger or diminished water supply, temporarily limit use and consumption of domestic water. These limitations shall be published. Violation of a limitation established by the Superintendent is prohibited.

(f) An owner or operator of a commercial establishment located within the administrative site shall comply with applicable standards prescribed by the National Fire Codes, Federal OSHA, CAL OSHA and other applicable laws, regulations and standards.

§ 34.7 Cultivation of controlled substances.

In addition to the provisions of § 2.35 of this chapter, the planting, cultivating, harvesting, drying or processing of a controlled substance, or any part thereof, is prohibited.

§ 34.8 Preservation of natural, cultural and archeological resources.

In addition to the provisions of § 2.1 of this chapter, the following are in effect:

(a) Upon nonleased lands, the cutting or removal of any tree, plant, or shrub or part thereof is prohibited without a permit from the Superintendent.

(b) Upon leased lands, the cutting or removal of any tree, plant, shrub or part thereof that is six inches or less in diameter, for the purpose of maintaining its proper health and appearance or for reasons of public safety, is allowed. Cutting or removing any vegetation exceeding six inches in diameter without a permit from the Superintendent is prohibited.

(c) Upon leased lands, the planting of personal gardens or domestic trees is allowed subject to all applicable Federal, State, and County agricultural regulations. *Provided, however:* the Superintendent may temporarily suspend this general privilege in the event of a water shortage or agricultural pest or disease emergency.

(d) Wood gathering is prohibited except in accordance with conditions and within areas designated by the Superintendent. Violation of such conditions or gathering wood outside of designated areas is prohibited.

§ 34.9 Protective custody.

(a) An authorized person, with reasonable cause to believe that a juvenile found within the administrative site has been unlawfully abused or neglected by any person living in the juvenile's place of residence, may take such juvenile into protective custody. An authorized person taking protective custody action pursuant to this paragraph shall deliver the juvenile to the care and custody of the appropriate state or local authorities.

(b) An authorized person, with reasonable cause to believe that a person found within the administrative site is either temporarily or permanently psychologically or mentally impaired to a degree that the person is gravely disabled or that presents a clear danger to that person or another, may take such person into protective custody. An authorized person taking protective custody action pursuant to this paragraph shall deliver the person to the care of the Mariposa County Mental Health Authorities for an initial 72-hour evaluation in accordance with applicable provisions of the California Welfare and Institutions Code.

(c) An authorized person may take into protective custody any juvenile found within the administrative site who is deemed to be a runaway according to applicable provisions of the California Welfare and Institutions Code. An authorized person taking protective custody action pursuant to this paragraph shall deliver the juvenile to the care and custody of the Mariposa County Sheriff's Office.

§ 34.10 Saddle and pack animals.

The use of saddle and pack animals is prohibited without a permit from the Superintendent.

§ 34.11 Boating operations.

The launching or operation of a motor boat is prohibited.

§ 34.12 Information collection.

The information collection requirements contained in §§ 34.6, 34.8 and 34.10 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1024–0026. This information is being collected to solicit information necessary for the Superintendent to issue permits and other benefits, and to gather information. This information will be used to grant administrative benefits. The obligation to respond is required to obtain a benefit.

Dated: July 16, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18054 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3063-3]

Standards of Performance for New Stationary Sources; Revisions to Method 1 of Appendix A

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: EPA is correcting errors that appeared in the **Federal Register** notice of June 4, 1986 (51 FR 20286) for Standards of Performance for New Stationary Sources: Revisions to Method 1 of Appendix A.

FOR FURTHER INFORMATION CONTACT: Peter Westlin at (919) 541–2237.

SUPPLEMENTARY INFORMATION: In the **Federal Register** document published June 4, 1986 (51 FR 20286) make the following corrections to Part 60, Method 1 of Appendix A.

1. On page 20288, third column, Section 2.5.4.2, first line after "where:" should have read "$\bar{R}$ = Average resultant angle, degree.".

2. On the same page, third column, Section 2.5.4.3, Equation 1–4 should have read:

$$S_d = \sqrt{\frac{\sum_{i=1}^{n} (R_i - \bar{R})^2}{(n-1)}} \quad \text{Eq. 1-4}$$

3. On the same page, third column, Section 2.5.5, second line should have read "acceptable if $\bar{R} < 20°$ and $S_d < 10°$.".

Dated: August 4, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86–18350 Filed 8–13–86; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–26

[FPMR Temp. Reg. E–85]

Special Buying Services

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation revises the policies and procedures by which Federal agencies obtain personal property and nonpersonal services through GSA's special buying services.

DATES:

Expiration date: April 30, 1987.
Effective date: May 11, 1986.
Comments are due on or before: September 30, 1986.

ADDRESS: Comments should be addressed to: General Services Administration (FC), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: James L. DeProspero, Office of Commodity Management (703–557–7901).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on

the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administration decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

The Interagency Advisory Committee on Regulatory Review has developed a proposed revision of FPMR Subchapter E (See 51 FR 4619). The revision covers "Special buying services" in its § 101–26.104. Effective May 11, 1986, special order program support for domestic activities will be restricted to those items identified as direct delivered under a central contract (AAC–H) and nonstock centrally procured (AAC–J). This temporary regulation is being issued instead of a permanent change to the FPMR.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following regulation is added to the appendix at the end of Subchaper E to read as follows:

Federal Property Management Regulations Temporary Regulation E–85

July 8, 1986.

TO: Heads of Federal agencies

SUBJECT: Special buying services

1. *Purpose.* This regulation revises the policy concerning special buying services performed by GSA.

2. *Effective date.* This regulation is effective May 11, 1986.

3. *Expiration date.* This regulation will expire on April 30, 1987, unless sooner codified in the permanent regulations of this title.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.*

a. GSA currently provides special buying services under its special order program for a variety of items not obtainable from GSA stock or Federal Supply Schedules. Budget constraints have required reevaluation of the effectiveness of the special order program, and a subsequent reduction in the scope of GSA services provided by that program.

b. Effective May 11, 1986, special order program support for domestic activities will be restricted to those items identified as direct delivered under a central contract (AAC–H) and nonstock centrally procured (AAC–J). Additionally, a substantial portion of these items previously identified as nonstock centrally procured were recently changed to local purchase items. Requisitions (FEDSTRIP and MILSTRIP) received by GSA for local purchase items (AAC–L) with an advice code 2A (not obtainable locally), items which are available from Federal Supply Schedule contracts (AAC–I) for which GSA places the order with the schedule contractor, and terminal items (AAC–Y) with advice code 2F (obsolete but required) will be rejected when received from domestic activities. Program support for agencies located outside the 50 States, District of Columbia, Puerto Rico, and the Virgin Islands will continue.

6. *Definition.* "Special order program" means those purchases made by GSA on behalf of executive agencies of items requisitioned under the FEDSTRIP and MILSTRIP systems which are not included in GSA stock or Federal Supply Schedules. These include national-stock-numbered items identified as local purchase, nonstock centrally-procured items, direct-delivery items under a central contract, terminal items, part-numbered items, and noncataloged non-NSN items. It also includes those items available from Federal Supply Schedules when GSA places the order with the schedule contractor.

7. *Explanation of changes.*

a. Section 101–26–102–1(b) is revised to read as follows:

(b) Upon request, GSA will perform purchasing services in addition to the sources specified in this Part 101–26, for agencies located outside the 50 States, District of Columbia, Puerto Rico, and the Virgin Islands.

b. Section 101–26–102–1(c) is revised to read as follows:

(c) Any Federal agency, mixed-ownership corporation, or non-Federal agency, located as described in (b), above, may, when the function of a Federal agency authorized to procure for it is transferred to GSA, arrange for these special buying services to be performed by GSA.

8. *Agency comments and assistance.* Comments or inquiries concerning this regulation should be submitted to the General Services Administration (FC), Washington, DC 20406, not later than September 30, 1986, for consideration and possible incorporation into a permanent regulation.

9. *Effect on other issuances.* This regulation supersedes the regulations appearing in §§ 101–26.102–1(b) and (c).

T.C. Golden,

Administrator of General Services.

[FR Doc. 86–18332 Filed 8–13–86; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85–358; RM–4948]

Radio Broadcasting Services; Kingman, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 260C1 for Channel 261A at Kingman, Arizona, and modifies the Class A license of Station KGMN(FM), in response to a petition filed by New West Broadcasting Systems, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85–358, adopted July 29, 1986, and released August 6, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following:

§ 73.202 Table of allotments.

* * * * * * *

(b) * * *

City	Channel No.
Kingman, AZ	234, 260C1, and 290.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18271 Filed 8–13–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–19; RM–5061]

Radio Broadcasting Services; Nags Head, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 222A to Nags Head, North

Carolina, as the community's first local FM service, at the request of Winfas of Belhaven, Inc.

DATES: Effective September 12, 1986. The window period for filing applications will open on September 15, 1986, and close on October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–19, adopted July 31, 1986, and released August 6, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by adding the following entry to the FM Table of Allotments:

§ 73.202 FR table of allotments.

* * * * *

(b) * * *

City	Channel No.
Nags Head, North Carolina	222A

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18270 Filed 8–13–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 85–292; RM–4993; FCC 86–324]

Aviation Radio Service; Digital Administrative Communications in the Aviation Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document permits on a subsidiary basis the digital transmission of administrative messages on aeronautical enroute frequencies. This action was initiated by a petition for rulemaking filed by Aeronautical Radio, Inc. The effect of the rule will be the expansion of the scope of permissible enroute communications.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted July 14, 1986 and released August 5, 1986.

1. The complete text of this Commission decision including the rule amendments is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision including the rule amendments may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

2. For the past three years the Commission has permitted by rule waiver the digital transmission of administrative messages on aeronautical enroute frequencies in addition to traditional operational control communications. These operations have been conducted by Aeronautical Radio, Inc. (ARINC) and by Pan American World Airways and American Airlines. The administrative messages concern such matters as on-board provisioning and inventory, passenger travel arrangements, coordination with airline ground services for passengers and passenger data for on-board services. The effect of the rule amendments is to authorize transmission of administrative messages on a regular basis rather than on the basis of a rule waiver. Transmission of administrative messages is restricted to their being sent only on a secondary priority to operational control communications. In adopting the rules, the Commission found that transmission of administrative messages is not prohibited by international Radio Regulations, should not derogate communications of a higher priority, nor lead to abuse of the frequencies. The amended rules are set forth at the end of this document.

3. Pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) it is certified that this rulemaking proceeding if promulgated will not have a significant economic impact on a substantial number of small entities. Although these proposed changes allow the aviation community greater flexibility and convenience, they will not cause a significant economic impact on small entities.

4. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

5. This Report and Order and these rule amendments are issued under the authority of 47 U.S.C. 154(i) and 303(r).

6. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

7. It is ordered that Part 87 is amended as shown at the end of this document. It is further ordered that these rule amendments shall become effective September 11, 1986. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 87

Communications equipment, Aeronautical stations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Amended Rules

Part 87 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended, 47 U.S.C. 151–156, 301–609.

2. In Subpart E a new § 87.305 is added to read as follows:

§ 87.305 Administrative communications.

Domestic VHF aeronautical enroute stations authorized to use A9W emission on any frequency listed in § 87.293(a) may transmit digital administrative communications on a secondary basis, in addition to the operational control communications routinely permitted under § 87.291(a) above. Such secondary administrative communications must directly relate to

the business of a participating aircraft operator in providing travel and transportation services to the flying public or to the travel, transportation or scheduling activities of the aircraft operator itself. Stations transmitting administrative communications must provide absolute priority for operational control and other safety communications by means of an automatic priority control system.

[FR Doc. 86-18272 Filed 8-13-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 50694-5094]

High Seas Salmon Fishery off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice closing for 10 days the fishery conservation zone (FCZ) off Southeastern Alaska to commercial fishing for all salmon species. This action is necessary to allow coho salmon to escape the ocean fishery so they can move into the bays and inlets where the harvests can be managed more closely on a stock-by-stock basis. It complements similar actions taken by the State of Alaska for the commercial salmon fisheries in its waters. The intent of this action is to achieve better control over the numbers of each stock that are harvested and that reach the spawning grounds.

DATE: This notice is effective at 0001 hours Alaska Daylight Time (ADT), Monday, August 11, 1986, and will expire at 2359 hours ADT, Wednesday, August 20, 1986. Public comments are invited until September 10, 1986.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection 0800 to 1630 ADT Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS) 907-586-7228.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended by the North Pacific Fishery Management Council (Council) and is implemented by regulations appearing at 50 CFR Part 674.

In 1980, the Council amended section 8.3.1.4 of the FMP to provide for an area-wide closure of the entire Southeastern Alaska troll fishery for 10 days to stabilize or reduce coastal and offshore fishing effort on coho salmon unless an evaluation of the coho runs and harvests indicated "well above average magnitude and good movement inshore." The Council took this action in cooperation with the Alaska Board of Fisheries (Board) so that the troll fishery in the FCZ and in State waters would be under consistent management. The Council intended that, if the State issued a closure for coho, a similar closure should be instituted for the FCZ, under the procedures outlined in section 8.3.1.5. of the FMP and specified in § 674.23 of the regulations.

The Board at 5 AAC 33.365(b)(3) requires that the commercial salmon troll fisheries in Alaskan waters be closed "for approximately 10 days" unless "the coho salmon runs are larger than the last 10-year average and . . . acceptable numbers of coho salmon are moving into the in-shore salmon fishing areas."

As of August 2, 1986, analyses of coho harvests by the commercial troll, gillnet, and purse seine fisheries and the sport fisheries in Southeastern Alaska indicate that a closure of the troll fishery is necessary. The commercial troll fishery in the outer coastal waters and the FCZ has been harvesting a near record number of coho salmon while the harvests of some inside fisheries are far below the recent 10-year averages. Fishery managers predict that the troll fishery will harvest over 1.5 million coho by August 11, when this closure begins. That number nearly equals the total 1985 season troll harvest of 1.6 million coho, which was the second highest troll harvest on record. The early closure of the troll harvest of chinook salmon on July 16 forced the fishermen to shift their effort to harvesting coho.

Coho harvests by the Southeastern Alaska fisheries in the inside waters have shown mixed results, depending on their location. In the southern Southeastern Alaska gillnet, purse seine and sport fisheries, the coho harvests have been about average or slightly above average. In the northern inside troll, gillnet, and sport fisheries, the coho harvests have been much below average. For example, the coho harvest by the gillnet fisheries in Stephens Passage is about 56 percent below the 10-year average, the gillnet fishery in Lynn Canal is about 86 percent below the average, and the sport fishery in the Juneau area is about 80 percent below the average. The harvests by these inside fisheries indicate the relative number of coho returning to the various areas and the spawning grounds. The harvests by these northern inside fisheries indicate that the number of coho returning to the northern inside areas is extremely low at this time. Thus the Alaska Department of Fish and Game (ADF&G) announced that it was closing the salmon troll fishery in Alaskan waters, effective at 0001 hours on Monday, August 11, 1986.

Regulations implementing the FMP at § 674.23(a) provide that the Secretary of Commerce (Secretary) may modify the time and area limitations governing the fishery whenever the determines that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the FMP. In making such a determination, he may consider the following factors:

(a) The effect of overall fishing effort within any part of the management area;

(b) The catch per unit of effort and the rate of harvest;

(c) The relative abundance of salmon stocks within the management area;

(d) The condition of salmon stocks throughout their ranges; and

(e) Any other factors relevant to the conservation of salmon.

Having reviewed the evidence of the high harvest in the coho troll fishery in the outer coastal and offshore waters, the Secretary has determined that the effect of overall fishing effort in the FCZ, the high catch per unit of effort, and the high rate of harvest within the FCZ portion of the management area indicate that the condition of coho stocks is substantially different from the condition anticipated in the FMP. He has also found that this difference reasonably requires a modification of time or area limitations if coho stocks are to be conserved and managed adequately. Therefore, he is implementing the 10-day closure prescribed by this action.

The closure will become effective after this notice has been filed for public inspection with the Office of the Federal Register and the closure has been publicized for 48 hours through procedures of the ADF&G.

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Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the coho salmon stocks harvested in Southeastern Alaska will be subject to harm unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 553 (b) and (c).

This action is authorized by 50 CFR Part 674 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 11, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-18395 Filed 8-11-86; 5:07 pm]

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DEPART

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7 CFR P

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AGENCY:
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Proposed Rules

Federal Register
Vol. 51, No. 157
Thursday, August 14, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend procedures for issuing additional spearmint oil allotment base for a specified period of time during which existing small producers would be given priority when applying for additional allotment base. This amendment is intended to aid in bringing small producers' total supply up to a level comprising the minimum economic enterprise required for spearmint oil production. Additionally, the proposal would provided that additional allotment base would not be available to replace allotment that had been transferred away.

DATE: Comments due September 15, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085 South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447-5679.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Departmental Regulation 1512-1 and Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities on their own behalf. Thus , both statutes have small entity orientation and compatibility.

This proposed rule is issued under Marketing Order No. 985 regulating the handling of spearmint oil grown in the Far West. The marketing order effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is based upon the recommendation and information submitted by the Far West Spearmint Oil Administrative Committee and upon other available information, and would prioritize the allocation of additional allotment base to small producers.

The committee met on June 4, 1986, and recommended an amendment to § 985.153(c)(2) of the Subpart—Administrative Rules and Regulations by revising the procedures for issuing additional allotment base to existing producers. The proposal was submitted pursuant to authority contained in § 985.53(d)(3) of the order which prescribes that the committee may, with the approval of the Secretary, establish rules and regulations to be used for determining the distribution of additional allotment base. In establishing such rules, the committee is required to take into account, among other things, the minimum economic enterprise requirements for oil production, the applicant's ability to produce oil, the area where the oil will be produced, and other economic and marketing factors.

The proposed amendment of the procedures for issuing additional allotment base would provide that for a period of two years for Class I oil and one year for Class III oil, existing small producers would be given priority when applying for additional allotment base. This amendment is intended to help small producers increase their supply of spearmint oil to a level which would approximate the minimum economic enterprise level required for spearmint oil production. Additionally, the proposal would provide that the additional allotment could not be used to replace allotment which had been transferred away.

Section 985.53(d)(1) of the order provides for no more than 1 percent of the total allotment base for each class of oil to be issued annually and distributed equally as additional allotment base to both new and existing producers. The order also provides in § 985.53(d)(3) for informal rulemaking to carry out such provisions. This proposal recommends that the ½ percent of additional allotment base, available to existing producers for the 1987-88 and 1988-89 seasons, be issued first to small producers who apply. Existing producers applying for additional Class I oil allotment base with than 2,000 pounds of base as of May 1, 1986, would be issued sufficient additional allotment base over two year period (1987-88 and 1988-89) to bring them up to a level not to exceed 2,000 pounds. Existing producers applying for additional Class III oil allotment base with less than 2,200 pounds of base as of May 1, 1986, would be issued additional allotment base sufficient to bring them up to a level not to exceed 2,200 pounds during the 1987-88 season.

This proposal would reinstate similar provisions of § 985.153(c)(2) which provided that for the 1982-83, 1983-84, and 1984-85 seasons, additional allotment base would be issued only to existing producers initially issued a base of less than 1,200 pounds of Class I oil or 1,800 pounds of Class III oil. In the 1985-86 season, additional allotment bases were distributed equally to those producers requesting additional base who could demonstrate the ability to produce additional oil.

It has been determined that the approximate minimum economic enterprise required for spearmint oil production should be higher than the 1,200 and 1,800 pound levels relied upon in the prior rulemaking. For Class I oil the level has been increased from 1,200 to 2,000 pounds and for Class III oil from 1,800 to 2,200 pounds. The committee has recommended increased minimum

economic enterprise levels because such amounts are currently equal to those which are issued to new producers who request allotment, and are considered by the committee to be a better measure of a minimum economic enterprise required for spearmint oil production.

The committee has estimated that 39 producers of Class I oil and 10 producers of Class III oil would be eligible for additional allotment base under the proposal. It is expected that existing producers of Class I oil that produce less than 2,000 pounds would apply for full amount of the additional allotment available to such producers of Class I oil for the two years. However, the committee has estimated that existing producers of Class III oil who produce less than 2,200 pounds can be brought up to the minimum economic enterprise level in one year. If there is any unallocated additional allotment remaining for either Class I or III oil during the 1987–88 or 1988–89 seasons, such amount would be distributed equally among other existing producers who apply.

Affected producers need to be informed of any changes in base allotment allocation in time for fall planting, which usually begins in October.

Therefore, a 30-day period for filing written comments is provided.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders, Spearmint oil, Far West.

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

Subpart—Administrative Rules and Regulations

2. Section 985.153(c)(2) is revised to read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

* * * * *

(c) * * *

(2) *Existing Producers.* (i) The committee shall review all requests from existing producers for additional allotment base. With respect to the additional Class I allotment base for existing producers for the 1987–88 and 1988–89 marketing years, existing producers with less than 2,000 pounds of allotment as of May 1, 1986, who apply and who have the ability to produce additional quantities of spearmint oil shall be issued allotment base sufficient to bring them up to a level not to exceed 2,000 pounds; *Provided,* That all eligible producers with less than 2,000 pounds of allotment who apply shall receive ½ of the total amount of allotment base to which they are entitled, effective for the 1987–88 marketing year, and ½ of the total amount of allotment base to which they are entitled, effective for the 1988–89 marketing year; *Provided further,* That additional allotment base shall not be issued to any person that would replace all or part of allotment base such person has transferred. Additional allotment base in excess of the amount needed to bring eligible producers up to 2,000 pounds of allotment base for Class I oil shall be distributed equally among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil. With respect to the additional Class III allotment base for existing producers for the 1987–88 marketing year, existing producers with less than 2,200 pounds of allotment base as of May 1, 1986, who apply and who have the ability to produce additional quantities of spearmint oil shall be issued additional allotment base sufficient to bring them up to a level not to exceed 2,200 pounds; *Provided,* That additional allotment base shall not be issued to any person that would replace all or part of allotment base such person has transferred. Additional allotment base in excess of the amount needed to bring eligible producers up to 2,200 pounds of allotment base for Class III oil shall be distributed equally among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil, and;

(ii) For each marketing year after 1988–89 for Class I oil and 1987–88 for Class III oil, each existing producer of a class of spearmint oil who requests additional allotment base and who has the ability to produce additional quantities of that class of spearmint oil shall be eligible to receive a share of the additional allotment base for that class of oil. Additional allotment base to be issued by the committee for a class of oil shall be distributed equally among the eligible producers for that class of oil. The committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount.

* * * * *

Dated: August 11, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18372 Filed 8–13–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–CE–20–AD]

Airworthiness Directives; British Aerospace Model B.121 Series I, II, and III Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to all British Aerospace (BAe) Model B.121 Series I, II, and III airplanes which would require initial and repetitive inspections for cracks in the structure that attaches the vertical fin to the fuselage. BAe has received reports of cracks being found in these areas. Inspection in the area where the vertical fin attaches to the fuselage will detect these cracks before structural failures occur, and preclude subsequent loss of airplane control.

DATES: Comments must be received on or before October 20, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: British Aerospace Service Bulletin (S/B) No. B121/86, dated March 29, 1984 applicable to this AD may be obtained from British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100 or the Rules Docket at the addresses below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–20–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. T. Ebina, Brussels Aircraft Certification Office, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. John P. Dow, Sr., FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications

should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–CE–20–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

BAe has received a report of cracks being found on a Model B.121 Series airplane (a) on the center angle attaching the upper Rear Fuselage sloping diaphragm to STN 207–85 Frame Assembly, (b) on the upper decking daphragm attached between the same frame assembly and STN 218.5 Frame Assembly and, (c) in the heel of the side skin attachment flange on Frame 207.85 adjacent to the tailplane front spar attachment bolts.

Failure of the structure attaching the vertical fin to the fuselage can lead to loss of the airplane. As a result, BAe has issued S/B No. B121/86, dated March 29, 1984, which specified (1) an initial inspection of the vertical fin/fuselage structure within 50 hours time-in-service (TIS) for airplanes having 2,450 hours or more TIS, (2) specified repetitive inspection at intervals of 50 hours TIS thereafter, and (3) requires a repair procedure if cracks beyond specific limits are found. The United Kingdom Civil Aviation Authority (UKCAA) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States.

The FAA has examined the available information related to the issuance of BAe S/B No. B121/86, dated March 29, 1984, and the mandatory classification of this Service Bulletin by the UKCAA. Based on the foregoing, the FAA believes that the condition addressed by this Service Bulletin is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require inspection of the vertical fin/fuselage attachment structure within 50 hours TIS on airplanes having 2,450 hours TIS or more, periodic inspections thereafter at 50 hours TIS, and repair if required as a result of the inspection.

The FAA has determined there are approximately two airplanes affected by the proposed AD. The cost of inspecting these airplanes as required by the proposed AD is estimated to be three manhours per inspection and $35 per manhour for a total of $210 to the private sector.

The FAA has determined that this document: (1) Involves a proposed regulation that is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) certifies under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption *"Addresses."*

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

AUTHORITY: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

British Aerospace: Applies to Model B.121 Series I, II, and III (all serial numbers) airplanes certificated in any category.

Compliance: Required initially within 50 hours time-in-service (TIS) for airplanes having or upon accumulating 2,450 hours or more TIS, and thereafter at intervals of 50 hours TIS.

To assure the integrity of the vertical fin/fuselage attachment structure accomplish the following:

(a) Visually inspect for cracks in the following areas:

(1) Center Angle, Part Number (P/N) BE–10–10085 in accordance with paragraph 3. "ACTION" subparagraph (c) of British Aerospace (BAe) Service Bulletin (S/B) No. B121/86 dated March 29, 1984.

(i) If cracks are found that equal or exceed the conditions shown in paragraph 3. "ACTION" subparagraph (c) of BAe S/B No. B121/86, prior to further flight, repair in accordance with repair instructions obtained from the manufacturer British Aerospace, and approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium (hereinafter referred to as "Manager, AEU–100").

(ii) If no cracks are found or if cracks do not exceed the limits shown in paragraph 3. "ACTION" subparagraph (c) of BAe S/B No. B121/86, repeat the inspection at intervals not exceeding 50 hours TIS

(2) The under side of Diaphragm Decking upper, P/N BE–10–10155/1 in accordance with paragraph 3. "ACTION" subparagraph (d) of BAe S/B No. B121/86 dated March 29, 1984.

(i) If cracks are found, prior to further flight, repair in accordance with repair instructions obtained from the manufacturer British Aerospace and approved by the Manager, AEU–100.

(ii) If no cracks are found, repeat the inspection at intervals not exceeding 50 hours TIS.

(3) The heel of the side skin attachment flange (left and right) adjacent to the tailplane front spar attachment bolts in accordance with paragraph 3. "ACTION" subparagraph (e) of BAe S/B No. B121/86 dated March 29, 1984.

(i) If cracks are found, prior to further flight repair in accordance with repair instructions obtained from the manufacturer British Aerospace and approved by the Manager, AEU–100.

(ii) If no cracks are found, repeat the inspection at intervals not exceeding 50 hours TIS.

(b) Extension or elimination of the repetitive inspections specified in this AD may be included as part of the FAA approved repair obtained in accordance with paragraph (a)(1)(i), (a)(2)(i) and (a)(3)(i) of this AD.

(c) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(d) An equivalent method of compliance with this AD, may be used, if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this proposed AD may obtain copies of the document referred to herein upon request to British

Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 6, 1986.

Barry D. Clements,

Acting Director Central Region.

[FR Doc. 86-18267 Filed 8-13-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendments to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of proposed changes to Ohio's use of explosives rules. The amendments are proposed to amend the list of structures near which blasting cannot be conducted without written consent from the owners, amend the list of structures in the vicinity of the blasting area that must be protected by the establishment of a maximum allowable limit on ground vibration, improve the safety of blasting operations, and clarify the rules' requirements.

This notice sets forth the times and locations that the Ohio Program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., September 15, 1986, will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendments has been scheduled for September 3, 1986. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by August 29, 1986. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing, if requested, is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modification to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE field office listed above and at the OSMRE headquarters office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 L Street NW., Washington, DC 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Submission of Revisions

By letter dated July 10, 1986, the Ohio Department of Natural Resources, Division of Reclamation submitted proposed amendments to Ohio's regulatory program at 1501:13-9-06. The proposed changes to OAC section 1501:13-9-06 set forth the responsibilities of the certified mine foreman and certified blaster, specify where the blasting plan and permit map will be kept for the use of employees and blasters, require a written report of the preblast survey be given to the resident or owner, amend the list of structures near which blasting cannot be conducted without written consent from the owners, amend the list of structures in the vicinity of the blasting area that must be protected by the establishment of a maximum allowable limit on ground vibration, improve the safety of blasting operations, and clarify the rules' requirements.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above under **"ADDRESSES"**. The Director now seeks public comment on whether the poposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.

III. Procedural Matters

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C., 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 8, 1986.

Carl C. Close,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-18351 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

Tax Practitioners

AGENCY: Department of the Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes modification of the regulations governing practice before the Internal Revenue Service (31 CFR Part 10) by clarifying the regulations in two respects. The first is a proposed requirement that tax practitioners exercise due diligence in giving advice regarding positions to be taken on Federal tax returns and other documents relating to our tax system. The second proposal requires that in a situation where the provisions of section 6661 of the Internal Revenue Code may apply, a practitioner must exercise due diligence both with respect to advice given on positions to be taken on tax returns and tax return preparation itself. This includes the requirement in a tax shelter situation that there be substantial authority for the position taken and a more likely than not belief the position will be sustained if challenged. In a non-tax shelter situation, the position must be supported by substantial authority. If the position is not supported by substantial authority, there must be adequate disclosure in the tax return or in an attachment thereto.

DATE: Comments must be submitted in writing on or before October 14, 1986.

ADDRESSES: Comments should be sent to the Director of Practice, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, ATTN: PM:HR:DP.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Internal Revenue Service, Washington, DC 20224, (202) 535-6787.

SUPPLEMENTARY INFORMATION:

Background

This notice of proposed rulemaking is premised on the concern of the Department of the Treasury that the professional responsibility of some of those eligible to practice before the Internal Revenue Service (IRS) with respect to tax return preparation and advice relative to positions on tax returns has eroded over the years. This has led to serious problems concerning taxpayer compliance with the revenue laws, a matter which adversely affects the integrity of our voluntary self-assessment tax system. Such concern has been shared by Congress, as evidenced by the several taxpayer penalty provisions in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). In addition, the American Bar Association (ABA) recently issued Formal Opinion 85-352 dealing with an attorney's ethical obligation on the subject. The opinion was the result of a similar concern expressed by the ABA Tax Section. The Department of the Treasury recently amended the regulations in 31 CFR Part 10 (Treasury Department Circular No. 230) concerning opinions used in the marketing of tax shelters. This amendment is further evidence of the government's concern about tax practitioners' responsibilities to our tax system. Requirements similar to those in Circular 230 were adopted by the ABA in Formal Opinion 346.

While it is generally agreed that a practitioner owes a client competence, loyalty and confidentiality, it also is recognized that a practitioner has responsibilities to the tax system as well. In the normal practitioner-client relationship, both responsibilities are recognized and carried out. However, there are situations when this is difficult. In those situations, the practitioner is required to decide which obligation prevails and, in so doing, may correctly conclude that the obligation to the tax system is paramount. To this end, the ability of the IRS to accomplish its mission efficiently and effectively depends on reliance on tax practitioners to be fair and honest in their dealings with the IRS and to foster confidence by their clients in our tax system and in tax compliance.

The area of tax return preparation and advice given with respect to positions on tax returns clearly reflects a practitioner's dual responsibility. A tax return is not a submission in an adversary proceedings. Rather, the tax return serves a disclosure, reporting and self-assessment function. It is a citizen's report to the government of his or relevent activities for the year. To serve its disclosure and assessment function, a tax return must be provide a fair report of matters affecting tax liability. The complexities of the tax and the limited number of tax return examinations the IRS is able to perform impose a substantial burden upon the government. Hence, the representations made on tax returns must accurately reflect the facts, and positions taken on tax returns must be supportable by the law. A practitioner, during an engagement with a taxpayer-client, has an affirmative duty to assure that these occur.

Due Diligence

The regulations in Circular 230 impose at section 10.22, a "due diligence" requirement on practitioners concerning oral and written representations made to clients and the IRS relative to tax matters. Such requirement addresses both advice on positions to be taken on tax returns and tax return preparation itself. While this discussion addresses the area of tax returns, it generally has equal applicability to all advice and documents impacting on tax matters.

The proposed amendments include a requirement that a practitioner exercise due diligence with respect to advice given concerning positions on tax returns. While this may be considered to be mandated already by Circular 230, we wish to punctuate the link between a practitioner's responsibility to exercise due diligence and his or her responsibility to adhere to the compliance provisions of the Internal Revenue Code.

The term "due diligence" is subject to varying interpretations and, as a result, affords elasticity in its application. The Treasury Department takes the position that, as a standard of prefessional responsibility in the area of tax return preparation, due diligence requires the practitioner to be assured that any reporting position is in compliance with and supportable by the revenue laws. Unless the position is reasonable, meritorious and made in good faith, a practitioner has not exercised the

VOL 51 ISS 157 AG 14 1986 UMI

necessary diligence imposed upon his or her. The due diligence standard cannot be met by a position advanced principally to exploit the audit selection process, a position that serve as a mere "arguing" position advanced solely to obtain leverage in the bargaining process of settlement negotiation within the IRS, a position that would serve merely to avert a successful charge that the return is false or fraudulent, or a position that has no practical and realistic possibility of being sustained in the courts.

Internal Revenue Code Section 6661

Section 6661 of the Internal Revenue Code was part of the effort by Congress to address in TEFRA the growing concern about tax compliance and the need for expanded enforcement measures to assure compliance. The role of the practitioner in our tax system requires adherence to this section as well as to all tax compliance laws. Under section 6661, a taxpayer is subject to the assessment of an addition to tax (penalty) if there is a substantial understatement of tax as defined in the law. In a non-tax shelter situation, the amount of the understatement (for penalty purposes) may be reduced by that portion of the understatement which is attributable to (1) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or (2) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. With respect to a tax shelter situation, the item's reporting position must be supported by substantial authority and the taxpayers reasonable belief that the tax treatment of the tax shelter item more likely than not was the proper treatment. The statutory requirements of section 6661 provide guidance as to the requirements for the exercise of the due diligence standard in a situation where there is a substantial understatement of tax. In this connection, when the revenue laws mandate or suggest a higher standard than would be applied otherwise, that higher standard must be the one followed. A clear example is the section 6661 "substantial understatement penalty."

Accordingly, a practitioner should not, in the exercise of due diligence, place his or her client in a position of being assessed any penalty or addition to tax in connection with section 6661.

Proposed section 10.34 of Circular 230 addresses a practitioner's particular responsibility when dealing with a section 6661 matter. This also is believed to be a requirement of the current regulations. Because of the importance to our tax system of the compliance principle on which section 6661 is based, we believe it necessary to address section 6661 in Circular 230. These proposed amendments are the first to identify a specific provision of the Internal Revenue Code. They emphasize the position of the Treasury Department that the role of the practitioner in our tax system requires adherence to the principles of TEFRA as well as to all tax compliance laws. In a non-tax shelter situation, a practitioner who has advised a client about the applicability of section 6661 to a matter and then advises the client to take a position on a tax return without disclosure even though there is no substantial authority for the position, may be subjecting the client to the addition to tax. He or she may, in fact, be counseling a false or fraudulent tax position, depending on the circumstances. Consequently, the practitioner advising a client to take a position on a tax return should be assured that the position is supported by substantial authority or, if a shelter is not involved, that the relevant facts are disclosed. In a tax shelter situation, disclosure is not sufficient to satisfy a practitioner's responsibility; advice to take a tax shelter position on a tax return must be supported by substantial authority and a more likely than not belief that the position will be upheld if challenged.

The proposal would require a practitioner to advise a client fully about the addition to tax provisions of section 6661 of the Internal Revenue Code with respect to any tax return if, in the exercise of due diligence, the practitioner determines that the taxpayer filing the tax return may be liable for an addition to tax under the section as a result of a position taken with respect to the tax treatment of any item on the return.

The proposal also would prohibit a practitioner from recommending or advising a client that a position be taken with respect to the tax treatment of any item on a tax return if, in the exercise of due diligence, the practitioner determines that the taxpayer filing the return may be liable for an addition to tax under section 6661 of the Internal Revenue Code as a result of the position. Further, the proposal prohibits the preparation and/or signing of a tax return if, in the exercise of due diligence, the practitioner determines the taxpayer filing the return may be liable for an addition to tax under section 6661 of the Internal Revenue Code as a result of any position taken with respect to the tax treatment of any item on the return. This means that in a tax shelter situation, the above-discussed substantial authority and more likely than not belief must exist in order for the requirements of the proposal to have been met. In a non-tax shelter situation, the proposed requirements will not have been met unless there is substantial authority for the relevant position. If there is not substantial authority, adequate disclosure must be recommended and, in fact, present, if the practitioner prepares or signs the tax return.

For purposes of the proposal, the term "tax shelter" has the same meaning as defined in section 6661 of the Internal Revenue Code. It is defined as:

(1) A partnership or other entity,

(2) Any investment plan or arrangement, or

(3) Any other plan or arrangement, if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

The notice also proposes that the title, "Subpart B, Duties & Restrictions Relating to Practice Before the Internal Revenue Service," be retitled, "Subpart B, Duties and Restrictions Relating to Those Eligible to Practice Before the Internal Revenue Service". This change is proposed to make clear that the regulations under Subpart B apply to tax practitioners' personal tax matters in addition to those of their clients.

Special Analyses

This proposal relates solely to professional services in connection with Internal Revenue Service and Treasury Department proceedings and is not expected to have any significant economic consequences. Therefore, it has been determined that this rule is not a major rule as defined in Executive Order 12291 and a regulatory impact analysis is not required. It is hereby certified that this rule is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Drafting Information

The author of these regulations is Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury. Other personnel in the Treasury Department participated in the development of the regulations, both as to substance and style.

List of Subjects in 31 CFR Part 10

Administrative rules and procedures, Lawyers, Accountants, Enrolled agents, Enrolled actuaries, Appraisers.

Amendments to Regulations

PART 10–[AMENDED]

Accordingly, 31 CFR Part 10 is amended as follows:

1. The authority citation of Part 31 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 330; and 31 U.S.C. 321.

2. The title of Subpart B is revised to read as follows:

Subpart B—Duties and Restrictions Relating to Those Eligible to Practice Before the Internal Revenue Service

3. Paragraphs (a), (b) and (c) of § 10.22 are redesignated as paragraphs (b), (c) and (d) respectively, wherever the word "him" appears it is changed to the words "him or her," the introductory text is revised and a new paragraph (a) is added, as follows:

§ 10.22 Diligence as to accuracy.

Each person eligible to practice before the Internal Revenue Service shall exercise due diligence with respect to the following activities:

(a) In advising clients about positions taken with respect to the tax treatment of all items and returns;

* * * * *

4. Section 10.34 is added to read as follows:

§ 10.34 Advice regarding positions on tax matters where Internal Revenue Code section 6661 may be applicable.

In advising a taxpayer about the tax treatment of any item on a return, a practitioner must comply with the following requirements:

(a) A practitioner must advise a client fully about the addition to tax provisions of section 6661 of the Internal Revenue Code with respect to any return if, the exercise of due diligence, the practitioner determines that the taxpayer filing the return may be liable for an addition to tax under the section as a result of a position taken with respect to the tax treatment of any item on the return.

(b) A practitioner may not advise or recommend to a client that a position be taken with respect to the tax treatment of any time on a return unless in the exercise of due diligence the practitioner determines that the taxpayer filing the return will not be liable for an addition to tax under section 6661 of the Internal Revenue Code as a result of the position.

(c) A practitioner may not prepare or sign a return unless in the exercise of due diligence the practitioner determines that the taxpayer filing the return will not be liable for an addition to tax under section 6661 of the Internal Revenue Code as a result of a position taken with respect to the tax treatment of any item on the return.

(d) For purposes of this section, the term "tax shelter" has the same meaning as the term "tax shelter" in section 6661(b)(2)(C)(ii) of the Internal Revenue Code.

Dated: July 18, 1986.

Robert M. Kimmitt,

General Counsel.

[FR Doc. 86–18334 Filed 8–13–86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Arlington National Cemetery; Violator Sanctions

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: This change amends the Visitors' Rules for Arlington National Cemetery. The change allows the Secretary of the Army to bar violators of the rules from conducting memorial services and cermonies within the Cemetery for two years.

DATE: Comments must be received on the proposed rule on or before September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Harriet Antiporowich, Arlington National Cemetery, Arlington, VA 22211–5003 (202) 695–3191.

SUPPLEMENTARY INFORMATION: The sanctions placed on individuals or organizations who violate the Arlington National Cemetery Visitors' Rules are changed by this proposed rule.

Presently the Code of Federal Regulations provide that any person who violates the provisions of paragraphs (d), (e), (f), (g), (h), or (i) of 32 CFR 553.22 be subject to the penalties set out in Title 40 United States Code Section 318c.

The proposed change would also allow the Secretary of the Army to bar violators from conducting memorial services or ceremonies at Arlington National Cemetery for two years from the date of such violation. Use of this administrative sanction would not require prosecution of the violator as a prerequisite.

Executive Order 12291

This rule does not constitute a "major" rule as defined by Executive Order 12291.

Regulatory Flexibility Act

This rule does not have "significant" economic impact on a substantial number of small "entities" as defined by the Regulatory Flexibility Act, U.S.C. 601 et. seq.

Paperwork Reduction Act

There are no collection of information requirements contained in this rule that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et. seq.

PART 553—[AMENDED]

According 32 CFR Part 553 amended as follows:

1. The authority citation for Part 553 continues to read as follows:

Authority: 24 U.S.C. Chapter 7.

2. Section 553.22(b) is revised to read as follows:

§ 553.22 Visitors' rules for the Arlington National Cemetery.

* * * * *

(b) *Scope.* Pursuant to Title 40 United States Code, Sections 318a and 486, and based upon delegations of authority from the Administrator, General Services Administration, the Secretary of Defense, and the Secretary of the Army, this section applies to all Federal property within the charge and control of the Superintendent, Arlington National Cemetery, and to all persons entering in or on such property. At the discretion of the Secretary of the Army, any person or organization that violates any of the provisions of paragraphs (d), (e), (f), (g), and (h), or (i) of this section may be barred from conducting memorial services and ceremonies within the Cemetery for two years from the date of such violation. Any such person shall also be subject to the penalties set out in Title 40, United States Code Section 318c.

* * * * *

Dated: July 22, 1986.

Robert K. Dawson,

Assistant Secretary of Army (Civil Works).

[FR Doc. 86–17972 Filed 8–13–86; 8:45 am]

BILLING CODE 3710-08-M

VOL 51 ISS 157 AG 14 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3065-6]

Approval and Promulgation of Implementation Plans; New Hampshire; Particulate Emission Standards and Permit Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Chapter Air 700, "Permit Fee System," and Chapter Air 1200, "Prevention, Abatement and Control of Stationary Source Air Pollution," of the New Hampshire State Implementation Plan (SIP). These revisions will require more stringent particulate emission standards for fuel burning devices installed on or after January 1, 1985; they also will require continuous emission monitoring (CEM) for fossil fuel-fired steam generators. The revisions increase the permit review fees for new or modified devices and the renewal fees for permits to operate. The intended effect of this action is to propose that these revisions be approved as part of the New Hampshire SIP under section 110 of the Clean Air Act.

DATE: Comments must be received on or before September 15, 1986.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2311, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Building, Boston, MA 02203; and the New Hampshire Air Resources Commission, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Lynne A. Naroian, (617) 223-4873, FTS 223-4873.

SUPPLEMENTARY INFORMATION: On April 26, 1985 and January 24, 1986 the New Hampshire Air Resources Commission (NHARC) submitted revisions to its SIP. These revisions consist of the following changes to the State's regulations:

1. Section Air 704.01, which sets forth the permit review fee for a new or modified fuel burning device with a gross heat input capacity greater than 150 million Btu/hr, is amended by increasing the permit review fee from the current $450.00 to $900.00 per device.

2. Section Air 704.02, which sets forth the permit review fee for any new or modified device required to obtain a permit under Part Air 603, except as specified in Air 704.01, is amended by increasing the permit review fee from the current $150.00 to $300.00 per device.

3. Section Air 706.01, which sets forth the renewal review fee for an existing fuel burning device with a gross heat input capacity greater than 150 million Btu/hr, is amended by increasing the renewal review fee from the current $300.00 to $600.00 per device.

4. Section Air 706.02, which sets forth the renewal review fee for any existing device required to renew a permit under Part Air 603 except as specified in Air 706.01, is amended by increasing the renewal review fee from the current $100.00 to $200.00 per device.

EPA has reviewed the State's submittal of the revisions to Chapter Air 700, and found its new provisions consistent with the guidance provided in the Permit Fee Guideline document [EPA-450/2-81-003].

5. Part Air 1202, Fuel Burning Devices is renumbered and revised with minor changes to existing sections 1202.01-1202.06.

6. Sections 1202.07 through 1202.09 of the current regulation are restructured and amended to provide clarity and new stricter emission rates for boilers installed on or after January 1, 1985 with a gross heat input of less than 250 million Btu/hr. The changes to these sections also include a more stringent definition of the allowable particulate emissions from any fuel burning device installed on or after January 1, 1985 and vented to a common stack with one or more pre-existing fuel burning devices. The combination of devices connected to the stack shall be treated as a device installed on or after January 1, 1985 for the purposes of determining the allowable particulate emission from the stack using the combined gross heat input.

7. Two sections are added to the current regulation: Continuous Emission Monitoring Systems, which provides the CEM requirement for this regulation, and Permit Requirements, which provides additional clarification regarding the applicability of the permit fee regulation. Continuous Emission Monitoring Systems does not specify which fuel burning devices are required to install and operate CEM, and accordingly does not meet the requirements of 40 CFR 51.19(e). On January 24, 1986, the New Hampshire Air Resources Agency (NHARA) submitted a letter to EPA stating that it will require all fossil fuel-fired steam generators as specified in 40 CFR Part 51, Appendix P, paragraph 2.1 to install and operate CEM systems which meet the performance specifications of 40 CFR Part 60, Appendix B. This letter will be used as interim guidance for interpreting New Hampshire's SIP until a regulatory change is made.

For more details on these changes, refer to the document entitled SIP Revision to New Hampshire Regulation 1202 Fuel Burning Devices Technical Support Document, dated February 21, 1986. Copies of that document are available upon request from the EPA Regional Office specified in the ADDRESSES section of this notice.

Proposed Action

EPA is proposing to approve revisions submitted April 26, 1985 and January 24, 1986 by the NHARC amending the New Hampshire SIP requirement for permit review fees and the particulate emission standards for fuel burning devices installed on or after January 1, 1985.

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether it meets the requirements of sections 110(a)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. These revisions are being proposed pursuant to section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: April 8, 1986.

Authority: 42 U.S.C. 7401-7642.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 86-18335 Filed 8-13-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 61, 71, 91, 167, 169, and 189

[CGD 84-024]

Intervals For Drydocking and Tailshaft Examination on Inspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice reopens the comment period on the notice of proposed rulemaking concerning the

intervals between drydock and tailshaft examinations on all inspected vessels except mobile offshore drilling units (MODUs) inspected under 46 CFR Subchapter I–A and small passenger vessels inspected under 46 CFR Subchapter T. The comment period expired on July 29, 1986. An extension was formally requested by the American Institute of Merchant Shipping (AIMS) and by the Offshore Marine Service Association (OMSA). Both organizations widely represent two different segments of the marine industry. AIMS requested a 60 day extension, while OMSA requested a 90 day extension. Their reasons for requesting the extension were the same, the comment period was too short for their members to give them the information they need to adequately comment on the proposed rule. AIMS noted that the summer is the busy time of the year for the shipping industry, which increases the time required for them to receive input from their association members. Both organizations noted the comment period, as published in the notice, was 30 days. This was a printing error which was later corrected to reflect the intended comment period of 60 days. However, the Coast Guard realizes this printing error and subsequent correction has led to confusion concerning the length of the comment period. For these reasons the Coast Guard believes the quality of the final rule will be enhanced by extending the public comment period. Therefore, the comment period is reopened.

DATE: Comments must be received on or before September 30, 1986.

ADDRESSES: Comments on the proposed rulemaking should be mailed to Commandant (G–CMC/21), [CGD 84–024], U.S. Coast Guard Headquarters, Washington, DC 20593. The comments may be delivered to, and will be available for inspection or copying between 8 a.m and 3 p.m. Monday through Friday except holidays, at the Office of the Marine Safety Council (G–CMC/21), Room 2110, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, DC, (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: LCDR Jeffrey G. Lantz, (202) 267–1056.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking was published on May 30, 1986, in the **Federal Register** (51 FR 19720). A correction document to correct two printing errors, one of which concerned the closing date of the comment period, was published in the **Federal Register** on June 9, 1986 (51 FR 20847).

Dated: August 11, 1986.

J.C. Irwin,

Vice Admiral, U.S. Coast Guard Acting Commandant.

[FR Doc. 86–18354 Filed 8–13–86; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Part 160

[CGD 81–010]

Servicing of Inflatable Liferafts

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a revision to the regulations governing the servicing of Coast Guard approved inflatable liferafts used on merchant vessels. Due to an increased emphasis on the use of these devices, changes in the profile of the marine industry, and changes in the technology for constructing these devices, proposed changes to the requirement for periodic servicing are being considered that should decrease the Coast Guard's direct involvement while maintaining a Coast Guard oversight system for quality control. Any rules resulting from this advance notice should allow private industry the flexibility in servicing and inspection of inflatable liferafts necessary to meet the changing needs of the marine industry and minimize the role of U.S. Coast Guard inspectors in the inspection and servicing of inflatable liferafts used on inspected vessels.

DATE: Comments must be submitted on or before November 12, 1986.

ADDRESSES: Comments should be submitted to the Commandant (G–CMC/21) (CGD 81–010), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593. Between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday, except federal holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G–CMC/21) Room 2110, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy M. Keegan, the Office of Merchant Marine Safety, Survival Systems Branch (G–MVI–3), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593, telephone 202–426–1444. Normal office hours are between the hours of 7:00 am and 3:30 pm Monday through Friday except federal holidays. A limited number of single copies of the recommendations of the International Maritime Organization (IMO), discussed in this notice, are available free of charge from LCDR Keegan.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the earliest stages of this rulemaking procedure by submitting written views, data or arguments. Commenters should include their name and address, identify this Advance Notice (CGD 81–010), the specific issues of this advance notice to which each comment applies and give reasons for the comments. If an acknowledgment is desired, a stamped, self-addressed post card or envelope should be enclosed. All comments received before the expiration of the comment period will be considered before further action is taken. The Coast Guard has not planned to hold a public meeting; however, a public meeting may be held, at a time and place to be set in a later notice in the **Federal Register**, if requested in writing by a sufficient number of interested persons raising genuine issues and the Coast Guard determines that an opportunity to make oral presentations will aid in the rulemaking process.

Background

Requirements for the inflatable liferafts used aboard merchant vessels of U.S. registry originated on July 9, 1959, with the publication of Subpart 160.051 (Inflatable Liferafts) in Title 46—Shipping—of the Code of Federal Regulations. In the beginning the equipment was ship-oriented. Later, the Coast Guard regulations would require installations of the same rafts on offshore drilling rigs. The inflatable liferaft described in Subpart 160.051 in 1959 paralleled a requirement for similar equipment drafted by the International Convention for the Safety of Life at Sea, 1960 (SOLAS 1960). Subsequently, the United States became a signatory nation to this convention with an entry into force date of May 26, 1965. Thereafter, by revisions initiated by the Coast Guard, the contents of the original Subpart 160.051 were made to conform to the provisions for inflatable rafts featured in SOLAS 1960 and its successor, SOLAS 1974.

In the regulatory endeavors described above, it was necessary to include regulations for the recurring overhaul and testing of the inflatable liferaft, because it was a radical departure from the more durable lifesaving equipment previously permitted aboard the world's merchant vessels. In Subpart 160.051 the Coast Guard broke new ground by allowing flotation to result from pneumatic chambers instead of the traditional reliance on the buoyant

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VOL 51 ISS 157 AG 14 1986 UMI

properties of cork, balsa, or air tanks made of sheet metal. This break with past practice raised a number of problems not previously faced in the marine inspection regulations. Although military and civilian aircraft had made extensive use of inflatable rafts during and after World War II (with the same being true to a lesser extent for the world's navies) this first-time acceptance of the inflatable liferaft for merchant vessels was a new encounter for both the Coast Guard and the U.S. Merchant Marine.

Prior to 1959 the repetitive overhaul of lifesaving equipment, such as lifeboats, buoyant apparatus, launching equipment, and similar equipment, took place onboard merchant vessels with their crews performing the work, in most instances with a minimum of shoreside support. The peculiarities of the fabrics and the CO_2 inflation systems of the new rafts made the previous way of doing things unrealistic. The original regulations for inflatable liferaft maintenance attempted to imitate the maintenance program of the air transport industry for parachutes and rafts, because both programs require special work areas, tools, and technical expertise. The Coast Guard and the drafters of SOLAS 1960, in light of the accumulated experience of the U.S. Navy and other authorities in maintaining inflatable liferafts, made the decision to cope with the new raft by including provisions for its regular overhaul and testing in regulations concerned with "servicing" which would be performed ashore by specialists at servicing facilities.

Since their inception, the servicing requirements contained in Subpart 160.051 have required a Coast Guard Marine Inspector to attend the overhaul, pneumatic testing and equipment inventory basic to the servicing of each raft. In the majority of instances the Coast Guard has performed this service without charge. The necessity for a marine inspector at each raft's servicing was a consequence of the rapid expansion in the 1960s of the servicing facilities. In the beginning the servicing facilities were primarily ship chandlers whose expertise on servicing inflatable liferafts was limited. The Coast Guard recognizing this limitation and the general lack of experience concerning the use and servicing of inflatable liferafts on merchant vessels was unwilling to permit the unsupervised servicing of these devices.

The marine industry and the aircraft industry did not develop a single standard system for servicing inflatable liferafts. They both developed their own resources and methodologies for servicing inflatable liferafts.

Over the years the design, construction, and fabrication of inflatable liferafts has changed while still meeting the Coast Guard specifications. Due to these changes inflatable liferafts have become more reliable and the use of these devices by the various facets of the marine industry has increased. The technical expertise of servicing facilities has increased due to greater technical support from the manufacturer through better manuals, servicing bulletins and training.

Under the servicing requirements of Subpart 160.051 as written, the servicing of each raft (at intervals of 12 to 15 months) requires at least 3 hours of attention by a marine inspector at a servicing facility. This is a considerable demand on Coast Guard inspection personnel. In the 1960s, as a result of the expansion of shipping to support U.S. activities in the far east, more U.S. vessels remained on shuttle operations overseas for periods of several years. This activity prevented the return of their inflatable liferafts to servicing facilities in U.S. ports and a need developed to service these rafts overseas.

Further demands on the overseas committment of the Coast Guard resulted from the rapid expansion of offshore oil drilling activities by U.S. operators in the 1970s. This was followed by the placement of construction contracts with overseas shipyards for U.S. flag drill rigs and merchant vessels. The Coast Guard responded to this ever-widening world situation by deploying marine inspection units in Singapore, Guam, Japan and Rotterdam.

While the overseas deployment of Coast Guard inspection personnel provided some relief from the problem of providing annual servicing of inflatable liferafts in overseas locations, it was not an entirely satisfactory solution. Coast Guard inspectors could not always be made available in the locations and at times that coincided with the vessel's schedule. Additionally, requests for inspectors at overseas locations other than the ports where they were available required the company operating the vessel to reimburse the Coast Guard for the traveling expenses and subsistence.

As a result of these developments the Coast Guard is reevaluating the requirement for periodic servicing of inflatable liferafts used on inspected U. S. merchant vessels. In conducting this evaluation, the Coast Guard. is employing the.following guideline:

1. There must be no risk of derogating safety.

2. Servicing of liferafts should be available to meet the needs of U.S. vessels in world wide service.

3. In order to maintain the present level of safety the minimum government involvement in inflatable liferaft servicing should at least include oversight.

4. Most of the cost of servicing of inflatable liferafts should be borne by the users of the service.

5. Requirements on how servicing is conducted should be the minimum necessary to maintain the existing level of safety.

6. These regulations should be ao useful that they encourage improved servicing of inflatable liferafts used on uninspected vessels.

Regulatory Scheme

Changes to Part 160 of Title 46, Code of Federal Regulations are necessary to permit continued servicing of rafts on a world-wide basis with reduced participation by Coast Guard inspection personnel. A model for accomplishing this exists in 46 CFR Part 159. This regulation originated to permit third parties, that is independent laboratories and inspection organizations, to carry out equipment inspections and to monitor quality control in factories. The participation of third parties in the raft inspection process along with a diminished Coast Guard participation would not be a radical innovation. Similar programs have been in operation for several years for a number of different Coast Guard approved lifesaving items, such as pyrotechnic signals, personal floatation devices, and emergency rations for lifeboats and liferafts. The general objectives contemplated by the Coast Guard in this regard would be—

(a) To have the initial qualification inspection of a servicing facility, either within the U.S. or overseas, continue to be done by the Coast Guard;

(b) To remove the present requirements in Subpart 160.051 for a Coast Guard marine inspector to attend the servicing of each raft;

(c) To require the liferaft manufacturers to exercise greater responsibility in overseeing the conditions and personnel training of their affiliated servicing facilities; and

(d) To update Subpart 160.051 by adding to it recommendations of the International Maritime Organization (IMO), the agency concerned with coordinating the provisions of SOLAS.

The cost of third-party inspections and for training and performance

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evaluation of the servicing facilities would be born by the raft manufacturer and the servicing facility. It is expected that this burden would ultimately be passed on to the inflatable liferaft user by increasing the cost of the liferaft and the liferaft servicing.

Regulation Changes Under Consideration

To meet these objectives, the following paragraphs discuss the various regulation changes that are under consideration. The Coast Guard would not necessarily implement all of these changes, and some of them may be somewhat contradictory. You are invited to comment on the projected cost and effectiveneas of any or all of the proposals discussed below and their impact on safety, as well as express alternative proposals that would accomplish the objectives discussed above.

a. *Improve requirements for servicing facilities to provide appropriate servicing area, tools, repair parts, and personnel.* The requirements for servicing facilities and personnel are in the introductory text and paragraphs (1) through (3) of 46 CFR 160.051–6(d). These requirements cover the condition of the servicing facility, its servicing equipment, the requirements for trained personnel, and the qualifying tests. Minor revisions to these requirements should be made to be consistent with IMO Resolution A.333(IX) "A Recommendation On The Conditions For The Approval Of Servicing Stations For Inflatable Liferafts", dated November 12, 1975, and the IMO MSC Circular 300 "Recommendation On Servicing Of Inflatable Liferafts" dated February 2, 1981. As modified, these would continue to be conditions for initial approval of the organization, and would be one of the primary concerns of those individuals making periodic inspections.

Changes would have to be made in order to be consistent with IMO Recommendation A.333(IX) and the 1981 MSC Circular 300. The Coast Guard believes that most currently approved servicing facilities would meet these standards which include the following:

1. Servicing would have to take place in fully enclosed spaces (indoors). The space would have to be ventilated, but free of drafts, and smoking would not be permitted.

2. Sufficient space would have to be available for the number of liferafts expected to be serviced at any one time. The ceiling would have to be high enough to allow overturning of the largest liferaft to be serviced with the liferaft inflated.

3. The floor would have to be covered or coated with a surface that can be cleaned. Carpets would not be acceptable.

4. The temperature, and where necessary, the relative humidity in the servicing space would have to be sufficiently controlled to ensure that servicing can be carried out.

5. Separate areas would have to be provided for—

i. Liferafts awaiting servicing, repair, or delivery;

ii. Repair of containers and painting of inflation cylinders;,

iii. Materials and spare parts; and

iv. Administrative areas.

6. The liferaft storage area would have to provide for rafts to be stored in tiers no more than two high, and not subjected to excessive loads.

7. Spare and obsolete pyrotechnics would have to be stored in a safe and secure magazine, in accordance with local safety codes, well away from the servicing and stowage spaces.

8. A source of pressure to inflate the rafts and a means to deflate them would have to be provided.

9. Facilities that service davit-launched liferafts would be required to be equipped with appropriate means for conducting the weight test.

10. All of the facilities raft servicing tools would have to be stored on a tool board that clearly indicates where each tool is to be stowed. This board would be checked at the conclusion of each servicing to make sure that no tools were left in the raft.

In addition to items 1 through 10 above the Coast Guard is also considering a requirement that each servicing facility have an up-to-date servicing manual for each type of liferaft that they service in order to be approved.

b. *Limited Coast Guard inspection of servicing facilities.* In order to reduce direct government involvement in liferaft servicing, the Coast Guard is considering focusing its primary attention on the qualification of the servicing facility, rather than on the servicing of individual liferafts. A Coast Guard Inspector would visit the servicing facility for the initial inspection for approval, examine the facility, and witness the servicing of a specified number of liferafts, as is presently required. If this inspection is satisfactory, the organization would be approved by the Coast Guard to service inflatable liferafts for U.S. inspected vessels. As under present regulations, approval of the organization would be limited to servicing those liferafts made by the manufacturers that have authorized the facility to service their liferafts. Manufacturer's authorizations would be limited to facilities that have properly trained personnel and up-to-date servicing information for each liferaft model concerned.

After the initial inspection, a Coast Guard inspector would periodically visit the facility, perhaps once each year. The inspector would witness the servicing of liferafts only if such servicing was taking place at the time of the visit. If the inspector found that some aspect of the regulations governing servicing facilities was not being complied with, the Coast Guard could withdraw the approval of the organization, or suspend approval pending correction of deficiencies.

For servicing facilities in foreign countries, the Coast Guard Inspector's travel and subsistence expenses would have to be reimbursed by the servicing organization. As an alternative, the Coast Guard would consider relying on periodic inspections by an authorized representative of the Administration of the country in which the servicing facility is located. The Administration would have to inspect to standards and at intervals that are equivalent to the Coast Guard requirements.

c. *Use of independent laboratories or inspection services to supplement Coast Guard inspections.* Since the Coast Guard would no longer witness the servicing of every inflatable liferaft used on an inspected vessel, one alternative is to require each servicing to be witnessed by an inspector of an independent laboratory or inspection service accredited under a modified Subpart 159.010 of Title 46 of the Code of Federal Regulations. Such inspections could add as much as $250 to $500 to the cost of each servicing. Since the routine annual servicing of an inflatable liferaft in good condition may cost on the order of $400 to $500, such a requirement has the potential to virtually double the cost of many liferaft servicings.

Alternatively, the Coast Guard is considering a requirement that an independent inspector from an accredited laboratory or inspection service examine each approved servicing facility at least once each year and witness the servicing of at least one liferaft during this examination. This visitation would be listed in the annual report detailed in paragraph e. of this notice and would be required in order for the servicing organization to retain its Coast Guard approval. Servicing organizations would be required to notify the inspecting organization whenever a liferaft is to be serviced, and the inspecting organization would select the servicing to be witnessed. In

VOL 51 ISS 157 AG 14 1986 UMI

addition to a once a year visitation, the Coast Guard is considering a requirement to have an independent inspector attend the special fifth-year servicing of every liferaft, as well as the servicing of every liferaft ten or more years old. These special servicings are more extensive than the normal annual servicing, and are in paragraphs (1) through (3) of 46 CFR 160.051–6(f), which would be retained. In the case of a liferaft more than ten years old, the concern is that the raft may be nearing the end of its useful life and must be closely examined.

The independent laboratory would be allowed to take the place of the Coast Guard inspector in conducting what would be considered the initial inspection for approving a servicing facility which only wants to service additional makes of liferaft from other manufacturers, or for determining the competence of new servicing personnel at a facility already approved.

For foreign servicing organizations, the Coast Guard is considering the accreditation of foreign laboratories or inspection services. Although not strictly "laboratories", classification societies and foreign government shipping safety administrations could also be accredited if they would be able to meet the criteria below and the requirements found in 46 CFR Subpart 159.010.

The standards for the qualification of independent inspectors are important to this procedure. The Coast Guard is considering a requirement that each of the independent inspectors complete at least one manufacturer's servicing training course, and that each inspector take a refresher course or another manufacturer's training course at least as often as refresher training is required for servicing personnel. The manufacturers would be required to offer the training for this qualification in order to retain their approval. Comments should consider how effective an inspector would be without such training.

d. *Increased manufacturer responsibility for quality of servicing.* As the Coast Guard decreases its direct involvement in liferaft servicing, the liferaft manufacturers should be required to assume more responsibility for the quality of servicing. As a condition of their continuing approval, manufacturers could be required to inspect each of their servicing facilities twice a year and report their findings to the Coast Guard at least once a year. So that the relative quality of each servicing facility could be consistently judged there should be a limited number of persons designated by the manufacturer to conduct these inspections. As part of its original and continued approval, the manufacturer should be required to identify the persons designated to conduct this inspection and to list their qualifications for this position. Additionally, a special report should be required if major problems are discovered which could result in the failure of the liferaft to operate as intended.

e. *Reporting of inspections and servicing.* The preceding paragraphs discuss different inspection requirements that could be imposed on servicing facilities as a condition of their continued approval. Under the present requirements for servicing (46 CFR 160.051–6), the Coast Guard inspector determines the adequacy of the facility and reports to the Commandant (G–MVI). If approved for servicing, the Commandant issues a letter to the manufacturer indicating which servicing facilities are approved. Records of individual raft inspections are kept by the Coast Guard Marine Inspection Office. The Marine Inspection Office reports to the Commandant on these inspections only after discrepancies are found.

If manufacturers and independent inspectors verify the qualifications of servicing facilities and individual liferaft servicings, some type of reporting requirement would have to be imposed so that the Commandant could determine which servicing facilities should retain their approval, and which approvals should be terminated. It is a Department policy that new reporting and record keeping requirements should be kept to a minimum; therefore, rather than require frequent detailed reports to the Commandant, a requirement for an annual summary from both the manufacturer and the designated independent inspection agency is being considered. This summary would include identification of the servicing facilities involved, and the dates of inspections or liferaft servicings witnessed. If the manufacturers inspections coincide with the inspections conducted by the independent inspection agency, only the inspection agency need file a report. However, the inspection agencies report should clearly identify the dates that the manufacturers inspector was present. No further information should be required if inspections revealed no problems. If an inspector found a problem that was subsequently resolved, a brief description of the problem and its resolution could be required. In addition to the yearly report, problems with the quality of the servicing, which may result in the failure of the liferaft or any of its components to operate as intended, should be resolved immediately by the servicing facility and then be brought to the attention of the Commandant by either the servicing facility, the manufacturer, or the independent inspector.

IMO Resolution A.333(IX) states that "each servicing station should prepare and transmit to the Administration, at regular intervals, statistics showing the nature and extent of damages to and defects found in liferafts during servicing and repair work." This information would be used by the Administration (the Coast Guard in this case) to determine if any liferafts show an unusual or dangerous pattern of defects. This information would be used to correct the problems identified either by requiring the manufacturers to modify their equipment or to correct their servicing procedures.

f. *FAA type servicing procedure.* One liferaft manufacturer has suggested that the Coast Guard use the same type of servicing procedure as the Federal Aviation Administration (FAA) uses for liferafts that are carried on transport aircraft engaged on long overwater flights. 14 CFR 121.339, requires lifesaving equipment to be onboard aircraft engaged in overwater flights and the operating specifications (developed by the aircraft manufacturer for use by the operator), requires aircraft inflatable liferafts to be inspected and serviced by FAA certificated repairmen. This is part of the carrier's overall aircraft maintenance and repair program. Alternatively, liferafts may be inspected and repaired in accordance with the manufacturer's instructions, or in accordance with procedures developed by the carrier, which are usually based on the manufacturer's procedure.

The procedures under consideration, and discussed in other paragraphs of this notice would place a greater reliance on the capability and integrity of the individual doing the liferaft servicing; however, liferafts stored on vessels and offshore platforms are subject to an environment which is far more destructive to the device than the controlled interior of an aircraft. For this and other reasons the Coast Guard is not, at this time, considering a procedure that completely does away with oversight.

g. *Coast Guard approval conditioned on authorization from manufacturer.* It is current policy that servicing facilities who lose their authorization from a manufacturer to service that manufacturer's liferafts also lose their Coast Guard approval to service that make of liferaft. The reason is that an

unauthorized servicing organization no longer has access to the current servicing information on the liferaft, and no longer has access to many of the correct components needed for proper repair of the liferaft. The Coast Guard is considering including this policy in the regulations.

You are requested to comment on the continuation of this policy and its effect on the relationship which exists between the manufacturers and their authorized servicing facilities.

h. *Require servicing manuals to be updated at least annually.* Present regulations [46 CFR 160.051–6(c)] require the manufacturer to produce a servicing manual. Section 160.051–6(c) requires the manual to have instructions on opening, inspecting, testing, repairing, and repacking of each of the manufacturer's approved liferafts. The regulations do not specifically require the manufacturer to keep this manual current, but a voluntary system of service bulletins is normally used to alert facilities of any changes required in the manual. After a while, these bulletins accumulate and can be lost or mislaid.

To make sure that the manuals are kept current, the Coast Guard is considering requiring the manufacturers to update their manuals at least annually, in order to retain their Coast Guard approval. This update could be accomplished by reissuing a complete corrected manual, by issuing revised pages along with a list of current manual pages or simply by sending out a letter that says no changes have been made to the manual in the last year. Further, the manufacturer, in order to retain his approval, could be required to supply each of its servicing facilities and independent inspectors with a current servicing manual, bulletins as they are developed or revised pages as applicable.

i. *Require servicing manuals to be maintained by authorized servicing facilities.* Present regulations do not require the servicing facility to have or maintain the manufacturers servicing manual. To remedy this situation the Coast Guard is considering a requirement as detailed in paragraph a. above for the servicing facilities to have up-to-date manuals in order to gain Coast Guard Approval. Another requirement under consideration is for servicing facilities to maintain their servicing manuals, in accordance with the manufacturers instructions, as developed in paragraph h. above, in order to retain their Coast Guard Approval. Further, the Coast Guard is also considering requiring servicing personnel to follow the appropriate manual for the raft being serviced in order for the facility to retain its Coast Guard Approval.

j. *Require manufacturers to provide initial and refresher training for servicing personnel.* Present regulations under 46 CFR 160.051–6(d)(2)(i) require that liferaft servicing facilities be staffed by trained personnel. The servicing personnel are required to attend a factory training course. In order to make sure that all servicing personnel are kept current on proper raft servicing techniques, the Coast Guard is considering requiring the manufacturer to provide the initial training in order to retain his approval. In addition, the Coast Guard is considering a requirement for refresher training every two years after the initial training. This training could take place during the manufacturers inspection of the servicing facility. Manufacturers could be required to provide the refresher training and servicing personnel from each of the manufacturers authorized servicing organization could be required to complete this training. The manufacturers failure to provide training would mean revocation of the liferaft approval and the servicing technicians failure to attend training would result in the loss of approval of the servicing facility. The present regulations do not specify the minimum contents of a liferaft servicing training course. Consequently the quality of this training may vary widely. Although,, the Coast Guard believes that all manufacturers make an effort to conduct meaningful training courses, consideration is being given to requiring the training course to meet certain criteria in order to gain Coast Guard approval. The criteria should specify the subjects that would have to be covered, and require a certain amount of actual supervised classroom work with the equipment for all servicing personnel, with special attention given to packing a raft, repairing buoyancy tubes, and repairing inflation system valves.

k. *Deny Coast Guard approval to any servicing organization that services liferafts of a manufacturer for which the organization does not have authorization.* The danger presented by unauthorized servicing organizations is that they do not have the manufacturer's servicing and repair information, they may not have access to the appropriate repair parts, and they do not know with certainty, the way that the raft must be packed in its container so that it inflates properly when needed. Each manufacturer's liferaft is a little different, so a servicing organization that is fully qualified to service a particular make of liferafts, is not necessarily qualified to service the raft of another manufacturer.

Because Coast Guard approved rafts used on merchant vessels are presently inspected by a Coast Guard marine inspector when they are serviced, and because servicing records are checked by another Coast Guard inspector when the raft is installed on the vessel, unauthorized servicing is an infrequent problem on inspected vessels. It may become more of a problem if the Coast Guard reduces its frequency of inspections at the servicing facility. A more serious problem concerns rafts on uninspected vessels, where a servicing organization that is Coast Guard approved for one make of rafts on inspected vessels, attempts to service rafts from uninspected vessels of any and all manufacturers, whether it is authorized by the particular manufacturer, or not.

The Coast Guard is considering regulations that would prohibit or withdraw Coast Guard approval of any organization which services liferafts for which it is not authorized by the manufacturer. The Coast Guard's statutory authority does not extend to the regulation of liferafts for uninspected vessels, so there is no way for the Coast Guard to directly prevent unqualified servicing of these liferafts. The regulation being considered may serve to discourage unqualified servicing by denying U. S. Coast Guard approval to unauthorized servicing facilities.

l. *Require each servicing organization that represents itself as Coast Guard approved to specify which makes of liferafts it is approved to service.* This issue is closely related to the issue discussed in the preceding paragraph. Each Coast Guard letter to a servicing organization that is approved states that the organization is approved to service a particular manufacturer's inflatable liferaft, that it may represent itself as a "Coast Guard approved facility" for this particular raft, and that it is not authorized to represent itself as a Coast Guard approved facility for any rafts for which it is not specifically authorized by letter. The Coast Guard is considering adding this language to the regulations. As previously stated, Servicing organizations that do not comply would lose their Coast Guard approval to service any liferaft.

m. *Allow liferaft servicing to take place on a vessel or MODU.* The present regulations were written for vessels that move cargo from one port to another and call at U.S. ports where servicing facilities are readily available. While the vessel is involved in cargo

VOL
51
ISS
157
AG
14
1986
UMI

operations, the liferaft can be removed from the vessel, taken to an approved facility where it is inspected and serviced, and then returned to the vessel before it leaves port.

As previously discussed, vessels may operate away from the United States for extended periods, sometimes in areas where Coast Guard Approved liferaft servicing is not readily available. This is particularly true for mobile offshore drilling units (MODUs) and the vessels that attend them. The present regulations require that a liferaft be serviced at an approved servicing facility. Unfortunately, as these vessels rarely enter ports where such facilities are available, the inflatable liferafts must be shipped back and forth from the vessel to the facility. Since the MODU remains in operation, it may be necessary to obtain a substitute liferaft to have available while the vessel's liferaft is being serviced. Since these vessels typically have a number of liferafts that have to be shipped away for servicing, this can be an expensive and time-consuming procedure. Delays in foreign ports have also been experienced since the rafts contain pressurized cylinders, pyrotechnics, and other materials the shipment of which may be limited or controlled by local laws.

To address this problem, the Coast Guard is considering a rule that would allow an approved servicing organization to set up a temporary liferaft servicing operation on board a MODU or other vessel that has a large, clean space meeting the requirements detailed in paragraph a. of this notice. The servicing facility would have to put together a portable assortment of test equipment, spare parts, and replacement survival equipment to accompany the individual doing the servicing. The servicing facility would have to gain authorization from the Coast Guard to conduct this type of servicing and the portable servicing package would have to be examined by an inspector from an independent laboratory to determine its adequacy. The person doing the servicing would have to make sure that the space provided and the equipment available meet the regulatory requirements for servicing previously described above in paragraph a. of this advance notice or the servicing facility would lose its approval.

n. *Servicing with Computer-Aided Devices.* One approved servicing organization has developed a computer-aided servicing system that could significantly improve liferaft servicing. Nothing under the present regulations would prohibit the use of such a system, and the company hopes to start using the system experimentally in its own servicing work. The issue the Coast Guard must consider is whether or not the system improves servicing to such an extent that the Coast Guard should require all facilities to use similar systems. To the extent that the system controls the quality of servicing to some degree, it could possibly provide a safeguard against any decline in servicing quality that might occur with a decreased frequency of inspection. The computer and its associated equipment are small enough that the system might lend itself to use with the portable servicing operation discussed in the preceding paragraph. If a computer-aided servicing system would not be required for all servicing facilities, it could be considered as a mandatory requirement for temporary servicing sites.

The computer-aided servicing system is based on a conventional microcomputer and specially developed accessories and software. The software can effectively include all of the requirements for a servicing manual and could be accepted as a servicing manual. It leads the person servicing the liferaft through the servicing procedure. When the program requires a pressure reading, a pressure transducer is connected to the computer, which then reads the data and stores the information in its memory. Weight, temperature, and barometric pressure measurements are also handled similarly by transducers connected to the computer. Timed measurements are controlled by the computer's internal clock. When the servicing procedure requires the person doing the servicing to make an observation of some data or information about the raft, the person must enter the information into the computer via the keyboard. When the servicing is complete, the computer prints out a servicing certificate, and a complete record of the tests and inspections.

The computer-aided servicing system may promote quality servicing. Rather than depending on a paper servicing manual with the attendant problems of entering change notices and bulletins, the servicing procedure would be updated by the manufacturer providing each organization with revised software. The computer-aided system also does not permit the person doing the servicing to short-circuit the manufacturer's intended procedure. The computer goes through the servicing procedure step-by-step and requires input at each step where some observation must be made. The person doing the servicing cannot overlook any required measurement or observation without making a conscious effort to deceive the system. By contrast, servicing peraonnel may now conduct servicing without direct reference to the servicing manual. This can lead to omissions, especially when there is a rush to return the raft. One of the primary functions of the present Coast Guard inspection of raft servicing is to make sure such omissions do not occur.

o. *Require inspection stickers supplied by the manufacturer to be affixed to the container of each liferaft serviced.* One liferaft manufacturer has begun issuing a controlled supply of inspection stickers to authorized servicing facilities. These stickers contain the manufacturer's logo, and a statement that the raft was serviced by an approved facility. The servicing facility's code number and the date when the raft is due for its next servicing is indicated by punched holes. The sticker is placed in a prominent location on the liferaft container.

The Coast Guard could adopt such a system. Each manufacturer would be required to produce the stickers to a specified format and supply them to their servicing organizations. Each sticker would contain the Coast Guard logo, the manufacturer's logo, and a unique serial number. Punched holes would indicate the servicing organization's code and the month of inspection. The year could be printed on the sticker, with the basic color of the sticker changing each year. The color would be selected by the Coast Guard and would be the same for all manufacturers. This sticker could be required to be placed over the joint in the liferaft container, so that the sticker would be broken whenever the raft is opened. This would be an immediate indication of unauthorized tampering, should such tampering occur.

The sticker system would make it more difficult for unauthorized organizations to represent themselves as Coast Guard approved and authorized by the manufacturer. Manufacturers without Coast Guard approved liferafts would be encouraged to adopt a similar system without the Coast Guard logo, in order to improve the quality of servicing for liferafts that are not required to be approved. The stickers would also make the date of inspection more prominent, and rafts seriously out of date would be obvious by the color of the inspection sticker.

The sticker could also potentially reduce the reporting and record keeping burden for vessel operators and servicing facilities. Now the servicing

certificate for the liferaft required under 46 CFR 160.051–6(e)(2) is generally kept by one of the ship's officers in the ship's files. The inspection sticker could conceivably replace the servicing certificate. Since the sticker would be firmly affixed to the raft, it would always be readily available to inspectors and not subject to being lost or misplaced. One disadvantage of discontinuing the servicing certificate is that many manufacturers include a complete summary of the work done on the face of the certificate, even though the Coast Guard regulations require only minimal information on the certificate. Manufacturers could, of course, continue to require their servicing organizations to issue servicing certificates as a condition of the manufacturer's authorization of the organization, even if Coast Guard regulations did not include such a requirement.

The sticker could also replace the metal inspection plate that is required on the liferaft container under 46 CFR 160.051–8(a), which is now marked with the words "passed", the date of servicing and the identification letters of the Coast Guard inspection office that witnessed the servicing.

p. *Require that the date of servicing, and the identification of the servicing facility be clearly marked on the body of each liferaft.* There have been cases in the past where a liferaft that was sent for servicing was suspected of not having been inspected and serviced at all. Since the liferaft is stored in its container, out of sight of the owner, an unscrupulous organization might be tempted to simply mark the raft container with the indication that it had been serviced without removing the raft from the container. In this way the full servicing fee could be collected without the servicing organization having to do any work. In order to place the date and identification of the servicing facility on the raft itself, the raft would have to be unpacked and repacked, guaranteeing that at least that much had been done. Any doubt about whether or not a facility had even opened the raft could be resolved by examining the raft.

Perhaps a more important reason for marking the raft with the identification of the servicing facility and date is its potential use in search and rescue. When a liferaft is found at sea with no one aboard, search and rescue forces want to know what vessel the raft came from as soon as possible. Unlike many other items of lifesaving equipment it is not always known what vessel the raft will be placed on after servicing. Therefore, inflatable liferafts are not marked with the name of the vessel they come from. If the servicing facility is clearly indicated on the raft, that facility can be contacted when a raft is found. The facility can then identify the customer from the raft's serial number which must be recorded when the raft is serviced under 46 CFR 160.051–6(e)(1). The servicing facility would be required to retain this listing for one year in order to keep its approval to conduct servicing.

Comments should consider how effective such a system could be in improving the efficiency and effectiveness of Coast Guard search and rescue operations.

q. *Liferafts stored under controlled conditions for up to 1 year after servicing to be allowed an extension on the date for the next required servicing.* In 1961, the Coast Guard published Navigation and Vessel Inspection Circular (NVIC) 12–61 which allowed an extension on the date for the next required servicing for liferafts in storage for extended periods after manufacture. The NVIC stated that liferafts might be held in storage for as long as a year before being sold and placed on board a vessel. Rafts stored for periods of ten months, for example, would otherwise require annual servicing approximately two months after installation on the vessel. This would add an unnecessary cost to the original cost of the raft.

The NVIC allowed rafts stored up to 6 months from date of manufacture to be placed in service without further servicing, with the first servicing due no later than one year from the date of installation on board the vessel. In order to help identify a raft in this category, the raft manufacturer furnished the master of the vessel with a copy of the bill of sale showing the manufacturer's name and address, the serial number of the raft, the date of manufacture, and the sales date. In addition, an affidavit was to be provided showing the date the raft was installed on the vessel. Both the affidavit and bill of sale were to be retained on board the vessel.

For rafts stored from 6 months to 1 year from the date of manufacture, the raft had to be opened by an approved servicing facility in the presence of a marine inspector to visually check the condition of the raft, check and weigh the CO_2 cylinder(s), and replace the flashlight batteries. This procedure effectively waives the 2-hour inflation test required under 46 CFR 160.051–6(e). After checking, the raft could be repacked by the approved servicing facility and stamped by the marine inspector as having been serviced on the date of the inspection. Regular annual servicing as set forth in 46 CFR 160.051–6(e) would be due one year from date of the stamp. Rafts in storage longer than one year would have to be serviced in accordance with § 160.051–6.

This policy on storage has been in effect for almost 25 years without any evidence that liferafts stored and serviced have been any less satisfactory than those serviced annually. The Coast Guard is considering making this policy part of the revised servicing regulations, but instead of limiting the procedure to newly produced liferafts, the Coast Guard could extend it to all liferafts that have been fully serviced and stored under controlled conditions. The Coast Guard could also simplify the record keeping requirements associated with this change by requiring the date that the raft was removed from controlled storage to be the date marked on the liferaft container because that is the information used to determine the need to reservice an inflatable liferaft stored on a vessel. Any servicing certificate could also indicate this date, and might also be endorsed to indicate that this special inspection procedure was used. This would eliminate the need for any special certifications, affidavits, or bills of sale to be provided by the servicing facility and retained by the master of the vessel.

r. *Issuance of unique code to each approved servicing facility.* The 1981 IMO MSC Circular 300 includes a provision for the issuance of an identification number to each approved servicing facility. The Coast Guard now uses approval numbers to identify most approved equipment, but servicing facilities have never been provided with such a number or code. The purpose of the code would be to positively identify the servicing facility as one that has been approved by the Coast Guard. The code would be particularly useful if the inspection sticker concept discussed previously is adopted.

s. *Detection of Aging Structural Connections.* There would be a new requirement that the manual have instructions for the servicing person on how to examine the tube-to-tube and tube-to-floor connections of the rafts for aging structural connections that have outlived their usefulness. The 5th-year CO_2 inflation test of a raft performs a check of the gas tightness of the seams of its buoyancy tubes. But this does not focus on the taping used in the above structural connections, which, while holding the major components of the raft together, do not come in contact with the inflation gas. It is possible that the cold-cure cements now most often used in the rafts' fabrication, has produced seams that suffer deterioration at a

faster rate than their adjacent fabrics. The rafts recovered from the loss of the drill rig "Ocean Ranger" in February 1982 showed extensive deterioration in their hinge tapes and floor supports. Subpart 160.051 should be ammended to correct this particular problem.

t. *Perform fifth-year inflation test with the liferaft in its container.* The special fifth year inspection requirements require the liferaft to be inflated with its own inflation system. This test is performed by removing the raft from its container and then operating the inflation system. A recent problem suggests that this test should probably be done with the raft still in its container.

The problem concerned a hose coupling that broke when a raft was inflated in its container during the sample lot inflation test required for new liferafts under 46 CFR 160.051–5(c)(4). The manufacturer also discovered that the hose failure did not occur when the raft was inflated in its folded condition, and outside of its container. Apparently, the forces on parts of the liferaft can be significantly different when the inflating raft breaks open its storage container.

Hoses on older liferafts are a potential point of deterioration that should be checked in the fifth year inflation test. Other parts of the raft may also be stressed more severely when the raft breaks free of its container, as compared to inflating in the folded condition. For this reason, the Coast Guard is considering a requirement for the fifth year inflation test to be conducted with the raft inside its storage container.

u. *Require servicing facility to mark maximum stowage height on liferaft container.* The 1983 Amendments to the 1974 International Convention for the Safety of Life at Sea come into force on July 1, 1986. The 1983 Amendments change the requirements related to the height above the waterline at which a liferaft is stowed. A liferaft will have to be equipped with a painter of length equal to not less than twice the distance from the stowed position to the waterline in the lightest seagoing condition, or 15 m (49.2 ft.), whichever is the greater. Liferafts must also be constructed to withstand a drop into the water from a height of 18 m (59 ft.), except if the liferaft is to be stowed at a greater height above the waterline, it must be of a type that has been drop tested from that height. The present regulations in 46 CFR Subpart 160.051 require a 60 ft. drop test. In accordance with IMO recommendations in SOLAS 60 the raft is also required to have a 100 ft. minimum painter length regardless of stowage height.

The Coast Guard is considering a requirement for each liferaft container to be marked with the length of the painter and the maximum permitted stowage height above the waterline. This height would be the lesser of; (1) the height at which the raft was drop tested; or (2) one-half the length of the painter. Consequently, the height at which the liferaft could be stowed on a vessel would be affected by the length of the painter, which could be changed by the servicing facility. The servicing facility in order to retain its authorization would be responsible for making sure that the marking of painter length and stowage height are correct.

v. *Provide for "SOLAS A Pack" and "SOLAS B Pack" markings on containers for inflatable liferafts used on vessels in international service.* The 1983 Amendments to the 1974 International Convention for the Safety of Life at Sea come into force on July 1, 1986. The 1983 Amendments change the requirements for emergency equipment packed inside liferafts. New liferafts for vessels in international service provided with the equipment specified in the 1983 Amendments will be required to carry the marking "SOLAS A Pack" or "SOLAS B Pack" on their containers as applicable. The servicing facility in order to retain its authorization would be responsible for making sure that the required markings on the container are correct.

List of Subjects in 46 CFR Part 160

Marine safety.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-18358 Filed 8-13-86; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 86-22]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to clarify and update certain of its Rules of Practice and Procedure. The proposed amendments would revise the Rules to provide for appeals from Commission staff actions; to establish a procedure for the filing of a brief of an amicus curiae in adjudicatory proceedings; to bring special docket procedures in conformity with the provisions of the Shipping Act of 1984 and recent Commission decisions; and to set forth the grounds upon which a request for oral argument should be based.

DATE: Comments due on or before September 15, 1986.

ADDRESS: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: Proceedings before the Federal Maritime Commission are conducted pursuant to the Commission's Rules of practice and procedure, 46 CFR Part 502. The proposed amendments would update and clarify certain sections and would add a new section to the Rules. The revised sections and the new section are discussed below.

I. 46 CFR 502.69 *Petitions.* This section provides, *inter alia,* that, except where otherwise provided in Part 502 or submitted in connection with a formal proceeding, claims for relief or other affirmative action must be by written petition to the Commission. Although the informal procedure is, by its terms, of general application, in view of some uncertainty as to the availability of the informal procedure for obtaining relief from adverse action taken in Commission regulatory activity, it is proposed that section 502.69 be amended to expressly set forth that the remedy is also available to appeal Commission staff actions.

II. 46 CFR 502.76 *Brief of an amicus curiae.* The proposed amendments would establish a new § 502.76 governing the filing of a brief and oral argument of an amicus curiae. This new section is modeled on Rule 29 of the Federal Rules of Appellate Procedure and retains the chief substantive features of Rule 29. Most notably, § 502.76 keeps that provision of Rule 29 which allows a United States government entity to file a brief as an amicus curiae without leave. Such an entity must, however, file its brief in a timely manner, *i.e.,* within the time allowed the party whose position it supports.

Proposed § 502.76 differs from Rule 29 in one respect. Rule 29 permits the filing of an amicus curiae brief if accompanied by written consent of all parties. As proposed, § 502.76 would not contain this alternative method of filing and

would provide for filing only by leave of the Commission or the Presiding Officer, except in the case of governmental entities. This modification to Rule 29 is necessary in order to accommodate the different context of Commission proceedings from that of appeals in federal circuit courts.

Except for the blanket authorization given governmental entities, § 502.76 would, for the most part, merely codify current Commission practice with regard to the filing of an amicus brief. The Commission has allowed interested persons to file an amicus brief in Commission proceedings but only upon application and with the leave of the Commission. Section 502.76 would expressly provide for such filings in the Rules of practice and procedure.

In addition to establishing a procedure for the filing of an amicus brief, this section would also clarify the distinction between participation as an intervenor and as an amicus curiae. Rule 72 of the Rules of practice and procedure, 46 CFR 502.72, provides that interested persons who desire to intervene in adjudicative proceedings may do so upon leave of the Commission by filing a petition for leave to intervene. An intervenor under Rule 72 has the status of a party, including the rights and obligations that attach to party status. An amicus curiae is a "friend of the court" and serves only to advise the Commission on legal issues through the filing of a brief. Status as an amicus filer under proposed Rule 76 would not confer any right to participate in the conduct of a hearing, including the presentation of evidence and the examination of witnesses.

The proposed amendments do not make any substantive change in Rule 72 which governs intervention. However, because some confusion has occurred in the past over the significance of the use of the word "amicus" in Rule 72(c), it is proposed that the reference to "amicus" be deleted from Rule 72(c). This may further clarify that persons who participate in proceedings pursuant to Rule 72 do so as intervenors.

III. 46 CFR 502.92(a) *Special docket applications and fee.* This section sets forth the procedure for filing applications for special docket refunds or waivers, as authorized by section 8(e) of the Shipping Act of 1984, 46 U.S.C. app. 1707(e) (the Act). Section 8(e)(1) of the Act sets as a condition to the grant of relief, that the refund or waiver not result in discrimination among "shippers, ports, or carriers," whereas 46 CFR 502.92(a)(1) now refers only to "shippers." It is therefore proposed that the CFR section be revised by making reference to "ports" and "carriers." Furthermore, while section 8(e)(1) gives the shipper, in addition to the carrier or conference, the right to file an application, section 8(e)(2) requires only the carrier or the conference to file with the Commission a new tariff showing the rate on which the refund or waiver would be based. Therefore, it is proposed that § 502.92(a)(2), which provides that prior to the filing of the application the Commission "must have received an effective tariff," be revised to specify that only the carrier or conference must file such a tariff.

Paragraph No. 1 of Exhibit No. 1 to Subpart F would be revised to delete the reference to the date of delivery of the cargo to the carrier. That information is irrelevant to the determination of the effective date of the tariff filed pursuant to section 8(e)(2) of the Act.[1]

Paragraph No. 3 of Exhibit No. 1 presently requests information as to whether the grant of the special docket application will result in discrimination among "ports or carriers." It is proposed to revise this paragraph, in accordance with § 502.92(a)(1), by adding the word "shippers" in the reference to "ports or carriers".

The request in paragraph 4 of Exhibit No. 1, for information as to "shipments of other shippers of the same *or similar* commodity" (emphasis added) appears to conflict with the prohibition in 46 CFR 580.6(h) against the application of specific commodity rates to "analogous articles." It is therefore proposed that the words "or similar" be deleted.[2]

The same paragraph refers to the beginning of the relevant period for "shipments of other shippers" as "the day the bill(s) of lading was issued." This provision needs to be revised in light of the Commission's decision in *Application of Yamashita-Shinnihon Line for the Benefit of Nissho-Iwai American Corporation*, 19 S.R.R. 1407 (1980),[3] which establishes the beginning of the relevant period as the date the tariff omitting the intended rate became effective, or the date the intended rate absent the mistake would have become effective.

IV. 46 CFR 502.241 *Oral argument.* Section 502.241(a) would be amended to provide that the Commission may hear oral argument either on its own motion or at the request of a party. The present rule contemplates the hearing of oral argument only upon request of a party. In practice, however, the Commission has on occasion heard oral argument on its own initiative.

Section 502.241(b) is proposed to be revised to set forth that oral argument will generally not be granted unless the moving party shows with specificity that the matter sought to be addressed involves a significant regulatory issue, that the legal arguments have not been adequately addressed on brief, and that the decisional process presented would be significantly aided by oral argument. Because the parties normally would have had the opportunity to fully present their case in proceedings before the Administrative Law Judge, such a demonstration would serve to avoid unnecessarily delaying the ultimate disposition of the matter at issue, assure efficient use of Commission resources, obviate unnecessary litigation expenses and generally maintain the integrity of the decisional process.

Additionally, in § 502.241(b) the words

> . . . and, if granted, the notice of oral argument will set forth the order of presentation. Upon request the Commission will notify any party of the amount of time which will be allowed it . . .

would be deleted and § 502.241(a) would be amended by adding the following:

> If the Commission determines to hear oral argument, a notice will be issued setting forth the order of presentation and the amount of time allotted to each party.

The latter more accurately reflects what has become standard practice.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, and sections 8(e) and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1707(e) and 1716(a), Part 502 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. The Authority Citation for Part 502 is revised to read as follows:

> **Authority:** 5 U.S.C. 552, 553, 559; 18 U.S.C. 207; 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, and 1713–1716; and E.O. 11222 of May 8, 1965 (30 FR 6469).

2. In § 502.69, paragraph (a) is revised to read as follows:

§ 502.69 Petitions—general and fee.

(a) Except when submitted in connection with a formal proceeding, all claims for relief or other affirmative

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[1] Exhibit No. 1 to Subpart F [§ 502.92]—Application for Refund or Waiver for Freight Charges Due to Tariff Error.

[2] Part 580—Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States, 46 CFR 580.6(h).

[3] The decision was recently followed in *Application of Australia New Zealand Container Line for the Benefit of Meadowsfreight New Zealand, Ltd.*, Special Docket No. 1349, 23 S.R.R. 751 (1986), and in *Application of Lykes Bros. S.S. Co. for the Benefit of Embassy of Tunisia, Order of Partial Adoption*, Special Docket No. 1381, decision served June 9, 1986.

action by the Commission, including appeals from Commission staff action, except as otherwise provided in this part, shall be by written petition, which shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon and the relief sought, shall cite by appropriate reference the statutory provisions or other authority relied upon for relief, shall be served upon all parties named therein, and shall conform otherwise to the requirements of Subpart H of this part. Replies thereto shall conform to the requirements of § 502.74.

* * * * *

§ 502.72 [Amended]

3. In § 502.72, paragraph (c)(3) is amended by removing the word "amicus."

4. In Part 502, Subpart E is amended by adding a new § 502.76 to read as follows:

§ 502.76 Brief of an amicus curiae.

(a) A brief of an amicus curiae may be filed only by leave of the Commission or the presiding officer granted on motion with notice to the parties, or at the request of the Commission or the presiding officer, except that leave shall not be required when the brief is presented by the United States or an agency or officer of the United States, or by a State, Territory or Commonwealth. The brief may be conditionally filed with the motion for leave.

(b) A motion for leave to file an amicus brief shall identify the interest of the applicant and shall state the reasons why such a brief is desirable.

(c) Except as otherwise permitted by the Commission or the presiding officer, an amicus curiae shall file its brief within the time allowed the party whose position as to affirmance or reversal the amicus brief will support. The Commission or the presiding officer shall grant leave for a later filing only for cause shown, in which event the period within which an opposing party may answer shall be specified.

(d) A motion of an amicus curiae to participate in oral argument will be granted only for extraordinary reasons.

5. In § 502.92, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 502.92 Special docket applications and fee.

(a)(1) A common carrier by water in foreign commerce which publishes its own tariff or, if the common carrier does not publish its own tariff, the carrier and the conference to which it belongs, or a shipper, may file an application for permission to refund or waive collection of a portion of freight charges where it appears that there is:

(i) An error in the tariff of a clerical or administrative nature; or

(ii) An error due to inadvertence in failing to file a new tariff. Such refund or waiver must not result in discrimination among shippers, ports, or carriers.

(2) When the application is filed by a carrier or conference the Commission must have received prior to the filing of the application a new tariff which sets forth the rate on which refund or waiver would be based.

* * * * *

6. In Exhibit No. 1 to Subpart F [§ 502.92] paragraphs 1(d), 3 and 4 are revised to read as follows:

Exhibit No. 1 to Subpart F [§ 502.92]—Application for Refund of or Waiver for Freight Charges Due to Tariff Error

* * * * *

1. * * *

(d) Date(s) of shipment(s), i.e., sailing(s) [furnish supporting evidence].

* * * * *

3. Furnish any information or evidence as to whether grant of the application will result in discrimination among shippers, ports or carriers.

4. State whether there are shipments of other shippers of the same commodity which (i) moved via the carrier(s) or conference involved in this application during the period of time beginning on the date the tariff omitting the intended rate became effective or on the date the intended rate absent the mistake would have become effective and ending on the day before the effective date of the conforming tariff, and (ii) moved on the same voyage(s) of the vessel(s) carrying the shipment(s) described in No. 1, above.

* * * * *

7. In § 502.241, paragraphs (a) and (b) are revised to read as follows:

§ 502.241 Oral argument.

(a) The Commission may hear oral argument either on its own motion or upon the written request of a party. If oral argument before the Commission is desired on exceptions to an initial or recommended decision, or on a motion, petition, or application, a request therefor shall be made in writing. Any party may make such a request irrespective of its filing exceptions under § 502.227. If a brief on exceptions is filed, the request for oral argument shall be incorporated in such brief. Requests for oral argument on any motion, petition, or application shall be made in the motion, petition, or application, or in the reply thereto. If the Commission determines to hear oral argument, a notice will be issued setting forth the order of presentation and the amount of time allotted to each party.

(b)(1) Requests for oral argument will be granted or denied in the discretion of the Commission.

(2) Oral argument generally will not be granted unless the party so requesting demonstrates with specificity that:

(i) The matter to be addressed involves a significant regulatory issue;

(ii) The legal arguments have not been adequately addressed on brief; and

(iii) The decisional process would be significantly aided by oral presentation.

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18331 Filed 8-13-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 86-297]

Establishment of a Federal-State Joint Board

AGENCY: Federal Communications Commission: Federal-State Joint Board.

ACTION: Order inviting comments and request for data.

SUMMARY: The Federal-State Joint Board seeks comment on its proposal for amendments to Part 67 of the Commission's rules regarding the separation of costs between the state and interstate jurisdictions. The Joint Board proposes two sets of separations rules to conform to the two-tiered system of accounts under the recently revised Uniform System of Accounts (USOA): One system for the larger Class A carriers and one system for the smaller Class B carriers. For Class A carriers, the Joint Board proposes to change the separations rules primarily to conform to the revised USOA. For Class B carriers, the Joint Board proposes both conformance and simplification of separations procedures. The Joint Board also requests that parties submit data to be used to evaluate the revenue requirement impact of the proposed changes.

DATES: Comments on the proposed Class A Manual must be filed on or before September 25, 1986, and reply comments on or before October 10, 1986. Comments on the Class B Manual must be filed on or before October 27, 1986, and reply comments on or before November 25, 1986. Data on the revenue requirement impact of both proposed

Manuals must be filed on or before November 25, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wilson or Cindy Schonhaut (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is the full text of the Joint Board's Order Inviting Comments and Request for Data and a summary of the proposed rules. The full text of the proposed rules is available for inspection and copying during normal business hours in the Federal Communications Commission Dockets Branch, 1919 M Street, NE., Room 230, Washington, DC 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Adopted: July 11, 1986.
Released: July 25, 1986.

I. Introduction

1. The Federal-State Joint Board seeks comment on its proposal to conform the Separations Manual, Part 67 of the Commission's rules, to the revised Uniform System of Accounts (USOA) recently adopted by the Commission. Because of the relationship of the USOA and separations, the Separations Manual must be conformed when the revised USOA becomes effective on January 1, 1988. The Joint Board herein proposes to revise the Separations Manual to conform to the two-tiered acconting system of the revised USOA by establishing two sets of separations procedures: one for Class A carriers and one for Class B carriers. The proposed Separations Manual for Class A carriers would revise the current rules to conform to the new accounting rules and to make practical improvements in the separations procedures for those carriers. The proposed Class B procedures would revise the current rules for conformance and would also simplify the current rules. The Joint Board requests comments on these proposals and requests data to be used in the evaluation of these Manuals. The close relationship between the accounting rules and the separations rules mandates that any change in the accounting system be accompained by a corresponding change in the Separations Manual.

II. Discussion

A. Need To Conform Separations Manual to Revised USOA

2. One of our goals in this proceeding is to make the changes necessary to conform the Separations Manual to the revised USOA with minimal or no expected revenue requirement shifts. Our other goals are to achieve the limited changes that are necessary to improve the practical application of separations procedures for Class A carriers and to more extensively simplify those procedures for Class B carriers. As discussed above, the USOA establishes a two-tiered system of accounting. Under that system, smaller carriers are allowed to use less burdensome acconting procedures. The Commission was concerned, in adopting Class B accounting, that unduly burdensome obligations should not be imposed on small telephone companies. If those small telephone companies are required to comply with the current detailed Separations Manual after the revised USOA becomes effective, the purpose of Class B accounting would be defeated. Thus, the current Separations Manual must be revised to provide a two-tiered separations approach to conform to the two-tiered approach under the revised USOA. We therefore tentatively recommend that two Separations Manuals should be adopted. Under this approach, Class A companies may use the Class A Manual proposed in Appendix A to this Notice and Class B carriers may use the Class B Manual proposed in Appendix B.

3. Many changes in the current separations rules are required to conform to the specifics of the accounting system set forth in the revised USOA. For example, the "Big Four" wage factor which is the basis of apportioning expense between the jurisdictions, must be changed to correspond to the "Big Three" wage portion of the new accounting system. The separations rules proposed in the Appendices to this Order include these minor modifications.

B. Class A Separations Manual

4. The instant proposal to adopt a Separations Manual for Class A carriers would change the current rules to conform separations to the new accounting system and to make practical improvements in the separations procedures for Class A carriers, such as the allocation of certain expenses. Thus, the Class A Manual proposed in this Order is primarily a conformance proposal. Minor changes in addition to conformance are also required, such as the deletion of instructions regarding the phase-out and termination of interstate apportionment of customer premises equipment.

5. Because the Class A Manual is primarily a conformance proposal, we expect little or no shift in revenue requirements to result from its implementation. In addition, the minor changes in separations necessary to maintain current rules should not have a significant impact on revenue requirements. As discussed below, a conformed Separations Manual must be in effect when the revised accounting system becomes effective on January 1, 1988. Because of the need to expedite consideration of the instant proposal to amend the separations rules, the comment cycle for the Class A Manual will be relatively brief.

C. Class B Separations Manual

6. The Class B Manual, on the other hand, involves both separations conformance and simplification. Simplified separations are required for Class B carriers because the revised USOA will establish simplified accounting procedures for those carriers. We believe the current separations rules should be greatly simplified for smaller carriers because the current separations procedures may be unduly burdensome. Thus, in the proposed Class B Manual, we have eliminated some of the extremely complex basic and monthly studies currently required. We have attempted instead to use, wherever possible, a broad averaging approach and the data found in the abbreviated accounts and subsidiary records as prescribed by the revised USOA. At the same time, we propose to retain, wherever practical, the actual use allocation principles required by the current procedures for separating plant, revenues, expenses and reserves. For example, relative time measurements, such as minutes of use, have been incorporated into out averaging approach along with overhead-type allocation factors for apportioning certain assets and expenses based on total plant in service.

7. For the Class B Manual, we seek comments on both conformance and on our simplification proposal. We are particularly interested in the potential revenue requirement impact of the proposed separations procedures. We specifically solicit comments addressing the issue of whether the proposed Class B Manual creates substance jurisdictional revenue requirements shifts and proposals on ways to mitigate any such effects. Because the Class B Manual involves simplification in addition to conformance, we believe a comment cycle longer than that proposed for the Class B Manual is appropriate.

D. Separations Simplification

8. In addition to the simpiification of separations procedures proposed for the

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51
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Class B Manual, we request suggestions for other proposals to simplify separations procedures for both large and small carriers. Any such proposal must be fully supported and include an estimate of any potential shift in revenue requirements. We also expect that recommendations for separations simplification be accompanied by draft separations rules. Commenters should address the issue of whether, and under what conditions, Class A carriers should be allowed to use the simplified Class B Manual. As stated in the Order establishing this Joint Board, we are particularly interested in proposals that would reduce the burdens for small carriers. We believe that in complying with the existing separations rules, carriers currently devote time and resources that may no longer have significant value in the the allocation of costs between the jurisdictions.

9. Although we have included allocation rules for Central Office Equipment, related expenses and revenue accounting expenses in the proposed Manuals to provide commenters an opportunity to comment on complete Manuals, we recognize that the Docket No. 80–286 Joint Board is or will be examining those subjects and will also be reexamining the high cost factor formula. The Joint Board in that docket is considering simplification issues with respect to the separations procedures applied to Local Dial Switching Equipment (Category 6) and Circuit Equipment (Category 8). We will coordinate with that Joint Board to ensure that our final recommendation in this poroceeding is consistent with any recommendations that Joint Board may have made.

E. Data Request

10. We expect that commenters will use the separations model developed by the Joint Board staff to identify any revenue requirement shifts that may result from implementation of the Class A Manual and the simplified Class B Manual. But because the Class A Manual is primarily a conformance proposal, we do not expect any significant revenue requirement shifts, such as those that would require rate adjustments, to result from its implementation. Therefore, the reasons for any any such shift identified for the Class A Manual should be fully explained. Moreover, Class A carriers are expected to use the model to identify any possible revenue requirement shifts that would result if such carriers were required or permitted to use the separations procedures for Class B carriers. Such submittals should contain at least a sufficient level of detail to identify jurisdictional shifts at the level of separations categories. The results of the application of this model to test the Manuals should be submitted to the Joint Board members and staff listed in Appendix D on or before November 25, 1986.

F. Effective Dates

11. New separations procedures must be in place when the revised USOA becomes effective on January 1, 1988, because the current separations procedures cannot be used with the new accounts. The industry has indicated that it requires a minimum of six months to implement revised separations rules. Therefore, the separations revisions must be adopted in early 1987. As a result, we are expediting consideration of these proposals. The comment cycles set forth below are designed to accomplish that objective.

III. Other Matters

A. Regulatory Flexibility Act Analysis

12. We certify that the Regulatory Flexibility Act is not applicable to the rules we propose in this proceeding. Although we find that the Regulatory Flexibility Act does not apply to this proceeding, we are cognizant of the potential effect that the options proposed in this Order may have on small exchange carriers. We therefore seek comment on the effect of the separations revisions proposed above on small exchange carriers. Commenters are requested to analyze the burden on small exchange carriers under the proposal and to estimate the number of carriers affected. Comments on this issue will be considered by the Joint Board.

B. Paperwork Reduction Act

13. We have analyzed the proposal contained herein and conclude that the Paperwork Reduction Act does not apply. The instant proposal is a general solicitation of comments from the public and, as such, does not constitute a collection of information. *See* 5 CFR 1320.7(k)(4). All comments will be considered in this proceeding. Parties need not respond specifically to the data request for their comments to be considered.

C. Ex Parte Contacts

14. Members of the public are advised that the *ex parte* rules applicable to nonrestricted informal Commission rulemakings are applicable to Commission decisions in this proceeding. 47 CFR 1.201–.1245. For actions taken by the Joint Board, however, special *ex parte* rules apply.

Amendment of Part 67 of the Commission's Rules and Establishment of Joint Board. CC Docket No. 80–286, 89 FCC 2d 36 (1982).

D. Comments

15. Interested parties may file comments on the proposed Class A Manual on or before September 25, 1986, and reply comments on or before October 10, 1986. Comments on the proposed Class B Manaul may be filed on or before October 27, 1986, and reply comments on or before November 25, 1986. Parties may file data in response to this Order on or before November 25, 1986. Copies of the comments will be available for inspection in the Commission's Docket Reference Room, 1919 M Street, NW., room 239, Washington, DC 20554. Copies can also be obtained from the Commission's contractor for public records duplication, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037 (202) 857–3800.

IV. Ordering Clauses

16. Accordingly, it is ordered, that, pursuant to the provisions of sections 4(i), 4(j), 201–205, 221(c) and 410 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201–205, 221(c) and 410, comments and data are hereby requested concerning the separations procedures discussed above.

List of Subjects in 47 CFR Part 67

Common carrier, Telephone, Rates, Jurisdictional separations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–18269 Filed 8–13–86; 8:45 am]

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47 CFR Part 73

[MM Docket No. 86–323, RM–5290]

Radio Broadcasting Services; Haughton, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Haughton Broadcasting Company proposing to allot FM Channel 279A to Haughton, Louisiana as that community's first FM channel.

DATES: Comments must be filed on or before September 29, 1986, and reply comments on or before October 14, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Matthew H. McCormick, Reddy, Begley & Martin, 2033 M Street, NW., Washington, DC 20036 (Counsel to Petitioners).

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–323, adopted July 31, 1986, and released August 7, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18275 Filed 8–13–86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–325, RM–5412]

Radion Broadcasting Services; Waverly, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Mid-Cumberland Communications, Inc., proposing the substitution of FM Channel 286C2 for Channel 285A at Waverly, Tennessee and modification of the license of Station WVRY (FM), Channel 285A, Waverly, to specify operation on the new channel, as that community's first wide coverage area FM service.

DATES: Comments must be filed on or before September 29, 1986, and reply comments on or before October 14, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Richard E. Wiley, Esquire, James R. Bayes, Esquire, Merilyn M. Strailman, Esquire, Wiley & Rein, 1776 K. Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–325, adopted July 31, 1986, and released August 7, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18277 Filed 8–13–86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–324, RM–5395]

Radio Broadcasting Services; Burnet, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Donald L. Freed proposing the allotment of FM Channel 223A to Burnet, Texas, as that community's second FM service. A site restriction of 9.2 kilometers (5.7 miles) northwest of the community is required. The proposal also requires concurrence by the Mexican government.

DATES: Comments must be filed on or before September 29, 1986, and reply comments on or before October 14, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Donald L. Freed, P.O. Box 2682, Victoria, TX 77902 (Petitioner) and John J. Tibiletti, Route 9, Box 143, Victoria, TX 77902 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–324, adopted July 31, 1986, and released August 7, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contract.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18276 Filed 8-13-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-326; RM-5323]

Television Broadcasting Services; Utica, and Buffalo, NY, and Boston, MA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate VHF TV Channel 4 to Utica, New York, as the community's fourth local commercial television service, at the request of Mohawk Valley Telecasters, Inc. The allocation requires a site restriction of 13.4 miles east to avoid a short-spacing to Station WSTM-TV, Channel 3, Syracuse, N.Y. In addition, offset changes are required for co-channel Stations WIVB-TV, Buffalo, N.Y. (from minus to zero) and WBZ-TV, Boston, Mass. (from minus to plus). Petitioner is requested to state an intention to reimburse the above stations for the reasonable costs associated with the change in offset. Canadian concurrence in the channel allocation and offset changes is required since Utica, Buffalo and Boston are each located within 400 kilometers (250 miles) of the U.S.-Canada border. Group W. Television, Inc., licensee of Station WBZ-TV, Boston, Mass. and Buffalo Broadcasting Co., Inc., licensee of Station WIVB-TV, Buffalo, N.Y. are each requested to respond to the Order to Show Cause why their licenses should not be modified to specify the proposed offset change.

DATES: Comments must be filed on or before September 29, 1986, and reply comments on or before October 14, 1986.

ADDRESS: Federal Communication Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: James R. Meehan, President, Mohawk Valley Telecaster, Inc. P.O. Box 327 (Stanley Road), Cazenovia, New York 13035.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-326, adopted July 31, 1986, and released August 7, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. This complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.425 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18278 Filed 8-13-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[P.R. Docket No. 86-37]

Restriction of Use of Radio Transmitters (Designed To Operate Above 25 MHz) With External Frequency Controls; Order Extending Reply Comment Period

AGENCY: Federal Communications Commission.

ACTION: Order Extending Reply Comment Period.

SUMMARY: The FCC is extending the time for submission of reply comments in this Docket concerning the use of radio transmitters (desinged to operate above 25 MHz) with external frequency controls. This action is taken to allow interested parties ample opportunity to prepare reply comments and assure a thorough analysis of the issues in this proceeding.

DATE: Reply Comments will now be due by September 5, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas L. Johnson, Private Radio Bureau, (202) 632-6497.

Order Extending Reply Comment Period

In the matter of amendment of Part 90 of the Commission's rules to restrict the use of radio transmitters with external frequency controls, PR Docket No. 86-37.

Adopted: August 4, 1986.
Released: August 7, 1986.

By the Acting Chief, Private Radio Bureau.

1. On January 30, 1986 the Commission adopted a *Notice of Proposed Rule Making* in the above-captioned matter. This *Notice* appeared in the **Federal Register**, 51 FR 6149, on February 20, 1986. Comments and reply comments were due by March 21 and April 7, 1986, respectively.

2. This *Notice* proposes to amend Part 90, Subpart 1 of the rules (which apply to the Private Land Mobile Radio Services) to restrict the use of radio transmitters (designed to operate above 25 MHz) with external frequency controls that would allow the selection of unauthorized frequencies.

3. In response to petitions filed by the National Association of Business and Educational Radio, Inc. and the Association of American Railroads for an extension of the comments filing period, the Commission on March 20, 1986 adopted an *Order* extending the comments and reply comments filing periods to July 21 and August 5, 1986, respectively. This *Order* appeared in the **Federal Register**, 51 FR 11075, on April 1, 1986.

4. The Electronic Industries Association, Land Mobile Radio Section (Section) has filed a petition requesting that the time for filing reply comments be extended from August 5 to September 5, 1986. The Section contends that as manufacturers of the equipments concerned, members of the Section "have a critical stake in the outcome of this proceeding." After a diligent effort was made to review comments filed, "it became apparent that more than the allotted two weeks will be required to attempt to reconcile the highly interactive policy and technical issues in this proceeding." It will also "provide the opportunity to convene a meeting on this matter in conjunction with the APCO conference during the third week of August." Motorola also suggested in its comments that the reply comment period be extended.

5. We are persuaded that the public interest will be served by granting the

Section's request to allow it and others to file more thorough analysis of the issues in this proceeding.

6. Accordingly, it is ordered, pursuant to the authority set forth in § 0.331 of the Commission's Rules and Regulations, that interested parties will have until September 5, 1986 to file reply comments in this proceeding.

Federal Communications Commission.

Robert S. Foosaner,

Chief, Private Radio Bureau.

[FR Doc. 86-18274 Filed 8-13-86; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 513 and 553

[GSAR Notice No. 5-147]

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which would permanently incorporate the substance of GSAR Acquisition Circulars AC-86-1 and AC-86-4 in the regulation. Acquisition Circular AC-86-1 temporarily increased the thresholds for Imprest Fund purchases and purchases made under Certified Invoice procedures outlined in Part 513. Acquisition Circular AC-86-4 temporarily amended Part 513 of the GSAR to encourage use of the certified invoice procedures for open market purchases of $2,000 or less, to provide detailed instructions on the use of the GSA Form 300, Order for Supplies and Services, to emphasize the need for contracting officers to provide "remit to" addresses when submitting purchase orders and contracts to the appropriate Finance Division, and to revise ordering procedures for small dollar value ($2,000 or less) purchases which require written orders by providing for invoices to be submitted to the ordering activity rather than the Finance Division. Miscellaneous other changes in small purchase procedures are proposed based on comments received from GSA activities. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

DATE: Comments are due in writing on or before September 15, 1986.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to: Mrs. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4026, Washington, DC 20405, (202) 523-3822..

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4029, Washington, DC 20405, (202) 566-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The proposed rule primarily relates to the internal operations of the agency and will not have a significant impact on contractors and offerors. Therefore, no flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 501, 513, and 553

Government procurement.

Dated: July 31, 1986.

Ida M. Ustad,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 86-18360 Filed 8-13-86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 685

Foreign Fishery; Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (MNFS), NOAA, Commerce.

ACTION: Notice of availability of a fishery management plan and request for comments.

SUMMARY: NOAA issues notices that the Western Pacific Fishery Management Council (Council) has submitted a Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP) for review by the Secretary of Commerce (Secretary), and is requesting comments from the public. Copies of the plan may be obtained from the Council at the address below.

DATE: Comments on the plan should be submitted on or before October 24, 1986.

ADDRESS: Send comments to E. Charles Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island CA 90731. Copies of the plan and its environmental assessment are available upon request from the Council at 1164 Bishop Street, Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds (Executive Director, Western Pacific Fishery Management Council), 808-523-1368.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended, (16 U.S.C. 1801 *et seq.*) requires that each fishery management council submit any fishery management plan it prepares to the Secretary for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan, must immediately publish a notice that the plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan.

This plan proposes: (1) To establish new area closures for foreign longline vessels in the FCZ, (2) to eliminate existing quotas on foreign longline catch in the open areas of the FCZ, (3) to require foreign longline vessels to submit effort plans and report catch data and fishery interactions with protected species in the FCZ, (4) to prohibit the use of drift gill nets in the FCZ, and (5) to establish a process to obtain data on the incidential catch of pelagic fishes in the FCZ by tuna pole-and-line and purse seine vessels. This FMP will replace most of the Preliminary Fishing Management Plan for Pacific Billfish and Oceanic Sharks implemented in 1980 at 50 CFR 611.81 and will regulate fishing in American Samoa, Guam, Hawaii, and U.S. possessions.

Regulations proposed by the Council and based on this plan are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: August 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18303 Filed 8-11-86; 11:53 am]

BILLING CODE 3510-22-M

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50 CFR Part 630

[Docket No. 5058 I -6137]

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of preliminary annual adjustment to variable season closure; extension of public comment period.

SUMMARY: The Secretary of Commerce issued a notice of preliminary annual adjustment to the variable season closure (VSC) for Atlantic Swordfish. This was published July 30, 1986 (51 FR 27227). The VSC must be adjusted annually to reflect the most recent year's estimated catch of small swordfish. NOAA extends the public comment period for an additional six days because it is felt that a longer comment period would be in the best interest of the public.

DATE: The public comment period is extended from August 14, 1986, to August 20, 1986.

ADDRESS: Comments should be sent to Donald W. Geagan, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

Dated: August 11, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–18391 Filed 8–13–86; 8:45 am]
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Notices

Federal Register
Vol. 51, No. 157
Thursday, August 14, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 8, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Existing

- Foreign Agricultural Service

Licenses for Importation of Sugar to be Re-Exported in Refined Form FAS 947
On occasion, Weekly, Monthly, Quarterly, Annually, Variable Frequency
Businesses or other for-profit; 350 responses; 700 hours; not applicable under 3504(h)
Linda M. Doeg, (202) 447–2916

- Foreign Agricultural Service

Issuing Certificates for the Importation of Speciality Sugars
On occasion
Businesses or other for-profit; 50 responses; 100 hours; not applicable under 3504(h)
Gordon E. Patty, (202) 447–2916

Extension

- Agricultural Stabilization and Conservation Service

MQ–76, Tobacco Marketing Card, MQ–77, Excess Marketing Card, MQ–117, Application for Duplicate Marketing Card
MQ–76, –77, –117
On occasion
Farms; 486,900 responses; 81,650 hours; not applicable under 3504(h)
Donald M. Blythe, (202) 447–2715

- Animal and Plant Health Inspection Service

Gypsy Moth—Outdoor Household Articles
On occasion
Individuals or households; Businesses or other for-profit; 163,000 responses; 27,221 hours; not applicable under 3504(h)
G.E. Moorehead, (301) 436–8295

- Food and Nutrition Service

Requisition for Food Coupon Books
FNS 260
On occasion
State or local governments; 13,500 responses; 6,750 hours; not applicable under 3504(h)
Asher S. Bryte, (703) 756–3545

- Food and Nutrition Service

7 CFR Part 235—State Administrative Expense Funds (Reporting)
Monthly; Semi-annually; Annually
State or local governments; 2,253 responses; 8,473 hours; not applicable under 3504(h)
Marian Stroud, (703) 756–3600

- Food and Nutrition Service

7 CFR Part 235—State Administrative Expense Funds (Recordkeeping)
Recordkeeping
State or local governments; Federal agencies or employees; 28,498 hours; not applicable under 3504(h)
Marian Stroud (703) 756–3600

- Food and Nutrition Service

Commodity Supplemental Food Program Regulation
Recordkeeping; On occasion; Monthly; Quarterly; Semi-annually; Annually
Individuals or households; State or local governments; Federal agencies or employees; Non-profit institutions; 335,233 responses; 172,190 hours; not applicable under 3504(h)
Idalia McKelvey (703) 756–3730
Forest Service

- Grazing Permit Administration Forms

FS–2200–1, –2, –12, –13, –15, –16, –17, R–1–2230–5, R–2–2200–6, R–3–2200–1, 2200–1 and unnumbered Form
On occasion
Farms; 5,000 responses; 2,000 hours; not applicable under 3504(h)
Ivan Thornton (703) 235–3345

Reinstatement

- Federal Crop Insurance Corporation

Standard Reinsurance Agreement
Annually
Businesses or other for-profit; 64 responses; 128 hours; not applicable under 3504(h)
William Flora (202) 382–9798

- Food and Nutrition Service

Emergency Food Assistance for Victims of Disasters
FNS 447
On occasion
Individuals or households; State or local governments; 4,690 responses; 874 hours; not applicable under 3504(h)
Nancy Artherholt (703) 756–3389

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86–18320 Filed 8–13–86; 8:45 am]
BILLING CODE 3410–01–M

Cooperative State Research Service

National Academy of Sciences; Public Meeting

As a public service the Department of Agriculture is notifying all interested parties of the following meeting. The Committee on Technological Options to

VOL 51 ISS 157 AG 14 1986 UMI

Improve the Nutritional Attributes of Animal Products is a committee which offers advice to the National Academy of Sciences.

Name: Committee on Technological Options To Improve the Nutritional Attributes on Animal Products
Date: Monday, September 8, 1986
Time: 8:30 a.m.—3:00 p.m.
Place: Joseph Henry Building, 2100 Pennsylvania Avenue, NW, Room 451, Washington, DC 20037
Type of Meeting: Open to the public.

Comment: Individuals wishing to speak should submit a written statement to Pat Locacciato, Board on Agriculture, National Academy of Sciences, 2101 Constitution Avenue, Washington, DC 20418. Deadline for submittal is August 22, 1986.

Background: National Research Council (NRC) committee is studying viable technological options for improving the nutritional contribution of animal products within the U.S. diet. Under investigation are the production, processing, distribution, and marketing practices of the animal products industry and the role government policies and regulations play in determining the final product.

The committee seeks optional practices which government and industry might pursue in order to enhance the nutritional contribution of animal products to the diet.

Meeting Purpose: Further input is sought by the committee from individuals involved or interested in some aspect of the aforementioned subject.

This information will assist the committee members in assessing how animal products can be nutritionally improved and in formulating their recommendations on the policy and scientific options which will best promote these desired changes.

Contact: For further information, contact Pat Locacciato, (202) 334–2397.

Done at Washington, DC, this 8th day of August, 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–18369 Filed 8–13–86; 8:45 am]
BILLING CODE 3410–22–M

Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Cooperative State Research Service announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program
Date: September 9, 1986
Time: 9:00 a.m. to 5:00 p.m.
Place: U.S. Department of Agriculture, Room 104–A, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and that procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact Person for Agenda and More Information: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Cooperative State Research Service, U.S. Department of Agriculture, Room 112, J. S. Morrill Building, Washington, DC 20251, telephone: 202–475–5022.

Done at Washington, DC, this 8th day of August, 1986.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 86–18373 Filed 8–13–86; 8:45 am]
BILLING CODE 3410–MT–M

Forest Service

Mad Critter Area Analysis; Stikine Area, Tongass National Forest, Petersburg, AK; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) which will refine management direction for the Mad Critter Study Area, (Value Comparison Units #501, 502, & 504) on the Wrangell Ranger District. The analysis documented in the EIS will result in a decision which may amend the Tongass Land Management Plan.

The Tongass Land Management Plan allocated the Mad Critter area to Land Use Designation III, providing for a balanced mix of commodity and non-commodity uses. The Area Analysis will result in refined management objectives, standards and guidelines for implementing projects within the area. The area is presently unroaded.

Previous analysis resulted in an Environmental Assessment and decision on the location of a Terminal Transportation Facility on the beach which will provide the connecting link between transport of logs and equipment on upland roads and transport by saltwater.

The area analysis will consider alternative mixes of resource management emphasis for the area appropriate to the Forest Plan land use designation. The total road network needed to meet various resource objectives will be examined as will multi-entry timber harvest unit layouts.

Initial scoping has occurred in respect to a proposed timber sale in the area. The focus of study has now broadened to an area analysis prior to preparing a timber sale and, as a result, further scoping will be conducted.

Federal, state, and local agencies along with other individuals or organizations who have been or may be interested in, or affected by, the decision will be invited to participate further in the scoping process.

The area analysis will take approximately 4 months. The Draft EIS should be available for public review by March, 1987. The Final EIS is scheduled for completion by July 1987.

Robert E. Lynn, Forest Supervisor, Stikine Area, Tongass National Forest, Petersburg, Alaska, is the responsible official.

Written comments and suggestions concerning the area analysis and Environmental Impact Statement should be sent to Keene Kohrt, District Ranger, Wrangell Ranger District, Stikine Area, Tongass National Forest, P.O. Box 51, Wrangell, Alaska, 99929 by May 1, 1987.

Questions about the proposed action and EIS should be directed to Richard Strauss, IDT leader, Wrangell Ranger District, Stikine Area, Tongass National Forest, phone (907) 874–2323.

Dated: August 7, 1986.

Robert E. Lynn,

Forest Supervisor.

[FR Doc. 86–18290 Filed 8–13–86; 8:45 am]
BILLING CODE 3410–11–M

National Forest System Lands; Rights-of-Way Authorizations; Rental Fee Policy

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed fee policy for linear rights-of-way; request for comments.

SUMMARY: The Forest Service proposes to revise its policy and procedures governing determination of rental fees for linear rights-of-way across National Forest System lands. The Forest Service has coordinated this proposal with the

Bureau of Land Management to achieve consistent procedures between the two Agencies.

The proposal provides for a rental fee schedule by State, County, and type of linear right-of-way use. The fee schedules will be adjusted annually based on the Implicit Price Deflator (IPD) index. A phase-in period is provided for existing permits. The proposed policy is based on sound business management principles, and as far as practicable, is in accordance with comparable commercial practices for establishing fair market rental fees.

EFFECTIVE DATE: Comments on the proposal must be received on or before October 14, 1986.

ADDRESS: Send comments on the proposal to R. Max Peterson, Chief (2720), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: William C. Wakefield, Lands Staff, Forest Service, Washington Office at (703) 235–2594 or Robert Sipe, Lands Staff, Forest Service at Portland, Oregon Office at (503) 221–2921.

SUPPLEMENTARY INFORMATION: The Forest Service administers approximately 25,300 linear right-of-way permits for such facilities or improvements as powerlines, pipelines, roads, and ditches.

The Mineral Leasing Act (MLA) of 1920 as amended and supplemented (30 U.S.C. 185) provides specific direction that fees for right-of-way uses and grants should reflect fair market values. The language of the Act is as follows:

> (1) The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or Agency head.

The Office of Management and Budget (OMB) Circular No. A–25, as amended and supplemented, requires Agencies to establish user charges based on sound business management principles and to the extent feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.

In 1964, the Bureau of the Budget (Predecessor to OMB) issued further guidelines in the *Natural Resources User Charges Study*, which provided for the use of Federal land as follows:

> . . . the Government should recover the fair market value for the use of Federal land resources. Competitive bidding will be used to establish the fair market value in all instances where an identifiable competitive interest exists. Where a competitive interest does not exist, fees should be comparable to those charged for the use of similar private lands. Fees and charges for long-term use should be established in such a manner as will allow for periodic timely adjustment.

The 1976 passage of the Federal Land Policy and Management Act (Pub. L. 94–579, 90 Stat. 2743 at 2745) reinforced long-standing Congressional support of fair market value as a basis for fees. Section 102(a) of the Act states that ". . . it is the policy of the United States that . . . the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute. . . ." Title V provides specific direction that fees for right-of-way uses and grants should reflect fair market values.

In accordance with these Acts and OMB directives, the Forest Service's special use regulations at 36 CFR 251.57 provide that special-use authorization shall require ". . . the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles."

Current fees are established at 5 percent of the appraised value of the land for the authorized use. The following example illustrates how fees are calculated under current policy:

Formula: Annual rental fee = Market value of the rights and privileges or lacking such data, land value × a rate of 5 percent.
Factors: Market Value = $100/acre; Conversion Rate = 5 percent
Calculation: $100/acre × 0.05 = $5.00/acre

There has been debate over the appropriateness of various appraisal and administrative methods used to establish fair market rental value for rights-of-way crossing public lands. The concerns emerged from the Forest Service and Bureau of Land Management using purchase prices paid for oil and gas pipeline easements across private lands rather than using land value to calculate annual rentals.

Public Participation in Developing Proposal

On April 20, 1984, the Forest Service published an advance notice of proposed policy requesting comments and suggestions on revising fees for linear rights-of-way (49 FR 16823). That notice set forth several alternative approaches for determining rental fees and a summary of the current process used for establishing permit fees.

In addition, the Agency raised 3 questions on which response was requested. The notice also requested suggestions for developing a method of establishing annual fair market rental payments for rights-of-way crossing National Forest System lands, and provided a list of criteria by which the Forest Service would evaluate suggested methods.

A total of 26 comments were received in response to the advance notice; 1 from an individual citizen, 6 from industry associations, 6 from electric utilities, 10 from oil and gas transportation related companies, and 3 from State and other public agencies.

In response to the comments, the Forest Service and Bureau of Land Management cooperated on a second Notice of Intent which was published by the Bureau of Land Management at 50 FR 2697 on January 18, 1985.

The second notice of intent described a proposed method for determining rental fees which would: (1) Use actual prices paid for similar uses on private lands, (2) contain a reasonable adjustment to reflect differences in terms and conditions of "private" right-of-way easements and Federal right-of-way grants, (3) convert the adjusted right-of-way value to an annual rent, by use of a readily obtainable market interest rate, and (4) provide a means for easily updating the information to maintain a current and usable schedule.

To gather and establish actual price data, the Forest Service and Bureau of Land Management proposed to use market data surveys to establish right-of-way values by right-of-way type and geographic areas. To establish differences in value between the purchase of easements and a right-of-way grant across Federal lands, the Agencies indicated that they had considered three elements: (1) Annual vs. one-time payments, (2) periodic adjustment of the annual payment, and (3) other terms and condition.

The Agencies sought to determine if paying annual fees reduced the value of the right-of-way grant as compared to the value of an easement purchased paying a one-time fee. Also, they considered whether the annual fee should be adjusted to offset any loss in value.

Data is limited for comparing similar easements that were purchased both by annual payments and a one-time fee. However, analysis of the data available found that the method of payment did

not affect the value of the easement to the purchaser.

Next, the two Agencies looked at the effect of periodic adjustments in the annual payments for Federal right-of-way grants and whether these adjustments argue for an adjustment in the annual fee. As a result of the analysis, the Agencies, using real estate financing techniques, proposed a downward adjustment of 20 percent in market value of Federal right-of-way grants to offset the effect of periodic payments.

Finally, the Agencies compared the restrictions and constraints of terms and conditions in Federal right-of-way grants to those in easements purchased outright to determine the extent of adjustment in value of the Federal grant. The adjustment for the more restrictive conditions found in Federal grants was proposed as a 10 percent downward adjustment for those granted under the Federal Land Policy and Management Act and 15 percent for those issued pursuant to the Mineral Leasing Act.

The Agencies proposed to use the 30-year Federal Bond rate as of October 1 each year as the rate for converting the right-of-way value to an annual rent. Finally, the Agencies proposed updating the fee schedule by one of two alternatives. One alternative was to resample the market data at least every five years; the other was to adjust the schedule annually by the fluctuation in the 30-year bond rate or the Consumer Price Index.

The following example illustrates how fees established under this proposal would have been calculated at that time:

Formula: Annual rental fee—Market value of the rights and privileges x periodic adjustment of the annual payment x adjustment for terms and conditions x 30-year Federal Bond rate.

Factors: Market value=$100/acre; Periodic adjustment=20 percent; Terms and conditions=(FLPMA) 10 percent; 30-year Federal Bond rate=10.85 percent.

Calculation: $100acre x 0.80 x 0.90 x 0.1085=$7.81/acre

Analysis of Public Comments

The second notice generated a total of 37 responses; an additional 13 requested an extension of time which was granted on April 18, 1985, (50 FR 10998). The distribution of respondents was as follows:

Type of respondent	Number of comments received	Percent of the total
Citizens	2	5.4
Major landowners	0	0
Government	2	5.4
State and other public agencies	1	2.7
Oil and gas industry	19	51.4
Electric and phone utility cos	9	24.3
Trade associations or ad hoc organizations	4	10.8
Total	37	100.0

The comments were very specific and contained recommendations applicable to the fee calculation process proposed by the two Agencies. Analysis of the comments has pointed out the need for some modification of the first proposal. In developing the revised proposed policy, both the Forest Service and Bureau of Land Management considered the comments received by both Agencies.

In addition, the Forest Service and the Department of the Interior held several meetings and discussions with permittee representatives for the purpose of seeking an equitable resolution of the permittee's concerns about the Notice of Intent Proposal dated January 18, 1985.

The following is a summary of the policy proposed in the second notice, a summary of public comments, and permittee discussions, and where applicable, a discussion of changes in the proposal based on Agency consideration of the comments.

Right-of-Way Zone Determinations

The Forest Service and the Bureau of Land Management proposed to complete a market survey to identify zones of reasonably common purchase prices. Upon determination of common price zones, the Agencies proposed then to select administratively a single value for the zone by type of right-of-way.

Most reviewers commented on this section. Industry respondents suggested that land values be established locally by appraisers and that these values be restricted to the uses described in the Forest Management Plan, that these values then be adjusted to reflect the percentage of the rights conveyed, and then that the values be further reduced by 40–90 percent to reflect the differences between a public grant and a private easement. This value amount then would be multiplied by 4–8 percent to reflect a rate of return to the land.

As an example, using a Management Plan land value of $100 per acre adjusted downward by 50 percent to reflect rights conveyed x a downward adjustment of 65 percent for the difference between a public grant and private easement x rate of return to the land of 5 percent, the annual rental fee would be $100/acre x 0.50 x 0.35 x 0.05 or $0.88/acre.

Comments were mixed on establishment of value zones. Some preferred a "mean" price for a single zone while others felt "typical values" for specific areas would be most appropriate. Again, the comments varied on the size of a zone. Many preferred large geographic zones while others preferred small areas. A few reviewers recommended continuing with individual appraisals for each right-of-way.

Right-of-Way Zones presented herein are areas based on typical raw land values for the type of land the FS and BLM have in the past allowed and plan in the future to be occupied by a linear right of way. A corridor or window through which such uses must pass would be typical of the land represented by the value zones.

The value of timber is not included in the value assigned to the zones because the timber is usually paid for separately and removed when the right of way is cleared.

The market survey conducted by the Forest Service Regional Chief Appraisers and their counterparts in the Bureau of Land Management was made for the purpose of collecting data on what industry was paying for a right-of-way. However, part of the survey was to estimate the land values over which the right-of-way was purchased. It is this information and additional information provided by the permittee representatives that is used as a basis in establishing the right-of-way zones.

Right-of-Way Zones are not based on the values for urban or suburban residential areas, industrial parks, farms or orchards, recreation properties or other such types of land. Attractive public use areas such as lakeshores, streamsides, and scenic highways frontage, are examples of areas the Agencies try to avoid with the type of uses associated with linear rights-of-way. Consequently, the value zones do not reflect these types of land values. No representation is made that the Zones reflect the value of private land or other ownership unless that land is comparable with the land typically occupied by a right of way under permit from the FS or the BLM. Specific sites within the zones may have actual values higher or lower than the value assigned to the zone.

The zones are established by State and County jurisdiction for administrative convenience.

It is the intent of the Forest Service that the proposed fee schedule be used

to calculate fees for the majority of the right-of-way permits. However, the agency reserves the right to use individual appraisals or other valuation procedures to calculate fees for those permits that have unique characteristics.

Differential Adjustment

Annual vs. One-time Payments

Generally, all respondents would prefer acquiring a perpetual grant by paying a one-time, lump sum payment up front. In support of this, industry asserted that the cost of billing on an individual case instead of company basis often exceeds the amount of the rental. Respondents felt the laws or regulations should be changed to allow the issuance of a perpetual easement for a lump sum payment. Many requested a discount be applied to the lump sum payment.

The Forest Service lacks authority to discount lump sum advance payments, but existing policy allows advance lump-sum payment for up to five years or until the next fee adjustment date whichever is first when the annual fee is less than $100. It is proposed to remove the dollar limitation on advance payment. However, when the annual fee is less than $100 the authorizing officer may require an advance lump-sum payment. At the beginning of the next 5-year period the current annual rental rate would apply.

This procedure provides benefits similar to discounting advance payments.

To assist in reducing the industries' and the Forest Service administrative costs on billing, a system will be implemented to provide consolidated billing for a multiple permit holder within a National Forest unit.

Annual Fee Schedule Adjustment

Two methods were originally proposed for maintaining an updated schedule. One alternative was to resample the market data at least every five years and the other alternative was to adjust the schedule annually by the degree of fluctuation in the 30-year bond rate or the Consumer Price Index.

The majority of respondents stated that use of the Consumer Price Index would not accurately reflect changes in the market value of land.

Respondents suggested that a new market analysis of land values in each zone was needed every 5 to 10 years to update the schedule. Several respondents suggested that the USDA's, Farm Real Estate Market Developments annual report be used to update the fee schedule.

A number of respondents favored periodic adjustment of rental fees at intervals of 5 or less years. Based on the Forest Service's past experience with other special-use permits being reappraised on 5-year intervals, an annual adjustment was selected in order to maintain a schedule which would reflect current values and reduce the administrative cost of making appraisals.

After a review of various indexes, it now is proposed that the per acre rental fees in the fee schedules will be adjusted annually by multiplying the current year per acre rental by the annual change (third quarter to third quarter) in the Implicit Price Deflator (IPD) index as published in the *Survey of Current Business* of the U.S. Department of Commerce, Bureau of Economic Analysis. The IPD index provides users protection from rising prices and eliminates wide swings in rates which often result in appeals.

To assure that the rentals being collected actually reflect the rental value of the land, the basis for each of the elements used in the original formula to calculate the per acre rental values shall be reviewed when the cumulative change in the IPD index exceeds ± 30 percent, or a cumulative change in the 1-year Treasury securities "Constant Maturity" rate exceeds ± 50 percent. The review is for the purpose of determining whether market conditions and business practices have varied sufficiently from the index to warrant a revision in the elements or the complete formula.

Rental for the ensuing calendar year for any single right-of-way easement or permit shall be the rental per acre from the schedule times the number of acres embraced in the right-of-way rounded to the nearest whole dollar, unless such rental is reduced or waived as provided in FSM 2715.24.

Imposition of New Rates

New Permits—New rental fees and permit clauses will be effective as of the date the final notice is published.

Existing Permits—New rental payments and permit clauses will be effective for existing permits when they are periodically scheduled for fee readjustment. Most existing permits require a fee readjustment every 5 years. Where no readjustment is provided, the new rates and clauses will be put into effect in 1992.

During the period of new policy development, the Forest Service has issued permits with provisional terms and conditions subject to the adoption of the new policy. In some cases, fee adjustments have been deferred pending adoption of new policy. Terms and conditions of permits issued subject to the final adoption of the new policy will be followed in applying the new rates. The same applies to fee adjustments deferred until completion of the new policy.

For existing permits, where the increase in the annual rental would exceed $100 and the increase in rental would be in excess of 100 percent, the amount of the new rental in excess of the 100 percent increase would be phased in by equal increments, plus the annual adjustment, over a 3-year period. As an example of how this process would work, assume a current rental of $100 per year, a new rental of $500 per year, and an annual adjustment of plus 2 percent of the increase in the rental; then, the payments would be as follows:

Year	Last year fee	First 100% increase	⅓ balance of increase	Annual adjustment	Current year fee
1	$100	$100	$100	0	$200
2	300	0	100	$10	410
3	410	0	100	10	520

Other Terms and Conditions

To provide for the differences between a Federal and private grant, the January 18, 1985, proposal (50 FR 2697) provided for use of a 15 percent adjustment for Mineral Leasing Act rights-of-way and a 10 percent adjustment for Federal Land Policy and Management Act rights-of-way. The Mineral Leasing Act adjustment is greater due to its additional statutory requirements, such as the Common Carrier provision, that are not required for other types of rights-of-way.

This adjustment is the area of most concern to respondents. Some provided data by which they measured such differences based on cost of grant acquisitions or construction. All indicated that the discount for a Federal grant should be no less than 40 percent; some reviewers recommended adjustments ranging as high as 100 percent for certain categories of grants.

Some reviewers also felt there should be no adjustment made for the difference between Federal Land Policy and Management Act and Mineral Leasing Act grants. Some respondents recommended changes in Federal authorizations to eliminate differences. These proposed changes included allowing perpetual easements, developing master permits common to the two Agencies, deleting the clauses requiring permittees to relocate facilities

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at their expense as a result of Agency management decision, and permitting reassignment of permits without the Agencies being able to include new requirements.

Existing requirements for relocation cost to the user and assignability are two areas modified in this proposal. Under this proposal, the requirement for relocation at the user's expense would be dropped and the transfer clause modified to allow easements to be assigned to qualified parties without change in terms and conditions of the authorization. This proposal to modify clauses would not apply to permits and other special use authorizations that do not pay fair market value fees, such as REA financed facilities.

A number of respondents suggested that additional requirements in public lands rights-of-way permits, such as requiring archeological studies, painting structures, and seeding, are costly, unreasonable and, therefore, should be modified. Some of these comments concern statutory obligations beyond regulatory jurisdiction of the Department of Agriculture, and others are required by the Forest Service to protect the natural resources and scenic environment.

Conclusion

The comments addressed above were primarily directed at a proposal to use a market survey data base. We believe that a majority of these comments have been addressed by the decision to change from the purchase price of easements to a land value base.

The permits or easements being granted are not in fee ownership and the real estate market shows that, in most instances, if you do not acquire the fee, the value is less than the fee. The real estate market is not refined to the point to measure such less than fee values in exact dollars or percentages. In arriving at the proposal, all available data, including comments, discussions with permittee representatives, the impact of the use on the land, and professional judgment have been utilized in selecting an adjustment.

For rights-of-way for electric transmission and distribution lines, telephone lines, and similar rights-of-way, a 30 percent adjustment has been selected. The impact on the land, and its management, made by energy pipelines, ditches, canals, and roads, as a whole, is more severe than those for electrical, telephone and other rights-of-way. For these types of rights-of-way, a 20 percent adjustment has been selected.

For these reasons, the Forest Service proposes to charge 80 percent of the zone right-of-way value for energy pipelines, ditches, canals, and road rights-of-way; and 70 percent for electrical transmission, electrical distribution, telephone, and other linear rights-of-way.

Calculation of Annual Rental from Adjusted Right-of-Way Zone Value

The January 18, 1985, proposal (50 FR 2697) was to use the 30-year Federal Bond rate as of October 1 as the applicable rate for converting the right-of-way zone value to an annual rent.

Respondents had widespread opinions as to what rate should be used. The majority of respondents did not support long-term financial rates on the basis that long term rates do not reflect periodic adjustment in rents. Some stated a Federal bond rate would be appropriate if it coincided with the payment term. Others stated the rate of return must be drawn from the land market relevant to the right-of-way. Almost all comments suggested a rate of return in a range from 4 to 8 percent of the fair market value of the land.

To calculate right-of-way annual rental, it is proposed to use the current 1-year Treasury Securities "Constant Maturity" rate effective, as published by the Federal Reserve in the statistical release report H. 15 (519), at the time the final notice is published. Thereafter, annual adjustments would be made using the Implicit Price Deflator (IPD) index rate effective at the end of third quarter of each year.

Other Issues Raised by Respondents

Whether All Utilities Should Be Exempt From Rentals

Several of those commenting suggested that private investor utilities should be exempt from paying rentals. This contention is not supported by statute or legislative history.

The Federal Land Policy and Management Act provides authority for waiver of rental fees when equitable and in the public interest; for Federal, State, or local governments or any agency or instrumentality thereof, nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit making corporations or business enterprises, or where holders provide without charge, or at reduced charge, a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation, including free use.

Numerous administrative appeal decisions by the agency have affirmed the position that no reduction or waiver of fees is appropriate for organizations whose principal source of revenue is customer charges. The legislative history of section 504(g) of the Federal Land Policy and Management Act records that Congress intended free use to be restricted to Agencies of the Federal Government and to those situations where the charge is token, and the cost of collection unduly large.

Several additional respondents concluded that, because of the United States Court of Appeals, Tenth Circuit ruling in *Beaver, Bountiful, Enterprise v. Andrus*, 637 F2d 749 (1980), all municipalities and other entities, including private investor utilities, should be exempt from paying rental fees under the proposed policy because the lands and resources utilized would continue to serve the general public.

In the subject case, the court ruled that *Beaver, Bountiful, Enterprise* was a local governmental entity under State law and, therefore, exempt from paying rental under the Bureau of Land Management regulations in effect at that time; however, the court did not decree that all private investor utilities should be exempt.

Several others claimed that public utilities should be exempt from paying rental because congressional intent expressed in the passage of Public Law 98–300, which amended the Federal Land Policy and Management Act to exempt electric and telephone facilities of Rural Electric Cooperatives from paying right-of-way rental, supported such a conclusion. Such a conclusion is not supported by the language in Pub. L. 98–300 which provides for rental exemptions for facilities financed pursuant to the Rural Electrification Act. Facilities that are not so financed do not qualify for a rent-free authorization except when the facilities are an extension of a Rural Electrification Act financed facility. .

Unauthorized Double Charge

Some respondents stated that the requirement to pay both annual rental and the costs of processing and monitoring the permit is an unauthorized double charge on the applicant/holder and suggested that this situation could be resolved by providing for an offset in one fee for payments made in the other. The Mineral Leasing Act specifically requires collection of both annual rental fees that reflect fair market value and reimbursement of costs. In addition, the Federal Land Policy and Management Act provides for recovery of reasonable administrative costs incurred in processing an application.

Other

The Forest Service concludes it is important to maintain a cooperative relationship with users of linear rights-of-way crossing Federally managed lands. The Forest Service will continue to work closely with various user groups to resolve issues, reduce administrative costs, and improve the efficiency of the system by which Federal right-of-way programs are managed.

Summary of Proposed Rental Fee Procedure

Using land value data from the market survey and information from permittees, a right-of-way value zone map was prepared. To determine fees, the right-of-way zone value was adjusted downward by 20 percent for energy pipelines, ditches, canals and roads, and 30 percent for all other uses. The adjusted value is then multiplied by the 1-year Treasury Securities "Constant Maturity" rate to arrive at the annual per acre rental fee for each value zone.

For this proposal a rate of 7.07 percent was used. The final notice will be based on the current rate as published by the Federal Reserve statistical release H.15 (519) at time of preparation of the final notice. The following example illustrates how the proposed rental fees are calculated.

Formula: Rental fee/acre = R/W zone value × differential adjustment × 1-year Treasury Securities rate.

Factors: Zone value = $100/acre; differential adjustment 20 percent energy pipelines, and similar uses and 30 percent for all others; 1-year Treasury Securities rate = 7.07 percent (as of 3/7/86).

Calculation

Energy Pipelines, etc: $100/acre × 0.80 × 7.07 percent = $5.66/acre rental fee.

Other $100/acre × 0.70 × 7.07 percent = $4.95/acre rental fee.

The appendix shows a proposed fee schedule by State, county, and type of linear right-of-way use that results from applying the above formula to the right-of-way zone values.

Dated: August 1, 1986.

F.A. Dorrell,

Acting Chief.

APPENDIX—FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE/YEAR

State and county	Oil and gas and other energy related pipelines, roads, ditches and canals	Electric transmission lines, telephone, electric distribution, non-energy related pipelines, and other linear rights-of-way
Alabama: All counties	$22.62/AC/YR	$19.80/AC/YR.
Arkansas: All counties	$16.97/AC/YR	$14.85/AC/YR.
Arizona:		
Apache, Cochise, Gila, Graham, La Paz, Mohave, Navajo, Pima, Yavapai, Yuma, Coconino north of Colorado River	$5.66/AC/YR	$4.95/AC/YR.
Coconino south of Colorado River, Greenlee, Maricopa, Pinal, Santa Cruz	$22.62/AC/YR	$19.80/AC/YR.
California:		
Siskiyou	$16.97/AC/YR	$14.85/AC/YR.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte	$28.28/AC/YR	$24.75/AC/YR.
El Dorado, Fresno, Glenn, Humboldt, Kern, Kings, Lake, Madera, Mariposa, Mendicino, Merced, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, Santa Clara, Shasta, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Toulumne, Yolo, Yuba.	$28.28/AC/YR	$24.75/AC/YR.
Imperial, Inyo, Lassen, Modoc, Riverside, San Bernardino	$11.31/AC/YR	$9.90/AC/YR.
San Luis Obispo, Los Angeles, Orange, Santa Barbara, San Diego, Ventura, Monterey, Santa Cruz, San Mateo, San Francisco, Marin.	$33.94/AC/YR	$29.69/AC/YR.
Colorado:		
Adams, Arapahoe, Bent, Cheyenne, Crowley, Elbert, El Paso, Huerfano, Kiowa, Kit Carson, Lincoln, Logan, Moffat, Montezuma, Morgan, Pueblo, Sedgewick, Washington, Weld, Yuma.	$5.66/AC/YR	$4.95/AC/YR.
Alamosa, Archuleta, Boulder, Chaffee, Clear Creek, Conejos, Costilla, Custer, Denver, Delta, Douglas, Eagle, Fremond, Gilpin, Grand, Gunnison, Hinsdale, Jackson, Jefferson, Lake, La Plata, Larimer, Mineral, Ouray.	$22.62/AC/YR	$19.80/AC/YR.
Park, Pitkin, Rio Grande, Saguache, San Juan, Summit, Teller	$22.60/AC/YR	$19.80/AC/YR.
Baca, Dolores, Garfield, Las Animas, Mesa, Montrose, Otero, Prowers, Rio Blanco, Routt, San Miguel	$11.31/AC/YR	$9.90/AC/YR.
Connecticut: All counties	$5.66/AC YR	$4.95/AC/YR.
Florida:		
Baker Bay, Bradford, Calhoun, Clay, Columbia Dbde, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington.	$33.94/AC/YR	$29.69/AC/YR.
All other countnes	$56.58/AC/YR	$49 49/AC/YR.
Georgia: All counties	$33.94/AC/YR	$29.69/AC/YR.
Idaho:		
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone	$16.97/AC/YR	$14.85/AC/YR.
Cassia, Gooding, Jerome, Lincoln, Minidoka, Oneida, Owyhee, Power, Twin Falls	$5 66/AC/YR	$4 95/AC/YR.
Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Clark, Custer Elmore, Franklin, Fremont, Gem, Jefferson, Lemhi, Madison, Payette, Teton, Valley, Washington.	$16.97/AC/YR	$14.85/AC/YR.
Kansas:		
Morton	$11.31/AC/YR	$9 90/AC/YR.
All other counties	$5 66/AC/YR	$4.95/AC/YR.
Illinois: All counties	$16.97/AC/YR	$14.85/AC/YR.
Indiana: All counties	$28 28/AC/YR	$24.85/AC/YR.
Kentucky: All counties	$16.97/AC/YR	$14.85/AC/YR.
Louisiana: All counties	$33.94/AC/YR	29.69/AC/YR.
Maine: All counties	$16.97/AC/YR	$14.85/AC/YR.
Michigan:		
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft	$16.97/AC/YR	$14.85/AC/YR.
All other counties	$22.62/AC/YR	$19 80/AC/YR.
Minnesota: All counties	$16 97/AC/YR	$14.85/AC/YR.
Mississippi: All counties	$22 62/AC/YR	$19 80/AC/YR.
Missouri: All counties	$16.97/AC/YR	$14.85/AC/YR.
Montana:		
Big Horn, Blaine, Carter, Cascade, Chouteau, Custer, McCone, Meagher, Dawson, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, Liberty, Musselshell, Petroleum, Phillips, Pondera, Powder River, Prairie, Rosebud, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone.	$5.66/AC/YR	$4.95/AC/YR.
Beverhead, Broadwater, Carbon, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis & Clark, Lincoln, Madison, Mineral, Missoula, Park, Powell, Ravalli, Sanders, Silver Bow, Stillwater, Sweet, Grass.	$16.97/AC/YR	$14.85/AC/YR.
Daniels, Richland, Roosevelt, Shendan	$5.66/AC/YR	$4.95/AC/YR.
Nebraska: All counties	$5.66/AC/YR	$4.95/AC/YR
Nevada:		
Churchill, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon Mineral, Nye, Pershing, Washoe, White Pine	$2.83/AC/YR	$2.47/AC/YR.

APPENDIX—FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE/YEAR—Continued

State and county	Oil and gas and other energy related pipelines, roads, ditches and canals	Electric transmission lines, telephone, electric distribution, non-energy related pipelines, and other linear rights-of-way
Douglas, Carson City, Story	$26.26/AC/YR	$24.75/AC/YR.
Clark	$11.31/AC/YR	$9.90/AC/YR.
New Hampshire: All counties	$16.97/AC/YR	$14.85/AC/YR.
New Mexico:		
Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalog, Lea, Luna, McKinley, Otero, Quay, Roosevelt, San Juan, Socorro, Torrence.	$5.66/AC/YR	$4.95/AC/YR.
Bernalillo, Catron, Cibola, Colfax, Lincoln, Los Alamos, Mora, San Miguel, Santa Fe, Sierra, Taos, Valencia	$22.62/AC/YR	$19.80/AC/YR.
Rio Arriba, San Doual, Union	$11.31/AC/YR	$9.90/AC/YR.
New York: All counties	$22.62/AC/YR	$19.80/AC/YR.
North Carolina: All counties	$33.94/AC/YR	$29.69/AC/YR.
North Dakota: All counties	$5.66/AC/YR	$4.95/AC/YR.
Ohio: All counties	$22.62/AC/YR	$19.80/AC/YR.
Oklahoma:		
Le Flore, McCurtain	$16.97/AC/YR	$14.85/AC/YR
Beaver, Cimarron, Roger Mills, Texas	$11.31/AC/YR	$9.90/AC/YR.
All other counties	$5.66/AC/YR	$4.95/AC/YR.
Oregon:		
Harvey, Lake, Malheur	$5.66/AC/YR	$4.95/AC/YR.
Baker, Crook, Deschutes, Gilliam, Grant, Jefferson, Klamath, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler	$11.31/AC/YR	$9.90/AC/YR.
Coos, Curry, Douglas, Jackson, Josephine	$16.97/AC/YR	$14.85/AC/YR.
Benton, Clackamas, Clatsop, Columbia, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill.	$22.62/AC/YR	$19.80/AC/YR.
Pennsylvania: All counties	$22.62/AC/YR	$19.80/AC/YR.
Puerto Rico: All	$33.94/AC/YR	$29.69/AC/YR.
South Dakota:		
Butte, Custar, Fall River, Lawrence, Meade, Pennington	$16.95/AC/YR	$14.85/AC/YR.
All other counties	$5.66/AC/YR	$4.95/AC/YR.
South Carolina: All counties	$33.94/AC/YR	$29.69/AC/YR.
Tennessee: All counties	$22.62/AC/YR	$19.80/AC/YR.
Texas:		
El Paso, Hudspeth, Culberson	$5.66/AC/YR	$4.95/AC/YR.
All other counties	$33.94/AC/YR	$29.69/AC/YR.
Utah:		
Beaver, Box Elder, Carbon, Duchesne, Emery, Garfield, Grand, Juab, Kane, Millard, Iron, San Juan, Tooele, Uintah, Wayne	$5.66/AC/YR	$4.95/AC/YR.
Cache, Daggett, Davis, Morgan, Piute, Rich	$16.97/AC/YR	$14.85/AC/YR.
Salt Lake, Sanpete, Sevier, Summit, Utah, Wasatch, Weber	$16.97/AC/YR	$14.85/AC/YR.
Washington	$11.31/AC/YR	$9.90/AC/YR.
Vermont: All counties	$22.62/AC/YR	$19.80/AC/YR.
Virginia: All counties	$22.62/AC/YR	$19.80/AC/YR.
Washington:		
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanagan, Spokane, Walla Walla, Whitman, Yakima.	$11.31/AC/YR	$9.90/AC/YR.
Ferry, Pend Oreille, Stevens	$16.97/AC/YR	$14.85/AC/YR.
Clallam, Clark, Cowlitz	$22.62/AC/YR	$19.80/AC/YR.
Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, Whatcom.	$22.62/AC/YR	$19.80/AC/YR.
West Virginia: All counties	$22.62/AC/YR	$19.80/AC/YR.
Wisconsin: All counties	$16.97/AC/YR	$14.85/AC/YR.
Wyoming:		
Campbell, Johnson, Sheridan	$5.66/AC/YR	$4.95/AC/YR.
Big Horn, Crook, Hot Springs, Park, Washakie, Weston, Treton	$16.97/AC/YR	$14.85/AC/YR.
Albany, Carbon, Converse, Goshen, Laramie, Lincoln, Natrona, Niobrara, Platte, Sweetwater, Fremont, Sublette, Uinta	$5.66/AC/YR	$4.95/AC/YR.

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Cowee-Davies (Echo Cove) Management Area Plan and Timber Sale Project; Chatham Area, Tongass National Forest, Alaska

AGENCY: Forest Service, USDA.

ACTION: Rescission of decision; notice of new decision.

SUMMARY: On July 8, 1986, a notice was published which withdrew the Decision Notice and Finding of No. Significant Impact for the Cowee/Davies (Echo Cove) Management Area Plan and Timber Sale Project (51 FR 24735). The withdrawl decision was dated June 24, 1986. In order to permit a full 45 day period to appeal this decision, the withdrawal decision date June 24, 1986, has been rescinded and replaced with a withdrawal notice signed July 8, 1986. The withdrawal notice dated July 8, 1986, which follows is identical to the June 24, 1986, notice with the exception of the date. Interested parties have already been notified of this new decision date through direct distribution and local press releases.

DATE: The public may appeal the decision to withdraw the Decision Notice and Finding of No Significant Impact pursuant to the appeal procedures at 36 CFR 211.18 within 45 days of the July 8 decision notice.

FOR FURTHER INFORMATION CONTACT: Questions concerning the above should be addressed to Kenneth Roberts, Forest Supervisor, Tongass National Forest, Chatham Area, 204 Siginaka Way, Sitka, Alaska 99835. Telephone 907-747-6671.

Kenneth W. Roberts,

Forest Supervisor.

July 28, 1986.

[FR Doc. 86-18292 Filed 8-13-86; 8:45 am]
BILLING CODE 3410-11-M

Withdrawal of Decision Notices and Findings of No Significant Impact for the Cowee-Davies (Echo Cove) Management Area Plan and Timber Sale Project

In February 1982, the Forest Supervisor, Chatham Area, Tongass National Forest, made available to the public an environmental assessment (EA) regarding a proposal to harvest timber in the Echo Cove (C03)

Management Area of the Tongass National Forest, and associated road and log transfer facility development. This Management Area has been referred to as the Cowee-Davies Management Area in some Forest Service environmental analyses, to avoid confusion with private lands surrounding Echo Cove. On July 19, 1983, the Forest Supervisor issued a Decision Notice and Finding of No Significant Impact (FONSI), which adopted as a selected alternative a timber sale project that included approximately 25 miles of road construction and initial harvest entry sale of 28 million board feet (MMBF) of timber in small cutting units dispersed among the Cowee, Davies, Canyon, and Sawmill Creek drainages in the management area. The project also included construction of a log transfer facility to the north of Sawmill Cove, on the southeast shore of Berners Bay. The project would provide access to approximately 115 MMBF of additional operable commercial timber over a rotation period of 100 years or more.

Management Area C03 received a LUD III designation in the Tongass Land Management Plan completed in March 1979 (TLMP). Draft and final Environmental Impact Statements (EIS) were prepared for TLMP. Commercial timber harvest and road construction are authorized by TLMP in such LUD III areas. Available commercial forest land in such areas was included in TLMP to calculate the allowable sale quantity for the commercial timber sale program on the Tongass National Forest. The Cowee-Davies Management Area Plan Decision Notice and Finding of No Significant Impact, issued April 24, 1981 by the Forest Supervisor, Chatham Area, adopted a timber sale of 35 MMBF, a barge log transfer facility in the vicinity of Sawmill Cove, and associated road construction as the selected alternative for initial entry timber harvest in the management area. An EA was prepared for the Management Area Plan. The timber sale project decision notice, FONSI, and EA were tiered to TLMP and the TLMP EIS and to the Management Area Plan Decision Notice, FONSI, and EA.

On June 17, 1985, the Forest Service opened bids for a contract to construct the roads associated with the timber sale project. However, on the same day, opponents of the project filed a lawsuit seeking to enjoin roading and logging activities in Management Area C03, based upon alleged violations of the National Environmental Policy Act (NEPA) and other laws. Sierra Club et al v. Blackwell et al, No. J85-015 Civ. (D. Alaska). On August 28, 1985, the federal district court issued a preliminary injunction against award of the road building contract and otherwise beginning road construction or logging operations in the area until further order of the court, based upon a tentative finding that the Plaintiffs were likely to succeed in showing that an environmental impact statement (EIS) would be required for the project. The Forest Service determined to reject all bids for the road contract and wait for further resolution of the litigation before determining whether to readvertise the contact. The litigation currently remains pending.

I have determined at this time that the resolution of this dispute will be expedited by preparation of an EIS that addresses the environmental impacts of the proposed project and alternatives to it, including a no action alternative. Particular issues, concerns, and opportunities to be addressed will be established during the scoping process to be conducted according to 40 CFR 1501.7. The concerns which opponents of this project have raised in the litigation will be considered in this process.

I hereby withdraw the July 19, 1983 decision notice, and FONSI and supporting EA for the Cowee-Davies timber sale project and the April 24, 1981 Cowee-Davies Management Area Plan Decision Notice, FONSI, and supporting EA. No commercial timber harvest or road construction shall occur in Management Area C03 until additional environmental analysis and new decisions regarding any such action are completed and issued. Before reaching a new decision concerning the previously proposed Cowee-Davies timber sale project and associated road contract and log transfer facility, or alternatives to these actions, an environmental impact statement concerning the project and alternatives to it will be prepared, in accordance with the Notice of Intent attached hereto.

This decision is subject to administrative appeal pursuant to 36 CFR 211.18. A written Notice of Appeal and Statement of Reasons must be filed with the deciding official within 45 days of the date of decision listed below.

Dated: July 8, 1986.

K. W. Roberts,

Forest Supervisor.

[FR Doc. 86-18297 Filed 8-13-86; 8:45 am]

BILLING CODE 3410-11-M

Timber Sale Information Reporting System

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: In the October 1984 Conference Report (98-1150) accompanying the fiscal year 1985 continuing appropriations act, Congress directed the Forest Service to develop proposals for "a reasonable but complete system" that would allow for better identification of the costs of its timber sale program and that would also allow for a comparison of actual costs and benefits. A Forest Service task force has proceeded to investigate, design, test, and evaluate various techniques and procedures to respond to congressional direction and has developed a draft recommendation. The proposed reporting system would gather data at the National Forest level and provide a basis for annual reporting of accounts relating to financial, economic, and employment, income, and program level aspects of the timber sale program.

ADDRESS: Single copies of the draft report are available upon request from Director of Policy Analysis (1960), Forest Service, USDA, P.O. Box 2417; Washington, DC 20013; (202) 447-2775.

FOR FURTHER INFORMATION CONTACT: Bjorn Dahl, Forest Service, Policy Analysis, P.O. Box 2417, Washington, DC 20013, Telephone: (202) 447-2775.

Dated: August 1, 1986.

R. Max Peterson,

Chief.

[FR Doc. 86-18374 Filed 8-13-86; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Northwest Cherokee Watershed, South Carolina and North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 650); the Soil Conservation Service, U. S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northwest Cherokee Watershed, Cherokee County, South Carolina, and Rutherford and Cleveland Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, Telephone (803) 765-5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project. The project concerns a plan for erosion control on 7,650 acres of cropland to be accomplished through Conservation plans and long-term contracts involving about 120 farms. The soil and water conservation districts will provide leadership for installing the project.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: June 13, 1986.

T. Niles Glasgow,

Deputy State Conservationist.

[FR Doc. 86-18291 Filed 8-13-86; 8:45 am]

BILLING CODE 3410-16-M

Trumbull County Joint Vocational School Land Drainage RC&D Measure, Ohio

AGENCY: Soil Conservation Service. USDA.

ACTION: Finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Trumbull County Joint Vocational School Land Drainage, RC&D Measure, Trumbull County, Ohio.

FOR FURTHER INFORMATION COUNTY: Harry W. Oneth, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for improving the internal and surface drainage in the land laboratory and campus area of the school.

Planned works of improvement include the installation of subsurface (title) drainage, the installation of a diversion, and the seeding and mulching of disturbed areas.

The Notice of Finding No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Harry W. Oneth.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Harry W. Oneth,

State Conservationist.

July 31, 1986.

[FR Doc. 86-18322 Filed 8-13-86 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-020]

Pig Iron From Canada; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination to Revoke in Part.

SUMMARY: In response to a request by Dofasco, Inc., the Department of Commerce has conducted an administrative review of the antidumping finding on pig iron from Canada. The review covers 1 of the 5 known manufacturers and/or exporters of this merchandise to the United States currently covered by this finding and the period July 1, 1983 through June 30, 1985. The review indicates the existence of no dumping margins for the period.

As a result of the review, the Department has tentatively determined to revoke the finding with respect to Dofasco, Inc.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Helen Askins or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 11003) the final results of its last administrative review of the antidumping finding on pig iron from Canada (36 FR 13780, July 24, 1971). On September 13, 1985, the Department received a request from Dofasco, Inc. in accordance with § 353.53a(a) of the Commerce Regulations for the next administrative review, and we published a notice of initiation of the antidumping duty administrative review in the **Federal Register** on January 21, 1986 (51 FR 2748).

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe automoble castings, and machine parts. Such merchandise is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated. The review covers 1 of the 5 known manufacturers and/or exporters of Canadian pig iron to the United States currently covered by this finding, Dofasco, and the period July 1, 1983 through June 30, 1985.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on f.o.b. mill prices to unrelated purchasers in the United States. No deductions were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on f.o.b. mill prices to unrelated purchasers in the home market. No adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Period	Margin (percent)
Dofasco	07/01/83–06/30/84	0
	07/01/85–06/30/86	[1]0

[1]No shipments during the period.

The Department will issue appraisement instructions directly to the Customs Service. Dofasco, Inc. requested partial revocation of the finding and, as provided for in § 353.54(e) of the Commerce Regulations, has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding under circumstances specified in the written agreement. Dofasco, Inc. made all sales at not less than fair value for 3 years and had no shipments for 1 year.

Therefore, we tentatively determine to revoke the antidumping finding on pig iron from Canada with respect to Dofasco, Inc. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Dofasco, Inc. and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such comments or hearing.

Further, as provided for by § 353.48(b) of the Commerce Regulations, since there was no margin for Dofasco the Department shall not require a cash deposit of estimated antidumping duties for Dofasco, Inc. For any shipments from the four remaining manufacturers/exporters of Canadian pig iron not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (50 FR 11003, March 19, 1985).

For any future entries from a new exporter of Canadian pig iron not covered in this or prior reviews, whose first shipments occurred after June 30, 1985, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian pig iron entered, or withdrawn from warehouse, for consumption on or after the date of publications of the final results of this review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985; 353.54).

Dated: August 8, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-18379 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-001]

Sorbitol From France; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Roquette Freres, the Department of Commerce has conducted an administrative review of the antidumping duty order on sorbitol from France. The review covers the one known manufacturer/exporter of this merchandise to the United States and consecutive periods from June 1, 1982 through March 31, 1985. The review indicates the existence of dumping margins during the periods.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Maureen Rosch or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 10695) the final results of its last administrative review of the antidumping duty order on sorbitol from France (47 FR 15391, April 9, 1982). We began the current review of the order under our old regulations. After the promulgation of our new regulations, the respondent, Roquette Freres, requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published a notice of initiation of the antidumping duty administrative review on November 27, 1985 (50 FR 48825).

Scope of the Review

Imports covered by the review are shipments of crystalline sorbitol. Crystalline sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is used in the production of sugarless gum, candy, groceries, and pharmaceuticals.

Such merchandise is currently classifiable under item 493.6820 of the Tariff Schedules of the United States Annotated. The review covers the one known French exporter of crystalline sorbitol to the United States, Roquette Freres, and consecutive periods from June 1, 1982 through March 31, 1985.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the packed duty-paid delivered price to unrelated purchasers in the United States. We made deductions, where applicable, for

foreign inland freight, ocean freight, marine insurance, freight forwarding, rebates, U.S. Customs duties and brokerage fees. We made an addition for an import levy imposed by the EC on corn which was not collected by reason of exportation of the sorbitol to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight, quantity rebates, differences in credit costs, commissions and packing. We disallowed a claimed adjustment for certain indirect selling expenses. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Roquette Freres	06/01/82-03/31/83	0.70
	04/01/83-03/31/84	.96
	04/10/84-03/31/85	.21

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, since the margin for Roquette Freres for the latest review period is less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties, as required by section 751(a)(1) of the Tariff Act, on shipments of French sorbitol entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: August 8, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-18382 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-412-020]

Stainless Steel Plate From the United Kingdom; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order.

SUMMARY: On May 20, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on stainless steel plate from the United Kingdom and announced its tentative determination to revoke the order. The review covers the period from March 1, 1986.

We gave interested parties an opportunity to comment. After considering the comment received, we determine that domestic interested parties are no longer interested in continuation of the order, and we are revoking the order. In accordance with the petitioner's notification, the revocation will apply to all stainless steel plate exported on or after March 1, 1986.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Marselian or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 18472) the preliminary results of its changed circumstances administrative review of the countervailing duty order on stainless steel plate from the United Kingdom (48 FR 28690, June 23, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of U.K. stainless steel plate currently classifiable under items 607.7605 and 607.9005 of the Tariff Schedules of the United States Annotated. Stainless steel plate is a flat-rolled product, whether or not corrugated or crimped, in coils or cut to length, 0.1875 inch or more in thickness and over 8 inches in width or, if cold-rolled, over 12 inches in width. The review covers the period for March 1, 1986.

Analysis of Comment Received

Comment: The Commission of the European Communities points out that the wording of the notice of preliminary results of changed circumstances administrative review is not in accordance with the Agreed Minutes of the 1986 Steel Arrangement. The notice states that the revocation will apply to exports on or after March 1, 1986, while the Agreed Minutes state that the "revocation will be made effective for all unliquidated entries on or after" March 1, 1986. The Commission contends that the revocation should be changed to comply with the wording to the Agreed Minutes.

Department's Position. The basis of the revocation is the lack of interest in continuation of the order on the part of domestic interested parties. In their April 22, 1986 letter to the Department, the petitioners requested that the Department revoke the order with respect to all shipments from the United Kingdom on or after March 1, 1986. Therefore, we are revoking this order with respect to shipments of U.K. stainless steel plate exported on or after March 1, 1986.

Although the 1982 US/EC arrangement on certain steel products, as amended on December 11, 1986, is not the basis of the revocation, the effective date of the revocation is consistent with that agreement.

Article 2(b)(1) states, ". . . this Arrangement shall only apply to such (specialty steel) products that are

exported from the ECSC after the last day of the month in which the U.S. terminates both the tariffs and quotas imposed under section 203 of the Trade Act of 1974 on such products." Therefore, specialty steel products exported prior to March 1, 1986, including those shipments which entered the U.S. after March 1, 1986, are not covered by the Arrangement.

Only those shipments exported on or after March 1, 1986 and accompanied by a valid export certificate are covered by the Arrangement.

Final Results of Review and Revocation

After a review of the comment received, we determine that domestic interested parties are no longer interested in continuation of the countervailing duty order on stainless steel plate from the United Kingdom and that the order shoud be revoked on this basis.

Therefore, we are revoking the order on stainless steel plate from the United Kingdom effective March 1, 1986. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of stainless steel plate from the United Kingdom which were exported prior to March 1, 1986. The Department will cover any entries not covered in a prior administrative review and exported before March 1, 1986 in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 24, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-18378 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-557-601]

Termination of Countervailing Duty Investigation; Carbon Steel Wire Rod From Malaysia

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In a letter dated July 30, 1986, petitioners withdrew their countervailing duty petition filed on March 4, 1986, on carbon steel wire rod for Malaysia. Based on the withdrawal, we are terminating this investigation.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Ellie Shea or Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0184 or 377-2438.

SUPPLEMENTARY INFORMATION:

Case History

On March 4, 1986, we received a petition filed in proper form from Armco, Inc., Atlantic Steel Co., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, and exporters in Malaysia of wire rod receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act).

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 24, 1986, we initiated an investigation (51 FR 10905). We stated that we expected to issue a preliminary determination on or before May 28, 1986.

Since Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303 (a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Malaysia materially injure, or threaten material injury to, a U.S. industry.

On April 3, 1986, we presented a questionnaire to the government of Malaysia in Washington, DC concerning petitioners' allegations. We received the govenment and company responses on May 9, 1986.

On May 28, 1986, we issued our preliminary determination that no benefits constituting bounties or grants are being provided to the manufacturers, producers, or exporters in Malaysia of carbon steel wire rod (51 FR 20324). We conducted verification of the responses of the government of Malaysia, Amalgamated Steel Mills Bhd., Angkasa Marketing Sdn. Bhd., and Malayawata Steel Bhd. from June 23 through 27, 1986.

Our notice of preliminary determination gave interested parties an opportuity to submit oral and written views. On July 19, 1986, we received written views and on July 21, 1986, a public hearing was held.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States.*

Withdrawal of Petition

In a letter dated July 31, 1986, petitioners notified the Department that they are withdrawing their March 4, 1986 petition. Under section 704(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest. We have determined that termination would be in the public interest.

We have notified all parties to the investigation of petitioners' withdrawal and our intention to terminate. For these reasons, we are terminating our investigation.

This notice is published pursuant to section 704(a) of the Act (19 U.S.C. 1671c(a)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 8, 1986.

[FR Doc. 86-18376 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: In response to a request from the petitioner, the Department of Commerce has conducted an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1982 through September 30, 1983 and five programs

As a result of the review, the Department has preliminarily determined the net subsidy for the period of review to be 7.26 percent *ad valorem*. We invite interested parties to comments on these preliminary results.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1979, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 50914) a countervailing duty order on viscose rayon staple fiber from Sweden. We began this review of the order under our old regulations. On September 24, 1985, after the promulgation of our new regulations, the petitioner, the U.S. Rayon Producers Committee, requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of the order. We published the new initiation on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulua ("modal") viscose rayon staple fiber. Such merchandise is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the period October 1, 1982 through September 30, 1983 and five programs: (1) Loans/grants for plant creation; (2) Elderly employment compensation; (3) A grant for manpower reduction and a conditional loan; (4) An energy savings loan/grant; and (5) Deferral of interest payments. The sole known Swedish producer of the merchandise is Svenska Rayon, AB.

Analysis of Programs

(1) Loans/Grants for Plant Creation

Under three agreements, the Swedish government provided Svenska with interest-free loans for the creation of a modal fiber plant. The agreements provided that the Swedish government would forgive the loans in equal amounts over ten years if Svenska maintained its modal fiber plant capacity for at least ten years. If Svenska did not maintain its modal fiber plant for ten years, the full amount of the outstanding principal would fall due immediately.

The first agreement, Project 77, was concluded in 1975, and the Swedish government disbursed the funds between 1975 and 1977. The second agreement, Project 81, was concluded in 1978 and the funds disbursed between 1978 and 1981. In February 1979, the Swedish government provided a final interest-free loan to Svenska for pollution control improvement to the modal fiber plant.

Although Svenska modified its modal fiber plant to produce regular fiber as well as modal fiber, it maintained the modal production facilities at least through the end of the review period. The Swedish government forgave ten percent of the total disbursements to Svenska under Project 77 in 1978, and each year thereafter through the end of the year covered by this review, *i.e.*, 1983. Similarly, the Swedish government forgave ten percent of the total disbursements under Project 81 in 1981, and each year thereafter, and ten percent of the environmental loan in 1980, and each year thereafter.

If forgiveness continues according to schedule, Svenska's obligation under Project 77 will terminate by 1987, the year in which the Swedish government will forgive the last portion. Likewise, Svenska's obligation under Project 81 will terminate by 1990, and under the environmental loan, by 1989. This means that the life of the interest-free loans under Project 77 and Project 81 is 13 years, and under the environmental loan, 11 years.

In the final results to our last administrative review of this case (48 FR 50914, November 4, 1983), we treated the portion forgiven in the review period as a grant and expensed it in the year of receipt. We treated the unforgiven portion as the outstanding balance of a long-term loan, allocating to the review period the interest payments that would have been due in that period.

We now treat such government disbursements as contingent liabilities. Contingent liability programs usually involve some type of goal, such as the manufacture of a particular product or the fulfillment of a certain production, export, or profit level. There is usually some type of reward for achieving the goal, such as forgiveness of the financial obligation, or some type of retribution for failure to achieve the goal, such as accelerated payment of that obligation. When the terms of repayment are contingent upon the achievement of the goal, we must measure the benefit according to the conditions set for that particular program. (*See, e.g.*, the preliminary affirmative countervailing duty determination on certain textile mill products and certain apparel from Peru (49 FR 49680, December 21, 1984) and the final affirmative countervailing duty determination on certain carbon steel products from Sweden (50 FR 33375, August 19, 1985).)

As in past administrative reviews, we still consider the portions actually forgiven to be grants. However, instead of calculating the benefit from these grants by expensing the forgiven portions in the year of receipt, we have now applied the grant methodology outlined in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Determination" on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("the Subsidies Appendix"). As stated in the Subsidies Appendix, we expense in the year of receipt only those grants that are less than 0.5 percent of total sales. Since the portions forgiven since 1978 have been greater than that, we have allocated the present values of such portions forgiven, *i.e.*, those forgiven in prior periods and in the current period, over the remaining life of the relevant loan. For example, the life of the Project 77 loan is 13 years (including a maximum 3-year grace period, from 1975 to 1977, plus a 10-year period for forgiveness, from 1978 to 1987). Since the Swedish government forgave the first portion of that loan in 1978, the life of the first grant is ten years. The life of the second grant (*i.e.*, the portion forgiven in 1979) is nine years. The life of the third grant is eight years, and so on. Because the agreements on Project 77, Project 81, and the environmental loan were reached in 1975, 1978, and 1979, respectively, we used as the discount rates the national average corporate bond rate in Sweden (obtained from the *Monthly Digest of Swedish Statistics*, a Swedish government publication) for those years. We consider those rates to be the best information available because we have no information on Svenska's weighted cost of capital for those years. On this basis, we preliminary determine the

benefit from the grant portion of this program to be 1.58 percent *ad valorem.*

As in past reviews of this case, we continue to consider the unforgiven portions of this program to be interest-free loans. However, instead of treating the unforgiven portions as the outstanding balances of long-term loans, we are treating them as short-term loans and expensing the benefits in the year of receipt. Because there is uncertainty from year to year over whether the Swedish government will forgive a portion of Svenska's outstanding obligation under this program, or whether it will require full payment of the outstanding balance, we consider the balance outstanding during the review period to be a short-term loan.

To measure the benefit, we used a short-term commercial interest benchmark. We calculated the difference between the interest Svenska paid (*i.e.,* zero) on the outstanding balances (*i.e.,* the unforgiven portions) during the review period and the interest Svenska would have paid on a comparable short-term commercial loan for the same period. We used as a benchmark rate the national average short-term interest rate in Sweden, published in the Sveriges Riksbank's (the Swedish central bank) *Statistical Yearbook.* Assuming that Svenska rolled over the loans at the beginning of 1982 and paid the interest at the beginning of 1983, we applied the 1982 benchmark rate of 15.31 percent. On this basis, we preliminarily determine the benefit from the loan portion of this program to be 2.79 percent *ad valorem.* The benefit from both the grant and loan portions of this program is 4.37 percent *ad valorem.*

(2) Elderly Employment Compensation Program

The Swedish government provides a subsidy to certain companies within the textile and clothing industries through a special employment contribution for older workers. This program was established by government bill 1976/77: 105, adopted on March 3, 1977. The program is designed to encourage the retention of redundant employees in certain regions of the country. It provides compensation to a company based upon the number of hours worked by employees over 50 years of age. A company participating in the program must agree not to dismiss or release redundant employees of any age for any reason other than normal attrition. Payments are calculated on the basis of 28 kronor per hour for employees over age 50 who are involved in production and may not exceed 15 percent of the company's total labor costs.

Svenska received a payment under this program in July 1982. In January 1983, the Swedish government excluded the rayon fiber industry, including Svenska, from this program.

In past administrative reviews, we expensed the benefits from this program in the year of receipt. We have now applied the grant methodology outlined in the Subsidies Appendix, allocating the 1982 payment over ten years, the average useful life of assets in the rayon fiber industry, according to the "Asset Guideline Classes" of the U.S. Internal Revenue Service. We used Svenska's 1982 weighted cost of capital as a discount rate. On this basis, we preliminarily determine the benefit from this program to be 0.46 percent *ad valorem.*

(3) Grant for Manpower Reduction and Conditional Loan

The Swedish government concluded an agreement with Svenska in 1980 consisting of two parts: a grant for manpower reduction and a conditional loan to cover operating losses. The grant was intended to compensate the company for maintaining redundant employees longer than collective agreements and employment protection laws warranted, and for retraining employees to work elsewhere within the KF Industri ("KFIAB", the group of firms, including Svenska, owned directly or indirectly by Kooperativa Forbundet ("KF")). The grant was paid through the National Labor Market Board in two installments, one in December 1980, and the other in July 1981. In the absence of any indication that this agreement was part of some program of potential aid to more than Svenska, we conclude that the grant was available only to a specific enterprise, and preliminarily determine that it is countervailable.

We treated each installment of the grant separately and derived a discount rate for 1980, the year in which the agreement was reached. We used the 1980 national average corporate bond rate in Sweden as the discount rate because we have no information on Svenska's weighted cost of capital for that year.

Using the grant methodology described in the Subsidies Appendix, we first allocated each grant over ten years. We then allocated the benefits occurring in the review period over the value of Svenska's net sales during the review period. On this basis, we preliminarily determine the benefit from this manpower reduction grant to be 0.50 percent *ad valorem.*

For the additional loan part of the 1980 agreement, the terms (including the length) and conditions depended on the company's profit levels. The loan bore an interest rate of 10 percent per annum. If Svenska does not make a high enough profit (as determined by a confidential formula concluded between the Swedish government and Svenska), the Swedish government may forgive portions of the outstanding principal and interest. If Svenska attains a certain level of profit, it must repay a certain portion of the profit, including interest. The maximum duration of the conditional loan is 12 years. Again, in the absence of any indication that this agreement was part of some program of potential aid to more than Svenska, we conclude that the conditional loan was available only to a specific enterprise on terms inconsistent with commercial considerations, and preliminarily determine that it is countervailable.

The National Economic Defense Board disbursed the loan in three installments, one in December 1980, one in January 1981, and one in February 1982. Since Svenska did not reach a high enough profit in any year between 1980 and 1982 (as determined by the confidential formula), it has not made any repayments on this loan as of the end of the review period. The Swedish government forgave a portion of the loan in early 1983. Using the same methodology described for the plant creation loans/grants, we treated the amount forgiven in 1983 as a grant (allocated over the remaining life of the loan, nine years) and the unforgiven portion as a short-term loan on which interest would have been paid during the review period. We applied the same discount rate used for the manpower reduction grant and the same short-term benchmark rate used for the plant creation loans. On this basis, we preliminarily determine the benefit from the conditional loan to be 1.93 percent *ad valorem.*

(4) Energy Savings Loan/Grant

In accordance with a national policy intended to reduce dependence on foreign sources of energy (codified in government law 1980: 1085), the government of Sweden authorized an energy savings loan/grant for Svenska in January 1983. The amount covered approximately one-half the cost of a new steam and power station as well as a variety of other energy-related improvements.

If the investment program is carried out as scheduled, the Swedish government will forgive 20 percent each year through 1987. If Svenska fails to meet its obligations, it must repay the loan at commercial interest rates. As of the end of the review period, Svenska

VOL 51 ISS 157 AG 14 1986 UMI

had not paid any interest on this loan/grant.

The Swedish government provided to the Department a description of the program and a list of firms that received benefits under it. Because the program is available to all industries in all parts of the country, we preliminarily determine that it is generally available and therefore not counteravailable.

(5) Deferral of Interest Payments

The petitioner alleged that the Swedish government provided funds to Svenska's parent company, KF, that enabled Svenska to defer interest payments on short-term and long-term loans from KF to Svenska.

Svenska's short-term liabilities to its parent company are in the form of a current account system and its long-term liabilities to KF (or KFIAB) are in the form of promissory note loans and a debenture loan. The current account arrangement is comparable to an interest-bearing checking account. When the account is positive, KF pays interest to Svenska; when the account is negative, KF charges interest to Svenska. We found that KF charges and pays market rates of interest on the current account and that Svenska does not defer interest payments without penalty charges.

Svenska had two promissory note loans outstanding during the period of review, one underwritten by KF, and the other by KFIAB. Both loans are secured by mortgages on Svenska's assets. The loans are intended to be long-term, but the actual lengths are not specified. The loans bear variable interest rates that depend on KF's and KFIAB's cost of capital. We found that both KF and KFIAB charge market rates of interest on these loans and that Svenska does not defer interest payments without a penalty.

Svenska also had a debenture loan outstanding from KFIAB during the period of review. The terms of the loan and the interest rate depend on Svenska's profit levels. As of the end of 1983, Svenska had not paid any interest on this loan because of low profit levels.

For all of these financial arrangements between Svenska and KF (or KFIAB), we have found no evidence that the Swedish government provided funds to KF (or KFIAB) that enabled Svenska to defer interest payments on short-term and long-term loans. Furthermore, we consider all of these transactions to be intra-corporate transfers of funds. Therefore, we preliminarily determine that any deferred interest payments on these loans are not counteravailable.

Preliminary Results of Review

As a result of the review, we preliminarily determine the net subsidy to be 7.26 percent *ad valorem* for the period of review.

On October 30, 1980, the International Trade Commission ("the ITC") notified the Department that the Swedish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. On March 15, 1983, the ITC notified the Department of its determination that an industry in the United States would be materially injured, or threatened with material injury, if the order were revoked. The Department has already instructed the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited, at the time of entry, on all unliquidated entries of Swedish viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after October 30, 1980 and on or before March 15, 1983. The Department intends to instruct the Customs Service to assess countervailing duties of 7.26 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after March 16, 1983 and exported on or before September 30, 1983.

Further, the Department intends to instruct the Customs service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 7.26 percent of the f.o.b. invoice price on all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 55 days after the date of publication or the last workday preceding. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), section 104(b)(4)(A) of the Trade Agreements Act (19 U.S.C. 1671 note), and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: August 8, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-18377 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Andre Industries, Inc., et al.

Petitions have been accepted for filing on the dates indicated from the following firms: (1) Andre Industries, Inc., P.O. Box 1113, Bismarck, North Dakota 58501, producer of metal washers, bandsaws and agricultural machinery (July 7, 1986); (2) Crown Metal Manufacturing Company, 5925 South Lowe Avenue, Chicago, Illinois 60621, producer of metal brackets; rails; rods and legs (July 8, 1986); (3) Ludwig Industries, Inc., 133 Middleton Street, Brooklyn, New York 11206, producer of box hardware and metal stampings (July 10, 1986); (4) Carlson Tool and Machine Company, 2300 Gary Lane, Geneva, Illinois 60134, producer of brush making machines parts (July 10, 1986); (5) Lunder Shoe Products Company, P.O. Box 368, Saco, Maine 04072, producer of shoe findings (July 11, 1986); (6) Bridgeport Brass Corporation, P.O. Box 51519, Indianapolis, Indiana 46251, producer of copper and brass strip, sheet, rods and tubes (July 11, 1986); (7) Copperweld Steel Company, P.O. Box 351, Warren, Ohio 44482, producer of hot rolled and cold formed alloy and carbon steel bars (July 11, 1986); (8) Brooks Leather Sportswear, Inc., 14511 West 11 Mile Road, Oak Park, Michigan 48237, producer of leather jackets, vests and pants (July 11, 1986); (9) Switches, Inc., 6131 West 80th Street, Indianapolis, Indiana 46278, producer of automotive electrical switches and other electrical parts (July 14, 1986); (10) Charland Sportswear Corporation, 1002 Arenteen Boulevard, Charleroi, Pennsylvania 15022, producer of women's slacks (July 15, 1986); (11) D'Andrea Manufacturing Company, Inc., 115 Eileen Way, Syosset, New York 11791, producer of musical instruments cases and stringed instrument accessories (July 15, 1986); (12) The Beaumont Company, P.O. Box 803, Morgantown, West Virginia 26507, producer of hand blown glass (July 18, 1986); and (13) Koszegi Products, Inc., P.O. Box 1277, South Bend, Indiana

46624, producer of leather, vinyl and synthetic covers, bags and cases (July 21, 1986).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618), as amended. Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Achamma Chandersekaran,

Acting Chief, Office of Trade Adjustment Assistance.

[FR Doc. 86–18375 Filed 8–13–86; 8:45 am]

BILLING CODE 3510-DR-M

Applications for Duty-Free Entry of Scientific Instruments; Georgia Scientific and Technical Research Foundation et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Matierals Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the puposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th Constitution Avenue NW., Washington, DC.

Docket Number: 86–003R. Applicant: Georgia Scientific and Technical Research Foundation, Georgia Institute of Technology, Office of V.P. Research, Room 285, Atlanta, GA 30332. Instrument: Mass Spectrometer, Model MMAZB–E with Gas Chromatograph and Accessories. Manufacturer: VG Analytical Limited, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of November 1, 1985.

Docket Number: 86–069R. Applicant: U.S. Department of Energy, New Brunswick Laboratory, Building 350, 9800 South Cass Avenue, Argonne, IL 60439. Instrument: Mass Spectrometer, Model 261 with Accessories. Manufacturer: Finnigan MAT GmbH, West Germany. Original notice of this resubmitted application was published in the Federal Register of January 28, 1986.

Docket Number: 86–278. Applicant: Carnegie-Mellon University, Schenley Park, Pittsburgh, PA 15213. Instrument: Theta/Theta X-Ray Powder Diffractometer, Model D/MAX–11TBX and Accessories. Manufacturer: Rigaku Corporation, Japan. Intended use; the instrument is intended to be used for the study of a wide variety of metals, insulators, semiconducting materials and liquid specimens. Investigations will inlude determination of crystal structure, phase analysis, phase transformations, crystal orientation, qualitative analysis, crystalline size and lattice distortion, preferred orientation, etc. Application Received by Commissioner of Customs: July 18, 1986.

Docket Number: 86–279. Applicant: Carnegie-Mellon University, Schenley Park, Pittsburgh, PA 15213. Instrument: Scanning X-Ray Diffraction Micrographic Camera, Model D1511. Manufacturer: Rigaku Corporation, Japan. Intended use: The instrument is intended to be used for studying single crystal materials particulary semiconductors. Experiments will be conducted to determine and assess the degree of perfection in a variety of materials being grown at the University. X-ray topographic techniques will be used to achieve these objectives. Application Received by Commissioner of Customs: July 18, 1986

Docket Number: 86–280. Applicant: U.S. Department of Commerce, NOAA/ National Marine Fisheries Service, P.O. Box 271, 8604 La Jolla Shores Drive, La Jolla CA 92038. Instrument: Pitch-roll sensor, Model PIRO–120. Manufacturer: Datawell B.V., The Netherlands. Intended Use: The instrument is indended to be used for studies of dolphin population trends in the eastern tropical Pacific Ocean to determine whether or not the dolphin population is decreasing. Applicant Received by Commissioner of Customs: July 18, 1986.

Docket Number: 86–281. Applicant: University of Colorado Health Sciences Center, 4200 E. Ninth Avenue, Denver, CO 80262. Instrument: Electron Microscopes, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: The Instrument is intended to be used to meet the expanding requirements of researchers and provide capabilities of the routine production of stereo pairs and the imaging of sections having a thickness of up to 1 micron or more. The research conducted will include studies of the following:

(1) Monoclonal antibodies to protein kinases:
(2) Intracerebral transplants; primary gustatory afferents, two gustatory channels and substance P and hypertension;
(3) Ultrastructural correlates of olfactory dysfunction, microvillar cells, vomeronasal system and olfactory receptors;
(4) Structure and physiology of taste cells;
(5)Microtubule assembly;
(6) Neuronal cell surface antigens; and
(7) Plasminogen activator on growth cones.

In addition, the instrument will used for advanced electron microscopy training of graduate students and post-doctoral fellows. Application Received by Commissioner of Customs: July 18, 1986.

Docket Number 86–282. Applicant: Centers for Disease Control, 1600 Clifton Road, N.E., Altanta, GA 30333. Instrument: Mass Spectrometer, Model MM70707S with Accessories. Manufacturer: VG Instruments Inc., United Kindom. Intended Use: The instrument is intended to be used for research which involves qualitative and quantitative measurement of ultra toxic organic compounds in human specimens. An appropriate sample is obtained, sample work-up is conducted and instrumental analysis is used to measure the compounds under study. The definitive methodology for this work is high resolution mass spectrometry. Application Received by Commissioner of Customs: July 18, 1986.

VOL 51 ISS 157 AG 14 1986 UMI

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18381 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; Research Foundation of State University of New York, et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-283. Applicant: The Research Foundation of State University of New York, P.O. Box 9, Albany, NY 12201-0009. Instrument: Micromanipulator. Manufacturer: Carl Zeiss/Aus Jena, East Germany. Intended Use: This instrument will be used to perform voltage clamp and current clamp studies on amphibian sympathetic ganglionic neurons, which are dissected out of the host. A microelectrode will be connected to a single or double electrode clamp and impaled into a suitable nerve cell. Membrane currents set up by appropriate voltage and current command waveforms will be measured. The effects of ions and pharmocological agents on these responses will be studied, so as to improve the understanding of neuronal functions and pathology. The manipulator itself will be used to precisely direct the microelectrode into the suitable nerve cell and once impaled will stabilize and maintain this union for long periods of time for measurement of the complex responses elicited. Application Received by Commissioner of Customs: July 18, 1986.

Docket Number: 86-284. Applicant: Louisiana State University Medical Center, Department of Ophthalmology, 1440 Canal Street, Suite 1510, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended Use: The instrument is intended to be used to examine various ocular tissues from humans, non-human primates and animals for the purpose of investigating the mechanisms of wound healing and repair in ocular tissues. Other experiments will be conducted to examine the structure and organization of the lacrimal gland and other accessory ocular tissues to determine the number and types of cells present for the purpose of correlating this information with tissue culture studies. In addition, the instrument will be used for training students at the pre-doctoral and post-doctoral levels. Application Received by Commissioner of Customs: July 18, 1986.

Docket Number: 86-285. Applicant: State University of New York at Stony Brook, Purchasing Department, Administration Building, Stony Brook, NY 11794-6100. Instrument: Renal Micropuncture System. Manufacturer: Klaus Effenberger, West Germany. Intended Use: The instrument is intended to be used for renal studies through use of renal micropuncture techniques in rats that have been treated with various approved drugs in order to determine the effect of these substances on kidney function. In addition, the instrument will be used in a pediatric research course to instruct undergraduate students in the basic principles of renal research. Application Received by Commissioner of Customs: July 18, 1986.

Docket Number: 86-286. Applicant: University of Texas at Austin, Department of Chemistry, Welch Hall, Austin, TX 78712. Instrument: Mass Spectrometer for SIMS System, Model SIB-12-63 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products, West Germany. Intended Use: The instrument will be used for the study of surface chemistry of metals on graphite substrate materials as they relate to "Electrothermal Atomic Absorption Spectrometry" (ETAAS). Secondary ion mass spectrometry will be used to determine the surface composition (e.g., oxide, carbide species) and physical form (e.g., microdroplets) of metals on heated graphite following the deposition as aqueous or vapor samples. The results will be used to elucidate the processes involved with ETAAS. Application Received by Commissioner of Customs: July 22, 1986.

Docket Number: 86-287. Applicant: National Cancer Institute, Frederick Cancer Research Facility, P.O. Box B, Frederick, MD 21701. Instrument: Electron Microscope (Top Entry with 35 mm Camera & High Intensity TV Camera), Model H-7000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use: The instrument is intended to be used in a continuing series of projects and experiments designed to solve an assortment of problems in cancer research. The research will include identification of viruses associated with AIDS (HTLV-III and mutant variants) in numerous patient samples; heteroduplexing of viral DNA and RNA for genetric mapping; characterization of cancer cell types from a variety of animal and human sources; identification of intra and extra cellular proteins involved in cell transformation by immunoelectron microscopy; localization of viral antigenic determinants that offer protection to disease in support of the AIDS and other vaccine programs; and determination of morphology changes in animal cells subjected to various anti-cancer drug treatment programs. Application Received by Commissioner of Customs: July 22, 1986.

Docket Number: 86-288. Applicant: National Cancer Institute, Frederick Cancer Research Facility, P.O. Box B, Frederick, MD 21701. Instrument: Electron Microscope (Side Entry with 35mm Camera), Model H-7000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: The instrument is intended to be used in continuing series of projects and experiments designed to solve an assortment of problems in cancer research. The research will include identification of viruses associated with AIDS (HTLV-III and mutant variants) in numerous patient samples; heteroduplexing of viral DNA and RNA for genetic mapping; characterization of cancer cell types from a variety of animal and human sources; identification of intra and extra cellular proteins involved in cell transformation by immunoelectron microscopy; localization of viral antigenic determinants that offer protection to disease in support of the AIDS and other vaccine programs; and determination of morphology changes in animal cells subjected to various anti-cancer drug treatment programs. Application Received by Commissioner of Customs: July 22, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18380 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Fox Chase Cancer Center et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S.C. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 85–106. Applicant: The Fox Case Cancer Center, Philadelphia, PA 19111. Instrument: NMR Spectrometer System, Model BIOSPEC 2.3/300. Manufacturer: Bruker Medical Instruments Inc., United Kingdom. Date of Denial Without Prejudice to Resubmission: May 14, 1986.

Docket Number: 85–212. Applicant: University of California, Los Angeles, Los Angeles, CA 90024. Instrument: NMR Spectrometer, Model AM500. Manufacturer: Bruker Analytik GmbH, West Germany. Date of Denial Without Prejudice to Resubmission: April 10, 1986.

Docket Number: 85–236. Applicant: University of Colorado Health Sciences Center, Denver, CO 80262. Instrument: Electroencephalographic Power Spectral Analyzer, Model CME–100. Manufacturer: Japan Systems Inc., Japan. Date of Denial Without Prejudice to Resubmission: March 25, 1986.

Docket Number: 86–027. Applicant: Saint Francis Medical Center, Peoria, IL 61637. Instrument: Extracorporeal Shockwave Lithotripter. Manufacturer: Dornier System GmbH, West Germany. Date of Denial Without Prejudice to Resubmission: April 10, 1986.

Docket Number: 86–085. Applicant: University of California, Davis, CA 95616. Instrument: Excimer Laser HE–420 with Accessories. Manufacturer: Lumonics Research Limited, Canada. Date of Denial Without Prejudice to Resubmission: May 8, 1986.

Docket Number: 86–142. Applicant: Clement J. Zablocki VAMC, Milwaukee, WI 53193. Instrument: Lithotripter. Manufacturer: Dornier Medical Systems Inc., West Germany. Date of Denial Without Prejudice to Resubmission: April 7, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18383 Filed 8–13–86; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Peoples' Republic of China

August 8, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 11, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive of December 24, 1985, as amended, which established import limits for specified categories of cotton, wool and man-made fiber textile products, including cotton dresses in Category 336, men's and boys' woven cotton shirts in Category 340, women's, girls' and infants' woven cotton shirts and blouses in Category 341, cotton sweaters in Category 345, cotton trousers in Category 347/348, man-made fiber dresses in Category 636, and women's, girls' and infants' man-made fiber shirts and blouses in Category 641, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, was published in the **Federal Register** on December 30, 1985 (50 FR 53182). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the restraint limits for the foregoing are being increased by the application of swing for the current agreement year which began on January 1, 1986. To account for the increases, the limit for men's and boys' woven shirts of man-made fibers in Category 640 is being reduced by 201,141 dozen to 966,077 dozen.

A description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 8, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 24, 1985, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements, which established restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986.

Effective on August 11, 1986, the directive of December 24, 1985 is hereby further amended to adjust the previously established restraint limits for the following categories under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended:[1]

Category	Adjusted 12-mo. limit [1] (dozen)
336	128,104
340	656,327
341	524,070
345	94,468
347/348	2,045,149
636	368,918
640	966,077
641	1,021,657

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

[1] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) The specific limits for certain categories may be increase for carryforward, and (3) Administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18336 Filed 8-13-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Availability of "Responses to Written Comments Received on the Information Package for From-Reactor Cask Procurement"

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of availability of "Responses to Written Comments Received on the Information Package for From-Reactor Cask Procurement".

The Department of Energy's Office of Civilian Radioactive Waste Management (OCRWM) issued an Information Package on the From-Reactor Cask Procurement and sponsored an Information Meeting in Salt Lake City, Utah on March 17-18, 1986, to discuss the program and the forthcoming procurement of casks. Comments on the program and the proposed procurement were solicited to allow public input prior to initiation of the formal procurement process. Comments were received from several interested parties and DOE has prepared an explanation of the consideration given to the various issues raised. This explanation is contained in "Responses to Written Comments Received on the Information Package for From-Reactor Cask Procurement," a copy of which may be obtained by submitting a written request to: Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402 Attn: K.R. Hastings.

Issued in Idaho Falls, ID, August 7, 1986.

J.F. Marmo,

Director, Contracts Management Division, Idaho Operations Office.

[FR Doc. 86-18317 Filed 8-13-86 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-620-000 et al.]

Electric Rate and Corporate Regulation Filings; Idaho Power Co. et al.

August 8, 1986.

Take notice that the following filings have been made with the Commission:

1. Idaho Power Company

[Docket No. ER86-620-000]

Take notice that on July 29, 1986, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of Sales made under the Company's 1st Revised FERC Electric Tariff, Volume No 1 (Supersedes Original Volume No 1) during May 1986, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company, Supplement No 54
Sierra Pacific Power Company, Supplement No 51
Portland General Electric Company, Supplement No 47
Washington Water Power, Supplement No 39
Puget Sound Power & Light Company, Supplement No 22

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Power and Light Company

[Docket No. ER86-532-000]

Take notice on July 31, 1986, Iowa Power and Light Company ("Iowa Power") tendered for filing an amendment to its June 5, 1986 filing in this docket concerning a rate schedule ("Schedule"), between Iowa Power and Union Electric Company ("Union Electric"), dated May 20, 1986.

The amendment consists of a description of how the energy charge was determined.

Iowa Power requests that the Commission waive its prior notice requirements and accept the Schedule with an effective date of May 25, 1986.

Copies of this filing were served upon Union Electric and the Iowa State Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this document.

3. Long Island Lighting Company

[Docket No. ER86-628-000]

Take notice that on August 1, 1986, Long Island Lighting Company (LILCO) tendered for filing a notice of change in the rates that LILCO charges the Incorporated Village of Rockville Centre, New York pursuant to the electric power contract dated April 13, 1960 between LILCO and Rockville Centre.

The electric power contract provides that LILCO will change the rates LILCO charges Rockville Centre whenever LILCO changes, with the approval of the New York Public Service Commission, the rates it charges retail customers in its Service Classification No. 2-MRP.

LILCO states that this filing is to give the Commission notice of the change in the SC2-MRP rates that have occurred since October 1, 1982 and which by operation of rate Schedule FERC 30 are applicable to Rockville Centre.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corporation

[Docket No. ER86-621-000]

Take notice that on July 31, 1986, Niagara Mohawk Power Corp. (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 7, 1986.

Niagara presently has on file an agreement with Rochester dated December 26, 1968. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 58. This new agreement is being transmitted as a supplement to the existing agreement.

The December 26, 1968, agreement is for the use of Niagara's transmission facilities by Rochester for the purpose of connecting Rochester's Gina Nuclear Plant into the New York-State transmission system. The July 7, 1986, agreement revises the rate to be paid by Rochester for the use of Niagara's facilities. Niagara requests the Commission to allow said agreement to become effective as of October 1, 1986.

Copies of the filing were served upon Rochester Gas and Electric Corporation and the Public Service Commission of New York.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. The Washington Water Power Company

[Docket No. ER86-627-000]

Take notice that on July 31, 1986, the Washington Water Power Company (Washington) tendered for filing a transmission rate for power transfers through its system. This transmission rate is to apply to those wheeling transactions that are not provided for under existing tariffs.

Washington further states that the rate for power transfers is 1.50 mill per kilowatthour plus losses.

Washington proposes an effective date of October 1, 1986.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. El Paso Electric Company

[Docket No. ES86–52–000]

Take notice that on August 4, 1986, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to section 204 of the Federal Power Act to issue and sell up to an additional 1,000,000 shares of Common Stock, no par value, pursuant to the Applicant's Dividend Reinvestment and Stock Purchase Plan and applying for an exemption of such transaction from the competitive bidding requirements of the Commission.

Comment date: August 27, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18301 Filed 8–13–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. P–5756–005 et al.]

Environmental Assessment Notices; Mega Hydro, Inc., et al.

August 8, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

I. Upper San Joaquin River Basin

Project No.	Project name	State	Water body	Nearest town or county	Applicant
			Exemption		
5756–005	Rock Creek	CA	Rock Creek	Madera	Mega Hydro Inc.
			Licenses		
5248–004	Whisky Creek No. 2	CA	Whisky Creek	Madera	West Slope Power Company.
5250–003	Whisky Creek No. 1	CA	Whisky Creek	Madera	West Slope Power Company.
5262–003	Whisky Creek No. 3	CA	Whisky Creek	Madera	West Slope Power Company.

II. South Fork of the American River Basin

Project No.	Project name	State	Water body	Nearest town or county	Applicant
			Licenses		
3186–003	Pyramid Creek	CA	Pyramid Creek	Twin Bridges	Joseph M. Keating.
3194–003	Foottrail	CA	Silver Fork	Kyburz	Joseph M. Keating.
5192–002	Upper Rock Creek	CA	Rock Creek	Placerville	Lind and Associates.
7930–001	Fry Creek	CA	Fry Creek	White Hall	Larry Hensley.
7931–001	29 Mile Creek	CA	Unnamed Stream	White Hall	Larry Hensley.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18300 Filed 8–13–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP86–648–000 et al.]

Natural gas certificate filings; Sea Robin Pipeline Co. et al.

Take notice that the following filings have been made with the Commission:

1. Sea Robin Pipeline Co.

[Docket No. CP86–648–000]

August 7, 1986.

Take notice that on July 31, 1986, Sea Robin Pipeline Company (Sea Robin), 600 Travis, P.O. Box 1478, Houston, Texas 77251–1478, applied to the Commission for a determination, pursuant to sections 5(e) and 5(f) of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1334 (e) and (f), of the proportionate amounts of gas that should be purchased and transported by

Sea Robin from its producers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Sea Robin states that such determination is necessary (1) to avert an emergency on Sea Robin's system that may soon disable Sea Robin from meeting its obligations under OCSLA to purchase and transport natural gas without discrimination and in a manner that will conserve resources on the Outer Continental Shelf (OCS) and avoid waste, and (2) to deal with a chronic and worsening condition of overdeliverability on its system. Sea Robin states that such determination is also necessary to avoid placing Sea Robin in violation of its obligations under the Natural Gas Act and the Natural Gas Pipeline Safety Act. Sea Robin states that, absent a Commission determination, Sea Robin's limited ability to purchase natural gas from its producers will be available only to a handful of producers who have obtained court orders requiring such purchases and that such result would ignore the interests or rights of other producers to a share of the Sea Robin market and the mandates of OCSLA.

Sea Robin requests the Commission to determine the proportionate amounts of gas to be purchased from its producers by adopting the following allocation plan:

1. Sea Robin shall first take, on a pro rata basis, gas under existing contracts whose production is necessary to prevent damage to reservoirs.
2. Sea Robin shall next take, on a pro rata basis, casinghead gas under existing contracts produced in association with oil.
3. Sea Robin shall next take, on a pro rata basis, gas under existing contracts whose production is necessary to prevent drainage.
4. Sea Robin shall next take, on a pro rata basis, all remaining gas under existing gas contracts not included in the categories listed above.
5. Sea Robin shall next take, on a pro rata basis, gas under expired gas purchase contracts where approval to abandon the sale has not been issued.

Alternatively, Sea Robin asks the Commission to make its determination by ordering such modifications to the proposed allocation plan as the Commission believes reasonable and to take any action required for the determination on an expedited basis.

Comment date: August 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP86-633-000]

August 8, 1986.

Take notice that on July 21, 1986, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-633-000 an application pursuant to section 7 of the Natural Gas Act, to request authority to implement adjustments to the firm entitlements of certain of Northern's market area utility customers as a result of the stipulation and agreement of settlement (stipulation and agreement) filed in resolution of issues in Docket Nos. RP82-71, TA83-1-59, TA84-1-59, and TA85-1-59, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that as part of the stipulation and agreement, Northern agreed to provide for a three-stage firm entitlement adjustment program. Northern indicates that this program would allow each of Northern's market area customers to reduce or realign its respective level of firm entitlement in the following manner:

(1) Each of Northern's market area utility customers would be allowed to reduce its firm entitlement under the CD-1, CDO-1, GS-1, or PL-1 Rate Schedules up to a maximum of 2 percent, of its then currently effective firm entitlement, in each of three phases (turnback program).

(2) Any customer not requesting a reduction in its currently effective firm entitlement or who only desires to reduce a portion of the 2 percent limit, may realign from CD-1, CDO-1 or PL-1 to SS-1 up to the maximum 2 percent limit or the balance of the 2 percent limit not reduced.

(3) If a customer does not reduce or realign up to the 2 percent limit in any year, a carryover of the unutilized portion of such 2 percent limit to a subsequent year will not be allowed. A customer would have the option to participate in all or any of the three phases of the turnback program.

Northern indicated that as a result of the implementation of the third phase of the firm entitlement adjustment program, it now seeks authority to realign and reduce 20,996 Mcf per day of its market area system firm entitlement to be effective December 1, 1986. It is indicated that the proposed reduction in firm entitlement is the net result of 29,032 Mcf per day decrease in Contract Demand, 9,766 Mcf per day increase in Seasonal Service, and 1,730 Mcf per day decrease in Pipe Line Service.

Northern indicates that due to competition from alternate fuels, conservation by end use customers, and permanent loss of markets, some of Northern's utility customers' firm entitlements exceed their market requirements. Northern states that during settlement negotiations, it agreed to file certificate applications to assist these utility customers in more efficiently utilizing their sources of supply to meet their current market requirements.

Comment date: August 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Northwest Central Pipeline Corp.

[Docket No. CP86-634-000]

August 8, 1986.

Take notice that on July 24, 1986, Northwest Central Pipeline Corporation (Northwest Central), P. O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-634-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim measuring, regulating and appurtenant facilities and construct replacement measuring, regulating and appurtenant facilities, replace 0.13 miles of 2-inch pipeline with 4-inch pipeline, and construct 2.3 miles of new 4-inch loop line, all in McDonald County, Missouri, for the sale and delivery of gas to The Kansas Power and Light Company (KPL Gas Service), under the certificate issued to Northwest Central in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central states KPL Gas Service has requested that the capacity of an existing townborder delivery point be increased in order to deliver natural gas to KPL Gas Service for resale to new domestic and industrial customers. It is said that the projected volume of delivery through these replacement facilities is 402,400 Mcf per year with a maximum peak load of 2,850 Mcf per day for the first year increasing to 585,700 Mcf per year with a maximum peak load of 3,700 Mcf per day by the fifth year. It is further said that the cost to reclaim is $900 with an estimated salvage value of $1,800. The estimated cost of construction is said to be $225,300, which would be paid from treasury cash.

Northwest Central states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified

without detriment or disadvantage to its other customers.

Comment date: September 22, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18302 Filed 8-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8933-001 et al.]

Surrender of preliminary permits; Burlington Energy Development Associates et al.

August 8, 1986.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Burlington Energy Development Associates

[Project No. 8933-001]

Take notice that the Burlington Energy Development Associates, permittee for the Bear Rock Falls Project No. 8933 located on the Bear Rock Stream in Berkshire County, Massachusetts, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 8, 1985, and would have expired on July 31, 1988. The permittee states that analysis of the Bear Rock Falls Project did not indicate feasibility for development.

The permittee filed the request on July 28, 1986.

2. Independence Electric Corporation

[Project No. 8920-001]

Take notice that Independence Electric Corporation, Permittee for the proposed Sugar Creek Hydroelectric Project No. 8920, has requested that its preliminary permit be terminated. The permit was issued on August 5, 1985, and would have expired July 31, 1988. The project would have been located on the Catawba River, in York County, South Carolina. The Permittee states that it has been determined that the project is not economically feasible.

The Permittee filed the request on July 30, 1986.

Standard Paragraph

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18299 Filed 8-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-932-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc ; Chevron Chemical Co. et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

August 8, 1986.

Take notice that the following filings have been made with the Commission.

1. Chevron Chemical Company

[Docket No. QF86-932-000]

On July 22, 1986; Chevron Chemical Company (Applicant), of 1006 Farm Road, Orange, Texas 77630, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Chevron Chemical's Orange Plant in Orange, Texas. The facility will consist of a combustion turbine, a heat recovery steam generator (HRSG), equipped with supplementary firing. Steam recovered from the HRSG will be used for polyethylene manufacturing processes. The primary energy source will be natural gas. The net electric power production capacity of the facility will be 36.3 MW. Installation will begin in February, 1987.

2. A.E. Staley Manufacturing Company

[Docket No. QF86-921-000]

On July 14, 1986, A.E. Staley Manufacturing Company (Applicant), of 2200 East Eldorado Street, Decatur, Illinois 62525, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at 2200 East Eldorado Street, Decatur, Illinois. The facility consists of two circulating fluidized bed boilers and one extraction/condensing steam turbine generator. The primary energy source will be coal. The electric

VOL 51 ISS 157 AG 14 1986 UMI

power production capacity of the facility will be 52.8 MW. Thermal energy recovered from the facility will be used in a corn processing plant. Construction of the facility began in March, 1986.

3. EHV-Weidmann Industries, Inc.

[Docket No. QF86-747-000]

On July 21, 1986, EHV-Weidmann Industries, Inc. (Applicant), of Memorial Drive, P.O. Box 278, St. Johnsbury, Vermont 05819 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in St. Johnsbury, Vermont. The facility will consist of a waste-wood fired steam generator and an extraction/condensing turbine-generator. The net electric power production capacity will be 18 megawatts. The primary energy source will be biomass in the form of wood waste. Fuel oil will be used as a back up fuel, but will amount to less then twenty-five percent (25%) of the total energy input during any calender year.

4. Roland Development Corporation

[Docket No. QF86-931-000]

On July 21, 1986, Roland Development Corporation (Applicant), of 9762 James River Circle, Fountain Valley, California 92708, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located near Lockwood, California. The facility consists of a circulating fluidized bed boiler and an extraction/condensing steam turbine generator. The primary energy source will be coal. The net electric power production capacity of the facility will be 45.9 MW. Thermal energy recovered from the facility will be used for enhanced oil recovery. The facility is scheduled to be installed by July, 1989.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18298 Filed 8-13-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51632; FRL-3054-2]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-16535, beginning on page 26941, in the issue of Monday, July 28, 1986, make the following corrections:

1. On page 26943, first column, under "P86-1283" fifth line, "Industrial" was misspelled.

2. On the same page, second column, under "P86-1287" fourth and fifth lines, "3-hydroxy-N-methoxy-7-(2-methylphenyl)-," should read "3-hydroxy-7-methoxy-N-(2-methylphenyl)-,".

BILLING CODE 1505-01-M

[OW-10-FRL-3064-6]

Water Pollution; Proposed General NPDES Permit for Concentrated Animal Feeding Operations in Idaho

AGENCY: Environmental Protection Agency.

ACTION: Extension of the public comment period.

SUMMARY: On May 9, 1986, EPA provided notice of proposed general National Pollutant Discharge Elimination System (NPDES) permit for concentrated animal feeding operations in Idaho. On June 13, 1986, EPA provided notice of four public hearings and an extension of the public comment period. Today's notice further extends the comment period to September 30, 1986.

Public informational workshops on the permit conditions will be scheduled in Boise and Twin Falls. Details on the workshop dates and locations will be published in local newspapers within two weeks. Persons interesed in obtaining information on the workshops should contact Karen Harder at the address below.

DATES: Written comments on the proposed general permit may be submitted to the Seattle address given below by September 30, 1986.

ADDRESS: Send comments to Karen Harder, U.S. Environmental Protection Agency, Water Permits and Compliance Branch, M/S 521, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Karen Harder at the Seattle address above or by telephone at (206) 442-1669.

Dated: August 3, 1986.

Robert S. Burd,

Director, Water Division.

[FR Doc. 86-18209 Filed 8-13-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 7, 1986.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0287
Title: Section 78.69, (Cable Relay) Station Records
Action: Revision
Respondents: Licensees of cable television relay service (CARS) stations
Estimated Annual Burden: 1,714 Recordkeepers; 44,564 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-18268 Filed 8-13-86; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-9]

Window Notice for the Filing of FM Broadcast Applications

Released: August 6, 1986.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period

beginning August 18, 1986 and ending September 18, 1986 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Channel—250 C2	
Grants	NM
Channel—250 A	
Oxford	AL
Tuba City	AZ
Crescent North	CA
Salinas	CA
Enfield	CT
Selbyville	DE
Ft Valley	GA
Wiggins	MS
Bayboro	NC
Gaston	NC
Beulah	ND
Milton-Freewater	OR
Edinboro	PA
Beeville	TX

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 86-18273 Filed 8-13-86; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

San Bancorp et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 3, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *San Bancorp,* Sanborn, Iowa; to acquire 100 percent of the voting shares of Milford Bancorporation, Milford, Iowa, and thereby indirectly acquire 97.5 percent of Dickinson County Savings Bank, Milford, Iowa.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The Harlem Corporation,* Billings, Montana; to merge with Stevensville Bancshares, Inc., Billings, Montana, and thereby indirectly acquire First State Bank of Stevensville, Stevensville, Montana. Comments on this application must be received by September 5, 1986.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Southwest Bancshares, Inc.,* Hermitage, Missouri; to acquire 90 percent of the voting shares Buffalo Bank, Buffalo, Missouri; 90 percent of the voting shares of First National Bank, Republic, Missouri; 100 percent of the voting shares of The Lowry City Bank, Lowry City, Missouri; 98 percent of the voting shares of Citizens State Bank of Polk County, Bolivar, Missouri; 100 percent of the voting shares of Osceola Bank, Osceola, Missouri; 100 percent of the voting shares of Tri-County State Bank of El Dorado Springs, El Dorado Springs, Missouri; and 100 percent of the voting shares of Humansville Bank, Humansville, Missouri.

Board of Governors of the Federal Reserve System, August 8, 1986.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 86-18315 Filed 8-13-86; 8:45 am]
BILLING CODE 6210-01-M

The Sumitomo Trust & Banking Co., Ltd., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Sumitomo Trust & Banking Co., Ltd.,* Osaka, Japan; to engage *de novo* through its subsidiary, Sumitrust Security Pacific Investment Managers, Inc., Los Angeles, California; in acting as investment financial advisor to the extent of (1) serving as the advisory company for mortgage or real estate investment trusts, (2) serving as investment advisor (as defined in section 2(a)(20) of the investment company of 1940) to investment companies registered under that act, including sponsoring, organizing, and managing closed-end investment companies, (3) providing portfolio investment advice to any other persons, (4) furnishing general economic information and advice, general economic statistical forecasting services and industry studies, and (5) providing financial advice to state and local governments, such as with respect to the issuance of their securities.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

BEST COPY AVAILABLE

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Norwest Investment Advisors, Inc., Minneapolis, Minnesota, in investment advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18316 Filed 8-13-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0325]

Wesley-Jessen; Premarket Approval of Durasoft® 4 (OFILCON A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Wesley-Jessen, Chicago, IL, for premarket approval, under the Medical Device Amendments of 1976, of the spherical DURASOFT® 4 (ofilcon A) HYDROPHILIC CONTACT LENS. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATES: Petitions for administrative review by September 15, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On December 24, 1985, Wesley-Jessen, Chicago, IL 60610, submitted to CDRH an application for premarket approval of the Durasoft® 4 (ofilcon A) HYDROPHILIC CONTACT LENS. The spherical DURASOFT® 4 (ofilcon A) HYDROPHILIC CONTACT LENS is indicated for daily wear or extended wear from 1 to 30 days between removals for cleaning and disinfection as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who may exhibit astigmatism of 2.00 diopters or less that does not interfere with visual acuity. The lens ranges in powers from −20.00 diopters to +10.00 diopters and is to be disinfected using either a heat or chemical lens care system.

On May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 17, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the DURASOFT® 4 (ofilcon A) HYDROPHILIC CONTACT LENS states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41-58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 15, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 8, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-18281 Filed 8-13-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Notice of Hearing; Reconsideration of Disapproval of a California State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on September 24, 1986 in San Francisco, California to

reconsider our decision to disapprove California State Plan Amendment 85–11.

CLOSING DATE: Requests to participate in the hearing as a party must be recieved by the Docket Clerk by August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone: (301)594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove a California State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additonal issues which will be considered at the hearing, we will also publish that notice).

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.5(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether California SPA 85–11 violates section 1902(a)(4) and section 1902(a)(19)(B) of the Social Security Act.

California SPA 85–11 establishes a medically needy income level for determining Medicaid eligibility for two adults that is based on the AFDC payment level for an AFDC family of three.

Although the 133 1/3 limit under serction 1903(f)(1)(B) of the Act is not a State plan requirement, the statute is clear that FFP is not available for medical assistance to persons whose income exceeds that limit. By setting the MNIL for a family of two adults at 133 1/3 percent of the AFDC level for a family of three, California could provide medical assistance to individuals with income in excess of the limitation. The likelihood of this occuring is increased by the fact that the State has not demonstrated that it has methods for excluding claims for persons whose income exceeds the FFP limitation. In fact, the State has deleted that footnote in the preprint which would have attested that it has such procedures. Therefore, HCFA has determined approval of the proposed SPA would not be consistent with the "proper and efficient operation of the plan, and would thus violate section 1902(a)(4) of the Act. Further, HCFA has determined such approval would not be "consistent with simplicity of administration" as required under section 1902(a)(19) of the Act.

HCFA wishes to make clear, despite some confusion arising in the context of amendment number 83.14, that its disapproval of amendment number 85–11 is not in any way based upon section 1902(a)(10)(C)(i)(III) of the Act. The court in *Cubanski* v. *Heckler*, 781 F.2d 1421 (9th Cir. 1986) decided that section 1902(a)(10)(C)(i)(III) was involved in the disaproval of amendment number 83–14 and that this afforded the amendment protection under section 2373(c) of the Deficit Reduction Act of 1984, Pub. L. 98–369. HCFA does not believe that the use of a separate and higher medically needy income level for a family composed of two adults than that used for a family composed of an adult and a child violates the single standard requirement of section 1902(a)(10)(C)(i)(III). A higher standard for families composed of two adults could be approved if it does not exceed the 133 and 1/3 percent limit under section 1902(f)(1)(B).

Although the holding of the *Cubanski* decision might extend to out approval of this amendment (85–11) as well as amendment no. 83–14, the mandate of *Cubanski* only requires us to approve 83–14. We had petitioned for a panel rehearing and for a rehearing en banc, which petition was denied on July 14, 1986. On July 18, however, a vigorous dissenting opinion was filed by four Ninth Circuit judges disagreeing on all scores with the reasoning and the result of *Cubanski*. In light of that dissent the government is presently considering whether to seek Supreme Court review. However, the statute requires us to schedule a hearing on the States's request for reconsideration within 30 days of receipt of that request. Thus, we must schedule the hearing on amendment 85–11 even though our time to file for a writ of *Certiorari* with the Supreme Court on the *Cubanski* decision has not expired.

We note further that the *Cubanski* panel's decision was based upon the notion that HCFA relied upon section 1902(a)(10)(C)(i)(III) in disapproving amendment 83–14 (a proposition with which the dissenting judges disagreed). In light of this controversy, we hereby make it clear that our disapproval of the instant amendment (no. 85–11) is *not* in any way based upon that section, and therefore not subject to the moratorium.

Accordingly, in order to keep our options open and comply with all applicable legal requirements, we propose to schedule the hearing as required by statute and regulations. In the event we do not seek further review of the *Cubanski* decision, we will then assess the impact of the *Cubanski* holding upon the facts of the disapproval of amendment no. 85–11.

The notice to California announcing an administrative hearing to reconsider our disapproval of its State plan amdendment reads as follows:

Mr. John Rodriquez,
Deputy Director, Medical Care Services, Department of Health 714/744 P Street, Sacramento, California 95814

Dear Mr. Rodriquez: This is to advise you that your request for reconsideration of the decision to disapprove California State Plan Amendment 85–11 was received on July 9, 1986.

California State Plan Amendment 85–11 establishes a medically needy income level for determining Medicaid eligibility for two adults which exceeds 133⅓ percent of the payment level for a family of two in the State's AFDC program. You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issues to be considered at the hearing are: (1) Whether approval of the proposed SPA would not be consistent with the "proper and efficient operation of the plan" and would thus violate section 1902(a)(4) of the Act and (2) whether approval of the plan would not be "consistent with simplicity of administration" as required under section 1902(a)(19) of the Act, and (3) whether the disapproval of the amendment is precluded by the moratorium established by section 2373(c) of the Deficit Reduction Act of 1984.

I am scheduling a hearing on your request to be held on September 24, 1986 in the 21st Floor Conference Room, 100 Van Ness Avenue, San Francisco, California. If this date if not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,
William L. Roper, M.D.,
Administrator.
(Section 1116 of the Social Security Act (42 U.S.C. 1316))
(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: August 8, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-18321 Filed 8-13-86; 8:45 am]
BILLING CODE 4120-01-M

Health Resources and Services Administration Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1986.

Name: Maternal and Child Health Research Grants Review Committee
Date and Time: November 12-14, 1986 9:00 am.-5:00 p.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Open on Wednesday, November 12, 1985 at 9:00 a.m. to 10:00 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Health Care Delivery and Assistance.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health, who will report on program issues, Congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 12, 1986, from 10:00 a.m. for the remainder of the meeting for the review of research grant applications. The closing is in accordance with the Provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Gontran Lamberty, Dr.P.H., Executive Secretary, Maternal and Child Health Reserach Grants Review Committee, Room 6-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443-2190.

Agenda items are subject to change as priorities dictate.

Dated: August 11, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86-18341 Filed 8-13-86; 8:45 am]
BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska Native Claims Selection; AHTNA, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to AHTNA, Incorporated (for the Native village of Cantwell). The lands involved are in the vicinity of Cantwell, Alaska.

Serial No.	Land description	Approximate acreage
F-14844-A	T. 18 S., R. 8 W., FM, Tract B	258.86
	T. 18 S., R. 9 W., FM, Secs. 25, 35 and 36.	360.00
F-14844-A	A portion of U.S. Survey No. 4358.	8.8

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18304 Filed 8-13-86; 8:45 am]
BILLING CODE 4310-JA-M

[AA-6650-B]

Alaska Native Claims Selection; Belkofski Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Belkofski Corporation for approximately 20 acres. The lands involved are in the vicinity of Moss Cape, within T. 58 S., R. 84 W., Seward Meridian, Alaska.

A notice of the decision will be published once in the Aleutian Eagle and once a week for four (4) consecutive weeks in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18311 Filed 8-13-86; 8:45 am]
BILLING CODE 4310-JA-M

[AA-8103-37 [1]]

Alaska Native Claims Selection; Doyon, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is

[1] AA-8103-7, AA-8103-38, AA-8103-39, AA-8103-40, AA-8103-41, AA-8103-42, AA-8103-43, AA-8103-44, AA-8103-45, AA-8103-46, AA-8103-

Continued

hereby given that a decision to issue conveyance under the provisions of section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e), will be issued to Doyon, Limited for approximately 100,350 acres. The lands involved are within the following townships:

Kateel River Meridian, Alaska

T. 17 S., R. 1 W.
T. 18 S., R. 3 W.
T. 19 S., R. 3 W.
T. 20 S., R. 3 W.
T. 21 S., R. 3 W.
T. 21 S., R. 4 W.
T. 22 S., R. 5 W.
T. 23 S., R. 5 W.
T. 24 S., R. 5 W.
T. 25 S., R. 5 W.
T. 26 S., R. 5 W.
T. 27 S., R. 5 W.
T. 26 S., R. 6 W.
T. 27 S., R. 6 W.

A notice of the decision will be published once a week for four (4) consecutive weeks in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–18309 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-JA-M

[F–21906–8, F–21906–9, and F–21906–34]

Alaska Native Claims Selection; Doyon Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e), will be issued to Doyon, Limited for approximately 68,306 acres. The lands involved are in the vicinity of the Venetie Indian Reserve, Alaska.

Fairbanks Meridian, Alaska

T. 36 N., R. 6 E.
T. 36 N., R. 7 E.

Umiat Meridian, Alaska

T. 16 S., R. 32 E.

A notice of the decision will be published once a week for four (4) consecutive weeks in the Fairbanks Daily News-Miner. Copies of the Decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–18310 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-JA-M

[AA–6981–A]

Alaska Native Claims Selection; Haida Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Haida Corporation for approximately 40 acres. The lands involved are in the vicinity of Hydaburg, Alaska.

Copper River Meridian, Alaska

T. 77 S., R. 83 E. (Partially Surveyed),
Secs. 22 and 27, those lands within Sec. 3(e) application AA–20914.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file and appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing and appeal may be obtained. Parties who do not file an appeal in accodance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–18306 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-JA-M

[F–14854–A]

Alaska Native Claims Selection; Iqfijouaq Co.

In accordance with Department regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Iqfijouaq Company for approximately 0.99 acres. The lands involved are in the vicinity of Eek, Alaska.

U.S. Survey No. 2021

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file and appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing and appeal may be obtained. Parties who do not file an appeal in accodance with the requirements of 43 CFR Part 4, Subpart

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48, AA–8103–49, AA–8103–50, AA–8103–51, AA–8103–55.

E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18325 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6675-A]

Alaska Native Claims Selection; The King Cove Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to The King Cove Corporation for approximately 1 acre. The land involved is in T. 59 S., R. 86 W., Seward Meridian, Alaska, within the vicinity of King Cove, Alaska.

A notice of the decision will be published once in the Aleutian Eagle and once a week for four (4) consecutive weeks in The Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18312 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Leisnoi, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Leisnoi, Inc. The lands involved are in the vicinity of Woody Island, Alaska.

Serial No.	Land description	Approximate acreage
AA-8448-A	T. 27 S., R. 19 W., SM, Tract G.	1.0
AA-8448-B	T. 29 S., R. 18 W., SM, Sec. 27, lot 2; Sec. 34, lot 1.	12

A notice of the decisions will be published once a week for four (4) consecutive weeks in the Kodiak Daily Mirror. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18307 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6689-A]

Alaska Native Claims Selection; Sanak Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Sanak Corporation for approximately 5 acres. The lands involved are within T. 66 S., R. 90 W., Seward Meridian, Alaska, in the vicinity of Pauloff Harbor, Alaska.

A notice of the decision will be published once in the Aleutian Eagle and once a week for four (4) consecutive weeks in the The Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18313 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Sealaska Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(h)(1), 14(h)(7), and 22(j), of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), 1613(h)(7), 1621(j), will be issued to Sealaska Corporation. The lands involved are in the Tongass National Forest, Alaska.

Serial No.	Land description	Approximate acreage
AA-10509	A portion of U.S. Survey No. 906.	1.40
AA-10521	U.S. Survey No. 906	143.79
	Copper River Meridian, Alaska	
AA-10455	T. 70 S., R. 78 E., Sec. 33	3.58
AA-10460	T. 77 S., R. 85 E., Secs. 22 and 27.	9.48
AA-10463	T. 70 S., R. 79 E., Sec. 9	1.80
AA-10477	T. 70 S., R. 79 E., Sec. 29	5.80
AA-10486	T. 49 S., R. 62 E., Sec. 14	8.80
AA-10504	T. 48 S., R. 65 E., Sec. 21	16.14
AA-10515	T. 50 S., R. 65 E., Sec. 22	17.60
AA-10518	T. 42 S., R. 69 E., Sec. 19	44.00
AA-10520	T. 53 S., R. 66 E., Secs. 21 and 28.	46.00
AA-10522	T. 42 S., R. 66 E., Secs. 34 and 35.	23.50
	T. 43 S., R. 66 E., Sec. 2	

A notice of the decisions will be published once a week for four (4) consecutive weeks, in the Juneau Empire. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions shall have until September 15, 1986, to file an appeal. However, parties

receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18308 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

[AA 14015]

Alaska Native Claims Selection; Sealaska Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to Sealaska Corporation for approximately 1.0 acres. The lands involved are in the vicinity of Tongass National Forest, Alaska.

Copper River Meridian, Alaska

T. 77 S., R. 82 E. (Unsurveyed)
Sec. 5, those lands within Sec. 3(e) application AA-22286.

A notice if the decision will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 15, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18305 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Yak-Tat-Kwaan, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Yak-Tat-Kwaan, Incorporated. The lands involved are in the vicinity of Yakutat, Alaska.

Serial No.	Land description	Approximate acreage
AA-6987-A	T. 27 S., R. 33 E., CRM, Sec. 32, those lands, within Sec. 3(e) application AA-15156.	3.8
AA-6987-A	T. 27 S., R. 33 E., CRM, Sec. 23, those lands within Sec. 3(e) application AA-12392.	1.0

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the JUNEAU EMPIRE. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until September 15, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18337 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-JA-M

[MT-920-06-4121-10]

Availability of Fort Union Draft Regional Coal Team Charter

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Availability—Fort Union Draft Regional Coal Team Charter.

SUMMARY: Public comments are being sought by the Montana State Office, Bureau of Land Management, on a draft charter for the Fort Union Regional Coal Team (RCT). Comments on the Draft RCT Charter will be accepted until September 22, 1986.

ADDRESS: Comments should be sent to the Division of Mineral Resources (Frey/921), Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107.

SUPPLEMENTARY INFORMATION: Individual regional coal team charters are now needed under revised General Services Administration regulations (41 CFR 101-6.1007(a)(3)). These regulations require that subcommittees, which function independently of their parent advisory committee, be chartered separately. When reactivated, the Fort Union Coal Team will be a subcommittee of the Federal-State Coal Advisory Board. The coal program's first order of business in the Fort Union Region is to re-establish the Fort Union Regional Coal Team. A proposed charter has been written that would allow the re-establishment of the team. As in the past, the team will guide and oversee federal coal leasing activities in the region.

The draft charter is patterned after the national charter of the Federal-State Coal Advisory Board, and contains requirements concerning coal leasing activities in the region, including competitive coal leasing, noncompetitive coal leasing, public notices, opportunities for public participation, records and proceedings. The draft would allow the coal team to operate in a lease-by-application mode, if it so chooses.

Copies of the draft charter may be obtained from BLM's Division of Mineral Resources at the above address.

FOR FURTHER INFORMATION CONTACT: William J. Frey, Coal Coordinator, Bureau of Land Management, Montana State Office, Division of Mineral Resources, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657-6841, or FTS 585-6841.

VOL 51 ISS 157 AG 14 1986 UMI

Dated: August 1, 1986.

Dean Stepanek,

State Director.

[FR Doc. 86-18330 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-DN-M

[UT-040-06-4410-12]

Utah; Plan Amendment for Pinyon Plan; Proposed Geothermal Leasing Stipulations, Beaver and Iron Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Plan amendment notice; proposed geothermal leasing stipulations.

SUMMARY: The Cedar City District of the Bureau of Land Management proposes to amend the Pinyon Management Framework Plan (1983). The original plan did not address changes in the geothermal leasing stipulations from the original stipulations developed in programmatic environmental analysis records (EAR's). Oil and gas leasing categories in the planning unit were revised during the planning process. This amendment would make the geothermal leasing stipulations the same as the stipulations in the oil and gas leasing categories. The same protection afforded resources under the oil and gas categories would be provided by the proposed geothermal leasing stipulations. The environmental assessment is available for review at the Cedar City District Office at the address listed below. The public may comment on the amendment and environmental assessment for 30 days following publication of this notice.

The Pinyon Planning Unit is located in western Beaver and Iron Counties of southern Utah. The Pinyon Planning Unit is the westernmost planning unit of the Beaver River Resource Area in the Cedar City District. The stipulations now in effect are the product of programmatic environmental assessments on the area completed in 1975 and 1976. When completed this amendment would be attached to the MFP and become part of the plan. All future geothermal leases would contain the stipulations developed in this amendment. There are 1,390,800 acres of BLM administered Federal land in the planning unit. Only 1,460 acres of this area are now under lease. There is a potential for 93,750 acres to be leased under simultaneous leasing procedures.

The proposal is to drop 15,360 acres of unneeded protection of antelope kidding grounds seasonal stipulation and add 3,919 acres of seasonal stipulations for the protection of raptors and sage grouse, and 2,347 acres of no surface occupancy to protect the Utah prairie dog and three historical recreation sites. Recent wildlife inventories have indicated that there are no identified kidding areas needing special protection by seasonal or year round no surface occupancy stipulation. There are other areas, however, that do require protection by seasonal and year round no surface occupancy stipulation. These stipulations are the same as those now in place under the oil and gas leasing categories.

The environmental assessment/plan amendment is available at the Cedar City District Office at 1579 North Main Street, Cedar City, Utah. The environmental assessment/plan amendment was prepared and reviewed by an interdisciplinary team of minerals, vegetation, wildlife, recreation, soils, and watershed specialists.

DATE: The comment period will be open for 30 days following the publication of this notice. At the end of the comment period, a decision notice will be issued subject to a 30 day protest period.

FOR FURTHER INFORMATION CONTACT: Pete Wilkins, District Planning Coordinator in the Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720, (801) 586-2401.

Dated: August 5, 1986.

Morgan S. Jensen,

District Manager.

[FR Doc. 86-18362 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-070-06-4322-01-ADVB]

Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Butte District Grazing Advisory Board will be held Thursday, September 18, 1986, in the Butte District office conference room. A short organizational meeting will be held at 8:00 a.m. Immediately following, the board will participate in a field tour of various sites in the Headwaters Resource Area. The field tour will be done in conjunction with the Butte District Advisory Council.

The meeting and field tour are open to the public, although transportation for members of the public on the field tour will not be provided by BLM. The public may make oral statements before the advisory board or file written statements for the board's consideration. Anyone wishing to make oral statements or participate in the field tour should make advance arrangements with the district manager.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

James A. Moorhouse,

District Manager.

[FR Doc. 86-18293 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-DN-M

[MT-070-06-4341-01-ADVB]

District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Butte District Advisory Council will be held Wednesday and Thursday, September 17 and 18, 1986. The meeting will begin at 1:00 p.m. in the Butte District Office conference room, 106 North Parkmont (Industrial Park), Butte, Montana. The agenda will include (1) recreation access to public lands, (2) BLM's role in endangered species management, (3) weed control, (4) the BLM land appraisal process used in land exchanges, and (5) a discussion of the various points of interest in the Headwaters Resource Area to be visited on a field tour.

On September 18, a field tour of the Headwaters Resource Area will begin starting approximately 9:00 a.m. from the district office. The field tour will be made in conjunction with the Butte District Grazing Advisory Board.

The meeting and field tour are open to the public, although transportation for members of the public during the tour will not be provided by BLM. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make statements to the council or participate in the field tour should make advance arrangements with the district manager.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Butte District, Bureau of Land Management, Box 3388, Butte, Montana 59702.

James A. Moorhouse,

District Manager.

[FR Doc. 86-18294 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-DN-M

[OR120-6310-02: GP6-326]

Coos Bay District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Monday, September 22, 1986, beginning at 9:00 a.m. The meeting will be held in the conference room of the Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR.

Agenda: The agenda for the meeting will include:

1. Explanation to the council of the legislation which created and directs the actions of BLM, and a similar discussion of law and regulations guiding actions of the District Advisory Council.

2. Discussion of future assignments for the council's consideration.

3. Discussion of council committee formation and assignments.

4. Discussion of the Dean Creek Wildlife Area Habitat Management Plan and the public comments received on the draft plan to date, followed by Council deliberation and a Council recommendation to the District Manager on the HMP.

5. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the council from 10:00 a.m. to 10:30 a.m. on Monday, September 22, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Monday, September 15, 1986 (Telephone 503-269-5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420.

Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: August 8, 1986.

Robert T. Dale,

District Manager.

[FR Doc. 86-18323 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-33-M

[AZ-040-06-4132-12]

Meeting of the Safford District (Arizona) Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting of the Safford District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held.

DATE: Friday, September 12, 1986, at 10:00 a.m.

ADDRESS: BLM Safford District Office, 425 E. 4th Street, Safford, Arizona 85546.

FOR FURTHER INFORMATION CONTACT: Pete Zwaneveld, Public Affairs Specialist, Safford District Office, 425 E. 4th Street, Safford, AZ 85546. Telephone (602) 428-4040.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following items: State and Private Land Exchanges; San Pedro Management Plan; Aravaipa Canyon Wilderness Management Plan; Advisory Council nominations; Management Update; and Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:30 p.m. or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must contact the Safford District Manager by September 11, 1986. Depending upon the number of people wishing to make oral statements, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: August 1, 1986.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 86-18324 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-32-M

[OR-11112 (WASH) (OR-943-06-4220-11: GP-6-322]

Order Providing For Opening of Land; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will open approximately 0.50 acre of land reconveyed to the United States to disposal by sale to resolve an unauthorized occupancy. The land has been and continues to be open to mineral leasing.

EFFECTIVE DATE: September 16, 1986.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503-231-6905).

SUPPLEMENTARY INFORMATION: 1. Pursuant to the Act of March 30, 1904 (33 Stat. 154), the following described land has been voluntarily reconveyed to the United States:

Willamette Meridian

T. 30., R. 6 W.,

That portion of the Townsite of Port Angeles more particularly described as follows: Beginning at the corner common to Suburban lots 113, 114, 155, and 156, Townsite of Port Angeles, Washington, monumented with a ½ in. iron pipe, with a plastic survey cap marked LS 9364, as set by Earl E. Johnston in 1982, from which the closing corner of the North and South center line of Section 8 with the south right-of-way line of Lauridsen Boulevard established by the Clallam County Engineer, bears S. 78°00' 19" W., 448.37 feet; thence S. 56°45'06" E., 439.40 feet along the line between Suburban lots 113 and 156 to a ½ in. iron pipe, with a plastic survey cap marked LS 9364; thence N. 33°15'05" E., 50.00 feet to a ½ in. iron pipe, with a plastic survey cap marked LS 9364; thence N. 56°45'06" W., 439.40 feet to a ½ in. iron pipe with a survey cap marked LS 9364, at a point which is on the line between Suburban lots 113 and 114, thence S. 33°15'05" W., 50.00 feet along the line between suburban lots 113 and 114 to the point of beginning.

The area described contains approximately 0.50 acre in Clallam County, Washington.

2. At 8:30 a.m., on September 16, 1986, the land will be open to sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713). The land has been and remains open to applications and offers under the mineral leasing laws, but remains closed to all other forms of appropriation under the public land laws, including the mining laws.

Dated: August 4, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-18361 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-33-M

VOL 51 ISS 157 AG 14 1986 UMI

[AZ-040-06-4212-14; A 21805]

Realty Action; Modified Competitive Sale of Public Land in Cochise County, AZ

AGENCY: Bureau of Land Management, Safford District, Interior.

ACTION: Notice of realty action, modified competitive sale of public lands in Cochise County, Arizona.

SUMMARY: The following lands have been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750; 43 U.S.C. 1713 at no less than the appraised fair market value.

Legal description	Acres	Appraised value
Gila and Salt River Meridian, Arizona T. 16 S., R. 22 E., Sec. 9, SE¼NW¼, NE¼SW¼	80.00	$24,000

The land is being offered only to the two adjacent landowners, Mr. Roy McGoffin and Kartchner Farms and Ranches, Inc. There is no legal access to the parcel and access is controlled by these two landowners. No other bids or bidders will be considered.

The land is not required for any Federal purpose. The parcel is difficult and uneconomic to manage as public land. Disposal would best serve the public interest. The disposal would be consistent with the Bureau's planning recommendations.

All minerals will be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b). Purchaser of the affected parcel will be required to submit a non-returnable filing fee in the amount of $50.00 to cover the processing costs of conveying the available mineral interests. Failure to do so will result in disqualification.

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record. It will contain a reservation to the United States for a right-of-way of ditches and canals under the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

The patent will be issued subject to such rights as the grazing lessees, Roy W. and Geraldine G. McGoffin may have to continue their grazing use. Two years from the date of receipt of this notice the grazing lease and grazing preference will be cancelled on this parcel of land.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

Sale Procedures

This parcel will be sold through the acceptance of sealed bids. Sealed bids must be submitted to the Safford District Office, 425 E. 4th Street, Safford, Arizona 85546. Sealed bids sent by mail will only be considered if received prior to 1:00 p.m., October 22, 1986. Bids may be made by a principal or duly qualified agent.

Sealed bids, accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth (20%) of the amount of the bid must be in a separate sealed envelope, within the transmittal envelope. The sealed envelopes must be marked in the lower lefthand corner, "Sealed Bid, Public Land Sale A 21805, Sale to be held October 22, 1986." All sealed bids will be opened at 1:00 p.m. on the day of sale.

The remainder due must be paid within 180 days from the date of sale. Failure to submit the full bid price prior to, but not including the 180th day following the day of sale, shall result in cancellation of the sale and forfeiture of the deposit.

If two envelopes contain bids of the same amount, the highest bid shall be determined by supplemental bidding. The designated bidder shall submit sealed bids immediately following the bid openings at 1:00 p.m., October 22, 1986.

DATE: For a period of 45 days from the date of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Detailed information concerning reservations, conditions, terms, appraised price, bidding precedures and other items may be obtained from the Safford District Office or by calling (602) 428-4040 during the office hours 7:45 to 4:15 MST.

Dated: August 7, 1986.

Vernon L. Saline,

Acting District Management.

[FR Doc. 86-18328 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-040-06-4131-11; A 21969]

Realty Action; Exchange of Federal Mineral Estate in Pinal County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of Federal mineral estate.

SUMMARY: The Federal mineral estate underlying the following described private land has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 8 S., R. 17 E.,
Sec. 7, SE¼SE¼;
Sec. 8, SW¼SW¼, S½N½SW¼.
Comprising 120 acres.

In exchange for the above 120 acres of Federal mineral estate, Magma Copper Company offers the following lands (surface and mineral estates):

Gila and Salt River Meridian, Arizona

T. 9 S., R. 18 E.,
Sec. 31, N½SE¼, SE¼SE¼.
T. 10 S., R. 18 E.,
Sec. 5, SW¼NW¼.
Comprising 160 acres.

Based on land and mineral appraisals, with a money equilization payment, it has been determined that the values of the estates to be exchanged are equal.

There are no oil and gas leases on any of the above described parcels.

Publication of this notice shall segregate the Federal minerals, as described in this notice, from appropriation under the mining laws with the exception of the mineral leasing laws. This segregative effect shall terminate upon the issuance of a patent or two years from the date of this notice, or upon publication of a Notice of Termination.

DATE: For a period of forty-five (45) days from the date of this publication, interested parties may submit comments to the District Manager at the address given in the Supplementary Information.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange proposal may be obtained from the

District Manager, Safford District Office, 425 E. 4th Street, Safford, Arizona 85546.

Dated: August 7, 1986.

Vernon L. Saline,

Acting District Manager

[FR Doc. 86-18327 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-32-M

Realty Action, Recreation and Public Purpose Sale, Public Land in Lincoln County, WY

Correction

In the issue of Tuesday, July 8, 1986, on page 24756, second column, a correction to FR Doc. 86-13939 appeared. The correction was inaccurate and should have appeared as follows:

On page 22869, in the issue of Monday, June 23, 1986, in the first column, under the heading, "6th Principal Meridan, Wyoming", the first line is corrected to read:

"T. 36, N., R. 119 W."

BILLING CODE 1505-01-M

[ID-060-06-4331-12]

Coeur d'Alene District; Restriction Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Restriction order.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8364.1, that the following acts are prohibited on certain lands administered by the Bureau of Land Management, Emerald Empire Resource Area, known as Hideaway Islands:

1. Building, maintaining, attending or using a fire or campfire.

2. Camping, defined as use or occupancy for any period longer than eight consecutive hours.

These restrictions apply to all lands, the surface of which is administered by the Bureau of Land Management, located within sec. 21, T.62N., R.2E., B.M. BLM land encompassed by this description includes approximately 170 acres consisting of two unsurveyed islands located in the Kootenai River. They are situated between river mile 158 and 159, which is upstream and east of Bonners Ferry, Idaho and about two and one-half river miles downstream from the mouth of the Moyie River. These restrictions become effective immediately and will remain in effect until revoked or rescinded.

These restrictions do not apply to:

1. Any federal, state or local law enforcement officer or member of an organized rescue or firefighting force in the performance of an official duty.

2. Persons issued a BLM permit expressly authorizing the otherwise prohibited acts.

3. BLM personnel, contractors or cooperators in the performance of an official duty.

These restrictions are necessary to manage the islands, designated a research natural area in a non-destructive and non-manipulative manner to preserve existing plant communities.

Signed at Coeur d'Alene, Idaho, this 5th day of August, 1986.

Lewis M. Brown,

Acting District Manager.

[FR Doc. 86-18290 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-GG-M

[AZ-050-06-4333-11]

Long-Term Visitor Permit Program For 1986-1987 and Subsequent Use Seasons; Designation and Revision of Long-Term Visitor Area; and Revision and Establishment of Supplementary Rules: Yuma District, Arizona, and California Desert District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Changes to the Long-Term Visitor Permit Program for the 1986-1987 and subsequent use seasons, boundary changes for the Imperial Dam Long-Term Visitor Area, and revisions to and establishment of supplementary rules in the Yuma District, Arizona, and the California Desert District, California.

SUMMARY: The Bureau of Land Management's (BLM) Yuma District and California Desert District announce revisions to the "Long-Term Visitor Program" for the 1986-1987 and subsequent use seasons. The program, which was instituted in 1983, established an annual long-term use season from October 1 to May 31. During this time, visitors who wish to camp on public lands in one location for extended periods must stay in designated Long-Term Visitor Areas (LTVAs) and purchase a $25 LTVA permit. Beginning with the 1986-1987 use season, the following modifications are being made to the Long-Term Visitor Program:

1. Between October 1 and May 31, visitors who wish to camp in an LTVA are required, regardless of length-of-stay, to obtain an LTVA permit except (a) in designated areas within LTVAs specifically identified for short-term camping use of up to 14 days, (b) in the Mule Mountain LTVA where visitors may stay up to 14 days before a permit is required, or (c) when campers are registered as a guest of an LTVA permittee. Persons using an LTVA under the exceptions listed above must obtain the necessary short-term or guest registration forms.

2. The La Posa LTVA may be occupied without a permit during the period of operation of the annual Quartzsite Pow Wow. The exact dates of this waiver period may be obtained from the Yuma District Office or from informational signing at the La Posa LTVA.

3. The Yuma District is revising the boundaries of the Yuma District portion of the Imperial Dam LTVA (see Table 1). The other eight LTVAs are unchanged.

TABLE 1.—LONG-TERM VISITOR AREAS

District	Area	Approximate size (acres)	Location
Yuma	Imperial Dam LTVA (Revision of Yuma District Portion).	1,950	T. 15 S., R. 24 E. (SBM), Secs. 5, 6, 7, 8, 17, 18, 19

4. In addition to rules of conduct set forth in CFR Title 43, Chapter II, 8365.1-5, the following supplementary rules apply to designated LTVAs. These rules replace the rules published in the Federal Register on August 23, 1985.

a. The speed limit in LTVAs is 15 m.p.h. Motorized vehicle free play is prohibited. Motorized vehicles should be used in LTVAs only for access to and from campsites.

b. Pets must be kept on a leash or under some other form of physical control at all times.

c. A 15-foot space must be maintained between dwelling units, campfires, and vehicles.

d. Quiet hours are from 10 p.m. to 6 a.m. Operation of audio devices or motorized equipment, including generators, in a manner that makes unreasonable noise that disturbs other visitors is prohibited.

e. Dumping of gray water is prohibited unless otherwise posted.

f. Discharge of firearms or weapons is prohibited within one-half mile of LTVAs.

g. Landing or taking off of aircraft, including ultra-lights, is prohibited.

h. Boarding of livestock (horses, cattle, sheep, goats, etc.) within the boundaries of LTVAs is permitted only through authorization by the local Area Manager.

i. Campers, trailers, and other dwelling units must remain mobile. Wheels must remain on all wheeled

vehicles. No permanent structures or alterations to the natural landscape are allowed.

j. No wood collecting is permitted within the boundaries of Imperial Dam and La Posa LTVAs.

k. Overnight occupancy is prohibited in desert washes within the Imperial Dam and La Posa LTVAs.

l. Overnight occupancy is prohibited between Old Highway 80 and Interstate 8 in Hot Spring LTVA.

m. Food or beverages are prohibited within 50 feet of the hot spring facility in Hot Spring LTVA.

n. In the La Posa, Pilot Knob, Midland, Dunes Vista, Tamarisk, and Hot Spring LTVAs, camping is restricted to self-contained camping units only. The Imperial Dam LTVA is also restricted to self-contained camping units only, except for the South Mesa area.

o. Access to the La Posa LTVA is restricted to legal access roads along U.S. Highway 95. Construction and use of other access points are prohibited. This includes removal and modification of barricades such as fences, ditches, and berms.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: David Mensing, Outdoor Recreation Planner, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6402, or Hal Hallett, Outdoor Recreation Planner, Yuma District, 3150 Winsor Avenue, Yuma, Arizona 85365, (602) 726–6300.

SUPPLEMENTARY INFORMATION: The purpose of the Long-Term Visitor Program is to provide areas for long-term winter camping use. The sites designated as LTVAs are, in most cases, the traditional use areas of long-term visitors. Designated sites were selected using criteria developed during the management planning process, and environmental assessments were completed for each site location.

The program was established to properly accommodate the increasing demand for long-term winter visitation and to provide natural resource protection through improved management of this use. The designation of LTVAs will assure that specific locations are available for long-term use year after year and that inappropriate areas are not used for extended periods.

Visitors may camp without a Long-Term Visitor Permit outside of LTVAs on public lands not otherwise closed to camping for up to 14 days in any 28-day period unless posted otherwise. The Mule Mountain LTVA is also open to short-term camping without an LTVA permit for a period not to exceed 14 days.

Authority for the designation of LTVA's is contained in CFR Title 43, Chapter II, 8372.0–5(g). Authority for the establishment of a Long-Term Visitor Permit Program is contained in CFR Title 43, Chapter II, 8372.1 and for the payment of fees is contained in CFR Title 36, Chapter I, Part 71.

The authority for establishing supplementary rules is contained in CFR Title 43, Chapter II, 8365.1–6. The LTVA supplementary rules have been developed to meet the goals of individual resource management plans. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected and posted near and/or within the lands, sites, or facilities affected. Violations of supplementary rules are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Maps showing the location of all LTVAs are available at both the California Desert District and Yuma District Offices.

Ed Hastey,

State Director, California.

D. Dean Bibles,

State Director of Arizona.

[FR Doc. 86–18364 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-32-M

[NV-943-06-4212-22]

Filing of Plats of Survey; Reno, NE

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

DATE: Filings were effective at 10 a.m. on July 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Nevada State Office, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 784–5484.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada.

Mount Diablo Meridian, Nevada

T. 39 N., R. 61 E.—Dependent Resurvey and Section Subdivision
T. 37 N., R. 62 E.—Dependent Resurvey
T. 20 N., R. 24 E.—Supplemental Plat
T. 33 N., R. 70 E.—Supplemental Plat

These surveys were executed to meet certain administrative needs of this Bureau.

Dated: August 4, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86–18365 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-HC-M

New Mexico; Filing of Plat of Survey

July 31, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on August 1, 1986.

The dependent resurvey of a portion of Sixth Standard Parallel North through a portion of Range 18 West, the west boundary and a survey of the north boundary and subdivisional lines of Township 25 North, Range 18 West, New Mexico Principal Meridian, New Mexico.

A corrective resurvey of the Sixth Standard Parallel North, through Range 19 West, a dependent resurvey of portions of the west and north boundaries and the survey of the subdivisional lines of Township 25 North, Range 19 West, New Mexico Principal Meridian, New Mexico; all executed under Group 833, New Mexico.

This survey was requested by the Bureau of Indian Affairs, Navaho Area Office, Window Rock, Arizona.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 86–18329 Filed 8–13–86; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plat of Survey

August 8, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 am on August 8, 1986.

A survey representing the dependent resurvey of portions of the south boundary of the Sevilleta Grant, the subdivisional lines, the partial subdivision of section 13, certain small holding claim boundaries, and the survey of lots 12 and 13, Township 1 South, Range 1 West, of the New Mexico Principal Meridian, New Mexico, under

Group 768 NM, approved August 1, 1986, and the dependent resurvey of portions of the subdivisional lines, the subdivision of section 32, Small Holding Claim 2929, Tr. 2, lots 15, 16 and 17, and the survey of lots in section 32, Township 4 South, Range 1 East, under Group 768 NM, approved August 1, 1986.

The survey was requested by the District Manager, Socorro, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P. O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 86-18287 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plats of Surveys

August 8, 1986.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 am on August 8, 1986.

The following surveys representing:

The dependent resurvey of a portion of the Fourth Standard Parallel North, a portion of the subdivisional lines, the partial subdivision of section 5, and the new meanders of a portion of the present right bank of the Canadian River in section 5, Township 16 North, Range 19 West, Indian Meridian, Oklahoma;

The dependent resurvey of a portion of the subdivisional lines, the adjusted record meanders of the former left bank of the Canadian River in section 33, the subdivision of section 33 and the new meanders of a portion of the present left bank of the Canadian River in section 33, Township 18 North, Range 17 West, Indian Meridian, Oklahoma;

The dependent resurvey of a portion of the subdivisional lines, the subdivision of section 26, and the new meanders of a portion of the present left bank of the Canadian River in section 26, Township 18 North, Range 25 West, Indian Meridian, Oklahoma;

The dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, the adjusted record meanders of the former right bank of the Canadian River in section 33, the subdivision of section 33, and the survey of the new meanders of the present right bank of the Canadian River in section 33, Township 18 North, Range 25 West, Indian Meridian, Oklahoma, under Group 43 OK.

These surveys were requested by the BLM Area Manager, Oklahoma Resource Area, Tulsa District, Oklahoma.

The plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P. O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from that office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 86-18288 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plat of Survey

August 8, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 am on August 8, 1986.

A survey representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and the adjusted record meanders of the former left bank of the Red River in section 13, and the survey of a portion of the state boundary between Oklahoma and Texas in sections 14 and 23, a portion of the subdivisional lines, an informative traverse of portion of the new meanders of the present left bank of the Red River in sections 13 and 24, and the present medial lines of the Red River in section 13, Township 5 South, Range 9 West, Indian Meridian, Oklahoma under Group 47 OK.

This survey was requested by the BLM Area Manager, Oklahoma Resource Area, Tulsa, District, Oklahoma.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 878504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 86-18289 Filed 8-13-86; 8:45 am]

BILLING CODE 4310-FB-M

Inventory of Re-Instated Wilderness Study Areas; Nevada

August 8, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of publication of a document which contains proposed decisions for the status of ten Wilderness Study Areas (WSAs) being reinstated to the wilderness study process as the result of a court case.

SUMMARY: The Bureau of Land Management (BLM) in Nevada has completed the inventory of ten former Wilderness Study Areas (WSAs) which were reinstated to the wilderness study process as the result of a court case. The areas are in Clark, Lincoln and White Pine Counties and all ten are adjacent to the other Federal agencies' proposed wilderness or roadless areas. The purpose of the inventory was to determine whether each WSA would be studied under section 603 or 202 of the Federal Land Policy and Management Act (FLPMA), Pub. L. 94-579. These ten WSAs have wilderness character and will be studied under section 603 of FLPMA. Recommendations regarding each of the ten WSA's suitability or nonsuitability for wilderness designation will be developed in the Bureau's land use planning process slated to be completed in 1988.

SUPPLEMENTARY INFORMATION: The acreage which was inventoried was reinstated as a result of an April 1985 decision in Sierra Club vs. Watt concerning certain lands that were deleted from wilderness review in 1982 and 1983. Then Secretary of the Interior James Watt nationally initiated dropping of WSAs that were contiguous to other agencies' proposals. As the result of a stipulated settlement with the plaintiffs, the ten contiguous areas in Nevada have been re-inventoried.

The ten areas, all of which are more than 5,000 acres in size, which are discussed in this document are as follows:

WSA name	County	Acreage	Contiguous lands
Marble Canyon[1] (NV040-066).	White Pine	19,150	USFS prop. wilderness.
Fish & Wildlife #1 (NV050-201).	Lincoln/ Clark	11,090	USFWS prop wilderness.
Fish & Wildlife #2 (NV050-216).	Clark	17,242	USFWS prop. wilderness.
Fish & Wildlife #3 (NV050-217).	Clark	22,002	USFWS prop wilderness.
Lime Canyon (NV050-231).	Clark	34,680	NPS roadless area.
Million Hills (NV050-233).	Clark	21,296	NPS roadless area.
Gemini Buttes (NV050-235).	Clark	11,835	NPS roadless area.
Quail Springs (NV050-411).	Clark	12,145	USFWS prop. wilderness.
El Dorado (NV050-423).	Clark	12,290	NPS roadless area.
Ireteba Peaks (NV050-438).	Clark	14,994	NPS roadless area.
Total		176,724	

[1] Formerly Granite Springs.

All the WSAs listed above will be managed under the provisions of the "Interim Management Policy and Guidelines for Lands Under Wilderness Review." There is a difference in the

VOL 51 ISS 157 AG 14 1986 UMI

way existing and new mining activities under the 1872 Mining Law are regulated. In "603" WSAs, the mining activities are regulated to prevent impairment of the WSA's wilderness suitability. In "202" WSAs, mining activities are regulated to prevent unnecessary or undue degradation of the lands. All Nevada WSAs here are proposed to fall in the "603" classification. All ten WSAs will be studied in the Bureau's land use planning process.

DATES: There is a 90-day comment period on the summary document which is being issued to determine if the WSA study should be under section 603 or 202 of the Federal Land Policy and Management Act. The comment period will end on November 20, 1986.

ADDRESS: Comments on the document "Summary of Proposed Wilderness Inventory Decisions, Nevada BLM, 1986" should be sent to the State Director, Nevada State Office, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520 by November 20, 1986. Questions regarding specific WSAs should be directed to the BLM District Manager with jurisdiction for the area. Questions on Marble Canyon should be directed to the Ely District Manager, Star Route 5, Box 1, Ely, Nevada 89301. Questions on the other nine WSAs should be addressed to the Las Vegas District Manager, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

FOR FURTHER INFORMATION CONTACT: Dave Harmon, Wilderness Coordinator, (702) 784–5748.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86–18314 Filed 8–13–86; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 710078

Applicant: James Warren Landwermeyer, Dallas, TX.

The applicant requests a permit to import a trophy from a bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa. The herd is maintained for the purpose of sport hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

PRT 710088

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import one captive bred female Somali wild ass (*Equus africanus somalicus*) from the Basel Zoological Gardens in Switzerland. This animal will be kept at the San Diego Wild Animal Park in Escondido, California for the purpose of exhibition, education and propagation.

PRT 710271

Applicant: Arizona Game and Fish Department, Phoenix, AZ.

The applicant requests a permit to import eight captive born thick billed parrots (*Rhynchopsitta pachyrhyncha*) from the Jersey Wildlife Preservation Trust in the Channel Islands. These birds will be released into the wild in Arizona, to reestablish a population in the United States.

PRT 710242.

Applicant: James Dennis Garry, Walnut Creek, CA.

The applicant requests a permit to import one captive born male peregrine falcon (*Falco peregrinus anatum*) from John LeJeune Falcon Farms Ltd., Agassiz, British Columbia, Canada, for captive breeding and falconry purposes.

PRT 697819

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 4, Atlanta, GA.

The applicant requests an amendment to their current permit to allow take of additional species of wildlife and plants for scientific purposes and the enhancement of propagation or survival in accordance with Recovery Plans, listing or other Service work for those species.

PRT 710158

Applicant: World Insectivorus Plants, Marietta, GA.

The applicant requests a permit to sell in interstate commerce, artificially propagated green pitcher plants (*Sarracenia oreophila*) from seeds supplied by Georgia Department of Natural Resources. Commercially available plants would provide an alternate source for collectors thereby relieving pressure on the population remaining in the wild.

PRT 709836

Applicant: Peter Pauls Nurseries, Canandaigua, NY.

The applicant requests a permit to sell in interstate commerce, artificially propagated green pitcher plants (*Sarracenia oreophila*). Availability of artificially propagated specimens will help alleviate pressure on the population remaining in the wild.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: August 11, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–18343 Filed 8–13–86; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Century Utilities, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 31, 1986, a proposed Consent Decree in *United States* v. *Century Utilities, Inc.*, Civil Action No. 85–8495, was lodged with the United States District Court for the Southern District of Florida. The proposed Consent Decree settles a lawsuit filed on August 27, 1985, pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, for injunctive relief and for the assessment of a civil penalty against Century Utilities, Inc. ("Century"). The complaint alleges, among other things, that Century had violated the Act by discharging sewage into waters of the United States in violation of its National Pollutant Discharge Elimination System ("NPDES") permit and by discharging without a permit after the permit expired. The complaint alleges that Century's acts violated section 301 of the Act, 33 U.S.C. 1311, and entitled the United States, pursuant to section 308 of the Act, 33 U.S.C. 1319, to injunctive relief and to recover a civil penalty of not more than $10,000 per day of violation.

The proposed Consent Decree sets forth a corrective action program that Century will implement. The corrective action program requires Century, among other things, to connect its treatment plant into the regional treatment facility of West Palm Beach County and provides Century with interim effluent limitations while Century completes work on the connection. The proposed Consent Decree imposes stipulated penalties for failure to comply with the Decree. The proposed Consent Decree also requires Century to make the payment of the $40,000 civil penalty required by a consent judgment entered into with the State of Florida on October 15, 1985.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Century Utilities, Inc.*, D.J. Ref. 90–5–1–1–2262.

The proposed Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.40 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–18295 Filed 8–13–86; 8:45 am]

BILLING CODE 4401–01–M

Lodging of Consent Decree Pursuant to Clean Air Act; Stockton Port District

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 29, 1986, a proposed Consent Decree in *United States* v. *Stockton Port District*, Civil Action No. S–83–962–EJG, was lodged with the United States District Court for the Eastern District of California.

The proposed Consent Decree requires the Defendant to avoid all opacity violations of the Clean Air Act by (1) handling materials on covered conveyer belts and in covered truck load-out areas; (2) inspecting and applying dust suppressant to materials stored in open piles; (3) sweeping and applying dust suppressant to port roads; (4) applying dust suppressant during the rail car unloading of petroleum coke; (5) closing of all openings in warehouses during loading and unloading operations; (6) constructing a new cone hopper system; (7) conducting compliance demonstrations; and (8) operating and maintaining its facility properly. The Defendant has also agreed to provide EPA with advance notice of arriving ships and to provide access to its port facility to EPA and its representatives. The Decree also imposes stipulated penalties on the defendant for any failures on its part to comply with the terms of the Consent Decree. The Decree also provides for the payment of a civil penalty by the Defendant in the amount of $90,000 to be paid 30 days after entry of the Decree. With the exception of penalty obligations, the Decree terminates December 31, 1990.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments regulating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Stockton Port District.*, D.J. No. 90–5–2–2–557.

The proposed Consent Decree may be examined at the office of the United States Attorney, 3305 Federal Building, 650 Capitol Mall, Sacramento, California; the Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the case name and D.J. Number and enclose a check in the amount of $1.70 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–18328 Filed 8–13–86; 8:45 am]

BILLING CODE 4410–01–M

[AGG/A Order No. 13–86]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice is publishing notice of a new system of records entitled "United States Department of Justice Relocation Management Information System (Justice/JMD–014)."

Section 552a (e)(4) and (11) of the Privacy Act provides that the public be given a minimum of 30 days in which to comment on the routine uses of this system. In addition, Office of Managment and Budget (OMB) Circular A–130 requires that OMB be given 60 days in which to review the system.

To comply with both of these timeframes, please submit any comments by October 14, 1986. Comments should be submitted to J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 9002, 601 "D" Street NW., Washington, DC 20530.

In accordance with Privacy Act requirements, the Department has provided a report on this new system to the Director, OMB, the President of the Senate, and the Speaker of the House of Representatives.

A description of this new system of records in printed below.

Dated: July 31, 1986.

Robert N. Ford,

Acting Assistant Atorney General for Administration.

JUSTICE/JMD–014

SYSTEM NAME:

United States Department of Justice Relocation Management Services Information System (Justice/JMD–014).

SYSTEM LOCATION:

Office of Personnel and Adminstration, Justice Management Division (JMD), 10th and Constitution Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice (DOJ) employees who have been authorized by their employing organizations to transfer to an alternate location for the benefit of the Government and who have chosen to utilize the relocation services offered by a firm under contract to DOJ.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual and automated records will contain abbreviated data, e.g.,

relocation number, name, social security number, employing organization, address, telephone number, descriptive housing data, and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509 and 510; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.75.

PURPOSE(S):

The purpose of this system is to maintain information on home sale transactions for those individuals employed by DOJ who are authorized to use home sale services when being transferred for the benefit of the Government. To enable DOJ to administer its relocation management program and provide home sale services for transferring enployees, it is necessary for a system of records to be maintained. This system will be maintained for DOJ by a contractor offering relocation services designed specifically for DOJ. The system will allow tracking of employee home sale transactions from initial employee notification of eligibility, through appraisal, offer, acquisition, and final contractor billing and payment. Such information is essential to the conduct and monitoring of relocation services. In accordance with subsection (m) of the Privacy Act, DOJ shall cause the requirements of the Privacy Act to apply to this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Primary users of this system will be DOJ and contractor employees working directly for DOJ. The system will be use to manage relocation services within DOJ and to monitor the status of home sale transactions for employees using the relocation management program.

Release of Information to a Court or Adjudicative Body:

Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which DOJ is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by DOJ to be arguably relevant to the litigation: the DOJ or any of its subdivisions; any DOJ employee in his or her official capacity or in his or her individual capacity were DOJ agrees to represent the employee; or the United States where the DOJ determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from the system of records maintained by DOJ unless it is determined that release of the specific infromation in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in the system of records maintained by DOJ may be disclosed as is necessary to respond appropriately to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA):

A record from a system of records may be disclosed as a routine use to NARA and to GSA in records management inspections conducted under the authority of Title 44 of the United States Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored on magnetic discs and in file folders.

RETRIEVABILITY:

Records will be indexed and retrieved by name, relocation number and type of transaction.

SAFEGUARDS:

Access to computerized records will be restricted to DOJ and contractor relocation management personnel through the use of assigned codes. Paper records will be secured in locked file cabinets.

RETENTION AND DISPOSAL:

A detailed records retention plan and disposal schedule is being developed by NARA and DOJ.

SYSTEM MANAGER(S) AND ADDRESS:

Relocation Management Coordinator, Justice Management Division, U.S. Department of Justice, Room 1111, 10th and Constitution Avenue, NW. 20530.

NOTIFICATION PROCEDURE:

Direct all inquiries to the system manager identified above. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requestor, nature of the record sought, approximate date of the record, and provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD SOURCE CATEGORIES:

The relocating employee will be either the primary source of records in this system or will be actively and directly involved with any information provided by other sources, i.e., personnel files, office records, contractor files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-18286 Filed 8-13-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Modification of Final Judgement; Allied Finance Adjusters Conference, Inc.

Notice is hereby given that Allied Finance Adjusters Conference, Inc. ("Allied") has filed with the United States District Court for the Northern District of Illinois a motion to modify the final judgment in *United States v. Allied Finance Adjusters Conference, Inc.*, Civil No. 81C-3723; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to modification of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments.

The complaint in this case (filed on January 5, 1981) alleged that Allied had combined and conspired to agree on, prepare, publish in its directory, disseminate and encourage members to adhere to fee schedules for repossession services; to restrict membership to one member in each designated geographic territory; to restrict the area for which each of defendant's members could advertise its repossession services; and to establish arbitrary and unreasonable membership rules and restrictions.

The 1983 Judgment (1) prohibits various activities relating to pricing; (2) prohibits advertishing and operating restrictions; and (3) allows Allied to continue its policy of one member per

territory, provided it does not grant to any member an exclusive territory that overlaps in whole or in part an exclusive territory granted to the member by any other repossessor organization. The 1983 Judgment allows a three-year period during which any member that already held overlapping exclusive territories could elect either to waive its exclusive rights in the other organization or require Allied to open its territory to service by all Allied members and all qualified applicants that wish to serve such territory. If Allied opens a territory, it is required to publicize its action and entertain applications under specified procedures. All applicants fulfilling certain specified requirements must be accepted. Allied's obligation to open certain territories before the end of the three-year period provided for in the decree has been stayed by an order of the court entered on May 27, 1986. The stay was granted pending resolution of Defendant's Motion to Modify Final Judgment.

The Proposed Modified Final Judgment contains three substantive changes. The primary modification is the elimination of the provison in the Final Judgment that allows certain Allied members holding exclusive territories in other repossessor organizations to elect, in effect, whether to have Allied open their Allied exclusive territories. Instead, Allied would be required to terminate members holding overlapping exclusive territories in other repossessor organizations, rather than allowing such members the option of requiring Allied to open their territories. The proposed Modified Final Judgment also contains a broader definition of "exclusive territory" to conform with the definition used in the consent decree entered in the related case of *United States* v. *National Finance Adjusters, Inc.* Finally, the modified decree would be in effect for seven years after entry to reflect the three years that the 1983 judgment has been in effect.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that modification of the judgment would serve the public interest. Copies of the complaint and final judgment, Allied's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection at Room 7233, Antitrust Division, United States Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone: 202/633-2481), and at the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Dirksen Federal Building, Room 2008, 219 South Dearborn Street, Chicago Illinois 60604. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the sixty day period established by court order and will be filed with the court. Comments should be addressed to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530 (telephone: 202/724-6335).

Dated: July 25, 1986.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-18340 Filed 8-13-86; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Portland Cement Association

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. Specifically, Medusa Cement Company joined PCA effective July 1, 1986. Accordingly, at present the members of the PCA are:

Aetna Cement Corporation
Alaska Basic Industries
Ash Grove Cement Company
Ash Grove Cement West, Inc.
Blue Circle Atlantic
Blue Circle Inc.
CalMat Co.
Capitol Aggregates, Inc.
Dragon Products Company
Falcon Cement Company, Inc.
General Portland Inc.
Genstar Cement Company
Hawaiian Cement
Ideal Basic Industries, Cement Division
Independent Cement Corporation
Lehigh Portland Cement Company
Lone Star-Falcon
Lone Star Industries, Inc.
Medusa Cement Company
The Monarch Cement Company
Moore McCormack Cement, Inc.
Northwestern States Portland Cement Co.
Rochester Portland Cement Corporation
St. Marys Peerless Cement Company
St. Marys Wisconsin Cement Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Company
Canada Cement Lafarge Ltd.
Ciment Quebec, Inc.
Federal White Cement Ltd.
Genstar Cement Limited
Lake Ontario Cement Limited
North Star Cement Limited
St. Lawrence Cement Inc.
St. Marys Cement Limited

In addition, the following equipment suppliers are involved as "Participating Associates," together with PCA members, in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee:

Baker-Dolomite (DBCA)
C-E Raymond
Holderbank Consulting Ltd.
Humboldt Wedag Company
Centennial Engineering, Inc.
Allis-Chalmers Corp.
F.L. Smidth and Company
Claudius Peters, Inc.
Polysius Corp
The Fuller Company

The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The original notification, identifying the original parties to the venture and describing in general terms the area of planned activities of the venture, is published at 50 FR 5015 (1985).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-18339 Filed 8-13-86; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action: The amendments would revise Technical Specification (TS) 3/4.4.5, "Steam Generators" and its bases. The revision would eliminate the requirement for

plugging of a steam generator tube if the tube defects are located at least 2 inches below the top of the tubesheet. The associated bases 3/4.4.5 would be supplemented to distinguish between requirements for plugging of tubes with defects located at least two inches below the top of the tubesheet and those located elsewhere in the tubes.

These revisions to the Technical Specifications would be made in response to the licensee's application for amendments dated June 24, 1986, as revised August 5, 1986, and supplemented July 1 and 23, 1986.

The Need for the Proposed Action: The proposed amendments would avoid the plugging of steam generator tubes when the location of defects is such that plugging is unnecessary. The amendments, therefore, preclude the attendant radiation exposure which would otherwise be incurred by plant workers involved with tube plugging operations. The proposed amendments would also maintain operational flexibility by avoiding a loss of margin in reactor coolant system flow and therefore assist in assuring that minimum flow rates are maintained in excess of that required for operation at full power.

Environmental Impacts of the Proposed Action

A. Occupational Radiological Exposure

During the current Unit 1—Cycle 4 refueling outage, primary water stress corrosion cracking was observed in several previously hardroll-expanded steam generator tubes within the tubesheet region. Results of eddy current testing revealed 139 tubes with axial cracks within the tubesheet region in excess of the plugging depth limit of existing TS 4.4.5.4 (40% through wall). Of these 139 tubes, 106 are located at least 2 inches below the top of the tubesheet.

The proposed amendments are expected to reduce radiological exposure to workers by reducing the number of tubes required to be plugged. The licensee has determined that a radiation dose of approximately 310 person-millirem results to workers for each tube plugged. The 106 tubes which would not need to be plugged under the proposed change, therefore, would result in a savings of about 33 person-rem during the current Unit 1—Cycle 4 refueling outage.

The reduction in occupational radiological exposure would increase if additional tubes in either McGuire unit are found during subsequent tests to contain cracks at least two inches below the top of the tubesheet.

B. Radiological Impacts During Plant Operation and Accidents

The licensee's submittal of August 5, 1986 includes an evaluation of primary-to-secondary leakage in a steam generator for tube through-wall cracks in the tubesheet region. The evaluation conservatively assumed a crack location which was less than 2 inches below the top face of the tubesheet. The evaluation considered both normal operation and accidents. For normal operation, the evaluation shows that the hardrolled joint between the tube and tubesheet will remain leaktight. Therefore, no increase in steam generator leakage during normal operation, and no attendant increase in plant radiological releases to the environment, is associated with the proposed amendments. Similarly, the evaluations considered accidents such as main steam line and feedwater line breaks which increase tube differential pressure and the driving head for a leak, and which, therefore, represent events with the largest potential for increasing primary-to-secondary leakage. The evaluations show that, because of the effect of the hardroll, no increase in primary-to-secondary leakage would occur during or after an accident. Results of the evaluation are also confirmed by laboratory tests.

The Commission has reviewed these evaluations and test results and finds them acceptable. We find that the proposed amendments would not cause any adverse changes in radiological impacts during normal operations as reported in section 5.5 of the "Final Environmental Statement Related to Operation of William B. McGuire Nuclear Station Units 1 and 2," (FES) date April 1976, nor any adverse changes for radiological impacts of postulated accidents as reported in Chapter 7 of the FES. Therefore, no adverse change in radiological impacts to the environment would result from the proposed amendments.

C. Non-Radiological Impacts

The proposed amendments involve systems located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendments.

Alternative to the Proposed Actions: Since we have concluded that no adverse environmental effects are associated with the proposed action, any alternatives would have equal or greater environmental impact and need not be selected.

The principal alternative would be to deny the rquested amendments. That alternative, in effect, is the same as the "no action" alternative because either case would require the licensee to plug tubes in accordance with existing TS requirements. (As an alternative to plugging, the licensee could request further TS changes to allow repairs of tubes by a tube sleeving technique. Although sleeving would result in less loss of margin in available reactor coolant system flow, it would result in more than twice the dose to workers involved with sleeving installation than the dose resulting from inserting of mechanical, removable plugs. Sleeving within the tubesheet region would also preclude further repairs of that same tube within its remaining tube length without substantial additional worker exposure associated with sleeve removal and replacement.) Neither plugging nor sleeving would reduce environmental impacts associated with correction of steam generator tube imperfections when compared to the proposed amendment, but both would result in reduced margins in reactor coolant system flow and increased occupational radiological exposure to plant workers.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated April 1976 or its addendum dated January 1981 related to this facility.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests of June 24, July 1 and 23, and August 5, 1986, and did not consult other agencies or persons.

Finding of No Significant Impact: The Commission has determined not to prepare and environmental impact statement for the proposed license amendments.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the request for amendments dated June 24, 1986, as revised August 5, 1986, and supplements dated July 1 and 23, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Bethesda, Maryland, this 11h day of August 1986.

For the Nuclear Regulatory Commission.

Dave Wigginton,

Acting Director, PWR Project Directorate No. 4, Division of PWR Licensing-A.

[FR Doc. 86-18348 Filed 8-13-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23516; File No. SR-NASD-86-24]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to NASD Assessments and Fees.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes to section 1(d) of Schedule A of the By-Laws of the National Association of Securities Dealers, Inc. ("Corporation" or "NASD") establishes a credit during fiscal year 1986-87 of fifty (50) percent toward certain annual assessment fees set forth in sections 1(b) and 1(c) of the Corporation's By-laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule amendment to section 1(d) of Schedule A establishes a special credit during fiscal year 1986-87 of 50% toward certain annual assessment fees for each member firm. After preparing manpower projections to determine the number of persons required to perform the Corporation's regulatory functions during the coming fiscal year and forecasting required expenditures for operations and for new projects, the Board of Governors concluded that a fiscal year 1987 operating budget increase of approximately $12 million and a capital budget of $6.1 million were required. This includes a budgeted personnel increase of 156.5 positions over Fiscal Year 1986. Since the current assessment rates would yield greater income than necessary to fund such a budget, the Board of Governors believes it appropriate to permit a temporary, proportionate reduction for fiscal year 1986-87 in the rate of certain assessments previously approved by the Commission as being fair and equitable.

For reasons stated above, the proposed reduction is consistent with and in furtherance of section 15A(b) (5) of the Act which requires that the rules of the Corporation provide for the equitable allocation of reasonable dues, fees and other charges among members

B. Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comment on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes contained in this filing.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action.

The proposed rule change is effective on filing pursuant to section 19(b)(3)(A)(ii) of the Act in that it affects assessments and fees imposed by the Corporation exclusively upon its members. Imposition of the fees will, however, be delayed until the start of the Corporation's fiscal year on October 1, 1986

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of section 15A(b)(5) and the rules and regulations thereunder.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 4, 1986.

It is therefore ordered, pursuant to section 19(b)(3) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 7, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18386 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

VOL 51 ISS 157 AG 14 1986 UMI

[Release No. 34-23515; File No. SR-NASD-86-21]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Proposed Amendments to Appendix F to Article III, Section 34 of the Rules of Fair Practice for Freely-Tradeable Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, III, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Set forth below is the text of a proposed rule change to sections 3 and 4 of Appendix F to Article III, section 34 of the Rules of Fair Practice ("Appendix F") of the National Association of Securities Dealers, Inc. Additions are italicized; deletions are in brackets.

Section 3

Suitability

(a) A member or person associated with a member shall not underwrite or participate in a public offering of a direct participation program unless standards of suitability have been established by the program for participants therein and such standards are fully disclosed in the prospectus and are consistent with the provisions of subsection (b) of this section.

(b) In recommending to a participant the purchase, sale or exchange of an interest in a direct participation program, a member or person associated with a member shall:

(1) Have reasonable grounds to believe, on the basis of information obtained from the participant concerning his investment objectives, other investments, financial situation and needs, and any other information known by the member or associated person, that:

(i) The participant is or will be in a financial position appropriate to enable him to realize to a significant extent the benefits described in the prospectus, including the tax benefits where they are a significant aspect of the program;

(ii) The participant has a fair market net worth sufficient to sustain the risk inherent in the program, including loss of investment and lack of liquidity; and

(iii) The program is otherwise suitable for the participant;

(2) Maintain in the files of the members documenting disclosing the basis upon which the determination of suitability was reached as to each participant.

(c) Subsections 3(a) and 3(b) shall not apply to:

(1) A secondary public offering of or a secondary market transaction in a unit, depositary receipt, or other interest in a direct participation program for which quotations are displayed on the NASDAQ System or which is listed on a registered national securities exchange, or

(2) An initial public offering of a unit, depositary receipt or other interest in a direct participation program for which an application for inclusion on the NASDAQ System or listing on a registered national securities exchange has been approved by NASDAQ or such exchange and the applicant makes on good-faith representation that it believes such inclusion on NASDAQ or listing on an exchange will occur within a reasonable period of time following the formation of the program.

Section 4

Disclosure

* * * * *

(d) Prior to executing a purchase transaction in a direct participation program, a member or person associated with a member shall inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program during the term of the investment; *provided, however, that this subsection shall not apply to an initial or secondary public offering of or a secondary market transaction in a unit, depositary receipt or other interest in direct participation program which complies with a Subsection 3(c).*

II. Self-Regulatory Organizations Statement Regarding The Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Appendix F was adopted for the purpose of regulating the distribution of an secondary transactions in direct participation program securities, usually limited partnerships, which have traditionally been an illiquid security, with cash flow delayed for several years, and tax consequences that vary with the tax bracket of the investor. Investors are generally required to hold an investment in a direct participation program for a number of years in order to fully realize the benefit of the investment. The nature of the direct participation program security, therefore, presented special concerns regarding the suitability of investors, the adequacy and accuracy of the disclosure in the offering document, and other program arrangements that Article III, section 34 and Appendix F, adopted thereunder, were intended to address. However, since 1981, and increasing number of direct participation programs have issued partnership units, depositary receipts for such units, or assignee units of limited partnership interests that are freely tradeable in a manner generally analogous to common stock and are quoted on the NASDAQ System and listed on registered national stock exchanges. Such freely-tradeable program units have been required to comply with provisions of Appendix F intended to regulate offerings of illiquid securities. Therefore, the NASD undertook a review of the application of Appendix F to freely-tradeable program units.

Subsection 3(a) of Appendix F prohibits a member from distributing a direct participation program which has not established standards of suitability which are disclosed in the program prospectus. Where a program's units are quoted on the NASDAQ System or listed on a registered national securities exchange, or has been approved for inclusion on the NASDAQ System or listing on an exchange, state securities authorities generally do not impose suitability standards on investors. Subsection 3(b) of Appendix F requires members in "recommending the purchase, sale or exchange of an interest in a direct participation program" to obtain certain enumerated information, make an affirmative finding of suitability, and retain a record of the basis for that finding in its files. These requirements were specifically included in light of the general absence of liquidity in the market for limited partnerships, as well as to assure that the unique tax status and investment

characteristics of the program be considered in secondary market transactions as well as initial distributions. The NASD had reviewed the purposes of the special suitability requirements contained in subsections 3(a) and 3(b) of Appendix F and has concluded that freely-tradeable program units present liquidity, tax and investment considerations which are different from those for other partnership securities.

Subsection 4(d) of Appendix F requires NASD members to inform potential investors of the facts pertaining to the lack of liquidity and marketability of an investment in a direct participation program prior to the execution of such transaction. The NASD believes that the necessity for obtaining compliance with this section appears to be rendered moot where an active trading market exists or is to exist in the program units.

Therefore, the NASD is proposing to amend section 3 and subsection 4(d) of Appendix F to exempt from those provisions (1) secondary offerings of or secondary market transactions in a direct participation program security for which quotations are displayed on the NASDAQ System or listed on a registered national securities exchange; and (2) primary offerings of direct participation programs for which an application for inclusion on the NASDAQ System or listing on an exchange has been approved. In addition, with respect to the exemption for primary offerings, the issuer is required to make a good faith representation that inclusion in the NASDAQ System or listing on a registered national securities exchange will occur within a reasonable period of time following the formation of the program. This latter requirement is intended to ensure that the member's obligations of compliance with section 3 and section 4(d) of Appendix F will not be eliminated unless, in fact, an active trading market is anticipated in good faith and inclusion on NASDAQ or exchange listing has been approved.

Thus, the proposed amendment would relate only to freely tradeable partnership units, depositary receipts, or assignee units quoted on the NASDAQ System or listed on a registered national securities exchange. Such transactions would, however, remain subject to the general suitability requirements contained in Article III, section 2 of the Rules of Fair Practice and to other provisions of Appendix F.

The proposed rule change is consistent with the provisions of sections 15A(b)(2) and 15A(b)(6) of the Securities Exchange Act of 1934, as it is in furtherence of the Association's responsibility for promulgated rules which prevent fraudulent and manipulative practices, promote just and equitable principals of trade, remove impendiments to and perfect the mechanism of a free and open market and generally protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change will not burden on competition not necessary in furtherance of the purposes of the Securities Exchange Act of 1934, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Association published Notice to Members 84–53 dated October 9, 1984, requesting comments from Association members concerning its initial proposal to exempt from the special suitability criteria contained in subsection 3(b) of Appendix F secondary trades and secondary offerings of direct participation programs which are either quoted on NASDAQ or listed on a registered national securities exchange.

The Association received three comments. As a result of its consideration of such comments, the NASD determined to expand the exemption to include primary public offerings of direct participation programs where the issuer has been approved for listing on a registered national securities exchange or for inclusion in the NASDAQ System. The NASD also determined to require that the issuer make a good faith representation to the NASD that it believes that such inclusion on the NASDAQ System or listing on a registered national securities exchange will occur within a reasonable time period following formation of the program. In addition, in its reconsideration of the scope of the proposed amendment, the NASD concluded that, in light of the special characteristics of publicly traded direct participation programs, subsections 3(a) and 4(d) of Appendix F should also be amended to exempt primary and secondary offerings of DPP securities.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date or it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be approved.

Solicitation of Comments

Interested persons are invited to submit written data, veiws, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect ot the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and be submitted by September 4, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

August 7, 1986.

[FR Doc 86–18389, Filed 8–13–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23509; File No. SR–NYSE–86–22]

Self-Regulatory Organizations; Proposed Rule Changes by New York Stock Exchanges, Inc. Relating to Rule 345, (Employees-Registration, Approval, Records), Rule 10 (Registered Representative), and an Addendum to Form U-4

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 16, 1986, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below,

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which items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed amendments to Rule 345 and its Supplementary Material represent a comprehensive updating of this Rule. The major changes resulting from the proposed amendments include:

—Requirements for the registration of securities lending representatives, securities traders, and their direct supervisors. In addition, securities lending representatives and their direct supervisors will be required to sign an agreement representing a "code of ethics" which will be filed as an addendum to Form U–4. The intended effective date for compliance by member organizations with the registration requirements pertaining to such persons is six months following Commission approval of these amendments;

—Deletion of provision (currently Rule 345(a)(2)) relating to statutory disqualification as it is redundant with Rule 346(f);

—Investigatory and recordkeeping requirements relating to registered persons and other employees have been specifically and clearly detailed;

—A new requirement that information contained on Form U–4 (Uniform Application for Securities Industry Registration or Transfer) must be kept current;

—A New provision incorporating registration, maintenance and filing fee requirements by reference;

—Training and/or examination requirements are enumerated for applicable categories of registered persons;

—A revised provision that termination of employment of any registered person must be reported to the Exchange promptly "but in any event not later than thirty days following termination."

Rule 10 currently defines a registered representative, in part, in terms of "solicitation" of securities orders for customer accounts and solicitation of subscriptions to investment advisory or to investment management service. The proposed rule change will clarify the scope of the term "registered representative" to include those individuals who handle accounts or orders and/or provide investment advisory or management services and not merely solicit them.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the proposed amendments to Rule 345 is to require the registration of securities lending representatives, securities traders and their direct supervisors in order to provide a measure of control (including ability to track employment history) over those engaged in securities lending, borrowing and trading activities on behalf of their employer. Registration of such persons is appropriate in view of the increasing volume and sensitive nature of such activities.

The proposed amendments to the Supplementary Material to Rule 345 are designed to delete outdated provisions and to restructure the remaining material in a more clearly defined, logical and concise manner.

The purpose of the proposed amendments to Rule 10 is to clarify the definition of the term "registered representative".

The proposed amendments requiring registration of securities lending representatives, securities traders and their direct supervisors are consistent with section 6(c)(3)(B) of the Act in that they will establish procedures for the registration of these classes of associated persons of member organizations.

The proposed rule changes are consistent with section 15(b)(7) of the Act in that such amendments are designed to strengthen standards of training, experience, competence and other qualifications necessary for the protection of investors by clarifying and updating specific provisions relating to registered persons and other employees. In addition, the proposed rule changes will promote the objectives of section 17(a)(1) of the Act in that they more clearly detail the recordkeeping requirements of member organization broker/dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that these proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NYSE consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by September 4, 1986.

For the Commission, by the Dividion of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18387 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23517; File No. SR-PSDTC-86-04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by Pacific Securities Depository Trust Company

On June 12, 1986 the Pacific Securities Depository Trust Company ("PSDTC") submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposed rule change amends Article XI of PSDTC's By-Laws. Notice of the proposed change appeared in the **Federal Register** on July 8, 1986.[1] No comments were received.

The proposal will amend Article XI by deleting provisions for a separate participants' fund for bearer bond activity. In 1983, PSDTC offered the Midwest Securities Trust Company's ("MSTC") municipal bearer bond service. At that time, PSDTC established a separate participants' fund for PSDTC users of that program. Although PSDTC now offers its own bearer bond program, the separate participants' fund contribution formula related to the MSTC bearer bond program, along with other provisions in Article XI concerning the separate participants' fund, were never deleted from the By-Laws.

PSDTC currently calculates each participant's required fund contribution on the basis of the participant's total depository activity, including bearer bond activity. The current participants' fund formula requires a deposit of 1% of a participant's daily average settlement activity, with certain minimum and maximum amounts.

PSDTC believes that the current level of participants' fund contributions is adequate to protect it against potential financial risks including those risks incidental to the processing of municipal securities in bearer form. PSDTC also believes that the proposed rule change is consistent with the provisions of section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of reasonable charges among PSDTC participants.

The Commission finds that the proposed rule change is consistent with section 17A of the Act and should be approved. The Commission recently approved PSDTC's service plan for safekeeping municipal bearer bonds,[2] and member contributions tyo PSDTC's participants' fund on account of those services. Thus, the proposal updates PSDTC By-Laws to reflect PSDTC's current operations and depository services offered to participants.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-PSDTC-86-04) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 7, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18386 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23518; File No. PHLX 86-24]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc. Relating to Increasing PHLX Foreign Currency Option Position/Exercise Limits

August 7, 1986.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 31, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX") proposes to amend Rules 1001 and 1002 as set forth below. Italics indicate material proposed to be added; brackets indicate material proposed to be deleted.

Rule 1001 Position Limits

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another Participating Exchange) in an option contract of any class of options dealt in on the Exchange if the member of member organization has reason to believe that, as a result of such transaction, the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly hold or control or be obligated with respect to an aggregate position of more than 3000, 5500 and 8000 put or call option contracts on the same side of the market relating to the same underlying security, which limit is determined in accordance with commentary .05, in the case of options on a stock, or more than [50,000] *100,000* put or call option contracts on the same side of the market relating to the same underlying foreign currency, in the case of options on a foreign currency, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series.

. . . Commentary

.01—.05 [No change]

Rule 1002 Exercise Limits

Except with the prior approval of the Exchange in each instance, no member or member organization shall exercise for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in that particular class of options in excess of the number of options covering the same options class (put or call) as set forth as in the position limit in Rule 1000, in the case of options on a stock, or in excess of [50,000] *100,000* options covering the same option class (put or call), in the case of options on a foreign currency, without regard to the Exchange on which the options were purchased.

. . . Commentary

.01—.03 [No Change]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filling with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] Security Exchange Act Release No. 23381 (June 30, 1986), 51 FR 24770 (July 8, 1986).

[2] *See* Securities Exchange Act Release No. 231,87 (April 29, 1986), 51 16559 (May 5, 1986).

VOL 51 ISS 157 AG 14 1986 UMI

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

When the Exchange first began trading options of foreign currencies, it was intended that as interest in these options grew, higher position and exercise limits would be put in place. It was then believed, as now, that the overwhelming size of the underlying currencies markets made the likelihood of manipulation through currency options remote. This would appear to be true even at trading levels significantly in excess of the trading volumes presently experienced in PHLX foreign currency option contracts.

At thje initiation of foreign currency trading in December, 1982 until January 1985 the position and exercise limits for currency options were set at 10,000 contracts. Late in 1984, significant growth in the daily average currency option volume prompted the Commission to approve an increase to a level of 25,000 contracts. In July 1985 the PHLX sought and received an increase in position and exercise limits to 50,000 contracts. At that time currency option open interest had just exceeded 400,000 contracts while deaily average volume was 15,000 contracts. The record foreign currency option trading volume then was 30,527 contracts on July 17, 1985.

As the market for currency options has become mature the ability of specialists and market makers to make deeper markets has increased proportionately. Over the last several months, the Exchange has serviced three requests from members wishing to be termporarily exempted from foreign currency option position limits. In each case, a need for liquidity was perceived and steps were taken to allow for exemptions.

The motivation for the Exchange in granting exemptions relates not only to the size of the underlying markets and, hence the improbability of manipulation but also to the needs of the marketplace. Contrary to established patterns of trading in the equity options market, the foreign currency options market tends to attract a significant portion of its interest and market participation in block form. Many of these orders of block size are for the accounts of multi-national corporations with hedging needs. The importance of this point in addressing the question of increasing position and exercise limits is twofold. First, higher limits would serve an economic purpose to the business community by facilitating the needs of the well capitalized hedger. Second, the better the investing public is serviced, the more liquidity is drawn to the market.

In May of this year the PHLX foreign currency option daily volume averaged 30,705 contracts. Opened interest achieved a record of 651,549 contracts on June 12, 1985 and a daily total foreign currency option record of 74,121 contracts was achieved on May 23, 1986. On that same day, 53,423 Japanese Yen contracts alone were traded. PHLX foreign currency option daily trading volume in the first six months of 1986 averaged 25,892 contracts, with open interest regularly maintained over 500,000 contracts and presently exceeding 600,000 contracts outstanding. During the first half of 1986, PHLX has observed increased open interest, daily trading volume and block trade size. In less than a year, PHLX foreign currency options trading volume and market participation again has doubled.

In short, PHLX perceives a need for higher limits and believes that the proposed limits meet these needs, without raising additional regulatory concerns. In this regard, we note that at the proposed 100,000 contract level, if exercised, deliverable would represent less than 10 percent of conservative estimates of currency float in any of the respective foreign currencies traded on the PHLX. Moreover, given the supplemental amount of currency trading in the interbank market in the United States as well as in the international market, a 100,000 contract position exercise limit would not pose a dislocation to any of the respective currency markets.

In an analogous circumstance regarding Treasury options on the CBOE, PHLX notes that the Commission utilized a 10 percent of outstanding issue standard regarding an increase in position/exercise limits. The financial/interest rate options are not unlike PHLX foreign currency otpions in that a majority of market participants tend to be professional/commercial hedgers, trading in markets of institutional/block size.

Furthermore, we believe that unless position/exercise limits in PHLX foreign currency options are allowed to increase to the 100,000 contract level, the liquidity of the PHLX marketplace will suffer. Deterred by position limits, market participants would turn to OTC markets where pricing is not as efficient and costs to the investment public reflect increased risks regarding execution, credit and liquidity.

The proposed rule change is based on section 6(b)(5) of the Securities Exchange Act in that it will facilitate transactions in securities and protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Pesons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 4, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18385 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24163]

Filings Under the Public Utility Holding Company Act of 1935 ("Act") August 7, 1986

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 2, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company, et al. (70-7281)

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and its subsidiaries, Alabama Power Company, Southern Electric Generating Company, 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company, 333 Piedmont Avenue, NE., Atlanta, Georgia 30308, Gulf Power Company, 75 North Place Boulevard, Pensacola, Florida 32520, Mississippi Power Company, 2992 West Beach, Gulfport, Mississippi 39501, Southern Company Services, Inc., 800 Shades Creek Parkway, Birmingham, Alabama 35202, and Southern Electric International, Inc., 3500 Piedmont Road, NE., Suite 500, Atlanta, Georgia 30305 (collectively, the "Subsidiary Companies") have filed an application-declaration pursuant to sections 6(a), 7, 9(a) and 10 of the Act and Rule 50(a)(5) thereunder.

Southern proposes to issue up to a maximum of $6 million in value of its authorized but unissued shares of common stock, par value $5 per share ("Additional Common Stock"), in order to provide common stock to fund the Employee Stock Ownership Plan of the Southern Company System ("Plan"), initially adopted by the Subsidiary Companies effective January 1, 1976, and as subsequently amended, for the Plan year 1985 by direct purchases of common stock from Southern.

It is anticipated that the contributions by the Subsidiary Companies generally will be made in cash and are to be invested by the trust established pursuant to the Plan ("Trust"). Cash contributions to the Trust may be used to acquire Additional Common Stock directly from Southern or may be invested in Southern's common stock through open market purchases or private purchases from parties other than Southern.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18390 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

National Advisory Council Executive Committee Meeting

The U.S. Small Business Administration, Office of Advisory Councils, located in the geographical area of Washington, DC will hold a National Advisory Council Executive Committee meeting, 10:00 a.m. to 4:00 p.m., Sunday, September 7, 1986, at the Camelback Inn, 5402 East Lincoln Drive, Scottsdale, Arizona 85252, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Jean M. Nowak, Director, U.S. Small Business Administration, Office of Advisory Councils, 1441 L Street, NW., Room 920-D, Washington, DC 20416, (202) 653-6748.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 7, 1986.

[FR Doc. 86-18346 Filed 8-13-86; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council Meeting

The U.S. Small Business Administration, Office of Advisory Councils, located in the geographical area of Washington, DC, will hold its semiannual National Advisory Council meeting beginning at 8:30 a.m., Monday, September 8, 1986 thru 12:00 noon, Tuesday, September 9, 1986 at the Camelback Inn, 5402 East Lincoln Drive, Scottsdale, Arizona 85252, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Jean M. Nowak, Director, U.S. Small Business Administration, Office of Advisory Councils, 1441 L Street NW., Room 920-D, Washington, DC 20416 (202) 653-6748.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 7, 1986.

[FR Doc. 86-18347 Filed 8-13-86; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting; South Carolina

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 10:00 a.m., Tuesday, September 9, 1986; at the Energy Center Conference Room at Dutch Square, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call John C. Patrick, District Director, U.S. Small Business Administration, P.O. Box 2786, Columbia, South Carolina—(803) 765-5339.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 7, 1986.

[FR Doc. 86-18344 Filed 8-13-86; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting; Public Meeting; Texas

The U.S. Small Business Administration, Region VI Advisory Council located in the geographical area of the Lower Rio Grande Valley of Texas, will hold a public meeting at 2:00 p.m. on Thursday, September 18, 1986, at the Board Room of Pan American University, Edinburg, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas—(512) 423–8933.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 7, 1986.

[FR Doc. 86–18345 Filed 8–13–86; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 05/05–0143]

Application for Approval of a Conflict of Interest Transaction Between Associates; Miami Valley Capital, Inc.

Notice is hereby given that Miami Valley Capital, Inc. (MV), 131 North Ludlow Street, Dayton, Ohio 45402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.903 of the Regulations governing small business investment companies (13 CFR 107.903 (1986), for approval of a conflict of interest transaction.

MV desires to invest up to $250,000 in the form of a loan to Benchmark Communities Inc. (BCI), 630 Hay Avenue, Brookville, Ohio 45309.

The conflict of interest arises from the fact that Mr. Everett F. Telljohann, President, Treasurer and Director of MV and is an officer, director and shareholder of BCI and therefore falls within the definition of an associate as defined in § 107.3(g) of the SBA regulations. Consequently, the proposed transaction falls within the purview of § 107.903 of the Regulations and requires a written exemption granted by SBA.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in the Dayton, Ohio area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 21, 1986.

John L. Werner,

Acting Deputy Associate Administrator for Investment

[FR Doc. 86–18348 Filed 8–13–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

[Order 86–8–17; Docket 44247]

Institution of Texas-Mexico (1986) Service Case

AGENCY: Department of Transportation.

ACTION: Institution of Texas-Mexico (1986) Service Case.

SUMMARY: The Department has decided to institute the *Texas-Mexico (1986) Service Case* to select a primary and a backup carrier to provide scheduled combination service on U.S. Route B.2 of the U.S.-Mexico Agreement. The proceeding will be set for oral evidentiary hearing before an Administrative Law Judge of the Department. The Department has also decided to defer the applications of Eastern Air Lines, Inc. (Docket 40700) and Braniff, Inc. (Docket 43946) for renewal/grant of *pendente lite* exemption authority to serve the relevant Texas-Mexico markets.

DATES: Certificate applications (which will be assigned separate docket numbers), motions to consolidate, petitions for leave to intervene, and petitions for reconsideration shall be filed by August 25, 1986. Answers shall be filed by September 2, 1986.

ADDRESSES: Applications, motions, petitions, and answers should also be filed in Docket 44247, and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590, and should be served on all parties in Docket 44247.

Dated: August 8, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–18356 Filed 8–13–86; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

[Order 86–8–16; Docket 43597]

Application of Suncoast Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (a) finding that SunCoast Airlines, Inc., continues to be fit to engage in interstate and overseas scheduled air transportation of persons, property, and mail and (b) transferring the certificate to the identically named Delaware corporation into which the original Florida corporation has merged. The Department also granted SunCoast *pendente lite* exemption authority in Docket 43598 permitting it to engage in interstate, overseas, and foreign charter air transportation pending a final order in Docket 43597.

DATE: Persons wishing to file objections should do so no later than August 29k 1986.

ADDRESS: Responses should be filed in Docket 43597 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P–47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: August 8, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–18357 Filed 8–13–86; 8:45 am]

BILLING CODE 4910–62–M

[Order 86–8–22]

Fitness Determination of Tatonduk Outfitters Ltd. d/b/a Tatonduk Flying Service

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of commuter air carrier fitness determination; order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Tatonduk Outfitters Ltd. d/b/a Tatonduk Flying Service is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, P–47, Department of Transportation, 400 7th Street, SW., Room 6420, Washington, DC 20590 and serve them on all persons listed in Attachment A to the order. Objections shall be filed no later than August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Lundell, Special Authorities Division, P–47, U.S. Department of

Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366–2336.

Dated: August 8, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–18355 Filed 8–13–86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Technical Standard Orders; Aircraft Seats and Berths

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed technical standard order (TSO) and request for comment.

SUMMARY: The proposed TSO–C39b prescribes the minimum performance standard that aircraft seats and berths must meet in order to be identified with the marking "TSO–C39b."

DATE: Comments must identify the TSO file number and be received on or before December 5, 1986.

ADDRESS: Send all comments on the proposed technical standard order to:

Federal Aviation Administration, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C39b, 800 Independence Avenue SW., Washington, DC 20591.

Or Deliver Comments To: Room 335, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–9569.

Comments received on the proposed technical standard order may be inspected, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

There have been many questions from TSO holders on the marking of seat cushions which incorporate fire blocking material to meet FAR 25.853(c), effective November 26, 1984, which will be required for transport category airplanes operating under FAR Part 121 after November 26, 1987.

Since many TSO seat/flotation device manufacturers are including the fire blocking material as part of their TSO article, TSO–C39a is being changed to include FAR 25.853(c) as a requirement.

TSO–C39a is being changed to allow a TSO holder, if desired, to conduct the testing of FAR 25.853(c) effective November 26, 1984, and after conducting such testing mark on the TSO tag that the cushion has been tested to FAR 25.853(c).

How To Obtain Copies

A copy of the proposed TSO may be obtained by contacting the person under "FOR FURTHER INFORMATION CONTACT." TSO–C39b references the National Standards Association's (NSA), National Aerospace Standard (NAS) 809, dated January 1, 1956, for the minimum performance. NSA's Document NAS 809 may be purchased from the National Standards Association, 5161 River Road, Bethesda, Maryland 20816.

Issued in Washington, DC, on August 8, 1986.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 86–18283 Filed 8–13–86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

Removal of Prohibition on Importation of Tuna and Tuna Products From Mexico

AGENCY: Customs Service, Treasury.

ACTION: Notice of removal of prohibition.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Mexico no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Mexico is removed.

EFFECTIVE DATE: August 13, 1986.

FURTHER INFORMATION CONTACT: Harrison C. Feese, Commercial Compliance Division, (202–566–5307).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, *et seq.*) provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the U.S., while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the U.S. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 136 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the Certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On July 15, 1980, a notice was published in the **Federal Register** (45 FR 47562) advising that under section 205(a)(4)(C) of the Act, on July 11, 1980, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that a U.S. fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., was seized by Mexico as a consequence of a claim of jurisdiction which is not recognized by the U.S. Under the authority of section 205 (b) and (c) of the Act, on July 11, 1980, the Secretary of the Teasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and

tuna products from Mexico was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohibition no longer prevailed.

On July 14, 1986, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products from Mexico no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Mexico is removed.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: August 7, 1986

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-18243 Filed 8-13-86; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Ramada Inn, 4641 Kenmore Avenue, Alexandria, Virginia 22304, on October 8 and 9, 1986. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 7:30 to 8 a.m., on October 8 and 9, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping C. Huang, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-3702), prior to September 20, 1986.

The meeting will be closed from 8:00 a.m. to 5:30 p.m. on October 8, and from 8:00 a.m. to 5:30 p.m. on October 9, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: August 4, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-18283 Filed 8-13-86; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Advisory Committee on Rehabilitation; Meeting

The Veterans Administration gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C. 1521, will be held in Room D-309, Building 1, of the Veterans Administration Hospital, Hines, Illinois 60141, September 9, 10 and 11, 1986. The sessions will begin at 1 p.m. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and provide recommendations to the Administrator.

The meeting will be open to the public up to the seating capicity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Dr. Carole J. Westerman, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202-389-2886) prior to August 26, 1986.

Interested persons may attend, appear before, or file statements with the Committee. Statements if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 9 a.m. on September 11, 1986.

Dated: August 4, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-18282 Filed 8-13-86; 8:45 am]

BILLING CODE 8320-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23514; File No. 600-20]

Self-Regulatory Organizations; Application for Registration as a Clearing Agency

On August 1, 1986, the International Securities Clearing Corporation ("ISCC") filed with the Commission an application for registration as a clearing agency under section 17A of the Securities Exchange Act of 1934, 15 U.S.C. 78q-1 (the "Act"), and Rule 17Ab2-1(c)(1) thereunder.

Pursuant to Rule 17Ab2-1(c)(1), the Commission may grant ISCC registration as a clearing agency and exempt it from one or more of the requirements of section 17A(b)(3)(A)-(I) of the Act. Registration pursuant to Rule 17Ab2-1(c)(1) shall not be effective for more than eighteen months from the date on which registration is made effective by the Commission. Rule 17Ab2-1(c)(2) requires that not later than nine months from the date registration is granted under Rule 17Ab2-1(c)(1), the Commission either: (i) Grant registration without exempting the registrant from one or more of the requirements as to which the Commission is directed to make a determination under section 17A(b)(3)(A)-(I) of the Act; or (ii) Institute proceedings to determine whether registration should be denied at the expiration of eighteen months.

You are invited to submit written data, views and arguments concerning the foregoing application within thirty days of the date of publication of this notice is the **Federal Register**. Such written data, views and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Rule 17Ab2-1(c)(2). Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to the appropriate file number. Copies of the applications and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18384 Filed 8-13-86; 8:45 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 157
Thursday, August 14, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Election Commission	2
Securities and Exchange Commission	3

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:23 p.m. on Thursday, August 7, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in the Easton State Bank, Easton, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, August 7, 1986; (2) accept the bid for the transaction submitted by Fort National Bank, Easton, Kansas, a newly-chartered national bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation busienss required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 2:25 p.m., and at 5:10 p.m. that same day the meeting was reconvened, by the telephone conference call, at which time the Board of Director:

(A) adopted a resolution: (1) Making funds available for the payment of insured deposits made in The First National Bank and Trust Company of El Reno, El Reno, Oklahoma, which was closed by the Senior Deputy Comptroller, Office of the Comptroller of the Currency, on Thursday, August 7, 1986; (2) accepting the bid of The American National Bank of Lawton, Lawton, Oklahoma, for the transfer of the insured and fully secured or preferred deposits of the closed bank; and (3) designating The American National Bank of Lawton, Lawton, Oklahoma, as the agent for the Corporation for the payment of the insured and fully secured or preferred desposits of the closed bank;

(B)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First Citizens Bank, Dallas, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, August 7, 1986; (2) accepted the bid for the transaction submitted by Grand Bank Northeast, Dallas, Texas, a newly-chartered State nonmenber bank; (3) approved the applications of Grand Bank Northeast, Dallas, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in First Citizens Bank, Dallas, Texas; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(C)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Graettinger State Bank, Graettinger, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Thursday, August 7, 1986; (2) accepted the bid for the transaction submited by Swea City State Bank, Swea City, Iowa, an insurd State nonmember bank; (3) approved the application of Swea City State Bank, Swea City, Iowa, for consent to purchase certain assets of and assume the liability to pay deposits made in Graettinger State Bank, Graettinger, Iowa, and for consent to establish the sole office of Graettinger State Bank as a branch of Swea City State Bank; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessry to facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors adopted a resolution making funds available for the payment of insured deposits made in Medicine Bow State Bank, Medicine Bow, Wyoming, which was closed by the State Examiner for the State of Wyoming on Friday, August 8, 1986.

In reconvenig the meeting, the Board determining, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, actiing in the place and stead of Director Robert L. Clark (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 11, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc 86-18443 Filed 8-12-86; 12:04 pm]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 19, 1986, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, August 21, 1986, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Corection and approval of minutes
Draft AO 1986-27—Dianna Conyers on behalf of Teamsters Local 959 Alaska Labor Independent Voter Education
Draft AO 1986-30—Honorable David O'B. Martin
Proposed repayment schedule submitted by George McGovern and Friends of George McGovern

Explanation and justification of regulations governing contributions by persons and multicandidate committees (11 CFR 110.1 and 110.2)
Fiscal 1988 budget request
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 86–18470 Filed 8–12–86; 2:28 pm]
BILLING CODE 6715–01–M

3

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of August 11, 1986:

A closed meeting will be held on Tuesday, August 12, 1986, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 12, 1986, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272–2092.

Jonathan G. Katz,
Secretary.

August 12, 1986.

[FR Doc. 86–18461 Filed 8–12–86; 1:44 pm]
BILLING CODE 8010–01–M

VOL 51 ISS 157 AG 14 1986 UMI

federal register

Thursday
August 14, 1986

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Pension Costs; Notice

VOL 51 ISS 157 AG 14 1986 UMI

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Federal Acquisition Circular 84–20]

Pension Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Federal Acquisition Circular (FAC) 84–20 advises contractors, who are required to discontinue using the spread gain actuarial cost method for Government Cost Accounting as a result of Statement of Financial Accounting Standards (FAS) No. 87, of the approach the Government will follow in negotiating contracts with them.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

Item I—Pension Costs

1. Cost Accounting Standard (CAS) 412.50(b)(2)(i) provides that contractors may use the spread gain actuarial cost method to measure pension cost for cost accounting *only* if they are also using it for financial accounting. On December 26, 1985, the Financial Accounting Standards Board (FASB) issued FAS 87, which revises generally accepted accounting principles for pension costs. Under FAS 87, contractors are not permitted to use the spread gain method for financial accounting purposes, since the Statement requires companies to measure pension cost using only the projected unit credit method, or the unit credit method, depending on the type of plan. Therefore, contractors that have been using the spread gain method will no longer be able to use that method for financial accounting purposes and, because of the CAS 412.50(b)(2)(i) limitation previously indicated, will not be able to use that method for pricing and costing Government contracts either.

2. FAS 87 is applicable to contractor fiscal years beginning after December 15, 1986. It appears likely that some contractors will not be able to timely change to an actuarial cost method acceptable under CAS 412 and make the computations necessary for forward pricing purposes to cover periods after the applicability date of FAS 87. This condition could impede the negotiation process and cause the issuance of an inordinate number of noncompliance reports during the period contractors are transitioning to the new method. In such cases, the Government will proceed as follows:

a. When a contractor, which currently is using the spread gain actuarial cost method, can demonstrate to the satisfaction of the contracting officer that it is unable to change to another actuarial cost method acceptable under CAS 412 (as impacted by FAS 87) and is unable to make the computations necessary for forward pricing purposes to cover contractor fiscal years beginning after December 15, 1986, the following applies:

i. Contract negotiations will be conducted using the actuarial cost method currently employed by the contractor.

ii. A specific date will be established for the contractor to make the necessary changes to its estimating, accumulating, and reporting systems, to incorporate an acceptable actuarial cost method under CAS 412.

iii. An advance agreement or savings clauses will be used to provide for a price adjustment to reflect the cost impact of changing from the spread gain actuarial cost method to an acceptable method under CAS 412, retroactive to the applicability date of FAS 87 to the contractor's accounting system. The advance agreement or savings clauses will include a requirement for interest on overpayments assessed at the rate specified in Pub. L. 92–41 (85 Stat. 97).

b. When the above procedures are followed, the Government will not issue CAS noncompliance reports concerning CAS 412.50(b)(2)(i) unless the contractor fails to meet the specific date referred to in paragraph (a)(ii) above.

Administrative Contracting Officers, who have cognizance over contractors that are currently using the spread gain actuarial cost method and cannot timely change to another acceptable method under CAS 412, should negotiate with those contractors to implement procedures set out in paragraphs 2(a) and 2(b) of this Federal Acquisition Circular information notice.

Dated: August 8, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

Number 84–20

The information notice contained in FAC 84–20 is effective August 20, 1986.

Terence C. Golden,

Administrator, GSA.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

S. J. Evans,

Assistant Administrator for Procurement.

[FR Doc. 86–18279 Filed 8–13–86; 8:45 am]

BILLING CODE 6820–61–M

federal register

Thursday
August 14, 1986

Part III

Department of Education

34 CFR Part 796

Educational Research and Improvement; National Diffusion Network; Final Regulations

VOL 51 ISS 157 AG 14 1986 UMI

DEPARTMENT OF EDUCATION

34 CFR Part 796

Educational Research and Improvement; National Diffusion Network

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for the National Diffusion Network (NDN). The Secretary takes this action to improve the operation of the National Diffusion Network. The intended effect of the regulations is to increase the pool of exemplary educational programs available to public and private schools in areas of national need.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of § 796.12. Section 796.12 will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Lois N. Weinberg, U.S. Department of Education, Programs for the Improvement of Practice, Recognition Division, 555 New Jersey Avenue, NW., Washington, DC 20208; Telephone number: (202) 357–6147.

SUPPLEMENTARY INFORMATION: The revised NDN regulations will expand the kinds of programs reviewed by the Joint Dissemination Review Panel (JDRP) to include "dissemination processes," in addition to the programs, products, and practices it has reviewed in the past. Public or nonprofit private organizations, such as professional associations and organizations with Federal charters, as well as local educational agencies, institutions of higher education, and State educational agencies that have developed effective systems for the dissemination of educational programs, products, information and materials, will be able to seek support for their activities. The JDRP review will focus on the applicant's ability to identify, review, select and deliver programs and products.

Once approved by the JDRP, dissemination processes will be eligible for funding as Developer Demonstrator projects. The description of activities carried out by Developer Demonstrator projects has been revised to show the specific activities required of projects which represent dissemination processes.

The definition of the JDRP has been revised to clarify that panel members need not be Federal employees. The definition of JDRP approval has been revised to broaden the kinds of evidence reviewed by the panel and to show the different review criteria for dissemination processes.

The listing of program priorities, from which the Secretary selects categories for funding new projects each year, has been revised to simplify several categories and to add priorities related to ethics, school discipline and studies of the Constitution.

A notice of proposed rulemaking was published in the **Federal Register** on May 13, 1986 (51 FR 17494). There are only minor differences between the notice of proposed rulemaking and these final regulations.

During the public comment period, six comments were received.

The following is a summary of the comments received and the Secretary's response to these comments.

Timing of Revised NDN Regulations

Comment. A question was asked about the timing of revisions to the NDN regulations in light of the House passage of amendments affecting the NDN in H.R. 2246. It was suggested that it might be advisable to delay revising the regulations until after the vote on the amendments so as to respond to any changes necessitated by the amendments.

Response. Further revisions to the NDN regulations are planned for fiscal year 1987. Any changes required by the enactment of new legislation would be made at that time.

Section 796.3 What definitions apply to the NDN?

Dissemination process

Comment. Several writers expressed concern that funding dissemination processes represented a significant departure from the purpose of the NDN. They questioned the rationale for including this new type of program, and the reason for not using the Educational Resources Information Center (ERIC) to disseminate the kinds of materials envisioned for this new program. Writers were also concerned that there would not be adequate review of materials that might be disseminated.

Response. No change has been made. The funding of dissemination processes does not alter the purposes of NDN as cited in § 796.1 of the current regulations: "The National Diffusion Network (NDN) funds activities designed to promote across the Nation the widespread use of exemplary educational programs. . . ." Rather, the inclusion of dissemination process programs will enable the NDN to disseminate a much larger number of carefully selected programs, products and practices to meet the diverse needs of local educators.

The JDRP will exercise its quality control function by determining whether each dissemination process has appropriately stringent criteria for selecting materials and information to be disseminated. The JDRP has never examined the specific materials associated with a given program. Review of materials has been a prescreening function of the Department of Education office presenting the program to the JDRP. That will continue to be the case for dissemination process programs.

The ERIC system is currently undergoing redesign. At the appropriate time in the future, the improved role ERIC can play in disseminating information and materials to educational service providers will be considered.

Joint Dissemination Review Panel

Comment. A writer was opposed to the inclusion of non-Federal panelists on the JDRP. Two other people asked about the criteria for JDRP membership.

Response. No change has been made. The operation of the JDRP will be improved through the addition of members who will provide a broader perspective and practical experience. A pool of panelists will be established, which will include practicing educators from all levels of public and private education, evaluation and dissemination experts, content specialists, and education consumers, such as parents and representatives of business and industry. The selection of members of the JDRP is at the discretion of the Secretary.

JDRP Approval

Comment. Several writers were concerned that the standards for JDRP approval of a dissemination process are less stringent than the standards for approval of other types of projects. Writers asked how the examination of a dissemination process would provide sufficient evidence upon which to judge the educational value of specific materials and their effectiveness in varied locations. Several writers asked

why language indicating consideration of "potential for educational harm" has been deleted.

Response. A change has been made. The JDRP will judge the potential educational value of a dissemination process by reviewing the criteria established by the applicant to develop, review, and select materials, as well as the qualifications of the individuals involved in choosing the materials to be disseminated. In response to comments, the criteria for JDRP approval of a dissemination process have been revised to include more specific standards. The JDRP will determine whether a dissemination process includes provisions for obtaining information about the effectiveness of the dissemination process from users of the process, clearly specified means of disseminating information, and a high quality evaluation design for the total dissemination system.

The phrase concerning "educational harm" was deleted because it was judged to be too vague and difficult to define. No program has ever been submitted to the JDRP in which the issue of educational harm has been raised. It seems unlikely that a progam which might harm children could provide convincing evidence of effectiveness.

Section 796.12 What activities must a Developer Demonstrator project conduct?

Comment. A commenter suggested that the use of technology for content delivery and dissemination efforts should be required for each new applicant.

Response. No change has been made. Although the use of technology might be an integral part of many programs, it would be overly intrusive for the Department of Education to require that it be a part of all programs.

Comment. Several commenters asked why applicants for NDN support for dissemination processes are required to conduct fewer kinds of activities under this type of grant than under other Developer Demonstrator projects, such as helping adopters use the materials and evaluating the impact of the program in new settings.

Response. No change has been made. The nature of this new type of Developer Demonstrator project suggests fewer required activities. It is anticipated that dissemination process projects will provide primarily self-contained materials and instructional packages which would not require the kind of intensive teacher training activities associated with traditional NDN projects. Therefore, several of the supporting activities would not be appropriate. However, it is not the intention of the NDN to support the mere mailing of school materials which might not be used. Dissemination process projects would be required to conduct follow-up activities to determine how materials were used in classrooms and how effective they were in accomplishing local objectives.

Section 796.15 Will priorities for funding Developer Demonstrator grants be established?

Comment. Several commenters asked why "character," "ethics," and "school discipline"—a departure from the current focus on academic subject areas in the school curriculum—were added as funding priorities. They expressed particular concern about how projects would be selected and implemented in the sensitive areas of character and ethics so as to ensure that these areas are treated in a "balanced and sensitive" way. A question was also asked about the addition of "the humanities" as a priority since it seemed to overlap with other priorities. Another commenter suggested that several of the priority areas were too broad and vague.

Response. A change has been made. Although projects in "character," "ethics," and "school discipline" can be funded without changes in the regulations, they were specifically named as priorities to encourage those who have developed school-based programs in these areas to become involved in national dissemination efforts. Many educators have expressed interest in such programs. Since it has been expected that character development would be presented as an integral part of a content area such as English or history, educational effectiveness would be in the context of those curriculum areas. To avoid confusion about the intent, the priority area of "character" has been deleted. Character is still of interest to the Department, but programs in character can be funded under other priorities. "Ethics" remains as a subject area.

Although programs in the humanities can be funded under several priorities, there are a number of interdisciplinary humanities programs, some reflecting a resurgence of interest in the classics, that would broaden and enrich the offerings of the NDN.

The other priorities have not been changed. The broad categories allow greater flexibility in responding to changing national needs, available funds, and other considerations each year. Accordingly, the Secretary has clarified that the Health priority at § 796.15(b)(7) includes drug abuse prevention programs.

The Secretary can also make a priority more specific through the use of invitational language, i.e., language encouraging but not requiring applicants to focus on more specific areas or topics.

Categories of Competition

Comment. Several writers asked why the requirement that applicants compete separately under each priority was eliminated.

Response. This requirement has not been eliminated. Because the Education Department General Administrative Regulations (EDGAR), at 34 CFR 75.105, set out the procedures for establishing and implementing priorities, it is redundant to include the requirement in the program regulations. However, the application notice published each year in the **Federal Register** will specify how a priority will be applied; *e.g.*, by setting aside funds for a separate competition in each priority area. (See 34 CFR 75.105(c).)

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the critieria for major regulations established in the Order.

Paperwork Reduction Act of 1980

Section 796.12 contains an information collection requirement. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey, Jr.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 796

Dissemination, Education, Educational research, Grant programs—education, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance number 84.073—National Diffusion Network)

Dated: August 8, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by amending Part 796 as follows:

PART 796—NATIONAL DIFFUSION NETWORK

1. The authority citation for Part 796 is revised to read as follows:

Authority: 20 U.S.C. 3851, unless otherwise noted.

2. Section 796.3(b) is amended by adding a definition of "dissemination process" and revising the definitions of "exemplary educational program," "Joint Dissemination Review Panel," and "JDRP approval," to read as follows:

§ 796.3 What definitions apply to the NDN?

* * * * *

(b) * * *

"Dissemination process" means a system for reviewing, selecting and providing information and materials about a specific content area, field of professional development, or body of research, that will be of use to educational service providers.

* * * * * * *

"Exemplary educational program" or "program" means a program, product, practice or dissemination process approved by the Joint Dissemination Review Panel.

"Joint Dissemination Review Panel" or "JDRP" means a panel of Federal and non-Federal experts, appointed by the Secretary, that examines evidence of effectiveness and potential value of educators in attaining goals of educational programs, products, practices or dissemination processes.

"JDRP approval," with respect to a dissemination process, means that the JDRP has determined that—

(1) The dissemination process has significant potential value to educational service providers that has been demonstrated;

(2) The dissemination process is accurately described;

(3) The dissemination process includes—

(i) Appropriate criteria for selecting materials and information, such as academic merit and freedom from race and sex-role stereotyping;

(ii) Selection of materials and information by highly qualified personnel;

(iii) Clearly specified means of disseminating information to selected audiences; and

(iv) Provision for obtaining information about the effectiveness of the dissemination process for users of the process;

(4) The dissemination process has a high-quality evaluation design to ensure the continued efficacy of the process;

(5) The materials to be disseminated could be used effectivley in varied locations; and

(6) The cost would be reasonable.

"JDRP approval," with respect to a program, product or practice, means that the JDRP has determined that—

(1) A positive change has occurred that has been demonstrated to be directly attributable to the program, product or practice;

(2) The change was educationally significant, either as measured statistically or by other presuasive evidence;

(3) The evidence supporting these conclusions was gathered and interpreted correctly;

(4) The program product or practice is accurately described;

(5) The program, product or practice could be used effectively in other locations;

(6) The cost would be reasonable, considering the magnitude and the subject of change;

(7) The program, product or practice has a high quality evaluation design; and

(8) The program product or practice is free from race and sex-role stereotyping.

* * * * *

3. Section 796.12 is a revised to read as follows:

§ 796.12 What activities must a Developer Demonstrator project conduct?

(a) A Developer Demonstrator project that represents a program, product or practice that has JDRP approval must—

(1) Develop and provide material—

(i) For educational service providers throughout the Nation to use in deciding whether to adopt the program, product or practice; and

(ii) For training and instruction in the program, product or practice;

(2) Negotiate adoption agreements with State Facilitator grantees and educational service providers;

(3) Install the program, product or practice in new settings in other States by—

(i) Assisting potential adopters with preparatory steps;

(ii) Providing training to staff members of the adopting educational service provider; and

(iii) Providing technical assistance in the implementation and evaluation stages of an adoption;

(4) Evaluate the quality and effectiveness of the activities listed in paragraphs (a)(1), (2) and (3) of this section as specified in the evaluation plan for the project;

(5) Monitor and evaluate the quality and effectiveness of the adoptions by collecting and analyzing impact data from a representative sample of adoption sites, as specified in the evaluation plan for the project;

(6) Maintain records during the grant period concerning the use of the program, product or practice, including records of—

(i) Demographic data;

(ii) Evaluation data; and

(iii) Program retention rates;

(7) Develop and implement a system to identify and train certified trainers;

(8) Identify and certify demonstration sites throughout the Nation;

(9) Participate with other NDN grantees in workshops and meetings arranged by the Secretary; and

(10) Cooperate with State Facilitator grantees in carrying out the activities of this section.

(b) A Developer Demonstrator project that represents a dissemination process that has JDRP approval must—

(1) Develop and provide information and material about the content area, field of professional development or body of research for educational service providers throughout the Nation;

(2) Evaluate the quality and effectiveness of the dissemination

process as specified in the evaluation design for the project;

(3) Maintain records during the grant period concerning the use of the information and materials, including demographic records;

(4) Monitor and evaluate the extent of use and the education results of the information and materials selected by educational service providers;

(5) Participate with other NDN grantees in workshops and meetings arranged by the Secretary; and

(6) Cooperate with State Facilitator grantees in carrying out the activities in this section. (Authority: 20 U.S.C. 3851).

4. Section 796.15 is revised to read as follows:

§ 796.15 Will priorities for funding Developer Demonstrator grants be established?

(a)(1) Each year the Secretary may announce in a notice published in the **Federal Register** the program priorities for which applicants may apply for assistance.

(2) The Secretary selects priorities under this section after taking into consideration any unmet national needs.

(b) The Secretary may select priorities from the following subject areas or special needs:

(1) English, including literature.

(2) Science.

(3) History, geography, and civics, including special history programs in conjunction with the bicentennial of the Constitution of the United States.

(4) Mathematics or higher mathematics.

(5) Reading.

(6) Written or oral communications.

(7) Health, including drug abuse prevention programs.

(8) Ethics.

(9) The humanities.

(10) Programs that assist in improving school discipline and foster an atmosphere conducive to learning.

(11) Foreign languages.

(12) Computer science.

(13) Programs that advance students' educational and occupational goals, such as courses in the fine and performing arts, vocational education, and industrial arts.

(14) Programs that improve students' skills in comprehension, analysis, and problem solving, including programs in philosophy.

(15) Programs that improve teaching and the quality of instruction.

(16) Educational leadership.

(c) In addition to the priorities listed in paragraph (b) of this section, the Secretary may establish priorities as specified in one or both of the following paragraphs:

(1) The Secretary may establish priorities at specified instructional levels, such as preschool, elementary, secondary, postsecondary, or adult education.

(2) The Secretary may establish as a priority one or more of the following special populations:

(i) Gifted and talented students.

(ii) Socioeconomically disadvantaged students.

(iii) Limited English proficient students.

(iv) Handicapped students.

(v) Migrant students.

(vi) Functionally illiterate adults or adolescents.

(d) The Secretary may also limit a priority established under paragraph (b) of this section to—

(1) An instructional level;

(2) One or more of the special populations listed in paragraph (c)(2) of this section; or

(3) Both an instructional level and one or more of the special populations listed in paragraph (c)(2) of this section.

(e) The Secretary may limit a competition established under these regulations to a dissemination process. (Authority: 20 U.S.C. 3851)

4. Section 796.31(d) is redesignated as paragraph (e) and a new paragraph (d) is added as follows:

§ 796.31 How does the Secretary evaluate an application for a Developer Demonstrator or a State Facilitator grant?

* * * * *

(d) In applying the selection criteria in § 796.32 to an application, the Secretary considers the extent to which excellence, balance, and imagination are demonstrated by the proposed activities.

* * * * *

5. Section 796.34(a) is revised to read as follows:

§ 796.34 What additional criteria exist for new and continuation awards?

(a) In determining the order of selection under EDGAR § 75.217(d) for new Developer Demonstrator awards, the Secretary seeks diversity of projects funded under a particular competition or under this program.

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VOL
51
ISS
157
AG
14
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Thursday
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Part IV

Department of Education

34 CFR Part 624
Institutional Aid Programs—General Provisions; Final Regulations

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DEPARTMENT OF EDUCATION

34 CFR Part 624

Institutional Aid Program—General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Institutional Aid Programs General Provisions regulations. The amendment reflects a policy decision concerning the duration and expected costs of a project. This change allows greater flexibility in the Secretary's administration of the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Keyes, U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–3313.

SUPPLEMENTARY INFORMATION: The Institutional Aid Programs provide financial assistance to help eligible institutions of higher education solve problems that threaten their ability to survive and stabilize their management and fiscal operations so that they may achieve self-sufficiency. The programs are authorized by Title III of the Higher Eduation Act of 1965, as amended, and they include: the Strengthening Program, 34 CFR part 625; the Special Needs Program, 34 CFR Part 626; the Challenge Grant Program, 34 CFR Part 627; and the Endowment Grant Program, 34 CFR Part 628.

Over the past four years of administering development grants under the Strengthening, Special Needs, and Challenge Grant Programs, the Secretary has exercised his best judgment regarding the duration of a project and the amount of the grant necessary to complete the project. For example, at the time of the initial application, a request from an institution for $587,000 over a five-year period to develop a learning resources laboratory was reduced to $450,000 over three years. In the final year of the grant, the institution is unable to finish developing the laboratory because the Department's best judgment about the appropriate grant duration and funding level has proven to be inaccurate.

In situations where the Department's best judgment has proven inaccurate, the Secretary currently has no authority to extend the approved project period of the original grant and to obligate additional funds to allow the grantee to complete the project. The Secretary amends the Institutional Aid Programs regulations to establish provisions that will allow for extending a project period and obligating additional funds in certain limited situations. The Secretary wishes to make clear that he will not add resources in the event of cost overruns, revised plans, or material changes from the original application. These regulations will allow for a review of the documentation on the original reasons for a reduction for time period or funding. It will then permit the Secretary to extend time or add funds subject to the availability of appropriations only where other circumstances are unchanged and those original reasons for the Department's initial decision proved to be substantially incorrect. Since this program is being modified through the reauthorization of the Higher Education Act, this regulation will only apply for continuation grants awarded from Fiscal Year 1986 and/or Fiscal Year 1987 funds for nonrenewable development grants previously awarded. However, if the final regulation does not become effective in time for Fiscal Year 1986, it will only apply for Fiscal Year 1987.

On July 8, 1986, the Secretary published in the **Federal Register** (51 FR 24796) a notice of proposed rulemaking for the Institutional Aid Programs. Interested parties were provided 30 days to submit their comments to the Secretary. Several comments were received and they were in favor of the amendment. There were no comments wanting a change in the amendment. Thus, the Secretary's response to the comments is to publish the final regulations exactly as they were in the notice of proposed rulemaking.

Executive Order 12291

The regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

The final regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern such requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 624

Colleges and universities, Education, Grant programs—education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: August 8, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 624 of Title 34 of the Code of Federal Regulations as follows:

PART 624—INSTITUTIONAL AID PROGRAMS—GENERAL PROVISIONS

1. The authority citation for Part 624 is revised to read as follows:

Authority: 20 U.S.C. 1051–1069c, unless otherwise noted.

2. In § 624.5, paragraph (a) is revised to read as follows:

§ 624.5 Regulations that apply to the Institutional Aid Programs.

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions) except for—

(1) 34 CFR 75.128(a)(2) and 75.129(a), in the case of applications under cooperative arrangements; and

(2) 34 CFR 75.261(e), in the case of a continuation grant awarded from Fiscal Year 1986 or 1987 funds for a non-renewable development grant previously awarded if—

(i) The conditions specified in 34 CFR 75.261 (a) through (d) and (f) are met;

(ii) The resulting cumulative obligation of Federal funds under the grant does not exceed the total amount requested by the grantee in the original application;

(iii) The extended grant period does not exceed either the statutory limit or the duration originally requested by the grantee; and

(iv) The original grant amount resulted from an initial judgment by the Department of Education concerning the grant amount needed for the project which subsequently proved to be incorrect.

* * * * *

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VOL
51
ISS
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Thursday
August 14, 1986

Part V

The President

Proclamation 5516—National Neighborhood Crime Watch Day

VOL
51
ISS
157
AG
14
1986
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Federal Register
Vol 51, No. 157
Thursday, August 14, 1986

Presidential Documents

Title 3—

The President

Proclamation 5516 of August 12, 1986

National Neighborhood Crime Watch Day, 1986

By the President of the United States of America

A Proclamation

Crime continues to be of deep concern to the American people. The fight against crime requires voluntary citizen cooperation with law enforcement officials.

We recognize the growth and the proven effectiveness of local crime watch organizations throughout the country. They have played a major role in turning the tide against crime. People working together with their local law enforcement agencies have always been the best deterrent to crime.

Citizens all across America will soon take part in a "National Night Out" to demonstrate the importance and effectiveness of community participation in crime prevention efforts. Those who take part will spend the period from 8:00 p.m. to 9:00 p.m. on August 12, 1986, with their neighbors in front of their homes.

Americans should be aware of the significance of community crime prevention programs and the ways in which they can reduce crime in our towns and neighborhoods. This Administration has made crime prevention a top priority. We support efforts to repeat the highly visible "National Night Out" as a way of calling attention to the need for citizen-based crime prevention programs.

The Congress, by Senate Joint Resolution 256, has designated August 12, 1986, as "National Neighborhood Crime Watch Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 12, 1986, as National Neighborhood Crime Watch Day. I call upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of August, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

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Library
Privacy Act
TDD for the
FEDERAL
27515-27810
27811-28058
28059-28218
28219-28320
28321-28508
28509-28686
28687-28798
28799-28920
28921-29084
29085-29200

Reader Aids

Federal Register

Vol. 51, No. 157

Thursday, August 14, 1986

INFORMATION AND ASSISTANCE

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7
28509-28686	8
28687-28798	11
28799-28920	12
28921-29084	13
29085-29200	14

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	28509

3 CFR

Proclamations:

5514	27515
5515	28218
5516	29200

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219

5 CFR

532	28799
890	28799
1201	28321

Proposed Rules:

870	28576
871	28576
872	28576
873	28576
890	28576

7 CFR

26	28800
29	28687
51	27813, 28802
272	28196
273	28196
770	28921
908	27816, 28509
910	28059
911	27517
918	27518
932	28922
991	28802
1064	28687
1102	28687
1106	28687
1108	28687
1126	28687
1138	28687
1427	28321
1475	28803
1930	27636
1944	27636
1951	27636
1965	27636

Proposed Rules:

52	28719
447	27862
985	29109
1065	27553, 28721, 28819
1068	28819
1079	27554, 28819
1136	27866
1137	27554
1139	27555
1709	28722

8 CFR

238	28060, 28923, 29085

Proposed Rules:

214	27867, 28576
248	27867

9 CFR

92	28805

Proposed Rules:

92	27871

10 CFR

50	27817, 28044
73	27817, 27822
110	27825

Proposed Rules:

50	27872

11 CFR

Proposed Rules:

100	28154
106	28154
9001	28154
9002	28154
9003	28154
9004	28154
9005	28154
9006	28154
9007	28154
9012	28154
9031	28154
9032	28154
9033	28154
9034	28154
9035	28154
9036	28154
9037	28154
9038	28154
9039	28154

12 CFR

1	29085
17	29089
207	27518
220	27518
221	27518
224	27518
303	27826
501	28221
522	28221, 28690
523	28221
741	27522

Proposed Rules:

205	28589
226	28245

13 CFR

310	27828

14 CFR

21	28509-28525

23.....28509–28525
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093
71.....27833–27835, 28067, 28325, 28326, 28528, 28923
75.....28809
97.....28326
121.....28322
1204.....27528
1209.....28924

Proposed Rules:
Ch. I.....28386, 28725
1.....28095
36.....27556
39.....27557, 27874, 28386, 28832, 29110
71.....28388–28390, 28956, 28957
73.....28095
75.....28096, 28957

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695
423.....28222
444.....28328
1500.....28529, 29094

Proposed Rules:
13.....28594

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:
231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:
271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:
113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:
404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546
520.....28546
522.....28546, 28932
546.....28546
556.....28932, 29097
558.....28546, 28547, 29097
561.....28223
1308.....28695

Proposed Rules:
1308.....28725, 28727

22 CFR

Proposed Rules:
2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
888.....28486
905.....27774
965.....27774
968.....27774

Proposed Rules:
35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:
4.....28836
5.....28836
7.....28836
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

29 CFR

1601.....29098
1952.....27534
1960.....28378
2603.....28379

Proposed Rules:
602.....28840

30 CFR

901.....29098
914.....29100
931.....28553
943.....28554

Proposed Rules:
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

Proposed Rules:
10.....29113

32 CFR

90.....28092
706.....27535, 27536, 28933–28941

Proposed Rules:
553.....29115

33 CFR

100.....28706
117.....28380, 28707, 29101
140.....28381
142.....28381
161.....27839
165.....28382, 28383

Proposed Rules:
117.....27877
334.....28248

34 CFR

624.....29196
674.....28312
796.....29190

36 CFR

34.....29101

Proposed Rules:
7.....28107–28110
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

39 CFR

10.....28383

Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813
60.....29104
61.....27956
65.....28224
81.....27843–27845
180.....28225–28227
260.....28664
261.....28296, 28664
262.....28664
263.....28664
264.....28556
265.....28556
271.....28094, 28664
761.....28556

Proposed Rules:
52.....27560, 27878, 29116
65.....28113
85.....28114
141.....28730
180.....28249, 28603, 28959
271.....28604
716.....27562
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–26.....29104
101–40.....27539

42 CFR

405.....27847, 28710
417.....28569
482.....27847

43 CFR

11.....27674

Public Land Orders:
6620.....28229
6622.....28229

Proposed Rules:
4.....28846

44 CFR

64.....28230, 28232

Proposed Rules:
81.....28119

45 CFR

1612.....27539
1630.....29076
2002.....28384

Proposed Rules:
74.....

Proposed Rules:
74 28960

46 CFR

Proposed Rules:
31 29116
61 29116
71 29116
91 29116
160 29117
167 29116
169 29116
189 29116
502 29124

47 CFR

22 28236
68 28237
73 ..... 27552, 28237, 28942, 28943, 29105
87 29106
97 28237

Proposed Rules:
0 27566
1 27566
2 28249
21 27566
22 27566
23 27566
62 27566
67 29126
73 ..... 27566, 27567, 28961, 29128–29130
74 27566
90 29130

48 CFR

223 28943
228 28943
232 28946
242 28943
252 28943
522 28815
552 28815
1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 ..... 27848, 28574
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 ..... 27848, 28574
1853 27848

Proposed Rules:
501 29131
513 29131
553 29131

49 CFR

571 28238

Proposed Rules:
Ch. X 28847
171 28962
172 28962
173 ..... 28605, 28962
385 28607
391 27567
531 28730
1058 28249
1152 28962
1312 28731

50 CFR

20 28946
285 ..... 28240, 28241
604 28575
630 28575
641 28094
655 28241
661 ..... 27859, 28717, 28954
671 28242
672 28385
674 ..... 27860, 28243, 29107

Proposed Rules:
216 ..... 28320, 28963
611 ..... 28731, 29131
630 29132
685 29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 13, 1986

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51
ISS
1
57
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VOL
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158
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8-15-
Vol. 5
Pages

8-15-86
Vol. 51 No. 158
Pages 29201-29442

Federal Register

Friday
August 15, 1986

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158
AG
15
1986
UMI

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Contents

Federal Register

Vol. 51, No. 158

Friday, August 15, 1986

Agricultural Marketing Service
RULES
Cherries grown in Washington, 29209
Honey research, promotion, and consumer information order
Correction, 29210
Oranges grown (Valencia) grown in Arizona and California, 29208
PROPOSED RULES
Dates (domestic) produced or packed in California, 29251
Milk marketing orders:
Georgia et al., 29252

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Grain Inspection Service; Food and Nutrition Service; Forest Service; Soil Conservation Service
RULES
Organization, functions, and authority delegations:
Under Secretary for International Affairs and Commodity Programs et al., 29201
NOTICES
Biotechnology research; proposed guidelines, 29402

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Horses from countries affected with CEM—Norway, 29210
PROPOSED RULES
Plant pests:
Genetically engineered organisms or products, 29401

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Iowa et al., 29291

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Committee for Purchase from the Blind and Other Severly Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 29296

Conservation and Renewable Energy Office
NOTICES
Consumer products, energy conservation program:
Heat pumps, New York minimum efficiency standard; preemption petition, 29304

Customs Service
NOTICES
Trade name recordation applications:
Baltimore Luggage Co., 29358

Defense Department
RULES
Federal Acquisition Regulation (FAR):
Ammunition and explosives contracts; safety precautions
Correction, 29231

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Arenol Chemical Corp., 29334 (2 documents)
Clausing, Vernon D., D.O., 29334
Frank, Patrick J., M.D., 29334
Jones, John Johnston, Jr., M.D., 29335
Lannett Co., 29335
Pangilinan, Lorimer, M.D., 29335
Sigma Chemical Co., 29336

Education Department
RULES
Postsecondary education:
Graduate academic facilities program, 29434
Student assistance; application information verification, 29396

Employment and Training Administration
NOTICES
Adjustment assistance:
Eaton Corp., 29344
Federal-State unemployment compensation program:
Unemployment insurance program letters—Requests for repayable Title XII advances, 29345
Job Training Partnership Act:
Indian and Native American employment and training programs; final designation procedures, 29339
Labor surplus area classifications:
Annual list additions, 29344

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 29348

Energy Department
See also Conservation and Renewable Energy Office; Federal Energy Regulatory Commission; Western Area Power Administration
NOTICES
Atomic energy agreements; subsequent arrangements:
European Atomic Energy Community and Sweden, 29297

Environmental Protection Agency
RULES
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 29216
Hazardous waste:
Identification and listing—Exclusions, 29217–29219 (2 documents)

Storage and treatment tank systems
Correction, 29430
PROPOSED RULES
Air quality planning purposes; designation of areas:
Pennsylvania, 29268
Water pollution control:
Citizen suits; prior notice requirements, 29426
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 29305
Weekly receipts, 29307
Ocean dredged material disposal site, Pascagoula, MS, 29306

Family Assistance Office
RULES
Aid to families with dependent children and child support enforcement programs; supplemental payment computation, 29223

Federal Aviation Administration
RULES
Airworthiness directives:
Allison, 29211
Boeing, 29212, 29213
(2 documents)
PROPOSED RULES
Airworthiness directives:
Airbus Industrie, 29256
Boeing, 29256
Cessna, 29258
Pilatus Britten-Norman Ltd., 29259
Control areas, 29261, 29262
(2 documents)
VOR Federal airways, 29263
NOTICES
Meetings:
Aeronautics Radio Technical Commission, 29358

Federal Communications Commission
RULES
Common carrier services:
Customer premises equipment, nonstructural safeguards, 29230
PROPOSED RULES
Radio broadcasting:
FM commercial stations; allocation rules; technical requirements review, 29273
Radio services, special:
Private land mobile services—
Direct access paging on frequencies in bands below 900 MHz (interconnection with public switched telephone network), 29273
NOTICES
Applications, hearings, determinations, etc.:
62 Broadcasting, Inc., et al., 29308
Haughton Television et al., 29307
Radio Kerrville, 29308
Schwier, Priscilla L., et al., 29308

Federal Crop Insurance Corporation
RULES
Administrative regulations:
Food Security Act of 1985, implementation; denial of benefits, 29202
Crop insurance regulations:
Interest rate charge, annual premium, 29204
Crop insurance; various commodities:
Barley, corn, cotton, etc., 29207
Peaches, apples, Arizona-California citrus, etc., 29205
PROPOSED RULES
Crop insurance; various commodities:
Grapes, 29246

Federal Emergency Management Agency
RULES
Claims; quarterly reports, 29222

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Arizona Public Service Co. et al., 29300
Natural gas certificate filings:
Great Lakes Gas Transmission Co. et al., 29297
Preliminary permits surrender:
Madera-Chowchilla Power Authority, 29298
Southern Star Hydro Ltd., 29298
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 29301
Exxon Corp. et al., 29298
Granite State Gas Transmission, Inc., 29302
Iowa Electric Light & Power Co., 29299
Natural Gas Pipeline Co. of America, 29299
Northwest Pipeline Corp., 29300
Ozark Gas Transmission System, 29303
Texas Eastern Transmission Corp., 29303
Transcontinental Gas Pipe Line Corp., 29300

Federal Grain Inspection Service
NOTICES
Agency designation actions:
Florida, 29291

Federal Maritime Commission
NOTICES
Meetings; Sunshine Act, 29360
Shipping Act of 1984:
Ports and marine terminal operators, survey, 29309

Federal Reserve System
PROPOSED RULES
Truth in lending (Regulation Z):
Right of rescission
Correction, 29256
NOTICES
Meetings; Sunshine Act, 29360
Applications, hearings, determinations, etc.:
Community Bank System, Inc., et al., 29309
Hebron Bancshares, Inc., et al., 29309

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
Buckingham Productions, Inc., et al., 29265

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Southern sea otters, 29362
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 29274
NOTICES
Environmental statements; availability, etc.:
Southern sea otters; translocation and experimental population establishment, 29384

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Levamisole hydrochloride gel, 29215

Food and Nutrition Service
PROPOSED RULES
Food distribution program:
Surplus commodities; national inventory system, 29236

Forest Service
NOTICES
Environmental statements; availability, etc. and land and resource management plans:
Los Padres National Forest, CA, 29291

Health and Human Services Department
See also Family Assistance Office; Food and Drug Administration; Health Care Financing Administration; National Institutes of Health
NOTICES
Agency information collection activities under OMB review, 29310

Health Care Financing Administration
RULES
Medicare:
Hospital inpatient prospective payment system; periodic interim payments elimination, 29386
NOTICES
Medicare:
End-stage renal disease program; composite rates and methodology determination, 29404
Lowest charge levels, 29310
Physician services—
Anesthesia services; reasonable charge payment limits, 29316
Cataract extractions with intraocular lens implants; reasonable charge payment limits, 29321

Housing and Urban Development Department
NOTICES
Agency information collection activities under OMB review, 29325
Grants; availability, etc.:
Fair housing assistance program, 29327

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Format of Federal Register notices, 29292
Countervailing duties:
Carbon steel wire rod from—
Zimbabwe, 29292
Leather wearing apparel from—
Mexico; correction, 29295
Export privileges, actions affecting:
McVey, Charles J., Jr., et al., 29295

Interstate Commerce Commission
NOTICES
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
Greyhound Corp., 29332
Railroad operation, acquisition, construction, etc.:
Chicago, West Pullman & Southern Railroad Co., 29332
Railroad services abandonment:
Baltimore & Ohio Railroad Co. et al., 29332

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Reclamation Bureau

Justice Department
See Drug Enforcement Administration

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration
NOTICES
Meetings:
Economic Adjustment and Worker Dislocation Task Force, 29337
Trade Negotiations and Trade Policy Labor Advisory Committee, 29337
Unemployment compensation, State laws; hearings:
Washington, 29337

Land Management Bureau
NOTICES
Meetings:
Salt Lake District Grazing Advisory Board, 29329

Maritime Administration
NOTICES
Trustees; applicants approved, disapproved, etc.:
Colonial Bank, 29358

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Exxon Co., U.S.A., 29329

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 29349

National Institutes of Health
NOTICES
Recombinant DNA molecules research:
Actions under guidelines
Proposed, 29422

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 29234

Nuclear Regulatory Commission
RULES
Policy statements; obsolete or superseded by subsequent agency action; revocation; correction, 29211
NOTICES
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 29350

Occupational Safety and Health Administration
NOTICES
Meetings:
Occupational Safety and Health Federal Advisory Council, 29349

Pension Benefit Guaranty Corporation
RULES
Multiemployer plans:
Valuation of plan benefits and plan assets following mass withdrawal
Interest rates, 29215

Reclamation Bureau
NOTICES
Power marketing plans:
Lewiston Dam Powerplant, Trinity River Division, 29330

Science and Technology Policy Office
NOTICES
Biotechnology regulation, coordinated framework, 29400

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
Korea Fund, Inc., 29350
Merrill Lynch KECALP Growth Investments Ltd. Partnership, 29352
Ohio National Life Assurance Corp. et al., 29354
Prudential Insurance Co. of America et al., 29356

Soil Conservation Service
RULES
Relocation assistance; CFR Part removed, 29208
PROPOSED RULES
Support activities:
Archeological and historical properties; protection procedures, 29251

Transportation Department
See also Federal Aviation Administration; Maritime Administration
RULES
Organization, functions, and authority delegations:
Administrators, Operating Administrations et al., 29233
Assistant Secretary for Administration, 29231
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 29357
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 29357

Treasury Department
See Customs Service

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
Clinton, OK, 29358
Wilkes-Barre, PA, 29359

Western Area Power Administration
NOTICES
Power marketing plans, etc.:
Lewiston Dam Powerplant, Trinity River Division, 29330
Pick-Sloan Missouri Basin Program-Western Division and Fryingpan-Arkansas Project, 29305

Separate Parts In This Issue

Part II
Department of the Interior, Fish and Wildlife Service, 29362

Part III
Department of Health and Human Services, Health Care Financing Administration, 29388

Part IV
Department of Education, 29396

Part V
Office of Science and Technology Policy; Department of Agriculture, Animal and Plant Health Inspection Service; Department of Agriculture, 29400

Part VI
Department of Health and Human Services, Health Care Financing Administration, 29404

Part VII
Department of Health and Human Services, National Institutes of Health, 29422

Part VIII
Environmental Protection Agency, 29426

Part IX
Environmental Protection Agency, 29430

Part X
Department of Education, 29434

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
2 29201
400 29202
402 29204
403 (2 documents) 29204, 29205
405 29205
409 (2 documents) 29204, 29205
410 29204
411 (2 documents) 29204, 29205
413 (2 documents) 29204, 29205
414 29204
415 (2 documents) 29204, 29205
416 (2 documents) 29204, 29205
417 (2 documents) 29204, 29205
418 (3 documents) 29204–29207
419 (3 documents) 29204–29207
420 (3 documents) 29204–29207
421 (3 documents) 29204–29207
422 (2 documents) 29204, 29205
423 (2 documents) 29204, 29205
424 (3 documents) 29204–29207
425 (2 documents) 29204, 29205
426 29204
427 (3 documents) 29204–29207
428 (2 documents) 29204, 29205
429 (2 documents) 29204, 29205
430 (2 documents) 29204, 29205
431 (2 documents) 29204, 29205
432 (3 documents) 29204–29207
433 (2 documents) 29204, 29205
435 (2 documents) 29204, 29205
436 (2 documents) 29204, 29205
437 (2 documents) 29204, 29205
438 (2 documents) 29204, 29205
439 (2 documents) 29204, 29205
440 29204
441 29204
442 29204
443 29204
444 29204
445 29204
446 (2 documents) 29204, 29205
447 (2 documents) 29204, 29205
448 (3 documents) 29204–29207
449 29204
450 (2 documents) 29204, 29205
451 (2 documents) 29204, 29205
652 29208
908 29208
923 29209
1240 29210

Proposed Rules:
235 29236
250 29236
252 29236
255 29236
330 29401
340 29401
441 29246
656 29251
987 29251
1007 29252
1011 29252
1046 29252
1093 29252
1094 29252
1096 29252
1098 29252

9 CFR
92 29210

10 CFR
Ch. I 29211

12 CFR

Proposed Rules:
226 29256

14 CFR
39 (3 documents) 29211–29213

Proposed Rules:
39 (4 documents) 29256–29259
71 (3 documents) 29261–29263

16 CFR

Proposed Rules:
13 29265

21 CFR
520 29215

29 CFR
2676 29215

34 CFR
617 29434
619 29434
668 29396

40 CFR
65 29216
260 29430
261 (3 documents) 29217, 29219, 29430
262 29430
264 29430
265 29430
270 29430
271 29430

Proposed Rules:
81 29268
135 29426

42 CFR
405 29366

44 CFR
11 29222

45 CFR
232 29223
233 29223

47 CFR
64 29230

Proposed Rules:
73 29273
90 29273

48 CFR
223 29231
228 29231
242 29231
252 29231

49 CFR
1 (2 documents) 29231, 29233

50 CFR
661 29234

Proposed Rules:
17 29362
20 29274

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Rules and Regulations

Federal Register
Vol. 51, No. 158
Friday, August 15, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority by the Secretary of Agriculture and General Officers of the Department to delegate to the Under Secretary for International Affairs and Commodity Programs and the Office of International Cooperation and Development (OICD) authority to enter into contracts, grants, cooperative agreements and cost reimbursable agreements relating to the conduct of international research, extension, or teaching activities; and authority to determine amounts for reimbursement of indirect costs under international agricultural programs and agreements.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Tommye Cooper, Acting Assistant Administrator for Administration, Office of International Cooperation and Development, U.S. Department of Agriculture, Washington, DC 20250, (202) 475–5246.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delegate to the Under Secretary for International Affairs and Commodity Programs and, subsequently, to the Administrator of the Office of International Cooperation and Development authority to enter into contracts, grants, cooperative agreements and cost reimbursable agreements, and authority to determine reimbursable indirect costs under sections 1472, 1473, and 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by Pub. L. Number 99–198. Section 1472 authorizes use of contracts, grants, and cooperative agreements to further the research, extension, and teaching programs of the Department and specifically authorizes, notwithstanding the provisions of 31 U.S.C. 6301–6308, use of a cooperative agreement as the legal instrument reflecting a relationship between the Department of Agriculture and a State cooperative institution, State department of agriculture, college, university, other research or educational institution or organization, Federal or private agency, organization, or individual, or any other party, when the objective of the agreement will serve a mutual interest of the parties to the agreement in agricultural research, extension, or teaching activities, including statistical reporting, and all parties will contribute resources to the accomplishment of those objectives. Section 1473 allows payment of necessary indirect costs from funds for international agricultural programs conducted by a State cooperative institution and administered by the Secretary or to funds provided by a Federal agency for such cooperative program or project through a fund transfer, advance, or reimbursement. Section 1473A, notwithstanding any other provision of law, authorizes use of cost-reimbursable agreements with State cooperative institutions without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research, extension, or teaching activities of mutual interest.

This rule relates to internal Departmental management. Therefore, pursuant to statutory provisions codified at 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found in making this rule effective less than 30 days after publication in the Federal Register.

Further, since this rule relates to internal management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The Authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development and Assistant Secretaries

2. Section 2.21 is amended by adding new paragraphs (a) (9) and (10) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

(a) * * *

(9) Enter into contracts, grants, cooperative agreements, and cost reimbursable agreements relating to agricultural research, extension, or teaching activities (7 U.S.C. 3318, 7 U.S.C. 3319a).

(10) Determine amounts reimbursable for indirect costs under international agricultural programs and agreements (7 U.S.C. 3319).

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

3. Section 2.64 is amended by adding new paragraphs (a) (9) and (10) to read as follows:

§2.64 Administrator, Office of International Cooperation and Development.

(a) * * *

(9) Enter into contracts, grants, cooperative agreements, and cost reimbursable agreements relating to agricultural research, extension, or teaching activities (7 U.S.C. 3318, 7 U.S.C. 3319a).

(10) Determine amounts reimbursable for indirect costs under international agricultural programs and agreements (7 U.S.C. 3319).

For Subpart C.

Dated: August 9, 1986.

Richard E. Lyng,

Secretary of Agriculture.

For Subpart H:

Dated: August 9, 1986.

Daniel G. Amstutz,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 86-18437 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-DP-M

Federal Crop Insurance Corporation

7 CFR Part 400

[Doc. No. 3258S]

Food Security Act of 1985; Implementation

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends 7 CFR Part 400, General Administrative Regulations, by adding a new Subpart F, to be known as 7 CFR Part 400, Subpart F—Food Security Act of 1985; Implementation; Denial of Benefits. The intended effect of this rule is to deny crop insurance benefits to: (1) Persons convicted of violations of Federal and State controlled substance statutes; (2) persons producing an agricultural commodity on a field on which highly erodible land is predominant; and (3) persons producing an agricultural crop on converted wetland. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended; The Food Security Act of 1985 and 7 CFR Part 12 (51 FR 23496 et seq.).

DATES: Effective date: August 15, 1986. Comment date: Written comments, data, and opinions on this interim rule must be submitted not later than October 14, 1986, to be assured of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is July 31, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individual, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The Food Security Act of 1985 (the "Act") (Pub. L. 99-198) was enacted on December 23, 1985.

Section 1211 of the Act provides that any person who in any crop year produces an agricultural commodity on a field on which highly erodible land is predominant shall be ineligible for, as to any commodity produced during that crop year by such persons, crop insurance under the Federal Crop Insurance Act.

Section 1221 of the Act provides that any person who in any crop year produces an agricultural commodity on converted wetland shall be ineligible for, as to any commodity produced during that crop year by such person, crop insurance under the Federal Crop Insurance Act.

Section 1764 of the Act provides that, if a person is convicted under Federal or State statutes of planting, cultivation, growing, producing, harvesting, or storing a controlled substance in any crop year, such person shall be ineligible for crop insurance benefits under the Federal Crop Insurance Act, as to any commodity produced during that crop year, and for the four succeeding crop years.

Departmental regulations implementing sections 1211 and 1221 of the Act were published as an interim rule by the Department on Friday, June 27, 1986 at 51 FR 23496 et seq. and will be codified in Part 12 of 7 CFR.

This interim rule prescribes procedures for denying crop insurance benefits to any person convicted of violations of the Federal or State statutes relative to controlled substances, or who are found to violate the Highly Erodible Land Conservation and the Wetland Conservation provisions in the Food Security Act.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing a period for public comment before such publication. FCIC is required to comply with the provisions of the Food Security Act of 1985 as of the date of its enactment with respect to the denials of crop insurance benefits outlined above. Since the departmental regulations (7 CFR 12.5(f)) apply to crops planted after June 26, 1986, FCIC has determined that this interim rule shall be effective upon publication in the **Federal Register.**

Written comments are solicited by FCIC for 60 days following publication of this rule and any comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

This rule will be scheduled for review so that any amendments made necessary by public comment may be published in the **Federal Register** as quickly as possible.

List of Subjects in 7 CFR Part 400

Crop insurance, Administrative regulations—Food Security Act of 1985, Denial of benefits.

Interim rule

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends 7 CFR Part 400, General Administrative Regulations, by adding a new Subpart F, to be known as 7 CFR Part 400, Subpart F, Food Security Act of 1985, Implementation; Denial of Benefits, to read as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart F—Food Security Act of 1985, Implementation; Denial of Benefits Regulations

Sec.
400.45 Applicability.
400.46 Definitions.
400.47 Denial of crop insurance.
400.48 Protection of interests of landlords and tenants.

Authority: Secs. 1506, 1516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1501 et seq.); Sec. 1244, Pub. L. 99–198.

§ 400.45 Applicability.

The regulations in this subpart implement Chapter XII and Section 1764 of the Food Security Act of 1985 (the Act) requiring the denial of crop insurance to persons who are determined to have performed certain practices prohibited by the Act or who have violated certain federal or State statutes or the regulations implementing the Act. The provisions of this subpart are applicable to all crop insurance policies written by the Federal Crop Insurance Corporation (the Corporation) or reinsured by the Corporation. The provisions of this subpart will be effective for the crop and crop year immediately following the first crop cancellation date occurring after the effective date of the Act for all crop policies reinsured by FCIC, and for all policies and regulations for crop insurance issued by FCIC.

§ 400.46 Definitions.

For the purpose of this regulation and in addition to the definitions included at 7 CFR 12.2, the following definitions are applicable:

(a) "Controlled substance" means any prohibited drug-producing plants including, but not limited to, cacti of the genus *lophophora*, coca bushes (*erythroxylum coca*), marijuana (*cannabis satiua*), opium poppies (*papauer somniferum*), and other drug-producing plants, the planting and harvesting of which is prohibited by federal or State law.

(b) "Person" means any producer, tenant, or landlord, insured under a policy of crop insurance issued by FCIC, or by a multi-peril insurance company whose crop insurance policy is reinsured by FCIC.

(c) "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Marianna Islands, or the Trust Territory of the Pacific.

(d) "The Act" means the Food Security Act of 1985 (Pub. L. 99–198).

§ 400.47 Denial of crop insurance.

(a) Any person who, after December 23, 1985, is convicted under federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for crop insurance as to any commodity produced by such person during that crop year, and during the four succeeding crop years.

(b) Any person who in any crop year produces an agricultural commodity on a field on which highly erodible land is predominant shall be ineligible for crop insurance as to any commodity produced by such person for that crop year, unless such person is exempt under the provisions of 7 CFR 12.5.

(c) Any person who in any crop year produces an agricultural commodity on converted wetland shall be ineligible for crop insurance as to any commodity produced by such person for that crop year, unless such person is exempt under the provisions of 7 CFR 12.5.

(d) The insurance of any person insured by FCIC who is ineligible under provisions of this subpart will be null and void and any indemnity paid because of such insurance must be returned to FCIC. Any premium paid for insurance coverage declared null and void will be returned.

(e) Any person ineligible for crop insurance under the provisions of this subpart may make application for crop insurance for the crop year following the applicable period of ineligibility by submitting a new application. The previous application and policy of insurance will be cancelled.

(f) Any insurance written by a multi-peril crop insurance company to any person who is ineligible under the provisions of this subpart is not eligible for reinsurance under the Corporation's standard reinsurance contract. Any premium subsidy and expense allowance or loss paid by the Corporation because of such contract will be immediately refunded to the Corporation. Notwithstanding any other provision of law, policies written by multi-peril crop insurance companies to any person ineligible under the provisions of this subpart are null and void. Premiums paid for such policies will be refunded to the person applying for insurance less a reasonable amount for expenses and handling and no indemnity will be paid unless the multi-peril company expresaly agrees to continue such policy in effect without FCIC reinsurance.

(g) The determinations of the Soil Conservation Service, the Agricultural Stabilization and Conservation Service and the Secretary of the Interior made within their designated areas of responsibility will be binding upon the Corporation and such determination is not subject to the Corporation's appeal process (Subpart H hereof) (See Part 12 of 7 CFR). Any person determined to be ineligible during any crop year by any other agency under the provisions of the Act will be conclusively presumed to be ineligible for FCIC benefits.

(h) FCIC employees or contractors are required to report all suspected cases of violation of the Act or the regulations to the appropriate agency for a determination of violation. Benefits shall not be paid in such cases pending a determination from the appropriate agency.

§ 400.48 Protection of interests of landlords and tenants.

Any tenant, landlord or producer on the farm separate from the person declared ineligible for crop insurance under the provisions of § 400.47 of this part, will remain eligible for crop insurance on their insurable share in the crop, unless such tenant, landlord, or producer on the farm is:

(a) Also convicted of planting, cultivating, growing, producing, or storing a controlled substance;

(b) In violation of Chapter XII of the Act and the regulations issued thereunder; or

(c) Otherwise termed by FCIC to be ineligible for crop insurance.

§ 400.49 Certification.

Each applicant for insurance under the Federal Crop Insurance Act, as amended, is required to certify on Form AD–1026, prior to the sales closing date for the crop to be insured, that from that crop year such person will not produce an agricultural commodity on highly erodible land or converted wetland during the crop year unless such producer is exempt.

Done in Washington, DC, on March 19, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-18500 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Parts 402, 403, 409, 410, 411, 413-433, and 435-451

[Doc. No. 3107S]

General Amendment; Various Crop Insurance Regulations; Annual Premium; Interest Rate Charge

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends all regulations issued by the Federal Crop Insurance Corporation (FCIC) relating to the insurance on specific crops or groups of crops, and codified in Chapter IV of Title 7 of the Code of Federal regulations (7 CFR Part 400, *et seq.*). The intended effect of this rule is to provide that, effective for the 1986 and succeeding crop years, interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month on any unpaid premium balance. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the regulations cited herein under those procedures. The sunset review dates established for all regulations affected by this action remain unchanged.

This action relates to internal agency management. Therefore it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest and good cause is found for making this action effective immediately.

Further, since this action relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background:

FCIC has consistently charged an interest rate or service charge on any unpaid balance due and owing to FCIC. Beginning in crop year 1983, FCIC set the interest rate at one and a half percent (1½%) simple interest on any unpaid premium balance starting on the first day of the month following the first premium billing date. The premium billing date varies from crop to crop, depending on harvest time.

In 1982, FCIC determined that it would be in the best interests of the government to establish the interest rate to be charge on unpaid premium balances at 18.0% simple interest per annum (1½% per month), consistent with the interest rate charged by private firms. Although the rate was higher than the interest based on the value of funds to the Treasury, it was adopted when the Board of Directors considered the interest free period after the premium was due but before the interest start date. The one and one-half (1½%) interest rate remains in effect and is found in subsection 5(b) of all crop insurance policies issued by FCIC.

Interest rates are generally lower now compared to 1982 when the interest policy was established. While some consumer loan rates approach 20% per annum, most farm operating loans carry a rate near 12%. The current policy of the Department of Agriculture generally requires an annual interest charge of fifteen percent (15%) on late payments. The FCIC Board of Directors has determined that the interest rate to be charged for 1986 and subsequent crop years shall be fifteen percent (15%) per annum.

FCIC herewith amends all regulations for insuring crops or groups of crops as contained in 7 CFR Chapter IV, effective for the 1986 and succeeding crop years, to provide that interest applied to any unpaid premium balances will be one and one quarter percent (1¼%) per month simple interest (15% per annum simple interest).

A provision requiring one and one-fourth percent (1¼%) interest per month in lieu of the current one and one-half percent (1½%) would recognize the changes which have occurred in most interest levels since 1982, continue to provide an incentive for timely payment, and not unduly burden those who are forced to delay payment.

List of Subjects

Crop Insurance; Raisin, Peach, Apple, Arizona-California Citrus, Florida Citrus, Grape, Texas Citrus, Forage Seeding, Forage Production, Pea, Sugarcane, Wheat, Barley, Grain Sorghum, Cotton, Potato, Flax, Rice, Peanut, Combined Crop, Oat, Sunflower, Rye, Sugar Beet, Soybean, Corn, Dry Bean, Tobacco-Quota, Tobacco-Guaranteed, Canning & Freezing Sweet Corn, Canning and Processing Tomato, Almond, Texas Citrus Tree, Table Grape, Prevented Planting, Hybrid Seed, Fresh Tomato, Pepper, Walnut, Popcorn, ELS (Pima) Cotton, Fresh Market Sweet Corn, Prune, and Canning and Processing Peach, respectively.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby amends all crop insurance regulations issued by FCIC and currently in effect, covering specific crops or groups of crops (7 CFR Part 402, *et seq.*), effective for the 1986 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Parts 402, 403, 405, 409, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, and 451, continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 402.7(d)5.b., 403.7(d)5.b., 409.7(d)5.b., 410.7(d)5.b., 411.7(d)5.b., 413.7(d)5.b., 414.7(d)5.b., 415.7(d)5.b., 416.7(d)5.b., 417.7(d)5.b., 418.7(d)5.b., 419.7(d)5.b., 420.7(d)5.b., 421.7(d)5.b., 422.7(d)5.b., 423.7(d)5.b., 424.7(d)5.b., 425.7(d)5.b., 426.3(d)5.b., 427.7(d)5.b., 428.7(d)5.b., 429.7(d)5.b., 430.7(d)5.b., 431.7(d)5.b., 432.7(d)5.b., 433.7(d)5.b., 435.7(d)5.b., 436.7(d)5.b., 437.7(d)5.b., 438.7(d)5.b., 439.7(d)5.b., 440.7(d)5.b., 441.7(d)5.b., 442.7(d)5.b., 443.7(d)5.b.,

444.7(d)5.b., 445.7(d)5.b., 446.7(d)5.b., 447.7(d)5.b., 448.7(d)5.b., 449.7(d)5.b., 450.7(d)5.b., and 451.7(d)5.b., are revised to read as follows:

* * * * *

b. Interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

* * * * *

Done in Washington, DC, on July 17, 1986.

Michael A. Bronson,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-18432 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Parts 403, 405, 409, 411, 413, 415–425, 427–433, 435–439, 446–448, 450 and 451

[Doc. No. 0093A]

Crop Insurance; Various Commodities; Peaches, Apples, Arizona—California Citrus, etc.

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona-California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Part 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years. The intended effect of this rule is to provide for an alternative insurance offer in lieu of cancellation for failure to furnish production records to determine guarantee. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Effective August 15, 1986.

Comment. Written comments, data, and opinions on this interim rule must be submitted not later than October 14, 1986, to be sure of consideration.

ADDRESS: Wittten comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations remains unchanged and has been previously published for each regulation.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) Major increases in costs of prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

In May 1986, the FCIC Board of Directors reviewed the matter of cancellation of the crop insurance policy for failure to furnish production records for those programs under the Actual Production History (APH) program. This consideration by the Board was in response to comments submitted during hearing on the Actual Production History (APH) method of insurance in September 1985.

The APH concept of yield guarantees establishes a direct relationship between proven production capability of the producer, and the insurance guarantee or premium rates. It requires that the insured submit records of annual production.

Those opposed to the record requirement as a condition of continued insurance eligibility included objected to the alleged invasion of privacy and claimed that many farmers would not be willing to furnish records establishing annual production unless they have a loss and a potential indemnity. Comments stated that an economic incentive like a reduced future yield guarantee would be preferable to cancellation and would give the insured an option while preseving the Corporation's valid interest. Most comments supported the APH concept as a means of making an equitable insurance offer to the better producers of an area but recommended that FCIC develop a plan to offer reduced insurance guarantees when a producer failed to voluntarily furnish records.

The rationale for adoption of the APH concept was to correct the problem of adverse selection inherent in the area coverage plans of insurance. Adverse selection occurs when the best insurance offer is made to the highest risk producer and the poorest insurance offer is made to the lowest risk producer. It is characterized by having insureds with higher than average risk expectations without commensurate higher premiun rates. Adverse selection results in higher losses and ultimately in higher premium rates and thus, over the long term, severely limits participation levels. Adverse selection is best addressed by establishing a direct relationship between proven production capability of individual producers and their insurance guarantee and premium rates. The APH program accomplishes this objective.

Upon review of the cancellation provision for failure to furnish production records, the Board determined that an unnecessary hardship on many producers may result.

VOL 51 ISS 158 AG 15 1986 UMI

While maintaining the concept of providing insurance based on actual production history, when such production data is furnished, the Board determined that an alternative insurance offer would be made to those who failed to furnish production records. Thus the integrity of the APH program remains intact while the provision to cancel the policy for not furnishing production records has been modified to allow for an alternative offer of insurance coverage.

The changes in each of the regulations, except Cotton, Canning and Processing Peaches, Prunes and Rice involve moving the provision requiring submission of a production report prior to the next crop year for determining the yield guarantee from section 15.c. to section 4. In cases where such production report cannot be furnished, the Corporation will assign a yield to be used in establishing the yield history. This will provide an alternative insurance offer in lieu of cancellation for failure to furnish production records.

The change in the Canning and Processing Peach and the Prune crop insurance regulations removes the provision requiring submission of a production report prior to the next crop for determining the yield guarantee from subsection 15.c. The production reporting requirements are already contained in section 3.

The change in the Cotton and Rice crop insurance regulations is to move the provision requiring submission of a production report prior to the next crop year for determining the yield guarantee from subsection 3.d. to section 4. In cases where such production report cannot be furnished, the Corporation will assign a yield to be used in establishing the yield history. This will provide an alternative insurance offer in lieu of cancellation for failure to furnish production records.

E. Ray Fosse, Manager, FCIC, has determined that an emergency situation exists which precludes notice and other public procedure because the current policies for insuring Peach, Apple, Arizona-California Citrus, Grape, Texas Citrus, Forage Production, Pea, Sugarcane, Wheat, Barley, Grain Sorghum, Cotton, Potato, Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet, Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations do not provide the producers sufficient time to furnish the Corporation with adequate production records and, as a result, many producers could find themselves without insurance coverage which may be badly needed.

This rule is effective upon publication in the **Federal Register**. Written comments are solicited by FCIC for 60 days following publication of this rule in the **Federal Register**. Any comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

This rule will be scheduled for review so that any amendments made necessary by public comment may be published in the **Federal Register** as quickly as possible.

List of Subjects

Crop Insurance; Peach, Apple, Arizona-California Citrus, Grape, Texas Citrus, Forage Production, Pea, Sugarcane, Wheat, Barley, Grain Sorghum, Cotton, Potato, Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet, Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach respectively.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranateed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Corp Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona-California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Parts 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years, in the following instances:

1. The authority citations for 7 CFR Parts 403, 405, 409, 411, 413, 415—425, 427—439, 433, 435, 446—447, 450 and 451 continue to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In §§ 405.7(d), 409.7(d), 411.7(d), 415.7(d), 416.7(d), 417.7(d), 418.7(d), 419.7(d), 420.7(d), 422.7(d), 423.7(d), 424.7(d), 427.7(d), 428.7(d), 429.7(d), 431.7(d), 432.7(d), 433.7(d), 437.7(d), 439.7(d), and 447.7(d), section 4. of the FCIC Policy is amended by adding subsection 4.d. to read as follows:

§§ 405.7, 409.7, 411.7, 415.7, 416.7, 417.7, 418.7, 419.7, 420.7, 422.7, 423.7, 224.7, 427.7, 428.7, 429.7, 431.7, 432.7, 433.7, 437.7, 439.7, and 447.7 The application and policy.

* * * * *

(d) * * *

4. * * *

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

* * * * *

3. In §§ 403.7(d), 413.7(d), 421.7(d), 425.7(d), 430.7(d), 435.7(d), 436.7(d), 446.7(d), 448.7(d), section 4. of the FCIC Policy is amended by adding subsection 4.e. to read as follows:

§§ 403.7, 413.7, 421.7, 425.7, 430.7, 435.7, 436.7, 446.7, and 448.7 The application and policy.

* * * * *

(d) * * *

4. * * *

e. You must furnish a report of production to use for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be

used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will not be more than 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

* * * * *

§ 438.7 [Amended]

4. In § 438.7(d), section 4. of the FCIC Policy is amended by adding subsection 4.f. to read as follows:

§ 438.7 The application and policy.

* * * * *

(d) * * *

4. * * *

f. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will not be more the 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous corp year, the yield determined in adjusting your indemnity claim will be used as your production report.

* * * * *

§§ 421.7 and 424.7 [Amended]

5. In §§ 421.7(d) and 424.7(d), section 3. of the FCIC Policy is amended by removing Subsection d, removing the "and" contained in subsection c. and adding a period at the end thereof, and adding an "and" to subsection b. at the end.

6. In §§ 403.7(d), 405.7(d), 409.7(d), 411.7(d), 413.7(d), 415.7(d), 416.7(d), 417.7(d), 418.7(d), 419.7(d), 420.7(d), 422.7(d), 423.7(d), 425.7(d), 427.7(d), 428.7(d), 429.7(d), 430.7(d), 431.7(d), 432.7(d), 433.7(d), 435.7(d), 436.7(d), 437.7(d), 438.7(d), 439.7(d), 446.7(d), 447.7(d), 448.7(d), 450.7(d) and 451.7(d), section 15. of the FCIC Policy is amended by removing subsection c. in its entirety and by redesignating subsections d, e, f, and g to c, d, e, and f.

Done in Washington, DC on July 9, 1986.

Michael A. Bronson,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-18431 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 418, 419, 420, 421, 424, 427, 432, and 448

[Doc. No. 3531S]

General Amendment; Prevented Planting Endorsement to Barley, Corn, Cotton, ELS Cotton, Grain Sorghum, Oat, Rice, and Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby confirms as final the interim rule which amends the Wheat, Barley, Grain Sorghum, Cotton, Rice, Oat, Corn, and ELS Cotton Crop Insurance Regulations (7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448, respectively), effective for the 1986 and succeeding crop years. The intended effect of this rule is to confirm the interim rule published on Friday, February 28, 1986, at 51 FR 7045, to provide for a prevented planting optional endorsement allowing prevented planting insurance coverage in all areas where feed grains, wheat, cotton or rice are produced. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for the regulations affected by this action remain unchanged are made part of each regulation affected by this rule.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Friday, February 28, 1986, FCIC published an interim rule amending the Wheat, Barley, Grain Sorghum, Cotton, Rice, Oat, Corn, and ELS Cotton Crop Insurance Regulations to provide for a prevented planting optional endorsement allowing prevented planting insurance coverage in all areas where feed grains, wheat, cotton or rice are produced.

Merritt W. Sprague, then Manager, FCIC, had determined that an emergency situation existed which precluded notice and other public procedure. The Food Security Act of 1985 provides that if the Secretary of Agriculture determines that producers were prevented from planting any portion of the acreage intended for feed grains, wheat, cotton, or rice to such crop or other non-conserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make prevented planting disaster payments to the producers. Such producers will not be eligible for such payments if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act.

The present FCIC prevented planting crop insurance policy was offered on an experimental basis in a limited number of counties. It did not cover loss from causes other than excess moisture as required by the Food Security Act of 1985 relative to prevented planting disaster payments. The experience gained to date indicates that the pilot program should not be expanded as such a program would be unlikely to attract participation except from those

VOL 51 ISS 158 AG 15 1986 UMI

producers who perceive themselves to be in a very high risk situation.

The Corporation therefore decided to provide a prevented planting program consistent with the requirements of the Food Security Act of 1985 in all areas. The Corporation also maintains the current experimental prevented planting program in those counties where such program was being offered as a viable alternative for at least the 1986 crop year.

FCIC determined that, because of the late passage of the Food Security Act of 1985, and the need to provide a prevented planting program consistent with the requirements found in the Food Security Act of 1985 relative to prevented planting disaster payments, it was prudent and cost effective to offer the new prevented planting endorsement to all producers of certain ASCS program crops, and allow those prevented planting program policyholders who were insured under the pilot program the option to retain that program, or to cancel the pilot policy and apply for the newly available coverage.

FCIC is providing a prevented planting insurance endorsement to crop insurance contracts on the acreage of Agricultural Stabilization and Conservation Service (ASCS) program crops (wheat, barley, corn, grain sorghum, oats, upland cotton, ELS cotton, and rice) when the producers are participating in the ASCS Acreage Reduction or set-aside programs.

The Prevented Planting Crop Insurance endorsement contained herein provides for protection against prevention of planting due to drought, flood, or other natural disaster caused by adverse weather conditions beyond the control of the producer occurring within the insurance period.

To be eligible for protection, the producer must participate in the acreage reduction or set-aside program offered by ASCS and hold a valid crop insurance contract on the qualifying crop.

All existing prevented planting crop insurance policies under the pilot program will be honored through the current crop year. Insurance will be made available under the prevented planting crop insurance endorsement contained herein to persons who had such insurance if the policyholders agree to cancel their pilot program policies. A new application for insurance must be signed before the applicable sales closing date to effect a change.

Written comments on this interim rule were solicited by FCIC for 60 days after publication in the Federal Register. This rule was scheduled for review so that any amendment made necessary by comments received may be published as quickly as possible but no comments were received. Therefore the interim rule as published is hereby adopted as final.

List of Subjects in 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448

Crop Insurance; Wheat, Barley, Grain Sorghum, Cotton, Rice, Oats, Corn, and ELS Cotton.

Final Rule

Accordingly, the interim rule published in the Federal Register on Friday, February 28, 1986, at 51 FR 7045, is adopted as a final rule without change.

Done in Washington, DC, on June 13, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-18499 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-08-M

Soil Conservation Service

7 CFR Part 652

Relocation Assistance

AGENCY: Soil Conservation Service, USDA.

ACTION: Final rule; removal of rule.

SUMMARY: This rule removes and reserves 7 CFR Part 652, Relocation Assistance, because the material in this part is covered in 7 CFR Part 21 which implements the Uniform Relocation Assistance and Real Property Acquisition Polices Act of 1970 (42 U.S.C. 4601–4655).

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Services Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, or telephone (202) 447–5111.

SUPPLEMENTARY INFORMATION: The common Departmental rule set forth in 7 CFR Part 21 implements the Uniform Act. This Act requires the Federal Government to provide fair, consistent, and equitable treatment to owners of real property to be acquired for federal or federally assisted programs and persons displaced from their dwellings, businesses, or farms as a result of such acquisition. Implementation of this common rule is not necessary below the Departmental level. Section 652.3 pertains to an SCS delegation of authority that is not needed under the common rule.

On April 1, 1986, SCS published a proposal to remove and reserve 7 CFR Part 652 (51 FR 11063). No comments on the proposal were received.

List of Subjects in 7 CFR Part 652

Purpose and scope, Relocation agreement, Authority delegations (Government agencies).

PART 652—[Removed]

Accordingly, 7 CFR Part 652 is removed and reserved.

Authority: 42 U.S.C. 4601–4655

Wilson Scaling,

Chief.

[FR Doc. 86-18485 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 376]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 376 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period August 15–21, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 376 (§ 908.676) is effective for the period August 15–21, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The committee met publicly on August 12, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges is slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act.

Interested persons were given opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and the effective date.

List of Subjects in 7 CFR Part 908

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Oranges, Valencias.

1. The authority citation for 7 CFR Part 908 continues to read:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 908.676 is added to read as follows:

§ 908.676 Valencia orange regulation 376.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 15, 1986, through August 21, 1986, are established as follows:

(a) District 1: 345,000 cartons;
(b) District 2: 405,000 cartons;
(c) District 3: Unlimited cartons.

Dated: August 13, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18586 Filed 8–14–86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 923

Washington Cherry Regulation 22; Amendment 2; Sweet Cherries Grown in Designated Counties in Washington; Amendment of Container and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the interim final rule which changed the row count/row size designations of the pack requirements to more accurately reflect the size of the individual cherries in similarly marked containers, and revised the container requirements for fresh cherries to permit the marketing of "consumer" type containers on a commercial basis. This action is designed to promote container pack uniformity and flexibility in the marketing of sweet cherries.

DATE: The final rule becomes effective August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Washington, DC 20250. Telephone 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This action adopts as a final rule the interim final rule which amended Washington Cherry Regulation 22 to include additional row count/row size designations, and also to permit the marketing of "consumer" type containers. The interim final rule was issued on June 19, 1986, and published in the Federal Register on June 25, 1986, (51 FR 23039). Interested persons were given until July 25, 1986, to submit comments. No comments were received.

The interim final rule and this final rule are issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Like the interim final rule, this final rule is based upon the unanimous recommendation of and the information submitted by the Washington Cherry Marketing Committee, as well as other available information. The final rule adopts the requirements that were established in the interim final rule in effect since June 19, 1986.

The interim final rule added additional row count/row size designations to the pack requirements to help assure that the individual cherries in each container are more uniform. The previous row count/row size designations were not precise enough to prevent significant diameter variations between the individual cherries within similarly marked containers. The previous designations caused confusion between handlers and the trade.

In addition, the interim final rule revised the container requirements to permit the packing of "consumer" type containers on a commercial basis. The changes allow the shipment of containers weighing 12 pounds or less either individually or in master shipping containers. "Consumer" type packages have been packed and shipped under the order's experimental container provisions in recent years. Hence, these types of containers should continue to be authorized from season to season for commercial shipment in the interest of the growers, handlers, and consumers.

After considering all relevant matter presented, the information and the recommendations submitted by the

committee, and other available information, it is found that adoption as a final rule of Washington Cherry Regulation 22, Amendment 2, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The requirements finalized by this action are identical to those effective since June 19, 1986, (51 FR 23039, June 25, 1986); and (2) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 923

Agricultural Marketing Service, Marketing agreements and orders, Cherries, Washington.

PART 923—[AMENDED]

1. The authority citation for 7 CFR Part 923 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

2. The interim final rule published in the **Federal Register** on June 25, 1986, (51 FR 23039) amending § 923.322 is adopted as a final rule.

Dated: August 11, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18486 Filed 8–14–86; 8:45 am]

BILLING CODE 3410–02–M

[Docket No. HRPCIA–1]

7 CFR Part 1240

Honey Research, Promotion, and Consumer Information Order; Decision Establishing Final Order Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published on July 21, 1986 (51 FR 26147) which added Part 1240—Honey Research, Promotion, and Consumer Information Order. In the July 21, 1986 rule, it was intended that §§ 1240.1–1240.67 be added to as existing Part 1240 of Chapter XI. Part 1240 was previously established on May 16, 1986 (51 FR 17917) when procedures for the conduct of referenda and rules of practice were issued. The July 21, 1986 (51 FR 26147) document, which established the text of the honey order, should have amended the existing Part 1240 instead of amending Chapter XI of Title 7 by adding Part 1240.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250 (202) 447–5698.

The following correction is made to FR Doc. 86–16292. The last sentence of the first column of page 26148 is corrected to read "Chapter XI Part 1240 of Title 7 is hereby amended by adding §§ 1240.1–1240.67 to read as follows:"

Authority: Pub. L. 98–590, 7 U.S.C. 4601–4612.

Dated: August 11, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86–18370 Filed 8–14–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86–069]

Restrictions on Importation of Horses From Norway

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations by adding Norway to the list of countries in which contagious equine metritis (CEM) exists and restricting the importation into the United States of certain horses from Norway. This action is necessary because CEM has been found to exist in Norway, and restrictions on the importation of horses from Norway are needed in order to protect the livestock of the United States from the disease.

DATES: Effective date is August 15, 1986. Written comments must be received on or before October 14, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86–069. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Dan Sheesley, Import-Export Operations Staff, VS, APHIS, USDA, Room 760, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain horses in order to prevent the introduction into the United States of various diseases, including contagious equine metritis (CEM). CEM is a venereal disease of horses that affects fertility and breeding.

Section 92.2(i)(1) of the regulations lists the countries in which CEM exists and, with certain exceptions, prohibits the importation of horses from the countries and horses which have been in any such country within the 12 months immediately preceding their export.

This document amends the regulations by adding Norway to the list of countries in § 92.2(i)(1) in which CEM exists. The Office of International Epizootics confirmed reports that CEM has been discovered in horses in Norway.

Emergency Action

Dr. John K. Atwell, Deputy Administrator for Veterinary Services, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Under the circumstances explained above, it is necessary that the rule be made effective immediately in order to help prevent the introduction of CEM into the United States.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are unnecessary, and good cause is found for making this interim rule effective upon publication. Comments are being solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for

consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. Five horses were imported from Norway is Fiscal Year 1985. This compares with approximately 3,340 stallions and mares imported into the United States from countries affected with CEM during Fiscal Year 1984 and with approximately 36,000 horses of all classes imported into the United States during that same period.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.2 [Amended]

2. Paragraph (i)(1) of § 92.2 is amended by inserting "Norway," immediately after "Northern Ireland,".

Done at Washington, DC, this 12th day of July 1986.

B.G. Johnson,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-18439 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Revocation of Policy Statements

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement; revocation, correction.

SUMMARY: The Nuclear Regulatory Commission is correcting the document appearing in the **Federal Register** on November 1, 1985 (50 FR 45597) that revoked policy statements published by the Commission which have been superseded by agency action or became obsolete in some other way and listed current NRC policy statements. This action is necessary to remove an obsolete policy statement that was inadvertantly included in the listing of current policy statements.

EFFECTIVE DATE: August 15, 1986.

ADDRESS: Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086 or Toll Free: 800-368-5642.

1. On page 45598, item 11 "Generic rulemaking to improve nuclear power plant licensing; interim, extension of comment period (44 FR 8276; February 9, 1979)" should be removed. This policy statement extended the comment period on the interim policy statement published on December 14, 1978 (43 FR 58377) until March 14, 1979, and is therefore obsolete. It was erroneously included in this list.

Dated at Washington, DC, this 11th day of August, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-18501 Filed 8-14-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-50; Amdt. 39-5370]

Airworthiness Directives; Allison Gas Turbine Division Model 501-D13, -D13A, -D13D, and -D13H Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacing certain thrust sensitive switch assemblies installed in Allison Gas Turbine Division Model 501-D13, -D13A, -D13D, and -D13H engines. The AD is needed to prevent unwanted autofeather (resulting in loss of thrust) or the inability to autofeather when required (resulting in excessive drag in the case of an engine failure).

DATES: *Effective*—September 15, 1986.

Compliance required within the next 60 days after the effective date of this AD, unless already accomplished.

Incorporation by Reference—Approved by the Director of the Federal Register on September 15, 1986.

ADDRESSES: The applicable alert bulletin may be obtained from Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of this bulletin is contained in the Rules Docket at the Office of Regional Counsel, FAA, ATTN: Rules Docket No. 82-ANE-50, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7032.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which would require replacing certain thrust sensitive switch assemblies installed in Allison Gas Turbine Division Model 501-D13, -D13A, -D13D, and -D13H engines was published in the **Federal Register** on May 22, 1986 (51 FR 18799).

The FAA has determined that Allison Model 501-D13, -D13A, -D13D, and -D13H turboprop engine reduction gear assemblies with thrust sensitive switch

VOL 51 ISS 158 AG 15 1986 UMI

assembly P/N's 6792891, 6794122, 6794359, 6807776, 23005483, or 23005485 are subject to malfunction. Failure of the thrust sensitive switch can result in contact being made internally causing unwanted autofeather or in an electrical short circuit which opens a circuit breaker rendering the autofeather system inoperative. Since this condition is likely to exist or develop on other engines of the same type design, the AD requires replacement of the thrust sensitive switch assemblies with a different P/N assembly containing a single carbon contact switch instead of the two microswitches contained in each assembly being replaced. Extensive experience obtained in operation of T56 series engines, the military counterpart of the civilian 501 series engine, which utilize the carbon contact switch shows that it improves reliability by a factor of at least ten, compared to the microswitch.

Interested persons have been afforded an opportunity to participate in the making of this amendment. The comment period closed June 23, 1986.

No comments to the proposal were received. One comment was received, however, in response to a previous Notice of Proposed Rulemaking (NPRM) on this matter which was published in the **Federal Register** on January 17, 1983 (48 FR 1981). Although that NPRM was subsequently withdrawn because it became apparent that one of the proposed compliance action options did not improve airworthiness, the comment is germane and is addressed here. The commenter felt that operation of Lockheed 188 series aircraft should be permitted with the old thrust sensitive switch assembly part numbers subject to the Airplane Flight Manual performance limitations and Minimum Equipment List requirements. The FAA does not agree because this approach could lead to a situation where the old part number thrust sensitive switch assemblies would remain in service indefinitely. Furthermore, it will be possible for the Manager of the Chicago Aircraft Certification Office to authorize this sort of an approach under the "equivalent means of compliance" clause of the AD, as currently written, if the circumstances of a particular situation warrant. Accordingly, the proposal is adopted without change.

Conclusion:

The FAA has determined that only 11 small entities will be affected significantly by this regulation. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Allison Gas Turbine Division, General Motors Corp. (Allison, formerly Detroit Diesel Allison): Applies to Allison 501-D13, -D13A, -D13D, and -D13H engine reduction gear assemblies equipped with thrust sensitive switch assembly, P/N's 6792891, 6794122, 6794359, 6807776, 23005483, or 23005485.

Compliance is required within 60 days after the effective date of this AD, unless already accomplished.

To prevent the possibility of unwanted autofeather or the inability to autofeather when required, accomplish the following:

Replace thrust sensitive switch assemblies, P/N's 6792891, 6794122, 6794359, 6807776, 23005483, and 23005485 with P/N 6870559, a single carbon contact switch assembly, in accordance with the detailed instructions provided in Allison Commercial Engine Alert Bulletin CEB-A-73-84, Revision 2, dated October 1, 1984, or FAA approved equivalent.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office, may adjust the compliance time specified in this AD.

Allison Commercial Engine Alert Bulletin CEB-A-73-84, Revision 2, dated October 1, 1984, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206-0420. This document also may be examined at the Office of the Regional Counsel, FAA, ATTN: Rules Docket No. 82-ANE-50, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective on September 15, 1986.

Issued in Burlington, Massachusetts, on July 25, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86-18406 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-125-AD; Amdt. 39-5394]

Airworthiness Directives; Boeing Model 747-100SR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires structural inspections and repairs or replacements, as necessary, on certain high time Boeing Model 747-100SR series airplanes to ensure continued airworthiness. Some Boeing Model 747-100SR series airplane fuselage and nacelle struts are approaching the manufacturer's original objective fatigue design life. This amendment adds the Boeing Model 747-100SR series airplanes to the "Supplemental Structural Inspection Program for Large Transport Category Airplanes" and defines structural maintenance requirements for certain identified structural components.

EFFECTIVE DATE: September 22, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office,

9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Aerospace Engineer, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulation to include an airworthiness directive to require the inspection for the pressure-critical fuselage structure and the nacelle strut structure for cracking and subsequent repair of cracked structure was published in the **Federal Register** on June 3, 1986 (51 FR 19849). The comment period for the proposal closed on July 25, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received.

On behalf of its members, the Air Transport Association (ATA) of America stated no objection to the proposed rule.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

No airplanes of U.S. registry will be affected by this AD, therefore there is no cost impact of this AD to U.S. operators.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747-100SR series airplanes listed in section 3.0 of Boeing Document No. D6-35655 "Supplemental Structural Inspection Document" (SSID), approved March 22, 1986, certificated in any category. Compliance is required as indicated in the body of the AD.

To ensure the continuing structural integrity of these airplanes, accomplish the following, unless already accomplished:

A. Within one year after the effective date of the AD, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document D6-35655, approved March 22, 1986, or later FAA-approved revisions. The required DTR value for each SSI is listed in the document. The revision to the maintenance program must include and be implemented in accordance with the procedures in sections 5.0 and 6.0 of the SSID.

B. Cracked structure must be repaired before further flight in accordance with an FAA-approved method.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Operators who have acceptably incorporated Boeing Document No. D6-35655, approved March 22, 1986, or later FAA-approved revisions, into their approved maintenance program are exempt from the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 22, 1986.

Issued in Seattle, Washington, on August 8, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18399 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-113-AD; Amdt. 39-5391]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action supersedes AD 84-21-04, which requires inspection of the Number 3 cargo door cutout, with a new AD which increases the area to be inspected, adds additional repetitive inspections for repair of frames, and provides a modification for uncracked frames which would terminate the requirement for repetitive inspections. This action is prompted by the recent detection of a severed frame adjacent to the area inspected in accordance with the existing AD. The repair specified in the existing AD has been found to be inadequate for preventing cracking adjacent to the repair. Failure of the forward frame of the Number 3 cargo door could result in rapid depressurization of the airplane. Because of these developments, and other information provided to the FAA, the amendment of AD 84-21-04, previously proposed on May 21, 1986 (51 FR 18602), is no longer considered appropriate, and that Notice of Proposed Rulemaking (NPRM) will not be adopted.

EFFECTIVE DATE: September 5, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. The document may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway

BEST COPY AVAILABLE

South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: This action supersedes AD 84-17-02, which required inspections of the Number 3 cargo door cutout, with a new AD which increases the area to be inspected, adds additional repetitive inspections for repair to frames, and provides a modification for uncracked frames which would terminate the requirements for repetitive inspections.

Recently, the FAA has become aware of a severed forward frame of the Number 3 cargo door cutout below the area required to be inspected in accordance with AD 84-21-04. Moreover, the repari specified in the original AD has been found inadequate to prevent cracking in adjacent areas of the frame. Failure of the frame results in transfer of the loads to the local fuselage skin, thus, greatly reducing the fatigue life of the skin. Such increases in skin loads will precipitate fatigue skin cracks and could result in the separation of the door from the airplane and subsequent rapid decompression.

In light of this new data, and based on the fact that this condition is likely to exist or develop on other airplanes of the same type design, the FAA has determined that it is necessary to supersede Ad 84-21-04 with a new airworthiness directive to require inspection and repair, if necessary, of additional portions of the forward frame of the Number 3 cargo door cutout on certain Boeing Model 727-200 series airplanes. In addition, this new AD requires that airplanes which have been previously repaired must be repetitively inspected for cracks in the frame area adjacent to the repair. Finally, terminating action is provided for inspections of previously inspected frames which have been found uncracked.

The proposal to amend AD 84-21-04, which was published in the **Federal Register** on May 21, 1986 (51 FR 18602) would have provided a preventive modification which, if incorporated, would terminate the requirement in AD 84-21-04 for repetitive inspections. Since the publication of the NPRM, the manufacturer has notified FAA that the preventative modification called for the NPRM is not designed to be installed on a cracked frame which has been repaired in accordance with the structural repair manual. Also, it has been determined that the preventative modification does not improve the fatigue life of a cracked frame and, therefore, its incorporation should not terminate the repetitive inspection requirements on a repaired frame. In consideration of these developments, the FAA had determined that the amendment to AD 84-21-04 proposed in the NPRM is not appropriate and the NPRM will not be adopted.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 727-200 series airplanes equipped with the Number 3 cargo door, certificated in any category, listed in Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986.

To detect cracks in the foward frame of the Number 3 cargo door cutout, accomplish the following:

A. Within the next 300 landings after the effective date of this AD or prior to accumulating 29,000 landings, whichever occurs later, unless accomplished within the last 1900 landings, visually inspect the forward frame of the Number 3 cargo door cutout for cracks in accordance with paragraph C. of the Accomplishment Instructions in Boeing Alert Service Bulletin Number 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions. If any cracks are detected, repair in accordance with paragraph C. of this AD. Repeat the inspections at intervals not to exceed 2,200 landings.

B. Within the next 300 landings after the effective date of this AD or prior to accumulating 35,000 landings, whichever occurs later, unless accomplished within the last 1900 landings, visually inspect the forward frame of the Number 3 cargo door cutout for cracks in accordance with paragraphs D., and E. of the Accomplishment Instructions in Boeing Alert Service Bulletin Number 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions. If any cracks are detected, repair in accordance with paragraph C. of this AD. Repeat the inspectionss at intervals not to exceed 2,200 landings.

C. Repair any cracks detected in the forward frame of the Number 3 cargo door cutout in accordance with paragraph G. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions. Reinspect, at intervals not to exceed 2,200 landings, all areas of the forward frame not covered by the repair, in accordance with the Accomplishment Instructions of paragraphs C., D., and E. of Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions.

D. Modification of uncracked frames in accordance with Figure 2 of Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions constitutes terminating action for repetitive inspections required by this AD.

E. Alternate means of compliance or adjustment of compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment supersedes AD 84-21-04, Amendment 39-4938.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 5, 1986.

Issued in Seattle, Washington, on August 5, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18396 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Gel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Cyanamid Co., providing for use of levamisole hydrochloride gel as an anthelmintic for treating breeding swine.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, filed supplemental NADA 126-237 providing for use of levamisole hydrochloride gel as an anthelmintic for treating breeding swine for large roundworms, nodular worms, lungworms, intestinal threadworms, and kidney worms. The sponsor currently holds approval for use of levamisole hydrochloride gel as an anthelmintic for cattle and other levamisole products for treating cattle, sheep, swine, and horses. The supplement is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Docket Managment Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmetal impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.1242f is amended by redesignating existing paragraphs (d)(1), (2), and (3) as paragraphs (d)(1)(i), (ii), and (iii), and adding new paragraph (d)(2), redesignating the introductory text of paragraph (d) as paragraph (d)(1) and revising it, to read as follows:

§ 520.1242f Levamisole hydrochloride gel.

* * * * *

(d) *Conditions of use*—(1) *Cattle.* * * *

* * * * *

(2) *Breeding swine*—(i) *Amount.* Eight milligrams per kilogram of body weight (3.6 milligrams per pound) as a single oral dose.

(ii) *Conditions of use.* For treating breeding swine infected with the following nematodes: Large roundworms (*Ascaris suum*), nodular worms (*Oesophagostomum* spp.), lungworms (*Metastrongylus* spp.), intestinal threadworms (*Strongyloides ransomi*), and kidney worms (*Stephanurus dentatus*).

(iii) *Limitations.* May require retreatment in 4 to 5 weeks. Do not use within 11 days of slaughter for food. Consult your veterinarian for assistance before using in severely debilitated animals and in the diagnosis, treatment, and control of parasitism.

Dated: August 8, 1986.

Marvin A. Norcross,

Associate Director, for New Animal Drug Evaluation.

[FR Doc. 86-18408 Filed 8-14-86; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of September 1986.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202-956-5050 (202-956-5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order

12291 because it will not have an annual effect on the economy of $100 million or more: or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93–406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96–364, 94 Stat. 1302, 1237–1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_t are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_{16}
* * *																
September 1986	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 11th day of August 1986.

Royal S. Dellinger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–18490 Filed 8–14–86; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–3–FRL–3065–8]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Direct Final Approval of an Administrative Order Issued By the Philadelphia Department of Public Health to Progress Lighting Company

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving an Administrative Order as a Delayed Compliance Order (Order) issued by the Philadelphia Department of Public Health to Progress Lighting Company. The Order requires the Company to bring air emissions from its lighting fixture production facility, located in Philadelphia, Pennsylvania, into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. Progress Lighting Company will achieve compliance by April 21, 1987 through use of low solvent technology (LST), if possible, and/or through use of add-on controls, should LST prove technically infeasible. Because the Order has been issued to a major source and permits delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued for violations of the SIP regulations covered by the Order. Suits under both the enforcement provisions of section 113 of the Act and the citizen suit provisions of section 304 of the Act are precluded.

DATE: This action will be effective 60 days from the date of publication in the Federal Register unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESS: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. The Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business hours.

FOR FURTHER INFORMATION CONTACT: Raymond D. Chalmers, Environmental Protection Specialist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Telephone: (215) 597–6555.

SUPPLEMENTARY INFORMATION: Progress Lighting Company operates a lighting fixture production facility in Philadelphia, Pennsylvania. The Order under consideration addresses emissions from the facility's surface coating processes, which are subject to regulation under Title 25 of the Pennsylvania Code, § 129.52. This regulation limits the emissions of Volatile Organic Compounds (VOCs), and is part of the federally-approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. The Order requires final compliance with the regulation by April 21, 1987 through the use of low solvent technology (LST), if possible, and/or through the use of add-on controls, should LST prove technically infeasible.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicates that the lighting fixture production facility is a major source of VOC emissions. The facility is located in the Metropolitan Philadelphia Interstate Air Quality Control Region, a nonattainment area for the National Ambient Air Quality Standard for ozone. The facility, as presently constructed, is unable to comply with the regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance by April 21, 1987 through use of LST, if possible, and/or through use of add-on controls, should LST prove technically infeasible. The Order includes alternative schedules for achieving compliance. The activities required to achieve compliance through

use of LST are specified in a list of nine separate LST projects, each of which has separate implementation steps and deadlines. The activities required to achieve compliance through use of add-on controls are specified as follows:

Final Engineering Study	Jun. 1, 1986
Purchase Order for Control System	Jun. 15, 1986
Fabrication and Delivery	Feb. 28, 1987
Start-up of Control System	Mar. 31, 1987
Certify for Compliance	Apr. 15, 1987

The Order requires the Company to commit to a specific compliance program by June 15, 1986.

The Order meets the requirements for approval specified in the Clean Air Act (Act) section 113(d), and in 40 CFR Part 65. Prior to issuance of the Order, Philadelphia provided an opportunity for public comment and hearing, as required by section 113(d)(1)(A) of the Act. No public comments or requests for public hearing were received by the City. The Order contains a schedule and timetable for compliance, thus meeting the requirements of section 113(d)(1)(B) of the Act. Compliance is required by April 21, 1987, and is to be achieved by devoloping low VOC coatings and by modifying equipment to enable these coatings to be used, and/or by installing positive control equipment. Schedules for completing the equipment modifications and/or installations are included in the Order; therefore the requirements of section 113(d)(1)(C) of the Act are met. These schedules are as expeditious as practicable, as required by section 113(b)(6). The Order requires Progress Lighting to minimize emissions insofar as possible until final compliance is achieved, to take any measures AMS determines are necessary to avoid any imminent and substantial endangerment to the health of any person, and to comply with current SIP requirements for use of high solids and/or waterborne paint formulas to the extent possible, and thus the Order meets the requirements of Section 113(d)(7) of the Act. The Order specifies a compliance date of April 21, 1987, which is three years after the final compliance date in the Pennsylvania SIP, and thus is acceptable as specified in section 113(d)(1)(D) of the Act. Finally, the Order notifies Progress Lighting Company of its liability for noncompliance penalties under section 120 of the Clean Air Act, as required by section 113(d)(1)(E) of the Act.

If the Order is approved by EPA, source compliance with the terms would preclude suits against the source for violations of the SIP regulations covered by the Order. Suits under both the enforcement provisions of section 113 of the Act and the citizen suit provisions of section 304 would be precluded.

If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective October 14, 1986.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413, 7601.

Dated: August 8, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-18453 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL 3066-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the sold wastes generated at three particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: August 15, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The reference number for this docket is "F-86-PSEF-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424-9346, or (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION: On April 30, 1986, EPA proposed to exclude specific wastes generated by five facilities, including: (1) Plastene Supply Company, located in Portageville, Missouri (see 51 FR 16065); (2) Reynolds Metals Company, located in Sheffield, Alabama (see 51 FR 16066); (3) Universal Oil Products, located in Decatur, Alabama (see 51 FR 16068). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final those proposals and to make our decisions effective immediately. More specifically, today's rule allows these three facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In

[1] The current exclusions apply only to the processes covered by the original demonstrations. A

Continued

addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received tentative approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusion made final here involve the following petitioners:

Plastene Supply Company, Portageville, Missouri;
Reynolds Metals Company, Sheffield, Alabama;
Universal Oil Products, Decatur, Alabama.

I. Plastene Supply Company

A. Proposed Exclusion

Plastene Supply Company (Plastene) has petitioned the Agency to exclude its wastewater treatment sludge (filter press sludge) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Plastene substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Plastene indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16065–16066, April 30, 1986, for a more detailed explanation of why EPA proposed to grant Plastene's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Plastene for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter press sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Plastene Supply Company for its dewatered wastewater treatment sludge (filter press sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, generated at its Portageville, Missouri facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Reynolds Metals Company

A. Proposed Exclusion

Reynolds Metals Company (Reynolds) has petitioned the Agency to exclude its dewatered wastewater treatment sludge (vacuum filtration sludge) from EPA Hazardous Waste No. F019, based on the immobilization of the listed constituents of concern in this waste. Data submitted by Reynolds substantiate their claim that the listed constituents of concern are present in essentially an immobile form. Furthermore, additional data provided by Reynolds indicate that no other hazardous constituents are present in this waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16066–16068, April 30, 1986, for a more detailed explanation of why EPA proposed to grant Reynolds' petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Reynolds for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Reynolds Metals Company for its dewatered wastewater treatment sludge (vacuum filtration sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Sheffield, Alabama facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. Universal Oil Products

A. Proposed Exclusion

Universal Oil Products (Universal) has petitioned the Agency for a one-time exclusion for its previously generated wastewater treatment sludge contained

facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[3] The current exclusion applies only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new petition is granted.

[4] See footnote 3.

in two on-site lagoons from EPA Hazardous Waste No. F006, based upon the immobilization of the listed constituents of this waste. Data submitted by Universal substantiate their claim that the listed constituents of concern are either absent or are present in essentially an immobile form. Furthermore, additional data provided by Universal indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that this waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16068–16070, April 30, 1986, for a more detailed explanation of why EPA proposed to grant Universal's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant a one-time exclusion to Universal Oil for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a one-time final exclusion to Universal Oil Products Company for its previously generated wastewater treatment sludge, which is contained in two on-site lagoons, listed as EPA Hazardous Waste No. F006, and resulting from electroplating operations at its Decatur, Alabama facility.

IV. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

VII. List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: August 8, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 to read as follows:

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Plasteel Supply Company.	Portageville, Missouri.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after August 15, 1986.
Reynolds Metals Company.	Portageville, Missouri.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after August 15, 1986.
Universal Oil Products.	Decatur, Alabama.	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in two on-site lagoons on August 15, 1986. This is a one-time exclusion.

[FR Doc. 86-18454 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3066-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at five particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: August 15, 1986.

ADDRESSES: The public docket for this final rule is located at U.S. Environmental Protection Agency, 401 M Street SW. (sub-basement), Washington, DC, 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–AREF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

VOL 51 ISS 158 AG 15 1986 UMI

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On May 7, 1986, EPA proposed to exclude specific wastes generated by several facilities, including: (1) Arco Building Products, located in Sugarcreek, Ohio (see 51 FR 16862); (2) Hanover Wire Cloth Division, located in Hanover, Pennsylvania (see 51 FR 16863); (3) International Minerals and Chemical Corporation, located in Terre Haute, Indiana (see 51 FR 16865); (4) Monsanto Industrial Chemicals Company, located in Sauget, Illinois (see 51 FR 16866); and (5) Square D Company, located in Oxford, Ohio (see 51 16869). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final those proposals and to make our decisions effective immediately. More specifically, today's rule allows these five facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any State which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received tentative approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Arco Building Products, Sugarcreek, Ohio;
Hanover Wire Cloth Division, Hanover, Pennsylvania;
International Minerals and Chemical Corp., Terre Haute, Indiana;
Monsanto Industrial Chemicals Co., Sauget, Illinois;
Square D Company, Oxford, Ohio.

I. Arco Building Products

A. Proposed Exclusion

Arco Building Products (Arco) has petitioned the Agency to exclude its wastewater treatment sludge (filter press sludge) from EPA Hazardous Waste No. F019, based upon the immobilization of the listed constituents in the waste. Data submitted by Arco substantiate their claim that the listed constituents of concern are present in essentially an immobile form. Furthermore, additional data provided by Arco indicate that no other hazardous constituents are present in the waste, and that this waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16862–16863, May 7, 1986, for a more detailed explanation of why EPA proposed to grant Arco's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Arco for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Arco Building Products for its dewatered wastewater treatment sludge (filter press sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Sugarcreek, Ohio facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Hanover Wire Cloth Division

A. Proposed Exclusion

Hanover Wire Cloth Division (Hanover) has petitioned the Agency to exclude its wastewater treatment sludge (filter cake) from EPA Hazardous Waste No. F006, based upon the immobilization of the listed constituents in the waste.

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[3] The current exclusion applies only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new petition is granted.

Data submitted by Hanover substantiate their claim that the listed constituents of concern are essentially present in an immobile form. Furthermore, additional data provided by Hanover indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16863–16865, May 7, 1986, for a more detailed explanation of why EPA proposed to grant Hanover's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Hanover for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Hanover Wire Cloth Division for its dewatered wastewater treatment sludge (filter cake) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, generated at its Hanover, Pennsylvania facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazard waste.)

III. International Minerals and Chemical Corporation

A. Proposed Exclusion

International Minerals and Chemical Corporation (IMC) has petitioned the Agency to exclude its still bottom waste from EPA Hazardous Waste No. F003, based on the immobilization of the listed constituents of concern in this waste. Data submitted by IMC substantiate their claim that the listed constituents of concern are present in essentially an immobile form. Furthermore, additional data provided by IMC indicate that no other hazardous constituents are present in this waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16865–16866, May 7, 1986, for a more detailed explanation of why EPA proposed to grant IMC's petition.)

[4] See footnote 3

B. Agency Response to Public Comments

The Agency received only one comment regarding its decision to grant an exclusion to IMC for the waste identified in its petition. The commenter agreed with the Agency's decision to grant this exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therfore, is granting a final exclusion to International Minerals and Chemical Corporation for its still bottom residues from its bacitracin production process, listed as EPA Hazardous Waste No. F003, generated at its Terre Haute, Indiana facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[5] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

IV. Monsanto Industrial Chemicals Company

A. Proposed Exclusion

Monsanto Industrial Chemicals Company (Monsanto) has petitioned the Agency to exclude its treated brine purification muds from EPA Hazardous Waste No. K071, based upon the low concentration and immobilization of the listed constituents of this waste. Data submitted by Monsanto substantiate their claim that the listed constituents of concern are either not present as levels of regulatory concern or are present in essentially an immobile form. Furthermore, additional data provided by Monsanto indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that this waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16866–16869, May 7, 1986, for a more detailed explanation of why EPA proposed to grant Monsanto's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Monsanto for the waste identified in its petition.

[5] See footnote 3.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Monsanto Industrial Chemicals Company for its brine purification muds, listed as EPA Hazardous Waste No. K071, generated from the mercury cell process in chlorine production at its W.C. Krummich facility, located in Sauget, Illinois. (The notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[6] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

V. Square D Company

A. Proposed Exclusion

The Square D Company (Square D) has petitioned the Agency to exclude its wastewater treatment sludge (filter press sludge) from EPA Hazardous Waste No. F006, based upon the immobilization of the listed constituents in the waste. Data submitted by Square D substantiate their claim that the listed constituents of concern are present in essentially an immobile form. Furthermore, additional data provided by Square D indicate that no other hazardous constituents are present in the waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16869–16871, May 7, 1986, for a more detailed explanation of why EPA proposed to grant Square D's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Square D for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to the Square D Company for its dewatered wastewater treatment sludge (filter press sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, generated at its Oxford, Ohio facility. (the Agency

[6] See footnote 3.

notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[7] In addition, generators are still obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

VI. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect in months after promulgation (RCRA section 3010(b)), the Hazardous Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that these rules should be effective immediately. These reasons also provide a basis of making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

VII. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: August 8, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—INDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order to table 1 and table 2 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Arco Building Products	Sugarcreek, Ohio	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after [insert date of this publication].
Hanover Wire Cloth Division	Hanover, Pennsylvania	Dewatered filter cake (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of this publication].
International Minerals and Chemical Corporation.	Terre Haute, Indiana	Spent non-halogenated solvents and still bottoms (EPA Hazardous Waste No. F003) generated from the recovery of n-butyl alchohol after [insert date of this publication].
Square D Company	Oxford, Ohio	Dewatered filter press sludge (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES

Monsanto Industrial Chemicals Company.	Sauget, Illinois.	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after [insert date of this publication].

[FR Doc. 86–18455 Filed 8–14–86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

Claims; Debt Collection Actions

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule deletes § 11.37 concerning quarterly reports to the Director on debt collection actions. This is a management matter which should be handled by internal directives.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Aaron Halper, Office of Comptroller, Accounting Division, FEMA, Room 719, 500 C Street, SW., Washington, DC 20472, (202) 646–3708.

SUPPLEMENTARY INFORMATION: Section 11.37 concerns an internal reporting requirement describing material contained in a quarterly report from the Agency Collections Officer (ACO) to the Director. The Comptroller is ACO. This is a matter which should be handled by internal directions. It deals with agency management and thus is not subject to Executive Order 12291, to notice and public comment requirements of the Administrative Procedure Act, and to any requirements concerning environmental assessments. It does not involve any information collection under the Paperwork Reduction Act, nor does it have any impact on small entities. It can be made effective immediately.

List of Subjects in 44 CFR Part 11

Administrative practice and procedure, Claims.

Accordingly, 44 CFR Part 11 is amended as follows:

[7] See footnote 3.

PART 11—CLAIMS

1. The authority citation for Part 11, Subpart C, continues to read as follows:

Authority: 31 U.S.C. 3711 *et seq.*

§ 11.37 [Removed]

2. Section 11.37 is removed and the number reserved.

Julius W. Becton, Jr.,

Director.

[FR Doc. 86-18285 Filed 8-14-86; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Family Assistance

45 CFR Parts 232 and 233

Aid to Families With Dependent Children and Child Support Enforcement Program; Computing a Supplemental Payment in States Required To Do So by Section 402(a)(28) of the Social Security Act

AGENCY: Family Support Administration and Office of Family Assistance, HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement section 402(a)(28) of the Social Security Act. They provide guidance on how to compute a monthly supplemental payment for AFDC recipients in States required by this statutory provision to pay a supplement.

In July 1975, the Child Support Program began when Congress enacted part D of title IV of the Social Security Act (the Act).

As a result of that new program, child support payments which had been paid directly to the family by an absent parent are paid instead to the State Child Support Enforcement Agency. Section 402(a)(28) of the Act requires that monthly supplemental payments be made to AFDC recipients who have less disposable income now, because of this diversion of support payments, than they would have had in July 1975. States which had a provision in their plan in July 1975 that would have required a supplemental payment, but which have removed that provision, need not provide a supplemental payment.

These regulations affect assistance payments in States which did not, in July 1975, and which do not now, subtract from a family's assistance payment, "dollar-for-dollar", the amount of any income received.

The provision applies in States that (1) use a method for determining the assistance payment in which all or part of the countable income does not effect an equal reduction in the assistance payment, and (2) also employed such a method in July 1975. The method that the State now uses does not have to be the same as the one in effect in July 1975.

EFFECTIVE DATE: This regulation is effective February 11, 1987.

FOR FURTHER INFORMATION CONTACT: Arleen Gahan, Family Support Administration, Office of Family Assistance, Transpoint Building, 2100 Second Street, SW., Washington, DC 20201, telephone (202) 245-2637.

SUPPLEMENTARY INFORMATION:

Timing and Form of Regulations

On February 7, 1980, we published a Notice of Proposed Rulemaking for the Aid to Families with Dependent Children and Child Support Enforcement programs, Computing a Supplemental Payment in States Required to Do So by section 402(a)(28) of the Social Security Act. (See **Federal Register**, Vol. 45, No. 27, February 7, 1980, pages 8316-8323.)

Background

Prior to enactment of title IV-D of the Social Security Act, which established the Child Support Enforcement Program, child support was paid directly to the family or another person or organization designated by the court. When paid to an AFDC family, this support was counted as income in determining need and the amount of the family's assistance payment. In most States it resulted in a corresponding dollar-for-dollar decrease in the assistance payment received by the family.

Some States, however, have used methods to determine the assistance payment which do not cause a full dollar reduction in the assistance payment for each dollar received as income. These States pay less assistance than their full need standard, and some permit recipients to use their own income to make up all or part of the difference between the payment made by the State and the State's standard of need. This additional income retained by the family increases the total amount of disposable income available to the family in a month.

With the enactment of title IV-D, however, all support payments must be paid to the Child Support Enforcement agency (IV-D agency). In States that had allowed families to keep part of their support payments without those payments causing a corresponding reduction in assistance, families had less disposable income because the child support was paid to the IV-D agency.

To remedy this situation, Congress passed section 202 of Pub. L. 94-88. This section amended title IV-A of the Act by adding section 402(a)(28), which provides that:

> In determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part.

The Department interprets this provision to require that families that experience a loss of disposable income, because support payments are made to the IV-D agency, receive a supplemental payment to make up that loss. This interpretation is supported by the report of the House Committee on Ways and Means. The report explains that under the new section 402(a)(28)—

> . . . which is directly related to implementation of the new child support and establishment of paternity program, a State plan would have to provide that, in determining the amount of aid to which a family is entitled, any child support collected and retained by the State pursuant to its child support plan under part D of title IV which would not have caused a reduction in aid had the child support been paid directly to the family will be added to the amount of aid otherwise payable to the family. This new requirement would affect States which provide aid to families with dependent children at a rate which is less than their need standard, but permit child support payments to fill the gap between that standard and the actual payment level (H.R. No. 94-368, 94th Cong. 1st Sess. p. 10, (1975)).

Computing the Supplemental Payment

The supplemental payment for each month *equals* the maximum portion of the support collected on a current month's support obligation less the $50 pass through/disregard and any arrearages collected in that same month that would not make the family ineligible and that would not cause a reduction in the assistance payment if paid directly to the family. It is computed by determining the family's disposable income (including assistance payment and support) two ways, then determining the difference between the two. (Arrearages that are collected from

Federal and State Tax refunds are not included in this computation.)

Examples illustrating computations of the supplemental payment and the total assistance payment using six different State payment methods are in Appendix A to this preamble.

In general, the method of computation is described as follows: In following this method, assume that the $50 pass through/disregard of support has been made.

First, the AFDC assistance payment is computed treating the support as income paid to the family. This yields the amount of assistance the family would get under the State's current payment method, if the family received the support payment (instead of the IV–D agency). Then the family's total disposable income under these circumstances is computed. The total disposable income, for purposes of this regulation, is the sum of the assistance payment and the income which is countable in determining the amount of the assistance payment.

Second, the AFDC assistance payment is computed as it is currently done, i.e., treating the support as assigned to the IV–D agency. Then the family's disposable income under these circumstances is computed.

Third, the supplemental payment is computed as the difference between the disposable income under the two prior computations. The final regulation provides that the supplemental payment may be added to the current AFDC assistance payment to make a new total assistance payment for the month or it may be issued separately.

When the family has countable income from one or more sources in addition to child support, all of that other income must be used to reduce the amount of the assistance payment before support is counted. This serves to minimize the size of the supplemental payment and maximize the amount of other income retained. An example illustrating a computation of the supplemental payment and total assistance payment when there is income from a source other than support is provided in Appendix B to this preamble.

The supplemental payment under section 402(a)(28) is an assistance payment under title IV–A and is, therefore, subject to the same regulatory provisions as all other assistance payments. While the computation of the supplemental payment under 45 CFR 232.21 is separate from the computation of the assistance payment under 45 CFR 233.31, both are computed for the same payment month and based on the same set of circumstances. Both payments are subject to the requirements of 45 CFR 233.20(a)(13) for the adjustment of overpayments and underpayments, rounding requirements under 45 CFR 233.20(a)(2)(iv) and the $10 payment limitation under 45 CFR 233.20(a)(3)(viii)(C) and (D). A payment shall not be made to an assistance unit in any month in which the combination of the supplemental payment and the assistance payment is less than $10. Under 45 CFR 233.20(a)(3)(viii)(D), those individuals who are denied a money payment because of this limitation shall be deemed recipients of aid for all other purposes except participation in the Community Work Experience Program, regardless of whether the supplemental payment and the assistance payment are issued separately or at the same time.

Recipients of supplemental payments under section 402(a)(28) are entitled to timely and adequate notice and an opportunity for a hearing under 45 CFR 205.10.

Federal Matching Funds

The supplemental payment, whether issued separately or as an addition to the current assistance payment, is an AFDC expenditure for which Federal matching funds are available. As such, the State and Federal governments will be reimbursed for the current assistance payment (and the supplemental payment, if issued separately) out of the collections made on the monthly support obligation under 45 CFR 302.51(b)(2). There are several advantages to making the supplemental payment an AFDC payment rather than a payment made by the IV–D agency. First, assistance recipients who receive a supplemental payment will have existing IV–A program protections, such as hearings and notice rights, which do not currently exist in the IV–D program. The State may issue the payments in the way that is efficient for them. The need for extensive data exchange between the IV–A and IV–D agencies in order to compute the payment is minimized.

The Case of Quarles v. St. Clair

In the Notice of Proposed Rulemaking, the regulations provided that when support collected in a month includes an amount which is a payment of *past* support obligations, the maximum portion of the total amount collected that would not cause ineligibility would be used to compute the supplemental payment. This was consistent with the decision of the U.S. District Court for the Northern District of Mississippi in the case of *Quarles* v. *St. Clair*, et al. (U.S.D.C., N.D. Miss., No. GC–77–37–K). In that case, plaintiffs challenged the State's policy of applying section 402(a)(28) of the Act only to payment on the current month's support obligations. Plaintiffs contended that, by not applying section 402(a)(28) requirements to arrearages, the State was not placing the family in the same financial position it would have been in prior to the Child Support Enforcement program.

In deciding the case, the court held that the requirements of section 402(a)(28) of the Act apply to support in excess of the current month's support obligation, but only to the extent the payment would not affect the family's AFDC eligibility if received as income.

On August 12, 1983, the Court of Appeals, 711 F. 2d 691 (5th Cir., 1983), upheld the lower court decision. These final regulations are fully consistent with the decision pertaining to section 402(a)(28).

Examples illustrating computations of the assistance payment when the total support collection for a month exceeds the month's obligation are in Appendix C to this preamble.

Discussion of Comments

On February 7, 1980, these regulations were published in the **Federal Register** as a Notice of Proposed Rulemaking (45 FR 8316) with a 60-day comment period. Comments on the NPRM were received from 12 interested parties. One from the attorney for the plaintiffs in *Quarles* v. *St. Clair* and the remainder from State IV–A and IV–D agencies. A discussion of the substantive comments follows.

Comment: Prior to the publication of the NPRM, State agencies were computing the payment required under 402(a)(28) based on the amount collected on the current month's support obligation, and some were making payments from the IV–D collections. Arrearages were not included in the computation.

Some of the commenters complained that the inclusion of arrearages in the computation of the 402(a)(28) payment would reduce the incentive payments that States are entitled to receive under title IV–D.

Another commenter questioned whether the typical assistance unit would benefit from the use of arrearage payments. He stated that out of his State's entire collection and payment record for one month, only one family with active support received a supplemental payment and that payment was $9.72.

One commenter emphasized that the Department must issue regulations for the treatment of arrearages to prevent a recurrence of the situation that existed in Mississippi prior to the *Quarles* case.

Response: As previously stated in the Preamble to this section, the Department has adopted the opinion in Quarles concerning arrearage payments and has decided to apply it nationally. Accordingly, the largest portion of the arrearage payment (in addition to the amount paid on the monthly support obligation) that would not cause ineligibility must be used in determining the supplemental payment. The amount of arrearages collected must be reported to the IV–A agency by the IV–D agency and included in the computation of the supplemental payment, however, effective with the 1984 Child Support Amendments, incentive payments are based on the total amount of support collected (including arrearages). Therefore, the use of arrearages in the computation of the supplemental payment does not affect the incentive payments to States in any way.

However, Federal tax refund offset amounts must be used first to reimburse the State for assistance payments, pursuant to section 464 of the Social Security Act and section 6402(c) of the Internal Revenue Code. Section 464 of the Social Security Act requires that amounts assigned to the State and collected via Federal tax refund offset must be distributed in accordance with § 457(b)(4) or (d)(3) of the Act. Since this statute was enacted subsequent to section 402(a)(28) of the Act and specifies past-due support collected through intercept of Federal tax refunds is to be used to reimburse past assistance, we have determined that Federal tax refund offset amounts are not applicable to supplemental payments required under section 402(a)(28).

Section 6402(c) of the Internal Revenue Code requires that "a reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17)." Therefore, the IRS will offset amounts which have been assigned to the State before offsetting unassigned past-due support. OCSE policy and regulations follow the distribution order mandated for IRS. OCSE regulations at 45 CFR 303.72(h) requir States to apply offset collections to assigned arrearages first.

Section 466(a)(3) of the Act requires States to have procedures for collecting overdue support owed by the absent parent via State tax refund offset. The statue also requires that overdue support assigned to the State pursuant to section 402(a)(26) or 471(a)(17) of the Act and collected via State tax refund offset must be distributed in accordance with section 457(b)(4) or (d)(3) of the Act. These sections of the Act refer to amounts assigned to the State which are in excess of current support and require that such amounts be used to reimburse the State for past assistance. Therefore, support collected under the State tax refund offset cannot be used in the computation of the supplemental payment under section 402(a)(28).

Comment: Under the proposed regulations, the supplemental payment required under section 402(a)(28) is a IV–A payment. Concerns were expressed that because of this requirement existing computer programs within IV–D would be obsolete, and reprogramming of IV–A systems would be required.

Response: The Department recognizes that many State agencies have already implemented the requirements of section 402(a)(28). In most States, the IV–D agency has been entirely responsible for the 402(a)(28) payment, while in others the IV–D agency computes the supplemental payment, but payment is actually issued by the IV–A agency. We further recognize that changing procedures already in place would entail some costs. In this regard, we fully considered several alternatives, including permitting States to have either the IV–A agency or IV–D agency issue the payment.

We have decided to leave the supplemental payment under section 402(a)(28) as an assistance payment under title IV–A as previously discussed in the preamble under "Computing the Supplemental Payment." However, in order to be responsive to the States' concerns, we have permitted States some flexibility in the procedural aspects of computing and issuing the supplemental payment.

Under the final regulation, a State IV–A agency must be responsible for the computation and issuance of the supplemental payment. As with any IV–A assistance payment, this means that the AFDC State agency is responsible for certifying that the payment is being made to an eligible individual and in a correct amount.

Accordingly, while the IV–A agency may rely on the IV–D agency for the computation of the supplemental payment, such payment will be authorized and issued by the IV–A agency. We rejected the option of permitting States to have the IV–D agency compute and issue the supplemental payment because of the lack of due process mechanisms. The Child Support Enforcement program has neither statutory nor regulatory authority to hold hearings. To require the establishment of such procedures would duplicate procedures already in place under title IV–A and would not be cost effective.

The Department also considered the possibility of permitting States the flexibility of both computing and issuing the supplemental payment through the IV–D agency, but requiring the IV–A agency to take responsiblity for providing hearings under the IV–A State plan. However, since these payments would not be authorized as AFDC payments, they would not be subject to the AFDC regulations governing hearings. The Department believes that the better reading of the statute is that 402(a)(28) payments, like regular assistance payments, should be subject to the notices and hearings provided under 45 CFR 205.10. Therefore, it was determined that the IV–A agency, which has the authority to administer or supervise the administration of the title IV–A plan, including hearings, should be responsible for the issuance of the supplemental payment from title IV–A funds. Moreover, proper and efficient administration of the IV–A plan would be fostered by making the IV–A agency totally responsible for the supplemental payment.

Comment: Several State IV–A agencies expressed concern that the added responsibility of computing and issuing supplemental payments would result in increased quality control errors.

Reponse: We realize that in those States where the supplemental payment under section 402(a)(28) is currently being computed and/or issued by the IV–D agency, there may be potential for an increase in AFDC quality control errors under these regulations. However, we believe that these rules provide the most efficient procedure for issuing the 402(a)(28) supplemental payments. Since both the mechanism for the issuance of assistance payments and the administrative procedures which guarantee due process rights are already in place in the IV–A agency, we believe that the responsibility for the supplemental payment is best placed with the IV–A agency. In addition, in those States where the supplemental payments are currently the responsibility of the IV–D agency, we provide up to 180 days to make the necessary changes. Furthermore, even if these regulations provided that IV–D agencies are required to compute and issue the supplemental payment, some system of monitoring similar to quality control would be required.

Comment: Several State agencies were concerned about the additional burden on AFDC caseworkers who

VOL 51 ISS 158 AG 15 1986 UMI

would be required to compute and issue the supplemental payment.

Response: In response to a prior comment, we explained that the IV–A agency may, if it elects, have the IV–D agency compute the supplemental payment even though the payment must be authorized by the IV–A agency in order to be considered AFDC. This provision could provide some relief for AFDC case workers. However, the commenters are correct in noting that there will be additional responsibilities, such as notices and hearings, which—being an important and necessary part of the IV–A process—cannot be delegated.

Comment: Several State agencies commented that combining the supplemental and the regular assistance payments in one check would cause administrative problems.

Response: We recognize their concern and have revised the final regulation at § 233.21(c) to permit the State agencies to determine the administrative procedure that best meets their needs and structure either by adding the supplemental payment to the regular assistance payment or by issuing it separately. Either way, the 402(a)(28) payment is to be considered a payment under the AFDC program and subject to Federal matching and other relevant AFDC requirements.

Comment: Several commenters made the observation that because of the considerable time lapse since the law was enacted in 1975, it is unreasonable to propose rulemaking which imposes significant and new requirements. In the absence of Federal rulemaking, State agencies were forced to individually develop procedures for issuing the supplemental payments.

Response: Because of the delay in the issuance of final regulations to implement section 402(a)(28) and the fact that affected State agencies have implemented the requirement in a variety of ways, the final regulations provides an effective date of 180 days from the date of publication. This will allow the affected State agencies sufficient time to make the necessary changes and adjustments in implementing section 402(a)(28) of the Act in accordance with these rules.

Comment: One State agency commented that the proposed regulations do not address child support payments not required by court order.

Response: Policy on the "Treatment of Contributions and Support Payments in AFDC Budgeting" was developed jointly by the Office of Family Assistance and the Office of Child Support Enforcement, and issued as Regional Office Directive 79–15, May 31, 1979. The Directive contains policy which provides that voluntary support payments acknowledged—by the mother or father, or absent person making the payments—to be for the purpose of helping to support the child should consider child support. Where voluntary payments meet this criterion of acknowledgement, they are subject to treatment as a child support collection as mandated in 45 CFR 232.20(a)(2) and 233.20(a)(3)(v).

The provisions on computation of the supplemental payment are contained in a new § 232.21.

Conforming and clarifying changes are also made to §§ 232.20 and 233.20.

Summary of Changes From Notice of Proposed Rulemaking

The Notice of Proposed Rulemaking published February 7, 1980 (Vol. 45, No. 27, February 7, 1980, page 8316–8323) provided that States that implemented the $5 disregard of income per month and the conservation of income for future identifiable needs would be required to implement the provisions of section 402(a)(28). These two statutory provisions were eliminated under Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Accordingly, the implementing proposed regulations and Appendix C to the preamble have been deleted. (Appendix D in the proposed regulations is now Appendix C.)

Effective October 1, 1984, the supplemental payment under section 402(a)(28) is not computed on the support collected on the montly support obligation. Under section 2640 of Pub. L. 98–369, The Deficit Reduction Act of 1984, the first $50 of support collected on the monthly support obligation will be paid to the family and will not be counted as income or resources in the determination of need and the assistance payment. The supplemental payment will be computed using the balance of support after the disregarded sum and the largest part of the arrearages collected that will not cause ineligibility.

The amendments to § 302.32(b) that were published in the Notice of Proposed Rulemaking are not published in this final regulation. Those amendments set limits on the exchange of information between IV–A and IV–D agencies in States that are required to implement section 402(a)(28). Because there are now several statutory requirements concerning need and assistance computations with support collections under which information must be exchanged between the IV–A and IV–D agencies, we have eliminated procedural requirements. As previously stated in the preamble to the regulations implementing section 2640 of Pub. L. 98–369, the Deficit Reduction Act of 1984, we believe that IV–A and IV–D agencies should consult on the best means of transmitting information required to implement the various provisions where support collections are used in determining eligibility and the amount of assistance.

Minor changes have been made in the preamble, appendices and regulations to include spousal support. Under section 12 of Pub. L. 98–378, the Child Support Enforcement Amendments of 1984, States are required to collect spousal support when it is part of the support order. Spousal support is also subject to the requirement of section 402(a)(28). Therefore, the word, "child", has been deleted to accommodate the statutory change.

Regulatory Procedures

Executive Order 12291

The Department has determined that this final rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

These regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

The Department of Health and Human Services has determined that this final rule will not significantly impact on small business and therefore does not require preparation of Regulatory Flexibility Analysis under the Regulatory Flexibility Act, Pub. L. 96–354.

(Secs. 402(a) (7) and (28) and 1102 of the Social Security Act, as amended; 89 Stat. 434, 49 Stat. 647, as amended; 42 U.S.C. 602(a) (7) and (28) and 1302)

(Catalog of Federal Domestic Assistance Programs, No. 13761, Public Assistance—Maintenance Assistance (State Aid); Program No. 13.679, Child Support Enforcement Program)

List of Subjects

45 CFR Part 232

Aid to families with dependent children, Child support, Child welfare, Family Assistance Office, Grant programs-social programs.

45 CFR Part 233

Aid to families with dependent children, Aliens, Family Assistance Office, Grant programs-social programs, Public assistance programs, Reporting and recordkeeping requirements.

Dated: July 28, 1986.

Wayne A. Stanton,

Administrator, Family Support Administration and Director, Office of Child Support Enforcement.

Approved: July 29, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Appendix A—Examples of the computation of the total assistance payment using the six methods being implemented by States in July 1975, under which a supplemental payment would have to be determined. The support payment used in these examples is that part remaining after the $50 pass through/disregard.

There were six methods for determining the amount of the assistance payment being implemented by States in July 1975, in which a supplemental payment would have to be determined. These methods are illustrated below:

1. *Income is subtracted from the need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Support payment	−100	−0
Deficit	200	300
Maximum by family size	150	150
Assistance payment	150	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$150	$150
Support payment	+100	+0
Total	250	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$250
Column B	−150
Supplemental payment	100

Determine total assistance payment:

Current assistance payment	$150
Supplemental payment	100
Total assistance payment	250

2. *Income is subtracted from the need standard. The payment is a percent of the deficit.*

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Support payment	−100	−0
Deficit	200	300
Ratable reduction (percent)	×.70	×.70
Assistance payment	140	210

[1] Treat support as income.
[2] Do not treat support as income.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$140	$210
Support payment	+100	+0
Total	240	210

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$240
Column B	−210
Supplemental payment	30

Determine total assistance payment:

Current assistance payment	$210
Supplemental payment	+30
Total assistance payment	240

3. *Income is subtracted from the need standard. The payment is a percent of the deficit or the maximum by family size, whichever is less; or*

4. *Income is subtracted from the need standard. The payment is a percent of the deficit or the maximum on the total money payment, whichever is less.*

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Support payment	−100	−0
Deficit	200	300
Ratable reduction (percent)	x.70	x.70
Total	140	210
Maximum [3]	150	150
Assistance payment	140	150

[1] Treat support as income.
[2] Do not treat support as income.
[3] Maximum either by family size or on the total money payment.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$140	$150
Support payment	+100	+0
Total	240	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposal income:

Column A	$240
Column B	−160
Supplemental payment	80

Determine total assistance payment:

Current assistance payment	$150
Supplemental payment	+90
Total assistance payment	240

5. *Income is subtracted from a reduced need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Ratable reduction (percent)	x.70	x.70
Reduced standard	210	210
Support payment	−100	−0
Deficit	110	210
Assistance payment	110	150
Maximum by family size	150	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$110	$150
Support payment	+100	+0
Total	210	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:assistance payment:

Column A	$210
Column B	−150
Supplemental payment	60

Determine total assistance payment:

Current assistance payment	$150
Supplemental payment	+60
Total assistance payment	210

6. *Income is subtracted from a reduced need standard. The payment is the deficit or the maximum on the total money payment, whichever is less.*

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need Standard	$500	$500
Ratable reduction (percent)	x .70	x .70
Reduced Standard	350	350
Support payment	−100	−0
Deficit	250	350
Assistance payment	250	300
Maximum on total money payment	300	300

[1] Treat support as income.
[2] Do not treat support as income.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$250	$300
Support payment	+100	+0
Total	350	300

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$350
Column B	−300
Supplemental payment	50

Determine total assistance payment:

Current assistance payment	$300
Supplemental payment	+50
Total assistance payment	350

Appendix B.—Examples of the computation of the total assistance payment when there is income from another source in addition to the support collection for a given month and a supplemental payment is to be determined.

The support payment used in these examples is that part remaining after the $50 pass through/disregard.

The regulations provide for the counting of support payments when there is income from another source. All income from any other source is always counted before the support payment in computing the supplemental payment.

1. *Income is subtracted from the need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Assume that there is $100 support and $50 countable earned income currently to be treated as income.

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Countable income: (support −$100 + earnings of $50) =	150	−50
Deficit	150	250
Maximum by family size	150	150
Assistance payment	150	150

[1] Treat support as income.
[2] Do not treat support as income

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$150	$150
Support payment	+100	+0
Earned income	+50	+50
Total	300	200

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$300
Column B	−200
Supplemental payment	100

Determine total assistance payment:

Current assistance payment	$150
Supplemental payment	100
Total assistance payment	250

The recipient will have the same amount of disposable incomes as in Column A—$250 total assistance payment and $50 earned income for $300 total disposable income.

2. In the first example, neither the $100 support payment nor the $50 earned income reduced the amount of the assistance payment. Therefore, the recipient receives a $150 assistance payment and a supplemental payment of $100 for a total assistance payment of $250. The recipient retains the $50 earned income and has total disposable income of $300. An increase in the amount of earned income from $50 to $75 will reduce the amount of the supplement payment, thus:

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Countable income: (support −$100 + earnings of $75) =	−175	−75
Deficit	125	225
Maximum by family size	150	150
Assistance payment	125	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$125	$150
Support payment	+100	+0
Earned income	+75	+75
Total	300	225

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$300
Column B	−225
Supplemental payment	75

Determine total assistance payment:

Current assistance payment	$150
Supplement payment	+75
Total assistance payment	255

The recipient will have the same amount of disposable income as in Column A—$225 total assistance payment and $75 earned income for a total of $300 total disposable income.

Appendix C.—Examples of the computation of the total assistance payment when the total support collection for a month includes payment on arrearages.

In computing "the total assistance payment for a month", use the support collected on the current month's support obligation, subtract the $50 pass through/disregard and add the largest part of the total arrearages collected in that same month that will not cause ineligibility. This is "the total support collection."

The instructions are presented in the regulations and provide that when a total support collection for a month includes payment on arrearages, the largest portion of that total collection that would not cause ineligibility if paid to the family shall be used to compute the supplemental payment under section 402(a)(28). The first example illustrates a total support collection for a month (support obligation and payment on arrearages) that would not cause ineligibility. The second example illustrates a total support collection for a month (support obligation and payment on arrearages) that would cause ineligibility. The largest part of this collection that would not cause ineligibility if paid directly to the family is used as countable income.

1. *Income is subtracted from the need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Assume that the support obligation for the month is $200 and that the absent parent paid $50 arrearages. The total support collection for the month is $250.

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Support payment	[3] 250	−0
Deficit	50	300
Maximum by family size	150	150
Assistance payment	50	150

[1] Treat support as income.
[2] Do not treat support as income.
[3] None of the $250 collection would cause ineligibility if paid directly to the family, therefore, all of it is used to compute the supplemental payment.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	$50	$150
Support payment	+250	+0
Total	300	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income

Column A	$300
Column B	−150
Supplemental payment	150

Determine total assistance payment:

Current assistant payment	$150
Supplemental payment	+150
Total assistance payment	300

2. *Income is subtracted from the need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Assume that the support obligation for the month is $200 and that the absent parent also paid $300 arrearages. The total support collection for the month is $500.

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Support payment	−[3] 290	−0
Deficit	10	300
Maximum by family size	150	150
Assistance payment	10	150

[1] Treat support as income.
[2] Do not treat support as income.
[3] This is the largest portion of the $500 total support collection for the month that would not cause ineligibility.

Determine total disposable income.

	Col. A [1]	Col. B [2]
Assistance payment	10	$150
Support payment	+290	+0
Total	300	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposable income:

Column A	$300
Column B	−150
Supplemental payment	150

Determine total assistance payment:

Current assistance payment	$150
Supplemental payment	+150
Total assistance payment	300

3. *Income is subtracted from a reduced need standard. The payment is the deficit or the maximum by family size, whichever is less.*

Assume payment of $200 current support obligation plus $300 in arrearages, for a total of $500.

Determine assistance payment:

	Col. A [1]	Col. B [2]
Need standard	$300	$300
Ratable reduction (percent)	×.70	×.70
Reduced standard	210	210
Support payment	[3] 200	0
Deficit	10	210
Maximum by family size	150	150
Assistance payment	10	150

[1] Treat support as income.
[2] Do not treat support as income.
[3] This is the largest portion of the $500 total child support collection for the month that would cause ineligibility.

Determine total disposable income:

	Col. A [1]	Col. B [2]
Assistance payment	10	$150
Support payment	+200	+0
Total	210	150

[1] Treat support as income.
[2] Do not treat support as income.

Determine supplemental payment using total disposal income:

Column A	$210
Column G	−150
Supplemental payment	60

Determine assistance payment:

Current assistance payment	$150
Supplemental payment	+60
Total assistance payment	210

PART 232—[AMENDED]

Part 232 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 232 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 232.20 is amended by revising paragraph (b)(1) to read as follows:

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV–A Program.

* * * * *

(b) * * *

(1) Upon notification by the IV–D agency of the amount of a support collection, the IV–A agency will use such amount to review eligibility of the assistance unit under section 206.10(a)(9)(ii). This use of these amounts so collected shall not be later than the second month after the month in which the IV–A agency received a report of the monthly collections from the IV–D agency. In determining whether a support collection made by the State's IV–D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV–A agency will notify the family and the IV–D agency of the effective date of the family's ineligibility. The IV–D agency will treat the support collection that caused ineligibility in accordance with § 302.32. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection except that, when required under § 232.21 supplemental payments must be calculated and issued.

* * * * *

2. A new section 232.21 is added to read as follows:

§ 232.21 Computation of a supplemental payment when there is a support payment.

(a) The purpose of this section is to provide for the computation of a supplemental payment under section 402(a)(28) of the Social Security Act. When used in this section—

"Countable income" means the amount of the recipient's gross income that is used in the computation of the assistance payment after application of all disregards, including work-related expenses.

"Countable support payment" means the support collected on the current month's support obligation less an amount not in excess of the first $50 collected on that obligation. It also

means the excess payments paid to the recipient by the IV–D agency under 45 CFR 302.51(b) (3) and (5).

"Disposable income" means the sum of the assistance payment, and the countable income used in determining the amount of the payment.

"Arrearages" means all collections of past due support exclusive of those made through the Federal and State income tax refund offset.

(b) The State plan must provide that, if the redetermination under § 232.20 indicates that the support payment made on the current month's support obligation would not cause ineligibility, and the State permitted recipients during July 1975 to retain countable income without an equal reduction in their assistance payment, and it currently has such a policy in effect, a supplemental payment will be computed for the current month.

(1) The supplemental payment for a month shall equal the maximum portion of the total support collected in that month which would not reduce the assistance payment if paid directly to the family. In determining this amount, the State agency will—

(i) First consider income from sources other than the support collection; and

(ii) Include in the amount of support collected the maximum amount of any arrearages paid which would not cause ineligibility if paid directly to the family.

(2) The supplemental payment will be computed as follows:

(i) The State IV–A agency determines the assistance payment which would result from treating as income to the family the largest amount of the month's child support collection, including arrearages, that will not cause ineligibility. Using that assistance payment, and using that amount of the support collection as countable income, disposable income is computed.

(ii) The State agency then determines the amount of the assistance payment for which the family would be eligible if there were no support collection. Using that assistance payment, disposable income is again computed.

(iii) The supplemental payment is the amount of disposable income as computed in step (i) less the amount of disposable income as computed in step (ii).

(iv) *Examples:*

Example 1. The State computes the assistance payment by subtracting income from the need standard and pays the deficit or a maximum by family size, whichever is less: (All figures are assumed and do not include income from any other source.)

Step (i): Treating countable support payment as income. Subtract a countable support payment of $100 from a need standard of $300. The deficit is $200. Assume the State's maximum for this family size is $150; therefore, the assistance payment would be $150. The assistance unit would have a $150 assistance payment and the $100 countable support payment for a total disposable income of $250.

Step (ii): Not treating countable support payment as income. There is no income to subtract from the need standard. Thus the assistance payment would be the maximum of $150 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposable income computed under steps (i) and (ii), $250 minus $150, or $100.

Example 2. The State computes the assistance payment by subtracting income from a reduced need standard and pays the deficit or a maximum by family size, whichever is less. Assume a need standard of $400, a ratable reduction of 70%, and a maximum assistance payment of $200. Also assume a $500 total child support collection for the month, $200 of which is the current month's support obligation. The State's minimum payment is $5.

Step (i): Treating countable support payments as income. Determine the largest part of the $500 child support collection which would not cause ineligibility if counted as income to the assistance unit. This would be $279 because the State's reduced need standard is $280 (70% of $400) and any amount of income over $279 would make the family ineligible. The deficit would be $1. The assistance unit would not receive an assistance payment, however, they would have the $279 support payment as disposable income. No assistance payment is made but the family remains eligible under § 233.20(a)(3)(viii) (C) and (D).

Step (ii): Not treating countable support payment as income. There is no income to subtract from the reduced need standard, thus the assistance payment would be the maximum of $200 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposal incomes computed under steps (i) and (ii), $280 minus $200, or $80.

(c) A supplemental payment under this section may either be added to the assistance payment for which the unit is otherwise eligible, to make a new total assistance payment for the month or be issued separately. In the examples in paragraph (b)(2)(iv) of this section, the new total assistance payments would be $250 ($150 plus $100) in Example 1, and $280 ($200 plus $80) in Example 2.

PART 233—[AMENDED]

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 233 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42) U.S.C. 1302.

2. Section 233.20 is amended by revising paragraph (a)(3)(v) to read as follows:

§ 233.20 Need and amount of assistance.

(a) * * *

(3) * * *

(v) Provide that agency policies will assure that:

(A) In determining eligibility for an assistance payment, support payments assigned under § 232.11 of this chapter will be treated in accordance with § 232.20 and § 232.21 of this chapter; and

(B) In determining the amount of an assistance payment, assigned support payments retained in violation of § 232.12(b)(4) of this chapter, will be counted as income to meet need unless the approved IV–A State plan provides that such support payments are subject to IV–D recovery under §§ 302.31(a)(3) and 303.80 of this title or unless such payments are sufficient to render the family ineligible as provided at § 232.20 of this chapter

* * * * *

[FR Doc. 86–17882 Filed 8–14–86; 8:45 am]
BILLING CODE 4190–11–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 85–26]

Common Carrier Services; Replacing Structural Separation With Nonstructural Safeguard for AT&T's Provision of Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order on reconsideration.

SUMMARY: The Commission has denied in principal part petitions for reconsideration of the *AT&T Structural Relief Order* because it concluded that its decisions to remove the structural separation requirements from AT&T's CPE operations and to establish nonstructural safeguards are fundamentally sound and not in need of major revision. The Commission, however, has made cert clarifications and modifications to that Order in light of concerns raised by the parties in the reconsideration proceeding.

FOR FURTHER INFORMATION CONTACT: Melanie Haratunian, Policy and Program

Planning Division, on Carrier Bureau, (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration, CC Docket 85-26, adopted July 31, 1986 and released August 7, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order on Reconsideration

1. On September 30, 1985, the Federal Communications Commission ("FCC" or "Commission") released the *AT&T Structural Relief Order*, CC Docket 85-26 (50 FR 40379; October 3, 1985), which enabled the American Telephone and Telegraph Company ("AT&T") to provide customer premises equipment ("CPE") free of the structural separation requirements established in the *Second Computer Inquiry* (77 FCC 2d 384; 84 FCC 2d 50; 88 FCC 2d 512; 693 F 2d 198; FCC 84-190). The Commission also imposed four kinds of nonstructural requirements to limit the potential for AT&T to engage in anticompetitive conduct in providing CPE on an unseparated basis. The FCC required AT&T: (1) To adhere to a modified version of the Commission's network disclosure rules; (2) to refr from discriminating in favor of CPE customers in providing network services; (3) at the customer's request, to disclose its customer proprietary network information ("CPNI") to non-AT&T CPE vendors and/or to withhold such CPNI from AT&T CPE personnel; and (4) to establish accounting procedures for the proper allocation of joint and common costs between AT&T's regulated network services and its unregulated CPE activities. To ensure effective implementation of those safeguards, AT&T also was required to file plans describing its implementation of the nondiscrimination, CPNI, and accounting safeguards and to submit monthly reports documenting that the intervals for the installation and maintenance of its network services were not affected by a customer's brand of CPE. Eight parties filed for reconsideration of various aspects of the *AT&T Structural Relief Order*.

2. In the *Memorandum Opinion and Order on Reconsideration*, the Commission concluded that its decisions to remove the structural separation requirements from AT&T's CPE operations and to establish nonstructural safeguards are fundamentally sound and not in need of major revision. The FCC, however, did clarify or modify three of the nonstructural safeguards.

3. First, the Commission modified its network disclosure safeguards by requiring AT&T to disclose to the public technical information about new or changed network services 12, rather than 6, months prior to the introduction of the service. In addition, the FCC clarified that AT&T should disclose newly discovered information about its operational network services and should disclose information to entities engaged in the leasing of CPE.

4. Second, the Commission clarified that its nondiscrimination concerns include the quality of network services and accordingly required AT&T to amend its nondiscrimination plan to describe with particularity its procedures for ensuring that such discrimination in service quality does not occur. The Commission also required AT&T to obtain an annual independent audit to ensure that those procedures are followed.

5. Third, the FCC modified its CPNI safeguards to require AT&T to notify its WATS and private line customers of the Commission's rules on CPNI through a one-time insert in their network services bills.

6. In addition, pursuant to the nondiscrimination guidelines of the *AT&T Structural Relief Order*, the Commission required that if AT&T provides joint installation and maintenance services for its CPE and transmission circuits, it must coordinate with independent CPE vendors to make those joint services available for independent CPE and AT&T's transmission circuits.

Ordering Clause

7. Accordingly, it is ordered, that pursuant to 47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218, and 403, and 5 U.S.C. 553, the Petitions for Reconsideration filed in this proceeding are denied except as provided herein.

William J. Tricarico,

Secretary.

[FR Doc. 86-18410 Filed 8-14-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 223, 228, 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Safety Precautions for Ammunition and Explosives

Correction.

In FR Doc. 86-18193 beginning on page 28943 in the issue of Wednesday, August 13, 1986, make the following correction:

On page 28943, in the second column in the **DATE** caption, insert "Effective August 1, 1986." before "Comments . . .".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-209]

Organization and Delegation of Powers and Duties; Assistant Secretary for Administration

AGENCY: Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: This amendment revises, adds and updates delegations to the Assistant Secretary for Administration.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 366-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

The Secretary has determined that the existing delegations to the Assistant Secretary for Administration need to be updated to eliminate obsolete delegations and references, add others for new statutes and regulations, and revise existing delegations.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

VOL 51 ISS 158 AG 15 1986 UMI

2. In consideration of the foregoing, § 1.22 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (f) to read as follows:

§ 1.22 Structure.

* * * * *

(f) *Office of the Assistant Secretary for Administration.* This Office is composed of the Offices of Personnel; Management Planning; Information Resource Management; Administrative Services and Property Management; Hearings; Acquisition and Grant Management; Security; and Financial Management.

* * * * *

3. In consideration of the foregoing, § 1.23 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (f) to read as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(f) *Assistant Secretary for Administration.* Organization; delegations of authority; personnel ceiling control; management studies; personnel management; acquisition and grant management (except for the responsibility listed for the Office of Small and Disadvantaged Business Utilization in this section); information resource management; financial management; property management; paperwork management; management information; security; computer support; telecommunications; and administrative support services for the Office of the Secretary and certain other components of the Department.

* * * * *

4. In consideration of the foregoing, § 1.44 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding paragraph (r) to read as follows:

§ 1.44 Reservation of authority.

* * * * *

(r) *Approval of Cash Purchases of Passenger Transportation.* The authority under FPMR G–72, as amended, to authorize and approve cash purchases for emergency passenger transportation services costing more than $100.

5. In consideration of the foregoing, § 1.59 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising the heading of paragraph (a), revising paragraphs (b)(1) through (b)(3), (b)(6), (c)(1) through (c)(3) introductory text, (c)(5) and (c)(7) through (c)(9), adding paragraphs (c)(10) through (c)(13), revising paragraphs (h) through (n) and adding paragraph (o) to read as follows:

§ 1.59 Delegations to the Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following:

(a) Acquisition. * * *

(b) Personnel.

(1) Conduct a personnel management program for the Office of the Secretary with authority to take, direct others to take, recommend or approve any personnel action with respect to such authority.

(2) Develop and implement an affirmative action plan in the Office of the Secretary to assure equal employment opportunity.

(3) Serve as Vice Chairman of the Departmental Executive Resources Board and its Executive Resources Review Committee.

* * * * *

(6) Approve employment of experts and consultants in accordance with 5 U.S.C. 3109.

* * * * *

(c) *Finance.* (1) Administer the financial and fiscal affairs of the Office of the Secretary (other than those for which the Assistant Secretary for Budget and Programs is responsible), in accordance with 31 U.S.C. 3512.

(2) Designate to the Treasury Department certifying officers and designated agents for the Office of the Secretary and imprest fund cashiers for the Departmental headquarters. (Redelegation to the Director of Financial Management is contained in Subpart E, § 1.59A.)

(3) In accordance with 31 U.S.C. 3527, grant or recommend relief from accountability for losses or deficiencies of disbursing officers, cashiers, or other accountable officers as follows:

* * * * *

(5) Waive claims and make refunds in connection with claims for erroneous overpayment of pay and allowances to an employee of the Office of the Secretary in the amounts aggregating not more than $500 without regard to any repayments, and deny requests for waiver of such claims regardless of the aggregate amount of the claim, as provided by 4 CFR Parts 91, 92, and 93. This authority may be redelegated only to the Director of Financial Management.

* * * * *

(7) Determine the existence and amount of indebtedness and the method of collecting repayments from employees of the Office of the Secretary and collect repayments accordingly, as provided by 5 U.S.C. 5514. This authority may be redelegated only to the Director of Financial Management.

(8) Sign Budget Execution reports required by OMB Circular A–34, for the Office of the Secretary. (Redelegation to the Director of Financial Management is contained in subpart E, § 1.59A.)

(9) Review and approve for payment any voucher for $25 or less the authority for payment of which is questioned by a certifying or disbursing officer. (Redelegation to the Director of Financial Management is contained in subpart D, § 1.59A.)

(10) Approve cash purchases of emergency passenger transportation services costing over $100 under FPMR G–72, as amended.

(11) Perform accounting and related functions in support of the essential air service program.

(12) Carry out the functions and obligations assigned to the Secretary with respect to the Prompt Payment Act, Pub. L. 97–177.

(13) Carry out the functions and duties assigned to the Secretary with respect to the Debt Collection Act of 1982, Pub. L. 97–365.

* * * * *

(h) *Foreign Travel.* Review written requests for modification to the Department's foreign travel plan approved by the Office of Management and Budget.

(i) *Gifts and Bequests.* Carry out the functions vested in the Secretary by section 9(m) of the Department of Transportation Act (Pub. L. 89–670).

(j) *Equal Employment Opportunity.* Exercise the authority of the Secretary to accept or reject internal complaints of discrimination on the basis of race, color, religion, sex, national origin, or age arising within or relating to the Office of the Secretary.

(k) *Building Management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

(l) *Privacy.* Issue notices of Department of Transportation systems of records as required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4), (11)).

(m) *Hearings.* Provide logistical and administrative support to the Department's Office of Hearings.

(n) *Paperwork Reduction.* Carry out the functions and responsibilities assigned to the Secretary with respect to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

(o) *Federal Real Property Management.* Carry out the functions assigned to the Secretary with respect to Executive Order 12512 of April 28, 1985.

* * * * *

6. In consideration of the foregoing, Part 1 of Title 49, Code of Federal

Regulations, is amended by adding § 1.59a to read as follows:

§ 1.59a Redelegations by the Assistant Secretary for Administration.

(a) The Assistant Secretary for Administration has redelegated to the Director of Acquisition and Grant Management authority to procure and authorize payment for property and services for the Office of the Secretary, with power to redelegate and authorize successive redelegations.

(b) The Assistant Secretary for Administration has redelegated to the Director of Personnel authority to:

(1) Conduct a personnel management program for the Office of the Secretary with authority to take, direct others to take, recommend or approve any personnel action with respect to such authority.

(2) Develop, coordinate, and issue wage schedules for Department employees under the Federal Wage System, except as delegated to the Commandant of the Coast Guard at § 1.46 of this part.

(c) The Assistant Secretary for Administration has redelegated to the Director of Financial Management authority to:

(1) Designate to the Treasury Department certifying officers and designated agents for the Office of the Secretary and imprest fund cashiers for the Departmental Headquarters.

(2) Certify to the validity of obligations as required by 31 U.S.C. 200 and to the adequacy of bond coverage for the designations under section 160(c)(2).

(3) Sign reports on Budget Execution as required by OMB Circular A-34 (Revised).

(4) Review and approve for payment any voucher for $25 or less the authority for payment of which is questioned by a certifying or disbursing officer.

(5) Process essential air service payments.

Appendix A—[Amended]

6. In consideration of the foregoing, paragraph 4 "Chief, Accounting Operations Center" of Appendix A removed and paragraph 5 redesignated paragraph "4".

Issued in Washington, DC, on June 6, 1986.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 86-17809 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-62-M

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-210]

Organization and Delegation of Powers and Duties; Operating Administrations, etc.

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Administrators of the Operating Administrations and to the Assistant Secretary for Administration certain responsibilities of the Secretary under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act) and under the Department regulation found at 49 CFR 25 governing implementation of the Uniform Act.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 366-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

The Secretary has determined that certain authority concerning the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 should be delegated to the Operating Administrations and the Assistant Secretary for Administration. By Presidential Memorandum (50 FR 8953, March 5, 1985), the Department was designated the lead agency to coordinate administration and implementation of the Uniform Act. This delegation redelegates that authority to the Federal Highway Administrator.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. In consideration of the foregoing, § 1.45 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraphs (a)(9) and (a)(12), and adding paragraphs (c), (d), and (e) to read as follows:

§ 1.45 Delegation to all administrators.

(a) Except as prescribed by the Secretary of Transportation, each Administrator is authorized to:

* * * * *

(9) Settle and pay claims by employees for personal property losses as provided by 31 U.S.C. 3721. This authority may be redelegated only to Office Directors, Regional Directors, District Commanders, or other comparable levels and to those individuals that report to the above officials.

* * * * *

(12) Authorize and approve official non-foreign travel and transportation for themselves, their subordinates, and others performing services for, or in cooperation with, their operating administrations. Additionally, heads of operating administrations, through a redelegation from the Deputy Secretary, may authorize and approve routine operational foreign travel, as defined in DOT 1500.6A, Travel Manual, of 1-2-85. These authorities may be redelegated in accordance with regulations issued by the Assistant Secretary for Administration.

* * * * *

(c) Except as provided in §§ 1.48 and 1.59 and 49 CFR 25.302, the functions, powers, and duties of the Secretary of Transportation, with respect to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, Pub. L. 91-646, 84 Stat. 1904, are delegated to:

(1) The head of each of the following Operating Administrations with respect to programs administered by their respective organizations:

(i) U.S. Coast Guard;

(ii) Federal Aviation Administration;

(iii) Federal Highway Administration;

(iv) Federal Railroad Administration;

(v) Urban Mass Transportation Administration;

(vi) National Highway Traffic Safety Administration;

(vii) St. Lawrence Seaway Development Corporation; and

(viii) Maritime Administration.

(2) [Reserved]

(d) Each office to whom authority is delegated by either § 1.45(c) or § 1.59(p) may redelegate and authorize successive redelegations of that authority within the organization under the Administrators' or Assistant Secretary for Administration's jurisdiction.

(e) Each office to whom authority is delegated by either § 1.45(c) or § 1.59(p) may prescribe additional procedures, requirements and regulations that are appropriate to the particular programs

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administered by the preparing official's organization, provided:

(1) Any such additional guidance is not inconsistent with the Act, 49 CFR Party 25 or Subpart C of this manual;

(2) Any such additional guidance is approved prior to issuance by the Federal government's designated lead agency, the Federal Highway Administration (designated the Federal government's lead agency through the President's Memorandum issued February 27, 1985, and § 1.48(ee)), in coordination with the Assistant Secretary for Policy and International Affairs.

3. In consideration of the foregoing § 1.48 of Part 1, Title 49, Code of Federal Regulations, is amended by adding paragraphs (cc), (dd) and (ee) to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(cc) Establish and maintain a schedule of moving expense allowances applicable to individuals and families displaced under Pub. L. 91–646, 84 Stat. 1894. The schedule shall cover each State, be based on current local moving costs, and not exceed the statutory maximum.

(dd) Prescribe common regulations as necessary to implement Pub. L. 91–646, 84 Stat. 1894, and any amendments thereto, and revise Part 25 of this title, as appropriate, in coordination with the Assistant Secretary for Policy and International Affairs.

(ee) Carry out the functions vested in the Secretary by sections 2 and 3 of the February 27, 1985 Presidential Memorandum for the heads of Executive Departments and Agencies.

4. In consideration of the foregoing, § 1.59 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding paragraph (p) to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

* * * * *

(p) *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894.* Except as provided in §§ 1.45, 1.48 and 49 CFR 25.302, the functions, powers, and duties of the Secretary of Transportation, with respect to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, are delegated to the Assistant Secretary for Administration with respect to programs administered by the Office of the Secretary. This authority is subject to the requirements listed in § 1.45 that govern all Operating Administrations' authority with respect to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Issued in Washington, DC, on June 24, 1986.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 86–15945 Filed 8–14–86; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477–6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces revised harvest quotas for chinook and coho salmon in the recreational fisheries from Klipsan Beach, Washington, to the U.S.-Canada border. This action is necessary to prolong the fishery and to increase the opportunities for the recreational fishery to harvest its ocean quotas of chinook and coho salmon. It is intended to allow maximum harvest of ocean salmon from the quotas established for the 1986 season.

DATES: The revised recreational quotas for chinook and coho salmon north of Klipsan Beach, Washington, are effective at midnight, Pacific Daylight Time, August 12, 1986. Comments on this notice will be received until August 26, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (50 CFR Part 661). The framework regulations were modified by an emergency rule (51 FR 18451, May 20, 1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated treaty Indian fishing rights, and the ocean allocation schemes in the framework amendment (49 FR 43679, October 31, 1984). In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

The all-species recreational ocean salmon fisheries north of Klipsan Beach, Washington, opened on June 29, 1986. The allowable harvest of chinook and coho salmon was divided into two subareas as indicated below with separate quotas for each subarea. The subarea quotas as modified by previous inseason action (51 FR 26900, July 28, 1986) are as follows:

Subarea	Revised Chinook quota	Revised Coho quota
U.S.-Canada Border to Queets River	3,300	25,000
Queets River to Klipsan Beach	22,100	79,300
Totals	25,400	104,300

In the subarea from the U.S.-Canada border to the Queets River (northern area), 2,824 chinook (86 percent of quota) and 11,807 coho (47 percent of quota) had been harvested through August 3, 1986. At current fishing rates, the fishery would close on attainment of its chinook quota, leaving approximately 10,000 coho unharvested.

In the subarea from Queets River to Klipsan Beach (southern area), 8,399 chinook (38 percent of quota) and 52,742 coho (67 percent of quota) had been harvested through August 3, 1986. At current fishing rates, the fishery would close on attainment of its coho quota, leaving approximately 4,800 chinook unharvested.

Representatives of the recreational fisheries have agreed to an exchange of chinook and coho salmon between areas

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to increase the likelihood that the quotas of both species in both subareas would be harvested.

The Secretary has determined that such an exchange is consistent with the criteria in the emergency rule. After consideration of the facts listed above and in consultation with the Assistant Director of the Washington Department of Fisheries (WDF) and the Chairman of the Pacific Fishery Management Council, the Secretary therefore issues this notice to modify subarea quotas north of Klipsan Beach as follows:

Subarea	Revised Chinook quota	Revised Coho quota
U.S.-Canada Border to Queets River	4,100 (+600)	22,600 (−2,400)
Queets River to Klipsan Beach	21,300 (−800)	81,700 (+2,400)
Totals	25,400	104,300

This notice does not apply to other salmon fisheries which may be operating in other areas nor to other fisheries in the same area.

The Assistant Director of WDF has confirmed that Washington will manage the ocean recreational fisheries in State waters adjacent to this area of the fishery conservation zone in accordance with the revised quotas.

Other Matters

This notice is provided under 50 CFR 661.23 is in compliance with Executive Order 12291.

List of Subject in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: August 12, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-18408 Filed 8-12-86; 2:27 pm]

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VOL
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Proposed Rules

Federal Register
Vol. 51, No. 158
Friday, August 15, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 235, 250, 252, and 255

State Administative Expense Funds, Food Distribution Progam and National Inventory System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would create a National Inventory System (NIS) for processing surplus commodities which would replace the current processing systems operated by some States and the National Commodity Processing (NCP) Program that is operated by the Food and Nutrition Service (FNS). The current legislation mandates that the NCP Program expire on June 30, 1987. Under this proposed regulation, donated food available through NIS will be designated by the Secretary of Agriculture. Donated food not available through NIS may continue to be processed pursuant to State processing agreements. However, States will be permitted to secure processing of NIS-type donated food only through NIS or through intrastate processors (Part 250) which do not participate in NIS. Under the NIS Program, FNS would approve a federal agreement with qualified processors in which yield requirements and assigned values for donated food will be established. The federal agreement will also establish all systems which may be used by an NIS processor to pass through the value of donated food to eligible recipient agencies. A processor will receive all donated food to be used in the NIS from FNS and would be required to post one bond with FNS to cover the value of the NIS donated food. A master list of processed end products, with child nutrition (CN) label information if applicable, will also be approved by FNS.

Under the proposed rule, States may elect to participate in NIS. Upon FNS approval of a processor's federal agreement, States will then enter into State agreements with NIS processors. These State agreements would further specify what end products a processor will sell within that State and the value pass through system(s) to be used. States may require that processed products carry an approved CN Label. States will be responsible for disseminating a list of processors with whom the State has an agreement and approved end products available within the State to all eligible recipient agencies. States will also be responsible for providing recipient agency information to approved processors. Each NIS processor will be required to submit monthly reports to States reflecting the sale and delivery of end products during each month. States will be required to report to FNS the amount of donated food used in products sold to eligible recipient agencies.

DATES: To be assured of consideration, comments *must* be received by November 13, 1986.

ADDRESS: Comments should be sent to Ms. Susan Proden, Chief, Special Operations Branch, Nutrition and Technical Services Division, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302. All written submissions will be available for inspection in Room 413, 3101 Park Center Drive, Alexandria, Virginia 22302 during regular business hours (8:30 am to 5:00 pm) Monday thru Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Proden, Chief, Special Operations Branch, Nutrition and Technical Services Division, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3888.

SUPPLEMENTARY INFORMATION: Under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), information collection requirements contained in §§ 255.4, 255.5, and 255.6 of this proposed rule have been approved by the Office of Management and Budget (OMB #0584–0325) through August 31, 1988.

Classification

This action has been reviewed under Executive Order 12291 and has been classified not major. We anticipate that this proposal will not have an impact on the economy of more than $100 million. No major increase in costs or prices for program participants, individual industries, Federal, State or local government agencies, or geographic regions is anticipated. The action is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.550. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Robert E. Leard, Administrator of the FNS, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This action will ensure the availability of processed surplus commodities to eligible recipient agencies. The eligible recipient agencies include all outlets eligible for commodities under Parts 250 and 251.

Background

On June 23, 1983, the Department published interim regulations establishing the framework for the National Commodity Processing (NCP) Program, in part to satisfy the dictates of section 203 of the Temporary Emergency Food Assistance Act (TEFFA) (7 U.S.C. 612c *note*) which directed the Secretary to encourage the consumption of surplus commodities. Under the NCP Program, commodities made available without charge or credit under nutrition programs administered by the Secretary of Agriculture were made available in processed form to eligible recipient agencies through processing agreements with private companies. At the end of the two-year program, the Department decided to discontinue the NCP Program because of its failure to meet stated goals. Specifically, NCP products sales has been much lower than anticipated and had displaced, rather than built on, State sales activities. Consequently, the federal cost of administering the NCP

Program had greatly exceeded any savings realized from reduced storage costs of surplus commodities. In addition, recipient agency registration had been concentrated geographically and by recipient agency outlet type. Moreover, NCP sales had been concentrated among a small number of processors, schools and States. Finally, sales verification tests had indicated a general lack of accountability throughout NCP Program. NCP was designed to complement State processing activities. Instead, many States had discontinued or reduced their processing activities as NCP had expanded. Many States had placed restrictions on recipient agency eligibility, processor eligibility, and the number of processors and end products sold. These shortcomings of NCP continue to exist.

On May 3, 1985, the Department published a Notice (50 FR 19993) announcing that the NCP Program would end on June 30, 1985, because the NCP Program had not achieved its stated goals. Pursuant to Title I of Pub. L. 99–98, Congress reauthorized section 203 of the Temporary Emergency Food Assistance Act of 1983 through June 30, 1986. The Department decided to satisfy this directive by reauthorizing the NCP Program for one additional year. FNS published an interim rule on September 12, 1985, to amend the June 23, 1983 rule. Subsequently, the Food Security Act of 1985 (Pub. L. 99–198), as amended, reauthorized section 203 of the TEFAA until June 30, 1987. Therefore, the NCP Program has been extended until June 30, 1987.

Purpose of the NIS System

Since the NCP Program will expire on June 30, 1987, the Department proposes to implement the National Inventory System (NIS) to replace NCP on July 1, 1987. The NIS establishes a uniform system for processors to sell certain donated food products nationwide. The Department believes that the NIS proposal places the burdens of administration at the levels best suited and equipped to handle the various responsibilities. Through NIS, processed end products will be made available to all eligible recipient agencies. These regulations propose permitting FNS to enter directly into processing agreements with processors to convert donated food designated by the Secretary into various end products. Under these agreements, processors are permitted to enter into State agreements to market such end products to any recipient agency in the State eligible to receive the donated food. By extablishing the NIS, the Department believes there will be an increase in the number of recipient agencies receiving the benefits of commodity assistance through processing agreements since States are in a better position than FNS to furnish processor information more expeditiously to all recipient agencies. NIS would, therefore, estabish a nationwide system of donated food distribution. This will provide more eligible recipient agencies access to more available end products. In addition, NIS will reduce a great deal of duplicative administrative efforts between the current State processing programs and the NCP Program. Consequently, the overall cost of administration should be reduced. Along with a reduction in actual costs, an NIS Program would similarly reduce the variances among States in policy, procedures and forms which have placed unnecessary administrative burden on the processing industry.

Applicability of Current Provisions.

Many of the current provisions of 7 CFR Part 250 will be applicable to NIS food processors. To the extent that the current provisions are applicable, the proposed Part 255 cross-references or restates them.

Operation of the Program

Under NIS, FNS proposes to enter into federal agreements with processors. Any food processor who can manufacture donated food into a finished product and sell that product to eligible recipient agencies is eligible to apply for approval. FNS will review applications of the basis of factors such as financial responsibility, past performance under State and NCP agreements, the ability of the applicant to meet the requirements of the regulations and the agreement with FNS, the ability of the applicant to distribute processed products to eligible recipient agencies, and a satisfactory record of integrity, good business ethics and performance (§ 255.4(b)). Upon FNS approval, States electing to participate in NIS may then enter into State agreements with the processor, allowing those processors to sell NIS end products to any eligible recipient agencies within the State (§ 255.4(d)).

States will specify the type of end products which may be sold, stipulate any Child Nutrition (CN) labeling requirements for end products covered under 7 CFR Part 210, 220, 225 and 226, Appendix C for sale in the State and designate the donated food value return system(s) which may be used within the State § 255.4(d)). Any requirements imposed by the State must apply to all processors approved to sell NIS end products within the State. States may also require approved processors to make end products available to all eligible recipient agencies within the State.

Food processors may request and receive reasonable quantities of NIS donated food based on their ability to sell end products containing the donated food. With FNS approval, processors may substitue commercially purchased food of equal or better grade which they acquire on the open market for donated food. Substitution will only be approved in the case of commingling of donated food and commercial food or when delays in donated food shipments adversely affect production (§ 255.4(b)(5)). Except in the instance of substitution, processors are prohibited from disposing of any donated food directly in commercial channels. Food processors are required to keep adequate records of their activities in order to show at all times the status of the donated food they have received (§ 255.4(b)(9)).

The distribution of donated food will be performed by transfer of title to the commodities from the Commodity Credit Corporation (CCC) to FNS and shipment of the commodities to participating food processors. FNS is designated as the distributing agency. The Secretary will designate which donated food will be eligible for distribution under the NIS Program. Donated food so designated will be delivered by CCC to NIS processors upon request by FNS. FNS will request shipment of donated food only when it has received and approved requests from an eligible processor for the delivery of specified quantities along with proof of marketability (e.g., copies of written "intent to purchase" from recipient agencies). The Department will pay costs incurred in delivering the commodities to any appropriate location in the United States for use by the processor. The title to these commodities transfers to FNS upon their acceptance by the processor, and remains with FNS until the finished product is sold to an eligible recipient agency and reported to the appropriate State agency (§ 255.3(c)). The processor will submit monthly reports to each State agency with which it has a contract, on FNS approved forms, of sales within each State to the appropriate State agency not more than 30 days after the end of each month (§ 255.4(b)(10)). The States will submit donated food use reports to FNS on FNS approved forms within 60 days of the end of the month.

VOL 51 ISS 158 AG 15 1986 UMI

Value of the Donated Food

The agreement value (§ 255.2) of the donated food used in NIS is the price assigned by the Department to a donated food which reflects the Department's current acquisition price, transportation and, if applicable, processing costs related to the food at the beginning of the agreement contract year. This value will be established at the beginning of the federal agreement year and will remain in effect for the term of the agreement. The Department realizes that occasionally the agreement value of a commodity may be higher or lower than the market value for the same commodity. This may result in a net loss or gain for the processor when the agreement value of the donated food is passed on to the recipient agency. Slight increases and decreases tend to balance each other in situations where price quotations (i.e., bids) are for an extended period of time. The Department does not feel this will have a detrimental effect on industry.

Bonding

Processors will be required to maintain one surety and performance bond for all NIS donated food in its inventory (§ 255.4(b)(3)). A bond must be adequate to cover the value of all donated food on hand and on order and must be effective up to at least six months after the end of the agreement period. Bond amounts must be increased as inventory levels warrant. Irrevocable letters of credit would not be allowed under this proposal because FNS has had difficulties in the past when seeking payment for food losses under letters of credit.

Yield Factors

The Department believes that it is necessary to continue to require a 100 percent donated food return (§ 255.4(b)(4)). A yield factor is that percentage of donated food placed in a production run which must be contained in the processed product for the processor to meet its responsibilities under this program. It is necessary to do this in order to set an equitable standard of performance so as to ensure that all food processors efficiently utilize donated food. Although yield factors can vary by donated food and processed end product, a 100 percent yield return will be required by any agreement between FNS and a processor. A 100 percent yield factor is defined in such a way that if, for example, 100 pounds of cheddar cheese are placed in a production run, 100 pounds of cheddar cheese must appear in the processed end product. This requirement is currently contained in both the State and NCP processing regulations.

Inventory Levels

FNS will monitor inventories of commodities of NIS processors to ensure that the quantity of commodities for which the processors are accountable is at an acceptable cost-efficient level. FNS will allow the processor to hold more than a 6-month supply based on the processor's average monthly usage, only upon approval by FNS on the basis of a written justification or proof of marketability submitted by the processor (§ 255.3(e)).

Pricing Factors

As part of the federal agreement, a processor will establish those donated food value return system(s) which will be used for selling end products manufactured using NIS donated foods (§ 255.4(b)(2)). Processors shall use a method(s) which NIS ensures that the price of each case of end product is reduced by the agreement value of the donated commodity and which ensures proper accountability. A processor may sell directly to an eligible recipient agency (direct sale method) or through a distributor (indirect sale method). A direct sales method may involve providing a discount where the final net price is reduced by the value of the donated food contained in the product. A direct sales method may also involve providing a refund where the recipient agency applies for a refund after receiving the end products.

The indirect sale methods may be effected three ways. The sale may be made through a distributor with dual billing, i.e., the recipient agency is billed by the processor for the end product and by the distributor for transportation and other related charges. The sale may be made through a distributor without dual billing, i.e., the processor bills the distributor at a gross price and the distributor bills the recipient agency at the net price and receives a refund from the processor for the value of the donated food. Finally, the sale may be made through a distributor with a refund, i.e., the recipient agency receives a refund from the processor after purchasing the product through a distributor. Although a processor may choose to offer any or all of these donated food value return systems, States have the authority to select which method(s) will be used in their States.

In order to insure accountability in the NIS program, recipient agencies must be required to submit refund applications within 30 days of receipt of end products. Refund applications will be considered invalid if submitted over 60 days after receipt of the products. Processors will have 10 days after receipt of a valid refund application to issue payment to recipient agencies. Since the additional review of reports is being proposed under NIS (i.e., State review of processor reports and FNS review of State reports), timely reporting is necessary to ensure adequate supplies of donated food to processors.

Performance Reporting

Processors will be required to submit monthly performance reports to each State agency with which they have a State agreement (§ 255.4(b)(10)). Reports will be due within 30 days of the end of each month and must be in a standardized format approved as part of the State agreement. Processors will have an additional 90 days after the end of the agreement period to report any additional sales. Performance reports must list all sales made by the processor within the State during the report month, and previous sales not yet reported. Processors must also report the amount of NIS donated food used in the reported sales.

States will submit inventory drawdown reports to FNS for each processor selling NIS end products within the State within 60 days of the end of each report month (§ 255.5(c)). These reports must be on FNS approved forms.

Processors will also be required to submit to FNS monthly receipt reports (§ 255.4(b)(7)), which will list receipt of all NIS donated foods received during the month. These reports also must be on FNS approved forms and will be due 30 days after the end of each month.

Based upon the inventory drawdown reports from States and receipt reports from processors, FNS will update monthly each processor's inventory level for each donated food.

Sales Verification

All NIS processors selling products must verify a statistically valid sample of all reported sales (§ 255.4(c)(2)). The processor must verify that NIS end products were sold to eligible recipient agencies and that the agreement value of donated food was passed to the recipient agencies. The processor verification must be conducted at a confidence interval of 95 percent and must be conducted on at least a quarterly basis. Processors will have 60 days after the end of each quarter to verify through sampling all sales made within the previous sales quarter. Results of the sales verification and a corrective action plan to address deficiencies shall be submitted to the

appropriate State agency within 90 days of the end of a quarter. As a result of verification efforts, corrections to performance reports must be made on the next required monthly performance reports.

States will be required to verify a statistically valid sample of all sales reported by each processor selling within the State to determine the accuracy of processor reporting, proper distribution of end products and whether the value of the donated food was passed on to eligible recipient agencies. If a State agency determines any sales were improperly reported, the State agency shall disallow those sale and adjust monthly inventory drawdown reports accordingly. Results of the State agency sales verification may be used to project claims across the universe of total sales reported by the processor during the contract year.

Annual Inventory Reconciliation

Section 255.4(b)(8) includes a provision requiring each processor to submit annual reconciliation reports and make payments to FNS for all outstanding refund applications and excessive carryover inventories. This annual reconciliation report shall be made no later than 90 days after the end of the year to which the contract pertains. This requirement is applied to ensure that no processor enjoys a windfall as a result of ordering donated food far in excess of its needs as stated through sales activity reported to FNS. It affords FNS the ability to reduce excessive inventory balances on an annual basis to keep all processors within the six month allowable inventory level.

Audit

Processors will be required to obtain an independent audit by a certified public accountant (CPA) in accordance with § 255.4(b)(18) of this Part. Audit findings, deficiencies and recommendations shall be submitted to FNS by January 31 following the agreement year, which will run from July 1 to June 30. The frequency of audits will be based on the value of donated food that a processor receives in shipment during each agreement year. For any agreement year in which an NIS processor receives more than $250,000 in donated food, the processor must obtain an independent CPA audit. NIS processors which receive $75,000 to $250,000 in donated food each agreement year will obtain an independent CPA audit every two years for the recently completed contract year and those which receive less than $75,000 in donated food each agreement year will obtain an independent CPA audit every three years for the recently completed contract year. In instances in which FNS determines that an audit has disclosed serious deficiencies, the processor will be subject to additional CPA audits at the request of FNS.

Maintenance of Records

The regulations require participating processors to maintain complete and accurate records of the receipt, disposal and inventory of donated foods including end products processed from donated foods (§ 255.4(b)(9)).

The processor must maintain copies of invoices to substantiate the value assigned to the donated foods. Processors are also required to keep formulae, recipes, daily or batch production records, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use of the donated foods and their subsequent redelivery to an eligible recipient agency.

The processor must document that sales reported on the monthly performance reports were made only to eligible recipient agencies and that the normal price of the product was reduced or a refund payment made for the amount established by the agreement.

All pertinent records must be made available for inspection and review upon request by FNS, its representatives, the USDA Office of the Inspector General, the General Accounting Office (GAO) and State agencies (§ 255.4(b)(11)). All records must be retained for a period of at least three years from the close of the federal fiscal year to which they pertain. Longer retention may be required for resolution of an audit or of any litigation.

Sanctions

The regulations governing the use of State administrative expense funds (7 CFR Part 235.11(2)) are proposed to be amended to include State agency failure to perform under Part 255 as a reason for taking fiscal sanctions against a State agency (235.11(b)(11)). The Department is also proposing that State administrative expense funds currently available for expenses incurred in the administration of the Food Distribution Program (7 CFR Part 250) also be available for State administrative expenses under NIS.

Termination of Processor Federal or State Agreements

If a federal agreement is terminated (§ 255.4(b)(14)), either by the processor of FNS, the processor is liable for any donated food remaining in its inventory. All NIS State agreements will require that upon termination of the processor's federal agreement, the State agreement will also terminate. The State, however, may elect to enter into a State processing contract with the processor under the provisions of 7 CFR Part 250 for products that do not contain NIS donated food. However, termination of a NIS State agreement does not necessarily nullify a federal agreement. When a State agreement is terminated, processors are no longer allowed to make sales of end products containing NIS donated food within that State. Processors are allowed 90 days from the date of termination to report sales made prior to the termination.

Food Containers and By-Products

Section 255.4(b)(17) includes a provision which requires that each processor shall return to FNS all funds received from the sale of donated food containers. It further requires the processor to return to FNS all funds received from the sale of any by-products derived from processing donated food or commercial food which has been substituted for donated food. This requirement is similar to that contained in § 250.15(b)(3)(viii) of the State processing regulations.

Miscellaneous Provisions

FNS is adding § 255.7 to address losses of donated food as a result of damage, improper distribution, misuse, embezzlement, theft, or obtainment by fraud to ensure the donated food is only used for the purpose of manufacturing and distributing processed end products to eligible recipient agencies. If donated food is lost as a result of any of the above circumstances, FNS will hold the processor responsible for payment for the value of the lost donated food in accordance with the provisions found in (§ 250.(6)(m). This action is necessary to ensure the value of the commodities is only realized by eligible recipient agencies.

List of Subjects

7 CFR Part 235

Food assistance programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Child Care Food Program, Food Distribution Program, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

7 CFR Parts 250, 252 and 255

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social

programs, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, 7 CFR Parts 235 and 250 are proposed to be amended, Part 252 is proposed to be removed, and Part 255 is proposed to be added as follows:

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

1. The authority citation for Part 235 continues to read as follows:

Authority: Secs. 7 and 10, Pub. L. 89–642, 80 Stat. 888, 889 (42 U.S.C. 1776, 1779), unless otherwise noted.

2. In § 235.6, paragraph (c) is amended by adding the words "and the National Inventory System Program (7 CFR Part 255)" after the words "(7 CFR Part 250)".

3. In § 235.11, paragraph (b)(1) is revised to read as follows:

§ 235.11 Other provisions.

* * * * *

(b) *Sanctions imposed.* (1) FNS may recover, withhold or cancel payment of up to one hundred (100) percent of the funds payable to a State agency under this part, whenever it is determined by FNS that the State agency has failed to comply with the requirements contained in this part and in Parts 210, 220, 226 and 255 of this title.

* * * * *

PART 250—FOOD DISTRIBUTION PROGRAM

1. The authority citation for Part 250 continues to read as follows:

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79–396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91–665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431nt); sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 17762a); sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 613c nt); sec. 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); (5 U.S.C. 301), unless otherwise noted.

2. In § 250.6, paragraph (n) is amended by:

a. Removing the word "Distributing" in the first sentence and adding the words "Except as provided in the succeeding sentence, distributing" in its place.

b. Adding a new sentence after the first sentence to read as follows:

§ 250.6 Obligations of distributing agencies.

* * * * *

(n) * * * Distributing agencies, subdistributing agencies, and recipient agencies may not employ commercial facilities to process donated foods into different end products if that type of donated food has been designated as NIS donated food in the National Inventory System unless the commercial facility employed only distributes and sells the end products within the State and does not participate in NIS. * * *

* * * * *

PART 252—[REMOVED]

3. Part 252 is removed in its entirety.

4. A new Part 255—"National Inventory System Program" is added to 7 CFR Chapter II to read as follows:

PART 255—NATIONAL INVENTORY SYSTEM PROGRAM

Sec.

255.1 Purpose and scope.
255.2 Definitions.
255.3 Administration.
255.4 Processor responsibilities.
255.5 State agency reponsibilities.
255.6 Recipient agency responsibilities.
255.7 Miscellaneous provisions.

Authority: Sec. 416 Agricultural Act of 1949 (7 U.S.C. 1431).

§ 255.1 Purpose and scope.

(a) *Purpose.* This part provides a program through which the Food and Nutrition Service (FNS), State distrubuting agencies and private processors of food may enter into agreements under which the processor will process and distribute designated donated food to eligible recipient agencies. The program will be the sole system for processing donated commodities made available under the National Inventory System (NIS). States and processors may secure the processing of NIS donated food only through the NIS Program. Donated food designated as NIS donated food will continue to be made available under Part 250 in bulk form to States, but may only be processed under NIS agreements. The only exception to this rule is that a processor which distributes products in only one State may process NIS-type donated food under NIS or under a State processing contract. The intent of the program is to make processed end products available to all eligible recipient agencies and to place the burdens of administration at the levels best suited and equipped to handle the various responsibilities.

(b) *Scope.* The terms and conditions set forth in this part are those under which processors may enter into agreements with FNS and State distributing agencies for the processing of NIS commodities designated by the Secretary of Agriculture and the minimum requirements which NIS processors must meet. Also prescribed are State distributing agency and recipient agency responsibilities.

(c) *Eligible Recipient Agency.* Recipient agencies shall be eligible to participate in the NIS Program if they are eligible to receive donated commodities as stipulated in §§ 250.6 and 251.3.

§ 255.2 Definitions.

The terms used in this part that are defined in §§ 250.3 and 251.3 shall have the meanings ascribed to them therein, except as set forth in this section.

"Agreement value of the NIS donated commodity" means the price assigned by the Department to a NIS donated food and stated in a federal agreement which reflects the Department's current acquisition price, transportation and, if applicable, processing costs related to the food.

"Distributing agencies" (DA) means any State agency which enters into an agreement with the Department concerning the distribution of NIS donated food to eligible recipient agencies and recipients and the further processing of NIS donated food under the NIS Program; and FNS when it accepts title to NIS commodities from the Commodity Credit Corporation (CCC) for distribution to eligible recipient agencies under the National Inventory System Program.

"Donated food value return system" means a system used by a processor or distributor to reduce the price of the end product by the agreement value of the NIS donated commodity contained in the end product.

"End product" means a processed food product containing any amount of NIS donated food.

"Federal Agreement" means an agreement between FNS and a food processor which sets forth the terms and conditions for participation in the NIS Program.

"Inventory" means the sum total of each NIS donated food accepted by the processor minus the amount of each NIS donated food represented by sales to recipient agencies which are certified by the State agency.

"National Commodity Processing or NCP" means the program under which FNS and private processors of food may enter into an agreement under which the

processor will process and distribute designated NIS donated food to eligible recipient agencies. This program is authorized to run until June 30, 1987, at which time it shall be replaced by the NIS Program.

"National Inventory System Program or NIS Program" means the program under which FNS, State distributing agencies and private processors of food may enter into agreements under which the processor will process and distribute designated NIS donated food to eligible recipient agencies. This program will be the only available FNS program for the processing of NIS donated food available under NIS except as otherwise indicated in this Part (255.4(c)).

"NIS donated food" or "NIS donated commodity" means food donated by the Department for use by eligible recipient agencies and designated by the Secretary as available through the NIS.

"Recipient agency" means disaster organizations, charitable institutions, nonprofit summer camps for children, school food authorities, schools, service institutions, welfare agencies, nutrition programs for the elderly, nonresidential child care institutions and emergency feeding organizations that have approved State agreements with the State Distributing Agency.

"State Agreement" means an agreement between a State distributing agency and a food processor which sets forth the terms and conditions for the sale of specific NIS end products in each State.

"Substitution" means the replacement of NIS donated food with like quantities of domestically produced commercial food of the same generic identity and of equal or better quality (i.e., cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.).

§ 255.3 Administration.

(a) *Functions.* The Secretary will designate the NIS donated food which will be available under the NIS Program. FNS will enter into agreements with eligible processors under the NIS Program. The Department will pay the costs of delivering NIS donated food to participating NIS Program processors.

(b) *Agreement Approval.* FNS may enter into a federal agreement with any eligible applicant food processor. The federal agreement shall establish: NIS donated food yield; the value of NIS donated food; allowable NIS donated food value pass through system(s); master listing of approved end products; and required bond coverage. Upon approval of a federal agreement with a processor, FNS will provide State distributing agencies through the FNS regional offices with all aforementioned agreement information contained in this section.

(c) *Food orders.* NIS Program processors shall submit written requests for NIS donated food. Processors may receive only that quantity of NIS donated food which FNS determines is consistent with the processor's ability to sell end products and/or the processor's past demonstrated performance under the NCP and State processing programs. Upon approval of a request, FNS will request that CCC deliver the NIS donated food to the processor at a location mutually agreed upon by FNS and the processor. The title to the NIS donated food transfers to FNS upon acceptance by the processor. FNS retains title to such NIS donated food until:

(1) A State agency certifies that an approved sale of NIS end products has occurred. At such time title to the NIS donated food represented by that sale passes to the eligible recipient agency which received the NIS end product;

(2) The NIS donated food is disposed of because it is damaged or out-of-condition; or

(3) Title is transferred to the NIS Program processor after termination of the agreement upon proper payment to FNS for the NIS donated food.

(d) *Substituted food.* When FNS approves the substitution of commercially acquired food for NIS donated food, title to the substituted food shall transfer to FNS and the processor shall use the substituted food in accordance with the terms and conditions of this Part.

(e) *Inventory levels.* Processors shall insure that inventories of NIS donated food remain at the lowest cost-efficient level. In no event shall a processor hold in inventory more than a 6-month supply of NIS donated food, based on average monthly usage under the NIS Program. Under no circumstances shall the amount of NIS donated food requested by the processor be more than the processor can accept and store at any one time. FNS will make no further distribution to a processor whose inventory exceeds these limits until such time as the inventory is reduced to a six-month level. At the end of each contract year, if FNS determines that the processor holds excessive inventories of NIS donated food, FNS may require the processor to purchase from FNS the excess amount.

(f) *Monitoring.* FNS will coordinate NIS processor on site reviews. Such reviews may be conducted by representatives of FNS and other Federal or State agencies. The FNS regional offices shall have the responsibility for monitoring State agency compliance with NIS Program functions through reviews.

§ 255.4 Processor responsibilities.

(a) *Federal Agreement Overview.* Except as otherwise provided for in this Part, any processor is eligible to apply for participation in the NIS Program. Applications may be filed with FNS at any time on an FNS approved form. In order to be approved for participation in the NIS, the processor must demonstrate at a minimum: financial responsibility; the ability to meet the terms and conditions of the regulations and the NIS agreement; the ability to accept and store commodities in minimum truckload quantities; if applicable, satisfactory prior performance under the State and/or NCP donated food processing programs; anticipated new markets for NIS end products in the area of the country served by the processor; the ability to distribute processed products to eligible recipient agencies; and a satisfactory record of integrity, business ethics and performance. In addition, the processor must demonstrate the ability to sell end products under NIS by submitting supporting documentation such as written intent to purchase, bids awarded, or historical sales performance.

(b) *Federal Agreement Provisions.* In accordance with the following provisions and the NIS Federal agreement, any processor desiring to participate in the NIS Program must establish itself as an approved NIS processor by obtaining an approved federal agreement. Approval of the federal agreement shall be a prerequisite for entering into NIS State agreements. The processor shall agree to be bound to the following requirements:

(1) The processor shall submit to FNS end product data schedules which include a description of each end product to be processed, the quantity of each NIS donated food used and any other ingredient needed to yield a specific number of units of each end product. FNS may permit processors to specify the total quantity of flavorings or seasonings to be used without identifying the ingredients which are, or may be components of seasonings or flavorings. The end product data schedule must include the processors' free on board (FOB) plant price schedule for quantity purchases of processed products and the price reduction which reflects the value of NIS donated food. When determining the value of the NIS donated food, the processor shall use the donated food agreement value of the NIS donated food. The end product data

schedule shall be made part of the NIS Federal agreement.

(2) The processor shall use a method or methods of selling end products to recipient agencies which ensures that the price of each case of end product is reduced by the agreement value of the NIS donated commodity and ensures proper accountability. In line with FNS guidelines and subject to FNS approval, the processor shall select one or more of the following donated food value return systems to use during the term of the agreement. The system(s) selected by the processor shall be stated in the federal agreement and shall be the only system(s) permitted for use under State agreements. Regardless of the method used, the processor shall ensure that the invoice clearly indicates the discount included or refund due on the end product and clearly identifies that the discount included or refund due is for the value of the NIS donated food.

(i) *Direct Sale.* A direct sale is a sale by the processor directly to the eligible recipient agency. The following two methods of direct sales are allowed:

(A) *Discount System.* When the recipient agency pays the processor directly for an end product purchased, the processor shall invoice the recipient agency at the net case price which shall reflect the value of the discount established in the agreement.

(B) *Refund System.* The processor shall invoice the recipient agency for the commercial/gross price of the end product. The recipient agency shall submit a refund application to the processor or through the State agency if the State requires it within 30 days of receipt of the processed end product. The processor shall pay directly to the eligible recipient agency within 10 days of receipt of the refund application from the recipient agency, an amount equal to the established agreement value of NIS donated food per case of end product multiplied by the number of cases delivered to and accepted by the recipient agency. After the end of the 60 day refund submission deadline, a recipient agency shall not be reimbursed for the value of NIS donated food. In no event shall refund applications for purchases during the period of agreement be accepted by the processor later than 60 days after the close of the agreement period.

(ii) *Indirect Sale.* An indirect sale is a sale by the processor through a distributor to an eligible recipient agency. Indirect sales can be made with or without dual billing. Dual billing involves the processor billing the recipient agency for the end product and the distributor billing the recipient agency for the cost of services rendered in the handling and delivery of the end product. The following three methods of indirect sales are allowed:

(A) *Sale Through Distributor with Dual Billing.* When end products are sold to recipient agencies through a distributor under a system utilizing dual billing, the processor shall invoice the recipient agencies directly for the end products purchased at the net case price which reflects the value of the discount established in the agreement. The processor shall ensure that the distributor bills the recipient agencies only for the services rendered in the handling and delivery of the end product. The processor shall maintain delivery and/or billing invoices to substantiate the quantity of end product delivered to each recipient agency and the net case price charged by the processor which reflects the discount established by the agreement.

(B) *Sale Through Distributor without Dual Billing (Hybrid System).* When end products are sold to recipient agencies through a distributor without dual billing, processors shall provide refunds to the distributor and ensure that the distributor provides discounts of equal value to recipient agencies. Under this system, the processor shall sell end products to a distributor at the processor's commercial/gross price for the end product. The processor's invoice shall reflect the value of NIS commodities contained in the end product as established by the primary agreement. The processor shall ensure that the distributor invoices the recipient agency at a price which reflects the value of the discount established by the agreement. The processor shall ensure that the distributor submits a refund application to the processor within 30 days after the eligible recipient agency receives the processed end product. The processor shall ensure that the refund application includes documentation of the purchase of end products by the eligible recipient agency through substantiating invoices and that the recipient agency has purchased the end product at the net case price which reflects the value of the discount established by the federal and State agreements. The processor shall ensure that the distributor does not issue credits to recipient agencies for future purchases of end products to cover the value of the donated food. Within 30 days of the receipt of the refund application, the processor shall issue payment directly to the distributor in an amount equal to the stated agreement value of the NIS donated food contained in the purchased end products coverd by the application. In no event shall refund applications for purchases during the period of agreement be accepted by the processor later than 60 days after the close of the agreement period.

(C) *Sale Through Distributor with a Refund.* Under the refund system, processors shall sell end products to distributors at the commercial/gross price of the end product. Distributors shall sell end products to recipient agencies at the commercial/gross price of the end products. Processors shall ensure that their invoices and the invoices of distributors identify the discount established by the agreement. Recipient agencies shall submit refund applications within 30 days of receipt of the processed end product to the processor or through the State agency if the State requires it. Within 10 days of receipt of the refund application from the recipient agency or the State certifying actual purchases of end products based on substantiating invoices maintained by the recipient agency, the processor shall compute the amount and issue payment of the refund directly to the recipient agency. After the end of the 60 day refund submission deadline, a recipient agency may not be reimbursed for the value of NIS donated commodities. In no event shall refund applications for purchases be accepted by the processor later than 30 days after the close of the agreement period.

(3) Prior to approval, the processor shall furnish to FNS a performance supply and surety bond obtained from surety companies listed in the current Department of Treasury Circular 570 sufficient to protect the NIS donated food for which the processor is responsible. The coverage of the bond shall be increased prior to requesting food orders if the amount requested would cause the bond coverage to be inadequate. In no event shall a processor's bond be less than the value of food on order and in inventory, determined by using the agreement value of the NIS donated food.

(4) The processor shall withdraw from NIS donated food on hand only the amount of donated food needed to produce the NIS end product. Processors shall ensure that amount equivalent to 100 percent of the NIS donated food provided to the processor under the NIS Program is contained in end products. Additional commodities required to account for loss of NIS donated food during production shall be obtained from non-donated food.

(5) The processor shall contact FNS regarding any substitution of NIS donated food. Advance approval must be obtained from FNS for any substitutions except to replace foods

with commercial products to meet the 100 percent yield requirement. With such replacement, the processor shall substitute for NIS donated food like quantities of domestically produced commercial food of the same generic indentity (i.e., cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.) and of equal or better quality. Substitution may not be made solely for the purpose of selling or disposing of the donated food in commercial channels for profit. For substitution not related to the 100 percent yield requirement, substitution will be approved only in the situation of commingling of NIS donated food and commercial food or when delays in donated food shipments adversely affect production. The processor shall maintain records to substantiate that it continues to acquire on the commercial market amounts of substitutable food consistent with its level of non-NIS Program production and shall document the receipt and disposition of the NIS donated food.

(6) The processor shall be liable for all NIS donated food provided under the agreement. The processor shall report to FNS within 30 days of receipt of the NIS donated food, any loss or damage to donated food and shall dispose or damaged or out-of-condition food in accordance with § 250.7. All such reports shall be made on an FNS approved form.

(7) The processor shall submit to FNS monthly reports concerning NIS donated food. The reports shall be received by FNS no later than the final day of the month following the reporting period. The report shall include: the amount of NIS donated food received by the processor from the Department during the reporting period and the date of such shipments, the amount of NIS donated food held by the processor at the beginning of the reporting period, the amount of NIS donated food represented in sales of end products reported to each State agency for the reporting period, and the amount of donated food remaining at the end of the reporting period.

(8) At the end of the agreement period, the processor may, for a period of 90 days, report to FNS adjustments in the amount of NIS donated food represented by sales of end product to eligible recipient agencies provided such sales are confirmed by the State agency upon State review of performance reports submitted by the processor. If FNS requires the processor to purchase excess amounts of NIS donated food held by the processor in inventory, the processor may not enter into a subsequent agreement with FNS until FNS has received payment for such excess donated food.

(9) The processor shall maintain complete and accurate records of the receipt and use of NIS donated food and the production, distributing and sales of end products processd for NIS donated food. The processor shall keep production reocords, formulae, recipes, daily or batch production records, loadout sheets, bills of lading, and other processingand shipping records to substantiate the use of the NIS donated food and the subsequent redelivery to an eligible recipient agency.

(10) The processor shall provide performance reports to each State agency concerning sales of approved products to eligible recipient agencies as required by the State agreement and § 255.4(d)(3). Failure to do so may result in termination of the federal agreement. The processor shall conduct verification of all sales reported to the State in such performance reports, as required by the State agreement and this section. The processors shall report the results of such verification to the State and adjust performance reports to reflect such verification activities as required by the State agreement and this section.

(11) The processor shall make all pertinent records available for inspection and review upon request by FNS, its representatives, the General Accounting Office (GAO), the Office of the Inspector General (OIG) and any other State or Federal agency with oversight responsibilities. All records must be retained for a period of three years from the close of the Federal fiscal year to which they pertain. Longer retention may be required for resolution of an audit or of any litigation.

(12) The processor shall obtain upon FNS request, Federal acceptance service grading and review of processing activities and shall be bound by the term and conditions of the grading and/or review in accordance with the provisions contained in § 250.15(h).

(13) The processor shall indemnify and save FNS, the recipient agency, and the State free and harmless from any claims, damages, judgements, expenses, attorney's fees, and compensation arising out of physical injury, death, and/or property damage sustanined or alleged to have been sustained in whole or in part by any and all persons whatsover as a result of or arising out of any act or omission of the processor, his/her agents or employees, or cause or resulting from any deleterious substance, including bacteria, in any of the products produced from NIS donated food.

(14) Upon agreement termination, the processor shall pay FNS for all NIS donated food accepted by the processor and not used in authorized NIS end products sold to eligible receipent agencies in accordance with this Part. The NIS donated food shall be valued as follows:

(i) When a federal agreement is terminated, or has expired and FNS determines that the processor failed to comply with the terms and conditions of the agreement, or because any right of FNS or the State agency is threatened or jeopardized by the processor, the possessor shall pay FNS, upon demand, an amount equal to the CCC unrestricted sales price, the cost to CCC of replacement of the NIS donated food on the date the agreement is terminated, or the agreement value of the NIS donated food, plus any expenses incurred by FNS or the State agency. FNS shall immediately notify the appropriate State agencies upon the termination of a processor's federal agreement.

(ii) When the federal agreement is terminated, or has expired and there has been no fault or negligence on the part of the processor, the processor shall pay FNS, upon demand, an amount equal to the CCC unrestricted sales price, the cost to CCC of replacement on the date the agreement is terminated, or the agreement value of the NIS donated foods. FNS will immediately notify the appropriate State agencies upon the termination of a processor's federal agreement.

(15) The processor shall comply fully with the provisions of the NIS agreement and all federal regulations and instructions relevant to the NIS Program. Failure of the processor to comply with all such requirements shall be grounds for termination by FNS of the federal agreement.

(16) The processor shall label end products in accordance with § 250.15(i) and, when end products contain vegetable protein products, in accordance with 7 CFR parts 210, 225, or 226, Appendix A. If a manufacturer makes a claim of an end product's contribution to meal pattern requirements for the Child Nutrition Programs, the product must carry a Child Nutrition (CN) lable, in accordance with the CN Labeling Program as established in 7 CFR Part 210, 220, 225 and 226, Appendix C.

(17) the processor shall return to FNS the value of or sales proceeds from the sale of NIS donated food containers and the value of or sales proceeds from the sale of any by-products of NIS donated food or commercial food which have

been substituted for NIS donated food. The value of donated food containers and by-products shall be determined by FNS.

(18) NIS processors shall obtain an independent audit of NIS operations by a certified public accountant (CPA). The frequency of audits will be based on the value of NIS donated food that a processor receives in shipment during each agreement year. For any year in which an NIS processor receives more than $250,000 in NIS donated foods, the processor must obtain an independent CPA audit. Processors which receive $75,000 to $250,000 in NIS donated food each year must obtain an independent CPA audit every two years and those which receive less than $75,000 in NIS donated food each year must obtain an independent CPA audit every three years. In instances in which FNS determines that an audit has disclosed serious deficiencies, the processor may be required to complete additional CPA audits at the request of FNS.

(i) The processor shall ensure that the audit is conducted in accordance with the auditing provisions set forth under the Uniform Federal Assistance Regulations (7 CFR Part 3015, Subpart I).

(ii) The costs of the audits shall be borne by the processors.

(iii) Failure to conduct an audit as required by paragraph (b)(17) of this section of failure to correct deficiencies identified by such audit will render the processor ineligible to enter into another NIS agreement until the required audit has been conducted and/or deficiencies corrected.

(iv) Processors shall develop a written response to FNS addressing deficiencies which have been identified in the audit. Such response shall include:

(A) Corrective action which has been taken to eliminate the deficiency;

(B) Corrective action which the processor proposes to take to eliminate the deficiency;

(C) The timeframes for the implementation and completion of the corrective action;

(D) A determination of what caused the deficiency; and

(E) Deficiencies which have been identified that the processor takes exception to and an explanation for the exception.

(c) *State Agreement Overview.* Upon approval of a Federal agreement by FNS, State agencies may enter into State agreements with processors. Copies of all State agreements shall be forwarded to the appropriate FNS regional office for their review and information. In order to participate in the NIS Program, a processor must enter into a federal agreement and at least one State NIS Program agreement.

(d) *State Agreement Provisions.* In accordance with the following provisions and the NIS State agreement, any processor participating in the NIS Program may sell a processed product containing the NIS donated food received from FNS to any eligible recipient agency within the State. The State agreement shall be valid for a period of one year and shall terminate upon termination of the processor's federal agreement with FNS. State agencies shall ensure that the following requiremens or items of information are contained in the NIS State agreements:

(1) State agencies shall choose end products approved under a processor's NIS federal agreement that may be sold under the State agreement. However, State agencies participating in NIS may restrict the sale of end products available through a processor and approved under the federal agreement only in the following ways:

(i) The State agency may restrict the sale of an entire class of end products (e.g., any end product which fails to make a contribution to the meal pattern requirements of §§ 210.10; 220.8; 225.20; and 226.20).

(ii) The State agency may restrict the sale of an end product which does not meet specifications established by the State agency for that class of end products.

(iii) The State may restrict the sale of a processor's product if the State requires an end product covered under Parts 210, 220, 225, and 226, to carry CN label and the processor's end product does not carry a CN label.

(iv) The State may require processors electing to participate in NIS to make their end products available to eligible recipient agencies throughout the State.

(v) The State may restrict the sale of an end product so long as the restriction on the sale of that end product applies to all NIS processors operating in the State.

(2) The State agreements shall establish which commodity value pass through system(s) approved in § 255.4 (b)(3) of the federal agreement may be utilized under the State agreement.

(3) The processor shall submit to the State agency monthly performance reports reflecting the sale and delivery of end products within the State. The processor shall ensure that the monthly activity report is received no later than the last day of the month following the reporting month. This report must be submitted on an FNS approved form. The processor shall identify the month of delivery for each sale reported. The sale and delivery of end products in any prior month may be included in the monthly activity report. The processor monthly activity report shall include: a list of all recipient agencies purchasing end products and the number of units of end products delivered to each during the report month: the net price paid for each unit of end product and the amount of the discount given or refund made per case; when the sale is made through a distrubutor, the name of the distributor; and the total amount of NIS donated food represented by product sales. Sales of end products in which a refund system is used shall be reported only upon payment by the processor of the refund.

(4) Processors shall verify a statistically valid sample of all sales which were made through distributors and reported to the State agency. The sample chosen must have a 95 percent confidence level. The processor shall verify, at a minimum, on a quarterly basis that sales of NIS end products were made only to eligible recipient agencies and that the value of the NIS donated commodities was passed through to those recipient agencies. The processor shall report to the State agency the number of invalid or inaccurate sales identified through the verification effort immediately upon completion of the verification. These sales shall be corrected on the succeeding performance report to the State agency. At the same time this report is submitted, the processor shall submit to the State agency a corrective action plan designed to correct problems identified in the verification effort. The processor shall adjust all monthly performance reports to reflect the invalid sales identified during the verification effort required by this paragraph.

(5) The processor shall maintain complete and accurate records of the receipt and use of NIS donated food and the production, sale and distribution of end products containing NIS donated food within the State (§ 255.4(b)(7)).

(6) If the State agency elects to terminate its State agreement, it must notify FNS of its intent to terminate the agreement at the same time the processor is so notified. Termination shall be accomplished in accordance with the provisions contained in paragraph (b)(14) of this section.

(7) If FNS or the processor terminates the NIS federal agreement or the federal agreement expires and is not renewed, the State agreement with that processor shall also terminate. After termination of the State agreement, the processor shall be permitted to report sales of end products made prior to termination to

the State agency for a period of 90 days following the termination date.

§ 255.5 State agency responsibilities.

(a) *Eligible recipient agencies.* The State agency shall provide each processor with an approved State agreement a listing of all recipient agencies eligible to receive NIS donated food available under the NIS Program within the State. This listing shall be updated on a quarterly basis, at a minimum. The State agency may charge a processor a cost-based fee for the list of approved recipient agencies.

(b) *Processor and end product information.* The State agency shall provide to all eligible recipient agencies with the State a listing of all NIS processors with approved State agreements. The State agency shall also provide a listing of all approved end products including pricing information. This listing will be updated on a quarterly basis, at a minimum.

(c) *Reporting.* The State agency shall obtain and review the monthly performance reports required of processors by § 255.4(d)(3). On the basis of such reports and verification of the accuracy of such reports, the State agency shall provide to the appropriate FNS Regional Office (FNSRO) donated food use certifications for each NIS processor holding an approved State agreement. The certification shall be based on the amount of NIS donated food used in NIS end products produced and sold in accordance with this Part. The donated food use certification shall be transmitted to the appropriate FNSRO no later than 30 days after the processor is required to submit each monthly activity report to the State agency pursuant to § 255.4(d)(3). State agencies may require whatever supporting documentation it deems necessary to substantiate that the sales reported were made and the discount or refund was passed through to the recipient agency. The State agency may charge recipient agencies a cost-based fee for monitoring performance reports.

(d) *Verification.* The State agency shall monitor all processors holding State agreements and verify processor reported sales to ensure compliance with the terms and conditions of the State agreement and NIS regulations.

(1) *Verification and Invalid Sales.* The State agency shall verify a statistically valid sample with a 95 percent confidence interval of all processor reported sales for the previous quarter to determine the accuracy of processor reporting, proper distribution of end products and whether the value of NIS donated food was passed on to eligible recipient agencies. Each sample shall run consecutively with the previous sample. Results of State agency sales verification will be used to project claims across the universe of total sales reported during the contract year. State agency verification of sales shall take precedence over processor verification in the event of a discrepancy between the results of the two verification efforts. If, as a result of this verification, the State agency determines that the value of NIS donated food has not been passed on to recipient agencies or that end products have been improperly distributed, the State agency shall disallow those sales and adjust the subsequent donated food use certification to reflect such disallowed sales. The State agency shall inform the processor of the results of verification activities and require the processor to initiate a corrective action plan to address any deficiencies identified. The State agency shall maintain all documentation pertaining to verification of processor sales and have it available for review during an FNSRO management evaluation of the State.

(2) *Monitoring.* The State agency may conduct monitoring of processors holding State agreements. This should include, but not be limited to, monitoring of records pertaining to the production of NIS donated foods and records pertaining to NIS reported sales within the State including invoices, delivery tickets and distributor reports. State agencies may be requested to assist FNS in on-site reviews conducted by FNS or other Federal reviewing agencies in accordance with § 255.3(f).

(e) *State Agency Performance.* (1) If a State is found to have failed to comply with any of the requirements of the Part, the State will be required to submit to the appropriate FNS Regional Office and implement within 30 days, a Corrective Action (CA) plan to address such deficiencies. If the State fails to correct identified deficiencies, FNS may suspend or terminate the State's participation in the NIS Program and withhold or recover from the State an appropriate portion of State Administrative Expense Funds provided to or available to the State pursuant to 7 CFR 235.4(b)(2) for the Food Distribution Program.

§255.6 Recipient agency responsibilities.

(a) *Agreement.* Recipient agencies that have approved agreements with State distributing agencies to receive NIS donated food may purchase end products produced under the NIS Program.

(b) *Refunds.* A recipient agency purchasing end products under the NIS Program from a processor utilizing a refund system shall submit a refund application supplied by the processor to the processor or the State agency if the State requires it within 30 days of receipt of the end products. Refund applications submitted to the processor after the 60 days will not be paid. Recipient agencies must ensure that any funds received as a result of refund payments be used in food service operations.

(c) *Verification/Audits.* If requested by the State agency or FNS, each recipient agency shall cooperate in the verification/audit of end product sales reported by processors under the NIS Program. The recipient agency may be requested to verify actual purchases of end products as substantiated by the recipient agency's invoices and may also be requested to verify that the invoice correctly identifies the discount included or refund due for the value of the donated ingredient contained in the end product.

(d) *Recipient agency records.* Each recipient agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of NIS donated food, including products processed from NIS donated food, and with respect to any funds which arise from the operation of the NIS Program.

(e) *Competitive Bidding of End Products.* Purchasing recipient agencies shall comply with State or local competitive bid procedures or the procurement standards in OMB Circular No. A–102, whichever are more stringent as determined by the recipient agency, for the purchase of NIS processed end products.

§ 255.7 Miscellaneous provisions

(a) *Improper distribution or loss of or damage to donated food.* If a processor improperly distributes or uses any NIS donated food, or causes loss of or damage to a NIS donated food through its failure to provide proper storage, care, or handling, FNS shall require the processor to pay to the Department the value of the NIS donated food as determined by the Department.

(b) *Disposition of damaged or out-of-condition food.* NIS donated food which is found to be damaged or out-of-condition and is declared unfit for human consumption by Federal, State or local health officials, or by other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. This instruction shall direct that unfit donated food be sold in a manner prescribed by the Department with the net proceeds thereof remitted to the

Department. Upon a finding by the Department that NIS donated food is unfit for human consumption at the time of delivery to a recipient agency and when the Department or appropriate health officials require that such donated food be destroyed, the processor shall pay for any expenses incurred in connection with such donated food as determined by the Department. The Department may, in any event, repossess damaged or out-of-condition NIS donated food.

(c) *Sanctions and mismanagement.* Any processor, State agency or recipient agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto, may, at the discretion of the Department, be disqualified from further participation in the NIS Program. Reinstatement may be made at the option of the Department. Disqualification shall not prevent the Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes. FNS may conduct a verification of processor reported sales utilizing a statistically valid sampling technique. If, as a result of this verification, FNS determines that the value of the NIS donated food has not been passed on to recipient agencies or if end products have been improperly distributed, FNS may assert a claim against the processor. Such claim may include a projection of the verification sample to the total NIS sales reported by the processor.

(d) *Embezzlement, misuse, theft, or obtainment by fraud of commodities and commodity-related funds, assets, or property in child nutrition programs.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud, NIS commodities donated for use in the NIS Program, or any funds, assets, or property deriving from such donations, or whoever receives, conceals, or retains such commodities, funds, assets, or property for his own use or gain, knowing such commodities, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to Federal criminal prosecution under section 12(g) of the National School Lunch Act, as amended, or section 4(c) of the Agriculture and Consumer Protection Act of 1973, as amended. For the purpose of this paragraph "funds, assets, or property" include, but are not limited to, NIS commodities which have been processed into different end products as provided for by this part, and the containers in which commodities have been received from the Department.

(Approved by the Office of Management and Budget under control No. 0584–0325)

Dated: August 11, 1986.

John W. Bode,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 86–18409 Filed 8–14–86; 8:45 am]

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Federal Crop Insurance Corporation

7 CFR Part 441

[Doc. No. 0091A]

Table Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise the reissue the Table Grape Crop Insurance Regulations (7 CFR Part 441), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Add as a cause of loss the unavoidable failure of irrigation water supply after insurance attaches; (2) change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (3) change to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for an insurance offer for yield determinations; (4) allow the guarantee to be based on "stages"; (5) revise the date table; (6) shorten the length of time an insured has to give notice when claiming an indemnity; (7) change the method of computing indemnities when acreage, share, or practice is underreported; (8) add definitions of "loss ratio" and "cluster thinning and removal". The authority for the promulgation of this rule is contained in the Federal Grape Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 15, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096-South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the talbe grape policy are:

1. Section 1.a.—Add the failure of irrigation water supply due to unavoidable cause as an insurable cause of loss . This clarifies intent since it is implied as a cause of loss in Section 2.e.(2).

2. Section 2.c.—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

3. Section 4.b.—Add a provision to base the production guarantee on the stage of development. This is added to help reduce overinsuring because of expense not incurred until after the first stage.

Section 4.e.—Add a provision to require submission of a production report prior to the next crop year for determining the yield guarantee. In cases where such production report cannot be furnished, the Corporation will assign a yield to determine the yield guarantee for the crop year.

4. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit.

Remove the provisions for transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

5. *Section 7.f.*—Change the end of the insurance period date in certain counties.

6. Section 8.a.(4)—Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities in more timely fashion.

7. Section 8.a.(4)(b) and 9.a.(5)—Change the date for the end of the insurance period from October 31 to the date contained in section 7.f.

8. Section 9.—When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and the complexity of calculations.

9. Section 9.e.—Change to allow appraised production that meets the California Department of Food and Agriculture minimum standards to be included in the total production.

10. Section 9.e(1)—Add a provision to count toward the total production any damaged grapes that may be marketed for another use.

11. Section 9.e.(2)(a)—Replace "Green drop" with "Cluster thinning and removal" to be specific in our terminology.

12. Section 9.e.(2)(c)—Add a provision to count as appraised production any unharvested production for which table grape cultural practices were discontinued following an appraisal.

13. Section 17.—Add definition of "Cluster thinning and removal" and "Loss ratio".

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 441

Crop insurance, Table grape.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Table Grape Crop Insurance Regulations (7 CFR Part 441), effective for the 1987 and succeeding crop years, to read as follows:

PART 441—TABLE GRAPE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

441.1 Availability of table grape crop insurance.
441.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
441.3 OMB control numbers.
441.4 Creditors.
441.5 Good faith reliance on misrepresentation.
441.6 The contract.
441.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 441.1 Availability of table grape crop insurance.

Insurance shall be offered under the provisions of this subpart on table grapes in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 441.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for table grapes which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 441.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 441.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 441.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the table grape crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity woud not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 441.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the table grape crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table.

Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 441.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the table grape crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a table grape contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Table Grape Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Table Grape—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period.

(1) Adverse weather conditions;
(2) fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption;
(6) Direct Mediterranean Fruit Fly damage; or
(7) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches; unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(6).

b. We will not insure against any loss of production due to:

(1) the neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;
(2) the failure to follow recognized good table grape management practices;
(3) the failure or breakdown of irrigation equipment or facilities;
(4) the failure to follow recognized good table grape irrigation practices;
(5) the impoundment of water by any governmental, public, or private dam or reservoir project; or
(6) any cause not specified in subsection 1.a. as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured will be any insurable variety of grapes grown for harvest as table grapes on insured acreage on which the cultural practices to produce table grapes are carried out and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be grapes grown on insurable acreage as designated by the acturial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured grapes at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) the time of loss; or
(2) the beginning of harvest.

d. We do not insure any acreage:

(1) On which the vines, after being set out, have not reached the number of growing seasons designated by the actuarial table;
(2) Which has not produced an average of 150 lugs of table grapes per acre;
(3) Which does not have acceptable records of acreage and production unless we agree, in writing, to insure such acreage; or
(4) With less than a 90 percent stand of bearing vines based on the original planting pattern, unless we agree, in writing, to insure such acreage.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water at the time insurance attaches, to carry out a good grape irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of grapes in the county on which cultural practices to produce table grapes are carried out and in which you have a share;

b. The practice;

c. Your share on the date insurance attaches; and

d. The number of bearing vines (if less than 90 percent of a stand based on the original planting pattern). You must designate separately any acreage that is not insurable. You must report if you do not have a share in any grapes grown in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. The production guarantee in the actuarial table is the second stage guarantee. The first stage guarantee is 40 percent of the second stage guarantee. The stages are:

(1) First stage applies from the date insurance attaches until April 1 for Riverside and San Bernadino counties and May 1 for all other counties and for all varieties except Thompson Seedless. Thompson Seedless will remain in the first stage from the time insurance attaches until chemical treatment cultural practices to produce table grape sizing is carried out. (Our liability will be limited to the first stage guarantee if the grapes were damaged during this period to the extent that growers in the area generally would not further care for the crop.)

(2) Second stage applies to all grapes after the first stage; provided, that the cultural practices to produce table grapes were carried out.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

e. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75% of the yield assigned for the

purpose of determining your guarantee for the present crop year.

If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first preimum billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches or February 1 and ends on the earliest of:

a. Total destriction of the grapes on the unit;

b. Discontinuance of cultural practices to produce table grapes;

c. The date harvest should have started on the unit on any acreage which will not be harvested as table grapes;

d. Harvest;'

e. Discontinuance of harvesting of table grapes on the unit;

f. Final adjustment of a loss; or

g. The following applicable date of the calendar year in which the grapes are normally harvested:

California county(ies)	Variety	Dates
Fresno, Kern, Kings	Perlette	August 15.
Madera, and Tulare	Cardinal	August 15.
	Exotic	August 31.
	Flame Seedless	August 31.
	Superior Seedless	August 31.
	Red Malaga	September 15.
	Queen	September 15.
	Thompson Seedless.	September 15.
	Black Rose	September 30.
	Italia	September 30.
	White Malaga	October 15.
	Ribier	October 15.
	Ruby Seedless	October 15.
	All others	October 31.
Merced, Stanislaus	Flame Seedless	September 15.
and San Joaquin	Thompson Seedless.	September 30
	Ribier	October 15.
	Flame Tokay	October 15.
	All others	October 31.
Riverside and San Bernadino.	Beauty Seedless	July 15.
	Perlette	July 15.
	All others	July 31.

8. Notice of Damage of Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if, during the period before harvest, the grapes on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice:

(a) At lease 15 days before the beginning of harvest if you anticipate a loss on any unit; or

(b) Immediately, if damage occurs within 15 days prior to harvest or during harvest.

(3) If you are going to claim an indemnity on any unit, you must give us notice not later than 72 hours after the earliest of:

(a) Total destruction of the grapes on the unit;

(b) Discontinuance of cultural practices to produce table grapes;

(c) Discontinuance of harvest of any acreage on the unit; or

(d) The date harvest would normally start if any acreage on the unit is not to be harvested as table grapes.

(4) Unless notice has been given under subsection (3) above, and in addition to the other notices required by the subsection, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earlier of:

(a) Harvest of the unit; or

(b) The calendar date for the end of the insurance period (subsection 7.f).

b. You must obtain written consent from us before you destroy any of the grapes which are not to be harvested.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity or a unit must be submitted to us on our form not later than 60 days after the end of the insurance period (see Section 7).

b. We will not pay any indemnity unless you:

(1) Establish the total production of grapes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of grapes to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in lugs) to be counted for a unit will include all production harvested as table grapes and all appraised production, that meets the California Department of Food and Agriculture minimum standards.

(1) Table grape production damaged by insurable causes within the insurance period that could be marketed for any use as other than table grapes will be determined by multiplying the greater of the total value of the grapes per ton or $50 times the number of tons, and dividing that result by the highest price election available. This result will be the number of lugs to count.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes, and any change in management practices (cluster thinning and removal);

(b) Not less than the applicable guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our prior written consent;

(c) Any unharvested production where table grape cultural practices were discontinued following an appraisal; and

(d) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Not harvested before the harvest of grapes becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

(4) If any grapes are harvested before normal maturity, the production of such grapes will be increased by the factor obtained by dividing the price per lug received for such grapes by the price per lug for full matured grapes.

(5) We may determine the amount of production of any unharvested grapes on the basis of field appraisals conducted after discontinuance of harvest or the end of the insurance period.

(6) If you elect to exclude hail and fire as insured causes of loss and the grapes are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

We have a policy for paying your indenmity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and

published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insureance attaches for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the crop year, only in writing on our form, and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all grapes produced on each unit including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are January 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than a individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by October 31 preceding the concellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of table grape crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding table grape insurance in the county.

b. "Cluster thinning and removal" means removing parts of a cluster or the entire cluster of grapes.

c. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way will also be considered contiguous.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

e. "Crop year" means the period beginning with the date insurance attaches and extending through normal harvest time and is designated by the calendar year in which the grapes are normally harvested.

f. "Direct Mediterranean fruit fly damage" means the actual physical damage to the grapes on the unit which causes such grapes to be unmarketable and will not include unmarketability of such grapes as a direct result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

g. "Harvest" means picking the grapes from the vines.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Loss ratio" means the ratio of indemnity to premium.

k. "Lug" means 22 pounds of table grapes in the Coachella Valley, California, district, and 23 pounds in all other California districts.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Table grapes" means the grapes which are grown for commercial sales as fresh grapes, on acreage which the cultural practices to produce fresh marketable grapes were carried out.

o. "Tenant" means a person who rents land from another person for a share of the grapes or a share of the proceeds therefrom.

p. "Unit" means all insurable acreage of grapes in the county located on contiguous land on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grapes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any

acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulatred for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations, (7 CFR Part 400-Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on July 15, 1986.

Edward Hews,

Deputy Manager.

[FR Doc. 86-18433 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-08-M

Soil Conservation Service

7 CFR Part 656

Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs

AGENCY: Soil Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Soil Conservation Service (SCS) removes and reserves six sections of its regulations protecting archeological and historic properties. The purpose of this action is to eliminate procedures that are inconsistent with current requirements.

DATE: Comments are due by October 14, 1986.

ADDRESSES: Gail Updegraff, Director, Economics and Social Sciences Division, USDA/SCS, P.O. Box 2890, Washington, DC 20013-2890.

FOR FURTHER INFORMATION CONTACT: Gail Updegraff, Director, Economics and Social Sciences Division, or Diane Gelburd, National Cultural Resources Specialist, Economics and Social Sciences Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013, (202) 447-2307, or Ronald Anzalone, Advisory Council on Historic Preservation, The Old Post Office Building, 1100 Pennsylvania Avenue NW., Room 809, Washington, DC 20004, (202) 785-0505.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA criteria established to carry out Executive Order 12291, Improving Government Regulations, and has been classified "not significant." On July 18, 1977, SCS published in the **Federal Register** (42 FR 36804) its final rule "Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs" (7 CFR Part 656). Amendments to this rule were published in the **Federal Register** on June 19, 1978, and on June 23, 1979 (43 FR 26277 and 44 FR 27158). Proposed revisions of this rule were published in the **Federal Register** on January 29, 1981 (46 FR 9611) on August 20, 1982 (47 FR 36592) and on December 9, 1983 (48 FR 55123).

This action is being taken to ensure compliance with applicable statutes and regulations and the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) for implementing section 106 of the National Historic Preservation Act, as amended (16 U.S.C. 470f). When 36 CFR Part 800 is revised as a final rule, SCS will work with the Advisory Council on Historic Preservation to revise this rule, if necessary.

The determination has been made pursuant to the provisions of Excutive Order 12291 that the preparation of a regulatory impact analysis is not required. The rule is not considered major under Executive Order 12291. The regulation concerns agency policy and guidelines.

It has also been determined, pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534), that the rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 656

Historic preservation, Soil conservation.

Accordingly, the Soil Conservation Service proposes to amend Part 656 as follows:

PART 656—[AMENDED]

1. The authority citation for Part 656 is revised to read as follows:

Authority: Pub. L. 83-523, 74 Stat. 220, as amended (16 U.S.C. 469 et seq.); PL 89-665, 80 Stat. 915, as amended (16 U.S.C. 470 et seq.); 7 CFR 2.62.

§§ 656.4-656.9 [Removed and Reserved]

2. Sections 656.4, 656.5, 656.6, 656.7, 656.8, and 656.9 are proposed to be removed and reserved.

Dated: July 29, 1986.

Wilson Scaling

Chief.

[FR Doc. 86-17677 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, CA; Withdrawal of Proposed Amendment of Date Expenses and Rate of Assessment for 1985-86 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposal.

SUMMARY: This document withdraws a proposal that would have authorized an increase in expenses for the California Date Administrative Committee and an increase in the rate of assessment for the 1985-86 crop year. The expenses would have been increased from $26,050 to $176,050, and the assessment rate would have been increased from 8 cents to $1.00 per hundredweight of assessable dates. The changes were proposed to enable the date industry to conduct a market research, promotion, and paid advertising program. The committee locally administers the Federal marketing order covering dates of domestic production. After extensive review of the comments received and other information, the Department has determined that a retroactive assessment increase of the magnitude proposed could cause adverse economic hardship on some. date handlers, and that the proposal should be withdrawn.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250; Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This document withdraws a proposal published in the **Federal Register** on May 30, 1986 (51 FR 19558), to increase the expenses of the California Date Administrative Committee and increase the rate of assessment for the 1985-86 crop year. Comments were requested until June 9, 1986. Thirteen comments were received; six comments supported the proposal, six comments opposed the

proposal, and one comment was neither for nor against it.

The proponents favored the retroactive increase as a means of helping the industry overcome its severe oversupply problem. There is a need for corrective action to improve the economic condition of the California date industry. However, opponents pointed out that a retroactive assessment increase of this magnitude could result in economic hardship on those handlers who have sold all or most of their 1985 crop because these handlers would not be able to make up for the increased assessment rate.

After consideration of all relevant matter presented, including the comments received and other information, it is found that implementation of the proposal could have an adverse financial impact on some handlers at this point in the season. The potential for adverse economic impact is a major concern that cannot be disregarded. Therefore, the proposed amendment to 7 CFR 987.330, published in the **Federal Register** on May 30, 1986 (51 FR 19558), is hereby withdrawn.

Dated: August 8, 1986

Joseph A. Gribbin

Director, Fruit and Vegetable Divisions.

[FR Doc. 86-18371 Filed 8-14-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1007, 1011, 1046, 1093, 1094, 1096, and 1098

[Docket No. AO-366-A28, et al.]

Milk in the Georgia and Certain Other Marketing Areas: Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Parts	Marketing area	Docket Nos.
1007	Georgia	AO-366-A28
1011	Tennessee Valley	AO-251-A31
1046	Louisville-Lexington-Evansville	AO-123-A57
1093	Alabama-West Florida	AO-366-A7
1094	New Orleans-Mississippi	AO-103-A49
1096	Greater Louisiana	AO-257-A36
1098	Nashville, Tennessee	AO-184-A51

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by a cooperative association, dairy processors and processor associations to amend 7 southeastern Federal marketing orders. Proponents indicate that the proposals are designed to provide payments under the orders for marketwide services.

DATE: The hearing will convene at 9:30 a.m., local time, on September 8, 1986.

ADDRESS: The hearing will be held at the Colony Square Hotel, Peachtree and 14th Street NE., Atlanta, Georgia 30361 (404/892-6000).

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of section 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Colony Square Hotel, Peachtree and 14th Street NE., Atlanta, Georgia 30361 (404/892-6000), beginning at 9:30 a.m. on September 8, 1986, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Georgia and certain other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders. In general, the Department is interested in obtaining responses to the following questions:

1. What is the need for the proposed marketwide service payment or credit?
2. What is the cost justification for the payment or credit for the proposed marketwide service?
3. How is the proposed marketing service of marketwide benefit?

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1007, 1011, 1046, 1093, 1094, 1096, and 1098

Milk marketing orders, Milk, Dairy products.

The authority citation for Parts 1007, 1011, 1046, 1093, 1094, 1096, and 1098 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc

Proposal No. 1

Revise the Georgia, Tennessee Valley, Louisville-Lexington-Evansville, Alabama-West Florida, New Orleans-Mississippi, Greater Louisiana and Nashville, Tennessee milk orders as follows:

A. Revise section 9 of the order (handler definition) by adding a new paragraph to read as follows:

Any cooperative association with respect to milk, excluding the milk of producers delivered to a handler pursuant to paragraph (a) or (c) of this section, that it receives for its account for delivery to a pool plant of another handler, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk.

B. In paragraph (b) of section 12 of the order (producer definition), delete the provision that reads as follows:

Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such order.

C. In section 30 of the order (reports of receipts and utilization), revise paragraph (a)(4) to read as follows:

(4) Receipts of other source milk, including milk received from a cooperative association as a handler described in section 9 (paragraph set forth in proposal 1A)."

D. In section 42 of the order (classification of transfers and diversions), revise paragraph (b)(2) by adding the words "or diverted" after the words "If transferred".

E. Revise section 45 of the order (market administrator's reports and announcements concerning classification), by adding a new paragraph (e) to read as follows:

(e) Report to the cooperative association as a handler pursuant to section 9 (paragraph set forth in proposal 1A), as soon as possible after the report of receipts and utilization for the month is received from a handler who has received, for the account of the cooperative association, fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to section 44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

F. In section 60 of the order (handler's value of milk for computing uniform price), delete the text in paragraph (g) and substitute therefor the following paragraphs (for the New Orleans-Mississippi order, the paragraph to be deleted is paragraph (h) and the following paragraphs are to be substituted therefor):

(g) For a handler who regularly (by delivery of a load of milk or more on 14 or more days during the month) supplies two or more pool distributing plants, other than their own, subtract an amount computed as follows:

(1) On or before the 25th day of July of each year the market administrator shall compute a seasonal balancing base for each qualified handler for each of the following twelve months, beginning with the month of August, as follows:

(i) Compute a marketwide seasonal index of producer milk, excluding fluid cream products, used to produce Class III manufactured dairy products at pool plants or transferred or diverted for such use to nonpool plants as follows:

(*a*) Determine such volumes for each of the 36 months ending with the immediately proceeding month of June;

(*b*) Determine a daily average for each month using the data for each month for the three year period;

(*c*) Divide the daily average for each month of the year by the daily average for the three consecutive months of lowest Class I utilization of producer milk; and

(*d*) The resulting amounts computed for each month of the year shall be the marketwide seasonal index of producer milk.

(ii) Compute for each qualified handler a seasonal balancing base for each month as follows:

(*a*) Determine the handler's daily average volume of producer milk, excluding fluid cream products, used to produce Class III manufactured dairy products at pool plants or transferred or diverted for such use at nonpool plants for the same three months as determined in subparagraph (i)(c) of this section; and

(*b*) Multiply the result by the seasonal index, as determined in subparagraph (i)(d) of this section, for each month.

(2) Multiply the difference (positive difference only) between the handler's seasonal balancing base for the month, as determined in subparagraph (ii) of this section, and the handler's actual volume of producer milk, excluding fluid cream products used to produce Class III manufactured dairy products at pool plants or transferred or diverted for such use at nonpool plants during the month by 66 cents per hundredweight under the Tennessee Valley, Louisville-Lexington-Evansville, and Nashville, Tennessee orders; 74 cents per hundredweight under the Georgia and Alabama-West Florida orders; and 97 cents per hundredweight under the New Orleans-Mississippi and Greater Louisiana milk orders.

(h) During any of the months of March through June or the period of December 20–31, for a handler who regularly (by delivery of a load or more of milk on 14 or more days during the month) supplies two or more pool distributing plants, other than their own, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to section 42(3) or (d)(2) by a rate for each truckload of milk so moved that is equal to 3.0 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 75 miles (as determined by the market administrator) from the nearest of the following locations: for the Georgia order, the city hall in Atlanta; Georgia; for the Tennessee Valley order, the city hall in Bristol, Virginia, Knoxville or Chattanooga, Tennesee; for the Lousiville-Lexington-Evansville order, the city hall in Louisville or Lexington, Kentucky, or Evansville, Indiana; for the Alabama-West Florida order, the city hall in Birmingham, Alabama; for the New Orleans-Mississippi order, the city hall in New Orleans or Kentwood, Louisiana, or Jackson or Grenda, Mississippi; for the Greater Louisiana order, the city hall in Baton Rouge, Lake Charles, Shreveport, or Monroe, Louisiana; for the Nashville, Tennesse order, the city hall in Nashville, Tennessee; the transferor plant; or for diversions, the pool plant of last receipt for the major portion of milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so move to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

(i) During the months of August through February, whenever the combined Class I utilization of Producer milk for the Upper Florida (Part 1006), Tampa Bay (Part 1012), Southeastern Florida (Part 1013), Louisville-Lexington-Evansville (Part 1046), Paducah, Kentucky (Part 1099), Nashville, Tennessee (Part 1098), Tennesse Valley (Part 1011), Georgia (Part 1007), Alabama-West Florida (Part 1093), New Orleans-Mississippi (Part 1094), and the Greater Louisiana (Part 1096) orders for the ond preceding month exceeds the minimum percent as specified below, for a handler who regularly (by delivery of a load or more of milk on 14 or more days of delivery during the month) supplies two or more pool distributing plants, other than their own, subtract the amount obtained by miltiplying the pounds of bulk fluid milk products that were transferred or diverted to the handler's pool plant, or to pool plants for the account of a cooperative association as a handler pursuant to section 9 (paragraph set forth in proposal 1A) from an other order plant on loads classified pursuant to tion 44(a)(12), by a rate equal to 3.0 cents per hundredweight for each 10 miles or fraction thereof distance between the shipping plant and receiving plant, less any difference (positive only) between the Class I differential applicable at the receiving plant less the Class I differential applicable at the shipping plant.

Month	Combined utilization 2nd preceding month
August	[1] 79
September	[1] 75
October	[1] 80
November	[1] 82
December	[1] 83
January	[1] 83
February	[1] 77

[1] Percent or more.

(j) For a cooperative association as a handler pursuant to section 9 who regularly (by delivery of a load or more of milk on 14 or more days during the month) supplies two or more pool distributing plants, other than their own, subtract the amount obtained by multiplying the pounds of bulk fluid milk products on loads that were transferred or diverted to other order plants

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VOL 51 ISS 158 AG 15 1986 UMI

pursuant to section 42(2) or transferred or diverted to other nonpool plants pursuant to section 42(d)(2), and which at least 50 percent of the volume on the load was classified as Class I, by 35 cents per hundredweight.

G. Add a new tion 89 to each of the orders to read as follows:

.89 Cooperative payments for marketwide services.

Payment shall be made to qualified cooperatives under the conditions, in the manner, and at the rate set forth in this section.

(a) Designated cooperatives. A cooperative may submit an application to the market administrator for payment under the provisions of this section. In accordance with the requirements of the market administrator, such application shall include a written description of the applicant's program for the performance of marketwide services. The application shall contain a statement by the applicant that it will perform the required marketwide services for which it is applying for payment. An application shall be approved by the market administrator only if he determines that;

(1) The applicant cooperative has as members not less than 15 percent of all producers defined in section 12; and

(2) The applicant cooperative demonstrates that it has the ability to perform marketwide services for which application is made and that such services will be performed.

(b) Notice of designation or denial; effective date. Upon determination by the market administrator that a cooperative shall be designated to receive payment for performance of the marketwide services, he shall transmit such determination to the applicant cooperative and publicly announce the issuance of the determination. The determination shall be effective with respect to milk delivered on and after the first day of the month following issuance of the determination. If the market administrator determines that the cooperative is not qualified to receive such payment he shall promptly notify the applicant and specifically set forth in such notice his reasons for denial of the application.

(c) Requirements for continued designation. From time to time and in accordance with the requirements as specified by the market administrator, each designated cooperative must demonstrate to the market administrator that it continues to meet the designation requirements for the payment and is fully performing the marketwide services for which it is being paid.

(d) Marketwide services. Each cooperative shall perform the marketwide services enumerated in this paragraph. Such services shall include:

(1) Analyzing milk marketing problems and their solutions, conducting market research and maintaining current information as to all market developments, preparing and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data;

(2) Determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the market administrator in light of changing conditions;

(3) Participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions, and also participating, by voting or otherwise, in referenda relative to amendments;

(4) Participating in the meetings called by the market administrator, such as meetings with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data at such meetings and briefs for submission thereafter; and,

(5) Conducting a comprehensive education program among producers and keeping them informed for participation in the activities under the regulatory order.

(e) Rate, time, and method of payment. Subject to the provisions of paragraph (f) of this section, the market administrator, on or before the 15th day of each month, shall make payment out of the producer-settlement fund, or issue equivalent credit therefore, to each cooperative which is designated for such payment for marketwide services. The payment or credit to the cooperative shall be at a rate of 3 cents per hundredweight of milk reported by the cooperative or proprietary handlers to have been received during the preceding month from its member producers. Such payment or credit is subject to adjustment upon verification by the market administrator.

(f) Cancellation of designation.

(1) The market administrator shall issue an order canceling the designation of a previously designated cooperative for payment authorized pursuant to this section and such payment shall not thereafter be made to it if he determines that:

(i) The cooperative no longer complies with the requirements of this part; or,

(ii) The cooperative has failed to make reports or furnish records pursuant to this section.

(2) An order of the market administrator canceling the designation of a cooperative shall not be issued until after the cooperative has received 30 days prior notice specifying the reasons for the proposed cancellation.

(3) A cancellation order issued by the market administrator shall set forth the findings and conclusions on the basis of which it is issued.

(g) Reports and records. Each designated cooperative shall:

(1) Make such reports to the market administrator as may be requested by him for the administration of the provisions of this section; and,

(2) Maintain and make available to the market administrator or his representative such records as will enable the market administrator to verify such reports.

I. In section 61 of the order (computation of uniform price), delete the provision "4 cents nor more than 5" wherever it appears and substitute therefor the provision "7 cents nor more than 8".

Proposed by Milk Industry Foundation

If marketwide service payments are adopted under Federal Milk Marketing Orders as a result of this proceeding, then the Milk Industry Foundation supports adoption of proposals 2 through 5:

Proposal No. 2

Amend the "handler's value of milk for computing uniform price" provisions of the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Florida; New Orleans-Mississippi; Greater Louisiana; and Nashville, Tennessee orders to provide for a payment of $.30 per hundredweight to handlers for all producer milk received or diverted on Saturdays and Sundays.

Proposal No. 3

Amend the "handler's value of milk for computing uniform price" provisions of the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Flordia; New Orleans-Mississippi; Greater Louisiana; and Nashville, Tennessee orders to provide for the months of September 1986 through February 1987 and for the months of August 1987 through February 1988 a hauling credit on Class I supplemental milk purchases from plants fully regulated under another Federal Order. The amount of the hauling credit would be equal to 2.6

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cents per hundredweight for each ten miles or fraction thereof, less any difference (positive only) between the Class I differential applicable at the receiving plant and the Class I differential applicable at the receiving plant and the Class I differential applicable at the shipping plant. The hauling credit would apply only to distances greater than normal market distances for hauling milk in each of the respective orders. To qualify for hauling credit, the supplemental milk purchased must be allocated at the lower of the utilization of the Order or the plant of receipt (no credit should apply to milk allocated to Class II or Class III uses).

Proposal No. 4

Amend the "handler's value of milk for computing uniform price" provisions of the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Florida; New Orleans-Mississippi; Greater Louisiana; and Nashville, Tennessee orders to provide for the months of March through June in calendar years 1987 and 1988 and the period of December 20–31 in calendar years 1986 and 1987 for a hauling credit of 2.6 cents per hundredweight for each 10 miles or fraction thereof on bulk fluid milk that was transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk. The hauling credit would apply only to those distances in excess of the distance of normal outlets for surplus milk associated with pool plants in each of the respective orders. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

Proposal No. 5

Amend the "marketing service deduction" provisions in the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Florida; New Orleans-Mississippi; Greater Louisiana; and Nashville, Tennessee orders to provide that if 3 cents per hundredweight, or any amount, is taken out of the producer-settlement fund for payment to cooperatives for marketwide services, such as economic analysis and the dissemination of information, then an equal amount should be taken out of the producer-settlement fund for use by the market administrator so that the non-member market service assessment is reduced by an equal amount.

Proposal by Kinnett Dairies, Inc.

Proposal No. 6

Revise § 1007.60 of the Georgia milk order to include a credit to any handler as now defined in the order for the handling and disposal of the increased seasonal production of producers. Such credit should be based upon the actual pounds of excess milk received and disposed of by the handler for Class II or Class III uses.

Proposal No. 7

A transportation credit should also be allowed under § 1007.60 fo the Georgia order for any handler who brings in supplemental milk to supply the market's needs.

Proposed by the Trade Association of Propriety Plants

Proposal No. 8

Marketing service payments to handlers under the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Florida; New Orleans-Mississippi; Greater Louisiana and Nashville, Tennessee; milk orders shall be limited to transportation credits for bulk fluid milk movement amounting to the difference between credits allowed under such order, if any, and 3 cents per hundredweight per 10 miles in the following cases:

(a) Movement of milk for fluid milk purposes from supply plants (including reload stations) to distributing plants within a marketing area: *Provided* That such milk movement receives prior approval of the market administrator.

(b) Movement of supplemental milk when needed from supply plants of another Federal order market minus the difference between the Class I price of the transferee order and transferor order: *Provided,* That such milk movement receives prior approval of the market administrator.

(c) Movement of surplus milk beyond 75 miles to the closest plant with available manufacturing capacity during March-June and December 20–31: *Provided,* That such milk movement receives prior approval of the market administrator.

Proposed by National Independent Dairy-Foods Association

Proposal No. 9

If any amendments providing for marketwide payments or credits are adopted, then amend Federal milk marketing orders for Georgia, Part 1007; Tennessee Valley, Part 1011; Louisville-Lexington-Evansville, Part 1046; Alabama-West Florida, Part 1093; New Orleans-Mississippi, Part 1094; Greater Louisiana, Part 1096; and Nashville, Tennessee, Part 1098; by adding new sections as follows:

A. The market administrator shall find and determine any over-order market prices and total over-order amounts charged to and paid by each handler each month and shall find and determine the services paid for by these prices and amounts.

B. No balancing payments, hauling credits, payments for sales of surplus milk nor market service payments shall be made under the marketwide payments provisions of the order to any cooperative association which charges and receives any over-order prices and over-order amounts for such services during any month.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 10

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of the hearing and the orders may be procured from the Market Administrators of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangments may be made with the reporter at the hearing.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the 7 orders.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on August 12, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–18464 Filed 8–14–86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0577]

Truth in Lending; Right of Rescission

Correction

In FR Doc. 86-17694, beginning on page 28245, in the issue of Wednesday, August 6, 1986, make the following correction:

On page 28245, third column, fourth line, "is" should read "if".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-114-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking (NPRM).

SUMMARY: This document withdraws a NPRM which proposed to amend an existing airwothiness directive AD 84-02-05. The NPRM would have removed the Boeing Model 747 airplanes equipped with Rolls Royce RB211-524 engines from the requirement of installation of a low N1 caution indication in the cockpit. Since issuance of the NPRM, a Lockheed Model L-1011 airplane equipped with Rolls Royce RB211-22B engines, which are similar in type design to the RB211-524 engines, experienced a dual engine powerloss while operating in icing conditions. As a result, the FAA has determined that the low N1 caution indication is necessary on Boeing Model 747 airplanes equipped with Rolls Royce RB211-524 engines, therefore, the NPRM is withdrawn.

DATES: This withdrawal is effective October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Kanji K. Patel, Propulsion Branch, ANM-140S; telephone (206) 431-2973). Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A revision to the limitations section of the Airplane Flight Manual (AFM) and installation of a low N1 rpm caution indication was required on all Boeing Model 747 airplanes equipped with Pratt and Whitney JT9D, General Electric CF6 and Rolls Royce RB211-524 engines by Airworthiness Directive AD 84-02-05, Amendment 39-4798. The low N1 indication on pilot's forward panel was intended to caution the crew of engine operations below the required N1 rpm while operating in icing conditions and the engine anti-icing system turned "on." Engine operations in icing conditions below the required N1 rpm, could lead to loss of engine power or engine shut down.

Following issuance of the AD, the FAA determined that the Model 747 airplane equipped with Rolls Royce RB211-524 engines did not require installation of a low N1 caution indication. Based on this determination, a Notice of Proposed Rulemaking (NPRM), Docket No. 85-NM-114-AD, to amend AD 84-02-05, Amendment 39-4798, was published in the **Federal Register** on November 4, 1985 (50 FR 45829). This NPRM proposed removal of the Boeing Model 747 airplanes equipped with Rolls Royce RB211-524 engines from requirement of installation of a low N1 caution indication by amending AD 84-02-05

Since issuance of the NPRM, a Lockheed Model L-1011 airplane equipped with Rolls Royce RB211-22B engines, which are similar in type design to the RB211-524 engines, experienced a dual engine powerloss while operating in icing conditions. An investigation of the incident concluded that the probable cause of the incident was erosion of the over-fuel margin due to ingestion of extremely large amounts of water coincident with retarding of the throttles to flight idle, which is approximately 40% N1 rpm for the Model L-1011.

Based on the above described incident and the probable cause of the incident, it was concluded by the FAA that the previous determination to remove the Boeing Model 747 airplanes equipped with Rolls Royce RB211-524 engine from installation of a low N1 caution indication required by AD 84-02-05 was incorrect. Therefore, the NPRM Docket No. 85-NM-114-AD is withdrawn.

Withdrawal of this Notice of Proposed Rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, or commit the agency to any course of action in the future.

Since this action only withdraws a Notice of Proposed Rulemaking (NPRM), it may be made effective in less than 30 days. It is neither a proposed nor final rule, and therefore, is not covered under Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Withdrawal

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration withdraws a proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By withdrawing the proposed airworthiness directive published in the **Federal Register** on November 4, 1985 (50 FR 45829), FR Doc. 85-26202. Issued in Seattle, Washington, on August 6, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18401 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-54-AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal and reissuance.

SUMMARY: This action withdraws and reissues a NPRM applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes that would have required inspections for cracks and modification and repairs, as necessary. The manufacturer and one operator pointed out that the B4 model was covered by service bulletins different from those called out in the NPRM. The manufacturer has also revised the service bulletin applicable to the B2 model. There have been reports of cracks in the flanges and in certain fastener holes in fuselage frame 47, which, if not detected and repaired, could lead to rapid decompression of the airplane.

DATES: Comments must be received October 6, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103),

Attention: Airworthiness Rules Docket No. 85–NM–54–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Ms. Judy Golder, Standardization Branch, ANM–113; telephone (206) 431–2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, (Attention: ANM–103) Attention: Airworthiness Rules Docket No. 85–NM–54–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), the French civil aviation authority, has issued three Consigne de Navigabilités, which mandate compliance with Airbus Industrie (AI) Service Bulletins A300–53A193, A300–53–194, A300–53–196, A300–53–198, A–300–53–199, and A300–53–200. These service bulletins prescribe inspections, and corrective actions, as necessary, of the following in-service difficulties:

A. Cracks have been reported in fastener hole A of fuselage frame 47 on B2 series airplanes which have accumulated between 7,000 and 17,000 landings. The fatigue test article revealed that a crack had also developed in fastener hole B of fuselage frame 47. This crack was discovered after 35,500 simulated landings were accumulated. AI Service Bulletin A300–53–194, Revision 2, dated July 8, 1985, prescribes inspections, and modification and repairs, as necessary.

B. During routine maintenance of a B2 series airplane, cracks were discovered in the inboard flange of fuselage frame 47. AI Service Bulletin A300–53A193, Revision 1, dated November 5, 1984, prescribes inspections and repair, as necessary.

C. Sampling inspection on B4 series airplanes, which had accumulated between 6,260 and 11,200 landings, revealed cracks in fastener holes A, E, and L in fuselage frame 47. AI Service Bulletins A300–53–199 and A300–53–200, both dated July 8, 1985, prescribe inspections and repairs, as necessary.

An NPRM which would have required compliance on both B2 and B4 series airplanes with two of the above service bulletins (A300–53A193 and A300–53–194) was published in the **Federal Register** on July 1, 1985 (50 FR 27009). Two comments were received. Both commenters stated that the B4 model was covered by separate service bulletins, and that it would be appropriate to inspect the B2 and B4 models in accordance with the applicable service bulletins. The FAA agrees with the comments, and has determined the NPRM should be withdrawn and a new NPRM issued, which would require compliance with the latest revisions of the appropriate service bulletins.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the corrective actions mentioned above.

It is estimated that 34 U.S. registered airplanes would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $54,400.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model A300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Withdrawal

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration withdraws a proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By withdrawing the proposed airworthiness directive published in the **Federal Register** on July 1, 1985 (50 FR 27009), FR Doc. 85–15662.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

VOL 51 ISS 158 AG 15 1986 UMI

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes serial numbers as listed in each applicable service bulletin, certificated in any category. To prevent propagation of cracks in fuselage frame 47, accomplish the following within the time period specified in each of the following paragraphs after the effective date of this AD, or prior to reaching the threshold number of landings indicated in each paragraph below, whichever occurs later, unless previously accomplished:

A. *For B2 Series Airplanes:*

1. Prior to the accumulation of 6,000 landings, or within the next 300 landings after the effective date of this AD, whichever occurs later, inspect fastener holes A and B of frame 47, lefthand and righthand, in accordance with the accomplishment instructions of Airbus Industrie (AI) Service Bulletin A300–53–194, Revision 2, dated July 8, 1985. Repair cracks in accordance with the service bulletin. If no cracks are found, cold work the holes and install interference fit fasteners in accordance with the service bulletin.

2. Reinspect in accordance with AI Service Bulletin A300–53–196, dated February 4, 1985, at intervals not to exceed 6,000 landings.

3. Accomplishment of the modifications described in AI Service Bulletin A300–53–198, Revision 1, dated November 12, 1985, constitutes terminating action for the inspection requirements of paragraphs A.1., and A.2., above.

B. *For B2 Series Air Planes:*

1. Prior to the accumulation of 5,000 landings, or within the next 300 landings after the effective date of this AD, whichever occurs later, inspect frame 47, lefthand and righthand, in accordance with the accomplishment instructions of AI Service Bulletin A300–53–193, dated March 14, 1984.

2. If cracks are found, repair in accordance with the service bulletin.

3. If no cracks are found, further inspections are not required.

C. *For B4 Series Airplanes:*

1. Prior to the accumulation of 7,000 landings or within the next 1,000 landings after the effective date of this AD, whichever occurs later, inspect frame 47, lefthand and righthand, fastener holes in accordance with AI Service Bulletin A300–53–200 dated July 8, 1985.

2. If cracks are found, repair in accordance with the service bulletin.

3. If no cracks are found, reinspect at intervals not to exceed 2,000 landings.

4. Accomplishment of the inspection and modification described in AI Service Bulletin A300–53–199 dated July 8, 1985, constitutes terminating action for the inspection requirements of paragraphs C.1., and C.2., above.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive, who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 8, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–18400 Filed 8–14–86; 8:45 am]

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14 CFR Part 39

[Docket No. 86–CE–30–AD]

Airworthiness Directives; Cessna 100 and 200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Cessna 100 and 200 Series airplanes. This AD would require modification of the airplanes by installing bolts, nuts and cotter pins on engine controls incorporating ball type rod ends in place of existing self locking nuts and undrilled bolts. Reports have been received of forced landings believed to have been caused by engine power interruption or fuel starvation due to loss of throttle and mixture control attachment. The proposed actions will help preclude engine power interruption and fuel starvation due to loss of engine control attachment.

DATES: Comments must be received on or before October 6, 1986.

ADDRESSES: Cessna Service Letter SE79–6 dated April 16, 1979, applicable to this AD may be obtained from Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, Aircraft Certification Office, ACE–140W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

As a result of a recent accident, the National Transportation Safety Board (NTSB) has issued a safety recommendation on the Cessna engine control attachment. The FAA has received additional reports of accidents and incidents of engine power interruption and fuel starvation resulting in engine power loss and forced landings involving Cessna 100 and 200 series airplanes. The fuel starvation and engine power interruption is considered to have occurred because the engine control attachments became separated. Repeated use of the self locking nuts results in loss of nut retention capability. Subsequently, the control attach bolt separates from the control. Cessna has developed a control attachment modification which will

preclude this situation. The FAA has determined that the Cessna modifications are needed to correct an unsafe condition and an AD is needed. Since the condition described is likely to exist or develop in other Cessna 100 and 200 series airplanes of the same design, the FAA is proposing an AD that would require modification of the engine control system by the installation of bolts, nuts and cotter pins on those airplanes not presently so equipped.

The FAA has determined there are approximately 80,000 airplanes affected by the proposed AD. The cost of modifying these airplanes are required by the proposed AD is estimated to be $30 per airplane. The total cost is estimated to be $2,400,000, to the private sector.

The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a) 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Cessna: Applies to the follow model and serial number single engine airplanes certificated in any category manufactured thru Model year 1978 equipped with ball type rod ends on the engine controls:

Models	Serial Nos.
150C thru 150M	S/N 15059701 thru 15079405.
A150K thru A150M	S/N A1500001 thru A1500734.
152	S/N 15279406 thru 15282031.
A152	S/N A1520735 thru A1520806.
172D thru 172N	S/N 17249545 thru 17271034.
R172K	S/N 1722000 thru R1722829.
P172	S/N P17257120 thru P17257188.
177 thru 177B	S/N 17700001 thru 17702752.
177RG	S/N 177RG0001 thru 177RG1366.
180F thru 180K	S/N 18051184 thru 18053000
182F thru 182Q	S/N 18254424 thru 18266590.
R182	S/N R18200001 thru R18200583.
185B thru 185E	S/N 185-0513 thru 185-1599.
A185E, A185F	S/N 18501600 thru 18503683.
188, A188	S/N 188-0001 thru 188-0572.
A188A, 188B	S/N 18800573 thru 18803296.
A188B	S/N 18800967T thru 18803296T.
205, 205A	S/N 205-0001 thru 205-0577.
206, U206	S/N 206-0001 thru 206-0275.
U206A thru U206G	S/N U206-0276 thru U206-1444.
TU206A thru TU206G	S/N U20601445 thru U20604649.
P206, P206A thru P206E.	S/N P206-0001 thru P206-0603.
TP206A thru TP206E	S/N P20600604 thru P20600647.
207, 207A, T207, T207A.	S/N 20700001 thru 20700482.
210C thru 210M	S/N 21058086 thru 21062954.
T210F thru T210M	S/N T210-00001 thru T210-0454.
P210N	S/N P21000001 thru P21000150.
F150F thru 150M	S/N F150-0001 thru F150-0529.
	S/N F15000530 thru F15001428.
FA150K, FA150L	S/N FA1500001 thru FA1500120.
FRA150L, FRA150M	S/N FRA1500121 thru FRA1500336.
F152	S/N F15201429 thru F15201526.
FA152	S/N FA1520337 thru FA1520347.
FP172	S/N FP172-0001 thru FP172-0003.
F172D thru F172N	S/N F172-0001 thru F172-0654.
	S/N F17200655 thru F17201749.
FR172E thru FR172K	S/N FR17200001 thru FR17200630.
F177RG	S/N F177RG0001 thru F177RG0177.
F182P, F182Q	S/N F18200001 thru F18200094.
FR182	S/N FR18200001 thru FR18200020.
R172E thru R172H	S/N R172-0001 thru R172-0409.
	S/N R1720410 thru R1720625.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent engine power interruption due to loss of attachment of the engine controls, accomplish the following:

(a) Modify the engine controls installation by installing a drilled steel bolt, AN310 type castellated nut and a steel cotter pin in accordance with Cessna Single Engine Customer Care Service Information Letter SE79-6.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201, or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 8, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-18398 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-31-AD]

Airworthiness Directive; Pilatus Britten-Norman Limited, Models BN-2T Islander Airplanes Incorporating Engine Vibration Isolators Manufactured by Barry Controls

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to all Pilatus Britten-Norman Limited Models BN-2T Islander airplanes incorporating engine vibration isolators manufactured by Barry Controls, which could develop cracks and deterioration in the elastomer care assemblies, and/or cracks on the isolator mounting brackets, at the intersection of each main rib with the elastomer core location rim. This AD defines the inspections and corrective actions for both the isolator brackets and the elastomer core assemblies. The action will eliminate the possibility of high engine vibrations and possible propeller whirl flutter, which could result in loss of the airplanes.

DATE: Comments must be received on or before December 23, 1986.

ADDRESSES: Pilatus Britten-Norman Limited, Mandatory Service Bulletin (MSB) No. BN/-2SB.172, Issue 2 dated June 2, 1986, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-31-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o America Embassy, Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey A. Chimeline, Foreign FAR 23 Section,

Central Region, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filled in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-31-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Service experience has shown that on Pilatus Britten-Norman Limited, Model BN-2T Islander airplanes incorporating engine vibration isolator mounting brackets manufactured by Barry Controls, Barry Part No. 44-9115-0100, are cracking at the intersection of each main rib with the elastomer core location rim. In addition, some of the elastomer core assemblies, Barry Part No. R20700-2, are developing cracks in the elastomer itself. Failure of these vibration isolators will increase engine vibration levels into the airframe and possibly induce propeller whirl flutter. As a result, Pilatus Britten-Norman Limited has issued Service Bulletin No. BN-2/SB.172, Issue 2 dated June 2, 1986, which defines inspections, and introduces corrective actions for both the engine vibration isolator mounting brackets and the elastomer core asemblies. The United Kingdom of Great Britian Civil Aviation Authority (CAA-UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Great Britain, has classified this Pilatus Britten-Norman Limited, Mandatory Service Bulletin BN-2/SB.172, Issue 2 dated June 2, 1986, and the actions recommended therein by the manufacturer, as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under the United Kingdom of Great Britain registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Pilatus Britten-Norman Limited, Service Bulletin No. BN-2/SB.172, Issue 2 dated June 2, 1986, and the mandatory classification of this Service Bulletin by the CAA-UK. Based on the foregoing, the FAA believes that the condition addressed by Pilatus Britten-Norman Limited, Service Bulletin BN-2/SB.172, Issue 2 dated June 2, 1986, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require:

(a) Inspection of the vibration isolator mounting brackets, Barry Part No. 44-9115-0100, for cracks at the intersection of each main rib with the elastomer core rim, within 100 hours time-in-service (TIS); if cracked, replacement of the bracket prior to further flight, with an equivalent serviceable part; replacement prior to further flight of all three "thin-ribbed" brackets as an engine set, if any "thin-ribbed" bracket is found cracked; and a repetitive inspection every 500 hours TIS thereafter; and

(b) Inspection of the vibration isolator elastomer cores, Barry Part No. R20700-2, for cracks, tears, or delaminations, within 100 hours TIS; replacement prior to further flight of any part number (P/N) R20700-2 with stiffer P/N R20700-15 serviceable elastomer cores; replacement prior to further flight of any elastomers found cracked, torn, or delaminated; and a repetitive inspection of the elastomers every 100 hours TIS thereafter.

The FAA has determined that there are approximately 100 airplanes affected by the proposed AD. The cost of inspecting airplanes as required by the proposed AD is estimated to be eight manhours of labor per engine at $40 per manhour. The total cost is estimated to be $640 per airplane for a total cost of $64,000 to the private sector.

The cost of compliance with the proposed AD is so small that it will not have a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a singnificant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

Pilatus Britten-Norman Limited: Applies to Model BN-2T Islander airplanes, (all serial numbers) certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the possibility of high engine vibrations and possible propeller whirl flutter, accomplish the following:

(a) Within 100 hours time-in-service (TIS), after the effective date of this AD and at each 500 hours TIS thereafter:

(1) Inspect the isolator mounting brackets, Barry Part No. 44-9115-0100, for cracks in accordance with the "Inspection (Part A)—Forged Brackets" paragraph of Pilatus Britten-Norman (PBN) Limited Service Bulletin (S/B) No. BN-2/SB.172, Issue 2 dated June 2, 1986, and:

(i) If a cracked "thick-ribbed" (0.190 inches) bracket is found, prior to further flight, repalce the bracket with a similar serviceable part, or

(ii) If a cracked "thin-ribbed" (0.150 inches) bracket is found, prior to further flight, replace all three brackets as an engine mounting set with "thick-ribbed" brackets in accordance with the "Rectification (Part B)—Forged Brackets" paragraph of PBN S/B No. BN–2/SB.172, Issue 2 dated June 2, 1986.

(b) Within 100 hours TIS after the effective date of this AD, and at each 100 hours TIS thereafter:

(2) Inspect the Barry-manufactured elastomer cores, and:

(i) If Part Number (P/N) R20700–2 is installed, prior to further flight, replace such cores with stiffer serviceable cores P/N R20700–15; or,

(ii) If P/N R20700–15 is installed, inspect for cracks, tears, or delamination in accordance with the "Inspection and Rectification of Elastomer Cores (Part C)" paragraph of PBN S/N No. BN–2/SB.172, Issue 2 dated June 2, 1986, and if defective, prior to further flight, replace with a serviceable core.

(c) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain a copy of the document referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 8, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–18397 Filed 8–14–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AWP–23]

Proposed Alteration of Control Area 1487; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Control Area 1487 located in the vicinity of Anchorage, AK, by realigning the centerline to the south. The realignment would coincide with the establishment of three proposed new oceanic routes. This action would enhance and improve traffic flow by permitting expanded use of domestic air traffic control (ATC) procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

DATE: Comments must be received on or before October 1, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWP–23, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AWP–23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign Control Area 1487 located in the vicinity of Anchorage, AK. The realignment would provide domestic controlled airspace for three new oceanic routes which converge at the KATCH, AK, Intersection. Studies conducted by the National Airspace Review Group recommended that control area boundaries be adjusted to maximize the use of radar control when such action would eliminate confusion concerning the implementation of ATC separation standards where Special Use Airspace abuts Controlled Area/Flight Information Region (CTA/FIR) boundaries. The realignment of Control Area 1487 would permit the expanded use of domestic ATC procedures and would aid controllers in establishing aircraft on their assigned routes prior to crossing the FIR boundary. Aircraft positions and routes would be verified prior to radar termination. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory

evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Aivation safety, Additional control areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.163 is amended as follows:

Control 1487—[Revised]

That airspace extending upward from 5,500 feet MSL to FL 450, within the area bounded by a line beginning at lat. 58°20'00"N., long. 148°55'00"W.; to lat. 59°08'30"N., long. 147°16'00"W.; counterclockwise via the arc of a 172-mile radius centered on the Anchorage VOR/DME to lat. 60°14'10"N., long. 145°29'30"W.; thence southeast 3 nautical miles from and parallel to the U.S. coastline to lat. 54°40'00"N., long. 132°56'00"W.; to lat. 54°14'00"N., long. 134°57'00"W.; to lat. 54°00'00"N., long. 136°00'00"W.; to lat. 52°43'00"N., long. 135°00'00"W.; to lat. 56°45'42"N., long. 151°45'00"W.; to the point of beginning. The portion within Canada is excluded.

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-18402 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-03-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-17]

Proposed Alteration of Control Area 1416; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Control Area 1416 located in the vicinity of Fortuna, CA, by realigning the centerline to the south. The realignment would coincide with the establishment of three proposed new oceanic routes. This action would enhance and improve traffic flow by permitting expanded use of domestic air traffic control (ATC) procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

DATE: Comments must be received on or before October 1, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWP-17, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWP-17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing

each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign Control Area 1416 located in the vicinity of Fortuna, CA. The realignment would provide domestic controlled airspace for three new oceanic routes which converge at the new ROBBY Intersection proposed to be established on Control 1416. Studies conducted by the National Airspace Review Group recommended that control area boundaries be adjusted to maximize the use of radar control when such actions would eliminate confusion concerning the implementation of ATC separation standards where Special Use Airspace abuts Controlled Area/Flight Information Region (CTA/FIR) boundaries. The realignment of Control Area 1416 would permit the expanded use of domestic ATC procedures and would aid controllers in establishing aircraft on their assigned routes prior to crossing the FIR boundary. Aircraft positions and routes would be verified prior to radar termination. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.163 is amended as follows:

Control 1416—[Revised]

That airspace bounded by a line beginning at lat. 43°46'54" N., long. 126°37'47" W.; to lat. 41°23'24" N., long. 124°45'47" W.; to lat. 40°42'43" N., long. 124°09'16" W.; to lat. 40°37'44" N., long. 124°18'37" W.; to lat. 41°17'25" N., long. 124°56'57" W.; to lat. 42°35'56" N., long. 126°45'03" W.; to the point of beginning, excluding that airspace below 5,000 feet MSL which lies outside the Continental limits of the United States.

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18404 Filed 8–14–86; 8:45 am]

BILLING CODE 4910–03–M

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14 CFR Part 71

[Airspace Docket No. 86–AWA–7]

Proposed Alteration and Revocation of VOR Federal Airways; Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several Federal Airways located in the state of Michigan by revoking and renumbering some airway segments. This action supports the FAA agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate route designations from the National Airspace System (NAS).

DATE: Comments must be received on or before October 1, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWA–7, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is

located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AWA–7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the descriptions of several VOR Federal Airways located in the state of Michigan by deleting all alternate route designations from the NAS. Also, certain airway segments would be revoked and other segments would be renumbered. This action is in support of the FAA agreement with the ICAO to eliminate all alternate airway designations from the NAS. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal Airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V–7 [Amended]

By deleting the words "; including an east alternate via Escanaba, MI".

V–9 [Amended]

By deleting the words "Iron Mountain, MI, including an east alternate from Green Bay to Iron Mountain via Menominee, MI; Houghton, MI; including an E alternate via Marquette, MI." and substituting the words "Iron Mountain, MI; to Houghton, MI."

V–341 [Amended]

By deleting the words "to Oshkosh, WI." and substituting the words "Oshkosh, WI; Green Bay, WI; Menominee, MI; Iron Mountain, MI; Marquette, MI; to Houghton, MI."

V–450–[Amended]

By deleting the words "From Green Bay, WI;" and substituting the words "From Escanaba, MI, via Menominee, MI; Green Bay, WI;"

V–45–[Amended]

By deleting the words ", including a west alternate via INT Saginaw 353° and Alpena 232° radials"

V–78–[Amended]

By deleting the words "to Alpena, MI." and substituting the words "Alpena, MI; INT Alpena 232°T(239°M) and Saginaw, MI, 353°T(356°M) radials; to Saginaw."

V–193–[Amended]

By deleting the words ", including a W alternate via Manistee, MI"

V–285–[Amended]

By deleting the words "including an E alternate via INT Indianapolis 038° and Kokomo 182° radials;" and by deleting the words "to White Cloud, MI." and substituting the words "White Cloud, MI; Manistee, MI; to Traverse City, MI."

V–216–[Amended]

By deleting the words ", including a southern alternate via INT Saginaw 131° and Peck 270° radials"

V–233–[Amended]

By deleting the words "; including a west alternate from Mount Pleasant to Pellston via Traverse City, MI"

V–320–[Revised]

From Pellston, MI, via Traverse City, MI; Mount Pleasant, MI; Saginaw, MI; INT Saginaw 131°T(134°M) and Peck, MI, 270°T(277°M) radials; Peck; to Toronto, ON, Canada. The airspace within Canada is excluded.

Issued in Washington, DC, on August 7, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18403 Filed 8–14–86; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9194]

Buckingham Productions, Inc. et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Furlong, Pa. marketers of mail-order weight reduction or weight control products, programs or services to cease falsely representing the effectiveness of its programs, products or services without competent and reliable evidence supporting such claims.

DATE: Comments must be received on or before October 14, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/B-407, Washington, DC 20580 (202) 376-8720.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Mail order diets, Trade practices.

In the Matter of: Buckingham Productions, Inc., a corporation, trading and doing business as Rotation Diet Center; Furlong-Elliot Corp., a corporation; Freedom Center, Inc., a corporation; Plaza Business Services, Inc., a corporation; N.F. Rotation, Inc., a corporation; Rotation-Freedom Diet, Inc., a corporation; Health and Diet Corp., Inc., a corporation; Howard Elliot, individually and as an officer of said corporations; Gail Elliott, individually; Judy Ruthrauff, individually and as an officer of said corporations; Dorothy Woolslager, individually and as an officer of said corporations, and Benito Ventresca, individually and as an officer of said corporations, Docket No. 9194; Agreement Containing Consent Order to Cease and Desist.

The agreement herein, by and between Buckingham Productions, Inc., trading and doing business as Rotation Diet Center; Furlong Elliot Corp.; Freedom Center, Inc.; Plaza Business Services, Inc.; N-F Rotation, Inc:, Rotation-Freedom Diet, Inc.; Health and Diet Corp., Inc., corporations; and Howard Elliot, Judy Ruthrauff, Dorothy Woolslager and Benito Ventresca, individually and as officers of said corporations, and Gail Elliot, individually ("respondents") and their attorney and counsel for the Federal Trade Commission, is entered in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Buckingham Productions, Inc., trading and doing business as Rotation Diet Center, is a Pennsylvania corporation with its principal office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent Furlong-Elliot Corp. is a Pennsylvania corporation with its principal office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent Freedom Center, Inc. is a Pennsylvania corporation with its office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent Plaza Business Services, Inc. is a Pennsylvania corporation with its principal office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent N.F. Rotation, Inc. is a Pennsylvania corporation with its principal office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent Rotation-Freedom Diet, Inc. is a Pennsylvania corporation with its principal office and place of business at 73 Valley Drive in Furlong, Pennsylvania 18925.

Health and Diet Corp., Inc., a Pennsylvania corporation, will be added to this agreement as a named corporate respondent. The complaint will also be amended to include Health and Diet Corp., Inc. as a named corporate respondent. Health and Diet Corp., Inc.'s principal office and place of business is 73 Valley Drive in Furlong, Pennsylvania 18925.

Respondent Howard Elliot is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, and his address is the same as the corporate respondents.

Respondent Judy Ruthrauff is an officer of the corporate respondents. Her address is R.D. 1, Box 252A, Riegelsville, Pennsylvania 18077.

Respondent Dorothy Woolslager is an officer of the corporate respondents. Her address is R.D. 1, Box 24, Carversville-Wismer Road, Pipersville, Pennsylvania 18947.

Respondent Benito Ventresca is an officer of the corporate respondents. His address is 4716 Woodfield Circle, R.D. 4, Doylestown, Pennsylvania 18901.

Respondent Gail Elliot appeared to be co-owner of the corporate respondents. Her address is the same as the corporate respondents.

2. The complaint in this proceeding will be amended so as to dismiss the complaint against respondents Judy Ruthrauff, Dorothy Woolslager, Benito Ventresca and Gail Elliot.

3. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violations of sections 5 and 12 of the Federal Trade Commission Act.

4. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

5. Respondents waive:

(a) Further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of laws;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

6. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service.

Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

9. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents Buckingham Productions, Inc., also trading and doing business as Rotation Diet Center, Furlong-Elliot Corp., Freedom Center, Inc., Plaza Business Services, Inc., N.F. Rotation, Inc., and Rotation-Freedom Diet, Inc., and Health and Diet Corp., Inc., corporations, their successors and assigns, and their officers, and Howard Elliot, individually and as an officer of the corporations; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, distributorship or other device, in connection with the advertising, offering for sale, sale or distribution of any weight reduction or weight control product, program, or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(A) Representing, directly or by implication, that:

(1) Any consumer can eat any quantity of food and still lose weight or maintain that weight loss, without an accompanying and proximate, clear and prominent disclosure that the consumer's weight loss or ability to maintain that weight loss depends on a reduction in caloric intake in the short term and an overall reduction in caloric intake over the long term.

(2) Thousands of consumers, or any number of consumers, have lost or maintained a specified amount of weight loss, or range of weight loss, unless such is the case.

(3) Any such product, either alone or in conjunction with any weight reduction or weight control program or service, will stop hunger or otherwise function as an appetite suppressant, or will eliminate or prevent fatigue, unless such is the case.

(4) Any such product, either alone or in conjunction with any weight reduction or weight control program or service, will help keep food from turning to fat, unless such is the case.

(B) Representing, directly or by implication, that any person has endorsed any such product, program or service, unless that person has committed that endorsement in writing and has authorized, in writing, its use in promotional or advertising materials, and unless respondents have good reason to believe that at the time of their representation that person continues to subscribe to the views presented.

(C) Failing to disclose any material connection, where one exists, between an endorser (except for a celebrity endorser) of any such product, program or service and any respondent; provided, however, that a "material connection" shall mean, for purposes of this order, any relationship between an endorser of any such product, program or service, and any entity marketing such product, program or service which relationship would not reasonably be expected by consumers and, if known by consumers, might materially affect the weight or credibility given to the endorsement.

(D) Representing, directly or by implication, the usual or average weight loss, or range of weight loss, obtained or obtainable from any such weight reduction or weight control product, program or service, unless at the time of making such representation respondents possess and rely upon competent and reliable survey or other scientific evidence that substantiates the representation.

(E) Making any representation, directly or by implication, regarding the efficacy, safety, or performance of any weight reduction or weight control product, program or service, the content or mode of action of any weight reduction or weight control product, program or service, or the monetary savings that may or will result from the purchase or use of such product, program or service, unless at the time of making such representation respondents possess and rely upon competent and reliable survey or other scientific evidence that substantiates the representation.

For purposes of Part I of this order, "competent and reliable" evidence shall mean tests, analyses, research, studies, surveys, or other evidence, conducted and evaluated by qualified persons in an objective manner and using generally accepted procedures.

II

It is further ordered that the complaint in this proceeding is amended by (i) dismissing the complaint as to respondents Judy Ruthrauff, Dorothy Woolslager, Benito Ventresca and Gail Elliot; and (ii) adding Health and Diet Corp., Inc., a Pennsylvania corporation, as an additional respondent. The amended complaint will be issued with this order.

III

It is further ordered that for three years from the date that the representations to which they pertain are last disseminated, respondent corporations, their successors and assigns, and their officers, and the individually named respondent, and respondents' agents, representatives and employees shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that were relied upon to substantiate any such representation.

2. All test reports, studies, surveys, or other materials in their possession or control that contradict, qualify, or call into question such representation.

IV

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the

corporation(s) which may affect compliance obligations arising out of the order.

V

It is further ordered that respondents and their successors or assigns, shall forthwith distribute a copy of this order to each of their operating divisions, to all officers, agents or representatives who are engaged in the preparation and placement of advertisements or promotional materials, to all employees who communicate with customers or potential customers as part of their employment responsibilities, and to all distributors of products manufactured or marketed by respondents.

VI

It is further ordered that the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment and that, for a period of 10 years from the date of service of this order, the individual respondent named herein shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the advertising, endorsing, promotion, offering for sale, sale, or distribution of any weight reduction or weight control product, program, or service, and of his affiliation with a new business or employment in which his own duties and responsibilities involve the advertising, endorsing, promotion, offering for sale, sale, or distribution of any weight reduction or weight control product, product, program or service, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VII

It is further ordered that respondents and their successors or assigns, shall, within sixty (60) days after service of this order, and also one (1) year thereafter, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Buckingham Productions, Inc., trading and doing business as the Rotation Diet Center, Furlong-Elliot Corp., Freedom Center, Inc., Plaza Business Services, Inc., N.F. Rotation, Inc., Rotation-Freedom Diet, Inc., Health and Diet Corp., Inc., corporations, and from Howard Elliot, individually and as an officer of the corporate respondents.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents made false, misleading and unsubstantiated claims in advertising for their various weight control products and programs, including the "Rotation Diet," the "Freedom Diet," and the "Rotation-Freedom Diet." As to the allegedly false claims, the complaint charges that advertisements falsely claimed that dieters could eat unlimited quantities of food four days a week and still lose substantial amounts of weight. The complaint also charges that the ads falsely claimed that "Rotation Diet Wafers," "Rotation Chewable Tablets" and "Freedom Chewable Tablets" would stop hunger and eliminate or prevent fatigue and that the "Take-A-Break" tablets would help food turning to fat. The complaint also charges that advertisement falsely claimed that hundreds of dieters had lost 62 pounds. The complaint also alleges that testimonials of successful dieters were falsely represented to be actual and genuine when they were not. The complaint also charges that respondents failed to disclose that other dieters providing testimonials were employees of respondents.

The complaint also challenges several advertising claims as unsubstantiated, including the claim that the usual monthly weight loss for women is 8–20 pounds and 12–25 pounds for men. The complaint also challenges as unsubstantiated, advertising claims regarding the diets' safety, claims for the programs for maintenance of weight loss, and claims for the "Take-A-Break" and Make-A-Break" programs that allow dieters to stop dieting for up to 15 days and lose within a week of resuming dieting any weight gained during the break. Finally, the complaint charges that claims that the Rotation Diet saves as much as it costs are unsubstantiated.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Part I of the order prohibits respondents from representing that consumers can eat as much as they want and still lose weight without also disclosing that weight loss or maintenance of weight loss depends on a reduction of caloric intake over the long and short term. Respondents are also prohibited from representing that a number of consumers have lost specified amounts of weight, unless that is true. Similarly, respondents are also prohibited from representing that a product, either alone or as part of a weight control program, will suppress appetite, eliminate or prevent fatigue, or keep food from turning to fat, unless that is true.

Part I also prohibits respondents from using endorsements in advertisements unless respondents have the endorsement in writing, written authorization for its use and a reasonable belief that the endorser still subscribes to the claims made in the endorsement. Part I also requires respondents to disclose any relationship between an endorser (except for celebrity endorsers) and respondents' products or services that consumers would not expect and which, if known, might affect the endorsement's credibility.

Finally, Part I requires that respondents have, at the time the claims are made, competent and reliable evidence to substantiate weight loss claims and representations regarding the safety, efficacy or performance of any weight control product or service.

Part II amends the original complaint issued by the Commission in this matter to dismiss four individual respondents, Judy Ruthrauff, Dorothy Woolslager, Benito Ventresca and Gail Elliot and to add one corporate respondent, Health and Diet Corp., Inc.

Part III of the order requires respondents to maintain for three (3) years after dissemination, all materials substantiating representations made in advertising. These records may be inspected by Commission staff upon request.

Part IV requires respondents to notify the Commission thirty (30) days before any change in the corporate respondents that might affect compliance with this order.

Part V requires respondents to distribute copies of this order to employees and agents involved in preparing and placing advertising, to employees in contact with customers or potential customers, and to respondents' distributors.

Part VI requires Howard Elliot to notify the Commission of the

discontinuance of his present employment and of his affiliation with a new business or employment. It also requires that for a period of ten (10) years, he notify the Commission of each affiliation with a new business or employment whose activities, or his own duties, include advertising, endorsing, promoting or selling any weight reduction or weight control product or program.

Part VII requires respondents to file a compliance report with the Commission sixty (60) days after the order is served, and also one (1) year thereafter.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Phyllis A. Johnson,

Acting Secretary.

[FR Doc. 86-18427 Filed 8-14-86; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Docket No. 107-PA-11; FRL-3066-4]

Commonwealth of Pennsylvania; Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplement to proposed rulemaking and notice of reopening of public comment period.

SUMMARY: On June 29, 1983, (48 FR 29887) EPA proposed to approve reclassification of Madison, Mahoning, Boggs, Washington and Pine Townships in Armstrong County, Pennsylvania from nonattainment to attainment of the primary National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) pursuant to section 107(d) of the Clean Air Act, 42 U.S.C. 7407(d).

Today's action supplements the June 29, 1983, proposal by discussing the requirements of the stack height regulations published on July 8, 1985 (50 FR 27892), and the possible impact those regulations may have on the Armstrong County demonstration of attaintment. Today's action also reopens the public comment period for the June 29, 1983, proposal for an additional 30 days. Public comment is solicited on the approvability of the section 107 reclassification as influenced by the application of the revised stack height regulations to the West Penn Power Company's Armstrong Station. At issue in this notice is whether the revised stack height regulations should be applied to the Armstrong Station and if so applied, whether the proposed reclassification should be approved. The stack height regulations themselves are not at issue in this rulemaking.

DATE: Comments should be submitted no later than September 15, 1986.

ADDRESSES: Copies of the proposed reclassification, the accompanying support documentation, and other information received by the Agency in connection with this rulemaking are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Ms. Donna Abrams.

All comments on the proposed reclassification should be addressed to Mr. Joseph W. Kunz, Chief, PA/WV Section, Air Programs Branch, at the EPA, Region III, address stated above.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Abrams at the EPA, Region III, address stated above or call (215) 597-9134.

SUPPLEMENTARY INFORMATION:

I. Background

A. History of the Stack Height Regulations

The problem of air pollution can be approached in either of two ways: Through technology-based standards that mandate specific control requirements (either control equipment or control efficiencies) irrespective of ambient pollutant concentrations, or through an air quality based system in which control requirements are designed to achieve specified ambient air quality levels. The Clean Air Act incorporates both approaches, but the State Implementation Plan (SIP) program under section 110 of the Act, 42 U.S.C. 7410 uses the latter approach.

There are two general methods for preventing violations of the National Ambient Air Quality Standards (NAAQS) and the increments for Prevention of Significant Deterioration (PSD). Continuous emission controls reduce on a continuous basis the quantity, rate, or concentrations of pollutants released into the atmosphere from a source. In contrast, dispersion techniques rely on the dispersive effects of the atmosphere to carry pollutant emissions away from the source and, thereby, prevent high concentration of pollutants near the source. Section 123 of the Clean Air Act, 42 U.S.C. 7423, limits the extent to which a State may rely on dispersion techniques to meet the NAAQS or the PSD increments.

Tall stacks, manipulation of exhaust gas parameters, and varying the rate of emissions based on atmospheric conditions are the basic types of dispersion techniques. The merging of gases from two or more stacks into one may also, under certain circumstances, be considered a dispersion technique. Tall stacks enhance dispersion by releasing pollutants into the air at elevations high above ground level, thereby providing greater mixing of pollutants into the atmosphere and reducing the concentrations at ground level without reducing the total amount of pollutant released. Manipulation of exhaust gas parameters or merging of stacks increases the plume rise from the source to achieve similar results. Variable controls adjust a source's rate of emissions according to meteorologic conditions. When conditions favor rapid dispersion, the source emits pollutants at higher rates, and when conditions are adverse, emission rates are reduced. Use of dispersion techniques in lieu of continuous emissmion controls results in additional atmospheric pollutant loading and can increase the likelihood that pollution will travel long distances before reaching the ground.

Although overreliance on dispersion techniques may produce adverse effects, some use of the dispersive properties of the atmosphere has long been an important factor in air pollution control. For example, some stack height is needed to prevent excessive pollutant concentrations near a source. When wind meets an obstacle such as a hill or a building, a turbulent region of downwash, wakes, and eddies is created downwind of the obstacle as the wind passes over and around it. This turbulence can force a plume rapidly to the ground, resulting in excessive concentrations of pollutants near the source.

Section 123 of the Clean Air Act, 42 U.S.C. 7423, limits the degree to which dispersion techniques may be considered in setting emission limitations. Specifically, section 123 requires that the degree of emission limitation shall not be affected by that portion of a stack height that exceeds "good engineering practice" (GEP) or by "any other disperson technique." It defines GEP, with respect to stack heights, as:

> The height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source

itself, nearby structures or nearby terrain obstacles. . . .

Clean Air Act Section 123(c), 42 U.S.C. 7423(c).

Section 123 further provides that GEP stack height shall not exceed two and one-half times the height of the source (2.5H) unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, that a higher stack is needed to avoid "excessive concentrations." The statute leaves to the Administrator the responsibility for defining key phrases, including "excessive concentrations", "nearby", and "dispersion technique" and of setting the requirements for an adequate demonstration justifying stack height credit in excess of the 2.5H formula. Finally, Section 123 provides that the Administrator shall regulate only stack height credit—that is, the portion of the stack height used in calculating an emission limitation—rather than actual stack height.

On January 12, 1979, (44 FR 2608), EPA proposed regulations implementing section 123. The proposed regulations established three alternative ways to determine a source's GEP stack height: A *de minimis* height of sixty-five meters, a formula depending on the size of the source or nearby buildings, and a height demonstrated by fluid modeling or field studies to be necessary to avoid excessive concentrations.

Under the proposed regulations, a source choosing the last alternative in order to obtain credit for stack height in excess of the formula height was required to demonstrate that a lower stack height would result in pollutant concentrations, caused by downwash due to nearby terrain features, that exceeded a NAAQS or a PSD increment and that were at least 40 percent in excess of the maximum concentrations that would occur in the absence of such features.

On October 7, 1981 (46 FR 49814), EPA published a revised set of proposed regulations, and on February 8, 1982 (47 FR 5864), EPA issued final stack height regulations. The regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club v. EPA*, (719 F.2d 436 (D.C. Cir., 1983)). On October 11, 1983, the court issued its decision ordering EPA to reconsider portions of the stack height regulations, reversing certain portions, and upholding other portions.

The 1982 regulations differed from the 1979 proposed regulations in that, among other things, the definition of "excessive concentration" required only that the concentration caused by downwash be more than 40 percent greater than the concentration that would occur in the absence of downwash-causing terrain features. The definition did not relate to exceedance of any absolute level, such as a NAAQS or PSD increment. The 1982 regulations also differed from the 1979 regulations in that they contained a narrow definition of "dispersion technique" that explicitly excluded the merging of gases from two or more stacks into one stack.

The Court of Appeals held, among other things, that EPA erred in defining "excessive concentrations" due to downwash, for purposes of justifying a stack greater than formula height, as nothing more than a 40-percent increase in pollutant concentrations over what would occur in the absence of downwash. It remanded this issue to EPA to relate the definition to some health and welfare concern. The Court also noted that the legislative history of the 1977 Clean Air Act amendments cautioned that credit for stacks above formula height should be granted only in rare cases and concluded that Congress deliberately adopted strict requirements for sources locating in hilly terrain.

A revised regulation addressing the court remanded issues was proposed on November 9, 1984, at 49 FR 44878 and promulgated on July 8, 1985, 50 FR 27892.

EPA, in its 1985 regulations, is requiring sources seeking credit for stacks above formula height to show by field studies or fluid modeling that the extra height is needed to avoid a 40-percent increase in concentrations due to downwash that would also result in exceedance of National Ambient Air Quality Standards or applicable PSD increments.

To conduct a demonstration to show whether an absolute air quality concentration such as a NAAQS or a PSD increment will be exceeded, it is necessary to specify an emission rate for the source in question. The 1979 proposed regulations did not specify an emission limit, but, in promulgating the 1985 regulations, the Agency recognized that such a specification is necessary. For this reason, the 1985 GEP regulations generally require that the emission rate specified for a source seeking to conduct a demonstration to justify stack height credit above the formula be equivalent to the emission rate prescribed by the New Source Performance Standard (NSPS) applicable to the appropriate industrial source category. In imposing this requirement, EPA is presuming that the NSPS limit can be met by all sources seeking to justify stack heights above formula height. A source may rebut this presumption, and establish an alternative emission limitation by demonstrating to the reviewing authority that the NSPS emission limitation may not feasibly be met, given the characteristics of the source. For example, it may be possible for a power plant presently emitting SO_2 at a rate of 1.8 lb/mm Btu, to show that the burden of meeting the applicable NSPS rate of 1.2 lb/mm Btu would be prohibitive in that it would require scrapping existing scrubber equipment and installing higher-efficiency scrubbers. Similarly, a source may be able to show that, due to space constraints and plant configuration, it is not possible to install the necessary equipment to meet the NSPS emission rate.

The 1985 regulations also contain a broader definition of "dispersion technique" than did the 1982 regulations remanded by the *Sierra Club* court. The definition explicitly includes the merging of gases from two or more existing stacks into one unless, for mergers conducted before the promulgation of the regulations, such merging was part of a change in operations that included the installation of emissions control equipment or was carried out for "sound economic or engineering reasons."

B. Armstrong—Attainment Demonstration

On March 3, 1978, EPA classified a portion of Armstrong County, Pennsylvania (Madison, Mahoning, Boggs, Washington, and Pine Townships) as a nonattainment area for sulfur dioxide (SO_2). See 43 FR 8962 (1978). This classification was based primarily on an air diffusion modeling study performed for the Pennslyvania Department of Environmental Resources (DER) by a consultant, Geomet, Inc. The study predicted violations of the National Ambient Air Quality Standards (NAAQS) for SO_2, resulting primarily from the West Penn Power Company (WPPC) Armstrong Power Plant, a two unit, coal-fired facility (180 mw each unit) located on the Allegheny River near the town of Reesedale in Washington Township in Armstrong County.

The study assumed that SO_2 emissions from the Armstrong Power Plant were equal to the limitations contained in Title 25 of the Pennsylvania Code at § 123.22(a):

4.8 lbs $SO_2/10^6$BTU—daily average not to be exceeded at any time;

4.0 lbs $SO_2/10^6$BTU—daily average not to be exceeded more than two days in any running 30-day period;

3.7 lbs $SO_2/10^6$BTU—30-day running average not to be exceeded at any time.

The maximum ambient SO_2 concentrations resulting from these emissions were predicted by the Geomet Study to be (in $\mu g/m^3$): 161 (annual mean), 720 (24-hour maximum), 4095 (3-hour maximum).

The NAAQS are (in $\mu g/m^3$): 80 (annual mean), 365 (24-hour maximum), 1300 (3-hour maximum).

On July 24, 1979, EPA published a **Federal Register** Notice (44 FR 43308) describing the steps that DER and WPPC had agreed to in a Consent Order and Agreement to provide for attainment of the SO_2 NAAQS.

The Consent Order and Agreement contained three parts. Part I imposed a final emission limitation and interim emission limitations which were more stringent than the State's existing emission limitation. The final emission limitation was based on the Geomet Study and was to be effective December 31, 1982. Part II gave WPPC the option of performing an additional modeling study for the purpose of showing that the final emission limitation required by the Geomet Study was too stringent. The results of the additional modeling study were to be used either to reclassify the affected area as "attainment" with the existing emission limitation, or to impose a different emission limitation which might be more or less stringent than the one required by the Geomet Study. Part III set out the requirements for a plan to attain the NAAQS to be submitted in the event that the additional modeling study of Part II failed to satisfy DER and EPA that the area should be reclassified to attainment.

Pursuant to the option which was allowed WPPC in Part II of the Consent Order and Agreement, WPPC contracted with United Engineers and Constructors, Inc., to do an additional modeling study to evaluate the 1976 Geomet Study. The United Engineers study did not concur in every respect with the Geomet Study but still predicted violations of the primary SO_2 NAAQS. WPPC then conducted a physical modeling study and a dispersion modeling study to determine the effect that the terrain in the area had on ambient concentrations and to determine if a stack could be constructed to a height permitted by "good engineering practice" (GEP) to eliminate the predicted violations.

DER and WPPC renegotiated the Consent Order and Agreement discussed above and submitted it to EPA as a proposed SIP revision on December 17, 1980. The revised Agreement included a schedule for construction of a 307-meter smokestack to replace the two existing 70-meter stacks at the plant, and set out interim emission limits which were to provide reasonable further progress towards meeting the NAAQS pending the completion of the stack at the end of 1982. The final emission limits under the Consent Order were to be the applicable limits in the Pennsylvania Code (§ 123.22(a) cited above).

EPA proposed approval of this SIP revision in the **Federal Register** on January 28, 1981 (46 FR 9128). No adverse comments were received. Additionally, a public hearing was held by the State on February 25, 1981 and no adverse comments were received.

Subsequently, on August 18, 1981, EPA published final approval of the SIP revision (46 FR 43423). The details with regard to the GEP stack height determination and the dispersion modeling of the GEP stack emissions, which were an integral part of this SIP revision, will be discussed below.

A physical modeling study to determine a GEP stack height was conducted by WPPC in accordance with EPA's 1979 proposed stack height regulations. To conduct the study, a physical model of the Armstrong Plant and surrounding terrain at a rule reduction of 1:960 was constructed. Downwind terrain out to 12 km was included, as was upwind terrain within approximately one-half mile of Armstrong. The physical modeling employed one single-shell, multi-flue stack as a replacement for the two existing stacks (one per unit) with emission rates equal to the DER regulatory limits that were then applicable to the Armstrong region (listed earlier in this notice) and at load conditions of 50, 75, and 100 percent.

Stack heights of 190 meters, 250 meters, and 310 meters were modeled in the wind tunnel. Once preliminary data indicated that a stack height in the range of 310 meters would prevent exceedances of the NAAQS, additional stack heights of 292.7 and 316.1 meters were modeled.

The data from these runs indicated that the maximum ground level concentration from the 310 meter stack height, with upwind terrain present (0.422 ppm) was in compliance with the 3-hour NAAQS for SO_2(0.50 ppm). These data also showed that the maximum concentration with the upwind terrain was 86 percent greater than the concentration without the upwind terrain. Furthermore, the next shorter stack tested (292.7 meters) resulted in exceedances (0.525 ppm) of the 3-hour NAAQS, and concentrations with the upwind terrain remained more than 40 percent in excess of concentrations without the upwind terrain. Physical limitations associated with the model scale precluded further refinement of the GEP stack height within the above 17-meter range. Subsequent to the completion of these studies, it was determined that the stack gas temperature had been incorrectly specified. The net effect of this error was that the recommended stack height had been overstated by 3 meters. Thus, in accordance with EPA's 1979 proposed stack height regulations, it was concluded that a 307-meter stack height was GEP.

The fluid modeling study conducted for Armstrong was carried out in accordance with EPA technical guidance that was in draft form at the time and which has since undergone some modification. The modifications include additional requirements for tests to assure consistency between the wind tunnel and actual atmospheric conditions. Although the Armstrong fluid modeling study was judged acceptable at the time, these additional tests would be required for a study conducted today. A more detailed discussion of this issue is contained in the Technical Support Document (TSD).

As required by EPA policy, WPPC conducted a dispersion modeling study to determine whether, with the 307-meter stack in place, the Armstrong area would attain the NAAQS for SO_2. The study used techniques specified in EPA's modeling guidelines (EPA–450/12–78–027, April 1978). The atmospheric dispersion model, RAMUEC1, was used to predict SO_2 impacts from Armstrong and from a proposed lower Armstrong Power Station in conjunction with the Armstrong impact. RAMUEC1 computed the SO_2 concentrations which resulted from the simultaneous operation of the existing Armstrong plant and the projected lower Armstrong plant.

Meteorological data used for the study were collected by WPPC at two sites in the Armstrong region from December 1, 1978, to November 30, 1979. Supplemental data recorded at the Greater Pittsburgh Airport National Weather Service Station were also used.

Background SO_2 data were collected from ten monitoring stations in the Armstrong region. The ambient SO_2 data were collected concurrently with both the meteorological and emissions data. EPA considered these to be on-side data, and therefore, only one year of data was required.

The input data for the study were based on 50 percent, 75 percent, and 100 percent of full load conditions and

actual load conditions over the period December 1, 1978, through November 30, 1979, with an emission limit of 4.0 lbs $SO_2/10^6$ BTU for the annual average and 4.8 lbs $SO_2/10^6$ BTU for the 3-hour and 24-hour impact analysis.

Receptor sites were chosen to provide sufficient delineation of local high terrain and adequate spatial representation by distance and direction from the Armstrong Plant. More receptors were located in sectors to the east of the plant than the west because the terrain is considerably higher to the east.

The study demonstrated that with the Armstrong 307-meter stack, and under all the load conditions just described, the NAAQS for SO_2 would be attained in the Armstrong region. Worst case conditions were found when Armstrong was operating at full load. The analysis found that the annual average SO_2 concentration was 46 $\mu g/m^3$, approximately one-half of the primary annual standard for SO_2 (80 $\mu g/m^3$) when Armstrong was operating at full load with an emission limitation of 4.0 lbs $SO_2/10^6$ BTU. Because DER's SO_2 regulations allowed up to 4.8 lbs $SO_2/10^6$ BTU heat input as a daily average for two days in any running 30-day period, the SO_2 concentration resulting from armstrong emissions at an average of 4.8 lbs $SO_2/10^6$ BTU was predicted for the 3-hour and 24-hour periods. It was shown that at this emission level, the highest second-highest SO_2 concentrations were 299 $\mu g/m^3$ and 646 $\mu g/m^3$ for 24-hour and 3-hour averaging times, respectively. These concentrations are within the 24-hour (365 $\mu g/m^3$) and 3-hour (1300 $\mu g/m^3$) NAAQS.

The techniques that were used in the dispersion modeling study were consistent with EPA policy in effect at the time. The receptor array was judged to be adequate, including many receptors specifically located to represent high terrain features. Background concentrations were gathered from ten monitoring stations in the Armstrong region. A more detailed discussion of the dispersion modeling is contained in the TSD.

On December 10, 1982, DER notified EPA that the terms of the Consent Order had been fully satisfied. WPPC's 307-meter stick was completed, and the Armstrong Plant was operating in accordance with the final emission limits specified in the Agreement. At that time, DER requested that the Armstrong area be reclassified "attainment" for SO_2.

On June 29, 1983 (48 FR 29887), EPA proposed approval of DER's reclassification request. The Notice of Proposed Rulemaking specifically described the GEP determination which was the basis for the attainment demonstration. No adverse comments were received. However, on October 11, 1983 the D.C. Circuit issued its opinion remanding portions of the 1982 stack height regulations (*Sierra Club v. EPA*, 719 F.2d 436 (D.C. Cir., 1983)). The history of EPA's development of stack height rules is described in Section A above. As a result of uncertainties about the potential impact of that decision and any revised rules on the attainment demonstration at issue here, EPA delayed final action on the reclassification until it could fully assess whether and to what extent the final rules would affect the reclassification.

The fluid modeling demonstration for the Armstrong Plant does not conform with the Agency's 1985 stack height regulations in that an emission limit higher than the NSPS limit was used and no showing was made that compliance with the NSPS limit would be infeasible. Also, no showing was made that the merging of the two 70-meter stacks into one 370-meter stack was undertaken as part of a change in operations that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons.

West Penn Power, however, with the support of the Commonwealth of Pennsylvania, argues that it should retain credit for the full height of its Armstrong stack and its stack merger without showing that it qualifies for such credit under the 1985 regulations. West Penn argues that EPA's approval of the Pennsylvania SIP revision that incorporated approval of the stack constituted an "ad hoc rule" that established specific requirements for the Armstrong Plant, and which were not affected by the court decision or superseded by subsequent rules of general applicability.

On April 29, 1986, EPA denied several petitions that requested that EPA amend the 1985 regulations so as to "grandfather" a previously-approved GEP stack height determination for the Kammer Power Plant in West Virginia. The Kammer Plant, like the Armstrong Plant, was the subject of a fluid modeling demonstration that does not conform to the 1985 stack height regulations. The two cases differ, however, in three ways. First, Kammer received EPA approval of credit for an existing stack which was constructed prior to carrying out fluid modeling, while West Penn designed and constructed its Armstrong stack based on the results of fluid modeling, and only after receiving EPA approval. Second, while credit for the Armstrong stack was established in a SIP revision rulemaking before 1982, credit for the Kammer stack was "approved" only in a letter and was explicitly based on consistency with the 1982 regulations that were later invalidated by the Court of Appeals in *Sierra Club*. Finally, unlike the Armstrong Plant, the Kammer Plant never received an EPA-approved SIP emission limit based on credit for its stack.

West Penn's position regarding the applicability of the 1985 GEP rules to Armstrong, and the issues which relate to that position, are set forth below.

II. Issues for Public Comment

By means of this Notice, EPA expressly seeks comment on the following question: Are the October 11, 1983 Court decision and resulting July 8, 1985 stack height regulations (50 FR 27892) applicable to West Penn Power Company's Armstrong Station in a manner which requires that the State of Pennsylvania and EPA reassess the Armstrong stack GEP determination and stack merger and, thereby, reassess the attainment demonstration? In order to focus public comment on this question, EPA sets forth here two possible answers to this question, together with the principal arguments in support of each position. Commenters are urged to address the arguments relating to each of the two available options and to identify and amplify any additional considerations relating to these options, or to suggest additional options other than those discussed here.

Option A: Apply the July 8, 1985, stack height regulations to Armstrong's (WPPC's) GEP determination and subsequent attainment demonstration.

In support of this position, it can be noted that the 1985 rules contain numerous grandfathering provisions, but none of them apply to WPPC's stack or its fluid modeling demonstration. Given the explicit grandfathering provisions and the extensive consideration that was given to grandfathering issues, it may be argued that the rules were not intended to implicitly grandfather any sources that were not explicitly grandfathered. The preamble to the regulations explicitly states that the provisions concerning GEP stacks are retroactive to December 31, 1970, and the limitation on credit for merged stacks is applicable to mergers that occurred before promulgation of the regulations. Finally, the Agency stated in its response to comments on the 1985 regulations, that "a fluid modeling demonstration has no significance apart from showing whether the source qualified for credit under the stack

height guidelines then in effect. Accordingly, such demonstrations can be grandfathered only to the extent that the substantive rules on which they are based have been grandfathered."

In evaluating the fairness of this position, it can be noted that, if WPPC's stack height credit is reduced by application of the 1985 rules, it will not lose all benefit from its stack, and it will not be penalized retroactively. The reduced stack height credit will affect only future emission limits, not past emission limits. WPPC has received full credit for its stack from the time it was constructed in 1982, until the present. If, as WPPC has claimed, application of the 1985 rules could require installation of a $100 million scrubber, then the amount that WPPC has saved by deferring that expenditure for over four year may make up for its claimed $13 million investment in its stack.

The 1979 proposed rules required a NAAQS or PSD increment exceedance as part of the definition of "excessive concentration," and, therefore, the 1979 proposal did not have the fundamental flaw which the Court of Appeals emphasized in invalidating the 1982 regulations, namely a failure to associate the definition with health and welfare-based standards. However, the 1979 proposal did not specify an emission limit, and the Agency concluded in promulgating the 1985 rules that the exceedance requirement is meaningless unless an emission limit is specified.

The fluid modeling undertaken by West Penn to establish GEP stack height in accordance with the 1979 proposal did specify an emission limit, which was the existing limit under the Pennsylvania Code, but which is higher than the NSPS limit in the 1985 rule. In addition, the fluid modeling does not fully conform to technical guidance that is in effect today.

Application of the 1985 stack height regulations to the Armstrong Plant would be consistent with the agency's denial of the petitions concerning the Kammer Plant. Although approval of the Kammer Plant's GEP demonstration was nominally based on the agency's invalidated 1982 stack height regulations, the Kammer demonstration, like the Armstrong demonstration, showed that the modeled stack height was necessary to avoid exceedance of a NAAQS as well as to avoid a 40% increase in pollutant concentration caused by downwash. Thus, the Kammer demonstration was consistent with the 1979 proposed regulations on which the Armstrong demonstration was based. Also, although final approval of the Kammer demonstration was by letter, that approval was issued after notice in the **Federal Register** and a public hearing, so that the procedures employed were somewhat similar to those employed for approval of the Armstrong determination.

It can also be argued that a decision to accept the prior GEP finding for the Armstrong stack would run counter to the *Sierra Club* court's admonition that credit for stack height in excess of formula height should be granted only with "utmost caution" in "rare circumstances," and that the Agency "should err on the side of reducing stack height [credit]." *Option B:* Do not apply the July 8, 1985, stack height regulations to Armstrong's GEP determination and subsequent attainment demonstration but, instead, accept the prior approval of the GEP determination for Armstrong.

In support of this position, it should be noted that EPA's approval of the Pennsylvania SIP revision that recognized full credit for the Armstrong stack was a final agency rulemaking action. It was undertaken in accordance with the procedural requirements for rulemaking. The final rule was not challenged by any party, and the period for appeal has expired. In the rulemaking action, EPA approved the fluid modeling demonstration that showed that the Armstrong stack height was required by good engineering practice. The Agency also approved emission limits based on modeling that incorporated the single 307 meter stack as a replacement for the two existing 70 meter stacks. EPA did not find that the statutory proscription of reliance on dispersion techniques required denial of credit for the merger.

Although the preamble to the 1985 rules states that they apply retroactively, neither the preamble nor the rules themselves explictly refer to previously-approved fluid modeling demonstrations. One could argue that the rules were intended to be retroactive in the sense that they would apply to existing stacks, but that they were not intended to overrule previous site-specific rulemaking actions, especially when those actions were not based on the invalidated 1982 stack height regulations.

West Penn did not construct the stack until after both EPA and Pennsylvania approved the SIP revision that was based on full credit for the stack. West Penn can, therefore, reasonably claim that it constructed the stack in reliance on that approval.

The SIP revision approval was not based on the 1982 rules that were remanded by the DC Circuit in *Sierra Club*. The 1979 proposed rules, like the 1985 rules and unlike the 1982 rules, required a NAAQS or PSD increment exceedance as part of the definition of "excessive concentration." Thus, the definition was arguably consistent with the subsequent *Sierra Club* opinion that required that the definition be related to health and welfare effects.

Finally, it should be noted that a determination of the continued validity of EPA's prior approval of credit for the Armstrong stack would not set a precedent of widespread applicability. Prior to promulgation of the 1985 rules, EPA approved credit for stack height in excess of formula height for only one other source besides Armstrong and Kammer, and that source never actually built its stack.

III. Summation

Before taking final action on the proposal to reclassify the Armstrong area to attainment for SO_2, EPA must decide what impact the 1985 GEP regulations should have on the evaluation of the attainment status of the area. If EPA determines that the 1985 GEP regulations are applicable to West Penn Power Company's Armstrong Station, then the request to reclassify the area to attainment would be denied pending a determination of the correct GEP stack height, of whether the stack merger was undertaken for sound economic or engineering reasons, and of the appropriate emission limits for that source. On the other hand, if EPA determines that the GEP attack height determination for the Armstrong remains valid and if no other basis for denying the reclassification request is identified through the comment period, EPA would take final action to approve the relcassification in accordance. With the June 29, 1983 proposal on this matter.

EPA expressly invites all comments which will assist in the resolution of this question.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator certifies that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Dated: August 5, 1986.

Greene A. Jones,

Acting Regional Administrator.

[FR Doc. 86-18565 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-144]

Review of Technical Parameters for FM Allocation

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in response to the *Notice of Proposed Rule Making* in MM Docket 86-144 (April 29, 1986, 51, FR 15927). This *Notice* reviewed the technical parameters for FM broadcast stations allocations. The extension was requested by the Association for Broadcast Engineering Standards, Inc.

DATES: Comments are on or before August 26, 1986 and reply comments are due on or before September 9, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Order Further Extending Time for Filing Comments To Notice of Proposed Rule Making

Adopted: August 7, 1986.
Released: August 8, 1986.

In the Matter of: Review of Technical Parameters for FM Allocation Rules of Part 73, Subpart B, FM Broadcast Stations.

By the Chief, Mass Media Bureau:

1. On June 10, 1986, the comment and reply comment deadlines in this proceeding were extended to August 11, 1986 and August 26, 1986, respectively. That action was taken to provide the National Association of Broadcasters (NAB) the necessary time to conduct tests on FM receivers' susceptibilities to intermediate frequency interference.

2. The Commission now has before it another motion to extend the comment deadlines. The Association for Broadcast Engineering Standards, Inc. (ABES) requests the extension to provide it the opportunity to study the data being compiled by the NAB.

3. Because the ideal of compiling the most complete record would be furthered by granting ABES request, we will again extend the filing deadlines (15 days for comments replies 14 days thereafter). We note, however, that there are other issues in this proceeding, independent of the intermediate frequency issue, which justify expedited action. Therefore, we would be reluctant to extend these deadlines a third time.

4. Accordingly, It is Ordered that the time for filing comments to the above referenced *Notice* Is Extended to and including August 26, 1986 and September 9, 1986, for reply comments.

5. This action is taken purusant to the authority found in sections 4(i), 5(c)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 86-18412 Filed 8-14-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 86-335; FCC 86-344]

Amendment of the Commission's Rules Concerning the Interconnection of Private Land Mobile Paging Systems With the Public Switched Telephone Network in the Radio Spectrum Below 900 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to eliminate the restriction on direct access paging on frequencies in the bands below 900 MHz. The proposal is intended to promote more rapid and efficient communications.

DATES: Comments must be filed on or before October 2, 1986, and reply comments on or before October 17, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, P.R. Docket 86-335, adopted August 4, 1986 and released August 11, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. Under current rules, paging signals may not be transmitted from telephone positions in the public switched telephone network (PSTN) on frequencies below 900 MHz. Based on the record of allowing direct access paging in the 929-930 MHz band and on the numerous waivers granted to medical entities operating on frequencies below 800 MHz allowing interconnection of paging operations with the PSTN the Commission proposes to eliminate the restriction prohibiting direct access paging on frequencies in bands below 900 MHz. In additon, the Commission proposes to exempt entities operating a paging system on frequencies below 800 MHz and providing interconnection capability from the requirements of § 90.477(d)(3). According to the Commission this section is intended to minimize the impact of interconnecting two-way dispatch operations with the PSTN in congested areas. One-way paging systems interconnected with the PSTN do not pose the same problem.

2. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

4. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

5. Accordingly, Notice Is Hereby Given of rulemaking to amend Part 90 of the Commission's rule and regulations, in accordance with the proposal set forth below. The proposed amendment to the rules is issued pursuant to authority contained in section 4(i), 303(b), 303(f), 303(g), and 303(i) of the Communications Act, as amended.

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the

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Commission's rules 47 CFR 1.415 and 1.419, interested parties may file comments on or before October 2, 1986, and reply comments on or before October 17, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 90

Radio, Private land mobile radio services.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 90—[AMENDED]

Part 90 of the Commission's Rules is proposed to be amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: Section 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 90.477 is amended by adding a new paragraph (f).

§ 90.477 Interconnected systems.

* * * * *

(f) Paging systems operating on frequencies in the bands below 800 MHz are not subject to the interconnection provisions of § 90.477(d)(3).

3. Section 90.490 is amended by revising paragraph (c).

§ 90.490 One-way paging operations in the private services.

* * * * *

(c) Paging signals may be transmitted directly from telephone positions in the public switched telephone network. When land stations are multiple licensed or otherwise shared by authorized users, arrangements for the telephone service must be made with a duly authorized carrier by users, licensees, or their authorized agents on a non-profit, cost-shared basis. When telephone service costs are shared, at least one licensee participating in the costs sharing arrangements must maintain cost sharing records and the costs must be distributed at least once a year. Licensees, users, or their authorized agents may also make joint use arrangements with a duly authorized carrier and arrange that each licensee or user pay the carrier directly for the licensee's or user's share of the joint use of the shared telephone service. A report of the cost distribution must be placed in the licensee's station records and made available to participants in the sharing and the Commission upon request. In all cases, arrangements with the duly authorized carrier must disclose the number of licensees and users and the nature of the use.

* * * * *

[FR Doc. 86-18413 Filed 8-14-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the **Federal Register** on March 21 and June 6, 1986, (51 FR 9854 and 51 FR 20677) and sets forth proposed frameworks, (i.e., the outer limits for dates and times when shooting may occur, hunting areas, and the number of birds which may be taken and possessed) for late-season migratory bird hunting regulations for 1986–87. These seasons generally will commerce on or about October 1, 1986, and include most of those for waterfowl.

The Service annually prescribes migratory bird hunting regulations frameworks to the States. The effect of this proposed rule is to facilitate the selection of hunting seasons by the States and to further the establishment of the late-season migratory bird hunting regulations for 1986–87.

DATE: The comment period for these proposed late-season frameworks will end on August 25, 1986.

ADDRESS: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received on these proposed late-season frameworks will be available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. The Service's biological opinion resulting from its consultation under section 7 of the Endangered Species Act is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Tready Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 21, 1986, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (51 FR 9854) a proposal to amend 50 CFR Part 20, with comment periods ending June 19, July 14 and August 25, 1986, respectively, for the 1986–87 hunting season frameworks proposed for Alaska, Hawaii, Puerto Rico and the Virgin Islands; other early seasons; and the late seasons. That document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under §§ 20.101 through 20.107, 20.109 and 20.110 of Subpart K. On June 6, 1986, the Service published in the **Federal Register** (51 FR 20677) a second document consisting of a supplemental proposed rulemaking dealing with both the early- and late-season frameworks. On July 3, 1986, of Service published for public comment in the **Federal Register** (51 FR 24415) a third document consisting a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On July 25, 1986, the Service published in the **Federal Register** (51 FR 26712) a fourth document containing final frameworks for Alaska, Puerto Rico and the Virgin Islands. On August 13, 1986, the Service published a fifth document (51 FR 28946) containing final frameworks for other early migratory bird hunting seasons from which State wildlife conservation agency officials selected early-season hunting dates, hours, areas and limits for 1986–87. This document is the sixth in the series and deals specifically with proposed frameworks for the 1986 late-season migratory bird hunting regulations. Before September 1, 1986, the Service will publish in the **Federal Register** a seventh document consisting of a final rules amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, snipe, and

common moorhens and purple gallinules; teal seasons in September; sea duck seasons in certain defined areas of the Atlantic Flyway; September duck seasons in four States; Canada geese in September in parts of Michigan; sandhill crane seasons in the Central and Pacific Flyways; a sandhill crane and Canada goose season in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and extended falconry seasons.

In 1985, because of the declining status of ducks and their breeding habitats, conservative harvest regulations were established to help a declining resource rebuild its populations. The goal of the regulations established was a reduction of at least 25 percent in the expected harvest of ducks while maintaining the interest of sportsmen, landowners and other conservationists in protecting and enhancing duck populations and habitats.

At the July 1986 annual Waterfowl Status Meeting, the Service presented data that indicated improvement in duck breeding populations and their breeding habitats, and forecasted an increased 1986 fall flight of ducks compared to that of 1985. However, despite the overall improvements in habitat conditions and numbers of ducks, the Service cautioned that this year's forecasted fall flight is the second lowest on record and that the habitat and duck population improvements by no means represent full recovery. Six of the 10 most important species of ducks surveyed remain below breeding population objectives outlined in the recently adopted North American Waterfowl Management Plan.

Based on federal surveys, the duck harvest strategies of 1985–86 reduced the total duck harvest 27 percent from that of 1984–85. Of particular importance, the proportion of the mallard population removed by hunting in 1985 was smaller than in recent years. The 1985–86 duck harvest strategies were difficult for many concerned, but appear to have assisted in halting population declines. The Service advocates a duck harvest strategy for 1986–87 that will maintain the reduced harvest rate on mallards and all ducks. The proposed regulations frameworks presented in this document reflect the use of framework dates, season length and bag limits as regulatory tools to continue the positive waterfowl resource gains made in 1985. The Service notes that 1986 is an interim management year before the 5-year Stabilized Regulations study is fully analyzed. At that time, the Service expects to have new information which may lead to modification of the current approach to duck-harvest management.

Review of Comments Received at Public Hearing

Fifteen statements were offered at the August 1, 1986, public hearing. Portions of some of these statements were related to matters outside the purpose of the hearing. Each statement is summarized below and relevant portions are addresed in the responses.

Mr. Peter Duncan, representing the Atlantic Flyway Council, requested the Service consider an opening date framework of October 1 to allow the hunting season on ducks to begin during mid-week which would reduce harvest pressure while providing an increased opportunity to harvest early migrants and resident species. Also, he urged the Service to give Atlantic Flyway States the option of a 40-day season with a 4-bird bag or a 45-day season with a 3-bird bag. He stated that the best data available suggests that these regulatory strategies would produce a similar effect on harvest. Additional recreational days were important in many States while a reduced bag limit would further restrict the harvest. He urged the Service to consider these options and recognize that the Atlantic Flyway harvest has little impact on waterfowl from mid-continent breeding areas.

Response. The Service recognizes the Atlantic Flyway's long standing tradition to use October 1 as the season framework opening date and the differing harvest characteristics of an earlier opening date are noted. However, during the 1985–86 waterfowl season, the opening dates were delayed (October 8 in much of the Atlantic Flyway) to reduce the overall waterfowl harvest. The harvest was reduced. In order to both continue with conservative harvest strategies and recognize the Council's desire for an earlier opening, the Service proposes an October 4 opening. The Atlantic Flyway's reommendation that optional season length and bag limits be available to each State was not accepted because the effects of the two different harvest strategies is uncertain and evidence of equivalency was not provided. Therefore, in lieu of an option, a 40-day season with 4-bird daily bag is proposed in the Atlantic Flyway. Recognizing that there are differences of opinion on how to reduce duck harvests, the Service appreciates the Atlantic Flyway Council's support of regulations for 1986–87 that are designed to maintain a conservative approach to harvest.

Mr. Steven Lewis, representing the Central Flyway Council, recommended (1) continuation of restrictive bag limit and increased informational efforts seeking voluntary restraints in lieu of a closed season on canvasbacks, and (2) conversion of Montana duck zones from "experimental" to "operational" status. Additionally, he supported all other proposed regulations.

Response. An Environmental Assessment *Proposed Hunting Regulations on Canvasback Ducks, 1983* sets forth a policy of managing canvasbacks by western and eastern populations and of considering all possible conservation actions including closed seasons should the eastern population drop below 360,000 birds (based upon a 3-year-average of the most recent breeding population indices). The average index was below this threshold in 1985 and in 1986; accordingly, the Service believes it prudent to suspend hunting until alternative conservation strategies can be fully developed.

The Service previously announced in the **Federal Register** (at 51 FR 9882 and 51 FR 20680) its belief that there should be no new duck hunting zones, or modification of existing zones, until the cumulative effects of such zones can be evaluated. This evaluation will be included in the development of a supplemental environmental impact statement on the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (see **Federal Register**, July 31, 1986, 51 FR 27430). Therefore, the Montana zone will continue to be considered as "experimental," and will be evaluated based on previously collected data.

The Service appreciates the Central Flyway Council's support of the proposed 1986–87 regulations.

Mr. Bill Graves, Mississippi Flyway Council Chairman, commented about the use of framework opening and closing dates in the regulation of duck harvest. He urged the Service to apply framework-date restrictions equitably among production and wintering areas. He further urged that an equitable framework be developed and applied to all four flyways.

He commented that this year we should fine-tune the regulations developed last year and maintain the equities in regulations reductions across flyways that was used last year.

Response. The Service will be reviewing framework dates along with other hunting regulations in the process of developing a supplemental environmental impact statement previously referred to in response to the

VOL 51 ISS 158 AG 15 1986 UMI

comments of Mr. Steven Lewis. The Service believes the regulations proposed herein maintain the equitable regulations reductions Mr. Graves calls for.

Mr. William Geer, representing the Pacific Flyway Council (Council), discussed the common goal of the Council and Service to continue with restrictive regulations until numbers of ducks have been restored. He noted that there still exists areas of disagreement between the Council and the Service, but they are narrowing and do not represent basic philosophical differences. He urges the Service to work with the Council to establish prescriptive regulations to allow agencies to plan ahead. He noted that the Council responded to the Service's request by recommending duck regulations designed to reduce harvests, and to further reduce the incidental harvest of cackling Canada geese and it further reduced white-fronted goose harvests by a dark-goose closure in a portion of the Sacramento Valley after November 30. California, Oregon, and Washington, with Council support, will seek emergency closures on white-fronted geese should the fall surveys produce a population index below the threshold level.

Response. The Service notes and appreciates the various conservative measures recommended by the Pacific Flyway Council for certain duck and goose populations. The Service will continue to work with the Council in the development of appropriate regulations in the years ahead.

Mr. Laurence R. Jahn, representing the Wildlife Management Institute, discussed several non-regulatory waterfowl management topics. He recommended that regulations be designed to further reduce harvest rates for mallards (especially western populations), pintails, black duck, canvasbacks, and all other ducks. He stated specific actions should be taken in both the United States and Canada to accelerate recovery of black duck populations. He commended Alaska for not having open seasons on Aleutian Canada geese, cackling geese, and emperor geese during 1986–87, and recommended similar action be taken in other areas in the Pacific Flyway. He requested that mangement agencies design and implement actions to prevent declines of waterfowl populations and to restore depressed populations. He sought preventative actions to avoid reducing populations of certain arctic-nesting geese, especially the Greater Snow Goose, because of forecasted poor production.

Response. The Service believes the proposed frameworks for duck hunting reflects Mr. Jahn's concern for continued and in some cases greater restrictions on harvests. The Service's views concerning the black duck are contained in the later response to Mr. John W. Grandy's comments. The Service again proposed that seasons on Aleutian and cackling Canada geese be closed in the Pacific Flyway and the season on emperor geese will be closed in Alaska where these geese habitually winter. The Service believes that for most arctic-nesting geese the frameworks of 1985–1986 were adequate and are being proposed again for this year. The Greater Snow Goose spring population is well above the objective level stated in the management plan. Further, production is forecast to be very poor in 1986, and therefore the flock will be much less vulnerable to hunting. These factors should assure the continued well-being of Greater Snow Geese without the need for more restrictive regulations. Frameworks for Atlantic brant, however, have been made more restrictive because experience has shown these birds to be vulnerable to hunting and winter mortality under certain weather and habitat conditions.

Mr. T. Miller, representing the Illinois Department of Conservation, commented about the Service's reluctance to grant two special Canada goose seasons in the northeast portion of Illinois, one in early October and the other in late December. He stated that the purpose of the seasons is to help control a growing flock of giant Canada geese in the northeastern part of the State. He said the proposed seasons are timed to avoid the peak migrations of Mississippi Valley Population (MVP) Canada geese which winter in southern Illinois and farther south, and presented information to indicate the proportion of migrant geese in the small expected harvest would be low. He requested that if an early-October season is unacceptable, the Service consider permitting a short season in late September. He stated that additional information from neck-collar observations is available, and requested that the Service delay a decision on the special seasons until Illinois can assemble and submit the data.

Response. If the State submits additional information during the comment period which indicates that few migrant Canada geese are in the proposed hunting areas in late September, the Service will consider a short season during that time. However, the Service feels that more information about the racial composition of geese in the proposed area in late December is needed before permitting a hunting season at that time of year. As mentioned previously (51 FR 20677, July 3, 1986), the Service is aware of increasing interest from a number of States in the use of hunting to control local flocks of giant Canada geese. The Service has requested that the Mississippi Flyway Council develop criteria and guidelines for the proposal, and conduct an evaluation of special giant Canada goose hunting programs. These should be completed and submitted to the Service for review prior to the development of additional State proposals for such programs.

Mr. Mike Berger, representing Ducks Unlimited, commented that the Organization's subjective forecast of duck flights was generally consistent with the Service's; however, Ducks Unlimited preferred to credit the modest improvements in duck indices more to improved habitats than the 1985 duck harvest strategies. Mr. Berger also made several comments regarding the recently adopted North American Waterfowl Management Plan.

Response. The Service welcomes the additional information available through Ducks Unlimited's annual waterfowl survey. It is recognized that the indices to 1986 breeding ducks may reflect improvements in habitats; however, it is believed the regulations restrictions and substantial reductions in harvests during 1985–86 seasons contributed to the upturn in breeding population indices. Mr. Berger's comments regarding the North American Waterfowl Management Plan are not part of this regulatory process for late-season regulations.

Mr. Steve Miller, representing the Wisconsin Department of Natural Resources, commented about the proposed Canada goose regulations and the framework opening date for duck hunting in Wisconsin. He stated that Wisconsin can agree with the proposed Canada goose regulations, although the short season outside the 6-county tag zone will be difficult to explain to hunters. He said the higher harvest objective will greatly assist in dealing with depredations and public-relations problems in the Horicon Marsh area. He cited results of a 1985 survey which indicated declining tolerance of Canada geese by landowners in east-central Wisconsin, and stated that this trend must be reversed. He also posed several questions about MVP Canada goose management in the future, especially as it pertains to Wisconsin. He indicated that the State prefers a fixed October 1 opening date for the duck hunting

season rather than October 4. The weekday opening that would occur in most years, together with more restrictive bag limits in Wisconsin during the first week of the season, helps to reduce hunting pressure during the early part of the season.

Response. The Service agrees that the problems caused by large concentrations of Canada geese can be difficult ones, and believes that the Service, the State, and the Mississippi Flyway Council must continue to work cooperatively to solve them within the guidelines of the MVP management program. The Service also believes that control of harvest in Wisconsin continues to be a key to cooperative management of MVP geese. The Service also believes that the combination of restricted framework opening dates and reduced season reduced lengths and bag limits proposed for the 1986 duck harvest season is necessary to maintain lower harvest rates on ducks during this period of low population levels. The Service will reexamine the framework dates issue before the 1987 late-season regulations cycle.

Mr. Douglas B. Inkley, representing the National Wildlife Federation (NWF), made requests of the Service regarding implementation of not-toxic shot regulations. He expressed the NWF's concern about general declines in waterfowl populations and said they would offer written comments on the proposed regulations. On behalf of both the NWF and the North Carolina Wildlife Federation he supported an operational season for tundra swan hunting in North Carolina and other Atlantic Flyway States. He suggests that the Service consider possible closure of canvasback hunting in the Atlantic, Mississippi, and Central Flyways but not in the Pacific Flyway. He supported continued restrictive regulations governing black duck harvest. He noted the NWF strongly supports cooperative efforts throughout the Pacific Flyway to restore cackling Canada geese, Pacific white-fronted geese, black brant and emperor geese and provided a copy of the Federation's 1985 resolution to that effect.

Response. Issues related to non-toxic shot regulations and implementation schedules are not a part of this regulatory process for late-season regulations. The Service will consider the NWF's written comments on the proposed regulations if they are provided during the comment period. The Service does not support an operational tundra swan hunting season in North Carolina nor an expansion of such a hunt until there has been an adequate evaluation of the experimental hunt. Further, any expansion of the hunt must follow development of a hunt plan that is mutually acceptable to the Service, the Canadian Wildlife Service, and all four flyway councils which share management of the Eastern Population of tundra swans. The proposed regulations reflect a season closure on canvasbacks in the Atlantic, Mississippi, and Central Flyways and an open season in the Pacific Flyway. The restrictive regulations for black ducks will be continued. Additional information concerning black ducks is contained in the Service's response to Mr. John W. Grandy. NWF's support for cooperative efforts to restore the four populations of Alaska-nesting geese is appreciated.

Mr. Gary Myers, representing The Wildlife Society, commended the Service for achieving a major reduction in the harvest of waterfowl during the 1985–86 season. He emphasized the need to continue restrictions during the 1986–87 season and cited support for Service action to close the season on canvasbacks. Further, he expressed support for actions taken to reduce the harvest on Atlantic brant, Pacific white-fronted geese, and cackling Canada geese and for hunting closures on Aleutian and cackling Canada geese and Emperor geese in Alaska. He noted The Society is pleased with actions recently taken to improve the MVP goose plan and asked the Service to work with the Mississippi Flyway Council (MFC) to achieve harvest objectives. In particular, The Society expressed concern for black ducks and indicated that a detailed review is being conducted and will be available this coming year. Mr. Myers also commented on nontoxic shot regulations and the North American Waterfowl Management Plan.

Response. The Service notes the comments presented and appreciates the Society's involvement in the management of the waterfowl resource. The Service proposes to continue restrictive waterfowl regulations in 1986–87 and will work with the MFC to achieve MVP harvest objectives. The Service welcomes the efforts by the Society to improve knowledge of black ducks and looks forward to the results of that effort. The comments of Mr. Myers regarding nontoxic shot and the North American Waterfowl Management Plan are not part of this regulatory process for late-season regulations.

Mr. John W. Grandy, representing The Humane Society of the United States and the World Society for the protection of Animals, urged the Service not to abandon regulatory restrictions and to either strengthen or adopt regulations similar to those of last year. With respect to black ducks, Mr. Grandy strongly suggested that the 25 percent reduction in the harvest was not adequate to achieve a significant change in harvest rates or an improvement in the population status. Further, he argued that since the harvest has been reduced in excess of 25 percent without a major change in the harvest rate, then, the reduction in the number of ducks killed must be the result of a decreasing population. He requested the Service to begin now with a major revamping of regulatory restrictions on black ducks.

Response. The Service continues to monitor the population status of black ducks as part of a harvest reduction strategy initiated in the Atlantic and Mississippi Flyways in 1983. Presently, winter inventories of black ducks show populations during 1986 to be 16 percent above 1985 estimates and near the 10-year average. Also, the harvest rates appear to have changed since 1983 on black ducks banded in the United States. The Service has requested those States in the Atlantic and Mississippi Flyways which have not achieved a 25 percent reduction to adopt more regulatory restrictions during the 1986–87 season. Under the North American Waterfowl Management Plan, Canada and the U.S. are developing a further cooperative program on black ducks. Consideration will be given to inventory methods, possible regular surveys, research needs, and whether additional common actions to manage harvest are necessary.

Mr. Albert M. Manville, representing the Defenders of Wildlife, commented that his organization (1) assumed that reductions in 1985 harvests contributed to the increases in 1986 duck breeding population indices and recommended continuation of restrictive regulations, (2) objected to "pre-dawn" (sic) shooting hours and requested another environmental assessment, (3) noted that the 1986 scaup breeding population index was unchanged from that of 1985 which was 25 percent below the previous year's index and recommended closure of special scaup seasons and elimination of extra-scaup options, (4) noted the status of American wigeon and recommended more restrictive bag limits, (5) continued to oppose the 3-year experimental swan season in North Carolina and recommended specifically that the number of permits authorized be reduced and made consistent with the Environmental Assessment, (6) encouraged consideration of weekday

rather than weekend opening framework dates, and (7) hoped that the Service will work more expeditiously to correct habitat degredation as the key cause of declining waterfowl populations. Mr. Manville also made several comments on matters that are not part of this regulatory process for late-season regulations, i.e., waterfowl research, waterfowl surveys, wetlands legislation, nontoxic shot regulations, and waterfowl disease and predator problems. Mr. Manville's comments relating to late season issues at the June 19, 1986, public hearing (**Federal Register** 51 FR 24419) are also noted.

Response. The proposed 1986–87 regulations continue essentially the same restrictions of 1985–86 regulations, and include additional restrictions such as no open season on eastern canvasbacks. The Service appreciates the Defenders support of such regulations. Shooting hours will be addressed in the process of developing a supplemental environmental impact statement referred in response to the comments of Mr. Steven Lewis.

Indices to scaup breeding populations, while down from 1984, are near long-term averages and show generally stable trends. Accordingly, the Service has proposed to continue the special season and option. Indices to American wigeon and blue-winged teal likewise indicate generally stable trends and will continue to receive protection under the restrictive frameworks proposed.

In regard to the number of swan permits issued during the North Carolina experimental hunt, the Environmental Assessment: Proposed Hunting Regulations on Eastern Population of Whistling (Tundra) Swans, 1984, provided for annual adjustments, based upon the actual success rate of permittees, in the number of permits issued.

The Service notes opening framework dates will be addressed in the process of developing the forthcoming supplemental environmental impact statement previously referenced.

Mr. John M. Anderson, representing the National Audubon Society, generally supported the proposed 1986–87 regulations and noted especially the status of Pacific Flyway white-fronted geese, dusky and cackling Canada geese, and canvasbacks, for which more restrictive regulations or closed seasons are proposed and complemented such management of a Flyway basis. He recognized the problems of excessive populations and supported the proposed white goose seasons in the Rio Grande Valley of New Mexico but cautioned that Gray's Lake whooping cranes use the area.

Response. The Service appreciates the Audubon Society's support of the proposed regulations and notes that Gray's Lake whooping cranes are continuously monitored, in the Rio Grande Valley and elsewhere, to assure reasonable protection from risks of any kind.

Mr. Richard Elden, representing the Michigan Department of Natural Resources, requested that the Service reconsider Michigan's request for a change in their duck hunting zone boundary and changes in Canada goose hunting regulations for the State.

Response. Although some minor modifications in duck zone boundaries are proposed for two States this year, the Service considers the Michigan request to be a major change and proposes to retain the 1985 zone structure. The overall issue of zoning as a harvest management strategy will be reviewed in the development of the supplemental environmental impact statement previously referred to in response to the comments of Mr Steven Lewis. The Service proposes to retain essentially the same Canada goose regulations as in 1985, even though the 1985 harvest was higher than the harvest ceiling established for 1986. This is proposed in recognition of the rapidly growing flocks of giant Canada geese in the State and the fact that at least a small proportion of the 1985 harvest consisted of giant Canada geese taken during the special late-season in the Southern Michigan Goose Management Area.

Mr Lew Pamplin, of the Alaska Department of Fish and Game and representing coastal states of the Pacific Flyway Council, provided an account of the cooperative Yukon-Kuskokwim Dalta Goose Management Plan as related to proposed regulations affecting harvests of the Pacific Flyway Population of white-fronted geese. That plan calls for a population objective of 300,000 geese, with a bottom threshold of 95,000 geese (3-year-average index) at or below which all hunting would stop. Hunting could be resumed once the average index exceeded 120,000 geese. The average population index is near the threshold at which hunting would stop. California, Oregon, and Washington are prepared to close the season on white-fronted geese through emergency action should this be necessary. A closure in those three states would be followed by closures in Alaska of both subsistence and sport hunting.

Mr. Pamplin also described restrictive measures taken in Alaska and Oregon to reduce harvests of dusky Canada geese and said that the present limited harvest was not a problem affecting population recovery but that predation of birds on their breeding grounds was a serious problem.

Response. The Service appreciates Mr. Pamplin's reaffirmation of the Council's support for emergency closures on white-fronted geese should this be necessitated and the information provided concerning other Pacific Flyway geese.

Written Comments Received

In the **Federal Register** dated June 6, 1986 (51 FR 20677), the Service reviewed comments on proposed season frameworks received from 10 correspondents as of May 1, 1986. Since then, 20 additional comments have been received. They are discussed here by regulatory topics arranged in the same order as in the March 21, 1986, **Federal Register** (51 FR 9854).

2. *Framework for ducks in the conterminous United States—outside dates, season length and bag limits.*

The Georgia Board of Natural Resources requested the Service give consideration to the Board's resolution that the framework closing date for waterfowl hunting in the State be extended to January 31.

Response. The Service is proposing that the framework closing date for duck hunting in Georgia be January 18, the same date as the rest of the Atlantic Flyway. In light of the current status of ducks, the Service believes general framework restrictions are needed in all flyways to maintain the reduced duck harvest of 1985. Because of this and the growing concern about the potential impacts of late hunting seasons on duck populations for reasons other than increased harvest, the Service does not support Georgia's framework extension request.

An individual form Michigan, two individuals from Minnesota and one individual from Texas submitted their concerns for the status of ducks in North America and urged the Service to use caution in establishing the 1986–87 duck hunting regulations frameworks.

Response. The Service believes the harvest management strategies of the proposed duck hunting regulations frameworks presented in this document reflect the concern for the duck resource shared by the four individuals.

The Atlantic Flyway Council has requested that the Service provide an extra hunting day for each day lost to those States in the Flyway that have a ban on Sunday hunting. The Service has received several congressional inquires regarding this same issue.

Response. The Service has addressed this issue on several occasions and continues to feel the loss of hunting days because of a State restriction against Sunday hunting is a matter for local resolution.

3. *American black ducks.* At the June 19, 1986, public hearing on early-season regulations, Mr. Donald S. Heintzelman, representing the Wildlife Information Center, Inc., expressed concern regarding the status of the black duck and recommended there be no sport hunting of the species.

Response. See the Service's response given earlier to the comments regarding black ducks presented at the public hearing by Mr. John Grandy.

12. *Canvasback and redhead ducks.* In the March 21, 1986, **Federal Register** (51 FR 9854), the Service reviewed the harvest management program for canvasbacks initiated in 1983. The Service noted that 1986 breeding population data and harvest information from the 1985–86 season would be available in July, and at that time the Service, in coordination with the flyway councils, would review the data and consider specific changes in the hunting frameworks for the canvasback.

At the July 25, 1986, Waterfowl Status Meeting, the Service requested that the Atlantic, Mississippi and Central Flyway Council's consider a closure on canvasback hunting. In response to the request, all three Councils recommended no change in the regulations frameworks from 1985 with the exception of a small modification by the Atlantic Flyway.

Response. An environmental assessment *Proposed Hunting Regulations on Canvasback Ducks, 1983* sets forth a policy of managing canvasbacks by western and eastern populations and established minimum levels for both populations below which season closure should be considered. The eastern population is below the minimum level this year for the second consecutive year, therefore the Service feels hunting should not continue until alternative conservation strategies can be fully developed.

13. *Duck Zones.* In the June 6, 1986, **Federal Register** (51 FR 20677) the Service presented the Mississippi Flyway Council Upper Region Regulations Committee's endorsement of duck zone boundary changes requested by Michigan, Indiana and Missouri, but noted the Service believes present duck hunting zones should not be modified and no new duck hunting zones should be initiated until some better informed judgments regarding their cumulative effect on the resource can be made.

At the July 31, 1986, Service Regulations Committee Meeting, the Upper Region Regulations Committee reiterated its endorsement. In addition, Missouri has requested the Service allow the change in the State's duck zones, and the support of several Missouri sportsmen for the change was transmitted to the Service by their Congressman.

Response. The Service is proposing the duck zone modifications in Indiana and Missouri because they only involve minor boundary adjustments, but feels the requested change in Michigan to be a major change and is proposing to retain its 1985 zone structure. The overall issue of zoning as a harvest management strategy will be reviewed in the development of the supplemental environmental impact statement referred to earlier in the Service's response to the comments of Mr. Steven Lewis.

14. *Frameworks for geese and brant in the conterminous United States—outside dates, season length and bag limits.*

The Mississippi Flyway Council Lower Region Regulations Committee's recommendation that the framework closing date for snow and white-fronted goose hunting seasons in Arkansas be extended from January 20 to January 31 was noted by the Service in the June 6, 1986, **Federal Register** (51 FR 20677). In response to the Service's request for additional comments on the recommendation a sportsman from Arkansas has urged the Service to accept the recommendation. The Central Flyway Council has recommended that the framework closing date for the white-fronted goose hunting season in Arkansas not be extended because of the Council's concern regarding the status of the mid-continent white-fronted goose population.

Response. The Service shares the Central Flyway Council's concern regarding the status of mid-continent whitefronts, and therefore proposes to extend the framework closing date for hunting snow geese in Arkansas to January 31 but proposes the framework closing date for hunting white-fronted geese continue to be January 20. The Service further requests that the Central and Mississippi Flyway Councils jointly consider the population status, objectives, and harvest patterns of these birds and attempt to provide unified recommendations before the next season.

Michigan has requested some changes for late seasons including changes in goose seasons, limits and quotas.

Response. The Service proposes to retain essentially the same Canada goose regulations as in 1985, even though the 1985 harvest was higher than the harvest ceiling established for 1986. This is proposed in recognition of the rapidly-growing flocks of giant Canada geese in the State and the fact that at least a small proportion of the 1985 harvest consisted of giant Canada geese taken during the special late season in the Southern Michigan Goose Management Area.

In the June 6, 1986, **Federal Register** (51 FR 20677), the Service noted Massachusetts' request for changes in the State's Canada goose hunting frameworks, but deferred action pending review of the request by the Atlantic Flyway Council. The Council has reviewed the request and recommended that the Service make the requested changes.

Response. Although the Service is proposing a change in the Canada goose hunting frameworks for Connecticut, as recommended by the Atlantic Flyway Council to help control nuisance Canada geese, it feels the supporting justifications for the changes requested by Massachusetts are not adequate to alleviate concerns regarding the potential impact of such changes on migrant geese. The Service will review the recently developed Atlantic Flyway Council criteria for a special season such as this. As a basic guideline, population numbers and racial composition of Canada geese are needed for the specific area and time span during which the proposed season would occur. Such data should be collected prior to another proposal for the Massachusetts season.

Delaware's request for an experimental 10-day snow goose hunt in certain areas of the State was acknowledged in the June 6, 1986, **Federal Register** (51 FR 20677), but the Service indicated it did not favor such a season and that the State's request should be reviewed by the Atlantic Flyway Council. At the June 19, 1986, public hearing on early-season regulations, Mr. Donald S. Heintzelman, representing the Wildlife Information Center, Inc., stated that Delaware's request is unwarranted and should be rejected. The Atlantic Flyway Council announced its endorsement of Delaware's request at the July 31, 1986, Service Regulations Committee Meeting.

Response. The Service is not proposing the experimental season in Delaware because it continues to feel the current regulations frameworks for hunting snow geese in Delaware provide the State ample opportunity to test its dispersal proposal without the necessity

VOL 51 ISS 158 AG 15 1986 UMI

for additional hunting days or without resorting to an experimental season.

15. *Tundra swan.* At the June 19, 1986, public hearing on early-season regulations, Mr. Donald S. Heintzelman, representing the Wildlife Information Center, Inc., recommended that no sport hunting of tundra swans be permitted in North America.

Response. The sport harvest of swans is closely monitored by a permit system in all States where the species is hunted. In addition, fall and winter population surveys and limited breeding ground information provide annual information on the status of tundra swans. The Service has no reason to believe that the current level of harvest has any adverse impact on the resource. The Service proposes to continue the experimental tundra swan season in North Carolina and operational permit seasons elsewhere.

Public Comments

Based on the results of recently-completed migratory game bird studies and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, shooting hours, areas, and bag and possession limits for waterfowl and coots.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process.

The Director intends that finally-adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before late July of specific, reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a comment period past August 22, 1986, is contrary to the public interest.

Comment Procedure

Interested persons may participate by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 536 in the Matomic Building, 1717 H Street, NW., Washington, DC.

All relevant comments on the late season proposals received no later than August 25, 1986, will be considered. The Service will attempt to acknowledge received comments, but substantive responses to individual comments may not be provided.

Nontoxic Shot Regulations

In the January 6, 1986, **Federal Register** (51 FR 409), the Service published a proposed rule describing areas in which lead shot would be prohibited for waterfowl and coot hunting in the 1986–87 hunting season. Appendix O of the recently published Final Supplemental Environmental Impact Statement on the Use of Lead Shot for Hunting Migratory Birds in the United States contains a preliminary final rule addressing the 1986–87 nontoxic shot zones. The final rule describing areas where nontoxic shot is required will be published in the **Fedeal Register** when the Record of Decision on the Final Supplemental Environmental Impact has been signed. It is anticipated this will occur in mid-August.

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting. Attention is also directed to the January 6 and June 27, 1986, **Federal Register** (51 FR 409 and 23444) which gave notice if States do not approve nontoxic shot zones when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to waterfowl and coot hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] ". . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

Consequently, the Service initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 23, 1986, the Chief, Office of Endangered Species, gave a biological opinion that the proposed action was not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 21, 1986 (at 51 FR 9859), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in

the Federal Register dated July 25, 1986 (at 51 FR 26714).

Authorship

The primary author of this proposed rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1986–87 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1981 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended.

Proposed Regulations Frameworks for 1986–87 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks for season lengths, shooting hours, bag and possession limits and outside dates within which States may select seasons for hunting waterfowl and coots. Frameworks are summarized below.

General

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Extra Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Special Scaup-only Season: States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 4, 1986, and January 31, 1987, all dates are inclusive.
2. The season must fall outside the open season for any other ducks except sea ducks.
3. The season must be limited to areas mutually agreed upon by the State and the Service prior to August 31, 1986.
4. These areas must be described and delineated in State hunting regulations.

Or

Extra Scaup: As an alternative, States in the Atlantic, Mississippi and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Massachusetts, Pennsylvania and Vermont may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Exceptions: Since 1978, the Service has not been able to implement or enforce nontoxic shot zones in a State without approval of the appropriate State authorities. This restriction on use of funds by the Service has been contained in the Interior Department's Appropriations Act each year since 1978 (Pub. L. 98–473, Sec. 305). As a consequence of this restriction the Service can only propose additions and deletions to the designated nontoxic shot zones for waterfowl and coot hunting with the approval of State authorities. If States do not approve nontoxic shot zones when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to waterfowl and coot hunting (January 6, 1986, Federal Register, 51 FR 409; June 27, 1986, Federal Register, 51 FR 23444). This action is pursuant to the Secretary's/Service's responsibilities under the Migratory Bird Treaty Act and, in the case of zones proposed for bald eagle protection, the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884).

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Hunting Seasons and Duck Limits:

Outside Dates: Between October 4, 1986, and January 18, 1987.

Hunting Season: Not more than 40 days.

Duck Limits: The daily bag limit of ducks is 4 and may include no more than 3 mallards (only 1 may be a hen), 2 pintails, 2 wood ducks, 1 black duck and 1 fulvous tree duck. The possession limit is 8, including no more than 6 mallards, (no more than 2 of which may be a female), 2 black ducks, 4 pintails, 4 wood ducks, and 2 fulvous tree ducks (except as noted below). The limit of redheads is 2 daily and 4 in possession. The season is closed to the taking of canvasbacks.

Point System Options: As an alternative to conventional bag limits for ducks, a 40-day season with a point-system bag limit may be selected by Atlantic Flyway States during the framework dates prescribed. Point values for species and sexes taken are as follow: in Florida only, the fulvous tree duck counts 100 points each; the female mallard, black duck, and mottled duck (except South Carolina) could 100 points each. Wood duck (except in Virginia, North Carolina, South Carolina and Georgia during the early wood duck season option), redhead and hooded merganser count 70 points each; scaup, blue-winged teal, green-winged teal, sea ducks, wigeon, shoveler, gadwall, and mergansers (except hooded) count 20 points each; the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina and Georgia counts 25 points each; the male mallard, pintail, ring-necked duck, goldeneye, bufflehead and all other ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other

birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in two days.

Canvasbacks: All areas of the Flyway are closed to canvasback hunting.

Merganser Limits: Throughout the Flyway the daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: Throughout the Flyway daily bag and possession limits of coots are 15 and 30, respectively.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 4 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits of wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Restrictions on Wood Ducks: Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

Restriction on Mottled Ducks: The season is closed to the taking of mottled ducks in South Carolina.

Special Scaup and Goldeneye Season: In lieu of a special scaup season, Vermont may, for the Lake Champlain Zone, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneye or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

Zoning

New York: New York may, for *Long Island Zone*, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain zone) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and mergenser seasons. Only conventional regulations may be selected. A 2-segment split season may be selected in each zone. Teal and scaup bonus options shall be applicable, but the 16-day special scaup season will not be allowed.

The *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The *North* and *South Zones* are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut may be divided into two zones as follows:

a. North Zone—That portion of the State north of Interstate 95.

b. South Zone—That portion of the State south of Interstate 95.

Maine may be divided into two zones as follows:

a. North Zone—Game Management Zones 1 through 5.

b. South Zone—Game Management Zones 6 through 8.

New Hampshire

Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expessway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone.—That portion of the State north and west of the above boundary.

West Virginia may be divided into two zones as follows:

a. *Allegheny Mountain Upland Zone*—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I–79, and follows I–79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

Zoning Experiments

Vermont will continue a Lake Champlain Zone in 1986. The Lake Champlain Zone of New York must follow the waterfowl season, daily bag and possession limits, and shooting hours selected by Vermont.

Massachusetts, New Jersey, and *Pennsylvania,* may continue zoning experiments now in progress as shown in the sections that follow.

Massachusetts and *New Jersey* may be divided into three zones, *Pennsylvania* into four zones and *Vermont* into two zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Only conventional regulations may be selected in Massachusetts, Pennsylvania and Vermont. A two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

Zone Definitions

Massachusetts

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I–195, west to the Rhode Island line. *EXCEPT* the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

New Jersey

Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from new York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junctions with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I–80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Vermont

Lake Champlain Zone—Includes the United States portion of Lake Champlain and those portions of New York and Vermont which includes that part of New York lying east and north of boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain, New York; New York Route 9 to New York Route 22 south of Keeseville; along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; along New York Route 22 to U.S. Highway 4 at Whitehall; and along U.S. Highway 4 to the Vermont border. From the New York border at U.S. Highway 4, along U.S. Highway 4 to Bermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone—The remaining portion of the State.

Sea Ducks: The daily bag and possession limit for sea ducks in special sea duck areas is in addition to the limits applying to other ducks during the regular duck season. In all areas outside of special sea duck areas, sea ducks are included in the regular duck season conventional or point system daily bag and possession limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and January 20, 1987, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons for Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. In New York (including Long Island), Rhode Island, Connecticut (North Zone only), New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to route 443, east on 443 to Leighton, then east via 209 to Stroudsburg, then east on I–80 to the New Jersey line, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1987. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north banches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with the possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut (North Zone) will be 3 and 6, respectively. In the South Zone of Connecticut (that portion south of Interstate 95) the Canada goose season length may be 90 days with the closing framework date extended to February 5, 1987. The daily bag limit and possession limit will be 3 and 6, respectively, before January 15 and 5 and 10, respectively from January 15 to February 5, 1987. This season in the South Zone of Connecticut is experimental. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season for Canada geese within the October 1, 1986, to January 20, 1987, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season for Canada geese within a December 20, 1986, to January 31, 1987, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In South Carolina the season on Canada geese is closed in the counties of Abbeville, Allendale, Anderson, Bamberg, Barnwell, Beauford, Cherokee, Chester, Colleton, Edgefield, Fairfield, Greenwood, Hampton, Kershaw, Lancaster, Laurens, Lee, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartenburg, Sumter, Union and York.

Closures on Canada geese: The season for Canada geese is closed in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and January 31, 1987, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 4 and 8, respectively.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and

January 20, 1987. States in the Atlantic Flyway may select a 30-day season for Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

Tundra Swans

In North Carolina an experimental season for tundra swans may be selected subject to the following conditions: (a) the season may be 90 days and must run concurrently with the snow geese season; (b) the State agency must issue and obtain harvest and hunting participation data; and (c) no more than 6,000 permits may be issued, authorizing each permittee to take 1 tundra swan.

Mississippi Flyway

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks, Coots, and Mergansers

Outside Dates: Between October 4, 1986, and January 18, 1987, in all States.

Hunting Season: Not more than 40 days.

Canvasbacks: The season on canvasbacks is closed.

Limits: The daily bag limit of ducks is 4, and may include no more than 2 mallards (no more than 1 of which may be female), 1 black duck, 2 wood ducks (except as noted below), 2 pintails, and 1 redhead. The possession limit is 8, including no more than 4 mallards (no more that 2 of which may be females), 2 black ducks, 4 wood ducks (except as noted below), 4 pintails, and 2 redheads.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Point-System Option: As an alternative to conventional bag limits for ducks, a 40-day season with point-system bag and possession limits may be selected within the framework dates prescribed. Point values for species and sexes taken are as follows: the female mallard and black duck count 100 points each; the redhead, wood duck (except as noted below) and hooded merganser count 70 points each; the blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 20 points each; the male mallard, pintail, and all other species of ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Coot Limits—Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 4 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point-system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Western Louisiana: In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season for ducks, coots and mergansers may extend 5 additional days. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning

Alabama, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee, and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones described as follows:

Alabama: South Zone—Mobile and Baldwin Counties. North Zone—The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I–280, east along I–280 to I–80, then east along I–80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundries. South Zone—That portion of the State south of a line running east from the Missouri border along the Monroe-Randolph County line to County Highway 856, south along County Highway 856 to Illinois Highway 155, east along Illinois Highway 155 to Illinois Highway 3, north along Illinois Highway 3 to Illinois Highway 159 north along Illinois Highway 159, to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4, north along Illinois Highway 4 to I–70, then east along I–70 to the Indiana border.

Indiana: North Zone: That portion of the State north of a line extending east from the Illinois border along State Highway 18 to U.S. Highway 31, then north along U.S. 31 to U.S. Highway 24, then east along U.S. 24 to Huntington, then southeast along U.S. Highway 224 to the Ohio border. Ohio River Zone: That portion of Indiana south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, then east along State Highway 62 to State Highway 56, then east along State Highway 56 to Vevay, then on State Highway 156 along the Ohio River to North Landing, then north along State Highway 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border. South Zone: That portion of the State between the North and Ohio River Zone boundries. The season in each zone may be split into two segments.

Iowa: North Zone—That portion of Iowa north of Interstate 80. South Zone—the remainder of the State.

Michigan: North Zone—The Upper Peninsula. Southeast Zone—That portion of the Lower Peninsula south and east of a line running north from the Michigan-Ohio border along U.S. Highway 127 to US–27 to South County Line Road in Gratiot County, east along South County Line Road to McClelland Road, north along McClelland Road to M–57, west along M–57 to US–27, north along US–27 to M–20, east along M–20 to

US–10, east along US–10 to M–13, north along M–13 to US–23, north and east along US–23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then due east ten miles into Saginaw Bay, and from that point along a northeast line to the Ontario border. Middle Zone—The remainder of the State. Michigan may split its season in each zone into two segments.

Missouri: North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 21, south along State Highway 21 to U.S. Highway 60, east along U.S. 60 to State Highway 51, south along State Highway 51 to State Highway 53, south along State Highway 53 to U.S. Highway 62, east along U.S. 62 to I–55, north along I–55 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Ohio River Zone—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia, and Meigs. South Zone—That portion of the State between the North and Ohio River Zone boundaries. Ohio may split its season in each zone into two segments.

Tennessee. Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may be split into two segments in each zone.

Wisconsin: North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Within each State: (1) the same bag limit option must be selected for all zones; and (2) if a special scaup season is selected for a zone, it shall be held outside the regular season in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths, and Limits: Between October 4, 1986 (October 1 in Wisconsin) and January 20, 1987, States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Arkansas and Louisiana: Between October 4, 1986, and January 31, 1987, Arkansas may hold a 70-day season on snow (including blue) geese. Between October 4, 1986, and February 14, 1987, Louisiana may hold 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons. Daily bag and possession limits are as described above.

Minnesota: In the: (a) Lac Qui Parle Zone (described in State Regulations)—the season for Canada geese closes after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese may extend for 50 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season for geese in the Southwest Goose Zone (that portion of the State bounded by U.S. Highways 92 and 71) may be held at a different time than the season in the remainder of the State.

Missouri: In the: (a) Swan Lake Zone (described in State regulations)—the season for Canada geese closes after 70 days or when 16,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeast Zone (east of U.S. Highway 67 and south of Crystal City)—A 50-day season on Canada geese may be selected between December 1, 1986, and January 20, 1987, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(c) Remainder of the State—the season for Canada geese may extend for 50 days in the respective duck hunting zones. The daily bag limit is 1 Canada goose, and the possession limit is 2.

Wisconsin: The total harvest of Canada geese in the State will be limited to 45,000 birds. In the: (a) Horicon—Central Zone (Columbia, Dodge, Fond Du Lac, Green Lake, Marquette and Winnebago Counties, and the northwest portion of Washington County north of State Highway 33 and west of U.S. Highway 45)—the harvest of Canada geese is limited to 30,000 birds, with 2,000 birds allocated to the Theresa Subzone. The season may not exceed 50 days. In the Theresa Subzone (described in State regulations), the daily bag limit is 1 Canada goose per permittee through October 5 and 1 Canada goose per permittee per day thereafter, up to a season limit of 4. In the remainder of the Horicon-Central Zone, the season limit may not exceed 2 Canada geese per permittee, and the issuance of permits and tags may not exceed 37,000 permits with 1 tag each and 3,000 permits with 2 tags each.

(b) Mississippi River Zone (that portion of the State west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties)—the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through November 24, and 2 daily and 4 in possession thereafter.

(c) Northeast Zone (that portion of the North Hunting Zone which includes the Counties of Vilas, Oneida, Lincoln, Marathon, a portion of Wood County, and all counties or portions of counties eastward). The season for Canada geese may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In Brown County, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively.

(d) Southeast Zone (that portion of the South Hunting Zone which includes part of Wood County, Juneau, Sauk, Dan and Green Counties and all counties or portions of counties eastward)—in that portion of the Southeast Zone outside the Horicon-Central tag zone, the season may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In the Rock Prairie Zone (described in State regulations), a

special late season to harvest giant Canada geese may be held between November 8 and December 7. During the late season, the daily bag limit is 1 Canada goose and the possession limit is 2.

(e) Remainder of the State—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In that portion of Wisconsin outside the Horicon-Central Zone, the progress of the Canada goose harvest must be monitored, and the season closed if necessary, to insure that the harvest does not exceed 15,000 birds.

Illinois: The total harvest of Canada geese in the State will be limited to 48,000 birds. In the: (a) Southern Illinois Quota Zone (described in State regulations)—The season for Canada geese will close after 50 days or when 24,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Rend Lake Quota Zone (Franklin and Jefferson Counties)—The season for Canada geese will close after 50 days or when 7,200 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Tri-County area (all of Knox County; the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam and that portion of Banner Township bounded on the north by Illinois Route 9 and on th east by U.S. 24 in Fulton County; the township of Alba, Annawan, Atkinson and Cornwall in Henry County)—The season for Canada geese may not exceed 25 days. The daily bag limit is 1 Canada goose and the possession limit is 4.

(d) Remainder of State—Seasons for Canada geese up to 40 days may be selected by zones established for duck hunting seasons, except that in the South Zone the season will close no later than December 15. The daily bag limit is 1 Canada goose and the possession limit is 4.

Michigan: The total harvest of Canada geese in the State will be limited to 53,000 birds. In the: (a) North Zone—In the counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon, the framework opening date for geese is September 26. In the remainder of the North Zone, the framework opening date is October 4. Throughout the North Zone, the season for Canada geese may extend for 20 days, except at Seney Goose Management Area, where the season may extend for 50 days and the harvest of Canada geese will be limited to 500 birds. The daily bag limit is 1 Canada goose and the possession limit is 2, except at Seney Goose Management Area, where the daily bag and possession limits are 2 and 4, respectively.

(b) Middle Zone: (1) Allegan County Zone (that portion of Allegan County west of U.S. Highway 131)—the season for Canada geese closes after 50 days or when 3,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(2) Muskegon Wastewater Zone (described in State regulations)—the season for Canada geese closes after 50 days or when 500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(3) Remainder of Middle Zone—The season for Canada geese may extend for 30 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Southeast Zone—The season for Canada geese may extend for 40 days, except at Saginaw County Goose Management Area, where the season may extend for 50 days and the harvest of Canada geese will be limited to 5,000 birds. The daily bag limit is 2 Canada geese and the possession limit is 4.

(d) Southern Michigan Goose Management Area (described in State regulations)—A late Canada goose season of up to 46 days may be held between January 1, 1987, and February 15, 1987. The daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2.

Indiana: The total harvest of Canada geese in the State will be limited to 15,000 birds.

(a) Posey County—The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Kentucky: In the: (a) West Kentucky Zone (that portion of the State west of a line beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I–24, east on I–24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border)—The season for Canada geese may extend for 50 days, and the harvest will be limited to 15,000 birds. Of the 15,000-bird quota, 9,500 birds will be allocated to the Ballard Subzone and 3,000 birds will be allocated to the Henderson-Union Subzone (both subzones described in State regulations). If the quota in either subzone is reached prior to completion of the 50-day season, the season in that subzone will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1987.

(b) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: In the: (a) Northwest Zone (Lake, Obion, and Weakley Counties, and those portions of Gibson and Dyer Counties not included in the Southwest Zone)—The season may extend for 50 days, and the harvest of Canada geese will be limited to 6,500 birds. Of the 6,500-bird quota, 4,500 birds will be allocated to the Reelfoot Subzone (described in State regulations). If the quota in the Reelfoot Subzone is reached prior to completion of the 50-day season, the season in the subzone will be closed. If this occurs, the season in the remainder of the Northwest Zone may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1987.

(b) Southwest Zone (that portion of the State bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45)—The season for Canada geese may extend for 15 days, with a framework closing date of January 31, 1987. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion west of State Highway 13, where the daily bag and possession limits are 2 and 4, respectively.

Arkansas and Louisiana: The season for Canada geese is closed.

Mississippi: In the: (a) Sardis Zone (described in State regulations)—The

season for Canada geese may extend for 30 days, 10 days of which must occur before December 15, 1986. The daily bag limit is 1 Canada goose and possession limit is 2.

(b) Remainder of the State—The season for Canada geese may not exceed 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In both areas, the framework closing date is January 31, 1987.

Alabama: In Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, Indiana, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese alloted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky and the Reelfoot Subzone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not in excess of 48 hours) as they deem necessary.

Shipping Restriction: In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

Central Flyway

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 4, 1986, through January 18, 1987.

Canvasbacks: There will be no open season on canvasbacks in the Central Flyway.

Hunting Season: Seasons in the Low Plains Unit may include no more than 51 days. Seasons in the High Plains Mallard Management Unit may include no more than 67 days, provided that the last 16 days may start no earlier than December 13, 1986. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: Conventional limits are 4 ducks daily, including no more than 3 mallards of which no more than 1 may be a female, 3 pintails, 1 redhead, 1 hooded merganser and 2 wood ducks; and 8 in possession, including no more than 6 mallards of which no more than 1 may be a female, 6 pintails, 2 redheads, 2 hooded mergansers and 4 wood ducks.

As an alternative, States may select point system bag and possession limits. Under this system, the daily limit is reached when the point values of the last duck taken and other ducks already taken during that day total 100 or more points. The value of each female mallard, black duck, and mottled duck is 100 points; each wood duck, redhead and hooded merganser, and in Texas only, each black bellied whistling duck and fulvous whistling duck, is 70 points; each blue-winged teal, green-winged teal, cinnamon teal, scaup, gadwall, wigeon, shoveler, and merganser (except the hooded merganser) is 20 points; and of each duck of other species and sexes is 35 points. The possession limit is the equivalant of two daily limits.

Daily bag and possession limits for coots are 15 and 30, respectively.

Zoning: Duck and coot hunting seasons may be selected independently in existing zones as described in the following States:

Montana (Central Flyway portion):

Expirimental Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Experimental Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska (Low Plains portion):

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd County including the adjacent waters of the Niobrara River.

Zone 2. The area bounded by designated highways and political boundaries starting on U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–75; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to – 10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3. The area, excluding Zone 1, north of Zone 2.

Zone 4. The area south of Zone 2.

New Mexico:

Experimental Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177, to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains.

South Dakota (Low Plains portion):

South Zone. Bon Homme County south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 3207 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Yankton County west of U.S. Highway 81.

North Zone. The remainder of the Low Plains.

Wyoming (Central Flyway portion):

Zone 1. Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse and Niobrara Counties.

Zone 2. Platte, Goshen and Laramie Counties.

Zone 3. Carbon and Albany Counties.

Zone 4. Park, Big Horn, Hot Springs, Washakie and Fremont Counties.

VOL 51 ISS 158 AG 15 1986 UMI

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" includes all others.

Outside Dates: October 4, 1986, through January 18, 1987, for dark geese and October 4, 1986, through February 15, 1987 (Febraury 28, 1987, in New Mexico), for light geese.

Possession Limits: Goose possession limits are twice the daily bag limits (see exception for light geese in the Rio Grande Valley Unit of New Mexico.)

Hunting Seasons: Seasons in States, and independently in described goose management units within States, may be as follows:

Colorado: No more than 93 days with a daily limit of 5 geese that may include no more than 2 dark geese.

Kansas: For dark geese, no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 30 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1 (that area east of U.S. 75 and north of I–70), no more than 86 days with a daily limit of 5.

For light Goose Unit 2 (the remainder of Kansas), no more than 86 days with a daily limit of 5.

Montana: No more than 93 days with daily limits of 2 geese in Sheridan County and 3 geese in the remainder of the Central Flyway.

Nebraska: For Dark Goose Unit 1 (Boyd, Cedar west of U.S. 81, Keya Paha east of U.S. 183, and Knox Counties), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 14 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 2 (the remainder of the State east of the following highways starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to Kansas), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 23 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 3 (that part of the State west of Units 1 and 2), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 23 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

New Mexico: For dark geese, no more than 93 days with a daily limit of 2.

For light geese in the Rio Grande Valley Unit (the Central Flyway portion of New Mexico west of highways starting at the Texas line north of El Paso: U.S. 54 to U.S. 60, U.S. 60 to U.S. 285, and U.S. 285 to the Colorado line), no more than 107 days with daily limit of 5 and a possession limit of 20.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 93 days with a daily limit of 5.

North Dakota: For dark geese, no more than 72 days with daily limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through November 2 and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

Oklahoma: For Dark Goose Unit 1 (that portion of western and southern Oklahoma bounded by the following highways: starting at the Kansas-Oklahoma line, U.S. 77 to U.S. 177, U.S. 177 to OK 33 to U.S. 75, U.S. 75 to Indian Nation Turnpike, Indian Nation Turnpike to U.S. 271, and U.S. 271 to the Oklahoma-Texas line), no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For Dark Goose Unit 2 (the remainder of Oklahoma), no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

South Dakota: For dark geese in the Missouri River Unit (the Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson east of SD Highway 65, Dewey, Gregory, Haakon north of Kirley Road and east of Plum Creek, Hughes, Hyde, Lyman north of Interstate 90 and east of U.S. Highway 83, Potter, Stanley, Sully, Tripp east of U.S. Highway 183, Walworth, and Yankton west of U.S. Highway 81), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 14 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

Texas: West of U.S. 81, no more than 93 days with a daily limit of 5 geese which may include no more than 2 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 86 days with a daily limit of 5.

Wyoming: For geese in each of 4 Units that coincide with management zones for ducks, no more than 93 days with daily limits of 2.

Tundra Swans

The following States may issue permits authorizing each permittee to take no more than one tundra swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvest, and specified conditions as follows:

Montana (Central Flyway portion): no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: no more than 1,000 permits with the season dates concurrent with the season for taking ducks.

South Dakota: no more than 500 permits with the season dates concurrent with the season for taking ducks.

Sandhill Cranes

Experimental Season in New Mexico:

Two experimental seasons, not to exceed 8 days each, may be selected during the period October 10–31, 1986, in the Middle Rio Grande Valley Crane Hunt Area bounded by the south boundary of Isleta Pueblo; on the west by Interstate 25 and including all of Sevilleta and Bosque del Apache National Wildlife Refuges; on the east by a dirt road from the northeast corner of Bosque del Apache NWR to the western boundary of the White Sands Missile Range Extension Co-Use (WSMREC) area, by the western WSMREC boundary and the eastern boundary of the Sevilleta NWR to U.S. Highway 60, U.S. 60 to NM Highway 47, and NM 47 to the south boundary of Isleta Pueblo; under the following conditions:

1. Not more than 365 special permits, provided by the State, may be issued for each season. Successful applicants for permits must possess valid Bosque del Apache NWR Hunt Cards or pass a hunter qualification course to be eligible to participate.

2. The bag limit shall be 3 cranes per season.

3. Shooting hours shall be sunrise to sunset and non-toxic shot is required.

4. All provisions of an Operational Hunt Plan, subject to review by the U.S. Fish and Wildlife Service Region 2 and the Central and Pacific Flyway Councils, must be in effect to assure protection of whooping cranes that might occur in the hunting area.

Pacific Flyway

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, Common Moorhens, and Common Snipe

Outside Dates: Between October 4, 1986, and January 11, 1987.

Hunting Seasons:

Seasons may be split into two segments. Concurrent 79-day seasons on ducks (including mergansers), coots, common moorhens (gallinules) and common snipe may be selected except as subsequently noted. In the Oregon counties of Morrow and Umatilla and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be an additional 7 days.

Duck Limits: The basic daily bag limit is 5 ducks, including no more than 4 mallards but only 1 female mallard, 4 pintails but only 1 female pintail, and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily bag limit.

Coot and Common Moorhen (Gallinule) Limits: The daily bag and possession limit of coots and common moorhens is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Idaho—Waterfowl Zones: Season dates for Zone 1 and Zone 2 may differ. Waterfowl Zones—Zone 1 includes American Falls Reservoir and adjacent lands, including the Fort Hall Indian Reservation; Zone 2 includes the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

Colorado, Montana, New Mexico and Wyoming—Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between September 1, 1986, and February 28, 1987, and need not be concurrent with the duck season.

Geese (including Brant)

Outside dates, season lengths and limits on geese (including brant): Seasons may be split into two segments. Between October 4, 1986, and January 18, 1987, a 93-day season on geese (except brant in Washington, Oregon and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). The basic daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Between October 18 and November 30, 1986, Washington, Oregon and California may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively.

Aleutian Canada goose closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutain Canada goose distribution patterns or other circumstances justify such actions.

California, Oregon, Washington—Cackling Canada goose closure: There will be no open season on the cackling Canada geese in California, Oregon and Washington.

California—Canada goose and dark goose closures: Three areas in California, described as follows: are restricted in the hunting of certain geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, there will be no open season for Canada geese. In this area, the season on dark geese must end on or before November 30, 1986.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23.

California (Northeastern Zone)—geese: In the Northeastern Zone of California the season may be from October 11 to January 11, except that white-fronted geese may be taken only during October 11 to November 2. Limits will be 3 geese per day and 6 in possession, of which not more than 1 white-fronted goose or 2 Canada geese shall be in the daily limit and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

California (Balance of the State Zone)—geese: In the Balance of the State Zone the season may be from November 1 through January 18, except that white-fronted geese may be taken only during November 1 to January 4. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canada geese (except Aleutian and cackling Canada geese for which the season is closed).

Western Oregon: In those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Western Oregon north and west of a line formed by State Highway 126 and Interstate Highway 5, except for designated areas, there shall be no open season on Canada geese. In the remainder of Western Oregon, the season and limits shall be the same as those for the Pacific Flyway, except the

VOL 51 ISS 158 AG 15 1986 UMI

seasons in the designated area must end upon attainment of their individual quotas which collectively equal 190 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Oregon (Lake and Klamath Counties)—geese: In the Oregon counties of Lake and Klamath the season on white-fronted geese will not open until two weeks after the opening date of the general goose season.

Washington and Oregon (Columbia Basin Portions)—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco, the goose season may be an additional 7 days.

Western Washington: In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the season for snow geese may not extend beyond January 1, 1987. In Clark, Cowlitz, Wahkiakum, and Pacific Counties, except for areas to be designated by the State, there shall be no open season on Canada geese. For designated areas the seasons must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Idaho, Oregon and Montana—Pacific Population of Canada geese: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 Canada geese and the season for Canada geese may not extend beyond January 4, 1987.

Montana and Wyoming—Rocky Mountain Population of Canada Geese: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond Janaury 4, 1987. In Lincoln, Sweetwater and Sublette Counties, Wyoming, the combined special sandhill crane-Canada goose seasons and the regular goose season shall not exceed 93 days.

Idaho, Colorado and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond January 4, 1987.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. Except for Clark County the daily bag and possession limits are 2 and 4 Canada geese, respectively. In Clark County the daily bag and possession limits are 2 Canada geese.

Arizona, California, Utah and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Souther Zone (i.e. Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Tundra Swans

In Utah, Nevada and Montana, an open season for tundra swans may be selected to the following conditions: (a) The season must run concurrently with the duck season; (b) appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 tundra swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton or Cascade Counties.

Sandhill Cranes

Arizona may select an experimental sandhill crane season subject to the conditions specified in the frameworks for early seasons.

Special Falconry Frameworks

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular and any special season framework dates.

Daily Bag and Possession Limits: Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting season and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area.

Dated: August 12, 1986.

Wiliam P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-18537 Filed 8-14-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 158
Friday, August 15, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Public Hearings on Proposed Land and Resource Management Plan and Draft Environmental Impact Statement for Los Padres National Forest, CA

Los Padres National Forest (including portions of Monterey, San Luis Obispo, Santa Barbara, Ventura, Kern, and Los Angeles Counties) will hold two public hearings on its Proposed Land and Resource Management Plan and Draft Environmental Impact Statement. The hearings will be held in Salinas and Santa Barbara, California. The public hearings are for the purpose of receiving formal public comments on the two referenced documents. They will be held:

September 11, Thursday, 9–12 a.m. and 2–5 p.m., Santa Barbara: Mural Room, Santa Barbara County Courthouse. Corner of Anapamu and Anacapa Streets, Santa Barbara

September 18, Thursday, 9–12 a.m. and 2–5 p.m., Salinas: Monterey County Board of Supervisors Chambers, 240 Church Street, Second Floor, East Wing

Each hearing will be conducted by a hearing officer. A court reporter will keep a verbatim record of all oral testimony, and it will become part of the comments record on the Proposed Plan and Draft Environmental Impact Statement. Each speaker will be limited to five minutes. Speakers may register at the door at any time during the hearing; speakers will give comments in the order of registration.

The Forest Service will neither respond to comments nor debate issues during the hearings. Forest Service officials will respond to all public comments in the Final Environmental Statement.

The two formal public hearings are part of a larger public involvement effort for the Land Management Planning process. Public comments have also been recorded at the five public meetings held previously. Two additional "listening sessions" will be scheduled prior to the close of the comment period (dates, times, locations to be announced locally).

Written comments should be sent to Forest Supervisor, Los Padres National Forest, Attention: LMP, 6144 Calle Real, Goleta, CA. 93117–2053 by September 30, 1986.

For additional information on the hearings, please contact the Public Affairs Officer or the Planning Officer at the above address or telephone (805) 683–6711.

Erwin N. Ward,
Deputy Forest Supervisor, Los Padres National Forest.

[FR Doc. 86–18434 Filed 8–14–86; 8:45 am]
BILLING CODE 3410-11-M

Federal Grain Inspection Service

Official Services in the State of Florida

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: This notice announces that the only application for designation within the State of Florida filed pursuant to Federal Register notices requesting applicants was not in compliance with the application procedures in regulations. The application has been dismissed. FGIS will continue to provide the necessary official services in the entire State of Florida.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (Act), specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

FGIS requested applications for official agency designation to provide official services within a specified geographic area in the October 25, 1985, Federal Register (50 FR 43429). Applications were to be postmarked by November 25, 1985; FGIS received no applications for designation by the due date. FGIS again requested applications for designation in the March 3, 1986, Federal Register (51 FR 7303).

Applications were to be postmarked by March 18, 1986; FGIS received one application which was not in compliance with the application procedures in section 800.196(d) of the regulations. FGIS requested information to bring the application into compliance with the regulations.

FGIS received no response from the applicant. Therefore, in accordance with § 800.196(e), the application is dismissed. Pursuant to the Act, FGIS will continue to provide the necessary official services in the entire State of Florida. Persons or firms located in this geographic area requiring official inspection service should contact the FGIS Mobile field office at (205) 690–2144 to obtain such service.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: August 12, 1986.

J.T. Abshier,
Director, Compliance Division.

[FR Doc. 86–18483 Filed 8–14–86; 8:45 am]
BILLING CODE 3410-EN-M

COMMISSION ON CIVIL RIGHTS

Iowa, Kansas, Missouri, and Nebraska Advisory Committees; Cancellation of Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa, Kansas, Missouri, and Nebraska Advisory Committees to the Commission originally scheduled for August 20, 1986,

convening at 9:00 a.m. and adjourning at 5:00 p.m., at the Phillips House Hotel, 106 West 12th Street, Kansas City, Missouri. (FR Doc 86-16962, Page 27066) has been cancelled.

Dated at Washington, DC, August 12, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-18442 Filed 8-14-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping and Countervailing Duty Proceedings; Proposed Change in Format of Federal Register Notices

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Extension of public comment period and postponement of trial implementation.

SUMMARY: On June 27, 1986, the Department of Commerce published notice of a proposed change in format of **Federal Register** notices (51 FR 23453). The notice announced that the Department was considering instituting a new procedure whereby its decisions in antidumping and countervailing duty proceedings would be summarized in the **Federal Register**, and additional information would be provided to the parties to the proceedings and made available to the public. The notice provided for public comments until July 28, 1986, and stated that the Department proposed to institute the new procedure beginning August 1, 1986, on a trial basis. On the basis of the extensive public comments received, the Department has decided to extend the public comment period and postpone the proposed trial implementation date. The public is again invited to submit written comments in ten copies by August 25, 1986, to: Deputy Assistant Secretary for Import Administration, Central Records Unit, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. The Department will thoroughly consider these comments and determine whether to implement the change on a trial basis beginning on or after September 1, 1986.

Dated: August 8, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-18487 Filed 8-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-796-601]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod From Zimbabwe

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod (wire rod). The estimated net bounty or grant is 47.33 percent *ad valorem* for all manufacturers, producers, or exporters in Zimbabwe of wire rod.

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of wire rod from Zimbabwe that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of this product in the amount equal to the estimated net bounty or grant.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman or Lori Cooper, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)377-2438 or 377-8320.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Zimbabwe of wire rod. For purposes of this final determination, the following programs are found to confer bounties or grants:

- Export Incentive Scheme.
- Export Promotion.
- Government Equity Infusions into Ziscosteel-Zimbabwe Iron & Steel Co. Ltd.

The estimated net bounty or grant is 47.33 percent *ad valorem* for all manufacturers, producers, or exporters in Zimbabwe of wire rod.

Case History

On March 4, 1986, we received a petition in proper form from Armco, Inc., Atlantic Steel Co., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Zimbabwe of wire rod, directly or indirectly, receive benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 24, 1986, we initiated an investigation (51 FR 10906 (March 31, 1986)). We stated that we expected to issue a preliminary determination on or before May 28, 1986.

Since Zimbabwe is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this merchandise materially injure, or threaten material injury to, a U.S. industry.

On April 1, 1986, we presented a questionnaire to the government of Zimbabwe, in Washington, DC, concerning the petitioners' allegations, and we requested a response by April 30, 1986. This date was extended to May 9, 1986 for the government response and May 12, 1986 for the company responses. On May 22, 1986, we received a partial response from the government of Zimbabwe. No response has been received from the manufacturers, producers, or exporters of wire rod in Zimbabwe.

We reviewed the response of the government of Zimbabwe and determined that it failed to provide even the most basic information requested in all countervailing duty questionnaires, such as copies of the laws and regulations governing the alleged bounty or grant programs. Neither did the response include any of the official government documents and statistical reports requested, nor did it provide any information regarding Zimbabwe's financial system and lending practices. Such information is an essential part of any response, because it provides the Commerce Department (Department) with the information to identify the normal commercial patterns of financial transactions in a given country. With regard to specific questions on the alleged programs, the response consisted of statements that the companies were not eligible to use most

of the alleged bounty or grant programs, and that the government's equity infusions into Ziscosteel-Zimbabwe Iron & Steel Co. Ltd. (Zisco) were commercially reasonable.

Because we had not received a complete and timely response from the respondents, we based our preliminary determination on the best information available, which included information in the petition, in reference materials maintained by the Department and, in one limited instance, in the response. On May 28, 1986, we made our preliminary affirmative determination stating that benefits which constitute bounties or grants are being provided to the manufacturers, producers, or exporters in Zimbabwe of wire rod (51 FR 20327 (June 4, 1986)).

On May 30, 1986, we informed the government of Zimbabwe that we would consider for our final determination a complete response if submitted to the Department no later than June 19, 1986. We received no further response from the government of Zimbabwe or the companies; therefore, our final determination is based upon the best information available, as required by § 355.39 of the Department's regulations (19 CFR 355.39). In seeking the best information available, we have obtained information from independent sources regarding the alleged bounties or grants to supplement information supplied by petitioners.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States.*

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" (49 FR 18006 (April 26, 1984)).

The response provided by the government of Zimbabwe in this investigation was incomplete and untimely. Furthermore, no response was received from the manufacturers, producers, or exporters of wire rod in Zimbabwe. Therefore, for purposes of this final determination, we are using the best information available as required under § 355.39 of our regulations (19 CFR 355.39).

The Department has no record of past countervailing duty investigations or administrative reviews involving Zimbabwe; therefore, we are unable to include such information in estimating the benefit from programs alleged in the petition to be bounties or grants. Because we did not receive a complete response in time to verify the information submitted, we sought information from available sources to determine the countervailability and level of benefits of the programs under investigation. As best information available, we also used the estimates of benefits included in the petition. For equity infusions into Zisco, we used information for the years 1982–85 obtained from the company's published annual reports and other sources. For the sales value used in calculating the *ad valorem* rates for the domestic bounties or grants, we used, as best information available, the total sales value for Zisco, as provided in the response. We used this value because petitioners provided no information on total sales value, and because we were unable to obtain this figure from public sources.

For purposes of this final determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1985. Based upon our analysis of the petition and the best information available, we determine the following:

I. Programs Determined To Confer Bounties Or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Zimbabwe of wire rod under the following programs:

A. Export Incentive Scheme

Petitioners allege that, under the Export Incentive Scheme, the Zimbabwean wire rod industry receives the following benefits:

- a tax-free payment equal to at least nine percent of the f.o.b. value of qualifying exported goods;
- bonus allocations of foreign exchange calculated at the rate of one percent of the f.o.b. value of the exporter's manufactured exports; and
- a tax-free payment of five percent of the value of exports within a given period, which are over and above the company's exports registered for the same period during the previous year.

Based upon the best information available, we determine that the companies under investigation received a tax-free payment equal to at least nine percent of the f.o.b. value of qualifying exported goods, resulting in an estimated net bounty or grant of nine percent *ad valorem*, and that they also received bonus allocations of foreign exchange calculated at the rate of one percent of the f.o.b. value of manufactured exports, resulting in an estimated net bounty or grant of one percent *ad valorem*.

Based upon the best information available, we determine that the companies under investigation received an additional tax-free payment of five percent of the increase in the value of exports between 1984 and 1985. To calculate the benefit from this payment, we took five percent of the difference between the value of the 1984 and 1985 exports of wire rod to the United States, as reported in the Department of Commerce Special Steel Summary Invoice data. We allocated that amount over the value of exports of wire rod to the United States in 1985, resulting in an estimated net bounty or grant of 0.51 percent *ad valorem*.

Therefore, to calculate the total estimated net bounty or grant received through the Export Incentive Scheme, we summed the *ad valorem* rates found under each component to arrive at an estimated net bounty or grant of 10.51 percent *ad valorem*.

B. Export Promotion

Petitioners allege that the Zimbabwean wire rod industry benefits from export promotional assistance, including financial assistance for participation in trade expositions, from the Export Promotion Section of the Ministry of Trade and Commerce.

The respondents did not provide an adequate response in this case, and petitioners were unable to provide information as to whether and to what extent the wire rod industry receives countervailable benefits under this program. Furthermore, the Department has been unable to discover any information on this program through independent research. Given this complete lack of information, we are applying, as best information available, the *ad valorem* subsidy rate found for the Export Incentive Scheme, the only other export bounty or grant program examined in this investigation. On this basis, we determine an estimated net bounty or grant of 10.51 percent *ad valorem*.

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C. Government Equity Infusions into Ziscosteel-Zimbabwe Iron & Steel Co. Ltd.

Petitioners allege that Zisco, which is 88.98 percent state-owned, has benefitted from government equity infusions and other government financial assistance, including cash grants, on terms inconsistent with commercial considerations. Petitioners also allege that Zisco has been uncreditworthy and unequityworthy since 1982. Information submitted in the petition indicates that Zisco has been incurring losses since at least 1982.

In making our preliminary determination, we relied on information contained in the petition and in reference materials maintained by the Department as the best information available. Since that time, through independent research, we have obtained information to supplement or replace much of that which was used for the preliminary determination, including Zisco's published, audited financial statements for 1982–84.

For the final determination, we are using, as the best information available, information from the financial statements and other sources, which shows that, during 1985, the government of Zimbabwe converted loans it had made to Zisco into stock holdings, or equity, at the rate of one Zimbabwe dollar per share. The total amount of the conversion during 1985 was $Z178,235,000. Our review of Zisco's audited financial statements revealed no other government equity infusions or other financial assistance for the years 1982–85. Based on this information, government assistance, in the form of equity infusions, totaled $Z178,235,000 million for the period 1982–1985.

Our research has confirmed that Zisco has been incurring large losses since 1981. Therefore, as best information available, we are assuming that Zisco has been and continues to be unequityworthy. Using information from the petition, and from publications and materials maintained and obtained by the Department, we calculated the benefit from these infusions according to the rate of return shortfall methodology outlined in the Subsidies Appendix.

Neither the petitioners nor the Department was able to obtain or develop information on Zisco's rate of return on equity during the review period. Therefore, as best information available, we are using Zisco's rate of return on equity for 1984, which we have developed from the audited 1984 financial statement. For the national average rate of return, we used the 1985 average monthly earnings yield for industrial shares of 6.38 percent, as published in the Reserve Bank of Zimbabwe's *Quarterly Economic and Statistical Review* (December 1985). We multiplied the rate of return shortfall by the total amount of equity received by Zisco between 1982–85. We then allocated the aggregate benefit over the value of Zisco's total sales in 1985, resulting in an estimated net bounty or grant of 26.31 percent *ad valorem*.

II. Program Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to the manufacturers, producers, or exporters in Zimbabwe of wire rod under the following program:

Training Investment Allowance

Petitioners allege that the Zimbabwean wire rod industry may benefit from a training investment allowance, available to businesses which construct new buildings and purchase new equipment. The allowance, which is to be used exclusively for employee training, is equivalent to fifty percent of the costs of new buildings and/or equipment.

Respondents did not provide an adequate response in this case, and petitioners were unable to provide information as to whether and to what extent the wire rod industry receives countervailable benefits under this program. However, through independent research, the Department has obtained copies of relevant portions of the Zimbabwe Income Tax Act of 1974 and amendments thereto. These laws state that the training investment allowance is a tax deduction available to all taxpayers for any training building, any addition or alteration to any training building, or any training equipment which is brought into use during the year of assessment. Therefore, as best information available, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and thus is not countervailable.

III. Program Determined Not To Be Used

We determine that the following program was not used by the manufacturers, producers, or exporters in Zimbabwe of wire rod:

Regional Tax Incentives

Petitioners allege that the Zimbabwean wire rod industry benefits from special tax incentives to encourage commercial and industrial development in prescribed "growth point areas". Industries in the designated areas benefit from special depreciation rates, including an investment allowance of 15 percent on buildings, machinery, and furniture, and a special initial allowance of 100 percent, instead of the normal 2.5 percent, on new commercial buildings.

Respondents did not provide an adequate response in this case, and petitioners were unable to provide information as to whether and to what extent the wire rod industry receives countervailable benefits under this program. However, the Department has obtained copies of relevant sections of the Zimbabwe Income Tax Act, relating to benefits to companies located in growth point areas. Under these laws, companies located in a growth point area are eligible for:

- A special initial allowance, or tax deduction, of 100 percent on new commercial or industrial buildings, and
- An investment allowance equal to 15 percent on the construction of, or additions or alterations to, commercial or industrial buildings, or staff housing, and on new or unused articles, implements, machinery, and utensils used in a growth point business.

We have also obtained a copy of the law prescribing the designated growth point areas and a Zimbabwe Department of Physical Planning map showing the location of the growth point areas. Annex B, page 10, of the petition specifies the location of the headquarters and plant facilities of the companies under investigation. Based upon our review of the list and of the map, neither company is located in a growth point area. Therefore, as best information available, we determine that this program was not used.

Petitioners' Comment

Petitioners argue that both statute and case law require the Department to make its final determination on the basis of the best information available, given the respondents' failure to submit an adequate response.

DOC Position

We agree. See the "Case History" and "Analysis of Programs" sections of this notice.

Best Information Available

In accordance with section 776(b) of the Act, we used the best information available in making our final determination.

Administrative Procedures

We afforded interested parties an opportunity to submit written views in accordance with § 355.34 of our regulations (19 CFR 355.34). Written comments were received from counsel

for the petitioners on July 14, 1986. We also afforded the parties to the proceeding an opportunity to present views orally before the Department at a public hearing in accordance with 355.35 of our regulations (19 CFR 355.35). No hearing was requested.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative determination shall remain in effect until further notice. The estimated net bounty or grant is 47.33 percent *ad valorem*. In accordance with section 706(a)(4) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amount indicated above for each entry of wire rod from Zimbabwe which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Lee W. Mercer,

Deputy Assistant Secretary for Trade Administration.

August 11, 1986.

[FR Doc. 86-18488 Filed 8-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-001]

Leather Wearing Apparel From Mexico; Final Results of Countervailing Duty Administrative Review

Correction.

In FR Doc. 86-17910, beginning on page 28611, in the issue of Friday, August 8, 1986, make the following corrections:

1. On page 28611, second column, under "Scope of Review", fourth line, "791.620" should read "791.7620".

2. On page 28612, third column, under "Final Results of the Review", second paragraph, eighth line, "exporter" should read "exported".

BILLING CODE 1505-01-M

[Docket No. 3644-01 to 03; 3644-51 to 60]

Charles J. McVey, Jr., et al., Respondent; Facts

On August 4, 1983, a charging letter was issued against Charles McVey, Jr., individually and doing business as Vanguard International, Ltd., S.A., Facilities Management, Ltd., and Land Resources Management, Inc. On September 30, 1983, additional charging letters were issued against Yuri Boyarinov and Rolf Lienhard. The charges against Boyarinov and Lienhard were subsequently dropped. The charging letters alleged the following:

Between March 1979 and March 1982, Charles McVey, Jr. exported 29 shipments of high technology goods from the United States to Switzerland and Mexico. McVey and his accomplices, Lienhard and Boyarinov, knew each shipment was intended for reexport to the Soviet Union in violation of § 387.4 of the Export Administration Regulations (the Regulations).

While doing business as Facilities Management, Ltd., McVey made false representations to the Office of Export Administration in preparation of export control documents. Additionally, McVey made certain shipments without applying for or obtaining a validated export license, when he knew or should have known one was required, in violation of section 387.6 of the Regulations.

McVey caused, aided and abetted the commission of acts to violate the Regulations and conspired with Lienhard and Boyarinov to violate the Regulations in violation of §§ 387.2 and 387.3

McVey submitted a general denial in response to the charging letter. The other two respondents filed no answers. On October 13, 1983, a Temporary Denial Order (TDO) was issued against all the principals and related persons. The related persons were Janice McVey, Charles McVey, III, Michael McVey, Societe Anonyme Technologie Spatiale, Frank AG, ICOHAGE International, Handelgeselleschaft, and Interprojekt, Geselleschaft. On March 20, 1984, Frank AG was deleted as a related person.

On January 13, 1986, related persons Janice McVey, Charles McVey, III, and Michael McVey filed a motion to vacate the TDO against them and requested a hearing. The hearing date was set on May 8, 1986. A March 28, 1986 Order deleted Michael McVey from the TDO since he did not fit the definition of related person. Additionally, on March 28, 1986, the Administrative Law Judge accepted Agency counsel's Notice of Withdrawal of the Charging Letters with respect to Rolf Lienhard and Yuri Boyarinov. These cases were closed and the TDO was modified to reflect this change.

On May 8, 1986, the Respondent did not appear at the TDO hearing. The hearing was adjourned and Agency counsel was instructed to file a written submission to the Administrative Law Judge. Respondent's counsel were informed that they were no longer considered counsel of record and deemed to have withdrawn from the case. Agency counsel did file a written submission that was consistent with the filing requirement, but which was incomplete in other respects. Agency counsel served the Respondent's counsel who had been removed from the case. The Administrative Law Judge dismissed the case on May 30 because he considered the timeliness of the submissions to be inadequate. Upon reconsideration, the Administrative Law Judge reinstated the charges.

The Administrative Law Judge handled this matter as a default proceeding. He based his conclusions of Law and Fact on Agency counsel's submissions and the criminal indictment handed down against the Respondent, in the District Court for the Central District of California.

In his Decision and Order, the Administrative Law Judge assessed a civil penalty in the amount of $1,240,000 and denied Respondent Charles J. McVey, Jr. all export privileges for a period of 30 years. Export privileges of his corporations and varidous related persons were also denied.

Issues

1. Was the default proceeding appropriate and conducted in such a manner as to afford respondents procedural due process?

2. Was the penalty imposed by the Administrative Law Judge justified?

Discussion

This matter involved some procedural complexity brought about by withdrawal of counsel by one side and incomplete filing by the other. However, I am satisfied that all charged parties received procedural due process in this matter. They were given the opportunity to respond to the administrative charges and temporary denial orders instituted against them and none chose to do so. The handling of this matter as a default proceeding was proper under the circumstances.

The Resondent, an international businessman and entrepreneur, travelled widely to negotiate and execute personally, and on behalf of his corporations Land Resources Management, Inc. and Facilities Management, Ltd., contracts to export high technology equipment to various nations, including the Soviet Union. The latter, in 28 instances, were without the required validated export license. Additionally, he misrepresented and concealed material facts in 27 such shipments. Through his firms Vanguard International Ltd., S.A., Land Resources Management, Inc. and Facilities Management, Ltd., he aided and abetted the purchase and illegal export of some 28 international shipments. Some detailed background and summary of

the principal Respondent Charles J. McVey, Jr.'s *Modus Operandi* is set forth in Agency's Exhibit No. 1, an Order of the United States District Court for the Central District of California. The evidence presented in some 49 exhibits, as explained by Agency counsel in his Submission for the Record and Proposed findings, establish the various violations and the participation of Vanguard International, Ltd., S.A., Land Resources Management, Inc. and Facilities Management, Ltd.

Findings

I affirm the Administrative Law Judge's finding and conclusion that the Respondent Charles J. McVey, Jr., engaged in export activities in violation of the Act and Regulations as alleged in the charging letter, and that his daughter Janice McVey and son Charles McVey III, who acted with him and at his behest in his illegal export business affairs, are persons related by trade or occupation to him.

The Respondent Charles J. McVey, Jr. was given ample opportunity to contest these proceedings and was thus accorded procedural due process. Apparently, he fled the United States in 1982 to avoid criminal prosecution and has lived in Switzerland since then. Therefore, I find that entering a default judgement is required in this matter.

Considering the grave nature of these uncontested offenses, I find that the penalties assessed were justified. The purpose for imposing such penalties is to deter future violations of the Export Administration Act. Justice is well served by imposing civil penalties upon persons who choose to compromise the national security of the United States.

I affirm the Administrative Law Judge's extension, for 30 days from the date of his Order, of the 1-year period set forth in section 13(c) for concluding this proceeding.

Charges against Rolf Lienhard and Yuri Boyarinov were properly withdrawn.

Order

It is hereby ordered:

I. Respondent Charles J. McVey, Jr., is assessed a civil penalty in the amount of $1,240,000, which sum shall be due and payable 20 days after the date of this Order.

II. All outstanding validated export licenses in which the Respondent or any related person appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the office of Export Licensing for cancellation.

III. For a period of 30 years from the date that this Order becomes final, Respondent

Charles J. McVey, Jr.
last known address
c/o Societe Anonyme Technologie Spatiale (SATS), Les Maladieres, 2022 Bevaix NE., Switzerland
doing business as
Vanguard International, Ltd., S.A., 18331 Jacotal, Villa Park, CA 92667
and
Facilities Management, Ltd., 18331 Jacotal, Villa Park, CA 92667
and
Land Resources Management, Inc., 18331 Jacotal, Villa Park, CA 92667

his/its/their successors or assignees, officers, partners, representatives, agents, and employees are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend to those commodities and technical data that are subject to the Export Administration Act of 1979, 50 U.S.C. app. SS 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (1985), and the Regulations.

IV. Such denial of export privileges shall extend not only to Respondent, but to his agents, employees and, to the extent warranted, his successors or assigns. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with the Respondent, and which are accordingly subject to the provisions of this Order, are:

Janice McVey, c/o Land Resources Management, 18331 Jacotal, Villa Park, CA 92667

Charles J. McVey, III, c/o Land Resources Management, 18331 Jacotal, Villa Park, CA 92667

Having reviewed the Record and based on the facts addressed in this matter, I affirm the Order of the Administrative Law Judge. This constitutes final agency action in this matter.

Dated: August 11, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86–18489 Filed 8–14–86; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1986 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 15, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 2, and November 15, 1985 and May 23, and June 6, 1986 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (50 FR 31407, 50 FR 47245, 51 FR 18925 and FR 20687) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodities listed.

c. The action will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1986:

Commodities

Smock, Medical Assistant—6532–00–117–7487, 6532–00–117–7542, 6532–00–117–7543, 6532–00–117–7546.

Handkerchief, Man's—8440–00–261–4246.

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 86–18475 Filed 8–14–86; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement; Additional Agreement for Cooperation; U.S.A. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)–139, for the retransfer of 170 kilograms of uranium, containing 33.915 kilograms of the isotope uranium-235, from the Federal Republic of Germany to Sweden, for use in the R–2 reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 12, 1986.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86–18479 Filed 8–14–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP86–25–002, et al.]

Natural Gas Certificate Filings; Great Lakes Gas Transmission Co., et al.

Take notice that the following filings have been made with the Commission:

1. Great Lakes Gas Transmission Company

[Docket No. CP86–25–002]

August 8, 1986.

Take notice that on August 1, 1986, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed pursuant to section 7(c) of the Natural Gas Act, a petition to amend a certificate of public convenience and necessity so as to be able to increase deliveries of natural gas for TransCanada PipeLines Limited (TransCanada) at a point of interconnection between the facilities of Michigan Consolidated Gas Company (MichCon) and Great Lakes located at Belle River Mills, Michigan (Belle River Mills Delivery Point), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Currently, pursuant to the Order Issuing Certificate dated December 27, 1985, in the above-referenced docket, Great Lakes delivers up to 13,000 Mcf of natural gas per day to MichCon at the Belle River Mills Delivery Point. In exchange for these volumes, MichCon causes thermally equivalent volumes of ethane to be delivered to Esso Chemical Canada, a Division of Imperial Oil Limited (Esso), in Sarnia, Ontario. The volumes of natural gas that Esso causes to be delivered to MichCon are transported and delivered by Great Lakes, at the request of TransCanada, under Great Lakes' existing Rate Schedule T–4 included in Great Lakes' FERC Gas Tariff, Original Volume No. 2 (T–4 Tariff).

Due to imbalances in the exchange not previously anticipated by MichCon, MichCon has requested that volumes in a quantity up to 50,000 Mcf of natural gas per day or such mutually agreed upon quantity be delivered to it under its exchange arrangement. However, MichCon would not be increasing its current annual volumes under this arrangement (4.8 Bcf of natural gas per year) so that average daily receipts would not exceed 13,000 Mcf per day under this arrangement. Further, there is no change in the contract quantity under the T–4 Tariff as a result of this arrangement. Therefore, Great Lakes requests authorization to deliver up to 50,000 Mcf per day or such greater mutually agreed upon quantity to MichCon at the Belle River Mills Delivery Point.

Comment date: August 22, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Northwest Central Pipeline Corporation

[Docket No. CP86–640–000]

August 11, 1986.

Take notice that on July 29, 1986, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86–640–000 an application pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new sales tap for the direct interruptible sale of natural gas to Homer E. Mercer, in Seward County, Kansas, for use in irrigation operations under the blanket certificate authorization issued in Docket No. CP82–479–000, as amended, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that this sale would not significantly affect its overall gas supply or have any detrimental effect on existing customers. Applicant also states that the projected volume of delivery would be approximately 3,000 Mcf per year and 25 Mcf on a peak day. It is asserted that the total estimated cost of the facilities would be $6,350, which would be paid from available cash.

Comment date: September 22, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86–127–001]

August 11, 1986.

Take notice that on July 28, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001,

VOL 51 ISS 158 AG 15 1986 UMI

filed a petition to amend the order issued June 20, 1986, in Docket No. CP86–127–000 pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the petition to amend which is on file with the commission and open to public inspection.

Tennessee states that in Docket No. CP86–127–000 it was authorized to transport up to 10,000 Mcf of natural gas per day for Panhandle from reserves produced in East Cameron Block 220, offshore Louisiana, which Panhandle has a right to purchase. Tennessee receives such quantities at a receipt point located on Tennessee's S.V. 509A–1301 line in Vermilion Block 241, offshore Louisiana. Tennessee transports these quantities of gas for the account of Panhandle on an interruptible basis to an existing interconnection between Tennessee's facilities and the Blue Water Project's facilities, which are jointly owned by Tennessee and Columbia Gulf Transmission Corporation (Columbia Gulf) in Vermilion Block 245, offshore Louisiana.

By its petition to amend Tennessee requests authorization to provide such transportation service to Panhandle on a dekatherm basis and increase the transportation quantity from 10,000 Mcf of natural gas per day to 20,000 dekatherms of natural gas per day.

Tennessee would charge a quantity charge of 3.90 cents per dekatherm delivered and a liquids charge of 23.17 cents per barrel for the transportation of liquids.

Comment date: September 2, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18419 Filed 8–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8633–002]

Madera-Chowchilla Power Authority; Surrender of Preliminary Permit

August 11, 1986.

Take notice that Madera-Chowchilla Power Authority, permittee for the proposed North Fork Willow Creek Project No. 8633, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 22, 1986, and would have expired on December 31, 1989. The project would have been located on Willow Creek in Madera County, California.

The permittee filed the request on July 22, 1986, and the preliminary permit for Project No. 8633 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18420 Filed 8–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 9639–002]

Southern Star Hydro Limited; Surrender of Preliminary Permit

August 11, 1986.

Take notice that Southern Start Hydro Limited, permittee for the proposed Mono Star Water Power Project No. 9639, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 12, 1986, and would have expired on February 28, 1989. The project would have been located on Deep Creek and Cottonwood Creek in Mono County, California.

The permittee filed the request on July 21, 1986, and the preliminary permit for Project No. 9639 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18421 Filed 8–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI79–620–002, et al.]

Exxon Corp., et al.; Applications for Abandonment and Blanket Limited-Term Certificate

August 12, 1986.

Take notice that each of the applicants listed herein have filed applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service or for a blanket limited-term certificate to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis,

pursuant to section 2.77 of the Commission's rules as promulgated by Order No. 436 and 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, . 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI79–620–002, B, July 25, 1986 [1]	Exxon Corp., P.O. Box 2180, Houston, Texas 77252–2180.	Southern Natural Gas Co., Mississippi Canyon Area, Blocks 268 and 312, Offshore Louisiana.	(*)	
CI86–608–000, A, July 25, 1986 [2]	....do	(*)		
CI86–626–000, B, Aug. 1, 1986 [4]	Marion Corp., et al., P.O. Box 3027, Mobile, Alabama 36652.	United Gas Pipe Line Co., Gwinville Field, Jefferson Davis County, Mississippi.	(*)	
CI86–634–000, B, Aug. 4, 1986	Energy Production Service, Inc., P.O. Box 158, Jackson, Mississippi 39205–0158.	United Gas Pipe Line Co., Gwinville Field, Jefferson Davis County, Mississippi.	(*)	

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[1] Supplemental information received August 4, 1986.

[2] Applicant requests partial limited-term abandonment for a term through July 17, 1989, for a sale made to Southern under a contract dated August 16, 1979, on file as Applicant's FERC Gas Rate Schedule No. 656. Applicant states that pursuant to a July 17, 1986, letter agreement Southern has agreed to release gas in excess of Southern's daily requirements and priced equal to or greater than the NGPA section 109 price. Applicant also states that such letter agreement provides that Southern would receive take-or-pay credit for any released gas sold elsewhere. Applicant states that its gas qualifies under NGPA sections 109 and 102(d) and that its respective deliverability is 120 MMcf/d and 15 MMcf/d. Applicant states that the July 17, 1986, letter agreement shall remain in effect until the earlier of three years from the date of the agreement, or the expiration date of the requested partial abandonment authority. Applicant states that it is subject to substantially reduced takes and will experience drainage and shut-in production if its application is not expeditiously considered.

[3] Applicant requests in Docket No. CI86–608–000 a limited-term certificate with pre-granted abandonment to make sales for resale in interstate commerce of gas which is released and is subject to the limited-term abandonment in Docket No. CI79–620–002.

[4] Supplemental information received August 7, 1986.

[5] Applicant, a small producer certificate holder in Docket No. CS71–568, requests limited-term abandonment for a sale made to United pursuant to a contract dated June 9, 1977. Applicant states that pursuant to a July 5, 1986, release agreement United will receive take-or-pay credit for all volumes released and sold elsewhere. Applicant also requests pregranted abandonment authority for all gas covered by the release agreement. Applicant requests that the term of such authorization end on the earlier of July 31, 1987, or the effective date of cancellation of the release agreement between United and Applicant. Applicant states that the requests herein are made on behalf of itself and all other working interest owners in the one well in which Applicant does not own 100% of the working interest. Such other interest owners, according to Applicant, are parties to a joint operating agreement with Applicant as the operator. As such, Applicant states that its contract with United covers all the supplies attributable to such interest owners. Applicant states that it is subjected to substantially reduced takes without payment. Applicant states that in 1985 United took 191,490 Mcf or approximately 11% of the deliverability, and in the first half of 1986 took 27,480 Mcf or approximately 3% of deliverability. Applicant states that the subject gas qualifies under NGPA section 104 Post-1974.

[6] Pursuant to the expedited procedures set forth in Section 2.77 of the Commission's rules, Applicant, as operator of the Gwinville Gas Unit 106–A well, has filed, on behalf of working interest owners covered under small producer certificates in Docket Nos. CS75–331 and CS71–1066, for limited-term abandonment of sales to United, for a two-year period. Applicant states that the contract involved expired February 20, 1986, and United has advised Applicant that United will not purchase any gas in the foreseeable future and will not contest abandonment for a two-year period. Applicant states that the subject well is classified as a NGPA section 106 gas well and has an estimated deliverability of 550 Mcf per day, but that the well has been shut-in since February, 1986. Applicant states it is subject to substantially reduced takes without payment since United discontinued taking gas in February, 1986, and is not paying for gas not taken.

[FR Doc. 86–18422 Filed 8–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA84–29–001]

Iowa Electric Light and Power Co.; Proceeding Under Part 41 of the Commission's Regulations

August 11, 1986.

Take notice that on July 2, 1986, Iowa Electric Light and Power Company (Iowa Electric) responded to a letter order of the Commission issued on June 3, 1986.[1] In the June 3rd letter order, the Commission noted Iowa Electric's disagreement with staff recommendations concerning Iowa Electric's recovery of spent nuclear fuel disposal costs through its wholesale fuel adjustment clause billings. In its July 2nd response, Iowa Electric states that it consents to the disposition of this issue in accordance with the shortened procedures provided for under Part 41 of the Commission's regulations.[2]

Therefore, any interested party, including the Commission's staff, may file a memorandum of facts and arguments as prescribed in sections 41.3 through 41.5 of the Commission's regulations (18 CFR 41.3–41.5). A memorandum may be accompanied by a motion to intervene in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

The following procedural schedule is established:

(1) Initial memoranda and motions to intervene shall be due no later than 30 days after the date of publication of this notice in the **Federal Register**; and

(2) Reply memoranda shall be due no later than 20 days thereafter.

All briefs and motions to intervene must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18423 Filed 8–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85–57–010]

Natural Gas Pipeline Company of America; Filing

August 11, 1986.

Take notice that on July 28, 1986, Natural Gas Pipeline Company of America (Natural) tendered for filing Seventh Revised Sheet No. 5E to be a part of its FERC Gas Tariff, Thrid Revised Volume No. 1.

Natural states that the purpose of this sheet is to set out the threshold percentages and discount rates applicable to Rate Schedule IOS for the month of August, 1986, and that the filing is being made in accordance with the provisions of Rate Schedule IOS which was authorized by FERC order issued March 13, 1986 in Docket No. CP85–57–003.

Natural requests waiver of the Commission's regulations to the extent

[1] 35 FERC ¶ 61,314.

[2] 18 CFR Part 41. On July 18, 1986, Iowa Electric filed a memorandum of facts and arguments concerning the staff recommendations at issue. At its option, Iowa Electric may file an initial memorandum in accordance with the procedural schedule established in this notice or it may designate its July 18th memorandum as its initial memorandum. In any event, the company is directed to file a verification to its memorandum as required by section 41.5 of the regulations.

necessary to permit the enclosed tariff sheet to become effective August 1, 1986. Natural has mailed copies of this filing to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)) All such motions or protests should be filed on or before August 18, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18424 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-145-000]

Northwest Pipeline Corp.; Filing to Defer the Filing Date for Purchased Gas Cost Adjustment

August 11, 1986.

Take notice that on July 31, 1986, Northwest Pipeline Corporation (Northwest) requested that the Federal Energy Regulatory Commission (Commission) allow it to defer until September 14, 1986, its purchased gas cost adjustment (PGA) filing which normally would be made on or before August 16, 1986, and to make any change in rates attributable thereto effective on November 1, 1986, rather that October 1, 1986. To accomplish this, Northwest requests waiver of certain requirements of the Commission's regulations and of Article 16 of Northwest's FERC Gas Tariff, First Revised Volume No. 1.

Northwest states that the reason for this deferral is because it is engaged in nogotations with its Canadian pipeline supplier, Westcoast Transmission Company Ltd. (Westcoast). Since Northwest and Westcoast have not yet agreed on the specific terms of an agreement to be effective November 1, 1986, an accurate estimate of Canadian gas costs cannot be made for inclusion in an August 16, 1986 filing.

Northwest further states that the granting of its request would result in only a one month delay in making its regular PGA filing and would extend its current PGA period by only one month, thereby affecting just the October deferral period. In the event of a substantial change in gas cost or operating conditions on Northwest's system, an adjustment in rate for the month of October can be made under section 16.11 of Northwest's FERC Gas Tariff to minimize the impact on Northwest's customers.

Northwest has discussed this proposal with its customers, and none of them opposes it. In fact, a number of Northwest's major customers support it.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 (1985)). All such motions or protests should be filed on or before August 18, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18425 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-3-29-000, TA85-1-29-000, TA86-1-29-000, TA86-1-29-002, TA86-5-29-000, RP83-137-000 and CP85-190-000]

Transcontinental Gas Pipe Line Corp.; Proposed Offer of Settlement

August 8, 1986.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) filed on May 13, 1986, a revised Stipulation and Agreement in the above-captioned proceedings. The settlement offer, if approved, will permit Transco to operate as an open access transporter pursuant to Order No. 436. The rates, terms and conditions, under which Transco will implement Order No. 436, are also established in the settlement.

Any person desiring to intervene shall do so within 15 days of the date of publication of this notice in the **Federal Register**. Any person seeking intervention who has not commented and who wishes to file comments to the proposed Stipulation and Agreement shall also do so within 15 days of the date of publication of this notice in the **Federal Register**. Reply Comments may be filed 10 days later.

Kenneth F. Plumb,

Secretary.

[FR Doc. 18426 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-309-000, et al.]

Arizona Public Service Company et al.; Electric Rate and Corporate Regulation Filings

August 11, 1986.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER86-309-000]

Take notice that on July 28, 1986, Arizona Public Service Company (APS) tendered for filing a Revision to Amendment No. 1 to its Wholesale Power Supply Agreement with the United States of America, Bureau of Indian Affairs on behalf of the Colorado River Indian Irrigation Project (BIA). The Revision to Amendment No. 1 is tendered for filing in response to an Order from the Commission, Issued June 19, 1986.

The current rate of service to BIA contains provisions for the application of an Arizona Transaction Privilege Tax. The Revision to Amendment No. 1 eliminates this tax, effective on the date the Transaction Privilege Tax exemption became effective, May 2, 1984.

In response to the Order, APS has refunded the monies collected from BIA from May 2, 1984 through July 14, 1986, including interest, in accordance with 18 CFR 35.19(a).

Copies of this filing have been served upon the Arizona Corporation Commission and the BIA.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER86-310-002]

Take notice that on July 28, 1986, Arizona Public Service Company ("APS") tendered for filing a Revision to Amendment No. 1 to its Wholesale Power Supply Agreement with the United States of America, Bureau of Indian Affairs on behalf of the San Carlos Indian Irrigation Project ("BIA"). The Revision to Amendment No. 1 is tendered for filing in response to an Order from the Commission, issued June 19, 1986.

The current rate of service to BIA contains provisions for the application of an Arizona Transaction Privilege Tax.

The Revision to Amendment No. 1 eliminates this tax, effective on the date the Transaction Privilege Tax exemption became effective, May 2, 1984.

In response to the Order, APS has refunded the monies collected from BIA from May 2, 1984 through July 14, 1986, including interest, in accordance with 18 CFR 35.19(a).

Copies of this filing have been served upon the Arizona Corporation Commission and the BIA.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. New England Hydro-Transmission Corporation, New England Hydro-Transmission Electric Company, New England Power Company, Boston Edison Company

[Docket No. ER86-629-000]

Take notice that on July 31, 1986, New England Hydro-Transmission Corporation (New Hampshire Hydro), New England Hydro-Transmission Electric Company, Incorporated (New England Hydro), New England Power Company (NEP) and Boston Edison Company (BECO), tendered for filing proposed new contracts which, when accepted, will permit the participating New England utilities to expand the interconnection between these utilities and the system of Hydro-Quebec so as to obtain access to and the benefits of additional hydroelectric energy.

The contracts filed with this Commission for approval are: (1) Phase II New Hampshire Transmission Facilities Support Agreement, as amended, between New Hampshire Hydro and the participating New England utilities; (2) Phase II Massachusetts Transmission Facilities Support Agreement, as amended, between New England Hydro and the participating New England utilities; (3) Phase II New England Power AC Facilities Support Agreement, as amended, between NEP and the participating New England utilities; (4) Phase II Boston Edison AC Facilities Support Agreement, as amended, between BECO and the participating New England utilities; (5) Lease between NEP and New Hampshire Hydro and NEP (7) Lease between NEP and New England Hydro.

The filing states that construction of the 690 MW Phase I interconnection between New England utilities and Hydro-Quebec is nearly complete and expected to be placed in service in August, 1986. Phase II of the project, the subject of the filing, contemplates the construction of additional major transmission facilities to increase the capacity of the interconnection to 2000 MW. The facilities to be constructed include (1) the extension of the Phase I direct current (DC) transmission line along existing rights-of-way from Monroe, New Hampshire to Ayer, Massachusetts, a distance of 133 miles, (2) an 1800 MW converter terminal at the terminus of the DC line in Massachusetts and (3) reinforcement of the existing transmission system in Massachusetts so that it will be able to accept the additional power. The estimated total cost for these facilities is approximately $550 million and the filing letter indicates that substantial expenditures will also be made by Hydro-Quebec in Canada.

The filing also states that Phase II of the interconnection will provide for a purchase of firm energy from Hydro-Quebec beginning in 1990 for a period of 10 years at a rate of 7 billion Kilowatthours per year. The energy will be purchased at a discount from displaced energy costs, will thereby reduce participant's fuel costs, should defer the need for construction of expensive new generation and creates the potential for additional benefits such as emergency transfer for mutual reliability purposes.

Revenue and cost of service estimates, as well as supporting testimony, are provided with the submittal. The Applicants have also requested certain waivers of the Commission's regulations so that the contracts submitted may become effective October 1, 1986.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Montaup Electric Company

[Docket No. ER86-202-001]

Take notice that on July 28, 1986, Montaup Electric Company (Montaup) tendered for filing a compliance report pursuant to the Commission's order of June 27, 1986 directing Montaup to make refunds through credit to the customers' bills. This credit was applied to the bills dated July 11, 1986 for M-Rate electric service provided in June, 1986.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commisison and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18418 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-41-001]

Algonquin Gas Transmission Co.; Motion To Place Tariff Sheets Into Effect After Suspension

August 12, 1986

Take notice that on July 30, 1986, Algonquin Gas Transmission Company (Algonquin Gas) tendered for filing a Motion To Place Tariff Sheets Into Effect After Suspension. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 5, 1986. The tariff sheets, identified on Appendix A, were filed as part of Algonquin Gas' January 29, 1986, rate filing. They were suspended until August 1, 1986, by the Commission's order in Docket No. RP86-41-000 which issued February 26, 1986.

Algonquin Gas also filed the following amended tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Substitute Fifteenth Revised Sheet No. 201
Substitute Thirteenth Revised Sheet No. 203
Substitute Ninth Revised Sheet No. 204
Substitute Sixth Revised Sheet No. 205
Substitute Ninth Revised Sheet No. 211
Substitute Ninth Revised Sheet No. 241
Substitute First Revised Sheet No. 631-A

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix A—List of Tariff Sheets Being Moved Into Effect

Substitute Fifteenth Revised Sheet No. 201 [1]
Substitute Thirteenth Revised Sheet No. 203 [1]
Substitute Ninth Revised Sheet No. 204 [1]
Substitute Sixth Revised Sheet No. 205 [1]
Substitute Ninth Revised Sheet No. 211 [1]
Second Revised Sheet No. 221
Third Revised Sheet No. 222
Substitute Ninth Revised Sheet No. 241 [1]
First Revised Sheet No. 304
Fifth Revised Sheet No. 311
Second Revised Sheet No. 313
Second Revised Sheet No. 325
First Revised Sheet No. 361
First Revised Sheet No. 362
First Revised Sheet No. 363
First Revised Sheet No. 364
First Revised Sheet No. 365
First Revised Sheet No. 366
First Revised Sheet No. 371
First Revised Sheet No. 372
First Revised Sheet No. 373
First Revised Sheet No. 374
First Revised Sheet No. 375
First Revised Sheet No. 379
First Revised Sheet No. 384
Second Revised Sheet No. 386
Second Revised Sheet No. 403
Third Revised Sheet No. 404
First Revised Sheet No. 503
First Revised Sheet No. 513
Second Revised Sheet No. 512
First Revised Sheet No. 533
Second Revised Sheet No. 631
Substitute First Revised Sheet No. 631-A [2]
Original Sheet No. 649
Original Sheet No. 650
Original Sheets Nos. 651-699
Fourth Sheet No. 700
Second Revised Sheet No. 701
Second Revised Sheet No. 711
First Revised Sheet No. 746
Original Revised Sheet No. 793
Third Revised Sheet No. 801
Fourth Revised Sheet No. 802
Third Revised Sheet No. 803
Third Revised Sheet No. 804
Fourth Revised Sheet No. 805
First Revised Sheet No. 806

[1] Substitute tariff sheets amended to reflect current cost of purchased gas.

[2] Amended to eliminate Section 17.4B—Reimbursement of Contingent Gas Cost as ordered by Commission order dated May 30, 1986 in Docket Nos. RP86-73-000 and RP86-41-000.

[FR Doc. 86-18505 Filed 8-14-86 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA-86-4-4-000, 001, and TA86-3-4-002]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

August 12, 1986.

Take notice that on August 5, 1986, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the following revised tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1 containing changes in rates for effectiveness on the dates shown below:

Tariff sheets	Proposed Effective Dates
Substitute Sixteenth Revised Sheet No. 7	July 1, 1986.
Second Substitute Sixteenth Revised Sheet No. 7.	September 1, 1986.
Substitute Fourteenth Revised Sheet No. 7.	January 1, 1986.

According to Granite State, the proposed rate adjustments are submitted pursuant to the purchased gas cost adjustment provision in its tariff and the certificate issued to Granite State in Docket No. CP84-50-000. (*Boundary Gas, Inc., et al.*, 26 FERC ¶ 61,114 (1984) Granite State further states that the revised rates on Substitute Sixteenth Revised Sheet No. 7, for effectiveness on July 1, 1986, are submitted to comply with a condition accepting its previously filed July 1, 1986 purchased gas cost adjustment that required Granite State to adjust its rates to track any changes that the Commission ordered in Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) Docket Nos. TA86-3-9-000 and 001. According to Granite State, Tennessee filed revised rates for sales to Granite State, and others, on July 25, 1986, in Docket No. TA86-3-9-002, and Granite State has adjusted its rates accordingly.

Granite State further states that the proposed rates on Second Substitute Sixteenth Revised Sheet No. 7 propose an out-of-cycle purchased gas cost adjustment for effectiveness on September 1, 1986 primarily to track the reduced cost of its purchases from Boundary Gas Inc., and an adjustment in spot market purchases from Tenngasco Corporation.

According to Granite State the revised rates on Substitute Fourteenth Revised Sheet No. 7 reflect the effect of retroactive reductions made by Tennessee and Algonquin Gas Transmission Company in transportation charges incurred by Granite State for the transportation of gas purchased from Boundary Gas, Inc. and Consolidated Gas Transmission Corporation. The revised rates on Substitute Fourteenth Revised Sheet No. 7 adjust the Transportation Cost Adjustment, effective January 1, 1986, to reflect the changes in the transporters' charges that were made retroactively effective.

Granite State further states that its proposed rates are applicable to its two affiliated distribution company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). According to Granite State, the revised rates on Substitute Sixteenth Revised Sheet No. 7 result in a further reduction of $177,341 annually for sales to Bay State and $38,288 annually for sales to Northern Utilities in addition to the reductions already effective under its July 1, 1986 purchased gas cost adjustment filing. It is further stated that the out-of-cycle purchased gas cost adjustment on Second Substitute Sixteenth Revised Sheet No. 7, proposed for effectiveness on September 11, 1986, result in a further reduction of $3,714,908 annually in the rates for sales to Bay State and an annual increase of $76,060 in the rates for sales to Northern Utilities when compared with the adjusted July 1, 1986 rates. Finally, it is stated that the revised Transportation Cost Adjustment on Substitute Fourteenth Revised Sheet No. 7 results in an annual reduction of $801,555 in transportation costs that are applicable to sales to Bay State.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18506 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-250-001]

Ozark Gas Transmission System; Compliance Filing

August 12, 1986.

Take notice that on July 31, 1986, Ozark Gas Transmission System (Ozark) tendered for filing Original Sheet Nos. 6 and 8 to its FERC Gas Tariff, Original Volume No. 1. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not unitl August 4, 1986.

Ozark has filed Original Sheet Nos. 6 and 7 to comply with the Commission's July 29, 1986, order requiring Ozark to file a revised tariff sheet EAT-1 containing a minimum commodity rate for interruptible service based upon variable costs. Ozark states it does not have any measurable variable costs within the contemplation of § 284.7 of the regulations. Ozark therefore proposes a minimum rate of 1¢ per Mcf. The proposed effective date of these sheets is July 29, 1986.

The Commission order also required Ozark to file a tariff sheet applicable to firm transportation service. Ozark states that as to firm transportation service, Original Sheet Nos. 4 and 5 of its FERC Gas Tariff are applicable within the constraints of Opinion No. 125 and Ozark's debt securities and those sheets will be utilized for such service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are or file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18508 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA86-6-17-000, 001, and TA86-5-17-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariffs

August 12, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 5, 1986 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies each of the following tariff sheets:

Substitute Eightieth Revised Sheet No. 14
Substitute Eightieth Revised Sheet No. 14A
Substitute Eightieth Revised Sheet No. 14B
Substitute Eightieth Revised Sheet No. 14C
Substitute Eightieth Revised Sheet No. 14D

On July 1, 1986, Texas Eastern filed revised tariff sheets reflecting its semiannual purchased gas adjustment filing ("PGA"), with a proposed effective date of August 1, 1986. The above tariff sheets are issued to replace corresponding tariff sheets which were conditionally accepted by the Commission in its "Order Accepting And Suspending Tariff Sheets Subject To Refund And Conditions" issued July 31, 1986 in Docket Nos. TA86-5-17-000 and TA86-5-17-001 ("July 31 Order"). The tariff sheets purport to comply with the requirements of ordering paragraph (A)(1) of the Commission's July 31 Order as well as incorporating changes in gas costs as set forth therein.

The out-of-cycle PGA filing results from recent "market-out" actions taken by Texas Eastern that were not known at the time the July 1, 1986 PGA was filed. Effective August 1, 1986, Texas Eastern invoked the provisions of its gas purchase contracts to market-out to a base contract price of $1.45 per MMBtu, plus contractually authorized taxes, for field supply contracts containing market responsive pricing provisions. The above listed tariff sheets make specific adjustments to the July 1, 1986 filing to reflect reductions in the cost of gas attributable to Texas Eastern's exercise of market-out provisions effective August 1, 1986, and several changes in Texas Eastern's supply mix.

The impact of the instant filing on Texas Eastern's rates is a reduction of $.0966/dth in the commodity component of Texas Eastern's sales rates.

Pursuant to ordering paragraph (A)(1) of the Commission's July 31 Order the above tariff sheets purport to reflect Contract Adjustment Demand Rates which were filed with the Commission on July 11, 1986 in Docket No. RP86-61 to comply with the Commission's Orders in such docket issued May 7, 1986 and June 26, 1986.

The proposed effective date of the above tariff sheets is August 1, 1986. Texas Eastern alleges that good cause is shown for waiver of the Commission's notice requirements in order to accommodate the proposed effective date because of the substantial gas cost reduction which the proposed tariff sheets will implement.

If the Commission should not permit the effective date of the above tariff sheets to be August 1 (the effective date of Texas Eastern's recent market-out action), Texas Eastern requests an alternative effective date of August 5, 1986, the date of the instant filing. It alleges that such an effective date is likewise warranted so as to timely reflect the impact of market-out actions and several changes in supply mix on the Texas Eastern system.

In the event the Commission does not permit an August 1 effective date, Texas Eastern has submitted alternate tariff sheets as follows:

To Be Effective August 1, 1986

Alternate Substitute Eightieth Revised Sheet No. 14
Alternate Substitute Eightieth Revised Sheet No. 14A
Alternate Substitute Eightieth Revised Sheet No. 14B
Alternate Substitute Eightieth Revised Sheet No. 14C
Alternate Substitute Eightieth Revised Sheet No. 14D

These tariff sheets include the Contract Adjustment Demand Rates as required by ordering paragraph (A)(1) of the Commission's July 31 Order and do not reflect the August 1 market-out.

To Be Effective August 5, 1986

Revised Alternate Substitute Eightieth Revised Sheet No. 14
Revised Alternate Substitute Eightieth Revised Sheet No. 14A
Revised Alternate Substitute Eightieth Revised Sheet No. 14B
Revised Alternate Substitute Eightieth Revised Sheet No. 14C
Revised Alternate Substitute Eightieth Revised Sheet No. 14D

These tariff sheets include the Contract Adjustment Demand Rates as required by ordering paragraph (A)(1) of the Commission's July 31 Order and reflect the August 1 market-out action.

Texas Eastern has requested a waiver of the provisions of its tariff and any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on August 1, 1986, coincident with the effectiveness of Texas Eastern's exercise of market-out provisions, or alternatively on August 5, 1986, the date of its filing and consistent with prior waiver orders by the Commission for such out-of-time market-out PGA rate reductions.

Pursuant to ordering paragraph (A)(2) of the Commission's July 31, Order, Texas Eastern has indicated that it has previously filed with the Commission all workpapers supporting Order No. 94 costs.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18507 Filed 8-14-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Petition To Preempt the State of New York's Minimum Efficiency Standard for Heat Pumps

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice.

SUMMARY: The Department of Energy gives notice that by letter issued August 5, 1986, DOE denied a petition from the Air Conditioning and Refrigeration Institute (ARI) requesting the Secretary of Energy to prescribe a rule superseding New York State's minimum energy efficiency standard for heat pumps.

The petition, submitted by ARI on behalf of ARI, Borg Warner Central Environmental Systems, Inc., Lennox Industries, American Standard, and Rheem Manufacturing Company, was filed pursuant to section 327(b)(1) of the Energy Policy and Conservation Act, Pub. L. 94-163, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619. A copy of the decision letter of denial which describes the petition and states the reasons for the DOE action, appears as an Appendix to this notice.

Issued in Washington, DC, August 5, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

August 5, 1986.

Mr. Joseph M. McGuire,

Director of Planning, Management and Government Affairs, Aid Conditioning and Refrigeration Institute, 1501 Wilson Boulevard, 6th Floor, Arlington, Virginia 22209.

Dear Mr. McGuire: On March 18, 1985, the Department of Energy received a petition (dated March 15, 1985) submitted on behalf of the Air Conditioning and Refrigeration Institute (ARI). On July 15, 1985, ARI added Borg Warner Central Environmental Systems, Inc., Lennox Industries, American Standard and Rheem Manufacturing Company as party-petitioners in the proceeding. On September 17, 1985, DOE received certification (dated September 13, 1985) from ARI's General Counsel that the petition and the amendment had been served on the New York State Energy Office. ARI's petition was deemed filed on September 17, 1985, upon notification of receipt of the certification. Section 430.42 of DOE's regulations requires that a petition for a rule to supersede a State or local regulation be served upon the State agency or department whose regulation the petitioner seeks to supersede.

The petition seeks, pursuant to section 327(b)(1) of the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act (referred to as the Act), supersession of New York State's 8.5 Seasonal Energy Efficiency Ratio (SEER) standard for heat pumps manufactured after September 1, 1984, as required by section 16-118(4)(c) of New York State's Energy Law.

On January 23, 1986, DOE published the petition in the **Federal Register** (51 FR 3097) and provided a comment period through February 24, 1986. The Department received comments from one party, the New York State Energy Office (NYSEO), in which the NYSEO disputes the petitioners' claims and asserts that the petition fails to show that there is no significant State interest sufficient to justify New York's regulation and that the regulation unduly burdens interstate commerce.

For the following reasons, the petition is denied.

Under section 327(b)(1) of the Act, any person subject to a State energy efficiency standard may petition the Secretary of Energy to prescribe a rule superseding such State regulation, in whole or in part. The Secretary, after consideration of the petition, the views of the affected State, and the comments of any interested persons, shall issue the requested rule, only if the Secretary finds that there is no significant State or local interest sufficient to justify such State regulation and the State regulation unduly burdens interstate commerce.

The petition has been reviewed carefully. The arguments as presented are unpersuasive and are not supported by sufficient factual information for DOE to determine, as required by section 327(b)(1) of the Act, that there is no significant State interest to justify New York's 8.5 SEER standard for heat pumps and that the standard imposes an undue burden on interstate commerce.

With respect to "significant State interest," the petitioners do not dispute the fact that energy is being saved, only the amount of energy saved. The petitioners, using ARI data, state that the energy savings that can be attributed to the 8.5 SEER standard are 0.00002 of New York's total consumption and that based on New York's population of 17,598,000 people paying an average rate of $0.1108/Kwh, the cost savings would be 12 cents per person. The NYSEO argues that the 8.5 SEER standard saves energy and is part of the State's comprehensive effort. It maintain that a heat pump complying with 8.5 SEER requirement for models manufactured after September 1, 1984, saves 1734 Kwh per year over a model that meets the 7.5 SEER requirement applicable to models manufactured after September 1, 1982. Based on climate variations and energy costs within the State, the NYSEO estimates an annual energy cost savings of between $128 and $273 per unit. Nothing in the Act or in DOE's regulations requires a State standard to meet or exceed an energy savings threshold.

The petitioners also assert that market forces, not the standard, have been responsible for increasing levels in heat pump efficieny. The NYSEO asserts that market forces alone cannot ensure applicance efficiency since it appears that increasing levels of efficiency are not the priority they once were with some homebuilders and consumers. The NYSEO emphasizes that a standard is needed to protect New York consumers from inefficient heat pumps, such as models currently available with SEERs of 5.95. While DOE acknowledges that consumer demand and other market forces have contributed to the rise in heat pump efficiency, the New York standard precludes certain less efficient models from the State's marketplace.

The petitioners also contend that New York lacks a credible enforcement program, demonstrating a lack of significant State interest and placing law abiding persons in a potentially disadvantageous competitive

position. The NYSEO diputes this contention and maintains that it conducts unannounced visits to retailers, wholesalers and distributors of appliances covered by New York's energy efficiency standards. In addition, it reports that a random sample of construction plans and specifications for new building construction routinely reviewed by the State showed no instance of installation of non-complying heat pumps. The petitioners provide no data to support their claim and do not persuade DOE that there is, in fact, widespread unprosecuted evasion of the standard which could undermine a significant State interest.

With respect to "undue burden on interstate commerce," the petitioners allege that New York's standard will lessen competition, claiming that small manufacturers will not be able to compete effectively with larger manufacturers because the New York standard results in some manufacturers having only a few models that meet the standard. Defining a "full line" of products as "a line of products manufactured in small capacity increments so that there is a unit capacity within approximately plus or minus 3,000 Btu/h of any building load," the petitioners cite ARI data that for single package heat pumps, only three companies that market heat pumps in New York offer a "full line" of products that meet or exceed the 8.5 SEER standard, and for split system heat pumps, only eight out of 20 manufacturers that sell heat pumps in New York have a "ful line" of products that meet or exceed the 8.5 SEER standard. Since most dealers stock only one or two brands of products, the petitioners predict that dealers will tend to choose those manufacturers offering a "full line" of products. Therefore, the petitioners contend that those companies with incomplete product offerings will be placed at a competitive disadvantage in the New York market.

The NYSEO, however, points out that 33 of the 40 companies listed in ARI's *July 1—December 31, 1985, Directory of Certified Unitary Air-Source Heat Pumps* have marketed product in New York since before the 1984 standard took effect and that "none of the manufacturers who sold product in New York prior to the 8.5 SEER requirement taking effect have been excluded from the New York market by virtue of this standard applicable to models manufactured after September 1, 1984." *

While the petitioners state that most manufacturers are precluded from the New York market because of the State standard, they have not presented evidence to support that claim. Neither the petitioners nor the ARI data, in the petition or during the comment period, indicated which manufacturers market heat pumps in New York, the number and type of units marketed, the impact of the standard on heat pump sales or which manufacturers have left the New York market as a result of the 8.5 SEER standard. Furthermore, since New York represents only 2.5 percent of the market, it is likely some manufacturers have historically elected not to participate in the New York market.

The petitioners' claim of undue burden on interstate commerce is weakened by the inconsistent argument to the effect that market forces have caused steady increases in efficiency which make the standard unnecessary.

The petitioners also argue that the absence of a hardship provision with respect to such a stringent standard undermines the legal validity of the standard and contributes to an undue burden on interstate commerce. The NYSEO disputes this contention, maintaining that the technical and manufacturing capabilities needed to achieve the standard are already reflected in current production facilities and that since the standard became effective, it has not received any manufacturer requests for special treatment based on capacity or other technical characteristics. The NYSEO also reports no complaints from consumers or the building industry regarding the absence of complying units.

DOE rejects the petitioners' argument concerning the lack of a hardship provision. The lack of a provision in New York's law to grant hardship relief in no way invalidates the legality of the statute. Clearly, the granting of such variances is within the purview of the New York State legislature. Nothing in the Act or DOE's regulations assigns the Department the responsibility to decide whether or not a State should provide such relief. It is up to the State of New York to determine what is in the best interests of its citizens. Furthermore, the fact that New York's law has no provision for hardship variances does not demonstrate that the law creates an undue burden on interstate commerce.

Pursuant to § 430.49 of DOE's regulations, this decision is a final DOE determination. Section 430.49 provides that any person adversely affected by such a DOE determination may seek judicial review.

Yours truly,

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 86-18441 Filed 8-14-86; 8:45 am]

BILLING CODE 6450-01-M

* The NYSEO report that one heat pump manufacturer, not included in the 33 cited above, is currently undergoing liquidation for reasons unrelated to New York energy efficiency standards.

Western Area Power Administration

Proposed Post-1989 Allocation of Power; Pick-Sloan Missouri Basin Program; Western Division and Fryingpan-Arkansas Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Extension of time to submit comments on the Proposed Post-1989 Allocations of power from the Pick-Sloan Missouri Basin Program and the Fryingpan-Arkansas Project to September 15, 1986.

SUMMARY: On May 27, 1986, the Western Area Power Administration (Western) published the Proposed Post-1989 Allocations; Pick-Sloan Missouri Basin Program and the Fryingpan-Arkansas Project (Proposed Post-1989 Allocations) in the **Federal Register** (51 FR 19080). One of the stipulations set forth in this **Federal Register** notice was that comments on the Proposed Post-1989 Allocations would be accepted until July 28, 1986. Notice is hereby given that the deadline for customers to make comments on the Proposed Post-1989 Allocations is extended until September 15, 1986.

DATE: Comments must be received in writing no later than the close of business on September 15, 1986.

ADDRESS: Comments should be sent to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, Phone: (303) 224-7201.

Issued at Golden, Colorado, August 7, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86-18504 Filed 8-14-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3065-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 28, 1986 through August 1, 1986 pursuant to the Environmental

VOL 51 ISS 158 AG 15 1986 UMI

Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D-AFS-K65083-00, Rating EC2, Lake Tahoe Basin Mgmt. Unit Nat'l Forest Land and Resource Mgmt. Plan, NV. SUMMARY: EPA expressed concerns because additional information is needed on Lake Tahoe Basin air quality problems. The Forest Service indicated to EPA staff that much of the information is available and would be incorporated into the final EIS.

ERP No. DS-FHW-L40049-OR, Rating EC2, 6th and 7th Ave. Couplet/OR-99 Extension, Garfield St. to West 11 Ave./ OR-126/Florence-Eugene Highway, New Alternative—Highway 99 to Seneca Rd., OR. SUMMARY: Overall, EPA's original comments and rating remain unchanged. This supplemental EIS adequately describes the affected environment and environmental consequences of the new alternatives presented. EPA has no specific objections relating to these new options.

ERP No. D-NOA-C90012-PR, Rating EC2, Puerto Rico Nat'l Estuarine Sanctuary System, Humacao Site, Designation and Implementation, PR. SUMMARY: EPA supports the proposed Humacao site management plan, but has identified the need for additional information on potential offsite water quality impacts, hazardous waste contamination from a nearby Superfund site, and impacts on existing sewage or water facilities from the proposed visitor center.

Final EISs

ERP No. F-AFS-K65080-00, Toiyabe Nat'l Forest, Land and Resource Mgmt. Plan, NV. SUMMARY: The final EIS addressed EPA's prior concerns. EPA asked to be kept informed of the progress in carrying out mitigation measures identified in the Record of Decision.

ERP No. F-CDB-C89025-NY, Brooklyn Renaissance Plaza Development, Construction, Special Permit, UDAG, NY. SUMMARY: EPA believes that the final EIS does not fully resolve our concerns regarding Carbon Monoxide (CO) National Ambient Air Quality Standard attainment. Mitigation provided in the final EIS does not assure CO attainment by December 31, 1987. Accordingly, EPA requested additional information prior to issuance of the Record of Decision to resolve our concerns.

ERP No. FS-CDB-K89058-CA, Oakland Chinatown Redevelopment Project, Construction, Additional Information, Grant, CA. SUMMARY: EPA requested that the Record of Decision contain commitments to implement mitigation measures to relieve traffic congestion and air quality impacts. EPA also requested that it be kept informed of the progress in carrying out mitigation measures adopted in the Decision.

ERP No. FS-COE-F34002-MN, Twin Valley Lake Wild Rice River Flood Control Project, Fish and Wildlife Compensation Plan, Water Quality Studies and Section 404(B)(1) Evaluation, Additional Information, MN. SUMMARY: EPA's review resulted in concerns related to reservoir and downstream water quality. Upstream nonpoint source and sediment loading controls were recommended to reduce the possibility of adverse water quality impacts.

ERP No. F-FHW-K40099-HI, Makai Blvd./Nimitz Highway Improvement, Middle Street to Pier 18, Oahu Is., HI. SUMMARY: EPA expressed continuing concerns about potential adverse impacts to coastal and surface water quality, and requested a comitment by FHWA to implement drainage system improvements in the Record Decision.

ERP No. F-SCS-G36132-TX, Choctaw Creek Watershed Protection, Flood Prevention and Recreation Plan, TX. SUMMARY: EPA has no objections to the proposed action with proper implementatoin of the mitigation measures as described.

Amended Notice

The following review should have appeared in the FR Notice published on August 8, 1986.

ERP No. D-AFS-J82007-MT, Rating EC1, Gallatin Nat'l Forest, Noxious Weed Control, Mgmt. and Treatment, MT. SUMMARY: EPA supports the choice of the integrated pest management alternative. EPA has the following concerns: (1) Retreatment should be discussed; (2) Procedures to prevent initial establishment of noxious weeds should be included as part of integrated pest management; (3) Site specific steps should be designed to insure that herbicide contamination of surface and ground water does not occur; (4) Emergency response actions should be discussed; and (5) disposal of empty pesticide containers, spills, etc. should be in accordance with applicable state/Federal requirements.

Dated: August 12, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-18492 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3065-2]

Designation of Ocean Dredged Material Disposal Site (ODMDS) Off Pascagoula, Mississippi and Intent To Prepare a Supplemental Environmental Impact Statement

AGENCY: Environmental Protection Agency (EPA), Region IV.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) on the final designation of an ODMDS off Pascagoula, Mississippi.

Purpose: The U.S. EPA, Region IV, in accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA) and in cooperation with the U.S. Army Corps of Engineers, Mobile District, will prepare a Supplemental Draft EIS on the designation of an ocean dredged material disposal site for Pascagoula, Mississippi. This notice of intent is issued pursuant to 40 CFR Part 1501.7 (Regulations for Implementing the Procedural Provisions of the NEPA), section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, and 40 CFR Part 228 (Criteria for the Management of Disposal Sites for Ocean Dumping).

For further information and to be placed on the project mailing list contact: Mr. Reginald Rogers, Ocean Dumping Coordinator, U.S. Environmental Protection Agency, Region IV, 345 Courtland St., NE., Atlanta, Georgia 30365; Phone No. (404) 347-4467, FTS 257-4467, or Mr. Paul Bradley, U.S. Army Corps of Engineers District, P.O. Box 2288 Mobile, Alabama 36628-0001; Phone No. (205) 694-3860, FTS 537-3860.

SUMMARY: This SEIS will supplement the draft EIS, released January 13, 1983, currently being finalized for EPA interim approved offshore disposal areas for Pensacola, Florida; Mobile, Alabama; and Gulfport, Mississippi. The Corps of Engineers has indicated that final designation of a Pascagoula ODMDS is required to insure the availability of the most feasible and environmentally acceptable disposal site for anticipated future work requiring ocean disposal. The SEIS will consider the impacts which could result from continued

offshore disposal of dredged material at the existing EPA interim designated site south of Horn Island Pass, Mississippi, and potential alternative sites.

Need for Action

The Corps of Engineers, Mobile District, has requested that an EPA approved ocean disposal site be designated in the Pascagoula area to receive dredged materials when ocean disposal is the preferred disposal alternative.

Alternatives

The following alternatives are being considered:

1. No action;
2. Final designation of the interim designated ODMDS off Pascagoula;
3. Locating and using alternative ocean disposal sites.

Scoping

A scoping meeting is not contemplated. Scoping will be accomplished by correspondence with affected federal, state, and local agencies, and with interested parties.

Estimated Date of SEIS Release: October 1986.

Responsible Official: Jack E. Ravan, Regional Administrator.

Dated: August 12, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-18493 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-01-M

[ER-FRL-3065-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed August 4, 1986 Through August 8, 1986 Pursuant to 40 CFR 1506.9

EIS No. 860308, Draft COE, NM Cuchillo Dam/Cuchillo Creek and Rio Grande Flood Control Plan, Truth or Consequences Area, Sierra County, Due: September 29, 1986, Contact: James White (505) 766-3577.

EIS No. 860309, Final FHW, OR, McLoughlin Boulevard and US 99E Widening, Pacific Highway East, Union-Grand Viaduct to South East River Road, Multinomah and Clackamas Counties, Due: September 15, 1986, Contact: Dale Wilken (503) 399-5749.

EIS No. 860310, Final, COE, TX, Guadalope River Navigation Improvement, Channel to Victoria, Calhoun and Victoria Counties, Due: September 15, 1986, Contact: Charles Harbaugh (409) 766-3044.

EIS No. 860311, FSuppl. FHW, IA, Relocated IA-58 and US 218 Improvement. Relocated US 20 to IA-3 Black Hawk and Bremer Counties, Due: September 15, 1986, Contact: H.A. Willard (515) 233-1664.

EIS No. 860312, Draft, CDB, CA, Casa Loma Specific Plan and Enterprise Zone Application, Designation and CDBG, Kern County, Due: September 29, 1986, Contact: Guy Greenlee (805) 861-2041.

EIS No. 860313, Draft AFS, CA, Shasta-Trinity National Forests, Land and Resource Management Plan, Due: September 29, 1986, Contact: Robert Tyrrell (916) 246-5222.

EIS No. 860314, Draft, FHW, CA, I-680/CA-24 Interchange Reconstruction and Freeway Improvements, Rudgear Road to Willow Pass Road, Contra Costa County, Due: October 10, 1986, Contact: David Eyres (916) 551-1314.

EIS No. 860315, Final, VAD, FL, Northern Palm Beach County Veterans Administration Medical Center, Construction, Palm Beach County, Due: September 15, 1986, Contact: Susan Livingstone (202) 389-3316.

EIS No. 860316, Draft, ERA, NH, MA, New England/Hydro-Quebec 450kV Transmission Line Interconnection Phase II, Construction and Operation, Due: September 29, 1986. Contact: Anthony Como (202) 252-5935.

EIS No. 860317, Draft, COE, CA, Coyote Creek Flood Control Project and Facilities Construction, Santa Clara County, Due: October 13, 1986, Contact: Richard Stradford (415) 974-0445.

EIS No. 860318, DSuppl, AFS, OR, WA, CA, Pacific Northwest Regional Guide, Northern Spotted Owl Habitat Management Standards and Guidelines, Updated and Additional Information, Due: November 17, 1986, Contact: Larry Fellows (503) 221-2387.

EIS No. 860319, Final, BIA, NM, Ojo 345kV Transmission Line Extension and Substation Construction, Rio Arriba and Santa Fe Counties, Due: September 15, 1986, Contact: William Allan (505) 766-3374.

EIS No. 860320, Draft, FRC, AR, OK, Lee Creek Hydroelectric and Water Supply Project, Construction and Operation, License, Due: September 29, 1986, Contact: Diane Rodman (202) 376-9045.

EIS No. 860321, Final, FHW, OR, Tualatin Valley Highway Widening, 21st Avenue to East Main Street, Washington County, Due: September 15, 1986, Contact: Dale Wilken (503) 399-5749.

Amended Notice

EIS No. 860177, Draft, AFS, CA, Lassen National Forest, Land and Resource Management Plan, Due: September 8, 1986, Published FR 5-09-86—Review period extended.

Dated: August 12, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-18491 Filed 8-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearings; Haughton Television et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant City, and State	File No.	MM Docket No.
A. Leo Jones d/b/a Haughton Television, Atlantic City, NJ.	BPCT-860220KG	[illegible]
B. ACTB, Inc., Atlantic City, NJ.	BPCT-860410KJ	
C. Surf City Broadcasting Associates, Atlantic City, NJ.	BPCT-860410KK	
D. Boardwalk Broadcast Associates, Inc., Atlantic City, NJ.	BPCT-860410KL	
E. Garden State Communications, Atlantic City, NJ.	BPCT-860410KM	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air Hazard, A, B, C, D, E
Minimum Separation, A, B, C, D, E
Main Studio, E
Comparative, A, B, C, D, E
Ultimate, A, B, C, D, E

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The

complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–18414 Filed 8–14–86; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 86–188, File No. BP–850211AB and File No. BP–850430AN]

Hearing Designation Order; Radio Kerrville

Adopted: May 2, 1986.
Released: May 29, 1986.

By the Chief, Audio Services Division.

In re Applications of Radio Kerrville, Kerrville, Texas, Req: 1290 kHz, 0.5 kW, D, P&R Productions, Ltd., Kerrville, Texas, Req: 1290 kHz, 0.5 kW, D.

1. The Commission has under consideration the above-captioned mutually exclusive applications of Radio Kerrville and P&R Productions, Ltd.

2. Section V–A, Paragraph 8 of the application form (FCC Form 301) requires applicants to file a sufficient number of photographs to permit identification of all structures in the vicinity of the antenna site. The application filed by P&R Productions, Ltd. does not contain the required antenna site photographs; this applicant must, therefore, file the required photographs with the presiding Administrative Law Judge within 30 days of the release of this Order.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

4. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, that P&R Productions, Ltd. file the required antenna site photographs with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

6. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, DC 20554

7. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communication Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–18415 Filed 8–14–86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Priscilla L. Schwier, et al.

1. The Commisson has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. Priscilla L. Schwier, Toledo, OH.	BPCT–860409KF	86–333
B. Wade Mitchell, Toledo, OH	BPCT–860410KI	
C. Carmora Broadcasting, Inc., Toledo, OH.	BPCT–860410KS	
D. New Life Evangelistic Center, Inc., Toledo, OH.	BPCT–860410KT	
E. Dominion Broadcasting, Inc., Toledo, OH.	BPCT–860410KU	
F. Arthur Malendoski, Toledo, OH.	BPCT–860410KV	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air Hazard, A,B,C,D,E,F
Comparative, A,B,C,D,E,F
Ultimate, A,B,C,D,E,F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–18416 Filed 8–14–86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; 62 Broadcasting, Inc., et al.;

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. 62 Broadcasting, Inc., Killen, TX.	BPCT–860303KH	86–334
B. Excelsior Communications, Inc. Killeen, TX.	BPCT–860421KL	
C. Aida Barrera, Killeen, TX	BPCT–860422KN	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

Air Hazard, A, B, C
Comparative, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text

of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–18417 Filed 8–14–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Survey of Ports and Marine Terminal Operators

The Federal Maritime Commission recently sent surveys to ports and marine terminal operators throughout the United States seeking their views as to the impact of the U.S. Shipping Act of 1984. The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act. The Commission has been directed by the U.S. Congress to "collect and analyze information concerning the impact of this Act upon the international shipping industry," and to present its findings to an Advisory Commission on Conferences in Ocean Shipping, to be convened five and one-half years after enactment of the Act.

The Commission would like its survey to have the widest possible distribution. All interested port or marine terminal operators who have *not* received a copy of the survey are urged to contact: Robert Blair, Bureau of Economic Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, Tel. (202) 523–5870.

Dated: August 12, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–18436 Filed 8–14–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community Bank System, Inc., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicated how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 5, 1986.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Community Bank System, Inc.*, Dewitt, New York; to engage *de novo* through its subsidiary Community Financial Services, Inc., Waterloo, New York, in the originating, acquiring or servicing of mortgage loans (including commitments to lend or sell the same) for company's account or for the accounts of others pursuant to § 225.25(b)(1) of the Board's Regulation Y. Comments on this application must be received by September 2, 1986.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Community Financial Services, Inc.*, Bolivar, Tennessee; to engage directly in writing and processing all credit life insurance pursuant to § 225.25(b)(8) and (9) of the Board's Regulation Y. These activities will be conducted in Hardeman County, Tennessee, and surrounding counties.

Board of Governors of the Federal Reserve System, August 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–18429 Filed 8–14–86; 8:45 am]

BILLING CODE 6210–01–M

Hebron Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 5, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hebron Bancshares, Inc.*, Hebron, Illinois; to become a bank holding company by acquiring 90 percent of the voting shares of Hebron State Bank, Hebron, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Kentucky National Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares of Mutual Trust Bank, New Albany, Indiana.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Metropolitan Bancorporation, Inc.*, Bloomington, Minnesota; to merge with Continental Bancshares, Inc., Bloomington, Minnesota, and thereby indirectly acquire Metropolitan Bank St. Paul, St. Paul, Minnesota.

2. *Metropolitan Bancorporation, Inc.*, Bloomington, Minnesota; to acquire 89.22 percent of the voting shares of Metropolitan Bank Plymouth, Plymouth, Minnesota.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Louise Bancshares, Inc.*, Louise, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First State Bank of Louise, Louise, Texas, and First City Bank of Wallis, Wallis, Texas.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Independence Holdings Limited*, Nassau, New Providence, Bahamas; IB Holdings N.V., Curacao, Netherlands, Antilles; and Independence Bancorporation, Encino, California; to become bank holding companies by acquiring Independence Bank, Encino, California.

2. *Maui Bancshares, Inc.*, Tacoma, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Maui, National Association, Kahului, Hawaii, Island of Maui.

Board of Governors of the Federal Reserve System, August 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18430 Filed 8-14-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 8, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

National Institutes of Health

Subject: The Cancer Construction Program—Program Instructions—Reinstatement—(0925-0128)
Respondents: State or local governments
Subject: Cohort Study of Workers Exposed to Acrylonitrile (Smoking History Telephone Interview)—NEW
Respondents: Individuals or households

Center for Disease Control

Subject: Pulmonary Function Testing Course Approval Application—Extension—(0920-0138)
Respondents: State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
Subject: Study of Greutzfeldt-Jakob Disease in Recipients of Human Growth Hormone (Concept Clearance)—NEW
Respondents: Individuals or households; Businesses or other for-profit; Non-profit institutions

National Institutes of Mental Health

Subject: Cost Outcome Research Methodology for the Chronically Mentally Ill—Extension—(0930-0116)
Respondents: State or local governments
OMB Desk Officer: Bruce Artim

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of package)

Subject: Quarterly Report of Expenditures and Prior Quarter Expenditure Adjustments—Revision—(0960-0235)
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello
Subject: Reconsideration Disability Report—Revision—(0960-0144)
Respondents: Individuals or households
OMB Desk Officer: Judy McIntosh

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package)

Subject: Freestanding Federally-Funded Health Center Cost Report—Extension—(0938-0235) HCFA-242
Respondents: Businesses or other for-profit
Subject: Medicaid Information Collection in Alternative Sanctions for Long Term Care Facilities 42 CFR 442.118(b)—NEW—HCFA-R-93
Respondents: State or local governments
Subject: Information Collection Requirements in BOC-18-F, Claims Processing Assessment System—Extension—(0938-0431) HCFA-R-63
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

(Call Reports Clearance Officer on 202-245-6511 for copies of package)

Subject: Follow-up to the 1983 Physician's Practice Costs and Income Survey—NEW—
Respondents: Businesses or other for-profit
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer).

Dated: August 11, 1986.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-18444 Filed 8-14-86; 8:45 am]

BILLING CODE 4150-04-M

Health Care Financing Administration

[BERC-373-PN]

Medicare Program; Lowest Charge Levels

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In those cases in which, in the judgment of the Secretary, a specified medical service, supply, or piece of equipment generally does not vary significantly in quality from one supplier to another, the Medicare reasonable charge for the item or service may not exceed the lowest charge level (LCL) at which the item or service is widely and consistently available in a locality. We propose to add certain ambulance services and certain items of durable medical equipment, medical supplies, and prosthetic devices to the items and services already subject to the LCL criterion of reasonable charge reimbursement. Extending the listing of items and services reimbursed on the basis of LCL should result in more equitable reimbursement for essentially

similar items and services and should also result in savings to the Medicare program.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on September 15, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–373–PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC–373–PN. Comments will be available for public inspection as they are received, beginning approximately one week after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Roberta Epps, (301) 594–3867.

SUPPLEMENTARY INFORMATION:

Background

Section 1833 of the Social Security Act (the Act) provides for payment for physician and most other Part B medical and other health services on a reasonable charge basis. (Exceptions include hospital outpatient services, which are reimbursed on a reasonable cost basis, and diagnostic laboratory services, which are reimbursed under a fee schedule.) The criteria for determining reasonable charge payments are described in section 1842(b)(3) of the Act. Under section 1842(b)(3) of the Act, payment for a given item or service is generally based on the lowest of: (1) The actual charge, (2) the physician's or supplier's customary charge for the service, or (3) the prevailing charge in the locality for similar items or services. Section 1842(b)(3) of the Act further provides that in the case of medical services, supplies and equipment (including equipment servicing) that, in the Secretary's judgment, do not vary significantly in quality from one supplier to another, the reasonable charge may not exceed the lowest charge level (LCL) at which a particular service or supply is widely and consistently available in a locality.

Under 42 CFR 405.509 of the regulations, services (other than physician services), supplies and equipment reimbursed on a reasonable charge basis are subject to an additional limitation known as the inflation-indexed charge (IIC). The inflation-indexed charge means the lowest of the fee screens (prevailing charge, customary charge, the IIC itself, or LCL) that is in effect on September 30 of the preceding fee screen year as updated by the annual change in the Consumer Price Index for all Urban Consumers (CPI–U). While customary charge, prevailing charge and lowest charge level screens will continue to be updated annually, the current year's IIC may not exceed the prior year's IIC updated by the CPI–U (42 CFR 405.502(a)(4)). The following example explains the relationship between the IIC and the LCLs in the general determination of reasonable charges.

Example

The LCL limit for an item is $90 on September 30, 1987. The other reasonable charge screens (prevailing charge, customary charge and IIC) in effect at that time are greater than the LCL level. The CPI–U increase, as compiled for the 12-month period ending on March 31, 1987, is 5 percent. Therefore, while the IIC for fiscal year 1988 may not exceed $94.50 (90 X 1.05), the reasonable charge will depend on the updated customary charge, prevailing charge, and LCL for that year.

Our regulations at 42 CFR 405.511 implement the lowest charge level (LCL) provision. We define the LCL as the 25th percentile of the array of charges for a given item or service in the locality. For items and services furnished before October 1986, we calculate each LCL in January based on the array of charges for the July through September quarter of the previous calendar year and in July based on the array of charges for the January through March quarter of the same calendar year (42 CFR 405.511(c)(1)).

To implement section 2306(b) of the Deficit Reduction Act of 1984 (Pub. L. 98–369), which amended section 1842(b)(3) of the Act for services and items furnished on or after October 1, 1985, we planned to calculate customary and prevailing charges in October of each year. We brought the LCL update cycle into conformance with this change so that, for services and items furnished on or after October 1, 1986, we would calculate each LCL only once each year, in October, based on the array of charges for the preceding months of April through June (42 CFR 405.511(c)(2)).

In response, however, to section 9301(d) of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Pub. L. 99–272), which further amended section 1842(b)(3) of the Act (for items and services furnished on or after October 1, 1986), we now plan to calculate customary and prevailing charges in January of each year. Accordingly, we now plan to calculate each LCL each January. (Regulation revisions implementing these changes are forthcoming.) Thus, the LCL for items and services furnished after September 30, 1986 and before January 1, 1987 will be the same as for items and services furnished before October 1, 1986.

Under our regulations at 42 CFR 405.511(b), we publish notice of a proposed determination to apply the LCL provision to a medical service, supply or piece of equipment, and we give the public an opportunity to comment. We rely on public comment to give us a valuable check on the validity and accuracy of our decision to include designated services and items among those subject to the LCL provision, and to assure that the proposed services and items do not vary significantly in quality. (See 43 FR 32294, 32297, July 26, 1978.)

At the present time, we apply the LCL provision to only two items of durable medical equipment: Standard wheelchairs and hospital beds. (Certain commonly performed laboratory services once were subject to the LCL provision too (42 FR 32335, July 26, 1978). However, as a result of section 2303 of Pub. L. 98–369, most laboratory services are now reimbursed in accordance with a fee schedule rather than on a reasonable charge basis.) The current list of services will remain in effect until we publish a final notice. We had proposed on March 26, 1979 (44 FR 18116) in a Notice of Proposed Rulemaking to expand the list to include additional items of durable medical equipment and laboratory services; however a final notice was not issued. As indicated above, as a result of subsequent legislation, laboratory services are now primarily reimbursed on the basis of a fee schedule. The durable medical equipment items included in that proposed notice are included in this proposed notice.

Proposal

As a result of improvements in medical technology, improved access to health services, and increased competition, Medicare beneficiaries are often offered an array of essentially similar items and services. It is not

reasonable that wide variations in Medicare payment should exist for virtually identical items. (See S. Rep. No. 1230, 92nd Cong., 2nd Sess. 193 (1972); H.R. Rep. No. 231, 92nd Cong., 1st Sess. (1971), *reprinted in* 1972 U.S. Code Cong. & Ad. News 5074.)

Congress clearly intended for the Secretary to use his authority to make items or services subject to the LCL provision when, after due consideration, it is determined that the items or services do not vary significantly in quality from one supplier to another. (Ibid.) We now propose to add additional items of durable medical equipment, prothestic devices, medical services, and ambulance services that would be subject to the LCL provision.

In accordance with Congressional intent (see S. Rep. No. 1230, *Supra*) and with the principle followed in publishing the initial list of items and services subject to the LCL, we have again given priority to items and services that are most frequently reimbursed under Medicare. The specific supplies and equipment identified for LCL purposes are those that account for the highest dollar volume of Medicare payment in the durable medical equipment, medical supply and prosthesis categories. We selected this listing based on our analysis of the Part B Medicare Annual Data procedure file for the 1983 calendar year from Medicare carriers. Certain items that do not account for a substantial dollar volume but are very similar to significant dollar volume items also have been included because failure to do so would invite use of similar lower dollar volume items to avoid the LCL limitation.

We note that the following studies and reports identified a number of items for which recommendations were made to apply the LCL methodology:

"Review of Cost Containment through Expansion of the Lowest Charge Level Limitation," (#1-02-005-19); Bureau of Quality Control, HCFA Region II; December 15, 1981.

"Evaluation of the Impact of the Lowest Charge Level (LCL) Provision (Regulation at 42 CFR 405.511, Reasonable Charges for Medical Services, Supplies and Equipment)," Division of Medical Services Reimbursement, Office of Reimbursement Policy, Bureau of Program Policy, HCFA; April 6, 1982.

"Extending the Lowest Charge Level to Additional Non-Physician Procedures Would Result in Substantial Savings to the Medicare Program," ACN: 01-32011; Office of the Inspector General, Department of Health and Human Services; July 18, 1983.

The items and services proposed in this notice for addition to the LCL list, with minor exceptions, include those identified in these studies and reports.

Because only essentially similar items or services have identical procedure codes, the new items and services to be subject to the LCL provision will be identified by procedure code. (As described below, we propose to use the HCFA Common Procedure Coding System (HCPCS) to describe items and services that would be subject to the LCL provision.) We have used procedure codes before for the purpose of identifying certain commonly performed laboratory services that were subject to the LCL provision (see 43 FR 32335, July 26, 1978.) We believe that procedure codes enable us to specify items and services in sufficient detail to ensure that items or services conforming to the codes will not vary significantly in quality.

Items and services paid for in large volume lend themselves most readily to standardized descriptions and specifications, and these services and items all have discrete procedure codes that have been in use for some time. Procedural terminology and coding systems are designed to provide a common language that accurately describes the LCL provision will be identified by procedure code. (As described below, we propose to use the HCFA Common Procedure Coding System (HCPCS) to describe items and services that would be subject to the LCL provision.) We have used procedure codes before for the purpose of identifying certain commonly performed laboratory services that were subject to the LCL provision (see 43 FR 32335, July 26, 1978.) We believe that procedure codes enable us to specify items and services in sufficient detail to ensure that items or kinds and levels of services and items provided and that can serve as a basis for coverage and payment determinations. Although the standardized descriptions were not developed to serve as quality measures, per se, we believe it is reasonable to presume that absent evidence to the contrary similar items and services capable of meeting identical nomenclature requirements do not vary significantly in quality. Typically, if an item lacks features necessary to serve the intended function of the item, it would not meet the nomenclature requirements of the coding system. Similarly, items with superfluous features or items that serve additional functions considered medically necessary by Medicare are assigned discrete procedure codes.

We invite commenters who believe that an item or service in the proposed list does vary significantly from supplier to supplier to specify, in detail, the nature of the variation in quality, including the identification of the specific products considered of lower quality and data showing the relative market share of these products. We also invite commenters to suggest refinements of the HCPCS that would delineate any quality variations described by the commenters.

In addition to any data relied on by the commenters to support significant variation in quality, we request commenters to supply pricing information about where in the array of data the prices fall, including information about whether the 25th percentile of customary charges is determined by products of lower quality. This pricing information will not be used in determining the significance of quality variations or in determining whether an item should be made subject to the LCL provision. Rather, this pricing data will enable us to evaluate the extent or magnitude of any problems in coding, coverage, and current customary and prevailing charge calculations.

There are two possible actions that we may take if significant variation in quality of items is found: (1) We may deny coverage if the lower quality item is not medically reasonable and necessary (i.e., it cannot meet the medical needs of the patient) and/or (2) we may divide the items into groups of standard and deluxe as defined by additional codes and nomenclature and establish separate levels for the items.

We are limiting the list of proposed services and items primarily to supplies, equipment and ambulance services. We are not proposing to extend the application of the LCL provision at this time to other widely prescribed services, such as physical therapy and chiropractic manipulation, because we do not have enough information to determine whether these services vary significantly in quality. We invite public comment on the possible inclusion of these and other services.

Also, although we are including ambulance services among the additional items and services proposed for LCL consideration, we note that there is an issue in calculating the LCLs for ambulance services due to the possible commingling of the charges of subsidized ambulance services with those of non-subsidized ambulance services. We are not aware of the existence of this situation in any locality. However, we invite comments on the treatment of such commingling if

it does exist in a locality. One option may be to exclude the charges from subsidized suppliers for the purpose of calculating an LCL.

List of Proposed Items and Services

We have used the codes and terminology in the HCFA Common Procedure Coding System (HCPCS) to describe the services and items listed below, which we propose to make subject to the LCL provision. We are using HCPCS since it is the standard coding system that has been adopted by all carriers. We propose that all of the components of the items and devices listed below be subject to the LCL criterion even if some of the components of an item are obtained separately by the beneficiary, or if some components are purchased while others are rented.

For sake of completeness, we are including in the list below the items of durable medical equipment that are already subject to the LCL provision. We have marked these with an asterisk (*).

A. Items of Durable Medical Equipment

1. Standard Wheelchair*, fixed full length arms, fixed or swing away detachable foot rests (E1130).
2. Wheelchair, detachable arms, desk or full length, swing away detachable foot rests (E1140).
3. Wheelchair, detachable arms (desk or full length), swing away detachable elevating leg rests (E1150).
4. Wheelchair, fixed full length arms, swing away detachable elevating leg rests (E1160).
5. Amputee wheelchair, fixed full length arms, swing away detachable elevating leg rests (E1170).
6. Amputee wheelchair, fixed full length arms, without foot rests or leg rests (E1171).
7. Amputee wheelchair, detachable arms (desk or full length), without foot rests or leg rests (E1172).
8. Amputee wheelchair, detachable arms (desk or full length), swing away detachable foot rests (E1180).
9. Amputee wheelchair, detachable arms (desk or full length), swing away detachable elevating leg rests (E1190).
10. Amputee wheelchair, fixed full length arms, swing away detachable foot rests (E1200).
11. Economy wheelchair, fixed full length arms, fixed foot rest (E1010).
12. Fully reclining wheelchair, fixed full length arms, swing away detachable elevating leg rests (E1050).
13. Fully reclining wheelchair, detachable arms, desk or full length, swing away detachable elevating leg rests (E1060).
14. Rollabout chair, without arms (E1030). (In lieu of medically necessary wheelchair (E1130).)
15. Rollabout chair, with fixed or removable arms (E1040). (In lieu of medically necessary wheelchair (E1130).)
16. Hospital Bed*, with side rails, fixed height with mattress (E0250).
17. Hospital Bed*, with side rails variable height, hi-lo, with mattress (E0255).
18. Hospital Bed, with side rails, semi-electric, head and foot adjustment, with mattress (E0260).
19. Hospital Bed, with side rails, total electric (head, foot and height adjustments, with mattress) (E0266).
20. Trapeze Bars, also known as patient helper, attached to bed, with grab bar (E0910).
21. Trapeze Bar, freestanding, complete with grab bar (E0940).
22. Walker, wheeled, without seat (E0141).
23. Walker, rigid (pick up), adjustable or fixed height (E0130).
24. Cane, quad or three prong, includes canes of all materials, adjustable or fixed, with tips (E0105).
25. Cane, includes canes of all materials, adjustable or fixed, with tip (E0100).
26. Sitz-type bath, portable, fits over commode seat (E0160).
27. Sitz-type bath, portable, fits over commode seat, with faucet attachments (E0161).
28. Sitz bath chair (E0162).
29. Commode chair, stationary, with fixed arms (E0163).
30. Commode chair, stationary, with detachable arms (E0165).
31. Pail or pan for use with commode chair (E0167).
32. Foot rest, for use with commode chair, each (E0175).
33. Decubitus care mattress, includes flotation or gel mattress (E0190).
34. Oxygen contents, gaseous, per cubic foot (E0400).
35. Oxygen contents, gaseous, per 100 cubic feet (E0405).
36. Oxygen contents, liquid, per pound (E0410).
37. Oxygen contents, liquid, per 100 pounds (E0415).
38. Stationary compressed gas system, includes use of container, regulator with flow gauge, humidifier/nebulizer, cannula or mask and tubing (E0425).
39. Oxygen system, gaseous, portable, includes portable container, supply container, regulator with flow gauge, humidifier, cannula or mask and tubing (E0430).
40. Oxygen system, liquid, stationary, includes use of reservoir, contents, indicator, flowmeter, humidifier, cannula or mask and tubing (E0440).
41. Oxygen system, liquid, portable, includes portable container, supply reservoir, flow, humidifier, cannula or masks, tubing and refill adaptor (E0435).
42. Oxygen concentrator, equivalent to 244 cubic feet (E1388).
43. Oxygen concentrator, equivalent to 488 cubic feet (E1389).
44. Oxygen concentrator, equivalent to 732 cubic feet (E1390).
45. Oxygen concentrator, equivalent to 976 cubic feet (E1391).
46. Oxygen concentrator, equivalent to 1220 cubic feet (E1392).
47. Oxygen concentrator, equivalent to 1464 cubic feet (E1393).
48. Oxygen concentrator, equivalent to 1708 cubic feet (E1394).
49. Oxygen concentrator, equivalent to 1952 cubic feet (E1395).
50. Oxygen concentrator, equivalent to over 1952 cubic feet (E1396).
51. Humidifier, durable for extensive supplemental humidification during IPPB treatments or oxygen delivery, e.g., cascade (E0550).
52. Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery, e.g., cascade jr. (E0560).
53. Humidifier, durable glass or autoclavable plastic bottle (E0555).
54. Compressor, air power source for equipment which is not self-contained or cylinder driven (E0565).
55. Nebulizer, with compressor; e.g., Devilbiss pulmo-aid (E0570).
56. Nebulizer, durable, glass or autoclavable plastic, bottle type, for use with regulator or flowmeter (E0580).
57. Nebulizer, self-contained, ultrasonic (E0575).
58. Tens, two lead, localized stimulation (E0720).
59. Tens, four lead, larger area/multiple nerve stimulation (E0730).
60. Suction pump, home model, portable (E0600).
61. Seat lift chair, motorized to assist patient in standing and sitting (E0620).
62. Patient lift, hydraulic, with seat or sling (E0630).
63. Mattress, innerspring (E0271).
64. Mattress, foam rubber (E0272).
65. Bedside rails, half length (E0305).
66. Bedside rails, full length (E0310).
67. IPPB machines with automatic valves, external power source, includes cylinder regulator, built-in nebulization (E0510).
68. IPPB machines with automatic valves, electrically driven with internal compressor, built-in nebulization (E0515).
69. IPPB machines with manual valves, external power source, includes

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cylinder regulator, built-in nebulization (E0500).

70. IPPB machines with manual valves, electrically driven with internal power source, built-in nebulization (E0505).

71. Pressure pad, alternating with pump (E0180).

72. Pressure pad, alternating with pump, heavy duty (E0181).

B. Medical Supplies

1. Indwelling catheter, Foley type, two-way, teflon (A4341).
2. Indwelling catheter, Foley type, two-way, latex (A4342).
3. Indwelling catheter, Foley type, two-way, latex with teflon coating (A4343).
4. Indwelling catheter, Foley type, two-way, all silicone (A4344).
5. Indwelling catheter, Foley type, two-way, silicone with customer coating (A4345).
6. Indwelling catheter, Foley type, three-way, latex or teflon for continuous irrigation (A4346).
7. Catheter insertion tray, includes catheter and drainage bag (A4353).
8. Urinary collection and retention system, drainage bag with tube (A4348).
9. Urinary collection and retention system, leg bag with tube (A4349).
10. Colostomy set (A4360).
11. Ureterostomy set (A4430).
12. Surgical trays (A4550).
13. Catheter insertion tray, without tube and drainage bag (A4354).
14. Ideal bladder set (A4390).
15. Irrigation set for irrigation of ostomy (A4400).

C. Prosthetic Devices

1. Breast prosthesis, mastectomy bra (L8000).
2. Breast prosthesis, mastectomy form (L8020).
3. Stump sock, single ply, fitting, above knee, each (L8480).
4. Cervical, semi-rigid, adjustable (plastic collar) (L0140).

D. Ambulance Services

1. Ambulance service, Basic Life Support (BLS) base rate, emergency transport, one-way (A0010).
2. Ambulance service, BLS, per mile, transport, one-way (A0020).
3. Ambulance service, conventional air service, transport, one-way (A0030).
4. Ambulance service, air, helicopter service, transport (A0040).
5. Ambulance service, waiting time, one-half (½) hour increments (A0060).
6. Ambulance service, oxygen, administration and supplies, life sustaining situation (A0070).
7. Ambulance service, Advanced Life Support (ALS), base rate, all inclusive services, emergency transport, one-way (A0220).
8. Ambulance service, ALS, per mile, transport, one-way (A0221).
9. Ambulance service, ALS, base rate, where nonreusable ALS supplies are billed separately, emergency transport, one-way (A0223).

E. Additional Items of Durable Medical Equipment To Be Subject to the LCL Provision

We propose that the items and devices listed below be subject to the LCL criterion even though these items are normally considered either convenience or deluxe items or items with convenience or deluxe features. Convenience or deluxe items or features are not generally covered by the Medicare program. However, under certain circumstances, due to the special medical needs of the beneficiary, these items may be fully covered and reimbursed. In such circumstances, the LCL applicable to these items would be used in determining the reasonable charge for the items.

Where convenience or deluxe items or features are not medically necessary, reimbursement is limited to the reasonable charge for the comparable, covered, medically necessary item. In such circumstances, the LCL applicable to the comparable, covered, medically necessary item would be used in determining the reasonable charge for the item.

For sake of completeness and accuracy, we are including in the list below the HCPCS codes for convenience or deluxe items and for items with convenience or deluxe features, along with the HCPCS codes of the comparable medically standard items.

1. Lightweight wheelchair, detachable arms (desk or full length), swing away detachable foot rests (E1240). (Comparable to E1140).
2. Lightweight wheelchair, fixed full length arms, swing away detachable foot rests (E1250). (Comparable to E1150).
3. Lightweight wheelchair, detachable arms (desk or full length), swing away detachable foot rests (E1260). (Comparable to E1140).
4. Lightweight wheelchair, fixed full length arms, swing away detachable elevating leg rests (E1270). (Comparable to E1150).
5. Rigid walker, wheeled, with seat (E0142). (Comparable to E0141).
6. Folding walker, wheeled, without seat (E0143). (Comparable to E0141).
7. Walker, wheeled, with seat and crutch attachment (E0145). (Comparable to E0141).
8. Walker, wheeled, with seat (E0146). (Comparable to E1041).
9. Walker, folding (pick up), adjustable or fixed height (E0135). (Comparable to E0141).
10. Commode chair, mobile, with fixed arms (E0164). (Comparable to E0163).
11. Commode chair, mobile, with detachable arms (E0166). (Comparable to E0165).

Regulatory Impact Analysis

A. Introduction

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is one that would result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we prepare and publish a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. We consider all manufacturers and suppliers of durable medical equipment, medical supplies, prosthetic devices, and suppliers of ambulance services to be small entities for purposes of the RFA.

We estimate that applying the lowest charge level provision to these additional types of durable medical equipment, medical supplies, prosthetic devices, and ambulance services would reduce payments for these items and services by $100 million annually by FY 1990. Since the impact of this proposed notice would exceed the $120 million threshold, it is a major rule under E.O. 12291 and an initial regulatory impact analysis is required. Furthermore, since this proposed rule could have a significant economic impact on some small entities, we have prepared a combined regulatory flexibility analysis and regulatory impact analysis.

B. Effect on Program Expenditures

We estimate that the following program savings would result from this proposal:

	Savings
Fiscal year:	
1987	[1] $60,000,000

	Savings
1988	90,000,000
1989	110,000,000
1990	120,000,000
1991	140,000,000

[1] Estimates are rounded to the nearest $10 million and are based on an assumed effective date of Jan. 1, 1987.

These savings would result from the impact of this proposed notice on thousands of small entities. Therefore, we do not expect the impact on any one entity to be great.

We estimate that the following small entities would be affected:

—55,000–60,000 drugstores
—Fewer than 10,000 DME suppliers
—Approximately 5,000 ambulance companies

We have no information on health industry manufacturers and no information on the small entities total revenue. We welcome any submissions of data, cost or price information that would aid us in further assessing the impact of the proposals.

C. Affected Entities

We expect manufacturers and suppliers of durable medical equipment, medical supplies, and prosthetic devices, suppliers of ambulance services, and beneficiaries to be affected by this regulation. We do not have sufficient data to predict exactly the nature of the impact of this proposed notice or the magnitude of such impact. Below, we discuss likely outcomes.

1. Suppliers

Suppliers (and manufacturers that sell directly) would review reasonable charges in the locality to determine what strategy would achieve the best profit. In response to the proposed notice, we expect them to assess wholesale prices of products of current and future stocks and costs of maintaining these stocks; to compare these costs to the prevailing charge level and the lowest charge level in the localities in which they operate; to assess the population in terms of ability to pay; to consider whether or not to accept assignment; and to decide whether or not they can stock the equipment and supplies at lower prices from other manufacturers.

Decisions resultant from the above-described assessments would vary from locality to locality and from supplier to supplier. For example, suppliers whose charges exceed the LCL might be expected to shift their stock to lower-priced items, to otherwise seek to make their operations more efficient or to change their policies regarding acceptance of assignment. In general, in a given area, the more widely divergent the prices, the greater the effect of the proposed notice on suppliers. When the lowest charge level on a distribution curve is not far from the 75th percentile of customary charges, there should be little effect.

2. Manufacturers and Distributors

Decisions made by the suppliers in response to this proposed notice could likely affect the manufacturers and wholesale distributors. The impact on an individual manufacturer may vary depending upon the manufacturer's degree of diversification of products, variations in reasonable charge levels and demand from locality to locality, variations based on Medicare's portion of the market, optimization of profitability margins, and other considerations.

3. Ambulance Service Suppliers

Ambulance service suppliers are generally of three types: Nonprofit, for-profit and those that offer services subsidized or directly supplied by the local governments. A given locality may have many or few ambulance service suppliers.

The effect of the proposed notice on these entities would vary from locality to locality, depending upon factors such as the extent of local competition and the nature of the organization furnishing the ambulance services. Ambulance service suppliers whose charges exceed the LCL may respond by seeking to become more efficient or by seeking additional revenue (from the beneficiary, third party insurance held by the beneficiary or from the local government), or both.

4. Beneficiaries

The effect of the proposed notice on an individual beneficiary would depend on whether there is a significant local change in the assignment rate; whether or not a beneficiary participates in both Medicare and Medicaid; and whether he or she has private insurance or is enrolled in a risk-contract HMO or CMP. If the assignment rate were to remain the same or rise, beneficiaries may expect lower coinsurance, since reasonable charges would be lower. However, if the assignment rate goes down, beneficiaries may have increased out-of-pocket expenses. If the beneficiary is a Medicaid recipient, any beneficiary payment would be limited to a nominal copayment. If the beneficiary has private insurance, the impact would possibly be affected by the coverage offered. If a beneficiary is enrolled in an HMO or CMP, payment for ambulance services would be unaffected.

D. Alternatives

There are three alternatives we have considered in the course of preparing this proposed notice. (1) We could continue to apply the LCL provision to only two items of DME. We would expect that prices would continue to rise on items and services not currently subject to the LCL. (2) We could have proposed to include in the list more items and services than those actually proposed here. This probably would further add to program savings; however, we would have to include items and services about which we do not have enough data to determine whether they may vary significantly in quality. (3) We could issue a proposed notice, as we are doing, that contains a comprehensive list of DME, medical supplies and ambulance services that, as best as we can determine, satisfy the requirements for application of the LCL provisions. Although we expect considerable public comment regarding this notice, we have determined for the above-described reasons that the third alternative is the most preferable.

E. Conclusion

E.O. 12291 requires us to assess the benefits, costs, and net benefits of all rules, major or otherwise. For major rules, we must discuss those costs and benefits in an impact analysis, and explain why the potential benefits outweigh the potential costs to society.

For the most part, the costs and disadvantages that could result from this proposal would take the form of reduced payment to certain small entities and, possibly, if the assignment rate is reduced, more initial out-of-pocket expenses for the beneficiary.

The primary benefit expected to result from this proposed rule is the anticipated reduction in the cost to the Medicare program of DME equipment and of medical supplies. As a result, additional Trust Fund monies would be available for quality health care for Medicare beneficiaries. To the extent that suppliers continue to accept assignment, the beneficiary liability would be reduced.

The application of the LCL provision to more items and services is expected to produce substantial benefits in the form of economy and efficiency, to eliminate wide variations in Medicare payment for virtually identical items and services, and to limit upward pricing trends of the health care marketplace as a whole. We believe that the overall benefits to society more than offset any resulting liabilities.

Paperwork Reduction Act

The inclusion of new items and services in the list of items and services subject to the LCL provision does not impose paperwork collection requirements. Consequently, this notice need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3601 et seq.)

Response to Comments

Because of the large number of comments we receive on proposed notices, we cannot acknowledge or respond to them individually. However, in preparing a final notice, we will consider all comments received timely and respond to the major issues raised concerning the proposed notice.

(Sections 1102, 1833, 1842(b)(3) and 1871 of the Social Security Act; 42 U.S.C. 1302, 13951, 1395u(b)(3) and 1395hh; 42 CFR 405.502 and 405.511)

(Catalog of Federal Domestic Assistance Program No. 13.774 Medicare-Supplementary Medical Insurance)

Dated: July 25, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 6, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-18460 Filed 8-14-86; 8:45 am]

BILLING CODE 4120-01-M

[BERC-383-PN]

Medicare Program; Reasonable Charge Payment Limits for Anesthesia Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In this notice, we propose to establish special reasonable charge payment limits for anesthesia services furnished by physicians during cataract surgery and iridectomies. This proposal is intended to prevent excessive payment for these services. In addition, in order to discourage physicians from supervising more than a maximum acceptable number of procedures, we would reduce the amount of payment made in those cases in which an anesthesiologist directs more than four concurrent anesthesia procedures.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m., on September 15, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-383-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-383-PN. Comments received timely will be available for public inspection as they are received, which is generally about three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Stanley Weintraub, (301) 597-5345.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1842(b)(3) of the Social Security Act requires that all payments under Part B of the Medicare program (Supplementary Medical Insurance) must be reasonable. Reasonable charge determinations under Part B are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for a service is generally set at the lowest of the following three factors:

- The actual charge.
- The customary charge for similar services generally made by a physician or supplier furnishing the service.
- The prevailing charge in the locality for similar services. (The prevailing charge may not exceed the 75th percentile of the customary charges of physicians and suppliers in the locality.)

An economic index limits the annual increases in prevailing charges for physician services. The Medicare economic index measures changes that occur in general earnings levels of workers that are attributable to factors other than increases in their productivity and in expenses of the kind incurred by physicians in office practice.

This standard method of determining the reasonable charge for a service can, in some instances, result in payments that we believe may not be reasonable. This may occur, for example, when the marketplace is not competitive because of limited suppliers, when the Medicare program is the primary source of payment for a service, or when there has been a change in technology, increased facility with that technology, or changes in acquisition or supplier costs.

In order to ensure that Medicare payments are reasonable, we published a final rule with comment period on August 11, 1986 in the **Federal Register** (51 FR 28710) that amended 42 CFR 405.502 to set forth factors to be considered and procedures to be followed in establishing special reasonable charge limits. The rule specifies that we may set a limit if we determine that the standard rules for calculating reasonable charges result in grossly deficient or excessive charges. The limits would be in the form of either a specific dollar amount or a special method to be used in determining maximum reasonable charges to be allowed for a particular service or category of service.

More specifically, § 405.502(g)(1)(i) provides the following examples of circumstances that may result in excessive charges:

- The marketplace is not competitive.
- Medicare is the primary source for payment.
- The charges involve the use of new technology for which an extensive charge history does not exist.
- The charges do not reflect changing technology, increased facility with that technology, or changes in acquisition or supplier costs.
- Prevailing charges in a locality are grossly in excess of prevailing charges in other localities.
- Charges are grossly in excess of acquisition or production costs.

The regulations specify, at § 405.502(g)(3), that we will propose any limit in a notice to be published in the **Federal Register** and provide an opportunity for comment. When all comments have been fully considered, we will publish in the **Federal Register** our final determination and our response to the comments. Section 405.502(g)(4) provides that the proposed and final notices will also set forth the criteria and circumstances, if any, under which a specific exceptions process to the special limit would be established.

Under the procedures described in § 405.502(g), we are proposing to establish limits on the amount of payment we make for certain physician anesthesia services, based on the fact that current charges do not reflect changing technology.

II. Payment for Anesthesia Services

Under our current regulations (§§ 405.552 and 405.553), anesthesiology services personally furnished by a

physician are reimbursed on a reasonable charge basis. In addition, a physician may also be reimbursed on a reasonable charge basis for the personal medical direction that he or she furnishes to a qualified anesthetist (for example, a certified registered nurse anesthetist (CRNA)).

As a condition of receiving reasonable charge payment, the physician may not direct more than four concurrent anesthesia procedures at a time, must be physically present in the operating suite, and may not perform any other services during the same period of time. In addition to these requirements and prohibitions, the physician is required to perform several personal services to the patient before, during, and after the procedure such as examining the patient and personally participating in the most demanding parts of the procedure. If a physician does not fulfill these requirements or directs more than four procedures at one time, the concurrent anesthesia services are considered physician services furnished to the provider and, thus, are not reimbursed as physician services on a reasonable charge basis.

Carriers calculate the reasonable charge for anesthesia services based on the following:

- Base value units assigned to the specific procedure performed that represent the value of all anesthesia services except the value of the actual time spent administering the anesthesia.
- Time units that represent the elapsed period of time from when the anesthesiologist prepares the patient for induction and ending when the anesthesiologist is no longer in personal attendance to the patient. The carrier allows no more than one time unit for each 15 minute interval.
- The carrier may also use modifier units that take into account special factors such as the age or physical condition of the patient.

The sum of these units is multiplied by the lesser of the individual physician's customary charge conversion factor or the prevailing charge conversion factor and compared with the billed charge to arrive at the reasonable charge for the physician's anesthesia service. The individual physician's customary charge conversion factor is derived from the physician's billed charges and underlying base, time, and, if appropriate, modifier units. The prevailing charge conversion factor is computed by arraying the anesthesia customary charge conversion factors in ascending order and weighting each by the frequency of services on which it was based. An actual amount in the array that is high enough to include the customary charge conversion factors of the anesthesiologists who perform at least 75 percent of the cumulative services determines the prevailing charge conversion factor.

Anesthesia services may be personally performed by the anesthesiologist or the anesthesiologist may medically direct concurrent anesthesia services in which the anesthesia is administered by an anesthetist. The amount of reasonable charge reimbursement differs depending on whether the anesthetist is or is not the employee of the anesthesiologist.

The reasonable charge for a physician's medical direction of no more than four concurrent services is determined on the same basis as that of the physician's personal services to a patient; that is, procedure-specific relative value base units plus time units. However, under § 405.553(c), if the anesthetist is not employed by the anesthesiologist, the carrier allows no more than one time unit for each 30 minute interval rather than one unit for each 15 minutes.

In cases in which a physician directs more than four concurrent procedures, all the reasonable and necessary preanesthesia services personally furnished by the physician up to and including induction of the patient qualify for reasonable charge reimbursement. Those services furnished subsequent to induction of the patient are considered physician services to the provider and are payable to the provider on a prospective payment basis if the services are furnished to an inpatient of a hospital that is subject to the prospective payment system or on a reasonable cost basis. Section 8312.1G of the Medicare Carriers Manual (HCFA Pub. 14–3) further specifies that payment for these pre-anesthesia services is based on relative value base units plus one time unit for induction if the induction was personally performed by the physician. No further time units are recognized for any of the concurrent procedures.

III. Provisions of This Proposed Notice

A. Anesthesia Services Related to Cataract Surgery

In processing anesthesia claims, carriers have the authority to use an appropriate relative value guide. The principal relative value guides currently used by the carriers include the 1964 and the 1969 California Relative Value Studies (CRVS) and various versions of the American Society of Anesthesiologist's (ASA) Relative Value Guide. Some carriers use a combination of these guides or other guides, such as a State Relative Value Guide, to establish relative value units. The most commonly used relative value studies are the 1964 and the 1969 CRVS and the 1970 ASA Guide.

Anesthesia claims are processed using the HCFA common procedure coding system (HCPCS) surgical procedure code with an appropriate modifier for anesthesia services. The HCPCS surgical codes are based on the Current Procedural Terminology, Fourth Edition (CPT–4), which identifies codes and descriptors for services furnished, including physician services. The 1985 version of CPT–4 includes 12 procedure codes to describe cataract surgery. However, the CRVS and ASA Guides commonly used by the carrier to process claims do not contain the same number of codes.

Generally, carriers are assigning a relative value of eight base units to the anesthesia services associated with cataract surgery procedures.

Cataract surgery is ordinarily performed under a nerve block, such as a retrobulbar block, that is administered by an ophthalmologist. Before the administration of the block and during the surgical procedure, an anesthesiologist or other qualified individual (for example, a CRNA) who is under an anesthesiologist's medical direction usually administers a drug or combination of drugs intravenously to sedate the patient. In addition, the anesthesiologist or other qualified individual monitors the patient's condition during the surgical procedure.

Historically, cataract surgery was performed on an inpatient basis with the patient placed under general anesthesia and it involved an inpatient hospital stay of three to six days. This surgery is now frequently performed in ambulatory surgical centers (ASCs) and, in some cases, in physicians' offices. A number of factors have contributed to this trend. A major influence is the policy of the Utilization Quality Control Peer Review Organizations that requires prior authorization for hospital stays associated with cataract surgery. Other factors contributing to this movement include the reduced risk associated with the surgical procedure, technological advances in the procedure, and the implementation of the Medicare inpatient hospital prospective payment system.

While a patient with severe coronary or pulmonary disease or other life threatening condition may need inpatient hospitalization, ophthalmologists agree that most cataract surgery can be safely performed in the outpatient department

of a hospital or in an ASC. In fact, we estimate that at least 90 percent of all cataract surgery is now performed on an outpatient basis, either in a hospital outpatient department, an ASC, or a physician's office.

It should be noted that cataract surgery is the most common and rapidly growing surgical procedure covered by Medicare. The total number of cataract operations increased from 415,000 in 1980 to 1.1 million in 1985 [1], an increase of 165 percent. The procedure is primarily performed on the elderly and Medicare pays for about 80 percent of all cataract operations. Medicare payments under Part B for cataract surgery, including payments to anesthesiologists and surgeons, were over $1 billion in 1985.

B. Factors Considered in Establishing the Limits

The Office of the Inspector General (OIG) conducted a study entitled "Medicare Reimbursement for Anesthesia Services" (OAI–85–2–010) to clarify the nature and prevalence of local/standby anesthesia services (also known as monitored anesthesia services) and to examine and evaluate related Medicare reimbursement policies and practices. (Copies of this study can be obtained from the Office of Public Affairs, OIG, 330 Independence Avenue, SW., Washington, DC 20201.) OIG reviewed the type of anesthesia services furnished to Medicare patients during cataract extractions, pacemaker implants, and inguinal hernia repairs.

The study found that local anesthesia administered by a surgeon with the patient monitored and evaluated by an anesthesiologist (that is, monitored anesthesia) is furnished more frequently for cataract extractions and pacemaker implants than general anesthesia. General anesthesia was more prevalent for inguinal hernia repairs.

OIG reported that monitored anesthesia usually does not require the anesthesiologist to perform the full range of services associated with general anesthesia. In contrast with general anesthesia, the anesthesiologist providing monitored anesthesia care does not administer the local anesthetic, intubate or extubate the patient, support respiratory function mechanically, emerge the patient from the unconscious anesthetic state, or routinely perform postoperative visits, especially after outpatient surgery.

[1] "Medicare Reimbursement for Cataract Surgery Hearing Before the Subcomm. on Health of the House Comm. on Ways and Means", 99th Cong., 1st Sess. 29 (1985).

OIG identified eight Medicare carriers who recognize monitored anesthesia as consisting of less than the full range of anesthesia service and, therefore, reimburse less for monitored anesthesia than for general anesthesia. Six of the eight carriers reimburse monitored anesthesia based upon time units only and two carriers allow time units plus three additional base units for monitored anesthesia regardless of the type of surgical procedure or the relative value base units associated with the procedure. The carriers have adopted this policy under the authority of § 405.502(a)(7) (inherent reasonableness).

OIG recommended that payment for monitored anesthesia should be based on time units only or time units plus up to three relative value base units. In addition, OIG recommended that this policy be applied to all surgical procedures involving monitored anesthesia, not just the three surgical procedures that were the focus of their study.

We considered adopting OIG's recommendations, which would have required all Medicare carriers to recognize a lesser level of reimbursement for monitored anesthesia associated with surgical procedures than for general anesthesia services associated with surgical procedures. However, we decided not to adopt this broad-based policy at this time. There are problems associated with defining monitored anesthesia services. For example, since general anesthesia can be furnished intravenously, limiting the term general anesthesia only to anesthesia administered through inhalation would be inappropriate. Moreover, some of the most difficult surgical cases can involve the use of intravenous agents monitored by the anesthesiologist. Finally, we do not want to formulate a policy that would provide an inappropriate incentive for physicians to use one form of anesthesia over another. Thus, for the present, we have decided not to propose any change in our overall policy regarding reimbursement for monitored anesthesia and to study this issue further.

We analyzed the number of base units typically assigned to the anesthesia service connected to the various surgical procedures approved for coverage when performed in an ASC. These covered procedures were listed in a notice published in the **Federal Register** (47 FR 34094) on August 5, 1982 and were subsequently incorporated into the Medicare Carriers Manual. The covered procedures are described by body system and by ASC facility payment groups.

This list currently includes approximately 100 surgical procedures that are described under almost 450 HCPCS codes. Excluding surgical procedures related to the eye, the anesthesia services furnished during the great majority of procedures are assigned a base value of three units. Within the category of eye surgery, the great majority of eye surgical procedures are assigned a base value of four units. In fact, only cataract surgeries and iridectomies have higher base unit values. Cataract surgery, as noted above, has a base surgical value of eight units. Relative value studies show that this relatively high value level originated during the period of time that the procedure was done on an inpatient basis involving very different surgical techniques and the use of general anesthesia rather than local anesthesia.

If we assume that the range of anesthesia base units for surgery other than certain eye surgical procedures reflects the relative complexity of anesthesia services across surgical procedures usually performed in ASCs, then there is an indication that the number of anesthesia base units assigned to cataract surgery is overstated. We have discussed this issue with representatives of the American Society of Anesthesiologists (ASA), and they agree with us that there is validity to the general proposition that the anesthesia base units assigned to cataract surgery are overstated relative to other ambulatory procedures. However, ASA does not support the level of reduction we are proposing.

We are proposing to allow no more than four base units as well as appropriate time units and, if appropriate, modifier units for anesthesia services connected to cataract surgery. As indicated, almost all cataract surgery is being performed on an ambulatory basis. General anesthesia is not ordinarily used. Most surgery is done under local anesthesia administered by the ophthalmologist while the anesthesiologist is responsible for monitoring the patient's condition, including monitoring any intravenous agent furnished to supplement the local anesthetic.

In addition, we are proposing to allow no more than four base units as well as appropriate time and modifier units for anesthesia services connected to iridectomies. This procedure is no more complex than cataract surgery. Therefore, it would be inconsistent, from the standpoint of relative values, to continue to recognize a greater number

of base units for iridectomies than for cataract surgery.

Under any of the various commonly used relative value guides, the least number of anesthesia base units assigned to most surgical procedures performed on an ambulatory basis is three units. We would allow an additional unit for cataract procedures and iridectomies on the premise that the service is complicated by the location of the surgery, which restricts access to the patient's airway and requires surgical field avoidance.

This is consistent with the accepted use of modifier units under relative value unit guides. Under the 1969 California Relative Value Guide, modifier units range from one to ten units. One additional unit is allowed for anesthesia procedures with a base value of three units that become complicated by requiring surgical field avoidance. Our proposal follows this approach.

The Medicare carriers would continue to have the authority under § 405.502(a)(7) to initiate or continue policies that recognize fewer than four base units for anesthesia services associated with cataract surgery or iridectomies, if those policies are based on facts beyond those relied on in this proposal.

C. Exceptions Process

As we mentioned earlier, the provisions of the regulations under which these limits on reasonable charges are being issued (§ 405.502(g)) state that the proposed notice would set forth the criteria and circumstances under which a carrier may grant an exception to the limits. While we are not proposing to establish any special exceptions policy in this notice, carriers do have the authority under § 405.506 to reimburse additional amounts if there are unusual circumstances or medical complications requiring additional time, effort, or expense that support an additional charge, and it is acceptable medical practice in the locality to make an extra charge in these cases.

D. Supervision of More Than Four Concurrent Anesthesia Procedures

If a physician directs no more than four concurrent anesthesia services, the reasonable charge is determined as follows:

- Under § 405.553(b), if the anesthetist is employed by the physician, the physician's reasonable charge is determined on the basis of base units plus one time unit for each 15 minute interval.
- Under § 405.553(c), if the anesthetist is not employed by the physician, the physician's reasonable charge is determined on the basis of base units plus one time unit for each 30 minute interval.

If a physician directs more than four concurrent procedures, the reasonable charge for services up to and including induction is based on the base units plus one time unit for induction if the induction was personally performed by the physician. However, no additional time units are allowed. Reimbursement of physicians supervising more than four concurrent procedures is treated differently because in these cases the physician is acting in an administrative capacity rather than engaging in medical direction. In the case of physicians practicing in providers, § 405.552(b) explicitly recognizes these services as services to the provider, and in the case of ASCs, these services are implicitly covered by the payment to the facility.

As mentioned above, the anesthesia base unit assigned to the specific anesthesia procedure performed represents the value of all anesthesia services except the value of the actual time spent administering the anesthesia. Anesthesia time starts when the anesthesiologist begins to prepare the patient for the induction of anesthesia in the operating room and ends when the anesthesiologist is no longer in personal attendance to the patient. The activities involved in the base unit would, by their nature, include the pre-anesthestic examination, prescription of the anesthesia plan, the provision of indicated postanesthesia care, the administration of fluids or blood incident to the anesthesia or surgery, as well as other unspecified functions that may vary with the complexity of the surgical procedure and occur during the anesthesia administration time.

Anesthesia base unit values range, for example, from a low of three base units for uncomplicated surgical procedures to a value of 15 units for certain complex cardiovascular procedures. We believe that the significant difference in base unit values for anesthesia services across certain surgical procedures is related not just to the pre-anesthesia and postanesthesia services included in the base unit value but also the other anesthesia activities that the anesthesiologist may be called upon to perform during the surgical procedure itself.

If the anesthesiologist medically supervises more than four concurrent procedures, the anesthesiologist is not furnishing a level of medical involvement that justifies the payment of time units nor is he or she available to perform the full scope of activities during the anesthesia administration interval that are encompassed by the base unit value. In these situations, it would be reasonable to structure a reasonable charge payment only for the anesthesiologist's pre-anesthesia and postanesthesia services. It would not be reasonable to recognize the full number of base units otherwise assigned to the procedure because of the anesthesiologist's limited involvement in each concurrent procedure.

Therefore, we are proposing to allow no more than three base units for each procedure in those cases in which the anesthesiologist is performing more than four concurrent procedures. Three is the least number of base units assigned to anesthesia procedures under the ASA Guide. We believe that the recognition of three base units would provide an adequate level of reimbursement for the anesthesiologist's services and, at the same time, recognize the anesthesiologist's involvement in each concurrent procedure.

IV. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed notices that are likely to meet criteria for a "major rule". A major rule is one that would result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We also prepare and publish an initial regulatory flexibility analysis, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), for proposed notices unless the Secretary certifies that the notice would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all anesthesiologists to be small entities.

We estimate that, as a result of reducing payments to anesthesiologists for anesthesia services provided to patients undergoing cataract surgery, the Medicare program would eventually realize annual savings of $100 million or more. While the available data do not permit us to determine which anesthesiologists would be most affected by this notice, according to *Physician Characteristics and Distribution in the U.S., 1984 Edition,*

published by the American Medical Association, there were 18,495 non-Federally employed anesthesiologists furnishing services to patients as of December 31, 1983. We believe that most, if not all, anesthesiologists provide services in connection with cataract surgery. Many anesthesiologists, therefore, could be affected by this proposed notice. We are, therefore, providing an analysis that meets RFA criteria as well as E.O. 12991.

B. Savings

We have not been able to estimate the savings that would result from allowing no more than three base units when the anesthesiologist is involved in more than four concurrent procedures. We do not believe they would be substantial. However, we estimate that the proposal to reduce the number of base units from eight to four for physician anesthesia services provided when local anesthesia is employed for performing cataract procedures would result in the following annual savings for the next five Federal fiscal years (FYs) assuming an effective date of January 1, 1987:

SAVINGS ESTIMATES[1]

[In millions]

Fiscal year—				
1987	1988	1989	1990	1991
$45	$75	$85	$95	$105

[1] Rounded to the nearest $5 million.

These savings estimates are based, in part, on data presented in "Update of Intraocular Lenses Implanted in the United States" by Walter J. Stark, M.D., et al. (*American Journal of Ophthalmology*, Vol. 98, No. 2, Aug. 15, 1984, pp. 238–239) and the report of the Select Committee on Aging, *Cataract Surgery: Fraud, Waste, and Abuse* (Comm. Pub. 99–506). On the basis of these data, we expect that in FY 1987 a total of 1.4 million cataract removal procedures (with and without intraocular lens implants) will be performed in the United States. We anticipate that approximately 80 percent, or 1.1 million, of these procedures will be covered under Medicare. The cost data used in developing our savings estimates were collected by the OIG in connection with the study cited earlier in this document and is contained in the report of that study.

The available data on iridectomies indicate that savings in FY 1987 resulting from lowering the number of base units to four would be under $1 million. Because of technological changes that permit less expensive procedures to be substituted for iridectomies, we doubt that the rate of iridectomies performed on Medicare beneficiaries will increase in coming years. Therefore, we do not anticipate a higher annual savings rate in later years.

C. Expected Impact

Our proposal would primarily affect anesthesiologists by reducing their payments, as a group, by the amount of the estimated savings. The impact on an individual physician would depend on his or her practices in performing multiple concurrent procedures, and on the number of cataract procedures for which he or she provides monitored anesthesia services. Those physicians who provide monitored anesthesia services in a large number of cataract cases would be more heavily affected by our proposal than would those who provide these services in only a few cases. We believe relatively few anesthesiologists customarily perform more than four concurrent procedures.

We expect that, as a consequence of reducing payments for anesthesia services connected with cataract surgery and iridectomies, the number of anesthesiologists accepting assignment or participating in the Medicare program (as defined in section 1842(h) of the Act) may decrease. For FY 1986, approximately 22 percent of all anesthesiologists furnishing services to Medicare patients are participating in the program. The assignment rate for anesthesiology claims in FY 1983 (the latest year for which data are available) was approximately 45 percent.

Of course, the decision on the part of each anesthesiologist to participate in the program or to accept assignment would depend on a number of variables. For example, we believe that an estimation of income needs and a patient's perceived ability to pay would be prominent in an anesthesiologist's deliberations. To the extent that our proposal would affect an anesthesiologist's income, this would become a factor in the decision to either participate in the program or accept assignment.

However, our ability to determine these factors is severely limited both by the lack of data and the inability to create an adequate model of the decision making process. Therefore, we have no way of estimating how anesthesiologists would respond to the proposed change. Nevertheless, if the participation and assignment rates decline, beneficiaries would be exposed to greater financial liability. This may be another consequence of our proposal.

D. Alternatives Considered

We considered the following two general alternatives to the rule we are proposing:

- Reducing the number of anesthesia base units carriers would allow for *all* monitored anesthesia services.
- Reducing the number of anesthesia base units by an amount other than the amount we are proposing.

We had considered reducing the number of anesthesia base units allowable for determining monitored anesthesia payments to zero for all procedures in which these services are provided and basing payments only on the amount of time the anesthesiologist was in attendance. The rationale for this alternative was the fact that the risk to patients and the need for the services of anesthesiologists are minimal when a local anesthetic is used rather than a regional or general anesthesia. In administering a local anesthetic, the service the anesthetist or anesthesiologist performs is to monitor the patient's condition.

Upon consultation with industry representatives, however, we reexamined our data and concluded that the recommendations presented in the OIG report, discussed above in this preamble, and the alternatives noted required further changes. Therefore, we adopted the proposal presented in this document.

Under the proposal presented in this document, we considered reducing the number of base anesthesia units by as many as five. As explained elsewhere in this document, we examined the number of base units generally associated with other procedures performed in ASCs. Most of these procedures have an average of three units. We rejected the idea of allowing only three units because we believe that eye surgery is complicated by the location of the surgery, which restricts access to the patient's airway and requires surgical field avoidance. Yet it is also clear from the rapid increase in the number of cataract procedures being performed in ambulatory settings and the increased use of monitored anesthesia services in connection with both cataract procedures and iridectomies that a substantial reduction in anesthesia units from the present standard is warranted.

V. Other Required Information

A. Response to Public Comments

Because of the large number of items of correspondence we normally receive on proposed notices, we cannot acknowledge or respond to them individually. However, we will consider

all comments that are received by the date and time specified in the "Date" section of this notice, and, if we proceed with a final notice, we will respond to those comments in that notice.

B. Paperwork Reduction Act

This proposed notice does not impose any information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

(Sec. 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3); 42 CFR 405.502(g))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: July 17, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 30, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-18458 Filed 8-14-86; 8:45 am]

BILLING CODE 4120-01-M

[BERC-388-PN]

Medicare Program; Reasonable Charge Payment Limits for Cataract Extractions With Intraocular Lens Implants

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In this notice, we propose to establish special reasonable charge payment limits for cataract extractions with intraocular lens implants performed by physicians. The proposal is intended to prevent excessive payment for these procedures.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on September 15, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-388-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-388-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Kenneth Marsalek, (301) 594-1115.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute and Regulations

Section 1842(b)(3) of the Social Security Act (Act) requires that all payments under Part B of the Medicare program must be reasonable. Reasonable charge determinations under Part B are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for a service is generally the lowest of: (1) The actual charge (2) the customary charge made by a particular physician or supplier, or (3) the prevailing charge, which is set at the 75th percentile in the range of customary charges for similar services in the locality. An economic index limits the annual increases in prevailing charges for physicians' services.

This standard method of determining the reasonable charge for service can, in some instances, result in payments that may not be reasonable. When this occurs, the Medicare statute authorizes the Secretary to adopt special reasonable charge limits.

Therefore, in order to ensure that Medicare payments are reasonable, we published a final rule with comment period on August 11, 1986 in the **Federal Register** (51 FR 28710) that amended 42 CFR 405.502 to set forth factors to be considered and procedures to be followed in establishing special reasonable charge limits. The rule specifies that we may set a limit if we determine that the standard rules for calculating reasonable charges result in grossly deficient or excessive charges. The limits would be in the form of either a specific dollar amount or a special method to be used in determining reasonable charges to be allowed for a particular service or category of service.

The regulations at § 405.502(g)(1)(i) provide examples of circumstances which may result in grossly excessive charges. These include but are not limited to following circumstances:

- The marketplace is not competitive.
- Medicare is the primary source for payment.
- The charges involve the use of new technology for which an extensive charge history does not exist.
- The charges do not reflect changing technology, increased facility with that technology, or changes in acquisition or supplier costs.
- Prevailing charges in a locality are grossly in excess of prevailing charges in other localities.
- Charges are grossly in excess of acquisition or production costs.

The regulations further specify, at § 405.502(g)(3), that we will propose any limit in a notice to be published in the **Federal Register** and provide an opportunity for comment. When all comments have been fully considered, we will publish in the **Federal Register** our final determination and our response to the comments. Section 405.502(g)(4) provides that the proposed and final notices will also set forth the criteria and circumstances, if any, under which a specific exceptions process to the special limit would be established.

B. Cataract Surgery and Implantation of Intraocular Lenses

Cataract surgery is the most common and rapidly growing surgical procedure covered by Medicare. The total number of cataract operations increased from 415,000 in 1980 to 1.1 million in 1985 [1], an increase of 165 percent. Because cataract surgery is performed primarily on the elderly, Medicare pays for about 80 percent of all cataract operations.[2] Medicare payments under Part B for cataract surgery were an estimated $1 billion in 1985. In addition, in 1980 only 25 percent of patients having cataract surgery also received an intraocular lens (IOL) implant. By 1985, 90 percent of all cataract surgery included an IOL implant.[3]

Medical technology related to the diagnosis and treatment of eye diseases has changed rapidly in recent years. Improved diagnostic techniques for examining the retina, operating microscopes, lasers, and the development of IOLs have revolutionized the treatment of cataracts and diseases of the retina.

Until recently, cataract surgery was performed on an inpatient basis using the intracapsular method in which the entire lens and its capsules are removed intact. Now the procedure is primarily performed on an outpatient basis using

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[1] "Medicare Reimbursement for Cataract Surgery Hearing Before the Subcomm. on Health of the House Comm. on Ways and Means", 99th Cong., 1st Sess. 29 (1985)

[2] *Id.* at 121.

[3] *Id.* at 119.

the extracapsular method in which the posterior capsule is left in place to provide support for the IOL.

The other major technological innovation related to cataracts has been the development of the IOL itself. Before IOLs, patients were fitted with unwieldy glasses or, more recently, contact lenses. With IOLs, these have become unnecessary.

II. Provisions of This Notice

We have determined that the standard methodology for determining reasonable charges for cataract procedures results in charges that are grossly excessive. We believe this occurs in part because Medicare is the primary source for payment and because current charges do not reflect the increased facility with new technology. In accordance with the procedures described in § 405.502(g), we are proposing to establish an upper limit on the amount of payment we make for cataract procedures.

A. Circumstances Requiring a Limit

Data from a variety of sources including the following studies suggested that cataract procedures are overpriced:

• "Toward Developing a Relative Value Scale for Medical and Surgical Services" by William C. Hsiao and William B. Stason, *The Health Care Financing Review*, Fall, 1979. This study showed that Medicare prevailing charges in Massachusetts per surgical hour were $390 for appendectomy, $362 for cholecystectomy, $342 for hysterectomy and $788 for lens extraction. When adjusted for the estimated time in pre- and post-operative care, the Medicare prevailing charges per surgical hour were $272 for appendectomy, $275 for cholecystectomy, $279 for hysterectomy and $679 for lens extraction. Copies of this study can be obtained from HCFA's Office of Research and Demonstrations, Publications and Information Resources, Oak Meadows Building, Room 1–A–9, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 597–2422.

• "Resource-Based Relative Values of Selected Medical and Surgical Procedure in Massachusetts" by The Department of Health Policy and Management, Harvard School of Public Health, and the Institute for Health Research of the Harvard Community Health Plan and Harvard University, December, 1985. This study shows that cataract surgery was overpriced by 27 percent compared to hysterectomy, 31 percent compared to appendectomy, 43 percent compared to cholecystectomy and 60 percent compared to modified radical mastectomy. Copies of the study can be obtained at a charge of $35 from the Massachusetts Rate Setting Commission, 1 Ashburton Place, Boston, Massachusetts 02108, (617) 727–1150.

• "What Should Medicare Pay for Surgical Procedures?" by The Center For Health Economics Research in June, 1986. This study showed that cataract extraction (intracapsular) is overpriced by 34 percent compared to hernia repair, 51 percent compared to cholecystectomy and 52 percent compared to lung lobectomy. Copies of the study can be obtained from the National Technical Information Service, (703) 487–4600. Refer to document number PB86–215605.

• "Physician Reimbursement Under Medicare: Options for Change" by the Congressional Budget Office, April 1986. This report indicated that if resource cost estimates developed by researchers at the Harvard School of Public Health were used, cataract extractions would be paid only 14 percent of current rates. Copies of the study can be obtained from the Congressional Budget Office, 2nd and D Streets, SW., Washington, DC 20515. Also, a summary of this report is included in the Commerce Clearing House *Medicare and Medicaid Guide*, paragraph 35411.

• "Medicare Cataract Implant Surgery" by the Office of Inspector General, Dept. of HHS in March, 1986. This report concluded that the efficiencies due to rapidly changing medical technology have not been reflected in physician fees for surgical procedures. Copies of the report can be obtained from the Office of Inspector General, Public Affairs, 330 Independence Avenue, SW., Room 5640, Washington, DC 20201, (202) 472–3142. Refer to Control #OAI–85–IX–046.

In addition, we have been advised informally by ophthalmologists that only about five minutes of additional time is required to implant an IOL. Because the prevailing charge is approximately 50 percent higher, this suggested that the incremental charge for implanting an IOL as compared to extracting the cataract alone was grossly disproportionate to the effort involved. Given these data and the magnitude of Medicare expenditures in cataract surgery, we conducted a study to determine whether other factors should be considered in determining the reasonable charge for cataract surgery. The study was designed to determine whether:

• Any changes in technology or increased facility with that technology had occurred in cataract surgery and whether the charge for the procedure reflects any change; and

• The insertion of an IOL increases the surgical procedure time and whether the incremental charge for an IOL implant is reasonably related to the time it takes to perform the implant.

We reviewed medical record data on cataract operations performed in calendar years 1980 and 1985, in 30 hospitals with the highest volume of cataract operations. These hospitals performed 11 percent of the cataract surgery in 1984. We reviewed random samples of beneficiary medical records to determine the average time required to extract a cataract and implant an IOL in calendar years 1980 and 1985 and the average time required to perform a cataract operation (extracapsular) both with and without an IOL implant. We reviewed only extracapsular procedures since they represent an estimated 90 percent of all cataract extractions.

The study concluded that the average time was 45 minutes for a cataract extraction with an IOL implant and 48 minutes for a cataract extraction without an IOL implant. However, the prevailing charges for the two procedures varied substantially. In addition, the study showed that between 1980 and 1985, the average time to extract a cataract without an IOL implant decreased from 62 to 48 minutes, a decrease of 23 percent and the average time to extract a cataract and implant an IOL decreased from 51 to 45 minutes, a decrease of 12 percent.

We estimate that the national average prevailing charge (unweighted for frequency) in 1985 was $1056 for extracapsular cataract extractions without an IOL implant (CPT–4 code 66940), $1,643 for extracapsular cataract extractions with an IOL implant (CPT–4 code 66984), $1,032 for intracapsular cataract extractions without an IOL implant (CPT–4 code 66920), and $1,622 for intracapsular cataract extractions with an IOL implant (CPT–4 code 66983). Thus, the procedure with the IOL had an average prevailing charge that was over 50 percent higher than the procedure without the IOL implant.

We do not know the origin of the marked difference in the prevailing charge between the IOL implant procedure and the procedure without the IOL. It may be that the procedures were initially priced as two separate procedures when the cataract was removed in one operation and an IOL implanted in a subsequent operation. When the two procedures began to be performed during a single operation, carriers may have applied guidelines relating to multiple surgery (that is, when more than one surgical procedure is performed during the same operation).

Generally, carriers pay for the major procedure plus partial amounts for other procedures. Whatever the origin, the policy is inappropriate when it results in a charge that is grossly disproportionate to the additional time or effort. A minimal increment in time should not result in an additional payment of as much as 60 percent. As noted earlier, this converts to an average additional prevailing charge allowance of almost $600 just for the IOL implant. Although there are additional pre-operative diagnostic tests performed associated with an IOL implant, carriers do not include these tests in the global charge for cataract extractions with IOL implants.

B. Payment Limits

While the study results did not disclose that extracapsular extractions with an IOL implant take longer than extractions without an IOL implant and although we did not include intracapsular extractions in the study, we were consistently advised that it takes five minutes to implant an IOL. A film shown to HCFA management by the American Academy of Ophthalmology (AAO) showing an extraction with an IOL implant confirmed that the incremental time to insert the lens was insignificant.

We believe the reason why our study did not demonstrate even this minimal time differential is that the study measured only the total procedure time for extractions with and without an IOL implant. We were advised that patients who do not have an IOL implant may have some unique characteristics such as a history of glaucoma, diabetes or other medical complications occurring during surgery which could slightly increase the surgical time for the extraction only. In any case, it seems clear from the study, the information volunteered by individual ophthalmologists and the demonstration film presented by AAO, that any additional time for the lens implant is about five minutes. We certainly would welcome any comments to the contrary. We accept the fact that while the time differential is minimal there is an additional level of effort necessary to implant an IOL.

We ultimately propose to limit the prevailing charges for the cataract extraction with an IOL implant to 110 percent of the prevailing charge for the cataract extraction without the IOL implant. We believe a ten percent differential for the procedure when an IOL is implanted would result in an allowance which is realistic and equitable in relation to the allowance for the extraction alone. Based on prevailing charges currently in effect, a differential of ten percent would still result in incremental payments ranging from $72 to $186. Nevertheless, we recognize that this might result in substantial reductions in Medicare allowances for cataract surgery, particularly in areas where the current differential in prevailing charges exceeds the national average. Therefore, since we are concerned about the potential effect on beneficiaries and physicians of moving immediately to 110 percent of the prevailing charge without intraocular insertion, we are proposing to phase-in the change over a three-year period. We believe that this three-year transition would allow time for markets to adjust, prices to react, and smooth the implementation of the proposed policy. We propose to phase in this three-year transition as follows:

- For services furnished on or after the effective date of this notice through December 31, 1987, the limit on prevailing charges for a cataract extraction with an IOL implant would be set at 120 percent of the prevailing charge for the extraction without an IOL implant.
- For services furnished during calendar year 1988, the limit would be set at 115 percent.
- For services furnished during calendar year 1989 and thereafter, the limit would be set at 110 percent.
- We believe this transition would be fair to physicians, beneficiaries and the Medicare program. However, we welcome any comments on alternatives that might be considered.

Thus, for cataract extractions with an IOL implant (CPT–4 codes 66983 and 66984), reimbursement initially would be limited to the lower of the actual prevailing charge or the maximum prevailing charge allowed by the Medicare Economic Index (MEI) in each locality for the cataract extraction without an IOL implant (CPT–4 codes 66984 and 66940) multiplied by 120 percent (1.20). We propose to use the charge for extracapsular procedures without IOL implants (CPT–4 code 66940) as the basis for calculating the payment limit on extracapsular procedures with an IOL implant (code 66984) and to use the charge for intracapsular procedures without an IOL implant (code 66920) as the basis for calculating the payment limit on intracapsular procedures with an IOL implant (code 66983). We are proposing that the limit apply only when an IOL is implanted during the same operation as the cataract extraction. Insertion of an IOL subsequent to cataract removal (a separate procedure, CPT–4 code 66985) would not be affected by the proposed limit. However, in order to discourage any inappropriate scheduling of operations due to higher reimbursement levels, we invite comments on whether payment for insertion of an IOL subsequent to cataract removal (CPT–4 code 66985) should be limited by some percentage (for example, 50 percent or some other percentage) of the payment for the cataract extraction.

For the purpose of this notice, we are assuming that the base procedures used to apply the payment limits, that is, the extracapsular and intracapsular cataract extractions without an IOL implant are priced correctly. However, because the study showed a reduction in the time it takes to do the base procedure between 1980 and 1985 and due to additional data from other studies of cataract procedures (see the list of studies in section II.A for examples), we believe that the base procedures may be overpriced.

We are continuing to review the base procedures (that is, the extracapsular and intracapsular cataract extractions without IOL insertions) to determine whether they are reasonably priced. We invite comments on the pricing of the base procedures, the reports cited and other evidence regarding whether the procedures are reasonably priced, as well as comments on the establishment of the limits proposed in this notice.

C. Exceptions Process

As we mentioned earlier, the provisions of the regulations under which these limits on reasonable charges are being issued (§ 405.502(g)) state that the proposed notice would set forth the criteria and circumstances under which a carrier may grant an exception to the limits. We considered providing an exception to the proposed limit which would have exempted physicians in very low charging areas from the limit regardless of the payment differential between an extraction with and without an IOL implant. However, we rejected this idea because the limit is based solely on the appropriateness of the payment level for the differential for implanting an IOL and not on the appropriateness of the payment level for the extraction only. Therefore, we consider an incremental payment for implanting an IOL in excess of the stated percentages unreasonable, regardless of the payment level for the extraction alone.

While we are not proposing to establish any special exceptions policy in this notice, carriers do have the authority under § 405.506 to reimburse additional amounts if there are unusual

VOL 51 ISS 158 AG 15 1986 UMI

circumstances or medical complications requiring additional time, effort, or expense that support an additional charge, if it is acceptable medical practice in the locality to make an extra charge in these cases.

III. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed notices that are likely to meet criteria for a "major rule". A major rule is one that would result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We also prepare and publish an initial regulatory flexibility analysis, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), for proposed notices unless the Secretary certifies that the notice would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all ophthalmologists to be small entities.

We estimate that, as a result of reducing payments to ophthalmologists for performing cataract extractions with IOL implants, the Medicare program would eventually realize annual savings of $100 million or more. While the available data do not permit us to determine which ophthalmologists would be most affected by this notice, we believe that because most ophthalmologists perform cataract surgery and because Medicare patients account for about 80 percent of all IOL implants performed in the United States, most ophthalmologists could be affected by this proposed notice. We are, therefore, providing an analysis that meets RFA criteria as well as E.O. 12991.

B. Affected Entities

We believe this notice would affect most ophthalmologists engaged in private practice throughout the United States. Data for calendar year 1983 indicate that 13,465 ophthalmologists were engaged in patient care *(Physician Characteristics and Distribution in the U.S., 1984 Edition,* published by the Department of Data Release Services, American Medical Association). The following table shows the distribution of ophthalmologists across the country:

Distribution of Ophthalmologists Across the United States by a Census Division [1]

	Percent
Total	[2] 99.2
New England	6.0
Middle Atlantic	19.9
East North Central	14.8
West North Central	6.4
South Atlantic	16.6
East South Central	4.8
West South Central	9.8
Mountain	4.9
Pacific	16.0

[1] Source: *Physician Characteristics and Distribution in the United States, 1984 Edition,* 112, 118–128.
[2] Sum of division percentages does not equal 100 percent because of rounding.

Approximately 42.5 percent of all ophthalmologists are located along the east coast of the United States with the Middle Atlantic division having the greatest number of ophthalmologists involved in patient care. The East South Central division, by contrast, has the fewest number of ophthalmologists.

We do not possess accurate data on the distribution of cataract procedures. However, it seems reasonable to conclude that the distribution of procedures would approximate that of ophthalmologists.

C. Savings

Trending the available historical data [4] forward through FY 1991, we estimate that, as a result of phasing in the 110 percent payment limit, savings of about $125 million would be achieved after the first year. By FY 1991, annual savings would reach $275 million. Price inflation, growth in the Medicare eligible population and increased utilization of IOLs, we expect, would account for an additional $325 million in savings over the next five years. These growth projections are based on the assumption that the Medicare Economic Index would increase at about 5 percent per year, and growth in the eligible population and IOL utilization would be at about 6.6 percent per year. The chart below, presents total savings estimates and the separate projected savings resulting from the limit and the factors affecting savings increases over the five fiscal years under consideration:

SAVINGS [1]

[In millions]

	Limit	Volume growth [2]	Price growth	Total
Fiscal year:				
1987	[3] $125	0	0	$125
1988	225	$20	$10	255
1989	260	40	25	325
1990	275	50	45	370
1991	275	75	60	410

[1] Rounded to the nearest $5 million and assumes an effective date of January 1, 1987.
[2] Volume growth includes both the growth in the Medicare eligible population and utilization growth.
[3] The savings amount reflects the lag in bill submission which would occur mostly in the first year the limit is implemented.

In developing our savings estimates, we computed the payment amount for cataract procedures with IOLs as a proportion of total Part B payments. We then reduced this amount by the fraction of payments represented by the application of the proposed limit. Adjustments were then made to account for the estimated amount of beneficiary copayments and the proportion of physician charges that would be affected by the limit.

The direct impact on ophthalmologists' median gross income on average is expected to be about 5.3 percent for FY 1987. This assumes the projected savings rate for FY 1987 applied over a full twelve month period and is calculated on the basis of a median gross income for ophthalmologists of $296,000 reported for 1984.[5]

Also, we used the number of ophthalmologists reported as being directly involved in patient care as of December 31, 1983 [6] and assume they all perform cataract surgery.

It must be noted that the estimated reduction in ophthalmologists' median income does not take into account the increase in income as a result of inflation, the likely increase in the number of ophthalmologists involved in patient care and current or future assignment rates. All of these factors, if included in our computation, would lower the estimated impact of the limit on income.

D. Expected Impact

Ophthalmologists are likely to perceive the reduction in payments for procedures involving IOL implants as having an adverse effect on their practice income. The extent of the impact on physician income would be affected by such factors as, other health

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[4] Stark, *et al.*, "Update of Intraocular Lenses Implanted in the United States", *American Journal of Ophthalmology*, Vol. 98, No. 2, August 15, 1984, 238–239.

[5] Owens, "Doctors' Earnings: The Year of the Big Surprise", *Medical Economics*, September 9, 1985.

[6] *Physician Characteristics and Distribution in the U.S., 1984 Edition*, Department of Data Release Services, American Medical Association, 112.

insurance held by the beneficiary and its payment limits, the availability of other payment sources, and the extent to which physicians' income is derived from performing cataract procedures with IOLs.

Possible responses on the part of ophthalmologists could be to raise charges for other procedures or for unassigned claims, seek to increase patient load or the volume of procedures, reduce the number of claims for which they would be willing to accept assignment, or not continue as participating physicians (that is, required to accept assignment on all Medicare claims). Some of these actions could expose beneficiaries to greater financial liability for these services. For the participation period beginning May 1, 1986, approximately 28 percent of ophthalmologists have agreed to be participating physicians (that is, they will accept assignment on all Medicare claims). The assignment rate for services provided to Medicare patients by ophthalmologists for calendar year 1983 (the latest year for which we possess data) was 44.3 percent.

Because we are concerned that the number of ophthalmologists agreeing to be participating physicians or the assignment rate of nonparticipating ophthalmologists could drop as a result of this proposal, we are considering adopting certain measures, permitted under the authority of the current law, to help protect beneficiaries from the excessive financial liability that could accompany a decline in the participation and assignment rates. Among the various measures which we are considering are the following:

- Holding discussions with beneficiary representative groups on ways to educate beneficiaries on how to be better shoppers for cataract surgery, how better to find a participating physician who can provide cataract surgery, and how to obtain information on Medicare allowances and physician charges.
- Providing beneficiaries with general information on this Medicare initiative, the Medicare participating physician program, and other information to enable them to choose wisely among ophthalmologists providing services to Medicare patients.
- Monitoring trends in ophthalmologists' participation and assignment rates, and extra-billing liability for cataract surgery.
- Meeting with physician representative groups and groups of physicians to discuss this Medicare initiative, their charges for cataract surgery and the implications of their charges for financial burdens on beneficiaries.

We specifically invite public comment on these or other approaches to minimizing beneficiary financial liability as a result of this initiative.

It is not clear, however, that a reduction in Medicare payments automatically would lead to a decline in the number of claims physicians would accept on assignment. A study of physician assignment rates before and after a major change in the Medicare physician payment methodology suggests that the assignment rate for surgical services is less sensitive to changes in the payment levels than are assignment rates for medical, laboratory and radiology services. ("Determination of Physician Assignment Rates by Type of Services", Thomas Rice, *Health Care Financing Review;* Summer, 1984, Vol. 5 No. 4, pp. 33–42.)

E. Alternatives Considered

As explained earlier in this document, we considered including an exception process that would be applied to physicians in low charging localities, but rejected this type of exception as inappropriate. Under E.O. 12291 and the RFA, we are also required to consider the consequence of not taking the proposed action. We have rejected this alternative as being unacceptable for several reasons. Based on the amount of time required to implant an IOL compared to the same procedure without the implant, there does not appear to be any justification to pay a differential in excess of the stated percentages for the cataract extraction with lens implant. One of our major responsibilities is to safeguard the Medicare Trust Funds and to ensure that they are expended in a reasonable and judicious manner for services that are medically necessary. That is why we are proposing these limits: to institute payments for cataract procedures involving the implantation of IOLs that are reasonable compared to payment levels for the identical procedure without the IOL.

Another alternative we seriously considered was implementing the 110 percent payment limit immediately without any transition period. We recognized, however, that imposing the limit in this fashion could severely disrupt some physicians' income and could create hardship in some cases. To allow time for price adjustments and changes in physician practice patterns in response to the new limits, we decided, instead, to phase in the limits gradually over a three year period, as described earlier in this document.

V. Other Required Information

A. Response to Public Comments

Because of the large number of items of correspondence we normally receive on proposed notices, we cannot acknowledge or respond to them individually. However, we will consider all comments that are received by the date and time specified in the "Date" section of this notice, and, if we proceed with a final notice, we will respond to those comments in that notice.

B. Paperwork Reduction Act

This proposed notice does not impose any information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

(Sec. 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3); 42 CFR 405.502(g))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: July 28, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 6, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–18459 Filed 8–14–86; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–86–1628]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Single Family Mortgage Insurance on Hawaiian Home Lands
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 120
Status: New
Contact: Gerald A. White, HUD, (202) 755–6700; Robert Fishman, OMB, (202) 395–6880

Submission of Proposed Information Collection to OMB

Proposal: Energy Conservation Requirements Handbook 4350.1, Chapter 12
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 17,000
Status: Reinstatement
Contact: James J. Tahash, HUD, (202) 426–3944; Robert Fishman, OMB, (202) 395–6880

Proposal: Lead-Based Paint Hazard Elimination in CDAG, UDAG, Secretary's Fund, Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading Programs
Office: Community Planning and Development
Form Number: None
Frequency of Submission: Recordkeeping
Affected Public: State or Local Governments
Estimated Burden Hours: 4,000
Status: New
Contact: Don I. Patch, HUD, (202) 755–6587; Robert Fishman, OMB, (202) 395–6880

Proposal: Manufactured Housing Complaint Index (SAA Reports)
Office: Housing
Form Number: HUD–54889
Frequency of Submission: Quarterly
Affected Public: State or Local Governments
Estimated Burden Hours: 2,975
Status: Extension
Contact: Stuart Margulies, HUD, (202) 755–6584; Robert Fishman, OMB, (202) 395–6880

Proposal: Monthly Reports for Establishing New Income
Office: Housing
Form Number: HUD–93479, 93480, and 93481
Frequency of Submission: Monthly
Affected Public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated Burden Hours: 168,000
Status: Extension
Contact: Matt Andrea, HUD, (202) 755–6570; Robert Fishman, OMB, (202) 395–6880

Proposal: Certificate of Need for Health Facility and Assurance of Enforcement of State Standards
Office: Housing
Form Number: HUD–2576–HF
Frequency of Submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated Burden Hours: 21
Status: Extension
Contact: C. Edward Lewis, HUD, (202) 755–6223; Robert Fishman, OMB, (202) 395–6880

Proposal: Mortgage Record Change
Office: Administration
Form Number: HUD–92080
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 194,000
Status: Reinstatement
Contact: Robert Wiggins, HUD, (202) 426–8980; Robert Fishman, OMB, (202) 395–6880

Proposal: Housing Counseling Program and Recordkeeping Requirements (Non-funded)
Office: Housing
Form Number: HUD–9900, 9902, 9903, and 9909
Frequency of Submission: Semi-annually
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 3,175
Status: Reinstatement
Contact: O. T. Miles, HUD, (202) 755–6664; Robert Fishman, OMB, (202) 395–6880

Proposal: Low-Rent Public Housing Construction Report
Office: Public and Indian Housing
Form Number: HUD–5378
Frequency of Submission: Semimonthly
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 720
Status: Extension
Contact: Charles James, HUD, (202) 755–6460; Robert Fishman, OMB, (202) 395–6880

Proposal: Single Family Application for Insurance Benefits
Office: Administration
Form Number: HUD–27011, Parts A, B, C, D, and E
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 70,500
Status: Revision
Contact: John L. Stahl, HUD, (202) 755–5163; Robert Fishman, OMB, (202) 395–6880

Proposal: Mandatory Meals Program In Multifamuly Rental and Cooperative Projects for the Elderly
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, Businesses or other For-Profit, Federal Agencies or Employees, and Non-Profit Institutions
Estimated Burden Hours: 4,800
Status: New
Contact: James J. Tahash, HUD, (202) 426–3944; Robert Fishman, OMB, (202) 395–6880.

Proposal: Application for Funding or Refunding the Community Housing Resource Board (CHRB) Program

Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households
Estimated Burden Hours: 19,800
Status: Extension
Contact: Nathaniel K. Smith, HUD, (202) 755–7007; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 29, 1986

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86–18472 Filed 8–14–86; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–86–1629; FR–2270]

Availability of Funding Under the Fair Housing Assistance Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of fund availability.

SUMMARY: This notice solicits applications, from eligible State and local fair housing agencies, for funding under the Fair Housing Assistance Program (FHAP). Agencies must meet specific eligibility criteria set forth in this notice and in 24 CFR Parts 111 and 115 in order to qualify for consideration under this program. This notice pertains to Type-II Competitive Funding applications only.

FOR FURTHER INFORMATION CONTACT: Thomas Jankowski, Director, Office of Fair Housing Enforcement and Section 3 Compliance, Office of Fair Housing and Equal Opportunity, Room 5208, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone: (202) 755–0455. (This is not a toll-free number.) Application kits are available upon written or telephone request. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

DATE: An application for Type II competitive FHAP funding must be submitted between August 15, 1986 and September 15, 1986, unless it qualifies for a late application exception as specified in the application kit and is received before funds are awarded.

SUPPLEMENTARY INFORMATION: The Fair Housing Assistance Program (FHAP) was authorized by Congress to enhance the fair housing capabilities of State and local civil rights agencies. The FHAP has two types of funding: Type I-Non-Competitive Funding and Type II-Competitive Funding. Type I-Non-Competitive Funding includes capacity building, training, complaint monitoring and reporting systems, and contributions. Type II-Competitive Funding includes specialized project proposals developed by State and local agencies to enhance their fair housing programs. This announcement pertains to applications for Type II funding only. (Notice of Availability of Type I Non-Competitive Funding was published June 11, 1986.)

Background

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19 (the Federal Fair Housing Law), prohibits discrimination in the sale, rental or financing of housing and in the provision of brokerage services. Section 810(c) provides that wherever a State or local fair housing law is recognized as providing rights and remedies substantially equivalent to those in the Federal Fair Housing Law, the Secretary is required to notify the appropriate State or local agency of any complaint filed with HUD that appears to constitute a violation of the State or local law. Section 816 provides that the Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, may use their services and their employees and may reimburse the agencies for services rendered in carrying out the Federal Fair Housing Law.

Other Matters

This program is described in the Catalog of Federal Domestic Assistance at 14.401, Fair Housing Assistance Program.

Application requirements associated with this program have been approved by OMB and assigned approval number 2529–0005.

Executive Order 12372

Applicants are advised that they must follow Department procedures established to implement Executive Order 12372, "Intergovernmental Review of Federal Programs." On June 24, 1983 HUD published regulations in the **Federal Register** (48 FR 29206) to implement E.O. 12372. These procedures replace the intergovernmental consultation system developed under OMB Circular A–95, which expired on September 30, 1983. The Executive Order authorizes States to establish their own process for review and comment on the proposed Federal financial assistance programs. To comply with the Executive Order, all applicants for FHAP must provide an opportunity for review and comment to State and local elected officials if: (1) The applicant's State has established a State process and (2) the FHAP has been specifically identified for review by the State process. A list of State Single Points of Contact will be included with application kits requested under this announcement. If the Order applies, the applicant should submit its proposal to HUD and to the State process simultaneously.

Applicants must provide HUD with a written assurance certifying the date on which a copy of the proposal was furnished to the State process. A 60-day comment period will begin five days from the date identified in the certification.

The Single Point of Contact and other commenting parties must mail their comments to Director, Office of Fair Housing Enforcement and Section 3 Compliance, Office of Fair Housing and Equal Opportunity, Room 5208, 451 Seventh Street, SW., Washington, DC 20410–2000.

I. Eligibility

To be eligible to apply for funds under the Program, an agency must meet the criteria prescribed in 24 CFR 111.104. Specifically: (1) the State or local fair housing law administered by such agency must have been recognized (and such recognition must continue to be outstanding) as providing substantially equivalent rights and remedies to those provided by Title VIII of the Civil Rights Act of 1968, under HUD procedures set out in 24 CFR Part 115 and (2) the agency must have executed a written Memorandum of Understanding with HUD that describes the working relationship to be in effect between the agency and the appropriate Regional Office of Fair Housing and Equal Opportunity.

Notwithstanding the preceding paragraph, under 24 CFR 111.104(b), an agency may submit a funding proposal under the Fair Housing Assistance Program if HUD has determined that the State or local fair housing law administered by such agency provides, on its face, substantially equivalent rights and remedies, but has not yet granted recognition to such law in accordance with 24 CFR Part 115. Evidence of such a determination by the Department shall consist of: (1) Publication of an invitation for written comments as described in 24 CFR

115.6(b), or (2) publication of a proposal under 24 CFR 115.4(b), as in effect before October 8, 1984, to add the jurisdiction to the list of recognized jurisdictions. In either such case, the agency may enter into negotiations with the Regional Office of Fair Housing and Equal Opportunity in order to develop a Memorandum of Understanding and may, at the same time, submit a funding proposal. In the event that an agency that would otherwise qualify for funds has not been recognized as substantially equivalent by the time HUD has obligated funds to recognized, fundable agencies, HUD will obligate remaining funds to recognized agencies in accordance with the competitive provisions. No funds will be committed to any agency until it has been formally recognized as substantially equivalent. All proposals for Type II funding must have relevance to matters pertaining to housing discrimination based on an individual's race, color, religion, sex or national origin.

II. Method of Competition

A. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 111.103 and in section IIB, below.

B. Geographic Competition

HUD has established three geographic areas for purposes of this Notice: Area A consists of agencies in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, New Jersey, New York, Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. Area B consists of agencies in the States of Florida, Kentucky, North Carolina, Tennessee, New Mexico, Oklahoma, Texas, Iowa, Kansas, Missouri, and Nebraska. Area C consists of agencies in the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Colorado, Montana, South Dakota, Arizona, California, Hawaii, Nevada, Alaska, Oregon, and Washington.

Funding priority will be given to proposals that address one or more of the following subject areas:

1. Proposals designed to develop and conduct a testing/auditing program for specific protected classes or special market areas for enforcement or litigation purposes;

2. Proposals designed to identify new or subtle practices of discrimination—for example, practices in rental, sales, terms and conditions, insurance or financing—and to implement programs to eradicate such practices;

3. Proposals designed to develop and implement outreach efforts to heighten public awareness of all forms of housing discrimination cognizable under Title VIII, and of fair housing rights and responsibilities, through the use of public education, outreach and/or technical assistance; and

4. Proposals designed to encourage the formulation and implementation of programs relating to the enforcement of fair housing by non-profit organizations.

In addition, applications will be accepted to support specialized project proposals which include:

(1) Technical assistance projects to enable the agency to work with the real estate industry, private fair housing groups, educational institutions, and other government entities and similar constituents.

(2) Projects designed to create, modify or improve local, regional or national data and information systems; and

(3) Projects designed to improve an agency's capability to ensure fair housing through new or redirected approaches to the agency's internal structure or compliance techniques.

C. Classes of Funding

HUD's previous experience in competitive funding under this program indicates that larger agencies—particularly those State agencies in the more populous States—have a decided advantage over smaller State and local agencies in an open competition for Type II funds. Accordingly, two classes of funding have been established.

1. *Class A.—Large Jurisdictions*—All agencies that serve jurisdictions with populations of 3 million or more, *or* that receive an annual housing discrimination complaint workload of 100 or more, will be treated as Class A agencies. For purposes of this determination, the complaint workload is evidenced either by the total number of cases dual-filed with the agency and with HUD during the period January 1, 1985 through December 31, 1985, *or* by the total number of cases received by HUD from the geographical area within the agency's jurisdiction during the same period—whichever is greater. All Class A agencies *must* compete within Class A.

2. *Class B.—Small Jurisdictions*—All agencies that serve jurisdictions with populations below 3 million *and* that receive an annual housing discrimination complaint workload of fewer than 100 complaints (as described above) will be treated as Class B agencies. Class B agencies may elect to compete in either Class A or Class B, but not in both.

3. *Multiple Agency Proposals.* Eligible agencies may wish to join together in submitting a proposal in Class A or Class B. Multiple agency proposals are acceptable subject to the following conditions:

(a) One agency must be designated as the applicant, submitting on behalf of itself with all others as proposed subcontractors. In the event of an award, the applicant will be treated as the recipient.

(b) Agencies electing to participate in a multiple agency proposal, whether as an applicant or as a subcontractor, may NOT submit individual proposals.

(c) Class A agencies submitting a multiple agency proposal as the applicant must compete within Class A. Class B agencies submitting a multiple agency proposal as the applicant may elect to compete in either Class A or Class B, but not both.

(d) A certification of agreement with the proposal from all jurisdictions with which the applicant fair housing agency proposes to subcontract must be included in the application.

D. Program Totals and Agency Maximums

Approximately $2,650,000 is available under this Notice. Each of the three identified geographic areas will compete for approximately $900,000. A total of $1,250,000 is available for award to Class A applicants, with a maximum of $200,000 per applicant for single agency proposals and $300,000 for multiple agency proposals. A total of $1,400,000 is available for award to Class B applicants, with a maximum of $100,000 per agency for single applicant proposals and $150,000 for multiple agency proposals.

E. Applications

An agency may submit only one Type II proposal. Applicants must submit all information required in the Type II application kit and must include sufficient information to establish that the proposal meets the criteria set forth at 24 CFR 111.106. Proposals must include a clear narrative description of the project and a timetable delineating the points at which the various components of the project will be initiated and completed.

Projects should be no longer than 18 months in duration. Applicants should note that any research activities must

serve to enhance the agency's fair housing program. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing enforcement or outreach programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

F. Award Procedures

Applications for Type II funding will be evaluated competitively within each geographic area by Class, and awarded points based on the Factors for Award identified below. Proposals will be reviewed by geographic area Review Teams. The final decision rests with the Assistant Secretary or his or her designee.

Factors for Award

1. Substantive Factors. (65 points total). a. Degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues within the jurisdiction, as explained in the proposal or based upon other information available to HUD. (25 points)

b. Degree to which the project can be expected to have a successful impact upon the problems or issues that the proposal addresses, including the degree to which the project is of continuing use in dealing with housing discrimination. (20 points)

c. Clarity and thoroughness of project description. (20 points)

2. Planning and Management Factors. (35 points total). a. Experience and qualifications of existing personnel identified for key project positions, or a decription of the process and qualifications to be used for selection of key personnel, including subcontractors/consultants. (Where project-related duties will not be the sole responsibility of key personnel, applicant should include the percentage of time each person will spend on the project). (10 points)

b. Reasonableness of estimated timetable for implementation and completion of project. (12 points)

c. Adequacy and clarity of proposed procedures to be used by the agency for monitoring progress of the project and ensuring timely completion. (13 points)

3. Proposals that include the participation of private, nonprofit fair housing, civil rights and legal assistance groups will be eligible for a maximum of 10 bonus points.

4. Cost Factors—An applicant's proposed costs will be considered, together with the factors in paragraphs 1 and 2, above, in determining the proposals most advantageous to the Government.

III. Applicant Notification and Award Procedures

A. Notification

No information will be available to applicants during the period of HUD evaluation except for notification in writing to those applicants that are determined to be ineligible. Awards for Type II projects are expected to be announced by HUD within two months of the closing date.

B. Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are above the funding threshold (but before the actual award), HUD may require that applicants in this group participate in negotiations and submit application revisions resulting from those negotiations. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made. Negotiation will not be used to raise the rankings of proposals that would otherwise fall below the funding threshold.

If an award is not made to an applicant whose proposal is above the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any proposals that may have fallen below the initial threshold, HUD will establish a new funding threshold and proceed as described in the preceding paragraph.

C. Funding Instrument

It is HUD's normal practice to fund successful applicants under cost-reimbursable Cooperative Agreements. HUD reserves the right to employ the form of agreement determined to be most appropriate after negotiation with the applicant.

Authority: Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3601–19); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 12, 1986.

William E. Wynn,

Acting General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 86–18550 Filed 8–14–86; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–06–4322–12; 1784]

Salt Lake District; Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of advisory board meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 that the Salt Lake District Grazing Advisory Board will be meeting on September 18, 1986.

The Board will meet at 9:00 a.m. at the Salt Lake District, Bureau of Land Management office at 2370 South 2300 West, Salt Lake City, Utah. The purpose of the meeting will be to: (1) Organize and elect officers for the new board; and (2) review range improvement projects for the upcoming year.

The meeting is open to the public and interested persons may make oral statements at the meeting between 10:00 and 10:30 am, or file a written statement for the Board's consideration. Persons wishing to make statements to the Board are requested to contact Glade Anderson at 524–5348 prior to September 12, so adequate time can be included on the agenda.

FOR FURTHER INFORMATION CONTACT: Glade Anderson, Range Conservationist, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 86–18435 Filed 8–14–86; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the proposed Mississippi Canyon Block 397 Federal Unit Agreement No. 14–08–0001–20256, submitted on July 23, 1986, a proposed Development Operations Coordination Document describing the activities it proposes to

conduct on the Mississippi Canyon Block 397 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Parkway, New Orleans, Louisiana 70123.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 114, open weekdays 9:00 a.m. to 3:30 p.m., 1420 South Clearview Parkway, New Orleans, Louisiana 70123, phone (504) 736–2519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 5, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–18466 Filed 8–14–86; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

DEPARTMENT OF ENERGY

Western Area Power Administration

Trinity River Division, Central Valley Project

AGENCIES: Department of the Interior, Bureau of Reclamation; Department of Energy, Western Area Power Administration.

ACTION: Notice of Proposed Options for Financing Development and Marketing of the Power from a new Lewiston Powerplant. Announcement of a Public Information/Comment Forum and Call for Comments and Proposals.

SUMMARY: Lewiston Dam is part of the Trinity River Division (TRD) of the Central Valley Project (CVP). The Bureau of Reclamation (Reclamation) and Western Area Power Administration (Western) propose to study the feasibility of additional power development at Lewiston Dam and, if viable, develop and market the power. Current Federal policy encourages non-Federal financing of the study and development of power resource potential. By this notice, Reclamation and Western are jointly initiating a public consultation and comment process to explore potential options for non-Federal financing of these activities.

This notice presents background project information, proposed options for selecting a non-Federal financing entity, and proposed selection criteria. Interested parties are requested to submit their proposals as well as any pertinent comments. Reclamation and Western will select a financing option and entity for the project in a future **Federal Register** notice.

DATES AND ADDRESSES: A public information/comment forum will be held September 5, 1986, 10:00 a.m., Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Sacramento, California. Reclamation and Western representatives will explain the proposed options and discuss alternatives for financing the additional power facilities and marketing of the associated power.

Written comments and proposals are due no later than 4:00 p.m. PDT, October 8, 1986. Certified mail is recommended. Comments and proposals should be sent to: Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825. Reclamation will provide Western with copies of all comments and applications received.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Conwell, Chief, Energy Resources, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, (916) 978–4952, concerning power development matters, or Mr. David Magaw, Assistant Area Manager for Power Marketing, Sacramento Area Office, Western Power Administration, 1825 Bell Street, Sacramento, California 95825, (916) 978–4421, concerning power marketing matters.

SUPPLEMENTARY INFORMATION: Reclamation is responsible for planning, designing, constructing, operating, and maintaining electrical power generation facilities as authorized by Congress. Reclamation is also responsible for allocating all costs for Reclamation project purposes and determining the reimbursable costs to be recovered by revenues. Western is responsible for marketing that power which is surplus to project needs, constructing transmission facilities, making transmission arrangements, assuring recovery of all costs assigned to power for repayment, and for setting power and transmission rates. Reclamation and Western will work together in the negotiation and execution of contracts relating to the financing of the proposed power facilities.

The Lewiston Dam Powerplant is a feature of the Trinity River Division, Central Valley Project, constructed and operated pursuant to the Act of August 12, 1955 (69 Stat. 719). The CVP was developed primarily for irrigation, but it also provides flood control, improves Sacramento River navigation, supplies domestic and industrial water, generates electric power, conserves fish and wildlife, creates opportunities for recreation, and enhances water quality. Reclamation owns and operates a 350-kW powerplant at Lewiston Dam, and Western markets the power generation pursuant to section 302 of the Department of Energy Organization Act.

The existing 350-kW powerplant was sufficient until January 1981 when the Secretary of the Interior decided to increase the annual downstream water releases for fish. The annual releases at Lewiston Dam are being increased from 120,500 acre-feet to 340,000 acre-feet for a 12-year evaluation period which started on October 1, 1984. At the end of the 12-year period, the Fish and Wildlife Service will submit a report to the Secretary summarizing the effectiveness of restoration of flows and other measures including intensive stream and watershed management programs in rebuilding Trinity River salmon and steelhead stocks. The report will specifically address the adequacy of instream habitat at 140,000, 220,000, and 287,000 acre-feet annual release levels for all water-year types and the need to maintain, increase, or decrease the full 340,000 acre-feet CVP yield allocation. The report may also address the possible rescheduling of the allocated CVP yield by water type and other measures necessary to better maintain favorable instream habitat conditions. The increased water releases during the study period, and possibly beyond, create an undeveloped power potential.

In accordance with current administration policy, Reclamation and Western are inviting non-Federal entities to participate in financing the study design, and construction of additional power facilities at Lewiston Dam.

Description of the Proposed Power Facilities

In the preliminary studies performed by Reclamation, it was determined that the most economical addition to the power facilities at Lewiston Dam would

consist of a 600-kW genertor that would be driven by an indoor vertical Francis Turbine and other appurtenant equipment as necessary for interconnection with the local power grid. This 600-kW powerplant would generate about 5,000,000 kWh in a normal water year. The capacity, however, would not be dependable because of less generation due to reduced water releases in dry (220,000 acre-feet) and critically dry (140,000 acre-feet) years. The 600-kW size was selected because it was the largest size powerplant that could be developed without increasing the dam's outlet works capability. The preliminary studies also showed that an increase of the dam's outlet capability for a powerplant size greater than 600-kW would not be economically feasible.

Powerplant Construction Costs

A preliminary estitmate of construction cost for a 60-kW powerplant, as described above, is $1,250,000 based on January 1986 price levels.

Detailed Study

A detailed study is needed to determine the technical, economic, and environmental feasibility of additional power at Lewiston Dam. Of particular signficance in such a study will be the uncertainty of what the water releases from the dam will be after September 30, 1996, when the evalution period ends.

The scope of the study will be determined by Reclamation, Western, and the non-Federal entity.

Financing Proposals

There are several options under which entities could participate. Funds for studying, designing, and constructing the additional generating facilities would be made available to the United States under provisions of the Contributed Funds Act (41 Stat. 1404). The United States would use the funds for the detailed study, the design, and the construction of the powerplant and associated transmission facilities. Reimbursement of past study costs may be required. Marketing expenses would also be met with contributed funds. Constructed facilities would be owned and operated by the United States as a feature of the CVP. Contributors of non-Federal funds will be compensated under the terms of the options.

The increased downstream releases in the Triunity River cause a considerable loss in CVP power generation due to the reduced transbasin diversions to the Carr, Spring Creek, and Keswick Powerplants. Under the first option, the power would be returned to the CVP for project use needs and sales to existing preference customers. The following options are presented in priority order of preference:

Option A: Loan Arrangement: This option is a loan arrangement between the United States and the entity who loans the money for the financing of the project. The financing entity would receive, in return, repayment of its capital investment plus reasonable costs of financing. No entitlement to power or vested interest in the additional power facilities would be given to the entity. Power generated and transmitted through these facilities would be considered CVP power and used for CVP project use purposes and sales to preference customers.

Option B: Lewiston Allocation: Under this option, the financing entity would receive for its investment, an allotment of the additonal power generated at Lewiston Dam. The entity would enter into a power sales contract with Western. The cost of such power would be based solely on the operation and maintenance costs of the facility for the term of the contract. The entity would receive its power at Lewiston or some other point of delivery as agreed by Western, the contractor, and any wheeling agent(s) involved.

Option C. CVP Allocation: Under this option, the additional power generated by the new facility would be blended in with existing CVP power and the financing entity would receive an allotment of CVP power at CVP rates. A billing credit for the entity's investments would be appropriate under this option.

Proposed Selection Criteria for Financing Entity

Reclamation and Western propose to utilize the following criteria in selecting the entity which will finance the additional power facilities at Lewiston Dam:

A. General Selection Criterion

The financing entity must demonstrate its ability to provide funds for the additional power facilities. More than one entity may be chosen under Option A. An entity's cost of financing may be a factor in the selection process.

B. Option A Selection Criterion

Consideration will be given to all parties including:

1. Entities identified as "preference entities" under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(c)).

2. Entities which are corporations or private financing institutions.

3. Private individuals.

C. Options B and C Selection Criterion

1. A single entity will be selected if either Option B or C is chosen.

Reason: The maximum annual energy generated from the additional power development (600-kW) project would only amount to approximately 5,000,000 kWh. This additional resource should not be diluted through an allocation to more than one entity.

2. Priority will be given to a "preference entity" under Reclamation Law.

3. Greater consideration will be given to entities who do not have a Federal power allocation.

Reason: Western's allocation of power to those eligible entities who are not currently customers of Western allows for the most widespread use of its power and is in agreement with the intent of Reclamation Law.

4. Greater consideration will be given to those entities where the allocation would be expected to produce significant benefits in the area of economic and rate relief.

Reason: It is Western's intent to allocate additional Lewiston power to an entity which would be expected to put such an allocation to the most beneficial use. Evidence or expectation of economic and/or rate relief and direct indications of such beneficial use.

Notice of Call for Comments and Proposals

Interested parties are requested to provide Comments and Financing Proposals or submit any other recommended Financing Options by the date and to the address specified in the "Dates and Addresses" section of this notice.

Proposals are to be submitted with a cover sheet as follows:

Bureau of Reclamation

Mid-Pacific Region

Proposal for—

Financial Additional Power Facilities at Lewiston Dam

Name of Organization: _____
Official Contact Person: _____
Address: _____
Phone: _____

The following to be completed by Reclamation:

Date Received: _____
Time: _____
Signed: _____
Title: _____

A typed original and five copies, with the cover sheet as specified previously, should be submitted. No special binding is required.

Availability of Information

All brochures, studies, comments, letters, memoranda, and other documents made or kept by Reclamation or Western pursuant to this notice will be available for inspection and copying at their respective offices.

Dated: July 29, 1986.

C. Dale Duvall,

Commissioner, Bureau of Reclamation.

WM. H. Clagett,I04Administrator, Western Area Power Administration.

August 7, 1986.

[FR Doc. 86-18428 Filed 8-14-86; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Decision; Greyhound Corp.

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying application shall stand denied.

MC-F-17624, filed July 11, 1986. The Greyhound Corporation (Greyhound) (111 West Clarendon, Phoenix, AZ 85077)—Control—Kerrville Bus Company, Inc. (Kerrville) (P.O. Box 712, 429 Sidney Baker Street, Kerrville, TX 78028). Representative: R.D. Rierson, Commerce Attorney, 1724 Greyhound Tower, Phoenix, AZ 85077. Noncarrier Greyhound seeks authority to acquire control through stock purchase, of motor common carrier of passengers Kerrville (MC-27530). Noncarrier the Hal and Charlie Peterson Foundation holds 60 percent of the common stock and 50 percent of the preferred stock of Kerrville, and Kerrville holds the remaining 50 percent of its preferred stock. Greyhound proposes to purchase all such stock. Its subsidiary, Greyhound Lines, Inc., (Lines) (MC-1515), also of Phoenix, now holds the remaining 40 percent of Kerrville's common stock.

In addition to Lines, Greyhound controls Vermont Transit Company, Inc. (MC-45626 and MC-133421), of Burlington, VT, and Texas, New Mexico & Oklahoma Coaches, Inc. of Lubbock, TX. Control of the three carriers was approved in MC-F-8531, MC-F-12432, and MC-F-8343, respectively.

Decided: August 7, 1986.

By the Commission, Motor Carrier Board, Members Thomas, Barnes, and Hartley. Member Hartley not participating.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18440 Filed 8-14-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30869]

Chicago, West Pullman & Southern Railroad Co.; Exemption; Acquisition and Operation

Chicago, West Pullman & Southern Railroad Company (CWP) has filed a notice of exemption to acquire and operate a 5.13-mile line in Cuyahoga County, OH formerly owned and operated by The Newburgh and South Shore Railway Company between valuation station 0+00 and station 316+85.9, but excluding a 2.2-mile portion between stations 25+49.7 and 140+05. Any comments must be filed with the Commission and served on: Chandler L. van Orman, Wheeler & Wheeler, 1729 H Street NW., Suite 200, Washington, DC 20006, (202) 337-6500.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: August 6, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18197 Filed 8-14-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 112)]

Baltimore and Ohio Railroad Co., et al.; Abandonment of the Georgetown Subdivision Rail Line Between Montgomery County, MD and Georgetown, District of Columbia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final scope of study for environmental impact statement.

SUMMARY: This notice presents a final scope of study, prepared in response to written comments and oral presentations at a public meeting, for the environmental impact statement

being prepared for the above-referenced proceeding. Written comments on the final scope are not solicited but will be accepted.

DATE: Written comments on the final scope of work must be received no later than September 15, 1986.

ADDRESS: Interstate Commerce Commission, Section of Energy and Environment, Room 3115, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robert Maestro, (202) 275–7918.

SUPPLEMENTARY INFORMATION: On April 9, 1986, the Baltimore and Ohio Railroad Co., Metropolitan Southern Railroad Co., and Washington and Western Maryland Railway Co. filed an application with the Interstate Commerce Commission (ICC) seeking a license authorizing abandonment and discontinuance of service of the Georgetown Subdivision rail line, which extends from near Georgetown Junction, Maryland, through Bethesda, Maryland, to its terminus in Georgetown, District of Columbia.[1] Upon abandonment, rail operations will cease, rails, ties and bridges will be salvaged, and the right-of-way will be disposed of. Additionally, traffic previously handled by rail will be moved, for at least part of the haul, by an alternate transportation mode.

On June 3, 1986, a notice of intent to prepare an environmental impact statement (EIS) for the abandonment proceeding was published [51 FR 20558]. The notice presented a preliminary scope of study for the EIS and requested comments in writing or orally at a public scoping meeting which was held subsequently on June 18, 1986. Over 50 parties commented in response to the notice. In accordance with the ICC's environmental rules (49 CFR 1105.8(b)) the final scope of study is presented below.

Introduction

Abandonment of rail lines is characterized by an intent to discontinue transportation service over the line and enables the railroad to remove the track and dispose of the land.[2] Each of these components of the abandonment process gives rise to a specific type of impact-generating activity. These activities include alternate transportation, rail line salvage, and land disposal, each of which will be treated separately in our report. Because each of these activities has the potential to affect historic and archaeological resources, historic preservation issues also will be treated separately.

Alternate Transportation

Since the Georgetown Subdivision was embargoed on May 10, 1985, coal has been transported to the hearing facility by truck. We anticipate that coal will continue to be shipped to the heating facility by trucks following abandonment. The present truck route, along New York Avenue and K Street, will also be assumed to continue as the routing of choice.

Environmental effects associated with increased truck traffic include increases in noise, air emissions and vibrations to adjacent residential and commercial areas and historic properties, safety, traffic congestion, and the physical integrity of road surfaces and bridges. Our evaluation of effects associated with increased truck traffic will be based on theoretical treatment using recent traffic counts provided by the District of Columbia Department of Public Works. Available information suggests that there is a limited number of residential areas that would be involved in this examination.

Alternatives to truck transport of coal will be considered. Alternatives might include greater reliance by GSA on other, interconnected heating plants, delivery of coal by barge, and alternate truck routings.

Rail Line Salvage

Salvage of the rail line has the potential to affect wildlife and wildlife habitats, historic and archaeological resources, the physical integrity of the C&O Canal, and other areas, including water quality. With the possible exception of effects on historic and archaeological resources, however, the effects, particularly long-term effects, of rail line salvage are avoidable or almost completely mitigable. The extent to which other permitting requirements (e.g., permitting under the Federal Water Pollution Control Act) may apply to rail line salvage in this case is unknown at this time, but will be examined.

Land Disposal

There are a variety of statutory schemes that may apply to disposal of the rail line or the right-of-way, once abandoned. These include, in order to priority, (1) the provisions of 49 U.S.C. 10905, pertaining to the subsidization or acquisition of the rail line, (2) section 8(d) of the National Trails System Act, and (3) the provisions of 49 U.S.C. 10906, pertaining to public use of the right-of-way upon abandonment.

To date, considerable interest has been expressed in acquiring either the operational rail line or all or segments of the right-of-way upon abandonment. Proposed uses include parkland, a hiking/biking trail, a commuter transitway, excursion train operations, a highway, a "rolling museum", and finally, private development. With the exception of proposals for private development, each of the proposed uses to which the right-of-way may be put is susceptable to consideration under one or more of the aforementioned statutory schemes. Even in the case of private development, however, some restrictions (e.g., land use plans and policies and zoning ordinances) would probably apply. In any event, each of the proposed uses will be given appropriate consideration in the environmental document.

Historic/Archaeological Considerations

In accordance with section 106 of the National Historic Preservation Act (NHPA), evaluation of effects on historic/archaeological resources will be undertaken. To facilitate full compliance with the objectives of NHPA, in those cases where eligibility for listing in the *National Register* is questionable, we will assume eligibility. Furthermore, historic resources of local interest, such as those identified by the Joint Committee on Landmarks of the National Capital will also be deemed eligible for listing in the *National Register*.

Since there is a high probability that significant archaeological resources are located within the railroad right-of-way, a survey will be conducted to define their locations and determine their significance relative to criteria for listing in the *National Register*. The archaeological survey will be conducted pursuant to applicable guidelines. The evaluation of effects on cultural resources from movement of the trucks will be undertaken, but limited to historic properties only. Although archaeological resources may exist along the truck route, we believe it is impractical to consider them in the context of this evaluation.

Salvage activities will be evaluated for their effect on the historic integrity of the rail line and its bridges (which we assume are eligible for listing in the *National Register*) and impacts to archaeological resources from movement of heavy equipment (e.g., cranes and loaded trucks) within the right-of-way. Additionally, because the right-of-way forms part of the embankment of the C&O Canal, post-abandonment maintenance of the right-

[1] Abandonment and discontinuance of service of common carrier rail lines is governed by ICC regulations at 49 CFR Part 1152.

[2] *See Illinois Commerce Commission* v. *Interstate Commerce Commission*, 787 F.2d 616, 620 and n.1 (D.C. Cir. 1986).

BEST COPY AVAILABLE

of-way will be addressed relative to the physical integrity of this historic property. Effects on adjacent historic resources from alternate uses of the right-of-way also will be considered, with particularly attention given to the C&O Canal National Historical Park due to its proximity to the right-of-way and its special designation as a National Historic Landmark.

Upon completion of the draft EIS, a notice of its availability will be published in the **Federal Register** and served on all parties to the proceeding. The notice will also prescribe a comment period. A final EIS, prepared in response to comments received, will be issued subsequently.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18394 Filed 8-14-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application; Arenol Chemical Corp.

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 22, 1986, Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501) a basic class of controlled substance in Schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefore, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed in 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than September 15, 1986.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1985), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: August 8, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-18445 Filed 8-14 86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Chemical Corp.

Pursuant to § 1301.43(a) to Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 22, 1986, Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100)	II
Methamphetamine, its salts, isomers, and salts of its isomers (1105)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justic, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than September 15 , 1986.

Dated: August 08, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 86-18446 Filed 8-14-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-28]

Vernon D. Clausing, D.O., Seattle, WA; Hearing

Notice is hereby given that on March 24, 1986, the Drug Enforcement Administration, Department of Justice, issued to Vernon D. Clausing, D.O., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application for registration in Schedules VI and V, executed on September 25, 1985, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, noitice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, August 26, 1986, in Courtroom No. 2866, 28th Floor, Federal Building, 915 Second Avenue, Seattle, Washington.

Dated: August 8, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-18447 Filed 8-14-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-45]

Patrick J. Frank, M.D., Lebanon, PA; Hearing

Notice is hereby given that on May 1, 1986, the Drug Enforcement Administration, Department of Justice, issued to Patrick J. Frank, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certification of Registration AF2342210, and deny his pending application, executed on September 16, 1985, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for

a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, September 11, 1986, in Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place NW., Washington DC.

Dated: August 8, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-18448 Filed 8-14-86; 8:45 am]

BILLING CODE 4410-09-M

John Johnston Jones, Jr., M.D.; Revocation of Registration; Denial of Pending Applications for Renewal

On May 13, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to John Johnston Jones, Jr., M.D., of 808 Bayou Lane, P.O. Box 1447, Thibodaux, Louisiana 70301. The Order to Show Cause sought to revoke DEA Certificate of Registration, AJ6922391, previously issued to Dr. Jones, and to deny any pending applications for renewal. The statutory bases for seeking the revocation and denial are: (1) Dr. Jones' medical license is suspended in the State of Louisiana; thus, he is not authorized to handle controlled substances in that state, and (2) Dr. Jones' registration is inconsistent with the public interest, based primarily on his conviction on three counts of making false representations for payments under Medicare, in violation of 18 U.S.C. 1341 and 42 U.S.C. 1395nn(a)(i).

The Order to Show Cause was sent to Dr. Jones by registered mail and was received by him on May 16, 1986. Dr. Jones did not request a hearing in this matter. Instead, he attempted to surrender his registration to the DEA New Orleans Field Division for a temporary period of time. Since Dr. Jones did not request a hearing on the issues raised in the Order to Show Cause, the Administrator concludes that Dr. Jones has waived his opportunity for a hearing in this matter, and enters this final order based upon the record as it appears. 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that on September 18, 1985, the Louisiana State Board of Medical Examiners suspended Dr. Jones' license to practice medicine in that state for a period of two years. As a result of the suspension of Dr. Jones' medical license, he is not authorized to handle controlled substances in the State of Louisiana during the suspension period.

The Administrator has consistently held that when a DEA registrant is not authorized to handle controlled substances in the state in which he practices, DEA is without lawful authority to maintain his registration. See *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); *Kenneth K. Birchard, M.D.*, 48 FR 33778 (1983); and *Thomas E. Woodson, D.O.*, Docket No. 81-4, 47 FR 1353 (1982). Therefore, since Dr. Jones is not currently authorized to handle controlled substances in the State of Louisiana, the Administrator cannot maintain his DEA Certificate of Registration in that state.

Dr. Jones' lack of state authority to handle controlled substances, by itself, is sufficient to warrant the revocation of his current DEA Certificate of Registration, and for the denial of any pending applications for renewal. Consequently, the Administrator finds no need to address the public interest issue raised in the Order to Show Cause. The other matter can be considered in the course of a subsequent proceeding, in the event that Dr. Jones applies for a DEA registration in the future. The Administrator concludes that Dr. Jones' current DEA Certificate of Registration should be revoked, and any pending applications for renewal should be denied, based solely on Dr. Jones' lack of state authorization to handle controlled substances.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that DEA Certificate of Registration AJ6922391, previously issued to John Johnston Jones, Jr., M.D., be, and it hereby is, revoked; it is further ordered that any pending applications for renewal, executed by Dr. Jones, be, and they hereby are, denied.

This order is effective August 15, 1986.

Dated: August 11, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-18449 Filed 8-14-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-43]

Lannett Co.; Philadelphia, PA; Hearing

Notice is hereby given that on April 24, 1986, the Drug Enforcement Administration, Department of Justice, issued to the Lannett Company, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certification of Registration PL0029024 and PT0160159.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 am on Tuesday, September 9, 1986, in Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place NW., Washington, DC.

Dated: August 8, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-18450 Filed 8-14-86; 8:45 am]

BILLING CODE 4410-09-M

Lorimer Pangilinan, M.D.; Denial of Application

On March 24, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lorimer Pangilinan, M.D., of 209 South Main Street, Ridgely, Tennessee 38080. The Order to Show Cause sought to deny the application for DEA Registration executed by Dr. Pangilinan on May 13, 1985. The statutory predicate for the Order to Show Cause was that: (1) Dr. Pangilinan is not currently licensed by the Tennessee Board of Medical Examiners to practice medicine, and consequently, he is no longer authorized to handle controlled substances in the State of Tennessee; (2) On January 17, 1986, in the United States District Court for the Western District of Tennessee, Dr. Pangilinan entered pleas of guilty, to fifteen counts of distribution of controlled substances, in violation of Title 21 U.S.C. 814(a)(1); (3) On January 17, 1986, in the United States District Court for the Western District of Tennessee, Dr. Pangilinan entered pleas of guilty to fifteen counts of using an expired DEA registration number to obtain or acquire controlled substances, in violation of Title 21 U.S.C. 843(a)(2); and (4) On January 22, 1986, in the Gibson County Circuit Court in Tennessee, Dr. Pangilinan entered a plea of guilty to the second degree murder of a former patient, whose death was found to be directly caused by Dr. Pangilinan's overprescription of numerous controlled substances.

The Order to Show Cause was sent registered mail, return receipt requested, to the address at which Dr. Pangilinan applied for registration. The return receipt received by DEA indicates that

the Order to Show Cause was received and signed for on March 28, 1986. Dr. Pangilinan has yet to respond to the Order to Show Cause. Since Dr. Pangilinan's time for requesting a hearing on the matters raised in the Order to Show Cause has long expired, the Administrator concludes that he has waived his opportunity for a hearing in this matter. Therefore, the Administrator issues this final order based upon the information contained in the investigative file. 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that on May 21, 1985, the Tennessee Department of Health and Environment, Board of Medical Examiners, summarily suspended Dr. Pangilinan's license to practice medicine in the State of Tennessee. The Board of Medical Examiners based its suspension on a number of factors. It noted that Dr. Pangilinan had been charged with the second degree murder of a former patient by inappropriately prescribing controlled substances. In addition, the Board determined that Dr. Pangilinan's prescribing habits for controlled substances were improper. It also noted that Dr. Pangilinan had prescribed large quantities of controlled substances without possessing a valid DEA Certificate of Registration. Further, the Board ordered Dr. Pangilinan to undergo a psychiatric examination, the results of which indicated that he is a manic-depressive individual who is unable to safely engage in the practice of medicine. Following the summary suspension of Dr. Pangilinan's license to practice medicine, the Board of Medical Examiners revoked his license in a default order issued on August 12, 1985.

As a result of the revocation of Dr. Pangilinan's license to practice medicine, he is no longer authorized to handle controlled substances in the State of Tennessee. Since he lacks the authority to handle controlled substances in Tennessee, the Administrator is without authority to approve Dr. Pangilinan's application for registration. DEA has consistently held that the Administrator cannot approve an application for registration unless the applicant is duly licensed and authorized to handle controlled substances in the State in which he is seeking registration. See *Emerson Emory, M.D.*, Docket No. 85–46, 51 FR 9543 (1986), *Marshall S. Tuck, M.D.*, Docket No. 80–28, 45 FR 85845 (1980). Therefore, based solely on Dr. Pangilinan's lack of state authorization to handle controlled substances, the Administrator must deny his application for registration.

In addition to the revocation of his state license, Dr. Pangilinan has been convicted of several felony offenses relating to controlled substances. The Administrator finds that Dr. Pangilinan pleaded guilty and was convicted on April 4, 1986, in the United States District Court of Western Tennessee, of fifteen counts of distribution of controlled substances, in violation of Title 21 U.S.C. 841(a)(1), and fifteen counts of using an expired DEA registration number to obtain or acquire controlled substances, in violation of Title 21 U.S.C. 843(a)(3). Further, Dr. Pangilinan pleaded guilty on January 22, 1986 to the second degree murder of a former patient, whose death was determined to be caused by the doctor's intentional overprescription of controlled substances. All of the above offenses constitute felony offenses relating to controlled substances.

In making his decision to approve or deny a practitioner's application for registration, the Administrator must consider whether the practitioner's registration would be consistent with the public interest. Title 21 U.S.C. 823(f). The factors the Administrator must consider in making such a decision are:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. Title 21 U.S.C. 823(f).

Based on the five criteria listed above, the Administrator finds, without hesitation, that Dr. Pangilinan's registration would be inconsistent with the public interest. First, by revoking his medical license, the Tennessee Board of Medical Examiners has indicated that it does not recommend and will not allow Dr. Pangilinan to handle controlled substances in the State of Tennessee. Second, Dr. Pangilinan's multitude of felony offenses relating to controlled substances strongly persuade the Administrator that he has a flagrant disregard for both State and Federal controlled substance laws. Finally, the evidence of Dr. Pangilinan's controlled substance convictions, the catastrophic consequences of his prescribing habits and the results of his psychiatric examination indicate that he poses a serious threat to the public health and safety of the community when allowed to handle controlled substances. Consequently, the Administrator finds that the approval of Dr. Pangilinan's application for registration would be wholly inconsistent with the public interest.

Accordingly, since Dr. Pangilinan is not authorized to handle controlled substances in the State in which he seeks registration, and further, that since his registration would be inconsistent with the public interest, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by Title 21 U.S.C. 823 and 28 CFR 0.100(b) orders that the application for a DEA Certificate of Registration, executed by Lorimer Pangilinan, M.D. on May 13, 1985, and any other outstanding applications for DEA registration executed by Dr. Pangilinan, be, and they hereby are, denied.

This order is effective August 15, 1986.

Dated: August 11, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–18451 Filed 8–14–86; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Withdrawal; Sigma Chemical Co.

On July 2, 1986, the Drug Enforcement Administration (DEA) published a Notice of Application in the **Federal Register** (Vol. 51, No. 127, pg. 24241) stating that Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, had submitted an application for registration as a importer of Noroxymorphone (9668), a basic class of controlled substance in Schedule II.

On July 15, 1986, the DEA was advised that Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, wishes to withdraw its application for registration as a importer of Noroxymorphone (9668).

The application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: August 12, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86–18469 Filed 8–14–86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 9, 1986, 9:30 am, Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565.

Signed at Washington, DC, this 7th day of August 1986.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 86–18511 Filed 8–14–86; 8:45 am]

BILLING CODE 4510–28–M

Task Force on Economic Adjustment and Worker Dislocation; Cancellation of Meeting

Notice is hereby given that the Task Force on Economic Adjustment and Worker Dislocation has canceled its fourth scheduled meeting set for Wednesday, August 20, 1986, Room C–5515, Seminar Room 6, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice of the August 20, 1986 meeting was published August 7, 1986 in 51 FR 28462.

Task Force member scheduling conflicts have precluded meeting at this time. A date for the next meeting will be published in September.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Holmes, U.S. Department of Labor, Room S–5014, Washington, DC 20210, (202) 523–7571.

Signed at Washington, DC, this Monday of August 11, 1986.

Michael E. Baroody,

Assistant Secretary for Policy.

[FR Doc. 86–18510 Filed 8–14–86; 8:45 am]

BILLING CODE 4510–23–M

Office of the Secretary

State of Washington Employment Security Deparment; Hearing

This notice announces an opportunity for a hearing for the State of Washington Employment Security Department pursuant to section 3303(b)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(3), and 20 CFR 601.5, to be held at 9:30 o'clock in the morning on September 10, 1986, in a courtroom in the Vanguard Building, 1111 20th Street, NW., Washington, DC. The State agency will have an opportunity to make a record.

The hearing will be held on the following issue:

Issue: Whether, with respect to certification of State laws on October 31, 1986, under section 3302(b) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b), the law of the State of Washington fails to conform with the Federal law requirements of section 3303(a)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(a)(1), with respect to the 12-month period ending on such October 31.

Basic of Issue: Section 3303(a)(1) of the Internal Revenue Code of 1954 provides:

(a) State Standards.—A taxpayer shall be allowed an additional credit under section 3302(b) with respect to any reduced rate of contributions permitted by a State law, only if the Secretary of Labor finds that under such law–

(1) no reduced rate of contributions to a pooled fund or to a partially pooled account is permitted to a person (or group of persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the 3 consecutive years immediately preceding the computation date.

This provision has been consistently interpreted to require that a State law must rate all employers entitled to reduced rates on the basis of their experience during the same specified period with the same single factor (or combination of factors which taken together constitute a single factor) bearing a direct relation to unemployment risk. Further, under a State law that measures experience based on benefit charges, a single rule of charging benefits applicable to all chargeable employers is essential to assure that the State's experience rating plan measures the "experience" of each employer relative to the experience of all other employers.

Section 50.29.022(1) and (2) of the Washington Employment Security Act provides:

(1) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1985, the department shall calculate a percentage rate of savings for benefit charges for the fiscal year ending June 30, 1985 and apply the rate as though RCW 50.29.020(2)(g) had been in effect for fiscal years 1984, 1983, 1982, and 1981. For fiscal years ending June 30, 1986, and beyond, benefit charges will be calculated pursuant to RCW 50.29.020(2)(g).

(2) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1986, the department shall calculate the percentage rate of savings for benefit charges for the fiscal year ending 1985, and apply the rate to fiscal years 1984, 1983, and 1982.

Section 50.29.020(2)(g) of the Washington Employment Security Act provides:

In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

Under Washington's experience rating system, the factor used to measure experience is benefits paid during the four-year period immediately preceding the computation date. In 1985, the State of Washington enacted section 50.29.022 which relieved employers from certain benefit charges for 1985, as set out above in RCW 50.29.022(1). In order to allow these employers to receive a reduced rate immediately, the legislation also allowed these employers to project their one-year savins from noncharging to each of the four preceding years. For the 1986 tax year, these savings were applied to each of the four years on which employers's reduced rates were calcutated. This appears to be inconsistent with the experience rating requirements of section 3303(a)(1) of the Internal Revenue Code of 1954 since the calculation is based upon an assumption of experience rather than actual experience. This adjustment to charges is an unacceptable deviation from Washington's approved charging method because it impairs the reflection of actual experience of employers and distorts the relative measurement of employers' experience, contrary to the requirements of section 3303(a)(1). For the tax (calendar) year 1986, rates were calculated using the same assumed experience for the years 1982, 1983, and 1984, as set forth above in RCW 50.29.022(2).

VOL 51 ISS 158 AG 15 1986 UMI

Authority for Notice of Hearing

This Notice of Hearing is issued pursuant to section 3303(b)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(3) and 20 CFR 601.5. Section 3303(b)(3) of the Internal Revenue Code of 1954 provides:

(3) The Secretary of Labor shall, within 30 days after any State law is submitted to him for such purpose, certify to the State agency his findings with respect to reduced rates of contributions to a type of fund or account, as defined in subsection (c), which are allowable under such State law only in accordance with the provisions of subsection (a). After making such findings, the Secretary of Labor shall not withhold his certification to the Secretary of the Treasury of such State law, or of the provisions thereof with respect to which such findings were made, for any 12-month period ending on October 31 pursuant to paragraph (1) or (2) unless, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds the State law no longer contains the provisions specified in subsection (a) or the State has, with respect to such 12-month period, failed to comply substantially with any such provision.

Section 601.5 of Title 20, Code of Federal Regulations (30 FR 6942, May 22, 1965) provides in part:

§ 601.5. Withholding payments and certifications.

(a) *When withheld.* Payment of funds to States or yearend certification of State laws, or both, are withheld when the Secretary [of Labor] finds, after reasonable notice and opportunity for hearing:

* * * * *

(2) That the State unemployment compensation law has been so changed as no longer to meet the conditions required by section 3303(a) of the Internal Revenue Code of 1954 (section 3303(b)(3) of the Internal Revenue Code); . . .

* * * * *

These Proceedings

Following the hearing a decision will be made by the Secretary of Labor which will have a bearing on whether the Washington law is certifiable on October 31, 1986, with respect to additional tax credits allowable under a certification to the State's employers pursuant to subsection (b) of section 3302 of the Internal Revenue Code of 1954, 26 U.S.C. 3302(b), for the taxable year 1986.

The proceedings in this matter shall be in accordance with the Rules of Procedure accompanying this notice.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, DC 20036, who will be designated in accordance with the Rules of Procedure.

Counsel for the Washington Employment Security Department shall enter an appearance with the presiding Administrative Law Judge no later than August 19, 1986; a copy shall be provided to Charles D. Raymond, Acting Associate Solicitor for Employment and Training, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearance with the presiding Administrative Law Judge no later than August 19, 1986, a copy shall be provided to the Washington Employment Security Department as expeditiously as possible.

Signed at Washington, DC, on July 28, 1986.

William E. Brock,

Secretary of Labor.

DEPARTMENT OF LABOR

Office of the Secretary

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agency (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, organization, association of workers or employers, or member of the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by the counsel for each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to the hearing or at the beginning of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, and designation of evidence to be offered at the hearing.

5. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings, and may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

6. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matters in issue. The State agency shall then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue specified in the Notice of Hearing.

(b) The State agency will proceed next to present any evidence it may wish to offer which is relevant to the issue referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each opposing party of record, at least three business days prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal on any issue, and the trial record shall thereafter be closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter, and may provide for the later receipt of such evidence or any other evidence for the record.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

11. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each opposing party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; argument for the State agency, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

13. The parties of record and any amicus curiae authorized to participate in the proceedings shall be permitted to file briefs. The parties of record may also file reply briefs and proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed with the presiding Administrative Law Judge, with proof of service upon the parties, within such time periods as are established by the presiding Administrative Law Judge.

14. As soon as possible, but in no event later than October 10, 1986, the presiding Administrative Law Judge shall: (1) Prepare a recommended decision on the basis of the record containing recommended findings of fact and conclusions of law on all issues raised by the parties; (2) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (3) forward a copy of the recommended decision to each party of record and amicus curiae.

15. Any party of record may file with the Secretary of Labor a Statement of Exceptions, with proof of service, setting forth any exceptions thay may have to the recommended decision, within seven (7) days after service by mail of the recommended decision. In the absence of timely filing and sufficient proof of service on other parties, a Statement of Exceptions filed by a party shall not be considered by the Secretary of Labor in making his decision.

16. (a) Any briefs or other papers intended to be filed of record in the proceedings shall be mailed or otherwise delivered to the office of the presiding Administrative Law Judge. Unless otherwise ordered, such documents shall be deemed to be filed on the date they are postmarked if transmitted by the United States Postal Service, and shall be deemed to be filed on the date received if transmitted by any other means.

(b) An original and one copy of any brief or other paper shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with proof of sufficient service upon the parties.

(c) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a Federal holiday, the time limit shall be extended to the next official business day.

17. Following the certification in accordance with Rule 14 above, and consideration of any Statement of Exceptions filed and served in accordance with Rules 15 and 16, the Secretary of Labor shall render a decision in the matter, in writing, and shall forward the decision together with the record to the Chief Administrative Law Judge, and shall forward copies of his decision to the Governor of the State, to each party of record, and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 86-18509 Filed 8-14-86; 8:45 am]
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Employment and Training Administration

Job Training Partnership Act; Indian and Native American Employment and Training Programs; Final Designation Procedures

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of final designation procedures for grantees.

SUMMARY: This document contains final procedures by which the Department of Labor will designate grantees for Indian and Native American Employment and Training Programs under the Job Training Partnership Act. The next cycle of such designation actions will cover JTPA Program Years 1987 and 1988 (July 1, 1987, through June 30, 1989). This notice provides necessary information to prospective grant applicants to enable them to submit appropriate agrant applicants to enable them to submit appropriate requests for designation.

EFFECTIVE DATE: August 15, 1986.

ADDRESS: Send one originial and two copies of Advance and final Notices of Intent to: Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Room N4643, 200 Constitution Ave., NW., Washington, DC 20210, Attention: ANOI/NOI Desk .

SUPPLEMENTARY INFORMATION: Proposed designation procedures for Indian and Native American Employment and Training Programs under section 401 of the Job Training Partnership Act were published in the **Federal Register** on June 20, 1986 (51 FR 22578) for the purpose of soliciting public comment. Eighteen comment letters were received, all from incumbent grantee organizations or representatives of such organizations. Of this number, twelve organizations submitted identical comments.

The following is a summary, by Part, of the comments received and the Department of Labor's (Department's) response. Although the procedures have not been altered from their proposed form (except for address changes), the summary is intended to clarify the issues identified by commentators.

General Designation Principles

Several commentators suggested that Part I—*General Designation Principles*, No. (3), implied that the Department should provide technical assistance to non-designated reservation organizations to re-establish themselves as grantees. They further suggest that the Department give "special consideration" in terms of peformance standards, planning requirements and implementation time frames to those designated to serve such areas.

Because of the limited amount of JTPA technical assistance funds that are available, the Department will continue its practice of utilizing such funds for current grantees. However, if a reservation organization corrects the deficiencies that resulted in its non-designation (e.g., repayment of a debt establsihed by final agency action), it has the opportunity to re-apply and to be considered for its former service area.

As a matter of practice, the Department does, take into account the particular circumstances of grantees who are designated to serve areas previously served by organizations that have failed to meet the responsibility review criteria enumerated at 20 CFR 632.11(d). For example, such grantees are given several options regarding the selection of appropriate performance standards. In terms of implementation

requirements, however, the Department must ensure that eligible Indian and Native American applicants have timely access to program activities when a change in service deliverers occurs.

Some commentators objected to the references to consultation by telephone in Part I—*General Designation Principles*, No. (3). They also objected to the fact that the procedures did not address consultation requirements for off-reservaton situations.

As indicated in the procedures, consultation may be accomplished in writing, in person or by telephone, as time and circumstances permit. In order to meet the regulatory deadline of March 1, 1987 for designation decisions, telephone consultations may sometimes be necessary. Furthermore, consultation requirements cited at 20 CFR 632.10(f) only apply when grantees other than those which are directly controlled by Indian or Native American people are designated.

Advance Notice of Intent (ANOI)

Comments were received objecting to the fact that the submission of an ANOI was not madatory as described in Part II—*Advance Notice of Intent.* Some of these commentators suggested that applicants that did not submit an ANOI, or that applied for more territory in their final Notice of Intent than was indicated in their ANOI, be penalized under the point rating system for competitions.

The regualtions at 20 CFR 632.11(a) only require applicants for designation to submit a final Notice of Intent no later than January 1 of the designation year. The ANOI process is not addressed in the regulations, and cannot be mandated procedurally. Therefore, applicants that fail to submit an ANOI, or that change service area requests in the final submission, should not be penalized. To do otherwise would be contrary to both the regulations and the dictates of fairness.

In view of the foregoing, as noted in Part III—*Notice of Intent*, current grantees, other than tribes, bands or groups (including Alaskan Native entities) requesting their existing areas, are encouraged to consder submitting a full final Notice of Intent even if their service area request has not changed.

One comment was submitted expressing confusion about the approprate use of the Standard Form (SF) 424 in the designation cycle. The SF 424 will no longer be utilized in the ANOI process. However, as requred at 20 CFR 632.11(a) and (c), the SF 424 will continue to be required in the final Notice of Intent process.

Preferential Hierarchy for Determining Designations.

The respondents with identical comments objected to the use of the term "potentially" in reference to the determination of significant superiority overall in Par IV—*Preferential Hierarchy for Determining Designations*, No. (2).

The term "potentially" was added to this section to clarify the respective roles of the Chief, Division of Indian and Native American Programs (DINAP) and the Grant Officer in the designation process. In derermining which position an organization holds in the preferential hierarchy, the Chief, DINAP, only ascertains the potential for significant superiority overall based on the factors enumerated in this Part. The Grant Officer is responsible for the final determination of significant superiority overall, based on all available information, when making designation decisions.

In regard to this Part, comments were also received recommending a return to the use of the five hierarchical categories of the prior cycle. These commentators wanted to ensure that preference would be given to locally-based, Indian or Native American-controlled organizations over Indian or Native American organizations that were not locally-based within an established service area.

These comments suggest confusion regarding the application of the preferential hierarchical principles in the prior designation cycle. The preferential hierarchy permits competition between such organizatons when the potential for significant superiority overall is demonstrated by the new applicant. However, evidence of *local* Indian or Native American organizational support is an integral evaluation factor in the competitive process. It is possible for an organization that is not locally based to be preferred by local Indian or Native American group over a local incumbent grantee that has been a poor performer. As in the prior designation cycle, the award of a grant is based ont the Grant Officer's review of all available information including local community support.

It must be recognized that competition, whenever it exists, is the consequence of eligible organizations, incumbents and non-incumbents, exercising their right to apply for JTPA, Section 401 funds. In deference to that consideration, the designation procedures cannot, as is the intended preference of the commentators, be constructed so that those organizations are denied reasonable and fair opportunity to apply for designation.

Staffing of Preferential Hierarchy Task Force and Review Panel

Several commentators asserted that the proposed procedures failed to implement the requirements of section 401(e) of JTPA relative to the staffing of the task force and the rating panel, if utilized. These procedures are discussed in Part IV—*Preferential Hierarchy for Determining Designations* and Part V—*Use of Panel Review Procedure.*

This assertion is without merit. As in the prior designation cycle, the Department fully intends to include staff having particular competence in Indian and Native American Programs on the task force and the rating panel in the event that these groups are utilized in the designation process.

Notification of Designation/Non-Designation

Several commentators suggested that the Department require that all affected organizations, including the current designee, be advised of appeal actions. Non-designation procedures are addressed in Part VI—*Notification of Designation/Non-Designation.*

In the prior designation cycle, all parties affected by an appeal action were notified by the Department of such proceedings. The Department will continue to implement this procedure in this and future designation cycles.

Special Designation Situations

One comentator objected to the fact that Part VII—*Special Designation Situations*, No. (1), did not expand on the eligibility of Alaskan Native entities relative to designation requirements.

As noted in Part IV—*Preferential Hierarchy for Determining Designations*, it is incumbent on the applying organization to supply sufficient information upon which the determination can be made. Organizations must indicate the category into which they believe they fall and must adequately support that assertion.

Designation Process Glossary

The respondents with identical comments objected to the inclusion of State agencies in the definition in Part VIII—*Designation Process Glossary*, No. (1), of an Indian or Native American-controlled organization. These commentators and others also suggested that there was some inconsistency between this definition and the third level of the preferential hierarchy, relative to units of State or local

government. Some suggested that the distinction between advisory bodies and control by a governing board should be strengthened.

State agencies can qualify as Indian or Native American-controlled organizations as long as they meet the criteria identified in the designation process glossary. The criteria described in Part IV—*Preferential Hierarchy for Determining Designations* made clear that, for designation purposes, a significant Native American advisory process is distinguished from full control by a Native American governing board. Additionally, in order to qualify for the second level of the preferential hierarchy, an organization must be both Indian or Native American-controlled *and* community based, as described in section 4, Definitions of JTPA.

For the above reasons, the procedures for JTPA, section 401 Indian and Native American grantees proposed at 51 FR 22578 (June 20, 1986) are adopted in final for the Program Year 1987–1988 designation cycle. (Addresses identified in the proposed procedures have been changed because of the planned move of Employment and Training Administration personnel to the Frances Perkins Building.)

For the convenience of the public, the procedures are being reprinted below:

TABLE OF CONTENTS

Introduction: Scope and Purpose of Notice
I. General Designation Principles
II. Advance Notice of Intent
III. Notice of Intent
IV. Hierarchy for Determining Designations
V. Use of Panel Review Procedure
VI. Notification of Designation/ Nondesignation
VII. Special Designation Situations
VIII. Designation Process Glossary

Introduction: Scope and Purpose of Notice

Section 401 of the Job Training Partnership Act (JTPA) authorizes programs to serve the job training needs of Indians and Native Americans.

Requirements for these programs are set forth in the JTPA and in the regulations at 20 CFR Part 632. Pursuant to these requirements, the Department of Labor (DOL), through published procedures, selects entities for funding under JTPA section 401, and designates such entities as Native American grantees, contingent on all other grant award requirements being met. This notice describes how DOL plans to make such designation decisions, pursuant to the regulations at 20 CFR Part 632. It provides necessary information to prospective grant applicants to enable them to submit appropriate requests for designation.

The process described in this notice is supported directly by the regulations at 20 CFR Part 632. This notice does not involve additional requirements but simply describes, for all eligible organizations' benefit, the procedures which will be followed in making designation decision.

The amount of JTPA section 401 funds to be awarded to designated Native American grantees is determined under procedures described at 20 CFR 632.171 and not through this designation process. The specific organization eligibility and application requirements for designation are contained at 20 CFR 632.10 and 632.11. Any organization interested in being designated as a Native American grantee must be aware of and comply with these requirements.

I. General Designation Principles

The following general principles, based on the JTPA and applicable regulations, are intrinsic to the designation process:

(1) All applicants for designation must comply with the requirements found at 20 CFR Part 632 regardless of their apparent standing in the preferential hierarchy. The basic eligibility, application and designation requirements are found in Subpart B of those regulations.

(2) The nature of this program is such that Indians and Native Americans in an area are entitled to the program and that they are best served either by a responsible organization directly representing them or by one of their own choosing. JTPA and the governing regulations give clear preference to Native American-controlled organizations. That preference is the basis for the steps which will be followed in designating grantees.

(3) A State or federally recognized tribe, band, or group on its reservation is given absolute preference over any other organization so long as it has the capability to administer the program and meets all regulatory requirements.

This preference applies only to the area within the reservation boundaries. A reservation organization which may have its service area given to another qualified organization for reasons specified in the regulations will be given an opportunity in the future to reestablish itself as the designated grantee, should it so desire.

In the event that such a tribe, band, or group (includiung an Alaskan Native entity) is not designated to serve such groups, the DOL will consult with the governing body of such entities as provided at 20 CFR 632.10(e). Such consultation may be accomplished in writing, in person or by telephone, as time and circumstances permit.

(4) In designating Native American grantees for off-reservation areas, the DOL will provide preference to Indian and Native American-controlled organizations as described in 20 CFR 632.10(f) and as further clarified in this notice.

(5) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past twelve years under the authority of JTPA section 401 and section 302 of the expired Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority in a way that will preserve the continuity of such services and will prevent the undue fragmentation of existing service areas. Consistent with present regulations and other provisions of this notice, this will include preference for those Native American organizations with an existing capability to deliver employment and training services within an established service area. Such preference will be identified through input from the Chief of DOL's Division of Indian and Native American Programs (DINAP) and the Director of DOL's Office of Special Targeted Programs (OSTP) and through the use of the rating system described in this notice. Unless a non-incumbent applicant in the same preferential hierarchy as an incumbent applicant grantee can demonstrate that it is significantly superior overall to the incumbent, the incumbent will be designated, if it otherwise meets all of the requirements for redesignation.

II. Advance Notice of Intent

The purpose of the Advance Notice of Intent process is to provide section 401 applicants, prior to the submission of a final Notice, with information relative to potential competition. While DOL encourages the resolution of competitive requests prior to final submission, the Advance Notice of Intent process also serves to alert those whose differences cannot be resolved of the need to submit a complete final Notice of Intent.

Although the Advance Notice of Intent process is not mandated by the regulations, participation in the advance process by prospective section 401 applicants is strongly recommended. The Advance Notice of Intent process allows the applicant to identify potential competitors, to resolve conflicts if possible, and to prepare a final Notice of Intent with advance knowledge of potential competing requests.

VOL 51 ISS 158 AG 15 1986 UMI

It should be emphasized, however, that the Advance Notice of Intent process does not ensure that all potential competitors have been identified. Some applicants may opt not to submit an Advance Notice of Intent; others may change service area requests in the final submission, despite instructions in Part III., NOTICE OF INTENT, below. Therefore, as noted above, final submission should be prepared with this possibility in mind.

By October 1 of the year preceding a designation year, all organizations interested in being designated as section 401 grantees should submit an original and two copies of an Advance Notice of Intent. An organization may submit only one Advance Notice of Intent for any and all areas for which it wants to be considered. Advance Notices are to be sent to the following address: Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, 200 Constitution Ave., NW., Room N4643, Washington, DC 20210. ATTENTION: ANOI/NOI Desk.

The Standard Form (SF) 424 will no longer be used for the Advance Notice of Intent process. DOL has designed a new Advance Notice of Intent form which is formatted to capture more precise geographic service area requests and other designation information. This new format will allow DOL to expedite the identification of potentially competitive applicants.

Copies of the new Advance Notice of Intent form, with complete instructions, will be mailed to all current grantees on or about August 15. Incumbent will also receive a copy of their present service area at this time. New applicants may request copies of the Advance Notice of Intent form by writing to: Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Patrick Henry Building, 601 D Street, NW., Room 6102, Washington, DC 20213.

The first step in the designation process is to determine which areas have more than one potential applicant for designation. For those areas for which more than one organization submits an Advance Notice of Intent, each such organization will be notified of the situation and will be apprised of the identity of the other organization(s) applying for that area. At this time, it is planned that such notification will consist of providing affected applicants with copies of all Advance Notices of Intent submitted for their areas. The notification will occur on or about November 15. The notification will state that organizations are encouraged to work out any jurisdictional disputes among themselves and to submit a final Notice of Intent by the required postmarked January 1 deadline or withdraw their Advance Notice.

For areas other than reservations, it is DOL policy that, to the extent possible, service areas and the organizations operating in those areas be determined by the community to be served by the program. In the event the Native American community cannot resolve differences, the notification will inform parties that they should take special care with their final Notices of Intent to ensure they are complete and fully responsive to all matters covered by the preferential hierarchy and rating systems discussed in this notice.

Information provided in the Advance Notice of Intent process will not be considered as a final submission as referenced at 20 CFR 632.11.

III. Notice of Intent

All applicants will submit an original and 2 copies of a final Notice of Intent, postmarked no later than January 1, 1987, consistent with the regulations at 20 CFR 632.11. Final Notices of Intent are to be sent to the following address: Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, 200 Constitution Ave., NW., Room N4643, Washington, DC 20210. ATTENTION: ANOI/NOI Desk.

The regulations permit current grantees requesting their existing service areas to submit a Standard Form 424 in lieu of a complete application. As noted earlier in this notice, current grantees, other than tribes, bands or groups (including Alaskan Native entities) requesting their existing areas, are encouraged to consider submitting a full Notice of Intent even if their service area request has not changed.

Although organizations are encouraged to alter their area requests to minimize or avoid overlap with other organizations, they should not add territory to that identified in the Advance Notice of Intent. Unless currently designated for such area, any organization applying on January 1 for noncontiguous areas must prepare a separate, complete Notice of Intent for each such area.

It is the DOL's policy that no information affecting the panel review process (see Part V of this notice) will be accepted past the regulatory postmarked deadline of January 1, nor will DOL provide assistance, at any time, concerning any item involved in the panel review process. All information provided before the deadline must be in writing.

IV. Preferential Hierarchy for Determining Designations

In cases when only one organization is applying for a clearly identified geographic area and the organization meets the requirements at 20 CFR 632.10(b), DOL shall designate the applying organization as the grantee for the area. In cases when two or more organizations apply for the same or an overlapping area, DOL will utilize the order of preference described in the following paragraph in determining the designee for the geographic area in question. The organization which falls into the highest category of preference will be designated, assuming all other regulatory and procurement requirements are met. The preferential hierarchy is:

(1) Indian tribes, bands, or groups on Federal or State reservations for their reservation; Oklahoma Indians (see Part VII., SPECIAL DESIGNATION SITUATIONS, below); and, Alaskan Native entities (see Part VII. SPECIAL DESIGNATION SITUATIONS, below).

(2) Native American-controlled, community-based organizations with significant support from other Native American controlled organizations within the community) for their existing DOL designated service area and all non-incumbent Native American-controlled, community-based organizations that are challenging such incumbents or seeking to serve areas for which the incumbent is not re-applying.

Competition will only be permitted when a non-incumbent can demonstrate in its application, by verifiable information, that it is potentially significantly superior overall to the incumbent. Such potential will be determined by the consideration of such factors as the completeness of the application, documentation of past experience and Native American-controlled organization support, and the capability of the incumbent. In the instance of no incumbent, new applicants qualified for this category would compete against each other.

(3) Organizations (private nonprofit or units of State or local government) having a significant Native American advisory process, such as a governing body chaired by a Native American and having a majority membership of Native Americans.

(4) Non-Native American-controlled organizations without a Native American advisory process. In the event such an organization is designated, it must subsequently develop a Native American advisory process.

The Chief, DINAP, may convene a task force to assist in making hierarchal determinations. The task force may also perform such technical and advisory functions as determining which areas have more than one applicant for designation, documenting the eligibility of new applicants, and ascertaining the timeliness of final Notice of Intent submissions. The role of the task force is that of a technical advisory body.

The Chief, DINAP, will ultimately advise the Grant Officer as to which position an organization holds in the hierarchy. Within the regulatory time constraints of the designation process, the Chief, DINAP, may utilize whatever information is necessary to make the final determinations.

It is incumbent on the applying organization to supply sufficient information upon which the determination can be made. Organizations must indicate the category into which they believe they fall and must adequately support that assertion. As indicated earlier, applicants will not be able to provide any information past the January 1 postmark deadline and no information will be solicited by DINAP

V. Use of Panel Review Procedure

Competition shall occur under the following circumstances:

(1) The Chief, DINAP, determines that a new applicant qualified for the second category of the hierarchy appears to be potentially significantly superior overall to an incumbent Native American-controlled, community-based organization with significant local Native American community support.

(2) The Chief, DINAP, determines that more than one new applicant is qualified for the second category of the hierarchy and the incumbent grantee has not re-applied for designation.

(3) The Chief, DINAP, determines that two or more organizations have equal status in the third or fourth categories of the hierarchy.

When competition occurs, the Grant Officer may convene a review panel of Federal Officials to score the information submitted with the Notice of Intent. The purpose of the panel is to evaluate an organization's capability, based on its application, to serve the area in question. The panel will be provided only the information described at 20 CFR 632.11 and submitted with the January Notice of Intent. The panel results will be advisory to the Grant Officer, not binding. In reviewing information submitted by the organization, the panel will not accept simple assertions. Any information must be supported by adequate and verifiable documentation.

The following factors will be considered.

(1) Operational Capability—50 points. (20 CFR 632.10 and 632.11).

(1) Previous experience in successfully operating an employment and training program serving Indians or Native Americans of a scope comparable to that which the organization would operate if designated—30 points.

(ii) Previous experience in operating other human resources development programs serving Indians or Native Americans or coordinating employment and training services with such programs—10 points.

(iii) Ability to maintain continuity of services to Indian or Native American participants with those previously provided under JTPA—10 points.

(2) Planning Process—30 points. (20 CFR 632.11)

(i) Private sector involvement—10 points.

(ii) Community support as defined in Part VIII, DESIGNATION PROCESS GLOSSARY—20 points.

(3) Administrative Capability—20 points. (20 CFR 632.11)

(i) Previous experience in administering public funds under DOL or similar administrative requirements—15 points.

(ii) Experience of senior management staff to be responsible for DOL grant, if designated—5 points.

VI. Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision giving consideration to the review panel's recommendation, in those instances where a panel is convened; input from DINAP, OSTP, Office of Program and Fiscal Integrity, and Office of the Inspector General; and any other available information regarding the organization's responsibility. The Grant Officer's decisions will be provided to all applicants by March 1, as follows:

(1) *Designation Letter:* The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographic area requested in the final Notice of Intent. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or, if acceptable to the designee, more than the area requested.

(2) *Conditional Designation Letter.* Conditional designations will include the nature of the conditions, the actions required to be finally designated and the time frame for such actions to be accomplished.

(3) *Non-designation Letter.* Any organization not designated in whole or in part, for an area requested will be notified formally of the non-designation and given the basic reasons for the determination. An applicant for designation which is refused such designation, in whole or in part, may file a Petition for Reconsideration in accordance with 20 CFR 632.13. If an area is not designated for service through the foregoing process, alternative arrangements for service will be made in accordance with 20 CFR 632.12.

VII. Special Designation Situations

(1) Alaskan Native Entities

DOL has established service areas for Alaskan Native employment and training programs based on the boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); the boundaries of major subregional areas where the primary provider of human resource development and related services is an Indian Reorganization Act (IRA)-recognized tribal council; and the boundaries of the one Federal reservation in the State. Within these established servce areas, DOL has designated the primary Alaskan Native-controlled human resource development services provider of an entity formally designated by such provider. These entities have been regional nonprofit corporations, associated corporations established by the regional nonprofit corporation, IRA-recognized tribal councils and the tribal government of the Metlakatla Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 1987 and 1988.

(2) Oklahoma Indians

DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indians to serve portions of the State. Generally, service areas have been designated geographically as countrywide areas. Where a significant portion of the land area of an individual county lies within the traditional jurisdiction of more than one tribal government, the service area to a certain extent has been subdivided on the basis of tribal identification information in the most recent Federal Decennial Census of Population. However, where members

VOL 51 ISS 158 AG 15 1986 UMI

of many different tribes reside in a given county, no attempt has been made to apportion those members among all of the repective tribes. Wherever possible, arrangements mutually satisfactory to grantees in adjoining or overlapping service areas have been horored by DOL. DOL intends to follow these principles in designating Native American grantees in Oklahoma for Program Years 1987 and 1988. The DOL will exercise its designation authority in a way that will preserve the continuity of services and will prevent the under fragmentation of existing services areas.

VIII. Designation Process Glossary

In order to ensure that all interested parties have the same understanding of the process, the following are definitions for important terms:

(1) Indian or Native American-Controlled Organization

Any organization with a governing board, more than 50 percent of whose members are Indian or Native American people. Such an organization can be a tribal government, Native Alaskan or Native Hawaiian entity, consortium, private nonprofit corporation, or State agency, as long as decisions regardin the program rest with such a governing board.

(2) Service Area

The geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also show the specific population to be served. The service area is defined finally by the Grant Officer in the formal designation letter. Grantees must insure that all eligible population members have equitable access to services within the service area.

(3) Established Service Area

The area defined by geography or service population which DOL has previously designated as a service area for Indian and Native American CETA or JTPA purposes.

(4) Community Support

Evidence of active participation and/or endorsement from Indian or Native American-controlled organizations within the geographic area for which designation is requested. Applicants should provide supporting documentation regarding the nature of such organizations, *e.g.*, articles of incorporation or charter, size, membership, duration, etc.

While applicants are not precluded from submitting attestations of support from individuals, the business community, State and local government offices, and community organizations that are not Indian or Native American-controlled, they should be aware that such endorsements do not meet DOL's definitional criteria for community support.

Signed at Washington, DC, this 7th day of August, 1986.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Robert D. Parker,

Grant Officer, Office of Acquisition and Assistance.

Herbert Fellman,

Chief, Division of Indian and native American Programs.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-18514 Filed 8-14-86; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Addition to Annual List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The addition to the annual list is effective on August 1, 1986.

SUMMARY: The purpose of this notice is to announce an addition to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, 601 D Street, NW., Attention: TEESS, Washington, DC 20213. Telephone: 202-376-6191.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 11, 1985 (50 FR 41606).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the annual list of labor surplus areas, effective August 1, 1986.

The following addition to the annual list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC, on August 7, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

Addition to the Annual List of Labor Surplus Areas—August 1, 1986

Labor Surplus Area

Louisiana: Plaquemines Parish

Civil Jurisdiction Included

Louisiana: Plaquemines Parish

[FR Doc. 86-18515 Filed 8-14-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,057]

Eaton Corp., Kenosha, WI; Negative Determination Regarding Application for Reconsideration

By an application dated July 8, 1986, the Machinists Union requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of

workers and former workers at Eaton Corporation, Kenosha, Wisconsin. The denial notice was published in the **Federal Register** on July 16, 1986 (51 FR 25762).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the electronic controls division at Kenosha did not directly affect the industrial drives division in Kenosha which is where the bulk of the employees were laid off. It also claims that the production of electronic controls for the drives was transferred to North Carolina and not the electrical drives as stated in the Department's notice. Finally, it claims that much of the drive market has disappeared since many of Eaton's customers are automobile manufacturers which have been adversely affected by foreign competition.

Findings in the investigation show that the workers produced industrial drives—also called electric drives—for commercial and industrial applications and electronic controls for those drives. Workers separated from employment at Kenosha during the applicable period resulted from the transfer of production of electronic controls to a company plant in Sanford, North Carolina. Declines in the production of electronic controls at the Kenosha plant in 1985 were offset by increases in the production of electronic controls at the Sanford plant. Workers separated because of the domestic transfer of production would not provide a basis for a certification.

Also, the company reported that during the period applicable to the petition, no industrial drive production workers were laid off for lack of work at Kenosha. The production of drives at Kenosha increased in 1984 and in 1985 compared to the immediately preceding year.

The statement in the notice concerning the domestic transfer of production of electrical drives instead of electronic controls for drives to a company plant would not provide a basis for certification.

The union's claim that much of Eaton's market for industrial drives disappeared since their primary customers were the domestic auto producers whose business has been adversely affected by foreign competition does not provide a basis for certification. The Department recognizes that in an economic sense employees of firms producing industrial drives and other capital equipment can be adversely affected by imports of products produced further downstream in the economy. Under the Trade Act of 1974, however, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered. Imports of automobiles or capital equipment incorporating industrial drives cannot be taken into account in determining whether workers of Eaton Corporation producing industrial drives can be certified.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 4th day of August 1986.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 86-18512 Filed 8-14-86; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Unemployment Insurance Program; Letter No. 48-86

Unemployment Insurance Program Letter No. 48-86 sets forth procedural requirements for the preparation of requests for repayable Title XII advances or voluntary repayments to be submitted by States. It also provides references and interpretative guidelines relating to sections 1201(a)(1)(A), 1202 (a), and 1202(b)(6)(A) of the Social Security Act and Sections 3302(c)(2), 3302(f) and 3302(g) of the Federal Unemployment Tax Act on these subjects.

Dated: July 29, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

Directive: Unemployment Insurance Program Letter No. 48-86
To: All State Employment Security Agencies
From: Donald J. Kulick, Administrator, for Regional Management
Subject: Governors' Requests for Repayable Title XII Advances from the Federal Unemployment Account

1. *Purpose.* To provide updated procedural requirements for the preparation of requests for Title XII advances or voluntary repayments submitted by States. This directive replaces UIPL 17-76 dated February 28, 1986.

2. *References.* Title XII, Social Security Act, as amended: Section 3302, Federal Unemployment Tax Act, as amended: UIPL 13-82.

3. *Background.* Section 1201 of the Social Security Act permits the Governor of a State to request repayable advances from the Federal unemployment account for any 3-month period during which State unemployment fund reserves are inadequate to meet current needs for benefits. Amounts needed for each month during the 3-month period must be shown separately. The amount approved for any month will be transferred to the State's account in the Unemployment Trust Fund (UTF) on a day-to-day basis as needed to accommodate agency requisitions for benefit payments.

The certification to the Secretary of the Treasury will specify that amounts so transferred during any month will not exceed the dollar amount requested by the Governor for that month. If the amount actually used is less that the amount approved for that month, the unused amount will revert to the Federal unemployment account as of the close of business of that month

Under this approach, the total amount of Title XII advances charged to a State during any month may be less than the requested amount, but will not exceed it.

4. *Requests for Advances.* Section 1201(a)(1)(A) of the Social Security Act provides that advances shall be made to a State for the payment of compensation in any 3-month period if the Governor of the State applies therefore no earlier than the first day of the month preceding the first month of such 3-month period; and provided further that all other qualifying requirements for obtaining advances are met.

a. Effective immediately, the Governor, at his/her discretion, may delegate the authority to formally request Title XII advances to the head of the State employment security agency or some other State official, in accordance with authority provided by State law.

b. To initiate the process, a letter from the Governor to the Secretary of Labor must be forwarded enclosing a certified copy of the document evidencing such delegation, together with a facsimile signature of the official to whom such authority has been delegated. Additional evidence or certification of the Governor's authority to so delegate will not be necessary; such authority will be assumed from the certified document

c. A new or redelegation of authority when a new Governor takes office is not necessary unless required by State law. A new redelegation of authority must be submitted by the Governor if the person to whom the original (or subsequent) delegation is changed.

VOL 51 ISS 158 AG 15 1986 UMI

d. The Governor, or the person to whom such authority has been delegated by the Governor, will submit a single request to the Secretary of Labor covering a 3-month period. If an advance is required for one or two months of the 3-month period, the request must cover the entire 3 months. Months during which no advances are required should indicate zero dollars needed. If it later becomes necessary to borrow for these months, an amended or supplemental request must be submitted.

e. Request for advances are to be received in the Office of the Secretary of Labor 15 working days before the first day of the applicable 3-month loan period in order to provide sufficient time for review. An advance copy of the formal request should be sent to the Employment and Training Administration, Attention: TEUMI, Room 7100, 601 D Street, NW., Washington, DC 20213. This will alert the National Office that a request is in transit and help expedite the processing of such requests. No funds will be transferred until the original request signed by the Governor, or the person to whom such authority has been delegated by the Governor, is received in the Office of the Secretary.

f. The Director of the Unemployment Insurance Service will decide if the rquest is justified, and if approved, will certify to the Secretary of the Treasury the amount to be transferred during each of the 3 months covered in the formal request. Transfer of funds to the State's account in the UTF will be made on a daily basis, as needed to meet requisitions for benefit payments, based on the State's balance in the UTF including all confirmed deposits received by Treasury through the date of transfer.

g. Amounts certified as available to a State in any month which are not required to meet that month's requisitions for payment of benefits will be returned to the Federal unemployment account as of the close of business of the month involved. Unused balances will *not* be carried forward into the next month. The State will be charged interest only on that portion of certified advances which are actually drawn down by the State.

h. The Governor or his/her delegate may submit a supplemental request for any month in which it is later determined that the previously approved amount is insufficient to meet benefit payment obligations. *A Governor or his/her delegate may telegraph supplemental or emergency advance requests to the Secretary of Labor, but these must be verified immediately by a formal written request* over an authorized signature.

Emergency requests should include: (1) The dollar amount requested, (2) the date on which the Governor or his/her delegate estimates the funds will be needed, and (3) a statement that the signed formal request is being sent on the same day as the telegram. *Actual transfer of funds will be completed only when the formal signed request is received.* The Regional Office should be notified by telephone that a telegraphic emergency request is enroute. The National Office (TEUMI) should be advised immediately of the existence of the telegram.

i. The Governor or his/her delegate will be promptly advised of action taken on requests for Title XII advances.

5. *Voluntary Repayment of Advances.* Section 1202(a) of the Social Security Act provides that the Governor of a State may at any time request that funds be transferred from the account of the State in the UTF to the Federal unemployment account in repayment of part or all of advances made to the State under Section 1201 of the Act.

a. Effective immediately, the Governor, at his/her discretion, may delegate to the head of the State employment security agency or some other State official, the authority to formally request transfers of funds from the account of the State in the UTF to the Federal unemployment account to voluntarily repay part or all of advances made to the State under section 1201 of the Act, in accordance with authority provided by State law.

b. To initiate the process, a letter from the Governor to the Secretary of Labor must be forwarded enclosing a certified copy of the document evidencing such delegation, together with a facsimile signature of the official to whom such authority has been delegated. Additional evidence or certification of the Governor's authority to so delegate will not be necessary; such authority to be assumed from the certified document.

c. A new or redelegation of authority when a new Governor takes office is not necessary unless required by State law. A new redelegation of authority must be submitted by the Governor if the person to whom the original (or subsequent) delegation is changed.

d. Section 1202(b)(6)(A) of the Act provides that any voluntary repayment by a State under section 1202(a) shall be applied against interest-bearing advances received by the State on a last made first repaid basis. This will minimize interest charges on advances received on or after April 1, 1982. Any other repayment of advances, such as voluntary repayment of non-interest-bearing advances, or repayment through reduced FUTA credits, shall be applied against all outstanding advances on a first made first repaid basis.

e. A request for voluntary repayment under section 1202(a) of the Act must be made in a letter to the Secretary of Labor signed by the Governor or the official to whom this authority has been delegated by the Governor of the State.

(1) A telegram may also be used to request a voluntary repayment subject to the following conditions:

- The effective date of the requested transfer of funds may not be earlier than the date that the telegram is received in the Office of the Secretary of Labor.
- (A) confirming letter over the signature of the Governor, or the person to whom this authority has been delegated by the Governor of the State, must be forwarded promptly, and must be received in the Office of the Secretary of Labor within 5 business days (excluding Saturdays, Sundays, and Federal Holidays) of the date the telegram was forwarded.

(2) Transfer of funds requested by telegram will be accomplished on the date requested if the above conditions are met.

(3) If the confirming letter is not received within the 5-day timeframe, the Secretary of the Treasury will be instructed to reverse the requested repayment transaction and the effective date of the requested voluntary repayment will be the later of the date the confirming letter is received in the Office of the Secretary of Labor or the date requested in the confirming letter.

(f) The effective date of a transfer of a voluntary repayment will be the later of the date specified in the letter signed by the Governor, or the person to whom such authority ha been delegated by the Governor of the State, or the date the letter is received in the Office of the Secretary of Labor; the effective date may be the earlier date of receipt of a telegram in the office of the Secretary of Labor, if the conditions in item 5.e are met.

g. The requested amount of repayment will be certified to the Secretary of the Treasury for transfer from the State's account in the Unemployment Trust Fund to the Federal unemployment account to be effective on the date as determined under items 5.e and 5.f above.

h. The Governor or his/her delegate will be promptly advised of action taken on the request for voluntary repayment of Title XII advances.

i. Scheduled partial repayments may be requested if the condition of the State unemployment reserve improves sufficiently to permit programmed repayments. A State may elect to voluntarily repay interest-bearing Title XII loans on a scheduled basis. The schedule will serve to advise the Treasury Department that authorization is being given to transfer specific amounts on designated days during the period covered by the schedule. The total repayment stated in the Governor's (or his/her delegate's) letter must agree with the sum of all repayments specified in the schedule. The determination as to a State's ability to schedule repayments rests with the State. The SESA is responsible for assuring that sufficient funds are available in its account in the Unemployment Trust Fund to make each scheduled repayment (see item 5.k below).

j. A SESA may receive Title XII advances and make voluntary repayments during the same month. However, such repayments must be made in accordance with the procedure contained in this directive. Blanket authorization arrangements which would result in an automatic transfer of funds for repayment controlled by a SESA's balance in the UTF on any day cannot be done under existing statutory requirements.

k. If there are insufficient funds in the State's account to make the full repayment requested on the effective date as determined above, the Trust/Funds Branch in the U.S. Treasury will transfer, unless otherwise notified, from the account of the State in the UTF to the Federal unemployment account on the effective date the amount detrmined to be available for transfer on that day. The Trust/Funds Branch will also notify the SESA immediately of any reduction in requested repayments.

6. *Addressing and Deliveing Requests for Advances or Repayments.* All original and confirming letters and telegrams requesting Title XII advances or voluntary repayments

must be sent to: The Honorable William E. Brock (current Secretary), Secretary of Labor, U.S. Department of Labor, Room S–2523, 200 Constitution Ave, NW., Washington, DC 20210.

Correspondence and/or telegrams being hand carried to assure "same day" log-in and date stamping *must be received in Room S–2519 prior to 5:30 P.M. on the date of delivery.* If delivered after that time, log-in and date stamping will occur the following morning.

Envelopes containing requests for loans or repayments not originating in the Office of the Governor should be clearly labelled as a "Request for Advances" or "Voluntary Repayment" on the face of the envelope.

7. *Federal Unemployment Tax Act (FUTA) Credit Reduction.* If a balance of advances to a State under section 1201 is outstanding on January 1, in two consecutive years and not fully repaid prior to November 10 of the second year, employers subject to contributions under such State's unemployment conpensation law will be subject to additional Federal unemployment taxes determined by a formula of reductions in credit against the tax. Such credit reduction will apply beginning with the second consecutive January 1 as of the beginning of which there is a balance of such advances.

The credit reductions, pursuant to section 3302(c)(2) of FUTA, increase employers' Federal tax liability each year in 0.3 percent increments plus additional amounts based on the State's average tax rate or 5-year benefit cost rate in relation to 2.7 percent beginning with the second year in which the credit reduction applies. No additional tax is payable for any year in which there is no outstanding balance of advances in a State account as of the beginning of November 10 of such year.

The amount equal to the reduced credits, excluding penalty and interest, will be applied to reduce the State's balance of advances (including advances made before April 1, 1982) on a first made first repaid basis. Revenue from reduced credits in excess of a State's balance of advances will be paid into the State's account in the Unemployment Trust Fund.

8. *Limitation (Cap) on Credit Reductions.* The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) amended FUTA by adding a new subsection (f) to Section 3302 which provides for a limitation on the amount of credit reduction applicable to a State making certain efforts to resolve its benefit financing problems. The limit or "cap" on tax credit reductions in a qualifying State is the higher of 0.6 percent or the last amount paid by employers in that State through reduced credits. Requirements to qualify for the cap are detailed in UIPL 13–82.

9. *Avoidance of Tax Credit Reductions.* Under the conditions expressed in Section 3302(g), FUTA, a State may avoid FUTA credit reductions in any year by paying an amount equal to the amount employers would pay through reduced credits for that year, and by voluntarily repaying all Title XII advances received in the 1-year period ending on November 9 of such year. Both payments would have to be made before November 10 of the taxable year, and during the 1-year period ending on November 9 of such year.

Also, the Secretary of Labor must determine that there will be sufficient funds available in the State unemployment fund to meet benefit payment requirements during the 3-month period beginning on November 1 of such taxable year, that there has been a net increase in the solvency of the State unemployment compensation system for that taxable year, and such net increase equals or exceeds the potential additional taxes for such taxable year.

10. *Action Required.* All States should follow the above procedures and submit the required documentation when requesting or repaying Title XII advances.

11. *Inquiries.* Direct questions to the appropriate Regional Office.

12. *Attachments.*

a. Sample letter from Governor to Secretary of Labor (Request for Advances)

b. Sample letter to Governor advising of action taken (Request for Advances)

c. Sample letter from Governor to Secretary of Labor (Request for Voluntary Repayment)

d. Sample letter to Governor advising of action taken (Request for Voluntary Repayment)

Attachment A.—To UIPL 48–86

Facsimile—Letter Formally Requesting Title XII Advances

The Honorable William E. Brock,
Secretary of Labor, U.S. Department of Labor, Room S–2519, 200 Constitution Avenue, NW., Washington, DC 20210

Dear Secretary Brock: I hereby apply for repayable advances to the account of the State of ——— in the Unemployment Trust Fund from the Federal unemployment account in such Fund, for the month of ———, in accordance with the provisions of Section 1201 of the Social Security Act.

My estimate of the amount of advances required to pay compensation under this State's Unemployment Compensation Law is as follows:

Amount not to exceed	Month of transfer
$———	———
$———	———
$———	———

To assure payment of all compensation that becomes due under the Unemployment Compensation Law of this State, it is requested that the actions provided under Section 1201 of the Social Security Act be taken as expeditiously as possible.

Sincerely,

Attachment B.—To UIPL 48–86

Facsimile—Response Advising of Action Taken on Request for Title XII Advances

The Honorable ———
Governor of ———

(appropriate inside address and salutation)

Dear Governor ———:

Your application for repayable advances during the months of ———, ———, and ———, from the Federal unemployment account in the Unemployment Trust Fund to the account of your State in such Fund, meets the requirements of Section 1201 of the Social Security Act.

I have certified to the Secretary of the Treasury for advance to the account of your State, subject to the availability of funds, an amount up to, but not to exceed, the amount requested for each month as follows:

Amount not to exceed	Month of transfer
$———	———
$———	———
$———	———

An advance will consist of funds actually used during each month, which may be less than, but will not exceed, the amount certified for that month. If the amount used during the month is less than the amount certified, the unused portion will revert to the Federal unemployment account. The Trust/Funds Branch in the U.S. Treasury Department will notify the State directly of the amount of interest-bearing advance actually made during each month.

All repayable Title XII advances are subject to the interest-charging provisions of Section 1202(b) of the Social Security Act. The rate of interest to be charged during calendar year ——— is ——— percent.

Acceptance of an advance is deemed to constitute acceptance of the obligation to pay any interest that may become due no later than the due date for such payment. Sections 303(c)(3) and 1202(b) of the Social Security Act and Section 3304(a)(17) of the Internal Revenue Code of 1954 apply to the timeliness and source of money for payment of interest on Title XII advances.

Sincerely,

Carolyn M. Golding,
Director, Unemployment Insurance Service.

Attachment C.—To UIPL 48–86

Facsimile—Formal Letter Requesting Voluntary Repayment of Title XII Advances

The Honorable William E. Brock,
Secretary of Labor, U.S. Department of Labor, Room S–2519, 200 Constitution Avenue, NW., Washington, DC 20210

Dear Secretary Brock: In accordance with the provisions of Section 1202(a) of the Social Security Act, I hereby request the transfer of $——— from the account of the State of ——— in the Unemployment Trust Fund to the Federal unemployment account, to be effective on ———

This requested transfer of funds represents voluntary repayment (in full or partial repayment) of repayable Title XII advances made to the State of ——— during the period ———.

Sincerely,

Attachment D.—To UIPL 48–86

Facsimile—Response to Governor Advising of Action Taken on Request for Voluntary Repayment of Title XII Advances.

The Honorable ———
Governor of ———

(appropriate inside address and salutation)

Dear Governor ———: This will respond to your recent (letter) (telegram and letter) to

Secretary Brock requesting a transfer of funds from the account of your State in the Unemployment Trust Fund to the Federal unemployment account in repayment of advances made to your State under Title XII of the Social Security Act.

I am certifying to the Secretary of the Treasury the following amount(s) for transfer on the date(s) shown:

Amount	Effective date
$_____	_____

A voluntary repayment will be applied to advances on a last made-first repaid basis to the extent sufficient funds are available in your State's account in the Unemployment Trust Fund after deducting scheduled withdrawals. Any amount of a loan repayment which cannot be completed on the date specified in this letter will be disallowed.

The agency administering your State unemployment fund will be advised by the Trust/Funds Branch in the U.S. Treasury Department of the actual application of the requested repayment(s) and the remaining balance of advances after the transaction(s) is (are) completed.

Sincerely,

Carolyn M. Golding,

Director, Unemployment Insurance Service.

[FR Doc. 86-18513 Filed 8-14-86; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I	
District of Columbia:	
DC86-1 (Jan. 3, 1986)	p. 80, pp. 85-86.
New York:	
NY86-9 (Jan. 3, 1986)	p. 723.
NY86-10 (Jan. 3, 1986)	p. 725.
NY86-17 (Jan. 3, 1986)	p. 777.
Volume II	
Illinois:	
IL86-1 (Jan. 3, 1986)	pp. 64-65, pp. 74,76.
Michigan:	
MI86-1 (Jan. 3, 1986)	p. 386.
MI86-12 (Jan. 3, 1986)	pp. 470,472, pp. 474-475.
Missouri:	
MO86-3 (Jan. 3, 1986)	p. 570.
MO86-4 (Jan. 3, 1986)	p. 576.
MO86-5 (Jan. 3, 1986)	p. 579.
MO86-6 (Jan. 3, 1986)	p. 583, pp. 585-586.
MO86-7 (Jan. 3, 1986)	pp. 590-591.
MO86-10 (Jan. 3, 1986)	pp. 606-607.
Ohio:	
OH86-1 (Jan. 3, 1986)	pp. 662-666.
OH86-2 (Jan. 3, 1986)	pp. 676-680, p. 682.
OH86-3 (Jan. 3, 1986)	pp. 697-699.
OH86-28 (Jan. 3, 1986)	pp. 752-753.
OH86-29 (Jan. 3, 1986)	pp. 757-795.
Oklahoma:	
OK86-13 (Jan. 3, 1986)	pp. 821-822.
Texas:	
TX86-2 (Jan. 3, 1986)	p. 845.
TX86-3 (Jan. 3, 1986)	p. 849.
TX86-4 (Jan. 3, 1986)	p. 852.
TX86-5 (Jan. 3, 1986)	p. 854.
TX86-10 (Jan. 3, 1986)	pp. 870-871.
TX86-14 (Jan. 3, 1986)	pp. 879-882.
TX86-15 (Jan. 3, 1986)	p. 884.
TX86-17 (Jan. 3, 1986)	p. 889.
TX86-18 (Jan. 3, 1986)	p. 891.
TX86-19 (Jan. 3, 1986)	p. 894.
Listing by location (index):	pp. xliii-xliv, pp. xxix-xxx.
Volume III	
Utah:	
UT86-1 (Jan. 3, 1986)	p. 282.
Washington:	
WA86-1 (Jan. 3, 1986)	pp. 299-300, p. 304.
WA86-2 (Jan. 3, 1986)	pp. 329-330.
WA86-3 (Jan. 3, 1986)	pp. 339, 341.
WA86-5 (Jan. 3, 1986)	p. 356.
WA86-6 (Jan. 3, 1986)	p. 360.
WA86-7 (Jan. 3, 1986)	p. 362.
WA86-8 (Jan. 3, 1986)	pp. 365b-365d.
WA86-9 (Jan. 3, 1986)	pp. 365f-365g.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 8th day of August 1986.

James L. Valin

Assistant Administrator.

[FR Doc. 86–18221 Filed 8–14–86; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under section 1–5 of Executive Order 12196 of February 26, 1980, published in the **Federal Register**, February 27, 1980 (45 FR 12769), will meet on August 28, 1986, starting at 10:00 am in Room N3437 ABCD, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Election of Vice Chairman
III. Introduction of New Members
IV. Report of Ad Hoc Committee on Hazard Communications
V. Proposed changes to Articles of Organization
VI. Discussion of Representation at Agency Abatement Sessions
VII. 41st Annual Federal Safety and Health Conference
VIII. Revision of Subpart I, 29 CFR Parts 1960 and 2014 Publication
IX. Discussion of Subcommittee on Occupational Health Mission and Function Statement
X. New Business
XI. Adjournment

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business August 22, 1986, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business August 22, 1986. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue, NW., Room N3613, Washington, DC 20210, telephone (202) 523–9329.

Signed at Washington, DC, this 12th day of August 1986.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 86–18516 Filed 8–14–86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least monthly of all agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which reduce the records retention period for records already authorized for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C 3303a(a).

DATE: Comments must be received in writing on or before October 14, 1986.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval:

1. Department of the Air Force, Directorate of Administration (N1–AFU–86–55), Travel and Accounting Records.

2. Administrative Office of the United States Courts, Bankruptcy Division (N1–116–86–1). Records relating to the management of the bankruptcy system in the Federal court system.

3. Department of Justice, Criminal Division, Mail, File and Records Unit (N1–60–86–01). General name and

subject index cards to Criminal Division case files.

4. Department of Justice, Immigration and Naturalization Service (N1–85–86–2). Case files on documented false claims to U.S. citizenship by resident aliens or aliens entering the United States.

5. Department of Justice, Federal Bureau of Prisons (N1–129–86–1). Case files on compensation claims submitted by federal inmates for work-related injuries incurred in a prison workplace.

6. Department of Justice, Drug Enforcement Administration (DEA) (N1–170–86–1). Records relating to personnel and housekeeping matters and the implementation of the Office of Management and Budget Circular A–123.

7. Department of Justice, Drug Enforcement Administration (N1–170–86–2). Travel and obligation control files.

8. Office of Personnel Management, Office of Information Management (N1–GRS–86–1). An addition to General Records Schedule 1, Civilian Personnel Records, for agreements by which the Office of Personnel Management delegates to agencies authority to examine and certify applicants for employment.

9. Tennessee Valley Authority, Power Operations, Division of Operations Support—Power Service Shops (N1–142–86–7 through –11). Administrative records related to shop operation, equipment inspection and personnel quality assurance training and certification.

10. Department of Transportation, Office of the Secretary (N1–398–86–1). Commuter air carrier fitness files.

Dated: August 8, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86–18467 Filed 8–14–86; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–456A]

Commonwealth Edison Co.; No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the construction permit review of Unit 1 of the Braidwood Station by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the 'significant change' determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the issuance of the Braidwood construction permits to Commonwealth Edison Company (CECO), the staffs of the Planning and Resource Analysis Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as 'staff' have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a second antitrust review at the operating license (OL) stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility in Illinois, as well as events relevant to the Braidwood construction permit review and subsequent antitrust reviews of additional nuclear units owned by Commonwealth Edison Company. In addition, the staff has considered comments from interested parties in the state of Illinois and CECO concerning CECO's business relations with its customers and competitors.

The conclusion of the staff's analysis is as follows:

Since the construction permit antitrust review of the Braidwood units in 1974 there have been subsequent reviews of the applicant's activities including antitrust reviews in 1976 for the Carroll County construction permit application and the LaSalle operating license application, and in 1983 for the Byron, Unit 1 operating license application. The Byron, Unit 1 review concluded that no significant changes had occurred in the applicant's activities up to that time, but noted that the City of Winnetka had petitioned the U.S. Court of Appeals for the District of Columbia for review of a Federal Energy Regulatory Commission (FERC) opinion. Since that review the applicant and Winnetka have filed an agreement with FERC which, if approved by the Commission, would resolve all outstanding disputes between CECO and Winnetka.

Since the Byron, Unit 1 OL review, the changes in the company's activities have involved changes in rates and rate structure, both at the retail and wholesale level, which are the result of an order of the Illinois Commerce Commission and a settlement agreement filed with the Federal Energy Regulatory Commission. Further, the applicant has contacted several electric utility companies and has offered to share participation in the Braidwood nuclear units. Based on the NRC staff review, the applicant has not unreasonably restrained these utilities from further participation in the Braidwood units.

Based upon the staff's analysis, it is my finding that there have been no significant changes in the licensee's activities or proposed activities since the completion of the previous antitrust review in connection with the construction permit.

Signed on August 8, 1986, by Harold R. Denton, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding, may file with full particulars, a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the **Federal Register**. Requests for reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the OL, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated in Bethesda, Maryland, this 11th day of July 1986.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 86–18503 Filed 8–14–86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–15239; File No. 812–6310]

The Korea Fund, Inc.; Application for Exemption From Section 12(d)(3) of the Act and Rule 12d3–1 Thereunder

August 8, 1986.

Notice is hereby given that The Korea Fund, Inc. (the "Fund" or "Applicant") c/o Meredith M. Brown, Debevoise & Plimpton, 875 Third Avenue, New York, NY 10022, a closed-end investment company registered under the Investment Company Act of 1940 ("Act") filed an application on February 26, 1986, and amendments thereto on May 6 and July 25, 1986, requesting an order of the Commission pursuant to section 6(c) of the Act, exempting the Fund from section 12(d)(3) of the Act and Rule 12d3–1 thereunder to the extent necessary to permit the Fund to invest in the securities of certain companies listed on the Korean Stock

Exchange which are affiliated with the Fund's Korean investment adviser. All intersted persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for its applicable provisions.

According to the application, the Fund's investment policy is to invest at least 80% of its net assets in the securities of Korean issuers. Applicant states that the Funds's investment adviser and manager, Scudder, Stevens & Clark, Ltd. ("Manager") has contracted with the Daewoo Research Institute ("Korean Adviser") for investment advice, research and other assistance relating primarily to the Korean securities markets and related investment opportunities appropriate for the Fund. Applicant states that the Korean Adviser, registered under the Investment Advisers Act of 1940, is a wholly-owned subsidiary of Daewoo Securities Co., Ltd. ("Daewoo Securities"), the largest securities firm and licensed broker-dealer in Korea. Applicant states that the contract with the Manager provides for the Korean Adviser to maintain a separate staff and to prepare and make specific recommendations to the Manger. Additional information concerning Korean investment opportunities is also obtained by the Manager from other sources, including Korean broker-dealers.

The application states that the Korean securities market is relatively small and that the value of equity securities listed on the Korean Stock Exchange ("KSE") at December 31, 1984, was approximately 5,148 billion Won (U.S. $6.3 billion). A significant pecentage of the total market capitalization of all KSE companies was represented by the Daewoo Companies (the "Daewoo Companies"), consisting of 26 related companies. Applicant states that the members of the Daewoo Companies are active in most segments of the Korean economy and are recognized as leading participants in the industries and businesses in which they operate. Eight of the Daewoo Companies are currently listed on the KSE, three of which are among the 28 most actively traded. The securities of the 28 companies accounted for approximately 50% of the KSE's equity turnover by trading volume in 1984. Applicant states that it is the policy of the Korean government to encourage listings on the KSE, and other Daewoo Companies are expected to be listed in the near future. Applicant states that Daewoo Securities is affiliated with and is a member of the Daewoo Companies.

Applicant states that the management of each Daewoo Company has complete autonomy with respect to the operation of its business and that no Daewoo Company seeks to interfere in the management of any other Daewoo Company. Applicant states that there is some cross-ownership of securities among the Daewoo Companies, however, no one shareholder owns a controlling block of stock in all Daewoo Companies. Applicant represents that none of the other Daewoo Companies is actually involved in the business of Daewoo Securities or Korean Adviser.

Applicant states that each of the Daewoo Companies could be deemed to be an affiliated person of Daewoo Securities and the Korean Adviser if the Daewoo Companies were deemed to be under common control with Daewoo Securities and the Korean Adviser. Applicant states that many of the Daewoo Companies maintain passive investment portfolios, which include securities of other Daewoo Companies. As a result, certain Daewoo Companies own equity directly in Daewoo securities while other have indirect interests through their shareholdings in other Daewoo Companies, which in turn, have interests (direct or indirect) in Daewoo Securities.

According to the application, section 12(d)(3) of the Act may prohibit investment by the Fund in certain Daewoo Companies since it would result in the Fund's acquisition of an indirect interest in Daewoo Securities and the Korean Adviser. Rule 12d3–1(a) allows registered investment companies to effect securities purchases that would otherwise be prohibited by section 12(d)(3) of the Act provided that the company whose secutities are to be purchased derived 15 percent or less of its gross revenues from securities related activities during its most recent fiscal year. However, Rule 12d3–1(c), according to the application, in relevant part prohibits a registered investment company from acquiring any security issued by its investment adviser, promoter, or principal underwriter or any affiliated person thereof. Applicant states that because a Daewoo Company may be deemed to be an affiliated person of the Korean Adviser and to be engaged in a securities related business through its indirect ownership interest in Daewoo Securities, the Fund seeks exemption, pursuant to section 6(c) of the Act, from the provisions of section 12(d)(3) of the Act and Rule 12d3–1 thereunder.

Applicant represents that it will invest in securities of a Daewoo Company only if the following conditions are met at the time of any acquisition of such securities (i) the Daewoo Company's ownership interests, if any, in Daewoo Securities or any other securities related business are indirect; (ii) such indirect interests, determined by an inquiry procedure set forth below,[1] in the aggregate, represent no more than 1% of the equity of Daewoo Securities or such other securities related business; (iii) the Daewoo Company has no securities related activities of its own and is actively engaged in some other business (the terms "securities related activities" and "securities related business" are used as defined in Rule 12d3–1) and (iv) the acquisition does not cause more than 25% of the Fund's total assets (taken at current value) to be invested in securities of the Daewoo Companies as a group.

Applicant maintains that permitting the Fund to invest in the Daewoo Companies under the conditions described above will permit the Fund to further diversify its portfolio within its limited market of Korean securities and will enable the Fund to invest in issuers that are significant contributors to the growth of the Korean economy and

[1] According to the application, the inquiry procedure is as follows: The Fund's Korean Adviser will compile publicly available information and information otherwise available to Daewoo Securities regarding shareholding relationships connecting a given Daewoo Company to Daewoo Securities. The Daewoo Company in which the Fund proposes to invest will be asked to provide information as to its ownership percentage in Daewoo Companies of which it owns 5% or more of the voting securities (the "First Tier Subsidiaries"); in turn each of the First Tier Subsidiaries will be requested to provide information as to its ownership percentage in corporations of which it owns 5% or more of the voting securities (the "Second Tier Subsidiaries"). The Korean Adviser will then determine (based on information available to it as to a list of shareholders of Daewoo Securities) whether any voting securities of Daewoo Securities, or of any of its corporate shareholders owning 5% or more of the voting securities of Daewoo Securities (the "Daewoo Shareholders"), are owned by such Daewoo Company or any of the First or Second Tier Subsidiaries. The indirect percentage interest of the subject Daewoo Company in Daewoo Securities will be determined by taking into account the chain of ownership, if any, connecting the Daewoo Company, the First and Second Tier Subsidiaries, the Daewoo Shareholders and Daewoo Securities itself. Possible indirect interests of the Daewoo Company in Daewoo Securities by virtue of shareholdings in entities other than the First and Second Tier Subsidiaries and/or Daewoo Shareholders will not be included in the calculation of the percentage interest, unless the Korean Adviser independently of the inquiries described above has knowledge of such indirect interests. The percentage interest will be calculated by multiplying the percentage of voting equity ownership at each level in the chain of ownership. The Korean Adviser will certify to the Fund the results of the inquiry procedures.

VOL 51 ISS 158 AG 15 1986 UMI

securities market. The Fund also submits that the exemption is consistent with the purposes fairly intended by the policy and provisions of the Act and that the conflicts of interest against which section 12(d)(3) of the Act and Rule 12d3–1(c) are directed are not present here. For example, Applicant states that it would not make sense for the Fund to purchase shares of a given Daewoo Company to reward Daewoo Securities for selling Fund shares because it is a closed-end fund whose investment adviser will not benefit from increased sale of the Fund's shares and is compensated based solely on net asset value. Applicant also states that Daewoo Securities will not be able to influence significantly the purchase of Fund shares because the Fund is intended to be an investment for non-Koreans, and Daewoo Securities is only licensed to act as a broker-dealer in Korea. Applicant further states that it would be difficult for the Fund to reward Daewoo Securities by investing in a Daewoo Company since the Daewoo Company will own, at maximum, 1% of an indirect interest in Daewoo Securities and that the Fund cannot, under its investment restrictions, invest more than 5% of its assets in any one Daewoo Company.

In addition, Applicant states that the restriction specifying that the Fund may not purchase shares of a Daewoo Company if, as a result, more than 25% of the Fund's total assets would be invested in securities of Daewoo Companies as a group, will operate to prevent the Fund from skewing its portfolio in a manner disproportionately weighted toward Daewoo Companies. Applicant also states that Daewoo Securities is very unlikely to advise its clients to invest in the Fund in consideration for the Fund investing in a Daewoo Company because the customers of Daewoo Securities are Koreans who are unlikely to invest in Fund shares. In addition, the Fund is a closed-end fund and its investment advisers do not benefit from additional purchases of Fund shares. Applicant submits that the Fund Manager, compensated directly on the basis of the Fund's net asset value, has a strong incentive to maximize the Fund's asset value and not to manage the Fund in the interests of Daewoo Securities or the Korean Adviser.

Applicant states that the requested exemption will enable the Fund to further diversify its portfolio and take advantage of an investment opportunity the Manager has determined to be among the best available on the KSE. Applicant asserts that the Daewoo Companies have grown rapidly and yielded higher returns than other Korean issuers and that it believes the Daewoo Companies should continue to perform better than the securities of Korean listed companies as a whole in the future. Applicant concludes that the Fund and its shareholders will be harmed if the Fund is unable to invest in the publicly traded Daewoo Companies.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 2, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18462 Filed 8–14–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15242; File No. 812–6222]

Merrill Lynch KECALP Growth Investments Limited Partnership 1983 et al.; Application

August 8, 1986.

Notice is hereby given that Merrill Lynch KECALP Growth Investments Limited Partnership 1983 ("1983 Partnership"), Merrill Lynch KECALP L.P. 1984 ("1984 Partnership"), Merill Lynch & Co., Inc. ("ML & Co.") and Merrill Lynch Interfunding Inc. ("MLIF," collectively, "Applicants"), 165 Broadway, One Liberty Plaza, New York, New York 10080, filed an application on October 11, 1985, and amendments thereto on March 14, and August 6, 1986, for an order, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") exempting from the provisions of section 17(a) of the Act, and pursuant to section 17(d) of the Act and Rule 17d–1 thereuder, permitting (i) the 1984 Partnership to acquire shares of common stock of New AXIA Holding Corporation ("AXIA"), CC Packaging Co., Inc. ("CC Packaging") and FGIC Corporation ("FGIC"); and (ii) the 1983 Partnership and the 1984 Partnership to acquire shares of common stock of Denny's Inc. ("Denny's"). All interested persons are referred to application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for all the applicable provisions thereof.

The application states that the 1983 Partnership and the 1984 Partnership (together, "Partnerships"), limited partnerships organized under the laws of Delaware, are non-diversified closed-end management investment companies registered under the Act. Each of the Partnerships is an "employees' securities company" within the meaning of section 2(a)(13) of the Act and operates in accordance with the terms of an exemptive order granted pursuant to section 6(b) of the Act (Investment Company Act Release No. 12363, April 8, 1982) ("KECALP Exemptive Order").

Applicants state that the general partner for each of the Partnerships is KECALP Inc. ("KECALP"), a Delaware corporation and wholly-owned subsidiary of ML & Co. KECALP is responsible for managing and making investment decisions for the Partnerships. All investments made by the 1983 Partnership are approved by the Board of Directors of KECALP ("KECALP Board") and all investments made by the 1984 Partnership are approved by the Investment Committee which presently consists of eleven of the sixteen members of the KECALP Board ("Investment Committee").

The application states that ML & Co., a Delaware corporation, is a holding company. Its principal subsidiary, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S"), is a securities firm and was the selling agent for the units issued by the Partnerships. Merrill Lynch Capital Markets ("MLCM") is an unincorporated group within MLPF&S which conducts its investment banking and underwriting activities. The application states that Merill Lynch Interfunding Inc., a Delaware corporation, is an indirect manufacturer and marketer of commercial and industrial products. During 1984, MLMC structured a leveraged buyout of AXIA at the request of its management. As a result of such transaction, AXIA's equity securities are owned by members of AXIA's management, MLIF, MLCM and certain of its affiliates, and several institutional investors that are not affiliated with ML & Co. or its subsidiaries. The application states that

MLIF has agreed to sell to the 1984 Partnership 300 shares of AXIA Common Stock. The shares proposed to be acquired by the 1984 Partnership represent 0.4% of AXIA's Common Stock on a fully-diluted basis. The price paid for such shares by ML & Co. was $100 per share ("Original Purchase Price") on October 30, 1984 ("Original Acquisition Date").

According to the application, CC Packaging manufactures and distributes flexible packaging materials. During 1983, MLCM structured a leveraged buyout of Cellu-Craft, Inc. on behalf of its management. As a result of such transaction, the equity securities of CC Packaging (the successor corporation to Cellu-Craft, Inc.) are owned by members of CC Packaging's management, MLIF, MLCM and an institutional investor that is not affiliated with ML & Co. or its subsidiaries. The application indicates that MLIF has agreed to sell to the 1984 Partnership 1,111 shares of CC Packaging Common Stock. Such shares represent 0.29% of the shares of CC Packaging Common Stock on a fully-diluted basis. The price paid for such shares by ML & Co. was $9.00 per share ("Original Purchase Price") on March 23, 1984 ("Original Acquisition Date").

According to the application, FGIC was organized in 1983 to provide, through one or more subsidiaries, insurance and financial guarantees for a variety of investment instruments. ML & Co. participated in the organization of FGIC and presently holds approximately 19% of FGIC's outstanding Common Stock and approximately 13% of FGIC's non-voting Cumulative Convertible Preferred Stock. The total investment by ML & Co. represents approximately 17% of FGIC's capitalization on a fully converted basis. The application indicates that ML & Co. has agreed to sell to the 1984 Partnership 4,580 shares of FGIC's Common Stock. The price paid for such shares by ML & Co. was $131 per share ("Original Purchase Price") in June, 1985 ("Original Acquisition Date").

According to the application, Denny's is in the food service industry. During 1984, MLCM structured a leveraged buyout of Denny's on behalf of its management. As a result of the leveraged buyout transaction, Denny's equity securities are owned by members of Denny's management, MLIF, MLCM and certain of its affiliates and several institutional investors that are not affiliated with ML & Co. or its subsidiaries. The application indicates that MLIF has agreed to sell to the 1983 Partnership and 1984 Partnership 4,310 shares and 8,620 shares, respectively, of Denny's Common Stock. The shares proposed to be acquired by the 1983 Partnership represents 0.2% of Denny's Common Stock on a fully-diluted basis, and the shares proposed to the acquired by the 1984 Partnership represent 0.4% of Denny's Common Stock on a fully-diluted basis. The price paid for such shares by ML & Co. was $46.40 per share ("Original Purchase Price") on January 25, 1985 ("Original Acquisition Date").

According to the application, the purchase price to be paid by the Partnerships to MLIF for the shares proposed to be acquired will be the lower of (i) the value of the investment on the date it is acquired by the Partnerships (as determined by the KECALP Board) or (ii) the cost of MLIF of purchasing and holding the investment. With respect to clause (ii), such cost shall be the Original Purchase Price paid for such shares on the Original Acquisition Date, plus carrying costs relating to such investment. For purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime lending rate charged by Citibank, N.A. during the period from the date of the KECALP Board, with respect to the 1983 Partnership, or the Investment Committee, with respect to the 1984 Partnership, approves the investment until the respective Partnership acquires the investment or (ii) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual "Average Cost of Funds," which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during this period.

The Applicants request that, pursuant to section 17(b) of the Act, the order:

(i) Permit the sale of 300 shares of Common Stock of AXIA by MLIF to the 1984 Partnership;

(ii) Permit the sale of 1,111 shares of Common Stock of CC Packaging by MLIF to the 1984 Partnership;

(iii) Permit the sale of 4,580 shares of Common Stock of FGIC by ML & Co. to the 1984 Partnership; and

(iv) Permit the sales of 4,310 and 8,620 shares of Common Stock of Denny's by MLIF to the 1983 Partnership and the 1984 Partnership respectively.

In addition, the 1983 Partnerships and the 1984 Partnership request that, pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, the order approve the participation of the 1983 Partnership and the 1984 Partnership in the Denny's transaction.

The Applicants believe that the issuance of an order is justified by both the terms of the transactions and the fact that the proposed investments are not otherwise available to the Partnerships. The application states that, with respect to the terms of the transactions, the KECALP Board (on behalf of the 1983 Partnership) and the Investment Committee (on behalf of the 1984 Partnership) have reviewed the Partnerships' proposed investments in detail. The members of the KECALP Board, including the members of the Investment Committee, are sophisticated and experienced in valuing securities and evaluating financial transactions generally. In this regard, the KECALP Board and the Investment Committee considered all information deemed relevant, including the nature of the investments, the nature of the investments by affiliates of ML & Co. in AXIA, Denny's, CC Packaging and FGIC, and the fairness of the purchase prices proposed to be paid by the Partnerships. Applicants state that the transactions were approved after consideration of the factors set forth in section 17(b) of the Act. In connection with the KECALP Board and Investment Committee deliberations and determinations regarding the Partnerships' proposed transactions, appropriate record keeping will be maintained and made available for inspection by the Commission in accordance with the Act.

According to application, in evaluating the terms of the transactions, both the KECALP Board, with respect to the 1983 Partnership's investment, and the Investment Committee, with respect to the 1984 Partnership's investment, considered the fact that the proposed purchase prices to be paid by the Partnerships will include carrying costs incurred by an affiliate of KECALP, ML & Co., if the value of the investment at the time of acquisition by the Partnerships is more than the sum of the purchase prices plus the affiliate's carrying costs. In approving purchase prices which may include carrying costs, the KECALP Board and the Investment Committee recognized that KECALP receives no compensation for serving as general partner of the Partnerships and that ML & Co. had incurred considerable expenses in organizing the Partnership. In light of these factors, the KECALP Board and the Investment Committee believe it is wholly appropriate for the purchase price paid for portfolio investments to reflect carrying costs provided that the values of the investments at the times of acquisition exceed the amount of the purchase

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VOL 51 ISS 158 AG 15 1986 UMI

prices plus carrying costs. Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to ML & Co. and provide a disincentive to sell investments to the Partnerships in the future.

The application states that the second factor supporting the granting of the relief requested is that the investments are not otherwise available for purchase by the Partnerships. the KECALP Board and the Investment Committee have approved such investments for the Partnerships. The Partnerships thus submit that their respective investment programs will be prejudiced if they are not permitted to make the investments referred to in the application.

Applicants also state that the KECALP Board believes that the proposed investments are consistent with the rationale underlying the establishment of each of the Partnerships as an "employees' securities company". Similarly, the proposed transactions are consistent with the purpose of each of the Partnerships and their respective stated policies.

Applicants state that the Partnerships operate in accordance with the terms of the KECALP Exemptive Order. Pursuant to the terms of the KECALP Exemptive Order, the Partnerships are permitted to engage in transactions in which certain affiliated persons of the Partnerships may also be participants. The application states that the Partnerships believe that the KECALP Exemptive Order expressly permits joint investments between partnerships for which KECALP acts as the general partner.

The application indicates that KECALP reviewed the proposed investments in Denny's. The KECALP Board and the Investment Committee determined that such investments were consistent with the Partnerships' investment objectives of seeking long-term capital appreciation. The KECALP Board and the Investment Committee also determined that the investments in Denny's by both Partnerships would not disadvantage either Partnership in making such investments, maintaining its investment positions or disposing of such positions. In reaching such determinations, the KECALP Board and the Investment Committee considered several factors, including the difference in the amount proposed to be invested by each Partnership. It was recognized that the terms of the purchases by both Partnerships would be the same in terms of the price paid per share. With respect to the number of shares to be purchased by each Partnership, however, consideration was given to the availability of assets for investment at that time. At the date that the proposed investments were approved, the 1983 Partnership's more limited asset availability dictated the size of its investments as compared to the investment to be made by the 1984 Partnership. Accordingly, the terms of the proposed investments in Denny's Common Stock by the Partnership are not unfair or less advantageous to the 1983 Partnership, but rather, are the result of business considerations. Thus, it is submitted that the transactions would be consistent with the provisions, policies and purposes of the Act.

According to the application, in both the KECALP Exemptive Order and the Partnerships' prospectuses, it was indicated that affiliates of ML & Co. would be involved in identifying and investing in many of the Partnership's portfolio investments. The Partnerships thus submit that the order requested herein is consistent with the purposes of the Partnerships, their stated policies and the disclosure made to prospective investors. In light of the foregoing, the Partnerships request that an order be entered pursuant to section 17(d) of the Act and Rule 17d–1 thereunder regarding the investments by the Partnerships in securities issued by Denny's.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 2, 1986, at 5:30 pm, do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18463 Filed 8–14–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15241; File No. 812–6400]

Application and Opportunity for Hearing; Ohio National Life Assurance Corp., et al.

August 8, 1986.

Notice is hereby given that Ohio National Life Assurance Corporation (the "Company"), Ohio National Variable Account R (the "Variable Account") and The O.N. Equity Sales Company ("ONESCO") (collectively, "Applicants") filed an application on May 29, 1986 and an amendment on July 28, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting Applicants and certain transactions exemptions from sections 2(a)(32), 22(c), 27(c)(1) and 27(d) of the Act and Rules 6e–3(T) (b)(12), (b)(13), (c)(2), (c)(4) and 22c–1 thereunder to the extent necessary to issue flexible premium variable life insurance contracts (the "Contracts") as defined in paragraph (c)(1) of Rule 6e–3(T) which provide for waiver of future premiums upon disability of the insured and for a contingent deferred administrative expense charge. All interested persons are referred to the Application on file with the Commission for a statement of Applicants' representations made therein, which are summarized below, and are referred to the Act and Rules thereunder for the text of the relevant provisions.

Applicants state that the Company, a wholly-owned stock subsidiary of The Ohio National Life Insurance Company, is organized under the laws of Ohio and is the depositor of the Variable Account. Applicants state that the Variable Account was established under Ohio law as a "separate account" of the Company which satisfies the requirements of Rule 6e–3(T)(a) to fund the Contracts and is registered as a unit investment trust under the Act. Further, Applicants state that the Variable Account has four subaccounts, each of which invests exclusively in shares of a corresponding investment portfolio of Ohio National Fund, Inc. (the "Fund"), which is registered under the Act as an open-end, diversified management investment company. ONESCO is the principal underwriter of the Contracts.

Applicants state that they intend to offer three types of flexible premium variable life insurance contracts as defined in Rule 6e–3(T)(c)(1). Applicants maintain that the principal distinction among such contracts is the sales load structure: The Company will offer a front-end load contract, a back-end load contract and a contract without a sales load (unless otherwise specified, the

discussion in this notice and the exemptions requested apply to all three contracts).

The Contracts, state the Applicants, offer a combination of fixed and variable investment options. Applicants point out that contractowners may allocate or transfer funds to one or more divisions of the Variable Account which entitles them to participate indirectly in the investment experience of the corresponding underlying Fund, or to allocate or transfer funds to the Company's general account, which accrues interest at an annual rate of at least 5% and does not entitle contractowners to participate in the general account investment performance.

Applicants state that the Contracts include features typically associated with flexible premium variable life insurance contracts. In particular Applicants state that two death benefit options are provided: (1) A death benefit equal to the stated amount and (2) a death benefit equal to the stated amount plus the cash value. Under both options, Applicants maintain, the Company may be required to increase the death benefit to satisfy the corridor percentage test of section 7702 of the Internal Revenue Code. Applicants also state that subject to certain limitations, contractowners may increase or decrease the stated amount of insurance coverage during the life of the contract. The death benefit is guaranteed, and thus a Contract will never lapse, if a contractowner satisfies a minimum premium requirement. Applicants state that cash value under the Contracts will reflect the amount and frequency of payments, the investment experience of the Variable Account, any partial withdrawal, loans, and any charges and deductions. Finally, applicants indicate that contractowners may, subject to certain limitations, vary the timing and amount of their premium payments.

1. Contingent Deferred Insurance Underwriting Charge

Applicants request exemptions from sections 2(a)(32), 22(c), 27(c)(1) and 27(d) of the Act and Rules 6e–3(T)(b)(12), 6e–3(T)(b)(13) and 22c–1 thereunder to the extent necessary to permit imposition of the contingent deferred insurance underwriting charge upon complete surrender and lapse of the Contract within seven years after the issue date of a Contract or the date of any increase in stated amount and for a portion of such charge to be deducted upon certain partial surrenders and all decreases in stated amount during such seven year periods.

Applicants state that the contingent deferred insurance underwriting charge is an administration charge designed to compensate the Company for insurance underwriting costs, including the selection and classification of risks and processing medical evidence of insurability. Applicants state further that the charge varies from $3 to $6 per $1,000 of stated amount depending on the insured's age at issue or increase and only applies to the first $500,000 of stated amount. Applicants also state that while the Company may impose the full charge for the seven years following issue or increase, it currently intends to grade-off such charge over such seven year periods.

Applicants represent that the charge is no more than would be imposed if such administrative expenses were recovered from first year premium payments and that the charge is not expected to produe a profit. Applicants further represent that in determining the amount of the charge they have not taken into account the time value of money or the likelihood that not all contractowners will ever incur the charge or incur the charge at the same time. Finally, Applicants represent that proceds from the charge will not be used directly or indirectly to finance distribution expenses.

Applicants submit that imposition of the insurance underwriting charge on a contingent deferred basis is more favorable to contractowners in several respects than a charge deducted from first year premium payments. First, the amount of a contractowner's investment in the Variable Account is greater than it would be if the charge were deducted from first year premiums. Second, the cost of insurance component of the monthly deduction will be lower due to an increased cash value and a consequent lower net amount at risk when this charge is deferred. Third, the total amount charged to any contractowner when the charge is deferred is no greater than if this charge were taken from first year premiums. Indeed, Applicants submit, the amount charged may be less for contractowners who surrender or lapse after the second contract year due to the Company's current intention to grade-off such charge as described above. Additionally, the charge will not be imposed at all on contractowners who keep their contracts in force more than seven years from the date of issue or the date of an increase. Finally, deferring this charge means that it is never deducted from the death benefit. Therefore, conclude Applicants, contractowners receive the primary benefit of the Contract—insurance protection—without incurring such charge.

2. Disability Waiver of Monthly Deduction Rider

Applicants request exemption from Rule 6e–3(T)(c)(2) to the extent necessary to prevent the charge imposed for the disability "waiver of monthly deduction" rider (the "Rider") from being treated as sales load pursuant to Rule 6e–3(T)(c)(4). The Rider provides that if the insured becomes disabled (as defined therein) for more than six months, the monthly deduction will thereafter be waived by the Company. The amount of the monthly deductions so waived may vary with the investment experience of the variable account, inasmuch as the cost of insurance component thereof varies with the net amount as risk.

Applicants argue, however, that the Rider should properly be viewed as primarily a fixed and incidental benefit. It is fixed, they assert, in the sense that upon disability the contractowner pays no further monthly deductions, irrespective of the amount thereof. Thus, Applicants conclude, the Rider is a fixed benefit from the contractowner's perspective. Moreover, there is no cash value associated with the Rider that is distinguishable from the cash value of the Contract as a whole. Thus, the Rider appears to be the type of incidental benefit described in Rule 6e–3(T)(c)(2). Finally, Applicants represent that they have no reason to believe that the Commission in adopting Rule 6e–3(T) intended the charge for this type of bona fide insurance benefit to be deemed to be sales load.

3. Other

Applicants state that as a general condition to the order granting relief requested, Applicants represent that if and to the extent that Rule 6e–3(T) is amended to provide exemptive relief from any provision of the Act or the Rules promulgated thereunder on terms and conditions different from any exemption from such provisions granted to them by order, then Applicants shall, within any transition period provided in such amendments, take such steps as may be necessary to comply with Rule 6e–3(T), as amended, with respect to any contract issued after the expiration of such transition period to the extent Rule 6e–3(T) is then applicable.

For the reasons stated above, Applicants submit that the requested relief is necessary and appropriate in the public interest and consistent with the protection of investors and the

purposes faily intended by the policy and provisions of the Act, is well precedented, and involves technical matters unforseen when Rule 6e–3(T) was adopted.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 5, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18464 Filed 8–14–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15240; File No. 812–6427]

Application and Opportunity for a Hearing; Prudential Insurance Co. of America, et al.

August 8, 1986.

Notice is hereby given that The Prudential Insurance Company of America ("Prudential"), The Prudential Individual Variable Contract Account (the "Account"), The Prudential Qualified Individual Variable Contract Account (the "Qualified Account"), and Pruco Securities Corporation ("Prusec"), Prudential Plaza, Newark, New Jersey, 07101 (referred to collectively as "Applicants"), filed an application on July 3, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from sections 2(a)(32), 22(c), 22(d), 26(a) (2), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit Prudential to issue variable annuity contracts ("Contracts") providing for a recapturable bonus equal to 1% of certain purchase payments made under the Contracts. All interested persons are referred to the Application on file with the Commission for a statement of the representation contained therein, which are summarized below, and to the Act and rules thereunder for the text of the relevant provisions. Applicants state that the Account and the Qualified Account are each registered under the Act as unit investment trusts containing a number of subaccounts. Each such subaccount, state the Applicants, invests its assets exclusively in a corresponding portfolio of an underlying series management investment company affiliated with Prudential. Under the Contracts, contractholders may allocate purchase payments among the subaccounts of the Account or Qualified Account and may transfer accumulated amounts the subaccounts at net asset value and without charge, subject to certain conditions.

Applicants state that the only sales charge is a contingent deferred sales charge ("CDSL") assessed in the event of a full or partial withdrawal. Applicants further state, that in each contract year, a contractholder may withdraw up to 10 percent of the value of his or her account (as calculated on the date of the first withdrawal during the contract year) without incurring any CDSL. A CDSL Applicants maintain, is imposed upon additional withdrawals at the rate of 8% for a payment on deposit one year or less, declining by 1% for each additional year the payment has been on deposit, so that payments on deposit eight years or more may be withdrawn without imposition of the charge. Withdrawals occur on a first-in, first-out basis, without charges on amounts withdrawn in excess of aggregate purchase payments. Applicants also state that CDSL also is imposed upon annunitization, unless three or more years have elapsed since the first deposit of purchase payments under the Contract. The CDSL is not imposed on withdrawals by the beneficiary of a deceased contractholder.

Applicants state that Prudential will impose, at the end of each contract year, upon a full withdrawal on a date other than a "contract date," or upon annuitization, an annual account charge of $30, which it may not increase. Applicants assert that this charge is to reimburse Prudential for incurred administrative expenses and does not include any element of profit. Applicants explain that Prudential also deducts daily from each of the Accounts an amount equal to an annual rate of 1.20% of the value of the Account's assets, of which .8% is for assumption of mortality risks, and .4% is for assumption of the risks that the fixed annual account charge will not cover administration expenses.

The Bonus Provision

Applicants now request exemptive relief in order to issue new forms of the Contracts, to be first issued in September 1986, that provide for Prudential to add a recapturable bonus equal to 1% of certain payments made under the Contracts. Under the new Contract Prudential will, during the first three contract years and in contract years thereafter at Prudential's discretion, add an additional amount, as a bonus, of 1% to every purchase payment made under the Contract. The additional amount will be allocated to the subaccounts of the Account or the Qualified Account, as applicable, in the same manner as the purchase payment. Prudential reserves the right to limit its payment of such additional amounts to $1000 in each contract year. The additional amount will not be subject to state or local permit taxes. Applicants state that the additional amounts paid by Prudential would be recapturable by Prudential as follows: If the contractholder makes a withdrawal within the first eight contract years that consists in part of a withdrawal of purchase payments, as opposed to earnings, Prudential will recapture the 1% bonus it paid on the portion of the purchase payment or payments withdrawn. Investment earnings, are deemed to be withdrawn before purchase payments. Purchase payments are deemed to be withdrawn on a first-in, first-out basis. Applicants state that, unlike the CDSL which is not imposed on withdrawals of purchase payments up to 10% of the account value each year, any withdrawal of a purchase payment within the first eight contract years following the payment will result in recapture of the bonus. Applicants represent that Prudential intends to extend the recapturable bonus to prior forms of the Contracts as soon as it can modify the computer systems suitably. According to Applicants, Prudential expects to make this provision available to such prior Contracts at some time in 1987. Applicants also represent that all qualifying persons may purchase the contracts if they reside in a jurisdiction where the Contract is approved. Furthermore, Applicants state that they will inform, by prospectus supplement, every current contractholder about the possibility (including risks inherent therein) of deferring purchase payments under existing Contracts until this bonus provision is extended to such existing Contracts.

Exemptions requested

Applicants seek exemption pursuant to section 6(c) from sections 2(a)(32), 22(c), 22(d), 26(a)(2), 27(c)(1), 27(c)(2) and 27(d) of the Act and from Rule 22c-1 to the extent deemed necessary to permit the offer of a 1% bonus on purchase payments under the new Contracts (and later under the prior Contracts) and to permit recapture of that portion of the bonus attributable to a purchase payment upon withdrawal of the purchase payment within eight contract years of when the payment was made.

Applicants state that contractholders do not have a vested interest in the principal amount of any bonus amount until eight contract years from the date of payment have elapsed, and that until such time the bonus belongs to Prudential. To avoid any question of full compliance with the Act, Applicants seek the requested exemptions.

Applicants state that the bonus provision involves none of the abuses to which the above-referenced provisions of the Act and rules thereunder were directed. Applicants also state that the 1% bonus provision will be attractive to and in the interest of investors as it will permit contractholders to put 101% of their purchase payments to work for them in the selected investment options. Applicants further represent that the investment experience attributable to the bonus provision will always be retained by the contractholder and that the principal amount of the bonus will also be retained if the purchase payment is not withdrawn for at least eight years. For these reasons, Applicants submit that the exemptions requested are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on an application may, no later than September 5, 1986, at 5:30 pm, do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request.

After said date an order disposing of the application will be issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18465 Filed 8-14-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending—Aug. 8, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412 and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44230-R-1-R-3

Parties: Members of International Air Transport Association
Dated Filed: August 5, 1986
Subject: US-South Pacific Fares
Proposed Effective Date: September 1, 1986

Docket No. 44231

Parties: Members of International Air Transport Association
Dated Filed: August 5, 1986
Subject: Baggage Shipped as Cargo from UK
Proposed Effective Date: October 1, 1986

Docket No. 44232

Parties: Members of International Air Transport Association
Dated Filed: August 5, 1986
Subject: North Atlantic Specific Commodity Rates
Proposed Effective Date: October 1, 1986

Docket No. 44239-R-1-R-11

Parties: Members of International Air Transport Association
Dated Filed: August 7, 1986
Subject: SNATC—US-Iberia/Morocco Fares
Proposed Effective Date: October 1, 1986

Docket No. 44240

Parties: Members of International Air Transport Association
Dated Filed: August 7, 1986
Subject: Rescission of Tariff Integrity Resos
Proposed Effective Date: September 1, 1986

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-18496 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ended August 8, 1986

The following applications for certificates of public convenience and necessiaty and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44229

Date Filed: August 5, 1986
Due Date for Answers, conforming Applications, or Motion to Modify Scope: September 2, 1986
Description: Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests amendment of its certificate for Route 136 to permit service to Bogota, Columbia from Los Angeles and to allow Pan Am to integrate the Los Angeles-Bogota authority with existing certificate authority to other points in South America.

Docket No. 44238

Date Filed: August 6, 1986
Due Date for answers, Conforming Applications, or Motion to Modify Scope: Sepember 3, 1986
Description: Application of Pacific Southwest Airline pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to provide scheduled foreign air transportation of persons, property and mail: Between Los Angeles and San Diego,California on the one hand, and Loreto, La Paz, and San Jose del Cabo, Mexico, on the other hand.

Docket No. 4426

Date Filed: August 8, 1986

Due Date for answers, Conforming Applications, or Motions to Modify Scope: September 5, 1986

Description: Application of Delta Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for a new or amended certificate of public convenience and necessity to permit Delta to provide air transportaion services between Cincinnati, Ohio and London, England.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR. Doc. 86-18497 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147—Traffic Alert and Collision Avoidance System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance System to be held on September 10-12, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Nineteenth Meeting held May 7-9, 1986; (3) Review of TCAS I Working Group Activities; (4) Review of Pilot Working Group Activities; (5) Briefing on TCAS III Logic; (6) Report of ATA Joint Separation Assurance Task Force Meeting; (7) Briefing on Air-to-Air Coordination, Validation Flight Tests; (8) Discussion of Horizontal Miss Distance Filtering Study; (9) Discussion on TCAS Threat Logic Configuration Control; (10) Briefing on the MITRE Altimeter Accuracy Study; (11) Report of the TCAS/Mode S Compatibility Task Group; (12) Consideration of TCAS III MOPS Material, and (13) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 8, 1986.

S.B. Poritzky,

Alternate Representative to RTCA.

[FR Doc. 86-18405 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Request for Removal, Without Disapproval, From Roster of Approved Trustees

Notice is hereby given, pursuant to 46 CFR 221.28, that Colonial Bank, with offices at 81 West Main Street, Waterbury, Connecticut, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, Colonial Bank stated it no longer engages in activities which necessitate the Bank's certification as an approved trustee.

Dated: August 12, 1986.

By order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 86-18480 Filed 8-14-86; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86-149]

Recordation of Trade Name: "The Baltimore Luggage Company"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On June 2, 1986, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "The Baltimore Luggage Company" was published in the Federal Register (51 FR 19809). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than August 1, 1986. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "The Baltimore Luggage Company" is recorded as the trade name used by The Baltimore Luggage Company, a corporation organized under the laws of the State of Rhode Island, located at 1919 Annapolis Road, Baltimore, Maryland 21230. The trade name is used in connection with the following merchandise manufactured in Taiwan: vinyl luggage; nylon luggage; vinyl attaches; leather attaches; jute luggage; attaches; and luggage carts.

DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5765).

Dated: August 11, 1986.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 86-18478 Filed 8-14-86; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

State Home New Kitchen and Dining Facility; Oklahoma Veterans Center; Clinton, OK; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of new kitchen and dining facility at the existing Oklahoma Veterans Center at Clinton, Oklahoma. The approximate cost of this project is $1.59 million.

Construction related traffic may cause disruption of nearby traffic flow. In addition, construction noise associated with the development of the new facility is likely to cause annoyance to patients and other occupants of the center. The impact of dust and fumes that will exist during construction will be of short effect lasting only during that phase of project development. In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State and local air quality standards.

The significance of the identified impacts has been evaluated relative to the consideration of both context and intensity, as defined by the Council on Environmental Quality (Title 40, CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of

that document may do so at the following office:

Director, Office of Environmental Affairs, Room 653, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202.389–3544). Questions or requests for single copies of the Environmental Assessment may be addressed to the above.

Dated: August 6, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86–18473 Filed 8–14–86; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Medical Center; Wilkes-Barre, PA; 60-Bed Nursing Home Care Addition; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed project "60-Bed Nursing Home Care Addition" and has determined that the potential environmental impacts from the development of this project will be minimal.

This project involves the construction of a fourth floor addition to the existing 120-Bed Nursing Home, Building Number 27. The 33,669 gross square foot addition will provide 60 additional beds and renovations to provide dining space for the total 180 NHCU beds.

No site work beyond the existing building envelope will occur. Existing parking and utilities will be sufficient.

Short-term impacts will result from construction and are temporary. They include impacts to air quality from construction equipment exhaust, and to the patients, staff, and local community from constuction noise, equipment, and traffic.

Short-term impacts will be mitigated by inclusion in the construction contract of the VA Standard Specifications, Environmental Protection Section, and by monitoring and enforcement during construction. Short-term impacts to the local community will be controlled and mitigated by regulation of hours of construction and travel routes for construction equipment.

There are no long-term impacts.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality (40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Director, Office of Environmental Affairs (088A), Room 512, Veterans Administration, 811 Vermont Avenue NW., Washington, DC 20420, (202) 389–3717. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: July 29, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86–18474 Filed 8–14–86; 8:45 am]

BILLING CODE 8320–01–M

VOL 51 ISS 158 AG 15 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 158
Friday, August 15, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Maritime Commission	1
Federal Reserve System Board of Governors	2

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., August 20, 1986.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Docket No. 86-19—Anti-Rebating Certification by Those Engaged in the Foreign Commerce of the United States—Consideration of Comments on Proposed Rule.

Portions closed to the public:

1. Trade Monitoring Methods as Applied to the Mediterranean/U.S.A. Trade.
2. Service Contract Audit Program.
3. Peruvian Cargo Reservation, Supreme Decree No. 009-86-TC—Consideration of Responses to Inquiry.
4. Use of High Cube Containers—United States/Japan Trade—Responses to section 15 Order.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking (202) 523-5725.

Joseph C. Polking,
Secretary.

[FR Doc. 86-18524 Filed 8-13-86; 10:21 am]
BILLING CODE 6730-01-M

2

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Thursday, August 21, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before the meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 13, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-18511 Filed 8-14-86; 3:59 pm]
BILLING CODE 6210-01-M

federal register

Friday
August 15, 1986

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Establishment of an Experimental Population of Southern Sea Otters; Proposed Rule; Notice of Permit Applications

VOL 51 ISS 158 AG 15 1986 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Establishment of an Experimental Population of Southern Sea Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of permit applications.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reintroduce southern sea otters (*Enhydra lutris nereis*) at, and contain them in the immediate vicinity of, San Nicolas Island, Ventura County, California for two purposes: (1) To implement a primary recovery action for a federally listed "threatened" species, and (2) to obtain data for assessing translocation and containment techniques, population dynamics, the ecological relationships of sea otters and the nearshore community, and the effects on the donor population of removal of individual otters for translocation. This population would be a non-essential experimental population pursuant to section 10(j) of the Endangered Species Act of 1973, as amended (ESA), and other applicable legislative authorities.

DATES: Comments from the State of California and the public must be received by November 17, 1986. Public hearings will be conducted on this proposed rule, and concurrently on the Draft Environmental Impact Statement (DEIS) associated with this proposal, on the following dates and times:

Ventura, California, September 24, 1986, 6–9 p.m.
Monterey, California, September 22, 1986, 6–9 p.m.
Brookings, Oregon, September 17, 1986, 6–9 p.m.

ADDRESSES: Questions and comments concerning this proposed rule and DEIS should be addressed to the Regional Director, U.S. Fish and Wildlife Service, 500 NE Multnomah St., Suite 1692, Portland, Oregon 97232. Comments and materials relating to this rule and DEIS are available for public inspection by appointment during normal business hours at the Service's Regional Office in Portland, Oregon, or the Office of Sea Otter Coordination, Room E–1818, 2800 Cottage Way, Sacramento, California 95825. Public hearings will be held as indicated above at the following locations:

Ventura Avenue Adult Senior Center, 550 N. Ventura Avenue, Ventura, California
City Hall, Corner of Pacific and Madison Streets, Monterey, California
City Council Chambers, City Hall, 898 Elk, Brookings, Oregon

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Ladd, U.S. Fish and Wildlife Service, Office of Sea Otter Coordination, Room E–1818, 2800 Cottage Way, Sacramento, California 95825, (916/978–4873) or FTS: 460–4873.

SUPPLEMENTARY INFORMATION:

Background

Species Account

The Secretary of the Interior determined in 1977 (42 FR 2968, January 14, 1977) that the southern sea otter (*Enhydra lutris nereis*) was a threatened species for purposes of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 *et seq.*). Contributing to this determination was the fact that the historic sea otter population was reduced to near extinction due to commercial fur harvesting in the 1700's and 1800's. The southern sea otter (also referred to as California sea otter) presently numbers 1,300–1,400 animals and ranges from Año Nuevo, Santa Cruz County, to the Santa Maria River, San Luis Obispo County, California. Although the population and its range has significantly increased since Federal and State bans on commercial and other hunting in 1911 and 1913, respectively, the still small population size and range and the otter's vulnerability to oil contamination warrant a threatened classification.

The sea otter, unlike most marine mammals, does not have blubber to provide insulation from the chilling effect of the ocean. The otter's dense pelage provides insulation and, if matted by oil or some other contaminant, the insulation is effectively eliminated and animals may die from hypothermia. The 1977 listing recognized that substantial quantities of petroleum products are shipped along the California coast, moving near the southern sea otter range, and are also transferred at marine terminals near the northern and southern ends of the range. Oil tanker traffic was and still is believed to pose the greatest oil spill risk to sea otters, although offshore outer continental shelf (OCS) oil development is currently increasing the oil spill risks. This latter risk was not a consideration when the species was listed as threatened in 1977.

In 1976, the California Department of Fish and Game (CDFG) estimated that the population numbered close to 1,800 and was increasing annually at about 5 percent. Recent information, however, indicates that the population has not grown significantly at least since the mid-1970's and may have declined somewhat over the past 10 years. As determined through recent studies started in 1982, this lack of growth is most likely attributable to sea otters becoming entangled and drowning in large-mesh gill and trammel nets set in nearshore waters by the local bottom fish fishery. CDFG biologists have estimated that an annual average of about 80 sea otters were accidentally drowned in set nets between 1982 and 1984 and that losses ranged from 49 to 168 per year between 1973 and 1983. This threat to the population was neither recognized nor considered in the 1977 determination. The State of California has recently enacted legislation designed to substantially reduce or eliminate the accidental drowning of sea otters in large-mesh gill and trammel nets and is considering additional legislation to further address this problem.

The status of southern sea otters was recently reviewed in the Service's 5-year review (May 1984). The review recognized the deteriorated state of the population (i.e., no growth and possibly a decline over the past 10 years, and additional threats including encroachment of OCS oil and gas development and incidental drowning in gill and trammel set nets) and the importance of moving rapidly forward with the major recovery tasks, including establishment of at least one additional population.

Pursuant to the ESA and Marine Mammal Protection Act (MMPA), the Service must utilize its authorities to recover the southern sea otter to a nonlisted status (ESA) and to restore and maintain the optimum sustainable population (OSP) level (MMPA) where consistent with maintenance and health of the marine ecosystem. The MMPA also generally prohibits the taking of any depleted species (any species listed under the ESA as threatened or endangered is considered depleted under the MMPA) for any reason other than scientific research.

The Service developed a recovery plan for the southern sea otter that was approved by the Director in 1982. This plan addresses the Service's responsibilities specifically under ESA and more generally under the MMPA. It examined possible means to protect and restore the southern sea otter and concluded that the most effective means was to establish at least one new colony sufficiently removed from the present range such that a large-scale oil spill

could not contact both the new colony and existing population simultaneously.

For purposes of ESA the Service believes present population growth characteristics are inadequate for natural recolonization of historic, albeit not all, habitat within a reasonable period. Therefore, the Service is considering the establishment of at least one colony within historic range, in an area that is abundant with prey, kelp, and other habitat requirements, relatively free of toxic pollution, and sufficiently distant from the existing range so that a catastrophic oil spill will not likely contact both the existing population and the new colony of southern sea otters.

The Service contracted with James Dobbin Associates, Inc. in 1981 to map the location of and compile ecological and socioeconomic data for potential translocation zones along the Pacific coast of Washington, Oregon and California. Based on a variety of criteria, four coastal zones were delineated as having the highest potential for successful translocations: Northern Washington; southern Oregon; northern California; and San Nicolas-Santa Barbara Islands, southern California. For reasons discussed more fully herein, San Nicolas Island is considered the preferred site.

Description of Proposal

The Service proposes to establish through translocation a second colony of southern sea otters at San Nicolas Island, Ventura County, California. The second colony would be designated a non-essential population and, for management purposes, protected, studied and contained within the specified translocation zone (see Identification of Zones segment of the Preamble, *infra*). Adjacent to the translocation zone is the management zone wherein sea otters would be removed if they were found there in order to minimize potential conflicts with other uses of the resources and to evaluate existing, and, as necessary, develop additional techniques for containing sea otters.

The proposed rule, if implemented, would simultaneously achieve the primary objectives of (1) meeting one essential criterion for potential delisting of the southern sea otter population under the ESA, and (2) obtaining information and furthering research objectives necessary for present and future management decisions and better understanding and defining OSP under the MMPA. This proposed rule is written in a format that addresses three possible legislative authorities that may exist at the time a final rule is published. These are described under the Legislative Authority section of this rule. Appropriate modifications will be made in the final rule to reflect the legislative authority that exists at that time and under which the proposal is being made.

Pre-Translocation Phase

Activities during this phase would emphasize (1) assessment of the existing population and the acquisition and analysis of behavioral data, (2) development of a plan for capturing and holding sea otters for translocation, including determination of the optimum size, age, and sex composition of the translocated colony, and (3) collection of baseline data on the ecosystem at the translocation site.

1. Assessment of the Existing Population

Insofar as possible, it is necessary to evaluate the possible impacts of removing animals from the existing population for the purpose of translocation, and to develop a monitoring program to verify hypotheses concerning expected impacts and to detect and measure unforeseen impacts. Present monitoring programs are done mainly by FWS and CDFG. Population surveys are conducted twice annually by using the technique described in the following paragraph.

Most of the coastline within the range of the population, being accessible by road, is surveyed from shore by teams of two observers each. The remaining areas are surveyed from aircraft. Behavioral studies are being done by observing tagged (flipper-tagged and radio-implanted) and untagged individual sea otters in some portions of the range. The principal emphasis of these studies is to obtain better information on population trend, diet, movements, and activity patterns.

An increased effort will be devoted to obtaining behavior and movement information from individuals marked with flipper tags and implanted radio transmitters prior to the translocation. The radio-tagging may be done in collaboration with University of Minnesota biologists that are presently radio tracking animals in California under contract to the Minerals Management Service (under Service permit No. PRT 688234). The University study is designed to investigate population dynamics, behavior and movements of sea otters in central California. Prior to each group of animals being translocated, about 30 individuals from the parent population would be instrumented with radios that have a predicted life of about 2 years. About 15 of these animals would be among the translocated individuals and would be monitored after translocation at the release site while their implanted radio transmitters are still operating. The remaining implanted animals on the mainland would be monitored for the same period to compare the effect of the removal on the parent population as well as differences in behavior. This would allow 24-hour time budgets, foraging behavior, social interactions, and movement patterns to be documented before and after the animals are translocated. These data would be used to compare behaviors and movements of individuals before and after the translocation, at both the mainland capture site and the translocation site.

2. Removal of Animals From the Existing Population

Limited information is presently available from which to make a judgment on the optimum number, and the age and sex composition of animals to be translocated. Jameson et al.'s (1982) review of previous translocations of sea otters in the eastern North Pacific Ocean indicates a correlation between success rate and size of the translocated population. However, there are limits to the practicality of this correlation. Logistics, effects of removal on the donor population, and the potential for rapidly achieving and exceeding the lower end of the range of estimated carrying capacity limits (280) for the San Nicolas Island translocation zone, which could conceivably result in a population crash and ultimately a lower equilibrium density, are factors that must be considered. Based on these findings, and considering that the future welfare of the existing population probably would be best served by minimizing the number of animals taken from it while maximizing the likelihood of success, up to 70 animals would be moved from the existing population to the translocation site in the first year. The limit of 70 animals is set so that the removal would not exceed the expected population growth rate of 5 percent, assuming the current population numbers about 1,400. The estimated long-term growth rate for the population prior to the recently experienced entanglement mortality was about 5 percent (CDFG 1976).

No more than 250 animals would be moved in total from the existing population for translocation purposes. Strategies for years 2, 3, 4, 5 and beyond will be governed by the success of the preceding effort. Translocation of additional animals would be terminated once a relatively stable group of 70 animals at San Nicolas Island, including both males and females, has been

established. If, as expected, most of the translocated animals remain at the translocation site until population growth due to natural reproduction can be demonstrated, there will be no supplemental translocation in subsequent years. However, if a substantial decline is seen in the population, additional animals may be moved to ensure success of the translocation.

Most, but not all of the translocated animals would be sexually immature (i.e., independent, up to about 2 years of age). By selecting young animals for the translocated population, it is expected that post-release dispersal would be minimized and that the future growth rate of the population would be maximized (Kenyon 1969). A further advantage of mainly using juveniles is that they are less likely to interact aggressively while in captivity or following release. The sex ratio of the immature animals selected for translocation would be approximately 4 females to 1 male, although a range of from 3.5:1 to 6:1 would be considered acceptable.

Of the animals translocated each year, up to 20 would be adults. The purpose of moving adults would be to compare movement patterns, particularly dispersal tendencies away from the translocation site, between adult and juvenile sea otters as well as to provide a small number of animals that could begin reproducing almost immediately. In selecting animals for translocation, we will try to achieve an adult sex ratio of 3 females to 1 male, or 15 females to 5 males.

3. Studies at the Proposed Translocation Site

The Service has since 1979 been conducting a monitoring program of the intertidal and shallow subtidal ecosystems at San Nicolas Island. The purposes of this program have: (1) To determine the dynamics of nearshore communities relatively free of human influence, in order to contribute to the eventual determination or refinement of an Optimum Sustainable Population for sea otters in California pursuant to the Marine Mammal Protection Act; and (2) To establish baseline ecological information in order to document the range of influences sea otters, should they be restored there, would have on various components of nearshore communities by comparing changes which occur following translocation with a pre-translocation data base. Densities of abalone, sea urchins, other invertebrates, fish, and kelp, and percent cover of the benthic algal association, are surveyed twice annually at each sample site. Lobster populations are now also being surveyed twice annually in late spring and late summer. Kelp canopies are photographed twice annually using aerial infrared techniques, once during the summer maximum extent of the canopy and once during its late winter minimum extent. Data from this program should adequately document spatial and temporal patterns of the sea otter's influence on the coastal ecosystem.

Translocation Phase

Activities during this phase would consist of capture, transport, and release of sea otters. These activities could last 5 years or more, depending on their success, although it is expected that most of this phase will be completed in the first year.

All capture, transport, and release activities would be attempted to be done between early August and mid-October. Earlier in the summer, strong northwesterly winds blow along the coast of California. These winds create heavy seas that would be a detriment to capture operations, although the release site itself is well protected from prevailing weather. After mid-October, the probability of winter storms from the North Pacific Ocean greatly increases. Although capture operations could be halted during such periods with no serious consequences, an inopportune storm could have catastrophic effects at the holding and release sites by increasing work hazards, as well as posing dangers to the animals.

1. Capture, Holding and Tagging

Capture locations would be selected preferably from about the southern one-third of the current range, primarily on the basis of logistical convenience, availability of desired age and sex groups, and welfare of the animals. Techniques proven to be effective and safe in previous translocations and other research on sea otters would be used. Simultaneous capture operations would be centered at Pt. Piedras Blancas and Morro Bay because both locations offer adequate harboring facilities for small boats.

Pt. Piedras Blancas is the only location well within the existing sea otter range that is logistically suitable for capturing sea otters. All sex and age classes are present and available for capture near Pt. Piedras Blancas. At least two sites in the vicinity of Piedras Blancas contain small concentrations of immature male and female sea otters. The primary capture area would extend from Cambria in the south to Salmon Creek in the north. After capture, sea otters would be shuttled back to the Service's Field Station at Pt. Piedras Blancas and placed in temporary holding facilities.

Morro Bay has an excellent boat harbor from which to launch capture operations. At the present time no suitable land-based holding facilities exist there; therefore floating holding pens would be anchored inside the Bay and monitored from the beach. Both male and female sea otters are available for capture near Morro Bay. Since holding pens would be located near the capture area, it would be unnecessary to transport the otters by land until they were ready to be flown to San Nicolas Island.

In the event that the desired number and composition of animals cannot be obtained from the areas described above, it is possible that additional individuals would be taken from the north end of the population's range near Monterey and Santa Cruz. These individuals would be captured from the area between Yankee Point and Point Santa Cruz, and held in facilities at the Monterey Bay Aquarium and the University of California at Santa Cruz Long Marine Laboratory.

Animals would be captured by: (1) Diver held devices (as developed by CDFG), (2) dip nets used from a small boat (as currently used by Service research personnel at Pt. Piedras Blancas for catching newly independent pups) or, (3) surface entangling nets (as used by the Service in California and Alaska, and by the Alaska Department of Fish and Game in Alaska). The dip net technique would probably be used extensively since it has been used very successfully in previous research projects for immature sea otters. Most of the translocated animals would be sexually immature, and most of the pups born in any year are weaned and become independent from their mothers by fall, which is judged to be the most suitable time of year for the translocation.

Each captured animal would be placed in holding boxes (approximately 20" wide, 36" long, 24" deep) similar to those developed by the Departments of Fish and Game in Alaska and California. These boxes have proven to be safe and effective for transporting sea otters short distances. Each individual would be taken to the docking facility and carried, or transported by truck, to the holding facilities and then, for translocation to San Nicolas Island, the sea otters would be trucked to the respective local airports. In most cases, individuals would be in transit for no longer than two hours.

Under optimum conditions, all animals to be translocated in a given year would be held at the capture sites or nearby holding facilities prior to their movement to San Nicolas Island. All animals are expected to be captured within three weeks. If logistic or weather-related difficulties are encountered, it may be necessary to spread the translocation effort over a period of up to 30–40 days. Under these circumstances, smaller groups of otters would be maintained at holding facilities, with two or more separate transport and release operations. No fewer than 20 animals would be moved to San Nicolas Island at a single time. All animals would be examined at the holding facility by a veterinarian (with experience treating marine mammals) before they are moved to the Island. The animals would be fed fish fillets and squid (*ad libitum*), supplemented by other shellfish species as available. Males and females would be held in separate tanks, and would be isolated from public view or disturbance to the greatest extent practicable. Twenty-four hour security and observation would be provided at all times when otters are in captivity. The animals would not be handled while in captivity unless required for their well-being.

All individuals would be tagged with color-coded temple tags on the interdigital webbing of the rear flippers, in varying combinations of color and position which allow identification of individuals from a distance. A permanent mark or tag, such as a small ear tag (as used by CDFG, Ames et al. 1983) or lip tattoo, would also be used to help assure "in hand" recognition of individuals in case the flipper tags were lost. As previously described under "Assessment of the Existing Population," up to 30 individuals would be captured up to one year before each transplant period and implanted with radio transmitters. Approximately half of these animals would be recaptured about one year later and translocated.

Animals would be weighed and their sex determined at the time of capture. Blood samples would be taken for genetic and veterinary studies. Teeth would be examined for general condition at the time of capture. Each animal would be injected with tetracycline, if safe and effective doses can first be determined by the Service or veterinary community, in order to provide a potential marker for future age and growth studies. If safe and effective doses are not determined prior to translocation, the Service may select a small sample of the otters to be moved from which to determine proper doses of tetracycline. Only animals judged to be in good health by the veterinarian would be moved to the translocation site. Sick animals would be released or treated by the veterinarian and then released in the capture area upon recovery.

2. Transport

The animals would be translocated from the holding facilities to San Nicolas Island by aircraft. If necessary, the cargo area would be air conditioned to 65° F or less to prevent the animals from overheating. Animals would be accompanied and kept under surveillance while in flight. During transport, the animals would be held in individual cages. The animals would not be fed during transport, although they would be sprinkled with cold water or ice if there are indications of overheating.

Under optimum conditions of weather and if the capture rate is high, animals held at Piedras Blancas and Morro Bay would be flown as a single group from the San Luis Obispo airport to San Nicolas Island. The flight would take place once all animals are in hand and judged to be in good condition. The animals would be offloaded from the aircraft at San Nicolas onto trucks, and driven immediately to the release site.

3. Release

Animals would be held in floating pens which would be securely anchored in the sand bottom at Daytona Beach, San Nicolas Island. This site is protected from onshore winds and heavy seas, which normally are from the northwest during summer and fall. It is the most suitable anchorage at San Nicolas Island and there is road access to the area.

A series of 8 to 10 floating holding pens would be used and there would be no more than 10 individuals in any pen. Males and females would be held separately. Unusually aggressive animals would be isolated from the others. The holding pens would be approximately 19′ long by 14′ wide by 6′ deep, and constructed of a frame of aluminum tubing covered by 2″ stretch nylon net. The pens would be buoyed with styrofoam blocks attached to the outside such that about two-thirds of the pens' depth is submerged. A haul-out platform for the otters would be provided on the interior of each pen. This pen design has been used successfully in previous research in Alaska and California.

A charter vessel, with large freezer capacity to store food, would anchor and stand by at Daytona Beach during the entire period that animals are being held in the floating pens. This vessel would provide a platform for 24-hour surveillance of the animals while they are in captivity at San Nicolas Island. In addition, it would serve as a food storage facility. While in captivity at San Nicolas Island, the animals' diet would consist of frozen fish and squid and would be supplemented with locally common food resources. If necessary, additional food could be air freighted from Pt. Mugu Naval Air Station to San Nicolas Island, and put aboard the vessel.

The animals would be held up to five days in floating pens at the release site. It is thought that this interval would allow the animals to recover from the stress of transit and to become more accustomed to the area. The animals would be released passively by opening the floating pens and allowing them to leave at will. To encourage feeding in their new environment, the otters would not be fed during the last 6 hours in captivity. The release would take place shortly after dawn in order to allow maximum time during daylight for the animals to visually orient themselves to their new environment, and to allow shore-based observers to follow their movements and activities for as long as possible immediately following the release.

Post-Translocation Phase

The main emphasis during this phase would be: (1) Research to monitor the translocated animals and the coastal ecosystem within the translocation zone as the translocated population and its ecosystem come to an eventual equilibrium; (2) to prevent sea otters from becoming established in the management zone; and (3) protection of the translocated colony. Estimates of the time required for the population and ecosystem to reach an equilibrium level depend mainly on initial population size, growth rate of the population, population size at carrying capacity, and growth characteristics of the population near carrying capacity. This phase of the research program would probably be concluded at the end of 10 years, at which time the need for further research would be assessed. Documentation of population, behavioral, and community changes would continue as a component of the research program until carrying capacity is reached.

1. Research

A field research program would obtain the following population information: (1) changes in distribution and size of the experimental population: (2) movement, home range, and territoriality of individually recognizable

animals; (3) foraging behavior and prey selection of individually recognizable animals; (4) activity patterns; (5) annual pup production and reproductive histories of individually recognizable females; (6) natural mortality; and (7) tag loss. It is expected that the translocated population would grow to some eventual equilibrium. The general intent of these studies would be to document changes in social behavior, foraging activities, age-sex composition, and vital rates as the population grows from low to high levels.

Systematic surveys to monitor distribution and abundance of the population, and the location of individuals, would be done from both the ground and aircraft following release of sea otters at the translocation site. Weather permitting, aerial surveys would initially be done at least daily during the first month following release in each year that otters are transplanted unless it is determined from the accumulated information that fewer surveys are needed (see below). The numbers and locations of animals seen during each of these surveys would be recorded and correlated with environmental data. Based on the limited data available from previous translocation efforts (British Columbia, Washington and Oregon), an initial decline due to dispersal away from San Nicolas Island is possible (Jameson et al. 1982), but the magnitude of this decline cannot be predicted with certainty. Because mostly immature animals will be moved and they will be passively released, and because of the deep ocean passes surrounding San Nicolas Island, it is expected that dispersal away from San Nicolas Island would be limited, if at all.

In the event of a large decline in the translocated population immediately following the release, the proposed monitoring program should provide sufficient information to determine whether its cause was mortality or dispersal. Significant mortality is not expected. If it occurred, the cause(s) of death would be determined, when possible, for those animals retrieved. If a decline was caused by dispersal away from San Nicolas Island, reports from fishermen, recreational boaters, and aerial surveys by the Service or CDFG should be sufficient to locate the animals. This should be possible with information obtained in the proposed monitoring program, together with surveillance of those areas within the existing population from which the animals were captured. The instrumented animals would be especially useful in detecting and monitoring post-release dispersal. It is hypothesized that, if substantial dispersal away from San Nicolas Island were to occur, it would be the result of a directed attempt to return to the site of capture rather than to one of the other Channel Islands or to areas along the mainland coast of southern California that are not now occupied by sea otters. If dispersal from San Nicolas Island were to result in return to the existing population, no further effort would be made to capture the dispersing animals and return them to the translocation site. If dispersal was from San Nicolas Island to some other location, the animals would be captured, and depending on the circumstances, returned and released to either the donor population or the translocation site, with return to the donor population being preferred.

Ecosystem level studies at San Nicolas Island primarily would involve monitoring littoral and sublittoral baseline stations (this includes populations of abalone, sea urchins, and fishes), kelp canopy distribution and abundance, and lobster populations. These studies would continue at the present level of effort with adjustments as needed to improve design or sampling sufficiency. This information, in conjunction with the pre-translocation data base and the population level studies, would provide documentation of changes in the structure of the coastal ecosystem as the sea otter population increases from low to high densities. Contingent upon appropriations of the funds requested in the President's budget for FY 1987, additional studies would be done on (1) the population biology of red and black abalones, (2) lobster populations, (3) plant-herbivore interactions, (4) reef fish populations, and (5) socioeconomic issues, such as the effects on kelp harvesting, shellfish and finfish harvest, and recreational activities. These studies would be necessary to understand the nature and causes of change brought about by the sea otters, and the potential effects of such changes on recreational and socioeconomic activities as well as effects on the experimental population itself and its optimum sustainable population level.

2. Containment Efforts

Because it is an island with abundant prey in surrounding waters and is separated from other shallow water areas where food is available by long distances of deep open ocean, dispersal away from San Nicolas Island is expected to be negligible prior to attainment of carrying capacity. As the animals approuch carrying capacity, an increase in dispersal to nearby islands and perhaps the southern California coast might occur. It would be possible to limit the population at or below carrying capacity under any of the legislative authorities considered in this proposed rule, and thus prevent large-scale dispersal away from the island, by one of the following techniques: (1) Selective removal of animals from the translocation zone using nonlethal methods and relocation to the parent population; or (2) imposing birth control measures on some of the individuals within the translocation zone.

The Service and CDFG would jointly manage an effort to locate otters that may disperse from the translocation zone. This effort would rely heavily on public participation/reporting. A "hot line" number would be established and publicized so that individuals who observe otters in the management zone could report the number and location of sea otters observed. The Service would seek appropriate agreements with other Federal and State agencies that have jurisdiction within the management zone (e.g., CDFG, National Marine Fisheries Service and National Park Service) to assist in reporting, capture and protection of other resources in the areas where capture and removal operations would be conducted. Aerial reconnaissance by CDFG and/or the Service would be initiated if studies at the translocation site indicate that a significant proportion (e.g., 10–20 percent) of the animals moved may have dispersed from the translocation zone. Radio-implanted otters that leave the translocation zone will be tracked to the extent possible. If repeated and verified sightings of one or more sea otters are made over a period of a week or more at any location within the management zone where they could impact fisheries, establish a breeding colony or be in danger themselves from incompatible activities, field crews will be mobilized as soon as weather and sea conditions permit to capture and remove the otter(s) from the zone.

Capture would be done by experienced State and/or Federal personnel using one or more of the same techniques used in the translocation effort, such as (1) diver-held devices; (2) surface entangling nets; or (3) dip nets. Additional techniques, such as injection of immobilizing drugs with darts, would be developed in the future, if deemed necessary. Captured otters would be returned to either the translocation zone or to the existing range. Most would either be returned to the original capture site in the existing range or released in the vicinity of Monterey Bay where their

behavior would be compared with those returned to the original capture site. Animals either would be flown or moved by air conditioned van to the release site. If not already implanted captured animals would to the extent possible be implanted with a radio transmitter in order to obtain detailed information on their behavior following their release.

Capture and relocation would serve as an effective containment technique as long as there are additional locations where sea otters are desired. Eventually, after all such areas are occupied, population stabilization may require an artificial balancing of overall births and deaths (Hofman 1985). Therefore, research would be initiated to identify and evaluate techniques for limiting population growth by reducing fecundity. This work would be done in three stages, including a thorough review of literature on birth control in other mammal populations, laboratory experiments to test the most promising techniques if any are identified, and then field experiments in Alaska with Alaskan sea otters.

3. Protection of Translocated Population

At least one special law enforcement agent would be integrated into the translocation effort. The special agent would establish regular contacts with the other parties involved in the translocation process, would develop a working knowledge of the sea otter recovery and research program and potential law enforcement problems, and would develop a cooperative enforcement arrangement with other agencies with jurisdictional responsibilities, e.g. U.S. Coast Guard, National Marine Fisheries Service, California Department of Fish and Game, U.S. Navy, and National Park Service to assist with protecting the experimental population in the most effective and efficient manner possible. That agent would be equipped with a vessel and equipment necessary to carry out frequent enforcement patrol and surveillance to minimize the chance of harassment or other illegal activities affecting the translocated sea otters. Both the on-site special agent and the translocation research team would be monitoring the new colony, therefore, any illegal activities would likely be observed and enforcement actions taken. At a minimum, the agent would be needed for the duration of the actual translocation.

Legislative Authority

The southern sea otter (*Enhydra lutris nereis*) is listed at § 17.11(h) as a threatened species under the Endangered Species Act, 16 U.S.C. 1531 *et seq.* (ESA). *See* 50 CFR 17.11(h). Section 10(j)(2)(A) of the ESA provides that the Secretary may authorize the release and related transportation of any experimental population of a threatened species outside the current range of the species if the Secretary determines that the release will further the conservation of the species. 16 U.S.C. 1539(j)(2)(A). Once released, such a population is considered an experimental population of that species at such times as it is wholly separate geographically from the donor population. Under section 4(d) of the ESA, the Secretary may by regulation determine the prohibitions and restrictions on taking and other activities that are deemed necessary and advisable to provide for the conservation of a threatened species. 16 U.S.C. 1533(d). Section 10(a)(1)(A) of the ESA further provides that the Secretary may permit, under prescribed terms and conditions, any acts necessary for the establishment and maintenance of an experimental population. 16 U.S.C. 1539(a)(1)(A). Thus, under the ESA, the Secretary has broad authority to authorize taking and other activities necessary to establish, contain, and manage an experimental population of southern sea otters.

However, the southern sea otter is also subject to the provisions of the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.* (MMPA). Because the southern sea otter is listed as a threatened species under the ESA, it is automatically classified as a depleted species for purposes of the MMPA. 16 U.S.C. 1362(1)(C). Except when necessary for the welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals, the MMPA forbids any taking of depleted species except under a permit for scientific research purposes. 16 U.S.C. 1361, 1362, 1371, 1373, 1374, 1379(h). Thus, under the MMPA, any taking involved in the establishment and containment of an experimental population of southern sea otters would be limited to that authorized for scientific research.

Section 17 of the ESA provides generally that no provision of the ESA shall take precedence over any more restrictive conflicting provision of the MMPA. 16 U.S.C. 1543. Therefore, under current legislative authority, any establishment and containment of an experimental population of southern sea otters would be constrained by the limits of an MMPA scientific research permit. Further, under current legislative authority, the Service cannot authorize incidental taking of threatened sea otters, which is contrary to the provisions of the MMPA.

Congress is now considering new legislation that would govern the establishment, protection and management of an experimental population of California sea otters. One approach would be to amend section 17 of the ESA to provide that the more restrictive provisions of the MMPA do not override the experimental population provisions of section 10(j) of the ESA. Another approach is taken in H.R. 1027, 99th Cong., 1st Sess. (1985); 131 Cong. Rec. H6467 (July 29, 1985). Section 5 of H.R. 1027 would provide special legislative authority, similar to section 10(j) of the ESA, for the establishment, containment, and management of an experimental population of California sea otters pursuant to translocation plan to be developed by regulation. H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 2–3, 14 (1985); 131 Cong. Rec. H6467 (July 29, 1985). Section 5(f) of H.R. 1027 would provide that, for purposes of implementing the translocation plan, no act by authorized Service or State officials that is necessary to effect the relocation or management of any sea otter under the plan may be treated as violation of the MMPA or ESA. H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 4, 20 (1985); 131 Cong. Rec. H6466 (July 29, 1985).

Drafted in accordance with current authority found in section 10(j) of the ESA, the proposed rule has been written to address the requirements of existing law while anticipating additional findings and other requirements of possible legislative amendments (H.R. 1027 and possible amendment to section 17 of the ESA to waive MMPA restrictions on ESA section 10(j) experimental populations). References to proposed legislation have been made in order to provide the opportunity for full range of public comment and to conserve administrative effort should these bills become law. This approach also responds to Congressional mandate that the Service move forward with the DEIS on the translocation proposal, considering existing legal authority as well as pending legislative initiatives. *See* Pub. L. No. 99–190, S123, 99 Stat. 1185, 1320 (December 19, 1985). None of this discussion on proposed legislation should be construed as the Service's endorsement of such initiatives. If final rule were issued under existing legislative authority, then the taking moratorium of the MMPA would apply and certain provisions of the proposed rule authorizing incidental take

[(§ 17.84(d)(4)(iv)(B) and (d)(5)(iv)(B)] and takings by permit (other than for scientific research purposes) [(§ 17.84 (d)(4)(iv)(C) and (d)(5)(iv)(C)] would be preempted by the MMPA provision. Likewise, the provision in the proposed rule on the "essentiality" finding would be deleted from any final rule if H.R. 1027 were to become law prior to the issuance of any final rule.

Identification of Zones

H.R. 1027 would require the translocation plan to specify two zones for the experimental population, translocation zone and management zone. H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 3, 16–18 (1985); 131 Cong. Rec. H6465 (July 29, 1985). The translocation zone is the area in which California sea otters are to be relocated and it must have appropriate characteristics for furthering the conservation of the species, including occupiable habitat and buffer are to insulate the experimental population from adverse effects of activities that may occur outside the translocation zone. *Id.* at 3, 16; 131 Cong. Rec. H6467 (July 29, 1985). The management zone is to surround the translocation zone, but cannot include the existing range of the parent population or adjacent range where expansion of the parent stock is necessary for recovery of the species. The purposes of the management zone are to facilitate management and containment of the experimental population and to minimize to the maximum extent feasible conflict between the experimental population and fishery resources and oil and gas exploration and development activities. *Id.* Any sea otter found within the management zone is to be returned to either the translocation zone or to the range of the parent population. 131 Cong. Rec. H6465 (July 29, 1985).

Section 10(j) of the ESA requires the Secretary to identify an experimental population by regulation and requires that such population be wholly separate geographically from nonexperimental populations of the same species. 16 U.S.C. 1539(j). Regulations implementing section 10(j) require appropriate means to identify the experimental population, including its location and actual or anticipated migration. 50 CFR 17.81(c)(1).

The proposed rule would establish translocation zone for the experimental population comprised of San Nicolas Island, the nearby islet of Begg Rock, and surrounding waters within the following coordinates:

North Latitude/West Longitude
33°27.8'/119°34.3'
33°20.5'/119°15.5'
33°13.5'/119°1.8'
33°06.5'/119°15.3'
33°02.8'/119°26.8'
33°17.2'/119°56.9'
33°30.9'/119°54.2'

The translocation zone boundary is drawn taking into account the availability of food resources, rafting sites and kelp beds as well as wind and wave patterns, offshore currents and other oceanographic variables and the types and magnitude of activities that may adversely affect the experimental population. 131 Cong. Rec. H6467 (July 29, 1985). Waters surrounding San Nicolas Island out to at least the 15-fathom contour within these coordinates provide highly suitable habitat for California sea otters. Historically, sea otters were present at San Nicolas Island in considerable numbers. Kelp forests flourish near the island and prey species such as abalone, sea urchins, crabs, clams and mussels are abundant. A buffer area is added to that area identified as sea otter habitat (i.e., coastal waters within the 15-fathom contour). This buffer area is based on wind and sea conditions, projected movement of oil from hypothetical oil spills and response time required to contain or divert those spills using one or more of the existing Oil Spill Response vessels. The area delineated by the coordinates of the translocation zone provides sufficient response time to intercept and divert or possibly contain an oil spill before it could reach sea otter habitat within the 15-fathom contour around the Island, provided weather and sea conditions permit effective deployment of containment equipment. The translocation zone is also large enough to provide a buffer between sea otter habitat and fishing activities in the management zone.

The management zone set forth in the proposed rule would consist of all waters, islands, islets, and land areas seaward of mean high tide subject to the jurisdiction of the United States, including State tidelands, located south of Point Conception, California (34°28.9' N. Latitude), except for any area within the translocation zone. The management zone surrounds the translocation zone and begins approximately 50 miles to the south of the southern limit of the existing range of the parent population at the Santa Maria River. Thus, as required by H.R. 1027, the management zone surrounds the translocation zone and does not include any of the existing range of the parent population or any adjacent range where natural expansion may be necessary for recovery of the species. As discussed later in this preamble, the Service would use all feasible non-lethal means and measures to capture any sea otter found within the management zone and return it to either the translocation zone or to the range of the parent population. Capture and relocation of sea otters found in the management zone would serve to contain the experimental population and to minimize conflicts between sea otters and fishing and oil and gas exploration and development activities in the management zone.

Protective Regulations

H.R. 1027 generally provides that any member of the experimental population of California sea otters would be treated as a threatened species for purposes of sections 4(d) and 9 of the ESA. H.R. 1027, section 5(c), 99th Cong., 1st Sess. (1985). Section 9(a)(1)(G) of the ESA prohibits any violation of a regulation pertaining to a threatened species promulgated by the Secretary pursuant to authority provided by the ESA. 16 U.S.C. 1538(a)(1)(G). Section 4(d) of the ESA authorizes the Secretary to issue protective regulations for threatened species. 16 U.S.C. 1533(d).

H.R. 1027 provides several exceptions to otherwise enforceable restrictions for California sea otters belonging to the experimental population. Regardless of the zone, no act by an authorized Service or State official that is necessary to effect the relocation or management of a California sea otter under the translocation plan could be treated as a violation of the ESA or the MMPA. H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 4(1985). Within the translocation zone, H.R. 1027 (as presented in 131 Cong. Rec. H6467; July 29, 1985) provides an exception to sections 7(a)(2) and the incidental taking aspects of section 9 of the ESA for "defense-related agency actions" which the bill defines as agency actions carried out directly by a military department. However, section 7(a)(4) of the ESA (the informal conference process) would apply to defense-related actions occurring within the translocation zone. *Id.* at 3. Within the management zone, H.R. 1027 would provide an exception for incidental taking during the course of an otherwise lawful activity. *Id.*

Section 10(j) of the ESA generally provides that each member of an experimental population shall be treated as a threatened species. 16 U.S.C. 1539(j). Regulations implementing section 10(j) require the establishment of protective regulations under section 4(d) of the ESA with respect to the experimental population. 50 CFR 17.81(c)(3), 17.82. The implementing

regulations for section 10(j) of the ESA also require that, to the maximum extent practicable, regulations governing an experimental population shall represent an agreement between the Service, the affected State and Federal agencies, and parties holding any interest in land which may be affected by the establishment of an experimental population. 50 CFR 17.81(d).

Within both the translocation zone and the management zone, the proposed rule would, with some exceptions, impose all of the prohibitions provided for endangered species by 50 CFR 17.21(a)–(f). Section 4(d) of the ESA authorizes the Secretary to impose with respect to a threatened species any or all prohibitions applicable to endangered species. 16 U.S.C. 1533(d). For both zones, the proposed rule would provide an exception to the prohibitions for actions by authorized Service or California Department of Fish and Game officials that are necessary to effect relocation or management of a California sea otter under the translocation plan. For both zones, the proposed rule would provide an exception to the prohibitions for any action authorized by a threatened species permit pursuant to 50 CFR 17.32 (for example, a permit authorizing research involving an experimental population sea otter to be carried out by a university or college).

With regard to the translocation zone, the proposed rule would provide an exception to the prohibitions for incidental taking during the course of a defense-related agency action carried out directly by a military department. The term "military department" does not include the Coast Guard. *See* H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 18(1985). As discussed previously, this exception would be required by H.R. 1027. *Id.* at 3, 18. Because the Service will be conferring with the Navy through the section 7(a)(4) process on any action that is likely to jeopardize the continued existence of the listed sea otters, and would propose to develop a Memorandum of Understanding with the Navy, the Service does not anticipate that Navy operations on the island or its surrounding waters would adversely affect an experimental population of California sea otters.

Within the management zone, the proposed rule would provide an exception to the prohibitions for incidental taking that occurs during the course of an otherwise lawful activity. As discussed previously, this exception would be required by H.R. 1027 to avoid conflicts between sea otters and fishing activities, oil and gas exploration and development, and other resource-related activities. *See* H.R. Rep. No. 99–124, 99th Cong., 1st Sess. 3, 16–17 (1985); 131 Cong. Rec. H6468 (July 29, 1985). It also reflects agreement between the Service and other agencies and parties that would be affected by establishment of the experimental population. *See* 50 CFR 17.81(d). (If translocation were carried out under existing authorities incidental take would be prohibited unless the law is amended to provide specifically for such taking.) For the reasons given above, the Service finds that the protective regulations proposed in this rule are necessary and advisable for the conservation of the experimental population of sea otters.

Applicability of Section 7(a)(2) Within the Translocation and Management Zones

Under section 7(a)(2) of the ESA, Federal agencies must ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the continued existence of an endangered species or a threatened species or result in the destruction or adverse modification of designated critical habitat. Any Federal action that "may affect" an endangered or threatened species or critical habitat must be evaluated through formal consultation under section 7. The southern sea otter, a threatened species, is generally protected by this interagency consultation requirement.

However, the applicability of section 7(a)(2) to a translocated sea otter population depends on the legislative authorities under which a translocation is carried out. If a translocation is approved to be carried out under section 10(j) of the ESA rather than under H.R. 1027, the applicability of section 7(a)(2) would depend on whether the Service finds that the experimental population is essential to the continued existence of the subspecies. (*See* discussion on essentiality finding, *infra.*) Because the Service proposes to designate the San Nicolas Island experimental population as "nonessential," section 7(a)(2) would not apply to the translocated sea otters found within the translocation or management zones (if H.R. 1027, or similar legislation, is not adopted). Sea otters that may stray into areas within the management zone that are units of the National Park System or National Wildlife Refuge System would not become subject to section 7(a)(2) requirements at that location because they would be removed under the Service's containment authority. The conservation provisions of section 7(a)(1) and the informal conference requirement of section 7(a)(4) would apply to a "nonessential" experimental population. On the other hand, if the Service, after reviewing public comments and other relevant information, found the experimental population to be "essential," then the full protections of section 7(a)(2) would apply to the translocated sea otters. *See* section 10(j)(2)(C) of the ESA.

If, however, the sea otter provisions of H.R. 1027 become law before a final decision is made on a translocation, the Service's finding on "essentiality" would be irrelevant (and corresponding portions of this proposed rule would be inapplicable), because H.R. 1027 establishes precise limits on the applicability of section 7(a)(2) to an experimental sea otter population. Under H.R. 1027 the location of the federal action is controlling: if the proposed action is to be implemented within the translocation zone (except for defense-related agency actions and other actions initiated prior to the enactment of H.R. 1027), then the requirements of section 7(a)(2) would apply; if the proposed action is to be implemented within the management zone (although adverse effects could spill over into the translocation zone), then section 7(a)(2) does not apply, unless the proposed action "may affect" the parent population of southern sea otters, in which case the required consultation would be limited to the effects of the Federal action on the parent population. H.R. 1027 further provides that the informal conference requirement of section 7(a)(4) of the ESA applies to Federal activities within the management zone and to defense-related activities (*i.e.*, actions directly implemented by a military department) in either zone. Under H.R. 1027, the Service would have the authority and responsibility to remove otters from a unit of the National Park System or a marine sanctuary if such unit was located within the management zone. 131 Cong. Rec. H6467 (July 29, 1985).

Containment

H.R. 1027 would require, as a component of the translocation plan, that the Service describe measures, including an adequate funding mechanism, to isolate and contain the experimental population. The legislation emphasizes the importance of maintaining an otter-free management zone in order to prevent, to the maximum extent feasible, conflict with fishery and other resources within the management zone by the experimental population. H.R. 1027 delegates broad authority to capture and remove, by nonlethal means, otters from any

location within the management zone, including units of the National Park System or marine sanctuaries. The legislative history for H.R. 1027 specifically acknowledges that members of the parent population may occur within the management zone and requires their removal in order to maintain that zone as free of otters. 131 Cong. Rec. H6467 (July 29, 1985) states that successful implementation of a "zonal management" concept could greatly improve the recovery of the sea otter by reducing threats to the species and by reducing conflicts with other resources. Containment of the experimental population at San Nicolas Island by maintaining the surrounding management zone as otter-free would result in implementation of zonal management for southern California south of Point Conception since maintenance of the otter-free zone associated with the experimental population would also result in prevention of natural expansion of the parent population south of Point Conception into southern California.

In order to carry out isolation and containment requirements of H.R. 1027 or other statutory authority that may exist at the time of implementation, the Service and CDFG would jointly conduct an effort to locate and remove otters that may disperse from the translocation zone or otherwise appear in the management zone.

The methodology for conducting the containment effort was described previously under "Post-Translocation Phase 2. Containment Efforts." If repeated and verified sightings of one or more sea otters are made at any location within the management zone over a period of one week or more at any location within the management zone where they could impact fisheries or be in danger from incompatible activities, field crews will be mobilized to capture and remove the otter(s) from the zone as soon as weather and sea conditions permit.

With regard to containment, it would be necessary to determine when the population is approaching carrying capacity of the habitat within the translocation zone. This should be evident from information that would be obtained in the proposed monitoring program. The following changes are expected as the population approaches carrying capacity: (i) The growth rate of the population is expected to decline; (ii) the juvenile mortality rate is expected to increase to about 70 percent or higher; (iii) the time spent foraging is expected to increase from 20–30 to over 50 percent of the total time budget; and (iv) the diet is expected to diversify to include less nutritious prey and prey that requires more energy to obtain.

As discussed earlier in this document, a minimum of about 10 years is expected for the population to reach carrying capacity. Dispersal away from San Nicolas Island is expected to be negligible prior to attainment of carrying capacity. As the animals approach carrying capacity, dispersal to nearby islands and perhaps the southern California coast may occur. It would be possible to limit the population at or below carrying capacity, and thus prevent large-scale dispersal away from the Island and possibly maintain a higher reproductive rate, by one of the following three techniques: (i) Capturing animals from the population for translocation elsewhere, (ii) imposing birth control measures on some of the individuals; or (iii) selective or random culling of the population which would require changes in statutory authority if lethal means were to be considered. A permanent Sea Otter Management and Coordination Office would be established and maintained at a field location near the "management zone." The office would coordinate the containment effort, verify and respond to reports of otters in the management zone, maintain public relations and interagency coordination and cooperation, serve as a contact point and source of information for the public and other agencies, continue to coordinate the overall recovery program for the California sea otter, take the lead in working with the State(s) on a long-term management plan for the southern sea otter, and eventually assume certain other management functions such as routine population monitoring, incidental-take monitoring, etc. The Office would work closely with State biologists to remove otters from the management zone.

Successful implementation of this plan would depend on an adequate commitment of funding and personnel. The Service has sought funding through its normal Congressional appropriations process. Contributions from other Federal sources and non-Federal sources may also be obtained. Federal funding would be administered through the Service. Although the Service cannot obligate funds for which it has not received an appropriation, the Service has requested funding in the FY–87 budget for research, management, and containment of the experimental population.

The Service could also enter into interagency agreements for the transfer of Federal funds from another agency to the Service. Such an agreement would be sought when interagency cooperation would facilitate achieving program policies, requirements, or goals. Also, unexpended balances of Federal funds are expected to be available for grants for specific activities can be granted by the Service to States that have entered into cooperative agreements under section 6 of the ESA. Research, management, and containment of the translocated population would be considered an appropriate use of such funds while the species is listed under the ESA. Subsequent to delisting, the respective State where the experimental population exists may request grants from the Service under provisions of the Federal Aid in Wildlife Restoration (Pittman-Robertson) Act, or, if management of the southern sea otter is eventually transferred to that State, under sections 109(j) and 110 of the MMPA, subject to the availability of funds for these purposes.

Non-Federal funding could be received through donations, and such donations would be administered through the National Fish and Wildlife Foundation.

Effects on Recovery and Section 7 Determinations

H.R. 1027 would require that the translocation plan contain a description of the relationship of implementation of the plan to the status of the species under the ESA and to determinations of the Secretary under section 7 of the ESA. The following section describes those relationships. Terminology used reflects the language contained in H.R. 1027, as well as in the ESA. Throughout this discussion, the terms new population, experimental population, and colony are used interchangeably when referring to the translocated otters.

Relationship to the Status of the Species

The recovery plan for the southern sea otter contains five goals and numerous tasks that must be accomplished in order to recover and remove the species from the Federal list of endangered and threatened species. The five broad goals are to: (1) Minimize the risk of oil spills; (2) minimize the possible effects of oil spills; (3) minimize vandalism, harassment, and incidental take of sea otters; (4) monitor recovery progress of the existing population and any new colonies; and (5) integrate recovery plans into development and management plans of local coastal governments. The proposed translocation is intended to address primarily the goal of minimizing the

possible effects of oil spills. Specifically, the recovery plan states the following in regard to delisting, which is directly relevant to the relationship of a translocation to the overall status of the species:

"Delisting should be considered when the southern sea otter population is stable or increasing at sustainable rates in a large enough area of their original habitat that only a small proportion of the population would be decimated by any single natural or man-caused catastrophe. To reach this point: (1) At least one additional population of sea otters must be established outside the current population range, (2) the existing population of sea otters and its habitat must be protected, and (3) the threat from oil spills or other major environmental changes must be minimized."

The successful establishment of at least one additional colony or population would result in the attainment of one of these criteria. In order to consider whether recovery is attained, the other criteria would need to be evaluated in depth to determine whether or not oil spill and other major environmental or population threats are minimized to the maximum extent practicable. Although progress toward achievement of all five recovery plan goals would have to be evaluated and each goal met before delisting could occur, the establishment of at least one additional colony would be a prerequisite to consideration of delisting in order to meet the recovery plan requirements.

The relationship of translocation to the status of the California sea otter population, from an ESA standpoint, would change sequentially through distinct stages. The critical element in the sequence is the point at which the experimental population would be determined by the Service to be "established," based on specific scientific criteria. The Service defines "established experimental population" as one which meets the following criteria: an estimated minimum of 150 healthy male and female sea otters residing within the translocation zone, little or no emigration into the management zone occurring, and a minimum annual recruitment of 20 sea otters into the experimental population occurs within the translocation zone for at least 3 years of the latest five-year period. The population estimate would be derived by the Service from periodic ground and aerial counts conducted by the Service and/or California Department of Fish and Game, or designated agents thereof, with appropriate adjustment factors to account for visibility or other counting technique biases. Annual recruitment would be derived by the Service using a combination of factors such as known pup production and mortality and annual growth of the experimental population as a whole as evidenced by results from periodic counts and population estimates.

The minimum of 150 otters estimated to be residing within the translocation zone and minimum annual recruitment of 20 are based on the expectation that this combination should be sufficient to be self-sustaining and to supply at least 20 primarily immature otters per year for several years if it became necessary for replenishing the parent population in the event of a catastrophic event such as a large oil spill. A minimum of 20 immatures is believed necessary based on empirical evidence from previous translocation efforts in which sea otters from Alaska have been used to attempt to reestablish populations in other areas of historic habitat. The figure of 20 is believed to be a reasonable minimum number that could be expected to remain in an area and form a breeding nucleus from which repopulation through natural reproduction might occur, although there have been no definitive studies to demonstrate that 20 would be either an optimum or minimum number. Carrying capacity, a threshold that would be determined through research, would not necessarily have to be reached in order for the new population to be considered established if it met the criteria stated above.

In addition to defining when the experimental population would be considered established, criteria are also needed to describe the circumstances in which the Service would consider the translocation to be a failure. The translocation would generally be considered to have failed if one or more of the following conditions existed:

(1) If, after the first year following initiation of translocation or any subsequent year, no translocated otters remain within the translocation zone and the reasons for emigration or mortality cannot be identified and/or remedied;

(2) If, within three years from the initial transplant, fewer than 25 otters remain and the reasons for emigration or mortality cannot be identified and/or remedied;

(3) If, after two years following the completion of the transplant phase, the experimental population is declining at a significant rate and the translocated otters are not showing signs of successful reproduction (i.e., no pupping is observed); however, termination of the project under this and the previous criterion may be delayed, if reproduction is occurring and the degree of dispersal into the management zone is small enough that the effort to continue to remove otters from the management or no-otter zone would be acceptable to the Service and the affected State;

(4) If the Service determines, in consultation with the affected State, that otters are dispersing from the translocation zone and becoming established within the management zone in sufficient numbers to demonstrate that containment cannot be successfully accomplished. This standard is not intended to apply to situations in which individuals or small numbers of otters are sighted within the management zone or temporarily manage to elude capture. Instead, it is meant to be applied when it becomes apparent that, over time (one year or more), otters are relocating from the translocation zone to the management zone in such numbers that:

(a) An independent breeding colony is likely to become established within the management zone, or (b) they could cause economic damage to fishery resources within the management zone. It is expected that the Service could make this determination within a year provided sufficient information is available;

(5) If the health and well-being of the experimental population should become threatened to the point that the colony's continued survival is unlikely, despite the protections given to it by the Service, State, and applicable laws and regulations. An example would be if an overriding military action for national security proposed that would threaten to devastate the colony and removal of the otters was determined to be the only viable way of preventing the loss of the colony.

If, based on any one of these criteria, the Service would conclude, after consultation with the affected State, that the translocation had failed to produce a viable, contained experimental population, the original experimental population rulemaking would be amended to terminate the experimental population, and all healthy otters remaining within the translocation zone would be captured and placed back into the range of the parent population. Efforts to maintain the management zone free of otters would be curtailed after all reasonable efforts had been made to remove all otters that were within the management zone at the time

of the decision to terminate the experimental population.

Prior to declaring the translocation a failure, a full evaluation would be conducted into the probable causes of the failure. If the causes could be determined and legal, reasonable remedial measures identified and implemented, consideration would be given to continuing to maintain the experimental population. If such reasonable measures could not be identified and implemented, the results of the evaluation would be published in the **Federal Register** with a proposed rulemaking to terminate the experimental population.

The following is a general description of the stages of growth and establishment of the experimental population, and how they would relate to the status of the California sea otter population as a whole if translocation were to take place. Figure C.1 is a schematic illustration of the stages of growth and establishment of an experimental sea otter population.

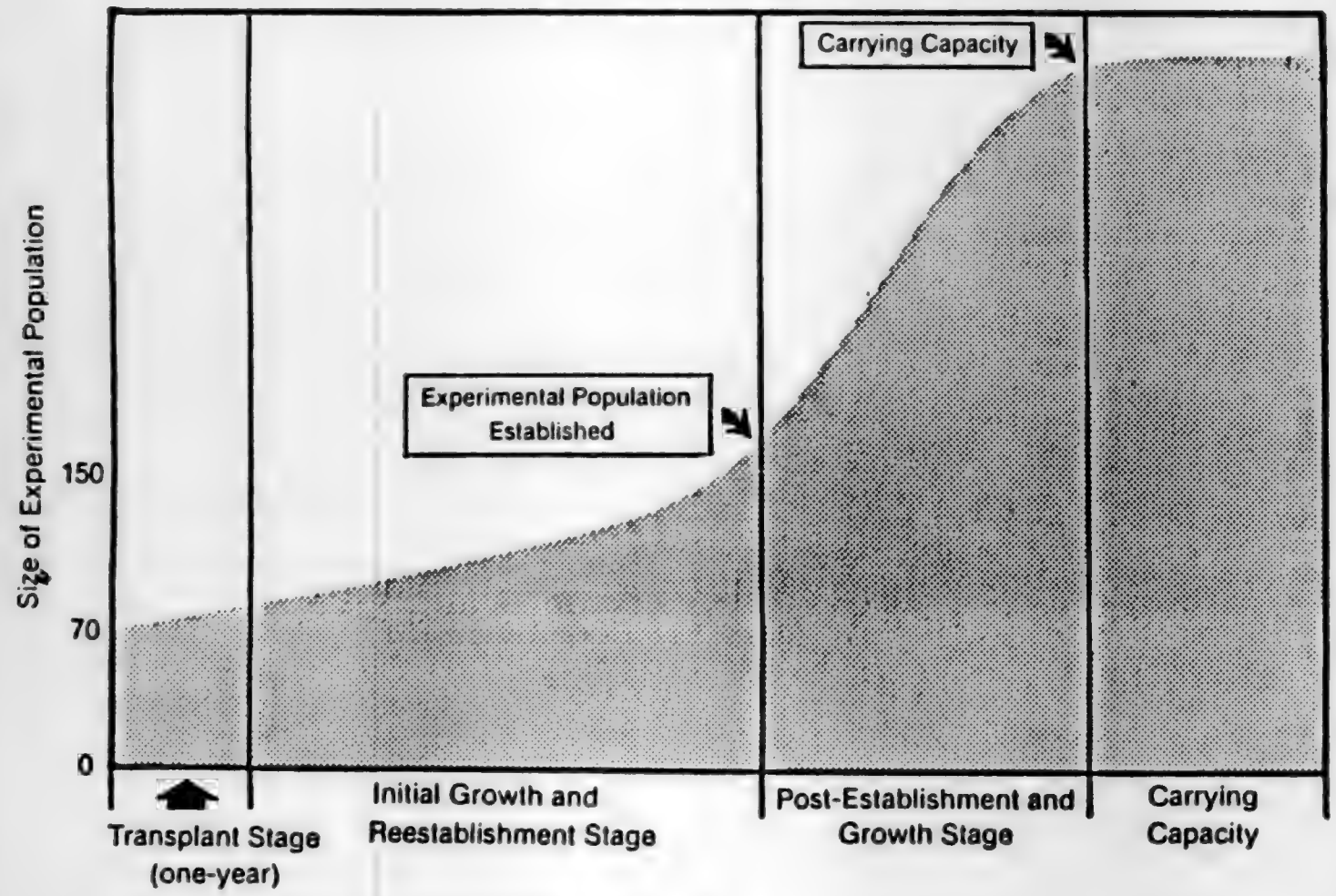

Figure C.1. Stages of establishment and growth of an experimental population of sea otters.

1. Transplant stage. This constitutes the approximately one-year period during which sea otters from the parent population would be actively captured and transplanted to the translocation site. Up to 70 otters would be moved to the site during the first year, supplemented as necessary with no more than 70 individuals in any subsequent year. If, as expected, most of the translocated otters remain within the translocation zone until population growth due to natural reproduction can be demonstrated, there would be no supplemental translocation to the site in subsequent years except for occasional small numbers (up to five per year) to provide for genetic exchange with the parent population. However, if a substantial decline is seen in the population or a serious imbalance in the sex ratio occurs, additional otters may be moved to the site in subsequent years, not to exceed a total of 250 or an annual maximum of 70. Based on this strategy, and if a sufficient mix of healthy male and female otters existed within the translocation zone and were apparently sedentary and showing little or no sign of dispersing from the zone, the transplant period would end. This could occur after the first year or perhaps later if supplements were necessary. A status review of the parent population, comparable to the five-year reviews required by the ESA, would be conducted near the beginning of translocation to serve as a baseline for evaluating recovery progress.

2. Initial growth and reestablishment stage. This comprises the period between the end of the transplant stage and the point at which the criteria for establishment of the experimental

population are met. It is a period of intense observation of both the experimental population and the parent population. The primary focus would be to evaluate how well the new population is adapting to its new environment and, in particular, its reproduction and dispersal tendencies. It is also a period for evaluating the effects of translocation on the parent population, including effects on growth and range expansion. The initial growth and reestablishment period would likely be at least 5–6 years, depending on how long it would take for the nucleus of the new population to achieve the "established state" recruitment criteria and to reach a minimum estimated size of 150.

After the new population is deemed to be established, the Service would evaluate the overall success of the translocation and relate it to the recovery plan goals and criteria and the previous five-year and annual status reviews of the population as a whole. The southern sea otter would be eligible for consideration for delisting if the translocation were successful (i.e., the population established) and other recovery criteria satisfied. At this point the procedures to propose delisting the southern sea otter from the Federal list of endangered and threatened species would be initiated by the Service. Research on the experimental population and related changes in the ecosystem would continue, as would containment and maintenance of the designated management zone as otter-free by the Service and/or the respective State wildlife agency.

It is conceivable that, under ideal conditions, nearly all of the 15 adult females and some of the 40 females translocated as immatures could be reproducing with the first 2–3 years of the initial growth and reestablishment stage; however, the new population could not be deemed established until a minimum population estimate of 150 and minimum annual recruitment of 20 had been achieved for at least 3 of the last 5 years. If recruitment and population growth did not occur at this rate initially, the period of initial growth and reestablishment would continue until the criteria were met, or until it was determined that the experimental population had failed. The proposed translocation would be designed to maximize the chance of success, thus, it is likely that the experimental population would become established relatively quickly after completion of the transplant phase.

The Service does not consider the mere presence of sea otters in the translocation zone as an indication that a new population is established. If a catastrophic event were to decimate a portion of the parent population, it is possible that the relocated otters could be used to restore the damaged portion of the parent population; however, it would also likely eliminate the value of the new population to serve as a reserve colony for providing stock to restore subsequently damaged areas and it could eliminate the reproductive viability of the colony such that the remaining animals could not be self-sustaining. Therefore, to be considered established it must be a reproductively viable unit, capable of maintaining itself even if animals are removed each year for several years for purposes of repairing damage to the parent population. The translocation zone should have a carrying capacity capable of supporting a population large enough to supply at least 20 mostly immature animals yearly for several years for purposes of repopulating areas of the existing range in the event that a catastrophic event decimates a portion of the parent population.

A single additional reproductively viable population of sea otters could be sufficient for recovery of the species pursuant to ESA. Thus, it is possible that recovery and delisting could occur with a single successful translocation, assuming that other recovery criteria are satisfied.

3. Post-establishment and growth phase. This is the period after the experimental population would be deemed established and actively growing toward the carrying capacity of the habitat within the translocation zone. During this period, intensive research and monitoring would continue in order to document changes in the nearshore ecosystem of the translocation zone, and the behavior, reproduction, and dispersal tendencies of otters in the experimental population.

During the post-establishment and growth stage, the experimental population would contribute to the total size of the California sea otter population and its numbers and location would be added to those of the parent population when describing the population size and distribution of the California sea otter for any purpose.

Under the current approved recovery plan, recovery criteria are not defined in terms of specific population goals, but, rather, by the need to establish at least one additional colony and protect the existing mainland population in California. Because establishment of the experimental population, along with achievement of other recovery plan goals, could be sufficient to consider delisting from the threatened species list, the addition of otters during the post-establishment and growth stage of the experimental population normally would not influence the overall status of the California sea otter for ESA purposes since this component of the recovery plan would have been satisfied upon the experimental population becoming established. However, if a catastrophic event were to decimate all or a large part of the parent population, the size of the experimental population would be a factor in determining whether or not the California sea otter should remain listed as "threatened" or reclassified as "endangered."

4. Carrying capacity. This represents the point at which the experimental population reaches the carrying capacity of its habitat, defined as an ecological state in which the numbers of animals remain relatively constant and in balance with the available food supply, also referred to as "equilibrium density." It is expected that, as the new population approaches carrying capacity, the growth rate would decline, the dispersal tendency of some otters may increase, natural juvenile mortality would accelerate, the time spent foraging by the otters would increase significantly, and the diet would become measurably more diversified. At this point, the growth rate of the colony might have slowed or even stopped.

Attainment of an equilibrium density in the experimental population would not necessarily influence the legal status of the southern sea otter population for purposes of ESA, beyond that which occurred at the time the new colony was deemed established. This is because the initial establishment of the experimental population would be sufficient to consider delisting if the other recovery criteria have been met.

To summarize the relationship of translocation to the status of the California sea otter pursuant to ESA, this relationship would be time-phased and would vary with the stages of growth of the translocated population. The recovery plan states that in order for recovery and delisting from the Federal list of endangered and threatened species to occur, a number of criteria must be met. A key one is that at least one additional population must be established outside the current range but separated from the existing population such that it would not be possible for a large oil spill to contact and decimate both the new colony (or colonies) and the existing population. The definition of "established" is pivotal to a description of the relationship to the

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population as a whole. The experimental population would not be sufficient to consider delisting under ESA until the Service deemed the new population to be established. The minimum time required would be five years after the actual translocation begins, and it could be longer, depending primarily on the recruitment and mortality rates and the degree to which the experimental otters remain within the translocation zone. Both the transplant and initial growth and reestablishment stages must occur before the new population could be judged to be established. During these two stages, the experimental population would have no influence on, nor help to improve, the legal status of the southern sea otter under ESA, although during the initial growth and establishment stage the number of otters within the translocation zone would be added to those in the donor population for purposes of conducting ESA section 7 consultations if there were at least as many otters in the zone as were moved there during the transplant stage and if successful reproduction was occurring in the translocation zone.

Once the new population is deemed established, removal of the southern sea otter from the threatened list could be considered, although delisting would depend on the degree to which other recovery criteria have also been met. The Service would conduct a formal status review relative to the donor population near the beginning of translocation, and again conduct a status review at the time the experimental population was deemed established. This would provide the basis for evaluating the requisite factors to be considered prior to delisting a species.

Subsequent to the population becoming established as a viable breeding colony, it is anticipated that it would enter a growth stage, during which it would grow toward carrying capacity. During the post-establishment and growth stage, and at carrying capacity, the experimental population normally would influence the legal status (pursuant to ESA) of the overall California population no more than when it was initially deemed to be established. One potential deviation from this would be if the parent population were to be substantially diminished; should that occur, the size of the experimental population at that point would have a bearing on whether the remaining sea otters would remain classified as threatened or reclassified as endangered, or relisted if a delisting action had previously been completed.

Relationship to Future ESA Section 7 Determinations

The discussion, terms, and conclusions described under the previous section are directly applicable to this section. ESA section 7 consultations conducted relative to the experimental population itself would depend on the legal authority under which the translocation might take place. If conducted under section 10(j) of the ESA, the proposed experimental population would be designated "non-essential" and, therefore, formal consultations would not be required. If amendments to ESA passed by the House of Representatives in July 1985 (H.R. 1027) become law, then formal section 7 consultations would be required relative to the proposed experimental population (prior to delisting), regardless of its size or growth stage for all Federal actions that are proposed to be undertaken within the translocation zone that are not defense-related and that may affect the experimental population. Within the management zone, no formal consultations would be required for actions that may affect the experimental population, but pursuant to section 7(a)(4) the Federal agency proposing the action would be required to informally confer with the Service on projects that are likely to jeopardize the continued existence of the southern sea otter.

During the transplant and initial growth and reestablishment stages, it would not be known if the experimental population would eventually take hold and become a viable, self-perpetuating unit. Therefore, it could not be considered as available for restoring a damaged parent population, and thus would not contribute to recovery. However, for section 7 purposes during the growth and reestablishment stage the numbers associated with the experimental population would be added to those of the parent population if they were at least equal to the number originally translocated to the translocation zone and successful reproduction was occurring. For example, if there were 100 sea otters in the translocation zone, at least some of which were reproducing successfully, and 1,400 in the parent population, the total population of California sea otters would be considered to equal 1,500 for purposes of evaluating a Federal project through section 7 consultation. Although the estimated size of both the parent population and experimental population would be combined for section 7 purposes, the reduction in the likelihood of a jeopardy opinion during the reestablishment stages would probably be only a small fraction and probably not quantifiable. When considering adverse effects and incidental take associated with a proposed project and cumulative effects that may affect the donor population, the number of otters removed from the donor population for translocation purposes would have to be taken into consideration for projects proposed during the transplant stage. However, since only a maximum of 70 would be translocated the first year, and only small supplements taken if needed during subsequent years, there would not likely be any measurable effect on section 7 opinions relative to the parent population after the first year of the translocation.

During the transplant and initial growth and reestablishment stages (prior to becoming established), and after becoming established, the transplanted otters within the translocation zone would be considered as a part of the parent population for section 7 purposes relative to projects that may affect the experimental population. Thus, any impacts caused by a proposed Federal action on the experimental population would be viewed as affecting the species as a whole.

Once the experimental population became established, but prior to the formal delisting of the southern sea otter, the existence of the experimental population would affirmatively influence determinations of jeopardy and non-jeopardy, and it would be considered part of the overall southern sea otter species for section 7 purposes in direct proportion to its size. For example, if the experimental population numbered 300 and the donor population 1,300, for section 7 purposes the southern sea otter population would number 1,600, and the projected impacts from the project would be based on the proportion of the 1,600 that could be affected. In addition to simply adding the sizes of both the donor and experimental populations together, the experimental population would also be available to annually contribute at least 20 mostly immature otters for restoring a damaged donor population. This potential contribution would be factored into a section 7 biological opinion in its assessment of impacts of the proposed Federal project and the time required for the donor population to recover itself from the expected impacts of the Federal project. The fact that two viable, geographically separate populations existed would reduce the likely extent of impacts from the proposed Federal action on the species as a whole and,

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thus, affect determinations of jeopardy and non-jeopardy pursuant to section 7.

With regard to determinations of Jeopardy or non-jeopardy, as the experimental population grows toward the maximum number that its habitat can support, i.e., carrying capacity, the likelihood of jeopardy determinations for Federal actions would decrease proportionally for comparable projects with comparable types of impacts. Thus, there would be an inverse relationship between the size of the experimental population (after the transplant stage) and the likelihood of jeopardy determinations associated with section 7 consultations on either the parent or the experimental population. Figure C.2. graphically describes this hypothetical relationship.

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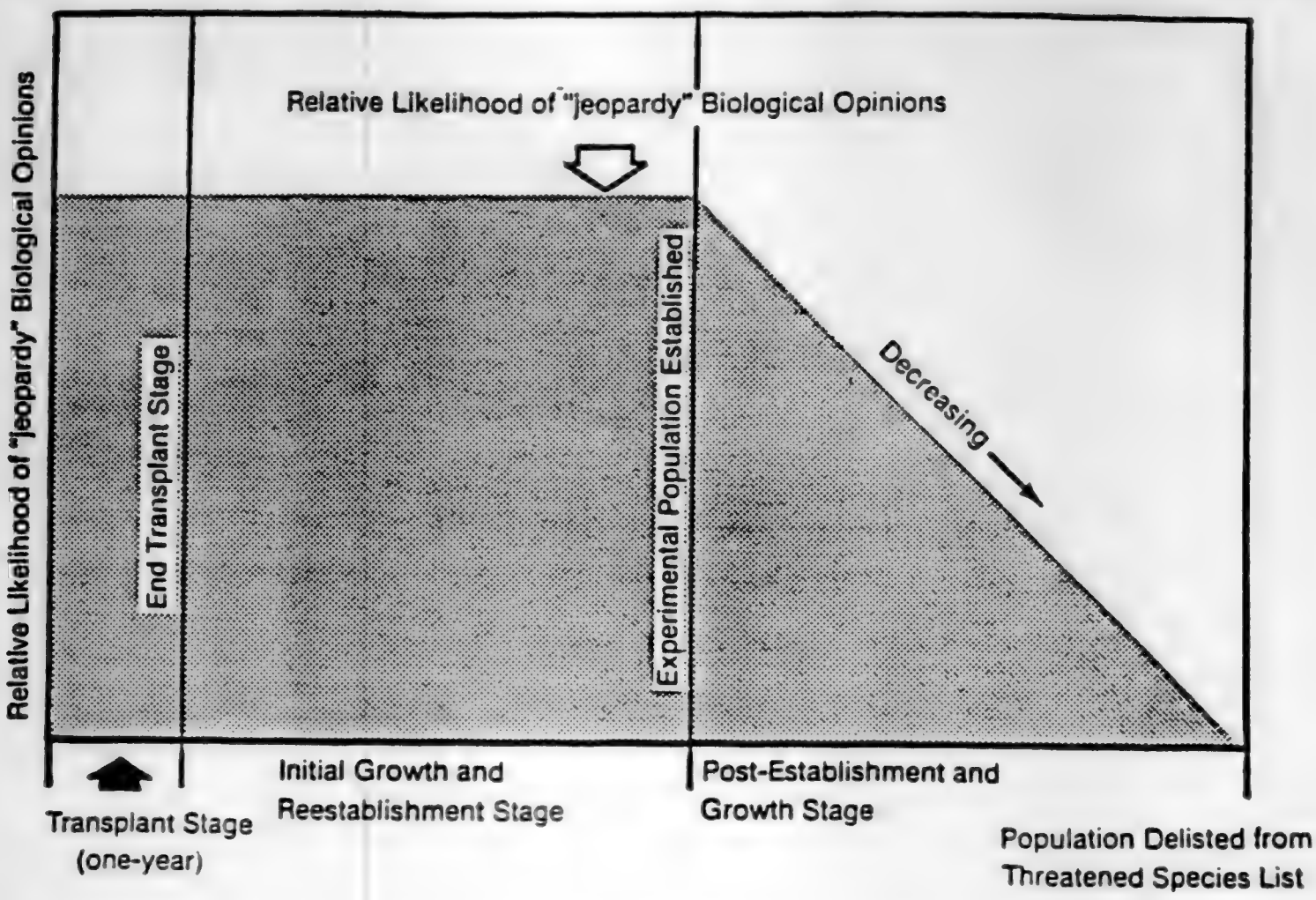

Figure C.2.

Hypothetical relationship between establishment and growth of an experimental population of southern sea otters and the relative likelihood of "jeopardy" Biological Opinions being rendered under the Endangered Species Act Section 7 consultation process.[1,2]

[1]Length of each stage on the horizontal axis does not necessarily represent relative time.

[2]Actual Biological Opinions rendered would be contingent upon the magnitude of impacts expected to result from the specific project and the current status and trend of the parent (donor) population.

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However, the status of the experimental population is not the only factor that would be considered in section 7 evaluations. The status of the donor population, as well as the baseline environmental or population threats at the time and cumulative impacts of future non-Federal actions expected to occur and affect either population at the time of the consultation, would also be taken into account. Once the experimental population became established and the southern sea otter was delisted, no further section 7 consultations would be required relative to either the parent or experimental populations.

Translocation as a Conservation Measure

The Service is required, under section 10(j)(2)(A) of the ESA, to determine that a translocation of southern sea otters would "further the conservation of" such species before authorizing their release as an experimental population. The following criteria must be considered in making such a determination:

(1) Any possible adverse effects on extant populations of [southern sea otters] as a result of removal of individuals . . . for introduction elsewhere;

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future;

(3) The relative effects that establishment of an experimental population will have on the recovery of the species; and

(4) The extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area. 50 CFR 17.81(b). The previous discussion on the relationship of the success of a translocation to the ultimate recovery of southern sea otters clearly shows that the proposed action would further the conservation of the subspecies; the following discussion explains the basis for the Service's finding in accordance with the four regulatory criteria.

Although a short-term reduction in the size of the parent population of southern sea otters would result as a consequence of translocation, any adverse effects of removal of no more than 70 mostly immature otters the first year and only supplemental removals in subsequent years if needed would be temporary and diminished by natural growth and expansion of the parent population, and would be outweighed by the achievement of a primary recovery criterion that could result from a successful translocation. The short-term reduction in size of the existing (parent) population would be proportionate to or less than the numbers translocated depending on the degree to which the removal of animals compensates for some level of natural mortality in the parent population. However, the numbers, sex and age of otters removed would be carefully selected to avoid any lasting effects on the parent population. Otters would be individually caught, removed and then translocated in small groups. Up to 70 animals will be translocated the first year, with only minor supplemental translocations in subsequent years, if necessary, to help ensure that the translocated population is successfully established. The number to be taken in any one year is less than the normal recruitment rate of the population. As designed in the translocation plan, monitoring of the parent population as well as the experimental population should determine the success of the first year's effort, subsequent year's effort and the effect(s) on the parent population. The program would be modified or terminated if new information indicates that continuing the project as proposed may be adverse to the health and viability of the parent population of southern sea otters (*e.g.*, the parent population is diminished by some catastrophic event prior to the transplant stage being completed).

The Service has determined that the proposed translocation would not result in significant adverse effects on the parent population. The impacts and risks associated with translocation must be weighed against the threat of catastrophic oil spills and the associated risks to the parent population if the proposed action is not undertaken. If the proposed translocation is successful, one outcome would be the establishment of a new colony of southern sea otters, which would ameliorate the species' present vulnerability to oil spills that, if they occurred, could jeopardize the continued existence of the southern sea otter.

There is a strong likelihood that an experimental population of southern sea otters released at San Nicolas Island would become established within 10 years after translocation was begun, and possibly in as few as 5 years. Current information indicates that necessary habitat requirements exist around San Nicolas Island to support a viable breeding colony of sea otters, and, although further field research would be of benefit in assessing particular habitat needs and population dynamics of a translocated population, the Service believes that the prospects for a successful translocation are excellent.

Since 1965 translocation of Alaskan sea otters has been successfully used for restoration purposes in southeast Alaska, northern Washington, and the Canadian Province of British Columbia. Although early efforts to translocate Alaskan otters to St. George Island (Pribilof Islands) failed, their failure is attributed mainly to inexperience in transportation, care, and limited knowledge of physiological requirements of sea otters and the harsh ice conditions that occurred around the Island after translocation was carried out. The procedural problems have since been rectified (via research studies and modification in care and transportation techniques) as illustrated by subsequent, successful releases in other areas. Alaskan sea otters were successfully released in Oregon; however, subsequent monitoring studies noted a decline in number (although pupping had occurred) and a concurrent movement of at least some of the animals northward. These animals may have been recruited into translocated populations of Alaskan otters to the north. The Service has evaluated past translocation success in developing procedures to maximize the likelihood of successful release and establishment of southern sea otters. Effective, humane techniques for capturing, relocating and releasing sea otters now exist. The Service anticipates that translocation and colony establishment would likely occur with little or no abnormal mortality.

The preceding discussion on the effects of translocation on the recovery of southern sea otters clearly shows that the establishment of an experimental population of otters is essential to the recovery of the species. The factors outlined earlier in the preamble, in the section entitled "Effects on Recovery and ESA section 7 Determinations," have been considered by the Service in reaching the conclusion that the establishment of a new sea otter colony—one that is not subject to the same risk of loss faced by the parent population from a catastrophic oil spill—would improve the recovery potential for the southern sea otter.

Lastly, although some Federal, State, and private activities on and near San Nicolas Island could affect the experimental population, these impacts are expected to be minor, if they occur at all. Appropriate measures are proposed to protect the translocated otters from more serious threats. Despite the fact that the experimental population would not be risk-free, the

VOL 51 ISS 158 1986 AG 15 UMI

Service finds that, after balancing all relevant factors, the proposal to translocate, if implemented, would further the conservation of southern sea otters.

San Nicolas Island is within the boundary of the Southern California oil and gas outer continental shelf (OCS) lease offering area (Pt. Buchon to the California-Mexico border). The Department of the Interior, Minerals Management Service, has offered lease sales for tracts in this general area in 1966, 1968, 1975, 1979, 1982, and 1984. The next proposed sale that could include the San Nicolas Island area is scheduled for 1988. If tracts around the Island were leased, it is unlikely that development would occur before 1991 since an exploratory program would be conducted first to determine if any recoverable reserves are present. The oil and gas industry has expressed some interest in the general area (*i.e.*, the outer banks and basins); however, tracts offshore San Nicolas Island have been regularly deleted from previous sales to avoid potential military (Navy) conflicts. Naval activities on and around San Nicolas Island include automated tracking of missiles and submarines with some infrequent nearshore field exercises that involve firing of live ammunition in limited areas. Because the Service will coordinate with the Navy in developing a Memorandum of Understanding for operations on the Island as well as entering into informal conferral on Navy activities pursuant to section 7(a)(4) of the ESA, the Service believes military activities would not pose significant threats to a reintroduced population. The closest blocks with active leases are located about 30 miles northwest of San Nicolas Island. Deletions are made on a lease sale-by-lease sale basis and, therefore, withdrawal of tracts around the Island from future sales is not a certainty. Oil development in waters immediately surrounding San Nicolas Island could significantly affect the introduced colony if an oil spill were to occur, but in view of the conflict between OCS development and military activities in the area and the outcomes of previous lease sales around San Nicolas, it is doubtful that development in the immediate vicinity will occur in the foreseeable future. If the translocation would proceed under provisions of H.R. 1027, proposed oil development plans within the translocation zone would be subject to formal ESA section 7(a)(2) consultation with the Service, a requirement that would likely ensure that the development would not jeopardize the continued existence of the species and would minimize any possible incidental take. If translocation proceeds under ESA section 10(j), informal conferral with the Service would be required under section 7(a)(4) of ESA. To date, there has been no interest expressed by the State to lease tidelands around San Nicolas Island for oil development.

A State-controlled action that may affect southern sea otters is the setting of commercial gill and trammel fishing nets in sea otter habitat. Sea otters are occasionally incidentally entangled and drowned in large-mesh set nets that are typically used to catch halibut. Within the present range of the southern sea otter, mortality in these nets has, until recently, resulted in the average annual loss of about 6 percent of the population (an average of 80 otters per year, 1982–84). The effect this activity would have on a reintroduced colony is expected to be minimal because the State has taken a position that areas where such incidental taking of sea otters might occur would be closed to fishing with this type of gear. In view of previous actions by the CDFG and State Legislature, it is reasonable to believe that the State would close any area where sea otters were translocated out to at least 15 fathoms (the greatest depth that Southern Sea Otter's normally inhabit) or farther if necessary to eliminate sea otter entanglement. Enforcement of such closures would be carried out by State agents, and Service agents would enforce the prohibition against incidentally taking sea otters around SNI. If the State did not close the portion of the translocation zone that otters would inhabit to such fishing activities, the Service would still enforce the prohibition against incidental take.

It also is important to recognize that an unknown number of southern sea otters in their present mainland range are illegally shot annually. Sea otters off San Nicolas Island would be vulnerable to this malicious act if specific measures were not taken to prevent it. Although no individuals have yet been convicted for shooting otters in the currently occupied range, the relatively small size, isolation, and difficult access to San Nicolas Island, and the intense research, monitoring and law enforcement protection effort designed for this translocation should minimize or eliminate the likelihood that otters would be illegally taken there.

Determination of Essentiality

Section 10(j)(2)(B) of ESA and 50 CFR 17.81(c)(2) require that, before authorizing the release of any experimental population, the Secretary shall identify the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence of any endangered or threatened species in the wild. (Note: This determination is required under the provisions of ESA section 10(j) but not under H.R. 1027. If H.R. 1027 should ultimately be enacted, this determination will be deleted from the rule). Under 50 CFR 17.83, any experimental population (1) determined not to be essential to the survival of that species, and (2) not occurring within any unit of the National Park System or the National Wildlife Refuge System, shall be treated for purposes of section 7 (other than subsection (a)(1) thereof) as a species proposed to be listed under the ESA as a threatened species. Any experimental population that either (1) has been determined to be essential to the survival of that species, or (2) occurs within any unit of the National Park System or National Wildlife Refuge System shall be treated for purposes of section 7 of the ESA as a threatened species. Any biological opinion prepared pursuant to section 7(b) of the ESA and any agency determination made pursuant to section 7(a) of the ESA shall consider any experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the section 7 analyses. Thus, sea otters within a "nonessential" experimental population would be covered by the informal conference requirement of section 7(a)(4) and the conservation provisions of section 7(a)(1). On the other hand, an "essential" experimental population receives full section 7 protections.

The translocated population of southern sea otters at San Nicolas Island is proposed to be designated as a nonessential experimental population according to the provision of section 10(j)(2)(B) of ESA. The Service believes that the nonessential status is appropriate because of evidence that the rate of take of sea otters in commercial gill and trammel nets, which has been substantial in recent years, has been significantly reduced, thus a population growth trend in the parent population is expected to result. Evidence that this source of mortality has been significantly reduced is based on the actions taken by the California Legislature in May 1985, combined with actions taken prior to that date, that have permanently closed to large-mesh gill and trammel set net fishing areas of the sea otter's range in California to a depth of 15 fathoms. Based on observations since this closure, the rate of sea otter entanglement appears to

have been reduced by about 40 percent from the rate prior to the closure. Additionally, the Director of the CDFG twice during 1985 invoked additional temporary emergency measures designating a 20-fathom closure of this fishery in response to observations that some otters were being entangled in nets set outside of the legislatively closed area. The State Legislature is presently considering a closure out to 20 fathoms for portions of the State Sea Otter Refuge where additional otter drownings have been observed. The Service believes that the record of past actions by the State indicates that future actions will also be taken if the existing closures prove to be inadequate to reduce this source of mortality to a number nearing zero. The extent of this problem and measures taken to eliminate these losses of sea otters in gill and trammel nets have been described previously.

Based on measures to eliminate this mortality the population should again show a 4–5 percent average annual growth rate. With such a growth rate, the removal of up to 70 animals the first year plus subsequent, smaller removals if needed over a 3 to 5 year period or possibly longer is not likely to adversely affect the continued existence and viability of the parent population. Available information indicates that release of an experimental population in nearshore waters around San Nicolas Island, California, would further the conservation of the species throughout its range.

Public Comments Solicited

The Service intends that any final rule based on this proposal be as effective and accurate as possible. Therefore, comments or recommendations concerning any aspect of this proposed rule, or the DEIS associated with this proposal, are hereby invited from the public, concerned government agencies, the scientific community, industry, or any other interested party. Comments should be as specific as possible, including any literature citations which support the comment.

In accordance with 50 CFR 1781(d) concerning consultation and coordination with the State wildlife agency and landholders that may be affected by the establishment of an experimental population, the Service has made extensive efforts to consult with and seek input from the public and affected governmental agencies. Public scoping meetings were held in three California locations on July 23 and 25 and October 4, 1984, to seek public input on issues and receive information that should be considered in preparing the Draft Environmental Impact Statement and this proposed rule. An Interagency Project Review Team (IPRT) comprised of agencies involved in or affected by the proposed translocation was established and was provided opportunity to review preliminary drafts of the DEIS and proposed rule and provide comments and suggestions. Meetings of the IPRT were officially announced and opened to the public and representatives of major interest groups and other members of the public participated. Members of the public who so requested were also given opportunity to review and comment on preliminary drafts of the DEIS and proposed rule. Three hearings will be held during the public comment period on the DEIS and proposed rule, two in California and one in Oregon, to provide opportunity for input by affected parties. Additional meetings will be held as needed.

Notice of Permit Applications

In accordance with section 104 of the Marine Mammal Protection Act, 16 U.S.C. 1374, and section 10(c) of the ESA, 16 U.S.C. 1539(c), the Service gives notice that it intends to apply for scientific research permits under both the MMPA and ESA, and for a permit to establish and maintain an experimental population under the ESA, in order to carry out its proposal to translocate and contain southern sea otters around San Nicolas Island. Interested parties are invited to submit written data, views, or arguments with respect to the applications within 90 days of the date of this notice to the address indicated herein. Information received by the Service as part of these applications will be available for public review at every stage of the permit issuance process.

National Environmental Policy Act (NEPA)

A Draft Environmental Impact Statement under NEPA is now available to the public at the Regional Office and Office of Sea Otter Coordination, U.S. Fish and Wildlife Service, at the address listed above.

Formal Consultation

As required by section 7(a)(2) of the ESA, the Service has initiated formal consultation on this proposed translocation of southern sea otters to San Nicolas Island. No final decision will be made on the proposal until a biological opinion is received and considered.

Executive Order 12291, Paperwork Reduction Act and Regulatory Flexibility Act

The Service has determined that this is not a major rule as defined by Executive Order 12291, that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and that the rule, as proposed, does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These conclusions were reached after conducting an analysis that is documented in a Determination of Effects of Rules, which is on file and available for public review at the address listed under "For Further Information Contact."

The proposed translocation of southern sea otters to San Nicolas Island, regardless of the legal scenario that exists for the action, may cause economic impacts to commercial and sport fisheries; oil and gas exploration, development and production; mariculture; and commercial kelp harvest. However, the total economic impacts of the proposed action, on an annual basis, will be substantially less than $100 million, and there would not be a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions as a result of the proposal. Lastly, the proposed rule does not generate significant adverse effects to competition, employment, investment, productivity, innovation, or to the ability of domestic enterprises to compete with foreign enterprises in domestic or international markets.

Literature Cited

Ames, J.A., R.H. Hardy, and F.E. Wendell. 1983. Tagging materials and methods for sea otters, *Enhydra lutris*. Calif. Fish and Game 69:243–252.

California Department of Fish and Game. 1978. A proposal for a sea otter protection and research, and request for return of management to the State of California. Unpubl. report. Jan. 1978. 2 vol.

Hofman, R.J. (Ed.). 1985. Workshop to assess possible methods for regulating the distribution and movements of sea otters. U.S. Marine Mammal Commission. Rept. No. MMC–84/05. Washington, D.C.

Jameson, R.J., K.W. Kenyon, A.M. Johnson, and H.M. Wight. 1982. History and status of translocated sea otter populations in North America. Wildl. Soc. Bull. 10(2):100–107.

Kenyon, K.W. 1969. The sea otter in the eastern Pacific Ocean. N. Amer. Fauna 68:1–352.

VOL 51 ISS 158 AG 15 1986 UMI

Authors

The primary authors of this proposed rule are Wilbur Ladd and Carl Benz, Office of Sea Otter Coordination, U.S. Fish and Wildlife Service, Room E–1818, 2800 Cottage Way, Sacramento, California 95825 (916/978–4873, FTS 460–4873); Michael Young, Office of the Solicitor, Department of the Interior, Room 6547, 18th & C Streets, NW., Washington, DC 20240 (202/343–2172, FTS 343–2172); Ronald Swan, Office of the Regional Solicitor, Department of the Interior, 500 NE. Multnomah Street, Suite 607, Portland, Oregon 97232 (503/231–2143, FTS 429–2143).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Marine mammals, Fish, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et. seq.*).

2. It is proposed to amend § 17.11(h) by revising the entry for "Otter, southern sea" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Otter, southern sea	*Enhydra lutris nereis*	West Coast, USA (WA, OR, CA) south to Mexico (Baja California).	Entire, except all areas subject to U.S. jurisdiction south of Pt. Conception, CA (34°26.9′ N. Latitude).	T	21	NA	NA
Do	do	do	All areas subject to U.S. jurisdiction south of Pt. Conception, CA (34°26.9′ N. Latitude).	T[XN]		NA	17.84(d)

3. It is proposed to amend § 17.84 by adding paragraph (d) to read as set forth below:

§ 17.84 Special rules—vertebrates.

* * * * *

(d) Southern sea otter (*Enhydra lutris nereis*). (1) *Definitions.* The definitions set out in § 17.3 [and § 17.80] apply to this paragraph (d). For purposes of this paragraph—

(i) The term "defense-related agency action" means an agency action proposed to be carried out directly by a military department, which does not have as its intended purpose the taking of southern sea otters. For purposes of this definition, the United States Coast Guard is not a military department.

(ii) The term "management zone" means that area delineated in paragraph (d)(5)(i) of this section which surrounds the translocation zone and separates the translocation zone from the existing range of the parent population and adjacent range where expansion of the parent population is necessary for the recovery of southern sea otters.

(iii) The term "member of the experimental population of southern sea otters" includes any southern sea otter, alive or dead, found within the translocation zone or the management zone, and any part or product of any such southern sea otter.

(iv) The term "parent population" means the population of southern sea otters existing along the central California coast from which otters for establishment of the experimental population of otters were taken.

(v) The term "translocation zone" means the area delineated in paragraph (d)(4)(i) of this section within which an experimental population of southern sea otters is released and contained.

(vi) The term "established experimental population of southern sea otters" means a translocated population that meets the following criteria: An estimated combined minimum of 150 healthy male and female sea otters residing within the translocation zone, little or no emigration into the management zone occurring, and a minimum annual recruitment to the experimental population in the translocation zone of 20 sea otters for at least 3 years of the latest 5-year period.

(2) *Description of experimental population.* The experimental population of southern sea otters shall include all southern sea otters found within the translocation zone or the management zone. The Service will translocate no more than 70 southern sea otters during the first year, supplemented as necessary with up to 70 otters per year in subsequent years from the parent population to the translocation zone. Although a maximum of 250 southern sea otters may be moved from the parent population in order to establish the experimental population in the translocation zone, it is not likely that supplemental translocation will involve more than small numbers of southern sea otters in years subsequent to the initial translocation. Of the animals translocated each year, up to 20 will be adults, at a sex ratio of about 3:1, females to males. The remainder will be weaned, immature animals. The sex ratio of the immature otters selected for translocation will be approximately 4 females to 1 male.

(3) *Translocation process.*—(i) *Capture.* Capture locations will be selected primarily from the southern third of the range of the parent population. Sea otters will be captured between early August and mid-October using: (A) Diver-held devices, (B) dip nets, (C) surface entangling nets, or (D) other methods which may be proven to be safe and effective in the future. All captured otters will be tagged and examined by a veterinarian experienced in treating marine mammals. Prior to each translocation effort, a maximum of 30 otters will be captured and implanted with radio transmitters for observation and study of behavior. Up to 15 of these animals will be recaptured the following year and translocated.

(ii) *Transport.* All animals to be translocated will be held at the capture sites, or in specially constructed holding facilities nearby, prior to their movement to the translocation zone. Access to and care of animals will be restricted to Federal and State personnel and designated agents directly involved with the translocation. Each captured animal will be placed in a carrying cage and transported by truck to the local airport, from which point they will be flown to the translocation zone. From there they will be trucked to the release site. No fewer than 20 animals will be moved to the translocation zone at a single time.

(iii) *Release.* The animals will be held for up to five days in secured floating pens at the release site. No more than 10 individuals will be held in any pen, and males and females will be held separately. The animals will be released passively by opening the floating pens and allowing them to leave at will.

(iv) *Monitoring.* Monitoring will be conducted on both the parent population and the experimental population by State and Federal biologists and their designated agents. Monitoring the parent population will be done to determine the effects of removal of otters on the growth and range expansion of the parent population. Monitoring of the parent population will continue at least through the translocation period and into the foreseeable future. Monitoring of the experimental population will begin with the first release of translocated otters and will continue at least until either the new population reaches the carrying capacity of the habitat and establishes an equilibrium density or the translocation is determined to have failed. Monitoring will include intensive studies of changes in key components of the nearshore ecosystem of the translocation zone including benthic organisms, kelp and finfish. Monitoring, using ground and aerial observations, will also include intensive observation and documentation of the movements, distribution, foraging and reproductive behavior, dispersal tendencies, growth and reproductive rates, prey selection, and social interactions of sea otters in the experimental population. Comparisons of the results of monitoring the experimental population will then be made with members of the parent population that are implanted with radio transmitters.

(v) *Protection.* At least one special law enforcement agent and other enforcement personnel, as needed, will be specifically assigned, at least for the initial three to five-year period after the actual translocation of animals, to conduct patrols and prevent illegal taking of southern sea otters in the translocation zone. Cooperative enforcement arrangements will be developed with other agencies having law enforcement activities in the area such as the U.S. Coast Guard, National Marine Fisheries Service, California Department of Fish and Game, U.S. Navy, and National Park Service to assist with protecting the experimental population.

(4) *Translocation Zone.* (i) There is established a translocation zone for southern sea otters comprised of San Nicolas Island, Begg Rock, and the surrounding waters within the following coordinates:

N. Latitude	*W. Longitude*
33°27.8'/119°34.3'	
33°20.5'/119°15.5'	33°13.5'/119°11.8'
33°06.5'/119°15.3'	33°02.8'/119°26.8'
33°08.8'/119°46.3'	33°17.2'/119°56.9'
33°30.9'/119°54.2'	

(ii) A map depicting the translocation zone is set forth below:

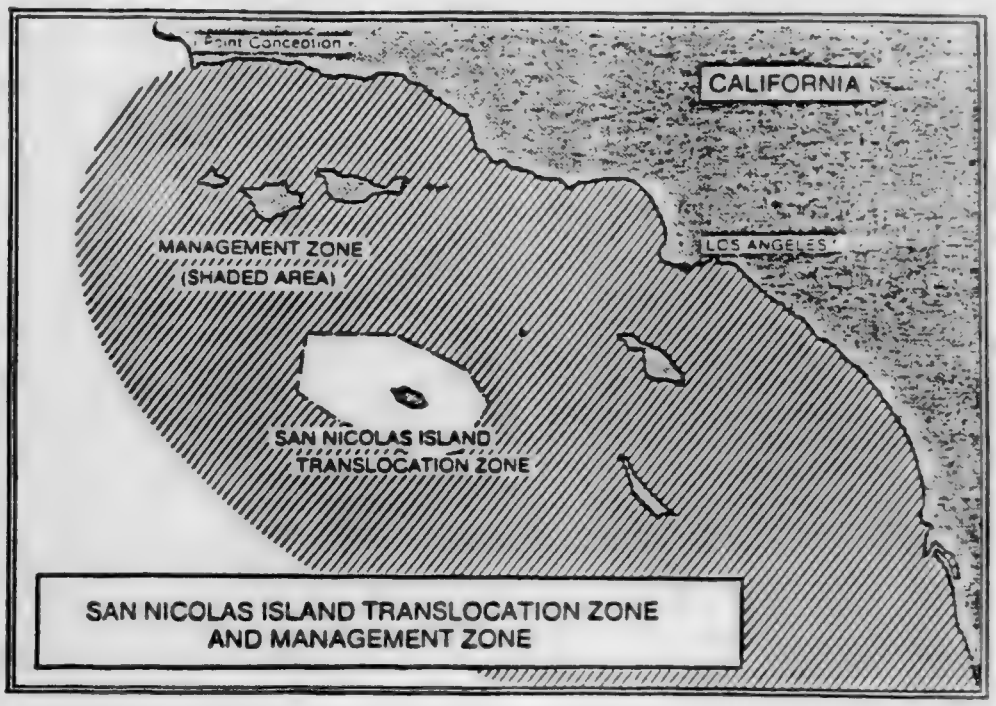

SAN NICOLAS ISLAND TRANSLOCATION ZONE AND MANAGEMENT ZONE

Translocation Zone Coordinates (Latitude/Longitude).

33°27.8'/119°34.3';33°20.5'/119°15.5';
33°13.5/119°11.8'; 33°06.5'/119°15.3';
33°02.8/119°26.8'; 33°08.8'/119°46.3';
33°17.2/119°56.9'; 33°30.9'/119°54.2'.

Management Zone:

All waters south of Point Conception(34°26.9' N.Latitude).

(iii) *Prohibitions.* Except as provided in paragraph (d)(4)(iv), all of the provisions in § 17.21 (a) through (f) shall apply to any member of the experimental population of southern sea otters within the translocation zone.

(iv) *Exceptions.* The prohibitions of paragraph (d)(4)(iii) shall not apply to:

(A) Any act by the Service, the California Department of Fish and Game, or an authorized agent of the Service or the California Department of Fish and Game that is necessary to effect the relocation or management of any southern sea otter under the provisions of this subsection;

(B) Any taking of a member of the experimental population of southern sea otters that is incidental to, and not the purpose of, the carrying out of a defense-related agency action as

defined in paragraph (d)(1)(i) of this section; or

(C) Any act authorized by a permit issued under § 17.32.

(5) *Management Zone.* (i) There is established a management zone for southern sea otters comprised of all waters, islands, islets, and land areas seaward of mean high tide subject to the jurisdiction of the United States located south of Point Conception, California (34°26.9′ N. Latitude), except for any area within the translocation zone delineated in paragraph (d)(4)(i) of this section.

(ii) A map depicting the management zone is set forth in paragraph (d)(4)(ii) of this section.

(iii) *Prohibitions.* Except as provided in paragraph (d)(5)(iv), all of the provisions in § 17.21 (a) through (f) shall apply to any member of the experimental population of southern sea otters within the management zone.

(iv) *Exceptions.* The prohibitions of paragraph (d)(5)(iii) shall not apply to:

(A) Any act by the Service, the California Department of Fish and Game, or an authorized agent of the Service or the California Department of Fish and Game that is necessary to effect the relocation or management of any southern sea otter under the provisions of this section;

(B) Any taking of a member of the experimental population of southern sea otters that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity within the management zone delineated in paragraph (d)(5) (i); or

(C) Any act authorized by a permit issued under § 17.32.

(6) *Containment.* The following containment measures, listed in order of preference, will be employed to prevent significant emigration of southern sea otters from San Nicolas Island and occupation of habitat within the management zone:

(i) *Capture of animals within the management zone for return to the experimental population or to the range of the parent population using non-lethal means.* If verified and repeated sightings of one or more sea otters are made at any location within the management zone for at least one week, field crews will be mobilized to capture and remove the otter(s) from the zone. Capture will be done by experienced State and/or Federal personnel or other designated agents, using one or more of the same techniques used in the translocation effort, such as (A) diver-held devices; (B) surface entangling nets; (C) dip nets; or (D) other effective methods which may be developed for capturing sea otters in the future. Animals either will be flown or moved by air-conditioned van to the release site.

(ii) *Artificial reduction of fecundity for some sea otters within the experimental population.* [Reserved]

(iii) *Selective or random, non-lethal removal of members of the experimental population within the translocation zone.* Containment measures will be administered by the Fish and Wildlife Service's Office of Sea Otter Management and Coordination (OSOMC), in consultation and cooperation with the California Department of Fish and Game. The OSOMC will work closely with State biologists to remove otters from the management zone. Although the Service cannot obligate funds for which it has not received an appropriation, the Service has requested funding in the FY-87 budget for research, management, and containment of this experimental population. Grants to the State of California from the limited unobligated balances under 16 U.S.C. 1535, may be employed to facilitate the containment measures outlined above. Public donations for management and containment of the experimental population will be accomplished with assistance from the National Fish and Wildlife Foundation.

(7) *Effects of translocation on recovery and interagency cooperation.* (i) The translocation will not influence the legal status of the species until such time as the Service determines that the experimental population is established. Once established, other factors such as the status of the parent population and attainment of other recovery goals will be considered. If the experimental population becomes established and the other recovery goals identified in the recovery plan for the southern sea otter are attained, the southern sea otter will be eligible for consideration for delisting in accordance with the requirements of 50 CFR 424.11(d). If a catastrophic event were to significantly diminish the parent population, the size of the experimental population would be a factor in determining whether or not the southern sea otter should remain listed as "threatened" or reclassified as "endangered," or if relisting should be considered if a delisting action had been completed.

(ii) In determining the likelihood of jeopardy or non-jeopardy opinions for proposed Federal actions that "may affect" southern sea otters, the probability of jeopardy determinations would decrease proportionally for comparable projects with comparable types of impacts as the experimental population grows from the point of being established toward the maximum number that its habitat could support, *i.e.*, carrying capacity. Thus, there would be an inverse relationship between the size of the experimental population (after being determined to be established) and the probability of jeopardy determinations associated with section 7 consultations under the Endangered Species Act for either the parent or the experimental population. However, the status of the experimental population is not the only factor to be considered in section 7 evaluations. The status of the parent population, as well as the cumulative impacts and effects of the action on either population, would also be taken into account. In addition to considering the size of the experimental population, the contribution that such population could make toward helping restore a damaged parent population would also be a factor that would be considered during section 7 evaluations.

(8) *Determination of essentiality.* Based on the best scientific and commercial data available, the southern sea otter population identified in paragraph (d)(2) of this section is found not to be essential to the continued existence of the species in the wild. Since their inception in 1982, standardized biannual counts of the southern sea otter population indicate that the population has not grown over that time period, and previous surveys conducted by State personnel indicate the population has probably not grown at least since 1976. During the same period, fishermen were incidentally taking southern sea otters in gill and trammel nets set within the 15 fathom contour over parts of the sea otter range. Based on observational data of incidental take in set nets (1982–1984) State biologists reported that this fishing activity resulted in an estimated average annual mortality of 80 southern sea otters during that period. To eliminate this source of mortality, the State of California has enacted legislation closing the sea otter range out to a depth of 15 fathoms to the use of gill and trammel set nets having a mesh size equal to or greater than 3.5 inches. The California Legislature is considering additional restrictions on fishing activities within part of the southern sea otter's range. As a result of this permanent closure (effective May 24, 1985) and additional measures being considered, the Service believes that population growth will resume and should approach an average annual rate of 5 percent, approximating the rate estimated for the population prior to the advent of intensive gill and trammel set

net fishing. Now that the incidental take problem has been addressed for the parent population, the Service finds that the loss of the experimental population of southern sea otters identified in paragraph (d)(2) of this section would not likely reduce appreciably the likelihood of the survival of southern sea otters in the wild.

Dated: July 8, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-18165 Filed 8-14-86; 8:45 am]

BILLING CODE 4310-55-M

VOL 51 ISS 158 AG 15 1986 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Establishment of an Experimental Population of Southern Sea Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; notice of hearings.

SUMMARY: The Fish and Wildlife Service (Service) has prepared a Draft Environmental Impact Statement (DEIS) for the proposed translocation and establishment of an experimental population of southern sea otters (*Enhydra lutris nereis*). The Service proposes to reintroduce southern sea otters at, and contain them in the immediate vicinity of, San Nicolas Island, Ventrua County, California for two purposes: (1) To implement a primary recovery action for a federally listed "threatened" species and (2) to obtain data for assessing translocation and containment techniques, population dynamics, the ecological relationships of sea otters and the nearshore community, and the effects on the donor population of removal of individual otters for translocation.

DATES: Comments from agencies and the public must be received by November 17, 1986. Public hearings will be conducted on the DEIS, and concurrently on a Proposed Rule published elsewhere in this issue associated with this proposal, on the following dates, times, and locations:

September 17, 1986, 6:00–9:00 p.m., City Council Chambers, City Hall, 898 Elk, Brookings, Oregon

September 22, 1986, 6:00–9:00 p.m., City Hall, Corner of Pacific and Madison Streets, Monterey, California

September 24, 1986, 6:00–9:00 p.m., Ventura Avenue Adult/Senior Center, 550 N. Ventura Avenue, Ventura, California

ADDRESSES: Questions and comments concerning the DEIS should be addressed to the Regional Director (AFA), Attention: Sea Otter comments, U.S. Fish and Wildlife Service, Regional Office, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. The DEIS comments and related materials are available for public inspection by appointment during normal business hours at the Office of Sea Otter Coordination, Room E–1818, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Ladd at (916) 978–4873 or FTS 460–4873, or write to the Office of Sea Otter Coordination, 2800 Cottage Way, Room E–1818, Sacramento, California 95825.

SUPPLEMENTARY INFORMATION: Establishment of an experimental southern sea otter population is proposed in accordance with section 10(j) of the Endangered Species Act (ESA) of 1973, as amended, as well as Congressional directives. The DEIS describes and analyzes the environmental consequences of a translocation of up to 250 southern sea otters to one of three potential translocation sites: San Nicolas Island in Ventura County, California; coastal northern California; and coastal southern Oregon. San Nicolas Island is the preferred site. Also described are consequences of (a) no action, (b) greater protection to the existing population without translocating sea otters, and (c) translocation combined with partial containment of growth and range expansion of the existing California sea otter population.

Dated: August 5, 1986.

Wally Stanke,

Acting Regional Director.

[FR Doc. 86–18166 Filed 8–14–86; 8:45 am]

BILLING CODE 4310–55–M

federal register

Friday
August 15, 1986

Part III

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Elimination of Periodic Interim Payments for Hospitals; Final Rule

VOL 51 ISS 158 AG 15 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-398-F]

Medicare Program; Elimination of Periodic Interim Payments for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: With certain exceptions, we are eliminating the periodic interim payment method for inpatient hospital services for prospective payment hospitals effective with discharges occurring on or after July 1, 1987 and for all other hospitals effective with covered services furnished on or after July 1, 1987. We believe that the elimination of this method of payment will encourage hospitals to submit their bills on a more timely basis and will also allow the Medicare fiscal intermediaries to use their resources more effectively in making payments to hospitals.

EFFECTIVE DATE: This final rule is effective September 15, 1986.

FOR FURTHER INFORMATION CONTACT: John Eppinger, (301) 594-5354.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1886(d) of the Social Security Act (the Act), enacted by the Social Security Amendments of 1983 (Pub. L. 98-21) on April 20, 1983, the prospective payment system for Medicare payment of inpatient hospital services was established effective with hospital cost reporting periods beginning on or after October 1, 1983. Excluded from this system are psychiatric, rehabilitation, and alcohol/drug hospitals and distinct part units, children's hospitals, long-term care hospitals, hospitals outside the 50 States and the District of Columbia, and hospitals paid under special arrangements such as Veterans Administration hospitals or hospitals paid under State reimbursement control systems authorized by section 1886(c) of the Act.

Under the prospective payment system, Medicare payment is made at a predetermined, specific rate for each discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). The interim final rule that implemented the prospective payment system was published on September 1, 1983 in the **Federal Register** (48 FR 39752).

Prior to implementation of the prospective payment system, all providers (for example, hospitals, skilled nursing facilities, and home health agencies) were reimbursed based on the lesser of the reasonable cost of services furnished to Medicare beneficiaries or the provider's customary charges for those services. Prospective payment hospitals currently continue to be reimbursed based on reasonable cost for certain expenses incurred for activities such as training nurses and allied health professionals. In addition, hospitals and hospital units excluded from the prospective payment system and most other providers are still reimbursed on the basis of reasonable cost.

Since actual reasonable cost cannot be determined until the end of a provider's cost reporting period, an interim rate, approximately actual cost as closely as possible, is determined by the intermediaries for each provider and interim payments are made during the year. These interim payments are required by section 1815(a) of the Act, which states that we must pay a provider at least monthly during its cost reporting period, pending a final determination of cost on the basis of a submitted cost report and any necessary adjustments. After receipt of the provider's cost report, the intermediary determines what the actual reimbursement for the period should have been and a retroactive adjustment is made. The regulations that implement these policies are located at 42 CFR 405.454.

There are two methods of interim reimbursement for inpatient hospital services for hospitals excluded from the prospective payment system. One method is based on actual bills submitted by the hospital. Under this method, interim payments are calculated by applying a predetermined per diem amount to the number of Medicare patient days reflected on actual bills or by applying a predetermined percentage to the charges reflected on the actual bills submitted. The predetermined per diem amount or percentage factor applied to billed patients days or charges represents an estimate of the hospital's costs that will be incurred and is based on the hospital's previous year's costs, adjusted to ensure that the current year's rate of payment is as close as possible to the current year's costs.

Under the second method, referred to as the periodic interim payment (PIP) method, interim payments are not based on individual bills. Instead, payment is based on the estimated annual costs attributable to estimated Medicare utilization of a hospital, and equal biweekly payments are made to hospitals without regard to the submission of individual bills. PIP has been available for inpatient hospital services since 1968. It was offered to qualified hospitals as an alternative to regular interim reimbursement, which requires submission of a bill to receive payment.

With either of these interim payment methods, any overestimation or underestimation of the hospital's actual costs, to the extent not adjusted during the year, is adjusted at the time of cost report settlement.

Under the prospective payment system, hospitals are paid, for most of the Part A inpatient services they furnish, a prospectively determined amount for each discharge based on actual bills submitted. This amount constitutes final payment for each discharge claimed. Although no form of interim payment is necessary for hospitals operating under prospective payment system, we extended the option to these hospitals to elect to receive PIP when the prospective payment system was implemented in order to avoid cash flow problems in the early stages of the system. Thus, § 405.454(m) provides that prospective payment hospitals that meet the qualifications for receiving PIP set forth in § 405.454(j) may elect to receive this type of interim payment, which would be based on their estimated annual prospective payment amounts. In these circumstances, year-end reconciliation is required.

Payment for capital-related costs and those indirect medical education costs that are payable to prospective payment hospitals on a reasonable cost basis continue to be made on an interim payment basis pending a year-end reconciliation based on a cost report. These interim payments are determined by estimating the reimbursable amount for the year based on the previous year's experience and on information for the current year and dividing that amount into 26 equal payments made biweekly. In addition, the indirect teaching adjustment, if appropriate, is paid on a biweekly interim basis subject to final settlement. Biweekly payment for these costs is provided for by current regulations (§§ 405.454((m)(3) and (m)(4)) and are not considered as part of the PIP method of payment.

Although the PIP method of interim payment is not based on actual bills submitted, a PIP hospital must continue to submit bills for subsequent intermediary verification of the

accuracy of the rate, as well as recording an individual's benefit utilization. The rate is reviewed at least twice per year for hospitals paid under the prospective payment system and at least quarterly for hospitals reimbursed on a reasonable cost basis. If necessary as determined by the reviews, the rate is adjusted. Interim payments may be further adjusted at year end based on submitted cost reports.

As indicated above, our primary reason for offering PIP to hospitals paid under the prospective payment system was to ensure that hospitals would not experience cash-flow problems as they made the transition from cost-based reimbursement to prospective payment. We believed that implementation of a payment system that was new to both hospitals and intermediaries might have, in some cases, caused fluctuation or temporary interruption in payments to hospitals. Therefore, PIP was made available to qualified hospitals to ease the problems inherent in this start-up period.

Evidence indicates that the PIP method has become an increasingly needless and time-consuming burden for the intermediaries and that it results in the expenditures of considerable resources in attempting to identify and correct overpayments and underpayments. For example, because this payment method does not rely initially on submitted bills, changes in a provider's utilization are not identified as quickly as under the regular interim reimbursement method.

Eliminating PIP for all hospitals, that is, those reimbursed on the basis of reasonable costs and those subject to prospective payment, would allow intermediaries to utilize their resources more effectively to better control payments to hospitals and all other providers. Furthermore, the elimination of PIP would encourage hospitals to submit their bills on a more timely basis since hospitals receiving PIP have less incentive to bill timely than hospitals not receiving PIP. (The latter hospitals are required to submit a bill before receiving any payment.) For these reasons, in a proposed rule concerning changes to the inpatient hospital prospective payment system and Federal fiscal year (FY) 1987 rates that was published June 3, 1986 in the **Federal Register** (51 FR 19970), we proposed to eliminate PIP for all hospitals.

II. Provisions of the Proposed Regulations

We proposed to amend §§ 405.454(j) and (m) by eliminating PIP as an optional method of payment for inpatient hospital services furnished to Medicare beneficiaries. To allow hospitals sufficient lead time to adjust their billing practices, we proposed to eliminate PIP for prospective payment hospitals effective with discharges occurring on or after July 1, 1987 and for all other hospitals effective with covered services furnished on or after July 1, 1987. (We made an inadvertent error in the preamble to the proposed rule in stating that the elimination of PIP would be effective for all hospitals for discharges occurring on or after July 1, 1987 (51 FR 19969).) Our proposal specified that hospitals would be paid not less often than monthly, based on submitted bills for payment.

In order to alleviate the cash flow problems that certain hospitals might encounter, we proposed a new form of interim payment for hospitals subject to the prospective payment system for those cases in which a patient remains in the hospital more than 45 covered days. For these cases, we proposed that one interim payment would be made to the hospital at the rate for the DRG that results from applying the GROUPER classification to the diagnosis, procedures, and other pertinent information that are reported on the interim bill. (GROUPER is the computerized screening process used to determine the appropriate DRG for each discharge under the prospective payment system.) We stated that any interim payment made would be applied against the final payment made for the discharge.

In addition to eliminating PIP for hospitals reimbursed on the basis of reasonable cost and for prospective payment hospitals, we proposed to eliminate this method of interim payment for hospitals receiving payment under a demonstration project authorized by section 402(a) of the Social Security Amendments of 1967 (Pub. L. 90–248) (42 U.S.C. 1395b–1) or section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603) (42 U.S.C. 1395b–1 (note)). Also, we stated that we would extend this policy to those hospitals paid under State reimbursement control systems authorized by section 1886(c) of the Act and approved by HCFA. However, under the proposal, these hospitals would be permitted to use a form of interim payment similar to PIP if that type of payment is specifically approved by HCFA as a part of the demonstration or control system.

Finally, we stated that payment for direct medical education and other inpatient hospital costs excluded from the prospective payment system, with the exception of capital-related costs, would continue to be made biweekly on an interim payment basis under the provisions of §§ 405.454(m)(3) and (m)(4). The proposed rule would have revised § 405.454(m)(3) to eliminate any mention of interim payment to prospective payment hospitals for capital-related costs because we also proposed to incorporate capital-related costs into the prospective payment system effective with cost reporting periods beginning on or after October 1, 1986. However, section 206 of the Urgent Supplemental Appropriations Act of 1986 (Pub. L. 99–349), enacted July 2, 1986, extended the prohibition against including capital-related costs in inpatient operating costs until cost reporting periods beginning on or after October 1, 1987. Therefore, this final rule does not affect interim payment to prospective payment hospitals for capital-related costs.

III. Discussion of Comments

In response to the June 3 proposed rule, we received 201 timely items of correspondence that commented on our proposal to eliminate PIP. Although the majority of the commenters were hospitals or hospital systems, we also received comments from professional associations, accounting firms, a State agency, and an intermediary. Virtually all of the commenters were opposed to our proposal. These comments and our responses to them are discussed below.

Comment: A large majority of the commenters stated that the elimination of PIP will have a serious impact on the cash flow of affected hospitals resulting in a significant loss of operating capital for these hospitals. The commenters believe that without PIP, these hospitals' cash flow will be subject to problems that are outside their control, such as intermediary processing and payment time, fluctuations in patient census, and HCFA requirements that delay hospital bill submission. It is the commenters' opinion that many hospitals will be forced to borrow large amounts of money and that some hospitals may be forced to close.

Response: We realize that PIP provides an even flow of cash to hospitals and that some hospitals will experience cash flow problems once this method of payment is no longer available. However, considering the number of years most hospitals have been in business and have participated in the Medicare program, we believe that hospitals should now have the capability to bill and receive payment for services as they are furnished. We are encouraging hospitals that have not already done so to begin billing through

VOL
51
ISS
158
AG
15
1986
UMI

electronic media claims (EMC). EMCs expedite claims submission and processing because they are easier for the hospital to prepare, have fewer errors than hardcopy claims, and are automatically entered into an intermediary's processing system. We believe that the more rapid bill submittal and turn-around time associated with EMCs will tend to modify the effect of fluctuations in patient census.

With regard to intermediary processing and payment, we have issued instructions to intermediaries that require payment or denial of 95 percent of all "clean" claims within 27 days of receipt for Federal fiscal year (FY) 1986, and we will work with the intermediaries in this endeavor. We are currently evaluating what claims processing cycle is appropriate for FY 1987 and beyond.

We recognize that some of the bill submittal requirements that were implemented as part of the prospective payment system (for example, physician attestation of diagnoses) may, in some cases, delay bill submittal. However, we believe that these delays are being reduced as hospitals gain experience under that system. Finally, since PIP will not be eliminated until July 1, 1987, hospitals will have nearly a year to prepare.

Comment: Many commenters stated that since the purpose of PIP is to ensure an even cash flow, this method of payment is just as necessary now for hospitals subject to the prospective payment system as it was before that system was implemented.

Response: We agree that PIP does provide an even cash flow for both prospective payment hospitals and all other hospitals. However, we believe that hospitals have gained adequate experience in the development of effective bill processing systems and are now capable of billing timely and receiving payment on a bill basis. In addition, because hospitals can submit bills on an electronic basis (that is, EMC), they are capable of submitting claims more quickly, which further reduces their dependency on PIP.

Comment: A number of commenters noted a recent slowing down of intermediary bill processing, and many of the commenters believe that this action has been taken at HCFA's direction. Many commenters noted long delays by intermediaries in claims processing and are concerned that if PIP is eliminated, hospitals can anticipate much longer delays in receiving payment.

Response: We realize that in the past several months some intermediaries' payment cycles have lengthened because of an unanticipated increase in the volume of claims submitted and budgetary restrictions. We are taking action to address this problem.

First, as noted above, we have issued instructions to the intermediaries that require them to pay or deny 95 percent of all "clean" claims within 27 days of their receipt for FY 1986. We are currently evaluating what claims processing cycle is appropriate for FY 1987 and beyond. Second, we have released an additional $15 million to the intermediaries to expedite the processing of any bill backlogs and to assist them in processing bills timely. Finally, we will continue to work with the intermediaries to help them improve their claims processing operations.

We believe that by the time PIP is eliminated, intermediaries, particularly intermediaries that currently have longer processing and payment cycles, will be better prepared to process and pay bills on a reasonable time schedule.

Comment: Several commenters stated that there should be no elimination of PIP until intermediary standards for timeliness of claims payment are set and penalties for late payment are instituted. Some of these commenters also believe that if a delay in payment exceeds 30 days, interest should be paid on the late payment in addition to payment of the claim.

Response: As mentioned above, we are in the process of setting standards for intermediary bill processing. Instructions have been issued that require processing of 95 percent of "clean" claims within 27 days of receipt for FY 1986. We believe that most intermediaries will be able to meet this processing and payment standard. We note that during the period January through March 1986, on a nationwide basis, intermediaries processed over 91 percent of inpatient hospital claims within 30 days. We are currently evaluating what claims processing cycle is appropriate for FY 1987 and beyond.

With respect to the commenters' suggestion that interest be paid on claims for which payment is not made within 30 days, the vast majority of claims would not be affected because, as noted above, for the first three months of 1986, 91 percent were paid within 30 days. For those few claims that are not paid within 30 days, we believe that program requirements concerning payment of interest on overpayments or underpayments in the cost report settlement process should not be expanded to the area of bill processing.

Comment: Many commenters believe that the negative impact on hospital cash flow will not be alleviated by the availability of accelerated payments as was stated in the proposed rule (51 FR 19989).

Response: We believe that with the other steps we are taking regarding improvement of intermediary bill processing time, the need for accelerated payments should be greatly reduced. We will continue to work with intermediaries that do not now process claims timely. However, for those providers that experience financial difficulties after July 1, 1987 due to a delay by an intermediary in making payment, accelerated payments will continue to be available in those situations in which they are warranted, as is currently provided in § 405.454(h).

Comment: One commenter noted that the elimination of PIP will not eliminate the need for periodic updating, monitoring, and year-end reconciliation that are required for interim payments because these activities will continue to be necessary for those services reimbursed on a reasonable cost basis (that is, for outpatient services, for services furnished by hospitals excluded from the prospective payment system, and for any payments made in addition to the prospective payment rate for hospitals subject to that system (capital-related costs and medical education costs)).

Response: Periodic reviews and a final year-end reconciliation required for interim payments will still be necessary for all costs paid on a reasonable cost basis. However, we do not believe that the continuation of these activities is inconsistent with elimination of PIP as a method of payment for services. We believe that PIP represents an unnecessary burden for intermediaries. While a year-end reconciliation is necessary for both PIP and non-PIP hospitals reimbursed on a reasonable cost basis, interim reimbursement on the basis of submitted bills is more accurate and, thus, requires less monitoring by intermediaries. With regard to prospective payment hospitals, interim payments and the corresponding review of these payments is unnecessary for services paid on a per discharge basis.

Furthermore, elimination of PIP supports what has always been the underlying principle governing interim payments, that is, that they approximate actual costs as nearly as possible so that the reconciliation at the end of the year based on actual costs will be as small as possible. See §405.454(b).

Comment: Two commenters believe that calculating and monitoring PIP amounts for prospective payment hospitals is easier than for excluded

hospitals and thus is less, rather than more, burdensome for intermediaries.

Response: We agree that it may be generally less burdensome to calculate and monitor PIP for prospective payment hospitals than for hospitals paid on a reasonable cost basis. However, we continue to believe that in either case, PIP is more burdensome for intermediaries than making payments based on submitted bills.

Comment: One commenter presumed that PIP was implemented in full recognition of the administrative costs involved and stated that HCFA has failed to give a rational basis for the elimination of PIP despite the costs associated with it. Another commenter believes that HFCA's lack of adequate factual evidence in support of the elimination of PIP renders the proposal invalid.

Response: The reason that the PIP method of payment was developed early in the Medicare program was to ensure a more even cash flow for hospitals. At that time, many hospitals had not developed adequate billing systems and PIP was necessary to ensure financial viability for hospitals as they gained experience in the Medicare program despite the additional intermediary costs associated with PIP. Hospitals have long since adapted their practices to meet the requirements of the Medicare program and, in addition, we believe that hospitals subject to the prospective payment system have also had adequate time to conform their operations to accommodate the requirements of that system. Therefore, any costs incurred by intermediaries in administering PIP are no longer necessary as they were when PIP was developed.

We believe that intermediary efforts can now be better directed toward other activities, including more timely processing and payment of claims based on submitted bills. The result of the elimination of PIP is simply that payment will be made on a bill basis rather than under a method that distributes an estimated annual amount in periodic payments that are generally made every two weeks. We believe that payment on the basis of a submitted bill is a reasonable way to make payment for services furnished to Medicare beneficiaries, particularly in light of the availability of EMC, as well as continued improvement in intermediary processing time to ensure more timely payment.

Comment: Some commenters believe that those hospitals currently receiving PIP that meet all the requirements for PIP including timeliness of billing are the most efficient hospitals and least deserve to be removed from PIP.

Response: We believe that those hospitals that are the most efficient in submitting bills timely will have the least difficulty in maintaining an even cash flow when required to receive payment on a bill-by-bill basis.

Comment: A number of commenters do not agree with our statement in the proposed rule that hospitals receiving PIP have less incentive to bill timely than hospitals not receiving PIP (51 FR 19989). They noted that current PIP criteria provide strong incentive to bill timely.

Response: We believe that timely bill submittal should not be driven by a Medicare requirement regarding PIP but rather by the incentive of receiving payment on a submitted bill. The elimination of PIP in conjunction with timely processing and payment by intermediaries will provide this incentive. This approach is more consistent with normal business practices.

Comment: Several commenters noted that although we stated in the proposed rule (51 FR 19989) that PIP was offered to prospective payment hospitals only as an interim measure to ensure a smooth transition for reimbursement on a reasonable cost basis to the prospective payment system, the September 1, 1983 interim final rule that implemented the prospective payment system did not indicate the interim nature of PIP.

Response: While neither the preamble of the September 1, 1983 interim final rule nor the regulations at § 405.454(m) specifically stated that PIP was an interim measure for prospective payment hospitals, it has been our belief since the implementation of the prospective payment system that PIP is inappropriate for payments made on a per discharge basis under a prospective payment system. Therefore, we intended that PIP would be available to hospitals paid under that system only for a limited period of time. In any event, we are giving hospitals almost a full year's notice to prepare for the elimination of PIP.

Comment: Commenters recommended that even if we eliminate PIP for prospective payment hospitals, it should continue to be an option for hospitals excluded from the prospective payment system since the reasons for eliminating PIP for prospective payment hospitals do not apply to excluded hospitals. Other commenters recommended that small rural hospitals be allowed to continue to receive PIP noting, among other things, their marked fluctuation in patient census from week to week, their higher Medicare utilization, and their inadequate administrative resources to incorporate changes in billing procedures and other changes required by HCFA. Two commenters believe that the elimination of PIP would be a hardship to hospitals that have a high Medicare utilization rate and recommended that PIP be continued for these hospitals.

Response: We continue to believe that PIP is not the most appropriate mechanism for making interim payments. As stated above, it is our opinion that all hospitals should now be capable of submitting timely and accurate claims, which should result in faster payments on the basis of submitted bills.

However, we are somewhat persuaded by several commenters' arguments. We believe that without PIP, small rural hospitals' cash flow could be noticeably affected as a result of a combination of factors inherent in the operations of these hospitals (that is, fluctuating patient census, high Medicare utilization rates, and limited administrative resources). Rural hospitals with fewer than 100 beds average over 50 percent Medicare utilization, which is higher than the Medicare utilization rate in larger rural hospitals and in all bed size category urban hospitals. Thus, a significant portion of a small rural hospital's operating revenues is attributable to the care of Medicare beneficiaries. At the same time, rural hospitals with fewer than 100 beds average less than 40 percent occupancy, which is lower than the occupancy rate in both larger rural hospitals and all bed size category urban hospitals.

This low occupancy rate, which magnifies cash flow problems caused by fluctuations in patient census, coupled with the fact that Medicare payments represent a significant portion of the revenues for these small rural hospitals could make these hospitals particularly vulnerable to cash flow disruption if PIP were eliminated for them. Therefore, for the time being, we believe that it is appropriate to allow rural hospitals with fewer than 100 beds to continue to use PIP. Accordingly, we are not eliminating the PIP option for these hospitals at this time.

We do not believe that it is appropriate to create an exception to the elimination of PIP solely on the basis of a high Medicare utilization rate. A high Medicare utilization rate may be a problem for small rural hospitals; however, as discussed above, we will not be eliminating PIP for these hospitals at this time.

VOL 51 ISS 158 AG 15 1986 UMI

Comment: A few commenters requested a clarification of our statement in the proposed rule (51 FR 19989) that ". . . we would make payments to hospitals, based on submitted bills for payment not less often than monthly." Some commenters were concerned that this statement means that HCFA is planning to pay only monthly for regular claims processing and they recommended that if PIP is eliminated, payment should be made no less often than weekly.

Response: By our statement in the proposed rule that we would make payment not less often than monthly, we did not mean that payments would be received on a monthly basis. Rather, it was meant to clarify that, in accordance with the requirements of section 1815(a) of the Act, payment to hospitals must be made *at least* monthly. While there is no statutory requirement that payment be made weekly, many intermediaries make payment to their non-PIP hospitals on a weekly basis.

Comment: A few commenters suggested that PIP not be eliminated until we have evaluated the effect of the elimination of PIP on hospital cash flow and have considered factors such as the time for processing and payment of claims by intermediaries and the incorporation of capital-related payments and direct medical education costs into the prospective payment rates. One commenter specifically requested that we evaluate the effect of the unavailability of PIP on small rural hospitals. Another commenter recommended that we not eliminate PIP until we have considered other options.

Response: As discussed above, we agree that some intermediaries' payment cycles have lengthened because of unanticipated increased claims volume and tight budgets. As we noted above, we have released funds to the intermediaries to expedite the processing of backlogs and to assist intermediaries in processing bills timely.

Concerning the incorporation of direct medical education costs and capital-related costs into the prospective payment rates, interim payments will continue to be made on a biweekly basis for these costs pending any such incorporation. However, we do not agree that the elimination of PIP should be contingent upon inclusion of these costs into the prospective payment rates since hospitals are currently receiving interim payment for these costs. At such time as these costs may be incorporated into the prospective payment system, they would become part of the prospective payment rates and, thus would warrant payment on a per discharge basis as the costs already incorporated into those rates do now.

With respect to small rural hospitals, as discussed above, we believe that rural hospitals with fewer than 100 beds, at least for the present, should be permitted to receive PIP if they qualify.

With regard to consideration of other options, we have considered a number of the commenters' recommendations concerning the proposed elimination of PIP, and we have made two changes to our original proposal. As mentioned above, PIP will continue to be available to rural hospitals with fewer than 100 beds. As discussed below, we have also reduced the time necessary for prospective payment hospitals to qualify for an interim payment for long-stay patients.

Comment: Several commenters suggested that hospitals that have recently become subject to the prospective payment system, or that become subject to that system in the future, be allowed to receive PIP for a comparable three-year transition period, so that they will receive the same advantage of an even cash flow as other hospitals received when they were first subject to the prospective payment system.

Response: We believe that a prospective implementation date of July 1, 1987 provides an adequate amount of notice for all hospitals to prepare for the elimination of PIP. While some hospitals currently have not been subject to the prospective payment system for three full years, by July 1, 1987, essentially all hospitals will be in at least their second year of prospective payment. For hospitals that become subject to the prospective payment system in the future, we do not believe a transition period will be necessary since these hospitals will have adequate time to adjust to the new system.

Comment: Several commenters recommended that recognition of working capital needs be built into the prospective payment system if PIP is eliminated.

Response: Payments made under the prospective payment system, by paying for services furnished to a Medicare beneficiary, already recognize a hospital's working capital needs. We expect that the actions we have discussed above to ensure timely intermediary claims processing and payment will properly provide for the working capital needs of hospitals without the need for PIP.

Comment: One commenter suggested that not only should PIP be retained for Part A provider services, it should be expanded to include payment for part B provider services.

Response: PIP has never been permitted for any services other than Part A services except for Part B home health services, which are indistinguishable from Part A home health services. We do not believe PIP is appropriate because it is burdensome to intermediaries, results in less accurate payments, and is not consistent with general business practices. Therefore, we find no basis for expanding PIP, and we continue to believe PIP should be eliminated for hospitals.

Comment: One commenter requested an explanation of how we will handle the transition from payment on a PIP basis to payment on a bill basis in those cases in which a hospital had been paid too little or too much under PIP compared to payment based on submitted bills.

Response: If the intermediary determines that a hospital was paid too little while under PIP, it will make a lump-sum payment to the hospital based on its determination. If it is determined that a hospital was paid too much, the intermediary's first course of action is to recoup the excess payment in a lump sum. However, if the amount is substantial and immediate recovery may cause a cash-flow problem, and the hospital requests additional time to make the repayment, the intermediary can recoup the excess through a limited number of interim payments.

Comment: Several commenters requested that we expand our proposed exception that would provide prospective payment hospitals with an interim payment once a beneficiary's length of stay exceeds 45 days to also cover hospitals excluded from the prospective payment system. However, they recommended that excluded hospitals should be permitted to receive an interim payment once a length of stay exceeds 30 days.

Response: Because payment to prospective payment hospitals is made on a per discharge basis, an interim payment is necessary to accommodate cash flow problems that may result from unusually long stays. However, payment to hospitals excluded from that system (that is, those hospitals paid under reasonable cost principles) is not made on a per discharge basis. In cases of long stays in excluded hospitals, interim billing before discharge has always been an option. Although it has not been a specific requirement that intermediaries permit billing every 30 days, we are now clarifying our policy to the effect that excluded hospitals may submit a bill for any stay that exceeds 30 days, and that

the intermediaries will process those bills as submitted.

Comment: Some commenters suggested variations to the proposed 45-day length of stay necessary for receipt of an interim payment by prospective payment hospitals for long stay patients. The suggestions included a time frame of 30 days, the criteria for day or cost outliers, or twice the national average Medicare patient length of stay.

Response: We have reconsidered the proposed 45-day length of stay necessary to qualify for an interim payment. We now believe that 30 days is more appropriate. A specific period of time such as 30 days will avoid any administrative problems that may be associated with a criterion that varies from patient to patient, such as one based on outlier status.

Comment: Regarding our statement in the proposed rule that PIP represents a general departure from customary business practice (51 FR 19989), several commenters noted that PIP is not unlike business practices in other industries that provide for progress payments.

Response: While some businesses may make progress payments, we believe that it is generally more customary to pay for services as rendered. We believe that payment for services as rendered is equally appropriate with respect to services furnished to Medicare patients, particularly since stays are generally relatively short in duration. Prospective payment hospitals receive a final payment based on a discharge bill; for an unusually long stay by a Medicare patient, an interim payment is available after 30 days (see discussion above). Hospitals paid on a reasonable cost basis receive an estimated interim payment based on a discharge bill; for unusually long stays, as discussed above, the hospital may submit a bill after 30 days and the intermediary will process that bill for payment. Therefore, for the average case (the average length of stay for Medicare patients is 8.5 days), we believe that payment after discharge is both adequate and proper. For long-stay cases, the interim payment available to prospective payment hospitals and excluded hospitals for a portion of the long stay provide timely payment to hospitals and represent, in effect, progress payments.

Comment: One commenter, in recommending that PIP be retained, suggested that outdated PIP criteria be eliminated, that other criteria, including recently proposed changes applicable to providers that will retain PIP as an option, be revised, and that HCFA take other actions with regard to PIP, including consistent application of PIP criteria by the regional offices and the intermediaries.

Response: As discussed above, we plan to eliminate PIP for all hospitals effective July 1, 1987 except for rural hospitals with fewer than 100 beds. To the extent that PIP may still be used, we agree that some PIP criteria need to be revised and, if appropriate, eliminated. We also agree that the PIP criteria should be consistently applied on a national basis. To that end, in August 1985, we issued proposed manual changes to both the PIP criteria and the application of PIP. We have received comments on that proposal from the public and we are considering those comments, as well as comments received in response to the June 3, 1986 proposed rule, in development of the final manual changes.

Comment: One commenter suggested that all claims be paid "as billed" unless an intermediary's aggregate total of days work-on-hand goes above the performance standard at the end of any month or unless HCFA or Congress imposes significant modifications on hospitals or intermediaries. In these cases, HCFA would immediately provide each hospital with an interest-free PIP working capital advance equal to the hospital's daily average working capital needs in excess of the intermediary's performance threshold. The advance would be retained until the intermediary's performance is evaluated at the end of the next month. The commenter also suggested that rural hospitals with fewer than 50 beds be permitted to maintain PIP under the current procedures, with the amount of PIP based on those hospitals' prior year's payments under the prospective payment system.

Response: We have reviewed this suggested alternative and believe that it would create a greater burden on intermediaries than even the current PIP system does. Apparently, this proposal could result in hospitals moving on and off PIP. We believe that this would be disruptive and would create additional problems in making accurate interim payments. Therefore, we have not adopted the suggestion; however as discussed above, we will be permitting rural hospitals with fewer than 100 beds to remain on PIP.

IV. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that meet the criteria of a "major rule". A major rule is a regulation that would be likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we prepare and publish an initial regulatory flexibility analysis, consistent with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 through 612), for regulations unless the Secretary certifies that their implementation would not have a significant economic impact on a substantial number of small entities.

Our initial proposal to eliminate PIP was included in a major rule (that is, the proposed rule concerning FY 1987 changes to the prospective payment system published on June 3, 1986) and was discussed in the impact analysis of that rule (51 FR 20105. We believe that it is arguable whether this rule, by itself, would be a major rule. Nonetheless, it clearly would have a significant economic impact on a substantial number of small entities, and comments on the proposal show that many affected hospitals view the elimination of PIP as having great financial impact on them. Therefore, we have prepared the following analysis, which serves as an analysis consistent with the RFA and a voluntary economic analysis under E.O. 12291.

B. Affected Entities

Nearly 3400 hospitals currently receive payments under the PIP method. Of these, about 250 are hospitals excluded from the prospective payment system, such as rehabilitation, psychiatric and long-term care hospitals. (About 750 excluded hospitals continue to be paid on the basis of reasonable cost reimbursement, subject to hospital-specific limits in the rate of their cost increases.) Nearly three-fourths of the excluded hospitals receiving PIP payments are psychiatric hospitals. PIP payments for excluded hospitals cover all their costs, including inpatient operating costs, capital costs, and outpatient costs.

Most of the hospitals (more than 54 percent) included in the prospective payment system receive PIP payments. There are now about 5800 hospitals under the prospective payment system, and about 3150 receive PIP payments for their inpatient operating costs. All

hospitals under the prospective payment system also receive regular biweekly payments for their capital-related costs and other costs paid in addition to the prospective payment rates.

Almost 48 percent of prospective payment hospitals are rural and almost 40 percent of rural prospective payment hospitals are on PIP. By comparison, more than 67 percent of the urban prospective payment hospitals are on PIP.

Many rural hospitals are quite small. Relative to their number, they account for a small portion of Medicare expenditures under the prospective payment system. Roughly, it may be said that rural hospitals are about 50 percent of all the prospective payment hospitals, yet they account for only about 25 percent of the discharges and 17 percent of the Medicare expenditures. This is even more strongly the case with the smaller rural hospitals, of which less than a third are on PIP. The more than 2125 rural hospitals with fewer than 100 beds account for only about seven percent of propsective payments, and 1070 rural hospitals with fewer than 50 beds (more than 18 percent of all prospective payment hospitals) account for less than three percent of total prospective payment expenditures. The converse is, of course, true of large and urban hospitals. For example, about 120 large urban hospitals with more than 685 beds (only two percent of all prospective payment hospitals) account for more than 10 percent of all payments under the prospective payment system.

C. Expected Financial Impact

As we explained in the June 3, 1986 proposed rule, as a result of PIP, payments to PIP hospitals have been delayed less than reimbursement for non-PIP hospitals. Therefore, PIP hospitals have had a cash flow advantage over non-PIP hospitals. As a result of the elimination of PIP, the payment processing time for hospitals presently under PIP could come to equal the current processing time for current non-PIP hospitals. If this were to occur, our Medicare program outlays (as distinct from incurred expenditures) would be temporarily reduced. Thus, the direct financial impact of the elimination of PIP will be on the cash flow both of affected hospitals and the Medicare program.

These cash flow effects will not represent any actual reduction of Medicare expenditures or provider revenues. The inpatient services furnished by affected providers will still be paid for on the same basis and at the same level as under PIP. Thus, we do not expect this change to affect incurred Medicare expenditures. However, payment would not necessarily be paid in the same fiscal periods.

We anticipate that without PIP, payments to hospitals generally will be made somewhat more slowly than under PIP. As a result, some payments that would otherwise have been made (or, for the hospital, received) at the end of one fiscal period will be made, instead, at the beginning of the next fiscal period. We estimate that the first-year effect of these delays, if applicable for all hospitals currently receiving PIP, would reduce FY 1987 Medicare expenditures, on a cash basis, by $3.66 billion. For later years, the payments carried over from the preceding fiscal period would, for the most part, offset payments delayed to the subsequent fiscal period. As a result, the effect of this change on projected cash outlays for fiscal years 1988 and following would be much smaller than the one-time cash outlay reduction for FY 1987 (1988—$340 million; FY 1989—$410 million; FY 1990—$430 million; FY 1991—$440 million).

The expected showing of cash flow from the Part A trust fund will also result in increased interest revenue to the trust fund. This is limited, however, by requirements for timely intermediary processing of clean claims.

D. Impact on Hospitals

The elimination of PIP will make hospital revenue much more dependent on two factors: timely and accurate hospital billing, and intermediary performance.

As noted in the June 3, 1986 proposed rule, we anticipate that elimination of PIP will give current PIP hospitals incentives to speed up their billing process. We expect affected hospitals to review their billing procedures and seek means to speed up and improve the accuracy of billing. Thus, it would be likely that a hospital that does not currently file EMCs would look at its own billing cycles and decide whether or nor to bill through EMC. Nearly all hospitals, including even small rural hospitals, now have computer systems with the capability to submit claims electronically to the intermediary. However, at the present time our data show that only 50 percent of hospitals submit EMCs. We believe that the elimination of PIP would provide an incentive for more hospitals to convert to electronic claims.

For a hospital paid on a bill basis, billing errors may mean significant delay of payment. EMCs are prepared more easily by the hospital, with fewer errors than hardcopy claims. Additionally, EMCs are automatically entered into the intermediary's system, while hard copy bills must be individually typed. We believe that, in the absence of PIP, EMCs could result in more accurate payment than under individual hardcopy billing for some hospitals.

Just as the Part A trust fund will benefit from the one-time delay of end-of-year payment from the first affected fiscal period to the subsequent period, hospitals will experience, on the whole, a one-time decline in total receipts for their first affected fiscal periods. Of course, affected hospitals will notice this effect early after the elimination of PIP, not just at the end of the cost reporting period.

The degree to which payments are delayed, and the magnitude of the effect of these delays, will vary from hospital to hospital, depending on Medicare utilization and revenues, management, and resources. Those hospitals that have effective billing systems in place generally would tend to be in better financial condition than less well managed hospitals. Much of the impact of the elimination of PIP will depend on the financial planning and cash flow management, as well as the available operating reserves, of individual hospitals. Any hospital would have strong incentives to make whatever improvements and arrangements are necessary to ensure adequate future cash flow. The ample future notice we have afforded (that is, the July 1, 1987 implementation date) should enable many hospitals to minimize the effect of the elimination of PIP.

Nonetheless, it is clear that many hospitals currently have cash flow difficulties which, if exacerbated, may threaten their continuing operation. We have identified one category of hospitals that would be placed most at risk by the elimination of PIP, and provided that hospitals in this category may continue to receive PIP payments. Thus, we will continue to allow PIP for rural hospitals with fewer than 100 beds, about 700 of which currently are under PIP. Elimination of PIP for these hospitals could have delayed $70 million of Medicare outlays from FY 1987 to FY 1988. This would not substantially increase benefits to the Medicare program and could risk impairing access to care in some rural areas. By allowing these hospitals to continue on PIP, we believe potential adverse effect on Medicare beneficiaries will be avoided.

E. Alternatives Considered

We considered not eliminating PIP at all. However, the expected financial and administrative benefits to the Medicare

program are substantial, and we rejected this alternative. We also considered allowing other groups of hospitals, in addition to rural hospitals with fewer than 100 beds, to continue to receive PIP payments. For example, we reviewed the arguments advanced by some excluded hospitals that the elimination of PIP would affect them adversely. We did not find that potential adverse consequences alleged by the commenters were of sufficient magnitude and likelihood of occurrence to justify continuation of those payments, in view of the benefits to be realized from their discontinuance.

F. Conclusion

Taking into consideration the continuation of PIP for more than 700 small rural hospitals, we project a reduction of FY 1987 Medicare cash outlays of more than $3.59 billion. We further expect elimination of PIP for most hospitals to allow simplification of contractor operation and to encourage more accurate and timely hospital billing. We believe these benefits outweigh the problems that the elimination of PIP may cause by delaying payments to some hospitals.

V. Other Required Information

A. Paperwork Reduction Act

This final rule does not impose any information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405, Subpart D is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

1. The authority citation for Subpart D continues to read as follows:

Authority: Sec. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a) 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

2. In § 405.454, the introductory text of paragraph (j) is redesignated as paragraph (j)(1) and revised; current paragraphs (j)(1) through (j)(5) are redesignated as paragraphs (j)(2) through (j)(6) respectively; in newly redesignated paragraph (j)(2), the introductory text and paragraphs (j)(2)(i) through (j)(2)(iii) are revised; and paragraph (m) is revised to read as follows:

§ 405.454 Payments to providers.

* * * * *

(j) *Periodic interim payment method of reimbursement.*—(1)(i) *Covered services furnished before July 1, 1987.* In addition to the regular methods of interim payment on individual provider billings for covered services, the periodic interim payment (PIP) method is available for Part A hospital and SNF inpatient services and for both Part A and Part B HHA services.

(ii) *Covered services furnished on or after July 1, 1987.* Effective with covered services furnished to beneficiaries on or after July 1, 1987, the PIP method, in addition to the other methods of interim payment on individual provider billings for covered services, is available only for the following:

(A) Part A SNF services.

(B) Part A and Part B HHA services.

(C) Part A services furnished in hospitals receiving payment in accordance with a demonstration project authorized under section 402(a) of Pub. L. 90–248 (42 U.S.C. 1395b–1) or section 222(a) of Pub. L. 92–603 (42 U.S.C. 1395b–1 (note)), or a State reimbursement control system approved under section 1886(c) of the Act and Subpart C of Part 403 of this chapter, if that type of payment is specifically approved by HCFA as a part of the demonstration or control system.

(D) Part A services furnished in hospitals located in a rural area as defined in §412.62(f) of this chapter that have fewer than 100 beds available for use excluding beds assigned to newborns.

(2) Any participating provider furnishing the services described in paragraph (j)(1) of this section that establishes to the satisfaction of the intermediary that it meets the following requirements may elect to be reimbursed under the PIP method, beginning with the first month after its request that the intermediary finds administratively feasible:

(i) The provider's estimated total Medicare reimbursement for inpatient services is at least $25,000 a year computed under the PIP formula or, in the case of an HHA, either its estimated—

(A) *Total Medicare reimbursement* for Part A and Part B services is at least $25,000 a year computed under the PIP formula; or

(B) Medicare reimbursement computed under the PIP formula is at least 50 percent of estimated total allowable cost.

(ii) The provider has filed at least one completed Medicare cost report accepted by the intermediary as providing an accurate basis for computation of program payment (except in the case of a provider requesting reimbursement under the PIP method upon first entering the Medicare program).

(iii) The provider has the continuing capability of maintaining in its records the cost, charge, and statistical data needed to accurately complete a Medicare cost report on a timely basis.

* * * * *

(m) *Prospective payments.*—(1) *General rule.*—(i) *Final payment.* For cost reporting periods beginning on or after October 1, 1983, hospitals subject to the prospective payment system are paid for Part A inpatient operating costs on a per discharge basis using prospectively determined rates. The amounts represent final payment based on the submission of a discharge bill. Unless the provisions of paragraphs (m)(2) through (m)(5) of this section apply, year-end retroactive adjustments are not made for prospective payment hospitals.

(ii) *Outlier payments.* Payments for outlier cases (described in Subpart F of Part 412 of this chapter) are not made on an interim basis. The outlier payments are made based on submitted bills and represent final payment.

(iii) *Other payments.* Medical education costs are reimbursed as described in § 405.421, and capital-related costs are reimbursed as described in § 405.414.

(2) Interim prospective payments per discharge. (i) Except as provided in paragraph (m)(2)(ii) of this section, prospective payment hospitals meeting the criteria in paragraph (j) of this section may elect to receive periodic interim payments for discharges occurring before July 1, 1987. Therefore, at the discretion of the intermediary, the hospital's prospective payments are estimated and made on a periodic interim basis (26 biweekly payments). These payments are subject to final settlement. Each payment is made two weeks after the end of a biweekly period of services, as described in paragraph (j)(5) of this section. Hospitals electing periodic interim payments may

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convert to payments on a per discharge basis at any time.

(ii) Prospective payment hospitals located in a rural area as defined in § 412.62(f) of this chapter that have fewer than 100 beds available for use excluding beds assigned to newborns and meet the criteria in paragraph (j) of this section may elect to receive periodic interim payments for discharge occurring on or after July 1, 1987.

(iii) For the hospitals receivings periodic interim payments for inpatient operating costs, the biweekly interim payment amount is based on the total estimated Medicare discharges for the reporting period multiplied by the hospital's estimated average prospective payment amount. These interim payments are reviewed at least twice during the reporting period and adjusted if necessary.

(iv) For purposes of determining periodic interim payments under this paragraph, the intermediary computes a hospital's estimated average propsective payment amount by multiplying its transition payment rates as determined under § 412.70(c) of this chapter, but without adjustment by a DRG weighting factor, by the hospital's case-mix index, and subtracting from this amount estimated deductibles and coinsurance.

(3) Special interim payments for certain costs. For capital-related costs and the direct costs of medical education, which are not included in prospective payments but are reimbursed as specified in §§ 405.414 and 405.421, respectively, interim payments are made subject to final cost settlement. Interim payments for capital-related items and the estimated cost of approved medical education programs (applicable to inpatient costs payable under Part A and for kidney acquisition costs in hospitals approved as rental transplantation centers) are determined by estimating the reimbursable amount for the year based on the previous years experience and on substantiated information for the current year and divided into 26 equal biweekly payments. Each payment is made two weeks after the end of a biweekly period of services, as described in paragraph (j)(5) of this section. The interim payments are reviewed by the intermediary at least twice during the reporting period and adjusted if necessary.

(4) Special interim payments for the indirect costs of medical education. Payments for the indirect costs of medical education (described in § 412.118 of this chapter) are paid based on an estimate of the total for the Federal portion of the diagnosis-related group revenue to be received in the current period. The total estimated annual amount of the adjustment is divided into 26 equal biweekly payments and included with other inpatient costs reimbursed on a reasonable cost basis. This estimate is subject to year-end adjustment. Each payment is made two weeks after the end of a biweekly period of services. The interim payments are reviewed by the intermediary at least twice during ther reporting period and adjusted if necessary.

(5) Special interim payments for unusually long lengths of stay. For discharges occurring on or after July 1, 1987, a hospital may request an interim payment if a Medicare beneficiary's length of stay exceeds 30 days. The amount of the interim payment is equal to the hospital's Federal rate multiplied by the appropriate diagnosis-related group weighting factor. Only one interim payment per discharge is permitted.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program)

Dated: July 31, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved August 11, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-18407 Filed 8-12-86; 11:01 am]

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federal register

Friday
August 15, 1986

Part IV

Department of Education

34 CFR Part 668

Postsecondary Education; Student Assistance General Provisions; Final Regulations

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DEPARTMENT OF EDUCATION

34 CFR Part 668

Postsecondary Education; Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends Subpart E of the Student Assistance General Provisions regulations, 34 CFR Part 668, to reduce administrative burden and to provide institutions with greater flexibility in verifying student aid application information.

EFFECTIVE DATE: These regulations become effective either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. However, when the regulations become effective, they will govern the procedures that institutions must use to verify information included on an application to have an expected family contribution calculated for the purpose of receiving financial assistance under the Title IV, HEA Programs for the 1986–87 and subsequent award years. The Title IV, HEA Programs include the Pell Grant, Guaranteed Student Loan (GSL), National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Education Opportunity Grant (SEOG) Programs. (The latter three programs are also known as the campus-based programs.)

FOR FURTHER INFORMATION CONTACT: Mr. Fred Sellers or Ms. Carney McCullough, U.S. Department of Education, Office of Student Financial Assistance, Regional Office Building 3, Room 4318, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone number (202) 472–4300.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) to implement an integrated system of verifying student aid application information under the Title IV, HEA programs was published in the **Federal Register** of July 26, 1985, 50 FR 30674–30685. The proposed integrated system, set forth as Subpart E of the Student Assistance General Provisions regulations, was developed to reduce high error rates in information reported by students applying to have their expected family contributions calculated under the Title IV, HEA programs. Many of the commenters who responded expressed concern over the administrative burden associated with the proposed verification system.

The final verification regulations published in the **Federal Register** of March 14, 1986, 50 FR 8946–8974, contained several changes from the NPRM to relieve the burden placed on institutions. When the final regulations were published, the Assistant Secretary for Postsecondary Education independently requested financial aid administrators to inform the Department of Education (ED) of any undue administrative difficulties institutions encountered in administering the verification process. Additionally, at various conferences of financial aid administrators, ED personnel have solicited comments on the functioning of the verification process under the new regulations.

As a result of these solicitations, ED has received a considerable number of comments. These final regulations incorporate a number of suggestions that are intended to reduce administrative burden and improve the timeliness of financial aid delivery without diminishing the effort to reduce applicant reporting error. Although the Secretary is revising the regulations to provide that an institution need not require an applicant to verify information under certain circumstances, the institution continues to be responsible for resolving any circumstance for which it has conflicting documentation in accordance with § 668.16(f) or if it has reason to believe that the information is inaccurate in accordance with § 668.54(a)(3). The following is a listing of the changes to the final regulations.

Section 668.56 Items To Be Verified

Under the existing regulations, an applicant must verify the number of family members in his or her household if the household size is greater than two in the case of a dependent student, or greater than one in the case of an independent student. Several commenters noted that if a dependent student's parents are married, the household size would be at least three, and if an independent student is married, the household size would be at least two. Therefore, the verification requirement is too restrictive. The Secretary agrees and has revised the regulations to add that an applicant must verify the number of family members in his or her household only if the household size is greater than three in the case of a dependent student whose parents are married and if the household size is greater than two in the case of a married independent student.

Other commenters indicated that it is burdensome to require an applicant to verify household size or the number of family members attending post-secondary educational institutions if the applicant submits a Student Aid Report (SAR) or other output document to the institution within 90 days of filing the financial aid application that produced the SAR or output document since the applicant certified that this information was correct on the application and the documentation obtained from the applicant would not be likely to show a difference. For similar reasons, it is needlessly burdensome to verify these items if the applicant is selected for verification but does not submit an SAR or the institution does not receive an output document from an approved need analysis system. The Secretary agrees and has revised the regulations to provide in § 668.56(d) that an applicant must verify the number of family members in the household and the number of family members attending postsecondary educational institutions only if more than 90 days have elapsed between the date the applicant signs his or her application and the date the applicant submits an SAR or the date the institution receives an output document.

A number of commenters noted that several items reported by an applicant tend to remain constant each award year, and that it is needlessly burdensome to require applicants to verify this information if it has been verified in the previous award year. The Secretary agrees and has provided in § 668.56(e) that an institution need not require an applicant to verify the number of family members in the household, the number of family members attending postsecondary educational institutions, independent student status, or the amount of child support received if the applicant's reported data are the same as that verified by the institution in the previous award year.

Several commenters suggested that an applicant not be required to provide a statement to verify the number of family members attending postsecondary educational institutions if the other family members are enrolled at the same institution as the applicant and the institution can verify their enrollment from its own records. The Secretary agrees and has amended § 668.56(f) accordingly.

Many commenters believed that it is not useful to verify a family's untaxed income if the untaxed income or benefits were received from a Federal, State, or local government agency and were based on the family's need for financial assistance. Families that are eligible for "need-based" public assistance are

generally low income families for whom Title IV, HEA-program assistance is intended. As a result, any error made by the applicant in reporting untaxed income and benefits would not result in a significant change, if any, in the applicant's calculated EFC. Applicants from families on public assistance are also the most likely to be discouraged by the verification process, and in particular by the requirement to verify income or benefits received from government agencies. The Secretary agrees with these commenters that verification of untaxed income should not be required for these applicants when the institution has knowledge that this assistance is received from government agencies and has provided in § 668.56(g) that an institution need not require an applicant to verify untaxed income and benefits when the applicants, the applicant's spouse, or the applicant's parents receive income or benefits from a Federal, State or local government agency which uses a needs test to determine eligibility for this assistance.

Section 668.57 Acceptable Documentation

Several commenters noted that IRS Schedule W provides the same information necessary to verify adjusted gross income as IRS Form W–2 if a dependent student applicant's parents or an independent student applicant filed a joint return and now is a widow or widower or is divorced or separated. Morever, these commenters noted that in some cases, it may be easier for the applicant to provide the IRS Schedule W rather than the IRS Form W–2 to the institution. The Secretary agrees and has revised § 668.57 to allow an applicant to provide IRS Schedule W as an alternative to IRS Form W–2 when verifying adjusted gross income under certain circumstances.

Under the existing regulations, the Secretary lists three items as acceptable documentation for verifying the amount of child support received by the applicant, or the applicant's spouse or parents. The Secretary wishes to clarify that these items are examples of acceptable documentation, and has revised § 668.57(e)(3)(ii) to allow other types of source documentation in instances where the institution believes the information provided by the applicants is inaccurate.

Section 668.58 Interim Disbursements

Under existing regulations, an institution shall not certify an applicant's GSL loan application or process a GSL loan check for any previously certified GSL loan application until the applicant completes verification. Many commenters objected to the excessive delays in the delivery of GSL loan proceeds to students because of the time required for verification prior to certification and processing of GSL loan applications. They pointed out that GSL loan proceeds could not be disbursed to students until verification was completed and that the prohibition against certifying a GSL loan application until verification is completed is therefore unnecessary. The Secretary agrees with the commenters and has revised § 668.58(a)(2)(iii) to allow an institution the option of certifying a GSL loan application before the applicant completes verification if the institution does not have information that conflicts with the information reported by the applicant.

In addition, the Secretary revised § 668.58 by adding § 668.58(d) which sets forth a procedure for institutions to follow when the amount of a previously certified GSL loan check exceeds the student's need for the loan based on the verified information. If any excess funds can be eliminated in subsequent disbursements, the institution may disburse the check and notify the lender to adjust the subsequent disbursements. If the excess funds cannot be eliminated in subsequent disbursements, the institution must return the check to the lender.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232 (b)(2)(A)), and the Administrative Producedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. The Secretary has received a substantial number of comments during the past month concerning the implementation of the verification regulations. As a result, he has determined that the verification regulations published in March contain some requirements that are not needed for adequate verification of student aid information, impose substantial burdens on postsecondary educational institutions, and are likely to lead to serious delays in the delivery of student aid. The changes in this document eliminate those unnecessary and burdensome requirements. It is essential that these amendments take effect immediately so as not to seriously affect the delivery of student aid for the award year that began on July 1, 1986. Under section 431(d) of the General Education Provision Act, these regulations do not become effective until at least 45 days after their publication. Therefore, the Secretary has determined that publication of a proposed rule is impracticable and contrary to the public interest under 5 U.S.C 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. These regulations contain technical amendments designed to reduce institutional burden. However, they will not have a significant economic impact on the institutions affected.

Assessment of Education Impact

The Secretary has determined that regulations in this document would not require transmissions of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance: No. 84.007, Supplemental Educational Opportunity Grants; No. 84.032, Higher Education Act Insured Loans (Guaranteed Student Loans); No. 84.003, College Work-Study Pogram; No. 84–038, National Direct Student Loans; and No. 84.063, Pell Grant Program)

Dated: August 6, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1094, and 1141, unless otherwise noted.

2. Section 668.56 is amended by revising paragraphs (a) introductory text, (a)(3)(i) and (ii), and (b)(2)(ii) (A) and (B), and adding paragraphs (d), (e), (f), and (g) to read as follows:

§ 668.56 Items to be verified.

(a) Except as provided in paragraphs (b), (c), (d), (e), (f), and (g) of this section, an institution shall require an applicant selected for verification under § 668.54(a) (1) or (2) to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's EFC:

* * * * *

(3)(i) For an applicant who is a dependent student, the aggregate number of family members in the household of the applicant's parents if—

(A) The applicant's parents are single, divorced, separated or widowed and the aggregate number of family members is greater than two; or

(B) The applicant's parents are married and the aggregate number of family members is greater than three.

(ii) for an applicant who is an independent student, the number of family members in the household of the applicant if—

(A) The applicant is single, divorced, separated, or widowed and the number of family members is greater than one; or

(B) The applicant is married and the number of family members is greater than two;

* * * * *

(d) If an applicant selected for verification submits an SAR to the institution or the institution receives an output document as decribed in § 668.54(a)(2)(ii)(B) within 90 days of the date the applicant signed his or her application, or if an applicant is selected for verification under § 668.54(a)(2), the institution need not require the applicant to verify—

(1) The number of family members in the household; or

(2) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions.

(e) If the number of family members in the household, the number of family members in the household who are enrolled as at least half-time students in postseconday educational institutions, independent student status, or the amount of child support reported by an applicant selected for verification is the same as that verified by the institution in the previous award year, the institution need not require the applicant to verify that information.

(f) If the family members who are enrolled as at least half-time students in postsecondary educational institutions are enrolled at the same institution as the applicant, and the institution verifies their enrollment from its own records, the institution need not require the applicant to verify this information.

(g) If the applicant, and the applicant's spouse, or the applicant's parents receive untaxed income or benefits from a Federal, State, or local government agency which determines their eligibility for that income or benefits by means of a "financial needs test," the institution need not require the applicant to verify untaxed income and benefits.

(Authority: 20 U.S.C. 1095)

3. Section 668.57 is amended by revising paragraphs (a)(1)(ii) introductory text, (a)(1)(iii) introductory text and (a)(6), and paragraph (e)(3)(ii) introductory text to read as follows:

§ 668.57 Acceptable documentation.

(a) * * *

(1) * * *

(ii) For a dependent student, a copy of each Internal Revenue Service (IRS) Form W–2 received by the parent whose income is being taken into account or a copy of the parent's IRS Schedule W filed with the parents' tax return if—

* * * * *

(iii) For an independent student, a copy of each IRS Form W–2 he or she received or a copy of the student's IRS Schedule W filed with the student's tax return if the independent student—

* * * * *

(6) If an individual who is required to submit an IRS Form W–2 or a copy of IRS Schedule W under this paragraph is unable to obtain one in a timely manner, the institution may permit that individual to set forth, in a statement signed by the individual, the amount of income earned from work as stated on the application, the source of that income, and the reason that the IRS Form W–2 or Schedule W is not available in a timely manner.

* * * * *

(e) * * *

(3) * * *

(ii) If the institution believes that the information provided is inaccurate, a document such as—

* * * * *

4. Section 668.58 is amended by revising paragraph (a)(2)(iii) and adding paragraph (a)(2)(iv), and adding paragraph (d) to read as follows:

§ 668.58 Interim Disbursements.

(a) * * *

(2) * * *

(iii)(A) May withhold certification of the applicant's GSL loan application; or

(B) May certify the GSL loan application; and

(iv) Shall not disburse a GSL loan check.

* * * * *

(d)(1) If the institution receives a GSL loan check in an amount which exceeds the student's need for the loan based upon the verified information and the excess funds can be eliminated in subsequent disbursements for that period of instruction, the institution shall process the check and notify the lender to reduce the subsequent disbursements.

(2) If the institution receives a GSL loan check in an amount which exceeds the student's need for the loan based upon the verified information and the excess funds can be eliminated in subsequent disbursements for that period of instruction, the institution shall return the check to the lender.

(Authority: 20 U.S.C. 1094)

[FR Doc. 86–18319 Filed 8–4–86; 8:45 am]
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federal register

Friday
August 15, 1986

Part V

Office of Science and Technology Policy

Coordinated Framework for Regulation of Biotechnology; Extension of Time for Comments

Department of Agriculture

Plant Pests; Introduction of Organisms and Products Altered or Produced Through Genetic Engineering; Extension of Comment Period

Advanced Notice of Proposed USDA Guidelines for Biotechnology Research; Extension of Comment Period

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Coordinated Framework for Regulation of Biotechnology; Extension of Time for Comments

AGENCY: Executive Office of the President, Office of Science and Technology Policy.

ACTION: Notice of extension of public comment period.

SUMMARY: This **Federal Register** Notice extends the public comment period to September 26, 1986 for the coordinated framework for biotechnology published in the June 26, 1986 **Federal Register** (51 FR 23302).

DATE: Comments must be received on or before September 26, 1986.

ADDRESSES: Comments for particular aspects of the policy should be addressed to:

Biotechnology Science Coordinating Committee (BSCC) definitions or overall comments: Docket #BSCC 0001, Office of Science and Technology Policy, Executive office of the President, NEOB–Room 5005, Washington, DC 20506.

Food and Drug Administration (FDA) policy statement: Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Environmental Protection Agency (EPA) policy statement: Docket Number OPTS–00049A, Docket Control Officer (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St. SW., Washington, DC 20460.

Department of Agriculture (USDA) policy statement for regulatory activities: Dr. James W. Glosser, Associate Administrator, Animal and Plant Health Inspection Service, Room 313–E, Administration Building, 12th and Independence Avenue, SW., Washington, DC 20250. USDA policy statement for research activities: Dr. John Patrick Jordan, Administrator Cooperative State Research Service (CSRS) USDA, Room 304–A, Administration Building, 12th and Independence Avenue, SW., Washington, DC 20250.

Occupational Safety and Health Administration (OSHA) policy statement: James F. Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

National Institutes of Health (NIH) policy statement: Dr. William J. Gartland, Office of Recombinant DNA Activities, Building 31, 3B10, National Institutes of Health, Bethesda, MD 20892.

FOR FURTHER INFORMATION CONTACT: Dr. David T. Kingsbury, Assistant Director for Biological, Behavioral, and Social Sciences, National Science Foundation, 1800 G Street NW., Washington, DC 20550, (202–357–9854).

SUPPLEMENTARY INFORMATION: The June 26, 1986 **Federal Register** (51 FR 23302, "the June 26 notice") contained the coordinated framework for regulation of biotechnology including announcements of agencies' policies and requests for public comment. The closing date for comments was August 25, 1986. The BSCC, EPA, and USDA received requests to extend the comment period. Accordingly, the comment period is extended to September 26, 1986. This extension does not affect agencies' policies that became effective on June 26, 1986. The statement on page 23306 of the June 26 notice that "definitions are effective immediately" refers only to the agency definitions which became effective on June 26, 1986.

USDA's Animal and Plant Health Inspection Service (APHIS), in Part III of the June 26, 1986 **Federal Register**, announced and requested comments on a proposed rule for the "Introduction of Organisms and Products Altered Or Produced Through Genetic Engineering Which Are Plant Pests Or Which There Is Reason To Believe Are Plant Pests." USDA in the same Part III also issued an "Advanced Notice of Proposed USDA Guidelines For Biotechnology." The closing date for comments for both of these was August 25, 1986. These comment periods have been extended to September 26, 1986 by the separate notices following this notice.

Barbara J. Diering,

Special Assistant to the Executive Director, Office of Science and Technology Policy.

August 11, 1986.

[FR Doc. 86–18517 Filed 8–14–86; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 330 and 340

[Docket No. 86-348]

Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe are Plant Pests; Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period for proposed rule.

SUMMARY: This document extends the comment period by 32 days, until September 26, 1986, for a proposed rule entitled, "Introduction of Organism and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests." This action will provide interested persons additional time to prepare comments on the proposed rule.

DATE: Written comments on the proposed rule must be received on or before September 26, 1986.

ADDRESSES: Send comments to Dr. James W. Glosser, Associate Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 313–E, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250. Please state that your comments are in response to Docket Number 85–351. Written comments received may be inspected at Room 313–E of the Administration Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: John R. Wood, Director, Biotechnology and Environmental Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 600, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8896.

SUPPLEMENTARY INFORMATION: On June 26, 1986, the U.S. Department of Agriculture published in the **Federal Register** (51 FR 23352–23366) a proposed rule that was entitled "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests", and that would restrict the importation, interstate movement, and release into the environment of these organisms and products. The proposed rule provided that written comments would be accepted for 60 days, until August 25, 1986. We received several requests asking that we extend the comment period for 30 days. One request asked that we extend it for 60 days. Persons seeking an extension indicated that the issues raised in the proposed rule are complex and that additional time is needed to prepare substantive comments.

We believe that it is in the public interest to extend the comment period, and we are extending it for 32 days, until September 26, 1986. A 32-day extension has been chosen because we believe that an additional 32 days will provide interested persons sufficient time to prepare detailed and substantive comments and yet enable us to promulgate a final rule within a reasonable time after the publication of the proposed rule.

Done at Washington, DC, this 12th day of August 1986.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86–18518 Filed 8–14–86; 8:45 am]

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VOL
51
ISS
158
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DEPARTMENT OF AGRICULTURE

Advanced Notice of Proposed USDA Guidelines for Biotechnology Research; Extension of Comment Period

AGENCY: Department of Agriculture.

ACTION: Notice of extension of comment period.

In the **Federal Register** of June 26, 1986, the U.S. Department of Agriculture (USDA) published an Advanced Notice of Proposed USDA Guidelines for Biotechnology Research (USDA Guidelines) as one part of an interagency Coordinated Framework for Regulation of Biotechnology (51 FR 23367). Subsequent to that publication, several of the agencies involved made decisions to extend the comment period on their portions of the document for an additional 32 days to September 26, 1986. These decisions were made in response to specific requests due in part to the complexity of the technical questions on which comments were invited in the June 26, 1986 notice.

USDA observes that it may be advantageous to synchronize the comment period on the USDA Guidelines with those of the other agencies involved. Such an extension would help to avoid confusion on the part of potential commentors and it would provide additional time for the preparation of comments on the more technical aspects of the USDA Guidelines. Finally, many institutions affected by the USDA Guidelines may be in summer recess during much of the original comment period and the extension would give them additional time to develop comments.

Therefore, USDA extends the comment period for the Advanced Notice of Proposed USDA Guidelines for Biotechnology Research from August 25, 1986 to September 26, 1986.

Dated: August 8, 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86-18519 Filed 8-14-86; 8:45 am]

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federal register

Friday
August 15, 1986

Part VI

Department of Health and Human Services

Health Care Financing Administration
Medicare Program; End-Stage Renal Disease Program; Composite Rates and Methodology for Determining the Rates; Final Notice

VOL 51 ISS 158 AG 15 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC-374-FN]

Medicare Program; End-Stage Renal Disease Program: Composite Rates and Methodology for Determining the Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice revises the methodology for determining the composite rates for prospective payment for outpatient maintenance dialysis services and sets forth rates based on the revised methodology. We based the new rates on the most recent audits (1983) of facility costs. Additionally, in computing the rates we used a combination of the existing 1980 Bureau of Labor Statistics wage index and the HCFA gross hospital wage index The combined index reflects the latest Metropolitan Statistical Areas designated by the Executive Office of Management and Budget.

DATE: This final notice is effective on October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel Driscoll, (301) 597-1804.

SUPPLEMENTARY INFORMATION

I. Background

Section 1881(b) of the Social Security Act (the Act) requires the Secretary to pay for outpatient maintenance dialysis services under a prospective payment system that promotes home dialysis. This payment system must either pay for home dialysis under composite rates (that is, the same rate is paid for dialysis at home as in a dialysis facility) or use some other method that, after detailed analysis, is determined to be more efficient and promote home dialysis more effectively.

On February 12, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 6556) that proposed a prospective, composite rate payment system for outpatient maintenance dialysis that would implement section 1881(b) of the Act. Under that proposal, each facility was to receive a certain payment rate per treatment, adjusted for geographic wage differences, regardless of whether the treatment was furnished in the facility or at the patient's home. We proposed to set separate rates for hospital-based and for independent dialysis facilities.

On May 11, 1983, we published a final rule (48 FR 21254) that changed some of the elements of the February 12, 1982 proposed rule and that incorporated updated information on geographic wage differences. As a result, the average payment rates were projected to be $126.59 per treatment for independent facilities and $130.59 per treatment for hospital-based facilities. These average payment rates were calculated based on the overall effect of the geographic wage indexes on the per-treatment base rates of $122.91 for independent facilities and $126.76 for hospital-based facilities.

The regulation on payment for outpatient maintenance dialysis treatments is located at 42 CFR 405.439. That regulation does not include actual payment rates but does set forth the procedure for promulgating rates. Under § 405.439(i)(2), a notice must be published in the **Federal Register** (with opportunity for prior public comment) when payment rates are changed as a result of a change in the methodology for setting the rates. Accordingly, we published a notice in the **Federal Register** on May 13, 1986, (51 FR 17537) that proposed to change the methodology for setting the rates.

II. Proposed Changes

The May 13, 1986 proposed notice provided for the following:

- In determining the composite rates, the facilities median costs would be weighted by the number of *treatments* in each stratum (a statistical grouping of facilities based on the number of dialysis stations in each facility) rather than weighting by the number of *facilities* in each stratum.
- We would update the composite rates for independent and hospital-based facilities using the most recent audit data on the costs of infacility and home dialysis and the most recent average national percentages of home dialysis patients.
- We would use the HCFA gross hospital wage index described in the prospective payment system regulation published in the September 3, 1985 **Federal Register** (50 FR 35661) to replace the urban and rural wage indexes that were published in the May 11, 1983 final rule.
- We would continue to apply the maximum and minimum rate limitations published in the May 11, 1983 final rule; that is, no facility's payment rate could exceed $138 per treatment, and no facility's payment rate could be calculated using a wage index of less than 0.9.

We proposed to set the base composite rates for outpatient maintenance dialysis at $113.47 for independent facilities, and $117.89 for hospital-based facilities After applying wage indexes to these base rates, the estimated average payment rates would have been $115.40 for independent facilities, and $119.70 for hospital-based facilities.

Since the publication of the proposed notice, we used a more accurate method for estimating the average payment rates. As a result, these payment rates would be $117.94 for independent facilities and $122.10 for hospital-based facilities.

The notice contained an explanation of how we proposed to establish the composite rates and a discussion of the revised rates for independent and hospital-based facilities based on audits of facilities' costs.

The notice did not propose to change the regulations regarding payment for peritoneal dialysis, self-care training, and home dialysis. Those regulations would remain the same as they were published in the final rule on May 11, 1983 (48 FR 21254). The notice (51 FR 17541) briefly summarizes those provisions.

III. Analysis of and Responses to Public Comments

During the comment period, we received approximately 3,000 pieces of correspondence commenting on the proposed notice. Of these, approximately 2,500 were form letters. The commenters included hospital-based ESRD facilities, independent ESRD facilities, physicians, ESRD facility staff, ESRD associations, ESRD patient advocacy groups, and ESRD patients. The comments and our responses to those comments are discussed below.

A. Home Dialysis

Comment: Several commenters stated that home dialysis has not and would not increase because of the composite rates. They stated that any increase is attributable to patients who live in rural areas who have problems with access to infacility care. They stated that continuous ambulatory peritoneal dialysis (CAPD) accounted for most new home dialysis patients and CAPD costs more than facility dialysis in an independent facility. Some commenters stated that the increase in home dialysis fell short, by 13 percent, of projections based on the 1983 composite rates, and lower rates will not promote home dialysis either, because facility rates decrease when less expensive home dialysis use increases.

Response: We promote home dialysis because the law (section 1881(b)(7) of the Act) requires us to do so and

because of the social, medical, and economic benefits of home dialysis. We agree that CAPD accounts for a large number of home patients (65.6 percent); therefore, we have factored this data into the formula by separating the costs of CAPD and home hemodialysis and weighting those costs, respectively, by the percentage of patients using each. Our audited data indicate that home dialysis in general, and CAPD specifically, is slightly less costly than outpatient dialysis furnished in independent facilities.

Comment: Several commenters stated that facilities could not make up the reduction in the proposed payment rates by increasing their home patient population. They gave the following reasons for not being able to increase the number of home patients: (1) some hospitals only refer patients who require infacility care; (2) many ESRD patients who would otherwise be candidates for home dialysis become transplant recipients instead; (3) home dialysis is saturated now—the percentage of home patients has been constant for the past 3 years (19 percent); (4) a higher percentage of patients now are older and sicker and many cannot be treated at home.

Response: While the home dialysis percentage has not increased significantly since 1983 (17 percent vs. 19.4 percent), our data show that home programs are successful in rural and urban settings, and some States have over 30 percent of their ESRD patients on home dialysis. Our responsibility is to set the rate, using the best data available, at an amount that is reasonably related to the cost of furnishing the service. We have made several changes to the proposed rates (see section IV of this notice) that will mitigate the financial pressure on many facilities.

Comment: One commenter stated that he successfully promotes home dialysis by providing a full time staff person for each home dialysis treatment, but he alleges that, under the proposed rates, this would not be possible.

Response: The law (section 1881(b)(7) of the Act) requires us to promote the use of home dialysis, but the costs associated with paid home aides are specifically excluded in setting the composite rates. Congress recognized that paying these costs would eliminate the savings associated with home dialysis (H.R. Rep. No. 97–143, Part 1, 97th Cong., 1st Sess. (1981)).

Comment: Commenters believe that we proposed to reduce the composite rates because the use of less expensive home hemodialysis has increased and adjusted the rate downward to reflect the increased use of home hemodialysis. The commenters believe this increase to be only two percent and that the rates should not be reduced by the amount proposed in the May 13, 1986 notice.

Response: As discussed in our May 13, 1986 notice, our proposal to reduce the composite rates was based on our audited cost data and the new methodology of weighting by treatments. We did not propose to revise the composite rates based solely on an increase in home dialysis. Of course, the new composite rates do reflect the current percentage of home dialysis patients.

B. Small Facilities

Comment: Some commenters believe that small facilities would be forced to close and that only large corporate (chain) dialysis facilities could exist under the proposed rates because those facilities have lower costs. Commenters stated that chain facilities are operated under common corporate policies that do not offer a choice of the mode of dialyzing (for example, home vs. facility, and hemodialysis vs. CAPD). The commenters believe that small facilities enhance patients' access to care (for example, patients' transportation costs could increase without small local facilities), offer variety in treatment modality (for example, home dialysis that is seldom offered by for-profit dialysis facilities), and provide alternatives that promote quality care.

Response: The law (section 1881(b)(7) of the Act) requires that the payment system for ESRD services promote efficiency in delivering dialysis care. Small facilities may not be able to reduce costs to the same extent as larger facilities. If a facility is an isolated essential facility, it may qualify for an exception to its rate, and we invite small rural facilities to apply for this exception (see section III H of this notice). We will also reduce the impact of the new rates on facilities located in low wage index areas by phasing in gradually the use of the new HCFA gross hospital wage index (see section IV B of this notice).

Comment: A commenter stated that HCFA believes that large facilities will absorb the patient population of small facilities that close. The commenter disagrees with this belief because officials in his State would only approve a new unit with the number of dialysis stations needed at the time of approval, without considering the patients from any facilities that may close in the future.

Response: Certificate of need determinations are a State, not a Federal, responsibility; however, generally, approval of a facility is based on a demonstration of need in the area without consideration of possible closings of existing facilities in the future. In an emergency situation, the ESRD program provides that a new facility may become operational under the special purpose dialysis facility procedures (see 42 CFR 405.2102(e)(5) and 405.2164).

C. Growth of Dialysis Facilities

Several correspondents commented on our statement that the growth of dialysis facilities is an indication that the composite rates are set at an adequate level. Some commenters alleged that—(1) the rate of growth of dialysis facilities prior to the 1983 composite rates was greater than the growth rate for recent years; (2) facility growth must be compared to growth of the patient population to be meaningful; (3) the increase in facilities is due to the increase in patients—not high reimbursement; (4) new facilities are, for the most part, satellites or branches of existing facilities so that administrative costs can be shared; (5) "new" facilities are really change-overs from pre-existing hospital units; and (6) the facility-to-patient ratio has declined.

Response: Our point in stating that new facilities continue to enter the dialysis market was that the composite rate has been sufficient to maintain adequate capacity. The following data show the growth in patients, dialysis stations, and dialysis facilities since 1983, the year that the composite rate payment system was implemented. The measure of capacity is expressed as the ratio of outpatient dialysis patients to stations. A dialysis station consists of the floor space, dialysis machine and any auxiliary equipment necessary to dialyze a patient. Assuming two shifts per day at dialysis facilities and three dialysis treatments per week per patient, each station can accommodate four patients per week. This would correspond to a ratio of 4:1. In 1985, the ratio was 3.83:1, or 3.83 patients for every dialysis station. Therefore, there continues to be excess capacity above the minimum needed to treat the dialysis population. Furthermore, some patients dialyze on a twice per week schedule, some patients miss treatments for various reasons (for example, they are hospitalized), and some facilities operate three shifts per day. All of these factors increase treatment capacity above a 4:1 ratio. It would be neither efficient nor necessary to set the composite rate at a level that would encourage greater treatment capacity

VOL 51 ISS 158 1986 AG 15 UMI

than is required to treat the dialysis population.

Our data on these points follow:

Year	Number of in-facility dialysis patients	Number of dialysis stations	Number of dialysis facilities
12/31/83	58,342	15,506	1,247
12/31/84	63,245	16,594	1,290
12/31/85	68,385	17,845	1,360

Year	Ratio of patients to stations
1983	3.76:1
1984	3.81:1
1985	3.83:1

Year	Ratio of stations to facilities
1983	12.4:1
1984	12.9:1
1985	12.9:1

Year	Annual increase in number of patients
1983–1984	8.4%
1984–1985	8.1%

Year	Annual increase in number of stations
1983–1984	7.0%
1984–1985	7.5%

In addition, from the period May 11, 1983 (the date the final composite rates regulation was published in the **Federal Register**) until July 10, 1986, there was a net increase of 32 hospital-based facilities and 185 independent facilities for a total net increase of 217 ESRD facilities located in 41 States. Of these facilities, 61 were rural facilities located in 25 States. We believe these data further affirm the continuing growth of ESRD facilities in both urban and rural localities.

D. Effect of Reducing Composite Rates

Some commenters suggested that the proposed notice did not provide a detailed analysis of the effects and impact of the proposed rate reduction. They suggested that we identify the number and type of dialysis facilities that would be affected. Further, the commenters requested that we study the effects of the 1983 composite rates (for example, facilities' cost cutting measures such as, reuse of dialyzers and supplies) on the quality of care before the rates are reduced further.

Response: In response to the criticism that the proposed notice did not provide an adequate analysis of the impact of the rate reduction, we believe that we adequately address the effects of the new rates in the impact analysis in this final notice. Concerning dialyzers and supplies, we neither encourage nor discourage their reuse. The decision to reuse dialyzers and supplies is made by the medical professionals responsible for a patient's care. We set the composite rates based on the cost experience of a cross-section of all dialysis facilities in the country as of November 1982. Therefore, we believe the composite rate mirrors medical practice in the dialysis community.

Comment: Some commenters stated that because they already reuse supplies, the only costs left to reduce are labor costs. However, commenters gave several reasons why they believe they could not make such reductions: (1) some States (for example, Alabama and Florida) regulate staff duties and responsibilities; therefore, facilities are limited in their use of lower-salaried personnel; (2) dialysis facilities compete with hospitals for qualified personnel, thus keeping labor costs high; (3) the patient population is older and sicker now, requiring more qualified, and therefore, higher-salaried staff; and (4) the recent notice published in the **Federal Register** (July 2, 1986, 51 FR 24228) that lowered the physicians monthly capitation payment for dialysis services will reduce physician involvement and increase the need for more qualified facility staff.

Response: We are basing the new composite rates on the best, most recent data available to us and these data reflect the way in which medicine is practiced, including the complement of personnel used to staff a dialysis facility. We cannot predict future staff complements, but we are conducting a national audit that will show present costs for staffing.

Comment: Various commenters discussed the interrelation of economy and efficiency and quality of care. They stated their concerns including that certain cost-cutting measures might impinge on quality of care, use of fewer and less qualified staff, increased reuse of supplies, poorer techniques for reuse, and facilities inappropriately placing patients on home dialysis.

Response: The conditions of participation for ESRD facilities (42 CFR Subpart U) establish the requirements that we believe are necessary to ensure quality care. Nothing in the composite rate system allows facilities to depart from these requirements. Facilities are surveyed periodically to ensure that they continue to be in compliance with these requirements.

The medical community does not agree on any one model for the dialysis procedure. There is a wide variation among the staff complements and practices at various facilities. In the random sample of facilities that were audited, we included facilities of all types. In the absence of a demonstrated need for a particular method of operation to ensure patient safety, medical practitioners should be permitted to devise appropriate methods of treatment. We will continue to monitor the program to ensure that quality standards are maintained.

Concerning the assumption that the lower rates will force facilities to inappropriately place patients on home dialysis, we have no evidence that patients are forced on home dialysis where it is inappropriate. We do not believe that facilities will perceive such a strategy as cost-effective, since patients who are unsuitable for home dialysis are expensive in terms of support services that must be furnished by the facility, including back-up dialysis in the facility. Any increased hospitalizations for the patients would also reduce the facility's revenue. Whether a patient dialyzes at home is a decision for the medical professionals and the patient to make. For these reasons, we do not believe facilities will inappropriately place patients on home dialysis. The statute requires us to promote home dialysis through the payment system.

Comment: Commenters were concerned that in some cases the change in their rates would be too great to accommodate, especially within the usual 30-day period before the effective date.

Response: The change in the rate that we proposed in the May 13, 1986 **Federal Register** was due in part to the proposed use of the September 3, 1985 HCFA wage index (50 FR 35646) that differs from the 1980 Bureau of Labor Statistics (BLS) wage index that is currently used. Since the publication of the May 13, 1986 proposed notice, we have revised the September 3, 1985 HCFA wage index and published the revised HCFA wage index on May 30, 1986 (51 FR 19738) as part of a final rule on home health agency costs. In computing facilities composite rates, we will use that revised HCFA wage index, published on May 30, 1986.

In order to mitigate the effects of a sudden large decrease in any facility's composite rate as a result of using the May 30, 1986 HCFA wage index, we will phase-in using the HCFA wage index over a five-year period by combining the existing BLS index and the HCFA wage index, including any updates to the HCFA wage index. For example, the first year after publication of this notice, each facility's rate will equal 80 percent

of the facility's rate using the BLS wage index plus 20 percent of the facility's payment using the HCFA wage index. The schedule for implementing the Five-year phase-in of the HCFA wage index appears in section IV C of this notice.

Comment: Some commenters believe the proposed rate is too low, and cited the fact that two-thirds of the audited hospitals have costs per treatment above the average proposed payment rate.

Response: As a result of the change in the wage index described above and, again, in section IV of this notice, the average rate reduction for hospitals will be $4.43 per treatment compared to $8.49 as proposed in the May 13, 1986 notice. The comparable figures for independent facilities are $6.79 and $8.65, respectively. Thus this change will lessen the impact of the rate reductions on both hospital and independent facilities. Also, a facility that has costs in excess of the composite rate may submit an exception reguest as described in 42 CFR 405.439 (f) and (g).

Comment: A commenter stated that a reduction in the composite rate will result in more patients with medical difficulties, that are presently handled in outpatient units, being referred to hospitals for inpatient dialysis because these patients are more expensive to treat.

Response: Peer Review Organizations review Medicare inpatient services for medical necessity and appropriateness. If a pattern of abuse is detected, intensified review will follow and appropriate corrective action will be taken. Unnecessary hospitalization inconveniences patients and needlessly utilizes patients Part A benefits, thereby raising the possibility of patients not having Part A benefits when they are really needed. It also abuses the health care system by expending resources which could be used to finance necessary care. We do not believe that physicians, on the whole, would intentionally inconvenience their patients and abuse the health care system in order to maximize facilities incomes.

Comment: One commenter stated that net revenues from the ESRD program are invested for research and development to identify advancements that will reduce program costs. The commenter believes that a reduction in payment will stifle advancements in dialysis treatment technology. Other commenters stated that amenities (for example, television sets, snacks, and ice machines) will be eliminated.

Response: Research and development costs and the costs of these amenities are not allowable costs under the Medicare program, and, therefore, may not be considered in setting the ESRD composite rates.

Comment: Several commenters stated that the Gramm-Rudman-Hollings legislation (Pub. L. 99–177) is reducing Medicare payment below facilities costs.

Response: We have set the composite rates based on the best data available to us. Pub. L. 99–177 is a statutory action by Congress that is independent of the composite rate. To the extent that it is applicable to certain Federal expenditures such as Medicare payment, it applies to the ESRD composite rates. Also, a facility that has costs in excess of the composite rate may submit an exception request as described in 42 CFR 405.439 (f) and (g).

Comment: Commenters noted that we speculated in our May 11, 1983 final rule that ESRD suppliers would reduce their prices as a result of our reducing the composite rate at that time. The commenters believe that the 1983 reduction forced some domestic manufacturers of dialysis supplies to terminate business and these supplies now come mostly from overseas.

Response: We note that suppliers did advertise lower prices in response to the 1983 composite rates announcement. HCFA is responsible for setting the composite rates at the most appropriate level commensurate with the cost of furnishing dialysis. The rates are based on facilitie's actual costs, including the cost of supplies. Where facilities purchase supplies is dictated by facility choice and the marketplace and not by HCFA

E. Audit Data

Comment: Some commenters criticized the cost data (from 1982) as being outdated and not reflecting inflation. The commenters noted that the patient mix now is more expensive to treat than in 1982; for example, there are more aged patients, more patients with communicable diseases who must be isolated, and more of the healthier dialysis patients have received transplants, leaving a generally sicker dialysis patient mix.

Response: The data we used are the best, most current data available. They do not include an adjustment for inflation because we have no evidence that the overall cost of furnishing dialysis follows inflation. Some component inputs of the dialysis service (for example, salaries) appear to follow inflation, but other efficiencies in furnishing dialysis offset these increases. Furthermore, some components of cost have experienced deflation; for example, the price of dialyzers has decreased by approximately 30 to 50 percent.

As we noted in the proposed notice, taking into account estimated adjustments for disallowances normally associated with auditing, unaudited cost data for 1984 reported by the same independent facilities that were in the 1983 national audit indicate that costs are continuing to decline. The General Accounting Office (GAO), in a report discussed in more detail below, reached a similar conclusion. Because the audited data being used predate the 1983 change to composite rates (which created new incentives for cost reduction), GAO concluded that use of more recent data could show lower costs and result in lower rates than those proposed. GAO also noted that in a number of comments it was alluded that costs had decreased since establishment of the composite rates. Since we have no evidence, and the comments supplied no evidence, that aggregate costs for dialysis are increasing, an inflation adjustment is not warranted.

Comment: Commenters requested that we identify more explicitly the audit adjustments made to the costs incurred by dialysis facilities.

Response: We made the following audit adjustments based on Medicare reimbursement principles: (1) Limited recognition of compensation to medical directors and administrators to $32,000; (2) bad debts; (3) costs due to related organizations and home office; (4) return on equity capital; (5) services furnished under arrangements to another hospital (These services are reimbursable by the other hospital and not directly under the facility's composite rate payments.); and (6) miscellaneous adjustments (for example, amounts of interest expenses, amounts of depreciation, and costs not related to patient care). These are the same types of adjustments made in our previous national ESRD audit.

For example, auditors' reductions of compensation to medical directors and administrators included reductions at two independent facilities that paid their owners $449,000 and $300,000, respectively.

Comment: Several commenters believe we wrongly reduced independent facilities' costs by 17.7 percent.

Response: As explained above, we applied usual Medicare principles of reimbursement to determine the costs that were allowable. This is the same application that we used in the previous national ESRD audit that established the current payment rates.

Comment: Commenters inquired about the nature of the 143 audited facilities (for example, how many were for-profit, part of a chain, and local non-profit) and how they were selected.

Response: We do not have sufficient data to be able to answer each of the questions that the commenters raise. However, the 143 audited facilities were selected by scientific random sampling techniques and, therefore, are representative of the universe of facilities. The universe consisted of all certified ESRD facilities providing outpatient dialysis treatments. The frame (a physical representation of the universe to be sampled) consisted of a listing of 1,147 ESRD facilities from our November 1982 provider file. Inspection of the list revealed that seven facilities had no outpatient dialysis stations. These facilities are believed to be providing primarily inpatient treatments and were, therefore, deleted as not properly part of the frame. The frame was separated into two strata—hospital-based facilities and nonhospital-based facilities. Within each of these, three strata were formed on the basis of the number of dialysis stations. Stratum boundaries were formed using the frequency distribution of the number of stations.

Comment: One facility stated that since 1980 it has experienced the following increased expenses: (1) Labor—7 percent; (2) technological advancements—7 percent; (3) building expenses—10 percent; and (4) supplies—5 percent.

Another facility stated that the composite rate is lower than its costs because the facility's staff is comprised only of registered nurses who are paid more than other less qualified personnel.

Response: The results of our national audit are representative of the universe of dialysis facilities. We recognize that different facilities may furnish the dialysis service in different ways. The composite rates are based on valid national data that reflect the costs associated with the various ways of conducting business. An individual facility may incur some costs that others do not incur; but it will not always incur all costs that other facilities incur.

Comment: Commenters believe that the cost data for home dialysis were derived from only a few large efficient facilities and, therefore, that they are not representative.

Response: We chose home dialysis programs to be audited in such a way as to sample as many of the facilities that furnished the full range of home services, supplies, and equipment as possible. We believe this approach resulted in the most complete picture of the total cost of home dialysis. Not all of the 17 facilities audited for home dialysis costs were large. One had only 244 home dialysis treatments (the equivalent of two patients), two had only 700 home dialysis treatments (the equivalent of five patients), and one had only 1,200 home dialysis treatments (the equivalent of nine patients).

Comment: Commenters stated that CAPD costs more than home hemodialysis and current CAPD population figures are not reflected in the old data.

Response: We agree with this comment to the extent that the cost of home dialysis should reflect the most current data on the percentage of home dialysis patients who use CAPD and home hemodialysis. Therefore, we have substituted our most recent data on home dialysis. We discuss this adjustment in section IV of this notice and have adjusted the rate accordingly.

F. Methodology

Comment: Some commenters believe that we did not explain our rationale for changing the ratesetting methodology to weight by treatments.

Response: Under section 1881(b)(7) of the Act, we are required to base the composite payment rates on the relative costs of home and infacility dialysis. Since the base payment rate is a per treatment rate that applies uniformly throughout the country, we want to use a cost calculation that best reflects the per treatment costs actually being incurred in the national market place considered as a whole. A more representative reflection of these costs is obtained by determining the costs of a typical treatment rather than the costs of a typical facility, and that in turn is achieved through weighting by treatments rather than by facilities.

Comment: Commenters asked why we weighted by treatments in calculating the cost of infacility dialysis, but did not weight by treatments in calculating the cost of home dialysis.

Response: In the case of both infacility and home dialysis, we weighted the costs by the volume of services, that is, the number of treatments for infacility dialysis and the number of patients for home dialysis as CAPD patients dialyze continually, not in discrete treatment sessions.

Comment: Some commenters believe that there has been no public input in formulating the proposed system.

Response: The purpose of publishing the May 13, 1986 proposed notice was to provide an opportunity for public comment, and a large number of individuals and entities submitted comments. In addition, we solicited public input when we originally proposed to institute a composite rate reimbursement system for ESRD services via the proposed rule published February 12, 1982 (47 FR 6556).

G. Wage Index

Comment: Several commenters responded to the use of the HCFA wage index and believe that it: (1) Decreases while labor and supply costs keep increasing; (2) results in too great a variation between the current BLS wage index and the proposed wage index; (3) is inaccurate for dialysis and that we should use a dialysis specific wage index; (4) is inaccurate for certain areas (for example, Anaheim, Los Angeles, and San Diego in California, and Durham and Wake counties in North Carolina) and should be reevaluated; and (5) should allow facilities to offer salaries comparable to those that hospitals offer, since the facilities compete with hospitals to obtain qualified staff.

Response: When the composite rate was initially implemented in 1983, we considered developing a wage index based on salary data from Medicare ESRD cost questionnaires. These data were not highly reliable because they did not represent audited costs and were not sufficiently accurate and detailed to develop an index. We will continue to reevaluate this proposal for future rate computations.

We believe that the HCFA wage index is the most accurate and most appropriate index to use at this time. (See section V of this notice for a description of the index and how it was calculated.) However, in order to cushion the effect of the variation in payment rates resulting from the change in weighting by treatments and using a different wage index, we will phase-in using the HCFA wage index over a five-year period. We will combine, in progressive proportions, the rates calculated from the current 1980 BLS index and the rates calculated from the HCFA wage index (May 30, 1986, 51 FR 19738) including any updates to the HCFA wage index. (See section IV of this notice for an explanation of this phase-in of the HCFA wage index.) In addition, we will continue to use a minimum wage index value of 0.9.

H. Exceptions Process

Comment: One commenter noted that the proposed notice did not mention the process for requesting an exception to the prospective payment rate and asked if we are retaining it as promulgated in the May 11, 1983 final rule (48 FR 21257).

Response: We are retaining the current exceptions process. We did not specifically mention the exceptions process because the proposed changes dealt with setting the composite rates, and this notice will not affect the regulations governing the ESRD program.

Comment: Some commenters were concerned about the number of small rural facilities that they believe would not be able to continue business under the proposed rates. Several commenters criticized the exceptions process as being too cumbersome and time-consuming to help facilities in need.

Response: A major objective of the composite rate system is to maintain access to high quality care while maintaining efficient delivery of services. In this regard, we wish to emphasize the availability of the exceptions process to these facilities. Small rural facilities may seek an exception under the criterion "Isolated Essential Facility" (see 42 CFR 405.439(g)(2)). In the past, few facilities have availed themselves of this exception. We invite small, rural facilities that cannot take advantage of economies of scale to apply for this exception if their new rate is less than their costs.

We are initiating a policy that exception requests under this category be processed on a priority basis both by the fiscal intermediary servicing the small facility and by HCFA headquarters with a view toward protecting patients' access to care and assuring adequate payment to small, essential facilities.

I. Suggestions for Achieving Program Savings

Comment: Several commenters had the following suggestions for how we could achieve program savings without reducing the composite rate: (1) Increase copay; (2) extend the waiting period for entitlement; (3) extend the applicability of the secondary payer rule to two years; (4) develop a comprehensive catastrophic insurance plan; (5) allow facilities to bill beneficiaries the difference between facilities' costs and their rate; (6) include ESRD under Medicare HMOs; and (7) save money by promoting kidney transplants by (a) implementing a nationwide computer registry, (b) encouraging the public to donate organs, or (c) paying for immuno-suppressive drugs.

Response: Suggestions 1 through 6 are beyond HCFA's current authority and would require a change in the law. Therefore, they are beyond the scope of this notice. However, with respect to item 7, efforts are underway to implement a nationwide computer registry of transplants and we continue to encourage organ donations. Payment for immuno-suppressive drugs was proposed by Congress, but never enacted by Congress.

Comment: Some commenters suggested that to ease the burden of the composite rate reduction on ESRD facilities, it should be phased in over time.

Response: We have been pursuaded by these comments to phase-in the use of the most recent HCFA wage index over the next five years. See section IV of this notice for a description of the five-year phase-in and other adjustments we have made to the rate in order to mitigate possible financial pressures on facilities.

Comment: Commenters recommended that we set the hospital rate using only hospital costs rather than a combination of hospital and independent facility cost data.

Response: We have used a ratesetting methodology that differentiates between hospital-based and independent facilities in accordance with the statute. Hospital payment rates will be, on the average, about $6 more per treatment than the payment to independent facilities. The different rates result from: (1) Our using a factor for home dialysis which reflects that more hospital-based facility patients are home dialysis patients, (2) our recognition of the higher general overhead costs incurred by hospitals, and (3) an overall five percent upward adjustment for hospitals to allow for possible deficiencies in hospital cost data and to mitigate the effects of the composite rate on hospitals that arise from their having a greater percentage of home dialysis patients than independent facilities.

The statute does not prescribe in detail the method for setting dialysis payment rates, but does require a method that distinguishes between hospital-based and independent facilities and that promotes efficiency. We must set the rates on a cost-related or other economical basis. We believe that combining the cost data from all facilities and making adjustments to the data base to reflect legitimate cost differences incurred by hospital-based facilities as a class, is more accurate and equitable than using separate sets of data to set separate rates. This method—

- Recognizes a similar cost for a similar service;
- Recognizes that some hospitals have costs as low as the average independent facility; and
- Does not penalize the efficient, lower-cost, independent facilities for their efficiency.

We believe this methodology represents a reasonable means of achieving the dual statutory mandates of promoting efficiency and using a ratesetting methodology that differentiates between hospital-based and independent facilities.

Comment: Commenters recommended that we adjust each facility's rate by the amount of dialyzer reuse.

Response: Under this prospective payment system, we do not intend to adjust individual facilities' rates to their actual costs, because this removes the incentive to be efficient. We set the composite rates based on the audits of randomly-selected facilities. Forty-nine percent of the facilities in the audits reused dialyzers and we included their costs in setting the rates. Reuse of dialyzers is a facility choice, similar to staffing mix and other aspects of operation. In addition, some facilities may choose to use the savings from reuse to offset some other cost of their operation.

Comment: Some commenters believe that the ratesetting methodology should include an automatic inflation factor.

Response: The ESRD payment system is intended to contain costs and promote efficiency by allowing facilities to retain per treatment payments in excess of their costs. Automatic inflation adjustments are self-fulfilling, encourage cost increases and do not, therefore, promote efficiency. Moreover, as we stated in section III E of this notice, our cost data indicates that the overall cost of furnishing dialysis has not followed general inflation. We will continue to monitor the cost of furnishing dialysis. For example, we are conducting a national audit of ESRD facilities' costs this year.

J. Solicited Comments

In the proposed notice we specifically solicited comments on three alternatives that we did not adopt in this final notice: (1) Whether to change or eliminate the 105 percent add-on factor for hospital-based facilities; (2) whether to trend the home patient percentage forward when calculating the weighting factor for home costs; and (3) whether to continue to compute the independent facility rates using, in part, overhead costs incurred by hospital-based facilities. We received the following comments:

105 Percent Add-on Factor

Several hospitals commented that this factor should be maintained. Commenters stated that the Medicare

VOL 51 ISS 158 AG 15 1986 UMI

program and the Joint Commission on the Accreditation of Hospitals require hospitals to provide many services that result in higher costs (for example, employee education, security, emergency and trauma centers). Furthermore, commenters stated that patients who do not have secondary insurance to pay their coinsurance sometimes are referred by independent facilities to hospital-based units. One commenter stated that hospitals treat a sicker and more complex patient mix than independent facilities and that several studies support this belief. The commenter stated that the five percent add-on is arbitrary and suggested that a study be done to determine the appropriate amount.

Trend Home Patient Percentage Forward

Some commenters stated that it would be illogical and unfair to trend the home patient percentage forward while using cost data that are four years old. They believe it would be a disincentive to increase home dialysis since a decrease in home dialysis would yield a higher payment rate. The commenters believe that we should use a single national average home patient percentage for both hospital-based and independent facilities since hospitals are now penalized for having a higher home patient percentage. One commenter wanted to know the source of the data and how the trending would be accomplished.

Independent Facility Rate Using Hospital Overhead

We received comments both for and against this alternative. Some commenters stated that hospitals incur costs that are not incurred by independent facilities. Commenters included examples, such as patient education, audiovisual services, library, cafeteria and chaplain services. They stated that hospitals have on hand many specialized forms of medical care (for example, cardiology, EKGs, EEGs, and laboratory) that are available immediately to the patient should the need arise. Commenters stated that maintaining the availability of these services is expensive compared to the services of an independent dialysis facility. Certain costs (for example, utilities) are allocated on the basis of square footage even though the dialysis unit is not open 24 hours a day. Therefore, these costs are excessively allocated to the dialysis unit. On this basis, commenters believe that independent facilities' rates should not include these costs. One commenter objected by stating that the alternative would eliminate independent facility overhead. Another commenter misunderstood the ratesetting methodology and was in favor of this alternative only because the commenter believed that the hospital rate would be lowered if the independent rate was lowered.

Response: We have considered all the comments received on these three alternatives and we will continue to monitor the effects of these factors on the composite rate. However, we are not implementing any of the alternatives at this time because additional analyses of data are necessary. We will continue to examine these issues.

K. Extension of Comment Period

Comment: Some commenters requested an extension to the 30-day comment period because they believe that the proposed notice was too complex to analyze and respond to within 30 days.

Response: We believe that the 30-day period was sufficient time for receipt of comments on the proposed regulation changes. The number, diversity, and detail of the comments received support our belief.

L. GAO Review of Proposed Notice and Public Comments

Following publication of the May 13, 1986 notice, the Subcommittee on Health, Committee on Ways and Means, House of Representatives, requested that GAO review the proposal and a sample of the public comments we received on the notice.

GAO analyzed the main issues of the proposal and the public comments on it. The GAO review focused primarily on the following issues:

- The age of the data that we used to compute the proposed rates;
- The use of audited cost data, which removed a substantial portion (about 17 percent) of the costs reported by independent ESRD facilities;
- A change in the method of weighing cost data from a per-facility basis to a number-of treatments-provided basis; and
- The source of the data used to establish costs for patients who dialyze at home.

On July 22, 1986, GAO issued a report concluding that HHS had used the most recent audited data available to develop the proposed rates and had used the data appropriately.

A fifth issue on which the public comments also focused was the adequacy of the data on the effects of the ESRD facility rates set in 1983 on access to and quality of care. GAO concluded that "in our opinion, HHS is in a better position than we to judge the merits of this issue."

IV. Summary of Changes in the Final Notice

As stated in our discussion of the comments and responses, we have made a few changes to the approach we had proposed in the notice published on May 13, 1986. A discussion of those changes follows:

A. CAPD and Higher Percentage of Home Dialysis Patients

We received comments to the effect that CAPD accounts for most of the home dialysis population now and our costs for home dialysis should reflect this fact. We agree with this comment and we have weighted the costs of CAPD and home hemodialysis by the most recent population figures available (December 31, 1984).

B. Revised HCFA Wage Index

We have revised the HCFA wage index that was published September 3, 1985 (see section V of this notice). The HCFA wage index that we will use for purposes of computing payment for ESRD services was published in the **Federal Register** on May 30, 1986 (51 FR 19738) and is reprinted in section V of this notice.

C. Phase-in of HCFA Wage Index

Commenters were concerned that in some cases the change in their rates would be too great to accommodate, especially in the 30-day period usually allowed before a regulation or notice becomes effective. This change in the rate is due in part to the use of a HCFA wage index that is different from the previous BLS wage index. In order to mitigate the effects of a sudden large decrease in any facility s composite rate, we will phase-in using the HCFA wage index over a five-year period by combining the BLS index and the HCFA wage index (May 30, 1986; 51 FR 19738), including any updates to the HCFA wage index. For example, the first year during which this notice is in effect, each facility's rate will equal 80 percent of the facility's payment using the BLS wage index plus 20 percent of the facility's payment using the most recent HCFA wage index. A schedule of the facilities rates showing the progressive proportions by which the rates using the two indexes will be combined follows:

Year	Percentage of the rate using the BLS index	+	Percentage of the rate using the HCFA index
1	80	+	20
2	60	+	40
3	40	+	60
4	20	+	80
5	0	+	100

D. Use of All Data From the Sample of Audited ESRD Facilities

In the proposed notice, we had eliminated the cost data from four facilities that had been part of the audited sample of facilities. These facilities are all atypically small, hospital-based facilities: two were part of the infacility cost audit sample, and two were target rate facilities audited for home dialysis costs. We eliminated these facilities from the data we used to set the proposed rates, because we believed that they were outliers in terms of their small number of treatments. However, we have decided to include all data from the audit sample. Therefore, the final rates in this notice reflect the inclusion of these data.

E. Cost of Home Dialysis

By adding back the data from the two small home dialysis (target rate) facilities and weighting CAPD costs and home hemodialysis costs by the most current data on the number of patients using each modality, the cost per treatment for home dialysis using the HCFA wage index increased from $85.24 in the proposed notice to $98.18.

F. Calculation of Rates

As explained earlier, we will use a combined BLS and HCFA wage index over the next five years to compute the composite rates. We have calculated two separate base composite rates using the two separate wage indexes (BLS and HCFA) We adjusted the audited labor costs by the:(1) 1980 BLS wage index to calculate a BLS base composite rate, and (2) HCFA wage index to calculate a HCFA base composite rate. These calculations resulted in the following treatment costs:

AUDITED COSTS ADJUSTED BY BLS WAGE INDEX

Facilities	Adjusted labor	Nonlabor	Total
Hospitals/Independents	$53.06	$65.28	$118.36
Independent	41.46	60.84	102.30
Hospital-based	71.99	72.49	144.48
Home	16.87	81.15	98.02
Overhead cost differential of hospitals over all facilities			4.48

AUDITED COSTS ADJUSTED BY HCFA WAGE INDEX

Facilities	Adjusted labor	Nonlabor	Total
Hospitals/Independents	$53.37	$65.28	$118.65
Independent	42.46	60.84	103.30
Hospital-based	71.10	72.49	143.59
Home	15.03	81.15	96.18
Overhead cost differential of hospitals over all facilities			4.48

We weighted the above costs by the percentage of patients dialyzing in the facility and at home for 1984. This calculation resulted in the following base composite rates:

BLS Base Composit Rates

(Any discrepancies in the figures are due to rounding)

Independent Rate:	
Labor—	
($53.08×86.5%)+($16.87×13.5%)=	$48.20
Nonlabor—	
($65.28×86.5%)+($81.15×13.5%)=	67.42
Independent Base Rate	115.62
Hospital Rate:	
Labor—	
($53.08×105%×72.5%)+($16.87×105%×27.5%)=	$45.28
Nonlabor—	
(($65.28+4.48)×105%×72.5%)+($81.15×105%×27.5%)=	76.54
Hospital Base Rate	121.82

HCFA Base Composit Rates

(Any discrepancies in the figures are due to rounding)

Independent Rate:	
Labor—	
($53.37×86.5%)+($15.03×13.5%)=	$48.19
Nonlabor—	
($65.28×86.5%)+($81.15×13.5%)=	67.42
Independent Base Rate	115.61
Hospital Rate:	
Labor—	
($53.37×105%×72.5%)+($15.03×105%×27.5%)=	$44.97
Nonlabor—	
(($65.28+4.48)×105%×72.5%)+($81.15×105%×27.5%)=	76.54
Hospital Base Rate	121.51

To lessen the effects of using a new wage index, we will phase-in the most recent HCFA wage index over five years. This will eliminate drastic decreases in composite payment rates for some Metropolitan Statistical Areas (MSAs) and rural areas. Based on the combination of the two payment rates, 46 percent of the ESRD facilities, payment rates decrease less than if only the HCFA wage index were applied. Thirteen percent of all ESRD facilities will experience no change in their rates because of this modification. The schedule for implementing the phase-in appears in section IV C of this notice.

A chart is provided in this notice of all payment rates for all facilities in every MSA and rural area (see section V of this notice), and, therefore, it is not necessary for any facility to compute its rate. However, in order to explain the method for calculating the composite rate, we are providing the following example of a calculation of the composite rate in the first year.

Example: Facility A is an independent dialysis facility located in Dayton, Ohio (MSA 2000).

1. Facility A's BLS wage index is 1.1240 and its HCFA wage index is 1.0939.
2. Multiply the BLS wage index by the BLS labor component: 1.1240×$48.20=$54.16.
3. Add the result of step 2 to the BLS nonlabor component: $54.16+$67.42=$121.60.
4. Multiply the result of step 3 by 0.8 (80 percent of the rate using the BLS wage index): $121.60×0.8=$97.28.
5. Multiply the HCFA wage index by the HCFA labor component: 1.0939×$48.19=$52.72.
6. Add the result of step 5 to the HCFA nonlabor component: $52.72+$67.42=$120.14.
7. Multiply the result of step 6 by 0.2 (20 percent of the rate using the HCFA wage index): $120.14×0.2 =$24.03.
8. Add the result of step 7 to the result of step 4: $24.03+$97.28=$121.31.

G. Payment Rates

Section V of this notice provides a listing of composite rates for urban and rural hospitals and independent facilities. While the list shows the actual wage index from the BLS and HCFA wage indexes, we applied the payment limits, that is, a minimum wage index of 0.9 and a maximum rate of $138.00, in calculating individual composite payment rates. The range in rates for independent facilities is from $110.80 to $138; for hospitals the range in rates is from $117.23 to $138. Wage indexes will be applied to these base rates, resulting in estimated average payment rates of $119.80 for independent facilities and $126.16 for hospital-based facilities.

There are some new MSA designations for the HCFA wage index that did not exist for the 1980 BLS wage index. To compute payment rates for these new MSAs, we used the county within the new MSA designation that had the highest 1980 BLS wage index.

V. Urban and Rural Wage Indexes and Payment Rates

We developed the HCFA gross hospital wage index from a special survey of acute care hospitals subject to the prospective payment system. The HCFA gross hospital wage index was

designed to correct the inability of the previous BLS measures to account for local differences in part-time hospital employment. Because the HCFA wage index more accurately measures local wage variations than the previous BLS wage index and because independent facilities are in competition with hospitals for the same dialysis personnel, we proposed in our May 13, 1986 notice to use the September 5, 1985 HCFA wage index to compute facilities' composite rates.

Since the publication of the May 13, 1986 notice, we have revised the HCFA gross hospital wage index. The newly revised index was published in the **Federal Register** on May 30, 1986 (51 FR 19738) as part of a final notice that announced a revised schedule of limits on home health agency costs. Technical corrections to the May 30, 1986 notice were published in the **Federal Register** on August 7, 1986 (51 FR 28439).

The HCFA wage index reflects the latest MSAs designated by the Executive Office of Management and Budget, including the changes that were announced on June 27, 1985 and were effective June 30, 1985. A discussion of the legislative background and development of the HCFA gross hospital wage index can be found in the preamble to the September 3, 1985 final rule (50 FR 35661).

We are reprinting the 1980 BLS wage index, the May 30, 1986 HCFA wage index, and the new ESRD payment rates for each MSA and rural area below.

PAYMENT RATES

[Year 1]

MSA code	Name of MSA	State	BLS index	PPS index	Hospital rate [1]	Independent rate [1]
0040	Abilene	TX	0.8360	0.9003	117.24	110.80
*0060	Aguadilla	PR	0.6806	0.5581	117.23	110.80
0080	Akron	OH	1.0997	1.1080	126.34	120.51
0120	Albany	GA	0.8712	0.8183	117.23	110.80
0160	Albany-Schenectady-Troy	NY	0.9645	0.9248	119.79	113.53
0200	Albuquerque	NM	1.0380	1.1078	124.10	118.12
0220	Alexandria	LA	0.9619	0.9169	119.63	113.35
0240	Allentown-Bethlehem	PA-NJ	1.0506	1.0454	124.00	118.01
0280	Altoona	PA	1.0463	1.0022	123.46	117.42
0320	Amarillo	TX	0.9449	0.9595	119.40	113.10
0360	Anaheim-Santa Ana	CA	1.2853	1.2616	134.45	129.14
0380	Anchorage	AK	1.5992	1.5849	138.00	138.00
0400	Anderson	IN	0.9850	0.9882	121.11	114.93
0405	Anderson	SC	0.8712	0.8369	117.23	110.80
0440	Ann Arbor	MI	1.2883	1.2607	134.54	129.25
0450	Anniston	AL	0.8882	0.8519	117.23	110.80
0460	Appleton-Oshkosh-Neenah	WI	0.9620	1.0666	120.98	114.80
0470	Arecibo	PR	0.6481	0.6081	117.23	110.80
0480	Asheville	NC	1.0033	0.8844	120.98	114.78
0500	Athens	GA	0.8811	0.8179	117.23	110.80
0520	Atlanta	GA	0.9418	0.9683	119.34	113.05
0560	Atlantic City	NJ	1.0417	1.0566	123.78	117.77
0600	Augusta	GA-SC	0.9462	0.9602	119.45	113.16
*0620	Aurora-Elgin	IL	1.2013	1.1015	129.96	124.36
0640	Austin	TX	1.0158	1.1177	123.39	117.36
0680	Bakersfield	CA	1.1813	1.2059	130.18	124.59
0720	Baltimore	MD	1.1352	1.1150	127.69	121.94
0733	Bangor	ME	0.9421	0.9285	119.02	112.70
0760	Baton Rouge	LA	0.9906	0.9825	121.26	115.09
0780	Battle Creek	MI	1.0366	1.0302	123.36	117.32
0840	Beaumont-Port Arthur	TX	0.9407	1.0082	119.68	113.41
*0845	Beaver County	PA	1.1494	1.0919	127.99	122.26
0860	Bellingham	WA	0.9181	1.1471	120.11	113.88
0870	Benton Harbor	MI	0.8639	0.8911	117.23	110.80
*0875	Bergen-Passaic	NJ	1.3979	1.0748	135.37	131.68
0880	Billings	MT	0.9762	1.0226	121.10	114.92
0920	Biloxi-Gulfport	MS	0.8379	0.8489	117.23	110.80
0960	Binghamton	NY	0.9463	0.9558	119.42	113.12
1000	Birmingham	AL	1.0023	0.9663	121.53	115.38
1010	Bismarck	ND	0.9430	0.9943	119.64	113.36
1020	Bloomington	IN	0.9160	0.9899	118.63	112.28
1040	Bloomington-Normal	IL	0.9168	0.9844	118.60	112.26
1080	Boise City	ID	1.0585	1.0584	124.40	118.44
1123	Boston-Salem-Brockton	MA	1.1387	1.1560	128.19	122.47
*1125	Boulder-Longmont	CO	1.1952	1.1326	130.02	124.42
1140	Bradenton	FL	0.9286	0.9196	118.45	112.09
*1145	Brazoria	TX	1.1222	0.8742	125.28	119.37
1150	Bremerton	WA	0.8993	0.9813	117.97	111.58
1163	Bridgeport-Norwalk-Danbury	CT	1.1904	1.1846	130.31	124.74
1240	Brownsville-Harlingen	TX	0.9764	0.8977	120.00	113.74
1260	Bryan-College Station	TX	0.8228	0.9569	117.75	111.35
1280	Buffalo	NY	0.9939	1.0687	122.15	116.05
1300	Burlington	NC	0.8785	0.7926	117.23	110.80

MSA code
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PAYMENT RATES—Continued

[Year 1]

MSA code	Name of MSA	State	BLS index	PPS index	Hospital rate [1]	Independent rate [1]
1303	Burlington	VT	0.9554	1.0131	120.26	114.02
1310	Caguas	PR	0.6007	0.6279	117.23	110.80
1320	Canton	OH	0.9637	1.0080	120.52	114.30
1350	Casper	WY	1.0632	1.1063	125.00	119.08
1360	Cedar Rapids	IA	0.9418	1.0174	119.80	113.54
1400	Champaign-Urbana-Rantoul	IL	1.0359	0.9965	123.03	116.97
1440	Charleston	SC	1.0333	0.8912	122.07	115.94
1480	Charleston	WVA	1.0869	1.0482	125.34	119.43
1520	Charlotte-Rock Hill	NC–SC	0.9767	0.8991	120.01	113.76
1540	Charlottesville	VA	1.0694	0.9345	123.68	117.67
1560	Chattanooga	TN–GA	0.9985	1.0041	121.74	115.60
*1580	Cheyenne	WY	0.9782	0.9702	120.70	114.49
1600	Chicago	IL	1.2013	1.2351	131.16	125.64
1620	Chico	CA	1.0813	1.2463	126.92	121.13
1640	Cincinnati	OH–KY–IN	1.0959	1.1050	126.17	120.33
1660	Clarks-Hopkinsville	TN–KY	0.8519	0.8183	117.23	110.80
1680	Cleveland	OH	1.2149	1.1565	130.95	125.41
1720	Colorado Springs	CO	1.0890	1.0439	125.38	119.47
1740	Columbia	MO	1.1961	1.1022	129.78	124.16
1760	Columbia	SC	0.9874	0.9168	120.55	114.33
1800	Columbus	GA–AL	0.9195	0.7929	117.94	111.55
1840	Columbus	OH	1.0803	0.9684	124.39	118.41
1880	Corpus Christi	TX	0.9762	0.9899	120.80	114.60
1900	Cumberland	MD–WVA	0.9221	0.8996	118.03	111.65
1920	Dallas	TX	1.0222	1.0733	123.23	117.18
1950	Danville	VA	0.8960	0.8087	117.23	110.80
1960	Davenport-Moline	IA–IL	0.9804	1.0660	121.64	115.50
2000	Dayton-Springfield	OH	1.1240	1.0939	127.09	121.31
2020	Daytona Beach	FL	0.8804	0.9139	117.36	110.93
2040	Decatur	IL	1.0023	0.9592	121.47	115.31
2080	Denver	CO	1.1952	1.2865	131.41	125.91
2120	Des Moines	IA	1.0597	1.0556	124.42	118.46
2160	Detroit	MI	1.2516	1.1725	132.42	126.98
*2180	Dothan	AL	0.8167	0.8457	117.23	110.80
2200	Dubuque	IA	0.9685	1.0590	121.14	114.97
2240	Duluth	MN–WI	0.9252	0.9930	118.98	112.66
2290	Eau Claire	WI	0.9102	0.9498	118.05	111.67
2320	El Paso	TX	0.8765	0.9437	117.63	111.22
2330	Elkhart-Goshen	IN	0.9160	0.9650	118.40	112.04
2335	Elmira	NY	1.0249	0.9741	122.43	116.33
2340	Enid	OK	0.9247	0.9626	118.69	112.35
2360	Erie	PA	0.9804	0.9991	121.04	114.86
2400	Eugene-Springfield	OR	0.9554	1.1163	121.19	115.02
2440	Evansville	IN–KY	1.0438	1.0217	123.54	117.52
2520	Fargo-Moorhead	ND–MN	1.0057	1.0644	122.55	116.45
2560	Fayetteville	NC	0.8155	0.8330	117.23	110.80
2580	Fayetteville-Springdale	AR	0.8747	0.8078	117.23	110.80
2640	Flint	MI	1.1849	1.2104	130.35	124.77
2650	Florence	AL	0.8223	0.7889	117.23	110.80
2655	Florence	SC	0.8445	0.7686	117.23	110.80
2670	Fort Collings-Loveland	CO	0.9121	1.0846	119.33	113.04
2680	Ft. Lauderdale-Pompano Beach	FL	1.0830	1.1249	125.89	120.02
2700	Fort Myers-Cape Coral	FL	0.9389	0.9533	119.12	112.81
*2710	Fort Pierce	FL	0.9059	1.0215	118.54	112.19
2720	Fort Smith	AK–OK	0.9318	0.9243	118.61	112.26
2750	Fort Walton Beach	FL	0.7921	0.8751	117.23	110.80
2760	Fort Wayne	IN	0.9222	0.9568	118.55	112.20
*2800	Fort Worth-Arlington	TX	1.0222	0.9998	122.56	116.47
2840	Fresno	CA	1.2345	1.1490	131.59	126.09
2880	Gadsden	AL	0.9316	0.8777	118.38	112.01
2900	Gainesville	FL	0.9496	0.9642	119.61	113.33
2920	Galveston-Texas City	TX	1.0940	1.1412	126.44	120.60
2960	Gary-Hammond	IN	1.1436	1.0978	127.85	122.10
2975	Glens Falls	NY	0.9076	0.9607	118.07	111.69
2985	Grand Forks	ND	0.8120	0.9871	118.02	111.64
3000	Grand Rapids	MI	0.9905	1.0663	122.01	115.89
3040	Great Falls	MT	0.9406	1.0722	120.26	114.03
3060	Greeley	CO	1.0158	1.0763	123.02	116.96
3080	Green Bay	WI	1.0100	1.0326	122.41	116.32

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PAYMENT RATES—Continued

[Year 1]

MSA code	Name of MSA	State	BLS index	PPS index	Hospital rate [1]	Independent rate [1]
3120	Greensboro-Salem-High Pt	NC	0.9463	0.9388	119.26	112.96
3160	Greenville-Spartanburg	SC	0.9802	0.9130	120.26	114.02
3180	Hagerstown	MD	1.0411	0.9585	122.87	116.80
3200	Hamilton-Middletown	OH	1.0706	1.0214	124.51	118.54
3240	Harrisburg-Carlisle	PA	1.0608	0.9868	123.84	117.83
3283	Hartford-Britain-Briston	CT	1.1760	1.1486	129.47	123.83
3290	Hickory	NC	0.8509	0.8982	117.23	110.80
3320	Honolulu	HI	1.1867	1.2022	130.34	124.77
*3350	Houma-Thibodaux	LA	0.9000	0.9229	117.44	111.02
3360	Houston	TX	1.1222	1.0686	126.78	120.97
3400	Huntington-Ashland	WVA-KY-OH	0.9534	0.9509	119.63	113.34
3440	Huntsville	AL	0.8827	0.8661	117.23	110.80
3480	Indianapolis	IN	1.0551	1.0594	124.28	118.32
3500	Iowa City	IA	1.1812	1.3084	131.09	125.57
3520	Jackson	MI	1.0561	1.0206	123.98	117.98
3560	Jackson	MS	0.9192	0.9354	118.25	111.88
*3580	Jackson	TN	0.7987	0.7916	117.23	110.80
3600	Jacksonville	FL	0.9777	0.9481	120.48	114.26
3605	Jacksonville	NC	0.9059	0.7968	117.45	111.02
3620	Janesville-Beloit	WI	0.8912	0.9422	117.61	111.20
3640	Jersey City	NJ	1.1350	1.1108	127.64	121.89
*3660	Johnson City-Bristol	TN-VA	0.9000	0.8617	117.23	110.80
3680	Johnstown	PA	1.0642	0.9526	123.66	117.63
*3690	Joliet	IL	1.2013	1.1253	130.17	124.59
*3710	Joplin	MO	0.9000	0.9202	117.42	110.99
3720	Kalamazoo	MI	1.2161	1.2341	131.77	126.28
3740	Kankakee	IL	0.9784	0.9510	120.53	114.31
3760	Kansas City	MO-KS	0.9840	1.0660	121.78	115.64
3800	Kenosha	WI	1.1136	1.0875	126.66	120.85
3810	Killeen-Temple	TX	0.9185	0.8849	117.91	111.51
3840	Knoxville	TN	0.9087	0.8996	117.55	111.13
3850	Kokomo	IN	1.0083	0.9870	121.95	115.81
3870	La Crosse	WI	0.9408	1.0167	119.76	113.49
3880	Lafayette	LA	1.0077	1.0114	122.14	116.02
3920	Lafayette	IN	0.9257	0.9163	118.32	111.95
3960	Lake Charles	LA	0.9204	1.0036	118.91	112.58
*3965	Lake County	IL	1.2013	1.1637	130.52	124.96
3980	Lakeland-Winter Haven	FL	0.8993	0.8851	117.23	110.80
4000	Lancaster	PA	1.0762	1.0396	124.87	118.94
4040	Lansing-East Lansing	MI	1.0718	1.0769	125.05	119.13
4080	Laredo	TX	0.8631	0.8163	117.23	110.80
4100	Las Cruces	NM	0.7737	0.8767	117.23	110.80
4120	Las Vegas	NV	1.2134	1.1254	130.61	125.06
4150	Lawrence	KS	0.9678	1.0180	120.75	114.55
4200	Lawton	OK	0.9619	0.9469	119.90	113.63
4243	Lewiston-Auburn	ME	0.8879	0.9426	117.62	111.21
4280	Lexington-Fayette	KY	0.9328	0.9873	119.21	112.90
4320	Lima	OH	1.0392	0.9866	123.05	117.00
4360	Lincoln	NE	0.9347	0.9710	119.13	112.82
4400	Little Rock-N Little Rock	AR	1.0469	1.1135	124.47	118.52
4420	Longview-Marshall	TX	0.8757	0.8410	117.23	110.80
4440	Lorain-Elyria	OH	1.0438	1.0260	123.59	117.58
4480	Los Angeles-Long Beach	CA	1.3174	1.3290	136.21	131.03
4520	Louisville	KY-IN	1.0632	1.0081	124.12	118.14
4600	Lubbock	TX	0.9036	1.0128	118.39	112.02
4640	Lynchburg	VA	0.8747	0.9215	117.43	111.01
4680	Macon-Warner Robins	GA	0.9431	0.9325	119.09	112.78
4720	Madison	WI	1.0454	1.0902	124.22	118.24
4763	Manchester-Nashua	NH	0.9762	0.9724	120.65	114.43
4800	Mansfield	OH	0.9359	0.9919	119.37	113.07
4840	Mayaguez	PR	0.5902	0.5732	117.23	110.80
4880	McAllen-Edinburg-Mission	TX	0.8269	0.8105	117.23	110.80
4890	Medford	OR	0.9967	1.0358	121.96	115.83
4900	Melborune-Palm Bay	FL	0.9652	0.9378	119.83	113.67
4920	Memphis	TN-AR-MS	1.0594	1.0494	124.35	118.36
*4940	Merced	CA	1.0662	1.2134	126.06	120.23
5000	Miami-Hialeah	FL	1.1623	1.0703	126.27	122.55
*5015	Middlesex-Hunterdon	NJ	1.0618	1.0349	124.31	118.34
5040	Midland	TX	1.0057	1.1305	123.14	117.09

VOL 51 ISS 158 AG 15 1986 UMI

PAYMENT RATES—Continued

[Year 1]

MSA code	Name of MSA	State	[illegible] index	PPS index	Hospital rate [1]	Independent rate [1]
5080	Milwaukee	WI	1.0561	1.1411	125.06	119.14
5120	Minneapolis-St Paul	MN-WI	1.0099	1.1772	123.71	117.71
5160	Mobile	AL	0.9490	0.8927	119.01	112.69
5170	Modesto	CA	1.0548	1.2103	125.63	119.76
*5190	Monmouth-Ocean	NJ	1.0278	0.9924	122.70	116.62
5200	Monroe	LA	0.9324	0.9343	118.72	112.38
5240	Montgomery	AL	0.9885	0.8876	120.44	114.21
5280	Muncie	IN	0.9595	1.0065	120.35	114.12
5320	Muskegon	MI	0.9808	0.9912	120.98	114.79
*5345	Naples	FL	0.9059	1.0448	118.75	112.42
5360	Nashville	TN	1.0498	0.9414	123.03	116.97
5380	Massau-Suffolk	NY	1.2886	1.3399	135.27	130.02
5403	New Bedford-Fall River-Attelbo	MA	0.9922	0.9795	121.29	115.12
5483	New Haven-Waterbury-Meriden	CT	1.0904	1.1276	126.18	120.34
5523	New London-Norwich	CT	1.0930	1.1103	126.12	120.27
5560	New Orleans	LA	0.9842	0.9344	120.59	114.38
5600	New York	NY	1.3979	1.3809	138.00	134.63
5640	Newark	NJ	1.2061	1.1404	130.48	124.92
*5700	Niagara Falls	NY	0.9939	0.8963	120.63	114.42
5720	Norfolk-Newport News	VA	0.9259	0.9692	118.79	112.47
5775	Oakland	CA	1.3337	1.4893	137.14	132.96
5790	Ocala	FL	0.9418	0.8735	118.75	112.41
5800	Odessa	TX	0.9296	0.9619	118.86	112.54
5880	Oklahoma City	OK	1.0161	1.0930	123.18	117.14
5910	Olympia	WA	1.0540	1.0787	124.43	115.83
5920	Omaha	NE-IA	0.9859	1.0509	121.70	115.67
*5950	Orange County	NY	1.0483	0.9299	122.88	116.81
5960	Orlando	FL	0.9890	1.0188	121.53	115.38
5990	Owensboro	KY	0.8803	0.8243	117.23	110.80
6000	Oxnard-Ventura	CA	1.4050	1.2851	137.27	133.98
6015	Panama City	FL	0.8865	0.8354	117.23	110.80
6020	Parkersburg-Marietta	WVA-OH	1.0064	0.9121	121.20	115.02
6025	Pascagoula	MS	1.1283	0.9678	126.12	120.25
6080	Pensacola	FL	0.9236	0.8742	118.09	111.71
6120	Peoria	IL	1.1136	1.0584	126.40	120.56
6160	Philadelphia	PA-NJ	1.1941	1.1783	130.39	124.82
6200	Phoenix	AZ	1.1383	1.0801	127.49	121.73
6240	Pine Bluff	AR	0.7832	0.8009	117.23	110.80
6280	Pittsburgh	PA	1.1494	1.1011	128.08	122.35
6323	Pittsfield	MA	1.0335	1.0246	123.20	117.14
6360	Ponce	PR	0.7832	0.6935	117.23	110.80
6403	Portland	ME	1.0113	1.0114	122.27	116.16
6440	Portland	OR	1.1208	1.2074	128.00	122.27
*6453	Portsmouth-Dover-Rochester	NH-ME	0.8549	0.9373	117.57	111.16
6460	Poughkeepsie	NY	1.1148	1.0052	125.96	120.09
6483	Providence-Pawtucket-Woonsocket	RI	1.0384	1.0553	123.65	117.63
6520	Provo-Orem	UT	0.9408	0.9858	119.49	113.20
6560	Pueblo	CO	1.0859	1.1210	125.96	120.10
6600	Racine	WI	0.8987	1.0002	118.14	111.76
6640	Raleigh-Durham	NC	1.0364	0.9720	122.83	116.75
*6660	Rapid City	SD	0.7733	0.9623	117.79	111.40
6680	Reading	PA	1.0092	1.0248	122.32	116.21
6690	Redding	CA	1.0671	1.2396	126.34	120.51
6720	Reno	NV	1.3337	1.1839	135.50	130.25
6740	Richland-Kennewick	WA	0.9678	1.0256	120.82	114.62
6760	Richmond-Petersburg	VA	0.9379	0.9564	119.12	112.81
6780	Riverside-San Bernardino	CA	1.2201	1.2517	132.00	126.53
6800	Roanoke	VA	0.9948	0.8997	120.67	114.45
6820	Rochester	MN	1.0438	1.0284	123.60	117.58
6840	Rochester	NY	1.0571	1.0226	124.03	118.04
6880	Rockford	IL	1.0550	1.1354	124.97	119.04
6920	Sacramento	CA	1.2130	1.2969	132.14	126.70
6960	Saginaw-Bay City-Midland	MI	1.1289	1.1070	127.39	121.62
6980	St Cloud	MN	0.8638	1.0018	118.15	111.78
7000	St Joseph	MO	1.0264	0.9487	122.26	116.14
7040	St Louis	MO-IL	1.0367	1.0827	123.83	117.83
7080	Salem	OR	1.0834	1.0971	125.66	119.77
7120	Salinas-Seaside-Monterey	CA	1.2317	1.2571	132.46	127.03
7160	Salt Lake City-Ogden	UT	0.9370	1.0354	119.80	113.53

PAYMENT RATES—Continued

[Year 1]

MSA code	Name of MSA	State	BLS index	PPS index	Hospital rate [1]	Independent rate [1]
7200	San Angelo	TX	0.8521	0.8719	117.23	110.80
7240	San Antonio	TX	0.9595	0.8943	119.39	113.09
7320	San Diego	CA	1.2334	1.3104	133.01	127.61
7360	San Francisco	CA	1.3337	1.6517	137.14	132.96
7400	San Jose	CA	1.3264	1.4805	136.88	132.68
7440	San Juan	PR	0.6806	0.6197	117.23	110.80
7460	Santa Barbara-Lompoc	CA	1.1107	1.1622	127.40	121.65
7485	Santa Cruz	CA	1.1223	1.2432	126.38	122.67
*7490	Santa Fe	NM	0.9235	0.9809	118.82	112.48
7500	Santa Rosa-Petaluma	CA	1.4336	1.3112	137.50	135.34
7510	Sarasota	FL	1.0096	0.9639	121.78	115.64
7520	Savannah	GA	0.9740	0.8917	119.91	113.65
*7560	Scranton-Wilkes Barre	PA	1.0447	0.9982	123.36	117.32
7600	Seattle	WA	1.0487	1.1579	124.95	119.02
7610	Sharon	PA	1.0046	0.9757	121.71	115.56
7620	Sheboygan	WI	0.8920	0.9885	118.03	111.65
7640	Sherman-Denison	TX	0.8879	0.8619	117.23	110.80
7680	Sherveport	LA	1.0540	0.9613	123.37	117.33
7720	Sioux City	IA–NE	0.9975	1.0082	121.73	115.58
7760	Sioux Falls	SD	0.9242	1.0211	119.20	112.90
7800	South Bend-Mishawaka	IN	0.9157	1.0087	118.78	112.45
7840	Spokane	WA	1.1020	1.1559	126.86	121.06
7880	Springfield	IL	1.1235	1.0664	126.83	121.02
7920	Springfield	MO	0.9079	0.9883	118.30	111.93
8003	Springfield	MA	1.0298	1.0060	122.89	116.83
8050	State College	PA	1.1383	1.0772	127.46	121.70
8080	Steubenville-Weirton	OH–WVA	0.9905	0.9655	121.10	114.92
8120	Stockton	CA	1.3466	1.2871	136.89	131.75
8160	Syracuse	NY	1.5162	1.0301	134.97	133.81
8200	Tacoma	WA	1.0720	1.1052	125.31	119.41
8240	Tallahasse	FL	0.9462	0.9509	119.36	113.07
8280	Tampa-Clearwater	FL	1.0066	0.9830	121.85	115.71
8320	Terre Haute	IN	0.8856	0.8456	117.23	110.80
8360	Texarkana	TX–AR	1.1761	0.8650	127.23	121.45
8400	Toledo	OH	1.1421	1.2267	128.94	123.28
8440	Topeka	KS	1.0783	1.0632	125.17	119.24
8480	Trenton	NJ	1.0906	1.0317	125.32	119.42
8520	Tucson	AZ	1.0495	1.0090	123.63	117.62
8560	Tulsa	OK	1.0220	1.0131	122.66	116.59
8600	Tuscaloosa	AL	1.0384	1.0172	123.30	117.26
8640	Tyler	TX	0.9693	1.0035	121.41	115.24
8680	Utica-Rome	NY	0.9977	0.8640	120.78	114.57
8720	Vallejo-Fairfield-NAPA	CA	1.6758	1.3397	137.76	136.80
*8725	Vancouver	WA	1.1206	1.1659	127.63	121.87
8750	Victoria	TX	0.8606	0.8205	117.23	110.80
8760	Vienland-Millville-Bridgeton	NJ	1.0070	0.9929	121.95	115.82
8780	Visalia-Porterville	CA	1.4467	1.0643	135.28	133.46
8800	Waco	TX	0.8347	0.9117	117.34	110.91
8840	Washington	DC–MD–VA	1.1908	1.1965	130.44	124.87
8920	Waterloo-Cedar Falls	IA	0.8884	0.9993	118.13	111.76
8940	Wausau	WI	0.9566	0.9871	120.07	113.82
8960	West Palm & Delray Beach	FL	0.9821	0.9972	121.08	114.90
9000	Wheeling	WVA–OH	0.9953	0.9771	121.38	115.21
9040	Wichita	KS	1.0412	1.1589	124.68	118.74
9080	Wichita Falls	TX	0.8576	0.8776	117.23	110.80
9140	Williamsport	PA	0.9890	0.9048	120.50	114.28
9160	Wilmington	DE–NJ–MD	1.1092	1.0585	126.24	120.39
9200	Wilmington	NC	0.9005	0.9591	117.78	111.38
9243	Worcester-Leominster	MA	0.9943	1.0094	121.63	115.49
9260	Yakima	WA	0.9682	1.0389	120.96	114.77
9280	York	PA	1.0110	0.9853	122.03	115.90
9320	Youngstown-Warren	OH	1.1351	1.0480	127.09	121.29
9340	Yuba City	CA	1.1283	1.0460	126.82	121.01

[1] Rates are adjusted for payment limits of .90 and $136.00.
[2] An "*" denotes those MSA's that did not exist in 1980. To compute rates for these areas, we used the county within the new MSA that had the highest 1980 BLS wage index.

RURAL HOSPITAL AND INDEPENDENT PAYMENT RATES

[Year 1]

Non-MSA areas	BLS index	PPS index	Hospital rate[1]	Independent rate[1]
Alabama	0.8167	0.7466	117.23	110.80
Alaska	1.4136	1.4989	138.00	136.05
Arizona	.9160	.9323	118.11	111.73
Arkansas	.7921	.7703	117.23	110.80
California	1.0662	1.1385	125.40	119.50
Colorado	.8515	.9326	117.53	111.11
Connecticut	1.0658	1.0880	124.93	119.00
Delaware	.9406	.8645	118.71	112.37
Florida	.9059	.8815	117.45	111.02
Georgia	.8596	.7779	117.23	110.80
Hawaii	1.2652	1.0157	131.51	125.99
Idaho	.8991	.9130	117.35	110.92
Illinois	.8965	.8917	117.23	110.80
Indiana	.8826	.8685	117.23	110.80
Iowa	.8290	.8719	117.23	110.80
Kansas	.8205	.8481	117.23	110.80
Kentucky	.8506	.8036	117.23	110.80
Louisiana	.8515	.8605	117.23	110.80
Maine	.8960	.8701	117.23	110.80
Maryland	.9928	.8773	120.59	114.37
Massachusetts	1.0870	1.0548	125.40	119.50
Michigan	1.0471	.9589	123.09	117.04
Minnesota	.8264	.8788	117.23	110.80
Mississippi	.8118	.7705	117.23	110.80
Missouri	.8479	.8325	117.23	110.80
Montana	.9803	.9154	117.37	110.95
Nebraska	.7245	.8310	117.23	110.80
Nevada	.9741	1.0799	121.54	115.39
New Hampshire	1.0452	.9234	122.71	116.62
New Mexico	.9235	.9213	118.28	111.91
New York	.9070	.8730	117.49	111.07
North Carolina	.8810	.8130	117.23	110.80
North Dakota	.8203	.9061	117.29	110.86
Ohio	.9305	.9100	118.43	112.07
Oklahoma	.8525	.8462	117.23	110.80
Oregon	.9566	1.0782	120.89	114.70
Pennsylvania	1.0428	.9427	122.79	116.71
Puerto Rico	.5438	.5736	117.23	110.80
Rhode Island	.9762	.9553	120.49	114.27
South Carolina	.8184	.7827	117.23	110.80
Soth Dakota	.7733	.8263	117.23	110.80
Tennessee	.7987	.7733	117.23	110.80
Texas	.8149	.8180	117.23	110.80
Utah	.9006	.9505	117.69	111.28
Vermont	.8808	.8886	117.23	110.80
Virginia	.8484	.8194	117.23	110.80
Washington	.9453	1.0273	120.02	113.77
West Virginia	.9296	.8816	118.31	111.94
Wisconsin	.8291	.8995	117.23	110.80
Wyoming	.9782	.9745	120.74	114.53

[1] Rates are adjusted for payment limits of 0.90 and $138.

VI. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to publish a regulatory impact analysis for regulations and other documents that are likely to meet the criteria for a major rule. A major rule is one that would result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or any geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In the proposed notice published May 13, 1986, we estimated that changing the ratesetting methodology and revising composite rates would reduce payments for outpatient maintenance dialysis services by approximately $115 million in the first full fiscal year of implementation. Therefore, the notice was treated as a major rule under E.O. 12291, and an initial regulatory impact analysis was prepared.

In addition, we prepare and publish a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) for notices unless the Secretary certifies that the notices would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all ESRD facilities to be small entities, and we provided an initial regulatory flexibility analysis in the proposed notice of the effect on those facilities. Although the rates set through this final notice will not result in the same level of reduction as the proposed notice, they will have a substantial impact on all ESRD facilities and we consider this notice a major rule. Therefore, the discussion below, in combination with the other sections of this notice, constitutes a combined final regulatory impact analysis and final regulatory flexibility analysis consistent with E.O. 12291 and the RFA.

B. Affected Entities

There are 1,380 ESRD facilities throughout the country providing outpatient maintenance dialysis services. The number of 1984 outpatient treatments, exclusive of home treatments, provided by these facilities follows:

Setting	Hospital-based	Independent
Urban	2,947,172	4,670,497
Rural	278,108	559,110
Subtotal	3,225,280	5,229,607
Total (hospital-based/independent)		8,454,887

Currently, we have identified approximately 451 facilities belonging to approximately 56 chain organizations. The range of facilities per chain is from two facilities to 190.

These facilities are largely dependent on Federal government payments for their existence. Over 90 percent of all outpatient maintenance dialysis patients are Medicare beneficiaries. The Medicare program pays 80 percent of the composite payment rate for outpatient dialysis for these patients. Additional Federal money is infused into the ESRD industry through the State Medicaid programs. Most of the State

Medicaid programs pay the remaining 20 percent of the facility cost or charge not paid by Medicare for those patients who are Medicaid recipients.

C. Effects of These Revised Rates

When we published proposed and final regulations establishing the ESRD composite rate payment system, we stated that we expected the system to accomplish two major objectives which, though not without effects that may seem adverse to some parties, would be of sufficient benefit to offset greatly any costs that resulted. These objectives are (1) to encourage home dialysis to the greatest extent feasible for the ESRD patient population, and (2) to encourage economy and efficiency in furnishing dialysis services. These objectives are closely related, since we expect increasing home dialysis to contribute to cost reduction because it is a less expensive way to deliver treatment. As we stated in the May 11, 1983 final rule, facilities must comply with the health and safety requirements of 42 CFR Subpart U, and we expect those requirements to continue to prove satisfactory to ensure the quality of patient care. We also stated our expectation that tightening the rate of payment and increasing the incentives for efficiency would result in pressures on the ESRD manufacturers and suppliers of equipment and supplies to ESRD facilities to lower their prices as ESRD facilities economized and sought to lower their cost.

Some commenters on the proposed rule expressed concern that facility closures would leave them effectively unable to choose infacility dialysis because of increased travel time to the nearest facility. The continuing increase in the number of facilities, even since the announcement of our proposed composite rates in November 1981, but particularly since the final rules took effect on August 1, 1983, confirms our belief that facilities are able to operate under the composite rate system. The following chart shows recent growth in the number of facilities.

NUMBERS OF OUTPATIENT ESRD FACILITIES

Calendar year	Hospital dialysis providers	Independent dialysis providers	Total providers
December 1978	623	275	[illegible]
December 1979	630	329	959
December 1980	636	405	1,041
December 1981	657	486	1,143
December 1982	642	528	1,170
December 1983	620	627	1,247
December 1984	622	668	1,290
December 1985	632	748	1,380

The great fears expressed by some facilities, physicians and patients in response to the initial proposal of the composite rate system have not materialized. In addition, the proportion of patients receiving dialysis at home has increased. Thus, our experience to date supports our earlier expectations.

We believe that setting revised rates on the basis of the most recent available audit data, a slightly revised methodology, and a phase-in of the current HCFA wage index is the best way to continue to pursue those objectives at this time. These changes will have a significant effect on annual payments for routine dialysis, as demonstrated by the following:

ESTIMATED REDUCTIONS IN MEDICARE PAYMENTS TO OUTPATIENT ESRD FACILITIES

[In millions][1]

Fiscal year	Reduction in coinsurance	Medicare savings	Total reduction in payments
1987	15	[illegible]	75
1988	15	65	[illegible]
1989	15	65	[illegible]
1990	15	70	85
1991	15	75	[illegible]

[1] Due to rounding, addition may appear inexact. These estimates are rounded to the nearest $5 million, and are based on an assumed effective date of October 1, 1986

In addition, because most State Medicaid programs pay coinsurance for ESRD beneficiaries who meet their eligibility requirements, some Medicaid savings will result from this change.

We expect these reduced revenues will intensify the incentives for ESRD facilities to improve their economy and efficiency and to shift as many patients to home dialysis as is safe and supportable. Our audits demonstrate that quality services are being furnished at a cost below the rates at efficient and economical facilities. Hence, despite the estimated reductions in Medicare payments, we believe that quality of care will not be reduced. Further, if a facility demonstrates with convincing evidence that it will have an allowable cost per treatment higher than its prospective rate, and if these excess costs meet the criteria in 42 CFR 405.439(g), a facility may receive an exception to that rate. The exception process provides greater accuracy of payments in unique situations in which additional costs can be justified.

D. Effect of New Wage Index and Adjustments to Rate Calculation

To facilitate an orderly transition to the new HCFA wage index, we are providing a five year phase-in of the HCFA wage index. As a result of the phase-in of the wage index, the inclusion of four small facilities' costs in the audited data base and the use of the most recent data for CAPD costs (see section IV of this notice), the average reduction in payment rates for hospital-based ESRD facilities is $4.43 and for independent facilities is $6.79 in the first year. The comparable reductions that would have resulted from the May 13, 1986 proposed notice were $8.49 and $8.65, respectively in the first year. The range in first-year rate reductions for ESRD facilities based on a comparison of this final notice and the May 13, 1986 proposed notice is as follows:

RANGE OF RATE REDUCTIONS

	Hospitals	Independents
May 13, 1986, proposed rates	$0 to $19.75	$2.45 to $23.10.
Revised final rates	$0 to $ 6.65	$0 to $10.30.

NOTE: Negative amounts indicate an increase in payment.

Based on the revised final rates the range of per treatment payments for the first year follow:

RANGE OF PER TREATMENT PAYMENTS

Setting	Hospital-based	Independent
Urban	$117.24 to $138	$110.80 to $138.
Rural	$117.24 to $131.51.	$110.80 to $136.04.

As a result of the changes we have made in this final notice, the average rate reduction for hospitals will be $4.43 with a majority of hospital-based facilities' experiencing a rate reduction of less than $5 per treatment. The average rate reduction for independent facilities will be $6.79 with almost 90 percent of all independent facilities experiencing a rate reduction of less than $8 per treatment.

The revised notice announces our policy to assist small, rural ESRD facilities that are not able to benefit from economies of scale in their operations by providing priority processing of exception requests for isolated essential facilities.

Additional discussion of the effects of the new wage index and the adjustments to the rates calculation appear in section IV of this notice.

E. Conclusion

We believe that the benefits of this notice will outweigh the costs. Payments will more accurately reflect facilities experiences and result in a substantial cost savings to the Medicare program. Medicare beneficiaries will benefit from reduced coinsurance obligations. The revised rates will strengthen economic incentives, promote efficiencies, and encourage additional appropriate dialysis in the home setting. Although the change in the ratesetting

methodology will result in a payment reduction, the reduction based on the most recent available data is reasonable and within our authority.

The proportion of patients receiving dialysis at home has increased, particularly for independent facilities. The cost of home dialysis has remained constant. We expect these trends to continue. The fears expressed by some facilities, physicians and patients in response to the initial proposal of the composite rate system have not materialized as the number of ESRD facilities has continued to increase. We will continue to monitor the effects of composite rate reimbursement on beneficiaries' access to care and continued development of the ESRD industry.

VII. Collection of Information Requirements

These changes will not impose information collection requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Secs. 1102, 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Supplementary Medical Insurance)

Dated: August 12, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 12, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-18478 Filed 8-14-86; 8:45 am]

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VOL
51
ISS
1
58
AG
15
1986
UMI

federal register

Friday
August 15, 1986

Part VII

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under Guidelines

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on September 29, 1986. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments received by September 19, 1986, will be reproduced and distributed to the RAC for consideration at its September 29, 1986 meeting.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20892. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The **Federal Register** of June 25, 1986 (51 FR 23210), contained notice of the September 29, 1986, meeting of the RAC and one proposed modification of the NIH Guidelines for Research Involving Recombinant DNA Molecules. In addition, the following additional proposed modifications of the NIH Guidelines will be considered.

I. Proposed Amendment of Section III–A–2

Dr. Susan Gottesman, National Cancer Institute, Bethesda, Maryland, has proposed the following changes in the NIH Guidelines.

Section III–A–2 would be amended to read as follows (words in italics represent changed wording):

"III–A–2. Deliberate release into the environment of any organism containing recombinant DNA, except:

"*a.* Certain plants as described in Appendix L.

"*b. Deletion derivatives not otherwise covered by these Guidelines.*

"*c. Organisms covered in exemption III–D–2.*"

Dr. Gottesman offers the following rationale for this proposal:

> The NIH Guidelines for Recombinant DNA Research were orginally designed to safeguard the environment from "new" organisms, created by recombinant DNA research, which might cause disease or otherwise disrupt the ecology. Recombinant DNA as a technique was specifically cited because of its immense potential for creating a variety of "new" and therefore untested organisms. The original Guidelines wisely assumed we knew little about the potential properties of such organisms and therefore limited their use to the laboratory. As the Guidelines evolved, an important task was the exemption from review of certain classes of experiments which, while involving the use of recombinant DNA techniques, did not in fact create new and untested organisms. Thus rearrangements within a plasmid or viral genome were exempted (Guidelines, section III–D–2), and even those within a single prokaryotic host, including its resident plasmids or viruses, were considered to be likely to occur at some frequency in nature and therefore not to require special review (Guidelines, section III–D–3). A similar principle has recently been proposed by the Biotechnology Science Coordinating Committee, in defining "new" organisms, for the purpose of regulatory oversight, as those resulting from combinations between different genera.[1] Deletions and rearrangements of single DNA sources, in particular, occur in nature. If similar rearrangements or deletions are created by recombinant DNA techniques, it seems reasonable to treat such molecules as we would treat those which are isolated as a result of classical genetic manipulations. Therefore, I propose that organisms in which the only use of recombinant DNA has been to remove or rearrange genetic information within a genome should not be subject to special scrutiny. Such experiments are already exempt from NIH Guidelines requirements for laboratory experimentation. This proposal would extend that exemption to experiments involving release of such organisms into the environment.

[1] Coordinated Framework for Regulation of Biotechnology; Announcement of Policy and Notice for Public Comment. Federal Register, June 26, 1986, p. 23302–23393.

II. Proposal To Add Bacillus Sphaericus To Appendix C–V

Dr. William F. Burke, Jr., of Arizona State University, Tempe, Arizona, has requested that *Bacillus sphaericus* be added to the list of Gram positive bacteria in Appendix C–V.

Dr. Burke has supplied information supporting this request to the Office of Recombinant DNA Activities.

Dated: August 12, 1986.

Bernard Talbot,

Acting Director, National Institute of Allergy and Infectious Diseases.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual Programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 86–18481 Filed 8–14–86; 8:45 am]

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VOL
51
ISS
1
58
AG
15
1986
UMI

federal register

Friday
August 15, 1986

Part VIII

Environmental Protection Agency

40 CFR Part 135

Notice Requirements for Citizen Suits Under the Safe Drinking Water Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 135

[FRL 3008-5]

Notice Requirements for Citizen Suits Under the Safe Drinking Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA) authorizes any person to sue an alleged violator of any requirement of the SDWA or its regulations or to sue the Administrator for failure to perform any non-discretionary duty. However, before filing the suit, persons must give sixty days notice to various parties. EPA is today proposing regulations governing the manner in which citizens must give notice of their intent to sue. The regulations are similar to those implementing the notice of citizen suit provisions of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).

DATE: Comments on the proposed rule must be received by September 29, 1986.

ADDRESS: Send comments to: Judy Long, Comment Clerk, Office of Drinking Water, WH-550, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ellen Berick, Office of Drinking Water, WH-550, EPA, 401 M Street SW., Washington, DC 20460, (202) 382-5547.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f, *et seq.*) authorizes persons to commence a civil action against any person who is alleged to be in violation of any requirement prescribed by or under the statute, or against the Administrator for failure to perform any act which is not discretionary. SDWA section 1449(a), 42 U.S.C. 300j-8(a). These "citizen suits" must be preceded by notice of the violation to the Administrator, to the alleged violator, and to the State in which the alleged violation occurred at least sixty days before the suit is filed. SDWA section 1449(b); 42 U.S.C. 300j-8(b). The SDWA directs the Administrator to promulgate regulations for this required notice. *Id.* EPA is proposing such regulations by today's action; they apply to both Public Water System and Underground Injection Control (UIC) provisions.

Prior notice of a citizen suit serves several purposes. In the case of notice involving violations of the Act, the prior notice provision is intended to allow EPA or the State time to respond to the allegations with enforcement or other action, as appropriate. It is also intended to help eliminate duplicative actions. The SDWA precludes a citizen suit against an alleged violator if "the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance . . ." SDWA section 1449 (b)(2); 42 U.S.C. 300j-8(b)(2). If the Agency or State is already prosecuting the alleged violator, the prior notice permits EPA or the State to inform potential litigants that an action has been brought. In the case of alleged failure to perform a non-discretionary duty, notice serves the purpose of allowing the Agency to avert litigation by performing the requested act, or by explaining why the act is discretionary or cannot be performed within the time allotted.

The citizen suit provision of the SDWA is similar to those in the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). Therefore, the proposed regulations are similar to those already promulgated for RCRA at 40 CFR Part 254 and for the CWA at 40 CFR Part 135.

The prior notice regulation is straightforward and self-explanatory, with one exception. Hazardous waste injection wells are jointly regulated under both the SDWA and RCRA. RCRA does not require a sixty-day waiting period after notice of an alleged violation of Subtitle C of RCRA respecting hazardous wastes. *See* RCRA section 7002(c); 42 U.S.C. 6972. The Agency believes that whether a waiting period is required for citizen suits based on the UIC regulations turns on whether the citizen suit invokes jurisdiction under RCA section 7002 or SDWA section 1449. The Agency believes that actions brought for alleged violations of Subtitle C of RCRA alleging jurisdiction under section 7002 are not subject to the waiting period, but that actions for alleged violations of the SDWA relying on section 1449 for jurisdiction must be preceded by the 60-day waiting period. If both statutes are invoked, the allegation of jurisdiction under the SDWA requires compliance with the SDWA 60-day waiting period. *See* RCRA section 1006; 42 U.S.C. 6905. EPA invites comment on this approach.

The Administrator has determined that this is a minor regulation under the terms of E.O. 12291 and does not require a regulatory impact analysis. This regulation has been reviewed by the Office of Management and Budget. No associated reporting or recordkeeping requirements compel Office of Management and Budget approval under the Paperwork Reduction Act. There are no significant impacts on small entities as defined under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 135

Public participation, Drinking water, Litigation notices.

Dated: August 11, 1986.

Lee M. Thomas,

Administrator.

For these reasons, it is proposed that Part 135 of Title 40 of the *Code of Federal Regulations* be amended by adding a new subpart, as follows:

1. The authority citation for Part 135 is revised to read as follows:

Authority: Subpart A, issued under Sec. 505, Clean Water Act, 33 U.S.C. 1365. Subpart B, issued under Sec. 1449, Safe Drinking Water Act, 42 U.S.C. 300j-8.

2. Part 135 is amended by designating §§ 135.1 through 135.3 as Subpart A and by adding a subpart heading to read as follows:

PART 135—PRIOR NOTICE OF CITIZEN SUITS

Subpart A—Prior Notice Under the Clean Water Act

* * * * *

3. Part 135 is amended by adding a new Subpart B, consisting of §§ 135.10 through 135.13 to read as follows:

Subpart B—Prior Notice Under the Safe Drinking Water Act

Sec.
135.10 Purpose.
135.11 Service of notice.
135.12 Contents of notice.
135.13 Timing of notice.

Subpart B—Prior Under the Safe Drinking Water Act

§ 135.10 Purpose.

Section 1449 of the Safe Drinking Water (SDWA) authorizes any person to commence a civil action to enforce the SDWA against an alleged violator of any requirements prescribed by or under the SDWA, or against the Administrator for failure to perform any duty which is not discretionary under the Act. No such action may be commenced prior to sixty days after giving notice of the alleged violation to the Administrator, any alleged violator and to the State. The purpose of this subpart is to prescribe procedures for giving the notice required by section 1449(b).

§ 135.11 Service of notice.

(a) Notice of intent to file suit pursuant to section 1449(a)(1) of the

SDWA shall be served in the following manner upon an alleged violator of any requirement prescribed by or under the SDWA:

(1) If the alleged violator is an individual or corporation, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the owner or operator of the public water system or underground injection well alleged to be in violation. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred, and the Attorney General for the State in which the violation is alleged to have occurred. If the alleged violator is a corporation, a copy of the notice shall also be mailed to the registered agent (if any) of the corporation in the State in which the violation is alleged to have occurred.

(2) If the alleged violator is a State or local agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of the State or local agency. A copy of the notice shall be mailed to the Attorney General for the State in which the violation is alleged to have occurred, the Administrator of the Environmental Protection Agency, and the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred.

(3) If the alleged violator is a Federal agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of the Federal agency. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred, the Attorney General of the United States, and the Attorney General of the State in which the violation is alleged to have occurred.

(b) Service of notice of intent to file suit pursuant to section 1449(a)(2) shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the Administrator of the Environmental Protection Agency, Washington, DC 20460. A copy of the notice shall be mailed to the Attorney General for the United States.

(c) Notice given in accordance with the provisions of this part shall be deemed to have been served on the date of service, if served personally. If service was accomplished by mail, the date of receipt will be considered to be the date noted on the return receipt card.

§ 135.12 Contents of notice.

(a) *Violation of SDWA or requirements pursuant to SDWA.* Notice regarding an alleged violation of any requirement prescribed by or under the SDWA shall include sufficient information to permit the recipient to identify the specific requirement alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of the violation, and the full name, address, and telephone number of the person giving the notice.

(b) *Failure to act.* Notice regarding an alleged failure of the Administrator to perform any act or duty under the SDWA which is not discretionary with the Administrator shall identify the provision of the SDWA which requires the act or creates the duty, and shall describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform such act or duty, and shall state the full name, address, and telephone number of the person giving notice.

(c) *Identification of counsel.* All notices shall include the name, address, and telephone number of the legal counsel, if any, representing the person giving notice.

§ 135.13 Timing of notice.

No action may be commenced under 1449 (a)(1) or (a)(2) prior to sixty days after the plaintiff has given notice to the appropriate parties.

[FR Doc. 86-18457 Filed 8-14-86; 8:45 am]
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VOL
51
ISS
1
5
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AG
15
1986
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federal register

Friday
August 15, 1986

Part IX

Environmental Protection Agency

40 CFR Parts 260, 261, 262, 264, 265, 270, and 271

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems; Final Rule; Correction

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 264, 265, 270, and 271

[SWH-FRL-3066-1]

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical and other errors in a final rule for hazardous waste storage and treatment tank systems under the Resource Conservation and Recovery Act (RCRA) that appeared in the **Federal Register** of Monday, July 14, 1986, (51 FR 25422).

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC, or William J. Kline, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, Washington, DC, 20460, (202) 382–7917.

SUPPLEMENTARY INFORMATION: On July 14, 1986 (51 FR 25422), EPA issued a final rule that revised the standards for hazardous waste storage and treatment tank systems. Today, EPA is correcting several typographical and other errors contained in the July 14 final rule.

Dated: August 8, 1986.

J.W. McGraw,

Acting Assistant Administrator for Office of Solid Waste and Emergency Response.

The following corrections are made in the preamble for FRL 3023–9 (FR Doc. 15266), The Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, published in the **Federal Register** on July 14, 1986, (51 FR 25422).

1. On page 25444, column 3, the second sentence of the first full paragraph, which reads "Concurrently, in today's **Federal Register**, EPA is proposing revised tank system standards that would apply to these generators," is corrected to read as follows: "In the future, EPA will propose revised tank system standards that would apply to these generators."

2. On page 25447, column 1, first paragraph, last line, "§§ 264.191 and 265.191" is corrected to read "§§ 264.192 and 265.192."

3. On page 25455, column 3, last paragraph, second line, §§ 264.196(b) and 265.196(b)" is corrected to read "§§ 264.196(e) and 265.196(e)."

4. On page 25456, column 2, first full paragraph, fifth line, "§§ 264.196(b) and 265.196(b)" is corrected to read "§§ 264.196(f) and 265.196(f)."

5. On page 25469, column 2, first full paragraph, fourth line, "June 16, 1985" is corrected to read "June 26, 1985."

The following corrections are made in the rules for FRL 3023–9, the Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank System, published in the **Federal Register** on July 14, 1986, (51 FR 25422).

§ 264.190 [Corrected]

1. On page 25472, column 3, § 264.190, paragraph (b), line 6, the reference to "§ 264 193" is corrected to read "§ 264.193."

§ 264.191 [Corrected]

2. On page 25473, column 1, § 264.191, the last sentence, "Approved by the Office of Management and Budget under control number 2050–0050.)" is corrected to read "(Information collection requirements contained in paragraphs (a) thru (d) were approved by the Office of Management and Budget under control number 2050–0050.)"

§ 264.192 [Corrected]

3. On page 25473, column 3, § 246.192, the word "component" in line 13 of paragraph (b) is corrected to read "components."

§ 264.193 [Corrected]

4. On page 25474, column 2, § 264.193, the word "and" at the end of line 5 of paragraph (a)(3) is removed.

5. On page 25474, column 3, § 264.193, line 4 of paragraph (e)(1)(iv) is corrected by inserting the words "the waste is" after the word "if."

6. On page 25475, column 1, § 264.193, the word "Joints" in line 3 of paragraph (e)(2)(iii) is corrected to read "joints."

7. On page 25475, column 2, § 264.193, the word "Joints" in line 1 of paragraph (f)(2) is corrected to read "joints."

8. On page 25476, column 2, § 264.193, paragraph (i)(1), the reference to "§ 264.191(a)" is corrected to read "§ 264.191(b)(5)."

9. On page 25476, column 2, § 264.193, paragraph (i)(2), lines 3 through 5 which read "operator must either (i) conduct a leak test as in paragraph (i)(1) or (ii) of this section develop a schedule and" are corrected to read as follows: "operator must either conduct a leak test as in paragraph (i)(1) of this section or develop a schedule and."

§ 264.196 [Corrected]

10. On page 25477, column 2, § 264.196, paragraph (d)(2) is corrected to read as follows:

(2) A leak or spill of hazardous waste is exempted from the requirements of this paragraph if it is:

(i) Less than or equal to a quantity of one (1) pound, and

(ii) Immediately contained and cleaned up.

11. On page 25477, column 2, § 264.196, paragraph (d)(3)(iv), the word "population" is corrected to read "populated."

12. On page 25478, column 1, § 264.196, line 4, the reference to "sections 3004(w)" is corrected to read "sections 3004(u)."

§ 265.192 [Corrected]

13. On page 25478, column 1, § 264.197, paragraph (c), line 5 is corrected by removing the words "is not exempt" and inserting in their place, the words "has not been granted a variance."

§ 264.192 [Corrected]

14. On page 25480, column 1, § 265.192, paragraph (a)(3)(i)(G) is corrected to read as follows: "(G) Stray electric current; and ,".

15. On page 25480, column 1, § 265.192, paragraph (a)(3)(ii)(A), line 3 is corrected by deleting the term "etc."

16. On page 25480, column 1, § 265.192, paragraph (a)(3)(ii)(B) line 2 is corrected by removing the term "etc."

17. On page 25480, column 1, § 265.192, paragraph (a)(3)(ii)(C), line 2 is corrected to read "insulating joints and flanges."

§ 265.193 [Corrected]

18. On page 25480, column 3, § 265.193, paragraph (a)(4), line 4 is corrected by removing the word "age" that appears after the word "facility."

19. On page 25481, column 2, § 265.193, paragraph (e)(2)(ii), line 5 is corrected by inserting the words "excess capacity" after the word "sufficient."

20. On page 25481, column 3, § 265.193, paragraph (g), line 6 is corrected by removing the number "(1)," lower-casing "that" and making the text continuous after the colon.

21. On page 25481, column 3, § 265.193, paragraph (g), line 14 is corrected by italicizing the word "or" and removing the number "(2)."

22. On page 25483, column 1, § 265.193, paragraph (i)(1), line 3, the reference to "§ 265.191(a)" is corrected to read "§ 265.191(b)(5)."

§ 270.16 [Corrected]

23. On page 25486, column 1, § 270.16, paragraph (a), line 4 is corrected by inserting the word "as" after the word "engineer."

24. On page 25486, column 2, § 270.16, paragraph (e), line 4, the reference to § 264.191(c)" is corrected to read "§ 264.192(a)(3)(ii)."

§ 271.1 [Corrected]

25. On page 25486, column 3, § 271.1 Table 1 is corrected by inserting the page number "25422" under the heading of "Federal Register Reference."

[FR Doc. 86-18456 Filed 8-14-86; 8:45 am]
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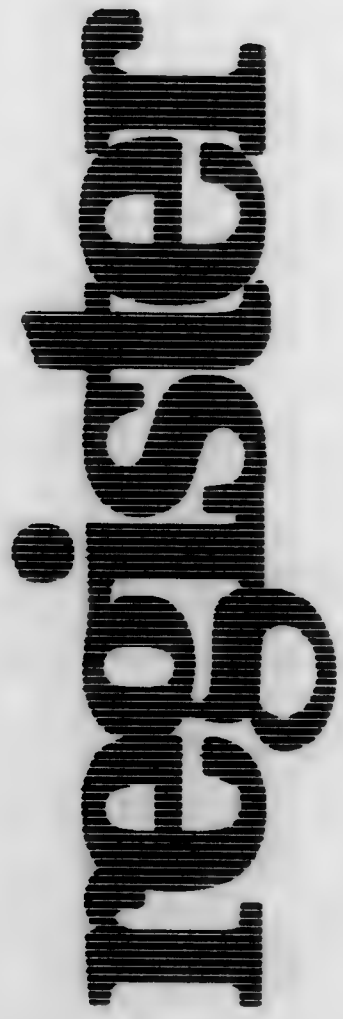

Friday
August 15, 1986

Part X

Department of Education

34 CFR Parts 617 and 619
Graduate Academic Facilities Program; Final Regulations

BEST COPY AVAILABLE

VOL 51 ISS 158 AG 15 1986 UMI

DEPARTMENT OF EDUCATION

34 CFR Parts 617 and 619

Graduate Academic Facilities Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations to implement the Graduate Academic Facilities Program, authorized under Title VII, Part B of the Higher Education Act of 1965, as amended. These regulations establish eligibility conditions, selection criteria, and other terms and conditions for applicants and grant recipients under this program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Charles I. Griffith, Director, Division of Higher Education Incentive Programs, Office of Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education, (Room 3022, ROB–3), 400 Maryland Avenue, SW., Washington, DC, 20202. Telephone (202) 245–3253.

SUPPLEMENTARY INFORMATION: Title VII, Part B of the Higher Education Act (20 U.S.C. 1132c) authorizes a program of construction assistance grants to graduate institutions of higher education. Recipients under this program use their grants for the construction, reconstruction and renovation of graduate academic facilities or for the acquisition of special research equipment at such facilities. Applicable legislation directs that construction assistance grants under this program chiefly enable eligible recipients to construct new facilities or improve existing facilities so that grantees would—

- Economize on the use of energy resources;
- Comply with the Architectural Barriers Act of 1968, section 504 of the Rehabilitation Act of 1973, or other environmental protection or health and safety laws, if such requirements were not in effect at the time such facilities were constructed;
- Improve research facilities, including libraries, and acquire special research equipment;
- Accommodate unusual increases in enrollments; or
- Detect, remove, or contain asbestos hazards.

On April 22, 1986, the Secretary published in the **Federal Register** a notice of proposed rulemaking for the Graduate Academic Facilities Program. Interested parties were provided 30 days to submit their comments to the Secretary. A summary of the significant comments received and the Secretary's responses to those comments are included in this preamble. No major changes were made in the final regulations.

Summary of Comments and Responses

General Comments

Comment. Several commenters were concerned about the omission from the proposed regulations of any references to undergraduate institutions of higher education which, in the view of the commenters, places undergraduate institutions in a disadvantageous position for receiving grant assistance. The commenters stated that there were no references to undergraduate institutions or undergraduate academic facilities in the name and description of the program (§ 619.1), the program eligibility section of the regulations (§ 619.2), the program definitions (§ 619.4), and the selection criteria for the research facilities category of funding (§ 619.36).

Response. No change has been made. As stated in the notice of proposed rulemaking, the regulations for Title VII, Part B, were drafted on the basis of the permanent legislation which authorizes grant assistance for graduate institutions only. The Department of Education Appropriation Acts for 1985 and 1986 directed that funds provided for fiscal year 1985 and 1986 be made available to both undergraduate and graduate institutions. Therefore, funds for these two years will be awarded to both undergraduate and graduate institutions, as stated in the Application Notice for 1986. The Department has decided not to include the directives in regulations that implement permanent legislation because the directives are only applicable for the fiscal years in which they were made and the Congress may decide not to extend the directives in subsequent years.

Comment. Several commenters expressed concern that no provision was made in the proposed regulations for a State review of applications. They believed that States are responsible for verifying application data and for developing State-wide plans and priorities for construction projects and, therefore, the regulations should require that applications be reviewed by State authorities.

Response. A change has been made. The Secretary has reconsidered the Department's position and agrees that program applications should be reviewed by State authorities for the reasons expressed by the commenters. Therefore, application procedures under Executive Order 12372, Intergovernmental Review of Government Programs, and under the Department's implementing regulations, Part 79 of the Education Department General Administrative Regulations, have been made applicable to this program. However, because these regulations will become effective after the closing date of the fiscal year 1986 grant competition, the provisions will only apply to future grant competitions.

Comment. One commenter recommended that: (1) A designated percentage of funds be made available for 2-year institutions and (2) grant funds enable eligible recipients to make construction improvements for new or existing facilities to accommodate increased enrollment in curriculums with high technology equipment.

Response. No change has been made. The Secretary has no authority to earmark funds for special purposes other than the funding categories authorized by the Congress. Although 2-year institutions with curriculums in high technology equipment are eligible to apply for funding, the funding category pertaining to unusual increases in enrollment was not designated as a priority because the Department's data project future declines in enrollment nationwide.

Comment. One commenter believed that the issue of asbestos removal in universities is of such magnitude that the program funds available would be miniscule in comparison to need. Hence, this aspect of the program should be limited to only a relative percentage of the total cost of the reconstruction or renovation costs.

Response. No change has been made. The Secretary recognizes not only the need for the abatement of asbestos hazards, but also other needs of institutions of higher education. To place a percentage limit on various needs within the context of the five major funding categories would be difficult. Instead, the Secretary will establish funding priorities, as stated in §§ 619.11 and 619.30. In addition, grants are limited to 50% of the eligible project development costs.

Comment. One commenter supported the proposed regulations and suggested that some consideration be given to a low interest loan program in addition to the maximum 50 percent grant level.

Response. No change has been made. A loan program is authorized under Title VII, Part C of the Act; however, no funds have been appropriated for that program.

Comment. Several commenters proposed that the Secretary establish a mechanism which would allow input from the academic and scientific community for an evaluation of the regulations after the first grant competition, for the selection and identification of panelists who review research facilities applications under § 619.36, for establishing research priorities, and for determining research facilities and equipment priorities.

Response. No change is necessary. The Secretary plans to make every effort to convene members of the higher education and scientific community to evaluate the regulations, priorities, and selection criteria after the first grant competition. Several representatives from the higher education community met with Department officials in June of 1985 to provide their advice and recommendation on the selection criteria. In addition to the comments received in response to the proposed regulations, the Secretary also welcomes any written suggestions for improving the regulations after the grant competition. Department staff will contact the academic and scientific community in the selection of panelists, in accordance with the requirement in the statute.

Section 619.2—Who is eligible to apply for a grant under the Graduate Academic Facilities Program?

Comment. One commenter emphasized that there is a critical need to improve the deteriorating state of research facilities in universities. According to the commenter, this need is supported by a recent report issued by the National Science Foundation. The commenter indicated that while the need of 4-year colleges is no less important, the inclusion of 4-year colleges in the program would dilute the effect of the program.

Response. No change has been made. Although Title VII, Part B concerns graduate academic facilities, the Congress appropriated FY 1985 and 1986 funds for Part B for both undergraduates and graduate institutions. The Secretary does not have the authority to exclude 4-year colleges from the 1986 grant competition for grants under Title VII–B of the Higher Education Act.

Section 619.4—What definitions apply to the Graduate Academic Facilities Program?

Comment. Several commenters expressed concern that the definition of "unusual increases in enrollment" only takes into consideration a full-time enrollment (FTE) of at least 100 students and an FTE increase of at least 10 percent over a three-year period. The commenters believed that colleges whose enrollment increase occurred over five or more years and who lack adequate facilities would not be eligible for funding under the category of unusual increases in enrollment. One of the commenters also suggested that a minimum measure of square feet per student should be considered in order to help colleges who are in dire need of space.

Response. No change has been made. To carry out the intent of the Congress, the Secretary defined the term "unusual increases in enrollment," as given in the regulations, to assure that program funds would be awarded only to those institutions with the greatest enrollment increases. To assure that enrollment increases represent the current situation at an institution of higher education, the three most current years were used, rather than five years, since enrollments at some institutions may have increased four or five years ago but decreased in the last one or two years. In addition, the use of existing academic facilities, as measured by the amount of assignable square feet per FTE student, is one of the general criteria used in evaluating an application.

Comment. One commenter indicated that the use of capacity/enrollment ratios and square feet/FTE student should not be selection criteria for awarding funds. The commenter stated that: (1) The program is directed to the support of graduate institutions, and these criteria do not meet the needs of community colleges; (2) funding is needed to support the kinds of facilities required for economic development and high technology careers; and (3) the ratios are only a function of the enrollment of the institution; they are irrelevant to more pressing issues.

Response. No change has been made. The criteria selected are written to implement Title VII–B of the legislation, the Graduate Academic Facilities Program, and are intended to be a general measure of current utilization for all applicant institutions. Under the Department of Education Appropriation Acts of 1985 and 1986, the community colleges which require facilities for economic development and high technology careers are eligible to apply for funds in accordance with the Application Notice published in the Federal Register on June 9, 1986.

Section 619.10—What kinds of projects are funded by the program?

Comment. One commenter requested that the program provide funding for industrial training equipment, in addition to research equipment, by adding another purpose to the program. This program would be for the construction or renovation of academic facilities which enhance economic and industrial development.

Response. No change has been made. The regulations were prepared for the purpose of implementing the authorizing legislation. In any event, the Secretary does not have the authority to provide grants for industrial training equipment under Title VII–B of the Higher Education Act.

Comment. One commenter requested that in subpart C, an addition to research should be the training of students in the use of "state of the art" equipment, to meet congressional intent.

Response. No change has been made. Subpart C, which contains only § 619.20, makes no reference to research. The Secretary does not have the authority to provide grants for the training of students in the use of "state of the art" equipment under Title VII, Part B of the Higher Education Act.

Section 619.20—What limitations apply to the number of applications that may be submitted?

Comment. One commenter representing many colleges and universities supported the limitation of one application per campus.

Response. No change is necessary. The commenter supported the application procedure stated in the regulations.

Section 619.30—How are applications evaluated?

Comment. One commenter was concerned that, where two or more project categories are established as funding priorities (for example, research facilities and energy conservation) under § 619.30(c), applicants requesting funding for these two categories would be penalized if a new energy conservation facility is proposed and the institutions had previously done a superior job in conserving energy but want funds for a new energy conservation project. Another commenter said 2-year colleges would be eliminated because they could not address as many priorities as other institutions.

VOL 51 ISS 158 AG 15 1986 UMI

Response. No change has been made. If an applicant requested funding for a research facility and an energy conservation project and had done a superior job in energy conservation, the project would not be penalized because the selection criteria for energy conservation under § 619.32(a) and (b) reward the applicant for past and current energy practices. In addition, no penalty is attached to applications for fewer than all categories.

Comment. Several commenters were concerned about the impact of priorities and priority points on undergraduate institutions, particularly the selection of research facilities as a priority. In order to provide equal treatment for 2- and 4-year colleges and not give an advantage to senior [graduate] institutions, suggestions were made to select at least two or more priority areas, and to eliminate the use of the 25 priority points under § 619.30(c).

Response. No change has been made. Since priorities are established in the Department's annual Application Notices published in the **Federal Register** and not in the regulations, no change is necessary. In establishing priorities for the years in which the Congress makes program funds available to both undergraduate and graduate institutions, the Secretary will consider establishing at least two priority categories, if priorities are established at all. For the current year's awards, the Secretary also eliminated the use of the 25 priority points in § 619.30(c) (renumbered § 619.30(d)), in order to ensure undergraduate institutions an equal opportunity for funding.

Comment. One commenter indicated that the ranking process could be vitiated through the use of 25 points for projects meeting the Secretary's priorities and through the use of a review panel as specified in § 619.30(c) and (e).

Response. No change has been made. Under the regulations up to 25 additional points may be awarded to certain applicants which meet priorities selected by the Secretary. This authorization permits the Secretary to use program funds for the highest national priorities. With regard to the use of a panel of specialists in making grants, the Secretary is required, under Title VII, Part B of the authorizing legislation, to obtain the advice and recommendations of a panel of specialists.

Comment. Several commenters stated that the selection criteria should not give points for costly projects. Some suggested that the selection criteria be changed to allow for lower total dollar value projects to be in the competition. Two of the commenters stated that expensive projects should not be given the highest numbers of points and that less expensive projects should be considered on the same basis as expensive ones.

Response. No change has been made. No additional points are given to costly projects. Points are given to institutions of higher education which demonstrate need for the proposed project. In the Department of Education's engineering review of a project, every attempt is made to ensure that project costs are not elaborate or extravagant.

Comment. One commenter hoped that, under Subpart D, § 619.30, proposals could be evaluated on the basis of need and matching funds so that local institutions may have a vested interest.

Response. No change has been made. § 619.31 includes selection criteria based on the need for facilities and the financial need of institutions of higher education. Matching costs are required of all types of applicants because no grant may exceed 50 percent of the total eligible development costs, as stated in § 619.50.

Section 619.31—What selection criteria are used to evaluate existing academic facilities and financial need?

Comment. One commenter stated that the weighting factors in § 619.31 apply to the total institution and, while it is impossible in many cases to separate facilities and equipment used by graduate and undergraduate programs, there should be some method for doing this. It was suggested that the use of graduate academic facilities could be based on the ratio of graduate FTE students to undergraduate FTE students. Another commenter stated that the assignable square feet for FTE students does not permit an assessment of effective use of facilities that reflects the differing missions of institutions. The commenter also said that the inclusion of financial need in the same section appears to bias the selection process against institutions that have worked hard and have succeeded in providing generally adequate capital support for their students, but which, nevertheless, have serious facilities needs in particular areas.

Response. No change has been made. The general criteria in § 619.31 are intended to apply to the total institution. The commitment to and use of graduate research facilities and equipment will be evaluated under § 619.36(a) of the program regulations. The intent of § 619.31 is to help determine the need for academic facilities and the financial need at the institution. The Secretary agrees that there is no consistent method applicable to all institutions for separating graduate and undergraduate facilities and equipment and, therefore, in order to give each applicant the opportunity to apply on an equal footing, allowed 40 points for data that would affect all applicants equally. The 60 additional points were assigned to the specific funding categories authorized by the Congress.

Comment. One commenter stated that comprehensive universities [compared with smaller universities] can possibly benefit when data on the cost per FTE student and square feet per FTE student are used as evaluation criteria in § 619.31. The suggestion was made to use a weighted factor for students in medicine, dentistry, law, pharmacy, etc. If a weighted factor is not used, perhaps the school in its grant application could report only on the cost and on the square footage for undergraduate students.

Response. No change has been made. The criteria in § 619.31 were developed to provide common data for all types of applicant institutions. Weighted factors would be extremely difficult to apply because institutions have so many different missions and needs. Data required in the application cannot relate solely to undergraduate costs and students since Title VII, Part B of the legislation relates to graduate academic facilities.

Section 619.36—What selection criteria are used to evaluate research facilities, including libraries, and the acquisition of special research equipment?

Comment. One commenter indicated that the selection criteria for a research facility project are extremely flexible and that the evaluation and ranking of these projects by a panel of specialists would definitely be skewed, particularly since all other criteria are evaluated quantitatively. The commenter also stated that the guidelines or directions given by the Secretary to the panel will not be known by applicants.

Response. No change has been made. The quality of research programs should not be measured exclusively by quantitative data. The Secretary has, therefore, designated 40 discretionary points and 20 quantitative points, in addition to the 40 quantitative points on the general selection criteria in § 619.31, for evaluating research facility projects. Just as in all Department of Education discretionary grant programs, panelists will be required to evaluate proposals based on selection criteria and on the priorities selected by the Secretary, all of which are published in the **Federal**

Register. No additional guidelines or directions will be given.

Comment. Three commenters said that no 2-year college would be able to qualify for funding under the selection criteria in § 619.36, since the mission of 2-year colleges is academic instruction, not pure research. The intent of the Congress was to provide funding for both undergraduate and graduate institutions.

Response. No change has been made. The regulations were prepared on the basis of the permanent legislation which authorizes eligibility for graduate institutions only. Therefore, the selection criteria were developed to fund research facilities at graduate institutions. Under the Department of Education Appropriation Acts of 1985 and 1986, 2-year colleges would still be eligible to apply for funding under another grant category.

Comment. Two commenters writing on behalf of many colleges and universities stated that the selection criteria for research facilities projects will reward institutions with the highest expenditures for research because expenditures are based on a percentage of total educational and general expenditures (§ 619.36(a)). As a result, this criterion discriminates against many 4-year institutions which face the greatest difficulty in obtaining support for research and research facilities from other government agencies. Although the primary mission of many 4-year institutions is "instruction," these institutions also support competitive research activities on campus. In addition, one of the commenters stated that under § 619.36(f) undergraduate institutions would be measured against graduate institutions with regard to a project's capacity to supply highly qualified personnel with graduate degrees for the community, industry, and government for research and teaching. The commenter stated that independent undergraduate institutions comprise nearly half of the fifty most productive campuses at yielding baccalaureate graduates that eventually obtain Ph.D.'s. The commenter urged sensitivity to the missions of both undergraduate and graduate institutions in developing a criterion for measuring institutional productivity. The second commenter recommended that criterion (a) be eliminated and only criteria (b) through (f) be retained to avoid bias toward institutions with large research expenditures.

Response. No change has been made. Both commenters are correct in interpreting the criteria for selecting projects involving research facilities and in evaluating the impact on undergraduate institutions. Because the regulations were written to implement the Graduate Academic Facilities Program authorized under Title VII, Part B, not Part A of the Higher Education Act which relates to undergraduate academic facilities, the selection criteria were developed for facilities at graduate institutions of higher education.

Section 619.50—What are the funding levels?

Comment. One commenter representing many colleges and universities supported the funding levels established in § 619.50 (a), (b), and (c). The commenter, however, recommended that a maximum grant of $1 million per institution be established to help distribute scarce federal dollars to the maximum number of institutions.

Response. No change has been made. The annual Application Notice for new awards will contain an estimated maximum grant amount for the program. The amount will be based on the appropriation level and will allow for a fair distribution of program funds.

Other Charges

In § 619.3, "What regulations apply to the graduate academic facilities program," the Department of Education now includes § 75.217 and §§ 75.219 through 75.222 of the Education Department General Administrative Regulations (EDGAR) as applying to the program. The notice of proposed rulemaking proposed to exclude those sections of EDGAR. The sections cited in EDGAR apply to discretionary grant programs. Graduate Academic Facilities Program applications involving research facilities and equipment which are partially evaluated by panels of specialists should follow discretionary grant procedures. The references that would have excluded § 75.217 and §§ 75.219 through 75.222 have been deleted.

In § 619.41, "What are the specific rules for determining eligible development costs," the Secretary has added to paragraph (c)(4) a statement that no costs for construction or built-in equipment will be allowed if those costs were included in a construction or built-in equipment contract before the Secretary concurs in the award of that contract. The notice of proposed rulemaking only stated that the costs would not be allowed if the contract was entered into before the date the applicant filed its Title VII–B program application. The purpose of this modification is to ensure that the contract is in compliance with all Federal construction requirements.

Printing omissions and errors have also been corrected throughout the regulations.

Executive Order 12291

The regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

This program is being made subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 619

Academic facilities, Colleges and universities, Construction, reconstruction, and renovation, Equipment, Research.

Citation of Legal Authority: A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.172—Construction, Reconstruction, and Renovation of Academic Facilities)

Dated: August 12, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by removing Subpart C of Part 617, and adding a new Part 619 as follows:

PART 617—FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER EDUCATION FACILITIES

1. The authority citation for Part 617 is revised to read as follows:

Authority: 20 U.S.C. 1132a–1132e–1, unless otherwise noted.

2. Part 617 is amended by removing Subpart C, and the table of contents of Part 617 is amended accordingly.

3. A new Part 619 is added to read as follows:

PART 619—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

Subpart A—General

Sec.

619.1 What is the Graduate Academic Facilities Program?
619.2 Who is eligible to apply for a grant under the Graduate Academic Facilities Program?
619.3 What regulations apply to the Graduate Academic Facilities Program?
619.4 What definitions apply to the Graduate Academic Facilities Program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

619.10 What kinds of projects are funded by the Program?
619.11 What are the funding priorities?

Subpart C—How Does One Apply for a Grant?

619.20 What limitations apply to the number of applications that may be submitted?

Subpart D—How Does the Secretary Make a Grant?

619.30 How are applications evaluated?
619.31 What selection criteria are used to evaluate existing academic facilities and financial need?
619.32 What selection criteria are used to evaluate energy conservation projects?
619.33 What selection criteria are used to evaluate the removal of architectural barriers, and environmental protection or health and safety standards mandated by law?
619.34 What selection criteria are used to evaluate the detection, removal, or containment of asbestos hazards?
619.35 What selection criteria are used to evaluate unusual increases in enrollment?
619.36 What selection criteria are used to evaluate research facilities, including libraries, and the acquisition of special research equipment?

Subpart E—How Does the Secretary Determine the Amount of the Grant Award?

619.40 What are the general rules for determining eligible development costs?
619.41 What are the specific rules for determining eligible development costs?

Subpart F—What Conditions Apply to Awards Under the Program?

619.50 What are the funding levels?
619.51 What are the financial considerations for approval or selection?
619.52 Must the grant award instrument be recorded?
619.53 What are the conditions for the recovery of payments?

Authority: 20 U.S.C. 1132a–1132e–1, unless otherwise noted.

Subpart A—General

§ 619.1 What is the Graduate Academic Facilities Program?

The Graduate Academic Facilities Program provides grants to graduate institutions of higher education for the construction, reconstruction, and renovation of graduate academic facilities or, in some cases for the acquisition of special research equipment. The grants may be used for new or existing academic facilities if the primary purpose of the project is to carry out one or more of the kinds of projects described in § 619.10.

(Authority: 20 U.S.C. 1132c)

§ 619.2 Who is eligible to apply for a grant under the Graduate Academic Facilities Program?

Graduate institutions of higher education are eligible to apply for grants under this program.

(Authority: 20 U.S.C. 1132c)

§ 619.3 What regulations apply to the Graduate Academic Facilities Program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

(b) The regulations in this Part 619.

(Authority: 20 U.S.C. 1132)

§ 619.4 What definitions apply to the Graduate Academic Facilities Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in EDGAR, 34 CFR Part 77.1:

Applicant
Application
Award
Budget
Department
EDGAR
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Public
Recipient
Supplies
Secretary
Work of art.

(b) *Revised EDGAR definitions.* The following terms defined in EDGAR, 34 CFR Part 77.1 are redefined for this part as follows:

"Acquisition" means taking ownership of property through purchase at fair market value.

"Equipment" means machinery, fixtures, and other items necessary for maintenance and operation of a facility, except books, computer software, instructional materials, and items involving current operating expenses such as fuel, supplies, and serviceable parts. Equipment may consist of—

(1) "Built-in equipment", which includes permanent nonmovable fixtures to a facility;

(2) "Initial equipment", which includes items necessary for installation in connection with construction of a facility;

(3) "Movable equipment", which includes movable fixtures and furniture necessary and appropriate for the functioning of an academic facility taking into account the specific purposes of the facility; and

(4) "Special research equipment", which includes equipment used in connection with a research program at graduate institutions of higher education.

"Project" means the construction activity or the acquisition of special research equipment that is proposed for funding by an applicant for assistance under this program.

(c) *Other definitions that apply to this part.* The following definitions also apply to this part:

"Academic facilities" means buildings or structures necessary and appropriate for instruction of students, for research, or for administration of educational programs and student and faculty services at an institution of higher education. Academic facilities include instructional and library facilities, instruction-related facilities, and related supporting facilities, but do not include facilities such as—

(1) Dormitories, residence halls, or similar facilities designed for residence or habitation;

(2) Infirmaries or similar facilities designed for outpatient care;

(3) Facilities intended for events for which admission is to be charged the general public;

(4) Gymnasiums, stadiums, swimming pools, student centers, or other similar facilities designed for athletic or recreational activities;

(5) Facilities used for religious worship or sectarian activities, or used

in connection with a program conducted by a school or department of divinity; or

(6) Facilities used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, school of nursing, or school of public health, unless the facilities—

(i) Are owned, operated, and maintained by a parent or affiliated institution of higher education which exercises corporate control over the particular school;

(ii) Require conversion or modernization of energy utilization techniques to economize on the use of energy resources; and

(iii) Support activities, services, or structures maintained by a parent or an affiliated institution of higher education.

"Act" means the Higher Education Act of 1965, as amended. Unless otherwise indicated, references to titles in the regulations in this part are to titles of the Act.

"Assignable area" means the square footage of floor space in facilities which is designed and available for assignment to specific functional purposes, such as instruction, research, and administration, but does not include—

(1) Areas used for general circulation within a building;

(2) Areas for public washrooms;

(3) Areas for building maintenance or custodial services; or

(4) Areas in central maintenance and utility facilities that exist only to support the operation and use of other structures on the campus and that are not available for assignment to specific functional purposes.

"Branch campus" means, within an institution of higher education, a unit that—

(1) Is separately organized;

(2) Is located apart from the parent institution;

(3) Meets the definition of an institution of higher education under the Act as an independent unit; and

(4) Has its own Federal Interagency Committee on Education (FICE) identification number.

"Capacity/enrollment ratio" means—

(1) The ratio of the assignable area of instructional and library facilities to the total student clock-hour enrollment at the campus of an institution, and

(2) For purposes of this definition, "student clock-hour enrollment" means the aggregate clock hours (sometimes called contact hours) per week in classes or supervised laboratory or shop work of those students enrolled in credit courses—i.e., attending credit courses at the institution's campus. A campus having formally established independent study programs may include systematically determined equivalents of credit hours but only include those hours when the relevant facility is being used by those students.

"Construction" means the erection of new structures, the rehabilitation, conversion, or improvement of existing structures, or the acquisition of existing structures and land thereunder.

"Eligible development costs" means the amount of necessary and reasonable expenses that would be incurred by construction of a project and that would be subject to reimbursement under this program, excluding any expenses reimbursed under any other Federal construction grant and any non-Federal funds required to be expended as a condition for the grant.

"FTE student" means full-time-equivalent student, as that term is defined for the Higher Education General Information Survey (HEGIS).

"Graduate institution" means an institution of higher education within the meaning of section 1201(a) of the Act that provides at least one post-baccalaureate program of study leading to an advanced degree.

"Other facilities used by students" means, in connection with projects relating to asbestos hazards, any campus facilities used by students even if those facilities are ineligible for Federal assistance under this program.

"Research facilities, including libraries" means academic facilities used in connection with research programs at graduate institutions of higher education.

"Research program" means an organized activity which has as its primary objective the creation, organization, and dissemination of new knowledge or technology. It embraces only those activities designed to produce research outcomes commissioned by an agency either external to the institution or authorized by an organizational unit within the institution. It does not include research funded from the instructional budget of the institution.

"Unusual increases in enrollment'" means an increase in full-time-equivalent enrollment of at least 100 full-time-equivalent students and an increase of more than 10 percent of FTE enrollment over a period of three years going back to the fall term beginning three years prior to the filing date for applications.

(Authority: 20 U.S.C. 1132a, 1132d–1, 1132e. 1132e–1)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 619.10 What kinds of projects are funded under the program?

(a) Funds are awarded for projects which enable graduate institutions of higher education to—

(1) Economize on the use of energy resources;

(2) Comply with the requirements of—

(i) The Architectural Barriers Act of 1968;

(ii) Section 504 of the Rehabilitation Act of 1973; or

(iii) Other Federal, State or local laws dealing with environmental protection or health and safety, if the laws impact on facilities after they were constructed;

(3) Detect, remove, or contain asbestos hazards;

(4) Accommodate unusual increases in enrollment; or

(5) Improve research facilities, including library facilities, and acquire special research equipment.

(b) In order for facilities to be eligible for assistance under paragraphs (a)(2)(iii) and (a)(3) of this section, the applicant must submit with its application satisfactory evidence to demonstrate that the degree of non-compliance with legal requirements, and the degree of threat from, and exposure to, asbestos hazards, pose a significant threat to the health and safety of the students.

(Authority:) 20 U.S.C. 1132c)

§ 619.11 What are the funding priorities?

The Secretary may announce from among those categories listed in 34 CFR § 619.10 funding priorities under this program in any given fiscal year through a notice published in the **Federal Register**.

(Authority: 20 U.S.C. 1132a–1132–1)

Subpart C—How Does One Apply for a Grant?

§ 619.20 What limitations apply to the number of applications that may be submitted?

An applicant may submit only one application for assistance under this program in any given fiscal year. The Secretary considers as a separate applicant a branch campus of a mulitcampus institution. If a project is funded by this program, the Secretary will not accept any future applications for funding for the same project.

(Authority: 20 U.S.C. 1132c)

VOL 51 ISS 158 AG 15 1986 UMI

Subpart D—How Does the Secretary Make a Grant?

§ 619.30 How are applications evaluated?

(a) The Secretary evaluates an application for a grant on the basis of—

(1) The general criteria in § 619.31 for all applicants; and

(2) The specific criteria in §§ 619.32 through 619.36 for applicants of particular categories of projects.

(b)(1) The Secretary awards up to a total of 100 points based on a maximum possible score of—

(i) 40 points for the general criteria in § 619.31; and

(ii) 60 points for the specific criteria in §§ 619.32 through 619.36, as applicable.

(2) The maximum possible score for each criteria is indicated in parentheses following the heading of that criterion.

(c) If a project includes two or more of the categories in § 619.10, the Secretary applies—

(1) The general criteria in § 619.31 (up to 40 points); and

(2) Each applicable set of specific criteria in §§ 619.32 through 619.36. The Secretary awards the average score (up to 60 points) received by the project under those sets of specific criteria.

(d) The Secretary may award up to 25 additional points to each application that meets one or more priority categories established under § 619.11. Subject to the 25-point limit, the Secretary may award a higher number of points to an application that addresses more than one priority category, and may award a lower number of points to an application that addresses both a priority and a nonpriority category. The Secretary announces the number of additional points for each priority category and type of application in a notice published in the **Federal Register**.

(e) The Secretary ranks all eligible applications in accordance with the total number of points each application receives in accordance with this section. Before making grants, the Secretary obtains the advice and recommendations of a panel of specialists who are competent in evaluating program applications. The Secretary may, based on the advice and recommendations of the panel, deviate from the initial rank order. Regular, full-time employees of the Federal Government may not be appointed as panel members.

(Authority: 20 U.S.C. 1132c)

§ 619.31 What selection criteria are used to evaluate existing academic facilities and financial need?

The Secretary evaluates each application for a grant under this program on the basis of the following criteria:

(a) *Use of existing academic facilities.* (Total: 10 points)

(1) The Secretary assesses the extent to which the applicant makes use of its existing academic facilities by considering the amount of assignable square feet in those facilities per FTE student.

(2) The Secretary assigns the highest scores to applicants with the smallest amount of square feet per FTE student.

(b) *Capacity/enrollment ratio.* (Total: 10 points)

(1) The Secretary further assesses the applicant's use of its existing academic facilities as reflected by the institution's capacity/enrollment ratio.

(2) The Secretary assigns the highest scores to applicants with the lowest capacity/enrollment ratio.

(c) *Financial Need.* (Total: 20 points)

(1) The Secretary considers the basic education and general annual expenditures per FTE student, based on data reported in the annual National Center for Education Statistics Survey, "Financial Statistics of Institutions of Higher Education," for the most recent year for which data are available.

(2) The Secretary assigns the highest scores to applicants with the lowest expenditure per FTE student.

(Authority: 20 U.S.C. 1132c)

(Approved by the Office of Management and Budget under control number 1840–0580)

§ 619.32 What selection criteria are used to evaluate energy conservation projects?

For projects based on energy conservation, the Secretary applies the following criteria:

(a) *Life cycle energy analysis.* (Total: 6 points)

(1) The Secretary considers whether the proposed project is based on a least-cost life cycle energy analysis that reflects the life cycle cost of the project over a twenty-year period.

(2) The Secretary awards six points for the criterion.

(b) *Integrated system design.* (Total: 6 points)

(1) The Secretary considers whether the proposed project exhibits an integrated system design, including a mix of energy sources and/or cogeneration systems, and/or other integrated system designs.

(2) The Secretary awards six points for this criterion.

(c) *Use of coal, solar energy, and renewable resources.* (Total: 8 points)

(1) The Secretary considers whether the proposed project promotes the use of coal, solar energy, or renewable resources.

(2) The Secretary awards eight points for this criterion.

(d) *Energy savings internal rate of return to the project.* (Total: 20 points)

(1) The Secretary considers the extent to which the proposed project is likely to provide a significant return in energy cost savings on the investment represented by the cost of the project.

(2) The internal rate of return is calculated on the basis of projected energy cost savings and the total cost of the project, except for interior finishing and furnishing expenses (i.e. seating, blackboards, laboratory fixtures, etc.).

(3) Projected energy cost savings for renovation projects of existing buildings are the difference between—

(i) The average routine energy costs over the last three years, adjusted to current prices; and

(ii) Projected annual energy cost resulting from completion of the project.

(4) Projected energy cost savings for new construction are the difference between—

(i) The projected annual energy costs of a conventionally-designed building of the same kind as the one proposed (as calculated by an architectural engineering firm or consulting services firm); and

(ii) Projected annual energy costs resulting from the completion of a least-cost energy design project.

(5) The Secretary assigns the highest scores to applicants demonstrating the highest projected internal rates of return in energy cost savings.

(e) *Energy savings internal rate of return to the Federal investment share.* (Total: 20 points)

(1) The Secretary considers the extent to which the Federal investment in the proposed project is likely to provide a significant return in energy savings.

(2) The internal rate of return is calculated on the basis of the projected energy cost savings as determined under paragraph (d) of this section and the total Federal investment in the project.

(3) The Secretary assigns the highest scores to applicants demonstrating the highest projected internal rates of return in energy cost savings.

(Authority: 20 U.S.C. 1132c)

(Approved by the Office of Management and Budget under control number 1840–0580)

§ 619.33 What selection criteria are used to evaluate the removal of architectural barriers, and environmental protection or health and safety standards mandated by law?

(a) For projects to remove architectural barriers to meet accessibility requirements which were not in effect at the time the facilities

were constructed, the Secretary applies the following criteria:

(1) *Amount of assignable square feet of academic facilities to be made accessible by the project.* (Total: 30 points)

(i) The Secretary considers the amount of assignable square feet of academic facilities per FTE student to be made accessible to the handicapped by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest amount of square feet to be made accessible per FTE student.

(2) *Percentage of assignable square feet of academic facilities to be made accessible by the project.* (Total: 30 points)

(i) The Secretary considers the percentage of assignable square feet of academic facilities to be made accessible to the handicapped by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest percentage of square feet to be made accessible by the project.

(b) For reconstruction or renovation projects to meet environmental protection or health and safety standards mandated by Federal, State, or local law, if those requirements were not in effect at the time the facilities were constructed, the Secretary applies the following criteria:

(1) *Cost per FTE student.* (Total: 30 points)

(i) The Secretary considers the cost per FTE student of the applicant's compliance with the law.

(ii) The Secretary assigns the highest scores to applicants with the highest cost per FTE student.

(2) *Impact of the project.* (Total: 20 points)

(i) The Secretary considers the number of FTE students affected by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest number of FTE students affected by the project.

(3) *Relative impact of the project.* (Total: 10 points)

(i) The Secretary considers both the number of FTE students affected by the project and the FTE enrollment of the institution.

(ii) The Secretary measures the relative impact of the project by dividing the number of FTE students affected by the project by the total number of FTE students enrolled, and assigns the highest scores to applicants with the highest relative impact.

(Authority: 20 U.S.C. 1132c(b); 1132a(2) (A) and (B)

(Approved by the Office of Management and Budget under control number 1840–0580)

§ 619.34 What selection criteria are used to evaluate the detection, removal, or containment of asbestos hazards?

For projects to detect, remove, or contain asbestos hazards, the Secretary applies the following criteria:

(a) *Amount of gross square feet of academic or other facilities with known or suspected asbestos hazards used by students.* (Total: 30 points)

(1) The Secretary considers the amount of gross square feet of academic or other facilities with known or suspected asbestos hazards per FTE student.

(2) The Secretary assigns the highest scores to applicants with the largest amount of square feet with known or suspected asbestos hazards per FTE student.

(b) *Estimated cost of detecting, removing, or containing asbestos hazards.* (Total: 30 points)

(1) The Secretary considers the estimated cost per FTE student of one or more of the following: detecting, removing, or containing asbestos hazards.

(2) The Secretary assigns the highest scores to applicants with the highest cost per FTE student.

(Authority: 20 U.S.C. 1132c(b); 1132(a)(5))

(Approved by the Office of Management and Budget under control number 1840–0580)

§ 619.35 What selection criteria are used to evaluate unusual increases in enrollment?

For projects based on unusual increases in enrollment, the Secretary applies the following criteria:

(a) *Increase in enrollment.* (Total: 30 points)

(1) The Secretary considers the extent of the actual numerical and percentage increases in FTE student enrollment at the institution or branch campus where construction would occur.

(2) The Secretary considers the increases over a three-year period starting with the fall semester that began three years preceding the most recent fall semester.

(3) The Secretary awards up to 15 points for the actual numerical increase and up to 15 points for the percentage increase, and assigns the highest scores to applicants with the largest increases in FTE student enrollment.

(b) *Increase in capacity.* (Total: 30 points)

(1) The Secretary considers the amount and percentage by which the project increases the assignable square feet of academic facilities at an institution.

(2) The Secretary awards up to 15 points for the actual numerical increase and up to 15 points for the percentage increase, and assigns the highest scores to applicants with the largest increases of assignable square feet of academic facilities per FTE student.

(Authority: 20 U.S.C. 1132c)

(Approved by the Office of Management and Budget under control number 1840–0580)

§ 619.36 What selection criteria are used to evaluate research facilities, including libraries, and the acquisition of special research equipment?

For projects based on research facilities, including libraries, and the acquisition of special research equipment, the Secretary applies the following criteria:

(a) *Institutional commitment to research programs.* (Total: 10 points)

(1) The Secretary considers the applicant's expenditures for research programs as a percentage of the applicant's average annual educational and general expenditures for graduate programs, as reported in the annual National Center for Education Statistics Survey, "Financial Statistics of Institutions of Higher Education," for the three most recent years for which data are available.

(2) The Secretary assigns the highest scores to applicants with the largest percentage of expenditures for research programs.

(b) *Age of special research equipment.* (Total: 10 points)

(1) The Secretary considers the percentage of the applicant's special research equipment which is more than five years old as of the opening of the fall semester preceding the application closing date.

(2) The Secretary assigns the highest scores to applicants with the largest percentage of special research equipment which is more than five years old.

(c) *Quality of existing research programs.* (Total: 10 points)

(1) The Secretary considers the quality of the applicant's existing research programs, in particular the adequacy of the existing research facilities and special research equipment, and the relevance of the proposed project to current research programs.

(2) A panel of specialists evaluates the quality of existing programs.

(d) *Increase in research capacity.* (Total: 10 points)

(1) The Secretary considers the extent to which the proposed project will increase the applicant's capacity for

research or improve its existing research capacity.

(2) A panel of specialists evaluates the increase in research capacity.

(e) *Funding priorities.* (Total: 10 points)

(1) The Secretary considers the extent to which the proposed project improves the applicant's capacity for research in those academic disciplines, such as physical sciences and mathematics, engineering and environmental sciences, biological sciences, social sciences and education, and arts and humanities, which the Secretary, through a notice published in the **Federal Register**, establishes as priorities for the program in any given fiscal year.

(2) A panel of specialists evaluates the extent to which the project meets the Secretary's funding priorities.

(f) *Impact of project.* (Total: 5 points)

(1) The Secretary considers the extent to which the proposed project is likely to increase the capacity of the applicant to supply highly qualified personnel critically needed by the community, industry, and government for research and teaching.

(2) A panel of specialists evaluates the potential impact of the project.

(g) *Scope of project.* (Total: 5 points)

(1) The Secretary considers the extent to which the proposed project is likely to contribute significantly to the distribution of research programs of high quality throughout the United States.

(2) A panel of specialists evaluates the scope of the project.

(Authority: 20 U.S.C. 1132(b), 1132c, 1132a(3))

(Approved by the Office of Management and Budget under control number 1840–0580)

Subpart E—How Does the Secretary Determine the Amount of the Grant Award?

§ 619.40 What are the general rules for determining eligible development costs?

The Secretary determines eligible development costs by assessing the reasonableness and appropriateness of expenses that would be incurred by the project taking into account—

(a) The timing of when certain expenses would be incurred by the applicant; and

(b) The applicant's compliance with the regulations in this part.

(Authority: 20 U.S.C. 1132a, 1132c, 1132e–1)

§ 619.41 What are the specific rules for determining eligible development costs?

(a) An applicant selected to receive a grant under this program shall obtain from the Secretary a determination of eligible development costs before it may award any contract for construction or purchase any equipment that may later be financed with assistance under this program.

(b) The Secretary approves costs only after the Secretary or the appropriate official of another Federal agency has approved Federal assistance for the construction.

(c) The Secretary excludes the following from eligible development costs:

(1) Any costs for land incurred before the applicant files the application.

(2) Any cost for the acquisition of a structure incurred before the applicant files the application.

(3) Any costs for equipment, including special research equipment, incurred before the date the applicant files the application.

(4) Any cost for construction or built-in equipment if the contract was entered into before the date the applicant files the application, or before the date the Secretary concurs in the award of the construction or built-in equipment contract.

(5) Any cost for ineligible facilities included in the total development costs.

(Authority: 20 U.S.C. 1132–1(3))

Subpart F—What Conditions Apply to Awards under this Program?

§ 619.50 What are the funding levels?

(a) An award of a construction grant under this program may not exceed 50 percent of the total eligible development costs.

(b) The Secretary does not award a construction grant for less than $25,000.

(c) The Secretary awards to institutions of higher education in any one State not more than 12.5 percent of the total funds available for grants under this program in any fiscal year.

(Authority: 20 U.S.C. 1132c)

§ 619.51 What are the financial considerations for approval or selection?

(a) The Secretary does not approve or select applications from institutions that are in default on a construction loan previously made under Part C of Title VII of the Act or Title IV of the Housing Act of 1950, whether or not the Secretary has agreed to any deferment, or in default of any other obligation made under any other Federal program.

(b) The Secretary does not approve or select applications from institutions that are financially insolvent.

(Authority: 20 U.S.C. 1132c)

§ 619.52 Must the grant award instrument be recorded?

A grantee under this program shall record its grant award instrument in the appropriate land registry records.

(Authority: 20 U.S.C. 1132c)

§ 619.53 What are the conditions for the recovery of payments?

The recipient or its successor shall pay to the Secretary an amount which bears to the value of the facility at that time the same ratio as the amount of the grant bore to the original cost of the facility, if, within twenty years after completion of construction of an academic facility under this program, a grant recipient or its successor in title or possession ceases to be a public or nonprofit institution, or the facility ceases to be used as an eligible academic facility, unless the Secretary determines that there is good cause for releasing the recipient or its successor from its obligation.

(Authority: 20 U.S.C. 1132e)

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Reader Aids

Federal Register

Vol. 51, No. 158

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
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Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

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Laws 523-5230

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Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7
28509-28686	8
28687-28798	11
28799-28920	12
28921-29084	13
29085-29200	14
29201-29442	15

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	28509

3 CFR

Proclamations:

5514	27515
5515	28218
5516	29200

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219

5 CFR

532	28799
890	28799
1201	28321

Proposed Rules:

870	28576
871	28576
872	28576
873	28576
890	28576

7 CFR

2	29201
26	28800
29	28687
51	27813, 28802
272	28196
273	28196
400	29202
402	29204
403	29204, 29205
405	29205
409	29204, 29205
410	29204
411	29204, 29205
413	29204, 29205
414	29204
415	29204, 29205
416	29204, 29205
417	29204, 29205
418	29204-29207
419	29204-29207
420	29204-29207
421	29204-29207
422	29204, 29205
423	29204, 29205
424	29204-29207
425	29204, 29205
426	29204
427	29204-29207
428	29204, 29205
429	29204, 29205
430	29204, 29205
431	29204, 29205
432	29204-29207
433	29204, 29205
435	29204, 29205
436	29204, 29205
437	29204, 29205
438	29204, 29205
439	29204, 29205
440	29204
441	29204
442	29204
443	29204
444	29204
445	29204
446	29204, 29205
447	29204, 29205
448	29204-29207
449	29204
450	29204, 29205
451	29204, 29205
652	29208
770	28921
906	27816, 28509, 29208
910	28059
911	27517
918	27518
923	29209
932	28922
991	28802
1064	28687
1102	28687
1106	28687
1108	28687
1126	28687
1138	28687
1240	29210
1427	28321
1475	28803
1930	27636
1944	27636
1951	27636
1965	27636

Proposed Rules:

52	28719
235	29236
250	29236
252	29236
255	29236
330	29401
340	29401
441	29246
447	27862
656	29251
985	29109
987	29251
1007	29252
1011	29252
1046	29252
1065	27553, 28721, 28819
1068	28819
1079	27554, 28819
1093	29252
1094	29252
1096	29252
1098	29252
1136	27866
1137	27554
1139	27555

1709.....28722

8 CFR

238.....28060, 28923, 29085

Proposed Rules:

214.....27867, 28576

248.....27867

9 CFR

92.....28805, 29210

Proposed Rules:

92.....27871

10 CFR

Ch. I.....29211

50.....27817, 28044

73.....27817, 27822

110.....27825

Proposed Rules:

50.....27872

11 CFR

Proposed Rules:

100.....28154

106.....28154

9001.....28154

9002.....28154

9003.....28154

9004.....28154

9005.....28154

9006.....28154

9007.....28154

9012.....28154

9031.....28154

9032.....28154

9033.....28154

9034.....28154

9035.....28154

9036.....28154

9037.....28154

9038.....28154

9039.....28154

12 CFR

1.....29085

17.....29089

207.....27518

220.....27518

221.....27518

224.....27518

303.....27826

501.....28221

522.....28221, 28690

523.....28221

741.....27522

Proposed Rules:

205.....28589

226.....28245, 29256

13 CFR

310.....27828

14 CFR

21.....28509–28525

23.....28509–28525

25.....28322

39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213

71.....27833–27835, 28067, 28325, 28326, 28528, 28923

75.....28809

97.....28326

121.....28322

1204.....27528

1209.....28924

Proposed Rules:

Ch. I.....28386, 28725

1.....28095

36.....27556

39.....27557, 27874, 28386, 28832, 29110, 29256–29259

71.....28388–28390, 28956, 28957, 29261–29263

73.....28095

75.....28096, 28957

15 CFR

20.....28925

370.....28692

371.....28692

373.....28692

374.....28692

379.....28692

399.....28692, 28693

16 CFR

13.....28694, 28695

423.....28222

444.....28328

1500.....28529, 29094

Proposed Rules:

13.....28594, 29265

17 CFR

1.....27529

5.....27529

16.....27529

33.....27529

Proposed Rules:

231.....28596

240.....28096

241.....28596

18 CFR

37.....27835

154.....27529, 28331

157.....27529, 28331

270.....27529, 28331

271.....27529, 28068, 28331

284.....27529. 28331

410.....28810

Proposed Rules:

271.....28102

19 CFR

6.....27836

101.....28070

Proposed Rules:

113.....27875

141.....28390

353.....29046

20 CFR

404.....28544

416.....28544

Proposed Rules:

404.....28834

410.....28834

416.....28834

655.....28599

21 CFR

74.....28331, 28346, 28929

81.....28331, 28346, 28363

82.....28331, 28346

176.....28545

178.....28930

193.....28223

211.....28810

310.....28810

314.....28810

331.....27762

332.....27762

344.....28556

357.....27756

369.....27756

436.....27531

440.....27531

442.....27531

510.....28546

520.....28546, 29215

522.....28546, 28932

546.....28546

556.....28932, 29097

558.....28546, 28547, 29097

561.....28223

1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364

35.....27774

200.....28696

203.....28548

204.....28548

207.....27837, 28547, 28699

221.....27837, 28547

251.....28699

255.....28699

300.....27838

390.....28551

511.....28703

888.....28486

905.....27774

965.....27774

968.....27774

Proposed Rules:

35.....27793

203.....28247

510.....27793

511.....27793

570.....27793

590.....27793

26 CFR

1.....28553

20.....28365

25.....28365

602.....28365

27 CFR

19.....28071

250.....28071

270.....28078

275.....28078

290.....28078

295.....28078

296.....28078

Proposed Rules:

4.....28836

5.....28836

7.....28836

270.....28106

275.....28106

290.....28106

295.....28106

296.....28106

29 CFR

1601.....29098

1952.....27534

1960.....28378

2603.....28379

2676.....29215

Proposed Rules:

602.....28840

30 CFR

901.....29098

914.....29100

931.....28553

943.....28554

Proposed Rules:

774.....27558

910.....27559

912.....27559

915.....28729

920.....28600, 28601

921.....27559

922.....27559

933.....27559

935.....29112

937.....27559

939.....27559

941.....27559

947.....27559

950.....27560

31 CFR

16.....28810

315.....28933

332.....28933

352.....28933

353.....28933

545.....28933

550.....28933

Proposed Rules:

10.....29113

32 CFR

90.....28092

706.....27535, 27536, 28933–28941

Proposed Rules:

553.....29115

33 CFR

100.....28706

117.....28380, 28707, 29101

140.....28381

142.....28381

161.....27839

165.....28382, 28383

Proposed Rules:

117.....27877

334.....28248

34 CFR

617.....29434

619.....29434

624.....29196

668.....29396

674.....28312

796.....29190

36 CFR

34.....29101

Proposed Rules:

7.....28107–28110

60.....28204

63.....

37 CFR

1.....

2.....

306.....

39 CFR

10.....

Proposed

10.....

40 CFR

33.....

52.....

60.....

61.....

65.....

81.....

180.....

260.....

261.....

262.....

263.....

264.....

265.....

270.....

271.....

761.....

Proposed

52.....

65.....

81.....

85.....

135.....

141.....

180.....

271.....

716.....

721.....

763.....

795.....

799.....

41 CFR

101–26.....

101–40.....

42 CFR

405.....

417.....

482.....

43 CFR

11.....

Public Land

6620.....

6622.....

Proposed

4.....

44 CFR

11.....

64.....

Proposed

81.....

45 CFR

232.....

233.....

1612.....

1630.....

2002.....

VOL 51 ISS 158 AG 15 1986 UMI

63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

39 CFR

10.....28383

Proposed Rules:

10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813
60.....29104
61.....27956
65.....28224, 29216
81.....27843–27845
180.....28225–28227
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556

Proposed Rules:

52.....27560, 27878, 29116
65.....28113
81.....29268
85.....28114
135.....29426
141.....28730
180.....28249, 28603, 28959
271.....28604
716.....27562
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–26.....29104
101–40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847

43 CFR

11.....27674

Public Land Orders:

6620.....28229
6622.....28229

Proposed Rules:

4.....28846

44 CFR

11.....29222
64.....28230, 28232

Proposed Rules:

81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384

Proposed Rules:

74.....28960

46 CFR

Proposed Rules:

31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105
87.....29106
97.....28237

Proposed Rules:

0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:

501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233
571.....28238

Proposed Rules:

Ch. X.....28847

171.....28962
172.....28962
173.....28605, 28962
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241
604.....28575
630.....28575
641.....28094
655.....28241
661.....27859, 28717, 28954, 29234
671.....28242
672.....28385
674.....27860, 28243, 29107

Proposed Rules:

17.....29362
20.....29274
216.....28320, 28963
611.....28731, 29131
630.....29132
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 13, 1986

VOL
51
ISS
1
5
8
AG
15
1986
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VOL
51
ISS
158
AG
15
1986
UMI

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VOL
51
ISS
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5
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VOL
51
ISS
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AG
18
1986
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8-18-86
Vol. 51 No. 159

federal register

Monday
August 18, 1986

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VOL
51
ISS
159
AG
18
1986
UMI

8-18-
Vol. 5
Page

8-18-86
Vol. 51 No. 159
Pages 29443-29544

federal register

Monday
August 18, 1986

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VOL
51
ISS
159
AG
18
1986
UMI

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WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202–523–3419

Contents

Federal Register

Vol. 51, No. 159

Monday, August 18, 1986

Argicultural Marketing Service
RULES
Grapes (Tokay), imported, and grown in California, 29447
PROPOSED RULES
Kiwifruit grown in California, 29473

Agriculture Department
See also Agricultural Marketing Service; Farmers Home Administration; Food Safety and Inspection Service; Packers and Stockyards Administration
NOTICES
Meetings:
Agribusiness Promotion Council, 29509

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
San Lucas, CA, 29478

Army Department
NOTICES
Patent licenses, exclusive:
Figgie International Inc., 29514

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Pennsylvania, 29509

Coast Guard
RULES
Ports and waterways safety:
Brewerton Channel Eastern Extension, MD; safety zone, 29468

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 29509

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China; correction, 29513
Thailand, 29511, 29512
(2 documents)
Turkey, 29513

Consumer Product Safety Commission
NOTICES
Meetings:
Cigarette and Little Cigar Fire Safety Interagency Committee, 29514

Defense Communications Agency
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29514

Defense Department
See also Army Department; Defense Communications Agency; Navy Department
RULES
Veterans:
Educational assistance test program
Correction, 29470

Energy Department
NOTICES
Meetings:
National Petroleum Council, 29515, 29516
(2 documents)

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
Domestic sewage study; meetings, 29499
Toxic substances:
Health and safety data reporting—
Submission of lists and copies of studies; addition to list of chemicals; correction, 29499
NOTICES
Agency information collection activities under OMB review, 29516

Equal Employment Opportunity Commission
PROPOSED RULES
Federal equal employment opportunity:
Complaints of discrimination, 29482

Farm Credit Administration
RULES
Farm credit system:
Disclosure to shareholders, 29459
Practice and procedure rules and practice before the FCA, 29460

Federal Aviation Administration
RULES
Transition areas; correction, 29460
PROPOSED RULES
Air traffic operating and flight rules:
Special Federal Aviation Regulation No. 42; noise restricted aircraft; special flight authorization, 29476
Airport radar service areas, 29534
Airworthiness directives:
DeHavilland, 29474
Lockheed-California, 29475
NOTICES
Meetings:
Air Traffic Procedures Advisory Committee, 29530

Farmers Home Administration
RULES
Program regulations:
Appeal procedure, 29449

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 29531
(2 documents)

VOL 51 ISS 159 AG 18 1986 UMI

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
Virginia; correction, 29500

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
Annuity accounts, insurance, 29458

Federal Home Loan Mortgage Corporation
NOTICES
Meetings; Sunshine Act, 29531

Federal Maritime Commission
NOTICES
Agreements filed, etc., 29517

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 29531

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
AmSouth Bancorporation et al., 29517
Security Pacific Corp., 29517

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Ivermectin injection
Correction, 29462
Salinomycin, roxarsone, and bacitracin zinc, 29463
Food additives:
Adjuvants, production aids, and sanitizers—
Tris(triethylene glycol)phosate as stabilizer, 29460
NOTICES
Advisory committee reports, annual; availability, 29519
Food for human consumption:
Fenthion residues in ground red pepper; action levels revoked, 29519
Medical devices; premarket approval:
CustomEyes-70 L (Lidofilcon A) and CustomEyes 79 L (Lidofilcon B) Tinted Hydrophilic Contact Lenses; correction, 29520
MiraSoak Rinsing, Disinfecting & Storage Solution, 29520
Meetings:
Advisory committees, panels, etc., 29518

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Binder consisting of sodium alginate, calcium carbonate, lactic acid, and calcium lactate, 29456

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration

Health Care Financing Administration
NOTICES
Medicare:
Home health agency costs per visit; schedule of limits; correction, 29521

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements:
Health careers opportunity program, 29521

Housing and Urban Development Department
RULES
Low income housing:
Shared housing
Correction, 29463

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service

International Trade Administration
NOTICES
Export privileges, actions affecting:
Betriebs und Finanzierungs und Beratungs GmbH et al., 29509

Justice Department
RULES
Organization, functions, and authority delegations:
Justice Assistance Act of 1984; organizational changes; correction, 29464
NOTICES
Pollution control; consent judgments:
Florida Health and Rehabilitative Services Department, 29525

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Alaska, 29523
Wyoming, 29523, 29524
(3 documents)

Minerals Management Service
NOTICES
Meetings:
Royalty Management Advisory Committee, 29524

National Archives and Records Administration
NOTICES
Meetings:
Preservation Advisory Committee, 29525

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico reef fish; correction, 29471
Ocean salmon off coasts of Washington, Oregon, and California, 29471
PROPOSED RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, and Pacific Coast groundfish, 29508
NOTICES
Environmental statements; availability, etc.:
Atlantic salmon fishery management plan, 29511
Permits:
Marine mammals; correction, 29511

National Park Service
RULES
Permit requirements; penalty provisions, 29469

PROPOSED RULES
Special regulations:
Jean Lafitte National Historical Park, LA; crawfishing, 29498
NOTICES
Insignias:
Illinois and Michigan Canal National Heritage Corridor, 29524
Meetings:
San Antonio Missions Advisory Commission, 29525

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
Side Loadable Warping Tug (SLWT 1), 29468
USS Conyngham et al., 29464
USS Flint, 29467
USS Manitowoc and USS Saginaw, 29465
USS Peoria, 29465
USS San Bernardino, 29466
USS Sellers, 29467
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29515

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Connecticut Yankee Atomic Power Co., 29527
Mississippi Power & Light Co. et al., 29527
Meetings:
Reactor Safeguards Advisory Committee, 29528
Applications, hearings, determinations, etc.:
Arkansas Power & Light Co., 29525
Connecticut Yankee Atomic Power Co.; correction, 29526

Packers and Stockyards Administration
RULES
Clear title-protection for purchasers of farm products (central filing system), 29449

Pension Benefit Guaranty Corporation
PROPOSED RULES
Freedom of Information Act; implementation, 29497

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 29528

Presidential Documents
ADMINISTRATIVE ORDERS
Copyright, patent, and trademark rights, Republic of Korea; U.S. trade determination (Memorandum of August 14, 1986), 29445
Insurance market, Republic of Korea; U.S. trade determination (Memorandum of August 14, 1986), 29443

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Aircraft and motor transportation; International Civil Aviation Organization technical instructions; implementation, 29503
Pipeline safety:
Natural gas transportation, etc.—
Maximum allowable operating pressure near occupied buildings, etc.; confirmation or revision, 29504

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
FSA Capital, Inc., 29528

Transportation Department
See also Coast Guard; Federal Aviation Administration; Research and Special Programs Administration
RULES
Organization, functions, and authority delegations:
Maritime Administrator, 29471

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities under OMB review, 29530

Veterans Administration
RULES
Vocational rehabilitation and education:
Educational assistance test program
Correction, 29470

Separate Parts in This Issue

Part II
Department of Transporations, Federal Aviation Administration, 29534

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL
51
ISS
159
AG
18
1986
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
August 14, 1986
(2 documents)..... 29443, 29445

7 CFR
926..... 29447
944..... 29447
1900..... 29449
Proposed Rules:
920..... 29473

9 CFR
205..... 29449
317..... 29456
318..... 29456

12 CFR
570..... 29458
620..... 29459
621..... 29459
622..... 29460
623..... 29460

14 CFR
71..... 29460
Proposed Rules:
39 (2 documents)..... 29474, 29475
71..... 29534
91..... 29476

21 CFR
178..... 29460
522..... 29462
556..... 29462
558..... 29463

24 CFR
812..... 29463
882..... 29463

27 CFR
Proposed Rules:
9..... 29478

28 CFR
0..... 29464

29 CFR
Proposed Rules:
1613..... 29482
2603..... 29497

32 CFR
706 (7 documents)..... 29464–29468

33 CFR
165..... 29468

36 CFR
1..... 29469
3..... 29469
Proposed Rules:
7..... 29498

38 CFR
21..... 29470

40 CFR
Proposed Rules:
Ch. I..... 29499
716..... 29499

44 CFR
Proposed Rules:
67..... 29500

45 CFR
Proposed Rules:
1180..... 29500

49 CFR
1..... 29471
Proposed Rules:
171..... 29503
175..... 29503
192..... 29504

50 CFR
641..... 29471
661..... 29471
Proposed Rules:
661..... 29506
663..... 29506

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

Presidential Documents

Title 3—

The President

Memorandum of August 14, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

To our mutual benefit, the Governments of the United States and the Republic of Korea (Korea) have reached an agreement resolving the investigation initiated under Section 302(c) of the Trade Act of 1974, as amended (19 U.S.C. 2412(c)), of Korea's prior prohibitions and restrictions on access to its insurance market. This agreement represents the constructive benefits of cooperation between our Governments. Therefore, pursuant to Section 301 of the Trade Act, I have determined to accept the agreement described below as an appropriate and feasible action to resolve this investigation and therefore to terminate the investigation. I direct the United States Trade Representative (USTR) to notify the Government of Korea of my approval of the agreement and to take any actions necessary to implement and monitor it.

Reasons for Determination

On September 16, 1985, in response to my request, the USTR initiated an investigation pursuant to Section 302(c) of the Trade Act of 1974 into the Korean Government's policy of prohibiting or restricting the activities in Korea of foreign insurance firms. These restrictions prevented U.S. firms from participating fully in Korea's compulsory fire insurance, life insurance, and reinsurance markets. Pursuant to Section 301 of the Trade Act of 1974, I have determined that these restrictions were unjustifiable, unreasonable, or discriminatory and a burden or restriction on U.S. commerce.

Representatives of the Governments of Korea and the United States held a series of consultations from November 1985 through May 1986 concerning access to the Korean insurance market. As a result of these consultations, we reached an agreement regarding actions that Korea will take to improve our firms' access to its insurance market. Korea has agreed to license qualified U.S. insurance firms to underwrite both life and non-life insurance in Korea. Furthermore, Korean insurance authorities will review all applications in a timely manner and provide written notice of their decisions on the qualifications of U.S. firms. A consultative mechanism will ensure discussion of matters relating to implementation of this agreement and other issues related to the Korean insurance market. This agreement accomplishes our goal of obtaining increased access for U.S. firms to Korea's insurance market.

This determination shall be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, August 14, 1986.

[FR Doc. 86-18689
Filed 8-14-86; 4:46 pm]
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VOL
51
ISS
159
AG
18
1986
UMI

Presidential Documents

Memorandum of August 14, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

To our mutual benefit, the Governments of the United States and the Republic of Korea (Korea) have reached an agreement resolving the investigation initiated under Section 302(c) of the Trade Act of 1974, as amended (19 U.S.C. 2412(c)), of Korea's previously ineffective protection of intellectual property rights. The sustained, cooperative efforts of both our Governments and the successful outcome of these efforts demonstrate how we can work together constructively to achieve a more open world trading system. Therefore, pursuant to Section 301 of the Trade Act, I have determined to accept the agreement described below as an appropriate and feasible action to resolve this investigation and therefore to terminate the investigation. I direct the United States Trade Representative (USTR) to notify the Government of Korea of my approval of the agreement and to take any actions necessary to implement and monitor it.

Reasons for Determination

On November 4, 1985, in response to my request, the USTR initiated an investigation into the adequacy of Korean laws governing the protection of intellectual property rights. Korean laws deny patent protection for pharmaceutical and agricultural chemical products and do not provide copyright protection for computer software and audio recordings. Under Korean trademark law, Korean firms have been permitted to register trademarks similar or even identical to foreign trademarks that are not "well known" in Korea. Moreover, there has been a lack of effective enforcement of existing laws pertaining to copyright protection for literary works. Pursuant to Section 301 of the Trade Act of 1974, as amended, I have determined that the prior policy of Korea of denying effective protection to intellectual property rights was unreasonable and a burden or restriction on U.S. commerce.

Representatives of the Governments of Korea and the United States intensively negotiated concerning amendments to existing Korean laws and improved enforcement by the Government of Korea of existing laws. As a result of these negotiations, we reached an agreement regarding actions the Korean Government will take to improve dramatically Korea's protection of copyright, patent, and trademark rights. Korea has agreed to take the following actions:

—introduce for enactment by July 1, 1987, comprehensive copyright laws explicitly covering computer software;

—accede to the Universal Copyright Convention and Geneva Phonograms Convention by October 1987;

—introduce amendments to its patent law to extend product patent protection for chemicals and pharmaceuticals and for new uses of these products;

—adhere to the Budapest Treaty and extend patent protection to new microorganisms; and

—remove requirements for technology inducement and exportation previously applied to trademarked goods and to remove restrictions on royalty terms in trademark licenses.

VOL
51
ISS
159
AG
18
1986
UMI

Korea and the United States have also agreed to establish a consultative mechanism to discuss matters relating to implementation of this agreement and other issues related to protection of intellectual property.

This agreement represents a major achievement in our efforts to obtyain effective intellectual property protection for American industries. Thus, this agreement will encourage freer trade with the Republic of Korea and remove trade distortions.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, August 14, 1986.

[FR Doc. 86-18690
Filed 8-14-86; 4:47 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 926 and 944

Tokay Grapes Grown in San Joaquin County, and Imported Tokay Grapes; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule and opportunity to file comments.

SUMMARY: This rule establishes quality requirements for the current season and for succeeding seasons as well, for fresh shipments of Tokay grapes grown in San Joaquin County, California, and Tokay grapes imported into the United States. Such grapes are required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, with an additional color requirement for the berries on the lower portion of the bunch. California Tokay grapes are also subject to container lot marketing requirements. These requirements are needed to assure the shipment and importation of ample supplies of acceptable quality Tokay grapes.

DATES: § 926.324 California Tokay Grape Regulation 23 becomes effective August 14, 1986, and § 944.605 Tokay Grape Regulation 5 becomes effective August 21, 1986. Comments which are received by September 17, 1986, will be considered prior to issuance of the final rule.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This interim final rule has been revised under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 14 handlers of California Tokay grapes under the marketing order for fresh Tokay grapes grown in San Joaquin County, California, will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. There are no importers of record of Tokay grapes. Regulations issued under this rulemaking have been in effect for several past seasons and have resulted in shipments into fresh markets of quality fruit, the creation of buyer confidence, and the promotion of consumer satisfaction with purphases of fresh Tokay grapes, with attendant benefits to handlers.

The handling requirements applicable to Tokay grapes grown in San Joaquin County, California (California Tokay grapes) are issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of fresh Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The California Tokay grape regulation is based upon the recommendations and information submitted by the Industry Committee, established under the order, and upon other available information.

The handling requirements applicable to imported Tokay grapes are issued under section 8e (7 U.S.C. 608e–1) of the act. Section 8e of the act requires that when certain domestically produced commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements. This rule would establish effective August 21 this season, and August 16, each following season, the same import requirements for imported Tokay grapes, as those being established for California Tokay grapes.

The interim final rule establishes for California and imported Tokay grapes the minimum grade and size requirements specified in the U.S. No. 1 Table grade of the U.S. Standards for Grades of Table Grapes (European or Vinifera type), except that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The rule also requires that each container of California Tokay grapes bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. The minimum grade and container marking requirements for grapes are necessary to prevent the shipment of immature, poor quality, and excessively small fruit in fresh commercial marketing outlets. Shipment of low quality fruit would tend to depress prices of all grapes since low quality fruit undermines consumer confidence in the quality of all fruit sold in the market and discourages repeat purchases. The specified grade requirements are consistent with the quality and size composition of the available crop and are designed to provide ample supplies of good quality fruit consistent with the declared policy of the act. California Tokay grapes not meeting these requirements may be sold in local markets within San Joaquin County, or in the processing outlet where a major portion of the crop is utilized.

Handling requirements contained in this interim final rule will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by

VOL 51 ISS 159 AG 18 1986 UMI

the Secretary, upon the recommendation and information submitted by the committee, or upon other information available to the Secretary. Heretofore, regulations issued under Marketing Order 926 were effective for a single marketing season. However, over the past several years the same handling requirements have been imposed each season without revision. Last year's requirements were published in the **Federal Register** at 50 FR 32554 (August 13, 1985). It is expected that the quality and handling requirements will continue unchanged from season to season. Therefore, it is believed unnecessary to issue regulations for only a single season. In addition, this change could result in a reduction in operational costs to the committee and the government.

Although the handling regulations will be effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Tokay grapes would tend to effectuate the declared policy of the act.

Pursuant to 5 U.S.C. 553, it is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication thereof in the **Federal Register** because: (1) Shipments of Tokay grapes grown in the production area will begin on or about August 13; (2) California Tokay grape handlers have been apprised of these requirements and no additional time is needed to prepare to meet such requirements; (3) the Tokay grape import requirements are mandatory under § 8e of the act; and (4) the import regulation imposes the same quality requirements as are being made applicable to shipments of Tokay grapes grown in San Joaquin County, California, under § 926.324.

List of Subjects in 7 CFR Parts 926 and 944

Marketing agreements and orders, Grapes, California, Fruits, Import regulations.

1. The authority citation for 7 CFR Parts 926 and 944 continues to read as follows:

Authority: Secs. 1.19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

2. New § 926.324 and is added to read as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.324 California Tokay Grape Regulation 23.

(a) During the period August 14 through November 15, 1986, and during the period August 12 through November 15 of each year thereafter, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade, and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* "U.S. No. 1 Table grade" and "characteristic color" shall mean the same as in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880 – 51.912).

PART 944—FRUITS: IMPORT REGULATIONS

3. New § 944.605 is added to read as follows:

§ 944.605 Tokay Grape Import Regulation 5.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944–Fruits: Import Regulations, during the period August 21 through November 15, 1986, and during the period August 16 through November 15 of each year thereafter, the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880–51.912), and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are atrtached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color.

(b) The Federal of Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, and quality of Tokay grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of Tokay grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal of Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) *Minimum quantity exemption.* Any person may import up to 250 pounds of grapes in any one shipment exempt from the requirements of this section.

(f) It is determined that imports of Tokay grapes, during the effective time of this regulation, are in most direct competition with Tokay grapes grown in the San Joaquin County of California, under 7 CFR Part 926, and that the grade, size and quality requirements specified in this section shall be the same as those established under § 926.324 for California Tokay grapes.

Dated: August 13, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18636 Filed 8–14–86; 12:08 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1900

Farmers Home Administration Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding appeal procedures. This action is being taken to provide appellants with clear instructions on how to request a review of an adverse decision made by FmHA. The intended effect is to clarify instructions and improve the timeliness of Agency reviews of appeals.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Senior Realty Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, South Agriculture Building, Room 5309, 14th and Independence Avenue SW., Washington, DC 20250, telephone: (202) 382–1452.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to exempt from those requirements as it involves only internal Agency management.

The programs affected by this final rule are listed in the Catalog of Federal Domestic Assistance under:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facilities Loans
10.427 Rural Rental Assistance Payments

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR, Subpart V, catalog numbers 10.405, 10.411, 10.414, 10.415, 10.418, 10.419, 10.421, 10422, 10.423 and 10.427 are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Catalog numbers 10.404, 10.406, 10.407, 10.410, 10.416 and 10.417 are excluded from Executive Order 12372 by virtue of the aforementioned CFR reference.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–90, an Environmental Impact Statement is not required.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rule making since they involve Agency procedure, and publication for comments is unnecessary.

Current FmHA regulations [7 CFR Part 1900, § 1900.57(i)] provide appellants with their rights to request a review of an adverse decision subsequent to an appeal hearing. These rights currently contain the name and full mailing address of the review officer. Later on in the review rights, appellants are requested to submit their request for a review through the office of the hearing officer. Unfortunately, the majority of requests for review are sent directly to the review officer. This practice causes delays in the timely review of appeals since the request for the review is sent to one location and the case file with related materials is located in another FmHA office. This is especially evident in reviews conducted in Washington, DC.

FmHA amends Subpart B of Part 1900 by clarifying where appellants should submit their requests for review of an adverse FmHA decision.

List of Subjects in 7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for Part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

2. Section 1900.57 is amended by redesignating paragraph (j) as paragraph (k), revising the statement at the end of paragraph (i), and adding a new paragraph (j) to read as follows:

§ 1900.57 The hearing.

* * * * *

(i) * * *

If you wish to have the above decision further reviewed, you may appeal in writing to [review officer/town (do not provide mailing address)] within 30 calendar days from the date of this letter explaining why you believe the decision is incorrect. Your request for a review should be submitted to the review officer at the following address: *

_____

_____

_____

[*Insert address of office where case file will be located after the decision letter is remitted.]

Since this review will be based upon the record, including papers filed, FmHA files, notes or transcripts of the appeal meeting, my decision, applicable statutes and regulations, and any *additional written* information you wish to submit, you should include any additional information you think is important, including any changes you believe should be made on the attached hearing notes.

(j) Upon receipt of a request for a review, the case file and all applicable information will be *immediately* remitted *directly* to the review officer.

* * * * *

Dated: August 4, 1986.

Vance L. Clark,

Administrator.

[FR Doc. 86–18552 Filed 8–15–86; 8:45 am]

BILLING CODE 3410–07–M

Packers and Stockyards Administration

9 CFR Part 205

Clear Title—Protection for Purchasers of Farm Products

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final regulations.

SUMMARY: This refers to the establishment of statewide central filing systems, for "effective financing statements," for "farm products," as defined in section 1324 of the Food Security Act of 1985 (hereinafter "the Statute").

VOL 51 ISS 159 AG 18 1986 UMI

Interim final regulations were previously published without the usual notice and opportunity for comment, because the Statute provided a 90-day time limit for them. These modifications to those regulations are issued pursuant to numerous requests, after publication of notice and opportunity for comment.

The principal modifications relate to the counties or parishes by which a master list must be arranged, the format and medium of distribution of portions of the master list to registrants, and the categories of farm products by which a master list must be organized.

EFFECTIVE DATE: September 17, 1986.

FOR FURTHER INFORMATION CONTACT:

James L. Smith, Deputy Administrator, Packers and Stockyards Administration, 3039A South Building, USDA, Washington, DC 20250, 202/447-7063.

John J. Casey, Packers and Stockyards Division, Office of the General Counsel, 2446 South Building, USDA, Washington, DC 20250-1400, 202/447-7357.

SUPPLEMENTARY INFORMATION: Section 1324 of the Food Security Act of 1985, Pub. L. 99-198, headed "Protection for Purchasers of Farm Products" (hereinafter "the Statute"), provides (subsections (e) and (g)) that certain persons may be made subject to a security interest in a farm product created by the seller under certain circumstances including the existence of a statewide "central filing system" as defined, for an "effective financing statement" (hereinafter EFS) as defined.

Subsection (c)(2) of the Statute requires such a system to obtain certification from the Secretary of Agriculture, and requires the Secretary to certify such a system if it complies with the requirements of the Statute.

Subsection (i) of the Statute requires the Secretary to prescribe regulations "to aid States in the implementation and management of a central filing system." The Packers and Stockyards Administration (P&SA) was delegated the Secretary's responsibilities under the Statute.

Interim final regulations were published on March 31, 1986, 51 FR 10795. The usual notice of proposed rulemaking and opportunity for comment were omitted only because the Statute provided a 90-day time limit for the regulations. However, as stated in the document issuing the interim regulations, requests to modify them were considered.

In response to numerous comments on and requests to modify the interim regulations, a notice of proposed amendments thereto was published on June 23, 51 FR 22814. That notice allowed 30 days for comments on the modifications proposed therein.

Section 205.1 (definitions): One person suggested that there be a definition of the term "buy" or "purchase" in accord with UCC § 1-201(9), to clarify that the Statute would not apply to transfers in bulk or sales in satisfaction of antecedent debts, and that subsequent lenders would not be considered "buyers." That UCC section contains a definition of the phrase "Buyer in ordinary course of business" and specifies: " 'Buying' may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt." Subsection (c)(1) of the Statute contains a definition of the same phrase, which is different and does not contain the UCC language. The legislative history does not show what if anything was intended by this difference, but the phrase must have been intended to have a different meaning since a different definition was written.

Section 205.102(b) (referring to how a corporate name shall appear in a system): One person observed that a punctuation mark at the beginning of a name can cause difficulties in locating the name alphabetically or phonetically. That section is modified accordingly.

Sections 205.103 (on the EFS) and 205.205 (on fees): One person suggested clarification as to whether one EFS can list multiple products and multiple counties and, if so, whether multiple fees could be collected for it. He observed that such an EFS would substantially increase the probability of errors in indexing. The Statute is silent about this, leaving it discretionary with the State. Section 205.103 is amended to clarify this. Section 205.205 already recites that fee structure is discretionary with the State.

Section 205.104 (minimum information necessary on a registration of a buyer, commission merchant, or selling agent): One person suggested that a registrant be required to indicate the form for distribution of portions of the master list. As shown in § 205.105(b), unless a registrant requests another form, the Statute requires recording on paper by any technology in a form which can be read by humans without special equipment.

Section 205.105(a) (referring to format of the master list and portion thereof distributed to a registrant): One person observed that arrangement by crop year is unnecessary and costly. Arrangement by crop year is required by the Statute at subsection (c)(2)(C)(ii)(IV).

Section 205.202(a) (which recites that the EFS *need not* be the same as a financing statement or security agreement under the UCC): One person suggested clarification as to whether the EFS *could* be the same as one of these UCC documents. The Statute does not prohibit this, but it may not be feasible as a practical matter.

With regard to fee structure, it was proposed that it must be a consideration in review for certification since it was intended to be fair as to different industry segments. On further consideration, it has been concluded that the Statute does not give the Secretary any authority with respect to fees. Accordingly, the above-mentioned proposed language will not be added to § 205.205.

One person requested clarification as to the length of time for which registration of a buyer, etc. is effective, and whether a registrant, wishing to change registration as to county or product, can amend an existing registration or must file a new one. This is discretionary with the State, since the Statute is silent about it. Section 205.208 is amended to clarify this.

One person objected to the provision in § 205.209(d) that a continuation of an EFS is subject to the same requirement as an amendment. He noted that, under the UCC, the requirements for continuation statements are different from those for amendments of financing statements. The Statute does not specify different requirements with respect to EFS's. Thus § 205.209(d) is changed only by addition to it of the statement of reasoning set forth in the proposed amendments published on June 23.

One person suggested further clarification of the requirements in subsection (c)(4)(D)(iv) and (E) of the Statute, that the EFS contain "a description of the farm products * * * including the amount * * * and a reasonable description of the property," and that it be amended "to reflect material changes." The Statute and the legislative history do not contain any basis for more clarification than already appears in §§ 205.103(a)(3), 205.104(a)(3), 205.105(a), 205.207, and 205.209(a).

One person complained that the Statute "has no provision for terminating or purging the system of outdated or non-existent EFS's." Subsection (c)(4)(G) provides for "lapse" of the EFS. There is nothing to prevent purging the system of lapsed EFS's.

One person requested clarification of the effect if a State has a central filing system which does not comply with the

Statute. If a State does not not comply with the Statute, it would be considered not to have such a system.

One person suggested that States be given an additional year to establish central filing systems before the "clear title" provision becomes effective. That could be done only by amendment of the Statute.

One person suggested that certification of a system be automatic if the Department cannot review an application and notify a State of noncompliance within 30 days. Automatic certification would be worthless. The Statute specifies requirements for a system and, if a system is not in compliance with the Statute, a court could so hold, and invalidate the protection of a secured person filing in the system, notwithstanding the Department certification. See § 205.214. The Department has committed itself to prompt review and action on applications for certification. Naturally, if numerous States make submissions at the same time, or if the material submitted is organized in such a manner as to require excessive time to review, action will not be as prompt. Sacrificing competent review for the sake of expediency is not necessarily in the interest of the operators or the users of the system.

There were no other written comments received on the proposed amendments.

In addition to the changes proposed, other minor changes, consistent with what was proposed, have been made.

Executive Order

Regulatory impact analyses are not required for these regulations because it has been determined that they are not "major" rules as defined by section 1(b) of E.O. 12291. They will not have an annual effect on the economy of $100 million or more, and they will not result in major increases in costs or prices for consumers, individual industries, government agencies or geographic regions. They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It has been determined that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980 (44 U.S.C. 250)

The information collection requirements have been approved by the Office of Management and Budget under control No. 1590–0004.

List of Subjects in 9 CFR Part 205

Agriculture, Central filing system, Definitions, Certifications, Interpretive Opinions.

Dated: August 12, 1986.

B.H. Jones,

Administrator, Packers and Stockyards Administration.

Title 9 CFR, Part 205 is revised to read as set forth below.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

Definitions

Sec.

205.1 Definitions.

Regulations

205.101 Certification—request and processing.
205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format.
205.103 EFS—minimum information.
205.104 Registration of buyer, commission merchant, or selling agent—minimum information.
205.105 Master list and portion thereof distributed to registrants—format.
205.106 Farm products.
205.107 Crop year.

Interpretive Opinions

205.201 System operator.
205.202 "Effective financing statement" or EFS.
205.203 Place of filing EFS.
205.204 Filing "notice" of EFS.
205.205 Fees.
205.206 Farm products.
205.207 "Amount" and "reasonable description of the property."
205.208 Distribution of portions of master list—registration—information to non-registrants on request.
205.209 Amendment or continuation of EFS.
205.210 Effect of EFS outside State in which filed.
205.211 Applicability of court decisions under the UCC.
205.212 "Buyer in ordinary course of business" and "security interest."
205.213 Obligations subject—"person indebted"—"debtor."
205.214 Litigation as to whether a system is operating in compliance with the Section.

Authority: Sec. 1324(i), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631; 7 CFR 2.17(e)(3), 2.56(a)(3), as amended June 17, 1986, 51 FR 22795.

Definitions

§ 205.1 Definitions.

Terms defined in section 1324 of the Food Security Act of 1985, Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631, shall mean the same in this Part as therein. In addition, except as otherwise specified, as used in this Part:

(a) "The Secretary" means the Secretary of Agriculture of the United States;

(b) "The Section" means section 1324 of the above-cited Act, and "subsection" means a subsection of that Section;

(c) "System" means "central filing system" as defined in subsection (c)(2);

(d) "EFS" means "effective financing statement" as defined in subsection (c)(4);

(e) "System operator" means Secretary of State or other person designated by a State to operate a system;

(f) "Registrant" means any buyer of farm products, commission merchant, or selling agent, as referred-to in the Section, registered with a system under subsection (c)(2)(D);

(g) "Master list" means the accumulation of data in paper, electronic, or other form, described in subsection (c)(2)(C);

(h) "Portion" means portion of the master list distributed to registrants under subsection (c)(2)(E);

(i) "UCC" or "Uniform Commercial Code" means the Uniform Commercial Code prepared under the joint sponsorship of the American Law Institute and the National Conference of Commissioners on Uniform State Laws, and in effect in most States of the United States at the time of enactment of Pub. L. 99–198.

Regulations

§ 205.101 Certification—request and processing.

(a) To obtain certification of a system, a written request for certification must be filed together with such documents as show that the system complies with the Section. If such material is voluminous, a summary, table of contents, and index must accompany it as necessary to facilitate review.

(b) The request must:

(1) Include an introductory explanation of how the system will operate;

(2) Identify the information which will be required to be supplied on an EFS;

(3) Identify where an EFS, amendment thereto, or continuation thereof, will be filed and, if elsewhere than with the system operator, explain how and in what form the system operator will

VOL 51 ISS 159 AG 18 1986 UMI

receive information needed to compile and update the master list;

(4) Explain the method for recording the date and hour of filing of an EFS, amendment thereto, or continuation thereof;

(5) Explain how the master list will be compiled, including the method and form of storage and arrangement of information, explain the method and form of retrieval of information from the master list, the method and form of distribution of portions of the master list to registrants as required by subsection (c)(2)(E), and the method and form of furnishing of information orally with written confirmation as required by subsection (c)(2)(F) (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(6) Explain how the list of registrants will be compiled, including identification of where and how they will register, what information they must supply in connection with registration, and the method and form of storage and retrieval of such information (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(7) Show how frequently portions of the master list will be distributed regularly to registrants;

(8) Show the farm products according to which the master list will be organized;

(9) Show how the system will interpret the term "crop year" and how it will classify as to crop year an EFS not showing crop year;

(10) Show what fee will be charged and explain how the costs of the system will be covered if not by such fee and the general revenue of the State; and

(11) Include copies of:

(i) All State legislation or other legal authority under which the system is created and operated, and the system operator is designated;

(ii) All regulations, rules and requirements issued under such legislation or other legal authority and governing operation of the system, designation of the system operator, and use of the system by members of the public; and

(iii) All printed forms required to be used in connection with the system.

(c) Any such request and attachments must be filed in triplicate (one copy for public inspection, a second copy for use in P&SA, and a third copy for use in the Office of the General Counsel, USDA). All three copies must be received in the headquarters of the Packers and Stockyards Administration, USDA, Washington, DC 20250.

(d) A refusal to certify such a system, if any, will be explained in writing. Reconsideration of such a refusal must be requested in writing with specification of errors believed to have been made.

§ 205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format.

On an EFS, and on a master list, the name of the person subjecting a farm product to a security interest must appear as follows:

(a) In the case of a natural person, the surname (last name or family name) must appear first;

(b) In the case of a corporation or other entity not a natural person, the name must appear beginning with the first word or character not an article or punctuation mark.

§ 205.103 EFS—minimum information.

(a) The minimum information necessary on an EFS is as follows:

(1) Crop year *unless* every crop of the farm product in question, for the duration of the EFS, is to be subject to the particular security interest;

(2) Farm product name (see §§ 205.106, 205.206);

(3) Each county or parish in the same State where the farm product is produced or to be produced;

(4) Name and address of each person subjecting the farm product to the security interest, whether or not a debtor (see § 205.102);

(5) Social security number or, if other than a natural person, IRS taxpayer identification number, of each such person;

(6) Further details of the farm product subject to the security interest *if needed* to distinguish it from other such product owned by the same person or persons but not subject to the particular security interest (see § 205.207); and

(7) Secured party name and address.

(b) A requirement of additional information on an EFS is discretionary with the State.

(c) Whether to permit one EFS to reflect multiple products, or products in multiple counties, is discretionary with the State.

§ 205.104 Registration of buyer, commission merchant, or selling agent—minimum information.

(a) The minimum information necessary on a registration of a buyer, commission merchant, or selling agent is as follows:

(1) Buyer, commission merchant, or selling agent name and address;

(2) Farm product or products (see §§ 205.106, 205.206) in which registrant is interested; and

(3) If registrant is interested only in such product or products produced in a certain county or parish, or certain counties or parishes, in the same State, the name of each such county or parish.

(b) A registrant, if not registered for any specified county or parish, or counties or parishes, must be deemed to have registered for all counties and parishes shown on the master list.

(c) A requirement of additional information on a registration form is discretionary with the State.

§ 205.105 Master list and portion thereof distributed to registrants—format.

(a) The master list must contain all the information on all the EFS's filed in the system, so arranged that it is possible to deliver to any registrant all such information relating to any product, produced in any county or parish (or all counties or parishes), for any crop year, covered by the system. The system must be able to deliver all such information to any registrant, either in alphabetical order by the word appearing first in the name of each person subjecting a product to a security interest (see § 205.102), in numerical order by social security number (or, if other than a natural person, IRS taxpayer identification number) of each such person, or in both alphabetical and numerical orders, as requested by the registrant.

(b) Subsection (c)(2)(E) requires the portion to be distributed in "written or printed form." This means recording on paper by any technology in a form which can be read by humans without special equipment. The system may, however, honor requests from registrants to substitute recording on any medium by any technology including, but not limited to, electronic recording on tapes or discs in machine-readable form, and photographic recording on microfiche.

(c) After distribution of a portion of a master list, there can be supplementary distribution of a portion showing only changes from the previous one. However, if this is done, cumulative supplements must be distributed often enough that readers can find all the information given to them for any one crop year in no more than three distributions.

§ 205.106 Farm products.

The farm products, according to which the master list must be organized as required by subsection (c)(2), and which must be identified on an EFS as required by (c)(4)(D)(iv), must be specific commodities, species of livestock, and specific products of crops or livestock.

The Section does not permit miscellaneous categories.

§ 205.107 Crop year.

(a) The crop year, according to which subsection (c)(2)(C)(ii)(IV) requires the master list to be arranged "within each such product," must be:

(1) For a crop grown in soil, the calendar year in which it is harvested or to be harvested;

(2) For animals, the calendar year in which they are born or acquired;

(3) For poultry or eggs, the calendar year in which they are sold or to be sold.

(b) An EFS or notice thereof which does not show crop year (the Section does not require it to do so) must be regarded as applicable to the crop or product in question for every year for which subsection (c)(4)(F) makes the EFS effective.

Interpretive opinions

§ 205.201 System operator.

The system operator can be the Secretary of State of a State, or any designee of the State pursuant to its laws. Note that the provision in subsection (c)(2) for a system refers to operation by the Secretary of State of a State, but the definition in (c)(11) of "Secretary of State" includes "designee of the State."

§ 205.202 "Effective financing statement" or EFS.

(a) An EFS under subsection (c)(4) need not be the same as a financing statement or security agreement under the Uniform Commercial Code (or equivalent document under future successor State law), but can be an entirely separate document meeting the definition in (c)(4). Note that (c)(4) contains a comprehensive definition of the term which does not include any requirement that the EFS be the instrument by which a security interest is created or perfected. Note also the House Committee Report on Pub. L. 99–198, No. 99–271, Part 1, September 13, 1985, at page 110: "[T]he bill would not preempt basic state-law rules on the creation, perfection, or priority of security interests."

(b) An EFS must be a paper document since subsection (c)(4)(B) and (C) require it to be signed.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date-stamped and returned to the secured party, are discretionary with the State.

§ 205.203 Place of filing EFS.

The place of filing an EFS is wherever State law requires, which need not be with the system operator so long as the system operator receives the information needed for the master list, including the information required in subsection (c)(4)(D). Note that the requirements in subsection (c)(4) for an EFS include the requirement that it be "filed with the Secretary of State," but the definition in (c)(11) of "Secretary of State" includes "designee of the State," and the requirements in (c)(2) for a system refer in (A) to filing with the system operator of "effective financing statements *or notice of such financing statements.*" (emphasis added)

§ 205.204 Filing "notice" of EFS.

(a) If an EFS is filed somewhere other than with the system operator, and if notice of it is filed with the system operator, such notice could be electronic filing, telephoned information, or any other form of notice which gives the system operator the information needed for the master list. Such notice need not be signed. Note that the Section does not contain any requirement for such notice except the one in subsection (c)(4)(B) that an EFS must be filed somewhere pursuant to State law as discussed above.

(b) Countermeasures against falsifications, errors or omissions in such notices or in the handling of them by the system operator, such as requirements that the notices be on paper and signed, with copies date-stamped and returned to the persons filing them, however advisable they might be from other standpoints, are discretionary with the State and not required by the Section.

§ 205.205 Fees.

The Section provides at subsection (c)(4)(H) for a fee for filing an EFS. The fee can be set in any manner provided by the law of the State in which such EFS is filed. The basis for this is that (c)(4)(H) provides for the fee to be set by the "Secretary of State" but (c)(11) defines the latter term to include "designee of the State." The fee structure is discretionary with the State.

§ 205.206 Farm products.

(a) The master list must be organized by farm product as required by subsection (c)(2), and the farm product must be identified on an EFS as required by (c)(4)(D)(iv). The following is a list of such farm products.

Rice, rye, wheat, other food grains (system must specify by name)

Barley, corn, hay, oats, sorghum grain, other feed crops (system must specify by name)

Cotton

Tobacco

Flaxseed, peanuts, soybeans, sunflower seeds, other oil crops (system must specify by name)

Dry beans, dry peas, potatoes, sweet potatoes, taro, other vegetables (system must specify by name)

Artichokes, asparagus, beans lima, beans snap, beets, Brussels sprouts, broccoli, cabbage, carrots, cauliflower, celery, corn sweet, cucumbers, eggplant, escarole, garlic, lettuce, onions, peas green, peppers, spinach, tomatoes, other truck crops (system must specify by name)

Melons (system must specify by name)

Grapefruit, lemons, limes, oranges, tangelos, tangerines, other citrus fruits (system must specify by name)

Apples, apricots, avocados, bananas, cherries, coffee, dates, figs, grapes (& raisins), nectarines, olives, papayas, peaches, pears, persimmons, pineapples, plums (& prunes), pomegranates, other noncitrus fruits (system must specify by name)

Berries (system must specify by name)

Tree nuts (system must specify by name)

Bees wax, honey, maple syrup, sugar beets, sugar cane, other sugar crops (system must specify by name)

Grass seeds, legume seeds, other seed crops (system must specify by name)

Hops, mint, popcorn, other miscellaneous crops (system must specify by name)

Greenhouse & nursery products produced on farms (system must specify by name)

Mushrooms, trees, other forest products (system must specify by name)

Chickens, ducks, eggs, geese, turkeys, other poultry or poultry products (system must specify by name)

Cattle & calves, goats, horses, hogs, mules, sheep & lambs, other livestock (system must specify by name)

Milk, other dairy products produced on farms (system must specify by name)

Wool, mohair, other miscellaneous livestock products produced on farms (system must specify by name)

Fish, shellfish

Other farm products (system must specify by name).

(b) Note the definition of the term "farm product" at subsection (c)(5), and the Conference Report on Pub. L. 99–198, No. 99–447, December 17, 1985, at page 486.

(c) A State may establish a system for specified products and not for all. A State establishing a system for specified products and not for all will be deemed to be "a State that has established a central filing system" as to the specified products, and will be deemed not to be such a State as to other products.

§ 205.207 "Amount" and "reasonable description of the property."

(a) The "amount" of farm products and "reasonable description of the property including county or parish," on an EFS and on the master list under subsection (c)(4)(D)(iv) and (2)(C)(iii), need not be shown on every EFS and master list entry.

VOL 51 ISS 159 AG 18 1986 UMI

(b) Any EFS and master list entry will identify a product. If they do not show an amount, this constitutes a representation that all of such product owned by the person in question is subject to the security interest in question.

(c) Any EFS and master list entry will identify each county or parish in the same State where the product is or is to be produced. If they do not show any further identification of the location of the product, this constitutes a representation that all such product produced in each such county or parish, owned by such person, is subject to the security interest.

(d) The need to supply additional information arises only where some of that product owned by that person is subject to the security interest and some is not.

(e) The additional information about amount and property must be sufficient to enable a reader of the information to identify what product owned by that person is subject, as distinguished from what of the same product owned by the same person is not subject. The precision needed, in the description of the amount and location, would vary from case to case.

(f) The basis for this is the purpose of the entire exercise, to make information available as necessary to enable an identification of what product is subject to a security interest as distinguished from what is not.

§ 205.208 Distribution of portions of master list—registration—information to non-registrants on request.

(a) The provisions in the Section regarding registration of "buyers of farm products, commission merchants, and selling agents," "regular" distribution of "portions" of the master list, furnishing of "oral confirmation * * * on request," and the effect of all this, that is, subsections (c)(2) (D), (E) and (F), (e) (2) and (3), and (g)(2) (C) and (D), must be read together.

(b) The Section does not require such persons to register. Not registering with a particular system operator has the effect, under subsections (e)(2) and (g)(2)(C), of making such persons, whether they are inside or outside the State covered by that system, subject to security interests shown on that system's master list whether or not such persons know about them, so that such persons for their own protection will need to query the system operator about any seller "engaged in farming operations," of a farm product produced in the State covered by that system, with whom they deal.

(c) The effect of registration by such persons with a particular system is to get them on the list for regular distribution of portions of that system's master list, the portions to be determined by the registration. They are subject only to security interests shown on the portions which they receive, and are not subject to such interests as are shown on the master list but not shown on portions which they receive. Also, if a particular security interest is shown on the master list, but has been placed on it since the last regular distribution of portions of that list to registrants, registrants would not be subject to that security interest. These conclusions are based on the provisions in subsections (e)(3)(A) and (g)(2)(D)(i) that such persons are subject to a security interest only if they receive "written notice * * * that specifies both the seller and the farm product."

(d) A question arises as to the length of time for which a registration is effective, and whether a registrant, wishing to change registration as to county or product, can amend an existing registration or must file a new one. This is discretionary with the State since the Section is silent about it.

(e) A question arises whether persons can register to receive only portions of the list for products in which they do not deal, and thus not be subject to security interests in products in which they deal because they are registrants but do not receive written notice of them. For example, can cattle dealers register to receive portions of the master list only for oranges, and thus take cattle free and clear of security interests shown on the master list, but as to which they do not receive written notice because they have not registered to receive the portion for cattle? Registrants will be deemed to be registered only *as to those portions* of the master list for which they register, and will be deemed to have failed to register as to those portions for which they do not register.

(f) The Section requires "regular" distribution, to registrants, of portions of the master list as amended from time to time by the filing of EFS's and amendments to EFS's. The requirement that the distribution be "regular" necessarily refers to an interval specified in advance. The interval may vary according to product and region. The frequency of such distribution must be a consideration in review for certification since distribution must be timely to serve its purpose. While subsection (c)(2)(E) (providing that distribution be made "regularly as prescribed by the State") gives each State discretion to choose the interval between distributions, whatever interval a State chooses will inevitably make possible some transactions in which security interests are filed in the system but registrants are not subject to them.

(g) Legislative history of the Section shows that buyers, commission merchants, and selling agents are not intended to be liable for errors or other inaccuracies generated by the system. See Nov. 22, 1985 Cong. Rec., Senate, pg. S16300, and Dec. 18, 1985 Cong. Rec., House, pg. H12523.

(h) In furnishing to non-registrants "oral confirmation within 24 hours of any [EFS] on request followed by written confirmation," by a system operator pursuant to subsection (c)(2)(F), any failure in use of a telephone caused by a "busy signal" could not be the basis of liability of the system operator. The basis for this is that subsection (c)(2)(F) does not mention telephones. Also, while it mentions *furnishing* information orally, it does not contain any provision as to how queries are to be *received*, that is, orally, in writing, or otherwise.

(i) Of course it is to be expected that telephones would be used in most cases, but use of them is not required by the legislation and is discretionary with the State.

(j) In the matter of receiving queries and giving oral replies to them, subsection (c)(2)(F) will be complied with if a system operator maintains an office and staff where a query can be received on business days and during business hours such as are regular in the State, and where an oral reply will be available on the regular business day following the day on which the query is received, at or before the time of day when it was received.

(k) Written confirmation is required, by subsection (c)(2)(F), to be given to any non-registered buyer, commission merchant, or selling agent.

(l) Such a written confirmation pursuant to subsection (c)(2)(F) does not alter the liability of the non-registrant querying the system and receiving information about a security interest recorded in it. The basis of this, as above, is that non-registrants are subject to security interests recorded in a system whether or not they know about them, and must query the system for their own protection.

(m) The Section does not specify when or how the written confirmation must be furnished, but provides only that it must follow the oral information. Thus the time and method of furnishing written confirmation is discretionary with the State.

§ 205.209 Amendment or continuation of EFS.

(a) The "material change," required by subsection (c)(4)(E) to be reflected in an amendment to an EFS and master list entry, is whatever change would render the master list entry no longer informative as to what is subject to the security interest in question. That will vary from case to case. The basis for this is the purpose for which the information is supplied, that is, to make information available, to a buyer, commission merchant, or selling agent who proposes to enter into a transaction in a product, whether it is subject to a security interest. The requirement to amend arises when the information already made available no longer serves the purpose and other information is needed in order to do so.

(b) Where an owner of a product makes a change, such as planting a different crop or purchasing different animals from what was represented, without informing the secured party, so that the master list entry is rendered not informative, but the EFS and master list are not amended through no fault of the secured party, the Section is silent as to the consequences. However, see the legislative history cited in § 205.208(f).

(c) The amendment must be a paper document, signed by both the person who subjects the farm product to the security interest and the secured party, and filed wherever State law provides. Note the requirement of subsection (c)(4)(E) that it be "similarly signed and filed," following the provisions about signing and filing of the EFS.

(d) A continuation of an EFS is subject to the same requirement as an amendment. The EFS as first filed expires in a given time. A continuation modifies it as to its expiration date and thus is an amendment.

§ 205.210 Effect of EFS outside State in which filed.

(a) A question arises whether, if an EFS is filed in one State, a notice of it can be filed in another State and shown on the master list for the second State. There is nothing in the Section to prevent this, but it would serve no purpose.

(b) The Section provides only for filing an EFS, covering a given product, in the system for the State in which it is produced. Upon such filing in such system, subsections (e)(2) and (g)(2)(C) make buyers, commission merchants and selling agents *not registered* with that system subject to the security interest in that product whether or not they know about it, *even if they are outside that State.* Subsections (e)(3) and (g)(2)(D) make persons *registered* with that system subject if they receive written notice of it *even if they are outside that State.* All of these provisions apply only where an EFS is filed in the system for the State in which the product is produced. They do not apply to a filing in another system.

(c) What constitutes "receipt" of notice is determined by the law of the State in which the intended recipient of notice resides. This is based on subsection (f) which follows provisions for notice to buyers, and (g)(3) which follows provisions for notice to commission merchants and selling agents. Each of those provisions uses the word "buyer" but it means "intended recipient of notice."

§ 205.211 Applicability of court decisions under the UCC.

(a) Court decisions under the Uniform Commercial Code (UCC), about the scope of the "farm products" exception in Section 9–307(1) thereof, and interpreting the terms therein, particularly "person engaged in farming operations" which is not defined in the Section, are applicable to an extent in interpreting the Section. The basis of this is the legislative intent of the Section to pre-empt State laws reflecting that "farm products" exception, as shown in the House Committee Report on Pub. L. 99–198, No. 99–271, Part 1, September 13, 1985, at pages 108 *et seq.*

(b) That UCC Section 9–307(1) reads as follows:

> (1) A buyer in ordinary course of business (subsection (9) of Section 1–201) *other than a person buying farm products from a person engaged in farming operations* takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence. (emphasis added)

§ 205.212 "Buyer in ordinary course of business" and "security interest."

The terms "buyer in ordinary course of business" and "security interest" are defined in subsection (c) (1) and (7). There are differences between those definitions and the UCC definitions of the same terms. In interpreting those differences, the following would be pertinent:

(a) The legislative intent discussed above in § 205.211, to pre-empt State laws reflecting the "farm products" exception; and

(b) The legislative intent shown in subsections (a) and (b) that certain persons take free and clear of certain interests of a "secured lender" "when the seller fails to repay the lender," unless such persons have information about such interests made available to them as provided in the Section.

§ 205.213 Obligations subject—"person indebted"—"debtor."

(a) A debt need not exist at the time of filing of an EFS. The basis for this is that subsection (c)(4) does not require the EFS, and (c)(2)(C) does not require the master list, to show any amount of debt.

(b) The Section does not provide for the transaction in which one person subjects a product to a security interest for another's debt. However the terms "person indebted" and "debtor" in the Section refer to the person who owns a product and subjects it to a security interest, whether or not that person owes a debt to the secured party. The basis for this is the purpose for which the information is supplied. Any buyer of a farm product, commission merchant, or selling agent querying a master list or system operator about a prospective seller of a farm product is interested in whether that seller has subjected that product to a security interest, not in whether the debt is owed by that seller or by another.

(c) Security interests existing prior to establishment of a system can be filed in such a system and reflected in the master list if documents are in existence or are created which meet the requirements of subsection (c)(4) besides filing, if such documents are filed wherever State law requires, and if the system operator receives the information about them needed for the master list.

(d) A system can be in compliance with the Section, although it reflects security interests not supported by EFS's as defined in the legislation, and although it reflects security interests on items other than farm products. However, subsections (e) (2) and (3), and (g)(2) (C) and (D), will apply only as to entries reflecting farm products and supported by EFS's as defined in the Section, and it must be possible to distinguish the entries to which these provisions apply from the other entries.

§ 205.214 Litigation as to whether a system is operating in compliance with the Section.

(a) The requirements for a system in subsection (c) are written as the definition of the term "central filing system," so that failure of a system to meet any such requirement, either at the time of its establishment or later, will mean that it is not a "central filing system" as defined.

(b) The issue whether a system, after certification, is operating in compliance, thus whether it is a "central filing system" as defined, could be litigated and ruled on in a case involving only

private parties, such as a lender and a buyer of a farm product. The only immediate effect of a finding in such a case, that a system is not a "central filing system" as defined, would be that the rights of the secured party in the case would be as if the State had no system. However, others would be in doubt as to whether they could safely rely on the same system.

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Food Safety and Inspection Service

9 CFR Parts 317 and 318

[Docket No. 85-021F]

Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid, and Calcium Lactate

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations to permit the use of a dry mixture of sodium alginate, lactic acid, calcium lactate, and calcium cabonate to produce an edible binder in formed meat food products. The Food and Drug Administration (FDA) has determined these substances to be generally recognized as safe (GRAS) for use in foods separately or in a dry mixture. FSIS has determined that it is now appropriate to add sodium alginate, calcium carbonate, lactic acid, and calcium lactate as a binding mixture to the list of acceptable binders commonly used in foods. This dry binding mixture will have several benefits including expansion of meat food product lines where structured and formed meat food products would bind in a raw refrigerated state as well as in a cooked state. Formed and restructured meat food products bound with this edible binding mixture will be labeled to denote that they are formed, and the binding mixture ingredients will be listed.

EFFECTIVE DATE: September 17, 1986.

ADDRESS: Written comments to: U.S. Department of Agriculture, Food Safety and Inspection Service, Attn: Policy Office, Room 3803, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Jones, Chief, Standards Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7503.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule provides for the use of sodium alginate at 1.0 percent, lactic acid and, calcium lactate at 0.3 percent, and calcium carbonate at 0.2 percent in a dry mixture to be added to meat food products in order to form an edible binder of calcium alginate in restructured meat food products. The current Federal meat inspection regulations provide only for lactic acid at levels sufficient for purpose for use as an acidifier (9 CFR 318.7(c)(4)), sodium alginate at levels sufficient for purpose limited to breading mixes and sauces (9 CFR 318.7(c)(4)), and sodium alginate as a protective film for fresh carcasses at a level of 1.5 percent of hot carcass weight when used in a mixture of calcium chloride, sodium alginate, sodium carboxymethylcellulose and corn syrup solids (50 FR 19905; May 13, 1985). Industry will benefit from this action through the ability to use a wider variety of binders. Livestock producers may benefit from this action through increased markets for meat food products.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact upon a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking will impose no new requirement on industry; rather, it will permit the meat industry to use a new type of binder which allows raw or cooked pieces of meat to cohere. Costs for equipment may be reduced due to elimination of usual freezing, tempering, and/or precooking prior to or after portioning. The resulting formed meat food product can be conveniently portioned, packaged and marketed as a refrigerated raw meat food product, a frozen raw meat food product, or precooked and marketed refrigerated or frozen. Use of this binding mixture will be entirely voluntary.

Comments

This is a final rule consistent with the provisions of Section 318.7 of the Federal meat inspection regulations (9 CFR 318.7). As such, no request for comments is being made. However, interested parties may inform the Agency of any additional information which raises questions about this action during the 30 day period between publication of this rule and its effective date.

Background

The Agency has been petitioned by Colorado State University Research Foundation, Fort Collins, Colorado, to amend the Federal meat inspection regulations to allow the use of sodium alginate, calcium carbonate, lactic acid, and calcium lactate in a dry binding mixture in certain raw or cooked, restructured formed meat food products.

Currently, meat processors use sausage technology to produce from carcass trimmings formed meat products resembling fresh, intact muscle cuts. These restructured, formed meat products are marketed either frozen or precooked to retain structural integrity. The algin/calcium gelation mechanism, which results from the addition of the mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate, allows formed meat food products to be made without the use of sodium chloride or phosphate salts. These products would possess binding properties in the cooked as well as the raw, refrigerated state. Meat pieces would first be reduced to the appropriate particle size, dependent on desired product attributes. Dry non-meat ingredients would then be added during mild mixing of the meat pieces. The mixed ingredients including the mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate, could then be formed by molding or stuffing into the desired shape. After the gel has set, the raw product may be portioned and packaged. Other options include precooking and freezing or freezing the raw product.

The petitioner has supplied analytical data at FSIS's request supporting its claims and indicating that wholesomeness is not affected when meat food products are processed with this binding mixture. The quantity of mixture required to bind is not more

than 1.5 percent of the total product formulation. Data are available from the Standards and Labeling Division at the address given under "For Further Information Contact."

Issuance of Final Rule

In the **Federal Register** of July 19, 1983 (48 FR 32749), the Agency published a final rule on new procedures for the approval of added substances in meat and poultry products. This final rule amended the Code of Federal Regulations, Title 9, § 318.7. Under that rule, applicants are required to show that a proposed added substance has been approved by the Food and Drug Administration (FDA) for use in meat or meat food products as a food additive, color additive, or as a substance generally recognized as safe (GRAS) and is listed in Title 21 of the Code of Federal Regulations, Parts, 73, 74, 81, 172, 173, 179 182, or 184. If this is established, the use of the added substance will be permitted upon further determination by the Administrator that (1) the requested use in meat or meat food products will not render the product adulterated or misbranded, or otherwise not in compliance with the Federal Meat Inspection Act, (2) its use is suitable and functional for the particular product, and (3) it is used at the lowest level necessary to accomplish the stated technical effect.

The substances addressed in this rule have been affirmed as GRAS by the FDA and are listed in 21 CFR Part 184. Lactic acid, calcium lactate, and calcium carbonate are affirmed as GRAS in 21 CFR 184.1061, 21 CFR 184.1207 and 21 CFR 184.1191, respectively, for use in food when added in accordance with good manufacturing practice.

Sodium alignate is affirmed as GRAS in 21 CFR Part 184.1724 in the "all other" food category with conditions of use limited to a stabilizer and thickener at a level of 1.0 percent. Lactic acid is listed in the Federal meat inspection regulations in 9 CFR 318.7(c)(4) at levels sufficient for purpose when used as an acidifier. Sodium alginate is listed for use as a binder at levels sufficient for purposes in breading mixes and sauces (9 CFR 318.7(c)(4)), and in a protective film covering for fresh carcasses (50 FR 19805, May 13, 1985). Calcium alginate which is produced by the action caused by mixing lactic acid, sodium alginate, calcium lactate and calcium carbonate is listed as GRAS in 21 CFR 184.1187 in the "all other" food category with conditions of use limited to a stabilizer and thickener.

FDA has advised FSIS that it considers the mixture of these substances as GRAS when the total mixture of such substances are dispersed in a dry form into the formulation and the mixture does not exceed 1.5 percent of product formulation. At this level and under these conditions there would be only minimal reaction to produce calcium alginate, the binding compound. If the mixture is dispersed in water prior to application to meat food product, calcium alginate gel could be produced at a level that would be in conflict with FDA's GRAS standard for its use (21 CFR 184.1187).

The Administrator concurs with FDA's conclusions regarding the safety of these substances for their proposed use. He further finds that information provided by the petitioner and other data available to the Agency indicates that (1) the proposed use of these substances in a dry mixture, as described and limited above, will be in compliance with applicable FDA requirements, (2) their use will be functional and suitable for the products intended, (3) the substances will be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances will not render products in which they are used, adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act.

Therefore, the Department is amending the table of approved substances in the Federal meat inspection regulations (9 CFR Part 318.7) to include the use of sodium alginate, calcium carbonate, lactic acid and calcium lactate in a dry mixture to form an edible binder matrix in raw and cooked restructured formed meat food products.

The Agency is also amending the labeling provisions in the Federal meat inspection regulations (9 CFR Part 317) to require a qualifying statement contiguous to the product name identifying these substances when they are used in a binding mixture. This is being done in order that the product will not be misbranded under the terms of the Federal Meat Inspection Act (21 U.S.C. 601(n)).

Indexing Terms

Following are the indexing terms for this regulation:

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection, and Meat and Meat Food Products.

9 CFR Part 318

Food additives, Meat inspection.

For reasons explained in the preamble, Parts 317 and 318, Subchapter A, Chapter III of Title 9, Code of Federal Regulations, are amended as set forth below.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

9 CFR Part 317 is amended as follows:

1. The authority citation for Part 317 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254, unless otherwise noted.

§ 317.8 [Amended]

2. In Part 317, § 317.8 is amended by adding a new paragraph (b)(36) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(36) When sodium alginate, calcium carbonate, lactic acid and calcium lactate are used together in a dry binding matrix in restructured, formed meat food products, as permitted in Part 318 of this subchapter, there shall appear on the label contiguous to the product name, a statement to indicate the use of sodium alginate, calcium carbonate, lactic acid and calcium lactate.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

9 CFR Part 318 is amended as follows:

3. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

§ 318.7 [Amended]

4. In Part 318, § 318.7(c)(4) is amended to add the substances sodium alginate, calcium carbonate, lactic acid, and calcium lactate as one entry to the chart in alphabetical order under the class of substances entitled "Binders."

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

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Class of substance	Substance	Purpose	Products	Amount
Binders	A mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate	To bind meat pieces	Restructured meat food products	Sodium alginate at 1.0 percent; calcium carbonate at 0.2 percent; and lactic acid and calcium lactate at 0.3 percent of product formulation. Added mixture may not exceed 1.5 percent of product at formulation. Ingredients of mixture must be added dry.

* * * * *

Dated: August 13, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-18551 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 570

[86-806]

Insurance of Accounts; Interpretation

Dated: August 7, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Interpretive rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is issuing an interpretive rule regarding payment of FSLIC insurance on accounts established for the purpose of funding an insurance company's obligations under life insurance contracts or annuity contracts it has issued. This rule clarifies existing FSLIC insurance coverage.

DATE: This interpretation is incorporated into the Board's rules and regulations as of August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Karen Knopp O'Konski, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-7240, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Title 12 U.S.C. 1726(a) (1982) authorizes the FSLIC to insure the accounts of federally and state-chartered institutions described therein. Pursuant to 12 U.S.C. 1728(a), the Board as operating head of the FSLIC, has issued regulations at 12 CFR Part 561 *et seq.* (1986) (the "Insurance Regulations") defining the coverage provided by the FSLIC to institutions whose accounts it insures ("insured institutions").

Those Insurance Regulations include provisions specifically governing the insurance of trust accounts. They permit "all trust estates for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor)" to be insured, up to $100,000 in the aggregate, separately from other accounts of the trustee, the beneficiary, or the settlor. 12 CFR 564.10 (1986). The Board's Insurance Regulations do not more specifically define "valid trust arrangements." The term "trust estate," however, is defined in part as "the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statutes, but does not include any interest retained by the settlor." 12 CFR 561.4 (1986). Pursuant to 12 CFR 564.2(a), the existence of a valid, irrevocable trust is determined under the law of the state in which the principal office of the insured institution is located.

In 1980, the Board's Office of General Counsel ("OGC") responded to a request for an opinion that certain accounts at insured institutions were insurable under the trust-account provisions of the Insurance Regulations. This opinion request was made on behalf of an insurance company that proposed to issue annuity contracts funded by FSLIC-insured accounts ("annuity accounts"). It was followed by a number of similar requests over a period that continues to date. The particulars of the annuity programs underlying the annuity accounts have varied slightly from instance to instance. For example, some insurance companies have sold individual annuity contracts, while others have sold participation certificates in group annuity programs. Under some programs, the insurance company reregistered in its own name an existing savings account belonging to the annuitant. That account then became an annuity account. Under other programs, the insurance company established one or more annuity accounts directly in its own name.

Most of the annuity accounts that have been the subject of opinion requests have features in common, however, because they were established to conform with a statute, adopted in virtually identical form by many states, that specifically governs accounts intended to fund life insurance contracts or annuity contracts (and any benefit incidental to such contracts) payable either in fixed or variable amounts, or both. These statutes are commonly called "separate-account statutes" because they impose a requirement that an insurance company establish a separate account for the purpose of funding the obligations arising from such contracts.

From 1980 until 1983, the Board, through its OGC, took the view that when all other requirements of the Insurance Regulations were met and the insurance company was required to establish a statutory separate account, the relationship between the insurer and the annuitant for whom the company held the separate account was sufficiently similar to a trust arrangement to qualify as a trust for purposes of § 564.10 of the Insurance Regulations. This interpretation of the trust-account provisions of the Insurance Regulations was expressed in opinion letters issued by OGC during the period from 1979 to 1983.

Subsequently, however, OGC concluded that the presumption of a trustee-beneficiary relationship between the insurance company and each annuitant conflicted with the law of a number of states. More specifically, certain of the separate-account statutes provide that an insurance company may not be, nor hold itself out to be, a trustee with respect to amounts held in statutory separate accounts (that is, annuity accounts). *See, e.g.*, Ark. Stat. Ann. 66-3337 (Bobbs-Merrill 1980); Ill. Ann. Stat. ch. 73, 857.21(c) (Smith-Hurd Supp. 1985). Further, these statutes also generally provide that amounts allocated to a separate account are owned by the insurance company which establishes the account. *Id.*

In light of this typical statutory provision, and in view of the regulatory requirement of §§ 561.4, 564.2(a) and 564.10 that trusts must be valid, express, and irrevocable under applicable state law in order to qualify for trust-account insurance, the OGC revised its previous interpretation of the Insurance Regulations as applied to annuity accounts. The revised interpretation stated that annuity accounts were not insurable under the trust-account regulations if they were established pursuant to a state separate-account statute that expressly precluded an insurance company from acting as trustee with respect to the funds in the account. This interpretation, as set forth

in OGC opinion letters, has been effective since 1983.

The Board desires to clearly state its position with regard to the limitations on applicability of trust-account insurance, which, as discussed above, are set forth in the Insurance Regulations. The Board believes that today's ruling is the most effective method of notifying annuity account-holders of the requirements of the Insurance Regulations with respect to trust-account insurance, as these requirements have been interpreted since 1983.

Today's ruling is limited in scope to annuity accounts established pursuant to separate-account statutes; the definition of "annuity account" set forth *supra* in § 570.13(a), therefore, incorporates several key features of the separate-account statutes for purposes of identifying as precisely as possible the accounts intended to be covered by this interpretative rule. The definition also includes accounts established to fund life insurance contracts because many of the separate-account statutes apply to both life insurance contracts and annuity contracts issued by the insurer.

Section 570.13(b) clarifies that because annuity accounts established pursuant to separate-account statutes do not meet the requirements associated with obtaining trust-account coverage, the accounts cannot be insured as trust accounts. Other types of insurance coverage, however, may be applicable to such accounts. If recordkeeping requirements of 12 CFR 564.2 are met and if an insurance company is holding such accounts as agent on behalf of annuitants, agency account insurance may be available pursuant to 12 CFR 564.3(b). Alternatively, pursuant to 12 CFR 564.6, funds in annuity accounts could be insured to the insurance company which established the accounts up to $100,000 in the aggregate with all other corporate accounts held by the company in the same institution.

In the interest of equity, and in order to grant accountholders an adequate opportunity to restructure their accounts to avoid potentially uninsured amounts, § 570.13(c) of this Ruling delays application of this currently effective interpretation of the Insurance Regulations. Annuity-accountholders will be permitted to rely on OGC's prior opinions which granted separate trust-account insurance pursuant to 12 CFR 564.10 for three years following the publication of this interpretive ruling.

During this time period, the Board expects that annuity-accountholders will collateralize their accounts or restructure them to bring them into compliance with the Insurance Regulations.

Because this is an interpretive rule, it is exempt from the notice, comment, and delay-of-effective date requirements of 5 U.S.C. 553, 12 CFR 508.11 and 508.14 (1986). In accordance with Recommendation No. 76–2 of the Administrative Conference of the United States, this interpretive rule will be preserved in the Code of Federal Regulations.

List of Subjects in 12 CFR Part 570

Savings and loan associations.

Accordingly, the Board hereby amends Part 570, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 570—BOARD RULINGS

1. The authority citation for 12 CFR Part 570 is revised to read as follows:

Authority: Secs. 552, 559, 80 Stat. 383, 388, as amended (5 U.S.C. 552, 559); sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431 (e)(2)(c)); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405, 407, 48 Stat. 1255–1257), 1259–1260, as amended (12 U.S.C. 1724–1726, 1728, 1730); sec. 414, as added by sec. 522, 94 Stat. 165, as amended (12 U.S.C. 1730g); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–48 Comp., p. 1071.

2. Add a new § 570.13 to read as follows:

§ 570.13. Insurance of annuity accounts.

(a) *Definition.* For purposes of this Ruling, the term "annuity account" means an account established or maintained by an insurance company at an insured institution for the exclusive purpose of funding life insurance contracts or annuity contracts (and any benefits incidental to such contracts), payable in fixed or variable amounts, or both, *provided, however,* that the account was established or maintained pursuant to a state statute which, at the time the life insurance contract or annuity contract was issued:

(1) Required the insurance company to establish or maintain a "separate account" for the purpose described above; and

(2) Provided that the "separate account" was the property of the insurance company and that the insurance company could not be, or hold itself out to be, a trustee with respect to the funds in the separate account.

(b) *Insurance of annuity accounts.* Pursuant to the Board's Insurance Regulations, trust-account insurance is only available to express irrevocable trusts, established pursuant to either trust instrument or statute, which are valid under applicable state law. 12 CFR 561.4, 564.2(a), 564.10. Annuity accounts, as defined in section (a) above, do not meet these requirements and, therefore, can not be insured as trust accounts pursuant to the Board's regulations.

(c) *Delay of effective date.* Application of the interpretation of the Corporation's insurance regulations set forth in this Ruling shall be delayed until August 18, 1989.

(3) Amend § 570.11 and § 570.12 by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86–18637 Filed 8–15–86; 8:45 am]

BILLING CODE 6720–01–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 620 and 621

Disclosure to Shareholders; Accounting and Reporting Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published amendments to regulations under Part 620 that (1) require disclosure by each Farm Credit System bank and association in its annual report to shareholders of the aggregate amount of compensation paid during the last fiscal year to the institutions' senior officers as a group, without naming them; (2) require each production credit association (PCA) to send the financial statements of the Federal intermediate credit bank in its district to PCA shareholders; and (3) require each System bank and PCA, beginning with the quarter ended June 30, 1986, to report quarterly to shareholders on the financial condition of the institution. Minor technical and clarifying amendments were also made to other sections of Parts 620 and 621.

The final rule was published in the June 12, 1986 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (51 FR 21336). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was July 29, 1986.

EFFECTIVE DATE: July 29, 1986.

FOR FURTHER INFORMATION CONTACT: Dorothy J. Acosta, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020.

(Sec. 5.17(9) and (10), Pub. L. 92-181, as amended by Pub. L. 99-205, 12 U.S.C. 2252(a) (9), (10))

Marvin Duncan,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86-18597 Filed 8-15-86; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Parts 622 and 623

Rules of Practice and Procedure and Practice Before the Farm Credit Administration; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations designated as 12 CFR Parts 622 and 623. Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act of 1971, as amended (12 U.S.C. 2001, et seq.) (Act). Part 623 prescribes rules with regard to persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

The final rule was published in the June 11, 1986 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (51 FR 21138). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was July 28, 1986.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Mullarkey, or Nancy E. Lynch, Office of General Counsel, (703) 883-4020, Farm Credit Administration, McLean, VA 22102-5090.

(Sec. 5.17(9) and (10), Pub. L. 92-181, as amended by Pub. L. 99-205, 12 U.S.C. 2252(a) (9), (10))

Marvin Duncan,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86-18598 Filed 8-15-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AGL-14]

Establishment of Transition Area-Pontiac, IL

Correction

In FR Doc. 86-17834 beginning on page 28528 in the issue of Friday, August 8, 1986, make the following correction:

On page 28529, in the first column, under "Pontiac, Illinois [New]," in the fourth line "41" should read "51".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 85F-0202]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and Stabilizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tris(triethylene glycol) phosphate as a stabilizer in ethylene terephthalate polymers intended for use in contact with food. This action responds to a petition filed by American Enka Co.

DATES: Effective August 18, 1986; objections by September 17, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 29, 1985 (50 FR 21943), FDA announced that a petition (FAP 5B3864) had been filed by American Enka Co., Enka, NC 28728, proposing that the food additive regulations be amended to provide for the safe use of tris(triethylene glycol) phosphate as a stabilizer in ethylene terephthalate polymers intended for use in contact with food.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. Although tris(triethylene glycol) phosphate has not been found to cause cancer, it may contain minute amounts of 1,4-dioxane and ethylene oxide as byproducts of its production. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H. Rept. 2284, 85th Cong., 2d Sess. 1 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical, but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been

shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of other color additives and food additives on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for these decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, published in the **Federal Register** of April 2, 1982 (47 FR 14464).

The agency now believes that the Delaney or anticancer clause is applicable only when the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of tris(triethylene glycol) phosphate will result in extremely low levels of exposure to this additive. The agency has calculated an estimated daily intake of tris(triethylene glycol) phosphate based on considerations such as the migration of the additive under the most severe intended use conditions and the probable concentration of the additive in the daily diet from food-contact articles that contain this substance. The estimated daily intake for the additive is 4.2 micrograms per day (1.4 parts per billion in the diet) for a 60-kilogram person.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of additives involving such low exposure (Refs. 1 and 2) and has not required such testing here. Because tris(triethylene glycol) phosphate has not been shown to cause cancer, the anticancer clause does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that it used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities 1,4-dioxane and ethylene oxide has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive; and (2) Extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,4-Dioxane

Based on the fraction of the daily diet that may be in contact with surfaces containing tris(triethylene glycol) phosphate, as well as the level of 1,4-dioxane that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to 1,4-dioxane from the use of tris(triethylene glycol) phosphate to be 5 nanograms per person per day. The agency used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 4) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of tris(triethylene glycol) phosphate. The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to 1,4-dioxane stemming from the proposed use of tris(triethylene glycol) phosphate could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive. Based on a worst case exposure of 5 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,4-dioxane from the use of tris(triethylene glycol) phosphate is 2×10^{-10} or less than 2 in 10 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that results from the use of tris(triethylene glycol) phosphate.

B. Ethylene Oxide

Based on the fraction of the daily diet that may be in contact with surfaces containing tris(triethylene glycol) phosphate, as well as the level of ethylene oxide that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to ethylene oxide from the use of tris(triethylene glycol) phosphate to be 5 nanograms per person per day. The agency used data in a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, West Germany (Ref. 3), to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of tris(triethylene glycol) phosphate. The results of the bioassay on ethylene oxide demonstrated that this material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinoma of the forestomach and carcinoma in situ of the glandular stomach.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that this information on ethylene oxide supported the findings of carcinogenicity. The committee further concluded that an

estimate of the upper bound limit of lifetime human cancer risk from potential exposure to ethylene oxide could be made from the bioassay.

Based on a worst case exposure of 5 nanograms per person per day, FDA estimates, using a linear proportional model, that the upper bound limit of individual lifetime risk from potential exposure to ethylene oxide from the use of tris(triethylene glycol) phosphate is 1×10^{-8} or less than 1 in 100 million. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that results from the use of tris(triethylene glycol) phosphate.

C. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of the ethylene oxide and 1,4-dioxane impurities in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the levels at which ethylene oxide and 1,4-dioxane are used in the production of the additive, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 100 million for ethylene oxide and less than 2 in 10 billion for 1,4-dioxane.

D. Conclusion on Safety

FDA has evaluated the available toxicity data and the exposure calculation for the additive and has determined that the additive is safe for its proposed use.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G.M. "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, p. 59, July 1979.

2. Kokoski, C.J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," Cambridge, MA, October 24, 1983.

3. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

4. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

5. Memorandum dated February 13, 1986, from Food Additive Chemistry Evaluation Branch to Indirect Additives Branch, "Exposure to Ethylene Oxide (EO) and 1,4-Dioxane (DX)."

Any person who will be adversely affected by this regulation may at any time on or before September 17, 1986, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

2. In § 178.2010(b) by alphabetically inserting in the list of substances a new item to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Tris(triethylene glycol) phosphate (CAS Reg. No. 9056–42–2).	At levels not to exceed 0.1 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter, such that the polymers contact foods only of Type VI–B described in Table 1 of § 176.170(c) of this chapter.
* * * * *	

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–18534 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

Correction

In the issue of Wednesday, August 13, 1986, on page 28932, in the third column, a correction to FR Doc. 86–16938 appeared inaccurately. The section references should have read as follows:

§ 522.1192 [Corrected]

2. On page 27021, second column, § 522.1192(d)(4)(ii), last line, "scabiei" was misspelled.

BILLING CODE 1505-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin, Roxarsone, and Bacitracin Zinc

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., providing for safe and effective use of Type C medicated broiler chicken feeds manufactured with separately approved salinomycin, roxarsone, and bacitracin zinc Type A medicated articles. The feeds are used for increased rate of weight gain and improved feed efficiency and for prevention of coccidiosis.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: A.H. Robins Co., 1407 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, filed NADA 137-536 providing for use of the following separately approved Type A articles: Bio-Cox® containing 30 grams per pound salinomycin, with 3-Nitro® containing 10, 20, or 50 percent roxarsone, and Albac® containing 50 grams per pound bacitracin zinc. The Type A articles are combined to make Type C broiler feeds containing salinomycin at 40 to 60 grams per ton, roxarsone at 45.4 grams per ton (0.005 percent), and bacitracin zinc at 4 to 50 grams per ton. The feeds are used for prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone; and for increased rate of weight gain and improved feed efficiency. The NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In addition, that part of the roxarsone regulation citing additional combinations (21 CFR 558.530(d)(4)) is amended to add a cross reference reflecting this approval and the August 10, 1984, approval of a complete broiler feed containing salinomycin, roxarsone, and bacitracin methylene disalicylate. The cross reference was inadvertently omitted.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.78 is amended by revising paragraph (d)(3)(x) to read as follows:

§ 558.78 Bacitracin zinc.

* * * * *

(d) * * *

(3) * * *

(x) Salinomycin alone or with roxarsone as in § 558.550.

3. Section 558.530 is amended by adding new paragraph (d)(4) (iii) and (iv) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(d) * * *

(4) * * *

(iii) Roxarsone may be used in combination with salinomycin and bacitracin methylene disalicylate as in § 558.550.

(iv) Roxarsone may be used in combination with salinomycin and bacitracin zinc as in § 558.550.

4. Section 558.550 is amended by adding new paragraph (b)(1)(viii) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(b) * * *

(1) * * *

(viii)(*a*) *Amount per ton.* Salinomycin 40 to 60 grams with roxarsone 45.4 grams and bacitracin zinc 4 to 50 grams.

(*b*) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone; for increased rate of weight gain and improved feed efficiency.

(*c*) *Limitations.* See paragraph (b)(1)(iv)(*c*) of this section.

* * * * *

Dated: August 12, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-18530 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 812 and 882

[Docket No. R-86-1205; FR-1829]

Shared Housing in the Section 8 Existing Housing Program; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared in the Federal Register on Wednesday, June 11, 1986 (51 FR 21300). It corrects typographical errors in the rule text, as well as making two corrections in the amendatory language of the rule.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-7055. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Accordingly, the Department is

VOL 51 ISS 159 AG 18 1986 UMI

correcting FR Document 86–13126, published on June 11, 1986 (51 FR 21300) as follows:

§ 882.320 [Corrected]

1. On page 21311, column 2, in § 882.320(d) the reference to paragraphs "(c)" and "(d)" is corrected to read "(b)" and "(c)".

§ 812.2 [Corrected]

On page 21307, column 3, the amendatory language for amendment number 2 is corrected to read:

"2. Section 812.2 is amended by revising the definition of Disabled Person, Displaced Person, Elderly Family, Family, Handicapped Person, and Single Person and by adding definitions of Elderly Person and Live-in-Aide, to read as follows:"

3. On pages 21307 and 21308, the rule text for § 812.2 is corrected by adding five asterisks in the following five places: before the definition of Displaced Person; before the definition of Family; before the definition of Live-in-Aide; before the definition of Single Person; and after the definition of Single Person.

Dated: August 5, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86–18471 Filed 8–15–86; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1145–86]

Technical Amendment

AGENCY: Department of Justice.

ACTION: Final Rule; technical amendment.

SUMMARY: This technical amendment corrects a prior designation of 28 CFR Part 0, Subpart P–1, § 0.95, as printed in the **Federal Register** of October 25, 1985 at page 43386, from § 0.95 to § 0.94–1. This is being done because there is already a 28 CFR 0.95.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, General Counsel, Office of Justice Programs, 202/724–7792.

SUPPLEMENTARY INFORMATION: A previous final rule (50 FR 43385, Oct. 25, 1985) added a § 0.95 to Subpart P–1, the Office of Justice Programs and related agencies. There was already a section 0.95 in Subpart Q, the Bureau of Prisons. This final rule corrects the designation of section 0.95 in subpart P- 1 to section 94–1.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Organizations and functions (Government agencies).

By the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Subpart P–1 of Part O of Title 28 of the Code of Federal Regulations is amended as follows:

PART D—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 200(c); 50 U.S.C. App. 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

2. The designation for § 0.95 in Subpart P–1 is revised to read as follows:

§ 0.94–1 Bureau of Justice Assistance.

Dated: August 6, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–18555 Filed 8–15–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Conyngham et al.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Conyngham (DDG 17), USS Semmes (DDG 18) and USS Tattnall (DDG 19) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Conyngham (DDG 17), USS Semmes (DDG 18), and USS Tattnall (DDG 19) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Conyngham (DDG 17), USS Semmes (DDG 18), and USS Tattnall (DDG 19) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these three vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height Section 2(a)(i), Annex I
USS CONYNGHAM	DDG 17	1.77
USS SEMMES	DDG 18	2.12
USS TATTNALL	DDG 19	2.39

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18539 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Manitowoc and USS Saginaw

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Manitowoc (LST 1180)and USS Saginaw (LST 1188) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval tank landing ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MANITOWOC (LST 1180) and USS Saginaw (LST 1188) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as Navy ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these ships in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions Annex I, section 2(f) (Except for task lights, see Annex I, section 2f(ii))	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After [illegible] light less than ½ ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation [illegible]
USS MANITOWOC	LST 1180	N/A	N/A	N/A	N/A	N/A	N/A	X	
USS SAGINAW	LST 1188	N/A	N/A	N/A	N/A	N/A	N/A	X	

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18541 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Peoria

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS *Peoria* (LST 1183) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval tank landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Capt. P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Peoria* (LST 1181) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the

VOL 51 ISS 159 AG 18 1986 UMI

aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than one-half ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained.
USS PEORIA	LST 1183	N/A	N/A	N/A	N/A	N/A	N/A	X	89

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18542 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS San Bernardino

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS *San Bernardino* (LST 1189) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval tank landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Capt. P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *San Bernardino* (LST 1189) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than one-half ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained.
USS SAN BERNARDINO	LST 1189	N/A	N/A	N/A	N/A	N/A	N/A	X	89

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18543 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Sellers

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Sellers (DDG 11) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Sellers (DDG 11), is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with its special function as a naval destroyer. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Sellers (DDG 11) is a member of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this vessel.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's abilities to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I
USS SELLERS	DDG 11	1.3

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18544 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Flint

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Flint (AE 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS FLINT (AE 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. § 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship Annex I, section 3(a)	After masthead light less than ½ ship's length aft of forward masthead light Annex I, section (3)(a)	Percentage horizontal separation attained
USS FLINT	AE 32	N/A	N/A	N/A	N/A	N/A	N/A	×	[redacted]

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18540 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Side Loadable Warping Tug

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that Side Loadable Warping Tug (SLWT 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval warping tug. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605, and Executive Order 11964, the Department of the Navy amends 32 C.F.R. Part 706. This amendment provides notice that the Secretary of the Navy has certified that Side Loadable Warping Tug (SLWT 1) is a vessels of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(a), pertaining to the centerline location of the masthead lights, and Annex I, section 3(b), pertaining to the location of the sidelights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following vessel and footnote 2 to read as follows:

Vessel	Number	Masthead lights, distance to stbd of keel in meters, Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(k), Annex	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of Rule 30(a)(ii)	Side lights, distance below flight dk in meters, § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
	SLWT 1	1.62							3.93 [2]

[2] Port sidelight only.

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18545 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore, MD Regulation 86-07]

Safety Zone Regulations; Brewerton Channel Eastern Extension, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Brewerton Channel Eastern Extension, Upper Chesapeake Bay, Maryland. The zone is needed to protect vessels from a safety hazard associated with the dredging of the Brewerton Channel Eastern Extension. Entry into this zone by vessels in excess of 130 feet length overall and vessels with tows of a combined tug and tow length overall in

excess of 130 feet is prohibited unless authorized by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATES: This regulation become effective at 4:00 AM local time on August 20, 1986. It terminates at 8:00 PM local time on December 1, 1986, unless sooner terminated by the Captain of the Port, Baltimore.

FOR FURTHER INFORMATION CONTACT: Commander D.M. Strasser, Chief Port Operations Department, USCG Marine Safety Office, Custom House, 40 South Gay Street, Baltimore, Maryland 21202–4022, (301) 962–5105.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafters of this regulation are Chief Warrant Officer D.L. Hutchinson, project officer for the Captain of the Port, Baltimore, MD and LT W.M. Patrick, Project Attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

The operation requiring this regulation will involve three clam shell dredges working the entire length and width of the Brewerton Channel Eastern Extension. The dredges will be deepening and widening the present channel. The dredges will be accompanied by spoil barges and tugs. The dredging operation will substantially increase the risk associated with navigation of the channel by vessels.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new § 165.T0507 is added to read as follows:

§ 165. T0507 Safety Zone: Brewerton Channel Eastern Extension, Upper Chesapeake Bay, Baltimore, Maryland.

(a) *Location:* The following area is a safety zone: Brewerton Channel Eastern Extension; bounded on its eastern end by a line drawn in a southwesterly direction from Upper Chesapeake Channel Lighted Buoy "7" (Light List, Volume II, 1986, Number 3625) in approximate position 39.08.52N, 076.19.23W, to the point of intersection of the Upper Chesapeake Channel with Brewerton Channel Eastern Extension at approximately position 39.08.40N, 076.19.35W; and bounded on its western end by a line drawn in a southeasterly direction from Craighill Channel Lighted Buoy "20C" (Light List Number 3360) in approximate position 39.10.42N, 076.25.57W to the point of intersection, of Craighill Channel Upper Range with Brewerton Channel Eastern Extension at approximate position, 39.10.35N, 076.25.52W.

(b) *Effective dates.* This regulation becomes effective on August 20, 1986. It terminates on December 1, 1986 unless sooner terminated by the Capitain of the Port, Balitimore.

(c) *Regulations.* (1) In accordance with the general regulation in 165.23 of this part, entry into this zone is prohibited by all vessels in excess of 130 feet length overall and vessels with tows of a combined tug and tow length overall in excess of 130 feet unless authorized by the Captain of the Port, Baltimore, Maryland.

Dated: August 7, 1986.

R.C. Pickup,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 86–18571 filed 8–15–86; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 3

Permit Requirements; Penalty Provisions

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking clarifies the penalty provisions of the three general regulations used by the National Park Service as basic authorities to issue and require permits for members of the public to engage in certain activities. These provisions were inadvertently omitted when the regulations were originally promulgated in 1983. Experience since that time has shown that these clarifications are necessary in order to outline the mandatory aspects of permit systems established and used by park managers to manage visitor use activities in park areas. This rulemaking is a clarification only and does not impose new restrictions or requirements.

EFFECTIVE DATE: September 17, 1986.

FOR FURTHER INFORMATION CONTACT: Andy Ringgold, National Park Service, Branch of Ranger Activities, P.O. Box 37127, Washington, DC 20013–7127, Telephone: 202–343–1360.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1983, the National Park Service (NPS) published a major revision of its general regulations in Title 36 of the Code of Federal Regulations that pertain to resource protection, public use and recreation (48 FR 30252). One of these regulations, section 1.6, provides the general procedures and criteria under which NPS permits are issued. Another, section 1.5, sets forth the basic authority for park managers to establish permit systems in order to implement public use limits. A third general regulation, section 3.3, authorizes the superintendent to issue permits to manage boating activities within a park area.

These three regulations all contain provisions that address a superintendent's authority to issue permits and/or to establish permit conditions; other provisions prohibit violating the terms and conditions of a permit. Both sections 1.5 and 3.3 make reference to the permit criteria and procedures of section 1.6. However, none of these sections contains text that clearly indicates that, if a permit is required by a superintendent in order for a person to engage in a certain activity, failure to obtain a permit prior to engaging in that activity constitutes a violation of the regulation by that individual.

The original intent of the NPS was that such a provision was understood as being inherent in the fact that the superintendent was authorized to require a permit. However, in the period since the effective date of these regulations, questions raised by members of the public, NPS employees and some U.S. Magistrates have indicated that this intention was not

VOL 51 ISS 159 AG 18 1986 UMI

clear and that clarifying text is necessary.

This rulemaking clarifies NPS permit requirements by consolidating all the general procedural and regulatory provisions pertaining to NPS permit systems and authorities found in these three sections in section 1.6 and deleting duplicative provisions from sections 1.5 and 3.3. A provision emphasizing the mandatory nature of permit requirements has been added to section 1.6. Clarifying text has also been added to paragraph 1.6(e) that indicates that terms and conditions of a permit may derive not only from the criteria presently specified in that paragraph but also from criteria and restrictions that exist in other regulations.

These changes do not add new obligations or impose new restrictions. The intent of this rulemaking is solely one of clarification. A minor technical change is also included in this rulemaking to revise the authority citation in 36 CFR Part 3 to reflect the statutory authority found in 16 U.S.C. 1a-2(h) that authorizes the NPS to regulate boating activities in park areas.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** and requested public comments on this rulemaking on June 3, 1986 (51 FR 19858). No public comments were received in response. One written comment and several telephonic comments were received from various NPS officials, all supporting the proposal. The regulatory text of the proposed rule is therefore published unchanged as the final rule.

Drafting Information

The author of this rulemaking is Andy Ringgold of the NPS Branch of Ranger Activities, Washington, DC.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These determinations are based on the fact that this rulemaking is a clarification only and has no economic effect.

The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects

36 CFR Part 1

National Parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 3

Marine safety, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for Part 1 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460*l*–6a(e), 462(k).

2. By revising paragraph (f) of § 1.5 to read as follows:

§ 1.5 Closures and public use limits.

* * * * *

(f) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited.

3. By revising paragraphs (e), (g) and (h) of § 1.6 to read as follows:

§ 1.6 Permits.

* * * * *

(e) The superintendent shall include in a permit the terms and conditions that the superintendent deems necessary to protect park resources or public safety and may also include terms or conditions established pursuant to the authority of any other section of this chapter.

* * * * *

(g) The following are prohibited:

(1) Engaging in an activity subject to a permit requirement imposed pursuant to this section without obtaining a permit; or

(2) Violating a term or condition of a permit issued pursuant to this section.

(h) Violating a term or condition of a permit issued pursuant to this section may also result in the suspension or revocation of the permit by the superintendent.

PART 3—BOATING AND WATER USE ACTIVITIES

4. The authority citation for Part 3 is revised to read as follows:

Authority: 16 U.S.C. 1, 1a–2(h), 3.

5. By revising § 3.3 to read as follows:

§ 3.3 Permits.

The superintendent may require a permit for use of a vessel within a park area in accordance with the criteria and procedures of § 1.6 of this chapter.

Dated: July 28, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18593 Filed 8–15–86; 8:45 am]

BILLING CODE 4310–70–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Educational Assistance Test Program; Correction

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final rules; correction.

SUMMARY: The Veterans Administration recently published final rules on the implementation of the Educational Assistance Test Program. These rules were published in the **Federal Register** of July 29, 1986, at pages 27025 through 27033. This document is to correct the text of § 21.5742(a)(2).

EFFECTIVE DATE: September 8, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420 (202) 389–2092.

Dated: August 12, 1986.

Patricia B. Viers,

Chief, Directives Management Division.

On page 27028 of the **Federal Register** of July 29, 1986, Volume 51, § 21.5742(a)(2) is correctly revised to read as follows:

§ 21.5742 Entitlement.

* * * * *

(a) * * *

(2) The VA shall convert the number of years determined in paragraph (a)(1) of this section to months by multiplying them by 12.

* * * * *

[FR Doc. 86-18579 Filed 8-15-86; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-211]

Organization and Delegation of Powers and Duties; Maritime Administration and Maritime Subsidy Board

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment transfers to the Maritime Administrator certain responsibilities regarding subsidized vessels currently being carried out by the Maritime Subsidy Board. These changes would incease the efficiency with which these responsibilities are carried out.

DATE: This amendment takes effect August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Gwyneth A. Jones, Office of the General Counsel, Department of Transportation, Washington, DC (202) 366-9305.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective immediately upon publication in the **Federal Register**.

Experience with the division of responsibilities between the Maritime Administrator and the Maritime Subsidy Board has indicated the potential for greater efficiencies by transferring to the Administrator certain minor administrative functions regarding the execution of routine amendments to subsidy contracts that have heretofore been carried out by the Board. These matters are non-controversial and the Administrator is sufficiently conversant with relevant factors to make the decisions outside the deliberative context of the Board. The Board would continue to make the determinations to award and terminate subsidy contracts.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 1 is revised to read as follows:

Authority: 49 U.S.C. 322.

§ 1.4 [Amended]

2. In § 1.4, paragraphs (k) (3) and (5) are removed and paragraphs (k) (4), (6), and (7) are redesignated as (k) (3) through (5). Redesignated paragraph (k)(5) is further amended by removing the reference to "paragraphs (k) (1) through (6) of this section." and adding, in its place, "paragraphs (k) (1) through (4) of this section."

3. Section 1.67(a)(1) is revised to read as follows:

§ 1.67 Delegations to Maritime Subsidy Board.

(a) * * *

(1) Carry out all functions previously vested in the Secretary of Commerce pursuant to section 105(1) (except the last proviso thereto and readjustments in determinations of operating cost differentials not requiring a hearing and contractual changes reducing or realigning service requirements not involving additional subsidy or requiring a section 605(c) hearing under the Act (46 U.S.C. § 1175(c)), section 105(2), and, insofar as applicable to these functions, section 105(3) of Reorganization Plan No. 21 of 1950, and section 202(b)(1) of Reorganization Plan No. 7 of 1961, except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales, and minimum working conditions referred to in section 301(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.).

* * * * *

Issued in Washington, DC, on July 24, 1986.

Elizabeth H. Dole,

Secretary of Transportation.

[FR Doc. 86-18495 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 40800-4100]

Reef Fish Fishery of the Gulf of Mexico; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; correction.

SUMMARY: A notice to correct two geographical coordinates listed in Table 1 in the final rule implementing the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (published October 9, 1984, 49 FR 39548) was published August 5, 1986, 51 FR 28094. This document corrects one of the geographic coordinates that was submitted incorrectly.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

Dated: August 13, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

The following correction is made to Table 1 in § 641.22:

§ 641.22 [Corrected]

Under the "Loran C coordinates" heading in Table 1, the Y Loran C coordinate for point 8 is corrected from "44174.4" to "44117.4".

[FR Doc. 86-18595 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) from Cape Falcon, Oregon, to Cape Blanco, Oregon, at midnight, August 13, 1986, to ensure that the overall coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Chairman of the Pacific Fishery Management Council (Council) and the Director of the Oregon

VOL
51
ISS
159
AG
18
1986
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Department of Fish and Wildlife (ODFW) that the recreational fishery quota of 189,000 coho salmon for the area south of Cape Falcon will be reached by midnight, August 13, 1986. This closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

DATES: Closure of the FCZ from Cape Falcon, Oregon, to Cape Blanco, Oregon, to recreational salmon fishing is effective at 2400 hours local time, August 13, 1986. Comments on this closure will be received until August 29, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C1 5700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 recreational fishery for all salmon species in the FCZ from Cape Falcon to Cape Blanco was established as June 28 through the earliest of September 4 or attainment of a quota of 189,000 coho salmon for the area south of Cape Falcon. Coho caught south of Cape Blanco count toward the total quota, but the fishery south of Cape Blanco will not close when the quota is met. Based on the best available information, the recreational catch in the area south of Cape Falcon is projected to reach the 189,000 coho salmon quota by midnight, August 13, 1986.

The Regional Director consulted with the Chairman of the Council and the Director of ODFW regarding a closure of the recreational fishery between Cape Falcon and Cape Blanco, Oregon. The Director of ODFW has confirmed that Oregon will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight, August 13, 1986.

The Secretary therefore issues this notice to close the recreational fishery in the FCZ from Cape Falcon to Cape Blanco effective midnight, August 13, 1986. This notice does not apply to the regularly-scheduled recreational fishery for all salmon species in the FCZ from Cape Blanco to the U.S.-Mexico border because this area is not affected by the attainment of the coho salmon quota for the area south of Cape Falcon.

Other Matters

This action is taken under 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 13, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–18596 Filed 8–13–86; 4:39 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

Kiwifruit Grown in California; Proposed Change in Inspection, Size, and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the period of time that inspection certificates for kiwifruit are valid from 14 to 21 days and would delete reference to size designations with the exception of the minimum size which may be shipped under the order. It would also amend the meaning of the term "fairly uniform in size" to conform to the U.S. Grade Standards for Kiwifruit. Increasing the length of time that inspection certificates remain valid would eliminate many unnecessary reinspections, and eliminating reference to all but the minimum size would simplify the regulations and provide handlers additional flexibility in meeting buyer needs.

DATE: Comments must be received by August 28, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Marketing Order No. 920 regulates the handling of kiwifruit grown in the State of California. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended. The Kiwifruit Administrative Committee, established under the order, is responsible for its local administration. The amendments proposed herein will lessen regulatory requirements and simplify and clarify the regulations, and would therefore decrease the regulatory burden on the affected industry.

At its meeting on April 25, 1986, the committee recommended that the inspection requirements in § 920.155 be changed to extend the validity of inspection certificates to 21 days instead of the 14 days currently allowed. Nearly all kiwifruit is harvested in the fall and placed in controlled-atmosphere storage until sold and shipped. Last season, some handlers were required to obtain reinspection when shipments were delayed, causing an unnecessary additional expense. Therefore, the committee unanimously recommended that certification be valid until January 15 or 21 days after inspection, whichever is later, and that § 920.155 be changed accordingly.

The committee has also recommended that reference to the various size designations, with the exception of size 49, be deleted from § 920.302(a)(2)—"Size Requirements." Kiwifruit shipped under the order must be at least size 49. The committee annually prepares a chart defining the sizes of fruit in terms of the number of fruit per eight-pound sample. This chart is used by both the industry and various inspection agencies. Inasmuch as growing conditions differ from one season to the next, the committee needs the flexibility of being able to adjust or revise the criteria for the various size designations as necessary. It is therefore proposed that the committee recommendation be adopted.

In addition, the committee also recommended that the meaning of the term "fairly uniform in size" in § 920.302(a)(3) be amended to conform to the current U.S. Standards for Grades of Kiwifruit (7 CFR 51.2338(d)).

It is hereby found and determined that a comment period of less than 30 days is appropriate. Kiwifruit shipments are expected to begin in early September, and the regulation should be effective at or near the beginning of the shipping season.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit, California.

The proposal is as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 920.155 (50 FR 41660, October 15, 1985) is proposed to be revised to read as follows:

§ 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until January 15 of such year or 21 days from the date of inspection, whichever is later.

3. Section 920.302 (50 FR 36568, September 9, 1985) is hereby amended by revising paragraph (a)(2) and by revising the sixth sentence of paragraph (a)(3) through the word "Provided," to read as follows:

§ 920.302 Grade, size, pack, and container requirements.

(a) * * *

(2) *Size Requirements.* Such kiwifruit are at least a minimum size 49 (size 49 means that an eight-pound sample representative of this size in the package

VOL 51 ISS 159 AG 18 1986 UMI

or container contains not more than 64 pieces of fruit).

(3) * * * For the purposes of this section "fairly uniform in size" means that fruit in containers marked numerically to denote size may not vary in diameter more than ½ inch (12.7mm) in sizes 30 or larger; ⅜ inch (9.5mm) in sizes 31 through 38; and ¼ inch (6.4mm) in sizes 39 or smaller: Provided, * * *

* * * * *

Dated: August 12, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-18553 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-159-AD]

Airworthiness Directives; DeHavilland DHC-7 Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to DeHavilland DHC-7 aircraft which would require the installation of a fine mesh stainless steel screen to prevent flame penetration of the rear cargo compartment perforated ceiling center panel, in the event of a fire.

DATE: Comments must be received no later than October 9, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-159-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K IY5, Canada. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis or Mr. W. White, Aerospace Engineers, Systems Branch, ANE-173, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone number (516) 791-6427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-159-AD, 17900 Pacific Highway South, C 68966, Seattle, Washington 98168.

Discussion

As a result of several recent fires in cargo compartments of different aircraft, the Transport Canada conducted a study of compartment liner installations and their flammability characteristics. Results of the study established that, in the event of a fire in the DHC-7 rear cargo compartment, the perforated ceiling liner is unsatisfactory in that it would allow flame to pass tnrough the perforations to the fuselage primary structure.

DeHavilland has issued Service Bulletin No. 7-25-49, Revision A, dated April 11, 1986, to correct this condition by installing a fine mesh stainless steel screen to block the flame penetration. Transport Canada has issued airworthiness directive CF-86-08, making the service bulletin mandatory.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD would require the modification in accordance with the service bulletin previously mentioned.

This airplane is manufactured in Canada and type certificated in the United States under the provision of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

It is estimated that 44 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,080.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, DeHavilland Model DHC-7 airplanes are operated by small entities.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

DeHavilland:

Applies to all Model DHC-7 series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To assure that flames will not penetrate the rear cargo compartment liner to the fuselage primary structure, accomplish the following:

A. Within the next 6 months after the effective date of this AD, modify the DHC-7 rear cargo liner in accordance with DH Modification No. 7/2499 as detailed in DeHavilland Service Bulletin No. 7-25-49, Revision A, dated July 11, 1986, or later revisions approved by the Manager, New

York Certification Office, FAA, New England Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

Issued in Seattle, Washington, on August 11, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18521 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-157-AD]

Airworthiness Directives; Lockheed-California Company Model L-188A and L-188C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require structural inspections and repairs or replacements, as necessary, on certain high-time Lockheed Model L-188A and L-188C series airplanes to assure continued airworthiness. Some Lockheed Model L-188A and L-188C series airplanes are approaching or have exceeded the manufacturer's original objective fatigue design life. The AD is prompted by a structural reevaluation which has identified certain structural details as likely to develop fatigue cracks as these airplanes approach and exceed their design life. Fatigue cracks in these details, if left undetected, could result in a compromise of the structural integrity of these airplanes.

DATE: Comments must be received no later than October 9, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-157-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-188, Commercial Support Contracts, Dept. 63-11, Unit 33. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-157-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

A significant number of L-188 airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated past this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed this goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining fail-safe strength and the damage tolerance of the airplane structure, the manufacturer has conducted a structural assessment of the airplane. The criteria for this assessment were provided by Advisory Circular (AC) 91-56 "Supplemental Structural Inspection Program for Large Transport Category Airplanes," and Federal Aviation Regulations (FAR) 25.571 (Amdt. 25-45). Durability and damage tolerance analysis utilizing the latest techniques, combined with continuing studies of operators' service data, comprise the basis of the L-188 Supplemental Inspection Document (SID).

The assessment identified structurally significant items (SSI's) which are those details contributing significantly to carrying flight, ground, pressure or control loads, and whose failure could affect the structural integrity necessary for the safety of the airplane. The assessment established the critical amount of fatigue damage the SSI's could sustain and still carry limit loads, and the rate at which the fatigue cracks could be expected to grow. In assessing the reliability of detecting damage, it was found necessary to inspect all airplanes to provide protection for the fleet.

Using this information and guidelines of AC 91-56, the manufacturer, working with all interested operators (i.e. the working group), developed the Supplemental Inspection Document (SID) for the L-188, Lockheed Report, LR29428, Revision A, dated May 14, 1986. In developing the SID, the working group reviewed its operations, maintenance practices and existing maintenance programs with respect to the basic requirements of the L-188 SID program. The affected operators are allowed to take credit for maintenance already being performed. The L-188 SID supplements established FAA approved structural inspection and maintenance programs. In some instances new data from operations or analytic studies are included.

Therefore, in consideration of the hazardous consequence of failure to detect fatigue cracks in these older airplanes, this AD would require each operator to revise his existing inspection/rework program in accordance with the L-188 SID.

It is estimated that 60 airplanes of U.S. registry and 13 U.S. operators would be affected by this AD, that it would take approximately 500 manhours per airplane to accomplish the required

action, and that the average labor cost would be $40 per manhour. Based on these figures. the total capital cost impact of the AD is estimated to be $260,000.

The recurring inspection impact on the affected operators is estimated to be 250 manhours per airplane at an average labor cost of $40 per manhour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed $600,000.

Based on the above figures, the total cost impact of this AD for the first year is estimated to not exceed $860,000 and $600,000 for each year thereafter.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L–188 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449. January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L–188A and L–188C airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the continuing structural integrity of these airplanes accomplish the following:

A. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the requirements specified for the structurally significant details listed in Section III C. of Lockheed Report No. LR29428, Revision A, dated May 14, 1986, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Cracks found in the structurally significant details as a result of the supplemental inspection in paragraph A. must be repaired before further flight in accordance with an FAA-approved method.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to accomplish the requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The FAA has requested **Federal Register** approval to incorporate by reference the manufacturer's Supplemental Structural Inspection Document identified and described in this directive.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L–188, Commercial Support Contracts, Dept. 63–11, Unit 33. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on August 11, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–18522 Filed 8–15–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 24394; NPRM 86–12]

Special Federal Aviation Regulation No. 47; Special Flight Authorization for Noise Restricted Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: Special Federal Aviation Regulation (SFAR) 47 provides for limited issuance of special flight authorizations to conduct certain nonrevenue operations that are otherwise prohibited by the Part 91, Subpart E, noise restrictions. The current rule terminates on December 31, 1986. This proposal would extend SFAR 47 through December 31, 1987 and would reduce the purposes for which a special flight authorization may be issued by not permitting the return to the U.S. of an exported aircraft except to hushkit or scrap the aircraft or to permit movements between storage locations in the U.S.

DATE: Comments must be received on or before October 2, 1986.

ADDRESSES: Comments on the proposal are to be marked "Docket No. 24394" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 24394, 800 Independence Ave., SW., Washington, DC 20591; or delivered in duplicate to Room 916, 800 Independence Ave., SW., Washington, DC. Comments may be inspected in Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Smith, Noise Policy and Regulatory Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal AviationAdministration, 800 Independence Ave., SW., Washington, DC 20591, telephone: (202) 267–3534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should contain the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for comments.

Before taking any final action on the proposal, the Administrator will consider the comments made on or before the closing date, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commentor submits a self-addressed, stamped postcard with the comment and on the postcard the following statement is made: "Comments to Docket No. 24394." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commentor.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future notices of proposed rulemaking should also request a copy of Advisory Circular No. 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Synopsis of the Proposal

Under Part 91 of the Federal Aviation Regulations, on or after January 1, 1985, no person may operate a civil subsonic turbojet airplane with maximum weight of more than 75,000 pounds to or from an airport in the United States unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36. This restriction applies to U.S. registered aircraft that have standard airworthiness certificates and foreign registered aircraft that would be required to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States. SFAR 47 was adopted February 26, 1985 (50 FR 7751, February 26, 1985) to permit certain noncomplying operations of noise restricted aircraft which would be unlawful without a formal grant of exemption under FAR Part 11. The FAA has determined this process to be very cost beneficial and time efficient to both the government and the private sector. However, SFAR 47 expires on December 31, 1986 and to permit the operation of remaining non-noise compliant airplanes to fly from the U.S., the FAA proposes to extend SFAR 47 for a one year period until December 31, 1987.

Experience gained in the issuance of special flight authorizations indicates that certain changes to the purposes for which SFAR 47 may be utilized, are required. The adoption of these proposed changes would preclude some operations now permitted by SFAR 47. However, applicants seeking authorization for operations not permitted under the proposed rule would still be able to petition for an exemption under FAR Part 11 for those operations.

The FAA proposes to amend Section 2 of SFAR 47 so that operators importing or returning aircraft into the U.S. after export could only obtain special flight authorizations to permit them to deliver the aircraft to be scrapped or for modification to bring the aircraft into compliance with Stage 2 or Stage 3 noise levels. In addition, it is proposed that operations to change storage locations within the U.S. could no longer be authorized under SFAR 47. Aircraft in storage in the U.S. could still be exported, moved to be scrapped or modified to comply with the noise level requirements, but not to another point of storage in the U.S. Requests for all operations not covered by the proposed rule would require an exemption under FAR Part 11.

The FAA also proposes to amend Section 3 of SFAR 47 to require the applicant for a special flight authorization to supply a point of contact and information on the aircraft airworthiness status. Based on experience gained in administering SFAR 47, the provision of this information will reduce or eliminate delays in processing applications for SFAR 47 authorizations.

Paperwork Reduction Act Approval

The reporting requirements contained in this proposal have been submitted to OMB for review. Comments on the requirements should be submitted to the Office of Information and Regulatory Affairs (OMB), New Executive Office Building, Room 3001, Washington, DC 20503; Attention: FAA Desk Officer (Telephone 202–395–7340). A copy should be submitted to the FAA docket.

Economic Impact

This proposal has minimal economic impact. Adoption of the proposal would provide an alternative from the exemption process for certain operations, reducing administrative costs upon operators and the FAA. While the operations are not without some noise costs, these costs can be characterized as trivial, since the number of operations at any one local airport will be extremely low in number.

Even though benefits will exceed costs for this proposal, the FAA finds that the SFAR if adopted, is not likely to have significant economic impact upon a substantial number of small entities. The basis for this is the very low number of requests which FAA foresees as a result of the adoption of this proposal. This number should not exceed fifty over the life of the regulation. Accordingly, preparation of a full regulatory evaluation is not required.

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Pilots, Airspace, Air transportation, Airworthiness directives, and standards.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), a Finding of No Significant Impact has been prepared. The changes proposed in this Notice do not significantly affect the quality of the human environment.

The Proposed Amendment

Accordingly, the FAA proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by amending Special Federal Aviation Regulation (SFAR) 47 as follows:

1. The authority citation for Part 91 is revised to read as set forth below:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 21, 1983).

2. Paragraph 2(c) is amended by removing the phrase "the sale, lease, or other disposition of the airplane; and" and substituting the phrase "scrapping the airplane" in its place.

3. Paragraph 2 is amended by removing paragraph (d).

4. Paragraph 3 is amended by adding new paragraphs (h) and (i) to read as follows:

(h) The applicant's name and telephone number.

(i) Whether a special flight permit under FAR Part 21.197 or a special flight authorization under FAR Part 91.28 is required for the proposed flight.

5. Paragraph 5 is amended by removing "1986" and substituting "1987" in its place.

The proposal has minimal economic consequencies. Accordingly, for reasons stated earlier the FAA has determined that: (1) The amendment does not involve a major rule under Executive Order 12291; (2) the amendment is not significant nor does it require a Regulatory Evaluation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) it is certified that under the criteria of the Regulatory Flexibility Act that the amendment will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted would have little or no impact on trade opportunities for U.S. firms doing business overseas,

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or for foreign firms doing business in the United States.

Issued at Washington, DC, on July 10, 1986.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 86-16520 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 501]

San Lucas Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish in Monterey County, California, an American viticultural area to be known by the appellation "San Lucas." This proposal is based on a petition filed by Almaden Vineyards of San Jose, California. Almaden Vineyards is one of several growers having extensive vineyard operations in the vicinity of the Town of San Lucas in southern Monterey County, California.

The use of the name of an approved viticultural area as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as a locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

DATE: Written comments must be received by October 17, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, RE: Notice No., P.O. Box 385, Washington, DC 20044-0385.

Copies of this proposal, the petition, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Ariel Rios Federal Building, Room 4406, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. Telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, Part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of original in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as viticultural area. The petition shall include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed viticultural area, based on features which can be found on United States Geoglogical Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

Almaden Vineyards of San Jose, California, filed a petition for the establishment of a viticultural area to be known as "San Lucas" in southern Monterey County, California, in the vicinity of the Town of San Lucas.

The petitioned area consists primarily of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling hills to the east and west of this 10-mile-long section of the Salinas Valley in Monterey County.

The principal stream that drains the valley is the Salinas River, the largest submerged or "upside-down" river in North America. The bottomlands drained by this river share similar geological history, topographical features, and soils.

The boundary of the proposed viticultural area encompasses approximately 53 square miles or 33,920 acres. The area is approximately 10 miles in length by 5 miles in width and is bisected by State Highway 101 and the Salinas River which flows northwest 155 miles from its souce in San Luis Obispo County through Monterey County into Monterey Bay. At the nothern end of the proposed viticultural area, the elevation of the Salinas River is approximately 340 feet above sea level; at the southern end, the evevation of the Salinas River is approximately 435 feet above sea level.

The "San Lucas" viticultural area as proposed includes the entire San Lucas Land Grant as well as the southern fourth of the San Benito Land Grant and the northern half of the San Bernardo Land Grant.

Within the area there are approximately 5,000 acres devoted to the cultivation of wine grapes. Areas presently planted in wine grapes range from alluvial fans and terraces over 350 feet above sea level to low-lying hills having maximal elevations of 800 feet above sea level. The proposed area is entirely within the established Monterey Viticultural Area.

History

A Spanish navigator landed at Monterey in 1602. Subsequent overland expeditions from Mexico City to Alta California included padres who established 21 missions along the Camino Real in California. In the portion of California which later became Monterey County, missions were established at Carmel, Soledad and San Antonio.

The Spanish imposed rigidly prescribed rules under which land was parceled into pueblos, presidios, missions and ranchos. From 1774 to 1824, Spanish governors in Monterey awarded 34 relatively small parcels of land as ranchos in present-day Monterey County.

With Mexico's independence from Spanish rule in 1824, a succession of Mexican governors ruled California. These governors secularized the extensive landholdings of the missions by bestowing an additional 32 land grants, eight of which were in excess of 10,000 acres. From 1836 to 1842, 28 land grants totaling over a quarter of a million acres wer awarded. The Rancno San Benito (6,671 acres) and the Rancho San Bernardo (13,346 acres) land grants

were awarded in 1841 and the Rancho San Lucas land grant (8,875 acres) was awarded in 1842.

From 1862 to 1890, Alberto Trescony amassed extensive holdings of rangeland consisting of Rancho San Benito and Rancho San Lucas as well as the portion of Rancho San Bernardo north of present-day San Ardo. Trescony grazed large herds of sheep and cattle on the land and rented tracts of land to tenant farmers who raised feed grains, primarily wheat and barley. As the area prospered, a large grain elevator was erected on a site which later became the Town of San Lucas. With the extension of railroad service south to San Lucas in the 1880's, the town continued to thrive and for a while its size elipsed that of King City, its immediate neighbor to the north. The "San Lucas District," comprised of the Town of San Lucas, the San Lucas and San Benito land grants, and the northern half of the San Bernardo land grant, gained a reputation for raising grain, cattle and horses.

The petition includes documentation of the planting of wine grapes in 1970. Today, the area has approximately 5,000 acres devoted to wine grape cultivation. A drive south along State Highway 101 from King City past San Lucas to San Ardo reveals mile after mile of vineyards planted on land extending to the bases of the hills along both sides of the roadway.

Name

"San Lucas" is the name used locally to designate the agricultural district in southern Monterey County in which is located the Town of San Lucas. Because of the history of ownership by Alberto Trescony as well as references to the "San Lucas" agricultural district, ATF believes that the name "San Lucas" applies to the area within the land grant bearing that name as well as to the southern portion of the San Benito Land Grant and to the portion of the San Bernardo land grant lying northwest of San Ardo.

Geography

The proposed San Lucas viticultural area consists of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling foothills which form the east and west portions of the proposed boundary. Straight lines drawn between the promontories of foothills ranging in elevation from 499 feet to 1,230 feet above sea level form the boundary of the area. The proposed viticultural area is approximately 10 miles in length from north to south and over 5 miles in width from west to east. The area is part of the elongated 84-mile-long Salinas Valley which ranges in width from 10 to 12 miles near the Town of Salinas at its northern end near the Monterey Bay to less than one mile at Bradley at the southern end near the Monterey-San Luis Obsipo county line.

Distinguishing Characteristics

The petitioner states that in addition to history and name the proposed viticultural area is distinguished from adjoining bottomlands to the northwest and southeast by temperature and by climate and is distinguished from highland areas to the east and west by differences in topography, elevation, geology, and soils.

Data from the soil survey of Monterey County support restricting the "San Lucas" appellation to the area as petitioned.

Topography and Elevation

The major physiographic units in Monterey County are the valley lands of the Salinas Valley, the Gabilan and Diablo Ranges to the east of the valley, and the Santa Lucia Range to the west of the valley.

The topography of the proposed viticultural area ranges from bottomland and alluvial fans and terraces in the flood plain of the Salinas River to the gently rolling Cholame Hills in the Diablo Range east of the proposed area and the somewhat steeper slopes along canyons in the foothills of the Santa Lucia Range west of the proposed area.

Elevations of existing grape plantings range from bottomlands at 350 feet to hills at 800 feet above sea level. Lying entirely within the approved Monterey viticultural area, the boundary of the proposed San Lucas viticultural area defines a region well suited for viticulture. The topography of the area ensures adequate ventilation for viticulture.

Geology

The geology of the proposed area varies little from adjoining basin lands to the northwest but does differ significantly from that of the hills and mountains to the east and west. The basin of the Salinas Valley consists of sand and gravel alluivia. The central part of the Santa Lucia Range directly west of the proposed area is composed of diatomaceous shale and massive sandstone. The Cholame Hills in the Diablo Range to the east consist chiefly of calcareous shale. The San Ardo area southeast of the proposed area yields gas and oil.

Soil

The basin of the Salinas River contains a mix of alluvial sand, silt and clay carried downstream over time by tributaries from the mountains and hills surrounding the Salinas Valley. The soil in the vicinity of the Town of San Lucas is mostly Lockwood shaly loam, otherwise known as "Chalk Rock."

Other soil series common to the proposed area are Oceano (loamy sand), Metz complex (loam and sand), Garey (sandy loam), Greenfield (fine sandy loam), and the Snelling-Greenfield complex (loam). All are rapidly draining to well drained, coarse to medium textured soils that formed in alluvium. Slopes are 0 to 30 percent. The natural vegetation consists of annual grasses and forbs. Roots penetrate to a depth of more than 60 inches. Soils of these series are used mostly for dryland grain and range. With the use of irrigation, these soils can be planted to row crops such as grapes.

Climate

The climate of Monterey County ranges from cool and moist along the coast, where fog is common, to hot and dry in inland areas in the southern part of the county.

There are different climatic regions within the county. The transitions between regions are gradual. The regions are the coastal areas and valleys that open to the coast; interior valleys generally surrounded by foothills and mountains; the foothills; and the higher more rugged mountainous areas. There is a great difference between the maximum and minimum temperatures from one region to another.

Temperatures near the coast are uniform throughout the year. However, as distance from water increases, the ranges between seasonal highs and lows and between daytime highs and nighttime lows during the growing season widen.

The mean annual temperature for Monterey County ranges only from 55° to 59 °F. The mean maximum temperature averages about 100 °F near Jolon in the interior (15 miles to the southwest of the Town of San Lucas) but only about 79° on the Monterey Peninsula. The mean minimum temperature for Jolon is 30° and for the Peninsula, about 41°.

Along the coast, the average annual temperature is 57 °F, and freezing temperatures are rare. In the southern part of the county, however, greater extremes in temperature and higher average temperatures prevail. Annual precipitation ranges from about 105

inches along the crest of the Santa Lucia Range to 10 inches in southernmost Salinas Valley.

The climate of Monterey County is strongly affected by the proximity of the Pacific Ocean. Its moderating influence limits the range of daily highs and lows as well as the annual range of temperature, keeping summers cool and winters moderately warm close to water. Coastal areas are very cloudy in summer, especially during the evening, night and morning. Nighttime cloudiness is common throughout the Salinas Valley during much of the summer; however, as the distance from the ocean increases, the clouds are fewer, and they form later in the evening and clear earlier in the morning.

Inland, the pattern of climate becomes more complex as the maritime influence interacts with mountain barriers and inland heating. The coastal mountains in the central and southern parts of the county hold marine air away from the interior, but as the sun heats the middle and southern parts of the Salinas Valley and higher elevations near the adjacent mountains, rising warm air draws cooler marine air from Monterey Bay into the valley. As a result of this sequence of heating and cooling effects of wind and marine fog, daily and annual temperatures in the county's interior range widely.

Average annual temperatures of about 60 °F are characteristic of the Salinas Valley. Temperatures farther inland in the southern Salinas Valley, however, climb fairly high during the day before the sea breeze becomes effective. In summer, the average daily maximum temperature remains in the low 60s along the coast and ranges from the middle 80s to the middle 90s in the southern end of the Salinas Valley and the eastern mountain area. Readings of 115 °F have been made in the southeasternmost inland reaches of the Salinas Valley.

Precipitation, mostly rain, occurs chiefly in winter. As a result of the terrain and the maritime influence, the amount of precipitation varies considerably from point to point. In most areas of the coastal range, the annual amount averages more than 20 inches and is about 80 inches at higher elevations. Most of the Salinas Valley is in the rain shadow of the coastal range and, consequently, the annual total precipitation drops to as little as 10 inches in areas to the south of King City. East of the Salinas Valley, precipitation increases again on the western slopes of the Gabilan and Diablo Ranges with about 20 inches reported at the higher elevations.

Grape growing in the Salinas Valley requires irrigation from May to October. Almost all of the irrigation water is pumped via wells from the large aquifer of the submerged Salinas River. Water released during the summer from the reservoirs of the Nacimiento and San Antonio dams into the Salinas River maintains a steady flow and supply for sprinkler and drip irrigation.

The location of the proposed "San Lucas" viticultural area in the inland southern end of the Salinas Valley allows a distinction on climatological characteristics from the rest of the county in that the area experiences heat and less intrusion of the fog common to those portions of the Salinas Valley which are closer in proximity to the Monterey Bay.

The April through October growing season of the proposed viticultural area is distinctly warmer than that of the portion of the Salinas Valley to the northwest and cooler than that of the portion of the valley to the southeast. The climate of the area is characterized by cold summer night temperatures, dropping as much as 40 degrees below daytime highs.

The petitioner has supplied thermograph readings documenting a 30-degree range between high and low temperatures at Almaden's vineyard situated east of King City and a 40-degree range between high and low temperatures at Almaden's vineyard situated south of San Lucas.

"General Viticulture" by Winkler, Cook, Kliewer and Lider (1974) identifies, in part, winegrowing climatic regions and heat summations, i.e., degree-days above 50° F for the period April 1 through October 31, for the following locations in Monterey, San Joaquin and San Luis Obispo (SLO) counties:

Station	County	Heat summation	Climatic region
Gonzales	Monterey	2350	I
Soledad	Monterey	2880	II
San Luis Obispo	SLO	2620	II
Atascadero	SLO	2870	II
Paso Robles	SLO	3100	III
San Miguel	SLO	3890	IV
Stockton	San Joaquin	4160	V

The heat summations for the five climatic regions are:

Region	Degree-days
I	Less than 2,500.
II	2,501 to 3,000.
III	3,001 to 3,500.
IV	3,501 to 4,000.
V	4,001 or more.

Based on the averages of degree-day records maintained by the petitioner for the vineyards near King City and San Lucas for the 11-year period 1974 to 1984, ATF has calculated the following:

Station	County	Heat summation	Climatic region
King City	Monterey	3389	III
San Lucas	Monterey	3734	IV

Comparing the published data for selected stations in the vicinity of San Lucas with the calculations for the petitioner's vineyards near King City and San Lucas, ATF concludes that there is a difference in climatic regions between San Lucas and King City which is north of San Lucas. King City experiences more of the marine influence due to its proximity to the Monterey Bay.

San Miguel is situated in San Luis Obispo County approximately 30 miles south of the Town of San Lucas. Both San Lucas and San Miguel are classed in Climatic Region IV and both experience long daily periods of high heat and sunlight due to their inland locations and distance from the coast and its marine influence.

Winds and fog generated by high and low pressures between the inland hills and the year-round temperature of 55 degrees Fahrenheit for the waters of the Monterey Bay are an additional cooling factor in summer. These cooling winds are distinguished from those of the San Joaquin Valley to the east. The San Joaquin Valley is classed in Climatic Region V.

Proposed Boundary

The boundary of the proposed San Lucas viticultural area may be found on four United States Geological Survey maps of the 7.5 minute series, scale 1:24,000. The boundary is described in proposed § 9.56.

Compliance with Executive Order 12291

It has been determined that this proposed regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Public Participation

ATF requests comments from all interested parties. Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Thermograph readings supplied by the petitioner support a "warm" Climatic Region III classification for the petitioner's vineyard east of King City and a "cool" Climatic Region IV classification for the petitioner's vineyard south of San Lucas. Based on this data, ATF has proposed a northern leg of the boundary for the area. Since the transition between the two climatic regions is gradual, however, ATF requests the submission of any additional thermograph readings taken from various points in the extensive vineyards which are situated immediately northwest of the boundary as proposed. Readings recorded over at least the past 10 years would be helpful in delineating the north leg of the boundary.

The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9–AMERICAN VITICULTURAL AREAS

Paragraph. 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.56 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.
9.56 San Lucas.

Par. 3. Subpart C is amended by adding § 9.56 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.56 San Lucas.

(a) *Name.* The name of the viticultural area described in this section is "San Lucas."

(b) *Approved maps.* The appropriate maps for determining the boundary of San Lucas viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series: San Lucas, CA, 1949, photorevised 1979, Nattrass Valley, CA, 1967, San Ardo, CA, 1967, and, Espinosa Canyon, CA, 1949, photorevised 1979.

(c) *Boundary.* The San Lucas viticultural area is located in Monterey County in the State of California. The boundary is as follows: Begnnning on the "San Lucas Quadrangle" map at the northwest corner of section 5 in Township 21 South, Range 9 East, the boundary proceeds northeasterly in a straight line approximately 0.35 mile to the 630-foot promontory in section 32, T. 20 S., R. 9 E.;

(1) Then east southeasterly in a straight line approximately 0.6 mile to the 499-foot promontory in the southwest corner of section 33, T. 20 S., R. 9 E.;

(2) Then east southeasterly in a straight line approximately 1.3 miles to the 847-foot promontory in section 3, T. 21 S., R. 9 E. on the "Nattrass Valley quadrangle" map;

(3) Then south southeasterly in a straight line approximately 2.2 miles to the 828-foot promontory in section 14, T. 21 S., R. 9 E. on the "San Ardo Quadrangle" map;

(4) Then east southeasterly in a straight line approximately 1.3 miles to the 868-foot promontory in section 13, T. 21 S., R. 9 E.;

(5) Then southeasterly in a straight line approximately 0.94 mile to the 911-foot promontory in section 19, T. 21 S., R. 10 E.;

(6) Then easterly in a straight line approximately 1.28 miles to the 1,042-foot promontory in section 20, T. 21 S., R. 10 E.;

(7) Then east northeasterly in a straight line approximately 1.28 miles to the 998-foot promontory in southeast corner of section 16, T. 21 S., R. 10 E.;

(8) Then southerly in a straight line approximately 2.24 miles to the 1,219-foot promontory near the east boundary of section 28, T. 21 S., R. 10 E.;

(9) Then southwesterly in a straight line approximately 1.5 miles to the 937-foot promontory near the North boundary of section 32, T. 21 S., R. 10 E.;

(10) Then southwesterly in a straight line approximately 0.34 mile to the 833-foot promontory in section 32, T. 21 S., R. 10 E.;

(11) Then south southeasterly in a straight line approximately 0.5 mile to the 866-foot "Rosenberg" promontory in section 32, T. 21 S., R. 10 E.;

(12) Then south southeasterly approximately 1.1 mile to the 781-foot promontory in section 5, T. 22 S., R. 10 E.;

(13) Then southeasterly in a straight line approximately 0.7 mile to the 767-foot promontory in section 9, T. 22 S., R. 10 E.;

(14) Then southerly in a straight line approximately 0.5 mile to the 647-foot promontory along the south boundary of section 9, T. 22 S., R. 10 E.;

(15) Then southwesterly in a straight line approximately 2.67 miles to the 835-foot promontory in section 19, T. 22 S., R. 10 E.;

VOL 51 ISS 159 AG 18 1986 UMI

(16) Then west southwesterly in a straight line approximately 1.1 miles to the 1,230-foot promontory in section 24, T. 22 S., R. 9 E.;

(17) Then north northwesterly in a straight line approximately 1.4 miles to the 1,149-foot promontory in section 14, T. 22 S., R. 9 E.;

(18) Then northwesterly in a straight line approximately 0.57 mile to the 1,128-foot promontory in section 11, T. 22 S., R. 9 E.;

(19) Then west southwesterly in a straight line approximately 0.58 mile to the 1,220-foot promontory near the north boundary of section 15, T. 22 S., R. 9 E.;

(20) Then northwesterly in a straight line approximately 1.33 miles to the 1,071-foot promontory in the northwest corner of section 9, T. 22 S., R. 9 E.;

(21) Then northwesterly in a straight line approximately 2.82 miles to the 1,004-foot promontory in section 31, T. 21 S., R. 9 E.; on the "Espinosa Canyon Quadrangle" map;

(22) Then north northwesterly in a straight line approximately 1.32 miles to the 882-foot promontory in section 25, T. 21 S., R. 8 E.;

(23) Then northwesterly in a straight line approximately 1.05 miles to the 788-foot promontory in section 23, T. 21 S., R. 8 E.;

(24) Then northerly in a straight line approximately 1.54 miles to the 601-foot promontory in section 13, T. 21 S., R. 8 E.;

(25) Then northeasterly in a straight line approximately 3.2 miles to the point of beginning.

Signed: August 8, 1986.

W.T. Drake,

Acting Director.

[FR Doc. 86-18580 Filed 8-15-86; 8:45 am]

BILLING CODE 4810-31-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal employment Opportunity in the Federal Government: Complaints of Discrimination

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is proposing to revise its regulations on equal employment opportunity in the federal government (29 CFR Part 1613). The regulations in Part 1613 cover the processing of complaints and appeals regarding employment discrimination in the Federal sector. These proposals provide for more efficacious investigations, appeals and compliance with Commission decisions in Federal employment.

DATE: Written comments on the proposed regulations must be received on or before September 17, 1986. The Commission proposes to consider any comments received and thereafter adopt final regulations.

ADDRESS: Comments should be addressed to the Office of the Executive Secretariat, Room 5215, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's Library, Room 298, 2401 E Street, NW., Washington, DC 20507, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, or James Lager, Staff Attorney, at 634-6690.

SUPPLEMENTARY INFORMATION: Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978) and Executive Order 12106, 44 FR 1053 (December 28, 1978), authority for the administration and enforcement of equal opportunity in federal employment, previously vested in the Civil Service Commission, was transferred to the Equal Employment Opportunity Commission. The Commission is specifically granted the authority to issue rules, regulations, orders and instructions pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16(b); the Age Discrimination in Employment Act of 1967, 29 U.S.C. 633a(b); the Rehabilitation Act of 1973, 29 U.S.C. 794a(a)(1), and Executive Order 12067.

Pursuant to the foregoing authorities, the Commission is publishing proposed regulations to resolve certain problems in federal sector complaint processing procedures and appeals to the Commission from agency decisions on federal employment discrimination complaints.

I. Proposed Amendments Affecting Investigation And Processing Of Employment Discrimination Complaints In The Federal Sector.

The current regulation § 1613.212 has been misconstrued to suggest that a complainant cannot file a complaint against more than one agency. The proposed amendment removes the requirement that a complainant restrict the scope of the complaint to alleged discrimination by the employing agency. Section 1613.601 would be similarly revised.

The amendment to § 1613.213 addresses the problem of lengthy EEO counseling periods without the aggrieved being informed of the right to file a complaint. The regulation eliminates the 21 day notice and requires the EEO Counselor to issue the notice of final interview not later than the 30th day after the aggrieved person contacted the Counselor. In addition, the proposed regulation requires the EEO Counselor's report to be submitted after a complaint has been filed, rather than when a complaint has been accepted, so that the report may be used to make a decision on the complaint. The proposed § 1613.214 addresses a number of practical problems concerning representatives and employees working swing or night shifts. The proposed regulation explicitly indicates that an agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow a complainant and the representative to confer. The proposed regulation allows official time, however, for all employees otherwise in pay status, if their presence is required or authorized in the investigation, informal adjustment or hearing on a complaint.

Language has been added to proposed § 1613.214(b) to indicate that representatives can be disqualified for conflicts of interest. In addition, the title of this subsection has been changed to reflect more accurately its contents.

Section 1613.215 provides two additional grounds for rejecting or cancelling complaints of discrimination: (1) Where the complainant has filed a civil action in U.S. District Court, and (2) where the complainant fails to accept an agency's offer of full relief in settlement of the complaint. At present agencies are required to continue administrative processing of the complaint, notwithstanding the complainant's election to proceed in the judicial forum. Administrative processing currently is terminated only upon its completion or when the court has entered a final judgment on the complaint. The proposed regulation ends processing of the same complaint in two forums, saving time and resources.

The second new ground for cancellation of a complaint is where the agency has offered a complainant full relief to settle a complaint but the complainant rejects the offer and insists on continued administrative processing of the complaint. A complainant has the right to appeal the adequacy of an agency's offer of full relief to the Commission. In addition, the grounds for rejection or cancellation have been

divided into two sub-paragraphs: the first discretionary and the second mandatory grounds for rejection or cancellation.

Section 1613.216 would be amended to delete the term "alleged discriminating official." The concept of "alleged discriminating official" has caused confusion and problems. Although complants are filed against agencies and it is agencies that are responsible for relief, some persons involved in federal sector complaint processing believe that alleged discriminating officials are the responsible agents, thus confusing the role of the individual as a witness and as an agency representative. The proposal would eliminate the confusing term.

If the agency proposes to take disciplinary action against any individual involved in discrimination, that individual would be entitled to the form of notification, response, and appeal, as governed by appropriate federal personnel regulations. The proposed regulation also permits an agency to select an investigator from any source except where a conflict of interest exists.

Proposed § 1613.217 addresses the problems of nonenforceability of a settlement agreement where there has been a breach and makes clear that any settlement agreement knowingly and voluntarily agreed to is binding upon the parties. There is now no provision for enforcement but only for the reinstatment of the complaint at the point that processing ceased.

The new regulation provides complainants with a forum to adjudicate allegations of agency breaches of settlement agreements and provides for enforcement of settlement agreements where the Commission determines that the agency has breached or recinded the agreement. Complainants are given specific appeal rights to the Commission and the right to request either specific enforcement of the settlement of the complaint for further processing.

Section 1613.218 would be revised to allow the Complaints Examiner to dispense with the hearing in cases where no material facts are at issue. Some cases now come before Complaints Examiners for hearing even through the facts are not in dispute. A summary decision process will conserve significant Commission resources and facilitate more rapid processing for cases that are inappropriate for a decision without a hearing, thus reducing complaint processing costs and timeframes. The Complaints Examiner's powers to compel evidence and enforce rulings were also strengthened. Because of privacy concerns and the investigative nature of hearings, the proposed revision explicity provides for hearings closed to the public.

Current regulation § 1613.219 does not reflect the provision of the Civil Service Reform Act, 5 U.S.C. 7121(d) (1982) that allows allegations of discrimination to be raised in a negotiated grievance procedure if the collective bargaining agreement so provides. The proposed revision incorporates the CSRA provision, while making it clear that an individual must elect either the complaint or the negotiated grievance procedure. The revision also makes clear that allegations of discrimination raised in grievances must be processed under EEOC regulations at 29 CFR Part 1613 where either the agency or employee is not covered by a grievance procedure authorized by 5 U.S.C. 7121(d). The proposed regulation provides that election should not occur until the actual filing of a complaint or grievance and not by contacting an EEO counselor.

The proposed revisions to § 1613.220(d) provides a uniform time limit for issuance of final agency decisions after receipt of the complete complaint file and recommended decision and requires agencies to supply the complaints examiner with a copy of the final agency decision.

The time period for agency acceptance, rejection or modification has been changed to conform to the requirements of *Marizan* v. *Equal Employment Opportunity Commission*, 33 Fair Employ. Prac, Dec. 1833 (D.D.C. 1984). Thus, the 45-day period of subsection (d) runs from the agency's receipt of a recommended decision rather than when received by the appropriate official as in the current regulation.

The proposed revision to § 1613.221 strengthens the complaint process by requiring an agency decision that rejects or modifies the recommended decision to indicate in specific detail the reasons for rejection or modification of the complaints examiner's findings of fact or conclusions of law. In addition, the proposed regulation indicates that final agency decisions are to based on a preponderance of evidence.

The proposed revision to § 1613.222 requires agencies to include proof of the date of receipt of the final agency decision in the complaint file.

The revision of § 1613.231 was made to conform with the procedure for appeals of matters under § 1613.217(b), noncompliance with settlement agreement and failure to implement final agency decision. The title of this subsection was changed to reflect more accurately its contents.

Section 1613.236 was promulgated by the Civil Service Commission to govern the relationship of the discrimination complaint process and the Civil Service appeal system. This subsection is deleted as it no longer has any effect.

Proposed § 1613.240 removes uncertainty as to how time will be computed and provides that documents will be considered filed timely when postmarked or, if there is no postmark, if the document is received within five days of the expiration of the relevant time period. Sections 1613.261, 1613.262 and 1613.607 have been revised to conform clearly to section 704 of Title VII.

The proposed revisions to § 1613.271 incorporate the Commission's Remedies Policy into federal sector remedial regulations by adding a new subsection (a). There is substantial consistency among the remedial principles and most provisions of the federal sector regulations and the EEOC Remedies Policy. The revision incorporates the principles of "The Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination," approved by the Commission on February 5, 1985, which is published here as Appendix A to Part 1613.

The proposed revision also deletes priority consideration as a remedy where the record shows by clear and convincing evidence that the complainant would not have been hired or promoted absent discrimination. In such instances, the appropriate action would be to eliminate the discriminatory practice and to take steps to ensure it does not recur, without providing a direct remedy to the complainant. In addition the proposed regulation notes that two year backpay limitation applies only to Title VII and Rehabilitation Act claims.

The proposed revision to both §§ 1613.283 and 1613.513 provides for termination of the administrative process once a civil action is filed in conformance with the proposed amendment to § 1613.215(b). We have proposed that § 1613.602 be amended so that an employee or applicant must consult an EEO Counselor within 30 days rather than 90 days of the date of the discriminatory event or when the aggrieved knew or should have known of the discrimination. This will ensure that an aggrieved who intends to file class complaint will meet the requirements for filing an individual complaint in case the class complaint is rejected under § 1613.601.

Proposed regulation §§ 1613.604, 1613.609, 1613.610, 1613.631 and 1613.643 include revisions to five sections of the

VOL 51 ISS 159 AG 18 1986 UMI

class complaint regulations to bring them into conformity with the changes made in the individual complaint regulations. Included are the provisions for cancellation when the agent files a civil action in U.S. District Court (§ 1613.604 and 1613.643) and the provisions for the enforceability of settlement agreement (§ 1613.609(e)) and a corresponding provision for appeal (§ 1613.631).

To address the situation where an agency settles a class complaint with the class agent but there are other class members who have been notified of the action and have not opted out, and assure that settlements are fair and reasonable, a procedure has been added to § 1613.609(d) that allows the case to continue after settlement upon substitution of an acceptable class agent. This provision was framed with the fairness provisions of Rule 23(e) of the Federal Rules of Civil Procedure in mind but has been tailored to fit the administrative process.

A minor change was made to § 1613.610 to indicate that a class hearing would be conducted in accordance with § 1613.218 rather than 5 CFR 772.307(c), which was used by the Civil Service Commission but no longer is contained in the Code of Federal Regulations.

II. Proposed Changes in the Appeal and Enforcement of Commission Decisions Concerning Employment Discrimination in the Federal Sector

Pursuant to 29 CFR 1613.231, complainants may appeal agency decisions on complaints of discrimination to the Commission. If the Commission finds on behalf of a complainant, its decision usually requires some from of agency compliance. The nature of compliance may range from processing complaint previously rejected to implementing specified relief such as back pay or reinstatement. Compliance is mandatory and agencies are given thirty (30) days to implement the ordered relief. Decisions on appeal notify complainants of their right to file a civil action in the appropriate federal district court, as provided by section 717(c) of Title VII and the other statutes cited above. In addition the parties to a complaint may request the Commission, under 29 CFR 1613.235, to reopen and reconsider a decision issued under § 1613.234. Decisions issued by the Commission under § 1613.235 may also contain mandatory compliance provisions and must give complainants another notice of their rights to file civil actions. The volume of appeals now processed by the Commission is such that special problems arise with enough frequency to merit refinement and enlargement of current appellate procedures. There is confusion on some vital matters, little accommodation for delays of a legitimate nature, and no formal process for a complainant or the Commission to effect compliance.

These proposed regulations address these problems as follows: *Finality:* Current Commission regulations require the Commission to notify the parties, when a decision is issued that the decision is final and contain a notice of right to file a civil action. 29 CFR 1631. 234. This notice is given whether the decision is on the merits of the complaint or on a procedural matter that neither resolves the merits of the entire complaint nor the underlying complaint on the procedural issues on appeal.

The notice section of the Commission's regulations requires an appellant to proceed to federal court within 30 days of receipt of notification of final action in actions brought pursuant to Title VII of the Civil Rights Act of 1964, and the Rehabilitation Act of 1973. 29 CFR 1613.281. Notification pursuant to this provision in Age Discrimination in Employment Act (ADEA) proceedings is specifically excluded by 29 CFR 1613.514 anbd 521. Therefore, ADEA proceedings are unaffected by the proposed regulation.

This notice requirement has created numerous problems for complainants where the agency's intention with respect to compliance with a decision is unclear or untimely. The thirty (30) day notice from the Commission is identical to the ninety (90) day notice of right to sue in the private sector so that a complainant's right to a civil action is extinguished after 30 days.

The problem is exacerbated by the current, apparently open-ended and cumulative right to request reopening and reconsideration of prior Commission decisions. A complainant exercising that right may lose the right to file a civil action because under the current regulations reopening is discretionary and does not place a time limit on complainants for making such requests.

The new 29 CFR 1613.235 makes clear that only a timely request to reopen defeats the finality of a decision for purposes of commencing a civil action.

Requests to Reopen: The current regulation does not specify how many requests to reopen the Commission would entertain that arise out of the same decision. In the past, the Commission occasionally accepted more than one such request. As a consequence, parties sometimes used the process as a delaying tactic. The new provisions indicates the Commission's intention to consider matters on requests to reopen only once. No further administrative review of a decision issued under § 1613.235 is available to either party. The Commission reserves to itself the right to reopen, on its own motion, any decision issued when circumstances so warrant. The Commission invites comments to address specifically the matter of discretionary reopening.

Compliance and Enforcement of Commission Decisions: Agency compliance with Commission decisions has generally been forthcoming and with a cooperative spirit. Nevertheless, there are occasions that require an administrative enforcement mechanism for complainants to secure Commission attention to a compliance problem. In those instances that it becomes necessary to invoke the procedures, the benefit ultimately is the elimination of duplicative and costly de novo civil actions.

The Commission considers its orders of corrective action mandatory and binding on the affected agency pursuant to section 717 of Title VII and section 15 of the Age Discrimination in Employment Act. Thus, a new section, 29 CFR 1613.238, has been added to place agencies and complainants on notice that once the action ordered has become final, the agency's responsibility in the matter with respect to the affected complainant is purely ministerial. The Commission believes that the procedures proposed in 29 CFR 1613.239(a) will be unnecessary in all but the most extraordinary circumstances. In an effort to resolve policy disputes, however it is appropriate for Commission and agency-head level discussion and resolution of controversies engendered by agency refusal to comply with Commission orders.

The notice to show cause directed to the agency head may request the appearance of the agency head before the Commission to discuss, in a manner consistent with the Privacy Act rights of individual federal employees, the reasons for the agency's noncompliance with the Commission's order.

After completion of reasonable administrative efforts to effect compliance with its orders, the Commission will notify complainants of their option to seek judicial enforcement of the corrective action ordered, *Moore v. Devine*, 780 F.2d 1559 (11th Cir. 1986), or commence de novo judicial proceedings. Once it is determined that the corrective action ordered is

acceptable to the complainant, however, nothing in the statutes administered by the Commission dictates that the complainant be compelled to litigate the matter de novo. Finally, unlimited delay works an invidious result of its own and conflicts with congressional and Executive policy to resolve allegations of discrimination expeditiously. Similarly, where discrimination is found by the appropriate authoirty, expeditious corrective action is mandated.

Clarification of Commission Decisions: Independent of compliance issues, agencies and complainants make inquiries seeking clarification of the remedies portion of Commission decisions. Questions from agencies usually are for advice on implementation of the relief granted. The new regulatory provision allows agencies to seek clarification in connection with a timely request to reopen. The time limitation is imposed to ensure expeditious resolution of any outstanding issues and to avoid delays in ultimate compliance.

Although the proposed rules will improve greatly the processing of federal sector complaints, these revisions are not a complete overhaul of the process. The Commission is continuing its consideration of the desirability and feasibility of a comprehensive revision of these regulations, as indicated in the Executive Office of the President, Office of Management and Budget, Regulatory Program of the United States Government (1986), and the Semiannual Regulatory Agenda, 51 FR 14,592 (1986).

These regulations have been coordinated with affected federal agencies pursuant to Executive Order 12067 and have been reviewed by the Office of Management and Budget pursuant to Executive Order 12291. The Commission hereby publishes these proposed rules for public comment. The proposed rules appear below.

Accordingly, it is proposed to amend Part 1613 as follows:

For the Commission.

Clarence Thomas,

Chairman.

Part 1613—[Amended]

1. The authority citation for Part 1613 continues to read as follows:

Authority: 5 U.S.C. 1301, 3301, 3302, 7151–7154, 7301; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306, E.O. 11478, 3 CFR, 1969 Comp., p. 133, unless otherwise noted.

§ 161.3.212 [Amended]

1a. It is proposed to amend § 1613.212(a) by removing the words "with that agency" from the first sentence.

2. It is proposed to revise § 1613.213 to read as follows:

§ 1613.213 Precomplaint processing.

(a) An agency shall require that aggrieved persons who believes that they have been discriminated against because of race, color, religion, sex, or national origin consult with an Equal Employment Opportunity Counselor to try to resolve the matter. The agency shall require the Equal Employment Opportunity Counselor to make whatever inquiry believed necessary into the matter; to seek a solution of the matter on an informal basis; to counsel the aggrieved person concerning the issues in the matter; to keep a record of the counseling activities so as to brief, periodically, the Equal Employment Opportunity Officer on those activities; and, when advised that a complaint of discrimination has been filed by an aggrieved person, to submit a written report to the Equal Employment Opportunity Officer, with a copy to the aggrieved person, summarizing the counselor's actions and advice both to the agency and the aggrieved person concerning the issues in the matter. The Equal Employment Opportunity Counselor shall conduct the final interview with the aggrieved person not later than 30 calendar days after the date on which the matter was called to the counselor's attention by the aggrieved person. If the matter has not been resolved to the satisfaction of the aggrieved person, that person shall be informed in writing by the Counselor, not later than the thirtieth day after contacting the counselor, of his or her right to file a complaint of discrimination. The notice shall inform the complainant of his or her right to file a discrimination complaint at any time up to 15 calendar days after receipt of the notice, of the appropriate official with whom to file a complaint, and of the complainant's duty to assure that the agency is immediately informed if the complainant retains counsel, or any other representative. The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint. The Equal Employment Opportunity Counselor shall not reveal the identity of an aggrieved person who consulted the counselor, except when authorized to do so by the aggrieved person, until the agency has received a complaint of discrimination from that person.

(b) The agency shall assure that full cooperation is provided by all employees to the Equal Employment Opportunity Counselor in the performance of the duties under this section.

3. It is proposed to revise § 1613.214 to read as follows:

§ 1613.214 Filing and processing of complaint.

(a) *Time limits.* (1) An agency shall require that a complaint be submitted in writing by the complainant or representative and be signed by the complainant. The complaint may be delivered in person or submitted by mail. The agency may accept the complaint for processing in accordance with this subpart only if:

(i) The complainant brought to the attention of the Equal Employment Opportunity Counselor the matter causing him/her to believe he/she had been discriminated against within 30 calendar days of the date of the alleged discriminatory event, the effective date of a alleged discriminatory personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action; and

(ii) The complainant or representative submitted the written complaint to an appropriate official within 15 calendar days after the date of receipt of the notice to file a complaint.

(2) The appropriate officials to receive complaints are the head of the agency, the agency's Director of Equal Employment Opportunity, the head of a field installation, and such other officials as the agency may designate for that purpose. Upon receipt of the complaint, the agency official shall transmit it to the Director of Equal Employment Opportunity or appropriate Equal Employment Opportunity Officer who shall acknowledge its receipt in accordance with paragraph (a)(3) of this section.

(3) A complaint shall be deemed filed on the date it is received, if delivered to an appropriate official, or on the date postmarked if addressed to an appropriate official, designated to receive complainst. The agency shall acknowledge, in writing, to the complainant or representative receipt of the compliant and advise the complainant in writing of all administrative rights and of the right to file a civil action as set forth in § 1613.281, including the time limits imposed on the exercise of these rights.

(4) The agency shall extend the time in this section when the complainant shows that he/she was not notified of

VOL 51 ISS 159 AG 18 1986 UMI

the time limits and was not otherwise aware of them, was prevented by circumstances beyond the complainant's control from submitting the matter within the time limits; or for other reasons considered sufficient by the agency.

(b) Representation and official time. (1) At any state in the processing of a complaint, including the counseling stage under § 1613.213, the complainant shall have the right to be accompanied, represented, and advised by a representative of complainant's choice. If the complainant is an employee of the agency, he/she shall have a reasonable amount of official time to present the complaint if otherwise on duty. If the complainant is an employee of the agency and he designates another employee of the agency as his/her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to present the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(2) In cases where the representative of a complainant or agency would have a conflict of interest, the Commission (or the agency if the complaint is at the agency level) may, after giving the representative an opportunity to respond, disqualify the representative.

4. It is proposed to revise § 1613.215 to read as follows:

§ 1613.215 Rejection or cancellation of complaint.

(a) The head of the agency or designee may reject a complaint that was not timely filed and may cancel a complaint because of failure of the complainant to prosecute the complaint. Cancellation may be taken only after the agency has provided the complainant a written request, including notice of proposed cancellation, that the complainant provide certain information or otherwise proceed with the complaint, and the complainant has failed to satisfy the request within 15 calendar days of receipt of the request. The complaint may be cancelled because the complainant refuses to accept an agency offer of complete relief in adjustment of the complaint, provided that the agency's General Counsel or Chief Legal Officer, or a designee reporting directly to such an official, has certified in writing that any written offer of relief made by the agency constitutes such complete relief. To constitute such complete relief for purposes of this section only, an offer must contain an unconditional offer of placement in the position the person would have occupied, elimination of any unlawful employment practice, expunction of records, payment on a make whole basis for any loss of earnings, and payment of attorney's fees or costs.

(b) The head of the agency or designee shall reject those allegations in a complaint that do not state a claim under § 1613.212 or that state the same claims that have been previously decided by the agency. The agency head or designee shall cancel a complaint where a civil action has been filed in the U.S. District Court based on that complaint.

(c) The head of the agency or designee shall transmit the decision to reject or cancel a complaint by leter to the complainant and representative. The decision letter shall inform the complainant of the right to appeal the decision of the agency to the Commission and of the time limit within which the appeal may be submitted and of the right to file a civil action as described in § 1613.281.

5. It is proposed to revise § 1613.216 to read as follows:

§ 1613.216 Investigation.

(a) The Equal Employment Opportunity Officer shall advise the Director of Equal Employment Opportunity of the acceptance of a compliant. The Director of Equal Employment Opportunity shall provide for the prompt investigation of the compliant. The person assigned to investigate the complaint shall not occupy a position in the agency that is directly or indirectly under the jurisdiction of the head of that part of the agency in which the complaint arose. The agency shall authorize the investigator to administer oaths and require that statements of witnesses shall be under oath or affirmation, without a pledge of confidence. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, the threatment of members of the complainant's group identified by his complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination even though they have not been expressly cited by the complainant. Information needed for an appraisal of the utilization of members of the complainant's group as compared to the utilization of persons outside the complainant's group shall be recorded in statistical form in the investigative file, but specific information as to a person's membership or nonmembership in the complainant's group needed to facilitate an adjustment of the complaint or to make an informed decision on the complaint shall, if available, be recorded by name in the investigative file. (As used in this subpart, the term "investigative file" shall mean the various documents and information acquired during the investigation under this section—including affidavits of the complainant and witnesses, and copies of, or extracts from records, policy statements, or regulations of the agency—organized to show their relevance to the complaint or the general environment out of which the complaint arose.) If necessary, the investigator may obtain information regarding the membership or nonmembership of a person in the complainant's group by asking each person concerned to provide the information voluntarily; he shall not require or coerce an employee to provide this information.

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization:

(1) To investigate all aspects of complaints of discrimination,

(2) To require all employees of the agency to cooperate with him in the conduct of the investigation, and

(3) To require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

(c) The Commission may assume responsibility for the investigation of any portion or all of an agency's complaints upon the execution of a memorandum of understanding to this effect with the agency. The agency shall reimburse the Commission for all expenses incurred in connection with the investigation. The Commission shall forward to the agency upon completion of the investigation the investigative file and the recommended decision. The agency shall adopt as its proposed disposition of the complaint the Commission's recommended disposition unless within 30 days after the agency receives the investigative file and recommended disposition the complaint

has been informally adjusted in accordance with § 1613.217(a), or the agency has notified the complainant of its own proposed disposition in accordance with § 1613.217(b).

6. It is proposed to revise § 1613.217 to read as follows:

§ 1613.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant, or the complainant's representative if there is one, a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and make part of the complaint file, with a copy of the terms of the adjustment provided the complainant. An informal adjustment of a complaint may include an award of back pay, attorney's fees or other appropriate relief. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney's fees or costs should be awarded or on the amount of attorney's fees or costs, the issue of the award of attorney's fees or costs or the amount which should be awarded may be severed and shall be the subject of a final decision under § 1613.221(d). The decision of whether to award attorney's fees or costs or of the amount to be awarded may be the subject of an appeal to the Commission under the provisions of §§ 1613.231 through 1613.236.

(b) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. If the complainant believes that the agency has failed to comply with the terms of a settlement agreement, the complainant shall promptly notify the agency, in writing, of the alleged noncompliance with the settlement agreement. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the complainant's written allegation of noncompliance with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the complainant, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the complainant's written allegations of noncompliance with the settlement agreement, the agency has not responded to the complainant, in writing, or if the complainant is not satisfied with the agency's attempt to resolve the matter, the complainant may appeal to the Commission for a determination as to whether the agency has complied with the terms of the settlement agreement. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary or it may direct that an investigation or hearing on the matter be conducted, as may be appropriate. If the Commission determines that agreement has not been complied with and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Complaints that alleged reprisal or further discrimination violate a settlement agreement shall be processed as individual complaints under § 1613.214 rather than under this section.

(c) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing:

(1) Of the proposed disposition of the complaint,

(2) Of the right to a hearing and decision by the agency head or designee if he/she notifies the agency in writing within 15 calendar days of the receipt of the notice that he/she desires a hearing, and

(3) Of the right to a decision by the head of the agency or designee without a hearing.

(d) If the complainant fails to notify the agency of his/her wishes within the 15-day period prescribed in paragraph (c) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (c) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and the representative which shall inform the complainant of the right of appeal to the Commission and the time limit applicable to such an appeal and of the right to file a civil action as described in § 1613.281. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency or designee for decision under § 1613.221.

7. It is proposed to revise § 1613.218 to read as follows:

§ 1613.218 Hearing

(a) *Complaints examiner.* The hearing shall be conducted by a Commission complaints examiner, except in instances where the Commission finds it is practical to delegate this responsibility to a Complaints Examiner from another agency who shall not be an employee of the agency in which the complaint arose. (For purposes of this paragraph, the Department of Defense is considered to a be a single agency.) When the Commission does not provide the complaints examiner, it will supply the agency with the name of a complaints examiner from another agency who has been certified by the Commission as qualified to conduct a hearing under this section.

(b) *Arrangements for hearing.* The agency in which the complaint arose shall transmit the complaint file containing all the documents described in § 1613.222 which have been acquired up to that point in the processing of the complaint, including the original copy of the investigative file (which shall be considered by the complaints examiner in making a recommended decision on the complaint), to the complaints examiner who shall review the complaint file to determine whether further investigation is needed before scheduling the hearing. When the complaints examiner determines that further investigation is needed, the examiner shall remand the complaint to the Director of Equal Opportunity for further investigation or arrange for the appearance of witnesses necessary to supply the needed information at the hearing. The requirements of § 1613.216 apply to any further investigation by the agency on the complaint. The complaints examiner shall schedule the hearing for a convenient time and place.

(c) *Conduct of hearing.* (1) Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint. Hearings are part of the investigative process and are thus closed to the public.

(2) The complaints examiner shall conduct the hearing to as to bring out pertinent facts, including the production of pertinent documents. Rules of

VOL 51 ISS 159 AG 18 1986 UMI

evidence shall not be applied strictly, but the complaints examiner shall exclude irrelevant or unduly repititious evidence. Information having a bearing on the complaint or employment policies or practices relevant to the complaint shall be received in evidence. The complainant, his representative, and the representatives of the agency at the hearing shall be given the opportunity to cross-examine witnesses who appear and testify. Testimony shall be under oath or affirmation.

(d) *Powers of Complaints Examiner.* In addition to the other powers vested in the Complaints Examiner in accordance with this subpart, the Complaints Examiner is authorized to:

(1) Administer oaths or affirmations;

(2) Regulate the course of the hearing;

(3) Rule on offers of proof and receive relevant evidence;

(4) Limit the number of witnesses whose testimony would be unduly repetitious; and

(5) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing. In cases of repeated or flagrant contumacious conduct or misbehavior by a representative, the Complaints Examiner may refer the matter to the Commission, and the Commission may, after giving the representative an opportunity to respond to the allegations of misconduct, suspend or disqualify the representative from further representational activity and report the misconduct to other appropriate authorities.

(e) If the complainant or agency fail to respond fully and in timely fashion to requests for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, such failure may, in appropriate circumstances, cause the Complaints Examiner:

(1) To draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(2) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(3) To exclude other evidence offered by the party failing to produce the requested information;

(4) To take such other actions as deemed appropriate.

(f) *Witnesses at hearing.* The complaints examiner shall request any agency subject to this subpart to make available as a witness at the hearing an employee requested by the complainant when he/she determines that the testimony of the employee is necessary. The examiner may also request the appearance of an employee of any federal agency whose testimony he determines is necessary to furnish information pertinent to the complaint under consideration. The complaints examiner shall give the complainant his reasons for the denial of a request for the appearance of employees as witnesses and shall insert those reasons in the record of the hearing. An agency to whom a request is made shall make its employees available as witnesses at a hearing on a complaint when requested to do so by the complaints examiner and it is not administratively impracticable to comply with the request. When it is administratively impracticable to comply with the request for a witness, the agency to whom request is made shall provide an explanation to the Complaints Examiner. If the explanation is inadequate, the Complaints Examiner shall so advise the agency and it shall make the employee available as a witness at the hearing. If the explanation is adequate, the Complaints Examiner shall insert it in the record of the hearing, provide a copy to the complainant, and make arrangements to secure testimony from the employee at another time or through written interrogatory. An employee of an agency shall be in a duty status during the time he/she is made available as a witness.

(g) If the Complaints Examiner determines that there are no issues of material fact, the Complaints Examiner may, after notice to the parties, issue a recommended decision without holding a hearing. The recommended decision will conform to § 1613.218(i) in all other aspects.

(h) *Record of hearings.* The hearing shall be recorded and transcribed verbatim. All documents submitted to, and accepted by, the complaints examiner at the hearing shall be made part of the record of the hearing. If the agency submits a document that is accepted, it shall furnish a copy of the document of the complainant. If the complainant submits a document that is accepted, the examiner shall make the documment available to the agency representative for reproduction.

(i) *Findings, analysis, and recommendations.* The Complaints Examiner shall transmit to the head of the agency of designee the complaint file (including the record of the hearing), the findings and analysis of the Complaints Examiner with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose, and the recommended decision of the complaints examiner on the merits of the complaint, including recommended remedial action, where appropriate, with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose. The Complaints Examiner shall notify the complainant of the date on which this was done. In addition, the complaints examiner shall transmit, by separate letter to the Director of Equal Employment Opportunity, whatever findings and recommendations he considers appropriate with respect to conditons in the agency which do not bear directly on the matter which gave rise to the complaint or which bear on the general environment out of which the complaint arose.

8. It is proposed to revise § 1613.219 to read as follows:

§ 1613.219 Relationship to grievance procedures.

(a) Allegations of discrimination on grounds of race, color, religion, sex, or national origin may not be raised under a grievance procedure except by employees in agencies that are subject to the provision of 5 U.S.C. 7121(d) and who are covered by a collective bargaining agreement that provides for allegations of discrimination to be raised in the negotiated grievance procedure. Allegations of discrimination by employees not covered by such a negotiated grievance procedure or by employees of agencies not subject to 5 U.S.C. 7121(d) may not be processed under grievance procedures, and any such grievance containing allegations of discrimination shall be processed under this part.

(b) In case where a person is covered by a negotiated grievance procedure permitting allegations of discrimination, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect the forum in which to pursue the matter: either the process described in this part or a negotiated grievance procedure. An aggrieved employee who files a grievance in writing with an agency whose negotiated agreement with an employee organization permits the acceptance of grievances which allege discrimination prohibited by this subpart, may not thereafter file a complaint on the same matter under the provisions of this subpart irrespective of whether the grievance has raised an allegation of discrimination within the negotiated grievance procedure. Any such complaints filed after a grievance has been filed on the same matter shall be rejected without prejudice to the

complainant's rights to proceed through the negotiated grievance process, including the complainant's right to request the Commission to review a final decision as provided in 5 U.S.C. 7121(d) and at § 1613.231(b). The agency decision letter rejecting such a complaint shall advise the complainant of the right to appeal the agency decision to the Commission. Where the discrimination complaint is processed through the negotiated grievance procedure, the agency shall ensure that a record adequate for Commission review is established. An election, pursuant to this paragraph, to proceed under this Part is indicated only by the filing of a formal complaint, in writing. Use of the pre-complaint process as described in § 1613.213 does not constitute an election for the purposes of this section.

9. It is proposed to amend § 1613.220 by removing the word "monthly" in the first sentence of paragraph (c) and to revise paragraphs (b) and (d) to read as follows:

§ 1613.220 Avoidance of delay.

* * * * *

(b) The head of the agency or designee may cancel a complaint if the complainant fails to prosecute the complaint without undue delay by following the procedures for cancelling a complaint under § 1613.215(a).

* * * * *

(d) When the complaints examiner has submitted a recommended decision it shall become a final decision binding on the agency 45 calendar days after the submission of the complete compaint file and the recommended decision to the agency unless the agency has already issued a final decision. In such event, the agency shall so notify the complaintant of the decision and furnish to him a copy of the findings, analysis, and recommended decision of the complaints examiner under § 1613.218(i) and a copy of the hearing record and also shall notify him in writing of the right to appeal to the Commission and the time limits applicable to such an appeal and of the right to file a civil action as described in § 1613.281. The agency shall provide the complaints examiner wiht a copy of its final decision on each complaint on which a recommended decision has been issued.

10. It is proposed to revise § 1613.221 to read as follows:

§ 1613.221 Decision by head of agency or designee.

(a) The head of the agency or designee shall make the decision of the agency on a complaint based on the preponderance of evidence in the complaint file. A person designated to make the decision for the head of the agency shall be one who is fair, impartial, and objective.

(b)(1) The decision of the agency shall be in writing, shall reflect the date of its issuance, and shall be transmitted to the complainant and his or her representative either by certified mail, return receipt requested, or by any other method which enables the agency to show the date of receipt.

(2) When there has been a decision on the complaint by the complaints examiner, the decision letter shall transmit a copy of the findings, analysis, and recommended decision of the complaints examiner under § 1613.218(g) or (i)(3) and a copy of the hearing record if a hearing was held. The decision of the agency shall adopt, reject, or modify the decision recommended by the complaints examiner. If the decision is to reject or modify the recommended decision, the decision letter shall set forth the specific reasons in detail for rejecting or modifying the findings of fact or conclusions of law made by the complaints examiner.

(3) When there has been no hearing and no decision under § 1613.217(d), the decision letter shall set forth the findings, analysis, and decision of the head of the agency or his designee.

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall—

(1) Advise the complaintant and his or her representative that any request for attorney's fees or costs must be documented and submitted within 20 calendar days of receipt,

(2) Require remedial action to be taken in accordance with § 1613.271,

(3) Review the matter giving rise to the complaint to determine whether disciplinary action is appropriate and

(4) Record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be recorded in the complaint file.

(d) When the final agency decision provides for an award of attorney's fees or costs, the amount of these awards shall be determined under § 1613.271(c). In the unusual situation in which the agency determines not to award attorney's fees or costs to a prevailing complainant, the agency shall set forth in its decision the specific reasons for denying the award.

(e) The decision letter shall inform the complainant of his or her right to appeal the decision of the agency to the Commission, and shall include the text of § 1613.233(a) or (b), as appropriate. The decision letter shall also inform the complainant of his or her right to file a civil action in accordance with § 1613.281, and of the time limits applicable to such an appeal.

11. It is proposed to revise § 1613.222 to read as follows:

§ 1613.222 Complaint file.

The agency shall establish a complaint file. Except as provided in § 1613.221(c), this file shall contain all documents pertinent to the complaint.

(a) The complaint file shall include copies of:

(1) The notice of the Equal Employment Opportunity Counselor to the aggrieved person under § 1613.213(a);

(2) the written report of the Equal Employment Opportunity Officer on whatever precomplaint counseling efforts were made with regard to the complainant's case;

(3) the complaint;

(4) the investigative file;

(5) if the complaint is withdrawn by the complainant, a written statement of the complainant or representative to that effect;

(6) if adjustment of the complaint is arrived at under § 1613.217, the written record of the terms of the adjustment;

(7) if no adjustment of the complaint is arrived at under § 1613.217, a copy of the letter notifying the complainant of the proposed disposition of the complaint and of the right to a hearing;

(8) if decision is made under § 1613.217(c), a copy of the letter to the complainant transmitting that decision;

(9) if a hearing was held, the record of the hearing, together with the complaints examiner's findings, analysis and recommendations, if any, made to the head of the agency or designee,

(10) if the Director of Equal Employment Opportunity is not the designee, the recommendations, if any, made to the head of the agency or designee;

(11) if decision is made under § 1613.221, a copy of the letter transmitting the decision of the head of the agency or designee; and

(12) proof of the date of receipt of final agency decision, as required under § 1613.221(b)(1).

(b) The complaint file shall not contain any document that has not been made available to the complainant or the complainant's designated physician under 5 CFR 294.401.

12. It is proposed to revise § 1613.231 to read as follows:

§ 1613.231 Right to appeal to the Commission.

(a) A complainant may appeal to the Commission the decision of the head of the agency or designee:

(1) To reject or cancel the complaint or any portion for reasons covered by § 1613.215; or

(2) Under the circumstances set forth in § 1613.217(b); or

(3) On the merits of the complaint, under § 1613.217(d) or § 1613.221, or on the award of attorney's fees or costs.

(b) A complainant may appeal to the Commission on issues of employment discrimination raised in a negotiated grievance procedure, where the agency's negotiated labor-management agreement permit such issues to be raised. A complainant may appeal the decision of the agency head or designee on the grievance; of the arbitrator on the grievance; or of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award. A complainant may not appeal under this subsection, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration or is before the FLRA. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice.

§ 1613.233 [Amended]

13. It is proposed to amend § 1613.233 by removing the second sentence in paragraph (a).

14. It is proposed to revise § 1613.234 to read as follows:

§ 1613.234 Appellate procedures and finality.

(a) *Procedures.* On behalf of the Commission, the Office of Review and Appeals shall review the complaint file and all relevant written representations submitted be either party. The Office may remand a complaint to the agency for further investigation or a rehearing if it considers that action necessary or have additional investigation conducted by Commission personnel. There is no right to a hearing before the Office or the Commission upon appeal. The Office or the Commission shall issue a written decision setting forth its reasons for the decision and shall send copies to the complainant, the complainant's designated representative, and the agency. When corrective action is ordered, the agency shall report within the time specified to the Office that the corrective action has been taken.

(b) *Finality.* A decision issued under this section is final within the meaning of §§ 1613.281 and 1613.641 unless:

(1) Either party files a timely request to reopen pursuant to § 1613.235, or

(2) The Commission on its own motion reopen the case.

15. It is proposed to revise § 1613.235 to read as follows:

§ 1613.235 Reopening and reconsideration.

(a) The Commission may, in its discretion, reopen and reconsider any decision of the Commission notwithstanding any other provisions of this part.

(b) Parties may request reopening or reconsideration provided that such request is made within 30 days of receipt of a decision issued pursuant to § 1613.234 or within 20 days of receipt of another party's timely request to reopen. Such requests shall be submitted to the Office of Review and Appeals. The request shall contain arguments or evidence which tend to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued; or

(2) The previous decision involved an erroneous interpretation of law or regulation or misapplication of established policy; or

(3) The decision is of such exceptional nature as to have effects beyond the actual case at hand.

(c) (1) The party requesting reopening or reconsideration shall submit copies of the request and supporting documents to all other parties and their representatives at the time of the request along with proof of such submission.

(2) Any argument in opposition to the request to reopen or cross request to reopen shall submitted to the Office of Review and Appeals and to the requesting party within 20 days of receipt of the requst to reopen along with proof of such submission.

(d) A decision on a request to reopen by either party is final and there is no further right by either party to request reopening.

16. A new § 1613.237 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.237 Corrective action.

(a) Corrective action ordered by the Office of Review and Appeals or the Commission is mandatory and binding on the agency except as provided in § 1613.234(b). Failure to implement ordered relief shall be subject to judicial enforcement as specified in § 1613.239(e).

(b) When the agency requests reopening and when the case involves removal, separation, or suspension continuing beyond the date of the request to reopen, and when the decision recommends retroactive restoration, th agency shall comply with the decision only to the extent of the temporary or conditional restoration of the employee to duty status in the position recommended by the Commission, pending the outcome of the agency request for reopening.

(1) Service under the temporary or conditional restoration provisions of this paragraph shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, provided the Commission

(i) Upholds its decision after reopening the case, or

(ii) Refuses to reopen.

(2) The agency shall notify the Commission and the employee in writing, at the same time it requests reopening, that the remedial action it takes is temporary or conditional.

(c) When no request for reopening is filed within 30 days of receipt of the decision, or when a request to reopen is denied, the agency shall execute the action ordered and there is no further right to delay implementation of the ordered relief. The corrective action shall be completed not later than sixty (60) days after the decision becomes final.

17. A new § 1613.238 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.238 Enforcement of final decisions.

(a) *Petition for enforcement.* A complainant may petition the Commission for enforcement of a decision issued under the Commission's appellate jurisdiction. The petition shall be submitted to the Office of Review and Appeals. The petition shall specifically set forth the reasons that lead the complainant to believe that the agency is not complying with decision.

(b) *Compliance.* On behalf of the Commission, the Office of Review and Appeals shall take all necessary action to ascertain whether the agency is implementing the decision of the Commission. If the agency is found not to be in compliance with the decision, efforts shall be undertaken to obtain compliance.

(c) *Clarification.* On behalf of the Commission, the Office of Review and Appeals may, on its own motion or in response to a petition for enforcement or in connection with a timely request to reopen, issue a clarification of a prior decision. A clarification cannot change the result of a prior decision or enlarge or diminish the relief ordered but may

further explain the meaning or intent of the prior decision.

(d) *Referral To The Commission.* Where the Director, Office of Review and Appeals, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the Commission, or, as directed by the Commission, refer the matter to another appropriate agency.

18. A new § 1613.239 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.239 Enforcement action by the commission.

(a) *Notice to show cause.* The Commission may issue a notice to the Head of any federal agency that has failed to comply with a decision to show cause why there is noncompliance. Such notice may request the Head of the agency or representative to appear before the Commission or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons why compliance has not been effectuated.

(b) *Certification to the Office of Special Counsel.* Where appropriate and pursuant to the terms of a memorandum of agreement, the Commission may refer the matter to the Office of Special Counsel for action pursuant to 5 U.S.C. 1206.

(c) *Certification to the Comptroller General.* Where appropriate, the Commission may certify an agency's refusal to comply with a decision rendered by the Commission in accordance with the Comptroller General's authority to adjust all claims or demands against the Government pursuant to 31 U.S.C. 71.

(d) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that an agency is not complying with a prior decision, or where an agency has failed or refused to submit its report of corrective action, the Commission shall notify the complainant of the right to file a civil action for enforcement of the decision pursuant to section 717 of Title VII, section 15 of the Age Discrimination in Employment Act, or section 505 of the Rehabilitation Act, and to see judicial review of the agency's refusal to implement corrective action pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, and the Mandamus Statute, 28 U.S.C. 1361, or commence de novo proceedings pursuant to the appropriate statutes.

19. A new § 1613.240 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.240 Computation of time.

With respect to time periods specified in this subpart for filing appeals, requests for review, or other documents with the Commission:

(a) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day; and

(b) A document shall be deemed timely if it is personally delivered or postmarked before the expiration of the applicable filing period, or if, in the absence of a postmark, it is received by mail within five days from the expiration of the applicable filing period.

20. It is proposed to revise § 1613.261 to read as follows:

§ 1613.261 Freedom from restraint, interference, coercion and reprisal.

It is unlawful to restrain, interfere, coerce or discriminate against complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvment with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.213, or because an individual filed a charge of discrimination, testified, assisted or participated in any manner with an investigation, proceeding or hearing or because of any opposition to an unlawful employment practice under this Part.

21. It is proposed to revise § 1613.262 to read as follows:

§ 1613.262 Review of allegations of reprisal.

(a) An individual who alleges a violation of § 1613.261 may have the allegation reviewed as an individual complaint of discrimination under §§ 1613.211 through 1613.283.

(b) When a complainant alleges a violation of § 1613.261 in connection with the filing of a prior discrimination complaint and the prior complaint is in process at the agency when the allegation is made, the complainant may request the agency to consolidate the reprisal allegation with the prior complaint. If the prior complaint is at the hearing stage of the complaint process under § 1613.218, the complainant may request the Complaints Examiner to consolidate the allegation with the complaint at the hearing. The agency or Complaints Examiner may grant the request. Provided, the that request is made within 30 calendar days of the act that forms the basis of the allegation, the effective date of the alleged discriminatory personnel action, or the date the complainant knew or should reasonably have known that § 1613.261 has been violated. The agency or the Complaints Examiner may exercise discretion and deny the request and require the allegation to be processed under § 1613.262(a).

22. It is proposed to revise § 1613.271 to read as follows:

§ 1613.271 Remedial actions.

(a) When an agency, or the Commission, finds that an applicant or an employee has been discriminated against, the agency shall provide full relief which shall include the following elements in appropriate circumstances:

(1) Notification to all employees of the agency in the affected facility of their right to be free of unlawful discrimination and be assured that the particular types of discrimination found will not recur;

(2) Commitment that corrective, curative or preventive action will be taken, or measures adopted, to ensure that similar found violations of the law will not recur;

(3) An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by the person;

(4) Payment to each identified victim of discrimination on a make whole basis for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) Commitment that the agency shall cease from engaging in the specific unlawful employment practice in the case.

(b) Remedial action involving an applicant.

(1) When an agency, or the Commission, finds that an applicant for employment has been discriminated against, the agency shall offer the applicant employment of the type and grade denied, unless the record contains clear and convincing evidence that the applicant would not have been hired even absent discrimination. The offer shall be made in writing. The individual shall have 15 calendar days from receipt of the offer within which to accept or decline the offer. Failure to notify the agency of this decision within the 15-day period will be considered a declination of the offer, unless the individual can

VOL 51 ISS 159 AG 18 1986 UMI

show that circumstances beyond his control prevented him from responding within the time limit. If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired. Backpay, computed in the same manner prescribed by 5 CFR 550.805, shall be awarded from the date the individual would have entered on duty until the date the individual actually enters on duty. The individual shall be deemed to have performed service for the agency during this period of retroactivity for all purposes except for meeting service requirements for completion of a probationary or trial period that is required. If the offer of employment is declined, the agency shall award the individual a sum equal to the backpay he would have received, computed in the same manner prescribed by 5 CFR 550.805, from the date he would have been appointed until the date the offer was made, subject to the limitation of paragraph (b)(4) of this section. The agency shall inform the applicant, in its offer of employment, of his right to this award in the event the offer is declined.

(2) When an agency, or the Commission, finds that discrimination existed at the time the applicant was considered for employment but also finds clear and convincing evidence that the applicant would not have been hired even absent discrimination, the agency nevertheless shall take all steps necessary to eliminate the discriminatory practice and ensure it does not recur.

(3) This paragraph shall be cited as the authority under which the above-described appointments or awards of backpay shall be made.

(4) Backpay under this paragraph for complaints under Title VII or the Rehabilitation Act may not extend from a date earlier than 2 years prior to the date on which the complaint was initially filed by the applicant.

(c) Remedial action involving an employee. When an agency, or the Commission, finds that an employee of the agency was discriminated against, the agency shall take remedial actions which shall include one or more of the following, but need not be limited to these actions:

(1) Retroactive promotion, with backpay computed in the same manner prescribed by 5 CFR 550.805, unless the record contains clear and convincing evidence that the employee would not have been promoted or employed at a higher grade, even absent discrimination. The backpay liability under Title VII or the Rehabilitation Act may not accrue from a date earlier than 2 years prior to the date the discrimination compliant was filed, but, in any event, not to exceed the date the employee would have been promoted.

(2) If the record contains clear and convincing evidence that, although discrimination existed at the time selection for promotion was made, the employee would not have been promoted even absent discrimination, the agency shall eliminate any discriminatory practice and ensure it does not recur.

(3) Cancellation of an unwarranted personnel action and restoration of the employee.

(4) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action.

(5) Full opportunity to participate in the employee benefit denied (e.g. training, preferential work assignments, overtime scheduling).

(d) Attorney's Fees or Costs—(1) Awards of Attorney's Fees or Costs. The provisions of this subpart relating to the award of attorney's fees or costs shall apply to allegations of discrimination or retaliation prohibited by section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16, except that no award of attorney's fees shall be made with funds appropriated under Pub. L. 95–391, the Legislative Branch Appropriation Act of 1979. In a decision by an agency, under § 1613.217, § 1613.220(d), § 1613.221 or § 1613.612 or by the Commission, under § 1613.220 or § 1613.262 or § 1613.631(a)(3), the agency or Commission may award the applicant or employee reasonable attorney's fees or costs incurred in the processing of the complaint or charge.

(i) A finding of discrimination raises a presumption of entitlement to an award of attorney's fees.

(ii) Any award of attorney's fees or cost shall be paid by the agency.

(iii) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government.

(iv) Attorney's fees shall be paid only for services performed after the filing of the complaint required in § 1613.214 and after the complainant has notified the agency that he/she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the complainant. Written submissions to the agency which are signed by the representative shall be deemed to constitute notice of representation.

(2) Amount of awards. When a decision of the agency, under § 613.217(c), § 1613.220(d), § 1613.221 or § 1613.612 or of the Commission, under § 1613.234, § 1613.262 or § 1613.631(a)(3) provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit excuted by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(i) The amount of attorney's fees shall be made in accordance with the following standards: The time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

(ii) The costs which may be awarded are those authorized by 28 U.S.C. 1920 to include fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case; fees and disbursements for printing and witnesses; and fees for exemplification and copies of papers necessarily obtained for use in the case. Witness fees shall be awarded in accordance

with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

23. It is proposed to revise § 1613.283 to read as follows:

§1613.283 Effect on administrative processing.

The filing of a civil action by an employee or applicant terminates agency processing of a complaint or Commission processing of an appeal under this subpart.

24. It is proposed to revise § 1613.513 to read as follows:

§ 1613.513 Effect on Administrative Processing.

The filing of a civil action by an employee or applicant terminates agency processing of a complaint or Commission processing of an appeal under this subpart.

25. It is proposed to revise § 1613.521 to read as follows:

§1613.521 Appeal to the Commission.

Except for the requirements in § 1613.234 that the decision of the Office of Review and Appeals contain a notice of the right to file a civil action in accordance with § 1613.282, §§ 1613.231 through 1613.240 of this part shall apply to this subpart.

26. It is proposed to revise § 1613.601(a) to read as follows:

§ 1613.601 Definitions.

(a) A "class" is a group of agency employees, former agency employees, or applicants for employment with the agency on whose behalf it is alleged that they have been, are being, or may be, adversely affected by a personnel management policy or practice that discriminates against the group on the basis of their common race, color, religion, sex, national origin, or age.

* * * * *

27. It is proposed to revise § 1613.602 (a) and (c) to read as follows:

§ 1613.602 Precomplaint processing.

(a) An employee or applicant who wishes to be an agent and who believes he/she has been discriminated against shall consult with an Equal Employment Opportunity Counselor within 30 calendar days of the matter giving rise to the allegation of individual discrimination, the effective date of a personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action.

* * * * *

(c) The Counselor shall conduct a final interview and terminate counseling with the aggrieved person not later than 30 calendar days after the date on which the allegation of discrimination was called to the attention of the Counselor. During the final interview, the Counselor shall inform the aggrieved person in writing that counseling is terminated, of the right to file a class complaint of discrimination with appropriate officials of the agency, and of the duty to assure that the agency is immediately informed if legal representation is obtained.

* * * * *

28. It is proposed to amend § 1613.603(b)(1) by removing the word "agency" and to revise (c) and (g) to read as follows:

§ 1613.603 Filing and processing of a class complaint.

* * * * *

(c) The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of the right to file a complaint.

* * * * *

(g) If the agent is an employee in pay status, the agent shall have a reasonable amount of official time to present the complaint. If the agent is an employee of the agency and designates another employee of the agency as the agent's representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to present the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the agent and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint. An agency, at its discretion, may permit its own employees to use official time to represent employees of other agencies. If the use of official time is not granted in such cases, employees may be granted, at their request, annual leave or leave without pay.

29. It is proposed to revise § 1613.604 to read as follows:

§ 1613.604 Acceptance, rejection or cancellation.

(a) Within 10 calendar days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselors' report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the Commission. The Commission shall assign the complaint to a Commission Complaints Examiner except in instances where the Commission finds it more practical to delegate this responsibility to a Complaints Examiner from another agency who is not employee of the agency in which the complaint arose.

(b) The Complaints Examiner may recommend that the agency reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) Failure to state a claim under this subpart;

(4) The ageny failed to consult a Counselor in timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the prerequisites of a class complaint under § 1613.601(b).

(c) If an allegation is not included in the Counselor's report, the Complaints Examiner shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he/she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the Complaints Examiner may recommend that the agency reject the allegation. If the explanation is satisfactory, the Complaints Examiner may refer the allegation to the agency for further counseling of the agent.

(d) If an allegation lacks specificity and detail, the Complaints Examiner shall afford the agent 15 calendar days to provide specific and detailed information. The Complaints Examiner may recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Complaints Examiner must advise the agent how to proceed on an individual or class basis concerning these allegations.

(e) The Complaints Examiner may recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his/her representative, shows that he/she was not notified of the prescribed time limits and was not otherwise aware of them or that he/she was prevented by circumstances beyond his/her control from acting within the time limit.

(f) When appropriate the Complaints Examiner may recommend that a class be divided into subclasses and that each

subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(g) The Complaints Examiner may recommend that the agency cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after the Complaints Examiner has provided the agent a written request, including notice of proposed cancellation, that he/she provide certain information or otherwise proceed with the complaint, and that agent has failed to satisfy this request within 15 calendar days of receipt of the request.

(h) An agent must be informed by the Complaints Examiner in a request under paragraph (c) or (d) of this section that his/her complaint may be rejected if the information is not provided.

(i) The head of the agency or designee shall cancel a class complaint of discrimination when the agent files a civil action in U.S. district court based on the same allegation of discrimination.

(j) The Complaints Examiner's recommendation to the agency on whether to accept, reject, or cancel a complaint shall be transmitted in writing to the agency, the agent, and the agent's representative. The Complaints Examiner's recommendation to accept, reject or cancel shall become the agency decision unless the agency rejects or modifies the decision within 30 calendar days of the receipt of the decision and complete complaint file. The agency shall notify the agent, the agent's representative, and the Complaints Examiner of its decision to accept, reject, modify or cancel a complaint. Notice of a decision to reject or cancel shall inform the gent of the right to proceed with an individual complaint of discrimination, and to appeal the final agency decision on the matter to the Office of Review and Appeals and of his/her right to file a civil action.

30. It is proposed to revise § 1613.606 to read as follows:

§ 1613.606 Avoidance of delay.

The complaint shall be processed promptly after it has been accepted. To this end, the parties shall proceed with the complaint so that the complaint is proceessed without undue delay.

31. It is proposed to revise § 1613.607(a) to read as follows:

§ 1613.607 Freedom from restraint, interference, coercion and reprisal.

(a) It is unlawful to restrain, interfere, coerce or discriminate against agents, complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvement with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.602, or because an individual testified, assisted or participated in any manner with an investigation, proceeding or hearing or because the individual opposed an unlawful employment practice under this part.

* * * * *

§ 1613.608 [Amended]

32. It is proposed to revise § 1613.608(b)(2) to read as follows:

* * * * *

(b) * * *

(2) If mutual cooperation files, either party may request the Complaints Examiner to rule on a request to develop evidence. If the agent or agency fail to respond fully and in timely fashion to an Examiner's request for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, such failure may, in appropriate circumstances, cause the Complaints Examiner:

(i) To draw an adverse inference that the requested information would have reflected unfavorably in the party refusing to provide the requested information;

(ii) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(iii) To exclude other evidence offered by the party failing to produce the requested information;

(iv) To take such other actions as the Examiner deems appropriate.

* * * * *

33. It is proposed to revise § 1613.609 to read as follows:

§ 1613.609 Opportunities for resolution of the complaint.

(a) The Complaints Examiner shall furnish the agent or his/her representative and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(b) At any time after acceptance of a complaint, the complaint may be resolved by agreement of the agency and the agent as long as the agreement is fair and reasonable.

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or designee. A resolution may include a finding on the issue of discrimination, an award of attorney's fees or costs, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided to the agent.

(d) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class except in cases where the resolution benefits only the class agent or is otherwise alleged to be unfair or unreasonable, in which case any member of the class may petition the agency within 30 calendar days of the date of the notice of resolution to replace the class agent. Such a petition will be processed according to § 1613.604, and it it is found that the resolution did not comply with § 1613.609(b) and that the petitioner satisifed the requirements § 1613.604(b)(7) (iii) and (iv), the petitioner will replace the original class agent and act for the class during processing of the class complaint. Acceptance of a petition under this subsection vacates any agreement between the former class agent and the agency. An agency decision on such a petition shall inform the agent and the petitioner of the right to appeal the decision to the Office of Review and Appeals.

(e) Any settlement agreement reached at any stage of the complaint process shall be binding on both parties. If the agent believes that the agency has failed to comply with the terms of a settlement agreement for reasons not attributable to acts or conduct of the agent, his/her representative or class members, the agent shall promptly notify the agency, in writing, of the alleged noncompliance with the settlement agreement. The agent may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the agent's written allegation of noncompliance

with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the agent, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the agent's written allegations of noncompliance with the settlement agreement, the agency has not responded to the agent, in writing, or if the agent is not satisfied with the agency's attempt to resolve the matter, the agent may petition the Commission's Office of Review and Appeals for a determination as to whether the agency has complied with the terms of the settlement agreement. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary and may direct that an investigation or hearing on the matter be conducted, as may be appropriate. If the Commission determines that the agreement has not been complied with, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement.

34. It is proposed to revise § 1613.610 to read as follows:

§ 1613.610 Hearing.

On the expiration of the period allowed for preparation of the case, the Complaints Examiner shall set a date for a hearing. The hearing shall be conducted in accordance with § 1613.218.

§ 1613.614 [Amended]

35. It is proposed to amend § 1613.614(e) by removing the reference to 5 CFR 772.307(c) and inserting § 1613.218 in its place.

36. It is proposed to revise § 1613.631 to read as follows:

§ 1613.631 Appeal to the Office of Review and Appeals.

(a) An agent may appeal to the Office of Reveiw and Appeals the decision of the head of the agency or designee:

(1) To reject or cancel a complaint, or a portion thereof, for reasons covered by § 1613.604

(2) Under the circumstances set forth in § 1613.609(d) or (e);

(3) On the merits of the complaint;

(4) On the issue of attorney's fees and costs and corrective action; or

(5) The failure of an agency to implement its final agency decision.

(b) A claimant may appeal to the Office of Review and Appeals from a decision of the head of the agency or designee:

(1) To cancel or reject a claim for individual relief in accordance with § 1613.614 (f) and (g); and

(2) On the merits of the claim for individual relief including attorney's fees or costs.

(c) An appeal may be filed at any time after receipt of the agency's final decision, but not later than 20 calendar days after receipt of that decision except when the appellant shows that neither the appellant nor the appellant's representative was notified of the prescribed time limit and was not otherwise aware of it, or that the appellant or the appellant's representative was prevented by circumstances beyond the appellant's or representative's contol from appealing within the prescribed time limit.

(d) An appeal shall be deemed timely if it is personally delivered or postmarked before the expiration of the filing period, or if, in the absence of a postmark, it is received by the Commission by mail within five days of the expiration of the filing period. The Office of Review and Appeal's review will be made upon the existing record to determine if the agency decision is in accord with applicable law, Executive order, or Civil Service regulations, rules, and instructions and is supported by substantial evidence.

37. It is proposed to revise § 1613.632 to read as follows;

§ 1613.632 Reopening and reconsideration by the Commissioners.

The Commissioners may reopen and reconsider any previous decision of a Commission office on their own motion or at the request of either party in accordance with provisions of § 1613.235.

38. It is proposed to revise § 1613.643 to read as follows:

§ 1613.643 Effect on administrative processing.

The filing of a civil action by an agent terminates agency processing of a complaint or Office of Review and Appeals processing of an appeal based on the same complaint under this subpart. The filing of a civil action by a claimant terminates agency processing of a claim or Office of Review and Appeals processing of an appeal based on the same claim under this subpart.

39. It is proposed to add the following as Appendix A to Part 1613.

Appendix A to Part 1613—Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination

On September 11, 1984, the Equal Employment Opportunity Commission announced its intent to achieve certainty and predictability of enforcement in those situations where the agency has reason to believe that a law it enforces has been violated. In keeping with this goal, the Commission recognizes that the basic effectiveness of the agency's law enforcement program is dependent upon securing prompt, comprehensive and complete relief for all individuals directly affected by violations of the statutes which the agency enforces. The Commission also recognizes that, in appropriate circumstances, remedial measures need to be designed to prevent the recurrence of similar unlawful employment practices. Predictable enforcement and full, corrective, remedial and preventive relief are the principal components of the method with which the Commission intends to pursue this agency's mission of eradicating discrimination in the workplace. Henceforth, in negotiating settlements, in drafting prayers for relief in litigation pleadings or in issuing Commission Decisions or Orders, obtaining full remedial, corrective and preventive relief is the standard by which the agency is to be guided.

The Commission believes that a full remedy must be sought in each case where a District Director concludes the case has merit and has, or is prepared to, issue a letter of violation or a letter finding reasonable cause to believe that one of the statutes the agency enforces has been violated. The remedy must be fashioned from the wide range of remedial measures available to this law enforcement agency which has broad authority under the statutes it enforces to seek appropriate forms of legal and equitable relief. The remedy must also be tailored, where possible, to cure the specific situation which gave rise to the violation of the statute involved.

Accordingly, all remedies and relief sought in court, agreed upon in conciliation, or ordered in Federal sector decisions should contain the following elements in appropriate circumstances:

(1) A requirement that all employees of respondent in the affected facility be notified of their right to be free of unlawful discrimination and be assured that the particular types of discrimination found or conciliated will not recur;

(2) A requirement that corrective, curative or preventive action be taken, or measures adopted, to ensure that similar found or conciliated violations of the law will not recur;

(3) A requirement that each identified victim of discrimination be unconditionally offered placement in the position the person would have occupied but for the discrimination suffered by that person;

(4) A requirement that each identified victim of discrimination be made whole for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) A requirement that the respondent cease from engaging in the specific unlawful employment practice found or conciliated in the case.

The components of these remedial elements are as follows:

VOL
51
ISS
159
AG
18
1986
UMI

(1) Notice Requirement

All respondents should be required to sign and conspicuously post, for a period of time, a notice to all employees in the affected facility (or to union members if respondent is a labor organization), prepared by the agency on E.E.O.C. forms, specifically advising respondent's employees or members of the following:

(a) That the notice is being posted as part of the remedy agreed to pursuant to a conciliation agreement with the agency or pursuant to an order of a particular Federal court or pursuant to a decision and order in a Federal sector case.

(b) That Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin or age (between 40 and 70) with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment (Federal sector notices will include handicap as an unlawful basis of discrimination).

(c) That respondent supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law.

(d) That respondent will not engage in the specific unlawful conduct which the District Director believes has occurred or is conciliating, or which the Commission or a court has found to have occurred.[1]

(e) That respondent will, or has, taken the remedial action required by the conciliation agreement or the order of the Commission or Court.[2]

(2) Corrective, Curative or Preventive Provisions

In appropriate circumstances, a remedy must provide that the respondent take corrective, curative or preventive action designed to ensure that similar violations of the law will not recur. Similarly, corrective, curative or preventive measures may also be adopted in those situations where those measures are likely to prevent future similar violations.

Thus, where a policy or practice is discriminatory, the policy or practice must be changed. Similarly, if a particular supervisor or other agent of the respondent is identified as knowingly or intentionally being responsible for the discrimination that occurred, the respondent must be required to take corrective action so that the discriminatee or similarly situated employees not be subjected to similar discriminatory conduct. This corrective action may be accomplished, for example, by insulating employees from that individual for a period of time, or by requiring the respondent to discipline or remove the offending individual from personnel authority, or by requiring the respondent to educate the offender and other supervisors so that they may overcome their individual prejudices.

These and any other appropriate measures, or any combination thereof, designed to meet this goal should be considered when negotiating settlements or drafting prayers for relief. This type of relief is not to be designed for punitive purposes. Rather, this relief is to be tailored to cure or correct the particular source of the identified discrimination and to minimize the chance of its recurrence.

In addition, the respondent must be required to take all other appropriate steps to eradicate the discrimination and its effects, such as the expunging of adverse materials relating to the unlawful employment practice from the discriminatee's personnel files.

(e) Nondiscriminatory Placement

Each identified victim of discrimination is entitled to an immediate and unconditional offer of placement in the respondent's workforce, to the position the discriminatee would have occupied absent discrimination, or to a substantially equivalent position, even if the placement of the discriminatee results in the displacement of another of respondent's employees ("Nondiscriminatory Placement"). The Nondiscriminnatory Placement may take place by initial employment, reinstatement, promotion, transfer or reassignment and must occur without any prejudice to, or loss of, any employment—related rights or privileges the discriminatee would have otherwise acquired had the discrimination not occurred.

If a Nondiscriminatory Placement position that the discriminatee should occupy no longer exists, then employment for which the discriminatee is qaulified must be offered to the discriminatee in other areas of the respondent's operation. Finally, if none of the foregoing positions exist in which the discriminatee may be placed, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

It is essential that victims of discrimination not suffer further and that respondents not gain by their misconduct. Accordingly, the contention by a respondent that a discriminatee is no longer suitable for Nondiscriminatory Placement due to a loss of skills, a change in job content or some other reason is not an acceptable excuse for a respondent's failure to accomplish a Nondiscriminatory Placement of a discriminatee. The burden is upon the respondent to demonstrate that the inability of the discriminatee to accept Nondiscriminatory Placement is unrelated to the respondent's discrimination such that the victim, rather than the respondent, should bear the loss. Similarly, the burden is also on the respondent to demonstrate a contention that postdiscrimination conduct by a discriminatee renders the discriminatee unworthy of Nondiscriminatory Placement.

In certain circumstances, the Nondiscriminatory Placement of a victim of discrimination may require the job displacement of another of the respondent's employees. If displacement of an incumbent employee in order to accomplish Nondiscriminatory Placement on behalf of a discriminatee is clearly inappropriate in a particular setting or is unavailable as a remedy in a particular jurisdiction, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

(4) Backpay

Each identified victim of discrimination is entitled to be made whole for any loss of earnings the discriminatee may have suffered by reason of the discrimination. Each individual discriminatee must receive a sum of money equal to what would have been earned by the discriminatee in the employment lost through discrimination ("Gross Backpay") less what was actually earned from other employment during the period, after normal expenses incurred in seeking and holding the interim employment have been deducted ("Net Interim Earnings"). The difference between Gross Backpay and Net Interim Earnings is Net Backpay Due. Interest should be computed on all Net Backpay Due. Net Backpay Due accrues from the date of discrimination, except where the statutes limit the recovery, until the discrimination against the individual has been remedied.

Gross Backpay includes all forms of compensation such as wages, bonuses, vacation pay, and all other elements of reimbursement and fringe benefits such as pension and health insurance. Gross Backpay must also reflect fluctuations in working time, overtime rates, changing rates of pay, transfers, promotions, and other prerequisites of employment that the discriminatee would have enjoyed but for the discrimination. In appropriate circumstances under the Equal Pay Act and the Age Discrimination in Employment Act liquidated damages based on backpay will also be available.

(5) Cessation Provisions

All respondents must agree or be ordered to cease from engaging in the specific unlawful employment practices involved in the case. For example, a respondent should agree to cease discriminating on the unlawful basis and in the specific manner alleged or a respondent might be required to cease giving effect to certain specific discriminatory policies, practices or rules. In circumstances where a particular respondent has committe or has conciliated several unlawful employment practices, consideration must be

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[1] For example, the following type of assurances could be required of a respondent which committed several types of unlawful employment practices in a particular case:

"XYZ, Inc. will not refuse to hire employees on the basis of their sex;

"XYZ, Inc. will not refuse to promote employees on the basis of their sex or their race; and

"XYZ, Inc. will not threaten to fire employees because they have filed charges with the Equal Employment Opportunity Commission."

[2] For example, employees could be notified of the relief obtained in the following way:

XYZ, Inc. will promote and make whole the employees affected by our conduct for any losses they suffered as a result of the discrimination against them. Specifically, Mary Jones and Susan Smith will be promoted to the position of shift supervisor and will be made whole for any loss in pay or benefits they may have suffered since the time that we failed to promote them to that position.

"XYZ, Inc. has adopted an equal employment opportunity policy and will ensure that all supervisors in making selections for promotions abide by the requirements of that policy that employees not be discriminated against on the basis of their sex or race."

given to including broad cessation language in an agreement or order which is designed to order the cessation of any further unlawful employment practices.

The Commission does not believe that the statutory requirement of conciliation requires the agency to abdicate its principal law enforcement responsibility. Thus, conciliation should not result in inadequate remedies. The possibility of pre-litigation conciliation does not constitute cause for unwarranted or underserved concessions by a law enforcement agency when one of the laws it enforces has been violated. Rather, the concept of settlement constitutes recognition of the fact that there may be reasonable differences as to a suitable remedy between the maximum which may be reasonably demanded by the agency and the minimum which in good faith may be fairly argued for the respondent. With this scape conciliation must actively pursued by the agency. In this regard, in all cases in which the District Director believes that one of the statutes the agency enforces has been violated or in which litigation has been authorized, full remedies containing the appropriate elements as set forth in this memorandum should be sought. In conciliation efforts, reasonable compromises or counterproposals to the full range of remedies described in this policy may be considered if those compromises or counter-proposals, address fully the remedial concepts described in this policy. Conciliation should be pursued with the goal of obtaining substantially complete relief through the conciliation process. Any divergence from this goal must be justified by the relevant facts and the law.

[FR Doc. 86-18367 Filed 8-15-86; 8:45 am]
BILLING CODE 6570-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2603

Examination and Copying of Pension Benefit Guaranty Corporation Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation which implements the Freedom of Information Act. The amendment revises the Pension Benefit Guaranty Corporation's fee schedule for document search and duplication. The search and copying fees have not been increased since the regulation was first promulgated. The amendment is needed to reflect salary scales and copying costs as they exist in today's workplace. The effect of the amendment is to increase the fees to levels that more accurately reflect current costs.

DATE: Comments must be received on or before September 17, 1986.

ADDRESSES: Send comments to the Legal Department, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: John R. Jacobs, Attorney, Legal Department, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, (202) 956-5023, or E. William FitzGerald, PBGC Disclosure Officer, Communication and Public Affairs Department, Code 38000, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, (202) 956-5039 ((202) 956-5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended,* which provides for a comprehensive pension plan insurance program, established a Federal Government agency, the Pension Benefit Guaranty Corporation ("PBGC"), to administer that program.

The Freedom of Information Act (5 U.S.C. 552) provides, among other things, for public access to information from records of Government corporations, such as the PBGC. Under section 552(a)(4), each agency must promulgate regulations specifying a uniform schedule of fees for document search and duplication. The PBGC's Examination and Copying of Pension Benefit Guaranty Corporation Records regulation, which implements the Freedom of Information Act, is set forth in 29 CFR Part 2603. The regulation prescribes the PBGC's fee schedule for document search and duplication. Currently, under § 2603.52(a)(1), the fee that is charged for ordinary searches by custodial or clerical personnel is $1.25 for each quarter-hour after the first quarter-hour. Searches requiring services of professional or supervisory personnel to locate the requested record cost $2.50 for each quarter-hour after the first quarter-hour. Under § 2603.52(b)(1), the standard fee payable for obtaining requested copies of records made available for inspection under the Freedom of Information Act is $0.10 for each page.

The PBGC has determined that the fee schedules for search and copying set forth in the regulation no longer reflect current salary scales or copying costs. The fees need to be increased to levels that more accurately reflect actual salary scales and copying costs as they exist in today's workplace. This determination is partly based upon information developed by the Department of Justice in a survey of 80 federal agencies' fees and fee schedules. Accordingly, this amendment revises the current regulation to effectuate this change. Under this amendment, the current search fee for ordinary research by custodial or clerical personnel will be increased from $1.25 to $1.75 for each quarter-hour. The fee to be charged for searches requiring services of professional or supervisory personnel will be increased from $2.50 to $4.00 for each quarter-hour, or fraction thereof, after the first quarter-hour. Finally, the standard fee payable for obtaining requested copies of records made available for inspection will be increased from $0.1. to $0.15 for each page.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers, individual industries or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export-markets.

The total amount of search and copying charges assessed by the PBGC for calendar year 1985 was $11,051.00. The PBGC sees no reason why the number of search and copying requests for future calendar years should significantly change. If it is assumed that the amount of requests for the calendar year 1986 will be equivalent to the amount received for 1985, the proposed increase in fees set forth above will result in an increase in assessments of approximately 50%, or $5,000, for calendar year 1986. Accordingly, the PBGC certifies pursuant to Section 605 of the Regulatory Flexibility Act that this regulation will not have a significant economic impact on a substantial number of small entities. In light of this certification, compliance with Section 603 and 604 is waived.

List of Subjects in 29 CFR Part 2603

Freedom of information.

In consideration of the foregoing, the Pension Benefit Guaranty Corporation proposes to amend Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

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VOL 51 ISS 159 AG 18 1986 UMI

PART 2603—[AMENDED]

1. The authority for Part 2603 is revised to read as follows:

Authority: 5 U.S.C. 552; sec. 4002(b)(3), Pub. L. 93–406, 88 Stat. 829, 1004, as amended by sec. 403(l), Pub. L. 96–364, 94 Stat. 1208, 1302 (29 U.S.C. 1302(b)(3)).

2. In § 2603.52, paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 2603.52 Search and copying charges.

(a) * * *

(1) *Search time.* (i) Ordinary search by custodial or clerical personnel. $1.75 for each one-quarter hour or fraction thereof of employee worktime in excess of the first quarter-hour required to reach or obtain the records to be searched and to make the necessary search; and (ii) Search requiring services of professional or supervisory personnel to locate requested record, $4.00 for each such quarter-hour or fraction thereof of such services required in excess of the first quarter-hour required.

* * * * *

(b) * *

(1) *Standard copying fee.* $0.15 for each page of record copies furnished. This standard fee is also applicable to the furnishing of copies of available computer printouts as stated in § 2603.53.

* * * * *

Issued in Washington, DC, this 13th day of August, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR. Doc. 86–18601 Filed 8–15–86; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Jean Lafitte National Historical Park; Crawfishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking pertains to the taking (non-commercial fishing) of crawfish (*Procambaru clarkii*) within the Barataria Marsh Unit, Jean Lafitte National Historical Park, Louisiana. The park's enabling legislation (Pub. L. 95–625) provided for the continuation of hunting, fishing and trapping activities in accordance with applicable Federal and State Laws. The Service published an Interim Final Rule in the **Federal Register** on April 30, 1984 (49 FR 18450), establishing a generalized rule for the crawfishing activities within the Barataria Marsh Unit. After an analysis of the crawfishing activities and National Park Service rules and regulations, the Service is now proposing to define more precisely the specific controls and circumstances under which the crawfishing activities may continue. This proposed control is intended to increase the protection of the resources, promote visitor safety, enhance the aesthetic value and contribute to sound management of the variety of visitor activities within the Barataria Marsh Unit, Jean Lafitte National Historical Park.

DATES: Written comments will be accepted through September 17, 1986.

ADDRESS: Comments should be addressed to:

Superintendent, Jean Lafitte National Historical Park, 423 Canal Street—Room 206, New Orleans, Louisiana 70130–2341.

For further information contact: James L. Isenogle, Superintendent, 423 Canal Street—Room 206, New Orleans, Louisiana 70130–2341, Telephone: (504) 589–3882.

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–625, section 905, permitted the continuation of hunting, fishing (including commercial fishing) and trapping activities in accordance with applicable Federal and State laws within the Barataria Marsh Unit. This legislation rendered many provisions of 36 CFR unusable. After the revisions of 36 CFR, the Service published in the **Federal Register** special regulations codified as 36 CFR 7.37 to conform with the provisions of Pub. L. 95–625.

The crawfishing activities authorized by section 905, of Pub. L. 95–625 and the special regulations (36 CFR 7.37) are consistent with the purpose for which the Unit was established and will not be detrimental to other park wildlife or the reproductive potential of the species to be taken. If properly managed by the National Park Service (NPS), these activities will not have an adverse effect on the park ecosystem.

Based on the authority in section 905 of the park's enabling legislation, the NPS has allowed traditional crawfishing activities to continue in the Barataria Marsh Unit. These activities are usually carried out in roadside ditches, ponds, canals and sometimes in swamps. However, participants often create individual trails or trail networks to gain access to areas away from roads, often causing significant and unsightly damage to vegetation and generating serious litter removal problems in those areas as well. There have also been numerous cases of participants killing reptiles and amphibians in areas away from road access. The NPS has also documented a number of complaints pertaining to conflicts between visitors using interpretive trails and individuals engaging in crawfishing activities along those trails. In other areas, the parking of participants' vehicles along the park road has resulted in traffic congestion and public safety problems.

Neither the state of Louisiana nor Jefferson Parish has laws or ordinances addressing crawfishing activities. This rulemaking is an effort on the part of the NPS to allow the continuation of this traditional activity while imposing some minimal restrictions in the interest of protecting park resources, enhancing public safety and avoiding visitor use conflicts. By restricting crawfishing activities to roadside areas and other areas designated by the superintendent, this rulemaking will allow the superintendent the necessary flexibility to manage crawfishing activities without adversely affecting the opportunity or ability of the public to engage in those activities.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The principal author of this rulemaking is G.E. Neusaenger, Chief, Division of Resource Management, Jean Lafitte National Historical Park, New Orleans, Louisiana 70130–2341.

Paperwork Reduction Act

The information collection requirement contained in this rulemaking has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026.

Compliance with Other Laws

An Environmental Assessment and Finding of No Significant Impact have been prepared on the imposition of the crawfishing regulations. The revised regulations are within the scope of the alternatives discussed, and do not constitute a deviation from the original proposed action, but rather define the specific control more fully. Copies of these documents are available at the address noted at the beginning of this

rulemaking. The Service has determined that it is not necessary to prepare any additional documents concerning these regulations in order to comply with the National Environmental Policy Act. (42, U.S.C. 4321 *et seq.*)

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not affect small businesses. Establishing the crawfishing regulations will enhance the management of the Barataria Marsh Unit, promote visitor safety and provide for the protection of the environment; therefore the net effects are positive, economically, aesthetically and environmentally.

List of Subjects in 36 CFR Part 7

National Parks.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. By revising paragraphs (a) (2), (3) and (4) of § 7.37 as follows:

§ 7.37 Jean Lafitte National Historical Park.

(a) *Fishing.*

* * * * *

(2) The taking of crawfish in the Barataria Marsh Unit for recreational purposes is allowed from March 1 through June 30 under the following conditions:

(i) The taking of crawfish is limited to roadsides, except for backcountry areas designated by the Superintendent where the taking of crawfish is allowed pursuant to the terms and conditions of a permit issued by the Superintendent in accordance with the criteria and procedures of § 1.6 of this chapter;

(ii) A person may take crawfish only by using baited lift type mesh nets or baited wire traps, not to exceed a total of ten nets or traps, or a combination of both, per person; and

(iii) A person using nets or traps shall keep them closely attended.

(3) Violation of established conditions or designations for the taking of crawfish is prohibited.

(4) The information collection requirement contained in this section has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026. The information is being collected in order to provide the Superintendent data necessary to issue permits. The information will be used to grant administrative benefits. Response is required in order to obtain a benefit.

* * * * *

Dated: July 28, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18594 Filed 8–15–86; 8:45 pm]

BILLING CODE 4310–10–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[EN–FRL 3065–5]

Preliminary Approaches to Implementing the Recommendations of the Domestic Sewage Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings: advance notice of proposed rulemaking (ANPR) on the recommendations of the domestic sewage study.

SUMMARY: EPA is today announcing three public meetings to discuss its Advance Notice of Proposed Rulemaking (ANPR) on the recommendations of the Domestic Sewage Study. The Domestic Sewage Study was submitted by the Agency to Congress on February 7, 1986, in response to section 3018(a) of the Resource Conservation and Recovery Act (RCRA). The Study examined the impacts of hazardous wastes discharged to publicly owned treatment works (POTWs) and evaluated the effectiveness of existing Federal and local pretreatment programs in dealing with such discharges. The Study also presented recommendations on improving these and other EPA programs to better control hazardous wastes entering POTWs.

To implement the recommendations of the Domestic Sewage Study, section 3018(b) of RCRA requires the Administrator to revise existing regulations and to promulgate any necessary additional regulations to assure adequate control of hazardous wastes discharged to POTWs. EPA will shortly publish an ANPR which will be the first step towards promulgating the required regulations.

In order to obtain public suggestions on the tentative proposals discussed in the ANPR, EPA is today announcing three four-hour public meetings. At each meeting, EPA will discuss the approaches presented in the ANPR, and open the floor to public comment on these approaches and any alternative suggestions. These comments will be evaluated for use in developing specific proposed rules. Attendees of the public meetings may register upon arrival.

DATES: Public meetings will take place as follows:

9:30 AM—September 11, 1986
Hall of States, Skyline Inn, 10 I. St. SW., Washington, DC 20024

9:30 AM—September 17, 1986
Grand Ballroom North, Sheraton International at O'Hare, 6810 North Mannheim Rd., Rosemont, Illinois 60018

10:00 AM—September 18, 1986
Continental Parlor, San Francisco Hilton & Tower, 333 O'Farrell Street, San Francisco, California 94102

ADDRESS: Send comments to Ms. Katharine Wilson, Permits Division, (EN–336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202) 475–9535.

FOR FURTHER INFORMATION CONTACT: Ms. Katharine Wilson, Permits Division, (EN–336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202) 475–9535.

Dated: August 8, 1986.

James R. Elder,

Director, Office of Water Enforcement & Permits.

[FR Doc. 86–18566 Filed 8–15–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 716

[OPTS–84022; FRL–3058–1]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies on Certain Substances

Correction.

In FR Doc. 86–17352 beginning on page 27562 in the issue of Friday, August 1, 1986, make the following corrections:

1. On page 27564, in the first column, in the table, in CAS No. 75–34–3, the Chemical name "Methane" should read "Ethane".

2. On the same page, in the second column, in CAS No. 101–20–2, the second and third lines should read," *N'*-(3,4-dichlorophenyl)-".

3. Also in second column, in CAS No. 120–12–7, transfer "OSW" from under "Chemical name" to "Requesting office."

4. In the same column, in CAS No. 135–98–8, after "1", insert "-".

5. In the same column, CAS No. 1200–71–6 should read "1300–71–6".

6. In the same column, in CAS No. 1331–47–1, in the Chemical Name, before "4", delete "/" and insert "-".

7. In the third column, in CAS No. 10347–54–3, in the Chemical Name, after '4" delete "/" and Insert "-". Also, the Requesting Office should read "OTS".

8. In the same column, in CAS No. 10436–39–2, in the Chemical name, after "3", delete "/" and insert "-".

9. In the same column, in CAS No. 75790–84–0, in the Chemical Name, after the "2" delete "/" and add "-".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6709]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 51 FR 15926–27 on April 29, 1986. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for Lee County, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in Lee County, Virginia, previously published at 51 FR 15926–27 on April 29, 1986, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Source of flooding and location	National geodetic vertical datum. [Elevation in feet]
Straight Creek:	
At confluence with North Fork Powell River	*1,435
At State Route 352	*1,471
At second downstream Southern Railroad crossing	*1,477
Downstream corporate limit of Town of St. Charles	*1,521
Upstream corporate limit of Town of St. Charles	*1,538
At confluence of Gin Creek	*1,586
At downstream side of first upstream Southern Railway crossing	*1,668
Approximately 900' upstream of confluence of Miller Cove Creek	*1,750
Gin Creek	
At confluence with Straight Creek	*1,586
At downstream County Road	*1,615
At State Route 635	*1,630
Approximately 400' upstream of upstream County Road	*1,736
Big Branch	
At confluence with Straight Creek	*1,520
At State Route 628	*1,592
Approximately 0.41 mile upstream of State Route 628	*1,636
Baileys Trace:	
At corporate limit of Town of St. Charles	*1,538
At confluence of Fawn Branch	*1,571
Approximately 50' upstream of State Route 717	*1,635
Approximately 0.29 mile upstream of State Route 717	*1,661
Dry Creek	
At confluence with Wallen Creek	*1,614
Upstream side of U.S. Routes 58 and 421	*1,640
Upstream side of State Route 738	*1,745
Approximately 0.25 mile upstream of State Route 738	*1,779
North Fork Clinch River:	
At County Boundary	*1,484
Upstream side of State Route 611	*1,515
At Southern Railway	*1,535
Mud Creek	
At State Route 708	*1,461
Upstream side of State Route 622	*1,471
Approximately 0.3 mile upstream of State Route 622	*1,476
Powell River:	
Approximately 1,000' southeast from 621 and 845 State Route Junction	*1,413
At Alternate U.S. Route 58	*1,405
Approximately 0.61 mile downstream of Alternate U.S. Route 58	*1,398
At State Route 619	*1,391
Approximately 1 mile upstream of U.S. Route 421	*1,348
At U.S. Route 421 upstream side	*1,344
Approximately 0.9 mile downstream of U.S. Route 421	*1,339
Poor Valley Branch:	
At confluence with Martin Creek	*1,393
Approximately 525' downstream of Louisville and Nashville Railroad	*1,406
Indian Creek	
Approximately 750' downstream of U.S. Route 58	*1,309
At confluence with Dry Branch	*1,321
Downstream side of State Route 684	*1,327
Upstream side of Mill Dam at State Route 690	*1,346
Upstream side of Mill Dam at State Route 698	*1,365
Upstream side of State Route 687	*1,373
At confluence with Roaring Branch	*1,389
Approximately 630' upstream of Louisville and Nashville Railroad	*1,400
Cane Creek:	
At corporate limits of Town of Pennington Gap	*1,369
Downstream side of State Route 643	*1,391
Approximately 1 mile upstream of first downstream crossing of U.S. Alternate Route 58	*1,411
Approximately 0.5 mile downstream of State Route 644	*1,430
At State Route 644 and U.S. Alternate 58	*1,455
Approximately 350' upstream of U.S. Alternate Route 58	*1,486
North Fork Powell River:	
Confluence with Powell River	*1,345
At State Route 633	*1,352
Downstream corporate limits of Town of Pennington Gap	*1,353
Second downstream corporate limits of Town of Pennington Gap	*1,355
Approximately 1,000' southeast from State Route 621 on State Route 633	*1,358
At State Route 621 (new)	*1,376
At Southern Railway	*1,401
Approximately 200' downstream of confluence of Bobs Branch	*1,435
Fawn Branch:	
At confluence with Baileys Trace	*1,571
Upstream side of County Road	*1,618
Upstream side of State Route 637	*1,646
Approximately 0.57 mile upstream of State Route 637	*1,756
Poor Valley Creek:	
At confluence with North Fork Powell River	*1,371
Farm Road upstream side	*1,429
Approximately 0.24 mile upstream of second crossing of State Route 621	*1,600

Issued: August 11, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86–18549 Filed 8–15–86; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Conservation Grants to Museums; Museum Assessment Program

AGENCY: Institute of Museum Services, NFAH.

ACTION: Proposed guidelines and standards.

SUMMARY: The Institute of Museum Services issues proposed amendments to its guidelines relating to a program of Federal financial assistance for conservation projects in museums and an amendment to its regulations for the Museum Assessment Program. The guidelines and regulations implement the Museum Services Act. They state eligibility conditions and other terms for the administration of the museum conservation and assessment programs.

DATE: Comments must be received on or before October 1, 1986.

ADDRESS: Comments should be addressed to Lois Burke Shepard, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Ruth Weant. Telephone: (202) 786–0539.

SUPPLEMENTARY INFORMATION:

General Background

The Museum Services Act ("the Act") which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended in 1980, 1982, 1984, and 1985. The purpose of the Act is stated in section 202 as follows:

> It is the purpose of the Museum Services Act to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of non-formal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museums Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museum disciplines, including those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational, and cultural resources of the United States; and of the general public. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97–100, December 23, 1981, Pub. L. 97–394, December 30, 1982, Museum Services Act, section 203, as amended. The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Assisting museums to carry out conservation activities is expressly authorized in the Act.

The Need for These Amendments

During Fiscal Year 1986 IMS operated a program of assistance for conservation projects pursuant to the Department of Interior and Related Agencies Appropriations Act, 1986, Pub. L. 99–190 (Dec. 19, 1985). IMS issued guidelines and standards for the operation of this program. 50 FR 27584 (July 5, 1985). The guidelines and standards pertain to such matters as eligibility, use of funds, funding criteria and post-award conditions. They were developed by the Board and were published in the **Federal Register** after opportunity for public comment. *See* 50 FR 4237 (Jan. 30, 1985). Similarly, the Institute's regulations contain provisions relating to the Institute's Museum Assessment Program (MAP) which has been conducted since fiscal year 1981. (45 CFR 1180.70–1180.76).

Amendments to Conservation Guidelines

Experience with the administration of the conservation program indicates the need for greater focus with regard to certain types of projects in order to use Federal funds most efficiently and effectively. In particular, the Board finds that it may be appropriate in a fiscal year to target all or part of the funds available for conservation on one or more types of projects (such as projects involving training, surveys, or establishment or maintenance of optimum environmental conditions) rather than to distribute funds on the basis of applications covering the broadest range of projects. Accordingly, IMS proposes to amend its conservation guidelines to provide that such a priority for a particular fiscal year could be established by simple notice in the **Federal Register** without a formal amendment of the regulations. The proposed revision of § 1120.20(g) is designed to achieve this end. Under this section as amended, a priority could be established for a type of project; then applications for projects within the priority would be evaluated ahead of other applications to determine if they warranted funding. An amendment to § 1180.20(e) would clarify the types of projects which may be funded for the purpose of priority setting.

Similarly, in order to best carry out such priorities, greater flexibility would be provided in the guidelines to make conservation grants in excess of $25,000. An amendment is proposed to § 1120.20(f) to achieve this objective.

Finally, an amendment is made to § 1120.20(g) to permit the Director to require, where appropriate, that an applicant for a project to conserve particular objects (45 CFR 1120.20(e)(6)) must conduct a survey of its needs and priorities before applying. The amendment would also clarify the Director's authority to obtain additional information, material, or undertakings from an applicant for a particular category of conservation projects in accordance with instructions in the application package.

Amendment to MAP Regulations

An amendment is made to the regulations for the Museum Assessment Program (45 CFR 1180.70) specifically to provide for the use of funds for assessments relating to museum security. Recent events have indicated the critical importance of museum security, and it is believed that the opportunity to benefit from particular assessments regarding this area, in the context of the MAP program, will be of great assistance in maintaining and improving the quality of museum services.

Executive Order 12291

These amendments have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Director certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

To the extent that they affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These amendments will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, they will not have significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. They impose minimal requirements to ensure the proper expenditure of grant funds.

Paperwork Reduction Act

The information collection requirements in these proposed guidelines and standards will be sent to Office of Management and Budget (OMB) for review under provisions of section 3504[H] of the Paperwork Reduction Act of 1980. Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, OMB, NEDS, Rm: 3208, 17th & Penn. Avenue, NW., Washington, DC 20503 Attn: Desk Officer for IMS. All other comments regarding these proposed guidelines and standards should be sent to IMS at

address given at the beginning of these proposed guidelines and standards.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed amendments. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before October 1, 1986 will be considered before final regulations are issued.

All comments submitted in response to these proposed amendments will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Ave, NW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Lois Burke Shepard,

Director, Institute of Museum Services.

The Institute of Museum Services proposes to amend Subchapter E of Chapter XI of Title 45 of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 1180 is revised to read as follows:

Authority: 20 U.S.C. 961 et seq.

2. 45 CFR 1180.20(e), (f) and (g) are revised to read as set forth below.

§ 1180.20 Guidelines and standards for conservation projects.

* * * * *

(e) *Types of conservation projects funded.* IMS considers applications to carry out conservation projects such as:

(1) Projects to conduct or obtain training in conservation (including training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to develop improved or less costly methods of conservation, or to maintain or improve conservation with respect to one or more collections, including—

(i) Projects involving surveys of conservation needs and

(ii) Projects to establish or maintain optimum environmental conditions.

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities, such as the use of regional conservation centers or mobile conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum or a group of museums may use a grant to obtain services from a center.

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits on Federal funding.* (1) IMS normally makes a conservation grant which obligates no more than $25,000 in Federal funds. Unless otherwise provided by law, if the Director determines that exceptional circumstances warrant, the Director, with the advice of the Board, may award a conservation grant which obligates in excess of $25,000 in Federal funds. The Director may make such a determination with respect to a category of conservation grants by notice published in the **Federal Register.**

(2) A conservation grant is not included in the maximum amount which a museum may expect to receive from IMS for a fiscal year, as set forth pursuant to § 1180.9 of the regulations. Therefore, a museum may receive, for example, a General Operating Support grant for the amount specified pursuant to that section and an additional amount for a conservation grant in a fiscal year.

(3) IMS makes conservation grants only on a matching basis. This means that at least 50 per cent of the costs of a conservation project must be met from non-federal funds. Principles in applicable OMB circulars regarding cost sharing or matching apply. See, e.g., OMB Circular A–102, Attachment F.

(g) *Application requirements; priorities; survey required in certain cases.*—

(1) *Application requirements.* Application requirements in § 1180.11(a), (b), and (c) apply. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project. Where appropriate, IMS may require an applicant to submit a dissemination plan.

(2) The Board, by notice published in the **Federal Register,** may establish priorities among the types of projects specified in paragraph (e) of this section. If the Board establishes one or more types of projects as a priority for a fiscal year, applications proposing projects of that type (or types) are evaluated and ranked, and (if recommended for funding) approved before applications proposing other types of projects.

(3) The Director may, to the extent appropriate, require (by instructions in the application materials) that an applicant which proposes a project to conserve particular objects (as provided in paragraph (e)(6) of this section) must show that, prior to the submission of the application, it has carried out a survey of its conservation needs and priorities in the specific area of focus and that the project in question is consistent with such survey. The Director may also (through such instructions) require an applicant for a conservation project to submit additional information, material, or undertakings to carry out the purposes of this part.

* * * * *

2. 45 CFR 1180.70 is revised to read as set forth below.

§ 1180.70 Purpose of program.

The Director of the Institute of Museum Services makes grants under this subpart to assist museums in carrying out institutional assessments. The grants enable museums to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards. The Director may make grants for separate categories of assessment activities and establish conditions for receipt of assistance for such separate categories. Such categories may include assessment activities relating to—

(a) General operations;

(b) Collections;

(c) Museum security, and

(d) Other aspects of museum services, as specified by the Board.

[FR Doc. 86–18589 Filed 8–15–86; 8:45 am]

BILLING CODE 7036–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-184D; Notice No. 86-5]

Implementation of the ICAO Technical Instructions

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1987 edition of the ICAO Technical Instructions becomes effective on January 1, 1987, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

DATE: Comments must be received by October 17, 1986.

ADDRESS: Address comments to Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Acting International Standards Coordinator, Office of Hazardous Materials Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366-0656.

SUPPLEMENTARY INFORMATION: On December 2, 1985, the Research and Special Programs Administration (RSPA) published amendments to the Hazardous Materials Regulations [50 FR 49393] which authorize under certain conditions, and with certain limitations, hazardous materials packaged, marked, labeled, classified and described and certified on shipping papers as provided in the 1986 edition of the ICAO Technical Instructions to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in air commerce. In addition, amendments were published to Part 175 of the HMR to align the exceptions for aircraft parts and supplies aboard aircraft with those in the 1986 edition of the ICAO Technical Instructions. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by aircraft worldwide. A more detailed explanation of the reasons for this action was provided in the Notice of Proposed Rulemaking published under Docket No. HM-184 on August 2, 1982 [47 FR 33295].

Since publication of the final rule under Docket No. HM-184C, ICAO has developed a number of amendments to the ICAO Technical Instructions. These amendments have been incorporated in the 1987 edition of the ICAO Technical Instructions which will become effective on January 1, 1987. In order to continue to fulfill the intent of the amendments published under Docket Nos. HM-184, HM-184A, HM-184B, and HM-184C (i.e., to facilitate the international transportation of hazardous materials by aircraft by insuring a basic consistency between the HMR and the ICAO Technical Instructions), the RSPA believes it necessary to amend certain provisions of the HMR to reflect changes introduced in the 1987 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

The following is an analysis of this proposal which provides the background behind the proposed changes:

Section 171.7. The reference to the 1986 edition of the ICAO Technical Instructions in the matter incorporated by reference would be updated to refer to the 1987 edition. A copy of the Report of the Tenth Meeting of the ICAO Dangerous Goods Panel, indicating all changes introduced into the 1987 edition of the ICAO Technical Instructions, is on file in the public dockets.

Section 175.10. The exceptions for medicinal and toilet articles in subparagraph (a)(4), and for alcoholic beverages, perfumes, and colognes in subparagraph (a)(15), which is currently aligned with the corresponding text of the 1986 edition of the ICAO Technical Instructions, would be amended to reflect the changes incorporated in the 1987 edition of the ICAO Technical Instructions, which will become effective January 1, 1987. ICAO has developed a number of amendments to the ICAO Technical Instructions since publication of Docket No. HM-184C (Implementation of the ICAO Technical Instructions), making it necessary to amend to HMR to incorporate these amendments. Part 1, Section 2.3.1. of the ICAO Technical Instructions has been amended to permit certain liquefied gas lighters to be carried aboard passenger aircraft by the aircraft operator for use or sale. It is proposed to amend 49 CFR 175.10(a)(15) to provided a comparable exception, subject to approval of the liquefied gas lighters by the Director, Office of Hazardous Materials Transportation. Part 1, Section 2.4.2, paragraph (b) of the ICAO Technical Instructions has been amended to restrict exceptions for medicinal and toilet articles to articles which are not radioactive and to provide an additional exception for certain aerosols carried in checked baggage. Subparagraph (a)(4) of 49 CFR 175.10 would be amended to provide similar provisions.

Section 175.30. With regard to overpacks and the packages they contain, the operator, with regard to accepting, handling and loading of dangerous goods, must take all reasonable steps to establish that the overpacks does not contain packages bearing the "Cargo Aircraft Only" label unless the exceptions specified in ICAO Technical Instructions, Part 5 Section 1.1.2. are met. Part 5, Section 1.1.2 of the ICAO Technical Instructions has been amended to permit use of an overpack for a package labeled "Cargo Aircraft Only" if not more than one package is overpacked. Subparagraph (e)(1)(iii) would be added to 49 CFR 175.30 to provide a similar exception.

Administrative Notices

A. Executive Order 12291.

The RSPA has determined that the effect of this regulatory proposal would not meet the criteria specified in section 1(b) of Excutive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory

evaluation is available for review in the Docket.

B. Impact on Small Entities.

Based on limited information concerning the size and nature of entities likely affected, I certify that this notice will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criterial of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171 and 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

2. In § 171.7, paragraph (d)(27) would be revised to read:

§ 171.1 Matter incorporated by reference.

* * * * *

(b) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284–AN/905 (ICAO Technical Instructions), 1987 edition.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 49 CFR Part 1.

4. In § 175.10, the introductory text to paragraph (a)(4) would be revised, and paragraph (a)(15) would be revised to read as follows:

§ 175.10 Exceptions

(a) * * *

(4) Non-radioactive medicinal and toilet articles carried by a crewmember of passenger in checked or carry-on baggage, and aerosols, with no subsidiary risk, for sporting or home use when carried in checked baggage only, when:

* * * * *

(15) Alcoholic beverages, perfumes, colognes, and liquefied gas lighters that have been examined by the Bureau of Explosives (B of E) and approved by the Director, Office of Hazardous Materials Transportation, carried aboard a passenger-carrying aircraft by the operator for use or sale on the aircraft.

* * * * *

5. In § 175.30, paragraph (e)(1)(iii) would be added to read as follows:

§ 175.30 Accepting and inspecting shipments.

* * * * *

(e) * * *

(1) * * *

(iii) Not more than one package is overpacked.

* * * * *

Issued in Washington, DC, on August 12, 1986.

Sherwood C. Chu,

Deputy Director, Office of Hazardous Materials Transportation.

[FR Doc. 86–18595 Filed 8–15–86; 8:45 am]

BILLING CODE 4910–60–M

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49 CFR Part 192

[Docket No. PS–84; Notice 3]

Transportation of Natural and Other Gas by Pipeline; Confirmation or Revision of Maximum Allowable Operating Pressure Near Certain Occupied Buildings and Outside Areas

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to change the standard classification pipelines located near certain buildings and outside areas that are occupied infrequently. The existing classification has proven to be unreasonably burdensome in applying requirements for confirmation or revision of maximum allowable operating pressure (MOPA) where a change in classification has occurred because of the construction of such a building or outside area.

DATE: Interested persons are invited to submit written comments on this proposal before November 17, 1986. Late filed comments will be considered as far as is practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Comments should be sent to the Dockets Branch, DHM–53, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Please identify the docket and notice numbers. All comments and docket materials will be available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day. Non-Federal employee visitors are admitted to the DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: Robert F. Langley, (202) 366–4562, regarding the contents of this notice, or the Dockets Branch, (202) 366–4453, regarding copies of the notice or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Under § 192.611, the MAOP of gas pipelines must be confirmed or revised according to maximum hoop stress levels that correspond to population densities. In general, as the population near a gas pipeline increases (to levels set by a classification scheme in § 192.5), the maximum hoop stress level decreases (varying from 72 percent of specified minimum yield strength (SMYS) in remote Class 1 areas to 40 percent in densely populated Class 4 areas) and the pipeline's MAOP must be confirmed or decreased accordingly. In an area of increased population, an operator who wishes to maintain the MAOP of a pipeline operating at a high hoop stress relative to SMYS usually must replace the pipeline, using either a higher strength material or the same material with a greater wall thickness. Replacement can be costly, depending on the length of line section involved. Section 192.611 does, however, allow pipelines that have experienced a single jump in class location (e.g., Class 1 to Class 2) to maintain their existing MAOP if they were previously pressure tested to 90 percent of SMYS for at least 8 hours or are tested in accordance with Subpart J after the class change occurs.

The purpose of re-evaluating the operating hoop stress level of gas pipelines on a population basis is to combat their susceptibility to long-running fractures. Fracture propagation of this type, which is caused by the high energy levels of compressed gas, can be catastrophic in highly populated areas. Under the theory of the gas regulations, the risk of such an event is reduced by increasing, in relation to population density, the margin between the operating hoop stress and the stress at which yield would occur. The larger the margin, the larger the fault or the accidential overloading a pipeline can withstand before failure, thus reducing the chance that a long-running fracture will occur.

Under § 192.5(d)(2) a Class 3 location is an area where the pipeline lies within 100 yards of any of the following:

(i) A building that is occupied by 20 or more persons during normal use.

(ii) A small, well-defined outisde area that is occupied by 20 or more persons during normal use, such as a playground, recreation area, outdoor theater, or other place of public assembly.

Developments of the type characterized by § 192.5(d)(2) run the gamut from rural churches used a few hours a week or hunting lodges used seasonally to nursing homes or schools. They often are contructed in the vicinity of existing pipelines, with little, if any, notice to the operator. Such unanticipated developments, which raise the class location of the affected pipeline segments to Class 3, can have major cost impacts under § 192.611. The impact is greatest on pipelines which had been designed and constructed to rural Class 1 standards—in the millions of dollars when considering the costs of replacements and gas lost.

Because of the high costs of meeting § 192.611, several operators in § 192.5(d)(2) situations have requested relief from either § 192.5(d)(2) or § 192.611 for pipeline segments no more than 600-feet long. Besides the high costs of replacing short segments, the reasons for their requests centered on the small number of building occupants or the infrequency of occupancy, such as once or twice a week, or a combination of the two. The requests were not granted, however, because change in local conditions is the intended trigger for § 192.611 and the operators were unable to clearly demonstrate that public safety would not be adversely affected if the MAOP of the pipeline segment involved were not confirmed or revised as required by § 192.611.

Nevertheless, RSPA has remained sympathetic to the plight of these and similarly situated operators who are faced with high compliance costs to achieve uncertain safety benefits. The potential benefits are uncertain because even assuming the existance of a defect in a pipeline, the likelihood that a long-running fracture will occur at all in a gas pipeline is remote, even for pipelines operating at 72 percent of SMYS. In addition to the small likelihood of a long-running fracture occuring, the potential benefits of applying § 192.611 in § 192.5(d)(2) areas are further reduced when the number of people exposed to risk is small on the length of their exposure is brief, or both. For example, the risk to a hunting lodge used seasonally on weekends in much less than to an equally populated nursing home where people are constantly in attendance. Yet, the cost to meet § 192.611 could be the same.

This analysis leads to the conclusion that § 192.5(d)(2) may be more conservative in application under § 192.611 than called for by the needs for safety. In the absence of data to further define the need for or benefits of meeting § 192.611 in areas defined by § 192.5(d)(2), RSPA published an Advance Notice of Proposed Rulemaking (ANPRM) (50 FR 36116), seeking more information. Public comment was invited on the issue of whether it is necessary for safety to confirm or revise the MAOP of gas pipelines in the vicinity of isolated buildings or outdoor places of assembly where 20 or more people gather during normal use. At the request of the Interstate Natural Gas Association of America (INGAA), the comment period on the poposed rule was extended to January 3, 1986, by Notice 2 (50 FR 45845), which resulted in interested parties having a total of 4 months for comment.

A total of 41 commenters responded to the ANPRM. Basically, the comments came from gas transmission pipeline operators, but some comments came from State regulatory agencies and a few pipeline trade associations. The comments have been helpful in enabling RSPA to arrive at the course to follow for this NPRM, since the majority of the commenters responded to the alternative solutions and to the questions asked in the ANPRM. Especially helpful have been the responses to the request in the ANPRM for actual costs involved in complyng with the confirmation or revision rule for pipelines in areas defined by § 192.5(d)(2).

Discussion of Comments on the Questions and the Alternatives

1. Are the requirements of § 192.611 needed for the safety of pipelines in general? If so, are they needed for pipelines in Class 3 areas defined by § 192.5(d)(2)?

Of the respondents to this question, 64 percent believed that some sort of regulation was needed to provide extra protection for the areas defined. However, several of the commenters felt that the goal could be accomplished by adopting the latest amendment to American Society of Mechanical Engineers' (ASME) B31.8. This amendment to B31.8 substitutes the word "infrequently" for the term "normal use."

2. If the requirements of § 192.611 are needed for safety in general or in § 192.5(d)(2) areas, what safety problem does compliance with § 192.611 help to resolve, and are there any alternative less costly solutions to that problem?

The commenters that answered this question in a direct manner believed that present regulations led to reduced stress on the pipeline. The RSPA continues to believe that reducing the maximum allowable operating pressure to reduce the hoop stress offers increased protection to the public. To date, however, after reviewing all comments, we question whether this protection is justified in § 192.5(d)(2) situations. Four commenters stated that: "The requirements of § 192.611 cause an operator to verify the integrity of a pipeline and to provide for increased surveillance of the pipeline in the area involved. The increased surveillance would reduce the possibility of damage to the pipeline from outside activities, the major cause of pipeline incidents." Continuing surveillance is required under Part 192 by § 192.613, not § 192.611. As far as external damage caused by construction activity, § 192.614, "Damage prevention program," was designed to help prevent that form occurring.

3. If the rules were modified under any alternative above, should other safety requirements be proposed to maintain safety in the vicinity of the isolated building or outside area as defined in § 192.5(d)(2)? If so, what should they be and why? If not, why not?

Fifty percent of the commenters, in answering this, felt that it would not be necessary to set forth other rules if the present rules wer modified as discussed in the ANPRM. They felt that a modification could be found to relieve the present burden and still continue to maintain a high level of safety.

4. What data can be provided from experience or studies about degree of risks associated with a pipeline in proximity to the § 192.5(d)(2) types locations? In this regard, is an isolated pocket of population within 100 yards of a pipeline a factor in the occurrence of a pipeline accident? What data can you provide about such adjacent population density in relationship to the severity of (or hazardous results from) a pipeline accident?

To expand on the statement made in the discussion to question number 2, 100 percent of the persons replying to this question, representing 34 percent of the commenters, did not provide any data showing that any accidents had

VOL 51 ISS 159 AG 18 1986 UMI

occurred at these isolated locations and if they had, had caused any damage. (However, two accidents were reported in answer to question 7.)

5. Is "20 or more persons" the appropriate size group on which to base this class location criteria? Cite any research, experience, or safety studies.

Forty-four percent of the commenters answered this question. All of the commenters said that 20 was too small a number. (Refer to the discussion of comments to Alternative No. 2). The reason given for increasing the number was that Class 2 allows for a greater number of occupants per mile, as indicated by the Bureau of Census figures quoted in the ANPRM. It is difficult, however, to compare the risk exposure in Class 2 areas, possibly spread over a mile long segment 440 yards wider, to that in isolated buildings or outdoor areas with no upper limit on occupants and very near to the pipeline.

6. Can a better criteria be developed from research, study, or risk analysis upon which to base possible exposure of the public to hazard than "normal use?" What is it and what is the basis for your recommendation?

Thirty-six of the commenters responded to this question, and they felt that a better criteria could be developed for "normal use" with the majority offering "frequent" or "frequently. (See also the discussion under Alternative No 3.)

7. What data are available from research or experience concerning any relationship between the stress level in a gas pipeline and the cause of a pipeline accident or the magnitude of accident consequences? Do accidents on higher stress level pipelines normally result in greater damages than lower stress level pipelines, given the same population density and mixture?

This question is related to question number 4 and the discussion of question number 2. Thirty-seven percent of the commenters replied to this question. With the exception of two of these, all answered that they could not supply any data. The two that could supply data stated that several years ago they had incidents caused by outside force damage near § 192.5(d)(2) locations. The only damages, however, were to the pipeline.

8. If change is not provided in the regulation from the effects of the criteria in § 192.5(d)(2) on the MAOP resulting from such class location changes, what are the estimated costs to comply for an operator's impacted pipelines? For upgrading? Moving the pipeline? Reducing MAOP. Give estimated number of locations with size and length of each.

Ten of the commenters provided excellent detailed data of the breakdowns of costs, including locations, lengths and diameters of pipeline involved, and whether or not the costs involved replacement of the pipeline, relocation of the pipeline, or the encroachment involved, or the losses caused by reducing pressure. Individual costs per location ranged from $4,000 to $500,000. One major pipeline has spent over $7.5 million and another over $8 million in compliance.

Docket No. PS–84's ANPRM offered six alternatives for the commenters. The alternatives and the responses follow:

1. Continue present rules §§ 192.5(d)(2) and 192.611 unchanged.

Negative responses to this alternative indicated that 85 percent favored some sort of amendment. The Department of Public Service of the State of New York favored continuing with waivers rather than change the rule. RSPA feels, however, that the potential problems are too widespread to continue to deal with on a waiver basis.

2. Modify § 192.5(d)(2) by changing number of persons to some number greater than 20, possibly the range of numbers in the other Class 3 location using Census data.

There were 65 percent of the responses that did not believe that changing the number from 20 to some other number would help. The other 35 percent offered numbers ranging from 50 to 100. One commenter favored adopting the revised version of the ASME's Gas Distribution and Transmission System Piping Code (B31.8a) which states "no fewer than 20." The comments presented no basis, however, for increasing the occupancy level above 20.

3. Quantify the term "normal use." This could be on the basis of days of use per year or percentage of time used.

Although less than 50 percent of the commenters responded to this alternative, 75 percent of those that responded in favor of a change suggested that the word "frequently" be substituted for "normal use." This, no doubt, was derived from the revised version of ASME B31.8 which states in 840.3(b) "If the facility is used infrequently the requirements of (b) below need not be applied . . ." Adopting the concept of frequent use would alleviate some costs of § 192.611 associated with the apparently low risk facilities like buildings occupied once a week. However, quantification is needed for clarity of the rule.

4. Place the criteria presently in § 192.5(d)(2) under § 192.5(c), thus making such a location a Class 2 location.

A total of 51 percent of the commenters responded to this proposal and 52 percent of those discussing the proposal were in favor of it. This proposal, if adopted, would have a broad effect throughout Part 192 whenever Class 3 is mentioned. Some of the comments perceived and discussed these effects. The effect may be more than needed to resolve the immediate problem.

5. Revise § 192.611 to increase the MAOP allowed for those pipelines impacted by the criteria of § 192.5(d)(2) to that allowed for pipelines in Class 2 locations.

Forty-four percent discussed this alternative but 89 percent of those favored this solution. Pacific Gas and Electric Company suggested, in agreeing with Alternative No. 5, that there should still be some requirement that the operator evaluate each individual situation. Also, this commenter said the operator should be required to verify that an adequate level of cathodic protection is being maintained on the segment of pipe, and to install additional markers and conduct additional surveillance for construction activity.

The INGAA, an association of interstate operators, stated its preference for Alternative No. 5. Basically, Alternative No. 5 is a narrow version of Alternative No. 4, with the class location shift limited to § 192.611. The commenters favoring this alternative did not satisfactorily explain why there would be no loss in safety from this broad change to § 192.611. The commenters did indicate, however, some concern about the safety impact.

6. Except the § 192.5(d)(2) defined Class 3 locations from § 192.611.

The final alternative presented for comment received comments from 43 percent of the commenters. Thirty-three percent of these favored this type of change whereas 67 percent did not favor it. The INGAA, representing gas transmission pipeline operators, was

one of the dissenters on this alternative. Their reasons for rejecting Alternative No. 6 was that if § 192.611 were changed for pipelines coming under the criteria of § 192.5(d)(2), there would be "the possibility of placing a high number of persons at risk." RSPA agrees with INGAA. Adoption of Alternative No. 6 would have a sweeping effect without any indication that there would be no adverse safety impact.

At the Technical Pipeline Safety Standards Committee meeting held December 10, 1985, the Committee discussed the alternatives and questions presented in the ANPRM. Although the Committee did not vote officially on any one of the alternatives, the Committee's official report on the meeting stated:

> There was no clear sense of the committee based on the discussion, in fact comments ran the full spectrum from support for the current regulations to concern over whether the current regulation in 192.611 causes more of a hazard than it protects against one. Certainly, reliable data to indicate whether the existing regulations increase safety, by how much, and at what cost would assist the committee and the DOT staff in developing an opinion.

The needs for safety and the costs of attaining it were brought forth by the ANPRM. The great majority of commenters favored some sort of change for either § 192.5(d)(2) or § 192.611 but recognized that § 192.5(d)(2) represents places of added risk in otherwise low risk areas. In considering the comments, it became obvious that total elimination or exception of § 192.5(d)(2) as it now applies under § 192.611 (Alternative No. 6) would significantly detract from the protection of the public by the rule. Further, there appeared to be no safety basis to support changing § 192.5(d)(2) from Class 3 to Class 2 either overall (Alternative No. 4) or just in § 192.611 (Alternative No. 5).

Of the remaining alternatives, RSPA believes the best balance between safety and cost would be achieved by Alternative No. 3, modify the term "normal use" in § 192.5(d)(2). Many commenters favored the use of "frequently," derived from the ASME B31.8 Code, Amendment C, instead of the term "normal use." In an interpretation of § 192.5(d)(2), RSPA has stated "the frequency of normal use is a factor to consider in determining whether the use of a building or outside area creates a risk . . . to warrant application of Class 3 standards." While the concept of frequent use to trigger Class 3 is useful, for enforceability RSPA is proposing to adopt a specific use rate instead of "frequently" as a substitute for "normal use." There is precedent for quantifying terms within § 192.5, since the entire class location scheme is based on house counts within specific measured areas. This quantified approach has proved to be easily enforceable and uniformly understood.

The frequency of use that RSPA believes appropriate for § 192.5(d)(2) is use throughout the week for a substantial part of the year, and not just on weekends or isolated periods during the year. This is the use received, for example, by an office, school, store or factory. One commenter suggested a 150 day minimum use limit, to exclude from Class 3, pipelines near buildings or places infrequently used, such as those used only on weekends. This commenter also suggested a 4-hour minimum use during each of the 150 days to include in Class 3, buildings with half-day use, as may be associated with nursery schools or other such facilities. Other frequencies suggested were as low as 1 day a week througout the year or daily for 12 weeks a year to cover the summer season. However, such infrequent use would not appreciable change the burdensome effect of the existing rule.

The frequency RSPA proposes is used "at least five days a week during at least 26 weeks a year". Neither the days nor weeks would have to run consecutively. We believe this frequency would continue to maintain an acceptable level of safety for schools, hospitals, restaurants, etc., in § 191.5(d)(2) situations throughout Part 192 and including § 192.611. At the same time, it would eliminate the burden of the occasional county fair, church, and hunting lodge that § 192.5(d)(2) presents under § 192.611. An hourly use rate, as suggested by one commenter, was considered too impractical to apply and not needed to achieve the purpose of the proposed rule change. Interested persons are particularly urged to comment on the proposed number of weeks and number of days per week, and on the benefit or the burden of any alternative frequencies they may suggest.

Costs

Some costs to relocate pipelines were discussed in the ANPRM. In the June 1984 issue of "Pipeline Digest," average current construction costs for typical pipe sizes (12 inch through 30 inch O.D.) and for the average length of the pipeline operators to comply with pipeline safety regulations because of the criteria of § 192.5(d)(2). This figure appears now to be on the conservative side. In question number 8 (discussed above) that appeared in the ANPRM, costs to pipeline operators caused by the criteria of § 192.5(d)(2) were asked for. Costs to only two operators were in excess of $15 million with many more listing costs of a million dollars or more. The net result of such high replacement costs for pipelines could lead to increases in gas prices or a reduced gas supply. However, in some situations, operators would have to incur some of these costs at a later date when and if the area becomes more densely populated.

Classification

This proposed amendment constitutes a reduction in burden on the regulated industry by modifying a regulation in a manner that serves public safety and reduces costs. It is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The net economic impact has been found to be a reduction in costs since at least a $24 million average annual savings to the industry and consumers, based on responses to the question on costs in the ANPRM, will result.

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. Based on the facts available concerning the impact of this rulemaking action, I certify that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Natural gas, Class locations, Maximum allowable operating pressure.

PART 192—[AMENDED]

In view of the foregoing, RSPA proposes to amend 49 CFR Part 192 as follows:

1. The authority citation for Part 192 continues to read as follows:

Authority. 49 U.S.C. 1672; U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

2. In § 192.5, paragraphs (d)(2)(i) and (d)(2)(ii) would be revised as follows:

§ 192.5 Class locations.

* * * * *

(d) * * *

(2) * * *

(i) A building that is occupied by 20 or more persons on at least 5 days a week during at least 26 weeks a year.

(ii) A small, well-defined outside area that is occupied by 20 or more persons on at least 5 days a week during at least 26 weeks a year, such as a playground.

VOL 51 ISS 159 AG 18 1986 UMI

recreation area, outdoor theater, or other place of public assembly.

* * * * *

Issued in Washington, DC, on August 13, 1986, under authority delegated by 49 CFR Part 106, Appendix A.

James C. Thomas,

Acting Director, Office of Pipeline Safety

[FR Doc. 86-18600 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661 and 663

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California, and Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) will hold hearings to receive public comments on (1) an amendment to the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California; and (2) an amendment to the Pacific coast groundfish plan. The amendment documents will be available at the hearing locations and the Council office. These hearings are being held in accordance with section 302(h)(3) of the Magnuson Fishery Conservation and Management Act.

DATE: See "**SUPPLEMENTARY INFORMATION**" for dates and locations of the hearings. All hearings will begin at 7:00 p.m. Written comments are invited through September 9, 1986.

ADDRESSES: See "**SUPPLEMENTARY INFORMATION**" for locations of the hearings. Written comments should be sent to the Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201. Copies of both salmon and groundfish amendments will be available at this address beginning August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 503-221-6352.

SUPPLEMENTARY INFORMATION: The amendment to the salmon fishery management plan consists of three issues: (1) Oregon coastal natural coho escapement goal, (2) in season management actions and procedures, and (3) allocation of allowable ocean harvest of coho south of Cape Falcon.

The amendment to the groundfish fishery management plan addresses four issues: (1) Provision for shoreside sorting of prohibited species in the midwater trawl fishery for Pacific whiting, (2) deleting the sablefish optimum yield in the Monterey Bay subarea, (3) gear regulation flexibility, and (4) marking requirements for setnets and commercial hook-and-line gear.

The hearings are scheduled as follows:

August 27, 1986—

Sheraton-Renton Inn, Cedar/Spruce/Fir Rooms, 800 Ranier, South, Renton, WA 98055

Thunderbird Motor Inn, North and South Umpqua Rooms, 1313 North Bayshore Drive, Coos Bay, OR 97420

State Office Building, Auditorium, Room 1194, 350 McAllister Street, San Francisco, CA 94102

August 28, 1986—

Astoria Middle School, Cafeteria, 1100 Klaskanine Avenue, Astoria, OR 97103

Red Lion Inn, Redwood Ballroom, 1929 Fourth Street, Eureka, CA 95501

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18563 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agribusiness Promotion Council, Committee on Investment Climate and Finance; Meeting

Notice is hereby given that the Committee on Investment Climate and Finance of USDA's Agribusiness Promotion Council, advisory group to the Secretary of Agriculture on matters pertaining to the Caribbean Basin, will meet on September 5, 1986 from 2:00 to 3:15 PM at the Convention Center in San Juan, Puerto Rico. The Committee meeting will be held in conjunction with USDA's Agribusiness Development Workshop hosted by the Economic Development Administration of Puerto Rico. The agenda will consist of discussions on different financial and insurance mechanisms and their applicability in the Caribbean Region, and planning committee activities. The meeting will be open to the public. Written statements may be submitted to Joan S. Wallace, Administrator, USDA/OICD Room 3047—South Building, Washington, DC 20250–4300, until September 1, 1986.

Howard S. Marks,

Associate Administrator.

[FR Doc. 86–18587 Filed 8–15–86; 8:45 am]

BILLING CODE 3410–DF–M

COMMISSION ON CIVIL RIGHTS

Pennsylvania Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission previously scheduled for August 21, 1986, convening at 10:30 a.m. and adjourning at 5:00 p.m., at the William J. Green Federal Building, Room 6306, 600 Arch Street, Philadelphia, Pennsylvania (FR Doc. 86–17194, Page 27434), has new convening and adjourning times.

The meeting date and location will remain the same. The times will change to 9:30 a.m. to 2:30 p.m.

Dated at Washington, DC, August 13, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–18569 Filed 8–15–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1986 Post Enumeration Survey Followup of East Central Mississippi
Form Number: Agency—DC–1301–R; OMB—NA
BURDEN: 900 respondents; 180 reporting hours
Needs and uses: The survey is needed to determine whether people were counted in the 1986 census of East Central Mississippi. The results will be used to complete the match of the Post Enumeration Survey and the Census for the estimates of coverage.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: 1986 Preenumeration Survey Followup Form
Form Number: Agency—DC–1351–U; OMB—NA
Type of request: New Collection
Burden: 1,000 respondents; 350 reporting hours
Needs and uses: This survey is needed to test for a more operationally feasible alternative to the Post-Enumeration Survey. The results of the survey will be used to test whether a preenumeration survey is a viable means of evaluating a census.
Affected public: Individuals or households
Frequency: One time
Respondent obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 13,1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86–18576 Filed 8–15–86; 8:45am]

BILLING CODE 3510–07–M

International Trade Administration

[Case No. OEE–3–86]

Order Temporarily Denying Export Privileges; Betriebs und Finanzierungs und Beratungs GmbH et al.

In the Matter of: Betriebs Und Finanzierungs Und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; Karl Heinz Riedel, Marc Aurel Strasse #7, 1010 Vienna, Austria; Leopold Hrobsky, c/o Betriebs und Finanzierungs und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; Dietmar Ulrichshofer, with addresses at Kirchenstrasse 1, 3061 Ollersbach, Austria; c/o Betriebs und Finanzierungs und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; and, c/o Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; and, Vrablicz and Company, Steinergasse 11, 1170 Vienna, Austria Respondents.

Order Temporarily Denying Export Privileges

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of section 388.19 of the Export Administration Regulations, 15 CFR Parts 368–399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. Sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), has

VOL
51
ISS
159
AG
18
1986
UMI

asked the Deputy Assistant secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to Betriebs und Finanzierungs und Beratungs GmbH; its owners, Karl Heinz Riedel, Leopold Hrobsky and Dietmar Ulrichshofer; Bollinger GmbH, which is also owned by Dietmar Ulrichshofer, and Vrablicz and Company (hereinafter collectively referred to as respondents). Ulrichshofer resides in Ollersbach, Austria; all of the other respondents reside in Vienna, Austria.

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have conspired and acted in concert to violate the Act and the Regulations. The Department has reason to believe that the purpose of the conspiracy is to obtain U.S.-origin goods from third countries for ultimate destination in proscribed countries, without obtaining the required authorization from the Department for such shipments. The Department has reason to believe that respondents have participated in the unauthorized reexport of U.S.-origin commodities, including computer equipment and peripherals, from Austria to proscribed destinations, without authorization from the Department. The Department further states that respondents currently have in their possession and control in Vienna, Austria, additional U.S.-origin equipment which requires authorization from the Department to permit its reexport from Austria. The Department states that there is a presumption of denial for any request seeking authorization to reexport this U.S.-origin equipment to proscribed destinations and, in any event, no such authorization has been requested. Nevertheless, the Department has reason to believe that respondents may attempt to reexport these U.S.-origin goods to proscribed destinations.

The Department states that the investigation gives it reason to believe that the violations under investigation were deliberate and covert. Further, since the respondents currently have possession and control of U.S.-origin goods subject to the Act and the Regulations, the Department states that violations are likely to occur again. The Department submits that a temporary denial order naming respondents is necessary in order to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Therefore, based on the showing made by the Department, I find that an order temporarily denying export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, positon of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon each respondent and published in the **Federal Register**.

Dated: August 12, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-18577 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-25-M

New England Fishery Management Council; Intent and Scoping Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The New England Fishery Management Council (Council) announces a scoping meeting for the purpose of discussing the preparation of a new fishery management plan (FMP) for Atlantic salmon. This scoping meeting is part of the Council process for determining the significant issues which need to be addressed in preparation of an environmental impact statement (EIS) associated with the development of a new management plan for Atlantic salmon. This scoping process is initiated in conformity to CEQ regulations (40 CFR 1501) implementing the National Environmental Policy Act (43 CFR 55978). This notice is intended to satisfy the requirement for a Notice of Intent (NOI) to prepare an EIS.

DATE: The scoping meeting will be held on August 27, 1986, at 10:00 a.m.

ADDRESS: The meeting will take place at the New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906, 617-231-0422.

SUPPLEMENTARY INFORMATION: The Council embarked on the development of this FMP to address a deficiency existing within United States management and regulation of its Atlantic Salmon resource in the North Atlantic. The United States joined with other North Atlantic nations in 1982 to form the North Atlantic Salmon Conservation Organization (NASCO) for the purpose of managing salmon through a cooperative program of conservation, restoration, and enhancement of North Atlantic stocks. The principal means for achieving those goals under NASCO is through a system for controlling the exploitation by one member nation of salmon which originated within the territory of another member nation. The NASCO Convention of 1982 defines territorial seas as being the 0-12 mile zone contiguous to the coastline of the signatory nation (excepting the 0-40 mile zone recognized in the case of Greenland). Contrastingly, the United States recognizes only a 0-3 mile zone for its own territorial sea. By virtue of this disparity, the 3-12 mile zone off the United States coastline is explicitly not under the management authority of NASCO nor is it under the explicit management authority of the coastal states of the United States. Thus, all management programs for U.S.-origin Atlantic salmon may be potentially compromised by unregulated exploitation of salmon resources within the zone. This deficiency in U.S. management of Atlantic salmon poses a threat to the salmon restoration efforts in the Northeast and weakens the U.S. position with regard to initiatives placed before NASCO and the U.S. expectations for responsive salmon management under NASCO.

The Council proposes to establish a management program for Atlantic Salmon in the 3-12 mile zone contiguous to the U.S. territorial sea to complement existing State management programs in inland and coastal waters and U.S. regulation of salmon of domestic origin on the high seas beyond 12 miles conferred as a signatory nation to NASCO.

The Council intends to prepare a Draft Environmental Impact Statement (DEIS) on the new FMP and will conduct public hearings on the DEIS before preparation of the Final EIS and final FMP. The availability of the DEIS and dates and address of the public hearings will be announced in the **Federal Register**.

The Council invites all interested Federal, State, and local agencies, sportfishing industry organizations, fishermen, environmental organizations, and any other interested persons to participate in the development of the new plan. Public participation in the development of the DEIS for the new plan will begin with the scoping meeting on August 27, 1986.

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18564 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Marine Mammals; Proposed Permit Modification; Corrections

In **Federal Register** Volume 51, Number 148, published August 1, 1986, page 27576, column 1, "Marine Mammals; Proposed Permit Modification; Northwest and Alaska Fisheries Center, National Marine Fisheries Service," the second paragraph reads:

The Permit Holder is requesting to incidentally entangle up to 300 fur seals (*Callorhinus ursinus*) in association with research on interactions between large fragments of marine debris and fur seals.

It should read:

The Permit Holder is requesting to incidentally entangle up to 60 fur seals (*Callorhinus ursinus*) in association with research on interactions between large fragments of marine debris and fur seals.

Dated: August 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18562 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton and Man-Man Fiber Textile Products Produced or Manufactured in Thailand

August 13, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 on March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 19, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive (as amended), establishing import limits for specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1986, was published in the **Federal Register** on December 26, 1985 (50 FR 52825). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27

and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand, the restraint limits for Categories 313, 314, 315, 317, 320, 604 and 613 are being increased by the application of carryforward for the agreement year which began January 1, 1986. Carryforward is an amount borrowed from the category limit from the succeeding agreement year and, to the extent used, is deducted from that limit in the succeeding year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 1986

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 26, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during 1986.

Effective on August 19, 1986, the directive of December 26, 1985 is hereby further amended to increase the previously established restraint limit for the following Categories under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand: [1]

Category	Adjusted 12-month limit[1]
313	14,644,733 square yards.
314	10,731,054 square yards.
315	21,462,108 square yards.
317	7,322,367 square yards.
320	12,498,521 square yards.
604	883,734 pounds.
613	17,359,058 square yards.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 86-18573 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Thailand

August 13, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 19, 1986. For further information contact Kathy Davis, International Trade Specialist (202) 377-4212.

Background

On March 12, 1986, the Government of the United States, on the basis of the bilateral agreement of July 27 and August 8, 1983, requested consultations with the Government of Thailand with respect to cotton yarns in Category 300/301pt. (all TSUSA numbers in Category 301 except 300.6026 and 300.6028). Agreement has been reached in consultations concerning this category, and the U.S. Government has decided to control imports in Category 300/301 pt., exported during the period which began on March 12, 1986 and extends through the end of the agreement year, December 31, 1986, at the agreed level of 3,240,731 pounds. In the directive which follows this notice, the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption of combed and carded cotton yarns in Category 300/301 pt. in excess of the designated level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 19, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 300/301pt.[1] produced or manufactured in Thailand and exported during the period which began on March 12, 1986 and extends through December 31, 1986, in excess of 3,240,731 pounds.[2]

Textile products in Category 300/301pt. which have been exported to the United States prior to March 12, 1986 shall not be subject to this directive.

Textile products in Category 300/301pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] The Agreement provides in part, that: (1) Under certain specified conditions, certain specific limits or sub-limits may be exceeded by not more than 7 percent for cotton and man-made fiber and 1 percent for wool products, provided that the amount of the increase is compensated for by an equal square yards equivalent decrease in another specific limit in the same group. (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] In Catergory 301, all TSUSA numbers except 300.6026 and 300.6028.

[2] The limit has not been adjusted to account for any imports exported after March 11, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18574 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Establishing Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China; Correction

August 12, 1986.

On July 23, 1986 a notice was published in the **Federal Register** (51 FR 26459) announcing, among other things, staged entry amounts for man-made fiber textile products in Category 642, produced or manufactured in China and exported during the ninety-day period which began on April 25, 1986 and extended through July 23, 1986. Footnote one in the letter to the Commissioner of Customs which followed that notice should be corrected to read as follows:

[1] The levels have not been adjusted to account for any imports exported after April 24, 1986. Charges amounting to 15,057 dozen should be made to the thirty-day period beginning on July 24, 1986 and extending through August 22, 1986 to account for goods exported during the ninety-day period which began on April 25, 1986 and imported during the period, April 25, 1986 through May 19, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18572 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

August 12, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 18, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212.

Background

During consultations held June 6, 1986, the Governments of the United States and the Republic of Turkey agreed to amend and extend through June 30, 1988 their Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985. The agreement, as amended and extended, establishes import restraint limits for cotton and man-made fiber textiles and textile products in Categories 300/301, 317, 319, 335, 339, 340/640, 341, 348, 361, 369 pt. (only TSUSA number 366.2840), and 604 pt. (all TSUSA numbers in the category except 310.5049), produced or manufactured in Turkey and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987. It was also agreed that cotton textile products in Categories 335, 339, 340 and 348, exported before June 1, 1986 in excess of previously established restraint levels, will not be charged to the limits of the agreement, as amended and extended; however, such goods, exported on and after June 1, 1986, will be charged to the limits established for the twelve-month period beginning on July 1, 1986 and extending through June 30, 1987.

Accordingly, in the following letter the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of the aforementioned cotton and man-made fiber textiles and textile products in excess of the amended restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 Fr 26622), July 16, 1984 (49 Fr 28754), November 9, 1984 (49 Fr 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreement.

Committee for The Implementation of Textile Agreements

August 12, 1986

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of December 18 and 19, 1985 which directed you to prohibit entry of certain cotton textile products in Categories 348 and 361, produced or manufactured in Turkey, in excess of the designated levels.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985, as amended and extended, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 18, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in Categories 300/301, 317, 319, 335, 339, 340/640, 341, 348, 361, 369pt., and 604pt., produced or manufactured in Turkey and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987, in excess of the following limits

Category	12 month restraint limit [1]
300/301	5,500,000 pounds
317	12,500,000 square yards of which not more than 2,000,000 square yards shall be in TSUS items 320—through 331.—with statistical suffixes 50, 87, and 93
319	11,000,000 square yards
335	73,500 dozen.
339	460,000 dozen
340/640	450,000 dozen of which not more than 225,000 dozen shall be in TSUSA numbers 381.0522, 381.3132, 381.3142 381.3152, 381.5500, 381.5610, 381.5625, 381.5637, 381.5660, 381.9535, 381.9547 and 381.9550
341	435,000 dozen of which 180,000 dozen shall be in TSUSA numbers 384.4608, 384.4610, 384.4612
348	550,000 dozen of which not more than 275,000 dozen shall be in TSUSA numbers 384.0015, 384.0262, 384.0263 384.0265, 384.0266, 384.0267, 384.0269, 384.0608, 384.0612, 384.0614, 384.0618, 384.0711, 384.0712, 384.0722, 384.0724, 384.0726, 384.0729, 384.0731, 384.0733, 384.0734, 384.0736, 384.0965, 384.0986, 384.2706, 384.2744, 384.3026, 384.3027, 384.3029, 384.3035, 384.3038, 384.3042, 384.3044, 384.3466, 384.3480, 384.4647, 384.4648, 384.4651, 384.4652, 384.4735, 384.4740, 384.4746, 384.4747 384.4750, 384.4755, 384.4763 384.4764, 384.4765, 384.4770, 384.4774, 384.4778, 384.5275, 384.5297, 384.5422, 384.5526 384.7716, 384.7815, 384.9527
361	380,000 numbers
369pt.[2]	1,450,000 pounds
604pt.[3]	850,000 pounds

[1] The levels have not been adjusted to reflect any imports exported after June 30, 1986.

[2] In Category 369, only TSUSA number 366.2840.

[3] In Category 604, all TSUSA numbers in the Category except 310.5049.

Textile products in the foregoing categories, except Categories 335, 340 and 348, which have been exported to the United States before July 1, 1986, shall not be subject to this directive. Cotton textile products in

Categories 335, 339, 340 and 348, exported before June 1, 1986 which are in excess of the restraint levels established for them in previous directives dated August 30, September 5, and December 19, 1985 shall not be subject to this directive; however, cotton textile products in Categories 335, 339, 340 and 348, exported on and after June 1, 1986, shall be subject to this directive. Charges for these excess amounts will be provided by separate letter.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The restraint limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 18, 1985, as amended and extended, which provide, in part, that: (1) Specific limits may be increased by 7 percent swing during an agreement period and (2) specific limits may be increased by caryover and carryforward up to 11 percent of the applicable category limit. Any appropriate adjustments under the provisions of the bilateral agreement referred to in this paragraph will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86 18575 Filed 8–15–86; 8:45 am]

BILLING CODE 3510–DR–M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on September 8 and 9, 1986, in Washington, DC, to review the status of major projects undertaken to implement the Cigarette Safety Act of 1984.

DATE: The meeting will be on September 8 and 9, 1986, from 9:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be in Room 703–A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terri Buggs, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98–567, 98 Stat. 2925, October 30, 1984) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report to Congress within 30 months concerning the technical and commercial feasibility of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on September 8 and 9, 1986, to review the status of major projects undertaken to implement the Cigarette Safety Act.

The meeting will be open to observation by members of the public, but only members of the Technical Study Group may participate in the discussion.

Dated: August 12, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 86–18547 Filed 8–15–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant a Limited Exclusive Patent License to Figgie International Inc.

The Department of the Army announces its intention to grant Figgie International Inc., a corporation of the State of Ohio, on behalf of its Scott Aviation Division, a limited exclusive license under Canadian Patent Application Serial No. 466,024, filed October 22, 1984, entitled "Protective Mask for Airborne Toxic Substances", by C. J. Shoemaker, et al.

The proposed limited exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR Part 404. The proposed licensee may be granted unless, within 60 days from the date of this notice, the Department of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Chief, Patents, Copyrights, and Trademarks Division, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041–5013.

For further information concerning this notice, contact: Lieutenant Colonel Francis A. Cooch, USALSA (JALS–PC), Nassif Bldg.—Room 332A, Falls Church, VA 22041–5013, Telephone No. (Area Code 202) 756–2434/2435.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer with the Federal Register.

[FR Doc. 86–18548 Filed 8–15–86; 8:45 am]

BILLING CODE 3710–08–M

Defense Communications Agency

Membership of the Defense Communications Agency SES Performance Review Board

AGENCY: Defense Communications Agency, DOD.

ACTION: Notice of Membership of the Defense Communications Agency SES Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the SES Performance Review Board (PRB) of the Defense Communications Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Communications Agency.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Painter, Personnel Management Services Branch, Deputy Director for Personnel and Administration, Defense Communications Agency (703) 692–2794.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the SES Performance Review Board. They will serve a one-year renewable term, effective August 1, 1986.

Paulson, Allan G., Rear Admiral, USN, Vice Director, Defense Communications Agency
Helms, Robert W., Deputy Director, Resource Management

Israel, David R., Chief Engineer
Morriss, Benham E., Deputy Manager, National Communications System
Renzi, Eugene C., Brigadier General, USA, Director, Defense Communications System Organization
Signori Jr., David T., Director, Center for Command and Control, and Communications Systems
Stevener, Glenwood M., Director, Joint Data Systems Support Center

A.G. Paulson,

Rear Admiral, USN, Vice Director.

[FR Doc. 86-18535 Filed 8-15-86; 8:45 am]

BILLING CODE 3610-05-M

Department of the Navy

Notice of Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards. The purpose of the Boards is to provide fair and impartial the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisors; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior whose performance is considered to be unsatisfactory; and to make nominations for financial performance awards. Composition of the particular Boards will be determined on an ad hoc basis from among individuals listed below:

Department of The Navy—Nominees for Performance Review Board Membership

Dr. J.E. Andrews
Mr. E.P Angrist
Mr. O.R. Ashe
Mr. R.J. Barnett
RADM J.R. Batzler, USN
Dr. E.A. Berman
Mr. J.J. Bettino
Mr. I. Blickstein
Mr. F.J. Burchfield
Mr. R. Burow
Mr. G Cammack
Mr. C.H. Clark
Dr. T. Coffey
CAPT W.G. Clautice, USN
The Honorable R.H. Conn
Mr. S. Cropsey
Mr. A. DePrete
Mr. A.R. DiTrapani
Mr. H.L. Dixson
Mr. R.E. Doak
RADM W.J. Finneran, USN
RADM H. Fiske, USN
Mr. F.B. Ford
Mr. A.G. Forssell
RADM R.D. Friichtenicht, USN
Mr. R.G. Garant
Mr. C. Geiger
Mr. J. Genovese
Mr. C.V. Gorsey
RADM R.J. Grich, USN
Mr. A.B. Grimes
Mr. R.L. Haas
Mr. R.A. Hallex
Mr. G.R. Hamilton
Ms. M.H. Harris
Mr. W.R. Hattabaugh
Mr. T.J. Haycock
Mr. M.L. Higgins
Mr. G.C. Hoffman
Mr. P.M. Hitch
RADM W.J. Holland, Jr., USN
RADM L.J. Holloway, USN
RADM R.B. Horne, USN
Mr. W.R. Hunt
Mr. A.E. Johnson
Mr. R.V. Johnson
BGEN J.J. Joy, USMC
Mr. T.A. Kallmeyer
Mr. G. Keightley
RADM F.G. Kelley, CEC, USN
Mr. E.T. Kenney
Mr. R. Kiss
Mr. L.R. Klein
Dr. R.A. Lefande
Mr. R.J. Lundegard
Mr. J.A. Macmillan
Mr. J. Marsh
Mr. D.A. Matteo
Mr. D.F. May
Mr. M.K. McElhaney
RADM G.W. McKay, USN
Ms. D.M. Meletzke
Mr. E.L. Messere
RADM J.B. Monney, Jr., USN
Mr. R.P. Moore
Dr. M.K. Moss
Mr. P.M. Murphy
Mr. H.J. Nathan
Mr. C.P. Nemfakos
Mr. J.J. O'Connor
CAPT J.P. O'Donovan, USN
CAPT R.P. Onorati, USN
Mr. H. O'Neill
Ms. M.A. Olsen
The Honorable M.R. Paisley
Mr. P.M. Palermo
Mr. F.A. Phelps
RADM R.A. Phillips, USN
RADM S. Platt, USN
Dr. J.H. Probus
Mr. A.S. Prince
The Honorable E.A. Pyatt
Mr. F. Quarto
Mr. W.G. Rae
BGEN G.M. Reals, USMC
RADM D.P. Roane, USN
Dr. B.B. Robinson
Mr. R.R. Rojas
Mr. R.L. Rumpf
Dr. F.E. Saalfeld
Mr. P.R. Sacilotto
Mr. H.R. Saldivar
Mr. W. Sansone
Mr. P.A. Schneider
Dr. P.A. Selwyn
Mr. R.L. Shaffer
Mr. F.L. Sheridan
Mr. J.N. Shrader
Dr. W.H. Smith
Mr. W.T. Skallerup, Jr.
RADM J.F. Smith, Jr., USN
Mr. M.D. Stafford
Mr. F.S. Sterns
Mr. F.W. Swofford
Mr. W.A. Tarbell
Mr. J.K. Taussig, Jr.
RADM J.D. Taylor, USN
Mr. R.O. Thomas
RADM R.L. Topping, USN
Mr. C.J. Turnquist
The Honorable C.G. Untermeyer
Dr. B. Wald
Mr. H. Wang
Mr. A.R. Weiss
Mr. H.J. Wilcox
Mr. W.N. Williams
Mr. W. Willoughby
Mr. F.E. Wyant

FOR FURTHER INFORMATION CONTACT: Mr. Vincent J. Prantl, Special Assistant for Executive Personnel, Office of Civilian Personnel Management, Department of the Navy, Washington, DC 20350, Telephone: (202) 694-5760.

Dated: August 11, 1986.

Harold Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86-18546 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee on U.S. Oil and Gas Outlook; Meeting

Notice is hereby given that the Coordinating Subcommittee on U.S. Oil and Gas Outlook will meet in September 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Coordinating Subcommittee on U.S. Oil and Gas Outlook will be addressing the current activities of all task groups and providing guidance for future studies. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee on U.S. Oil and Gas Outlook will hold its fourth meeting on Tuesday, September 9, 1986, starting at 9:00 a.m., in the Conference Room of the National

Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Coordinating Subcommittee on U.S. Oil and Gas Outlook meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee on U.S. Oil and Gas Outlook is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee on U.S. Oil and Gas Outlook will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 11, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–18560 Filed 8–15–86; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Future Supply/Demand Factors Task Group; Meeting

Notice is hereby given that the Future Supply/Demand Factors Task Group will meet in September 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Future Supply/Demand Factors Task Group's activities will be to identify the major factors that will affect the U.S.'s future supply and demand of oil and gas and to evaluate the influence such factors could have on the vulnerability of the U.S. to future energy crises.

The Future Supply/Demand Factors Task Group will hold its fifth meeting on Tuesday, September 16, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Future Supply/Demand Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Future Supply/Demand Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Future Supply/Demand Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 11, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–18561 Filed 8–15–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE–FRL–3066–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) for Industrial Surface Coating of Large Appliances (Subpart SS)—Information Requirements (EPA ICR #0659). (This is an extension of a currently approved ICR. The only change is an increase in the number of hours requested, an adjustment due to a more accurate estimate of the number of sources.)

Abstract: Owners or operators of large appliance surface coating facilities must notify EPA of construction, modifications, startups, shutdowns, malfunctions, and results of performance tests. They must also record all data and calculations from monthly performance tests used to determine VOC emissions, and identify and record excess emissions, data from daily incinerator temperatures, and amount of solvent recovered. Finally, they shall record any periods of insufficient temperature over three hours.

Respondents: Owners and operators of industrial surface coating facilities.

Title: Environmental Radiation Ambient Monitoring Systems (ERAMS) (EPA ICR #0877). (This is a revision of a currently approved ICR.)

Abstract: ERAMS is a system of 268 stations operated by State and some local governments which provides data for estimating ambient levels of radioactive pollutants in the environment, realizing trends in environmental levels, and assessing the impact of fallout and other intrusions of radioactive materials.

Respondents: State or local governments.

Agency PRA Clearance Request Completed By OMB

EPA ICR #1241, Silvex/2,4,5–T Products: Claim for Indemnification, Request for Federal Disposal, was approved 7/29/86 (OMB #2070–0071; expires 5/31/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223),

Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: August 12, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-18567 Filed 8-15-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-000093-036.

Title: North Europe-U.S. Pacific Freight Conference.

Parities: Blue Star Line, Limited, Compagnie Generale Maritime, Hapag-Lloyd AG, International Transport (ICT) B.V., A/S Det Ostasiatiske Kompagnie, Johnson Line AB, Sea-Land Service, Inc., Trans Freight Lines.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-008493-017.

Title: Trans-Pacific American Flag Berth Operators Agreement.

Parties: American President Lines, Ltd., Sea-Land Services, Inc., United States Lines, Inc.

Synopsis: The proposed amendment would modify the independent action (IA) provisions of the agreement to require 10 calendar days' notice of IA to the Agreement Secretary and to provide that such IA will be effective 10 calendar days after receipt of the notice.

Agreement No.: 202-010636-017.

Title: U.S. Atlantic-North Europe Conference.

Parties: Atlantic Container Line (G.I.E.), Dart-ML Limited, Hapag-Lloyd AG, Sea-Land Service, Inc., United States Lines, Inc., Trans Freight Lines, Compagnie Generale Maritime (CGM), Nedlloyd Lijnen, B.V., Gulf Container Line (GCL), B.V.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Dated: August 13, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18578 Filed 8-15-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

AmSouth Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 8, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation,* Birmingham, Alabama; to acquire 100 percent of the voting shares of AmSouth Bank of Walker County, Jasper, Alabama, a *de novo* bank.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lincoln Financial Corporation,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of CNB Financial Corp., Auburn, Indiana, and thereby indirectly acquire The City National Bank of Auburn, Auburn, Indiana.

2. *The Marine Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Community State Agency, Inc., Bloomington, Minnesota, and thereby indirectly acquire Community State Bank of Bloomington, Minneapolis, Minnesota.

3. *MBT Bancorp,* West Harrison, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Merchant's Bank and Trust Company, West Harrison, Indiana.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Limestone Bancshares, Inc.,* Sand Springs, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Limestone National Bank, Sand Springs, Oklahoma. Comments on this application must be received by September 5, 1986.

2. *Stroud Bancorp, Inc.,* Stroud, Oklahoma; to become a bank holding company by acquiring 96.67 percent of the voting shares of Stroud National Bank, Stroud, Oklahoma.

Board of Governors of the Federal Reserve System, August 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18525 Filed 8-15-86; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. The proposed activity will be conducted throughout the World.

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VOL 51 ISS 159 AG 18 1986 UMI

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 5, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to engage *de novo* through its subsidiary, Security Pacific Asia Futures, Inc., Singapore, ("SPAFI"), a Delaware corporation having its principal place of business in Singapore, in the execution and clearance on a major commodity exchange of stock index futures contracts. SPAFI is a clearing member of the Singapore International Monetary Exchange ("SIMEX"), and proposes to execute and clear for affiliated and nonaffiliated persons the Nikkei Stock Average futures contract to be traded on SIMEX.

Board of Governors of the Federal Reserve System, August 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18528 Filed 8-15-86; 8:45 am]

BILLING CODE 6210-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. September 11 and 12, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 11, 9 a.m. to 10 a.m.; open committee discussion, September 11, 10 a.m. to 5 p.m.; September 12, 9 a.m. to 12 m.; A.T. Gregoire, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. On September 11, the committee will discuss Alredase NDA 19-540 and Dinitrophenol for the treatment of obesity and on September 12, the committee will discuss Ucephan NDA 19-530.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. September 26, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 12 m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 4:15 p.m.; David F. Hersey, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee intends to discuss: (1) Clinical applications of ultrashort-lived radiopharmaceuticals for positron emission tomography (PET); (2) Research and development of a paramagnetic contrast agent for magnetic resonance imaging (MRI); (3) Investigational new drug development—strategy for facilitating new drug application review and approval; (4) Nuclear Regulatory Commission update; (5) Overview of the organization and activities in the Division of Oncology and Radiopharmaceutical Drug Products; and (6) "Guidelines for the Clinical Evaluation of Radiopharmaceutical Drugs."

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. September 29 and 30, 9 a.m., Auditorium, Lister Hill Center, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, September 29, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, September 29, 10 a.m. to 5 p.m.; September 30, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drugs and Biologics (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss Esmolol (Brevibloc) (NDA 19388), American Critical Care, for use for supraventricular tachycardia and control of blood pressure and pulse rate during anesthesia; Quinibid (NDA 19549), Schering Plough, new dosage form; Nicardipine (NDA 19488), Syntex Corp., for angina; Methyldopa (NDA 19-499), Elan Corp., new sustained release formulation.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion; (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–18532 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee Meeting; Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings.

ADDRESS: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period July 1, 1985, through June 30, 1986:

Center for Drugs and Biologics:
- Allergenic Products Advisory Committee,
- Blood Products Advisory Committee,
- Vaccines and Related Biological Products Advisory Committee.

Center for Devices and Radiological Health:
- Anesthesiology and Respiratory Therapy Devices Panel,
- Circulatory System Devices Panel,
- Immunology Devices Panel,
- Ophthalmic Devices Panel,
- Radiologic Devices Panel.

Annual reports are available for public inspection at: (1) The Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., 2nd and Independence Ave. SE., Washington, DC, (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 4:30 p.m., and (3) the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4:30 p.m., Monday through Friday.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–18531 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86D–0303]

Pesticides; Revocation of Action Level for Fenthion

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of its action level for residues of the pesticide fenthion in ground red pepper. FDA has taken this action because it has concluded that the action level is no longer appropriate or necessary. Accordingly, Attachment G, which listed the action level, has been deleted from FDA's Compliance Policy Guide 7120.23.

DATE: Written comments by October 17, 1986.

ADDRESS: Written comments concerning the revocation of FDA's action level for fenthion residues in ground red pepper, Compliance Policy Guide 7120.23, Attachment G, should be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0175.

SUPPLEMENTARY INFORMATION: In 1974, FDA encountered shipments of imported ground red pepper with residues of fenthion and concluded that an action level was necessary to control the

VOL 51 ISS 159 AG 18 1986 UMI

problem. Consequently, in response to FDA's request, the Environmental Protection Agency (EPA) recommended that a level of 0.3 part per million (ppm) fenthion residues in ground red pepper would be a safe and appropriate limit. On the basis of this recommendation, FDA established 0.3 ppm as the action level for fenthion residues in ground red pepper. The action level was subsequently listed in Attachment G in FDA's Compliance Policy Guide 7120.23.

FDA recently reviewed the action level for fenthion residues in ground red pepper and concluded that maintaining the action level is no longer necessary. In arriving at this conclusion, the agency was guided by 21 CFR 109.6(c), which specifies the criteria that must be met for establishing an action level. One of the criteria is that the contaminating substance cannot be avoided by good manufacturing practice. The occurrence of fenthion residues in ground red pepper in 1974 was determined to be an isolated incident of food contamination. Because fenthion is not an environmentally persistent pesticide, FDA would not expect fenthion residues to continue to occur in ground red pepper from environmental or other sources of unavoidable contamination. For this reason, the agency believes that the action level is no longer necessary. FDA has, therefore, revoked the action level of 0.3 ppm for fenthion residues in ground red pepper and has deleted Attachment G from Compliance Policy Guide 7120.23. In taking this action, FDA consulted with EPA. EPA stated that it has no objection to FDA revoking the action level.

Copies of the FDA and EPA correspondence concerning the revocation of the action level and copies of the FDA memorandum to FDA Regional and District Offices concerning this action are on file in the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document.

Interested persons may submit written comments, data, and information regarding this action level to the Dockets Management Branch. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments must be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18528 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0230]

CTL, Inc.; Premarket Approval of CustomEyes ™—70 L (Lidofilcon A) and CustomEyes ™—79 L (Lidofilcon B) Tinted Hydrophilic Contact Lenses

Correction

In FR Doc. 86-14739, beginning on page 23835, in the issue of Tuesday, July 1, 1986, make the following corrections:

On page 23835, third column, in the heading, the Docket Number should read as set forth above.

BILLING CODE 1505-01-M

[Docket No. 86M-0324]

CooperVision, Inc.; Premarket Approval of Mirasoak™ Rinsing, Disinfecting & Storage Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CooperVision, Inc., Mountain View, CA, for premarket approval, under the Medical Device Amendments of 1976, of MiraSoak ™ Rinsing, Disinfecting & Storage Solution. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 17, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On August 24, 1982, CooperVision, Inc., Mountain View, CA 94043, submitted to CDRH an application for premarket approval of MiraSoak ™ Rinsing, Disinfecting & Storage Solution. MiraSoak ™ Rinsing, Disinfecting & Storage Solution is indicated for use in the rinsing, chemical disinfection and storage of daily wear and extended wear polymacon soft (hydrophilic) contact lenses.

On January 28, 1983, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 17, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of MiraSoak ™ Rinsing, Disinfecting & Storage Solution states that the solution is indicated for use in the rinsing, chemical disinfection, and storage of daily wear and extended wear polymacon soft (hydrophilic) contact lenses. Manufacturers of clear (untinted) polymacon soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens or PMA holder shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for resonsideration under § 10.33(b) (21 CFR 10.33 (b)). A petitioner shall identify the form of review

requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 17, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 11, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–18529 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BERC–355–CN]

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986, but Before July 1, 1987

Correction

In FR Doc. 86–17810 beginning on page 28439 in the issue of Thursday, August 7, 1986, make the following corrections:

1. In the heading, the agency BERC number was incorrect and is set out correctly above.

2. On page 28439, in the third column, sixth line from the bottom, the second wage index value should read "1.2616".

BILLING CODE 1505–01–M

Health Resources and Services Administration

Application Announcement, Funding Preferences and Grant Orientation Conferences for the Health Careers Opportunity Program

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1987 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by Pub. L. 99–129.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatry, public and nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes: recruitment, preliminary education, retention in health and allied health professions schools, counseling and advice on financial aid.

The Administration's budget request for Fiscal Year 1987 does not include funding for this program. This notice regarding applications does not reflect any change in this policy. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

The statute requires that not less than 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, not more than five percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR Part 57, Subpart S.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

The standard application form and specific instructions for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is November 3, 1986. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date; or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Funding Preferences

The following funding preferences will govern the distribution of grant awards to approved HCOP grant applicants for Fiscal Year 1987. These preferences were published in a **Federal Register** notice dated September 12, 1983 (48 FR 40958).

An applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have Educational Assistance Agreement(s) (EAA) with no more than five undergraduate institutions that separately or collectively satisfy the definition of a feeder institution and who are requesting HCOP support only for:

a. The feeder institution(s) or equivalent to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the health professions school or the feeder institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their institution(s) with counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing the students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which, as a group: (1) Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; (2) Has 20 or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) Is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference Number 1 decreasing, respectively, to funding preference Number 5.

The five preferences do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for the preferences are encouraged to submit applications.

The applicant *must indicate on the upper right-hand corner of page one of the application* the funding preference in which the applicant wishes consideration. However, the final determination of the category of funding preference will be based on a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. A feeder institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities. Consideration will be given to assure that funded projects represent a reasonable proportion of the health professions specified in the legislation. However, full consideration will also be given to ensure that final funding decisions include appropriate support of proposals and students representative of the targeted populations served by HCOP.

Definitions

As used in this notice:

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools.

"Feeder Institution" means an institution of higher education meeting the requirements of section 435 of the Higher Education Act, as amended, Pub.L. 89–239 (20 U.S.C. 1085(b)), which:

a. Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

b. Had ten or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, chiropractic or graduate programs in health administration, as defined in section 701(4) of the Public Health Service Act.

"Individual from a Disadvantaged Background" means an individual who (a) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1987:

Size of parents' family: [1]	Income level [2]
1	7,200
2	9,400
3	11,100
4	14,300
5	16,800
6 or more	18,900

[1] Includes only dependents listed on Federal income tax forms

[2] Adjusted gross income for calendar year 1985, rounded to $100

"Training Center for Allied Health Professions" means a junior college, or college, or university, as defined in section 795 of the Public Health Service Act, which:

(a) provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
- Clinical Psychologist

Master's Degree:
- Speech Pathologist/Audiologist

Bachelor's Degree:
- Dental Hygienist
- Dietitian (Coordinated undergraduate program)
- Community Health Educator
- Health Services Administrator
- Medical Records Administrator
- Medical Technologist
- Occupational Therapist
- Physical Therapist
- Primary Care Physician Assistant
- Sanitarian (Environmental Health)

Associate Degree:
- Clinical Dietetic Technician
- Cytotechnologist
- Dental Assistant
- Dental Hygienist
- Dental Laboratory Technician
- Medical Assistant
- Medical Laboratory Technician
- Medical Records Technician
- Occupational Therapy Assistant
- Ophthalmic Medical Assistant
- Optometric Technician
- Physical Therapy Assistant
- Radiologic Technologist
- Respiratory Therapist
- Sanitarian Technician

(b) provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

(c) has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program also will be provided through four program technical assistance conferences. The conferences, scheduled during

September 1986, are for the benefit of potential applicants and current grantees.

Each of the four conferences will be two days in length and at the following locations:

September 4–5, 1986, Rockville, Maryland
Holiday Inn Crowne Plaza Hotel, 1750 Rockville Pike, Rockville, Maryland 20852

September 8–9, 1986, Kansas City, Missouri
The Hyatt Regency, 2345 McGee Street, Kansas City, Missouri 64108

September 11–12, 1986, Atlanta, Georgia
The Westin Peachtree Plaza, 210 Peachtree Street, Atlanta, Georgia 30324

September 15–16, 1986, Los Angeles, California
Westin Bonaventure, 404 South Figueroa Street, Los Angeles, California 90071

Expenses incurred by the attendees will not be supported by the Federal Government.

Agenda items will include: Status of the legislation; application requirements; and grants management information. There will be small work groups to critique specific points in development of applications including evaluation considerations which arise in the review process. Significant focus of the conferences will be directed toward: program activities of current grantees; the relative merit of strategies employed to facilitate entry of disadvantaged students into health professions schools; and both current and projected academic issues affecting disadvantaged students in health professions schools.

Participation in the technical assistance meetings does not insure approval and funding of prospective applications.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Mr. William J. Holland, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8–20, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–4493.

Dated: August 8, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–18527 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Number AA–59055]

Sale of Public Land in Nondalton, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, FLPMA section 203 sale.

SUMMARY: The following described tract of land has been examined and through land use planning, identified as suitable for disposal by non-competitive sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976.

Lot 5, Amended U.S. Survey No. 3876, Alaska, situated in the village of Nondalton, containing 6.06 acres.

This notice of realty action proposes the sale of land, under the jurisdiction of the Bureau of Land Management, to the City of Nondalton for community expansion purposes and to facilitate land use planning in the area. The subject tract is isolated from other public lands and is difficult to manage. Retention of these lands would not serve any Federal purpose.

This disposal action is a non-competitive offering at fair market value estimated to be $24,000.

The patent, if and when issued, will contain the following reservations to the United States:

1. A right-of-way for ditches, canals, telephone and telegraph lines;
2. All mineral rights.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, or call Don Hinrichsen at (907) 267–1308.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments at the above address. Any adverse comments will be evaluated by the Anchorage District Manager who may cancel or modify this action and issue a final determination. In the absence of any adverse action by the Anchorage District Manager, this will become the final determination of the Department of the Interior.

Donald L. Hinrichsen,

Peninsula Resource Area Manager.

[FR Doc. 86–18557 Filed 8–15–86; 8:45 am]

BILLING CODE 4310–JA–M

[WY–010–06–4212–11:W–0318463]

Wyoming; Notice of Realty Action, Lease of Public Land for Recreation and Public Purposes in Hot Springs County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Lease of Public Land for Recreation and Public Purposes in Hot Springs, County.

SUMMARY: The following described public lands near the community of Hamilton Dome, Wyoming have been examined and identified as suitable for lease for public purposes. The lands will be classified for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et. seq.)

Sixth Principal Meridian, Wyoming

T. 44 N., R. 98 W.,
Sec. 23: S½S½SE¼NE¼NE¼NE¼, N½NE¼SE¼NE¼NE¼.

The area described contains 1.875 acres.

Hot Springs County School District No. 1, Hot Springs County, Wyoming, has applied to add 1.875 acres to their existing Recreation and Public Purposes Lease W–0318463 which authorizes the Hamilton Dome School Facility on Public Lands. These lands are valuable for public purposes as contemplated by 43 CFR 2430.4(a) and may properly be classified for lease under the recreation and Public Purposes Act as stated in 43 CFR 2430.4(c). This classification is consistent with the criteria of 43 CFR 2410.1(a) and (d).

Upon publication of this notice in the **Federal Register**, the above-described land will be segregated from all appropriations except the mineral leasing laws and the Recreation and Public Purposes Act. The lease issued will be subject to valid existing rights which include:

1. Wyo-Ben Inc. Placer Mining Claim Dome No. 5. Wyo-Ben and Wind River Partnership have agreed to the use for which this lease is proposed, only for the 1.875 acres occupied by the existing frame school residence, for the remaining term of Recreation and Public Purposes Lease W–0318463, expiring January 31, 1992.
2. Wyoming State Highway 170 Right-of-Way.
3. W–58063—Tri-County Telephone Right-of-Way.
4. C–058729—Oil and Gas Lease.

Comments: For a period of 45 days from the date of Publication of this Notice in the **Federal Register**, interested parties may submit comments in writing to the District Manager, Bureau of Land Management, P.O. Box 119, Worland,

Wyoming 82401. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this notice will become affective 60 days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Chester E. Conard, District Manager, Worland District, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

Dated: August 5, 1986.

Chester E. Conard,

District Manager, Worland, Wyoming.

[FR Doc. 86-18554 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-22-M

[WY-060-06-4212-14]

Realty Action; Competitive Sale of Public Lands in Goshen County, WY

Correction

In FR Doc. 86-16931 appearing on page 27090 in the issue of Tuesday, July 29, 1986, make the following correction: In the table that appears between the first and second columns, in the second line of text, in the second column, "SEWN" should read "SENW".

BILLING CODE 1505-01-M

[WY-060-06-4212-14]

Realty Action Modified Competitive Sale of Public Lands in Platte and Goshen Counties, WY

Correction

In FR Doc. 86-16933 appearing on page 27091 in the issue of Tuesday, July 29, 1986, make the following correction: In the table that appears between the second and third columns, in the second line of text, in the second column, "SW¼SW¼" should read "SW¼ NW¼".

BILLING CODE 1505-01-M

Minerals Management Service

Royalty Management Advisory Committee, Gas Valuation Regulation Review Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that the Gas Valuation Regulations Review Working Panel, established by the Royalty Management Advisory Committee, will meet in Golden, Colorado, at the location and on the dates indicated below.

On February 5, 1986, MMS published an advance notice of proposed rulemaking in the **Federal Register** making available for public comment draft regulations pertaining to the valuation of gas and associated products as well as gas processing allowances and transportation allowances. All public comments were made available to the Royalty Management Advisory Committee and the Gas Valuation Regulations Review Working Panel. The Panel is reviewing the draft regulations and making recommendations as necessary. The Panel held their last meeting on July 17 and 18, 1986.

Location and Dates: The Gas Valuation Regulations Review Working Panel will conduct three meetings during August and September 1986 at the Marriott Denver West Hotel, 1719 Denver West Parkway, Golden, Colorado. The meeting dates are August 26 and 27, 1986; September 11 and 12, 1986; and September 29 and 30, 1986.

The Panel will meet from 9 a.m. to 5 p.m. on the first day of each meeting session and from 8 a.m. to 3 p.m. on the second day. The conference room will be available for an evening session on the first day should the panel elect to hold such a session.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted within 14 calendar days from the last day of each session except the third session. Written comments for the third session are due to the Panel by 3 p.m. on September 30, 1986. Written comments shall be submitted to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: The Gas Valuation Regulations Review Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and the MMS. Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: August 11, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-18538 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Illinois and Michigan Canal National Heritage Corridor; Insignia; Prescription

I hereby prescribe the Illinois and Michigan Canal National Heritage Corridor "I&M CANAL" symbol, which is depicted below, as the official insignia of the Illinois and Michigan Canal National Heritage Corridor, an affiliated unit of the National Park System, United States Department of the Interior.

In making this prescription, I gave notice that, under section 701 of Title 18 of the United States Code, whoever manufacturers, sells, or possesses any badge, identification card, or other insignia of the design herein prescribed, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving photograph, print, or impression in the likeness of any such badge, identification card, or other insignia or any colorable imitation thereof except as authorized under regulations made pursuant to law, shall be fined not more than $250 or imprisoned not more than six months, or both.

Notice is hereby given that in order to prevent proliferation of the distinctive "I&M CANAL" insignia, and to assure against its use for purposes other than indentifying heritage corridor buildings, marking interpretive exhibits, and informational literature for heritage corridor visitors, and those purposes which, in the determination of the Illinois and Michigan Canal National Heritage Corridor Commission, are consistent with the purpose for which the national heritage corridor was established, the commission will proceed to secure trademark registration under section 1115 of Title 15 of the United States Code for the Illinois and

Michigan Canal National Hertitage Corridor "I&M CANAL" insignia.

Dated: August 1, 1986.

Charles H. Odegaard,

Regional Director, Midwest Region.

[FR Doc. 18591 Filed 8-15-86 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:00 p.m., Tuesday, September 9, 1986, at the park headquarters, located at 2202 Roosevelt, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95-629, Title II, November 10, 1978. The purpose of the Commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park

Matters to be discussed include:

—Minutes of previous meeting
—Park Operations Update
—Los Compadres Update
—Archdiocesan Report
—City Report
—County Report
—Open Discussion
—Recognition of 4 outgoing members

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 2202 Roosevelt Avenue, San Antonio, Texas 78210 (512) 229-5701.

Minutes of the meeting will be available for public review approximately four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: August 7, 1986.

Donald A. Dayton,

Acting Regional Director, Southwest Region.

[FR Doc. 86-18592 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Clean Air Act Enforcement Action; State of Florida (Department of Health and Rehabilitative Services)

In accordance with Departmental Policy, 28 CFR 50.7, 36 FR 19029, notice is hereby given that a consent decree in *United States v. State of Florida (Department of Health and Rehabilitative Services)* was lodged with the United States District Court for the Northern District of Florida on August 1, 1986. The proposed consent decree requires the State to comply with applicable Clean Air Act requirements governing the demolition or renovation of facilities that contain friable asbestos materials, send two of its maintenance supervisors to asbestos abatement seminars, and pay a civil penalty of $28,000.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States v. State of Florida (Department of Health and Rehabilitative Services)*, 90-5-2-1-887.

The consent decree can be examined at the office of the United States Attorney, 227 N. Bronough Street, Room 4014, Tallahassee, Florida 32301, the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-18550 Filed 8-15-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Executive Committee of the Advisory Committee on Preservation; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Executive Committee of the Advisory Committee on Preservation will meet on September 26, 1986. The meeting will be open to the public.

DATES: The meeting will be held from 10 a.m. to 4 p.m. on Friday, September 26, 1986.

ADDRESSES: Location of the meeting is room 105 of the National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan Calmes, 202-523-5496.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will be:

1. Preservation studies sponsored by the National Archives and Records Administration (NARA) (studies prepared by NARA staff and contractor studies).

2. Related studies by other institutions.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: August 12, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86-18533 Filed 8-15-86; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power and Light Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the withdrawal of an application dated October 31, 1980, filed by Arkansas Power and Light Company (the licensee). The application requested amendment to Facility Operating

License No. DPR–51 for the operation of Arkansas Nuclear One, Unit 1, located in Pope County, Arkansas. The proposed amendment would have revised the provisions in the Technical Specifications for the operational setpoint of the electromatic relief valve and the special reporting requirements for the electromatic relief valve. The Commission issued a Notice of Consideration of Issuance of Amendment in the **Federal Register** on August 23, 1983 (48 FR 38387). By letter dated June 30, 1986, the licensee requested withdrawal of the application for the proposed amendment. The Commission has considered the licensee's June 30, 1986, letter and has determined that permission to withdraw the October 31, 1980, application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated October 31, 1980; (2) the licensee's letter dated June 30, 1986, requesting withdrawal of the application for license amendment, and (3) the Commission's letter to the licensee dated July 29, 1986.

All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 29th day of July, 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86–18585 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

Docket No. 50–213

Connecticut Yankee Atomic Power Co. (Haddam Neck Plan); Correction to Order Confirming Licensee Commitments on Emergency Response Capability

I.

Connecticut Yankee Atomic Power Company (CYAPCO) holds Facility Operating License No. DPR–61 which authorizes the operation of the Haddam Neck at steady-state power levels not in excess of 1825 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Middlesex County, Connecticut.

II.

On July 2, 1986, the Commission issued an Order, published in the **Federal Register** at 51 FR 24766 (July 8, 1986), confirming the Licensee's additional commitments to comply with post-TMI requirements proposed in Supplement 1 to NUREG–0737, "Clarification of TMI Action Plan Requirements." Subsequent to the issuance of the Order, it has come to the Staff's attention that the Order had described the Licensee's commitments erroneously in two instances in the table attached to the Order.

First, the Order required under Item 1b in the attached table that the Licensee make the safety parameter display system (SPDS) fully operational and have operators trained on the SPDS by March 25, 1988. The required completion date should have read "March 25, 1988 or within 6 months of the Start of Cycle 15" to reflect more accurately the Licensee's commitments in this area and to allow some flexibility for delaying completion if the current outage schedule should slip.

Second, the status of Item 3b pertaining to implementation of requirements proposed in Supplement 1 of NUREG–0737 regarding Regulatory Guide 1.97 was described as complete as of July 17, 1984, in the table attached to the July 2, 1986 Order. This item, which was the subject of an earlier order should have indicated only that the Licensee was required to submit and had submitted an implementation schedule by July 17, 1984. The item was not a new requirement under the July 2, 1986 Order and was included on the table only to provide a convenient reference to all of the Licensee's commitments to Supplement 1 to NUREG–0737.

III.

Accordingly, Attachment 1 of the July 2 Order is revised to reflect a completion date for Item 1b of "March 25, 1988, or 6 months from the Start of Cycle 15" and to reflect under Item 3b that the Licensee had completed the requirement to submit a schedule for implementation by July 17, 1984. A copy of the corrected table is attached.

The Order of July 2, 1986, as corrected herein, remains in effect in accordance with its terms.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing—B, Office of Nuclear Reactor Regulation.

HADDAM NECK PLANT LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1 Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Complete 5/13/86.
	1b. SPDS fully operational and operators trained	March 25, 1988 or 6 months from start of Cycle 15.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete 2/28/86.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	February 25, 1988.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	Complete 02/29/84.
	3b. Implement (installation or upgrade) requirements	Schedule submitted by 7/17/84 Complete.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Complete 09/01/83.
	4b. Implement the upgraded EOPs	September 1, 1986.
5 Emergency Response Facilities	5a. Technical Support Center fully functional	Complete[1].
	5b. Operational Support Center fully functional	Complete[1].
	5c. Emergency Operations Facility[2] fully functional	Complete[1].

[1] Except for any additional changes that may be required as a result of other items in this Order
[2] Relief for backup EOF granted by letter from D. Eisenhut to W. Counsil dated June 4, 1984.

[FR Doc. 86–18583 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of schedular exemptions from the requirements of 10 CFR Part 50, Appendix J, to the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) for the Haddam Neck Plant located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant schedular exemptions from the Type C testing requirements of Appendix J for the high pressure safety injection system penetration (P-3), and reverse direction testing of the reactor coolant pump seal water return penetration (P-7). The licensee has determined that modifications to the above systems were necessary for the Haddam Neck Plant to meet the requirements of 10 CFR Part 50, Appendix J.

The Need for the Proposed Action

One of the conditions of all operating licenses for a water-coolant power reactor, as specified in 10 CFR 50.54(o), is that the primary reactor containment shall meet the containment leakage test requirements set forth in 10 CFR Part 50, Appendix J.

In an April 5, 1984 letter, the NRC staff noted that not all containment penetrations at the Haddam Neck Plant are tested in accordance with the Appendix J. The staff concluded that it was acceptable to defer implementation of specific Appendix J and Appendix A modifications until an integrated assessment, i.e., Integrated Safety Assessment Program (ISAP), could be performed.

In a July 31, 1985 letter, the NRC staff formally established the scope of the Haddam Neck Plant ISAP and designated the Appendix J issues as ISAP Topic 1.03, Containment Penetration Evaluations. In this letter, the staff recognized that some issues require exemptions to defer action until the Haddam Neck Plant ISAP could be completed.

By letter dated July 15, 1986, the licensee requested the exemptions presented above.

Environmental Impact of the Proppsed Action

For the exemption requests that are strictly schedular, the exemptions would allow the current method of testing to continue until all required modifications are completed. The results of the current tests, in conjunction with the overall integrated containment leak rate test, give reasonable assurance that containment integrity will be provided following a postulated accident.

Thus, radiological releases will not differ from those determined previously and the proposed exemptions do not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemptions do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the schedular exemptions would be to impose shorter extension periods than requested. Such actions would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated July 15, 1986. This letter is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Bethesda, Maryland this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Integrated Safety Assessment Project, Directorate Division of PWR Licensing—B.

[FR Doc. 86-18584 Filed 8-15-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., et al. Availability of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment of Facility Operating License No. NPF-29, issued to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Power Association, (the licensees), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

Indentification of Proposed Action: The amendment would consist of changes to the operating license and Technical Specifications (TSs) and woud authorize an increase of the storage capacity of the spent fuel pool (SFP) from 1270 fuel assemblies to 2324 fuel assemblies and an increase of the storage capacity of the upper containment pool (UCP) from 170 to 800 fuel assemblies.

The amendment to the TSs is responsive to the licensee's submittal, dated May 6, 1985. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment Related to the Modification of the Spent Fuel Storage Racks at Grand Gulf Nuclear Station, Unit 1, Facility Operating License No. NPF-29, Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Power Association, " dated August 12, 1986.

Summary of Environmental Assessment: The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NRREG-0575), Volumes 1-3, concluded that the environmental impact of interim storage of spent fuel was negligible and the dose of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended

licensing SFP expansions on a case-by-case basis.

For Grand Gulf Nuclear Station, Unit 1, the expansion of the storage capacity of the spent fuel pool and the upper containment pool will not create any significant additional radiological effects or non-radiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary is less than 0.1 millirem per year; the estimated dose to the population within a 50-mile radius is estimated to be less than 0.1 person-rem per year. These dose are small compared to the fluctuations in the annual does this population receives from exposure to background radiation. The increases in occupational exposures for the proposed operation of the modified spent fuel pool are estimated to add less than one percent to the total annual occupational radiation doses at the plant. This small increase in occupational radiation doses should not affect the licensee's ability to maintain individual occupational doses within the limits of 10 CFR 20.

The only non-radiological discharge altered by the modifications to the SFP and UCP is the waste heat rejected to the Mississippi River. The total load to the Mississippi River will be increased less than 0.03 percent. Thus, there is no significant environmental impact attributable to the discharge waste heat from the station due to this very small increase.

Finding of No Significant Impact

The staff has reviewed the proposed modifications to the facilities relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

For further details with respect to this action, see (1) the application for amendment to the Technical Specifications dated May 6, 1985 and supplemental letters dated July 29, August 15, August 30, September 11, September 12, November 1, and December 18, 1985, and March 14, March 15, June 5, June 9, and July 25, 1986, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for Grand Gulf Nuclear Station, Unit 1, issued September 1981, and (4) the Environmental Assessment dated August 12, 1986. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director BWR Project Directorate No. 4 Division of BWR Licensing.

[FR Doc. 86–18582 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Nuclear Plant Chemistry; Cancellation

The **Federal Register** published on Friday, August 8, 1986 (51 FR 28642) contained notice of a meeting of the ACRS Subcommittee on Nuclear Plant Chemistry to be held on Tuesday, August 26, 1986, Room 1046, 1717 H Street, NW, Washington, DC. The meeting has been cancelled.

Dated: August 13, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–18581 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of submission of information collection request to the Office of Management and Budget (OMB) for approval.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and 5 CFR Part 1320, we are announcing submission to OMB for approval of the "Applicant's Statement of Selective Service Registration Status" for completion by Federal job applicants prior to appointment. Recently enacted section 1622 of Pub. L. 99–145 declares nonregistrants ineligible for appointment. The text of the statement will be published as part of our forthcoming regulations on the Selective Service registration requirement. Executive agencies will use the information provided by applicants on statements to determine whether they have registered as required under Selective Service law. For copies of the statement, call James M. Farron, Agency Clearance Officer, on (202) 632–7714.

Comment Date: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESS: Send or deliver comments to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James M. Farron, (202) 632–7714.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86–18559 Filed 8–15–86; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–15249 (File No. 812–6442)]

FSA Capital, Inc.; Application

August 12, 1986.

Notice is hereby given that FSA Capital, Inc. (the "Applicant"), 300 Delaware Avenue, Suite 1703, Wilmington, Delaware 19899, filed an application on July 28, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant from all provisions of the Act. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it is a wholly-owned subsidiary of Franklin Financial Services, Inc. ("FFS"), a Kansas corporation and a wholly-owned, service corporation subsidiary of Franklin Savings Association, a Kansas-chartered stock savings and loan association. Applicant states that it is a limited-purpose corporation created to issue one or more series (a "Series") of bonds (the "Bonds") secured by certain mortgage collateral and will not engage

in any other unrelated business or investment activities.

Applicant states that it will issue Bonds which are secured by "fully-modified pass-through" mortgage-backed certificates fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA"); Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA"); Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC"); and distributions on such certificates (collectively, "Mortgage Certificates") and reinvestment earnings thereon.

Applicant states that each Mortgage Certificates will represent interests in pools of one- to four-family residential mortgage loans which have been purchased in the open market by FFS. FFS will sell the Mortgage Certificates to the Applicant at its then current market value, and the Applicant will assign such Mortgage Certificates to an independent trustee (the "Trustee") as security for a Series of Bonds. The Mortgage Certificates will be held by the Trustee or on behalf of the Trustee by an independent custodian, which custodian will not be an affiliate of the Applicant.

Applicant states that, in the case of each Series of Bonds (i) payments on the mortgage loans underlying the Mortgage Certificates securing such Bonds will be the primary souce of funds for payments of principal and interest due on such Bonds; (ii) such Bonds will be secured by collateral consisting primarily of Mortgage Certificates with an aggregate outstanding principal amount approximately equal to the initial principal amount of such Bonds; (iii) scheduled principal and interest payments on the Mortgage Certificates securing such Bonds, in accordance with the terms of such Mortgage Certificates (together with any required payments from any reserve funds created with respect to such Bonds), plus reinvestment income received thereon (at an assumed reinvestment rate) will be sufficient to make timely payments of interest on the Bonds and to retire each class of Bonds not later than its stated maturity; (iv) the Mortgage Certificates will be pledged in their entirety to the Trustee and will be subject to the lien of the related Indenture (as defined below); and (v) the Bonds will be rated in the highest bond rating category by at least one nationally recognized rating agency.

Each Series of Applicant's Bonds will be issued pursuant to an indenture between Applicant and Trustee as supplemented by one or more supplemental indentures for such series (together referred to as the "Indenture"). Each Series of Bonds will be registered under the Securities Act of 1933 (the "1933 Act"), unless an appropriate exemption is available from such registration, and sold pursuant to a prospectus of private placement memorandum (either herein referred to as the "Prospectus") containing all material disclosures required by the terms of the 1933 Act. Indentures for each offering registered under the 1933 Act will be qualified under the provisions for the Trust Indenture Act of 1939.

Under the Indenture, Applicant will have a limited right to substitute new Mortgage Certificates ("Substitute Mortgage Certificates") for Mortgage Certificates initially pledged as security for the Bonds, provided that such substitution does not result in a reduction of the ratings assigned by one or more nationally recognized rating agencies to the Bonds. Substitute Mortgage Certificates will be required to have payment terms similar to, and scheduled cash flows no less than, those of the Mortgage Certificates being replaced.

The Applicant states that although the Bonds will not be redeemable by the Bondholders, they may be subject to special redemption if the Trustee determines that there is an insufficient cash flow from the Mortgage Certificates to support the outstanding Bonds between certain payment dates for such Bonds. In addition, all or a portion of each Series of Bonds may be subject to redemption at the option of the Applicant under the circumstances set forth in the related Indenture and disclosed in the Prospectus. Applicant states that it will not be able to impair the security afforded by the Mortgage Certificates to the holders to the Bonds of any series ("Bondholders").

Applicant submits that the relief requested is necessary, appropriate and in the public interest because, among other things, Applicant is not the type of entity to which the provisions of the Act were intended to be applied. Additionally, the granting of the requested exemption will not be inconsistent with the purposes of the Act and protection of investors. Investors will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Indenture and the Trustee representing their interest under the Indenture.

Applicant expressly agrees that the proposed transactions to be entered into by it will be subject to the following conditions:

(1) Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to Section 4(2) of the 1933 Act;

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. However, the mortgage collateral underlying the Bonds will be limited to Mortgage Certificates guaranteed by GNMA, FNMA or FHLMC;

(3) If new Mortgage Certificates are substituted, the Substitute Mortgage Certificates will: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates will not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as mortgage collateral. In no event may any new Mortgage Certificates be substituted for any Substitute Mortgage Certificates;

(4) All Mortgage certificates, funds, accounts or other collateral securing a Series of Bonds will be held by the Trustee or on behalf of the Trustee by an independent custodian, Neither the Trustee nor the custodian will be an affiliate (as the term "affiliate" is defined in Rule 405, 17 CFR 230.405 under the 1933 Act) of the Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all Bond collateral;

(5) Each Series of Bonds will be rated in one of two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant;

(6) The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act; and

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and in addition will report on whether the anticipated payments of principal of and interest on the mortgage certificates will contiune to be adequate to pay the principal of the interest on Bonds in accordance with their terms. Upon completion, copies of the auditor's report will be provided to the Trustee.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 5, 1986, at 5:30 p.m., do

VOL 51 ISS 159 AG 18 1986 UMI

so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail to upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18588 Filed 8-15-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from October 20, at 9 a.m., through October 24, 1986, at 4 p.m., at FAA headquarters, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than October 17, 1986, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic, Acting ATO-400, 800 Independence Avenue, SW., Washington, DC, 20591, telephone (202) 267-9358. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is planned to be held from January 13 through January 16, 1987, in Phoenix, Arizona.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on August 11, 1986.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 86-18523 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 12, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0153
Form Number: None
Type of Review: Extension
Title: Appraisal of Property Upon Transfer to Other Real Estate Owned/ Instructions to Appraiser
Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Internal Revenue Service

OMB Number: 1545-0108
Form Number: IRS Form 1096
Type of Review: Revision
Title: Annual Summary and Transmittal of U.S. Information Returns
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

S.F. Timothy Mullen,

Departmental Reports Management Office.

[FR Doc. 86-18570 Filed 8-15-86; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1, 2
Federal Home Loan Mortgage Corporation	3
Federal Mine Safety and Health Review Commission	4

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, August 12, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,626-L
Midland Consolidated Office, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: August 13, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18638 Filed 8-14-86; 12:30 p.m.]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, August 12, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re:
United American Bank in Knoxville, Knoxville, Tennessee

Request for fiancial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: August 13, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18639 Filed 8-14-86; 12:30 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

Notice of Previously Held Special Meeting

TIME AND DATE: 10:30 a.m., Wednesday, August 13, 1986.

PLACE: 1776 G Street, NW., Washington, DC 20006, Conference Room 8c.

STATUS: Closed.

MATTER CONSIDERED:

1. The Board of Directors reviewed various financial issues related to the Corporation's business. No decisions were made at this meeting.

The Board unanimously voted that Federal Home Loan Mortgage Corporation business required that the meeting be held with less than seven days advance notice.

The Board voted to close the meeting pursuant to 5 U.S.C. 552b(c)(9)(B). The General Counsel certified that the meeting be closed under this exemption.

FOR MORE INFORMATION CONTACT: Alan Hausman, Associate General Counsel and Assistant Secretary, 1776 G Street, NW., P.O. Box 37248, Washington, DC 20013.

Dated: August 14, 1986.

Maud Mater,

Senior Vice President—General Counsel and Secretary.

[FR Doc. 86-18657 Filed 8-14-86; 2:00 pm]

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 7, 1986.

TIME AND DATE: 10:00 a.m., Thursday, August 14, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Harry Wadding v. Tunnelton Mining Co., Docket No. PENN 84-186-D (Consideration of pending motion);

2. Asarco, Inc., Northwestern Mining Dept., Docket No. WEST 84-48-M (Issues include whether the administrative law judge properly concluded that Asarco violated 30 CFR 57.3-22 (1983), a mandatory safety standard dealing with ground control.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Helen O. Mockabee,

Acting Agenda Clerk.

[FR Doc. 86-18645 Filed 8-14-86; 12:30 pm]

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Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Airport Radar Service Areas; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 86-AWA-37 and 86-AWA-38]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Airport Radar Service Areas (ARSA) at five locations under two separate Airspace Docket Numbers—86-AWA-37s Charleston AFB/International Airport, SC; and 86-AWA-38, Atlantic City, NJ; Fort Myers, FL; Savannah, GA, and Tallahassee, FL. Each location is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before December 5, 1986, for Airspace Docket 86-AWA-37, and on or before December 22, 1986, for Airspace Docket No. 86-AWA-38. Informal airspace meeting dates are as follows: Atlantic City Airport, NJ—November 4, 1986; Charleston AFB/International Airport, SC—November 5, 1986; Fort Myers Southwest Florida Regional Airport, FL—November 12, 1986; Savannah International Airport, GA—November 6, 1986; and Tallahassee Municipal Airport, FL—November 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 86-AWA-800 Independence Avenue, SW., Washington, DC 20591.

Informal airspace meeting places are as follows:

Atlantic City, NJ, ARSA
Time: 10:00 a.m.
Location: FAA, Technical Center Auditorium, Atlantic City, NJ

Charleston, SC, ARSA
Time: 7:30 p.m.
Location: Trident Technical College, Building 100, Room 169, 7000 Rivers Avenue, Charleston, SC

Fort Myers, FL, ARSA
Time: 7:00 p.m.
Location: Crash Rescue Building, Training Room, Southwest Regional Airport, Fort Myers, FL

Savannah, GA, ARSA
Time: 7:00 p.m.
Location: Georgia Air Guard Field Training Site, Building 510, Savannah Municipal Airport, Savannah, GA

Tallahassee, FL, ARSA
Time: 7:00 p.m.
Location: Florida Department of Transportation, Hayden Burns Building, 605 Suwannee Street, Tallahassee, FL

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

Informal dockets may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice involves five locations organized into two groups. Each group is assigned a separate docket number and comment period. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for all proposed ARSA locations in order to receive additional input with respect to the proposal. The schedule of times and places of the hearings is listed above. No individual meetings will be held at the same time on separate locations in the same region, so that commenters will be able to attend all meetings in which they may have an interest. Persons who plan to attend any of the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) The dates, times, and places for each meeting are listed above. There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of any meeting is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at each meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and

two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR were the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1–2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for Potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended this criteria consider—among other things—traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 62 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's.

Related Rulemaking

This notice proposes ARSA designation at five of the locations identified as candidates for an ARSA in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register**.

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at each of the locations at which ARSA's are proposed in this notice. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a feeling shared among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

Certain provisions of FAR § 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Aviation Regulations (14 CFR Part 71) to establish ARSA's at the following five locations: Atlantic City, NJ; Charleston, SC; Fort Myers, FL; Savannah, GA; and Tallahassee, FL. Each of the above locations is a public or military airport at which a nonregulatory TRSA is currently in effect. The proposed locations are depicted on charts in Appendix 1 to this notice.

The FAA has published a final rule (50 FR 9252; March 6, 1985) which defines ARSA and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The final rule provides in part that any aircraft arriving at any airport in an ARSA or flying through an ARSA, prior to entering the ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of

the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA has conducted a detailed Regulatory Evaluation of the proposed establishment of additional ARSA sites. The major findings of that evaluation are summarized below, and the full evaluation is available in the regulatory docket.

a. Costs.

Costs which potentially could result from the ARSA program fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the ARSA program can be implemented without requiring additional controller personnel above current authorized staffing levels because participation at most TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementstion costs. Essentially, the FAA is modifying its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. Because the expenses associated with these public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, they are more appropriately considered sunken costs attributable to the rulemaking process rather than costs of the ARSA program. Once the decision has been made to establish an ARSA through a final rule issued in this proceeding, however, any public information costs which follow are strictly attributable to the ARSA program. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA will also issue an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs for the three airports at which ARSA's are being proposed by this notice is estimated to be approximately #2,250. This cost will be incurred only once upon the initial establishment of the ARSA's.

Information on ARSA's following implementation of the program will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and therefore will not involve additional costs strictly as a result of the ARSA progrsm. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA to allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor Letween the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest

advantage of the efficiencies that an ARSA will permit. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time, and is the trend at most of the locations that have been more recently designated.

The FAA does not expect that any operators will find it necessary to install radio trsnsceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and therefore will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impacts will occur at the candidate ARSA sites proposed in this notice.

b. Benefits.

Much of the benefit that will result from ARSA's is nonquantifiable, and is attributable to simplification and standardization of ARSA configurations and procedures, which will eliminate much of the confusion pilots currently experience when operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the greater flexibility allowed air traffic controllers in handling traffic within an ARSA will enable them to move traffic more efficiently than they currently are able to under TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, that exceed delay as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits.

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at new ARSA locations will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign eviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

The small entities that could be potentially affected by implementation of the ARSA program are the fixed-base operators, flight schools, agricultural operstors and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude almost every satellite airport located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations, and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements

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extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport Radar Service Areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

86–AWA–37

Charleston AFB/International Airport, SC [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Charleston AFB/International Airport (lat. 23°53'55", N., long. 80°02'27" W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of Charleston AFB/International Airport.

86–AWA–38

Atlantic City Airport, NJ [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Atlantic City Airport (lat. 39°23'33" N., long. 74°27'24" W.) excluding that airspace within a 1-mile radius of the Nordheim Flying K Airport (lat. 39°23'33" N., long. 74°27'24" W.); and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the Atlantic City Airport.

Fort Myers Southwest Florida Regional Airport, FL [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Southwest Florida Regional Airport (lat. 26°32'10" N., long. 81°45'18" W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of Southwest Florida Regional Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Savannah International Airport, GA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Savannah International Airport (lat. 81°12'09" N., long. 32°07'39" W.); and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport, excluding that airspace within R-3005D. This airport radar service area is effective during the specific days and hours of operation of Savannah Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Tallahassee Municipal Airport, FL [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Tallahassee Municipal Airport (lat. 30°24'26" N., long. 84°21'21" W.); and that airspace extending upward from 1,400 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of Tallahassee Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on August 12, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

HOUSTON, TEXAS

HOBBY INTERNATIONAL AIRPORT

FIELD ELEV. 47' MSL

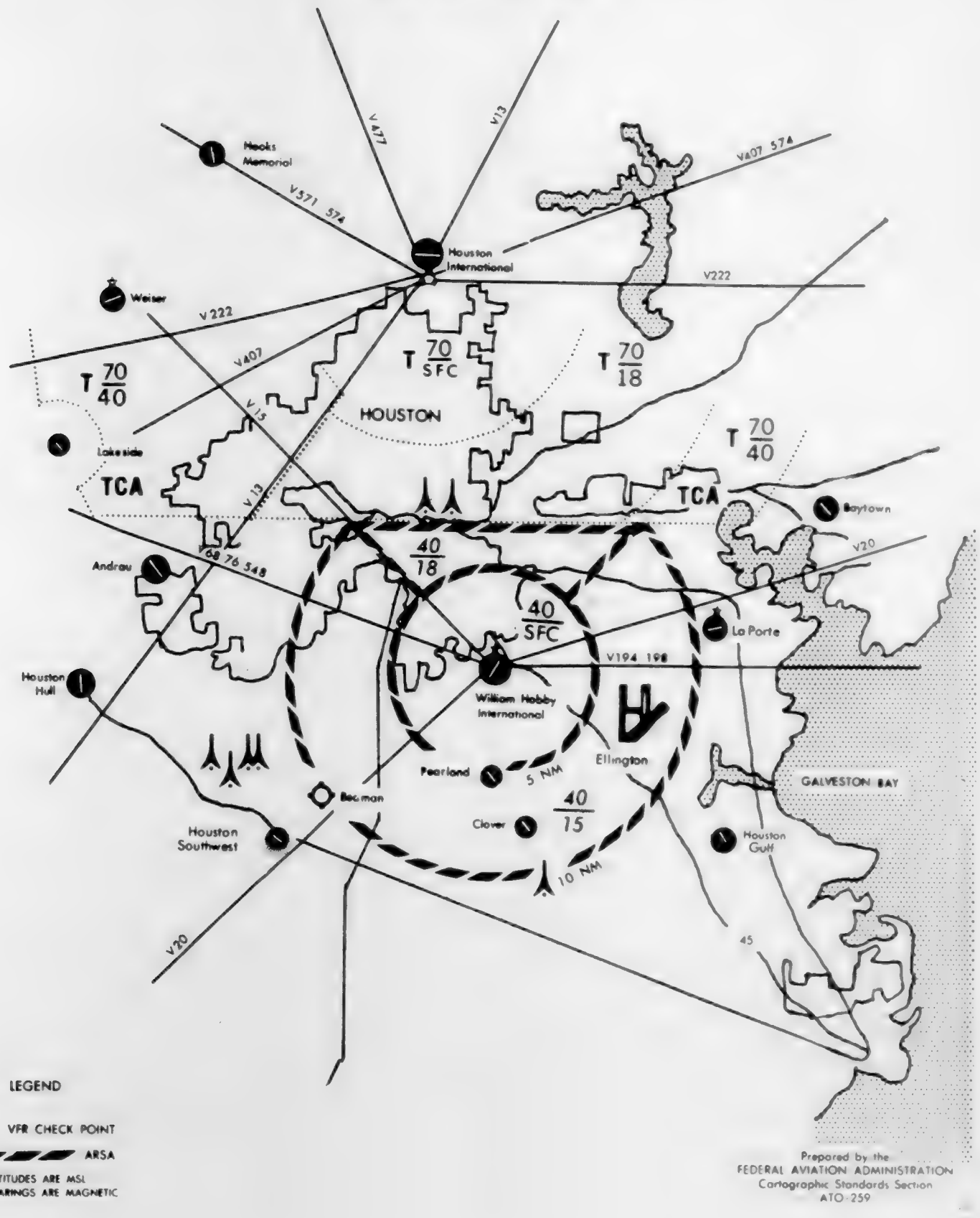

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

SAVANNAH, GEORGIA
SAVANNAH INTERNATIONAL AIRPORT
FIELD ELEV. 51' MSL

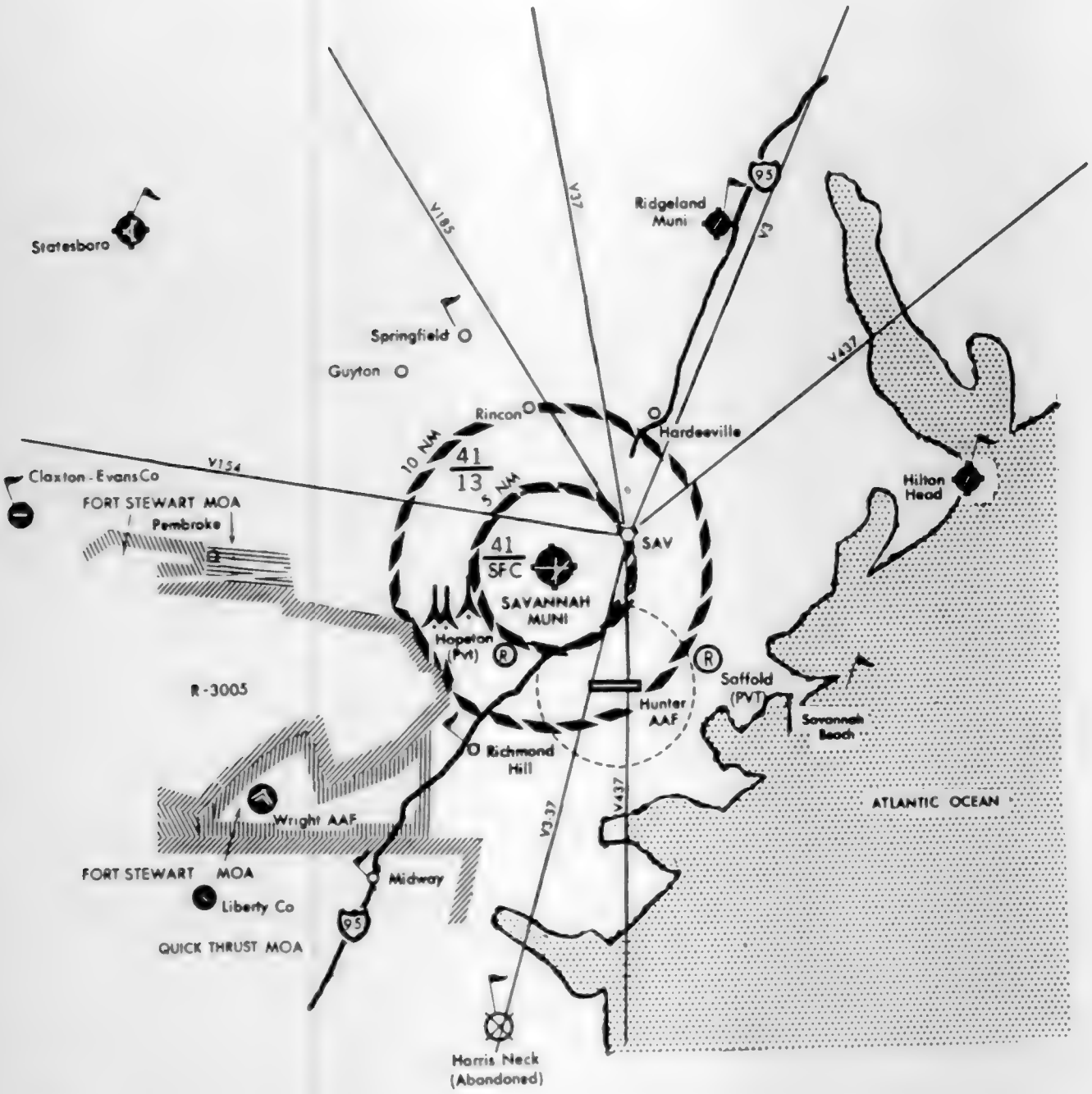

LEGEND

VFR CHECK POINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

ATLANTIC CITY, NEW JERSEY
ATLANTIC CITY AIRPORT
FIELD ELEV. 76' MSL

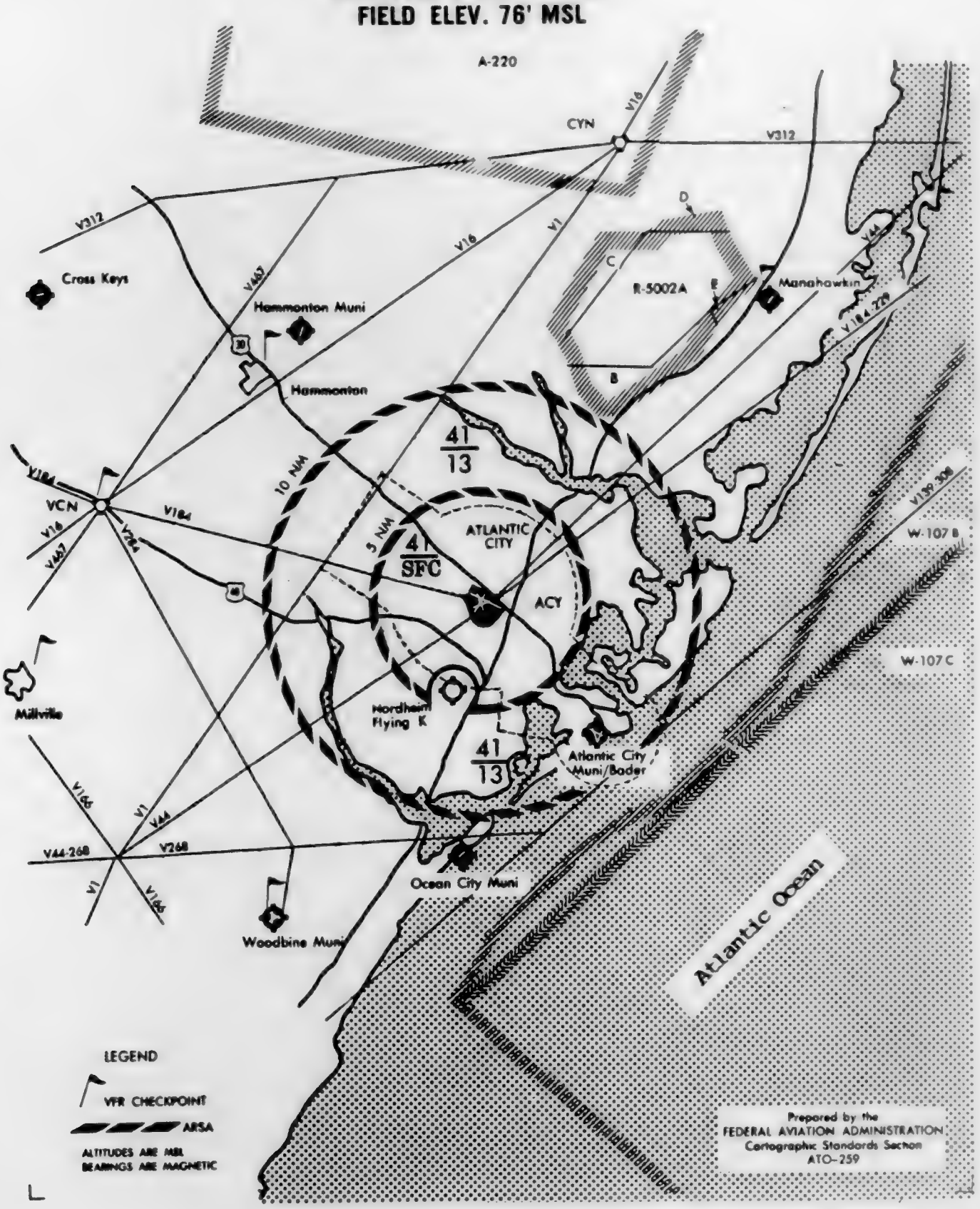

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

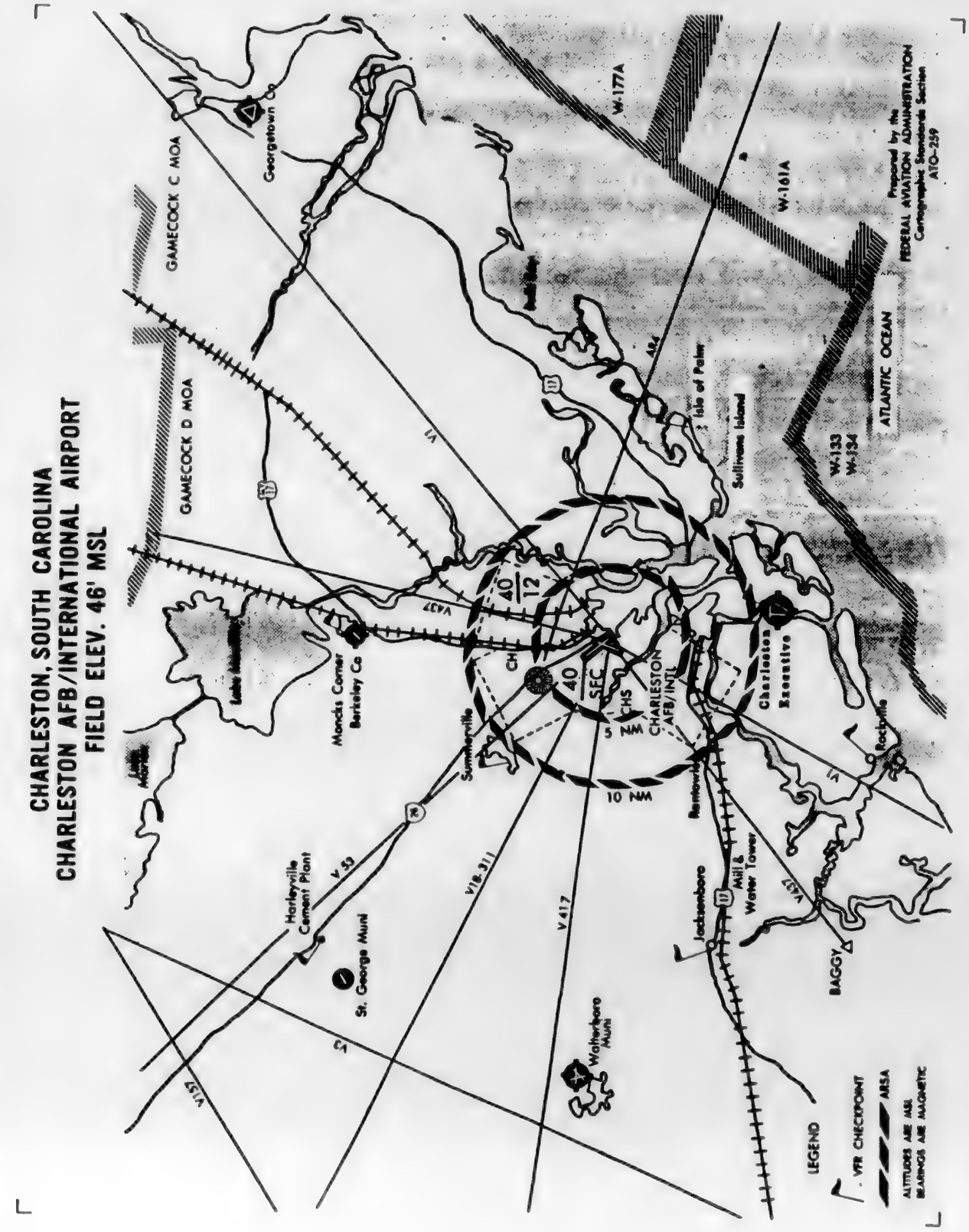

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

FT MYERS, FLORIDA
SOUTHWEST FLORIDA REGIONAL AIRPORT
FIELD ELEV. 31' MSL

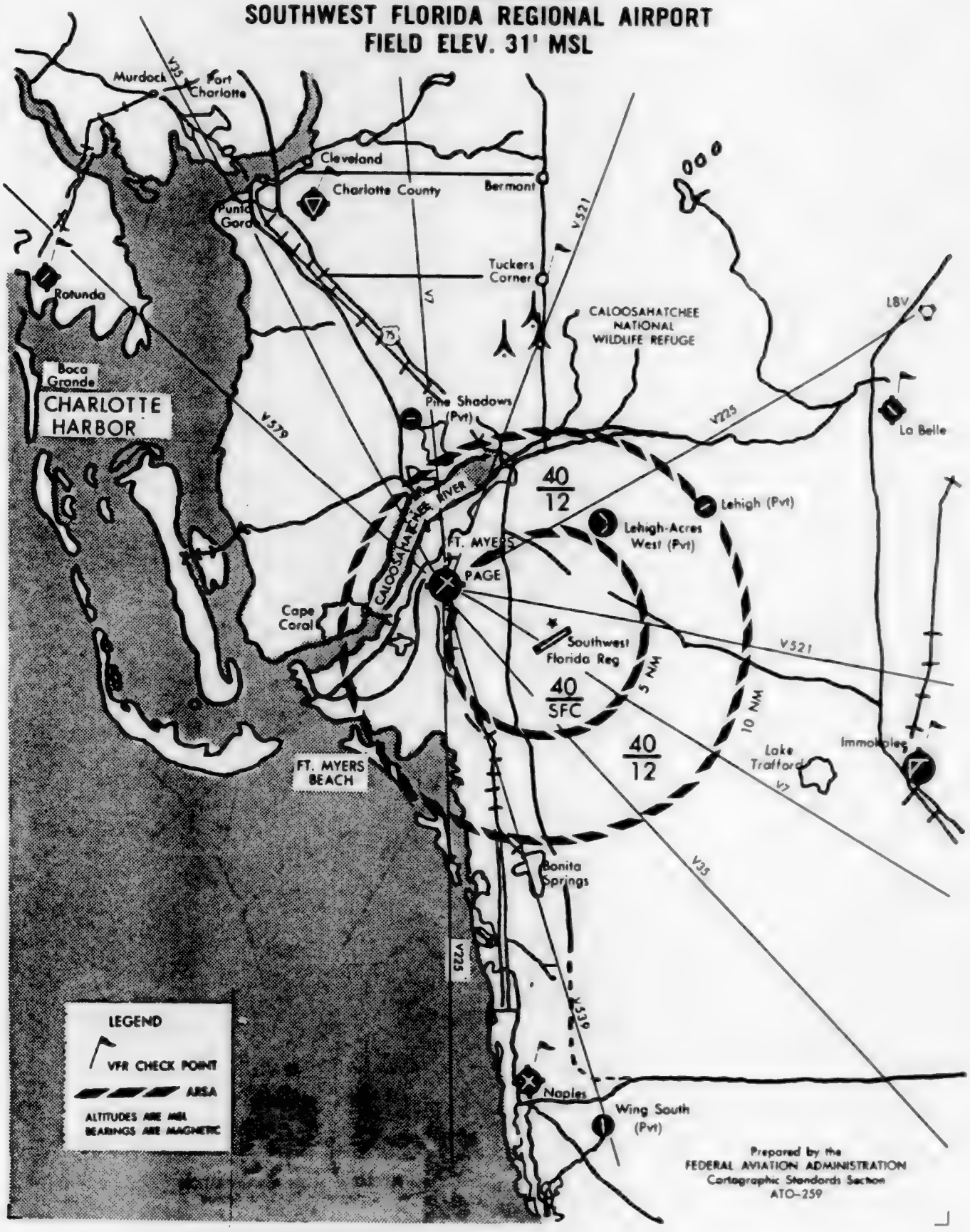

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TALLAHASSEE, FLORIDA
TALLAHASSEE MUNI AIRPORT
FIELD ELEV. 81' MSL

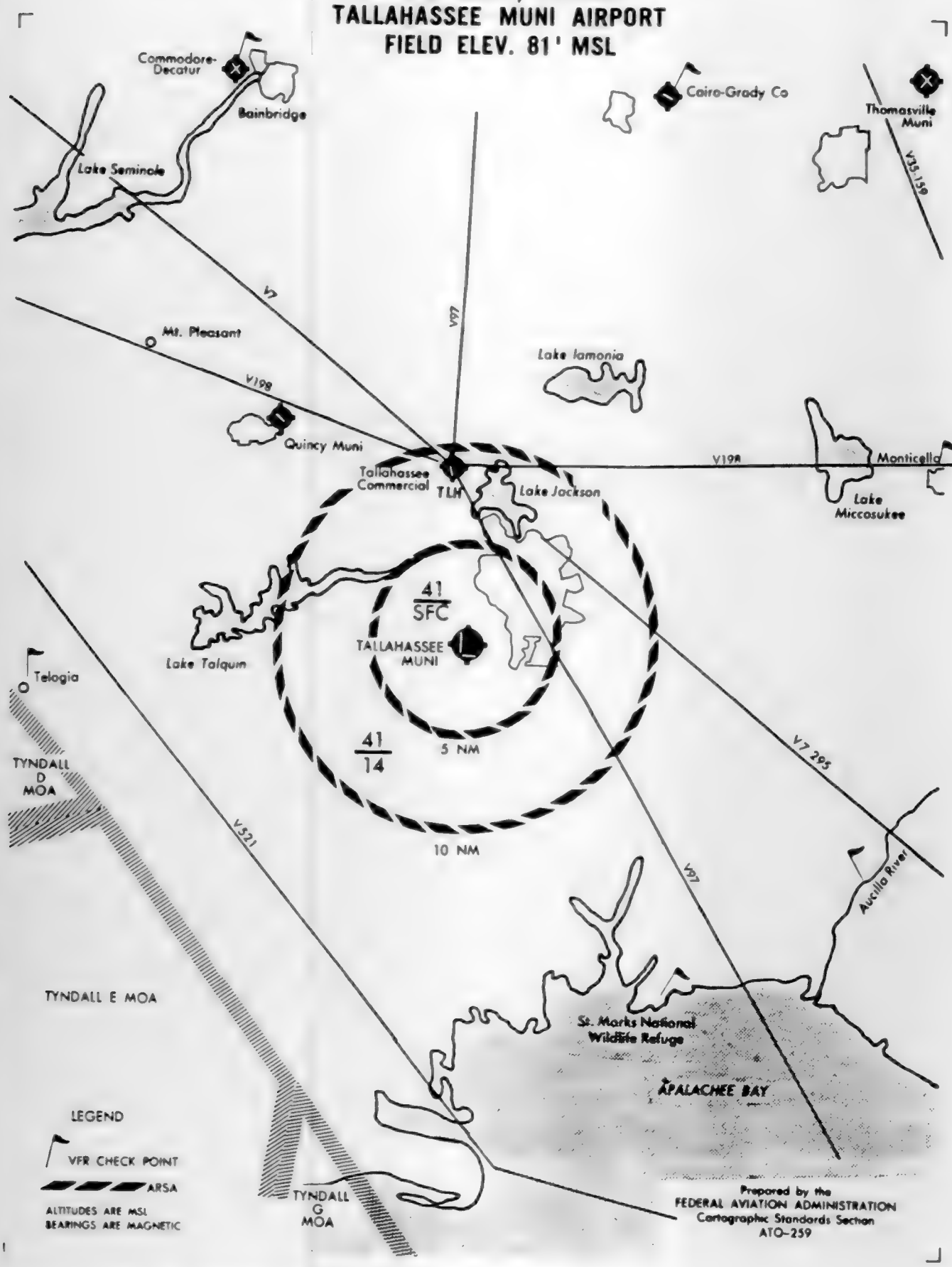

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Federal Register

Vol. 51, No. 159

Monday, August 18, 1986

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Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
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Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218
5516.....29200

Administrative Orders:
Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445

5 CFR

532.....28799
890.....28799
1201.....28321

Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

2.....29201
26.....28800
29.....28687
51.....27813, 28802
272.....28196
273.....28196
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
908.....27816, 28509, 29208
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
932.....28922
944.....29447
991.....28802
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
52.....28719
235.....29236
250.....29236
252.....29236
255.....29236
330.....29401
340.....29401
441.....29246
447.....27862
656.....29251
920.....29473
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819
1068.....28819
1079.....27554, 28819
1093.....29252

1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1709.....28722

8 CFR

238.....28060, 28923, 29085

Proposed Rules:

214.....27867, 28576
248.....27867

9 CFR

92.....28805, 29210
205.....29449
317.....29456
318.....29456

Proposed Rules:

92.....27871

10 CFR

Ch. I.....29211
50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:

50.....27872

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29256

13 CFR

310.....27828

14 CFR

21.....28509–28525
23.....28509–28525
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213
71.....27833–27835, 28067, 28325, 28326, 28528, 28923, 29460
75.....28809
97.....28326
121.....28322
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28386, 28725
1.....28095
36.....27556
39.....27557, 27874, 28388, 28832, 29110, 29256–29259, 29474, 29475
71.....28388–28390, 28956, 28957, 29261–29263, 29534
73.....28095
75.....28096, 28957
91.....29476

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695
423.....28222
444.....28328
1500.....28529, 29094

Proposed Rules:

13.....28594, 29265

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:

271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:

113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:

404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546
520.....28546, 29215
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
888.....28486
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....29098
1952.....27534
1960.....28378
2603.....28379
2676.....29215

Proposed Rules:

602.....28840
1613.....29482
2603.....29497

30 CFR

901.....29098
914.....29100
931.....28553
943.....28554

Proposed Rules:

774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

Proposed Rules:

10.....29113

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468

Proposed Rules:

553.....29115

33 CFR

100.....28706
117.....28380, 28707, 29101
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468
Proposed Rules:
117.....27877
334.....28248

34 CFR

617.....29434
619.....29434
624.....29196
668.....29396
674.....28312
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101
Proposed Rules:
7.....28107-28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813
60.....29104
61.....27956
65.....28224, 29216
81.....27843-27845
180.....28225-28227
260.....28664, 29430
261.....28296, 28664, 29217-29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556
Proposed Rules:
Ch. I.....29499
52.....27560, 27878, 29116
65.....28113
81.....29268
85.....28114
135.....29426
141.....28730
180.....28249, 28603, 28959
271.....28604
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101-26.....29104
101-40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847

43 CFR

11.....27674
Public Land Orders:
6620.....28229
6622.....28229
Proposed Rules:
4.....28846

44 CFR

11.....29222
64.....28230, 28232
Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384
Proposed Rules:
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105
87.....29106
97.....28237
Proposed Rules:
0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128-29130, 29273
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848
Proposed Rules:
501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233, 29471
571.....28238
Proposed Rules:
Ch. X.....28847
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241
604.....28575
630.....28575
641.....28094, 29471
655.....28241
661.....27859, 28717, 28954, 29234, 29471
671.....28242
672.....28385
674.....27860, 28243, 29107
Proposed Rules:
17.....29362
20.....29274
216.....28320, 28963
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Last List August 13, 1986

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S.J. Res. 256/Pub. L. 99-379

Designating August 12, 1986, as "National Neighborhood Crime Watch Day." (Aug. 13, 1986; 100 Stat. 808; 1 page) Price: $1.00

VOL
51
ISS
159
AG
18
1986
UMI

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1985 Compilation and Parts 100 and 101)	14.00	[3] Jan. 1, 1986
4	11.00	Jan. 1, 1986
5 Parts:		
1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
53–209	14.00	Jan. 1, 1986
210–299	21.00	Jan. 1, 1986
300–399	11.00	Jan. 1, 1986
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	9.50	Jan. 1, 1986
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
1500–1899	7.00	Jan. 1, 1986
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	7.00	Jan. 1, 1986
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1986
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	8.50	Jan. 1, 1986
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1986
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	7.00	Jan. 1, 1986
300–399	20.00	Jan. 1, 1986
400–End	15.00	Jan. 1, 1986
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	18.00	Jan. 1, 1986
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
1–149	15.00	Apr. 1, 1986
150–399	25.00	Apr. 1, 1986
400–End	6.50	Apr. 1, 1986
19	29.00	Apr. 1, 1986
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
1300–End	6.50	Apr. 1, 1986
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	16.00	July 1, 1985
29 Parts:		
0–99	11.00	July 1, 1985
100–499	5.00	July 1, 1985
500–899	19.00	July 1, 1985
900–1899	7.00	July 1, 1985
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[2] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
*200–699	8.50	July 1, 1986
700–End	13.00	July 1, 1985
31 Parts:		
0–199	8.50	July 1, 1985
200–End	11.00	July 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I		
1–39, Vol. II		
1–39, Vol. III		
1–189		
190–399		
400–629		
630–699		
700–799		
800–999		
1000–End		
33 Parts:		
1–199		
200–End		
34 Parts:		
1–299		
300–399		
400–End		
35		
36 Parts:		
1–199		
200–End		
37		
38 Parts:		
0–17		
18–End		
39		
40 Parts:		
1–51		
52		
53–80		
81–99		
100–149		
150–189		
190–399		
400–424		
425–699		
700–End		
41 Chapte		
1, 1–1 to 1-		
1, 1–11 to A		
3–6		
7		
8		
9		
10–17		
18, Vol. I, P		
18, Vol. II,		
18, Vol. III,		
19–100		
1–100		
101		
102–200		
201–End		
42 Parts:		
1–60		
61–399		
400–429		
430–End		

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[3] July 1, 1984
1–39, Vol. II	19.00	[3] July 1, 1984
1–39, Vol. III	18.00	[3] July 1, 1984
1–189	13.00	July 1, 1985
190–399	16.00	July 1, 1985
400–629	15.00	July 1, 1985
630–699	12.00	[2] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[4] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[4] July 1, 1984
3–6	14.00	[4] July 1, 1984
7	6.00	[4] July 1, 1984
8	4.50	[4] July 1, 1984
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10–17	9.50	[4] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[4] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[4] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[4] July 1, 1984
19–100	13.00	[4] July 1, 1984
1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
48 Chapters:		
1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
3–6	13.00	Oct. 1, 1985
7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	19.00	Nov. 1, 1985
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
1300–End	2.25	Oct. 1, 1985
50 Parts:		
1–199	11.00	Oct. 1, 1985
200–End	19.00	Oct. 1, 1985
CFR Index and Findings Aids	21.00	Jan. 1, 1986
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[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

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51
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160
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8-19-86
Vol. 51 No. 160
Pages 29545-29628

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Agricultu
RULES
Filberts/

Agricultu
See Agric
Corp
Cons

Alcohol,
NOTICES
Meetings
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Antitrust
NOTICES
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NOTICES
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NOTICES
Meetings
Louisia

Commer
See Fore
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NOTICES
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Commod
PROPOSED
Export pr
Proces
pro

Customs
NOTICES
Reimburs
oper

Defense
See Army

Economi
NOTICES
Natural g
Tricent

Contents

Federal Register

Vol. 51, No. 160

Tuesday, August 19, 1986

Agricultural Marketing Service
RULES
Filberts/hazelnuts grown in Oregon and Washington, 29545

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Rural Electrification Administration; Soil Conservation Service

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
September, 29611

Antitrust Division
NOTICES
National cooperative research notifications:
International Magnesium Development Corp., 29620

Army Department
NOTICES
Environmental statements; availability, etc.:
Research Department Explosive facility, Army Ammunition Plant, Shreveport, LA, 29581

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Louisiana, 29577

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Czechoslovakia, 29580
Malaysia, 29580

Commodity Credit Corporation
PROPOSED RULES
Export programs:
Processed agricultural commodities for donation; procurement, 29557

Customs Service
NOTICES
Reimbursable services; excess cost of preclearance operations, 29626

Defense Department
See Army Department

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation applications:
Tricentrol United States, Inc., et al., 29587

Education Department
RULES
Telecommunications demonstration program and guidance and counseling; CFR Parts removed, 29550
NOTICES
Agency information collection activities under OMB review, 29582
Postsecondary education:
Guaranteed student loan and PLUS programs; special allowances, 29583

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Fernald, OH, 29583

Environmental Protection Agency
NOTICES
Air quality; prevention of significant deterioration (PSD):
Permit determinations, etc.—
Region VI, 29599
Meetings:
Science Advisory Board, 29600
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 29599
Water pollution; discharge of pollutants (NPDES):
Alaska OCS operations, 29600

Federal Communications Commission
RULES
Radio stations; table of assignments:
California, 29552
Mississippi, 29551
Nebraska, 29551
Texas, 29551
Wisconsin et al., 29552
PROPOSED RULES
Radio stations; table of assignments:
New York, 29576
North Dakota, 29574
Ohio, 29576
Texas, 29574
Television stations; table of assignments:
Alabama, 29575
Massachusetts et al., 29575
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 29609

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Arkansas Power & Light Co. et al., 29588, 29589 (2 documents)
Environmental statements; availability, etc.:
Foley, Matthew W., et al., 29590
Natural gas certificate filings:
Southwest Gas Corp. et al., 29592
Natural Gas Policy Act:
Well category determinations, etc., 29591

Preliminary permits surrender:
Burlington Energy Development Associates, 29591
Fairview Associates, 29591
Small power production and cogeneration facilities; qualifying status:
Waste Management, Inc., et al., 29598
Applications, hearings, determinations, etc.:
Mississippi River Transmission Corp., 29591
Producer's Gas Co. et al., 29592
Texas Eastern Transmission Corp. et al., 29593
United Texas Transmission Co. et al., 29593

Federal Home Loan Bank Board
NOTICES
Receiver appointments:
Peninsula Savings & Loan Association, 29609

Federal Maritime Commission
NOTICES
Agreements filed, etc., 29609

Federal Register Office
[Editorial Note: For List of Acts Requiring Publication in the Federal Register, see Reader Aids section at the end of the issue]

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 29628
Applications, hearings, determinations, etc.:
Asia Bancshares, Inc., et al., 29610
United Saver's Bancorp, Inc., et al., 29610

Fiscal Service
PROPOSED RULES
Book-entry Treasury bonds, notes, and bills, 29559

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 29617

Food and Drug Administration
NOTICES
Color additive petitions:
Surgidev Corp., 29612
Food additive petitions:
American Cyanamid Co., 29612
Calgon Corp., 29612
Dow Chemical Co., 29612
Minnesota Mining & Manufacturing Co., 29613
Medical devices; premarket approval:
CustomEyes-45 L, CustomEyes-45 L Toric, CustomEyes-55 L, CustomEyes-55 L Toric, and CTL-M(bufilcon A) Tinted Hydrophilic Contact Lens; correction, 29613

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Florida, 29577

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration
PROPOSED RULES
Drugs, limits on payments, 29560

Health Care Financing Administration
PROPOSED RULES
Medicare and Medicaid:
Drugs, limits on payments, 29560

Indian Affairs Bureau
NOTICES
Irrigation projects; operation and maintenance charges:
Flathead Irrigation Project, MT, 29613

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service

International Trade Administration
NOTICES
Antidumping:
Oil country tubular goods from—
Canada, 29579
Export privileges, actions affecting:
Intraco Corp., 29577

Justice Department
See Antitrust Division

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Kentucky, 29614
Meetings:
Canon City District Advisory Council, 29613
Prineville District Advisory Council, 29616
Opening of public lands:
Nevada, 29619
Realty actions; sales, leases, etc.:
Idaho, 29616
Montana, 29616
Survey plat filings:
Minnesota, 29615
(2 documents)

National Archives and Records Administration
See Federal Register Office

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Child restraint systems—
Anchorages, 29552

National Mediation Board
NOTICES
Meetings; Sunshine Act, 29628

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic mackerel, squid, and butterfish, 29555
NOTICES
Permits:
Marine mammals, 29579, 29580
(2 documents)

National Park Service
NOTICES
Historic Places National Register; pending nominations:
Arizona et al., 29618
Meetings:
Upper Delaware Citizens Advisory Council, 29620

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee
Proposed schedule, 29620
Applications, hearings, determinations, etc.:
Hurley Medical Center, 29621

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities under OMB review, 29622

Rural Electrification Administration
PROPOSED RULES
Telephone standards and specifications:
Filled telephone cables, 29557
Voice frequency loading coils, 29558

Soil Conservation Service
NOTICES
Procurement:
Commercial activities, performance; review schedule (OMB A-76 implementation), 29577

State Department
NOTICES
Foreign assistance determinations:
Yugoslavia, 29622
Grants; availability, etc.:
Discretionary grant programs; Soviet and Eastern European research and training, 29622
Meetings:
International Radio Consultative Committee, 29624
International Telegraph and Telephone Consultative Committee, 29624
(2 documents)

Transportation Department
See National Highway Traffic Safety Administration

Treasury Department
NOTICES
Agency information collection activities under OMB review, 29625
Notes, Treasury:
AD-1988 series, 29625

United States Information Agency
NOTICES
Art objects, importation for exhibition:
Age of Correggio and the Carracci: Emilian Painting of 16th and 17th Centuries, 29627
Matisse: Mastery of Light and Pattern, the Early Years in Nice, 29627
Russia: The Land, the People, Russian Painting 1840-1910, 29627
Meetings:
Public Diplomacy, U.S. Advisory Commission, 29627

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL
51
ISS
160
AG
19
1986
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
982.....29545
Proposed Rules:
1496.....29557
1772 (2 documents).....29557, 29558

31 CFR
Proposed Rules:
357.....29559

34 CFR
63.....29550
211.....29550

42 CFR
Proposed Rules:
405.....29560
447.....29560

45 CFR
Proposed Rules:
1.....29560
19.....29560

47 CFR
73 (5 documents).....29551-29552
Proposed Rules:
73 (6 documents).....29574-29576

49 CFR
509.....29552
571.....29552

50 CFR
655.....29555

Rul

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Rules and Regulations

Federal Register
Vol. 51, No. 160
Tuesday, August 19, 1986

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. F&V AO-205-A-6]

Filberts/Hazelnuts Grown in Oregon and Washington; Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the filbert/hazelnut marketing agreement and order program (M.O. 982) to improve its operation and effectiveness. Each of the following changes was favored by the required two-thirds of the growers voting in a referendum. The amendment (1) Changes representation on the Filbert/Hazelnut Marketing Board to eliminate any reference to either cooperative or independent handlers and to recognize industry composition; (2) provides authority for advertising and promotion programs; (3) provides authority for crediting a handler's assessment for certain kinds of advertising and promotion; and (4) changes the method of establishing the Board's annual marketing policy and volume regulations to allow more flexibility to react to market conditions and provide for market growth. The referendum was conducted from May 22 through May 31, 1986 .

EFFECTIVE DATE: August 19, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250. Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding: Notice of Hearing issued February 11, 1985, and published February 13, 1985 (50 FR 5995); Notice of Recommended Decision issued October 15, 1985, and published October 21, 1985 (50 FR 42537); Final Decision issued May 5, 1986, and published May 12, 1986 (51 FR 17354); press release announcing referendum results issued June 24, 1986.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291 or Departmental Regulation 1512-1.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Adminstrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities on their own behalf. Thus, both statutes have small entity orientation and compatibility.

During the 1985-86 crop year, 12 handlers regulated under M.O. 982 handled filberts with an estimated crop value of approximately $16,738,000. The average value per handler was approximately $1,395,000. Given an appropriate definition of a small business concern (i.e., for purposes of review pursuant to the Regulatory Flexibility Act, an agricultural services firm with average annual receipts not exceeding $3,500,000) almost all of the handlers of filberts would fall within that definition. Thus, few handlers, if any, can be considered large or predominant in a relative or absolute sense.

The amendments to the order include provisions which would: provide producers an opportunity to periodically evaluate and express support or disapproval of the order; allow the board to become more representative of the industry by changing the structure and composition of board representation; and permit broader-based participation by growers and handlers in the administration of the order by limiting board tenure.

In addition, amendments to marketing policy and volume regulation provisions are designed primarily to streamline and improve procedures by eliminating unnecessary procedural steps and by adding additonal flexibility to handlers' abilities to satisfy withholding requirements. Thus, handlers should be able to better plan their filberts shipments, more easily make any adjustments to a strengthened market for filberts, and thereby reduce costs attributed to such volume regulations. These changes should benefit all handlers, including those who could be classified as small businesses.

The new § 982.58 provides for marketing and production research and development projects including paid advertising and promotion. This new authority should benefit handlers and growers by increasing filbert sales and reducing costs by developing new and more efficient production and marketing techniques. Also, § 982.58 authorizes crediting a handler's assessment for certain kinds of advertising and promotion. This should increase sales and at the same time allow handlers to pursue marketing programs which better fit their own individual needs.

For the reasons stated above, these amendments would not impose substantial costs on affected small businesses; they would rather heighten benefits to those businesses in direct proportion to the size of their operation without significantly increasing costs to handlers.

Finally, the amendments to the order would have no significant impact on small businesses recordkeeping and reporting burdens.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7

U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of filberts grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of filberts grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of filberts grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make all of the amendatory provisions effective upon publication in the **Federal Register**. Any delay beyond that date would interfere with effective order administration. The amendatory order provides for a marketing year beginning July 1, and the improvements in program operations and procedures provided by that order should be utilized from as near the start of the 1986–87 season as possible. Further, it is important that Filbert/Hazelnut Marketing Board nominations for grower, handler, and public members whose terms were to begin July 1, 1986, should be made and submitted to the Secretary as soon as practicable in order to have the reorganized and more representative Board make the decisions for the beginning of the 1986–87 marketing year. A prompt effective date would be consistent with achieving that objective.

In view of the foregoing, it is hereby found and determined that good cause exists for making this amendatory order effective upon publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559);

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Filberts/Hazelnuts, Grown in Oregon and Washington" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping covered by the said order, as amended, and as hereby futher amended) who, during the period July 1, 1985, through April 1, 1986, handled not less than 50 percent of the volume of such filberts covered by the said order, as amended, and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period July 1, 1985, through April 1, 1986 (which has been deemed to be a representative period), have been engaged within Oregon and Washington, in the production of filberts for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That, on and after the effective date hereof, the handling of filberts grown in Oregon and Washington shall be in conformity to and in compliance with the following terms and conditions of the order, as hereby amended.

PART 982—[AMENDED]

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: Agricultural Marketing Agreement Act of 1937, Secs., 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 982.9 Cooperative handler. [Removed]

2. Section 982.9 is removed.

§ 982.10 Independent handler. [Removed]

3. Section 982.10 is removed

4. Section 982.16 is revised to read as follows:

§ 982.16 Inshell trade acquisitions.

"Inshell trade acquisitions" means the quantity of inshell filberts acquired by the trade from all handlers during a marketing year for distribution in the continental United States.

5. Section 982.17 is revised to read as follows:

§ 982.17 Marketing year.

"Marketing year" means the 12 months from July 1 to the following June 30, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary.

6. Section 982.30 is revised to read as follows:

§ 982.30 Establishment and membership.

(a) There is hereby established a Filbert/Hazelnut Marketing Board consisting of 10 members, each of whom shal have an alternate member, to administer the terms and provisions of this part. Each member and alternate shall meet the same eligibility qualifications. The 10 member positions shall be allocated as follows:

(b) Four of the members shall represent handlers, as follows:

(1) One member shall be nominated by the handler who handled the largest volume of filberts during the marketing year preceding the marketing year in which nominations are made;

(2) One member shall be nominated by the handler who handled the second largest volume of filberts during the marketing year preceding the marketing year in which nominations are made;

(3) One member shall be nominated by the handler who handled the third largest volume of filberts during the marketing year preceding the marketing year in which nominations are made;

(4) The fourth handler member shall be nominated by and represent all other handlers.

(c) Five members shall represent growers and shall be nominated for the districts designated in or established pursuant to § 982.31. One grower member shall represent each of the five grower districts unless changes are made pursuant to § 982.31(b).

(d) One member shall be a public member who is neither a grower nor a handler.

(e) The Secretary, or the Board with the approval of the Secretary, may revise the handler representation on the Board if the Board ceases to be representative of the industry.

7. Section 982.31 is revised to read as follows:

§ 982.31 Grower districts.

(a) For the purpose of nominating grower members and alternate members, the following districts within the production area are hereby established:

(1) District 1—The State of Washington, and Clackamas and Multnomah Counties in Oregon.

(2) District 2—Marion and Polk Counties in Oregon.

(3) District 3—Linn, Lane, and Benton Counties in Oregon.

(4) District 4—Yamhill County in Oregon.

(5) District 5—All other Oregon counties within the production area.

(b) The Secretary, upon the recommendation of the Board, may reestablish districts within the production area and may reapportion grower membership among the various districts: *Provided*, That in recommending any such changes, the Board shall give consideration to (1) the relative importance of production in each district and the number of growers in each district; (2) the geographic location of districts as they would affect the efficiency of administering this part; and (3) other relevant factors.

6. Section 982.32 is revised to read as follows:

§ 982.32 Initial members and nomination of successor members.

(a) Members and alternate members of the Board serving immediately prior to the effective date of this amended subpart, shall serve on the Board as initial members of the Board until their respective successors have been selected.

(b) Nominations for successor handler members and alternate members specified in § 982.30(b) (1) through (3) shall be made by the largest, second largest, and third largest handler determined according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulations are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each such handler during the marketing year preceding the marketing year in which nominations are made.

(c) Nominations for successor handler member and alternate member positions specified in § 982.30(b)(4) shall be made by the handlers in that category by mail ballot. All votes case shall be weighted according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulations are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each handler during the marketing year preceding the marketing year in which nominations are made. If less than one percent is recorded for any such handler, the vote shall be weighted as one ton. The person receiving the highest number of weighted votes shall be the member nominee, and the person receiving the second highest shall be the alternate member nominee.

(d) For the purposes of nominating and voting for handler members and alternates, the tonnage of filberts shall be credited to the handler responsible under the order for the payment of assessments of those filberts.

(e) Nominees to successor grower member and alternate member positions shall be submitted to the Secretary after the Board conducts balloting of growers, or officers or employees of growers, in the grower districts according to the following procedure: Names of the candidates to be shown on the ballot for a particular district may be submitted to the Board on petitions signed by not less than 10 growers on record with the Board as growers being in that district; each grower may sign only as many petitions as there are persons to be nominated within that district. If such petitions fail to result in submission of at least two names for a district, the Board shall request County Argicultural Extension Agents in that district to recommend one or more eligible growers to be included on the ballot. Ballots, accompanied by the names of all such candidates, with spaces to indicate voters' choices and spaces for write-in candidates, together with voting instructions, shall be mailed to all growers who are on record with the Board. The person receiving the highest number of votes shall be the member nominee for that district, and the person receiving the second highest number of votes shall be the alternate member. The Board shall recommend one candidate in case of a tie vote.

(f) Nominations received in the foregoing manner by the Board for all handler and grower member and alternate member positions shall be certified and sent to the Secretary at least 60 days prior to the beginning of each marketing year, together with all necessary data and other information deemed by the Board to be pertinent or requested by the Secretary. If nominations are not made within the time and manner specified in this subpart, the Secretary may, without regard to nominations, select the Board members and alternates on the basis of the representation provided for in this subpart.

(g) The members of the Board shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office.

(h) The Board with the approval of the Secretary shall issue rules and regulations necessary to carry out the provisions of this section or to change the procedures in this section in the event they are no longer practical.

9. Section 982.33 is revised to read as follows:

§ 982.33 Selection and term of office.

(a) *Selection.* Members and their respective alternates shall be selected by the Secretary from nominees submitted by the Board or from among other qualified persons.

(b) *Term of office.* Beginning July 1, 1986, the term of office of Board members and their alternates shall be for a period of one marketing year, but they shall serve until their respective successors are selected and have qualified: *Provided*, That beginning with the 1986–87 marketing year, no member shall serve more than six consecutive terms as member and no alternate member shall serve more than six consecutive terms as alternate.

(c) The members on the Board shall continue to serve until the new members and alternates have been selected and have qualified.

10. Section 982.34 is revised to read as follows:

§ 982.34 Qualification.

(a) Any person prior to selection as a member or an alternate member of the Board shall qualify by filing with the Secretary a written acceptance of willingness to serve on the Board.

(b) Each grower member and alternate shall be, at the time of selection and during the term of office, a grower or an officer, employee, or agent of a grower in the district for which nominated.

(c) Each handler member and alternate shall be, at the time of selection and during the term of office, a handler or an officer, employee, or agent of a handler.

(d) Any member of alternate member who at the time of selection was a member (or employed by or an agent of a member) of the group which nominated that person shall, upon ceasing to be such, become disqualified to serve further and that position shall be deemed vacant. In the event any grower member or alternate member of the Board handles filberts produced by other growers or becomes an employee or agent of a handler, that person shall be disqualified to continue to serve on the Board in that capacity.

(e) No person nominated to serve as a public member or alternate member shall have a financial interest in any filbert growing or handling operation.

(f) The Board, with the approval of the Secretary, may issue rules and regulations covering matters of qualifications for members or alternate members.

11. Section 982.36 is revised to read as follows:

§ 982.36 Alternates.

An alternate for a member of the Board shall act in the place of the member during such member's absence or, upon the member's death, removal, resignation, or disqualification, until a successor for that member's term has been selected and has qualified.

12. Paragraphs (a) and (b) of § 982.37 are revised to read as follows:

§ 982.37 Procedure.

(a) Seven members of the Board shall constitute a quorum at an assembled meeting of the Board, and any action of the Board shall require the concurring vote of at least six members. At any assembled meeting, all votes shall be cast in person.

(b) The Board may vote by mail, telephone, telegraph, or other means of communication: *Provided,* That any votes (except mail votes) so cast shall be confirmed in writing. When any proposition is submitted for voting by any such method, its adoption shall require 10 concurring votes.

* * * * *

13. Section 982.40 is revised to read as follows:

§ 982.40 Marketing policy and volume regulation.

(a) *General.* As provided in this section, prior to September 20 of each marketing year, the Board may hold meetings for the purpose of computing its marketing policy for that year and shall do so for the purpose of submitting any recommendations on its policy to the Secretary. The Board may designate one of its employees to compute and announce the preliminary computed free and restricted percentages.

(b) *Inshell trade demand.* If the Board determines that volume regulation would tend to effectuate the declared policy of the act, it shall compute and announce an inshell trade demand for that year prior to September 20. The inshell trade demand shall equal the average of the preceding three years' trade acquisitions of inshell filberts: *Provided,* That the Board may increase such average by no more than 25 percent if market conditions justify such an increase. If the trade acquisitions during any or all of these years were abnormal because of crop or marketing conditions, the Board may use a prior year or years in determining the three-year average.

(c) *Inshell allocation*—(1) *Preliminary computed percentages.* Prior to September 20 of a marketing year, the Board shall compute and announce preliminary computed free and restricted percentages for that year, to release 80 percent of the inshell trade demand for that year. The preliminary computed free percentage shall be computed by multiplying that trade demand, adjusted by the declared carryin, by 80 percent, and by dividing that amount by the Board's estimate of orchard-run production less the average disappearance during the preceding three years, plus the undeclared carryin. The difference between 100 percent and the preliminary free percentage shall be the preliminary computed restricted percentage. At the same time, the Board may announce the portion of the restricted supply that may be shelled or exported, and the remainder of that supply to be disposed of in outlets approved by the Board pursuant to § 982.52.

(2) *Interim final and final percentages.* On or before November 15, the Board shall meet to recommend to the Secretary the interim final and final free and restricted percentages, including the portion of the restricted supply that may be shelled or exported. The interim final percentages shall release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. The final free and restricted percentages shall release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell filberts for desirable carryout. If the trade acquisitions during any or all of these years were abnormal, the Board may use a prior year or years in determining this three-year average. The final free and restricted percentages shall become effective 30 days prior to the end of the marketing year, or earlier as may be recommended by the Board and approved by the Secretary. The recommendations to the Secretary shall include the following:

(i) The estimated tonnage of merchantable filberts expected to be produced during the marketing year.

(ii) The estimated tonnage of inshell filberts held by handlers on the first day of the marketing year which may be available for handling as inshell filberts thereafter.

(iii) Any other pertinent factors bearing on the marketing of filberts during the marketing year.

Whenever the Secretary finds, on the basis of the recommendation of the Board or other available information that, to establish the interim final and final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

(d) *Grade and size regulations.* Prior to September 20, the Board may consider grade and size regulations in effect and may recommend modifications thereof to the Secretary.

(e) *Revision of marketing policy.* At any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided,* That in no event shall any such recommendation provide for free and restricted percentages based on an inshell trade demand which is more than 125 percent of the average of the preceding three years' trade acquisitions computed pursuant to paragraph (b) of this section for that marketing year. At any time during the period December 1 through February 10 at the request of two or more handlers, who during the preceding marketing year handled at least 10 percent of all filberts handled, the Board shall meet to determine whether the marketing policy should be revised.

14. Section 982.41 is revised to read as follows:

§ 982.41 Free and restricted percentages.

The free and restricted percentages computed by the Board or established by the Secretary pursuant to § 982.40 shall apply to all merchantable filberts handled during the current marketing year. Until the preliminary computed free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

15. Section 982.51 is revised to read as follows:

§ 982.51 Restricted credit for ungraded inshell filberts and for shelled filberts.

(a) A handler may withhold ungraded inshell filberts in lieu of certified merchantable filberts in satisfaction of that handler's restricted obligations, and the weight on which credit may be received shall be the shelled filbert equivalent weight as inspected by the Federal-State Inspection Service multiplied by 2.5 percent. Any lot of ungraded filberts not meeting the moisture requirements for certified merchantable filberts shall not be eligible for credit. All determinations as to the shelled filbert equivalent weight

shall be made by the Federal-State Inspection Service at the handler's expense. Filberts so withheld shall be subject to the applicable requirements of § 982.50. The weight of all such lots for which a handler has received credit shall be adjusted by the Board when the lots are handled or disposed of so that the creditable weight is equal to the amount of certified merchantable inshell filberts or certified shelled filberts that are subsequently handled or disposed of from those lots. If this adjustment causes the handler to no longer be in satisfaction of that handler's restricted obligation as required by § 982.50, the deficiency shall be satisfied in the subsequent marketing year. If this adjustment results in a handler disposing of, in restricted outlets, a quantity in excess of that handler's restricted obligation, such excess shall not be credited to such handler's restricted obligation during the subsequent marketing year.

(b) A handler may withhold, in accordance with § 982.50(a), certified shelled filberts in lieu of merchantable filberts in satisfaction of such handler's restricted obligation, subject to such terms and conditions as are recommended by the Board and established by the Secretary. The inshell equivalent of such filberts shall be determined by multiplying the weight of the shelled filberts by 2.5.

(c) The Secretary upon recommendation of the Board and other available data may modify these procedures, change the conversion factors, and specify factors for conversion for different varieties of filberts.

16. Paragraphs (b) and (d) of § 982.52 are revised to read as follows:

§ 982.52 Disposition of restricted filberts.

* * * * *

(b) *Export.* Sales of certified merchantable restricted filberts for shipment to destinations outside the continental United States shall be made only by the Board. Any handler desiring to export any part or all of that handler's certified merchantable restricted filberts shall deliver to the Board the certified merchantable restricted filberts to be exported, but the Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any filberts so delivered for export which the Board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the Board only on execution of an agreement to prevent reimportation into the continental United States. A handler may be permitted to act as agent of the Board, upon such terms and conditions as the Board may specify, in negotiating export sales, and when so acting shall be entitled to receive a selling commission as authorized by the Board. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose certified merchantable restricted filberts are so sold by the Board.

* * * * *

(d) *Restricted credits.* During any marketing year, handlers who dispose of a quantity of eligible filberts in restricted outlets in excess of their restricted obligations, may transfer such excess credits to another handler or handlers. Upon a handler's written request to the Board during a marketing year, the Board shall transfer any or all of such excess restricted credits to such other handler or handlers that the handler may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for the transfer of excess restricted credits.

17. Paragraphs (a) and (c) of § 982.54 are revised to read as follows:

§ 982.54 Deferment of restricted obligation.

(a) *Bonding.* Compliance by any handler with the requirements of § 982.50 when restricted filberts may be withheld shall be temporarily deferred to any date requested by the handler, but not later than 60 days prior to the end of the marketing year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Board of a written undertaking before beginning to handle merchantable filberts during the marketing year. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that on or prior to such date the handler will have fully satisfied the restricted obligation required by § 982.50, subject to any adjustment pursuant to § 982.51.

* * * * *

(c) *Bonding rate.* Said bonding rate for each pack shall be an amount per pound as established by the Board. Until bonding rates for a marketing year are fixed, the rates in effect for the preceding marketing year shall continue in effect. The Board should make any necessary adjustments once such new rates are fixed.

* * * * *

18. Section 982.57 is revised to read as follows:

§ 982.57 Exemptions.

(a) *General.* The Board, with the approval of the Secretary, may establish such rules, regulations, and safeguards that exempt from any or all requirements pursuant to this part such quantities of filberts or types of shipments as do not interfere with the volume and quality control objectives of this part, and shall require such reports, certifications, or other conditions as are necessary to ensure that such filberts are handled or used only as authorized.

(b) *Sales by growers direct to consumers.* Any filbert grower may sell filberts of such grower's own production free of the regulatory and assessment provisions of this part if such grower sells such filberts in the area of production directly to end users at such grower's ranch or orchard or at roadside stands and farmers' markets. The Board, with the approval of the Secretary, may establish such rules, regulations, and safeguards and require such reports, certifications, and other conditions as are necessary to ensure that such filberts are disposed of only as authorized.

19. A new center heading entitled "Market Development" and a new § 982.58 following that heading are added to read as follows:

Market Development

§ 982.58 Research, promotion, and market development.

(a) *General.* The Board, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of filberts (hazelnuts). The Board may also provide for crediting the pro rata expense assessment obligations of a handler with such portion of such handler's direct expenditures for such marketing promotion including paid advertising as may be authorized. The expenses of such projects shall be paid from funds collected pursuant to § 982.61 or credited pursuant to paragraph (b) of this section.

(b) *Creditable expenditures.* The Board, with the approval of the Secretary, may provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of filberts, filbert products, or their uses. No handler shall receive credit for any allowable direct expenditures that would exceed the

total of the handler's assessment obligation which is attributable to that portion of the handler's assessment designated for marketing promotion including paid advertising.

(c) *Rules and regulations.* Before any projects involving marketing promotion, including paid advertising and the crediting of the pro rata expense assessment obligation of handlers is undertaken pursuant to this section, the Secretary, after recommendation by the Board, shall prescribe appropriate rules and regulations as are necessary to effectively administer such projects.

20. Section 982.61 is amended by revising the third sentence to read as follows:

§ 982.61 Assessments.

* * * Each handler shall pay to the Board on demand, assessments on all such assessable filberts at the rate fixed by the Secretary, less any amounts credited pursuant to § 982.58. * * *

21. A new § 982.64 entitled "Creditable promotion and advertising reports" to be published under the center heading "Records and Reports" is added to read as follows:

§ 982.64 Creditable promotion and advertising reports.

Each handler shall file such reports of creditable promotion including paid advertising conducted pursuant to § 982.58 as recommended by the Board and approved by the Secretary.

22. Section 982.69 is amended by revising the first sentence to read as follows:

§ 982.69 Verification of reports.

For the purpose of checking and verifying reports submitted by handlers, the Secretary and the Board, through its duly authorized agents, shall have access to each handler's premises at any time during reasonable business hours and shall be permitted to inspect any filberts held by such handler and all records of the handler with respect to filberts held or disposed of by such handler and all records of the handler with respect to promotion and advertising activities conducted pursuant to § 982.58. * * *

23. Section 982.71 is amended by revising the first sentence to read as follows:

§ 982.71 Records.

Each handler shall maintain such records of filberts received, held, and disposed of by the handler, an such records detailing such handler's promotion and advertising activities, as may be prescribed by the Board in order to perform its function under this part. * * *

24. Section 982.86 is amended by redesignating current paragraphs (b) (3) and (4) as (b) (4) and (5), respectively, and by adding a new paragraph (b)(3) to read as follows:

§ 982.86 Effective time, termination, or suspension.

* * * * *

(b) * * *

(3) *Referendum.* The Board shall recommend to the Secretary during the first half of every 10-year period starting January 1, 1990, that a referendum be conducted to ascertain whether continuance of this subpart is favored by the producers.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective August 19, 1986.

Signed at Washington, DC, on August 11, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–18438 Filed 8–18–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF EDUCATION

34 CFR Parts 63 and 211

Removal of Miscellaneous Regulations

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing certain obsolete parts. The parts are no longer needed for the reasons described in this document. The Secretary takes this action to eliminate unnecessary regulations.

EFFECTIVE DATE: August 19, 1986.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, 400 Maryland Avenue, SW. (Room 2129, FOB–6), Washington, DC 20202. Telephone: (202) 732–2887.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, effective February 17, 1981, the Department of Education (ED) is reviewing and, where possible, eliminating unnecessary regulations.

Part 63—Telecommunications Demonstration Program. These regulations are obsolete because the legislative authorization of appropriations for this program expired on October 1, 1981, and has not been renewed.

Part 211—Guidance and Counseling. These regulations are obsolete because the legislative authorization of appropriations for this program expired on October 1, 1983, and has not been renewed.

Grants previously awarded by ED under 34 CFR Parts 63 and 211 remain subject to the regulations in effect at the time the grants were made.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the removal of these obsolete regulations is purely technical and does not establish new substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

List of Subjects

34 CFR Part 63

Education, Grant programs—communications, Grant programs—education, Telecommunications.

34 CFR Part 211

Education, Elementary and secondary education, Grant programs—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Numbers do not apply)

Dated: August 14, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations as follows:

PART 63—TELECOMMUNICATIONS DEMONSTRATION PROGRAM—[REMOVED]

1. Part 63 is removed.

PART 211—GUIDANCE AND COUNSELING—[REMOVED]

2. Part 211 is removed.

[FR Doc. 86–18691 Filed 8–18–86; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-135; RM-5210]

Radio Broadcasting Services; Greenwood, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 282A to Greenwood, Mississippi, as that community's third FM service, in response to a request from Ruben C. Hughes. Supporting comments were filed by Ruben C. Hughes.

With this action, this proceeding is terminated.

DATES: Effective September 19, 1986; The window period for filing applications will open on September 22, 1986, and close on October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-135, adopted August 4, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following entry to read:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Greenwood, MS	256, 270A, and 282A.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18631 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-371; RM-5095]

Radio Broadcasting Services; Aurora, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Channel 247C2 for Channel 276A at Aurora, Nebraska, and modifies the license of Station KKBB(FM) to operate on the higher powered channel, at the request of Mile Hi Broadcasting. The substitution of channels could provide increased service to Aurora and its environs.

With this action, this proceeding is terminated.

EFFECTIVE DATE: September 19, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-371, adopted August 4, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

Nebraska	Channel No.
Aurora	247C2

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18628 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-310; RM-5036]

Radio Broadcasting Services; Marshall, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a motion for stay and allots FM Channel 222A to Marshall, Texas, as that community's second FM service at the request of Gordon Media Corporation.

With this action, this proceeding is terminated.

DATES: Effective September 19, 1986; The window period for filing applications will open on September 22, 1986, and close on October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-310, adopted July 31, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

Texas	Channel No.
Marshall	222A, 280A

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18627 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-52; RM-4946; RM-5097]

Radio Broadcasting Services; Quincy, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channels 282A and 276A to Quincy, California, as that community's second and third local FM services, in response to proposals filed by Judith Anne Wittick and Ronald Trumbo, respectively. With this action, this proceeding is terminated.

DATES: Effective September 19, 1986; The window period for filing applications will open on September 22, 1986, and close on October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-52, adopted August 4, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments, in the entry for Quincy, California, under the "Channel No." column) Channels 282A and 276A are added.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18630 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-198; RM-4937]

Radio Broadcasting Services; Brookfield, WI, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 295A to Brookfield, Wisconsin, as that community's first FM allotment at the request of Tran Broadcasting Corporation. In addition, Channel 294 at Waukegan, Illinois is reallotted to Des Plaines, Illinois to reflect its actual usage. Supporting comments were filed by petitioner and City Lights. With this action, this proceeding is terminated.

DATES: Effective September 19, 1986; The window period for filing applications will open on September 22, 1986, and close on October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-198, adopted August 4, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments, in the entry for Brookfield, Wisconsin, Channel 295A is added; and the table is further amended by adding Des Plaines, Channel 294, under Illinois and removing Waukegan, Channel 294, under Illinois.

Charles Schoot,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18629 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 509 and 571

[Docket No. 80-18; Notice 5]

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; Response to Petitions for Reconsideration.

SUMMARY: This notice responds to two petitions for reconsideration of the amendments to Standard No. 210, *Seat Belt Assembly Anchorages*, published on October 10, 1985. Those amendments required manufacturers to provide anchorages for a lap safety belt in automatic-restraint equipped vehicles in which the automatic restraint system cannot be used to restrain a child safety seat. In addition, the amendments required manufacturers to provide certain safety information in their vehicle owner's manual describing how to install the lap belt. Also, the owner's manual was to state that children are safer when properly restrained in the rear seating positions than in front seating positions and that, in a vehicle with a rear seating position, the center rear seating position is the safest. Two manufacturers, American Motors Corporation (AMC) and Toyota Motor Corporation (Toyota), filed timely petitions seeking reconsideration of those amendments. In response to AMC's petition, the agency has amended the lap belt anchorage requirement to make it clear that if a manufacturer voluntarily provides a manual lap or lap/shoulder belt at the front right passenger's seat, it does not have to provide an additional set of anchorages. AMC's remaining requests to permit the use of self-tapping safety belt anchorage bolts and to extend the September 1, 1987 effective date are denied. Toyota's request to delete the requirement that manufacturers state that the center rear seat is the safest seating position is granted.

DATES: The amendments made by this notice are effective on August 19, 1986. Manufacturers do not have to comply with the requirements of S4.1.3, S6 and S7 until September 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Room 5320, 400 Seventh Street, SW., Washington, DC 20590, (202-426-2264).

SUPPLEMENTARY INFORMATION: On October 10, 1985 (50 FR 41356), NHTSA published a final rule amending Standard No. 210, *Seat Belt Assembly Anchorages*. The amendments require manufacturers to provide anchorages for a lap belt at the front right seat in vehicles manufactured after September 1, 1987, if the vehicle is equipped with an automatic restraint system that cannot be used to restrain a child safety seat. In addition, the amendments require manufacturers to provide safety information in their vehicle owner's manuals on the proper installation of lap belts in vehicles equipped with the supplemental lap belt anchorages. Also, the owner's manual was to state that children are safer when properly restrained in the rear seating positions

than in front seating positions and that, in a vehicle with a rear seating position, the center rear seating position is the safest. Two vehicle manufacturers, AMC and Toyota, timely filed petitions seeking reconsideration of those amendments. In the following discussion, NHTSA addresses the issues raised by the petitioners.

Anchorage Requirements

AMC said that the language of the lap belt anchorage requirement of S4.1.3 of the standard could be "construed to mean that the supplemental anchorages might be required, *even if* a lap belt is present." As NHTSA explained in the preamble to the October 1985 final rule, the purpose of the anchorage requirement is to enable vehicle owners to quickly and easily install a lap belt to secure a child safety seat in the front right passenger's seat. The agency agrees with AMC that clearly if a manufacturer has already provided a lap belt at that position, there is no need for the supplemental anchorages. NHTSA has amended the language of the standard to clarify the requirement by providing that a manufacturer can, at its option, provide either the supplemental anchorages or a manual lap or lap/shoulder belt.

Modification of Automatic Belt Systems

AMC also asked the agency to allow manufacturers to provide methods, other than lap belt anchorages, to enable vehicle owners to secure child safety seats. AMC said that one "possible approach would be the adaptation of the automatic restraint system to secure a child restraint. For example, for a two-point automatic belt with a door-mounted emergency release, the manufacturer could include instructions to the owner on the installation of a buckle on the lower outboard anchorage. The automatic belt could then be released from the door, and buckled at the floor to form a lap belt." AMC said that it was "not necessarily recommending the use of these systems, because the questions of cost, adult misuse, etc., all must be addressed."

As NHTSA explained in the preamble to the October 1985 final rule, the purpose of the amendment is to address the problems associated with securing a child safety seat in some types of automatic restraint systems. For example, some automatic safety belts cannot be used to secure child safety seats either because they have only a single diagonal shoulder belt or because they are nondetachable and thus cannot be threaded through the structure of the child safety seat to hold the safety seat in place. By requiring manufacturers to provide threaded anchorage holes in those vehicles, the agency believed that vehicle owners who wanted to install a lap belt at the front right seat could easily and quickly do so by taking the simple step of threading a bolt into the anchorage.

NHTSA agrees with AMC that it would not be necessary to require the additional lap belt anchorages, if the vehicle owner can adjust the automatic belt system so that it can effectively restrain a child safety seat. NHTSA believes that the ease and simplicity of the adjustment is crucial. The agency does not want vehicle owners to have to follow complicated instructions or have to obtain special tools or have to purchase and install special attachment (other than the belt itself) hardware before they can use the automatic belt system to restrain a child safety seat. The more difficult and complicated the procedure is, the greater the possibility that a vehicle owner may improperly adjust the automatic belt system. In contrast, if a vehicle manufacturer has installed the additional hardware necessary to allow the use of the automatic belt to restrain a child safety seat and all a vehicle owner has to do is simply to operate the emergency release for the automatic belt and then reconnect it to the attachment hardware provided by the manufacturer, NHTSA believes that vehicle owners can quickly, easily and safely use the automatic belt to restrain a child safety seat. Thus, the agency is amending the language of S4.1.3 to provide that a manufacturer does not have to install threaded anchorages holes if it has installed all the necessary hardware needed to adjust the automatic safety belt to secure a child safety seat.

With this amendment, manufacturers now have three options for securing child safety seats in automatic restraint equipped vehicles. First, they can provide an automatic restraint that can be used, with no modifications, to secure a child safety seat. Alternatively, they can provide an automatic restraint that can be modified or adjusted by the vehicle owner to secure a child safety seat, as long as the manufacturer has installed all the hardware necessary to secure the child safety seat. Finally, a vehicle manufacturer has the alternative of, at its option, installing a manual lap or lap/shoulder belt with its automatic restraint system or providing threaded holes so that the vehicle owner can install a manual lap belt. The agency believes that these three alternatives give a substantial amount of flexibility to vehicle manufacturers to determine which approach they want to use and assures that vehicle owners can quickly, easily, and safely use child safety seats in the front right seats of automatic restraint equipped vehicles.

Threaded Holes

The final rule required manufacturers to provide threaded holes that would accept a bolt complying with Standard No. 209, *Seat Belt Assemblies*. AMC explained that it does not use a threaded nut in its safety belt assembly, but instead use a self-tapping bolt. It said use of the self-tapping bolt eliminates the possibility of cross-threading or misalignment caused by paint on the thread of the nut. AMC asked that the requirement be changed from providing threaded holes, to providing holes that will accept any type of safety belt hardware.

NHTSA specified the installation of a threaded hole so that a vehicle owner could quickly, easily, and safely install a lap belt without using special tools or purchasing special attachment hardware. The agency expected that with the threaded holes, a vehicle owner could, if need be, find the appropriate bolt at a hardware store and install the bolt with a simple wrench or pliers. The agency is concerned that a self-tapping bolt of sufficient size and strength to withstand the forces imposed by a safety belt is not commonly available. In addition, it may be more difficult for a vehicle owner to properly align a self-tapping bolt and exert sufficient force to drive the bolt through the steel floor without a special tool. Therefore, NHTSA has decided to deny AMC's request, and instead retain the requirement that manufacturers provide threaded holes.

Leadtime

Saying that its petition sought several changes which will impact the design of its vehicles, AMC requested the agency to provide additional leadtime to implement any changes adopted by the agency. The agency does not believe that any additional leadtime is necessary. As adopted, the rule provided nearly two years of leadtime. AMC has provided no new information to show that it cannot meet the requirements of the rule within that period of time. Therefore, NHTSA has decided to deny AMC's request for additional leadtime.

Owner's Manual Information

The October 1985 final rule requires manufacturers to provide certain information in their owner's manuals about securing child safety seats in their vehicles. Among the requirements is one

that, in vehicles with a center rear seat, manufacturers must state in the owner's manual that the center rear seat is the safest. Toyota asked the agency to reconsider that requirement.

Toyota agrees that children are safest when properly restrained in the rear seat, but it said it does not have data to show the center rear seat is always the safest. In addition, Toyota said that in a vehicle with front bucket seats, "depending how a child is restrained in the center rear seating position, he or she could hit against the console box and or the transmission shift lever, which are more solid than the front seatbacks." Finally, Toyota said that the required statement might mislead persons into thinking that the center rear seat is the safest, regardless of how an occupant is restrained.

NHTSA decided to require a statement about the safety of the center seat in the owner's manual based on crash tests and accident data which show that the center rear seat is safer, particularly in side impacts, than other seats. For example, side impact crash tests conducted for the agency have shown that, as would be expected, test dummies closer to the struck side of the vehicle experience larger acceleration than dummies seated away from that side. In addition to experiencing larger accelerations, the test dummies located closer to the side door contacted the interior of the vehicle as it crushed inward during the impact. (See, for example, "Countermeasures for Side Impact" DOT Contract HS 9-02177.)

Likewise, accident data have generally shown that the center rear seat is the safest. For example, data on injuries to unrestrained occupants show that occupants of center seating positions have fewer serious injuries and fatalities than unrestrained occupants in outboard rear seats. (See, "Usage and Effectiveness of Seat and Shoulder Belts in Rural Pennsylvania," DOT Publication HS 801-398). Data on restrained occupants in the rear seats is more limited. The Canadian Ministry of Transport analyzed data on the fatality and injury rates in Ontario and Alberta for the years 1978-1980. The Alberta data show, for example, that restrained children (birth-14 years old) riding in the center rear seat had the lowest rate of major and fatal injuries. Likewise, the Ontario data showed that restrained children (birth-14 years old) riding in the center rear seat had the lowest fatality rate. NHTSA acknowledges that because of the small amount of information available on injuries and fatalities to restrained children in the rear seat, the results should not be regarded as conclusive.

NHTSA does not have sufficiently detailed files on real-world crashes to be able to address Toyota's statement that for vehicles with bucket seats it is possible that, depending on how a child is restrained, he or she could strike the console box or other vehicle features which are harder than the seatback. The agency also has not done any crash testing of bucket seat vehicles with child test dummies restrained in the rear seat. The agency agrees, however, that, depending on how a child is restrained and the severity of the crash, it is possible for a restrained child in the center rear seat of a bucket seat vehicle to strike a portion of the vehicle's interior in front of the child. Therefore, the agency has decided to grant Toyota's petition and has deleted the requirement in S6(b) that manufacturers state that the center rear seat is the safest seating position. NHTSA anticipates that if a manufacturer has a particular concern about a design feature in its bucket seat equipped vehicles which could be struck by a properly restrained child, the manufacturer would take steps to minimize the risk posed by the design feature.

Navistar International Corporation (Navistar) has recently written the agency concerning the applicability of the owner's manual requirements to vehicles with a gross vehicle weight rating (GVWR) of more than 10,000 pounds. Navistar said that such heavy vehicles are generally property-carrying and service vehicles used for commercial purposes and would seldom, if ever, be carrying children. Navistar also noted that the drivers of those heavy vehicles may never see the owner's manual, since they may not be the owner of the vehicle.

The agency believes that Navistar has raised several good reasons why the owner's manual requirements should be limited to vehicles with a GVWR of 10,000 pounds or less, which is the class of vehicle which would normally be transporting children in child safety seats. Thus, the agency is amending the standard to limit the owners manual requirements to vehicles with a GVWR of 10,000 pounds or less.

The agency is also making another minor clarifying change to the owner's manual information requirements.

S6(c) of the standard requires vehicle manufacturers to provide information about the location of the anchorages for shoulder belts in the rear outboard seats in their vehicles under the following conditions. Manufacturers are required to provide the owner's manual information if Standard No. 210 requires them to install shoulder belt anchorages at those positions and they have not installed lap/shoulder belts at those positions as items of original equipment. Since S4.1.1 of Standard No. 210 only requires the installation of shoulder belt anchorages in the rear outboard seats of passenger cars, the agency is amending S6(c) to make clear that this portion of the owner's manual requirements only apply to passenger cars.

Regulatory Effects

NHTSA has examined the effect of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The amendments made by this rule merely clarify existing requirements and do not impose any economic or other burden on vehicle manufacturers. The agency fully described the economic and other impacts of the October 1985 final rule in a regulatory evaluation accompanying that rulemaking. Because the effect of the amendments is minimal, no further regulatory evaluation is required.

Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act and I hereby certify that it would not have a significant economic impact on a substantial number of small entities. The effect of this rule is on vehicle manufacturers, few if any of which are small manufacturers.

Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction

The owner manual's requirements of this rule, in S6 and S7, contain information collection requirements which have been submitted to and approved by the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through March 31, 1987 (OMB approval number 2127-0544).

List of Subjects

49 CFR Part 509

Reporting and recordkeeping requirements.

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

For the reasons set out in the preamble, Title 49 of the Code of Federal Regulations is amended as follows:

PART 509—[AMENDED]

1. The authority citation for Part 509 continues to read as follows:

Authority: 44 U.S.C. 3507.

2. Section 509.2 is amended by adding the following entry in section order to read as follows:

§ 509.2 [Amended]

49 CFR Part or section containing information collection requirements	OMB Control No.
* * * * *	
Section 571.219	2127-0544
* * * * *	

PART 571—[AMENDED]

Section 571.210 of Title 49 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.210 [Amended]

2. S4.1.3 is amended by revising the first sentence to read as follows:

* * * * *

S4.1.3 Notwithstanding the requirement of paragraph S4.1.1, each vehicle manufactured on or after September 1, 1987, that is equipped with an automatic restraint at the front right outboard designated seating position that cannot be used for securing a child restraint system or cannot be adjusted by the vehicle owner to secure a child restraint system solely through the use of attachment hardware installed as an item of original equipment by the vehicle manufacturer, shall have, at the manufacturer's option, either anchorages for a Type 1 seat belt assembly at that position or a Type 1 or Type 2 seat belt assembly at that position.

3. The first sentence of S6 is revised to read as follows:

* * * * *

S6. *Owner's Manual Information.* The owner's manual in each vehicle with a GVWR of 10,000 pounds or less manufactured after September 1, 1987 shall include:

* * * * *

4. S6 (b) and (c) are revised to read as follows:

* * * * *

(b) In a vehicle with rear designated seating positions, a statement alerting vehicle owners that, according to accident statistics, children are safer when properly restrained in the rear seating positions than in the front seating positions.

(c) In each passenger car, a diagram or diagrams showing the location of the shoulder belt anchorages required by this standard for the rear outboard designated seating positions, if shoulder belts are not installed as items of original equipment by the vehicle manufacturer at those positions.

* * * * *

5. S7 is revised to read as follows:

* * * * *

S7. *Installation Instructions.* The owner's manual in each vehicle manufactured on or after September 1, 1987, with an automatic restraint at the front right outboard designated seating position that cannot be used to secure a child restraint system when the automatic restraint is adjusted to meet the performance requirements of S5.1 of Standard No. 208 shall have:

(a) A statement that the automatic restraint at the front right outboard designated seating position cannot be used to secure a child restraint and, as appropriate, one of the following three statements:

(1) A statement that the automatic restraint at the front right outboard designated seating position can be adjusted to secure a child restraint system using attachment hardware installed as original equipment by the vehicle manufacturer;

(2) A statement that anchorages for installation of a lap belt to secure a child restraint system have been provided at the front right outboard designated seating position; or

(3) A statement that a lap or manual lap or lap/shoulder belt has been installed by the vehicle manufacturer at the front right outboard designated seating position to secure a child restraint.

(b) In each vehicle in which a lap or lap/shoulder belt is not installed at the front right outboard designated seating position as an item of original equipment, but the automatic restraint at that position can be adjusted by the vehicle owner to secure a child restraint system using an item or items of original equipment installed in the vehicle by the vehicle manufacturer, the owner's manual shall also have:

(1) A diagram or diagrams showing the location of the attachment hardware provided by the vehicle manufacturer.

(2) A step-by-step procedure with a diagram or diagrams showing how to modify the automatic restraint system to secure a child restraint system. The instructions shall explain the proper routing of the attachment hardware.

(c) In each vehicle in which the automatic restraint at the front right outboard designated seating position cannot be modified to secure a child restraint system using attachment hardware installed as an original equipment by the vehicle manufacturer and a manual lap or lap/shoulder belt is not installed as an item of original equipment by the vehicle manufacturer, the owner's manual shall also have:

(1) A diagram or diagrams showing the locations of the lap belt anchorages for the front right outboard designated seating position.

(2) A step-by-step procedure and a diagram or diagrams for installing the proper lap belt anchorage hardware and a Type 1 lap belt at the front right outboard designated seating position. The instructions shall explain the proper routing of the seat belt assembly and the attachment of the seat belt assembly to the lap belt anchorages.

Issued on: August 12, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-18498 Filed 8-18-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 60107-6045]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of squid specification increase.

SUMMARY: NOAA issues this notice to increase the Initial Optimum Yield (IOY) specification for *Loligo* squid as required by regulations governing the squid fisheries. This increase is assigned to the domestic annual harvest (DAH) and makes 500 metric tons (mt) available for joint venture processing (JVP). This action is intended to foster the goal of the Fishery Management Plan

for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) by creating benefits for the U.S. fishing industry.

DATES: This increase is effective August 14, 1986. Comments are invited until August 29, 1986.

ADDRESS: Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, 2 State Fish Pier, Gloucester, MA 01930–3097. Mark on the outside of the envelope, "Comments on Squid Specifications 1986."

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, ext. 273.

SUPPLEMENTARY INFORMATION: Under § 655.22, final initial annual specifications for squid were published in the **Federal Register** (51 FR 17189, May 9, 1986) for the fishing year April 1, 1986, to March 31, 1987. Following the publication of these specifications, Amendment 2 to the FMP was implemented. Amendment 2 changed the fishing year for squid to begin on January 1. Proposed adjustments to the final initial annual specifications were published (51 FR 24880, July 9, 1986) for the transitional squid fishing year ending December 31, 1986. The regulations at § 655.21(b)(1)(v) provide that these specifications may be adjusted by the Regional Director after consultation with the Mid-Atlantic Fishery Management Council.

Two joint venture proposals were received. One between Unionpesca, an Italian fishing industry group, and International Seafood and Trading Company, a U.S. company, and one between Anavar, a Spanish fishing group, and Stonovar Trading, Inc., a U.S. company. These were presented to the Mid-Atlantic and New England Fishery Management Councils (Councils) for their recommendation. The proposals requested authorization for joint venture purchases "over-the-side" of 1,500 mt of *Loligo* squid by Italian processing vessels and 375 mt by Spanish processing vessels. Both Councils recommended approval for the amount of *Loligo* squid requested. The corresponding foreign fishing permits were approved; however, the entire amounts of *Loligo* squid requested were not released to the joint venture operations to allow the Regional Director flexibility in reallocating squid should the joint ventures fail for lack of squid abundance.

Both joint venture operations have been monitored and the balances of the amounts of squid approved were released as both joint venture operations continued to perform. To date JVP operations have been allocated 1,325 mt. These joint ventures are expected to continue to perform successfully given the relatively good abundance of *Loligo* squid. Consultations with the Councils confirm that their original recommendations to grant the entire amounts of *Loligo* squid requested by the joint ventures remain unchanged. Additional releases of *Loligo* squid require adjustments to the annual specifications. After a review of the squid abundance, prevailing market conditions, and the operations of the joint ventures, the Regional Director has determined that an increase in the IOY for *Loligo* squid to allow additional amounts to be released to the joint ventures will produce maximum net benefits to the United States.

In accordance with § 655.22(f), notice is hereby given that the IOY for *Loligo* squid of 23,557 mt is increased by 500 mt to total 24,057 mt. This increase of 500 mt allows DAH to be increased from 23,450 mt to 23,950 mt, which will provide for an increase in the JVP amount from 1,325 mt to 1,825. The proposed specifications for the transitional fishing year also are adjusted by 500 mt.

A prior opportunity for public comment before making this adjustment is not possible. Delaying the release of the additional 500 mt of *Loligo* squid would bring the joint venture operations to a halt and disadvantage U.S. harvesters. Public comments are invited for 15 days after the effective date of this adjustment as to whether this adjustment should be continued, modified, or rescinded. Responses to public comments will be published in the **Federal Register** as soon as practicable.

Other Matters

This action is taken under 50 CFR Part 655 and is in compliance with Executive Order 12291.

In view of the need to avoid disruption of domestic and foreign fisheries, NOAA has determined that delaying the effective date of this notice is impracticable, unnecessary, and contrary to the public interest.

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 14, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–18686 Filed 8–14–86; 5:02 pm]

BILLING CODE 3510-22-M

VOL 51 ISS 160 AG 19 1986 UMI

Proposed Rules

Federal Register
Vol. 51, No. 160
Tuesday, August 19, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1496

Procurement of Processed Agricultural Commodities For Donation Under Title II, Pub. L. 480

AGENCY: Commodity Credit Corporation.

ACTION: Proposed rule, extension of comment period.

SUMMARY: A proposed rule was published in the **Federal Register** on Monday, July 21, 1986, at 51 FR 26164. The comment period for the proposed rule originally was limited to 30 days. Several groups significantly affected by the proposed rule have requested additional time to more fully evaluate the impact of the proposed rule changes. Accordingly, the comment period is hereby extended to September 19, 1986, in order to give the public more time to comment on the proposed rule.

DATE: Comments on the proposed rule must be received on or before September 19, 1986, in order to be assured of consideration.

ADDRESSES: Send comments on this proposed rule to Director, Commodity Operations Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be available for public inspection during regular business hours in room 5758 South Building, USDA, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Merle K. Brown, Commodity Operations Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture. Telephone (202) 447–4254 or 447–3995.

Signed at Washington, DC, on August 13, 1986.

William C. Bailey,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86–18643 Filed 8–14–86; 12:18 pm]

BILLING CODE 3410–05–M

Rural Electrification Administration

7 CFR Part 1772

Issuance of Revised REA Bulletin 345–67, REA Specification for Filled Telephone Cables

AGENCY: Rural Electrification Administration, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications by issuing revised Bulletin 345–67, REA Specification for Filled Telephone Cables PE–39 to include the material and performance requirements for: (1) Service pairs in screened cables. (2) cables designed to operate on carrier systems with a 3.152 Mb/s bit rate (T1C), and (3) the raw materials used in insulating the conductors and jacketing the cables. This action will impact REA borrowers in that they will be able to install a wider range of filled telephone cables. It will also provide REA borrowers with an economic and efficient means of furnishing increased subscriber services using digital transmission technologies. This revision will not adversely affect cable manufacturers because no design changes in presently manufactured products will be required.

DATE: Public comments must be received by REA no later than October 20, 1986.

ADDRESS: Submit written comments to M. Wilson Magruder, Director, Telecommunications Staff Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Director, Telecommunications Staff Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8663. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing revised Bulletin 345–67. REA Specification for Filled Telephone Cables, PE–39. REA will request approval for Incorporation by Reference from the Director of the Federal Register. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 432 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment. This regulation contains no information or record keeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*). This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive

Order 12372 which requires intergovernmental consultation with State and local officials.

Copies of the document are available upon request from the address indicated above. Interested persons are invited to submit comments on this action. Written comments must be sent to the address stated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

REA has issued a series of publications entitled "bulletins" which serve to implement the policy, procedures and requirements for administering its loans and loan guarantee programs and the security instruments which provide for and secure REA financing. In the bulletin series REA issues standards and specifications for the construction of telephone facilities financed with REA loan funds. REA is proposing to revise Bulletin 345–67 the REA Specification for Filled Telephone Cables, PE–39. This specification was last issued in November 1981. The PE–39 designation is an arbitrary set of letters and numbers assigned by REA to identify telephone materials and equipment specifications.

Filled telephone cables with a solid insulation are used by REA telephone borrowers in the construction of outside plant facilities. The cables are used as the transport media for transmission of voice, data, pictures and signals between telephone subscribers.

The current specification does not allow service pairs in screened cables because the majority of REA borrowers have a small subscriber base and have not needed the full carrier transmission capacity that a screened cable provides. Thus, all the cable pairs were not utilized for carrier transmission which allowed unused pairs to be used as service pairs. With REA borrowers' continuing growth, there is greater probability that all screened cable pairs will be used for carrier transmission necessitating REA approval of the use of service pairs for voice order and interrogation functions.

The current specification also does not include requirements for cables designed to transmit a digital line running at 3.152 million bits per second (this is the industry designated T1C carrier system). Up until now there was very little demand for transmission links on REA borrower systems that were capable of handling this high bit rate. Technology, however, is changing and so are the services that the REA borrowers are required to provide. Many of the subscribers are now asking for data communications, digital facsimile and video teleconferencing tariffs. To be sure that cables used for current and future T1C installations are of the highest quality, REA is incorporating requirements into the specification for cables intended for T1C carrier applications.

The reason that raw material insulating and jacketing requirements are not in the existing specification is that these requirements are covered by REA Specifications PE–200 and –210. REA incorporated the raw material requirements covered by these two specifications into the revised REA Specification PE–39. REA will be incorporating the applicable raw materials requirements in PE–200 and PE–210 into all the wire and cable specifications as they are revised. When this has been accomplished PE–200 and PE–210 will be withdrawn.

This action establishes REA requirements for a wider range of filled telephone cables with solid insulation without affecting current designs or manufacturing techniques of cable manufacturers. This wider selection of cables will provide REA borrowers with an economic and efficient means of furnishing increased subscriber services using digital transmission technologies.

List of Subjects in 7 CFR Part 1772

Loan Programs—communications, Telecommunications, Telephone.

PART 1772—[AMENDED]

In view of the above, REA is proposing to amend 7 CFR Part 1772 by issuing a revised Bulletin 345–67.

1. The authority cited for Part 1772 is revised to read as follows, and all authorities following the sections are removed.

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. The table in § 1772.97 would be amended by revising the entry 345–67 to read as follows:

§ 1772.97 Incorporation by Reference of Telephone Standards and Specifications.

* * * * *

345–67 ..... PE–39 ..... REA Specification for Filled Telephone Cables.

* * * * *

Dated: August 13, 1986.

Harold V. Hunter,

Administrator.

[FR Doc. 86–18641 Filed 8–18–86; 8:45 am]

BILLING CODE 3410–15–M

7 CFR Part 1772

Issuance of Revised REA Bulletin 345–22, REA Specification for Voice Frequency Loading Coils

AGENCY: Rural Electrification Administration, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications by issuing a revised Bulletin 345–22, REA Specification for Voice Frequency Loading Coils, PE–26, to: (1) Allow use of mini loading coils, (2) establish the performance requirements for mini loading coils, (3) allow use of a universal loading coil, (4) clarify the quantity of samples to be tested, (5) eliminate fuel oil from the environmental tests, and (6) update the specification to reflect current industry standards. Manufacturers of loading coils and the REA telephone borrowers and other telephone operating companies who install such equipment will be impacted in that REA requirements will reflect state of the art technology and will permit the construction of the best, most cost-effective facilities possible. This action will not affect the current designs or manufacturing techniques of loading coil manufacturers.

DATE: Public comments must be received by REA no later than October 20, 1986.

ADDRESS: Submit written comments to M. Wilson Magruder, Director, Telecommunications Staff Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Director, Telecommunications Staff Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8663. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing revised Bulletin 345–22, REA Specification for Voice Frequency Loading Coils, PE–26. REA will request approval for

Incorporation by Reference from the Director of the Federal Register. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 432 *et seq.* (1976)) and, therefore does not require an environmental impact statement or an environmental assessment. This regulation contains no information or record keeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*). This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Copies of the document are available upon request from the address indicated above. Interested persons are invited to submit comments on this action. Written comments must be sent to the address stated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

REA has issued a series of publications entitled "bulletins" which serve to implement the policy, procedures and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. In the bulletin series REA issues standards and specifications for the construction of telephone facilities financed with REA loan funds. REA is proposing to revise Bulletin 345–22, the REA Specification for Voice Frequency Loading Coils, PE–26. This specification was last issued in October 1978. The PE–26 designation is an arbitrary set of letters and numbers assigned by REA to identify telephone materials and equipment specifications.

The controlling objective in a telephone system design is to provide adequate transmission between any two subscribers wherever located. Loading coils are used in cases where the estimated level of transmission for a proposed subscriber line design does not meet the limits necessary to provide satisfactory two-way conversations and where it has been found that other means of improving the transmission are not satisfactory from an economic point of view in comparison with the loaded subscriber line.

The current REA loading coil specification does not permit the use of mini coils. This limitation was included because the performance of mini loading coils had not been proven, and further surge current testing was needed. This testing has been completed and mini loading coils have proven satisfactory in field applications. The requirements for the design and electrical performance of mini loading coils resulted from extensive laboratory testing by REA.

Limits were set forth in the present specification which put restrictions on the applications of loading coil assemblies with filled plastic cable stubs. Cable manufacturers are now making a filled cable stub capable of being installed in any application without danger of the filling compound dripping.

The proposed specification incorporates a universal loading coil assembly for all applications.

The quantity of loading coils to be tested by the manufacturer was not clear in the present specification. The proposed revision clarifies this ambiguity.

One of the environmental tests in the existing specification requires the exposure of the loading coil filling compound to fuel oil, and as a result the specimen cannot increase in weight by more than ten percent. It is now known that this is not a viable test and is being eliminated in the proposed revision.

To summarize, the proposed revision will: (1) establish REA requirements for both standard and mini loading coils without affecting the current designs or manufacturing techniques of loading coil manufacturers, (2) provide REA borrowers usage of a universal loading coil assembly for all types of installations at a reduced cost, (3) allow borrowers to select the type of loading coil which best meets their needs, and (4) benefit the telephone industry in cost savings from the use of mini loading coils. This would be without any degradation in voice frequency transmission.

List of Subjects in 7 CFR Part 1772

Loan Programs—communications, Telecommunications, Telephone.

PART 1772—[AMENDED]

In view of the above, REA is proposing to amend 7 CFR Part 1772 by issuing a revised Bulletin 345–22.

1. The authority cited for Part 1772 is revised to read as follows, and all authorities following the sections are removed.

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. The table in § 1772.97 would be amended by revising the entry 345–22 to read as follows:

§ 1772.97 Incorporation by Reference of Telephone Standards and Specifications.

* * * * *

345–72 . . . . . PE–26 . . . . . REA Specification for Voice Frequency Loading Coils.

* * * * *

Dated: August 13, 1986.

Harold V. Hunter,

Administrator.

[FR Doc. 86–18640 Filed 8–18–86; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series No. 2–86]

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of intent to publish revised proposed rule.

SUMMARY: Notice is hereby given to investors and other participants in the Government securities market that the proposed rule governing Treasury securities maintained in the commercial book-entry system (referred to as the "Treasury/Reserve Automated Debt Entry System" or "TRADES"), which was published in the Federal Register on March 14, 1986 (51 FR 8846), will be revised and published again in proposed

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form for public comment prior to final adoption.

FOR FURTHER INFORMATION CONTACT: Virginia Rutledge, Attorney-Advisor, Office of the Assistant General Counsel (Banking & Finance), Department of the Treasury (202–535–4890), or Cynthia Reese, Senior Attorney and Special Assistant, Office of the Chief Counsel, Bureau of the Public Debt (202–376–4320).

SUPPLEMENTARY INFORMATION: The proposed regulations governing securities held in TRADES were originally published on March 14, 1986, with a public comment period that expired on May 13, 1986. In response to several requests from interested parties, on May 9, 1986, a notice was published in the **Federal Register** (51 FR 17205) extending the comment period to June 6, 1986.

A number of detailed comments were received proposing modifications to certain portions of the proposed rule. Consideration is being given to modifications based on these suggestions. Because these modifications could alter significantly certain portions of the rule as originally published on March 14, 1986, the Department has determined that it will again publish the rule, as revised, in proposed form, with provision for a 30-day comment period. It is anticipated that the proposed rule, as revised, will be published in the next several weeks.

Dated: August 13, 1986.

W. M. Gregg,

Commissioner of the Public Debt.

[FR Doc. 86–18616 Filed 8–18–86; 8:45 am]

BILLING CODE 4810–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 447

45 CFR Parts 1 and 19

[BERC–356–P]

Medicare and Medicaid Programs; Limits on Payments for Drugs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would: (1) Eliminate current Departmental procedures for setting limits on payments for drugs supplied under certain Federal health programs; and (2) set forth three alternative approaches to revise Medicaid rules concerning the methodology for determining upper limits for drug reimbursement. The alternative proposed policies would enable the Federal and State governments to take advantage of savings that are currently available in the marketplace for multiple source drugs. They also would maintain State flexibility in the administration of the Medicaid program.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on September 18, 1986.

ADDRESSES: Mail comments in writing to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–356–P, P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of comments on information collection requirements to: Fay Iudicello, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503.

In commenting, please refer to file code BERC–356–P.

If your prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION:

For issues related to PhIP or MAC, contact: Anthony Lovecchio, (301) 594–4010.

For issues related to CIP, contact: Walton Francis, (202) 245–0291.

SUPPLEMENTARY INFORMATION:

I. Background

A. Existing System

In 1976, the Department implemented drug reimbursement rules at 45 CFR Part 19 under the authority of statutes pertaining to upper payment limits for Medicaid and other programs. The authority to set an upper payment limit for services available under the Medicaid program is provided under section 1902(a)(30)(A) of the Social Security Act.

The Department rules are intended to ensure that the Federal government acts as a prudent buyer of drugs under certain Federal health programs. The rules set limits on payments for drugs supplied under Medicaid and other programs. Of the Federal programs involved, these rules have the greatest impact on the Medicaid program. Specifically, these regulations provide that the amount the Department recognizes for drug reimbursement or payment purposes will not exceed the lowest of—

- The maximum allowable cost (MAC) of the drug, as established by HCFA's Pharmaceutical Reimbursement Board for certain multiple source drugs (generic drugs), plus a resonable dispensing fee;
- The estimated acquisition cost (EAC) of the drug (the price generally and currently paid by providers for a particular drug in the package size most frequently purchased by providers), as determined by the program agency, plus a reasonable dispensing fee; or
- The provider's usual and customary charge to the public for the drug.

The regulations provide that the MAC will not apply if the prescriber has certified in his own handwriting that a specific brand of that drug is medically necessary for the patient.

The regulation at 45 CFR Part 19 also establish within HCFA a Pharmaceutical Reimbursement Board (PRB). The PRB identifies multiple source drugs for which significant amounts of Federal funds are or may be expended and is responsible for establishing the MAC for those drugs. The process by which a MAC is established includes PRB consultation with the Food and Drug Administrative (FDA), opportunity for public comment on a proposed notice of the MAC limit published in the **Federal Register**, a public hearing, and publication of the final MAC determination in the **Federal Register**. The PRB sets the MAC at the lowest unit price at which the drug is widely and consistently available. In addition to limitating the level of payment for multiple source drugs, the MAC program tends to promote substitution of lower cost (generic) drug products for brand-name drugs, since the latter are frequently available only at prices higher than the MAC limits.

Similar to the Department regulations (45 CFR Part 19) that set limits to Federal payments for drugs are the Medicaid regulations at 42 CFR 447.331 through 447.334. The regulations at §§ 447.331 through 447.334 limit the

amounts that State Medicaid agencies may claim for Federal matching purposes under the Medicaid program. These limits are the same as those specified in 45 CFR Part 19. Thus, the Medicaid agency must claim no more for each drug than the lowest of—

- The MAC of the drug, as established by the HCFA PRB for certain multiple source drugs, plus a reasonable dispensing fee;
- The EAC of the drug (that is, the Medicaid State agency's best estimate of the price generally paid by providers) plus a reasonable dispensing fee; or
- The provider's usual and customary charge to the public for the drug.

The Medicaid regulations also provide that the MAC will not apply if the prescriber has certified in his own handwriting that a certain brand of that drug is medically necessary for the patient.

B. Problems and Concerns

In 1983, a Departmental Task Force was established to review the Department's drug reimbursement regulations at 45 CFR Part 19. Specific concerns presented to the Task Force include—

- The quality of multiple source drugs;
- The interpretation of "widely and consistently available" as related to the process used by the PRB in setting MAC limits;
- The adequacy of drug reimbursement; and
- Problems in administering the MAC and EAC programs (for example, the short time that the Medicaid agencies have to implement MAC limits once they become effective, and the lack of a mechanism for raising the MAC limits quickly when necessary due to changes in the market).

We agree that the process of approving a MAC for a specific drug is lengthy. This has been of concern particularly since the passage of the Drug Price Competition and Patent Term Extension Act of 1984 (Pub. L. 98–417). This law streamlines the FDA approval process for certain drugs. The result of this law is that therapeutically equivalent (generic) drugs will be coming into the marketplace more quickly than in the past. As evidenced by the current MAC program, we are interested in encouraging the use of therapeutically equivalent drugs. We would like to adopt a drug reimbursement system that would allow us promptly to adjust reimbursement upper limits to reflects the availability of new drug equivalents as they enter the marketplace.

Based on the concerns addressed above and the Department's desire to take advantage of savings that are currently available in the marketplace for multiple source drugs, we would revise our procedures for establishing upper limits for drug reimbursement.

II. Provisions of the Regulations

We propose to remove the Departmental rules at 45 CFR Part 19 that limit drug reimbursement under certain Federal health programs: The programs that are affected by these rules include: Medicaid, Medicare, Public Health Service (for example, Indian Health Services), and other Departmental grantees.

We would remove these rules because they have little impact upon programs other than Medicaid and, as we previously mentioned, similar rules exist in the Medicaid regulations. To the extent that specific limits are useful for those other programs, other authorities exist for applying such limits. We expect that the agencies responsible for regulations that implement or refer to 45 CFR Part 19 will revise those regulations if and when these proposed rules are adopted in final.

For the most part, the MAC and EAC limits set forth in 45 CFR Part 19 are no longer relevant to the Medicare program. Medicare, generally, does not reimburse for self-administered outpatient drugs. Payment for drugs prescribed in a hospital inpatient setting, except the relatively small number of specialized institutions or parts of institutions that are excluded from the system and paid on a reasonable cost basis, is included in the prospective rates for all hospitals. Thus, we would delete the references to the MAC program and Part 19 contained in the current Medicare regulations (42 CFR 405.433) that describe the allowance costs for drugs.

We are proposing to adopt one of three alternative approaches to the current Medicaid rules (42 CFR 447.331 through 447.334) regarding upper limits for drug reimbursement, and we invite public comment on all three as well as suggestions for alternatives which would improve any of the three, including possible combinations of options. The three approaches are discussed below and include the Pharmacists' Incentive Program, a proposed revision of the existing MAC program, and the Competitive Incentive Program.

Under the final rule which will adopt one of these approaches, State agencies would be required to adhere to the upper limits set by the adopted approach. However, in accordance with State flexibility in the administration of the Medicaid program, a State agency would be permitted to utilize an alternative drug reimbursement system if aggregate payments under that system would not exceed the upper limits set by the adopted approach. Specifically, the maximum amount of State drug expenditures that would quality for Federal financial participation (FFP) could not exceed, in the aggregate, the upper limit of payment for certain drugs established by HCFA under the approach adopted under the final rule.

Irrespective of whether a State agency follows the approach established by HCFA or utilizes an alternative drug payment system, the agency must describe the methodology in the State plan which would be subject to the usual State plan approval process. (The State plan describes the State's Medicaid program and is subject to HCFA approval.) Any change in the methodology would have to be reflected in an approved State plan amendment. If the State agency utilizes an alternative drug reimbursement system, the agency would be required to provide HCFA with acceptable assurances regarding the upper limits. These assurances would be the basis for approval of the State plan and subsequent State plan amendments. In addition, a State would be required to make an annual finding that its alternative drug payment rates are, in the aggregate, equal to or less than those that would occur under the payment approach established by HCFA. State agencies would not generally be required to submit their annual findings to HCFA for review. Instead, they would be required to provide HCFA with assurances that the findings have been made. These findings would be monitored through State assessments and other evaluations or auditing procedures to review the State documentation underlying the assurance without the need for specialized annual reporting by the States. Consistent with other aspects of the Medicaid program, if HCFA found a problem with a State's assurance, HCFA could request the State to provide data supporting its assurance.

Based on comments from the Medicaid State agencies, we also considered removing the requirement at 42 CFR 447.333 that the agency must periodically survey pharmacy operating costs in order to determine a reasonable dispensing fee. This has been a controversial portion of the current regulations because while State agencies are required to conduct periodic surveys, they are not required to base dispensing fees specifically on

VOL 51 ISS 160 AG 19 1986 UMI

the survey results. State Medicaid agencies have contended that the requirement is both burdensome and costly. On the other hand, it has been contended by pharmacy groups that dispensing fees should be established at levels which specifically reflect costs. Although we have not included a proposal to remove the requirement for the surveys, we specifically invite comments on this issue and on alternative approaches.

Although not a subject of these proposal regulations, the Department has received a number of suggestions regarding administrative mechanisms for Medicaid prescription drug reimbursement. The thrust of these suggestions is to simplify administration of the payment process through the use of vouchers or other innovative mechanisms such as "smart cards." We would encourage States to use the flexibility accorded to them to develop payment mechanisms with the potential to simplify the administrative process, while reducing potential fraud and abuse. We also encourage others to further develop promising new technologies for these purposes.

Discussion of Alternatives

A. Pharmacists' Incentive Program Alternative

The Pharmacists' Incentive Program (PhIP) would replace the Federal MAC program. It is designed to encourage pharmacists to be prudent purchasers of drugs and to substitute less costly, therapeutically equivalent drug products (as determined by the FDA) for more costly brand name drug products. PhIP would accomplish this objective by providing an economic incentive to pharmacists to engage in product selection.

Under PhIP, upper limits would apply to multiple source drugs which meet the following requirements:

- All of the formulations of the drug approved by FDA have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or any successor publications).
- At least three suppliers advertise the drug (which has been classified by the FDA as category "A" in the FDA's *Approved Drug Products with Therapeutic Equivalence Evaluations*, including supplements or any successor publications) in the most current edition of the *Red Book* or *Blue Book*. The purpose of the three supplier requirement is to ensure that the drug equivalents are in fact widely available, thereby avoiding one of the major criticisms of the MAC program.

We would include the requirement that drugs be therapeutically equivalent as evaluated by the FDA. Specifically, we would require that the FDA has rated the drug in one of the "A" categories representing therapeutic equivalence. Such findings are currently included in its publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements). We would use the FDA's evaluations of therapeutic equivalency (category "A") because the FDA has the experience and expertise to make these determinations. The FDA prepares these evaluations to promote public education in the area of drug product selection, to advise State health agencies and pharmacists in the administration of drug product selection laws, and to foster containment of health care costs. The publication is available on a subscription basis (stock #917-001-00000-6) from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

In a State using the PhIP upper limits, pharmacists would be encouraged to purchase as prudently as possible because, in addition to the dispensing fee they receive under existing regulations, they would retain the difference between what they pay for the drug product and the upper limit of payment established by HCFA for the particular drug. In essence, this would be a prospective pricing system for multiple source drugs.

The PhIP upper limit of payment for a multiple source drug would be set at a percentage of the least costly multiple source drug advertised in a specific quantity or volume. The specific advertised quantity we would use is 100 tablets or capsules, or the smallest package size commonly advertised. In the case of liquids, we would use the commonly advertised size. We would use these measures because we recognize that small pharmacies are unable to stock large quantities of many drugs. If a provider dispenses a drug in a quantity smaller than 100 tablets or the specific quantity upon which the PhIP calcualtion was based, payment would be made on a proportionate basis.

In determining the advertised price and commonly advertised size of a drug, we are proposing to use the *Red Book* and *Blue Book*. The *Red Book* and *Blue Book* are annual publications that list drugs and their wholesale prices. We would use the *Red Book* and *Blue Book* as our sources of drug costs because they are widely recognized and available nationally. (These publications are available from Drug Topics *Red Book*, P.O. Box 553, Oradell, New Jersey 07649 and from American Druggist *Blue Book*, Hearst Corporation, 555 W 57th Street, New York, New York 10019). Although we have referred to the *Red Book* and *Blue Book* in our discussions, we specifically invite comments and suggestions on the use of other nationally available sources of drug costs.

Initially, we are proposing to set the PhIP upper limits at 150 percent of the lower of the *Red Book* or *Blue Book* price for the least costly multiple-source drug. We would set the mark-up to 150 percent (or a slight different amount, depending on public comment and further analysis) in order to meet the following two objectives: (1) That the mark-up be high enough to assure that pharmacists can normally obtain and stock and equivalent product without losing money on acquisition costs of incurring the expense of department from normal purchasing channels, and (2) that the mark-up not be so high as to cost the Medicaid program unnecessary money. In other words, the 150 percent (or some alternative such as 140 percent of the average of the three lowest priced therapeutically equivalent multiple source drugs) is intended to balance the interests of both pharmacists and the government in achieving effeciency, economy and quality of care as specified in section 1902(a)(30) of the Act. When the PhIP formula is applied to the lowest price products in the *Red Book* or *Blue Book*, the pharmacist can choose among numerous supplier for a drug. Further, we believe the use of advertised prices in either the *Red Book* or *Blue book* would assure an adequate payment amount because a range of discounts are frequently available to pharmacists to purchasse drug products at prices lower than the advertised price. Also, most of the multiple source drugs under consideration for PhIP limits are high volume drugs which many pharmacists purchase in larger package sixes (for example, bottles of 500's, 1000's or larger). When pharmacists purcahse in these larger package sizes, the per unit drug product cost in lower, further providing the pharmacist and even greater financial incentive.

At the proposed upper limits for multiple source drugs, pharmacists would have the opportunity to select among the products of several suppliers. Based on a review of pricing patterns among suppliers of multiple source drugs using *Red Book* entries for drugs for which there are three or more therapeutically equivalent products, we found that there is a sizeable number of

suppliers whose prices tend to cluster at the lowest point of the pricing spectrum. Therefore, when the upper payment limit for a multiple source drug is determined at 150 percent of the least costly multiple-source drug, the pharmacist generally would have the opportunity to select among the product from several suppliers.

We did an analysis to determine whether there would be a sufficient number of suppliers offering a drug product at or below the proposed PhIP upper limit for a multiple source drug. We applied the proposed PhIP upper limit for multiple source drugs to 62 drugs for which all suppliers products are therapeutically equivalent and there are three or more suppliers in the marketplace. From the 62 drugs, we derived 128 upper limits because we included more than one strength for some drugs (for example, Ampicillin 250 mg. and 500 mg.). In calculating prices and the number of suppliers advertising a particular drug, we used the *Red Book*. We found that the number of suppliers advertising the drug at prices at or below the PhIP upper limit ranged from two to 39. Of the 128 proposed limits, 77 had at least 50 percent or more of the suppliers offering their products at or below the PhIP limit; 33 had eight or more suppliers advertising at or below the limit; 15 had from four to seven; and three had only two or three suppliers.

In applying the PhIP formula in our analysis, we used a package size of 1000 tablets for the drug Butabarbital Sodium. Butabarbital Sodium is a high volume drug and is marketed by 24 of 28 suppliers in the 100 package size only. Thus, in this instance, we used the 1000 rather than the 100 tablet package size because that was the commonly advertised size. Generally, we anticipate that the commonly advertised package size and the size we would use in determining the upper limit would be 100 tablets.

As a result of our analysis and for the other reasons discussed above, we believe that the upper limit for multiple source drugs that would be established under the proposed PhIP approach (plus the dispensing fee which the agency would continue to pay) would be sufficiently high to ensure the availability of drugs and provide an economic incentive to pharmacists, and would be sufficiently low (when compared to the payment limit for brand name drugs) to generate savings.

The determination of the specific upper limit for a multiple source drug under the PhIP proposal can be explained using the drug hydrochlorthiazide with spironolactone as an example. Wholesale prices for hydrochlorthiazide with spironolactone, as advertised in the *Red Book*, vary from $4 to $23.75 per 100 tablets. Under PhIP, the specific upper limit for hydrochlorthiazide with spironolactone would be $6 (150 percent of $4 = $6). The pharmacist would receive $6 plus his dispensing fee (on average $3) for a total of $9 per 100 tablets. The pharmacist would be motivated to purchase as prudently as possible because he or she would retain the difference between what he or she paid for the drug and the payment level of $6 per 100. If the pharmacist purchases this product in bottles of 1,000 tablets, the pharmacist's return would be greater because the cost per 100 tablets would be less. The combined Federal-State savings for this drug alone could be as high as $17.75 per 100 tablets, that is, the difference between the cost of the most expensive drug product and the upper limit.

In order to ensure that the PhIP upper limits for multiple source drugs would be reasonable for extremely low cost and high cost drugs, we propose to set minimum and maximum PhIP incentive factors. These incentive factors would be paid in addition to the dispensing fee that would cover operating costs. The minimum incentive or mark-up factor would be $1.50 over the cost of the least costly advertised drug product in quantitites of 100 tablets or capsules, or other commonly advertised size. The maximum incentive or mark-up factor would be $4.00 over the cost of the least costly advertised drug product in quantities of 100 tablets or capsules, or other commonly advertised size. The purpose of these limits would be to ensure reasonable minimum and maximum incentives to the pharmacist while also ensuring a savings to the Medicaid program. We invite comments on the amounts used for these purposes.

As in existing regulations in 42 CFR Part 447 and 45 CFR Part 19, the specific upper limits for multiple source drugs would not apply if the prescriber has certified in his or her own handwriting that a specific brand of that drug is medically necessary for the patient.

The proposed regulations for PhIP would set the upper limit of payment for physician (prescriber) certified brand name drugs, multiple source drugs for which a specific upper limit would not have been established, and single source drugs, as the lower of—

- The EAC, as determined by the State Medicaid agency, plus a reasonable dispensing fee; or
- The provider's usual and customary charge to the general public for the drug.

We anticipate that initially about 60 multiple source drugs would meet the criteria for establishment of limits under the proposed PhIP. The MAC limits that are currently in effect would remain in effect until the PhIP rules are finalized. The PhIP limits would then replace the MAC limits.

As a convenience to States and pharmacies, the proposed regulations specify that we would publish the list of multiple source drugs to which the specific PhIP upper limits would apply, as well as any revisions or updates to the list, through the State Medicaid Program issuance system. As new multiple source drugs receive FDA approval and enter the marketplace, we would include them in this program if they meet the criteria required to establish PhIP limits. Additionally, we would create new limits as prices change. We would publish the limits for the new drugs and the changes through the State Medicaid Program issuance system. This process would allow us to revise quickly a limit should we find that for some reason the established limit is no longer appropriate. For example, we may raise a limit if we should find that a particular product which we had used to establish the limit for a multiple source drug becomes unavailable.

We would specify that we may remove a drug from the list if we find that total Medicaid expenditures would be reduced by less than $50,000 annually for any multiple source drug for which a specific upper limit has been determined. We would include this provision to ensure a level of savings that would justify the added administrative burden to pharmacies and the Federal and State governments. We believe that this level of savings also would justify any costs to the State agencies from administering a limit. We believe that by setting this threshold of expected savings we may resolve the concerns related to the MAC program that some MAC limits have been set on low-volume drugs; that in these cases, the administrative expense for setting these limits might outweigh any savings and, furthermore, that it is the low-volume drugs that pharmacists have difficulty obtaining at the MAC price level.

Because the proposed PhIP would be a Medicaid upper limit, State agencies may use an alternative drug reimbursement system. If the agency uses an alternative drug reimbursement system, it would be required to provide HCFA with acceptable assurances and to make an annual finding that under its alternative methodology (that would be described in its State plan), the aggregate Medicaid expenditures for

multiple source drugs for which specific upper limits have been established by HCFA are equal to or less than the expenditures that would have been made under the specific upper limits. The comparison of Medicaid drug expenditures is limited to those multiple source drugs for which payment levels have been set by HCFA. As discussed in the introduction to section II, of this preamble, a State agency would be required to submit the assurance to HCFA; however, it would generally not be required to submit to HCFA the actual findings that an alternative method of payment does not exceed the upper limits established by HCFA. Instead, these findings would be kept on record by the State agency. HCFA would monitor the findings during the course of its routine State assessment or audit activities. If HCFA found a problem with a State's assurance, HCFA could, however, request the State to submit data to support its assurance.

The PhIP limits that would be developed initially would not apply to drugs sold to pharmacies in unit dose packages and used in institutions. The cost of drugs furnished in unit dose packaging would exceed the proposed limits which, generally, are based on cost per 100 tablets. The Department may, at some future time, determine separate PhIP limits for unit dose drugs used in institutions.

In summary, PhIP would be based on a specific formula that would establish payment levels above which Federal financial participation (FFP) would not be recognized. Thus, the Department and States would be able to take advantage of the economies that exist in the marketplace. Under PhIP, the pharmacist would be reimbursed the costs of a drug at a percentage of the lowest priced multiple source drug, plus the normal dispensing fee. While PhIP would reimburse drug ingredients at a rate that is above the lowest cost at which they may be obtained, it would have the advantages of being easily administrable (once drug prices are obtained), easily updated for new drug prices, and likely to produce substantial savings for both the provider and the Medicaid program when a drug's price varies a great deal from manufacturer to manufacturer. For example, a 50 percent mark-up could be available to the pharmacist who fills prescrpitions with the very lowest priced equivalent product available.

B. Revision of the MAC Program Alternative

Another alternative would be to revise the current MAC program. Under this approach, we would streamline and improve the process for establishing MAC limits. We would remove the Departmental regulations concerning upper limits for drugs and eliminate the PRB and the procedures for establishing MAC limits. We would incorporate some of the existing MAC provisions of 45 CFR Part 19 into 42 CFR Part 447. We would provide that the MAC program be operated directly by HCFA rather than under a special board. We would publish the proposed MAC limits in the **Federal Register**; utilize a comment period; and after considering all of the comments, publish the final notice in the **Federal Register**. However, the process would be shortened by not conducting a public hearing before the PRB. Our experience has shown that the information presented at MAC hearings in the past duplicated the written comments submitted, and the hearings were necessarily expensive to all concerned. In addition, we would remove the requirement for specialized consultation with FDA and replace it with a requirement concerning the FDA's published evaluation of therapeutic equivalency. These changes would expedite the process of establishing a MAC limit, while ensuring an opportunity for public comment concerning the appropriateness of any proposed limit.

Under our proposed revision to the MAC program, the State Medicaid agency's payment for drugs could not exceed the lowest of—

- The MAC of the drug, as established by the HCFA for certain multiple source drugs, plus a reasonable dispensing fee;
- The EAC of the drug, as determined by the Medicaid agency, plus a reasonable dispensing fee; or
- The provider's usual and customary charge to the general public for the drug.

As in existing regulations in 42 CFR Part 447 and 45 CFR part 19, we would provide that the MAC would not apply if the prescriber has certified in his or her own handwriting that a certain brand of that drug is medically necessary for the patient.

As noted, the identification of drugs to which a MAC may be applied would be similar to the provisions of 45 CFR 19.5(a). However, we also would add requirements concerning the FDA's evaluation of therapeutically equivalent drugs, the number of suppliers advertising the drug, and the level of savings to be expected from the establishment of a MAC. Thus, HCFA would identify for the potential application of a MAC those multiple source drugs which meet the following requirements:

- All of the formulations of the drug approved by FDA have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Terapeutic Equivalence Evaluations* (including supplements or any successor publications).
- At least three suppliers advertise the drug (which has been classified by the FDA as category "A" in the FDA's *Approved Drug Products with Terapeutic Equivalence Evaluations* including supplements or any successor publications) in the most current edition of the *Red Book* or *Blue Book*.
- Significant amounts of Federal funds are or may be expended for that drug under the Medicaid program.
- There are or may be significantly different prices for that drug.
- HCFA expects to reduce total State and Federal Medicaid expenditures by at least $50,000 annually for any drug for which a MAC limit is to be determined.

As mentioned in the discussion of PhIP, we would include the provision regarding the FDA's evaluation of therapeutic equivalency for all brands of a drug to ensure that substituted drugs would be therapeutically equivalent.

We would specify that HCFA expects to reduce total Medicaid expenditures by at least $50,000 annually for any multiple source durg for which a specific upper limit is to be determined. We would choose this level of savings because we believe that it would justify the added administrative burden to pharmacies and Federal and State governments. By setting this threshold of expected savings, we hope to resolve the concerns that some MAC limits have been set on some low-volume drugs; that in these cases the administrative expense for setting these limits might outweigh any savings and, furthermore, that it is the low-volume drugs that pharmacists have difficulty obtaining at the MAC price level.

In order to ensure that the products proposed for MAC limits would be widely and consistently available, we would survey drug wholesalers for assurances that they: (1) Are carrying the multiple source products at or below the proposed MAC limits; or (2) would carry the products in the event that limits are established. Initially, we would conduct the survey to determine the prices at which the multiple source drugs that meet the MAC criteria are widely and consistently available. Thereafter, we would conduct the survey as new multiple source drugs which meet the MAC criteria enter the marketplace. Surveys of wholesalers would be done in sufficient geographic detail to ensure that products are generally available throughout the

country before a mandated Federal MAC limit would be established. If, as a result of the survey, it was determined that a product would be widely and consistently available nationally, but at differing prices, we would set regional MAC limits. This would be similar to the existing provisions of 45 CFR 19.5(c) under which the PRB may make a separate price determination for each locality if it finds that a drug is or will be unavailable at the same lowest unit price in all localities.

The proposed rule would provide that if we do not receive adequate data from wholesalers, we would use other relevant data. For example, this might include published drug prices and assurances from distributers of their ability to meet the Medicaid market demand.

We would waive specific MAC limits in a State, upon the State Medicaid agency's request and satisfactory demonstration that a particular volume of the drug is too low to justify administering the limit or that there are availability problems in that State for that particular product under the MAC limit. This change would minimize administrative costs and burdens on pharmacies while preserving the bulk of program savings. This modification would address the concern that certain States may have unique distribution problems which make it difficult for pharmacies to obtain a product at or below a MAC limit in a particular locality. Further, prescribing patterns may be such that the frequency with which a certain drug is prescribed in that State may be well below the national pattern.

We would include a provision to suspend or raise temporarily a MAC limit if we confirm reports that the product is no longer "widely and consistently available" at or below the limit. Confirmation would be achieved by contacting either wholesalers or manufacturers, or both. The modification is proposed in order to accommodate those circumstances in which the price of a product subject to a MAC limit suddenly increases (for example, because the ingredient becomes more expensive or one manufacturer stops production). Because under current regulations a MAC limit cannot be raised without recourse to ordinarily applied MAC procedures, the MAC limit must be suspended and any savings from the limit foregone until the product can be subjected to the regular limit setting process. Under the proposal, we would advise State agencies by telegram of the temporary suspension or increase in the current MAC limit and publish a notice of the temporary action in the **Federal Register.** This would ensure that we are not disadvantaging the pharmacy providers by limiting their payment for a specific drug to less than their cost. The increased limit would be in effect until HCFA can issue a new limit that has gone through the entire limit setting process.

In the notice establishing the MAC limit, we would specify a contact point to which complaints about problems obtaining particular products can be addressed. All complaints would be evaluated to determine if the MAC limit should be temporarily suspended or raised.

Because these proposed MAC program revisions would establish a Medicaid upper limit, State agencies may use an alternative drug reimbursement system. If the agency uses an alternative drug reimbursement system, it would be required to provide assurances and to make an annual finding that under its alternative methodology (that would be described in its State plan), the aggregate Medicaid expenditures for multiple source drugs for which MAC limits have been established by HCFA are equal to or less than the expenditures that would have been made under the MAC limits. The comparison of Medicaid drug expenditures is limited to those multiple source drugs for which MAC limits have been set by HCFA. As discussed in the introduction to section II. of this preamble, a State agency woud be required to submit the assurances to HCFA; however, it would not generally be required to submit to HCFA its actual findings that an alternative method of payment does not exceed the MAC limits established by HCFA. Instead, it would provide an assurance that this finding has been made. If HCFA found a problem with a State's assurance, HCFA could, however, request that the State provide data supporting its assurance.

C. *Competitive Incentive Program Alternative*

Another alternative would be to establish a new Competitive Incentive Program (CIP) to replace the MAC and EAC programs (which are described in current regulations at 42 CFR 447.331 through 447.333). Under CIP, the starting point for establishing an upper limit for reimbursement for all drugs would be the price that the pharmacy charges a majority of its private retail customers for that drug, at that time, and in that quantity.

1. Single source drugs

Generally, for all but the leading brand of multiple source drugs, the CIP payment would be the individual pharmacist's retail price less a fixed discount (for example, 5 to 10 percent). Thus, Medicaid would participate in the retail pharmaceutical market in a way similar to that of a pharmacy's non-Medicaid customer or third party payor. By establishing an upper limit that would pay for drugs in a manner similar to the way other pharmacy customers or third party payors reimburse pharmacies, we would avoid the need to have a Federal or State administrative process for establishing the cost of ingredients or reasonable dispensing fees. By avoiding this process, we also would avoid the shortcomings and administrative costs inherent in the control of reimbursement on the basis of estimated provider costs.

Critics of the present EAC requirements point to the reliance on published prices to establish acquisition costs and to surveys of costs to establish dispensing fees are being of doubtful accuracy and difficult to administer fairly. Under CIP, we would instead rely on the competitive retail market to set the ceiling on drug reimbursement.

CIP would be based on the pharmacist's retail prices and would depend upon the competitive market place to regulate prices. There are, however, providers whose competition is limited. Examples of such a provider would be a pharmacy which has a business that is entirely Medicaid or a pharmacy which has no nearby competitor. Arguably, these pharmacies could have higher prices without fear of losing a substantial amount of business. Thus, to protect the Medicaid program from potentially excessive drug charges, we would limit payment through the application of a screen of charges. (At a minimum, the screen would cover the several hundred high volume drugs that account for 75 percent or more of Medicaid prescriptions.)

We would establish the upper limit of payment for drugs (other than certain multiple source drugs, which are discussed below) as the lower of—

- A specific percentage (for example, a mandatory discount of 5 to 10 percent) of the individual pharmacist's retail price; or
- The results of a screen of Statewide charges for the particular drug.

The mandatory discount for single source drugs would permit us to capture some of the benefits of volume business and maintain the level of savings achievable under the EAC requirement. The discount would be consistent with common trade practices, which grant special discounts to particular

categories of customers (for example, senior citizens, volume purchasers, or, in this case, the Medicaid program). The screen of Statewide charges would operate in the same manner as a similar screen that would be established for the reimbursement of certain multiple source drugs, and is discussed in greater detail, below. In this case, the screen of charges would be based on the charges for the particular drug for which reimbursement is sought.

We note that in theory we could achieve any given level of savings by adjustments either in the mandatory discount or the screen. For example, in the limiting case there might be no discount at all but the screen might be set at (say) no more than the median price. This, however, would require a more comprehensive and accurate screen than the one discussed below, perhaps including geographic areas smaller than a State. We invite comments on these tradeoffs.

2. Multiple source drugs

As under PhIP and MAC, CIP would have provisions to generate incentives for pharmacists to substitute lower cost terapeutic equivalents. Under CIP, this would take the form of a separate upper limit of payment for multiple source drugs which meet the following requirements:

- All of the formulations of the drug approved by FDA have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or any successor publications).
- At least three suppliers advertise the drug (which has been classified by the FDA as category "A" in the FDA's *Approved Drug Products with Therapeutic Equivalence Evaluations*, including supplements or any successor publications) in the most current edition of the *Red Book* or *Blue Book*.

We would publish the list of drugs meeting these requirements and any revisions to the list in Medicaid program instructions. If a multiple source drug did not meet these requirements, the upper limit discussed for single source drugs would apply.

For the multiple source drugs meeting the above requirements, the upper limit would be the lowest of—

- A mandatory discount (for example, 25 percent) applied to the individual provider's charges to private, retail customers for the leading brand name that corresponds to the multiple source drug;
- The individual provider's charges to private, retail customers for the multiple source drug dispensed less the discount (for example, 5 to 10 percent) applied to all drugs; or
- The results of a screen of Statewide charges for all generic equivalents of the multiple source drug dispensed.

We have not yet determined specific percentages to be used in the discounted prices under CIP. This is because we are currently performing the analysis to determine the appropriate levels. It is our intention to set the discount rates (in conjunction with the screen) at levels that would approximate current savings under the EAC program for single source drugs, and that would, for miltiple source drugs, provide a substantial incentive for pharmacists to dispense a generic product while minimizing losses if the pharmacist has a temporary supply shortage and must dispense the leading brand in a particular case. We invite the public to comment on what they believe are appropriate levels.

We used the example of a 25 percent mandatory discount of the leading brand of multiple source drugs because, generally, non-brand multiple source drugs are priced well below the price of the leading brand product. Thus, by using this discount, we would create an incentive for the provider to dispense lower cost therapeutically equivalent drugs. Assuming that the mark-ups on both products are similar, and reflect primarily the costs of dispensing, the provider would in effect lose his dispensing fee unless he dispensed the multiple source equivalent. Thus, consistent with the goals of the current MAC program, we would achieve savings through the recognition of the availability of multiple source drugs.

The determination of the specific upper limit for a multiple source drug under the CIP proposals can be explained using the drug hydrochlorthiazide with spironolactone as an example. Wholesale prices for this drug, as recently advertised in the *Red Book*, vary from about $4 to about $24 per 100 tablets. Assuming that a pharmacist marks up each product he or she carries by $5, the retail price could vary from about $9 to about $29. Under CIP, at a 25 percent discount applied to the leading brand, the upper limit for reimbursement for that particular pharmacist would be 75 percent of $29 or about $21.75, less than the advertised (though not necessarily actual) ingredient cost. However, if the pharmacist dispensed the lowest priced product, he or she would receive (at a 5 percent discount) $8.55, almost $5 above his or her acquisition cost (and slightly below the proposed PhIP limit—see the discussion in section II.A, above). If a product with slightly higher wholesale and retail prices (for example, $6 and $11) were involved, the CIP limit, would be $10.45 at a 5 percent discount, somewhat higher than the corresponding PhIP limit. While the structure of incentives created under CIP is similar to that of PhIP, there would be two significant differences: (1) Under CIP, the limit would vary for each pharmacy depending on its particular pricing structure for that drug; and (2) the incentive under CIP would not tend to reward dispensing the very lowest priced multiple source equivalent—CIP is "neutral" in its incentives among equivalents.

Of course, like PhIP and MAC, CIP would allow the dispensing of the brand name product if the prescribing physician has certified in his or her own handwriting that a specific brand of that drug is medically necessary for the patient. The upper limit applied in these cases would be the single source discount factor.

As discussed above, we would specify that the upper limit for both multiple source and other drugs be set at the lower of the applicable mandatory discount applied to the provider's retail charges or the results of a screen. The use of the screen would ensure that the government does not pay an unreasonable amount for drugs in those few cases in which a pharmacy does a majority of its business with Medicaid and hence does not face normal competitive constraints against raising prices. (Stores which face competition could raise prices only by losing sales to non-Medicaid customers who would shop elsewhere.) We would require the State agency to establish screens for at least the several hundred highest volume drugs. The State could use billing data on each drug (including each multiple source equivalent in the case of multiple source drugs) for a given time period to establish the screen for a succeeding time period. We would allow States three months in which to collect charge data before establishing their fee screens so that there would be no need to undertake a special data collection effort.

This use of charge data is not a radical departure from current rules, since State agencies currently pay the lower of the provider's usual and customary charge, the EAC plus a dispensing fee, or MAC plus a dispensing fee. To further simplify the screen requirements, in determining the Medicaid Statewide charges for a drug, the agency could use a statistically valid representative sample of charges or impute charges based on statistical relationships in cases in which sufficient

data on a paticular drug/dosage/dispensary size combination were not available., We also would allow State agencies to update the screen of charges no more frequently than annually, although use of computerized billing data would provide the basis for more frequent updates should the agency so choose.

We would require that the screen be set at a specific percentage (for example, 125 percent) of the Statewide median charge for the specific drug or that the State agency apply an equivalent screen. We would require that any alternative screen applied to the Statewide charges would result in the same or greater savings than would occur under the screen of charges set at a percentage of the median. This would allow the agency flexibility in setting the screen. For example, it would permit the agency to use a screen already established by its Medicaid fiscal intermediary or a screen that would limit payment up to a percentage of the prevailing charge for the drug within a certain geographic area provided that the savings would at least equal those provided by a screen of a percentage (determined by the Secretary) of the median charge.

Finally, we would require State agencies establish screens only on the largest volume drugs which account for 75% (or such percentage as the Secretary may later determine) of Medicaid claims in the State, and to allow statistical imputation of screens for any dosage forms and package sizes for those drugs that are furnished so infrequently as to provide little data for a screen. This would allow the State to limit screen calculations to a few hundred drugs rather than tens of thousands of drug/dosage form/dosage size combinations. Any State could elect, of course, to cover more drugs depending on its own judgment as to programming and other costs involved. We welcome comment on these or other options to assure that establishing screens is not administratively burdensom and also on whether these options are needed at all given the power of modern date processing

We would include a provision that in unusual circumstances, HCFA may set an upper limit for a particular drug or locality different from those already described. We would include this provision because it would allow us to adjust the limit should a problem occur in the setting of the limits. It would allow us to apply the limit for single source drugs to a multiple source drug if we find that for some reason the established multiple source limit is no longer appropriate. For example, we may find that there are no longer three or more suppliers advertising the product in the *Red Book* or *Blue Book*. We would notify each affected State agency through program issuances of the revised upper limit and the reasons for the revision. The problems of updating the list of drugs to which the CIP upper limit for multiple source drugs applies would be less of an administrative burden than under MAC or PhIP since only the drugs' availability and not price changes would be addressed. Unlike PhIP, neither HCFA nor the State agencies would have to calculate a specific limit based upon the lowest priced multiple source equivalent. Price updates would be automatic based on the charges presented by each pharmacy.

Because the CIP proposal would establish a Medicaid upper limit, State agencies would be permitted to use an alternative drug reimbursement system. If the agency adopts an alternative drug reimbursement system, it would be required to provide assurances and to make an annual finding that under its alternative methodology (that would be described in its State plan), the aggregate Medicaid expenditures for all drugs are equal to or less than the expenditures that would have been made under the CIP limits. As discussed in the introduction to section II of this preamble, a State agency would be required to submit the assurances to HCFA; however, it would not generally be required to submit to HCFA its actual findings that an alternative method of payment does not exceed the CIP limits. Instead, it would provide an assurance that this finding has been made. If HCFA found a problem with a State's assurance, HCFA could, however, request that the State provide data to support its assurance.

In summary, CIP would have objectives similar to those of PhIP to the extent that both proposals would encourage substitution of non-brand multiple source drugs for brand name drugs. Under CIP, the administrative costs necessary to determine pharmacists' costs of obtaining drugs and to set dispensing fees (which are considerations under the MAC and EAC programs and would be under PhIP) would be eliminated, although there would be some costs as a consequence of the need to use fee screens. Overall, the marketplace would establish the basis for government payments.

III. Regulatory Impact Analysis

A. *Introduction*

Executive order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule". A major rule is one that would result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We cannot predict with certainty what impact any of the three options may have on the economy either in the form of potential savings for the Medicaid program or reductions in payments to individual pharmacy providers because of limited data. Although we do not expect an aggregate annual effect on the economy over the next five years to exceed $100 million from any of the three proposed alternatives, savings may approach $100 million and we have not yet developed precise savings estimated. Therefore, we have prepared a voluntary impact analysis.

In addition, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 though 612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider most pharmacies and pharmacists to be small entities.

While we do not know how many pharmacists participate in the Medicaid program, we believe that our proposal to modify the present method of paying for prescription drugs will have a significant effect on many of the participating pharmacists. Under current rules, Medicaid pays all pharmacies in a State the same amount for a given drug regardless of the pharmacy's retail price (except in the cases in which a pharmacy charges less than the acquisition cost plus dispensing fee). As a result, Medicaid realizes a larger discount from pharmacies that charge higher prices than the average (generally, independent pharmacies). Under the PhIP and MAC reform options, this practice would not change significantly. However, under CIP, the discount would be proportional to the retail price (as long as the price Medicaid pays does not exceed the charge established for the particular drug) thus, equalizing the discount

Medicaid would take. As a result, some pharmacies would benefit (typically smaller independents) while other pharmacies (typically larger chains) might experience some reductions in drug revenues. All three options would reduce the disruption of supply channels, as compared to the current rules. Therefore, we believe that any one of these options would be likely to have a significant economic effect on a substantial number of pharmacies and accordingly, we have prepared an initial regulatory flexibility analysis combined with an economic impact analysis.

B. *Entities Affected*

Whichever alternative is selected and implemented, the primary direct effects would be on States, drug retailers, and drug manufacturers. As discussed earlier in this preamble, the reimbursement system we adopt would not be mandatory for any State. Rather, a State would have the flexibility to adopt any reasonable payment system, provided that it did not result in payments higher than would result from the selected alternative. Nonetheless, whatever systems are adopted by States, direct and indirect effects on the market for drugs and the behavior of the major actors of that market could have an impact on manufacturers, wholesale distributors, retailers, and others.

In FY 1985 the Medicaid program paid approximately $2.4 billion for prescription drugs, of which $1.3 billion was Federal.

C. *Objectives*

The Medicaid program objective under all three proposed alternatives is to achieve savings through payments based on the use of lower priced multiple source equivalents while providing sufficient incentives to ensure adequate pharmacy participation in the Medicaid program. The differences among the three options lie in the approach each takes to achieving the stated objective, and the administrative mechanisms required to implement each approach.

Under all three options the government will achieve substantial savings through substantially increasing the proportion of drugs for which generic rather than leading brand versions are dispensed. The savings will not come from pharmacists (who may actually gain in some cases) but from substituting lower-priced versions of a drug for higher-priced versions. Also manufacturers and distributors of the lower priced therapeutically equivalent substitutes would tend to benefit as a result of increased sales and market share. We do not have at this time an estimate of dollar savings for each option, but expect that on a full year basis the combined Federal/State savings would be approximately $80 million annually and may approach $100 million annually as the number of drugs with generic substitutes increases.

D. *Pharmacists' Incentive Program (PhIP).*

PhIP would take as its starting point the lowest advertised price of the least costly form equivalent to the brand-named drug and add either a fixed minimum amount or a fixed percentage to the average wholesale price up to a maximum of $4.00 over the wholesale price. In addition, the pharmacist would be paid a dispensing fee established by the State.

PhIP differs from the current MAC method in that it proposes to establish reimbursement levels using a standard formula based on data that are readily available to us as well as to State Medicaid agencies and the general public. Because PhIP would operate automatically to set payment limits for multiple source drugs at rates related to the lowest advertised price, without the substantial lags and administrative costs inherent in the MAC system, we would expect to achieve greater savings than we are realizing under the current system.

In addition to receiving a dispensing fee and an amount above the wholesale price, we would allow pharmacists to retain any savings they were able to realize from prudently purchasing and substituting available generic equivalents. This could give pharmacists an increased incentive to shop around for the best buy and to purchase the least costly form of a brand-name drug in addition to providing an incentive to participate in the Medicaid program.

By offering an incentive to purchase the least costly form of a multiple source drug available on the market, PhIP might have the effect of intensifying price competition among manufacturers and wholesale distributors. Should this occur, it could have the effect of slowing increases in drug wholesale prices, or alternatively of increasing the availability of (or effect of) discounts.

We believe that PhIP would not create additional administrative costs beyond current spending levels either for us or for the States.

E. Reform of Maximum Allowable Costs (MAC)

The proposed changes to the MAC system are administrative in nature and would not substantially alter the incentives of the existing system. Rather, by simplifying the procedures for adding drugs to those subject to a MAC limit, we would expect to achieve increased savings due to the application of MAC limits to a larger number of drugs. Further, as equivalents become available for a drug, a new MAC limit could be implemented earlier than has been previously possible, thus achieving savings more timely and effectively.

While the proposed MAC reforms would streamline the administrative process compared to the present system, it would still require a special data collection effort and an evaluation of the appropriate level at which to set individual drug prices, rather than setting prices on the basis of a standard formula. Also, we believe that the provisions to establish regional MAC payment levels, or to suspend a MAC price within a State should there be significant price variation across different areas of the country or if a drug is not available within a State at the MAC price, could make this regulation more difficult and costly to administer than the present system. However, States would have somewhat more flexibility than under the current MAC limits, especially since the limits could be applied in the aggregate rather than drug by drug. This flexibility would ameliorate some of the problems experienced under the current MAC system.

Also, on a per drug basis, MAC may achieve higher savings than PhIP or CIP because it would not provide any financial incentives in the form of either a bonus or payment above the cost of the lowest priced drug. As is presently the case, the proposed MAC reforms would reimburse the lower of the pharmacist's acquisition cost, the MAC limit or the pharmacist's customary charges. However, because of the cumbersomeness of the MAC setting process, there is a long delay between the time a drug is identified as being eligible for a MAC limit and the final establishment of a limit. In addition, resource constraints allow us to set MAC limits on only a few drugs at a time. Thus, while the savings per drug may be higher, the slowness of the MAC setting process could result in lower overall savings than might be achieved under either PhIP or CIP.

F. Competitive Incentive Program (CIP)

While seeking the same objectives as PhIP and MAC, CIP represents a signficant departure from either of these alternatives. Although they would use different measures of cost, both PhIP and the reformed MAC would base reimbursement on the presumed cost of the drug to the dispensing pharmacist. CIP, however, would use the customary retail prices pharmacists charge the public as the basis for determining

pricing levels, rather than the input cost of drugs to the pharmacist. Also, unlike PhIP or MAC, CIP is intended to be a comprehensive pricing scheme which would apply to both single source and multiple source drugs and would encompass dispensing fees. PhIP and MAC would apply only to multiple source drugs and dispensing fees would still be set separately.

CIP's use of the retail market price for setting Medicaid reimbursement levels presumes that retail prices are competitively set. The conditions which CIP relies on for achieving its objectives are: The presence of numerous customers and sellers in the market, the ability and willingness of customers to shift their business from one retail drug outlet to another as prices change, and that pharmacists will promptly alter their prices to meet new market conditions.

Based on the available data, we believe that these conditions exist generally throughout the country. A national survey (*Third Party-Induced Cost Shifting In Community Pharmacy Practice;* unpublished doctoral thesis by Jon T. Stone (Purdue University) December 1985, p. 229) of 502 pharmacies suggests that approximately 67.9 percent of prescriptions were paid for directly by individuals. Approximately 18.4 percent of prescriptions were covered by either Blue Cross/Blue Shield or commerical insurance plans. Medicaid claims amounted to approximately 17.2 percent. Where there is fairly broad consumer and seller participation in the market, as these data would suggest, retail drug prices should reflect with reasonable accuracy the equilibrium between supply and demand. Under these market conditions CIP would enable the Medicaid program to participate in the retail market much in the same manner as other purchasers or third party payors. By paying the retail prices for a drug less the applicable discounts, Medicaid would be assured the same access to pharmaceuticals and pharmacies as are other consumers and third party payors while enjoying the protection the market place offers from unwarranted price increases. We note, in this context, that the increases in physician charges experienced over the last 20 years occurred under "usual, customary and reasonable" reimbursement systems used by Medicare and most other third party insurers, which covered a far higher percentage of total billings than the percentage of prescription drugs covered by Medicaid.

We can hypothesize two types of markets in which the application of CIP could result in unwarranted cost increases to the Medicaid program. While the following hypothetical markets represent extreme cases which are unlikely to exist in the real world, they point up some of the complexities inherent in retail markets. One type would be a market in which Medicaid recipients were geographically concentrated in certain areas of a State, resulting in a relatively small number of pharmacies serving a high proportion of Medicaid recipients. In the areas of Medicaid concentration, the volume of drug sales would not vary with the prices pharmacists charged because Medicaid recipients generally would be insulated from the increases. Pharmacists in the areas of Medicaid concentration therefore, could raise their prices without the fear of losing revenues since Medicaid would be the major purchaser. A screen would be required under CIP in order to avoid excessive payments.

At the opposite extreme would be a market which was dominated by other third party payors (for example Blue Cross/Blue Shield). If these third party payors were not sensitive to price, there could be inflationary pressures on drug prices. Given the great interest in the cost of health care, we believe it unlikely, even in such a hypothetical market dominated by other third party payors, that price increases would be reimbursed without limit. Moreover, such third party control of payment for drugs is not characteristic of the present market.

None of the alternatives would offer protection against increases in manufacturers' or wholesalers' prices nor are they intended to; however, they could create pressures (as previously noted) for providing lower prices to pharmacists. Moreover, as a result of various noneconomic factors, such as convenience, and other matters of individual preference, all of the alternatives while increasing the incentive for substituting certain therapeutically equivalent brands (that is, those of lower price) for other brands of the same equivalent drug, will not result in such substitutions in all cases.

Although CIP's effectiveness would depend on the competitiveness of a State's retail market, it would offer some clear advantages over PhIP, the reformed MAC proposal, and the current EAC programs. Reimbursing pharmacists generally based on their usual and customary charges would eliminate the need for establishing separate Medicaid limits on drug payments. Assuming the retail market is reasonably efficient in setting drug prices, the market place would set a price that reflected a balance between demand and supply of the drug. This would save us and the States the administrative costs of having to develop payment limits, and it would remove the cause of many complaints pharmacists have made about the MAC/EAC program. They have claimed that MAC and EAC intrude needlessly into the way pharmacists conduct their business. Pharmacists claim that at times these programs have caused them to lose money because certain widely prescribed drugs were not available at the MAC or EAC limits.

Obtaining data for CIP should not result in additional administrative costs since the retail prices would have to be included on each bill the pharmacist submits for payment. Also, by allowing States three months in which to collect charge data before establishing their fee screens, there would be no need to undertake a special data collection effort. However, a State could incur additional costs in implementing CIP in order to establish the required screens.

Because CIP is based on charges, it generally would reflect variations in pharmacists' operating costs or the cost of purchasing drugs in particular areas of the State. However, the screen in CIP could arguably penalize the high cost pharmacist. While the cost of doing business may vary by location within a State and thus cause prices to vary, we believe that the proposed regulations would provide State agencies with sufficient flexibility in establishing Statewide charge screens to enable them to handle these types of difficulties. A State agency would be free to develop any type of screen and set it at any level it chooses as long as the agency achieves the same or greater savings than those which HCFA has determined based on the screen in 42 CFR 447.331(a)(3)(iii)(A)(*1*) or 447.331(b)(2)(i)(A) of the proposed rule, whichever is applicable.

The rationale for establishing a Statewide charge screen is to prevent payments of unusually high drug charges that may occur as a result of distortions in the market, and which some pharmacists may attempt to take advantage of for their own benefit. By establishing a Statewide screen, charge variations among pharmacies resulting from inefficiencies in the market would be reduced while still permitting the overall market to set Medicaid payment levels. As previously discussed, cost based price variations that a State determines to be legitimate could be

dealt with in a variety of ways within the framework of a Statewide screen.

G. Conclusion

We are proposing three different methodologies for controlling Medicaid drug costs. All three methodologies would produce savings principally through the substitution of lower priced therapeutically equivalent drugs.

The reformed version of MAC relies on a conventional regulatory approach of Federally administrative price limits for which we would provide FFP. It may achieve the most savings per prescription, and, if enforced strongly, could result in high aggregate savings. However, it may also incur the highest administrative costs and it affords the least benefit to pharmacists.

In contrast to MAC, PhIP and CIP would use financial incentives to achieve their savings goals. PhIP would offer pharmacists a bonus over the lowest wholesale price of a drug whenever they substituted a lower priced drug for a higher priced one. CIP would establish payment limits on the basis of a drug's retail price. In addition to offering an incentive for substituting a lower priced drug for a higher priced one, PhIP (but not CIP) would provide a disincentive to filling prescription with the highest price multiple source drug. CIP would be a comprehensive reimbursement scheme that could be used in place of the EAC program. PhIP and the reformed MAC program would have to be used in conjunction with a State's EAC program.

Both PhIP and CIP would rely on easily obtainable data and would employ formulas for establishing payment limits. Therefore, we believe both would be administrable although PhIP would be preferable from a purely administrative standpoint. In any case, whatever method we choose for establishing an upper limit, we presume that States will choose payment methods that are administratively acceptable to them.

VI. Paperwork Requirements

Sections 447.331(c), 447.332, and 447.333(b) of this proposed rule are subject to Executive Office of Management and Budget (EOMB) review under the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when EOMB approval is obtained. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the directions in the ADDRESSES section of this preamble.

V. Responses to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

VI. List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 447

Accounting, Administrative practice and procedure, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

45 CFR Part 1

Organization and functions.

45 CFR Part 19

Administrative practice and procedure, Drugs, Health care, Health maintenance organizations, Medicare.

Alternative 1—PhIP

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

I. 42 CFR Part 405 would be amended as set forth below:

A. The authority citation for Subpart D continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 13951(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

B. The table of contents for Subpart D is amended by removing § 405.433.

§ 405.433 [Removed]

C. Section 405.433 is removed.

PART 447—PAYMENTS FOR SERVICES

II. 42 CFR Part 447 would be amended as set forth below:

A. The authority citation for Part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

B. The table of contents is amended by adding a new § 447.301 and by revising the entry for § 447.332 as follows:

Subpart D—Payment Methods for Other Institutional and Noninstitutional Services

* * * * *

447.301 Definitions.

* * * * *

447.332 Specific upper limits for multiple source drugs.

* * * * *

C. Section 447.301 is added to Subpart D to read as follows:

§ 447.301 Definitions.

For the purposes of this subpart—

"Brand name" means any registered trade name commonly used to identify a drug.

Estimated acquisition cost" means the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of drug most frequently purchased by providers.

"*Multiple source drug*" means a drug marketed or sold by two or more manufacturers of labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

D. Section 447.331 is revised to read as follows:

§ 447.331 Drug: Upper limits of payment.

(a) *Multiple source drugs.* Except for brand name drugs that are certified in accordance with paragraph (c) of this section, the agency payment for multiple source drugs must not exceed the amount that would result from the application of the specific limits established in accordance with § 447.332 plus a reasonable dispensing fee established in accordance with § 447.333. If a specific limit has not been established under § 447.332, then the rule for "other drugs" set forth in paragraph (b) applies.

(b) *Other drugs.* The agency payment for brand name drugs certified in accordance with paragraph (c) of this section and drugs other than multiple source drugs for which a specific limit has been established under § 447.332 must not exceed the lower of the—

(1) Estimated acquisition cost plus a dispensing fee established in accordance with § 447.333; or

(2) The provider's usual and customary charge to the general public.

(c) *Certification of brand name drugs.* (1) The upper limit for payment for multiple source drugs for which a specific limit has been established under § 447.332 does not apply if a physician

VOL 51 ISS 160 AG 19 1986 UMI

certifies in his or her own handwriting that a specific brand is medically necessary for a particular recipient.

(2) The agency must decide what certification form and procedure are used.

(3) A checkoff box on a form is not acceptable but a notation like "brand necessary" is allowable.

(4) The agency may allow providers to keep the certification forms if the forms will be available for inspection by the agency or HHS.

E. Section 447.332 is revised as follows:

§ 447.332 Specific upper limits for multiple source drugs.

(a) *Establishment and issuance of a limit.* (1) HCFA may establish a specific upper limit for a multiple source drug if the following requirements are met:

(i) All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications).

(ii) at least three suppliers advertise the drug (which has been classified by the FDA as category "A" in its publication, *Approved Drug Products with Therapeutic Equivalence Evaluations,* including supplements or in successor publications) in the most current edition of the *Red Book* or *Blue Book.*

(2) HCFA publishes the list of multiple source drugs for which upper limits have been established and any revisions to the list in Medicaid program instructions.

(3) HCFA may remove a drug from the list if it finds that total State and Federal Medicaid expenditures would be reduced by less than $50,000 annually for that drug.

(b) *Specific upper limits*—(1) *General rule.* Except for cases in which a minimum or maximum mark-up factor applies as specified in paragraph (b)(2) of this section, the upper limit is equal to 150 percent of the least costly therapeutic equivalent that can be purchased by pharmacists in quantities of 100 tablets or capsules (or, if the drug is not commonly available in quantities of 100, the smallest package size commonly advertised) or, in the case of liquids, the commonly advertised size.

(2) *Exception.* (i) The minimum mark-up factor (which is separate from the State set dispensing fee) is $1.50 over the cost of 100 tablets or capsules (or, if the drug is not commonly available in quantities of 100, the smallest package size commonly advertised), or the commonly advertised size of the liquid.

(ii) The maximum mark-up factor (which is separate from the State set dispensing fee) is $4.00 over the cost per 100 tablets or capsules (or, if the drug is not commonly available in quantities of 100, the smallest package size commonly advertised), or the commonly advertised size of the liquid.

(c) *Alternative to specific upper limits.* The agency may use an alternative method of payment from that described as the specific upper limit for multiple source drugs in § 447.331 and in paragraph (b) of this section. If the agency adopts an alternative method of payment, it must describe the alternative in the State plan and provide HCFA with assurances that an annual finding has been made that under its alternative method, Medicaid expenditures for drugs for which specific upper limits have been established by HCFA are in the aggregate equal to or less than the expenditures that would have been made under the specific upper limits. In calculating its Medicaid drug expenditures under its alternative method of payment, the agency must include its payments for the same drugs for which payment levels have been set by HCFA in order that a valid comparison may be made. HCFA may, any time, request the agency to provide data supporting the assurance. Federal financial participation is available only up to the level of the aggregate expenditures which would have been made under the specific upper limits established by HCFA. The agency must maintain such records as HCFA finds are necessary to determine the Federal upper limit on payment.

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL ADMINISTRATION

III. 45 CFR Subtitle A would be amended as set forth below:

A. The Table of Contents for Subtitle A is amended by removing "Part 19, Limitations on Payment or Reimbursement for Drugs."

PART 1—HHS'S REGULATIONS

§ 1.2 [Amended]

B. In § 1.2 of Subpart A, the last bullet point entitled "Miscellaneous" is amended by removing the reference to Part 19.

PART 19—LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS [REMOVED]

C. Subtitle A is amended by removing Part 19, "Limitations on Payment or Reimbursement for Drugs".

Alternative 2—MAC

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

I. 42 CFR Part 405 would be amended as set forth below:

A. The authority citation for Subpart D continues to read as follows:

Authority. Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

B. The table of contents for Subpart D is amended by removing § 405.433.

§ 405.433 [Removed]

C. Section 405.433 is removed.

PART 447—PAYMENTS FOR SERVICES

II. 42 CFR Part 447, Subpart D would be amended as set forth below:

A. The authority citation for Part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

B. The table of contents is amended by adding a new § 447.301, by revising the entry for § 447.332, by redesignating §§ 447.333 and 447.334 as §§ 447.335 and 447.336 respectively, and by adding new §§ 447.333 and 447.334 as follows:

Subpart D—Payment Methods for Other Institutional and Noninstitutional Services

* * * * *

447.301 Definitions.

* * * * *

447.332 Determination of maximum allowable cost.
447.333 Review and revision of MAC determinations.
447.334 Suspending, raising or waiving a MAC limit.
447.335 Dispensing fee.
447.336 Upper limits for drugs furnished as part of services.

* * * * *

§ 447.300 [Amended]

C. Section 447.300 is amended by changing the reference to "447.334" to read "447.336".

D. Section 447.301 is added to Subpart D to read as follows:

§ 447.301 Definitions.

For the purposes of this subpart—

"Brand name" means any registered trade name commonly used to identify a drug.

"Estimated acquisition cost" means the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in

the package size of drug most frequently purchased by providers.

"Multiple source drug" means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

E. Section 447.331 is revised to read as follows:

§ 447.331 Drugs: Upper limits of payment.

(a) *General rule.* The agency payment for drugs must not exceed the lowest of the following:

(1) The maximum allowable cost (MAC) of the drug, if any, established in accordance with § 447.332 plus a reasonable dispensing fee established in accordance with § 447.333;

(2) The estimated acquisition cost plus a dispensing fee established in accordance with § 447.333; or

(3) The provider's usual and customary charge to the general public.

(b) *Certification of brand name drugs.* (1) The MAC for a multiple source drug described in paragraph (a)(1) of this section does not apply if a physician certifies in his or her own handwriting that a specific brand is medically necessary for a particular recipient.

(2) The agency must decide what certification from and procedure are used.

(3) A checkoff box on a form is not acceptable but a notation like "brand necessary" is allowable.

(4) The agency may allow providers to keep the certification forms if the forms will be available for inspection by the agency or HHS.

(c) Alternative to specific upper limits. The agency may use an alternative method of payment from that described as the MAC for multiple source drugs established in accordance with § 447.332. If the agency adopts an alternative method of payment, it must describe the alternative in the State plan and provide HCFA with acceptable assurances that an annual finding has been made that under its alternative method, Medicaid expenditures for drugs for which MAC limits have been established by HCFA are in the aggregate equal to or less than the expenditures that would have been made under the MAC upper limits. In calculating its Medicaid drug expenditures under its alternative method of payment, the agency must include its payments for the same drugs for which MAC limits have been set by HCFA in order that a valid comparison may be made. HCFA may, at any time, request the agency to provide data supporting the assurance. Federal financial participation is available only up to the level of the aggregate expenditures which would have been made under the specific upper limits established by HCFA. The agency must maintain such records as HCFA finds are necessary to determine the Federal upper limit on payment.

F. Section 447.332 is revised as follows:

§ 447.332 Determination of maximum allowable cost.

(a) *Identification of drugs.* (1) HCFA may establish a MAC for a multiple source drug if the following requirements are met:

(i) All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications.

(ii) At least three suppliers advertise the drug (which has been classified by the FDA as category "A" in their publications, *Approved Drug Products with Therapeutic Equivalence Evaluations*, including supplements or in successor publications) in the most current edition of the *Red Book* or *Blue Book*.

(iii) Significant amounts of Federal funds are or may be expended for that drug under the Medicaid program.

(iv) There are or may be significantly different prices for that drug.

(v) HCFA expects to reduce total State and Federal Medicaid expenditures by at least $50,000 annually for that drug.

(b) *Initial determination of lowest unit price.* (1) For each drug identified in accordance with paragraph (a) of this section and for which all FDA-approved formulations are evaluated as therapeutically equivalent, HCFA makes an initial determination of the lowest price at which the drug is widely and consistently available to providers.

(2) In making this determination, HCFA may use, to the extent available, information obtained from wholesalers regarding the price currently charged to providers for the drugs for which a MAC is proposed. In the absence of adequate data from wholesalers in making these determinations, HCFA uses other relevent data.

(3) The determination of the lowest unit price at which the drug is widely and consistently available to providers is based on the package size of drug most frequently purchased by providers.

(4) If it appears to HCFA that a drug is or will be unavailable to providers in one or more localities at the same lowest unit price at which it is available elsewhere, HCFA makes a separate determination for each such locality.

(c) *Proposed MAC.* HCFA determines whether the lowest unit price should be proposed as the maximum allowable cost (MAC) for the drug.

(d) *Notice and comment.* HCFA publishes as a notice in the **Federal Register** each proposed MAC and a summary of the HCFA's reasons for its proposal. The notice invites interested persons and organizations to submit in writing comments on the proposed MAC. HCFA maintains for public inspection all public comments received regarding a proposed MAC.

(e) *Proposed final determination.* After considering the written comments and any other evidence included as part of the record, HCFA determines whether a MAC should be established for each drug for which a notice of proposed MAC was published and, if so, make a proposed final determination of a MAC for each drug.

(f) *Publication.* HCFA publishes notice of the final determination in the **Federal Register** with a statement of the reasons for the determination.

G. Sections 447.333 and 447.334 are redesignated as §§ 447.335 and 336 respectively. New §§ 447.333 and 447.334 are added and read as follows:

§ 447.333 Review and revision of MAC determinations.

(a) To assure that continued application of each MAC is justified, HCFA regularly reviews the list of drugs for which final MAC determinations have been made.

(b) Any individual or organization may at any time request in writing that a MAC determination be revised or withdrawn. The request must set forth—

(1) The specific change requested;

(2) The justification for the change; and

(3) Available data in support of the request.

(c) Whenever HCFA finds that there are substantial grounds for reviewing a MAC determination, it reviews the determination in accordance with the procedures set forth in § 447.332.

(d) If HCFA finds no substantial grounds for reviewing a MAC determination, HCFA notifies the person or organization requesting their review of its denial in writing. This notification also includes a statement of the reasons for the denial.

§ 447.334 Suspending, raising or waiving a MAC limit.

(a) *Raising a MAC limit.* (1) State agencies may request in writing that a MAC limit for a particular drug be suspended or raised temporarily if that drug becomes unavailable at or below the limit.

(2) If HCFA determines that the limit should be suspended or raised temporarily, HCFA issues a notice in the **Federal Register** specifying the temporary suspension or limit. The temporary suspension or limit is effective until HCFA issues a new limit that has been established in accordance with § 447.332.

(b) *Waiving a MAC limit.* Upon the agency's written request and favorable demonstration that a particular volume of drug is too low to justify administering the MAC limit or that there are availability problems in the State for the drug, HCFA may waive the MAC limit for the drug in that State.

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL ADMINISTRATION

III. 45 CFR Subtitle A would be amended as set forth below:

A. The table of contents for Subtitle A is amended by removing "Part 19, Limitations on Payment or Reimbursement for Drugs."

PART 1—HHS'S REGULATIONS

§ 1.2 [Amended]

B. In § 1.2 of Subpart A, the last bullet point entitled "Miscellaneous" is amended by removing the reference to Part 19.

PART 19—LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS [REMOVED]

C. Subtitle A is amended by removing Part 19, "Limitations on Payment or Reimbursement for Drugs."

Alternative 3—CIP

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

I. 42 CFR Part 405, Subpart D would be amended as set forth below:

A. The authority citation for Subpart D continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1861, 1866, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

B. The table of contents for Subpart D is amended by removing § 405.433.

§ 405.433 [Removed]

C. Section 405.433 is removed.

PART 447—PAYMENTS FOR SERVICES

II. 42 CFR Part 447 would be amended as set forth below:

A. The authority citation for Part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

B. The table of contents is amended by adding a new § 447.301, revising the entry for § 447.332 and by removing § 447.333 as follows:

Subpart D—Payment Methods for Other Institutional and Noninstitutional Services

* * * * *

447.301 Definitions.

* * * * *

447.332 Application of upper limits of payment.

447.334 Upper limits for drugs furnished as part of services.

* * * * *

C. Section 447.301 is added to Subpart D to read as follows:

§ 447.301 Definitions.

For the purposes of this subpart—

"Leading brand" means that drug which first obtained the new drug or antibiotic drug approval for that product.

"Multiple source drug" means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

D. Section 447.331 is revised to read as follows:

§ 447.331 Drugs: Upper limits of payment.

(a) *Multiple source drugs*—(1) *Application.* The upper limit of payment described in paragraph (a)(2) of this section applies to multiple source drugs which meet the following requirements:

(i) All formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of the FDA publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications).

(ii) At least three suppliers advertise the drug (which has been classified by the FDA as category "A" in their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations*, including supplements or in successor publications) in the most current edition of the *Red Book* or *Blue Book*.

(2) *Publication.* HCFA publishes in Medicaid program instructions the list and any revisions to the list of multiple source drugs that meet the requirements described in paragraph (a)(1) of this section and for which the upper limit for payment described in paragraph (a)(3) of this section apply.

(3) *Upper limit.* Except for brand name drugs that are certified in accordance with paragraph (c) of this section and unusual circumstances specified in paragraph (d) of this section, the agency payment for multiple source drugs that meet the requirements specified in paragraph (a)(1) of this section may not exceed the lowest of—

(i) A specific percentage (to be determined by HCFA) of the provider's retail price for the leading brand that corresponds to the multiple source drug;

(ii) A specific percentage (to be determined by HCFA and used under § 447.331(b) for other drugs) of the provider's retail price for the drug supplied; or

(iii) The results of a screen of Statewide charges for all generic equivalents of the multiple source drug dispensed.

(A) The screen of Statewide charges must be based on—

(*1*) A specific percentage (to be determined by HCFA) of the Statewide median charge for all generic equivalents of the multiple source drug dispensed.

(*2*) A method that results in the same or greater savings than would occur under the screen described in paragraph (a)(3)(iii)(A) (*1*) of this section.

(B) The screen of Statewide charges is updated no more frequently than annually.

(C) The increase in the screen from one update to the next must not exceed the increase in the prescription drug subcomponent of the Consumer Price Index for all Urban Consumers for the same period of time.

(b) *Other drugs.* The agency payment for drugs, other than multiple source drugs which meet the requirements specified in paragraph (a)(1) of this section, may not exceed the lower of—

(1) A percentage (to be determined by HCFA) of the provider's retail price; or

(2) The results of a screen of Statewide charges for that drug.

(i) The screen of Statewide charges must be based on—

(A) A specific percentage (to be determined by HCFA) of the Statewide median charge for the drug; or

(B) A method that results in the same or greater savings that would occur

under the screen described in paragraph (b)(2)(i)(A) of this section.

(ii) The screen of Statewide charges is updated no more frequently than annually.

(iii) The increase in the screen from one update to the next must not exceed the increase in the prescription drug subcomponent of the Consumer Price Index for all Urban Consumers for the same period of time.

(c) *Certification of brand name drugs.* (1) The upper limit for payment for multiple source drugs described in paragraph (a)(3) of this section does not apply if a physician certifies in his or her own handwriting that a specific brand is medically necessary for a particular recipient.

(d) *Unusual circumstances.* HCFA may set an upper limit for a particular drug or locality different from those described in paragraphs (a) and (b) of this section if it determines that unusual circumstances exist. HCFA notifies each affected State agency through program issuances of the revised upper limit and the reasons for the revision.

E. Section 447.332 is revised to read as follows:

§ 447.332 Application of upper limits of payment.

The agency may use an alternative method of payment from that described as the upper limit for drugs in § 447.331. If the agency adopts an alternative method of payment, it must describe the alternative in the State plan and provide HCFA with assurances that an annual finding has been made that under its alternative method, Medicaid expenditures for drugs are in the aggregate equal to or less than the expenditures that would have occurred under the payment method described as the upper limits for drugs in § 447.331. HCFA may, at any time, request the agency to provide data supporting the assurance. Federal financial participation is available only up to the level of the aggregate expenditures which would have been made under he specific upper limits established by HCFA. The agency must maintain such records as HCFA finds are necessary to determine the Federal upper limit on payment.

§ 447.333 [Removed]

F. Section 447.333 is removed.

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL ADMINISTRATION

III. 45 CFR Subtitle A would be amended as set forth below:

A. The table of contents for Subtitle A is amended by removing "Part 19, Limitations on Payment or Reimbursement for Drugs".

PART 1—HHS'S REGULATIONS

§ 1.2 [Amended]

B. In § 1.2 of Subpart A, the last bullet point entitled "Miscellaneous" is amended by removing the reference to Part 19.

PART 19—LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS [REMOVED]

C. Subtitle A is amended by removing Part 19, "Limitations on Payment or Reimbursement for Drugs".

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; 13.773, Medicare—Hospital Insurance; 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 22, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 4, 1986.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 86-18644 Filed 8-18-86; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-327, RM-5333]

Radio Broadcasting Services; Sarles, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Timothy D. Martz. Action taken herein proposes the allocation of Channel 290 to Sarles, North Dakota, as the community's first local FM service, at the request of Timothy D. Martz.

DATES: Comments must be filed on or before October 3, 1986, and reply comments on or before October 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James R. Bayes, Esq., Jerry V. Haines, Esq., Wiley & Rein, 1776 "K" Street, NW., Washington, DC 20006, (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-327, adopted July 31, 1986, and released August 12, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18619 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-328, RM-5372]

Radio Broadcasting Services; Giddings, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio Lee County, Inc., proposing the substitution of FM Channel 268C2 for Channel 269A at Giddings, Texas, and the modification of license of Station KGID(FM), Channel 269A, to specify operation on the new channel. A site restriction of 26.9 kilometers (16.7 miles) south of the community is required.

DATES: Comments must be filed on or

before October 3, 1986, and reply comments on or before October 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: J. Dominic Monahan, Esquire, A. Kimberly Matthews, Esquire, Dow, Lohnes & Albertson, 1255 23rd Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–328, adopted July 29, 1986, and released August 12, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18620 Filed 8–18–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–329, RM–5235]

Television Broadcasting Services; Montgomery, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Troy State University proposing the assignment of UHF television Channel *63 to Montgomery, Alabama, as that community's second local noncommercial educational TV service.

DATES: Comments must be filed on or before October 3, 1986, and reply comments on or before October 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: M Scott Johnson, Esq., Gardner, Carton and Douglas, 1875 Eye Street NW., Suite 1050, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanley Schmulewitz, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–329, adopted July 28, 1986, and released August 12, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–18621 Filed 8–18–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–330, RM–5426]

Television Broadcasting Services; New Bedford, Massachusetts-Providence, Rhode Island

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Freedom WLNE–TV, Inc. to amend the Television Table of Assignments by consolidating the New Bedford, Massachusetts and Providence, Rhode Island assignments into a hyphenated New Bedford, Massachusetts-Providence, Rhode Island assignment market.

DATES: Comments must be filed on or before October 3, 1986, and reply comments on or before October 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Robert A. Marmet, Esq., Harold K. McCombs Jr., Esq., Marmet and McCombs, Professional Corporation, 1822 Jefferson Place NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–330, adopted July 28, 1986, and released August 12, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

VOL 51 ISS 160 AG 19 1986 UMI

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18622 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-331, RM-5471]

Radio Broadcasting Services; Corinth and Hadley, New York

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on a petition filed by Jedco Broadcasting Corporation proposing to substitute Channel 289B1 for Channel 228A at Corinth, New York and modify its license for Station WSCG-FM to specify the higher-powered channel. The channel allotment requires concurrence by the Canadian Government because Corinth is located within 320 kilometers of the U.S.-Canadian border. The allotment would create a 4.4 kilometer short-spacing to the application of Station CFGL, Channel 289C, Laval, Quebec, Canada, to change its transmitter site. Should other parties express an interest in Channel 289B1 at Corinth, the petitioner proposes that Channel 229B1 be allocated with a site restriction of 7.5 kilometers (4.6 miles) northwest.

DATES: Comments must be filed on or before October 3, 1986, and reply comments on or before October 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: William S. Green, Esq., Pierson, Ball & Dowd, 1200-18th Street NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-331, adopted July 29, 1986, and released August 12, 1986. The full text of this Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18623 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-388, RM-5506]

Radio Broadcasting Services; Lancaster, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission proposes to allocate Channel 278A or Channel 279A to Lancaster, Ohio, as the community's second local FM service, at the request of John Garber and Associates. Channel 278A requires a site restriction of 5.7 kilometers (3.5 miles) north to avoid short-spacing to the buffer zone of Station WPAY-FM, Portsmouth, Ohio. Channel 279A requires a site restriction of 11.3 kilometers (7 miles) east to avoid short-spacing to Station WBBY, Westerville, Ohio, and to the buffer zone of Station WPAY-FM at Portsmouth. To determine whether there is a siting problem with Channel 278A, petitioner is requested to provide the Commission with a map showing the location of the Lancaster Fairfield County Airport. Petitioner has requested a waiver of the Commission's rules requiring protection to the buffer zone of Station WPAY-FM, Portsmouth, Ohio.

DATES: Comments must be filed on or before October 6, 1986, and reply comments on or before October 21, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Lauren A. Colby, Esq., 10 E. Fourth Street, P.O. Box 113, Frederick, Maryland 21701 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-388 adopted August 4, 1986, and released August 13, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18626 Filed 8-18-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 160
Tuesday, August 19, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Productivity Improvement Review List and Estimated Dates for Beginning Studies (OMB A-76 Implementation)

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Notice of intent to conduct productivity improvement reviews under the guidelines set forth in OMB Circular No. A-76.

SUMMARY: This notice provides locations and projected dates for starting productivity improvement studies within SCS through FY 1987. The SCS intends to conduct these reviews with their own forces. This is a notice of intent only and not a request for proposals.

Location and type of activity	Projected review start
District of Columbia, 50 states, and Caribbean Area: Information Resources Management.	September 1986.
Eleven Western and Great Plains States: Snow Surveys.	October 1986.

FOR FURTHER INFORMATION CONTACT: W.J. Parker, Staff Leader, Productivity Improvement Programs, Soil Conservation Service, Department of Agriculture, P.O. Box 2890, Room 6019-S, Washington, DC 20013, telephone (202) 382-1861.

SUPPLEMENTARY INFORMATION: Reviews will be conducted under the guidelines of SCS Policy and OMB Circular No. A-76, Performance of Commercial Activities. Some of the listed activities may be evaluated in subunits or combined with other units for review.

Soil Conservation Service—Department of Agriculture, P.O. Box 2890, Washington, DC 20013

Attention: W. J. Parker; Telephone (202) 382-1861

X—Notice of Intent To Conduct Productivity Improvement Reviews and Make Cost-Comparison Studies

Under the guidelines of Agency policy and OMB Circular No. A-76, the Soil Conservation Service (SCS) proposes to commence productivity improvement reviews which may eventually result in cost comparison studies being made. Activities include: (1) Information Resources Management: District of Columbia, 50 states and the Caribbean Area—start September 1986; and (2) Snow Surveys; Eleven Western and Great Plains states—start October 1986.

This is a notice of intent to conduct a management study only and is not a request for proposals. The SCS plans to use its own forces to conduct the management study.

Dated: August 8, 1986.

John W. Peterson,

Deputy Chief for Administration.

[FR Doc. 86-18677 Filed 8-18-86; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting; Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 5:00 p.m., on September 12, 1986, at the Chateau Motor Hotel, La Petite & Lafayette 1 Rooms, 201 Lake Street, Shreveport, Louisiana. The purpose of the meeting is to conduct a community forum on civil rights implications of educational vouchers in Louisiana.

Persons desiring additonal information, or planning a presentation to the Committee, should contact J. Richard Avena, Director of the Southwestern Regional Office at (512) 229-5570, (TDD 512/229-5580). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC., August 13, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86-18683 Filed 8-18-86; 8:45 am]

BILLING CODE 1335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 23-86]

Foreign-Trade Zone 65—Panama City, FL, Application for Extension for Berg Steel Pipe Corp. Zone Manufacturing Operation; Extension of Comment Period

The period for comments on the above case, involving an extension of zone manufacturing authority for Berg Steel Pipe Corporation in FTZ 65, Panama City, Florida (51 FR 25225, 7-11-86) is extended to September 23, 1986, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

Dated: August 14, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-18685 Filed 8-18-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[Docket Number ITA-AB-5-84]

Export privileges; Intraco Corp.

Facts

Pursuant to an amended charging letter of March 21, 1985, Respondent was charged with multiple reporting violations of the Export Administration Act of 1979 ("EAA"). Between August 1979 and May 1982, Intraco Corporation received twenty-three (23) letters of credit which contained requests or directives to engage in restrictive trade practices or boycotts and failed to report the receipt of such requests to the Department of Commerce as mandated by 15 CFR 369.6. Intraco Corporation acknowledged the receipt of twenty-

three restrictive trade practice or boycott requests and its failure to report. However, it disputed liability arguing, in the alternative, (1) the absence of intent, (2) confusion created by the regulations and advice received at a trade seminar, and (3) the belief that banks would no longer be able to implement letters of credit containing boycott requests.

After hearing the evidence, on August 28, 1985, the Administrative Law Judge (ALJ) issued his Decision and Order. The ALJ imposed a civil penalty of $115,000 (representing a $5,000 fine per incident), suspending $80,500 of that sum for two years, contingent upon the submission of a satisfactory antiboycott training plan within ninety days and the absence of boycott violations within the next two years. The ALJ also denied Respondent export privileges involving any U.S.-origin commodities and technical data being shipped to various Middle Eastern countries for a period of one year, suspending nine months of that sanction, based upon the same contingency as the civil monetary penalty.

The case has been referred to me pursuant to 15 C.F.R. Section 388.22(b) for final action.

Issues

1. Whether the ALJ applied the correct standard in deciding civil liability under the Reporting Requirements Section 15 CFR 369.6?

2. Whether the EAA authorizes denial of export privileges for violations involving reporting requirements?

Discussion

The ALJ interpreted the Act as requiring a general intent or general knowledge element in order to assess liability for violation and found that Respondent *voluntarily and intentionally* failed to report the receipt of boycott requests. Initial Decision, Finding No. 6 (August 28, 1985). Although 15 CFR 369.6 stipulates that "intent is a necessary element of any violation of this Part (369)," § 369.6(a)(2) expressly sets forth a "know or reason to know" standard applicable to the reporting of boycott or restrictive trade practice requests. In light of the language in the latter section, as well as, the legislative history and reasoning behind the reporting requirements, it seems more appropriate that the "intent" requirement cited in § 369.1 applies instead to the substantive boycott activities of § 369.2.

During the period of its reporting violations, Intraco Corporation was a professional international trading corporation and had a responsibility to familiarize itself with the Export Administration Regulations ("EAR") 15 CFR 369.1 *et seq.*, especially if it experienced confusion due to information it claims was disbursed at a trade seminar. While Respondent sought to shift reporting responsibility to the banks issuing the letters of credit, the Regulations expressly set forth the following reporting requirements as published in the **Federal Register** on July 5, 1978.

> Section 369.6(b)(2). Each U.S. person actually receiving a reportable request must report that request. However, . . . a bank, if authorized, may report on behalf of the beneficiary of a letter of credit.
>
> Section 369.6(b)(3) Where a person is designated to report on behalf of another, *the person receiving the request remains liable for any failure to report or for any representations made on his behalf.* Further, anyone reporting on behalf of another is not relieved of his own responsibility for reporting any boycott request which he receives, even if it is an identical request in connection with the same transaction.
>
> 43 Fed. Reg. 29078 (1978) (emphasis added).

Therefore, Intraco Corporation had a reason to know of its reporting responsibilities with regard to the twenty-three reportable requests between 1979 and 1982. For this reason, it is unnecessary to reach the issue of intent.

While reporting requirement violations warrant a civil monetary penalty as authorized under section 11(c) of the Export Administration Act, the denial of export privileges are not likewise authorized for such violations. Section 11(c)(2)(A) stipulates that "The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology *may be used with respect to any violation of the regulations issued pursuant to section 8(a) of this Act."* However, section 8(a) does not include Reporting Requirement violations within the list of various prohibitions and exceptions. Section 8(a)(1)(F) prohibits the "paying, honoring, confirming, or otherwise implementing" a letter of credit with restricted language but does not include the procedural requirement of reporting here. In addition, a section 8 violation would require section 8 violation would require that a person take or knowingly agree to take the listed actions with an intent to comply with an unauthorized, boycott, in obvious conflict with the "know or reason to know" standard present in Reporting Requirements § 369.6. Secondly, EAA section 11 carefully distinguishes between the civil monetary penalties which may be imposed for "each violation of the Act or any regulation, order, or license issued under this Act" and the denial of export privileges "with respect to any violation of the regulations issued pursuant to section 8(a) of this Act."

Since Intraco Corporation has only been charged with failure to report, the denial of export privileges is inappropriate. Insofar as the monetary penalty is concerned, there is nothing in the record to indicate it is unreasonable under the circumstances.

Findings

1. Respondent, Intraco Corporation, is a corporation organized under the laws of the State of Michigan, with its principal office is Southfield, Michigan.

2. Intraco Corporation is a manufacturer's representative for U.S. companies around the world, particularly for Middle Eastern countries.

3. Intraco Corporation is a U.S. person under the Export Administration Act, as defined in 15 CFR 369.1(b).

4. Between October 1979 and May 1982, Respondent, Intraco Corporation, was involved in the sale of U.S. origin goods from Michigan to persons in Kuwait, Qatar, Lebanon. Bahrain, the United Arab Emirates, Oman, and Saudi Arabia, activities which were in the foreign commerce of the U.S. as defined in 15 CFR 369.1(d).

5. During the course of the transactions cited above, Respondent received twenty-three (23) letters of credit containing requests of directives to engage in restrictive trade practices of boycotts.

6. Respondent, Intraco Corporation had "reason to know" that its failure to report such requests was in violation of EAR 15 CFR 369.6 as published in the **Federal Register** on July 5, 1978.

7. In failing to report, Respondent violated 15 CFR 369.6 on twenty-three separate occasions.

8. The evidence does not reveal that Respondent received misleading information from the Department of Commerce, or that Intraco Corporation was relieved of any reporting obligations under 15 CFR 369.6 when boycott requests in letters of credit were passed on the Respondent by various banks.

9. The denial of export privileges in this case was an inappropriate penalty. The fine imposed by the ALJ is reasonable under the circumstances.

Order

1. Having reviewed the record and based on the facts addressed in this case, I hereby make the following Order: A civil penalty in the amount of $115,000 is hereby assessed against Intraco

Corporation. Further, Intraco Corporation shall pay or make arrangements acceptable to the Department for the payment of $34,500 within 20 business days of the effective date of this Order.

2. Payment of the balance of $80,500 will be suspended for two years from the effective date of this Order provided that: (a) Intraco Corporation submit within 90 days and have approved by the Deputy Assistant Secretary for Export Administration, a satisfactory plan for the training of its staff covering understanding of and compliance with the Export Administration Act. and; (b) Intraco Corporation will not have violated the antiboycott provisions of the Act, Part 369 of the Regulations, or this Order during the two-year period from the effective date of this Order. If Respondent complies with the above stipulations, the suspended $80,500 penalty will be vacated two years from the effective date of this Order.

3. The ALJ's Order denying Respondent export privileges is hereby vacated.

Dated: August 12, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-18667 Filed 8-18-86; 8:45 am]

BILLING CODE 3510-25-M

[A-122-506]

Oil Country Tubular Goods (OCTG) From Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: As a result of correction of clerical errors, the Department of Commerce (the Department) is amending its final determination in this investigation and its antidumping duty order, and is directing the U.S. Customs Service to adjust the cash deposit as follows:

Manufacturer/producer/exporter	From (percent)	To (percent)
Algoma	14.26	13.00
Ipsco	40.85	33.78
Sonco	3.35	3.48
All others	19.36	16.65

EFFECTIVE DATE: August 19, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION: On April 22, 1986, we published a final determination of sales at less than fair value for OCTG from Canada (51 FR 15029). On June 2, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d), the United States International Trade Commission (ITC) notified the Department that imports of this merchandise are materially injuring a United States industry. After being notified of these findings, the Department published an antidumping duty order (51 FR 21782).

The detection of clerical errors by counsel for petitioners and respondents has caused us to review all of our calculations in the investigation. We have discovered and have corrected other clerical errors in the calculations. Consequently, we are amending our final determination by changing the weighted-average margins.

We are also amending our antidumping duty order to reflect these weighted-average margins. Accordingly, the order is amended to read as follows: On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below.

Manufacturer/producer/exporter	Weighted-average margin (percent)
Algoma	13.00
Ipsco	33.78
Sonco	3.48
All others	16.65

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 8, 1986.

[FR Doc. 86-18666 Filed 8-18-86; 8:45 am]

BILLING CODE 3510-05-M

National Oceanic and Atmospheric Administration

Marine Mammals Permit Application; The North Gulf Oceanic Society (P351A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name The North Gulf Oceanic Society.

b. Address P.O. Box 156, Cordova, Alaska 99574.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Killer whales (*Orcinus orca*) 90.

4. Type of Take: Each animal maybe taken by harassment up to 5 times by the following methods; tangle immitators, bang pipe, amomonia-release gangions, operant conditioning using plastic explosives.

5. Location of Activity: Prince William Sound; and Bering Sea, Alaska.

6. Period of Activity: 2 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue, NW., Washington, DC; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE. BIN C15700, Seattle, Washington 98115,

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18685 Filed 8-18-86; 8:45 am]

BILLING CODE 3510-22-M

BEST COPY AVAILABLE

Marine Mammals; Issuance of Permit; Carle Foundation Hospital

On June 27, 1986, notice was published in the **Federal Register** (51 FR 23456) that an application had been filed by the Carle Foundation Hospital, 611 West Park Street, Urbana, Illinois 61801, for a scientific research permit.

Notice is hereby given that on August 11, 1986, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following office(s):

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC; and

Northwest Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–18684 Filed 8–18–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of the Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Malaysia

August 14, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 21, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On July 29, 1986, a notice was published in the **Federal Register** (51 FR 27070) which established an import restraint limit for women's, girls' and infants' cotton skirts in Category 342, produced or manufactured in Malaysia and exported during the ninety-day consultation period beginning on June 27, 1986 and extending through September 24, 1986. Inasmuch as is it not feasible to schedule consultations before the end of the ninety-day consultation period, the Governments of the United States and Malaysia have agreed to extend the control period through December 31, 1986 at a prorated level of 30,179 dozen.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to cancel the directive of July 24, 1986 and prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton skirts in Category 342, exported during the period which began on June 27, 1986 and extends through December 31, 1986, in excess of the designated level.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Malaysia, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 21, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of July 24, 1986, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of certain cotton textile products in Category 342, produced or manufactured in Malaysia.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, December 22, 1981 and July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated July 1 and July 11, 1985, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 21, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 342, produced or manufactured in Malaysia and exported during the period which began on June 27, 1986 and extends through December 31, 1986, in excess of 30,179 dozen.[1]

Textile products in Category 342 which have been exported to the United States prior to June 27, 1986 shall not be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–18664 Filed 8–18–86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in Czechoslovakia

August 14, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 20, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On March 24 and May 22, 1986, notices were published in the **Federal**

[1] The limit has not been adjusted to account for any imports exported after June 26, 1986.

Register (51 FR 10421 and 19244) announcing that the Government of the United States had requested consultations with the Government of the Czechoslovak Socialist Republic regarding imports into the United States of women's, girls' and infants' wool coats in Category 435 and men's and boys' wool suits in Category 443, produced or manufactured in Czechoslovakia. Consultations were held June 3–5, 1986 and agreement reached between the two governments on a Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, beginning on June 1, 1986 and extending through May 31, 1989. The agreement establishes limits of 7,000 dozen (Category 435) and 6,000 dozen (Category 443) for goods exported during the first agreement year which began on June 1, 1986 and extends through May 31, 1987.

Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Categories 435 and 443 in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 14, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of June 25 and July 22, 1986 between the Governments of the United States and the Czechoslovak Socialist Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 20, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 435 and 443, produced or manufactured in Czechoslovakia and exported during the twelve-month period which began on June 1, 1986 and extends through May 31, 1987.

Category	12-mo restraint limit [1] (dozen)
435	7,000
443	6,000

[1] The limits have not been adjusted to reflect any imports exported after May 31, 1986.

Wool textile products in Categories 435 and 443 which have been exported to the United States prior to June 1, 1986 shall not be subject to this directive.

Wool textile products in Category 435 and 443 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of June 25 and July 22, 1986 between the Governments of the United States and the Czechoslovak Socialist Republic, which provide, in part, that: (1) The restraint limits may be exceeded by not more than 5 percent, provided that a corresponding reduction in equivalent square yards is made in another specific limit during the same agreement year; (2) the restraint limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit except that no carryover shall be available in the first agreement year and no carryforward in the final agreement year; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the bilateral agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18883 Filed 8-18-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare an Environmental Impact Statement for Construction/Operation of Research Department Explosive (RDX) Facility at Louisiana Army Ammunition Plant (AAP) Shreveport, LA

AGENCY: U.S. Army, Office of Deputy Chief of Staff, Research, Development and Acquisition.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: An Environmental Impact Statement will be prepared to support planning and decision making for expansion of the Louisiana Army Ammunition Plant at Shreveport, Louisiana

1. The primary purpose of the construction project is to expand the production facilities to include one Research Department Explosive (RDX) line with sufficient space for a potential second line. The proposed action for which an EIS will be prepared includes plant expansion as well as development of additional water supply, water and waste-water treatment, and power generation facilities.

2. Reasonable alternatives: The alternatives to be evaluated, in addition to no action, include variations in water supply and power generating facilities.

3. Scoping Process: Government agencies will be consulted as to the EIS Scope by means of planned meetings and by continuing communication. The general public will be asked for input by means of public scoping meetings to be held in Minden, Louisiana. Another public scoping meeting will be scheduled, as required, in Shreveport, Louisiana. These meetings will be held approximately 30 days after publication of this notice; specific meeting times and places will be published in the local newspapers.

4. Potentially Significant Issues So Far Identified include: safety, water resources, socio-economic effects, archaeological and historic resources,

VOL 51 ISS 160 AG 19 1986 UMI

control of hazardous waste, wildlife concerns and land use.

5. The draft environmental impact statement is expected to be available to the public in late January 1987.

6. Comments and questions regarding the environmental documents may be addressed to: Mr. Paul M. Hathorn, Environmental Resources Branch, Fort Worth District, Corps of Engineers, Post Office Box 17300, Fort Worth, Texas 76102–0300, Telephone (817) 334–2095.

Dated: July 3, 1986.

Lewis D. Walker,

Deputy for Environmental, Safety and Occupational Health, OASA(I&L).

Proposed Announcement/Information for Members of Congress

The Department of the Army announced today that a Notice of Intent will be published in the **Federal Register** to prepare environmental documentation for expansion of production facilities at Louisiana Army Ammunition Plant, Shreveport, Louisiana.

The Draft Environmental Impact Statement (EIS) will address construction of Research Department Explosive (RDX) line facilities with sufficient space for potential second line facilities. The Draft EIS will also address development of additional water supply, water and waste water treatment, and power generation facilities. Alternatives to be evaluated in addition to the no action alternative are variations in water supply and power generation facilities. The Draft EIS is expected to be available to the public for comment in late January 1987.

In order for interested individuals and organizations to submit information and comments for consideration by the Army and possible incorporation into the Draft EIS, public scoping will be conducted in Minden, Louisiana, with representatives of regulatory agencies, civic leaders, or other interested community representatives. Another public scoping meeting will be scheduled, as required, in Shreveport, Louisiana. Such meetings will be held approximately 30 days after this announcement; specific meeting time and location will be published in local newspapers.

Questions and comments regarding the scope of the analysis and/or specific issues which should be addressed in the analysis, should be submitted to Mr. Paul M. Hathorn, Environmental Resources Branch, Fort Worth District, Corps of Engineers, P.O. Box 17300, Fort Worth, Texas, 76102–0300, telephone (817) 334–2095. Persons desiring to be placed on a mailing list to receive additional information regarding the proposed meetings and copies of the Draft and Final Environmental Impact Statements may contact Mr. Hathorn at the address and telephone indicated above.

[FR Doc. 86–18654 Filed 8–18–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Agency Information Collection Activities Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 18, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collections requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purposes of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 14, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Upward Bound Program
Agency Form Number: ED 40–2P
Frequency: Annually
Affected Public: State or local; non-profit institutions; small businesses organization
Reporting Burden: Responses: 400 Burden Hours: 6000
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The form is used to apply for non-competing continuation grants under the Upward Bound Program.

Office of Postsecondary Education

Type of Review: New
Title: Reporting, Disclosure, and Recordkeeping Requirements for the National Direct Student Loan Program
Agency Form Number: E40–21P
Frequency: On occasion
Affected Public: Individuals or households; non-profit institutions; businesses or other for profit
Reporting Burden: Responses: 1; Burden Hours: 69,086
Recordkeeping Burden: Recordkeepers: 1 Burden Hours: 11,929.

Abstract: Subpart C of the National Direct Student Loan (NDSL) Program regulations establish reporting, disclosure and recordkeeping requirements for participating institutions of higher education to ensure that proper administrative standards and loan collection procedures are followed.

Office of Special Education and Rehabilitation Services

Type of Review: New
Title: Evaluation of Special Rehabilitation Projects and Demonstrations for Severely Disabled Individuals
Agency Form Number: B20–18P
Frequency: Once only
Affected Public: Individuals or households; state or local governments; non-profit institutions

Reporting Burden: Responses: 33; Burden Hours: 117
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This report will evaluate the rehabilitation projects for severely disabled individuals and will be used to prepare a report to Congress describing the program and its impacts.

Office of Elementary and Secondary Education

Type of Review: Revision
Title: Instructions for Performance Status Report Law Related Education Program
Agency Form Number: ED 740–1,2
Frequency: Annually
Affected Public: State or local governments; non-profit institutions; small business organizations
Reporting Burden: Responses: 27; Burden Hours: 81
Recordkeeping Burden: Recordkeepers: 27; Burden Hours: 54

Abstract: These instructions are utilized by grantees to submit reports that monitor compliance with the terms and conditions of grant awards under the Law Related Education Program.

Office of Bilingual and Minority Affairs

Type of Review: Extension
Title: Application for Bilingual Education: State Educational Agency Program
Agency Form Number: T85–2P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 57; Burden Hours: 7410
Recordkeeping Burden: Recordkeepers: 57; Burden Hours: 8208

Abstract: This form is used to apply for funding under the Bilingual Education State Education Agency Program.

[FR Doc. 86–18692 Filed 8–18–86; 8:45 am]
BILLING CODE 4000-01-M

Office of Postsecondary Education

Guaranteed Student Loan Program and Plus Program; Special Allowance

AGENCY: Department of Education.

ACTION: Notice of special allowance for quarter ending June 30, 1986.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U S.C. 1087–1).

Pursuant to the requirements of section 252 of Pub. L. 99–177, the Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as the Gramm-Rudman-Hollings Act), the President issued a sequestration order on February 4, 1986, directing implementation of the reductions contained in that law. Section 256 of Pub. L. 99–177 provides that if a sequestration order is issued, the special allowance formula for loans after the order takes effect and before the end of the fiscal year is adjusted by reducing the rate provided in section 438(b)(2)(A)(iii) of the Higher Education Act by .4 percent. The reduction will apply to the first four special allowance payments on loans made on or after March 1, 1986, and before October 1, 1986.

Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending March 31, 1986, the special allowance will be paid at the following rates:

	Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate percent for quarter ending June 30, 1986
I. GSLP loans or PLUS loans made prior to October 1, 1981	7	2.875	0.71875
	8	0.875	0.21875
II. GSLP loans or PLUS loans made on or after October 1, 1981:			
A. Loans not subject to reduction order	7	2.78	0.695
	8	1.78	0.445
	9	0.78	0.195
	12	0.00	0.00
	14	0.00	0.00
B. Loans subject to reduction order	7	2.38	0.595
	8	1.38	0.345
	9	0.38	0.095
	12	0.00	0.00

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury Bill auctioned during the quarter for which this notice applies (6.28 percent for the quarter ending June 30, 1986);

(b) *Step 2.*

Subtract from that average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder, and, in the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent; or

(2) Add 3.1 percent to the remainder, in case of loans subject to the reduction order pursuant to Pub. L. 99–177; and

(d) *Step 4.*

Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

Dated: August 14, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

[FR Doc. 86–18693 Filed 8–18–86; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Environmental Policy Act, Intent To Prepare an Environmental Impact Statement and To Conduct Public Scoping Meeting; Fernald, OH

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare an environmental impact statement (EIS) to assess the potential environmental impacts associated with the proposed renovation of the Feed Materials Production Center (FMPC) located near Fernald, Ohio, and with proposed remedial activities related to contamination from previous operations of the facility.

SUMMARY: DOE announces its intent to prepare an EIS in accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA), as amended, to assess the environmental implications of renovating the FMPC located near Fernald, Ohio, and of remedial actions for contamination from previous operations of the facility. The FMPC is owned by the DOE and is currently operated by Westinghouse Materials Company of Ohio.

DOE and the Environmental Protection Agency have negotiated and signed a compliance agreement to address environmental protection activities at the FMPC pursuant to the Clean Air Act and the Resource Conservation and Recovery Act (RCRA)

and to address remedial actions to be undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

The purpose of the proposed renovation is to ensure the continued production of uranium metal products to meet the goals of the nation's defense program while enhancing the environmental, safety and health (ES&H) conditions. The proposed renovation will consist of modification of existing facilities and the construction and operation of new and replacement facilities/systems to: (1) Improve ES&H conditions and facility reliability; (2) restore production capacity; and (3) manage waste materials. The management of low-level radioactive waste from operations, and the processing, offsite shipment, and disposal of currently stored and newly generated low-level radioactive wastes from operations were previoulsy addressed under NEPA in an environmental assessment (EA) (DOE/EA-0260). A finding of no significant impact was issued on June 10, 1985. The activities covered by that EA will not be evaluated in the scope of this EIS; however, the environmental impacts of those activities will be added to the cumulative environmental impacts of the renovation and remedial action projects. In view of the need to produce feed materials for the national defense programs and the commitment to enhance ES&H conditions, DOE is implementing some of the renovation activities on a priority basis provided the project does not have an adverse environmental impact and does not limit the choice of reasonable alternatives. Preparation of the EIS is intended to ensure that the cumulative environmental impacts of the renovation projects are appropriately addressed in the implementation of the overall renovation program.

In regard to remedial action projects, DOE anticipates that the environmental impact of the remedial actions at the FMPC covered in a site-wide Remedial Investigation/Feasibility Study (RI/FS), prepared pursuant to CERCLA and in accordance with the procedural requirements of the National Contingency Plan (40 CFR Part 300), will also be analyzed in this EIS. The purpose for the inclusion of the remedial actions in this EIS is to ensure that an integrated systems approach has been evaluated. The RI/FS procedure itself involves the evaluation of alternative actions, and a public notice and comment period with a public hearing to discuss the final RI/FS reports.

The DOE invites interested agencies, organizations and the public to submit comments or suggestions for consideration in connection with the scope of the EIS. Additionally, interested agencies, organizations and the general public are also invited to attend a public scoping meeting to be held in Crosby School, Hamilton County on September 3, 1986. Upon completion of the draft EIS, notice of its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments received on the draft EIS will be considered in preparing the final EIS.

ADDRESSES: Written comments or suggestions on the scope of the draft EIS and requests to speak at the scoping meeting may be submitted to Mr. James A. Reafsnyder, Site Manager, U.S. Department of Energy, P.O. Box 398705, Cincinnati, Ohio 45239, Attention: FMPC–EIS.

General information on the DOE NEPA process may be obtained from Dr. Robert J. Stern, Office of Environmental Guidance, EH–23, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue S.W., Washington, D.C. 20585, (202) 252–4600.

DATES: Written comments postmarked by September 22, 1986, will be considered in the preparation of the draft EIS. A scoping meeting will he held at Crosby School, Hamilton County on September 3, 1986. Requests to speak at this meeting should be received by Mr. James A. Reafsnyder on later than August 29, 1986.

SUPPLEMENTARY INFORMATION

Background Information

The Feed Materials Production Center (FMPC) is a DOE-owned manufacturing facility for the production of uranium metal used in U.S. Defense Programs. The FMPC is located on a 1,050 acre site in a rural area about 20 miles northwest of downtown Cincinnati, Ohio. Most of the site, including all of the production and waste management activities, is located within Hamilton County, Ohio, with the exception of about 200 acres located in southern Butler County. The production facilities occupy approximately 136 acres in roughly the center of the site. The villages of Fernald, New Baltimore, Ross, Hamilton and Shandon are all located within a few miles of the plant. Hamilton, Ohio, is located approximately 10 miles to the northwest. The Great Miami River is about ¾ miles east of the site, and Paddy's Run Creek runs through the western edge of the site. The predominant aquifer under the plant generally flows southeasterly towards the Great Miami River. The topography of the site is relatively level, in that most of the production area is located on an elevated plain at about 600 feet above sea level.

On January 1, 1986, Westinghouse Materials Company of Ohio (WMCO) became the FMPC operating contractor; prior to this date NLO, Inc., operated the facility. A wide variety of chemical and metallurgical process steps are used at the FMPC to convert uranium hexafluoride and recycle materials to machined uranium ingots for fabrication of uranium billets and target element cores.

Large-scale chemical operations at the FMPC presently consist of dissolving recycle materials in nitric acid to produce a uranyl nitrate (UNH) feed solution for solvent extraction purification. Purified UNH solution is concentrated by evaporation and then thermally denitrated to uranium trioxide (UO_3). UO_3 is converted to uranium tetrafluoride (UF_4) for reduction to metal at the FMPC. Scrap materials generated in FMPC operations and those received from off-site are upgraded to chemcial processing requirements by either furnacing or wet chemical-hydrometallurgical processing.

Metal processing steps begin with the conversion to UF_4 to elemental uranium (derby metal) by reducing UF_4 with magnesium metal. Metallic scrap and briquettes, recycled from subsequent fabrication operations, are combined with derby metal and melted in a graphite crucible. At the proper temperature, the melt is bottom poured to a preheated graphite mold to form ingots, varying in weight, size, and shape according to their ultimate use. Cast ingots are machined and sent to the RMI Company Extrusion Plant in Ashtabula, Ohio, for extrusion into uranium billets that are shipped to Richland, Washington, and into target element cores that are returned to the FMPC for final processing prior to shipment to the Savannah River Plant in South Carolina. Other uranium metal products are shipped directly from the FMPC to Oak Ridge, Tennessee, and Rocky Flats, Colorado. The FMPC receives recycle and other materials from a variety of other DOE sites.

Past waste management practices at the FMPC have involved the temporary storage of low-level radioactive wastes in surface impoundments and in concrete silos. These impoundments and silos, as they currently exist, cannot be considered permanent disposal facilities because of their design, the nature of the waste contained, and their location.

Low-level radioactive waste solids and slurries having concentrations too low to permit economic recovery of uranium or thorium were placed in six storage pits as either dry or wet waste. Of these six waste pits, three are covered with a soil overburden while three remain open to receive surface runoff. All waste from current production operations is packaged and stored for subsequent treatment and disposal.

Concrete silos were also used in early operations for storing tailings from processing of refinery extraction raffinate. Concrete silos 1 and 2 are surrounded by an earthen embankment and contain radium bearing residues. Silo 3 contains dry calcined residues from refinery processing of ore concentrates; Silo 4 is empty and has never been used.

Some liquid wastes are generated in operations at the FMPC. The three types of liquid waste streams are: process waste water, sanitary wastewater and stormwater. New water pollution control facilities are scheduled for demonstration operation in 1986 and 1987. The principal new facility is the biodenitrification system for process waste waters to reduce nitrates to acceptable levels prior to discharge to the Great Miami River. Other facilities provide for containing the coal pile runoff water; segregation of non-radioactive sludges; and conversion of the sewage treatment plant from chlorination to ultraviolet disinfection. New containment settling basins will allow excess stormwater to be held and cycled to treatment facilities, as necessary.

Most production plants within the FMPC have sump equipment for the collection and initial treatment of process waste water. Greater than 99 percent of the contained uranium is removed in these facilities. Effluents from the plant sumps are collected at the general sump for neutralization with lime followed by sedimentation. After sedimentation, the treated wastes are pumped to Plant 8 for interim processing. Filtrate is returned to the general sump and discharged to the Great Miami River with other clarified effluents in compliance with established discharge standards.

Sanitary waste water sometimes contains trace amounts of uranium derived from the plant laundry and showers. Treatment of the sewage in the Sewage Treatment Plant removes much of the uranium. The removed uranium is captured in the sewage sludge.

The stormwater system was designed to be uranium-free. Some uranium may enter the system through accidental spills and rainwater washing off storage pad areas. Control and recovery of any accidental uranium washed or spilled into the system is achieved through diversion facilities. Water can be diverted to the general sump for storage and treatment by closing the gate valve.

The system remains on recycle until the source has been determined and corrective action taken. The system is returned to routine operation when sampling indicates the absence of uranium.

Airborne releases from uranium metal production consist primarily of uranium dust and chemical fumes (e.g., nitric acid fumes) or reaction products. Other sources of air emissions are the steam plant and the solid waste incenerator, both of which emit gaseous and particulate materials.

Historic fluctuations in the need for feed materials have affected maintenance and capital improvements at FMPC. FMPC production peaked in 1960, and began to decline in 1964. During the 1970's, consideration was given to closing the FMPC. In 1981, it became apparent that feed materials requirements would increase; consequently, planning began for renovation that would enable FMPC to meet the projected programmatic demands through the remainder of this century in a manner that would enhance environmental, health and safety conditions. Renovation planning for the FMPC started in 1982, and the design activities began in 1983. Design efforts and implementation of these activities are continuing.

The proposed renovation projects at the FMPC will consist of modification of existing facilities and the construction and operation of new and replacement facilities/systems to (1) improve ES&H conditions and facility reliability; (2) restore production capacity, and (3) manage waste materials. These projects will assure the safe, reliable and environmentally acceptable operation of FMPC for the production of uranium feed materials for the nation's nuclear defense program.

Projects for enhancing ES&H conditions address worker protection, reduction of air emissions, air monitoring improvements, and reduction of liquid discharges. Worker protection projects include increased ventilation, containment systems, and systems for removing stored low-level radioactive materials for work and storage areas. Projects for reducing air emissions include installation of dust collectors and equipment for the destruction of nitrogen oxides. Air monitoring projects include stack emissions monitoring, isokinetic stack sampling, and the installation of stack alarms. Near-term projects for reduction of liquid discharges include a nitrate reduction facility, a storm water collection system, and systems for the treatment of radioactive liquid waste streams.

Ensuring continued uranium production will involve restoring throughput capacity in most production systems to previously installed levels. Projects include restoration of the UF_6 to UF_4 conversion capacity and general equipment modernization.

Waste management projects are concerned with waste handling facilities and systems to reduce the volume of FMPC wastes. Projects include a volume reduction facility, ferrous scrap metal management, and improved waste segregation capabilities. Activities addressed in DOE/EA-0260 that were mentioned in the Summary to this Notice are not included in the scope of this EIS but will be included in the cumulative environmental impact analyses.

Remedial action projects are concerned with contamination from previous operations and the associated disposal of recovered wastes. As mentioned before, large quantities of radioactive and/or potentially hazardous wastes have been stored in pits and silos at the facility. Projects will involve determining the appropriate level of decontamination and decommissioning of these areas and disposal of the recovered waste materials. The ultimate treatment and disposal of the wastes which have been placed in these pits and silos, as well as the management of general site contamination will also be the subject of the Remedial Investigation/Feasibility Study referred to in the Summary of this Notice.

Preliminary Identification of Environmental Issues and Alternatives

The following issues have been identified for analysis in the EIS. This list is presented to facilitate public comments on the scope of the EIS and is not intended to be all inclusive, nor is it intended to be a predetermination of impacts. The major environmental impacts are expected to result from the handling of contaminated construction wastes and the disposal of newly generated wastes. Issues identified to date are described as follows:

1. Disposal of contaminated construction rubble and atmospheric releases from construction activities.

2. Interim storage and permanent disposal of defined hazardous waste and mixed wastes currently stored

onsite or generated from future operations.

3. Atmospheric emissions, fugitive dust and noise from construction vehicles and equipment.

4. Potential occupational and public exposure to radioactive and defined hazardous substances during disposal action implementation.

5. Potential occupational and public exposure to radioactive and defined hazardous substances from residual materials after disposal actions have been implemented.

6. Atmospheric, liquid and solid waste discharges from the FMPC after renovation has been completed.

7. Enhanced characterization of existing air, surface and groundwater environmental releases at the FMPC.

8. Environmental improvements from implementing ES&H and remedial action projects.

9. Improved worker protection from better equipment, improved operating procedures, modern instrumentation, and more reliable ES&H control systems.

The following alternatives have been identified for analysis in the EIS. As in the case of the environmental issues identified, this list is presented to facilitate public comments on the scope of the EIS and is not intended to be all inclusive.

1. Reasonable alternative renovation and remedial action activities.

2. No action, which would preclude the renovation of facilities to re-establish production capabilities, would limit the enhancement of ES&H systems, and would maintain current waste management practices including the retention of accumulated wastes on site. The analysis of this alternative is required by Council on Environmental Quality NEPA regulations.

In view of the need to produce feed materials for the national defense programs and the commitment to enhance ES&H conditions, DOE is implementing some of the renovation and remedial action activities on a priority basis provided the project does not have an adverse environmental impact and does not limit the choice of reasonable alternatives. Preparation of the EIS is intended to ensure that the cumulative environmental impacts of the renovation and remedial action projects are appropriately addressed in the implementation of the overall renovation and remedial action program. Therefore, it is anticipated that the scope of the EIS will cover those individual projects only to the extent to which they contribute to the cumulative impacts.

DOE and the Environmental Protection Agency have negotiated and signed a compliance agreement to address environmental protection activities at the FMPC pursuant to the Clean Air Act and the Resource Conservation and Recovery Act (RCRA) and to address remedial actions to be undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

DOE anticipates that the environmental impacts of the remedial actions covered in an RI/FS, prepared pursuant to the compliance agreement and CERCLA and in accordance with the procedural requirements of the National Contingency Plan (40 CFR Part 300), will also be analyzed in this EIS. The scope of the EIS will include an analysis of the environmental impacts of the remedial actions to ensure that an integrated systems approach has been evaluated and that cumulative effects have been considered.

Comments received in the scoping process will be considered in the preparation of the draft EIS. The draft EIS will be made available to state and Federal agencies and the public for review and comment. Completion of the draft EIS is expected to take approximately two years from the issuance of this notice of intent.

Comments and Scoping Meeting

All interested parties are invited to submit written comments or suggestions concerning the scope of the issues that should be addressed in the draft EIS and to attend the scoping meeting in which oral comments and suggestions will be received. Those desiring to submit written comments or suggestions should submit them to James A. Reafsnyder at the address listed above no later than September 22, 1986. Those wishing to participate in the scoping process may also attend public scoping meeting to be held at Crosby School, Hamilton County on September 3, 1986. The meeting will begin at 7:30 p.m. Written and oral comments will be given equal consideration.

DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To provide DOE with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. Those individuals desiring to make oral comments should mail their requests to Mr. James A. Reafsnyder at the address listed above.

DOE reserves the right to arrange the times and schedules of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE in writing of their desire to speak by August 29, 1986. DOE will, in turn, notify prospective speakers before the meeting of the times and schedules for presentations. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Also persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments if time permits. Depending on the number of speakers, DOE reserves the right to place time limits on the speakers.

2. If any speaker desires to provide further information for the record subsequent to the meeting, it must be submitted in writing by September 22, 1986, Mr. James A. Reafsnyder at the address listed above.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should notify James A. Reafsnyder at the address listed above.

When the draft EIS is complete, its availability will be announced in the **Federal Register** and in local news media, and comments will again be solicited.

A transcript of the meeting will be taken, retained by DOE, and made available for inspection. The transcript will be located for review in the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue S.W., Washington, DC. 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday. Other locations where transcript will be available are:

- Department of Energy, Oak Ridge Operations Office, Public Document Room, 100 Administration Road, Oak Ridge, Tennessee 37831;
- Public Library of Cincinnati and Hamilton County;

—Main Library, 800 Vine St., Cincinnati, Ohio;
—Chevlot Branch Library, 3711 Robb Ave., Cincinnati, Ohio;
—Harrison Branch Library, 300 George St, Harrison, Ohio;
—Mt. Healthy Branch Library, 7608 Hamilton Ave., Cincinnati, Ohio; and

• U.S. Environmental Protection Agency, Region V, Public Reading Room, 230 South Dearborn Street, Chicago, Illinois 60604.

Dated at Washington, DC, this 15th day of August, for the United States Department of Energy.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 86-18786 Filed 8-18-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-41-NG]

Natural Gas Imports/Exports; Tricentrol United States, Inc.; Tricentrol Petroleum Marketing, Inc., Application To Export and Import Natural Gas

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application for Blanket Authorization to Export and Import Natural Gas for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 14, 1986, of an application from Tricentrol United States, Inc. (TUSI) and Tricentrol Petroleum Marketing, Inc. (TPMI), (hereinafter referred to collectively as applicants) for blanket authorization to export domestic natural gas to Canada and to import, in exchange, an equivalent volume of natural gas from Canada for sale to customers in the United States.

Applicants request authorization to export up to 60 MMcf per day of natural gas produced in Montana's Bearpaw field and to import an equivalent volume of Canadian gas over a term extending through October 31, 1992, for either their own accounts or for the accounts of others for ultimate sale to customers in the United States. The applicants state that they intend to use the existing facilities of an affiliate pipeline to transport the gas to an export point near Willow Creek, Montana, on the international border with the Province of Saskatchewan for sale and delivery to Consolidated Natural Gas Limited (Consolidated) or a Canadian affiliate of TUSI and TPMI. The applicants or their purchaser clients will repurchase natural gas from Consolidated or applicant's Canadian affiliate at the point of entry near Emerson, Manitoba, on the international border between Minnesota and the Province of Manitoba in volumes equivalent to those sold at the Willow Creek export point.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 024-111. Protests, motions to intervene, notices of intervention, and written comments are invited. DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than September 18, 1986.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-8162.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW. Washington, DC 20585 (202) 252-6667.

SUPPLEMENTARY INFORMATION: TUSI, a Montana corporation, is a major producer and supplier in the Bearpaw field located in Montana. TPMI, a Delaware corporation, is a national marketer of natural gas that it purchases from various domestic and Canadian sources. Each has its principal place of business in Houston, Texas.

The applicants request that the application be considered on an expedited basis in order to permit U.S. producers in Montana to bring competitively priced natural gas to market for the benefit of U.S. consumers. An ERA decision on the applicant's request, particularly with respect to whether additional written comments or other procedures will be necessary in this case, will not be made until responses to this notice have been received.

The decision on the application to import natural gas will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicants assert that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

The decision on the application to export natural gas will be made consistent with the Secretary of Energy's Delegation Order to the ERA Administrator (49 FR 6690, February 22, 1984), under which the domestic need for the gas to be exported is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of the domestic need for the gas as set forth in the Delegation Order with the knowledge that the applicants intend to import equivalent volumes of any authorized exports.

Public Comment Procedures

In response to the notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. They must be filed no later than 4:30 p.m., September 18, 1986

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there

are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of the application filed by TUSI and TPMI is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-18656 Filed 8-18-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-563-002 et al.]

Arkansas Power and Light Co. et al.; Electric Rate and Corporate Regulation Filings

August 13, 1986.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power and Light Company

[Docket No. ER85-563-002]

Take notice that on August 1, 1986, Arkansas Power and Light Company (the Company) tendered for filing updated Rate Schedules M33 and M33A for the period beginning September 1, 1986.

The Company states that Rates Schedules M33 and M33A require the filing of annual updates to reflect the true-up to actual costs for the preceding year and also to reflect estimated charges for the period beginning September 1 of the current year.

Copies of this filing have been sent to the wholesale customers affected by the filing and the Public Service Commissions of Arkansas, Louisiana, Missouri and Tennessee.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Power and Light Company

[Docket No. ER86-636-000]

Take notice that on August 4, 1986, Central Power and Light Company ("CPL") tendered for filing an Agreement for Firm Transmission Service between CPL and South Texas Electric Cooperative ("STEC"), dated April 28, 1986. The Agreement provided for CPL to furnish firm transmission service to STEC for 60,000 kilowatts of power and associated energy from Brazos Electric Power Cooperative and for 40,000 kilowatts of power and associated energy from the Lower Colorado River Authority during the period March 23, 1985, to and through May 4, 1985. Because the Agreement terminated by its own terms and no new rate schedules or parts thereof were or are to be filed in place of the Agreement, CPL also tendered a Notice of Cancellation of the Agreement.

CPL requests an effective date of March 23, 1985, for the Agreement and an effective date of May 5, 1985, for the Notice of Cancellation and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to the Public Utility Commission of Texas and South Texas Electric Cooperative.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. The Connecticut Light and Power Company, et al.

[Docket No. ER86-635-000]

Take Notice that on August 4, 1986, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusestts Electric Company (WMECO, and together with CL&P, the NU Companies) and Atlantic City Electric Company (Atlantic). The Agreement, dated as of May 1, 1986 provides for the bilateral sale by the NU Companies or Atlantic of energy from their systems ("system energy") that may be available on a daily or weekly basis (a "transaction"). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies or Atlantic would offer to sell such system energy to the other only when it was economical to do so. The buyer would only accept such offer if it was economical to do so.

The buyer will pay an energy reservation charge to the seller for each transaction in an amount equal to the megawatthours of system energy reserved for the buyer by the seller during a transaction multiplied by an energy reservation charge rate negotiated prior to each transaction. The buyer will pay an energy charge for each transaction in an amount equal to the megawatthours delivered by the seller during such transaction times an energy charge rate. The energy charge rate is the weighted average forecasted energy charge rate for the generating unit(s) which the seller determines to be available to provide such energy at the time of a transaction.

CL&P requests that the Commission waive its customary notice period and allow the Agreement to become effective on August 1, 1986.

WMECO and Atlantic have each filed a Certificate of Concurrence in this docket.

The Agreement has been executed by CL&P, WMECO and by Atlantic and copies have been mailed or delivered to each of them.

CL&P states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER86-634-000]

Take notice that on August 4, 1986, Public Service Company of New Mexico (PNM) submitted for filing Economy Energy Contract between PNM and Pacific Gas and Electric (PG and E) dated May 12, 1983, and Amendment No. 1 dated December 27, 1985. The Contract, as amended, permits the seller to offer economy energy at rates which permit the price to reflect the current market price of such energy or the seller's actual costs to generate such energy. PNM also submitted for filing information concerning PNM's fully allocated costs to provide economy energy service under this amended Contract.

Copies of the filing have been served upon PG and E and the New Mexico Public Service Commission.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. The Kansas Power and Light Company

[Docket No. ER86-632-000]

Take notice that on August 4, 1986, The Kansas Power and Light Company (KPL) tendered for filing a contract dated May 29, 1985, with the City of Girard, Kansas (City) for wholesale service to that Community. KPL states that this contract permits the City of Girard to receive service under rate schedule WSM-12/83. The effective

date of this service shall be January 31, 1987, in accordance with the agreement between the City and Kansas Gas and Electric, provided that on that date all necessary regulatory approvals have been granted and the Transmission Agreement between the City and Kansas Gas and Electric has become effective. In addition, KPL states that copies of the contract have been mailed to the City of Girard and the State Corporation Commission

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Louisiana Power and Light Company

[Docket No. ER86-626-000]

Take notice that on July 31, 1986, Louisiana Power and Light Company (LP&L) tendered for filing proposed changes in its FERC Electric Service Tariff No. 75, with the Town of Vidalia, Louisiana (Town). The proposed Phase II Rates would result in an increase in revenues to LP&L from sales to Town of $2,330,309 per year.

The proposed increase is necessary to compensate LP&L for cost increases which it has incurred since rates for the Town were previously established. The cost increases have resulted principally from the completion of LP&L' Waterford 3 generating unit, an 1104 MW nuclear-fueled generating unit which began commercial operation in September 1985, and the purchase by LP&L of 14% of the capacity and energy from Unit 1 of the Grand Gulf Nuclear Electric Station, which began commercial operation in July 1985.

LP&L stated that a copy of this filing was mailed to the Town of Vidalia, Louisiana, and the Louisiana Public Service Commission.

Comment date: August 26, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. The Montana Power Company

[Docket No. ER86-637-000]

Take notice that on August 5, the Montana Power Company ("Montana"), tendered for filing a revised Appendix I as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement ("Agreement") between Montana and the Bonneville Power Administration ("BPA").

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests that the rate, subject to possible retroactive adjustments based on the Commission's review, have an effective date of November 25, 1985 and, therefore, requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Comment date: August 26, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER86-633-000]

Take notice that, on August 4, 1986, Southern California Edison Company ("Edison") tendered for filing, an Amendment to the Power Contract designated Rate Schedule FERC No. 112, which has been executed by Edison and the California Department of Water Resources ("CDWR"):

Amendment No. 1 to the Power Contract

The Amendment provides for revised amounts of firm transmission service for existing transmission and adds an additional firm transmission service path.

The Amendment is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the California Department of Water Resources.

Comment date: August 26, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18632 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-639-000 et al.]

Arkansas Power and Light Co. et al.; Electric Rate and Corporate Regulation Filings

August 14, 1986.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power and Light Company

[Docket No. ER86-639-000]

Take notice that on August 6, 1986, Arkansas Power & Light Company (AP&L) tendered for filing a proposed Agreement for purchase of electric service by Farmers Electric Cooperative Corporation (FECC) from AP&L.

The proposed Agreement, signed by AP&L and FECC, covers sales of power and energy by AP&L to FECC for the period from September 1, 1985 to August 31, 1995. Accordingly, AP&L has requested waiver of the Commission's notice requirements as well as waiver of various cost support filing requirements.

Comment date: August 27, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER86-405-000, Docket No. ER86-468-000, Docket No. ER86-517-000]

Take notice that on August 1, 1986, Boston Edison Company (Boston Edison) of Boston, Massachusetts, submitted for filing its response to the Commission's letter orders of June 12, 1986 in Docket No. ER86-468-000 and of July 9, 1986 in Docket Nos. ER86-405-000 and ER86-517-000. Boston Edison states that the purpose of its submittal is to provide information and data to cure deficiencies in its rate filings in these dockets which concern four substation agreements pursuant to which Cambridge Electric Light Company provides financial support for certain Boston Edison substations. Boston Edison has also submitted a July 9, 1984 letter concerning billing procedures as a supplement to its FPC Rate Schedule No. 101 which is under review in Docket No. ER86-468-000.

Boton Edison states that it has served copies of its filing on the affected customer, Cambridge Electric Light Company; on the Town of Belmont, which takes service from Cambridge; and on the Massachusets Department of Public Utilities.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER86-641-000]

Take notice that on August 7, 1986, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing Supplements to its Rate Schedules FERC No. 60 and 66, agreements to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplements provide for an increase in the monthly transmission charge from $0.89 to $0.93 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory and Grumman Corporation, thus increasing annual revenues under the Supplements by a total of $18,648.96. Con Edison has requested waiver of notice requirements so that the increase can be made effective as of July 1, 1986.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: August 28, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Public Service Company

[Docket No. ER86-640-000]

Take notice that on August 7, 1986, Iowa Public Service Company tendered for filing an executed Firm Power Service Agreement dated May 29, 1986, whereby Iowa Public Service Company will supply Union Electric Company with firm electric power commencing June 1, 1986 and continuing through September 20, 1986.

Iowa Public Service Company requests that the Commission waive its prior notice requirements and accept the Service Agreement for filing with an effective date of May 25, 1986.

Comment date: August 28, 1986, in accordance with Standard Paragraph E at the end of this document.

5. The Kansas Power and Light Company

[Docket No. ER86-546-000]

Take notice that on August 1, 1986, The Kansas Power and Light Company (KPL) tendered for filing an amended application relating to proposed changes in its Federal Energy Regulatory Commission Electric Service Tariff No. 123. The proposed changes would increase revenues from jurisdictional sales and service by $363,516 based upon the 12 month period ending June, 1987.

Service Schedule L, dated May 7, 1986, provides for the scheduling, controlling, and coordinating of capacity resources by KPL for Midwest Energy, Inc. Copies of the amended application have been mailed to Midwest Energy, Inc. and the State Corporation Commission of Kansas.

Comment date: August 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18669 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

Availability of Environmental Assessment and Finding of No Significant Impact

August 15, 1986.

	Project No.
Matthew W. Foley & Elizabeth E. Rapalee	9691-000
Irvine Ranch Water District	9701-000
Central Maine Power Company	2302-003
Pennsylvania Hydroelectric Development Corporation	2803-001
City of Broken Bow	3555-001
RedArk Development Authority	8074-000
Metropolitan District	7048-001
Stewart Ranches, Inc.	7120-004
Larry Hensley	7930-000
Larry Hensley	7931-000
D.J. Pitman International Corporation	8955-000
Trans Mountain Construction Co.	9734-000
Vermont Marble Company	2558-006

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project Name	State	Water body	Nearest town or county	Applicant
Exemptions					
9691-000	Wadhams Hydro	NY	Boquet River	Westport	Matthew W. Foley & Elizabeth E. Rapalee.
9701-000	Sand Canyon	CA	Sand Canyon Conduit.	Irvine	Irvine Ranch Water District.
Licenses					
2302-003	Lewiston Falls	ME	Androscoggin River	Lewiston & Auburn	Central Maine Power Company.
2803-001	Flat Rock Dam	PA	Schuylkill River	Philadelphia & Lower Merion Township.	Pennsylvania Hydro-electric Development Corporation.
3555-001 & 8074-000.	Hugo Dam	OK	Kiamichi River	Hugo	City of Broken Bow RedArk Devel Authority.
7048-001	Upper and Lower Collinsville.	CT	Farmington River	Canton, Avon & Burlington	Metropolitan District.
7120-004	Kekawaka Creek	CA	Kekawaka Creek	Trinity & Humboldt Counties.	Stewart Ranches, Inc.
7930-000	Fry Creek	CA	Fry Creek	Kyburz	Larry Hensley.
7931-000	29-Mile Creek	CA	29-Mile Creek	Kyburz	Larry Hensely.
8955-000	Oakland Mills Dam	IA	Skunk River	Mount Pleasant	D.J. Pitman International Corporation.
9734-000	Keystone Hydro	CO	Keystone Creek	Dillon	Trans Mountain Construction Co.
Amendments					
2558-006	Proctor Beldens Huntington.	VT	Otter Creek	Proctor, New Haven, and Weybridge.	Vermont Marble Company.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825

North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18670 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9040-001]

Burlington Energy Development Associates; Surrender of Preliminary Permit

August 15, 1986.

Take notice that the Burlington Energy Development Associates, the permittee for the Gordon Dam Project No. 9040, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9040 was issued on August 8, 1985, and would have expired on July 31, 1988. The project would have been located on the Little River, in Worcester County, Massachusetts.

The permittee filed the request on July 28, 1986, and the preliminary permit for Project No. 9040 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18671 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-12-001]

Continental Energy; Stanley No. 1 Well (Haskell Co.); FERC No. JD81-01760; Petition for Reconsideration and Reopening of Final Well Determination

August 12, 1986.

On May 23, 1986, Continental Energy filed with the Federal Energy Regulatory Commission (Commission) a petition pursuant to section 503(d) of the Natural Gas Policy Act of 1978 (NGPA) [1] and § 275.205 of the Commission's regulations,[2] seeking reconsideration of the Commission's order issued in this docket November 7, 1983,[3] and seeking to reopen and reverse a final well determination described below.

On October 14, 1980, the Kansas Corporation Commission (Kansas) determined that gas produced from the captioned well did not qualify under section 103 of the NGPA.[4] Continental filed a protest with the Commission. The Commission took no action on the protest or Kansas' determination, and the determination became final on November 28, 1980, pursuant to § 275.202(a) of the Commission's regulations.[5] On May 24, 1982, Continental requested that the Commission reopen and remand the negative final determination to Kansas for reconsideration in the light of the holding in *L&B Oil Co. Inc.* v. *F.E.R.C.*[6] This request was denied by the Commission's above-mentioned order issued November 7, 1983.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rule 214 [7] or 211 [8] of the Commission's Rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 15 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18634 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9265-001]

Fairview Associates; Surrender of Preliminary Permit

August 15, 1986.

Take notice that Fairview Associates, permittee for the proposed Cottonwood Creek Project No. 9265, has requested that its preliminary permit be terminated. The preliminary permit was issued on November 25, 1985, and would have expired on October 31, 1988. The project would have been located on Cottonwood Creek in Sanpete County, Utah. The permittee states that a preliminary study found that the project would not be economically feasible to develop at this time.

The permittee filed the request on August 1, 1986, and the preliminary permit for Project No. 9265 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18672 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-24-000]

Mississippi River Transmission Corp.; Petition for Exemption and Interim Relief

August 15, 1986.

On July 28, 1986, Mississippi River Transmission Corporation (MRT) filed a petition [1] pursuant to section 206(d) of the Natural Gas Policy Act of 1978 [2] and § 282.206(b) of the Federal Energy Regulatory Commission's regulations,[3] for exemption from the Commission's incremental pricing regulations under Title II of the NGPA.[4] MRT requests interim and permanent exemption from the imposition of incremental pricing surcharges on rates for direct gas sales to seven nonexempt industrial customers on its system.[5] It requests this relief so that it may, by eliminating incremental pricing surcharges, make its rates to these seven industrial customers market-competitive.

In support of its request for relief, MRT states that during the last several years, competition between natural gas and alternate fuels in its service area has contributed in part to a 65 percent decline in throughput of gas in its system. MRT asserts that its ability to

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[1] 15 U.S.C. 3413(d) (1982).

[2] 18 CFR 275.205 (1985).

[3] 25 FERC ¶61,200.

[4] 15 U.S.C. 3313 (1982).

[5] 18 CFR 275.202(a) (1985).

[6] 665 F.2d 758 (5th Cir. 1982).

[7] 18 CFR 385.214 (1985).

[8] 18 CFR 385.211 (1985).

[1] Although the petition was received by the Commission on June 20, 1986, the required filing fee was not received until July 28, 1986. Accordingly, the date of filing is July 28, 1986. *See* 18 CFR 381.103(b)(2)(iii) (1985).

[2] 15 U.S.C. 3346(d) (1982).

[3] 18 CFR 282.206(b) (1985).

[4] 15 U.S.C. 3341-3348 (1982).

[5] These seven direct industrial boiler fuel customers are: Allied Chemical Corporation, American Steel Foundries, Granite City Steel Division of Natural Steel Corporation, Laclede Steel Company, Olin Corporation, PPG Industries, and Shell Oil Company.

compete with alternative fuels is jeopardized by incremental pricing coupled with the fact that during the last several months prices for all grades of petroleum products have been falling drastically and frequently. It states that, in the absence of relief, the resulting price uncertainty and the potential charge of an incremental surcharge to industrial customers will create a substantial likehood that such customers will switch from natural gas to available alternate fuels, *e.g.*, fuel oil, refinery by-products, propane, coal, or purchased steam, or that they will reduce or cease operations. In this connection, MRT notes that all the seven customers for which it seeks exemption have alternate fuel capability and make their energy purchasing decisions on the basis of the least costly available fuel supply. MRT asserts that any reduction of its sales subject to incremental pricing would (1) shift to high priority customers fixed costs currently being recovered through industrial sales, (2) increase the average price of gas to MRT's remaining customers, and (3) increase MRT's exposure to take-or-pay penalties and additional load losses.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.[6] Any person desiring to participate in this proceeding must file a motion to intervene under Subpart K within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-18674 Filed 8-18-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST81-105-003, et al.]

Producer's Gas Co., et al.; Extension Reports

August 14, 1986.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and addresses of each company selling pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension reports should on or before August 25, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

EXTENSION LIST

[July 1-8, 1986]

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date **
ST81-105-003	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	El Paso Natural Gas Co	06-25-86	D	10-24-86	
* ST84-898-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Mississippi River Transmission Co	06-25-86	D	04-13-86	09-23-86
ST85-354-001	SNG Intrastate Pipeline Inc., P.O. Box 2563, Birmingham, AL 35202.	Southern Natural Gas Co	07-01-86	D	10-04-86	

* This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
** The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 86-18675 Filed 8-18-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP86-650-000, et al.]

Southwest Gas Corp., et al.; Natural Gas Certificate Filings

August 13, 1986.

Take notice that the following filings have been made with the Commission:

1. Southwest Gas Corporation

[Docket No. CP86-650-000]

Take notice that on August 4, 1986, Southwest Gas Corporation (Southwest), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP86-650-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to construct and operate a sales tap and appurtenant facilities under the certificate issued in Docket No. CP84-739-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southwest states that under the authorization issued in Docket No. CP84-739-000, Southwest was permitted to use the prior notice procedure of § 157.205 of the Commission's Regulations in connection with requests for authority to install and operate sales taps on its northern Nevada jurisdictional system to serve retail customers which are not being served by Southwest at any other location. Pursuant to such authorization Southwest proposes to establish a sales tap to be located in Douglas County, Nevada. Southwest states that the tap would be used to provide up to 0.8 Mcf of natural gas per day for use by a residential customer to meet Priority 1 requirements. Southwest estimates that the cost of the tap would be $2,170, which cost would be reimbursed to Southwest by the residential customer.

Southwest states that service to the residential customer would be rendered under the regulatory authority of the Public Service Commission of Nevada (PSCN) and in accordance with Southwest's rate schedules on file with

[6] 18 CFR 385.1101-.1117 (1985).

[1] Notice of these extension reports does not constitute a determination that a continuation of service will be approved.

the PSCN. Southwest further states that it has sufficient capacity available to provide for the proposed deliveries without any detriment or disadvantage to any of its existing customers, and that the relatively small volumes anticipated to be delivered would not affect Southwest's ability to serve its existing customers.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP86-656-000]

Take notice that on August 7, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 filed in Docket No. CP86-656-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a 2-inch sales tap to replace a 1-inch sales tap on United's 6-inch Canton line in Newton County, Mississippi, under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to replace the sales tap, which serves Entex, Inc. (Entex), an existing distribution customer of United, for the resale of natural gas to residential customers in Entex's Newton, Mississippi, service area, in order to accommodate increased demand on Entex's system. It is stated that the proposed tap would permit the delivery to Entex of 350 Mcf of gas on an average day and 650 Mcf of gas on a peak day. It is further stated that deliveries at the proposed tap would be within Entex's maximum daily entitlement for the Newton, Mississippi, service area. It is explained that United is authorized to make deliveries to Entex in Docket No. CP83-200-000 and that United makes such deliveries pursuant to its Rate Schedule DG-N.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP86-657-000]

Take notice that on August 7, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86-657-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to replace a two inch sales tap to deliver to Mississippi Valley Gas Company (Mississippi Valley) gas for resale in the Jackson, Hinds County, Mississippi, area, under United's blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United indicates that the proposes sales tap would enable it to sell and deliver to Mississippi Valley, the local distributor, an estimated daily average of 650 Mcf of gas or up to 1,050 Mcf of gas per peak day for resale to an industrial customer, the Southwest Asphalt Company, in the Jackson, Hinds County, Mississippi, area. United would make the sale to Mississippi Valley under its Rate Schedule DG-N pursuant to an effective service agreement dated February 7, 1980. United states the proposed sale, which will increase Mississippi Valley's Maximum Daily Quantity (MDQ) to a total quantity of 123,629 Mcf of gas per day, reflects the overall growth of the economy in the Jackson area. United alleges that it has sufficient pipeline capacity and gas supply to render the proposed service with no detrimental effect on its existing customers.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18633 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP74-41-039 et al.]

Texas Eastern Transmission Corp. et al.; Filing of Pipeline Refund Reports

August 13, 1986.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before August 22, 1986. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No
7-3-86	Texas Eastern Transmission Corp.	RP74-41-039
7-3-86	MIGC, Inc.	RP84-15-009
7-21-86	Eastern Shore Natural Gas Co	CP85-89-004
7-21-86	Eastern Shore Natural Gas Co	RP72-134-033
7-29-86	Algonquin Gas Transmission Co.	RP72-110-041

[FR Doc. 86-18635 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST86-1637-000 et al.]

United Texas Transmission Co. et al.; Self-Implementing Transactions

August 14, 1986.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Subpart F of Part 157 and Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to §284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate in sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff

[1] Notice of transactions does not constitute a determination that service will continue in accordance with Order No. 436, Final Rule and Notice Requesting Supplemental Comments, 50 FR 42372 (Oct. 18, 1985).

action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(EU)" indicates transportation by an interstate pipeline company on behalf of an end-user pursuant to a blanket certificate issued under § 284.223 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution comapny pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "C/F(157)" indicates intrastate pipeline transportation which is incidental to a transportation pipeline to an end-user pursuant to a blanket certificate under 18 CFR 157.209. Similarly, a "G/F(157)" indicates such transportation performed by a Hinshaw Pipeline or distributor.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before August 25, 1986, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST86-1637	United Texas Transmission Co	Texas Eastern Transmission Corp	06-02-86	C		
ST86-1638	United Gas Pipe Line Co	City of Pensacola	06-02-86	B		
ST86-1639	do	Gulf Coast Energy, Inc	06-02-86	B		
ST86-1640	do	Consumers Power Co	06-02-86	B		
ST86-1641	United Texas Transmission Co	Texas Eastern Transmission Corp	06-02-86	C		
ST86-1642	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	06-02-86	C		
ST86-1643	do	do	06-02-86	C		
ST86-1644	ONG Transmission Co	Panhandle Eastern Pipe Line Co	06-02-86	C	10-30-86	10.00
ST86-1645	Mountain Fuel Resources, Inc	Coors Energy Co	06-03-86	B		
ST86-1646	do	Cascade Natural Gas Corp., et al	06-03-86	B		
ST86-1647	Acadian Gas Pipeline System	ANR Pipeline Co	06-04-86	C		
ST86-1648	Delhi Gas Pipeline Corp	Cincinnati Gas and Electric Co	06-05-86	C		
ST86-1649	do	Texas Eastern Transmission Corp	06-05-86	C		
ST86-1650	Michigan Gas Storage Co	Consumers Power Co	06-05-86	B		
ST86-1651	do	do	06-05-86	B		
ST86-1652	do	do	06-05-86	B		
ST86-1653	Consolidated Gas Transmission Corp	Hope Gas, Inc	06-05-86	B		
ST86-1654	do	Elizabethtown Gas Co., et al	06-05-86	B		
ST86-1655	United Texas Transmission Co	Texas Eastern Transmission Corp	06-05-86	C		
ST86-1656	Michigan Gas Storage Co	Consumers Power Co	06-05-86	B		
ST86-1657	ANR Pipeline Co	Wisconsin Fuel and Light Co	06-05-86	B		
ST86-1658	do	Michigan Consolidated Gas Co	06-05-86	B		
ST86-1659	do	Bridgeline Gas Distribution Co	06-05-86	B		
ST86-1660	do	Wisconsin Public Service Co	06-05-86	B		
ST86-1661	do	Michigan Consolidated Gas Co	06-05-86	B		
ST86-1662	United Texas Transmission Co	Texas Eastern Transmission Corp	06-05-86	C		
ST86-1663	ANR Pipeline Co	Wisconsin Natural Gas Co	06-05-86	B		
ST86-1664	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	06-06-86	B		
ST86-1665	do	Great River Gas Co	06-06-86	B		
ST86-1666	do	City of Monroe	06-06-86	B		
ST86-1667	Transok, Inc	Citizens Gas and Coke Utility	06-06-86	C	11-03-86	26.25
ST86-1668	Panhandle Eastern Pipe Line Co	Cimarron River-Quinque System	06-06-86	B		
ST86-1669	Texas Eastern Transmission Corp	Terre Haute Gas Corp	06-06-86	B		
ST86-1670	Columbia Gulf Transmission Corp	Texas Gas Exploration Corp	06-06-86	G(EU)		
ST86-1671	Transok, Inc	Panhandle Eastern Pipe Line Co	06-06-86	C	11-03-86	26.25
ST86-1672	Equitable Gas Co	Columbia Gas of Pennsylvania, Inc	06-06-86	B		
ST86-1673	Tennessee Gas Pipeline Co	ANR Pipeline Co	06-09-86	G		
ST86-1674	Arkla Energy Resources	Arkansas Louisiana Gas Co	06-09-86	B		
ST86-1675	Houston Pipe Line Co	Western Kentucky Gas Co	06-09-86	C		
ST86-1676	Delhi Gas Pipeline Corp	Texas Gas Transmission Corp	06-09-86	C		
ST86-1677	Panhandle Eastern Pipe Line Co	University of IL at Urbana-Champaign	06-09-86	F(157)		
ST86-1678	do	Illinois Power Co	06-09-86	B		
ST86-1679	do	Macon Municipal Utilities	06-09-86	B		
ST86-1680	do	do	06-09-86	B		
ST86-1681	ONG Transmission Co	Panhandle Eastern Pipe Line Co	06-11-86	C	11-08-86	10.00
ST86-1682	Michigan Gas Storage Co	Battle Creek Gas Co	06-11-86	B		
ST86-1683	El Paso Natural Gas Co	Washington Natural Gas Co	06-11-86	B		
ST86-1684	ANR Pipeline Co	Peoples Gas Light & Coke Co	06-11-86	B		
ST86-1685	El Paso Natural Gas Co	Washington Water Power Co	06-11-86	B		
ST86-1686	Louisiana Resources Co	ANR Pipeline Co	06-11-86	C	11-08-86	25.00
ST86-1687	ANR Pipeline Co	Wisconsin Natural Gas Co	06-11-86	B		
ST86-1688	do	do	06-11-86	B		
ST86-1689	do	do	06-11-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST86-1690	....do	....do	06-11-86	B		
ST86-1691	....do	....do	06-11-86	B		
ST86-1692	....do	....do	06-11-86	B		
ST86-1693	Michigan Gas Storage Co	Consumers Power Co	06-12-86	B		
ST86-1694	....do	....do	06-12-86	B		
ST86-1695	....do	....do	06-12-86	B		
ST86-1696	....do	....do	06-12-86	B		
ST86-1697	....do	....do	06-12-86	B		
ST86-1698	....do	....do	06-12-86	B		
ST86-1699	Texas Eastern Transmission Corp	Central Hudson Gas and Electric Co	06-12-86	B		
ST86-1700	....do	Cincinnati Gas and Electric Co	06-12-86	B		
ST86-1701	....do	National Gas and Oil Corp	06-12-86	B		
ST86-1702	....do	Houston Pipe Line Co	06-12-86	B		
ST86-1703	United Gas Pipe Line Co	Peoples Gas Light and Coke Co	06-13-86	B		
ST86-1704	....do	Victoria Gas Corp	06-13-86	B		
ST86-1705	....do	Escambia County Utility	06-13-86	B		
ST86-1706	....do	Columbia Gas of Pennsylvania, Inc	06-13-86	B		
ST86-1707	....do	Mississippi Valley Gas Co	06-13-86	B		
ST86-1708	Houston Pipe Line Co	Northern Illinois Gas Co	06-13-86	C		
ST86-1709	Transwestern Pipeline Co	Consumers Power Co	06-13-86	B		
ST86-1710	United Gas Pipe Line Co	Peoples Natural Gas Co	06-13-86	B		
ST86-1711	....do	....do	06-13-86	B		
ST86-1712	Texas Gas Transmission Corp	Dome Gas Co	06-13-86	B		
ST86-1713	....do	Western Kentucky Gas Co	06-13-86	B		
ST86-1714	....do	Ohio Valley Gas Corp	06-13-86	B		
ST86-1715	....do	Indiana Gas Co	06-13-86	B		
ST86-1716	....do	Terre Haute Gas Corp	06-13-86	B		
ST86-1717	Arkla Energy Resources	Arkla Energy Resources (Louisiana Intrastate Segment).	06-13-86	B		
ST86-1718	Texas Gas Transmission Corp	Ohio Valley Gas Corp	06-13-86	B		
ST86-1719	....do	Terre Haute Gas Corp	06-13-86	B		
ST86-1720	....do	Hanley and Bird	06-13-86	B		
ST86-1721	....do	Western Kentucky Gas Co	06-13-86	B		
ST86-1722	....do	Niagara Mohawk Power Corp	06-13-86	B		
ST86-1723	....do	East Ohio Gas Co	06-13-86	B		
ST86-1724	....do	Peoples Natural Gas Co	06-13-86	B		
ST86-1725	....do	Indiana Gas Co	06-13-86	B		
ST86-1726	....do	National Fuel Gas Distribution Corp	06-13-86	B		
ST86-1727	....do	Indiana Gas Co	06-13-86	B		
ST86-1728	....do	Michigan Fuel Gas Distribution Co., et al	06-13-86	B		
ST86-1729	Houston Pipe Line Co	New Jersey Natural Gas Co	06-13-86	C		
ST86-1730	....do	Louisville Gas and Electric Co	06-13-86	C		
ST86-1731	Trunkline Gas Co	Consumers Power Co	06-16-86	B		
ST86-1732	Panhandle Eastern Pipe Line Co	Illinois Power Co	06-16-86	B		
ST86-1733	....do	Public Service Co. of Colorado	06-16-86	B		
ST86-1734	....do	Union Electric Co	06-16-86	B		
ST86-1735	....do	....do	06-16-86	B		
ST86-1736	Trunkline Gas Co	Consumers Power Co	06-16-86	B		
ST86-1737	Panhandle Eastern Pipe Line Co	....do	06-16-86	B		
ST86-1738	....do	Northern Indiana Fuel and Light Co	06-16-86	B		
ST86-1739	Consolidated Gas Transmission Corp	Rochester Gas and Electric Corp	06-16-86	B		
ST86-1740	....do	....do	06-16-86	B		
ST86-1741	....do	....do	06-16-86	B		
ST86-1742	Columbia Gas Transmission Corp	Weirton Service Pipeline Co., Inc	06-16-86	B		
ST86-1743	Panhandle Eastern Pipe Line Co	Great River Gas Co	06-16-86	B		
ST86-1744	....do	Central Illinois Light Co	06-16-86	B		
ST86-1745	....do	Illinois Power Co	06-16-86	B		
ST86-1746	ANR Pipeline Co	Wisconsin Public Service Co	06-05-86	B		
ST86-1747	....do	....do	06-05-86	B		
ST86-1748	....do	Michigan Consolidated Gas Co	06-05-86	B		
ST86-1749	....do	....do	06-05-86	B		
ST86-1750	....do	....do	06-05-86	B		
ST86-1751	....do	Wisconsin Natural Gas Co	06-05-86	B		
ST86-1752	....do	....do	06-05-86	B		
ST86-1753	....do	....do	06-05-86	B		
ST86-1754	Panhandle Eastern Pipe Line Co	Illinois Power Co	06-16-86	B		
ST86-1755	....do	Union Electric Co	06-16-86	B		
ST86-1756	Trunkline Gas Co	Consumers Power Co	06-16-86	B		
ST86-1757	....do	....do	06-16-86	B		
ST86-1758	Consolidated Gas Transmission Corp	Rochester Gas and Electric Corp	06-16-86	B		
ST86-1759	....do	Niagara Mohawk Power Corp	06-16-86	B		
ST86-1760	....do	Hope Gas, Inc	06-16-86	B		
ST86-1761	....do	New York State Electric and Co	06-16-86	B		
ST86-1762	....do	East Ohio Gas Co	06-16-86	B		
ST86-1763	....do	Niagara Mohawk Power Corp	06-16-86	B		
ST86-1764	....do	Rochester Gas and Electric Corp	06-16-86	B		
ST86-1765	....do	....do	06-16-86	B		
ST86-1766	....do	....do	06-16-86	B		
ST86-1767	....do	Hanley and Bird	06-16-86	B		
ST86-1768	....do	National Fuel Gas Distribution Corp	06-16-86	B		
ST86-1769	....do	Peoples Natural Gas Co	06-16-86	B		
ST86-1770	....do	Niagara Mohawk Power Corp	06-16-86	B		
ST86-1771	....do	New York State Electric and Gas Co	06-16-86	B		
ST86-1772	....do	Hope Gas, Inc	06-16-86	B		
ST86-1773	....do	....do	06-16-86	B		
ST86-1774	....do	....do	06-16-86	B		
ST86-1775	....do	Reliance Pipeline Co	06-16-86	B		
ST86-1776	....do	East Ohio Gas Co	06-16-86	B		
ST86-1777	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp	06-16-86	C		
ST86-1778	ANR Pipeline Co	Wisconsin Public Service Co	06-16-86	B		
ST86-1779	....do	....do	06-16-86	B		
ST86-1780	....do	Illinois Power Co	06-16-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST86-1781	do	Wisconsin Power and Light Co	06-16-86	B		
ST86-1782	do	Michigan Consolidated Gas Co	06-16-86	B		
ST86-1783	do	do	06-16-86	B		
ST86-1784	Texas Gas Transmission Corp	Ohio Valley Gas Corp	06-16-86	B		
ST86-1785	do	Indiana Gas Co	06-16-86	B		
ST86-1786	do	Mountaineer Gas Co	06-16-86	B		
ST86-1787	do	Indiana Gas Co	06-16-86	B		
ST86-1788	Consolidated Gas Transmission Corp	Rochester Gas and Electric Corp	06-16-86	B		
ST86-1789	Mid Louisiana Gas Co	Louisiana Intrastate Gas Corp	06-17-86	B		
ST86-1790	ANR Pipeline Co	City Gas Co	06-18-86	B		
ST86-1791	do	Michigan Consolidated Gas Co	06-18-86	B		
ST86-1792	Acadian Gas Pipeline System	Columbia Gas Transmission Corp	06-18-86	C		
ST86-1793	ANR Pipeline Co	Michigan Consolidated Gas Co	06-18-86	B		
ST86-1794	do	do	06-18-86	B		
ST86-1795	do	do	06-18-86	B		
ST86-1796	Producer's Gas Co	Consolidated Edison Co. of NY, Inc	06-19-86	D		
ST86-1797	PGC Pipeline	Niagra Mohawk Power Corp., et al	06-19-86	D		
ST86-1798	do	Washington Gas Light Co	06-19-86	D		
ST86-1799	Panhandle Eastern Pipe Line Co	Utilicorp United, Inc	06-19-86	B		
ST86-1800	do	East Ohio Gas Co	06-19-86	B		
ST86-1801	do	Consumers Power Co	06-19-86	B		
ST86-1802	Michigan Gas Storage Co	do	06-19-86	B		
ST86-1803	do	do	06-19-86	B		
ST86-1804	do	do	06-19-86	B		
ST86-1805	Panhandle Eastern Pipe Line Co	Illinois Power Co	06-19-86	B		
ST86-1806	Trunkline Gas Co	Bay State Gas Co., et al	06-19-86	B		
ST86-1807	Panhandle Eastern Pipe Line Co	Utilicorp United, Inc	06-19-86	B		
ST86-1808	do	do	06-19-86	B		
ST86-1809	Valero Transmission Co	Valero Interstate Transmission Co	06-19-86	C		
ST86-1810	do	Columbia Gas of Ohio, Inc., et al	06-19-86	C		
ST86-1811	Panhandle Eastern Pipe Line Co	Illinois Power Co	06-19-86	B		
ST86-1812	Algonquin Gas Transmission Co	Orange and Rockland Utilities, Inc	06-19-86	B		
ST86-1813	Arkla Energy Resources	Arkansas Louisiana Gas Co	06-19-86	B		
ST86-1814	ANR Pipeline Co	Michigan Consolidated Gas Co	06-19-86	B		
ST86-1815	do	Wisconsin Power and Light Co	06-19-86	B		
ST86-1816	do	Michigan Consolidated Gas Co	06-19-86	B		
ST86-1817	do	do	06-19-86	B		
ST86-1818	do	do	06-19-86	B		
ST86-1819	Algonquin Gas Transmission Co	Central Hudson Gas & Electric Corp	06-19-86	B		
ST86-1820	do	Providence Gas Co	06-19-86	B		
ST86-1821	do	Colonial Natural Gas Co	06-19-86	B		
ST86-1822	Valero Interstate Transmission Co	Valero Transmission Co	06-19-86	B		
ST86-1823	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-20-86	C		
ST86-1824	ONG Transmission Co	ANR Pipeline Co	06-20-86	C	11-17-86	10.00
ST86-1825	United Gas Pipe Line Co	Colony Natural Gas Corp	06-23-86	B		
ST86-1826	do	Hope Natural Gas Co	06-23-86	B		
ST86-1827	do	Eastex Gas Transmission Co	06-23-86	B		
ST86-1828	do	PeopleService, Inc	06-23-86	B		
ST86-1829	do	Hope Gas, Inc	06-23-86	B		
ST86-1830	Sea Robin Pipeline Co	Pennsylvania Gas and Water Co	06-23-86	B		
ST86-1831	United Gas Pipe Line Co	Quivira Gas Co	06-23-86	B		
ST86-1832	do	Mississippi Gulf South Trans. Co	06-23-86	B		
ST86-1833	Sea Robin Pipeline Co	Clark-Mobile Counties Gas District	06-23-86	B		
ST86-1834	do	Memphis Light, Gas and Water Div	06-23-86	B		
ST86-1835	Trunkline Gas Co	Consumers Power Co	06-23-86	B		
ST86-1836	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	06-23-86	B		
ST86-1837	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	06-23-86	B		
ST86-1838	do	MGTC, Inc	06-23-86	B		
ST86-1839	do	Battle Creek Gas Co	06-23-86	B		
ST86-1840	Transwestern Pipeline Co	San Diego Gas and Electric Co	06-23-86	B		
ST86-1841	Trunkline Gas Co	Consumers Power Co	06-23-86	B		
ST86-1842	Panhandle Eastern Pipe Line Co	Village of Morton	06-23-86	B		
ST86-1843	do	Indiana Gas Co	06-23-86	B		
ST86-1844	Texas Gas Transmission Corp	Terre Haute Gas Corp	06-23-86	B		
ST86-1845	ANR Pipeline Co	Michigan Consolidated Gas Co	06-23-86	B		
ST86-1846	Transwestern Pipeline Co	San Diego Gas and Electric Co	06-23-86	B		
ST86-1847	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	06-23-86	B		
ST86-1848	ANR Pipeline Co	Iowa Southern Utilities Co	06-23-86	B		
ST86-1849	do	Wisconsin Public Service Co	06-23-86	B		
ST86-1850	do	Michigan Consolidated Gas Co	06-23-86	B		
ST86-1851	do	do	06-23-86	B		
ST86-1852	do	do	06-23-86	B		
ST86-1853	do	Wisconsin Natural Gas Co	06-23-86	B		
ST86-1854	El Paso Natural Gas Co	Intermountain Gas Co	06-23-86	B		
ST86-1855	United Gas Pipe Line Co	Shreveport Intra. Gas Trans., Inc	06-23-86	B		
ST86-1856	Texas Gas Transmission Corp	Louisville Gas and Electric Co	06-23-86	B		
ST86-1857	do	Memphis Light, Gas and Water Div	06-23-86	B		
ST86-1858	do	do	06-23-86	B		
ST86-1859	do	do	06-23-86	B		
ST86-1860	do	Rochester Gas and Electric Corp	06-23-86	B		
ST86-1861	Columbia Gulf Transmission Co	United Cities Gas Co	06-23-86	B		
ST86-1862	United Gas Pipe Line Co	Memphis Light, Gas and Water Div	06-23-86	B		
ST86-1863	Texas Gas Transmission Corp	Terre Haute Gas Corp	06-23-86	B		
ST86-1864	Arkla Energy Resources	Arkansas Louisiana Gas Corp	06-23-86	B		
ST86-1865	Texas Gas Transmission Corp	Memphis Light, Gas and Water Div	06-23-86	B		
ST86-1866	do	Louisville Gas and Electric Co	06-23-86	B		
ST86-1867	Arkla Energy Resources	Arkansas Louisiana Gas Co	06-23-86	B		
ST86-1868	ONG Transmission Co	Panhandle Eastern Pipe Line Co	06-24-86	C	11-21-86	10.00
ST86-1869	do	do	06-24-86	C	11-21-86	10.00
ST86-1870	do	do	06-24-86	C	11-21-86	10.00
ST86-1871	Transok, Inc	Baltimore Gas and Electric Co	06-24-86	C	11-21-86	26.25
ST86-1872	Texas Eastern Transmission Corp	East Ohio Gas Co	06-24-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST86-1873	ANR Pipeline Co	Michigan Consolidated Gas Co	06-24-86	B		
ST86-1874	Louisiana Resources Co	various local distribution companies	06-24-86	C	11-21-86	25.00
ST86-1875	Texas Eastern Transmission Corp	City of Cairo	06-24-86	B		
ST86-1876	ANR Pipeline Co	Wisconsin Natural Gas Co	06-24-86	B		
ST86-1877	do	Michigan Consolidated Gas Co	06-24-86	B		
ST86-1878	do	do	06-24-86	B		
ST86-1879	Texas Eastern Transmission Corp	Union Electric Co	06-24-86	B		
ST86-1880	do	Peoples Natural Gas Co	06-24-86	B		
ST86-1881	do	City of Pulaski Natural Gas Depart	06-24-86	B		
ST86-1882	do	Huntingburg Municipal Gas System	06-24-86	B		
ST86-1883	do	Smyrna Natural Gas System	06-24-86	B		
ST86-1884	Panhandle Eastern Pipe Line Co	Western Gas Supply Co	06-25-86	B		
ST86-1885	Trunkline Gas Co	Consumers Power Co	06-25-86	B		
ST86-1886	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	06-25-86	B		
ST86-1887	Texas Gas Transmission Corp	Niagara Mohawk Power Corp	06-25-86	B		
ST86-1888	do	Peoples Natural Gas Co	06-25-86	B		
ST86-1889	do	do	06-25-86	B		
ST86-1890	do	do	06-25-86	B		
ST86-1891	do	do	06-25-86	B		
ST86-1892	do	Rochester Gas and Electric Corp	06-25-86	B		
ST86-1893	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co	06-25-86	B		
ST86-1894	do	Battle Creek Gas Co	06-25-86	B		
ST86-1895	Colorado Interstate Gas Co	Cody Gas Co	06-25-86	B		
ST86-1896	ANR Pipeline Co	Wisconsin Natural Gas Co	06-25-86	B		
ST86-1897	do	Michigan Consolidated Gas Co	06-25-86	B		
ST86-1898	do	Wisconsin Natural Gas Co	06-25-86	B		
ST86-1899	do	Wisconsin Public Service Co	06-26-86	B		
ST86-1900	do	do	06-26-86	B		
ST86-1901	do	do	06-26-86	B		
ST86-1902	do	Wisconsin Gas Co	06-26-86	B		
ST86-1903	do	Wisconsin Natural Gas Co	06-26-86	B		
ST86-1904	do	Michigan Power Co	06-26-86	B		
ST86-1905	do	do	06-26-86	B		
ST86-1906	do	Wisconsin Gas Co	06-26-86	B		
ST86-1907	Colorado Interstate Gas Co	Union Electric Co., et al	06-27-86	B		
ST86-1908	Panhandle Eastern Pipe Line Co	Indiana Gas Co	06-27-86	B		
ST86-1909	do	Southeastern Michigan Gas Co	06-27-86	B		
ST86-1910	do	Indiana Gas Co	06-27-86	B		
ST86-1911	do	do	06-27-86	B		
ST86-1912	Mountain Fuel Resources, Inc	Stauffer Wyoming Pipeline Co	06-27-86	B		
ST86-1913	Colorado Interstate Gas Co	Indiana Gas Co., et al	06-27-86	B		
ST86-1914	Panhandle Eastern Pipe Line Co	Indiana Gas Co	06-27-86	B		
ST86-1915	Producer's Gas Co	Citizens Resources Corp	06-27-86	D		
ST86-1916	do	Cincinnati Gas and Electric Co	06-27-86	D		
ST86-1917	PGC Pipeline, Inc	Tenngasco Exchange Corp	06-27-86	D		
ST86-1919	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	06-27-86	G		
ST86-1920	Transwestern Pipeline Co	City of Long Beach	06-27-86	B		
ST86-1921	do	Southern California Gas Co	06-27-86	B		
ST86-1922	do	City of Long Beach	06-27-86	B		
ST86-1923	Texas Gas Transmission Corp	Commonwealth Gas Pipeline Corp	06-27-86	B		
ST86-1924	do	Quivira Gas Co	06-27-86	B		
ST86-1925	do	Louisville Gas and Electric Co	06-27-86	B		
ST86-1926	do	do	06-27-86	B		
ST86-1927	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	06-27-86	B		
ST86-1928	United Gas Pipe Line Co	Wilmut Gas and Oil Co	06-30-86	B		
ST86-1939	ONG Transmission Co	Northern Natural Gas Co	06-30-86	C		
ST86-1930	Ohio River Pipeline Corp	Indiana Gas Co	06-30-86	B		
ST86-1931	Delhi Gas Pipeline Corp	Central Illinois Public Service Co	06-30-86	C		
ST86-1932	do	Peoples Natural Gas Co	06-30-86	C		
ST86-1933	do	Southern Natural Gas Co	06-30-86	C		
ST86-1934	do	Colorado Interstate Gas Co	06-30-86	C		
ST86-1935	do	Texas Gas Transmission Corp	06-30-86	C		
ST86-1936	do	Western Kentucky Gas Co	06-30-86	C		
ST86-1937	do	Texas Eastern Transmission Corp	06-30-86	C		
ST86-1938	El Paso Natural Gas Co	Gas Co. of New Mexico	06-30-86	B		
ST86-1939	United Gas Pipe Line Co	B & A Pipeline Co	06-30-86	B		
ST86-1940	do	Endevco Pipeline Co	06-30-86	B		
ST86-1941	do	New Orleans Public Service, Inc	06-30-86	B		
ST86-1942	do	Quivira Gas Co	06-30-86	B		
ST86-1943	do	City of Pensacola	06-30-86	B		
ST86-1944	Trunkline Gas Co	Consumers Power Co	06-27-86	B		
ST86-1945	El Paso Natural Gas Co	West Texas Gas, Inc	06-30-86	B		
ST86-1946	do	Southern Union Gas Co	06-30-86	B		
ST86-1947	United Gas Pipe Line Co	Iowa Southern Utilities	06-30-86	B		
ST86-1948	El Paso Natural Gas Co	San Diego Gas and Electric Co	06-30-86	B		
ST86-1949	Panhandle Gas Co	Faustina Pipe Line Co	06-30-86	D		
ST86-1950	Producer's Gas Co	Entrade Corp	06-25-86	D		
ST86-1951	Panhandle Gas Co	Consumers Power Co	06-30-86	D		
ST86-1952	do	Philadelphia Gas Works	06-30-86	D		
ST86-1953	Oasis Pipe Line Co	West Texas Gas, Inc	06-30-86	C		
ST86-1954	ANR Pipeline Co	Michigan Power Co	06-30-86	B		
ST86-1955	do	Wisconsin Public Service Co	06-30-86	B		
ST86-1956	do	Wisconsin Gas Co	06-30-86	B		
ST86-1957	do	Great River Gas Co	06-30-86	B		
ST86-1958	do	Michigan Consolidated Gas Co	06-30-86	B		
ST86-1959	do	do	06-30-86	B		
ST86-1960	El Paso Natural Gas Co	Pacific Gas and Electric Co	06-30-86	B		
ST86-1961	Texas Gas Transmission Corp	Rochester Gas and Electric Corp	06-30-86	B		
ST86-1962	do	do	06-30-86	B		
ST86-1963	United Gas Pipe Line Co	KM Texas Pipeline Corp	06-30-86	B		
ST86-1964	do	Dayton Power and Light Co	06-30-86	B		
ST86-1965	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	06-30-86	C		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST86-1956	....do	....do	06-30-86	C		
ST86-1957	ONG Transmission Co	Northern Natural Gas Co	06-30-86	C	11-27-86	10.00
ST86-1958	Mississippi Fuel Co	Transcontinental Gas Pipe Line Corp	06-30-86	C	11-27-86	14.63
Below are four Revised Petitions for Rate Approval. They are noticed at this time to give interested parties the appropriate 150-day comment period.						
ST86-1144	MGTC, Inc.	MIGC, Inc.	06-18-86	C	11-15-86	03.12
ST86-1152	....do	....do	06-18-86	C	11-15-86	03.12
ST86-1154	....do	....do	06-18-86	C	11-15-86	03.12
ST86-1254	....do	....do	06-18-86	C	11-15-86	03.12

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.
[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to § 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 86-18676 Filed 8-18-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. QF86-956-000 et al.]

Waste Management, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

August 15, 1986.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Waste Management, Inc.

[Docket No. QF86-956-000]

On August 1, 1986, Waste Management, Inc. of 3003 Butterfield Road, Oak Brook, Illinois 60521, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Milford, Connecticut. The facility will utilize mass combustion technology using unprocessed household and commercial refuse and trash as primary energy source. The electric power poroduction capacity of the facility will be 23 MW. The primary energy source will be municipal solid waste.

2. American REF-FUEL Company of Middlestate Connecticut

[Docket No. QF86-961-000]

On August 4, 1986, American REF-FUEL Company of Middlestate Connecticut (Applicant), of P.O. Box 3115, Houston, Texas 77253, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Middletown, Connecticut. The facility will consist of two biomass-fired waterwall steam generators and a condensing turbine generator. The net electric power production capacity will be 4.4 megawatts. The primary energy source will be biomass in the form of municipal solid waste. Oil, natural gas, or coal will be used for ignition, start-up, and other permissible uses defined under section 3(17) (B) of the Federal Power Act as amended by section 201 of PURPA.

3. CIBRO Petroleum Products Inc.

[Docket No. QF86-806-000]

On June 26, 1986, CIBRO Petroleum Products, Inc. (Applicant), of the Port of Albany, Albany, New York 12202, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in the Port of Albany, New York. The facility will consist of two combustion turbine generators, two waste heat recovery steam generators equipped with supplementary firing, and a extraction-condensing steam turbine generator. Steam recovered from the facility will be used in the refining processes. The primary energy source for the facility will be petroleum distillate. The maximum net electric power production capacity of the facility will be 8.24 MW. The installation of the facility will begin in January, 1987.

4. Milford Cogeneration Limited Partnership

[Docket No. QF86-960-000]

On August 4, 1986, Milford Cogeneration Limited Partnership (Applicant), of 202 R Brattle Street, Cambrige, Massachusetts 02138, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Milford Connecticut and will consist of a combustion turbine generator, a heat recovery steam generator, and a steam turbine generator. The electric power production of the facility will be 55 MW. Thermal energy recovered from the facility will be utilized in distillation, pasturization, drying, baking, space hearing, and other thermal processes. The primary energy source will be natural gas. Installation for the facility will begin in 1987.

5. UAH-Cencogen Group

[Docket No. QF86-957-000]

On August 1, 1986, UAH-Cencogen Group (Applicant), of 80 Eighth Avenue, Suite 711, New York, New York 10011, submitted for filing an application for certification for a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 7.5 megwatt hydroelectric facility (FERC P. 9159) will be located at the West Delaware Tunnel outlet in Sullivan County, New York.

A separate application is required for a hydroelectric project license, preliminary permit for exemption from licensing. Comments of such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

6. USS, a Division of USX Corporation

[Docket No. Q86-946-000]

On July 29, 1986, USS, a Division of USX Corporation (Applicant), of 600 Grant Street, Pittsburgh, Pennsylvania 15230, submitted for filing an application for certification for a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing

The topping-cycle cogeneration facility will be located in Chicago, Illinois. The facilty will consist of a steam generator and an extraction/condensing turbine generator. Extraction stream produced will be use of feedwater heating, and waste heat associated with the production of stream is reused in product heating operations. The electric power production capacity of the facility will be 65 MW. The primary energy sources will be natural gas and No. 6 fuel oil. The facility was installed in 1951.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18673 Filed 8-18-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51630; FRL-3045-1]

Toxic and Hazardous Substances Control; Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-15175 beginning on page 25251 in the issue of Friday, July 11, 1986, make the following corrections:

1. On page 25251, third column, in "P-86-1193", sixth line, insert "/" between "Kg" and "yr.".

2. On page 25252, first column, in "P-86-1198", fourth line, "Textile" was misspelled.

3. On the same page, second column, in "P-86-1206", three lines from the botton, "20" should have read "207".

4. In the third column, in "P-86-1211", third line, "polyoxyethyleneaniline" was misspelled.

5. On page 25253, second column, in "P-86-1217", last line, approval" should have read "approved".

BILLING CODE 1505-01-M

[A-6-FRL-3066-8]

Approvals of PSD Permits and Extension of a PSD Permit; Region 6

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. PSD-TX-642M-1—Amoco Chemicals Company: Chocolate Bayou petrochemical and polymer manufacturing plant located on FM Road 2004, approximately 15 miles south of Alvin, Brazoria County, Texas. PSD-TX-642M-1 modifies PSD-TX-642 to authorize the use of plant produced fuel gas in the gas turbine and heat recovery steam generator instead of limiting fuel to natural gas only. This modified permit was issued on April 2, 1986.

2. PSD-TX-402M-2—Amoco Oil Company: Petroleum refinery located near the intersection of Logan Street and 5th Avenue South in Texas City, Galveston County, Texas. PSD-TX-402M-2 modifies PSD-TX-402M-1 to reflect the actual SRU carbon monoxide emissions and to amend Special Provision No. 4 to delete the requirement to operate stack oxygen meters in accordance with the permit attachment "Use of Flue Gas Oxygen Meters as BACT for Combustion Controls." This modified permit was issued on April 30, 1986.

3. PSD-TX-654M-1—Marathon Oil Company: Yates natural gas processing plant located approximately two miles southwest of Iraan, Pecos County, Texas. PSD-TX-654M-1 modifies PSD-TX-654 to authorize: (1) The increase of the sweetening unit heater from 60 to 66 million Btu's per hour; (2) the increase of the A2 acid gas compressor from 1600 horsepower (hp) to 2000 hp; (3) the installation of a larger turbine driven residue gas compressor rather than the 1547 hp reciprocating engine driven compressor; (4) the deletion of the boiler, B2, from the facilities; and (5) the installation of a back-up electric generator so that there will be two turbine driven generators with heat recovery for steam generation. This modified permit was issued on April 30, 1986.

4. PSD-TX-683—Arco Oil and Gas Company: This permit, issued on April 30, 1986, authorizes the construction of a CO_2 separation plant at the existing Willard Unit located on State Highway 274, approximately two miles north of Denver City, Yoakum County, Texas.

5. PSD-LA-533—Conoco, Incorporated: This permit, issued on May 28, 1986, authorizes the modification of the existing refinery located on Highway 10, due west of Westlake, Calcasieu Parish, Louisiana.

6. PSD-LA-539—Border Chemical: This permit, issued on May 29, 1986, authorizes the modification of the existing chemical plant located on the east bank of the Mississippi River, approximately one mile east of Geismar, Ascension Parish, Louisiana.

7. PSD-TX-686—Liquid Energy Corporation: This permit, issued on June 4, 1986, authorizes the modification of the existing gas processing plant located on State Highway 114, approximately four miles west of Bridgeport, Wise County, Texas.

8. PSD-TX-685—Wichita Falls Energy Investments, Incorporated: This permit, issued on June 10, 1986, authorizes the construction of a natural gas fired cogeneration facility at 4515 Allendale Road, Wichita Falls, Wichita County, Texas.

9. PSD-TX-627M-1—J.M. Huber Company (formerly owned by Phillips 66 Company): PSD-TX-627M-1 modifies PSD-TX-627 to authorize the actual emissions of nitrogen oxides (147 tons per year) and sulfur dioxide (2892.5 tons per year) instead of the permitted emissions (157.1 tons per year and 3,150 tons per year, respectively). This modified permit was issued on June 13, 1986.

10. PSD-TX-699—Formosa Plastics Corporation, Texas: This permit, issued on June 13, 1986, authorizes the construction of a natural gas fired turbine cogeneration unit at the existing polyvinyl chloride plant located at 101 Formosa Drive, approximately one mile north of Point Comfort, Calhoun County, Texas.

11. PSD-TX-706—Shell Western E&P, Incorporated: This permit, issued on June 18, 1986, authorizes the construction of a natural gas fired boiler at the existing gas processing plant located off FM Road 2437,

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approximately five miles southeast of Sheridan, Colorado County, Texas.

12. PSD–TX–679—Trend Exploration Limited: This permit, issued on June 18, 1986, authorizes the construction of a gas processing plant to be located on FM Road 779, approximately 3.25 miles southwest of Alba, Rains County, Texas.

13. PSD–TX–674—3M: This permit, issued on June 20, 1986, authorizes the construction of a reciprocating cogeneration unit at the research facility located on FM Road 2222, approximately four miles northwest of Austin, Travis County, Texas.

14. PSD–TX–682—Amoco Production Company: This permit, issued on June 25, 1986, authorizes the construction of a cryogenic CO_2 removal plant to be located on County Road P–16, approximately 4.5 miles northeast of Denver City, Yoakum County, Texas.

15. PSD–TX–655—Enterprise Products Company: This permit, issued on June 26, 1986, authorizes the modification of the existing propylene-propane fractionation plant located on FM Road 1942, approximately one mile northwest of Mont Belvieu, Chambers County, Texas.

These permits have been issued under EPA's Prevention of Significant Deterioration of Air Quality Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at 40 CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has extended the expiration date of the following Prevention of Significant Deterioration (PSD) permit:

1. PSD–TX–365—Central Power and Light: This permit, effective on November 26, 1981, authorizes the modification of the existing coalfired power plant located on Schroeder Road, approximately three miles northeast of Fannin, Goliad County, Texas. The company has postponed the start of construction due to changes in the load growth projection and financial considerations. This additional extension was granted on April 15, 1986, to a new expiration date of November 26, 1987.

The PSD regulation at 40 CFR 52.21(r)(2) states that the Administrator may extend the 18-month period in which construction must commence if the company shows that an extension is justified.

A notice of EPA's proposed action to extend this PSD permit was published in a newspaper in the affected area of the facility.

Documents relevant to the above actions are available for public inspection during normal business hours at the Air, Pesticides and Toxics Division, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

Under section 307(b)(1) of the Clean Air Act, judicial review of the approval of these actions is available, if at all, only by the filing of a petition for a review in the United States Fifth Circuit Court of Appeals, for sources in Texas and Louisiana, within 60 days of August 19, 1986. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of section 3 of Executive Order 12291.

Dated: August 8, 1986.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 86–18649 Filed 8–18–86; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–3066–6]

Science Advisory Board Dioxin Toxic Equivalency Methodology Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a meeting of the Science Advisory Board's Dioxin Toxic Equivalency Methodology Subcommittee on September 8–9, 1986 at the U.S. Environmental Protection Agency, Room 1101 West Tower, 401 M Street, SW., Washington, DC 20460. The meeting will begin at 9:00 a.m. on September 8 and will adjourn no later than 3:00 p.m. on September 9, 1986.

The purpose of the meeting is to enable the Subcommittee to discuss and evaluate an April 1986 document prepared by EPA's Risk Assessment Forum and entitled: Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (CDDs and CDFs).

To obtain a copy of the document please contact the Technical Information Staff, Office of Research and Development, 401 M Street SW., Washington, DC 20460 or call, (202) 382–7345.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments should contact Dr. Terry F. Yosie, Director, Science Advisory Board or Mrs. Joanna Foellmer located at 401 M Street SW., Washington, DC 20460 or call (202) 382–4126 by close of business September 2, 1986.

Dated: August 12, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–18648 Filed 8–18–86; 8:45 am]

BILLING CODE 6560–50–M

[OW–10–FRL–3066–7]

Modification of NPDES General Permits for Oil and Gas Operations on the Outer Continental Shelf (OCS) and in State Waters of Alaska: Bering Sea and Beaufort Sea

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Modification of NPDES General Permits.

SUMMARY: The Regional Administrator, Region 10, (the Region) is proposing to modify the National Pollutant Discharge Elimination System (NPDES) general permits for the Bering and Beaufort Seas, which appeared in the Federal Register on June 7, 1984 (49 FR 23734). The Bering Sea general permit authorizes discharges from offshore operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) during Federal Lease Sales 70 (St. George Basin) and 83 (Navarin Basin). The Beaufort Sea general permit authorizes discharges from offshore facilities in areas offered for lease by: (1) MMS during Federal Lease Sales 71 and 87, (2) the State of Alaska in State Lease Sales 36, 39, 43, and 43A, and (3) MMS or the State of Alaska in Federal/State Lease Sale BF and contiguous inshore State lease sales, except for the area generally known as the Stefansson Sound Boulder Patch. The permits do not authorize discharges into any wetlands adjacent to the territorial waters of the State of Alaska or from facilities defined as "coastal" or "onshore" (see 40 CFR Part 435 Subparts C and D). The Agency is modifying the general permits for the Bering and Beaufort Seas in response to the court decision in *American Petroleum Institute, et al.* v. *EPA, et al.*, 787 F.2d 965 (5th Cir. 1986). The court vacated the

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condition in both permits prohibiting the discharge of drilling muds containing diesel oil and remanded this condition to the Agency for further proceedings consistent with the opinion. The court vacated the condition because the court determined that EPA had failed to comply with the Agency's regulations in designating diesel oil as an indicator pollutant and in regulating diesel oil as a "toxic" pollutant. EPA believes that today's notice proposing to reestablish the prohibition on the discharge of muds and cuttings contaminated with diesel oil fully complies with the applicable regulations and the court's decision.

Only this condition of the permits is to be reopened and modified, in accordance with 40 CFR 124.5(c)(2). All other conditions of the existing permits shall remain in effect. A new administrative record has been developed to support the proposed modification.

The notice of the final general permits (49 FR 23734, June 7, 1984) set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the original permits. The basis for the proposed modification is given in the fact sheet published below.

DATES: Interested persons may submit comments on the draft modification to the permits to EPA Region 10, at the address below. Comments must be received in the regional office by September 19, 1986. Persons wishing to request that a public hearing be held must do so by writing to the address listed below by the close of the public comment period. A request for a public hearing shall state the nature of the issues to be raised as well as the requestor's name and telephone number.

ADDRESS: The administrative record for the proposed modification to the permits is available for public review at EPA, Region 10, Ocean Programs Section, at the address which follows. Comments should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Janis Hastings, Region 10, at the above address or telephone (206) 442–8504. Copies of today's notice and the permits may be obtained by writing to the above address or by calling Kris Flint at (206) 442–8155.

SUPPLEMENTARY INFORMATION:

Supplementary Information and Fact Sheet

Organization of This Notice

I. Statutory Basis for Permit Conditions
A. Technology-Based Effluent Limitations
B. Ocean Discharge Criteria
II. Prohibition on the Discharge of Diesel Oil
A. Summary of Basis for Modification
B. Proposed Effluent Limitation on Diesel Oil
C. Diesel Oil as an Indicator of Toxic Pollutants
D. Mineral Oil as a Substitute for Diesel Oil
E. Cost Considerations
F. Alternative to Diesel Oil Prohibition: Removal of Diesel Pill and Oil Limitation
G. Environmental Considerations
III. Other Legal Requirements
A. Oil Spill Requirements
B. Endangered Species Act
C. Coastal Zone Management Act
D. Marine Protection Research and Sanctuaries Act
E. State Water Quality Standards and State Certification
F. Executive Order 12291
G. Paperwork Reduction Act
H. Regulatory Flexibility Act
References

I. Statutory Basis for Permit Conditions

A. Technology-Based Effluent Limitations

Sections 301(b), 304, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the permit. The proposed modified permit condition is a technology-based effluent limitation. A discussion of the basis for this modification follows in Part II.

NPDES permits for industrial dischargers must incorporate effluent limitations which are based on the treatment technology that can be applied to particular classes of industrial dischargers. The Clean Water Act provides for the implementation of technology-based effluent limitations in two stages. First, dischargers are required to achieve effluent limitations which reflect the application of the best practicable control technology currently available (BPT). Second, dischargers must achieve effluent limitations which result from best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT).

Technology-based effluent limitations guidelines are developed by EPA on a nationwide industry-by-industry basis. Oil and gas exploratory operations authorized to discharge under the general permits for the Bering and Beaufort Seas are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A). EPA promulgated BPT effluent limitations guidelines for this category on April 13, 1979 (44 FR 22069).

BAT and BCT effluent limitations guidelines and new source performance standards (NSPS) were proposed for the Offshore Subcategory on August 26, 1985 (50 FR 24592). The Agency currently expects to promulgate these guidelines and standards in 1988. However, all permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control "toxic pollutants" (listed in 40 CFR 401.15) through the use of BAT, and (2) represent BCT for the control of "conventional pollutants" (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits must impose effluent limitations which control all other pollutants, termed "nonconventional pollutants," by means of BAT not later than July 1, 1987.

In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using best professional judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). The draft modification to the permits is a BAT effluent limitation based on EPA Region 10's best professional judgment. In addition to the general permits for the Bering and Beaufort Seas, BPJ determinations for offshore oil and gas exploratory operations were incorporated into a general permit for Norton Sound (50 FR 23578, June 4, 1985). The modification proposed today establishes the same permit requirement as contained in the Norton Sound general permit.

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, EPA considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory drilling operations are well known to EPA. Region 10 has issued numerous general and individual permits for such operations. The records for this permit modification and those earlier permits thoroughly discuss the types of equipment, facilities, and processes employed in exploratory drilling operations. With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations based on installation of control equipment. The BAT permit limitation in the proposed modification can be achieved through product substitution,

VOL 51 ISS 160 AG 19 1986 UMI

the technology basis for the limitation. While the primary determinant of BAT is pollutant removal capability, EPA has given substantial weight to the reasonableness of cost of the effluent limitations. EPA has considered the quantity and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs of the required pollution control. These evaluations are discussed below with respect to the modified limitation where applicable.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

The Regional Administrator has concluded on the basis of the existing record for the permits that discharges from exploratory oil and gas facilities operating in compliance with the final terms and conditions as modified by today's proposal will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines.

II. Prohibition on the Discharge of Diesel Oil

A. Summary of Basis for Modification

The general permits for the Bering and Beaufort Seas were challenged by the American Petroleum Institute (API), Atlantic Richfield Company, Conoco Inc., Exxon Corporation, and Mobil Oil Corporation. In a decision dated April 18, 1986, six out of seven challenged conditions were upheld. *API, et al.*, v. *EPA, et al.*, 787 F.2d 965 (5th Cir. 1986). The seventh condition, a prohibition on the discharge of drilling muds containing diesel oil, was vacated and remanded to the Agency for further proceedings consistent with the opinion. The permit modification proposed today has been developed to respond to the issues raised by the court.

The court remanded the diesel oil prohibition in the Bering and Beaufort Seas permits based on a determination that EPA's regulation of diesel oil under BAT was not in accordance with EPA's regulations. The court noted that diesel oil belongs among the "oil and grease" family of conventional pollutants, which are identified at 40 CFR 401.16 and limited by BCT. EPA's regulations provide, however, that conventional pollutants may be used as indicators of toxic pollutants and thereby controlled under BAT. As noted by the court, such BAT limitations must be established in accordance with a specific provision of NPDES regulations, 40 CFR 125.3(h)(1), as amended by 49 FR 38046, September 26, 1984. EPA has carefully evaluated the most appropriate means of regulating diesel oil and has determined that diesel oil should be controlled as an indicator of toxic pollutants. In this proposed modification, EPA has explained why this proposal fully complies with the requirements in 40 CFR 125.3(h)(1). The Region has also provided new information in the record which expands the technical basis for the use of diesel oil as an indicator.

While the court's remand was based on the above considerations (787 F.2d at 975–976), the court also recommended that EPA carefully analyze the "operational, safety and cost concerns, as well as the actual evaluation of the toxicity of the diesel oil when used solely in the infrequent application as a 'pill.' " 787 F.2d at 976. (See Part II.D., below, for a discussion of the use of diesel pills.) The court's concerns are summarized as follows. If mineral oil does not suffice as a substitute for diesel oil for freeing stuck drill pipe, then diesel oil would be required in these instances. A consequence of the diesel oil prohibition would therefore be to require barging of muds ashore once diesel oil had been added to a mud system in order to free stuck pipe. Barging would not only be costly (industry estimates reported by the court range from $200,000–$400,000 per well) but also potentially risky, depending on climatic conditions. Furthermore, if it were true that discharged muds rapidly disperse, there may be little potential for harm to marine life. 787 F.2d at 976–977.

As a potential approach to this issue, the court noted that in 1984 industry had proposed in comments on the Bering/Beaufort permits that the discharge of muds should be allowed:

> following application of a diesel pill, so long as (1) the pill itself and an appropriate buffer zone of mud were removed from the discharge and (2) the overall oil content of the residual drilling mud did not increase beyond a specified limit. See Response to Comment 18, 49 FR 23745. 787 F.2d at 977.

The court suggested that EPA may pursue this alternative proposal on remand, especially since the EPA/industry study "commenced after the record was closed in this case," or, that "cooperating with industry, it [EPA] may develop another approach to these operations." *Id.*

EPA has carefully evaluated the above issues. Since issuance of the Bering and Beaufort permits, EPA's Industrial Technology Division, in coordination with API, has been developing the "EPA/API Diesel Pill Monitoring Program" as a research study to determine the effectiveness of pill recovery as a means to remove diesel oil from drilling mud systems and the acceptability of the remaining drilling mud for discharge. The proposed BAT effluent limitations guidelines for the offshore oil and gas industry (50 FR 34592, August 26, 1985) prohibit the discharge of drilling muds which have contained a diesel pill, based on the technology of product substitution of mineral oil for diesel oil (50 FR 34607–9). EPA is pursuing the Diesel Pill Monitoring Program (DPMP) at the request of industry to examine diesel pill removal as an alternative approach to regulation under the national guidelines for this industry (50 FR 34621).

The DPMP study plan requires that the pill be removed along with buffer zones of at least 50 barrels on either side of the pill prior to discharging the rest of the drilling mud. The pill and associated drilling mud buffer zones are not discharged. Samples of the drilling mud before pill addition and after pill removal are shipped to an onshore laboratory for analysis of diesel oil content and toxicity.

The Gulf of Mexico was selected for this study because of the large number and diversity of drilling operations. Participation in the program is required for operators who use diesel pills and intend to discharge the muds under the NPDES general permit for offshore oil and gas operations in the Gulf of Mexico. This permit was issued on June 27, 1986 (51 FR 24897, July 9, 1986). During the experimental study the discharged drilling mud containing residual diesel oil is subject to limitations of 1,000 barrels per hour (bbl/hr) flowrate and no free oil. Free oil is determined by visual observation of the surface of the receiving water for a sheen. The program will last from one to two years from the date of issuance of the permit. EPA will then evaluate the data and, under 40 CFR 124.5, develop a modification of the general permit for the Gulf of Mexico based on the study results. The modified permit will include a final provision specifying under what conditions, if any, the discharge of drilling muds and cuttings may continue

following the use of a diesel pill. The Gulf of Mexico general permit excludes from the study operators who discharge in the vicinity of areas of biological concern, where discharge rate limitations of less than 1,000 bbl/hr apply, or in areas where shunting is required by MMS lease stipulations due to environmental concerns. The discharge of drilling muds to which diesel was added is prohibited in these areas.

EPA does not propose to allow the discharge of diesel oil-contaminated muds in the frontier arctic regions of Alaska prior to evaluating the results from the Gulf of Mexico. In the absence of data on the effectiveness of pill recovery, product substitution is a reasonable and appropriate basis for limiting the toxic pollutants arising from the use of diesel oil in muds discharged from exploratory wells in the Bering and Beaufort Seas offshore of Alaska. Diesel oil-contaminated muds and cuttings were prohibited from discharge in the Beaufort Sea beginning in 1983 (48 FR 54881, December 7, 1983) and in the Bering Sea since the beginning of exploratory drilling (49 FR 23734, June 7, 1984). After evaluation of the Diesel Pill Monitoring Program results, EPA will then reconsider the alternative approach to limiting toxic pollutants which allows the discharge of muds from which a diesel pill has been removed. (See 40 CFR 124.5 and 122.62 regarding requirements for permit modifications.)

EPA has conducted further investigation of the suitability of mineral oil as a substitute for diesel oil and has placed numerous technical references and other information compiled during the two years since issuance of the original Bering/Beaufort permits in the administrative record. As discussed in detail below, this information fully supports the conclusion that mineral oils perform effectively in applications in which diesel oil has been commonly used in the past.

B. Proposed Effluent Limitation on Diesel Oil

The permit modification proposed today prohibits the discharge of muds which have been contaminated by diesel oil (*i.e.*, those drilling muds which have contained diesel oil) or drill cuttings associated with these muds. This prohibition was incorporated in the original permits. Diesel oil, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light molecular weight aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and generally lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

C. Diesel Oil as an Indicator of Toxic Pollutants

While the limitation on diesel oil thereby controls the toxic as well as nonconventional pollutants present in diesel oil, the Agency's primary concern Is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (*i.e.*, no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel oil" as an "indicator" as an alternative to establishing limitations on each of the specIfic toxic and nonconventional pollutants present in the diesel oil-contaminated waste streams. NPDES regulations at 40 CFR 125.3(h)(1) authorize a permit writer to establish limitations for a conventional pollutant which are more stringent than BCT, or limitations for a nonconventional pollutant which shall not be subject to modification under section 301(c) or (g) of the Act, where (in either case): (1) The pollutant has been identified as an indicator in effluent limitations guidelines, or (2) the permit writer makes findings warranting use of the pollutant as an indicator.

In the absence of BAT guidelines, EPA has acted pursuant to the second provision, 40 CFR 125.3(h)(1)(ii). First, 40 CFR 125.3(h)(1)(ii)(B) requires EPA to identify the toxic pollutants to be controlled by the limitation on diesel oil. The listed toxic pollutants found in various diesel oils, which will be controlled by the limitation, include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. All of the above toxic pollutants were present in a diesel oil identified as "Alaska diesel" (Requejo *et al.* 1984).

Second, 40 CFR 125.3(h)(1)(ii) (A) and (C) require findings that (1) the indicator limitation reflects BAT-level control of discharges of one or more toxic pollutants which are present in the waste stream, and

(2) establishing effluent limits on the specific toxic pollutants would be economically or technically infeasible. A treatment system does not exist that could be installed and used on a rig to reduce toxic pollutants in diesel oil-contaminated drilling fluids prior to discharge. Thus, the BAT-level control for the specific toxic pollutants would be the same as for the case where diesel oil is limited as an indicator pollutant: reductions achievable through use of mineral oil in place of diesel oil.

Studies show that when the amount of diesel oil is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally are reduced (Breteler *et al.* 1985, Duke and Parrish 1984, Requejo *et al.* 1984, Science Applications, Inc. 1984). Mineral oils, with their lower aromatic hydrocarbon content, contain lower concentrations of toxic pollutants than do diesel oils. While concentrations of toxic pollutants vary among different diesel oils, available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class.

As an example, in an analysis of toxic pollutants in three mineral oils and six diesel oils, naphthalene was detected in only one of the three mineral oil samples, at a level of 0.05 mg/ml. In contrast, naphthalene was detected in all six diesel oils at levels ranging from 0.48 mg/m1 to 3.25 mg/ml. While the levels of naphthalene may vary in diesel oil, they routinely and significantly exceed the levels detected in mineral oils. Similarly striking results occurred in the analyses for benzene, ethylbenzene, fluorene, phenanthrene, and phenol, and for the alkylated homologues of each of these toxic pollutants, including naphthalene. This issue was also addressed in the response to Comment 7 of the Norton Sound general permit, 50 FR 23586–88.

A calculation of the predicted BAT levels of control for specific toxic pollutants can be made by multiplying the known concentrations of specific pollutants in mineral oils (*e.g.*, Requejo *et al.* 1984) by the known or estimated concentration of oil in the drilling mud. The results of these calculations for numerous toxic pollutants and classes of nonconventional pollutants are contained in the administrative record. The concentrations of these pollutants will vary, as expected, depending on the amount and specific type of mineral oil used. Concentrations of toxic pollutants

VOL 51 ISS 160 AG 19 1986 UMI

resulting from as much as 5 percent by volume "Mineral Oil A" were predicted to range from undetectable amounts of benzene, ethylbenzene, fluorene, phenanthrene, and phenol to 2.5 mg/l of naphthalene. Calculations for 5 percent "Mineral Oil B and C" resulted in undetectable amounts of benzene, ethylbenzene, naphthalene, and phenol and from 0.5 to 7.5 mg/l fluorene and 2 to 10 mg/l phenanthrene. No other toxic pollutants were detected. Thus, for Mineral Oils A, B, and C the sums of the Concentrations of these toxic pollutants were 2.5, 17.5, and 2.5 mg/l, respectively. It should be noted that a concentration of 5 percent mineral oil is more than twice the amount of oil generally expected (approximately 2 percent) based on Region 10's previous authorizations for mineral oil discharge. Therefore, a more realistic estimate of toxic pollutant concentrations is less than one-half of the above amounts, or approximately 1 to 7 mg/l. These toxic pollutant levels can be compared with a total of 25 to 67 mg/l of the above pollutants when various diesel oils are used. This calculation assumes diesel pill removal, resulting in a residual diesel oil concentration in the mud of 1.5 percent by volume. (This diesel oil concentration is derived from a 1985 industry estimate that 60 percent of a diesel pill may be recovered.) The calculation does not take into account the concentrations of hydrocarbons which may already be present in such a mud from the use of a mineral oil lubricant. The above studies confirm that it is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (*i.e.*, reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 also has concluded under 40 CFR 125.3(h)(1)(ii)(C) that the alternative of establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. As discussed above, the level achievable by BAT controls on the specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized. However, the limited data on the many diesel and mineral oils, mud formulations, and various additives used, and on the unquantified changes in toxic pollutant concentrations during drilling all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it scientifically infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel oil by gas chromatography alone. The high cost of compliance monitoring may include awaiting results of analyses which must be conducted onshore, possibly outside the State of Alaska. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil allows a determination of permit compliance prior to discharge. Thus, a prohibition on the discharge of diesel oil is economically and technologically feasible.

D. Mineral Oil as a Substitute for Diesel Oil

The prohibition on the discharge of diesel oil is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil and do not impose unreasonable additional costs on industry. EPA's findings regarding technological aspects of product substitution are detailed below, preceded by a general discussion of drilling fluid applications.

Drilling fluids can be classified into two major categories, water-based and oil-based, depending on the primary liquid phase component. Water-based muds are used in the vast majority of wells and are the only kind of muds permitted to be discharged; oil-based muds are prohibited from discharge under both BPT and BCT limitations on free oil. Water-based muds may contain oil for one of two major applications: (1) As an additive for enhanced lubrication, and (2) as a pill (also known as a "spot" or "spotting fluid"). In previous permit proceedings, industry has not requested the use of diesel oil as a lubricant but rather has requested diesel oil only for the pill application.

In the pill application approximately 100 barrels (4,200 gallons) of oil-based fluid is added as a slug to the water based mud system and circulated into the well. This is done to free the rotary drill pipe in cases where it becomes lodged at some point along one side of the well and embedded in the filter cake. This condition, also called "differential sticking," can worsen over time, generally requiring greater force and a longer spotting/soaking time to free the pipe the longer the situation remains uncorrected. If an oil-based spotting fluid is indicated, the oil-based pill is circulated to the point of sticking and generally allowed to remain for a number of hours, after which an attempt is made to turn and free the pipe. The pill may eventually be allowed to mix throughout the water-based drilling mud, which circulates through the well, back up to the mud pit on the rig, and into the well again. It may also be recovered as it first comes up out of the well; however, some residual oil will mix with and remain in the mud. If the attempt to free stuck pipe is unsuccessful, then the drill pipe, drill bit, and other expensive equipment may have to be disconnected and abandoned in the well below the point of sticking. If conditions appear promising, extra time and money may then be spent "fishing," in which specialized tools may be used in an attempt to recover the lost equipment. ("Fishing" is a general term which usually refers to attempts to retrieve anything lost in the hole, but it can also refer to attempts to free stuck drill pipe even if the equipment is not disconnected from the upper drill string and left in the well.) If all else fails, the well may have to be redrilled at an angle from the stuck point on down, or abandoned. Thus, stuck pipe, which is estimated to occur in nearly one-third of all wells drilled (Burgbacher 1985), is potentially a time-consuming and costly drilling problem (Love 1983, Outmans 1974).

Diesel oil has had longstanding use in oil well drilling, both as a lubricant and a spotting agent, because it is a relatively low cost oil and is readily available from a rig's fuel tanks. Mineral oil is less convenient since it must be stored separately in barrels or in a storage tank; however, once available, mineral oil pills are mixed onsite in the same fashion as a diesel pill (see also "Cost Considerations," Part II.E.). The use of diesel oil has nonetheless declined considerably in recent years due to concerns over the toxicity of diesel oils. Furthermore, refined, low aromatic content mineral oils are preferred on some exploratory wells since they are non-fluorescent, as opposed to diesel oil, which is fluorescent (Clements and Hinds 1983). If the carrier mud is non-fluorescent (*i.e.*, does not contain diesel oil), then during logging of an exploratory well an oil-bearing formation can be discriminated from formations that do not contain oil by the fluorescence of the crude oil-contaminated cuttings. Product substitutes for the traditional use of diesel oil as a lubricant in water-based muds are therefore widely used, and industry acknowledges the availability and operational acceptability of such

products. For the "pill" application, however, industry has requested to be allowed to use diesel oil-based spotting fluids provided that as much of the pill is removed as possible prior: to discharge of the remaining mud.

With respect to prohibiting the discharge of muds which have been contaminated by the use of a diesel pill, two major issues arise: (1) Whether alternatives such as mineral oil pills are operationally acceptable as substitutes for diesel pills, and (2) whether the BAT control technology should be based on removal of the diesel pill rather than on substitution of mineral oil for diesel oil. (For discussion of the second issue, see Part II.F.)

Regarding the first issue, available data clearly establish that acceptable alternatives exist to the use of diesel oil in oil-based spotting fluids. Low toxicity mineral oils are available that have suitable physical properties (*e.g.*, viscosity, pour point, and thermal stability) for drilling applications (Bennett 1983, Boyd *et al.* 1983, Salisbury and Jachnik 1984, Whitfill 1986). Chemical packages specially formulated to be compatible with mineral oil have been developed (Clapper and Salisbury 1984, Clements and Hinds 1983, Salisbury and Jachnik 1984). The development of suitable additives is important because oil-based fluids (both drilling and spotting fluids) require emulsifiers, surfactants/dispersants, viscosifiers, and barite, in addition to the base oil. Most oil-based fluids also include emulsified water as an integral component for viscosity; the chemical additives are important in forming and stabilizing the water-in-oil emulsion and in wetting and dispersing mud solids. Given the long history of diesel oil use, there are numerous existing chemical additive packages that are tailored to the specific properties of diesel oil. Such additives may have different solubilities and behaviors in mineral oils, which most notably differ from diesel oils in their lower aromatic hydrocarbon content. Most emulsifiers and other additives formulated for conventional diesel oil-based fluids can however be used with mineral oils (Bennett 1983, Hinds and Clements 1982). Nonetheless, the cost and efficiency of such formulations are not necessarily optimized for mineral oil as they are for diesel oil, possibly resulting in some sacrifice of drilling cost (in drilling applications, as opposed to spotting applications) and performance (Cowan and Brookey 1984). The conventional diesel oil additives themselves may also be highly toxic (Hinds and Clements 1983, Jones *et al.* 1983). As a result, when the base oil is changed to a mineral oil, the types of chemical emulsifiers and other additives are generally adjusted to achieve the most effective performance and in some cases to lower the toxicity.

Major drilling mud companies market specially formulated mineral oil-based spotting fluids. Information on a number of products currently available for use is contained in the administrative record. In many cases information provided by the supplier documents the spotting fluid performance by case histories and overall statistics on success of freeing stuck pipe. Operators under Region 10's permits, including the existing Bering and Beaufort Seas permits, routinely request authorization in advance of discharge of such products. Differential sticking is not an uncommon drilling problem. It is planned for in advance even though drilling conditions do not ultimately dictate the use of an oil-based pill in most exploratory wells offshore of Alaska.

The above studies and other data demonstrate the successful performance of mineral oil-based drilling and spotting fluids in both the laboratory and in numerous field applications. Case histories of the successful use of mineral oil spotting fluids in actual drilling situations are provided in Bennett (1983), Boyd *et al.* (1984), Pruett (1984), and Whitfill (1986) as well as in written information provided by suppliers. Success rates of various mineral oil-based fluids used as spotting agents to free differentially stuck pipe have been reported to be in excess of 85 percent (Bennett 1983). The first mineral oil-based fluid was available commercially in 1975 as a spotting fluid for differentially stuck pipe (Bennett 1983). Since that time, as a consequence of the increasing concerns over the toxicity of diesel oil and of the product developments over the past decade, mineral oil-based fluids have become widely used as drilling muds in addition to their initial spotting fluid application. Case histories of the effectiveness of mineral oil-based fluids for drilling are provided in Hinds and Clements (1983) and Salisbury and Jachnik (1984).

Although oil-based drilling muds (aside from the spotting fluid application) are not an issue for this permit modification, it should be noted that mineral oils have gained wide acceptance as substitutes for diesel oils in these muds. In the North Sea, for example, drilling from production platforms located in deep water involves large horizontal well displacements using directional drilling techniques. Although much more expensive than water-based muds, oil-based muds have been favored for this application to reduce the torque and drag on the drill stem and to maintain borehole stability. Over half of the wells drilled in the United Kingdom Sector of the North Sea in 1983 used oil-based muds, and over half of these used mineral oil (Davies *et al.* 1984). As a result of environmental guidelines first proposed in 1982, 71 percent of the North Sea wells used mineral oil-based muds by 1984; diesel oil-based muds were used in only 5 percent of the wells (Davies 1986). By 1985, mineral oil-based muds were used almost exclusively in these fields. *Id.* The primary concern with conventional, diesel oil-based mud systems has been the toxicity of the diesel oil-contaminated cuttings, even after they are separated from the muds and washed by cuttings washers. The oil-based muds themselves are not discharged. The dramatic shift away from diesel oil-based muds attests to the successful formulation of chemical additives compatible with low toxicity mineral oils. The successful performance of mineral oil-based muds has clearly been demonstrated in these applications. This performance is consistent with their success in spotting applications.

Even though mineral oil spotting fluids can be substituted for diesel oil products, the success of freeing stuck pipe or retrieving the drill string by fishing is limited. A survey by the American Petroleum Institute (API) noted that either diesel or mineral oil was used to free stuck pipe in fishing operations in 29 percent of 655 wells surveyed in 1983 (Burgbacher 1985). (Since the words "fishing" and "freeing stuck pipe" were used interchangeably in the survey report, it appears that the survey encompassed all stuck pipe situations in which mineral or diesel oil was used. However, this point needs clarification since "fishing" is sometimes used in a narrower sense to apply only to operations where the drill pipe must be disconnected at the point of sticking, the upper portion of the drill pipe withdrawn, and a fishing tool deployed to free the stuck pipe.) In the API survey diesel oil was successful in only 48 percent of 151 fishing operations. The mineral oil success rate in 84 cases during 1983–1984 was 33 percent. While the success of fishing with mineral oil might be slightly less than the diesel oil success rate in this survey, the relative performance of the oils cannot be assessed without information on the comparability of drilling situations. For example, Love (1983) determined that the chances of freeing stuck pipe in 113

cases and the potential success of fishing operations were related to specific conditions at each well. Success decreased with increasing angle of the well, mud weight, amount of open hole, API fluid loss of the mud, and bottom-hole-assembly length. The chances of success dropped off substantially when a numerical index calculated from the above factors exceeded a certain level. Critical information on whether these factors were comparable for the wells treated using the two kinds of oil is not included in the API survey. Hence, the relative difficulty of freeing the stuck pipe and fishing cannot be directly compared between the two groups of wells. Also, it is unknown whether the wells treated unsuccessfully with mineral oil were also diesel pill failures. In fact, one detailed case history demonstrates the success of mineral oil where diesel oil failed (Pruett 1984a). In conclusion, the API survey is inconclusive regarding the relative effectiveness of the two types of oil in freeing stuck pipe. Other studies noted above demonstrate the favorable performance of mineral oil pills. The API survey also does not consider the more recent experience gained with mineral oil products. EPA invites any more recent or supplementary data available on this issue.

In conclusion, regarding the technology of product substitution, mineral oil-based fluids have a demonstrated product development and performance as substitutes for diesel oil-based fluids. This determination is based on the following: (1) The availability and successful formulation and use of chemical additives that are compatible with mineral oils, (2) the commercial availability of mineral oil spotting fluids, and (3) the demonstrated performance of mineral oil spotting fluids as documented by published case histories and performance statistics.

E. Cost Considerations

EPA has evaluated the cost of the diesel oil prohibition based on product substitution as a treatment technology. Nonetheless, operators are not prevented from electing to use diesel oil and barge the contaminated mud for land disposal to meet the permit terms. The costs associated with this alternative have not been evaluated since barging is not the technology basis for the effluent limitation.

One cost of product substitution is the added expense of using mineral oil instead of diesel oil. Available data show that mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The costs incurred with mineral oil use rather than diesel oil for 50 barrels (2,100 gallons) of oil (the amount generally expected in a 100-barrel concentrated spotting formulation to free stuck drill pipe) would therefore be equal to approximately $5,500. To date approximately one in ten wells drilled under the Bering and Beaufort Seas general permits have used a mineral oil pill. The frequency of differential sticking of drill pipe requiring the use of oil-based spotting formulations is therefore low for these exploratory operations; this cost would not be incurred for each operation.

One advantage of diesel oil is its ready availability from a rig's fuel tanks. Costs may be associated with the handling and storage required for mineral oil. Mineral oil must be stored in 55-gallon drums, other similar containers, or an auxiliary tank. Storage space for mineral oil spotting fluids can be made available on gravel islands and large rigs designed for harsh weather conditions characteristic of offshore Alaska, if the operator requires the ready availability of such materials. Offshore operators can also store drilling supplies at a marine support facility or on supply barges (Lewis 1983). These materials are supplied to the rig as needed by either supply boats, aircraft, or trucks driven over ice. While the transport of mineral oil would entail some cost. EPA assumes that this would not be an unusual expense given the need to transport other supplies in a similar manner.

EPA has also quantified the increased cost associated with the use of a mineral oil pill in place of a diesel pill by assuming that mineral oil would be stored in a rented tank on the rig. The details of this analysis are Contained in the administrative record. Based on API estimates, the cost of tank rental for mineral oil storage may add an additional $1,200. The total cost per mineral oil pill is then estimated to be $22,765 ($7,665 for oil, $13,900 for chemical additives, and $1,200 for storage tank rental). Estimates of the total cost for use of diesel pills range from $19,700 up to $32,200 (for hauling the contaminated mud ashore). If removal and barging of the mineral oil pill is required to meet limitations on toxicity or free oil, the increased cost of a mineral pill over a diesel pill may be attributed primarily to the increased cost of mineral oil ($5,500), chemical additives ($4,700), and tank storage ($1,200), resulting in a total increased cost of $11,400. Participation of operators in the Diesel Pill Monitoring Program for the use of diesel pills would add an additional $4,000 to the cost of diesel oil use, thereby reducing the relative cost of mineral oil use by this amount.

The cost of drilling an exploratory well is approximately $40 to $50 million in the Beaufort Sea, not including the island or drilling structure, and roughly $20 to $30 million in the Bering Sea. The increased cost due to a mineral oil pill is approximately 0.05 percent or less of the total drilling cost. The cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable for Alaskan offshore operations.

F. Alternative to Diesel Oil Prohibition: Removal of Diesel Pill and Oil Limitation

One suggested alternative to the diesel oil prohibition would be to allow the discharge of drilling muds in which a diesel pill had been used, provided that the pill is removed and the residual drilling mud meets specified limitations on the oil content (see Part II.A., above). Such an approach depends on accomplishing effective pill removal such that the drilling mud can meet all other effluent limitations. The oil content limitation would be set at a level which not only reflects BAT control of toxic pollutants in diesel oil but also provides adequate safeguards for the marine environment. The effectiveness of pill recovery in removing diesel oil from drilling muds has not yet been demonstrated. The Diesel Pill Monitoring Program will address this issue.

Industry commenters on Region 10's permits have suggested in the past that "no discharge of diesel oil" be defined to mean that muds containing diesel oil cannot be discharged unless the diesel oil is present only in trace amounts (i.e., less than 0.5 percent by volume as measured in the API retort test) and results from the residual left after recovering a diesel pill to free stuck pipe. Region 10 has expressed several concerns with industry's proposed limitation of 0.5 percent diesel oil.

(1) It is uncertain, based on available data, that a limitation of 0.5 percent oil could be met after pill removal. The record provides an estimate that drilling muds may potentially be contaminated with approximately 1.5 percent by volume of diesel oil after pill removal.

(2) Even if pill removal can ultimately ensure compliance with a limitation of 0.5 percent, the API retort test for oil content is not sufficiently sensitive to reliably detect increases of 0.5 percent (by volume), based on available data. Measurements of even 1 percent oil can be inconsistent due to the limited

precision and accuracy of the test method at low concentrations. The API retort test is discussed in detail in the record. Available data therefore indicate that this test method is not adequate for limiting diesel oil in drilling muds.

(3) In view of the above considerations, the proposed approach cannot be expected to prevent significant increases in the levels of toxic pollutants in discharged muds (see Part II.C., above). The toxicity of such muds would also be substantially increased, as discussed in Part II.G., below.

In light of these concerns and the availability of diesel oil substitutes, EPA has determined that for arctic areas offshore of Alaska the most appropriate means at this time of regulating the toxic pollutants contained in diesel oil is to prohibit the discharge of muds and cuttings contaminated with diesel oil. Should EPA conclude on the basis of the Diesel Pill Monitoring Program results that pill recovery is an effective means to remove diesel oil from drilling mud, Region 10 will reconsider the diesel oil prohibition contained in the permits.

G. Environmental Considerations

The prohibition on the discharge of diesel oil is a technology-based BAT limitation designed to control the discharge of toxic pollutants present in diesel oil. An environmental assessment under section 403(c) was therefore not the basis for the limitation. EPA has, however, considered the general environmental effects of diesel oil-contaminated muds in developing the proposed diesel oil prohibition.

Diesel oil is highly toxic to marine organisms. Certain diesel oils, such as the frequently used No. 2 diesel fuel oil "are among the most toxic petroleum products to marine organisms" (National Research Council, "NRC" 1983, p. 105). The NRC report, as well as recent EPA research, confirm the correlation between the presence of diesel oil in muds and the resulting toxicity to marine organisms (Duke and Parrish 1984). The high toxicity is not a surprising finding. Diesel oil has a high aromatic hydrocarbon content, and toxicity has been correlated with aromatic content.

As noted above, drilling muds could potentially contain approximately 1.5 percent (15,000 ppm) diesel oil by volume even after the removal of a diesel pill. In seawater diesel oil is acutely toxic at concentrations ranging from 0.1 to 1,000 ppm (NRC 1983). Bioassays conducted by EPA on drilling muds discharged in the Gulf of Mexico show that muds with diesel oil concentrations greater than or equal to 0.14 percent (1,400 ppm) by volume (0.06 percent by weight) had LC_{50} values less than (*i.e.*, they were more toxic than) 30,000 ppm for the suspended particulate phase (SPP) (Duke and Parrish 1984). Such muds would therefore not meet the primary toxicity criterion used by Region 10 to limit the toxicity of proposed drilling mud systems. For example, two different types of used muds containing approximately one percent diesel oil by volume (0.4 percent by weight) and tested with the mysid shrimp *Mysidoosis bahia* had LC_{50} values of 726 and 17,633 ppm in suspended particulate phase tests and 92 and 733 ppm in whole mud tests. Tests on the grass shrimp *Palaemonetes intermedius* with the same two muds resulted in LC_{50} values of 658 and 1,706 ppm in whole mud tests. These values are up to two orders of magnitude more toxic than Region 10's toxicity criterion for drilling mud discharges.

Not only is diesel oil potentially toxic to organisms in the water column, but it also poses a potential longer term threat to bottom-dwelling "benthic" organisms. Benthic communities and those organisms dependent on the benthos for food are particularly vulnerable to drilling mud discharges. Solids from drilling muds can accumulate on the seafloor, causing burial, changes in sediment texture, and chemical toxicity. Sediment-associated toxic constituents can affect a benthic community and cause alterations in community structure through interference with larval settlement and recruitment, burrow construction, feeding behavior, reproductive success, and survival. In diesel oil-contaminated drilling muds, most of the hydrocarbons are expected to be sorbed to the clay component (NRC 1983). Shallow-water environments such as the nearshore Beaufort Sea are a particular concern since the solids in the discharge may mix with ambient seawater for only short periods of time prior to deposition. A substantial portion of toxic constituents derived from diesel oil may therefore be transported to the seafloor. In deeper, higher energy environments, the longer mixing times during settling of drilling mud solids to the seafloor are expected to result in a greater proportion of toxic aromatic hydrocarbons partitioning into the aqueous (seawater) phase. Few studies, however, have addressed the environmental fate of oil-containing drilling muds (Conklin and Rao 1984), particularly in the arctic marine environment. The uptake of petroleum hydrocarbons from diesel oil-contaminated drilling fluids has also not been well studied (NRC 1983).

In the field, effects on benthic community structure (reduced numbers of species) have been observed from drilling mud containing 0.4 percent by weight (1 percent by volume) diesel oil mixed with sand in 1:3 and 1:10 mixtures (Tagatz *et al.* 1985). In laboratory studies, softshell clams and grass shrimp exposed to drilling mud solids overlaying clean sediment suffered high mortalities when the muds originally contained 5 percent by volume diesel oil (Breteler *et al.* 1985). In the same study and the same type of solid phase test, drilling mud originally containing as much as 5 percent mineral oil caused few adverse effects; in only one out of three species did some burrowing impairment and low levels of mortality (2 percent) occur. The solid phase of mud containing 0.5 percent mineral oil was not toxic. However, sublethal effects on burrowing behavior were observed in a clam and a sandworm exposed to solid phases of drilling mud containing 0.5 percent diesel oil.

In summary, laboratory studies have demonstrated the higher toxicity of diesel oils relative to mineral oils. There have been limited studies which have examined the effects of diesel oil-contaminated drilling muds on benthic communities, and little is known about the fate of the diesel oil associated with drilling muds in the marine environment. Since diesel oil is known to be highly toxic, substitution of low toxicity mineral oils for diesel oil in drilling muds will reduce the potential hazard to marine organisms from these discharges.

In conclusion, Region 10 has evaluated alternative control technologies (product substitution of mineral oil for diesel oil as opposed to diesel pill removal) and alternative control parameters (no diesel oil as opposed to a limit on API retort oil content). The Region has determined that the prohibition on the discharge of diesel oil-contaminated drilling muds is reasonable and appropriate since complete diesel pill recovery is unproven and substitution of a mineral oil pill for a diesel pill is technologically feasible and economically achievable.

III. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permits are excluded from the provisions of section 311. However, these permit modifications do not

preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the Final Ocean Discharge Criteria Evaluations and in the Final Environmental Impact Statements prepared for the lease sales covered by the general permits, EPA has concluded that this permit modification will have no effect on the continued existence of any endangered or threatened species or on its critical habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final modification decisions.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by these modifications are consistent with local and state Coastal Management Plans. The proposed modifications and consistency determinations will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the modifications may be issued.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

Since state waters are included in the area covered by the Beaufort Sea general permit, the provisions of section 401 regarding certification of compliance with state water quality standards apply. Since state waters are not included in the Bering Sea general permit area, the provisions of section 401 do not apply to the Bering Sea permit.

F. Exective Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft modifications under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean water Act. The final modifications will explain how the information collection requirements respond to any OMB or public comments.

H. Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these permit modifications will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 23, 1986.

Nora L. McGee,

Acting Regional Administrator, Region 10.

References

Bennett, R.B. 1983.
New drilling fluid technology—Mineral oil mud. Proceedings, IADC/SPE 1983 Drilling Conference, New Orleans, LA. Paper No. IADC/SPE 11355.

Boyd, P.A., D.L. Whitfill, T.S. Carter, and J.P. Allamon. 1984.
Low-viscosity base fluid for low-toxicity oil mud systems. Proceedings 5th Offshore South East Asia Conference, Session 14: Drilling/geothermal. Singapore. 22 pp.

Breteler, R.J., P.D. Boehm, J.M. Neff, and A.G. Requejo. 1985.
Acute toxicity of drilling muds containing hydrocarbon additives and their fate and partitioning among liquid, suspended, and solid phases. Prepared by Battelle New England Marine Research Laboratory for the American Petroleum Institute. 107 pp. plus appendices.

Burgbacher, J. 1985.
Letter dated October 30, 1985, to Dennis Ruddy, Industrial Technology Division, EPA, with two-page attachment.

Clapper, D.K. and D. Salisbury. 1984.
New emulsifiers are finding use in oil-based muds. World Oil *199*, 125–145.

Clements, W.R. and A.A. Hinds. 1983.
No toxicity is goal of mineral oil muds. Drilling Contractor, Jan. 1983, pp. 32–34.

Conklin, P.J. and K.R. Rao. 1984.
Comparative toxicity of offshore and oil-added drilling muds to larvae of the grass shrimp *Paleamonetes intermedium*. Arch. Environ. Contam. Toxicol. *13*. 685–690.

Cowan, J. and T. Brookey. 1984.
An overview of low toxicity oils. Transactions, IADC/SPE 1984 Drilling Technology Conference, Dallas, TX, pp. 309–334.

Davies, J.M., J.M. Addy, R.A. Blackman, J.R. Blanchard, J.R. Ferbrache, D.C. Moore, H.J. Sommerville, A. Whitehead, and T. Wilkinson. 1984.
Environmental effects of the use of oil-based drilling muds in the North Sea. Mar. Pollut. Bull. *15*, 363–370.

Davies, S. 1986.
An assessment of the development of cuttings cleaning systems within the context of North Sea offshore drilling. Proceedings, 1986 Conference on Oil Based Drilling Fluids—Cleaning and Environmental Effects of Oil Contaminated Drill Cuttings. Trondheim, Norway, pp. 71–78.

Duke, T.W. and P.R. Parrish. 1984.
Results of the drilling fluids research program sponsored by the Gulf Breeze Environmental Research Laboratory, 1976–1984, and their application to hazard assessment. U.S. EPA, Gulf Breeze, FL. EPA–600/4–84–055. 93 pp.

Hinds, A.A. and W.R. Clements. 1982.
New oil mud passes environmental tests. Presented, SPE/AIME 57th Annual Fall Technical Conference. New Orleans, LA. Paper No. SPE 11113.

Jones, M., J.A. Burgbacher, M. Churan, and M. Hulse. 1983.
Efficiency of a single-stage cuttings washer with a mineral oil invert emulsion and its environmental significance. Proceedings. SPE 58th Annual Technical Conference and Exhibition. San Francisco, CA. Paper No. SPE 12121.

Lewis, S.R. 1983.
Long-range planning assures success of Bering Sea drilling. Proceedings, IADC/SPE 1983 Drilling Conference, New Orleans, LA. Paper No. IADC/SPE 11370.

Love, T.E. 1983.
Stickiness factor—a new way of looking at stuck pipe. Proceedings, IADC/SPE 1983 Drilling Conference, New Orleans, LA. Paper No. IADC/SPE 11383.

National Research Council. 1983.
Drilling Discharges in the Marine Environment. National Academy Press, Washington, DC 180 pp.

Outmans, H.D. 1974.
Spot fluid quickly to free differentially stuck pipe. Oil and Gas Journal, July 15, 1974, pp. 65–68.

Pruett, J.O. II. 1984.
IMCO introduces KENOL ES mineral oil mud to California offshore. Pacific Oil World, October 1984, pp. 60–61.

Pruett, J.O, II. 1984a.
Mineral oil-base mud: A proven solution to stuck pipe. Unpublished manuscript, IMCO Services. 8 pp.

Requejo, A.G., P.D. Boehm, W.G. Steinhauer, D. Cobb, and J. Brown. 1984.
Organic chemical characterization of diesel and mineral oils used as drilling mud additives. Prepared by Battelle New England Research Laboratory for Offshore Operators Committee.

Salisbury, D.P. and R. Jachnik. 1984.

Additive compatibility for low toxicity muds. The Oilman, April 1984, pp. 55–56.
Science Applications, Inc. 1984.
Drilling mud assessment chemical analysis reference volume. Prepared for U.S. EPA Environmental Research Laboratory, Gulf Breeze, FL. NTIS Report No. PB84–170000.
Tagatz, M.E., G.R. Plaia, and C.H. Deans. 1985.
Responses of macrobenthos colonizing estuarine sediments contaminated with drilling mud containing diesel oil. Bull. Environ. Contam. Toxicol. *35*, 112–120.
Whitfill, D.L. 1986.
Economic and environmental gains from improved oil base drilling fluids. Presented at National Conference on Drilling Muds, Norman, OK. 12 pp.

NPDES General Permit Numbers—AKG283000 (Bering Sea) and AKG284000 (Beaufort Sea)

For the reasons set forth above, EPA is proposing to modify Part II.A.1. of NPDES Permit No. AKG283000 (Bering Sea) and Permit No. AKG284000 (Beaufort Sea) which appeared in the **Federal Register** June 7, 1984 (49 FR 23734) by reinstating the following provisions:

II.A.1. *General Requirements.*

a. * * *

* * * * *

Effluent characteristic	Discharge limitation	Monitoring requirements: Frequency	Monitoring requirements: Method	Reported value(s)
.	.	.	.	.
Diesel oil content of drilling muds.	No discharge of diesel oil.	. . .	. . .	. . .

* * * * *

b. *Prohibition on the discharge of oil-based muds or diesel oil and associated cuttings.* The discharge of oil-based drilling muds (containing oil as the continuous phase with water as the dispersed phase) is prohibited. The discharge of water-based drilling muds which have contained diesel oil or of cuttings associated with any muds which have contained diesel oil is also prohibited. Compliance with the limitation on diesel oil shall be demonstrated by analysis of drilling mud collected from the end-of-well mud system. In all cases, the determination of the presence or absence of diesel oil shall be based on a comparison of the GC spectra of the sample and of diesel oil in storage at the facility (see Part II.A.1.a., above).

[FR Doc. 86–18646 Filed 8–18–86; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1610]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

August 12, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR § 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone and Telegraph Company. (CC Docket No. 85–26) Number of petitions and applications received: 2

Subject:
Amendment of § 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and
Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof
Communications Protocols under Commission's Rules and Regulations. (CC Docket No. 85–229) Number of petitions received: 9

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–18625 Filed 8–18–86; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

Notice of Appointment of Receiver; Peninsula Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for the purpose of liquidation for Peninsula Savings and Loan Association, Soldotna, Alaska, on August 8, 1986.

Dated: August 11, 1986.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86–18502 Filed 8–18–86; 8:45 am]
BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–010637–016.

Title: North Europe-U.S. Atlantic Conference.

Parties:

Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Sea-Land Service, Inc.
United States Lines, Inc.
Trans Freight Lines
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen, B.V.
Gulf Container Line (GCL), B.V.

SYNOPSIS: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No. 213–010886–002.

Title: Costa/Italia/Trasatlantica Space Charter and Sailing Agreement

Parties:

Costa Container Lines S.p.A.
"Italia" di Navigazione, S.p.A.
Compania Trasatlantica Espanola, S.A.

Synopsis: The proposed amendment would permit the parties, in all or any portion of the agreement trade (between U.S. Atlantic Ports, north of and excluding Jacksonville, Florida; and ports on the Mediterranean Sea, the Iberian Peninsula, the Continent of Africa (including the Canary Islands), the Black Sea, the Arabian/Persian Gulf and adjacent waters, the Red Sea and

Gulf of Aden and ports in India and Pakistan and between inland and coastal points via such ports) in which all parties are not members of a conference or rate agreement to discuss and agree upon rates and terms of service. The parties would have no obligation to adhere to any agreement reached, but could do so voluntarily.

Dated: August 14, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18661 Filed 8-18-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Asia Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 10, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Asia Bancshares, Inc.*, Flushing, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Asia Bank, N.A., Flushing, New York. Comments on this application must be received by September 8, 1986.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Union National Financial Corporation*, Mount Joy, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Union National Mount Joy Bank, Mount Joy, Pennsylvania.

C. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to acquire 100 percent of the voting shares of The Citizens State Bank, Sturgis, Michigan. Comments on this application must be received by September 11, 1986.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Appalachian Financial Corporation*, Philippi, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Barbour County Bank, Philippi, West Virginia.

E. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *HomeBanc Corporation*, Guntersville, Alabama; to acquire 100 percent of the voting shares of The Home Bank of Albertville, Albertville, Alabama, a *de novo* bank.

2. *LHS Commercial Banks, Inc.*, Panama City, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Springfield Commercial Bank, Springfield, Florida, and Lynn Haven Commercial Bank, Lynn Haven, Florida.

F. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Portage County Bancshares, Inc.*, Almond, Wisconsin; to become a bank holding company by acquiring 10 percent of the voting shares of M&I Bank of Portage County, Almond, Wisconsin.

Board of Governors of the Federal Reserve System, August 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18617 Filed 8-18-86; 8:45 am]

BILLING CODE 6210-01-M

United Saver's Bancorp, Inc., et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reseve Bank indicated or the offices of the Board of Governors not later than September 8, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Saver's Bancorp, Inc.*, Littleton, New Hampshire; to engage *de novo* through its subsidiary, United Saver's Acceptance Corp., Hanover, New Hampshire, in making, acquiring and servicing loans or other extensions of credit for the company's account and the account of others, specifically in the business of consumer and commercial finance, including sales and inventory financing, direct consumer lending, factoring, mortgage banking, commercial and industrial lending and leasing, pursuant to § 225.25(b)(1) (i), (iii), (iv) and (v) and § 225.25(b)(5) of the Board's Regulation Y. These activities will be conducted in New England and New York State.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33

Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York; to engage *de novo* in providing data processing and related activities as described in § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the world. Comments on this application must be received by September 3, 1986.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago Illinois 60690:

1. *First United Financial Services, Inc.*, Arlington Height, Illinois; to engage *de novo* through its subsidiary Arlington Commercial Finance Company, Reno, Nevada, in making acquiring, and servicing loans or other extensions of credit, including letters of credit, for the company's account pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve Sysem, August 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18618 Filed 8-18-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Mental Health Small Grant Review Committee; Meeting

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's national advisory bodies and initial review committee. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Mental Health Small Grant Review Committee.

Date and Time: September 5: 9:30 a.m.

Place: The Carlyle Suites, 1731 New Hampshire Avenue, NW., Washington, DC 20009.

Status of Meeting: Open—September 5: 9:30–10:30 a.m. Closed—Otherwise.

Contact: Barbara McCracken, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

* * * * * *

Committee Name: National Advisory Mental Health Council.

Date and Time: September 15–17: 9:00 a.m.

Place: September 15—National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892. September 16–17—Parklawn Building, Conference Rooms I & J (September 16) Conference Room M (September 17).

Status of Meeting: Open—September 15: 9:00 a.m.—5:00 p.m. Closed—Otherwise.

Contact: Rachel Driver, Parklawn Building, Room 9-105, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1216.

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

* * * * * *

Committee Name: National Advisory Council on Drug Abuse.

Date and Time: September 16–17: 9:00 a.m.

Place: National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892.

Status of Meeting: Open—September 16: 9:00 a.m.—12 noon; September 17: 9:00 a.m.—5:00 p.m. Closed—Otherwise.

Contact: Sheila Gardner, Room 10A-03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6480.

Purpose: The Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

As time permits on September 16, from 3:00–5:00 p.m., the Council will hear statements from interested organizations in the drug abuse field. Persons interested in appearing should contact the Executive Secretary to be scheduled. The oral presentations shall be no longer than 10 minutes, although written statements may be submitted in supplement.

* * * * * *

Committee Name: National Advisory Council on Alcohol Abuse and Alcoholism.

Date and Time: September 18: 10:30 a.m.

Place: National Institutes of Health, Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20892.

Status of Meeting: Open—September 18: 10:30–5:00 p.m. Closed—Otherwise.

Contact: Mr. James Vaughan, Room 16C-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

* * * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375. NIDA: Ms. Mary Kielkopf, Committee Management Officer, Room 10-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1644. NIMH: Ms. Joanna

Kieffer, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Brenda L. Williamson,

Acting Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

August 13, 1986.

[FR Doc. 86–18610 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 86C–0301]

Surgidev Corp.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Surgidev Corp. has filed a petition proposing that the color additive regulations be amended to provide for the safe use of the color additive [phthalocyaninato(2-)] copper to color polymethylmethacrylate monofilament as supporting haptics for intraocular lenses.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402–403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 6C0200) has been filed by Surgidev Corp., 5743 Thornwood Dr., Goleta, CA 03117, proposing that § 74.3045 *[Phthalocyaninato(2-)] copper* (21 CFR 74.3045) be amended to provide for the safe use of [phthalocyaninato(2-)] copper to color polymethylmethacrylate monofilament as supporting haptics for intraocular lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 11, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18614 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0312]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acrylamide polymer with sodium 2-acrylamido-2-methylpropanesulfonate as a component of paper and paperboard in contact with dry food.

FOR FURTHER INFORMATION CONTACT: Mary Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3940) has been filed by American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of acrylamide polymer with sodium 2-acrylamido-2-methylpropanesulfonate as a component of paper and paperboard in contact with dry food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 1, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18613 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85F–0427]

Calgon Corp.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Calgon Corp. to amend the food additive regulations to provide for the safe use of the copolymer of acrylic acid and 2-acrylamido-2-methyl propane sulfonic acid as a scale inhibitor in the manufacture of paper and paperboard intended for use in contact with food. The previous filing notice is amended to include the use of ammonium/alkali metal mixed salts of the copolymer in addition to the acid form of the copolymer.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 17, 1985 (50 FR 42095), FDA published a notice that a petition (FAP 5B3886) had been filed by Calgon Corp., Pittsburgh, PA 15230, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of the copolymer of acrylic acid and 2-acrylamido-2-methyl propane sulfonic acid as a scale inhibitor in the manufacture of paper and paperboard intended for use in contact with food. Subsequently, Calgon Corp. amended the petition to include the use of ammonium/alkali metal mixed salts of the copolymer in addition to the acid form of the copolymer.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 2, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18615 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0316]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for additional safe uses of vinylidene

chloride/methyl acrylate copolymers in contact with food.

FOR FURTHER INFORMATION CONTACT: Mary Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3938) has been filed by the Dow Chemical Co., Midland, MI 48674, proposing that § 177.1990 *Vinylidene chloride/methyl acrylate copolymers* (21 CFR 177.1990) be amended to provide for additional safe uses of vinylidene chloride/methyl acrylate copolymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 11, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18611 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0307]

Minnesota Mining & Manufacturing Co., Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Minnesota Mining & Manufacturing Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinylidene fluoride-hexafluoropropene copolymer as an adjuvant in the production of olefin polymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 6B3902) has been filed by Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, MN 55144, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of vinylidene fluoride-hexafluoropropene copolymer as an adjuvant in the production of olefin polymers intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 11, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18612 Filed 8–18–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0184]

CTL Inc.; Premarket Approval of CustomEyesTM–45 L, CustomEyesTM–45 L Toric, CustomEyesTM–55 L, CustomEyesTM–55 L Toric, and CTL–M

Correction

In the document beginning of page 23834, in the issue of Tuesday, July 1, 1986, make the following corrections:

1. On page 23834, third column, in the heading fourth line before "L" insert "–55".

2. On the same page, in the "Summary", in the seventh line, before "45", "-" should read "–".

3. On the same page, in the eighth line, before the second "55", "-" should read "–".

4. On page 23835, first column, third line, before "45", "-" should read "–".

5. On the same page, second column fifth line, "CDR" should read "CDRH".

6. On the same page, in the third column, at the end of the document, the FR document number "FR Doc. 86–19738" should read "FR Doc. 86–14738".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Flathead Indian Irrigation Project, Montana; Changes of Irrigation Operation and Maintenance Assessment Rate

August 4, 1986.

AGENCY: Bureau of Indian Affairsa, Interior.

ACTION: Withdrawal of public notice.

SUMMARY: The Bureau of Indian Affairs is withdrawing a public notice published in the Thursday, June 19, 1986, issue of the **Federal Register** (51 FR 22357). The public notice was lacking critical supplementary information and will be resubmitted for publication in the near future. The public notice addressed the irrigation operation and maintenance assessment rates at the Flathead Indian Irrigation Project, Montana.

DATES: This notice shall become effective when published and remain in effect until changed by public notice.

FOR FURTHER INFORMATION CONTACT: Mort S. Dreamer, Irrigation and Power Engineer, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, DC 20245, telephone number: (202) 343–5696.

Ronald L. Esquerra,

Deputy to the Assistant Secretary-Indian Affairs (Operations).

[FR Doc. 86–18605 Filed 8–18–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[CO–050–06–4830–12]

Canon City District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 that the Canon City District Advisory Council Meeting will be held Thursday, September 25, 1986, 8 a.m. to 3 p.m., in the Community Room of the First National Bank Building, 9th and Royal Gorge Boulevard, Canon City, Colorado. The meeting agenda will include:

1. BLM participation in the Quail Mountain ski area joint review.
2. Management of Arkansas River recreation.
3. Northeast RMP/implementation.

4. Project Pride workshop followup.
5. The Colorado Horse/Inmate Program.
6. Reports from Area Managers on current programs.
7. Public presentations to the council (open invitation).

The meeting is open to the public. Persons interested may make oral presentations to the council at 8:30 a.m. or they may file written statements for the council's consideration. The District Manager may limit the length or oral presentations depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to make a presentation to the council orally or in writing should notify the District Manager, Bureau if Land Management, P.O. Box 311, 3080 East Main, Canon City, Colorado 81212 by September 23, 1986.

FOR FURTHER INFORMATION CONTACT: Glenn Wallace, (303) 275–063.

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 86–18653 Filed 8–18–86; 8:45 am]

BILLING CODE 4310–JB–M

[ES 970–06–4121–14–2410; ES 35269 and ES 34711]

Competitive Coal Lease Offering by Sealed Bid; Bell County, KY

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive coal lease offering by sealed bid.

SUMMARY: Notice is hereby given that as a result of two future interest coal lease applications filed by Cairnes Coal Company (ES 34711) and Charter Coal Company (ES 35269) for certain coal resources in the Kentucky Ridge State Forest, these coal resources will be offered for competitive leasing by sealed bid in accordance with the provisions of the Mineral Lands Leasing Act of 1947 (61 Stat. U.S.C. 351–359), as amended. Since the application filing dates, the mineral rights for the lands involved in each tract have vested to the Commonwealth of Kentucky (25 percent) and the United States (75 percent), effective November 12, 1985; therefore, the requested tracts will now be offered for competitive sale under 43 CFR 3425 and the regulations of the Commonwealth of Kentucky. Bidders are requested to submit one bid for 100 percent of the minerals in either or both tracts. The successful qualified bidder for each tract will be awarded two leases, one for 75 percent of the tract's mineral interests from the Bureau of Land Management, and one for 25 percent of the tract's mineral interests from the Commonwealth of Kentucky.

DATES AND ADDRESSES: The sale will be held at 2:00 p.m., Wednesday, September 25, 1986, at the Kentucky Room of the Capitol Plaza Hotel, 405 Wilkinson Boulevard, Frankfort, Kentucky 40601.

All sealed bids must be submitted to the Bureau of Land Management prior to the scheduled sale. Bids should be sent by certified mail, return receipt requested, to Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304 to arrive before 4:00 p.m., September 24, 1986; or hand-delivered between 1:00 p.m. and 1:45 p.m. on September 25, 1986 to the authorized Bureau of Land Management officer at the Kentucky Room of the Capitol Plaza Hotel in Frankfort, Kentucky.

If a tow-stage sale is necessary, the second stage of the sale will be held at 1:00 p.m., Tuesday, September 30, 1986 in the Public Room of the Eastern State Office, 350 South Pickett Street, Alexandria, Virginia 22304.

Detailed chemical analysis other then those listed under **SUPPLEMENTARY INFORMATION** are available upon request from the Bureau of Land Management, Eastern States Office, Branch of Fluid and Solid Minerals. Also complete legal descriptions of the tracts mentioned in this notice are available from the Eastern States Offices.

Bidding instructions and bidder qualifications are included in the Detailed Statement of the Lease Sale. Copies of the Statement and of the proposed coal leases are available at the Bureau of Land Management, Eastern States Office. Case file documents are also available for public inspection at the Eastern States Office.

FOR FURTHER INFORMATION CONTACT: Ms. Ida V. Doup, Buruea of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 274–0158.

SUPPLEMENTARY INFORMATION: The coal resources being offered are to be mined by underground methods from the Path Fork coal seam and the Lower Splint (Red Springs No. 9), Lower Hignite, Poplar Lick, Buckeye, Springs (Jackrock), and Mason (Minge) Seams in Bell County, Kentucky.

The two lease applications respectively include the two parcels described below:

Parcel One

Application ES 34711 (Davisburg Coal Tract)

Bell County, Kentucky, Kentucky Ridge State Forest, Tract 1101a

Containing 1,090 acres, more or less.

Parcel Two

Application ES 35269 (Ferndale Tract)

Bell County, Kentucky, Kentucky Ridge State Forest, Tracts 1012 and 1101b

Containing 654 acres, more or less.

Each tract will be leased to the qualified bidder of the highest cash amount, provided that the high bid for the tract equals or exceeds the fair market value (FMV) of the tract as determined by the authorized officer after the sale. The Department of the Interior has established a minimum bid of $100.00 per acre for each tract; however, the minimum bid is not to be considered as representing the amount for which the tract will actually be leased, since the FMV will be determined in a separate postsale analysis. If identical high sealed bids are received for a tract, the tied high bidders will be asked to submit follow-up sealed bids until a unique high bid is received. All tie-breaking bids must be submitted within 5 minutes after the authorized officer's announcement at the sale that identical high bids have been received.

Coal lease sales involving more than one tract may be subject to a two-stage lease sale and postsale evaluation process. If two or more tracts are offered for sale on the same date and one or more (but not all) of those tracts received two or more bids, then only the bids on the multiple-bid tracts will be opened and announced at the sale. The bids on tracts receiving only single bids will not be opened or announced at that time. Instead, multiple-bid tracts that qualify as comparable sales will be used in postsale re-evaluation of tract values for the single-bid tracts. The bids on the single-bid tracts will be opened and announced only after this re-evaluation process is completed. Please see the **DATES AND ADDRESSES** section for specific information on scheduling, should such a second date be necessary.

The approximate analysis of the coal in the sale tracts is as follows:

PATH FORK SEAM	
1. Moisture (%)	2.2–5.8
2. Ash (%)	2.7–14.1
3. Sulfur (%)	0.6–1.1
4. Btu/lb	12,760–14,780
5. Approx. tons in place	1,615,845

LOWER SPLINT (READ SPRINGS NO. 9) SEAM	
1. Moisture (%)	2.3–7.0
2. Ash (%)	3.3–9.7
3. Sulfur (%)	0.5–1.3
4. Btu/lb	12,300–14,400
5. Approx. tons in place	119,940
LOWER HIGNITE SEAM	
1. Moisture (%)	2.1–7.0
2. Ash (%)	4.4–13.8
3. Sulfur (%)	0.7–1.6
4. Btu/lb	12,600–14,200
5. Approx. tons in place	881,800
POPLAR LICK SEAM	
1. Moisture (%)	3.1–8.4
2. Ash (%)	2.6–9.7
3. Sulfur (%)	0.6–1.3
4. Btu/lb	12,100–14,600
5. Approx. tons in place	2,413,300
BUCKEYE SPRINGS (JACKROCK SEAM)	
1. Moisture (%)	1.7–7.6
2. Ash (%)	1.6–12.7
3. Sulfur (%)	0.6–2.9
4. Btu/lb	12,200–14,600
5. Approx. tons in place	92,940
MASON (MINGE) SEAM	
1. Moisture (%)	3.2–7.6
2. Ash (%)	1.6–12.7
3. Sulfur (%)	0.6–2.9
4. Btu/lb	12,800–14,800
5. Approx. tons is place	1,691,790

Rental and Royalty

Any lease issued as a result of this offering will stipulate payment of an annual rental of $3.00 per acre and a royalty to the United States of 8 percent of the value of the coal produced by underground mining methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

Pieter J. VanZanden,

Acting State Director.

[FR Doc. 86–18655 Filed 8–18–86; 8:45 am]

BILLING CODE 4310-GJ-M

[ES–940–06–4520–12 (ES–036434, Group 536)]

Filing of Plat of an Island; Minnesota

August 11, 1986.

1. On July 14, 1986, the plat representing the survey of an island in Sakatah Lake, which was omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., on September 25, 1986.

The tract shown below describes the island omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 109 N., R. 22 W., Tract 37

2. Tract 37 rises approximately 6–8 feet above the ordinary high water mark of Sakatah Lake and is composed of silt loam. Tree species consist of basswood, elm, and oak, with a maximum age of 100+ years.

3. The present water level of the lake compares favorably with that of the original meander line, therefore, the elevation and upland character of the island along with the depth and width of the channel between the upland and the island are considered evidence that the island did exist in 1858, the year Minnesota was admitted into the Union.

The original survey in 1854 did not note the presence of the island.

4. Tract 37 is more than 50 percent upland in character within the purview of the Swamp and Overflow Act of September 28, 1850 (9 Stat. 519). Therefore, the island is held to be public land.

5. The survey was made upon application by the State of Minnesota, under the authority of section 211 of the Act of October 21, 1976.

6. Except for valid existing rights, this island will not be subject to application, petition, location, or selection under any public law until September 25, 1986.

7. Interested parties protesting the determination that this island is public land of the United States, must present valid proof showing that the island did not exist at the time of statehood or that it was attached to the mainland at the time of the original survey. Such protests must be submitted in writing to the Deputy State Director for Cadastral Survey, Bureau of Land Management, Eastern States Office, prior to 7:30 a.m., September 25, 1986.

8. All inquiries concerning the color-of-title claims should be filed with the Deputy State Director for Lands and Renewable Resources, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, after September 25, 1986.

9. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86–18609 Filed 8–18–86; 8:45 am]

BILLING CODE 4310-GJ-M

[ES–940–06–4520–12 (ES–036435, Group 537)]

Filing of Plat of Survey of Islands; Minnesota

August 11, 1986.

1. On July 14, 1986, the plat representing the survey of islands in Swan Lake, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, as 7:30 a.m., on September 25, 1986.

The tracts shown below describe the islands omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 110 N., R. 29 W.
Tracts 37 and 38.

2. Tract 37 rises approximately 3 feet above the ordinary high water mark of Swan Lake and is composed of silt loam. Tree species consist of pole size ash, elm, and willow.

3. Tract 38 rises approximately 4 feet above the ordinary high water mark of Swan Lake and is composed of silt loam. Tree species consist of pole size ash, elm, and hackberry.

4. The present water level of the lake compares favorably with that of the original meander line; therefore, the elevation and upland character of the islands along with the depth and width of the channel between the upland and the islands are considered evidence that the islands did exist in 1858, the year Minnesota was admitted into the Union. The original survey in 1854 did not note the presence of these islands.

5. The islands are more than 50 percent upland in character within the purview of the Swamp and Overflow Act of September 28, 1850 (9 Stat. 519). Therefore, the islands are held to be public land.

6. The survey was made upon application by the State of Minnesota, under the authority of section 211 of the Act of October 21, 1976.

7. Except for valid existing rights, these islands will not be subject to application, petition, location, or selection under any public law until September 25, 1986.

8. Interested parties protesting the determination that these islands are public land of the United States, must present valid proof showing that these islands did not exist at the time of statehood or that they were attached to the mainland at the time of the original survey. Such protests must be submitted in writing to the Deputy State Director for Cadastral Survey, Bureau of Land Management, Eastern States Office, prior to 7:30 a.m., September 25, 1986.

9. All inquiries concerning the color-of-title claims should be filed with the Deputy State Director for Lands and Renewable Resources, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, after September 25, 1986.

10. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputh State Director for Cadastral Survey.

[FR Doc. 86-18608 Filed 8-18-86; 8:45 am]

BILLING CODE 4310-GJ-M

[NV-930-06-4212-13; N-29324]

Opening of Public Lands in Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance and order providing for opening of public lands.

SUMMARY: On December 20, 1985, the United States issued an exchange conveyance document to Willowlane, Inc. and Fallon Ice and Cold Storage Co., Inc., for the following described Federal lands pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

Mount Diablo Meridian, Nevada

T. 13 S., R. 71 E.,
Sec. 9, lots 14, 18, 20 and 22.

Comprising 14.04 acres in Clark County, Nevada.

In exchange for these lands, the United States acquired the following non-Federal lands:

Mount Diablo Meridian, Nevada

T. 13 N., R. 19 E.,
Sec. 9, NW¼NW¼.
T. 14 N., R. 19 E.,
Sec. 28, SE¼NE¼;

Comprising 80 acres in Douglas County, Nevada.

The purpose of this exchange was to acquire non-Federal lands within the Toiyabe National Forest having high public values. The public interest was served through completion of this exchange.

The values of the Federal lands and the non-Federal lands in the exchange were appraised at $57,500.00 and $46,000.00, respectively. An equalization payment in the amount of $11,500.00 was paid to the United States. Title to the non-Federal lands was accepted on December 16, 1985. In accordance with 43 CFR 2200.3(c), these lands are hereby transferred to the Secretary of Agriculture as part of the Toiyabe National Forest and are subject to all the laws, rules and regulations applicable thereto.

DATES: At 10 a.m. on September 18, 1986, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

FOR FURTHER INFORMATION CONTACT: Forest Supervisor, Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431.

Dated: August 6, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-18607 Filed 8-18-86; 8:45 am]

BILLING CODE 4310-HC-M

[OR-050-06-4322-02]

Prineville District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Prineville District Advisory Council will be held September 18, 1986. The meeting will be in the form of a field tour leaving the Prineville BLM office located at 185 East 4th Street, Prineville, Oregon at 8:00 AM.

The purpose of the tour and the agenda will center on the preliminary issues and alternatives to be analyzed in the resource management plan/environmental impact statement to be developed for the Brothers/LaPine Planning Area located in the south half of the Prineville District. The Rangeland Program Summary update for the 1983 Brothers Grazing Management Environmental Impact Statement will also be discussed.

The public is welcome to attend. Public transportation will not be provided. Persons wishing to go on the tour should contact the District Manager at the above address by September 11, 1986.

James L. Hancock,

District Manager.

[FR Doc. 86-18652 Filed 8-18-86; 8:45 am]

BILLING CODE 4310-33-M

[M-66978; MT-020-06-4212-14]

Realty Action; Noncompetitive Sale of Public Land in Yellowstone County, MT

AGENCY: Bureau of Land Management, Miles City District, Billings Resource Area Office.

ACTION: Notice of realty action—noncompetitive sale of public land in Yellowstone County, Montana.

SUMMARY: The surface estate of the following described land has been examined and found suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at not less than the appraised fair market value of $1000. The lands will not be offered for sale until 60 days after the date of this notice.

Principal Meridian

T. 3 N., R. 27 E.,
Sec. 24, SE¼SE¼SE¼.
Containing 10 acres.

The land is located approximately four miles northeast of Shepherd, Yellowstone County, Montana.

The land will be offered for sale in a direct-noncompetitive sale to Yellowstone Feeders, Inc. c/o Henry Weschenfelder. The land described is hereby segregated from appropriation under the public land laws, including the mining laws until patent is issued or 270 days from the date of publication of this notice, whichever occurs first. The sale will be made subject to:

1. All valid existing rights and reservations of record.

2. A reservation to the United States of all mineral values together with the right to explore, prospect for, mine and remove same under applicable laws and regulations.

The proposed sale is consistent with the Bureau's planning system and was identified for disposal in the 1983 final Billings Resource Management Plan. The purpose of this sale is to eliminate a minor trespass problem and lessen management costs in an area where the public has no access.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this sale including the environmental assessment and land report is available for review at the Billings Resource Area Office, 810 East Main Street, Billings, Montana 59105.

Dated: August 11, 1986.

Mat Millenbach,

District Manager.

[FR Doc. 86-18651 Filed 8-18-86; 8:45 am]

BILLING CODE 4310-DN-M

[ID-050-4212-12; I-21566]

Realty Action, Exchange of Public Lands in Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, I–21566, exchange of public lands in Boundary and Bonner Counties, Idaho.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 56 N., R. 5 W.,
Sec. 3: S½SE¼;
Sec. 10: E½SE¼.
T. 56 N., R. 3 W.,
Sec. 12: S½SE¼.
T. 56 N., R. 2 W.,
Sec. 19: Lots 1, 2, 3, 4, E½SW¼, SE¼.
T. 62 N., R. 3 E.,
Sec. 10: Lot 4, SE¼SW¼, SW¼SE¼;
Sec. 15: Lots 1, 2.
T. 64 N., R. 4 W.,
Sec. 35: SW¼SW¼.
Containing 817.43 Acres.

In exchange for these lands, the Federal Government will acquire scattered sections of non-Federal lands in Blaine, Butte, and Minidoka counties from the State of Idaho, described as follows:

T. 3 N., R. 25 E.,
Sec. 36: All.
T. 2 N., R. 25 E.,
Sec. 16: All;
Sec. 36: All.
T. 2 N., R. 26 E.,
Sec. 16: All;
Sec. 36: All.
T. 1 N., R. 23 E.,
Sec. 36: All.
T. 1 N., R. 24 E.,
Sec. 16: All.
T. 1 N., R. 26 E.,
Sec. 36: All.
T. 1 N., R. 27 E.,
Sec. 16: All.
T. 1 S., R. 23 E.,
Sec. 16: All.
T. 1 S., R. 24 E.,
Sec. 16: All.
T. 1 S., R. 25 E.,
Sec. 36: All.
T. 1 S., R. 26 E.,
Sec. 36: All.
T. 1 S., R. 27 E.,
Sec. 16: All.
T. 2 S., R. 25 E.,
Sec. 16: All;
Sec. 36: All.
T. 2 S., R. 26 E.,
Sec. 36: All.
T. 2 S., R. 27 E.,
Sec. 16: All.
T. 3 S., R. 25 E.,
Sec. 36: All.
T. 3 S., R. 26 E.,
Sec. 36: All.
T. 3 S., R. 27 E.,
Sec. 16: All.
T. 4 S., R. 23 E.,
Sec. 36: All.
T. 4 S., R. 24 E.,
Sec. 16: All;
Sec. 36: All.
T. 4 S., R. 25 E.,
Sec. 16: W½W½NW¼SW¼, S½SW¼, SE¼;
Sec. 36: All.
T. 4 S., R. 26 E.,
Sec. 36: All.
T. 5 S., R. 24 E.,
Sec. 16: All.
T. 5 S., R. 25 E.,
Sec. 16: All.
Containing 18,170.00 Acres.

The purpose of the exchange is to dispose of scattered, difficult to manage public lands while acquiring State-owned lands which would complement management of the Bureau's Great Rift Wilderness Study Area. The exchange is consistent with the Bureau's planning and has been discussed with Federal, State and local governmental agencies, public land user groups and individuals through participation in the Bureau's Land Use Planning Process. The public interest will be well served by making the exchange. The exchange will include both surface and mineral estates.

The acreage of the lands to be exchanged may be adjusted so that the acreage exchanged will be equal in value as supported by appraisal.

The terms and conditions applicable to the exchange are the reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), "Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant, . . ."

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352.

For a period of 45 days, interested parties may submit comments to the Shoshone District Office, at the address listed above.

For Further Information Contact: Ervin Cowley, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352. Telephone: (208) 886–2206.

Dated: August 6, 1986.

Jon Idso,

District Manager.

[FR Doc. 86–18806 Filed 8–18–86; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Notice of Receipt of Applications for Endangered and Threatened Species Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–710634

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in foreign commerce for shipment to the Taipei Municipal Zoo in Taipei, Taiwan, one pair of brown hyenas (*Hyaena brunnea*) captive born at the Natal Zoological Gardens. The applicant requests to purchase said animals from Mr. Wolfgang Delfs, Windhoek, Namibia. The applicant contends that these animals will be used in unspecified conservation education activities and will enhance the survival of the species. Taiwan is not a party to the Convention on International Trade in Endangered Species

PRT–710891

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in interstate commerce and export to the Taipei Municipal Zoo in Taipei, Taiwan, one male clouded leopard (*Neofelis nebulosa*). The leopard was born at the Dresden Zoo, German Democratic Republic, and is not owned by the Minnesota Zoo, Apple Valley, MN. The applicant contends that this animal will be used in unspecified conservation education activities and will enhance the survival of the species. Taiwan is not a party to the Convention on International Trade in Endangered Species.

PRT–710636

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in foreign commerce one pair of black rhinocerus (*Diceros bicornis*) for shipment to the Taipei Municipal Zoological Gardens, Taipei, Taiwan. The female was born at and is to be purchased from the Asa Zoological Park, Hiroshima, Japan. The male was born at and is to be purchased from the Nagoya Higashiyama Grand Park, Nagoya, Japan. The applicant contends that these animals will be used in unspecified education activities and will enhance the survival of the species. Taiwan is not a party to the Convention on

International Trade in Endangered Species.

PRT-710835

Applicant: Jim Thomas, Sacramento, CA.

The applicant requests a permit to import a trophy of a bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by Gerrit S. Visser, Orange Free State, Repulic of South Africa. The herd is maintained for the purpose of sport hunting. The applicant contends that permission to import this trophy will enhance the liklihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

PRT-709833

Guy Baldassarre, Auburn University, Al.

The applicant requests a permit to capture 15 piping plovers (*Charadrius melodus*) in mist nests. Radio transmitters and color bands will then be attached to these birds to record the following data: Patterns of habitat use in relation to tidal cycles and day length, location and time spent on feeding areas, and seasonal changes in habitat use. Other piping plovers will be captured and color banded to determine movement patterns and habitat selection.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitted comments.

Dated: August 14, 1986.

R.K. Robinson,

Acting Chief, Federal Wildlife Permit Office.

[FR Doc. 86-18682 Filed 8-18-86; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 9, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 31, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Gila County

Houston Mesa Ruins (NA1902; NA9753; AZ O:11:29 (ASM)

Yavapai County

Cottonwood, *Building at 826 North Main Street (Cottonwood MRA)*, 826 N. Main
Cottonwood, *Clemenceau Public School (Cottonwood MRA)*, 1 N. Willard
Cottonwood, *Edens House (Cottonwood MRA)*, 1015 N. Cactus St.
Cottonwood, *Master Mechanic's House (Cottonwood MRA)*, 333 S. Willard
Cottonwood, *(Smelter Machine Shop (Cottonwood MRA)*, 360 S. Sixth St.
Cottonwood, *Strahan House (Cottonwood MRA)*, 725 E. Main
Cottonwood, *Superintendent's Residence (Cottonwood MRA)*, 315 S. Willard
Cottonwood, *Thompson Ranch (Cottonwood MRA)*, 2874 US 89A
Cottonwood, *UVX Smelter Operations Complex (Cottonwood MRA)*, 361 S. Willard
Cottonwood, *Willard House (Cottonwood MRA)*, 114 W. Main

CALIFORNIA

Los Angeles County

Claremount, *Pitzer House*, 4353 N. Towne

Tulare County

Tenaiu

COLORADO

Denver County

Denver, *Alamo Placita Park (Denver Park and Parkway System TR)*, Roughly bounded by Speer Blvd., First Ave., and Clarkson St.
Denver, *Berkeley Lake Park (Denver Park and Parkway System TR)*, Roughly bounded by N. side of Berkeley Lake, Tennyson St., W. Forty-sixth Ave., and Sheridan Blvd.
Denver, *Cheesman Park (Denver Park and Parkway System TR)*, Roughly bounded by E. Thirteenth Ave., High St., E. Eighth Ave., and Franklin St.
Denver, *Cheesman Park Esplanade (Denver Park and Parkway System TR)*, Roughly bounded by Eighth Ave., High St., Seventh Ave. Pkwy., and Williams St.
Denver, *City Park (Denver Park and Parkway System TR)*, Roughly bounded by E. Twenty-third Ave., Colorado Blvd., E. Seventeenth Ave., and York St.
Denver, *City Park Esplanade (Denver Park and Parkway System TR)*, City Park Esplanade from E. Colfax Ave., to E. Seventeenth Ave.
Denver, *City Park Golf (Denver Park and Parkway System TR)*, Roughly bounded by E. Twenty-sixth Ave. Pkwy., Colorado Blvd., E. Twenty-third Ave., and York St.
Denver, *Clermont Street Parkway (Denver Park and Parkway System TR)*, Clermont St. Pkwy., from E. Third Ave., to E. Sixth Ave.
Denver, *Cranmer Park (Denver Park and Parkway System TR)*, Roughly bounded by E. Third Ave., Cherry St., E. First Ave., and Bellaire St.
Denver, *Downing Street Parkway (Denver Park and Parkway System TR)*, Downing St. Pkwy., from E. Bayaud Ave. to E. Third Ave.
Denver, *East Fourth Avenue Parkway (Denver Park and Parkway System TR)*, E. Fourth Ave. Pkwy. from Gilpin St. to Williams St.
Denver, *East Seventeenth Avenue Parkway (Denver Park and Parkway System TR)*, E. Seventeenth Ave. Pkwy. from Colorado Blvd. to Monaco St. Pkwy.
Denver, *East Seventh Avenue Parkway (Denver Park and Parkway System TR)*, E. Seventh Ave. Pkwy. from Williams St. to Colorado Blvd.
Denver, *East Sixth Avenue Parkway (Denver Park and Parkway System TR)*, E. Sixth Ave. Pkwy. from Colorado Blvd. to Quebec St.
Denver, *Forest Street Parkway (Denver Park and Parkway System TR)*, Forest St. Pkwy. from E. Seventeenth Ave. to Montview Blvd.
Denver, *Highland Park (Denver Park and Parkway System TR)*, Roughly bounded by Highland Park Pl., Federal Blvd., and Fairview Pl.
Denver, *Hungarian Freedom Park (Denver Park and Parkway System TR)*, Roughly bounded by Speer Blvd., First Ave., and Clarkson St.
Denver, *Inspiration Point (Denver Park and Parkway System TR)*, Roughly bounded by W. Fiftieth Ave., Sheridan Blvd., W. Forty-ninth Ave., and Fenton St.
Denver, *Monaco Street Parkway (Denver Park and Parkway System TR)*, Monaco St., Pkwy. from E. First Ave. to Montview Blvd.
Denver, *Montclair Park (Denver Park and Parkway System TR)*, Roughly bounded by E. Twelfth ave., Onieda St., and Richthofen Pkwy.
Denver, *Montview Boulevard (Denver Park and Parkway System TR)*, Montview Blvd. from Colorado Blvd. to Monaco St. Pkwy.
Denver, *Richthofen Monument (Denver Park and Parkway System TR)*, Richthofen Pkwy. at Oneida St.
Denver, *Richthofen Place Parkway (Denver Park and Parkway System TR)*, Richthofen Pl. Pkwy. from Monaco St. Pkwy. to Oneida St.
Denver, *Rocky Mountain Lake Park (Denver Park and Parkway System TR)*, Roughly bounded by US 70, Federal Blvd., W. Forty-sixth Ave., and Lowell Blvd.
Denver, *South Marion Street Parkway (Denver Park and Parkway System TR)*, S. Marion St. Pkwy. from E. Virginia Ave. to E. Bayaud Ave. at Downing St.
Denver, *Speer Boulevard (Denver Park and Parkway System TR)*, Speer Blvd. from W. Colfax Ave. to Downing St.

Denver, *Sunken Gardens (Denver Park and Parkway System TR)*, Roughly bounded by Speer Blvd., W. Eighth Ave., Delaware St., and Elati St.
Denver, *University Boulevard (Denver Park and Parkway System TR)*, University Blvd. from E. Iowa Ave. to E. Alameda Ave.
Denver, *Washington Park (Denver Park and Parkway System TR)*, Roughly bounded by E. Virginia Ave., S. Franklin St., E. Louisiana Ave., and S. Downing St.
Denver, *West Forty-sixth Avenue Parkway (Denver Park and Parkway System TR)*, W. Forty-sixth Ave. Pkwy. from Stuart St. to Grove St.
Denver, *Williams Street Parkway (Denver Park and Parkway System TR)*, Williams St. Pkwy. from E. Fourth Ave. to E. Eighth Ave.

DISTRICT OF COLUMBIA

Washington

Holmead, Anthony Site

FLORIDA

Dade County

Miami, *Greenwald, I. and E., Steam Engine #1058*, 3898 Shipping Ave.

Palm Beach County

Delray Beach, *Seaboard Airline Railroad Station*, 1525 W. Atlantic Ave.

GEORGIA

Bartow County

Rydal vicinity, *Pine Log Methodist Church, Campground, and Cemetery*, GA 140, W of US 411

Henry County

Locust Grove, *Locust Grove Institute Academic Building*, 3644 GA 42

IDAHO

Bonner County

Dover, *Dover Church*, Washington between Third and Fourth
Sandpoint, *Sandpoint Communtity Hall*, 204 S. First Ave.

Canyon County

Nampa, *Wiley, H. Orton, House*, 524 E. Dewey

Cassia County

Albion, *Albion Methodist Church*, 102 N. St.

Idaho County

Lower Salmon River Archaeological District (also in Lewis and Nez Perce Counties)

Latah County

Potlatch, *American Legion Cabin (Potlatch MRA)*, US 95
Potlatch, *Boarding House (Potlatch MRA)*, 850 Pine St.
Potlatch, *Commercial Historic District (Potlatch MRA)*, Roughly Pine St. between Seventh and Fifth
Potlatch, *Four-Room House (Potlatch MRA)*, 1015 Pine St.
Potlatch, *Nob Hill Historic District (Potlatch MRA)*, Roughly bounded by Spruce, Third, Cedar, and Fourth
Potlatch, *Terteling, Joseph A., House (Potlatch MRA)*, 1015 Fir St.
Potlatch, *Three-Room House (Potlatch MRA)*, 940 Cedar St.
Potlatch, *Workers' Neighborhood Historic District (Potlatch MRA)*, Roughly Spruce St. between Eighth and Fifth

Nez Perce County

Peck, *American Woman's League Chapter House*, 217 N. Main St.

Shoshone County

Avery, *Red Ives Ranger Station*, SE of Avery on Forest Service Rd. 218

Twin Falls County

Twin Falls, *Twin Falls Bank and Trust Company Building*, 102 Main Ave., S.

Washington County

Weiser, *Fisher, James M., House*, 598 Pioneer Rd.

KENTUCKY

Marshall County

Benton, *Stilley House*, 925 Birch St.

LOUISIANA

Ouachita Parish

Monroe, *Downtown Monroe Historic District*, Roughly bounded by Catalpa St., I–20, Ouachita River, and Jefferson St.

MAINE

Piscataquis County

Willard Brook Quarry

MARYLAND

Somerset County

Allen vicinity, *Brentwood Farm*, Allen Rd.

MASSACHUSETTS

Berkshire County

Washington, *Eames, Philip, House (Washington MRA)*, Stone House Rd.
Washington, *Lower Historic District (Washington MRA)*, Washington Mountain Rd.
Washington, *Saint Andrew's Chapel (Washington MRA)*, Washington Mountain Rd.
Washington, *Sibley—Cocoran House (Washington MRA)*, Valley Rd.
Washington, *South Center School House (Washington MRA)*, Washington Mountain Rd.
Washington, *Upper Historic District (Washington MRA)*, Roughly between Branch and Frost Rds. on Washington Mountain Rd.
Washington, *Clark—Eames House (Washington MRA)*, Middlefield Rd.
Washington, *(Washington MRA), Middlefield* Rd.

MISSISSIPPI

Adams County

Washington, *Washington Methodist Church*, Main and Church Sts.

NEW HAMPSHIRE

Belknap County

Laconia, *Gross, Ossian Wilbur, Reading Room*, 188 Elm St.

Cheshire County

Richmond, *Veterans' Memorial Hall*, NH 32

Grafton County

Holderness, *North Holderness Freewill Baptist Church—Holderness Historical Society Building*, Owl Brook Rd.

Rockingham County

Sandown, *Sandown Depot, Boston and Maine Railroad*, Depot Rd.

NEW YORK

Greene County

Lexington, *Lexington House*, NY 42

Rockland County

Pearl River, *Salyer, Edward, House*, 241 S. Middletown Rd.

OKLAHOMA

Muskogee County

Muskogee, *Surety Building (Pre-Depression Muskogee Skyscrapers TR)*, 117 N. Third

Payne County

Stillwater, *Murphy House*, 419 S. Monroe

Tulsa County

Tulsa, *Philcade Building*, 511 S. Boston Ave.

TEXAS

Bexar County

San Antonio, *Halff, A.H., House*, 601 Howard St.
San Antonio, *Prospect Hill Missionary Baptist Church*, 1601 Buena Vista
San Antonio, *St. Anthony Hotel*, 300 Travis St.

Grayson County

Sherman, *Birge, Capt. Noble Allan, House*, 727 W. Birge

Potter County

Amarillo, *Atchison, Topeka, and Santa Fe Railway Company Depot and Locomotive No. 5000*, 307 S. Grant

Val Verde County

Del Rio, *Cassinelli Gin House*, Corner of Pecan and Academy Sts.

VIRGINIA

Alleghany County

Millboro vicinity, *Douthat State Park Historic District*, VA 629 (also in Bath County)

Washington County

Abingdon, *Abingdon Historic District (Boundary Increase)*, Roughly on Valley St. bounded by Jackson St., Whites Mill Rd., E. & W. Main, Park St., Plumb Alley & Academy Dr.

WEST VIRGINIA

Doddridge County

St. Clara, *Gamsjager—Wysong Farm*, CR 66.

[FR Doc. 86–18642 Filed 8–18–86; 8:45 am]
BILLING CODE 4310–70–M

BEST COPY AVAILABLE

VOL 51 ISS 160 AG 19 1986 UMI

Upper Delaware National Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: August 22, 1986 7:00 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: September 12, 1986[1]

ADDRESS: Town of Tusten Hall, Narrowsburg, New York

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764–0159. (717) 729–8251

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U. S. C. 1274 note, to encourage maximum public involvent in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include revision of draft river management plan. The meeting will be open to the public.

Any member of the public may file with the council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles North of Narrowsburg, NY, Damascus Township, Pennsylvania.

Dated: August 5, 1986.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 86–18658 Filed 8–18–86; 8:45 am]

BILLING CODE 4310–70–M

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Notification; International Magnesium Development Corp.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98–462 ("the Act"), International Magnesium Development Corporation has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of the Honda Research and Development Company, Ltd. as a party to the joint venture.

The notification identifying the original parties to the joint venture agreement, and describing the nature and objectives of that agreement, is published at 51 FR 23609 (June 30, 1986).

The additional notification was filed for the purpose of extending the protections of the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the current identities of the parties to the joint venture agreement are given below.

The parties to the joint venture are:

A/S Kongsberg Vapenfabrikk
Amax Magnesium
Billiton International Metals R.V.
Chromasco, Division of Timminco Limited
Dow Chemical U.S.A.
Hitchcock Industries, Inc.
Honda Research and Development Company, Ltd.
International Magnesium Development Corporation
Magnesium Elektron Limited
Montangessellschaft mbH
Norsk Hydro A S
Northwest Alloys, Inc.
Pechiney Electrometallurgie

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–18602 Filed 8–18–86; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published July 24, 1986 (51 FR 26614). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk(*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 A.M. and Subcommittee meetings usually begin at 8:30 A.M. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the September 1986 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634–3265, ATTN: Barbara Jo White) between 8:15 A.M. and 5:00 P.M., Eastern Time.

ACRS Subcommittee Meetings

Nuclear Plant Chemistry, August 26, 1986, Washington, DC—CANCELLED.

Thermal Hydraulic Phenomena, August 27, 1986, Washington, DC. The Subcommittee will continue its review of the RES-proposed revision to the ECCS Rule (10 CFR 50.46 and Appendix K).

Decay Heat Removal Systems, September 9, 1986, Washington, DC. The Subcommittee will review NRR's Action Plan to address concerns with the reliability of certain plants' AFW systems.

Containment Requirements, September 23, 1986, Washington, DC. The Subcommittee will review a draft position paper on containment performance design objective as an addition to the Safety Goal Policy, and a draft of a proposed generic letter on containment requirements for severe accidents.

Severe (Class 9) Accidents, September 24, 1986, Washington, DC. The Subcommittee will review the NRR Implementation Plan for Severe Accidents and the IDCOR Methodology for Individual Plant Evaluation.

International Operating Experience, September 25, 1986 — CANCELLED.

Joint Seabrook/Occupational and Environmental Protection Systems, September 25, 1986, Washington, DC.

The Subcommittees will gather and exchange information with the NRC Staff and PSNH. The Subcommittees will review efforts by the applicant to reduce the size of the emergency planning zone (EPZ). This effort uses results of thue Seabrook Probabilistic Safety Assessment to justify a smaller EPZ. A primary focus will be the credit taken for the strength and leak tightness of the Seabrook containment. A status report on emergency planning around Seabrook will also be discussed.

Decay Heat Removal Systems, September 26, 1986, Washington, DC. The Subcommittee will continue its review of NRR's proposed resolution position for USI A–45, "Shutdown Decay Heat Removal Systems."

Reactor Operations, October 8, 1986, Washington, DC. The Subcommittee will review recent operating events at nuclear reactors.

Waste Management, October 30 and 31, 1986, Washington, DC. The Subcommittee will review selected radioactive waste management topics with the Division of Waste Management.

Metal Components, November 12 (tour), near Pittsburgh, PA and November 13, 1986 (tentative), Washington, DC. The Subcommittee will visit Beaver Valley 2 on the 12th and (1) hear a status report of the Whipjet program (application of broad scope GDC–4 criteria) as applied to lead plant BVPS–2; and (2) review public comments on NUREG–0313, Revision 2 (long range fix for BWR–IGSCC problems).

Extreme External Phenomena, November 20, 1986, Washington, DC. The Subcommittee will continue its review of the Diablo Canyon long-term seismic program.

Spent Fuel Storage, November 21, 1986, Washington, DC. The Subcommittee will continue its review of 10 CFR Part 72 and Monitored Retrievable Storage (MRS).

Regional Operations, Date to be determined (September/October), Chicago, IL. The Subcommittee will begin its review of the activities of the NRC Regional Offices. This meeting will focus on the activities of the Region III Office.

AC/DC Power Systems Reliability, Date to be determined (October/November), Washington, DC. The Subcommittee will review the proposed Station Blackout rule (SECY–85–163).

Seabrook Units 1 and 2, Date to be determined (fall/winter), Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook 1 and 2.

Metal Components, Date to be determined (November/December), Oak Ridge, TN. The Subcommittee will review the HSST program, including dosimetry program by HEDL.

Structural Engineering, January 21 and 22, 1987, Albuquerque, NM. The Subcommittee will review containment integrity and Category I structures, programs, and test facilities.

ACRS Full Committee Meeting

September 11–13, 1986: Items are *tentatively* schedule.

*A. *Meeting with NRC Commissioners*—Discuss ACRS report on the proposed NRC policy statement on certification of nuclear power plant standard designs.

*B. *Criteria for Emergency Core Cooling Systems*—Proposed revision of 10 CFR Part 50.6 Acceptance Criteria for ECCS for Light Water Reactors and 10 CFR Part 50, Appendix K, ECCS Evaluation Models.

*C. *NRC Regulatory Process and Procedures*—Report of ACRS subcommittee regarding the incident investigation procedures of NRC.

*D. *Improved Light Water Reactors*—Discuss proposed ACRS comments regarding characteristics of improved light water reactors.

*E. *Implementation of Severe Accident Policy Plan, Removal of Radioactivity from the Containment Atmosphere*—Discuss proposed changes in the NRC Standard Review Plan regarding removal of radioactive iodine from the containment atmosphere.

*F. *Seabrook Nuclear Power Station Units 1 and 2*—Proposed changes in the Emergency Planning Zone for this facility.

*G. *Babcock and Wilcox Company LWRs* The members will meet with representatives of the B&W Company to hear and discuss a presentation regarding activities related to long-term safety of B&W LWRs.

*H. *Auxiliary Feedwater Systems Reliability*—Report of ACRS subcommittee regarding proposed resolution of USI A–124, Auxiliary Feedwater System.

*I. *International Operating Experience*—Report by NRC Staff representatives regarding the Chernobyl Nuclear Plant accident.

*J. *Long-Term Planning*—Discuss proposed ACRS comments regarding development of a long-range plan for NRC activities.

*K. *ACRS Subcommittee Activity*—Reports of recent assigned subcommittee activities, including research related to primary system integrity, function inspection of safety systems, status of the NRC SALP program, scram systems reliability, the seismic margins programs, ACRS procedures and practices, and ACRS planning.

*L. *Seismic Qualification of Equipment*—Plan for seismic qualification of safety-related equipment in nuclear power plants.

*M *Qualification of Nuclear Power Plant Personnel*—Discuss proposed ACRS comments regarding use of aptitude testing to select nuclear power plant personnel.

*N. *Future ACRS Activities*—Discuss anticipated ACRS subcommittee activities and proposed items for full Committee consideration.

O. *Activities of ACRS Members (Closed)*—Discuss non-ACRS activities of ACRS members, as appropriate.

October 9–11, 1986—Agenda to be announced.

November 6–8, 1986—Agenda to be announced.

December 11–13, 1986—Agenda to be announced.

Dated: August 14, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–18606 Filed 8–18–86; 8:45 am]

BILLING CODE 7590–01–M

Hurley Medical Center; Evidentiary Hearing

In matter of: Hurley Medical Center, One Hurley Plaza, Flint, Michigan; Docket Nos. 30–01993 and 70–1396; License Nos. 21–00336–02; SNM–1393 (EA 85–89).

August 13, 1986.

Notice is hereby given that a public evidentiary hearing in the above named matter will convene at 9:00 a.m. DST on October 15, 1986 at the Magistrate's Courtroom, U.S. District Court, Federal Building, 600 Church Street, Flint, Michigan.

The parties to the hearing are the Staff of the Nuclear Regulatory Commission and the Hurley Medical Center of Flint, Michigan.

The Hurley Medical Center is the holder of NRC licenses which authorize it to possess and use radioactive materials in accordance with the terms of the licenses.

The issues to be heard are:

(a) Whether the Licensee was in noncompliance with the Commission's requirements as set forth in the August 22, 1985, Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) Whether the February 24, 1986 Order Imposing Civil Monetary Penalties should be sustained.

Ivan W. Smith,

Administrative Law Judge.

Bethesda, Maryland.

August 13, 1986.

[FR Doc. 86-18687 Filed 8-18-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval Under the Paperwork Reduction Act of the Information Collection Requirement

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of extension.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for an extension of the expiration date of a currently approved information collection requirement (1212-0022) without any change in the substance or in the method of collection. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans, 29 CFR Part 2672, contains this information collection requirement. The current OMB approval is scheduled to expire on September 30, 1986. The effect of this notice is to advise the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for an extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney-advisor, Regulations Division, Corporate Policy and Regulations Department (35100), 2020 K Street NW., Washington, DC 20006; telephone 202-956-5050 (202-956-5059 for TTY and TDD). These are not toll-free numbers.

Issued at Washington, DC, on this 14th day of August 1986.

Kathleen P. Utgoff,

Executive Director.

[FR Doc. 86-18668 Filed 8-18-86; 8:45 am]

BILLING CODE 7700-01-M

DEPARTMENT OF STATE

[Public Notice 977]

Foreign Assistance Determination: Yugoslavia

Pursuant to the authority vested in me by section 620(f)(2) of the Foreign Assistance Act of 1961, as amended, and by Executive Order No. 12163, as amended, section 1-201(a)(11), I hereby determine that the removal of Yugoslavia from the list of countries subject to the limitations of section 620(f) of the Foreign Assistance Act is important to the national interest of the United States. I therefore direct that Yugoslavia be henceforth removed, for an indefinite period, from the application of section 620(f) of the Foreign Assistance Act.

George P. Shultz,

Secretary of State.

August 5, 1986

[FR Doc. 86-18604 Filed 8-18-86; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice CM-8/988]

Discretionary Grant Programs: Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1987 Applications

AGENCY: The Department of State invites applications from national organizations with interest and expertise in conducting research and training concerning the USSR and Eastern Europe to serve as intermediaries administering national, competitive programs under the Soviet and Eastern European Research and Training Act. All grants will be annual and based on an open, national competition among applying organizations.

Authority for this program is contained in the Soviet-Eastern European Research and Training Act of 1983.

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal and programmatic information and closing dates for transmittal of applications for awards in Fiscal Year 1987 under a program administered by the Department of State.

Organization of Notice: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program. Part III provides the fiscal data for the program.

Part I

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by September 19, 1986.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of State, INR/LAR, Soviet-Eastern European Studies Advisory Committee, Washington, DC 20520.

An applicant must show proof of mailing consisting of *one* of the following:

(1) a legibly dated U.S. Postal Service postmark.

(2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) a dated shipping label, invoice, or receipt from a commercial canter.

(4) any other proof of mailing acceptable to the U.S. Department of State.

If an application is sent through the U.S. Postal Service, the Department of State does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of State, INR/LAR, Soviet-Eastern European Studies Advisory Committee, Room 207 or Room 233, 1730 K Street, NW., Washington, DC.

The Soviet-Eastern European Studies Advisory Committee will accept hand-delivered applications between 9:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:00 p.m. on the closing date.

Part II

Program Information

In the Soviet-Eastern European Research and Training Act of 1983 the Congress declared that independently verified factual knowledge about the countries of that area is "of utmost importance for the national security of the United Staes, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs." Congress also declared that the development and maintenance of such knowledge and expertise "depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government." The Act authorizes the Secretary of State to provide financial support for Advanced research, training and other related functions.

The full purposes of the Act and the eligibility requirements are set forth in Pub. L. 98–164, Title VIII, 97 Stat. 1047–50. Under Title VIII, the countries include Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, USSR, and Yugoslavia.

The Act establishes an Advisory Committee to recommend grant policies and recipients. The Secretary of State, after consultation with the Advisory Committee, approves policies and make final determination on awards.

Applications for funding under the Act are invited from organizations prepared to conduct competitive programs in the field of Soviet and Eastern European and related studies. Applying organizations or institutions should have the capability to conduct *competitive award programs that are national in scope.* Programs of this nature are those that make awards which are based upon an open, nationwide competitive incorporating peer group review mechanisms. Applications sought are those that would contribute to the development of a stable, long-term, national program of unclassified, advanced research and training on the Soviet Union and Eastern Europe by proposing:

(1) *National programs* which award contracts to American institutions of higher education or not-for-profit corporations in support of postdoctoral or equivalent level research projects, such contracts to contain shared-cost provisions;

(2) *National programs* which offer graduate, postdoctoral and teaching fellowships for advanced training in Soviet and Eastern European and related studies, including training in the languages of the Soviet Union and Eastern Europe, such training to be conducted, on a share-cost basis, at American institutions of higher education;

(3) *National programs* which provide fellowships and other support for American specialists enabling them to conduct advanced research in the field of Soviet, Eastern European and related studies; and those which facilitate research collaboration between Government and private specialists in these fields;

(4) *National programs* which provide advanced training and research on a reciprocal basis in the Soviet Union and in the countries of Eastern Europe by faciliting access for American specialists to research facilities and resources in those countries;

(5) *National programs* which facilitate public dissemination of research methods, data and findings; and those which propose to strengthen the national capability for advanced research or training on the Soviet Union and Eastern Europe in ways not specified above.

Note.—The Advisory Committee will not consider applications from individuals to further their own training or research, or from institutions or organizations whose proposals are not for competitive award programs that are national in scope as defined above. Moreover, support for publications, library activities and conferences will be constrained by the following policies:

—*Publications.* Title VIII funds should not be used to subsidize journals, newsletters and other periodical publications except in unique or special circumstances, in which cases the funds should be supplied by peer-review organizations with national competitive programs.

—*Library Activities.* Title VIII funds should not be used for library preservation, cataloging or modernization. However, a national peer-review organization with Title VIII funds could offer modest support to efforts directed toward developing an effective, long-term and well-coordinated strategy to address the serious library needs of the field.

—*Conferences.* Proposals for conferences, like those for research projects and training programs, should be assessed according to their relative contribution to the advancement of knowledge and to the qualitative improvement of the professional cadres in the field. Therefore, Title VIII grants generally should not be made solely to support a particular conference or series of conferences. Rather conference funding should come from one or more of the national peer-review organizations receiving Title VIII funds, with proposed conferences being evaluated competitively against research, fellowship or other proposals for achieving the purposes of the grant.[1]

In making its recommendations, the Committee will seek to encourage a coherent, long-term, and stable effort directed toward developing and maintaining a national capability in Soviet and Eastern European studies. Program proposals can be for conduct of any of the functions enumerated, but in making its recommendations, the Committee will be concerned to develop a balanced national effort which, over the life of the Act, will ensure attention to all the countries of the area, though with emphasis on the USSR.

Part III

Available Funds

Congress has authorized $5.0 million and the House of Representatives has appropriated $4.559 million for Title VIII funding for Fiscal Year 1987. Awards cannot be made until the Senate has acted and the full Congress has approved the appropriations bill for the Department of State.

The Department legally cannot commit funds that may be appropriated in subsequent fiscal years. Thus multi-year projects cannot receive assured funding unless such funding is supplied out of a single year's appropriation. Generally, grant agreements will permit the expenditure from a particular year's grant to be made over two or more years.

Applications

Applications must be prepared and submitted in 20 copies in the form of a statement, the narrative part of which should not exceed 20 double-spaced pages. This must be accompanied by a 1 page executive summary, a budget, and vitae of professional staff. Proposers may append other information they consider essential, though bulky submissions are discouraged.

Budget

Applicants should familiarize themselves with OMB Circular No. A–110, "Grants and Agreements with Institutions of Higher Education . . . Uniform Administrative

[1] These policies were adopted by the Advisory Committee after it reviewed a June, 1986 report on the deliberations of a Workshop on Publications, Library Activities, and Conferences. The Workshop, a joint undertaking of the Congressional Research Service and the American Association for the Advancement of Slavic Studies, was held at the request of the Advisory Committee. Copies of the report, prepared by John P. Hardt and Jean F. Boone, are available from them at the Congressional Research Service, Room 203, Madison Bldg., The Library of Congress, Washington, DC 20540.

Requirements," and indicate or provide the following information:

(1) Whether the organization falls under OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations;"

(2) A budget request containing total amount, a detailed program budget, and a detailed administrative budget listing direct administrative expenses and indirect costs. *NB* Indirect costs are limited to 10 percent of total grant agreements.

(3) The applicant's cost-sharing proposal, if applicable, containing appropriate details and cross references to the requested budget. Applicants who are requesting Title VIII funds to supplement a program having other sources of support should submit a current budget for the total program and an estimated future budget for it showing how specific lines in the budget would be effected by the allocation of requested Title VIII grant funds;

(4) Whether payment is requested on a reimbursable basis or by advance methods; re the latter, for grants above $120,000, advance funds will be made through a letter of credit, but if less than $120,000, advance of funds will be made by Treasury checks through wire transfers;

(5) The organization's most recent audit report (the most recent U.S. Government audit report if available) and the name, address and point of contact of the audit agency.

Technical Review

The Soviet-Eastern European Advisory Committee will evaluate applications on the basis of the following criteria:

(1) responsiveness to the substantive provisions set forth above in *Part II, Program Information* (40 points);

(2) the professional qualifications of the applicant's key personnel and their experience conducting national competitive award programs of the type the applicant proposes in the Soviet-Eastern European field (40 points); and

(3) budget and cost effectiveness (20 points).

Further Information

For further information, contact Dr. E. Raymond Platig, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR/LAR, U.S. Department of State, Washington, DC 20520. Telephone: (202) 632-2025 or 632-5879.

Dated: August 11, 1986.

E. Raymond Platig,

Executive Director, Soviet-Eastern European Studies Advisory Committee.

[FR Doc. 86-18678 Filed 8-18-86; 8:45 am]

BILLING CODE 4710-32-M

[Public Notice CM-8/986]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on September 18, 1986 in the first floor Theater, Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Washington, DC. The meeting will begin at 9:00 a.m.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting will be to continue the plan of work for the Study Group during the 1986–1990 period.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, DC. 20520; telephone [202] 674–2592.

Dated: August 7, 1986.

Richard E. Shrum,

Chairman U.S. CCIR National Committee.

[FR Doc. 86-18679 Filed 8-18-86; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/985]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Thursday, September 18, 1986 at 9:30 a.m. in Room 1207, Department of State, 2201 C Street, NE., Washington, DC.

The agenda is as follows:

1. Report on activities since the last CCITT Study Group VII meeting;
2. Consideration of contributions to the CCITT Study Group VII meeting (September 29, Geneva); and
3. Any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington DC; telephone (202) 647-8700. All attendees must use the C Street entrance to the building.

Dated: August 6, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-18680 Filed 8-18-86 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM51982]

Study Groups A and C of The U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Groups A and C (relating only to Special "S" activities) of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Tuesday, September 9, 1986 at 9:30 a.m. in Room 1205, Department of State, 2201 C Street, NW., Washington, DC.

The morning session, scheduled from 9:30 a.m. until 12:30 p.m., will be (a) a debriefing of the activities of CCITT Study Group III Working Parties 5 and 6 (June 17–26, Kobe, Japan); (b) preparations for the upcoming CCITT Study Group III meeting (October 1–17, Geneva); and (c) debriefing of the results of CCITT Study Group Special "S" meeting (May–June 4, Geneva). The afternoon session, scheduled from 1:30 p.m. until 4:30 p.m., will cover issues regarding the upcoming meetings of CCITT Study Groups I and VIII (November/December, Geneva).

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC.;

telephone (202) 647-6700. All attendees must use the C Street entrance to the building.

Dated: July 17, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-18681 Filed 8-18-86; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 13, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0241
Form Number: IRS Form 6177
Type of Review: Extension
Title: General Assistance Program Determination

OMB Number: 1545-0215
Form Number: IRS Forms 5712 and 5712-A
Type of Review: Revision
Title: Election to be Treated as a Possessions Corporations Under Section 936 Election to Use the Cost Sharing or Profit Split Method Under Section 936(h)(5)

Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

U.S. Customs Service

OMB Number: 1515-0088
Form Number: None
Type of Review: Extension
Title: Foreign Assembler's Declaration (with Endorsement by the Importer

Clearance Officer: Vince Olive (202) 566-9181, U.S. Custom Service, Room 6321, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Office of the Secretary

OMB Number: 1505-0021
Form Number: TD F 90-22.1
Type of Review: Revision
Title: Report of Foreign Bank and Financial Accounts

Clearance Officer: Douglas J. Colley, (202) 566-6671, Office of the Secretary, Room 7221, ICC Building, 1201 Constitution Avenue, NW., Washington, DC 20220.

OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

S. F. Timothy Mullen,

Department Reports Management Office.

[FR Doc. 86-18682 Filed 8-18-86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circular—Public Debt Series—No. 28-86]

Treasury Notes of August 31, 1988, Series AD-1988

Washington, August 14, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of August 31, 1988, Series AD-1988 (CUSIP No. 912827 TY 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 2, 1986, and will accrue interest from that date, payable on a semiannual basis on February 28, 1987, August 31, 1987, February 29, 1988, and August 31, 1988. They will mature August 31, 1988, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, August 20, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 19, 1986, and received no later than Tuesday, September 2, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders

totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, September 2, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, August 28, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, September 2, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-18736 Filed 8-15-86; 12:15 pm]

BILLING CODE 4810-40-M

Customs Service

[T.D. 86-151]

Reimbursable Service—Excess Cost of Preclearance Operation

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19

CFR 24.18(d)), the biweekly reimbursable excess cost for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 31, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$18,206
Toronto, Canada	31,117
Kindley Field, Bermuda	10,755
Nassau, Bahama Islands	24,825
Vancouver, Canada	12,752
Winnipeg, Canada	2,759
Freeport, Bahama Islands	17,542
Calgary, Canada	7,774
Edmonton, Canada	4,739

Dated: August 7, 1986.

D. Lynn Gordon,

Acting Comptroller.

[FR Doc. 86-18659 Filed 8-18-86; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Age of Correggio and the Carracci: Emilian Painting of the 16th and 17th Centuries" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about December 19, 1986, to on or about February 16, 1987; and at the Metropolitan Museum of Art, New York City, beginning on or about March 19, 1987, to on or about May 24, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, 301 4th Street, SW., Washington, DC 20547.

Dated: August 14, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-18696 Filed 8-18-86; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhbit, "Matisse: Mastery of Light and Pattern—The Early Years in Nice" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about November 2, 1986, to on or about March 29, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: August 14, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-18694 Filed 8-18-86; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhbit, "Russia: The Land, the People, Russian Painting 1840-1910" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Soviet Ministry of Culture and the Smithsonian Institution Traveling Exhibition Service. I also determine that the temporary exhibition or display of the listed exhibit objects at the Renwick Gallery, Smithsonian Institution, in Washington, DC, beginning on or about October 17, 1986, to on or about January 5, 1987; at the Smart Gallery, University of Chicago, Chicago, Illinois, beginning on or about January 22, 1987 to on or about March 8, 1987; and at the Fogg Art Museum, Harvard University, Cambridge, Massachusetts, beginning on or about April 13, 1987, to on or about July 14, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: August 14, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-18695 Filed 8-18-86; 8:45 am]

BILLING CODE 8230-01-M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S Advisory Commission on Public Diplomacy will be held September 10, 1986, in Room 600, 301 4th Street, SW., Washington, DC at 10:00 a.m.

The Commission will meet with Mr. Stephen H. Rhinesmith, Coordinator of the President's U.S.-Soviet Exchange Initiative, and Mr. Gregory Guroff, Deputy Coordinator, to discuss U.S.-Soviet exchange programs. It will also meet with Ms. Angie Garcia, Director of USIA's Office of Personnel, and Mr. Barry Fulton, Chief of Foreign Service Personnel, to discuss Agency personnel administration.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: August 13, 1986.

Charles N . Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 86-18697 Filed 8-18-86; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, 301 4th Street, SW., Washington, DC 20547.

VOL
51
ISS
160
AG
19
1986
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Sunshine Act Meetings

Federal Register
Vol. 51, No. 160
Tuesday, August 19, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Reserve System	1
National Mediation Board	2

1

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m. Monday, August 25, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21th Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 15, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86–18790 Filed 8–15–86; 3:27 pm]

BILLING CODE 6210–01–M

2

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, September 3, 1986.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of August, 1986.

2. Other priority matters which may come before the board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523–5920.

Date of notice: August 14, 1986.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 86–18738 Filed 8–15–86; 12:15 pm]

BILLING CODE 7550–01–M

Reader Aids

Federal Register
Vol. 51, No. 160
Tuesday, August 19, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218
5516.....29200

Administrative Orders:

Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445

5 CFR

532.....28799
890.....28799
1201.....28321

Proposed Rules:
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576

7 CFR

2.....29201
26.....28800
29.....28687
51.....27813, 28802
272.....28196
273.....28196
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29206
770.....28921
908.....27816, 28509, 29206
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
932.....28922
944.....29447
982.....29545
991.....28802
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449
1930.....27636
1944.....27636
1951.....27636
1965.....27636

Proposed Rules:
52.....28719
235.....29236
250.....29236
252.....29236
255.....29236
330.....29401
340.....29401
441.....29246
447.....27862
656.....29251
920.....29473
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819
1068.....28819
1079.....27554, 28819

1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1496.....29557
1709.....28722
1772.....29557, 29558

8 CFR

238.....28060, 28923, 29085
Proposed Rules:
214.....27867, 28578
248.....27867

9 CFR

92.....28805, 29210
205.....29449
317.....29456
318.....29456
Proposed Rules:
92.....27871

10 CFR

Ch. I.....29211
50.....27817, 28044
73.....27817, 27822
110.....27825
Proposed Rules:
50.....27872

11 CFR

Proposed Rules:
100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
501.....28221
522.....28221, 28890
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522
Proposed Rules:
205.....28589
226.....28245, 29258

13 CFR

310.....27828

14 CFR

21.....28509-28525
23.....28509-28525
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211-29213
71.....27833-27835, 28067, 28325, 28326, 28528, 28923, 29460
75.....28809
97.....28326
121.....28322
1204.....27528
1209.....28924
Proposed Rules:
Ch. I.....28386, 28725
1.....28095
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256-29259, 29474, 29475
71.....28388-28390, 28956, 28957, 29261-29263, 29534
73.....28095
75.....28096, 28957
91.....29476

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695
423.....28222
444.....28328
1500.....28529, 29094
Proposed Rules:
13.....28594, 29265

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529
Proposed Rules:
231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810
Proposed Rules:
271.....28102

19 CFR

6.....27836
101.....28070
Proposed Rules:
113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544
Proposed Rules:
404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546
520.....28546, 29215
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....28695
Proposed Rules:
1308.....28725, 28727

22 CFR

Proposed Rules:
2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
888.....28488
905.....27774
965.....27774
968.....27774
Proposed Rules:
35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078
Proposed Rules:
4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....29098
1952.....27534
1960.....28378
2603.....28379
2676.....29215
Proposed Rules:
602.....28840
1613.....29482
2603.....29497

30 CFR

901.....29098
914.....29100
931.....28553
943.....28554
Proposed Rules:
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933
Proposed Rules:
10.....29113
357.....29559

32 CFR

90.....28092

706.....28933
Proposed
553.....

33 CFR

100.....
117.....
140.....
142.....
161.....
165.....
Proposed
117.....
334.....

34 CFR

63.....
211.....
617.....
619.....
624.....
668.....
674.....
796.....

36 CFR

1.....
3.....
34.....
Proposed
7.....
60.....
63.....

37 CFR

1.....
2.....
306.....

38 CFR

21.....

39 CFR

10.....
Proposed
10.....

40 CFR

33.....
52.....

60.....
61.....
65.....
81.....
180.....
260.....
261.....

262.....
263.....
264.....
265.....
270.....
271.....
761.....
Proposed
Ch. I.....
52.....
65.....
81.....
85.....
135.....
141.....

706.....27535, 27536, 28933–28941, 29464–29468

Proposed Rules:

553.....29115

33 CFR

100.....28706
117.....28380, 28707, 29101
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468

Proposed Rules:

117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396
674.....28312
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101

Proposed Rules:

7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383

Proposed Rules:

10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813
60.....29104
61.....27956
65.....28224, 29216
81.....27843–27845
180.....28225–28227
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556

Proposed Rules:

Ch. I.....29499
52.....27560, 27878, 29116
65.....28113
81.....29268
85.....28114
135.....29426
141.....28730
180.....28249, 28603, 28959
271.....28604
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–26.....29104
101–40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847

Proposed Rules:

405.....29560
447.....29560

43 CFR

11.....27674

Public Land Orders:

6620.....28229
6622.....28229

Proposed Rules:

4.....28846

44 CFR

11.....29222
64.....28230, 28232

Proposed Rules:

67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384

Proposed Rules:

1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:

31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551–29552
87.....29106
97.....28237

Proposed Rules:

0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:

501.....29131
513.....29131
553.....29131
611.....28731, 29131
630.....29132
661.....29506
663.....29506
685.....29131

LIST OF PUBLIC LAWS

Last List August 18, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 1740/Pub. L. 99–380

To direct the Secretry of the Interior to release a reversionary interest in certain lands in Orange County, Florida which were previously conveyed to Orange County, Florida. (Aug. 14, 1986; 100 Stat. 809; 1 page) Price: $1.00

H.R. 1795/Pub. L. 99–381

To exempt certain lands in the State of Mississippi from a restriction set forth in the Act of April 21, 1806. (Aug. 14, 1986; 100 Stat. 810; 1 page) Price: $1.00

S. 1073/Pub. L. 99–382

Japanese Technical Literature Act of 1986. (Aug. 14, 1986; 100 Stat. 811; 2 pages) Price: $1.00

VOL
51
ISS
160
AG
19
1986
UMI

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1985

Additions to Table III, March 15, 1985 through January 15, 1986

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those acts of the first session of the 99th Congress which require Federal agencies to publish documents in the Federal Register. Table III appears in the CFR Index and Finding Aids volume revised as of January 1, 1986.

Description of Act	*Citation*
Pacific Salmon Treaty Act of 1985	Public Law 99–5; 99 Stat. 11; 16 U.S.C. 3635.
Cocopah Indian Tribe of Arizona, lands in trust	Public Law 99–23; 99 Stat. 49.
Export Administration Amendments Act of 1985	Public Law 99–64; 99 Stat. 124; 50 U.S.C. app. 2404; 99 Stat. 137, 138; 50 U.S.C. app. 2406; 99 Stat. 150; 50 U.S.C. app. 2411.
International Security and Development Cooperation Act of 1985	Public Law 99–83; 99 Stat. 221; 22 U.S.C. 2371; 99 Stat. 224; 49 U.S.C. app. 1515; 99 Stat. 226; 49 U.S.C. app. 1515a.
Supplemental Appropriations Act, 1985	Public Law 99–88; 99 Stat. 318.
Indian Education Technical Amendments Act of 1985	Public Law 99–89; 99 Stat. 380; 25 U.S.C. 2001.
National Science, Engineering, and Mathematics Authorization Act of 1986.	Public Law 99–159; 99 Stat 889; 42 U.S.C. 1864.
Public debt limit, increase	Public Law 99–177; 99 Stat. 1072; 2 U.S.C. 901.
Continuing appropriations for fiscal year 1985, and for other purposes	Public Law 99–190; 99 Stat. 1288; 99 Stat. 1290.
Food Security Act of 1985	Public Law 99–198; 99 Stat. 1378; 15 U.S.C. 713a–14; 99 Stat. 1410; 7 U.S.C. 1444–1; 99 Stat. 1471; 7 U.S.C. 1431; 99 Stat. 1586; 7 U.S.C. 2020; 99 Stat. 1653, 1654; 42 U.S.C. 7545 note.
California-Nevada boundary, land title clearance	Public Law 99–200; 99 Stat. 1664.
Maryland-National Capital Park and Planning Commission, land conveyance.	Public Law 99–215; 99 Stat. 1725.
Low-Level Radioactive Waste Policy Act Amendments, etc	Public Law 99–240; 99 Stat. 1853; 42 U.S.C. 2021e.

or those
Register.

137, 138;

49 U.S.C.

. 1410; 7
7 U.S.C.

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51
ISS
160
AG
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160
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VOL
51
ISS
1
6
1
AG
20
1986
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8-20-86
Vol. 51
Pages 2

8-20-86
Vol. 51 No. 161
Pages 29629-29900

Federal Register

Wednesday
August 20, 1986

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VOL
51
ISS
161
AG
20
1986
UMI

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RESERVATIONS: Doris Tucker 202-523-3419

Contents

Federal Register
Vol. 51, No. 161
Wednesday, August 20, 1986

Agricultural Marketing Service
See also Packers and Stockyards Administration
PROPOSED RULES
Pineapple juice; grade standards
Correction, 29656

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food Safety and Inspection Service; Forest Service; Packers and Stockyards Administration
NOTICES
Cooperative agreements:
Texas Agricultural Experiment Station, 29678

Air Force Department
NOTICES
Meetings:
Academy Board of Visitors, 29680
Senior Executive Service:
Performance Review Board; membership, 29681

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis—
State and area classification, 29629
Tuberculosis; State and area designations, 29629

Army Department
See also Engineers Corps
NOTICES
Meetings:
Military Personal Property Claims Synposium, 29681

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Canada and United States-International Joint Commission
See International Joint Commission-United States and Canada

Centers for Disease Control
NOTICES
Grants and cooperative agreements; availablity, etc.:
Demonstration research and investigation project to strengthen country field epidemiology programs, 29701

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; National Telecommunications and Information Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
India, 29680
Turkey, 29679

Congressional Budget Office
NOTICES
Balanced Budget and Emergency Deficit Control Act (Gramm-Rudman-Hollings):
Sequestration report to Congress, 29828

Conservation and Renewable Energy Office
PROPOSED RULES
Residential buildings, Federal; energy conservation standards, 29754, 29773
(2 documents)

Consumer Product Safety Commission
PROPOSED RULES
Hazardous substances:
Household products containing methylene chloride, 29778

Defense Department
See Air Force Department; Army Department; Engineers Corps

Education Department
NOTICES
Grants; availability, etc.:
Deaf-blind children and youth program; correction, 29681

Employment and Training Administration
NOTICES
Adjustment assistance:
A.O. Smith, 29712
Gearhart Industries, Inc., 29712
LaSalle Steel Co. et al., 29712
Federal-State unemployment compensation program:
Unemployment insurance program letters—
Interpretations; alien eligibility, etc., 29713

Energy Department
See Conservation and Renewable Energy Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Alcatraz Island, San Francisco Bay, CA, 29681
Hydroelectic and water supply project, Fort Smith, AR, 29682

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
Land disposal facilities; ground-water contamination detection, 29812
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Naphthalene sulfonic acid-formaldehyde condensates, sodium salts, 29669
Water pollution control:
National pollutant discharge elimination system; State programs—
Arkansas, 29668

VOL 51 ISS 161 AG 20 1986 UMI

NOTICES
Pesticide programs:
Registration standards—
Availability, etc., 29693
Pesticides; emergency exemption applications:
Sulfur dioxide, etc., 29699
Triflumizole, 29694
Toxic and hazardous substances control:
Premanufacture notices receipts, 29694, 29695 (2 documents)

Equal Employment Opportunity Commission
RULES
Equal Pay Act; interpretations, 29816

Executive Office of the President
See Management and Budget Office; Trade Representative, Office of United States

Federal Aviation Administration
RULES
Standard instrument approach procedures, 29631
VOR Federal airways, 29630
PROPOSED RULES
Airworthiness directives:
Aerospatiale, 29659

Federal Deposit Insurance Corporation
RULES
Unsafe and unsound banking practices:
Insured nonmember banks; subsidiary securities activities Correction, 29630
PROPOSED RULES
Unsafe and unsound banking practices:
Common name or logo sharing; separate office requirements, 29657
NOTICES
Meetings; Sunshine Act, 29739

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Fort Smith, AR; hydroelectric and water supply project, 29682
Natural gas certificate filings:
Consolidated Gas Transmission Corp. et al., 29684
Applications, hearings, determinations, etc.:
Carnegie Natural Gas Co., 29683
Equitable Gas Co., 29683
Gas Transport, Inc., 29683
Northwest Pipeline Corp., 29689
Southwest Gas Corp., 29683, 29684 (2 documents)

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 29739

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Carlson Bankshares, Inc., 29700
Equimark Corp., 29700
Second Bancorp, Inc., et al., 29700
Sovran Financial Corp., 29701
SunTrust Banks, Inc., et al., 29701

Federal Trade Commission
RULES
Prohibited trade practices:
Bass Brothers Enterprises, Inc., et al., 29633
Blue Lustre Home Care Products, Inc., 29633
PROPOSED RULES
Prohibited trade practices:
Detroit Auto Dealers Association, Inc., et al., 29660
Electronic Systems International, Inc., et al., 29664
Warranties:
Informal dispute settlement procedures, 29666

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc., 29671
Migratory bird hunting:
Lead shot use, 29673

Forest Service
NOTICES
Meetings:
Mono Basin National Forest Scenic Area Advisory Board, 29678

General Services Administration
RULES
Property management:
Motor vehicle expenditure control, 29638

Health and Human Services Department
See Centers for Disease Control; Health Care Financing Administration

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—
Indiana, 29702
Medicare:
Home health agency costs per visit; schedule of limits Correction, 29703

Hearings and Appeals Office, Energy Department
NOTICES
Crude oil overcharges; policy statement implementation, 29689

Housing and Urban Development Department
RULES
Low income housing:
Housing assistance payments (Section 8)—
Public housing agency recovery of funds obtained through fraud and abuse, 29633

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service
NOTICES
Privacy Act; systems of records, 29703

International Joint Commission-United States and Canada
NOTICES
Great Lakes-St. Lawrence River Basin; methods of alleviating adverse consequences of fluctuating water levels, 29706

International Trade Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29678
Short supply determinations; inquiry:
High grade, cold-rolled grain-oriented silicon steel
Correction, 29679

International Trade Commission
NOTICES
Agency information collection activities under OMB review, 29706
Import investigations:
Canada, free trade area; possible economic effect, 29711
Dynamic random access memories, components, and products containing same, 29706
Dynamic random access memory semiconductors (DRAM's) of 256 kilobits and above from Japan, 29707
Electrically resistive monocomponent toner, 29709
Erasable programmable read only memories (EPROM's) from Japan, 29708
Miniature hacksaws, 29707
Porcelain-on-steel cooking ware from—
Spain, 29710
Salmon gill fish netting of manmade fibers from Japan, 29708
Soft sculpture dolls (Cabbage Patch Kids), related literature and packaging, 29710
U.S.-Canada free trade arrange in services; competitive evaluation, 29707

Justice Department
NOTICES
Pollution control; consent judgments:
Pacific Hide and Fur Depot, Inc., et al., 29712

Labor Department
See Employment and Training Administration

Land Management Bureau
RULES
Public land orders:
Wyoming, 29641
NOTICES
Environmental statements; availability, etc.:
Alabaster mining wilderness study area, UT, 29704
Realty actions; sales; leases, etc.:
Arizona, 29704
Withdrawal and reservation of lands:
Nevada, 29705
(2 documents)

Management and Budget Office
NOTICES
Balanced Budget and Emergency Deficit Control Act (Gramm-Rudman-Hollings):
Sequestration report to Congress, 29828

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Meetings:
Royalty Management Advisory Committee, 29705

National Foundation on the Arts and Humanities
PROPOSED RULES
Museum Services Institute:
Conservation grants and museum assessment program
[Editorial Note: This document, appearing at page 29500 in the Federal Register of August 18, 1986, was not listed in that issue's table of contents]
NOTICES
Agency information collection activities under OMB review, 29721
Committees; establishment, renewals, terminations, etc.:
Tilted Arc Site Review Advisory Committee, 29722

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeast multispecies, 29642
Ocean salmon off coasts of Washington, Oregon, and California, 29654
Tuna, Atlantic fisheries, 29642
PROPOSED RULES
Marine mammals:
Taking and importing; general permit, 29674
NOTICES
Permits:
Experimental fishing; Pacific Coast Groundfish, 29679

National Telecommunications and Information Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29679

National Transportation Safety Board
NOTICES
Accident reports, safety recommendations, and responses, etc.; availability, 29722, 29723
(2 documents)

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
KMC, Inc., et al., 29656
NOTICES
Agency information collection activities under OMB review, 29725
Environmental statements; availability, etc.:
General Atomic Technologies, Inc., et al., 29726
South Carolina Electric & Gas Co. et al., 29727
Petitions; Director's decisions:
Boston Edison Co., 29728
Applications, hearings, determinations, etc.:
Florida Power & Light Co., 29725

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Meetings:
Mainstem Passage Advisory Committee, 29728

Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
Turlock Livestock Auction Yard, CA et al., 29678

Personnel Management Office
PROPOSED RULES
Health benefits, Federal employees:
Participation requirement waiver, 29655
Performance management and recognition system; minimum performance award funding, 29655
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29728

Postal Service
RULES
Private carriage of letters, restriction; private express statutes for extremely urgent letters, 29636

Public Health Service
See Centers for Disease Control

Railroad Retirement Board
NOTICES
Meetings; Sunshine Act, 29740
Supplemental annuity program determination of quarterly rate of excise tax, 29729

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 29740
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 29729
Applications, hearings, determinations, etc.:
Flynn, John J., 29732
Royal Insurance p.l.c., 29733
Smith Barney Mortgage Capital Corp., 29734

Small Business Administration
NOTICES
Disaster loan areas:
California, 29736
License surrenders:
SC Opportunities, Inc., 29736
Meetings:
Las Vegas District Advisory Council, 29736
Meetings; regional advisory councils:
New Jersey, 29736

State Department
NOTICES
Meetings:
South Africa Advisory Committee, 29737

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
Articles eligible for duty-free treatment, etc.; correction, 29737

Transportation Department
See also Federal Aviation Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
Texas-Mexico (1986) service case, 29737
(2 documents)

United States Information Agency
NOTICES
Privacy Act; systems of records, 29737

Separate Parts In This Issue

Part II
Department of Energy, Office of Conservation and Renewable Energy, 29754

Part III
Consumer Product Safety Commission, 29778

Part IV
Environmental Protection Agency, 29812

Part V
Equal Employment Opportunity Commission, 29816

Part VI
Office of Management and Budget; Congressional Budget Office, 29828

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 161 AG 20 1986 UMI

CFR PA
A cumul
the Reac
5 CFR
Proposed
540.....
890.....
7 CFR
Proposed
52.....
9 CFR
77.....
78.....
10 CFR
Proposed
73.....
435 (2 d
12 CFR
337.....
Proposed
337.....
14 CFR
71.....
97.....
Proposed
39.....
16 CFR
13 (2 do
Proposed
13 (2 do
703.....
1500.....
24 CFR
892.....
29 CFR
1620.....
39 CFR
320.....
40 CFR
Proposed
123.....
180.....
264.....
265.....
41 CFR
101-38.
43 CFR
Public La
6623.....
50 CFR
285.....
651.....
661.....
Proposed
17.....
20.....
216.....

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR

Proposed Rules:

540..... 29655
890..... 29655

7 CFR

Proposed Rules:

52..... 29656

9 CFR

77..... 29629
78..... 29629

10 CFR

Proposed Rules:

73..... 29656
435 (2 documents)..... 29754, 29773

12 CFR

337..... 29630

Proposed Rules:

337..... 29657

14 CFR

71..... 29630
97..... 29631

Proposed Rules:

39..... 29659

16 CFR

13 (2 documents)..... 29633

Proposed Rules:

13 (2 documents)..... 29660, 29664
703..... 29666
1500..... 29778

24 CFR

892..... 29633

29 CFR

1620..... 29816

39 CFR

320..... 29636

40 CFR

Proposed Rules:

123..... 29668
180..... 29669
264..... 29812
265..... 29812

41 CFR

101-38..... 29638

43 CFR

Public Land Order:

6623..... 29641

50 CFR

285..... 29642
651..... 29642
661..... 29654

Proposed Rules:

17..... 29671
20..... 29673
216..... 29674

VOL
51
ISS
161
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20
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Rules and Regulations

Federal Register
Vol. 51, No. 161
Wednesday, August 20, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 86-075]

Tuberculosis in Cattle; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of tuberculosis by raising the designation of Iowa from a modified accredited area to an accredited-free State. This rule is necessary because it has been determined that Iowa meets the criteria for designation as an accredited-free State

The regulations do not impose restrictions on the interstate movement of cattle not known to be affected with or exposed to tuberculosis from either accredited-free States or modified accredited areas. However, the designation for any given jurisdiction can affect the marketability of cattle from that jurisdiction, since some prospective cattle buyers prefer to buy cattle from accredited-free States.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Cattle Diseases Staff, VS, APHIS, USDA, Room 816, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8715.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on May 8, 1986 (51 FR 17001-17002), amended the tuberculosis regulations in 9 CFR Part 77 by raising the designation of Iowa from a modified accredited area to an accredited-free State. The amendment was made effective on May 8, 1986. Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of May 8, 1986, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the State of Iowa will not cause a significant effect on marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 77

Animal diseases, Cattle, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS IN CATTLE

Accordingly, the interim rule amending 9 CFR Part 77 which was published at 51 FR 17001-17002 on May 8, 1986, is adopted as a final rule.

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 15th day of August 1986.

J.K. Atwell,
Deputy Administrator, Veterinary Services.

[FR Doc. 86-18728 Filed 8-19-86; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 78

[Docket No. 86-079]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the States of New Jersey and West Virginia from Class A to Class Free. This rule is necessary because it has been determined that these States meet the standards for Class Free status. The rule relieves certain restrictions on the interstate movement of cattle from the States of New Jersey and West Virginia.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. H.E. Metcalf, Program Planning Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on May 16, 1986 (51 FR 17922-17923), amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the States of New Jersey and West Virginia from Class A to Class Free. The amendment, which was made effective May 16, 1986, relieves certain restrictions on the interstate movement of cattle from New Jersey and West Virginia.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of May 16, 1986, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the States of New Jersey and West Virginia reduces certain requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the changes in brucellosis status made by this document will not affect marketing patterns and will not have a significant impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with States and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 51 FR 17922–17923 on May 16, 1986, is adopted as a final rule without change.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 15th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–18725 Filed 8–19–86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices; Correction

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule; correction.

SUMMARY: The Federal Deposit Insurance Corporation is correcting errors in the authority citation of its final rule on unsafe and unsound banking practices that was published in the June 27, 1986 issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, at (202) 898–3743.

Accordingly, the authority citation to 12 CFR Part 337 on page 23406 of the June 27, 1986 issue is corrected as follows:

PART 337—[CORRECTED]

1. In the second column, the fourth line is corrected to read: "879), effective September 21, 1950, as".

2. In the second column, the ninth line is corrected to read: "L. No. 95–369; 92 Stat. 618), effective".

3. In the third column, the twenty-first line is corrected to read: "1514, effective December 26, 1961; sec. 11(f),".

Dated: August 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–18719 Filed 8–19–86; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–AWA–16]

Alteration of VOR Federal Airways—Southeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the alternate airway designations for three Federal airways in the southeastern United States and renumbers those segments with the designators of existing overlapping airways. This action is in concert with the national program to simplify airway designations by eliminating alternate Federal airways.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On May 23, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the alternate airway designations for VOR Federal Airways V–51W, V–54N and V–115E. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations removes the alternate airway designations for VOR Federal Airways V–51W, V–54N and V115E. The V–51W segment between Corce, GA, and Hinch Mountain, SC, is renamed V–311 by extending V–311 from Corce to Hinch Mountain. The V–54N segment between Texarkana and Little Rock, AR, is revoked because it is identical to the

overlapping segment of V–573. The V–54N segment between Muscle Shoals, AL, and Chattanooga, TN, is revoked. The V–115E segment between Trust, AL, over Chattanooga is redesignated as V–209 by extending V–209 from Vulcan, AL, to Chattanooga via the track of V–115E.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (50 FR 47046 and 51 FR 190) is further amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V–51—[Amended]

By removing the words "Hinch Mountain, TN, including a west alternate from the INT Anderson, SC, 274° and Athens 340° radials to Hinch Mountain via INT Anderson 274° and Hinch Mountain 160° radials;" and by substituting the words "Hinch Mountain, TN;"

V–311—[Amended]

By removing the words "From INT Toccoa, GA, 222° and Electric City, SC, 274° radials; Electric City," and by substituting the words "From Hinch Mountain, TN; INT Hinch Mountain 160° and Electric City, SC, 274° radials; Electric City;"

V–54—[Amended]

By removing the words "Little Rock, including a N alternate via INT Texarkana 037° and Hot Springs, AR, 225° radials and Hot Springs;" and by substituting the words "Little Rock;" and also by removing the words "Rocket, AL, including a N alternate via INT Muscle Shoals 067° and Rocket 282° radials; Chattanooga, TN, including a N alternate;" and by substituting the words "Rocket, AL; Chattanooga, TN;"

V–115—[Amended]

By removing the words "Chattanooga, TN, including an E alternate via INT Vulcan 097° and Gadsden, AL, 233° radials, Gadsden and INT Gadsden 042° and Chattanooga 214° radials;" and by substituting the words "Chattanooga, TN;"

V–209—[Amended]

By removing the words "Vulcan, AL" and by substituting the words "Vulcan, AL, INT Vulcan 097° and Gadsden, AL, 233° radials, Gadsden; and INT Gadsden 042° and Chattanooga, TN, 214° radials; Chattanooga"

Issued in Washington, DC, on August 13, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18698 Filed 8–19–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 25062; Amdt. No. 1327]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SAIPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPS, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS–230), Air Transportation Divison, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The

provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on August 8, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: Section 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective October 23, 1986

Pontiac, IL—Pontiac Muni, VOR-A, Orig.

. . . Effective September 25, 1986

Manila, AR—Manila Muni, NDB RWY 36R, Amdt. 4 CANCELLED
Denver, CO—Stapleton Intl, ILS/DME RWY 17L, Amdt. 4
Erie, CO—Tri-County, VOR/DME-A, Amdt. 2
Boise, ID—Boise Air Terminal (Gowen Field), ILS RWY 10R, Amdt. 8
Pocatello, ID—Pocatello Muni—LOC/DME BC RWY 3, Amdt. 3 CANCELLED
Evansville, IN—Evansville Dress Regional, VOR RWY 4, Amdt. 5
Kokomo, IN—Kokomo Muni, ILS RWY 23, Amdt. 3
Kokomo, IN—Kokomo Muni, RNAV RWY 5, Amdt. 2
Kokomo, IN—Kokomo Muni, VOR RWY 23, Amdt. 16
Kokomo, IN—Kokomo Muni, VOR RWY 32, Amdt. 16
Lafayette, IN—Halsmer, VOR/DME-B, Amdt. 8
Terre Haute, IN—Hulman Regional, ILS RWY 5, Amdt. 21
Terre Haute, IN—Hulman Regional, VOR/DME RWY 5, Amdt. 15
Terre Haute, IN—Hulman Regional, NDB RWY 5, Amdt. 17
Terre Haute, IN—Hulman Regional, VOR RWY 23, Amdt. 18
Terre Haute, IN—Hulman Regional, RNAV RWY 31, Amdt. 6
Lake Charles, LA—McFillen Air Park, VOR-C, Orig., CANCELLED
East Tawas, MI—Iosco County, VOR-A, Amdt. 5
Rogers City, MI—Presque Isle County, NDB RWY 27, Amdt. 2
Traverse City, MI—Cherry Capital, NDB RWY 28, Amdt. 7
Traverse City, MI—Cherry Capital, VOR or TACAN-A, Amdt. 17
Traverse City, MI—Cherry Capital, ILS RWY 28, Amdt. 9
Austin, MN—Austin Muni, VOR RWY 18, Amdt. 13
Austin, MN—Austin Muni, VOR RWY 36, Amdt. 13
Cape Girardeau, MO—Cape Girardeau Muni, LOC/DME BC RWY 28, Amdt. 4
Cape Girardeau, MO—Cape Girardeau Muni, NDB RWY 10, Amdt. 7
Cape Girardeau, MO—Cape Girardeau Muni, ILS RWY 10, Amdt. 8
Joplin, MO—Joplin Muni, ILS RWY 13, Amdt. 21
Mohall, ND—Mohall Muni, NDB RWY 31, Amdt. 1
Carlsbad, NM—Cavern City Air Terminal, ILS RWY 3, Amdt. 3
Bellefontaine, OH—Bellefontaine Muni, NDB RWY 22, Amdt. 4
Bellefontaine, OH—Bellefontaine Muni, RNAV RWY 22, Amdt. 3
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23L, Amdt. 2
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23R, Amdt. 2
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 23L, Amdt. 11
Columbus, OH—Rickenbacker, VOR RWY 23L, Amdt. 1
Gallipolis, OH—Gallia-Meigs Regional, NDB-A, Orig.
Gallipolis, OH—Gallia-Meigs Regional, NDB RWY 23, Amdt. 4, CANCELLED
Watonga, OK—Watonga, VOR/DME-A, Amdt. 1
La Grande, OR—La Grande Muni, NDB-A, Amdt. 1
Portland, OR—Portland-Hillsboro, NDB-B, Amdt. 1
Portland, OR—Portland-Hillsboro, ILS RWY 12, Amdt. 5
Madison, SD—Madison Muni, NDB RWY 15, Amdt. 6
Madison, SD—Madison Muni, VOR/DME RWY 33, Amdt. 2
Yankton, SD—Chan Gurney Muni, ILS RWY 31, Amdt. 2
Yankton, SD—Chan Gurney Muni, VOR RWY 31, Amdt. 1
Yankton, SD—Chan Gurney Muni, VOR RWY 13, Amdt. 1
Houston, TX—West Houston-Lakeside, MLS STOL RWY 15, Orig., CANCELLED
Jacksonville, TX—Cherokee County, VOR/DME RWY 13, Orig.
San Marcos, TX—San Marcos Muni, ILS RWY 12, Amdt. 1
Amery, WI—Amery Muni, NDB RWY 18, Amdt. 2
Ashland, WI—John F. Kennedy Memorial, NDB RWY 2, Amdt. 8
Ashland, WI—John F. Kennedy Memorial, VOR RWY 2, Amdt. 4
Ashland, WI—John F. Kennedy Memorial, VOR RWY 31, Amdt. 5
Fond Du Lac, WI—Fond Du Lac County, NDB RWY 9, Amdt. 5
Platteville, WI—Grant County, NDB RWY 25, Amdt. 3

Waukesha, WI—Waukesha County, NDB RWY 18R, Amdt. 1, CANCELLED
Worland, WY—Worland Municipal Airport, VOR RWY 16, Amdt. 4

. . . *Effective August 28, 1986*

Santa Maria, CA—Santa Maria Public, ILS RWY 12, Amdt. 7
Spencer, IA—Spencer Muni, VOR RWY 12, Orig.
Spencer, IA—Spencer Muni, VOR RWY 30, Orig.
Spencer, IA—Spencer Muni, VOR RWY 12, Amdt. 6, CANCELLED
Spencer, IA—Spencer Muni, VOR RWY 30, Amdt. 6, CANCELLED
Spencer, IA—Spencer Muni, VOR/DME RWY 30, Orig.
Tulsa, OK—Tulsa Intl, ILS RWY 17L, Amdt. 8
Killeen, TX—Killeen Muni, LOC RWY 1, Amdt. 2, CANCELLED
Killeen, TX—Killeen Muni, ILS RWY 1, Orig.

. . . *Effective July 31, 1986*

Faribault, MN—Faribault Muni, RNAV RWY 12, Amdt. 2

. . . *Effective July 29, 1986*

Arcata-Eureka, CA—Arcata, VOR/DME RWY 1, Amdt. 6
Arcata-Eureka, CA—Arcata, NDB–A, Amdt. 7

. . . *Effective July 28, 1986*

Arcata-Eureka, CA—Arcata, ILS RWY 32, Amdt. 26
Arcata-Eureka, CA—Arcata, VOR RWY 14, Amdt. 7.

[FR Doc. 86–18700 Filed 8–19–86; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9178]

Bass Brothers Enterprises, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Fort Worth, Tex. producer of carbon black to obtain prior FTC approval for the acquisition of securities or assets of any company over a certain size in the U.S. carbon black industry.

DATE: Complaint issued May 8, 1984. Decision issued August 6, 1986 [1].

FOR FURTHER INFORMATION CONTACT: FTC/L–502, Edward F. Glynn, Jr., Washingon, DC 20580. (202) 634–6608.

SUPPLEMENTARY INFORMATION: On Friday, May 23, 1986, there was published in the **Federal Register**, 51 FR 18897, a proposed consent agreement with analysis In the Matter of Bass Brothers Enterprises, Inc., et al., for the purposes of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock of Assets: § 13.5 Acquiring corporate stock or assets; Section 13.5–20 Federal Trade Commission Act.

List of Subjects in 16 CFR Part 13

Carbon black, Trade practices.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–18749 Filed 8–19–86; 8:45 am]
BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

16 CFR Part 13

[Docket C–3195]

Blue Lustre Home Care Products, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, an Indianapolis, Ind., manufacturer and marketer of chemical products and equipment for home and car care, to cease making unsubstantiated efficacy claims for "Rinsenvac 5", carpet cleaning fluid sold to retailers in connection with the sale of rental do-it-yourself carpet cleaning machines.

DATES: Complaint and Order issued August 1, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Toby M. Levin, FTC/B–407, Washington, DC 20580. (202) 376–8648.

SUPPLEMENTARY INFORMATION: On Tuesday, March 18, 1986, there was published in the **Federal Register**, 51 FR 9215, a proposed consent agreement with analysis In the Matter of Blue Lustre Home Care Products, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: Section 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Carpet cleaning fluid, Trade practices.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–18750 Filed 8–19–86; 8:45 am]
BILLING CODE 6750–01–M

[1] Copies of the Complaint and Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th and Pennsylvania Avenue NW., Washington, DC 20580.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 892

[Docket No. R–86–1056; FR–1692]

Public Housing Agency Section 8 Fraud Recoveries

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule prescribes procedures for public housing agencies

(PHAs) to follow under a provision of the Housing and Community Development Amendments of 1981 that requires HUD to permit PHAs to retain a portion of amounts they recover on judgments for wrongful payment of Section 8 Program funds as a result of fraud and abuse. The proposed rule on this subject was published in the Federal Register on February 23, 1983 (48 FR 7590).

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For Section 8 Existing Housing Certificates, Moderate Rehabilitation, and Housing Vouchers: Madeline Hastings, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6887. For PHA/Private Owner and State Agency Section 8 New Construction and Substantial Rehabilitation Projects: James Tahash at the same address, (202) 426–3944. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Statutory Background

Section 326(d)(1) of the Housing and Community Development Amendments of 1981 ("1981 Amendments"), contained in Title III, Subtitle A of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), states the following:

> (d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under section 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 per centum of the amount actually collected on the judgments.

This provision is self-implementing, and public housing agencies (PHAs), including Indian Housing Authorities, have been entitled to retain portions of judgments recovered on or after October 1, 1981, in accordance with the Act. This rule prescribes the procedures for PHAs to follow for litigation pending on the effective date of the rule or initiated after that date.

Section 326(d)(2) of the 1981 Amendments requires HUD to include in its annual report to Congress a summary of cases of fraud and abuse brought to its attention by PHAs for prosecution or civil action, as well as a description of the handling of these cases by HUD and the PHAs and the resolution of the cases in the court system.

Response to Public Comments

Sixteen public comments were received concerning the proposed rule. Commenters included PHAs and the National Association of Housing and Redevelopment Officials.

1. Scope of Rule

The proposed rule invited comment on whether the rule should be broadened to permit PHAs to retain a portion of funds fraudulently obtained that are recovered by means short of litigation. Commenters unanimously favored such an expansion of the rule.

The Department, however, has decided to retain the provision of the proposed rule to permit retention only of amounts recovered by means of litigation. The 1981 Amendments directed HUD to permit retention in the case of recoveries as a result of "judgments", an obvious reference to the culmination of the litigation process. The Department has given the term "judgment" a broad definition that includes a settlement of litigation, whether or not embodied in a court order. The Department believes that it is wise to implement the statutory provision for recovery of Section 8 funds before deciding whether PHAs need the additional incentive of being permitted to retain a portion of recoveries obtained by means other than litigation. Consequently, this rule does not provide for PHAs to retain a portion of collections on claims achieved by means short of litigation. In addition, we note that the administrative fee paid to PHAs acting as contract administrators is intended to cover such activities as collecting amounts improperly paid to owners and obtaining reimbursement from tenants for PHA payments to owners for vacancy loss and damage claims. Litigation may be viewed as an extraordinary and costly action which is less likely to be undertaken without the additional incentive that the statute provides.

A second way of expanding the scope of the rule was urged by one PHA: permit private owners of section 8 FHA-insured project and owners of Section 8 projects financed with direct Federal loans (under section 202 of the Housing Act of 1959) to retain recovery proceeds in the same manner as the rule permits retention by PHAs. The 1981 Amendments address only recoveries by *PHAs*. Again, HUD has decided to limit this rule to the scope of the statutory directive.

2. Definition of Fraud and Abuse

A change in the definition of fraud and abuse was urged by three commenters. They suggested it include such actions as a tenant's failure to reimburse the PHA for tenant damage or vacancy loss claims paid to owners. We have determined that such a change is not warranted.

The common understanding of the statutory terms is adopted in the rule—actions constituting false statement, omission or concealment of a substantive fact, made with intent to deceive or mislead. Participant failure to reimburse the PHA for vacancy loss, tenant damages or other loss claims paid to owners is not a deception, but a refusal or failure to pay an amount owed. Therefore, we have concluded that it is not intended to be covered by this statute.

3. Litigation reporting and approvals

Commenters expressed objectives to the requirement in proposed § 892.201 that certain procedures specified in the HUD Litigation Handbook be followed. More specifically, commenters stated that the requirements (in paragraphs (a), (b) and (c)) that a PHA obtain HUD approval before initiating litigation, settling litigation, or hiring private litigation counsel, and (in paragraph (a)) that PHAs report quarterly on the status of litigation, are unnecessary and burdensome.

It was suggested that the financial incentive to PHAs of retaining a portion of litigation proceeds is sufficient to assure that frivolous claims are not pursued and that excessive legal fees and expenses will not be incurred. The Department agrees. Therefore, the final rule deletes the requirements of § 892.201 (a) and (b) of the proposed rule that a PHA seek HUD approval of initiation and settlement of all litigations of this type, and the requirement of § 892.201(c) of the proposed rule that legal fees and expenses be approved in advance. However, the final rule does require a PHA to keep records of legal fees and expenses incurred in fraud and

abuse litigation, in order to permit HUD to fulfill its duty to assure (through audits) that amounts retained which are based on legal fees and expenses are reasonable. In cases where HUD is to be involved in the PHA's suit to recover funds, § 892.201 of the final rule will still require HUD approval before initiation of litigation.

Commenters also stated that the quarterly reporting requirement in the Litigation Handbook (referenced in proposed § 892.201(a)) is excessive and unnecessary for purposes of HUD's required annual report to Congress on this type of litigation. One other reporting requirement contained in the proposed rule was the provision of § 892.201(d) that a PHA must furnish to HUD a copy of the judgment in fraud and abuse litigation.

On reconsideration of this issue, we have concluded that section 326(d)(2) of the 1981 Amendments requires HUD to report to Congress only those cases referred to HUD for prosecution or civil action. Section 6(m) of the United States Housing Act of 1937 prohibits the Secretary of HUD from imposing "unnecessarily duplicative or burdensome reporting requirements" on PHAs. HUD has decided that to minimize impediments to PHAs willing to undertake litigation to recover for fraud and abuse and to comply most fully with section 6(m), the final rule will require PHAs to report only to the extent necessary for HUD to prepare the report to Congress required by section 326(d)(2), and to keep records that will permit HUD to assure that the amount retained by the PHA is consistent with the provisions of section 326(d)(1).

Under the new § 892.204, where all reporting and recordkeeping aspects of the rule are consolidated, when a PHA refers a fraud and abuse case to HUD, it need only report to HUD whatever action it takes after HUD's return of the matter to the PHA, e.g., PHA initiation of litigation. In all other instances, the final rule requires neither reporting of PHA fraud and abuse litigation, nor approval of PHA settlements in these cases. The HUD Litigation Handbook provision in section 3–3, asking PHAs to seek approval before initiating or settling a case, did not contemplate, and does not apply to, claims for recovery of section 8 funds obtained through fraud and abuse. The Litigation Handbook was adopted in 1981 before enactment of the 1981 Amendments authorizing a PHA to pursue fraud and abuse claims and giving it an expectation of resulting remuneration. We conclude that the prospect of retention of a percentage of the recovery will provide a PHA with sufficient incentive to conduct the litigation efficiently. Therefore HUD approval would be an unnecessary administrative burden to PHAs, and might needlessly delay or discourage suits to recover section 8 funds.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, for the section 8 programs covered by this rule that are not categorically exempt from environmental reviews. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in the cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this does not have a significant economic impact on a substantial number of small entities because the number of recoveries by PHAs on judgments for fraud and abuse is expected to be small and so the number of small PHAs affected will be small. In any event, the effect on small entities is expected to be positive rather than negative.

This rule was listed under the Office of Housing as sequence number 887 in the HUD Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14064), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3601–3520) and have been assigned Control Number 2577–0053.

List of Subjects in 24 CFR Part 892

Low and moderate income housing.

Accordingly, the Department amends Title 24 CFR to add a new Part 892 to read as follows:

PART 892—PUBLIC HOUSING AGENCY

Section 8 Fraud Recoveries

Subpart A—General Provisions

Sec.

892.101 Purpose.
892.102 Applicability.
892.103 Definitions.

Subpart B—Recovery of Section 8 Funds

892.201 Conduct of litigation.
892.202 PHA retention of litigation proceeds.
892.203 Application of amounts recovered.
892.204 Recordkeeping and reporting.

Authority: Secs. 326(d) (1) and (2), Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 892.101 Purpose.

The purpose of this Part is to encourage public housing agencies to investigate and pursue instances of fraud and abuse in the operation of the section 8 housing assistance payments programs, by permitting them to retain part of any Section 8 funds obtained by fraud and abuse that they recover as a result of litigation they pursue.

§ 892.102 Applicability.

This Part applies to a public housing agency acting as a contract administrator under an annual contributions contract with HUD in any section 8 housing assistance payments program.

§ 892.103 Definitions.

Fraud and abuse. A single act or pattern of actions (a) that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and (b) that results in payment of section 8 program funds in violation of section 8 program requirements.

Judgment. Provision for recovery of Section 8 program funds obtained through fraud and abuse, by order of a court in litigation or by a settlement of a claim in litigation, whether or not stated in a court order.

Litigation. A lawsuit brought by a PHA to recover Section 8 program funds obtained as a result of fraud and abuse.

PHA (Public Housing Agency). Any State, county, municipality, or other governmental entity or public body, including any Indian Housing Authority, acting as a section 8 contract administrator under an annual contributions contract with HUD.

Subpart B—Recovery of Section 8 Funds

§ 892.201 Conduct of litigation.

The PHA must obtain HUD approval before initiating litigation in which the PHA is requesting HUD assistance or participation.

§ 892.202 PHA retention of litigation proceeds.

(a) The PHA may retain, from amounts recovered on a judgment, the greater of:

(1) Fifty percent of the amount that it actually collects on the judgment, or

(2) Reasonable and necessary legal fees and expenses that it incurs in obtaining the judgement.

(b) If HUD incurs costs on behalf of the PHA in obtaining the judgment, they must be deducted from the amount to be retained by the PHA.

§ 892.203 Application of amounts recovered.

(a) The PHA may use the amount of the recovery it is authorized to retain for any purpose within the PHA's authority.

(b) The balance of the recovery proceeds must be applied as directed by HUD.

§ 892.204 Recordkeeping and reporting.

(a) To permit HUD to perform an accurate audit of amounts retained under this Part, a PHA must maintain record of: (1) Amounts recovered on any judgment, (2) the nature of the judgment, and (3) the amount of the legal fees and expenses incurred in obtaining the judgment and recovery.

(b) After a PHA refers a case of fraud and abuse to HUD for prosecution or civil action, it must report all subsequent judgment or settlement of litigation it obtains in pursuit of the claim.

(Approved by the Office of Management and Budget under Control Number 2577–0053)

Dated: August 12, 1986.

Silvia J. DeBartolomeis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86–18710 Filed 8–19–86; 8:45 am]

BILLING CODE 4210–27–M

POSTAL SERVICE

39 CFR Part 320

Restrictions on Private Carriage of Letters; Suspension of the Private Express Statutes; International Remailing

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule suspends the operation of the Private Express Statutes, 18 U.S.C. 1693–1699, 39 U.S.C. 601–606, with respect to international remailing so as to permit the private, uninterrupted carriage of letters from the United States to a foreign country for ultimate delivery outside of the United States.

EFFECTIVE DATE: September 19, 1986.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley (202) 268–2971.

SUPPLEMENTARY INFORMATION: On June 17, 1986, the Postal Service proposed to suspend the Private Express Statutes to permit "international remailing." The adoption of this rule completes a public rulemaking process that began with the publication of a Notice of Proposed Rulemaking in October 1985.

"International remailing" consists of the carriage by private firms of shipments of letters, addressed to persons outside the United States, entirely outside of the United States Mails to foreign countries where the letters are deposited into the mails of foreign postal administrations.

The proposal published in the **Federal Register** of October 10, 1985, 50 FR 41462, would have amended the regulation establishing the administrative suspension of the Statutes for extremely urgent letters, 39 CFR 320.6, so as to make clear that this suspension, which had not been intended to authorize remailing, did not in fact do so. Most of the comments submitted in response to the notice opposed the proposal, and instead supported the practice of remailing. Subsequently, on March 4, 1986, the Chairman of the Board of Governors of the Postal Service announced that the Postal Service would commence a new rulemaking proceeding to establish the lawfulness of remailing.

On March 21, 1986, the Postal Service published a **Federal Register** notice which withdrew the October 10, 1985 proposed rule, and solicited information on the nature and extent of remailing and on the benefits derived by the public from this practice. 51 FR 9852. In addition, the Postal Service, following the close of the period established for response to the March 21 solicitation, held a public meeting on May 22, 1986. (Notice of this meeting was published on May 12, 1986, 51 FR 17386). The information garnered in the successive steps described above forms the factual record upon which the Postal Service based the proposal, in the **Federal Register** on June 17, 1986, to permit remailing.

Nine additional comments were submitted in response to the June 17 notice. Eight of the comments expressed support for the proposal. Five expressed general support for the suspension and did not suggest any specific changes; three suggested that the suspension be modified in various ways. After careful consideration of all the comments, including those submitted in previous, related proceedings, the Postal Service, also bringing to the process its knowledge of and experience with the international mails, has concluded that the proposed suspension should be adopted without substantial modification. The statement of the purpose of this rule and the basis for it, which was published in the June 17 notice, and also the March 21 notice, are incorporated herein and form integral parts of this notice.

Applicability of Private Express Statutes to International Remailing

Two of the comments submitted in response to the June 17 notice, although generally supporting the proposal, raised the threshold questions of whether the Private Express Statutes have any applicability to the international carriage of letters and whether the Postal Service has the authority to adopt a suspension to regulate the international private carriage of letters. These questions had been raised in the earlier comments and were carefully considered at that time. The Postal Service reiterates its statement on these questions which was published in the June 17 notice.

On the matter of the authority to regulate international remailing, one comment contended that this power should be vested in the Executive Branch, in particular the Department of Justice, and not the Postal Service. The comment also suggests that rather than adopting a regulation, the proposed suspension should be recast as a statement of general policy. In adopting the suspension, however, the Postal Service is acting pursuant to authority specifically and exclusively delegated to it by Congress in the Private Express Statutes themselves. 39 U.S.C. 601(b). The Postal Service is also empowered under 39 U.S.C. 401(2) to adopt, amend, and repeal regulations in order to further the objectives of title 39. *Associated*

Third Class Mail Users v. *United States Postal Service*, 600 F.2d 824, 826 n.5 (D.C. Cir. 1979). This title, of course, includes the statute noted above which authorizes the suspensions. Finally, the Postal Service is itself an independent establishment in the Executive Branch, 39 U.S.C. 201, and as such it is generally not responsible to other Executive Branch agencies in promulgating postal regulations. Nonetheless, the Postal Service has solicited the views of various agencies and has received and considered comments on these proposals from several agencies.

Nonapplicability of Suspension for Extremely Urgent Letters to Remailing

Several comments noted that in adopting a new suspension for remailing the Postal Service is implicitly concluding that the suspension for extremely urgent letters, 39 CFR 320.6, ought not be interpreted as itself permitting remailing. While two comments agreed with this rationale, a third requested that this interpretation be expressly repudiated. The Postal Service, by adopting this suspension for international remailing, has expressly and forthrightly determined that the practice will be permitted, and has stated the conditions under which it will be permitted. The Postal Service has also concluded that remailing need not be sanctioned under the color of a suspension which was intended for another purpose.

Prohibition on Ultimate Delivery Within the United States

One comment objected to the provision which requires that letters carried pursuant to the suspension not be ultimately delivered within the United States. The comment contends that this provision should not be adopted because remailing back into the United States is negligible, and because this limitation is said to prevent Americans from availing themselves of lower postage rates that are offered to non-Americans. These objections are not persuasive, as explained in the June 17 notice.

The new suspension is not intended to allow the practice of mailing, in a foreign country, matter which is subsequently shipped by the postal administration of that country through the United States, as open or closed transit mail, under circumstances which cause the United States to incur expenses for which it is not reimbursed. This caveat does not prohibit the private carriage of letters for remailing if that carriage is within the terms of the new suspension, but neither does the suspension limit the remedies available to the Postal Service with respect to transit mail.

Inspections and Audits

With regard to subsection (c) of the suspension, one comment suggested that this provision should be modified to include inspection and audit guidelines, and also to include a requirement that the Postal Inspection Service provide the shipper with advance notice of an inspection or audit, absent reasonable cause to suspect activity not in conformity with the regulation. Another comment advanced the view that subsection (c) should not be adopted because it exceeds the authority of the Postal Service. The Postal Service has concluded that the suggested inclusion of special inspection and audit guidelines in this regulation is unnecessary because these are well established functions of the Inspection Service. The authority of the Postal Service to investigate postal offenses and civil matters relating to the Postal Service is specifically provided by statute, 39 U.S.C. 404(a)(7). We note, moreover, that a similar provision has been included previously in a suspension of the Statutes. See 39 CFR 320.6(e), and compare 39 CFR 320.3(d). The Postal Service has, however, determined that wording in subsection (c) should be modified to read:

> The failure of a shipper or carrier to cooperate with an inspection or audit authorized and conducted by the Postal Inspection Service. . . .

This minor modification makes it clear that it is the Postal Inspection Service which authorizes and conducts the inspections and audits.

The Factual Record as Supporting the Suspension

The comment opposed to adoption of the suspension asserted that the record is inadequate to support the adoption of the regulation, and that it is not manifest from the record that the public interest requires the establishment of the suspension. The Postal Service had sought, in its notice of March 21, 1986, and subsequently, to obtain precise and detailed information regarding the level of services provided by remailers, and the benefits which the customers of the latter derive. It may well be, however, that, because of the diverse character of the remail industry and the relatively recent development of remailing, the comprehensive information we had hoped to receive to supplement the essentially anecdotal information, which was furnished to us, is not available. Nonetheless, the Postal Service has compiled a record which appears to demonstrate the existence of a public benefit and to support the suspension.

The factual record includes the comments received in response to the October 10 and June 17 notices. Information was also obtained in response to the Federal Register notice of March 21, which reprinted and addressed generally a letter, dated March 14, 1986, sent to commenters who responded to the October 10 notice, soliciting further information for the record. The transcript of the public meeting held May 22, 1986 is also part of the record.

The comments came primarily from American commercial enterprises, including financial institutions and publishers, that use the services of international remailers in conducting their business abroad. The comments were almost universally consistent in their observations regarding the level of service provided by remailers. Specifically, the comments asserted that remailing was faster than U.S. airmail and that this time savings is often critical to the ability of American businesses to compete in foreign markets. Moreover, the comments asserted that remailing services were provided for a lesser cost than U.S. airmail, thereby also enhancing the ability of American firms to compete abroad. Although the Postal Service did not receive across-the-board data on the level of service provided by remailers, many commenters did provide information, testimonial in nature, indicating that their use of remail services has resulted in time and cost savings. Numerous commenters noted that this time and cost differential was critical in order for letter matter being sent abroad to retain its commercial value. Several commenters also stated that, without faster and cheaper services provided by remailers, it would not be feasible for their businesses to compete in the international markets. The Postal Service found it significant that the comments received in response to the October 10 notice, which proposed language to make clear that remailing is not authorized under the suspension for extremely urgent letters, were overwhelming in their support of remailing. The Department of Commerce informed us that international remailing is of benefit to American businesses in foreign markets, a position also reflected in comments from the Department of Justice and the Office of Management and Budget.

Content of the Suspension

The new suspension, which is codified as § 320.8 of title 39, Code of Federal

Regulations, suspends, in § 320.8(a) the operation of the Statutes:

to permit the uninterrupted carriage of letters from a point within the United States to a foreign country for deposit in its domestic or international mails for delivery to an ultimate destination outside of the United States.

The proposal also makes explicit in proposed § 320.8(b) that the suspension does not authorize the remailing of letters for delivery within the United States:

This suspension shall not permit the shipment or carriage of a letter or letters out of the mails to any foreign country for subsequent delivery to an address within the United States.

A third provision, in § 320.8(c), generally authorizes the Postal Service, after notice and hearing, to revoke the suspension for a period of one year, as to a particular shipper or carrier operating in violation of the suspension. This provision also provides that a shipper or carrier's failure to cooperate with an inspection or audit authorized and conducted by the Postal Inspection Service would, for the purpose of proceedings under this subsection, create a presumption of a violation. This has the effect of shifting the burden of demonstrating compliance to the shipper or carrier, who would have access to relevant information which its failure to cooperate has denied to the Postal Service.

In view of the considerations discussed above, 39 CFR Part 320 is amended as follows:

List of Subjects in 39 CFR Part 320

Postal Service, Computer technology, Advertising.

PART 320—SUSPENSION OF THE PRIVATE EXPRESS STATUTES

1. The authority citation for Part 320 is revised to read as set forth below, and the authority citations following all the sections in Part 320 are removed.

Authority: 39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699.

2. A new § 320.8 is added to read as follows:

§ 320.8 Suspension for international remailing.

(a) The operation of 39 U.S.C. 601(a)(1) through (6) and § 310.2(b)(1) through (6) of this chapter is suspended on all post routes to permit the uninterrupted carriage of letters from a point within the United States to a foreign country for deposit in its domestic or international mails for delivery to an ultimate destination outside the United States.

Example (1) The letters to overseas customers of commercial firm A in Chicago are carried by Carrier B to New York where they are delivered to Carrier C for carriage to Europe. Carrier C holds the letters in its distribution center overnight, then sorts them by country of destination and merges them with letters of other firms to those countries before starting the carriage to Europe in the morning. The carriage of firm A's letters is not interrupted. The suspension for international remailing applies to the carriage by Carrier B and by Carrier C.

Example (2) The bills addressed to foreign customers of the Chicago branch office of commercial firm D are carried by Carrier E to New York where they are delivered to the accounting department of firm D's home office. The accounting department uses the information in the bills to prepare its reports of accounts receivable. The bills are then returned to Carrier E which carries them directly to Europe where they are entered into the mails of a foreign country. The carriage of the bills from Chicago to Europe is interrupted in New York by the delivery to firm D's home office. The suspension for international remailing does not apply to the carriage from Chicago to New York. It does apply to the subsequent carriage from New York to Europe.

(b) This suspension shall not permit the shipment or carriage of a letter or letters out of the mails to any foreign country for subsequent delivery to an address within the United States.

Example (1) A number of promotional letters originated by firm F in Los Angeles are carried by Carrier G to Europe for deposit in the mails of a foreign country. Some of the letters are addressed to persons in Europe, some to persons in the United States. The suspension for international remailing does not apply to the letters addressed to persons in the United States.

(c) Violation by a shipper or carrier of the terms of this suspension is grounds for administrative revocation of the suspension as to such shipper or carrier for a period of one year in a proceeding instituted by the General Counsel in accordance with Part 959 of this chapter. The failure of a shipper or carrier to cooperate with an inspection or audit authorized and conducted by the Postal Inspection Service for the purpose of determining compliance with the terms of this suspension shall be deemed to create a presumption of a violation for the purpose of this paragraph (c) and shall shift to the shipper or carrier the burden of establishing the fact of compliance. Revocation of this suspension as to a shipper or carrier shall in no way limit other actions as to such shipper or carrier to enforce the Private Express Statutes by administrative proceedings for collection of postage (see § 310.5) or by civil or criminal proceedings.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-18752 Filed 8-19-86; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-38

[FPMR Temp. Reg. G-48]

Federal Motor Vehicle Expenditure Control

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: this regulation establishes policy, procedures, and reporting requirements concerning the implementation of Title XV, Subtitle C—Federal Motor Vehicle Expenditure Control, Pub. L. 99-272, Consolidated Omnibus Budget Reconciliation Act of 1985. This regulation also defines and describes the cost elements to be used by agencies in determining the most cost-effective option for meeting their motor vehicle mission responsibilities.

DATES:

Effective date: July 1, 1986.
Expiration date: June 30, 1988.
Comments due on or before: September 30, 1986.

ADDRESS: Comments should be addressed to: General Services Administration (FBF), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Frisbee, Fleet Management Division, 703-557-1273.

SUPPLEMENTARY INFORMATION: This regulation has been developed in conjunction with an interagency working group comprised of motor vehicle fleet managers. Agency views were solicited and are reflected in this temporary regulation. Additional comments may be submitted in accordance with paragraph 13 of the regulation.

During their review of this regulation, the General Accounting Office (GAO) requested that the General Services Administration (GSA) issue more specific guidance on cost elements. These minor changes will be developed by GAO to promote consistency and uniformity of data and will be issued by GSA within the next 60 days.

The General Services Administration has determined that this is not a major rule for the purposes of Executive Order

12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR 101–38

Government property management, Motor vehicles.

Authority: 40 U.S.C. 902(b); 40 U.S.C. 910(b).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

Federal Property Management Regulations, Temporary Regulation G–48

August 6, 1986.

To: Heads of Federal agencies

Subject: Federal motor vehicle expenditure control

1. *Purpose.* This regulation establishes policy, procedures, and reporting requirements concerning the implementation of Title XV, Subtitle C—Federal Motor Vehicle Expenditure Control, Pub. L. 99–272, Consolidated Omnibus Budget Reconciliation Act of 1985.

2. *Effective date.* This regulation is effective July 1, 1986.

3. *Expiration date.* This regulation expires June 30, 1988, unless sooner superseded or canceled.

4. *Applicability.* This regulation applies to all executive agencies (as defined in section 105 of title 5 United States Code) which operate at least 300 motor vehicles. This regulation does not apply to the United States Postal Service, the Postal Rate Commission, or the Tennessee Valley Authority.

5. Background.

a. The cost to acquire, operate, maintain, and dispose of Federal motor vehicles has been the subject of several recent Government studies. Two of these, the Report to the Senate Committee on Appropriations, entitled Management of the Federal Motor Vehicle Fleet, March 1982, and the President's Private Sector Survey on Cost Control, January 12, 1984, noted: (1) The lack of a centralized motor vehicle fleet manager and a full-cost disclosure management information system, and (2) the need for an improved reconditioning program for the disposal of Government-owned vehicles. Both of these studies contained a number of recommendations to improve fleet management in these and other areas.

b. Pub. L. 99–272, April 7, 1986, requires, among other things, the President, the Director of the Office of Management and Budget, the Administrator of General Services, the Comptroller General of the United States, and the heads of Federal executive agencies to take certain actions to improve the management and efficiency of the Federal fleet and to reduce its cost of operation.

6. *Definitions.* Attachment A contains a list of definitions used in this regulation. Attachment B contains a list of describing items to be included in determining motor vehicle costs.

7. *Policy.*

a. To comply with provisions of Pub. L. 99–272, agencies shall reduce the cost and improve the efficiency of fleet operations by using the most cost-effective arrangement to acquire, operate, maintain, and dispose of motor vehicles. The options include: (1) Use of the existing fleet management system, (2) use of a qualified private fleet management firm or other private contractor, (3) increased reliance on the General Services Administration (GSA) Interagency Fleet Management System (IFMS), or (4) use of any other means less costly to the Government.

b. In determining which method of vehicle support should be used, the agency shall consider the overall cost to the Government.

c. To meet the reduction goals mandated by Pub. L. 99–272 and to be established by the President, agencies shall give first piority to reducing the cost of administrative motor vehicles used at headquarters and regional offices rather than reducing the cost of operational vehicles used by line agency personnel working in field operations or activities.

8. *Agency responsibilities.*

a. Each executive agency shall designate one office, officer, or employee to oversee the motor vehicle operations of the agency and to serve as the point of contact for information and questions concerning the agency's fleet operations, related activities, and related reporting requirements.

b. Each executive agency shall develop a system or systems to identify, collect, and analyze data with respect to all costs (including obligations, outlays, and accruals) incurred by the agency in the acquisition, operation, maintenance, and disposal of motor vehicles. This system(s) shall include data for Government-owned motor vehicles, leased vehicles, and privately owned vehicles used for official purposes as defined in attachment A. The system(s) shall address: (1) All elements of cost defined in attachment B and (2) funds used for the purpose of motor vehicles, related facilities, and equipment in accordance with principles underlying each of the accounting methods defined in attachment A.

c. Beginning with its fiscal year 1988 budget submission, each agency shall report annually the motor vehicle related cost data required by this subpar. for past, current, and budget years. Each agency shall include vehicle acquisition, leasing operation, maintenance, and disposal costs, including obligations and outlays for fiscal year 1986 and estimates for fiscal years 1987 and 1988. In terms of obligations and outlays, elements to be addressed include: (1) Those defined in attachment B, omitting depreciation; (2) funds for the purchase of motor vehicles, related facilities and equipment; and (3) the cost of privately owned vehicles as defined in attachment A. Beginning with the fiscal year 1989 budget submission, an agency shall take into account the results of the study required under subpar. 8d. In preparing the statement, the executive agency shall use uniform data collection and submission procedures provided by GSA in this regulation and shall adhere to timing and submission requirements to be issued by OMB.

d. Each executive agency shall conduct a comprehensive and detailed study to compare the agency's current motor vehicle operations with: (1) Use of the IFMS, (2) contracting with a qualified private fleet management firm or other private contractor, and (3) use of any other means less costly to the Government. In performing a study, an agency shall consider all agency-owned and leased motor vehicles as defined in attachment A, with the exception of the vehicles provided from the IFMS or agency vehicles subject to an interagency study as set forth in subpar. 9b. Studies conducted pursuant to this subpar. shall compare the full costs (accural based, of the cost elements specified in attachment B), benefits, and feasibility of relying on the alternatives described above in (1), (2), and (3) if available, to meet the agency's fleet requirements. Agencies should consider the provisions of OMB Circular A–76, Performance of Commercial Activities, when performing the studies required by this subpar.

e. Each executive agency shall comply with the reduction goals described in subpar. 10a and shall consider vehicles obtained from all sources, including the IFMS and use of privately owned vehicles, when carrying out its responsibilities under subpar. 10a and instructions to be issued by OMB.

9. *GSA responsibilities.*

a. GSA, in consultation with OMB and the General Accounting Office, is required to issue regulations governing the establishment and operation of systems to identify, collect, and analyze cost data. GSA, in consultation with OMB, is also required to provide standards and definitions to assist executive agencies in achieving the reduction goals established by the President while complying with the policy in subpar. 7c of this regulation. This regulation fulfills those requirements by providing definitions and cost elements to assist agencies in the collection of the data.

b. GSA will continue to review and identify interagency opportunities for the consolidation of motor vehicles, related equipment, and facilities. GSA will also consolidate those functions relating to the administration and management of such vehicles, equipment, and facilities to reduce the size and cost of the Government's motor vehicle fleet in accordance with the provisions of section 211 of the Federal Property and Administrative Services Act. Where multiple agencies request to consolidate through GSA establishment of a new IFMS location, or where a single agency requests consolidation with an existing GSA Fleet Management Center and the action is mutually agreeable, the study process

required by section 211 will apply. In those cases, GSA and the requesting agencies will perform section 211 studies of the involved vehicles, which will satisfy the requirements of subpar. 8d.

c. GSA will establish a vehicle reconditioning program to increase the net proceeds from the sale of Government motor vehicles.

d. GSA will take the necessary actions to reduce storage and disposal costs and storage time to ensure a better return on Government motor vehicle assets.

e. GSA will include those vehicles it obtains on assignment from the IFMS when carrying out its responsibilities in complying with the reduction goals described in subpar. 10a of this regulation and instructions to be issued by OMB.

10. *OMB responsibilities.*

a. OMB will instruct each executive agency on the actions necessary to meet the one-time reduction goal of $150,000,000 by fiscal year 1988 for the acquisition, leasing, operation, maintenance, and disposal of Government motor vehicles. The basis for determining whether an agency has met the reduction goal will be the amount requested by the President in his fiscal year 1988 Budget.

b. OMB will monitor compliance by agencies in accordance with the goals established by the President. OMB also will include a statement specifying the reductions achieved as part of the report submitted by the President to Congress in accordance with subpar. 11b of this regulation.

11. *Reports*

a. *Agency cost, benefits, and feasibility studies.* Agencies shall submit a report outlining the study methodology to be used, milestones, planned completion dates, and progress to date in compliance with subpar. 8d of this regulation. This report is due to the Administrator by October 8, 1986.

b. *Presidential report to the Congress on agency statements.* Beginning with the fiscal year 1988 Budget or in a separate written report, the President will include a summary and analysis of the statements submitted by executive agencies in compliance with subpar. 8c. Each summary and analysis will include a review for the past fiscal year, the fiscal year in which the budget is being submitted, and the fiscal year for which the budget is being submitted. These reviews will indicate cost savings that have been achieved and estimates of what will be achieved and what could be achieved in the acquisition, leasing, operation, maintenance, and disposal of motor vehicles by agencies through the use of the alternatives described in subpar. 8d of the regulation. However, the summary and analysis for the 1988 Budget are not required to include a review of cost savings for fiscal year 1986.

c. *GSA report on interagency consolidations.* By April 6, 1987, GSA will submit a report to the Congress on its findings and recommendations covering the results of its interagency consolidation review undertaken in compliance with the provisions of subpar. 9b of this regulation.

12. *Exemptions.* When requested, the Administrator may grant exemptions from the provisions of this regulation for special purpose vehicles. The Administrator may also grant certain minor procedural exceptions from the provisions of this regulation, should circumstances warrant. Requests shall be submitted to the Administrator of General Services in writing by the head of the agency for review and final determination.

13. *Agency comments and assistance.* Commenters or inquiries concerning the impact of this regulation should be submitted to the General Services Administration, Federal Supply Service (FFY), Washington, DC 20406, not later than September 30, 1986, for consideration and possible incorporation into a permanent regulation. Requests for specific information and guidance should be submitted to the General Services Administration, Federal Supply Service (FBF), Washington, DC 20406.

T.C. Golden,

Administrator of General Services.

Attachment A—Definitions

For the purposes of this regulations, the following definitions shall apply.

1. "Director" means the Director of the Office of Management and Budget.

2. "Administrator" means the Administrator of General Services.

3. "Comptroller General" means the Comptroller General of the United States.

4. "Motor vehicle" means any vehicle self-propelled or drawn by mechnical power, except that such term does not include any vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this regulation by the Administrator.

5. "Headquarters and regional headquarters of executive agencies" means offices which establish policy, oversee field operations, and perform administrative functions ancillary to the legislatively-mandated mission of the agency or program. Such offices include the national headquarters office and subsidiary offices responsible for field operations over a wide geographic area.

6. "Line agency personnel working in agency field operations or activities" means personnel who perform the ultimate mission of the agency or program as defined in legislation, and who require motor vehicles to perform that mission. Such employees usually work in field offices or locations that report to a regional office responsible for statewide or multistate geographic areas.

7. "Cost of privately owned vehicles (POV) while on official business" means the mileage cost reimbursed by the Government to the owner or operator of such a vehicle except for the following conditions: (1) When a POV is used in a permanent change of station move, (2) when a POV is used in lieu of a common carrier, and (3) when a POV is used to commute between an employee's residence and a common carrier terminal or facility.

8. "Special purpose vehicles and equipment" means vehicles and equipment which are used or designed for specialized functions. Vehicles and equipment exempted by this definition include, but are not limited to: Trailers, semi-trailers, other types of trailing equipment, trucks with permanently mounted equipment (such as aerial ladders) Construction and other types of equipment set forth in Federal Supply Class (FSC) 38, Material Handling Equipment set forth in FSC 39, and Fire Fighting Equipment set forth in FSC 42.

9. "Accrual basis of accounting" is the method of accounting whereby revenues and expenses are identified with a specific period of time when earned or incurred, without regard to the date of receipt or payment of cash; distinguished from cash basis.
SOURCE: Title 2, *GAO Policy and Procedure Manual for Guidance of Federal Agencies.*

10. "Obligation basis of accounting" is the method of accounting which recognizes the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period that will require payments during the same or a future period. Such amounts will include outlays for which obligations had not been previously recorded and will reflect adjustments for differences between obligations previously recorded and actual outlays to liquidate those obligations.
SOURCE: OMB Circular A–34, Instructions on Budget Execution.

11. "Outlay basis of accounting"is the method of accounting which recognizes the amount of checks issued, interest accrued on the public debt, or other payments made (including advances to others), net of refunds and reimbursements. Outlays are net of amounts that are adjustments to obligational authority. (The terms "expenditure" and "net disbursement" are frequently used interchangeably with the term "outlay.")
SOURCE: OMB Circular A–34, Instructions on Budget Execution.

COST ELEMENTS IN TERMS OF OBLIGATIONS, OUTLAYS, OR ACCRUALS [1]

Category	Element [2]	Definition
Operating costs		Cost directly associated with Government-owned and leased motor vehicle operations, and which are generally a function of miles operated. Can be related directly to a specific vehicle.
	Direct labor	The payroll cost including benefits of Government or contractor personnel performing vehicvle maintenance, repair, and servicing, including service calls, road tests, and inspections. Includes only time that can be related directly to a specific vehicle.
	Parts and supplies	The cost of parts and supplies, including tires, used or installed by Government or contract employees which can be related directly to a specific vehicle.
	Commercial maintenance	The cost of all jobs including labor, parts, and supplies, provided by a commercial firm. Can be related directly to a specific vehicle.

COST ELEMENTS IN TERMS OF OBLIGATIONS, OUTLAYS, OR ACCRUALS [1]—Continued

Category	Element [2]	Definition
	Accident damage	The net cost of repairing accident damage including towing and storage costs, less any recoveries or reimbursements from other Government agencies or private parties, such as insurance carriers.
	Fuel and oil	The cost of all fuel and oil provided by commercial service stations or other Federal agencies, or dispensed from bulk fuel tanks. Only actual issues from bulk fuel tanks are included; fuel purchased in bulk but not yet dispensed is not included. Fuel and oil issued to another Federal agency shall not be included, provided reimbursement to the dispensing activity is received.
	Reconditioning	The cost of reconditioning decommissioned vehicles in preparation for sale including cosmetic and mechanical repairs and services. Can be related directly to a specific vehicle.
	Leasing expense	The cost to acquire vehicles by commercial lease contracts for periods of 60 calendar days or more. Can be related directly to a specific vehicle.
	Renting expense	The cost to acquire vehicles through commercial rental contracts/agreements for periods of less than 60 calendar days.
	Tools, materials, and supplies	The cost of expendable items such as cleaning materials and small parts not identified with specific vehicles. Can be related directly to a specific facility.
Fixed and overhead costs		Fixed cost are those costs associated with owning or holding a motor vehicle or vehicle fleet which are not a function of miles operated. May be related to a specific vehicle or to a facility. Overhead costs are those of administrative and managerial personnel and all administrative services to support motor vehicle fleet operations.
	Vehicle depreciation [3]	The difference between purchase price and salvage value amortized over the number of months in a vehicle's estimated life.
	Long-term leasing expense	The cost to acquire vehicles by commercial lease contracts for periods in excess of 12 months. Can be related directly to a specific vehicle.
	Payments to GSA–IFMS [4]	Total payments to GSA for vehicles assigned from the Interagency Fleet Management System.
	Indirect labor	The payroll costs, including benefits of Government personnel performing vehicle maintenance, repair, and servicing. Includes only time that cannot be related directly to a specific vehicle.
	Facilities	The cost of rent paid to commercial or Government entities for property used for motor pools, maintenance facilities, dispatch centers, parking, and vehicle storage; the cost of all utilities associated with such facilities and with agency-owned facilities; the estimated amortized cost or commercial rental equivalent of such facilities and utilities where the agency is the owner and does not assess costs to itself as a tenant; and the amortized cost of any capital improvements to facilities and land, such as guardhouses, fences, lighting, underground fuel tanks, paving and striping, etc. Can be related directly to a specific facility.
	Shop equipment depreciation [3]	The purchase price amortized over the number of months of estimated life of such equipment; as vehicle lifts, engine analyzers, exhaust removal units, etc.
	Motor Pool Administration	Payroll costs, including benefits of motor pool managers, clerks, typists, secretaries, and dispatchers. Can be related directly to a specific facility.
	Regional district zone, and headquarters administration [4].	Payroll costs, including benefits, of employees in offices above the motor vehicle pool level involved in motor vehicle policy setting, vehicle procurement, financial and accounting services, etc. Where such employees have other functions not related to motor vehicle operations, a reasonable proportion of such costs shall be reported.
	Office supplies	The cost of administrative supplies and materials used at all organizational levels in support of vehicle operations, or a proportion of such cost where other programs are supported by the same organizational elements.
	Travel	The costs of travel including per diem, lodgings, and transportation expense incurred in the administration of the motor vehicle program by all organizational elements, or a proportion of such costs where other programs are also involved.
	ADP and communications	The cost of telephone, telegraph, mail, and similar services incurred in support of motor vehicle operations; also the cost to acquire, maintain, and operate automated systems in support of motor vehicle operations.
	Printing	The cost to print, bind, and distribute forms and publications in support of motor vehicle operations.
	Miscellaneous	The cost of all other fixed program expenses chargeable to motor vehicle operations including but not limited to the acquisition of license tags, key chains, credit cards, etc.

[1] These elements and any other elements applicable to motor vehicle ownership or leasing must be collected and recorded as per the standards governing the type of accounting being used; obligation, outlay, or accrual. Generally, costs must be maintained on all elements using the three accounting methods as prescribed by the law and as noted above.
[2] These elements should be included in the development of any system or report developed by an agency to fulfill its responsibilities under subpars. 8b, 8c, and 8d.
[3] This element should only be included by an agency to fulfill its responsibilities under subpars. 8b and 8d.
[4] This element should be included by an agency to fulfill its responsibilities under subpars. 8b and 8c.

[FR Doc. 86–18733 Filed 8–19–86; 8:45 am]
BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6623

[W–80320]

Wyoming; Withdrawal of Public Lands for Devil's Gate and Split Rock Bicentennial Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will withdraw 343.23 acres of public lands from surface entry and mining for 20 years to protect the cultural and historic sites. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–772–2072.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location and entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect the Bureau of Land Management's historical sites.

Sixth Principal Meridian

T. 29 N., R. 87 W.,
Sec. 35, NE¼SE¼, NE¼NE¼NW¼SE¼, S½N½NW¼SE¼, S½NW¼SE¼, N½S½SE¼.
T. 29 N., R. 89 W.,
Sec. 30, lot 2, NE¼NW¼, N½SE¼NW¼.
T. 29 N., R. 90 W.,
Sec. 25, E½SW¼NE¼, SE¼NE¼, E½NW¼SE¼, NE¼SE¼, N½N½SE¼SE¼.

The areas described aggregate 343.23 acres in Fremont and Natrona Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary

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determines that the withdrawal should be extended.

J. Steven Griles,

Assistant Secretary of the Interior.

August 12, 1986.

[FR Doc. 86-18706 Filed 8-19-86; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 50239-5115]

50 CFR Part 285

Atlantic Tuna Fisheries Closure

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice closing the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the Harpoon Boat category. Closure of this fishery is necessary because the annual catch quota will be attained by the effective date. The intent of this action is to insure that the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATE: 0001 hours Eastern Daylight Time EDT) August 18, 1986, through December 31, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 262; or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(b) of the regulations provides for an annual quota of 60 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the Harpoon Boat category in the Regulatory Area. This quota was subsequently increased to 75 st effective July 31, 1986 (51 FR 28240, August 6, 1986). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 70 st, and the recent catch rate, that the annual quota of giant Atlantic bluefin tuna allocated to vessels permitted in the Harpoon Boat category will be attained by the effective date. Fishing for, and retention of any Atlantic bluefin tuna by these vessels must cease at 0001 EDT on August 18, 1986.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.*

Dated: August 15, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-18813 Filed 8-15-86; 4:36 pm]

BILLING CODE 3510-21-M

50 CFR Part 651

[Docket No. 60599-6141]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim rule.

SUMMARY: NOAA issues this interim rule to implement the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). The Secretary of Commerce (Secretary) partially disapproved the FMP on the basis that the measures for conservation of redfish are inconsistent with its objectives and with National Standard 1. The remaining measures are approved for a specified period of time. The intended effect of the approved measures is to maintain the abundance and viability of the stocks to support both commercial and recreational fisheries.

EFFECTIVE DATE: This rule is effective from September 19, 1986, to September 30, 1987, except for the following sections. This rule is being issued prior to approval by the Office of Management and Budget (OMB) of the information collection requirements in §§ 651.4(n) and 651.21(b)(3)(iii). When OMB approval is received, a notice will be published in the **Federal Register** making these sections effective.

ADDRESS: Copies of the Final Environmental Impact Statement, the Regulatory Impact Review, and the Regulatory Flexibility Analysis prepared for the FMP are available from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park 5, Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr. (Multispecies Plan Coordinator), 617-281-3600, ext. 252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council), in consultation with the Mid-Atlantic Fishery Management Council prepared the original FMP under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act). The Council prepared a draft environmental impact statement for this FMP; a notice of availability was published on October 24, 1985 (50 FR 43281). The proposed rule was published on December 3, 1985, at 50 FR 49582 and invited public comment.

Comments received from the public and from State and Federal agencies led the Secretary to conclude that some measures and aspects of the FMP were inconsistent with achievement of the objectives of the FMP, and inconsistent with the national standards of the Magnuson Act and other applicable law. Therefore, the Secretary disapproved the FMP on January 23, 1986. The Secretary returned the FMP to the Council with an explanation of his decision.

The Council resubmitted the FMP in April, with its original measures unchanged, an additional option to control fishing mortality, and updated figures, tables, and text in support of its management program. Two minority reports accompanied the resubmitted FMP. One report claims that the Council has failed to resolve a long-standing conflict between commercial gillnetters and recreational fishermen. Both groups require that fishing activity occur in areas of high concentrations of groundfish. Existence of gill nets in a given area at a given time precludes recreational fishing due to potential gear loss. It is suggested that assigning certain areas on a seasonal basis to recreational fishing would solve the problem. Another report recommends (1) disapproval of the seasonal area exemption for a 5½-inch mesh that

would allow a directed fishery for redfish, (2) reduction of the effective period for the exempted fisheries program from 12 months to 6 months annually to protect redfish nursery areas and prevent excessive discards of cod and haddock, and (3) immediate implementation of a 6-inch mesh instead of 5½-inch mesh on Georges Bank and the Gulf of Maine.

The Secretary commenced the 60-day review period provided by the Magnuson Act. A notice of availability was published on May 23, 1986 (51 FR 18913); the proposed rule was published on June 9, 1986 (51 FR 20850). Based on the review of the FMP resubmission, the Secretary partially disapproved the FMP. The redfish area and quota measures were disapproved as they are inconsistent with the stock rebuilding objectives in the FMP for redfish and National Standard 1 of the Magnuson Act. The remaining measures of the FMP were conditionally approved and will be implemented only until September 30, 1987.

Implementation of the remaining measures of the FMP reflects the Secretary's conclusion that the FMP may be an improvement over the existing groundfish plan, but that it is not appropriate for the long-term conservation and management of the multispecies finfish complex. Implementation of the FMP for an indefinite period would, in the opinion of the Secretary, lead to a level of overfishing that is inconsistent with National Standard 1 of the Magnuson Act.

The implementation of the FMP only until September 30, 1987, gives the Council time to address the Secretary's serious concern that the FMP allows an unacceptable level of juvenile mortality which threatens to deprive the resource of the spawning potential represented by the relatively strong 1985 year classes of cod and haddock. Action to protect these juveniles is critical since recent data show that the stocks have deteriorated further since the FMP was drafted. The economic condition of the industry has mirrored this situation.

Additionally, concerns raised by the U.S. Coast Guard and NMFS personnel charged with enforcing the regulations implementing this FMP must be addressed. A reasonable capability to enforce the minimum mesh size is essential if juvenile mortality is to be reduced. Recent scientific evidence indicates that the haddock spawning areas I and II (Figures 2 and 3) may no longer be spatially or temporally consistent with concentrations of spawning haddock. The FMP must be revised to ensure protection of spawning fish.

If suitable amendments to the FMP are not proposed in time to be implemented by October 1, 1987, the Secretary will exercise his authority to conserve and manage the fishery resources of the United States in the absence of timely Council action.

Comments and Responses

Written comments were submitted by the National Wildlife Federation, Interstate Partyboat Association, Saltwater Sportsman Magazine, Party Boat Owners Alliance, Inc., The Yankee Fleet, Walsh's Deep Sea Fishing, Greenpeace, four sportfishermen, one individual, the Department of the Interior, the U.S. Coast Guard, and the Council.

Comment: Twelve commenters stated that the FMP failed to address the gear conflict and other problems associated with the increased use of gill nets. All urged control of gillnetting to reduce conflicts with recreational fisheries and reduce ghost fishing.

Response: The Council has established a Gear Conflict Committee of three Council members and has hired a professional mediator to work with the recreational fisheries and gillnetters' groups in an attempt to allow the industry to resolve a wide range of problems. Regulatory measures may be forthcoming based on agreements reached in this forum. All the comments received have been passed on to the committee for their consideration.

Comment: One individual expressed strong support for the resubmitted FMP. The commenter feels that the Department of Commerce attempted to substitute its management philosophy for that of the Council, states that NMFS is responsible for continued pressure on the stocks because of the original FMP rejection, and questions the finding that the FMP does not prevent overfishing on the grounds that overfishing is not defined in the Magnuson Act and is, therefore, a subjective determination.

Response: The disapproval of the FMP was not a result of differing management philosophies held by the Council and the Secretary. In fact, the management philosophy of the Council reflected in the objectives of the FMP has not been questioned. Upon review of the FMP, the Secretary determined that the stated measures were not those necessary and appropriate to conserve and manage the resource in accordance with the FMP's objectives. The definition of conservation and management contemplates that measures would aid in the restoring, rebuilding, or maintenance of the stocks. The FMP, in large part, is a continuation of the Interim Fishery Management Plan for Atlantic Groundfish, under which the stocks have continued to decline. While overfishing is undefined in the Magnuson Act, it is not difficult to conclude that a management plan which perpetuates stock declines or maintenance at very low levels of abundance does not prevent overfishing, considering the findings and objectives of the Magnuson Act.

Comment: The Department of the Interior (DOI) commented that the FMP's environmental impact statement on page 2.77, paragraph 5 states, ". . . exploratory drilling for oil and gas is believed to have caused only minimal habitat degradation, or biological impact." It also asserts that risks to the coastal environment will increase if oil and gas production occurred. The Minerals Management Service of DOI funded an extensive study to evaluate the potential impacts of drilling and drilling materials discharge on the marine environment (Georges Bank Benthic Infauna Monitoring Program, Battelle and Woods Hole Oceanographic Institute, 1985) over a 3-year period. Their findings indicated that no demonstrable impact on the environment resulted. In addition, it has always been the contention of numerous analysts that impacts of petroleum hydrocarbons would decrease commensurate to the amount of local production. Therefore, no overall increase in potential risk as a result of petroleum hydrocarbon transportation is anticipated.

Response: The comment is noted.

Comment: The Coast Guard commented that the FMP is intended to regulate only groundfish. The definition of longline gear, however, could be construed to be pelagic gear, used for swordfish and tuna. The definitions should be revised to indicate that the regulations only apply to gear used to catch demersal fish.

Response: The definition of longline gear has not been changed since the regulations contain no restrictions that would impact *pelagic* longline gear.

Comment: The Coast Guard commented that the definition of a midwater trawl should be clarified to emphasize that the trawl should not come in contact with the bottom *at any time.*

Response: This change has been made.

Comment: The Coast Guard commented that the regulations do not contain a definition of a diamond mesh and square mesh.

VOL
51
ISS
161
AG
20
1986
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Response: A definition for legal purposes is not necessary since any claim for use of square mesh must be backed up with a written authorization from the Regional Director.

Comment: The Coast Guard commented that annual permitting will create some logistical problems and suggested that application procedures be set up on a rotating system similar to the one many States use to register automobiles.

Response: NMFS is currently working on a system which would result in annual permitting of all regulated fisheries. The present target date is January 1987. This comment will be considered as part of that exercise.

Comment: The Coast Guard commented that there is no reason for the permit to be displayed in the pilot house as long as it is on board and can be produced on request.

Response: This change has been made.

Comment: The Coast Guard commented that a fee for permits should be charged to cover administrative costs.

Response: Such a fee is presently under consideration.

Comment: The Coast Guard commented that vessel owners as well as operators should be responsible for the maintenance of vessel markings.

Response: The word "owner" has been added to § 651.6(c).

Comment: The Coast Guard commented that since charter boats are treated as commercial vessels for most purposes their marking requirements should be permanent.

Response: Charter boats are frequently used for purposes other than fishing. The non-permanent markings recognize this fact.

Comment: The Coast Guard commented that § 651.4(a)(2) requires permit holders to comply with the more restrictive of State or Federal regulations. Therefore, the rebuttable statement contained in § 651.7(d) should be removed.

Response: In the final regulations, § 651.4(a) has been revised to provide that all vessels fishing in the FCZ must have a permit and that vessel owners agree as a condition of the permit that their entire catch will be subject to all Federal regulations. The reference to more restrictive State regulations has been removed. Accordingly, the rebuttable presumption that undersized fish were taken or imported in violation of these regulations has been retained; see § 651.7(d). This provision will facilitate enforcement.

Comment: The Coast Guard commented that management areas are described with a combination of loran lines and geographic coordinates. The Coast Guard objects to the use of loran lines to describe regulatory areas. Loran is subject to transmitter and receiver errors that make it inappropriate for use in regulations. All areas should be designated using geographic coordinates. The regulations refer to loran lines as rhumb lines. This is incorrect; loran lines are hyperbolic and are not rhumb lines.

Response: Geographic coordinates (latitude and longitude) provided by the Coast Guard have been substituted as descriptive of regulated areas.

Comment: The Coast Guard commented that the regulations do not require net mesh to be measured wet after use.

Response: This was deliberate. The twine used to construct existing groundfish nets does not shrink. Mesh must meet size restrictions, wet or dry.

Comment: The Coast Guard objected to the unrestricted use of netting as chafing gear as adding to the difficulty of enforcing the minimum mesh size regulations. The Coast Guard suggested substitute language that would allow netting material to be used as chafing gear only if it is of similar material as the mesh in the cod end and twice the authorized mesh size, does not cover more than the bottom half of the net, and is not attached to the aft end of the cod end.

Response: The regulation reflects current fishing practices. The comment will be referred to the Council's Technical Monitoring Group (TMG).

Comment: The Coast Guard commented that the whiting fishery authorized in § 651.22 limits incidental catch to 10 percent of the whiting landed during the reporting period; then indicates this will be monitored by sea samplings. These statements conflict.

Response: The landings and at-sea sampling are for different purposes. Landing inspections are for enforcement purposes. The at-sea monitoring will be conducted for management purposes to ascertain whether haulbacks contain unacceptable amounts of bycatch. If excessive discarding is a problem, then this fishery could be closed through emergency rule.

Comment: The Council comments that § 651.4, *Vessel permits*, does not reflect its intent that permits should be issued on an annual basis. The provision for an annual permit is the intent of the Council.

Response: Comment noted; the annual permitting target date is January 1987.

Comment—The Council comments that the language at § 651.20(e)(2), is not related to gear limitations within the regulated mesh areas, but rather is related to the Southern New England (SNE) closed spawning area described in § 651.21(b). The language at § 651.20(e)(2), slightly modified as noted below, replaces the language at § 651.21(b)(3)(ii). The latter is correctly placed under § 651.22, the description of the exempted fishery program. The FMP specifies a zero bycatch for authorized fishing in the SNE closed area, and a one percent bycatch for midwater trawling under the exempted fishing program in the regulated mesh area. The Council did not intend that the exception for the use of mid-water trawl gear in the SNE closed area should be limited to herring, mackerel, or squid, so long as the zero bycatch (of regulated species) provision is adhered to on a trip-by-trip basis.

Response; The appropriate adjustments have been made to reflect the intent of the Council.

Comment: Contrary to the language presented, the Council states that it did not intend that a particular mesh size be specified by the Regional Director for midwater gear operated in the SNE closed area, but did intend that the Regional Director specify bycatch reporting requirements for the operation of dredge gear in the same area. Sections 651.21(b)(3)(ii)(A) and (i)(B) should be changed accordingly.

Response: The appropriate adjustments have been made with respect to § 651.21(b)(3)(i)(A). There is no record in the FMP to support the inclusion of bycatch reporting by dredge gear operators.

Comment: Contrary to the language at § 651.21(b)(2)(ii), the Council asserts that their intent is that they (the Council) will determine the appropriate time in May to reopen the SNE closed area, and that their decision will be implemented by the Regional Director. The decision will be made in consideration of input from the TMG, which will, in turn, be based upon a retrospective analysis.

Response: An analysis will be conducted to see if the appropriate level of spawning of yellowtail and winter flounder has been attained, thus guiding the decision to open or remain closed. A decision to open or close an area is an aspect of implementation of an FMP, which the Magnuson Act has conferred upon the Secretary.

Comment: The Council points out that in § 651.22(e)(1), the tabular description of the exempted fishery for shrimp leaves out the Council's decision that the period may be increased to December through May, according to the management decision of the Atlantic States Marine Fisheries Commission.

Response: The regulations at § 651.22(e)(2) reflect that changes will be made considering the Council's recommendations and ASMFC's management decisions.

Comment: The Council comments that as stated in the third paragraph of the *Classification* section, the view that the purpose of the FMP is to promote investment and innovation in the fishery is inaccurate and misleading. The Council did refer to the FMP having the effect of promoting innovation and investment, but only in the context of gear development, such as the development and marketing of square-mesh cod ends, or other gear innovations that will increase the efficiency of fishing operations under the constraints of the management measures. The Council does not wish to appear to be encouraging investment in additional vessel capacity.

Response: The comment is noted.

Changes From the Proposed Rule

A few changes have been made in this rule in addition to those explained in the responses to the comments above, as follows:

In § 651.2, the definition of "vessel of the United States" was revised to reflect changes in the documentation laws.

In § 651.3, references to more restrictive State laws have been removed.

In § 651.4, paragraph (m) now provides that failure to report changes in application information will void the permit.

In § 651.7, a prohibition covering the gear-marking requirements of § 651.25 has been added.

In § 651.20, paragraph (d), pertaining to a specific time and area for fishing for redfish, has been removed. Paragraph (f) has been added to aid enforcement of the minimum mesh size regulations. It provides that only nets with cod ends with legal-sized mesh may be carried on deck while a vessel is in a large-mesh area.

In § 651.22, a sentence has been added to paragraph (e)(1) to clarify the prohibitions against landing more than a specified percentage of regulated species. Paragraphs (c)(1) and (h) have been revised to clarify the procedures for denial or revocation of certification for the exempted fisheries program.

The entire § 651.24, *Additional measures,* has been removed, because these regulations are effective for a limited period.

Also, minor editing has been done to clarify the language and the latitude and longitude specifications.

Classification

The Regional Director determined that the FMP as approved is necessary for the conservation and management of Northeast multispecies finfish and that it is consistent with the Magnuson Act and other applicable law.

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, but that it will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. A copy of the Regulatory Flexibility Analysis is available from the Council at the address above.

The Council prepared a regulatory impact review (RIR) which concluded that this rule will produce long-term benefits associated with the achievement of the FMP objectives within the fourth year of implementation. NMFS believes that benefits accrue with attainment of the objectives, but this is unlikely in the 10-year planning horizons of the FMP, unless the Council undertakes immediate improvements in its management measures. Some measures are inconsistent with meeting FMP objectives. The Secretary partially approved the FMP and set a time limit for implementation of the approved measures. He expects that the TMG will address the deficiencies of the FMP as one of its initial tasks.

In accordance with the National Environmental Policy Act, the Council prepared a Final Environmental Impact Statement (FEIS) for the FMP and filed it with the Environmental Protection Agency; a notice of availability was published at 51 FR 24442, July 3, 1986. The FEIS is available from the Council at the address above.

This rule contains a collection of information requirement under the exempted fisheries program subject to the Paperwork Reduction Act which has been submitted for approval to the Office of Management and Budget (OMB). The permit requirement found at § 651.4(a) has been approved by OMB under OMB control number 0648–0097.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Delaware, and North Carolina. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 15, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 651 is revised, to be effective from September 15, 1986, until September 30, 1987, to read as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

Subpart A—General Provisions

Sec.

651.1 Purpose and scope.
651.2 Definitions.
651.3 Relationship to other laws.
651.4 Vessel permits.
651.5 Recordkeeping and reporting requirements. [Reserved]
651.6 Vessel identification.
651.7 Prohibitions.
651.8 Facilitation of enforcement.
651.9 Penalties.

Subpart B—Management Measures

651.20 Large-mesh area and gear limitations.
651.21 Closed areas.
651.22 Exempted fishery programs.
651.23 Minimum fish size.
651.24 Experimental fishing.
651.25 Gear marking requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 651.1 Purpose and scope.

This part implements the Fishery Management Plan for the Northeast Multispecies Fishery prepared and adopted by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council. These regulations govern the conservation and management of multispecies finfish.

§ 651.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where finfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, Washington, DC 20235, or a designee.

Authorized officer means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bottom-tending gill net means any gill net, anchored or otherwise, that is fished on or near the bottom in the lower third of the water column.

Butterfish means *(Peprilus triacanthus.*

Catch, take or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish aboard a vessel.

Cod end means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine, or midwater trawl in which the catch is retained.

Exempted fisheries means those species found in the exempted fisheries program (§ 651.22).

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Herring means Atlantic herring, *Clupea harengus harengus*, or blueback herring, *Alosa aestivalis*.

Land means to begin offloading fish, to offload fish or to transfer fish to another vessel.

Longline gear means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or ground line with three or more gangions and hooks.

Mackerel means Atlantic mackerel, *Scomber scombrus*.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Mid-Atlantic area means that area west and south of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the FCZ.

Midwater trawl gear means pelagic trawl gear, no portion of which is operated in contact with the bottom at any time.

Multispecies finfish means the following finfish in the Northeast portion of the Atlantic Ocean FCZ:

Gadus morhua	Atlantic cod
Glyptocephalus cynoglossus.	witch flounder
Hippoglossoides platessoides.	American plaice
Limanda ferruginea	yellowtail flounder
Melanogrammus aeglefinus.	haddock
Pollachius virens	pollock
Pseudopleuronectes americanus.	winter flounder
Scophthalmus aquosus	windowpane flounder
Sebastes fasciatus	redfish
Urophycis tenius	white hake

New England area means that area east and north of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the FCZ.

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator with respect to any vessel, means the master or other individual aboard and in charge of that vessel.

Owner, with respect to any vessel, means

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fishing means fishing for finfish for personal use or pleasure and not for barter, trade, or sale.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted.

Regional Director means the Regional Director, Northeast Region, NMFS, 14 Elm Street, Federal Building, Gloucester, MA 01930, 617–281–3600, or a designee.

Retain aboard means to fail to return fish to the sea after a reasonable opportunity to sort the catch.

Secretary means the Secretary of Commerce, or a designee.

Squids means *Loligo pealei* or *Illex illecebrosus.*

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under chapter 121 of title 46, United States Code;

(b) Any vessel numbered under chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

(c) Any vessel numbered under chapter 123 of title 46, United States Code, and used exclusively for pleasure; and

(d) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

Whiting means *Merluccius bilinearis*.

§ 651.3 Relationship to other laws.

(a) Fishing for squids, mackerel, and butterfish, which is affected by these rules, also is governed by other domestic rules under 50 CFR Part 655.

(b) Fishing vessel operators will exercised due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing

vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than one nautical mile from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than one quarter nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken.

§ 651.4 Vessel permits.

(a) *General. (1)* Any vessel of the United States commercially fishing for multispecies, finfish, and any vessel carrying recreational fishing parties for hire, except vessels fishing exclusively within State waters, must have a permit required by this part aboard the vessel.

(2) Vessel owners or operators who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel's fishing, catch, and pertinent gear will be subject to all the requirements of this part without regard to whether such fishing occurs in the FCZ or landward of the FCZ and without regard to where such fish or gear are possessed, taken, or landed.

(b) *Application.* (1) An application for a fishing vessel to participate in the multispecies finfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application should be submitted to the Regional Director at least 2 months prior to the date on which the applicant desires to have the permit made effective to ensure that he will receive the permit on time.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's official number;

(iv) The home port and gross tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 45 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 21 days following the date of notification, the application will be discarded.

(d) *Surrender. (1)* A permit issued for a vessel may be surrendered by the owner thereof by certified mail addressed to the Regional Director.

(2) The Regional Director will reissue a permit which has been surrendered within 45 days from the date the reissuance was requested.

(e) *Expiration.* A permit expires when the owner or the name of the vessel changes.

(f) *Duration.* A permit is valid until it is voluntarily returned or expires or is revoked, suspended, or modified under 15 CFR Part 904.

(g) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(i) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(j) *Display.* Any permit issued under this part must be carried aboard the fishing vessel at all times. The permit must be displayed for inspection at the request of an authorized officer.

(k) *Suspension and revocation.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part.

(l) *Fees.* No fee is required for any permit under this part.

(m) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change. Failure to report a change in information within 15 days of the change voids the permit.

(n) *Exempted fisheries program.* Any permit holder may initially request entry into the exempted fisheries program under § 651.22 by telephoning 617–281–4454. The permit holder must give his/her name, vessel name, vessel permit number, the specific exemption requested, the starting date and estimated duration of participation in the program, and the area of operation. The permit holder must have the letter of certification, which will be issued within one week, aboard at all times while engaged in an exempted fishery.

§ 651.5 Recordkeeping and reporting requirements. [Reserved]

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above.

(b) *Numerals.* Except as provided in paragraph (d) of this section, the official number must be permanently affixed to each vessel subject to this part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet in length, and at least 10 inches in height for vessels over 25 feet in length. The length of a vessel, for purposes of this section, will be that length set forth in U.S. Coast Guard or State records.

(c) *Duties of owner and operator.* The owner and operator of each vessel subject to this part will

(1) Keep the vessel's name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(d) *Nonpermanent markings.* Vessels carrying recreational fishing parties for hire must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for multispecies finfish.

§ 651.7 Prohibitions.

(a) It is unlawful for any person owning or operating a vessel issued a permit under § 651.4 to do any of the following:

(1) Land or possess any multispecies finfish which fails to meet the minimum fish sizes specified in § 651.23; and

(2) Fail to affix and maintain permanent markings as required by § 651.6.

(b) It is unlawful for any person to do any of the following:

(1) Use any vessel of the United States (except recreational fishing vessels) for taking, catching, harvesting, or landing any multispecies finfish taken from the FCZ unless the vessel has a valid permit issued under this part and the permit is aboard the vessel;

(2) Fish within the areas described in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b)

unless the vessel is certified in an exempted fisheries program established under § 651.22;

(3) Fish within the areas described in § 651.20(a) outside of the exempted fisheries area specified in § 651.22(a) while the vessel is certified to participate in the exempted fisheries program under § 651.22.

(4) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(5) Fail to comply with the gear-marking requirements of § 651.25.

(6) Dump a net or the contents of the net after being signaled by an authorized officer that the vessel is to be boarded.

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, or export any multispecies finfish taken, retained, or imported in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(8) Import cod, haddock, or yellowtail flounder which are smaller than the minimum sizes specified in § 651.23;

(9) Make any false statement in connection with an application under § 651.4.

(10) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvest, landing, purchase, scale, possession, or transfer of any multispecies finfish.

(11) Refuse to permit an authorized officer to board a fishing vessel or to enter an area of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit under the Magnuson Act.

(12) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (b)(11) of this section;

(13) Resist a lawful arrest for any act prohibited by this part;

(14) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(15) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this part;

(16) Fail to comply immediately with enforcement and boarding procedures specified in § 651.8;

(17) Transfer to another vessel directly or indirectly, or attempt to so transfer, any U.S.-harvested multispecies finfish not otherwise specifically authorized; or

(18) Violate any provisions of the exempted fisheries program specified in § 651.22.

(c) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulations or permit issued under the Magnuson Act.

(d) *Presumption.* The possession for sale of multispecies finfish which do not meet the minimum sizes specified in § 651.23(a)(1) will be *prima facie* evidence that such multispecies finfish were taken or imported in violation of these regulations. Evidence that such fish (other than cod, haddock, and yellowtail flounder) were harvested by a vessel not holding a permit under this part *and* fishing exclusively within State or foreign waters will be sufficient to rebut the presumtion. This presumption does not apply to fish being sorted on deck.

§ 651.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must

(1) Guard Channel 16, VHF-FM, if so equpped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and,

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.- .-) [1] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelphone or by illuminating the vessel's identification.

(2) "RY-CY" (.–. –.–– –.–. –.––) means "You should proceed at slow speed, a boat is coming to you." The signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (. . . ––.–. . .––) means "You should stop or heave to; I am going to board you."

(4) "L" (.–. .) means "You should stop your vessel instantly."

[1] Period (.) means a short flash of light; dash (-) means a long flash of light.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 651.20 Large-mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within the areas defined by accepted boundary limits and by stright lines (rhumb lines) connecting the following points in the order stated:

(1) Gulf of Maine large-mesh area (Figure 1):

(i) Bounded on the north and west by the seaward limit of the territorial sea;

(ii) Bounded on the east by the U.S.-Canada maritime boundary (the outer limit of the FCZ);

(iii) Bounded on the south by a line originating at the intersection of 42°20′ N. latitude with the territorial sea and east to 42°20′ N. latitude, 67°18.4′ W. longitude (the U.S.-Canada maritime boundary).

(2) Georges Bank large-mesh area (Figure 1):

Point	Latitude	Longitude
A	40°33.5′ N.,	69°40.0′ W.;
B	41°35.0′ N.,	69°40.0′ W.;
C	West to the territorial sea;	
D	Northward along the territorial sea to 42°20.0′ N.,	
E	42°20.0′ N., (the U.S.-Canada maritime boundary);	67°18.4′ W.,
F	41°18.0′ N., (the U.S.-Canada maritime boundary);	66°25.4′ W.;
G	40°55.0′ N.,	66°38.0′ W.;
A	40°33.5′ N.,	69°40.0′ W.

(b) *Trawl nets.* (1) *Diamond mesh.* Except as provided for in § 651.20(d) and § 651.22, the minimum mesh size for any trawl net or scottish seine used by a vessel fishing in the mesh area described in paragraph (a) of this section is 5½ inches in the cod end in the Gulf of Maine large-mesh area; and 5½ inches in the cod end in the Georges Bank large-mesh area.

(2) *Square mesh.* Vessels may use square mesh which the Regional Director has certified under § 651.22 to be equivalent in terms of haddock escapement to the mesh sizes specified in paragraph (b)(1) of this section.

(c) *Gill nets.* (1) Except as provided for in § 651.22, the minimum mesh size for any gill net used by a vessel fishing in the mesh area described in paragraph (a) of this section will be the same as that specified under paragraph (b) of this section.

(2) In other portions of the New England area not subject to minimum mesh size restrictions under paragraph (b) of this section, the mesh in bottom-tending gill nets must be the same during the months of November through February as that in effect for the Georges Bank large-mesh area.

(d) *Midwater gear.* In the portion of the large mesh areas where exempted fishing is prohibited under § 651.22, fishing for herring, mackerel, and squids may take place throughout the fishing year with cod end mesh sizes less than the regulated size, provided that:

(1) Midwater trawl gear is used exclusively;

(2) The vessel deploying midwater gear is certified under the exempted fisheries program in § 651.22(c); and

(3) The bycatch of multispecies finfish does not exceed one percent by weight of all other fish landed by the vessel over the reporting period.

(e) *Mesh measurements.* (1) Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least 10 meshes from the lacings, beginning at the aft end and running parallel to the long axis.

(2) No fishing vessel may use any means or device, including, but not limited to, chafing gear, liners, or double nets, if it would obstruct the meshes of the cod end or otherwise diminish the size of the meshes of the cod end. However, canvas, netting, or other material may be attached to the underside of the cod end to reduce wear and prevent damage so long as no more than 50 percent of the meshes are obstructed. Net strengtheners may be attached to the cod end of trawl nets, providing such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

(f) Except as provided in paragraph (d) of this section, no vessel issued a permit under § 651.4 may have on deck any net with a cod-end mesh less than the minimum size specified in paragraphs (b) and (c) of this section while in the areas described in paragraph (a) of this section.

§ 651.21 Closed areas.

(a) *Georges Bank.* No person may fish within the following areas during the months of February through May.

(1) An area known as Closed Area I (Figure 2) bounded by four straight lines (rhumb lines) connecting the following points in the order stated:

Point	Latitude	Longitude
a	40°53′ N.,	68°53′ W.;
b	41°35′ N.,	68°30′ W.;
c	41°50′ N.,	68°45′ W.;
d	41°50′ N.,	69°40′ W.; and
a	40°53′ N.	68°53′ W.

(2) An area known as Closed Area II (Figure 2) bounded by three straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
e	41°15′ N.,	67°00′ W.,
f	41°15′ N., (the U.S.-Canada Maritime Boundary);	66°22.4′ W.,
g	41°51.9′ N., (the U.S.-Canada Maritime Boundary);	67°00′ W.,
e	41°15′ N.,	67°00′ W.

(3) *Exceptions.* Paragraphs (a)(1) and (2) of this section do not apply

(i) To longline vessels that fish with hooks having a gape of not less than 1.18 inches (30 mm), Closed Area 1, only;

(ii) To pot gear designed and used to take lobsters; or

(iii) To dredges designed and used to take scallops.

(4) The Regional Director may open either or both Closed Areas I and II prior to the scheduled opening in May by notice in the **Federal Register**, if he determines that concentrations of spawning fish are no longer in the area(s).

(b) *Southern New England/Mid-Atlantic Region.* (1) Except as provided in paragraph (b)(3) of this section, during a closure, no person may fish within the area bounded by straight lines (rhumb lines) connecting the following points in the order stated (Figure 3):

Point	Latitude	Longitude
A	40°33.5′ N.,	69°40′ W.;
N	40°26.5′ N.,	70°40′ W.;
O	40°40.5′ N.,	70°40′ W.;
P	40°30′ N.,	72°00′ W.;
Q	40°17.8′ N.,	72°00′ W.;
R	40°15.5′ N.,	72°20′ W.;
S	40°39.0′ N.,	72°20′ W.;
T	40°42.0′ N.,	72°00′ W.;
U	40°48.2′ N.,	72°00′ W.;
V	41°00′ N.,	70°49.5′ W.;
W	41°00′ N.,	70°30′ W.;
X	40°50′ N.,	70°30′ W.;
Y	40°50′ N.,	69°40′ W., and
A	40°33.5′ N.,	69°40′ W.;

(2) The area defined in paragraph (b)(1) of this section will be regulated as follows:

(i) The portion of the area east of 71°30′ W. longitude will close on March 1, 1987, and the portion west of 71°30′ W. longitude will close on April 1, 1987.

(ii) The entire area will be reopened by the Regional Director by notice in the Federal Register on or after May 1, 1987, when he determines that the closure has achieved the appropriate spawning level for yellowtail flounder and winter flounder.

(3) *Exceptions.* (i) Paragraph (b)(1) of this section does not apply

(A) To pot gear designed and used to take lobsters; and

(B) To dredge gear designed and used to take scallops, ocean quahogs, or surf clams.

(ii) In the closed area described for the Southern New England/Mid-Atlantic Region in § 651.21, in which fishing for herring, mackerel, and squids with midwater trawl gear may be permitted by the Regional Director, a vessel conducting such fishing may not retain aboard or land any multispecies finfish.

(iii) Any person intending to use midwater trawl nets in the area described in this paragraph (b) must notify the Regional Director in writing 30 days prior to the date on which the nets will be used. The Regional Director will issue a letter certifying the use of such nets. Fishing in these areas with midwater trawl nets may not commence without a letter of certification carried aboard the vessel.

§ 651.22 Exempted fishery programs.

(a) *General.* The Regional Director will establish and implement an exempted fishery program to allow fishing vessels to engage in small mesh fisheries for species which require the use of mesh smaller than the size specified in § 651.20(b). Exempted fishing may be conducted shoreward of the area bounded by the straight lines (rhumb lines) connecting the following points in the order stated (Figure 1):

Point	Latitude	Longitude
C	41°35′ N., and the territorial sea;.	
B	41°35′ N.	69°40′ W.;
H	42°49.5′ N.	69°40′ W.;
I	43°12.0′ N.	69°00′ W.;
J	43°41′ N.	68°00′ W.;
K	43°58′ N.	67°22′ W.
L	(The U.S.-Canada maritime boundary); and Northward along the irregular U.S.-Canada maritime boundary to the territorial sea.	

(b) *Entry.* (1) Any person owning or operating a vessel issued a valid Federal multispecies finfish permit may apply to fish under the exempted fisheries program by following the procedures set forth in § 651.4(n).

(2) The period of participation must be for at least 7 days, but not longer than 30 days. There is no limit on the number of times a vessel can apply to participate in the exempted fisheries program.

(c) *Certification.* (1) The Regional Director will certify in writing the entry of the applicant into the exempted fisheries program. Entry may be denied to an applicant based on the applicant's violation of the Magnuson Act, if the applicant has received a notice of violation and assessment concerning the violation.

(2) Entry of the applicant into the exempted fisheries program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the exempted fisheries program may begin after the applicant has received the certification from the Regional Director provided that this letter is retained aboard.

(e) *Limitations.* (1) During the period of participation in the exempted fisheries program, the vessel may not be employed to fish in the large mesh areas outside the area specified in paragraph (a) of this section. A vessel may not land multispecies finfish in excess of the percentages specified in paragraph (e)(2) of this section.

(2) Participation in the exempted fisheries program is subject to seasonal limitations, exempted species, and maximum multispecies finfish percentage restrictions as follows:

Period	Target species	Comment
Jun.-Nov.	all species except multispecies finfish.	Multispecies finfish may not exceed 10 percent of the total landings of all species during the reporting period.
Dec.-Jan.	whiting	Multispecies finfish may not exceed 10 percent of the amount of whiting landed over the reporting period; the fishery will be monitored by at-sea sampling.
Jan.-Apr.[1]	shrimp	Multispecies finfish may not exceed 10 percent of the amount of shrimp landed during the reporting period.
Dec.-May	herring, mackerel	Multispecies finfish may not exceed 10 percent of the amount of herring plus mackerel landed over the reporting period.

[1] Or as determined by the Regional Director, based on the recommendation of the Council and the management decision of the Atlantic States Marine Fisheries Commission. The Secretary will publish any such changes by notice in the FEDERAL REGISTER.

(3) Adjustments in the seasons, species or percentages of the exempted fisheries will be accomplished by regulatory amendment.

(f) *Recordkeeping and reporting.* The reporting period for the exempted fisheries will be 30 calendar days. Within one week from the expiration of the reporting period or withdrawal from the program under paragraph (h) of this section, or receipt of a notice of revocation under paragraph (i) of this section, the participant must mail or deliver to the Regional Director a NOAA Form 88–153 "Fishing Vessel Record", or business records that provide equivalent information, listing in pounds, all fish landed during participation in the exempted fishery program on a trip-by-trip basis. Buyer certification may be satisfied by the buyer's signature on the trip record. The responsible fishing vessel owner or operator may maintain accurate trip-by-trip landings data on a form provided by the Regional Director.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period under § 651.4(n), or when the owner's or vessel's name changes, or when a participant who has been duly operating in the program for at least 7 days notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will be effective when the participant receives notice of the withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of any applicant in the exempted fisheries program upon issuance of a notice of violation and assessment for violating any provisions of the program or the Magnuson Act. Notification will be in writing and will take effect upon receipt by the participant.

§ 651.23 Minimum fish size.

(a) The minimum sizes (total length) for certain regulated finfish are

(1) *Commercial fishing vessels.*

Cod, haddock and pollock	17 inches
Witch flounder (gray sole)	14 inches
Yellowtail flounder	12 inches
American plaice (dab)	
Winter flounder (blackback)	11 inches

VOL 51 ISS 161 AG 20 1986 UMI

(2) *Recreational fishing vessels, vessels carrying recreational fishing parties, and individuals.*

Cod and haddock	15 inches

(b) The minimum lengths allowed by paragraph (a) of this section are measured on a straight line from the tip of the snout to the end of the tail.

§ 651.24 Experimental fishing.

The Secretary may authorize experimental fishing, which is not otherwise authorized by these regulations, for the acquisition of information.

§ 651.25 Gear marking requirements.

(a) Bottom-tending fixed gear (gill nets and longlines) fishing for multispecies finfish must have the name of the owner or vessel, or the official number of that vessel, permanently affixed to any buoys, gill nets, or longlines.

(b) Bottom-tending gill net or longline gear must be marked so that the westernmost end (meaning the half compass circle from magnetic south through west to an including north) of the gear displays a standard 12-inch tetrahedral corner rader reflector and a pennant positioned on a staff at least 6 feet above the buoy. The easternmost end (meaning the half compass circle from magnetic north through east to and including south) of the gear must display only the standard 12-inch tetrahedral radar reflector positioned in the same way.

(c) The maximum length of continuous gill nets must not exceed 6,600 feet between the end buoys.

(d) In the Gulf of Maine large-mesh area specified in § 651.20, sets of gill net gear which are of an irregular pattern or which deviate more than 30° from the original course of the set will be marked at the extremity of the deviation with an additional marker which must display two or more visible streamers and may either be attached to or independent of the gear.

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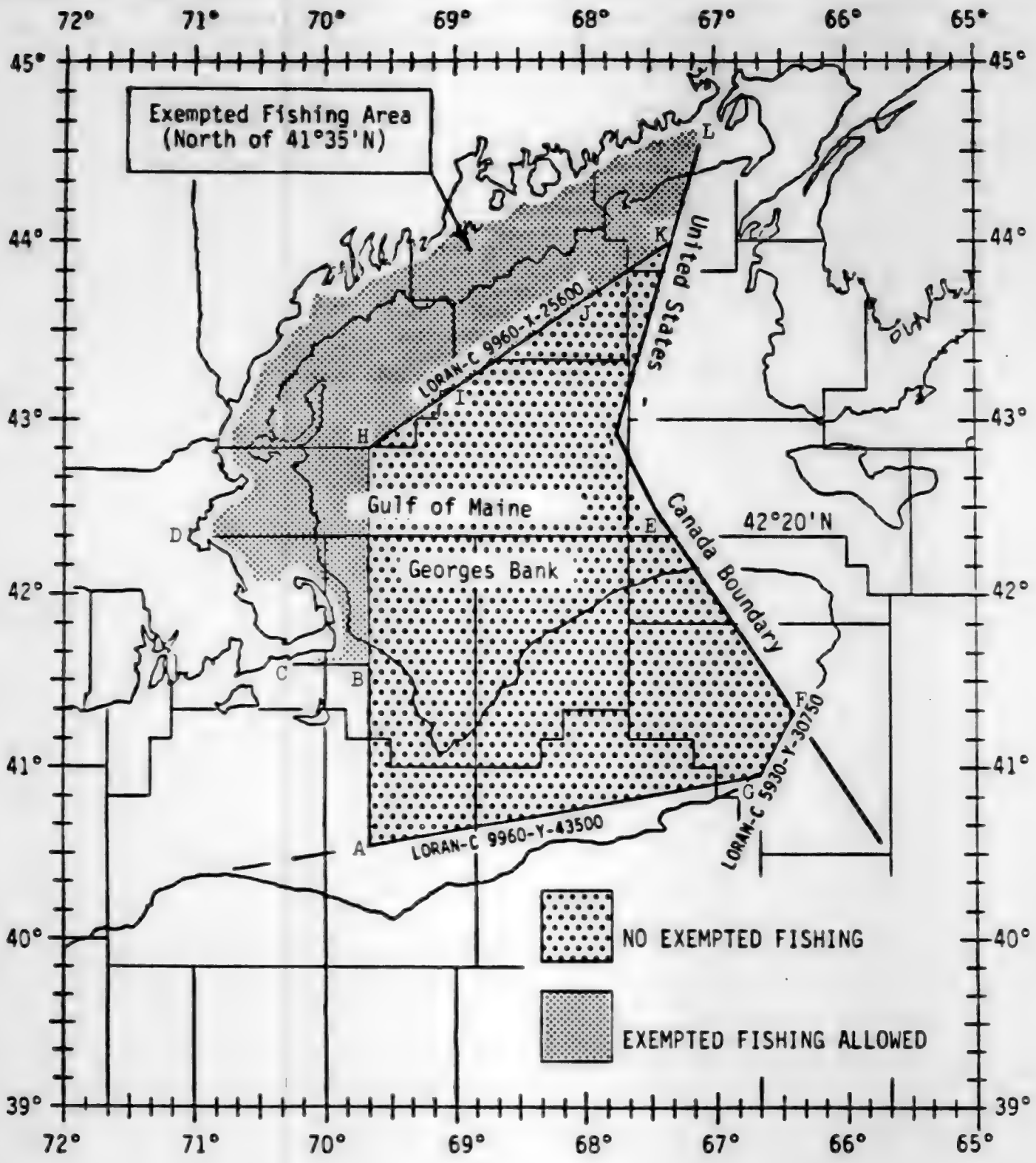

Figure 1. Gulf of Maine (north of 42°20' N. latitude) and Georges Bank (south of 42°20' N. latitude) large mesh areas. Exempted fishing area designated by small stipple. Coordinates listed in §651.20(a).

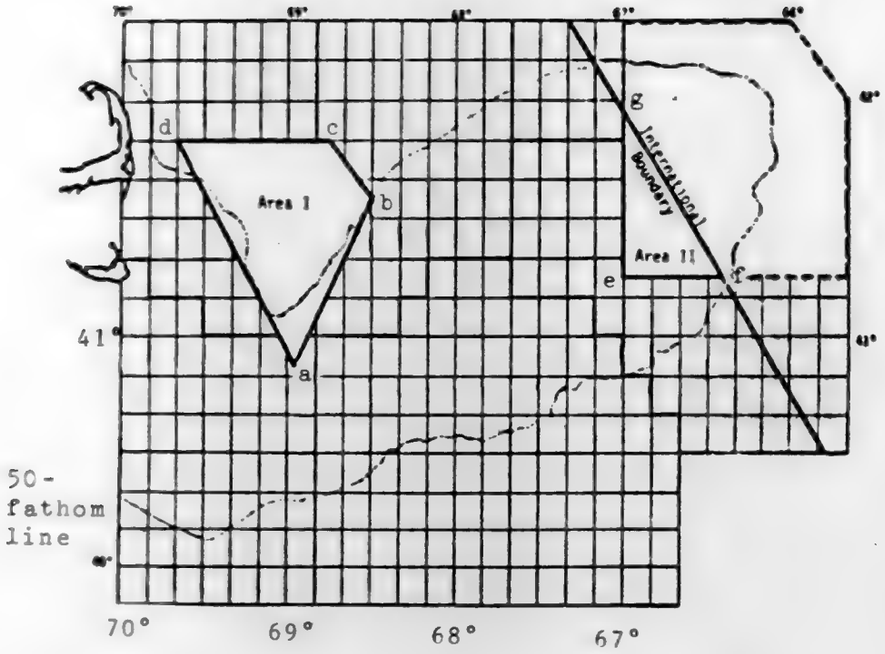

Figure 2. Georges Bank spawning closure Areas I and II. Coordinates listed in §651.21(a).

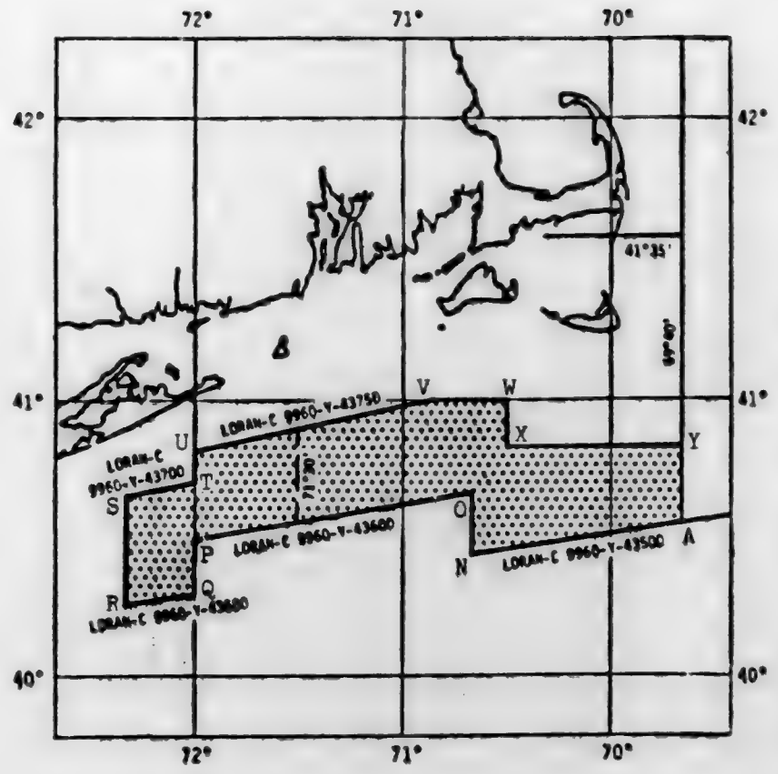

Figure 3. Southern New England/Middle Atlantic region closure. Coordinates listed in §651.21(b).

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VOL 51 ISS 161 AG 20 1986 UMI

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) from the U.S.-Canada border to the Queets River, Washington, at midnight, August 17, 1986, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Pacific Fishery Management Council and the Washington Department of Fisheries (WDF) that the recreational fishery quota of 22,600 coho salmon for the subarea will be reached by midnight, August 17, 1986. This closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ from the U.S.-Canada border to the Queets River, Washington, to recreational salmon fishing is effective at 2400 hours local time, August 17, 1986. Comments on this closure will be received until September 2, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 recreational fishery for all salmon species in the FCZ from the U.S.-Canada border to the Queets River was established as June 29 through either the earliest of September 25 or attainment of a quota of either 28,000 coho salmon or 2,300 chinook salmon. Subarea quotas were modified twice during the season (51 FR 26900, July 23, 1986; 51 FR 29234, August 15, 1986). The current coho quota for the subarea is 22,600 fish.

Based on the best available information, the recreational fishery catch in the area is projected to reach the 22,600 coho salmon quota by midnight, August 17, 1986.

The Regional Director consulted with the Director of WDF regarding a closure of the recreational fishery between the U.S.-Canada border and the Queets River. The WDF Director confirmed that Washington will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight, August 17, 1986.

Therefore, the Secretary issues this notice to close the recreational fishery in the FCZ from the U.S.-Canada border to the Queets River effective midnight, August 17, 1986. This notice does not apply to treaty Indian fisheries operating in the same area or to other fisheries which may be operating in other areas.

Other Matters

This action is taken under the authority of 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 15, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-18814 Filed 8-15-86; 4:36 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 161
Wednesday, August 20, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 540

Performance Management and Recognition System; Minimum Performance Award Funding

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing the minimum percentage for calculating funds to pay performance awards to Performance Management and Recognition System (PMRS) employees for Fiscal Year 1987. Establishing a new minimum percentage each year is required by title II of the Civil Service Retirement Spouse Equity Act of 1984, which established the PMRS.

DATE: Comments will be considered if received no later than September 19, 1986.

ADDRESS: Send or deliver written comments to: Barbara L. Fiss, Acting Assistant Director for Performance Management; Personnel Systems and Oversight Group; Room 7520; Office of Personnel Management; 1900 E. Street NW.; Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jack Pokoyk, (202) 632-7620.

SUPPLEMENTARY INFORMATION: The funding for performance awards to be paid to PMRS employees is determined as a percentage of the estimated aggregate amount of PMRS employees' pay for each fiscal year. Section 5406(c)(2)(A)(i)(II) of title 5, U.S. Code, provides that the minimum percentage used by an agency to determine the aggregate amount of performance awards paid during any fiscal year shall, for each of the four fiscal years after Fiscal Year 1985 ". . . be adjusted incrementally (by equal increments or otherwise) over the percentage for the preceding fiscal year by the appropriate agency head in accordance with regulations which the Office of Personnel Management shall prescribe;".

The regulations implementing the PMRS, issued on August 30, 1985 (50 FR 169), provide that the minimum percentage will be adjusted each year in accordance with OPM instructions. This proposed rule provides instructions on calculating the aggregate amount of performance awards to be paid for Fiscal Year 1987.

OPM is proposing that the minimum percentage for calculating the aggregate amount of PMRS performance awards to be paid by each agency during Fiscal Year 1987 will be .95 percent of the estimated aggregate amount of PMRS employees' pay for Fiscal Year 1987.

Procedures agencies must follow to calculate the aggregate amount of performance awards to be paid for each fiscal year are described at 5 CFR 540.109(b).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations will only affect Government employees and agencies.

Reduction of Comment Period for Proposed Rulemanking

I find that, because agencies are required to compute Fiscal Year 1987 awards funds at the beginning of the fiscal year, good cause exists for setting the comment period on this proposed rulemaking at 30 days.

List of Subjects in 5 CFR Part 540

Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,
Director.

Accordingly, OPM proposes to amend 5 CFR Part 540 as follows:

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

1. The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. Chapters 43 and 54.

2. Section 540.109(b)(1)(i) is revised to read as follows:

§ 540.109 Performance awards.

* * * * *

(b) * * *

(1) * * *

(i) Each agency is required to pay a minimum of .95 percent of the estimated aggregate amount of PMRS employees' basic pay for Fiscal Year 1987 for performance awards;

* * * * *

[FR Doc. 86-18770 Filed 8-19-86; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing to revise its Federal Employees Health Benefits (FEHB) regulations to set forth the conditions under which OPM may, at its discretion, waive the participation requirement for individuals seeking health benefits coverage as annuitants. These proposed regulations would implement section 103 of the Federal Employees Benefits Improvement Act of 1986 (Pub. L. 99-251).

DATE: Comments must be received on or before October 20, 1986.

ADDRESSES: Written comment may be sent to Reginald M. Jones, Jr., Assistant Director for Pay and Benefits Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margaret Sears, (202) 632-0003.

SUPPLEMENTARY INFORMATION: Under the FEHB law, to have FEHB coverage after retirement, a retiring employee must have been covered under the FEHB Program for the 5 years immediately before retirement (or, if less than 5 years, for all periods of service during which he or she was eligible for coverage).

Pub. L. 99-251 gave OPM the authority to waive the 5-year participation

VOL 51 ISS 161 AG 20 1986 UMI

requirement when, in its sole discretion, it determines that it would be against equity and good conscience not to allow an individual to be enrolled in FEHB as an annuitant. Because the law specifies that a person's failure to satisfy the 5-year requirement must be "due to exceptional circumstances," we anticipate that such waivers would be granted infrequently and only in the rarest and most unusual circumstances.

Under the proposed regulations, an individual who requests a waiver would need to demonstrate that (1) he or she had intended to have FEHB coverage as a retiree; (2) the circumstances that prevented him or her from meeting the participation requirement were essentially outside his or her control; and (3) he or she had exercised due diligence in protecting the right to continue FEHB coverage into retirement.

In making its determination, OPM would consider such factors as (1) Whether the individual had a compelling reason to believe he or she was covered as a family member of another person enrolled in FEHB during the period of time in question; (2) evidence that the employing office refused to allow the employee to enroll; (3) evidence that the employee was misinformed by a person who reasonably could be expected to have the correct information; (4) the extent to which the individual could have controlled the events that led to the loss of the right continued FEHB coverage; and (5) whether the individual had acted to gain FEHB coverage at the earliest opportunity after learning of the loss of benefits or possible loss of future rights.

Employees are expected to exercise due diligence concerning their rights and obligations under the FEHB Program. Due diligence includes reading and acting on information provided to them and requesting information if none is given to them automatically. A waiver of the participation requirement would be appropriate only where an individual is unable due to circumstances essentially beyond his or her control to take the action necessary to preserve his or her future right to FEHB coverage as a retiree.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they affect only retired Federal employees and survivors of Federal employees and annuitants.

List of Subjects in 5 CFR Part 890

Administrative practice and procedures, Government and employees, Health insurance, Retirement.

U.S. Office of Personnel Management
Constance Horner,
Director.

Accordingly, OPM proposes to amend 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; Sec. 890.301 also issued under 5 U.S.C. 8905(b); Sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

2. Section 890.108 is added to read as follows:

§ 890.108 Waiver of requirement for continued coverage during retirement.

(a) OPM may waive the eligibility requirements under 5 U.S.C. 8905(b) for health benefits coverage as an annuitant in the case of an individual who fails to satisfy such requirements if OPM, in its sole discretion, determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an annuitant in a health benefits plan under this part.

(b) OPM may grant a waiver as described in paragraph (a) of this section to an annuitant in rare and unusual circumstances if the annuitant shows by a preponderance of the evidence that—

(1) There is evidence demonstrating that the individual intended to be covered as an annuitant;

(2) The circumstance(s) that prevented the completion of the requirements of 5 U.S.C. 8905(b) was (were) essentially outside the individual's control; and

(3) The individual exercised due diligence in protecting the right to coverage as an annuitant.

(c) OPM will not grant a waiver soley because—

(1) An individual's retirement is based on disability or an involuntary separation; or

(2) An individual was misadvised (or not advised) by his or her employing office regarding the requirements for continuation of health benefits coverage into retirement.

[FR Doc. 86–18709 Filed 8–19–86; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Pineapple Juice

Correction

In FR Doc. 86–17918, beginning on page 28719, in the issue of Monday, August 11, 1986, make the following corrections:

§ 52.1764 [Corrected]

1. On page 28720, third column, § 52.1764(c), second line, "container" should read "containers".

§ 52.1766 [Corrected]

2. On the same page, third column, § 52.1766(b)(1), "measurements" should read "measurement".

3. On the same page, third column, § 52.1766(c), second line, "if" should read "is".

§ 52.1768 [Corrected]

4. On page 28721, first column, second table under "Table I", under "Grade A", under the category "Unsweetened", third line, "12.0" should be removed, and under "Grade B", under the category "Unsweetened", third line, "10.5" should be removed.

5. On the same page, first column, first table under "Table II", under "Grade A", fourth line, "60" should read "40".

6. On the same page, first column, second table under "Table II", under "Grade A", under the category "Unsweetened", third line, "12.8" is removed, and under "Grade B", under the category "Unsweetened", third line, "12.8" is removed.

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket No. PRM–73–3]

KMC, Inc., et al.; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of petition for rulemaking (PRM–73–3) that was filed by KMC, Inc., et al.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM–73–3) that was filed by KMC, Inc., et al. The petitioner, in his

June 9, 1978 petition requested that the NRC amend 10 CFR Part 73 to include a statement that meeting the specific requirements normally would satisfy the performance requirements for physical protection at nuclear power plants.

ADDRESSES: A copy of the petitioner's letter requesting the withdrawal of the petition is available for public inspection or copying for a fee in the NRC's Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the petitioner's letter requesting the withdrawal of the petition may be obtained free of charge by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7086 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice published on July 10, 1978 (43 FR 29635), the NRC announced the receipt of and requested comments on a petition for rulemaking (PRM–73–3) filed by KMC, Inc. et al. The comment period expired on September 8, 1978. (Subsequently, four letters of comment were received on the petition.) The petition, which was dated June 9, 1978, requested that the NRC amend § 73.55 to include a statement that, if a nuclear power reactor licensee meets the *specific* requirements for physical protection against an insider threat, as provided for in the NRC's regulations, a licensee will also meet the *general* performance requirements for physical protection as provided in § 73.55.

By letter dated June 26, 1986, the petitioner stated his intention to withdraw the petition. This withdrawal is based on the fact that many studies have been made of the benefits and disadvantages of alternative proposals, additional studies have been made of the insider threat, and a major NRC task force studied the safeguards/safety interfaces. According to the petitioner: "As a result of the past eight years of studies and dialogue there no longer appears to be any major disagreements on the need for further alternative measures." Also important to the petitioner's decision to withdraw the petition is the fact that the NRC recently decided to adopt "two elements from the Insider Rule Package for rule change"—"Searches of Individuals at Power Reactor Facilities" (10 CFR Part 73) that will revise the search requirements for individuals entering the protected area of nuclear power plants, and "Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants" (10 CFR Part 73) that will require access control to vital areas, the protection of certain physical security equipment, revise requirements for key and lock controls, and revise the authority to suspend safeguards measures during emergencies. The Commission has also decided "to issue the remaining element on Access Authorization as a policy statement in cooperation with NUMARC." (This was previously issued as a proposed rule entitled "Personnel Access Authorization as a policy statement in cooperation with NUMARC." (This was previously issued as a proposed rule entitled "Personnel Access Authorization Program" and would have amended 10 CFR Parts 50 and 73). Because of the foregoing, the petitioner concluded that "all actions we could have expected have been taken."

Dated at Bethesda, Maryland, this 13th day of August 1986.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 86–18775 Filed 8–19–86; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The FDIC is seeking comment on whether or not to amend the requirements in its regulations which: (1) Prohibit an insured nonmember bank that has a subsidiary or affiliate that engages in securities activities that are prohibited to the bank by the Glass-Steagall Act from sharing a common name or logo with such subsidiary or affiliate, and (2) require that an insured nonmember bank must have separate offices which share no common entrance with such subsidiary or affiliate.

DATE: Comments must be received by October 20, 1986.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to and reviewed in Room 6108 Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division, (202–898–3743), 550 17th Street, NW., Washington, DC 29429.

SUPPLEMENTARY INFORMATION: In November 1984 the Board of Directors of the FDIC added § 337.4 to Part 337 of its regulations titled "Unsafe and Unsound Banking Practices" (12 CFR 337) (49 FR 46709). Section 337.4, which governs certain securities activities or subsidiaries of insured nonmember banks as well as affiliate relationships between insured nonmember banks and certain types of securities companies, was adopted as a result of a rulemaking procedure initiated in 1982 after the Board of Directors issued a policy statement concerning the applicability of the Glass-Steagall Act (12 U.S.C. 24 (seventh), 78, 377, and 378) to affiliates and subsidiaries of insured nonmember banks. (47 FR 38984). The policy statement concluded that the Glass-Steagall Act does not prohibit insured nonmember banks from being affiliated with securities companies or from establishing or acquiring a securities subsidiary. Inasmuch as it was also the Board of Directors' conclusion that certain indirect securities activities could pose safety and soundness and other concerns if unregulated, the FDIC sought comment on the need to adopt regulations governing such activities.

The FDIC issued an Advance Notice of Proposed Rulemaking in 1982 (47 FR 42141), a proposed regulation in 1983 (48 FR 22155) and a revised proposed regulation in 1984 (49 FR 18497). The final regulation became effective on December 28, 1984.

In general the regulation was designed to protect bank safety and soundness, to ensure the legal separateness of a bank from its securities subsidiary or affiliate, and to prevent possible confusion on the part of the public which could give rise to claims against the deposit insurance fund and/or claims against the FDIC as receiver of a closed bank. (*See* the earlier **Federal Register** notices accompanying the final and proposed versions of the regulation for a more detailed discussion.) The FDIC sought to achieve these ends by, among other things: (1) Prohibiting the use by an insured nonmember bank of a common name or logo with its securities affiliate if that affiliate engages in securities activities prohibited to the bank by the Glass-Steagall Act, and (2) requiring that an insured nonmember bank be physically separate and distinct in its operations from the operations of such a

securities subsidiary or affiliate such separation requiring separate offices (clearly identified as belonging to the subsidiary or affiliate) that share no common entrance with the bank except for a common outer lobby or common corridor.[1] (Insured nonmember banks that had become affiliated with a securities company prior to December 28, 1984 or which prior to that date established or acquired a securities subsidiary, were given until December 28, 1985 to comply with these provisions of the regulation.)

In December 1985 the FDIC received two petitions requesting that the FDIC reconsider the prohibition on the use of a common name or logo by a bank and its affiliate. The petitions were filed by Merrill Lynch Bank & Trust, Princeton, New Jersey and Prudential Bank & Trust, Atlanta, Georgia. Both petitioners became affiliated with a securities company prior to December 28, 1984. Prudential Bank & Trust was acquired by a company which also is affiliated with a securities firm and Merrill Lynch Bank & Trust, whose parent also owns a securities company, was formed as a newly incorporated bank. A third petition requesting that the FDIC reconsider the separate office and entrance requirement for a bank's subsidiary was filed by Washington Mutual Savings Bank, Seattle, Washington. Washington Mutual Savings Bank acquired a securities subsidiary prior to December 28, 1984. The FDIC subsequently received several letters in support of the petitions from other insured nonmember banks. In order to afford the FDIC sufficient opportunity to study the petitions, the Board of Directors extended the December 28, 1985 compliance deadline with respect to preexisting relationships until June 20, 1986. All three of the petitioners urged the FDIC to eliminate the provisions under discussion and to insert in lieu thereof a number of affirmative disclosure requirements which would highlight the separate identity of the bank from its subsidiary or affiliate and stress that any investments placed with or through the subsidiary or affiliate are not insured by the FDIC.[2]

At its June 16, 1986 Board of Directors meeting the FDIC's Board of Directors voted to grant the petitioners' request for reconsideration and to solicit comment on whether or not to retain, or modify in some manner, the prohibition on the use of a common name and logo and the separate office and entrance requirement. The Board of Directors also voted to extend the June 30, 1986 compliance deadline to yearend (December 31, 1986) for institutions with affiliate and/or subsidiary relationships that predated the effective date of the regulation.

The Board of Directors feels that it is appropriate to solicit comment on the common name and separate office restrictions not only in view of the issues raised by the petitions but in view of the passage of nearly two years since the FDIC last sought comment on, and considered the propriety of, the common name and logo prohibition and the separate office and entrance requirement. To assist the FDIC in assessing whether or not the restrictions should be modified or perhaps eliminated, the FDIC is seeking comments generally addressing the efficacy of retaining the common name prohibition and the separate facility requirement. In addition, the FDIC is seeking responses to the following specific questions:

Common Name or Logo

1. What circumstances, if any, have occurred in the past two years that should be brought to the FDICs attention which demonstrate one way or the other that public confusion may or may not arise as the result of the use of a common name or logo?

2. If the FDIC were to eliminate the common name or logo prohibition, should other limitations or requirements be instituted in its place? What measures would be appropriate to ensure against the possible public confusion the FDIC seeks to avoid? Would it be appropriate or advisable to strengthen other restrictions in the regulation applicable to bona fide subsidiaries and affiliates? For example, should the regulation affirmatively prohibit a bank and its affiliate that share a common name or logo from cross selling each other's products?

3. What has been the experience over the past two years of banks, their subsidiaries, and/or affiliates which are now subject to the prohibition? Has the restriction in fact hampered competition with other financial services providers?

4. If the prohibition is retained, should the FDIC define what constitutes a common name or logo? If so, what should that definition be?

5. Should the FDIC adopt an affirmative disclosure requirement in lieu of the common name prohibition? Will such requirement adequately protect against public confusion and a piercing of the corporate veil? If a disclosure requirement is adopted, what should be required to be disclosed? What form should disclosure take? Would adopting such an approach involve the FDIC in monitoring advertisements, customer contacts etc., to ensure that marketing efforts are not misleading?

Separate Office and Entrance

1. What events, if any, have occurred over the past two years that should be brought to the FDIC's attention which argue for or against the proposition that separate offices with separate entrances are necessary or advisable in order to prevent public confusion and protect against a piercing of the corporate veil?

2. If the FDIC were to modify (but not eliminate) the separate facility requirement as contained in the regulation, how should that be accomplished? If the physical separation requirement is liberalized, would it be appropriate or advisable to strengthen other restrictions in the regulation applicable to bona fide subsidiaries and affiliates? Would the potential risk of public confusion be sufficiently contained if the regulation permitted, for example, the use of "office space" within bank branches or on the affiliate's premises so long as the office space is clearly distinguishable? Is the separate office requirement alone sufficient to address the FDIC's concerns?

3. Is it arguable that the importance of maintaining a strict physical separation between a bank and its securities subsidiary or affiliate in order to prevent public confusion may vary depending upon the overall facts and circumstances, *e.g.*, if a bank and its securities subsidiary do not share a common name or logo less stringent physical measures may adequately differentiate the bank from its subsidiary whereas greater physical

[1] The separate office and entrance requirement and the common name prohibition are found in the definition of the term "bona fide subsidiary" as set forth in the regulation. (Section 337.4(a)(2)). The remainder of the definition sets forth the following criteria for a bona fide subsidiary: (1) Adequate capital, (2) separate accounting and other corporate records, (3) separate corporate formalities, (4) separate employees compensated by the subsidiary (except for back office employees who have no customer contact), (5) no common officers with the bank, (6) a board the majority of which is composed of persons who are neither directors nor officers of the bank, and (7) the conduct of business pursuant to independent policies and procedures designed to inform customers and prospective customers of the subsidiary that the subsidiary is a separate organization from the bank and that investment recommended, offered or sold by the subsidiary are not bank deposits, are not insured by the FDIC, and are not guaranteed by the bank or otherwise bank obligations. (Section 337.4(c)). For the most part, the same criteria must be met in the case of an affiliate.

[2] The petitions are available for inspection and copying in the FDIC's Office of the Executive Secretary.

separation may be advisable if a common name is used?

4. What specific alternatives should the FDIC consider in lieu of the separate office and entrance requirement?

5. If the FDIC were to eliminate the physical separation requirement and institute in lieu thereof a specific affirmative disclosure requirement, what should the FDIC require to be disclosed? What form should disclosure take?

6. What has been the experience of banks over the past two years which have acquired or established securities subsidiaries that conform to the existing requirements for a bona fide subsidiary? Was the separate office and entrance requirement burdensome? Have institutions which may have otherwise acquired or established a securities subsidiary not done so because of the separate office and entrance requirement?

Comments addressing these specific questions and any other aspects of the general subject matter of common names and logos and separate offices and entrances as well as on other provisions of the regulation that are germane to the issue of legal separateness and public confusion are invited. Included in the topic of general subject matter is the issue of whether or not the FDIC should leave these provisions intact and address any cases of hardship, etc. on a case-by-case basis. (Section 337.10 permits the Board of Directors to waive all or any portion of Party 337 for good cause).

List of Subjects in 12 CFR Part 337

Banks, Banking, Federal Deposit Insurance Corporation, Securities, State nonmenber banks.

By Order of the Board of Directors.

Dated: August 13, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18722 Filed 8-19-86; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-160-AD]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to Aerospatiale Model ATR-42 series airplanes, which would require replacement of the engine oil cooler thermostatic valve and modification of the engine oil cooler flap trailing edge. This action is prompted by reports of numerous incidents of thermostatic valve failures in the engine oil cooling system. These failures have resulted in oil overheating which, on several occasions, has required engine shutdown during flight. An interim corrective action for this problem, implemented by incorporation of ATR Service Bulletin 42-79-0001, Revision 1, dated June 13, 1986, has degraded the engine anti-icing capability of the airplane.

DATE: Comments must be received no later than September 10, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-160-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-160-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on Aerospatiale Model ATR-42 airplanes. Numerous incidents of thermostatic valve failures in the engine oil cooling system have been reported. These failures have resulted in oil overheating which, on several occasions, has required engine shutdown during flight. To prevent this from occurring, Aerospatiale issued Service Bulletin ATR 42-79-0001, which describes a temporary modification to the engine oil cooling system. The DGAC has required compliance with that service bulletin.

A recent survey of U.S. operators revealed that all U.S.-registered ATR-42 airplanes had incorporated the modification and applied the procedures described in Aerospatiale Service Bulletin ATR 42-79-0001.

Since the engine icing protection is provided by extracting heat from the engine oil, the engine icing protection system could be affected by the installation described in the Aerospatiale service bulletin. The engine icing system modified in accordance with ATR Service Bulletin 42-79-0001, Revision 1, dated June 13, 1986, provides adequate icing protection down to an atmospheric temperature of International Standard Atmosphere (ISA) -15°C. However, during flights into winter icing conditions, it can be anticipated that atmospheric temperatures will be colder than ISA -15°C., and improved engine icing protection will be required to provide the necessary anti-icing capability.

The DGAC has informed FAA that an improved thermostatic valve, Part Number 48114-1029, will be available by September 15, 1986. It is predicted that October 15, 1986, will be the approximate date when atmospheric

temperatures will begin to be lower than ISA -15°C. Therefore, this date has been judged to be appropriate for requiring the installation of the improved oil cooling system, which will be made available through Aerospatiale at the above address. Installation of the improved valve will require deletion of the oil cooler trailing edge angle from the previous installation. Modification instructions will be provided by Aerospatiale with the improved valve.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require replacement of thermostatic valve, P/N 11-374B, in the engine oil cooler system with an approved valve, P/N 48114-1029.

It is estimated that 5 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,000.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($200). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Aerospatiale:

Applies to Model ATR-42 airplanes, certificated in any category. To ensure acceptable engine anti-icing capability, accomplish the following, unless previously accomplished:

A. Replace the engine oil cooler thermostatic valve, P/N 11-374B, with an improved valve, P/N 48114-1029, before October 15, 1986; and modify the oil cooler trailing edge angle, as required, in accordance with the installation procedures provided with the improved thermostatic valve.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 12, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18899 Filed 8-19-86; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9189]

Detroit Auto Dealers Association, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, 50 motor vehicle associations, dealerships and dealers in the Detroit, Mich. area from conspiring to not advertise in the classified sections of newspapers or to advertise vehicle prices at all.

DATE: Comments must be received on or before October 20, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert Jones, FTC/G-402, Washington, DC 20580. (202) 254-7001.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Automobile dealers, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an enforcement proceeding after an investigation of certain acts and practices of respondents identified in Attachments A, B and C, and those respondents having agreed to enter into an agreement containing an order to cease and desist from engaging in the acts and practices identified in Count II of the complaint,

It is hereby agreed by and between respondents identified in Attachments A, B and C, and counsel for the Commission that:

1. Respondent dealers identified in Attachment A are all corporations with their principal places of business located at the addresses shown in Attachment A.

2. Individual respondents identified in Attachment B are officers of various dealers, as shown in Attachment B, and as such they formulate, direct and control the acts and practices of the dealers for which they are officers.

3. The respondent association identified in Attachment C is an incorporated trade association for motor vehicle dealers with its principal places

of business located at the address shown in Attachment C.

4. The respondents listed in Attachments A, B and C have been served with a copy of the complaint issued by the Federal Trade Commission alleging that they and others have violated section 5 of the Federal Trade Commission Act, and have filed answers to the complaint denying these allegations.

5. The respondents listed in Attachments A, B and C admit all the jurisdictional facts relating to Count II set forth in the Commission's complaint in this proceeding.

6. The respondents listed in Attachments A, B and C waive the following with respect to Count II of the complaint:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

7. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents listed in Attachments A, B and C, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of Count II of the complaint issued by the Commission in this proceeding.

8. This agreement is for settlement purposes only and relates solely to Count II of the Commission's complaint in this proceeding; this agreement does not constitute an admission by the respondents listed in Attachments A, B and C that the law has been violated as alleged in Count II of the complaint issued by the Commission.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to the respondents listed in Attachments A, B and C, (1) issue its decision containing the following Order to cease and desist in disposition of Count II of the complaint issued by the Commission in this proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondents' addresses as stated in this agreement shall constitute service. The respondents listed in Attachments A, B and C waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in the agreement may be used to vary or to contradict the terms of the Order.

10. The respondents listed in Attachments A, B and C have read the complaint and the Order contemplated hereby. These respondents understand that once the Order has been issued, they may be required to file one or more compliance reports showing they have fully complied with the Order. These respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

11. Commission counsel may not introduce or make reference in any way to the allegations in Count II of the complaint during the remainder of this proceeding; provided, that this paragraph in no way limits Commission counsel from introducing or using factual evidence otherwise admissible on the Count I allegations.

12. By its final acceptance of this agreement, the Commission waives its right to commence a proceeding or action against the respondents listed in Attachments A, B and C seeking consumer redress or other relief under section 5 or section 19 of the Federal Trade Commission Act with respect to the acts or practices alleged in Count II of the complaint; provided, that this paragraph in no way limits the Commission in seeking relief for a violation of the Order entered pursuant to this agreement or for any other actions of the respondents listed in Attachments A, B and C taken after final acceptance of the agreement.

Order

For purposes of this Order, the following definitions shall apply:

1. "Person" means any natural person, corporation, partnership, association, joint venture, trust or any other organization or entity, but not governmental entities.

2. "Dealer" means any person who receives on consignment, or purchases, motor vehicles for sale or lease to the public, and any director, officer, employee, representative or agent of any such person.

3. "Other Dealer" means any dealer not named in this Order.

4. "Dealer association" means any trade, civic, service, or social association whose membership is comprised primarily of dealers.

5. "Detroit area" means the Detroit, Michigan metropolitan area, comprising Macomb County, Wayne County and Oakland County in the State of Michigan.

6. "Respondent" means any corporation listed in Attachment A, any individual listed in Attachment B, or any association listed in Attachment C, and the officers, directors, representatives, agents, divisions, subsidiaries, and successors and assigns of any listed corporation or association.

I

It is ordered, that each respondent shall cease and desist from, directly or indirectly, or through any corporate or other device, entering into or continuing or carrying out any agreement, contract, combination or conspiracy with any respondent or any other dealer or dealer association in the Detroit area which has the purpose or effect of:

A. Restricting, regulating or limiting the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising; or

B. Maintaining, adopting or adhering to any policy, act or practice that restricts, regulates or limits the advertising by any person of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising.

II

It is further ordered, that each respondent shall cease and desist from, directly or indirectly, or through any corporate or other device, performing

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VOL 51 ISS 161 AG 20 1986 UMI

any of the following acts or practices, or encouraging any person to perform any of the following acts or practices, or entering into or continuing or carrying out any agreement, contract, combination or conspiracy with any other person in the Detroit area to do or perform any of the following acts or practices:

A. Requesting, recommending, coercing, influencing, encouraging or persuading, or attempting to request, recommend, coerce, influence, encourage or persuade, any other respondent or any other dealer in the Detroit area to maintain, adopt or adhere to any policy, act or practice that restricts, regulates or limits the advertising by any person of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising; or

B. Requesting, recommending, coercing, influencing, encouraging or persuading, or attempting to request, recommend, coerce, influence, encourage or persuade, any other respondent or any other dealer in the Detroit area to change his advertised or published prices.

III

It is further ordered, that nothing contained in Parts I or II above shall be construed to prohibit: (a) Any respondent association from formulating, adopting, disseminating to its members, and enforcing lawful guidelines governing the conduct of its members with respect to advertisements that such respondent association reasonably believes would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act; (b) any other respondent from participating in such activities as identified in Subpart (a) of an association of which such respondent is a member; or (c) any respondent from informing or advising anyone regarding what the respondent reasonably believes to be the requirements of any other existing or proposed federal, state, or local law, regulation, or order, or publishing such interpretations thereof.

IV

It is further ordered, that the respondent association listed in Attachment C shall cease and desist from failing to maintain for five (5) years following the taking of any action against a person alleged to have violated any advertising guidelines as described in Part III of this Order, in a separate file segregated by the name of any person against whom such action was taken, any document that embodies, discusses, mentions, refers, or relates to the action taken and any allegation relating to it.

V

It is further ordered, that the respondent association listed in Attachment C shall:

A. Within sixty (60) days of the date this Order becomes final, amend its by-laws to incorporate by reference this Order, and provide each member with a copy of this Order and the amended by-laws;

B. For three (3) years from the date this Order becomes final, provide each new member with a copy of this Order and the amended by-laws within thirty (30) days of the new member's admission to the association.

VI

It is further ordered, that, for a period of three (3) years from the date this Order becomes final, the respondent association listed in Attachment C shall notify the Commission at least sixty (60) days prior to the adoption of any advertising guidelines as described in Part III of this Order.

VII

It is further ordered, that each respondent shall, within sixty (60) days after this Order becomes final, and then annually thereafter for a period of three (3) years, file with the Commission a report, in writing, signed by the respondent, setting forth in detail the manner and form in which it has complied with this Order.

VIII

It is further ordered, that each corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in that corporate respondent, such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in that corporate respondent that may affect compliance obligations arising out of this Order. In the case of each natural person respondent named herein, for a period of three (3) years from the date this Order becomes final, said respondent shall promptly notify the Commission of the discontinuance of his present business or employment and of any new affiliation or employment with any dealer or dealer association. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which said respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the business or employment.

Attachment A

Jack Cauley Chevrolet, Inc., 7020 Orchard Lake Rd., West Bloomfield, Michigan 48033
Dexter Chevrolet Co., 20811 W. Eight Mile Rd., Detroit, Michigan 48219
Dick Genthe Chevrolet, Inc., 15600 Eureka Rd., Southgate, Michigan 48195
Jefferson Chevrolet Co., 2130 E. Jefferson Ave., Detroit, Michigan 48207
Lou LaRiche Chevrolet-Subaru, Inc., 40875 Plymouth Rd., Plymouth, Michigan 48170
Walt Lazar Chevrolet, Inc., 12000 Telegraph Rd., Taylor, Michigan 48180
Mark Chevrolet, Inc., 33200 Michigan Ave., Wayne, Michigan 48184
George Matick Chevrolet, Inc., 14001 Telegraph Rd., Redford, Michigan 48239
Matthews-Hargreaves Chevrolet Co., 1616 South Main St., Royal Oak, Michigan 48067
Merollis Chevrolet Sales & Service, Inc., 21800 Gratiot Ave., East Detroit, Michigan 48021
Ed Rinke Chevrolet-GMC Co., 26125 Van Dyke, Center Line, Michigan 48015
Mike Savoie Chevrolet, Inc., 1900 West Maple Rd., Troy, Michigan 48084
Les Stanford Chevrolet, Inc., 21711 Michigan Ave., Dearborn, Michigan 48123
Tennyson Chevrolet, Inc., 32570 Plymouth Rd., Livonia, Michigan 48150
Buff Whelan Chevrolet, Inc., 40445 Van Dyke, Sterling Heights, Michigan 48077
Wink Chevrolet Co., d/b/a Bill Wink Chevrolet/GMC, 10700 Ford Rd., Dearborn, Michigan 48126

Attachment B

John H. Cauley, Jack Cauley Chevrolet, Inc., 7020 Orchard Lake Rd., West Bloomfield, Michigan 48033
Joseph B. Slatkin, Dexter Chevrolet Co., 20811 W. Eight Mile Rd., Detroit, Michigan 48219
Richard E. Genthe, Dick Genthe Chevrolet, Inc., 15600 Eureka Rd., Southgate, Michigan 48195
Louis H. LaRiche, Lou LaRiche Chevrolet-Subaru, Inc., 40875 Plymouth Rd., Plymouth, Michigan 48170
Walter N. Lazar, Walt Lazar Chevrolet, Inc., 12000 Telegraph Rd., Taylor, Michigan 48180
Harry C. Demorest, Mark Chevrolet, Inc., 33200 Michigan Ave., Wayne, Michigan 48184
Norman A. Merollis, Merollis Chevrolet Sales & Service, Inc., 21800 Gratiot Ave., East Detroit, Michigan 48021
Harry Tennyson, Tennyson Chevrolet, Inc., 32570 Plymouth Rd., Livonia, Michigan 48150
William J. Wink, Jr., Wink Chevrolet Co., d/b/a Bill Wink Chevrolet/GMC, 10700 Ford Rd., Dearborn, Michigan 48126
Greater Detroit Chevrolet Dealers Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, Michigan 48243

Analysis of Proposed Count II Consent Order To Aid Public Comment

The Federal Trade Commission has accepted agreements and proposed consent orders from 50 respondents charged under Count II of the Commission's complaint.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the proposed orders.

Description of the Complaint

On December 20, 1984, the Commission issued a two count complaint against 19 Detroit area automobile dealer associations; 105 Detroit area automobile dealerships; and 115 individuals (all of whom are or have been dealership owners, employees, or association employees) charging them under Count I with conspiring to restrict dealership operating hours. Count II of the complaint, which the present consent orders propose to settle, also charged certain of the Chevrolet, Cadillac, and Chrysler-Plymouth automobile dealership association respondents, automobile dealership respondents, and individual respondents (most of whom were owners of the respondent automobile dealerships) with conspiring to restrict (1) the advertising of motor vehicles in the classified section of newspapers and (2) the advertising or publishing of motor vehicle prices, in violation of section 5 of the Federal Trade Commission Act.

The complaint further alleged that the purpose and effects of the respondents' conduct challenged under Count II has been to restrict competition among dealers in the sale or lease of motor vehicles in the Detroit area. According to the FTC staff, these advertising restrictions also injure consumers by reducing consumers' access to important information about automobile prices in the Detroit area, thereby increasing dealers' ability to maintain higher prices.

The Proposed Consent Orders

Three identical consent agreements have been executed by 50 Count II respondent associations, dealerships, and individuals, grouped by automobile makes, *i.e.*, Chevrolet, Chrysler-Plymouth and Cadillac. The proposed consent orders against these 50 respondents are designed to remedy the Count II violations charged in the Commission's complaint, and to prevent the Count II respondents from engaging in similar allegedly illegal acts and practices in the future. The proposed orders are intended to ensure that the Count II respondents cease all conduct prohibiting or discouraging the truthful advertising of motor vehicles in the classified sections of newspapers or the advertising or publishing of the prices, terms, or conditions of sale of any motor vehicle.

Part I provides that each respondent must cease and desist from, directly or indirectly, entering into or continuing any agreement, contract, combination, or conspiracy with any respondent, or with any other dealer or dealer association in the Detroit area, which has the purpose or effect of (A) restricting the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle or (B) maintaining, adopting or adhering to any policy, act or practice that restricts the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle. The prohibitions in Part I (A) and (B) do not prevent respondents from imposing any restriction, regulation or limitation of such advertising that is necessary for lawful joint advertising. Part I will effectively remedy the complaint's Count II allegations that these respondents have conspired to restrict price advertising of motor vehicles and the advertising of motor vehicles in the classified sections of newspapers.

Part II goes beyond the prohibitions of Part I against actual agreements to restrain price advertising or advertising in the classified sections of newspapers. It reaches unilateral actions and attempts by prohibiting each respondent from (directly or indirectly) attempting to (A) request, recommend, coerce, influence, encourage or persuade any other respondent or other dealer in the Detroit area to maintain, adopt or adhere to any policy, act or practice that restricts or regulates the advertising by any person of any motor vehicle in the classified section of any newspaper, or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle or (B) request, recommend, coerce, influence, encourage or persuade any other respondent or any other dealer in the Detroit area to change its advertised or published prices. The prohibitions in Part II(A) parallel those in Part I by applying to any "term or condition of sale" and by not preventing any restriction, regulation or limitation of advertising that is necessary for lawful joint advertising.

Part III(a) provides that Parts I and II do not prevent any respondent association from formulating and enforcing lawful guidelines against its members with respect to advertisements that such association "reasonably believes" are false or deceptive under section 5 of the Federal Trade Commission Act. Part III(b) permits any dealership-member of an association to participate in the association activities described in Part III(a). Part III(c) permits any respondent to inform or advise anyone or publish interpretations of what it reasonably believes to be the requirements of any existing or proposed federal, state, or local law (excluding section 5 of the Federal Trade Commission Act, which is addressed in Part III(a)), regulation, or order. However, in order that the Commission not delegate law enforcement authority to private parties, this provision does not require that the respondent receiving the advice must abide by it.

Part IV requires that each association respondent maintain documentation concerning any action taken against any person alleged to have violated any association advertising guidelines described in Part III. This documentation must be maintained for 5 years following the taking of any such action.

Part V requires that, within 60 days of the Order becoming final, each respondent association amend its by-laws to incorporate by reference the Order, and provide each association member with a copy of the Order and amended by-laws. In addition, for 3 years from the Order becoming final, each new member of the association must be provided with such documentation within 30 days of its admission to the association.

Part VI provides that, for 3 years, each respondent association must notify the Commission at least 60 days prior to the adoption of any advertising guidelines described in Part III.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of

VOL 51 ISS 161 AG 20 1986 UMI

the agreements and proposed orders or modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-18747 Filed 8-19-86; 8:45 am]

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16 CFR Part 13

[Docket No. 9201]

Electronic Systems International, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Norcross, Ga. manufacturer and marketer of "SavIt" duty cyclers to cease making unsubstantiated representations as to the efficiency of its products or services. Additionally, respondents would be required to request all dealers of its products to refrain from making the challenged claims and to recall all promotional material that does not conform to the proposed order.

DATE: Comments must be received on or before October 20, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/B-407, Washington, DC 20580. (202) 376-8720.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Duty cyclers, Energy savings, Trade practices.

Before Federal Trade Commission

[Docket No. 9201]

Settlement Agreement Containing Order

The agreement herein, by and between Electronic Systems International, Inc., a corporation, and Gene B. Patterson, individually and as an officer of said corporation, ("respondents") and their attorney and counsel for the Federal Trade Commission, is entered in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Electronic Systems International, Inc. is a Georgia corporation with its principal office and place of business at 2797 Peterson Place, in Norcross, Georgia 30071.

Respondent Gene B. Patterson is an officer of the corporate respondent. He actively participated in the advertising practices which are the subject of the complaint issued by the Federal Trade Commission, and his principal office or place of business is the same as that of the corporation.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violations of section 5 of the Federal Trade Commission Act.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) Issue its decision containing the following order in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order, the following definitions shall apply:

"Energy-related claim" means any general or specific, oral or written representation that, directly or by implication, describes or refers to energy savings, energy cost savings, efficiency or conservation, "payback," or "payback" potential.

A "competent and reliable test" means any scientific, engineering, laboratory, or other analytical report, study or survey prepared by one or more persons with skill and expert knowledge in the field to which the material pertains and based on testing, evaluation and analytical procedures that ensure accurate, reliable and statistically meaningful results.

"Small commercial" heating and cooling systems are similar to residential, central forced air type systems.

A "Duty-cycler" (sometimes referred to as a "cyclic controller") means any electronic device which:

(a) Functions to interrupt a thermostatically-controlled cycle of any single, residential or small commercial, forced air central heating or air conditioning unit; or which

(b) May be incorporated in any other product, such as a setback thermostat, to function in the manner described in (a) above.

Respondents market their duty-cycler under the brand name "SavIt" (TM), among others.

A "Duty-cycler" is not:

(a) A residential setback thermostat; or

(b) An energy load management or control device used in large commercial or industrial settings to turn off a series of electrical heating, cooling, or ventilating equipment for predetermined periods of time during operating hours to reduce consumption and demand (i.e., the rate at which electric energy is delivered to the series of equipment).

Part I

It is ordered that respondents Electronic Systems International, Inc., a corporation, its successors and assigns, and its officers, and Gene B. Patterson, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any duty-cycler or any other product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, in any manner that:

(1) Consumers will save 20%, or close to 20%, on their annual small commercial or home heating and cooling bills as a result of using a duty-cycler, as defined herein.

(2) More than a few consumers may be able to save enough money on their small commercial or home heating and cooling bills by using respondents' duty-cycler, as defined herein, to recoup a retail cost of approximately $400 within 18 months, or close to 18 months.

(3) More than a few consumers may be able to save enough money on their small commercial or home heating and cooling bills by using any duty-cycler, as defined herein, costing approximately $400 to recoup such cost within 18 months, or close to 18 months.

(4) Consumers can obtain a federal tax credit or reduce their federal income tax liability, by purchasing a duty-cycler, as defined herein, unless such is the case.

B. Making any energy-related claim for any duty-cycler, or any other product or service, unless at the time that the claim is made, respondents possess and rely upon a competent and reliable test or other objective material which substantiates the claim.

C. Misrepresenting, directly or by implication, in any manner, the purpose, content, or conclusion of any test, study, or survey upon which respondents rely as substantiation for any energy-related claim, or making any representation which is inconsistent with the results or conclusions of any such test, study or survey.

Part II

It is further ordered that respondents Electronic Systems International, Inc., a corporation, its successors and assigns, and its officers, and Gene B. Patterson, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any duty-cycler or any other product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall, for at least three years from the date of the last dissemination of energy-related claims, maintain and upon request make available to Federal Trade Commission staff for inspection and copying, copies of:

1. All materials relied upon to substantiate any energy-related claim; and

2. All test reports, studies, surveys or demonstrations in their possession that contradict, qualify, or call into question any energy-related claim.

Part III

It is further ordered that respondents shall:

A. Within thirty (30) days after the date of service of this order, send the following material via first class mail to every person or firm that is a current distributor or dealer of respondents' duty-cycler equipment:

1. A copy of this order, and

2. A copy of the cover letter attached to this order as Attachment A, incorporated herein by reference.

B. Distribute a copy of this order to each of respondents' operating divisions, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements or other sales materials.

C. Supply to the Federal Trade Commission upon request the names and addresses of those parties to whom respondents distributed the material required by Paragraphs A and B of Part III of this order.

Part IV

It Is Further Ordered that respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

Part V

It Is Further Ordered that each individual respondent named herein shall for a period of 3 years from the date of service of this order, promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment whose activities include the manufacture, advertising, promotion, offering for sale, sale, or distribution of energy control devices and of his affiliation with any new business or employment in which his own duties and responsibilities involve the manufacture, advertising, promotion, offering for sale, sale, or distribution of energy control devices, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

Part VI

It Is Further Ordered that respondents shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order.

Attachment A

Electronic Systems International, Inc.
Letterhead

Re: Settlement with Federal Trade Commission

Dear Electronic Systems International, Inc. Dealer: As a result of a Federal Trade Commission investigation of advertising claims for our duty-cycler product, we have entered into the enclosed Settlement Agreement and Order. The Agreement is for settlement purposes only and does not constitute an admission that we violated the law. At issue in the investigation were a number of energy cost savings, payback and federal energy tax credit claims.

We have agreed to stop making certain claims in the future and to refrain from using all promotional material that may contain such claims. In order to ensure that such claims will no longer be made, we request that you refrain from making them, either orally or in writing, and from distributing any literature in your possession which does not conform to the enclosed agreement. Please return to us any promotional literature or film concerning the duty-cycler and we will replace it with updated literature and an edited film as appropriate.

Thank you for your assistance in this matter.

Sincerely,

President, Electronic Systems International, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Electronic Systems International, Inc., a corporation, and Gene B. Patterson, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charges the corporation and Gene B. Patterson (hereinafter "respondents") made false, misleading and unsubstantiated energy savings claims in advertisements for their duty-cycler energy control device sold under the brand name "SavIt." According to the complaint, advertisements for the "SavIt" represented that use of the device would save consumers at least 20% and possibly as much as 40% on their annual small commercial or home heating and cooling bills and that such savings had been proven by competent and reliable tests. The complaint also alleged the advertisements represented that consumers would save enough on their energy bills in less than eighteen months of using the "SavIt" to recover the purchase price, and also represented that the device qualified for a federal energy tax credit. The Commission charged that these claims are false and misleading. The Commission also charged that these claims are unsubstantiated because the tests undertaken by respondents were not designed to yield competent, reliable and statistically valid results.

The consent order contains various provisions designed to remedy the violations charged.

The order defines an "energy-related claim" as one that refers to energy savings, energy cost savings, efficiency or conservation or payback potential; a "competent and reliable test" as a scientific or analytical report or study prepared by experts using procedures that would yield valid results; "small commercial" as systems similar to residential, central forced air types; and a "duty-cycler" as an electronic device, other than a setback thermostat or industrial energy load management device, that either alone or when incorporated into another product, interrupts a thermostat-controlled cycle of a single residential or small commercial forced air central heating or air conditioning unit.

Part I of the order prohibits respondents from representing that consumers will save 20%, or close to 20% on their annual heating and cooling bills by using a duty-cycler. The order also prohibits them from representing that more than a few consumers may be able to recover in eighteen months the approximately $400 purchase price of respondents' duty-cycler, or any other duty-cycler, from lower energy bills due to use of such device. Respondents are also prohibited from representing that consumers are eligible for a federal income tax credit, unless that is true.

The order further requires respondents to substantiate any energy-related claim for any product or service with a competent and reliable test or other objective material and prohibits them from misrepresenting the purpose, content or conclusion of such substantiation.

Part II of the order requires respondents to maintain records of all substantiation related to the requirements of the order for three (3) years after the dissemination of any advertisements.

Part III requires respondents to distribute a copy of the order to each operating division and employee involved in preparation or placement of advertising or sales material and to distributors or dealers of respondents' energy control devices. In addition, the order requires respondents to send a letter to all current distributors or dealers recalling all promotional material that does not conform to the consent agreement.

Part IV requires respondents to notify the Commission at least thirty (30) days before any change in the corporation that might affect compliance with the order.

Part V requires Gene B. Patterson, for a period of three (3) years, to notify the Commission of the discontinuance of his present employment and of his affiliation with a new business or employment whose activities, or his own duties, include the manufacture, advertising, promotion, sale or distribution of energy control devices.

Part VI requires respondents to file a compliance report sixty (60) days after the order is served.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-18748 Filed 8-19-86; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 703

Rule on Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Notice of formation of advisory committee and notice of first meeting.

SUMMARY: The Federal Trade Commission has decided to form a committee under the Federal Advisory Committee Act, 5 U.S.C. App. I 1–15, to develop proposed revisions to the Commission's Rule on Informal Dispute Settlement Procedures, 16 CFR Part 703. The advisory committee will be made up of persons representing the major interests affected by the rule. The committee members will attempt, through negotiations, to arrive at a consensus on recommended revisions to the rule. The committee's title will be the "Rule 703 Advisory Committee." This notive announces the formation of the committee and the time and place of the first committee meeting.

DATE: The first meeting of the Rule 703 Advisory Committee will be held on September 23, 1986 beginning at 10:00 a.m. The meeting will be open to the public.

ADDRESS: The first meeting will be at the National Institute for Dispute Resolution, 1901 L Street NW., Suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT:
Chairperson:

John A.S. McGlennon, ERM-McGlennon Associates Inc., 283 Franklin Street, Boston, MA 02110 (617) 357–4443

Gail Bingham, The Conservation Foundation, 1255 23rd Street NW., Washington, DC 20037 (202) 293–4800

FTC Staff:

David W. Koch, Division of Marketing Practices Federal Trade Commission, Washington, DC 20580 (202) 523–3911

SUPPLEMENTARY INFORMATION: On February 12, 1986, the Commission published a notice (51 FR 5025) announcing its intention to form an advisory committee to develop proposed revisions to the Rule on Informal Dispute Settlement Procedures ("Rule 703"), 16 CFR Part 703. The notice stated that the committee would develop its recommendations through regulatory negotiation. The Commission invited public comment on the suitability of Rule 703 for such a negotiation process. The Commission also sought comment on the interests identified in the notice as being affected by the rule, on the membership of the proposed committee, on the issues that the committee should consider, and on the procedures that the committee should follow.

Comments Concerning Use of Regulatory Negotiation

The Commission received twenty-two comments in response to the February 12 notice. The comments, which have been placed on the public record, almost uniformly support the Commission's plan to seek improvements in Rule 703 through regulatory negotiation. Only one commenter opposes the use of such a process. That commenter states that any effort to revise Rule 703 is inappropriate at this time because the rule has not yet been proven unworkable in its current form. The commenter further states that, even if revision of Rule 703 is to be undertaken, the rule is not well-suited for regulatory negotiation, because consumer groups and consumer protection agencies cannot adequately represent the interests of individual consumers, who are ultimately the ones whose interests are at stake. The commenter believes that a traditional notice-and-comment rulemaking would better allow for expression of the interests of individual consumers.

The Commission disagrees with the view that discussing revision of Rule 703 would be premature. The agency has withnessed growing discontent with Rule 703 by nearly all of those affected by it: Warrantors, dispute settlement service providers, consumers, and state and local consumer protection agencies. Such dissatisfaction has already resulted in actions by states and private companies that may lead to reduction in the availability of informal dispute settlement mechanisms ("IDSMs"). This phenomenon conflicts with the Commission's mandate in Section 110 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2310, to encourage the growth of informal dispute settlement.

The Commission also disagrees with the view that regulatory negotiation is inappropriate for Rule 703 because consumer groups cannot adequately represent the interests of individual consumers. The Commission notes that a wide variety of consumer interest representatives, including state, county, and private organizations, will participate on the committee. The Commission believes that these organizations encompass enough different perspectives and comulative experience to assure familiarity with the views and concerns of individual consumers. Moreover, subsequent rulemaking procedures will provide ample opportunity for individual consumers and others to comment on any consensus the advisory committee might reach.

Based on its review of the comments received, the Commission continues to believe that the establishment of an advisory committee to conduct regulatory negotiations with respect to Rule 703 is necessary and in the public interest. As noted above, the remaining commenters support this view. Most commend the Commission's decision to seek improvement in this area and to proceed by regulatory negotiation.

Requests for Committee Membership

A number of commenters asked to be appointed to the advisory committee in response to the February 12 notice. In that notice, the Commission stated that it would evaluate additional requests for membership in light of the following: (1) Whether the interest, organization or person requesting membership would be substantially affected by Rule 703; (2) if so, whether that interest, organization or person would be adequately represented by someone already in the group; and (3) if that interest is not adequately represented, whether a representative of that interest, organization or person should be added to the group. Of course, the Commission must also consider the practical limits on the number of parties that can effectively engage in a single negotiation process.

The Commission has identified from the comments three groups whose interests would not be adequately represented by the parties on the preliminary list appearing in the February 12 notice. Those groups are: (1) Organizations that directly assist consumers in presenting claims to auto industry IDSMs; (2) state legislatures; and (3) the recreational vehicle industry. The Commission has decided to add representatives of these three groups to the committee. The Commission has also identified from the comments two parties who have had substantial experience in directly studying or working with IDSMs. The Commission has decided to add these two parties to the committee as well.

For effective negotiations to take place, the number of advisory committee members must necessarily be limited. In an effort to keep the group to a manageable size, the chairpersons consulted with the parties requesting membership and some of those on the preliminary list to determine whether any would be willing to withdraw from the committee or to consolidate their interests. Several of the parties contacted agreed to withdraw or to be represented by another member of the committee. The Commission greatly appreciates the cooperation of these parties in preventing the group from growing too large for effective discussions.

The Commission regrets that not all qualified applicants can be appointed to the advisory committee. The Commission would like to remind all commenters and other interested persons that non-members may attend committee meetings and may submit information to the committee in the manner set forth in the Commission's regulations implementing the Federal Advisory Committee Act. Moreover, all interested persons will have a full opportunity to comment on the notice of proposed rulemaking that the Commission plans to issue at the close of the negotiations.

Suggested Issues for Committee Consideration

Several commenters recommend specific issues for the advisory committee to consider in addition to those listed in the February 12 notice. For example, one commenter urges that the committee consider how to improve record-keeping, audit, and information reporting requirements in order to facilitate monitoring of IDSM performance. Other commenters submitted reports and data concerning Rule 703 issues for the committee to review. In addition, four commenters raise an important point going to the

VOL 51 ISS 161 AG 20 1986 UMI

overall structure of the committee's deliberations. Those four strongly urge that standards for resolving auto warranty disputes be discussed separately from standards for resolving disputes involving other consumer products. They believe that separate treatment for automobiles is necessary to reflect the significance of the forty recent state enactments affecting informal settlement of auto warranty disputes.

The Commission makes no judgment concerning the issues that should be considered by the advisory committee or the overall format for the committee's deliberations. The list of issues appearing in the February 12 notice was intended to give interested persons an idea of the types of questions that the advisory committee would consider, and was intended to be illustrative only. The Commission believes that the agenda for the advisory committee's discussions should be left to the committee itself. Accordingly, the Commission will forward the commenters' suggestions and submissions, to the chairpersons for distribution to the committee members.

Rule 703 Advisory Committee Roster

The advisory committee's specific objection will be to agree on the terms of a notice of proposed rulemaking (NPRM) that embodies proposals for a revised Rule 703. If the negotiations are successful, the committee will prepare a report describing the factual basis on which the committee relied in developing its proposals. The Commission agrees, absent extraordinary circumstances and subject to statutory requirements, to incorporate the committee's consensus recommendations in an NPRM initiating a proceeding to amend Rule 703.

The following organizations, listed by essential interests, are members of the Rule 703 Advisory Committee:

Sponsoring agency:

Federal Trade Commission

Dispute resolution service providers:

American Automobile Association
Council of Better Business Bureaus, Inc.
Major Appliance Consumer Action Panel

New home warranty programs:

Home Owners Warranty Coporation

Domestic automobile manufacturers:

American Motors Corporation
Chrysler Corporation
Ford Motor Company
General Motors Corporation

Automobile importers:

Automobile Importers of America, Inc.
Nissan Motor Corporation

Automobile dealers:

American International Automobile Dealers Association
National Automobile Dealers Association

Other major consumer product warrantors:

National Association of Home Builders
Recreation Vehicle Industry Association

Consumer affairs agencies and state attorneys general:

Attorney General of Connecticut
Attorney General of Maryland
Attorney General of Massachusetts
Attorney General of New Mexico
Montgomery County, Maryland, Office of Consumer Affairs
National Association of Consumer Agency Administrators
National Conference of State Legislatures
Union County, New Jersey, Office of Consumer Affairs

Consumer groups:

Center for Auto Safety
Consumers Union
Motor Voters
National Consumer Law Center

Communications to the committee members concerning advisory committee matters may be addressed in care of the chairpersons at their respective addresses, or in care of: Rule 703 Advisory Committee, Room 216, Federal Trade Commission, Washington, DC 20580.

First Committee Meeting

The first meeting of the Rule 703 Advisory Committee is scheduled to begin at 10:00 a.m. on Tuesday, September 23, 1986 at the offices of the National Institute for Dispute Resolution, 1901 L Street NW., Suite 600, Washington, DC. The meeting will be open to the public. As announced in the February 12 notice, the first meeting is expected to be organizational in nature, focusing on dates, locations, procedures, and agenda items for future meetings. The chairpersons will also answer any remaining questions of the participants about the regulatory negotiation process. The first negotiating session is expected to take place approximately one month after the organizational meeting. Its date, time and location will be announced in the **Federal Register**.

List of Subjects in 16 CFR Part 703

Informal dispute settlement.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-18751 Filed 8-19-86; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[OW-6-FRC-3066-9]

Water Pollution Control; Arkansas Application To Administer the National Pollutant Discharge Elimination System (NPDES) Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application, public comment period, public hearing.

SUMMARY: The State of Arkansas has submitted an application to the Environmental Protection Agency to administer and enforce the National Pollutant Discharge Elimination System (NPDES) program for regulating discharges of pollutants into waters within the State. According to the State's proposal, the NPDES program would be administered by the Water Division in the Arkansas Department of Pollution Control and Ecology (ADPC&E) under the direction of Phyllis Garnett, Ph.D.

The application received from Arkansas is complete and is now available for inspection and copying. Public comments are requested and a public hearing will be held.

DATES: Comments must be received on or before October 6, 1986. A public hearing has been scheduled for September 23, 1986, at 7:00 to 10:00 pm.

ADDRESS: Comments should be addressed to: Jayne Watson, Chief, Permits Issuance Section (6W-PS) Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, Attention: Ellen Caldwell.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell, (214) 767-2231, at the above address.

SUPPLEMENTARY INFORMATION: Section 402 of the Federal Clean Water Act (CWA) created the NPDES program under which the Administrator of the United States Environmental Protection Agency (EPA) may issue permits for the discharge of pollutants into waters of the United States under conditions required by that Act. Section 402(b) provides for states to assume the NPDES

program responsibilities upon approval by EPA.

Arkansas' program submission for NPDES program approval contains a letter from the Governor requesting NPDES program approval, a program description, an Independent Counsel's statement, copies of State statutes and regulations providing authority to carry out the program, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator, Region VI, EPA and the Director. The Regional Administrator is required to approve each such submitted program within 90 days of submittal unless it does not meet the requirements of section 402(b) of the Act and EPA regulations promulgated thereunder, which include, among other things, authority to impose civil and criminal penalties for permit violations, and authority to insure that the public is given notice and opportunity for hearing on each proposed NPDES permit issuance.

At the close of the public comment period (including the public hearing) and within the ninety (90) day review period, the EPA Regional Administrator will decide to approve or disapprove Arkansas' NPDES program.

The decision to approve or disapprove Arkansas' NPDES program will be based on the requirements of section 402 of the CWA and 40 CFR Part 123. If Arkansas' NPDES program is approved, the Administrator will so notify the State. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will suspend issuance of NPDES permits in Arkansas. The State's program will implement federal law and operate in lieu of the EPA administered program. However, EPA will retain the right, among other things, to object NPDES permits proposed to be issued by an approved State and to take enforcement actions for violations. If the Regional Administrator disapproves Arkansas' NPDES program, the Administrator will notify the State of the reasons for disapproval and of any revisions or modifications to the State program which are necessary to obtain approval.

The Arkansas submittal may be reviewed by the public from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays at the Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, or at the EPA office in Dallas at the address appearing earlier in this notice. Copies of the submittal may also be obtained (at a cost of 20 cents/page) by appearing in person at either of those offices, or by writing to EPA or Arkansas at the addresses listed.

A public hearing to consider the State of Arkansas' request to administer the NPDES permit program has been scheduled for September 23, 1986, at 7:00 to 10:00 pm at the ADPC&E Commission Room, 8001 National Drive, Little Rock, Arkansas.

The Hearing Panel will include representatives of EPA, Region VI and ADPC&E.

The following are policies and procedures which shall be observed at the public hearing:

(1) The Presiding Officer shall conduct the hearing in a manner that permits open and full discussion of any issues involved:

(2) Any person may submit written statements or documents for the record:

(3) The Presiding Officer may, in his or her discretion, exclude oral testimony if such testimony is overly repetitious of previous testimony, or is not relevant to the decision to approve or require revision of the submitted State program:

(4) The Presiding Officer may limit oral testimony to five (5) minutes total per person:

(5) Members of the Hearing Panel may ask questions of witnesses and respond to questions and statements of witnesses:

(6) The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Administrator, and

(7) The hearing record shall be left open until October 6, 1986, as described below, to permit any person to submit any additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing.

Immediately following the public comment period, the Regional Administrator shall forward a copy of the complete hearing record to the Administrator.

Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for the use of the hearing panel and other interested persons. Statements should summarize any extensive written materials.

All comments or objections received by EPA, Region VI, by October 6, 1986, or presented at the public hearing, will be considered by EPA before taking final action on the Arkansas Request for State Program Approval.

Please bring the foregoing to the attention of persons whom you know will be interested in this matter. All written comments and questions on the hearing, or the NPDES program, should be addressed to Jayne Watson, Chief, Permits Issuance Section (6W–PS), Renaissance Tower, 1201 Elm Street, Dallas, Texas, 75270, Attention: Ellen Caldwell.

Review Under Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The proposed approval of the Arkansas NPDES program does not alter the regulatory control over any industrial category. No new substantive requirements are established by this action. Therefore, since this notice does not have a significant impact on a substantial number of small entities, a Regulatory Flexibility Analysis is not needed.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Dated: August 12, 1986.

Frances E. Phillips,

Acting Regional Administrator, Environmental Protection Agency, Region VI.

[FR Doc. 86–18650 Filed 8–19–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300142; FRL–3067–1]

Naphthalene Sulfonic Acid-Formaldehyde Condensates, Sodium Salts; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a mixture of mono-, di- and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts, be exempted from the requirement of a tolerance when used as a dispersing-wetting agent in flowable pesticidal formulations employed in dip vat operations for large animals, such as cattle. This proposed regulation was requested by Petrochemicals/DeSoto, Inc.

DATE: Written comments, identified by the document control number [OPP–300142], must be received on or before September 19, 1986.

ADDRESS:

By mail, submit comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection

Agency, 401 M Street SW., Washington, DC 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone: (703) 557–7700.

SUPPLEMENTARY INFORMATION: At the request of Petrochemicals/DeSoto, Inc., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for mono-, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts, when used as a dispersing-wetting agent in flowable pesticidal formulations employed in dip vat operations for large animals, such as cattle.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Mono-, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts.

Name and address of requestor. Petrochemicals/DeSoto, Inc., P.O. Box 2199, Fort Worth, TX 76113.

Bases for approval. The subject chemicals are the sodium salts of mono-, di- and trimethylnaphthalene sulfonic acids-formaldehyde condensates. The precursors of these chemicals and some of the methylnaphthalene sulfonic acid-formaldehyde condensates have prior clearances as listed below.

1. Naphthalene and methylnaphthalene sulfonic acids-formaldehyde condensate salts are cleared under 40 CFR 180.1001(d) for applications to growing crops only.

2. Naphthalene sulfonic acid and sodium salts are cleared under 40 CFR 180.1001(e) for applications to animals.

3. Sodium mono- and dimethylnaphthalene sulfonates, M.W. 245–260, are cleared under 40 CFR 180.1001 (c), (d), and (e) for applications to growing crops and to crops after harvest, and to animals.

4. Sodium mono-, di- and tributylnaphthalene sulfonates are cleared under under 40 CFR 180.1001 (c) and (e) for applications to growing crops and to crops after harvest, and to animals.

5. Methylnaphthalene sulfonic acid-formaldehyde condensate, sodium salt is cleared under 21 CFR 176.170 for paper products in contact with aqueous and fatty foods, and under 21 CFR 176.180 for paper products in contact with dry foods.

The subject chemicals constitute only 1.2 percent of the total pesticidal formulations and do not exceed 0.006 percent in the final formulations for dip vat operations.

EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Mono-, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts was subjected to a data review, including review of structure-activity relationships concerning human safety, a calculation of maximum residues resulting from the intended use, and a review of the data base supporting the prior clearances. Based on this review, the Agency has determined that no additional test data will be required to support this regulation at the prescribed use level.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the proposed amendment to 40 CFR Part 180 will protect the public health. It is therefore proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300142]." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 7, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Mono-, di- and trimethylnaphthalene sulfonic acid-formaldehyde condensates, sodium salts.	Not to exceed 0.005% in final formulation.	Dispersing-wetting agent in dip vat operations for large animals, such as cattle.
* * * * *		

[FR Doc. 86-18755 Filed 8-19-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Petitions and Initiation of Status Reviews

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and status review.

SUMMARY: The Service announces 90-day findings in respect to two petitions and 12-month findings in respect to four petitions to amend the Lists of Endangered and Threatened Wildlife and Plants. Status reviews are initiated for the white-cheeked pintail from Puerto Rico, and five snails and one fingernail clam from New Mexico that are subjects of two petitions.

DATES: The findings announced in this notice were made between January 6, 1986, and March 21, 1986. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions should be submitted to the Assistant Director—Fish and Wildlife Enhancement (OES), U.S. Fish and Wildlife Service, Washington, DC 20240. The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Marvin E. Moriarty, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771 or FTS 235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species.

Section 4(b)(3)(B) of the Act, as amended, requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals. Section 4(b)(3)(C) requires that petitions for which the action requested is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e. requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

Recently, the Service received and made 90-day findings on the following petitions:

The Service was petitioned by the New Mexico Department of Game and Fish to list eleven species of New Mexico molluscs. This petition was dated November 20, 1985, and was received by the Service on November 22, 1985. The petition contained information indicating that each of the 10 aquatic snail and one clam taxa is severely limited in distribution and faces extinction threats recognized by the State on a spectrum from very highly vulnerable to moderately vulnerable. Five of the taxa are already under notice of review by the Service (49 FR 21664-21675, May 22, 1984); they are: the Socorro spring snail (*Fontelicella neomexicana*), the Chupadera spring snail (*Fontelicella* sp.), the Roswell spring snail (*Fontelicella* sp.), the Alamosa spring snail (*Tryonia* sp.), and the Pecos assiminea snail (*Assiminea* sp.). The other six species included in this petition for listing as threatened or endangered are: the Gila spring snail (*Fontelicella* sp.), the New Mexico hot spring snail (*Fontelicella* sp.), the Pecos spring snail (*Fontelicella* sp.), the Koster's spring snail (*Tryonia* sp.), the New Mexico ramshorn snail (*Pecosorbis kansasensis*), and the Sangre de Cristo pea-clam (*Pisidium* sp.). After reviewing this petition the Service finds that the petition does present substantial information indicating that the requested action may be warranted. This notice initiates a status review for the six species mentioned above that were not included in the Service's May 22, 1984, Notice of Review.

Staff at the Service's Caribbean Islands National Wildlife Refuge has submitted a petition to add the Puerto Rican population of the white-cheeked pintail, *Anas bahamensis*, to the List of Endangered and Threatened Wildlife. The petition contains documentation that the species has undergone a serious decline islandwide since the 1950's, from a former condition of being one of the most abundant waterfowl there. Habitat losses and illegal taking are suggested as causes for the decline. Available evidence indicates that the status of this duck is generally comparable to the three other waterfowl species now under petition from the Puerto Rican Department of Natural Resources for Federal listing. After reviewing this petition the Service finds that the petition does present substantial information that the requested action may be warranted. This notice initiates a status review for the white-cheeked pintail.

Recently, the Service made one-year findings for the following four petitions.

In a petition dated December 27, 1984, and received January 3, 1985, the Service was requested by the Department of Natural Resources of the Commonwealth of Puerto Rico to list as threatened the following four species: Puerto Rican crested toad (*Peltophryne* [=*Bufo*] *lemur*), Caribbean coot (*Fulica*

caribea), ruddy duck (*Oxyura jamaicensis*), and West Indian whistling duck (*Dendrocygna arborea*). An administrative finding that the action requested may be warranted was announced in a **Federal Register** notice published on July 5, 1985 (50 FR 13054).

The Puerto Rican crested toad is endemic to the Puerto Rican Shelf and is the only member of its family native to that area. It has been found at six localities in Puerto Rico and one on Virgin Gorda, British Virgin Islands. Generally these localities were at low elevations (below 600 feet) in areas of exposed limestone and porous, well-drained soil offering an abundance of fissures and cavities. The species has always been considered rare, and before its rediscovery in 1966 was believed by some to be extinct. One sizeable breeding aggregation was found in 1984, in Guanica Commonwealth Forest. Additional information on size and distribution of populations has been very difficult to obtain. The available data suggest that most populations are near human development, but very hard to assess prior to development impacts, and that breeding is irregular and concentrated; these factors make them susceptible to eradication. The species has been listed as endangered by the Commonwealth of Puerto Rico; but studies of its distribution and biology are continuing, and the degree of threat remains uncertain. However, the best scientific information available indicates that the Puerto Rican crested toad should be listed as threatened.

Prior to 1963, the Caribbean coot was reported to be abundant in Puerto Rico. By 1973, however, it had declined seriously enough to be included on a list of rare and endangered animals of the island. The Commonwealth closed hunting on this and the similar American coot (*Fulica americana*) in Puerto Rico in 1984. Major threats now appear to be illegal hunting and the destruction and modification of habitat. The Caribbean coot appears to prefer freshwater lakes, but may also be found in coastal lagoons. In southwest Puerto Rico, where the species used to be most abundant, agricultural development and drainage of Cartegena Lagoon between 1970 and 1980 have contributed significantly to its decline. The Department of Natural Resources estimates that about 200 birds remain in the Puerto Rican population, and lists it as threatened in its endangered species regulations of 1985.

The West Indian whistling duck has become increasingly rare in Puerto Rico during the last 80 years, after being reported as common throughout the island in the late 19th century. It is now considered the rarest waterfowl species on the island, with a population estimated between 150 and 250 individuals. Hunting was closed on it in Puerto Rico in 1976; it was included under Commonwealth Wildlife Law No. 70, adopted in 1978; and the Commonwealth's endangered species regulations of 1985 list it as threatened. However, its preference for densely vegetated wetlands and its crepuscular habits make accurate population appraisals very difficult. Major threats appear to be habitat loss or modification, and illegal hunting and egg taking.

The West Indian ruddy duck has undergone a dramatic reduction in Puerto Rico after being reported as very common there prior to 1970. It was mentioned as "on the verge of being endangered" in the 1973 compilation of rare and endangered species of the island, and hunting was closed on it in 1975. The Commonwealth's endangered species regulations of 1985 list this species as threatened. Major threats are loss and modification of habitat and illegal hunting. The species prefers freshwater ponds, lakes, and reservoirs, but was present on only 5 out of 20 such sites in a Department of Natural Resources census in 1979. By 1979, Cartegena Lagoon, once considered to be the main breeding site for the species, but since largely drained and eutrophied, supported no West Indian ruddy ducks. In 1982 and 1983 censuses the Puerto Rican population of this species was estimated at fewer than 500 birds.

In the case of each of the three waterfowl species, two important questions are not yet fully answered. First is the question of whether each one is a limited, definable population in Puerto Rico or whether significant mixing with stocks of other islands is occurring, and second, if such mixing were occurring, whether the entire species or subspecies is threatened throughout a significant portion of its range. The Service will seek answers to these questions. Based on a review of all available data the Service finds that the action requested by this petition is warranted with respect to all four species. Immediate proposed rules to implement the requested actions are precluded by pending proposals to add other species to the Lists of Endangered and Threatened Wildlife and Plants. Expeditious progress in listing precludes an immediate proposed rule.

In a petition dated February 8, 1985, and received February 12, 1985, the Service was requested by Mr. Patrick Hartigan, of Travis Audubon Society to list the following six cave invertebrate species: *Microcreagris texana, Leptoneta reddelli, Texella reddelli, Rhadine persephone, Texamaurops reddelli,* and *Cylindropsis* sp. (Tooth Cave blind rove beetle). An administrative finding that the action requested may be warranted was announced in a **Federal Register** notice published on July 18, 1985 (50 FR 29238).

The Service has completed a status review of the information available on the biology, and distribution of, and threats to, these six species. The caves in which these species occur are located on the outskirts of the city of Austin, Texas, and are in an area planned for residential and commercial development. Such development could have major adverse impacts on the caves, through direct modification such as collapse, filling, or sealing; and through indirect modification such as changes in drainage and moisture, pollution with pesticides and other chemicals, destructive use by humans and pets, and introduction of non-native organisms such as sowbugs and household arachnid and insect pests. Based on a review of available data the Service finds the actions requested by this petition to be warranted in respect to all six species. Immediate proposed rules to implement the requested actions are precluded by other pending proposals to revise the Lists of Endangered and Threatened Wildlife and Plants.

In a petition dated February 28, 1985, and received March 19, 1985, the Service was requested by Ms. Laura B. Aherns of Lionel, Sawyer and Collins, Attorneys for the City of Sparks and the City of Reno, to delist the population of Lahontan cutthroat trout in the main stem Truckee River and Pyramid Lake. An administrative finding that the action requested may be warranted and a review of status were announced in a **Federal Register** notice published on August 30, 1985 (50 FR 35272).

The Service has completed a status review of all the information available regarding the biology, distribution, and habitat of, and threats to, this species. This review revealed that objectives of the Service's recovery plan to establish a number of self-sustaining populations have not been met. Threats identified in the recovery plan, including poor water quality, inadequate water during spawning periods, and the presence of introduced predators and competitors, have not yet been dealt with adequately. The sport fishery in Pyramid Lake, although extensive, is supported almost exclusively by hatchery production from

the U.S. Fish and Wildlife Service and Pyramid Lake Indian Tribe hatcheries. Although enhancement of the fishery through hatchery production is not being questioned, this enhancement has so far done little for recovery. The action requested by this petition is considered not warranted at this time on the basis of the best scientific information available.

In a petition from Ms. Joel L. Beardsley, Mariposa, RR 2 Box 441, Summerland Key, Florida 33042, dated April 11, 1985, and received by the Service on April 27, 1985, the Service was requested to determine endangered status for the Florida Keys marsh rabbit (*Sylvilagus palustris hefneri*). On June 14, 1985, the Service made a 90-day finding that the petition did present substantial information indicating that the requested action may be warranted. In the **Federal Register** of August 30, 1985 (50 FR 35272–35273), the Service published a notice announcing this finding and also a review of the status of the marsh rabbit.

This mammal, which was named and described in 1984, is known to occur only in a few locations in the lower (or western) Florida Keys. The petition contains documentation suggesting that the marsh rabbit's restricted habitat is jeopardized by development, and that it has become very scarce in recent years. Based on this review the Service finds that a determination of endangered status for the Florida Keys marsh rabbit is warranted, but precluded by other listing activity. Additional data will be gathered, and expeditious progress is being made to list other species that are considered to be of higher priority.

Section 4(b)(3)(b)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. Expeditious progress in listing endangered and threatened species is being made, and is reported annually in the **Federal Register**. The most recent progress report was published on January 9, 1986 (51 FR 996).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the species involved in the petitions listed above.

Author

This notice was prepared by Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1975 or FTS 235–1975).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: August 8, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18739 Filed 8–19–86; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 20

Migratory Bird Hunting: Strategy for Eliminating Lead Toxicity as a Major Mortality Factor in Waterfowl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Record of Decision.

SUMMARY: This notice makes available to the public the Record of decision (ROD) on use of lead shot for hunting migratory birds in the United States. The ROD was prepared in accordance with Council on Environmental Quality regulations, 40 CFR 1505.2. The ROD results from recommendations of the Fish and Wildlife Service (FWS) to the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, for implementing a strategy to eliminate lead poisoning, resulting from the use of lead shot in waterfowl hunting, as a significant mortality factor among waterfowl and certain other migratory birds. This action results from responsibilities the Secretary of the Interior has delegated to the Director, FWS, to protect and enhance migratory bird populations under the Migratory Bird Treaty Act, as amended (16 U.S.C. 703 *et seq.*; 40 Stat. 755) and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531; 87 Stat. 884). The recommendations of the FWS were based on: the information contained in the Final Supplemental Environmental Impact Statement (SEIS) on the use of lead shot for hunting migratory birds in the United States, which was filed with the Environmental Protection Agency (EPA) on July 8, 1986, and announced by the EPA in the **Federal Register** on July 11, 1986; other available scientific and technical data; and public comments received during the National Environmental Policy Act—review process. The ROD selects Alternative VII_5 of the Final SEIS as the best alternative for eliminating lead poisoning as a significant mortality factor among waterfowl and some other migratory birds. The regulatory guidelines implementing Alternative VII_5 have been published separately as a proposed addition to 50 CFR Part 20 (Subpart M), and appeared in the **Federal Register** on June 27, 1986 (51 FR 23444).

DATE: This Record of Decision is effective on August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Matomic Building, Room 536, Washington, DC 20240, (202/254–3207).

SUPPLEMENTARY INFORMATION: The ROD follows: In compliance with 40 CFR 1505.2, and based on the analyses in the Final SEIS on the use of lead shot for hunting migratory birds in the United States, the decision has been made to select the alternative of a phased lead shot ban for hunting waterfowl and coot to be fully implemented nationwide by the 1991–92 season (Alternative VII_5). The selected alternative, that initially includes designation of nontoxic shot zones on the basis of both bald eagle and waterfowl criteria in the 1986–87 season, is based upon waterfowl criteria only for the 1987–88 season and beyond. The waterfowl criteria that will be applied nationwide to all State land and water areas begins with counties having a 20+ harvest of waterfowl per square mile, and decreases by 5 per square mile per year until the nationwide conversion hunting year of 1991–92 is reached. This strategy contains a provision for deferring conversion until 1991–92 if a State chooses to monitor and the monitored area does not meet minimum criteria for conversion.

The alternatives presented in the Draft SEIS included: (1) Prohibit the use of lead shot for waterfowl and coot hunting in zones where known or potential lead poisoning problems exist using separate criteria for waterfowl and bald eagles; (2) Same as (1) except that bald eagle criteria were suggested by the National Wildlife Federation; (3) Same as (1) except that bald eagle criteria would be based on an ecological zone concept; (4) No action—no open seasons on migratory birds; (5) Prohibit the use of lead shot for all migratory bird hunting on a Flyway basis over a 4-year period (environmentally preferred alternative); and (6) Make nontoxic shot use voluntary by the States. In response to public comment, the Final SEIS

considered three other alternatives that combined features of the original six alternatives and focused specifically on waterfowl and coot and included: one that would phase in a nationwide ban on a Flyway basis (Alternative VII_1); one that would effect a total nationwide ban for the 1986–87 season (Alternative VII_2); and one, the preferred alternative, that would phase in a ban over a 5-year period beginning in 1987–88 (Alternative VII_3). More detailed information on each alternative can be found in the Final SEIS.

Public involvement has been widespread and intense throughout the course of development of this proposal. The Draft SEIS was circulated among interested private citizens, national and local conservation organizations, State wildlife professionals, hunting clubs, Congressional members and staff, and others for review and comment. Responses were received from in excess of 625 respondents. Appendix M of the Final SEIS lists and summarizes comments on the Draft SEIS.

The decision to approve implementation of Alternative VII_3 is based on a careful review of public comments on the SEIS, and consideration of the best balance of benefits overall as demonstrated by impacts analyses (biological, social and economic). This alternative also has substantial support from the professional wildlife management community, State wildlife departments, private citizens, and other groups. Alternative VII_3 has major long- and short-term benefits for waterfowl and bald eagles; decrease and then discontinuation of use of lead shot in waterfowl hunting is expected to dramatically reduce the exposure of bald eagles and waterfowl to this source of mortality. The net result of this reduction of exposure to spent lead shot is expected to be larger and healthier populations of bald eagles, waterfowl and, perhaps, other hunted and unhunted wetlands species, and a resultant improvement in hunter and nonhunter satisfaction regarding opportunity to enjoy the migratory bird resource both in the U.S. and in other countries. This alternative also will result in a reduction in lead deposited in wetlands, lead uptake by wetland vegetation, and total lead available to all wildlife. Alternative VII_3, unlike some other alternatives, results in priority coverage of the total bald eagle and waterfowl indices, and is most sensitive to the impacts that a timely nationwide conversion would have on the economy, public agency programs, the hunting public, and on the resource itself. Alternative VII_3, the preferred alternative, provides the long-term benefits of Alternative V with the accelerated protection given bald eagles by Alternative I. The Fish and Wildlife Service section 7 biological opinion, required under the Endangered Species Act, further supports this action and finds that implementation of Alternative VII_3 is not likely to jeopardize the continued existence of the bald eagle.

The proposed rule to implement the preferred alternative of the Final SEIS was published in the **Federal Register** on June 27, 1986 (51 FR 23444); the final rule will be published in mid-August, 1986. The proposed rule implementing the first phase of the preferred alternative, the 1986–87 waterfowl and coot season zones, was published in the **Federal Register** on January 6, 1986 (51 FR 409); the final rule will be published in mid-August, 1986. For succeeding waterfowl seasons, 1987–1991, proposed rules on zones will be published in the **Federal Register** the preceding year (ca. September).

Having satisfied the requirements set out in 40 CFR 1506.10 (a) and (b)(2), implementation of this decision will begin immediately upon publication of this Record of Decision in the **Federal Register**. The EPA Notice of Availability for the Final SEIS on the use of lead shot for hunting migratory birds in the United States was published in the **Federal Register** on July 11, 1986 (51 FR 25249).

Dated: August 11, 1986.

Frank Dunkle,

Director, U.S. Fish and Wildlife Service, Department of the Interior.

[FR Doc. 86–18536 Filed 8–19–86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60231–6147]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed rulemaking; notice of receipt of permit application, notice of formal hearing.

SUMMARY: On July 21, 1986, the NMFS received an application from the Federal of Japan Salmon Fisheries Cooperative Associations (the Federation) for a general permit under the Marine Mammal Protection Act (MMPA) to take Dall's porpoise (*Phocoenoides dalli*) and other marine mammals incidental to commercial fishing operations. This notice announces the formal hearing to consider certain scientific aspects of the permit request, the procedures to govern the formal hearing, and the proposed regulation to accompany a permit if granted.

DATES: NOAA/NMFS has scheduled a formal hearing to consider the issuance of an incidental take permit and the population status of Dall's porpoise. It will begin at 9:30 a.m. local time on Monday, October 20, 1986 in Seattle, Washington.

Other dates pertaining to the hearing are found in the **SUPPLEMENTARY INFORMATION SECTION.**

Comments on the proposed regulation and draft environmental impact statement (DEIS) must be postmarked on or before October 20, 1986.

ADDRESS: Assistant Administrator for Fisheries, NMFS, Washington, DC 20235. A DEIS, an Economic Impact Analysis and research reports are also available upon request.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235, Telephone: 202–673–5351.

SUPPLEMENTARY INFORMATION:

Background

Marine mammals, primarily Dall's porpoise, are taken in the course of commercial salmon gill net operations by Japanese fishing vessels within and outside the U.S. Fishery Conservation Zone (FCZ) in the North Pacific and Bering Sea. The general permit issued to the Federation in 1981 under the MMPA and extended in 1982 by amendments to the North Pacific Fisheries Act, will expire in June 1987. Without either a new general permit or a Congressional extension of the permit, the Japanese mothership salmon fishery inside the U.S. FCZ must cease at that time. A cooperative U.S.-Japanese research program which was begun in 1978 to assess the status of the Dall's porpoise, the extent of incidental take, and methods to minimize such taking would also cease. A report on research conducted through 1985 is available (see **ADDRESS**).

Receipt of Permit Application

On July 21, 1986, the Federation of Japan Salmon Fisheries Cooperative Associaitons, San Kaido Building, 9–13 Akasaka 1-chome, Minato-ku, Tokyo, Japan, submitted an application for an incidental take permit, Category 5:

"Other Gear," salmon drift gill net (see 50 CFR 216.24(d)(5)). The permit application requests a five (5) year term (June 10, 1987-June 9, 1992) and estimates that the maximum number of marine mammals expected to be incidentally taken on a yearly basis by the fishery inside the U.S. FCZ is as follows: Dall's porpoise, 5,500; northern fur seals (*Callorhinus ursinus*), 450; northern sea lions (*Eumetopias jubatus*), 25.

Copies of the application are available for review in the following offices:

Office of Protected Species and Habitat Conservation, NMFS: 1825 Connecticut Avenue, NW., Suite 805, Washington, DC;

Regional Director, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, Washington 98115; and

Regional Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802.

Interested persons may submit written views on this application on or before sixty (60) days after date of this notice to the Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235.

Proposed Regulation

The NOAA proposes to continue the present codified language as found in 50 CFR 216.24(d)(5)(vii) and printed as found below.

"(vii) The number of Dall's porpoise (*Phocoenoides dalli*) killed or seriously injured by Japanese vessels shall be limited to 5,500 animals per year. Any permit issued under this regulation shall indicate the measures by which the permit holder shall comply with the reporting requirements of paragraph (d)(5)(v) of this section. Any incidental take permit issued under this regulation shall allow retention of marine mammals for scientific research purposes and not require a separate permit under paragraph (d)(5)(iv)."

MMPA Requirements

With limited exceptions, the MMPA imposed as moratorium on taking of marine mammals within waters under the jurisdiction of the United States. One of these exceptions provides for a permit to take marine mammals incidental to commerical fishing operations.

Under the MMPA, before a permit authorizing a take can be issued, the NMFS . . . must be assured that the taking . . . is in accordance with sound principles of resource protection and conservation as provided in the purposes and policies of this chapter . . . (16 U.S.C. 1371(a)(3)(A))." The guiding principles of resource protection and conservation are set forth in 16 U.S.C. 1361(2) and (6). Section 1361(2) states that:

". . . such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below they optimum sustainable population . . ."

Section 1361(6) states, in part:

". . . it is the sense of the Congress that (marine mammals) should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat."

Once those principles are met, the MMPA has a two goal test that must be met to determine the number and kind of marine mammals which can be taken incidental to commercial fishing operations. The first test, the "disadvantage" test (Section 1373(a)) requires the Secretary of Commerce to ensure that requested taking will not be to the disadvantage of the affected species and population stocks. Under this test, the Secretary, in conjunction with the promulgation of regulations, must publish statements on population levels and the expected impact of the proposed regulations on the optimum sustainable population of the affected marine mammal species. For this proposed rule, the required statements may be found below.

If it is determined that a species or stock will not be disadvantaged by allowing an incidental take, the next test, the "immediate goal" test, is whether a lower quota is technologically feasible. This is in furtherance of the MMPA objective that:

". . . it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishery operations be reduced to insignificant levels approaching zero mortality and serious injury rate . . ." (16 U.S.C. 1371(a)(2))

Notice of Formal Hearing; Formal Hearing Procedures. In accordance with section 103(d) of the MMPA, these regulations must be made on the record after opportunity for a public hearing. The formal hearing will begin at 9:30 a.m. local time on Monday, October 20, 1986, in Seattle, Washington. It will last for two to three days. The exact location of the hearing will be announced shortly in the **Federal Register**. The Honorable Hugh Dolan, Administrative Law Judge (ALJ), Department of Commerce, has been appointed as the presiding officer for the hearing. The hearing will be conducted in accordance with the procedural rules published at 50 CFR 216.70–90.

The Assistant Administrator for Fisheries, NOAA, and the Federation of Japan Salmon Fisheries Cooperative Associations are made automatic parties to the hearing. For other interested parties, notices of intent to participate as an active party in the formal hearing must be submitted to the Assistant Administrator for Fisheries no later than August 28, 1986.

Any direct testimony for the hearing must be prepared in affidavit form in advance and submitted to all parties no later than September 16, 1986. (see 50 CFR 216.76)

The hearing docket number assigned to this case is MMPAH–1986–01. All notices, copies of written evidence, and other documents to be filed or submitted should be sent to the following address and bear this designated docket number: Presiding Officer MMPAH–1986–01, c/o Assistant Administrator for Fisheries, NMFS, NOAA, DOC, Washington, DC 20235.

Records and documents pertaining to the proposal will be maintained in the offices of the NMPS, and may be reviewed during normal working hours, 8 a.m. to 4:30 p.m. in the Universal Building, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Issues to be Considered at the Formal Hearing

The hearing will be limited to the following issues:

(a) estimates of existing population levels of Dall's porpoise and other affected marine mammal stocks; and (b) the expected impact of the proposed regulations and permit conditions on the optimum sustainable population (OSP) of Dall's porpoise and other marine mammals. These issues necessarily involve consideration of whether the scientific evidence is sufficient to make any of the required MMPA findings, future scientific research needs, and the means available to the applicant to further reduce the mortality of Dall's porpoise. Evidence relating to other issues may be submitted at the hearing subject to the rulings of the presiding officer on the relevance and materiality of such issues.

The permit applicant contends that the stock of Dall's porpoise is at OSP and will be at OSP after the proposed five year incidental taking regime. In the formal hearing, the applicant must present evidence to support this contention.

Prehearing Conference

A prehearing conference will be held on September 29, 1986, at 10:00 a.m. in Washington, DC. Only parties may participate in the prehearing conference. The conference will consider the issues of fact to be presented in the hearing, the witnesses who will testify and the object of their testimony, any alternatives to the hearing rules that may be required; the need for oral argument, if any; the briefing schedule; the timing of the ALJ's Recommended Decision, and the NOAA Administrator's Final Decision.

Required Statements

At the time proposed regulations are published, section 103(d) of the MMPA requires the concurrent publication of (a) a statement of the estimated existing levels of the species and population stocks of marine mammals concerned; (b) a statement of the expected impact of the proposed regulations on the optimum sustainable population (OSP) of such species or population stock; (c) a statement describing the evidence before the agency on which the proposed regulations are based; and (d) any studies made by or for the agency or Marine Mammal Commission which relate to the establishment of such regulations. These required statements are as follows:

(a) Estimated existing population levels:

Species and stock	Present population	
	Mean size	Range
Dall's porpoise (*dalli*-type):		
Bering Sea:		
Extended [1]	303,000	214,547–391,601
Limited [2]	209,000	148,000–270,000
Western Central North Pacific:		
Extended [3]	920,000	621,696–1,219,000
Limited [4]	719,000	483,900–955,000
Eastern North Pacific	461,000	311,327–610,191
Gulf of Alaska	444,500	296,389–592,612

[1] Includes all open waters from northern ice edge south to Aleutian Islands.
[2] Excludes shallow shelf water and restricted in north to year round ice-free waters.
[3] Includes all Dall's porpoise range west of 172° W. and north to Aleutian Islands.
[4] Excludes area of *truei*-type/*dalli*-type mixture in west; east to 172° W.

	Present population [1]
Northern fur seal:	
Pribilof Islands	871,000
Commander Islands	210,000
Robben Island	75,000
Kuril Island	47,000
San Miguel Island	4,000
Total	1,207,000

[1] 1983 population estimates.

A detailed discussion on estimated population sizes and status for Dall's porpoise can be found in the DEIS. Additional information can be found in Bouchet *et al.* (1986).

(b) Expected impact on OSP. Optimum sustainable population (OSP) of the species and stocks involved is defined as a population which falls in a range from the population level which is the largest supportable within the ecosystem, to the population that results in maximum net productivity. (See 50 CFR 216.3.) Maximum net productivity is the greatest net annual increment in the population due to reproduction and growth less losses due to natural mortality. Maximum net productivity is interpreted as being the lower limit of the range of optimum sustainable population and is expressed as a percentage of a stock's pre-exploitation size that still remains. For Dall's porpoise, if that percentage is 60 percent or higher, NOAA considers the stock to be at or above its minimal OSP level; and therefore not depleted (see 46 FR page 27067, May 15, 1981).

Species and stock	Estimated current OSP status	Estimated OSP status in 1992
Dall's porpoise:		
Bering Sea	[1] 0.882	Within.
Western Central Pacific	[1] 0.825	Not known.
Eastern Pacific	Within	Within.
Gulf of Alaska	Within	Do.

[1] These point estimates are the ratio of the current stock size to the stock's equilibrium unharvested population level.

The Pribilof Island population of northern fur seals is likely below its optimum sustainable population level. If this is the case, an incidental take of this species cannot be authorized. As only one northern sea lion has been reported taken since the general permit was issued in 1981, there is no need to consider a waiver for this species.

(c) and (d) *Evidence* and *Studies.*

These two statements are satisfied by the following list.

Bouchet, G.C, R.C. Ferrero, and B.J. Turnock. 1986. Estimation of the abundance of Dall's porpoise (*Phocoenoides dalli*) by shipboard sighting surveys. INPFC Document 3009, 50 pp.

Jones, L.L., G.C. Bouchet, D.W. Rice, and A.A. Wolman. 1984. Progress report on studies of the incidental take of marine mammals particularly Dall's porpoise by the Japanese Salmon Fisheries, 1978–1983.

Jones, L.L., J. Breiwick, G.C. Bouchet and B.J. Turnock. 1986. Report on the incidental take, biology, and status of Dall's porpoise. NMFS. Seattle, Washington.

National Oceanic and Atmospheric Administration. 1984. Final Action Plan-Dall's Porpoise Program. Washington, D.C.

_____. 1985. Final Action Plan-Dall's Porpoise Program, Washington, DC.

_____. 1986. Final Action Plan-Dall's Porpoise Program, Washington, DC.

Twiss, John R., Jr. 1986. Letter dated May 12, 1986 to Mr. William G. Gordon concerning contents of the DEIS and public hearing.

U.S. Department of Commerce. 1985. Final Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals. 196 pp.

Draft Environmental Impact Statement (DEIS)

The Environmental Protection Agency will announce shortly the availability of a DEIS describing the Japanese high seas salmon fishery and the incidental take of Dall's porpoise in this fishery. The DEIS will be available on request (See ADDRESS) at that time.

Ex Parte Communications

Section 4 of the Government in the Sunshine Act (Pub. L. 94–409), dealing with ex parte communications, is applicable to the hearing. The following persons are those employees of the Department who may reasonably be expected to be involved in the decision process of the proceeding, and are, therefore, hereby identified to all interested persons outside the agency in order that the provisions of Section 4 can be complied with:

Name and Title

Malcolm C. Baldrige, Secretary of Commerce
Douglas A. Rigg, General Counsel, DOC
Michael A. Levitt, Assistant General Counsel for Legislation and Regulation
Margaret Moran, Special Assistant to the General Counsel, DOC
Donald M. Malone, Attorney Advisor, DOC
Hugh Dolan, Administrative Law Judge, Department of Commerce
Anthony J. Calio, Administrator, NOAA
J. Curtis Mack, II, Deputy Administrator, NOAA
Hugh Schratwieser, Special Assistant to the Administrator, NOAA
William G. Gordon, Assistant Administrator for Fisheries, NMFS
James E. Douglas, Jr., Acting Deputy Assistant Administrator for Fisheries, NMFS

Carmen J. Blondin, Deputy Assistant Administrator for Fisheries Resource Management, NMFS
Robert B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, NMFS
Charles Karnella, Acting Chief, Protected Species Division, Office of Protected Species and Habitat Conservation, NMFS
Hugh Dolan, Administrative Law Judge, Department of Commerce
Joseph W. Angelovic, Deputy Assistant Administrator for Science and Technology, NMFS
William Aron, Director, Northwest and Alaska Fisheries Center, NMFS
Daniel W. McGovern, General Counsel, NOAA
James W. Brennan, Deputy General Counsel, NOAA
Jay S. Johnson, Assistant General Counsel-Fisheries
James Busuttil, Staff Attorney

Ex parte communications relevant to any substantive or procedural issues relating to the formal hearing between the above named persons and any interested person outside the Department of Commerce are prohibited from the date of this notice until the date the Final Decision resulting from the hearing is published in the Federal Register. Section 4 provides mechanisms for enforcing this prohibition, including (1) the requirement that an employee making or receiving prohibited communications disclose them and all responses to them for the public record of the proceeding; and (2) authorization of dismissal or other adverse action against the claim of the party to the proceeding who makes or causes prohibited communication. "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on the proceedings.

Classification

The NMFS has determined that this action is a major Federal action under the National Environmental Policy Act of 1969 due to the overall public interest associated with the Japanese salmon fishery and its interaction with Dall's porpoise and other marine organisms. A Draft Environmental Impact Statement (DEIS) has been prepared and will be distributed for public review and comment.

This proposed rule is an administrative action being developed on the record under the Administrative Procedure Act (5 U.S.C. 556 and 557) and, as such, is exempt from Executive Order 12291.

This rule mentions collection of information requirements subject to the Paperwork Reduction Act. The collection of information for general permits, certificates of inclusion and reporting takes has been approved by the Office of Management and Budget under Control Nos. 0648–0083 and –0099.

A determination as to whether or not the proposed action will have a significant effect on a substantial number of small entities will be made in conjunction with publication of the final action in this proceeding.

The Assistant Administrator has determined that the proposed action does not directly affect the coastal zone of a State with an approved coastal zone management act program.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: August 15, 1986.

William G. Gordon,

Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 86–18704 Filed 8–19–86; 8:45 am]
BILLING CODE 3510-22

VOL 51 ISS 161 AG 20 1986 UMI

Notices

Federal Register
Vol. 51, No. 161
Wednesday, August 20, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative Agreement; Texas Agricultural Experiment Station

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of Intent to Enter Into a Cooperative Agreement.

ACTIVITY: The Office of International Cooperation and Development (OICD) intends to enter into a Cooperative Agreement with the Texas Agricultural Experiment Station for cooperation in the research project for market introduction of low-cost nutritious foods in developing countries.

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds for fiscal year 1987 (FY1987) to enter into a follow-on cooperative agreement with the Texas Agricultural Experiment Station of the Texas A&M University System to provide additional funding support and extend the duration of the support until September 30, 1987. The agreement will enable the Station to continue activities to assist developing countries in the development and marketing of low-cost nutritional foods which the Station, in cooperation with OICD, started on October 1, 1977. Assistance for these activities will be provided only to the Texas Agricultural Experiment Station.

Based on the above, this is not a formal request for application. An estimated $40,000 will be available in FY 1987 to support this work. It is anticipated that the agreement will be funded over a 12-month budget period.

Information may be obtained from: Nancy J. Croft, Contracting Officer, Management Services Branch, Office of International Cooperation and Development, U.S. Department of Agriculture, (58–319R–7–002).

Dated: 15 August, 1986.

Allen Wilder,

Contracting Officer.

[FR Doc. 86–18765 Filed 8–19–86; 8:45 am]

BILLING CODE 3410–DF–M

Forest Service

Inyo National Forest; Mono Basin National Forest Scenic Area Advisory Board; Meeting

The Mono Basin National Forest Scenic Area Advisory Board will meet at 9:00 a.m. on September 11, 1986, at the Lee Vining Presbyterian Church in Lee Vining, California. The agenda of the meeting will include:

1. Private Land Guidelines;
2. Comprehensive Management Plan;
3. General Update by the District Ranger.

The meeting will be open to the public. Persons who wish to attend and make oral presentations, should notify Dennis W. Martin, Forest Supervisor, Inyo National Forest; 873 North Main Street; Bishop, California 93514; telephone (619) 873–5841. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rule for public participation: After the Board has completed discussion of each topic, the public will be allowed time for questions or comment.

Dated: August 14, 1986.

Dennis W. Martin,

Forest Supervisor and Chairman.

[FR Doc. 86–18799 Filed 8–19–86; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

	Facility No., name, and location of stockyard	Date of posting
CA–177	Turlock Livestock Auction Yard, Turlock, California.	Oct. 9, 1984.
IL–171	Heart of Ill. Arena, Peoria, Illinois.	June 22, 1986.
KS–205	Ma Belle's, Inc., Linwood, Kansas.	Feb. 24, 1986.
KS–206	Sunflower Horse Auction, Chapman, Kansas.	Feb. 12, 1986.
MO–259	Sarcoxie Community Sales, Inc., Sarcoxie, Missouri.	Feb. 17, 1984.
MO–260	Diamond Feeder Pig and Hog Auction, Diamond, Missouri.	Jan. 30, 1985.
MO–261	Mo Cow Co Livestock Exchange, Lancaster, Missouri.	June 5, 1985.
MO–262	Phelps County Livestock Improvement, Assn., St. James, Missouri.	Feb. 23, 1986.
NC–156	Lucky Dollar Horse Auction, Grifton, North Carolina.	July 31, 1986.
OK–203	Southern Oklahoma Livestock Auction, Inc., Ada, Oklahoma.	Jan. 28, 1985.
OK–204	Hobart Stockyard, Inc., Hobart, Oklahoma.	May 27, 1986.
TX–329	San Augustine Livestock, San Augustine, Texas.	July 16, 1984.

Done at Washington, DC, this 14th day of August 1986.

Griffin E. Bonham,

Acting Director, Livestock Marketing Division.

[FR Doc. 86–18728 Filed 8–19–86; 8:45 am]

BILLING CODE 3410–03–KD

DEPARTMENT OF COMMERCE

International Trade Administration

Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, S. Bruce Smart, of the Performance Review Board for ITA (PRB). This is a revised list of membership which includes previous members as listed in the October 16, 1985 **Federal Register** announcement (49 FR 33040) with additional members added to serve out the remainder of the one year term. The purpose of the International Trade Administration PRB is to review performance actions for recommendations to the appointing authority as well as other related matters. The names of the PRB members are:

International Trade Administration

Franklin Vargo, Chairman, Deputy Assistant Secretary for Europe
Marjory Searing, Director, Office of Industry Assessment
T. Fleetwood Mefford, Deputy Assistant Secretary for Domestic Operations
George DeBakey, Deputy Assistant Secretary for Science and Electronics
John Evans, Deputy to the Deputy Assistant Secretary for Import Administration
Marilyn Wagner, Assistant General Counsel for Administration
John Richards, Director, Office of Industrial Resource Administration
James V. Lacy, Director, Office of Export Trading Company Affairs
J. Hayden Boyd, Director, Office of Consumer Goods.

Dated: August 8, 1986.

Peggy Hemsley,

Acting, Personnel Officer, ITA.

[FR Doc. 86-18763 Filed 8-19-86; 8:45 am]

BILLING CODE 3510-25-M

Short Supply Review of High-Grade, Cold-Rolled, Grain-Oriented Silicon Steel ("High-Tech" Silicon Steel) Used in the Manufacture of Power Transformers and Distribution Transformers; Request For Comments

Correction

In FR Doc. 86-17913, appearing on page 28615, in the issue of Friday, August 8, 1986, in the second column, under "Distribution Transformers", second line, before "Core" insert "or less."

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of issuance of an expermental fishing permit.

SUMMARY: This notice announces the issuance of an experimental fishing permit (EFP) to U.S. fishermen to harvest groundfish species incidental to a white croaker fishery using a trawl net with a small-mesh codend in the fishery conservation zone (FCZ) off the coast of California. The permit authorizes the use of experimental fishing gear which otherwise would be prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations.

EFFECTIVE DATES: January 1, 1986, through December 31, 1986.

ADDRESS: Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150 or E. Charles Fullerton, 213-514-6196.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations at 50 CFR Part 663 specify that EFPs may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs appear at § 663.10.

An EFP application to harvest groundfish species incidental to a fishery targeting on white croaker (*Genyonemus lineatus*) using a two-inch-mesh codend in a Canadian-style pair trawl net in the FCZ off the coast of California was received on August 16, 1985. Current groundfish regulations at § 663.26(b)(2) prohibit the use of a mesh size smaller than three inches in pelagic trawls in the FCZ. A notice acknowledging receipt of the application, describing the proposal, and requesting public comment was published in the Federal Register on September 30, 1985 (50 FR 39753). No comments were received. The application was considered by the Pacific Fishery Management Council, including the directors of the fishery management agencies of Washington, Oregon, California, and Idaho, at its November 1985 public meeting in Portland, Oregon. The Council recommended that NMFS issue an EFP for the purposes described in the application, and NMFS has issued the EFP under the provisions of § 663.10.

The EFP, although effective from January 1 to December 31, 1986, was not signed and executed until July 8, 1986, as the applicant encountered logistical problems in commencing the experimental fishery. The EFP authorizes the use of two-inch mesh in the codend of a Canadian-style pair trawl net to incidentally harvest groundfish species while targeting on white croaker in the FCZ off California. Under its terms and conditions, the two domestic vessels authorized under the EFP may harvest up 1,000 pounds of groundfish species on each trip. However, if more than 30,000 pounds of groundfish species are caught, the EFP will be suspended unless the Director, Northwest Region, NMFS, determines that an adjustment of the operation will reduce the incidental catch of other groundfish species sufficiently to continue the conduct of a clean white croaker fishery. The permittee must provide advance notification to NMFS of the expected experimental fishery operating schedule to allow for assignment and placement of an observer aboard the permitted vessels. Detailed logs on the fishing operations must be maintained and submitted to NMFS.

Further details or a copy of the permit may be obtained from the Director of the Northeast Region at the above address.

(16 U.S.C. 1801 *et seq.*)

Dated: August 15, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-18810 Filed 8-19-86; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Senior Executive Service; Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the National Telecommunications and Information Administration Senior Executive Service (SES) Performance Appraisal System:

Harold G. Kimball
Dennis R. Connors
Linda A. Townsend
Carol R. Emery
Richard D. Parlow
William D. Gamble
Larry Eads
Robert J. Mayher
Francis S. Urbany
William F. Utlaut
Roger K. Salaman
Charles M. Rush
Neal B. Seitz
Jimmie D. Brown

Edward A McCaw,

Executive Secretary, Performance Review Board, National Telecommunications and Information Administration.

[FR Doc. 86-18737 Filed 8-19-86; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Staged Entry Periods Established for Certain Cotton Textile Products Produced or Manufactured in Turkey

August 15, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority

contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 21, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On May 30, June 18, and June 27, 1986, notices were published in the **Federal Register** (51 FR 19590, 22106 and 23458) announcing thirty-day periods for staging the entry and withdrawal from warehouse for consumption in the United States of women's, girls' and infants' cotton coats and cotton knit shirts in Categories 335 and 339 and men's and boys' cotton shirts in Category 340, produced or manufactured in Turkey. CITA has decided, inasmuch as the thirty-day levels are no longer needed, to cancel further legal entry for these categories. Accordingly, in the letter which follows this notice the Chairman of CITA cancels the directives to the Commissioner of Customs of May 27, June 13 and June 24, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive cancels the directives of May 27, June 13, and June 24, 1986 which directed you to stage entry into the United States during specified thirty-day periods of cotton textile products in Categories 335, 339 and 340, produced or manufactured in Turkey, effective on August 21, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–18762 Filed 8–15–86; 2:43 pm]

BILLING CODE 3510-DR-M

Exemption for Certain Handloomed Textile Products Produced or Manufactured in India

August 15, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 20, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

In consultations held pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended and extended, between the Governments of the United States and India, the United States Government agreed to permit entry and withdrawal from warehouse for consumption in the United States until December 31, 1986 of certain handloomed textile products in Categories 360–369 (except Category 363), 464–469 and 665–669, produced or manufactured in India, regardless of the date of export, which have been certified exempt by the Government of India, even though the goods may contain some machine stitching. Products imported on and after January 1, 1987 will require the appropriate export visa in order to be entered.

Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to permit entry of the aforementioned products through December 31, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 15, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended and extended, between the Governments of the United States and India, I request that, effective on August 20, 1986 and until December 31, 1986, you permit entry of certain handloomed textile products in Categories 360–369 (except Category 363), 464–469 and 665–669, produced or manufactured in India, regardless of the date of export, which have been certified exempt by the Government of India, but which may contain some machine stitching.

Products in the foregoing categories, imported on and after January 1, 1987 which contain any machine stitching, will require an export visa in order to be entered or withdrawn from warehouse for consumption in the United States.

The Committee for the Implementation of Textile Agreement has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–18761 Filed 8–15–86; 2:43 pm]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

Pursuant to section 9355, Title 10, United States Code, the Air Force Academy Board of Visitors will meet at the Air Force Academy, Colorado Springs, Colorado, September 18–20, 1986. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

This meeting will be closed to the public to discuss matters analogous to those listed in subsections (2), (4), and (6) of section 552b(c), Title 5, United States Code. These closed sessions will include: attendance at cadet classes and panel discussions with groups of cadets and military staff and faculty officers involving personal informaton and opinions, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. Closed sessions will also include executive sessions involving discussions of personal information, including financial information, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Meeting sessions will be held in the Superintendent's Conference Room, Harmon Hall, USAF Academy.

For further information, contact Major Randall R. Cantrell, Headquarters, U.S.

Air Force (DPPA), Washington, DC 20330–5060, at (202) 697–7116.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 86–18741 Filed 8–19–86; 8:45 am]

BILLING CODE 3910–01–M

Performance Review Boards; List of Members

Below is a list of additional individuals who are eligible to serve on the Preformance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Air Staff

BG Richard E. Carr
MG Sloan R. Gill
BG Frank S. Goodell
John R. Graham
Joseph C. Ksycewski
Charles R. Torpy

Air Force Systems Command

MG Vincent L. Luchsinger
LG George L. Monahan, Jr.

Air Force Logistics Command

BG Gary H. Mears
BG John M. Nowak
Philip P. Panzarella
Steve N. Smith

Others

John A. Kline.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–18742 Filed 8–19–86; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Military Traffic Management Command, Military Personal Property Claims Symposium; Cancellation of Open Meeting

The Military Personal Property Claims Symposium scheduled for 28 August 1986, published in the **Federal Register**, August 11, 1986 (51 FR 28741), has been canceled.

If you have questions, contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1530 hours.

Dated: 15 August, 1986.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer with the Federal Register.

[FR Doc. 86–18721 Filed 8–19–86; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Expansion of the Alcatraz Disposal Site (SF–11) in San Francisco Bay, CA

AGENCY: Army Corps of Engineers Defense.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action is the expansion of an existing Bay disposal site located near Alcatraz Island in San Francisco Bay, California in accordance with the Clean Water Act, within the following corner coordinates:

37°49'32" W	122°25'6"
37°49'32" W	122°24'51"
37°49'17" W	122°25'6"
37°49'17" W	122°24'51"

The site, once designated, could be used for disposal of material dredged in San Francisco Bay which meets the criteria for bay disposal as described at 40 CFR Part 230. The proposed action would allow the disposal of coarse-grained material, such as sandy sediments, or material that can not be readily dispersed. The expended site would supplement the use of the existing Alcatraz disposal, site which has experienced material accumulation from non-dispersive type materials.

2. *Alternatives.* The following alternatives are being considered. Baseline data on the proposed site is now being collected.

a. No action alternative.

b. Designation of another open-water, bay site.

c. Use of other existing bay sites.

d. Designation of an ocean site.

e. Upland disposal

3. *Scoping.* Federal, state and local agencies, and interested private organizations and individuals are invited to submit written comments on the proposed action within 30 days of the publication of this notice to the Chief, Environmental Branch, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California 94105 (ATTN: Mr. Les Tong, SPNPE–R). A public scoping meeting will be held in the Presidio Theater on Wednesday, September 13, 1986, at one o'clock to discuss issues raised during the 30-day review period.

4. *Important Issues.* The following issues have been identified as significant, and will be addressed in the DEIS:

Biotic resources
Sediment transport
Sediment characteristics
Navigational safety
Water quality and depth
Feasibility of monitoring
Consistency with Coastal Zone Regulations
Distance from dredging sites
Areas of concentrated commercial fishing
Areas of potential minerals management
Areas of military importance
Cultural resources

5. The DEIS is scheduled to be issued in May 1987.

6. Questions about the proposed action and DEIS can be directed to Mr. Les Tong at (415) 974–0440 or FTS 454–0440.

Dated: August 15, 1986.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer with the Federal Register

[FR Doc. 86–18727 Filed 8–19–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Deaf-Blind Children and Youth Program Grants Availability; Correction

AGENCY: Department of Education.

ACTION: Correction: Application Notice for new awards under the services for Deaf-Blind Children and Youth Program for fiscal year 1987.

SUMMARY: This notice corrects an error made in the application notice published on August 6, 1986, in 51 FR 28258. The correct closing date is December 8, 1986 for the following programs: Technical Assistance to State and Multi-State Projects (84.025C), Technical Assistance for Transitional Services (84.025E), and Dissemination of Information—Services for Deaf-Blind Children and Youth (84.025G).

FOR FURTHER INFORMATION CONTACT: Charles Freeman, Severely Handicapped Branch, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Rm. 3511, Switzer Building), Washington, DC 20202. Telephone: (202) 732–1165.

Program Authority: 20 U.S.C. 1422.

(Catalog of Federal Assistance No. 84.025, Services for Deaf-Blind Children and Youth)

BEST COPY AVAILABLE

Dated: August 15, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-18715 Filed 8-19-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

DEPARTMENT OF DEFENSE

Federal Energy Regulatory Commission

Corps of Engineers

[FERC Project No. 5251-001; COE No. W-D-050-03-3541]

Joint Notice of Public Meeting

Notice is hereby given that a public meeting will be held on Tuesday, 23 September 1986, to receive comments on a Draft Environmental Impact Statement (DEIS) prepared on a hydroelectric and water supply project proposed for construction by the City of Fort Smith, Arkansas on Lee Creek at stream mile 3.2, Crawford County, Arkansas. The meeting will be held at 7 p.m. in the Van Buren High School Cafeteria, Van Buren, Arkansas. A map showing the location of the high school is not be printed in the **Federal Register**, but is available from the Commission's Division of Public Reference, Room 1000, 825 North Capitol St., N.E., Washington, DC 20406.

The purpose of the public meeting is to provide an opportunity for any and all persons to give statements and provide information on the content of the DEIS. The information presented at the meeting will be considered by the Federal Energy Regulatory Commission (FERC) and the Little Rock District of the U.S. Army Corps of Engineers (COE) in rendering final decisions on the regulatory actions currently before them on the proposed project. FERC's regulatory authority is pursuant to the Federal Power Act (16 U.S.C. 791(a)–825(r)) and COE's regulatory authority is pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344). FERC is the lead agency on preparation of the DEIS and COE is acting as a cooperating agency.

The location and general plan for the applicant's proposed work are not being printed in the **Federal Register**, but are available from the Commission's Division of Public Reference, Room 1000, 825 North Capitol St., NE., Washington, DC 20406.

The purpose of the work is to construct a concrete ogee-overflow dam for public water supply and hydroelectric generation for the city of Fort Smith and surrounding areas. The ogee section of the dam would be approximately 1,000 feet long and 34 feet in height above the streambed. The west abutment end section would have a top elevation of 440.0 feet mean sea level (m.s.l.), as would the powerhouse. The raw water intake station at the east end would have a top elevation of 480.0 feet. Dam and reservoir data are listed below:

Top of Dam—Ogee Section	420 m.s.l.
Spillway Crest Elevation	420 m.s.l.
Lake Area at Elevation 420	634 acres.
Municipal Pool Elevation	420 m.s.l.
Sediment Pool Elevation	407 m.s.l.
Lake Area at Elevation 407	376 acres.
Drainage Area	279,040 acres.
Sediment Storage	1,403 acre-feet.
Floodwater Storage	0 acre-feet.
Municipal Storage	5,715 acre-feet.
Firm Net Yield of Water Supply.	10 m.g.d.

The DEIS has been prepared for the project by FERC pursuant to the National Environmental Policy Act of 1969. The statement describes the hydroelectric potential of the project and its alternatives, the 10 m.g.d. water supply source alternatives considered, the environmental impacts of all reasonable 10 m.g.d. alternatives including the applicant's proposed alternative and the potential for future development of each 10 m.g.d. alternative. Some of the principal environmental issues considered in the statement are land use and geology changes, water quality and aquatic community changes both in the reservoir and upstream, terrestrial community changes, the effects on archeological and historical resources, and the implications of future expansion of the 10 m.g.d. water supply.

Copies of the statement are available for review at the following locations:

City of Fort Smith, AR Library, 61 South 8th Street, Fort Smith, Arkansas 72901

City of Little Rock, AR Library, 700 Louisiana Street, Little Rock, Arkansas 72201

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426

U.S. Army Corps of Engineers, Little Rock District, Permits Branch, Room 5138, Federal Building, 700 West Capitol, Little Rock, Arkansas 72201, Contact: Mr. Jerry Harris, 501–378–5298

Van Buren Public Library, 111 North 12th, Van Buren, Arkansas 72910

Sallisaw City Library, 101 East Cherokee, Sallisaw, Oklahoma 74955

Westark Community College, Learning Resources Center, Fort Smith, Arkansas 72913.

FERC will preside at the meeting. Any person may submit oral or written statements concerning the DEIS. The presiding officer shall have the discretion to establish reasonable limits upon the time allowed for statements. A meeting file will be established and available for public inspection. The file will include a verbatim report of the meeting and all written statements, charts, tabulations, and similar data offered, subject to exclusion for reasons of redundancy. Written statements or informational materials for inclusion in the record, including documentary materials, may be presented during the meeting or mailed to FERC, 825 N. Capitol St. NE., Washington, DC 20426, or District Engineer, Little Rock District COE, ATTN: Permits Branch, P.O. Box 867, Little Rock, Arkansas 72203–0867. Any written submissions should contain the FERC and OCE numbers listed at the head of this notice. Any person may present written statements for the meeting files for a period of 15 days following the meeting, after which time the meeting record will be closed to additional public comments.

Copies of this notice are furnished to all known interested parties. Copies are also furnished to newspapers and radio and TV stations with advice that the information may be used as a news story. Postmaters, public officials, cooperatives, trade associations, union locals, and similar addressees are requested to post the notice in an appropriate place for public review.

All persons receiving a copy of this notice are requested to advise other parties they believe to be interested about the time, place, date, and purpose of the public meeting.

Interested parties may purchase a copy of the transcript of the meeting. Copies will be available from the Corps at the above address within 30 to 45 days after the meeting. Persons ordering copies of the transcript will be charged reproduction costs for each copy.

Dated: August 15, 1986, Washington, DC.

Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission.

Robert W. Whitehead,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86-18717 Filed 8-19-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA86-1-63-002]

Carnegie Natural Gas Co.; Filing

August 15, 1986.

Take notice that on Augusts 13, 1986, Carnegie Natural Gas Company (Carnegie) tendered for filing Substitute First Revised Sheet No. 47 and Substitute First Revised Sheet No. 48 to its FERC Gas Tariff, First Revised Volume No. 1. Carnegie requests that these sheets be substituted for the First Revised Sheet No. 47 and First Revised Sheet No. 48 that were filed on August 1, 1986. Carnegie states the reason for the substitution is that its primary gas pipeline supplier, Texas Eastern Transmission Corporation filed a further reduction to its commodity rates, which reduction has the effect of reducing the commodity portion of Carnegie's LVWS rate and LVIS rate by $.09.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR §§ 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18806 Filed 8-19-86;8:45am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-24-000, 001]

Equitable Gas Company, a Division of Equitable Resources, Inc.; Proposed Change in Rates

August 15, 1986.

Take notice that on August 1, 1986, Equitable Gas Company, a Division of Equitable Resources, Inc. (Equitable) tendered for filing Ninth Revised Sheet No. 6f to its FERC Gas Tariff, First Revised Volume No. 1. Equitable requests an effective date of September 1, 1986 for the sheet. According to § 381.103 (b)(2)(iii) of the Commission's regulations (18 CFR 381.103 (b)(2)(iii)) the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 11, 1986. Equitable states that the change in rates results from the application of the purchased gas cost rate adjustment provision in section 6 of its Rate Schedule GS-1.

Copies of this filing have been served upon the purchaser, interested state commissions, and all parties on the service lists in Docket Nos. CP79-290, RP79-69 and RP79-49.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18807 Filed 8-19-86;8:45am]

BILLING CODE 6717-01-M

[Docket No. RP86-113-001]

Gas Transport, Inc.; Compliance Filing

August 15, 1986.

Take notice that on July 15, 1986, Gas Transport, Inc. (Gas Transport) tendered for filing First Revised Sheet No. 5 to its FERC Gas Tariff, First Revised Volume No. 1. Gas Transport states this sheet is filed in compliance with the Commission's order issued June 30, 1986, which required that Gas Transport refile Original Sheet No. 5 to reflect variable costs in the minimum rates for both firm and interruptible service. In its original filing, Gas Transport was unable to identify any variable costs with the exception of retainage. However, to cover any possible variable costs which have not been identified (*i.e.*, "out-of-pocket" costs), Gas Transport has established a nominal charge of 1¢ per MMBtu as the minimum rate as shown on First Revised Sheet No. 5.

On August 13, 1986, Gas Transport filed a Petition For Waiver Of Filing Fee. Previously, on July 29, 1986, Gas Transport filed a Request For Rehearing, Or In The Alternative, Motion For Waiver, in which it asked the Commission to eliminate the requirement to file a revised Sheet No. 5 or alternatively, to waive the provisions of its June 30, 1986 order to the extent necessary to allow Gas Transport to continue rendering transportation services until it could make one filing encompassing all of the necessary changes to its tariff filing. As yet, the Commission has not acted on the July 29, 1986 pleading. If the Commission grants the relief sought, the July 15, 1986 filing would become moot and the need for a filing fee eliminated. Gas Transport also states that because it is a small interstate pipeline, the $3,400 filing fee represents a significant cost.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC. 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18808 Filed 8-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-41-000, 001]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

August 15, 1986.

Take notice that SOUTHWEST GAS CORPORATION (Southwest) on August 8, 1986, tendered for filing Thirty-first Revised Sheet No. 10 pursuant to Section 9, Purchased Gas Adjustment Clause (PGAC), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect a decrease in rates occasioned by a decrease in rates from Northwest Pipeline Corporation, Southwest's sole supplier of gas in northern Nevada, effective August 1, 1986. Southwest has requested that its filing become effective

VOL 51 ISS 161 AG 20 1986 UMI

August 1, 1986, concurrent with Northwest's approved rate reduction.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before Augfust 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 18809 Filed 8-19-86; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. RP86-9-003]

Southwest Gas Corp.; Compliance Filing

August 15, 1986.

Take notice that on August 8, 1986, Southwest Gas Corporation (Southwest) tendered for filing Revised Substitute Twenty-ninth Revised Sheet No. 10 and Second Substitute Thirtieth Revised Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1, in compliance with the Commission's July 23, 1986, letter order which approved the stipulation and agreement in Docket No. RP86-9-000.

Southwest states that effective April 1, 1986, it began charging its FERC jurisdictional customers at the settlement rates. Pursuant to the terms of the settlement agreement, said rates were made effective March 1, 1986. Therefore, Southwest is required to make refunds for the period March 1, 1986 through March 31, 1986. Southwest will submit its refund report to the Commission, and in compliance with the Commission's aforementioned letter order, Southwest will make a one-time refund with interest computed in accordance with the Commission's rules and regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18810 Filed 8-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-625-000, et al.]

Natural Gas Certificate Filings; Consolidated Gas Transmission Corp. et al.

August 15, 1986.

Take notice that the following filings have been made with the Commission

1. Consolidated Gas Transmission Corp.

[Docket No. CP86-625-000]

Take notice that on July 16, 1986, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP86-625-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add an additional delivery point to Pennzoil, Exploration and Production Company (Pennzoil) under Consolidated's Rate Schedule X-50, as more fully set forth in the application which is on file with the Commission and open to public inspection.

The Commission issued Consolidated's blanket certificate authorization in Docket No. CP82-537 by order dated November 3, 1982.

On March 13, 1984, Consolidated filed a request in Docket No. CP84-300-000 for authorization to exchange gas with Pennzoil pursuant to an October 31, 1983, exchange agreement. The Commission order issued July 19, 1984, in Docket No. CP84-300-000 authorized Consolidated and Pennzoil to perform the exchange. The exchange agreement appears as Rate Schedule X-50 in Consolidated's Original Volume No. 2 of its FERC Gas Tariff and Pennzoil's Rate Schedule No. 10.

On January 17, 1986, Consolidated commenced an emergency exchange service with Pennzoil under Part 157 Subpart C of the Commission's Regulations. Consolidated states that it filed an initial report of commencement of service on January 21, 1986, and filed a request on February 27, 1986, to extend the service through May 16, 1986. Pennzoil represented that the service was necessary in order to supply approximately 500 consumers that Pennzoil serves in the Lincoln County, West Virginia, area.

Consolidated anticipates that this emergency situation will continue. Consolidated states that the availability of gas at this delivery point is necessary to maintain adequate line pressure for peak deliveries during the winter. Accordingly, Consolidated and Pennzoil have agreed to provide for the additional delivery point on a permanent basis under the exchange agreement.

No change in volumes or terms is anticipated. Since the deliveries would be made under their exchange agreement on a gas-for-gas basis, no rate would be charged for the service. The new delivery point located at Consolidated's Griffith Station in Duval District, Lincoln County, West Virginia.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. El Paso Natural Gas Co.

[Docket No. CP86-649-000]

Take notice that on August 1, 1986, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-649-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations. El Paso requests that the Commission waive its regulations to the extent necessary to grant El Paso until 10 days following a final Commission order on rehearing in El Paso's filing in Docket No. RP86-45-000 to decide whether to accept or reject a blanket certificate issued in this proceeding.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Kern River Gas Transmission Co.

[Docket No. CP85-552-001]

Take notice that on July 25, 1986, the Public Utilities Commission of the State of California (CPUC), 5066 State Building, San Francisco, CA 94102, filed in Docket No. CP85-552-001 a petition pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order to resolve uncertainties concerning Kern River Gas Transmission Company's (Kern River) proposed facilities in Docket No. CP85-552-000.

The CPUC alleges that Kern River is proposing to construct certain distribution facilities within the State of California. The CPUC has notified this Commission that it will require Kern River to apply and receive a certificate of public convenience and necessity from the CPUC before it may begin the construction of facilities related to, and before it may engage in, the local distribution of natural gas in California. The CPUC alleges that once the gas has been transported to Kern County, there is no way that Kern River can deliver it to the customer without engaging in a local distribution function or employing a local distribution facility. The CPUC claims that every piece of equipment and gas plant employed in a local distribution function and every connection to the interstate transmission facility, alteration in the interstate transmission facility, agreement or authorization to another person to connect to or alter the interstate transmission facility, and every other action which facilitates locally the ultimate delivery of the gas to a local distribution or end-user, fall within the purview of the state's authority under section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)). The CPUC requests that the Commission issue a declaratory order making clear that this limited assertion of state jurisdiction is fully consistent with section 1(b) of the Natural Gas Act.

Comment date: September 5, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. K N Energy Inc.

[Docket No. CP86-643-000]

Take notice that on July 31, 1986, K N Energy, Inc. (K N), Post Office Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP86-643-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to make a sale-for-resale of natural gas to Public Service Company of Colorado (PSCo) and to construct and operate certain facilities necessary to effectuate the proposed sale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, K N proposes to sell natural gas, on a firm basis, to PSCo at an initial volume of 25,000 Mcf of natural gas per day and 3,193,750 Mcf of natural gas for the fiscal year beginning October 1, 1986; 30,000 Mcf per day and 3,832,500 Mcf for the fiscal year beginning October 1, 1987; and 40,000 Mcf per day and 5,110,000 Mcf beginning October 1, 1988 through 1996 and year-to-year thereafter. K N states that it intends to deliver gas for PSCo to its wholly-owned, intrastate affiliate, Colorado Gas Transmission Corp. (CGT) at a to-be-established interconnection with CGT in Weld County, Colorado. K N asserts that CGT would then transport gas on behalf of PSCo to an interconnection with Western Gas Supply Company (West Gas), a wholly-owned intrastate affiliate of PSCo, for ultimate redelivery by West Gas to PSCo. K N proposes to charge PSCo the applicable rates under Rate Schedules SF-1 and IOR-1 of K N's FERC Gas Tariff, Third Revised Volume No. 1

K N also proposes to construct and operate a tap, meter station and appurtenant facilities at the proposed interconnection with CGT and make certain modifications to the piping at its Huntsman Compressor Station to allow gas to flow west from the station. K N states that the estimated cost of these facilities is $103,000 which cost would be met from internally generated loans or from interim bank loans which at a later date may be funded through a security issue.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP86-653-000]

Take notice that on August 6, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-653-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate six small volume measurement stations to accommodate natural gas deliveries to six non-right-of-way grantors served by the local distribution company, Peoples Natural Gas Company (Peoples) under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to install, operate and maintain six small volume measurement stations as follows:

End-user	Distributor	Location	End-use
Buffalo Dunes Golf Course.	Peoples	Sec. 19, Twp. 35, Rge 32, Finney Co., KS	Commercial Heat.
Al Dewey	Peoples	Sec. 9, Twp. 23S, Rge 32W, Finney Co., KS	Irrigation.
Urban Kuennen	Peoples	Sec. 31, Twp. 92N, Rge 8W, Fayette Co., IA	Residential Heat & Crop Dryer.
City of Madison Sewage Plant.	Peoples	Sec. 27, Twp. 118N, Rge 44W, LacQui Parle Co., MN	Commercial Heat.
Raymond Moore	Peoples	Sec. 34, Twp. 17N, Rge 3E, Butler Co., NE	Residential Heat.
Matt Smith	Peoples	Sec. 31, Twp. 85N, Rge 17W, Marshall Co., IA	Residential and Crop Dryer.

Northern states that deliveries to these small volume measurement stations would be made within the existing firm entitlement of Peoples.

Northern also states that installation of the proposed measurement facilities will be financed in accordance with Paragraph 2 of the General Terms and Conditions of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and the letter agreements between Northern and Peoples. It is stated that the estimated cost to install the proposed small volume measurement stations is $12,639. Peoples will be required to contribute $8,092 in aid of construction.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP86-658-000]

Take notice that on August 7, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-658-000, a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct

one delivery point and appurtenant facilities to accommodate natural gas deliveries to the communities of Montrose and Waverly, Minnesota, under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the distributor, Western Gas Utilities, Inc. (Western) would deliver the gas to Montrose and Waverly to be used for residential and commercial heating. Northern indicates that Western for the first year, would serve Montrose and Waverly from the firm entitlement designated to Watertown and Delana, Minnesota. It is explained, that the expansion of natural gas service anticipated for the 1987/1988 heating season, would require the purchase by Western of an incremental firm entitlement, commensurate with the peak day needs of Montrose and Waverly, and that such increases in entitlement would be the subject of future and separate application. The estimated peak day and annual volumes to be sold through the proposed facilities would amount to 1,011 Mcf and 107,621 Mcf, respectively, in the fifth year.

Northern states that Montrose and Waverly are currently using #2 fuel oil as their primary energy source and are located within Western's service area, but have franchise with Western for natural gas service in order to utilize a more economical and convenient fuel.

The total cost to construct the facilities is estimated to be $73,500, and Western would not be required to make any contribution, it is stated.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Co.

[Docket No. CP86-645-000]

Take notice that on July 31, 1986, Panhandle Eastern Pipe line Company (Applicant), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-645-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis on behalf of Amoco Production Company (Amoco), and granting authority to the Applicant to report annually additional points of receipt, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that pursuant to a transportation agreement dated July 24, 1986 (Agreement), Applicant has agreed to transport up to 45,000 Mcf of natural gas per day on an interruptible basis on behalf of Amoco. It is further stated that Applicant would receive gas for Amoco's account at one hundred and sixty five points of receipt presently attached to Applicant's Wattenberg Gathering System in Adams and Weld Counties, Colorado. All such transport gas would be released by Applicant and would be gas which is certificate deregulated under section 601 of the Natural Gas Policy Act of 1978 (NGPA) or permanently or temporarily abandoned under section 7(b) of the Natural Gas Act. Applicant avers that it would receive Mcf-for-Mcf take-or-pay relief for all volumes transported pursuant to the proposal.

Applicant states that it would redeliver volumes to Amoco, at the existing meter located at the inlet flange of Amoco's Gas Processing Plant located at the terminus of Applicant's Wattenberg Gathering System. Applicant further requests authority to add or delete existing receipt points from the Agreement as may be required from time to time for gas that is certificate deregulated under section 601 of the NGPA. Applicant proposes to file annually such revisions to Exhibit C of the Agreement which reflect the addition and deletion of receipt points under the Agreement. Such filing would be submitted to the Commission pursuant to Part 154 of the Regulations.

Applicant states that the term of the proposed service is five years from the date of the first delivery and continuing month to month thereafter unless either party terminates the Agreement by giving thirty days written notice to the other party. It is further stated that Amoco would pay Applicant a unit transportation charge of 27.80 cents per Mcf.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Southern Natural Gas Co.

[Docket No. CP86-638-000]

Take notice that on July 25, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-638-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain facilities, with no abandonment in service, and for authority to construct, install and operate certain other facilities at the delivery point, under the certificate issued in Docket No. CP-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that Alabama Gas Corporation (Alagasco) provides natural gas service in the city of Oak Grove, Alabama, and surrounding areas by purchases it makes from Southern at the measuring station referred to as the Oak Grove delivery point (Oak Grove) in the currently effective Exhibit A to the service agreement between Southern and Alagasco dated September 19, 1969. Although Exhibit A provides that Southern would deliver gas to Alagasco at Oak Grove at a delivery pressure of 150 psig, the measurement facilities have a maximum allowed operating pressure of 100 psig and deliveries of gas at Oak Grove have historically been made at or below that pressure.

In order to have the capability to make deliveries at the contract pressure authorized for Oak Grove, Southern proposes to abandon the metering and regulating facilities and to construct, install and operate replacement metering and regulating facilities, all located at Oak Grove delivery point on Southern's 24-inch North Main Line and Loop Line in Jefferson County, Alabama. Southern states that the replacement facilities would have a design maximum allowed operating pressure of 175 psig, which would facilitate the contract delivery pressure of 150 psig; however, there would be no increase in the Oak Grove contract demand quantity of 294 Mcf per day and no significant impact on Southern's peak-day and annual deliveries, it is stated. Southern indicates that the total estimated cost of the abandonment and subsequent construction and installation is approximately $37,000. Southern further states that it would not propose an increase in Alagasco's requirements under Southern's curtailment plan as a result of sales through the replacement facilities.

Comment date: September 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

9. Southern Natural Gas Co.

[Docket No. CP86-644-000]

Take notice that on July 31, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-644-000 an application pursuant to section 7(c) of the Natural Gas Act for limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for United Cities Gas Company (United Cities), the Utilities Board of the City of Phenix City (Phenix City), the City of Union Springs,

Alabama (Union Springs), and Southeast Alabama Gas District (Southeast Alabama), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests a limited-term certificate of public convenience and necessity authorizing it to transport gas on behalf of United Cities, Phenix City, Union Springs and Southeast Alabama, acting as agents in arranging for the transportation of natural gas supplies for Columbus Mills, Inc. (Columbus Mills), in accordance with the terms and conditions of a transportation agreement between United Cities and Southern dated June 13, 1986 (United Cities Agreement), a transportation agreement between Phenix City and Southern dated July 7, 1986 (Phenix City Agreement), a transportation agreement between Union Springs and Southern dated July 9, 1986 (Union Springs Agreement), and a transportation agreement between Southeast Alabama and Southern dated July 10, 1986, (Southeast Alabama Agreement). Southern states that Columbus Mills has entered into gas sales contracts dated April 14, 1986, to purchase natural gas from SNG Trading Inc. (SNG Trading) in order to serve the natural gas requirements of its plants in Columbus, Georgia and Phenix City, Union Springs, and Eufaula, Alabama. It is said that in order to effectuate delivery of the gas purchased, Columbus Mills has entered into separate agreements with the agents wherein the agents have agreed to transport through their facilities the gas purchased by Columbus Mills to its plants, and in conjunction therewith, to obtain as agent for Columbus Mills the transportation of said gas through Southern's pipeline system.

It is stated that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to 3.7 billion Btu equivalent of gas per day purchased by Columbus Mills from SNG Trading. Southern requests that the Commission issue a limited-term certificate for a term expiring one year from the date of the Commission's order issuing the requested authorization.

The Agreements, it is said, provides that the Agents would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F to the Application. Southern states that it would redeliver to United Cities at the Columbus Area Delivery Point, to Phenix City at the Phenix City area Delivery Point located in Russell County, Alabama, to Union Springs at the Union Springs Meter Station located in Macon County, Alabama, and to Southeast Alabama at the Southeast Alabama Gas District Meter Station-Highway 169 Gate, Lee County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Agent's pro-rata share of any gas delivered for Agent's account which is lost or vented for any reason.

Southern states that United Cities, Phenix City and Southeast Alabama has agreed to pay Southern each month, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to the particular Agent under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to such Agent do not exceed the daily contract demand of such Agent, the transportation rate shall be 39.9 cents per billion Btu equivalent; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to the particular Agent under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to such shipper exceed the daily contract demand of such Agent, the transportation rate for the excess volumes would be 64.9 cents per billion Btu equivalent.

Union Springs has agreed to pay Southern a transportation rate of 64.9 cents per billion Btu equivalent of gas redelivered by Southern.

Southern also requests flexible authority to provide transportation from additional delivery points in the event Columbus Mills obtains alternative sources of supply of natural gas. The additional transportation service, it is said, would be to the same redelivery point, the same recipients, and within the maximum daily transportation volumes of gas as stated in the application. Southern indicates that it would file a report providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangement would enable Columbus Mills to diversify its natural gas supply sources and to obtain gas at competitive prices. It is said that Columbus Mills has the installed capability to utilize fuel oil and has advised Southern that unless it is able to obtain the transportation services requested by Southern, it would switch to fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus, it is alleged that to the extent the transportation service proposed would enable Columbus Mills to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining the Columbus Mills load. In addition, it is said that Southern would obtain take-or-pay relief on the gas Columbus Mills may obtain from its suppliers.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

10. Southern Natural Gas. Co.

[Docket No. CP86-654-000]

Take notice that on August 6, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-654-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for Atlanta Gas Light Company (Atlanta), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests a limited-term certificate of public convenience and necessity authorizing it to transport gas on behalf of Atlanta, acting as agent in arranging for the transportation of natural gas supplies for Southwire Company (Southwire), in accordance with the terms and conditions of a transportation agreement between Atlanta and Southern dated July 21, 1986 (Agreement). Southern states that Southwire has entered into gas sales contracts dated August 5, 1985, to purchase natural gas from Entrade Corporation (Entrade) in order to serve the natural gas requirements of its plant in Carrollton, Georgia. It is said that in order to effectuate delivery of the gas purchased, Southwire has entered into an agreement with Atlanta dated July 14, 1986, wherein Atlanta has agreed to transport through its facilities the gas purchased by Southwire to its plant, and in conjunction therewith, to obtain as agent for Southwire the transportation of said gas through Southern's pipeline system.

It is stated that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to

4 billion Btu equivalent of gas per day purchased by Southwire from Entrade. Southern requests that the Commission issue a limited-term certificate for a term expiring one year from the date of the Commission's order issuing the requested authorization.

The agreement, it is said, provides that Atlanta would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F to the Application. Southern states that it would redeliver to Atlanta at the Carrollton Meter Station, Carrollton County, Georgia, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Atlanta's pro-rata share of any gas delivered for Atlanta's account which is lost or vented for any reason.

Southern states that Atlanta has agreed to pay Southern each month, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate shall be 48.2 cents per billion Btu equivalent; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta exceed the daily contract demand of Atlanta, the transportation rate for the excess volumes would be 77.6 cents per billion Btu equivalent.

Southern also requests flexible authority to provide transportation from additional delivery points in the event Southwire obtains alternative sources of supply of natural gas. The additional transportation service, it is said, would be to the same redelivery point, the same recipient, and within the maximum daily transportation volumes of gas as stated in the application. Southern indicates that it would file a report providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangement would enable Southwire to diversify its natural gas supply sources and to obtain gas at competitive prices. It is said that Southwire has the installed capability to utilize fuel oil and has advised Southern that unless it is able to obtain the transportation services requested by Southern, it would switch to fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus, it is alleged that to the extent the transportation service proposed would enable Southwire to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining the Southwire load. In addition, it is said that Southern would obtain take-or-pay relief on the gas Southwire may obtain from its suppliers.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

11. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket Nos. CP75-23-026, CP75-120-019]

Take notice that on July 30, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP75-23-026 and CP75-120-019 a petition to amend the certificates issued March 7, 1977 in Docket Nos. CP-75-23 and CP75-120, as amended, pursuant to section 7(c) of the Natural Gas Act so as to add receipt points for deliveries of gas from Tenneco Oil Company (TOC) uncommitted interest in two blocks offshore Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to add new receipt points as its Meter No. 1-1706 in Main Pass Block 69 (MP 69) and at its Meter No. 0-0653 in South Marsh Island Block 160 (SMI 160), offshore Louisiana. It is stated that TOC would make deliveries of gas from its MP 75 source directly to Tennessee at the MP 69 receipt point and that TOC would also make deliveries from its SMI 160 source to Tennessee at Tennessee's SMI 160 receipt point. TOC's SMI 160 gas received at this new point would be transported and exchanged at various offshore interconnections with United Gas Pipe Line Company (United), Sea Robin Pipeline Company (Sea Robin) and/or Columbia Gulf Transmission Company (Columbia Gulf), it is asserted.

Tennessee proposes to charge TOC a transportation rate of 13.04 cents and 7.31 cents per dth of gas transportation from the MP 75 and SM 160 receipt points, as filed under Tennessee's Rate Schedules T-43 and T-44, respectively.

Tennessee indicates that its obligation to receive the gas for further transport from the new SMI 160 receipt point is subject to United, Sea Robin and Columbia Gulf obtaining certificate authorization to transport such gas.

Comment date: September 5, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

12. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket NO. CP86-646-000]

Take notice that on July 31, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon its T-66 transportation service for Mid Louisiana Gas Company (Mid Louisiana) to be effective June 1, 1986, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that it was authorized to render the subject transportation service for Mid Louisiana in Docket No. CP78-131. Tennessee states that the service was necessary to enable Mid Louisiana to receive volumes of natural gas produced in Plaquemines Parish, Louisiana. It is further explained that the service proposed to be abandoned involved the receipt and transportation by Tennessee of up to 4,000 Mcf of natural gas per day from reserves located in Plaquemines Parish, Louisiana, which Mid Louisiana purchased from Louisiana Land and Exploration Company. The application contains a letter dated May 22, 1985, whereby Mid Louisiana has informed Tennessee of its election to terminate the transportation arrangement effective 12 months from the date of such letter. Tennessee requests an effective date of June 1, 1986, so that Mid Louisiana will not be liable for minimum bill charges after the month Mid Louisiana requested the service to terminate.

Comment date: September 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214)

and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18718 Filed 8-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-578-000]

Northwest Pipeline Corp.; Informal Settlement Conference

August 13, 1986.

Take notice that an informal settlement conference will be convened in this proceeding at 10:00 a.m. on August 26, 1986, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The purpose of the informal settlement conference is to consider the application filed by Northwest Pipeline Corporation on June 20, 1986, pursuant to sections 7(c) and 7(b) of the Natural Gas Act and to ascertain the extent to which the issues raised by Northwest's application can be resolved by the participants at an early date. Notice of the application was issued on July 11, 1986.

In its application, Northwest requests an Order No. 436 blanket certificate authorizing it to transport natural gas for others under proposed new rate schedules. Northwest's proposal to implement transportation rates and conditions applicable to Order No. 436 is conditioned upon certain modifications to its existing tariff. Northwest also requests authorization, to the extent required, for partial abandonment of its firm sales delivery obligations. A preliminary review of Northwest's application indicates that an informal settlement conference would be beneficial and could lead to a significant refinement in Northwest's application and narrowing of the issues. By convening this conference, the Commission is not determining whether the application as filed complies entirely with Order No. 436.

Parties to this proceeding and Commission Staff are invited to attend; however, attendance will not confer party status. Persons wishing to become parties must file a motion to intervene pursuant the Commission's Rules of Practice and Procedure 18 CFR 385.214 (1985)) and have their motion granted.

For additional information, contact John P. Roddy or William J. Collins at (202) 357-8560.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18705 Filed 8-19-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Order Implementing Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Order implementing modified departmental policy for restitution of crude oil overcharges.

SUMMARY: The Order confirms the intention of the Office of Hearings and Appeals to apply the modified DOE policy for restitution of crude oil overcharges which was issued in connection with the settlement of the DOE Stripper Well Exemption Litigation, MDL No. 378 (D. Kan.). The modified policy specifies the process to be used for restitution of crude oil overcharges. Under the policy, 20 percent of crude oil overcharges in escrow at DOE will be set aside to satisfy claims for restitution, and 80 percent will be disbursed to the state and federal governments for indirect restitution. Claims for restitution by injured parties will be accepted by OHA pursuant to 10 CFR Part 205, Subpart V. The OHA intends to apply DOE's modified policy in all present and future Subpart V proceedings involving alleged crude oil violations.

DATE AND ADDRESS: Comments and objections must be filed on or before September 19, 1986 with the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Applications for refund may also be filed at the same address.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2094 (Mann); 252-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: On July 7, 1986, the United States District Court for the District of Kansas approved a final Settlement Agreement in the Department of Energy Stripper Well Exemption Litigation, MDL No. 378 (D. Kan.). Paragraph IV.B.1. of the Agreement requires the Department of Energy (DOE) to modify the Statement of Restitutionary Policy Concerning Alleged Crude Oil Violations issued on June 21, 1985 (50 FR 27400; July 2, 1985) (hereinafter referred to as the "1985

VOL 51 ISS 161 AG 20 1986 UMI

policy statement"). Accordingly, the DOE has issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges on July 28, 1986. 51 FR 27899 (August 4, 1986) (hereinafter referred to as the "MSRP"). The MSRP announces a modified refund process for restitution of crude oil overcharges utilizing the special refund procedures codified at 10 CFR Part 205, Subpart V. Under the modified refund process, DOE will reserve 20 percent of crude oil overcharge funds to satisfy valid claims and disburse 80 percent of the funds to the state and federal governments for indirect restitution. Under this process, the Office of Hearings and Appeals (OHA) will accept and process refund applications from persons who claim they were injured by crude oil overcharges. After all valid claims are paid, unclaimed funds will be divided equally between the state governments and the federal government. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

This notice announces that the OHA intends to apply the MSRP in all crude oil refund proceedings, whether pending now or filed in the future. Consequently, the portion of a previous order issued by the OHA on June 21, 1986, 50 FR 27402 (1985), that is inconsistent with this notice is revoked. Under the portion of the order that is not revoked, OHA will continue to fund entitlements exception relief receive orders from the overcharge funds. Under the terms of the Settlement Agreement, receive orders funded after the approval of the Agreement will be paid from monies that would otherwise accrue to the DOE.

I. Background

The 1985 policy statement arose from the remedy phase of the Stripper Well Exemption Litigation. On September 13, 1983, the United States District Court for the District of Kansas had remanded the remedial phase of that litigation to the OHA for findings of fact concerning the impact of the crude oil overcharges involved. *In re The Department of Energy Stripper Well Exemption Litigation*, 578 F.Supp. 586 (D. Kan. 1983). In addition, the court had requested DOE's suggestions regarding an appropriate restitutionary plan. On December 30, 1983, the OHA published a Federal Register Notice concerning the fact-finding referral, which discussed the background of the litigation and invited public comment on all aspects of the referral, including the impact of the overcharges and possbile refund distribution mechanisms. 48 FR 57808. In response to the Notice, the OHA received over one hundred comments.

On May 9, 1984, the OHA published another Notice in the Federal Register, announcing that it would hold an evidentiary hearing on the feasibility of tracing the impact of the overcharges. 49 FR 19718. That hearing was held over a period of 22 days, between June and October 1984. Sixty-four public and private entities, representing thousands of members, participated actively in the hearing. Following the hearing, the OHA began analyzing the record of nearly 13,000 pages of written and oral testimony that had been developed, in order to prepare its report to the District Court.

On May 7, 1985, the District Court issued an order which clarified the manner in which the fact-finding report from OHA was to be submitted. *In re Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan., May 7, 1985) (order denying motion to expedite issuance of OHA's report). The court ordered the OHA to issue its findings of fact on the tracing and impact of the overcharges in one separate report. However, the court also recognized that the DOE's position on the utility of further efforts by the OHA and a recommended plan of restitution was a matter of agency policy, and directed that these concerns be addressed in a second report.

On June 21, 1985, the DOE filed its report with the District Court in Kansas. The OHA Report concluded that it was generally impossible to trace the overcharges through any particular refiner's marketing system. However, based on the econometric evidence in the record, the OHA determined that refiners as a class absorbed between 2.7 to 8.1 percent of the crude oil overcharges, and that the remainder was passed on to the petroleum distribution network. *See* Report of the Office of Hearings and Appeals, *In Re Department of Energy Stripper Well Exemption Litigation*, CCH Fed. Energy Guidelines, Par. 90,507 (June 19, 1986). The second part of the report was the 1985 policy statement, which recommended to the court that restitution to parties injured by crude oil overcharges should not be attempted, and that the stripper well overcharges be placed in escrow until Fall 1986 to afford the Congress of the United States the opportunity to select the means of making indirect restitution. If Congress declined to act, DOE's policy was that the monies should be paid into the general fund of the United States Treasury.

Also on June 21, 1985, the OHA issued an Order Implementing Departmental Policy. That order announced that OHA intended to apply the 1985 policy statement to refund proceedings involving other crude oil overcharge funds representing entitlements period crude oil miscertification violations being administered under the authority of 10 CFR Part 205, Subpart V. 50 FR 27402 (July 2, 1985). As a practical matter, adoption of the 1985 policy statement by OHA resulted in a moratorium on the processing of claims for restitution which had already been submitted in crude oil Subpart V refund proceedings. The sole use that the 1985 policy statement authorized for crude oil overcharge funds under Subpart V was for the payment of refiners with adjudicated final "receive orders" arising from the entitlements program. The OHA's order provided a period of 30 days for: (i) The filing of claims based on receive orders; and (ii) the filing of objections to implementation of the 1985 policy statement.

On October 2, 1985, the OHA issued a decision which considered the receive order payment claims and objections to the 1985 policy statement that were filed in response to the July 2, 1985 Federal Register Notice. *Amber Refining, Inc.*, 13 DOE Par. 85,217 (1985). In that determination, OHA rejected the challenges which had been lodged against the application of the 1985 policy statement to pending crude oil Subpart V refund proceedings. *Id.* at 88,567. With respect to the receive order claims, the *Amber* decision determined that certain valid claims should be granted, and directed that they be paid with crude oil overcharge funds held in a DOE escrow account. *Id.* at 88,567–74. Under this order, OHA will continue to fund entitlements exception relief receive orders from the overcharge funds. Under the terms of the Settlement Agreement, receive orders funded after the approval of the Agreement will be paid from monies that would otherwise accrue to the DOE.

II. The Stripper Well Settlement

The finding in the OHA Report that refiners as a class absorbed a specified range of the crude oil overcharges became part of the basis for a comprehensive settlement of that case, which also resolved two related matters: The debate over what policy should govern restitution in other crude oil overcharge cases, and the litigation over the termination of the Entitlements Program. In the present determination, we are concerned only with the impact of the Settlement Agreement on DOE's restitutionary policy in the crude oil overcharge area. The Agreement, as well as the MSRP, states that the DOE will utilize the current Subpart V refund regulations, without amendment, to permit individuals and firms to apply for

refunds. This will be accomplished by reserving 20 percent of the funds available to satisfy claims, and disbursing 80 percent of the funds to the state and federal governments for indirect restitution. The Agreement further requires that any funds remaining after all valid claims have been paid will be divided equally between the state governments and the federal government for indirect restitution.

A. Individual Claims for Restitution

The MSRP has now modified the 1985 policy statement to provide that the policy of DOE is to process applications for refunds pursuant to existing Subpart V regulations. It further states that in such administrative proceedings involving Alleged Crude Oil Violations, OHA will continue to require that each claimant demonstrate that it has been injured by the alleged violation and that it should therefore receive a refund. The MSRP goes on to state that OHA will not accept claims on behalf of classes, associations or trade groups. The modified policy further provides that a claimant may seek to prove injury through the use of econometric evidence of the type that was submitted in the Stripper Well evidentiary proceedings before the OHA, and that OHA may use the findings contained in its report to the District Court in that litigation. Finally, the MSRP is to be applied by OHA in all pending and future Subpart V cases involving crude oil.

B. Indirect Restitution to State and Federal Governments

The modified policy specifies that all funds which are not needed to satisfy individual claims for restitution will be distributed 50 percent to state governments, and 50 percent to the DOE for deposit in the general fund of the U.S. Treasury. Under Paragraph IV.B.6. of the settlement agreement, OHA may reserve up to 20 percent of the crude oil overcharge funds in Subpart V proceedings to satisfy claims filed by injured parties who have not waived thier claims by electing to take shares of the special escrow accounts set up for their benefit. It is anticipated that the Settlement Agreement will resolve, by payment from the stripper well funds and accompanying waivers, the majority of claims of individual purchasers of crude oil or refined petroleum products, and the 20 percent reserve, which is subject to downward adjustment, should therefore be more than sufficient to pay claimants. The remaining percentage of the crude oil overcharge funds not reserved for payment of claims will be distributed to the state and federal governments for indirect restitutionary purposes.

III. Application of the Modified Policy in Subpart V Cases

The OHA intends to apply the modified crude oil restitutionary policy described above to all pending and future Subpart V cases. The refund proceedings currently pending before the OHA to which the MSRP applies are listed in the Appendix to this order. Objections to the application of the MSRP may be filed on or before September 15, 1986. We will also welcome comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. Applications for Refund may now be filed. It is not necessary to file applications in each of the refund proceedings listed in the appendix; only one application for a refund from crude oil overcharges should be filed. However, we are not establishing a filing deadline at this time. After we consider the comments that are filed in response to this notice, we will establish further procedures to process refund applications in crude oil refund proceedings.

We expect that many potential claimants in the oil industry itself—refiners, resellers and retailers—will waive their claims for crude oil refunds in Subpart V proceedings and elect instead to take refunds under one of the escrow funds established under the settlement. In addition, most members of certain groups of petroleum product consumers who are participating in the settlement can also be expected to waive their Subpart V rights: surface transporters (buses, trucks and taxis), water transporters, railroads, airlines and oil burning electric utilities. However, other large consumers of petroleum products that are not covered by one of escrow accounts established under the settlement are now in a position to file claims. It is likely on the basis of existing OHA precedent in the refund area that refunds made ot successful claimants will be calculated according to a volumetric method, in which the amount of money available will be appropriated over all gallons of product sold. *See* 48 Fed. Reg. 57608 (1983). It is also likely that small consumers will not receive refunds, since any refunds they receive will be smaller than the cost of processing their applications. We seek comments on the appropriateness of applying these procedents in crude oil refund proceedings.

In view of the foregoing, any party that believes it was injured by crude oil overcharges may file an application of refund with the Office of Hearings and Appeals. No deadline for filing claims is being established at this time. In order to expedite implementation of the Department's new MSRP for crude oil overcharges, any person alleging that it is adversely affected by this order must file any objection on or before September 15, 1986. We also seek comments regarding appropriate procedures to follow in these cases.

Dated: August 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX.—NOTICE OF ORDER IMPLEMENTING MODIFIED STATEMENT OF RESTITUTIONARY POLICY CONCERNING CRUDE OIL OVERCHARGES

Name of case	Consent order No.	OHA case No.
Adams Resources and Energy	610C00431Y	BEF-0055
Adco Producing Co. Inc	422C00261Z	HEF-0313
Alkek, Albert B	602X00222Y	DFF-0002
Allerkamp, Ernest E	610C00201Z	HEF-0489
Alpar Resources Inc	600C20046Z	HEF-0314
Alta Loma Oil Co	675C00292Y	BEF-0068
Amax Petroleum Corp	422C00064Z	HEF-0315
Amcole Energy Corp	600C20060Z	HEF-0585
American Pacific Internat	940C00112Z	HEF-0316
Aminoil USA	610C00458Z	HEF-0317
Aminoil USA Inc	740V01315Z	HEF-0229
An-Son Corp	660C00531Y	HEF-0004
Andrus Interests/Affiliat	650X00340Z	HEF-0486
Arizona Fuel Corp	N00S98067Z	HEF-0463
Armour Oil Company	940X00179Z	HEF-0278
Armstrong Petrl/City/Newp	960C00023W	KEF-0041
Atlantic Oil Co	960C00046Z	HEF-0318
Atlantic Oil Corp	810C00252Z	HEF-0319
Atlantic Richfield Co	RARH00001Z	HEF-0591
Axis Petroleum Co	940C00181Z	HEF-0320
B&M Operating	600C20078Z	HEF-0321
Barnhart Company	640C00402Z	HEF-0322
Barton, A.I.	6A0X00298Z	HEF-0279
Bass Enterprises Producti	6D0C00090Z	HEF-0323
Baxter, Murphy H	6E0C00031Z	HEF-0324
Bayou/IDA	641S00396Z	HEF-0202
Beebe, J.S	6C1C00206Z	HEF-0505
Belco Petroleum	240C00002Z	HEF-0325
Benson-Montin-Greer Drill	740C01253Y	BEF-0087
Berg, Laney, & Brown	740C01250Z	HEF-0326
Berry Holding Company	910C00059Z	KEF-0027
Beta Development Co	673C00290Y	BEF-0006
Bettis, Boyle & Stovall	600C20047Z	HEF-0327
Beverly Hills Oil Co	940C00142Z	HEF-0328
Big Lane Co	422C00187Z	HEF-0329
Big Six Drilling Co	6E0C00037Z	HEF-0330
Big-Tex Crude Oil Co	6A0X00303Z	HEF-0280
Blackwood & Nichols Co	560C00668Z	HEF-0331
Bock & Bacon	6E0C00061Z	HEF-0332
Bolin Oil Co	600C20048Z	HEF-0333
Brown Oil Operator	6E0C00036Z	HEF-0334
Brownlie, Wallace, Armstrong	810C00362Z	HEF-0564
BTA Oil Producers	672C00182Y	HEF-0083
Buxton, F.M.	660C00506Z	HEF-0335
C&K Petroleum, Inc	610C00439Z	HEF-0336
C N Operation	733C02015Z	HEF-0337
Cajun Energy	650X00322Z	HEF-0281
Calvin Petroleum Corp	810C00378Y	HEF-0003
Cauthorn Oil	640C00056Z	HEF-0338
Centurs, Inc	610C00477Z	HEF-0339
Century Oil Management, Inc	960C00067Z	HEF-0340
Claire-Benz-Stoddard	6A0C00259Z	HEF-0341
Clark & Clark	660C00622Y	BEF-0084
Coastal Corp	RCLE00501Y	BFF-0006
Cobra Oil & Gas Corp	600C20051Z	HEF-0342
Coffield Pipeline Co	650X00295Z	HEF-0282
Commanche Oil Co	740C01374Z	HEF-0343
Connally Oil Co	6A0C00133Y	BEF-0062
Conoco, Inc	RC0A00002Y	HEF-0484
Cooper & Brain, Inc	640C00029Z	HEF-0344
Coors Energy	6C0X00252A	HEF-0283
Coral Petroleum	602X00004Y	BEF-0031
Cordele Operating Co	600C20052Z	HEF-0565
Cotton Petroleum Corp	6C0C00213Z	HEF-0456

APPENDIX.—NOTICE OF ORDER IMPLEMENTING MODIFIED STATEMENT OF RESTITUTIONARY POLICY CONCERNING CRUDE OIL OVERCHARGES—Continued

Name of case	Consent order No.	OHA case No.
Cox, Jim	660C00412Z	HEF-0345
Cross Oil & Refining Co	N00S80114Z	HEF-0464
Crysen Corporation	940X00234Z	HEF-0498
Crystal Oil Co	641C00380Y	BEF-0019
Culpepper Oil	660C06444Z	HEF-0348
Cummings, Douglas R	670C00225Y	BEF-0058
Da Vinci Co., Inc	6C0X00250Z	HEF-0294
Decatur International	930C00073Z	HEF-0347
Delta Drilling	6A0C00120Y	BEF-0044
Depco, Inc	810C00377Z	HEF-0348
Diamond Shamrock Corp	675S00011Y	BEF-0076
Diamond Shamrock Corp	N00S80124Z	HEF-0466
Dolley, Chester F	960C00048Z	HEF-0349
Duggan Machine	6A0C00295Z	HEF-0350
Dunlap, E. Corp	660C00439Z	HEF-0351
Earth Resources	N00S80097Z	HEF-0468
Eddy Refining Co	N00S98093Z	HEF-0467
Edwards Producing Co., Inc	422C00248Z	HEF-0352
El Paso Natural Gas Co	660C00646Z	HEF-0353
Elm City Filling Stations	N00M90030Z	HEF-0468
Encorp, Inc	620X00291Z	HEF-0285
Energy Acquisition	740C01404Z	HEF-0354
Energy Development of Cal	940C00131Z	HEF-0355
Energy Reserves Group	740C01203Z	KEF-0037
Energy Services, Inc	720C00577Z	HEF-0356
Engle Enterprise & R. Young	6C0X00300Z	HEF-0286
Enserch Corp	6A0C00180Y	BEF-0045
Equipment, Inc	640C00327Z	HEF-0357
Exchange Oil & Gas	640C00426Z	HEF-0358
Farmers Union Central Exc	740C01249Z	HEF-0359
Ferguson Oil & Gas Co	660C00582Z	HEF-0360
Fletcher Oil	N00S80203Z	HEF-0469
Florida Gas Exploration Co	413C00021Z	HEF-0361
Flying Diamond Oil Corp	640C00127Z	HEF-0490
Forgotson, James M	640C00312Y	BEF-0043
Forney, Bill, Inc	610C00473Z	HEF-0362
Franks Petroleum	641S00421Z	HEF-0208
Franks, John	6A0C00294Z	HEF-0363
Freeport Minerals Co	640C00224Z	HEF-0364
GCO Minerals Co	NGCP00001Z	HEF-0570
Gear Tank Trucks, Inc	6A0X00287Z	HEF-0287
General Exploration Co	610C00441Z	HEF-0365
Ginther, N.C	6E0C00039Y	BEF-0059
Golden Eagle Oil Co	N00M87704Z	HEF-0470
Gonsoulin Energy Corp/Ind	640X00634Z	HEF-0288
Grace Petroleum Corp	660C00633Z	HEF-0366
Granier Oil Co	960C00034Y	BEF-0015
Grisby Oil & Gas	641C00011Z	KEF-0035
Gruenerwald & Assoc	640C00063Y	BEF-0262
Guam Oil & Refining Co	N00S80096A	HEF-0471
Guenther	802X00862BY	DFF-0004
Gulf Energy Development	610C00418Z	HEF-0568
Gulf Oil Corp	RGFA00001Z	HEF-0590
Hankamer, Curtis	610C00474Z	HEF-0367
Hanover Mgmt. Co	6A0C00230Z	HEF-0368
Haring	610C00406Y	BEF-0075
Harris, James W	422C00201Z	HEF-0289
Hassie Hunt Exploration Co	6A0C00256Z	HEF-0370
Hawn Brothers	610C00050Z	HEF-0371
Hawthorne Oil & Gas Corp	640C00314Z	HEF-0372
Hendrix, John H. Corp	670C00268Y	BEF-0040
Henry H. Gungoll, Assoc	660C00387Z	HEF-0572
Hewitt & Dougherty	610C00117Z	HEF-0373
Hixon Dev. Co	610C00388Y	BEF-0016
HNG Oil Co	610C00329Z	HEF-0374
Hollingsworth, C.D	422C00195Z	HEF-0375
Homestake, Prec. Co	960C00639Y	BEF-0074
Houston Oil & Minerals Co	640C00400Z	HEF-0376
Howell Drilling Inc	610C00253Z	HEF-0377
Hudson & Hudson	720C00597Z	HEF-0378
Huffington Inc	6E0C00038Z	HEF-0379
Hunt Oil Co	6A0C00008Z	HEF-0380
Hunt, D.H	N00C00779Z	HEF-0381
Hunt, W.H	6A0C00244Z	HEF-0382
Independent Oil Producers	940X00159Z	HEF-0290
Inland Crude Purchasing Co	6C0X00256Z	HEF-0291
Int'l Petrol Ref & Su	6C0X00242Z	KEF-0010
Intermorth, Inc	730W02550Z	HEF-0256
J.N. Abel, Inc	610C00286Z	KEF-0034
Johnson A. and Co. Inc	N00S80007Z	HEF-0472
Johnson, Lyle & Lee	660C00315Z	HEF-0384
Josey, Lenoir M	6E0C00063Z	HEF-0385
Juniper Petroleum Corp	660C00091Z	HEF-0579
Kalama Chemical Inc	N00S80047Z	HEF-0007
Kansas-Nebraska Natural	730W01244Z	HEF-0257
Karchmer Pipe & Supply	572C00179Z	HEF-0386

APPENDIX.—NOTICE OF ORDER IMPLEMENTING MODIFIED STATEMENT OF RESTITUTIONARY POLICY CONCERNING CRUDE OIL OVERCHARGES—Continued

Name of case	Consent order No.	OHA case No.
Kastman/Fern Parks Cons	6C0C00256Z	HEF-0432
Kemco & Kenneth Walker	N00X00233Z	HEF-0292
Kent Oil & Trading Co	940X00232Z	HEF-0578
Kimbark Oil & Gas	810C00384Z	HEF-0387
Kirkpatrick Oil & Gas Co	660C00437Z	HEF-0388
Kirkpatrick Oil & Gas Co	670C00224Y	BEF-0061
Kite Operating Co	660C00492Y	BEF-0057
Lacy, R. Inc	6A0C00229Z	HEF-0389
Lacy, R. Inc	6A0X00263Z	HEF-0294
Lakeside/Crystal Refin	540S00278Z	HEF-0214
Landsea Oil Co	940X00220Z	HEF-0573
Langham Petroleum & Dev	640X00433Z	HEF-0295
Lasbacs Oil	710C01303Z	HEF-0390
Liberty Oil & Gas Co	6A3C00294Y	BEF-0062
Lindsey, W.W. & Elliott W	433C00466Z	HEF-0391
Lobo Oil Corp	670C00271Z	HEF-0392
Loeb, Herman L	572C00260A	HEF-0393
Lundell's Inc	610C00339Y	BEF-0013
Lyons Petroleum Inc	641C00426Z	HEF-0394
Mabee Petroleum Corp	670C00295Y	BEF-0066
Machin, Art	600C20090Z	HEF-0295
Mackellar Inc	660C00246Z	HEF-0396
Macmillan Ring-Free Oil	960S00053Z	HEF-0506
Mallard Resources	N00S90125Z	HEF-0474
Mapco	660C00625Z	HEF-0577
Marathon Petroleum Co	FMNA00001Z	KEF-0021
Marob Energy Corp	670C00242Y	BEF-0052
Marion Corp	N00S90643Z	HEF-0475
Marion Corporation	N00S90136Z	KEF-0030
Marshall Pipe and Supply	600C20088Z	HEF-0397
MCBO Oil Company	940C90141Z	HEF-0396
McCormick Oil	6E0C00026Z	HEF-0389
McCullogh Oil	940C00118Y	BEF-0028
McFarland Energy	960C00022Y	BEF-0023
Mctan Corp	6A0X00286Z	HEF-0576
Meason Optg. Co	422C00249Z	HEF-0400
Mertz, Bruce	572C00260B	HEF-0401
Mesa Petroleum Corp	675C00246Z	HEF-0402
Michaelson Producing Co	670C00214Y	BEF-0063
Michaux, Frank W	6E0C00028Y	BEF-0020
Mid-Plains, Petroleum Co	6C0X00311Z	HEF-0297
Milam	572C00221Y	BEF-0090
Milinda Oil Co	640C00105Y	HEF-0001
Mitchell, William	572C00260D	HEF-0403
Mobley, O.B	640C10000Z	HEF-0499
Moncriet, W.A. Jr	6A0C00134Z	HEF-0404
Moor & Miller	660C00577Z	HEF-0405
Mosbacher Production Co	610C00457Z	HEF-0406
Mosbacher Production Co	610C00435Z	HEF-0407
Mountain Fuel Supply Co	920C00185Z	HEF-0408
Mt. Fuel Supply	920C00215Z	KEF-0025
Mustang Fuel Corp	6C0X00238Z	HEF-0296
National Coop Refinery AS	740C01298Z	HEF-0409
Natomas North America	6D0C00047Y	BEF-0067
Nevada Refining Co	N00S98002Z	HEF-0476
New York Petroleum Corp	640C00247Y	HEF-0023
Newmont Oil Co	610C00430Y	BEF-0017
NFC Petroleum Corp	960C00609Z	HEF-0410
Nielson Enterprises Inc	810C00233Z	HEF-0411
North Central Oil	6E0C00064Z	HEF-0412
Northeast Nat. Gas	530C00103Z	HEF-0413
Northwest Pipeline	710W00015Z	HEF-0264
NRG Oil Com./Brock & Moor	650X00332Z	HEF-0300
O'Donnell Oil Co	940C00178Y	BEF-0035
Oil California Exploration	910C00107Z	HEF-0414
Olico	6C0X00293Z	HEF-0301
OKC Corp	6D0S00003Y	BEF-0032
OKC Corporation	N00S98080Z	HEF-0477
Osage Oil & Transportation	6C0X00215Z	HEF-0569
Oxnard Refining Co	N00S80075Z	HEF-0478
Panhandle Eastern Pipe	710W02003Z	HEF-0265
Panhandle Eastern Pipe	710W02005Y	BEF-0065
Park, Robert E	631C00051Z	HEF-0415
Parten	810C00304Y	BEF-0011
Partlow & Cochonour	572C00224Y	BEF-0091
Pauley Petroleum Inc	910C00127Z	HEF-0416
Pawnee Petroleum Corp	660C00306Z	HEF-0417
Payne Inc	960C00232Z	HEF-0418
Payne-Johnson & Byers	600C20089Z	HEF-0419
Pennzoil Co	RPNA00001Y	BEF-0072
Perry Gas Proc	670V00087Y	BEF-0046
Perta Oil	930H00088Z	HEF-0418
Petroleum Consulting Serv	6C0X00298Z	HEF-0303
Petroleum Corp. of Texas	6A0C00115Z	HEF-0420
Petrominerals Corp	6C0X00308Z	HEF-0304
PGP Gas Products	570V00086Y	BEF-0010

APPENDIX.—NOTICE OF ORDER IMPLEMENTING MODIFIED STATEMENT OF RESTITUTIONARY POLICY CONCERNING CRUDE OIL OVERCHARGES—Continued

Name of case	Consent order No.	OHA case No.
Phillips Oil Operating Co	960C00316Z	HEF-0421
Phillips, B.F	6A0C00232Z	HEF-0422
Phillips, Loyce (Estate)	6D0C00061Z	HEF-0423
Phoenix Resources	640C00077Y	BEF-0068
Prudential	500C20084Z	HEF-0424
Pyro Energy Corp	610C00052Z	HEF-0569
Quintana Petroleum Corp	610C00122Y	BEF-0060
Quintin Little Co	660C00458Y	BEF-0024
Riddle Oil Co	610C00394Z	HEF-0425
Roark & Hooker	610C00463Z	HEF-0426
Robinson Energy	740C01415Z	HEF-0427
Rocky Petroleum	533C00273Y	BEF-0071
Rollert-Waddell	610C00397Y	BEF-0064
Rose, Hubert	572C00199Z	HEF-0428
Ross Production	641C00219Z	HEF-0429
Rupe Oil Company	740C01267Z	HEF-0430
Ryder Truck Rental Inc	6A0X00276Z	HEF-0305
Santa Fe Energy Products	640X00448Z	HEF-0306
Sater, Ronald E	572C00260C	HEF-0431
Sauder, Earl W	710C01109Z	HEF-0432
Saxon Operating/Oil Co	670C00311Z	KEF-0028
Search Drilling Co	740C01331Z	HEF-0433
Secor Petroleum Co	6C0X00229Y	HEF-0307
Seminole Refining	411S00023Z	HEF-0221
Shawnee Oil & Gas	660C00409Y	BEF-0039
Shenandoah Oil Corp	6A0C00139Z	HEF-0434
Siegfried R.H. Inc	740C01380Z	HEF-0435
Signal Petroleum	640C00266Z	HEF-0437
Southern Crude Oil Resource	6A0X00314Z	HEF-0495
Southern Union	673S00339Z	HEF-0223
Southern Union/Midland-LE	6A0X00325A	HEF-0308
Southland Drilling & Produc	6C0C00020Z	HEF-0438
Southland Royalty Co	660C00054Z	HEF-0562
Standard Oil Co. of Indiana	RAMA00010Y	BEF-0007
Standard Oil Company	RAMA0001AZ	HEF-0562
Stevens Oil Co	720C00587Z	HEF-0439
Summit Trans Co. & Marvin	992X00002Y	BEF-0053
Sundance Oil Co	810C00007Z	HEF-0440
Superior Oil Co	610C00442Z	HEF-0441
T-C Oil Co	610C00118Y	BEF-0047
Tauber Oil Co	650X00304Z	HEF-0309
Texas American Petrochemical	6C0X00267Z	HEF-0310
Texas Oil & Gas	6D0C00039Z	HEF-0442
Texas Pacific Oil Co	600C00104Z	HEF-0496
Texas Recovery Co	6A0C00105Z	HEF-0443
Texland Petroleum	600C20081Z	HEF-0444
Timco Oil Company	940C00147Z	KEF-0006
Tipperary Oil & Gas	670C00264Y	BEF-0018
Toco Corp	810C00321Z	HEF-0445
Todd & Saunders	600C20088Z	HEF-0446
Transpec Petroleum Inc	940C00186Z	HEF-0447
Travelers Oil Co	740C01254Z	HEF-0448
Twin Montana	6A0C00240Z	HEF-0449
Twin Montana, Inc	6A0C00243A	HEF-0450
TX, AK, CO, OK Oil Purcha	6A0X00258Z	KEF-0038
TXO Oil Co	6A0X00297Z	HEF-0311
U.S.A. Petroleum Corp	660S00083Z	HEF-0500
Union Oil of California	RUNA00002Z	KEF-0004
Union Texas Petroleum	610C00435Y	BEF-0025
Vallecitos Oil Co	610C00044Z	HEF-0451
Van Horn, James M	940C00259Z	HEF-0452
Varn Petroleum Co	610C00036Z	HEF-0453
Vaughn Petroleum Inc	610C00440Y	BEF-0012
Venture Trading Co	940X00161Z	HEF-0312
Virginia Dare Oil Co	940C00146Z	HEF-0454
Wadsworth Oil Co	6E0C00035Z	HEF-0455
Wall, Earl E	640C00295Z	HEF-0456
Westates Petroleum	940C00066Z	HEF-0457
Western Avenue Properties	940C00053Z	HEF-0458
Westland Oil Development	922X00005Y	BEF-0021
Williams Exploration	N00C00760Z	HEF-0459
Wilshire Oil Co. of Texas	660C00485Z	HEF-0460
Windfohr Oil	6D0C00083Z	HEF-0461
Windsor Gas Corp	6E0C00034Z	KEF-0002
Woods, Dalton J	640C00265Z	HEF-0462

[FR Doc. 86-18748 Filed 8-19-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-36125; FRL-3067-3]

Pesticide Registration Standards; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Registration Standards.

SUMMARY: This notice announces the availability of Registration Standard documents for certain pesticides. EPA is making available a document for each of the pesticides describing the Agency's regulatory conclusions and actions for those pesticides whose reviews have been completed or the draft Registration Standard for those whose review has not yet been completed. All Registration Standards listed in this notice are available immediately in the public docket for inspection and copying. Completed Registration Standards are available from the National Technical Information Service (NTIS).

ADDRESSES: Published Registration Standards may be purchased from the NTIS at the following address: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650).

Orders may be placed by telephone to the NTIS order desk and charged against a deposit account or American Express, VISA, or MasterCard, or sent by mail with check, money order, or account number.

The public dockets for these Registration Standards and indices to the public dockets are available for inspection and copying, from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays, at the following address: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Concerning NTIS availability, by mail:

Nancy Hemming, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716–B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2126).

Concerning the public docket, or to request indices to the public docket or draft Registration Standards, by mail contact:

Frances S. Mann, Information Services Branch, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2805).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency conducts a systematic review of pesticides to determine whether they continue to meet the criteria for registration under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That review culminates in the issuance of a Registration Standard, a document describing the Agency's regulatory conclusions and positions on the continued registrability of the pesticide. Final or draft Registration Standards for the pesticides listed in this notice are available.

For each published Registration Standard desired, the order should specify the title of the document, the corresponding NTIS order number, and whether hard copy or microfiche is desired. The NTIS order number is the same for hard copy and microfiche, but the price differs. All microfiche copies are $5.95 each; the price for hard copies differs according to the length of the document. To obtain the current hard-copy price, please contact NTIS before ordering. Registration Standards are available for the following pesticides:

Name	NTIS order No.
Acephate	(1)
Alachlor	PB 86–179835/AS
Aldicarb	PB 84–207653
Aliette (Fosetyl-Al)	PB 84–208584
Aluminum Phosphide	PB 82–137514
4-Aminopyridine (Avitrol)	PB 84–209907
Amitraz	(1)
Ammonium Sulfamate	PB 82–133570
Anilazine	PB 84–168301
Asopon	PB 84–206549
Atrazine	PB 84–149541/AL
Barium Metaborate	PB 84–168376
Benomyl	(1)
Bentazon	PB 86–159653/AS
Bolster (Sulprofos)	PB 82–133646
Brominated Salicylanilides (3-5-Dibromo)	PB 86–168150/AS
Butoxicarboxime (Plantpin)	PB 82–177585
Captan	PB 85–181674
Carbaryl	PB 84–232852
Carboxin	PB 82–132994
Chloramben	PB 82–134347
Chlordimeform HCl	(1)
Chlorobenzilate	PB 85–197625
Chloroneb	PB 81–123804
Chloropicrin	PB 86–182094/AS
Chlorothalonil	PB 85–247245/AS
Chlorsulfuron (Glean)	PB 85–122505
Coumaphos	PB 82–133576
Cyanazine	PB 86–175096/AS
Cycloheximide	PB 84–211954
Cyhexatin	PB 86–173184/AS
DCNA	PB 84–210178
Deet	PB 81–277722
Demeton	PB 86–168820/AS
Dialifor	PB 82–133938
Diallate	PB 85–144814/AS
3,5-Dibromo (see BROMINATED SALICYLANILIDES).	
Dicamba	PB 84–243492
Dichlone	PB 81–207383
Dicofol	PB 84–160064
Dicrotophos	PB 82–204383
Diflubenzuron (Dimilin)	PB 86–178500/AS
Butylate	PB 85–147394/AS
Dioxathion	PB 85–245033/AS
Dipropetryn	PB 86–171147/AS
Disulfoton	PB 86–178167/AS
Diuron	PB 84–210327
Endosulfan	PB 82–243999
Ethion	PB 86–177565
Ethoprop	PB 84–210194
Ethoxyquin	PB 82–131416
Fenamiphos	PB 86–177573
Fensulfothion	PB 85–148963/AS
Fluchloralin	PB 86–178478/AS
Fonofos	PB 84–210186
Formetanate Hydrochloride	PB 84–141456
Fumarin	PB 81–123812
Heliothis NPV	PB 85–134399
Hyamine 3500	PB 85–159406/AS
Isopropalin	PB 82–131298
Landrin (see TRIMETHACARB)	
Lindane	PB 86–175114/AS
Linuron	PB 85–149011/AS
Magnesium Phosphide	PB 82–195777
Metalaxyl	PB 82–172297
Methomyl	PB 82–160736
Metolachlor	PB 81–123288
Metribuzin	PB 86–174216/AS
Monocrotophos	PB 86–173695/AS
Monuron	PB 82–201657
Monuron TCA	PB 84–100099
Naled	PB 84–158980
Naphthalene	PB 82–139437
Naphthaleneacetic Acid	PB 82–131145
Naptalam	PB 86–173661/AS
Nitrapyrin	PB 86–178488/AS
Norflurazon	PB 86–135159/AS
OBPA	PB 82–172271
Oryzalin	(1)
Paraquat	(1)
Pendimethalin	PB 86–172814/AS
Perfluidone	PB 86–173679/AS
Phosalone	PB 82–131731
Picloram	PB 86–173687/AS
Potassium Bromide	PB 86–106078/AS
Potassium Permanganate	PB 86–173135/AS
Propachlor	PB 86–174162/AS
Simazine	PB 84–212349
Sodium Omadine	PB 86–173929/AS
Sulfur	PB 86–102043/AS
Sulfuryl Fluoride	PB 86–173697/AS
Temephos	PB 82–140641
Terbacil	PB 85–120186
Terbufos	PB 84–210335
Terrazole	PB 81–126716
Thiophanate Methyl	(1)
Thiram	PB 85–102705
TPTH (Triphenyltinhydroxide)	PB 85–246797

VOL 51 ISS 161 AUG 20 1986 UMI

Name	NTIS order No.
Trichlorfon	PB 85-149300/AS
Trimethacarb (Landrin)	PB 86-169414/AS
Warfarin	PB 82-140716
Zinc phosphide	PB 85-102499
6-12	PB 81-234098

[1] Draft document sent out for public comment. Copies of draft document available from Frances S. Mann, Information Services Branch, address above.

Additional notices will be published in the **Federal Register** as other Registration Standards become available through NTIS.

Dated: August 11, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86-18757 Filed 8-15-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180698; FRL-3067-2]

Receipt of Application for an Emergency Exemption From Florida To Use Triflumizole; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Florida Department of Agriculture and Consumer Services (hereafter referred to as "Applicant") to use the pesticide triflumizole (CAS 68694-11-1) to treat 245 acres of nursery and greenhouse grown Spathiphyllum varieties to control Cylindrocladium root and petiole rot.

The Applicant proposes the use of a new chemical, therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATE: Comments must be received on or before September 4, 1986.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180698" should be submitted by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By Mail: Jim Tomkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of Terraguard 50W on *Spathiphyllum* spp. to control Cylindrocladium root and petiole rot.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. Triflumizole is not a currently registered chemical. The proposed use on Spathiphyllum is a non-food use.

The Applicant states that *Cylindorocladium spathiphylli* was introduced into Florida around 1977 by movement of infected plants from the tropics. Dissemination of the disease was easily accomplished by transfer of infected seedlings, and contaminated seeds and plants.

The Applicant states that research on efficacy has shown the registered alternatives to be less effective in controlling Cylindrocladium on Spathiphyllums than triflumizole. Benomyl provided the best control of the registered fungicide tested. However, benomyl applied at rates necessary to achieve control is phytotoxic to the plants and is not effective at rates low enough to avoid phytotoxicity.

The 1985 Florida foliage production was estimated to have a wholesale value of $272 million. Sales of Spathiphyllum are estimated to represent 10 percent of this value. Seventy-one percent of Spathiphyllum sold is produced by growers who are having problems with controlling Cylindrocladium. Spathiphyllum losses to Cylindrocladium are estimated to be 8 percent of the total crop value (about $1.8 million). Available methods of control are not expected to provide economic control next season.

The Applicant plans to treat up to 245 acres using 14,700 pounds of product (7,350 pounds active ingredient). Applications are proposed for a period of one year from the date of approval. Applications of 4 to 8 ounces of Terraguard 50W in 100 gallons of water will be applied as a soil drench or through chemigation every two to four weeks or as needed to Spathiphyllum grown in greenhouse, interiorscapes, or commercial nurserys.

This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the *Federal Register* of receipt of an application for a specific exemption proposing use of a new chemical (i.e. an active ingredient not contained in any currently registered pesticide). The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: August 8, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-18756 Filed 8-19-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59780; FRL-3067-9]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the

Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of five such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86–214, August 24, 1986.
Y 86–215, 86–216, 86–217 and 86–218, August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86–214

Importer. Dynamit Nobel Chemicals.
Chemical. (G) Saturated polyester resin of an aryl ester, aryl dicarboxylic acid, alkyl dicarboxylic acid and alkyl diol.
Use/Import: (S) Industrial sealant for side seams of cans. Import. range: 9,000 to 45,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–215

Importer. Confidential.
Chemical. (G) Polyamide copolymer.
Use/Import: (S) Textile adhesive. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–216

Importer. Confidential.
Chemical. (G) Polyether block polyamide copolymer.
Use/Import: (S) Molding resin and extrusion resin general purpose. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–217

Importer. Confidential.
Chemical. (G) Polystyrene acrylate.
Use/Import: (S) Prepare flexible paints and coatings. Import range: 100 to 400 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–218

Importer. Confidential.
Chemical. (G) Keytone resin.
Use/Import: (G) Additive to provide fluid loss reduction and additive for water retention. Import range: Confidential.
Toxicity Data. No data on PMN substance submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: August 11, 1986.

Denise Devoe,
Acting Division Director, Information Management Division.

[FR Doc. 86–18759 Filed 8–19–86; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51636; FRL–3067–8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of MAY 13, 1983 (48 FR 21722). This notice announces receipt of forty-four such PMNs and provides a summary of each.

DATES: Close of Review Period.

P 86–1461, 86–1462, 86–1463, 86–1464, 86–1465, 86–1466, 86–1467, 86–1468, 86–1469, 86–1470, 86–1471, 86–1472, 86–1473, 86–1474, 86–1475, 86–1476, 86–1477, 86–1478, 86–1479, 86–1480, 86–1481, 86–1482, 86–1483, 86–1484, 86–1485, 86–1486, 86–1487, 86–1488, 86–1489, 86–1490, 86–1491, 86–1492, 86–1493, November 3, 1986.
P86–1494, 86–1495, 86–1496, 86–1497, and 86–1498, and November 4, 1986.
P 96–1499, 86–1500 and 86–1501, November 5, 1986.
P 86–1502, 86–1503 and 86–1504, November 6, 1986.

Written comments by:

P 86–1461, 86–1462, 86–1463, 86–1464, 86–1465, 86–1466, 86–1467, 86–1468, 86–1469, 86–1470, 86–1471, 86–1472, 86–1473, 86–1474, 86–1475, 86–1476, 86–1477, 86–1478, 86–1479, 86–1480, 86–1481, 86–1482, 86–1483, 86–1484, 86–1485, 86–1486, 86–1487, 86–1488, 86–1489, 86–1490, 86–1491, 86–1492, and 86–1493, October 4, 1986.
P 86–1494, 86–1495, 86–1496, 86–1497, and 86–1498, October 5, 1986.
P 86–1499, 86–1500, and 86–1501, October 6, 1986.
P 86–1502, 86–1503, and 86–1504, October 7, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–51636]" and the specific PMN number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Ageny, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202) 382–3582.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86–1461

Importer. Naarden International U.S.A., Inc.
Chemical. (G) Anthranilic acid/ methyl ester, N–heteropolycyclic alkenyl substituted.
Use/Import. (S) Fragrance ingredient. Import. range: Confidential.
Toxicity Data. Acute oral: Non-toxic; Irritation: Skin-Not irritant, Eye-Slight; Ames test: Non-mutagenic.
Exposure. Processing: dermal, a total of 5 workers, up to 6 hrs/ day, up to 6 day/yr.
Environmental Release/Disposal. Less than 10 parts per million (ppm) released to air.

P 86-1462

Manufacturer. Confidential.
Chemical. (G) Metal (II), borate 2-ethylherxanoate complex.
Use/Production. (G) Bonding agent, open non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 26 workers, up to 8 hrs/days, up to 75 day/yr.
Environmental Release/Disposal. 10 kg/batch released to land.

P 86-1463

Manufacturer. Confidential.
Chemical. (G) Expoxy functional urethane.
Use/Production. (G) Site-limited polymer having dispersive industrial use. Prod. range: 50,000 to 613,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 33 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. 2.5 to 180 kg/batch released to land. Disposal by incineration.

P 86-1464

Manufacturer. Confidential.
Chemical. (G) Aliphthatic polyurethane polyester.
Use/Production. (S) Industrial, commercial and consumer general purpose coating 60% modifier for coatings, adhesives, and inks 40%. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/day, up to 10 day/yr.
Environmental Release/Disposal. No release.

P 86-1465

Manufacturer. Confidential.
Chemical. (G) Dithiophosphate amine salt.
Use/Production. (G) Consumptive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1466

Manufacturer. Confidential.
Chemical. (G) Substituted benzenesulfonyl chloride.
Use/Production. (G) Site-limited chemical intermediate consumed in the preparation of a commerical product. Prod. range: Confidential.
Toxicity Data. No data on PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1467

Manufacturer. Confidential.
Chemical. (G) Substituted benzenesulfonamide.
Use/Production. (G) A component of a vehicle used in a printing ink. Prod. range: Confidential.
Toxicity Data. Acute dermal: > 2.0 mg/kg; Irritation: Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1468

Manufacturer. Milliken Chemical.
Chemical. (G) Substituted phenyldiethanolamine.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1469

Manufacturer. Milliken Chemical.
Chemical. (G) Substituted phenylethanolamine.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1470

Manufacturer. Milliken Chemical.
Chemical. (G) (Substituted phenyl)-di-(polyoxyethylenepolyoxy-propylene)amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1471

Manufacturer. Milliken Chemical.
Chemical. (G) Chlorocarboheterocycleazo substituted phenyl-amino(hydroxyalkylpolyoxy alkylene).
Use/Production. (G) Colorant. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1472

Manufacturer. Confidential.
Chemical. (G) Reaction product of an aromatic acid and an amine.
Use/Production. (G) Molding compound additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1473

Manufacturer. Confidential.
Chemical. (G) Phosphoric acid, mono alkyl ester, compound with alkyl amine.
Use/Production. (G) Fuel/lube additive and hydrocarbon process anti-foulant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up to 9.5 hrs/da, up to 18 da/yr.
Environmental Release/Disposal. 12 kg/batch released to land with 32 kg/day to water.

P 86-1474

Manufacturer. Confidential.
Chemical. (G) Phosphoric acid, dialkyl ester, compound with alkyl amine.
Use/Production. (G) Fuel/lube additive and hydrocarbon process anti-foulant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up to 9.5 hrs/da, up to 18 da/yr.
Environmental Release/Disposal. 12 kg/batch released to land with 32 kg/day to water.

P 86-1475

Manufacturer. Confidential.
Chemical. (G) Phosphoric acid, mono alkyl ester, compound with alkyl amine.
Use/Production. (G) Fuel/lube additive and hydrocarbon process anti-foulant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up ot 9.5 hrs/da, up to 18 da/yr.
Environmental Release/Disposal. 12 kg/batch released to land with 32 kg/day released to water.

P 86-1476

Manufacturer. Confidential.
Chemical. (G) Phosphoric acid, dialkyl ester, compound with alkyl amine.
Use/Production. (G) Fuel/lube additive and hydrocarbon process anti-foulant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up to 9.5 hrs/da, up to 18 da/yr.
Environmental Release/Disposal. 12 kg/batch released to land with 32 kg/day released to water.

P 86-1477

Manufacturer. Confidential.
Chemical. (G) Hydroxypropyl acrylate, acrylic acid polymer, sodium salt.
Use/Production. (G) dispersant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1478

Manufacturer. Diversitech General.
Chemical. (G) Soya protein-styrene-butadiene terpolymer.
Use/Production. (S) Industrial and consumer binder for paper coatings. Prod. range: 1,360,000 to 2,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal, a total of 2 workers, up to 2 hrs/day, up to 200 day/yr.
Environmental Release/Disposal. Minimal release to water. Disposal by publicly owned treatment work (POTW).

P 86-1479

Importer. Confidential.
Chemical. (G) Aliphatic esters.
Use/Import. (G) Highly dispersive use. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1480

Manufacturer. E.I. duPont de Nemours and Company, Inc.
Chemical. (G) Halogenated substituted ethylene copolymer.
Use/Production. (G) Coatings, separators, barriers and insulators. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Mild; Skin Sensitization: Mild.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1481

Manufacturer. GAF Chemicals Corporation.
Chemical. (G) Polyoxoalkenyldiene.
Use/Production. (S) Component of a radiation induced cationic curable coating. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight; Skin Sensitization: Non-irritant.
Exposure. Manufacture: dermal, a total of 8 workers, up to 2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. .8 to 630 kg/batch released to air. Disposal by incineration.

P 86-1482

Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (S) Industrial and commercial oligomer. Prod. range: 1,000 to 3,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 1 worker, up to 8 hrs/day, up to 4 day/yr.
Environmental Release/Disposal. Minimal release to land.

P 86-1483

Manufacturer. Confidential.
Chemical. (G) Polyalkylene oxide, aromatic diisocyanate prepolymer.
Use/Production. (G) Reactive elastomer. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1484

Manufacturer. Atlantic Industrial, Inc.
Chemical. (G) substituted heterocyclic diazonium sulfate.
Use/Production. (S) Site-limited and industrial intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Less than 1 to 50 kg/batch released to water. Disposal by POTW.

P 86-1485

Manufacturer. Texaco, Inc.
Chemical. (G) Alkylphenylpolyetheramine, 2-substituted carboxylic acid salt.
Use/Production. (S) Industrial corrosion inhibitor for oil and gas production. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,000 mg/kg; Acute dermal: <8 mg/kg; Irritation: Skin—Corrosive; Skin Sensitization: Extremely corrosive.
Exposure. Manufacture: dermal, a total of 5 workers, up to .5 hr/day, up to 35 day/yr.
Environmental Release/Disposal. No release.

P 86-1486

Manufacturer. Texaco, Inc.
Chemical. (G) Alkylphenylpolyetheramine, carboxylic acid salt.
Use/Production. (S) Industrial corrosion inhibitor for oil and gas production. Prod. range: Confidential.
Toxicity Data. Acute oil: >1,000 mg/kg; Acute dermal: >8 mg/kg; Irritation: Skin—Corrosive; Skin Sensitization: Extremely corrosive.
Exposure. Manufacture: dermal, a total of 5 workers, up to .5 hr/day, up to 35 day/yr.
Environmental Release/Disposal. No release.

P 86-1487

Manufacturer. Texaco, Inc.
Chemical. (G) Alkylphenylpolyetheramine, polycarboxylic acid salt.
Use/Production. (S) Industrial corrosion inhibitor for oil and gas production. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,000 mg/kg; Acute dermal: >8 gm/kg; Irritation: Skin—Corrosive; Skin Sensitization: Extremely corrosive.
Exposure. Manufacture: dermal, a total of 5 workers, up to .5 hr/day, up to 35 day/yr.
Environmental Release/Disposal. No release.

P 86-1488

Manufacturer. Texaco, Inc.
Chemical. (G) Alkylphenylpolyetheramine, alkylphenylpolyether phosphate salt.
Use/Production. (S) Industrial corrosion inhibitor for oil and gas production. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,000 mg/kg; Acute dermal: >8 gm/kg; Irritation: Skin—Corrosive; Skin Sensitization: Extremely corrosive.
Exposure. Manufacture: dermal, a total of 5 workers, up to .5 hr/day, up to 35 day/yr.
Environmental Release/Disposal. No release.

P 86-1489

Manufacturer. Texaco Chemical Company.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(nonylphenyl)-omega-[(2-amino-2-methylethoxy)-poly[oxy(methyl-1,2-ethanediyl)]]-.
Use/Production. (S) Industrial and commercial surface-active agent, raw material for corrosion inhibitor and fuel additive. Prod. range: Confidential.
Toxicity Data. Acute oral: 1061 mg/kg, Males-1098 mg/kg; Irritation: Skin-Irritant, Eye-Irritant.

Exposure. Manufacture: dermal, a total of 12 workers, up to 8 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. 2 kg/day released to land.

P 86-1490

Manufacturer. Confidential.
Chemical. (G) Polyester of carbomonocyclic anhydrides, alkanedioic acid, neopentyl glycol and an alkyl diol.
Use/Production. (G) Industrial coating polymer for vehicles.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 43 workers, up to 8 hrs/da, up to 56 da/yr.
Environmental Release/Disposal. 3 to 198 kg/batch released to land.

P 86-1491

Manufacturer. Lucidol Division, Pennwalt Corporation.
Chemical. (G) 3-hydroxy-1,1-dimethyl butyl derivative.
Use/Production. (G) Intermediate, polymerization initiator and crosslinking agent. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,800 mg/kg; Acute dermal: >2.0 gm/kg; Irritation: Skin—Mild; Ames test: Mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1492

Manufacturer. Lucidol Division, Pennwalt Corporation.
Chemical. (G) Substituted alkyl peroxy-2-ethyl hexanoate.
Use/Production. (G) Polymerization initiator. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 gm/kg; Acute dermal: >2.0 gm/kg; Irritation: Skin—Mild; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1493

Manufacturer. Lucidol Division, Pennwalt Corporation.
Chemical. (G) Substituted alkyl peroxyhexane carboxylates (mixed isomers).
Use/Production. (G) Polymerization initiator. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Slight.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1494

Manufacturer. Confidential.
Chemical. (G) Acrylic solid grade polymer.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1495

Manufacturer. The Dow Chemical Company.
Chemical. (G) Unsaturated organic substituted siloxane.
Use/Production. (S) Industrial intermediate for polymer manufacture. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1496

Manufacturer. The Dow Chemical Company.
Chemical. (G) Lithium alkoxide.
Use/Production. (S) Industrial catalyst. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-1497

Manufacturer. The Dow Chemical Company.
Chemical. (S) 1,3 phenylenebis (methylphenyl) methanone.
Use/Production. (S) Industrial chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,000 mg/kg; Irritation: Skin—Moderate; Skin—Sensitization: Non-irritan t.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release to water.

P 86-1498

Manufacturer. The Dow Chemical Company.
Chemical. (G) B-stage organo-silicone polymer.
Use/Production. (S) Commercial electronic protective polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1499

Importer. Sherex Chemical Company, Inc.
Chemical. (G) Branched fatty alcohols.
Use/Import. (S) Industrial ingredient in personal care formulations and lubricants. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-1500

Manufacturer. Confidential.
Chemical. (G) Dihydroxyalkyl alkanoic acid, polymer with alkane diisocyanate, 1,6-hexanediol, and 2-hydroxyethyl ester of 2-propenoic acid.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/day, up to 19 day/yr.
Environmental Release/Disposal. 1 to 90 kg/yr released to land. Disposal by approved landfill or incineration at an approved facility.

P 86-1501

Manufacturer. Confidential.
Chemical. (G) Modified maleated metal resinate.
Use/Production. (S) Publication gravure printing inks. Prod. range: Confidential.
Toxicity Data. No data on PMN substance submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/day.
Environmental Release/Disposal. Less than 0.2 kg/batch released to water with 20 kg/day to land. Disposal by sanitary landfill and plant air oxidization lagoon.

P 86-1502

Manufacturer. Confidential.
Chemical. (G) Polyester-imide resin.
Use/Production. (S) Used as an intermediate for electrical insulation coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1503

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester-urethane resin.
Use/Production. (G) Fiber reinforced coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1504

Manufacturer. Confidential.
Chemical. (G) Water reducible epoxy ester copolymer resin.
Use/Production. (S) Water reducible industrial air-dry coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: August 11, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-18760 Filed 8-19-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180697; FRL-3067-4]

Emergency Exemptions; Sulfur Dioxide, etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the 11 States listed below. Also listed are 10 crisis exemptions. These exemptions, issued during the month of June, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Commission of Agriculture and Horticulture for the use of sulfur dioxide on table grapes as a post-harvest fumigant; June 30, 1986 to July 31, 1986. (Jim Tompkins)

2. Arkansas State Plant Board for the use of iprodione on rice to control sheath blight; June 16, 1986 to September 1, 1986. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of metalaxyl on leaf lettuce to control downy mildew; June 3, 1986 to December 1, 1986. (Jim Tompkins)

4. Florida Department of Agriculture and Consumer Services for the use of anilazine on watercress to control leaf spot; approved June 20, 1986, and effective from September 1, 1986 to August 31, 1987. (Gene Asbury)

5. Idaho Department of Agriculture for the use of fluvalinate on alfalfa grown for seed to control various insects. This specific exemption was authorized on the basis that available registered alternatives applied during bloom present significant risks to beneficial pollinators. The emergency exemption is effective from June 23, 1986 to August 31, 1986. (Libby Pemberton)

6. Louisiana Department of Agriculture for the use of iprodione on rice to control sheath blight; June 16, 1986 to September 1, 1986. (Jim Tompkins)

7. Nevada Department of Agriculture for the use of fluvalinate on alfalfa grown for seed to control various insects. This specific exemption was authorized on the basis that available registered alternatives applied during bloom present significant risks to beneficial pollinators. The emergency exemption is effective from June 23, 1986 to August 31, 1986. (Libby Pemberton)

8. New York State Department of Environmental Conservation for the use of metolachlor on transplanted cabbage to control yellow nutsedge and hairy galinsoga; June 13, 1986 to December 31, 1986. (Libby Pemberton)

9. New York State Department of Environmental Conservation for the use of cryolite on potatoes to control the Colorado potato bettle; June 3, 1986 to September 15, 1986. (Libby Pemberton)

10. Oregon Department of Agriculture for the use of glyphosate on wheat to control common rye; June 3, 1986 to July 1, 1986. (Jim Tompkins)

11. Oregon Department of Agriculture for the use of fluvalinate on alfalfa grown for seed to control various insects. This specific exemption was authorized on the basis that available registered alternatives applied during bloom present significant risks to beneficial pollinators. The emergency exemption is effective from June 23, 1986 to August 20, 1986. (Libby Pemberton)

12. Rhode Island Department of Environmental Management for the use of cryolite on potatoes to control the Colorado potato beetle; June 3, 1986 to September 15, 1986. (Libby Pemberton)

13. Washington Department of Agriculture for the use of fluvalinate on alfalfa grown for seed to control various insects. This specific exemption was authorized on the basis that available registered alternatives applied during bloom present significant risks to beneficial pollinators. The emergency exemption is effective from June 23, 1986 to August 31, 1986. (Libby Pemberton)

14. Washington Department of Agriculture for the use iprodione on irrigated potatoes to control sclerotinia; June 6, 1986 to July 31, 1986. (Jim Tompkins)

15. Washington Department of Agriculture for the use of vinclozolin on raspberries to control botrytis fruit rot; June 4, 1986 to July 31, 1986. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. Arkansas State Plant Board on June 6, 1986, for the use of sodium chlorate on wheat as a desiccant. The need for this program has ended. (Libby Pemberton)

2. Florida Department of Agriculture and Consumer Services on June 13, 1986, for the use of fluazifop-butyl on peanuts to control grasses. The need for this program has ended. (Jim Tompkins)

3. Louisiana Department of Agriculture on June 26, 1986, for the use of fenvalerate on sorghum grain to control the sorghum midge. Since it was anticipated that this program would be needed for more than 15 days, Louisiana requested a specific exemption to continue it. The need for this program is expected to last until September 30, 1986. (Stan Austin)

4. Louisiana Department of Agriculture on June 10, 1986, for the use of bromoxynil on rice to control Mexican weeds. The need for this program has ended. (Jim Tompkins)

5. Mississippi Department of Agriculture and Commerce on June 12, 1986 for the use of sodium chlorate on wheat as a desiccant. The need for this program has ended. (Libby Pemberton)

6. Montana Department of Agriculture on June 30, 1986, for the use of fluvalinate on alfalfa seed to control grasshoppers. Since it was anticipated that this would be needed for more than 15 days, Montana is expected to request a specific exemption to continue it. The need for this program is expected to last until August 31, 1986. (Libby Pemberton)

7. North Carolina Department of Agriculture on June 5, 1986, for the use of metalaxyl on peppers to control phytophthora blight. Since it was anticipated that this program would be needed for more than 15 days, North Carolina will request a specific exemption to continue it. The need for this program is expected to last until September 30, 1986. (Jim Tompkins)

8. Oklahoma Department of Agriculture on June 6, 1986, for the use of sodium chlorate on wheat as a desiccant. The need for this program has ended. (Libby Pemberton)

9. Texas Department of Agriculture on June 19, 1986, for the use of sodium chlorate on wheat as a desiccant. The need for this program has ended. (Libby Pemberton)

10. Texas Department of Agriculture on June 17, 1986, for the use of fenvalerate on sorghum grain to control the sorghum midge. Since it was anticipated that this program would be

VOL 51 ISS 161 AG 20 1986 UMI

needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until September 30, 1986. (Stan Austin)

Authority: 7 U.S.C. 136.

Dated: August 11, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86-18750 Filed 8-19-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Carlson Bankshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 11, 1986.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Carlson Bankshares, Inc.*, Comfrey, Minnesota; to acquire Peoples State Agency, Inc., Comfrey, Minnesota and thereby engage in general insurance agency activities in a community with a population not exceeding 5,000 pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the counties of Brown, Cottonwood, Redwood and Watonwan in Minnesota.

Board of Governors of the Federal Reserve System, August 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18791 Filed 8-19-86; 8:45 am]

BILLING CODE 6210-01-M

Equimark Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 10, 1986.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Equimark Corporation*, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Equimanagement, Pittsburgh, Pennsylvania, in management consulting services to nonbank depository institutions and their operations subsidiaries pursuant to § 225.25(b)(11) of the Board's Regulation Y, including the provision of investment advice pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 15, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-18794 Filed 8-19-86; 8:45 am]

BILLING CODE 6210-01-M

Second Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Compact Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 12, 1986.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Second Bancorp, Inc.*, Warren, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Second National Bank of Warren, Warren, Ohio.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CCB Financial Corporation*, Durham, North Carolina; to acquire 100 percent of the voting shares of Republic Bank & Trust Co., Charlotte, North Carolina.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *LBT Bancshares Inc.*, Litchfield, Illinois; to acquire at least 57 percent of the voting shares of First National Bank of Mt. Auburn, Mt. Auburn, Illinois.

2. *Poplar Bluff Bancshares, Inc.*, Poplar Bluff, Missouri; to merge with Mingo Bancshares, Inc., Poplar Bluff, Missouri.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Fidelity Bancorp, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Northport National Bank, Houston, Texas.

2. *S.B.T. Bancshares, Inc.*, San Marcos, Texas; to become a bank holding company by acquiring 92 percent of the voting shares of State Bank and Trust Co. of San Marcos, San Marcos, Texas.

Board of Governors of the Federal Reserve System, August 15, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-18795 Filed 8-19-86; 8:45 am]

BILLING CODE 6210-01-M

Sovran Financial Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 9, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sovran Financial Corporation*, Norfolk, Virginia; to engage *de novo* through its subsidiary, Sovran Investment Corporation, Richmond, Virginia, in the purchase and sale of gold and silver bullion and gold coins for its own account.

Board of Governors of the Federal Reserve System, August 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18792 Filed 8-19-86; 8:45 am]

BILLING CODE 6210-01-M

SunTrust Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 11, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SunTrust Banks, Inc.*, Atlanta, Georgia and Trust Company of Georgia, Atlanta, Georgia, to merge with Baxley State Banking Company, Baxley Georgia, and thereby indirectly acquire Baxley State Bank, Baxley, Georgia.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *El Paso Financial Corporation*, El Paso, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of El Paso State Bank, El Paso, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, August 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18793 Filed 8-19-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreement To Develop a Demonstration Research and Investigation Project To Strengthen Country Field Epidemiology Programs; Availability of Funds for Fiscal Year 1986

The Centers for Disease Control announces the availability of funds to support a cooperative agreement to develop a demonstration research and investigation project designed to strengthen individual country Field Epidemiology Training Programs (FETPs). The program is authorized in accordance with section 301(a) of the Public Health Service Act. The Catalog of Federal Domestic Assistance Number is 13.283.

The purpose of this cooperative agreement is to assist an academic

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institution to develop a demonstration research and investigation project which would; (1) Permit the development of a Masters of Public Health Degree granting program for FETP graduates; (2) Assist governments involved in FETPs in the development of surveillance and epidemiologic reporting instruments; (3) Develop the methodology for initiating FETPs in least developed countries; and (4) Develop an appropriate on-campus public health program for middle level health professionals from developing countries. No student support will be provided.

Eligible applicants are limited to the 38 Schools of Public Health and Graduate Public Health Programs offering a Masters of Public Health Degree and accredited by the Council on Education for Public Health. Because of the nature of the activities being developed (degree granting program in public health), accreditation is a requirement. A Masters of Public Health is the most recognized post-graduate degree for individuals involved in planning, implementing, and evaluating ongoing public health programs throughout the world. Many positions in the international arena have a mandatory requirement of a Masters of Public Health Degree for consideration. Application information is being provided directly to the eligible applicants. No other applications will be accepted.

Approximately $110,000 is available for a one-year project.

Further information on this program may be obtained from:

Technical:

Mrs. Carol Goettl, International Health Program Office, Building 14, Centers for Disease Control, Atlanta, GA 30333, Telephone (404) 329–3415

Business:

Mrs. Betty P. Feeley, Grants Management Specialist, Grants Management Branch, Centers for Disease Control, Room 321, 255 East Paces Ferry Rd., NE, Atlanta, GA 30305, Telephone: (404) 262–6575

Dated: August 14, 1986.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86–18729 Filed 8–19–86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of an Indiana State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on October 1, 1986 in Chicago, Illinois to reconsider our decision to disapprove Indiana State Plan Amendment 85–8.

DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Indiana State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Indiana submitted State Plan Amendment (SPA) 85–8 in response to HCFA Action Transmittal 85–3 (dated February 1985) which issued a new Medicaid State plan preprint format. Under SPA 85–8 the State proposes Medicaid eligibility policies for the aged, blind and disabled.

The issues in this matter are whether several aspects of Indiana's proposed plan violates section 1902(a)(10)(A), 1902(f) of the Social Security Act and Federal regulations at 42 CFR 435.121, 42 CFR 435.122, 42 CFR 435.230(b)(2) and 42 CFR 435.733. Also raised as an issue is whether HCFA acted in a timely manner as required by section 1915(b) of the Social Security Act.

The State of Indiana has elected to use more restrictive requirements of eligibility for the aged, blind and disabled (section 1902(f) of the Act and regulations at 42 CFR 435.121). Under these provisions a State may use more restrictive requirements of eligibility than those used under the Supplemental Security Income (SSI) program. The more restrictive requirements used, however, can be no more restrictive than those used under a State's January 1, 1972 Medicaid plan.

Therefore, a State cannot employ policies included in its January 1, 1972 plan unless the policy in effect on that date was more restrictive than SSI program policy. Where a State's January 1, 1972 policy was more liberal than SSI policy, a State must adopt the comparable SSI policy.

States electing to use more restrictive requirements of eligibility may make supplementary payments of SSI recipients and individuals who do not receive SSI benefits. If payments are made to specific categories of individuals described at 42 CFR 435.230 and the payments made meet the requirements set forth at 42 CFR 435.230(b)(2), a State may use its State supplemental standard and income disregards in determination of eligibility under 42 CFR 435.121. Indiana apparently seeks to exercise this option as well.

HCFA concluded that three of the proposed policies are more liberal than SSI policies. One is an earned income disregard, one is a disregard of income producing property, and another is in deeming for cases in which there is an ineligible spouse. HCFA determined these more liberal policies violate section 1902(a)(10)(A), and are not authorized under the exception to that provision which is established by section 1902(f) of the Act and implementing regulations at 42 CFR 435.121.

The State also proposes a policy for disregarding life insurance that is in some respects more liberal than SSI policy and in other respects more restrictive than its January 1, 1972 policy. This policy was previously disapproved as part of SPA 84–7. HCFA determined these more liberal and more restrictive policies violate section 1902(a)(10)(A), and are not authorized under the exception to that provision which is established by section 1902(f) of the Act and its implementing regulations at 42 CFR 435.121.

The State also proposes to deem income from stepparents who are not legally liable for support of stepchildren under a State law of general

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applicability. HCFA determined such policy violates 42 CFR 435.122 which limits deeming to parents and spouses.

The State also proposes disregards of income for State supplement recipients that are more restrictive than the disregards used under the SSI program. HCFA determined such disregards violate 42 CFR 435.230(b)(2).

The State proposes a personal needs allowance for post-eligibility treatment of income that includes $28.50 plus an allowance for court-ordered guardianship fees. HCFA has determined this allowance violates 42 CFR 435.733 because there has been no showing that it is a reasonable amount, as required by 42 CFR 435.733.

Finally, the State of Indiana claims that HCFA did not act in a timely manner as required by section 1915(f) of the Social Security Act. This issue will also be considered at the hearing.

The notice to Indiana announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Mr. Donald L. Blinzinger,
Administrator, Department of Public Welfare, State of Indiana, 108 North Senate Avenue—Room 701; Indianapolis, Indiana 46204

Dear Mr. Blinzinger: This is to advise you that your request for reconsideration of the decision to disapprove Indiana State Plan Amendment 85–8 was received on July 15, 1986. You have requested a reconsideration of whether the plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

Indiana SPA 85–8 proposes Medicaid eligibility policies for the aged, blind and disabled using more restrictive requirements of eligibility for the aged, blind and disabled than those used under the Supplemental Security Income Program.

The issues to be considered at the hearing are: (1) Whether three of the proposed policies (one is an earned income disregard, one is a disregard of income producing property, and another is in deeming for cases in which there is an ineligible spouse) are more liberal than SSI policies and therefore violate section 1902(a)(10)(A), and 1902(f) of the Social Security Act, and implementing regulations at 42 CFR 435.121; (2) whether the proposed policy for disregarding life insurance is in some respects more liberal than SSI policy and in other respects more restrictive than the State's January 1, 1972 policy and therefore violates section 1902(a)(10)(A) and 1902(f) of the Social Security Act and implementing regulations at 42 CFR 435.121; (3) whether the State's proposal to deem income from stepparents who are not legally liable for support of stepchildren under a State law of general applicability violates 42 CFR 435.122 which limits deeming to parents and spouses; (4) whether the State's proposed disregards of income for State supplement recipients are more restrictive than the disregards used under the SSI program and therefore violates 42 CFR 435.230(b)(2); (5) whether the State's proposal of a personal needs allowance for post-eligibility treatment of income that includes $28.50 plus an allowance for court-ordered guardianship fees violates 42 CFR 435.733 which requires there is a showing that it is a reasonable amount; and (6) whether HCFA acted on the plan within 90 days as required by section 1915(f) of the Social Security Act.

I am scheduling a hearing on your request to be held on October 1, 1986 at 10:00 a.m. in the 8th Floor Conference Room, 175 W. Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,
William L. Roper, M.D.
Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. 1316).
(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: August 14, 1986.
William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 86–18730 Filed 8–19–86; 8:45 am]
BILLING CODE 4120-01-M

[BERC–855–CN]

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986, but Before July 1, 1987

Correction

In FR Doc. 86–17610 beginning on page 28439 in the issue of Thursday, August 7, 1986, the docket number should have appeared as it does in the heading of this document.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision of Notice of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. On May 20, 1986, the Department published in the **Federal Register** (51 FR 18152), a revised notice describing a system of records maintained by the Bureau of Mines. The notice is titled "Personnel Security Files-Interior, Mines-7", and public comments on the revised notice were solicited.

One comment on the proposal was received from the Office of Personnel Management (OPM). OPM recommended the addition of a new routine disclosure to that agency specifically for onsite security appraisal functions authorized by Section 14 of Executive Order 10450, as amended, and for OMP oversight activities as authorized by law. We have reviewed the OMP recommendation and find that such routine disclosures would be compatible with the purposes for which the records have been established and maintained. Therefore, the notice published on May 20, 1986, is being amended to add an additional routine disclosure to OPM for the purposes of carrying out its oversight functions as authorized by law. The section of the notice describing routine uses of records maintained in the system is published in its entirety below.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on this proposed change can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240. Comments received within 30 days of publication in the Federal Register will be considered. The amendment shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: August 11, 1986.
Oscar W. Mueller, Jr.,
Director, Office of Information Resources Management.

INTERIOR/WBM–7

SYSTEM NAME: Personnel Security Files—Interior, Mines-7.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

The primary use of the records is to identify individuals who have national security clearance and/or ADP access authorizations and their level of clearance. Disclosure outside the Department of the Interior may be made (1) to a Federal agency which has

requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (2) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (3) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department if a party to litigation or anticipated litigation or has an interest is such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessay to the litigation and is compatible with the purpose for which the records were compiled; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations or for enforcing or implementing the statute, rule, regulation, order or license; (5) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office;

(6) to the Office of Personnel Management for matters concerned with oversight activities necessary for the Office to carry out its legally authorized Governmentwide personnel management programs and functions.

* * * * *

[FR Doc. 86-18734 Filed 8-19-86; 8:45 am]
BILLING CODE 4310-53-M

Bureau of Land Management

[UT-040-06-4132-12]

Availability of Draft Environmental Assessment on Alabaster Mining Within a wilderness Study Area

AGENCY: Department of Interior, Bureau of Land Management, Cedar City Utah District, UT-040-06-4132-12.

ACTION: Notice of availability of draft environmental assessment.

SUMMARY: The Bureau of Land Management discovered unauthorized alabaster mining in the Wahweap Wilderness Study Area (WSA). About one acre had been disturbed within less than 100 years of the Cottonwood road, which forms part of the west WSA boundary. A cease and desist order was issued and the claimant was required to submit a proposed plan of operations, including rehabilitation of the area already disturbed, for consideration under WSA interim management protection regulations. This draft EA addresses the plan of operations and reclamation that was submitted.

DATE: Comments on the draft EA are due at the address listed below not later then September 15, 1986.

ADDRESS: To obtain a copy of the draft EA, request additional information, or submit comments, contact Pete Kilbourne, Bureau of Land Management, P. O. Box 458, Kanab, Utah 84741 or telephone 801-644-2672.

Dated: August 12, 1986.

Dennis Curtis,

Acting District Manager.

[FR Doc. 86-18707 Filed 8-19-86; 8:45 a.m.]
BILLING CODE 4310-DQ-M

[AZ-020-06-4212-18; A-22271]

Realty Action; Sale of Public Land; Gila and Salt River Meridian, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; sale of public land.

SUMMARY: The following described federal lands have been identified by Apache County, Arizona, and are designated as potentially suitable for selection by Apache County in compensation for certain private lands which were previously subject to taxation by Apache County and which have been or may be acquired by the Zuni Indian Tribe under Pub. L. 96-408.

Gila and Salt River Meridian, Arizona

T. 11 N., R. 24 E.,
Sec. 26, NW¼NE¼, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, SE¼SE¼.
T. 10 N., R. 25 E.,
Sec. 18, Lot 1, W½NE¼NW¼, NW¼SE¼NW¼.
T. 13 N., R. 25 E.,
Sec. 18, E½SW¼.
T. 19 N., R. 25 E.,
Sec. 6, All lands lying south of I-40.
T. 18 N., 27 E.,
Sec. 22, S½SW¼, SW¼SE¼;
Sec. 28, E½, SE¼SW¼, E½SW¼, SW¼SW¼.
T. 11, N., R. 28 E.,
Sec. 17, All;
Sec. 18, Lot 3, NE¼SW¼, N½SE¼;
Sec. 20, All;
Sec. 26, W½NE¼, NW¼, E½SE¼, SW¼SE¼;
Sec. 27, NW¼NE¼, W½, SW¼SE¼;
Sec. 28, All;
Sec. 29, E½, W½W½;
Sec. 33, All;
Sec. 34, NW¼NW¼, S½SW¼, SW¼SE¼.
T. 13 N., R. 28 E.,
Sec. 10, NE¼, E½NW¼, N¼NW¼, NE¼SW¼;
Sec. 14, All;
Sec. 24, N½N½;
Sec. 30, NE¼SW¼.
T. 12 N., R. 29 E.,
Sec. 12, N½NE¼, SW¼NE¼, W½NW¼, SE¼SW¼, S½SE¼.
T. 13 N., R. 29 E.,
Sec. 6, Lot 3;
Sec. 18, Lots 1-4, E½W½, E½.
T. 16 N., R. 29 E.,
Sec. 34, N½NE¼ SW¼NE¼, W½, NW¼SE¼.

Comprising 8278.73 acres.

Upon completion of a resource inventory it may become necessary to substitute other federal lands for the above described lands if the identified lands are found unsuitable for transfer. An amended Notice of Realty Action will be published should it become necessary to substitute other federal lands.

Apache County may receive title to no more than five thousand eight hundred and eighty one (5881) acres of the selected lands in accordance with section 5 of Pub. L. 96-408.

The above described lands are also being considered for disposal under section 206 of the Federal Land Policy and Management Act of 1976.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws, including the mining laws, except disposal under Pub. L. 96-406.

The segregation of the above described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of 45 days from the date of publication interested persons may submit comments to the District Manager, Phoenix District, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be reviewed by the State Director, who may modify, vacate, or sustain this realty action.

Dated: August 11, 1986.

Marlya V. Jones,

District Manager.

[FR Doc. 86-18706 Filed 8-19-86; 8:45 am]
BILLING CODE 4310-33-M

[NV-943-06-4220-10]

Public Lands in Nevada; Notice of Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service proposes to withdraw 8,910 acres of public lands in Mineral County, Nevada, to protect the lands pending a legislative exchange for privately owned lands in Florida. This notice closes the lands until April 10, 1988, from surface entry and mining. The lands will remain open to mineral leasing.

ADDRESS: Inquiries concerning the land should be sent to: Nevada State Director, Federal Building, 300 Booth Street, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–784–5703.

On August 15, 1986, a petition was approved allowing the U.S. Fish and Wildlife Service to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public lands laws, including the mining laws, subject to valid existing rights:

Mount Diablo Base and Meridian

T. 6 N., R. 33 E.,
Secs. 10 through 13;
Sec. 14, E½;
Sec. 15, W½;
Sec. 21;
Sec. 22, W½, S½SE¼;
Sec. 23, E½, S½SW¼;
Sec. 24, E½, W½NW¼, NE¼NW¼, N½SE¼NW¼, SE¼SE¼NW¼;
Sec. 25;
Sec. 26, NE¼, W½, NE¼SE¼, W½SE¼;
Sec. 27;
Sec. 34;
Sec. 35, NE¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 36.

The lands described aggregate approximately 8,910 acres in Mineral County.

The purpose of the withdrawal is to protect the lands pending a legislative exchange for privately owned lands in Florida. Until an application is filed, no further action will be taken on this proposal.

Until April 10, 1988, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the U.S. Fish and Wildlife Service.

Henry R. Smith,

Assistant Director, Bureau of Land Management.

August 15, 1986.

[FR Doc. 86–1880 Filed 8–19–86; 8:45 am]

BILLING CODE 4310-HC-M

[NV-943-06-4220-10]

Public Lands in Nevada; Amendment to Notice of Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service requests that its proposal to withdraw 45,298 acres of public land in Nevada be amended to allow for issuance of rights-of-way if located within the existing highway rights-of-way for U.S. Highway No. 93.

EFFECTIVE DATE: August 14, 1986.

ADDRESS: Inquiries concerning the land should be sent to: Nevada State Director, Bureau of Land Management, 850 Harvard Way, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–784–5703.

The Notice of Proposed Withdrawal signed April 8, 1986, and published in the **Federal Register** dated April 11, 1986, at page 12574 (FR Doc. 86–8157) is hereby amended to add the following sentence to the end of the penultimate paragraph: Rights-of-way which would be located within the existing U.S. Highway No. 93 and recorded in the Nevada State Office, Bureau of Land Management, records as Nevada–060729 and Nevada–061281 and which would be consistent with the purposes for which the land is to be withdrawn may be granted.

Henry R. Smith,

Assistant Director, Bureau of Land Management.

August 15, 1986

[FR Doc. 86–18801 Filed 8–19–86; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Royalty Management Advisory Committee, Ad Hoc Subcommittee on Coal Product Valuation Issues; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that an Ad Hoc Subcommittee on Coal Product Valuation Issues, established by the Royalty Management Advisory Committee (RMAC), will meet in Denver, Colorado, at the location and the date indicated below.

DATES: Location and Date: The Subcommittee will meet on August 21, 1986, at the Stapleton Plaza Hotel, 3333 Quebec Street, Denver, Colorado, in Suite 8900. The meeting is scheduled to begin at 8:00 a.m. and will continue until the work of the Subcommittee is finished.

The Public is invited to attend the meeting and to make oral or written comments. A time will be set aside by the Subcommittee chairperson during which the public will be invited to make oral comments. Written comments should be submitted by August 28, 1986, to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: On July 30, 1986, the RMAC discussed the final report, dated July 25, 1986, of the Coal Valuation Regulations Review Working Panel. The Working Panel was unable to reach a consensus on a number of coal valuation issues. The unresolved issues include: (1) Whether or not gross proceeds should be defined to include take-or-pay payments, (2) whether or not gross proceeds should be defined to include tax or fee reimbursements, and (3) whether or not a coal washing allowance should be an allowable deduction from value. Consequently, the Subcommittee was appointed to draft language representing options for resolving these issues. The Subcommittee is not charged with making recommendations or taking positions, but is to bring its work before the RMAC for action.

The Subcommittee is comprised of three RMAC members from State, Indian, and industry organizations.

Dated: August 14, 1986.

Carolita Kallaur,

Acting Director, Minerals Management Service.

[FR Doc. 86–18714 Filed 8–19–86; 8:45 am]

BILLING CODE 4310-MR-M

VOL 51 ISS 161 AG 20 1986 UMI

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

Great Lakes-St. Lawrence River Basin

The International Joint Commission announces that by letters of Reference dated August 1, 1986, the Governments of the United States and Canada have requested the Commission, pursuant to Article IX of the Boundary Waters Treaty of 1909, to undertake a study on methods of alleviating the adverse consequences of fluctuating water levels in the Great Lakes-St. Lawrence River Basin.

The Reference requests that the Commission:

(1) Propose any measures Governments could take under crisis situations to alleviate problems caused by high and low lake levels;

(2) Review its previous lake regulation studies and revise their engineering, economic and environmental evaluations;

(3) Examine past, present and potential future changes in land use and management practices along the shorelines of the Great Lakes, their connecting channels and the St. Lawrence River;

(4) Determine, to the maximum extent practicable, the socio-economic costs and benefits of alternative land use and shoreline management practices and compare these with the revised costs and benefits of lake regulation schemes;

(5) Investigate any feasible methods of improving the outflow capacity of connecting channels and the St. Lawrence River;

(6) Develop an information program which could be carried out by responsible government agencies to better inform the public on lake level fluctuations; and,

(7) Consider any other matter that the Commission deems relevant to the purpose of this study.

David A. LaRoche,

Secretary, U.S. Section.

August 13, 1986.

The Commission is requested to build upon previous studies in its investigations and to examine the effects of the measures it considers on a number of interests and concerns listed in the letter of Reference.

Anyone interested in the subject matter of this Reference is invited to inform the Commission of the nature of their interest. At an appropriate time, the Commission will hold public hearings to give convenient opportunity for all interested parties to be heard.

Copies of the complete text of the Reference to the International Joint Commission are available upon request to the Secretaries.

David A. LaRoche, Secretary, United States Section, International Joint Commission, 2001 S Street, NW, Second Floor, Washington,DC 20440

David G. Chance, Secretary, Canadian Section, International Joint Commission, 100 Metcalfe Street, 18th Floor, Ottawa, Ontario K1P 5M1.

[FR Doc. 86-18740 Filed 8-19-86; 8:45 am]

BILLING CODE 4710-14-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332-235, Competitive Evaluation of a U.S.-Canada Free Trade Arrangement in Services.

Summary of proposal: (1) Number of forms submitted: one

(2) Title of form: Competitive Evaluation of a U.S.-Canada Free Trade Arrangement in Services—Service Industries Questionnaire

(3) Type of request: new

(4) Frequency of use: nonrecurring

(5) Description of respondents: firms which provide accounting, advertising, construction/engineering, data processing, insurance, motor transportation, or telecommunication services to Canada

(6) Estimated number of respondents: 300

(7) Estimated total number of hours to complete the forms: 4800

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed form and supporting documents may be obtained from Therese Palmer Weise (USITC tel. no. 202-523-0270) or Deborah McNay (202-523-0445). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire or study plan is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

Submission of comments: Comments should be submitted to OMB within two weeks of the date this notice appears in the **Federal Register**. If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal. Ms. Picoult's telephone number is 202-395-7231. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Issued: August 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR. Doc. 86-18780 Filed 8-19-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same; Prehearing Conference

Notice is hereby given that the prehearing conference in this matter will commence at 9:00 a.m. on August 18, 1986, in Hearing Room B at the Interstate Commerce Commission Building at 12th and Constitution Avenue, NW., Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register**.

Issued: August 13, 1986.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 86-18778 Filed 8-19-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-237]

Certain Miniature Hacksaws; Commission Determination Not To Review Initial Determination Finding Respondent in Default

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) finding respondent in default.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ's) ID (Order No. 27) finding respondent The Disston Company (Disston) of Greenboro, North Carolina, in default.

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523–1641.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.25 of the Commission's Rules of Practice and Procedure (19 CFR 210.25). .

By Order No. 21, issued July 3, 1986, Disston was ordered by the ALJ to answer requests for admissions. By Order No. 20, also issued July 3, 1986, Disston was ordered to comply with a subpoena issued earlier in the investigation. By Order No. 24, issued July 11, 1986, the ALJ ordered Disston to show cause why it should not be held in default. Disston did not respond to Orders Nos. 20, 21, or 24. On July 18, 1986, the ALJ issued an ID finding Disston in default based upon Disston's failure to respond to the complaint and notice of investigation, Disston's failure to appear at the hearing in the investigation, and Disston's noncompliance with a subpoena and orders compelling discovery. No petitions for review of the ID or agency comments were received.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161

Hearing-impaired persons are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: August 12, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18781 Filed 8–19–86; 8:45 am]

BILLING CODE 7020-02-M

[332-235]

Competitive Evaluation of a U.S.-Canada Free Trade Arrangement in Services

AGENCY: International Trade Commission.

ACTION: Institution of an investigation.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Therese Palmer Weise (202–523–0270), or Ms. Deborah McNay (202–523–0445) Minerals and Metals Division, U.S. International Trade Commission, Washington, DC 20436.

Background and scope of investigation: The Commission instituted investigation No. 332–235, following receipt on July 23, 1986, of a letter from the United States Trade Representative (USTR), requesting, at the direction of the President, that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to assess the implications of a Free Trade Arrangement with Canada in Services.

In accordance with the request, the Commission will examine the magnitude of U.S.-Canada trade and operations in selected service industries, the competitive position vis-a-vis Canadian services industries, major problems and concerns of these service industries with nontariff measures, and U.S. service industry priorities in such negotiations.

In conducting the investigation, the Commission, at the request of USTR, will cover the following points: (1) A perspective on U.S. Government initiatives and the unique issues affecting services trade; (2) an overview of U.S.-Canada services trade, including sectoral distribution, structural/competitive relationships and the regulatory environment; (3) analyses of selected service sectors; (4) an examination of the economic implications of liberalizing trade in the selected service sectors; (5) an analysis of the problems or obstacles that currently exist in Canada in these sectors; and (6) an assessment of the potential trade benefits and impact to U.S. service exporters should those obstacles be removed.

Written submissions: Interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest possible date, but no later than November 5, 1986. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Issued: August 11, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18779 Filed 8–19–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-300 (Final)]

Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above From Japan

AGENCY: International Trade Commission.

ACTION: Suspension of final antidumping investigation.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202–523–4616), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-imparied individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUMMARY: On August 1, 1986, the United States Department of Commerce entered into an agreement that suspends the antidumping investigation involving dynamic random access memory semiconductors (DRAM's) of 256 kilobits (256K) and above from Japan (51 FR 28396, August 7, 1986). The agreement calls for Japanese producers/exporters to revise their U.S. prices to eliminate sales of DRAM's of 256K and above at less than fair value. Accordingly, the

United States International Trade Commission hereby gives notice of the suspension of antidumping investigation No. 731–TA–300 (Final)), involving imports from Japan of DRAM's of 256K and above, provided for in item 687.74 of the Tariff Schedules of the United States. The schedule of this investigation, which was included in the Commission's notices of revised schedule (51 FR 15554, April 24, 1986), is hereby cancelled.

This notice is published pursuant to § 207.40 of the Commission's rules of practice and procedure (19 CFR 207.40).

Issued: August 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18789 Filed 8–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–288 (Final)]

Erasable Programmable Read Only Memories (EPROM's) From Japan

AGENCY: International Trade Commission.

ACTION: Suspension of final antidumping investigation.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202–523–0339), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–724–0002.

SUMMARY: On July 30, 1986, the United States Department of Commerce entered into an agreement that suspends the antidumping investigation involving erasable programmable read only memories (EPROM's) from Japan (51 FR 28253, August 6, 1986). The agreement calls for Japanese producers/exporters to revise their U.S. prices to eliminate sales of EPROM's at less than fair value. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of antidumping investigation No. 731–TA–288 (Final)), involving imports from Japan of EPROM's, provided for in item 687.74 of the Tariff Schedules of the United States. The schedule of this investigation, which was included in the Commission's notice of revised schedule (51 FR 16905, May 7, 1986), is hereby cancelled.

This notice is published pursuant to § 207.40 of the Commission's rules of practice and procedure (19 CFR 207.40).

Issued: August 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18788 Filed 8–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 751–TA–11]

Salmon Gill Fish Netting of Manmade Fibers From Japan

AGENCY: Internaitonal Trade Commission.

ACTION: Institution of a review investigation concerning the Commission's affirmative determination in investigation No. AA1921–85, Fish Nets and Netting of Manmade Fibers from Japan.

SUMMARY: The Commission hereby gives notice that it has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review its determination in investigation No. AA1921–85. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of salmon gill fish netting of manmade fibers from Japan if the outstanding order regarding such merchandise were to be modified or revoked. Salmon gill fish netting is provided for in item 355.45 of the Tariff Schedules of the United States. As provided in § 207.45(b) of the Commission's Rules of Practice and Procedure (19 CFR 207.45(b)), the 120-day period for completion of this investigation begins on the date of publication of this notice in the **Federal Register.**

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult part 207, Subparts A and E (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201) of the Commission's rules.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Martha Mitchell (202–523–6620), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

On April 18, 1972, in investigation No. AA1921–85, the Commission determined that an industry in the United States was being injured within the meaning of the Antidumping Act, 1921, by reason of imports of fish netting of manmade fibers from Japan determined by the Secretary of the Treasury to be sold or likely to be sold at less than fair value (LTFV). As a result of this determination, the Department of the Treasury issued a dumping order applicable to this merchandise on June 1, 1972 (Treasury Decision 72–158). The Commission has conducted two 751 review investigations with respect to salmon gill fish netting of manmade fibers from Japan (investigations Nos. 751–TA–5, March 31, 1982, and 751–TA–7, May 24, 1983), and, in both instances, determined that the portion of the order dealing with salmon gill fish netting should not be revoked.

On June 20, 1986, the Commission received a new request from counsel representing Seattle, Washington/Portland, Oregon importers of salmon gill fish netting, including Seattle Marine and Fishing Supply Co., Redden Net Co., and LSS, Inc. (formerly Lummi Fishery Supply Co.). The petition requests that the Commission modify its affirmative determination and revoke that portion of the outstanding order on fish nets and netting of manmade fibers from Japan dealing with salmon gill fish netting retroactively to June 1, 1972. Modification or revocation of the dumping finding as to salmon gill fish netting would not affect the Commission's affirmative determination as to other forms of fish netting of manmade fibers from Japan. The petition alleges the existence of changed circumstances which warrant the institution of a third section 751 review investigation. In July 3, 1986, the Commission requested written comments in the **Federal Register** (51 FR 24451) as to whether the changed circumstances alleged by the petitioner were sufficient to warrant a review investigation. After reviewing comments received in response to that request, the Commission has determined that the changed circumstances alleged in the petition were sufficient to warrant a review investigation.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one

(21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on October 17, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on October 30, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 14, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 17, 1986, in room 117 of the U.S. Internaitonal Trade Commission Building. The deadline for filing prehearing briefs is October 27, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR § 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 6, 1986. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 6, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.45 of the Commission's rules (19 CFR 207.45).

Issued: August 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-18787 Filed 8-19-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-253]

Certain Electrically Resistive Monocomponent Toner; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the International Trade Commission on July 15, 1986, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Aunyx Corporation, 65 Industrial Park Road, Hingham, Massachusetts 02043. An amended complaint was filed on July 30 1986 and supplements to the amended complaint were filed on July 30 and August 1, 5, and 12, 1986. The complaint as amended alleges unfair methods of competition and unfair acts in the importation of certain electrically resistive monocomponent toner into the United States, and in its sale, by reason of alleged conduct (1) of a type actionable under the U.S. antitrust laws, such as (a) use of leverage over dealers to coerce such dealers not to purchase toner from Aunyx; (b) use of leverage over dealers to coerce such dealers to buy toner only from respondent Canon U.S.A., Inc.; (c) interference with Aunyx's supply of materials necessary to the manufacture and packaging of toner; and (d) interference with Aunyx's ability to market its toner products; and (2) of a type actionable not only under the U.S. antitrust laws, but also under the common and statutory law of unfair competition, such as (a) interference with Aunyx's business relations with its customers; and (b) disparagement of Aunyx's products and reputation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to monopolize and restrain trade and commerce in the United States, to destroy or substantially injure an industry, efficiently and economically operated, in the United States, and to prevent the establishment of a United States industry.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sulzer, Esq., or Steven Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-0419 and 202-523-4877, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 13, 1986, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of

subsection (a) of section 337 in the unlawful importation of certain electrically resistive monocomponent toner into the United States, or in its sale, by reason of alleged (1) monopolization; (2) attempt to monopolize; and (3) conspiracy to monopolize the relevant market for said toner; (4) exclusive dealing; and (5) conduct actionable under the common and statutory law of unfair competition, such as (a) alleged interference with Aunyx's business relations with its customers and (b) alleged disparagement of Aunyx's products and reputation, the effect or tendency of which is to monopolize and restrain trade and commerce in the United States, to destroy or substantially injure an industry, efficiently and economically operated, in the United States, and to prevent the establishment of a United States industry;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Aunyx's Corporation, 65 Industrial Park Road, Hingham, Massachusetts 02043

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Canon Inc, 7–1, Nishi-Shinjuku 2 Chome, Shinjuku Dai-Ichi Seimei Building, Shinjuku-Ku, Tokyo, Japan

Canon U.S.A., Inc., One Canon Plaza, Lake Success, New York 11042

(c) Stephen L. Sulzer, Esq., or Steven Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of practice and procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: August 14, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18783 Filed 8–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–231]

Certain Soft Sculpture Dolls Popularly Known as "Cabbage Patch Kids," Related Literature and Packaging Thereof; Commission Decision Extending the Time For Determining Whether To Review an Initial Determination Granting a Motion for Summary Determination

AGENCY: International Trade Commission.

ACTION: Extension of period for determining whether to review an initial determination.

SUMMARY: The Commission has extended from August 12, 1986, to August 27, 1986, its deadline for determining whether to review the initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Stephen McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: On March 10, 1986, complainants filed a motion for summary determination on all issues raised in this investigation. (Motion Docket No. 232–12.) The motion was granted by the presiding (ALJ) in an ID issued on July 16, 1986.

The deadline imposed by the Commission's rules for deciding whether to review the ID was the close of business on Tuesday, August 12, 1986. The Commission has determined to extend the deadline to the close of business on Wednesday, August 27, 1986.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 201.14(b), 210.53(h), and 210.54(b)(1) of the Commission's Rules of practice and procedure (19 CFR 201.14(b), 210.53(h), and 210.54(b)(1)).

Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: August 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18782 Filed 8–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–279 (Preliminary) and 731–TA–336 (Preliminary)]

Porcelain-On-Steel Cooking Ware From Spain

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry [2] in the United States is materially injured [3] by reason of imports from Spain of porcelain-on-steel cooking ware,[4] provided for in item 654.06 of the

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Lodwick and Rohr determine that there are two domestic industries.

[3] Commissioner Stern determines that there is a reasonable indication of material injury of threat of material injury by reason of the subject imports.

[4] Cooking ware, including teakettles, not having self-contained electric heating elements, all the foregoing to steel and enameled or glazed with vitreous glasses, but not including kitchen ware (currently reported under item 654.0628 of the Tariff Schedules of the United States Annotated).

Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Spain. The Commission also determines, pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry [2] in the United States is materially injured [3] by reason of such imports from Spain, which are allegedly being sold at less than fair value (LTFV).

Background

On June 30, 1986, a petition was filed with the Commission and the Department of Commerce by General Housewares Corp., alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of porcelain-on-steel cooking ware from Spain. Accordingly, effective June 30, 1986, the Commission instituted preliminary countervailing duty investigation No. 701–TA–279 (Preliminary) and preliminary antidumping investigation 731–TA–330 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 9, 1986 (51 FR 24948). The conference was held in Washington, DC, on July 22, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 14, 1986. The views of the Commission are contained in USITC Publication 1863 (August, 1986), entitled "Porcelain-On-Steel Cooking Ware from Spain: Determination of the Commission in Investigation No. 701–TA–279 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation; Determination of the Commission in Investigation No. 701–TA–330 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: August 14, 1986.

By Order of The Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18785 Filed 8–19–86; 8:45 am]

BILLING CODE 7020-02-M

[TA–131(b)–11 and 332–236]

Probable Economic Effect on U.S. Industries and Consumers of Establishment of a Free-Trade Area Between the United States and Canada

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt on July 2, 1986, of a request from the U.S. Trade Representative made in part at the direction of the President, the Commission instituted investigation No. TA–131(b)–11 and 332–236 under sections 131 (b) and (c) of the Trade Act of 1974 (19 U.S.C. 2151 (b) and (c)) and 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g))—

(1) Pursuant to section 131(b) of the Trade Act, to advise the President, with respect to each item in the Tariff Schedules of the United States, as to the probable economic effect of providing duty-free treatment for imports from Canada on industries in the United States producing like or directly competitive articles and on consumers;

(2) Pursuant to section 131(c) of the Trade Act, advise the President as to the probable economic effects on domestic industries and purchasers and on prices and quantities of articles in the United States if the U.S. nontariff measures listed in Annex I to his letter were not applied to imports from Canada; and

(3) Pursuant to section 332(g) of the Tariff Act and at the direction of the President, to assess the degree to which U.S. exports to Canada may be expected to increase and U.S. industries to otherwise benefit if imports into Canada of all products of the United States were free of duty and not subject to the Canadian nontariff measures listed in Annex II to his letter.

As requested by the USTR, the Commission will structure its advice in terms of the Harmonized System tariff nomenclature and will provide its advice and assessment by no later than January 2, 1987. Copies of the request from the USTR with Annexes I and II may be obtained from the Secretary, United States International Trade Commission.

EFFECTIVE DATE: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Reuben Schwartz, project leader, U.S. International Trade Commission, Washington, DC 20436 (telephone 202–523–0114). For information on the legal aspects of the investigation, contact William W. Gearhart of the Commission's Office of the General Counsel (telephone 202–523–0487). For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

(1) Agricultural products, David Ingersoll (202–724–0068)
(2) Chemical products, John J. Gersic (202–523–0451)
(3) General Manufactures, Walter S. Trezevant (202–724–1719)
(4) Machinery and Equipment, Aaron H. Chesser (202–523–0353)
(5) Minerals and Metals, Larry L. Brookhart (202–523–0275)
(6) Textiles and Apparel, Robert Wallace (202–523–0120)

Supplemental: President Reagan has agreed to the proposal of Prime Minister Brian Mulroney of Canada to enter into negotiations on an agreement that would establish free trade between Canada and the United States. These negotiations began on June 17, 1986.

Public Hearings and Prehearing Briefs: A public hearing in connection with this investigation will be held in the Commission Hearing Room, 701 E Street NW, Washington, DC 20436, beginning at 9:30 a.m. each day on September 9–10, 1986, to be continued on September 11, if necessary. All persons shall have the right to appear in person or be represented by counsel, to present information, and to be heard. Persons wishing to appear at the public hearing should file a request to appear not later than noon, August 29, 1986, and should file prehearing briefs (original and 14 copies) with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, not later than noon, September 4, 1986.

Written Submissions: In lieu of, or in addition to, appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of practice and procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest possible date, but not later than September 10, 1986. All submissions should be addressed to the

Secretary at the Commission's office in Washington, DC.

Posthearing Submissions: Post hearing submissions are due no later than close of business on September 19, 1986, and are to be limited to five double-spaced pages.

All statements and written briefs should relate to the three areas noted in the summary that the Commission will address in its response to the USTR. A description of the article(s) of interest, including the proposed Harmonized System (HS) item number, if known, should be included, and the domestic industry likely to be affected by a free-trade area between the United States and Canada should be identified. Testimony is invited on both the tariff and nontariff-measure aspects of the proposed free-trade agreement.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Issued: August 14, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18784 Filed 8–19–86; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Lodging of Partial Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; and Toxic Substances Control Act

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on July 28, 1986, a proposed partial consent decree in *United States* v. *Pacific Hide and Fur Depot, Inc., et al.,* Civil Action No. 83–4052 was lodged with the United States District Court for the District of Idaho. The complaint filed by the United States alleges violations of the Comprehensive Environmental Response, Compensation, and Liability Act; Resoure Conservation and Recovery Act; and Toxic Substances Control Act by Pacific Hide Depot, Inc., et al., due to PCB contaminated capacitors at its recycling and scrap facility in Pocatello, Idaho. The complaint sought recovery of costs and injunctive relief in connection with the cleanup of the PCB capacitors. The partial consent decree provides that defendants will conduct an RI/FS to identify the nature of contamination at the site and propose remedial alternatives.

The Department of Justice will receive for a period of thrity (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer the to *United States* v. *Pacific Hide and Fur Depot, Inc., et al.,* D.J. Ref. 90–11–2–47.

The proposed partial consent decree may be examined at the office of the United States Attorney, Rm. 693 Federal Building, Box 037, 550 W. Fort St., Boise, Idaho 83724 and at the Region X Office of the Environmental Protection agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the partial consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed partial consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.20 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–18735 Filed 8–19–86; 8:45 am]

BILLING CODE 4401–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–17,611]

A.O. Smith Electrical Products Division; Union City, IN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1986 in response to a petition which was filed by the International Union of Electrical Workers, Local 906, on behalf of workers at A.O. Smith, Electrical Products Division, Union City, Indiana.

A.O. Smith purchased the Union City, Indiana plant from Westinghouse Electric Corporation in May 1986. An active certification covering the petitioning group of workers at the Union City plant is currently in effect (TA–W–16,609). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 1st day of August 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–18702 Filed 8–19–86; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–17,672]

Gearhart Industries, Incorporated, Williston, ND; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1986 in response to a worker petition which was filed on behalf of workers at Gearhart Industries, Incorporated, Williston, North Dakota.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TWA–W–17,517). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 7th day of August 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–18703 Filed 8–19–86; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than September 1, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustments Assistance, at the address shown below, not later than September 1, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 11th day of August 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
LaSalle Steel Co (workers)	Spring City, PA	8/2/86	7/31/86	TA-W-17,813	Cold drawn steel bars and specialty drawn steel bars.
E.B. Sportswear Inc. (workers)	Lowell, NC	8/2/86	7/23/86	TA-W-17,814	Children's knit and woven tops and bottoms (shorts).
Cooper Ind. Arrow Hart Div., Inc. (workers)	Hartford, CT	8/2/86	7/29/86	TA-W-17,815	Electrical switches.
Globe Drilling Co. (workers)	Tyler, TX	7/21/86	7/24/86	TA-W-17,816	Oil and gas drilling.
Mac Services, Inc. (workers)	Victoria, TX	7/31/86	7/28/86	TA-W-17,817	Oil drilling.
Willis Enterprises, Inc. (company)	Abilene, TX	7/28/86	7/22/86	TA-W-17,818	Oil and gas well service.
Lomak Petroleum Inc. (workers)	Hartville, OH	8/1/86	7/16/86	TA-W-17,819	Oil rig services.
C.G. Conn, Ltd (workers)	Abilene, TX	7/28/86	7/15/86	TA-W-17,820	Musical instruments.
Franks Fuel Inc. (workers)	Odessa, TX	6/25/86	6/23/86	TA-W-17,821	Oil and gas drilling.
Bandera Drilling Co. (workers)	Abilene, TX	8/1/86	7/18/86	TA-W-17,822	Oil drilling.
Cactus Drilling Co. (workers)	Midland, TX	7/28/86	7/23/86	TA-W-17,823	Oil drilling.
Globe Marine, Inc. (workers)	Houston, TX	7/31/86	7/22/86	TA-W-17,824	Oil drilling.
WellTech, Inc. (workers)	Sidney, MT	7/31/86	7/28/86	TA-W-17,825	Oil well servicing.
Fiberglass Systems Inc. (workers)	Big Spring, TX	7/31/86	7/23/86	TA-W-17,826	Fiberglass oilfield pipes.
Maxwell Herring Drilling Corp. (workers)	Tyler, TX	7/31/86	7/22/86	TA-W-17,827	Oil drilling.
Halliburton Service (workers)	Mission, TX	7/3/86	6/27/86	TA-W-17,828	Gas and oil well service.
Clark Material Systems Technology Co. (AIW)	Battle Creek, MT	8/2/86	7/28/86	TA-W-17,829	Components for trucks.
Ft. Worth Pipe Co. (company)	Ft. Worth, TX	7/29/86	7/23/86	TA-W-17,830	Welded steel pipes.
Ft. Worth Pipe Co. (company)	Conroe, TX	7/29/86	7/23/86	TA-W-17,831	Welded steel pipes.
Ft. Worth Pipe Co. (company)	Abilene, TX	7/29/86	7/23/86	TA-W-17,832	Welded steel pipes.
Ft. Worth Pipe Co. (company)	Ft. Morgan, CO	7/29/86	7/23/86	TA-W-17,833	Welded steel pipes.
G.H. Bear (workers)	Wichita Falls, TX	7/28/86	7/23/86	TA-W-17,834	Oilfield equipment.
Kenworth Truck Co. (UAW)	Kansas City, MO	7/30/86	7/25/86	TA-W-17,835	Highway tractors.

[FR Doc. 86-18701 Filed 8-19-86; 8:45 am]
BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letters Interpreting the Federal Unemployment Insurance Law

The Employment and Training Administration (ETA) interprets Federal law pertaining to unemployment insurance as part of the fulfillment of its role in administration of the Federal-State unemployment insurance system. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to State Employment Security Agencies. The four UIPLs described below are published in the **Federal Register** in order to inform the public.

Unemployment Insurance Program Letter No. 1-86

This directive clarifies the Department of Labor's interpretation of section 3304(a)(14)(A) of the Federal Unemployment Tax Act (FUTA) regarding the eligibility of aliens for unemployment compensation. Under this section, compensation generally is not payable on the basis of service performed by an alien. This UIPL discusses the three categories of aliens exempt from the denial of benefits due to alien status.

Unemployment Insurance Program Letter No. 30-86

Section 1202(b)(5) of the Social Security Act (SSA) provides that interest on Title XII advances shall not be paid (directly or indirectly) by a State from amounts in its unemployment fund. This directive advises State agencies regarding the use of a special State fund apart from the unemployment fund for the payment of interest due on Title XII advances.

Unemployment Insurance Program Letter No. 37-86

This directive advises State agencies of the amendments made by the Food Security Act of 1985, Pub. L. 99-198, to Title III of the SSA, permitting the intercept of unemployment benefits to offset food stamp overissuances. The amendments to section 303(d), SSA, create options for the States regarding (1) requesting information from individuals, (2) notifying the food stamp agency regarding the individual's eligibility for unemployment benefits, and (3) deducting uncollected overissuances of food stamps from unemployment benefits.

Unemployment Insurance Program Letter No. 50-86

This directive advises State agencies of the amendments made by Pub. L. 99-272 to section 303 of the SSA, sections 3304 and 3306 of the FUTA, the Federal Supplemental Compensation Act of 1982 (FSC), and the Trade Act of 1974. The significant provisions of this law which may require changes in State law and will require new agreements by the States with the Secretary of Labor are as follows: (1) Permits recovery of overpayments made under State and Federal unemployment compensation (UC) laws through offset from unemployment benefits payable to an individual under another State's UC law or a Federal UC program; (2) amends FSC law by waiving the consecutive weeks requirement for certain individuals to collect the remaining benefits in their FSC accounts if these individuals were called up for National Guard duty by the Governor in a disaster declared by the President on June 3, 1985; (3) reauthorizes the Trade Adjustment Assistance Program for workers effective December 18, 1985, and extends the program to September 30, 1991; and (4) amends the FUTA definition of "employment" for three groups of workers which includes agricultural labor performed by certain non-resident farmworkers admitted to work temporarily under specific provisions of the Immigration and Nationality Act, certain full-time students employed by certain summer camps, and crews of certain fishing boats.

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Dated: August 11, 1986.

Roger D. Semerad,

Assistant Secretary of Labor

Directive: Unemployment Insurance Program Letter No. 1–86

To: All State Employment Security Agencies

From: Barbara Ann Farmer, Acting Administrator for Regional Management

Date: October 28, 1985

Subject: Eligibility of aliens for unemployment compensation under section 3304(a)(14)(A), FUTA

1. *Purpose.* To clarify the Department of Labor's interpretation of section 3304(a)(14)(A) of the Federal Unemployment Tax Act (FUTA) regarding the eligibility of aliens for unemployment compensation.

2. *References.* Section 3304(a)(14)(A), FUTA; UIPL 6–83; UIPL 15–78; FM 18–83; GAL 43–80; *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976-P.L. 94–566* (including Supplement No. 3, Questions and Answers, issued May 6, 1977).

3. *Background.* Section 3304(a)(14)(A), FUTA, requires, as a condition for the Secretary of Labor's certification of a State to the Secretary of the Treasury, that the State law provide that:

> compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

To be eligible for unemployment compensation under this section of FUTA, an alien must fall within one of the three categories specified in the law at the time the work on which the claim is based was performed. In addition, the individual must be legally available for work at the time benefits are claimed.

Department of Labor guidelines on this subject have advised States to rely on information or documents presented by aliens to determine whether they qualify under any of these three categories. States have also been advised to consult the Immigration and Naturalization Service (INS) when necessary to resolve questions of an alien's status or entitlement to work in the United States.

In the case of the first two categories, the alien can usually provide one of several documents which confirm his or her right to work. GAL No. 43–80 and Supplement No. 3 of the *Draft Language and Commentary to Implement the Unemployment Amendments of 1976-Pub. L. 94–566* describe the most common acceptable documents.

It has been more difficult for State agencies to implement a uniform policy regarding the third category, aliens who claim unemployment benefits based on permanent residence under color of law. Generally, States have followed INS guidelines in determining whether an alien meets this criterion. However, neither FUTA nor immigration law specifically define the terms "permanently residing" or "under color of law." In addition, there have been conflicting court and appeals board decisions on this issue. In some cases, State agency decisions have been overturned and agencies have requested Department of Labor guidance regarding how to proceed in future cases.

The purpose of this program letter is to ensure that section 3304(a)(14)(A), FUTA, is uniformly interpreted and applied. Some of the information provided below has also been issued in earlier directives and where this occurs references are provided. The information is provided again in this program letter for continuity in the interpretation of the Federal statute.

4. *Interpretation.* Under section 3304(a)(14)(A), FUTA, compensation generally is not payable on the basis of service performed by an alien. However, three categories of aliens are exempt from the denial of benefits due to alien status:

- Aliens lawfully admitted for permanent residence at the time the services were performed.
- Aliens lawfully present for purposes of performing the services.
- Aliens permanently residing in the United States under color of law at the time the services were performed.

Following is an interpretation of section 3304(a)(14)(A), FUTA, as it applies to aliens in general, as well as an interpretation of each of the three exemptions in the law.

a. *General Monetary Entitlement and Eligibility Requirements.* Section 3304(a)(14)(A), FUTA, exempts certain classes of aliens from denial of unemployment compensation due to their alien status. However, the alien must also meet State eligibility requirements which all claimants. Two such eligibility requirements which *all* aliens must meet are summarized below. Any issues involving either of these requirements must be resolved through a nonmonetary determination before authorizing payment of benefits. Guidelines for adjudicating these issues are provided in UIPL No. 15–78.

(1) *Allowable Wage Credits/ Monetary Entitlement.* The wage credits used to establish a claim and monetary entitlement to benefits must be earned while an alien is legally authorized to work in the United States. For example, if an alien enters the country illegally and later becomes an immigrant or permanent resident under color of law, only services performed after legal status is established may be used to support a claim.

(2) *"Able and Available" Requirement.* Under the laws of all States, a claimant must be "able and available" to work to be eligible for unemployment compensation. In addition to meeting other State availability requirements, an alien must be legally authorized to work in the United States to be considered "available for work." Therefore, an alien without current, valid authorization to work from the INS is not legally available for work and not eligible for benefits.

Availability for work while claiming benefits is a separate issue from the alien's status while working during the base period. For example, an alien may have been authorized to work at the time services were performed, but not authorized to work when he or she files a claim for benefits. Or an alien's work authorization may expire while he or she is in active claim status. In these cases, the alien's wage credits could be used to establish a claim, but the alien would not be eligible for benefits because he or she is not available for work. Current, valid authorization to work is necessary for an alien to be considered "available for work."

b. *Lawfully Admitted for Permanent Residence.* The term "lawful permanent resident" is defined in the immigration and Nationality Act. It includes aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "nonimmigrant." 8 U.S.C. 1101(a)(20). Evidence of this status is the Alien Registration Receipt Card (Form I–151 or I–551), commonly called a "green card," issued to each lawful permanent resident by the INS.

Any wage credits earned in covered employment while a prospective claimant is a lawful permanent resident can be used to establish a claim for benefits. In addition, lawful permanent residents who are otherwise eligible for benefits under State law would meet the availability requirement (authorization to work in the United States) needed to be eligible for benefits.

c. *Lawfully Present for Purposes of Performing Services.* This category is not defined in the Immigration and Nationality Act. However, based on the language of the statute and its legislative history, three groups of aliens are included in this category: Canadian and Mexican alien commuters authorized to work in the United States, nonimmigrants granted a status by the INS authorizing them to work in the United States, and other aliens with INS authorization to work in the United States regardless of their status. Section 3304(a)(14)(A), FUTA, is interpreted to apply to these three groups as follows.

(1) *Commuters.* This group includes aliens who live in Canada and Mexico and commute daily or seasonally to work in the United States. In some respects commuters are treated as "lawful permanent residents" in that they are issued green cards by the INS. These commuters have the right to reside permanently in the United States but choose not to exercise that right. Commuters must be distinguished from other Canadian and Mexican aliens who enter the United States for limited periods. Short term visitors may be issued nonresident alien border crossing cards, known as "white cards." These cards do *not* include authorization to work. Various types of white cards are discussed in Supplement #3 of the *Draft Language and Commentary to Implement the Unemployment Amendments of 1976–Pub.L. 94–558.*

(2) *Nonimmigrants whose status authorizes them to work.* This group includes aliens legally admitted to the United States as nonimmigrants (i.e., temporary visitors) *and* whose status authorizes them to work during their stay. These are aliens admitted to the United States as temporary workers or trainees (H–1, H–2, or H–3) after the Secretary of Labor has certified that their admission will not have an "adverse affect" on domestic workers. These aliens will be issued documents by the INS indicating the kinds of work they are allowed to perform and how long they can remain in the United States. In most cases, a failure by the alien to maintain certified employment results in a corresponding failure to maintain status in this category. Therefore, if the alien becomes unemployed, he or she would probably not meet the legal availability requirement for entitlement to benefits.

(3) *Other aliens with INS authorization to work.* This group includes other aliens who are permitted to work by the INS regardless of their status in the United States. The INS has broad discretionary authority to permit an alien to work "for humanitarian reasons" pending determination of the alien's status. Beneficiaries of this discretion may range from applicants for asylum or suspension of deportation to deportable or excludable aliens. To be included in this group, the alien must have specific documentation from the INS indicating he or she is authorized to work. The authorization may be for a specific time only or may be for an indefinite period. Aliens in this group must be distinguished from those who are permanently residing in the United States under color of law (discussed under Item d. (3) below).

As long as an alien in one of the above three groups is authorized by the INS to work in the United States, he or she is "lawfully present for purposes of performing such services." Therefore, any wage credits earned in covered employment may be used to establish a claim for benefits. However, the alien must also be currently authorized to work in the United States while claiming benefits.

Because the status of aliens in this category can depend on many factors and also may be subject to change, each case must be reviewed carefully by the State agency to determine the alien's status both at the time of work and the time benefits are claimed. There is one exception to this legal availability requirement: Canadian nationals claiming benefits against a State of the United States under the Interstate Benefit Payment Plan must satisfy only Canadian availability requirements if they reside in Canada.

d. *Permanently Residing in the United States Under Color of Law.* The third category of individuals exempt from denial of benefits due to alien status are aliens who were "permanently residing in the United States under color of law" when the services on which the claim is based were performed. FUTA does not define the term "under color of law," nor is this term defined in the Immigration and Nationality Act. However, section 3304(a) (14) (A), FUTA, does identify two groups of aliens who are included in this category. These aliens are usually referred to as refugees and parolees. In addition, this category is interpreted to include aliens "presumed to have been lawfully admitted for permanent residence" and certain aliens whom the INS has determined may remain in the United States for an indefinite period. These groups are discussed below.

(1) *Refugees/Parolees.* FUTA specifically includes in the category of "permanently residing under color of law" those aliens who are lawfully present in the United States under the provisions of section 203(a) (7) or section 212(d) (5) of the Immigration and Nationality Act. Section 203(a) (7) involves the general INS authority to admit refugees, while section 212(d) (5) deals with aliens temporarily paroled into the United States. Aliens admitted to the United States under these provisions are entitled to work for specific periods indicated on the forms issued to them by the INS. These groups of aliens and the documents they are issued are discussed in Supplement #3 of the *Draft Language and Commentary to Implement the Unemployment Amendments of 1976–Pub. L. 94–566.*

(2) *Aliens presumed to be lawfully admitted for permanent residence.* Under immigration law, several other groups of aliens are presumed to have been lawfully admitted for permanent residence even though their actual admission to the United States is undocumented. 8 CFR Part 101. These aliens are considered exempt from the denial of unemployment compensation as aliens "lawfully admitted for permenent residence" described in item 4 b above. A list of these groups and the documents that are issued to them by INS is provided in Supplement #3 of the *Draft Language and Commentary to Implement the Unemployment Amendments of 1976–Pub. L. 94–566.*

(3) *Other aliens permanently residing under color of law.* This group includes those aliens who, after review of their particular circumstances under INS statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. This interpretation is consistent with the language and legislative history of the FUTA provision and related case law.

Congress has enacted a complex set of statutes on immigration and has created the INS as an agency with broad powers, both regulatory and adjudicatory. Under the Immigration and Nationality Act and its implementing regulations, the INS determines the status of each alien in the United States. In addition, the Supreme Court recently confirmed the discretionary authority of the INS in alien matters.[1] Therefore, in making a determination about an alien's status, the INS is acting "under color of law." A case which illustrates this point is *Holley v. Lavine.*[2] In *Holley*, the INS

[1] Immigration and Naturalization Service v. Rios-Pineda,——U.S.——, 105 S. Ct. 2098 (1985).

[2] 553 F.2d 845 (2d Cir. 1977), *cert. denied*, 435 U.S. 947 (1978).

sent a letter informing a Canadian citizen with six United States citizen children that she would not be deported at least until her children were grown. This discretionary act by the INS gave "color of law" to her status as a resident of the United States.

For informal INS action to authorize an alien's residence under "color of law", the INS must know of the alien's presence, *and* must provide the alien with official assurance that enforcement of deportation is not planned. If the INS issues a letter or other document to the alien stating that departure will not be enforced, the alien is present under color of law.

In addition to the term "color of law," FUTA includes the term "permanently residing." This term is not defined in FUTA; however, the term "permanent" is defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a) (31), as follows:

> The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with the law.

The Immigration and Nationality Act also defines the term "residence" as "the place of general abode," which is the "principal, actual dwelling place in fact, without regard to intent." 8 U.S.C. 1101(a) (38). Therefore, an individual actually living in the United States who receives assurance from the INS that departure will not be enforced is "permanently residing" in the United States within the meaning of section 3304(a) (14) (A), FUTA.

Any wage credits earned by the individual in covered employment while the individual is "permanently residing in the United States under color of law" may be used to establish a claim for benefits. However, if an alien enters the country illegally and later becomes a permanent resident under color of law, *only* services performed *after* the later date may be used to establish a claim. In addition, the individual must be legally authorized to work in the United States when the claim is filed and during any claim series to be legally available for work.

The issue of whether an alien is permanently residing in the United States under color of law has been the subject of recent State of appeals board and court decisions. Usually these cases concern aliens who entered the United States illegally, or who were lawfully admitted to the United States but not authorized to work during their stay. Later the alien may apply to the INS for permanent residence, political asylum, suspension of deportation or some other change in status. While a status determination is pending or deportation proceedings are being considered, the alien may file a claim for unemployment compensation. In some (but not all) of these cases, appeals boards or courts have ruled that if the INS knows of an alien's illegal presence in the United States and has taken no action on the case, the alien is "permanently residing in the United States under color of law."

Rulings of this type do not conform with the intent of section 3304(a)(14)(A), FUTA, or its legislative history. INS Inaction is *not* sufficient to show that an alien is present under color of law and States may not interpret it as such. Unless the INS has affirmatively exercised its discretion against deportation *or* authorized the alien to work, the alien is not entitled to work and cannot be considered available for work. Therefore, the alien could not meet the two general eligibility requirements discussed in Item 4.a above.

This interpretation is in accord with the legislative history of section 3304(a)(14)(A), FUTA, which reflects that Congress did not intend State agencies to administer immigration law. 122 Cong. Rec. 33284–87 (1976) (Statement of Sen. Cranston). If INS inaction could validate an alien's claim that he or she was permanently residing in the United States under color of law, State agencies would need to learn and apply the intricacies of INS enforcement procedure. State agencies would also have to determine the legal question of the length of delay needed to show INS acquiescence to the alien's presence in the United States.

Moreover, without affirmative action by the INS, any alien, regardless of the legality of entry, could become eligible to receive unemployment compensation simply by filing an application for permanent residence or suspension of deportation. Congress has indicated no intent to include such persons under the provisions of section 3304(a)(14)(A), FUTA. In short, the filing of an application alone cannot change an alien's resident status. The INS must affirmatively determine each alien's status in accordance with its authority and the alien's specific circumstances.

The cases discussed here differ from those where the INS Has granted an alien *permission to work* pending deportation or a determination of the alien's status. If the INS grants an alien permission to work, the alien's status changes to that of "lawfully present for the purposes of performing such services." This category is discussed under Item 4c(3) above. This interpretation is also in line with Congress' intent that State agencies not administer immigration law. State agencies may only determine whether an alien was entitled to work at the time his or her wage credits were earned, and whether the alien is legally available for work while claiming benefits.

5. *Action Required.* All State laws currently provide for the payment of unemployment compensation to aliens under the terms specified by section 3304(a)(14)(A), FUTA. Therefore, no amendments to State law are necessary for States to remain in conformity with these FUTA requirements unless State or Federal courts construe the State law in a manner inconsistent with the Department's interpretation of section 3304(a)(14)(A). State administrators are requested to take necessary action to assure that the State law continues to be applied consistently with section 3304(a)(14)(A), FUTA, as interpreted in this letter.

6. *Inquiries.* Please direct questions to the appropriate regional office.

Directive: Unemployment Insurance Program Letter No. 30–86

To: All State Employment Security Agencies

From: Barbara Ann Farmer, Acting Administrator for Regional Management

Date: May 12, 1986

Subject: Permissibility of the use of special funds for the payment of interest due on Title XII Advances

1. *Purpose.* To clarify the Employment and Training Administration's (ETA) position regarding the use of a special State fund apart from the employment fund for the payment of interest due on Title XII advances.

2. *Reference.* Sections 1202(b)(5) and 303(c)(3) of the Social Security Act; section 3304(a)(17) of the Federal Unemployment Tax Act.

3. *Background.* Section 1202(b)(5) of the Social Security Act provides that:

> Interest required to be paid under paragraph (1) shall not be paid (directly or indirectly) by a State from amounts in its unemployment fund. If the Secretary of Labor determines that any State action results in the paying of such interest directly or indirectly (by or equivalent reduction in State unemployment taxes or otherwise) from such unemployment fund, the Secretary of Labor shall not certify such State's unemployment compensation law under section 3304 of the Internal Revenue Code of 1954. Such noncertification shall be made in accordance with section 3304(c) of such code.

Section 303(c)(3) of the Social Security Act and section 3304(a)(17) of the Federal Unemployment Tax Act also

prohibit paying interest directly or indirectly from the State's unemployment fund. ETA has previously taken the position that the use of funds from a special State fund created for other purposes—such as a penalty and interest fund—may not be used for the payment of interest if surplus funds or amounts in excess of a specified ceiling in such special fund would be transferred into the State's unemployment fund. Questions have arisen as to whether payment of interest from these types of special funds is indeed prohibited by Federal law. Based on these questions, ETA has undertaken a thorough review of the issue, taking into consideration concerns and points of view from a number of sources.

4. *Revised Interpretation.* Payment of interest on Title XII advances from any State fund other than the State unemployment fund is not prohibited by Federal law even if State law requires or permits excess amounts in that fund to be transferred to the unemployment fund. Accordingly, States may use penalty and interest funds (or similar type funds) to pay interest on Title XII advances regardless of whether the State law provides for transfer (either mandatory or permissive) of excess amounts to the unemployment fund. Similarly, States are not prohibited from making interest payments from special funds which have been created solely for the payment of interest and provide for transfer of excess amounts to the unemployment fund.

5. *Action Required.* Administrators are requested to provide the information to the appropriate staff.

6. *Inquiries.* Questions should be directed to appropriate regional staff.

Directive: Unemployment Insurance Program Letter No. 37–86

To: All State Employment Security Agencies

From: Barbara Ann Farmer, Acting Administrator for Regional Management

Date: May 19, 1986

Subject: Food stamp intercept (withholding from unemployment compensation)

1. *Purpose.* To advise State agencies of the amendments made by the Food Security Act of 1985, Pub. L. 99–198, to Title III of the Social Security Act (SSA), permitting the intercept of unemployment benefits to offset food stamp overissuances.

2. *References.* Section 1535 of Pub. L. 99–198; section 303(d) of the Social Security Act; the Food Stamp Act of 1977, Pub. L. 95–133, 7 U.S.C. 2011 *et seq.*

3. *Background.* Section 1535(b)(3) of Pub. L. 99–198 amended section 303(d)(2), SSA, to provide for the recoupment of "uncollected overissuances" of food stamp coupons from unemployment compensation. An "uncollected overissuance" is an overissuance of food stamp coupons resulting from fraud or willful misrepresentation which has not been recovered by repayment under section 13(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(1)). This change to section 303 was necessary before such an intercept could be authorized because, with the exception of UI overpayments and child support intercept, Federal requirements prohibit interception of unemployment benefits to satisfy any public or private debt or claim.

The amendment to section 303(d) creates options for the States regarding (1) requesting information from the claimant, (2) notifying the food stamp agency regarding the claimant's UI eligibility, and (3) deducting uncollected overissuances of food stamps. The amendments require the State Employment Security Agency (SESA) to pay any amounts withheld to the State food stamp agency. The amendments also require that all administrative costs of implementing these provisions will be borne by the food stamp agency.

The statutory language authorizing the food stamp intercept closely follows the language for child support intercept contained in section 303(e)(2), SSA, with one major exception. The food stamp intercept provisions are permissive, not mandatory. This means that States have the option of which, if any, of the new provisions to implement. However, if any of the optional provisions are implemented, SESAs must adhere to certain requirements described in this UIPL. These requirements generally relate to reimbursement of costs and treatment of any amount withheld as a repayment of a food stamp overissuance and as a payment of UI to the claimant.

The effective date of the amendment to section 303(d), SSA, made by section 1535(b)(3) of Pub. L. 99–198 is December 23, 1985. The statutory language is attached.

4. *Types of Unemployment Compensation Subject to Intercept.* "Unemployment compensation" is defined in section 303(d)(2)(A), SSA, as including any regular, extended or additional unemployment compensation payable under State law, and amounts payable under any Federal unemployment compensation law administered under an agreement by the SESA. This includes payments made under the UCFE and UCX programs, trade readjustment allowances payable under the Trade Act of 1974, disaster unemployment assistance payable under section 407 of the Disaster Relief Act of 1974 and weekly layoff and vacation replacement benefits payable under the Redwood National Park Expansion Act (Pub. L. 95–250). States which apply the food stamp intercept provisions to State unemployment compensation must also apply the provisions to the UCFE, UCX, TRA and DUA programs.

5. *Disclosure to Food Stamp Authorities.* Under the amendments to section 303(d)(2)(B)(i), SSA, SESAs may require each new claimant to indicate whether an uncollected overissuance of food stamps is owed. SESAs may, for example, add a question to the initial claim form. This question should be separate from the question regarding child support intercept, but the language may be similar. If the claimant indicates that an uncollected overissuance exists, and the claimant is eligible for unemployment compensation, the SESA may notify the State food stamp agency of the claimant's eligibility for unemployment compensation. Acknowledgment that a food stamp overissuance is owed is not sufficient to allow SESAs to deduct an amount from a claimant's unemployment compensation. An amount must first be determined under one of the methods provided for under clause (iii) of section 303(d)(2)(B), SSA, which are described in section 6 of this UIPL. Until this amount is determined, benefits otherwise due shall be paid without deduction for uncollected overissuances. When an amount is determined, the SESA may, if State law so provides, withhold the amount specified from future benefit payments.

6. *Methods for Recouping Overissuances.* Under clause (iii) of section 303(d)(2)(B), SSA, SESAs may deduct and withhold from any unemployment compensation payable to an individual an amount determined by any of the following methods:

a. *The amount specified by the individual to the SESA.* The claimant may specify in writing to the SESA the amount to be deducted and withheld from each benefit payment. We urge SESAs to clear these amounts with the food stamp agency before any intercept is made. Subclause (I) of section 303(d)(2)(B)(iii).

b. *The amount determined under an agreement between the individual and the State food stamp agency.* Section 13(c)(3)(A)(ii) of the Food Stamp Act of 1977 specifies that the food stamp agency is responsible for submitting a copy of this agreement to the SESA. The SESA may not intercept benefits under

this method until the food stamp agency furnishes the SESA a copy of the agreement. Subclause (II) of section 303(d)(2)(B)(iii).

c. *An amount required to be deducted and withheld under a court order obtained by the food stamp agency.* Section 13(c)(3) of the Food Stamp Act of 1977 provides that the State food stamp agency may, in the absence of an agreement entered into under section 13(c)(3)(A), obtain a "writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation." When a court order is served under a State law which provides for the food stamp intercept, the SESA is required to intercept future benefit payments to the claimant in the amount specified in the order. Subclause (III) of section 303(d)(2)(B)(iii).

7. *Amounts to be Deducted and Withheld.* Before withholding an amount for uncollected overissuances, the SESA shall first apply State law provisions regarding disqualifying income and recoupment of overpayments. Child support obligations will also be deducted before Food Stamp overissuances. If, due to other deductions, the amount remaining is less than the amount specified to be deducted for uncollected overissuances, only the amount remaining may be intercepted. The SESA may not increase the amount to be deducted from a subsequent week's payment to make up the deficit. Section 303(d)(2)(C) requires that any amounts withheld and forwarded by SESAs shall be treated as payment to the claimant of unemployment compensation due, and shall be treated as repayment of the individual's uncollected overissuance. This eliminates any basis for a claim against the SESA for any amounts forwarded to the food stamp agency under the permissive language of section 303(d)(2), SSA.

8. *Administrative Cost Paid by State Food Stamp Agencies.* Section 302(d)(2)(D) requires the State food stamp agency to reimburse the SESA for administrative costs incurred in the administration of the food stamp intercept provisions. Because granted funds may not be used for this purpose, the Department interprets section 302 and 303, SSA, as requiring the SESAs to collect from the State food stamp agencies all costs incurred in administering the food stamp intercept provisions. These costs include start-up and continuing costs. Because no granted funds under Title III, SSA, will be provided or may be used to administer the food stamp intercept provisions, SESAs should require payment in advance.

A written agreement between the SESA and the food stamp agency is needed and should include specific terms regarding the information and services supplied by the SESA to the State food stamp agency, the costs covered and charges to be made for all information and other services, billing and payment arrangements (including advance payment), handling of errors, adjustment of prices and termination. It may be possible for the SESA to amend an existing agreement with the State food stamp agency rather than create a new agreement. In any case, SESAs may undertake activities under section 303(d)(2) only after agreements for reimbursement of all costs have been made.

9. *Amendments to State Law.* States wishing to implement any of these provisions will need to review their laws to determine whether amendment of the State law is needed to permit the intercept of food stamp overissuances. Because all State laws contain provisions voiding any agreement to waive benefit rights or any assignment of such benefits, and presumably preclude attachment, levy, garnishment, etc. of benefits, we assume such amendments will be necessary. Amendments for this purpose should be crafted to avoid interpretations allowing any expansion of the exceptions provided in section 303(d), SSA, and to provide the SESA clear authority for interception and administration fully consistent with section 303(d)(2).

10. *Procedural Guidelines.* Since the provisions for food stamp intercept closely follow the provisions for child support intercept, the procedural steps and agreement should be quite similar. SESAs deciding to implement the food stamp intercept provisions may wish to review their procedures for the child support intercept to determine their applicability to the food stamp provisions. SESAs should particularly note the following:

a. *Notice of Claimants.* SESAs must give each claimant an initial, written notice which explains the beginning date and amount of deduction from each weekly benefit payment, the remitting of amounts to the State food stamp agency, and the legal consequences of such withholding and remittance as set forth in section 303(d)(2)(C). This notice may be issued with the first benefit check from which a deduction is made. The notice must explain the authority for the deduction and include the claimant's right to appeal and that any appeal is limited to the validity of SESA's authority to make deductions and the accuracy of the amount deducted. Claimants should be advised to seek remedy through the court or food stamp agency when the reasonableness or fairness of the amount deducted is questioned. Issuing notices and processing appeals are administrative costs which are payable by the State food stamp agency.

b. *Accounting.* ETA does not plan on any reporting requirements. However, SESAs should maintain separate accounting and billing records for food stamp intercept to support these costs if audited by State or Federal authorities. Any additional costs incurred by SESAs in maintaining such records will be borne by the State food stamp agency.

c. *Interstate Claims.* Procedures for interstate claims will be the same as for child support intercept. No intercept of food stamp overissuances will be made unless the liable State has entered into an agreement with the State owed the overissuance. To enter into an agreement, an SESA must have the authority under State law to perform such an intercept.

11. *Action Required.* SESAs are requested to cooperate with State food Stamp agencies desiring to implement the food stamp intercept provisions of section 303(d)(2), SSA.

12. *Inquiries.* Inquiries should be directed to the appropriate regional office.

13. *Attachment.* Amendment to section 303(d)(2), SSA.

Attachment to UIPL No. 37–86

Section 1535(b)(3) of Pub. L. 99–198 redesignated paragraphs (2) and (3) of section 303(d), SSA, as paragraphs (3) and (4), respectively, and added new paragraph (2). New section 303(d)(2) now provides as follows:

(2)(A) For purposes of this paragraph, the term "unemployment compensation" means any unemployment compensation payable under the State Law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).

(B) The State agency charged with the administration of the State law—

(i) May require each new applicant for unemployment compensation to disclose whether the applicant owes an uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons,

(ii) May notify the State food stamp agency to which the uncollected overissuance is owed that the applicant has been determined to be eligible for

unemployment compensation if the applicant discloses under clause (i) that the applicant owes an uncollected overissuance and the applicant is determined to be so eligible.

(iii) May deduct and withhold from any unemployment compensation otherwise payable to an individual—

(I) The amount specified by the individual to the State agency to be deducted and withheld under this clause,

(II) The amount (if any) determined pursuant to an agreement submitted to the State food stamp agency under section 13(c)(3)(A) of the Food Stamp Act of 1977, or

(III) Any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to section 13(c)(3)(B) of such Act, and

(iv) Shall pay any amount deducted and withheld under clause (iii) to the appropriate State food stamp agency.

(C) Any amount deducted and withheld under subparagraph (B)(iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State food stamp agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance.

(D) A State food stamp agency to which an uncollected overissuance is owed shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by the State agency under this paragraph that are attributable to repayment of uncollected overissuance to the State food stamp agency to which the uncollected overissuance is owed.

Directive: Unemployment Insurance Program Letter No. 50–86

To: All State Employment Security Agencies

From: Donald J. Kulick, Administrator for Regional Management

Date: July 21, 1986

Suject: Amendments made by Pub. Law. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985, which affect the Federal-State Unemployment Compensation Program

1. *Purpose.* To advise State agencies of the amendments made by Pub. L. 99–272 to section 303 of the Social Security Act (SSA), Sections 3304 and 3306 of the Federal Unemployment Tax Act (FUTA), and the Federal Supplemental Compensation Act of 1982 (FSC).

2. *References.* Sections 12401, 12402, and 13303 of Pub. L. 99–272

3. *Background.* The President signed into law on April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. 99–272. The amendments made by Pub. L. 99–272 have made several significant changes affecting the unemployment compensation (UC) program which may require changes in State law and will require new agreements with the U.S. Secretary of Labor.

Section 12401 amends section 303(a)(5), SSA, and sections 3304(a)(4) and 3306(f), FUTA, to permit recovery of overpayments made under State and Federal UC laws through offset from unemployment benefits payable to an individual under another State's UC law or a Federal UC program in accordance with a new subsection (g) to section 303, SSA, which provides that:

(1) a State may deduct overpayments from benefits payable under a UC program of the United States (U.S.) or another State, with the same procedural safeguards for notice and opportunity for a hearing as apply to the deduction of overpayments of UC paid by the State; and

(c) *Permanently* extends the exclusion from "employment" under section 3306(c)(18), FUTA, remuneration paid afte December 31, 1980, for services performed by crews of certain fishing boats.

4. *Action Required.* SESAs are requested to notify appropriate staff of these amendments.

5. *Inquiries.* Inquiries should be directed to your regional office.

6. *Attachments.* Text, explanation and interpretation of UC amendments; and draft language to implement the provisions of new section 303(g), SSA.

Attachment I to UIPL No. 50–86—Text, Explanation and Interpretation of UC Amendments made by Pub.L. 99–272

I. *Section 12401. Recovery of Overpayments by a State Under the State's UC Program, a Federal UC Program or a UC Program of Another State.*

A. *Text of Amendments.*

1. *Amendment to section 303(a)(5), SSA:*

Provided further, That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g).

2. *New Subsection (g) of section 303, SSA:*

(g)(1) A State may deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

(2) Any State may enter into an agreement with the Secretary of Labor under which—

(A) The State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

Section 12401 allows three types of offset under the new subsection (g) of section 303, SSA. The three types are defined below:

1. *Interstate Offset* means:

a. the withholding of State UC benefits payable by State A to recover an overpayment made by State B under its State UC program, and

b. the withholding of Federal UC benefits payable by State A to recover an overpayment made by State B under a Federal UC program.

2. *Intrastate Cross-Program Offset* means:

a. the withholding of State UC benefits payable by State A to recover an overpayment made by State A under a Federal UC program, and

b. the withholding of Federal UC benefits payable by State A to recover an overpayment made by State A under its State UC program.

Note that the authority for withholding of UC benefits under one Federal program payable by State A to recover an overpayment made by State A under the the same or a different Federal program continues in effect under previously existing statutory authority.

3. *Interstate Cross-Program Offset* means:

a. the withholding of State UC benefits payable by State A to recover an overpayment made by State B under a Federal UC program, and

b. the withholding of Federal UC benefits payable by State A to recover an overpayment made by State B under its State UC program.

VOL 51 ISS 161 AG 20 1986 UMI

Procedures, requirements and guidance for the implementation of these three types of offsets are discussed further in this Attachment.

b. *Recovering State.* The recovering State must follow the same procedures relating to notice to the claimant and opportunity for a hearing as apply under its own State law for the recovery of overpayments of regular UC paid by the recovering State.

3. *Guidance for Interstate Offset.* This new subsection applies to the offset of any overpayment not previously recovered under the requesting State's law. The State receiving the request for recoupment must apply its own law in offsetting an overpayment to the same extent as provided for the same type (fraud or nonfraud) of intrastate overpayment.

a. *Interstate Reciprocal Overpayment Recovery Arrangement.* The ICESA Interstate Benefit (IB) Committee has under consideration a reciprocal arrangement. This Arrangement will facilitate implementation of interstate overpayment recovery.

b. *Interstate Request for Recoupment.* A form to be used by the requesting State has been drafted and is before the IB Committee for approval. Once issued this form should be used by all States.

c. *Notice of Recoupment.* Recovering States should individually develop a notice that must include at a minimum the following information:

(1) The statutory authority for the offset and the name of the State requesting recoupment;

(2) The amount of outstanding balance certified by the requesting State;

(3) The date of the original notice of determination of overpayment;

(4) Type of overpayment (fraud or nonfraud);

(5) Program type (UI, UCFE, UCX, etc.);

(6) The amount to be offset weekly; and

(7) The right to request redetermination and appeal.

Claimant's right of appeal should be limited to the recovering State's authority to offset and the amount of the weekly offset. Claimants should be informed that any issue concerning the correctness or validity of the requesting State's overpayment determination should be addressed to the requesting State.

overpayment previously made to the claimant under the State's UC program. The State also agrees to deduct from regular, extended, and additional UC benefits an overpayment previously made to the claimant under the Federal unemployment benefit program. The Federal benefits applicable under a 303(g)(2) agreement will be listed in the agreement.

This new subsection also permits interstate cross-program offset, but only if the two States involved have a section 303(g)(2) agreement with the Secretary of Labor and participate in the 303(g)(1) program.

4. *Priorities of Overpayments.* When a State receives a request for recoupment from more than one State, it is recommended that, after any intrastate overpayments have been satisfied, the oldest overpayment determination be given first priority. This, however, does not apply when there is an overpayment outstanding in a transferring State participating in a Combined-Wage Claim, since 20 CFR 616.8(e) gives priority to a transferring State when overpayments are recovered through a Combined-Wage Claim.

E. *Action Required.* The States are encouraged to implement the provisions of this new section of SSA. These procedures allow the States a viable method for recoupment of overpayments that might not otherwise be collected.

F. *Effective Date.* Section 303(g), SSA, is effective for recoveries made on or after April 7, 1986, and may apply with respect to overpayments made before, on, or after such date.

(1) That is made on a form provided by the State agency concerned and signed by the individual; and

(2) That identifies the weeks of unemployment for which the individual is making the certification.

(d) *Limitaiton on Amount of Payment.*—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Fedeal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

(e) *Definition.*—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

(f) *Modification of Agreement.*—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensaiton Act of 1982 in order to carry out this section.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

(g) *Effective Date.*—The provisions of this section shall apply to weeks beginning after March 31, 1985.

B. *Discussion.* The FSC program was due to expire April 6, 1985. Pub. L. 99–15, enacted April 4, 1985, allowed individuals receiving FSC for the week which included March 31, 1985, to continue receiving the remainder of their benefits, as long as these remaining benefits were collected in consecutive weeks of unemployment. Any interruption of benefits, for whatever reason, ended the FSC benefits.

Section 12402 allows certain individuals in the States of Pennsylvania and Ohio to collect the balance in their FSC account, notwithstanding Pub. L. 99–15. This Section pertains only to a class of individuals who were on National Guard duty during a major disaster declared by the President on June 3, 1985. There are specific provisions as to who is eligible and as to the conditions for payment of any remaining FSC.

C. Procedures for FSC Payments (Ohio and Pennsylvania).

1. *Eligibility for FSC for Weeks Beginning After March 31, 1985.* Pub. L. 99–272 provides for payment of FSC to individuals whose FSC benefit payments were terminated because their FSC claims series were interrupted by their service in the National Guard. It pertains only to individuals who received FSC payments for the weeks which included March 31, 1985, and subsequent, consecutive weeks, until they were called up for duty in the National Guard by their Governor during a major disaster declared by the President on June 3, 1985. This amendment to the FSC Act of 1982 concerns only the States of Ohio and Pennsylvania.

2. *Modification to Agreements.* Pub. L. 99–272 requires a modification of the agreement made under section 602 of the FSC Act. However, pending modification of this agreement, the two States may make FSC payments to eligible individuals and will be reimbursed under section 604(a) of the FSC Act of 1982.

3. *Notice to Claimants.* The SESA shall identify the FSC claimants affected by the call up of the National Guard and inform each of them in writing that they may be eligible for FSC payments. It is recommended that the States identify the affected claimants by obtaining from the National Guard a list of the Social Security account numbers of the individuals who served during the disaster and crossmatch this list with the FSC claim files.

4. *Limits on FSC Payments.* SESAs shall pay FSC to eligible claimants to the extent of the balances in their FSC accounts when their claims were terminated. The FSC payments may be made for weeks of unemployment which begin the first week beginning after the end of the individual's National Guard service during the major disaster declared on June 3, 1985. A claimant's FSC payments for weeks of unemployment end with the beginning of the first week in which the individual was employed after the end of National Guard service. This means that no FSC payments may be made to any individual for any week of *partial* unemployment. For each week of FSC claimed, the individuals shall indicate the week ending date of the week of unemployment claimed and certify to their unemployment for each such week by signing forms provided by the State agency.

5. *Special Eligibility Rule.* Individuals' eligibility for FSC during the period which begins with the first week of unemployment following their National Guard service shall not be limited, reduced, or terminated because of issues regarding State law requirements for active search for work, availability for work or refusals to accept or apply for offers of work.

6. *Reporting Procedures.* FSC activity may be reported in the comments section of the appropriate report.

7. *Reductions.—Pub. L. 99–177.* The FSC payments and administrative costs to implement Pub. L. 99–272 are not subject to reduction under title II of Pub. L. 99–177.

D. *Action Required.* This section applies only to the States of Pennsylvania and Ohio.

E. *Effective Date.* This provision shall apply to weeks beginning after March 31, 1985.

IV. *Section 13303(b). Reinstatement of the FUTA Exemption of Full-Time Students Employed by Summer Camps.*

A. *Text of Reinstated Paragraph of Section 3306(c)(20):*

(20) Service performed by a full-time student (as defined in subsection (q)) in the employ of an organized camp—

(A) If such camp—

(i) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

(ii) Had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

(B) If such full-time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year.

B. *Discussion.* Section 276(b) of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 added a new paragraph (20) to section 3306(c), FUTA, to be applicable to remuneration paid during calendar year 1983 only. Section 13303(b) now amends TEFRA so that section 3306(c)(20), FUTA, is applicable to remuneration paid after September 19, 1985.

Under section 3306(c)(20), FUTA, the service of a full-time student (see definition below) who is paid wages for less than 13 calendar weeks after September 19, 1985, in the employ of an organized camp (see definition below) is excluded from coverage under FUTA.

This exclusion applies only to "full-time students" in the employ of an "organized camp" who work "less than 13 calendar weeks." All three conditions must be met for such services to be excluded from coverage under FUTA.

1. "Full-Time Student" is defined by Section 3306(q), FUTA:

(q) Full-Time Student.—For purposes of subsection (c)(20), an individual shall be treated as a full-time student for any period—

weeks and any additional day(s) beyond that 12 calendar week into a 13th calendar week would not be excluded from FUTA coverage under section 3306(c)(20).

Since the Internal Revenue Service has the primary authority for administration of this provision, it will have the responsibility for interpreting and applying the language of this provision.

C. *Action Required.* A State has the option of whether to seek an amendment to State law to provide for a similar exclusion in its law. It is not a Federal requirement for conformity.

D. *Effective Date.* This amendment to FUTA became effective upon enactment, April 7, 1986.

C. *Action Required.* A State has the option of whether to seek an amendment to State law to provide for a similar exclusion in its law. It is not a Federal requirement for conformity.

D. *Effective Date.* This amendment to FUTA became effective upon enactment, April 7, 1986.

Attachment II to UIPL No. 50–86—Recommended Draft Language To Implement Section 303(g)

The recommended draft language is keyed to the *Manual of State Employment Security Legislation, Revised September 1950* and later supplementals. It adds a new subsection (f) to section 15.

(Alternative 1)

(f) Notwithstanding any other provision of this chapter, the commissioner may recover an overpayment of benefits paid to any individual under this State or another State law or under an unemployment benefit program of the United States.

(Alternative 2)

(f) *Interstate and cross-offset of State and Federal unemployment benefits.*— To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other States or the United States Secretary of Labor, or both, whereby, notwithstanding the provisions of subsections (j), (k), or (l) of section 5:

(1) Overpayments of unemployment benefits as determined under section 5(j) shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another State, and overpayments of unemployment benefits as determined under the unemployment compensation law of such other State shall be recovered by offset from unemployment benefits otherwise payable under this Act; and

(2) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment.

[FR Doc. 86–18704 Filed 8–19–86; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

BEST COPY AVAILABLE

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by September 5, 1986.

ADDRESSES: Send comments to Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503; (202–395–6880). In addition, copies of such comments may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington DC 20506, (202–682–5464); from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of a previously approved collection for which approval has expired. The entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form.

This entry is not subject to 44 U.S.C. 3504(h).

Title: Challenge Grants Application Guidelines FY 1987/88.

QMB Number: 3135–0046.

Frequency of Collection: One-time

Respondents: Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from nonprofit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 200.

Estimated Hours for Respondents to Provide Information: 24,000.

D.K. Stephens,

Acting Chairman for Management, National Endowment for the Arts.

[FR Doc. 86–18817 Filed 8–19–86; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts Tilted Arc Site Review Advisory Committee; Notice of Establishment

In accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office of Management and Budget Circular A–63) notice is hereby given that establishment of the Tilted Arc Site Review Advisory Committee has been approved by the Chairman of the National Endowment for the Arts for a period of one year from the date this Charter is filed. In response to a request by the General Services Administration (GSA), this committee will review and make recommendations on the appropriateness or inappropriateness of proposed sites for the relocation of a sculpture entitled *Tilted Arc* by Richard Serra. This Committee will report its recommendations to the Administrator of the GSA or the Administrator's designee, through the Chairman of the Arts Endowment.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 7, 1986.

[FR Doc. 86–18731 Filed 8–19–86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Accident Reports, Safety Recommendations, and Responses Issued

Recommendation	Re respondent	Date	Subject
I–86–01—02	DOE	5/12/86	National clearinghouse for alcohol and drug information.
I–86–03	DHHS	5/12/86	Assist DOE in creating a national clearing house for alcohol and drug information.
I–86–04	DOD	6/17/86	Identify hazardous ingredients in waste shipments.
I–86–05—06	Res. and Special Programs Admin	7/21/86	Establish standards for repairs to tanks with corrosion damage and weld defects; establish standards for qualification of persons performing inspections, tests, and examinations.
P–86–14	American Gas Assoc	7/8/86	Cathodic protection shielding conditions and in-line inspection methods.
R–86–01—08	New York City Transit Authority	5/12/86	Management review and evaluation program; wear limit of wheel flange; circuit schematic drawings; management coordination between divisions.
R–86–09—12	New York State DOT	5/12/86	Same as above.
R–86–13—15	Burlington Northern Railroad Co	7/24/86	Backup procedures; signing of train register; modify radio system.
M–86–33 and 34	USCG	5/22/86	Rescue equipment and liferafts.
M–86–35 and 36	Keystone Shipping Co	5/23/86	Inspection of underdeck spaces and revision of station bills.
M–86–37	FCC	5/23/86	Radio antenna on oil tankers.
M–86–38	USCG	5/23/86	Search and Rescue Manual.
M–86–39	Canaveral Seafood Co	5/23/86	Safe loading of fishing vessels.
M–86–40	National Council on Fishing Vessel Safety & Insurance.	5/23/86	Installation of alarm in crew berthing spaces on fishing vessels, stowing ring life buoys and liferafts so they can float free.
M–86–41—43	Drynorth (U.S.A.), Inc	5/29/86	Equipment conditions and operating procedures on life boats.
M–86–44	OSHA	7/8/86	Establishing safety requirements for industrial workers aboard non-USCG approved drilling barges.
M–86–45—48	Temple Drilling Co	7/8/86	Assign qualified barge mover; keep only necessary people aboard during moves; put one tug in charge of flotilla; wear personal floatation devices.
M–86–49	Indian Marine Co., Inc	7/8/86	Assign a tug operator to be in charge of the flotilla; communications.
M–86–50	Int. Assoc. of Drilling Company	7/8/86	Relate to association members the details of the Tonlesve accident and the associated recommendations.
M–86–51	USCG	7/24/86	Require all passenger vessels to have overnight accommodations for 50 or more passengers; vessels on routes other than rivers to be equipped with gyrocompass.
M–86–52	USCG	7/24/86	Passenger vessels on routes other than rivers be equipped with gyrostabilized bar.
M–86–53	USCG	7/24/86	Passenger vessels on routes other than rivers be equipped with fathometer.
M–86–54	USCG	7/24/86	Passenger vessels that operate on routes other than rivers be equipped with electronic position fixing device.
M–86–55	USCG	7/24/86	Comply with navigation procedures 33 CFR 164.11.
M–86–56	USCG	7/24/86	Define lakes, bays, and sounds at 46 CFR SubChapter H and T or eliminate.
M–86–57	USCG	7/24/86	Harmonize the intact stability requirements with specified routes.
M–86–58	USCG	7/24/86	Provide precise information to masters as to the damage a vessel can safely withstand.
M–86–59	USCG	7/24/86	Require a fixed firefighting system in the engineroom.
M–86–60	USCG	7/24/86	Require abandon ship drills.
M–86–61	USCG	7/24/86	Require primary lifesaving equipment.
M–86–62	USCG	7/24/86	Research to find best location for stowing life preservers.

Recommendation	No respondent	Date	Subject
M-86-63	USCG	7/24/86	Amend the Certificate of Inspection of the Colonial Explorer to require a motorized rescue boat if launches are removed from the vessel.
M-86-64	USCG	7/24/86	Require all passenger vessels with overnight accommodations for 50 or more passengers to meet construction, licensing, and manning requirements for a vessel over 100 gross tons.
M-86-65	USCG	7/24/86	Require masters to pass an examination on sections of 46 CFR regulations.
M-86-66	USCG	7/24/86	Ammend the Certificates of Inspection on passenger vessels to indicate that the master/operator must be examined in 46 CFR regulations.
M-86-67	Hyannis Harbor Tours	7/24/86	Provide precise information to masters as to the damage a vessel can safely withstand under assumed loading conditions.
M-86-68	USCG	7/21/86	Require that operators of passenger vessels exclude passengers from the pilothouse and navigator's bridge.
M-86-69	USCG	7/21/86	Require that vents on vessels penetrating watertight bulkheads be above the weatherdeck.
M-86-70	USCG	7/21/86	Require that stability information be written clearly and is understood by its master.
M-86-71	USCG	7/21/86	Require applicants or a master's license pass an examination on stability.
M-86-72	USCG	7/21/86	Require that passengers receive a safety briefing.
M-86-73	USCG	7/21/86	Require training of crew in emergency procedures.
M-86-74	USCG	7/21/86	Require life preservers be equipped with lights.
M-86-75	USCG	7/21/86	Require passenger vessels with 50 or more passengers be equipped with one motorized rescue boat.
M-86-76	USCG	7/21/86	Require the master deposit a passenger and crew manifest ashore before sailing and update during the voyage.
M-86-77	USCG	7/21/86	Require the master/operator of vessels in river service maintain logbooks.
M-86-78	Delta Queen Steamboat Company	7/21/86	Require pilots to avoid passing large downbound tows while flanking in sharp bends during high water conditions in the Mississippi River.
M-86-79	....do	7/21/86	Require masters to properly train lookouts in duties and use lookouts while underway.
M-86-80	....do	7/21/86	Compensate for the obstructed view from the pilothouse by requiring lookouts to be stationed on the bridge wings during close maneuvers.
M-86-81	....do	7/21/86	Review maintenance program and revise to ensure all valves in the drain system are in working condition.
M-86-82	....do	7/21/86	Rewrite the trim and stability booklet to provide complete information regarding accidental flooding.
M-86-83	....do	7/21/86	Relocate the life preservers near exterior muster stations.
M-86-84	....do	7/21/86	Require passengers to receive emergency procedures after boarding.
M-86-85	....do	7/21/86	Modify placards to illustrate the lifejackets carried aboard and eliminate marine terms unfamiliar to passengers.
M-86-86	....do	7/21/86	Update muster list to state duties of the crew and reflect the emergency equipment aboard.
M-86-87	....do	7/21/86	Develop an emergency operations and procedures manual.
M-86-88	Delta Queen Steamboat	7/21/86	Develop a training program for crew in emergency procedure.
M-86-89	....do	7/21/86	Require that all crew and passengers report to their stations during fire and boat drills.
M-86-90	....do	7/21/86	Require emergency loudspeaker systems to instruct crew and passengers during an emergency.
M-86-91	....do	7/21/86	Equip life preservers with lights.
M-86-92	....do	7/21/86	Equip the Mississippi Queen with motorized rescue boat.
M-86-93	....do	7/21/86	Provide lifesaving equipment for all passengers and crew.
M-86-94	Agri-Trans Corporation	7/21/86	Require operators of vessels post a lookout while maneuvering near other vessels.
M-86-95	Ascension Parish Police Jury	7/21/86	Develop a mutual aid pact with neighboring juriedictions for emergency services.
M-86-96	....do	7/21/86	Develop a disaster plan and conduct periodic disaster drills.
M-86-97—99	Offshore Marine Service Association	7/7/86	Equipment condition and operating procedures on lifeboats.

Single copies of these recommendation letters are available on written request to public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include addressee's name, date of the letter, and the recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,

Alternate Federal Register Officer.

August 14, 1986.

[FR Doc. 86-16732 Filed 8-19-86; 8:45 am]

BILLING CODE 7533-01-M

Reports Issued, Availability of Responses to Safety Recommendations

Aircraft Accident Report: China Airlines Boeing 747-SP, N4522V 300 Nautical Miles Northwest of San Francisco, California, February 19, 1985 (NTSB/AAR-86/03) (NTIS Order No. PB86-910403)

Highway Accident Report: Collapse of the U.S. 43 Chickasawbogue Bridge Spans Near Mobile, Alabama, April 24, 1985 (NTSB/HAR-86/01) (NTIS Order No. PB86-916201)

Marine Accident Report: Explosion and Fire on board U.S. Chemical Tankship Puerto Rican in the Pacific Ocean near San Francisco, California, October 31, 1984 (NTSB/MAR-86/05) (NTIS Order No. PB86-916405)

Marine Accident Report: Sinking of the U.S. Fishing Vessel Santo Rosario about 35 Nautical Miles East of New Smyrna Beach, Florida, July 23, 1984(NTSB/MAR-86/06) (NTIS Order No. PB86-916406)

Marine Accident Report: Capsizing and Sinking of the Drilling Barge Tonkawa in Bayou Chene Near Morgan City, Louisiana, May 20, 1985 (NTSB/MAR-86/07) (NTIS Order No. PB86-916407)

Marine Accident Report: Grounding of the U.S. Passenger Vessel Pilgrim Belle on Sow and Pigs Reef Vineyard Sound, Massachusetts, July 28, 1985 (NTSB/MAR-86/08) (NTIS Order No. PB86-916408)

Railroad Accident/Incident Summary Reports: Connellsville, Pennsylvania—May 29, 1984; Grandby, Colorado—April 16, 1985 (NTSB/RAR-86/01/SUM) (NTIS Order No. PB86-916502)

Marine Accident/Incident Summary Reports: Bristol Bay, Alaska—August 7, 1985; Gulf of Mexico—October 16, 1985 (NTSB/MAR-86/01/SUM) (NTIS Order No. PB86-916410)

Safety Study: Training, Licensing, and Qualification Standards for Drivers of Heavy Trucks (NTSB/SS-86/02) (NTIS Order No. PB86-917002)

Safety Study: Performance of Lap Belts in 26 Frontal Crashes (NTSB/SS-86/03) (NTIS Order No. PB86-917006)

Special Investigation Report: Runway Incursions at Controlled Airports in the Unites States (NTSB/SIR-86/01) (NTIS Order No. PB86-917003)

NATIONAL TRANSPORTATION SAFETY BOARD—RESPONSES TO SAFETY RECOMENDATIONS

Recommendation No.	Respondent	Date	Subject
A-81-15	Federal Aviation Admin. (FAA)	5/20/86	Requirement that seat rail stops be positioned to permit proper seat locking in all seat positions.
A-84-126	FAA	5/16/86	Localizer approach to runway 11 at San Luis Obispo Country Airport; traffic advisories for VFR flights on practice instrument approaches and departures.

VOL 51 ISS 161 AG 20 1986 UMI

NATIONAL TRANSPORTATION SAFETY BOARD—RESPONSES TO SAFETY RECOMENDATIONS—Continued

Recommendation No.	Respondent	Date	Subject
A-85-33	FAA	5/13/86	Coordination between local and ground controllers regarding requests and approvals to clear airplanes to taxi across active runways.
A-76-64	FAA	5/8/86	Bird ingestion in turbine engines with large inlets.
A-84-46	FAA	5/5/86	Implied consent to toxicological testing as a condition of issuance of an airman certificate.
A-81-48	FAA	5/5/86	Physiology of aerobatic G forces.
A-85-20	FAA	5/5/86	Air carrier use of actual, versus average, weights, for passengers.
A-86-13	FAA	5/5/86	Proper installation of the nose gear centering spring bolt on Piper PA-34-200 airplanes.
A-74-13, A-77-43, A-85-118.	FAA	5/5/86	Terminal air traffic control radar capable of locating severe weather and displaying convective turbulence; aviation weather subsystem for both enroute and terminal area environments; integrated weather radar/air traffic control radar angle video display system.
A-84-36	FAA	4/21/86	Research and development of submerged low-impact resistance support structures for airport facilities.
A-85-59 through -65	FAA	4/21/86	Compliance of certificated air carriers conducting passenger revenue operations with traffic advisory practice at uncontrolled airports; notification of air traffic control facility of type of approach to be flown; San Luis Obispo County Airport midair collision; elimination of potential conflicts between arriving and departing air traffic; radar traffic advisory services; Traffic Alert and Collision Avoidance System.
A-82-11 and -12	FAA	4/21/86	Effect of engine inlet pressure probe blockage on engine instrument readings.
A-81-139 through -143	FAA	4/18/86	Crashworthiness requirements for transport category aircraft.
A-83-73	FAA	4/16/86	Electrical circuit protection needed to eliminate the potential for overheating of the wiring and components in the lavatory flushing pump motor systems in transport category airplanes.
A-86-6	FAA	4/16/86	Sponge-filled fuel reservoir tanks on Beech series 33, 35, 36, 55, 56, and 95-57 airplanes.
A-86-4 and -5	FAA	4/16/86	Inspection of engine assemblies on Cessna T310, 320, 340, 401, and 411 series airplanes and on Model 402, 402A, 402B, 414, 421, 421A and 421B airplanes.
A-85-39, -95, -97	Eastern Air Lines, Inc	4/15/86	Air carrier overwater emergency equipment and procedures; airline passenger safety education.
A-86-90 through -92 and -94.	FAA	4/15/86	Incorporation of flexible, crash-resistant fuel lines and self-sealing frangible fuel line couplings on all newly certificated general aviation aircraft; light weight, flexible crash-resistant fuel cells for aircraft with nonintegral fuel tank designs; feasibility of requiring the installation of selected crash resistant fuel system components on a retrofit basis.
A-86-21	Department of Defense	4/14/86	Computation of passenger and baggage weights.
A-76-97 and -98	FAA	4/14/86	Amendment of 14 CFR 23. 149 to require that a safe one-engine speed (V_{mc}) be specified.
A-86-14 through -19	FAA	4/10/86	Air stair access door surveillance of operators, in-flight emergency training.
A-86-7 through -12	FAA	4/10/86	Standardized departure/arrival routes for helicopter traffic at Washington National Airport; visual flight rules helicopter routes for civilian and military helicopter operations throughout Washington, D.C. metropolitan area and at major airports throughout the National Airspace System; inclusion of visual flight rules helicopter control procedures in using standard routes in classroom and on-the-job training of local controllers; administration of the Technical Appraisal Program at Washington National Airport tower; qualifications of controller instructors.
A-85-35 through -49	Cranfield Aviation Safety	4/10/86	Aircarrier overwater emergency equipment and procedures.
A-85-126	General Aviation Manufacturers Association.	4/7/86	General aviation crashworthiness; acceleration loads and velocity changes.
A-79-14 and -15	FAA	4/4/86	Exit conspicuity and operability on air taxi aircraft with a capacity of 10 or more passengers.
A-78-5 through -9, -11 and -12.	FAA	4/3/86	Consistency of ELT operation with the RTCA-SC 127 revised Minimum Performance Standards; battery system that will provide useful operation of the ELT for at least 50 hours and −40 degrees C.; ELT inclusion on preflight checklists.
A-86-1 thorugh -3	FAA	4/3/86	Torquing of Nos. 1 through 3 and Nos. 6 through 8 flap track forward attachment fittings on Boeing 757 airplanes.
A-86-14 though -19	FAA	3/26/86	Cockpit resource management.
A-84-104 through -107	FAA	3/21/86	Installation of quick drains on fuel reservoir tanks of all Cessna Model 177, 208, 207, and 210 airplanes produced before 1975.
A-79-2	FAA	3/21/86	14 CFR 45.15; permanent identification of parts.
A-85-108 through -111	FAA	3/21/86	Cessna Model T303 airplanes; inspection of turbocharger inlet surfaces, replacement of silicon oil separator drain hoses with flexible fireproof stainless steel braided hoses; bolt torque specifications; manufacturing quality control procedures during aircraft assembly at Cessna Aircraft Company.
A-85-141	FAA	3/14/86	Inspection procedures for JT8D engines.
A-86-21	Department of Defense	2/24/86	Passenger and baggage weights for aircraft passengers.
Highway			
H-85-13	Kentucky Dept. of Education	5/16/86	Schoolbus driver training.
H-80-16, -17, -18 and -20	Federal Highway Administration	4/8/86	Unsafe Interstate Commercial Drivers.
H-85-31 through -35, H-85-36 through -40.	do	4/30/86	Transportation of Hazardous Materials.
H-85-25 through -28	do	4/14/86	Hazardous materials cargo tank sheet thickness.
H-80-50 and -51	do	4/9/86	Effectiveness of the "limited Sight Distance" sign.
H-85-23 through -28	National Highway Traffic Safety Administration.	4/10/86	Child restraints.
H-84-66 through -68	Federal Highway Administration	4/17/86	Identification of all motor carriers engaged in interstate commerce in their respective jurisdictions using the Management Information System (MIS).
H-85-47 and -48	National Highway Traffic Safety Administration.	4/18/86	Blood alcohol testing.
H-85-56 through -58	South Carolina Dept. of Education.	4/23/86	16- and 17-year old schoolbus drivers.
H-85-53	National Highway Traffic Safety Administration.	4/18/86	Schoolbus driver training.
H-85-53	National Highway Traffic Safety Administration.	3/24/86	Child passenger protection.
H-85-22	Rhode Island Office on Highway Safety.	2/27/86	Child restraint use and misuse.
H-84-81 and -82	Trailways Corporation	4/3/86	Driver compliance with speed limits and seat belt use.
H-85-51	National Highway Traffic Safety Administration.	3/31/86	Maintenance access panels in certain occupant contactable zones.

Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please inlcude respondent's name, date of letter, and recomendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,

Alternate Federal Register Liaison Officer.

August 12, 1986.

[FR Doc. 86-18709 Filed 8-19-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: Request for Records.

3. The form number if applicable: NRC Form 57.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals.

6. An estimate of the number of responses: 75,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 1,250.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: This form is utilized by the public of the Public Document Room (PDR) in requesting documents for their use at the PDR; this form then serves as a suspense slip on the shelf when the document is charged out to a member of the public.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-18777 Filed 8-19-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-250 and 50-251; License Nos. DPR-31 and DPR-41 EA 86-29]

Florida Power and Light Co., (Turkey Point Nuclear Plant, Units 3 and 4); Confirmatory Order

I

The Florida Power and Light Company (FP&L, the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 (the licenses) which authorize the operation of the Turkey Point Nuclear Plant Units 3 and 4 at steady state power levels not in excess of 2200 megawatts thermal (rated power). The licenses were originally issued on July 19, 1972 for Unit 3, and April 10, 1973 for Unit 4. The facility consists of two pressurized water reactors located at the licensee's site in Dade County, Florida.

II

Based on recent NRC inspection activities and the enforcement history at the Turkey Point Plant, the NRC has concluded that FP&L has not maintained effective management controls in the operation of its facilities. Inspections conducted August-November 1985 and January-May 1986, identified significant deficiencies in various plant systems, including the Auxiliary Feedwater and Back-up Nitrogen systems, the 125-volt vital batteries, the Component Cooling Water system, and the Emergency Diesel Generator system. These deficiencies included inadequate control of Plant Changes/Modifications, surveillance, preoperational and functional testing, and independent verification. 10 CFR 50.59 deficiencies, a continuing problem at Turkey Point, and two significant violations of Technical Specifications involving the Auxiliary Feedwater System and Safety Injection Pump operability were also identified. These concerns have been expressed to FP&L management during various management and enforcement conferences. Violations associated with these problems are described in the Notice of Violation and Proposed Imposition of Civil Penalties also being issued on this date.

Previous enforcement history related to the Auxiliary Feedwater System and its Nitrogen Back-up System indicate that licensee management has been ineffective in resolving identified deficiencies. Previous escalated enforcement actions issued in 1984 and 1985 (EA 84-41, EA 84-121, and EA 85-80) involved deficiencies similar to those identified during the recent inspections, including examples of failures to control Plant Change/Modifications, to perform adequate safety evaluations in accordance with the requirements of 10 CFR 50.59, to implement independent verification as required, and to establish or implement adequate procedures. The number of problems which have occurred involving the control and operability of the Auxiliary Feedwater and Nitrogen Back-up systems have raised serious concerns over the control and operability of other safety-related systems which have not received the level of NRC inspection and attention that the Auxiliary Feedwater and Nitrogen Back-up systems have received.

As a result of problems identified during 1984, FP&L established the Turkey Point Performance Enhancement Program to improve the operation of its facility and to correct the deficiencies identified. A Confirmatory Order was issued on July 13, 1984 to confirm the implementation of this corrective action program. Because of the NRC's concerns regarding the adequacy of the Performance Enhancement Program due to the extent of the recent problems identified at the Turkey Point facilities, FP&L presented information to the NRC on January 8, 1986 describing management actions taken and planned to correct deficiencies identified during the Safety System Functional Inspection and the Region II follow-up inspections. A comprehensive program was then developed to assess the operability of other safety systems. A description of this program was presented to the NRC in a management meeting on February 26, 1986. The details of this program were described in FP&L Letter L-86-112 and its enclosures dated March 19, 1986 and FP&L Letter L-86-197 dated May 19, 1986. The management actions described in this letter appear responsive to the concerns of the NRC regarding the licensee's failure to maintain effective management controls in the operation of its facilities. Therefore, in view of the extent of the deficiencies identified in the recent inspection activities and the enforcement history at the Turkey Point Plant, I have determined that the public health, safety and interest require that the actions set forth below be confirmed by an immediately effective Order to

ensure that they are implemented expeditiously. This Order supersedes the Confirmatory Order of July 13, 1984 since it confirms the implementation of the Turkey Point Performance Enhancement Program including the Phase II Assessment Program as described in FP&L Letters L/86–112 and L–86–197. The provisions of 10 CFR 50.109(a)(2) and (a)(3) are not applicable since this Order is necessary to ensure that the facility is in compliance with regulatory requirements and to bring the facility into comformance with written commitments by the licensee.

III

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered effective immediately that:

1. The licensee shall continue to implement the Turkey Point Performance Enhancement Program (TPPEP) (Revision 1) and the commitments outlined in its letter dated April 11, 1984 that were included in the Enclosure to the Confirmatory Order of July 31, 1984 and shall continue to implement the later additions to the TPPEP discussed in FP&L Letter L–84–265 of September 28, 1984 and modified by FP&L Letter L–84–275 of October 3, 1984. The licensee shall not extend the scheduled times for completing the tasks described in the TPPEP without the approval of the Region II Administrator.

2. The licensee shall initiate the Phase II Assessment Program, as described in FP&L Letter L–86–112 and its enclosures dated March 19, 1986 and FP&L Letter L–86–197 dated May 19, 1986 as part of the TPPEP. The Phase II Assessment Program will include reconstitution of the system design bases, detailed inspections including walkdowns of the systems, comprehensive reviews by the Safety Engineering Group, and assessment of the Configuration Control Program. The licensee shall periodically update the Phase II Assessment Program and shall not change the completion dates contained in FP&L letter L–86–112 without approval of the Region II Administrator. The systems to be covered in the Phase II Assessment areas include:

a. *Safety Injection*, including low and high pressure, active and passive injection;

b. *Emergency Power*, including Vital dc, 4160 and 480-volt ac supplies, and the Emergency Diesel Generators;

c. *Reactor Protection*, including sensors or transmitters;

d. *Main Steam Isolation*, including safety relief valves;

e. *Component Cooling Water and Intake Cooling Water;*

f. *Containment Systems*, including normal and emergency coolers, emergency containment filters, containment isolation, and containment sprays;

g. *Radiation Monitoring System*, including process and area;

h. *Instrument Air*

i. *Chemical and Volume Control System* (Emergency Boration)

3. The progress of the Phase II Assessment Program will be described in monthly reports to NRC Region II so that confirmatory inspections of the progress can be conducted. The licensee shall periodically (approximately quarterly) present a written status report to the Region II Administrator on the other TPPEP areas. This status report shall address the implementation of the existing program tasks, including the plans and schedules for competing each section of the task elements. The licensee shall also include all plans and schedules for implementing each recommendation resulting from the implementation of the TPPEP. For any recommendation which the licensee decides not to implement, an evaluation which supports that decision shall also be included. The licensee shall notify the Region II Administrator if it intends to alter any of the plans and schedules for implementation of the recommendations resulting from the TPPEP.

4. The licensee shall notify the Region II Administrator, within 30 days following the date of this Order, of any action item tasks associated with either the original Confirmatory Order (EA 84–55) or this Order for which scheduled completion dates preceding the date of this Order have not been met and have not yet been reported, and establish for those tasks new completion dates which are acceptable to the NRC Region II Administrator.

IV

The Region II Administrator may relax or terminate any of the provisions set forth in Section III of this Order for good cause shown by the licensee.

V

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. Any request for hearing on this Order shall be submitted within 30 days of its issuance to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the request shall also be sent to the Assistant General Counsel for Enforcement at the same address. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–18773 Filed 8–19–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 59–69, 50–163 and 70–734]

Transfer of Control of General Atomic Technologies, Inc., to General Atomic Technologies, Corp.

Nuclear Regulatory Commission

In the matter of Environmental assessment and notice of finding of no significant environmental impact related to the transfer of control of General Atomic Technologies, Inc. from Chevron Corporation to General Atomic Technologies Corporation.

The U.S. Nuclear Regulatory Commission (the Commission) is considering a request for approval of the transfer of control of General Atomic Technologies, Inc. (GA) to General Atomic Technologies Corporation (GATC). By application dated May 7, 1986, GATC requested approval for the transfer of control of GA from Chevron, USA, a wholly-owned subsidiary of Chevron Corporation, to GATC. Under the proposed transfer all management and operating aspects of the existing organization of GA would transfer intact to GATC.

Environmental Assessment

Description of Proposed Action

As a result of proposed acquisition by GATC of all GA outstanding stock, all NRC licenses and NRC-licensed activities would come under the control of GATC. Among these licenses and activities are those pertainiung to two research reactors and a fuel fabrication facility.

Environmental Impact of the Proposed Action

Under the proposed new corporate structure, the licensed operations will continue top be performed in the same manner they have been by GA. No changes are anticipated in the operating

and management personnel, in the minimum qualifications and in personnel responsible for safety, or in the organization of GA. All reactor activities will be conducted in accordance with the reactor licenses and Technical Specifications. All activities described in the special nuclear materials license will continue to be performed in accordance with existing license requirements. Based on the above review, the staff has determined that there will be no significant changes in the types of significant increase in the amounts of effluents that may be released offsite, and there will be no significant increase in individual or cumulative occupational or population radiation exposure.

Approval of the proposed transfer does not otherwise affect radiological effluents. Likewise, the proposed transfer does not affect non-radiological effluents, and has no other environmental impact. Therefore, the Commission concludes that there are no non-radiological impacts associated with this proposed action.

Since we have concluded that there are no measurable negative environmental impacts associated with this proposed action, any alternatives would not provide any significant additional protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in authorizing the licenses as to which control is proposed to be transferred.

Agencies and Persons Contacted

The NRC did not consult other agencies or persons.

Conclusions and Basis for Finding of No Significant Environmental Impact

The Commission has determined not to prepare an environmental impact statement for this action. Based upon the environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the request for transfer of control of GA, dated May 7, 1986 and the supplemental information provided by the licensee, dated June 17, 1986. These documents utilized in the NRC staff's evaluation of the request, are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555. The staff's evaluation of the request will also be available for inspection at the location listed above.

Dated at Bethesda, Maryland, this 8th day of August 1986.

For the Nuclear Regulation Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing–B Office of Nuclear Reactor Regulation.

[FR Doc. 86–18776 Filed 8–19–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

South Carolina Electric and Gas Co. and South Carolina Public Service Authority; Issuance of an Amendment

In the matter of South Carolina Electric and Gas Company and South Carolina Public Service Authority Virgil C. Summer Nuclear Station, Unit 1. Notice of environmental assessment and finding of no significant impact.

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees), for operation of the Virgil C. Summer Nuclear Station, Unit 1, located in Fairfield County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The amendment would revise Technical Specification 3/4.4.5, "Steam Generators" and its bases to allow for the repair of steam generator tubes. The licensee's application for amendment was dated January 16, 1986 as supplemented March 18, May 8, and July 22, 1986.

The Need for the Proposed Action

During the last refueling outage, pure water stress corrosion cracking (PWSSC) was observed in some steam generator tubes and approximately 170 tubes were plugged as a result.

The licensee has pursued an aggressive program to limit the effects of PWSSC. During the last refueling outage, the Westinghouse rotopeening process was applied in the steam generator hot legs. Because of tooling problems, this process was only applied in the central region of the tube sheet. Current plans are to shotpeen the remaining peripheral region during the next refueling outage, if an acceptable process is available. In the interim, it is expected that some cracking may occur in this unpeened region.

Steam generator tube repair is needed to recover some tubes (approximately 71) previously plugged, and to keep from plugging new tubes with indications greater than 40% through the tube wall.

The plugging of steam generator tubes is undesirable because it reduces reactor coolant system flow, increases moisture carry-over in the steam lines, and shortens component life. The application of tube repair processes (e.g., by sleeving, brazing or partial tube replacement) allows the tubes to remain in service, thereby reducing, if not negating, the above mentioned effects. In addition, tube repair capability would allow the plant to maintain margin with respect to the limits assumed in the safety analysis.

Environmental Impacts of the Proposed Action

The proposed amendment regarding steam generator tube repair would allow imperfect tubes to be returned to their original integrity. Accordingly, accident radiological releases will not be greater than previously determined.

Tube repair produces occupational radiation doses and solid radioactive wastes approximately in the same amount as that incurred by tube plugging. For the 71 tubes currently plugged that could be unplugged and have tube repair performed, the estimated occupational radiation exposure to unplug and repair the tubes is 12.43 REM, which is less than 1% of the estimated annual occupational radiation exposure contained in the Final Environmental Statement, dated May 1981.

It is estimated that approximately 125 ft^3 of solid radioactive waste would be created from unplugging and repairing these 71 tubes. This is less than 2.5% of the estimate for solid radioactive waste shipped annually contained in the Final Environmental Statement.

From the above evaluation of accidents, occupational radiation exposure, and radiological effluents, the Commission concludes that there are no significant radiological environmental impacts associated with granting of the proposed amendment.

With regard to potential non-radiological impacts, the proposed amendment involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents

and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts associated with correction of steam generator tube imperfections and would result in reduced reactor coolant system flow, potentially leading to derating of the plant.

Alternative Use of Resource

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Virgil C. Summer Nuclear Station, Unit 1" (NUREG–0719), dated May 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment. Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated January 16, 1986, as supplemented March 18, May 8, and July 22, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29810.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–18774 Filed 8–19–86; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Boston Edison Co.; (Pilgrim Nuclear Power Station); Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition submitted July 15, 1986, William B. Golden and others have requested that Boston Edison Company show cause why the Pilgrim Nuclear Power Station should not remain closed or have its operating license suspended by NRC until the licensee demonstrates that the issues raised by Petitioners have been resolved. Petitioners also requested that NRC require the licensee to submit a feasibility study related to certain structural modifications.

Petitioners assert as grounds for their request (1) numerous deficiencies in licensee management, (2) inadequacy of the existing radiological emergency response plan and (3) inherent deficiencies in the facility's containment structure.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by § 2.206, appropriate action will be taken on the Petition within a reasonable time.

A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and in the local public document room for the Pilgrim Nuclear Power Station located at the Plymouth Public Library, 11 North Street, Plymouth, MA 02360.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–18772 Filed 8–19–86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is given to members of the SES Performance Review Board for OPM.

DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry Burchard, Administration Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, (202) 632–9402.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, United States Code, requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The board(s) will review and evaluate the initial appraisal of a senior exectuive's performance by the supervisor and make recommendations to the appointing authority relating to the performance of these executives.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Members of the OPM Performance Review Board are—

1. Thomas J. Simon, [Chair], Associate Director, Administration Group.
2. Anthony F. Ingrassia, [Vice-Chair] Deputy Associate Director for Personnel Systems and Oversight.
3. Jean M. Barber, Deputy Associate Director for Retirement and Issurance.
4. Helen J. Christrup, Assistant Director for Staffing Policy, Career Entry Group.
5. Frederick A. Kistler, Regional Director, Philadelphia Region.
6. Bruce C. Navarro, Office of Congressional Relations.
7. Curtis J. Smith, [ad hoc member], Associate Director for Career Entry.
8. Raymond J. Sumser, [ad hoc member], Director of Civilian Personnel, Department of the Army.

[FR Doc. 86–18768 Filed 8–19–86; 8:45 am]

BILLING CODE 6325-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Mainstem Passage Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee to be held

pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Subcommittee report on initial results of FISHPASS model sensitivity analysis.
- Discussion of Section 400 draft amendment document measures.
- Other.
- Public comment.

DATE: September 11, 1986. 9:00 a.m.

ADDRESS: The meeting will be held in the Council's Meeting Room, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jim Ruff, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–18710 Filed 8–19–86; 8:45 am]

BILLING CODE 0000–00–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1986 shall be at the rate of 22.5 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1986, 28.9 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 71.1 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 12, 1986.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86–18711 Filed 8–19–86; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23527; File No. SR–NASD–86–22]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to proposed Amendments to Subsections 5(e) and 5(f) of Appendix F to Article III, Section 34 of the NASD's Rules of Fair Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1986 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The following is the text of the proposed amendment of Subsections 5(e) and (f) of Appendix F to Article III, section 34 of the Rules of Fair Practice ("Appendix F") of the National Association of Securities Dealers, Inc. Additions are underlined; deletions are bracketed.

Section 5

Organization and Offering Expenses

(e) No sponsor, affiliate of a sponsor (other than a member dealing with persons associated with that member), or program shall *directly or indirectly offer or* provide [any] *non-cash compensation or* sales incentive items *including, but not limited to, travel bonuses, prizes, and awards to a member or a person associated with a member and no member or person associated with a member shall agree to accept such compensation. This section shall not prohibit a sponsor, affiliate of a sponsor, or program from providing any sales incentive items* directly to a person associated with a member [unless] *where:*

(1) The aggregate value of all such items [to be received] *paid* by *any sponsor or affiliate of a sponsor to* each associated person during any year does not exceed $50.00;

(2) The value of all such items to be made available in connection with an offering is included as compensation to be received in connection with the offering for purposes of subsection (b) of this section; and

(3) The proposed payment or transfer of all such items is disclosed in the prospectus or similar offering document.

(f) No sponsor, affiliate of a sponsor, or program shall provide compensation to a member, *including* [in the form of] *cash* sales incentives [or bonuses], unless all of the following conditions are satisfied:

(1) All *compensation is* [sales incentives and bonsues are] paid directly to the member in cash and the distribution, if any, of *compensation, including cash sales* incentives or bonuses], to associated persons is controlled solely by the member;

(2) The value of all *items of compensation, including cash sales* incentives, to be made available in connection with an offering *are* [is] included as compensation to be received in connection with the offering for purposes of subsection (b) of this section;

(3) Arrangements relating to the proposed payment of all *items of compensation, including cash sales* incentives [or bonuses], are disclosed in the prospectus or similar offering document; and

(4) The value of all *items of compensation, including cash sales incentives* [and bonuses], *are* [is] reflected on the books and records of the recipient member as compensation received in connection with the offering.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concening the purpose of, and basis for the proposed rule change and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing to amend section 5(e) of Appendix F to prohibit a sponsor, affiliate of a sponsor (other than a member dealing with persons associated with that member) or a program from directly or indirectly offering or providing non-cash compensation with a value in excess of

$50.00 in the form of sales incentive items to any member or its associated persons, including but not limited to travel bonuses, prizes and awards. In addition, members and their associated persons would be prohibited from accepting such non-cash compensation.

The proposed amendment to Appendix F will alleviate several problems which have arisen under the present sales incentive rules. By prohibiting DPP sponsors from offering any form of non-cash sales incentives, the proposed amendment will assist members in maintaining supervisory control over their retail sales personnel.

The proposed rule change would also modify the language of Subsection 5(e)(1) Appendix F to clarify that sourvenir-type non-cash sales incentives given by a sponsor directly to a person associated with a member may not exceed $50.00 per year per associated person for all programs of that sponsor. The current language of this provision appears to apply the $50.00 limit on a per program basis rather than on a per year basis.

Subsection 5(f): It is proposed that subsection 5(f) be amended to require that all compensation received in connection with a direct participation program be controlled solely by the member, that the value of all items of compensation be included in the calculation of underwriting compensation under subsection 5(b) of Appendix F, that arrangements with respect to all items of compensation be disclosed in the offering document and that the value of such compensation be reflected on the books and records of the member as compensation received in connection with the offering. The modifications to subsection 5(f) would insure that all compensation is paid to the member, as opposed to registered representatives, and would provide guidelines on the member's receipt of such compensation.

The proposed rule change is consistent with the provisions of section 15A(b)(6) of the Securities Exchange Act of 1934, amended, as the proposal will strengthen the ability of member firms to supervise their associated persons, thereby providing greater protection to public investors.

The Association is also proposing that the proposed amendment to Appendix F be effective with respect to all offerings of direct participation program securities on January 1, 1987. Therefore, members and their associated persons may apply sales made through December 31, 1986 to a program's non-cash sales incentive program. Further, during the year 1987, members and their associated persons will be permitted to receive non-cash incentives earned prior to January 1, 1987.

The proposed effective date is consistent with the provisions of section 15A(b)(2) of the Securities Exchange Act of 1934, ascended, as it is intended to facilitate compliance by members and the associated persons with the proposed amendment to Appendix F.

B. Self-Regulatory Organization's Statement on Burden on Competition

A number of commentators, both in favor and opposed to the proposed rule change, who responded to the Association's request for comments in Notice to Members 85–17 (March 15, 1985), raised issues of the discriminatory impact of the proposed rule change. Each of these issues is addressed below.

Inter-Industry Competition

A number of commentators, both opposed and in favor of the proposed rule change, urged that if non-cash incentives are inappropriate in connection with the sale of direct participation programs, neither are they appropriate in connection with the sale of mutual funds or insurance products. Some of the commentators stated that it was unfair and discriminatory for the NASD to single out the direct participation programs industry.

In response to these comments, the Board of Governors referred the issue of whether the prohibition should be extended to other product areas to the Investment Companies, Variable Contracts and Corporate Financing Committees. These three Committees considered the issue in late 1985. The Investment Companies Committee and the Variable Contracts Committee concluded that a complete prohibition of non-cash sales incentives was unnecessary for the reason that the problems detailed above, found to be present in the direct participation program industry, are not present in the sale of mutual fund securities and insurance products.

The Corporate Financing Committee found that current tax proposals and other factors in the real estate market have resulted in a marked increase in the number of real estate investment trusts (REITs) filed with the Association for review. Non-cash sales incentives substantially similar to those offered in connection with direct participation programs are utilized in the distribution of REITs. Therefore, the Committee recommended to the Board of Governors at its January 20–21, 1986 meeting, and the Board approved, the issuance of a notice requesting comment on a proposed amendment to the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, section 1 of the NASD Rules of Fair Practice which prohibits non-cash sales incentives in connection with the sale of corporate and REIT offerings. Further, the Board approved the Committee's recommendation that any prohibition be effective concurrent with that proposed herein with respect to DPPs. The NASD issued Notice to Members 86–33 on May 7, 1986 to effectuate the above recommendation.

Inter-Sponsor and Inter-Broker/Dealer Competition

The NASD's proposed rule change to prohibit the use of non-cash sales incentives in connection with sales of direct participation programs specifically excludes in-house sales incentive programs of member firms from its prohibition. A number of commentators, both in favor and opposed to the proposed rule change, urged that the proposal would be anti-competitive and discriminatory with respect to unaffiliated small and medium-size members and to sponsors unaffiliated with a member firm which utilized unaffilated member firms to distribute its product.

The operation of the proposed amendment to subsection 5(e) of Appendix F would continue to permit both independent (broker/dealers not affiliated with a sponsor) and affiliated *members* (broker/dealers affiliated with a DPP sponsor) to provide any kind of compensation to their associated persons, including non-cash sales incentives in the form of trips or merchandise. It is intended by the amendment that both independent (sponsors not affiliated with a broker/dealer) and integrated *sponsors* (sponsors affiliated with a broker/dealer) be prohibited from offering or providing any non-cash incentive compensation to any NASD member and its associated persons.

Inter-Sponsor Competition: The NASD believes that comments to Notice to Members 85–17 regarding inter-sponsor competition suggest that the proposed rule change will provide a competitive advantage to integrated sponsors. The Association believes that the competitive advantage being suggested is only with respect to integrated sponsors whose affiliated member is a major "wire house," i.e. a national general securities broker/dealer. The NASD believes that the proposed rule change does not result in a burden on competition. To the extent such burden may result, the NASD believes it is

necessary in furtherence of the purposes of the Securities Exchange Act of 1934.

Where the affiliated member sells the programs of other sponsors in addition to those of its affiliated sponsor, the NASD does not believe that the proposed rule change provides such integrated sponsors a competitive advantage with respect to other integrated and independent sponsors that are seeking to sell their programs through the same affiliated member. The situation referenced by several commentators to Notice to Members 85–17 is that where the integrated sponsor is affiliated with a "wire house" that sells its properietary direct participation program to its customers. Such affiliated wire house member would also offer the direct participation program products of other sponsors.

The NASD believes that the proposed rule change will not place independent sponsors at a competitive disadvantage that they do not currently experience as a result of their independent status. The NASD believes that where an affiliated member sells a proprietary product, such member is naturally in a position, through its cash compensation structure and employer-employee relationship, to encourage the sales of its proprietary product. To expect otherwise is unrealistic. In addition, it is general industry practice among large general securities firms to provide non-cash compensation based on total sales of all securities products sold through the member rather than having compensation directly related to one type of security or product.

The NASD points out that a number of commentators suggested that the proposal will correct a current competitive advantage provided large integrated and independent sponsors as a result of the NASD's current rules permitting the use of non-cash sales incentives by DPP sponsors. Such commentators state that non-cash sales incentives are expensive and can only be afforded by large DPP sponsors. They indicate that the proposed rule change will permit small sponsors to compete on a more equitable basis with large sponsors for the interest of member firms and their associated persons, as programs will be compared on the basis of their merits, not the sales incentives being offered to associated persons.

Inter-Broker/Dealer Competition: Commentators to Notice to Members 85–17 also suggested that affiliated members will have a competitive advantage over independent members as a result of the NASD proposal. Two commentators stated that ". . . only large broker/dealers with an affiliated sponsor of direct participation programs would be permitted to conduct incentive educational conferences."

First, the foregoing commentators may misunderstand the NASD proposal as the proposed rule change continues to permit all members, regardless of size or affiliation, to provide non-cash compensation to *their* associated persons and to conduct "educational conferences" for *their* associated persons to the extent that they wish to do so.

Second, the NASD is uncertain of the nature of the competitive advantage afforded affiliated members that is being suggested by commentators to the proposed rule change. The NASD proposal permits affiliated members to provide items of non-cash compensation to their associated persons, but does not permit the member's affiliated sponsor to provide non-cash sales incentives to any member and/or their associated persons. With respect to competition for employees, the NASD does not believe that affiliated members will have a competitive advantage in attracting employees in comparison to independent members, since independent members are also permitted to provide non-cash compensation items to associated persons as part of their compensation structure.

Third, the NASD does not agree, as argued by one commentator that as a result of the proposed rule change large members will "pressure . . . sponsors into paying for all or portions of in-house incentives, particularly travel incentives for the members' own purposes." It was the intention of the NASD in adopting the particular language contained in subsection 5(e) of Appendix F to prohibit any such circumvention of the rule. The language of the rule amendment prohibits a sponsor from directly or *indirectly* offering or providing non-cash compensation to members and their associated persons and prohibits both members and their associated persons from accepting such non-cash compensation.

For the foregoing reasons, the Association believes that the proposed rule change presents no impact on competition that is not in furtherance of the purposes of the Securities Exchange Act of 1934, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In response to NASD Notice to Members 85–17 (March 15, 1985), fifty-eight (70%) of the commentators, representing large and small member firms and sponsors, were in agreement with the proposed amendment. Twenty-six (30%) of the commentators, also representing both large and small members and sponsors, were opposed to the proposed amendment.

Many of the NASD member commentators in favor of the proposed change expressed concern over the adverse effects non-cash sales incentives have had on the supervision of their sales forces. Several sponsor commentators also expressed the opinion that from a competitive standpoint, the proposed amendment would be beneficial in that it would put all DPP sponsors on an equal footing with regard to the type of incentive offered, thereby resulting in competition among sponsors based upon the merits of their programs instead of their programs' sales incentives. Another reason advanced in support of the proposed amendment were the totally inappropriate nature of non-cash sales incentives in connection with the sale of financial products.

The major argument advanced by those commentators opposed to the amendment was that non-cash sales incentives are necessary in order to support marketing efforts and to motivate sales personnel. It was argued by commentators that any concerns over investor suitability are alleviated by the fact that it is the investor who makes the ultimate investment decision, regardless of the recommendation of the salesperson. The Association believes cash sales incentives provide sufficient support for marketing efforts and motivation of sales personnel without the drawbacks inherent in non-cash sales incentives such as luxury merchandise and exotic trips.

Many of the commentators also opposed the proposed rule change on the basis that the current provisions of Appendix F, which require all sales incentives to be paid in cash directly to the qualifying member firm, provide an adequate basis for NASD members to supervise their sales personnel. In this connection, the Association has found that many sponsors appeal directly to the registered representatives. Commentators in favor of the proposed amendment stated that such direct solicitation of registered representatives makes it extremely difficult for members to adequately supervise the participation of their registered representatives in programs offering non-cash sales incentives.

Further, several commentators stated that non-cash sales incentives in the form of trips serve an educational purpose that is beneficial to investors.

VOL 51 ISS 161 AG 20 1986 UMI

The Association believes that "educational" trips for member firms should occur prior to an offering for the purpose of conducting due diligence, with the member's reimbursement of its costs related to such trips limited by Appendix F to 0.5% of offering proceeds.

Finally, commentators both in favor and against the proposal recommended that the proposed amendment should be made applicable to the distribution of other financial products such as mutual funds or insurance products. The Board of Governors referred to issue of whether non-cash sales incentives should be prohibited in other product areas to the Variable Contracts, Investment Companies and Corporate Financing Committees of the Association.

III. Date of Effectiveness of Proposed Rule change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the filing. The Commission invites comment on all issues presented by the filing. In particular, the Commission would appreciate comments on the following issues:

First, the proposed rule change only limits the amount of non-cash compensation that a sponsor may give to any member or, through the member, to the associated persons of any member. It does not limit the amount of cash that sponsors may give. Is there a need to limit the amount of cash compensation a sponsor may pay to a member or its associated person? If not, why is cash compensation different from non-cash compensation?

Second, in response to the NASD's proposal, a number of commentators stated that the prohibition on non-cash compensation should not be limited to the sale of DPP's. They suggested that non-cash compensation also was inappropriate in connection with the sale of mutual funds and insurance products. As previously noted, the NASD has preliminarily determined that non-cash compensation is not appropriate in connection with the sale of corporate and real estate investment trust offerings, but may well be appropriate in connection with the sale of mutual funds and insurance products. Is there a need to limit the use of non-cash compensation in connection with the sale of mutual funds and insurance products, or are the problems experienced in the DDP market and the corporate and real estate investment trust market not present in the mutual fund and insurance market?

Third, the rule filing does not limit the use of non-cash compensation by members in dealing with their own associated persons. In other words, a member that serves as the sponsor for a DDP may provide its own associated persons with whatever sales incentives the member feels are appropriate. A number of commentators argue that member firms that serve as program sponsors will have a competitive advantage over sponsors that offer their DPPs through unaffiliated broker-dealers. The NASD states that the putative competitive advantage is only with respect to integrated sponsors whose affiliated member is a major wire house, and that if there is such a competitive advantage, it is inherent in the structure of the industry. Does this proposed rule change give member firms who serve as program sponsors an inappropriate competitive advantage over independent sponsors?

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the aove-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 10, 1986.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 13, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18724 Filed 8-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15253; File No. 812-6456]

Application and Opportunity for Hearing; John J. Flynn

August 14, 1986.

I

Notice is hereby given that John J. Flynn, referred to herein as Applicant, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1 et. seq., as amended (the "Act"), for an order granting him an exemption from the provisions of section 9(a) of the Act.

All interested persons may review the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below.

In January 1982, the Commission commenced a civil injunctive action entitled *Securities and Exchange Commission* v. *Edward J. Falvey et al.* (Civil Action No. 82-0197-S) in the United States District Court for the District of Massachusetts. The Commission's Complaint alleged, *inter alia*, that Flynn aided and abetted violations of section 31(a), 34(a) and 34(b) of the Investment Company Act of 1940 (the "Act") and Rule 31a-1 promulgated thereunder. In April 1986, the Commission and Flynn entered into a stipulation and consent whereby it was agreed that a Final Judgment of Permanent Injunction would enter against Flynn without trial, argument, or adjudication of any issue of fact or law and without Flynn admitting or denying any allegations in the Complaint. On April 30, 1986, the Court entered the agreed Final Judgment of Permanent Injunction which enjoined Flynn from knowingly aiding and abetting any registered investment company and failing to maintain, preserve, and keep current such accounts, books, and other documents as constitute the record forming the basis for financial statements required to be filed by a registered investment company pursuant to section 30 of the Act, in violation of section 31(a) of the Act; from knowingly aiding and abetting the willful alteration of any account, book, or other document, the preservation of which is required by section 31(a) of the Act, in violation of section 34 of the Act; and knowingly aiding and abetting the making of any untrue statement of a

material fact or admitting to state any fact necessary in order to prevent the statement made, in light of the circumstances under which it was made, from being materially misleading in any account, record, or other document required to be kept pursuant to section 31(a) of the Act, in violation of section 34(b) of the Act. Section 9(a) of the Act, insofar as it is pertinent here, disqualifies any person, or any company with which such person is affiliated, from serving or acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company, if such person is by reason of any misconduct enjoined by order, judgment or decree by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) of the Act provides that upon application the Commission shall by order grant an exemption from the provisions of section 9(a) of the Act, either unconditionally or on an appropriate, temporary or conditional basis, if it is established that the probitions of section 9(a), as applied to the Applicant. are unduly or disproportionately severe or that the conduct of the Applicant has been such as not to make it against the pubic interest or protection as not to make it against the public interest or protection of investors to grant such application.

Applicant has submitted an application pursuant to section 9(c) of the Act stating, *inter alia*, that:

1. The prohibitions of section 9(a) of the Act would deprive Flynn of the opportunity to serve as an employee, officer, or director of any investment company or investment adviser. Much of Flynn's working life has been spent in such capacity and, as a result, the prohibitions of section 9(a) severely restrict his employment opportunities.

2. Other than in the Complaint noted hereinbefore, Flynn has never been the subject of any federal or state proceeding either judicial or administrative, involving allegations of violations of federal or state securities laws.

3. Prior to the entry of the Final Judgment in the S.E.C. action, Flynn had never been subject to the disabilities imposed by section 9(a) of the Act.

4. The entry of the Final Judgment did not constitute an adjudication of any of the allegations contained in the Commission's Complaint and was entered into with the consent of Flynn, who neither admitted or denied the allegations of the Complaint.

5. The violations alleged were solely of record-keeping provisions of the Act and the records in question were not maintained by Flynn.

6. No investor suffered any loss due to the conduct alleged in the Complaint.

7. Flynn did not profit or otherwise benefit from the alleged misconduct.

In addition, Applicant has undertaken, until June 30, 1989 that if he contemplates becoming an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company, he will notify that employer of the Final Judgment prior to commencing employment with such employer.

II

Notice is further given that any interested person may, not later than September 17, 1986, at 5:30 pm., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shall be addressed to Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. A copy of such request shall be served personally or by mail upon Steven W. Hansen, Esq., Bingham, Dana & Gould, 100 Federal Street, Boston, Massachusetts 02110. Proof of such service (by affidavit, or in the case of attorney-at-law, by certificate) shall be filed contemporaneously with request. At any time after said date, as provided by the rules and regulations promulgated under the Investment Company Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive notices and orders issued in this matter, including the dates of the hearing (if ordered), and any postponements thereof.

By the Commission.

Johnathan G. Katz,

Secretary.

[FR Doc. 86-18831 Filed 8-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15209; File No. (812-6425)]

Royal Insurance p.l.c., Foreign Insurance Company Application

August 13, 1986.

Notice Is Hereby Given that Royal Insurance p.l.c., c/o James W. Lillie, Jr., Esq., Bryan, Cave, McPheeters & McRoberts, 350 Park Avenue, New York, New York 10022 ("Applicant"), a public limited company organized under the laws of the United Kingdom ("U.K."), filed an application on July 2, 1986, and amendments thereto on July 17 and 25, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

Applicant states that it writes almost all classes of insurance and is one of the largest international insurance companies in the world; that in 1985 it wrote non-life premiums of $4,169,250,000, of which its subsidiaries in the United States ("U.S.") accounted for $1,905,000,000 or about 45%. For the year ended December 31, 1985, the Applicant reported net property-casualty income, before extraordinary items, of $43,350,000, total assets of $13,578,750,000 including life assets of $4,681,800,000. Applicant further states that its capital and reserves amount to $2,856,750,000.

According to the application, under The Insurance Companies Act 1982 and The Insurance Companies Regulations which extensively regulates the life insurance business of the U.K., Applicant and its U.K. insurance subsidiaries are supervised in the U.K. by the Department of Trade and Industry ("Department"). Applicant represents that the Department has wide supervisory and investigative powers, including the requiring of margins of solvency and annual statements which are similarly detailed and comprehensive as those imposed by the applicable State insurance authorities in the U.S. The Department also has the authority to impose limits on premium income an insurance company writes, as

well as the categories of investments which an insurance company may make. Applicant further asserts that its U.S. insurance subsidiaries are regulated by various State regulatory agencies in the U.S.

According to the application, Applicant proposes to issue and sell in the U.S. unsecured, prime quality commercial paper notes ("Notes") in bearer form and denominated in U.S. dollars. Applicant states that the Notes will be used to provide for short term cash needs from time to time and as an alternative source of supply of U.S. dollars which will supplement U.S. dollars currently obtained by Applicant from the Eurodollar market. Applicant states that no Note will be in a denomination smaller than $100,000 and that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be offered and sold by a commercial paper dealer to institutional investors and other entities and individuals who normally purchase commercial paper notes. It is further asserted that Applicant does not intend to sell the Notes in the U.S. in excess of an aggregate of $250 million at any one time outstanding.

Applicant has been advised by its U.S. counsel that the Notes will qualify for the exemption from registration under section 3(a)(3) of the Securities Act of 1933, as amended ("Securities Act"). Applicant states that it does not request Commission review or approval of such U.S. counsel's opinion regarding the availability of an exemption under section 3(a)(3) of the Securities Act. It is further asserted that Applicant is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will not become subject to such requirements in connection with the issuance and sale of the Notes.

Applicant represents that it may, from time to time, offer other debt securities for sale in the U.S., but that this application is not intended to cover its issuance of equity securities in the U.S. at any future time. Applicant undertakes that any future offerings of debt securities in the U.S. will be done on the basis of transactions exempt from the provisions of the Securities Act, by virtue of section 3(a)(3) or section 4(2) therof. Applicant further undertakes with regard to debt securities that are not issued in the U.S. or sold to U.S. nationals or residents and are not so exempt from the Securities Act, that it will adopt agreements or procedures reasonably designed to prevent such foreign debt securities from coming into the hands of a U.S. national or resident (except to foreign branches of U.S. banks which take for their own account and without a view to distribution).

Applicant also represents that the presently proposed issue of Notes and any future issues of debt securities will be conditioned on the receipt, prior to issuance, of one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and that Applicant's U.S. counsel will certify that such a rating has been received. As liabilities of the Applicant, the Notes and any future offerings of debt securities will rank pari passu among themselves and equally with all other unsecured indebtedness of Applicant and will rank superior to equity securities of Applicant. It is further stated that Applicant will appoint a bank in the U.S. as its authorized agent to issue the Notes from time to time.

Applicant undertakes to ensure that the dealer in the Notes, or of any future debt securities offered by Applicant, will receive, prior to offering of the Notes, a memorandum ("Offering Memorandum") briefly describing Applicant's business and containing the most recent publicly available fiscal year end balance sheet and income statement for Applicant, audited in the manner customarily used for Applicant by its auditors. Applicant states that the Offering Memorandum will describe material differences, if any, to investors between the accounting principles applied in the preparation of its financial statements and "generally accepted accounting principles" employed by similar insurance companies in the U.S. Applicant states that its Offering Memoranda and financial statements will be at least as comprehensive as those customarily used by U.S. insurance companies or similar financial institutions in offering commercial paper in the U.S. and will be updated promptly to reflect material changes in the financial condition of Applicant.

Applicant also undertakes to appoint some U.S. person to accept any process which may be served in any action based on any Note or any other future offering of debt securities and instituted by the holder of a Note or such other debt security in any State or Federal court. It is asserted that Applicant will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. It is further asserted that such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes or other debt securities have been paid. Applicant further agrees to be subject to suit in any other court in the U.S. which would have jurisdiction because of the manner of the offering of the Notes or other debt securities or otherwise. Finally, Applicant consents to having the order granting the relief requested under section 6(c) of the Act expressly conditioned on the above-stated undertakings.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than September 5, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investigation Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18720 Filed 8-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15251; File No. 812-6436]

Smith Barney Mortgage Capital Corp.; Application Pursuant to Section 6(c) for Exemption From All Provisions of the Act

August 13, 1986.

Notice Is Hereby Given that Smith Barney Mortgage Capital Corp. ("Applicant") 5300 InterFirst Two Building, Dallas, Texas 75270, filed an application on July 22, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act to the extent necessary to permit Applicant to issue and sell mortgage-backed securities. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the text of its relevant provisions.

According to the application, Applicant, a Delaware corporation, is a wholly-owned limited purpose

subsidiary of Smith Barney Inc. Applicant was formed for the purpose of engaging in asset-backed financing, including acquiring, owning, holding and pledging mortgages and mortgage-backed securities ("Mortgage Collateral"), issuing and selling, or establishing owner trusts to issue and sell series of bonds ("Bonds") secured by Mortgage Certificates (defined below) and engaging in activities incidental thereto. Applicant requests an order of exemption only with respect to the issuance and sale of Bonds by the Applicant and that any other business activity of Applicant permitted by its certificate of incorporation (including the establishment of owner trusts) will be subject to future application.

Applicant states that each series of Bonds issued by Applicant will be separately secured by collateral consisting primarily of mortgage pass-through certificates ("GNMA Certificates") which are fully guaranteed as to principal and interest by the Government National Mortgage Association, Mortgage Participation Certificates ("FHLMC Certificates") issued and guaranteed by the Federal Home Loan Mortgage Corporation and/or Guaranteed Mortgage Pass-Through Certificates ("FNMA Certificates") issued and guaranteed by the Federal National Mortgage Association (GNMA Certificates, FHLMC Certificates and/or FNMA Certificates collectively, "Mortgage Certificates"). Mortgage Certificates pledged to secure a series of Bonds may or may not represent the entire beneficial interest in the mortgage pools related to such Mortgage Certificates. Applicant states that it anticipates the Mortgage Certificates securing each series of Bonds will be acquired by Applicant using the net proceeds of the sale of such Bonds.

According to the application, each series of Bonds will be issued by Applicant pursuant to an indenture between an independent trustee ("Trustee") and Applicant as supplemented by one or more supplemental indentures for such series ("Indenture"). Until such Bonds are paid, the Mortgage Certificates pledged to secure a series of Bonds will not be released from the lien of the Indenture except in certain, limited circumstances. Applicant contemplates that the Bonds will be sold pursuant to a prospectus or private placement memorandum containing all material disclosures required by the terms of the Securities Act of 1933 ("Securities Act"). The Indenture for each public offering will be qualified under the Trust Indenture Act of 1939.

Applicant states that each Bond offering will meet the following six conditions and Applicant consents to such conditions with respect to the issuance of an order by the Commission:

(1) Each series of Bonds will be registered under the Securities Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Mortgage Collateral underlying the Bonds will be limited to GNMA Certificates, FNMA Certificates and FHLMC Certificates.

(3) If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged as security for a series of Bonds, the substitute Mortgage Certificates must: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in paragraphs (2), (4) and (6). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged to the Trustee as security for a series of Bonds. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) All Mortgage Certificates, funds, accounts or other collateral securing a series of Bonds (collectively, the "Bond Collateral") will be held by the Trustee or on behalf of the Trustee by an independent custodian. The custodian may not be an "affiliate" (as the term "affiliate" is defined in Securities Act Rule 405, 17 CFR 230.405) of the Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all Bond Collateral.

(5) Each series of Bonds will be rated in one of the highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemble securities within the meaning of section (2)(a)(32) of the Act.

(6) No less oftes than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificates continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports(s) will be provided to the Trustee.

According to the application, except when exercising remedies following a default on the Bonds and under the other limited circumstances specified in Indenture, the Trustee will not release from the lien of the Indenture any Mortgage Certificates collateralizing Applicant's Bonds. Pursuant to the Indenture, the proceeds of the Mortgage Certificates held by the Trustee pending distribution to Bondholders may only be invested in United States obligations and cash equivalents, guaranteed investment contracts and other investments meeting the requirements of the investment rating agency or agencies rating the Bonds of such series (collectively, "Eligible Investments"). Each series of Bonds will receive the highest rating from one or more nationally recognized investment rating agencies, none of which will be affiliated with the Applicant or the Trustee. Applicant states that at the time the Bonds are issued the cash flow from the Mortgage Certificates and other collateral securing a series of Bonds plus the reinvestment rate specified in the Indenture will be sufficient to pay the principal of and interest on the Bonds when due to Bondholders.

According to Applicant, certain series of Bonds may provide for mandatory redemtions to the extent that principal payments on the Mortgage Certificates cannot be invested at a rate that will provide sufficient income to pay interest on the Bonds. Other series of Bonds may provide for optional redemtions by the holders of such Bonds to the extent payments on the underlying Mortgage Certificates and related reserve funds are available to pay the principal of, and interest on, the Bonds so redeemed. Except in limited circumstances arising upon an event of default of the Bonds under the Indenture, Bondholders cannot liquidate Mortgage Certificates in order to redeem the Bonds prior to maturity.

Applicant submits that requested exemption is in the public interest because it enhances Applicant's ability to purchase Mortgage Certificates and will expand the sources of funds available to finance the purchase and retention of Mortgage Certificates and, thereby, the sources of funds available

to finance housing. Applicant also submits that the requested exemption is both consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that among the protections provided to purchasers of the Bonds is that neither the Trustee nor the Applicant will be able to impair the security of the Mortgage Collateral. The terms of the Bonds, including maturity, rate of interest, Indenture provisions, and application of collateral to payments on the Bonds cannot be changed without Bondholder approval.

Applicant states that its activities are not those that the Act was intended to regulate. Applicant's principal asset, Mortgage Certificates, will be held in trust until the Bonds are paid in full or no longer required to fully collateralize the Bonds they secure. Applicant will not exercise investment discretion with respect to the Mortgage Certificates. The Trustee will invest the cash proceeds of the Mortgage Certificates only in Eligible Investments, all of which meet the criteria of the investment rating agency or agencies rating the Bonds specified in the Indenture, and only for the limited period of time between receipt of such proceeds and payment to Bondholders. Applicant states that, under these circumstances, a Bondholder's risk and return will in no material respect depend upon the ability of Applicant to successfully invest and reinvest Bond proceeds.

Notice is Further Given that any interested person wishing to request a hearing on the application may, not later than September 5, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18723 Filed 8-19-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2246]

Declaration of Disaster Loan Area; California

The City of Anaheim constitutes a disaster area because of a disastrous fire which occurred in the Casa De Valenica Apartment Complex on July 3, 1986. Applications for loans for physical damage as a direct result of this fire may be filed until the close of business on October 13, 1986, and for economic injury, as a direct result of this fire, until the close of business on May 12, 1987, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 224605 for physical damage and for economic injury the number is 642900.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 12, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-18804 Filed 8-19-86; 8:45 am]

BILLING CODE 8025-01-M

Las Vegas District Advisory Council Meeting

The Small Business Administration, Las Vegas District Advisory Council will hold a public meeting on September 16, 1986, at the Small Business Administration Office, located at 301 East Stewart Avenue, Downtown Station, Post Office, 3rd Floor, Las Vegas, Nevada, from 10:00 a.m. to 12:00 Noon to discuss such matters as may be presented by Council members, staff of the Small Business Administration, or others present.

For further information, write or call Elizabeth Sutton, Secretary for the Advisory Council, U.S. Small Business Administration, 301 East Stewart, Post Office Box 7527, Las Vegas, Nevada 89125, or call (702) 388-6616.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 12, 1986.

[FR Doc 86-18802 Filed 8-19-86; 8:45 am]

BILLING CODE 8025-01-M

New Jersey, Region II—Advisory Council; Public Meeting

The Small Business Administration, Region II, Newark District Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 AM on Tuesday, September 30, 1986, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Stanley H. Salt, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 12, 1986.

[FR Doc. 86-18803 Filed 8-19-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-5109]

SC Opportunities, Inc.; Surrender of License

Notice is hereby given that SC Opportunities, Inc., (SC) 1112 Seventh Avenue, Monroe, WI 53566 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). SC was licensed by the Small Business Administration on January 16, 1976.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on July 21, 1986 and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: August 11, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-18805 Filed 8-19-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/989]

Advisory Committee on South Africa; Closed Meetings

The Advisory Committee on South Africa will meet in closed sessions on September 8, 15 and October 6, 1986. The meetings will commence at 9 a.m. and will be held in Room 7219, Department of State, Washington, DC.

The sessions will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (c)(9)(B). The Committee will have access to and will discuss classified information. Disclosure of the Committee's deliberations could adversely affect the Committee's ability to function as a group in providing the Secretary of State with advice on matters of critical importance to the conduct of United States foreign policy. The purpose of the meetings will be to discuss the current situation in South Africa and to evaluate U.S. policy toward South Africa.

Requests for further information should be directed to: Ann Miller (202) 632-0190, 1730 K Street NW., Washington, DC 20006.

Dated: August 12, 1986.

C. William Kontos,

Executive Director.

[FR Doc. 86-18767 Filed 8-19-86; 8:45 am]

BILLING CODE 4710-10-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences: Correction of Notice of Review of Petitions, Public Hearings, List of Articles To Be Sent to the U.S. International Trade Commission for Review

On July 25, the Trade Policy Staff Committee provided notice (51 FR 26784) of an amendment to its notice of July 18 (51 FR 26088) concerning petitions accepted for review in the 1986 annual review of the Generalized System of Preferences. The purpose of this notice is to make two corrections in the notice of July 25:

(1) In respect of case number 86-55, the TSUSA number should read 735.0970 instead of 735.0995pt and in the column titled "Article" the "]" after the words "polyvinyl chloride" should be deleted.

(2) In respect of case number 86-56, in the column title "Article" the words "Toy ballons" should read "Toy ballons and punch balls".

David P. Shark,

Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 86-18743 Filed 8-19-86; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of Hearings

[Docket 44247]

Texas-Mexico (1986) Service Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications with respect to this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M-50, Room 9400A, Nassif Bldg, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366-2142.

Dated: Washington, DC, August 14, 1986.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86-18797 Filed 8-19-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 44247]

Texas-Mexico (1986) Service Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled proceeding will be held on September 4, 1986, at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC before the undersigned administrative law judge.

The parties are directed to submit one copy to each other and four copies to the Judge of (1) any proposals for changes in the evidence request contained in the Appendix to Order 86-8-17, (2) proposed procedural dates, (3) proposed stipulations and (4) a statement of position. This material shall be submitted on or before September 2, 1986.

Dated at Washington, DC, August 14, 1986.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 86-18796 Filed 8-19-86; 8:45 am]

BILLING CODE 4910-62-M

UNITED STATES INFORMATION AGENCY

Privacy Act of 1974; System of Records

AGENCY: United States Information Agency.

ACTION: Privacy Act of 1974; Proposed amendment of existing system of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a), the United States Information Agency is publishing for comment a revision to System USIA-61, entitled "American Travelers Funded by USIA Private Sector Grants." The new title of the System will be "Americans Funded by USIA Private Sector Grants." The kinds of records being collected consist of names of individuals who have traveled overseas at U.S. Government expense under USIA grants, and also individuals who are competing in regional auditions for designations as "Artistic Ambassadors," and a chance to represent the U.S. Government overseas in musical presentations to foreign audiences.

The kinds of information being collected consist of:

For travelers: Name, position, organization affiliation, grantee organization, grant number, date, destination, purpose of travel;

For musical talent: Name, biographic data, where nominee will perform, nominee's repertoire, past concerts and performances, address, phone number, education, date and place of birth and citizenship.

USIA's Office of Private Sector Programs will use these records to aid in responding to the Congress on travelers who travel on U.S. Government grants, and in the evaluation of applicants' musical talent and ability to act as spokespersons for the United States in communicating with foreign audiences.

EFFECTIVE DATE: The system shall become effective as proposed without further comment on October 15, 1986, unless comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: John Robilette, Director, Artistic Ambassador Program, USIA, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 485-7338, or Sidney Hamolsky, Deputy Director, Office of Private Sector Programs, USIA, 301 Fourth Street, SW., Washington, DC 20547, telephone 485-7348.

Dated: August 8, 1986.
Robert F. Smith,
Director, Office of Private Sector Programs.

USIA—61

SYSTEM NAME:

Americans Funded by USIA Private Sector Grants.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

USIA, Office of Private Sector Programs, Room 216, 301–4th Street, SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have traveled at U.S. Government expense under USIA Private Sector grants in the performance of grant requirements and biographic information on individuals nominated for the Agency's Artistic Ambassador Program from eligible graduate music schools and conservatories in the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, position, organizational affiliation, grantee organization, grant number, date, destination, purpose of travel; biographic data—where nominee will peform, nominee's repertoire, past concerts and performances, address, telephone number, education, date and place of birth and citizenship.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

The United States Information Agency Authorization Act, Fiscal Years 1984 and 1985, Pub. L. 98–164 and the Fullbright-Hays Act (22 U.S.C. 2451, et seq.).

PURPOSES:

To comply with the provisions of Pub. L. 98–164 which require USIA to report to Congress the names of individuals who in the preceding five years made two or more trips involving foreign travel financed in whole or substantial part by grants from the Private Sector Program. The Artistic Ambassador Program files will be used to select individuals to compete in regional auditions designated by geographical distribution (*i.e.* West and Southwest, Midwest and South, East Coast).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information relating to American Travelers in this system will be used to compile an annual report for the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee as required by Pub. L. 98–164. This file has no other use. Users of this file will be employees of the USIA Office of Private Sector Programs having a need to access the information.

The Artistic Ambassador Program file will be used by employees of the USIA Office of Private Sector Programs in performance of their duties and by judges to record information on the technical and artistic ability of the artist, which information is ultimately used in selecting winners of competition.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information will be maintained in a word processor on list processing with limited access and in file folders under individuals' names.

RETRIEVABILITY:

Records are retrieved by name and organizational affiliation.

SAFEGUARDS:

Records of American travelers are maintained on a word processor located in the USIA Office of Private Sector Programs, and are password protected, so that the file can only be accessed by employees having a need to obtain information which is available only in the file.

Records of the Artistic Ambassador Program are maintained in file folders and kept in file cabinets secured by bar lock or combination lock.

RETENTION AND DISPOSAL:

Files will be retained for a minimum of five years, but not longer than seven years, at which time they will be disposed of in accordance with the USIA disposal schedules.

SYSTEM MANAGERS AND ADDRESS:

Chief, Private Sector Programs Division (E/PS), U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Acts Coordinator (GC), U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to the Freedom of Information/Privacy Acts Coordinator (GC), U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

CONTESTING RECORD PROCEDURES:

The U.S. Information Agency's rules for access and for contesting contents and appeal of initial determinations by the individual concerned are published in Part 505, Title 22, U.S. Code of Federal Regulations.

RECORD SOURCE CATEGORIES:

Information obtained from grantee organizations and individual grantees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–18713 Filed 8–19–86; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 161
Wednesday, August 20, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Mine Safety and Health Review Commission	2
Railroad Retirement Board	3
Securities and Exchange Commission	4

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:54 p.m. on Thursday, August 14, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The State Exchange Bank, Yates Center, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, August 14, 1986; (2) accept the bid for the transaction submitted by The Girard National Bank, Girard, Kansas; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) consider a recommendation with respect to the initiation, termination, or conduct of administrative enforement proceedings involving a certain insured bank or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof;

Names of persons and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 2:04 p.m. and at 3:35 p.m. that same day the meeting was reconvened in the Board Room on the Sixth Floor of the FDIC Building located at 550 17th Street, NW., Washington, DC, at which time the Board of Directors considered a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In reconvening the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(B)).

The meeting was recessed at 3:53 p.m. and at 8:15 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors adopted a resolution: (1) Making funds available for the payment of insured deposits made in Citizens National Bank & Trust Co., Oklahoma City, Oklahoma, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, August 14, 1986; (2) accepting the bid of The Liberty National Bank and Trust Company of Oklahoma City, Oklahoma City, Oklahoma, for the transfer of the insured and fully secured or preferred deposits of the closed bank; and (3) designating The Liberty National Bank and Trust Company of Oklahoma City, Oklahoma City, Oklahoma, as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank.

In reconvening the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary

[FR Doc. 86-18887 Filed 8-18-86; 2:41 pm]

BILLING CODE 6714-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 14, 1986.

TIME AND DATE: 10 a.m., Thursday, August 21, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Greenwich Collieries, Docket No. PENN 85-188-R, and Pennsylvania Mines Corp., Docket No. PENN 86-33. (Consideration of a Petition for Interlocutory Review and Motion to Stay).

2. U.S. Steel Mining Co., Docket No. PENN 82-335, and

3. U.S. Steel Mining Co., Docket No. WEVA 83-82 and WEVA 83-95 (Issues in these two cases include whether the administrative law judges erred in concluding that violations of 30 CFR 70.101, a mandatory standard dealing with control of respirable dust with quartz present, were significant and substantial.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary

VOL
51
ISS
161
AG
20
1986
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aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jëan Ellen (202) 653–5629.

Joan H. Ellen,

Agenda Clerk.

[FR Doc. 86–18835 Filed 8–18–86; 10:27 a.m.]

BILLING CODE 6735–01–M

3

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on August 26, 1986, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 Rush Street, Chicago, Illinois, 60611. The agenda for the meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Board Order 75–3
(3) Final Rule Regulation on Primary Insurance Amount Determinations
(4) Reorganization of Bureau of Unemployment and Sickness Insurance
(5) Requisitions for the Office of Inspector General
(6) Appeal of J.R. Dickerson under the Railroad Unemployment Insurance Act

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, TFS No. 387–4920.

Dated: August 15, 1986.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 86–18888 Filed 8–18–86; 2:46 pm]

BILLING CODE 7905–01–M

4

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of August 18, 1986:

A closed meeting will be held on Tuesday, August 19, 1986, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 19, 1986, at 10:00 a.m., will be:

Post oral argument discussion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Gerald Laporte at (202) 272–3085.

Jonathan G. Katz,

Secretary.

August 18, 1986.

[FR Doc 86–18911 Filed 8–18–86; 3:55 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
August 20, 1986

Part II

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 435

Mandatory Energy Conservation Standards for New Federal Residential Buildings; Notice of Proposed Interim Rule and Public Hearings and Finding of No Significant Impact (FONSI) on Proposed Energy Conservation Standards for New Federal Residential Buildings

BEST COPY AVAILABLE

VOL 51 ISS 161 AG 20 1986 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 435

[Docket No. CAS-RM-79-112-B]

Mandatory Energy Conservation Standards for New Federal Residential Buildings

AGENCY: Conservation and Renewable Energy Office, DOE.

ACTION: Notice of proposed interim rule and public hearings.

SUMMARY: In accordance with Title III of the Energy Conservation and Production Act, the U.S. Department of Energy (DOE) is developing energy conservation performance standards for new buildings. The law provides that the standards will be voluntary for new non-Federal buildings, but will be mandatory for new federal buildings.

Today, DOE is proposing interim mandatory energy conservation standards for new Federal residential buildings. The proposal requires a Federal agency to establish an energy consumption goal for the design of a new Federal residential building using the computerized calculation procedure provided in a designated Federal microcomputer program and to adopt such procedures as may be necessary to assure that the design of a new Federal residential building is not less energy conserving than the energy consumption goal established for the design. The computer program determines the most effective set of energy conservation measures, selected from among the measures included within the program, that will produce the optimum life cycle cost for a specific type of residential building in the geographic location where it will be constructed. This most effective set of measures is expressed as a total point score which, in turn, serves as the energy consumption goal for the design of the Federal residential building. The computer program produces a compliance point system that is intended to be attached to housing Requests for Proposals issued by Agencies of the Federal government. The point system, which is specifically tailored to each Request, is to be used by proposers to demonstrate that their specific designs comply with the energy consumption goal. The point system also provides a standard method for each proposer to estimate the energy cost over the life of the building in discounted dollars. This estimate can then be used by evaluators to estimate the total energy performance of each proposal.

The interim standards were designed specifically to accommodate the types of Federal construction most commonly built, Federal economic parameters and Federal procurement procedures. The Department is in the process of developing energy conservation voluntary standards that would be more applicable to the non-Federal residential and commercial sectors to be issued at a future date. The Department recognizes that the standards proposed today could be modified for other than Federal use. It cautions any person or entity that wishes to do so. The Department does not recommend use of the proposed interim standards for non-Federal sector application without a substantial review of the interim standards for applicability to the particular use.

DATES: Written comments on the proposed interim rule must be received by the Department by November 18, 1986.

Public hearings will be held in Chicago, Illinois on October 21, 1986, San Francisco, California on October 23, 1986, and Washington, DC on October 28, 1986.

Requests to speak at the public hearings must be received by October 17, 1986.

ADDRESSES: All written comments (7 copies), requests to speak at the public hearings, and requests for the supporting documentation are to be submitted to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, U.S. Department of Energy, Docket Number CAS-RM-79-112-B, 1000 Independence Avenue SW., Room 6B-025, Washington, DC 20585, (202) 252-9319.

All of the public hearings will begin at 9:30 a.m., and will be held at the following locations:

Chicago, Illinois, Kluczynski Federal Office Building, 230 Dearborn Street, Room 3864 (38th Floor), Chicago, Illinois 60604

San Francisco, California, Federal Office Building, 450 Golden Gate Avenue (between Polk and Larkin Streets), Room 2007 (2nd Floor), San Francisco, California 94102

Washington, DC, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room 1E-245 (1st Floor, E Corridor), Washington, DC 20585

Copies of the transcripts of the public hearings, the supporting documentation, and the written public comments received may be obtained from the DOE Freedom of Information Reading Room, Room 1E-190, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-6020, 9:00 a.m.-4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Jean J. Boulin, Building Systems Division, CE-131, U.S. Department of Energy, Room GF-253, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9835

Paul C. Cahill, Esq., Office of General Counsel, GC-12, U.S. Department of Energy, Room 6B-144, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9519

SUPPLEMENTARY INFORMATION: Today, the U.S. Department of Energy (DOE) is proposing interim energy performance standards that will be mandatory for new Federal residential buildings as required by the Energy Conservation Standards for New Buildings Act of 1976, as amended, (Act) 42 U.S.C. 6831 *et seq.* The proposal would require Federal agencies to design new Federal residential buildings in accordance with the energy conservation requirements required by proposed § 435.33. This proposal would not regulate non-Federal construction. These proposed interim standards have been developed specifically for Federal agencies that construct residential buildings. The calculation procedures used to apply the proposed interim standards to Federal residential construction are not intended for use by the non-Federal sector. DOE intends to develop and promulgate a more appropriate format for voluntary interim energy performance standards for use in the private sector at some future date.

I. Background
  A. Legislative History
  B. The 1979 BEPS Proposal
II. Summary of Public Comments on the BEPS Proposal
  A. General Comments
  B. Specific Comments
    1. Climate
    2. Prototypes and Conservation Options
    3. Design Energy Budgets
    4. Domestic Hot Water Budgets
    5. Life Cycle Cost Analysis
    6. Health and Safety
III. The Guides for Designing and Constructing Energy Efficient Site-Built and Manufactured Homes
IV. Summary of Public Comment from Research to Develop Residential and Manufactured Home Design Guides
  A. Affordable Housing through Energy Conservation Comments
    1. General Comments
    2. Specific Comments
      (a) Insulation
      (b) Infiltration
      (c) Climate
      (d) Economics
  B. Affordable Manufactured Housing through Energy Conservation Comments
    1. General Comments

2. Specific Comments
(a) Equipment Efficiencies
(b) Economic Analysis
V. Summary of the Proposed Rule
VI. The Research Conducted for the Proposed Rule
A. General Research Overview
B. Typical Current Practice in Federal Construction
C. Technical Analysis Used to Develop the Proposed Interim Standards and COSTSAFR Program
1. Prototypes
2. Cost Analysis
3. Energy Analysis
4. Cost-Effectiveness Analysis
5. COSTSAFR Computer Program
VII. Environmental Assessment
A. Official Finding
B. Contents of the EA Document
C. Approach Used in the Analysis
D. Specific Conclusions from EA
1. Particulate Matter
2. Carbon Monoxide
3. Carbon Dioxide
4. Nitrogen Dioxide
5. Radon
6. Formaldehyde
7. Chemical Compounds
8. Micro-organisms
9. Outdoor Environmental Impacts
E. EPA Review
VIII. Economic Analysis
A. Objective and Scope of the Research
B. Impacts
C. The Analysis Process
D. Regulatory Flexibility Act
IX. Opportunities for Public Comment
A. Participation in Rulemaking
B. Written Comment Procedures
C. Public Hearings
1. Procedure for Submitting Requests to Speak
2. Conduct of Hearings

I. Background

A. Legislative History

Originally enacted on August 14, 1976 as Title III of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat 2144 *et seq.*, the Act required the U.S. Department of Housing and Urban Development (HUD) to develop, promulgate, implement and enforce the compliance with performance standards to improve the energy efficiency of all new buildings in the nation. On August 4, 1977, the Act was amended by section 304(a), 42 U.S.C. section 7154, of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 *et seq.*, which transferred from HUD to DOE the responsibility to develop and promulgate the standards. HUD retained its implementation responsibilities.

In November, 1979, DOE published proposed building energy performance standards (BEPS) in the Federal Register, 44 FR 66120 (November 28, 1979). The notice was controversial and generated over 1800 comments totaling 40,000 pages. The comments included technical and other substantive criticisms of the performance standards. Many who commented expressed concern that the proposed standards were not technically practicable nor economically achievable. Furthermore, many who commented stated that the proposed standards placed too great a reliance upon the use of a large and complex computer program that many who commented said they neither understood nor could afford to use. Section II discusses these comments in more detail.

Less than a year after the publication of the proposed standards, the Act was again amended. Section 326, 94 Stat. 1629, of the Housing and Community Development Act of 1980, Pub. L. 96–399 (October 8, 1980) required that DOE promulgate interim standards by August 1, 1981, and extended the promulgation date of the final standards to April 1, 1983. The interim standards were only to apply to new Federal buildings. In addition, the Act required that demonstration projects be conducted in at least two geographical areas.

In August 1981, Congress again amended the Act. Subtitle D of Title 10 of the Omnibus Reconciliation Act of 1981, Pub. L. 97–35, amended the Act to create the term "voluntary performance standards," eliminated the provision for a possible statutory sanction for noncompliance, added a provision that, except for Federal buildings, "voluntary standards will be developed solely as guidelines to provide technical assistance for the design and construction of energy efficient buildings," and extended the deadline for DOE to furnish reports on the demonstration projects to the Congress.

The legislative change of direction that has taken place since original enactment of the Act in 1976 required DOE to make a fundamental change in the regulatory approach that Congress had earlier directed the Department to take. DOE retains the responsibility for developing performance standards to achieve the maximum practicable improvements in energy efficiency and use of non-depletable resources for all new buildings. However, these standards now serve a dual purpose. The first purpose of the performance standards is to prescribe mandatory design requirements for the Federal sector. However, for non-Federal buildings, voluntary performance standards serve only as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings. Accordingly, the performance standards serve a second purpose of providing sound technical information and examples of efficient design practices for voluntary use in the private sector. Today's proposed rulemaking only partially fulfills DOE's responsibility for residential buildings. DOE intends to modify the approach taken in today's proposal to provide guidelines that can serve as technical assistance for residential building design and that are more applicable in the non-Federal sector.

B. The 1979 BEPS Proposal

In November 1979, DOE proposed Building Energy Performance Standards (the BEPS) for new buildings, 44 FR 66120 (November 28, 1979), that specified maximum levels, expressed in Btu/ft²/yr, of total building energy consumption to which new buildings would be designed. The most significant aspect of the BEPS was that it was a whole building performance standard that set limits for the building as a whole.

It attempted to combine energy use of specific energy-using systems such as the heating, cooling or domestic hot water systems. The proposed BEPS consisted of three requirements. First, energy budget levels would be set; second, they would be applied to a specific building design to obtain an annual rate of consumption; and third, the estimated rate of energy consumption had to be calculated using a method established by DOE. Instead of a hand-written compliance procedure, the proposed BEPS required the use of complex main-frame computer simulations to demonstrate that the designed energy consumption of a new building did not exceed the energy level specified for that residential building type in its applicable climate area. The proposed BEPS were based on life cycle cost analyses and defined for four different residential building types—multifamily high-rise, multifamily low-rise, single family attached and single family detached—and included a procedure to select an appropriate climate zone from 78 Standard Metropolitan Statistical Areas (SMSA).

DOE recognized that many aids would be needed to simplify compliance using approaches such as model codes or computer software that assisted in determining the whole building budget levels but in formats familiar to members of the building industry. These compliance assistance tools were in the process of being developed by DOE when the implementation sections of the statutes were repealed by the Omnibus Budget Reconciliation Act. Accordingly, the compliance assistance tools were never completed.

VOL
51
ISS
161
AG
20
1986
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DOE received more than 1,800 written responses during the official comment period from architects, engineers, builders, building trades organizations, state and local governments, financial institutions, conservation associations and private citizens. In addition, individuals and organizations representing large memberships prepared testimony and additional documents for DOE to consider.

II. Summary of Public Comment on the BEPS Proposal

When Congress enacted the several amendments to the Act cited above, it changed the regulatory scope of the performance standards. Consequently, many of the comments received in November 1979 are no longer applicable or appropriate. Only those comments that continue to have relevance to today's issuance are discussed below.

This section is organized as follows: First, the general comments made in support of or in opposition to the standards are described; second, comments by subject are identified.

DOE has learned a great deal from the comments made on the BEPS proposal. Most of these comments have been addressed in the research subsequent to the BEPS. Many of the suggestions made by those who commented have been incorporated into the proposed interim residential standards. In addition, many of the remaining issues are the subject of current DOE research projects. For further reference to many of the issues listed below, the reader is referred to the *Proposed Interim Energy Conservation Standards for the Design of New Federal Residential Buildings-Technical Support Document* (September 1985) prepared for the proposed interim standards that discusses the technical materials, the assumptions and the procedures used in developing the proposed interim residential standards. A copy of the *Technical Support Document* can be obtained by contacting the DOE Office of Conservation and Renewable Energy, Office of Hearings and Dockets whose address and phone number are listed in the addresses section. DOE is interested in the comments and responses of the public on the many issues that were part of the BEPS proposal and their treatment in today's proposal.

A. General Comments

Only a minority of those who commented favored some form of mandatory, whole building performance standard; and most who commented, even those in favor of the mandatory performance approach, had some form of criticism of the BEPS as written. Those from several building industry groups who commented, but especially from consumer groups, representatives of the American Institute of Architects (AIA), the Masonry Institute Committee and manufacturers from the National Fenestration Council, supported the performance approach because it permitted maximum design flexibility. Furthermore, only a few of those who commented advocated the performance path as the only acceptable approach. Many were willing to accept the BEPS only if the standards were made voluntary and only if adequate equivalent component and prescriptive standards were permitted.

The majority of those who commented opposed the concept of performance standards under any circumstances. More than 300 of those who commented suggested that DOE discard the performance standards in total and adopt a standard based on the codes developed by the national code-setting associations such as the Southern Building Code Conference. This would provide the building industry with the option of using either the BEPS or a familiar equivalent. An overwhelming majority of those who commented objected to the imposition of such an untested approach as the whole building performance standards, especially in the absence of approved alternatives. The whole building performance approach, as proposed by DOE, was found to be technically complicated and not understood by the majority of those who would have to use it, mainly, designers, builders and code officials; it would therefore prove both costly and ineffective. In addition, many of those who commented suggested that DOE could satisfy the legislative requirement to develop performance standards for buildings, as well as greatly simplify the standards program, if it established thermal standards for the building envelope using traditional "R" (thermal resistance) and "U" (thermal transmittance) values. Many of those who commented specifically identified themselves as builders and members of the National Association of Home Builders (NAHB), as well as architects, engineers, product manufacturers, and state and local code enforcement officials.

DOE Response: The proposed interim standards are not designed in the traditional sense as described by those who commented on the 1979 BEPS proposal, nor do they require a complex application of a complicated computer program. Instead they are performance standards based on the latest and most complete energy and economic analysis available. While they are performance-based standards, they are applied through a simplified point system that allows design flexibility without requiring difficult calculations. They use a computer program, but it is simple to use and does not require lengthy schooling in its use.

B. Specific Comments

1. Climate

The BEPS were based on climate considerations derived on 10 base cities. This information was used to simulate climate data for an additional 68 climate zones. Each of the 78 climate zones was a Standard Metropolitan Statistical Area (SMSA). The BEPS expressed the range of climatic variations expected in the U.S. About 175 comments discussed the issue of climate. Of these, 80% addressed DOE's selection of climate zones. Most who commented believed that the procedures for determining an applicable climate zone allowed for human error and misinterpretation and were unduly complicated for those not located within the 78 SMSAs.

Many who commented opposed the selection of climate zones from SMSAs because they are political and geographic boundaries, not climate boundaries. There was a general feeling that extrapolation of 78 zones from climate data simulated in only ten cities was inadequate and would produce unacceptable and erroneous results. Many state and local officials claimed that the climate determination approach caused their building budgets to be unrealistic for their actual climates. Other comments, about 25%, suggested that DOE had not considered enough factors in its evaluation of climate data. Other important factors mentioned were humidity, wind chill, earth sheltering, trees, orientation, ventilation and microclimate.

A few who commented objected to using heating and cooling degree days as a criterion. They argued that DOE's approach tended to penalize regions that had relatively short periods of large temperature differentials to the benefit of those regions with the same degree days and longer periods of moderate temperature differentials.

DOE Response: The problem of selecting reasonable climate zones for use in the proposed interim standards has largely been taken care of through the availability of more up-to-date and comprehensive weather data and more extensive research into climate effects. To develop climate data for today's proposal, DOE chose to use heating and cooling degree days for the 3400 National Oceanographic and

Atmospheric Administration (NOAA) stations (20-year average 1951–1980), and latent humidity calculated from Test Reference Year (TRY) weather tapes for 51 locations.

2. Prototypes and Conservation Options

One hundred and four individuals and organizations made specific comments on the residential prototypes selected by DOE. The majority (73) of the comments came from public interest groups and the building industry: home builders, building products manufacturers, and designers. There was a general consensus that the range of conservation options considered was too narrow and that the prototypes did not represent current home building practices.

DOE Response: For today's proposed interim standards, DOE selected prototypes that matched as closely as possible the building types currently built by the Federal government. Prototypes were originally selected from data derived from the *National Association of Homebuilders' Survey on New Residential Construction* (1979) and then modified to meet the specific criteria of Federal government construction specifications.

The proposed interim standards are comprised of an expanded number of possible energy conservation options from what was included in the proposed BEPS. These include conventional and widely-used ceiling, wall and floor insulation; infiltration control measures; glazing materials and construction; and, heating and cooling equipment options. Also included were options that dealt with orientation, sunspaces and movable insulation. The options are representative of current building practices as determined by surveys conducted by the National Association of Homebuilders and the Manufactured Housing Institute and verified by DOE.

(a) Evaluation of Passive Solar Design Inadequate

Solar groups commented that DOE failed to conduct a comprehensive evaluation of passive storage and distribution systems because it treated solar energy as an add-on to various levels of energy conservation design, rather than an integral part of the building design. These groups cited the fact that DOE only considered the passive solar benefits of 4" slab-on-grade construction in combination with window redistribution, and assumed that the exterior appearance of a house would not change. Also, passive cooling systems were not analyzed at all, ignoring proven solar techniques such as solar load controls (shades, awnings, and overhangs), mass walls, and earth sheltering. They also suggested that DOE provide incentives to incorporate solar features in the original house design.

DOE Response: More attention has been paid to solar options in the proposed interim standards, especially passive solar options. The proposed interim standards allow a builder to integrate orientation, window treatments and sunspaces into the building design as alternatives to other conservation options. Many of the other options, such as the effects of thermal mass, shading, vegetation, and earth sheltering, have not been incorporated because they warrant additional research or they were not particularly applicable to Federal construction. For certain of those techniques, such as thermal mass, DOE currently has research projects underway and intends to incorporate that research into the standards at some later date.

(b) Treatment of Masonry Construction Inadequate

DOE's treatment of masonry construction was criticized by fifteen representatives of the masonry industry. They cited studies that, they claimed, repudiated DOE's conclusions. They argued that, because of thermal storage and lag properties, masonry, concrete, or similar weight walls having low R-values may be as effective as frame or metal paneled walls having higher R-values.

DOE Response: Although not included in this proposed rule, the treatment of masonry construction is currently the subject of a DOE research project (see previous response). During development of the proposed interim standards, available data were inadequate to justify conclusion on this topic.

(c) User Operated Conservation Measures Should Be Included

BEPS excluded conservation measures that, although potentially cost-effective, depended upon user operation. This decision was challenged by more than one-third of those who commented on the prototypes and energy conservation options. Their main point was that DOE had been inconsistent in the treatment of user behavior because it assumed that a homeowner would be sufficiently involved in energy conservation to open windows for natural ventilation in the summer, but not sufficiently involved to use night-setback of heating controls in the winter. Other user operated measures that were suggested included cross ventilation and exhaust fans; solar load controls, such as insulated drapes, shutters and awnings; and the use of parlor doors and transoms for indoor heat control.

DOE Response: Where adequate information is available, DOE has included provision for energy conservation options such as movable insulation and a night setback thermostat in the proposed interim standards. The criteria for including these options was dependent on their possible impact and whether or not they were still viable if not correctly operated most of the time. DOE studies, conducted by the Office of Renewable Energy and referred to in the *Technical Support Document*, show that while some occupants diligently make daily or seasonal use of manually-operated conservation devices, a significant number have been shown to irregularly operate or neglect to operate conservation options requiring regular attention. This suggests the likelihood of a net energy loss. However, DOE continues to believe that seasonal setting of night setback thermostats and the proper operation of movable insulation falls in the same category as more widely-used options, such as combination screen and storm windows, where the occupant will follow proper operation procedures.

(d) Treatment of House Orientation Inadequate

Tract developers commented that orientation requirements would raise costs unnecessarily and discourage tract development. Others who commented felt that DOE did not pay enough attention to house orientation in the proposed BEPS standards and placed too much emphasis on the building envelope.

DOE Response: As part of the overall analysis to develop the energy data base that provides the substance for the proposed interim standards, DOE performed analysis on the effect of eight different structure orientations (N, NE, E, NW, W, SW, S, SE), and the relative percentage of window area at each orientation, on heating and cooling load criteria. In the proposed interim standards, designers are given credit for such things as increasing the window-to-wall ratio on southern exposures in appropriate climate locations.

3. Design Energy Budgets

More than one hundred and sixty comments discussed the Design Energy Budgets for single-family residences. The energy Budgets, as contemplated in the BEPS program, are no longer relevant. However, many of the comments received were based on technical information that is still

relevant and, consequently, are being included in this section.

(a) Research Basis for the Design Energy Budgets Inadequate

First of all, those who commented felt that the research basis for the selection of the budgets was never properly explained. Many who commented pointed out that the data used for energy costs and construction costs in the life cycle cost analysis were too old, that the budgets had never been tested against actual energy consumption, and that the stringency of the budget levels was not uniform.

DOE Response: Inconsistent budgets for the BEPS may have been the result of modeling the prototypes in only ten cities and then extrapolating for the remaining 68 SMSAs. In developing the data base for the proposed interim standards, DOE selected 45 cities as representative of the continental United States plus Hawaii and Alaska. These cities were selected because they individually reflected the climates of virtually any locality in the U.S. As stated earlier, the 45 cities were deemed representative of more than 3400 U.S. locations. The costs used in the life cycle cost analyses were taken directly from the 45 cities and are believed to be representative. The selection of standard levels outside the 45 locations is performed through the use of a location climate multiplier which is built directly into the proposed interim standards' compliance procedures.

The comments that the energy and construction costs used in the BEPS were too out-dated, are no longer relevant. The costs used in the proposed interim standards are current, are regionally disaggregated, and can be updated at any time. The comment that the budget levels had never been tested is true but also no longer relevant. Since development of the BEPS, the research conducted in support of today's proposal has demonstrated the agreement between the data underlying the proposed interim standards and actual energy consumption. For further reference, please consult the *Technical Support Document.*

(b) Air Conditioning and Heating Budgets Should Not Be Combined

Many who commented disagreed with DOE's assumption that all homes will be built with central air conditioning and heating. They claimed that this assumption of air conditioning for all residences requires levels of conservation investment that are not cost-effective for homes built without air conditioning. According to the National Institute for Building Sciences (NIBS), 33% of all new residences built in 1978 had no central air conditioning. Others who commented noted that the BEPS allowance for air conditioning gives designers a loophole; they could use the air conditioning allowance to reduce building envelope requirements by not including air conditioning in the design, and then add room air conditioning later. Some private citizens wrote that all residences should be constructed to be comfortable without air conditioning. Natural gas utilities, in general, protested that DOE should not assume that air conditioning will be supplied by electricity. Gas industry representatives said that DOE should establish separate cooling budgets by fuel type in order to encourage continued development of efficient gas-fired absorption air conditioners.

DOE Response: The analysis conducted to develop the proposed interim standards assumed that heating and cooling equipment are part of the design of all new homes. This was done for two reasons. First, for reasons of occupant comfort, virtually all Federal residences are built with both types of equipment. Second, in an attempt to cover all possible energy conservation options, heating and cooling equipment was factored into the energy analysis. However, in complying with the standard the user can remove either heating or cooling compliance requirement and still meet the minimum levels.

DOE is not interested in creating what has been termed a "loophole", by some who commented, in the design of new Federal residences. In this case the "loophole" would be a method designers could use to circumvent the proposed interim standards by designing homes without central air conditioning for purposes of reducing envelope requirements and then later on adding room air conditioning. The proposed interim standards will allow for the design of a home without air conditioning, but DOE believes that air conditioning is necessary under some conditions in virtually all climates to meet occupant comfort needs. In low cooling areas, the proposed interim standards compensate for the air conditioning equipment cost by reducing the necessary equipment efficiencies for the equipment.

(c) Assumptions on Foundation Types and Basements Invalid

Several designers, home builders (including the National Association of Home Builders), and building materials manufacturers questioned the validity of DOE's treatment of foundation types and house shapes in calculating the energy budget levels for single family residences.

Some who commented disagreed with the BEPS assumptions that all basements will be insulated and that there will be no transfer of heating energy between the basement and the living space above.

DOE Response: DOE agrees that having only one basement option would be too limiting. This issue has been resolved by including the three different foundation and basement spaces found in Federal residential construction-full basements, crawl spaces, and slabs-on-grade. Energy analysis was performed for a minimum of three different insulation levels for each basement or foundation type, but insulation is not required if the minimum conservation level is met by other options. Also, the proposed rule does take into consideration the heat energy transfer between basement and living spaces.

4. Domestic Hot Water Budgets

Approximately one hundred people criticized the domestic hot water (DHW) budgets for single family residences. Of these comments, thirty-seven were from utilities and twenty-three from the building industry. Some who commented, including the National Association of Home Builders and the Mineral Insulation Manufacturers Association, believed that domestic hot water should not be included in the BEPS at all because water heaters have a short life span and are easily replaced. Several others who commented said that, as minimum efficiency standards for hot water heaters go into effect, inclusion of DHW budgets in the BEPS would be unnecessary. Many who commented, including home builders, utilities, and public interest groups, disagreed with DOE's decision to allow energy saved through solar water heating to be added on to the budget for heating and cooling. One home builder wrote that this amounted to "curing the losses of a not-too-efficient building shell with a not-too-cost-effective solar water heater." Utilities, the Center for Renewable Resources, and the National Conference of States on Building Codes and Standards believed that energy budget credits for solar water heating would discourage conservation measures in the building shell.

Others who commented suggested that, should BEPS allow credit for any conservation techniques in hot water heating, it would discourage conservation measures in the building shell.

DOE Response: Efficient domestic hot water systems, whether they are

conventional or solar systems, provide significant opportunities for energy conservation. Depending on envelope and equipment efficiency, DHW systems can use up to 60% of a single residence's annual energy consumption. The fact that water heaters have a shorter life than other residential components has been taken into consideration in the life cycle cost analyses; expected life of appliances and equipment are factored into the optimization process. DOE has attempted to give designers a great deal of flexibility in their use of DHW systems and, at the same time, require the selection of energy efficient systems. Accordingly, the use of minimum efficiency levels based on cost-effectiveness is an integral part of the proposed interim standards.

Several comments addressed the appropriateness of including solar hot water systems in the BEPS proposal. Since that time, solar water systems have become more cost-effective, more reliable and a viable feature on homes in many climates. Therefore, the proposed interim standards allow solar hot water systems as an appropriate option.

Finally, the proposed interim standards consider heating and cooling levels separately from domestic hot water levels. They are not interactive. Therefore a more efficient hot water system will not affect the minimum levels set for heating and cooling compliance requirements in any climate location.

5. Life Cycle Cost Analysis

Eighty-five individuals or organizations commented specifically on the life cycle cost analysis for single-family residences. Thirty-five comments came from the building industry and twenty comments came from public interest groups and private citizens. Only three comments favored DOE's treatment of the life cycle cost analysis. A few home builders, private citizens, and electric utilities felt that life cycle costing is too complex for single-family residences, and that energy budgets should be based on simple R or U value calculations for the building shell. Many who commented said that DOE's life cycle cost analysis is meaningless because of the use of forecasts, estimates and untested assumptions. They felt that if a life cycle costing approach is used, accurate data for all variables must be developed and any assumptions should be backed by evidence. Much of this criticism of the BEPS life cycle cost analysis focused on the data used by DOE to calculate energy costs and costs for construction.

DOE Response: Federal agencies are required to use the life cycle cost methodology provided by Subpart A, as amended, of 10 CFR Part 436, issued by DOE pursuant to Executive Order 12003 and section 545, 42 U.S.C. Sec. 8255 of the "National Energy Conservation and Policy Act" (NECPA) (Pub. L. 95–619). Subpart A has been amended since the publication of the BEPS proposal, on November 18, 1981 (46 FR 56718). Those persons interested in a further understanding of the assumptions in the life cycle cost methodology are referred to the text of Subpart A. The life cycle cost methodology in Subpart A is subject to periodic updating, in separate rulemakings. Comments concerning the methodology should be raised in the course of such a future proceeding and not as part of the comments on today's proposal.

(a) Range of Conservation Options Too Limited

Others who commented, including solar interests, builders, electric utilities, and public interest groups, found that the life cycle cost analysis was too limited, i.e., DOE did not include enough conservation options in the small number of prototypes that were analyzed. The budgets at best minimize life cycle costs for these prototypes, but were too lax or too stringent for other homes. The National Conference of States on Building Codes and Standards also wrote that the analysis should cover a wider range of house types and sizes, and more conservation options.

The Consumer Energy Council of America, Rural America, and several others who commented criticized DOE's decision to set an upper limit on insulation levels considered in the life cycle cost analysis. They asserted that this restriction makes it impossible to go to the true life cycle minimum in colder climates and that it invalidates the sensitivity analyses DOE performed.

DOE Response: DOE agrees that the number of building prototypes and conservation options were too limited in the BEPS proposal and has included additional prototypes and conservation options in the proposed interim standards. DOE is especially interested in comments that would address other prototypes and conservation options and the Proposed reasons for their inclusion. Comments on the range of conservation options considered by DOE are discussed below in more detail in "Single-Family Residences—Prototypes".

The proposed interim standards, as did the BEPS, have upper insulation limits. The upper limits for insulation correspond to normal building practice in the climate locations. Insulation levels above the set upper limits are not considered because they are rarely used and rarely life cycle cost-effective.

(b) Fuel Price Projections Inaccurate

Many who commented noted that the projected fuel prices used by DOE in the life cycle cost analysis were already out-of-date and as much as 50% too low. The impossibility of accurately projecting fuel prices for thirty years was given as one reason for shortening the life cycle term. Several public interest groups urged DOE to use replacement or marginal costs for fuels to encourage maximum conservation. Gas industry members, however, favored DOE's use of average rather than replacement costs for fuel, arguing that the marketplace does not purchase energy at replacement costs and that forcing conservation investments based on replacement costs would not be perceived as cost-effective.

Ten utilities asserted that DOE did not accurately assess the sensitivity of the life cycle cost analysis results to variations in critical parameters such as energy costs, construction costs, and mortgage rates; construction costs and energy costs vary dramatically across the nation and even within relatively small geographic areas, and these variations render the net present value analysis performed by DOE meaningless.

DOE Response: In calculating life cycle costs for energy conservation investments, Federal agencies are required to use fuel price projections and other assumptions prescribed by Subpart A, as amended, of 10 CFR Part 436, as referenced above The assumptions used in the life cycle cost methodology are unchanged from those found in Subpart A. Although the proposal uses the fuel price projections in future years prescribed in Subpart A, energy, materials and labor costs were gathered from regional and local sources for use in the proposed interim standards. The proposal allows these factors to be amended as newer information becomes available. Mortgage rates are, of course, not relevant to Federal standards.

(c) Life Cycle Term Too Long

Thirty comments indicated that a life cycle term of thirty years is too long. They argued that it is impossible to accurately predict either fuel costs or interest rates for thirty years. The comments generally suggested that a thirty year life cycle term would put an undue burden on the first owner of a new home. The average ownership time

for a new single-family residence is seven to ten years, and those who commented thought investments in conservation options should have a payback period of seven to ten years. This was the time-period recommended by most who commented, although a few also suggested that the life cycle term be the estimated occupancy of the first two owners. DOE's life cycle cost analysis did not include replacement and maintenance costs of residential HVAC equipment, and those who commented noted that most HVAC equipment will be replaced within thirty years. They thought that the life cycle term should be less than the life of residential HVAC equipment (10 to 15 years).

DOE Response: One of the 1981 amendments to Subpart A of 10 CFR Part 436 was to lower the 30 year life cycle cost period to 25 years. DOE, therefore, has used a term of 25 years in the proposed interim standards as required by the Federal government life cycle cost methodology. The analysis also takes account of equipment replacement and maintenance costs. The comment of undue burden on the first owner of the home is not relevant to a Federal standard because it is expected that the Federal government will pay the costs of any home it builds or procures for the useful life of the home.

(d) All Costs Not Included

Designers, builders and utilities all commented that the life cycle cost analysis should allow for regional variation in costs for labor, building materials, mortgage rates, and energy. About ten who commented, including several appliance manufacturers, noted that DOE failed to include replacement and maintenance costs of HVAC systems in the life cycle cost analysis. Several who commented believed that other costs which were not included by DOE should be considered, including costs for other conservation options such as night-setback thermostats, shutters, wood stoves, zonal heating and air conditioning, dehumidifiers, fans, passive solar features, and super insulation.

The Solar Energy Industries Association also thought that a 3% discount rate is too high because mortgage interest rates have been averaging less than 3% above the rate of inflation. These comments suggested that by selecting an unrealistically high discount rate in the life cycle cost analysis, DOE will discourage investment in conservation. The Washington State Energy Office, however, felt that a 3% discount rate is too low. One private citizen commented that a life cycle approach is not appropriate for single family residences because discounting plays practically no role in decisions by homeowners.

DOE Response: As stated in an earlier response, energy, labor and materials costs have been regionalized, and replacement and maintenance costs for appliances have been included in the life cycle cost analysis. DOE believes that the expansion of the number of energy conservation options available to the designer in the proposed interim standards is adequate for residential construction for Federal agencies. With respect to the 3% discount rate, it has been changed to reflect the 7% and 10% discount used by most Federal agencies and the Department of Defense, respectively.

6. Health and Safety

(a) Infiltration Rate

There were seventy-two specific comments on DOE's decision to assume an air infiltration rate of 0.6 air changes per hour (ach) for residential buildings. Of these comments, twenty-eight were from the design community or home builders, and twenty were from utilities.

Most who commented agreed with DOE that further research is needed on the effects of reduced infiltration on indoor air quality and occupants' health. Comments from diverse groups such as the National Wildlife Federation and the National Coal Association concurred that the BEPS were likely to have a substantial impact on indoor air quality even though no credit is given for reduced infiltration levels. The National Wildlife Federation wrote that "DOE cannot avoid responsibility for the indoor air pollution problem simply by denying designers credit for cutting air infiltration. The fact is that reduced infiltration methods are so inexpensive that designers will employ them regardless of whether or not DOE grants credit for them. Studies were deemed necessary in order to determine the sources of indoor air pollutants, the levels at which health effects occur, as well as technical fixes and regulatory approaches for reducing high concentrations of indoor pollutants." The New York State Energy Office concluded that homes built in accordance with BEPS would have 0.4 to 0.5 ach. They cautioned that this would raise humidity levels and increase concentration of indoor pollutants such as carbon monoxide, radon gas, sulfur dioxide, nitrogen dioxide, and formaldehyde. The Bureau of Consumer Protection of the Federal Trade Commission urged DOE to disclose the results of all ongoing research on indoor air pollution, including information on the availability, cost, and effectiveness of indoor air quality control mechanisms, in order to stimulate innovation and competition in the development of these devices.

DOE Response: DOE considers the issue of air infiltration and its effect on indoor air quality to be one of the most significant issues faced in the development of new building standards. Since the BEPS proposal in 1979, the Department has funded a significant research program in the area of air infiltration, ventilation and indoor air quality. This program, conducted primarily by the Lawrence Berkeley Laboratory, has concentrated on the effects of indoor air pollutants such as radon, formaldehyde and various other chemical compounds. References to this research may be found in the Environmental Assessment prepared for this proposed rulemaking and available from the Office of Hearings and Dockets. When setting relative air infiltration levels in the proposed interim standards, information from this research was taken into account. It was found that an air change rate of 0.7 ach was low enough to have a positive energy conservation impact and yet high enough so as not to create any undue health hazards. The Environmental Assessment prepared on the proposed interim standards bears this out even when comparing the proposed air change rates with a worst case scenario.

(b) Fire Safety Issues Ignored by the BEPS

One who commented, a fire protection engineer from California, protested that DOE had not, in any way, considered the effect of the BEPS on fire safety. He pointed out that a tight building will develop a positive atmospheric pressure within the building if a fire occurs, thereby reducing fire resistance significantly. It might also cause smoke and toxic gases to spread more quickly, and oxygen depletion to occur more rapidly. This individual and several others cautioned that the BEPS could lead to increased use of foam sheathing materials and insulation, thereby increasing the danger of toxic gases from fire. The Federal Emergency Management Agency wrote that the BEPS should have included a section that would explicitly address the fire safety problems of structures built in conformance with the BEPS, and make recommendations for changes.

DOE Response: DOE does not take lightly its responsibility for health and safety issues in developing new building

standards. The issue of fire safety, while not directly related to energy conservation, could become significant for the reasons cited in the comments. DOE has continued a program of materials research that, for example, has studied the danger of toxic gases from smoldering insulation. This research, entitled "Smoldering Combustion Hazards of Thermal Insulation Materials", was performed by the National Bureau of Standards and Oak Ridge National Laboratory in 1980 and 1981. As noted earlier, however, the proposed interim standards are unlikely to increase the tightness of new buildings and, therefore, should not negatively affect fire safety.

III. The Guides for Designing and Constructing Energy Efficient Site-Built and Manufactured Homes

On May 9, 1983, and again on February 22, 1984, DOE published Notices of Inquiry (NOI) in the **Federal Register** announcing the availability of draft guides for home builders, manufacturers and retailers, entitled *Affordable Manufactured Housing through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Homes* (48 FR 20866) and *Affordable Housing through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Homes* (49 FR 6537), respectively. The guides were developed for two purposes. The first, and most important for this issuance, was to develop an energy analysis data base for the significant residential building types built for today's market and for a significant number of energy conservation options. The data base was to be used for the development of standards.

The second purpose was to provide a simplified calculation technique for analyzing whether the design of a home meets an energy consumption goal. The guides were designed to provide a simple, reliable way to determine the cost-effectiveness of different energy conservation options without prescribing a specific level of investment for energy conservation. They allow the user to consider regional differences in climatic conditions, building materials and labor costs, energy prices, and energy types.

The design guides were developed by the American Institute of Architects Foundation, Lawrence Berkeley Laboratory and Steven Winter Associates, under contract to DOE. The project was also aided by several review panels that provided guidance and assistance to the project team. This group of review panels included representation from the home manufacturing and retailing industries, the home building industry, architects and researchers whose specialties ranged from passive solar to climate. The research review panels reviewed research methods, assumptions, and results. The home builder and home manufacturer and architect panels reviewed the development of the guides as the projects progressed. Representatives from utilities, public interest groups, consumer groups, environmental groups, and the financial community were asked to provide their views and advice as appropriate. Additionally, a masonry and log industry review panel is reviewing the more recent thermal mass project.

The main goal of the design guide projects was to develop a credible energy analysis tool for both the site-built and manufactured home industries. Considerable attention was given to examining all research assumptions and procedures to ensure their adequacy and accuracy. In addition, all research methods, assumptions, and results have been documented to ensure that all research results are reproducible and verifiable. Very limited quantities of this research are still available and may be obtained from the Office of Hearings and Dockets.

The first steps in both research efforts were to define building prototypes. For site-built homes they were ranch, two-story, split-level and mid- and end-unit townhouse prototypes. For manufactured homes they were single-section and multi-section prototypes. The prototypes were defined largely on the basis of data provided by the respective industries, especially the National Association of Home Builders-Research Foundation and the Manufactured Housing Institute. The data included such things as demographic data for site selection, size, configuration, construction type, materials and typical glazing area. DOE-2.1, a public domain computer program,[1] was then used to determine the rate of energy consumption of each prototype in 45 U.S. climate locations. This program estimates hour-by-hour energy use of a building at the design stage from available information such as location, construction, operation, and heating, ventilating, and air conditioning equipment specifications. It was developed by Lawrence Berkeley Laboratory in collaboration with Los Alamos National Laboratory with financial support from DOE. Next, a variety of energy conservation options were defined, and DOE-2.1 sensitivity analyses were performed for the prototypical homes in various climates and locations to determine the energy use effects of each option. This was done by comparing the effects of each option-type, and at different levels of conservation (such as different insulation levels), on each prototypical design. Several thousand computer runs were made in order to properly compare the effects of each option.

The data from this research provided the basis for a data base for displaying the research results. This process enabled the researchers to determine the energy effects of a variety of options. The results were analyzed further, and an easy to use slide rule appeared to provide the most practical format to display the information. This decision was made before micro-computers enjoyed such a widespread acceptance.

Fifty-one cities included in an original DOE-2.1 data base were selected because they included most major cities (Continental U.S., Alaska, and Hawaii) and covered the range of climate types in which there is significant building construction and acquisition.

The data base was subsequently modified through climate analysis. Locations were eliminated if the changes in both heating and cooling were within 5% of that of another base city. This resulted in the elimination of eight cities. At the same time, two new locations were added for better coverage, resulting in the 45 base cities.

To develop results for other locations the following climate data was used: (1) Heating and cooling degree days for the 3400 National Oceanographic and Atmospheric Administration (NOAA) stations (20-year average 1951–1980). and (2) latent humidity calculated from Test Reference Year (TRY) weather tapes for 51 U.S. locations.

IV. Summary of Public Comment From Research to Develop Residential and Manufactured Home Design Guides

A. Affordable Housing Through Energy Conservation Comments

Approximately 200 comments were received after the Notice of Inquiry on site-built homes was issued on February 22, 1984. A majority of those who commented (62%) expressed views on the format, general usability and need for the document. The remaining comments pertained to specific technical questions and findings contained within the guides and the technical support documents.

[1] DOE-2 Building Energy Use Analysis Program (Version 2.B) may be obtained from NTIS by telephone, (703) 487-4650 or FTS 737-4650, or by mail, 5285 Port Royal Road, Springfield, Virginia 22161.

1. General Comments

Many who commented shared the general concern that only an already energy-sophisticated builder will have the patience and desire to use the guides and perform the required calculations. Many utility representatives, builders and designers with experience in energy conscious design expressed apprehension with the organization of the guides and stated that they could not comfortably take advantage of the information provided.

Several who commented stated that basic assumptions and data used in the development of the slide rule were unknown making it difficult to provide any real evaluation. Others who commented just stated that there is a need for more references and information on topics such as superinsulated homes, passive solar design, low infiltration construction and innovative masonry construction. In addition, many who commented suggested that a chapter should be included which provides a priority list of energy conservation measures and examples of good packages for different climate zones.

DOE Response: Most of the general comments specifically addressed the guides and slide rules and do not have particular application to the proposed interim standards. The questions on basic assumptions are, however, pertinent. The basic assumptions used in developing the proposed interim standards may be found in the *Technical Support Documents* that accompanied the Notice of Inquiry and today's proposal. These assumptions were taken from the best available data gathered from various sectors of the building industry, on current building practices. The assumptions were used in setting base information for the DOE–2.1 computer simulations of the various prototypes and conservation measures. DOE takes the position that the basic assumptions used in creating the data base represent a sound technical judgement. It also believes that the DOE–2.1 computer program is the most accurate research tool available on which to base residential energy analysis.

2. Specific Comments

(a) Insulation

Many who commented stated that conclusive data are not yet available to substantiate the statements alleging the energy conservation advantages of heavyweight walls, and DOE was cautioned not to use statements or draw conclusions that compare insulated wood frame and masonry wall energy efficiency.

With regard to movable insulation, many who commented stated that, while they recognized that movable insulation could provide benefits when properly installed, it is extremely difficult to ensure proper use of these devices because of their dependence on the actions and lifestyle of the home occupant. Other questions, such as the useful life of these devices, their availability and cost, raise questions about the accuracy of any payback period attributed to their use and imply that such devices be removed from consideration for the guides.

DOE Response: Based on the comments received from the Notice of Inquiry, DOE is undertaking further research in the area of thermal mass. This research will be the subject of future DOE reports and will be reviewed to determine whether or not it will be included in future proposed rulemakings.

With respect to movable insulation, DOE still believes it can be a viable and useful option and has included it as an option in the proposed interim standards. It has been determined that movable insulation is still an effective energy conservation measure when properly. It would have to be properly operated at minimum 50% of the time, during the day and 100% of the time during the night to be cost-effective. This assumption is built into the energy analysis on the proposed interim standards.

(b) Infiltration

Several comments expressed concern that the guides did not take into account the different infiltration characteristics of fossil fuel-heated homes and electrically-heated homes. These comments asserted that an electrically heated home could only be listed as a tight home because it would have no vents, chimneys or piping associated with the heating system. Electrically-heated homes require no outside air for equipment combustion and ventilation purposes and, therefore, can have a less porous envelope design.

Another group of comments noted that DOE has in the past characterized infiltration rates as 1.0 ach for average construction, 0.7 ach for tight construction, and 0.4 ach for very tight construction. This has been done with little published backup data and without differentiating between types of heating systems. These comments strongly recommended that it would be appropriate for DOE to signify the differential between infiltration rates of similar fossil fuel heated and all electrically heated homes in the guides

DOE Response: DOE recognizes that electrically- and gas-heated homes should be treated differently, especially homes heated with non-combustion heating equipment such as electric baseboard, electric furnace or heat pump and also gas or oil sealed-combustion furnaces. This has been done in the proposed interim standards by giving electrically heated homes credit in the calculation of infiltration rates.

(c) Climate

Those who commented from Florida felt that the energy savings from ceiling and wall insulation were overstated and that foundation insulation savings exceed those based on local construction recommendations by as much as 20%. They blamed the major sources of error on DOE's lack of experience with Florida climate and construction techniques as well as extremely high assumptions on compressor hours.

DOE Response: DOE has conducted significant research since the NOI was published on hot-humid and hot-dry climates. At this point, the research is not at a point where conclusive data are available. Until such time as more data are available, DOE will continue to use the assumptions built into the DOE–2.1 computer program.

(d) Economics

Those who commented noted that the implementation of options such as increased insulation, reduced infiltration and improved glazing will reduce the size requirement for heating and cooling equipment. This downsizing of required equipment will be reflected in reduced costs to the consumer. It was suggested that the economic analysis be revised to acknowledge and credit the benefit from equipment downsizing due to an improved thermal envelope. Several consumer groups commented that the economic calculations ignore the fact that increased mortgage expenses of energy saving options are often recovered in the resale price when the home is sold. None of the costs of energy used during home ownership are recovered. If the investment in an energy conserving feature in a new home is fully recovered in resale, the analysis should reflect this recovery. First year cash flow analysis ignores this important fact.

Also, by ranking energy conserving options according to first year cash flow, many who commented felt that DOE did not have a defensible economic

analysis. Their suggestion was to more strongly incorporate a life cycle cost analysis which includes future energy costs, maintenance costs, life expectancy, interest rates and resale values.

DOE Response: While these comments are germane to the guides themselves, they are not particularly relevant to the proposed interim standards since life cycle cost, rather than simple payback, has been used as the economic methodology. DOE is very interested in comment on the economic parameters used in the proposed rulemaking and asks that the assumptions used be reviewed carefully by those who commented.

The proposed interim standards do include tradeoffs between envelope requirements and equipment efficiency. They do not include, however, the effect of downsizing primarily because of the difficulty of including the economic effects in the analysis. DOE does recognize the importance of this factor and solicits comments on the issue.

B. Affordable Manufactured Housing through Energy Conservation Comments

1. General Comments

Overall, the general feeling among those who commented was that DOE had done a good job of presenting technical conservation materials for constructing efficient manufactured housing. Recognizing that accuracy was critical to the overall usefulness of the guides and slide rules, there was a bit of concern regarding the format and the materials used to physically produce the slide rules. It was felt that a laminated cardboard slide rule may deteriorate and therefore not maintain its accuracy. It was also anticipated that the guides would not be perceived as "simple" to use by the average salesperson.

Many of those who commented felt that, in some cases, the document lacked a strong connection between many of the conservation features suggested in the guides and the supporting research documents referenced. These comments indicated that the guides should only consider conservation options that are not dependent upon the building owner for operation and maintenance.

Representatives of appliance manufacturing organizations felt that some of the examples used by DOE in the guide materials were not representative regarding what consumers can actually find in the marketplace. Many who commented noticed, and pointed out, that discussions on many technical requirements and options typically considered for energy conserving housing 32 were missing, such as zoned heating, the siting of heat pumps, duct design, equipment sizing, hydronic systems, building orientation, etc.

DOE Response: As with the comments on the housing guides and slide rules, most of the general comments specifically addressed the guides and slide rules themselves and not the data base upon which they were based. Many of the issues addressed in the comments, such as duct design, equipment placement, and hydronic systems, were deliberately left out of the guides because related design practices are regulated by HUD in the Manufactured Housing Construction and Safety Standards (24 CFR Part 3282), and either do not apply or are not typically used in manufactured housing. These comments were useful, however, in determining an emphasis for the research conducted specifically for the proposed interim standards. For example, the comments brought to DOE's attention additional heating and cooling strategies and different opinions on what makes a manufactured home energy efficient. The one major area that still requires additional research is equipment sizing.

2. Specific Comments

(a) Equipment Efficiencies

Many who commented recognized the merit in expressing the equipment efficiencies by a single uniform measure (Seasonal Coefficients of Performance, SCOP). They felt as a whole that there is not sufficient information included in the materials to tie the SCOP to the efficiency measures found in product information provided by a manufacturer for the different types of equipment. One comment recommended that the guides mention the Federal Trade Commission (FTC) regulation requiring the availability of FTC "Energy Guide Fact Sheets".

With regard to heat pumps, a few who commented asserted that the generic support of heat pumps is unsubstantiated. However, the majority of those who commented challenged the DOE assumption that heat pumps degrade uniformly. They claimed that high efficiency designs actually degrade less than other designs and they feared that this assumption could result in precluding truly superior heat pump designs from achieving any credit in the slide rule 33 analysis.

There were many industry comments questioning the sources of the equipment efficiency information used in the guides. Most found the DOE Consumer Products Efficiency Standards Engineering Analysis Document (DOE/CE-0030) and the publications made available by the American Gas Association (AGA) the only credible sources.

DOE Response: For the proposed interim standards, DOE has used the DOE Document and the information from AGA. It also conducted a survey of other trade organizations, including the American Refrigeration Institute and the Gas Appliance Manufacturers Association, as well as equipment and appliance manufacturers to obtain up-to-date efficiency information. DOE has also used the FTC labeling program as a guide to efficient appliances.

With regard to heat pumps, the life cycle cost procedure in the proposed interim standards takes account of relevant equipment costs to compare alternative heat pump designs.

(b) Economic Analysis

A few utility representatives were concerned that erroneous cost benefit analysis would result if incremental electric prices geared to specific energy uses were not used. Their suggestion was to permit several methods for determining local energy costs, i.e., actual energy bills for a similar home located in the same area or rates obtained directly from a utility.

DOE Response: It was found that electricity prices differ in some cases from the heating to the cooling season. In the proposed interim standards, fuel costs for both seasons must be chosen. Also, fuel costs are to be determined on a local basis with the most up to date information possible.

V. Summary of the Proposed Rule

Proposed § 435.33 requires a Federal agency to establish an energy consumption goal for a new Federal residential building using the computerized calculation procedure provided in a micro-computer program called "Conservation Optimization Standard for Savings in Federal Residences (COSTSAFR)" and to adopt such procedures as may be necessary to assure that the design of a new Federal residential building is not less energy efficient than its energy consumption goal. The energy consumption goal is calculated by using COSTSAFR in accordance with its accompanying user manual.

Proposed § 435.33 explains that the COSTSAFR calculation program determines the most effective set of energy conservation measures, selected from among the measures included within the program, that will produce the optimum life cycle cost for a type of

VOL 51 ISS 161 AG 20 1986 UMI

residential building in a specific geographic location. This most effective set of measures is expressed as a total point score that, in turn, serves as the energy consumption goal for the design of the Federal residential building.

To facilitate compliance with the energy consumption goal, COSTSAFR also prints out a point system that identifies a wide array of energy conservation measures showing how many points various levels of each measures would contribute to reaching the total point score of the energy consumption goal. This enables a Federal agency to use the energy consumption goal and the point system in its design and procurement procedures. Designers and builders can pick and choose among different combinations of energy conservation measures to meet or exceed the total point score required to meet the energy consumption goal.

The COSTSAFR program and its accompanying user manual may be obtained for purposes of review and comment from the Office of Hearings and Dockets at the address listed at the beginning of this Notice. There is no charge for the program, however, DOE asks that requests be made only by those individuals who intend to comment on the proposed interim standards, as supplies are limited. Following publication of the interim standards, the COSTSAFR program and user manual will be available from the National Technical Information Service at a nominal cost.

The use of micro-computer technology was chosen partly on the basis of the emergence of the technology over the period of the last few years and partly because of the ease in which complex energy and cost calculations are made. The use of micro-computers has become common among Federal agencies, and increased productivity clearly established the use of the technology for the proposed interim standards. Its use eliminates the need for anyone to perform lengthy manual calculations or make uninformed choices regarding the economic optimization of conservation measures. Research has shown that in the majority of cases, the optimization of conservation measures is not derived from professional judgement alone, and the amount of time it takes to perform adequate analysis has been a deterrent to the advancement of energy conserving residential building design in the U.S. The need to perform analyses that continually trade off conservation measures is required to produce cost effective building designs.

COSTSAFR was developed to make the selection of optimal conservation measures and, consequently, the design of cost-effective energy conserving buildings a relatively simple process. The output from the COSTSAFR program are the data to be used in determining compliance with the proposed interim standards. COSTSAFR is designed to provide specific information on the interaction of up to 30 energy conservation measures in any U.S. locations. It will enable the Federal government to develop cost-effective residential building standards for a single project, thus enabling Federal agencies to set standards specifically adopted to the geographic location of the building site instead of having to depend on the more general national standards now available. Finally, it is designed to be effective for any of several building types including single-family, small multifamily, and manufactured housing.

Before developing a compliance design tool, DOE reviewed the design and construction procedures currently used by the military as well as other Federal agencies responsible for residential construction. The military is responsible for in excess of 95% of the Federal government's housing construction. It was determined that a simplified tool that could display energy conservation options in terms of dollars saved to the government was necessary and could be used early enough in the design and construction process to preserve designer flexibility. COSTSAFR has been designed so that implementing officials can easily tell which combination of measures will result in energy conservation levels that meet or exceed an optimized level for cost effective energy conservation in a building.

The COSTSAFR program performs life cycle cost optimization for a broad set of standard conservation measures and establishes an optimum set of measures for each proposed building. These are translated into a point system. The result is a total point value required for the sum of conservation measures to be incorporated in the building design.

COSTSAFR then prints out a point system for all conservation options indicating how various levels of each option perform relative to the optimum option. This point system is provided to bidders who can then select the most appropriate set of measures for their bid proposals and be assured that their combination of measures meets or exceeds the optimum levels required by the proposed interim standards.

Procedurally, to comply a procurement official will have to obtain a copy of the COSTSAFR software, its accompanying User's Manual and have access to a microcomputer system that runs on the MS DOS disk operating system. The software and the manual will lead the user through the steps of selecting a building prototype, location and fuel type; selecting the set of conservation measures that are to be considered; calculating the optimum life cycle cost for the prototypical building; and finally, calculating the points corresponding to alternative conservation options and printing them out in a set of compliance forms The builder using the compliance forms must show that the proposed design is equivalent or more energy conserving than its corresponding prototypical design with its optimized set of conservation measures. The COSTSAFR program will be made available to all Federal construction agencies. Compliance with the energy consumption goal can be achieved by manual calculation and does not require use of COSTSAFR. However, DOE believes that the COSTSAFR program will prove to be a time-saving tool for bidders on Federal residential projects and will make it available through the National Technology Information Service (NTIS) The address for NTIS and the COSTSAFR order number may be found in the proposed interim standards.

Under § 435.33, it would be possible for the head of a Federal agency to select an energy performance standard that was more stringent than the interim standards proposed today. DOE cautions those agencies, that may wish to prescribe an alternative standard, to conduct a thorough study of the alternative to avoid possible question of the comparability of the two standards.

The following paragraphs discuss, section by section, the proposed interim standards:

Section 435.30 Purpose.

This section restates the purpose of the proposed interim standards to be used by Federal agencies in the design and construction of new residential buildings.

Section 435.31 Scope.

Under the scope of the proposed interim standards, new residential buildings include all new buildings for Federal residential occupancy in the Continental U.S., Alaska and Hawaii, except a multifamily building more than three stories above grade, after the effective date of this proposed rule.

Section 435.32 Definitions.

This section defines terms that are used throughout this subpart.

Section 435.33 Requirements for the Design of a Federal Residential Building.

This section identifies the proposed interim standards and the requirements for compliance.

Section 435.34 The COSTSAFR Program.

The COSTSAFR micro-computer program is the source for developing the total point score that serves as the energy consumption goal for the design of new Federal residential buildings. The basis for the point score is the practicable optimum life cycle cost of the most effective energy conservation measures for a given building type and climate location. Once a housing type has been selected and the appropriate fuel price forecasts identified, the responsible Federal official is free to use local fuel costs, local construction, maintenance and operation costs, and to select climate data appropriate for the construction location.

COSTSAFR is intended to be used by Federal officials in the very beginning of the procurement process enabling Federal officials to develop Requests for Proposals for their construction projects. This will give bidders the ultimate amount of design flexibility while assuring that energy conservation objectives will not be compromised.

The COSTSAFR program is written in an IBM compatible procedure because IBM or compatible machines have been found to be predominant in Federal use. DOE would like comments from agencies that use other systems and whether it is necessary to apply COSTSAFR to these systems.

VI. The Research Conducted for the Proposed Rule

A. General Research Overview

The proposed interim standards are supported by the integration of several different research projects and building research analyses, some of which have been sponsored by DOE over the last 10 years. The research was initiated in 1975 with the analysis of an existing housing survey of more than 120,000 residences conducted by the National Association of Home Builders-Research Foundation. This large baseline sample encompassed all major varieties of single family and multifamily low rise residential construction throughout the country. Climate analysis was conducted and calculations were performed, to estimate the energy use for space heating and cooling. A data base was produced that consisted of building characteristics and estimated energy use for space conditioning for 120,000 dwellings. This study is documented in the *U.S. Department of Housing and Urban Development and the U.S. Department of Energy, Phase I and Phase II Reports for the Development of Energy Performance Standards for New Buildings* (January 1979).

From the survey analysis, four prototypes were selected which represented approximately 90% of all new site-built residences constructed in the country; ranch, split-level, townhouse and two-story. With the assistance of Lawrence Berkeley Laboratories, a comprehensive data base was generated that predicted the energy consumption for these four prototypes in 45 weather locations using DOE–2.1A, a computer simulation program which predicts energy consumption on an hour-by-hour basis.

For each prototype in each location, a full range of energy conserving options was identified and simulated. These options included various combinations of ceiling, wall and foundation insulation, window glazings and infiltration levels. In addition, standard building operating conditions were established to include such things as occupancy and internal load levels, thermostat settings for both heating and cooling, natural ventilation schedules, etc. Sensitivity analyses were performed to discern the effects variations in design have on the energy use of a building. Sensitivity studies were conducted for building floor area, building orientation, equipment efficiencies, window size, orientation and glass types, the absence of thermostat setbacks, levels of air infiltration and suntempered designs such as south dominant window orientations and attached sun spaces.

The resulting comprehensive data were used by DOE to develop a slide rule that was capable of accurately estimating the energy savings associated with various energy conservation measures typically included in site built housing. The slide rule, together with guidelines that described its use and its technical support documents were made available to the public on February 22, 1984, through the publication of a **Federal Register** Notice of Inquiry (49 FR 6537), which was entitled *Affordable Housing Through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Homes.*

At the same time, a similar research effort was undertaken to provide a method for selecting and using cost effective energy conservation measures for manufactured homes. This research effort is described in a May 9, 1983, **Federal Register** Notice of Inquiry (48 FR 20866), entitled *Affordable Manufactured Housing Through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Homes.*

Ultimately, the tasks of developing standards that are mandatory for the Federal government and voluntary for the private sector had to be separated. While the significant data base that underlies the development of these residential slide rules serves as the principal technical basis for the development of the proposed interim Federal standards, at least three major differences between the guides and the proposed interim standards were anticipated. First, minimum performance levels must be achieved if the proposed interim standards are to be met. The guidelines present energy conservation as a function of construction details, but do not specify minimum levels. Second, the proposed interim standards' requirements must be set at the optimum life cycle cost; consequently, detailed costing and economic evaluation was included as a part of the research effort. In the guides, the application of cost benefit analysis is left to the user. Finally, there was uncertainty about whether the building types procured by Federal agencies were the same as those analyzed in the existing research.

In addition, DOE recognized that the procurement and building practices of Federal agencies differ greatly from those in the private sector. With the objective of developing interim standards that is both feasible and acceptable to the needs of DOE and the user Federal agencies, the following research was authorized by DOE: The identification of the physical characteristics of housing currently being constructed by the Federal agencies; identification of economic, construction and other pertinent assumptions for use in the proposed interim standards that are reflective of Federal unit costs of construction; and the development of a format that integrates the proposed interim standards' technical and required life cycle cost components.

All of the research cited above, except for this last part, has been made available for public review and comment in the two Notices of Inquiry described above. Only the research conducted in preparation of the COSTSAFR computer program is discussed below. A discussion of other research activity is found earlier in this notice. A detailed description of the technical documentation of the COSTSAFR program can be found in the *Technical Support Document* (TSD).

B. Typical Current Practice in Federal Construction

The vast majority of federally purchased housing is for the military. Military housing procurement officials were contacted to obtain Request-for-Proposals (RFP's), blueprints, and specifications for housing activities (projects) constructed under their jurisdiction. Construction documents were gathered for six major housing construction activities, representing over 800 units in 19 configurations and various climatic zones of the continental U.S. The TSD includes a description of construction practices identified for each of these activities.

In brief, the military services now use turnkey RFP's for housing activities, and these provided details common to all activities. Some characteristics, such as insulation levels, were related to activity location and were evaluated regionally from the construction documents provided by the military. The documents also provided information on typical finish materials, floorplans, utilities, and mixtures of unit types.

Based on the information gathered on military housing activities, a hypothetical housing activity description was developed by modifying blueprints and specifications to represent typical current practices with respect to housing types, sizes, occupancies, foundations, etc. This hypothetical activity was then assumed to be located at four sites representing the range of climates in the continental U.S.:

New Orleans, LA (hot, humid);
Barstow, CA (hot, dry);
Washington, DC (moderate); and
Sheridan, WY (cold).

Changes to the plans and specifications were made to represent typical window and insulation design practices for the sites. Descriptions for seven typical housing unit types were developed for the hypothetical housing activity. The typical housing units vary somewhat from the prototypical designs used for the development of energy savings budgets in the proposed interim standards. This variation was expected, however, because military housing is not uniform in design and incorporates some features not normally found in residential housing built for the private consumer. The energy data base used in the research project was designed to reflect this fact.

The typical military housing units that were identified correspond to the single- and two-story single-family residences, middle- and end-unit apartments and townhouses, and multi-section mobile homes used in the development of the slide rules and guides. Typical split-level single-family residences and single-section mobile homes were not identified because they were determined to be atypical in military housing activities.

The six typical site-built housing units have many features in common. All are constructed with slab-on-grade foundations, with wood frame walls and trussed roof systems. The walls and ceilings are insulated with fiber-glass batts, and the slabs insulated with extruded polystyrene insulation board around the perimeter. Insulation thicknesses vary with location (climate). Roof sheathing is ½" CDX plywood. Exterior wall finishes consist of approximately 50% brick veneer and 50% factory finished wood siding over ½" CDX plywood sheathing. Interior wall and ceiling finishes consist of ⅝" gypsum board (wall board). Windows have aluminum sashes, and the number of glazings varies with location. Forty percent of the windows have drapes and the remainder have blinds. Doors are insulated metal units with exterior storm doors. Second floors (not applicable to single-story residences) are constructed of ⅝" CDX plywood underlayment covered with 1½" of gypcrete (lightweight gypsum concrete).

All floors are finished with vinyl floor tiles or sheet vinyl, except for carpeting on the second floor levels of townhouses and apartments and stairways in two story residences.

Other characteristics apply to all typical housing units, including the manufactured housing units. Cabinets are constructed from hardwood plywood for exposed surfaces and particleboard for dividers, shelves, and countertop bases. Moisture and air infiltration control measures include vapor barriers under slabs (under the floor in manufactured units) and on the interior side of walls and ceilings. Windows and doors are weatherstripped and caulked. Gas-fired appliances are typically used in the residences when gas is available. Each unit is equipped with a kitchen range exhaust hood capable of exhausting 150 cubic feet per minute (cfm), and all bathrooms include 50 cfm exhaust fans. Air-to-air heat exchangers are not used and outside air is not introduced into the furnace return air. Heating systems are forced-air type with standard residential furnace filters. Fireplaces and wood stoves are not typical in military housing. Water supply is from a base-wide system rather than individual wells. The typical single-story, single-family detached residence (SFD) has four bedrooms and 2 full baths, and is occupied by a family of 5 persons. It has a gross floor area of 1746 square feet.

The typical two story SFD has four bedrooms and 2½ baths, and is also occupied by a family of five. All bedrooms and two baths are located on the second floor. The unit has a gross floor area of 1655 square feet.

The typical townhouse unit has 3 bedrooms and 2½ baths, and is occupied by a family of four. The unit has a gross floor area of 1343 square feet on twe floors, and all the bedrooms and two of the baths are located on the second floor. End-unit and middle-unit townhouses have identical floorplans, the only difference being that the end-unit has only one wall in common with an adjacent unit, while the middle-unit shares two common walls. The end-unit has all its windows on two walls, as does the middle-unit, so the window and door areas and locations are the same for both types.

The typical apartment unit pair consists of an upstairs unit and a downstairs unit, identical in plan and located one above the other. An apartment unit has 2 bedrooms and 1 bath, and is occupied by a family of three. Each unit has a gross floor area of 1057 square feet. Upstairs units are carpeted except for the kitchen and bathroom. Like townhouses, end-unit and middle unit apartments are identical with respect to windows and doors.

The typical multi-section manufactured home has three bedrooms and 2 baths, and is occupied by a family of four. The unit has a gross floor area of 1263 square feet. Typical manufactured homes have some characteristics different than the typical site-built homes. They do not have brick veneer exterior finish, using 100% wood siding instead. Exterior wall sheathing is not used. Interior finishes are typically ½" gypsum board for military housing. Roof sheathing is ⅜" CDX plywood. Foundations are not typically used, but a crawl space is created by constructing a concrete perimeter skirting to give the appearance of a foundation. The floor space is insulated with fiberglass, with thickness varying with climate.

The seven typical housing types comprising the hypothetical housing activity descriptions were delivered to a subcontractor (Steven Winter Associates) for quantification of construction materials, infiltration rates, water usage, and other parameters determined to affect indoor air quality. This information was used to develop input data for air quality models of the typical military housing units.

C. Technical Analysis Used To Develop the Proposed Interim Standards and COSTSAFR Program

DOE's intention was to develop interim standards that enable Federal agencies to identify and achieve the optimum package of energy conservation measures for the design of new residential buildings by permitting tradeoffs between envelope, windows, infiltration control measures, and heating and cooling equipment efficiencies. Water heaters and refrigerators are included in the energy budget at the discretion of the official implementing the proposed interim standards.

As required by the Act, the proposed interim standards are a whole building performance-based standard and are implemented by using a microcomputer program that provides a point system for demonstrating compliance. A summary of the technical analysis supporting this program follows.

1. Prototypes

The proposed interim standards recognize housing as being characterized by nine typical designs for the development of energy savings budgets. Seven of these types represent 90% of the building types identified in the original survey of 120,000 buildings. The apartment building prototypes were added to the study when DOE learned that a very large amount of housing constructed by the military consisted of apartment housing. The nine designs used in the analysis consist of the following:

1. Single-story single-family residences,
2. Split-level single-family residences,
3. Two-story single-family residences,
4. End-unit townhouses,
5. Middle-unit townhouses,
6. End-unit apartments,
7. Middle-unit apartments,
8. Single-section mobile homes,
9. Multi-section mobile homes.

The first three prototype designs are typical detached homes characterized by the number and arrangement of the floors in the plans. Drawings of the prototypical single-family residences used to develop the proposed interim standards are available in the *Technical Support Document.*

The fourth and fifth prototypes are two-story townhouse dwelling units which share common walls with the adjacent units in the building. The units in a townhouse building are arranged in a single row. Middle units are in the middle of the building, sharing two common walls with the units on either side. End-unit townhouses are on each end of the building, sharing a single common wall.

The sixth and seventh prototypical designs are apartment units. They consist of separate dwelling units on two floors, the second floor units directly above those on the first floor. The pairs of apartment units are arranged in a single row. Like the townhouses, middle-unit apartments share two common walls with the units on either side, and end-unit apartments share a single common wall. The energy savings budget for apartments is developed by considering dwelling units in pairs, consisting of an upstairs and a downstairs dwelling unit.

The eighth and ninth prototypical designs are manufactured housing units, commonly called mobile homes. They are mounted on permanent chassis for transport from factory to site. Single-section prototypes are transported in one piece and are a maximum of 14 feet in width and multi-section prototypes consist of more than one module, joined on site to form a single dwelling.

2. Cost Analysis

Research conducted for the development of the proposed interim standards included the assembly of two construction cost data bases—one for manufactured homes built to aforementioned HUD National Manufactured Home Construction and Safety Standards construction requirements and one for conventional site-built homes. Both data bases include information on material and labor costs and are intended to reflect costs to the Federal housing purchaser. The *Technical Support Document* provides the detailed information on the development of these cost data and the actual costs used in the proposed interim standards and the COSTSAFR computer program.

All cost developed for the proposed interim standards are presented on a per unit basis and are incorporated in the COSTSAFR program to reflect incremental costs associated with specific energy conservation options.

Manufactured housing costs reflect the cost characteristics specific to the manufactured housing industry. Specifically, many material costs benefit from large volume purchase discounts, and labor costs typically benefit from the production-line nature of construction. A survey of 14 manufacturers provided the basic data on construction practices and costs. Data from standard industry literature sources provided additional information where required. Time-study information provided data on labor requirements. The cost were developed on the basis of the manufactured home prototypes described in the *Affordable Manufactured Housing through Energy Conservation Technical Support Document* (May 1983). These prototypes provided the basic take-offs from which specific dimensions and construction details were developed. The costs were generated for both single-section and double-section manufactured homes. The energy conservation option categories analyzed included: ceiling insulation, wall insulation, floor insulation, roof color, glazing (windows), movable window insulation, and infiltration control. For ceiling insulation, the cost data cover insulation R-values from R–7 to R-38. For wall insulation, the data cover R-values from R–7 to R–24. For floor insulation, R-values covered range from R–0 to R–28. Windows include wood sash, aluminum, and aluminum with thermal break. Window configurations include single pane, single pane with storm windows, and double pane with storm windows. Glazing costs also include reflective and heat absorptive glass. The cost data cover movable insulation values of R–1, R–3, and R–5. Finally, the infiltration control cost data cover the costs of achieving a "tight" house (0.7 ach) and a "very tight" house (0.4 ach, but including an air-to-air heat exchanger to maintain an effective air exchange rate of 0.7 ach).

The site-built home cost data base relies on information obtained from a survey, industry data sources, and published cost data. Labor costs include both the effects of labor rates for different skills and the time required to accomplish specific tasks. The take-offs developed for the site-built prototypes and described in *Affordable Housing Through Energy Conservation Technical Support Document* (February 1984) provided the construction details needed to develop the cost data base. The conservation design options for site-built homes include those listed above for manufactured homes, with the addition of slab-on-grade and basement foundation types and their associated insulation options. The levels of some options considered also differ from the levels for manufactured homes because of the fundamental differences between the construction characteristics. For examle, site-built home ceiling insualtion levels typically can be considerably higher than manufactured home levels because of the height limitations usually associated with manufactured homes.

The cost base includes several components-space and water heating equipment, cooling equipment,

VOL 51 ISS 161 AG 20 1986 UMI

refrigerators/freezers, and air-to-air heat exchangers. The data base includes data on the cost of different heating equipment types, including gas and oil furnaces and heat pumps, as a function of their efficiency. DOE data and industry information provided the basis for these relationships. The data base includes similar information for air conditioning equipment and gas and electric domestic hot water (DHW) equipment. This information originates primarily from DOE published sources. The data base includes similar information for refrigerators/freezers as a function of their DOE/FTC EnergyGuide Label. The data base provides first cost information for a group of air-to-air heat exchangers, based on industry information. It also provides estimates of heat exchanger oprating costs based on number of hours used and consumption rates. The cost data base provides data for all elements of life cycle costs associated with purchasing, operating, and maintaining the energy conservation options included. These cost elements include first cost; annual maintenance cost; first, second, and third replacement costs, if appropriate; and the negative costs attributable to salvage at the end of the 25 year analysis period.

3. Energy Analysis

Two refinements were made to existing energy data bases during development of the propsed interim standards. The existing site-built and manufactured home energy data bases, described in the two technical support documents noted earlier, provide the fundamental data used in the development of the proposed interim standards. Integrating the existing data bases, however, required using consistent assumptions about the thermostat setback. Supporting research modified the manufactured home energy data base to make it consistent with the site-built data base. In addition, new research provided improved information on the effects of heat absorbing and reflecting glazing.

The thermostat setback analysis used results from DOE–2.1a computer program runs and linear regression techniques to modify the energy effects of various energy conservation options to incorporate the effects of thermostat setback. Analyses were conducted for insulation options, infiltration options, and window options. Using the regression analyses, the results were extended from a set of four typical climate zones to the entire set of climate zone locations included in the data base.

The greater accuracy allowed by the analysis approach underlying the proposed interim standards justified improving the existing manufactured home energy data base to better approximate the effects of absorptive and reflective glazing. The effects of these glazing types were estimated using a linear function based on window area. Specific relationships were developed for single-section and multi-section manufactured homes. Results for representative climate zones, or cities, were then used to characterize the relevant set of cities in the data base.

4. Cost-Effectiveness Analysis

The cost-effectiveness analysis is a critical component of the proposed interim standards. Cost-effectiveness provides an economics-based test of the maximum practicable energy conservation achievable in new residential buildings. The Federal Energy Management Program (FEMP) specifies a life cycle cost methodology in Subpart A, as amended, of 10 CFR Part 436 that prescribes the required investment analysis approach for Federal investment, and the proposed interim standards use this approach.

Life cycle cost includes all the costs associated with a particular investment, including current and future costs. Likewise, it accounts for all returns on investment or cost savings. By using discounting techniques, it permits the combination of costs and savings on a comparable basis.

Cost-effectiveness provides a criterion for selecting between alternative investments based on their relative cost for a given effectiveness level, or relative effectiveness for given cost. For the proposed interim standards, the effectiveness level corresponds to the level of comfort provided occupants of Federal housing. Maintaining that same effectiveness level, the proposed interim standards provide an approach for minimizing the corresponding cost from the life cycle cost perspective. Because the proposed interim standards achieve the minimum cost level by optimizing energy consumption through proper design, they produce the maximum practicable energy savings in Federal housing when both energy consumption and costs are taken into account.

The proposed interim standards use the minimization of net life cycle cost as the basis for design energy requirements. Net life cycle cost compares the life cycle of a base case building with the same building including a given energy conservation option (ECO). If the modified building has a lower life cycle cost than the base case building, the specific ECO is considered to be cost-effective. The selection of this approach made the analysis tractable and consistent with the underlying data base used for the analysis. This method also can handle mutually exclusive ECOs (e.g., R–11 and R–19 wall insulation) and dependent ECOs (e.g, wall insualtion and heating equipment efficiency). This method, however, may not produce the exact optimum since it does not consider all possible ECO combinations. Extensive prior research information, however, suggests that the life cycle cost tends to be relatively flat near the minimum. Based on this observation, it was determined that the net life cycle cost approach produced results sufficiently close to the true optimum. This fact, and the feasibility of implementing this method, made it the most appropriate approach for the proposed interim standards.

The life cycle cost minimization consists of two steps. The first step involves ranking the ECOs according to their relative cost-effectiveness bases on the ratio of their savings to investment cost. The second step involves determining which ECOs result in life cycle cost reductions and should, therefore, be implemented.

This approach is relatively direct except for situations where ECOs interact with one another. One category of such interacting ECOs consists of options that interact directly with one other ECO type, such as movable insulation and glazing type. For these, the approach includes all possible combinations of the interacting options as a new set of options. The second category consists of ECOs that interact with several other ECO types, such as heating equipment efficiency. Specifically, as heating equipment efficiency improves, the savings attributable to envelope improvement decreases. The approach deals with these situations by considering these interactions on an individual basis.

5. COSTSAFR Computer Program.

The proposed interim standards are implemented through a computer program that is designed to operate on a microcomputer and that performs all the necessary energy, cost, and optimization analyses required. Furthermore, the computer program provides a point system that is the performance requirement of the proposed interim standards and informs the Federal procurement official and builder about the relative value alternative ECOs.

This computer program only requires input data that are directly relevant to a specific building locale or situation-all other necessary information and data are self-contained. The program contains climate data, cost data, energy

data, economics data, and the optimization methodology. It requires situation-specific data that ensure that the results reflects the optimum requirements for a given location, building type, fuel availability, etc. This approach provides a wide variety of design choices to the user while requiring a minimum of information from the user.

The document *Conservation Optimization Standards for Savings in Federal Residences (COSTSAFR)—User's Manual* describes how to operate the computer program. DOE sought to develop a computer program that was not only technically accurate, but also easy to use. It incorporates a series of screens that display the information entered by the user and allow the user to make modifications to critical data inputs. The research also focused on utilizing the compter tool as a device for assisting with implementation of the proposed interim standards. As a result, the program uses the results of the internal optimization analysis to provide comparisons of all ECOs. It makes the comparisons by calculating points for each ECO that correspond to the change in life cycle energy cost resulting from implementing that ECO. The point system thus provides a mechanism the user can employ to make easy calculations of the consequences of trading off investments in alternative ECOs.

VII. Enironmetal Assessment

DOE performed an Environmental Assessment (EA) of the proposed interim standards under the Implementing Regulations of the Council of Environmental Quality (CEQ) (40 CFR parts 1500–1508 and the National Environmental Policy Act of 1969, as amended (NEPA) (Pub. L. 91190, U.S.C. 4221 et, seq.)), that requires agencies to conduct environmental assessments when their regulations constitue a significant Federal action. The EA addresses the possible incremental environmental effects attributable to the application of the proposed interim standards to the design of Federal residential buildings and this section summarizes the findings.

A. Official Finding

A *Finding of No Significant Impact*, is published jointly with this document.

The Environmental Assessment concludes that no significant impacts will result to the indoor or outdoor environment from implementing the proposed interim standards.

Specific conclusions are summarized below:

B. Contents of the EA Document

As mentioned above, when an agency is going to undertake what may be considered a significant Federal action, it is required to perform an environmental assessment to ascertain whether there will be any negative environmental consequences. Depending on the results of these assessments, agencies must either conduct additional research culminating in the filing of an environmental impact statement or make an official Finding of No Significant Impact. Because, in the recent past, new building standards have generated an enormous amount of public interest and concern, and because these proposed standards will be available as a guideline to private sector designers, the DOE was persuaded that an environmental assessment would be prudent.

In preparing the EA, DOE attempted to use as much of the still operative *Draft Environmental Impact Statement* (EIS), issued in 1979, as is relevant to this issuance before undertaking additional analysis. Two major changes are evident. The draft EIS inadequately discussed the subject of indoor air quality. Many of the comments received from government agencies, research oragnizations and the public reflected their concern that energy standards programs could result in the deterioration of indoor air quality and adversely affect public health. The EA therefore, includes a more substantive discussion of this subject.

C. Approach Used in the Analysis

As required by NEPA, the analysis looks at a No Action Alternative and the Preferred Alternative. The No Action Alternative is the baseline of residential construction (base case) from which point the research begins. In this program, the baseline represents the buildings currently being built by the Federal establisment. This information was collected from the survey work on the construction practices of the military establishment performed by Steven Winter Associates for Pacific Northwest Laboratory.

The Preferred Alternative is the proposed interim standards (redesign case) or the building prototypes with the set of conservation measures that represent the optimum energy life cycle cost to the government. The environmental assessment compared the typical buildings presently being constructed by the government to the buildings that are likely to be built after using the COSTSAFR computer program once the proposed interim standards are promulgated.

D. Specific Findings From EA

1. Particulate Matter

Implementation of the proposed interim standards is expected to reduce the level of particulate matter slightly in all residences where electric cooking appliances are used and in residences where the indoor/outdoor air exchange rate is increased from 0.7 to 1.0 ach.

2. Carbon Monoxide

Calculated indoor concentrations of carbon monoxide (CO) from cooking and smoking are well below levels currently associated with health risk. The proposed interim standards will only reduce CO concentrations.

3. Carbon Dioxide

Residential units designed under the proposed interim standards are expected to maintain low concentration levels of carbon dioxide (CO_2). The health risks from indoor CO_2 concentration are not increased.

4. Nitrogen Dioxide

Release of nitrogen dioxide NO_2 in residential indoor environments is small. The calculated concentrations of NO_2 for the redesign residential units are either the same as the base case design or are slightly lower.

5. Radon

Calculated values for indoor air concentrations of radon indicate that for site-built residential units, indoor concentration levels for the base case and the redesign case are either the same or are slightly reduced in the case where the redesign units have an increased air exchange rate. The redesign case study for manufactured homes shows a 2 inch reduction in floor insulation at one of the four climate sites evaluated. This reduction in floor insulation may have a very small effect on the infiltration of radon from soil into the residential unit.

6. Formaldehyde

The proposed interim standards are expected to reduce the level of formaldehyde concentrations. The reduction may benefit certain sensitive individuals who have a very low threshold to formaldehyde.

7. Chemical Compounds

A large number of chemical pollutants have been identified in indoor residential air. Many of these chemical compounds are either odorous, have been identified as being irritants, or are suspected carcinogens. The proposed interim standards are not expected to

measurably increase or decrease health risks due to chemical pollutants in residential indoor air.

8. Microorganisms

Microorganisms can become indoor air pollutants with potential health risk under certain conditions. The most severe indoor microorganism pollution problems result from growth of organisms on a damp surface or stagnant water reservoir within the residential unit. The principal building design change affecting the residential building's ability to shed moisture-laden air is the use of air-to-air heat exchangers in selected redesigned apartment units. Moisture condensation is expected as warm moisture-laden air is exhausted through the heat exchanger. Condensed moisture, if not effectively collected and disposed of over the entire life of the operating unit, may eventually create host areas for microorganisms. The use of air-to-air heat exchangers in large numbers is a relatively new phenomenon in the U.S. To date, research and use have not proven that air-to-air heat exchanger ventilation systems, over the long term, will always be operated and maintaneed as intended. Thus, the effects of air-to-air heat exchangers on microorganism growth and distribution is of concern over the longer term.

9. Outdoor Environmental Impacts

The overall magnitude of the improvement in outdoor environmental quality from reduced fuel usage and reduced insulation production is so small it is not measurable. Although the magnitude of changes in outdoor environmental quality cannot be measured, they are likely to be positive.

E. *EPA Review:* As required by section 7(a)(2), 15 U.S.C. 776(c)(2), of the Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.*, a copy of this proposed rule was submitted to the Administrator of the Environmental Protection Agency for comments on the impact of the proposed rule on the quality of the environment. On July 22, 1986, the EPA advised the Department of Energy that EPA has no objections to the publication of this proposed interim rule.

VIII. Economic Analysis

Although no preliminary determination was made that this issuance constitutes a "major rule", DOE prepared an *Economic Analysis* to follow the philosophy and intent of Executive Order 12291 of February 17, 1981, and to respond to the public interest expressed after the issuance of BEPS in November 1979. The analysis concluded that no significant direct or indirect impacts are expected to occur as a result of requiring Federal agencies to design their new residential buildings to the proposed interim standards as specified in this issuance.

The discussion below is a summary of the research and findings which are presented in the Economic Analysis Document which accompanies this rulemaking.

A. Objective and Scope of the Research

The Draft Regulatory Impact Analysis prepared and issued jointly with the BEPS in 1979, as Technical Support Document No. 6, is no longer applicable to the present standards program because it addressed a different proposed standard and because it considered all new housing, not just new Federal housing. Consequently, additional analysis was undertaken to discern what economic impacts, if any, might result from applying the proposed interim standards to Federally constructed housing. Only impacts which result from compliance by Federal agencies were covered in the analysis. The analysis did not calculate the effects and impacts on the private sector from voluntary compliance since the proposal is considered mandatory only as applied to Federal construction practices.

B. Impacts

The primary national effects of Federal agencies enforcing the proposed interim standards would be to reduce energy expenditures, increase construction and equipment expenditures over the life cycle of new residential buildings and generate a net life cycle cost savings. This savings would range from near zero to nearly $4,000 per unit, depending on the type of building constructed, its location and the major heating fuel used. On average, the savings per unit, exclusive of costs to install and operate, would be about $2,650 over the 25-year life cycle of the building. To calculate the net savings, $1,230 in construction and maintenance costs are subtracted; this additional expense would be for more efficient heating and cooling equipment and better insulation. The net savings in fuel costs per unit is $1,420.

When this savings is applied to the forecasts of Federal residential construction, the total savings over the next 5 years would amount to only $27 million. This savings is not deemed large enough to be of major consequence. Accordingly, the adoption of the proposed rule would have no major national impact.

C. The Analysis Process

Estimates of the costs and benefits of adopting the proposed interim standards were obtained by calculating the minimum life cycle cost of seven building prototypes in four different locations under current practice and under the proposed interim standards. The seven building prototypes were single- and two-story detached residences, end- and mid-unit townhouses, end- and mid-unit apartments and multi-section manufactured homes. The four locations and their respective climate types were New Orleans (hot, humid), Barstow, California (hot, dry), Washington, DC (moderate), and Sheridan, Wyoming (cold). The difference in life cycle costs between current practice and the proposed interim standards was then calculated for fuel costs, non-fuel costs, and the total. These differences were averaged to obtain an estimate of the costs and benefits of adopting the proposed interim standards. A measure of the range around this average was obtained by considering the minimum and maximum costs and benefits by building prototype and location. Using any of the ranges would not alter the findings of the economic analysis.

These estimates of costs and benefits were then applied to forecasts of Federal residential construction obtained from the military (which undertakes over 95% of all Federal residential construction) for fiscal years 1986–1990. To exaggerate the effect of imposing the proposed interim standards, the sum of all residences forecast to be constructed over this 5-year period were used as an estimate to measure the impact. This sum of units forecast was then multiplied by the average difference in life cycle costs to obtain a total of the costs and benefits of adopting the proposed interim standards. A similar estimate was obtained for the high and low range, reported above.

To complete the analysis, there is a discussion of the probable effects of adopting the proposed interim standards on different industries and on small businesses. There is also a brief discussion on non-quantifiable impacts.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 603, 604) requires DOE to calculate the effect its rulemaking will have on small businesses in the nation. Small business impacts have been analyzed for manufacturers of building and construction materials and

equipment, architects, builders and construction companies, and utilities.

The analysis contained in Chapter 3 of the Economic Analysis document, determined that this proposed rulemaking will have no impact on small business concerns.

IX. Opportunities for Public Comment

A. Participation in Rulemaking

DOE encourages the maximum level of public participation in this rulemaking. Following the publication of the previous Notice of Proposed Rulemaking on November 28, 1979, five public hearings were held to acquaint the public with the issues related to the proposed standards. More than 1,800 comments were received by DOE in response to the NOPR, many coming during the public hearings.

The Department encourages interested persons to participate in this rulemaking. Individuals, Federal agencies, architects, engineers, manufacturers, manufacturer associations, construction industry associations, utilities, state and local governments, building code organizations, builders, builder associations, building owners, building product manufacturers, manufactured housing manufacturers, consumers, and others are invited to submit written statements on the proposal. The Department also encourages interested persons to participate in the public hearings to be held in Washington, DC; Chicago, Illinois; and San Francisco, California, at the times and places indicated in the beginning of this notice.

Several documents have been prepared in connection with this proposed rule which have been referenced in the text. Copies of these documents may be found in the DOE Freedom of Information Reading Room. Interested persons may obtain copies of these documents by writing to the Hearings and Dockets Branch address specified at the beginning of this notice.

DOE has established a comment period of 90 days following publication of this notice, for persons to comment on this proposal. All comments will be available for review in the DOE Freedom of Information Reading Room.

B. Written Comment Procedures

Interested persons are invited to participate in this proceeding by submitting written data, views or arguments with respect to the subjects set forth in this notice. Instructions for submitting written comments are set forth below.

Comments should be labeled both on the envelope and on the documents, "Residential Building Standards (Docket No. CAS–RM–79–112–B)" and must be received by the date indicated in the beginning of this notice, in order to insure full consideration. Seven (7) copies are requested to be submitted. All comments and other relevant information received by the date specified at the beginning of this notice will be considered by DOE before final action is taken on the proposed regulation.

All written comments received on the proposed rule will be available for public inspection at the Freedom of Information Reading Room as provided at the beginning of this notice.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which is believed to be confidential and exempt by law from public disclosure, should submit one complete copy of the document, and six copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information or data and treat it according to its determination.

Factors of interest to DOE, when evaluating requests to treat as confidential information that has been submitted, include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and, (7) whether disclosure of the information would be in the public interest.

C. Public Hearings

1. Procedure for Submitting Requests to Speak

In order to have the benefit of a broad range of public viewpoints in this rulemaking, DOE will hold three public hearings. Listed earlier in this notice are the dates and addresses for the hearings. Any person who has an interest in these proceedings, or who is a representative of a group or class of persons having an interest, may make a request for an opportunity to make an oral presentation at the public hearings. Such requests should be labeled both on the letter and the envelope, "Residential Building Standards (Docket No. CAS–RM–79–112–B)" and should be sent to the address listed at the beginning of this notice and must be received by the time specified at the beginning of this notice.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted.

Each person to be heard is required to bring to the hearing seven copies of their statement. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance by so indicating in the letter requesting to make an oral presentation.

Lists of the persons to be heard at the hearings will be available upon request from the Office of Hearings and Dockets at the address and after dates specified at the beginning of this notice. The lists will also be available for inspection in the DOE Freedom of Information Reading Room as specified at the beginning of this notice.

2. Conduct of Hearings

DOE reserves the right to select the persons to be heard at the hearings, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation is limited to 20 minutes.

A DOE official will be designated to preside at each of the hearings. The hearings will not be judicial or evidentiary-type hearings, but will be conducted in accordance with 5 U.S.C. 553 and section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement, subject to time limitations. The rebuttal statements will be given in the order in which the initial statements were made. The official conducting the hearings will accept additional comments or questions from those attending, as time permits. Any interested person may submit to the presiding official written questions to be asked of any person making a statement at the hearings. The presiding official will determine whether the question is relevant and whether time limitations permit it to be presented for response.

Any further procedural rules regarding proper conduct of the hearings will be announced by the presiding official.

A transcript of the hearings will be made, and the entire record of this rulemaking, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room as provided at the beginning of this notice. Any person may also purchase a copy of the transcript from the transcribing reporter.

DOE may consolidate any or all of the public hearings if DOE does not receive indication of sufficient interest concerning a particular hearing. In that event, DOE will contact each speaker and provide that person the opportunity to present testimony at any of the other hearings. However, DOE will not provide transportation of lodging for such speakers to appear at a hearing. DOE will include, for the record, at one of the other hearings a copy of the statement of any person who requested to speak at a hearing that was cancelled by DOE.

List of Subjects in 10 CFR Part 435

Architects, Building code officials, Buildings, Energy conservation, Energy conservation building performance standards, Engineers, Federal buildings and facilities, Housing, Insulation, Voluntary performance standards.

For the reasons set out in the preamble, Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below:

Issued in Washington, DC on August 5, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

Chapter II of Title 10, Code of Federal Regulations is proposed to be amended by adding a new Part 435 to read as set forth below:

PART 435—ENERGY CONSERVATION VOLUNTARY PERFORMANCE STANDARDS FOR NEW BUILDINGS

Subpart A—Voluntary Performance Standards for New Commercial Buildings [Reserved]

Subpart B—Voluntary Performance Standards for New Residential Buildings [Reserved]

Subpart C—Mandatory Performance Standards for New Federal Residential Buildings

Sec.
435.30 Purpose.
435.31 Scope.
435.32 Definitions.
435.33 Requirements for the Design of a Federal Residential Building.
435.34 The COSTAFR Program.

Authority: Energy Conservation Standards for New Buildings Act of 1976, as amended, enacted as Title III of the Energy Conservation and Production Act [42 U.S.C. 6831–6840]; section 545 of the National Energy Conservation Policy Act [42 U.S.C. 8255]; the Department of Energy Organization Act [42 U.S.C. 7101 *et seq*].

Subpart A—Voluntary Performance Standards for New Commercial Buildings [Reserved]

Subpart B—Voluntary Performance Standards for New Residential Buildings [Reserved]

Subpart C—Mandatory Performance Standards for New Federal Residential Buildings

§ 435.30 Purpose.

(a) This subpart establishes voluntary energy performance standards for new residential buildings. The voluntary energy performance standards are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of non-depletable sources of energy.

(b) Voluntary energy perforamnce standards prescribed under this subpart shall be developed solely as guidelines for the purpose of providing technical assistance for the design of energy conserving buildings, and only shall be mandatory for the design of Federal buildings.

(c) The energy performance standards will direct Federal policies and practices to ensure that cost-effective energy conservation features will be incorporated into the designs of all new residential buildings designed and constructed by and for Federal agencies.

§ 435.31 Scope.

(a) The energy performance standards for new Federal residential buildings will apply to the design of all new residential buildings except multifamily buildings more than three stories above grade.

(b) The primary types of buildings built by or for the Federal agencies, to which the energy performance standards will apply, are:

(1) Single-story single-family residences;

(2) Split-level single-family residences;

(3) Two-story single-family residences;

(4) End-unit townhouses;

(5) Middle-unit townhouses;

(6) End-units in multifamily buildings (of three stories above grade or less);

(7) Middle-units in multifamily buildings (of three stories above grade or less);

(8) Single-section mobile homes; and

(9) Multi-section mobile homes.

§ 435.32 Definitions.

(a) "Building" means any new residential structure (1) that includes or will include a heating or cooling system, or both, or a domestic hot water system, and (2) for which a building design is created after the effective date of this rule.

(b) "Building design" means the development of plans and specifications for human living space.

(c) "Conservation Optimization Standard for Savings in Federal Residences" means the computerized calculation procedure that is used to establish an energy consumption goal for the design of Federal residential buildings.

(d) "COSTSAFR" means the Conservation Optimization Standard for Savings in Federal Residences.

(e) "Energy performance standard" means an energy consumption goal or goals to be met without specification of the method, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria evaluation methods to be used, and any necessary commentary.

(f) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(g) "Federal residential building" means any residential building to be constructed by or for the use of any Federal agency in the Continental U.S., Alaska, or Hawaii that is not legally subject to state or local building codes or similar requirements.

(h) "Life cycle cost" means the minimum life cycle cost calculated by using the methodology specified in Subpart A of 10 CFR Part 436.

(i) "Point system" means the tables that display the effect of the set of energy conservation options on the design energy consumption and energy costs of a residential building for particular location, building type and fuel type.

(j) "Practicable optimum life cycle energy cost" means the energy costs of the set of conservation options that has the minimum life cycle cost to the Federal government incurred during a 25 year period and including the costs of construction, maintenance, operation, and replacement.

(k) "Project" means the group of one or more Federal residential buildings to be built at a specific geographic location that are included by a Federal agency in

specifications issued or used by a Federal agency for design or construction of the buildings.

(l) "Residential building" means a new building that is designed to be constructed and developed for residential occupancy.

(m) "Set of conservation options" means the combination of envelope design and equipment options that influences the long term energy use in a building designed to maintain a minimum ventilation level of 0.7 air changes per hour, including the heating and cooling equipment, domestic hot water equipment, glazing, insulation, refrigerators and air infiltration control measures.

§ 435.33 Requirements for the Design of a Federal Residential Building.

(a) The head of each Federal agency responsible for the construction of Federal residential buildings shall establish an energy consumption goal for each building to be designed or constructed by or for the agency.

(d) The energy consumption goal for a Federal residential building shall be a total point score derived by using the micro-computer program and user manual entitled "Conservation Optimization Standard for Savings in Federal Residences (COSTSAFR)," unless the head of the Federal agency shall establish more stringent requirements for that agency.

(c) The head of each Federal agency shall adopt such procedures as may be necessary to ensure that the design of a Federal residential building is not less energy conserving than the energy consumption goal established for the building.

§ 435.34 The Costsafr Program.

(a) The COSTSAFR Program provides a computerized calculation procedure to determine the most effective set of energy conservation measures, selected from among the measures included within the Program that will produce the practicable optimum life cycle cost for a type of residential building in a specific geographic location. The most effective set of energy conservation measures is expressed as a total point score that serves as the energy consumption goal.

(b) The COSTSAFR Program also prints out a point system that identifies a wide array of different energy conservation measures indicating how many points various levels of each measure would contribute to reaching the total point score of the energy consumption goal. This enables a Federal agency to use the energy consumption goal and the point system in the design and procurement procedures so that designers and builders can pick and choose among different combinations of energy conservation measures to meet or exceed the total point score required to meet the energy consumption goal.

(c) The COSTSAFR Program operates on a micro computer system that uses the MS DOS operating system and is equipped with an 8087 co-processor.

[FR Doc. 86-18745 Filed 8-19-86; 8:45 am]
BILLING CODE 6450-01-M

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10 CFR Part 435

Energy Conservation Standards for New Federal Residential Buildings

AGENCY: Conservation and Renewable Energy Office, DOE.

ACTION: Finding of No Significant Impact (FONSI) on Proposed Energy Conservation Standards for New Federal Residential Buildings.

SUMMARY: The U.S. Department of Energy (DOE) is proposing interim energy conservation standards for new federal residential buildings (to be identified as a newly established Subpart C of Part 435, Ch. II of Title 10 CFR) as required by the Energy Conservation Standards for New Buildings Act of 1976, as amended, (the Act) 42 U.S.C. 6831 *et seq.* The Notice of Proposed Rulemaking (NOPR) for this action is being published in today's **Federal Register.** Federal agencies would be required to design federal residential buildings to satisfy the energy efficiency requirements of the proposed interim standards. The proposal requires a federal agency to establish an energy consumption goal for the design of a new federal residential building using the computerized calculation procedure provided in a microprocessor program (COSTSAFR) and to adopt such procedures as may be necessary to assure that the design of a new federal residential building is not less energy conserving than the energy consumption goal established for the design. The computer program determines the most effective set of energy conservation measures, selected from among the measures included within the program, that will produce the optimum life cycle cost for a specific type of residential building in the geographic location where it will be constructed. This most effective set of measures is expressed as a total point score which, in turn, serves as the energy consumption goal for the design of the federal residential building.

The computer program produces a compliance point system that is intended to be attached to housing Requests for Proposals issued by agencies of the federal government. The point system, which is specifically tailored to each request, is to be used by proposers to demonstrate that their specific designs comply with the energy consumption goal. The point system also provides a standard method for each proposer to estimate the energy cost over the life of the building in discounted dollars. This estimate can then be used by evaluators to estimate the total energy performance of each proposal.

The interim standards were designed specifically to accommodate the types of federal construction most commonly built, federal economic parameters and federal procurement procedures. The Department is in the process of developing residential standards that would be more applicable to the non-federal sector. These will be issued at some future date as voluntary standards.

Based on an environmental assessment (EA), DOE has determined that the proposed interim standards are not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, an environmental impact statement will not be prepared. Single copies of the EA (DOE/EA-0300) are available on request at the following address.

Public availability: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, U.S. Department of Energy, Docket Number CAS-RM-79-112-B, 1000 Independence Avenue, SW., Room 6B-025, Washington, DC 20585, (202) 252-8319

FOR FURTHER INFORMATION CONTACT:

Jean J. Boulin, Building Systems Division, CE-131, U.S. Department of Energy, Room GF-253, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9837

Donald E. Henninger, Office of Environmental Guidance, EH-23, U.S. Department of Energy, Room 3G-092, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-4597

Martha S. Crosland, Office of General Counsel, GC-11, U.S. Department of Energy, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6947

SUPPLEMENTARY INFORMATION: DOE prepared an environmental assessment

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VOL 51 ISS 161 AG 20 1986 UMI

(EA) of the proposed interim standards pursuant to the National Environmental Policy Act of 1969, as amended, Pub. L. 91–190, 40 U.S.C. 4221 *et seq.*), and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1808). The EA addresses the possible incremental environmental effects attributable to the application of the proposed interim standards to the design of new federal residential buildings.

The EA concludes that the effect of the proposed interim standards on a building's habitability as well as on the outdoor environment, the economy and federal institutions, will be very small. Specific conclusions are summarized below.

Approach Used in the Analysis

The analysis looks at a No Action Alternative and the Proposed Standard. The No Action Alternative represents current practices in federal residential construction and is the base case against which the Proposed Standard is evaluated. Base case information was collected from the survey work on the construction practices of the military establishment.

To evaluate the effects that the proposed interim standards would have on the environment, DOE reviewed current construction plans for federal residential units typical of current and expected construction during the FY 1986–FY 1990 period. A design was selected for each type of residential unit. Each of these nine "base case" residential units was tested in a series of computer simulations to achieve the maximum practicable improvements in energy efficiency. This assessment included the use of life cycle analysis. The energy efficiency and life cycle cost information was used to architecturally redesign each residential unit to meet the proposed interim standards. These architectually upgraded residential units became the "redesign case" units, or the Proposed Standards. The EA compared the typical buildings presently being constructed by the government to the buildings that are likely to be built after using the COSTSAFR computer program once the proposed interim standards are promulgated, and evaluated environmental consequences with emphasis on possible alterations to indoor air quality.

General Findings

The EA finds that the effect of the proposed residential building energy conservation standards on building habitability, as well as on the outdoor environment, the economy and federal institutions, will be very small. General findings are summarized below:

A. Habitability

In the assessment, habitability is expressed in terms of changes in indoor air pollutant concentrations. Various pollutants are released continuously or intermittently within residential buildings. An indoor air quality computation model that uses specific pollution emission values (release rates) for selected materials and occupant activities was used to calculate pollutant concentration levels in the nine case-study residential buildings, based on their design characteristics for the base case (current practice) and redesign case (proposed interim standards). Incremental pollutant concentrations were calculated for particulate matter, carbon monoxide, carbon dioxide, nitrogen dioxide, radon and formaldehyde. In addition, a qualitative assessment was made of chemical compounds and microorganisms. The changes in the various indoor air pollutant concentrations and concommitant occupant health and safety effects that can be attributed to design changes called for by the proposes interim standards are minimal.

1. Particulate Matter

Implementation of the proposed interim standards is expected to reduce the level of particulate matter slightly in all residences where electric cooking appliances are used and in residences where the indoor/outdoor air exchange rate is increased from 0.7 to 1.0 air changes per hour.

2. Carbon Monoxide

Calculated indoor concentrations of carbon monoxide (CO) from cooking and smoking are well below levels currently associated with health risk. The proposed interim standards will reduce CO concentrations.

3. Carbon Dioxide

Residential units designed under the proposed interim standards are expected to maintain low concentration levels of carbon dioxides (CO_2). The health risks from indoor CO_2 concentration are not increased.

4. Nitrogen Dioxide

Release of nitrogen dioxide (NO_2) in residential indoor environments is small. The calculated concentrations of NO_2 for the redesign residential units are either the same as the base case design or are slightly lower.

5. Radon

Calculated values for indoor air concentrations of radon indicate that for site-built residential units, indoor concentration levels for the base case and the redesign case are either the same or are slightly reduced in the case where the redesign units have an increased air exchange rate. The redesign case study for manufactured homes shows a two-inch reduction in floor insulation at one of the four climate sites evaluated. This reduction in floor insulation may result in a very small increase in radon infiltration from soil into the residential unit.

6. Formaldehyde

The proposed interim standards are expected to reduce the level of formaldehyde concentrations. The reduction may benefit certain sensitive individuals who have a very low threshold to formaldehyde.

7. Chemical Compounds

A large number of chemical pollutants have been identified in indoor residential air. Many of these chemical compounds are odorous, irritants, or suspected carcinogens. The proposed interim standards are not expected to measurably increase or decrease health risks due to chemical pollutants in residential indoor air.

8. Microorganisms

Microorganisms can become indoor air pollutants with potential health risk under certain conditions. The most severe indoor microorganism pollution problems result from growth of organisms on a damp surface or stagnant water reservoir within the residential unit. The principal building design change affecting the residential building's ability to shed moisture-laden air is the use of air-to-air heat exchangers in selected redesigned apartment units. Moisture condensation is expected as warm moisture-laden air is exhausted through the heat exchanger. Condensed moisture, if not effectively collected and disposed of over the entire life of the operating unit, may eventually create host areas for microorganisms. The use of air-to-air heat exhangers in large numbers is a relatively new phenomenon in the U.S. To date, research and use have not proven that air-to-air heat exchanger ventilation systems, over the long term, will always be operated and maintained as intended. Thus, the effects of air-to-air heat exchangers on microorganism growth and distribution is of concern over the longer term.

federal register

Wednesday
August 20, 1986

Part III

Consumer Product Safety Commission

16 CFR Part 1500

Household Products Containing Methylene Chloride; Status as Hazardous Substances; Proposed Rule

VOL 51 ISS 161 AG 20 1986 UMI

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Household Products Containing Methylene Chloride; Status as Hazardous Substances

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: In order to resolve uncertainties about whether methylene chloride and household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act due to a risk of cancer from inhalation of methylene chloride vapor, the Commission [1] initiates a rulemaking that, if appropriate, could result in a declaration that products that contain methylene chloride, and that are intended, or packaged in a form suitable, for use in the household, are hazardous substances because of this risk. The Commission's concern about the potential cancer risk to humans from methylene chloride arises from certain tests indicating that methylene chloride is an animal carcinogen by inhalation and from data showing that paint strippers and spray paints containing methylene chloride can expose consumers to high concentrations of vapor when the products are used under conditions of poor ventilation.

DATE: Comments on the proposed rule to declare products containing methylene chloride to be hazardous substances should be submitted by October 20, 1986.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Public Reading Room, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sandra Eberle, Program Manager, Chemical Hazards Program, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6554.

[1] Chairman Terrence Scanlon and Commissioners Carol Dawson and Anne Graham voted to approve this proposal document, which includes certain changes from the original draft of the proposal. Commissioner Saundra Brown Armstrong voted for the document as originally drafted.

SUPPLEMENTARY INFORMATION:

A. Background and Introduction

Potential Risks to Consumers

The Commission originally became concerned about methylene chloride, also known as dichloromethane or DCM, because of its acute health effects. (When DCM is inhaled, a portion is converted to carbon monoxide in the body, forming carboxyhemoglobin and interfering with the capacity of the blood to carry oxygen.) In 1980, an industry inhalation bioassay in Sprague-Dawley rats and hamsters was completed. This bioassay, published in 1984, showed salivary gland tumors in male rats and an increased number of mammary gland tumors per tumor-bearing rat. There was no carcinogenic effect noted in hamsters. [101] [2] Since then, a number of other bioassays have been published. [102–107]

The National Toxicology Program ("NTP") of the Public Health Service, Department of Health and Human Services, undertook cancer bioassays of methylene chloride by the oral (gavage) and inhalation routes of exposure. [102, 103] The gavage bioassay was completed first and the draft report was reviewed by the NTP Board of Scientific Counselors in September of 1982. The study results showed positive evidence of carcinogenicity in rats. However, an audit of the contractor that performed the bioassay, conducted by the Toxicology Audit Subcommittee of the Health and Science Committee of the Halogenated Solvents Industry Alliance, uncovered a number of discrepancies in the conduct of the bioassay. [108] A subsequent audit, performed by NTP, confirmed these discrepancies. As a result, the NTP withdrew the draft report on the gavage bioassay. [706, 707] The inhalation bioassay report was released after a complete audit was performed.

On March 29, 1985, the NTP Board of Scientific Counselors reviewed the NTP inhalation bioassay and concluded that there was "clear evidence" of carcinogenicity of methylene chloride in female rats, as shown by an increased incidence of benign neoplasms of the mammary gland, and in male and female mice, as shown by increased incidences of alveolar/bronchiolar carcinomas and adenomas and of hepatocellular carcinomas and adenomas (lung and liver cancers). There was also "some evidence" of carcinogenicity in male rats as shown by an increased incidence of benign neoplasms of the mammary gland.[3] [109]

The results of the NTP inhalation bioassay in rats are consistent with data developed in an inhalation study conducted for Dow Chemical (1980) in another strain of rat. [101] Section B of this notice discusses in more detail the animal test data relevant to the Commission's concerns about the potential carcinogenicity of methylene chloride vapor.

Because of concern over the acute and possible chronic risks of methylene chloride, the Commission funded studies, first at Edgewood Arsenal in 1976 and then at Lawrence Berkeley Laboratory in 1984 and 1985, to obtain estimates of the concentrations of methylene chloride vapor that consumers might be exposed to when paint strippers and spray paints are used in certain reasonably foreseeable ways in the home. These studies showed that consumers could be exposed to concentrations of methylene chloride vapor, during spray painting and paint stripping operations involving inadequate ventilation conditions, that are similar to the concentrations at which carcinogenic responses were obtained in the NTP bioassay. Section C of this notice discusses the potential exposure of consumers to methylene chloride in more detail.

The staff presented to the Commission the following preliminary findings: (1) The NTP bioassay indicated that methylene chloride is an animal carcinogen, (2) the available information indicated that methylene chloride can cause genotoxic effects, (3) the available epidemiologic data for humans were not adequate to determine whether methylene chloride is or is not a human carcinogen, (4) the staff was not aware of any data that would warrant a conclusion that humans are not susceptible to the carcinogenic effect of methylene chloride, so it concluded that methylene chloride should be presumed to present a risk of cancer to humans, and (5) the available data showed that consumers could be exposed to concentrations of methylene chloride vapor similar to those to which the test animals were subjected.

[2] Numbers in brackets indicate the number of the relevant document as listed in the "List of Relevant Documents" at Appendix 3 to this notice.

[3] The vote in favor of a finding of "clear evidence" in female rats was 6–2, with 2 abstentions by reason of company affiliation. The finding of "some evidence" of carcinogenicity in male rats was adopted by a vote of 7–1, with 2 abstentions due to company affiliation. The adoption of the findings of "clear evidence" of carcinogenicity in male and female mice was by a single vote of 8–0, again with 2 abstentions by virtue of company affiliation.

B. Outdoor Environmental Impacts

The overall magnitude of the improvement in outdoor environmental quality from reduced fuel usage and reduced insulation production is so small it is not measurable. Although the magnitude of changes in outdoor environmental quality cannot be measured, they are likely to be positive.

C. Economic Effects

The primary national effects of adopting the proposed interim standards by federal agencies, cumulated over five years, would be to reduce federal government expenditures over the life cycle of these residential buildings by about $27 million (1985 dollars). This $27 million savings is comprised of fuel savings of approximately $53 million, offset by increased capital costs of about $26 million. Regional impacts are also expected to be small. There are no discernible impacts on any industrial sector as a result of adopting the proposed interim standards, nor will there be any adverse impacts on small business. Some modest non-quantifiable effects may be associated with a change in the procedures that result from adopting the proposed interim standards, but these also are expected to be very small.

D. Institutional Effects

The proposed interim standards are not radically different from standards already being used by the federal government or by the private sector. They do, however, require computer algorithms to be used in the assessment of compliance. Offsetting this will be a reduction in the amount of paperwork currently required to assure compliance.

Determination

Based upon the findings of the EA, DOE has determined that the proposed interim standards do not constitute a major federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Therefore, an environmental impact statement is not required.

Issued in Washington, DC, April 17, 1986.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 86-18744 Filed 8-19-86; 8:45 am]

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On June 19, 1985, the staff forwarded a briefing package to the Commission that outlined various options that the Commission could consider for taking action to reduce consumer exposure to methylene chloride. [724] The Commission continued to consider the matter, while asking the staff to provide additional information on the identified options and on the risk to humans of cancer from inhalation of methylene chloride vapor.

After receiving additional information from the staff and from other parties having various views on the potential risks of cancer from inhalation of methylene chloride vapor, the Commission decided that scientific evidence indicates that exposure to products containing methylene chloride could present a chronic health hazard to consumers, but also indicates some uncertainty concerning any cancer risks to humans which should be explored further and documented. The Commission therefore decided to initiate formal rulemaking under section 3(a) of the FHSA. The applicable provisions of the FHSA are explained subsequently in this notice. In short, this process will provide an opportunity for full participation by consumers, the industry, scientists, health experts, and any other concerned parties in this very important process.

In addition to important due process considerations, it is believed that this procedure will provide the highest level of protection to the public in the long run, as well as greater assurances that the final regulation is legally and technically sound.

Given the unlikelihood that a final rule will be issued before the end of the year, the Commission also voted unanimously to take additional interim measures to reduce consumer exposure to methylene chloride *immediately*. Specifically, the Commission directed the staff to continue to work with consumer and industry groups on a voluntary basis to develop chronic hazard labeling, to initiate a cooperative information and education program, and to facilitate manufacturers' efforts to reformulate products to eliminate methylene chloride or reduce emission rates.

Products Involved

The Commission believes that the household products containing methylene chloride can be grouped into five major categories: fabric care products (including shoe, clothing, and leather care products); paints, paint strippers, and other paint-related products; adhesives and adhesive removers; automotive products, including specialty cleaners and lubricants; and miscellaneous non-automotive products, including, but not limited to, artificial snow aerosols and all-purpose lubricants. Where present, the methylene chloride concentration of individual products in these categories varies widely both within and across product groups; the overall range is from less than five percent to above 90 percent. For the reasons given in Section E of this notice, the Commission is proposing to determine that household products containing methylene chloride are hazardous substances due to a risk of cancer to humans from inhalation of the methylene chloride vapor.

Provisions of the Federal Hazardous Substances Act

Among the statutes administered by the Commission is the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261–1276, which establishes certain requirements and gives the Commission certain remedial powers with respect to hazardous household substances. Under section 2(g) of the FHSA, 15 U.S.C. 1261(g), a "toxic" substance is defined as "any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." This broad definition would include a substance that was capable of causing cancer in humans. Section 2(f)(1) of the FHSA defines "hazardous substance" as including:

> (A) Any substance or mixture of substances which (i) is toxic, [or other enumerated hazards] . . ., if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

Thus, in order for a human carcinogen to be a hazardous substance, it must be available to humans by a route of exposure that presents a carcinogenic risk during any reasonably, foreseeable handling or use.

Under section 2(p)(1) of the FHSA, a hazardous substance that is intended, or packaged in a form suitable, for use in the household is misbranded if it fails to bear a label with certain specified labeling. Included in the required labeling is:

> . . . (D) the signal word "WARNING" or "CAUTION" . . . (E) an affirmative statement of the principal hazard or hazards, such as "Flammable", "Combustible," "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard; (F) precautionary measures describing the action to be followed or avoided, . . ."
>
> 15 U.S.C. 1261(p)(1).

If the Commission determines that household products which give off methylene chloride vapor are hazardous substances because they present a risk of cancer to humans, such products will be required to bear labeling that meets the requirements of section 2(p)(1) of the FHSA. For a discussion of the factors the staff considers in determining the appropriate labeling for a particular hazardous substance, see document no. 764.

Under section 3(a) of the FHSA, "[w]henever in the judgment of [the Commission] such action will promote the objectives of [the FHSA] by avoiding or resolving uncertainty as to its application, the [commission] may by regulation declare" that a particular substance is a hazardous substance.

If the Commission finds "that the requirements of section 2(p)(1) are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance, [it] may by regulation establish such reasonable variations or additional label requirements as [it] finds necessary for the protection of the public health and safety." Section 3(b) of the FHSA, 15 U.S.C. 1262(b).

The Commission also may, by regulation, declare a substance to be a banned hazardous substance if it finds:

> that, notwithstanding such cautionary labeling as is or may be required under [the FHSA] for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce . . .
>
> 15 U.S.C. 1261(q)(1)(B).

Section 2(q)(1)(A) of the FHSA also provides that "any toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted" is a banned hazardous substance. Therefore, a determination that household products containing methylene chloride are hazardous substances would have the effect of banning toys, and other articles intended for use by children, that contain methylene chloride. The Commission is not aware of any such products and solicits comment on the

extent to which such products currently may be marketed.

Consumer Federation of America Petition

On September 3, 1985, the Commission received a request from the Consumer Federation of America ("CFA") that the Commission begin a rulemaking proceeding under section 3(a) of the FHSA to declare methylene chloride to be a hazardous substance and, upon a finding that methylene chloride is a hazardous substance, to commence a proceeding to declare it to be a banned hazardous substance. [731] CFA's request subsequently was amended [754], and the Commission has docketed CFA's requests as Petition No. HP 85–1. [744, 761] CFA's petition is reproduced as Appendix 1 to this notice.

Potential Product Reformulations To Reduce Consumer Exposure to Methylene Chloride

The Commission has been informed that many manufacturers of spray paints are taking action to eliminate or reduce the use of methylene chloride as an ingredient in spray paints intended for consumer use. [758] Comment is solicited on the extent to which the use of methylene chloride is being reduced or eliminated in spray paints and other products and on the feasibility of the use of substitutes for methylene chloride in various applications.

Also, manufacturers are investigating the possible use of additives for paint strippers that would reduce the tendency of these products to give off methylene chloride vapor. One possible way to do this that has been suggested, and is reportedly being tested, is to use an additive that would form a film over the surface of the applied paint stripper to retard evaporation; it is possible that this could also maintain the effectiveness of the product with a lower percentage of methylene chloride in the formulation. However, the Commission does not have specific information on the composition or effectiveness of such additives. In addition, it is possible that such additives may not be as effective in reducing methylene chloride emissions during the scraping operation as they may be while the stripper is sitting undisturbed on the surface to be stripped. Comment is solicited on the potential effectiveness of additives to reduce consumer exposure to methylene chloride during paint stripping operations.

Recent Action by the Commission

In addition to voting to commence this rulemaking to determine whether household products containing methylene chloride are hazardous substances, the Commission voted unanimously (5–0) to direct its staff to continue its activities in working with industry, consumer groups, and other interested parties in the voluntary efforts relating to methylene chloride in which they were already engaged, including: (1) Development of appropriate labeling language for products containing methylene chloride, (2) development of information and education programs directed to consumers and sellers of products containing methylene chloride, and (3) reformulating products now containing methylene chloride. This effort has been conducted by means of the Steering Committee on Methylene Chloride, a group consisting of industry and consumer interest representatives working with the Commission's staff. The Steering Committee, which did not address the question of whether methylene chloride is carcinogenic to humans, was chaired by the National Paint and Coatings Association and cochaired by the Consumer Federation of America and the staff of the Consumer Product Safety Commission. The labeling for products containing methylene chloride that has been recommended by the committee is discussed in section F of this notice.

The Commission's decision to conduct a rulemaking proceeding under section 3(a) to resolve uncertainties concerning the status of methylene chloride as a hazardous substance satisfies the first of the requests in CFA's petition, and thus constitutes a partial granting of CFA's petition. The remainder of CFA's petition, that the commission commence a proceeding to ban methylene chloride, will be decided by the Commission at a later time.

Applicable Rulemaking Procedure

A proceeding under section 3(a) of the FHSA is governed by the provisions of sections 701(e)–(g) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 371(e)–(g). Under these provisions, a proceeding is commenced by a proposal made either by the Commission on its own initiative or by petition of any interested person, showing reasonable grounds therefor, filed with the Commission. After giving all interested parties an opportunity to present their views on the proposal, orally or in writing, the Commission is required to issue an order acting on the proposal, specifying, if appropriate, the effective date of the Commission's action.

Within 30 days of the time the Commission's order is made public, any person who will be adversely affected by the order may file objections to the order with the Commission. The objections must specify the particular provisions of the order that are deemed objectionable, state the grounds for the objections, and request a public hearing on the objections. Until final action is taken on the objections by the Commission, the filing of the objections serves to stay the effectiveness of those provisions of the order to which the objections are made. The Commission shall publish a notice in the **Federal Register** specifying those parts of the order which have been stayed by the filing of objections or, if no objections have been filed, stating that fact.

As soon as practicable after objections are filed, the Commission shall hold a public hearing on the issues raised by the objections. At the hearing, any interested persons may be heard in person or by representative. The hearing would be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 554–559. The procedures the Commission proposes to use if a public hearing is requested are explained in Appendix 2 to this notice. Any comments received on these proposed procedures will be considered before the Commission makes a final decision on what procedures to use in any public hearing on objections filed in this rulemaking.

Any person who would be adversely affected by the Commission's order after hearing may, at any time prior to the ninetieth day after such order is issued, file a petition, with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. *See* 15 U.S.C. 1262(a)(2); 21 U.S.C. 371(e)–(g), 409(f)(2), (g)(2) [fourth sentence], (g)(3).

Other Agencies' Activities

The Environmental Protection Agency has issued a notice for methylene chloride under section 4(f) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. 2063(f). 50 FR 20126 (May 14, 1985). Section 4(f) requires that if the Administrator of EPA obtains information indicating that there may be a reasonable basis to conclude that a chemical presents a significant risk of serious or widespread harm to humans from cancer, gene mutations, or birth defects, he must either initiate an action to regulate the substance under section 5, 6, or 7 of TSCA or publish in the **Federal Register** the finding that the risk

presented by the substance is not unreasonable.

The Food and Drug Administration has proposed a ban of methylene chloride in aerosol cosmetic products. 50 FR 51551 (December 18, 1985). In this proposal, however, FDA indicated that it did not intend to reduce the permitted residual level of methylene chloride in decaffeinated coffee, since that level was deemed to constitute a *de minimus* risk. The organizations Public Citizen and Consumer Federation of America have filed suit contesting the legality of this latter determination.

The Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, has issued OSHA Instruction PUB 8–1.2, "Guideline for Controlling Exposure to Methylene Chloride," March 10, 1986. This instruction provides guidelines to employers and employees for controlling exposure to methylene chloride in the workplace. [777]

Also, OSHA has issued a hazard communication regulation, 29 CFR 1910.1200. The hazard communication program required by OSHA's regulation includes container labeling and, other forms of warnings, material safety data sheets, and employee training. The hazard communication program applies to, among other substances, substances having 0.1 or greater concentration of a "carcinogen."

EPA, CPSC, OSHA, and FDA are also coordinating, in the form of the Integrated Chlorinated Solvents Project, the regulatory investigation of the health risks posed by chlorinated solvents, including methylene chloride.

B. Animal Test Data

In the NTP bioassay, methylene chloride was tested in 50 rats and 50 mice of each sex at each exposure level. The mice were exposed to 0, 2000, and 4000 parts per million (ppm) and the rats were exposed to 0, 1000, 2000, and 4000 ppm. Exposure was 6 hours a day, 5 days a week, for 24 months.

The NTP bioassay report, as approved by the NTP Board of Scientific Counselors Peer Review Panel on March 29, 1985, concludes:

> Under the conditions of the NTP inhalation bioassay there was *some evidence of carcinogenicity* of dichloromethane for male F344/N rats as shown by an increased incidence of benign neoplasms of the mammary gland. There was *clear evidence of carcinogenicity* of dichloromethane for female F344/N rats as shown by the increased incidence of benign neoplasms of the mammary gland. There was *clear evidence of carcinogenicity* of dichloromethane for male and female . . . mice as shown by increased incidences of alveolar/bronchiolar neoplasms and of hepatocellular neoplasms [lung and liver cancers]. (Emphasis in original.)
> [106]

A Dow (1980) inhalation bioassay [101] indicated that, in another rat strain, there was an increased number of tumors per tumor-bearing female. This result is consistent with the NTP findings of benign mammary tumors in rats. There was also an increased incidence of salivary gland tumors in the male rats.

A study done by the National Coffee Association ("NCA"), in which rats and mice were exposed to methylene chloride in drinking water, did not report a significant association between exposure to methylene chloride and increased tumor incidence at any site. [104, 105] However, methylene chloride was not administered by inhalation in the NCA study. Also, the doses to which animals were exposed in the NCA study were far less than the Maximum Tolerated Dose (MTD), while the high dose animals in the NTP study were exposed at the MTD. After analyzing the differences between the dosage levels and the number of animals at risk in each study, the CPSC staff concluded that the results of the two studies are not inconsistent. [741] Thus, the NTP inhalation bioassay, which was a well-conducted study in both sexes of two species of rodents, is considered by the staff to be the best study for assessing the hazard posed by methylene chloride.

The OSTP has stated that "[t]he consensus of available information suggests that short-term tests, when properly used and validated, can provide strong indications of potential carcinogenicity." [720 (OSTP, p. 45)] There are reports of short-term tests indicating that methylene chloride causes damage to genes (genotoxicity), resulting in: (1) An increase in the number of mutations [213], (2) visible chromosome breakage in animal and human cells [225], (3) increased susceptibility of cells to cancer-causing viruses [220], and (4) transformation of cultured cells into cells which have the ability to cause malignant tumors when injected into living animals [220]. An increase in the rate of mutation (mutagenicity) after methylene chloride exposure has been reported in bacteria, plants, and animals. [727(2)]

Detection of covalent binding to cellular constituents by chemicals is thought to represent a measure of the amount of reactive metabolic intermediates generated and thus to provide clues to the carcinogenic mechanism of a chemical. Current concepts known to the staff suggest that covalent binding by a chemical to DNA may represent a genotoxic mode of action by that chemical. [305, 306, 312, 316, 323, 326, 349, 350, 353]

Studies to determine if methylene chloride and other halogenated methane hydrocarbons covalently bind to cellular constituents have been carried out *in vivo* (studies in animals) and in cells and in tissues exposed *in vitro* to the chemicals. With the exception of one *in vivo* study [326], *in vitro* and *in vivo* studies suggest that reactive metabolites of methylene chloride and other halogenated methane hydrocarbons interact with proteins. [349, 350, 305, 312, 323, 306, 316] There are indications from these same studies that the reactive metabolites may also interact with DNA. Some of these studies, however, were not sufficiently sensitive to assess adequately whether such interaction occurred. Therefore, at this time, the data are not sufficient to determine whether or not methylene chloride and other halogenated methane hydrocarbons covalently bind to DNA. The positive findings in mutation studies, however, provide indirect evidence of the ability of methylene chloride to interact with DNA.

The results of both *in vitro* and *in vivo* studies in animals indicate that methylene chloride is metabolized via two pathways. [301] One pathway yields carbon monoxide (CO) and, possibly, carbon dioxide (CO_2) as end products, and the other pathway yields CO_2 as an end product. Humans are known to metabolize methylene chloride to CO [313, 314, 341], but the data on the metabolism of methylene chloride to CO_2 in humans are inconclusive. However, based on metabolism studies in animals, some investigators have speculated that this pathway probably functions in humans. [313, 314] Both pathways require formation of a metabolically reactive intermediate; such intermediates are theoretically capable of irreversible covalent binding to cellular macromolecules.

C. Human Exposure to Methylene Chloride Vapor From Household Products

A study that was conducted for the Commission at Edgewood Arsenal was completed in 1976. [343] That study involved applying one quart of paint stripper containing 88 percent methylene chloride to a painted 4 foot by 8 foot piece of plywood in a 20 cubic meter chamber. Immediately after applying the paint stripper, the person performing the application removed himself and the can from the chamber. After application of the paint remover, the panel was left

undisturbed for three hours. The study was conducted under both static conditions and at 6 air changes per hour. The study did not attempt to simulate consumer exposure by actually performing the paint stripping operation.

When no ventilation was provided to the chamber, concentrations of about 4000 ppm and 5000 ppm were measured at one and two hours respectively. The concentration did not change appreciably between two and three hours.

When ventilation was set at six air changes per hour, a maximum concentration of about 260 ppm occurred after 15 minutes; the concentration then declined to about 100 ppm for the remainder of the three hours of the experiment.

In order to determine the concentrations of methylene chloride vapor that persons might be exposed to in some likely uses of paint strippers and spray paints, the Commission arranged with the Department of Energy to have Lawrence Berkeley Laboratory ("LBL") measure concentrations of methylene chloride vapor produced by the use of spray paints and paint strippers in a room-size environmental chamber. [741, Tab D] For each product, experiments were conducted at ventilation rates of 0.5 and 3.0 air changes per hour. The percent weight composition of the products ranged from about 83 and 87 percent for the paint removers to about 21 to about 27 percent for the spray paints. Measured personal exposures resulting from the use of paint removers ranged from 1040 to 1200 ppm-hours at the high ventilation rate and from 1970 to 2400 ppm-hours at the low ventilation rate, for work periods of about 90 minutes. Personal exposures from the use of aerosol paints ranged from 32 to 35 ppm-hours for a single coat of a polyurethane finish and from 121 to 180 ppm-hours for two coats of a metallic paint for work periods of 23 minutes or less.

The tests at LBL showed that concentrations of methylene chloride vapor could reach levels as high as 3500 ppm during paint stripping operations. Some industry members have contended that because of the irritant effects of methylene chloride, it is unlikely that anyone would stay in a room containing 2000 ppm for more than a short time. However, staff has received indications that this may not be the case.

First, the tasks simulated by the LBL tests would appear to be use scenarios that actually are likely to occur with many users. Persons who strip paint in basement workrooms or indoors during the winter without opening windows or doors would seem to be exposed to conditions comparable to those producing the levels measured in the LBL tests.

It is also likely that individuals vary greatly in their ability to endure the acute effects of exposure to high levels of methylene chloride. Even among users that do experience unpleasant effects from exposure to these levels, it seems likely that many will simply walk out of the room for a few minutes and then return to complete the task they had started. The overall exposure of the users to methylene chloride would not vary greatly if the work, instead of being accomplished in the manner of the LBL tests, was accomplished over a longer period of time with small periods of interruption caused by the unpleasant side effects of methylene chloride exposure. Comment is solicited on the validity of the conditions of use simulated by the LBL test methodology.

Exposure models based on concentration models were also developed and were evaluated by comparing theoretical and measured exposures for the experiments. The exposure models appeared to have sufficient accuracy and precision for use in assessment of consumer health risks from the use of consumer products containing methylene chloride.

The potential human exposure resulting from the use of paint removers was estimated mathematically using a mass balance equation described in [704] and [711]. [724, Tab B] Air exchange rates for the work room were chosen to be 0.5, 4, and 8 changes per hour. These exchange rates are believed to approximate, respectively, a closed room, a room with an interior door open, and a room with windows open or with an exhaust fan blowing air to the outdoors. The rate of evaporation of methylene chloride was estimated for these predictions from laboratory studies performed at Edgewood Arsenal. [343]

Table 1 below presents the estimated exposures and corresponding individual risks. [735, Tab B] The table also presents preliminary estimates of exposure from the use of spray paints in self-pressurized containers. These estimates, predicted mathematically, were based on the methylene chloride content of such paints and the net weight of typical containers of these paints. The estimates also assume that nearly all of the methylene chloride vaporizes in the time between when the paint leaves the spray nozzle and when the paint is deposited on the article being painted.

LIFETIME ESTIMATES OF HUMAN CARCINOGENIC, RISK FOR EXPOSURE TO METHYLENE CHLORIDE

Air exchange [1]	Estimated individual risks expressed as chances per million that a cancer will occur		
	Ppm-hours exposure [2] (3-hour exposure/can)	Use frequency [3] (cans/year)	Lifetime individual risk
Paint stripping:			
0.5	5500–7000	0.25	870–1100
4	1400–1800	0.25	220–290
8	690–870	0.25	110–130
0.5	5500–7000	0.5	1700–2200
4	1400–1800	0.5	440–570
8	690–870	0.5	210–270
0.5	5500–7000	1.0	3400–4400
4	1400–1800	1.0	890–1100
8	690–870	1.0	420–540

[1] 0.5 represents a closed workroom; 4 represents workroom door open to remainder of house; 8 represents doors and windows of workroom open.
[2] Range is due to use of two different brands of paint stripper; assumes one can per use, which may lead to an underestimation of exposure as LBL found that use of between one pint and one quart gave these values.
[3] Assumes use starting at age 25 until age 70.

Air exchange [1]	Drying time [2]	Ppm-hours exposure [3] (use of one can)	Use frequency [4] (cans/year)	Lifetime individual risk
Spray painting:				
0.5	20 min	370	0.25	58
4	do	170	0.25	26
8	do	110	0.25	17
0.5	overnight	210	0.25	33
4	do	140	0.25	23
8	do	95	0.25	15
0.5	20 min	370	0.5	120
4	do	170	0.5	52
8	do	110	0.5	34
0.5	overnight	210	0.5	66
4	do	140	0.5	44
8	do	95	0.5	29
0.5	20 min	370	1	230
4	do	170	1	105
8	do	110	1	68
0.5	overnight	210	1	130
4	do	140	1	88
8	do	95	1	59

[1] 0.5 represents a closed workroom; 4 represents workroom door open to remainder of house; 8 represents doors and windows of workroom open.
[2] Two different types of paint were used; one requires a short time to dry, while the other requires overnight drying (thus only one exposure per day).
[3] Assumes one can is used for two or six separate painting operations; LBL data indicate that approximately one-half of a can is used per two-coat operation (20 minutes drying time between coats), and that one-sixth of a can is used per single-coat operation (drying time overnight) for the particular brands of aerosol paints tested. One can, under LBL test methods, gives about 0.7 hours exposure.
[4] Assumes use starting at age 25 until age 70.

The exposures and risks based on the LBL data are somewhat higher than those predicted from the Edgewood Arsenal study. The LBL data are higher by factors of about 1.1–1.5 for paint strippers and 1.2–1.4 for spray paints. For risk assessment purposes, the commission's staff has used the LBL data, since it is thought to more closely

estimate exposure to consumers during the simulated tasks performed at LBL.

Additional studies are being performed by LBL in homes, home workshops, garages, carports, and on patios, to validate the exposure model and to obtain exposure data under home use conditions and to assess stratification of methylene chloride vapor. These studies should be completed within the next few months. Further, the EPA is considering studies to define exposure from the use of self-pressurized containers of spray paint. The EPA studies will investigate varying ventilation and chamber volumes under laboratory conditions.

Additionally, EPA is conducting a consumer use survey (OMB No. 2070–0079). Data from this survey should be available in Fiscal Year 1987. This survey should provide data on the frequency with which consumers use various products containing methylene chloride, the duration of exposure, and the conditions under which exposure is most likely to occur (outdoors, basement workroom, etc.). This will enable the refinement of the risk estimate to include an estimation of the number of cases of cancer in the general population that could result from the use of products containing methylene chloride if methylene chloride is a human carcinogen.

The currently available data do not provide a picture of the way paint strippers and spray paints are used that can be evaluated to determine the average consumer exposure to methylene chloride or the number of consumers exposed. Better data on these aspects should become available from the EPA consumer use survey. However, the data now available to the staff make it likely that a significant number of consumers are being exposed to high concentrations of methylene chloride by using paint strippers, spray paints, and other products under inadequate conditions of ventilation. If methylene chloride is a human carcinogen, the situation could be serious, because at least some of these consumers are being exposed to concentrations of methylene chloride vapor that are similar to the concentrations known to cause cancer in animals.

Unlike the situation in which the Commission might wish to ban a product containing a carcinogen, a declaration that a product is a hazardous substance due to a risk of cancer does not require that the Commission have substantial evidence of the number of human cancers that might be associated with the exposure to that product. Except where toys and other children's articles are involved, the only immediate effect of declaring a product to be a hazardous substance is to require the labeling specified in section 2(p)(1) of the FHSA. Where exposure to a carcinogen is as high as the current exposure of consumers to methylene chloride vapor is believed to be, the Commission would consider the household product producing that exposure to be a hazardous substance, regardless of the particular number of cancers that might be estimated if the number of persons exposed and the average exposure were known.

For these reasons, the Commission does not consider it necessary or desirable to delay consideration of the issue of whether methylene chloride vapor is a probable human carcinogen in order to first obtain the additional data on consumer exposure that may become available from the survey being conducted by EPA.

D. Estimating Risks to Humans From Animal Data

During the time the Commission has been considering the issue of the potential carcinogenicity of methylene chloride, a number of comments have been submitted to the agency advancing reasons why the NTP bioassay should not lead to a conclusion that methylene chloride presents a risk of cancer to humans. The general principles that the Commission proposes to use in its determination, and the more significant of the arguments previously advanced by commenters concerning methylene chloride, are discussed briefly below.

The Office of Science and Technology Policy (OSTP), Executive Office of the President, has published "Chemical Carcinogens; A Review of the Science and Its Associated Principles, February 1985." 50 FR 10371–10442 (March 14, 1985). This document describes the scientific principles widely recognized as a framework for assessing cancer risks from chemicals. It represents a consensus of all the federal agencies concerned with health-related matters and has been extensively reviewed by government, academic, and industry scientists.

Principle 8 of the OSTP document states, "In the evaluation of long-term test results, the term carcinogen should be used in a bread sense, i.e. a substance which is capable under appropriate test conditions (Principles 10–13) of increasing the incidence of neoplasms (combining benign and malignant when scientifically defensible) or decreasing the time it takes for them to develop . . ." It further states that "Deference should be given to the IARC principle: 'that in the absence of adequate data in humans, it is reasonable, for practical purposes, to regard chemicals for which there is sufficient evidence of carcinogenicity in animals as if they presented a carcinogenic risk to humans.'"

The OSTP document also states that the weight of evidence is increased by reproducibility, dose response increases, and marked elevation of response compared to the control group. All of these criteria are met for methylene chloride.

With regard to chemicals that are positive in some tests and negative in others, the OSTP document states:

> Because of differences in the production of critical metabolites and because of other differences between species, a given carcinogen may not produce cancer in all species or in all strains of rodents. Many substances are known that seem to be carcinogenic in one animal species but not in another. But a finding of carcinogenicity in rodents is proof that the chemical is carcinogenic in a mammalian species. And "in the absence of adequate data on humans, it is reasonable, for practical purposes, to regard chemicals for which there is sufficient evidence of carcinogenicity in animals as if they posed a carcinogenic risk to humans." . . . But this need not foreclose further scientific inquiry in individual cases *if* experimental evidence on the mechanism of tumor formation in the animal is available. As science advances, and more sophisticated studies are done, it may *become* possible to demonstrate the existence of unique susceptibilities to chemical carcinogenesis in rodents that have no relevance for humans. All the available scientific information should be used in attempting to reach the most likely correct scientific conclusion. The inferential relevance of observed animal carcinogenesis to potential carcinogenic risk in humans is obviously justifiable in the absence of such mechanistic information. (Emphasis added.)
>
> 50 FR 10371, Chapter 3, sections I(A) and II(B)(4), (March 14, 1985).

Thus, the Dow hamster study [101], which showed no significant increase in tumors at any site from exposure to methylene chloride, may not be inconsistent with or detract from the positive NTP study. The results of this study may only mean that hamsters are less sensitive to the carcinogenic effects of methylene chloride than are mice or rats.

It has also been suggested that the cancer response in the NTP study should not be considered fully applicable to humans because the mice in that study have a high background rate of spontaneous lung and liver cancers. However, although the background rate of these cancers in this strain of mice differs greatly for males and females, a similar variation in the carcinogenic response after exposure to methylene

chloride does not occur. In fact, the females (the sex with the lower background incidence of tumors) developed more lung and liver tumors than did the males after exposure to methylene chloride. Further, both the males and females responded to methylene chloride exposure with a high incidence of liver tumors. In addition, there is concern about whether methylene chloride causes types of cancers (mammary, lung) for which there are in fact also high background rates in humans, particularly women and smokers. Comment is invited on the significance to the prediction of human carcinogenicity of the background cancer rates and the response to methylene chloride exposure.

A similar argument that has been advanced is that methylene chloride is not genotoxic and only acts as a promoter; this argument contends that methylene chloride acts only by enhancing the tumor incidence at sites where there is a high background tumor rate and not by causing tumors at sites where tumors are not already likely to occur. Comment would be welcome on this issue as well. However, as discussed below, there is evidence that methylene chloride is genotoxic. Additionally, as noted above, there is concern since methylene chloride causes cancers in some animals at sites that also have high background tumor rates in humans.

The International Agency for Research on Cancer ("IARC") has concluded that methylene chloride is mutagenic in *Salmonella Typhimurium* TA 98 and TA 100, both with and without a metabolizing system, when cells are exposed to methylene chloride vapor. [507] The vapor is mutagenic to the plant *Tradescantia* and causes genetic changes in yeast. [223, 203] Methylene chloride also induced chromosomal aberrations in the Chinese hamster ovary cells, a mammalian cell culture system. [225] Thus, studies have shown methylene chloride to be mutagenic, and thus genotoxic, in bacteria, plant, yeast, and mammalian cells.

The negative results which have been obtained in some systems designed to measure covalent binding of halogenated methanes to DNA (*i.e.*, a genotoxic action by that chemical) may have been due to insufficient exposure times or inappropriate methodologies. As noted previously, definitive conclusions cannot be reached at this time on whether methylene chloride and other halogenated methane hydrocarbons covalently bind to DNA.

The exact mechanism of the carcinogenic action of methylene chloride is not known. It may be that it acts by several different mechanisms, one of which may be by enhancing tumors at sites with an already high background. This could be of particular relevance to women; since mammary tissue is a target in the rat and women have a high spontaneous breast cancer incidence, women may be a very susceptible population. In addition, given the high rate of lung cancer in the U.S. population, the effect of methylene chloride on mouse lung is a matter of concern. It is known that there is a synergistic effect between smoking and asbestos exposure; smokers exposed to asbestos are at much higher risk of lung cancer than are nonsmokers. [702] Thus, it is possible that methylene chloride, which also affects the lung, could behave in the same way. The Commission solicits comment on the contentions that methylene chloride acts only as a promoter or that, if it acts only as a promoter, it would not pose a risk to humans.

Some comments to date have also suggested that the NTP rat study results should be discounted for human risk assessment purposes to the extent the study showed merely an enhancement of the spontaneous background incidence of benign mammary gland tumors which did not progress to malignancy (*i.e.*, they are not cancerous).

The issue of chemically induced benign tumors has been extensively considered by a panel of experts under the auspices of the Office of Science and Technology Policy (OSTP). Their report [720] stated:

> It is often necessary, at least in the judgment of many pathologists, to combine certain benign tumors with malignant ones occurring in the same tissue and at the same organ site. This practice can make the total neoplastic response (benign and malignant) clearly significant despite the lack of statistical significance in the tumors diagnosed as malignant. These pathologists believe that truly benign tumors in rodents are rare and that most tumors diagnosed as benign really represent a stage in the progression to malignancy. For some tissue sites, this view is widely accepted. Examples of this type are adenomas versus adenocarcinomas in the pituitary, thyroid, *lung*, kidney tubules, and, according to some experts, in *mouse liver*. (Emphasis added.)
>
> 50 FR 10416 (March 14, 1985).

In addition, the International Agency for Research on Cancer ("IARC") states in its Guidelines:

> . . . few, if any, chemicals exist which produce only benign tumours and no malignant tumours in any species . . . Chemical agents that markedly increase the incidence of benign tumours are now viewed with almost as much suspicion as potential human hazards as they would have been if the induced tumours had been malignant. [508]

Further, in humans, there has been no standard terminology for many types of benign mammary tumors, making it difficult to determine if there is a correlation between benign tumors and breast cancers in humans. However, a recent study has shown an association between the increased risk of breast cancer and benign breast disease, especially if there is evidence of epithelial proliferation (abnormal multiplication or increase in the number of normal cells in normal arrangement of tissue). [717] The risk of breast cancer in women is significant; during the period of 1975 through 1978, the age-adjusted annual rate for breast cancer was 86.7 per 100,000. [510] In other words, about one woman in every eleven can expect to have breast cancer during her lifetime.

Finally, based on available data, the staff finds there is no reason to believe that methylene chloride will not induce malignant cancer in another species (*e.g.*, man). As noted above, the background level of breast and lung cancer in the U.S. is very high, and there may be an interaction between this high background and the action of methylene chloride. Comment is requested on the issue of benign versus malignant tumors and on this possible interaction.

It has also been suggested that it is significant that the salivary gland tumors found in the Dow study were not observed in the NTP study. However, the fact that results are obtained in one strain or species does not necessarily mean that similar results would be expected in another strain or species.

Comments have also been made suggesting that a pharmacokinetic model developed by Anderson and Reitz [306, 346] should be used for risk assessment. This model divides the body into a number of compartments and calculates how much methylene chloride is available to each compartment over time. For two of the compartments, lung and liver, certain assumptions are made regarding the ability of these organs to metabolize methylene chloride via either of two pathways. These pathways are (1) the cytochrome (CO and, possibly, CO_2) pathway, which is postulated by the developers of the model to lead to metabolites which ultimately have no carcinogenic effect, and (2) the glutathione-S-transferase (GST) pathway (CO_2), which is postulated to lead to metabolites which may have a carcinogenic effect.

The major conclusion drawn by Anderson and Reitz from the model is that the GST pathway does not become important until the cytochrome pathway is saturated. In other words, they postulate that at high levels the cytochrome pathway becomes saturated and the excess spills over into the GST pathway, producing toxic metabolites. At low levels, such as those claimed by various parties to be associated with the proper use of consumer products containing methylene chloride, this theory asserts that the "harmless" pathway is not saturated and therefore no spillover to the "harmful" pathway occurs, resulting in a non-linear dose-response curve and much lower predicted risk. However, this conclusion may not necessarily follow.

One major problem with the use of this model is in the determination of which metabolites are toxic and which are not. The mechanism by which methylene chloride causes cancer is not understood. In the Anderson-Reitz model, only the metabolite(s) of the (GST) pathway are judged by the model's developers to be harmful. The developers of the model, however, provide no evidence for this conclusion, and its basis is not clear. First, methylene chloride itself may be able to contribute to the carcinogenic process through mechanisms such as increasing cellular proliferation or promotion. Second, the so-called "harmless" pathway may not be harmless. No evidence is provided to show that the CO pathway leads to completely "safe" metabolites with respect to cancer induction.

Another major problem with the use of this pharmacokinetic model is that the output of a model is only as good as the available input data. In this case, the input data are uncertain and variations can greatly alter the conclusions. An example of this is the development of the enzyme kinetic constants which the model relies on to determine when a metabolic pathway is saturated or activated. The input constants used in an early version of the methylene chloride model were not determined in experiments using methylene chloride; rather, a completely unrelated compound (7-ethoxycoumarin) was used. It is well known that enzyme kinetic constants will vary depending upon the substance tested. In fact, the EPA reports that the same kinetic constants using benzo(a) pyrene instead of 7-ethoxycoumarin can vary the results by factors as high as 20. [709, 728] Use of pharmacokinetic data obtained by methods other than those chosen by Anderson and Reitz could lead to higher projected risks, as demonstrated recently by EPA. [*Id.*]

Since the original submission of this pharmacokinetic model by Anderson and Reitz, discussed above, CPSC has received a prepublication copy [306] of a refined version of the model. This new submission proposes an alternative method ("scaling") to estimate values for human kinetic constants. CPSC staff are currently evaluating this new methodology, and comments on this alternative are also invited.

The reasons given above, plus others, may negate the potential utility of the Anderson-Reitz pharmacokinetic model for risk assessment purposes in the case of methylene chloride. Comment is invited on this model, particularly on the availability of better input data for the model and on the validity of the conclusion that only the GST pathway is harmful.

CPSC staff have evaluated the available epidemiological data to determine whether these data are adequate to detect risks of the magnitude predicted by the staff's risk assessments. The best available study, that of Friedlander *et al.*, was analyzed to determine the ppm-years of exposure experienced by the cohort, and the number of cases of cancer that would be predicted for this exposure was calculated from the CPSC staff's "best" estimate of risk based on the data available from the rats and mice in the NTP bioassay. The staff found, and Dr. Friedlander agreed (at a meeting with CPSC staff), that the study is not powerful enough to detect the risks at the potencies predicted by the CPSC staff from the animal data. [767] Therefore, these epidemiological data do not permit a determination of whether methylene chloride is or is not a human carcinogen. Comment is solicited on any available epidemiological data concerning methylene chloride.

Industry has provided the Commission with data on the "cytotoxic" effect of methylene chloride on specific cells (Clara cells) in the lungs of mice. [769] This communication contends that Clara cells of humans are more similar to those of rats than to those of mice. It further hypothesizes that the cytotoxic effect seen in mice is a prerequisite to the development of cancer. Therefore, it concludes that, since rats displayed neither the "cytotoxic" nor carcinogenic lung responses to methylene chloride and since human Clara cells are more similar to rat Clara cells, data for mice should not be extrapolated to humans. [751, Tab D] Comments are invited on these contentions.

Based upon all the data reviewed, it appears to the staff that a reasonable argument can be made that inhalation of methylene chloride vapor presents a carcinogenic risk to humans. The EPA has concluded that the NTP inhalation bioassay shows that methylene chloride is a sufficient evidence animal carcinogen. [728, p. 9] Also, an IARC Work Group met in February, 1986, and concluded that methylene chloride was a "sufficient evidence" animal carcinogen. [463] Methylene chloride also could be considered a genotoxic agent based upon its ability to cause mutations in bacteria and evidence of its damaging effects on DNA in mammalian systems. In the absence of adequate human data to prove or disprove the carcinogenicity of methylene chloride in humans, it thus can be argued that, under the principles articulated by OSTP, IARC, and others, the chemical should be regarded as if it presents a carcinogenic risk to humans. On the other hand, arguments have been raised in opposition to any conclusion that methylene chloride is genotoxic and to the relevance of the NTP test results to a risk to humans. The Commission will address the many issues involved in making such a determination after it considers all the comments, alternative recommendations, and other data that are available on the question.

As noted above, if the Commission determines that methylene chloride vapor given off by household products presents a risk of cancer to consumers, the Commission is not required, for the purposes of this rulemaking, to estimate the precise number of cancers that may be caused by the exposure of consumers to such household products. Nevertheless, risk assessment methodology can be used to attempt to gain an idea of the degree of risk that may be associated with a particular carcinogen.

The Commission's staff has performed risk assessments for a number of scenarios for exposure to methylene chloride, using a number of assumptions reflected in the risk assessment models and using the data from the NTP inhalation bioassay and the exposure study at LBL. A detailed explanation of the bases for the risk assessments is set forth in documents 418 (Tab C) and 430 (Tab B). The basic results of the staff's risk assessment are shown in Table 1 above for "Lifetime Estimates of Human Carcinogenic Risk for Exposure to Methylene Chloride." [735, Tab B]

The Commission's staff's risk assessment is based on the results of the NTP bioassay. These results were chosen because of the quality of the

bioassay, because the bioassay used the relevant route of administration (inhalation), and because clear positive responses were observed in two species of test animals. [724, Tab C]

In extrapolating the results of animal tests to humans, assumptions must be made about the differences in response between the animals and humans. Also, it is necessary to estimate how humans, who ordinarily would be exposed to amounts of a carcinogen that may be much less than the amounts to which the animals were exposed, will react to these lower amounts.

In attempting to estimate the respective susceptibilities of the NTP test animals and humans to methylene chloride, the staff applied a surface area correction factor to the animal data that reflects differences in the body weights and surface areas of humans and test animals. This factor was thought, in the absence of additional data, to best address the known differences in response between humans and animals. However, comments are invited on the use of the surface area correction factor and the other factors used in risk assessment. Also, it should be noted that the CPSC believes the available data are insufficient to include metabolic and pharmacokinetic influences that might affect human risk estimates.

In attempting to model the possible effects caused by the fact that users of household products containing methylene chloride may not experience the degree of exposure that the rats and mice in the NTP study received, models were used that took into account the amount of time required in the NTP bioassay for the tumors to occur, the respective concentrations of methylene chloride vapor to which the animals were exposed and to which humans would be exposed under various use scenarios, and the respective proportions of lifetime involved in the animal and human exposures.

The staff's risk assessment also included consideration of a concept of carcinogenic response known as "linearity at low dose." This concept, on which comment is invited, follows from the idea that carcinogenicity results from a multistage process (possibly including initiation and promotion), with carcinogenic processes having to cause a number of stages to occur before a malignant tumor is produced. Some stages are thought to involve direct interaction of a chemical with the genetic material ("initiation"), while other stages may proceed due to processes such as cellular proliferation/turnover, the so-called "promotion" of initiated cells to a more transformed state, and other, largely unknown indirect processes leading to heritable genetic alterations.

At any site in the body, especially the lung, liver, and mammary gland, there is a background, or spontaneous, cancer incidence that is likely the result of constant progressions such as described above. For a bioassay to be positive, the background incidence rate must be substantially exceeded so that the response is not masked. At the very high doses and defined conditions used in bioassays, the chemical in many cases may be influencing or causing multiple events, acting as a so-called "complete carcinogen." In other words, no other known external contributors to the carcinogenic process must be added to produce a carcinogenic response.

A substance which is positive in a carcinogenic bioassay by virtue of its ability to influence or cause multiple events, however, need not act in that fashion under conditions of animal or human exposure at lower levels of that substance. Rather, the substance may, at low levels of exposure, cause or influence only one event, with the spontaneous background processes able to complete the carcinogenic development. Thus, if a carcinogen, at low levels of exposure, adds a small component to the background incidence of cancer at a specific site by "initiating" cells, then if the dose of the substance and the number of initiative events are doubled, the resulting risk of cancer is likely doubled. In this case, if the dose of the chemical and the resulting carcinogenic response are plotted on a graph, a straight line will result, and the response is said to be "linear." At higher doses, the chemical may cause or influence more than one stage in the progression to cancer. In this case, the rate of response to the carcinogen could increase, causing a nonlinear response at the higher doses.

In the NTP bioassay, methylene chloride acts as a complete carcinogen, and, in short term tests, shows genotoxic potential. Therefore, the Commission's staff concludes that the more likely estimates of the carcinogenic response of methylene chloride are those that are based on methodologies that incorporate the linear at low dose concept. Thus, for methylene chloride, if Maximum Likelihood Estimates ("MLEs"), which are based on mathematical extrapolations from the high dose data, were linear because the bioassay data were linear, they were used. If the MLE extrapolations were nonlinear, the upper confidence limit ("UCL") of the multistage model was used, because the UCL accounts for the concept of low dose linearity. The resulting estimates are given in Table 1; however, estimates involving other methodologies have been made for comparison. Comment is solicited on these models and their use.

It must be kept in mind that the science of predicting cancer risks to humans based on animal data is not a precise one, and that it involves many uncertainties. However, in many cases adequate human data are not available, and risk assessment methodologies provide the best means of estimating the possible risk to humans from a chemical shown to be carcinogenic in animals. With these qualifications in mind, the staff's risk assessment for methylene chloride indicates that it is not a very potent carcinogen in terms of the amount of exposure required to produce a given carcinogenic response. However, the data available to date indicate that consumers can be exposed to very high concentrations of methylene chloride when paint strippers and spray paints are used with inadequate ventilation, and, under these conditions, the estimated risk to consumers is higher than those calculated for any of the other 9 chemicals in household products on which the Commission's staff has done risk assessments.[4]

E. Scope of Proposal.

As noted above, the Commission believes that household products containing methylene chloride can, for the most part, be categorized into five major categories: paints, paint strippers, and other paint-related products; fabric care products (including shoe, clothing, and leather care products); adhesives and adhesive removers; automotive products, including specialty cleaners and lubricants; and miscellaneous non-automotive products, including, but not limited to, artificial snow aerosols and all-purpose lubricants. Not every product in each category, however, necessarily contains methylene chloride. For those that do, however, the user is likely to be in close proximity to the product for varying periods of time, depending on the product involved. Since methylene chloride is a highly volatile substance, it is likely that much of the methylene chloride vapor in the products would evaporate into the air surrounding the products and subsequently, in the absence of adequate precautions against inhalation of the vapor, be inhaled by the products' users.

[4] A chart indicating the identity and ranking of chemicals on which the Commission has done risk assessments may be found in Tab C of document no. 735.

In addition to the likelihood that significant amounts of methylene chloride vapor could be inhaled by the users of any product containing methylene chloride, in the absence of adequate precautions to prevent inhalation, consideration must be given to the potential effects of cumulative exposure to methylene chloride vapor emitted from the multiplicity of household products containing methylene chloride that typical consumers are likely to use.

For these reasons, the Commission has decided preliminarily that all products containing more than contaminant levels of methylene chloride may present a significant carcinogenic risk to persons in the vicinity of the products while they are being used.

After considering these factors, the Commission has decided to propose declaring that household products containing methylene chloride are hazardous substances. The Commission believes that such products would give off significant amounts of DCM vapor during use. Where the reasonably foreseeable uses of a product include indoor use, this could result in significant exposure of the user to the vapor, in the absence of special precautions to avoid exposure.

Although the Commission is proposing to declare all household products containing methylene chloride to be hazardous substances, comments or other information may persuade the Commission that particular products do not present a carcinogenic risk, either because the product's formulation contains a minute amount of methylene chloride, because the product inherently must be used outdoors or under other circumstances where there would be minimal exposure, or for other reasons. Comment is invited on whether there are specific household products that should be excluded from any rule establishing household products containing methylene chloride to be hazardous substances.

F. Labeling That Would Be Required Under the FHSA

As explained in section A of this notice, section 2(p)(1) of the FHSA requires hazardous substances intended, or packaged in a form suitable, for use in the household or by children to bear a label containing specified types of information. 15 U.S.C. 1261(p)(1). However, there may be questions about what statements would comply with the FHSA's requirements that the label contain "an affirmative statement of the principal hazard or hazards" and "precautionary measures describing the action to be followed or avoided."

The Commission's regulations, at 16 CFR 1500.121, contain a number of requirements for the prominence, placement, and conspicuousness of labeling required by the FHSA. These regulations provide that all items of labeling required by the FHSA may be placed on the "principal display panel" (hereinafter called the "front panel") on the immediate container and, if appropriate, on any other container or wrapper. The signal word (*i.e.*, "DANGER", "WARNING", or "CAUTION") and the statement of principal hazard(s) are required to be on the front panel. The other items of required labeling may be placed on some other display panel on the container (hereinafter called the "back panel"), provided that the front panel contains the statement "Read carefully other cautions on the [back] panel" or its practical equivalent.

The insidious nature of the hazard of being exposed to a carcinogen is that the hazard does not necessarily present itself to the senses of persons exposed to the substance. Where a product presents only acute hazards, preliminary symptoms of the acute exposure, such as dizziness, eye watering, or headaches, may serve to warn the user that he or she is being exposed to an excessive amount of the substance. With a potentially carcinogenic substance, however, the exposure level that may cause acute symptoms could exceed the level that could present a significant risk of cancer to persons using a product containing the substance. Thus, since the product itself may not warn of the danger associated with exposure to the substance, it is especially important that the product's label communicate the hazard to the user in a way that will motivate the user to take adequate precautions against overexposure.

The Commission believes that in order for a label to motivate the user to take adequate precautions against overexposure to a carcinogen, the label should provide the following items of information:

1. An indication that a risk of cancer is presented by exposure to the product. This could be accomplished by having the front panel carry the statement of principal hazard "vapor harmful" or the equivalent, while the back panel would contain a more specific indication that the hazard is that of carcinogenicity, such as "cancer hazard," "this product contains methylene chloride, which has been shown to cause cancer in certain laboratory animal tests," or the equivalent. Alternatively, the statement of principal hazard on the front panel could state both "vapor harmful" or the equivalent and the more specific indication that one of the particular hazards is that of carcinogenicity.

2. A statement that the risk to the user is related to the level and duration of exposure. This statement is needed in order to convey that both the concentration of the vapors to which one is exposed and the length of exposure are factors in the risk to the user. This statement will also have the effect of reinforcing in the user the notion that there are actions that the user can take to protect himself from the risks associated with use of the product.

3. Detailed instructions concerning the particular precautions that are necessary. This element of required labeling includes an explanation of the specific actions that should be taken or avoided by users. An example of such instructions is given below, but statements such as "use with adequate ventilation" that have been used commonly in the past with respect to acute inhalation hazards are insufficient for this purpose.

The Steering Committee for Methylene Chloride, a group of industry and consumer interest representatives working with the Commission's staff (see section A of this notice) has considered the question of labeling language that will adequately convey to users the information needed to enable users to protect themselves and that will also comply with the requirements of the FHSA. The Steering Committee has recommended the following labeling for products such as paint strippers. The Commission believes that this labeling meets the minimum requirements of section 2(p)(1) of the FHSA as to precautionary measures for the hazard of inhalation of potentially carcinogenic vapor.

[Front Panel]

CAUTION: Vapor Harmful

Read Other Cautions and HEALTH HAZARD INFORMATION on Back Panel

[or equivalent language]

[Back Panel]

Contains methylene chloride, which has been shown to cause cancer in certain laboratory animals. Risk to your health depends on level and duration of exposure.

[Or equivalent language.]

[The back panel labeling given above would be placed separately from use precaution information such as the following.]

Use this product outdoors, if possible. If you must use it indoors, open all windows and doors or use other means to ensure fresh

air movement during application and drying. If properly used, a respirator may offer additional protection. Obtain professional advice before using. A dust mask does not provide protection against vapors. Do not use in basement or other unventilated area.

Open container carefully and close after each use. Clean up rags, papers, and waste promptly. Allow solvent to evaporate, then dispose of in metal containers.

[Or equivalent language suitable for the particular product involved.]

A label such as that stated above would be required by the potential chronic inhalation hazard, although some of the precautions also may serve to protect against acute hazards that might be presented by the product. It should be kept in mind that the product's labeling would also have to meet the other requirements of the FHSA and to address other hazards that the product may present. For example, the label may have to address the acute toxicity of methylene chloride, flammability hazards associated with a product, toxic gases that can be produced by contact with flame or hot surfaces, or the need to avoid contact with skin or eyes because of irritant or corrosive qualities in a product. Also, the label would have to include, when necessary or appropriate, instructions for first aid treatment, including instructions on actions to take if overcome by vapors.

It should also be kept in mind that the particular precautions about actions to be taken or avoided given in the above example may not be applicable to a number of products that fall within the proposed scope of this rule. For example, some products may not involve rags or other items that need to be disposed of separately. Furthermore, the instructions concerning the need to use outdoors, etc., may not be required where the foreseeable use of a product involves very small amounts of the product or where there is a very low concentration of methylene chloride in the product's formulation.

The present rulemaking proceeding has as its purpose the determination of whether household products containing methylene chloride are hazardous substances due to a risk of cancer from the inhalation of methylene chloride vapor. If the Commission ultimately makes the determination that such is the case, labeling adhering to the principles described above would be automatically required by section 2(p)(1) of the FHSA. However, until a determination is made by the Commission that household products containing methylene chloride are hazardous substances due to a risk of cancer from inhalation, the Commission will not require labeling addressing this carcinogenic risk. However, considering the fact that the use precautions given above would be helpful in addressing acute risks associated with methylene chloride, and considering that the NTP animal test data showing the carcinogenicity of methylene chloride vapor in animals raises a significant possibility that the substance should be considered carcinogenic in humans, the Commission encourages the voluntary use of labeling similar to that given above for these products.

The Commission's staff routinely provides labeling advice to manufacturers on labeling necessary to comply with the FHSA. While the staff remains available for such informal advice where desired, the Commission encourages the submission, as comments in this rulemaking, of data or views on its interpretation of the requirements of the FHSA, explained above.

G. Effective Date

The Commission intends to select an effective date for the rule that will minimize the adverse effects on manufacturers that might be caused by the need to change the labels of a large number of products in order to provide the labeling required by the FHSA.

Past experience with labeling changes has demonstrated that an effective date of one year is sufficient to enable entire industries to change labeling without the need to discard labels that had been printed but had not yet been applied to the products involved. [787] Accordingly, the Commission proposes that the effective date of any final rule be such that it applies to any of the subject products that are packaged after that date. This date should enable manufacturers with an inventory of preprinted labels or labeled, but empty, containers to exhaust their inventory before the effective date of the rule.

On the other hand, manufacturers who do not have large inventories of labels or labeled containers should be able to incorporate the required labeling changes in a lesser period of time. Manufacturers should be able to obtain any new printing plates that would be required to provide the labeling required by the FHSA and to incorporate the new plates into production within six months of the publication of a final rule. Accordingly, the Commission proposes that the rule shall also apply to products using labels that were printed after six months from the date that a final rule is published.

Another factor that could affect the choice of an appropriate effective date is the possibility that, by the time a rule could issue in this proceeding, a large number of household products containing methylene chloride already would bear labels that will satisfy the minimum labeling requirements of the FHSA. If a large majority of affected products already comply with the FHSA, the rule will not cause a significant adverse impact on the affected industries, since no change in these labels will be required. In such a case, no more than a 30 day effective date might be needed. Comment is solicited on the extent to which an effective date shorter than one year, as to products packaged after that date, or shorter than six months, as to labels printed after that date would have a significant impact on affected manufacturers and other parties.

H. Effects on Small Businesses and Other Small Entities

Potentially, numerous companies could be affected by this rulemaking. In accordance with the Regulatory Flexibility Act, the Commission has considered the effects that this proposed rule would have on small entities, including small businesses. [787] Using information from the U.S. Small Business Administration (SBA) [606] and the Bureau of the U.S. Census, U.S. Department of Commerce [604, 605], preliminary information from the U.S. Environmental Protection Agency [601], and Dun and Bradstreet references [602, 603], it appears that many small businesses could be involved in the manufacture of products that would be subject to the proposed rule.

For the purposes of this rulemaking, the Commission believes that the number of employees established by the size standards issued by the SBA for the Standard Industrial Classification ("SIC") codes that include the products affected by this rulemaking is appropriate for determining whether a firm is a small entity. Therefore, any firm that has less than 500 employees and which is independently owned and operated and is not dominant in its field is considered to be a small business. [606]

In order to gain a better understanding of the number of small businesses that might be affected by the proposed rule, the Commission staff examined concentration ratio data from the 1982 *Census of Manufactures* [605] and company size and number of employees data from the 1977 *Enterprise Statistics* [604].

The task of estimating the number of small businesses is complicated by the fact that the applicable SIC codes may include companies making products that

do not contain methylene chloride and by the fact that companies that do make products with methylene chloride may not be classified in the relevant product category because the main product of the company is classified in a different code. Another complicating factor is that the product categories represented in the SIC codes and the *Enterprise Statistics* are not directly comparable.

Despite these limitations, the Commission's staff believes that it is reasonable to conclude that numerous small businesses manufacture products that would be subject to the proposed declaration.

The type of labeling that would be required if the Commission declares household products containing methylene chloride to be hazardous substances is discussed in detail in section F of this notice. Since inhalation of methylene chloride vapor has various acute effects, and since such products often contain other ingredients that are toxic, products containing methylene chloride are likely to already incorporate front panel labeling with the statement of principal hazard "vapor harmful" or the equivalent. When combined with appropriate back panel labeling, the present front panel labeling for products containing methylene chloride would satisfy the requirements of section 2(p)(1) of the FHSA. Thus, there is little potential effect of this rule on present front panel labeling.

However, if the proposed rule is issued, there would probably be a need to change back panel labeling on products containing methylene chloride. In the past, labeling for products containing methylene chloride generally has not contained the reference to the cancer hazard, the statement that risk is dependent on level and duration of exposure, and the detailed actions to be taken or avoided that the Commission believes section 2(p)(1) of the FHSA requires for a potentially carcinogenic vapor. As described in sections A and F of this notice, there has been recent voluntary action by the affected industries to improve labeling in this regard. The labeling recommended by the Steering Committee on Methylene Chloride, described in section F, would comply with the FHSA with respect to this risk. Such voluntary labeling could be largely implemented by the time any declaration by the Commission that household products containing methylene chloride are hazardous substances could become effective. In this event, the potential impact of the Commission's possible action would be greatly reduced.

To the extent that manufacturers do not adopt voluntarily labeling complying with the FHSA with respect to a risk of cancer from inhalation, however, a rule issued by the Commission would result in costs for the manufacturers of products containing methylene chloride. In a 1978 study of the costs of relabeling paint strippers [701], the Commission's Directorate for Economic Analysis identified and estimated the various cost elements associated with changes in labeling. These estimates have been updated and expressed in 1985 dollars. [787]

Labeling of the consumer products subject to this rule takes two basic forms: lithograph and paper labels. Lithograph labels are printed directly onto plastic containers or onto flat metal sheets prior to forming the sheets into cans. These containers then are delivered to the manufacturer for filling. Paper labels are affixed to finished containers, often after filling.

The costs of changing labels include fixed and variable costs. The fixed costs involve changing the lithographic or paper printing plates. The total fixed costs are determined by multiplying the cost of the new printing plate by the number of such plates required to meet size or color requirements. Based on the 1978 study referred to above, the fixed costs would be about $800 per lithographic plate and about $300 per paper plate. These costs are not likely to be significant for individual firms, and, if changes are accommodated in the labeling schedule, the cost would be no more than that borne by a firm for a labeling change for marketing reasons.

Variable costs are those associated with label printing and are the costs of the label multiplied by the number of labels ordered. The products will continue to be labeled much as they were before the rulemaking, and the new labels are not likely to cost any more than before the change. These variable costs will not be increased, so long as producers can phase in the new labels within the framework of their typical labeling schedule.

As explained in section G of this notice, the Commission proposes to apply any rule issued in this proceeding to two categories of products: those that are packaged more than one year after publication of the final rule and those whose labels are printed more than six months after the rule is published. These dates were selected in order that manufacturers would not have to discard or overlabel preprinted labels or previously labeled containers in order to comply with the FHSA. However, if these dates are not sufficiently long to achieve the intended result, the rule would affect inventories of labeled but unfilled containers, preprinted labels that have not been applied to containers, and printed metal sheets that have not yet been made into containers.

If the time between the promulgation of the rule and its effective date is too short to allow manufacturers to deplete existing inventories of preprinted labels, manufacturers would either have to overlabel (also called stickering) or discard the unused labels. The amount of stickering necessary, and the resultant cost of the stickering, depends inversely on the length of time between the date of promulgation and the effective date, *i.e.*, the shorter the lead time, the higher the costs to manufacturers. The 1978 study indicated that small, medium, and large firms would be able to exhaust any inventory within a year after promulgation. Since the Commission proposes that any rule would give manufacturers up to a year to deplete existing inventories, there should be no need for manufacturers to sticker existing inventories.

Besides the dollar costs of changing labels, it is possible that there could be competitive costs of a labeling requirement. No information is available to predict whether consumer buying patterns will change in reaction to more specific labeling addressing the risk of cancer. No information about the extent, if any, of such costs is available.

Although there may be many small firms within the industry segments of concern, costs are not expected to be significant. Thus, the Commission concludes that the proposed rule is not expected to create significant costs for a substantial number of small entities, including small business.

I. Environmental Considerations

The Commission's staff has assessed the potential environmental effects of a declaration that household products containing methylene chloride are hazardous substances, pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations, and CPSC procedures for environmental review. [788]

As discussed previously in this notice, there are two possible effects of the proposed declaration: a change in the hazard warning labels on household products containing methylene chloride and a ban of any toy or other article intended for use by children which is, bears, or contains methylene chloride in a manner so as to be susceptible of access by a child to whom such toy or other article is entrusted. The Commission is not aware of any toys or other children's articles that bear or contain methylene chloride. Therefore,

the only effect predicted if the proposed declaration is issued is that some household products containing methylene chloride would have to change their labeling to comply with the requirements of section 2(p)(1) of the FHSA.

If the rule, when issued, requires a change in the hazard warning language on consumer products containing methylene chloride, it is reasonable to expect that the labels of a number of products in each of several product categories would have to be changed. CPSC staff estimate that as many as several hundred million units of production may be affected.

A normal change of labeling, which occurs periodically for many products for marketing and other reasons, entails redesign and production of new printing plates for printed (lithographic) or paper labels. The Commission's staff estimates that no more than several thousand new printing plates would be required as a one-time adjustment to the new labeling required by the rule. Some of these changes would likely be phased in at the same time that a change in labeling would have occurred anyway. In relation to the large number of labels made each year by the printing industry, the number of new label plates required by the FHSA for products containing methylene chloride would not be significant and would cause no significant change in the disposal of used plate material or in the use of new plate material.

The Commission expects to set an effective date that will allow sufficient time for manufacturers to exhaust their inventories of noncomplying previously printed labels. Even if a large part of manufacturers' inventory, which is estimated to be from one to ten months production, had to be overlabeled, however, the effect on the printing industry, on materials used in printing, and on increased material to be disposed of would not be significant.

The requirements of the proposed rule are not expected to have a significant effect on the materials used in printing labels or on the amount or type of material disposed of after use. Therefore, the Commission concludes that the proposed rule will have no significant environmental effects.

J. Effect on State and Local Laws

Section 18(b)(1)(A) of the FHSA, 15 U.S.C. 1261n, provides:

(b)(1)(A) Except as provided in paragraphs (2) and (3) [15 U.S.C. 1261n], if a hazardous substance or its packaging is subject to a cautionary labeling requirement under section 2(p) or 3(b) [15 U.S.C. 1261(p), 1262(b)] designed to protect against a risk of illness or injury associated with the substance, no State or political subdivision of a State may establish or continue in effect a cautionary labeling requirement applicable to such substance or packaging and designed to protect against the same risk of illness or injury unless such cautionary labeling requirement is identical to the labeling requirement under section 2(p) or 3(b).

Therefore, the Commission concludes that, if household products containing methylene chloride are declared to be hazardous substances due to a risk of cancer from inhalation of methylene chloride vapor, any statutes or regulations of state or local governments establishing cautionary labeling requirements designed to protect against this risk would become void and unenforceable to the extent that the state or local requirement is not identical to the requirements under section 2(p)(1) of the FHSA.

K. Conclusion

For the reasons described above, the Commission has decided to initiate a rulemaking proceeding under section 3(a) of the Federal Hazardous Substances Act, 15 U.S.C. 1262(a), for the purpose of resolving any uncertainties about whether household products containing methylene chloride are hazardous substances due to a risk of cancer to humans from inhalation of methylene chloride vapor.

After considering the currently available information, the Commission preliminarily concludes, and proposes to find, that:

(1) The currently available evidence presents a substantial likelihood that methylene chloride is a human carcinogen by inhalation and is thus "toxic," as that term is defined in the Federal Hazardous Substances Act.

(2) Household substances containing methylene chloride have the potential for inhalation of significant amounts of methylene chloride vapor during, or as the result of, the reasonably foreseeable use and handling of the substances. Due to the likely carcinogenic nature of methylene chloride vapor, such household substances may cause significant personal injury or substantial illness during or as a proximate result of customary or reasonably foreseeable handling or use.

(3) Therefore, methylene chloride is a hazardous substance as defined in section 2(f)(1)(A) of the Federal Hazardous Substances Act.

Effective date: The Commission proposes that the rule described above shall become effective six months after the publication of any final rule, as to products whose labels are printed after that date, and twelve months after the publication of a final rule, as to products that are packaged after that date.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

PART 1500—[AMENDED]

Accordingly, the Commission proposes to amend Part 1500 of Title 16 of the Code of Federal Regulations as follows:

1. The authority citation for Part 1500 would be revised to read as follows, and the authority citations following the sections in Part 1500 are removed.

Authority: Secs. 1–21, Pub. L. 86–613, 74 Stat. 372–381, 80 Stat. 1305, 83 Stat. 189–190, 92 Stat. 3747, 95 Stat. 718, as amended (15 U.S.C. 401 note, 1261 and note, 1262–1276).

2. A new § 1500.12(a)(2) would be added, to read as follows (the introductory text of § 1500.12(a), although unchanged, is republished:

§ 1500.12 Products declared to be hazardous substances under section 3(a) of the Act.

(a) The Commission finds that the following articles are hazardous within the meaning of the act because they are capable of causing substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use:

* * * * *

(2) Because of a risk that cancer can be caused by inhalation of methylene chloride vapor, household products containing methylene chloride have been determined to be hazardous substances. [In some cases, household products containing methylene chloride also may be hazardous substances because of acute effects such as toxicity.]

Dated: August 11, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix 1—Petition From the Consumer Federation of America

Note.—The following appendix will not appear in the Code of Federal Regulations.

I. The Original Petition:

Before the Consumer Product Safety Commission

No._____

In the matter of the petition of Consumer Federation of America to Declare Methylene Chloride a Hazardous Substance and to Initiate Proceedings to Ban such Substance.

Pursuant to the Administrative Procedures Act, 5 U.S.C. 553(e) and regulations of the Consumer Product Safety Commission (CPSC), 16 CFR 1500.201(a), Consumer Federation of America (CFA) hereby petitions CPSC to immediately commence proceedings to declare methylene chloride (or dichloromethane or DCM) a hazardous substance under the Federal Hazardous Substances Act (FHSA), section 3(a), 15 U.S.C. 1262. Upon a finding that DCM is a hazardous substance, this petition seeks further proceedings establishing DCM as a banned hazardous substance under FHSA, section 2(q)(1)(B), 15 U.S.C. 1261.

I—Interest of Petitioner

The Consumer Federation of America is the nation's largest consumer advocacy organization representing 200 organizations and over 30 million consumers. For the past several years CFA has been working to protect consumers from the adverse health consequences from indoor air pollutants and the CFA membership has designated indoor air quality as our organization's number one health and safety priority. In September 1984, CFA communicated its concerns about methylene chloride to CPSC and was assured that the Commission "was working actively as a member of various groups of the Interagency Risk Management Council, including those dealing with formaldehyde and methylene chloride." [1] To the extent that this research disclosed "significant new information," the Commission promised to "take appropriate steps to inform consumers." [2]

II—Methylene Chloride Hazards

Methylene chloride is a multipurpose solvent found in paint strippers, aerosal preparations and other consumer products. Approximately 584 million pounds of DCM are produced annually in the United States and an additional 44 million pounds are imported.[3] Over 50 percent of DCM is used in aerosal products and paint removers.[4]

There is ample evidence that methylene chloride poses serious adverse health consequences. This evidence includes findings on carcinogenicity, mutagenicity, and effects on the brain and central nervous system.[5]

Of greatest concern are recent findings concluding that DCM is a clear animal carcinogen. On March 29, 1985, the National Toxicology Program (NTP) Board of Scientific Counselors Peer Review Panel approved the following conclusions regarding the NTP methylene chloride inhalation bioassay:

> Under the conditions of the NTP inhalation bioassay there was *some evidence of carcinogenicity* of dichloromethane for male F344/N rats as shown by an increased incidence of benign neoplasms of the mammary gland. There was *clear evidence of carcinogenicity* of dichloromethane for female F344/N rats as shown by the increased incidence of benign neoplasms of the mammary gland. There was *clear evidence of carcinogenicity* of dichloromethane for male and female B6C3F, mice as shown by increased incidences of alveolar/bronchiolar neoplasms and of heptocellular neoplasms.[6]

These findings are consistent with other DCM inhalation bioassays on rats.[7]

Where a substance is found to be a sufficient evidence animal carcinogen and there is an absence of adequate data in humans, as is the case with methylene chloride, a presumption arises that the substance poses a carcinogenic risk to humans.[8] Based on the NTP and other research findings [9] and the use of recognized risk extrapolation models,[10] the Commission staff estimates that the use of a paint stripper containing methylene chloride in a closed workroom or basement poses an individual risk of cancer of 3 in 1,000. Given the fact that an estimated 135 million retail sized units of paint stripper are sold annually in the U.S.,[11] the hazard posed from the use of DCM in this product alone is very substantial.

Similar assessments of increased risk of cancer from use of aerosol spray paints containing methylene chloride show a risk of 170 in a million. Both these estimates are based on "reasonably foreseeable consumer uses" of products containing methylene chloride. As the commission staff itself so aptly points out: *"These risks are among the highest ever calculated for chemicals from consumer products."*[12]

III—Actions Requested

A. *Petitioner seeks to have CPSC declare methylene chloride a hazardous substance under section 3(a) of the Federal Hazardous Substances Act.*[13]

This section provides for the issuance of a regulation declaring a substance or mixture to be a hazardous substance when the Commission finds that the substance meets the requirements of subparagraph (1)(A) of section 2(f). Included in the section 2(f)(1)(A) definition of hazardous substance is "any substance or mixture of substances which is toxic . . . if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." The Act further defines "toxic" in section 2(g) as "any substance which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface."

As previously explained, methylene chloride has the capacity to cause tumors, central nervous system disorders and affect the structure of genes as a result of being inhaled. This exposure occurs during the course of normal foreseeable household use, whether it be when stripping furniture or using aerosol sprays. As has been noted, the adverse health consequences of methylene chloride, including the risk of cancer, are indeed substantial.

In issuing an order declaring DCM a hazardous substance, CFA additionally requests the Commission to proceed in an expedited manner. This will allow for enforcement of the misbranding provisions of section 2(p) and thus provide interim protection for consumers, in the form of mandatory warnings regarding the cancer risk associated with DCM, while further CPSC actions are considered.

B. *Upon a finding that DCM is a hazardous substance, petitioner seeks further proceedings establishing DCM as a banned hazardous substance under section 2(g)(1)(B), 15 U.S.C. 1261.*

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[1] Letter from Leonard DeFiore, Executive Director, CPSC to Mary Ellen Fise, Consumer Federation of America, March 19, 1985.

[2] *Id.*

[3] Call, H. 1986. Economics and Technology Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C. DCM Preliminary Use Report. (Jan 3, 1986).

[4] *Id.*

[5] Staff Briefing Package, June 19, 1985 at 4–5. (hereafter CPSC, SBP, June 1985); CPSC, SBP, June 1985, Tab E, National Paint and Coating Association, Safety and Health Bulletin No. 56, Sample Label Format for Solvent Containing Consumer Products.

[6] CPSC, SBP, June 1985, Tab A, at 3.

[7] *Id.*

[8] "In accordance with the policies of the International Agency for Research on Cancer, the White House Office of Science and Technology Policy, the Department of Health and Human Services and the Environmental Protection Agency, the finding of sufficient evidence in animals, and the absence of adequate data in humans, means that for practical purposes, methylene chloride can be regarded as presenting a carcinogenic risk to humans." CPSC, SBP, June 1985, 1.

[9] *Id.* Tab C at 2.

[10] *Id.* Tab C.

[11] *Id.* at 2.

[12] *Id.* at 4, (emphasis added).

[13] All section references hereafter are to the Federal Hazardous Substances Act unless otherwise noted.

This section defines a banned hazardous substance as "any hazardous substance intended, or packaged in a form suitable, for use in the household, which the Secretary (Commission) by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this Act for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce."

Because methylene chloride is an animal carcinogen and a suspected human carcinogen, cautionary labeling regarding limited use or exposure will not adequately protect consumers from this cancer risk.

CPSC has previously recognized the ineffectiveness of cautionary labeling for a carcinogenic substance in its regulation of self—pressurized products containing vinyl chloride as a banned hazardous substance. See 16 CFR 1500.17(a)(10). These products, like consumer products containing DCM, present a cancer risk resulting from inhalation as the primary route of exposure.

The efficacy of cautionary labeling, as well as other types of consumer information and education, has been disputed by critics who claim that such informational efforts are least effective when seeking to modify consumer behavior, as opposed to efforts to promote a safer device or product.[14] Thus, while some might argue that use of products containing DCM may be safe if done so for short periods of time while outdoors and using a respirator, it is very unlikely that a label can bring about such a drastic behavioral change.

Before promulgating a regulation under section 2(q)(1) classifying a substance as a banned hazardous substance, CPSC must find that the "regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the regulation is being promulgated." See section 3(i)(2)(C). Congress specifically addressed labeling as an alternative when discussing the imposition of this finding,[15] stating:

> The Conferees recognize the inherent difficulty in proving or disproving the potential efficacy of labels and instructional data in determining the least burdensome requirement which prevents or adequately reduces a risk of injury. While the Conferees intend to require the Commission to undertake positive steps to study contemplated labeling or instructional rules, they do not intend to require that the need for performance standards or bans be proved with mathematical accuracy. For example, a study of the reaction of a sample of consumers to warning labels or instructions might be sufficient to determine whether or not performance requirements were justified under this section. More general studies, or studies of warnings or instructions regarding related risks of injury, might be sufficient as well. The Conferees do not intend to require the Commission to undertake specific studies of the specific wording for labeling or instructional rules once the agency has decided to issue such rules. . . In evaluating whether labels or instructions, or rules requiring notification of data, would adequately reduce the risk of injury addressed, the Commission is expected to consider whether the risk will be reduced to a sufficient extent that there will no longer exist an unreasonable risk of injury.[16]

Thus, the Commission only need determine that a cautionary label regarding DCM's risk of carcinogenicity would effectively reduce that risk. We believe it will not and therefore that some type of ban is needed.

However, a finding of DCM as a banned hazardous substance may or may not require a total and absolute ban of the solvent. Rather upon study by the Commission, and a Chronic Hazard Advisory Panel (convened by CPSC under section 31(b)(2)(A)(iii) of the Consumer Product Safety Act) the Commission may be able to determine a level at which consumer risk is adequately reduced. Thus, the effect of such an action would be a ban of products containing more than a certain specified percentage of DCM.

IV—Conclusion

For the foregoing reasons, Consumer Federation of America petitions the Consumer Product Safety Commission to declare methylene chloride a hazardous substance under section 3(a) of the Federal Hazardous Substances Act and to initiate proceedings to ban such substance under section 2(q)(1)(B) of the same.

Respectfully submitted,

Mary Ellen R. Fise,

Attorney for Petitioner.

Consumer Federation of America, 1424 16th St., NW., Suite 604, Washington, DC 20036, (202) 387–6121

II. Amendment to the Petition:

Before the Consumer Product Safety Commission

No. HP 85–1.

In the matter of the petition of Consumer Federation of America to Declare Methylene Chloride a Hazardous Substance and to Initiate Proceeding to Ban Such Substance.

The Consumer Federation of America (CFA) hereby amends its September 3, 1985 petition to the Consumer Product Safety Commission (CPSC) regarding the chemical methylene chloride. That petition has been docketed (file number HP 85–1) as a petition to declare methylene chloride a hazardous substance under the Federal Hazardous Substances Act (FHSA). This amendment is in response to the determination by the CPSC Office of the General Counsel that the CFA petition did not supply enough information concerning a ban of methylene chloride and specifically that the petition failed to "set forth a brief description of the substance of the proposed rule" as required by Commission regulation, 16 CFR 1051.5(a)(5). The CPSC Office of the General Counsel also alleged that the CFA petition failed to meet the requirement that a petition set forth the facts which establish the claim that the rule is necessary, 16 CFR 1051.5(a)(4), because the petition did not sufficiently explain that labeling of methylene chloride would not adequately reduce the risk to consumers.

This amendment relates only to section III.B. of our original petition dated September 3, 1985 (copy attached). The amendment as to that portion of our petition, as is set forth hereinafter, is made without prejudice to our rights with respect to the original petition, which we maintain in its original form satisfied all legislative, regulatory and procedural requirements to compel consideration by CPSC as a petition to ban methylene chloride.

There is nothing in the legislative history or procedural regulations applicable to CPSC which authorizes the Office of General Counsel to make findings which operate to delay or preclude consideration by the full

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[14] See, Adler and Pittle, Cajolery or Command: Are Education Campaigns an Adequate Substitute for Regulation?, 1 YALE J.R. 159, 166–167, 191 (1984); and Staelin, The Effects of Consumer Education on Consumer Product Safety Behavior, 5 J. CONSUMER RESEARCH, 30, 31 (1978).

[15] The section of the legislative history cited references the requirement of the Consumer Product Safety Act. However the report later states that: "The requirements for advance notice of proposed rulemaking, preliminary and final regulatory analyses, and the three additional findings required for rulemaking under section 9 of the CPSA are extended to rulemaking proceedings authorized by section 2(q) and section 3(e) of the FHSA (Federal Hazardous Substances Act)." Omnibus Budget Reconciliation Act of 1981, Conference Report, H.R. Rep. No. 97–208, 97th Cong., 1st Sess. 876 (1981).

[16] *Id.*

Consumer Product Safety Commission of a recommended regulatory action to ameliorate a recognized public health hazard. The petition stated on its face its status as a petition for "proceedings establishing DCM as a banned hazardous substance under section 2(q)(1)(B), 15 U.S.C. 1261," and met all legislative and regulatory requirements for a petition to ban a hazardous substance. The conclusion stated in the letter of October 16, 1985 that "(t)he Office of the General Counsel does not view this request as providing the "brief description of the proposed rule" required by 16 CFR 1051.5(a)(5), and related findings attributed to the Office of the General Counsel is arbitrary and capricious and without substantial evidence. The failure to act promptly on the clear facts and regulatory recommendations in the original petition has rendered no service to consumers, and rather has contributed to the danger by increasing the exposure to this substance.

While CFA hereby amends section III.B. of its original petition to respond to the criticisms in the Commission's letter of October 16, we do so primarily to achieve a prompt placement of this issue on the Commission's active docket. We reserve for the present the option of judicial challenge to the Commission's failure to consider and act upon our petition as submitted.

Consumer Federation of America hereby petitions the Consumer Product Safety Commission to initiate proceeding to declare methylene chloride a banned hazardous substance under FHSA, section 2(q)(1)(B), 15 U.S.C. 1261. Addressed below are the two petition requirements of concern to the CPSC Office of the General Counsel.

I—Brief Description of Proposed Rule

By CPSC regulation a petition must:

> Contain an explicit request to initiate Commission Rulemaking and set forth a brief description of the substance of the proposed rule or amendment or revocation thereof which it is claimed should be issued by the Commission. (A general request for regulatory action which does not reasonably specify the type of action requested shall not be sufficient for purpose of this subsection.) 16 CFR 1051.5(5).

In line with this requirement, CFA petitions CPSC to initiate proceedings to declare methylene chloride a banned hazardous substance under FHSA, section 2(q)(1)(B), 15 U.S.C. 1261. Such a ban would prohibit manufacturers or others from introducing into interstate commerce any consumer product which contains methylene chloride.

II—Facts Establishing That a Ban Is Necessary

By CPSC regulation a petition must:

> Set forth facts which establish the claim that the issuance, amendment, or revocation of the rule is necessary (for example, such facts may include personal experience; medical, engineering or injury data; or a research study). 16 CFR 1051.5(a)(4).

In its September 3, 1985 petition CFA set out in section II the hazards posed by methylene chloride. Additionally in section III.B. we discussed why we have concluded that labeling is an inadequate remedy for the serious hazard posed by methylene chloride. It is our contention that these two sections satisfy the requirement (set out above). The petition *contains the facts.* The regulation does not require that the petition prove conclusively the need for the requested regulation. Rather, that is the subject of the rulemaking requested by the petition.

As stated in the legislative history "[M]ore general studies, or studies of warnings or instructions regarding related risks of injury, might be sufficient as well." Omnibus Budget Reconciliation Act of 1981, Conference Report, H.R. Rep. No. 97–208, 97th Cong. 1st Sess. 876 (1981). This finding by Congress was with respect to the Commission's determination of whether labeling is an adequate alternative when choosing the least burdensome requirement *during rulemaking.* A petition should not have to do more than the Commission would ultimately have to do in promulgating a regulation. CFA believes it has met the threshold burden required by 16 CFR 1051.5(a)(4).

While we believe that our petition, as originally submitted, contained facts sufficient to establish the need for a ban, CFA calls the Commission's attention to two additional sources of evidence.

As a result of a recent holiday safety investigation, CFA determined that methylene chloride is contained in four brands of artificial spray snow. Two of these products (BLIZ Snow and Frosty Simulated Snow Flock, both manufactured by Rauch Industries of Gastonia, NC) are labeled as containing methylene chloride. Two other brands (Santa Snow Spray and The Snow Machine, both manufactured by Chase Products of Broadview, IL) are labeled as containing chlorinated solvents. A telephone call to Chase Products revealed that the chlorinated solvent contained in these products is methylene chloride. Thus, exposure to methylene chloride from consumer products is not limited to paint strippers and aerosal spray paints.

Secondly, we call the Commission's attention to the Food and Drug Administration's recently proposed ban of methylene chloride in cosmetic products, 50 FR 51551 (December 18, 1985). The proposed regulation reviews the animal and epidemiological studies and concludes that:

> [m]ethylene chloride is an animal carcinogen by inhalation and may be carcinogenic to humans. It has been the agency's policy that substances that cause cancer in laboratory animals should be considered potential human carcinogens unless there is other evidence that the effects observed in animals are not relevant to humans. In the case of methylene chloride, FDA has found that although the epidemiological studies that have been conducted have not reported any increase in cancer attributable to methylene chloride, these results must be considered inconclusive due to design limitation such as small numbers of workers and insufficient duration of exposure. The Environmental Protection Agency reached a similar conclusion about these studies in its **Federal Register** notice of October 17, 1985 [50 FR 42037]. In addition, the agency is unaware of any basis on which to find that the animal studies discussed above are not relevant to humans. 50 FR 51552.

The estimated risk to consumers from methylene chloride in cosmetic products is similar if not less than that posed by methylene chloride in paint strippers and aerosal spray paints.

III—Conclusion

For the foregoing reasons and for the reasons stated in our petition of September 3, 1985 (copy attached) CFA petitions CPSC to declare methylene chloride a hazardous substance under section 3(a) of the Federal Hazardous Substances Act and to ban the use of this solvent in consumer products under section 2(q)(1)(B) of the same.

Respectfully submitted,

Mary Ellen R. Fise,
Attorney for Petitioner.

Consumer Federation of America, 1424 16th Street, NW., Suite 604, Washington, DC 20036, (202) 387–6121

Date Submitted: December 20, 1985.

Appendix 2—Procedures for Public Hearing on Objections

Note.—The following appendix will not appear in the Code of Federal Regulations.

Introduction

The Commission has issued rules for rulemaking proceedings conducted under section 701 (e)–(g) of the Federal Food, Drug, and Cosmetic Act. These rules are published at 16 CFR 1500.201. Also, to the extent that they have not been repealed, modified, or superseded, the Food and Drug Administration's

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previous rules governing section 701(e) petitions, 21 CFR 2.65–2.75 (1973), apply by virtue of section 30(e)(2) of the Consumer Product Safety Act, 15 U.S.C. 2079(E)(2). The Commission's rules of practice for adjudicative proceedings, published at 16 CFR Part 1025, do not apply to rulemaking proceedings.

With regard to the procedures to be used in public hearings on objections to orders issued by the Commission under section 701 (e)–(g), the Commission's rules at § 1500.201 and FDA's previous rules, to the extent they remain applicable, provide general guidance concerning how the hearings are to be conducted, but there are a number of issues that could arise during the hearing that are not specifically addressed by these rules. The Commission believes that it would be preferable for more detailed procedures to be available to govern the public hearing that would be held on any objections that may be filed if the Commission issues an order declaring household products containing methylene chloride to be hazardous substances.

Accordingly, the Commission proposes to use the following procedures in any public hearing held on objections in this rulemaking. These proposed procedures are based on those currently used by the Food and Drug Administration in section 701(e) proceedings.

Proposed Procedures for Formal Evidentiary Public Hearing

Subpart A—General Provisions

Section 1.0 Scope.
Section 1.1 Computations of time periods.
Section 1.2 Confidential information.
Section 1.3 Office of the Secretary.

Subpart B—Initiation of Proceedings

Section 2.0 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.
Section 2.2 Filing objections and requests for a hearing on a regulation.
Section 2.3 Notice of filing of objections.
Section 2.4 Ruling on objections and requests for hearing.
Section 2.6 Modification or revocation of regulation or order.
Section 2.8 Denial of hearing in whole or in part.
Section 3.0 Judicial review after waiver of hearing on a regulation.
Section 3.2 Request for alternative form of hearing.
Section 3.5 Notice of hearing; stay of action.
Section 3.7 Effective date of a regulation.

Subpart C—Appearance and Participation

Section 4.0 Appearance.
Section 4.5 Notice of participation.
Section 5.0 Advice on public participation in hearings.
(a) Designated agency contact.
(b) Hearing schedule changes.
(c) Legal advice to individuals.
(d) Role of the Office of the General Counsel.
(e) Communication between participants and attorneys.
(f) Separation of functions; ex parte communications.

Subpart D—Presiding Officer

Section 6.0 Presiding officer.
Section 6.2 Commencement of functions.
Section 7.0 Authority of presiding officer.
Section 7.5 Disqualification of presiding officer.
Section 7.8 Unavailability of presiding officer.

Subpart E—Hearing Procedures

Section 8.0 Filing and service of submissions.
Section 8.2 Petition to participate in forma pauperis.
Section 8.5 Disclosure of data and information to be relied on by the participants.
Section 8.7 Purpose; oral and written testimony; burden of proof.
Section 8.9 Participation of nonparties.
Section 9.0 Conduct at oral hearings or conferences.
Section 9.1 Time and place of prehearing conferences.
Section 9.2 Prehearing conference procedure.
Section 9.3 Summary decisions.
Section 9.4 Receipt of evidence.
Section 9.5 Official notice.
Section 9.6 Briefs and arguments.
Section 9.7 Interlocutory appeal from ruling of presiding officer.
Section 9.8 Official transcript.
Section 9.9 Motions.

Subpart F—Administrative Record

Section 10.0 Administrative record of a hearing.
Section 10.5 Examination of record.

Subpart G—Initial and Final Decision

Section 12.0 Initial decision.
Section 12.5 Appeal from or review of initial decision.
Section 13.0 Decision by Commission on appeal or review of initial decision.
Section 13.9 Reconsideration and stay of Commission's action.

Subpart A—General Provisions

Section 1.0 Scope.

The procedures in this part apply when—

(a) A person has a right to an opportunity for a hearing under sections 2(q)(1)(B) or 3(a) of the Federal Hazardous Substances Act (FHSA) and 701(e) of the Federal Food, Drug, and Cosmetic Act (15 U.S.C. 1261(q)(1)(B) and 1262(a), and 21 U.S.C. 321(e)) or

(b) The Commission concludes that it is in the public interest to hold a formal evidentiary public hearing on any matter before it in such a proceeding.

Section 1.1 Computation of time periods.

Whenever a time period for taking action is specified by these procedures, by the presiding officer, or by the Commission, and the last day for taking such action falls on a weekend or Federal holiday, the action shall be timely if taken on or before the next Federal Government business day.

Section 1.2 Confidential information.

Whenever any participant desires or is required to submit information in this proceeding, and the participant believes that such information consists of trade secret or other confidential business or financial information that should not be disclosed publicly, the participant may, instead of submitting such information, submit a general description of the information desired to be withheld, together with a detailed argument supporting the claim that the information should be held in confidence. Participants desiring to have such information considered in the proceeding should file appropriate motions with the presiding officer for disclosure or for a protective order.

Section 1.3 Office of the Secretary.

(a) The mailing address of the Commission's Office of the Secretary is: Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

(b) The address for delivery to the Office of the Secretary is: Office of the Secretary, Room 510, 5401 Westbard Avenue, Bethesda, Maryland.

(c) The telephone number of the Office of the Secretary is (301) 492–6800.

Subpart B—Initiation of Proceedings

Section 2.0 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.

(a) The **Federal Register** notice promulgating the regulation will describe how to submit objections and requests for hearing.

(b) On or before the 30th day after the date of publication of a final regulation in the **Federal Register**, a person may file written objections, with or without a request for a hearing, with the Commission. The 30-day period may not be extended, except that additional information supporting an objection may be received after 30 days upon a showing of inadvertent omission and hardship, if consideration of the additional information will not delay review of the objection and request for hearing.

Section 2.2 Filing objections and requests for a hearing on a regulation.

(a) Objections and requests for a hearing under section 2.0(a) must be filed with the Office of the Secretary and will be accepted for filing if they meet the following conditions:

(1) They are submitted within the time specified in section 2.0(b).

(2) Each objection is separately numbered.

(3) Each objection specifies with particularity the provision(s) of the regulation to which that objection is directed.

(4) Each objection on which a hearing is requested specifically requests a hearing. Failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection.

(5) Each objection for which a hearing is requested includes a detailed description and analysis of the factual information to be presented in support of the objection. Failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection. The description and analysis may be used only for the purpose of determining whether a hearing has been justified under section 2.4, and do not limit the evidence that may be presented if a hearing is granted.

(i) A copy of any report, article, survey, or other written document relied upon must be submitted, unless the document is—

(A) A CPSC document that is routinely publicly available; or

(B) A recognized medical or scientific textbook or journal readily available to the agency.

(ii) A summary of the nondocumentary testimony to be presented by any witnesses relied upon must be submitted.

(b) If an objection or request for a public hearing fails to meet the requirements of this section and the deficiency becomes known to the Office of the Secretary, the Office of the Secretary shall return it with a copy of the applicable regulations, indicating those provisions not complied with. A deficient objection or request for a hearing may be supplemented and subsequently filed if submitted within the 30-day time period specified in section 2.0(b).

(c) If another person objects to a regulation issued in response to a petition, the petitioner may submit a written reply to the Office of the Secretary on or before the 15th day after the last day for filing objections.

Section 2.3 Notice of filing of objections.

As soon as practicable after the expiration of the time for filing objections to and requests for hearing on agency action involving the issuance, amendment, or revocation of a regulation under section 701(e) of the Federal Food, Drug, and Cosmetic Act, the Commission shall publish a notice in the **Federal Register** specifying those parts of the regulation that have been stayed by the filing of proper objections and, if no objections have been filed, stating that fact. The notice does not constitute a determination that a hearing is justified on any objections or requests for hearing that have been filed. When to do so will cause no undue delay, the notice required by this section may be combined with the notices described in sections 2.6 and 3.5.

Section 2.4 Ruling on objections and requests for hearing.

(a) As soon as practicable, the Commission will review all objections and requests for hearing filed under section 2.2 and determine—

(1) Whether the regulation should be modified or revoked under section 2.6;

(2) Whether a hearing has been justified.

(b) A request for a hearing will be granted if the material submitted shows the following:

(1) There is a genuine and substantial issue of fact for resolution at a hearing. A hearing will not be granted on issues of policy or law.

(2) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions.

(3) The data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the person. A hearing will be denied if the Commission concludes that the data and information submitted, even though accurate, are insufficient to justify the factual determination urged.

(4) Resolution of the factual issue in the way sought by the person is adequate to justify the action requested. A hearing will not be granted on factual issues that are not determinative with respect to the action requested, *e.g.*, if the Commission concludes that the Commission's action would be the same even if the factual issue were resolved in the way sought, or if a request is made that a final regulation include a provision not reasonably encompassed by the proposal.

(5) The action requested is not inconsistent with any provision in the FHSA or any regulation in 16 CFR Subchapter C explaining or particularizing the requirements of the FHSA. The proper procedure in the latter circumstance is for the person requesting the hearing to petition for an amendment or waiver of the regulation involved.

(6) The requirements in other applicable regulations, *e.g.*, 16 CFR 1500.201, and in the notice promulgating the final regulation or the notice of opportunity for hearing are met.

(c) In making the determinations specified in paragraph (a) of this section, the Commission may issue an appropriate order on the determinations without further notice or opportunity for comment from interested parties. However, the Commission optionally may use the procedure specified in 16 CFR Part 1052 or any other applicable public procedure available to it.

(d) If it is uncertain whether a hearing has been justified under the principles in paragraph (b) of this section, and the Commission concludes that summary decision against the person requesting a hearing should be considered, the Commission may serve upon the person by registered mail a proposed order denying a hearing. The person has 30 days after receipt of the proposed order to demonstrate that the submission justifies a hearing.

Section 2.6 Modification or revocation of regulation or order.

If, upon review of an objection or request for hearing, the Commission determines that the regulation should be modified or revoked, the Commission will promptly take such action by notice in the **Federal Register**. Further objections to or requests for hearing on the modification or revocation may be submitted under sections 2.0 through 2.2, but no further issue may be taken with other provisions in the regulation. Objections and requests for hearing that are not affected by the modification or revocation will remain on file and be acted upon in due course.

Section 2.8 Denial of hearing in whole or in part.

(a) If the Commission determines upon review of the objections or requests for hearing that a hearing is not justified, in whole or in part, a notice of the determination will be published in the **Federal Register**.

(b) The notice will state whether the hearing is denied in whole or in part. If the hearing is denied in part, the notice will be combined with the notice of

hearing required by section 3.5, and will specify the objections and requests for hearing that have been granted and denied.

(c) Any denial will be explained. A denial based on an analysis of the information submitted to justify a hearing will explain the inadequacy of the information.

(d) The notice will confirm, modify, or stay the effective date of the regulation involved.

(e) The record of the administrative proceeding relating to denial in whole or in part of a public hearing on an objection or request for hearing consists of the following:

(1) The entire rulemaking record;

(2) The objections and requests for hearing filed by the Office of the Secretary; and

(3) The notice denying a formal evidentiary public hearing.

(f) The record specified in paragraph (e) of this section is the exclusive record for the Commission's decision on the complete or partial denial of a hearing. The record of the proceeding will be closed as of the date of the Commission's decision unless another date is specified. A person who requested and was denied a hearing may submit a petition for reconsideration or a petition for stay of the Commission's action. A person who wishes to rely upon information or views not included in the administrative record shall submit them to the Commission with a petition to modify the final regulation.

(g) Denial of a request for a hearing in whole or in part is final agency action reviewable in the courts, under the statutory provisions governing the matter involved, as of the date of publication of the denial in the **Federal Register**.

(1) Before requesting a court for a stay of the Commission's action pending judicial review, a person shall first submit a petition to the Commission for a stay of action.

(2) The time for filing a petition for judicial review of a denial of a hearing on an objection or issue begins on the date the denial is published in the **Federal Register**. The failure to file a petition for judicial review within the period established in the statutory provision governing the matter involved constitutes a waiver of the right to judicial review of the objection or issue, regardless whether a hearing has been granted on other objections and issues.

Section 3.0 Judicial review after waiver of hearing on a regulation.

(a) A person with a right to submit objections and a request for hearing under section 2.0(a) may submit objections and waive the right to a hearing. The waiver may be either an explicit statement, or a failure to request a hearing, as provided in section 2.2(a)(4).

(b) If a person waives the right to a hearing, the Commission will rule upon the person's objections under sections 2.4 through 2.8. As a matter of discretion, the Commission may also order a hearing on the matter.

(c) If the Commission rules adversely on a person's objection, the person may petition for judicial review in a U.S. Court of Appeals under the FHSA.

(l) The record for judicial review is the record designated in section 2.8(e).

(2) The time for filing a petition for judicial review begins on the date of publication of the Commission's ruling on the objections in the **Federal Register**.

Section 3.2 Request for alternative form of hearing.

(a) A person with a right to request a formal hearing may waive that right and request a hearing before the Commission under 16 CFR Part 1052.

(b) The request—

(1) May be on the person's own initiative or at the suggestion of the Commission;

(2) Must be submitted by the person in the form of a petition before publication of a notice of hearing under section 3.5 or a denial of hearing under section 2.8; and

(3) Must be—

(i) In lieu of a request for a formal hearing under section 2.0; or,

(ii) If submitted with or after a request for formal hearing, accompanied by a waiver of the right to a formal hearing, conditioned on the request for the alternative form of hearing. Upon acceptance by the Commission, the waiver becomes binding and may be withdrawn only by waiving any right to any form of hearing, unless the Commission determines otherwise.

(c) When more than one person requests and justifies a formal hearing under these procedures, an alternative form of hearing may be used only if all the persons concur and waive their right to request a formal hearing.

(d) The Commission will determine whether an alternative form of hearing should be used after considering the requests submitted and the appropriateness of the alternative hearing for the issues raised in the objections. The Commission's determination is binding unless, for good cause, the Commission subsequently determines otherwise.

(e) The Commission will publish a **Federal Register** notice of an alternative form of hearing setting forth the following information:

(1) A description of the regulation that is the subject of the hearing.

(2) A statement specifying any part of the regulation that has been stayed by operation of law or in the Commission's discretion.

(3) The time, date, and place of the hearing, or a statement that such information will be contained in a later notice.

(4) The parties to the hearing.

(5) The issues at the hearing. The statement of issues determines the scope of the hearing.

Section 3.5 Notice of hearing; stay of action.

(a) If the Commission determines upon review of the objections and requests for hearing that a hearing is justified on any issue, the Commission will publish a notice setting forth the following:

(1) A description of the regulation that is the subject of the hearing.

(2) A statement specifying any part of the regulation or order that has been stayed by operation of law or in the Commission's discretion.

(3) The parties to the hearing.

(4) The issues of fact on which a hearing has been justified.

(5) A statement of any objections or requests for hearing for which a hearing has not been justified, which are subject to section 2.8.

(6) The presiding officer, or a statement that the presiding officer will be designated in a later notice.

(7) The time within which notices of participation should be filed under section 4.5.

(8) The date, time, and place of the prehearing conference, or a statement that the date, time, and place will be announced in a later notice. The prehearing conference may not commence until after the time expires for filing the notice of participation required by section 4.5(a).

(9) The time within which participants should submit written information and views under section 8.5(b). Additional copies of material already submitted under section 8.5 need not be included with any later submissions.

(10) The contents of the portions of the administrative record relevant to the issues at the hearing. Except for trade secret or other confidential information, the disclosure of which is prohibited by statute, the portions listed will be placed on public display in the Office of the Secretary before the notice is published.

(b) The statement of the issues determines the scope of the hearing and

the matters on which evidence may be introduced. The issues may be revised by the presiding officer. A participant may obtain interlocutory review by the Commission of a decision by the presiding officer to revise the issues to include an issue on which the Commission has not granted a hearing or to eliminate an issue on which a hearing has been granted.

(c) A hearing is deemed to begin on the date of publication of the notice of hearing.

Section 3.7 Effective date of a regulation when no objections are filed.

(a) If no objections are filed and no hearing is requested on a regulation under section 2.0(3), the regulation is effective on the date specified in the regulation as promulgated.

(b) The Commission shall publish a confirmation of the effective date of the regulation. The Federal Register document confirming the effective date of the regulation may extend the time for compliance with the regulation.

Subpart C—Appearance and Participation

Section 4.0 Appearance.

(a) A person who has filed a notice of participation under section 4.5 may appear in person or by counsel or other representative in any hearing and, subject to section 8.9, may be heard concerning all relevant issues.

(b) The presiding officer may strike a person's appearance for violation of the requirements regarding conduct in section 9.0.

Section 4.5 Notice of participation.

(a) Within 30 days after publication of the notice of hearing under section 3.5, a person desiring to participate in a hearing is to file with the Office of the Secretary a notice of participation in the following form:

(Date)

Office of the Secretary, Consumer Product Safety Commission, Room 520, 5401 Westbard Ave., Bethesda, MD 20207 [or 8th Floor, 1111 18th St., NW., Washington, DC 20207].

Notice of Participation

(Title of Regulation)

Docket No. _____

Please enter the participation of:

(Name) _____
(Street address) _____
(City and State) _____
(Telephone number) _____

Service on the above will be accepted by:

(Name) _____
(City and State) _____
(Telephone number) _____

The following statements are made as part of this notice of participation:

A. *Specific interests.* (A statement of the specific interest of the person in the proceeding, including the specific issues of fact concerning which the person desires to be heard. This part need not be completed by a party to the proceeding.)

B. *Commitment to participate.* (A statement that the person will present documentary evidence or testimony at the hearing and will comply with the requirements of section 8.5 of these procedures.)

(Signed) _____

(b) Any amendment to a notice of participation should be filed with the Office of the Secretary and served on all participants.

(c) No person may participate in a hearing who has not filed a written notice of participation or whose participation has been stricken under paragraph (e) of this section.

(d) The presiding officer may permit the late filing of a notice of participation upon a showing of good cause.

(e) The presiding officer may strike the participation of a person for nonparticipation in the hearing or for failure to comply with any requirement of this subpart, *e.g.*, disclosure of information as required by section 8.5 or the prehearing order issued under section 9.2. Any person whose participation is stricken may partition the Commission for interlocutory review of that decision.

Section 5.0 Advice on public participation in hearings.

(a) *Designated agency contact.* All inquiries from the public about scheduling, location, and general procedures should be addressed to the Office of the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, Washington, DC 20207, or telephone 301–492–6980. The staff of the Assistant General Counsel for Regulatory Affairs will attempt to respond promptly to all inquiries from members of the public, as well as to simple requests for information from participants in hearings.

(b) *Hearing schedule changes.* Requests by hearing participants for changes in the schedule of a hearing or for filing documents, briefs, or other pleadings should be made in writing directly to the presiding officer.

(c) *Legal advice to individuals.* CPSC does not have the resources to provide legal advice to members of the public concerning participation in hearings. Furthermore, to do so would compromise the independence of the Commission's staff and invite charges of improper interference in the hearing process. Accordingly, the Assistant General Counsel for Regulatory Affairs will not answer questions about the strengths or weaknesses of a party's position at a hearing, litigation strategy, or similar matters.

(d) *Role of the Office of the General Counsel.* Under no circumstances will the Office of the General Counsel of CPSC directly provide advice about a hearing to any person who is participating or may participate in the hearing. In every hearing, certain attorneys in the office are designated to represent the staff. Other members of the office, ordinarily including the General Counsel, are designated to advise the Commission on a final decision in the matter. It is not compatible with these functions, nor would it be professionally responsible, for the attorneys in the Office of the General Counsel also to advise other participants in a hearing, or for any attorney who may be called on to advise the Commission to respond to inquiries from other participants in the hearing; such participants may be urging views contrary to those of the staff involved or to what may ultimately be the final conclusions of the Commission. Accordingly, members of the Office of the General Counsel, other than the attorneys responsible for representing the staff, will not answer questions about the hearing from any participant or potential participant.

(e) *Communication between participants and attorneys.* Participants in a hearing may communicate with the attorneys responsible for representing the staff, in the same way that they may communicate with counsel for any other party in interest about the presentation of matters at the hearing. It would be inappropriate to bar discussion of such matters as stipulations of fact, joint presentation of witnesses, or possible settlement of hearing issues. Members of the public, including participants at hearings, are advised, however, that all such communications, including those by telephone, will be recorded in memoranda that can be filed with the office of the Secretary.

(f) *Separation of functions; ex parte communications.*

(1) An interested person may meet or correspond with any CPSC representative concerning a matter prior to publication of a notice announcing a formal evidentiary public hearing on the matter. The provisions of 16 CFR Part 1012 apply to such meetings.

(2) Upon publication of a notice announcing a formal evidentiary public hearing, the following separation of functions apply:

(i) The CPSC staff responsible for preparing evidence and participating in the hearing in the matter is, as a party to the hearing, responsible for all investigative functions and for presentation of the position of the staff at the hearing and in any pleading or oral argument before the Commission. These representatives of the staff may not participate or advise in any decision except as witnesses or counsel in public proceedings. Except as provided herein, there shall be no other communication between representatives of the staff and representatives of the various Commissioners' offices concerning the matter prior to the decision of the Commission. The Commission may, however, designate other representatives of the staff to advise the Commission. The designation will be in writing and filed with the Office of the Secretary no later than the time specified in paragraph (f)(2) of this section for the application of separation of functions. All employees of the CPSC other than representatives of the involved staff (except for those specifically designated otherwise) may be called upon to advise and participate with the offices of the Commissioners in their functions relating to the hearing and the final decision.

(ii) The General Counsel of CPSC shall designate members of the Office of the General Counsel to advise and participate with the staff in its functions in the hearing and shall designate other members to advise the offices of the Commissioners in their functions related to the hearing and the final decision. The members of the Office of the General Counsel designated to advise the staff may not participate or advise in any decision of the Commission except as counsel in public proceedings. The designation shall be in the form of a memorandum filed with the Office of the Secretary and made a part of the administrative record in the proceeding. There may be no other communication between those members of the Office of General Counsel designated to advise the offices of the Commissioners and any other person in the Office of General Counsel or in the involved staff with respect to the matter prior to the decision of the Commission. The General Counsel may assign different attorneys to advise either the staff or the offices of the Commissioners at any stage of the proceedings. The General Counsel will ordinarily advise and participate with the offices of the Commissioners in their functions relating to the hearing and the final decision.

(iii) The Commissioners are responsible for the agency review and final decision of the matter, with the advice and participation of anyone in CPSC other than representatives of the responsible staff and those members of the Office of General Counsel designated to assist in the staff functions in the hearing.

(iv) Between the date that separation of functions apply and the date of the Commission's decision on the matter, communication concerning the matter involved in the hearing will be restricted as follows:

(A) No person outside CPSC may have an ex parte communication with the presiding officer or any person representing the offices of the Commissioners concerning the matter in the hearing. Neither the presiding officer nor any person representing the offices of the Commissioners may have any ex parte communications with a person outside CPSC concerning the matter in the hearing. All communications are to be public communications, as witness or counsel under the applicable procedures.

(B) A participant in the hearing may submit a written communication to the offices of the Commissioners with respect to a proposal for settlement. These communications are to be in the form of pleadings, served on all other participants, and filed with the Office of the Secretary like any other pleading.

(C) A written communication contrary to this section must be immediately served on all other participants and filed with the Office of the Secretary by the presiding officer at the hearing, or by the Commissioner, depending on who received the communication. An oral communication contrary to this section must be immediately recorded in a written memorandum and similarly served on all other participants and filed with the Office of the Secretary. A person, including a representative of a participant in the hearing, who is involved in an oral communication contrary to this section, must, if possible, be made available for cross-examination during the hearing with respect to the substance of that conversation. Rebuttal testimony pertinent to a written or oral communication contrary to this section will be permitted. Cross-examination and rebuttal testimony will be transcribed and filed with the Office of the Secretary.

(D) The making of a communication contrary to this section may, consistent with the interests of justice and the policy of the underlying statute, result in a decision adverse to the person knowingly making or causing the making of such a communication.

Subpart D—Presiding Officer

Section 6.0 Presiding officer.

The presiding officer in a hearing will be a Commissioner or an administrative law judge qualified under 5 U.S.C. 3105.

Section 6.2 Commencement of functions.

The functions of the presiding officer begin upon designation and end upon the filing of the initial decision.

Section 7.0 Authority of presiding officer.

The presiding officer has all powers necessary to conduct a fair, expeditious, and orderly hearing, including the power to—

(a) Specify and change the date, time, and place of oral hearings and conferences;

(b) Establish the procedures for use in developing evidentiary facts, including the procedures in section 9.2(b) and to rule on the need for oral testimony and cross-examination under section 6.7(b);

(c) Prepare statements of the areas of factual disagreement among the participants;

(d) Hold conferences to settle, simplify, or determine the issues in a hearing or to consider other matters that may expedite the hearing;

(e) Administer oaths and affirmations;

(f) Control the course of the hearing and the conduct of the participants;

(g) Examine witnesses and strike or limit their testimony if they fail to respond fully to proper questions;

(h) Admit, exclude, or limit evidence;

(i) Set the time for filing pleadings;

(j) Rule on motions and other procedural matters;

(k) Rule on motions for summary decision under section 9.3;

(l) Conduct the hearing in stages if the number of parties is large or the issues are numerous and complex;

(m) Waive, suspend, or modify any procedure in this subpart if the presiding officer determines that no party will be prejudiced, the ends of justice will be served, and the action is in accordance with law;

(n) Strike the participation of any person under section 4.5(e) or exclude any person from the hearing under section 9.0, or take other reasonable disciplinary action; and

(o) Take any other action required for the fair, expeditious, and orderly conduct of the hearing.

Section 7.5 Disqualification of presiding officer.

(a) A participant may request the presiding officer to disqualify himself/herself and withdraw from the proceeding. The ruling on any such request may be appealed in accordance with section 9.7(b).

(b) A presiding officer who is aware of grounds for disqualification, whether or not raised by a participant, shall withdraw from the proceeding.

Section 7.8 Unavailability of presiding officer.

(a) If the presiding officer is unable to act for any reason, the Commission will assign the powers and duties to another presiding officer. The substitution will not affect the hearing, except as the new presiding officer may order.

(b) Any motion based on the substitution must be made within 10 days.

Subpart E—Hearing Procedures

Section 8.0 Filing and service of submissions.

(a) Submissions, including pleadings in a hearing, are to be filed with the Office of the Secretary. Two copies shall be filed. To determine compliance with filing deadlines in a hearing, a submission is considered submitted on the date it is actually received by the Office of the Secretary. When this part allows a response to a submission and prescribes a period of time for the filing of the response, an additional 3 days are allowed for the filing of the response if the submission is served by mail.

(b) The person making a submission shall serve copies of it on the other participants. Submissions of documentary data and information are not required to be served on each participant, but any accompanying transmittal letter, pleading, summary, statement of position, certification under paragraph (d) of this section, or similar document must be served on each participant.

(c) Service is accomplished by mailing a submission to the address shown in the notice of participation or by personal delivery.

(d) All submissions are to be accompanied by a certificate of service or by a statement that service is not required, stating the reason therefor.

(e) No written submission or other portion of the administrative record may be held in confidence, except as provided in section 10.5.

Section 8.2 Petition to participate in forma pauperis.

(a) A participant who believes that compliance with the filing and service requirements of this section constitutes an unreasonable financial burden may submit to the Commission a petition to participate in forma pauperis.

(b) The petition will be captioned: "Request to Participate *In Forma Pauperis*, Docket No. _____." Filing and service requirements for the petition are described in paragraph (c) of this section, whether or not the petition is granted. The petition must demonstrate that either: (1) The participant is indigent and a strong public interest justifies participation, or (2) the participant's participation is in the public interest because it can be considered of primary benefit to the general public.

(c) The Commission may grant or deny the petition. If the petition is granted, the participant need file only one copy of each submission with the Office of the Secretary. The Office of the Secretary will make sufficient additional copies for the administrative record, and serve a copy on each other participant.

Section 8.5 Disclosure of data and information to be relied on by the participants.

(a) Before the notice of hearing is published under section 3.5, the Assistant General Counsel for Regulatory Affairs shall submit the following to the Office of the Secretary:

(1) The relevant portions of the administrative record of the proceeding. Portions of the administrative record not relevant to the issues in the hearing are not required to be submitted.

(2) Other documents in the CPSC staff's files containing factual information, whether favorable or unfavorable to the regulation issued by the Commission, which relate to the issues involved in the hearing. Internal memoranda reflecting the deliberative process, attorney work product, or material prepared specifically for use in connection with the hearing are not required to be submitted.

(3) All other documentary data and information relied upon.

(4) A narrative position statement on the factual issues in the notice of hearing and the type of supporting evidence the Assistant General Counsel intends to introduce.

(b) Within 90 days of the publication of the notice of hearing or, if no participant will be prejudiced, within another period of time set by the presiding officer, each participant shall submit to the Office of the Secretary all data and information specified in paragraph (a) (3) and (4) of this section and any objections that the administrative record filed under paragraph (a)(1) of this section is incomplete, and any documents in the participants' files containing factual information, whether favorable or unfavorable to the regulation issued by the Commission, which relates to the issues involved in the hearing.

(c) Submissions required by paragraphs (a) and (b) of this section may be supplemented later in the proceeding, with the approval of the presiding officer, upon a showing that the material in the supplement was not reasonably known or available when the submission was made, that the relevance of the material contained in the supplement could not reasonably have been foreseen, or that admission of the material in the supplement is necessary for a fair determination of the issues involved in the hearing.

(d) A participant's failure to comply substantially and in good faith with this section constitutes a waiver of the right to participate further in the hearing; failure of a party to comply constitutes a waiver of the right to a hearing.

(e) Participants may reference each other's submissions. To reduce duplicative submissions, participants are encouraged to exchange and consolidate lists of documentary evidence. If a particular document is bulky or in limited supply and cannot reasonably be reproduced, and it constitutes relevant evidence, the presiding officer may authorize submission of a reduced number of copies.

(f) The presiding officer will rule on questions relating to this section.

Section 8.7 Purpose; oral and written testimony; burden of proof.

(a) The objective of a formal evidentiary hearing is the fair determination of relevant facts consistent with the right of all interested persons to participate and with the public interest in promptly settling controversial matters affecting the public health and welfare.

(b) Accordingly, the evidence at a hearing is to be developed to the maximum extent through written submissions, including written direct testimony, which may be in narrative or in question-and-answer form.

(1) Direct testimony will be submitted in writing, except on a showing that written direct testimony is insufficient for a full and true disclosure of relevant facts and that the participant will be prejudiced if unable to present oral

direct testimony. If the proceeding involves particular issues, each party may determine whether, and the extent to which, each wishes to present direct testimony orally or in writing.

(2) Oral cross-examination of witnesses will be permitted if it appears that alternative means of developing the evidence are insufficient for a full and true disclosure of the facts and that the party requesting oral cross-examination is the most effective and efficient means to clarify the matters at issue.

(3) Witnesses shall give testimony under oath.

(c) A participant who proposes to substitute a new provision for a provision objected to has the burden of proof in relation to the new provision.

Section 8.9 Participation of nonparties.

(a) A nonparty participant may—

(1) Attend all conferences (including the prehearing conference), oral proceedings, and arguments;

(2) Submit written testimony and documentary evidence for inclusion in the record;

(3) File written objections, briefs, and other pleadings; and

(4) Present oral argument.

(b) A nonparty participant may not—

(1) Submit written interrogatories, and

(2) Conduct cross-examination.

(c) A person whose petition is the subject of the hearing has the same right as a party.

(d) A nonparty participant will be permitted additional rights if the presiding officer concludes that the participant's interests would not be adequately protected otherwise or that broader participation is required for a full and true disclosure of the facts, but the rights of a nonparty participant may not exceed the rights of a party.

Section 9.0 Conduct at oral hearings or conferences.

All participants in a hearing will conduct themselves with dignity and observe judicial standards of practice and ethics. They may not indulge in personal attacks, unseemly wrangling, or intemperate accusations or characterizations. Representatives of parties shall, to the extent possible, restrain clients from improprieties in connection with any proceeding. Disrespectful, disorderly, or contumacious language or conduct, refusal to comply with directions, use of dilatory tactics, or refusal to adhere to reasonable standards of orderly and ethical conduct during any hearing shall constitute grounds for immediate exclusion from the proceeding by the presiding officer.

Section 9.1 Time and place of prehearing conference.

A prehearing conference will commence at the date, time, and place announced in the notice of hearing, or in a later notice, or as specified by the presiding officer in a notice modifying a prior notice. At the prehearing conference, insofar as practicable at that time, the presiding officer will establish the methods and procedures to be used in developing the evidence, determine reasonable time periods for the conduct of the hearing, and designate the times and places for the production of witnesses for direct and cross-examination, if leave to conduct oral examination is granted on any issue.

Section 9.2 Prehearing conference procedure.

(a) Participants in a hearing are to appear at the prehearing conference prepared to discuss and resolve all matters specified in paragraph (b) of this section.

(1) To expedite the hearing, participants are encouraged to prepare in advance for the prehearing conference. Participants should cooperate with each other, and should request information and begin preparation of testimony at the earliest possible time. Failure of a participant to appear at the prehearing conference or to raise matters that reasonably could be anticipated and resolved at that time will not delay the progress of the hearing and constitutes a waiver of the rights of the participant regarding such matters as objections to the agreements reached, actions taken, or rulings issued by the presiding officer at or as a result of the prehearing conference and may be grounds for striking the participation under section 4.5.

(2) Participants shall bring to the prehearing conference the following specific information, which will be filed with the Office of the Secretary under section 8.0:

(i) Any additional information desired to supplement the submission filed under section 8.5; the supplement may be filed if approved under section 8.5.

(ii) A list of all witnesses whose testimony will be offered, orally or in writing, at the hearing, with a full curriculum vitae for each. Additional witnesses may be identified later, with the approval of the presiding officer, on a showing that the witness was not reasonably available at the time of the prehearing conference, that the relevance of the witness' views could not reasonably have been foreseen at that time, or for other good cause shown, as where a previously identified witness is unforeseeably unable to testify.

(iii) All prior written statements, including articles and any written statement signed or adopted, or a recording or transcription of an oral statement made, by persons identified as witnesses if—

(A) The statement is available without making a request to the witness;

(B) The statement relates to the subject matter of the witness' testimony; and

(C) The statement either was made before the time the person agreed to become a witness or has been made publicly available by the person.

(b) The presiding officer will conduct a prehearing conference for the following purposes:

(1) To determine the areas of factual disagreement to be considered at the hearing. The presiding officer may hold conferences off the record in an effort to reach agreement on disputed factual questions, subject to the ex parte limitations in section 5(f).

(2) To identify the most appropriate techniques for developing evidence on issues in controversy and the manner and sequence in which they will be used, including, where oral examination is to be conducted, the sequence in which witnesses will be produced for, and the time and place of, oral examination. The presiding officer may consider, but is not limited to, the following techniques.

(i) Submission of narrative statements of position on factual issues in controversy;

(ii) Submission of evidence or identification of previously submitted evidence to support such statements, such as affidavits, verified statements of fact, data, studies, and reports;

(iii) Exchange of written interrogatories directed to particular witnesses;

(iv) Written requests for the production of additional documentation, data, or other relevant information;

(v) Submission of written questions to be asked by the presiding officer of a specific witness; and

(vi) Identification of facts for which oral examination and/or cross-examination is appropriate.

(3) To group participants with substantially like interests for presenting evidence, making motions and objections, including motions for summary decision, filing briefs, and presenting oral argument.

(4) To hear and rule on objections to admitting information submitted under section 8.5 into evidence.

(5) To obtain stipulations and admissions of facts.

(6) To take other action that may expedite the hearing.

(c) The presiding officer shall issue, orally or in writing, a prehearing order reciting the actions taken at the prehearing conference and setting forth the schedule for the hearing. The order will control the subsequent course of the hearing unless modified by the presiding officer for good cause.

Section 9.3 Summary decisions.

(a) After the hearing commences, a participant may move, with or without supporting affidavits, for a summary decision on any issue in the hearing. Any other participant may, within 10 days after service of the motion, which time may be extended for an additional 10 days for good cause, serve opposing affidavits or countermove for summary decision. The presiding officer may set the matter for argument and call for the submission of briefs.

(b) The presiding officer will grant the motion if the objections, requests for hearing, other pleadings, affidavits, and other material filed in connection with the hearing, or matters officially noticed, show that there is no genuine issue as to any material fact and that a participant is entitled to summary decision.

(c) Affidavits should set forth facts that would be admissible in evidence and show affirmatively that the affiant is competent to testify to the matters stated. When a properly supported motion for summary decision is made, a participant opposing the motion may not rest upon mere allegations or denials or general descriptions of positions and contentions; affidavits or other responses must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(d) Should it appear from the affidavits of a participant opposing the motion that for sound reasons stated, facts essential to justify the opposition cannot be presented by affidavit, the presiding officer may deny the motion for summary decision, allow additional time to permit affidavits for additional evidence to be obtained, or issue other just order.

(e) If on motion under this section a summary decision is not rendered upon the whole case or for all the relief asked, and evidentiary facts need to be developed, the presiding officer will issue an order specifying the facts that appear without substantial controversy and directing further evidentiary proceedings. The facts so specified will be deemed established.

(f) A participant submitting or opposing a motion for summary decision may obtain interlocutory review by the Commission of a summary decision of the presiding officer.

Section 9.4 Receipt of evidence.

(a) A hearing consists of the development of evidence and the resolution of factual issues as set forth in this subpart and in the prehearing order.

(b) All orders, transcripts, written statements of position, written direct testimony, written interrogatories and responses, and any other written material submitted in the proceeding is a part of the administrative record of the hearing, and will be promptly placed on public display in the Office of the Secretary, except as ordered by the presiding officer.

(c) Written evidence, identified as such, is admissible unless a participant objects and the presiding officer excludes it on objection of a participant or on the presiding officer's own initiative.

(1) The presiding officer may exclude written evidence as inadmissible only if—

(i) The evidence is irrelevant, immaterial, unreliable, or repetitive;

(ii) Exclusion of part or all of the written evidence of a participant is necessary to enforce the requirements of this subpart; or

(iii) The evidence was not submitted as required by section 8.5.

(2) Items of written evidence are to be submitted as separate documents, sequentially numbered, except that a voluminous document may be submitted in the form of a cross-reference to the documents filed under section 8.5.

(3) Written evidence excluded by the presiding officer as inadmissible remains a part of the administrative record, as an offer of proof, for judicial review.

(d) Testimony, whether on direct or on cross-examination, is admissible as evidence unless a participant objects and the presiding officer excludes it.

(1) The presiding officer may exclude oral evidence as inadmissible only if—

(i) The evidence is irrelevant, immaterial, unreliable, or repetitive; or

(ii) Exclusion of part or all of the evidence is necessary to enforce the requirements of these procedures.

(2) If oral evidence is excluded as inadmissible, the participant may take written exception to the ruling in a brief to the Commission, without taking oral exception at the hearing. Upon review, the Commission may reopen the hearing to permit the evidence to be admitted if the Commission determines that its exclusion was erroneous and prejudicial.

(e) The presiding officer may schedule conferences as needed to monitor the program of the hearing, narrow and simplify the issues, and consider and rule on motions, requests, and other matters concerning the development of the evidence.

(f) The presiding officer will conduct such proceedings as are necessary for the taking of oral testimony, for the oral examination of witnesses by the presiding officer on the basis of written questions previously submitted by the parties, and for the conduct of cross-examination of witnesses by the parties. The presiding officer shall exclude irrelevant or repetitious written questions and limit oral cross-examination to prevent irrelevant or repetitious examination.

(g) The presiding officer shall order the proceedings closed for the taking of oral testimony relating only to trade secrets and privileged or confidential commercial or financial information. Participation in closed proceedings will be limited to the witness, the witness' counsel, and Federal Government employees.

Section 9.5 Official notice.

(a) Official notice may be taken of such matters as might be judicially noticed by the courts of the United States or of any other matter peculiarly within the general knowledge of CPSC as an expert agency.

(b) If official notice is taken of a material fact not appearing in the evidence of record, a participant, on timely request, will be afforded an opportunity to show the contrary.

Section 9.6 Briefs and arguments.

(a) Promptly after the taking of evidence is completed, the presiding officer will announce a schedule for the filing of briefs. Briefs are to be filed ordinarily within 45 days of the close of the hearing. Briefs must include a statement of position on each issue, with specific and complete citations to the evidence and points of law relied on. Briefs must contain proposed findings of fact and conclusions of law.

(b) The presiding officer may, as a matter of discretion, permit oral argument after the briefs are filed.

(c) Briefs and oral argument shall refrain from disclosing specific details of written and oral testimony and documents relating to trade secrets and privileged or confidential commercial or financial information, except as specifically authorized in a protective order issued by the presiding officer.

Section 9.7 Interlocutory appeal from ruling of presiding officer.

(a) Except as provided in paragraph (b) of this section and in sections 3.5(b), 4.5(e), 9.3(f), and 9.9(d) when an interlocutory appeal is specifically authorized by this subpart, rulings of the presiding officer may not be appealed to the Commission before the Commission's consideration of the entire record of the hearing.

(b) A ruling of the presiding officer is subject to interlocutory appeal to the Commission if the presiding officer certifies on the record or in writing that immediate review is necessary to prevent exceptional delay, expense, or prejudice to any participant or substantial harm to the public interest.

(c) When an interlocutory appeal is made to the Commission, a participant may file a brief with the Commission only if such is specifically authorized by the presiding officer or the Commission, and, if such authorization is granted, within the period the Commission directs. If a participant is authorized to file a brief, any other participant may file a brief in opposition, within the period the Commission directs. If no briefs are authorized, the appeal will be presented as an oral argument to the Commission. The oral argument will be transcribed. If briefs are authorized, oral argument will be heard only at the discretion of the Commission.

Section 9.8 Official transcript.

(a) The presiding officer will arrange for a verbatim stenographic transcript of oral testimony and for necessary copies of the transcript.

(b) One copy of the transcript will be placed on public display in the Office of the Secretary upon receipt.

(c) Copies of the transcript may be obtained by application to the official reporter and payment of costs thereof.

(d) Witnesses, participants, and counsel have 30 days from the time the transcript becomes available to propose corrections in the transcript of oral testimony. Corrections are permitted only for transcription errors. The presiding officer shall promptly order justified corrections.

Section 9.9 Motions.

(a) Except for a motion made in the course of an oral hearing before the presiding officer, a motion on any matter relating to the proceeding shall be filed under section 8.0 and must include a draft order.

(b) A response may be filed within 10 days of service of a motion. The time may be shortened or extended by the presiding officer for good cause shown.

(c) The moving party has no right to reply, except as permitted by the presiding officer.

(d) The presiding officer shall rule upon the motion and may certify that ruling to the Commission for interlocutory review.

Subpart F—Administrative Record

Section 10.0 Administrative record of a hearing.

(a) The record of a hearing consists of—

(1) The regulation or notice of opportunity for hearing that gave rise to the hearing;

(2) All objections and requests for hearing filed with the Office of the Secretary under sections 2.0 through 2.2;

(3) The notice of hearing published under section 3.5;

(4) All notices of participation filed under section 4.5;

(5) All **Federal Register** notices pertinent to the proceeding;

(6) All submissions filed under section 8.2, *e.g.*, the submissions required by section 8.5, all other documentary evidence and written testimony, pleadings, statements of position, briefs, and other similar documents;

(7) The transcript, written order, and all other documents relating to the prehearing conference, prepared under section 9.2;

(8) All documents relating to any motion for summary decision under section 9.3;

(9) All documents of which official notice is taken under section 9.5;

(10) All pleadings filed under section 9.6;

(11) All documents relating to any interlocutory appeal under section 9.7;

(12) All transcripts prepared under section 9.9; and

(13) Any other document relating to the hearing and filed with the Office of the Secretary by the presiding officer or any participant;

(b) The record of the administrative proceeding is closed—

(1) With respect to the taking of evidence, when specified by the presiding officer; and

(2) With respect to pleadings, at the time specified in section 9.6(a) for the filing of briefs.

(c) The presiding officer may reopen the record to receive further evidence at any time before the filing of the initial decision.

Section 10.5 Examination of record.

Except as provided in section 1.2, documents in the record will be publicly available. Documents available for examination or copying will be placed on public display in the Office of the Secretary promptly upon receipt in that office.

Subpart G—Initial and Final Decision

Section 12.0 Initial decision.

(a) The presiding officer shall prepare and file an initial decision as soon as practicable after the filing of briefs and oral argument.

(b) The initial decision shall contain—

(1) Findings of fact based upon relevant, material, and reliable evidence of record;

(2) Conclusions of law;

(3) A discussion of the reasons for the findings and conclusions, including a discussion of the significant contentions made by any participant;

(4) Citations to the record supporting the findings and conclusions;

(5) An appropriate regulation supported by substantial evidence of record and based upon the findings of fact and conclusions of law (unless the initial decision is to not issue a regulation); and

(6) An effective date for the regulation (if any), together with an explanation of why the effective date is appropriate.

(7) The periods of time for filing exceptions to the initial decision with the Office of the Secretary and for filing replies to such exceptions, in accordance with sections 12.5(a)–(c).

(c) The initial decision must refrain from disclosing specific details of trade secrets and privileged or confidential commercial or financial information, except as specifically authorized in a protective order issued by the presiding officer.

(d) The initial decision is to be filed with the Office of the Secretary and served upon all participants. Once the initial decision is filed with the Office of the Secretary, the presiding officer has no further jurisdiction over the matter, and any motions or requests filed with the Office of the Secretary will be decided by the Commission.

(e) The initial decision becomes the final decision of the Commission by operation of law unless a participant files exceptions with the Office of the Secretary under section 12.5(a) or the Commission files a notice of review under section 12.5(f).

(f) Notice that an initial decision has become the decision of the Commission without appeal to or review by the Commission will be published in the **Federal Register**. The Commission also may publish the decision when it is of widespread interest.

Section 12.5 Appeal from or review of initial decision.

(a) A participant may appeal an initial decision to the Commission by filing exceptions with the Office of the Secretary, and serving them on the other participants within the period specified in the initial decision. The period for appeal to the Commission may not exceed 30 days, unless extended by the Commission under paragraph (d) of this section.

(b) Exceptions must specifically identify alleged errors in the findings of fact or conclusions of law in the initial decision, and provide supporting citations to the record. Oral argument before the Commission may be requested in the exceptions.

(c) Any reply to the exceptions shall be filed and served within the period specified in the initial decision. The period may not exceed 30 days after the end of the period (including any extensions) for filing exceptions, unless extended by the Commission under paragraph (d) of this section.

(d) The Commission may extend the time for filing exceptions or replies to exceptions for good cause shown.

(e) If the Commission decides to hear oral argument, the participants will be informed of the date, time, and place of the argument, the amount of time allotted to each participant, and the issues to be addressed.

(f) Within 10 days following the expiration of the time for filing exceptions (including any extensions), the Commission may file with the Office of the Secretary, and serve on the participants, a notice of the Commission's determination to review the initial decision. The Commission may invite the participants to file briefs or present oral argument on the matter. The time for filing briefs or presenting oral argument will be specified in that or a later notice.

Section 13.0 Decision by Commission on appeal or review of initial decision.

(a) On appeal from or review of the initial decision, the Commission has all the powers given to the presiding officer with respect to the initial decision. On the Commission's own initiative or on motion, the Commission may remand the matter to the presiding officer for any further action necessary for a proper decision.

(b) The scope of the issues at the public hearing is the same as the scope of the issues on appeal at the public hearing unless the Commission specifies otherwise.

(c) As soon as possible after the filing of briefs and the presentation of any oral argument, the Commission will issue a final decision in the proceeding, which meets the requirements established in sections 12.0 (b) and (c).

(d) The Commission may adopt the initial decision as the final decision.

(e) Notice of the Commission's decision will be published in the **Federal Register**. The Commission may also publish the decision when it is of widespread interest.

Section 13.9 Reconsideration and stay of Commission's action.

Following notice or publication of the final decision, a participant may petition the Commission for reconsideration of any part or all of the decision or may petition for a stay of the decision.

Subpart H—Judicial Review

Section 14.0 Review by the courts.

(a) The Commission's final decision constitutes final agency action from which a participant may petition for judicial review under the statutes governing the matter involved. Before requesting an order from a court for a stay of the Commission's action pending judicial review, a participant shall first submit a petition for a stay of action under section 13.9.

(b) Under 28 U.S.C. 2112(a), CPSC will request consolidation of all petitions related to a particular matter.

Section 15.9 Copies of petitions for judicial review.

The General Counsel of CPSC has been designated by the Commission as the officer on whom copies of petitions for judicial review are to be served. This officer is responsible for filing the record on which the final decision is based. The record of the proceeding is certified by the Secretary of the Commission.

Appendix 3—List of Relevant Documents

Note.—The following appendix will not appear in the Code of Federal Regulations.

Document No.—Title/Description

Bioassays

101—Burek JD, KD Nitschke, TJ Bell, DL Wackerle, RC Childs, JE Beyer, DA Dittenber, LW Rampy and MJ McKenna. Methylene chloride: A two-year inhalation toxicity and oncogenicity study in rats and hamsters. Fund Appl. Tox. 4:30–47, 1984.

102—US National Toxicology Program. Draft Technical Report on the Carcinogenesis Bioassay of Dichloromethane in F344/N rats and B6C3F$_1$ mice (Gavage Study). NTP–TR–254. September 1982. Cancelled August 4, 1983.

103—US National Toxicology Program. Draft Technical Report on the Toxicology and Carcinogenesis Studies of Dichloromethane in F344/N rats and B6C3F$_1$ mice (Inhalation Studies) NTP–TR–306. February 1986.

104—National Coffee Association. 24-Month Oncogenicity Study of Methylene Chloride in Mice. Final Report. New York. November 1983.

105—National Coffee Association. 24-Month Chronic Toxicity and Oncogenicity Study of Methylene Chloride in Rats. Final Report. August 1982.

106—US National Toxicology Program. Toxicology and Carcinogenesis Studies of Dichloromethane (Methylene Chloride) (CAS No. 75–09–2) in F344/N Rats and B6C3F$_1$ Mice (Inhalation Studies). NTP–TR–306, January 1986.

107—Nitschke KD, JD Burek, TJ Bell, LW Rampy and MG McKenna. Methylene Chloride; A Two-Year Inhalation Toxicity and Oncogenicity Study. Toxicology Research Laboratory, Health and Environmental Sciences, Dow Chemical USA, Midland MI. October 1982.

108—Bell ZB, Jr. Report of Audit findings of the National Toxicology Program (NTP) Carcinogenesis Bioassay of Dichloromethane (Methylene Chloride), NTP–TR–254. Halogenated Solvents Industries Alliance. Washington. September 1983.

109—US National Toxicology Program. Board of Scientific Counselors Transcript. Research Triangle Park, NC. March 29, 1985.

Mutagenicity/Genotoxicity References

201—Andrae V and T Wolff. Dichloromethane is not genotoxic in isolated rat hepatocytes. Arch. Toxicol. 52:287–290, 1983.

202—Barber ED, WH Donish and KR Nueller. A procedure for the quantitative measurement of the mutagenicity of volatile liquids in the Ames Salmonella/microsome assay. Mutat. Res. 90:31–48, 1981.

203—Callen DF, CR Wolf, and RM Philpot. Cytochrome P–450 mediated genetic activity and cytotoxicity of seven halogenated aliphatic hydrocarbons in Saccharomyces cerevisiae. Mutat. Res. 77:55–63, 1980.

204—Gocke E, MT King, K Eckhardt, and D Wild. Mutagenicity of cosmetics ingredients licensed by the European Communities. Mutat. Res. 90:91–109, 1981.

205—Green T. The metabolic activation of dichloromethane and chlorofluro-methane in a bacterial mutation assay using Salmonella typhimurium. Mutat. Res. 118:277–288, 1983.

206—Hatch G, T Anderson, E Elmore, and S Newsow. Status of enhancement of DNA viral transformation for determination of mutagenic and carcinogenic potential of gaseous and volatile compounds (abstract). Environ. Mutagen. 5:422, 1983a.

207—Hatch GG, PD Mamay, ML Ayer, BC Casto and S Nesnow. Chemical enhancement of viral transformation in Syrian hamster embryo cells by gaseous and volatile chlorinated methanes and ethanes. Cancer Res. 43:1945–1950, 1983b.

208—Infante PF and TA Tsongas. Mutagenic and oncogenic effects of chloromethanes, chloroethanes and halogenated analogues of vinyl chloride. Env. Sci. Res. 25:301–327, 1982.

209—Johnston RV, LW Rampy, BJ Dabney, and T Barna-Lloyd. Cytogenetic evaluation of

bone marrow cells from rats exposed to methylene chloride. Env. Sci. Res. 25:301–327, 1980.

210—Jongen WMF, GM Alink, and JH Koeman. Mutagenic effect of dichloromethane on Salmonella typhimurium. Mutat. Res. 58:245–248, 1978.

211—Jongen WMF, PHM Lohman, NJ Kottenhagen, GM Alink, F Berends, and JH Koeman. Mutagenicity testing of dichloromethane in short-term mammalian test systems. Mutat. Res. 81:203–213, 1981.

212—Jongen WMK, EGM Harmsen, GM Alink, and JH Koeman. The effect of glutathione conjugation and microsomal oxidation on the mutagenicity of dichloromethane in S. typhimurium. Mutat. Res. 95:183–189, 1982.

213—Jongen WMF. Relationship between exposure time and metabolic activation of dichloromethane in Salmonella typhimurium. Mutat. Res. 136:107–108, 1984.

214—Kanada T and M Uyeta. Mutagenicity screening of organic solvents in microbial systems (abstract). Mutat. Res. 54:215, 1978.

215—McCarroll NE, TA Cortina, MJ Zito, and MG Farrow. Evaluation of methylene chloride and vinylidene chloride in mutational assays (abstract). Environ. Mut. 5:426–427, 1983.

216—Nestmann ER, EGH Lee, TI Matula, GR Douglas, and JC Mueller. Mutagenicity of constituents identified in pulp and paper mill effluents using the Salmonella/mammalian-microsome assay. Mutat. Res. 79:203–212, 1980.

217—Nestmann ER, R Atson, DT Williams, and DJ Kowbel. Mutagenicity of paint removers containing dichloromethane. Cancer Lett. 11:295–302, 1981.

218—Osterman-Golkar S, S Hussain, S Walles, B Anderstam, and K Sigvardsson. Chemical reactivity and mutagenicity of some dihalomethanes. Chem. Biol. Interact. 46:121–130, 1983.

219—Perocco P and G Prodi. DNA damage by haloalkanes in human lymphocytes cultured in vitro. Cancer Lett. 13:213–218, 1981.

220—Price PJ, GM Hassett and JI Mansfield. Transforming activities of trichloroethylene and proposed industrial alternatives. In Vitro 14:290–293, 1978.

221 Rapson WH, MA Nazar and VV Butsky. Mutagenicity produced by aqueous chlorination of organic compounds. Bull. Environ. Contam. Toxicol. 24:590–596, 1980.

222—Samoiloff MR, S Schluz, Y Jordan, K Denich, and E Arnott. A rapid simple long-term toxicity assay for aquatic contaminants using the nematode Panagrellus redivivus. Can. J. Fish. Aquat. Sci. 37:1167–1174, 1980.

223—Schairer LA, RC Sautkulis and NR Tempel. A search for the identity of genotoxic agents in the ambient air using the Tradescantia bioassay. Environ. Sci. Res. 27:211–228, 1983.

224—Schairer LA, RC Sautkulis and NR Tempel. Detection and identification of genotoxic agents in ambient air using the Tradescantia bioassay (abstract). Environ. Mut. 4:379, 1982.

225—Thilagar AK and V Kumaroo. Induction of chromosome damage by methylene chloride in CHO cells. Mutat. Res. 116:361–367, 1983.

Covalent Binding and/or Metabolism

301—US Environmental Protection Agency. Health Assessment Document for Dichloromethane (Methylene Chloride) Final Report. EPA/600/8–82/004F. February 1985. And its addendum: EPA 600/882/004FF. August 1985.

302—Abbott PJ and R Saffhill. Miscoding properties of O^4-methylthymine templates for DNA polymerase. Br. J. Cancer. 34:310–311, 1976.

303—Alexandrov K, P Brookes, HWS King, MR Osborne and MH Thompson. Comparison of the metabolism of benzo[a]pyrene and binding to DNA caused by rat liver nuclei and microsomes. Chem. Biol. Interact. 12:269–277, 1976.

304—Alexandrov K. Effects of inducers and inhibitors of the benzo[a]pyrene hydroxylase of isolated rat liver nuclei and nuclear envelopes on the binding of benzo[a]pyrene to DNA. Eur. J. Cancer 13:487–853, 1977.

305—Anders MW, VL Kubic and AE Ahmed. Metabolism of halogenated methanes and macromolecular binding. J. Environ. Pathol. Toxicol. 1:117–124, 1977.

306—Anderson ME, HJ Clewell III, ML Gargas, FA Smith and RH Reitz. Physiologically-based pharmacokinetics and risk assessment process for methylene chloride. Toxicol. Appl. Pharmacol. In press, 1986.

307—Baird WM. The use of radioactive carcinogens to detect DNA modifications. In: Chemical Carcinogens and DNA, Vol. I, pages 59–84. PL Glover (Ed.). CRC Press, Boca Raton, FL. 1979.

308—Bolt HM and JG Filser. Irreversible binding of chlorinated ethylenes to macromolecules. Environ. Health Perspec. 21:107–112, 1977.

309—Bolt HM, H Kappus, R Kaufmann, KE Appel, A Buchter and W Bolt. Metabolism of carbon-14 vinyl chloride in vitro and vivo. Inserm Symposia Ser. 52:151–163, 1976.

310—Booth J, E Boyland and P Sims. Metabolism of polycyclic compounds. XV. The conversion of napthalene into a derivative of glutathione by rat liver slices. Biochem. J. 74:117–122, 1960.

311—Brookes P and PD Lawley. Effects on DNA: Chemical methods. In: Chemical Mutagens, Principles and Methods for their Detection. Vol 1. A Hollaender (Ed.). Plenum Press, New York. 1971.

312—Cunningham ML, AJ Gandolfi, K Brendel and IG Sipes. Covalent-Binding of Halogenated Volatile Solvents to Subcellular Macromolecules in Hepatocytes. Life Sci. 29:1207–1212, 1981.

313—DiVincenzo GD and CJ Kaplan. Uptake, metabolism, and elimination of methylene chloride vapor by humans. Toxicol. Appl. Pharmacol. 59:130–140, 1981a.

314—DiVincenzo GD and CJ Kaplan. Effect of exercise or smoking on the uptake, metabolism, and excretion of methylene chloride vapor. Toxicol. Appl. pharmacol. 59:141–148, 1981b.

315—Gerchman LL and DB Ludlum. Properties of O^6-methylguanine in templates for RNA polymerase. Biochim. Biophys. Acta. 308: 310–316, 1973.

316—Green T, WM Provan, DC Collinge and AE Guest. Methylene Chloride (Dichloromethane): Interaction with Rat and Mouse Liver and Lung DNA *In Vivo*. Report No. CTL/R/851. Imperial Chemical Industries PLC Central Toxicology Laboratory, Alderley Park, Macclesfield, Cheshire, United Kingdom. 1986.

317—Hext PM, J Foster and SW Millward. Methylene Chloride (Dichloromethane): 10 Day Inhalation Toxicity Study to Investigate the Effects on Rat and Mouse Liver and Lungs. Report No. CTL/P/1432. Imperial Chemical Industries PLC, Central Toxicology Laboratory. Alderley Park, Macclesfield, Cheshire, United Kingdom. 1986.

318—Trueman RW, J Ashby, SW Millward and JR March. Methylene Chloride (Dichloromethane): In Vivo and In Vitro Unscheduled DNA Systhesis Studies in the Mouse and the Rat. Report No. CTL/P/1444. Imperial Chemical Industries PLC, Central Toxicology Laboratory. Alderley Park, Macclesfield, Cheshire, United Kingdom. 1986.

319—Grover PL. In vitro modification of nucleic acids by indirect-acting chemical carcinogens. In: Chemical Carcinogens and DNA. Vol. I. PL Grover (Ed.). CRC Press, Boca Raton, FL. 1979. Pages 37–58.

320—Grunberger D and IB Weinstein. Conformational changes in nuclei acids modified by chemical carcinogens. In: Chemical Carcinogens and DNA. Vol. II. PL Grover (Ed.). CRC Press, Boca Raton, FL. 1979. Pages 59–94.

321—Henschler D. Mutagenic effects of chlorinated alphatic hydrocarbons, influence of metabolic activation and inactivation. In: short-term test systems for detecting carcinogens. KH Norpoth and RC Garner (Eds.), Springer-Verlag, New York, 1980. pages 325–331.

322—Hill DL, TW Shih, TP Johnson and RF Struck. Macromolecular binding and metabolism of the carcinogen 1,2 dibromoethane. Cancer Res. 38:2438–2442, 1978.

323—Ilett KF, WE Reid, IG Sipes and G Krishna. Chloroform toxicity in mice: Correlation of renal and hepatic necrosis with covalent binding of metabolites to tissue macromolecules. Exp. Mol. Pharm. 19:215–219, 1973.

324—Jeffrey AM. DNA modification by chemical carcinogens. Pharmacol. Ther. 28: 237–272, 1985.

325—Khandwala AS and CB Kasper. Preferential induction of aryl hydroxylose activity in rat liver nuclear envelope by 3-Methlycholanthrene. Biochem. Biophys. Res. Commun. 54:1241–1248, 1973.

326—Kornbrust DJ, JS Bus, G Doerjer and JA Swenberg. Association of inhaled [^{14}C] methyl chloride with macromolecules from various rat tissues. Tox. Appl. Pharmacol. 65:122–134, 1982.

327—Kornbrust DJ and JS Bus. Metabolism of methyl chloride to formate in rats. Tox. Appl. Pharmacol. 65:135–143, 1982.

328—Lawley PD and P Brooks. Further studies on the alkylation of nucleic acids and their constituent nucleotides. Biochem. J. 89:127, 1963 .

329—Laib RJ. Specific covalent binding and toxicity of aliphatic halogenated xenobiotics.

Q. Rev. Drug Metab. Drug Interact. 4:1–48, 1982.

330—Lawley PD, DJ Orr, SA Shah, PB Farmer and M Jarman. Reaction products from mNUA and DNA containing thymidine residues: Synthesis and identification of a new methylation product O^4-methylthymidine. Biochem. J. 135:193–201, 1973.

331—Lawley PD. Methylation of DNA by carcinogens. In: Screening tests in chemical carcinogenesis. Montesano R, H Bartsch and L Tomatis (Eds.), IARC Scientific Publ. No. 12., Lyon, 1976. Pages 181–208.

332—Lawley PD. Approaches to chemical dosimetry in mutagenesis and carcinogenesis: the relevance of reactions of chemical metagens and carcinogens With DNA. In: Chemical carcinogens and DNA, Vol. I. PL Glover (Ed.), CRC Press, Boca Raton, FL. 1979. Pages 1–30.

333—Lawley PD. DNA as a target of alkylating carcinogens. Brit. Med. Bull. 36:19–24, 1980.

334—Loveless A. Possible relevance of O^6 alkylation of deoxyguanosine to mutagenicity of nitrosamines and nitrosamides. Nature. 223:206–207, 1969.

335—Ludlum DB, JR Mehta and RF Steiner. physical properties of homopolymers of O^4-methyl- and O^4-ethylguanosine 5'-monophosphate. Biochim. Biophys. Acta. 475:197–205, 1977.

336—Lutz WK. In vivo covalent binding of organic chemicals to DNA as quantitative indication in the process of chemical carcinogenesis. Mutat. Res. 65:289–356, 1979.

337—Magee PN and M Vandekar. Toxic liver injury: The metabolism of dimethylnitrosamine in vitro. Biochem J. 70:600–605, 1958.

338—Marquardt H. DNA: The critical cellular target is chemical carcinogenesis. In: Chemical carcinogens and DNA. Vol. II. PL Grover (Ed.), CRC Press, Boca Raton, FL, 1979. Pages 159 180.

339—McKenna MJ and JA Zempel. The dose-dependent metabolism of ^{14}C-methylene chloride following oral administration to rats. Food Cosmet. Toxicol. 19:73–78, 1981.

340—McKenna MJ, JA Zempel and WH Braun. The pharmacokinetics of inhaled methylene chloride in rats. Tox. Appl. Pharmacol. 65:1–10, 1982.

341—McKenna MJ, JH Saunders, WR Boeckler, RJ Karbowski, KD Nitschke, and MB Cheroweth. 1980. The pharmacokinetics of inhaled methylene chloride in human volunteers (Abstract). Annual Meeting Society of Toxicology, Washington, D.C., March 9–13. Cited by document 301, pages 4–20—4/21.

342—Miller JA and EC Miller. The metabolic activation of chemical carcinogens: Recent results with aromatic amines, safrole and aflatoxin B_1. In: Screening Tests in Chemical Carcinogenesis. Montesano R, H Dartsch and L Tomatis (Eds.), IARC Scientific Publ. No. 12., Lyon, 1976. Pages 153–178.

343—Owens, E.J., et al. Effects of Sub-Acute Inhalation of Methylene Chloride Vapor on Carboxyhemoglobin Levels in Rats. Toxicology Division, Biomedical Laboratory, Edgewood Arsenal, MD. 1976.

344—Perreto JM, MA Lea and CS Yang. The role of microsomes and nuclear envelope in the metabolic activation of benzo[a]pyrene leading to binding with nuclear macromolecules. Cancer Res. 37:3427–3433, 1977.

345—Radman M, P Caillet-Fauquet, M DeFais and G Villani. The molecular mechanism of induced mutations and an in vitro biochemical assay for mutagenesis. In: Screening tests in Chemical Carcinogenesis. Montesano R, H Bartsch and L Tomatis (Eds.). IARC Sci. Publ. No. 12, Lyon, 1976. Pages 537–546.

346—Reitz RH and ME Anderson. Physiologically-based pharmacokinetics and the risk assessment process for methylene chloride (draft). July 15, 1985.

347—Rogan EG and E Cavalieri. 3-methylcholanthrene- inducible binding of aromatic hydrocarbon to DNA in purified rat liver nuclei. Biochem. Biophys. Res. Commun. 58:1119–1126, 1974.

348—Sims P. The metabolism of polycyclic hydrocarbons to dihydrodiols and dio-epoxides by human and animal tissue. In: Screening Tests in Chemical Carcinogenesis. Montesano R, H Bartsch and L Tomatis (Eds.). IARC Sci. Publ. No. 12, Lyon, 1976. Pages 211–224.

349—Sipes IG and AJ Gardolfi. In vitro comparative bioactivation of aliphatic hydrocarbons. In: Mechanisms of Toxicology and Hazard Evaluation, Vol. 8. Holmsted B, R. Lauwerys, M Mercis, and M Roberfroid (Eds.). Elsevier/North Holland, New York, 1980. Pages 501–506.

350—Sipes IG, G Krishna and JR Gillette. Bioactivation of carbon tetrachloride, chloroform and bromotrichloromethane: Role of cytochrome P-450. Life Sci. 20:1541–1548, 1977.

351—Stott WT and PG Watanabe. Differentiation of genetic versus epigenetic mechanisms of toxicity and its application to risk assessment. Drug Metab. Rev. 13:853–873, 1982.

352—Vigny P and M Duquesne. Fluorometric detection of DNAcarcinogen complexes. In: Chemical Carcinogens and DNA. Vol. I. PL Glover (Ed.). CRC Press, Boca Raton, FL, 1979. Pages 85–110.

353—Weisburger JH and GM Williams. Chemical carcinogenesis. In: Cancer Medicine. Holland JF and E Frei III (Eds.). Lea and Febiger, Philadelphia, 1980. Pages 42–95.

Teratogenicity/Reproductive Toxicity References

401—Anders MW and M Sunram. Transplacental passage of dichloromethane and carbon monoxide. Toxicol. Lett. 12:231–234, 1982.

402—Bornschein RL, L Hastings and JM Manson. Behavioral toxicity in the offspring of rats following maternal exposure to dichloromethane. Toxicol. Appl. Pharmacol. 42:29–37, 1980.

403—US Consumer Product Safety Commission staff report. Mutagenicity, Teratogenicity, and Carcinogenicity of Methylene Chloride (Dichloromethane). November 6, 1982.

404—Elovaara E, K Hemminki and H Vainio. Effects of methylene chloride, trichloroethane, trichloroethylene, tetrachloroethylene and toluene on the development of chick embryos. Toxicology 12:111–119, 1979.

405—Fechter LD and Z Annau. Toxicity of mild prenatal carbon monoxide exposure. Science 197:680–682. 1977.

406—Hardin BD and JM Manson. Absence of dichloromethane teratogenicity with inhalation exposure in rats. Toxicol. Appl. Pharmacol. 52:23–28, 1980.

407—Leong BKJ, A Schwetz and PJ Gehring. Embryo and fetotoxicity of inhaled trichloroethylene, perchloroethylene, methyl chloroform and methylene chloride in mice and rats (abstract). Toxicol. Appl. Pharmacol. 33(a):136, 1975.

408—Longo LD. Carbon monoxide in the pregnant mother and fetus and its exchange across the placenta. Ann. N.Y. Acad. Sci. 174:313–341, 1970.

409—Mactutus CF and LD Fechter. Moderate prenatal exposure produces persistent, and apparently permanent, memory deficits in rats. Teratology 31:1–12, 1985.

410—Schwetz FA, BKJ Leong and PJ Gehring. The effect of maternally inhaled trichloroethylene, perchloroethylene, methyl chloroform, and methylene chloride on embryonal and fetal development in mice and rats. Toxicol. Appl. Pharmacol. 32:6496. 1975.

Risk Assessment

501—Crump KS, DG Hoel, CH Langley and R Peto. Fundamental carcinogenic processes and their implications for low dose risk assessment. Cancer Res. 36:2973–2979, 1976.

502—Crump KS, HA Guess and KL Deal. Confidence intervals and test of hypothesis concerning dose response relations inferred from animal carcinogenicity data. Biometrics 33:437–451, 1977.

503—Guess HA and KS Crump. Low-dose-rate extrapolation of data from animal carcinogenicity experiments—analysis of a new statistical technique. Math. Biosciences 32:15–36, 1976.

504—Hoel D. Incorporation of background in dose-response models. Fed. Proc. 39:73–75, 1980.

505—Howe RB and KS Crump. Weibull82—A Computer Program for Risk Assessment Using Time-to-Occurrence Dose-Response Data. KS Crump and Co., Ruston, LA. 1981.

506—Howe RB and KS Crump. Global83 Computer Program. 1983.

507—International Agency for Research on Cancer. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, Vol. 20: Some Halogenated Hydrocarbons, 1979. Pages 440–465.

508—International Agency for Research on Cancer. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, Suppl. 2: Long-Term and Short-Term Screening Assays for Carcinogens: A Critical Appraisal. Lyon, 1980. Page 69.

509—Kovar J and D Krewski. DORES81 (Dose Response 81/Risk 81): A Computer Program for Low Dose Extrapolation of Quantal Response Toxicity Data. Health and Welfare Canada. April 1981.

510—MacMahon B. Incidence trends in North America, Japan and Hawaii. In: Trends in Cancer Incidence. K Magnus (Ed.). Hemisphere Pub., Washington, 1982.

VOL 51 ISS 161 AG 20 1986 UMI

Economic Data Sources

601—Preliminary data from a shelf survey conducted by the U.S. Environmental Protection Agency.

602—Reference Book of Manufacturers. New York: Dun & Bradstreet, Inc. Spring 1985.

603—Dun & Bradstreet Million Dollar Directory, New York: Dun & Bradstreet, Inc. 1985.

604—General Report on Industrial Organization, 1977 Enterprise Statistics, Bureau of the Census, U.S. Department of Commerce.

605—Concentration Ratios in Manufacturing, 1982 Census of Manufactures, Bureau of the Census, U.S. Department of Commerce.

606—13 CFR Part 21, Small Business Size Standards; Revision, U.S. Small Business Administration. 49 FR 5024 (February 9, 1984).

Other (Including CPSC Reports and Staff Documents)

701—CPSC staff report, "Economic Effects of Requiring Cardiopulmonary Warning Labels on Containers of Paint and Varnish Removers," David R. Pomeroy, Division of Special Economic Studies, Hazard Identification and Analysis, April 1978.

702—Hammond EC, IJ Selikoff and H Seidman. Asbestos exposure, cigarette smoking and death rates in health hazards of asbestos exposure. IJ Selikoff and EC Hammond (Eds.). Ann. N.Y. Acad. Sci. 330:473–490, 1979.

703—U.S. Environmental Protection Agency (EPA). Carcinogen Assessment Group. **Federal Register** 45 (231):79350–79355, November 28, 1980.

704—National Academy of Sciences. Indoor pollutants, pp 277–285, 1981.

705—U.S. Consumer Product Safety Commission (CPSC). Mutagenicity, (dichloromethane). November 6, 1982.

706—Memorandum from John A. Moore, D.V.M., Deputy Director, Public Health Service National Toxicology Program, Department of Health and Human Services, to NTP's Executive Committee, "Notice of data discrepancies," with attachments: (1) "Notice of the Cancellation of the Technical Report on Dichloromethane" and (2) "List of Current Studies at Laboratory where Significant Data Discrepancies have been Detected." 5 pp., July 25, 1983.

707—CPSC staff memorandum to the Commission, "Report on Data Discrepancies in NTP Bioassays," 1 p., Aug. 30, 1983.

708—Article, "Paint Strippers: Beware the Hidden Hazard," Popular Mechanics, p. 65, Oct. 1983.

709—U.S. Environmental Protection Agency (EPA). Health Assessment Document for dichloromethane (methylene chloride). Office of Health and Environmental Assessment, December, 1983.

710—Report, Organization for Economic Co-operation and Development, "Labelling of Chemicals—Overview of International Labelling Practices," Paris 1984.

711—Traynor GW, et al. Pollutant Emission Rates from Unvented infrared and Convective Gas-Fired Space Heaters, Lawrence Berkeley Laboratories report 18258, 1984.

712—CPSC staff memorandum to the Commission, "Quarterly Status Report on Chlorocarbon Priority Project," 3 pp, Jan. 5, 1984.

713—Letter dated July 26, 1984, from the National Toxicology Program to Dr. Peter Preuss, Associate Executive Director for Health Sciences, CPSC, reporting preliminary and unverified studies showing "that methylene chloride induces a very high incidence of lung and liver tumors in mice" and describing the status of the NTP inhalational carcinogenesis studies.

714—CPSC staff memorandum (Chemical Hazards Program) to Vice Chairman Saundra Brown Armstrong, responding to questions on priority projects, "Milestones in FY 1985 and FY 1986," July 30, 1984.

715—CPSC staff memorandum from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Priority Project on Chlorocarbons," July 30, 1984, transmitting the response to Commissioner Armstrong's questions on priority projects, dated July 30, 1984, and the letter dated July 26, 1984, from the National Toxicology Program.

716—CPSC staff memorandum, "Draft Protocol for Testing Products for Release of Methylene Chloride," Aug. 22, 1984, transmitting Lawrence Berkeley Laboratory report, "Study Plan, Protocol, Quality Assurance Plan, and Budget for Investigation of Personal Exposure to Methylene Chloride," Aug. 3, 1984.

717—Cook MG and TE Rohan. The Pathophysiology-Epidemiology of Benign Proliferative Epithelial Disorders of the Female Breast. J. Pathol. 146:1–15, 1985.

718—Letter from Marilyn Wind, CPSC Liaison Officer, to Dr. David Grimsrud, Lawrence Berkeley Laboratory, describing the CPSC analyses of paint removers to be used in LBL's study, dated January 24, 1985.

719—Memorandum from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Status of the Priority Project on Chlorocarbons," Feb. 19, 1985.

TAB A—CPSC staff memorandum (Health Sciences) concerning request to OMB for approval of consumer use survey, "Methylene Chloride," Feb. 4, 1985.

TAB B—Letter dated Dec. 2, 1984, to Chairman Nancy Harvey Steorts, CPSC, from Robert P. Bedell, Deputy Administrator for Information and Regulatory Affairs, Office of Management and Budget.

TAB C—Letter from Bert G. Simson, Deputy Executive Director, CPSC, to Andrew Velez-Rivera, Office of Management and Budget requesting clearance for a consumer use survey on chlorocarbons, including methylene chloride, with enclosures:

(1) CPSC staff document, "Response to OMB Questions,"

(2) Standard Form SF 83 with supporting statement and attached questionnaires.

TAB D—CPSC staff memorandum (Economics), "Chlorocarbons Project Support," Feb. 1, 1985; CPSC staff memorandum (Economics), "Laundromats Having Coin-Operated Dry Cleaning Equipment," November 17, 1983.

TAB E—CPSC staff document, "Statistical Considerations Concerning the Chlorocarbon Exposure Survey and the Utilization of a Consumer Panel to obtain the Samples of Users."

720—Office of Science and Technology Policy, "Chemical Carcinogens; A Review of the Science and Its Associated Principles, February 1985," 50 FR 10371–10442 (March 14, 1985).

721—CPSC staff memorandum (Health Sciences) to CPSC's Executive Director, recommending continuation of the chlorocarbon project as a priority project, "Priority Project on Chlorocarbons," May 6, 1985, 7 pp.

722—**Federal Register** notice by the Environmental Protection Agency, "Methylene Chloride; Initiation of Accelerated Review," 50 FR 20126, May 14, 1985.

723—Memorandum from CPSC's Executive Director to the Commission recommending continuation of the chlorocarbon project (including methylene chloride) as a priority project, "Adding Chlorocarbons as a Priority Project for FY 1986," May 21, 1985.

724—CPSC staff briefing package dated June 19, 1985, from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Briefing Package on Methylene Chloride," 131 pp.

TAB A—CPSC staff memorandum, "Health Effects of Methylene Chloride—Summary and Conclusions," April 11, 1985.

TAB B—CPSC staff memorandum, "Preliminary Estimates of Exposure from Methylene Chloride (DCM) Containing Products," April 3, 1985.

TAB C—CPSC staff memorandum, "Inhaled Methylene Chloride Unit Risk Carcinogenic Risk Assessment," March 29, 1985.

TAB D—CPSC staff memorandum, "Current Labeling Practices for Methylene Chloride," May 16, 1985.

TAB E—(1) Letter dated April 18, 1985, from Stephen R. Sides, Manager, Health Affairs, Technical Division, National Paint and Coatings Association ("NPCA"), enclosing NPCA Safety and Health Bulletin No. 56, "Solvent Toxicity." (2) Log of meeting between CPSC staff and NPCA on March 20, 1985.

TAB F—(1) "Statement on Behalf of the Halogenated Solvents Industry Alliance in Regard to NTP Bioassay on Methylene Chloride," to the NTP Board of Scientific Counsellors, March 29, 1985. (2) Log of meeting between CPSC staff and HSIA on April 4, 1985.

TAB G—**Federal Register** notice by the Environmental Protection Agency, "Methylene Chloride; Initiation of Accelerated Review," 50 FR 20128, May 14, 1985.

TAB H—CPSC staff memoranda concerning a proposed system for ranking carcinogens in consumer products:

(1) "Ranking of Carcinogenic Chemicals in Consumer Products," April 30, 1985.

(2) "Commissioner Statler's request for carcinogen hazard comparisons," April 19, 1985.

(3) "Request for Updated Potency Comparison on Methylene Chloride," March 14, 1985.

(4) "Carcinogenic Potency Comparison," May 5, 1983.

725—Transcript of Commission briefing on methylene chloride on June 26, 1985 (unedited), 129 pp.

726—Record of Commission action—June 26, 1985, 2 pp.

727—CPSC staff memorandum dated July 1, 1985, from Sandra Eberle, Program Manager, Chemical Hazards Program, to Sadye Dunn, Secretary, CPSC, "Additional Documents on Methylene Chloride," 116 pp., transmitting the following CPSC staff documents:

(1) "Update—Methylene Chloride Carcinogenicity"

(2) "Methylene Chloride Mutagenicity/ Short Term Tests"

(3) "Exposure/Epidemiology"

(4) "Teratogenicity of Methylene Chloride"

(5) "Covalent Binding of Methylene Chloride"

(6) "Metabolism of Methylene Chloride"

(7) "Review of Halogenated Solvents Industry Alliance (HSIA) Audit of NTP Gavage Bioassay"

(8) "National Coffee Association Bioassay"

728—Addendum to EPA's Health Assessment Document for Dichloromethane (methylene chloride), August 1985.

729—Statement by the Halogenated Solvents Industry Alliance, "Statement by Methylene Chloride Producers on the Consumer Product Safety Commission Staff Briefing Paper," August 22, 1985.

730—Report prepared for Exposure Evaluation Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, by Westat, Inc., and Battelle Columbus Laboratories, "Nationwide Household Survey of Exposure to Products Containing Methylene Chloride and Its Substitutes," August 28, 1985.

731—Petition (No. HP 85-1) from the Consumer Federation of America to commence a proceeding to declare methylene chloride to be a hazardous substance under the Federal Hazardous Substances Act and, upon a finding that it is a hazardous substance, to commence a proceeding to declare it to be a banned hazardous substance, dated August 30, 1985 (received by the Commission's Office of the Secretary Sept. 3, 1985). The petition cited the following documents:

(1) Staelin R, *The Effects of Consumer Education on Consumer Product Safety Behavior*, J. Consumer Research, June 1978 at 30–40.

(2) Adler R and RD Pittle, *Cajolery or Command: Are Education Campaigns an Adequate Substitute for Regulation?*, 1 Yale J. Reg. 159 (1984).

732—Statement by the Halogenated Solvents Industry Alliance, "CPSC Staff Briefing on Methylene Chloride," Sept. 4, 1985.

733—Undated papers supplied by the Halogenated Solvents Industry Alliance: "White Paper on Methylene Chloride," "A Summary of the Primary Uses of Methylene Chloride in Industry and Consumer Products," and "Methylene Chloride: A Significant Solvent in Consumer Products."

734—Industry materials, "Concerns About the Methylene Chloride Bioassay and Risk Assessment" (1 p.) and "Methylene Chloride Background Information" (1 p.).

735—CPSC staff memorandum dated September 5, 1985, from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Methylene Chloride—Additional Information," 66 pp., transmitting the following additional information:

TAB A—CPSC staff memorandum (Economics) [contains restricted economic data]

TAB B—CPSC staff memoranda:

1. "Follow-up of Commission briefing on Methylene Chloride," answering questions from the Commissioners on effect of air conditioners on air exchange rates, concentrations of DCM in paint strippers used in the LBL study, NTP peer review process, and the Edgewood Arsenal Study.

2. "Revised Human Carcinogen Risk Estimates Under Specific Exposure Circumstances for Exposure to Methylene Chloride by Inhalation."

TAB C—"Updated Chart for Ranking of Carcinogens in Consumer Products."

TAB D—Ott *et al., Health evaluation of employees occupationally exposed to methylene chloride*, Scand. J. Work Environ Health 9 (1983): suppl 1, 1–16 [Dow study].

TAB E—(1) Friedlander, *et al., Epidemiologic Investigation of Employees Chronically Exposed to Methylene Chloride*, J. Occupational Med. 20 (Oct. 1978), 657–666. (2) Letter to the Editor, Hearne and J. Friedlander. Occupational Med. 23 (Oct. 1981), 660–61 [Kodak study].

TAB F—Excerpt, Environmental Protection Agency's Health Assessment Document discussing studies noted above at Tab D and Tab E, 5–82 through 5–89.

TAB G—CPSC staff memorandum, "Exposure to Methylene Chloride."

736—Transcript, Industry/CPSC meeting on methylene chloride, September 12, 1985 (unedited), 145 pp.

737—HSIA Statement Before the Consumer Product Safety Commission on Methylene Chloride in Consumer Products, Sept. 12, 1985, 9 pp.

738—Statement of Ralph Engel, President, Chemical Specialties Manufacturers Association, Before the Consumer Product Safety Commission on Methylene Chloride, Sept. 12, 1985, 8 pp.

739—Written Statement *In re* Use of Methylene Chloride in Spray Paints and Paint Strippers On Behalf of National Paint and Coatings Association, Inc., Sept. 12, 1985, 17 pp. and attachments.

740—Written Statement of Jules Rapp on Behalf of the Adhesive and Sealant Council, Inc., Sept. 12, 1985.

741—CPSC staff memorandum to the Commission, "Additional Information on Methylene Chloride," October 1, 1985, 121 pp., transmitting the following:

TAB A—CPSC staff memorandum, "Transmittal of Responses to Issues Raised by Industry on Methylene Chloride" (Health Sciences).

TAB B—CPSC staff memorandum, "Updated or Additional Information About Methylene Chloride" (Economics).

TAB C—Comments from The Adhesive and Sealant Council, Sept. 20, 1985.

TAB D—Report, Girman and Hodgson, Source Characterization and Personal Exposure to Methylene Chloride from Consumer Products, Lawrence Berkeley Laboratory, Sept. 1985.

742—Letter from P. M. Midgley, Mond Liason Manager, ICI Americas Inc., to Chairman Terrence Scanlon, CPSC, transmitting comments that were made to EPA by the CEFIC Methylene Chloride Producers Association, Oct. 2, 1985.

744—Letter dated October 16, 1985, from Sadye E. Dunn, Secretary of the Commission, to Mary Ellen Fise, Product Safety Director, Consumer Federation of America, advising that CFA's August 30, 1985, request had been docketed as a petition to declare methylene chloride a hazardous substance under the FHSA (Petition No. HP 85-1), but that the request did not supply enough information to warrant docketing the request as a petition to declare methylene chloride a banned hazardous substance, 2 pp.

745—CPSC staff memorandum, November 5, 1985, "Transmittal of Meeting Logs Related to Methylene Chloride," 16 pp., transmitting the following:

(1) CPSC staff memorandum, "Methylene Chloride Data," dated Oct. 30, 1985, describing meetings with HSIA on Oct. 15, with Dr. Melvin Anderson (U.S. Air Force) on Oct. 22, and with Dr. Richard Reitz (Dow Chemical U.S.A.) on Oct. 23, with attached meeting logs.

(2) Errata sheet for Oct. 1, 1985, briefing package, Tab A, issue 12.

(3) Memorandum from Stanley L. S. Dombrowski, Dow Chemical U.S.A., "Evaluating Ways to Lower Airborne Levels of Methylene Chloride Generated from Paint Strippers," October 15, 1985.

746—CPSC staff (Health Sciences) memorandum, "Supplemental Discussion of the Consumer Federation of America Petition on Methylene Chloride," Nov. 6, 1985, 3 pp.

747—Letters from Paul A. Cammer, Executive Director, HSIA, to Chairman Terrence Scanlon, CPSC, with comments on the CPSC staff briefing package dated Oct. 1, 1985, and a correction to those comments, Nov. 6, 1985.

748—Minutes of Commission meeting, November 7, 1985.

749—Letter dated December 6, 1985, from Commissioner Stuart M. Statler to Paul F. Oreffice, Chief Executive Officer, Dow Chemical.

750—Letter dated Dec. 16, 1985, from Mary Ellen R. Fise, Product Safety Director, Consumer Federation of America, to Sandra Eberle, CPSC Chemical Hazards Program, concerning DCM in self-pressurized artificial snow products.

751—CPSC Staff briefing package dated Dec. 18, 1985, from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Responses to Commission Questions from the November 7th Briefing."

TAB A—CPSC staff memorandum, "Methylene Chloride," Nov. 25, 1985 (Economics).

TAB B—CPSC staff memorandum, "Answer to Chairman Scanlon's DCM questions on acute vs. chronic labeling," Nov. 25, 1985 (Compliance).

TAB C—CPSC staff memorandum, "Methylene Chloride," Dec. 5, 1985 (Health Sciences).

TAB D—CPSC staff meeting logs: (1) meeting with HSIA on Nov. 21, 1985; (2) meeting with NPCA on Nov. 18, 1985.

752—Federal Register notice published by the Food and Drug Administration, "Cosmetics; Proposed Ban on the Use of Methylene Chloride as an Ingredient of Aerosol Cosmetic Products," 50 FR 51551 (Dec. 18, 1985).

753—Letter from Paul A. Cammer, Executive Director of HSIA, to Sandra Eberle, Program Manager, enclosing HSIA's comments on the Lawrence Berkeley Laboratory Report "Source Characterization and Personal Exposure to Methylene Chloride from Consumer Products," December 19, 1985.

754—Letter dated December 20, 1985, from Mary Ellen Fise, Product Safety Director, Consumer Federation of America, with attached request to amend its September 3, 1985, petition on methylene chloride to include further information supporting its request that the Commission initiate a rulemaking proceeding to declare methylene chloride to be a banned hazardous substance.

755—Letter from Stephen R. Sides and J. Andrew Doyle, NPCA, to Sandra Eberle, CPSC, concerning NPCA activities on methylene chloride, Dec. 26, 1985.

756—CPSC staff memorandum to the Commission, "FDA Action on Methylene Chloride," Dec. 31, 1985.

757—CPSC staff briefing package from Sandra Eberle, Program Manager, Chemical Hazards Program, to the Commission, "Voluntary Action Plan to Reduce Exposure to Methylene Chloride," January 7, 1986.

TAB A—CPSC staff memorandum, "Blueprint, Timeframe, and Resource Estimates for Voluntary Program for Methylene Chloride in Paint Strippers and Spray Paint Products."

TAB B—Letter dated December 19, 1985, from Paul A. Cammer, Executive Director, HSIA, to Sandra Eberle, CPSC Chemical Hazards Program, concerning HSIA's program to lower consumer exposure to methylene chloride.

TAB C—Letter from Stephen R. Sides and J. Andrew Doyle, NPCA, to Sandra Eberle, CPSC Chemical Hazards Program, concerning NPCA's program for methylene chloride.

758—Letter dated January 13, 1986, to CPSC Acting Chairman Carol Dawson from Larry Thomas, Executive Director, NPCA, concerning NPCA's position with regard to consumer exposure to methylene chloride in spray paints and paint strippers.

759—Statement of Larry Thomas, Executive Director, NPCA at the Commission meeting on January 16, 1986.

760—Record of Commission Actions—January 16, 1986.

761—Letter dated January 23, 1986, from Sadye E. Dunn, Secretary of the Commission, to Mary Ellen Fise, Product Safety Director, Consumer Federation of America, advising that the Commission had voted to docket as a petition the amendment to Petition HP 85-1 that CFA had submitted by letter dated December 20, 1985.

762—Letter from the Methylene Chloride Producers Association (CEFIC) to Sandra Eberle, CPSC, transmitting two interim and three final reports covering the first phase of their studies into species difference in response to methylene chloride, Feb. 12, 1986.

763—Telephone log, conversation between Dr. Marilyn Wind, CPSC, and Dr. J. Haseman, member of the IARC Work Group, Feb. 18, 1986.

764—CPSC staff memorandum (Compliance), "Methylene Chloride and the Federal Hazardous Substances Act," Feb. 19, 1986.

765—Memorandum from Commissioner Terrence Scanlon to Dr. Paul H. Rubin, AED for Economics, requesting an economic analysis for various options on methylene chloride, Feb. 21, 1986.

766—CPSC staff memorandum (Health Sciences) to Dr. Paul Rubin, Associate Executive Director ("AED") for Economics, "Your request for a methylene chloride risk calculation," Feb. 25, 1986.

767—Log of meeting of CPSC staff with Dr. Barry Friedlander and Robert Brothers of Eastman Kodak, attended by EPA and FDA staff, Feb. 25, 1986. The meeting discussed Dr. Friedlander's epidemiologic study of Kodak workers.

768—CPSC staff memorandum from Dr. Paul H. Rubin, AED for Economics, to Terrence Scanlon, Commissioner, concerning economic analyses of various options for methylene chloride, Feb. 26, 1986.

769—CPSC staff memorandum (Health Sciences), "Report from Imperial Chemical Industries, Great Britain, on Methylene Chloride Studies," Feb. 25, 1986, with attached CPSC staff memorandum, "Receipt of Reports from Imperial Chemical Industries, ICI," Feb. 25, 1986.

770—Letter from Paul A. Cammer, Executive Director, HSIA, to CPSC Acting Chairman Carol Dawson expressing the view that, without conducting a rulemaking proceeding, a determination by the Commission that methylene chloride is a hazardous substance would not be appropriate. Feb. 26, 1986.

771—Minute of Commission meeting of Feb. 27, 1986, 2 pp.

772—Statement of Commissioner Saundra Brown Armstrong concurring with the Commission decision on methylene chloride, 1 p.

773—Statement of Commissioner Terrence Scanlon on Methylene Chloride, February 28, 1986, 1 p.

774—Dissenting Statement of Commissioner Stuart M. Statler on Methylene Chloride (DCM), Feb. 27, 1986, 1 p.

775—CPSC News Release, "CPSC To Begin Rulemaking Process on Methylene Chloride," February 28, 1986, 2 pp. with attached Commissioners' statements.

776—Letter to Sandra Eberle (CPSC Chemical Hazards Program) from Robert F. Brothers, Director Regulatory Affairs, Eastman Kodak Company, transmitting a copy of a preliminary report on Kodak's epidemiologic study, Feb. 28, 1986.

777—OSHA Instruction PUB 8-1.2, "Guideline for Controlling Exposure to Methylene Chloride," Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, March 10, 1986.

778—Log of March 27, 1986, meeting of the CPSC/NPCA/CFA Steering Committee on Methylene Chloride.

779—Letter from Todd A. Stevenson, CPSC Freedom of Information Officer, to Harold M. Shaw, Esq., with additional information on paint removers used in the LBL study, April 3, 1986.

780—Log of April 17, 1986, meeting of the Steering Committee on Methylene Chloride, April 21, 1986.

781—CPSC staff memorandum (Health Sciences) to Sandra Eberle, Program Manager, "Response to HSIA Comments on LBL Study dated December 19, 1985," dated April 21, 1986.

782—Letter from Sandra Eberle, Program Manager, to Paul Cammer, HSIA, transmitting responses to HSIA's comments on the work done at LBL, April 23, 1986.

783—CPSC staff memorandum, Murray S. Cohn and Amy R. Rock to Andrew G. Ulsamer (HS), "Review of Epidemiological Study on Methylene Chloride (DCM) by Friedlander," April 25, 1986.

784—Memorandum from Sandra Eberle, CPSC Program Manager, to the Commission, "Analysis of Updated Data from Kodak Cohort of Workers Exposed to Methylene Chloride (Friedlander Study)," transmitting 4/25/86 HS memorandum, May 5, 1986.

785—Letter from Dr. M.R. Harris, Regulatory Affairs, Methylene Chloride Producers Association (CEFIC) to Sandra Eberle, CPSC, with an interim report on their studies into species difference in response to methylene chloride, May 6, 1986.

786—Press release from Public Citizen and Consumer Federation of America, "Lawsuit Seeks Order Requiring FDA to Prohibit Use of Carcinogen Methylene Chloride in Decaffeinated Coffee," with attached copy of the Complaint for Declaratory and Injunctive Relief, June 4, 1986.

787—CPSC staff memorandum (Economics), "Regulatory Flexibility Analysis for Methylene Chloride," June 13, 1986.

788—CPSC staff memorandum (Executive Director), "Environmental Assessment of Rulemaking Regarding Labeling of Products Containing Methylene Chloride—Finding of No Significant Impact," June 13, 1986.

789—CPSC staff briefing package, "Methylene Chloride: Report on Voluntary Program and Draft Federal Register Notice Proposing 3(a) Rule," June 19, 1986, with attachments:

TAB A—Log of Meeting #3 of the CPSC/NPCA/CFA Steering Committee on Methylene Chloride with attached "Use Paint Removers Safely" outline and outline of "Methylene Chloride Information Campaign."

TAB B—Draft Federal Register notice, "Household Products Containing Methylene Chloride; Status as Hazardous Substances."

TAB C—CPSC staff memorandum, "Initial Regulatory Flexibility Analysis of Proposed Rulemaking for Methylene Chloride," June 13, 1986; memorandum from CPSC Executive Director, "Environmental Impact of Proposed Labeling Rule for Consumer Products Containing Methylene Chloride."

790—Memorandum to the Commission from the office of the General Counsel, "Proposal to Declare Household Products

Containing Methylene Chloride to Be Hazardous Substances and Voluntary Labeling Program Developed by the Steering Committee on Methylene Chloride," June 19, 1986.

791—Vote sheet for the Commission from CPSC's Office of the General Counsel, "Proposal to Declare Household Products Containing Methylene Chloride to Be Hazardous Substances—VOTE SHEET," June 19, 1986.

792—Letter to Ann Graham, Acting Chairman, CPSC, from Larry L. Thomas, Executive Director, NPCA, and Paul A. Cammer, Executive Director, HSIA, recommending that the Commission consider an attached Statement of Policy as an alternative to the previously recommended rulemaking proceedings, June 24, 1986.

793—Letter from Stephen Brobeck, Executive Director, Consumer Federation of America, to Paul A. Cammer, Executive Director, HSIA, dated June 30, 1986.

794—CPSC staff memorandum to the Commission, "Substitute Pages [6, 27, 48, 65] for Draft **Federal Register** Notice on Methylene Chloride," July 3, 1986.

795—Draft **Federal Register** notice with annotated changes adopted by the Commission at its July 30, 1986, meeting.

[FR Doc. 86-18494 Filed 8-19-86; 8:45 am]
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VOL
51
ISS
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20
1986
UMI

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Part IV

Environmental Protection Agency

40 CFR Parts 264 and 265
Hazardous Waste Land Disposal Facilities; Statistical Procedures for Detecting Ground-Water Contamination

VOL 51 ISS 161 AG 20 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SW-FRL-3045-7]

Hazardous Waste Land Disposal Facilities; Statistical Procedures for Detecting Ground-Water Contamination

AGENCY: Environment Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: EPA promulgated regulations for detecting contamination of ground water at hazardous waste land disposal facilities under the Resource Conservation and Recovery Act of 1976 (RCRA). The methods in the regulations for detecting contamination have been criticized by industry for a number of technical reasons. EPA is considering revision of the regulations. Today EPA is providing advance notice of this proposed rulemaking and requests comments from the public to assist in the regulatory development process.

DATE: EPA will accept comments on this advance notice of proposed rulemaking until October 6, 1986.

ADDRESSES: Send comments to: Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments should be identified as follows: "Docket No. F-86-GWSA-FFFFF, Ground-water Monitoring Statistics."

The public docket for this advance notice of proposed rulemaking is located at EPA RCRA Docket (Sub-basement), 401 M Street, SW., Washington, DC 20460. The docket is open from 9:30 to 3:30 Monday through Friday, except for Federal holidays. Copies of USEPA "Description of Statistical Procedures for Detection of Ground-Water Contamination at Hazardous Waste Land Disposal Facilities" are available for *viewing only* in the RCRA Docket room. The public must make an appointment to review docket materials. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information contact: RCRA/Superfund Hotline, Office of Solid Waste (WH-563C), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (800) 424-9346, or (202) 382-3000. For technical information contact Vern Myers, (202) 382-4658.

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) creates a comprehensive program for the safe management of hazardous waste. Section 3004 of RCRA requires owners and operators of facilities that treat, store, or dispose of hazardous waste to comply with standards established by EPA that are "necessary to protect human health and the environment." Section 3005 provides for implementation of these standards under permits issued to owners and operators by EPA or authorized States. Section 3005 also provides that owners and operators of existing facilities that comply with applicable notice requirements may operate until a permit is issued or denied. This statutory authorization to operate prior to permit determination is commonly known as "interim status." Owners and operators of interim status facilities also must comply with standards set under Section 3004.

EPA promulgated standards for interim status facilities in 1980 (45 FR 33154 (May 19, 1980)), codified in 40 CFR Part 265, Subpart F, and permitted facilities in 1982 (47 FR 32274 (July 26, 1982)), codified in 40 CFR Part 264, Subpart F. Both sets of standards establish programs for protecting ground water from releases of hazardous wastes from treatment, storage, and disposal units. Both programs require owners and operators to sample ground water at specified intervals and use a statistical procedure to determine whether or not hazardous wastes or constituents from the facility are contaminating ground water. As explained in more detail below, the sampling and statistical procedures EPA promulgated in 1980 and 1982 have generated criticism. EPA is today providing advance notice of its intent to consider proposing changes to these rules and solicits public comment on a number of issues it will consider in formulating proposed rules.

II. Existing Regulations in 40 CFR Parts 265 and 264

The ground-water regulations for interim status facilities require that the upgradient well(s) be sampled quarterly for one year (§ 265.92 (c) (1) and (2)). The regulations specify a set of indicator parameters for which concentrations must be measured. An initial background concentration for each parameter must be determined by measuring at least four replicates obtained from each sample from a well(s) located upgradient of the hazardous waste units and calculating an arithmetic mean and variance (§ 265.92(c)(2)). After the first year, the owner or operator must compare concentrations measured at downgradient wells with these background concentrations. The owner or operator must calculate the arithmetic mean and variance of the concentration of each parameter based on at least four replicate measurements for each sample for each downgradient well. The owner or operator must compare the mean concentration at each downgradient well with the initial background concentration mean using the Student's t-test at the .01 significance level to determine statistically significant increases over background (§ 265.93(b)). If these comparisons indicate contamination, the owner or operator must obtain additional samples and determine if the significant increase was due to laboratory error (§ 265.93(c)(2)). If the significant difference is confirmed, the owner or operator must take measures to determine the rate and extent of the contamination (§ 265.93 (d)(4) (i) and (ii)).

The standards for permitted facilities that have not detected ground-water contamination prior to permit issuance require the owner or operator to establish a detection monitoring program. Under this program, the owner or operator must determine background ground-water quality for a site specific set of parameters or constituents by taking a minimum of one sample from each well and a minimum of four samples from the system used to determine background ground-water quality each time the system is sampled (§ 264.97(g)(4)). At least semi-annually (§ 264.98(d)), the owner or operator must take at least four replicate measures of a sample at each downgradient well and determine if the mean of the constituent differs from the mean upgradient using Cochran's Approximation to the Behren's-Fisher Student's t-test (CABF) at the .05 significance level. The owner or operator must repeat the procedure with new samples if this test indicates significance (§ 264.97(h)(1)(i)). The owner or operator may also use an equivalent statistical procedure specified by the Regional Administrator to determine if a statistically significant change has occurred (§ 264.97(h)(1)(ii)).

If a statistically significant increase is found, the owner or operator must sample all monitoring wells to determine the concentration of constituents listed in Appendix VIII of section 261 (see 51 FR 5561 (February 14, 1986) for further

information on Appendix VIII). The owner or operator must also submit an application for a permit modification to establish a compliance monitoring program to monitor the levels of all constituents found in the ground water (§ 264.98(h)). Under this program, the Regional Administrator will specify in the facility permit the ground-water protection standard (§ 264.99(a)). This ground-water protection standard shall include a list of hazardous constituents identified under § 264.93 and concentration limits established under § 264.94. The owner or operator must determine the concentration of hazardous constituents in ground water at each downgradient monitoring well at least quarterly (§ 264.99(d)).

If the owner or operator determines that the ground-water protection standard is being exceeded by showing that a statistically significant increase over the concentration limits for any hazardous constituents has occurred (§ 264.99(h)), he must submit an application for a permit modification to establish a corrective action program (§ 264.99(i)).

III. Changes Under Consideration

EPA is considering changes in the current regulations because the procedures may indicate contamination when it is not present. Concerns have been raised that the statistical procedure in the current regulations is not appropriate for the replicate sampling method, does not adequately consider the number of comparisons that must be made, and does not control for seasonal variation. Specifically, the concerns are that these procedures could result in an owner or operator having to further characterize the site when it may not be necessary. In addition to collecting additional ground-water samples and analyzing for additional constituents, an owner or operator of a permitted facility would have to apply for a permit modification which EPA must review. A second reason EPA is considering changes is that there may be instances where actual contamination goes undetected. This may occur because the mean concentration at the upgradient well is calculated by combining observations which may vary widely over the four quarters rather than comparing upgradient and downgradient concentrations each quarter.

EPA is considering changing the statistical procedure and the sampling and analytic (quality control/quality assurance) requirements in both sets of regulations for the analysis of groundwater quality data. EPA plans to require that the owner or operator more completely characterize the ground water and hydrogeology at the facility. EPA also intends to include a performance standard in the regulations which the statistical procedures and the sampling methods must meet. Such procedures would have a low probability of missing contamination that exists at a facility and a low probability of indicating contamination when it is not present. The facility owner or operator would have to demonstrate that a procedure is appropriate for the conditions at that facility provided that it meets the performance standard outlined below. Specific procedures EPA is considering are identified below.

EPA recognizes that the selection of appropriate monitoring parameters is also important and has a separate effort devoted to this issue (51 FR 5561 (February 14, 1986).

A. Performance Standard

EPA is considering a performance standard that would include the following requirements:

1. The procedure(s) and sampling requirements must be protective of human health and the environment.

2. The owner or operator must determine the statistical distribution of each parameter or constitutent listed in the facility permit. The statistical procedure(s) must be appropriate for the distribution. The owner or operator could demonstrate that the distributions of constitutents differ and, thus, more than one procedure is needed at a facility.

3. The procedure(s) should have a low probability of indicating contamination when it is not present and of failing to detect contamination that is actually there. The owner or operator should consider different numbers of sample points for different constituents or procedures.

4. The procedure(s) should be appropriate for the hydrogeologic setting and the physical layout of the ground-water monitoring system.

5. The owner or operator should describe how observations below the detection limit will be handled in the procedure(s).

6. The owner or operator should consider, or control for, seasonal and spatial variability and temporal correlation in developing the procedure(s).

EPA is evaluating the following statistical procedures and sampling requirements and believes they will meet the performance standard at many facilities.

B. Statistical Procedures

1. Comparisons of individual upgradient wells and downgradient wells using a form of the F-test (parametric) or the Wilcoxon test (non-parametric). The specific forms of these tests EPA is considering are Dunnett's test (parametric) and Steel's test (non-parametric). A publication "Description of Tests for Detecting Ground-Water Contamination at Land Disposal Facilities" describing these procedures is available for viewing in the Docket for this rulemaking.

2. Comparisons of concentrations at downgradient wells to expected concentrations using control charts. This technique is also described in the publication named above.

3. Set the Type I error (probability of indicating contamination when it is not present) level at 0.01 or 0.05.

C. Sampling Requirements

1. Initially, samples should be taken daily for approximately a week each month in order to better characterize the distribution of ground-water constitutents at a facility. The number and frequency of samples may be reduced once the owner or operator has characterized the facility.

2. Conduct comparisons between upgradient and downgradient wells at least two times per year. During each of these sampling periods, the owner or operator must take daily samples for as long as it takes to achieve a reasonable probability of detecting actual contamination.

3. Use replicate samples only as a quality control measure, rather than as a means to gather additional samples to improve the ability of a statistical procedure to detect contamination.

4. Require at least two upgradient wells.

D. Quality Control

EPA plans to require that the owner or operator implement a quality control program for taking ground-water samples and determining concentrations of constituents therein.

E. Demonstrations That Alternate Procedure is More Appropriate

EPA is considering allowing the owner or operator to select the procedure for detecting ground-water contamination. Selecting a procedure other than those recommended by EPA, would require a demonstration that the other procedure is appropriate. Currently, EPA thinks this demonstration should include the following in addition to meeting the peformance standard.

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VOL 51 ISS 161 AG 20 1986 UMI

1. References indicating that the procedure is documented in statistical or mathematical literature.

2. An explicit example showing calculations using data from the facility.

3. A list of the data from the facility.

4. Quality control measures used at the facility.

Part 265 standards for interim status facilities were written to be self-implementing. The ground-water monitoring regulations in Part 265 allow owners and operators to select and use variants of the Student's t-test without EPA review and approval. EPA is considering several options for modifying Part 265 to accommodate the more complex statistical and sampling procedures described today. EPA may try to develop more specific standards that owner or operators could implement without EPA review. Alternatively, EPA may make an exception to the Part 265 approach and require the owner or operator to submit a site-specific statistical procedure and sampling plan for review and approval.

IV. Comments From the Public

There are several approaches to determining if a facility is contaminating the ground-water. Two major differences in approach EPA would like to resolve are:

- Comparisons of concentrations at all wells upgradient against all wells downgradient or comparisons of concentrations at each upgradient well against each downgradient well.
- Comparisons at a point in time or over time.

EPA wants to ensure that ground-water contamination is detected as soon as possible after it occurs.

EPA is soliciting information that will help evaluate the ways to approach determining if a facility is contaminating the groundwater, the performance standard, and the specific approach outlined in the previous section. EPA would like any available data that owners or operators may have to evaluate these items. EPA needs to evaluate the following specific questions or issues:

1. How will the procedures perform in actual practice?

2. How sensitive will the procedures be to different distributions?

3. Type I error (indicating contamination when it is not present) is closely related to Type II error (missing existing contamination). EPA would like the public to provide available data for EPA to use to determine Type II error levels for procedures described in section III B, using the sampling program described in section III C.

4. Are there other statistical procedures or sampling requirements that minimize both Type I and Type II errors? EPA would also like to receive data showing the number of Type II errors expected under any alternate statistical procedure or sampling scheme.

5. Are there modelling or measurement techniques that make it possible to determine the flow path of the ground water from an upgradient well to a particular downgradient well, or to several adjacent downgradient wells?

6. Does transforming data to its logarithm or square root improve conformance to assumptions of a statistical procedure or are there appropriate procedures for untransformed data?

7. EPA needs to take steps to protect human health and the environment while the owner or operator is taking samples to characterize the facility. EPA is considering a simple comparison of mean concentrations rather than a statistical procedure during this period. EPA needs information to use to determine if this would have acceptable Type I and Type II error levels.

8. What Type I and Type II error levels result for the recommended procedures when concentrations of constituents are below the detection limit? What error levels would result for other procedures?

9. Groundwater monitoring data may be autocorrelated. EPA needs information on the degree of autocorrelation at facilities and appropriate corrections such as altering critical values of statistical tests or procedures that might be more appropriate for autocorrelated data.

10. Are intra-well comparisons appropriate for new facilities?

11. EPA needs information that could be used to evaluate the frequency control comparison and to determine an acceptable range for them.

V. Regulatory Analysis

A. Regulatory Flexibility Act

Small businesses should be favorably affected because it is possible that fewer entities will unnecessarily trigger cleanup or extensive ground-water investigations. Thus, fewer will be required to continue the process of modifying the permit. At this point, EPA has not determined the number of small businesses potentially affected in the regulated community, but will investigate this before proposing a rule.

B. Paperwork Reduction Act

This new approach should reduce the total amount of paperwork an owner or operator must complete by reducing the number who must do further characterization of a facility which is falsely identified as contaminating ground water. This further characterization is much more burdensome than additional samples which may be required for revising facility permits. This advance notice of proposed rulemaking is a condition of continuing clearance of the current information collection request.

List of Subjects

40 CFR PART 264

Hazardous material, Insurance, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR PART 265

Hazardous material, Insurance, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

Dated: August 11, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-18648 Filed 8-19-86; 8:45 am]

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Wednesday
August 20, 1986

Part V

Equal Employment Opportunity Commission

29 CFR Part 1620

The Equal Pay Act; Interpretations; Final Rule

VOL 51 ISS 161 AG 20 1986 UMI

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1620

The Equal Pay Act; Interpretations

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Final rules.

SUMMARY: Pursuant to Reorganization Plan No. 1 of 1978 and Exec. Order No. 12144 responsibility for enforcement of the Equal Pay Act was transferred from the Department of Labor to the EEOC. Pursuant to that authority, the EEOC publishes its final interpretations of the Equal Pay Act. With the publication of these final regulations, employers may no longer rely upon the Department of Labor's EPA interpretations at 29 CFR Part 800 or the Department of Labor EPA opinion letters.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, or Kathleen Oram, Staff Attorney, Office of Legal Counsel, Legal Services, EEOC, 2401 E Street, NW., Washington, DC 20507; telephone (202) 634–6690.

SUPPLEMENTARY INFORMATION: Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978) and Exec. Order No. 12144, 44 FR 37193 (June 26, 1979), responsibility and authority for enforcement of the Equal Pay Act of 1963 (EPA), 29 U.S.C. 206(d), was transferred from the Department of Labor (DOL) to the EEOC on July 1, 1979. At that time, the EEOC published a notice in the **Federal Register** which indicated that the EEOC was not adopting the EPA interpretations and opinions of the DOL as its own although employers could continue to rely on them to the extent that they were consistent with statutory revisions and judicial interpretations until the EEOC issued its own interpretations. 44 FR 38671 (July 2, 1979).

On September 1, 1981, the EEOC published its own interpretations of the EPA for comment. *See* 46 FR 43848 (Sept. 1, 1981). Approximately 115 comments were received. Many of the comments were favorable and supportive. More than 75% of the comments addressed the proposed interpretations on fringe benefits. In light of the Department of Labor's long-standing interpretation of the EPA to include all payments made to an employee as remuneration for employment and the Supreme Court's decision in *Arizona Governing Committee, Etc. v. Norris*, 103 S.Ct. 3492, (1983), and its prior holding in *City of Los Angeles Department of Water and Power v. Manhart*, 435 U.S. 702 (1978), the EEOC has decided to retain the sections on fringe benefits [proposed interpretation § 1620.5 (now numbered § 1620.11) and § 1620.4 (now numbered § 1620.10)].

A number of the comments criticized the proposed interpretations because they did not include guidance and examples as detailed as that contained in DOL's interpretations at 29 CFR Part 800. The EEOC's intent in publishing the proposed interpretations was to clarify, update and simplify the prior DOL interpretations. In view of the comments received and upon review of the proposed and former interpretations, the EEOC has decided to add several sections to its interpretations based upon 29 CFR 800.6.–.11, 800.110–.11, 800.115, 800.121–.123, and 800.125–.132. It was decided that the addition of these sections would aid compliance efforts on the part of the public. Accordingly, several sections have been added to the proposed interpretations and all proposed interpretations except for § 1620.1 have been renumbered. In response to some comments received, § 1620.12 as proposed was deleted because the Commission believes that it did not provide adequate guidance. Sections 1620.19 through 1620.26 contain more specific guidance on defenses under the Act.

After reviewing the remaining comments, the EEOC has determined that some modifications to the language of the proposed interpretations are necessary. A discussion of the comments received and the modifications made on each of the proposed sections is contained below.

Section 1620.1 Basic applicability of the Equal Pay Act.

Several comments noted generally that this proposed interpretation lacked sufficient clarity. In the interest of clarity, this section was further edited and modified to better communicate its original content; no substantive changes were made.

Section 1620.2 General coverage of employees "engaged in commerce."

With the exception of minor editorial changes, this section is taken verbatim from 29 CFR 800.6. The changes include only the deletion of the first sentence of the old § 800.6(a) and the deletion of case citations and other references from § 800.6(b).

*Section 1620.3 General coverage of employees "engaged in * * * the production of goods for commerce."*

With the exception of minor editorial changes, this section is taken verbatim from 29 CFR 800.7. Changes include the substitution of new language for the first sentence of the old § 800.7(a), the deletion of case citations, and editorial changes in the same subsection.

Section 1620.4 "Closely related" and "directly essential" activities.

With the exception of minor editorial changes, including making pronoun references gender neutral and deleting case citations, this section is taken verbatim from 29 CFR 800.8.

Section 1620.5 What goods are considered as "produced for commerce."

With this exception of minor editorial changes, including making pronoun references gender neutral and clarifying the second to last sentence, this section is taken verbatim from 29 CFR 800.9.

Section 1620.6 Coverage is not based on amount of covered activity.

With the exception of minor editorial changes, including the deletion of case citations, this section is taken verbatim from 29 CFR 800.10.

Section 1620.7 "Enterprise" coverage.

This section is a fuller explanation of the enterprise concept, adapted from 29 CFR 800.11 and Subpart C of 29 CFR Part 779, and based upon current judicial interpretation.

Section 1620.8 "Employer," "employee," "employ," defined.

Two commentors thought that the last sentence of this section (numbered § 1620.2 in the 1981 proposed interpretations) concerning the possible joint or separate responsibility of two or more employers for the employment of a particular employee was an overly broad interpretation of the EPA's requirements. The Commission disagrees. The possibility that two or more employers could be held jointly or individually responsible for compliance with the Act in appropriate circumstances is well-established. *See* 29 CFR 800.107 and Part 791. In addition, an employer cannot avoid its obligation under the Act by delegating its wage administration decisions to another entity in order to frustrate the purposes of, or escape obligations under, the EPA. The Commission believes that this statement is a correct interpretation of the law.

Section 1620.9 Meaning of "establishment."

This section, numbered §1620.3 in the 1981 proposed interpretations, has been renumbered § 1620.9 in these final interpretations. Several comments characterized this definition of establishment as a departure from the DOL's definition at 29 CFR 800.106. That definition stated that each physically separate place of business is usually considered a separate establishment. There is no intention to change that basic presumption. Subsections (a) and (b) make clear that in the usual case each physically separate place of business will be considered a separate establishment. Portions of subsection (b), however, illustrate that in certain circumstances more than one establishment may be contained in a single place of business or, two or more separate physical places of business may constitute a single establishment. The Commission believes that this section continues in effect the traditional meaning of the term establishment as it has evolved under the FLSA. At the same time, it recognizes the DOL approach which allowed a measure of flexibility whenever called for by the facts of a given case. The section acknowledges that certain factual situations may call for a restricted use of the term while others may call for an expanded use.

The Commission has redrafted the interpretation to make it clear that it intends to continue in effect the DOL interpretation that each separate place of business is ordinarily considered a separate establishment.

Section 1620.10 Meaning of "wages."

The definition contained in this section (numbered § 1620.4 in the 1981 proposed interpretations) tracks the Department of Labor proposed amendments to § 800.110 and § 800.116(d) published at 43 FR 38029 (August 25, 1978), but which were never finalized because of the transfer of Equal Pay Act enforcement responsibility to the EEOC.

Section 1620.11 Fringe benefits.

This section, numbered § 1620.5 in the 1981 proposed interpretations elicited the highest number of responses from commentors. Virtually all of the negative responses (primarily from schools, colleges and insurance companies) cited the cost to the employer of providing equal contributions and benefits in employee pension or retirement plans. Most of the comments also asserted that it was premature (in 1981) to write fringe benefits into the interpretations while litigation interpreting *City of Los Angeles Dept. of Water & Power v. Manhart*, 435 U.S. 702 (1978), was moving through the lower courts, and requested that the Commission delay issuing these regulations pending resolution of the issue in the courts.

During the period of time that these regulations have been under consideration, the courts have given their interpretation of *Manhart*. The resolution of some unanswered issues in *Manhart* came in the Supreme Court's decision in *Arizona Governing Committee, etc. v. Norris*, 103 S. Ct. 3492 (1983). The Court clearly reaffirmed its holding in *Manhart* that the EEOC's statutory interpretation of what constitutes sex-based discrimination in fringe benefits in 29 CFR 1604.9 was the proper one and rejected the Labor Department's interpretation under the Equal Pay Act. The *Norris* majority held unequivocally that "It is just as much discrimination 'because of . . . sex' to pay a woman lower benefits when she has made the same contributions as a man as it is to make her pay larger contributions to obtain the same benefits." 103 S. Ct. at 3499. The Court majority noted in passing that an employer cannot escape liability because he offers some but not all options on a nondiscriminatory basis. 103 S. Ct. at 3497, n.10.

While the Court in *Norris* was not required to decide whether retirement benefits constitute "wages" under the Equal Pay Act, 103 S. Ct. at 3496, n.8, the Commission believes both *Norris* and *Manhart*, which rejected the Labor Department's EPA interpretation regarding contributions to employee benefit plans at 29 CFR 800.116(d), indicate the Court's intention to apply consistent interpretations to both Title VII and the EPA with respect to fringe benefits. *Norris* specifically included fringe benefits within the definition of "compensation" under Title VII. 103 S.Ct. at 3496. The Commission is primarily persuaded because wages have been consistently defined for EPA purposes as "all payments made to an employee as remuneration for employment." 29 CFR 800.110. This definition is adopted unchanged in § 1620.10. *Hodgson v. Robert Hall Clothes, Inc.*, 326 F.Supp. 1264, 1272 (D. Del. 1971), *rev'd on other grounds*, 473 F.2d 589 (3rd Cir.), *cert. denied*, 414 U.S. 866 (1973). *See also, Laffey v. Northwest Airlines*, 366 F.Supp. 763, 789 (D.D.C. 1973), 374 F.Supp. 1382, 1385–86 (D.D.C. 1974), *aff'd* 567 F.2d 429 (D.C. Cir. 1976) ("paying female stewardesses lower salaries *and pensions* than male pursers" violates the EPA), *cert. denied*, 434 U.S. 1086 (1978). Indeed, by the mere inclusion of "employee benefits plans" in the Labor Department examples of equality and inequality of pay in particular situations in 29 CFR 800.116, the applicability of the EPA to employee fringe benefits was recognized. See Opinion Letter No. 1117 (WH–70), August 25, 1970, CCH Wage-Hour Admin. Rulings ¶ 30681. Thus, the Commission believes that all forms of compensation to an employee are to be considered "wages" for EPA purposes. The specific reference to "fringe benefits" in §§ 1620.10 and 1620.11 is intended simply to resolve any doubt as to their inclusion under the concept of wages.

The Supreme Court's decision in *Manhart* and *Norris* would preclude pension adjustments under Title VII for unequal benefits based on contributions made prior to August 1, 1983. These EPA interpretations take no position on the issue of retroactivity for *Manhart* and *Norris* types of cases. Where, unlike the plans involved in *Manhart* and *Norris*, there are neither equal contributions nor equal benefits the Department of Labor's "either or" rule as embodied in 29 CFR 800.116 does not apply. These interpretations continue in effect the valid prohibition of both unequal benefits and unequal contributions embodied in the interpretations in effect since September 5, 1965.

In order to avoid duplicative regulations under Title VII and the EPA, both of which are enforced by the Commission, § 1620.11 is patterned after the pre-existing Title VII regulation that appears at 29 CFR 1604.9 The head of household reference in § 1620.11(c) was modified to conform with the discussion in § 1620.21. Wording in § 1620.11 has been slightly modified to conform to the language of the Equal Pay Act; however, no difference in meaning is intended. Also, the last sentence of 29 CFR 1604.9(f) referring to a General Counsel statement under Title VII is not applicable to the Equal Pay Act and is, therefore, deleted from § 1620.11.

Section 1620.12 Wage "rate."

Subsection (a), numbered § 1620.6 in the 1981 proposed interpretations, was expanded to include additional examples of types of systems of compensation encompassed by the term wage "rate." Furthermore, the use of a general definition of wage "rate" as the "standard or measure by which an employee's wage is determined" is designed to provide guidance in applying the term to other systems of pay not enumerated as examples.

Upon review of the proposed interpretation, subsection (b) was added and is intended to clarify the wage standard to be used for comparison purposes in determining whether a violation of the EPA has occurred.

Section 1620.13 "Equal work"—What it means.

(a) In general. This subsection was numbered § 1620.7 in the 1981 proposed interpretations. One commentor felt that a person could infer from the language of this section that equal work comparisons could be based upon review of dissimilar jobs. The section clearly states that only substantially equal jobs may be compared for EPA purposes. The EEOC believes that the proposed interpretation constitutes a clear and correct statement of the law. Several commentors requested that the constituent criteria of equal work, i.e., equal skill, effort and responsibility, be analyzed in the interpretations in order to facilitate understanding. The EEOC agrees and has added sections to the final interpretations separately discussing and analyzing these concepts. See §§ 1620.14–1620.17. A sentence has been included to emphasize that while in many, if not most, cases, inequality of pay for equal work harms women, the EPA itself is gender neutral and applies as well to those cases in which a man is paid a lesser wage rate than a woman for substantially equal work.

Paragraph (b)(1) of this section is adapted from and incorporates the concepts embodied in 29 CFR 800.114(a). Likewise, paragraph (b)(2) incorporates and restates § 800.114(b), to emphasize the principle that women assigned to take the place of men to perform substantially the same jobs are entitled to the same rate of pay as the men whom they replace. Paragraphs (b) (3) and (4) are new and are intended to illustrate the principles set forth in this section. Judicial authority supporting (b)(4) is found in *Plemer v. Parsons—Gilbane*, 713 F.2d 1127 (5th Cir. 1983); *Clymore v. Far-Mar-Co., Inc.*, 549 F. Supp. 436, 443–44 (N.D. Mo. 1982), *aff'd*, 709 F.2d 499, 503 (8th Cir. 1983); *Hodgson v. Behrens Drug Co.*, 475 F.2d 1041, 1049 (5th Cir.), *cert. denied*, 414 U.S. 822 (1973). Subsection (c) is new language added to illustrate the principle that compliance with the EPA involves more than merely establishing that the dollar amount of wages or salary is equal. If criteria such as seniority, education and experience are applied in determining the rate of pay, those criteria must be applied equally to men and women. *EEOC v. Liggett and Myers Co.*, 690 F.2d 1072, 107778 (4th Cir. 1982); *Hodgson v. American Bank of Commerce*, 447 F.2d 416, 421 (5th Cir. 1971); *Grove v. Frostburg National Bank*, 549 F. Supp. 922, 925 (D. Md. 1982); *Schultz v. Saxonburg Ceramics, Inc.*, 314 F. Supp. 1139, 1146 (W.D. Pa. 1970). Subsection (d) was taken verbatim from 29 CFR 800.115. Subsection (e) was likewise taken verbatim from 29 CFR 800.121.

Section 1620.14 Testing equality of jobs.

With the exception of minor editorial changes, this section is taken verbatim from 29 CFR 800.122 and 800.123.

Section 1620.15 Jobs requiring equal skill in performance.

With the exception of minor editorial changes to update the illustration in paragraph (b), this section is taken verbatim from 29 CFR 800.125 and 800.126.

Section 1620.16 Jobs requiring equal effort in performance.

With the exception of minor editorial changes, this section is taken verbatim from 29 CFR 800.127 and 800.128.

Section 1620.17 Jobs requiring equal responsibility in performance.

With the exception of minor editorial changes, this section is taken verbatim from 29 CFR 800.129 and 800.130.

Section 1620.18 Jobs performed under similar working conditions.

This section, numbered § 1620.9 in the 1981 proposed interpretations, elicited several comments. One commentor stated that limiting working conditions to surroundings and hazards was too narrow; however, the interpretation was intended only to reflect the Supreme Court's interpretation of the term "working conditions" in *Corning Glass Works v. Brennan*, 417 U.S. 188, 202 (1974). The Commission did not intend to narrow that interpretation by the Supreme Court. Two commentors requested that further analysis similar to that contained in DOL's regulations at 29 CFR 800.131 and 800.132 be added to the section. The Commission agrees and has integrated portions of the language of 29 CFR 800.131 and 800.132 into this revised section.

Section 1620.19 Equality of wages—Application of the principle.

Three commentors criticized this section, numbered § 1620.11 in the 1981 proposed interpretations, because it does not state that pay differentials based upon reasons other than sex are permissible under the EPA. The EPA allows pay differentials based upon merit, seniority, quantity or quality of production or any other factor other than sex. Defenses to the Act are discussed in §§ 1620.20 through 1620.24 of these interpretations. There is no need to include them here. The final three sentences, however, have been deleted as being redundant of concepts expressed elsewhere in the interpretations [i.e., § 1620.13 (b)(2) and (b)(3)].

Section 1620.20 Pay differentials claimed to be based on extra duties.

This section was numbered § 1620.8 in the 1981 proposed interpretations. The section explains that the Commission will closely scrutinize reasons for wage differentials between men and women performing equal jobs when the reasons have no relationship to job requirements or job performance. The section recognizes that bona fide factors other than sex for wage differentials may be successfully asserted as affirmative defenses to alleged violations of the EPA. Comments on proposed § 1620.8 generally stated that the examples were overbroad. The examples have been rewritten to be clearer.

Section 1620.21 Head of household.

This section was numbered § 1620.13 in the proposed interpretations. The section makes clear that factors asserted for wage differentials in equal jobs which are in no fashion job-related frequently are not bona fide. Employers are informed that head of household claims will be closely scrutinized.

Section 1620.22 Employment cost factors.

This section, numbered § 1620.14 in the 1981 proposed interpretations, received no comments and is included without change except for minor editorial changes to make references gender neutral.

Section 1620.23 Collective Bargaining Agreements Not a Defense.

Upon review of the proposed interpretations, this section was added to make clear that an employer or labor organization cannot escape the requirements of the EPA merely by including allegedly negotiated unequal rates of pay in a collective bargaining agreement.

Section 1620.24 Time unit for determining violations.

One commentor construed this interpretation, § 1620.10 in the 1981 proposed interpretations, as implying that a work cycle can never be a full year in duration. This is a misconception. An appropriate work

cycle can only be identified in the context of a specific factual situation. Once the appropriate work cycle has been identified for the lower paid sex, a comparison can be made with employees of the higher paid sex during the same or similar work cycle.

Section 1620.26 Red circle rates.

Several commentors objected to subsection (b) of the proposed interpretation, numbered § 1620.15 in the 1981 proposed interpretations, on the ground that it departs from Department of Labor policy and only allows red circle rates on a temporary basis. Upon review, it appears that the language of subsection (b) was unduly rigid. Accordingly, the Commission has returned to the language of 29 CFR 800.146 and 800.147.

Section 1620.27 Relationship of the Equal Pay Act to Title VII of the Civil Rights Act.

Two commentors objected to this section [numbered § 1620.16 in the 1981 proposed interpretations] insofar as they perceive it to be an attempt to interpret Title VII and the EPA as co-extensive. The EEOC does not believe that the two statutes are co-extensive and the proposed interpretation does not so state or imply. Both Title VII and EPA prohibit sex-based wage discrimination; however, Title VII is much broader in its prohibitions than the EPA. Proposed § 1620.26 merely states that any violation of the EPA by an employer who is covered by Title VII will also constitute a violation of Title VII since both statutes prohibit sex-based wage discrimination. This section does not appear to need further clarification. A paragraph (b) has been added to discuss how relief under both statutes is to be computed when violations of both Title VII and the EPA are found. A paragraph (c) has been added to illustrate that Title VII and the EPA are independent remedies.

Sections 1620.28 and 1620.29, numbered §§ 1620.17 and 1620.18, respectively, in the 1981 proposed interpretations, received no comments and are included without substantive change.

Current sections 1620.19 through 1620.23 have been renumbered as sections 1620.30 through 1620.34.

These regulations have been reviewed in accordance with Executive Order 12291 and have been determined not to be a major rule. With the publication of these final regulations, employers may no longer rely upon the Department of Labor's EPA interpretations at 29 CFR Part 800 or the Department of Labor EPA opinion letters.

Signed at Washington, DC, this 8th day of August, 1986.

For the Commission,

Clarence Thomas,

Chairman.

PART 1620—[AMENDED]

Accordingly, 29 CFR Part 1620 is amended as follows:

1. The authority citation for Part 1620 continues to read:

Authority: Sec. 1–10, 52 Stat. 1060, as amended; Sec. 10, 61 Stat. 84; Pub. L. 88–38, 77 Stat. 56 (29 U.S.C. 201, *et seq.*); sec. 1, Reorg. Plan No. 1 of 1978, 43 FR 19807; Executive Order 12144, 44 FR 37193.

2. Sections 1620.19 to 1620.23 are redesignated as §§ 1620.30 to 1620.34, and new §§ 1620.1 to 1620.29 are added.

PART 1620—THE EQUAL PAY ACT

Secs.

1620.1 Basic applicability of the Equal Pay Act.
1620.2 General coverage of employees "engaged in commerce."
1620.3 General coverage of employees "engaged in * * * the production of goods for commerce."
1620.4 "Closely related" and "directly essential" activities.
1620.5 What goods are considered as "produced for commerce."
1620.6 Coverage is not based on amount of covered activity.
1620.7 "Enterprise" coverage.
1620.8 "Employer," "employee," and "employ" defined.
1620.9 Meaning of "establishment."
1620.10 Meaning of "wages."
1620.11 Fringe Benefits.
1620.12 Wage "rate."
1620.13 "Equal Work"—What it means.
1620.14 Testing equality of jobs.
1620.15 Jobs requiring equal skill in performance.
1620.16 Jobs requiring equal effort in performance.
1620.17 Jobs requiring equal responsibility in performance.
1620.18 Jobs performed under similar working conditions.
1620.19 Equality of wages—Application of the principle.
1620.20 Pay differentials claimed to be based on extra duties.
1620.21 Head of Household.
1620.22 Employment Cost not a "factor other than sex."
1620.23 Collective Bargaining Agreements not a defense.
1620.24 Time unit for determining violations.
1620.25 Equalization of rates.
1620.26 Red Circle Rates.
1620.27 Relationship of the Equal Pay Act to Title VII of the Civil Rights Act.
1620.28 Relationship to other equal pay laws.
1620.29 Relationship to other labor laws.

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§ 1620.1 Basic applicability of the Equal Pay Act.

(a) Since the Equal Pay Act, 29 U.S.C. 206(d) (hereinafter referred to as the EPA), is a part of the Fair Labor Standards Act, 29 U.S.C. 201, *et seq.* (hereinafter referred to as the FLSA), it has the same basic coverage as the FLSA with two principal exceptions:

(1) The EPA applies to executive, administrative, and professional employees who are normally exempted from the FLSA for most purposes by section 13(a)(1) of that statute, and

(2) The EPA covers all state and local government employees unless they are specifically exempted under section 3(e)(2)(C) of the FLSA.

(b) The EPA does not apply where the employer has no employees who are engaged in commerce or in the handling of goods that have moved in commerce and the employer is not an enterprise engaged in commerce or in the production of goods for commerce.

(c) Men are protected under the Act equally with women. While the EPA was motivated by concern for the weaker bargaining position of women, the Act by its express terms applies to both sexes.

(d) Most employees of the United States Government, as described in section 3(e)(2) (A) and (B) of the FLSA, are covered by the EPA. Accordingly, these interpretations and principles may generally be applied to federal sector employment.

§ 1620.2 General coverage of employees "engaged in commerce."

(a) Like the FLSA, the EPA applies to employees "engaged in commerce." "Commerce" is broadly defined in section 3(b) of the FLSA. It includes both interstate and foreign commerce and is not limited to transportation across State lines, or to activity of a commercial character. All parts of the movement among the several States, or between any State and any place outside thereof, of persons or things, tangibles or intangibles, including communication of information and intelligence, constitute movement in "commerce within the statutory definition. This includes those parts of any such activity which take place wholly within a single State. In addition, the instrumentalities for carrying on such commerce are so inseparable from the commerce itself that employees working on such instrumentalities within the borders of a single State, by virtue of the contribution made by their work to the movement of the commerce, are "engaged in commerce" within the meaning of the FLSA.

(b) Consistent with the purpose of the FLSA to apply Federal standards "thoughout the farthest reaches of the channels of interstate commerce," the courts have made it clear that the employees "engaged in commerce" include every employee employed in the channels of such commerce or in activities so closely related to such commerce as to be considered a part of it as a practical matter. Engaging "in commerce" includes activities connected therewith such as management and control of the various physical processes, together with the accompanying accounting and clerical activities. Thus, employees engaged in interstate or foreign commerce will typically include, among others, employees in distributing industries such as wholesaling or retailing who sell, transport, handle, or otherwise work on goods moving in interstate or foreign commerce as well as workers who order, receive, guard, pack, ship or keep records of such goods; employees who handle payroll or personnel functions for workers engaged in such activities; clerical and other workers who regularly use the mails, telephone, or telegraph for communication across State lines; and employees who regularly travel across State lines while working. For other examples, see 29 CFR Part 776.

§ 1620.3 General coverage of employees "engaged in * * * the production of goods for commerce."

(a) Like the FLSA, the EPA applies to employees "engaged in * * * the production of goods for commerce." The broad meaning of "commerce" as defined in section 3(b) of the FLSA has been outlind in § 1620.2. "Goods" is also comprehensively defined in section 3(i) of the FLSA and includes "articles or subjects of commerce of any character, or any part or ingredient thereof" not expressly excepted by the statute. The activities constituting "production" of the goods for commerce are defined in section 3(j) of the FLSA. These are not limited to such work as manufacturing but include handling or otherwise working on goods intended for shipment out of the State either directly or indirectly or for use within the State to serve the needs of the instrumentalities or facilities by which interstate or foreign commerce is carried on. Employees engaged in any closely related process or occupation directly essential to such production of any goods, whether employed by the producer or by an independent employer, are also engaged, by definition, in "production." Thus, employees engaged in the administration, planning, management, and control of the various physical processes together with the accompanying clerical and accounting activities are, from a productive standpoint and for purposes of the FLSA, "engaged in the production of goods for commerce."

(b) Employees engaged in the production of goods for interstate or foreign commerce include those who work in manufacturing, processing, and distributing establishments, including wholesale and retail establishments that "produce" (including handling or working on) goods for such commerce. This includes everyone employed in such establishments, or elsewhere in the enterprises by which they are operated, whose activities constitute "production" of such goods under the principles outlined in paragraph (a) of this section. Thus, employees who sell, process, load, pack, or otherwise handle or work on goods which are to be shipped or delivered outside the State either by their employer or by another firm, and either in the same form or as a part or ingredient of other goods, are engaged in the production of goods for commerce within the coverage of the FLSA. So also are the office, management, sales, and shipping personnel, and maintenance, custodial, and protective employees who perform as a part of the integrated effort for the production of the goods for commerce, services related to such production or to such goods or to the plant, equipment, or personnel by which the production is accomplished.

§ 1620.4 "Closely related" and "directly essential" activities.

An employee is engaged in the production of goods for interstate or foreign commerce within the meaning of the FLSA even if the employees's work is not an actual and direct part of such production, so long as the employee is engaged in a process or occupation which is "closely related" and "directly essential" to it. This is true whether the employee is employed by the producer of the goods or by someone else who provides goods or services to the producer. Typical of employees covered under these principles are computer operators, bookkeepers, stenographers, clerks, accountants, and auditors and other office and whitecollar workers, and employees doing payroll, timekeeping, and time study work for the producer of goods; employees in the personnel, labor relations, employee benefits, safety and health, advertising, promotion, and public relations activities of the producing enterprise; work instructors for the producers; employees maintaining, servicing, repairing or improving the buildings, machinery, equipment, vehicles or other facilities used in the production of goods for commerce, and such custodial and productive employees as watchmen, guards, firemen, patrolmen, caretakers, stockroom workers and warehousemen; and transportation workers bringing supplies, materials, or equipment to the producer's premises, removing waste materials therefrom, or transporting materials or other goods, or performing such other transportation activities, as the needs of production may require. These examples are illustrative, rather than exhaustive, of the employees who are "engaged in the production of goods for commerce" by reason of performing activities closely related and directly essential to such production.

§ 1620.5 What goods are considered as "produced for commerce."

Goods (as defined in 3(i) of the FLSA) are "produced for commerce" if they are "produced, manufactured, mined, handled or in any other manner worked on" in any State for sale, trade, transportation, transmission, shipment, or delivery, to any place outside thereof. Goods are produced for commerce where the producer intends, hopes, expects, or has reason to believe that the goods or any unsegregated part of them will move (in the same or in an altered form or as a part of ingredient of other goods) in interstate or foreign commerce. If such movement of the goods in commerce can reasonably be anticipated by the producer when the goods are produced, it makes no difference whether the producer or the person to whom the goods are transferred puts the goods in interstate or foreign commerce. The fact that goods do move in interstate or foreign commerce is strong evidence that the producer intended, hoped, expected, or had reason to believe that they would so move. Goods may also be produced "for commerce" where they are to be used within the State and not transported in any form across State lines. This is true where the goods are used to serve the needs of the instrumentalities or facilities by which interstate or foreign commerce is carried on within the State. For examples, see 29 CFR 776.20.

§ 1620.6 Coverage is not based on amount of covered activity.

The FLSA makes no distinction as to the percentage, volume, or amount of activities of either the employee or the employer which constitute engaged in commerce or in the production of goods for commerce. Every employee whose activities in commerce or in the

production of goods for commerce, even though small in amount, are regular and recurring, is considered "engaged in commerce or in the production of goods for commerce".

§ 1620.7 "Enterprise" coverage.

(a) The terms "enterprise" and "enterprise engaged in commerce or in the production of goods for commerce" are defined in subsections 3(r) and 3(s) of the FLSA. Under the enterprise concept, if a business is an "enterprise engaged in commerce or in the production of goods for commerce," every employee employed in such enterprise or by such enterprise is within the coverage of the EPA unless specifically exempted in the FLSA, regardless of whether the individual employee is actually engaged in commerce or in the production of goods for commerce. The term "enterprise" is not synonymous with the terms "employer" or "establishment" although on occasion the three terms may apply to the same business entity. An enterprise may consist of a single establishment operated by one or more employers. (See definitions of "employer" and "establishment" in §§ 1620.8 and 1620.9.)

(b) In order to constitute an enterprise, the activities sought to be aggregated must be related to each other, they must be performed under a unified operation or common control, and they must be performed for a common business purpose. Activities are related when they are the same or similar, or when they are auxiliary services necessary to the operation and maintenance of the particular business. Activities constitute a unified operation when the activities are operated as a single business unit or economic entity. Activities are performed under common control when the power to direct, restrict, regulate, govern or administer the performance of the activities resides in a single person or entity or when it is shared by a group of persons or entities. Activities are performed for a common business purpose when they are directed to the same or similar business objectives. A determination whether the statutory characteristics of an enterprise are present in any particular case must be made on a case-by-case basis. See generally, Subpart C of 29 CFR Part 779 for a detailed discussion of the term "enterprise" under the FLSA.

§ 1620.8 "Employer," "employee," and "employ" defined.

The words "employer," "employee," and "employ" as used in the EPA are defined in the FLSA. Economic reality rather than technical concepts determines whether there is employment within the meaning of the EPA. The common law test based upon the power to control the manner of performance is not applicable to the determination of whether an employment relationship subject to the EPA exists. An "employer," as defined in section 3(d) of the FLSA, means "any person acting directly or indirectly in the interest of an employer in relation to an employee" and includes a "public agency," as defined in section 3(x). An "employee," as defined in section 3(e) of the FLSA, "means any individual employed by an employer." "Employ," as used in the EPA, is defined in section 3(g) of the FLSA to include "to suffer or permit to work." Two or more employers may be both jointly or severally responsible for compliance with the statutory requirements applicable to employment of a particular employee.

§ 1620.9 Meaning of "establishment."

(a) Although not expressly defined in the FLSA, the term "establishment" had acquired a well settled meaning by the time of enactment of the Equal Pay Act. It refers to a distinct physical place of business rather than to an entire business or "enterprise" which may include several separate places of business. Accordingly, each physically separate place of business is ordinarily considered a separate establishment.

(b) In unusual circumstances, two or more portions of a business enterprise, even though located in a single physical place of business, may constitute more than one establishment. For example, the facts might reveal that these portions of the enterprise are physically segregated, engaged in functionally separate operations, and have separate employees and maintain separate records. Conversely, unusual circumstances may call for two or more distinct physical portions of a business enterprise being treated as a single establishment. For example, a central administrative unit may hire all employees, set wages, and assign the location of employment; employees may frequently interchange work locations; and daily duties may be virtually identical and performed under similar working conditions. Barring unusual circumstances, however, the term "establishment" will be applied as described in subsection (a) of this section.

§ 1620.10 Meaning of "wages."

Under the EPA, the term "wages" generally includes all payments made to [or on behalf of] an employee as remuneration for employment. The term includes all forms of compensation irrespective of the time of payment, whether paid periodically or deferred until a later date, and whether called wages, salary, profit sharing, expense account, monthly minimum, bonus, uniform cleaning allowance, hotel accommodations, use of company car, gasoline allowance, or some other name. Fringe benefits are deemed to be remuneration for employment. "Wages" as used in the EPA (the purpose of which is to assure men and women equal remuneration for equal work) will therefore include payments which may not be counted under section 3(m) of the FLSA toward the minimum wage (the purpose of which is to assure employees a minimum amount of remuneration unconditionally available in cash or in board, lodging or other facilities). Similarly, the provisions of section 7(e) of the FLSA under which some some payments may be excluded in computing an employee's "regular rate" of pay for purposes of section 7 do not authorize the exclusion of any such remuneration from the "wages" of an employee in applying the EPA. Thus, vacation and holiday pay, and premium payments for work on Saturdays, Sundays, holidays, regular days of rest or other days or hours in excess or outside of the employee's regular days or hours of work are deemed remuneration for employment and therefore wage payments that must be considered in applying the EPA, even though not a part of the employee's "regular rate."

§ 1620.11 Fringe benefits.

(a) "Fringe benefits" includes, e.g., such terms as medical, hospital, accident, life insurance and retirement benefits; profit sharing and bonus plans; leave; and other such concepts.

(b) It is unlawful for an employer to discriminate between men and women performing equal work with regard to fringe benefits. Differences in the application of fringe benefit plans which are based upon sex-based actuarial studies cannot be justified as based on "any other factor other than sex."

(c) Where an employer conditions benefits available to employees is the "head of the household" or "principal wage earner" in the family unit, the overall implementation of the plan will be closely scrutinized.

(d) It is unlawful for an employer to make available benefits for the spouses or families of employees of one gender where the same benefits are not made available for the spouses or families of opposite gender employees.

(e) It shall not be a defense under the EPA to a charge of sex discrimination in benefits that the cost of such benefits is

greater with respect to one sex than the other.

(f) It is unlawful for an employer to have a pension or retirement plan which, with respect to benefits, establishes different optional or compulsory retirement ages based on sex or which otherwise differentiates in benefits on the basis of sex.

§ 1620.12 Wage "rate."

(a) The term wage "rate," as used in the EPA, refers to the standard or measure by which an employee's wage is determined and is considered to encompass all rates of wages whether calculated on a time, commission, piece, job incentive, profit sharing, bonus, or other basis. The term includes the rate at which overtime compensation or other special remuneration is paid as well as the rate at which straight time compensation for ordinary work is paid. It further includes the rate at which a draw, advance, or guarantee is paid against a commission settlement.

(b) Where a higher wage rate is paid to one gender than the other for the performance of equal work, the higher rate serves as a wage standard. When a violation of the Act is established, the higher rate paid for equal work is the standard to which the lower rate must be raised to remedy a violation of the Act.

§ 1620.13 "Equal Work"—What it means.

(a) *In general.* The EPA prohibits discrimination by employers on the basis of sex in the wages paid for "equal work on jobs the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions * * *." The word "requires" does not connote that an employer must formally assign the equal work to the employee; the EPA applies if the employer knowingly allows the employee to perform the equal work. The equal work standard does not require that compared jobs be identical, only that they be substantially equal.

(b) *"Male jobs" and "female jobs."*

(1) Wage classification systems which designate certain jobs as "male jobs" and other jobs as "female jobs frequently specify markedly lower rates for the "females jobs." Such practices indicate a pay practice of discrimination based on sex. It should also be noted that it is an unlawful employment practice under Title VII of the Civil Rights Act of 1964 to classify a job as "male" or "female" unless sex is a bona fide occupational qualification for the job.

(2) The EPA prohibits discrimination on the basis of sex in the payment of wages to employees for work on jobs which are equal under the standards which the Act provides. For example, where an employee of one sex is hired or assigned to a particular job to replace an employee of the opposite sex but receives a lower rate of pay than the person replaced, a prima facie violation of the EPA exists. When a prima facie violation of the EPA exists, it is incumbent on the employer to show that the wage differential is justified under one or more of the Act's four affirmative defenses.

(3) The EPA applies when all employees of one sex are removed from a particular job (by transfer or discharge) so as to retain employees of only one sex in a job previously performed interchangeably or concurrently by employees of both sexes. If a prohibited sex-based wage differential had been established or maintained in violation of the EPA when the job was being performed by employees of both sexes, the employer's obligation to pay the higher rate for the job cannot be avoided or evaded by the device of later confining the job to members of the lower paid sex.

(4) If a person of one sex succeeds a person of the opposite sex on a job at a higher rate of pay than the predecessor, and there is no reason for the higher rate other than difference in gender, a violation as to the predecessor is established and that person is entitled to recover the difference between his or her pay and the higher rate paid the successor employee.

(5) It is immaterial that a member of the higher paid sex ceased to be employed prior to the period covered by the applicable statute of limitations period for filing a timely suit under the EPA. The employer's continued failure to pay the member of the lower paid sex the wage rate paid to the higher paid predecessor constitutes a prima facie continuing violation. Also, it is no defense that the unequal payments began prior to the statutory period.

(c) Standards for determining rate of pay. The rate of pay must be equal for persons performing equal work on jobs requiring equal skill, effort, and responsibility, and performed under similar working conditions. When factors such as seniority, education, or experience are used to determine the rate of pay, then those standards must be applied on a sex neutral basis.

(d) Inequalities in pay that raise questions under the Act. It is necessary to scrutinize those inequalities in pay between employees of opposite sexes which may indicate a pattern of discrimination in wage payment that is based on sex. Thus, a serious question would be raised where such an inequality, allegedly based on a difference in job content, is in fact one in which the employee occupying the job purportedly requiring the higher degree of skill, effort, or responsibility receives the lower wage rate. Likewise, because the EPA was designed to eliminate wage rate differentials which are based on sex, situations will be carefully scrutinized where employees of only one sex are concentrated in the lower levels of the wage scale, and where there does not appear to be any material relationship other than sex between the lower wage rates paid to such employees and the higher rates paid to employees of the opposite sex.

(e) *Job content controlling.* Application of the equal pay standard is not dependent on job classifications or titles but depends rather on actual job requirements and performance. For example, the fact that jobs performed by male and female employees may have the same total point value under an evaluation system in use by the employer does not in itself mean that the jobs concerned are equal according to the terms of the statute. Conversely, although the point values allocated to jobs may add up to unequal totals, it does not necessarily follow that the work being performed in such jobs is unequal when the statutory tests of the equal pay standard are applied. Job titles are frequently of such a general nature as to provide very little guidance in determining the application of the equal pay standard. For example, the job title "clerk" may be applied to employees who perform a variety of duties so dissimilar as to place many of them beyond the scope of comparison under the Act. Similarly, jobs included under the title "stock clerk" may include an employee of one sex who spends all or most of his or her working hours in shifting and moving goods in the establishment whereas another employee, of the opposite sex, may also be described as a "stock clerk" but be engaged entirely in checking inventory. In the case of jobs identified by the general title "retail clerk", the facts may show that equal skill, effort, and responsibility are required in the jobs of male and female employees notwithstanding that they are engaged in selling different kinds of merchandise. In all such situations, the application of the equal pay standard will have to be determined by applying the terms of the Act to the specific facts involved.

§ 1620.14 Testing equality of jobs.

(a) *In general.* What constitutes equal skill, equal effort, or equal responsibility

cannot be precisely defined. In interpreting these key terms of the statute, the broad remedial purpose of the law must be taken into consideration. The terms constitute separate tests, each of which must be met in order for the equal pay standard to apply. It should be kept in mind that "equal" does not mean "identical." Insubstantial or minor differences in the degree or amount of skill, or effort, or responsibility required for the performance of jobs will not render the equal pay standard inapplicable. On the other hand, substantial differences, such as those customarily associated with differences in wage levels when the jobs are performed by persons of one sex only, will ordinarily demonstrate an inequality as between the jobs justifying differences in pay. However, differences in skill, effort or responsibility which might be sufficient to justify a finding that two jobs are not equal within the meaning of the EPA if the greater skill, effort, or responsibility has been required of the higher paid sex, do not justify such a finding where the greater skill, effort, or responsibility is required of the lower paid sex. In determining whether job differences are so substantial as to make jobs unequal, it is pertinent to inquire whether and to what extent significance has been given to such differences in setting the wage levels for such jobs. Such an inquiry may, for example, disclose that apparent differences between jobs have not been recognized as relevant for wage purposes and that the facts as a whole support the conclusion that the differences are too insubstantial to prevent the jobs from being equal in all significant respects under the law.

(b) *Illustrations of the concept.* Where employees of opposite sexes are employed in jobs in which the duties they are required to perform and the working conditions are substantially the same, except that an employee of one sex is required to perform some duty or duties involving a higher skill which an employee of the other sex is not required to perform, the fact that the duties are different in this respect is insufficient to remove the jobs from the application of the equal pay standard if it also appears that the employer is paying a lower wage rate to the employee performing the additional duties notwithstanding the additional skill which they involve. In other situations, where employees of the opposite sex are employed in jobs which are equal in the levels of skill, effort, and responsibility required for their performance, it may be alleged that the assignment to employees of one sex but not the other of certain duties requiring less skill makes the jobs too different for comparison under the equal pay provisions. But so long as the higher level of skill is required for the performance of the jobs occupied by employees of both sexes, the fact that some of the duties assigned to employees of one sex require less skill than the employee must have for the job as a whole does not warrant any conclusion that the jobs are outside the purview of the equal pay standard.

(c) *Determining equality of job content in general.* In determining whether employees are performing equal work within the meaning of the EPA, the amounts of time which employees spend in the performance of different duties are not the sole criteria. It is also necessary to consider the degree of difference in terms of skill, effort, and responsibility. These factors are related in such a manner that a general standard to determine equality of jobs cannot be set up solely on the basis of a percentage of time. Consequently, a finding that one job requires employees to expend greater effort for a certain percentage of their working time than employees performing another job, would not in itself establish that the two jobs do not constitute equal work. Similarly, the performance of jobs on different machines or equipment would not necessarily result in a determination that the work so performed is unequal within the meaning of the statute if the equal pay provisions otherwise apply. If the difference in skill or effort required for the operation of such equipment is inconsequential, payment of a higher wage rate to employees of one sex because of a difference in machines or equipment would constitute a prohibited wage rate differential. Where greater skill or effort is required from the lower paid sex, the fact that the machines or equipment used to perform substantially equal work are different does not defeat a finding that the EPA has been violated. Likewise, the fact that jobs are performed in different departments or locations within the establishment would not necessarily be sufficient to demonstrate that unequal work is involved where the equal pay standard otherwise applies. This is particularly true in the case of retail establishments, and unless a showing can be made by the employer that the sale of one article requires such higher degree of skill or effort than the sale of another article as to render the equal pay standard inapplicable, it will be assumed that the salesmen and saleswomen concerned are performing equal work. Although the equal pay provisions apply on an establishment basis and the jobs to be compared are those in the particular establishment, all relevant evidence that may demonstrate whether the skill, effort, and responsibility required in the jobs in the particular establishment are equal should be considered, whether this relates to the performance of like jobs in other establishments or not.

§ 1620.15 Jobs requiring equal skill in performance.

(a) *In general.* The jobs to which the equal pay standard is applicable are jobs requiring equal skill in their performance. Where the amount or degree of skill required to perform one job is substantially greater than that required to perform another job, the equal pay standard cannot apply even though the jobs may be equal in all other respects. Skill includes consideration of such factors as experience, training, education, and ability. *It must be measured in terms of the performance requirements of the job.* If an employee must have essentially the same skill in order to perform either of two jobs, the jobs will qualify under the EPA as jobs the performance of which requires equal skill, even though the employee in one of the jobs may not exercise the required skill as frequently or during as much of his or her working time as the employee in the other job. *Possession of a skill not needed to meet the requirements of the job cannot be considered in making a determination regarding equality of skill.* The efficiency of the employee's performance in the job is not in itself an appropriate factor to consider in evaluating skill.

(b) Comparing skill requirements of jobs. As a simple illustration of the principle of equal skill, suppose that a man and a woman have jobs classified as administrative assistants. Both jobs require them to spend two-thirds of their working time facilitating and supervising support-staff duties, and the remaining one-third of their time in diversified tasks, not necessarily the same. Since there is no difference in the skills required for the vast majority of their work, whether or not these jobs require equal skill in performance will depend upon the nature of the work performed during the latter period to meet the requirements of the jobs.

§ 1620.16 Jobs requiring equal effort in performance.

(a) *In general.* The jobs to which the equal pay standard is applicable are jobs that require equal effort to perform. Where substantial differences exist in the amount or degree of effort required

VOL 51 ISS 161 AG 20 1986 UMI

to be expended in the performance of jobs, the equal pay standard cannot apply even though the jobs may be equal in all other respects. Effort is concerned with the measurement of the physical or mental exertion needed for the performance of a job. Job factors which cause mental fatigue and stress, as well as those which alleviate fatigue, are to be considered in determining the effort required by the job. "Effort" encompasses the total requirements of a job. Where jobs are otherwise equal under the EPA, and there is no substantial difference in the amount or degree of effort which must be expended in performing the jobs under comparison, the jobs may require equal effort in their performance even though the effort may be exerted in different ways on the two jobs. Differences only in the kind of effort required to be expended in such a situation will not justify wage differentials.

(b) Comparing effort requirements of jobs. To illustrate the principle of equal effort exerted in different ways, suppose that a male checker employed by a supermarket is required to spend part of his time carrying out heavy packages or replacing stock involving the lifting of heavy items whereas a female checker is required to devote an equal degree of effort during a similar portion of her time to performing fill-in work requiring greater dexterity—such as rearranging displays of spices or other small items. The difference in kind of effort required of the employees does not appear to make their efforts unequal in any respect which would justify a wage differential, where such differences in kind of effort expended to perform the job are not ordinarily considered a factor in setting wage levels. Further, the occasional or sporadic performance of an activity which may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal effort. Suppose, however, that men and women are working side by side on a line assembling parts. Suppose further that one of the men who performs the operations at the end of the line must also lift the assembly, as he completes his part of it, and places it on a waiting pallet. In such a situation, a wage rate differential might be justified for the person (but only for the person) who is required to expend the extra effort in the performance of his job, provided that the extra effort so expended is substantial and is performed over a considerable portion of the work cycle. In general, a wage rate differential based on differences in the degree or amount of effort required for performance of jobs must be applied uniformly to men and women. For example, if all women and some men performing a particular type of job never perform heavy lifting, but some men do, payment of a higher wage rate to all of the men would constitute a prohibited wage rate differential if the equal pay provisions otherwise apply.

§ 1620.17 Jobs requiring equal responsibility in performance.

(a) *In general.* The equal pay standard applies to jobs the performance of which requires equal responsibility. Responsibility is concerned with the degree of accountability required in the performance of the job, with emphasis on the importance of the job obligation. Differences in the degree of responsibility required in the performance of otherwise equal jobs over a wide variety of situations. The following illustrations in subsection (b), while by no means exhaustive, may suggest the nature or degree of differences in responsibility which will constitute unequal work.

(b) *Comparing responsibility requirements of jobs.*

(1) There are many situations where one employee of a group performing jobs which are equal in other respects is required from time to time to assume supervisory duties for reasons such as the absence of the regular supervisor. Suppose, for instance, that it is the employer's practice to pay a higher wage rate to such a "relief" supervisor with the understanding that during the intervals in which the employee performs supervisory duties the employee is in training for a supervisory position. In such a situation, payment of the higher rate to the employee might well be based solely on the additional responsibility required to perform the job and the equal pay provisions would not require the same rates to be paid to an employee of the opposite sex in the group who does not have an equal responsibility. There would clearly be no question concerning such a wage rate differential if the employer pays the higher rate to both men and women who are called upon from time to time to assume such supervisory responsibilities.

(2) Other differences in responsibilities of employees in generally similar jobs may require similar conclusions. Sales clerks, for example, who are engaged primarily in selling identical or similar merchandise may be given different responsibilities. Suppose that one employee of such a group (who may be either a man or a woman) is authorized and required to determine whether to accept payment for purchases by personal checks of customers. The person having this authority to accept personal checks may have a considerable, additional degree of responsibility which may materially affect the business operations of the employer. In this situation, payment of a higher wage rate to this employee would be permissible.

(3) On the other hand, there are situations where one employee of the group may be given some minor responsibility which the others do not have (e.g., turning out the lights in his or her department at the end of the business day) but which is not of sufficient consequence or importance to justify a finding of unequal responsibility. As another example of a minor difference in responsibility, suppose that office employees of both sexes work in jobs essentially alike but at certain intervals a male and female employee performing otherwise equal work within the meaning of the statute are responsible for the office payroll. One of these employees may be assigned the job of checking time cards and compiling the payroll list. The other, of the opposite sex, may be required to make out paychecks, or divide up cash and put the proper amounts into pay envelopes after drawing a payroll check. In such circumstances, although some of the employees' duties are occasionally dissimilar, the difference in responsibility involved would not appear to be of a kind that is recognized in wage administration as a significant factor in determining wage rates. Under such circumstances, this difference would seem insufficient to justify a wage rate differential between the man's and woman's job if the equal pay provisions otherwise apply.

§ 1620.18 Jobs performed under similar working conditions.

(a) *In general.* In order for the equal pay standard to apply, the jobs are required to be performed under similar working conditions. It should be noted that the EPA adopts the flexible standard of similarity as a basis for testing this requirement. In determining whether the requirement is met, a practical judgment is required in light of whether the differences in working conditions are the kind customarily taken into consideration in setting wage levels. The mere fact that jobs are in different departments of an establishment will not necessarily mean that the jobs are performed under dissimilar working conditions. This may or may not be the case. The term "similar working conditions" encompasses two subfactors: "surroundings" and "hazards."

"Surroundings" measure the elements, such as toxic chemicals or fumes, regularly encountered by a worker, their intensity and their frequency. "Hazards" take into account the physical hazards regularly encountered, their frequency and the severity of injury they can cause. The phrase "working conditions" does not encompass shift differentials.

(b) *Determining similarity of working conditions.* Generally, employees performing jobs requiring equal skill, effort, and responsibility are likely to be performing them under similar working conditions. However, in situations where some employees performing work meeting these standards have working conditions substantially different from those required for the performance of other jobs, the equal pay principle would not apply. On the other hand, slight or inconsequential differences in working conditions which are not usually taken into consideration by employers or in collective bargaining in setting wage rates would not justify a differential in pay.

§ 1620.19 Equality of wages—application of the principle.

Equal wages must be paid in the same medium of exchange. In addition, an employer would be prohibited from paying higher hourly rates to all employees of one sex and then attempting to equalize the differential by periodically paying employees of the opposite sex a bonus. Comparison can be made for equal pay purposes between employees employed in equal jobs in the same establishment although they work in different departments.

§ 1620.20 Pay differentials claimed to be based on extra duties.

Additional duties may not be a defense to the payment of higher wages to one sex where the higher pay is not related to the extra duties. The Commission will scrutinize such a defense to determine whether it is bona fide. For example, an employer cannot successfully assert an extra duties defense where:

(a) Employees of the higher paid sex receive the higher pay without doing the extra work;

(b) Members of the lower paid sex also perform extra duties requiring equal skill, effort, and responsibility;

(c) The proffered extra duties do not in fact exist;

(d) The extra task consumes a minimal amount of time and is of peripheral importance; or

(e) Third persons (i.e., individuals who are not in the two groups of employees being compared) who do the extra task as their primary job are paid less than the members of the higher paid sex for whom there is an attempt to justify the pay differential.

§ 1620.21 Head of household.

Since a "head of household" or "head of family" status bears no relationship to the requirements of the job or to the individual's performance on the job, such a claimed defense to an alleged EPA violation will be closely scrutinized as stated in § 1620.11(c).

§ 1620.22 Employment cost not a "factor other than sex."

A wage differential based on claimed differences between the average cost of employing workers of one sex as a group and the average cost of employing workers of the opposite sex as a group is discriminatory and does not qualify as a differential based on any "factor other than sex," and will result in a violation of the equal pay provisions, if the equal pay standard otherwise applies.

§ 1620.23 Collective bargaining agreements not a defense.

The establishment by collective bargaining or inclusion in a collective bargaining agreement of unequal rates of pay does not constitute a defense available to either an employer or to a labor organization. Any and all provisions in a collective bargaining agreement which provide unequal rates of pay in conflict with the requirements of the EPA are null and void and of no effect.

§ 1620.24 Time unit for determining violations.

In applying the various tests of equality to the requirements for the performance of particular jobs, it is necessary to scrutinize each job as a whole and to look at the characteristics of the jobs being compared over a full work cycle. For the purpose of such a comparison, the appropriate work cycle to be determined would be that performed by members of the lower paid sex and a comparison then made with job duties performed by members of the higher paid sex during a similar work cycle. The appropriate work cycle will be determined by an examination of the facts of each situation. For example, where men and women custodial workers in a school system perform equal work during the academic year, but the men perform additional duties in the summer months, the appropriate work cycle for EPA purposes would be the academic year. In that instance, the additional summer duties would not preclude the application of the equal pay standard or justify the higher wage rate for men for the period when the work was equal.

§ 1620.25 Equalization of rates.

Under the express terms of the EPA, when a prohibited sex-based wage differential has been proved, an employer can come into compliance only by raising the wage rate of the lower paid sex. The rate-reduction provision of the EPA prohibits an employer from attempting to cure a violation by hiring or transferring employees to perform the previously lower-paid job at the lower rate. Similarly, the departure of the higher paid sex from positions where a violation occurred, leaving only members of the lower paid sex being paid equally among themselves, does not cure the EPA violations.

§ 1620.26 Red circle rates.

(a) The term "red circle" rate is used to describe certain unusual, higher than normal, wage rates which are maintained for reasons unrelated to sex. An example of bona fide use of a "red circle" rate might arise in a situation where a company wishes to transfer a long-service employee, who can no longer perform his or her regular job because of ill health, to different work which is now being performed by opposite gender-employees. Under the "red circle" principle the employer may continue to pay the employee his or her present salary, which is greater than that paid to the opposite gender employees, for the work both will be doing. Under such circumstances, maintaining an employee's established wage rate, despite a reassignment to a less demanding job, is a valid reason for the differential even though other employees performing the less demanding work would be paid at a lower rate, since the differential is based on a factor other than sex. However, where wage rate differentials have been or are being paid on the basis of sex to employees performing equal work, rates of the higher paid employees may not be "red circled" in order to comply with the EPA. To allow this would only continue the inequities which the EPA was intended to cure.

(b) For a variety of reasons an employer may require an employee, for a short period, to perform the work of a job classification other than the employee's regular classification. If the employee's rate for his or her regular job is higher than the rate usually paid for the work to which the employee is temporarily reassigned, the employer may continue to pay the higher rate under the "red circle" principle. For instance, an employer who must reduce help in a skilled job may transfer employees to less demanding work

without reducing their pay, in order to have them available when they are again needed for their former jobs. Although employees traditionally engaged in performing the less demanding work would be paid at a lower rate than those employees transferred from the more skilled jobs, the resultant wage differential would not constitute a violation of the equal pay provisions since the differential is based on factors other than sex. This would be true during the period of time for which the "red circle" rate is bona fide. Temporary reassignments may also involve the opposite relationship of wage rates. Thus, an employee may be required, during the period of temporary reassignment, to perform work for which employees of the opposite sex are paid a higher wage rate than that paid for the duties of the employee's regular job classification. In such a situation, the employer may continue to pay the reassigned employee at the lower rate, if the rate is not based on quality or quantity of production , and if the reassignment is in fact a temporary one. If, however, a piece rate is paid employees of the opposite sex who perform the work to which the employee in question is reassigned, failure to pay the reassigned employee the same piece rate paid such other employees would raise questions of discrimination based on sex. Also, failure to pay the higher rate to a reassigned employee after it becomes known that the reassignment will not be of a temporary nature would raise a question whether sex rather than the temporary nature of the assignment is the real basis for the wage differential. Generally, failure to pay the higher rate to an employee reassigned for a period longer than one month will raise questions as to whether the reassignment was in fact intended to be temporary.

§1620.27 Relationship to the Equal Pay Act of Title VII of the Civil Rights Act.

(a) In situations where the jurisdictional prerequisites of both the EPA and Titel VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 200e *et seq.*, are satisfied, any violation of the Equal Pay Act is also a violation of Title VII. However, Title VII covers types of wage discrimination not actionable under the EPA. Therefore, an act or practice of an employer or labor organization that is not a violation of the EPA may nevertheless be a violation of Title VII.

(b) Recovery for the same period of time may be had under both the EPA and Title VII so long as the same individual does not receive duplicative relief for the same wrong. Relief is computed to give each individual the highest benefit which entitlement under either statute would provide. (e.g., liquidated damages may be available under the EPA but not under Title VII.) Relief for the same individual may be computed under one statute for one or more periods of the violation and under the other statute for other periods of the violation.

(c) The right to equal pay under the Equal Pay Act has no relationship to whether the employee is in the lower paying job as a result of discrimination in violation of Title VII. Under the EPA a prima facie violation is established upon a showing that an employer pays different wages to employees of opposite sexes for equal work on jobs requiring equal skill, effort and responsibility, and which are performed under similar working conditions. Thus, the availability of a remedy under Title VII which would entitle the lower paid employee to be hired into, or to transfer to, the higher paid job does not defeat the right of each person employed on the lower paid job to the same wages as are paid to a member of the opposite sex who receives higher pay for equal work.

§ 1620.28 Relationship to other equal pay laws.

The provisions of various State or local laws may differ from the equal pay provisions set forth in the FLSA. No provisions of the EPA will excuse noncompliance with any State or other law establishing fewer defenses or more liberal work criteria than those of the EPA. On the other hand, compliance with other applicable legislation will not excuse violations of the EPA.

§ 1620.29 Relationship to other labor laws.

If a higher minimum wage than that required under the FLSA is applicable to a particular sex pursuant to State law, and the employer pays the higher State minimum wage to male or female employees, it must also pay the higher rate to employees of the opposite sex for equal work in order to comply with the EPA. Similarly, if overtime premiums are paid to members of one sex because of a legal requirement, such premiums must also be paid to employees of the other sex.

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Wednesday
August 20, 1986

Part VI

Office of Management and Budget

Congressional Budget Office

Initial Sequestration Report for Fiscal Year 1987—A Joint Report to the Congress of the United States

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OFFICE OF MANAGEMENT AND BUDGET

CONGRESSIONAL BUDGET OFFICE

Initial Sequestration Report for Fiscal Year 1987—A Joint Report to the Congress of the United States

AGENCY: Office of Management and Budget, Congressional Budget Office.

ACTION: Report transmittal.

SUMMARY: This notice transmits the initial Sequestration Report for Fiscal Year 1987 to the Congress of the United States in accordance with the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99–177.

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Congressional Budget Office
Congress of the United States

Office of Management and Budget
Executive Office of the President

August 20, 1986

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

In accordance with the alternative procedures of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office do hereby submit to you our initial Sequestration Report for Fiscal Year 1987.

This joint report estimates budget levels for 1987 following the specifications set forth in the Act. The budget estimates are based on laws and regulations in effect on August 15, 1986, and on appropriations for fiscal year 1986, because no appropriations for 1987 have been enacted. Since the projected deficit exceeds the maximum deficit amount by more than $10 billion, the report also calculates the amounts and percentages by which various budgetary resources must be sequestered to eliminate the deficit excess.

The report is in two parts: a summary and an appendix that provides a detailed listing of all sequestration reductions by agency and budget account. The summary section includes our economic assumptions and a discussion of conceptual differences regarding the application of P.L. 99-177 to a number of budget accounts. The report does not contain a listing of sequestration reductions for defense programs, projects, and activities because no defense appropriations bills for 1987 have been enacted.

With best wishes,

Sincerely yours,

Rudolph G. Penner
Director
Congressional Budget Office

James C. Miller III
Director
Office of Management and Budget

IDENTICAL LETTERS SENT TO HONORABLE THOMAS P. O'NEILL JR., HONORABLE PETE V. DOMENICI, HONORABLE WILLIAM H. GRAY III

VOL 51 ISS 161 AG 20 1986 UMI

CONTENTS

	Page
LETTER OF TRANSMITTAL	
INTRODUCTION	1
BUDGET BASE LEVELS	2
ECONOMIC ASSUMPTIONS	4
SEQUESTERABLE RESOURCES	6
SEQUESTRATION CALCULATIONS	10
AUTOMATIC SPENDING INCREASES	12
SPECIAL RULES	14
Guaranteed Student Loan Program	14
Foster Care and Adoption Assistance Programs	14
Medicare	15
Veterans Medical Care and Other Health Programs	15
Child Support Enforcement Program	15
Unemployment Compensation Programs	15
Commodity Credit Corporation	16
Mine Workers Disability Compensation	16
Federal Pay	16
Defense Contracts	17
SEQUESTRATION REDUCTIONS	17
CONCEPTUAL ISSUES	21
Appropriated Entitlements	21
Pay Raises	22
Washington Metropolitan Area Transit Authority and Other Interest Payment Programs	23
Veterans Administration Policy Loans	25
Impact of Conceptual Differences	26
APPENDIX: SEQUESTRATION REDUCTIONS BY AGENCY AND BUDGET ACCOUNT	27
TABLES	
1. Budget Base Levels for 1987	3
2. Differences Between OMB and CBO Baseline Deficits	4
3. Economic Assumptions	5
4. Real Economic Growth Rates by Quarter	5
5. Base Level Outlay Estimates for 1987	9
6. Sequestration Calculations for 1987	11
7. Automatic Spending Increases for 1987 Subject to Sequestration	13
8. Defense Program Sequestrations for 1987	18
9. Nondefense Program Sequestrations for 1987 by Function	19
10. Sequestrations for 1987 by Agency	20

GENERAL NOTES

1. All years referred to are fiscal years unless otherwise noted.
2. Details in the tables and text may not add to totals because of rounding.
3. The sources for all data in this report are the Congressional Budget Office and the Office of Management and Budget, unless otherwise noted.

INTRODUCTION

The Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) stipulates that budget deficits must be decreased annually and specifies measures that must be taken to achieve this result. The maximum deficit amounts specified by the Act are:

Fiscal Year	Maximum Deficit (in billions of dollars)
1987.....	144.0
1988.....	108.0
1989.....	72.0
1990.....	36.0
1991.....	zero

The Act provides that a deficit estimate that exceeds the maximum level by any amount in 1986 and 1991, or by more than $10 billion in 1987-1990, triggers an automatic spending reduction procedure to eliminate the excess deficit through the "sequestration" of budgetary resources. Except for special and trust funds, sequestration is the permanent cancellation of new budget authority and other authority to obligate and expend funds. (Amounts sequestered in special and trust funds remain in such funds.)

For 1986, the automatic procedure took place between January and March. In July, however, the Supreme Court ruled the procedure by which the sequestration occurred was unconstitutional because the Act violated the principle of separation of powers by granting the Comptroller General final authority to determine the size and composition of the sequestration the President must order. The Act contains a "fallback" mechanism (described below) that was implemented after the Supreme Court's decision that the Comptroller General's role was unconstitutional. The Congress passed a joint resolution reaffirming the 1986 reductions made earlier, and the President signed it (Public Law 99-366).

Under the fallback mechanism, the first step in the sequestration process for 1987 is submission of this joint report by the Director of the Office of Management and Budget (OMB) and the Director of the Congressional Budget Office (CBO) to the Congress. The report will be referred to the Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the House and Senate Budget Committees. The report:

- o estimates budget base levels, including the amount by which the projected deficit exceeds the maximum deficit amount for the fiscal year covered by the report;

- o provides OMB and CBO economic assumptions, including the estimated rate of real economic growth; and

- o calculates the amounts and percentages by which various budgetary resources must be sequestered in order to eliminate any deficit excess.

This document is the Directors' initial report for 1987. The budget estimates reflect laws and regulations in effect on August 15, 1986. A revised report will be submitted on October 6. That report will reflect laws enacted and regulations promulgated after August 15 that affect the 1987 budget. If either report estimates a 1987 deficit in excess of $154 billion, the Directors must calculate the sequester needed to reduce the deficit to $144 billion -- the maximum deficit amount. After receiving the report the Temporary Joint Committee must, within five calendar days, report to the House and Senate a joint resolution "setting forth the contents of the report." Within the next five days the Congress is in session, both Houses are required to vote on the joint resolution. If the resolution becomes law, the President must follow its terms in issuing his sequester order.

This procedure applies to both the initial and the revised reports of the Directors. A sequester order based on the August 20 report would become effective October 1. A sequester order based on the October 6 report would become effective on October 15 or on the date the President signs the order, whichever is later.

BUDGET BASE LEVELS

This report deals only with fiscal year 1987. The OMB and CBO estimates of total revenues, outlays, and the deficit for 1987 are shown in Table 1. These estimates are made in accordance with the specifications set forth in the Act. They assume that current law for revenues and entitlements will continue unchanged, and that expiring provisions will terminate as scheduled.1/

For spending accounts that require appropriations, the OMB and CBO estimates are based on the appropriations enacted for fiscal year 1986, because no appropriations have yet been enacted for fiscal year 1987.2/ As required by the Act, the budget estimates include the receipts and outlays of the social security trust funds, even though they are legally off-budget and the benefits are exempt from sequestration.

1/ The Act permits an exception to the expiring-provision assumption for excise taxes dedicated to a trust fund (but not for spending authority in that trust fund) and for Commodity Credit Corporation price support programs. In these cases, the budget base levels are to assume extension of the provisions and programs through the fiscal year at current rates.

2/ See the discussion of conceptual issues on page 21.

VOL 51 ISS 161 AG 20 1986 UMI

Table 1.--BUDGET BASE LEVELS FOR 1987
(in billions of dollars)

Budget Aggregates	OMB Estimates	CBO Estimates	Average
Revenues	826.4	827.8	827.1
Outlays	982.6	998.5	990.5
Deficit	156.2	170.6	163.4

OMB's deficit estimate for 1987 is $156.2 billion, and CBO's deficit estimate is $170.6 billion. The average of the two deficit estimates is $163.4 billion, which exceeds the maximum deficit amount of $144.0 billion by $19.4 billion. Since the average deficit excess of $19.4 billion is greater than $10.0 billion, sequestration calculations are required in this report. They are discussed in a separate section below.

The major factors accounting for the $14.5 billion difference between the OMB and CBO baseline deficits are shown in Table 2. Conceptual differences regarding the baselines for appropriated entitlements and Federal pay raises, which are discussed in a separate section below, increase CBO's estimate of outlays by $4.7 billion above OMB's estimate. Technical estimating differences account for most of the remaining difference. Excluding pay raises, CBO's estimates of defense outlays are $5.2 billion higher than OMB's. Most of this difference is due to different assumptions about spendout rates. OMB assumes defense spendout rates consistent with the 1987 Congressional Budget Resolution. CBO assumes that defense outlays will follow historical spending patterns.

CBO's estimates for Commodity Credit Corporation (CCC) farm price supports is $5.1 billion higher than OMB's estimate due to CBO's assumption of advance deficiency payments for the 1987 crop year in fiscal year 1987 ($4.3 billion) and technical estimating differences ($0.8 billion).

Economic assumptions account for only $0.9 billion of the difference in the deficits. Both OMB and CBO project that the inflation rate underlying the cost-of-living adjustment (COLA) for social security and related programs will be below the 3 percent threshold set in current law. If legislation is enacted to override this threshold and pay a COLA in 1987, CBO projects a benefit increase of 1.3 percent and would raise its estimate of the baseline deficit by $0.8 billion. Under the lower benefit increase of 0.8 percent assumed by OMB, however, the higher outlays associated with the benefit increase would be offset by higher revenues and medicare premiums, leaving the OMB estimate of the baseline deficit unchanged.

On August 7, CBO estimated that the baseline deficit for 1987 was $173 billion. Subsequent developments have reduced the estimate by $2 billion. On August 15, the Health Care Financing Administration published final regulations eliminating periodic interim payments under Medicare, reducing 1987 outlays by $3.5 billion. On the other hand, estimated outlays for farm price supports have increased by $1.5 billion. About $1.2 billion of this

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increase is due to higher estimated corn and soybean production; the remainder is due to the feed cost-sharing program announced by the Secretary of Agriculture on August 1. Other changes have little net effect on CBO's estimate of outlays.

Table 2.--DIFFERENCES BETWEEN OMB AND CBO BASELINE DEFICITS
(in billions of dollars)

OMB deficit	156.2
Differences:	
Conceptual:	
Appropriated entitlements	1.7
Pay raises:	
Defense	2.8
Nondefense	0.1
Subtotal, conceptual	4.7
Technical:	
Defense function	5.2
Farm price supports	5.1
Other outlays	0.7
Receipts	-2.2
Subtotal, technical	8.8
Economic:	
Receipts	0.7
Outlays	0.2
Subtotal, economic	0.9
Total differences	14.5
CBO deficit	170.6

ECONOMIC ASSUMPTIONS

The principal economic assumptions underlying the OMB and CBO budget base level estimates for fiscal year 1987 are shown in Table 3.

The Act requires the OMB and CBO Directors to estimate the rate of real economic growth for the fiscal year covered by their report, for each quarter of the fiscal year, and for the last two quarters of the preceding fiscal year. If either OMB or CBO projects real economic growth to be less than zero for any two consecutive quarters, or if the Department of Commerce reports actual real growth to have been less than 1 percent for two consecutive quarters, many of the provisions of the Act can be suspended by

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the Congress. The OMB and CBO estimates for the rate of real economic growth for fiscal year 1987 are included in Table 3 and the quarterly estimates are shown in Table 4. Neither office projects real economic growth to be less than zero in any quarter during fiscal year 1987.

Table 3.--ECONOMIC ASSUMPTIONS
(Fiscal Year 1987)

Economic Variable	OMB	CBO
Gross National Product:		
Current dollars (in billions of dollars)	4449	4423
Percent change, year over year	6.8	6.2
Constant (1982) dollars (in billions of dollars)	3797	3777
Percent change, year over year	3.7	3.2
GNP Implicit Price Deflator (percent change, year over year)	3.0	2.9
CPI-W (percent change, year over year)	2.1	2.6
Civilian Unemployment Rate (percent, fiscal year average)	6.7	6.8
Interest Rates (fiscal year average):		
91-day Treasury bills	6.2	6.3
10-year Treasury notes	7.5	7.7

Table 4.--REAL ECONOMIC GROWTH RATES BY QUARTER
(in percents, annual rates)

	FY 1986			FY 1987 Estimates			
	Actual		Estimate				
	Jan-Mar 1986 a/	Apr-Jun 1986 a/	Jul-Sep 1986	Oct-Dec 1986	Jan-Mar 1987	Apr-Jun 1987	Jul-Sep 1987
OMB	3.8	1.1	4.0	4.0	4.2	4.2	4.2
CBO	3.8	1.1	3.0	3.6	3.9	3.7	3.3

a/ As reported by the Department of Commerce (July 22, 1986).

VOL 51 ISS 161 AG 20 1986 UMI

SEQUESTERABLE RESOURCES

The required reductions in outlays are not made directly; rather, they are to be achieved by the permanent cancellation -- referred to under the Act as "sequestration" -- of budget authority and other authority to obligate and expend funds. For defense programs, sequesterable budgetary resources are new budget authority provided for 1987 and unobligated balances of budget authority provided in previous years. For nondefense programs, the sequesterable budgetary resources are new budget authority, new direct loan obligations, new loan guarantee commitments, obligation limitations, and spending authority as defined in Section 401(c)(2) of the Congressional Budget Act of 1974. This definition of spending authority includes Federal payments financed by offsetting collections that are credited to budget accounts as well as various permanent appropriations.

Not all budgetary resources are subject to sequestration. The Act exempts a number of programs and activities of the Federal Government from the sequestration process. As shown in Table 5, the largest are social security benefits, net interest, certain low-income programs, veterans compensation and pensions, and regular State unemployment insurance benefits. Also exempt from sequestration are prior legal obligations of the Government in certain specified budget accounts, as well as the program bases for programs with automatic spending increases resulting from changes in price indexes (mostly retirement and disability programs). Federal administrative expenses for otherwise exempt programs and activities, however, are sequesterable, including programs that are self-supporting. Outlays from obligated balances for defense programs and outlays from obligated and unobligated balances of prior-year appropriations for nondefense programs are generally not subject to sequestration. Defense contracts can be modified or terminated to achieve outlay savings, but the President has until September 5 to choose whether or not to do so for fiscal year 1987.

Certain programs and activities, while not exempt, are subject to special rules that have the effect of limiting the amount of the spending reduction. For example, the sequestration of budgetary resources for medicare, veterans medical care, and certain health programs (but not for the administrative expenses of these programs) is limited to 2 percent annually in 1987 through 1991. The total amount of the automatic spending increases (primarily cost-of-living adjustments) is sequesterable.

For credit programs, the measures governing sequesterable budgetary resources are direct loan obligations and loan guarantee commitments. In the event of a sequester, the Act requires that credit limitations enacted in annual appropriation acts be reduced, and that de facto limitations be imposed on both types of new credit activity where there is no enacted limitation.

Although for most accounts CBO and OMB agree or are close to each other on the levels of budgetary resources and outlays, there are some exceptions. The largest exception concerns the sequestration of the administrative expenses of the Postal Service. Both CBO and OMB agree that $1.2 billion of budgetary resources are sequesterable. CBO believes that there is no evidence that the Postal Service has taken any steps to reduce spending in response to the President's sequestration order of March 1986 (as reaffirmed

by P.L. 99-366). Moreover, the Administration appears to have no mechanism for enforcing a sequestration order with regard to the Postal Service. CBO assumes that, as in 1986, a 1987 sequester order would not cause the Postal Service to make any specific spending reductions. CBO therefore shows no outlay savings resulting from the sequestration of budgetary resources for the Postal Service. In contrast, OMB believes that the Postal Service will comply with the Act to reduce its outlays, consistent with the across-the-board percentage sequestration applied to the functions and programs of the executive, legislative, and judicial branches -- despite the fact that the Postal Service's budgetary resources are not subject to OMB apportionment controls, and despite questions concerning the amount of savings achieved in 1986.

In accordance with the provisions of the Panama Canal Commission Authorization Act, Fiscal Year 1987 (P.L. 99-368), the sequestration report shows no reduction in budgetary resources or outlays for the Panama Canal Commission. Section 6 of that Act amends the Panama Canal Act of 1979 by adding the following new subsection: "Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama...." While this provision does not change the instructions given to the Directors in the Balanced Budget Act with regard to preparation of their joint report, it is intended to make any sequestration order against the Panama Canal Commission unenforceable. One way to handle these conflicting instructions would be to show sequesterable budgetary resources for the Commission but no outlay savings. To avoid this peculiar result, the Directors have decided to show no sequesterable resources for the Panama Canal Commission, even though the Balanced Budget Act makes no provision for exempting the Commission.

Congress has also passed, but the President has not yet signed, the Insular Areas Regulation Act (H.R. 2478). Section 19 of the bill requires that Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands be paid the full amounts required under the laws establishing their relationships with the United States, notwithstanding the Balanced Budget Act. Like the Panama Canal Commission Authorization, however, the bill does not amend the instructions to the Directors contained in the Balanced Budget Act.

If such legal ambiguities are to be avoided, exempting these and other programs from sequestration should be accomplished by amending the specifications for the sequestration report contained in the Balanced Budget Act.

Table 5 provides further detail on the OMB and CBO base level outlay estimates for 1987. An estimated $169.0 billion of 1987 outlays for defense programs, or 62 percent of total defense outlays, are associated with budgetary resources subject to an across-the-board percentage reduction.

An estimated $231.1 billion, or about one-third of estimated outlays for nondefense programs, are associated with sequesterable budgetary resources. Of this, $48.8 billion in estimated outlays are for programs with automatic spending increases, primarily Federal employee retirement and disability programs. For these programs, the amount of spending reduction required by

the Act is limited to the cost-of-living adjustments. Another $86.4 billion in estimated outlays are associated with certain special rule programs, of which the largest is medicare. The Act also limits the extent of spending reductions for these programs.

Of the total estimated 1987 nondefense outlays of $716.9 billion, an estimated $96.0 billion -- about 13 percent of nondefense outlays -- are associated with budgetary resources subject to an across-the-board percentage reduction.3/ An estimated $485.8 billion, or two-thirds of total estimated outlays for nondefense programs, are exempt from sequestration by the Act.

For both defense and nondefense programs, an estimated $590.4 billion in outlays, or 60 percent of total outlays, are associated with budgetary resources exempt from sequestration.

3/ The estimated $96.0 billion nondefense total subject to across-the-board reduction, which is shown in Table 5, does not include $11.7 billion of 1988 outlays for CCC. The sum of these two figures is $107.7 billion, the estimated nondefense outlays associated with across-the-board sequesterable budgetary resources, as shown in Table 6.

VOL 51 ISS 161 AG 20 1986 UMI

Table 5.--BASE LEVEL OUTLAY ESTIMATES FOR 1987
(dollars in billions)

Category	OMB Estimates	CBO Estimates	Average Estimate	Average Percent of Total
Defense Programs a/:				
Subject to across-the-board reduction	164.3	173.6	169.0	17.1%
Exempt from sequestration b/	105.3	104.0	104.6	10.6
Subtotal, defense programs	269.6	277.6	273.6	27.6
Nondefense Programs:				
Subject to sequestration:				
Programs with automatic spending increases c/	49.1	48.4	48.8	4.9
Certain special rule programs d/	86.3	86.5	86.4	8.7
Subject to across-the-board reduction	94.2	97.8	96.0	9.7
Subtotal, subject to sequestration	229.6	232.7	231.1	23.3
Exempt from sequestration:				
Social security	204.3	204.3	204.3	20.6
Net interest	139.1	138.3	138.7	14.0
Earned income tax credit	1.2	1.3	1.3	0.1
Low-income programs e/	61.8	63.6	62.7	6.3
Veterans compensation and pensions	14.2	14.1	14.2	1.4
State unemployment benefits	14.8	14.5	14.7	1.5
Offsetting receipts	-51.5	-51.4	-51.5	-5.2
Other f/	99.4	103.4	101.4	10.2
Subtotal, exempt from sequestration	483.4	488.2	485.8	49.0
Subtotal, nondefense programs.	713.0	720.9	716.9	72.4
Total	982.6	998.5	990.5	100.0%

a/ Budget function 050 excluding FEMA programs.
b/ Largely outlays from obligated balances.
c/ Primarily Federal employee retirement and disability programs.
d/ Guaranteed student loans, foster care and adoption assistance, medicare, veterans medical care, and other health programs.
e/ AFDC, child nutrition, medicaid, food stamps, SSI and WIC.
f/ Outlays from prior-year appropriations, certain prior legal obligations, and small exempt programs.

SEQUESTRATION CALCULATIONS

The Act establishes the following steps for the sequestration calculations, which are shown in Table 6.

First, the deficit excess is calculated by subtracting the maximum deficit amount from the estimated deficit in the budget base. One-half of the excess is assigned to defense programs (budget accounts in the national defense function, 050, excluding the Federal Emergency Management Agency) and the other half to nondefense programs.

Second, the total amount of outlay savings from eliminating automatic spending increases is calculated. Provided that the resulting savings are not more than one-half of the total required reduction, the automatic increases are eliminated. One-half of the resulting savings for indexed retirement and disability programs are applied toward the required reduction amount for defense programs and the other half to nondefense programs. All savings from eliminating automatic spending increases in three other specific programs -- the National Wool Act, the special milk program, and vocational rehabilitation -- are applied to the required reduction in outlays for nondefense programs.

Third, the amount of outlay savings to be obtained by applying four special rules is calculated. These special rules are for guaranteed student loans, foster care and adoption assistance, medicare, and certain health programs, and are described in a later section of this report.[4/] The estimated savings from these four special rules are applied toward the required spending reductions in nondefense programs.

The remaining reductions in defense programs and nondefense programs must be taken on a uniform percentage basis, computed separately for each category. The uniform reduction percentages are computed from outlay estimates. The remaining outlay savings to be achieved in defense and nondefense spending are divided by the estimated outlays associated with sequesterable budgetary resources in each category. These uniform percentages are then applied to all of the remaining sequesterable budgetary resources (budget authority, credit authority, and other spending authority) for defense and nondefense programs.

In the event that the Directors of OMB and CBO are unable to agree on any of these calculations, the Act requires that their estimates be averaged to the extent necessary to produce a single, consistent set of data that achieves the required deficit reduction.

4/ A number of special rules apply to other programs, such as the Commodity Credit Corporation, but they do not enter into the sequester calculations at this step.

Table 6.--SEQUESTRATION CALCULATIONS FOR 1987
(outlays in millions of dollars)

Category	OMB	CBO	Average
Defense Programs:			
Total required reductions	6,086	13,323	9,704
Estimated savings from automatic spending increases:			
Indexed retirement programs a/	139	221	180
Amount remaining to be obtained from uniform percentage reductions of budget resources	5,947	13,102	9,525
Estimated outlays associated with across-the-board sequesterable budget resources	164,330	173,635	168,983
Uniform reduction percentage	3.6%	7.5%	5.6%
Nondefense Programs:			
Total required reductions	6,086	13,323	9,704
Estimated savings from automatic spending increases:			
Indexed retirement programs	139	221	180
Other indexed programs	7	7	7
Estimated savings from the application of special rules:			
Guaranteed student loans	29	31	30
Foster care and adoption assistance	2	2	2
Medicare	1,115	1,240	1,178
Other health programs	164	161	163
Amount remaining to be obtained from uniform percentage reductions of budget resources	4,631	11,661	8,146
Estimated outlays associated with across-the-board sequesterable budget resources b/	108,350	106,998	107,674
Uniform reduction percentage	4.3%	10.9%	7.6%

a/ These retirement programs are not included in the national defense function of the budget; most are included in the income security function.

b/ Includes estimated 1988 outlays for the Commodity Credit Corporation (CCC) that can be affected by a 1987 sequester (see discussion of special rule for the CCC). The OMB estimate is $14,137 million, the CBO estimate is $9,215 million, and the average is $11,676 million.

Table 6 shows the OMB and CBO calculations and the averaged amounts for each of the steps described above. The total required outlay reduction for 1987 is $19.4 billion, one-half of which -- $9.7 billion -- must be obtained from defense programs and the other half from nondefense programs. An estimated $359 million in outlay savings in 1987 can be achieved by eliminating the automatic spending increases scheduled for civil service, military, and other Federal retirement and disability programs. One-half, or $180 million, is allocated to defense programs, and one-half to nondefense programs. Another $7 million in savings can be obtained by eliminating the automatic spending increase for the National Wool Act. (The special milk program is also an indexed program but in 1987 the change in the price index is projected to be below the threshold needed to trigger an increase.) The outlay savings for programs where the spending reductions are limited by special rules (guaranteed student loans, foster care and adoption assistance, medicare, and several other health programs) are estimated to be $1.4 billion.

After crediting one-half of the retirement cost-of-living adjustment savings to defense programs, the remaining outlay reductions of $9,525 million in the national defense function in 1987 must be obtained by reducing new budget authority and unobligated balances by a uniform percentage. The 1987 outlays associated with sequesterable budgetary resources for defense programs are estimated to be $164.3 billion by OMB and $173.6 billion by CBO. The average of these amounts is $169.0 billion. Thus, the uniform percentage to be applied to sequesterable defense budgetary resources is 5.6 percent. The uniform percentage to be applied to nondefense programs, after deducting the savings from one-half of the retirement cost-of-living adjustments and from the special rule calculations, is 7.6 percent.

The OMB and CBO calculations generally assume that all nonexempt budgetary resources can be sequestered so as to produce outlay savings, including entitlement programs and other mandatory spending programs where the spending authority is not controlled through the annual appropriations process. In a few instances, where the uniform percentage reduction of budgetary resources would not produce any outlay savings (for example, for credit programs where new direct loan limits are higher than expected program levels), no outlays were included in the sequester base used for calculating the reduction percentages.

AUTOMATIC SPENDING INCREASES

The programs with automatic spending increases subject to sequestration by the Balanced Budget and Emergency Deficit Control Act are listed in Table 7. The scheduled percentage increases are shown as well as the amount of estimated outlay savings to be gained by eliminating these increases. The OMB and CBO estimates differ for the amounts to be reduced by sequestration, because OMB projects a 0.8 percent cost-of-living adjustment (COLA) for civil service and military retirement, while CBO projects a 1.3 percent increase. Table 7 shows the OMB and CBO estimates of the COLAs for each program, and the average outlay savings from a 100 percent reduction as a result of sequestration.

Table 7.--AUTOMATIC SPENDING INCREASES FOR 1987 SUBJECT TO SEQUESTRATION
(estimated outlays in millions of dollars)

Program	Scheduled Increase (percent) OMB	Scheduled Increase (percent) CBO	Sequestration Reductions Outlays	Sequestration Reductions Percent
Part A, Retirement and Disability Progams:				
Black lung benefits a/	2.0	2.0	7.8	100
CIA retirement and disability	0.8	1.3	b/	100
Civil service retirement and disability fund	0.8	1.3	186.4	100
Comptrollers General retirement system	0.8	1.3	*	100
Foreign service retirement and disability fund	0.8	1.3	2.0	100
Judicial survivors' annuities fund c/	---	---	---	---
Longshoremen's and harbor workers' compensation benefits d/	1.7	1.7	1.1	100
Military retirement fund	0.8	1.3	142.0	100
NOAA retirement	0.8	1.3	*	100
Pensions for former Presidents e/	2.0	2.0	*	100
Railroad retirement tier II f/	---	---	---	---
Retired pay, Coast Guard	0.8	1.3	2.9	100
Retirement pay for commissioned PHS officers	0.8	1.3	0.7	100
Special benefits, FECA g/	0.5	1.2	3.5	100
Special benefits for disabled coal miners a/	2.0	2.0	13.0	100
Tax Court judges survivors' annuity fund c/	---	---	---	---
Total, Part A			359.4	
Part B, Other Indexed Programs:				
National Wool Act h/	3.5	3.5	6.8	100
Special milk programs i/	---	---	---	---
Vocational rehabilitation j/	---	---	---	---
Total, Part B			6.8	

a/ Benefits are indexed to General Schedule pay, which is assumed to increase by 2 percent for fiscal year 1987.
b/ Classified; not included in total.
c/ Benefits are indexed to judicial pay if increases are 5 percent or more. Judicial pay is assumed to increase by 2 percent for fiscal year 1987.
d/ Benefits are indexed to the change in national average private weekly earnings from October to June 1985 to October to June 1986.
e/ Benefits are indexed to Executive Level pay, which is estimated to increase by 2 percent for fiscal year 1987.
f/ Tier II beneficiaries receive 32.5 percent of the full-year increase in the CPI-W, but only if that increase is at least 3 percent. Since both OMB and CBO project an increase of less than 3 percent, no COLA is anticipated for this account.

(see footnotes on next page)

Table 7.--AUTOMATIC SPENDING INCREASES FOR 1987 SUBJECT TO SEQUESTRATION (CONT.)

g/ The scheduled percent increase is the estimated change in the CPI-W from December 1985 to December 1986.
h/ Payment increases are based on changes in the wool parity price.
i/ Benefits are indexed to the Producer Price Index for Fresh Processed Milk. The increase during the measuring period (May 1986 to May 1987) is expected to be too small to trigger a COLA.
j/ This program is maintained at the 1986 appropriated level for the budget base, allowing for no sequesterable automatic spending increase.
* $50 thousand or less.

SPECIAL RULES

The Act provides special rules for the sequestration of budgetary resources for certain Federal programs. This section describes these special rules and their application to the 1987 sequestration calculations. The estimated outlay savings derived from the first four rules are shown separately in Table 6. Any outlay savings resulting from the remaining special rules are included in the amount to be obtained from the uniform percentage reductions.

Guaranteed Student Loan Program

The Act requires two changes in the guaranteed student loan (GSL) program to occur automatically under sequestration. First, the statutory factor for calculating the quarterly special allowance payments to lenders will be reduced by 0.40 percentage points for the first four quarters after the loan is made. Second, a student's origination fee will increase by 0.50 percentage points. In both cases, sequestration affects only GSL loans made during the applicable fiscal year, but after the order is issued. For 1987, these changes are estimated to reduce spending authority by $48 million and outlays by $30 million.

Foster Care and Adoption Assistance Programs

The Act limits the amount to be sequestered in the foster care and adoption assistance programs to increases in foster care maintenance payment rates or adoption assistance payment rates taking effect during the current fiscal year. Moreover, they are limited to the extent that the reductions can be made by reducing Federal matching payments by a uniform percentage across States. The increases in payment rates for these programs are made by the States and localities. Any increases planned by the States for fiscal year 1987 were included in the OMB and CBO calculations for sequestration reductions. The estimated savings in 1987 from sequestration are $2.4 million in spending authority and $1.7 million in outlays.

Medicare

The sequestration reductions in the medicare program are to be achieved by reducing payment amounts for covered services. No changes in co-insurance or deductible obligations are to be made, and covered services are unaffected under a sequestration order. Under such an order, each payment amount would be reduced by a maximum of 2 percent for 1987 and each subsequent year in which there is sequestration, relative to whatever level of payment would otherwise be made under medicare law and regulation. The reduction would be proportionately reduced in any year in which the excess deficit is small enough to permit a smaller reduction. Based on the need for a $19.4 billion sequestration in 1987, a reduction of 2 percent will be required for this year. The estimated outlay savings to be achieved in 1987 by applying this special rule is $1.2 billion.

Veterans Medical Care and Other Health Programs

The Act limits reductions in budget authority for veterans medical care, community and migrant health centers, and Indian health services and facilities to 2 percent in 1987 and any subsequent year. The amount of savings to be achieved in 1987 by applying this special rule for the nonadministrative funds in these programs is $192 million in budget authority and $163 million in estimated outlays.

Child Support Enforcement Program

In the child support enforcement (CSE) program, the Act provides that sequestration of entitlement payments to States, including incentive payments from the assistance payments account, is to be accomplished by reducing the Federal matching rates for State administrative expenses. For 1987, the Federal matching rate on most expenditures will be reduced from 70 percent to 63.91 percent, and the rate for computer-related expenditures will be reduced from 90 percent to 82.17 percent. This reflects a reduction in the matching rates to achieve the same 7.6 percent reduction applied to other nondefense programs, adjusted to allow also for the sequestration of spending on incentive payments.

If States increase their share of CSE spending to maintain total program spending at the expected 1987 level, this reduction in the Federal matching rate will lower Federal outlays by the same percentage as other nondefense programs. If States do not increase their 1987 spending, however, the lower Federal matching rate would result in a larger percentage reduction in Federal spending than the Act requires. The amount of savings to be achieved in 1987 by applying this special rule is estimated to be $63.5 million in spending authority and $62.9 million in outlays. In addition, savings of $1.7 million in outlays are to be achieved by cutting Federal administration and research and by offsetting collections.

Unemployment Compensation Programs

The Act provides that the following items are not to be sequestered: regular State unemployment benefits, the State share of extended unemployment benefits, benefits paid to former Federal employees and former members of the armed services, and loans and advances to the State and Federal unemployment

accounts. The Federal share of extended benefits, unemployment insurance for railroad employees, other federally paid benefits, and State and Federal administrative expenses are to be sequestered.

Both the Federal and State shares of extended unemployment benefits are paid from the unemployment trust fund -- the Federal share from a Federal account and the State share from each State's account. The amount of each weekly extended benefit is set by State law. The Act permits any State to reduce the weekly extended benefit amount by a percentage equal to the percentage reduction in the Federal share. If States do not change their laws to provide for such a reduction, weekly benefit payments will not be reduced, the State share will increase by the amount of the decrease in the Federal share, and total budget outlays, which include both Federal and State benefits, will not be changed by the sequestration. Only one State expected to be paying extended benefits in 1987 has reduced its weekly benefit amount, as permitted by the Act. That State (Louisiana) has reduced each payment by the amount of the reduction in the Federal share, leaving the State share unreduced.

Commodity Credit Corporation

The Act requires that payments and loan eligibility under any contract entered into by the Commodity Credit Corporation (CCC) after a sequestration order has been issued for a fiscal year be subject to a percentage reduction. The Act requires that reductions for all farm commodities supported by the CCC be made in a uniform manner, including all noncontract programs, projects, and activities within CCC's jurisdiction. The Act further stipulates that outlay reductions in the post-sequester year that are the result of contract adjustments in the sequester year should be credited to the overall outlay reduction required in the sequester year. The amount of outlay savings to be achieved by applying this special rule is estimated to be $0.4 billion in 1987, and $0.9 billion in 1988. The actual amount of savings realized in each year will depend upon how the sequester is implemented for the various CCC programs. In accordance with the Act, however, all $1.3 billion of these estimated outlay savings are credited toward the $19.4 billion spending reduction required for 1987.

Mine Workers Disability Compensation

Increases in disability benefits under the Federal Mine Safety and Health Act are to be treated in the same manner as other automatic spending increases. This Act covers black lung and special benefits for disabled coal miners, which are indexed to changes in Federal pay for civilian employees. Since the President has proposed a 2 percent increase in these pay levels in 1987, the savings from the application of this special rule are estimated to be $21 million.

Federal Pay

The Act provides that rates of pay for civilian employees (and rates of basic pay, basic subsistence allowances, and basic quarter allowances for members of the uniformed services), or any scheduled pay increases, may not be reduced pursuant to a sequestration order. Budgetary resources available for Federal pay, however, will be subject to sequestration as part of the

reduction of administrative expenses. The total amount of Government-wide savings to be achieved in 1987 from reducing available funds for employee compensation cannot be estimated because program managers are urged not to resort to personnel furloughs and reductions-in-force until other methods of achieving savings prove insufficient, such as reducing spending for travel, printing, supplies, and other services.

Defense Contracts

Existing contracts in defense programs can be terminated or modified to achieve outlay savings if such action would neither result in a net loss to the Government nor violate the legal obligations of the Government, and if the President notifies the Comptroller General and the Congress of proposed contract terminations and modifications by September 5.

SEQUESTRATION REDUCTIONS

A summary of the sequestration of budgetary resources and the estimated outlay savings for 1987 is provided for defense programs in Table 8 and for nondefense programs by function in Table 9. The defense outlay reduction of $9.5 billion is lower than one-half of the required $19.4 billion because the savings from eliminating automatic spending increases for Federal retirement programs -- including military retirement -- are counted in the income security function and are shown in the nondefense savings table. Table 10 provides a summary of the 1987 sequestration reductions by agency. In most instances additional outlay savings would be gained in 1988 and later years as a result of the elimination of various 1987 automatic spending increases and the cancellation of 1987 budget authority. The 1988 savings have not been estimated for this report.

A detailed listing of the sequestration reductions by agency and budget account is provided as an appendix to this report. The report does not contain a listing of sequestration reductions for defense programs, projects, and activities because no defense appropriations bills for 1987 have been enacted.

VOL 51 ISS 161 AG 20 1986 UMI

-18-

Table 8.--DEFENSE PROGRAM SEQUESTRATIONS FOR 1987
(in billions of dollars)

Function 050	Spending Authority a/	Estimated Outlays
Department of Defense-Military:		
Military personnel	3.8	3.7
Operation and maintenance	4.2	3.2
Procurement	7.7	1.0
Research, development, test, and evaluation	2.1	1.0
Military construction	0.5	0.1
Family housing and other	0.4	0.2
Subtotal, DOD	18.7	9.2
Atomic energy defense activities	0.4	0.3
Other defense-related activities b/	0.1	*
Total	19.1	9.5

a/ Includes new budget authority for 1987 and unobligated balances from budget authority provided in previous years.
b/ Includes the function 050 portion of Federal Emergency Management Agency budget accounts which are reduced at the same rate as nondefense programs.
* $50 million or less.

Table 9.--NONDEFENSE PROGRAM SEQUESTRATIONS FOR 1987 BY FUNCTION
(in billions of dollars)

Function	Spending Authority a/	Direct Loan Obligations	Loan Guarantees	Estimated Outlays
International affairs.....	1.6	0.6	0.9	0.8
General science, space and technology.....	0.7	---	---	0.5
Energy.....	0.5	0.3	0.2	0.2
Natural resources and environment.....	1.2	*	---	0.7
Agriculture.....	1.5	1.1	0.6	1.7 b/
Commerce and housing credit.	0.4	0.3	24.4	0.4
Transportation.....	2.4	*	*	0.5
Community and regional development.....	0.4	0.1	*	0.1
Education, training, employment, and social services..	2.0	*	---	0.7
Health.....	0.8	*	---	0.5
Medicare.....	1.3	---	---	1.3
Income security c/.....	1.8	*	---	1.0
Social security.....	0.2	---	---	0.1
Veterans benefits and services.....	0.4	*	2.9	0.3
Administration of justice...	0.5	---	---	0.4
General government.....	0.5	---	---	0.5
General purpose fiscal assistance.....	0.1	---	---	0.1
Allowances.....	*	---	---	*
Total.....	16.4	2.3	29.0	9.9

a/ Includes new budget authority, obligation limitations, and other spending authority for 1987.

b/ Includes $0.9 billion in estimated 1988 outlay savings for Commodity Credit Corporation (CCC) programs (see discussion of special rule for CCC).

c/ Includes $0.2 billion in spending authority and outlays from eliminating automatic spending increases for Federal retirement programs that are credited as reductions in defense programs.

* $50 million or less.

-20-

Table 10.--SEQUESTRATIONS FOR 1987 BY AGENCY
(in billions of dollars)

Department or Other Unit	Spending Authority a/	Direct Loan Obligations	Loan Guarantees	Estimated Outlays
Legislative Branch	0.1	---	---	0.1
The Judiciary	0.1	---	---	0.1
Executive Office of the President	*	---	---	*
Funds appropriated to the President	1.1	0.4	*	0.5
Agriculture	2.1	1.6	0.7	2.2 b/
Commerce	0.2	---	*	0.1
Defense-Military	18.7	---	---	9.2
Defense-Civil	0.4	---	---	0.3
Education	1.1	*	---	0.3
Energy	0.9	---	---	0.4
Health and Human Services, except Social Security	2.7	*	---	2.3
Health and Human Services, Social Security	0.2	---	---	0.1
Housing and Urban Development	1.1	0.1	24.1	0.1
Interior	0.5	*	*	0.4
Justice	0.3	---	---	0.2
Labor	0.6	---	---	0.3
State	0.3	*	---	0.2
Transportation	2.3	*	*	0.5
Treasury	0.5	---	---	0.4
Environmental Protection Agency	0.3	*	---	0.1
General Services Administration	0.1	---	---	*
National Aeronautics and Space Administration	0.6	---	---	0.4
Office of Personnel Management	0.3	---	---	0.3
Small Business Administration	*	*	0.4	*
Veterans Administration	0.4	*	2.9	0.3
Other independent agencies	0.7	0.1	0.9	0.5
Allowances	*	---	---	*
Total	35.5	2.3	29.0	19.4

a/ Includes new budget authority for 1987 (except for expiring authority), unobligated balances from budget authority provided in previous years (Defense-Military and other function 050 programs and certain administrative costs), obligation limitations for and other spending authority for 1987.

b/ Includes $0.9 billion in estimated 1988 outlay savings for Commodity Credit Corporation (CCC) programs (see discussion of special rule for CCC).

* $50 million or less.

CONCEPTUAL ISSUES

In the 1986 sequestration report, the Directors of CBO and OMB reached agreement in interpreting all the various provisions of the Balanced Budget and Emergency Deficit Control Act except one: the application of the Act to interest payments made to the Washington Metropolitan Area Transit Authority (WMATA). This report has added two interest payment accounts to the WMATA issue, and three new issues on appropriated entitlements, pay raises, and Veterans Administration (VA) policy loans.

Appropriated Entitlements

The issue here is how certain "entitlement" programs, such as medicaid, supplemental security income, veterans compensation and others that are appropriated annually should be counted in determining the baseline. Should they be classified as "spending authority" programs under Section 401(c)(2) of the Congressional Budget Act of 1974 (if so, the baseline for these programs would be based on current law) or as annually appropriated programs (if so, the baseline would be equal to the latest annual appropriation)?

Section 251(a)(6) of the Act states that the budget base shall be determined by:

> "(A) assuming...the continuation of current law in the case of revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974;
>
> (B) assuming in the case of all accounts to which subparagraph (A) does not apply, appropriations equal to prior year's appropriations except to the extent that annual appropriations or continuing appropriations for the entire fiscal year have been enacted..."

Section 401(c)(2) of the Congressional Budget Act of 1974, as amended by the Balanced Budget Act, defines "spending authority" as authority to enter into contracts, incur indebtedness, or make payments, "the budget authority for which is not provided for in advance by appropriation Acts." (This phrase is repeated in Sections 401(c)(2)(A),(B),(C), (D), and (E)).

In OMB's view this language is unambiguous: so-called appropriated "entitlement" programs cannot be classified as "spending authority" programs under the definitions of Section 401(c)(2) because they are provided budget authority in advance by appropriation acts. Whatever one might suspect

Congress intended or thought it intended in passing this legislation, the language in this section of the statute is unambiguous and can be read in only one way. In interpreting unambiguous statutory language, previous Congressional treatment of these programs is immaterial.5/ Viewing the language of the new statute as it is and finding no ambiguity, OMB believes that Congress has explicitly precluded these programs from being classified as "spending authority" programs.

In the light of twelve years of settled Congressional practices under the Congressional Budget Act, CBO believes that appropriated entitlements should be included in the budget base according to its and OMB's best estimates of next year's spending levels in those programs. Estimating appropriated entitlements at the previous year's appropriated level would lead to an understatement of the estimated deficit.

In CBO's view, "spending authority," as defined in Section 401(c)(2), applies to any program, including appropriated entitlements, whose budgetary resources precede and do not necessarily depend on annual appropriations. In programs that have independent spending authority but do not have a trust fund or similar funding mechanism, the appropriation committees annually appropriate funds to satisfy prior Federal contracts, debt, and benefit commitments. However, the Congress repeatedly has asserted that commitments in these programs would be legally enforceable in the absence of these appropriations. Because provisions of the Congressional Budget Act of 1974 -- including those defining "spending authority" and "budget authority" -- are rules of the two Houses of Congress, CBO has followed the House's and the Senate's latest definitions of entitlements, including appropriated entitlements, to the extent that they are the same.

Pay Raises

The Act states that in calculating the baseline, Federal pay adjustments should be assumed "as recommended by the President" (Section 251(a)(6)(D)). Both OMB and CBO agree that the baseline estimates should reflect the pay rates proposed in the President's Mid-Session Review -- 4 percent for military personnel effective October 1, 1986, and 2 percent for civilian employees effective January 1, 1987. OMB and CBO differ, however, in whether this section requires inclusion of additional budgetary resources to fund these higher pay rates.

In OMB's view, neither Section 251(a)(6)(D) nor any other section of the Act permits budgetary resources for higher pay rates to be added to the baseline. As described above, Section 251(a)(6) clearly defines how the budget base

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5/ Congressional treatment of these programs is also inconsistent. For example, when the law establishing the black lung disability trust fund was considered in the Congress, the requirement that spending from the trust fund be provided in appropriation acts was added to avoid referral of the authorizing legislation to appropriations committees, which Congressional rules require if "spending authority" is included in legislation. Thus, in this case, an appropriated entitlement was not considered "spending authority."

shall be determined. Anticipated or proposed appropriations are not allowed to be counted as part of the budget base under this or any other section of the Act. Because no appropriations to fund Federal pay adjustments as recommended by the President were enacted by August 15, the statute does not permit these items to be added to the base. In OMB's view, where the statute is clear there is no occasion or need to probe for alleged Congressional intent or consult report language to divine its meaning.

In any event, the purpose of including Section 251(a)(6)(D) was apparently to prevent the President from reducing outlays by proposing a reduction in pay. The President proposed to reduce pay rates in the 1986 Budget, and Congress sought to prevent this action from being used as a way to project a lower deficit.

In CBO's view, the instruction in the Balanced Budget Act concerning the President's recommended pay adjustments must be read in the complete context of Section 251(a)(6). That material instructs the agencies how to estimate next year's spending, revenues and deficit -- the so-called budget base. If, as in the OMB view, no budgetary resources are added to the budget base in order to fund pay raises, the instruction becomes meaningless, and the deficit is understated. If Federal pay increases were to be ignored for next year's estimates, Congress would not have written any instruction on Federal pay levels, especially not in the definition of the budget base. Rather, the instruction recognizes that pay raises typically are financed through a supplemental appropriation that follows the regular appropriation acts by several months. CBO concludes that this instruction tells the agencies to estimate next year's supplemental for Federal pay increases in light of the President's latest authoritative statement of what he intends Federal pay levels to be and how much of any increase he expects Federal agencies to absorb in their regular appropriations for salary and expenses. CBO therefore has included in its estimate of the budget base pay raise allowances in the dollar amounts recommended by the President in the Mid-Session Review of the 1987 Budget.

Washington Metropolitan Area Transit Authority and Other Interest Payment Programs

OMB and CBO are still unable to resolve a conceptual issue regarding the application of the Act to interest payments made to WMATA. In exploring the WMATA issue, CBO and OMB realized that they differ in the treatment of two other interest payment accounts, the medical facilities guarantee and loan fund and the higher education facilities loans and insurance (HEFLI) accounts. These accounts were not sequestered in the January report. However, in OMB's view the same arguments that apply to WMATA also apply to these accounts and thus, OMB has classified the budget authority and outlays of these accounts as sequesterable. CBO continues to believe that all three interest payment programs are not sequestrable.

Under the authority of the National Capital Transportation Act of 1969, as amended, the Secretary of Transportation has guaranteed the principal and interest of $997 million in borrowing by WMATA. The National Capital Transportation Amendments of 1979 further authorized the Secretary of Transportation to pay two-thirds of the principal and interest due on these federally guaranteed WMATA bonds. By agreements between the Secretary and

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the Authority, executed in 1979 and 1982, the Federal Government has made interest payments to WMATA. These payments are conditional on compliance with the Antideficiency Act, as amended, which prohibits expenditures in advance of, or in excess of, available appropriations. The Congress has regularly and annually appropriated funds to cover the Federal obligation to WMATA, including the payments made in 1986, which amounted to $51.7 million. The medical facilities and HEFLI programs are operated in a similar manner.

CBO regards the 1987 interest payments in these programs as nonsequesterable on two grounds. First, Federal spending exists in these accounts solely to satisfy fully executed past commitments of the Federal Government under contracts authorized by law. Current budget practices concerning this type of spending are inconsistent. Sometimes such spending is shown as a spendout of obligated balances of budget authority (and, as such, exempt), and sometimes such spending is shown as appropriations (in CBO's view, to satisfy antecedent 401(c)(2) spending authority). CBO believes that interest subsidy payments should be uniformly characterized as spendouts of obligated balances of budget authority. CBO believes that, in the light of the Balanced Budget Act, budget accounting practices should be construed in a way that avoids any possibility that the Federal Government would default on loan repayments to private lenders.[6/]

Second, in the case of WMATA, the bonds are federally guaranteed both as to principal and interest. If the Federal Government defaults on its obligation to pay its interest share by reason of a sequester, the Government nevertheless would remain liable for the full payment under the guarantee, a liability that CBO believes is enforceable by a claim against the United States. CBO believes that if a sequestration would ultimately and necessarily be defeated by claims, judgments and relief acts, which are exempt from sequestration, then the amount in question should not be sequestered.

Similarly, in the case of the medical facilities loan account, the program's underlying statute authorizes the Secretary of HHS to borrow from the Treasury to avoid defaulting on these payments. Both the back-up duty and the basic loan commitments presumably are enforceable in the courts. Thus, the funds would have to be paid in any event -- either because of back-up borrowing, or because they would come from the exempt account that covers claims against the United States. In these circumstances, CBO sees no purpose to be served by sequestering this account.

OMB agrees that the appropriations for these accounts ought not to be sequestered, but does not believe this outcome is permitted by the statute's language. The Act provides exemptions only for certain named prior legal obligations and, more generally, for obligated balances in nondefense accounts. Section 255(g)(2) of the Act specifically exempts from sequestration the prior legal obligations of 46 credit programs that provide

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6/ In the case of the higher education facilities program, the effect of the sequester would be a reduced payment to the Treasury for interest on loan capital. Therefore, a sequester in this instance would not affect either outlays or the deficit. CBO nonetheless believes the account should be exempt as a spend-out of an obligated balance.

Federal guarantees similar to the guarantee provided to the WMATA bonds and medical facilities loans. OMB believes that exemptions for the WMATA and medical facilities guarantees should have been added to this list, but they were not. In addition, because the interest payments for all three programs are expressly subject to the availability of an annual appropriation, and because the Act provides for withholding from obligation of any sequestered amount pending the President's final order, OMB further believes that exemptions for WMATA, medical facilities, and HEFLI interest payments based on the existence of obligated balances are not applicable.

In its review of the 1986 CBO-OMB report, the General Accounting Office (GAO) agreed with the CBO position on WMATA, although for reasons different from those used by CBO. The Department of Transportation and Related Agencies Appropriation Act of 1986, enacted on December 19, 1985, provided $51.7 million for interest on payments; GAO claimed that a legal obligation was established at the time of this appropriation to pay WMATA interest charges, i.e., before the 1986 sequester became effective. Therefore, while GAO agreed with OMB that "the program is in the sequesterable base," GAO exempted it for 1986 because the budgetary resources had already been obligated. If a sequester order is issued in accordance with the timing specified in the Act, obligations for these payments cannot be entered into and, therefore, cannot be exempted as obligated balances.

Veterans Administration Policy Loans

Since last year's report, questions have arisen about whether the option of insured veterans to borrow against the cash values in their life insurance policies under one of several VA programs should have been sequestered. Last year's report did not exempt those options.

OMB continues to believe that the Act exempted only those portions of these life insurance accounts deemed to be prior legal obligations. Since the language of the life insurance policies at issue state clearly that the right to borrow is one within the ability of the issuer to grant as a matter of discretion, no legal obligation to act exists. Hence, the ability of the VA to deny a loan means that veterans' life insurance policy loans cannot constitute prior legal obligations and are, therefore, sequesterable.

The CBO now believes that these policy loans constitute prior legal obligations of the Government in accounts listed in Section 255(g)(2) and are therefore exempt from sequestration. In CBO's view, the phrase "prior legal obligations" exempts spending in accounts listed at Section 255(g)(2) not only to satisfy past commitments but also to support new commitments if they clearly arise under the terms of prior legal obligation (as that term is normally understood). A loan to a veteran against the cash value of his or her policy, although a new commitment of budgetary resources, is one that arises under pre-existing contractual provisions. To interpret the purpose of paragraph 255(g)(2) more narrowly would make the specific exemption for prior legal obligations largely redundant with the Act's general exemption of obligated balances of budget authority.

Impact of Conceptual Differences

Section 251(a)(5) of the Act requires averaging whenever CBO and OMB differ. Both Directors are of the view that averaging produces a result that is not consistent with either of their legal positions on the proper treatment of these conceptual issues relating to the amounts to be included in the baseline and whether certain programs are subject to sequester. Nevertheless, the sequestration percentages of 7.6 percent for nondefense programs and 5.6 percent for defense programs were derived using an average of the conceptual differences. If CBO's positions were to prevail, OMB's estimates of baseline outlays would rise by $4.7 billion and the sequestration percentages would be 8.7 percent for nondefense and 6.3 percent for defense. If OMB's positions were to prevail, the sequestration percentages would be 6.5 percent for nondefense and 5.0 percent for defense.

VOL 51 ISS 161 AG 20 1986 UMI

APPENDIX: SEQUESTRATION REDUCTIONS BY AGENCY AND BUDGET ACCOUNT

(fiscal year 1987; in thousands of dollars)

Percentages Used: Non-Defense, 7.6%; Defense, 5.6%

Account Title	OMB	CBO	Average	Sequester
Legislative Branch				
Senate				
Mileage of the Vice President and Senators		(01-05-0101	-X-1-801-A;	00-0101)
Budget Authority	57	57	57	4
Outlays	46	46	46	3
Expense allowances of the Vice President, Pres Pro Tem		(01-05-0107	-X-1-801-A;	00-0107)
Budget Authority	54	54	54	4
Outlays	54	54	54	4
Representation allowances for the Majority and Minorit		(01-05-0108	-X-1-801-A;	00-0108)
Budget Authority	19	19	19	1
Outlays	19	19	19	1
Salaries, officers and employees		(01-05-0110	-X-1-801-A;	00-0110)
Budget Authority	163,643	163,643	163,643	12,437
Outlays	153,854	153,854	153,854	11,693
Miscellaneous items		(01-05-0123	-X-1-801-A;	00-0123)
Budget Authority	9,244	9,244	9,244	703
Outlays	9,244	9,244	9,244	703
Secretary of the Senate		(01-05-0126	-X-1-801-A;	00-0126)
Budget Authority	655	655	655	50
Outlays	392	392	392	30
Sergeant at Arms and Doorkeeper of the Senate		(01-05-0127	-X-1-801-A;	00-0127)
Budget Authority	51,824	51,824	51,824	3,939
Outlays	48,196	48,196	48,196	3,663
Inquiries and investigations		(01-05-0128	-X-1-801-A;	00-0128)
Budget Authority	48,855	48,855	48,855	3,713
Outlays	38,889	38,889	38,889	2,956
Expenses of U.S. International Narcotics Control Commi		(01-05-0129	-X-1-801-A;	00-0129)
Budget Authority	311	311	311	24
Outlays	280	280	280	21
Stationery (revolving fund)		(01-05-0140	-X-1-801-A;	00-0140)
Budget Authority	11	11	11	1
Outlays	11	11	11	1
Office of Senate Legal Counsel		(01-05-0171	-X-1-801-A;	00-0171)
Budget Authority	541	541	541	41
Outlays	491	491	491	37
Expense allowance for the Secretary of the Senate, etc		(01-05-0172	-X-1-801-A;	00-0172)
Budget Authority	11	11	11	1
Outlays	11	11	11	1
Senate policy committees		(01-05-0182	-X-1-801-A;	00-0182)
Budget Authority	1,864	1,864	1,864	142
Outlays	1,678	1,678	1,678	128
Office of the Legislative Counsel of the Senate		(01-05-0185	-X-1-801-A;	00-0185)
Budget Authority	1,375	1,375	1,375	104
Outlays	1,222	1,222	1,222	93
House of Representatives				
Mileage of Members		(01-10-0208	-X-1-801-A;	00-0208)
Budget Authority	144	144	144	11
Outlays	72	72	72	5
House leadership offices		(01-10-0408	-X-1-801-A;	00-0408)
Budget Authority	3,213	3,213	3,213	244
Outlays	2,888	2,888	2,888	219
Salaries, officers and employees		(01-10-0410	-X-1-801-A;	00-0410)
Budget Authority	46,354	46,354	46,354	3,523
Outlays	44,917	44,917	44,917	3,414
Members' clerk hire		(01-10-0415	-X-1-801-A;	00-0415)
Budget Authority	159,591	159,591	159,591	12,129
Outlays	157,197	157,197	157,197	11,947
Committee employees		(01-10-0416	-X-1-801-A;	00-0416)
Budget Authority	42,419	42,419	42,419	3,224
Outlays	40,722	40,722	40,722	3,095
Committee on Appropriations (Studies and Investigation		(01-10-0418	-X-1-801-A;	00-0418)
Budget Authority	4,091	4,091	4,091	311
Outlays	3,273	3,273	3,273	249
Committee on the Budget (Studies)		(01-10-0419	-X-1-801-A;	00-0419)
Budget Authority	283	283	283	22
Outlays	247	247	247	19
Special and select committees		(01-10-0433	-X-1-801-A;	00-0433)
Budget Authority	45,291	45,291	45,291	3,442
Outlays	43,479	43,479	43,479	3,304
Allowances and expenses		(01-10-0438	-X-1-801-A;	00-0438)
Budget Authority	127,689	127,689	127,689	9,704
Outlays	107,259	107,259	107,259	8,152
Congressional use of foreign currency, House of Repres		(01-10-0488	-X-1-801-A;	00-0488)
401(C) Authority	2,680	2,680	2,680	204
Outlays	2,680	2,680	2,680	204
Joint Items				
Capitol Guide Service		(01-12-0170	-X-1-801-A;	00-0170)
Budget Authority	830	830	830	63
Outlays	706	706	706	54

Account Title	OMB	CBO	Average	Sequester
Joint Committee on Printing		(01-12-0180	-X-1-801-A;	00-0180)
Budget Authority	879	879	879	67
Outlays	755	755	755	57
Joint Economic Committee		(01-12-0181	-X-1-801-A;	00-0181)
Budget Authority	2,530	2,530	2,530	192
Outlays	2,530	2,277	2,404	183
Office of the Attending Physician		(01-12-0425	-X-1-801-A;	00-0425)
Budget Authority	1,011	1,011	1,011	77
Outlays	404	404	404	31
Joint Committee on Taxation		(01-12-0460	-X-1-801-A;	00-0460)
Budget Authority	4,458	4,458	4,458	339
Outlays	4,235	4,235	4,235	322
Capitol Police Board		(01-12-0474	-X-1-801-A;	00-0474)
Budget Authority	13,104	13,104	13,104	896
General expenses, Capitol police		(01-12-0476	-X-1-801-A;	00-0476)
Budget Authority	1,279	1,279	1,279	97
Outlays	1,086	1,086	1,086	83
Statements of appropriations, House of Representatives		(01-12-0499	-X-1-801-A;	00-0499)
Budget Authority	13	13	13	1
Official mail costs		(01-12-0825	-X-1-801-A;	00-0825)
Budget Authority	95,700	95,700	95,700	7,273
Outlays	95,700	95,700	95,700	7,273
Congressional Budget Office				
Salaries and expenses		(01-14-0100	-X-1-801-A;	08-0100)
Budget Authority	16,160	16,160	16,160	1,228
Outlays	14,544	14,544	14,544	1,105
Architect of the Capitol				
Office of the Architect of the Capitol: Salaries		(01-15-0100	-X-1-801-A;	01-0100)
Budget Authority	5,434	5,434	5,434	413
Outlays	4,987	4,723	4,855	369
Contingent expenses		(01-15-0102	-X-1-801-A;	01-0102)
Budget Authority	96	96	96	7
Outlays	96	96	96	7
Capitol buildings		(01-15-0105	-X-1-801-A;	01-0105)
Budget Authority	18,516	18,516	18,516	1,407
Outlays	9,012	9,012	9,012	685
Capitol grounds		(01-15-0108	-X-1-801-A;	01-0108)
Budget Authority	3,359	3,359	3,359	255
Outlays	2,088	2,959	3,024	230
Senate office buildings		(01-15-0123	-X-1-801-A;	01-0123)
Budget Authority	18,876	18,876	18,876	1,435
Outlays	16,099	13,024	14,562	1,107
House office buildings		(01-15-0127	-X-1-801-A;	01-0127)
Budget Authority	21,138	21,138	21,138	1,606
Outlays	19,326	18,897	19,112	1,453
Capitol Power Plant		(01-15-0133	-X-1-801-A;	01-0133)
Budget Authority	24,068	24,068	24,068	1,829
401(C) Authority--Off. Coll.	135	135	135	10
Outlays	20,580	20,829	20,704	1,574
Structural and mechanical care, Library buildings and		(01-15-0155	-X-1-801-A;	01-0155)
Budget Authority	5,536	5,536	5,536	421
Outlays	5,071	5,071	5,071	385
Library of Congress				
Salaries and expenses		(01-25-0101	-X-1-503-A;	03-0101)
Budget Authority	128,863	128,863	128,863	9,794
401(C) Authority--Off. Coll.	4,512	4,512	4,512	343
Outlays	112,073	110,437	111,255	8,455
Copyright Office: Salaries and expenses		(01-25-0102	-X-1-376-A;	03-0102)
Budget Authority	10,413	10,413	10,413	791
401(C) Authority--Off. Coll.	6,492	6,492	6,492	493
Outlays	15,799	16,020	15,910	1,209
Congressional Research Service: Salaries and expenses		(01-25-0127	-X-1-801-A;	03-0127)
Budget Authority	37,288	37,288	37,288	2,834
Outlays	34,338	33,708	34,023	2,586
Books for the blind and physically handicapped: Salari		(01-25-0141	-X-1-503-A;	03-0141)
Budget Authority	32,309	32,309	32,309	2,455
Outlays	15,515	13,150	14,332	1,089
Collection & distribution of library materials (sp. fo		(01-25-0144	-X-1-503-A;	03-0144)
Budget Authority	796	796	796	60
Furniture and furnishings		(01-25-0146	-X-1-503-A;	03-0146)
Budget Authority	853	853	853	65
Outlays	138	138	138	10
Gift and trust fund accounts		(01-25-9971	-X-7-503-A;	03-9971)
401(C) Other--incl. ob. limit	372	346	359	27
Outlays	372	346	359	27
Government Printing Office				
Office of Superintendent of Documents: Salaries and ex		(01-30-0201	-X-1-806-A;	04-0201)
Budget Authority	21,993	21,993	21,993	1,671
Outlays	11,125	13,680	12,402	943

Account Title	OMB	CBO	Average	Sequester
Printing and binding		(01-30-0202	-X-1-801-A;	04-0202)
Budget Authority	11,058	11,058	11,058	840
Outlays	9,200	7,188	8,194	623
Congressional printing and binding		(01-30-0203	-X-1-801-A;	04-0203)
Budget Authority	66,421	66,421	66,421	5,048
Outlays	25,319	27,033	26,176	1,989
Government Printing Office revolving fund		(01-30-4505	-X-4-806-A;	04-4505)
401(C) Authority--Off. Coll.	27,208	27,208	27,208	2,068
Outlays	27,208	27,208	27,208	2,068
General Accounting Office				
Salaries and expenses		(01-35-0107	-X-1-801-A;	05-0107)
Budget Authority	287,974	287,977	287,976	21,886
Budget Authority--ASI	1	1	1	1
Outlays	256,449	237,395	246,922	18,767
United States Tax Court				
Salaries and expenses		(01-40-0100	-X-1-752-A;	23-0100)
Budget Authority	23,500	23,500	23,500	1,786
Outlays	22,065	21,691	21,878	1,663
Other Legislative Branch Agencies				
Commission on Security & Cooperation in Europe: Salari		(01-45-0110	-X-1-801-A;	09-0110)
Budget Authority	526	526	526	40
Outlays	481	481	481	37
Botanic Garden: Salaries and expenses		(01-45-0200	-X-1-801-A;	09-0200)
Budget Authority	2,094	2,094	2,094	159
Outlays	1,885	1,885	1,885	143
Copyright Royalty Tribunal: Salaries and expenses		(01-45-0310	-X-1-376-A;	09-0310)
Budget Authority	149	149	149	11
Outlays	120	133	126	10
Biomedical Ethics: Salaries and expenses		(01-45-0400	-X-1-801-A;	09-0400)
Budget Authority	144	144	144	11
Outlays	144	144	144	11
Office of Technology Assessment: Salaries and expenses		(01-45-0700	-X-1-801-A;	09-0700)
Budget Authority	14,642	14,642	14,642	1,113
Outlays	10,803	11,714	11,258	856
Railroad Accounting Principles Board: Salaries and exp		(01-45-0800	-X-1-801-A;	09-0800)
Budget Authority	718	718	718	55
Outlays	615	646	630	48
Legislative Branch		Total		
Budget Authority	1,580,267	1,580,270	1,580,268	120,100
Budget Authority--ASI	1	1	1	1
401(C) Authority	2,680	2,680	2,680	204
401(C) Authority--Off. Coll.	38,347	38,347	38,347	2,914
401(C) Other--incl. ob. limit	372	346	359	27
Outlays	1,398,989	1,374,436	1,386,713	105,391
The Judiciary				
Supreme Court of the United States				
Salaries and expenses		(02-05-0100	-X-1-752-A;	10-0100)
Budget Authority	13,382	13,382	13,382	1,017
Outlays	10,145	10,451	10,298	783
Care of the building and grounds		(02-05-0103	-X-1-752-A;	10-0103)
Budget Authority	2,223	2,223	2,223	169
Outlays	2,194	2,045	2,120	161
United States Court of Appeals for Federal Circuit				
Salaries and expenses		(02-07-0510	-X-1-752-A;	10-0510)
Budget Authority	4,259	4,259	4,259	324
Outlays	4,753	4,055	4,404	335
United States Court of International Trade				
Salaries and expenses		(02-15-0400	-X-1-752-A;	10-0400)
Budget Authority	5,417	5,417	5,417	412
Outlays	5,737	5,146	5,442	414
Courts of Appeals, District Courts, and other Judi				
Salaries of judges		(02-25-0200	-X-1-752-A;	10-0200)
Budget Authority	17,513	0	8,756	665
401(C) Authority	0	17,513	8,756	665
Outlays	17,338	17,338	17,338	1,318
Defender services		(02-25-0923	-X-1-752-A;	10-0923)
Budget Authority	59,143	59,143	59,143	4,495
Outlays	25,598	35,486	30,542	2,321
Salaries of supporting personnel		(02-25-0924	-X-1-752-A;	10-0924)
Budget Authority	455,679	455,679	455,679	34,632
Outlays	447,257	438,363	442,810	33,654
Fees of jurors and commissioners		(02-25-0925	-X-1-752-A;	10-0925)
Budget Authority	45,334	45,334	45,334	3,445
Outlays	44,840	42,160	43,500	3,306
Expenses of Operation and Maintenance of the Courts		(02-25-0926	-X-1-752-A;	10-0926)
Budget Authority	129,195	129,195	129,195	9,819
Outlays	88,650	107,232	97,941	7,444

Account Title	OMB	CBO	Average	Sequester
Court security		(02-25-0930	-X-1-752-A;	10-0930)
Budget Authority	31,342	31,342	31,342	2,382
Outlays	22,792	24,071	23,432	1,781
Space and facilities		(02-25-0931	-X-1-752-A;	10-0931)
Budget Authority	140,679	140,679	140,679	10,692
Outlays	137,095	124,642	130,868	9,946
Administrative Office of the United States Courts				
Study of construction of office building		(02-26-0105	-X-1-752-A;	10-0105)
Budget Authority	1,300	1,300	1,300	99
Salaries and expenses		(02-26-0927	-X-1-752-A;	10-0927)
Budget Authority	27,944	27,944	27,944	2,124
Outlays	22,712	24,787	23,750	1,805
Federal Judicial Center				
Salaries and expenses		(02-30-0928	-X-1-752-A;	10-0928)
Budget Authority	9,187	9,187	9,187	698
Outlays	7,365	7,322	7,344	558
The Judiciary		Total		
Budget Authority	942,597	925,084	933,840	70,972
401(C) Authority	0	17,513	8,756	665
Outlays	836,476	843,098	839,787	63,824
Executive Office of the President				
The White House Office				
Salaries and expenses		(03-10-0110	-X-1-802-A;	11-0110)
Budget Authority	23,835	23,835	23,835	1,811
Outlays	20,856	21,642	21,249	1,615
Executive Residence at the White House				
Operating expenses		(03-20-0210	-X-1-802-A;	11-0210)
Budget Authority	4,380	4,380	4,380	333
401(C) Authority--Off. Coll.	480	480	480	36
Outlays	4,422	4,641	4,532	344
Official Residence of the Vice President				
Operating expenses		(03-21-0211	-X-1-802-A;	11-0211)
Budget Authority	195	195	195	15
Outlays	141	136	138	10
Special Assistance to the President				
Salaries and expenses		(03-22-1454	-X-1-802-A;	11-1454)
Budget Authority	1,717	1,717	1,717	130
Outlays	1,683	1,494	1,588	121
Council of Economic Advisers				
Salaries and expenses		(03-28-1900	-X-1-802-A;	11-1900)
Budget Authority	2,202	2,202	2,202	167
Outlays	2,150	1,762	1,956	149
Council/Office on Environmental Quality				
Council on Environmental Quality & Off. of Environment		(03-31-1453	-X-1-802-A;	11-1453)
Budget Authority	670	670	670	51
Outlays	636	636	636	48
Office of Policy Development				
Salaries and expenses		(03-35-2200	-X-1-802-A;	11-2200)
Budget Authority	2,609	2,609	2,609	198
Outlays	2,493	2,259	2,376	181
National Security Council				
Salaries and expenses		(03-40-2000	-X-1-802-A;	11-2000)
Budget Authority	4,428	4,428	4,428	337
Outlays	3,462	3,463	3,462	263
National Critical Materials Council				
Salaries and expenses		(03-41-0111	-X-1-802-A;	11-0111)
Budget Authority	478	479	478	36
Outlays	478	431	454	34
Office of Administration				
Salaries and expenses		(03-42-0038	-X-1-802-A;	11-0038)
Budget Authority	14,926	14,926	14,926	1,134
Outlays	14,887	9,851	12,369	940
Office of Management and Budget				
Office of Federal Procurement Policy: Salaries and exp		(03-48-0201	-X-1-802-A;	11-0201)
Budget Authority	1,542	1,542	1,542	117
Outlays	1,439	1,389	1,414	107
Salaries and expenses		(03-48-0300	-X-1-802-A;	11-0300)
Budget Authority	35,695	35,695	35,695	2,713
Outlays	32,643	31,733	32,188	2,446
Office of Science and Technology Policy				
Salaries and expenses		(03-49-2600	-X-1-802-A;	11-2600)
Budget Authority	2,217	2,217	2,217	168
Outlays	1,684	1,685	1,684	128
Office of the United States Trade Representative				
Salaries and expenses		(03-50-0400	-X-1-802-A;	11-0400)
Budget Authority	12,592	12,592	12,592	957
Outlays	10,505	10,703	10,604	806

Account Title	OMB	CBO Total	Average	Sequester
Executive Office of the President				
Budget Authority	107,486	107,487	107,486	8,169
401(C) Authority--Off. Coll.	480	480	480	36
Outlays	97,479	91,825	94,652	7,194
Funds Appropriated to the President				
Disaster Relief				
Disaster relief		(04-03-0039	-X-1-453-A;	11-0039)
Budget Authority	345,700	345,700	345,700	26,273
Outlays	125,000	231,619	178,310	13,552
Unanticipated Needs				
Unanticipated needs		(04-06-0037	-X-1-802-A;	11-0037)
Budget Authority	957	957	957	73
Outlays	827	823	825	63
International Security Assistance				
Peacekeeping operations		(04-09-1032	-X-1-152-A;	11-1032)
Budget Authority	32,538	32,538	32,538	2,473
Outlays	15,540	13,926	14,733	1,120
Economic support fund		(04-09-1037	-X-1-152-A;	11-1037)
Budget Authority	3,716,817	3,716,817	3,716,817	282,478
Direct Loan Limitation	379,450	379,450	379,450	28,838
Outlays	2,284,492	2,293,276	2,288,884	173,955
Military assistance		(04-09-1080	-X-1-152-A;	11-1080)
Budget Authority	798,374	798,374	798,374	60,676
Outlays	780,140	781,910	781,025	59,358
International military education and training		(04-09-1081	-X-1-152-A;	11-1081)
Budget Authority	52,147	52,147	52,147	3,963
Outlays	28,681	23,466	26,074	1,982
Foreign military sales credit		(04-09-1082	-X-1-152-A;	11-1082)
Budget Authority	4,966,830	4,966,830	4,966,830	377,479
Direct Loan Limitation	4,966,830	4,966,830	4,966,830	377,479
Outlays	2,014,460	1,734,773	1,874,616	142,471
Multilateral Assistance				
Contribution to the Inter-American Development Bank		(04-12-0072	-X-1-151-A;	11-0072)
Budget Authority	85,844	85,844	85,844	6,524
Outlays	766	766	766	58
Contribution to the International Development Associat		(04-12-0073	-X-1-151-A;	11-0073)
Budget Authority	669,900	669,900	669,900	50,912
Contribution to the Asian Development Bank		(04-12-0076	-X-1-151-A;	11-0076)
Budget Authority	107,097	107,097	107,097	8,139
Outlays	4,559	4,559	4,559	346
Contribution to the International Bank for Reconstruct		(04-12-0077	-X-1-151-A;	11-0077)
Budget Authority	105,003	105,003	105,003	7,980
Outlays	10,500	10,500	10,500	798
Contribution to the International Finance Corporation		(04-12-0078	-X-1-151-A;	11-0078)
Budget Authority	27,827	27,827	27,827	2,115
Outlays	27,827	27,827	27,827	2,115
Contribution to the African Development Fund		(04-12-0079	-X-1-151-A;	11-0079)
Budget Authority	59,573	59,573	59,573	4,528
Contribution to the African Development Bank		(04-12-0082	-X-1-151-A;	11-0082)
Budget Authority	15,493	15,493	15,493	1,177
Outlays	15,493	15,493	15,493	1,177
Contribution to the special facility for Sub-Saharan A		(04-12-0086	-X-1-151-A;	11-0086)
Budget Authority	71,775	71,775	71,775	5,455
Outlays	14,355	14,355	14,355	1,091
International organizations and programs		(04-12-1005	-X-1-151-A;	11-1005)
Budget Authority	265,971	265,971	265,971	20,214
Outlays	177,946	177,946	177,946	13,524
Agency for International Development				
Operating expenses, Agency for International Develope		(04-14-1000	-X-1-151-A;	11-1000)
Budget Authority	360,167	360,167	360,167	27,373
Outlays	270,125	270,125	270,125	20,530
Operating expenses of the AID Office of Inspector Gene		(04-14-1007	-X-1-151-A;	11-1007)
Budget Authority	20,145	20,145	20,145	1,531
Outlays	15,814	15,693	15,754	1,197
Sahel development program		(04-14-1012	-X-1-151-A;	11-1012)
Budget Authority	77,038	77,038	77,038	5,855
Outlays	6,163	9,476	7,820	594
American schools and hospitals abroad		(04-14-1013	-X-1-151-A;	11-1013)
Budget Authority	33,495	33,495	33,495	2,546
Outlays	8,541	8,541	8,541	649
Functional development assistance program		(04-14-1021	-X-1-151-A;	11-1021)
Budget Authority	1,477,200	1,477,200	1,477,200	112,267
Direct Loan Limitation	301,488	301,488	301,488	22,913
Outlays	118,176	181,695	149,935	11,395
International disaster assistance		(04-14-1035	-X-1-151-A;	11-1035)
Budget Authority	21,532	21,532	21,532	1,636
Outlays	5,340	5,340	5,340	406

Account Title	OMB	CBO	Average	Sequester
Housing and other credit guaranty programs		(04-14-4340	-X-3-151-A;	72-4340)
401(C) Authority--Off. Coll.	7,266	7,266	7,266	552
Guaranteed Loan Limitation	145,464	145,464	145,464	11,055
Outlays	7,100	7,100	7,100	540
Private sector revolving fund		(04-14-4341	-X-3-151-A;	72-4341)
Budget Authority	17,226	17,226	17,226	1,309
Direct Loan Limitation	17,226	17,226	17,226	1,309
Outlays	0	1,648	824	63
Trade and Development Program				
Trade and development program		(04-16-1001	-X-1-151-A;	11-1001)
Budget Authority	18,087	18,087	18,087	1,375
Outlays	4,211	4,124	4,168	317
Peace Corps				
Peace Corps operating expenses		(04-18-0100	-X-1-151-A;	11-0100)
Budget Authority	124,410	124,410	124,410	9,455
401(C) Authority--Off. Coll.	200	200	200	15
Outlays	99,728	97,862	98,795	7,508
Overseas Private Investment Corporation				
Overseas Private Investment Corporation		(04-20-4030	-X-3-151-A;	71-4030)
401(C) Authority--Off. Coll.	12,400	12,400	12,400	942
Direct Loan Limitation	13,637	13,637	13,637	1,036
Guaranteed Loan Limitation	136,372	136,372	136,372	10,364
Outlays	13,144	15,231	14,188	1,078
Inter-American Foundation				
Inter-American Foundation		(04-22-4031	-X-3-151-A;	11-4031)
Budget Authority	11,454	11,454	11,454	870
401(C) Authority--Off. Coll.	17,000	17,000	17,000	1,292
Outlays	23,243	21,582	22,412	1,703
African Development Foundation				
African Development Foundation		(04-24-0700	-X-1-151-A;	11-0700)
Budget Authority	3,706	3,706	3,706	282
Outlays	1,423	1,645	1,534	117
Military Sales Programs				
Special defense acquisition fund		(04-37-4116	-X-3-155-A;	11-4116)
Obligation Limitation	311,025	311,025	311,025	23,638
Outlays	0	3,110	1,555	118
Foreign military sales trust fund		(04-37-8242	-X-7-155-A;	11-8242)
401(C) Authority--Off. Coll.	400,000	400,000	400,000	30,400
Outlays	400,000	400,000	400,000	30,400
Funds Appropriated to the President		Total		
Budget Authority	13,486,306	13,486,306	13,486,306	1,024,959
401(C) Authority--Off. Coll.	436,866	436,866	436,866	33,202
Direct Loan Limitation	5,678,631	5,678,631	5,678,631	431,576
Guaranteed Loan Limitation	281,836	281,836	281,836	21,420
Obligation Limitation	311,025	311,025	311,025	23,638
Outlays	6,473,594	6,374,411	6,424,002	488,224
Department of Agriculture				
Office of the Secretary				
Office of the Secretary		(05-03-0115	-X-1-352-A;	12-0115)
Budget Authority	5,510	5,510	5,510	419
Outlays	5,091	5,328	5,210	396
Departmental Administration				
Rental payments and building operations		(05-05-0117	-X-1-352-A;	12-0117)
Budget Authority	65,660	65,660	65,660	4,990
Outlays	65,660	61,683	63,672	4,839
Advisory committees		(05-05-0118	-X-1-352-A;	12-0118)
Budget Authority	1,258	1,258	1,258	96
Outlays	629	823	726	55
Departmental administration		(05-05-0120	-X-1-352-A;	12-0120)
Budget Authority	18,350	18,350	18,350	1,395
Outlays	16,276	16,295	16,286	1,238
Working capital fund		(05-05-4609	-X-4-352-A;	12-4609)
Budget Authority	5,964	5,964	5,964	453
Outlays	5,964	5,886	5,925	450
Office of Governmental and Public Affairs				
Office of Governmental and Public Affairs		(05-06-0130	-X-1-352-A;	12-0130)
Budget Authority	7,343	7,343	7,343	558
Outlays	5,962	5,801	5,882	447
Office of the Inspector General				
Office of the Inspector General		(05-08-0900	-X-1-352-A;	12-0900)
Budget Authority	44,496	44,496	44,496	3,382
Outlays	38,044	38,089	38,066	2,893
Office of the General Counsel				
Office of the General Counsel		(05-10-2300	-X-1-352-A;	12-2300)
Budget Authority	15,095	15,095	15,095	1,147
Outlays	14,959	14,959	14,959	1,137
Agricultural Research Service				
Agricultural Research Service		(05-18-1400	-X-1-352-A;	12-1400)
Budget Authority	478,372	478,372	478,372	36,356
401(C) Authority--Off. Coll.	2,000	2,000	2,000	152
Outlays	384,698	384,219	384,458	29,219

Account Title	OMB	CBO	Average	Sequester
Buildings and facilities		(05-18-1401	-X-1-352-A;	12-1401)
Budget Authority	6,041	6,041	6,041	459
Outlays	906	1,166	1,036	79
Cooperative State Research Service				
Cooperative State Research Service		(05-24-1500	-X-1-352-A;	12-1500)
Budget Authority	276,146	276,146	276,146	20,987
401(C) Authority	2,800	2,800	2,800	213
Outlays	162,926	180,478	171,702	13,049
Extension Service				
Extension Service		(05-27-0502	-X-1-352-A;	12-0502)
Budget Authority	328,009	328,009	328,009	24,929
401(C) Authority--Off. Coll.	625	625	625	48
Outlays	279,433	259,424	269,428	20,477
National Agricultural Library				
National Agricultural Library		(05-30-0300	-X-1-352-A;	12-0300)
Budget Authority	10,787	10,787	10,787	820
Outlays	8,630	7,821	8,226	625
Statistical Reporting Service				
Salaries and expenses		(05-33-1801	-X-1-352-A;	12-1801)
Budget Authority	56,200	56,200	56,200	4,271
401(C) Authority--Off. Coll.	1,087	1,087	1,087	83
Outlays	48,419	46,834	48,126	3,658
Economic Research Service				
Salaries and expenses		(05-36-1701	-X-1-352-A;	12-1701)
Budget Authority	44,115	44,115	44,115	3,353
Outlays	37,939	37,101	37,520	2,852
World Agricultural Outlook Board				
World agricultural outlook board		(05-50-2100	-X-1-352-A;	12-2100)
Budget Authority	1,598	1,598	1,598	121
Outlays	1,214	1,218	1,216	92
Foreign Agricultural Service				
Foreign Agricultural Service		(05-51-2900	-X-1-352-A;	12-2900)
Budget Authority	79,475	79,475	79,475	6,040
Outlays	44,873	43,791	44,332	3,369
Office of International Cooperation & Development				
Scientific activities overseas		(05-53-1404	-X-1-352-A;	12-1404)
Budget Authority	2,854	2,854	2,854	217
Outlays	2,854	1,427	2,140	163
Salaries and expenses		(05-53-3200	-X-1-352-A;	12-3200)
Budget Authority	5,152	5,152	5,152	392
401(C) Authority--Off. Coll.	665	665	665	51
Outlays	5,817	5,714	5,766	438
Foreign Assistance Programs				
Expenses, PL 480, foreign assistance programs, Agricul		(05-57-2274	-X-1-151-A;	12-2274)
Budget Authority	1,243,294	1,243,294	1,243,294	94,490
Direct Loan Limitation	905,992	905,992	905,992	68,855
Obligation Limitation	1,607,760	1,607,760	1,607,760	122,190
Outlays	1,249,796	1,463,062	1,356,429	103,089
Agricultural Stabilization & Conservation Service				
Salaries and expenses		(05-60-3300	-X-1-351-A;	12-3300)
Budget Authority	198	198	198	15
401(C) Authority--Off. Coll.	63,117	63,117	63,117	4,797
Outlays	63,315	63,303	63,309	4,811
Dairy indemnity program		(05-60-3314	-X-1-351-A;	12-3314)
Budget Authority	9,095	9,095	9,095	691
Outlays	9,095	9,095	9,095	691
Agricultural conservation program		(05-60-3315	-X-1-302-A;	12-3315)
Budget Authority	180,739	180,739	180,739	13,736
Outlays	82,778	83,140	82,959	6,305
Emergency conservation program		(05-60-3316	-X-1-453-A;	12-3316)
Budget Authority	5,000	5,000	5,000	380
Outlays	0	1,000	500	38
Water Bank program		(05-60-3320	-X-1-302-A;	12-3320)
Budget Authority	8,371	8,371	8,371	636
Outlays	1,137	1,247	1,192	91
Forestry incentives program		(05-60-3336	-X-1-302-A;	12-3336)
Budget Authority	11,891	11,891	11,891	904
Outlays	4,162	4,590	4,376	333
Federal Crop Insurance Corporation				
Administrative and operating expenses		(05-63-2707	-X-1-351-A;	12-2707)
Budget Authority	209,608	209,608	209,608	15,930
Outlays	118,000	122,485	120,242	9,138
Commodity Credit Corporation				
Temp. stor. & distr. of CCC emgcy. food		(05-66-3635	-X-1-351-A;	12-3635)
Budget Authority	50,000	50,000	50,000	3,800
Outlays	35,018	34,215	34,617	2,631
Commodity Credit Corporation Fund		(05-66-4336	-X-3-351-A;	12-4336)
401(C) Authority	17,354,270	17,477,438	17,415,854	1,323,605
401(C) Authority--ASI	6,600	7,000	6,800	5,800
Direct Loan Limitation	13,325,000	10,474,000	11,899,500	904,362
Guaranteed Loan Limitation	5,500,000	5,500,000	5,500,000	418,000
Outlays	17,360,870	17,484,438	17,422,654	1,330,405

Account Title	OMB	CBO	Average	Sequester
Office of Rural Development Policy				
Salaries and expenses		(05-68-0801	-X-1-452-A;	12-0801)
Budget Authority	407	407	407	31
Rural Electrification Administration				
Salaries and expenses		(05-72-3100	-X-1-271-A;	12-3100)
Budget Authority	29,478	29,478	29,478	2,240
Outlays	27,533	26,855	27,194	2,067
Purchase of Rural Telephone Bank capital stock		(05-72-3102	-X-1-452-A;	12-3102)
Budget Authority	28,530	28,530	28,530	2,168
Outlays	28,530	28,530	28,530	2,168
Rural electrification and telephone revolving fund		(05-72-4230	-X-3-271-A;	12-4230)
Direct Loan Limitation	1,244,100	1,244,100	1,244,100	94,552
Direct Loan Floor	861,300	861,300	861,300	65,459
Guaranteed Loan Limitation	2,100,615	2,100,615	2,100,615	159,647
Guaranteed Loan Floor	933,075	933,075	933,075	70,914
Rural telephone bank		(05-72-4231	-X-3-452-A;	12-4231)
Direct Loan Limitation	210,540	210,540	210,540	16,001
Direct Loan Floor	177,045	177,045	177,045	13,455
Outlays	10,620	27,442	19,031	1,446
REA, FFB direct loans		(05-72-7002	-X-4-271-A;	12-7002)
Direct Loan Limitation	2,100,615	2,100,615	2,100,615	159,647
Direct Loan Floor	933,075	933,075	933,075	70,914
Outlays	68,250	0	34,125	2,594
Farmers Home Administration				
Salaries and expenses		(05-75-2001	-X-1-452-A;	12-2001)
Budget Authority	357,904	357,904	357,904	27,201
Outlays	340,009	325,773	332,891	25,300
Rural housing for domestic farm labor		(05-75-2004	-X-1-604-A;	12-2004)
Budget Authority	9,513	9,513	9,513	723
Outlays	368	381	384	29
Mutual and self-help housing		(05-75-2006	-X-1-604-A;	12-2006)
Budget Authority	7,610	7,610	7,610	578
Outlays	609	609	609	46
Very low income housing repair grants		(05-75-2064	-X-1-604-A;	12-2064)
Budget Authority	13,891	13,891	13,891	1,056
Outlays	11,294	13,613	12,454	946
Rural water and waste disposal grants		(05-75-2066	-X-1-452-A;	12-2066)
Budget Authority	109,395	109,395	109,395	8,314
Outlays	2,264	2,188	2,226	169
Rural community fire protection grants		(05-75-2067	-X-1-452-A;	12-2067)
Budget Authority	3,091	3,091	3,091	235
Outlays	1,391	1,391	1,391	106
Rural housing preservation grants		(05-75-2070	-X-1-604-A;	12-2070)
Budget Authority	19,140	19,140	19,140	1,455
Outlays	935	1,914	1,424	108
Compensation for construction defects		(05-75-2071	-X-1-371-A;	12-2071)
Budget Authority	713	713	713	54
Outlays	713	713	713	54
Agricultural credit insurance fund		(05-75-4140	-X-3-351-A;	12-4140)
401(C) Authority	233,865	233,865	233,865	17,774
Direct Loan Limitation	2,632,000	2,632,000	2,632,000	200,032
Guaranteed Loan Limitation	1,915,892	1,915,892	1,915,892	145,608
Outlays	2,722,605	2,733,865	2,728,235	207,346
Rural housing insurance fund		(05-75-4141	-X-3-371-A;	12-4141)
401(C) Authority--Off. Coll.	56,000	56,000	56,000	4,256
Direct Loan Limitation	2,033,113	2,033,113	2,033,113	154,517
Obligation Limitation	160,310	160,310	160,310	12,184
Outlays	1,334,310	896,520	1,115,415	84,772
Rural development insurance fund		(05-75-4155	-X-3-452-A;	12-4155)
401(C) Authority--Off. Coll.	350	350	350	27
Direct Loan Limitation	421,080	421,080	421,080	32,002
Guaranteed Loan Limitation	95,700	95,700	95,700	7,273
Outlays	24,352	15,658	20,005	1,520
Self-help housing land development fund		(05-75-4222	-X-3-371-A;	12-4222)
Direct Loan Limitation	1,000	1,000	1,000	76
Outlays	340	340	340	26
Soil Conservation Service				
Conservation operations		(05-78-1000	-X-1-302-A;	12-1000)
Budget Authority	348,669	348,669	348,669	26,499
401(C) Authority--Off. Coll.	13,927	13,927	13,927	1,058
Outlays	334,702	334,784	334,743	25,440
Resource conservation and development		(05-78-1010	-X-1-302-A;	12-1010)
Budget Authority	25,037	25,037	25,037	1,903
401(C) Authority--Off. Coll.	1,983	1,983	1,983	151
Outlays	18,412	16,955	17,684	1,344
Watershed planning		(05-78-1066	-X-1-301-A;	12-1066)
Budget Authority	8,487	8,487	8,487	645
401(C) Authority--Off. Coll.	750	750	750	57
Outlays	8,728	8,100	8,414	639

Account Title	OMB	CBO	Average	Sequester
River basin surveys and investigations		(05-78-1069	-X-1-301-A;	12-1069)
Budget Authority	14,180	14,180	14,180	1,078
401(C) Authority--Off. Coll.	328	328	328	25
Outlays	13,657	13,600	13,628	1,036
Watershed and flood prevention operations		(05-78-1072	-X-1-301-A;	12-1072)
Budget Authority	257,472	257,472	257,472	19,568
401(C) Authority--Off. Coll.	8,020	8,020	8,020	610
Outlays	141,276	181,041	161,158	12,248
Great plains conservation program		(05-78-2268	-X-1-302-A;	12-2268)
Budget Authority	20,482	20,482	20,482	1,557
Outlays	9,278	9,278	9,278	705
Animal and Plant Health Inspection Service				
Salaries and expenses		(05-79-1600	-X-1-352-A;	12-1600)
Budget Authority	300,869	300,869	300,869	22,866
401(C) Authority--Off. Coll.	8,993	8,993	8,993	683
Outlays	258,714	266,537	262,626	19,960
Buildings and facilities		(05-79-1601	-X-1-352-A;	12-1601)
Budget Authority	4,054	4,054	4,054	308
Outlays	203	0	102	8
Miscellaneous trust funds		(05-79-9971	-X-7-352-A;	12-9971)
401(C) Other--incl. ob. limit	2,325	2,325	2,325	177
Outlays	1,517	1,517	1,517	115
Federal Grain Inspection Service				
Salaries and expenses		(05-80-2400	-X-1-352-A;	12-2400)
Budget Authority	6,702	6,702	6,702	509
Outlays	5,596	5,596	5,596	425
Inspection and weighing services		(05-80-4050	-X-3-352-A;	12-4050)
401(C) Authority--Off. Coll.	36,829	36,829	36,829	2,799
Outlays	36,829	36,829	36,829	2,799
Agricultural Marketing Service				
Marketing services		(05-81-2500	-X-1-352-A;	12-2500)
Budget Authority	30,516	30,516	30,516	2,319
401(C) Authority--Off. Coll.	29,361	29,361	29,361	2,231
Outlays	47,310	44,833	46,072	3,501
Payments to States and possessions		(05-81-2501	-X-1-352-A;	12-2501)
Budget Authority	942	942	942	72
Outlays	1,082	25	554	42
Perishable Agricultural Commodities Act fund		(05-81-5070	-X-2-352-A;	12-5070)
401(C) Authority	3,899	3,899	3,899	296
Outlays	2,921	2,922	2,922	222
Funds for strengthening markets, income, and supply (s		(05-81-5209	-X-2-605-A;	12-5209)
401(C) Authority	420,077	420,077	420,077	31,926
Outlays	184,245	184,245	184,245	14,003
Milk market orders assessment fund		(05-81-8412	-X-8-351-A;	12-8412)
401(C) Authority--Off. Coll.	35,110	35,110	35,110	2,668
Outlays	35,110	35,110	35,110	2,668
Miscellaneous trust funds		(05-81-9972	-X-7-352-A;	12-9972)
401(C) Authority	78,378	78,378	78,378	5,957
Outlays	78,378	73,406	75,892	5,768
Office of Transportation				
Office of Transportation		(05-82-2800	-X-1-352-A;	12-2800)
Budget Authority	2,346	2,346	2,346	178
Outlays	1,920	1,919	1,920	146
Food Safety and Inspection Service				
Salaries and expenses		(05-83-3700	-X-1-554-A;	12-3700)
Budget Authority	350,210	350,210	350,210	26,616
401(C) Authority--Off. Coll.	39,100	39,100	39,100	2,972
Outlays	368,441	366,547	367,494	27,930
Exp. & refunds, insp. & grading		(05-83-8137	-X-7-352-A;	12-8137)
401(C) Authority	825	825	825	63
Outlays	624	776	700	53
Food and Nutrition Service				
Food donations program		(05-84-3503	-X-1-605-A;	12-3503)
Budget Authority	193,589	193,589	193,589	14,713
Outlays	160,597	160,597	160,597	12,205
Food stamp program		(05-84-3505	-X-1-605-A;	12-3505)
Budget Authority	55,949	55,949	55,949	4,252
Outlays	25,278	25,278	25,278	1,921
Food program administration		(05-84-3508	-X-1-605-A;	12-3508)
Budget Authority	78,481	78,481	78,481	5,965
Outlays	70,869	70,869	70,869	5,386
Special supplemental food prog. for women, infants and		(05-84-3510	-X-1-605-A;	12-3510)
Budget Authority	2,914	2,914	2,914	221
Outlays	2,914	2,914	2,914	221
Child nutrition programs		(05-84-3539	-X-1-605-A;	12-3539)
Budget Authority	3,210	3,210	3,210	244
Outlays	3,210	3,142	3,176	241

Account Title	DMS	CBO	Average	Sequester
Human Nutrition Information Service				
Salaries and Expenses		(05-86-3501	-X-1-352-A;	12-3501)
Budget Authority	12,901	12,901	12,901	980
Outlays	6,451	5,560	6,006	456
Packers and Stockyards Administration				
Packers and Stockyards Administration		(05-90-2600	-X-1-352-A;	12-2600)
Budget Authority	8,833	8,833	8,833	671
Outlays	7,856	7,860	7,858	597
Agricultural Cooperative Service				
Salaries and expenses		(05-92-3000	-X-1-352-A;	12-3000)
Budget Authority	4,484	4,484	4,484	341
Outlays	2,466	2,583	2,524	192
Forest Service				
Construction		(05-86-1103	-X-1-302-A;	12-1103)
Budget Authority	214,654	214,654	214,654	16,314
401(C) Authority--Off. Coll.	1,850	1,850	1,850	141
Outlays	126,889	126,988	126,938	9,647
Forest research		(05-86-1104	-X-1-302-A;	12-1104)
Budget Authority	120,127	120,127	120,127	9,130
401(C) Authority--Off. Coll.	436	436	436	33
Outlays	93,832	90,892	92,362	7,020
State and private forestry		(05-86-1105	-X-1-302-A;	12-1105)
Budget Authority	55,321	55,321	55,321	4,204
401(C) Authority--Off. Coll.	87	87	87	7
Outlays	47,879	47,884	47,882	3,639
National forest system		(05-86-1106	-X-1-302-A;	12-1106)
Budget Authority	1,168,924	1,168,924	1,168,924	88,838
Outlays	1,035,163	1,035,495	1,035,329	78,685
Land acquisition		(05-86-5004	-X-2-303-A;	12-5004)
Budget Authority	31,356	31,356	31,356	2,383
Outlays	12,542	12,542	12,542	953
Range betterment fund		(05-86-5207	-X-2-302-A;	12-5207)
Budget Authority	3,635	3,635	3,635	276
Outlays	2,908	2,908	2,908	221
Acquisition of lands for nat'l forests		(05-86-5208	-X-2-302-A;	12-5208)
Budget Authority	744	744	744	57
Outlays	632	627	630	48
Acq. of lands to complete land exchanges		(05-86-5216	-X-2-302-A;	12-5216)
Budget Authority	20	19	20	2
Outlays	20	19	20	2
Operations and maintenance of quarters		(05-86-5219	-X-2-302-A;	12-5219)
401(C) Other--incl. ob. limit	5,421	5,421	5,421	412
Outlays	4,337	4,337	4,337	330
Reforestation trust fund		(05-86-8046	-X-7-302-A;	20-8046)
401(C) Other--incl. ob. limit	31,290	31,290	31,290	2,378
Outlays	25,032	25,032	25,032	1,902
Forest Service permanent appropriations		(05-86-9921	-X-2-852-A;	12-9921)
401(C) Other--incl. ob. limit	289,941	262,183	276,062	20,981
Outlays	289,941	262,183	276,062	20,981
Forest Service permanent appropriations		(05-86-9922	-X-2-302-A;	12-9922)
401(C) Authority--Off. Coll.	4	4	4	0
401(C) Other--incl. ob. limit	149,874	149,874	149,874	11,390
Outlays	115,006	115,955	115,480	8,776
Miscellaneous trust funds		(05-86-9973	-X-7-302-A;	12-9973)
Budget Authority	85	85	85	6
401(C) Authority--Off. Coll.	0	1	0	0
401(C) Other--incl. ob. limit	155,131	160,322	157,726	11,987
Outlays	149,282	136,684	142,983	10,867
Department of Agriculture		Total		
Budget Authority	7,075,487	7,075,486	7,075,486	537,737
401(C) Authority	18,094,114	18,217,282	18,155,698	1,379,833
401(C) Authority--Off. Coll.	300,622	300,623	300,622	22,847
401(C) Other--incl. ob. limit	633,982	611,415	622,698	47,325
401(C) Authority--ASI	6,600	7,000	6,800	6,800
Direct Loan Limitation	22,873,440	20,022,440	21,447,940	1,630,043
Direct Loan Floor	1,971,420	1,971,420	1,971,420	149,828
Guaranteed Loan Limitation	9,612,207	9,612,207	9,612,207	730,528
Guaranteed Loan Floor	933,075	933,075	933,075	70,914
Obligation Limitation	1,768,070	1,768,070	1,768,070	134,373
Outlays	28,361,656	28,184,793	28,273,224	2,155,048
Department of Commerce				
General Administration				
Salaries and expenses		(06-05-0120	-X-1-376-A;	13-0120)
Budget Authority	30,911	30,911	30,911	2,349
Outlays	27,820	28,613	28,716	2,182
Grants and loans administration		(06-05-0125	-X-1-452-A;	13-0125)
Budget Authority	24,882	24,882	24,882	1,891
Outlays	22,394	21,846	22,120	1,681

Account Title	OMB	CBO	Average	Sequester
Economic development assistance programs		(06-05-2050	-X-1-452-A;	13-2050)
Budget Authority	175,609	175,610	175,610	13,346
Guaranteed Loan Limitation	179,437	179,438	179,438	13,637
Outlays	17,560	17,561	17,560	1,335
Bureau of the Census				
Salaries and expenses		(06-07-0401	-X-1-376-A;	13-0401)
Budget Authority	86,513	86,513	86,513	6,575
401(C) Authority--Off. Coll.	12,000	12,000	12,000	912
Outlays	88,997	90,986	89,992	6,839
Periodic censuses and programs		(06-07-0450	-X-1-376-A;	13-0450)
Budget Authority	101,059	101,059	101,059	7,680
Outlays	67,709	68,720	68,214	5,184
Economic and Statistical Analysis				
Salaries and expenses		(06-08-1500	-X-1-376-A;	13-1500)
Budget Authority	29,188	29,189	29,188	2,218
401(C) Authority--Off. Coll.	382	382	382	29
Outlays	25,484	26,973	26,228	1,993
Information products and services		(06-08-8546	-X-7-376-A;	13-8546)
401(C) Other--incl. ob. limit	31,011	31,307	31,159	2,368
Outlays	21,097	23,480	22,288	1,694
International Trade Administration				
Operations and administration		(06-25-1250	-X-1-376-A;	13-1250)
Budget Authority	183,744	183,744	183,744	13,965
401(C) Authority--Off. Coll.	8,845	8,845	8,845	672
Outlays	137,465	138,385	137,925	10,482
Minority Business Development Agency				
Minority business development		(06-40-0201	-X-1-376-A;	13-0201)
Budget Authority	43,065	43,065	43,065	3,273
Outlays	12,293	13,522	12,908	981
United States Travel and Tourism Administration				
Salaries and expenses		(06-44-0700	-X-1-376-A;	13-0700)
Budget Authority	11,484	11,484	11,484	873
401(C) Authority--Off. Coll.	1,642	1,642	1,642	125
Outlays	9,107	10,255	9,681	736
National Oceanic and Atmospheric Administration				
Operations, research, and facilities		(06-48-1450	-X-1-306-A;	13-1450)
Budget Authority	1,128,233	1,128,233	1,128,233	85,746
Budget Authority--ASI	37	50	44	44
401(C) Authority--Off. Coll.	11,213	11,213	11,213	852
Outlays	694,959	776,980	735,970	55,974
Coastal energy impact fund		(06-48-4315	-X-3-452-A;	13-4315)
401(C) Authority--Off. Coll.	8,000	8,300	8,150	619
Outlays	8,000	8,300	8,150	618
Federal ship financing fund, fishing vessels		(06-48-4417	-X-3-376-A;	13-4417)
401(C) Authority--Off. Coll.	1,261	1,261	1,261	96
Guaranteed Loan Limitation	33,495	33,495	33,495	2,546
Outlays	1,261	1,261	1,261	96
Fishermen's contingency fund		(06-48-5120	-X-2-376-A;	13-5120)
Budget Authority	718	718	718	55
Outlays	529	561	545	41
Fishermen's guaranty fund		(06-48-5121	-X-2-376-A;	13-5121)
Budget Authority	2,871	2,871	2,871	218
Outlays	2,871	2,871	2,871	218
Foreign fishing observer fund		(06-48-5122	-X-2-376-A;	13-5122)
Budget Authority	4,306	4,307	4,306	327
Outlays	4,306	4,139	4,222	321
Promote and develop fishery products and research		(06-48-5139	-X-2-376-A;	13-5139)
401(C) Other--incl. ob. limit	8,007	8,007	8,007	609
Outlays	5,177	4,437	4,807	365
Aviation weather services program		(06-48-8105	-X-7-306-A;	13-8105)
Budget Authority	26,796	26,796	26,796	2,036
Outlays	26,796	18,221	22,508	1,711
Patent and Trademark Office				
Salaries and expenses		(06-51-1006	-X-1-376-A;	13-1006)
Budget Authority	81,058	81,058	81,058	6,160
401(C) Authority--Off. Coll.	131,827	131,827	131,827	10,019
Outlays	189,865	188,487	189,176	14,377
National Bureau of Standards				
Scientific and technical research and services		(06-52-0500	-X-1-376-A;	13-0500)
Budget Authority	116,642	116,642	116,642	8,865
Outlays	90,048	90,057	90,052	6,844
Working capital fund		(06-52-4650	-X-4-376-A;	13-4650)
Budget Authority	2,012	2,012	2,012	153
Outlays	1,006	0	503	38
National Telecommunications and Information Admin.				
Salaries and expenses		(06-60-0550	-X-1-376-A;	13-0550)
Budget Authority	12,824	12,824	12,824	975
Outlays	10,900	10,259	10,580	804

Account Title	DMB	CBO	Average	Sequester
Public telecommunications facilities, planning and con (06-60-0551 -X-1-503-A; 13-0551)				
Budget Authority	22,968	22,968	22,968	1,746
Outlays	2,503	0	1,252	95
Department of Commerce		Total		
Budget Authority	2,084,883	2,084,886	2,084,884	158,451
Budget Authority--ASI	37	50	44	44
401(C) Authority--Off. Coll.	175,170	175,470	175,320	13,324
401(C) Other--incl. ob. limit	39,018	39,314	39,166	2,977
Guaranteed Loan Limitation	212,932	212,933	212,932	16,183
Outlays	1,468,147	1,546,914	1,507,531	114,613
Department of Defense--Military				
Military Personnel				
Military personnel, Marine Corps		(07-05-1105 -X-1-051-A; 17-1105)		
Budget Authority	4,853,944	4,853,944	4,853,944	271,821
Outlays	4,728,227	4,659,782	4,694,004	262,864
Reserve personnel, Marine Corps		(07-05-1108 -X-1-051-A; 17-1108)		
Budget Authority	270,926	270,926	270,926	15,172
Outlays	238,876	236,769	237,822	13,318
Reserve personnel, Navy		(07-05-1405 -X-1-051-A; 17-1405)		
Budget Authority	1,264,599	1,264,599	1,264,599	70,818
Outlays	1,166,087	1,087,540	1,126,814	63,102
Military personnel, Navy		(07-05-1453 -X-1-051-A; 17-1453)		
Budget Authority	15,875,246	15,875,246	15,875,246	889,014
Outlays	15,608,542	15,557,700	15,583,121	872,655
Military personnel, Army		(07-05-2010 -X-1-051-A; 21-2010)		
Budget Authority	21,003,688	21,003,688	21,003,688	1,176,207
Outlays	20,692,833	20,583,700	20,638,266	1,155,743
National Guard personnel, Army		(07-05-2060 -X-1-051-A; 21-2060)		
Budget Authority	3,056,818	3,056,818	3,056,818	171,182
Outlays	2,756,027	2,769,400	2,762,714	154,712
Reserve personnel, Army		(07-05-2070 -X-1-051-A; 21-2070)		
Budget Authority	2,145,194	2,145,194	2,145,194	120,131
Outlays	1,965,641	2,008,894	1,987,268	111,287
Military personnel, Air Force		(07-05-3500 -X-1-051-A; 57-3500)		
Budget Authority	17,698,217	17,698,217	17,698,217	991,100
Outlays	17,501,767	17,344,263	17,423,015	975,689
Reserve personnel, Air Force		(07-05-3700 -X-1-051-A; 57-3700)		
Budget Authority	580,507	580,507	580,507	32,508
Outlays	520,947	507,300	514,124	28,791
National Guard personnel, Air Force		(07-05-3850 -X-1-051-A; 57-3850)		
Budget Authority	922,797	922,797	922,797	51,677
Outlays	881,917	895,100	888,508	49,756
Operation and Maintenance				
Operation and maintenance, Defense agencies		(07-10-0100 -X-1-051-A; 97-0100)		
Budget Authority	7,229,373	7,229,373	7,229,373	404,845
Outlays	6,027,128	6,455,786	6,241,457	349,522
Court of Military Appeals, Defense		(07-10-0104 -X-1-051-A; 97-0104)		
Budget Authority	3,043	3,043	3,043	170
Outlays	2,374	2,967	2,670	150
Foreign currency fluctuations, Defense		(07-10-0801 -X-1-051-A; 97-0801)		
Unobligated Balances--Defense	114,354	114,354	114,354	6,404
Environmental restoration, Defense		(07-10-0810 -X-1-051-A; 97-0810)		
Budget Authority	50,000	50,000	50,000	2,800
Outlays	12,685	14,998	13,842	775
Tenth International Pan American games		(07-10-0812 -X-1-051-A; 97-0812)		
Budget Authority	9,510	9,510	9,510	533
Outlays	5,706	8,559	7,132	399
Operation and maintenance, Marine Corps		(07-10-1106 -X-1-051-A; 17-1106)		
Budget Authority	1,533,060	1,533,060	1,533,060	85,851
Outlays	1,042,481	1,247,000	1,144,740	64,105
Operation and maintenance, Marine Corps Reserve		(07-10-1107 -X-1-051-A; 17-1107)		
Budget Authority	54,399	54,399	54,399	3,046
Outlays	35,800	35,000	35,400	1,982
National Board for the Promotion of Rifle Practice, Ar		(07-10-1705 -X-1-051-A; 21-1705)		
Budget Authority	875	875	875	49
Outlays	700	853	776	43
Operation and maintenance, Navy		(07-10-1804 -X-1-051-A; 17-1804)		
Budget Authority	23,285,795	23,285,795	23,285,795	1,304,005
Outlays	16,158,013	17,231,494	16,694,754	934,906
Operation and maintenance, Navy Reserve		(07-10-1806 -X-1-051-A; 17-1806)		
Budget Authority	851,097	851,097	851,097	47,661
Outlays	534,149	607,500	570,824	31,966
Operation and maintenance, Army		(07-10-2020 -X-1-051-A; 21-2020)		
Budget Authority	18,143,769	18,143,769	18,143,769	1,016,051
Outlays	13,244,951	14,333,468	13,789,210	772,196
Operation and maintenance, Army National Guard		(07-10-2065 -X-1-051-A; 21-2065)		
Budget Authority	1,573,137	1,573,137	1,573,137	88,096
Outlays	1,182,527	1,392,382	1,287,454	72,097

Account Title	OMB	CBO	Average	Sequester
Operation and maintenance, Army Reserve		(07-10-2080	-X-1-051-A;	21-2080)
Budget Authority	741,875	741,875	741,875	41,945
Outlays	576,218	653,200	615,709	34,480
Operation and maintenance, Air Force		(07-10-3400	-X-1-051-A;	57-3400)
Budget Authority	18,657,940	18,657,940	18,657,940	1,044,845
Outlays	13,383,340	14,925,743	14,154,542	792,654
Operation and maintenance, Air Force Reserve		(07-10-3740	-X-1-051-A;	57-3740)
Budget Authority	858,495	858,495	858,495	48,076
Outlays	665,677	758,025	711,851	39,864
Operation and maintenance, Air National Guard		(07-10-3840	-X-1-051-A;	57-3840)
Budget Authority	1,717,698	1,717,698	1,717,698	96,181
Outlays	1,411,089	1,583,674	1,497,382	83,853
Procurement				
Procurement, Defense agencies		(07-15-0300	-X-1-051-A;	97-0300)
Budget Authority	1,228,906	1,228,906	1,228,906	68,819
Unobligated Balances--Defense	494,167	494,167	494,167	27,673
Outlays	520,368	361,894	441,131	24,703
National Guard and Reserve Equipment		(07-15-0350	-X-1-051-A;	97-0350)
Budget Authority	1,469,538	1,469,538	1,469,538	82,294
Unobligated Balances--Defense	508,687	508,687	508,687	28,486
Outlays	118,693	13,058	65,876	3,689
Defense Production Act purchases		(07-15-0360	-X-1-051-A;	97-0360)
Budget Authority	29,481	29,481	29,481	1,651
Unobligated Balances--Defense	28,340	28,340	28,340	1,587
Outlays	2,891	2,891	2,891	162
NATO cooperative defense programs		(07-15-0370	-X-1-051-A;	97-0370)
Budget Authority	14,265	14,265	14,265	799
Unobligated Balances--Defense	2,853	2,853	2,853	160
Outlays	2,305	2,160	2,232	125
Coastal defense augmentation		(07-15-0380	-X-1-051-A;	17-0380)
Budget Authority	202,235	202,235	202,235	11,325
Unobligated Balances--Defense	324,243	324,243	324,243	18,158
Outlays	73,707	52,490	63,098	3,533
Procurement, Marine Corps		(07-15-1109	-X-1-051-A;	17-1109)
Budget Authority	1,579,388	1,579,388	1,579,388	88,446
Unobligated Balances--Defense	633,276	633,276	633,276	35,463
Outlays	271,051	154,855	212,953	11,925
Aircraft procurement, Navy		(07-15-1506	-X-1-051-A;	17-1506)
Budget Authority	10,527,684	10,527,684	10,527,684	589,550
Unobligated Balances--Defense	3,253,579	3,253,579	3,253,579	182,200
Outlays	1,212,751	1,240,274	1,226,512	68,685
Weapons procurement, Navy		(07-15-1507	-X-1-051-A;	17-1507)
Budget Authority	4,971,638	4,971,638	4,971,638	278,412
Unobligated Balances--Defense	2,371,487	2,371,487	2,371,487	132,803
Outlays	771,028	808,216	789,622	44,219
Shipbuilding and conversion, Navy		(07-15-1611	-X-1-051-A;	17-1611)
Budget Authority	10,350,341	10,350,341	10,350,341	579,619
Unobligated Balances--Defense	13,137,914	13,137,914	13,137,914	735,723
Outlays	1,519,690	1,297,957	1,408,824	78,894
Other procurement, Navy		(07-15-1810	-X-1-051-A;	17-1810)
Budget Authority	6,082,913	6,082,913	6,082,913	340,643
Unobligated Balances--Defense	2,431,693	2,431,693	2,431,698	136,175
Outlays	979,180	851,372	915,276	51,255
Aircraft procurement, Army		(07-15-2031	-X-1-051-A;	21-2031)
Budget Authority	3,351,514	3,351,514	3,351,514	187,685
Unobligated Balances--Defense	862,391	862,391	862,391	48,294
Outlays	632,085	632,113	632,100	35,398
Missile procurement, Army		(07-15-2032	-X-1-051-A;	21-2032)
Budget Authority	2,762,020	2,762,020	2,762,020	154,673
Unobligated Balances--Defense	854,452	854,452	854,452	47,849
Outlays	235,070	289,499	262,284	14,688
Procurement of weapons and tracked combat vehicles, Ar		(07-15-2033	-X-1-051-A;	21-2033)
Budget Authority	4,455,245	4,455,245	4,455,245	249,494
Unobligated Balances--Defense	1,641,298	1,641,298	1,641,298	91,913
Outlays	421,881	122,061	271,971	15,230
Procurement of ammunition, Army		(07-15-2034	-X-1-051-A;	21-2034)
Budget Authority	2,374,837	2,374,837	2,374,837	132,991
Unobligated Balances--Defense	316,848	316,848	316,848	17,749
Outlays	807,505	645,951	726,728	40,697
Other procurement, Army		(07-15-2035	-X-1-051-A;	21-2035)
Budget Authority	5,018,700	5,018,700	5,018,700	281,047
Unobligated Balances--Defense	1,954,648	1,954,648	1,954,648	109,460
Outlays	697,395	415,579	556,457	31,162
Aircraft procurement, Air Force		(07-15-3010	-X-1-051-A;	57-3010)
Budget Authority	22,116,361	22,116,361	22,116,361	1,238,516
Unobligated Balances--Defense	10,266,598	10,266,598	10,266,598	574,929
Outlays	2,185,849	2,235,905	2,211,377	123,837

Account Title	OMB	CBO	Average	Sequester
Missile procurement, Air Force		(07-15-3020 -X-1-051-A; 57-3020)		
Budget Authority	7,921,132	7,921,132	7,921,132	443,583
Unobligated Balances--Defense	3,382,192	3,382,192	3,382,192	189,403
Outlays	2,763,663	2,695,022	2,729,342	152,843
Other procurement, Air Force		(07-15-3080 -X-1-051-A; 57-3080)		
Budget Authority	8,152,562	8,152,562	8,152,562	456,543
Unobligated Balances--Defense	3,173,314	3,173,314	3,173,314	177,706
Outlays	5,301,642	5,549,683	5,425,662	303,837
Research, Development, Test, and Evaluation				
Research, development, test, and evaluation, Defense a		(07-20-0400 -X-1-051-A; 97-0400)		
Budget Authority	6,250,154	6,250,154	6,250,154	350,009
Unobligated Balances--Defense	702,982	702,982	702,982	39,367
Outlays	3,298,568	3,462,707	3,380,638	189,316
Director of test and evaluation, Defense		(07-20-0450 -X-1-051-A; 97-0450)		
Budget Authority	113,918	113,918	113,918	6,379
Unobligated Balances--Defense	28,480	28,480	28,480	1,595
Outlays	38,661	42,776	40,718	2,280
Research, development, test, and evaluation, Navy		(07-20-1319 -X-1-051-A; 17-1319)		
Budget Authority	9,572,042	9,572,042	9,572,042	536,034
Unobligated Balances--Defense	531,022	531,022	531,022	29,737
Outlays	5,102,047	5,253,073	5,177,560	289,943
Research, development, test, and evaluation, Army		(07-20-2040 -X-1-051-A; 21-2040)		
Budget Authority	4,563,062	4,563,062	4,563,062	255,531
Unobligated Balances--Defense	634,653	634,653	634,653	35,541
Outlays	2,572,869	2,754,763	2,663,816	149,174
Research, development, test, and evaluation, Air Force		(07-20-3600 -X-1-051-A; 57-3600)		
Budget Authority	13,139,218	13,139,218	13,139,218	735,796
Unobligated Balances--Defense	2,008,008	2,008,008	2,008,008	112,448
Outlays	6,664,780	8,268,299	7,466,540	418,126
Military Construction				
Military construction, Defense agencies		(07-25-0500 -X-1-051-A; 97-0500)		
Budget Authority	172,488	172,488	172,488	9,659
Unobligated Balances--Defense	181,535	181,535	181,535	10,166
Outlays	23,507	28,381	25,944	1,453
North Atlantic Treaty Organization infrastructure		(07-25-0804 -X-1-051-A; 97-0804)		
Budget Authority	9,510	9,510	9,510	533
Unobligated Balances--Defense	112,097	112,097	112,097	6,277
Outlays	61	1,483	772	43
Military construction, Navy		(07-25-1205 -X-1-051-A; 17-1205)		
Budget Authority	1,621,807	1,621,807	1,621,807	90,821
Unobligated Balances--Defense	802,460	802,460	802,460	44,938
Outlays	464,732	436,351	450,542	25,230
Military construction, Naval Reserve		(07-25-1235 -X-1-051-A; 17-1235)		
Budget Authority	39,752	39,752	39,752	2,226
Unobligated Balances--Defense	14,381	14,381	14,381	805
Outlays	10,420	4,283	7,352	412
Military construction, Army		(07-25-2050 -X-1-051-A; 21-2050)		
Budget Authority	1,524,436	1,524,436	1,524,436	85,368
Unobligated Balances--Defense	912,471	912,471	912,471	51,098
Outlays	464,961	389,931	427,446	23,937
Military construction, Army National Guard		(07-25-2085 -X-1-051-A; 21-2085)		
Budget Authority	97,197	97,197	97,197	5,443
Unobligated Balances--Defense	14,381	14,381	14,381	805
Outlays	11,158	6,697	8,928	500
Military construction, Army Reserve		(07-25-2086 -X-1-051-A; 21-2086)		
Budget Authority	58,340	58,340	58,340	3,267
Unobligated Balances--Defense	14,658	14,658	14,658	821
Outlays	20,805	3,687	12,246	686
Military construction, Air Force		(07-25-3300 -X-1-051-A; 57-3300)		
Budget Authority	1,581,727	1,581,727	1,581,727	88,577
Unobligated Balances--Defense	989,587	989,587	989,587	55,417
Outlays	306,758	308,533	307,646	17,228
Military construction, Air Force Reserve		(07-25-3730 -X-1-051-A; 57-3730)		
Budget Authority	59,942	59,942	59,942	3,357
Unobligated Balances--Defense	33,283	33,283	33,283	1,864
Outlays	9,462	10,504	9,983	559
Military construction, Air National Guard		(07-25-3830 -X-1-051-A; 57-3830)		
Budget Authority	115,309	115,309	115,309	6,457
Unobligated Balances--Defense	89,097	89,097	89,097	4,989
Outlays	10,220	12,297	11,258	630
Family Housing				
Family housing, Army		(07-30-0702 -X-1-051-A; 21-0702)		
Budget Authority	1,360,025	1,360,025	1,360,025	76,161
Unobligated Balances--Defense	143,399	143,399	143,399	8,030
Outlays	678,285	741,415	709,850	39,752
Family housing, Navy and Marine Corps		(07-30-0703 -X-1-051-A; 17-0703)		
Budget Authority	632,549	632,549	632,549	35,423
Unobligated Balances--Defense	47,768	47,768	47,768	2,675
Outlays	309,767	340,108	324,938	18,197

Account Title	OMB	CBO	Average	Sequester
Family housing, Air Force		(07-30-0704	-X-1-051-A;	57-0704)
Budget Authority	792,628	792,628	792,628	44,387
Unobligated Balances--Defense	213,031	213,081	213,031	11,930
Outlays	378,900	499,085	438,992	24,584
Family housing, Defense agencies		(07-30-0706	-X-1-051-A;	97-0706)
Budget Authority	15,755	15,755	15,755	882
Unobligated Balances--Defense	150	150	150	8
Outlays	10,443	7,927	9,185	514
Special Foreign Currency Program				
Special foreign currency program		(07-37-0800	-X-1-051-A;	97-0800)
Budget Authority	1,997	1,997	1,997	112
Unobligated Balances--Defense	930	930	930	52
Outlays	59	371	215	12
Revolving and Management Funds				
ADP equipment management fund		(07-40-3910	-X-4-051-A;	97-3910)
Budget Authority	100,000	100,000	100,000	5,600
Unobligated Balances--Defense	100,000	100,000	100,000	5,600
Outlays	0	32,400	16,200	907
Navy stock fund		(07-40-4911	-X-4-051-A;	17-4911)
Budget Authority	607,213	607,213	607,213	34,004
Outlays	212,525	461,501	337,013	18,873
Marine Corps stock fund		(07-40-4913	-X-4-051-A;	17-4913)
Budget Authority	35,853	35,853	35,853	2,008
Outlays	12,549	27,246	19,888	1,114
Air Force stock fund		(07-40-4921	-X-4-051-A;	57-4921)
Budget Authority	395,521	395,521	395,521	22,149
Outlays	138,432	300,606	219,519	12,293
Defense stock fund		(07-40-4961	-X-4-051-A;	97-4961)
Budget Authority	84,365	84,365	84,365	4,724
Outlays	29,528	64,104	46,816	2,622
Army stock fund		(07-40-4991	-X-4-051-A;	21-4991)
Budget Authority	373,743	373,743	373,743	20,930
Outlays	130,810	284,026	207,418	11,615
Allowances				
Civilian pay raise		(07-45-9913	-X-1-051-A;	97-9913)
Budget Authority	0	244,000	122,000	6,832
Outlays	0	243,000	121,500	6,804
Military pay raise		(07-45-9916	-X-1-051-A;	97-9916)
Budget Authority	0	2,611,000	1,305,500	73,108
Outlays	0	2,568,000	1,284,000	71,904
Department of Defense--Military		Total		
Budget Authority	278,309,313	281,164,313	279,736,813	15,665,262
Unobligated Balances--Defense	53,326,707	53,326,707	53,326,707	2,986,296
Outlays	159,762,704	168,826,631	164,294,668	9,200,501
Department of Defense--Civil				
Cemeterial Expenses, Army				
Salaries and expenses		(08-05-1805	-X-1-705-A;	21-1805)
Budget Authority	13,987	13,987	13,987	1,063
Outlays	4,295	4,294	4,294	326
Corps of Engineers--Civil				
Flood control, Mississippi River and tributaries		(08-10-3112	-X-1-301-A;	96-3112)
Budget Authority	301,225	301,225	301,225	22,893
401(C) Authority--Off. Coll.	500	500	500	38
Outlays	229,614	223,407	226,510	17,215
General investigations		(08-10-3121	-X-1-301-A;	96-3121)
Budget Authority	123,478	123,478	123,478	9,384
401(C) Authority--Off. Coll.	60	60	60	5
Outlays	86,954	85,740	86,347	6,562
Construction, general		(08-10-3122	-X-1-301-A;	96-3122)
Budget Authority	879,830	879,830	879,830	66,867
401(C) Authority--Off. Coll.	1,000	1,000	1,000	76
Outlays	528,898	578,168	553,533	42,068
Operation and maintenance, general		(08-10-3123	-X-1-301-A;	96-3123)
Budget Authority	1,248,764	1,248,764	1,248,764	94,905
401(C) Authority--Off. Coll.	6,000	6,000	6,000	456
Outlays	1,019,929	998,767	1,009,348	76,710
Operation and maintenance, general		(08-10-3123	-X-1-303-A;	96-3123)
Budget Authority	11,484	11,484	11,484	873
Outlays	11,484	8,958	10,221	777
General expenses		(08-10-3124	-X-1-301-A;	96-3124)
Budget Authority	105,399	105,399	105,399	8,010
Outlays	85,765	84,319	85,042	6,463
Flood control and coastal emergencies		(08-10-3125	-X-1-301-A;	96-3125)
Budget Authority	48,925	48,925	48,925	3,718
Revolving fund		(08-10-4902	-X-4-301-A;	96-4902)
Budget Authority	6,699	6,699	6,699	509
Outlays	6,698	6,698	6,699	509

Account Title	OMB	CBO	Average	Sequester
Rivers and harbors contributed funds		(08-10-8862	-X-7-301-A;	86-8862)
401(C) Other--incl. ob. limit	210,000	178,000	194,000	14,744
Outlays	169,600	70,310	119,955	9,117
Permanent appropriations (Water resources)		(08-10-9921	-X-2-301-A;	96-9921)
401(C) Other--incl. ob. limit	3,129	3,295	3,212	244
Outlays	48	56	52	4
Permanent appropriations (Other general purpose fiscal		(08-10-9921	-X-2-852-A;	96-9921)
401(C) Other--incl. ob. limit	6,258	6,492	6,375	484
Military Retirement				
Military retirement fund		(08-18-8097	-X-7-602-A;	97-8097)
401(C) Authority--ASI	108,000	176,000	142,000	142,000
Outlays	108,000	176,000	142,000	142,000
Soldiers' and Airmen's Home				
Operation and maintenance		(08-20-8931	-X-7-705-A;	84-8931)
Budget Authority	31,855	31,855	31,855	2,429
401(C) Authority--Off. Coll.	144	144	144	11
Outlays	28,278	27,945	28,112	2,137
Capital outlay		(08-20-8932	-X-7-705-A;	84-8932)
Budget Authority	14,355	14,355	14,355	1,091
Outlays	13,380	11,384	12,382	941
Forest & Wildlife Conservation, Mil. Reservations				
Wildlife conservation		(08-30-5095	-X-2-303-A;	97-5095)
401(C) Other--incl. ob. limit	2,109	2,117	2,113	161
Outlays	1,872	1,660	1,766	134
Forest products program		(08-30-5285	-X-2-302-A;	21-5285)
401(C) Authority	324	315	320	24
Outlays	0	62	31	2
Department of Defense--Civil		Total		
Budget Authority	2,786,101	2,786,101	2,786,101	211,744
401(C) Authority	324	315	320	24
401(C) Authority--Off. Coll.	7,704	7,704	7,704	586
401(C) Other--incl. ob. limit	221,496	189,804	205,700	15,633
401(C) Authority--ASI	108,000	176,000	142,000	142,000
Outlays	2,294,816	2,277,769	2,286,292	304,966
Department of Education				
Office of Elementary and Secondary Education				
Indian education		(18-10-0101	-X-1-501-A;	91-0101)
Budget Authority	64,187	64,187	64,187	4,878
Outlays	28,182	28,242	28,212	2,144
Impact aid		(18-10-0102	-X-1-501-A;	91-0102)
Budget Authority	682,722	682,722	682,722	51,887
Outlays	523,272	516,584	524,633	39,895
Compensatory education for the disadvantaged		(18-10-0900	-X-1-501-A;	91-0900)
Budget Authority	3,536,749	3,536,749	3,536,749	268,793
Outlays	177,484	177,054	177,269	13,472
Special programs		(18-10-1000	-X-1-501-A;	91-1000)
Budget Authority	674,789	674,789	674,789	51,284
Outlays	55,055	55,058	55,056	4,184
Off. of Bilingual Ed. & Minority Languages Affairs				
Bilingual education		(18-15-1300	-X-1-501-A;	91-1300)
Budget Authority	165,361	165,361	165,361	12,567
Outlays	5,898	5,789	5,844	444
Office of Special Education & Rehabilitative Svcs.				
Education for the handicapped		(18-20-0300	-X-1-501-A;	91-0300)
Budget Authority	1,350,124	1,350,124	1,350,124	102,609
Outlays	64,224	64,224	64,224	4,881
Vocational rehabilitation		(18-20-0301	-X-1-506-A;	91-0301)
Budget Authority	164,413	164,413	164,413	12,495
Outlays	126,598	126,598	126,598	9,621
Payments to institutions for the handicapped		(18-20-0604	-X-1-501-A;	91-0600)
Budget Authority	5,262	5,263	5,263	400
Outlays	5,263	5,263	5,263	400
Payments to institutions for the handicapped		(18-20-0604	-X-1-502-A;	91-0601)
Budget Authority	30,624	30,624	30,624	2,327
Outlays	30,624	30,624	30,624	2,327
Payments to institutions for the handicapped		(18-20-0604	-X-1-502-A;	91-0602)
Budget Authority	59,335	59,335	59,335	4,509
Outlays	55,774	55,774	55,774	4,239
Promotion of education for the blind		(18-20-8893	-X-7-501-A;	91-8893)
401(C) Authority	10	10	10	1
Office of Vocational and Adult Education				
Vocational and adult education		(18-30-0400	-X-1-501-A;	91-0400)
Budget Authority	900,324	900,324	900,324	68,425
401(C) Authority	7,148	7,148	7,148	543
Outlays	18,150	18,149	18,150	1,379
Office of Postsecondary Education				
Student financial assistance		(18-40-0200	-X-1-502-A;	91-0200)
Budget Authority	4,822,859	4,822,859	4,822,859	366,537
Direct Loan Limitation	181,830	181,830	181,830	13,819
Outlays	1,383,466	1,383,466	1,383,466	105,143

BEST COPY AVAILABLE

Account Title	OMB	CBO	Average	Sequester
		(18-40-0201	-X-1-502-A;	91-0201)
Higher education				
Budget Authority	435,663	435,663	435,663	33,110
Outlays	56,915	63,159	60,037	4,563
		(18-40-0230	-X-1-502-A;	91-0230)
Guaranteed student loans				
Budget Authority--Spec. Rules	45,610	0	22,805	22,805
401(C) Authority--Spec. Rules	0	49,600	24,800	24,800
Outlays	28,730	31,240	29,985	29,985
		(18-40-0240	-X-1-502-A;	91-0240)
Higher education facilities loans and insurance				
Budget Authority	17,991	123	9,057	688
Outlays	6,102	111	3,106	236
		(18-40-0603	-X-1-502-A;	91-0603)
Howard University				
Budget Authority	157,168	157,168	157,168	11,945
Outlays	150,384	150,881	150,632	11,448
		(18-40-4250	-X-3-502-A;	91-4250)
College housing loans				
401(C) Authority--Off. Coll.	394	394	394	30
Direct Loan Limitation	57,420	57,420	57,420	4,364
Outlays	355	355	355	27
Office of Educational Research and Improvement				
		(18-50-0104	-X-1-503-A;	91-0104)
Libraries				
Budget Authority	122,017	122,017	122,017	9,273
Outlays	29,628	29,643	29,636	2,252
		(18-50-1100	-X-1-503-A;	91-1100)
Education research and improvement				
Budget Authority	57,399	57,399	57,399	4,362
Outlays	32,143	32,144	32,144	2,443
Departmental Management				
		(18-80-0800	-X-1-503-A;	91-0800)
Salaries and expenses (Research and general education				
Budget Authority	216,154	216,154	216,154	16,428
Outlays	179,408	179,411	179,410	13,635
		(18-80-0800	-X-1-751-A;	91-0800)
Salaries and expenses (Federal law enforcement activit				
Budget Authority	56,413	56,413	56,413	4,287
Outlays	46,823	46,575	46,699	3,549
		Total		
Department of Education				
Budget Authority	13,519,555	13,501,687	13,510,621	1,026,807
Budget Authority--Spec. Rules	45,610	0	22,805	22,805
401(C) Authority	7,158	7,158	7,158	544
401(C) Authority--Off. Coll.	394	394	394	30
401(C) Authority--Spec. Rules	0	49,600	24,800	24,800
Direct Loan Limitation	239,250	239,250	239,250	18,183
Outlays	3,014,478	3,000,354	3,007,416	256,270
Department of Energy				
Atomic Energy Defense Activities				
		(19-10-0220	-X-1-053-A;	89-0220)
Atomic energy defense activities				
Budget Authority	7,293,989	7,293,989	7,293,989	408,463
Unobligated Balances--Defense	401	38,077	19,239	1,077
Outlays	4,484,082	4,724,786	4,604,434	257,848
Energy Programs				
		(19-20-0206	-X-1-271-A;	89-0206)
Geothermal resources development fund				
Budget Authority	69	69	69	5
Outlays	69	69	69	5
		(19-20-0212	-X-1-276-A;	89-0212)
Federal Energy Regulatory Commission				
Budget Authority	91,459	91,459	91,459	6,951
Outlays	84,368	77,741	81,054	6,160
		(19-20-0213	-X-1-271-A;	89-0213)
Fossil energy research and development				
Budget Authority	297,599	297,599	297,599	22,618
Outlays	89,086	89,280	89,183	6,778
		(19-20-0215	-X-1-272-A;	89-0215)
Energy conservation (Energy conservation)				
Budget Authority	427,512	427,512	427,512	32,491
Outlays	136,804	83,793	110,298	8,383
		(19-20-0216	-X-1-276-A;	89-0216)
Energy information administration				
Budget Authority	57,724	57,724	57,724	4,387
Outlays	32,964	43,293	38,128	2,898
		(19-20-0217	-X-1-276-A;	89-0217)
Economic regulation				
Budget Authority	23,423	23,423	23,423	1,780
Outlays	14,762	14,762	14,762	1,122
		(19-20-0218	-X-1-274-A;	89-0218)
Strategic petroleum reserve				
Budget Authority	107,533	107,533	107,533	8,172
Outlays	90,685	59,143	74,914	5,693
		(19-20-0219	-X-1-271-A;	89-0219)
Naval petroleum and shale reserves				
Budget Authority	13,002	13,002	13,002	988
Outlays	6,000	6,175	6,088	463
		(19-20-0222	-X-1-251-A;	89-0222)
General science and research activities				
Budget Authority	655,928	655,928	655,928	49,851
Outlays	486,216	489,537	487,876	37,079
		(19-20-0224	-X-1-271-A;	89-0224)
Energy supply, R&D activities				
Budget Authority	1,696,063	1,696,063	1,696,063	128,901
Outlays	881,953	878,561	880,257	66,900
		(19-20-0226	-X-1-271-A;	89-0226)
Uranium supply and enrichment activities				
Budget Authority	1,551,309	1,551,309	1,551,309	117,899

Account Title	OMB	CBO	Average	Sequester
Emergency preparedness		(19-20-0234	-X-1-274-A;	89-0234)
Budget Authority	5,750	5,750	5,750	437
Outlays	2,860	4,600	3,730	283
Payments to states under Federal Power Act		(19-20-5105	-X-2-852-A;	89-5105)
401(C) Other--incl. ob. limit	0	618	309	23
Alternative fuels production		(19-20-5180	-X-2-271-A;	89-5180)
Budget Authority	80,706	80,706	80,706	6,134
Nuclear waste disposal fund		(19-20-5227	-X-2-271-A;	89-5227)
Budget Authority	499,037	499,037	499,037	37,927
Outlays	249,518	249,518	249,518	18,963
Power Marketing Administration				
Operation and maintenance, Southeastern Power Administ		(19-50-0302	-X-1-271-A;	89-0302)
401(C) Authority--Off. Coll.	1,033	1,032	1,033	78
Outlays	909	909	909	69
Operation and maintenance, Southwestern Power Administ		(19-50-0303	-X-1-271-A;	89-0303)
Budget Authority	3,810	3,810	3,810	290
Outlays	3,353	3,353	3,353	255
Operation and maintenance, Alaska Power Administration		(19-50-0304	-X-1-271-A;	89-0304)
Budget Authority	826	826	826	63
Outlays	727	727	727	55
Bonneville Power Administration fund		(19-50-4045	-X-3-271-A;	89-4045)
401(C) Authority--Off. Coll.	57,614	57,614	57,614	4,379
Outlays	50,700	50,700	50,700	3,853
Colorado river basins power marketing fund, WAPA		(19-50-4452	-X-3-271-A;	89-4452)
401(C) Authority--Off. Coll.	8,686	8,686	8,686	660
Outlays	7,644	7,644	7,644	581
Construction, rehabilitation, operation and maintenanc		(19-50-5068	-X-2-271-A;	89-5068)
Budget Authority	36,882	36,982	36,982	2,811
Outlays	32,544	32,544	32,544	2,473
Departmental Administration				
Departmental administration (Energy information, polic		(19-60-0228	-X-1-276-A;	89-0228)
Budget Authority	394,260	394,260	394,260	29,964
Outlays	217,536	236,556	227,046	17,255
Department of Energy		Total		
Budget Authority	13,236,981	13,236,981	13,236,981	860,130
401(C) Authority--Off. Coll.	67,333	67,333	67,333	5,117
401(C) Other--incl. ob. limit	0	618	309	23
Unobligated Balances--Defense	401	38,077	19,239	1,077
Outlays	6,872,780	7,053,691	6,963,236	437,117
Department of Health and Human Services				
Food and Drug Administration				
Program expenses		(09-10-0600	-X-1-554-A;	75-0600)
Budget Authority	402,035	402,035	402,035	30,555
Outlays	352,023	349,943	350,983	26,675
Buildings and facilities		(09-10-0603	-X-1-554-A;	75-0603)
Budget Authority	1,379	1,379	1,379	105
Outlays	692	432	562	43
Revolving fund for certification and other services		(09-10-4309	-X-3-554-A;	75-4309)
401(C) Authority--Off. Coll.	2,799	2,799	2,799	213
Outlays	2,799	2,799	2,799	213
Health Resources and Services				
Health resources and services (health care services)		(09-15-0350	-X-1-551-A;	75-0350)
Budget Authority	790,848	790,848	790,848	60,104
Budget Authority--Spec. Rules	8,818	8,818	8,818	8,818
401(C) Authority--Off. Coll.	150	150	150	11
Direct Loan Limitation	957	957	957	73
Outlays	480,754	456,719	468,737	41,072
Health resources and services (education and training)		(09-15-0350	-X-1-553-A;	75-0350)
Budget Authority	206,103	206,103	206,103	15,664
Outlays	66,769	54,420	60,594	4,605
Indian health services		(09-15-0390	-X-1-551-A;	75-0390)
Budget Authority	65,110	65,110	65,110	4,948
Budget Authority--Spec. Rules	15,182	15,182	15,182	15,182
401(C) Authority--Spec. Rules	515	515	515	515
Outlays	72,418	71,068	71,743	16,486
Indian health facilities		(09-15-0391	-X-1-551-A;	75-0391)
Budget Authority--Spec. Rules	924	924	924	924
Outlays	271	271	271	271
Medical facilities guarantee and loan fund		(09-15-4430	-X-3-551-A;	75-4430)
Budget Authority	25,000	0	12,500	950
Outlays	17,280	0	8,644	657
Centers for Disease Control				
Disease control (Health care services)		(09-20-0943	-X-1-551-A;	75-0943)
Budget Authority	376,548	376,548	376,548	28,618
401(C) Authority--Off. Coll.	1,100	1,100	1,100	84
Outlays	262,482	267,564	265,023	20,142
Disease control (Health research)		(09-20-0943	-X-1-552-A;	75-0943)
Budget Authority	64,552	64,552	64,552	4,906
Outlays	38,494	45,989	42,242	3,210

Account Title	OMB	CBO	Average	Sequester
National Institutes of Health				
National Library of Medicine (Health research)		(09-25-0807	-X-1-552-A;	75-0807)
Budget Authority	15,792	15,792	15,792	1,200
Outlays	11,673	10,107	10,890	828
National Library of Medicine (Education and training)		(09-25-0807	-X-1-553-A;	75-0807)
Budget Authority	39,485	39,485	39,485	3,001
Outlays	27,090	25,299	26,194	1,991
John E. Fogarty International Center		(09-25-0819	-X-1-552-A;	75-0819)
Budget Authority	10,907	10,907	10,907	829
Outlays	6,108	6,190	6,149	467
Buildings and facilities		(09-25-0838	-X-1-552-A;	75-0838)
Budget Authority	14,259	14,259	14,259	1,084
Outlays	4,779	0	2,390	182
National Institute on Aging (Health research)		(09-25-0843	-X-1-552-A;	75-0843)
Budget Authority	144,069	144,069	144,069	10,949
Outlays	83,965	72,242	78,104	5,936
National Institute on Aging (Education and training)		(09-25-0843	-X-1-553-A;	75-0843)
Budget Authority	5,566	5,566	5,566	423
Outlays	2,907	2,789	2,848	216
Nat. Inst. Child Health and Human Development (Health		(09-25-0844	-X-1-552-A;	75-0844)
Budget Authority	293,394	293,394	293,394	22,298
Outlays	134,368	134,465	134,416	10,216
Nat. Inst. Child Health and Human Development (Ed. & t		(09-25-0844	-X-1-553-A;	75-0844)
Budget Authority	14,367	14,367	14,367	1,092
Outlays	1,398	1,394	1,396	106
Office of the Director (Health research)		(09-25-0846	-X-1-552-A;	75-0846)
Budget Authority	119,026	119,026	119,026	9,046
Outlays	47,540	43,970	45,755	3,477
Office of the Director (Education and training)		(09-25-0846	-X-1-553-A;	75-0846)
Budget Authority	4,130	4,130	4,130	314
Outlays	3,520	3,924	3,722	283
Research resources (Health research)		(09-25-0848	-X-1-552-A;	75-0848)
Budget Authority	291,313	291,313	291,313	22,140
Outlays	152,833	160,862	156,848	11,920
Research resources (Education and training)		(09-25-0848	-X-1-553-A;	75-0848)
Budget Authority	1,106	1,106	1,106	84
Outlays	55	63	59	4
National Cancer Institute (Health research)		(09-25-0849	-X-1-552-A;	75-0849)
Budget Authority	1,172,442	1,172,442	1,172,442	89,106
401(C) Authority--Off. Coll.	10	10	10	1
Outlays	617,017	590,252	603,634	45,876
National Cancer Institute (Education and training)		(09-25-0849	-X-1-553-A;	75-0849)
Budget Authority	31,426	31,426	31,426	2,388
Outlays	629	629	629	48
National Institute of General Medical Sciences (Health		(09-25-0851	-X-1-552-A;	75-0851)
Budget Authority	435,711	435,711	435,711	33,114
Outlays	216,159	218,836	217,498	16,530
National Institute of General Medical Sciences (Ed. &		(09-25-0851	-X-1-553-A;	75-0851)
Budget Authority	56,702	56,702	56,702	4,309
Outlays	5,029	6,181	5,605	426
National Institute of Environmental Health Sciences (R		(09-25-0862	-X-1-552-A;	75-0862)
Budget Authority	180,550	180,550	180,550	13,722
Outlays	105,682	105,675	105,678	8,032
National Institute of Environmental Health Sciences (E		(09-25-0862	-X-1-553-A;	75-0862)
Budget Authority	8,345	8,345	8,345	634
Outlays	2,040	2,111	2,076	158
National Heart, Lung and Blood Institute (Health resea		(09-25-0872	-X-1-552-A;	75-0872)
Budget Authority	779,142	779,142	779,142	59,215
Outlays	384,543	357,909	371,226	28,213
National Heart, Lung and Blood Institute (Education &		(09-25-0872	-X-1-553-A;	75-0872)
Budget Authority	42,537	42,537	42,537	3,233
Outlays	1,534	1,531	1,532	116
National Institute of Dental Research (Health research		(09-25-0873	-X-1-552-A;	75-0873)
Budget Authority	93,830	93,830	93,830	7,131
Outlays	56,984	61,222	59,103	4,492
National Institute of Dental Research (Education and t		(09-25-0873	-X-1-553-A;	75-0873)
Budget Authority	4,942	4,942	4,942	376
Outlays	3,586	3,059	3,322	252
National Insti. of Diabetes, and Digestive and Kidney		(09-25-0884	-X-1-552-A;	75-0884)
Budget Authority	517,964	517,964	517,964	39,365
Outlays	311,171	241,116	276,144	20,987
National Insti. of Diabetes, and Digestive and Kidney		(09-25-0884	-X-1-553-A;	75-0884)
Budget Authority	26,330	26,330	26,330	2,001
Outlays	8,744	6,477	7,610	578
National Institute of Allergy & Infectious Diseases (R		(09-25-0885	-X-1-552-A;	75-0885)
Budget Authority	355,378	355,378	355,378	27,009
Outlays	175,908	170,679	173,294	13,170

Account Title	OMB	CBO	Average	Sequester	
National Institute of Allergy & Infectious Diseases (E	(09-25-0885	-X-1-553-A;	75-0885)		
Budget Authority	11,383	11,383	11,383	865	
Outlays	1,634	1,628	1,631	124	
National Institute of Neurological & Communicative Dis	(09-25-0886	-X-1-552-A;	75-0886)		
Budget Authority	401,309	401,309	401,309	30,499	
401(C) Authority--Off. Coll.	12	12	12	1	
Outlays	183,772	178,704	181,238	13,774	
National Institute of Neurological & Communicative Dis	(09-25-0886	-X-1-553-A;	75-0886)		
Budget Authority	13,172	13,172	13,172	1,001	
Outlays	3,731	3,780	3,756	285	
National Eye Institute (Health research)	(09-25-0887	-X-1-552-A;	75-0887)		
Budget Authority	181,358	181,358	181,358	13,783	
Outlays	85,699	88,003	86,851	6,601	
National Eye Institute (Educatior. and training)	(09-25-0887	-X-1-553-A;	75-0887)		
Budget Authority	5,255	5,255	5,255	399	
Outlays	1,353	1,351	1,352	103	
Alcohol,Drug Abuse, & Mental Health Administration					
Federal subsidy for St. Elizabeths Hospital	(09-30-1300	-X-1-551-A;	75-1300)		
Budget Authority	41,739	41,739	41,739	3,172	
401(C) Authority--Off. Coll.	44,189	44,189	44,189	3,358	
Outlays	85,928	85,928	85,928	6,531	
Alcohol, drug abuse, and mental health (Health care se	(09-30-1361	-X-1-551-A;	75-1361)		
Budget Authority	490,462	490,462	490,462	37,275	
Outlays	369,886	382,560	376,223	28,593	
Alcohol, drug abuse, and mental health (Health researc	(09-30-1361	-X-1-552-A;	75-1361)		
Budget Authority	396,408	396,408	396,408	30,127	
Outlays	275,762	274,673	275,218	20,917	
Alcohol, drug abuse, and mental health (Education and	(09-30-1361	-X-1-553-A;	75-1361)		
Budget Authority	39,237	39,237	39,237	2,982	
Outlays	10,541	10,555	10,548	802	
Office of Assistant Secretary for Health					
Retirement pay and medical benefits for commissioned o	(09-37-0379	-X-1-551-A;	75-0379)		
Budget Authority	9,360	0	4,680	356	
Budget Authority--ASI	444	0	222	222	
401(C) Authority	0	10,407	5,204	396	
401(C) Authority--ASI	0	1,000	500	500	
Outlays	9,744	9,277	9,510	1,390	
Public health service management (Health care services	(09-37-1101	-X-1-551-A;	75-1101)		
Budget Authority	39,337	39,337	39,337	2,990	
401(C) Authority--Off. Coll.	310	310	310	24	
Outlays	25,525	22,771	24,148	1,835	
Public health service management (Health research)	(09-37-1101	-X-1-552-A;	75-1101)		
Budget Authority	59,883	59,883	59,883	4,551	
Outlays	36,841	33,770	35,306	2,683	
Health Care Financing Administration					
Program management (Health care services)	(09-38-0511	-X-1-551-A;	75-0511)		
Budget Authority	70,371	70,371	70,371	5,348	
Outlays	62,645	60,449	61,547	4,678	
Program management (Health research)	(09-38-0511	-X-1-552-A;	75-0511)		
Budget Authority	15,312	15,312	15,312	1,164	
Outlays	3,832	10,412	7,122	541	
Federal supplementary medical insurance trust fund	(09-38-8004	-X-7-571-A;	20-8004)		
401(C) Authority--Spec. Rules	275,000	400,000	337,500	337,500	
Obligation Limitation	1,026,183	1,026,183	1,026,183	77,990	
Outlays	1,258,925	1,377,687	1,318,306	412,041	
Federal hospital insurance trust fund	(09-38-8005	-X-7-571-A;	20-8005)		
401(C) Authority--Spec. Rules	840,000	840,000	840,000	840,000	
Obligation Limitation	694,246	694,246	694,246	52,763	
Outlays	1,500,064	1,460,848	1,480,456	888,675	
Social Security Administration					
Supplemental security income program	(09-60-0406	-X-1-609-A;	75-0406)		
Budget Authority	727,071	0	363,536	27,629	
401(C) Authority	0	722,436	361,218	27,453	
Outlays	679,298	674,729	677,014	51,453	
Special benefits for disabled coal miners	(09-60-0409	-X-1-601-A;	75-0409)		
Budget Authority	6,239	0	3,120	237	
Budget Authority--ASI	13,000	0	6,500	6,500	
401(C) Authority	0	6,323	3,162	240	
401(C) Authority--ASI	0	13,000	6,500	6,500	
Outlays	19,239	19,323	19,281	13,477	
Assistance payments program	(09-60-0412	-X-1-609-A;	75-0412)		
Budget Authority	200,272	0	100,136	7,610	*
401(C) Authority	0	220,685	110,342	8,386	*
401(C) Authority--Off. Coll.	100	100	100	8	
Outlays	200,372	220,785	210,578	16,004	
Low income home energy assistance	(09-60-0420	-X-1-609-A;	75-0420)		
Budget Authority	2,009,700	2,009,700	2,009,700	152,737	
Outlays	1,808,730	1,808,730	1,808,730	137,463	

* $13,300 of sequester to be applied against Child support enforcement (09-60-0430) due to application of special rule.

Account Title	OMB	CBO	Average	Sequester
Child support enforcement *		(09-60-0430	-X-1-609-A;	75-0430)
Budget Authority	570,223	0	285,112	21,669
401(C) Authority	24,063	769,938	397,001	30,172
401(C) Authority--Off. Coll.	61	61	61	5
Outlays	594,605	754,236	674,420	51,256
Refugee and entrant assistance		(09-60-0473	-X-1-609-A;	75-0473)
Budget Authority	409,363	409,363	409,363	31,112
Outlays	259,163	262,000	260,582	19,804
Payments to states from receipts for child support		(09-60-5734	-X-2-609-A;	75-5734)
401(C) Other--incl. ob. limit	469	469	469	36
Outlays	469	469	469	36
Human Development Services				
Social services block grant		(09-80-1634	-X-1-506-A;	75-1634)
Budget Authority	2,583,900	0	1,291,950	98,188
401(C) Authority	0	2,700,000	1,350,000	102,600
Outlays	2,421,900	2,538,000	2,479,950	188,476
Community services		(09-80-1635	-X-1-506-A;	75-1635)
Budget Authority	355,877	355,877	355,877	27,047
Outlays	243,505	242,800	243,152	18,480
Human development services		(09-80-1636	-X-1-506-A;	75-1636)
Budget Authority	1,928,814	1,928,814	1,928,814	146,590
Outlays	1,082,631	1,083,208	1,082,920	82,302
Work incentives		(09-80-1639	-X-1-504-A;	75-1639)
Budget Authority	210,540	210,540	210,540	16,001
Outlays	174,244	174,327	174,286	13,246
Family social services		(09-80-1645	-X-1-506-A;	75-1645)
Budget Authority	217,714	217,714	217,714	16,546
Budget Authority--Spec. Rules	2,352	0	1,176	1,176
401(C) Authority--Spec. Rules	0	2,352	1,176	1,176
Outlays	150,629	150,522	150,575	13,038
Departmental Management				
General Departmental management		(09-90-0120	-X-1-609-A;	75-0120)
Budget Authority	138,078	138,078	138,078	10,494
Outlays	125,797	125,797	125,797	9,561
Policy research		(09-90-0122	-X-1-609-A;	75-0122)
Budget Authority	6,220	6,220	6,220	473
Outlays	2,861	2,862	2,862	218
Office of the Inspector General		(09-90-0128	-X-1-609-A;	75-0128)
Budget Authority	40,128	40,128	40,128	3,050
Outlays	34,747	34,545	34,646	2,633
Office for Civil Rights		(09-90-0135	-X-1-751-A;	75-0135)
Budget Authority	15,312	15,312	15,312	1,164
Outlays	13,934	13,475	13,704	1,042
Office of Consumer Affairs		(09-90-0137	-X-1-506-A;	75-0137)
Budget Authority	1,903	1,903	1,903	145
Outlays	1,713	1,713	1,713	130
Department of Health and Human Services		Total		
Budget Authority	17,786,228	13,664,163	15,725,196	1,195,115
Budget Authority--ASI	13,444	0	6,722	6,722
Budget Authority--Spec. Rules	27,276	24,924	26,100	26,100
401(C) Authority	24,063	4,429,790	2,226,926	169,246
401(C) Authority--Off. Coll.	48,731	48,731	48,731	3,704
401(C) Other--incl. ob. limit	469	469	469	36
401(C) Authority--ASI	0	14,000	7,000	7,000
401(C) Authority--Spec. Rules	1,115,515	1,242,867	1,179,191	1,179,191
Direct Loan Limitation	957	957	957	73
Obligation Limitation	1,720,429	1,720,429	1,720,429	130,753
Outlays	15,388,973	15,586,104	15,487,538	2,286,067
Health and Human Services - Social Security				
Social Security				
Federal old-age and survivors insurance trust fund		(16-05-8006	-X-7-651-A;	20-8006)
Obligation Limitation	1,710,913	1,710,913	1,710,913	130,029
Outlays	1,439,843	1,255,599	1,347,721	102,427
Federal disability insurance trust fund		(16-05-8007	-X-7-651-A;	20-8007)
Obligation Limitation	481,316	481,316	481,316	36,580
Outlays	434,227	417,512	425,870	32,366
Health and Human Services - Social Security		Total		
Obligation Limitation	2,192,229	2,192,229	2,192,229	166,609
Outlays	1,874,070	1,673,111	1,773,590	134,793
Department of Housing and Urban Development				
Housing Programs				
Housing counseling assistance		(25-02-0156	-X-1-506-A;	86-0156)
Budget Authority	3,313	3,313	3,313	252
Subsidized housing programs (Community development)		(25-02-0164	-X-1-451-A;	86-0164)
Budget Authority	143,550	143,550	143,550	10,910
Outlays	21,533	43,066	32,300	2,455
Subsidized housing programs (Housing assistance)		(25-02-0164	-X-1-604-A;	86-0164)
Budget Authority	9,393,537	9,393,540	9,393,538	713,909
Outlays	10,363	8,430	9,396	714

* Excludes sequester from Assistance payments program (09-60-0412) due to application of special rule.

VOL 51 ISS 161 AG 20 1986 UMI

Account Title	OMB	CBO	Average	Sequester
Congregate services program		(25-02-0178	-X-1-604-A;	86-0178)
Budget Authority	2,555	2,555	2,555	194
Rental housing assistance fund		(25-02-4041	-X-3-604-A;	86-4041)
401(C) Authority--Off. Coll.	51,900	51,000	51,450	3,910
Outlays	51,900	51,000	51,450	3,910
Nonprofit sponsor assistance		(25-02-4042	-X-3-604-A;	86-4042)
Direct Loan Limitation	957	957	957	73
Outlays	326	238	281	21
Federal Housing Administration fund		(25-02-4070	-X-3-371-A;	86-4070)
401(C) Authority--Off. Coll.	296,730	296,730	296,730	22,551
Direct Loan Limitation	84,446	84,446	84,446	6,418
Guaranteed Loan Limitation	141,500,000	141,500,000	141,500,000	10,754,000
Obligation Limitation	261,959	261,959	261,959	19,909
Outlays	558,749	569,490	564,120	42,873
Housing for the elderly or handicapped fund		(25-02-4115	-X-3-371-A;	86-4115)
Budget Authority	3,738	3,738	3,738	284
Direct Loan Limitation	603,899	603,899	603,899	45,896
Outlays	3,738	3,738	3,738	284
Interstate land sales		(25-02-5270	-X-2-376-A;	86-5270)
401(C) Other--incl. ob. limit	834	834	834	53
Outlays	750	834	792	60
Manufactured home inspection and monitoring		(25-02-5271	-X-2-376-A;	86-5271)
401(C) Other--incl. ob. limit	6,989	6,989	6,989	531
Outlays	3,793	6,655	5,224	397
Public and Indian Housing Programs				
Payments for operation of low income housing projects		(25-03-0163	-X-1-604-A;	86-0163)
Budget Authority	1,158,544	1,158,544	1,158,544	88,049
Outlays	626,642	579,270	602,956	45,825
Government National Mortgage Association				
Guarantees of mortgage-backed securities		(25-04-4238	-X-3-371-A;	86-4238)
401(C) Authority--Off. Coll.	18,785	18,785	18,785	1,428
Guaranteed Loan Limitation	175,000,000	175,000,000	175,000,000	13,300,000
Outlays	18,785	16,363	17,574	1,336
Community Planning and Development				
Community development grants		(25-06-0162	-X-1-451-A;	86-0162)
Budget Authority	2,990,434	2,990,434	2,990,434	227,273
Guaranteed Loan Limitation	212,956	212,956	212,956	16,185
Outlays	59,809	59,809	59,809	4,545
Urban development action grants		(25-06-0170	-X-1-451-A;	86-0170)
Budget Authority	315,810	315,810	315,810	24,002
Outlays	15,790	15,791	15,790	1,200
Urban homesteading		(25-06-0171	-X-1-451-A;	86-0171)
Budget Authority	11,358	11,358	11,358	863
Outlays	11,358	10,222	10,790	820
Rehabilitation loan fund		(25-06-4036	-X-3-451-A;	86-4036)
401(C) Authority--Off. Coll.	23,044	23,044	23,044	1,751
Direct Loan Limitation	81,345	81,345	81,345	6,182
Outlays	74,044	74,044	74,044	5,627
Policy Development and Research				
Research and technology		(25-28-0108	-X-1-451-A;	86-0108)
Budget Authority	16,173	16,173	16,173	1,229
Outlays	4,851	4,852	4,852	369
Fair Housing and Equal Opportunity				
Fair housing assistance		(25-29-0144	-X-1-751-A;	86-0144)
Budget Authority	6,341	6,341	6,341	482
Outlays	2,000	0	1,000	76
Management and Administration				
Salaries & expenses, incl. transfer of funds (Communit		(25-35-0143	-X-1-451-A;	86-0143)
Budget Authority	189,647	189,647	189,647	14,413
Outlays	137,407	158,342	147,874	11,238
Salaries & expenses, incl. transfer of funds (Public a		(25-35-0143	-X-1-604-A;	86-0143)
Budget Authority	106,972	106,972	106,972	8,130
Outlays	120,532	96,275	108,404	8,239
Salaries & expenses, incl. transfer of funds (Federal		(25-35-0143	-X-1-751-A;	86-0143)
Budget Authority	25,342	25,342	25,342	1,926
Outlays	9,288	21,161	15,224	1,157
Department of Housing and Urban Development		Total		
Budget Authority	14,367,314	14,367,317	14,367,316	1,091,916
401(C) Authority--Off. Coll.	390,459	389,559	390,009	29,641
401(C) Other--incl. ob. limit	7,823	7,823	7,823	595
Direct Loan Limitation	770,647	770,647	770,647	58,569
Guaranteed Loan Limitation	316,712,956	316,712,956	316,712,956	24,070,185
Obligation Limitation	261,959	261,959	261,959	19,909
Outlays	1,731,658	1,719,578	1,725,618	131,147
Department of the Interior				
Bureau of Land Management				
Management of lands and resources		(10-04-1109	-X-1-302-A;	14-1109)
Budget Authority	379,139	379,139	379,139	28,815
401(C) Authority--Off. Coll.	4,000	4,000	4,000	304
Outlays	329,580	326,268	327,924	24,922

Account Title	OMB	CBO	Average	Sequester
Construction and access		(10-04-1110	-X-1-302-A;	14-1110)
Budget Authority	1,335	1,335	1,335	101
Outlays	1,378	334	856	65
Payments in lieu of taxes		(10-04-1114	-X-1-852-A;	14-1114)
Budget Authority	99,882	99,882	99,882	7,591
Outlays	99,882	99,882	99,882	7,591
Oregon and California grant lands		(10-04-1116	-X-1-302-A;	14-1116)
Budget Authority	53,379	53,379	53,379	4,057
Outlays	39,502	39,500	39,501	3,002
Special acquisition of lands and minerals		(10-04-1117	-X-1-302-A;	14-1117)
401(C) Authority	1,300	1,300	1,300	99
Service charges, deposits, and forfeitures		(10-04-5017	-X-2-302-A;	14-5017)
Budget Authority	3,872	3,872	3,872	294
Outlays	3,020	2,818	2,920	222
Land acquisition		(10-04-5033	-X-2-302-A;	14-5033)
Budget Authority	2,188	2,188	2,188	166
Outlays	1,188	1,085	1,136	86
Operation and maintenance of quarters		(10-04-5048	-X-2-302-A;	14-5048)
401(C) Authority	250	260	255	19
Outlays	240	208	224	17
Range improvements		(10-04-5132	-X-2-302-A;	14-5132)
Budget Authority	9,570	9,570	9,570	727
Outlays	6,237	6,460	6,348	482
Miscellaneous permanent appropriations		(10-04-9921	-X-2-302-A;	14-9921)
401(C) Other--incl. ob. limit	5,841	6,071	5,956	453
Outlays	4,341	5,052	5,096	387
Misc. permanent appropriations (Otr. gen. pur. fiscal		(10-04-9921	-X-2-852-A;	14-9921)
401(C) Other--incl. ob. limit	107,183	107,183	107,183	8,146
Outlays	107,183	106,249	105,716	8,110
Minerals Management Service				
Minerals and royalty management		(10-06-1917	-X-1-302-A;	14-1917)
Budget Authority	160,029	160,029	160,029	12,162
Outlays	111,757	104,089	107,923	8,202
Payments to states from receipts under Mineral Leasing		(10-06-5003	-X-2-852-A;	14-5003)
401(C) Other--incl. ob. limit	461,182	431,530	446,356	33,923
Outlays	461,182	431,530	446,356	33,923
Office of Surface Mining Reclamation & Enforcement				
Regulation and technology		(10-08-1801	-X-1-302-A;	14-1801)
Budget Authority	81,292	81,292	81,292	6,178
Outlays	48,824	47,351	48,088	3,655
Abandoned mine reclamation fund		(10-08-5015	-X-2-302-A;	14-5015)
Budget Authority	197,277	197,277	197,277	14,993
Outlays	61,069	54,646	57,868	4,398
Bureau of Reclamation				
Loan program		(10-10-0667	-X-1-301-A;	14-0667)
Budget Authority	37,624	37,624	37,624	2,859
Direct Loan Limitation	46,237	46,237	46,237	3,514
Outlays	23,327	23,139	23,233	1,766
Construction program		(10-10-0684	-X-1-301-A;	14-0684)
Budget Authority	499,267	499,267	499,267	37,944
401(C) Authority--Off. Coll.	578	578	578	44
Outlays	464,896	350,065	407,480	30,968
Lower Colorado River basin development fund		(10-10-4079	-X-3-301-A;	14-4079)
401(C) Authority--Off. Coll.	90,000	90,000	90,000	6,840
Outlays	90,000	90,000	90,000	6,840
Upper Colorado River basin fund		(10-10-4081	-X-3-301-A;	14-4081)
401(C) Authority--Off. Coll.	30,000	30,000	30,000	2,280
Outlays	30,000	30,000	30,000	2,280
Emergency fund		(10-10-5043	-X-2-301-A;	14-5043)
Budget Authority	957	957	957	73
Outlays	957	579	768	58
General investigations		(10-10-5060	-X-2-301-A;	14-5060)
Budget Authority	32,571	32,571	32,571	2,475
401(C) Authority--Off. Coll.	80	80	80	6
Outlays	24,508	21,056	22,782	1,731
Operation and maintenance		(10-10-5064	-X-2-301-A;	14-5064)
Budget Authority	126,960	126,960	126,960	9,649
401(C) Authority--Off. Coll.	12,107	12,107	12,107	920
Outlays	118,325	107,327	112,826	8,575
General administrative expenses		(10-10-5065	-X-2-301-A;	14-5065)
Budget Authority	47,084	47,084	47,084	3,578
Outlays	42,337	42,376	42,356	3,219
Colorado River Dam Fund, Boulder Canyon Project		(10-10-5656	-X-2-301-A;	14-5656)
401(C) Other--incl. ob. limit	53,810	53,810	53,810	4,090
Outlays	45,771	29,515	37,643	2,861
Reclamation trust funds		(10-10-8070	-X-7-301-A;	14-8070)
401(C) Other--incl. ob. limit	28,062	25,255	26,658	2,026
Outlays	22,360	21,821	22,090	1,679

Account Title	OMB	CBO	Average	Sequester
Miscellaneous permanent appropriations		(10-10-9922	-X-2-852-A;	14-9922)
401(C) Other--incl. ob. limit	365	378	372	28
Outlays	157	170	164	12
Geological Survey				
Surveys, investigations and research		(10-12-0804	-X-1-306-A;	14-0804)
Budget Authority	412,306	412,306	412,306	31,335
401(C) Authority--Off. Coll.	79,123	79,123	79,123	6,013
Outlays	480,875	469,576	475,226	36,117
Bureau of Mines				
Mines and minerals		(10-14-0959	-X-1-306-A;	14-0959)
Budget Authority	127,711	127,711	127,711	9,706
Outlays	86,843	86,843	86,843	6,600
Helium fund		(10-14-4053	-X-3-306-A;	14-4053)
401(C) Authority--Off. Coll.	2,836	2,836	2,836	216
Outlays	2,836	2,836	2,836	216
United States Fish and Wildlife Service				
Resource management		(10-18-1611	-X-1-303-A;	14-1611)
Budget Authority	286,529	286,529	286,529	21,776
401(C) Authority--Off. Coll.	3,900	3,900	3,900	296
Outlays	228,111	241,719	234,915	17,854
Construction		(10-18-1612	-X-1-303-A;	14-1612)
Budget Authority	20,258	20,258	20,258	1,540
Outlays	5,223	4,052	4,638	352
Land acquisition		(10-18-5020	-X-2-303-A;	14-5020)
Budget Authority	41,061	41,061	41,061	3,121
Outlays	16,624	18,478	17,551	1,334
Operations and maintenance of quarters		(10-18-5050	-X-2-303-A;	14-5050)
401(C) Other--incl. ob. limit	1,665	1,665	1,665	127
Outlays	1,166	1,163	1,164	88
National wildlife refuge fund		(10-18-5091	-X-2-852-A;	14-5091)
Budget Authority	5,370	5,370	5,370	408
401(C) Other--incl. ob. limit	13,002	7,632	10,317	784
Outlays	8,511	7,660	8,086	615
Migratory bird conservation account		(10-18-5137	-X-2-303-A;	14-5137)
Budget Authority	14,323	14,323	14,323	1,089
401(C) Other--incl. ob. limit	4,299	4,299	4,299	327
Outlays	14,950	18,622	16,786	1,276
Sport fish restoration		(10-18-8151	-X-7-303-A;	14-8151)
401(C) Other--incl. ob. limit	166,716	161,465	164,092	12,471
Outlays	91,781	80,733	86,257	6,556
Contributed funds		(10-18-8216	-X-7-303-A;	14-8216)
401(C) Other--incl. ob. limit	146	140	143	11
Outlays	145	140	142	11
Miscellaneous permanent appropriations		(10-18-9923	-X-2-303-A;	14-9923)
401(C) Other--incl. ob. limit	100,404	100,404	100,404	7,631
Outlays	45,182	50,237	47,710	3,626
National Park Service				
Operation of the national park system		(10-24-1036	-X-1-303-A;	14-1036)
Budget Authority	610,634	610,634	610,634	46,408
401(C) Authority--Off. Coll.	3,800	3,800	3,800	289
Outlays	492,111	492,307	492,209	37,408
John F. Kennedy Center for the Performing Arts		(10-24-1038	-X-1-303-A;	14-1038)
Budget Authority	4,566	4,566	4,566	347
Outlays	3,196	3,425	3,310	252
Construction		(10-24-1039	-X-1-303-A;	14-1039)
Budget Authority	112,408	112,408	112,408	8,543
401(C) Authority--Off. Coll.	8,600	8,600	8,600	654
Direct Loan Limitation	1,435	1,435	1,435	109
Outlays	27,380	25,462	26,426	2,008
National recreation and preservation		(10-24-1042	-X-1-303-A;	14-1042)
Budget Authority	10,555	10,555	10,555	802
Outlays	9,499	9,500	9,500	722
Illinois & Michigan Canal National Heritage Corridor C		(10-24-1043	-X-1-303-A;	14-1043)
Budget Authority	237	237	237	18
Outlays	237	118	178	14
Jefferson National Expansion Memorial Commission		(10-24-1044	-X-1-303-A;	14-1044)
Budget Authority	72	72	72	5
Outlays	72	28	50	4
Land acquisition		(10-24-5035	-X-2-303-A;	14-5035)
Budget Authority	93,604	93,604	93,604	7,114
401(C) Authority	30,000	30,000	30,000	2,280
Outlays	34,997	32,761	33,879	2,575
Operations and maintenance of quarters		(10-24-5049	-X-2-303-A;	14-5049)
401(C) Other--incl. ob. limit	8,951	10,398	9,675	735
Outlays	8,741	7,028	7,884	599
Historic preservation fund		(10-24-5140	-X-2-303-A;	14-5140)
Budget Authority	23,729	23,729	23,729	1,803
Outlays	8,884	12,220	10,552	802

Account Title	OMB	CBO	Average	Sequester
Construction (trust fund)		(10-24-8215	-X-7-401-A;	14-8215)
Obligation Limitation	6,700	6,700	6,700	509
Outlays	1,340	1,186	1,263	96
Miscellaneous permanent appropriations		(10-24-9924	-X-2-303-A;	14-9924)
401(C) Other--incl. ob. limit	1,326	1,326	1,326	101
Outlays	658	663	660	50
Bureau of Indian Affairs				
Operation of Indian programs (Conservation and land ma		(10-76-2100	-X-1-302-A;	14-2100)
Budget Authority	140,887	140,887	140,887	10,707
Outlays	113,661	121,527	117,594	8,937
Operation of Indian programs (Area and regional develo		(10-76-2100	-X-1-452-A;	14-2100)
Budget Authority	484,593	484,593	484,593	36,829
401(C) Authority--Off. Coll.	1,000	1,000	1,000	76
Outlays	388,674	395,944	392,309	29,815
Operation of Indian programs (Elementary, secondary, &		(10-76-2100	-X-1-501-A;	14-2100)
Budget Authority	257,299	257,299	257,299	19,555
Outlays	205,839	209,699	207,769	15,790
Construction		(10-76-2301	-X-1-452-A;	14-2301)
Budget Authority	103,318	103,318	103,318	7,852
Outlays	30,995	23,763	27,379	2,081
Road construction		(10-76-2364	-X-1-452-A;	14-2364)
401(C) Authority--Off. Coll.	1,000	1,000	1,000	76
Outlays	1,000	1,000	1,000	76
Payment to the Alaska Native Escrow Account		(10-76-2366	-X-1-806-A;	14-2366)
Budget Authority	7,493	7,493	7,493	569
Outlays	7,493	7,493	7,493	569
Revolving fund for loans		(10-76-4409	-X-3-452-A;	14-4409)
Direct Loan Limitation	15,599	15,599	15,599	1,186
Outlays	12,198	11,962	12,080	918
Indian loan guaranty and insurance fund		(10-76-4410	-X-3-452-A;	14-4410)
Budget Authority	2,103	2,103	2,103	160
Direct Loan Limitation	100	100	100	8
Guaranteed Loan Limitation	40,000	40,000	40,000	3,040
Outlays	1,262	1,045	1,154	88
Operations and maintenance of quarters		(10-76-5051	-X-2-452-A;	14-5051)
401(C) Other--incl. ob. limit	9,844	9,844	9,844	748
Outlays	4,814	1,782	3,298	251
Miscellaneous permanent appropriations (Area and regio		(10-76-9925	-X-2-452-A;	14-9925)
401(C) Other--incl. ob. limit	52,107	52,107	52,107	3,960
Outlays	41,470	33,156	37,313	2,836
Miscellaneous permanent appropriations (Other general		(10-76-9925	-X-2-806-A;	14-9925)
401(C) Authority	1,914	1,914	1,914	145
Outlays	1,889	1,866	1,878	143
Office of Territorial Affairs				
Administration of territories		(10-82-0412	-X-1-806-A;	14-0412)
Budget Authority	76,459	76,459	76,459	5,811
Outlays	66,195	60,938	63,566	4,831
Trust Territory of the Pacific Islands		(10-82-0414	-X-1-806-A;	14-0414)
Budget Authority	76,455	76,455	76,455	5,811
Outlays	63,820	13,968	38,894	2,956
Compact of free association		(10-82-0415	-X-1-806-A;	14-0415)
Budget Authority	201,500	22,750	112,125	8,522
401(C) Authority	116,350	144,270	130,310	9,904
Outlays	144,270	164,270	154,270	11,725
Payments to the United States territories, fiscal assi		(10-82-0418	-X-1-852-A;	14-0418)
401(C) Authority	65,000	62,340	63,670	4,839
Outlays	65,000	62,340	63,670	4,839
Office of the Secretary				
Salaries and Expenses		(10-84-0102	-X-1-306-A;	14-0102)
Budget Authority	41,296	41,296	41,296	3,138
Outlays	38,863	35,102	36,982	2,811
Construction management		(10-84-0103	-X-1-306-A;	14-0103)
Budget Authority	742	742	742	56
Outlays	645	668	656	50
Office of the Secretary (special foreign currency prog		(10-84-0105	-X-1-306-A;	14-0105)
Budget Authority	951	951	951	72
Outlays	95	95	95	7
Operation and maintenance of quarters		(10-84-5052	-X-2-306-A;	14-5052)
401(C) Authority	67	67	67	5
Outlays	52	60	56	4
Office of the Solicitor				
Office of the Solicitor		(10-86-0107	-X-1-306-A;	14-0107)
Budget Authority	19,385	19,385	19,385	1,473
Outlays	18,106	17,447	17,776	1,351
Office of Inspector General				
Office of Inspector General		(10-88-0104	-X-1-306-A;	14-0104)
Budget Authority	15,424	15,424	15,424	1,172
Outlays	14,985	13,882	14,434	1,097

Account Title	OMB	CBO	Average	Sequester
Department of the Interior		Total		
Budget Authority	4,923,694	4,744,844	4,834,319	367,408
401(C) Authority	214,881	240,151	227,516	17,291
401(C) Authority--Off. Coll.	237,024	237,024	237,024	18,014
401(C) Other--incl. ob. limit	1,014,905	973,509	994,207	75,560
Direct Loan Limitation	63,371	63,371	63,371	4,816
Guaranteed Loan Limitation	40,000	40,000	40,000	3,040
Obligation Limitation	6,700	6,700	6,700	509
Outlays	4,828,739	4,687,085	4,807,912	365,401
Department of Justice				
General Administration				
Salaries and expenses		(11-03-0129	-X-1-751-A;	15-0129)
Budget Authority	67,756	67,756	67,756	5,149
Outlays	54,682	60,980	57,831	4,295
United States Parole Commission				
Salaries and expenses		(11-04-1061	-X-1-751-A;	15-1061)
Budget Authority	9,379	9,379	9,379	713
Outlays	8,796	8,629	8,712	662
Legal Activities				
Salaries and expenses, Foreign Claims Settlement Commi		(11-05-0100	-X-1-153-A;	15-0100)
Budget Authority	670	670	670	51
Outlays	622	623	622	47
Salaries and expenses, General Legal Activities		(11-05-0128	-X-1-752-A;	15-0128)
Budget Authority	196,185	196,185	196,185	14,910
Outlays	152,831	166,757	159,794	12,144
Fees and expenses of witnesses		(11-05-0311	-X-1-752-A;	15-0311)
Budget Authority	45,362	45,362	45,362	3,448
Outlays	36,502	36,607	36,554	2,778
Salaries and expenses, Antitrust Division		(11-05-0319	-X-1-752-A;	15-0319)
Budget Authority	42,586	42,586	42,586	3,237
Outlays	29,200	34,921	32,060	2,437
Salaries and expenses, Oversight of bankruptcy cases		(11-05-0322	-X-1-752-A;	15-0322)
Budget Authority	317,724	317,724	317,724	24,147
Outlays	267,774	279,597	273,686	20,800
Salaries and expenses, United States Marshals Service		(11-05-0324	-X-1-752-A;	15-0324)
Budget Authority	146,150	146,150	146,150	11,107
401(C) Authority--Off. Coll.	577	577	577	44
Outlays	122,329	136,497	129,413	9,835
Salaries and expenses, Community Relations Service		(11-05-0500	-X-1-752-A;	15-0500)
Budget Authority	28,614	28,614	28,614	2,175
Outlays	18,564	19,028	18,796	1,428
Support of United States prisoners		(11-05-1020	-X-1-752-A;	15-1020)
Budget Authority	57,549	57,549	57,549	4,374
Outlays	28,551	37,810	33,180	2,522
Assets forfeiture fund		(11-05-5042	-X-2-752-A;	15-5042)
Budget Authority	28,710	28,710	28,710	2,182
Outlays	18,995	28,107	23,551	1,790
Interagency Law Enforcement				
Organized crime drug enforcement		(11-07-0323	-X-1-751-A;	15-0323)
Budget Authority	957	957	957	73
Outlays	0	948	474	36
Federal Bureau of Investigation				
Salaries and expenses		(11-10-0200	-X-1-751-A;	15-0200)
Budget Authority	1,167,013	1,167,013	1,167,013	88,693
401(C) Authority--Off. Coll.	18,976	18,976	18,976	1,442
Outlays	910,114	1,010,937	960,526	73,000
Drug Enforcement Administration				
Salaries and expenses		(11-12-1100	-X-1-751-A;	15-1100)
Budget Authority	363,660	363,660	363,660	27,638
401(C) Authority--Off. Coll.	938	938	938	71
Outlays	334,321	313,686	324,004	24,624
Immigration and Naturalization Service				
Salaries and expenses		(11-15-1217	-X-1-751-A;	15-1217)
Budget Authority	571,267	571,267	571,267	43,416
401(C) Authority--Off. Coll.	14,926	14,926	14,926	1,134
Outlays	463,354	519,960	491,662	37,366
Federal Prison System				
Buildings and facilities		(11-20-1003	-X-1-753-A;	15-1003)
Budget Authority	44,082	44,082	44,082	3,350
Outlays	5,915	13,842	9,878	751
National Institute of Corrections		(11-20-1004	-X-1-754-A;	15-1004)
Budget Authority	10,527	10,527	10,527	800
Outlays	8,370	4,211	6,290	478
Salaries and expenses		(11-20-1060	-X-1-753-A;	15-1060)
Budget Authority	550,953	550,953	550,953	41,872
401(C) Authority--Off. Coll.	9,340	9,340	9,340	710
Outlays	482,946	520,624	501,785	38,136

Account Title	OMB	CBO	Average	Sequester
Federal Prison Industries, Incorporated		(11-20-4500	-X-4-753-A;	15-4500)
Obligation Limitation	2,012	2,012	2,012	153
Outlays	0	2,012	1,006	76
Office of Justice Programs				
Justice assistance		(11-21-0401	-X-1-754-A;	15-0401)
Budget Authority	195,211	195,211	195,211	14,836
Outlays	64,870	71,057	67,964	5,165
Crime Victims Fund		(11-21-5041	-X-2-754-A;	15-5041)
401(C) Other--incl. ob. limit	68,000	68,000	68,000	5,168
Outlays	68,000	0	34,000	2,584
Department of Justice		Total		
Budget Authority	3,844,355	3,844,355	3,844,355	292,171
401(C) Authority--Off. Coll.	44,757	44,757	44,757	3,402
401(C) Other--incl. ob. limit	68,000	68,000	68,000	5,168
Obligation Limitation	2,012	2,012	2,012	153
Outlays	3,076,736	3,266,842	3,171,789	241,056
Department of Labor				
Employment and Training Administration				
Program administration		(12-05-0172	-X-1-504-A;	16-0172)
Budget Authority	65,225	65,225	65,225	4,957
Outlays	56,322	56,289	56,306	4,279
Training and employment services		(12-05-0174	-X-1-504-A;	16-0174)
Budget Authority	3,336,363	3,335,412	3,335,888	253,527
Outlays	93,890	100,000	96,945	7,368
Community service employment for older Americans		(12-05-0175	-X-1-504-A;	16-0175)
Budget Authority	312,002	311,649	311,826	23,699
Outlays	62,400	62,400	62,400	4,742
State unemployment insurance and employment services		(12-05-0179	-X-1-504-A;	16-0179)
Budget Authority	22,585	22,585	22,585	1,716
Outlays	5,206	5,217	5,212	396
Federal unemployment benefits and allowances		(12-05-0326	-X-1-603-A;	16-0326)
Budget Authority	10,000	0	5,000	380
401(C) Authority	0	109,000	54,500	4,142
Outlays	9,000	109,000	59,000	4,484
Unemployment trust fund (Training and employment)		(12-05-8042	-X-7-504-A;	20-8042)
Obligation Limitation	931,237	931,237	931,237	70,774
Outlays	331,774	342,300	337,037	25,615
Unemployment trust fund (Unemployment compensation)		(12-05-8042	-X-7-603-A;	20-8042)
401(C) Other--incl. ob. limit	229,000	235,000	232,000	17,632
Obligation Limitation	1,641,333	1,641,333	1,641,333	124,741
Outlays	1,870,333	1,853,773	1,862,053	141,516
Labor-Management Services				
Salaries and expenses		(12-10-0104	-X-1-505-A;	16-0104)
Budget Authority	54,811	54,811	54,811	4,166
Outlays	47,982	47,997	47,990	3,647
Pension Benefit Guaranty Corporation				
Pension Benefit Guaranty Corporation fund		(12-12-4204	-X-3-601-A;	16-4204)
Obligation Limitation	31,345	31,345	31,345	2,382
Outlays	27,048	27,045	27,046	2,055
Employment Standards Administration				
Salaries and expenses		(12-15-0105	-X-1-505-A;	16-0105)
Budget Authority	182,009	182,009	182,009	13,833
401(C) Authority--Off. Coll.	1,000	1,000	1,000	76
Outlays	158,494	165,108	161,801	12,297
Special benefits (General retirement and disability in		(12-15-1521	-X-1-601-A;	16-1521)
Budget Authority--ASI	90	0	45	45
401(C) Authority--ASI	0	70	35	35
Outlays	90	70	80	80
Special benefits (Federal employee retirement and disa		(12-15-1521	-X-1-602-A;	16-1521)
Budget Authority	214,000	0	107,000	8,132
Budget Authority--ASI	2,000	0	1,000	1,000
401(C) Authority	0	212,000	106,000	8,056
401(C) Authority--ASI	0	5,000	2,500	2,500
Outlays	215,650	217,000	216,325	19,675
Black lung disability trust fund		(12-15-8144	-X-7-601-A;	20-8144)
Budget Authority	105,500	0	52,750	4,009
Budget Authority--ASI	8,587	0	4,294	4,294
401(C) Authority	43,595	142,595	93,095	7,075
401(C) Authority--ASI	0	7,000	3,500	3,500
Outlays	52,182	149,595	100,889	14,869
Special workers' compensation expenses		(12-15-9971	-X-7-601-A;	16-9971)
401(C) Other--incl. ob. limit	2,152	2,959	2,556	194
401(C) Authority--ASI	1,014	1,000	1,007	1,007
Obligation Limitation	389	389	389	30
Outlays	3,555	4,348	3,951	1,231
Occupational Safety and Health Administration				
Salaries and expenses		(12-18-0400	-X-1-554-A;	16-0400)
Budget Authority	208,159	208,159	208,159	15,820
Outlays	181,937	182,397	182,167	13,845

Account Title	DNB	CBO	Average	Sequester
Mine Safety and Health Administration				
Salaries and expenses		(12-18-1200	-X-1-554-A;	16-1200)
Budget Authority	145,155	145,155	145,155	11,032
Outlays	131,310	131,367	131,338	9,982
Bureau of Labor Statistics				
Salaries and expenses		(12-20-0200	-X-1-505-A;	16-0200)
Budget Authority	151,817	151,817	151,817	11,538
401(C) Authority--Off. Coll.	812	812	812	62
Outlays	137,861	137,905	137,883	10,479
Departmental Management				
Inspector General salaries and expenses		(12-25-0106	-X-1-505-A;	16-0106)
Budget Authority	36,810	36,810	36,810	2,798
Outlays	26,946	27,140	27,043	2,055
Special foreign currency program		(12-25-0151	-X-1-505-A;	16-0151)
Budget Authority	45	45	45	3
Salaries and expenses		(12-25-0165	-X-1-505-A;	16-0165)
Budget Authority	95,009	95,009	95,009	7,221
Outlays	83,257	83,250	83,254	6,327
Department of Labor		Total		
Budget Authority	4,939,490	4,608,686	4,774,088	362,831
Budget Authority--ASI	10,677	0	5,338	5,338
401(C) Authority	43,595	463,595	253,595	19,273
401(C) Authority--Off. Coll.	1,812	1,812	1,812	138
401(C) Other--incl. ob. limit	231,152	237,959	234,556	17,826
401(C) Authority--ASI	1,014	13,070	7,042	7,042
Obligation Limitation	2,604,304	2,604,304	2,604,304	197,927
Outlays	3,495,237	3,702,201	3,598,718	284,942
Department of State				
Administration of Foreign Affairs				
Salaries and expenses		(14-05-0113	-X-1-153-A;	19-0113)
Budget Authority	1,677,166	1,677,166	1,677,166	127,465
Outlays	1,466,984	1,255,186	1,361,085	103,442
Protection of foreign missions and officials		(14-05-0520	-X-1-153-A;	19-0520)
Budget Authority	9,091	9,091	9,091	691
Outlays	7,364	4,546	5,955	453
Emergencies in the diplomatic and consular service		(14-05-0522	-X-1-153-A;	19-0522)
Budget Authority	4,211	4,211	4,211	320
Direct Loan Limitation	670	670	670	51
Outlays	2,463	2,906	2,684	204
Payment to the American Institute in Taiwan		(14-05-0523	-X-1-153-A;	19-0523)
Budget Authority	9,379	9,379	9,379	713
Outlays	6,931	8,160	7,546	573
Acquisition and maintenance of buildings abroad		(14-05-0535	-X-1-153-A;	19-0535)
Budget Authority	731,509	731,509	731,509	55,595
401(C) Authority--Off. Coll.	4,200	4,200	4,200	319
Outlays	56,901	133,673	95,287	7,242
Representation allowances		(14-05-0545	-X-1-153-A;	19-0545)
Budget Authority	4,498	4,498	4,498	342
Outlays	3,868	3,868	3,868	294
Foreign Service retirement and disability fund		(14-05-8186	-X-7-602-A;	19-8186)
401(C) Authority--ASI	2,000	2,000	2,000	2,000
Outlays	2,000	2,000	2,000	2,000
International Organizations and Conferences				
Contributions for international peacekeeping activitie		(14-10-1124	-X-1-153-A;	19-1124)
Budget Authority	28,136	28,136	28,136	2,138
Outlays	25,322	25,322	25,322	1,924
International conferences and contingencies		(14-10-1125	-X-1-153-A;	19-1125)
Budget Authority	5,742	5,742	5,742	436
Outlays	3,893	3,905	3,899	296
Contributions to international organizations		(14-10-1126	-X-1-153-A;	19-1126)
Budget Authority	443,091	443,091	443,091	33,675
401(C) Authority--Off. Coll.	3,889	3,889	3,889	296
Outlays	446,980	446,980	446,980	33,970
International Commissions				
Salaries and expenses, IBWC		(14-15-1069	-X-1-301-A;	19-1069)
Budget Authority	10,814	10,814	10,814	822
401(C) Authority--Off. Coll.	56	56	56	4
Outlays	9,648	9,356	9,502	722
Construction, IBWC		(14-15-1078	-X-1-301-A;	19-1078)
Budget Authority	2,160	2,160	2,160	164
Outlays	768	432	600	46
American sections, international commissions		(14-15-1082	-X-1-301-A;	19-1082)
Budget Authority	3,594	3,594	3,594	273
Outlays	2,821	2,430	2,626	200
International fisheries commissions		(14-15-1087	-X-1-302-A;	19-1087)
Budget Authority	10,814	10,814	10,814	822
Outlays	10,771	10,803	10,787	820

Account Title	OMB	CBO	Average	Sequester
Other				
Anti-terrorism assistance		(14-25-0114	-X-1-152-A;	19-0114)
Budget Authority	7,101	7,101	7,101	540
Outlays	3,165	3,195	3,180	242
Counterterrorism research and development		(14-25-0116	-X-1-153-A;	19-0116)
Budget Authority	10,000	10,000	10,000	760
Outlays	6,000	6,000	6,000	456
Soviet-East European research and training		(14-25-0118	-X-1-153-A;	19-0118)
Budget Authority	4,594	4,594	4,594	349
Outlays	2,756	2,756	2,756	209
Payment to the Asia Foundation		(14-25-0525	-X-1-153-A;	19-0525)
Budget Authority	11,570	11,570	11,570	879
Outlays	11,503	11,570	11,536	877
International narcotics control		(14-25-1022	-X-1-151-A;	11-1022)
Budget Authority	55,055	55,055	55,055	4,184
Outlays	19,270	19,269	19,270	1,465
Migration and refugee assistance		(14-25-1143	-X-1-151-A;	19-1143)
Budget Authority	324,356	324,356	324,356	24,651
Outlays	217,319	217,319	217,319	16,516
U.S. bilateral science and technology agreements		(14-25-1151	-X-1-153-A;	19-1151)
Budget Authority	1,914	1,914	1,914	145
Outlays	1,914	1,914	1,914	145
International Center, Washington, D.C.		(14-25-5151	-X-2-153-A;	19-5151)
401(C) Authority	945	945	945	72
Outlays	945	945	945	72
Department of State		Total		
Budget Authority	3,354,795	3,354,795	3,354,795	254,964
401(C) Authority	945	945	945	72
401(C) Authority--Off. Coll.	8,145	8,145	8,145	619
401(C) Authority--ASI	2,000	2,000	2,000	2,000
Direct Loan Limitation	670	670	670	51
Outlays	2,309,586	2,172,535	2,241,060	172,169
Department of Transportation				
Federal Highway Administration				
Access highways to public recreation areas on certain		(21-05-0503	-X-1-401-A;	69-0503)
Budget Authority	4,785	4,785	4,785	364
Outlays	957	813	885	67
Motor carrier safety		(21-05-0552	-X-1-401-A;	69-0552)
Budget Authority	13,302	13,302	13,302	1,011
Outlays	11,838	10,642	11,240	854
Railroad-highway crossings demonstration projects		(21-05-0557	-X-1-401-A;	69-0557)
Budget Authority	5,104	5,104	5,104	388
Outlays	1,021	510	766	58
Waste isolation pilot projects roads		(21-05-0562	-X-1-401-A;	69-0562)
Budget Authority	6,699	6,699	6,699	509
Outlays	1,340	1,132	1,236	94
Expressway gap closing demonstration project		(21-05-0563	-X-1-401-A;	69-0563)
Budget Authority	8,613	8,613	8,613	655
Outlays	1,722	1,456	1,589	121
Trust fund share of other highway programs		(21-05-8009	-X-7-401-A;	69-8009)
Budget Authority	10,208	10,208	10,208	776
Outlays	2,042	1,021	1,532	116
Baltimore-Washington Parkway		(21-05-8014	-X-7-401-A;	69-8014)
Budget Authority	2,871	2,871	2,871	218
Outlays	574	488	531	40
Highway safety research and development		(21-05-8017	-X-7-401-A;	69-8017)
Budget Authority	8,134	8,134	8,134	618
Outlays	1,627	1,383	1,505	114
Highway-related safety grants		(21-05-8019	-X-7-401-A;	69-8019)
Obligation Limitation	9,570	9,570	9,570	727
Motor carrier safety grants		(21-05-8027	-X-7-401-A;	69-8027)
Budget Authority	16,269	16,269	16,269	1,236
Outlays	15,456	12,202	13,829	1,051
Federal-aid highways (trust fund)		(21-05-8102	-X-7-401-A;	20-8102)
401(C) Authority	4,100,000	4,100,000	4,100,000	311,600
401(C) Authority--Off. Coll.	20,160	20,160	20,160	1,532
401(C) Other--incl. ob. limit	13,525,000	13,525,000	13,525,000	1,027,900
Outlays	20,160	20,160	20,160	1,532
Right-of-way revolving fund (trust revolving fund)		(21-05-8402	-X-8-401-A;	69-8402)
Direct Loan Limitation	47,850	47,850	47,850	3,637
Outlays	47,850	47,850	47,850	3,637
National Highway Traffic Safety Administration				
Operations and research		(21-10-0650	-X-1-401-A;	69-0650)
Budget Authority	51,637	51,637	51,637	3,924
Outlays	38,452	33,564	36,008	2,737
Trust fund share of operations and research		(21-10-8016	-X-7-401-A;	69-8016)
Budget Authority	28,609	28,609	28,609	2,174
Outlays	19,914	14,305	17,110	1,300

Account Title	OMB	CBO	Average	Sequester
State and community highway safety grants		(21-10-8020	-X-7-401-A;	69-8020)
Obligation Limitation	148,622	148,622	148,622	11,295
Outlays	20,846	59,448	40,147	3,051
Federal Railroad Administration				
Northeast corridor improvement program		(21-16-0123	-X-1-401-A;	69-0123)
Budget Authority	11,962	11,962	11,962	909
Outlays	718	598	658	50
Office of the Administrator		(21-16-0700	-X-1-401-A;	69-0700)
Budget Authority	29,016	29,016	29,016	2,205
Outlays	17,815	16,449	17,132	1,302
Railroad safety		(21-16-0702	-X-1-401-A;	69-0702)
Budget Authority	36,714	36,714	36,714	2,790
Outlays	29,959	27,342	28,650	2,177
Grants to National Railroad Passenger Corporation		(21-16-0704	-X-1-401-A;	69-0704)
Budget Authority	562,237	562,237	562,237	42,730
Outlays	562,237	562,238	562,238	42,730
Railroad rehabilitation and improvement financing fund		(21-16-4411	-X-3-401-A;	69-4411)
Budget Authority	32,059	32,059	32,059	2,436
Direct Loan Limitation	32,059	32,059	32,059	2,436
Outlays	1,603	1,603	1,603	122
Railroad rehab. and imprvemnt fin. funds, FFB direct l		(21-16-7012	-X-4-401-A;	69-7012)
Direct Loan Limitation	3,828	3,828	3,828	291
Urban Mass Transportation Administration				
Urban mass transportation fund, administrative expense		(21-20-1120	-X-1-401-A;	69-1120)
Budget Authority	28,710	28,710	28,710	2,182
Outlays	25,839	25,839	25,839	1,964
Research, training and human resources		(21-20-1121	-X-1-401-A;	69-1121)
Budget Authority	16,652	16,652	16,652	1,266
Outlays	7,493	4,163	5,828	443
Interstate transfer grants		(21-20-1127	-X-1-401-A;	69-1127)
Budget Authority	191,400	191,400	191,400	14,546
Outlays	28,710	9,570	19,140	1,455
Washington metro		(21-20-1128	-X-1-401-A;	69-1128)
Budget Authority	217,239	217,239	217,239	16,510
Outlays	10,862	10,862	10,862	826
Formula grants		(21-20-1129	-X-1-401-A;	69-1129)
Budget Authority	2,057,550	2,057,550	2,057,550	156,374
Outlays	753,444	743,712	748,578	56,892
Discretionary grants		(21-20-8191	-X-7-401-A;	69-8191)
Obligation Limitation	1,000,543	1,000,543	1,000,543	76,041
Federal Aviation Administration				
Operations		(21-25-1301	-X-1-402-A;	69-1301)
Budget Authority	2,297,791	2,297,791	2,297,791	174,632
401(C) Authority--Off. Coll.	7,000	7,000	7,000	532
Outlays	2,078,082	1,966,122	2,022,102	153,680
Operation and maintenance, Metropolitan Washington Air		(21-25-1332	-X-1-402-A;	69-1332)
Budget Authority	32,634	32,634	32,634	2,480
Outlays	27,804	27,739	27,772	2,111
Construction, Metropolitan Washington Airports		(21-25-1333	-X-1-402-A;	69-1333)
Budget Authority	6,699	6,699	6,699	509
Outlays	2,968	2,827	2,898	220
Aviation insurance revolving fund		(21-25-4120	-X-3-402-A;	69-4120)
401(C) Authority--Off. Coll.	100	100	100	6
Outlays	90	90	90	7
Trust fund share of FAA Operations		(21-25-8104	-X-7-402-A;	69-8104)
Budget Authority	426,822	426,822	426,822	32,438
Outlays	426,822	426,822	426,822	32,438
Grants-in-aid for airports (Airport and airway trust f		(21-25-8106	-X-7-402-A;	69-8106)
401(C) Authority	1,017,200	1,017,200	1,017,200	77,307
Obligation Limitation	885,225	885,225	885,225	67,277
Outlays	103,166	132,775	117,970	8,966
Facilities and equipment (Airport and airway trust fun		(21-25-8107	-X-7-402-A;	69-8107)
Budget Authority	895,081	895,081	895,081	68,026
401(C) Authority--Off. Coll.	3,350	3,350	3,350	255
Outlays	88,652	74,956	81,804	6,217
Research, engineering & development (Airport & airway		(21-25-8108	-X-7-402-A;	69-8108)
Budget Authority	237,050	237,050	237,050	18,016
401(C) Authority--Off. Coll.	600	600	600	46
Outlays	125,525	115,806	120,666	9,171
Coast Guard				
Operating expenses		(21-30-0201	-X-1-403-A;	69-0201)
Budget Authority	1,617,939	1,617,939	1,617,939	122,963
401(C) Authority--Off. Coll.	6,660	6,660	6,660	506
Outlays	1,381,908	1,381,908	1,381,908	105,025
Acquisition, construction, and improvements		(21-30-0240	-X-1-403-A;	69-0240)
Budget Authority	218,806	218,806	218,806	16,629
Outlays	21,800	15,456	18,628	1,416

Account Title	OMB	CBO	Average	Sequester
Retired pay (Coast Guard)		(21-30-0241	-X-1-403-A;	69-0241)
Budget Authority	32,000	0	16,000	1,216
Budget Authority--ASI	2,747	0	1,374	1,374
401(C) Authority	0	28,053	14,026	1,066
401(C) Authority--ASI	0	3,000	1,500	1,500
Outlays	34,747	30,741	32,744	5,144
Reserve training		(21-30-0242	-X-1-403-A;	69-0242)
Budget Authority	58,857	58,857	58,857	4,473
Outlays	51,251	50,970	51,110	3,884
Research, development, test, and evaluation		(21-30-0243	-X-1-403-A;	69-0243)
Budget Authority	17,847	17,847	17,847	1,356
Outlays	9,543	4,503	7,023	534
Alteration of bridges		(21-30-0244	-X-1-403-A;	69-0244)
Budget Authority	4,976	4,976	4,976	378
Outlays	5,477	1,140	3,308	251
Offshore oil pollution compensation fund		(21-30-5167	-X-2-304-A;	69-5167)
Budget Authority	957	957	957	73
Obligation Limitation	57,420	57,420	57,420	4,364
Outlays	982	96	539	41
Pollution fund		(21-30-5168	-X-2-304-A;	69-5168)
401(C) Authority	6,699	7,000	6,850	521
Outlays	505	2,100	1,352	103
Deepwater port liability fund		(21-30-5170	-X-2-304-A;	69-5170)
Budget Authority	957	957	957	73
Obligation Limitation	47,850	47,850	47,850	3,637
Outlays	0	96	48	4
Boat safety		(21-30-8149	-X-7-403-A;	69-8149)
Budget Authority	42,900	0	21,450	1,630
401(C) Authority	0	45,000	22,500	1,710
Obligation Limitation	28,710	28,710	28,710	2,182
Outlays	17,917	34,022	25,970	1,974
Maritime Administration				
Research and development		(21-35-1716	-X-1-403-A;	69-1716)
Budget Authority	8,474	9,474	9,474	720
Outlays	1,785	2,842	2,314	176
Operations and training		(21-35-1750	-X-1-403-A;	69-1750)
Budget Authority	66,703	66,703	66,703	5,069
Outlays	58,699	60,636	59,668	4,535
Federal ship financing fund		(21-35-4301	-X-3-403-A;	69-4301)
401(C) Authority--Off. Coll.	2,250	3,000	2,625	200
Guaranteed Loan Limitation	70,000	70,000	70,000	5,320
Outlays	2,250	3,000	2,625	200
Saint Lawrence Seaway Development Corporation				
Saint Lawrence Seaway Development Corporation		(21-40-4089	-X-3-403-A;	69-4089)
401(C) Authority--Off. Coll.	10,600	10,600	10,600	806
Obligation Limitation	1,834	1,835	1,834	139
Outlays	10,600	12,435	11,518	875
Office of the Inspector General				
Salaries and expenses		(21-45-0130	-X-1-407-A;	69-0130)
Budget Authority	26,413	26,413	26,413	2,007
Outlays	21,773	22,821	22,297	1,695
Research and Special Programs Administration				
Research and special programs		(21-50-0104	-X-1-407-A;	69-0104)
Budget Authority	18,470	18,470	18,470	1,404
Outlays	12,192	12,192	12,192	927
Office of the Secretary				
Salaries and expenses		(21-55-0102	-X-1-407-A;	69-0102)
Budget Authority	52,444	52,444	52,444	3,986
Outlays	46,656	45,515	46,086	3,503
Payments to air carriers, DOT		(21-55-0150	-X-1-402-A;	69-0150)
Budget Authority	26,796	26,796	26,796	2,036
Outlays	24,652	25,456	25,054	1,904
		Total		
Department of Transportation				
Budget Authority	9,431,386	8,356,486	9,393,936	713,939
Budget Authority--ASI	2,747	0	1,374	1,374
401(C) Authority	5,123,899	5,197,253	5,160,576	392,204
401(C) Authority--Off. Coll.	50,720	51,470	51,095	3,883
401(C) Other--incl. ob. limit	13,525,000	13,525,000	13,525,000	1,027,900
401(C) Authority--ASI	0	3,000	1,500	1,500
Direct Loan Limitation	83,737	83,737	83,737	6,364
Guaranteed Loan Limitation	70,000	70,000	70,000	5,320
Obligation Limitation	2,179,774	2,179,775	2,179,774	165,663
Outlays	6,178,425	6,060,416	6,119,421	467,732
Department of the Treasury				
Departmental Offices				
Salaries and expenses		(15-05-0101	-X-1-803-A;	20-0101)
Budget Authority	73,417	73,417	73,417	5,580
401(C) Authority--Off. Coll.	4,827	4,827	4,827	367
Outlays	66,274	66,644	66,459	5,051

Account Title	OMB	CBO	Average	Sequester
Office of Revenue Sharing		(15-07-0107	-X-1-851-A;	20-0107)
Salaries and expenses				
Budget Authority	7,382	7,382	7,382	561
Outlays	6,315	6,370	6,342	482
Federal Law Enforcement Training Center		(15-08-0104	-X-1-751-A;	20-0104)
Salaries and expenses				
Budget Authority	22,779	22,779	22,779	1,731
Outlays	17,747	22,688	20,218	1,537
Financial Management Service		(15-10-1801	-X-1-803-A;	20-1801)
Salaries and expenses				
Budget Authority	234,102	234,102	234,102	17,792
Outlays	197,014	210,692	203,853	15,493
Federal Financing Bank Activities		(15-11-4521	-X-4-803-A;	20-4521)
Federal Financing Bank				
401(C) Authority--Off. Coll.	2,000	2,000	2,000	152
Outlays	2,000	2,000	2,000	152
Bureau of Alcohol, Tobacco and Firearms		(15-12-1000	-X-1-751-A;	20-1000)
Salaries and expenses				
Budget Authority	167,221	167,221	167,221	12,709
Outlays	141,325	142,639	141,982	10,791
United States Customs Service		(15-15-0602	-X-1-751-A;	20-0602)
Salaries and expenses				
Budget Authority	717,000	717,000	717,000	54,492
401(C) Authority--Off. Coll.	75,016	75,016	75,016	5,701
Outlays	779,101	723,901	751,501	57,114
Operation and maintenance, air interdiction program		(15-15-0604	-X-1-751-A;	20-0604)
Budget Authority	75,000	75,000	75,000	5,700
Outlays	92,835	46,125	69,480	5,280
Customs forfeiture fund		(15-15-5693	-X-2-803-A;	20-5693)
Budget Authority	7,656	7,656	7,656	582
Outlays	7,656	7,656	7,656	582
Customs services at small airports		(15-15-5694	-X-2-806-A;	20-5694)
401(C) Authority	365	0	182	14
401(C) Other--incl. ob. limit	0	365	182	14
Outlays	365	365	365	28
Refunds, transfers and expenses, unclaimed and seized		(15-15-8789	-X-7-803-A;	20-8789)
401(C) Authority	7,537	7,537	7,537	573
Outlays	7,537	7,537	7,537	573
Miscellaneous permanent appropriations		(15-15-9922	-X-2-852-A;	20-9922)
401(C) Other--incl. ob. limit	112,314	114,770	113,542	8,629
Outlays	99,283	107,425	103,354	7,855
Bureau of Engraving and Printing		(15-20-4502	-X-4-803-A;	20-4502)
Bureau of Engraving and Printing fund				
401(C) Authority--Off. Coll.	36,491	36,491	36,491	2,773
Outlays	36,491	36,491	36,491	2,773
United States Mint		(15-25-1616	-X-1-803-A;	20-1616)
Salaries and expenses				
Budget Authority	44,500	44,501	44,500	3,382
401(C) Authority--Off. Coll.	50,462	50,462	50,462	3,835
Outlays	84,144	88,288	86,216	6,552
Bureau of the Public Debt		(15-35-0560	-X-1-803-A;	20-0560)
Administering the public debt				
Budget Authority	186,830	186,830	186,830	14,199
Outlays	141,626	161,234	151,430	11,509
Internal Revenue Service		(15-45-0911	-X-1-803-A;	20-0911)
Salaries and expenses				
Budget Authority	89,958	89,958	89,958	6,837
Outlays	69,650	76,464	73,057	5,552
Processing tax returns and executive direction		(15-45-0912	-X-1-803-A;	20-0912)
Budget Authority	1,213,769	1,213,769	1,213,769	92,246
Outlays	1,016,977	971,015	993,996	75,544
Examinations and appeals		(15-45-0913	-X-1-803-A;	20-0913)
Budget Authority	1,427,121	1,427,121	1,427,121	108,461
Outlays	1,298,702	1,341,494	1,320,098	100,327
Investigation, collection, and taxpayer service		(15-45-0914	-X-1-803-A;	20-0914)
Budget Authority	1,095,289	1,095,289	1,095,289	83,242
Outlays	975,005	1,008,237	991,621	75,363
Federal tax lien revolving fund		(15-45-4413	-X-3-803-A;	20-4413)
401(C) Authority--Off. Coll.	14,500	14,500	14,500	1,102
Outlays	14,500	14,500	14,500	1,102
Internal revenue collections for Puerto Rico		(15-45-5737	-X-2-852-A;	20-5737)
401(C) Other--incl. ob. limit	255,535	255,535	255,535	19,421
Outlays	226,582	254,292	240,437	18,273
United States Secret Service		(15-55-1407	-X-1-751-A;	20-1407)
Contribution for annuity benefits				
401(C) Authority	12,000	11,429	11,714	890
Outlays	12,000	11,429	11,714	890

Account Title	OMB	CBO	Average	Sequester
Salaries and expenses		(15-55-1408	-X-1-751-A;	20-1408)
Budget Authority	281,358	281,358	281,358	21,383
Outlays	219,459	225,086	222,272	16,893
Comptroller of the Currency				
Assessment funds		(15-57-8413	-X-8-376-A;	20-8413)
401(C) Authority--Off. Coll.	208,000	206,750	207,375	15,760
Outlays	208,000	206,750	207,375	15,760
Department of the Treasury		Total		
Budget Authority	5,643,382	5,643,383	5,643,382	428,897
401(C) Authority	19,902	18,966	19,434	1,477
401(C) Authority--Off. Coll.	391,296	390,046	390,671	29,691
401(C) Other--incl. ob. limit	367,849	370,670	369,260	28,064
Outlays	5,720,588	5,739,322	5,729,955	435,477
Environmental Protection Agency				
Environmental Protection Agency				
Construction grants		(20-00-0103	-X-1-304-A;	68-0103)
Budget Authority	1,774,200	1,774,200	1,774,200	134,839
Outlays	17,742	11,355	14,548	1,106
Research and development (Energy supply)		(20-00-0107	-X-1-271-A;	68-0107)
Budget Authority	52,647	52,647	52,647	4,001
Outlays	13,951	15,794	14,872	1,130
Research and development (Pollution control and abatem		(20-00-0107	-X-1-304-A;	68-0107)
Budget Authority	158,146	158,146	158,146	12,019
Outlays	41,909	43,732	42,820	3,254
Abatement, control, and compliance		(20-00-0108	-X-1-304-A;	68-0108)
Budget Authority	552,763	552,763	552,763	42,010
Direct Loan Limitation	32,392	32,392	32,392	2,462
Outlays	251,892	248,743	250,318	19,024
Buildings and facilities		(20-00-0110	-X-1-304-A;	68-0110)
Budget Authority	4,785	4,785	4,785	364
Outlays	1,758	1,436	1,597	121
Salaries and expenses		(20-00-0200	-X-1-304-A;	68-0200)
Budget Authority	657,756	657,756	657,756	49,989
401(C) Authority--Off. Coll.	800	800	800	61
Outlays	566,470	559,893	563,182	42,802
Advances to the hazardous substance response trust fun		(20-00-0250	-X-1-304-A;	68-0250)
Budget Authority	150,000	150,000	150,000	11,400
Outlays	150,000	0	75,000	5,700
Revolving fund for certification and other services		(20-00-4311	-X-3-304-A;	68-4311)
401(C) Authority--Off. Coll.	2,000	2,000	2,000	152
Outlays	2,000	2,000	2,000	152
Hazardous substance response trust fund		(20-00-8145	-X-7-304-A;	20-8145)
Budget Authority	861,300	861,300	861,300	65,459
401(C) Authority--Off. Coll.	8,500	8,500	8,500	646
Obligation Limitation	104,330	104,330	104,330	7,929
Outlays	163,500	309,955	236,728	17,991
Environmental Protection Agency		Total		
Budget Authority	4,211,597	4,211,597	4,211,597	320,081
401(C) Authority--Off. Coll.	11,300	11,300	11,300	859
Direct Loan Limitation	32,392	32,392	32,392	2,462
Obligation Limitation	104,330	104,330	104,330	7,929
Outlays	1,209,222	1,192,908	1,201,065	91,281
General Services Administration				
Real Property Activities				
Federal buildings fund		(23-05-4542	-X-4-804-A;	47-4542)
Budget Authority	10,199	10,199	10,199	775
401(C) Authority--Off. Coll.	0	69,564	34,782	2,643
Outlays	8,315	69,564	38,940	2,959
Personal Property Activities				
Federal supply service		(23-10-0116	-X-1-804-A;	47-0116)
Budget Authority	163,742	163,742	163,742	12,444
Outlays	147,701	150,387	149,044	11,327
Expenses of transportation audit contracts		(23-10-5246	-X-2-804-A;	47-5246)
401(C) Other--incl. ob. limit	7,600	7,600	7,600	578
Outlays	7,600	7,600	7,600	578
Information Resources Management Service				
Operating expenses, information resources management s		(23-15-0900	-X-1-804-A;	47-0900)
Budget Authority	28,784	28,784	28,784	2,188
Outlays	23,844	24,466	24,155	1,836
Federal Property Resources Activities				
Operating expenses, federal property resources service		(23-25-0533	-X-1-054-A;	47-0533)
Budget Authority	27,185	27,185	27,185	1,522
Outlays	15,556	23,675	19,616	1,098
Operating expenses, federal property resources service		(23-25-0533	-X-1-804-A;	47-0533)
Budget Authority	10,923	10,923	10,923	830
Outlays	6,372	7,045	6,708	510
National defense stockpile transaction fund		(23-25-4550	-X-3-054-A;	47-4550)
401(C) Authority	19,020	19,020	19,020	1,065
Unobligated Balances--Defense	690,382	690,382	690,382	38,661
Outlays	35,000	19,020	27,010	1,513

Account Title	OMB	CBO	Average	Sequester
Expenses, disposal of surplus real and related persona		(23-25-5254	-X-2-804-A;	47-5254)
401(C) Other--incl. ob. limit	3,510	3,510	3,510	267
Outlays	2,697	2,697	2,697	205
General Activities				
Allowances and office staff for former Presidents		(23-30-0105	-X-1-802-A;	47-0105)
Budget Authority	781	781	781	59
Budget Authority--ASI	6	6	6	6
Outlays	679	697	688	58
Office of Inspector General		(23-30-0108	-X-1-804-A;	47-0108)
Budget Authority	19,097	19,097	19,097	1,451
Outlays	16,454	16,729	16,592	1,261
General management and administration, salaries and ex		(23-30-0110	-X-1-804-A;	47-0110)
Budget Authority	110,764	110,764	110,764	8,418
Outlays	88,455	90,964	89,710	6,818
Consumer information center fund		(23-30-4549	-X-3-376-A;	47-4549)
Budget Authority	1,182	1,182	1,182	90
Obligation Limitation	1,543	1,561	1,552	118
Outlays	421	924	672	51
General Services Administration		Total		
Budget Authority	372,657	372,657	372,657	27,778
Budget Authority--ASI	6	6	6	6
401(C) Authority	19,020	19,020	19,020	1,065
401(C) Authority--Off. Coll.	0	69,564	34,782	2,643
401(C) Other--incl. ob. limit	11,110	11,110	11,110	844
Obligation Limitation	1,543	1,561	1,552	118
Unobligated Balances--Defense	690,382	690,382	690,382	38,661
Outlays	353,094	413,768	383,432	28,214
National Aeronautics and Space Administration				
National Aeronautics and Space Administration				
Research and program management		(26-00-0103	-X-1-250-A;	80-0103)
401(C) Authority--Off. Coll.	5,000	5,000	5,000	380
Outlays	5,000	5,000	5,000	380
Research and program management (Space flight)		(26-00-0103	-X-1-253-A;	80-0103)
Budget Authority	568,389	568,389	568,389	43,198
Outlays	531,591	531,646	531,618	40,403
Research & program management (Space science, applicat		(26-00-0103	-X-1-254-A;	80-0103)
Budget Authority	457,335	457,335	457,335	34,757
Outlays	430,043	429,656	429,850	32,669
Research & program management (Supporting space activi		(26-00-0103	-X-1-255-A;	80-0103)
Budget Authority	53,748	53,748	53,748	4,085
Outlays	49,827	49,722	49,774	3,783
Research and program management (Air transportation)		(26-00-0103	-X-1-402-A;	80-0103)
Budget Authority	262,062	262,062	262,062	19,917
Outlays	245,593	245,313	245,453	18,654
Space Flight, Control, and Data Comm. (space flight)		(26-00-0105	-X-1-253-A;	80-0105)
Budget Authority	3,006,646	3,006,646	3,006,646	228,505
Outlays	1,910,631	2,232,404	2,071,518	157,435
Space Flight, Control, and Data Comm. (supporting act.		(26-00-0105	-X-1-255-A;	80-0105)
Budget Authority	663,493	663,493	663,493	50,425
Outlays	410,591	402,015	406,303	30,879
Construction of facilities (Space flight)		(26-00-0107	-X-1-253-A;	80-0107)
Budget Authority	28,614	28,614	28,614	2,175
Outlays	1,914	1,917	1,916	146
Construction of facilities (Space science, application		(26-00-0107	-X-1-254-A;	80-0107)
Budget Authority	4,785	4,785	4,785	364
Outlays	861	861	861	65
Construction of facilities (Supporting space activitie		(26-00-0107	-X-1-255-A;	80-0107)
Budget Authority	87,374	87,374	87,374	6,640
Outlays	5,646	5,646	5,646	429
Construction of facilities (Air transportation)		(26-00-0107	-X-1-402-A;	80-0107)
Budget Authority	12,537	12,537	12,537	953
Outlays	861	865	863	66
Research and development		(26-00-0108	-X-1-250-A;	80-0108)
401(C) Authority--Off. Coll.	35,000	35,000	35,000	2,660
Outlays	35,000	35,000	35,000	2,660
Research and development (Space flight)		(26-00-0108	-X-1-253-A;	80-0108)
Budget Authority	604,194	604,194	604,194	45,919
Outlays	322,112	314,843	318,478	24,204
Research and development (Space science, applications,		(26-00-0108	-X-1-254-A;	80-0108)
Budget Authority	1,662,282	1,662,282	1,662,282	126,333
Outlays	887,500	884,117	885,808	67,321
Research and development (Supporting space activities)		(26-00-0108	-X-1-255-A;	80-0108)
Budget Authority	15,503	15,503	15,503	1,178
Outlays	9,474	9,472	9,473	720
Research and development (Air transportation)		(26-00-0108	-X-1-402-A;	80-0108)
Budget Authority	337,278	337,278	337,278	25,633
Outlays	169,289	168,639	168,964	12,841

Account Title	OMB	CBO	Average	Sequester
National Aeronautics and Space Administration		Total		
Budget Authority	7,764,240	7,764,240	7,764,240	590,082
401(C) Authority--Off. Coll.	40,000	40,000	40,000	3,040
Outlays	5,015,933	5,317,116	5,166,524	392,656
Office of Personnel Management				
Office of Personnel Management				
Salaries and expenses		(27-00-0100	-X-1-805-A;	24-0100)
Budget Authority	95,553	95,553	95,553	7,262
Outlays	90,980	89,151	90,066	6,845
Government payment for annuitants, employees health be		(27-00-0206	-X-1-551-A;	24-0206)
Budget Authority	1,537,100	1,537,100	1,537,100	116,820
Outlays	1,370,980	1,370,980	1,370,980	104,194
Revolving fund		(27-00-4571	-X-4-805-A;	24-4571)
401(C) Authority--Off. Coll.	1,319	1,530	1,424	108
Outlays	1,319	1,530	1,424	108
Civil service retirement and disability fund		(27-00-8135	-X-7-602-A;	24-8135)
401(C) Authority--ASI	139,787	233,000	186,394	186,394
Obligation Limitation	45,399	45,399	45,399	3,450
Outlays	183,639	276,189	229,914	189,702
Employees life insurance fund		(27-00-8424	-X-8-602-A;	24-8424)
Obligation Limitation	986	986	986	75
Outlays	986	986	986	75
Employees health benefits fund		(27-00-8440	-X-8-551-A;	24-8440)
Obligation Limitation	8,558	8,558	8,558	650
Outlays	8,558	8,558	8,558	650
Retired employees health benefits fund		(27-00-8445	-X-8-551-A;	24-8445)
Obligation Limitation	128	128	128	10
Outlays	128	128	128	10
Office of Personnel Management		Total		
Budget Authority	1,632,653	1,632,653	1,632,653	124,082
401(C) Authority--Off. Coll.	1,319	1,530	1,424	108
401(C) Authority--ASI	139,787	233,000	186,394	186,394
Obligation Limitation	55,071	55,071	55,071	4,185
Outlays	1,656,590	1,747,522	1,702,056	301,584
Small Business Administration				
Small Business Administration				
Salaries and expenses		(28-00-0100	-X-1-376-A;	73-0100)
Budget Authority	199,822	199,822	199,822	15,186
Outlays	142,300	161,256	151,778	11,535
White House Conference on Small Business		(28-00-0104	-X-1-376-A;	73-0104)
Budget Authority	2,584	2,584	2,584	196
Pollution control equipment contract guarantee revolvi		(28-00-4147	-X-3-376-A;	73-4147)
Guaranteed Loan Limitation	47,850	47,850	47,850	3,637
Disaster loan fund		(28-00-4153	-X-3-453-A;	73-4153)
Direct Loan Limitation	430,650	338,000	384,325	29,209
Outlays	193,800	200,000	196,900	14,964
Business loan and investment fund		(28-00-4154	-X-3-376-A;	73-4154)
Budget Authority	112,926	112,926	112,926	8,582
Direct Loan Limitation	96,657	96,657	96,657	7,346
Guaranteed Loan Limitation	3,642,700	3,642,700	3,642,700	276,845
Outlays	76,196	74,360	75,278	5,721
Surety bond guarantees revolving fund		(28-00-4156	-X-3-376-A;	73-4156)
Guaranteed Loan Limitation	1,050,000	1,050,000	1,050,000	79,800
Section 503 guaranteed loans--FFB direct loans		(28-00-7017	-X-4-376-A;	73-7017)
Direct Loan Limitation	155,000	155,000	155,000	11,780
Small Business Administration		Total		
Budget Authority	315,332	315,332	315,332	23,965
Direct Loan Limitation	682,307	589,657	635,982	48,335
Guaranteed Loan Limitation	4,740,550	4,740,550	4,740,550	360,282
Outlays	412,296	435,616	423,956	32,221
Veterans Administration				
Veterans Administration				
Veterans job training		(29-00-0103	-X-1-702-A;	36-0103)
Budget Authority	35,000	35,000	35,000	2,660
Outlays	28,500	32,916	30,708	2,334
Construction, major projects		(29-00-0110	-X-1-703-A;	36-0110)
Budget Authority	485,544	485,544	485,544	36,901
Outlays	17,926	15,537	16,732	1,272
Construction, minor projects		(29-00-0111	-X-1-703-A;	36-0111)
Budget Authority	96,061	96,061	96,061	7,301
Outlays	37,000	31,374	34,187	2,598
Veterans insurance and indemnities		(29-00-0120	-X-1-701-A;	36-0120)
Budget Authority	42	0	21	2
Direct Loan Limitation	42	0	21	2
Outlays	42	0	21	2
Readjustment benefits		(29-00-0137	-X-1-702-A;	36-0137)
Budget Authority	877,569	0	438,784	33,348
401(C) Authority	0	750,000	375,000	28,500
Outlays	708,602	723,457	716,030	54,418

Account Title	OMB	CBO	Average	Sequester
Grants to the Republic of the Philippines		(29-00-0144	-X-1-703-A;	36-0144)
Budget Authority	474	474	474	36
Outlays	164	161	162	12
General operating expenses		(29-00-0151	-X-1-705-A;	36-0151)
Budget Authority	712,835	712,835	712,835	54,175
Outlays	624,745	641,552	633,148	48,119
Medical administration and miscellaneous operating exp		(29-00-0152	-X-1-703-A;	36-0152)
Budget Authority	51,222	51,222	51,222	3,893
Outlays	38,058	37,904	37,981	2,887
Burial benefits and miscellaneous assistance		(29-00-0155	-X-1-701-A;	36-0155)
Budget Authority	129,350	0	64,675	4,915
401(C) Authority	0	128,000	64,000	4,864
Outlays	129,180	127,822	128,501	9,766
Medical care		(29-00-0160	-X-1-703-A;	36-0160)
Budget Authority	727,320	727,320	727,320	55,276
Budget Authority--Spec. Rules	168,056	168,056	168,056	168,056
401(C) Authority--Spec. Rules	642	642	642	642
Outlays	815,651	826,107	820,879	196,005
Medical and prosthetic research		(29-00-0161	-X-1-703-A;	36-0161)
Budget Authority	181,127	181,127	181,127	13,766
Outlays	148,343	146,713	147,528	11,212
Grants for construction of state extended care facilit		(29-00-0181	-X-1-703-A;	36-0181)
Budget Authority	20,822	20,822	20,822	1,582
Grants for the construction of State veterans cemeteri		(29-00-0183	-X-1-705-A;	36-0183)
Budget Authority	2,839	2,839	2,839	216
Veterans reopened insurance fund		(29-00-4010	-X-3-701-A;	36-4010)
Direct Loan Limitation	4,920	0	2,460	187
Outlays	4,920	0	2,460	187
Service-disabled veterans insurance fund		(29-00-4012	-X-3-701-A;	36-4012)
Direct Loan Limitation	5,100	0	2,550	194
Outlays	5,100	0	2,550	194
Canteen service revolving fund		(29-00-4014	-X-3-705-A;	36-4014)
401(C) Authority--Off. Coll.	193,715	193,715	193,715	14,722
Outlays	193,715	193,715	193,715	14,722
Direct loan revolving fund		(29-00-4024	-X-3-704-A;	36-4024)
Direct Loan Limitation	946	946	946	72
Outlays	235	235	235	18
Loan guaranty revolving fund		(29-00-4025	-X-3-704-A;	36-4025)
Guaranteed Loan Limitation	38,280,000	38,000,000	38,140,000	2,898,640
Outlays	0	-240,200	-120,100	-9,128
Special therapeutic and rehabilitation activities fund		(29-00-4048	-X-3-703-A;	36-4048)
401(C) Authority--Off. Coll.	2,225	2,225	2,225	169
Outlays	2,225	2,225	2,225	169
Vocational rehabilitation revolving fund		(29-00-4114	-X-3-702-A;	36-4114)
Direct Loan Limitation	1,000	1,182	1,091	83
Outlays	1,000	1,160	1,080	82
Education loan fund		(29-00-4118	-X-3-702-A;	36-4118)
Direct Loan Limitation	40	45	42	3
Outlays	40	45	42	3
National service life insurance fund		(29-00-8132	-X-7-701-A;	36-8132)
Direct Loan Limitation	46,800	0	23,400	1,778
Outlays	46,800	0	23,400	1,778
United States government life insurance fund		(29-00-8150	-X-7-701-A;	36-8150)
Direct Loan Limitation	740	0	370	28
Outlays	740	0	370	28
Veterans special life insurance fund		(29-00-8455	-X-8-701-A;	36-8455)
Direct Loan Limitation	7,400	0	3,700	281
Outlays	7,400	0	3,700	281
Veterans Administration		Total		
Budget Authority	3,320,205	2,313,244	2,816,724	214,071
Budget Authority--Spec. Rules	168,056	168,056	168,056	168,056
401(C) Authority	0	878,000	439,000	33,364
401(C) Authority--Off. Coll.	195,940	195,940	195,940	14,891
401(C) Authority--Spec. Rules	642	642	642	642
Direct Loan Limitation	66,988	2,173	34,580	2,628
Guaranteed Loan Limitation	38,280,000	38,000,000	38,140,000	2,898,640
Outlays	2,810,386	2,540,723	2,675,554	336,960
Other Independent Agencies				
ACTION				
Operating expenses		(30-01-0103	-X-1-506-A;	44-0103)
Budget Authority	144,782	144,782	144,782	11,003
Outlays	87,694	87,694	87,694	6,665
Administrative Conference of the United States				
Salaries and expenses		(30-02-1700	-X-1-751-A;	95-1700)
Budget Authority	1,369	1,369	1,369	104
Outlays	1,190	1,095	1,142	87
Advisory Committee on Federal Pay				
Salaries and expenses		(30-05-1800	-X-1-805-A;	95-1800)
Budget Authority	201	201	201	15
Outlays	190	190	190	14

BEST COPY AVAILABLE

Account Title	OMB	CBO	Average	Sequester
Advisory Council on Historic Preservation		(30-10-2300	-X-1-303-A;	95-2300)
Salaries and expenses				
Budget Authority	1,507	1,507	1,507	115
Outlays	1,404	1,236	1,320	100
American Battle Monuments Commission		(30-12-0100	-X-1-705-A;	74-0100)
Salaries and expenses				
Budget Authority	11,921	11,921	11,921	806
Outlays	9,012	8,788	8,900	676
Architectural & Transportation Barriers Compliance		(30-14-3200	-X-1-751-A;	95-3200)
Salaries and expenses				
Budget Authority	1,890	1,890	1,890	144
Outlays	1,304	1,372	1,338	102
Arms Control and Disarmament Agency		(30-17-0100	-X-1-153-A;	94-0100)
Arms control and disarmament activities				
Budget Authority	24,738	24,738	24,738	1,880
Outlays	21,028	18,801	19,914	1,513
Board for International Broadcasting		(30-18-1145	-X-1-154-A;	95-1145)
Grants and expenses				
Budget Authority	117,084	117,084	117,084	8,898
Outlays	117,084	117,084	117,084	8,898
Commission of Fine Arts		(30-32-2600	-X-1-451-A;	95-2600)
Salaries and expenses				
Budget Authority	364	364	364	28
Outlays	342	316	329	25
Commission on Civil Rights		(30-35-1900	-X-1-751-A;	95-1900)
Salaries and expenses				
Budget Authority	11,771	11,771	11,771	895
Outlays	10,041	10,382	10,212	776
Committee for Purchase from the Blind & others		(30-37-2000	-X-1-505-A;	95-2000)
Salaries and expenses				
Budget Authority	699	699	699	53
Outlays	685	572	628	48
Commodity Futures Trading Commission		(30-38-1400	-X-1-376-A;	95-1400)
Commodity Futures Trading Commission				
Budget Authority	27,983	27,983	27,983	2,127
Outlays	25,314	25,297	25,306	1,923
Consumer Product Safety Commission		(30-41-0100	-X-1-554-A;	61-0100)
Product safety				
Budget Authority	34,452	34,452	34,452	2,618
401(C) Authority--Off. Coll.	5	5	5	0
Outlays	29,289	29,289	29,289	2,226
Corporation for Public Broadcasting		(30-42-0151	-X-1-503-A;	20-0151)
Public broadcasting fund				
401(C) Authority	200,000	200,000	200,000	15,200
Outlays	200,000	200,000	200,000	15,200
District of Columbia		(30-43-1700	-X-1-852-A;	20-1700)
Federal payment to the District of Columbia				
Budget Authority	530,027	530,027	530,027	40,282
Outlays	530,027	530,027	530,027	40,282
Equal Employment Opportunity Commission		(30-46-0100	-X-1-751-A;	45-0100)
Salaries and expenses				
Budget Authority	157,905	157,905	157,905	12,001
Outlays	140,246	137,377	138,812	10,550
Export-Import Bank of the United States		(30-48-4027	-X-3-155-A;	83-4027)
Export-Import Bank of the United States				
Direct Loan Limitation	1,062,270	1,062,270	1,062,270	80,733
Guaranteed Loan Limitation	11,484,000	11,484,000	11,484,000	872,784
Obligation Limitation	17,568	17,568	17,568	1,335
Outlays	66,468	212,588	139,528	10,604
Farm Credit Administration		(30-52-4131	-X-3-351-A;	78-4131)
Revolving fund for administrative expenses				
Obligation Limitation	29,403	29,403	29,403	2,235
Outlays	29,403	29,403	29,403	2,235
Federal Communications Commission		(30-60-0100	-X-1-376-A;	27-0100)
Salaries and expenses				
Budget Authority	90,341	90,341	90,341	6,866
401(C) Authority--Off. Coll.	50	50	50	4
Outlays	85,810	84,519	85,164	6,472
Federal Deposit Insurance Corporation		(30-64-8419	-X-8-371-A;	51-8419)
Federal Deposit Insurance Corporation				
401(C) Authority--Off. Coll.	228,397	228,397	228,397	17,358
Outlays	228,397	228,397	228,397	17,358
Federal Election Commission		(30-65-1600	-X-1-806-A;	95-1600)
Salaries and expenses				
Budget Authority	11,888	11,898	11,898	904
Outlays	10,638	10,363	10,500	798
Federal Emergency Management Agency		(30-67-0100	-X-1-054-A;	58-0100)
Salaries and expenses (Defense-related activities)				
Budget Authority	66,174	66,174	66,174	5,029
Outlays	59,557	62,601	61,079	4,642

Account Title	OMB	CBO	Average	Sequester
Salaries and expenses (Disaster relief and insurance)		(30-67-0100	-X-1-453-A;	58-0100)
Budget Authority	54,850	54,850	54,850	4,169
Outlays	49,365	48,897	49,131	3,734
Emergency planning and assistance (Defense-related act		(30-67-0101	-X-1-054-A;	58-0101)
Budget Authority	209,498	209,498	209,498	15,922
Outlays	94,274	160,475	127,374	9,680
Emergency planning and assistance (Community developme		(30-67-0101	-X-1-453-A;	58-0101)
Budget Authority	69,090	69,090	69,090	5,251
Outlays	38,000	36,942	37,471	2,848
Emergency food and shelter		(30-67-0103	-X-1-605-A;	58-0103)
Budget Authority	70,000	70,000	70,000	5,320
Outlays	70,000	70,000	70,000	5,320
National insurance development fund		(30-67-4235	-X-3-451-A;	58-4235)
401(C) Authority	220	220	220	17
Outlays	220	198	209	16
Federal Home Loan Bank Board				
Federal Home Loan Bank Board revolving fund		(30-69-4035	-X-3-371-A;	82-4035)
401(C) Authority--Off. Coll.	11,134	9,826	10,480	796
Obligation Limitation	25,721	25,721	25,721	1,955
Outlays	11,134	9,826	10,480	796
Federal Savings and Loan Insurance Corporation fund		(30-69-4037	-X-3-371-A;	82-4037)
401(C) Authority--Off. Coll.	63,510	63,510	63,510	4,827
Obligation Limitation	1,378	1,378	1,378	105
Outlays	63,510	63,510	63,510	4,827
Federal Labor Relations Authority				
Salaries and expenses		(30-70-0100	-X-1-805-A;	54-0100)
Budget Authority	16,330	16,330	16,330	1,241
Outlays	15,146	14,697	14,922	1,134
Federal Maritime Commission				
Salaries and expenses		(30-72-0100	-X-1-403-A;	65-0100)
Budget Authority	11,360	11,360	11,360	863
Outlays	10,105	10,224	10,164	772
Federal Mediation and Conciliation Service				
Salaries and expenses		(30-76-0100	-X-1-505-A;	93-0100)
Budget Authority	22,388	22,388	22,388	1,701
Outlays	20,514	20,507	20,510	1,559
Federal Mine Safety and Health Review Commission				
Salaries and expenses		(30-79-2800	-X-1-554-A;	95-2800)
Budget Authority	3,651	3,651	3,651	277
Outlays	3,422	3,421	3,422	260
Federal Retirement Thrift Investment Board				
Salaries and expenses		(30-81-0200	-X-1-805-A;	26-0200)
Budget Authority	250	250	250	19
Outlays	250	250	250	19
Federal Trade Commission				
Salaries and expenses		(30-84-0100	-X-1-376-A;	29-0100)
Budget Authority	62,683	62,684	62,684	4,764
Outlays	59,599	57,356	58,478	4,444
Harry S Truman Scholarship Foundation				
Harry S Truman memorial scholarship trust fund		(31-01-8296	-X-7-502-A;	95-8296)
401(C) Other--incl. ob. limit	1,993	1,993	1,993	151
Outlays	1,993	1,993	1,993	151
Commission on the Bicentennial of the U.S. Constit				
Salaries and expenses		(31-04-0054	-X-1-806-A;	76-0054)
Budget Authority	12,226	12,226	12,226	929
Outlays	6,113	6,113	6,113	465
Franklin Delano Roosevelt Memorial Commission				
Salaries and expenses		(31-05-0700	-X-1-806-A;	76-0700)
Budget Authority	20	20	20	2
Outlays	0	12	6	0
Intelligence Community Staff				
Intelligence community staff		(31-07-0400	-X-1-054-A;	95-0400)
Budget Authority	21,001	21,001	21,001	1,176
Outlays	13,304	19,003	16,154	905
Advisory Commission on Intergovernmental Relations				
Salaries and expenses		(31-08-0100	-X-1-806-A;	55-0100)
Budget Authority	1,953	1,953	1,953	148
Outlays	1,662	1,660	1,661	126
Appalachian Regional Commission				
Appalachian regional development programs		(31-09-0200	-X-1-452-A;	46-0200)
Budget Authority	116,945	116,945	116,945	8,888
Outlays	8,517	7,824	8,170	621
Delaware River Basin Commission				
Salaries and expenses		(31-10-0100	-X-1-301-A;	46-0100)
Budget Authority	161	161	161	12
Outlays	145	150	148	11
Contribution to Delaware River Basin Commission		(31-10-0102	-X-1-301-A;	46-0102)
Budget Authority	263	263	263	20
Outlays	263	263	263	20

Account Title	OMB	CBO	Average	Sequester
Interstate Commission on the Potomac River Basin				
Contribution to Interstate Commission on the Potomac R		(31-11-0446	-X-1-304-A;	46-0446)
Budget Authority	79	79	79	6
Outlays	79	79	79	6
Susquehanna River Basin Commission				
Salaries and expenses		(31-12-0500	-X-1-301-A;	46-0500)
Budget Authority	156	156	156	12
Outlays	148	147	148	11
Contribution to Susquehanna River Basin Commission		(31-12-0501	-X-1-301-A;	46-0501)
Budget Authority	220	220	220	17
Outlays	220	220	220	17
Washington Metropolitan Area Transit Authority				
Interest payments		(31-14-0300	-X-1-401-A;	46-0300)
Budget Authority	51,664	0	25,832	1,963
Outlays	51,664	0	25,832	1,963
International Trade Commission				
Salaries and expenses		(31-17-0100	-X-1-153-A;	34-0100)
Budget Authority	27,370	27,370	27,370	2,080
Outlays	23,370	23,538	23,454	1,782
Interstate Commerce Commission				
Salaries and expenses		(31-20-0100	-X-1-401-A;	30-0100)
Budget Authority	46,108	46,108	46,108	3,504
Outlays	43,802	41,497	42,650	3,241
Japan-United States Friendship Commission				
Japan-United States friendship trust fund		(31-21-6025	-X-7-154-A;	95-6025)
Budget Authority	742	742	742	56
Outlays	742	742	742	56
Legal Services Corporation				
Payment to the Legal Services Corporation		(31-22-0501	-X-1-752-A;	20-0501)
Budget Authority	292,363	292,363	292,363	22,220
Outlays	254,562	254,649	254,606	19,350
Marine Mammal Commission				
Salaries and expenses		(31-23-2200	-X-1-302-A;	95-2200)
Budget Authority	861	861	861	65
Outlays	646	763	704	54
Merit Systems Protection Board				
Salaries and expenses		(31-24-0100	-X-1-805-A;	41-0100)
Budget Authority	19,140	19,140	19,140	1,455
Outlays	18,288	17,245	17,766	1,350
Office of the Special Counsel		(31-24-0101	-X-1-805-A;	41-0101)
Budget Authority	4,396	4,396	4,396	334
Outlays	4,201	4,040	4,120	313
National Archives and Records Administration				
Operating expenses		(31-26-0300	-X-1-804-A;	88-0300)
Budget Authority	97,004	97,004	97,004	7,372
Outlays	79,831	77,603	78,717	5,982
National archives trust fund		(31-26-8436	-X-8-804-A;	88-8436)
401(C) Authority--Off. Coll.	8,222	8,222	8,222	625
Outlays	8,222	8,222	8,222	625
National Capital Planning Commission				
Salaries and expenses		(31-28-2500	-X-1-451-A;	95-2500)
Budget Authority	2,580	2,580	2,580	196
Outlays	2,457	2,423	2,440	185
National Afro-American History and Culture Commiss				
National Center for the Study of Afro-American Hist. a		(31-29-3800	-X-1-503-A;	95-3800)
Budget Authority	191	191	191	15
Outlays	172	172	172	13
National Commission on Libraries & Info. Science				
Salaries and expenses		(31-30-2700	-X-1-503-A;	95-2700)
Budget Authority	660	660	660	50
Outlays	581	581	581	44
National Council on the Handicapped				
Salaries and expenses		(31-32-3500	-X-1-506-A;	95-3500)
Budget Authority	732	732	732	56
Outlays	581	620	600	46
National Credit Union Administration				
Operating fund		(31-33-4056	-X-3-371-A;	25-4056)
401(C) Authority--Off. Coll.	20,000	19,731	19,866	1,510
Outlays	20,000	19,731	19,866	1,510
Credit union share insurance fund		(31-33-4468	-X-3-371-A;	25-4468)
401(C) Authority--Off. Coll.	18,148	19,732	18,940	1,439
Outlays	18,148	19,732	18,940	1,439
Central liquidity facility		(31-33-4470	-X-3-371-A;	25-4470)
401(C) Authority--Off. Coll.	231,100	231,100	231,100	17,564
Direct Loan Limitation	567,884	567,884	567,884	43,159
Obligation Limitation	805	805	805	61
Outlays	231,100	231,100	231,100	17,564

Account Title	OMB	CBO	Average	Sequester
National Endowment for the Arts				
National Endowment for the Arts: Grants and administra		(31-35-0100	-X-1-503-A;	59-0100)
Budget Authority	158,538	158,538	158,538	12,049
Outlays	36,464	55,012	45,738	3,476
Arts and artifacts indemnity fund		(31-35-0101	-X-1-503-A;	59-0101)
Budget Authority	285	285	285	22
National Endowment for the Humanities				
National Endowment for the Humanities: Grants and admi		(31-36-0200	-X-1-503-A;	59-0200)
Budget Authority	134,582	134,582	134,582	10,228
Outlays	76,252	70,252	70,252	5,339
Institute of Museum Services				
Institute of Museum Services		(31-37-0300	-X-1-503-A;	59-0300)
Budget Authority	20,474	20,474	20,474	1,556
Outlays	5,118	5,139	5,128	390
National Institute of Building Sciences				
National Institute of Building Sciences trust fund		(31-38-8222	-X-7-376-A;	95-8222)
401(C) Other--incl. ob. limit	522	519	520	40
Outlays	522	519	520	40
National Labor Relations Board				
Salaries and expenses		(31-39-0100	-X-1-505-A;	63-0100)
Budget Authority	129,055	129,055	129,055	9,808
Outlays	120,705	120,666	120,859	9,172
National Mediation Board				
Salaries and expenses		(31-40-2400	-X-1-505-A;	95-2400)
Budget Authority	6,085	6,085	6,085	462
Outlays	4,859	5,172	5,016	381
National Science Foundation				
Research and related activities		(31-45-0100	-X-1-251-A;	49-0100)
Budget Authority	1,294,060	1,294,060	1,294,060	98,349
Outlays	644,372	710,439	677,406	51,483
Scientific activities overseas (special foreign curren		(31-45-0102	-X-1-251-A;	49-0102)
Budget Authority	957	957	957	73
Outlays	144	479	312	24
Science and engineering education activities		(31-45-0106	-X-1-251-A;	49-0106)
Budget Authority	53,161	53,161	53,161	4,040
Outlays	7,974	7,921	7,948	604
U.S. Antarctic program		(31-45-0200	-X-1-251-A;	49-0200)
Budget Authority	110,151	110,151	110,151	8,371
Outlays	41,086	38,553	39,820	3,026
National Transportation Safety Board				
Salaries and expenses		(31-47-0310	-X-1-407-A;	95-0310)
Budget Authority	21,341	21,341	21,341	1,622
Outlays	20,915	19,207	20,061	1,525
Neighborhood Reinvestment Corporation				
Payment to the Neighborhood Reinvestment Corporation		(31-49-1300	-X-1-451-A;	82-1300)
Budget Authority	17,669	17,669	17,669	1,343
Outlays	17,669	17,669	17,669	1,343
Nuclear Regulatory Commission				
Salaries and expenses (NRC)		(31-50-0200	-X-1-276-A;	31-0200)
Budget Authority	400,026	400,026	400,026	30,402
Outlays	300,020	300,020	300,020	22,802
Occupational Safety and Health Review Commission				
Salaries and expenses		(32-02-2100	-X-1-554-A;	95-2100)
Budget Authority	5,647	5,647	5,647	429
Outlays	5,258	5,257	5,258	400
Pennsylvania Avenue Development Corporation				
Salaries and expenses		(32-08-0100	-X-1-451-A;	42-0100)
Budget Authority	2,215	2,215	2,215	168
Outlays	1,800	1,819	1,826	139
Public development		(32-08-0102	-X-1-451-A;	42-0102)
Budget Authority	3,091	3,091	3,091	235
Outlays	1,268	1,185	1,226	93
Land acquisition and development fund		(32-08-4084	-X-3-451-A;	42-4084)
401(C) Authority--Off. Coll.	4,000	4,000	4,000	304
Outlays	4,000	4,000	4,000	304
Postal Service				
Payment to the Postal Service fund		(32-10-1001	-X-1-372-A;	18-1001)
Budget Authority	715,836	715,836	715,836	54,404
Outlays	715,836	715,836	715,836	54,404
Postal Service		(32-10-4020	-X-3-372-A;	18-4020)
401(C) Authority	1,205,818	1,205,818	1,205,818	91,642
Outlays	1,205,818	0	602,909	45,821
Railroad Retirement Board				
Federal windfall subsidy		(32-20-0111	-X-1-601-A;	60-0111)
Budget Authority	375,335	375,335	375,335	28,525
Outlays	373,230	373,230	373,230	28,365
Railroad social security equivalent benefit account		(32-20-8010	-X-7-601-A;	60-8010)
Obligation Limitation	27,950	27,950	27,950	2,124
Outlays	27,950	27,950	27,950	2,124

Account Title	OMB	CBO	Average	Sequester
Rail Industry Pension Fund		(32-20-8011	-X-7-601-A;	60-8011)
Obligation Limitation	25,089	25,089	25,089	1,907
Outlays	24,610	24,610	24,610	1,870
Securities and Exchange Commission				
Salaries and expenses		(32-35-0100	-X-1-376-A;	50-0100)
Budget Authority	106,323	106,323	106,323	8,081
Outlays	96,848	96,754	96,801	7,357
Selective Service System				
Salaries and expenses		(32-40-0400	-X-1-054-A;	90-0400)
Budget Authority	26,128	26,128	26,128	1,463
Outlays	19,141	21,746	20,444	1,145
Smithsonian Institution				
Salaries and expenses		(32-50-0100	-X-1-503-A;	33-0100)
Budget Authority	169,384	169,384	169,384	12,873
Outlays	150,569	150,582	150,576	11,444
Museum programs and related research (sp. for. currenc		(32-50-0102	-X-1-503-A;	33-0102)
Budget Authority	2,378	2,378	2,378	181
Construction and improvements, National Zoological Par		(32-50-0129	-X-1-503-A;	33-0129)
Budget Authority	5,281	5,281	5,281	401
Outlays	2,779	3,691	3,235	246
Restoration and renovation of buildings		(32-50-0132	-X-1-503-A;	33-0132)
Budget Authority	10,536	10,536	10,536	801
Outlays	2,033	4,657	3,345	254
Construction		(32-50-0133	-X-1-503-A;	33-0133)
Budget Authority	3,805	3,805	3,805	289
Outlays	1,435	1,522	1,478	112
Salaries and expenses, National Gallery of Art		(32-50-0200	-X-1-503-A;	33-0200)
Budget Authority	32,144	32,144	32,144	2,443
Outlays	31,890	29,222	30,556	2,322
Repair, restoration, and renovation of buildings		(32-50-0201	-X-1-503-A;	33-0201)
Budget Authority	3,103	3,103	3,103	236
Outlays	0	1,169	584	44
Salaries and expenses, Woodrow Wilson International Ce		(32-50-0400	-X-1-503-A;	33-0400)
Budget Authority	3,227	3,227	3,227	245
Outlays	1,997	1,959	1,978	150
Payment to the endowment challenge fund		(32-50-0401	-X-1-503-A;	33-0401)
Budget Authority	994	994	994	76
Endowment challenge fund		(32-50-8188	-X-7-503-A;	33-8188)
401(C) Authority	150	150	150	11
Outlays	150	150	150	11
Canal Zone biological area fund		(32-50-8190	-X-7-503-A;	33-8190)
401(C) Authority	119	119	119	9
Outlays	119	119	119	9
Other Temporary Commissions				
Commission on the Ukraine Famine: Salaries and expense		(33-02-0050	-X-1-153-A;	48-0050)
Budget Authority	383	383	383	29
Outlays	0	325	162	12
State Justice Institute		(33-02-0052	-X-1-752-A;	48-0052)
Budget Authority	7,656	7,656	7,656	582
Outlays	6,890	6,890	6,890	524
Navajo and Hopi Indian Relocation Commission		(33-02-1100	-X-1-806-A;	48-1100)
Budget Authority	21,395	21,395	21,395	1,626
Outlays	14,373	13,479	13,926	1,058
Tennessee Valley Authority				
TVA fund (Energy supply)		(33-16-4110	-X-3-271-A;	64-4110)
401(C) Authority--Off. Coll.	87,309	87,309	87,309	6,635
Outlays	87,309	76,832	82,070	6,237
TVA fund (Area and regional development)		(33-16-4110	-X-3-452-A;	64-4110)
Budget Authority	99,528	99,528	99,528	7,564
Outlays	29,998	24,484	27,241	2,070
United States Holocaust Memorial Council				
Holocaust Memorial Council		(33-19-3300	-X-1-806-A;	95-3300)
Budget Authority	2,021	2,021	2,021	154
Outlays	2,110	1,599	1,854	141
United States Information Agency				
Salaries and expenses		(33-22-0201	-X-1-154-A;	67-0201)
Budget Authority	550,347	550,347	550,347	41,826
Outlays	440,278	440,278	440,278	33,461
East West Center		(33-22-0202	-X-1-154-A;	67-0202)
Budget Authority	19,858	19,858	19,858	1,509
Outlays	18,065	18,468	18,766	1,426
Radio construction		(33-22-0204	-X-1-154-A;	67-0204)
Budget Authority	105,198	105,198	105,198	7,995
Outlays	17,456	16,832	17,144	1,303
Radio broadcasting to Cuba		(33-22-0208	-X-1-154-A;	67-0208)
Budget Authority	10,240	10,240	10,240	778
Outlays	8,192	8,192	8,192	623

Account Title	OMB	CBO	Average	Sequester
Educational and cultural exchange program		(33-22-0209	-X-1-154-A;	67-0209)
Budget Authority	134,458	134,458	134,458	10,219
Outlays	67,229	67,230	67,230	5,109
National Endowment for Democracy		(33-22-0210	-X-1-154-A;	67-0210)
Budget Authority	17,226	17,226	17,226	1,309
Outlays	15,000	15,503	15,252	1,159
United States Railway Association				
Administrative expenses		(33-30-0100	-X-1-401-A;	98-0100)
Budget Authority	2,297	2,297	2,297	175
Outlays	2,297	2,067	2,182	166
United States Sentencing Commission				
Salaries and expenses		(33-31-0938	-X-1-752-A;	10-0938)
Budget Authority	1,053	1,053	1,053	80
Outlays	2,111	947	1,529	116
Other Independent Agencies		Total		
Budget Authority	7,235,512	7,183,849	7,209,681	546,993
401(C) Authority	1,406,307	1,406,307	1,406,307	106,879
401(C) Authority--Off. Coll.	671,875	671,882	671,878	51,063
401(C) Other--incl. ob. limit	2,515	2,512	2,514	191
Direct Loan Limitation	1,630,154	1,630,154	1,630,154	123,892
Guaranteed Loan Limitation	11,484,000	11,484,000	11,484,000	872,784
Obligation Limitation	127,914	127,914	127,914	9,721
Outlays	7,530,647	6,543,449	7,037,048	534,083
Allowances				
Allowances				
Civilian agency pay raises		(51-05-6005	-X-1-921-A;	99-6005)
Budget Authority	0	134,000	67,000	5,092
Outlays	0	129,000	64,500	4,902
Coast Guard pay raises		(51-05-6006	-X-1-921-A;	99-6006)
Budget Authority	0	14,000	7,000	532
Outlays	0	14,000	7,000	532
Allowances		Total		
Budget Authority	0	148,000	74,000	5,624
Outlays	0	143,000	71,500	5,434
REPORT TOTAL				
Budget Authority	422,271,816	419,474,302	420,873,059	26,244,250
Budget Authority--ASI	26,912	57	13,484	13,484
Budget Authority--Spec. Rules	240,942	192,980	216,961	216,961
401(C) Authority	24,956,888	30,896,975	27,927,932	2,122,142
401(C) Authority--Off. Coll.	3,120,294	3,188,977	3,154,636	239,752
401(C) Other--incl. ob. limit	16,123,691	16,038,649	16,081,170	1,222,169
401(C) Authority--ASI	257,401	448,070	352,736	352,736
401(C) Authority--Spec. Rules	1,116,157	1,293,109	1,204,633	1,204,633
Direct Loan Limitation	32,122,544	29,114,079	30,618,312	2,326,992
Direct Loan Floor	1,971,420	1,971,420	1,971,420	149,828
Guaranteed Loan Limitation	381,434,481	381,154,482	381,294,482	28,978,381
Guaranteed Loan Floor	933,075	933,075	933,075	70,914
Obligation Limitation	11,335,360	11,335,379	11,335,370	861,488
Unobligated Balances--Defense	54,017,490	54,055,166	54,036,328	3,026,034
Outlays	274,273,299	282,515,218	278,394,259	19,384,364

[FR Doc. 86-18954 Filed 8-19-86; 1:05 pm]
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VOL
51
ISS
1
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27515-278
27811-280
28059-282
28219-283
28321-285
28509-286
28687-287
28799-288
28921-290
29085-292
29201-294
29443-295
29545-296
29620-296

Reader Aids

Federal Register

Vol. 51, No. 161

Wednesday, August 20, 1986

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General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
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Machine readable documents, specifications	523-3408

Code of Federal Regulations

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Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7
28509-28686	8
28687-28798	11
28799-28920	12
28921-29084	13
29085-29200	14
29201-29442	15
29443-29544	18
29545-29628	19
29629-29900	20

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	28509

3 CFR

Proclamations:

5514	27515
5515	28218
5516	29200

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219
August 14, 1986	29443, 29445

5 CFR

532	28799
540	29655
890	28799, 29655
1201	28321

Proposed Rules:

870	28576
871	28576
872	28576
873	28576
890	28576

7 CFR

2	29201
26	28800
29	28687
51	27813, 28802
272	28196
273	28196
400	29202
402	29204
403	29204, 29205
405	29205
409	29204, 29205
410	29204
411	29204, 29205
413	29204, 29205
414	29204
415	29204, 29205
416	29204, 29205
417	29204, 29205
418	29204-29207
419	29204-29207
420	29204-29207
421	29204-29207
422	29204, 29205
423	29204, 29205
424	29204-29207
425	29204, 29205
426	29204
427	29204-29207
428	29204, 29205
429	29204, 29205
430	29204, 29205
431	29204, 29205
432	29204-29207
433	29204, 29205
435	29204, 29205
436	29204, 29205
437	29204, 29205
438	29204, 29205
439	29204, 29205
440	29204
441	29204
442	29204
443	29204
444	29204
445	29204
446	29204, 29205
447	29204, 29205
448	29204-29207
449	29204
450	29204, 29205
451	29204, 29205
652	29208
770	28921
908	27816, 28509, 29208
910	28059
911	27517
918	27518
923	29209
926	29447
932	28922
944	29447
982	29545
991	28802
1064	28687
1102	28687
1106	28687
1108	28687
1126	28687
1138	28687
1240	29210
1427	28321
1475	28803
1900	29449
1930	27636
1944	27636
1951	27636
1965	27636

Proposed Rules:

52	28719, 29656
235	29236
250	29236
252	29236
255	29236
330	29401
340	29401
441	29246
447	27862
656	29251
920	29473
985	29109
987	29251
1007	29252
1011	29252
1046	29252
1065	27553, 28721, 28819
1068	28819

1079.....27554, 28819
1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1496.....29557
1709.....28722
1772.....29557, 29558

5 CFR

238.....28060, 28923, 29085

Proposed Rules:

214.....27867, 28576
248.....27867

9 CFR

77.....29629
78.....29629
92.....28805, 29210
205.....29449
317.....29456
318.....29456

Proposed Rules:

92.....27871

10 CFR

Ch. I.....29211
50.....27817, 28044
73.....27817, 27822
110.....27825

Proposed Rules:

50.....27872
73.....29656
435.....29754, 29773

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
337.....29630
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29256
337.....29657

13 CFR

310.....27828

14 CFR

21.....28509–28525
23.....28509–28525
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213
71.....27833–27835, 28067, 28325, 28326, 28526, 28923, 29460, 29630
75.....28809
97.....28826, 29631
121.....28322
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28386, 28725
1.....28095
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256–29259, 29474, 29475, 29659
71.....28388–28390, 28956, 28957, 29261–29263, 29534
73.....28095
75.....28096, 28957
91.....29476

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695, 29633
423.....28222
444.....28328
1500.....28529, 29094

Proposed Rules:

13.....28594, 29265, 29660, 29664
703.....29666
1500.....29778

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:

271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:

113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:

404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546
520.....28546, 29215
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27637, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
886.....28486
892.....29633
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....29098
1620.....29816
1952.....27534
1960.....28378
2603.....28379
2676.....29215

Proposed Rules:

602.....28840
1613.....29482
2603.....29497

30 CFR

901.....29098
914.....29109
931.....28553
943.....28554

Proposed Rules:

774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810

315.....
332.....
352.....
353.....
545.....
550.....
Proposed
10.....
357.....

32 CFR

90.....
706.....
28933
Proposed
553.....

33 CFR

100.....
117.....
140.....
142.....
161.....
165.....
Proposed
117.....
334.....

34 CFR

63.....
211.....
617.....
619.....
624.....
668.....
674.....
796.....

36 CFR

1.....
3.....
34.....
Proposed
7.....
60.....
63.....

37 CFR

1.....
2.....
306.....

38 CFR

21.....

39 CFR

10.....
320.....
Proposed
10.....

40 CFR

33.....
52.....

60.....
61.....
65.....
81.....
180.....
260.....
261.....

262.....
263.....

315.....28693
332.....28693
352.....28693
353.....28693
545.....28693
550.....28693

Proposed Rules:
10.....29113
357.....29559

32 CFR
90.....28092
706.....27535, 27536, 28933–28941, 28464–28466

Proposed Rules:
553.....29115

33 CFR
100.....28706
117.....28380, 28707, 29101
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468

Proposed Rules:
117.....27877
334.....28248

34 CFR
63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396
674.....28312
796.....29190

36 CFR
1.....29469
3.....29469
34.....29101

Proposed Rules:
7.....28107–28110, 29496
60.....28204
63.....28204

37 CFR
1.....28052, 28555
2.....28052, 28555, 28707
306.....27537

38 CFR
21.....29470

39 CFR
10.....28383
320.....29638

Proposed Rules:
10.....28958

40 CFR
33.....28710
52.....27537, 27840, 27841, 28813
60.....29104
61.....27956
65.....28224, 29216
81.....27843–27845
180.....28225–28227
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556

Proposed Rules:
Ch. I.....29499
52.....27560, 27878, 29116
65.....28113
81.....29268
85.....28114
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669
264.....29812
265.....29812
271.....28604
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR
101–26.....29104
101–38.....29638
101–40.....27539

42 CFR
405.....27847, 28710, 29386
417.....28569
482.....27847

Proposed Rules:
405.....29560
447.....29560

43 CFR
11.....27674

Public Land Orders:
6620.....28229
6622.....28229
6623.....29641

Proposed Rules:
4.....28846

44 CFR
11.....29222
64.....28230, 28232

Proposed Rules:
67.....29500
81.....28119

45 CFR
232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384

Proposed Rules:
1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR
22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552
87.....29106
97.....28237

Proposed Rules:
0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576
74.....27566
90.....29130, 29273

48 CFR
223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:
501.....29131
513.....29131
553.....29131

49 CFR
1.....29231, 29233, 29471
509.....29552
571.....28238, 29552

Proposed Rules:
Ch. X.....28847
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR
20.....28946
285.....28240, 28241, 29642
604.....28575
630.....28575
641.....28094, 29471
651.....29642
655.....28241, 29555
661.....27859, 28717, 28954, 29234, 29471, 29654
671.....28242
672.....28385
674.....27860, 28243, 29107

Proposed Rules:
17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 19, 1986

VOL
51
ISS
1
6
1
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VOL
51
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8-21-8
Vol. 5
Pages

8-21-86
Vol. 51 No. 162
Pages 29901-30044

federal register

Thursday
August 21, 1986

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VOL
51
ISS
162
AG
21
1986
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RESERVATIONS: Doris Tucker 202-523-3419

Contents

Federal Register
Vol. 51, No. 162
Thursday, August 21, 1986

Agricultural Marketing Service
PROPOSED RULES
Cranberries grown in Massachusetts et al., 29936
Milk marketing orders:
Nebraska-Western Iowa; correction, 29938

Agriculture Department
See also Agricultural Marketing Service; Commodity Credit Corporation; Farmers Home Administration; Food Safety and Inspection Service
RULES
Conservation, highly erodible land and wetland
Correction, 29901

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Nissan Motor Corp. in U.S.A., 29972

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Centers for Disease Control
NOTICES
Meetings:
Epidemiologic study of radiofrequency heater operators, 29965

Coast Guard
RULES
Regattas and marine parades:
NJBA Regatta, 29919
PROPOSED RULES
Regattas and marine parades:
Head of Connecticut Regatta, 29948

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29953

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Peanuts, 29951

Copyright Office, Library of Congress
NOTICES
Filing notifications and determinations; procedures, 29973

Customs Service
NOTICES
Trademarks, importations bearing recorded U.S.; gray market policy options, 30024

Defense Department
NOTICES
Meetings:
Ada Board, 29960
(3 documents)
ISO Working Group 9, 29960

Education Department
RULES
Postsecondary education:
Student assistance; application information verification
Correction, 29920

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Nevada, 29923
Water pollution control:
Ocean dumping—
Coos Bay, OR; site designation, 29927
Mouth of Columbia River, OR-WA; site designation, 29923
PROPOSED RULES
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 29949
Water polution; effluent guidelines for point source categories:
General pretreatment regulations; existing and new sources, 29950
NOTICES
Air pollution control; new motor vehicles and engines:
In-use motor vehicle evaporative hydrocarbon emission testing; workshop, 29964

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 30028

Farmers Home Administration
RULES
Conservation, highly erodible land and wetland; correction
[Editorial Note: For a document on this subject see document under Agriculture Department], 29901
Food Security Act of 1985; implementation:
Administrative appeal procedures, interest rate buydown program, and appeals for guaranteed loan program, farm ownership, and soil and water loans, 29903

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus Industrie, 29910
Beech, 29912
DeHavilland, 29914
HTL Advanced Technology, 29915
PROPOSED RULES
Airworthiness directives:
Rolls-Royce, 29946

Airworthiness standards, etc.:
Petersen Aviation, Inc.; anti-detonation injection system, 29938–29944 (5 documents)

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 29962
Chevron U.S.A. Inc., et al., 29961
El Paso Natural Gas Co., 29961
North Penn Gas Co., 29963
Northern Natural Gas Co., 29963
Tennessee Gas Pipeline Co., 29962

Federal Home Loan Bank Board
NOTICES
Receiver appointments:
Presidio Savings & Loan Association, 29965
Self-regulatory organizations; unlisted trading privileges:
Cincinnati Stock Exchange, Inc., 29964
Applications, hearings, determinations, etc.:
MidFed Savings Bank, 29965
Nashua Federal Savings & Loan Association, 29965

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
AMCO Brokers & Forwarders et al., 29965
Shipper's Export Inc., 29965

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 29971

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
A. L. Laboratories, Inc., 29916
NOTICES
Meetings:
Advisory committees, panels, etc., 29966

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Exemptions for retail stores; restaurant central kitchens, 29905

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Circular welded carbon steel pipes and tubes from—
Taiwan, 29954
Countervailing duties:
Pistachios, in-shell, from Iran, 29956
Applications, hearings, determinations, etc.:
Boston University et al., 29953
Harvard University, 29955
Kansas State University, 29955
Northwestern University, 29955
Ohio State University, 29956
State University of New York et al., 29959
University of Illinois, 29959
Washington University Medical School, 29959
Washington University School of Medicine, 29959

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Chicago & North Western Transportation Co., 29972

Justice Department
See Antitrust Division

Labor Department
See Occupational Safety and Health Administration; Wage and Hour Division

Land Management Bureau
NOTICES
Alaska Native claims selection:
Eklutna, Inc., 29967
Knikatnu, Inc., et al., 29967
Paug-Vik Inc., Ltd., 29968
Environmental statements; availability, etc.:
All-American Pipeline extension, McCamey to Webster, TX, 29970
Walker Resource Management Plan, NV, 29969, 29970 (2 documents)
Meetings:
Craig District Grazing Advisory Board, 29969
Richfield District Grazing Advisory Board, 29968
Organization, functions, and authority delegations:
Colorado State Offices; change of address; correction, 29971
Realty actions; sales, leases, etc.:
Alaska, 29970
Arizona, 29968
Wyoming, 29968
Survey plat filings:
Colorado, 29969

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf operations:
Wells, temporary abandonment, 29947
NOTICES
Outer Continental Shelf; development operations coordination:
Texaco USA, 29971

National Aeronautics and Space Administration
NOTICES
Agency information collection activities under OMB review, 29973

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Humanities Panel, 29973

National Institute for Occupational Safety and Health
See Centers for Disease Control

VOL 51 ISS 162 AG 21 1986 UMI

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 29932
(2 documents)
Pacific Coast groundfish, 29933
NOTICES
Deep seabed mining, exploration license applications:
Ocean Management, Inc., 29960
Fishery conservation and management:
Tanner crab off Alaska, 29960

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 30026
(2 documents)

Nuclear Regulatory Commission
RULES
Production and utilization facilities; domestic licensing:
Safety goals, policy statements
Correction, 30028
Republication, 30028
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 29976
Meetings; Sunshine Act, 30026
Petitions; Director's decision:
BWR nuclear reactors, 29976
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 29974
Consolidated Edison Co. of New York, 29975

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
Connecticut, 29917

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Meetings:
State Agency Advisory Committee, 30015

Patent and Trademark Office
RULES
Trademark cases:
Drawing and filing date requirements, etc., 29920

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Consolidated list, 29976

Postal Service
RULES
Domestic Mail Manual:
Second-class rates; eligibility of separate publications, 29922

Public Health Service
See Centers for Disease Control; Food and Drug Administration

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Grass Valley Creek Debris Dam Project, CA, 29971

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 30016
Municipal Securities Rulemaking Board, 30016
New York Stock Exchange, Inc., 30017
Pacific Clearing Corp., 30019
Philadelphia Stock Exchange, Inc., 30018

State Department
NOTICES
Pipeline permits, international:
Polysar Hydrocarbons, Inc., 30020
Privacy Act; systems of records, 30020

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission:
Kentucky; correction, 29919

Transportation Department
See also Coast Guard; Federal Aviation Administration
NOTICES
Aviation proceedings:
Standard foreign fare level—
Index adjustment factors, 30021

Treasury Department
See also Customs Service
NOTICES
Agency information collection activities under OMB review, 30021, 30022
(2 documents)
Organization, functions, and authority delegations:
Internal Revenue Service, 30022
Senior Executive Service:
Performance Review Board; membership, 30023

Veterans Administration
NOTICES
Agency information collection activities under OMB review, 30024

Wage and Hour Division
PROPOSED RULES
Homeworkers, employment in industries, 30036

Separate Parts In This Issue

Part II
Nuclear Regulatory Commission, 30028

Part III
Department of Labor, Employment Standards Administration, Wage and Hour Division, 30036

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
12.....29901
1900.....29903
1924.....29903
1940.....29901
1941.....29901
1943.....29901
1945.....29901
1980 (2 documents).....29901, 29908

Proposed Rules:
929.....29936
1065.....29938

9 CFR
302.....29905
303.....29905
381.....29905

10 CFR
50 (2 documents).....30028

14 CFR
39 (4 documents).....29910–29915

Proposed Rules:
21 (5 documents).....29938–29944
23 (5 documents).....29938–29944
39.....29946

21 CFR
510.....29916

29 CFR
1956.....29917

Proposed Rules:
530.....30036

30 CFR
917.....29919

Proposed Rules:
250.....29947

33 CFR
100.....29919

Proposed Rules:
100.....29948

34 CFR
668.....29920

37 CFR
2.....29920

39 CFR
111.....29922

40 CFR
52.....29923
228 (2 documents).....29923, 29927

Proposed Rules:
65.....29949
122.....29950
403.....29950

50 CFR
661 (2 documents).....29932
663.....29933

Rules and Regulations

Federal Register
Vol. 51, No. 162
Thursday, August 21, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 12, 1940, 1941, 1943, 1945, and 1980

Highly Erodible Land and Wetland Conservation

AGENCY: Office of the Secretary and Farmers Home Administration, USDA.

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule on highly erodible land and wetland conservation, that appeared at page 23496 in the **Federal Register** of Friday, June 27, 1986 (FR Doc. 86–14499).

DATES: Comments on the interim rule must be received on or before August 26, 1986, in order to be assured of consideration.

ADDRESS: Comments should be mailed to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Mr. Alex King, Program Specialist, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013, Phone: (202) 447–4542.

The following corrections are made in FR Doc. 86–14499 appearing at page 23496 in the issue of Friday, June 27, 1986:

1. On pages 23504 and 23505, several subparagraphs of § 12.6 are out of place. Section 12.6 is correctly added to read as follows:

§ 12.6 Administration.

(a) A determination of ineligibility for benefits in accordance with the provisions of this part shall be made by the agency of the Department to which the person has applied for benefits. All determinations required to be made under the provisions of this part shall be made by the agency responsible for making such determinations, as provided in this section, and shall be binding on all other agencies of the Department.

(b) *Administration by ASCS.* (1) The provisions of this part which are applicable to ASCS will be administered under the general supervision of the Administrator, ASCS, and shall be carried out in the field in part by State ASC committees (STC) and county ASC committees (COC).

(2) The Deputy Administrator, State and County Operations, ASCS (hereinafter referred to as the "Deputy Administrator" may determine any question arising under the provisions of this part which are applicable to ASCS and may reverse or modify any determination of eligibility with respect to programs administered by ASCS made by a STC or COC in connection with the provisions of this part.

(3) ASCS shall make the following determinations which are required to be made in accordance with this part:

(i) Whether a person is a producer on a particular field in accordance with § 12.4(b);

(ii) The establishment of field boundaries in accordance with § 12.2(a)(11);

(iii) Whether land was planted to an agricultural commodity in any of the years 1981 through 1985 in accordance with § 12.5(a)(1);

(iv) Whether land was set aside, diverted or otherwise not cultivated under a program administered by the Secretary for any crop to reduce production of an agricultural commodity in accordance with § 12.5(a)(2);

(v) Whether the agricultural commodity planted on a particular field was planted before December 23, 1985, or during any crop year which began before December 23, 1985, in accordance with § 12.5(c)(1) and (2);

(vi) Whether the production of an agricultural commodity on highly erodible land or converted wetland by a landlord's tenant or sharecropper is required under the terms and conditions of the agreement between the landlord and such tenant or sharecropper in accordance with § 12.5(g); and

(vii) Whether the conversion of a particular wetland was commenced before December 23, 1985, in accordance with § 12.5(d)(1)(i).

(4) A representative number of farms selected in accordance with instructions issued by the Deputy Administrator shall be inspected by an authorized representative of ASCS to determine whether such farms are in compliance with any requirement specified in this part as a prerequisite for obtaining program benefits.

(c) *Administration by SCS.* (1) The provisions of this part which are applicable to SCS will be administered under the general supervision of the Chief of the SCS, and shall be carried out in the field in part by the state conservationist and district conservationist.

(2) SCS shall make the following determinations which are required to be made in accordance with this part:

(i) Whether land is highly erodible or is a wetland or a converted wetland in accordance with the provisions of this part;

(ii) Whether highly erodible land is predominant on a particular field in accordance with § 12.4(a);

(iii) Whether a person is actively applying a conservation plan that is based on the local SCS technical guide and which is approved by—

(A) The CD in consultation with local ASC Committees and SCS acting on behalf of the Secretary, or

(B) By SCS acting on behalf of the Secretary;

(iv) Whether a person is using a conservation system that has been approved by the CD in accordance with § 12.5(c)(3) of this part or, in an area not within a CD, a conservation system determined by the SCS to be adequate for the production of a specific agricultural commodity on highly erodible land;

(v) Whether production of an agricultural commodity on a wetland is possible as a result of a temporary natural condition and is possible without action by the producer that destroys a natural wetland characteristic; and

(vi) Whether the actions of a person with respect to the production of an agricultural commodity on the converted wetland would have only a minimal impact on the hydrological and biological aspect of wetland.

(3) SCS will provide such other technical assistance in the implementation of the provisions of this part as is determined to be necessary.

(d) *Administration by FmHA.* (1) The provisions of this part which are applicable to FmHA will be administered under the general supervision of the FmHA Administrator through FmHA's State, district, and county offices.

(2) FmHA shall determine whether the proceeds of any loan made, insured or guaranteed under any provision of law administered by FmHA will be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetland as required in accordance with the provisions of this part.

(e) The provisions of this part which are applicable to FCIC will be administered under the general supervision of the Manager, FCIC.

2. In the third column on page 23507, the words "directly or indirectly" were inadvertently omitted from paragraph (a) introductory text of § 12.32 and, in the first column on page 23508, the words "and shrubs" were inadvertently omitted from the second sentence of § 12.32(b)(2). Paragraph (a) introductory text of § 12.32 and the second sentence of § 12.32(b)(2) are correctly added to read as follows:

§ 12.32 Criteria for identification of converted wetland.

(a) For the purpose of determining whether land is a converted wetland in accordance with § 12.2(a)(3) of this part, a wetland shall be determined to have been drained, dredged, filled, leveled, or otherwise manipulated for the purpose or to have the effect of making the production of an agricultural commodity possible if the producer or any of the producer's predecessors in interest caused or permitted, directly or indirectly:

* * * * *

(b) * * *

(2) * * * The temporary destruction of hydrophytic vegetation (except trees and shrubs) as a result of the production of an agricultural commodity shall not be considered as altering or destroying natural wetland characteristics if such vegetation can and is allowed to return following cessation of the natural condition which made production of the agricultural commodity possible.

3. On pages 23510 and 23511, several subparagraphs of paragraph B.c. of Exhibit M to Subpart G—Environmental Program of 7 CFR Part 1940 are out of place. Paragraph B.c. is correctly added to read as follows:

Exhibit M—Farmer Program Implementation Procedures for the Conservation of Wetlands and Highly Erodible Land

* * * * *

B. * * *

c. Highly erodible land or wetland present.

The County Supervisor will discuss with the applicant (and lender, in the case of a guaranteed loan) and review the intended uses of the FmHA loan proceeds as evidenced in any relevant application materials.

(1) *Proceeds to be used for prohibited activity.* If proceeds would be used for a prohibited activity, the applicant (and lender, in the case of a guaranteed loan) will be advised of its ineligibility for the FmHA loan. The applicant (and lender, in the case of a guaranteed loan) will be informed of any modifications to its application that could cure the ineligibility, including financially feasible eligible loan purposes that could be helpful in implementing a conservation plan, should the latter be an appropriate cure. Substitution of non-FmHA monies to accomplish the prohibited activity would not cure the ineligibility, but actual elimination of the activity from the applicant's farm plan of operation would.

(2) *Proceeds not to be used for a prohibited activity.* If loan proceeds are not planned to be used for a prohibited activity, the County Supervisor will perform the following tasks:

(a) Document the above determination in the applicant's file as specified in paragraph 7 of this exhibit.

(b) If an insured loan is approved:

(i) Insert as an addendum to Form FmHA 1940-27, "Promissory Note," the following language. For a guaranteed loan, include this language as an element of the FmHA conditional commitment.

"Addendum to Promissory Note"

Addendum to promissory note dated _____ in the amount of $_____ at an annual interest rate of _____ percent. This agreement supplements and attaches to the above note. Borrower recognizes that the loan described on the above note will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M.

_____
Borrower

_____
Borrower

(ii) In consultation with the Office of General Counsel (OGC), ensure that an additional covenant will be added to the mortgage/deed of trust/security agreement which reads as indicated below.

"Borrower further agrees that the loan(s) secured by this instrument will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M."

(c) For a guaranteed loan, insert a condition on the conditional commitment (either Form FmHA 449-14, "Conditional Commitment for Contract of Guarantee," or Form FmHA 1980-15, "Conditional Commitment for Contract of Guarantee (Line of Credit)," as applicable) requiring the lender to state in the loan instruments that the loan will be in default should any proceeds of the loan be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

(d) Review the term of the proposed loan and take the following actions, as applicable.

(i) *Loan term exceeds January 1, 1990, but not January 1, 1995.* If the term of the proposed loan expires within this period and the applicant intends to produce an agricultural commodity on highly erodible land that is exempt from the restrictions of this exhibit until either 1990 or two years after the SCS has completed a soil survey for the borrower's land, whichever is later, the County Supervisor will determine if it is financially feasible to include in the loan a condition that requires the borrower to demonstrate, prior to loss of the exemption, that the borrower is actively applying an SCS approved conservation plan. This condition will be inserted only if, prior to loan approval, the applicant, the lender, (if a guaranteed loan is involved), FmHA and SCS resolve any doubts as to what extent production would be able to continue under application of a conservation system and as to the financial implications on loan repayment ability from both the potential costs of the conservation system and the potential loss of revenues from any reduced acreage production base. If in making this determination, loan repayment ability cannot be demonstrated, FmHA will deny the loan application. If loan repayment ability can be demonstrated and an insured loan is approved, the County Supervisor will insert in Form FmHA 1940-27 the addendum set forth in subparagraph c(2)(b)(i) of this paragraph and the following indented additional language after the last sentence of that addendum:

"Borrower further agrees that, prior to loss of the exemption from the highly erodible land conservation restrictions found in 7 CFR Part 12, Borrower must demonstrate that Borrower is actively applying an approved conservation plan on that land which has been determined to be highly erodible prior to 1990 or two years after the Soil Conservation Service has completed a soil survey for that land, whichever is later."

For a guaranteed loan, FmHA's conditional commitment will require the lender to place these additional requirements in its loan instruments. Borrowers will be advised in writing that a statement from the SCS issued prior to either 1990 or two years after the SCS has completed a soil survey of the borrower's land and stating that the borrower is actively complying with an approved conservation plan will be considered adequate demonstration of compliance.

(ii) *Loan term exceeds January 1, 1995.* If the term of the proposed loan would exceed

this date and the borrower intends to produce an agricultural commodity on highly erodible land that is exempt from the restrictions of this exhibit up until that date (See subparagraph (b)(4) of paragraph 10 of this exhibit) the County Supervisor will determine if it is financially feasible to place a condition in the loan that requires the borrower to demonstrate prior to January 1, 1995, that any production after that date of an agricultural commodity on highly erodible land will be done in compliance with an approved SCS conservation system. Such a condition will not be used unless, prior to loan approval, the applicant, the lender (if a guaranteed loan is involved), FmHA and SCS resolve any doubts as to what extent production would be able to continue under a conservation system and as to the financial implications on loan repayment ability from both the potential costs of the conservation system and the potential loss of revenues from any reduced acreage production base. If in considering the use of this condition, loan repayment ability cannot be demonstrated, the application will be denied. If loan repayment ability can be demonstrated and an insured loan is approved, the County Supervisor will insert in Form FmHA 1940-17 the addendum set forth in subparagraph c(2)(b)(i) of this paragraph, the additional sentence required by subparagraph c(2)(d)(i) of this paragraph, and, after that sentence, the following indented language:

"Borrower further agrees that Borrower must demonstrate prior to January 1, 1995, that any production after that date of an agricultural commodity on highly erodible land will be done in compliance with an approved Soil Conservation Service conservation system."

For a guaranteed loan, FmHA's conditional commitment will require the lender to place these additional requirements in its loan instruments. Borrowers will be advised in writing that a statement from SCS issued prior to January 1, 1995, and stating that the borrower is complying with an approved conservation plan will be considered adequate demonstration of compliance.

(e) Implement the actions in paragraph d below if the applicant plans to repay a portion of the loan with funds from a USDA financial assistance program subject to wetland or highly erodible land conservation restrictions."

Issued at Washington, DC on August 15, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86-18862 Filed 8-20-86; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Parts 1900, 1924, and 1980

Administrative Appeal Procedure Revisions and Interest Rate Buydown Program and Appeals for Farmers Home Administration's Guaranteed Operating, Farm Ownership, and Soil and Water Loans To Implement Applicable Provisions of the Food Security Act of 1985

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: By this final rule, the Farmers Home Administration (FmHA) adopts its interim rule published February 25, 1986. The amendments are necessary to implement applicable provisions of the "Food Security Act of 1985" (Pub. L. 99-198). The major effects will be to ensure that the Agency provides for prompt handling by FmHA of appeals by most FmHA borrowers; provides for prompt service to applicants and borrowers of guaranteed farmer program loans; provide for additional ways that borrowers may continue to farm through a reduction in interest rates for guaranteed operating, farm ownership, and soil and water loans; provides an incentive to lenders to provide operating credit to farmers; and provides for appeal procedures for guaranteed operating, farm ownership, and soil and water loans for lenders and applicants similar to the insured program. These changes should assist in preserving the family farm, protect the national food supply, and strengthen rural farming communities.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Pandor H. Hadjy, Senior Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5448, Washington, D.C. 20250, Telephone: (202) 475-4017.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or significant adverse affects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, Farm Ownership Loans and Low Income Housing Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans (Section 502 Rural Housing Loans)
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Discussion of Final Rule

FmHA implemented certain provisions of the "Food Security Act of 1985" (Pub. L. 99-198) upon publication by interim rule in the Federal Register (51 FR 6704) on February 25, 1986. That rule provided for a 30 day comment

VOL 51 ISS 162 AG 21 1986 UMI

period ending March 27, 1986. Three written comments were received. All comments were considered in developing the final rule. The following is a discussion of comments received from 2 lenders and 1 Bankers' Association.

One lender commented on the current definition of family farm and suggested that the definition be rewritten based solely on projected gross income. FmHA is presently analyzing this definition and is in the process of developing a new definition. The new definition will be published for public comment prior to implementation.

Two respondents commented on the provision which requires the liquidation of non-essential assets. One respondent commented on the provision making borrowers ineligible for the buydown if liquidation of non-essential assets would result in a positive cash flow. A Bankers' Association recommended that FmHA clarify this requirement to stipulate what assets are non-essential, and who has the ultimate responsibility of determining this. Paragraph IV D of Exhibit D of Subpart B of Part 1980 of this chapter requires the FmHA County Supervisor and the lender to determine if the borrower owns any assets which do not contribute to essential family living or to maintenance of a sound farming operation. This excludes assets such as personal cars, boats and non-essential purchases. Additionally, the assets must contribute needed income or other valuable needed functions to the operation. FmHA does not believe that it was the intent of the Interest Rate Buydown Program to subsidize borrowers who own assets which if sold would allow the borrower to achieve a positive cash flow. Therefore, the agency believes that the interim rule adequately addressed this issue.

The same respondent further commented that requiring Interest Rate Buydowns to be made at fixed rates is unrealistic since most agricultural loans are made at variable rates. The interest rate buydown may be attached to either a fixed or variable rate note, however, the lender may charge only a fixed rate of interest during the buydown period. After the buydown period expires the note may return to a variable rate note. Further, because the buydown is based on a 100 percent cashflow, any upward adjustment in interest rate might cause an immediate default.

The same respondent commented that FmHA investigate the possibility of recoupment of the sums expended under the buydown program in the event the program participant makes unexpected profits. The agency feels that the administrative costs of monitoring the recouping of funds expended under this program would outweigh the funds recouped from participants who may earn unexpected profits.

One of the requirements to be met by a borrower is the achievement of a positive cash flow. If a positive cash flow cannot be achieved, the lender may ask other creditors to voluntarily adjust their debts to a level necessary to achieve this cash flow. Two respondents commented on this requirement. One lender stated that since borrowers have a greater ability to persuade their creditors to make a debt adjustment, regulations should be revised to allow the borrower to initiate contacts with other creditors for debt adjustment. A Bankers' Association commented along similar lines of concern. The regulations do not prohibit the borrower form contacting creditors to arive at a debt adjustment, however, since the lender is responsible for processing the buydown we have determined that lender should initiate any contacts for debt adjustment. Therefore, the agency believes that the interim rule adequately addressed this issue.

A Bankers' Association wrote concerning the requirement that variable interest rates be tied to a "base rate" which is published periodically in a financial publication does not allow the lender to use its own cost of funds as a base rate. This is not correct. The lender may use its own cost of funds as a base rate, however, the base rate must be a generally unalterable public record, such as newspaper, financial journal or similar medium.

One lender wrote that it is inequitable that in order to meet cash flow requirements for a regular FmHA guarantee the loan may be repaid over a seven-year period with a balloon payment the seventh year which could be repaid over a 15-year amortization. However, to meet the cash flow requirements for FmHA Interest Rate Buydown the loan principal must be repaid in seven years. FmHA has received a considerable number of negative comments from lenders and Bankers' Associations relative to our prohibition of balloon payments.

The regular farm loan guarantee program is available to lenders with farm loans that are high risk and will generate a positive cash flow without an interest rate reduction. Under the regular guarantee program loans may be scheduled for repayment in equal, unequal, or balloon installments. The amount ballooned may not exceed that which the borrower could reasonably expect to pay during a maximum additional 15-year period. We agree that since the Interest Rate Buydown Program is intended to be another tool to assist borrowers and lenders where there is no other alternative but eventual liquidation, that every opportunity offered borrowers under the regular guarantee program should be offered under the Interest Rate Buydown.

Exhibit D of Subpart B of Part 1980 of the interim rule published on February 25, 1986, has been amended as a result of comments to allow scheduling repayment of loans in equal, unequal, or balloon installments subject to existing guaranteed loan regulations.

In addition, the amendatory language in amendment No. 37 of the interim rule published February 25, 1986, incorrectly stated, "Exhibit C to Part 1980, Subpart B is revised" instead of "Exhibit C to Part 1980, Subpart B is added" and is being corrected, accordingly.

Background

The loan making, supervision, and servicing of FmHA farm borowers is governed mainly by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921—et seq.). The major purpose of revising the FmHA regulations at this time is to implement various sections of the Food Security Act of 1985 (Pub. L. 99–198) mandating the handling of administrative appeals and to certain actions relating to farmer program guaranteed loans. The sections are as follows:

1. Section 1301—Joint Operations.
2. Section 1303—Family Farm Restriction.
3. Section 1312—Prompt Approval of Loans and Loan Guarantees.
4. Section 1313—Appeals.
5. Section 1320—Interest Rate Reduction Program.

Due to the urgent need of the guarantee for operating and farm ownership loans by both lenders and farmers for credit for spring planting, FmHA has expedited the implementation of these changes. The suspension continues on the guaranteed emergency loan program. Therefore, no changes are being made in the guaranteed emergency loan regulations at this time.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Loan Programs—Housing and community development.

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture, Loan programs—Business and industry—Rural development

assistance, Loan programs—Housing and community development.

Accordingly, the interim rule published February 25, 1986, [51 FR 6704] affecting Chapter XVIII, Title 7, CFR Parts 1900 and 1924 are adopted as a final rule. Chapter XVIII, Title 7, Part 1980, Code of Federal Regulations, is amended as follows:

PART 1980—GENERAL

Subpart B—Farmer Program Loans

1. The authority citation for Part 1980 continues to read as follows:

Authority: 7 USC 1984; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70.

2. On page 6721, column two of the interim rule published February 25, 1986, in the amendatory language in amendment No. 37, the word "revised" is corrected to read "added."

3. In Exhibit D, paragraph IV(I) is revised to read as follows:

Exhibit D—Interest Rate Buydown Program

* * * * *

IV. Program Administration

* * * * *

I. The Interest Rate Buydown Agreement will be attached to the promissory note(s) or line of credit agreement. The promissory note(s) or line of credit agreement, cannot exceed the interest rate the lender charges its average farm customer, *prior* to any writedown by the lender, as outlined in Sections 1980.175(e), 1980.180(f), or 1980.185(f) of this subpart. The lender may only charge a fixed rate of interest during the term of the buydown agreement. The lender is responsible for the legal documentation of interest rate changes by an "allonge" attached to the promissory note(s) or line of credit agreement or other legally effective amendment of the interest rate; however, no new notes or line of credit agreements may be issued. If the lender elects to use a variable rate note or line of credit agreement, the fixed rate of interest charged during the buydown period will be calculated *not to exceed* the average variable rate charged the lender's average farm customer (as defined in §§ 1980.175(e), 1980.180(f) or 1980.185(f) over the past 90 days, plus one percent (1%)). The promissory note(s), line of credit agreements and any attachments to these agreements, must schedule repayment in accordance with the terms for the applicable loan type set forth in §§ 1980.175 (f) and (g), 1980.180(f), or 1980.185(f) of this subpart.

* * * * *

Dated: July 18, 1986.

Kathleen W. Lawrence,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 86-18898 Filed 8-20-86; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 302, 303, and 381

[Docket No. 84-030F]

Meat and Poultry Inspection; Exemption of Certain Restaurant Central Kitchens; Retail Exemption Provisions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat and poultry products inspection regulations to implement Pub. L. 99-487. This law amended the Federal Meat Inspection Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements. Furthermore, this rule amends the regulations by defining the limits of the applicability of Federal inspection requirements to retail stores, restaurants, and similar retail-type establishments as interpreted by the Department in conjunction with an Attorney General's opinion.

EFFECTIVE DATE: September 19, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Gonter, Assistant Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-7745.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule will benefit certain segments of the industry by exempting portions of their operations from Federal inspection requirements, thus reducing their costs and removing an obstacle to centralizing food preparation for restaurants. It also will result in Federal government savings since Federal inspection is no longer required in certain central kitchens. It is estimated that approximately 40 restaurant central kitchens could be affected immediately by this rule.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service (FSIS), has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). This rule will reduce the regulatory burden on industry by exempting some small restaurant businesses from Federal inspection requirements. The costs associated with inspection may discourage small restaurant businesses from centralizing food preparation to become more efficient.

The rule permits a more flexibile regulatory approach with regard to small restaurant operations.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) require, among other things, inspection of a broad spectrum of operations and facilities involved in the preparation and processing of food derived from livestock (i.e., cattle, sheep, swine, goats, horses, mules, or other equines) and poultry. The FMIA provides that meat and meat food products prepared for interstate or foreign commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment must be prepared under Federal inspection unless the operations of the establishment are exempted (21 U.S.C. 603, 604, 606, 608, 610, and 623). The PPIA includes comparable inspection requirements for the processing of poultry products (21 U.S.C. 454, 455, 456, 458, and 459). Establishments preparing or processing product solely for distribution within a State may instead be subject to State inspection if the State develops and effectively enforces requirements that are at least equal to those under the FMIA or PPIA. Section 301(c) (1) and (3) of the FMIA (21 U.S.C. 661(c) (1) and (3)) and section 5(c) (1) and (3) of the PPIA (21 U.S.C. 454(c) (1) and (3)) provide, in relevant part, that the Secretary of Agriculture shall designate any State for Federal inspection (including organized territories) which does not have, or is not effectively enforcing, such requirements; and if a State is so designated, wholly intrastate operations also are subject to Federal inspection and other requirements of the FMIA and PPIA.

The FMIA and PPIA each include exemption provisions for certain retail store and restaurant operations. Section

301(c)(2) of the FMIA (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the PPIA (21 U.S.C. 454(c)(2)) provide, in part, that the statutory provision requiring inspection do not apply to "operations of types traditionally and usually conducted at retail stores and restaurants when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal quantities or service of such articles to consumers at such establishments" if they are subject to such inspection provisions only because they are in designated States. Moreover, the Department has interpreted the FMIA and the PPIA, in conjunction with the Opinion of the Attorney General of August 17, 1972 (Vol. 42, Op. No. 44), as excluding from inspection requirements the operations of such retail establishments, including restaurants, operating in interstate commerce in any State.

The last 20 years have seen many changes in the food service industry. One significant trend has been the centralization of meat preparation systems. New technology and the increase in large restaurant chains and fast food operations have contributed to this trend. By centralizing preparation of products, a restaurant business can improve its efficiency. Unlike restaurants, which are exempt from inspection requirements under the FMIA and PPIA, these central kitchens, even though owned or operated by the same person or business unit as the restaurant in which their products are served, have been subject to the inspection requirements directed under the FMIA and PPIA. Since inspection under the FMIA and PPIA entails some costs, the imposition of inspection on central kitchens has probably discouraged such centralization. Congress has now addressed this issue.

On October 17, 1984, Pub. L. 98–487 was adopted (98 Stat. 2284). This law amended section 301(c)(2) of the FMIA (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the PPIA (21 U.S.C. 454(c)(2)) to provide that for the purposes of that provision, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant, and thus be exempt from the inspection requirements of the FMIA and/or PPIA if certain conditions are met. The conditions are that the restaurant central kitchen prepares meat or meat food products and/or poultry products that (1) are ready to eat when they leave the facility and (2) are served in meals or as entrees only to customers at restaurants owned or operated by the same person or business unit owning or operating the restaurant central kitchen. The amendments also provide that these restaurant central kitchen facilities remain subject to the provisions of section 202 of the FMIA (21 U.S.C. 642; see Part 320 of the Federal meat inspection regulations) and section 11 of the PPIA (21 U.S.C. 460; see Part 381, Subpart Q, of the poultry products inspection regulations), and, therefore, records must be maintained and access to places of business and opportunity for examinations must be provided to representatives of the Secretary. Further, the amendments provide that any exempted restaurant central kitchen may be subject to the FMIA and PPIA inspection reuirements for as long as the Secretary of Agriculture deems necessary if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any meat or meat food products and/or poultry products are rendered adulterated.

Congress noted that not all restaurant central kitchens are suitable for exemption from Federal inspection:

> [L]arge central kitchens that supply food products for sale to a variety of outlets, such as airlines or retail stores . . . should continue to operate under Federal inspection. (S. Rep. No. 98–610, 98th Cong., 2d Sess. 3 (1984)).

Congress intended to limit the exemption to those facilities that:

> . . . are very similar to traditional restaurants, . . . those central kitchens that are essentially retail restaurant facilities, that is, establishments that prepare food products that are ready to eat and are served, without an intervening sale, only to customers at restaurants owned or operated by the same person owning or operating the central kitchen (id.).

Congress restricted the scope of the exemption to facilities that differ from the kitchens of restaurants only in that the products they prepare are moved to another site before being served. Thus, meat and meat food products and/or poultry products must be ready to eat when they emerge from the restaurant central kitchen, and they must be served to customers without an intervening sale. Congress' conclusion that only restaurant central kitchens meeting these conditions are suitable for exemption limited the effects of the legislative change to a small number of restaurant central kitchens. However, Congress anticipated a positive economic impact due to improved efficiency in the restaurant business. In Congress' view, compliance with Federal inspection requirements is particularly costly for small restaurant business. Therefore, this legislative change was regarded as removing a barrier that until now has discouraged such businesses from centralizing food preparation. (See, e.g., S. Rep. No. 98–610, 98th Cong., 2d Sess. 2, 9 (1984).)

The Proposal

On August 21, 1985, FSIS published a proposal to amend the Federal meat inspection regulations and poultry products inspection regulations to implement Pub. L. 98–487 (50 FR 33762). Section 303.1(d)(2)(iv) of the Federal meat inspection regulations (9 CFR 303.1(d)(2)(iv)) and section 381.10(d)(2)(iv) of the poultry products inspection regulations (9 CFR 381.10(d)(2)(iv)) would have been amended by revising the definition of "restaurant" to provide that operations conducted at those restaurant central kitchens which qualify for exemption under the new law are considered to be conducted at a restaurant. The current exemption from inspection requirements for restaurants would have been extended to include the operations of restaurant central kitchens that prepare meat or meat food products and/or poultry products as they would have been prepared at the restaurant location. Thus, to qualify for the proposed exemption, such food products would have been ready to eat without further preparation such as thawing or cooking upon leaving the restaurant central kitchen and maintained without preservation during transportation. During transportation between exempted restaurant central kitchens and the restaurants, products to be served cold would be maintained cold, and products to be served hot would be maintained hot. Products could not be preserved; for example, products to be served hot could not be chilled or frozen for transportation. Furthermore, such products would be served in meals or as entrees only to customers at restaurants owned or operated by the same person owning or operating the restaurant central kitchen, without an intervening sale.

Under the proposed regulations, the recordkeeping and the access and examination requirements of Part 320 and/or 381 of the regulations (9 CFR Parts 320 and 381) would continue to apply to such facilities. Any such facility would become subject to inspection requirements if the Administrator, FSIS, were to determine that sanitary conditions or practices of the facility or processing procedures or methods at the facility are such that any products are rendered adulterated.

FSIS proposed to include in the restaurant central kitchen provision those establishments that prepare and distribute ready-to-eat products for service in meals or as entrees to individual consumers through vending machines owned or operated by the same person that owns or operates the establishment. It has been FSIS policy for some time to treat such operations the same as those of restaurant central kitchens, and the regulations should be clarified to avoid any confusion. Also, the Federal meat inspection regulations, but not the poultry products inspection regulations, presently provide that the definition of "restaurant" includes a caterer which delivers or serves product in meals or as entrees only to individual consumers and otherwise meets the requirements of the regulation. Since FSIS interprets the restaurant exemption in the PPIA as covering such caterers, it proposed to amend the poultry products inspection regulations to include caterers of poultry products under the same conditions.

In addition, the proposed rule included a revision to section 303.1(d)(1) of the Federal meat inspection regulations (9 CFR 303.1(d)(1)) and section 381.10(d)(1) of the poultry products inspection regulations (9 CFR 381.10(d)(1)), proposing to delete language limiting their scope to establishments to which FMIA and/or PPIA provisions requiring inspection apply only because they are in designated States (including organized territories). As indicated earlier, the exemptions are part of the statutory provisions that direct the Secretary to designate for Federal inspection establishments with wholly interstate operations in States that do not have or are not effectively enforcing an inspection program which imposes requirements that are at least equal to those under the FMIA and/or PPIA. As also indicated, in keeping with the Opinion of the Attorney General of August 17, 1972 (Vol 42, Op. No. 44), the Department has interpreted the FMIA and PPIA as excluding retail operations under specified conditions even when their products are not solely for distribution within a State. In other words, the FMIA and PPIA are construed as reflecting Congress' intent that the exemption from inspection requirements for retail stores and restaurants is not dependent upon those businesses having exclusively intrastate operations. This proposed change was intended simply to make clear that the applicability of inspection requirements is not determined by the geographical location of retail stores' and restaurants' business activities.

Finally, it was proposed to revise § 302.2 of the Federal meat inspection regulations (9 CFR 302.2) by deleting paragraph (a), which refers to special provisions for certain retail stores and restaurants operating within the District of Columbia. Under the FMIA (21 U.S.C. 601(h)), the term "commerce" means "commerce between any State, any Territory, or the District of Columbia, and any place outside thereof; or within any Territory not organized with a legislative body, or the District of Columbia." Since retail stores and restaurants are exempt from the inspection requirements of the FMIA regardless of whether they are operating in "commerce", there is no need to make special provisions for such operations operating within the District of Columbia.

Comments on the Proposed Rule

FSIS received 187 comments in response to the proposed rule—128 from consumers, 25 from food equipment and packaging manufacturers or their representatives, 10 from trade associations representing various segments of the food industry, 9 from restaurants and/or restaurant central kitchen owners, 5 from meat processors, 5 from medical institutions, 2 from educational institutions, 2 from Congressmen, and 1 from a State department of agriculture. Nine commenters voiced full support of the proposal as published.

Several commenters voiced opposition generally to Federal inspection of central kitchens, but did not provide direct comments on the specific issues set forth in the proposal. One owner stated general opposition to current regulations requiring Federal inspection of restaurant central kitchens. A restaurant owner and a restaurant central kitchen owner questioned the need for Federal inspection in restaurant central kitchens when they are inspected under local health departments. On the other hand, of the 128 comments received from consumers, 127 were form letters opposing the proposed rule on the basis that no central kitchen should be exempt from inspection because consumers should be assured of product wholesomeness through Federal inspection. As earlier explained in the document, Congress believed that only those central kitchens that are similar to traditional restaurants should be exempted from Federal inspection requirements in that they prepare food for their own restaurants without intervening sales. All retail restaurant central kitchens are subject to periodic inspection by local governments and to local licensing requirements to ensure proper sanitation and food handling. Thus, although certain restaurant central kitchens are exempt from Federal inspection requirements, they are still subject to local controls.

Most of the remaining commenters voiced general support of the proposal, but questioned limiting the definition of "ready to eat" to products ". . . consumed without further preparation such as cooking or thawing" and "so maintained without freezing or other preservation during transportation. . . ." They stated in particular that the requirement of maintaining hot foods would certainly increase the chances of bacterial growth and thus not assure a safe and wholesome product.

Other issues were also raised, including compliance monitoring, broadening the definition of a restaurant central kitchen, and costs for additional equipment as required under the proposal. The following is a summary of those issues and FSIS's reponse to each.

Definition of "Ready to Eat"

1. *Comment:* Comments from the two Congressmen, the State agriculture department, six trade associations, one consumer, seven restaurant and restaurant central kitchen owners, all 25 food equipment and packaging manufacturers, and the seven medical and educational institutions opposed the definition of "ready to eat." Most commenters contended that keeping hot foods hot during transportation would increase bacterial growth, and thus present possible health risks for consumers. Some also indicated that the quality of foods would be adversely affected. Three of these commenters stated that FSIS offers no valid rationale for prohibiting chilling during transportation of foods to be served hot, and ignores modern technology in the development of safe cooking/chilling systems. It was recommended that FSIS permit product chilling during transportation and then reheating at the receiving facility before serving. A trade association suggested specifically that refrigeration during transportation be allowed provided the central kitchen date stamp the product for shelf-life.

Response: Product wholesomeness is of concern to FSIS. After reevaluating the issue, FSIS agrees that refrigeration of hot foods during transportation should be permitted and has amended the rule accordingly. The product, however, must be transported directly

from the central kitchen facility to the satellite restaurant without intervening storage or transfer between conveyances between those two points. This is necessary to lessen the likelihood of product mishandling which, in turn, could result in product adulteration.

2. *Comment:* The State department of agriculture recommended several revisions to the "ready-to-eat" definition for clarification purposes. These included a proviso that during transportation chilled foods must be maintained below 40 °F. and hot foods maintained above 140 °F. to retard bacterial growth.

Response: As discussed under comment 1, FSIS has determined a need exists to refrigerate many ready-to-eat products during transportation from the central kitchen facilities to their own restaurants or vending machines. Although the Federal meat and poultry products inspection regulations do not specify the temperature at which products must be refrigerated during transportation, they do require products to be maintained in a safe, unadulterated condition. To accomplish this end, good manufacturing practices must be used which require foods to be refrigerated at 40 °F. or below. Therefore, FSIS does not see a need to regulate a refrigeration temperature.

3. *Comment:* Three commenters expressed concern that if hot foods must be kept hot, restaurant central kitchens would have to purchase additional equipment and facilities, including suitable vehicles for transporting such foods, which would create unintended hardships for small businesses.

Response: FSIS appreciates the economic concerns of small businesses. Since the rule as adopted does not require hot foods to be kept hot during transportation, the purchase of additional equipment and facilities is not necessary.

4. *Comment:* The seven medical and educational institutions, which operate central kitchen facilities, and a central kitchen facility, which services vendors, stated they are currently exempt from Federal inspection. They chill their products immediately after cooking and transport such products under refrigeration. Thus, as they interpret the proposed rule, their facilities would be subject to Federal inspection if the rule were promulgated. There is concern that many more facilities would be required to operate under Federal inspection than is now required. In terms of current governmental budgetary constraints and the paperwork burdens required of businesses under Federal inspection, the commenters recommended reconsideration of this proposal.

Response: The intent of this rulemaking proceeding is to implement statutory changes and clarify regulations exempting from Federal inspection requirements certain restaurant central kitchen facilities. Whether product is chilled immediately after cooking would not in itself determine a facility's inspection status. Under this rule, a restaurant central kitchen is exempt from Federal inspection only if (1) product is ready to eat, upon departure from such facility (i.e., no further preparation such as cooking is needed, except that it may be reheated prior to serving), (2) transportation is direct between the restaurant central kitchen and satellite restaurant or vending machine location with no intervening transfer or storage, (3) product is to be served, without intervening sale, in meals or as entrees only to customers at satellite restaurants, or through vending machines, owned or operated by the same person (individual, firm, or corporation) owning or operating the restaurant central kitchen, (4) facilities are maintained in a sanitary manner, and (5) records are maintained as required by the Federal meat and poultry products inspection regulations.

FSIS has determined that if central kitchens (1) are owned or operated by a city, county, or State in which they are located, (2) prepare ready-to-eat products to be served at institutions controlled by that same city, county, or State, and (3) meet the other conditions set forth above, such facilities are exempt from Federal inspection requirements under this rule. The central kitchen and the receiving facility are owned or operated by the same person and thus qualify for exemption.

Definition of "Restaurant Central Kitchen"

5. *Comment:* The State department of agriculture, a trade association, and a restaurant central kitchen owner suggested the exemption from Federal inspection be extended to those central kitchen facilities that service other than facilities under the "same ownership" as the central kitchen facility.

Response: As discussed, the basis for this rulemaking proceeding is a law exempting those restaurant central kitchens that are similar to traditional restaurants in that they prepare ready-to-eat food for their own restaurants without intervening sales. Therefore, to extend the exemption would not be in line with the statute.

6. *Comment:* Two processing establishments and a trade association concurred with FSIS's past policy that retail stores are permitted to sell to household consumers in intrastate or interstate commerce, but believe that this should apply as well to mail order accounts.

Response: Section 301(c)(2) of the FMIA exempts from inspection operations of types traditionally and usually conducted at retail stores and restaurants, *when conducted at any retail store or restaurant* or similar type establishment for sale in normal retail quantities or service of meat and meat food products to consumers at such establishments. The entire exempt activity must take place at the same retail establishment. The essence of the central kitchen exemption is that it permits a geographical separation between two parts of the same restaurants. Continuous control of the product by the restaurant from the point of its preparation to its service to consumers is an essential part of this single entity concept. Similarly, exempt retail stores must be in continuous possession of the product from its preparation in the store to sale *in the same store* to consumers. Any deliveries to consumers made by such stores must be carried out by employees of that store in order to maintain the continuous possession of the product.

7. *Comment:* A trade association requested that the rule be clarified to emphasize that retail food stores would not be covered under this rule and that the current exemption applicable to retail food stores covers only operations performed in a store for sale at that store.

Response: As discussed under comment 6, a retail store's exemption from Federal inspection requirements applies to retail operations conducted within the retail store itself (9 CFR 303.1(d)(1) or 381.10(d)(1)). The exemption for one retail store does not extend to other geographically separated facilities, even if under common ownership. Congress expressly expanded the restaurant exemption only; it did not expand the retail store exemption. However, there is no restriction on the geographical scope of the retail store's commercial activities, provided any deliveries are conducted by employees of the retail store providing the service. The same exemption provision applies regardless of whether the store's activities may be characterized as intrastate or interstate.

8. *Comment:* A family which owns a restaurant central kitchen requested clarification of the provision allowing exemption if the restaurant central kitchen prepares products to be served

at restaurants or through vending machines "owned or operated by the same person that owns or operates such facility". The restaurant central kitchen is owned by the same persons owning the restaurant, even though the two facilities are two separate corporations.

Response: As long as the restaurant central kitchen and the restaurant are owned or operated by the same persons, exemption from Federal inspection requirements applies. In this particular case, FSIS has determined that the facilities are indeed owned or operated by the same persons and thus qualified for the exemption.

Compliance Monitoring

9. *Comment:* The State department of agriculture and a trade association expressed concern as to how compliance with the proposed rule would be monitored and recommended that procedures for compliance monitoring be established.

Response: Through its Compliance Program, FSIS monitors the movement of meat and poultry products in exempted facilities and other operations outside federally inspected establishments. State and local officials also inspect handling of food products within their jurisdictions. These existing procedures appear to be adequate for the tasks involved. Additional procedures for compliance monitoring may be considered in the future if the current procedures are shown to be inadequate.

Final Rule

After careful consideration of the comments received, FSIS is adopting the proposed rule except for changes as previously discussed.

List of Subjects

9 CFR Part 302

Applications, Meat inspection.

9 CFR Part 303

Meat and meat food products, Meat inspection, Exemptions, Recordkeeping requirements.

9 CFR Part 381

Poultry products inspection, Exemptions, Recordkeeping requirements.

PART 302—[AMENDED]

1. The authority citation for Part 302 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466k.

§ 302.2 [Amended]

2. The title of § 302.2 (9 CFR 302.2) is amended by removing the words "in the District of Columbia or".

3. Section 302.2 (9 CFR 302.2) is amended by removing paragraph (a) and removing the paragraph designation "(b)".

PART 303—[AMENDED]

4. The authority citation for Part 303 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466k; Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

5. Section 303.1 (9 CFR 303.1) is amended by revising paragraphs (d)(1) and (d)(2)(iv) to read as follows:

§ 303.1 Exemptions.

* * * * *

(d)(1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments.

(2) * * *

(iv) *Restaurants.* (*a*) A restaurant is any establishment where:

(*1*) Product is prepared only for sale or service in meals or as entrees directly to individual consumers at such establishments;

(*2*) Only federally or State inspected and passed product or such product prepared at a retail store exempted under paragraph (d)(2)(iii) of this section is handled or used in the preparation of any product;

(*3*) No sale of product is made in excess of a normal retail quantity as defined in paragraph (d)(2)(ii) of this section; and

(*4*) The preparation of product is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section.

(*b*) The definition of a restaurant includes a caterer which delivers or serves product in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph.

(*c*) For purposes of this paragraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirements of this paragraph: *Provided, That* the requirements of sections 320.1 through 320.4 of this subchapter apply to such facility. *Provided further, That* the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary, if the Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding.

PART 381—[AMENDED]

6. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

7. Section 381.10 of the poultry products inspection regulations (9 CFR 381.10) is amended by revising paragraphs (d)(1) and (d)(2)(iv) to read as follows:

§ 381.10 Exemptions for specified operations.

* * * * *

(d) (1) The requirements of the Act and the regulations for inspection of the processing of poultry and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar-retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments.

(2) * * *

(iv) *Restaurants.* (a) A restaurant is any establishment where:

(*1*) Poultry products are processed only for sale or service in meals or as entrees directly to individual consumers at such establishments;

(*2*) Only federally inspected and passed, or exempted (or, as provided in § 381.223, State or local agency inspected and passed or exempted) poultry products are handled or used in the preparation of any poultry products;

(*3*) No sale of poultry products is made in excess of a normal retail quantity as defined in paragraph (d)(2)(ii) of this section; and

(*4*) The processing of poultry products is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section.

(*b*) The definition of a restaurant includes a caterer which delivers or serves product in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph.

(*c*) For purposes of this paragraph, operations conducted as a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirement of this paragraph: *Provided, That* the requirements of sections 381.175 through 381.178 of this subchapter apply to such facility. *Provided further, That* the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary if the Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding.

* * * * *

Done at Washington, DC, on August 15, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-18706 Filed 8-20-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-43-AD; Amdt. 39-5396]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires inspections for cracks and repairs or modifications, as necessary, of the fuselage, wings, and vertical stabilizer structures, of certain Airbus Industrie Model A300 B2 and B4 series airplanes. This amendment is prompted by reports that cracks have been detected in several areas of the fuselage, wings, and vertical stabilizer structure during fatigue tests conducted by the manufacturer. If these cracks are not detected and repaired, structural failure could occur.

DATES: Effective September 26, 1986.

ADDRESS: The applicable service information may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. They may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires structural inspections and corrective actions, as necessary, to the fuselage, wing, and vertical stabilizer on certain Model A300 series airplanes, was published in the Federal Register on May 28, 1985 (50 FR 21625).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

The manufacturer pointed out several minor corrections, and recommended that a second optional terminating modification be added to paragraph A. The FAA concurs with the manufacturer's comments regarding the change in paragraph A., and has added a second optional terminating modification. The manufacturer recommended an increase in the repetitive inspection intervals on low-time airplanes for the inspections required by paragraph E. The FAA concurs with this recommendation and has changed the rule accordingly. The manufacturer also recommended changing the reinspection interval specified in paragraph C. from 3,000 landings to 3,000 hours. The FAA does not concur because this change would increase the burden on operators with an average flight cycle greater than one hour. The FAA will consider further rulemaking action on this subject if service history indicates a need.

The Air Transport Association (ATA) of America questioned justification for the AD based on the manufacturer's fatigue testing, since service experience "has not justified the modifications or inspections." The FAA does not concur with this comment. The FAA has determined that sufficient justification exists to support the AD. Since cracks developed on a test article using a realistic loads spectrum, similar cracks can be expected to develop in airplanes in service. These data have been reviewed by the responsible airworthiness authority and an unsafe condition was found. The FAA has reviewed the data and has also made a finding that an unsafe condition exists. The ATA also stated the proposed rule required inspections on airplanes, which are not currently on the U.S. registry, yet the cost analysis accounts for only U.S. registered airplanes. The FAA does not concur with this comment, since only airplanes on the U.S. register are subject to the requirements of U.S. AD's. The cost analysis is based on the number of airplanes known to be subject to the AD and was correct as written. The applicability statements in the AD refer to airplanes listed in the referenced service bulletins. This is done to ensure that an affected airplane, which may later be imported to the U.S., is subject

to the required inspections and modifications.

One operator commented that paragraph A. of the final rule should also include Service Bulletin A300–53–128 as terminating action for the inspections described by Service Bulletin A300–53–127. The FAA concurs with this comment in regards to termination action for Service Bulletin A300–53–128. This has been incorporated in the final rule. The commenter also requested that a 20,000 landing initial inspection threshold be given for Service Bulletin A300–53–143, instead of 20,000 flight hours, since the manufacturer based its recommendation on an assumption of one hour per flight. The FAA, with the manufacturer's concurrence, agrees that compliance should be based on the landings, and has changed the AD accordingly. The commenter also stated that the two Service Bulletins, A300–53–182 and A300–53–125, with their initial inspection times of 20,000 landings, appeared to be released prematurely and should be deleted. The FAA does not concur with the deletion of Service Bulletin A300–53–182 and A300–53–125 from the final rule. They were issued as a result of cracks developing in a test article and this same cracking can be expected to develop in airplanes in service.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above.

It is estimated that 15 airplanes on the U.S. register will be affected by this AD; however, not all service bulletins will apply to all of the airplanes. It will take approximately 919 total manhours to accomplish the various required actions, and the average labor cost will be $40 per manhour. Repair parts are estimated to be nominal. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $36,790.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Airbus Industrie

Applies to Model A300 B2 and B4 series airplanes, serial numbers as listed in each of the following service bulletins, certificated in any category. To prevent dangerous propagation of cracks in the fuselage, wing and vertical stabilizer structures, accomplish the following, within one year after the effective date of this AD or upon reaching the threshold (number of landings or flight hours) indicated in each paragraph below, whichever is the later, unless already accomplished:

A. For airplanes with serial numbers listed in Airbus Industrie (AI) Service Bulletin A300–53–127, Revision 4, dated May 10, 1984, prior to the accumulation of 18,000 landings or 18,000 flight hours, whichever occurs first, visually inspect the upper fuselage skin at frame 56, between stringer 5 left and stringer 5 right, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 flight hours. Repair cracks in accordance with Figure 2, Inspection and Repair Alternative Chart, to the service bulletin. Incorporation of AI Modification 2147, described in AI Service Bulletin A300–53–110, Revision 10, dated April 7, 1986, or AI Modification 2526/1063 described Service Bulletin A300–53–128, Revision 5, dated May 10, 1984, terminates the repetitive inspection requirements of this paragraph.

B. For airplanes with serial numbers listed in AI Service Bulletin A300–53–101, Revision 7, dated May 10, 1984, perform a radiographic and ultrasonic inspection for cracks in the circumferential fuselage splice plates and stringer couplings in accordance with the accomplishment instructions of the service bulletin with thresholds as follows:

1. If the requirements of AI Service Bulletin A300–53–053, Revision 2, dated July 30, 1981, have been accomplished, the initial inspection is not required until the accumulation of 20,000 landing after this work was completed, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

2. If the requirements of AI Service Bulletin A300–53–053, Revision 2, dated July 30, 1981, have not been accomplished, the initial inspection must be done prior to the total accumulation of 18,000 landings, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

Repair cracks in accordance with Figures 1 or 2 of the service bulletin. Incorporation of AI Modification 3780, described in AI Service Bulletin A300–53–170, Revision 1, dated January 25, 1985, constitutes terminating action for the requirements of this paragraph.

C. For airplanes with serial numbers listed in AI Service Bulletin A300–53–143, Revision 3, dated May 10, 1984, prior to the accumulation of 20,000 landings visually inspect for cracks in frame 57A between stringers 15 and 16, left and right, and the stringer 5 connection angle at frame 65, left and right, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings. Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 2943, described in AI Service Bulletin A300–53–132, Revision 4, dated May 10, 1984, constitutes terminating action for the requirements of this paragraph.

D. For airplanes with serial numbers listed in AI Service Bulletin A300–53–182, dated February 7, 1983, prior to the accumulation of 30,000 landings, inspect for cracks in the webplate between frame 39A and frame 32 at stringers 18 and 22, left and right, in accordance with the accomplishment instructions of the service bulletin. Repeat this inspection at intervals not to exceed 3,000 landings until the airplane has accumulated a total of 36,000 landings, and thereafter repeat the inspections at intervals not to exceed 2,000 landings. Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 1691, described in AI Service Bulletin A300–53–063, constitutes terminating action for the requirements of this paragraph.

E. For airplanes with serial numbers listed in AI Service Bulletin A300–53–112, Revision 2, dated July 20, 1981, prior to the accumulation of 24,000 landings, visually inspect the skin for cracks from frame 28 to frame 31, between stringers 29 and 31, left and right, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 6,000 landings, until the accumulation of 36,000 landings, and thereafter at intervals not to exceed 3,000 landings. If cracks are found at any inspection, AI Modification 1358, described in AI Service Bulletin A300–53–027, Revision 4, dated January 4, 1984, must be incorporated before further flight. Incorporation of AI Modification 1358 constitutes terminating action for the inspection requirements of this paragraph.

F. For airplanes with serial numbers listed in AI Service Bulletin A300–53–100, Revision 1, dated May 10, 1984, prior to the accumulation of 12,000 landings, or 15,000 flight hours, whichever occurs first, visually inspect internally and externally for cracks, the longitudinal joint at stringer 51, left and right, between frames 72 and 80, in accordance with the accomplishment instructions of the service bulletin. Thereafter, repeat the internal inspections at intervals not to exceed 1,500 flight hours, and the external inspection at intervals not to exceed 12,000 flight hours. Repair cracks

before further flight in accordance with the service bulletin instructions. Incorporation of AI Modification 1421, described in AI Service Bulletin A300–53–033, Revision 3, dated May 10, 1984, constitutes terminating action for the requirements of this paragraph.

G. For airplanes with serial numbers listed in AI Service Bulletin A300–53–125, dated July 15, 1983, prior to the accumulation of 20,000 landings, inspect for cracks as follows:

1. Using ultrasonic methods, inspect the longitudinal lap joints at stringer 29, left and right, between frames 72 and 73, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 2,000 landings; and

2. Using an eddy current method, inspect the longitudinal skin splices of the top fuselage joint, between frame 72 and frame 80, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 2525, described in AI Service Bulletin A300–53–126, Revision 3, dated February 23, 1983, constitutes terminating action for the requirements of this paragraph.

H. For airplanes with serial numbers listed in AI Service Bulletin A300–55–026, Revision 3, dated May 10, 1984, prior to the accumulation of 20,000 landings or 20,000 flight hours, whichever occurs first, visually inspect the six (6) vertical stabilizer attachment fittings for cracks, which initiate from the rivet holes, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 1,500 landings. Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 3172, described in AI Service Bulletin A300–55–024, Revision 4, dated May 25, 1984, constitutes terminating action for the requirements of this paragraph.

I. For airplanes with serial numbers listed in AI Service Bulletin A300–57–109, Revision 1, dated July 10, 1982, prior to the accumulation of 15,000 landings, visually inspect for cracks in the landing angle attached to the outboard side of the wing leading edge at nose rib 8, left and right, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings. In case of crack discovery, incorporate AI Modification 1307, described in AI Service Bulletin A300–57–026, Revision 3, dated October 21, 1982, within the next 1,000 landings. Incorporation of AI Modification 1307 constitutes terminating action for the requirements of this paragraph.

J. Upon request of an operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator, if the request contains substantiating data to justify the change for that operator.

K. An alternate means of compliance, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

L. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Airbus Industries, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 26, 1986.

Issued in Seattle, Washington, on August 13, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–18832 Filed 8–20–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–06–AD; Amendment 39–5395]

Airworthiness Directives; Beech 90 and 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech 90 and 100 Series airplanes which requires inspection of the wing and center section main spar structure for evidence of fatigue cracking. Ten instances of cracking have been found over a three year period. The actions of this AD will detect these cracks and preclude catastrophic failure of the wing spar.

EFFECTIVE DATE: September 26, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Structural Inspection and Repair Manual, P/N 98–39006, applicable to this AD was mailed by the manufacturer to all owners of record in 1983. Additional copies may be obtained from Beech Aircraft Corporation, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Wichita Aircraft Certification Office (ACO), ACE–120W, FAA, 1801 Airport Road, Room 100 Wichita, Kansas 67209; Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of the wing main spar and associated structure for fatigue cracking on certain Beech 90 and 100 Series airplanes was published in the **Federal Register** on May 21, 1986 (51 FR 18600). The proposal resulted from the discovery of six fatigue cracks in the wing main spar lower cap and associated structure. Since the proposal was issued, four more have been found, bringing the total to ten fatigue cracks. These defects were found by voluntary compliance with Beech Structural Inspection and Repair Manual (BSIR Manual) P/N 98–39006, revised December 20, 1984, or later revision. Because of their location in the structure, the FAA considers these to be fatigue cracks which would have grown in size, possibly causing failure of the spar, if not detected and repaired. Since the condition is likely to exist or develop in other Beech 90 and 100 Series aircraft of the same design, an AD was proposed which would require inspection, and when necessary the replacement, of the wing main spar structure in accordance with the Beech Structural Inspection and Repair Manual, Part Number (P/N) 98–39006 or with other instructions provided by Beech Aircraft Corporation. Beech Models 65–90 and 65–A90 airplanes with Serial Number (S/N) below LJ–68 are excluded because AD 70–25–4 already requires wing spar inspections on these airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. Four commentors responded to the proposed rule.

The first commentor concurred with the intent of the proposal, but felt that allowances should be given to those airplanes which have a wing spar reinforcing strap installed. The proposed rule would require only a one-time inspection aimed at determining the extent of the spar fatigue problem, and to prevent any latent cracks from going undetected. Since we do not know the condition of a given spar cap at the time of strap installation, the FAA must require the one-time inspection regardless of strapping. If further inspections are deemed appropriate as a result of this inspection, the influence of installing a strap over structure known to be sound will be considered.

The second commentor feels that qualified, competent personnel should

be permitted to perform these inspections, as well as "personnel specifically trained by Beech". Since it is imperative that the proposed one-time inspection be performed correctly and effectively, the inspection personnel must be properly trained. The manufacturer is offering a three-day training course at no cost to maintenance personnel. The FAA has concluded that it is appropriate to require this specific training. If the inspection was performed prior to issuance of the proposed AD, the maintenance inspector would still have the option of attending the course to determine whether the inspection was properly conducted. In this way, unnecessary repetition of the inspection may be avoided.

The third commentor provided the following four comments.

The first was that the Beech schedule specifies initial inspections at either 3000 hours or 5000 hours, depending on past aircraft usage. Service difficulty data available to the FAA does not support the shorter time, but does support the 5000 hour initial inspection time. The second comment was that extension of compliance time per paragraph (e) of the proposed AD could result in excessive postponements of inspections. The FAA agrees that the wording of paragraph (e) is unclear. The intent of the FAA was to set an upper limit on the amount of extension permitted to achieve coincidence with the next wing bolt inspection per AD 85-22-05 and consequently paragraph (e) will be clarified by inserting the phrase—"up to ten percent" after the word "extended".

The third comment regards the fact that Note 2 of the proposed AD only recommends (does not require) wing bolt inspections and outboard wing corrosion inspections. In rebuttal, wing bolt inspections are already required by AD 85-22-05, so it would be redundant to require them again in the proposed AD. The FAA has not received reports of outboard wing corrosion which would warrant mandatory inspections for corrosion.

The fourth comment was that the proposed one-time inspection is not sufficient, that repetitive inspections should be required. As expressed in answer to an earlier comment, the FAA plans to closely monitor the results of this one-time inspection and will broaden the scope of the AD if such becomes warranted.

The fourth commentor feels that the inspecter should be permitted to use the eddy current method on the wing attach fittings in place of the fluorescent penetrant method as specified in the BSIR Manual. Extensive experimental and developmental testing went into the selection of the non-destructive testing (NDT) techniques employed in the BSIR Manual. After considering both methods, fluorescent penetrant was found to be the more practical method and would eliminate much of the misleading or false indications which can accompany use of eddy current inspection on the relatively large, irregular surfaces of the attach fittings and spar cap. To date, ten fatigue cracks have been found, and all but one of them are at fastener holes where eddy current is required. The FAA is satisfied that the proper NDT methods have been chosen with regard to criticality of the inspection site as well as the practicality of the method. If the results of this one-time inspection indicate a need for mandatory repetitive inspections, there will be another opportunity to review the inspection methods.

No comments were received on the cost determination.

Accordingly, a final rule is being issued in accordance with the proposed notice except for the clarifying language being added to paragraph (e).

The FAA has determined that this regulation only involves 1500 airplanes at an approximate cost of $1,500.00 for each aircraft or a total one-time fleet cost of $2,353,500.00.

The cost per airplane is less than the significant cost amount for those small entities operating one airplane. The FAA has determined, on the basis of the aircraft registration records, that less than 1% of the owners of the affected airplanes own more than one of the affected airplanes, which is less than the threshold for a substantial number of small entities.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

§ 39.13 [Amended]

Beech

Applies to Models 65-90 and 65-A90 (S/N LJ-68 thru LJ-317); 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90 (all S/N); C90A (S/N LJ-1063 thru LJ-1087, except LJ-1065); E90, 100, A100, and B100 (all S/N) airplanes, certified in any category, including those airplanes equipped with spar reinforcing straps, incorporated by Supplemental or original Type Certificates.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To detect possible fatigue cracking of the wing main spar lower cap and associated structure, accomplish the following:

(a) On all airplanes with more than 5,000 hours time-in-service (TIS), within the next 200 hours TIS, or within one calendar year, whichever occurs first, inspection the wing attach fittings, center section and outboard wing spar caps by visual, fluorescent penetrant and eddy current methods as specified in the applicable section of Beech Structural Inspection and Repair Manual, Part No. 98-39006, revised December 20, 1984, or later revision (BSIR Manual).

The inspection must be performed by personnel specifically trained by Beech Aircraft Corporation.

Note 1.—A listing of approved maintenance facilities may be obtained from the sources listed in paragraph (f) of this AD.

(b) If any crack is found in a main spar lower cap or fitting, prior to further flight replace the defective part using the procedures specified in the BSIR Manual or with other instructions provided by Beech Aircraft Corporation.

(c) If a crack is found, a report must be submitted within one week to the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. [Reporting approved by the Office of Management and Budget under OMB No. 2120-0056.]

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(e) The compliance time for the inspections specified in this AD may be extended up to ten percent to coincide with the next wing bolt inspection per AD 85-22-05 if applicable.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4400.

VOL 51 ISS 162 AG 21 1986 UMI

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Wichita, Kansas 67201 or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Note 2.—The wing bolt inspection and outboard wing corrosion inspections specified in the BSIR Manual are recommended but not required by this AD.

This amendment becomes effective on September 26, 1986.

Issued in Kansas City, Missouri, on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-18829 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-39-AD, Amdt. 39-5398]

Airworthiness Directives; DeHavilland Model DHC-7 Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to DeHavilland Model DHC-7 series airplanes that requires conductivity surveys, modification, and repair, if necessary, of the upper wing surface structure behind the engine. This action is prompted by reports of "wet starts" of the engine, resulting in external combustion of fuel. This condition, if not corrected, could result in damage and weakening of the wing upper surface structure.

DATES: Effective September 26, 1986.

ADDRESSES: The applicable service information may be obtained from The DeHavilland Aircraft Company of Canada, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Vito Pulera, Aerospace Engineer, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6620.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires conductivity surveys, modification, and repair, if necessary, of the upper wing surface structure behind the engine, was published in the **Federal Register** on May 14, 1986 (51 FR 17644).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the following rule.

The reporting requirements of this AD have been approved under the Paperwork Reduction Act by the Office of Management and Budget under OMB No. 2120-0056.

It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 810 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,425,600.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model DHC-7 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(A), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

De Havilland:

Applies to all Model DHC-7 series airplanes, certificated in any category.

Compliance is required as indicated, unless already accomplished. To ensure detection of heat-damaged wing upper surface structure behind the engine, and protection against wet starts of the engine resulting in external combustion of fuel, accomplish the following:

A. Within three months after the effective date of this AD, perform an external conductivity survey and, as necessary, an internal conductivity survey, and make repairs as necessary, of the upper wing skin behind each engine nacelle, in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted immediately to DeHavilland Aircraft Company of Canada for processing.

B. For airplanes on which the mid fuel tank access cover located aft of an outboard nacelle has been replaced, within three months after the effective date of this AD, perform an internal conductivity survey of the wing structure in this area and make repairs, as necessary, in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Following an internal conductivity survey, the removed fuel tank access covers must be inspected before replacement to ensure serviceability, and repaired, if necessary. Details of any damage discovered and data obtained from conductivity surveys must be transmitted immediately to DeHavilland Aircraft Company of Canada for processing.

C. Within 1 year after the effective date of this AD, accomplish DeHavilland Modification No. 7/2414—"Wing-Upper Skin Structure—Special Inspection and Installation of Heat Shields, "described in DeHavilland Service Bulletin No. 7-57-25. The external conductivity survey and, as necessary, the internal conductivity survey detailed in paragraph A, above, must be accomplished immediately prior to installation of Modification 7/2414. For airplanes, serial numbers 1 through 27, Modification Nos. 7/2377 and 7/2378—"Fuel Tank Access Panel Replacement," desbcribed in DeHavilland Service Bulletin No. 7-57-17, must be accomplished prior to the incorporation of Modification No. 7/2414.

D. An alternate means of compliance, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to DeHavilland Aircraft Company of Canada, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle,

Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This Amendment becomes effective September 26, 1986.

Issued in Seattle, Washington, on August 13, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18831 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-23-AD; Amdt. 39-5397]

Airworthiness Directives; HTL Advanced Technology Fire Extinguisher Discharge Outlets Installed on Boeing Models 707, 727, 737, 747, 757, and 767 Series Airplanes, and on Airbus Industrie Model A300 and A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires physical and x-ray inspections of certain HTL Advanced Technology fire extinguisher discharge outlets. The action is prompted by an incident during which a fire bottle discharge head separated from the bottle during a ground discharge operation. This action is necessary to ensure that extinguishing agent is directed to the intended location during a fire.

DATE: Effective September 26, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from HTL Advanced Technology, 1800 Highland Avenue, Duarte, California 91010, Attention: John Hansen, Director of Quality Assurance. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require physical and x-ray inspections of certain HTL Advanced Technology fire extinguisher discharge outlets, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on March 26, 1985 (50 FR 11892). The comment period for the proposal closed April 8, 1985. An amended proposal was published in the **Federal Register** on November 13, 1985 (50 FR 46675). The comment period for the amended proposal closed January 3, 1986. A second amended proposal was published in the **Federal Register** on May 14, 1986 (51 FR 17645). The comment period for the second amended proposal closed June 5, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Comments were received from nine sources, including four domestic operators, two airplane manufacturers, a foreign embassy, and two associations.

One U.S. manufacturer offered several comments involving minor wording changes; additional service bulletin numbers, effectivity, and applicability; and additional description of the required changes. The FAA concurs with these recommended changes and has revised the rule accordingly. This commenter also stated that the comment period (for the originally issued NPRM) was too short; the FAA concurred with this comment and extended the comment period when the amended NPRM was issued on November 13, 1985.

One foreign manufacturer noted that Airbus Model A300 airplanes were involved as well as the Model A310 airplanes noted in the original proposal. The FAA concurred, and the amended proposal, issued on November 13, 1985, included Model A300 airplanes and reference to the applicable service bulletin numbers.

Of the four domestic airline operators, one stated that the number of bottles listed in the economic analysis of the original proposal did not include spares. The FAA disagrees; after consulting with the bottle manufacturer, the FAA has determined that the information contained in the economic analysis was correct. The same operator noted that, on the Boeing 767 airplane, replacement of the cargo bottle discharge outlets with later design outlets in accordance with HTL Service Bulletin (S/B) 34600010-26-2 and HTL S/B 34900004-7-26-2 should constitute compliance with this AD. The FAA agrees; however, the AD does not apply to the outlets referenced in the comment.

The other three domestic operators requested eighteen months for compliance. The FAA has determined that twelve months is an adequate time for compliance.

Two of the three domestic operators stated they had experienced no problems with the discharge outlets to date; one stated that AD action was unnecessary; and another stated that the problem and inspection methods were not adequately identified. Even though some operators have encountered no problems, the FAA has determined that regulatory action is required to assure an adequate level of safety. The FAA has modified the explanation in the AD and, in reviewing the service bulletins, has determined the explanation is adequate.

Of the two associations, one strongly concurs with the AD and the other made no substantive comment.

Following the amended proposal issued on November 13, 1985, the foreign airplane manufacturer requested additional clarification of service bulletin cross references, which has been accomplished in the final rule.

One comment was received from a domestic operator following the second amended NPRM, issued on May 14, 1986, which requested eighteen (18) months to comply. The FAA does not concur and has determined that a compliance time of twelve (12) months after the effective date of this AD is adequate.

Another comment suggested deleting the note in paragraph A. of the proposed AD because it could lead to confusion in the field. The FAA concurs and the note has been deleted from the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes previously noted.

It is estimated that approximately 5,000 fire extinguisher discharge outlets installed on U.S. registered airplanes, or in inventory as spares, would be affected by this AD. It is estimated that 2 man-hours per fire extinguisher discharge outlet are needed to accomplish the required inspections, at an average labor cost of $40 per man-hour. Based on these figures, the total cost impact of this AD to U.S. registered owners is estimated to be $400,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act

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that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any of the affected airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

§ 39.13 [Amended]

HTL Advanced Technology: Applies to HTL Advanced Technology fire extinguisher discharge outlets as listed in the service bulletins and installed on Boeing Model 707, 727, 737, 747, 757 and 767 series airplanes and on Airbus Industrie Model A300 and A310 series airplanes.

To preclude the potential for separation of the fire extinguisher discharge outlet and misdirection of the fire extinguishing agent, accomplish the following within twelve (12) months after the effective date of the AD, unless already accomplished:

A. Complete the physical and top view x-ray inspections of the fire extinguisher discharge outlets specified in HTL Advanced Technology Service Bulletins listed below, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region:

HTL Service Bulletins—Mfrs. S/B

35203000-26-A-3 Rev. C 6-15-85 747 ENG/APU—747-26A2108
35203000-26-A-3 Rev. C 6-15-85 767 ENG/APU—767-26A0019
35203010-26-A-1 Rev. A 6-15-85 707 ENG—707-A3441
35203016-26-A-2 Rev. B 6-15-85 737 ENG—737-26A1029
35203018-26-A-2 Rev. B 6-15-85 727 ENG—727-26A0034
35203021-26-A-2 Rev. B 6-15-85 737 APU—737-26A1029
35203022-26-A-2 Rev. B 6-15-85 727 APU—727-26A0034
35203037-26-A-3 Rev. C 6-15-85 767 ENG/APU—767-26A0019
35203038-26-A-1 Rev. A 6-15-85 767 Cargo—767-26A0021
35203039-26-A-1 Rev. A 6-15-85 767 ENG/APU—767-26A0019
35203040-26-A-1 Rev. A 6-15-85 767 ENG/APU—767-26A0019
35289950-26-A-1 Rev. A 6-15-85 747 ENG/APU—747-26A2110
35289950-26-A-1 Rev. A 6-15-85 757 Cargo—757-26A0010
35289950-26-A-1 Rev. A 6-15-85 767 Cargo—767-26A0021
35290250-26-A-2 Rev. B 6-15-85 747 APU—747-26A2108

B. If a discharge outlet does not meet the criterion for acceptability specified in the above bulletins, replace with a serviceable unit before further flight.

C. For discharge outlets that meet the criterion for acceptance specified in the above service bulletins, accomplish the reidentification in accordance with the accomplishment instructions therein.

D. Remove and replace the fire extinguisher discharge outlets specified in the HTL Advanced Technology Service Bulletins listed below, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region:

HTL Service Bulletins—Mfrs. S/B

33600005-1-26-1 Rev. 10-15-84 A300/APU—A300-26-048
33600005-1-26-1 Rev. 10-15-84 A310/APU—A310-26-2004
33600005-2-26-2 Rev. 10-15-84 A310/APU—A310-26-2004
35203030-26-A-1 Rev. 8-31-84 A310/ENG—A310-26-2003

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

F. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to HTL Advanced Technology, 1800 Highland Avenue, Duarte, California 91010, Attention: John Hansen, Director of Quality Assurance. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective September 26, 1986.

Issued in Seattle, Washington, on August 13, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18830 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for A. L. Laboratories, Inc.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: A. L. Laboratories, Inc., One Executive Drive, P.O. Box 1399, Fort Lee, NJ 07024, sponsor of several approved NADA's, has informed FDA of a change of address. The agency is amending the regulations to reflect the change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "A. L. Laboratories, Inc.," and in paragraph (c)(2) in the entry for "046573" by amending the sponsor address to read "One Executive Drive, P.O. Box 1399, Fort Lee, NJ 07024."

Dated: August 13, 1986.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 86-18847 Filed 8-20-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1956

Certification of Completion of Developmental Steps for Connecticut Public Employee Only State Plan

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: State plan certification.

SUMMARY: The State of Connecticut Department of Labor on or before October 2, 1979, submitted documentation attesting to the completion of all structural and developmental aspects of its approved public employee (State and local government) only State plan. After extensive review of those documents and subsequent revisions, and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion. This certification attests only to the fact that Connecticut now has in place those structural components necessary for an effective program. It renders no judgment as to the adequacy of the State's actual performance. (Enforcement of occupational safety and health standards with regard to private sector employers and employees remains the responsibility of the U.S. Department of Labor, Occupational Safety and Health Administration.)

EFFECTIVE DATE: August 19, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Regulations promulgated pursuant to section 18 of the Act and found at 29 CFR Part 1956 provide that a State may submit a State plan for the development and enforcement of occupational safety and health standards applicable only to employees of the State and its political subdivisions ("public employees"). Part 1956 additionally sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. The regulations require that a State must first submit its plan for an initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State submission, determines that the plan satisfies or will satisfy, within a maximum three year developmental period, the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued. Following initial approval, the State may begin enforcement of its safety and health standards in the public sector and receive up to 50 percent Federal reimbursement for the cost of plan operations.

A State public employee only plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. Pursuant to 29 CFR 1956.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice recognizing such completion is published in the **Federal Register** (see 29 CFR 1956.23, 1902.34 and 1902.35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine on the basis of actual operations, whether the State is fully applying the criteria set forth at 29 CFR 1956.10 and the plan is adequately providing safety and health protection to the public employees in the State. Certification attests to the structural completeness of the plan but does not render judgment as to the adequacy of State performance.

The Assistant Secretary must monitor the continuing development of the State program applying criteria which assure that the State will have at least as effective program for achieving the goals of the Act, except with respect to staffing and funding levels, which must reflect a fully effective program pursuant to *AFL–CIO* v. *Marshall*, 570 F. 2d 1030 (D.C. Cir. 1978).

Under Part 1902 of Title 29, Code of Federal Regulations, a State plan for the enforcement of occupational safety and health standards in Connecticut was approved by the Assistant Secretary on December 28, 1973, and published on January 4, 1974 (39 FR 1013; 29 CFR 1952.300 et seq.). This plan covered private workplaces as well as public employees. By an Act of the Connecticut General Assembly, effective July 1, 1978 (P.A. 77–610), the Connecticut Occupational Safety and Health Act was amended to exclude coverage of private sector employees. This change in the scope of State safety and health coverage resulted in withdrawal of the prior 18(b) plan. Connecticut then submitted for the Assistant Secretary's approval, a State plan covering public employees only under Part 1956 of Title 29, Code of Federal Regulations.

On November 3, 1978, a notice was published in the **Federal Register** (43 FR 51389) initially approving the Connecticut public employee only developmental plan and adopting Subpart E of Part 1956 containing the initial approval decision, a description of the plan and the developmental schedule. 29 CFR 1956.2(b)(3) provides that where a State plan approved under Part 1902 (see 29 FR 1013; 29 CFR 1952.300 et seq.) of this Chapter is discontinued, except for its public employee component, the developmental period applicable to the public employee component of the earlier plan will be controlling unless an additional period of time is required to make adjustments from one type of plan to another. The State of Connecticut Public Employee Only plan was approved with a one year developmental period. During the one year developmental period ending October 2, 1979, the Connecticut Department of Labor, the agency designated as responsible for the administration of the approved State program, submitted documentation attesting to the completion of each State developmental commitment for review and approval (see 29 CFR 1956.21 and Part 1953). Following agency review and subsequent modification of the State's submission in response to Federal comment, the Assistant Secretary has approved completion of all individual developmental steps.

Completion of Developmental Steps

All developmental steps specified in the November 3, 1978, notice of initial approval of the Connecticut Public Employee Only plan and other relevant steps not explicitly referred to have been completed as follows:

(a) In accordance with the requirements of 29 CFR 1956.43(a), Connecticut's safety and health poster was approved by the Assistant

Secretary on August 3, 1983 [48 FR 37025, August 16, 1983].

(b) In accordance with the requirements of 29 CFR 1956.43(b), Connecticut standards as effective as Federal standards have been promulgated and subsequently amended to reflect changes in and additions to Federal standards and approved by the Regional Administrator on February 5, 1982 (47 FR 30326). The State has continued to adopt Federal standards, amendments and corrections as noted in separate standards approval notices. Connecticut has appropriately responded to Federal standards actions, either by adoption of identical standards, or explanation that the scope of its plan makes adoption unnecessary, through December 9, 1985. The State is now within six months currency in responding to all Federal standards.

(c) In accordance with the requirement of 29 CFR 1956.43(c), Connecticut's regulations for Inspections, Citations, and Proposed Penalties; Recording and Reporting Occupational Injuries and Illness; Variances; Review Commission Procedures; and Field Operations and Industrial Hygiene Manuals were approved by the Assistant Secretary on August 3, 1983 [48 FR 37025, August 16, 1983].

(d) In accordance with the requirements of 29 CFR 1956.43(d), Connecticut's employee discrimination procedures were approved by the Assistant Secretary on August 3, 1983 [48 FR 37025, August 16, 1983].

(e) In accordance with the requirements of 29 CFR 1956.43(e), Connecticut's comprehensive governmental identification list was approved by the Assistant Secretary on August 3, 1983 [48 FR 37025, August 16, 1983].

(f) In accordance with the requirements of 29 CFR 1956.43(f), Connecticut's revised and reformatted occupational safety and health public employee only plan including a narrative description and other background information on program operation; and enacted legislation, Attorney General's legal opinion; Governor's letter of designation; inspection scheduling system; procedures for on-site consultation; agreement with the Health Department for laboratory services; recordkeeping instructions; organization chart; job descriptions; State Personnel Act; affirmative action plan; and budget were approved by the Assistant Secretary on August 3, 1983 [48 FR 37025, August 16, 1983].

(g) In accordance with 29 CFR 1956.10(g), a State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. The Connecticut Public Employee Only State plan provides for three (3) safety compliance officers and one (1) health compliance officer as set forth in the Connecticut Fiscal Year 1986 grant. This staffing level meets the "fully effective" benchmarks established for Connecticut for both safety and health.

This certification covers all safety and health issues applicable to State and local government employees (public employees). Federal enforcement of all occupational safety and health issues will continue to be exercised in the private sector.

Location of the Plan and Its Supplements for Inspection and Copying

Copies of the supplements along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor-OSHA, 16-18 North Street, One Dock Square Building, Boston, Massachusetts 02109; Commissioner, Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06190; and, Director, Federal-State Operations, Room N3476, 200 Constitution Avenue NW., Washington, DC 20210.

Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The Assistant Secretary finds that all of the Connecticut Public Employee Only plan supplements described above are consistent with commitments contained in the approved plan, which was previously made available for public comment. Moreover, the supplements have been adopted by the State in accordance with State administrative procedures which provide for public participation and have all been approved by the Assistant Secretary in earlier notices. Accordingly, it is found that further notice and public comment is unnecessary for certification of the completion of the Connecticut Public Employee Only State plan's developmental steps.

Effect of Certification

The Connecticut Public Employee Only plan is certified effective August 19, 1986, as having completed all developmental steps on or before October 2, 1979. This certification attests to structural completion, but does not render judgment on adequacy of performance. The Connecticut occupational safety and health public employee only program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine operational effectiveness.

Level of Federal Enforcement

In accordance with section 18(c) of the Act and 29 CFR Part 1956, the Connecticut occupational safety and health State plan is applicable only to employees of the State and its political subdivisions (public employees). Federal OSHA has jurisdiction and provides full enforcement coverage of all occupational safety and health standards with regard to employers and employees in the private sector.

List of Subjects in 29 CFR Part 1956

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

In accordance with 29 CFR 1956.23, the Connecticut State plan is hereby certified as having successfully completed all developmental steps, and Subpart E of 29 CFR Part 1956 is amended to reflect this certification.

Signed at Washington, DC, this 19th day of August 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1956—[AMENDED]

In accordance with this certification, 29 CFR Part 1956 is hereby amended as follows:

1. The authority citation for Part 1956 continues to read as follows:

Authority: Secs. 8, 18, Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12-71, (36 FR 8754), 8-76 (41 FR 25059) or 9-83 (48 FR 35736), as applicable.

2. 29 CFR 1956.44 is amended to reflect successful completion of the developmental steps by revising the title of the section and by adding a new paragraph (h) as follows:

§ 1956.44 Completion of developmental steps and certification.

(h) In accordance with § 1956.23 of this chapter, the Connecticut occupational safety and health public employee only plan was certified effective August 19, 1986 as having completed all developmental steps specified in the plan as approved

October 2, 1978, on or before October 2, 1979. This certification attests to the structural completeness of the plan, but does not render judgment on adequacy of performance.

[FR Doc. 86-18988 Filed 8-19-86; 12:00 pm]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Permanent Program Amendments From the Commonwealth of Kentucky Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule concerning permanent program amendments from the Commonwealth of Kentucky under the Surface Mining Control and Reclamation Act of 1977, at 30 CFR Part 917.17(c) disapproving Kentucky House Bill 869. The rule was published July 18, 1986 (51 FR 26002) and incorrectly listed the disapproved bill as *Senate* Bill 869.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky, 40504 Telephone: (606) 233-7327.

Dated: August 15, 1986.

Arthur W. Abbs,

Acting Assistant Director, Program Operations, Office of Surface Mining Reclamation and Enforcement.

Accordingly, the Office of Surface Mining Reclamation and Enforcement is correctly adding 30 CFR Part 917.17(c) to read as follows:

PART 917—[AMENDED]

§ 917.17 State program provisions disapproved.

* * * * *

(c) The amendment contained in House Bill 869, submitted to OSMRE on April 29, 1986, to amend the Kentucky Revised Statute at KRS 350.092 is hereby disapproved effective July 15, 1986.

[FR Doc. 86-18989 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 86-13]

Marine Event: NJBA Regatta, Parker, AZ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the NJBA Regatta. This event will be held on 23 and 24 August 1986 at Parker, Arizona. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective from 8:00 a.m. to 8 p.m. on 23 August 1986 and terminate on 24 August 1986.

FOR FURTHER INFORMATION CONTACT: LT Kathryn S. Gregory, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822-5399, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received until 6 August 1986, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 86-13) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are Lt. Kathryn S. Gregory, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, and Lt David S. Riley, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

The National Jet Boat Association's "NJBA Regatta" will be conducted on 23 and 24 August 1986 on the Colorado River in front of the Bluewater Marina in Parker, Arizona. This event will have approximately 200 inboard high speed ski boats, 18 to 20 feet in length that could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water)

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 USC 1233; 49 CFR 1.46(b) and 33 CFR 100.35.

2. 33 CFR 100 is amended by adding a temporary § 100.35 11-86-13 to read as follows:

§ 100.35 11-86-13-NJBA Regatta, Parker, Arizona.

(a) *Regulated Area:* The following area will be closed intermittently to all vessel traffic: that portion of the Arizona side of the Colorado River, from Headgate Rock Dam thence 1.5 miles North. The area will be open for ten minutes, on the hour, to allow the transit of spectators.

(b) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official vessels are considered spectators. An "official vessel" consists of any Coast Guard, public, state or local law enforcement and/or sponsor-provided vessels assigned to each event.

(1) Spectators shall not anchor, block, loiter in, or impede the through transit of participants or official vessels in the regulated area during the effective dates and times, unless cleared for such entry by an official vessel.

(2) When hailed and/or signaled by an official vessel, a spectator shall come to an immediate stop and comply with all directions given. Failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. He may terminate the event at any time it is deemed necessary for the protection of life and property. The Patrol Commander is the person designated to be in charge of all official vessels assigned to the event. He may

be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(c) *Effective Dates:* These regulations will be effective from 6:00 am to 8:00 pm on 23 and 24 August 1986.

Dated: August 13, 1986.

A. Bruce Beran,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 86-18893 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 668

Postsecondary Education; Student Assistance General Provisions

Correction

In FR Doc. 86-18319 beginning on page 29396 in the issue of Friday, August 15, 1986, make the following correction: On page 29398, in the third column, in § 668.58 (d)(2), in the fifth line, "can" should read "cannot".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 60729-6129]

Trademark Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in trademark cases to revise and clarify the requirements for drawings, to revise the requirements that an application must meet to receive a filing date, to revise the requirements for specimens submitted in connection with applications for service marks not used in printed or written form, and to abolish the practice of accepting informal drawings. The amendments are needed to reduce the computer system storage space required for drawings; to insure that all applications which are filed can be searched under the automated search system; to insure that drawings can be faithfully reproduced by photocomposition techniques; and to codify the existing practice in accepting audio cassette tape recordings as specimens in connection with sound mark applications.

EFFECTIVE DATE: September 22, 1986.

FOR FURTHER INFORMATION CONTACT: Ellen J. Seeherman by telephone at (703) 557-7464 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Amendments to §§ 2.21, 2.52 and 2.58 and the removal of § 2.54 were proposed in a rulemaking notice published in the **Federal Register** on August 1, 1984 at 49 FR 30749 and in the *Official Gazette* of September 4, 1984 at 1046 TM O.G. 5. Interested parties were requested to submit written comments on or before October 30, 1984. Written comments were submitted by four individuals, one company and two organizations.

Section 2.21(a)(3) is being amended to ensure that only applications which include a drawing of satisfactory reproduction characteristics, as defined in § 2.52, will be accorded a serial number and filing date.

Section 2.52 (a) and (b) are being amended to add clarifying language, but the reproduction standards of these sections have not been changed. Section 2.52 (c) is being amended to limit the size of drawings to ensure that drawings submitted by applicants can be reproduced in the Official Gazette, on the certificate of registration and in the automated search system without the loss of detail that would occur if the drawings had to be reduced by the Patent and Trademark Office. Section 2.52 (e) is being amended merely to reinforce the requirement of § 2.52 (a) that lines must not be fine or crowded.

Section 2.54 is being removed to abolish the practice of accepting informal drawings and thereby ensure that only applications with drawings of satisfactory reproduction characteristics for viewing on computer terminal display screens will be accorded a serial number and filing date.

Section 2.58 (b) is being amended to reflect the current practice of the Office to accept audio cassette tapes as specimens of service marks not used in printed or written form.

Two commenters expressed unequivocal support for the proposed amendment to Rule 2.58, which the other commenters did not refer to this particular revision.

One commenter approved the proposed amendment to Rule 2.52, while two others questioned the clarity of the rule. One of these inquired whether Bristol board paper would still be considered acceptable for drawings. While Bristol board would be acceptable, it was not considered necessary to modify the rule to specifically refer to this type of paper since it is accepted under the current practice even though it is not specifically mentioned in the current rule. The second commenter indicated that clarification was necessary as to whether stippling or lining for shading is permitted. This suggestion has not been adopted because the proposed amendment specifically refers to color lining and lines used for shading. This same commenter also objected to the size limitation because detail may be lost. The commenter has suggested that the size of the drawing be increased to the maximum size compatible with the Patent and Trademark Office's automated equipment. This suggestion has not been adopted because the drawings must be of a reduced size in order to appear in the Official Gazette and on the certificate of registration. As the commenter has pointed out, reduction of a drawing may result in loss of detail, and it is thought preferable for the applicant to determine which detail should be eliminated and still retain the commercial impression of the trademark rather than having the Patent and Trademark Office arbitrarily reduce the drawing and perhaps eliminate detail important to the applicant.

All of the commenters expressed concern with the proposed revision to Rule 2.21. Several referred to the loss of rights under section 44(d) of the Lanham Act if a filing date were to be denied because of an unacceptable drawing. Another commenter stated that U.S. applicants wished to get their applications on file as quickly as possible, and to do this preferred to send a photograph of their mark rather than take the time to have a drawing prepared. In connection with these objections, the commenters expressed concern about the uncertainty about whether a filing date would be awarded, and long delays before applicants would be notified about rejections of informal drawings.

The Office's experience with examining applications as to whether they meet the requirements for receiving a filing date should alleviate these concerns. Under the current practice, Rule 2.21(c) provides that papers which do not satisfy the requirements of 2.21(a) are returned to the applicant. Office experience over the past three years, the period this rule has been in effect, shows that a determination that the papers are informal and the return of the papers occurs between 2 and 5 days of the date the papers are submitted. It is believed that this procedure will not harm applicants filing pursuant to the provisions of Section 44(d) or domestic

applications. Section 44(d) applicants have six months from the filing of their foreign application to file a formal U.S. application. In order to ensure that their drawings are acceptable under the proposed rule, they need file them only a few weeks before the six month period expires. Since the right of priority provides an effective filing date as of the filing of the foreign application, even if the application had to be resubmitted because of a defective drawing the effective filing date would remain the same. As for domestic applicants, it is recognized that the Office examines applications in the order in which they are received; that where there are conflicting applications, it is the application with the earliest effective filing date which is allowed; and that a registration on the Principal Register is prima facie evidence of registrant's use of the mark shown therein for the goods or services specified in the registration from the filing date of the application which matured into the registration. However, it is believed that any disadvantages faced by a particular applicant whose filing date is delayed as a result of the rule amendments are outweighed by the benefits to the trademark system, the public and the Patent and Trademark Office in having a system where all marks can be searched.

Several commenters suggested an alternative procedure to the proposed rule, whereby applications with defective drawings would be given a filing date, but the applicant would have 30 days from the notification of the defect, or 60 days from the filing of the application, whichever is longer, to submit an acceptable drawing. This suggestion cannot be implemented because such marks would be unavailable in the automated search system when examining attorneys and the public require this information for searches. Currently, examining attorneys are performing searches on applications in less than 60 days, and the expectation is that this time will be further reduced. If these defective special form drawings are not available on the automated search system, examining attorneys will be unable to cite them as prior pending applications. The suggested alternative would also cause a disservice to the public, for even if copies of the defective drawings were placed in a paper file for searching, it would be a burden to hunt through a 60-day accumulation of these papers which personnel cost considerations would prevent being separated by subject matter and class.

Several commenters stated a fear of overzealous enforcement of the amended rules, with marks being excluded from the trademark registration system because of technicalities. One commenter suggested that the test for holding the application informal be whether or not the applicant had made a bona fide attempt to comply with the rule. To allay these concerns the rule is being amended to require "substantial" compliance with § 2.52. The Office will make every effort to interpret the rule sensibly, and will accord an application a filing date as long as the drawing meets the size restrictions and consists of black lines on white paper, without gray or half tones. Detailed procedures and guidelines for the Office's clerical personnel should ensure a reasonable and evenhanded approach. The implementation of the rules will be monitored carefully for the first several months.

One commenter inquired about the fate of applications which had acceptable drawings when filed but the drawings were damaged by Patent and Trademark Office personnel. As in the case of other applications which are improperly returned, a filing date which is erroneously cancelled will be reinstated.

Environmental, energy, and other considerations:

The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) since any additional burden would be minimal and not disproportionate in effect.

This rule contains no new information collection requirement for the purpose of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The existing application requirements referenced in this rule have been approved by OMB (Approval No. 0651–0009).

The Patent and Trademark Office has determined that these changes do not constitute major rules as defined in section 1(b) of Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agenices or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 2

Administrative practice and procedures, Courts, Lawyers, Trademarks.

After consideration of the comments received and pursuant to the authority contained in section 41 of the Trademark Act of July 5, 1946, as amended, and 35 U.S.C. 6, Part 2 of Title 37 of The Code of Federal Regulations is amended as set forth below.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR Part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 6, unless otherwise noted.

2. In § 2.21 paragraph (a) introductory text is republished and paragraph (a)(3) is revised to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

* * * * *

(3) A drawing of the mark sought to be registered substantially meeting all the requirements of § 2.52;

* * * * *

3. Section 2.52 is revised to read as follows:

§ 2.52 Requirements for drawings.

(a) *Character of drawing.* All drawings, except as otherwise provided, must be made with the pen or by a process which will provide high definition upon reproduction. A photolithographic reproduction or printer's proof copy may be used if otherwise suitable. Every line and letter, including color lining and lines used for shading, must be black. All lines must

be clean, sharp, and solid, and must not be fine or crowded. Gray tones or tints may not be used for surface shading or any other purpose. The requirements of this paragraph are not necessary in the case of drawings permitted and filed in accordance with paragraph (d) of § 2.51.

(b) *Paper and ink.* The drawing must be made upon paper which is flexible, strong, smooth, nonshiny, white and durable. A good grade of bond paper is suitable; however, water marks should not be prominent. India ink or its equivalent in quality must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(c) *Size of paper and margins.* The size of the sheet on which a drawing is made must be 8 to 8½ inches (20.3 to 21.6 cm.) wide and 11 inches (27.9 cm.) long. One of the shorter sides of the sheet should be regarded as its top. It is preferable that the drawing be 2.5 inches (6.1 cm.) high and/or wide, but in no case may it be larger than 4 inches (10.3 cm.) high and 4 inches (10.3 cm) wide. If the amount of detail in the mark precludes a reduction to this size, such detail may be verbally described in the body of the application. There must be a margin of at least 1 inch (2.5 cm.) on the sides and bottom of the paper and at least 1 inch (2.5 cm.) between the drawing and the heading.

(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one fourth of the sheet, there must be placed a heading, listing in separate lines, applicant's complete name, applicant's post office address, the dates of first use of the mark and first use of the mark in commerce (except for an application filed under section 44 of the Trademark Act), and the goods or services recited in the application or a typical item of the goods or services if a number of items are recited in the application. This heading should be typewritten.

(e) *Linings for color.* Where color is a feature of a mark, the color or colors employed may be designated by means of conventional linings as shown in the following color chart:

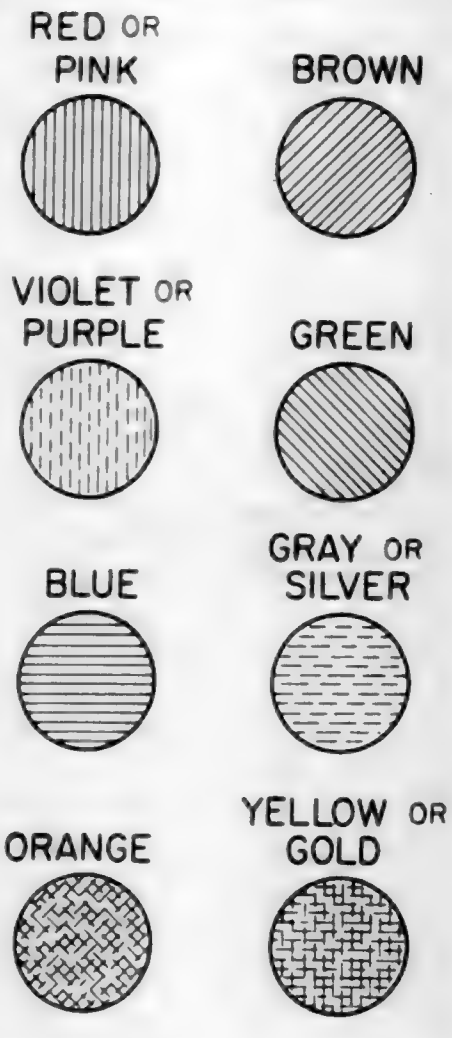

§ 2.54 [Removed]

4. Section 2.54 is removed.

5. Section 2.58(b) is revised to read as follows:

§ 2.58 Specimens or facsimiles in the case of a service mark.

* * * * *

(b) In the case of service marks not used in printed or written form, three audio cassette tape recordings will be accepted.

Dated: July 3, 1986.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 86-18864 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-16-M

POSTAL SERVICE

39 CFR Part 111

Extension of Time for Filing Comments on Eligibility of Separate Publications To Mail at Second-Class Rates

AGENCY: Postal Service.

ACTION: Interim rule; extension of time.

SUMMARY: On July 15, 1986, the Postal Service published an interim rule establishing criteria for determining whether an "issue" of a second-class publication that is not regularly published on the same day as another "issue" of the same publication will be considered a separate publication for postal purposes. The interim rule was intended to make it explicit that "issues" having the characteristics of Plus products must be considered separate publications even though they are not published on the same day as another regular issue of the parent second-class periodical. Plus products are characterized in the Postal Rate Commission's Opinion and Recommended Decision on the Complaint of Advo-System, Inc., which was approved by the Governors of the Postal Service on March 3, 1986. The Postal Service requested comments on the interim rule on or before August 14, 1986.

Several mailers have asked that the deadline for comments be extended so that they may make a more complete assessment of the rule and its potential impact.

The Postal Service believes that comments generated by such assessments will provide valuable information in formulating a final rule that accomplishes the intent of the Commission and the Governors.

DATE: Comments on the interim rule must now be received on or before August 28, 1986.

ADDRESS: Written comments should be directed to Mr. Donald Dillman, Director, Office of Classification and Rates Administration, U.S. Postal

Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, U.S. Postal Service Headquarters, 475 L'Enfant Plaza W., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Beller, (202) 268–5166.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–18889 Filed 8–20–86; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–3065–8]

Approval and Promulgation of Implementation Plans; Nevada; Las Vegas Valley Post-82 Ozone Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving the Nevada post 1982 State Implementation Plan (SIP) revision for the Las Vegas Valley ozone (O_3) nonattainment area. The revision has been evaluated against the Clean Air Act and EPA policy for areas with federally approved 1979 SIPs that did not attain the National Ambient Air Quality Standards (NAAQS) by December 1982 and thus were required to revise their SIPS. EPA has found that the SIP revision for the Las Vegas Valley successfully meet Clean Air Act and EPA requirements.

EFFECTIVE DATE: September 22, 1986.

ADDRESSES: A copy of today's revision to the Nevada SIP is located at:

Public Information Reference Unit, EPA Library, 401 M Street, Washington, DC

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington DC

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105. Att: Wallace Woo (415) 974–7634.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act (CAA) Amendments of 1977 required states to revise their SIPs by January 1979 for all areas that had not attained the NAAQS. These "1979 SIP revisions" were to provide for attainment of the NAAQS by December 31, 1982. However, EPA determined at a later date that the Las Vegas Valley would not attain the O_3 NAAQS by December 1982 and on February 3, 1983 (48 FR 49721), EPA proposed to find the SIP inadequate and proposed to impose sanctions. On February 24, 1984 EPA notified the Governor of Nevada that the SIP for Clark County did not adequately provide for attainment of the O_3 standard and called for a revised SIP. On January 11, 1985, the Governor of Nevada submitted the post 1982 Ozone Update of the Las Vegas Valley Air Quality Implementation Plan.

Plan Evaluation

EPA has evaluated this plan submittal and has determined that it satisfied the requirements for a demonstration of the standard by December 31, 1987, and the adoption of all necessary control measures. To address the reasonable further progress requirements, the state has demonstrated that sufficient reductions have occurred to provide for attainment of the O_3 standard. In addition the plan satisfied the following requirements: (1) Adequate evidence of public and governmental involvement; (2) A contingency provision which describes the process for correcting failures to meet reasonable further progress; (3) Procedures to ensure conformance with the SIP for transportation plans, programs, and projects which are approved by the metropolitan planning organization; (4) A commitment to developing, expanding or improving public transportation needs; (5) Enforcement of the existing SIP. EPA has received the projected emissions inventories beyond 1987 submitted by the Clark County Health District, and it has determined that it is consistent with the attainment strategy of the plan. A complete discussion of EPA's evaluation of the plan can be found in the September 9, 1985 FR notice (50 FR 36635).

Public Comment

There were no comments received.

EPA Action

EPA is fully approving the post 1982 Nevada SIP update for the Las Vegas portion of Clark County. The Plan update satisfactorily meets all section 110 and Part D requirements of the Clean Air Act and EPA policy.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 20, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the **Federal Register** on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Carbon Monoxide.

Dated: August 8, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 (40 CFR Part 52) is amended as follows:

Subpart DD—Nevada

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1470 is amended by adding paragraph (c)(33) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(33) On January 11, 1985, the following amendments to the plan were submitted by the State.

(i) Incorporation by reference.

(A) Las Vegas Valley Air Quality Implementation Plan, Post 1982 Update for Ozone adopted on October 16, 1984.

(ii) Additional Material.

(A) Emissions Inventory for 1995, transmitted by a letter dated March 14, 1986.

[FR Doc 86–18452 Filed 8–20–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 228

[OW–10–FRL–3067–6]

Ocean Dumping; Final Designation of Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates four existing dredged material disposal sites located offshore of the mouth of the Columbia River, Oregon-Washington, as EPA approved ocean dumping sites for the dumping of dredged material removed from the entrance channel to the Columbia River and other small harbors and channels bordering the lower river. These final site designations are for an indefinite period of time but are subject to continued monitoring in order to insure that adverse environmental impacts do not occur. This action is necessary to provide

VOL 51 ISS 162 AG 21 1986 UMI

acceptable ocean dumping sites for the current and future disposal of this material.

EFFECTIVE DATE: These site designations shall become effective on September 22, 1986.

ADDRESSES: The file supporting this final designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC
EPA Region X, 1200 Sixth Avenue, Seattle, Washington
U.S. Army Corps of Engineers Library, Portland District, 319 Southwest Pine Street, Portland, Oregon

FOR FURTHER INFORMATION CONTACT: Paul Pan, 202/475-7131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, section 228.4) state that ocean dumping sites will be designated by promulgation in Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was last extended on August 19, 1985 (50 FR 33338 *et seq.*). That list established these sites as interim sites.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA has prepared a draft and final EIS entitled "Environmental Impact Statement (EIS) for the Mouth of Columbia River Dredged Material Disposal Site Designation." On October 15, 1982, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register** (47 FR 46135). The public comment period on this draft EIS closed November 29, 1982. Twelve reviewers submitted comments on the draft EIS, which the Agency assessed and responded to in the final EIS. Editorial or factual corrections required by the comments were incorporated in the text and noted in the Agency's response. Comments which could not be appropriately treated as text changes were addressed point by point in the final EIS, following the letters of comment.

On April 29, 1983, a notice of availability of the final EIS for public review and comment was published in the **Federal Register** (48 FR 19465). The public comment period on the final EIS closed May 30, 1983. One comment was received on the final EIS which requested a consistency determination under the Coastal Zone Management Act. The states of Washington and Oregon have concurred with EPA's consistency determination. Anyone desiring a copy of the EIS may obtain one from the address given above.

The Fish and Wildlife Service and the National Marine Fisheries Service have concurred with EPA's conclusion that the designation of these disposal areas will not affect the endangered species under their jurisdictions.

This final rulemaking notice fills the same role as the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

C. Site Designation

On October 2, 1985, EPA proposed designation of these sites for the continuing disposal of dredged materials from the entrance channel to the Columbia River and other small harbors bordering the lower river (50 FR 40274). The public comment period expired on November 18, 1985.

Three letters of comment were received in response to the proposed rule. The Corps of Engineers made several comments correcting facts which have been incorporated into this final rulemaking. Two commentors expressed concern that the use of Site E might adversely affect potential black sand mining operations thus having the effect of curtailing future production of strategic metals. However, the Corps of Engineers in their comments stated that dredged material disposed of at the site would not be likely to cause a significant increase in the sand overburden at the potential mining site due to the distance between Site E and the potential mining operation. The final EIS indicates that the black sand mining operation is four nautical miles north of Site E. Dredged sediments are typically transported in a northeastward direction onto Peacock Spit, parallel to the beach, although a portion may be transported into the embayments north of the entrance channel but seaward of the main part of the estuary. Based on these findings, it is unlikely that the dredged material disposal would cause a significant increase in sand overburden at the mining site.

All four sites are located between one and six nautical miles from shore near the Columbia River at water depths ranging from 14 to 42 meters. Currently approximately six million cubic yards is dredged annually to maintain the 17-meter channel depths. These ocean sites receive the material dredged from the channel.

Because of the severity of weather conditions in the region, dredging can be conducted only from mid-April to mid-October. The four sites available for dredged material disposal would allow full advantage of the short dredging season and enable greater flexibility for site selection and use when considering the weather conditions, sediment accumulation, vessel traffic and number of hopper dredges operating at the mouth of the river.

The sites are named A, B, E, and F for identification. Site A is located approximately four nautical miles from shore and occupies an area of about 0.27 square nautical miles. Corner coordinates are as follows:

46d 13' 03" N., 124d 06' 17" W.;
46d 12' 50" N., 124d 05' 55" W.;
46d 12' 13" N., 124d 06' 43" W.;
46d 12' 26" N., 124d 07' 05" W.

Site B is located approximately four nautical miles from shore and occupies an area of about 0.25 square nautical miles. Corner coordinates are as follows:

46d 14' 37" N., 124d 10' 34" W.;
46d 13' 53" N., 124d 10' 01" W.;
46d 13' 43" N., 124d 10' 20" W.;
46d 14' 28" N., 124d 10' 59" W.

Site E is located approximately one nautical mile from shore and occupies an area of about 0.06 square nautical miles. Corner coordinates are as follows:

46d 15' 43" N., 124d 05' 21" W.;
46d 15' 36" N., 124d 05' 11" W.;
46d 15' 11" N., 124d 05' 53" W.;
46d 15' 18" N., 124d 06' 03" W.

Site F is located approximately five nautical miles from shore and occupies an area of about 0.08 square nautical miles. Corner coordinates are as follows:

46d 12′ 12″ N., 124d 09′ 00″ W.;
46d 12′ 00″ N., 124d 08′ 42″ W.;
46d 11′ 48″ N., 124d 09′ 00″ W.;
46d 12′ 00″ N., 124d 09′ 18″ W.

D. Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general criteria are given in Section 228.5 of the EPA Ocean Dumping Regulations, and Section 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The existing sites, as discussed below under the eleven specific factors, are acceptable under these five general criteria except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting sites off the Continental Shelf instead of those sites in this action. In addition, the increased transit distance and time required for disposal farther offshore would further reduce the effective dredging season already restricted by weather conditions. Historical use of the existing sites has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the existing sites are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(1)]

Geographical positions and distances from the coast for each existing site are given above. Water depths of sites range from 14 to 42 meters. The bottom topography of the nearshore mouth of the Columbia River region is characterized by a westward trending tidal delta and an elongation of the sand spit caused mainly by disposal at Site B, in the south half of Site B and just offshore from it.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases* [40 CFR 228.6(a)(2)]

Breeding, spawning, nursery and/or passage activities of commercially important finfish and shellfish species all occur on a seasonal basis close to the mouth of the Columbia River. The spawning season of the dungeness crab is from December to April. With few crab larvae evident in the plankton after March, the probability that dredged material disposal at the mouth of the Columbia River will interfere with larval survival is small. Similarly, there is small likelihood of interference with the larval and juvenile crab populations on the ocean floor. Due to the mobility of finfish, it is unlikely that disposal operations will interfere with the migrations of commercially important anadromous species.

Twenty years of dumping at the sites has not caused significant or irreversible impacts on living resources. The effects of disposal on demersal fish are apparent temporary decreases in abundance, numbers of species, mean size, and a change in food preference; deposition at the sites in prior years revealed no apparent lasting effect on the diversity and number of finfish. The feeding, breeding, and migratory activities of marine mammals are not significantly affected by dredged material disposal in the area.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3)]

All of the interim sites are close to shore, but only sediment dumped at Site E is likely to reach adjacent beaches. Sediments with median diameters of 0.18 millimeters (e.g., dredged sediments from the entrance channel) may be transported as bedload during winter storms. However, net sediment transport from Sites A, B, and F is northward and generally parallel to the isobaths, at rates of 0.25 nautical miles per year. Therefore, sediments dumped at Sites A, B, or F are not likely to be transported onto adjacent beaches. Dredged material released at Site E is dispersed, and no sediment accumulation has been detected. Previous studies have indicated a probable northeasterly transport of sediments onto Peacock Spit and adjacent beaches, although portions of the material dumped at Site E may move into the embayments north of the entrance channel but seaward of the main portion of the estuary. The material is predominantly clean sand which is suitable for beach nourishment; consequently, transport of dredged materials from Site E should have beneficial effects on local beaches. Furthermore, Washington State Parks Department has requested preferential use of Site E to retard erosion of the coastal beaches.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4)]

Dredged sediments from the main entrance and from entrance channels to other small harbors west of Astoria Bridge are the only materials presently dumped at the sites. Dredged materials are 95 to 98 percent sand and comply with the requirements of § 227.13(b) of the Ocean Dumping Regulations. Sediments are transported by a hopper dredge equipped with a subsurface release mechanism and are not packaged in any manner. Disposal volumes average six million cubic yards during each six-month dredging season. The interim sites are close to the dredging sites, and their use will minimize transport time and facilitate a coordinated controlled dumping schedule.

In 1979 approximately 95 percent of the dredged material disposed was released at Site E. However, since deepening the channel to 17 meters in 1984, Site A has received 15–25 percent of the total material dredged; Site B has received 60–85 percent, and Site E has received 15–25 percent. Site F has not been used recently. Other sites can be used to control shoaling caused by eastward transport of sediment from Site E. The quantity of dredged material to be disposed at each site will be determined based upon the physical characteristics of the material and its potential for impact.

Future dredged material volumes may exceed present volumes if the navigational safety of the entrance channel necessitates expanded dredging efforts or if other dredged material is disposed at the site. Any dredged material disposed at the sites must comply with EPA's permit application evaluation criteria for dredged materials in § 227.13 of the Ocean Dumping Regulations (Ocean Dumping Criteria).

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5)]

The U.S. Coast Guard is not currently carrying out surveillance at the interim sites. However, due to the proximity of the sites to shore, surveillance would not be difficult. Monitoring is not a problem because the sites are close to shore and in shallow water. Prior to and during annual dredging, the Corps of Engineers surveys the entrance channel and bottom topography within the site boundaries and identifies shoaling or mounding areas.

Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the site is

used. Annual bathymetry surveys will be conducted with additional surveys scheduled as needed. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site. For example, if movement of material appears likely to impact a known resource, analysis of the benthic community or the specific resource will be undertaken.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* [40 CFR 228.6(a)(6)]

Dredged material is primarily medium to fine grained sand, thus rapid settling of the released sediments occurs with slight horizontal mixing or vertical stratification. Rapid settling precludes persistent changes in the postdisposal suspended sediment concentration. Large waves and tidal currents at Site E may result in a significantly greater horizontal dispersion of released sediments relative to Sites A, B, and F.

Previous studies have demonstrated the relative immobility of dredged sediments dumped at Sites A, B, and F. Large percentages of the dredged sediments released at these sites will remain within the boundaries of the sites; smaller proportions of dredged material move slowly northwards (0.25 nautical miles per year). Dredged materials dumped at Site E during summer are completely eroded during the following winter. Previous studies have indicated a probable northeasterly transport of sediments onto Peacock Spit and adjacent beaches, although portions of the material dumped at Site E may move into the embayments north of the entrance channel but seaward of the main portion of the estuary.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* [40 CFR 228.6(a)(7)]

Studies indicate that disposal of dredged material at the interim sites causes only minor impacts: temporary localized mounding, slight changes in sediment texture, and temporary disturbance of benthic infauna and demersal finfish assemblages. Clean sands dredged from the high-energy entrance channel have not produced any changes in water or sediment quality at the disposal sites.

Although there has been no significant mounding at any site, sediment has accumulated within Site B at a shoaling rate of approximately 3 meters in 20 years. Present water depths range from 22 to 39 meters; therefore, shoaling does not currently present a problem to navigation. Mounds of accumulated dredged sediments at Site B tend to spread laterally and flatten under the influence of bottom current and wave-induced turbulence.

Disturbances to infauna are caused by direct burial of sessile or slow-moving organisms. Substrate disturbances cause temporary (one to two months) changes in infaunal biomass and diversity. Other benthic species are motile or able to withstand temporary burial. Localized and temporary changes in finfish abundances may result from changes in fish food abundances. Effects on the biota are neither cumulative nor irreversible.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* [40 CFR 228.6(a)(8)]

Extensive shipping, fishing, and recreational activities, in addition to scientific investigations, take place in the vicinity of the interim sites. Minor interferences with these activities may occur; however, dredging personnel can shift disposal operations to another site or temporarily suspend dredging during periods of conflict. Mineral extraction, desalination, and aquaculture activities do not presently occur in the vicinity of the mouth of the Columbia River. A black sand mining operation has been mentioned for a nearshore area four nautical miles north of the North Jetty. Because of the distance between the mining site and Site E, the fact that the dredged material previously released at Site E has not been shown to accumulate, it is unlikely that dredged material disposal would cause a significant increase in the sand overburden at the mining site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* 40 CFR 228.6(a)(9)]

Investigations suggest that the disposal of clean sands, dredged from the entrance channel, will have minimal adverse impacts on the water quality or ecology at the sites.

The mouth of the Columbia River is a dynamic, high-energy environment; and water quality parameters (concentrations of dissolved nutrients, trace metals, dissolved oxygen, pH, or turbidity) are influenced by river discharge volumes, tidal cycles, wave conditions, and biological activity.

The distribution of nearshore planktonic communities is both temporally and spatially variable. Phytoplankton communities consist of a diverse assemblage of diatoms and dinoflagellates, with seasonally variable productivities and standing crop. Zooplankton are dominated by calanoid copepods, gammarid amphipods, cumaceans, and mysids. Smelt, anchovy, right eye flounder, and codfish, which are part of the ichthyoplankton community at certain stages of their life cycle, are dominant.

Releases of dredged material do not produce a persistent turbidity plume, thus decreased light transmission with a concomitant decrease in phytoplankton primary productivity is not expected to occur. In addition, no detectable changes in dissolved nutrients or trace metal concentrations accompany disposal; therefore, no significant adverse impacts on phytoplankton productivity are expected.

Benthic assemblages at the mouth of the Columbia River are abundant, diverse and adapted by sediment type and depth. Polychaetes, crustaceans, and molluscs are the dominant benthic organisms. These benthic organisms could be affected by dredged material disposal, by temporary burial and slight changes in sediment texture. Disposal-related turbidity impacts are improbable because post-disposal, suspended particulate concentrations are not significantly different from pre-disposal concentrations. Subsequent to disposal activities, the sites are repopulated by benthic organisms which either burrow up through the substrate or migrate into the site from adjacent areas. Therefore, effects of dredged material disposal are temporary and do not extend beyond the boundaries of the disposal sites.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* [40 CFR 228.6(a)(10)]

Previous surveys at the interim sites did not detect the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* [40 CFR 228.6(a)(11)]

The Washington State Department of Archaeology is compiling an inventory of cultural and historic resources for the mouth of the Columbia River. Although density of known shipwrecks is high, information about the exact location, historical value, and accessibility of individual wrecks must be compiled. Previous dredged material disposal has reduced the potential for locating or recovering cultural features of historical importance at the interim sites.

By letter of December 15, 1982, the State Office of Archaeology acknowledged that the EIS adequately considered any potential impact on cultural resources, and the precautions to be taken to avoid or mitigate anticipated impacts to identified or

unidentified cultural resources are adequate.

E. Action.

The EIS concludes that the existing sites may appropriately be designated for continuing use. The existing sites are compatible with the criteria used for site selection; designating sites other than the existing sites offers no clear economic advantage or environmental benefit; the existing sites have been historically used without apparent significant adverse environmental effects.

Based on the information reported in the EIS, EPA is designating the four existing mouth of the Columbia River dredged material disposal sites as EPA approved ocean dumping sites for continuing use for the ocean disposal of dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the four existing mouth of the Columbia River dredged material disposal sites as EPA Approved Ocean Dumping Sites is being published as final rulemaking. Management authority of these sites will be delegated to the Regional Administrator of EPA Region X.

One previously interim-designated ocean site, Site G, is not included in this final site designation. Site G was an experimental site where material was dumped in 1974 as part of the Corps of Engineers Dredged Material Research Program study conducted at the mouth of the Columbia River. No material has been deposited there since, and there are no plans to use the site in the future.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with EPA's ocean dumping criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: August 7, 1986.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing paragraph (a)(1)(ii)(E), and adding paragraphs (b) (23), (24), (25), and (26) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(23) Mouth of Columbia River Dredged Material Site A—Region X. Location: 46d 13' 03" N., 124d 08' 17" W.; 46d 12' 50" N., 124d 05' 55" W.; 46d 12' 13" N., 124d 08' 43" W.; 46d 12' 26" N, 124d 07' 05" W.

Size: 0.27 square nautical miles.

Depth: Ranges from 14–25 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(24) Mouth of Columbia River Dredged Material Site B—Region X. Location: 46d 14' 37" N., 124d 10' 34" W.; 46d 13' 53" N., 124d 10' 01" W.; 46d 13' 43" N., 124d 10' 26" W.; 46d 14' 28" N., 124d 10' 59" W.

Size: 0.25 square nautical miles.

Depth: Ranges from 24–39 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(25) Mouth of Columbia River Dredged Material Site E—Region X. Location: 46d 15' 43" N., 124d 05' 21" W.; 46d 15' 26" N., 124d 05' 11" W.; 46d 15' 11" N., 124d 05' 53" W.; 46d 15' 18" N., 124d 06' 03" W.

Size: 0.08 square nautical miles.

Depth: Ranges from 18–21 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(26) Mouth of Columbia River Dredged Material Site F—Region X. Location: 46d 12' 12" N., 124d 09' 00" W.; 46d 12' 00" N., 124d 08' 42" W.; 46d 11' 48" N., 124d 09' 00" W.; 46d 12' 00" N., 124d 09' 18" W.

Size: 0.08 square nautical miles.

Depth: Ranges from 38–42 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

[FR Doc 86-18753 Filed 8-19-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[OW-10-FRL-3067-5]

Ocean Dumping; Final Designation of Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates two existing dredged material disposal sites and one new dredged material disposal site located in the Pacific Ocean offshore of Coos Bay, Oregon, as EPA approved ocean dumping sites for the dumping of material dredged from the bay to maintain navigation channels. These final site designations are for an indefinite period of time but are subject to continued monitoring in order to insure that adverse environmental impact do not occur. The two existing sites (Sites E and F) will be used for disposal of larger grained dredged material, while the new site (Site H) farther offshore will be used for disposal of finer sediments more compatible with sediments of that area. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of this material.

EFFECTIVE DATE: These site designations shall become effective on September 22, 1986.

ADDRESSES: The file supporting this designation is available for public inspection at the following locations:

VOL 51 ISS 162 AG 21 1986 UMI

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC
EPA Region X, 1200 Sixth Avenue, Seattle, Washington
U.S. Army Corps of Engineers Library, Portland District, 319 Southwest Pine, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
Paul Pan, 202/475–7131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in Part 228, A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was extended on February 7, 1983 (48 FR 5557 *et seq.*). That list established two of the Coos Bay sites as interim sites and extended the sites' period of use until January 31, 1985. The interim designation of these two sites was further extended to December 31, 1988, on February 19, 1985 (50 FR 6942 *et seq.)* in order to provide sites necessary for the disposal of dredged material from Coos Bay until such time as rulemaking for ocean disposal sites for continuing use is completed.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designation such as this. 39 FR 16186 (May 7, 1974).

The Corps of Engineers and EPA have prepared a draft and final EIS entitled "Coos Bay Dredged Material Ocean Disposal Site Designation Environmental Impact Statement." On September 7, 1984, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register** (49 FR 35413). The draft EIS presented information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and was based on a series of disposal site environmental studies. In the draft EIS, EPA determined that the existing sites and the new site were compatible with the general criteria and specific factors and that the sites were the preferable locations for the disposal of dredged material. The public comment period on this draft EIS closed October 22, 1984. Eight reviewers submitted comments on the draft EIS, which the Agency assessed and responded to in the final EIS. Editorial or factual corrections required by the comments were incorporated in the text and noted in the Agency's response. Comments which could not be appropriately treated as text changes were addressed point by point in the final EIS, following the letters of comment.

On February 7, 1986, a notice of availability of the final EIS for public review and comment was published in the **Federal Register** (51 FR 4803). The public comment period on the final EIS closed March 10, 1986. Two comments were received on the final EIS. The Department of Health and Human Services, Public Health Service, stated that their comments on the draft EIS had been adequately addressed, and the Coos-Curry Council of Governments strongly supported the final designation of the three sites. The State of Oregon has concurred with EPA's consistency determination. Anyone desiring a copy of the final EIS may obtain one from the address given above.

The action discussed in the EIS is the designation for continuing use of two ocean dredged material disposal sites offshore of Coos Bay, Oregon and the designation of a third new site. The purpose of the designation is to provide an environmentally acceptable location for the ocean disposal of materials dredged from the Coos Bay Channel System when ocean disposal is found to be necessary for dredged material. The need for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The EIS discusses the need for the action and examines ocean disposal sites and alternatives to the proposed action. An evaluation of alternatives for land-based disposal was updated in a memorandum to the Record (9/5/85) by Eric Braun and is available for inspection at the above addresses.

The memorandum states that the only upland disposal site currently in use, known as the Eastside Site, is between river mile 12 and 15. The current dikes are inadequate as shown by recent failures. Extensive dike rehabilitation would be required prior to any use at this site. Thus, it is expected to have limited capacity for future disposal. Two disposal islands have been created in the past, and these sites could possibly be used for some material by raising the dikes. However, raising the dikes on these disposal islands is not considered appropriate at this time due to concerns related to engineering considerations and potential impacts to the surrounding tidal area. Therefore, their remaining capacity is also very limited.

Two other potential sites have been considered near the navigation channel. The site consisting of a diked marsh was rejected because filling of wetlands was not considered environmentally preferable. The other site presently has no capacity with the existing dike configuration, and raising the dikes is not considered feasible from an engineering point of view. Most other sites within reasonable pumping distance from the channel have been considered in the past. Locating sites farther from the channel would require the use of booster pumps and increase costs.

This final rulemaking notice fills the same role as the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

C. Site Designation

On January 27, 1986, EPA proposed designation of these sites for the continuing disposal of dredged materials from the Coos Bay area (51 FR 3348). The public comment period expired on March 13, 1986.

One letter of comment was received on the proposed rule. The Department of Commerce had no objection to the designations but reserved the right to comment on any permit applications received for these sites.

The two existing interim designated sites, termed E and F, have been used since at least 1951 for the ocean disposal of about 975,000 cubic yards of dredged material annually. Dredging is intermittent, for several months in each year. The new Site H was used for a test disposal of dredged material in August 1981.

Site E is located approximately 1.3 nautical miles offshore of the entrance

to Coos Bay and occupies an area of about 0.13 square nautical miles. Water depths within the area average 17 meters. It is approximately rectangular with coordinates as follows:

43d 21' 59" N., 124d 22' 45" W.; 43d 21' 48" N., 124d 21' 59" W.; 43d 21' 35" N., 124d 22' 05" W.; 43d 21' 46" N., 124d 22' 51" W.

Site F is located approximately 1.3 nautical miles offshore of the entrance to Coos Bay and occupies an area of about 0.13 square nautical miles. Water depths within the area average 24 meters. It is approximately rectangular with coordinates as follows:

43d 22' 44" N., 124d 22' 16" W.; 43d 22' 29" N., 124d 21' 34" W.; 43d 22' 16" N., 124d 21' 42" W.; 43d 22' 31" N., 124d 22' 26" W.

Site H is located approximately 3.7 nautical miles offshore of the entrance to Coos Bay and occupies an area of about 0.13 square nautical miles. Water depths within the area average 55 meters (30 fathoms). It is approximately rectangular with coordinates as follows:

43d 23' 53" N., 124d 22' 48" W.; 43d 23' 42" N., 124d 23' 01" W.; 43d 24' 16" N., 124d 23' 26" W.; 443d 24' 05" N., 124d 23' 36" W.

D. Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping for causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. All three of the sites conform to the five general criteria except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting sites off the Continental Shelf instead of those sites in this action. Historical use of the existing sites, and a test dump at the new site, have not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The general criteria are given in Section 228.5 of the EPA Ocean Dumping Regulations; the specific eleven factors are given in Section 228.6 and are used in evaluating a proposed disposal site to assure that the general criteria are met. EPA established these eleven specific factors to constitute an environmental assessment of the impact of the site for disposal. The criteria are used to make critical comparisons between the alternative sites and are the bases for final site selection. The characteristics of the two existing sites and one new site are reviewed below in terms of these eleven factors.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(1).]

The two existing sites are termed E and F. The new site is termed H. Corner coordinates, size, depth of water, and distance from coast for the three sites are given above.

The bottom topography of Sites E and F is generally flat with some gentle sand swells. The bottom topography of Site H is generally flat with some gentle silty-sand swells (wave forms).

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* [40 CFR 228.6(a)(2).]

Breeding, spawning, nursery and/or passage of commercially and recreationally important finfish and shellfish species occur throughout the ocean area offshore of Coos Bay. There may be some minor interference with the biological activities during the actual dredged material disposal operations. However, the disposal area would be quite limited at any one time and can be easily avoided by motile living organisms. Benthic habitat and community would be altered by disposal activity with possible temporary perturbations to the food chain. Long-term impacts on the benthic community is unlikely due to the high species diversity, large natural seasonal variation in abundance, rapid recolonization, and the fact that previous disposal has not caused significant or irreversible impacts. The disposal sites are extremely small in comparison with the overall area available for breeding, spawning, nursery, and passage purposes.

The only resource that might be considered to be limited is an area between the 40- and 52-fathom contour where scallops were found in densities high enough to support a fishery. Sites E and F are located in the vicinity of the 10- and 12-fathom contour, well shoreward of the scallop bed, while Site H is located in the vicinity of the 29- to 36-fathom contour, south of the scallop bed. Morever, since the sediments are transported from Site H predominantly in the southerly direction and downslope during the dumping season, they are highly unlikely to move toward the scallop bed. In addition, recent information indicates that the scallop beds have been fished out; thus, adverse impacts are unlikely.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3).]

Sites E and F are each located within 1.6 nautical mile of a beach. The proximity of Sites E and F to the beaches, coupled with the frequency of onshore transport and seasonal ocean currents parallel to the coast, contributes to a potential for onshore transport from those two sites. Any material transported toward the beaches would be a combination of the naturally occurring sands in the vicinity of Sites E and F and the marine sands planned for disposal at these sites. These materials would have no significant effect on the beaches should onshore transport occur. Site H is located about 3.7 nautical miles from the nearest beach. Because of the depth and distance from shore of Site H and the predominance of north-south alongshore currents, there is also little likelihood of dredged material disposed of at Site H reaching any beach.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4).]

Approximately 1.3 million cubic yards of predominantly clean sand of marine origin (Type 1) will be disposed of at Sites E and F during several months of each year. The grain size of this material is relatively constant at 0.2 to 0.3 mm, and volatile solids content ranges between 0.1 and 2.0 percent. Type 1 material is found between the channel entrance and river mile 12.

Approximately 400,000 cubic yards of fine-grained sand with high organic solids content (Type 2 and 3) will be disposed of at Site H on a two- to four-year cycle. The median grain size of this material varies from 0.2 to 0.006 mm, and volatile solids content ranges from 2.0 to 20 percent. Type 2 material is found between river mile 12 and river mile 14, and Type 3 material is found above river mile 14. Type 3 material contains increased levels of total sulfides, ammonia-nitrogen, oil and grease, petroleum hydrocarbons, and trace metals compared to materials from below river mile 14.

The dredged materials will be transported to the disposal sites by hopper dredges and ocean-going barges, and the material will be released at the sites through subsurface release mechanisms. None of the dredged material will be packaged in any way.

Any dredged material disposed at the sites must comply with EPA's permit application evaluation criteria for dredged materials in § 227.13 of the

VOL 51 ISS 162 AG 21 1986 UMI

Ocean Dumping Regulations (Ocean Dumping Criteria).

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5).]

Surveillance and monitoring are both feasible; both dredging and disposal operations can be observed from shore or from vessels. The sites are near to shore and relatively shallow which facilitates routine monitoring.

Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the sites are used. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at that site.

Monitoring will be conducted at Site H to determine if post-disposal movement of dredged material will have any impacts on adjacent resources of importance. Pre- and post-disposal bathymetry surveys will be conducted with additional surveys scheduled as needed. Representative sediment samples will also be collected periodically in and around the disposal site and analyzed for parameters of interest. These samples will be compared with pre-disposal samples and samples from the dredging area to allow detection of movement and comparison with theoretical transport. If movement of material appears likely to impact a known resource, additional analyses of the benthic community or specific resource will be undertaken. Analysis of the dredged material will be used to identify chemical or other contaminants which would require monitoring. The monitoring program will be finalized as part of the permit development process.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* [40 CFR 228.6(a)(6).]

Average currents in the region generally flow parallel to bathymetric contours with downslope components predominating over upslope components near the bottom. Local current speed and direction, however, reflect the variability of local winds. Since ocean disposal operations are generally restricted to April through November, the predominant direction of transport of the dredged material during dumping will be southward at 10 to 30 cm/s. Northerly transport may occur during the late fall.

Dredged material disposed at Sites E and F will be rapidly reworked by strong tidal and surface wave generated currents. Winter reworking will be especially intense, and will result in the erasure of any mounding and the distribution of coarser size fractions of the dredged material over the tidal delta. Finer size fractions will be transported with the net or prevailing currents.

Coarse grain dredged material will remain generally stable at Site H, gradually speading over the bottom of the site. Finer grained material will be more mobile and tend to be spread in the direction of the prevailing currents. Both the coarser grained and finer grained sediments would probably be mobilized during winter storm events and spread in thin layers over and around the site. There may be slight mounding in Site H over a number of years due to the increased depth and associated slower currents in the vicinity.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* [40 CFR 228.6(a)(7).]

Previous disposal at Sites E and F has averaged 975,000 cubic yards annually of coarse grained marine sands. This disposal has produced a seaward extension of the tidal delta as evidenced by noticeable seaward bulges in the bathymetric contours of the tidal delta in the vicinity of the sites. No topographic mounding has occurred at either of the sites. Short-term increases in the turbidity of the water column have occurred, but the impact of these has been minor due to the coarse-grained nature of the material disposed at the sites. No significant biological impacts have been associated with the past disposal at Sites E and F.

The test dump of type 3 material (finer grained dredged material with higher volatile solids and inorganic material content) made at Site H indicates that no significant mounding occurred. A short-term impact on turbidity occurred; however, it was comparable to natural events. The benthic community was impacted in the area of disposal immediately after disposal; however, a steady recovery to pre-disposal conditions was observed, suggesting that disposal impacts on the benthos were of short duration. Due to the erasure or mixing of the test disposal mound and the high benthic species diversity and large natural seasonal variation in abundance, it is unlikely that there would be long-term biological impacts at Site H.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* [40 CFR 228.6(a)(8).]

Except for marine navigation, commercial or recreational use of the sites is minimal if at all. Disposal of dredged material at the sites will have little if any effect on marine navigation.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* [40 CFR 228.6(a)(9).]

Water quality analyses for surface and bottom water indicate that the water at all the sites is typical of seawater of the Pacific Northwest. As discussed above, there is great variation in sediment movement during the seasonal current shifts along with major reworking during the winter storm period. Upwelling during the spring and summer brings subsurface water to the surface. Although the scale and duration of these events are extremely variable, upwelling keeps surface waters relatively cool through the summer. Turbidity within the water column maximizes near the bottom, the top of the transition zone between high density bottom water and low density surface water, and in surface waters. The Coos Bay water mass would also contribute turbid waters to surface layers during periods of high runoff.

The ecology of the area is typical of the Oregon coast. Distribution and abundance of pelagic fish are closely tied to the influence of the ocean currents; and the abundance, diversity, and species composition of the benthic community are tied to the character of bottom conditions. As water depth increases, sea floor currents and sediment grain size decrease while organic, chemical constituents, and biological abundance tend to increase. The benthic community in the nearshore region (Sites E and F) has the lowest abundance and diversity. In addition, it is dominated by burrowing species and deposit or opportunistic feeders.

The region seaward of Site H is characterized by the most abundant and diverse benthic community. The community is dominated by filter and surface feeders. The zone between the nearshore and the outer area (vicinity of Site H) can be classified as a physical and biological transition zone. Species composition in the shallow portion is most similar to that of the nearshore region; species composition of the deeper portion is more similar to the outer region. Seasonal variation in abundance is high.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* [40 CFR 228.6(a)(10).]

There are no known components in type 1 dredged material or its method of disposal that would attract or result in recruitment of nuisance species. Surveys at Sites E and F (previously used) did not detect the development or

recruitment of nuisance species. Although the increased organic content of types 2 and 3 material has some potential for recruitment of nuisance species, no major shifts in benthic community composition were observed at Site H after the test dump. Therefore, the development or recruitment of nuisance species at any of these disposal sites is not expected.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* [40 CFR 228.6(a)(11).]

The Oregon State Historic Preservation Office indicated that the area of the project is not of historic significance and, since ground disturbance of previously undisturbed ground is minimal, there will be no likely impact to archeological resources.

E. Action

The existing sites and the new site are compatible with the general criteria and specific factors used for site evaluation. EPA considered whether it would be preferable to designate a deep-water site beyond the edge of the Continental Shelf. For the following reasons, EPA has determined that the existing sites and the new site are the preferable sites for the disposal of dredged material. These factors are discussed in greater detail in the EIS.

The existing sites and the new site are 1.3 nautical miles and 3.7 nautical miles offshore of the entrance to Coos Bay, respectively, whereas the deep-water site considered is more than 24 nautical miles offshore of the entrance to Coos Bay. Disposal costs and energy consumption involved in use of the deep-water site would be significantly greater than for the existing sites and for the new site due to greater transportation demands. In addition, disposal of the relatively clean (predominantly sand) sediments at sites closer to shore is expected to cause no adverse environmental impacts. Dredged material has been dumped at the existing sites (E and F), and the effects of disposal have been localized. Sites E and F will be restricted to the disposal of type 1 material, which is predominantly coarser grained marine sands with low volatile solids content. Short-term impacts on the benthos have occurred due to dredged material disposal with rapid benthic recruitment and recolonization, suggesting limited long-term biological impacts. The new site (H) will be designated for disposal of type 2 and 3 material, which is finer grained dredged material with higher volatile solids content. The high benthic species diversity and large natural seasonal variation in abundance, along with the test dump observations, suggest that benthic recovery subsequent to disposal of type 2 and 3 material at Site H will be rapid. Therefore, long-term biological impacts are not expected.

The designation of the two existing Coos Bay and the one new Coos Bay dredged material disposal sites as EPA Approved Ocean Dumping Sites is being published as final rulemaking. Management authority of these sites will be delegated to the Regional Administrator of EPA Region X.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with EPA's ocean dumping criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228.

Water pollution control.

Dated: August 7, 1986.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing paragraph (a)(1)(i)(I), and adding paragraphs (b) (27), (28), and (29) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(27) Coos Bay Dredged Material Site E—Region X.

Location: 43d 21' 59" N., 124d 22' 45" W.; 43d 21' 48" N., 124d 21' 59" W.; 43d 21' 35" N., 124d 22' 05" W.; 43d 21' 46" N, 124d 22' 51" W.

Size: 0.13 square nautical mile.

Depth: Averages 17 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material in the Coos Bay area of type 1, as defined in the site designation final EIS.

(28) Coos Bay Dredged Material Site F—Region X.

Location: 43d 22' 44" N., 124d 22' 18" W.; 43d 22' 29" N., 124d 21' 34" W.; 43d 22' 16" N., 124d 21' 42" W.; 43d 22' 31" N., 124d 22' 26" W.

Size: 0.13 square nautical mile.

Depth: Averages 24 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material in the Coos Bay area of type 1, as defined in the site designation final EIS.

(29) Coos Bay Dredged Material Site H—Region X.

Location: 43d 23' 53" N., 124d 22' 48" W.; 43d 23' 42" N., 124d 23' 01" W.; 43d 24' 16" N., 124d 23' 26" W.; 43d 24' 05" N., 124d 23' 38" W.

Size: 0.13 square nautical mile.

Depth: Averages 55 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material in the Coos Bay area of type 2 and 3, as defined in the site designation final EIS.

[FR Doc. 86-18754 Filed 8-20-86; 8:45 am]

BILLING CODE 6560-50-M

VOL 51 ISS 162 AG 21 1986 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of commercial fishery closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial salmon fisheries in the fishery conservation zone (FCZ) north of Cape Falcon, Oregon, at midnight, August 18, 1986, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife (ODFW), and the Washington Department of Fisheries (WDF) that the commercial coho salmon quota for the area has been reached. The closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ from the U.S.-Canada border to Cape Falcon, Oregon, to commercial salmon fishing is effective at 2400 hours local time, August 18, 1986. Comments on this closure will be received until September 2, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C15700, 7600 Sand Point Way NE, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

The regulations also state at § 661.21(a)(2) that the Secretary will consider reopening a fishery if he finds that the actual catch has been overestimated and that part of the quota remains, provided that the reopening of the fishery is consistent with the management objectives for the affected species and that the additional open period is no less than 24 hours.

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 commercial season for all salmon species was established as August 2-3 and August 7 through the earliest of September 15, coho quota, or chinook quota in two subareas north of Cape Falcon, Oregon. Quotas of 4,000 chinook and 30,000 coho were established for the subarea from the U.S.-Canada border to Carroll Island, Washington (northern subarea), while the subarea from Leadbetter Point, Washington, to Cape Falcon, Oregon (southern subarea), had quotas of 13,300 chinook and 110,600 coho salmon. The chinook quota for the northern subarea was adjusted inseason to 6,000 fish (51 FR 26389, July 23, 1986).

Prior to the scheduled reopening of both subareas on August 7, state and federal fishery managers agreed to a 24-hour delay in the reopening of the northern subarea to better balance the impacts on the remaining quotas in the two subareas of the commercial fishery north of Cape Falcon, Oregon (51 FR 28717, August 11, 1986). Further, the fishery managers agreed that the commercial fisheries in both subareas would be closed by state landing law at midnight on August 9, 1986, but that the FCZ would remain open for assessment of landing data.

Based on the best available information, the total commercial catch in both subareas through August 9, 1986, is projected to be 7,000 chinook and 119,000 coho salmon. By telephone conference on August 14, state and federal fishery managers agreed that the fishery would not reopen since the approximately 12,000 chinook and 21,000 coho remaining in the quotas would be less than an additional 24-hour fishing period.

Therefore, the Secretary issues this notice to close the commercial fisheries in the FCZ from the U.S.-Canada border to Cape Falcon, Oregon, effective midnight, August 18, 1986. The ODFW and WDF Directors have confirmed that Oregon and Washington will manage the commercial fishery in State waters adjacent to this area of the FCZ in concert with this action.

This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

Other Matters

This action is taken under the authority of 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: August 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-18925 Filed 8-18-86; 5:05 pm]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of recreation fishery closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) from the Queets River, Washington, to Klipsan Beach, Washington, at midnight, August 18, 1986, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife, and the Washington Department of Fisheries (WDF) that the recreational fishery quota of 81,700 coho salmon for the subarea will be reached by that time. The closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ from the Queets River, Washington, to Klipsan Beach, Washington, to recreational salmon fishing is effective at 2400 hours local time, August 18, 1986. Comments on this closure will be received until September 2, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070.

Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 recreational fishery for all salmon species in the FCZ from the Queets River to Klipsan Beach was established as June 29 through either the earliest of September 25 or the attainment of a quota of either 76,300 coho salmon or 23,100 chinook salmon. Subarea quotas were modified twice during the season (51 FR 26900, July 23, 1986; 51 FR 29234, August 15, 1986). The current coho quota for the subarea is 81,700 fish.

Based on the best available information, the recreational fishery catch in the subarea is projected to reach the 81,700 coho salmon quota by midnight August 18, 1986.

The Regional Director consulted with the Assistant Director of WDF regarding a closure of the recreational fishery between the Queets River and Klipsan Beach, Washington. The Assistant Director of WDF confirmed that Washington will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight August 18, 1986.

Therefore, the Secretary issues this notice to close the recreational fishery in the FCZ from the Queets River to Klipsan Beach, Washington, effective midnight August 18, 1986. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

Other Matters

This action is taken under the authority of 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: August 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–18926 Filed 8–18–86; 5:06 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 60845–6145]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce issues this emergency interim rule changing current regulations, promulgated under the Pacific Coast Groundfish Fishery Management Plan, which govern the sablefish fishery off the coasts of Washington, Oregon, and California. This action is necessary to provide a year-round fishery, minimize discards, and allocate the remainder of the sablefish quota equitably between user groups. This action is intended to keep the sablefish quota from being reached before the end of the fishing year which would result in prohibiting all landings of sablefish and forcing discard and waste of sablefish caught incidentally in other fisheries. This could have adverse impacts on fishermen, processors and markets.

EFFECTIVE DATE: The emergency rule is effective at 0001 hours Pacific Daylight Time (PDT) August 22, 1986, until 2400 hours PDT November 19, 1986.

ADDRESSES: Comments on this emergency interim rule should be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115 or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206–526–6150 or E. Charles Fullerton at 213–514–6196.

SUPPLEMENTARY INFORMATION: This action supersedes the regulations at 50 CFR 663.27(b)(3) promulgated under Amendment 1 to the Pacific Coast Groundfish Fishery Management Plan (FMP). These regulations state that, when 90 percent of the sablefish optimum yield quota (OY) is reached: (a) The remaining 10 percent will be divided equally between the two major gear types, trawl and fixed gear (5 percent apiece), and (b) a percentage trip limit (i.e., a limit on the percentage of sablefish allowed to be landed at the end of each trip) will be imposed on trawl landings. The percentage in the trip limit will be based on the annual average amount of sablefish found in trawl landings. This trip limit was meant to discourage targeting on sablefish by the multispecies trawl fishery and thus delay achievement of OY while allowing truly incidental catches of sablefish to be landed. A similar trip limit is not placed on fixed gear, because that fishery targets on sablefish. A trip limit designed to limit the targeted species to an incidental percentage of total catch is obviously inappropriate. If the OY is reached, all further landings by any gear are prohibited and incidentally caught sablefish must be discarded. If the five percent balance for a gear type is reached, further landings by that gear type are prohibited.

In 1985 and 1986, it has become apparent that the current regulations are not having the intended effect. In 1985, landings of sablefish surpassed projected rates (partly because of uncounted illegal landings which were not discovered until late in the year) and 90 percent of OY was exceeded before the trip limit and 5 percent allocations could be imposed. The trip limit and allocations were effective by November 25, 1985, but OY was reached, and by December 6, 1985, further landings were prohibited. Discards of sablefish caught in the Dover sole fishery subsequent to the closure have been estimated at about 500 metric tons (mt). On 1986, 90 percent of OY is expected to be reached between October 8 and 27. The best available scientific data indicate that the trawl trip limit which becomes effective when 90 percent of OY is reached (estimated at 13 percent, as in 1985) would not slow the fishery, and the trawl allocation would be taken between November 4 and 27. If catches follow 1985 patterns, as much as 1,000 mt of sablefish caught incidental to the winter Dover sole trawl fishery would be discarded. Trawl-caught sablefish are not expected to survive.

Additional but unquantified amounts of sablefish also would be discarded as a result of the current formula for trawl trip limits based on the average percentage of sablefish in trawl landings that contained sablefish. The annual average (which was 13 percent in 1985), used in the current formula, does not accommodate the high incidental catches of sablefish encountered in the winter trawl fishery which may be as

VOL 51 ISS 162 AG 21 1986 UMI

high as 46 percent. Thus, the annual average, when applied to this winter fishery, forces fishermen to discard sablefish even before the quota is reached.

Therefore, adjustments to the regulations are needed to minimize discards of sablefish, allow the market to be maintained as long as possible throughout the fishing year, and slow achievement of OY without providing undue advantage to a particular gear type.

At its April 8–11, 1986 meeting in Eureka, California, the Pacific Fishery Management Council (Council) announced its intent to reconsider management of the sablefish resource. At public meetings of the Council's Groundfish Management Team, Scientific and Statistical Committee, and Groundfish Select Group, discussions and public testimony on various methods of managing the sablefish fishery occurred. After hearing the recommendations of these advisory groups and further public discussion at its July 9–10, 1986 meeting in Portland, Oregon, the Council recommended by a majority vote that the Secretary of Commerce implement the following emergency action.

Council Recommendation: As soon as possible (expected between August 15 and September 1, 1986), the unlanded portion of the sablefish OY will be allocated so that 55 percent for trawl landings and 45 percent for fixed gear landings (including but not limited to pot, longline, and set nets), and a limit of 8,000 pounds of sablefish per trip will be imposed on all trawl landings. The tonnage amounts (but not the allocation percentages) will be revised if necessary after reevaluation of the fishery in early October, so that 55:45 percent ratio will be applied to more recent information on the amount of the sablefish OY remaining when the trawl trip limit was put into effect. Similarly, the trawl trip limit may be modified after reevaluation in early October, to enable the trawl allocation to extend as long as possible throughout the fishing year, while minimizing discards of sablefish. If the allocation for a gear type is reached, further landings of sablefish by that gear type will be prohibited. Landings of sablefish by all gear types will be prohibited when OY is reached.

This action will supersede the regulation at § 663.27(b)(3) which divides the last 10 percent of the OY equally between trawl and fixed gears.

Rationale: This emergency rule maintains the basic objectives of the current regulations at § 663.27(b)(3) which are: (1) To reduce discards of incidentally caught fish that inevitably result once OY is reached, by slowing achievement of OY; (2) to slow achievement of OY by imposing a trip limit on trawl gear; and (3) to allocate equitably the remaining portion of OY between trawl and fixed gears at the same time the trip limit is placed on trawl landings. However, the emergency rule would change the following three methods of implementation: (1) The time the allocations and trip limit area assigned would change from the time at which 90 percent of OY is projected to be reached (October 8–27) to as soon as possible (between August 15–September 1); (2) the proportions used to determine the allocations would change from 50 percent each to 55 percent trawl/45 percent fixed gear; and (3) the maximum amount of sablefish allowed by the trawl trip limit would change from a percentage based on the annual average weight of sablefish in trawl landings that contained sablefish to a fixed maximum amount of 8,000 pounds per trip.

The date of implementation of the allocations and trip limit needs to be earlier than under the current regulation in order to minimize the likelihood of reaching OY before the end of the year. Moreover, action is necessary when sufficient amounts of OY remain so that the incidental catch of sablefish in the trawl fishery can be landed before OY is reached, thus avoiding discards, while providing for an equitable amount of the remainder of OY to be taken by the fixed gear fishery.

The 8,000 pound trawl trip limit was selected as an amount which would allow truly incidental sablefish catches to be landed from the Dover sole fishery without resulting in excessive discards which would occur if the limit were too low. In conjunction with implementation between August 15–September 1, this should enable the trawl fishery to continue until the end of the year. This trip limit will be re-evaluated and perhaps modified in early October so that the trawl allocation will last as long as possible and discards will be minimized.

The allocation ratio of trawl to fixed gear landings was changed from 50:50 to 55:45 based on the best available data for landings by these gear types between 1981 and 1985. These allocation proportions will be applied only to the portion of OY remaining at the time the trawl trip limit is imposed, not the total annual catch.

Data available in early July 1986 indicate that 3,450 mt of the 13,000 mt sablefish OY would be remaining on September 1, 1986, the estimated date of implementation of this notice. Of the estimated 3,450 mt, 45 percent (about 1,550 mt) would be available for fixed gear and 55 percent (about 1,900 mt) would be available for trawl landings of sablefish. The actual tonnage amounts were not included in the Council's recommendation and are not announced in this action because more recent catch information will be available by the time this rule becomes effective. Accordingly, the amount of OY available when the trawl trip limit is imposed will be determined using the best scientific data available when this notice is filed with the Office of the Federal Register. The amount of available OY and the allocations which are based on it will be announced by a notice in the Federal Register as provided for in the groundfish regulations at § 663.23.

These allocations will be revised again near October 1, if necessary, using the more complete landings data available at that time but maintaining the 55:45 ratio. Also, the trip limit may be modified at the same time so that the trawl allocation will not be reached before the end of the fishing year. Any changes, including closures or reopenings, will be announced in the Federal Register as specified in the groundfish regulations at §§ 663.21(b) and 663.23.

Section 305(e) of the Magnuson Fishery Conservation Management Act (Magnuson Act) authorizes the Secretary to promulgate emergency regulations when a Council finds that an emergency exists involving a fishery under its jurisdiction. The Secretary has agreed with the Council's recommendation that an emergency exists in the sablefish fishery.

This emergency rule applies to all sablefish taken and retained in ocean waters (0–200 nautical miles) offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking, except that no size limit applies to sablefish caught south of Point Conception.

Current sablefish regulations effective January 1, 1986 (50 FR 53325, December 31, 1985) for the 1986 fishing year remain in effect and prohibit taking and retaining, or landing, more than 5,000 pounds (round weight) of sablefish smaller than 22 inches (total length), per vessel per fishing trip, in the area north of Point Conception, California (34°27′ N. latitude) to the U.S.-Canada border.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and is consistent

with the Magnuson Act and other applicable law. He has determined that continuing the regulations now in force would result in an inopportune closure of the sablefish fishery and it is therefore necessary to promulgate this emergency rule immediately.

The Assistant Administrator has determined that the regulations implementing Amendment 1 to the Groundfish FMP have no differing impact upon and, therefore, remain consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. This action is a minor extension of the final regulations and does not affect that determination.

The Assistant Administrator finds that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment, or to delay for 30 days the effective date of these emergency regulations, under the provisions of section 553 (b) and (d) of the Administrative Procedure Act.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that Order.

Issuance of this rule will not result in a significant adverse impact on the human environment and the impact would not be significantly different from that described in the environmental assessment prepared for the regulations implementing Amendment 1 of the FMP. As such, the Assistant Administrator has determined that this emergency action is categorically excluded from the requirement to prepare an environmental document, as provided by NOAA Directive 02-10.

This action does not contain a request for collection of information for purposes of the Paperwork Reduction Act.

This emergency rule is exempt from the regular procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 663.

Fisheries, Fishing.

Dated: August 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service

PART 663—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 663 is amended as follows:

1. The authority citation for Part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.27, paragraph (b)(3) is suspended from August 22, 1986 to November 19, 1986, and a new paragraph (b)(4) is added to be effective from August 22, 1986 to November 19, 1986, to read as follows:

§ 663.27 Catch restrictions.

* * * * *

(b) * * *

(4) *Sablefish.*—(i) *Allocation of remaining OY.* Fifty-five percent of the amount of the sablefish OY remaining on the effective date of this emergency rule will be allocated to trawl gear and 45 percent to fixed gear. These allocations (quotas) will be announced in the Federal Register as provided for at § 663.23. When the allocation (quota) for either gear type is reached, the fishery for that gear type will be closed as provided for in paragraph (v) of this section.

(ii) If the overall OY for sablefish is reached, further landings of sablefish by all gear types will be prohibited until January 1, 1987, even if the allocation (quota) for fixed or trawl gear is not reached.

(iii) *Trip limit.* No more than 8,000 pounds (round weight) of sablefish taken with trawl gear may be taken and retained, or landed, per vessel per fishing trip, except as provided for in paragraph (iv) of this section.

(iv) *Adjustments.* As close to October 1, 1986 as practicable, the Secretary will redetermine the trawl and fixed gear allocations and the trawl trip limit using the best available data at that time. The allocations will be revised, if necessary, based on the amount of OY remaining on the date this emergency rule becomes effective and will maintain the 55:45 percent ratio. The trawl trip limit will be modified if necessary to extend the trawl allocation as long as possible in 1986 and to minimize discards.

(v) Any closure, reopening (resulting from the October 1 reassessment), or adjustment to the trip limit or allocations will be published in the Federal Register according to §§ 663.21(b) and 663.23.

[FR Doc. 86-18865 Filed 8-20-86; 12:10 pm]

BILLING CODE 3510-22-M

BEST COPY AVAILABLE

Proposed Rules

Federal Register
Vol. 51, No. 162
Thursday, August 21, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Bona Fide Effort and Increase in Base Quantity Reserve

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the base quantity reserve for the 1986–87 crop year from the required minimum of 2.0 percent to 7.74 percent of the total base quantities currently issued to cranberry growers, in order to update and expand base quantities for the benefit of growers. This should help to facilitate the appropriate and equitable operation of the cranberry marketing order with the establishment in the future of any marketable quantity and annual allotment. The proposed rule would also expand the criteria for determining a bona fide effort (i.e., a condition for the continuing validity of a grower's base quantity) to provide conditions under which a grower's base quantity may be reduced or cancelled. The proposed rule is intended to assure that base quantities remain with growers who have demonstrated a bona fide effort to produce and sell cranberries.

DATE: Comments due September 22, 1986.

ADDRESS: Interested persons are invited to submit writen comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2085 South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, Telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1, and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This proposed rule is issued under marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions were recommended by the Cranberry Marketing Committee (committee).

Each year prior to May 1, the committee considers its marketing policy for the coming season and estimates a marketable quantity of cranberries. Such quantity is the amount of cranberries necessary to meet the season's total market demand and provide for an adequate carryover of cranberries to the next season. If the Secretary finds from a recommendation of the committee, or from other available information, that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity shall be apportioned among all eligible growers by applying the allotment percentage to each grower's base quantity, pursuant to § 929.48.

Such base quantities are issued to growers: (a) Based on their sales during the period 1968–69 through 1973–74; (b) As a result of transfers of base quantities from other growers; or (c) As part of an annual reserve of at least 2 percent of the total base quantities. The reserve shall be used for the issuance of base quantities to new growers and adjustments in base quantities for existing growers with 25 percent being made available for new growers and 75 percent available for adjustments for existing growers. Any unallocated portion of the 25 percent available to new growers may, at the discretion of the committee, be prorated among eligible existing growers on an equitable basis.

On February 27–28, 1986, the Cranberry Marketing Committee held its annual winter meeting to formulate its marketing policy for the 1986–87 crop year. It determined that implementation of § 929.49 (i.e., the establishment of a marketable quantity and annual allotment) was not warranted. However, the committee noted that cranberry production was projected to exceed the total of all allotment bases and recommended that additional base be issued to all qualified new and existing growers to the full amount to which each grower is entitled contingent on the demonstrated ability to produce and sell cranberries. Such allocations would amount to 254,629 barrels, or 7.74 percent of the total aggregate of base quantities held by all producers. Such an increase would make additional quantities of base quantity available to new and existing growers. This change also would aid in the updating of base quantities which would be necessary for any future establishment of a marketable quantity and annual allotment.

Section 929.48, and § 929.153 which implements that section, provides that a condition for the continuing validity of a grower's base quantity is the production

of cranberries in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978–79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. Section 929.48 also provides that the committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the grower's own acreage.

In order to assure that base quantities are held by growers who have demonstrated their ability to produce and sell cranberries on their established acreage, and to prepare for any future recommendation for a marketable quantity and annual allotment, the committee recommended stricter criteria for determining bona fide effort. The committee observed that its proposal was intended as a means to treat all cranberry growers in an equitable manner since base quantities would remain only with growers who demonstrate a bona fide effort and who are not merely holding base quantities in anticipation of any future volume regulation. Such a practice is unfair to growers who are currently producing and selling cranberries to the full extent of their base quantities. The committee's proposal is intended to apply criteria which would recognize certain factors characteristic of cranberry production which are beyond the control of growers using accepted normal cultural practices. Such characteristic factors include: (1) Fluctuations in quantity and quality as affected by weather, disease and other natural phenomena beyond a grower's control; and (2) The generally low production yields on new or recently replanted acreage.

Thus, the committee recommended the bona fide effort criteria be expanded to include both: (1) The present operational provision that the base quantity of a grower who has not produced and sold cranberries for five consecutive seasons, commencing with the 1978–79 season, may be declared invalid and cancelled at the end of the fifth such season due to lack of use; and (2) A new requirement operational in 1987, that the base quantity of a grower who has not maintained an average production and sales level for the best four of the most recent six years, commencing with the 1981–82 season, equal to at least 50 percent of the grower's base quantity, may be reduced to an amount equal to the average production and sales for the best four of the most recent six years.

As noted above, the committee indicated this additional requirement was intended to be sufficiently flexible to reflect customary fluctuations in production and sales. At the same time, the committee concluded that it was appropriate to revise the current bona fide effort criteria to assure that on an ongoing basis, each producer's base quantity reflects that producer's current production and sales of cranberries.

The proposed rule provides that the committee review production and sales records annually to determine if such a bona fide effort is being made to produce and sell cranberries from growers' established acreages. The committee would take due consideration of any available information which might indicate that specified factors beyond growers' control may have had an effect on growers' abilities to make bona fide efforts. Finally, the proposal reaffirms and incorporates an existing requirement that growers should be responsible for furnishing the committee with the necessary records and any other pertinent information in order for the committee to perform its determination.

In order to provide growers with advance notice of the possibility of an impending reduction in their base quantities, the proposed rule provides that the committee shall notify growers by registered mail when a grower's production and sales records show, for the best three out of the most recent five years, that the grower's production is 40 percent or more below the established base quantity. The first such notification would occur during 1986, when 1985 crop production and deliveries have been reported by growers and handlers. This notification should provide growers with ample notice that these revised bona fide effort criteria will apply after the committee has reviewed the sales and deliveries of 1986 crop cranberries. This provision also should provide growers ample opportunity to adjust their cultural practices, or to transfer base quantities to other growers who have more production and sales than base quantities.

The rules and regulations currently under the order provide review procedures that any grower could follow if that grower was dissatisfied with the committee's determination. In summary, § 929.125 provides that such a grower may submit to the committee, within 30 days after notification of any committee action with respect to a grower's base quantity, a request for a review by the committee of that determination, along with any materials which the grower feels are pertinent. The committee would review its determination, taking into account all materials submitted by the grower, and any other materials which it deems pertinent. Thereupon, the committee must make a redetermination, and notify the grower of its conclusions, accompanied by the reasons for its decision. If the grower is not satisfied with the subsequent decision of the committee, the grower may appeal, through the committee, to the Secretary, within 30 days. The Secretary shall promptly review the decision of the committee and make a decision which shall be final.

List of Subjects in 7 CFR Part 929

Market agreements and orders, Cranberries.

PART 929—[AMENDED]

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. It is proposed to amend § 929.153 by revising paragraph (a) and (d) to read as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided,* That, for the 1986–87 crop year, the reserve base quantity shall be 7.74 percent.

* * * * *

(d) *Invalidation of base quantity.* As a condition for the continuing validity of a grower's base quantity, the grower shall make a bona fide effort to produce and sell cranberries on the grower's established acreage. In determining whether a grower has made a bona fide effort, the committee shall apply the following criteria and procedures:

(1) The committee shall review production and sales records of growers annually to determine if a bona fide effort is being made to produce and sell cranberries. Growers are responsible for furnishing the committee with the necessay records and any other pertinent information in order for the committee to perform its duties under this paragraph.

(2) The base quantity of a grower who has not produced and sold cranberries for five consecutive seasons, commencing with the 1978–79 season, may be declared invalid and cancelled at the end of the fifth season due to lack of use. In addition, commencing with the 1981–82 season, the base quantity of a grower who has not maintained an

average production and sales level for the best four of the most recent six years equal to at least 50 percent of the grower's established base quantity, may be reduced to an amount equal to the average production and sales for the best four of the most recent six years. Due consideration shall be given to any available information which indicates that production and sales were adversely affected by the following factors which are beyond a grower's control: (i) Fluctuations in quantity and quality as affected by weather, disease and other natural phenomena; and (ii) The generally low production yields on new or recently replanted acreage.

(3) Any grower who is dissatisfied with a committee determination may appeal such determination pursuant to § 929.125. In its reconsideration the committee shall consider the grower's production and sales data and shall take due consideration of any information submitted regarding the above-specified factors beyond a grower's control, which may have an effect on a grower's ability to produce and sell cranberries.

(4) After the production and sales for the 1985–86 season are known, and each year thereafter, the committee shall notify a grower by registered mail when the grower's production and sales records show for the best three out of the most recent five years that the grower's production is 40 percent or more below such grower's established base quantity.

* * * * *

Dated: August 18, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–18899 Filed 8–20–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Notice of Proposed Temporary Revision of Diversion Limitation Percentages

Correction

In FR Doc. 86–18011 beginning on page 28721 in the issue of Monday, August 11, 1986, make the following corrrection:

On page 28721, in the third column, in the DATE caption, the comment deadline should read "August 18, 1986."

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 018CE, Notice No. 23–ACE–18]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 33, Model 35, and Model 36 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Beech Aircraft Corporation Model 33 Series, Model 35 Series, and Model 36 Series airplanes to incorporate ADI provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 22, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 018CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 018CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis for the Beech Aircraft Corporation Model 33 Series, Model 35 Series, and Model 36 Series airplanes (TC 3A15) is Part 3 of the Civil Air Regulations, as amended to May 15, 1956, and Amendment 3–8. For the Models A36TC and B36TC only, §§ 23.909, 23.1043, 23.1527(b), and 23.1583(a) as amended by Amendment 23–7 and §§ 23.959, 23.967(a)(5), and 23.1121(b) as amended by Amendment 23–18 of the Federal Aviation Regulations Part 23, dated February 1, 1965. For the Model B36TC only, § 23.1545(a) as amended by Amendment 23–23 of the Federal Aviation Regulations Part 23, dated February 1, 1965.

Part 36 through Amendment 36–10 of the Federal Aviation Regulations, F33A (S/N CE–891 and after), V35B (S/N D–10313 and after), F33C (S/N CJ-156 and after), A36 (S/N E–1609 and after), A36TC (S/N EA–1 through EA–241 and EA–243 through EA–272), B36TC (S/N EA–242, EA–273 and after).

Equivalent Safety Findings: CAR 3.664 and CAR 3.757 for Model V35B (S/N D–9948 and after), A36 (S/N E–927 and after), F33A (S/N CE–674 and after), F33C (S/N CJ–129 and after), A36TC (all serials); CAR 3.387 for Model V35B (all serials), A36 (all serials), F33A (all serials), F33C (all serials), A36TC (all serials), B36TC (all serials), and any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Model 33 Series, Model 35 Series, and Model 36 airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow

the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. These special conditions apply only to those airplanes approved for 91/96 or 100/100LL minimum grade aviation gasoline. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Beech Model 33 Series, Model 35 Series, and Model 36 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to the use of such systems, special conditions should be promulgated for such systems, in addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires. The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Beech Model 33 Series, Model 35 Series, and Model 36 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); § 23.953(a) and (b); § 23.954, § 23.955(a) and (c)(1); § 23.959; § 23.961; § 23.963(a), (d), and (e); § 23.965(a)(1); § 23.967(a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973(a), (b), and (c); § 23.975(a)(1), (2), (3), (5), (6), and (7); § 23.977(a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997(a), (b), (c), and (d); § 23.999; § 23.1141(a), (b), (c), (d), (f), and (g); § 23.1143(a), (e), and (f); § 23.1189(a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23–30, except as set forth in sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown . . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–18825 Filed 8–20–86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 022CE, Notice No. 23-ACE-22]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 207 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Cessna Aircraft Company Model 207 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 22, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 022CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 022CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis (TC A16CE) for the Cessna Aircraft Company Model 207 Series airplane is Part 23 of the Federal Aviation Regulations effective February 1, 1965, as amended by 23-1 through 23-6. In addition, effective S/N 20700483 and up, FAR 23.1559, effective March 1, 1978. FAR 36 dated December 1, 1969, plus Amendments 36-1 through 36-6 for S/N 20700363 and up.

Equivalent Safety Items S/N 20700315 and on: Airspeed Indicator, FAR 23.1545; Operating Limitations, FAR 23.1583(a)(1)

In addition, any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 207 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Cessna Model 207 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Cessna Model 207 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951 (a) and (b); § 23.953 (a) and (b); § 23.954, § 23.955 (a) and (c)(1); § 23.959; § 23.961; § 23.963 (a), (d), and (e); § 23.965(a)(1); § 23.967 (a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973 (a), (b), and (c); § 23.975 (a)(1), (2), (3), (5), (6), and (7); § 23.977 (a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997 (a), (b), (c), and (d); § 23.999; § 23.1141 (a), (b), (c), (d), (f), and (g); § 23.1143 (a), (e), and (f); § 23.1189 (a) and (c); and § 23.1337 (a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23-30, except as set

forth in Sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown . . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-18828 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 020CE, Notice No. 23-ACE-20]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 185 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Cessna Aircraft Company Model 185 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 22, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 020CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 020CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5888.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis (TC 3A24) for the Cessna Aircraft Company Model 185 Series airplane is Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by 3-1 through 3-5 (normal category). In addition, effective S/N 18502300, 18503684 and on, FAR 23.1559, effective March 1, 1978. FAR 36, dated December 1, 1969, plus Amendments 36-1 through 36-6 for S/N 18502300, 18503459 and on. Part 21.25 of the Federal Aviation Regulations dated February 1, 1965 (restricted category). In addition, any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 185 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane

installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Cessna Model 185 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Cessna Model 185 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951 (a) and (b); § 23.953 (a) and (b); § 23.954, § 23.955 (a) and (c)(1); § 23.959; § 23.961; § 23.963 (a), (d), and (e); § 23.965(a)(1); § 23.967 (a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973 (a), (b), and (c); § 23.975 (a) (1), (2), (3), (5), (6), and (7); § 23.977 (a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997 (a), (b), (c), and (d); § 23.999; § 23.1141 (a), (b), (c), (d), (f), and (g); § 23.1143 (a), (e), and (f); § 23.1189 (a) and (c); and § 23.1337 (a), (b) (1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in Sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-18824 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 023CE, Notice No. 23-ACE-23]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 210 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Cessna Aircraft Company Model 210 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATES: Comments must be received on or before September 22, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 023CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 023CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis (TC 3A21) for the Cessna Aircraft Company Model 210 Series airplane is as follows:

Models 210/210A: Part 3 of the Civil Air Regulations effective May 15, 1956, with no amendments.

Models 210B, 210C, 210D, 210E, 210F, T210F, 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, T210M, 210N, T210N, 210-5(205), 210-5A(205A): Part 3 of the Civil Air Regulations effective May 15, 1956, and Paragraph 3.112, as amended October 1, 1959. FAR 36 dated December 1, 1969, plus Amendments 36-1 through 36-9 for the T210N. In addition, FAR 23.1559, effective March 1, 1978, for the Models 210N/T210N.

Model P210N: Part 3 of the Civil Air Regulations dated May 15, 1956, Paragraph 3.112, as amended October 1, 1959, and §§ 23.365, 23.571, 23.775, 23.841, 23.843, 23.901, 23.909, 23.1041, 23.1043, 23.1143, 23.1305, 23.1325, 23.1441, and 23.1527 of FAR 23 effective February 1, 1965, as amended to February 14, 1975. FAR 36 dated December 1, 1969, plus Amendments 36-1 through 36-6. Also, FAR 23.1559, effective March 1, 1978, for P21000151 and up.

Equivalent Safety Items (S/N U21061040 and up, and S/N P2100001 and up): Airspeed Indicator, CAR 3.757; Operating Limitations, CAR 3.778(a) (210N, S/N 21062955 and up); Airspeed Indicating System, CAR 3.663

In addition, any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 210 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Cessna Model 210 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires. The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following

special conditions as a part of the type certification basis for Cessna Model 210 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); § 23.953(a) and (b); § 23.954, § 23.955(a) and (c)(1); § 23.959; § 23.961; § 23.963(a), (d), and (e); § 23.965(a)(1); § 23.967(a) (1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973 (a), (b), and (c); § 23.975(a) (1), (2), (3), (5), (6), and (7); § 23.977(a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997(a), (b), (c), and (d); § 23.999; § 23.1141(a), (b), (c), (d), (f), and (g); § 23.1143(a), (e), and (f); § 23.1189 (a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23–30, except as set forth in sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown . . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–18827 Filed 8–20–86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 026CE, Notice No. 23-ACE-26]

Special Conditions; Petersen Aviation, Inc., Modified Gulfstream American Model 500 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Gulfstream American Corporation Model 500 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 22, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 026CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 026CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis (TC 6A1) for the Gulfstream American Corporation Model 500 Series Airplane is as follows:

Model 500: CAR 3 effective November 1, 1949, through Amendment 3–12 dated May 18, 1954, and CAR 3.431, as amended May 15, 1956.

Model 500–A, CAR 3 effective May 15, 1956, including Amendments 3–3 and 3–4 effective October 6, 1958. In addition, any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Gulfstream American Model 500 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Gulfstream American Model 500 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Gulfstream American Model 500 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); § 23.953(a) and (b); § 23.954, § 23.955(a) and (c)(1); § 23.959; § 23.961; § 23.963(a), (d), and (e); § 23.965(a)(1); § 23.967(a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973(a), (b), and (c); § 23.975(a)(1), (2), (3), (5), (6), and (7); § 23.977(a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997(a), (b), (c), and (d); § 23.999; § 23.1141(a), (b), (c), (d), (f), and (g); § 23.1143(a), (e), and (f); § 23.1189(a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1985, as amended through Amendment 23–30, except as set forth in Sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 12, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-18826 Filed 8-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket Number 85-ANE-17]

Airworthiness Directives; Rolls-Royce (R-R) plc (Formerly Rolls-Royce Limited) RB211-22B, -535C, and -524 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) to require the removal from service of additional stage 1 and 2 high pressure compressor (HPC) disk assemblies installed on certain R-R RB211 series turbofan engines. The proposed amendment would amend AD 86-13-09, Amendment 39-5346 (51 FR 25192), which requires removal from service of certain stage 1 and 2 HPC disk assemblies. The proposed amendment is needed to prevent fracture of the stage 1 HPC disk, due to material property deviations incurred during the manufacturing process, which could result in uncontained engine failure.

DATES: Comments must be received on or before November 4, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 85-ANE-17, 12 New England Executive Park, Burlington, Massachusetts 01803. or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 85-ANE-17".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable alert service bulletin (ASB) may be obtained from Rolls-Royce plc, Technical Publication Department, P.O. Box 31, Derby DE2 8BJ, England.

A copy of the ASB is contained in Rules Docket Number 85-ANE-17, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85-ANE-17". The postcard will be date/time stamped and returned to the commenter.

This notice proposes to amend AD 86-13-09, Amendment 39-5346 (51 FR 25192), by adding to the removal requirements, stage 1 and 2 HPC disk assemblies identified by serial number in Appendix 4 of R-R ASB RB.211-72-A7774, Revision 1, dated March 21, 1986. On June 20, 1986, Amendment 39-5346 was issued requiring removal from service of stage 1 and 2 HPC disk assemblies identified by serial number in Appendix 3 of R-R ASB RB.211-72-A7774, Revision 1, dated March 21, 1986. One disk failed in service, at 3,188 flight cycles, and liberated pieces which penetrated the engine case and engine cowl. This failure was precipitated by manufacturing process deviations which contributed to a reduction of the low cycle fatigue life of the disk. Following issuance of the NPRM, (50 FR 35839), that preceeded Amendment 39-5346, the FAA determined that additional stage 1 and 2 HPC disk assemblies could be subject to the same material property deviations induced during the manufacturing process, and must also be removed. Since this condition is likely to exist or develop on other engines of the same design, the proposed AD would amend AD 86-13-09, Amendment 39-5346, (51 FR 25192), to require removal of stage 1 and 2 HPC disk assemblies listed in Appendix 4 of R-R ASB RB.211-72-A7774, Revision 1, dated March 21, 1986, at the next 04 module rework but not later than May 31, 1988.

Conclusion

The FAA has determined that this proposed regulation involves 133 R-R RB211-22B, -535C, and -524 series turbofan engines at an approximate cost of 3.924 million dollars. It has also been determined that less than 11 small entities will be affected by this proposed regulation. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By amending Section 39.13, Amendment 39-5346 (51 FR 25192),

Airworthiness Directive (AD) 86–13–09, as follows:

(a) By lettering the paragraph immediately prior to the "NOTE" as paragraph "(a)".

(b) By adding the following new paragraph:

"(b) Remove from service stage 1 and 2 HPC disk assemblies identified by serial number in Appendix 4 of Rolls-Royce ASB RB.211–72–A7774, Revision 1, dated March 21, 1986, or FAA approved equivalent, at the next 04 module rework but not later than May 31, 1988.".

The FAA will request the permission of the **Federal Register** to incorporate by reference the manufacturer's alert service bulletin identified and described in this document.

Issued in Burlington, Massachusetts, on August 13, 1986.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86–18833 Filed 8–20–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas Sulphur Operations in the Outer Continental Shelf; Wells; Temporary Abandonment

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) proposes to amend the regulations to provide requirements for the temporary abandonment of a well. The proposed requirements would remove ambiguity and generally conform the rules to historic industry practice.

DATE: Comments on the proposed rule must be hand-delivered or postmarked no later than September 22, 1986.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091; Attention: John V. Mirabella.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, Telephone: (703) 648–7816, (FTS) 959–7816.

SUPPLEMENTARY INFORMATION: The MMS proposes in 30 CFR 250.44, Borehole abandonment, to add new paragraphs providing for temporary abandonment of a well pending a determination as to whether the well will be completed or permanently abandoned. The amendment is proposed because the current regulations provide no requirements for temporary abandonment of wells. The regulations should provide a like measure of protection of the marine, coastal, or human environment as is provided in the case of the permanent abandonment of a well. The proposed revision will ensure a similar level of protection.

Paragraph b(1) of these regulations will provide for the temporary abandonment of a borehole and specify the requirements to be met by a lessee or operator to obtain such approval. The lessee will be required to obtain initial approval and to provide a status report every 6 months until final action is taken. Requiring approval of such action ensures that MMS is aware of, and concurs in, the necessity of such an action. Requiring status reports ensures MMS is aware of the changing status of wells and enables MMS to ensure that obstruction of the floor is minimized.

The provisions of paragraph b(2) address protective structures and navigational markers that must be emplaced upon temporary abandonments in water depths of less than 100 feet. This requirement will ensure that abandonments do not constitute a significant hazard to fishing, navigation, or other uses of the seabed.

The provisions of paragraph b(3) require permanent abandonment of any temporary abandonments that have been permitted once a final determination has made that the well will not be used for production. This provides a final disposition for any wells that have existed in such an uncompleted state.

The proposed revision reflects the current industry practice in so far as measures that have generally been taken in temporary abandonments.

The Department of the Interior (DOI) has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required. The DOI has determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

The information collection requirements contained in § 250.44 have been submitted to the Office of Management and Budget (OMB) for approval as required by 44 U.S.C. 3504(h). The collection of this information will not be required until it has been approved by the OMB.

Author

The document was prepared by William S. Cook, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf; Environmental impact statements; Environmental protection; Government contracts; Investigations; Mineral royalties; Oil and gas reserves; Penalties; Pipelines; Public lands/mineral resources; Reporting and recordkeeping requirements.

Dated: March 8, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

Part 250—[AMENDED]

For the reasons set forth above, 30 CFR Part 250 is proposed to be amended as follows:

1. The authority citation for Part 250 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

2. Section 250.44 is amended by redesignating the existing paragraph as paragraph (a), and adding new paragraphs (b)(1), (b)(2), and (b)(3) as follows:

§ 250.44 Borehole abandonment.

(a) * * *

(b)(1) After obtaining the written approval of the Director, newly drilled exploratory or delineation wells may be temporarily abandoned pending a determination as to whether they will be completed for production (including injection and other lease service or permanently plugged and abandoned. In order to maintain the temporarily abandoned status of such a well, the lessee shall provide, within 6 months of the original temporary abandonment and at successive 6-month intervals thereafter, plans for reentering the well to complete it for production or to permanently abandon it.

(b)(2) No casing stubs extending to or above the seafloor may be left in water depths less than 100 feet without

protective structures. Protective structures may be a caisson, a jacket, or a subsea dome. Temporary abandonments may be left with mud-line suspension tools in such a manner that the equipment does not present an obstruction extending above the seafloor. All casing stubs and all protective structures placed in waters less than 100 feet shall be marked with proper aids to navigation and the locations reported pursuant to U.S. Coast Guard regulations. Notification of actual commencement of abandonment operations shall be provided to the appropriate District Supervisor sufficiently in advance so that the operations may be inspected while they are underway.

(b)(3) In the event it is determined that a well will not be used for production of a lease, it shall promptly be plugged and abandoned in accordance with paragraph (a) of this section.

[FR Doc. 86-18842 Filed 8-20-86; 8:45 am]
BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86-51]

Local Regulations for Head of Connecticut Regatta, Connecticut River, Middletown, CT.

AGENCY: Coast Guard, DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Head of Connecticut Regatta being sponsored by the City of Middletown, Connecticut. This event involves some 2000 participants racing rowing shells in scheduled heats on the Connecticut River. These rowing shells can be swamped by a passing vessel's wake. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

DATES: Comments must be received on or before September 22, 1986.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004-5098. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky (212) 668-7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 86-51) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The comment period for this proposed rulemaking is less than the normal 45 days because of the time constraints involved. Due to the shortened comment period, verbal comments submitted by telephone are acceptable.

Drafting Information:

The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations:

The twelfth annual Head of Connecticut Regatta sponsored by the City of Middletown, Connecticut is a marine event well known to the boaters and residents of the area. In the past few years it has grown to become one of the largest crew shell race events of its type on the East Coast. Approximately 430 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6 to 8 vessels in conjunction with Coast Guard and local authorities to patrol this event. Several of the sponsors vessels may assist in controlling the spectator fleet which has been growing larger in the past few years despite the late date of this event. The race course will be the same as in 1985 located on the Connecticut River off Cromwell, Portland and Middletown, Connecticut. There is minimal commercial traffic this far up the Connecticut River at this time of the year. On the average, fewer than 2 fuel barges transit this section of the river on any given day enroute to oil facilities along the river. The Coast Guard will restrict vessel movement within the regulated section of the Connecticut River during this event to provide for the safety of the participants and spectators on navigable waters. All nonparticipating vessels wishing to transit through the regulated area will be permitted to do so only at the discretion of the Coast Guard Patrol Commander. Vessel movements shall be at no wake speeds and with Coast Guard or Coast Guard Auxiliary escort when directed by the Patrol Commander. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard Captain of the Port, New London will make notification to and request the cooperation of the upstream commercial facilities in scheduling any vessel deliveries prior to or after completion of the races. The Coast Guard will issue a safety voice broadcast on the day of the race and information about this regulation will be published in the Local Notice To Mariners to advise the general boating public and commercial users of the Connecticut River of the event.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Coordination with local commercial marine interests in advance of the event date should minimize any adverse impact on waterborne commerce during the effective period of these regulations.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.35–329 is added to read as follows:

§ 100.35–329 Head of Connecticut Regatta, Middletown, Connecticut.

(a) *Regulated Area:* That section of the Connecticut River between the southern tip of Gildersleeve Island and aids to navigation light Number 87.

(b) *Effective Period:* This regulation will be effective from 9:00 a.m. to 6:00 p.m. on October 12, 1986.

(c) *Special Local Regulations:* (1) The regulated area shall be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless participating in the event or authorized by the event sponsor or the Coast Guard Patrol Commander.

(2) Vessels awaiting passage through the regulated area shall be held in the vicinity of the southern tip of Gildersleeve Island, if southbound; and at Light 87 if northbound, until escorted at no wake speeds by Coast Guard or Coast Guard Auxiliary patrol vessels through the race course.

(3) The sponsor shall ensure that all races are completed by 6:00 p.m. on October 12, 1986.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: August 11, 1986.

G. D. Passmore,

Rear Admiral (Lower Half) U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86–18894 Filed 8–20–86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–3–FRL–3068–3]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Notice of Proposed Approval of an Administrative Order Issued by the Allegheny County Health Department

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA is proposing to approve an Administrative Order, as a Delayed Compliance Order issued by the Allegheny County Health Department (ACHD) to Allegheny Label, Inc. The Order requires the company to bring air emissions from its graphic arts systems facility located in Cheswick Township, Allegheny County, Pennsylvania into compliance with certain regulations contained in the federally approved State Implementation Plan (SIP) for Allegheny County for the control of ozone. Compliance shall be achieved by April 21, 1987 utilizing low solvent technology (LST) or with an alternative standard (if approved pursuant to section 506 of Article XX) by April 21, 1987 through the installation of appropriate air pollution control equipment. Because the Order has been issued to a major source and permits delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act).

If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the enforcement provisions of section 113 of the Act or citizen suit provisions of section 304 of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 22, 1986.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business hours.

FOR FURTHER INFORMATION CONTACT: Rosemarie P. Nino, Environmental Protection Specialist, Enforcement Policy and State Coordination Section (3AM21), Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–9839.

SUPPLEMENTARY INFORMATION: Allegheny Label, Inc. operates three (3) multicolor rotogravure printing presses at its Cheswick Facility in Allegheny County, Pennsylvania. The Order under consideration addresses emissions from the graphic arts systems processes, which are subject to section 531(A) of Allegheny County Health Department, Rules and Regulations, Article XX, Air Pollution Control. The regulations limit the emissions of Volatile Organic Compounds (VOC), and are part of the federally approved State Implementation Plan for Allegheny County for the control of ozone. The Order requires final compliance with the regulation by April 21, 1987 through the use of low solvent technology (LST) or with an alternative standard (if approved pursuant to section 506 of Article XX) by April 21, 1987 through the installation of appropriate air pollution control equipment.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicated that the Allegheny Label, Inc.'s graphic arts systems facility is a major source of VOC emissions. The facility is located in the Southwest Pennsylvania Intrastate Air Quality Control Region, a non-attainment area for the National Ambient Air Quality Standard for ozone. The facility as presently constructed is unable to comply with regulations limiting emissions of VOCs codified at section 531(A) of Allegheny County Health Department, Rules and Regulations, Article XX, Air Pollution Control, part of the federally approved State Implementation Plan for Allegheny County, because low solvent inks are still being developed. Prior to issuance of the Order, Allegheny County provided an opportunity for public comment and hearing on the Order. No

public comments or requests for public hearing were received by the Allegheny County. The Order contains requirements for expeditious increments of progress towards compliance and emission monitoring and reporting as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7)(A) of the Clean Air Act. Quarterly increment(s) of progress have been established. These progress reports will show what steps Allegheny Label, Inc. is taking to achieve compliance with section 531(A) of Allegheny County Health Department Rules and Regulations, Article XX, Air Quality Control.

Allegheny Label, Inc. plans to achieve compliance through the use of water based and/or high solids ink and lacquer systems, in accordance with Article XX, Chapter 5, section 531(A), Graphic Art Systems or with an alternative standard (if approval pursuant to section 506 of Article XX) by April 21, 1987 through the installation of appropriate air pollution control equipment. The 1984 estimated VOC emissions of 630.3 Tons/Year (T/Y) will be reduced to 195.0 T/Y no later than April 21, 1987.

Allegheny Label, Inc. had committed to completing its research and development of low solvent inks by July 21, 1986. On July 16, 1986, Allegheny Label, Inc. did commit to achieve compliance by April 21, 1987 through the use of low solvent inks. Since low solvent technology is being pursued by Allegheny Label, Inc., they will complete an evaluation of product quality and commercial acceptance of low solvent inks and issue purchase orders for complying low solvent inks by February 21, 1987. In addition, a written plan shall accompany the notice committing to full compliance with section 531(A) of Article XX by April 21, 1987. Said plan shall describe the control equipment and installation schedule in detail and shall include application for any plan or installation permit approvals required by Article XX.

The Order requires the facility to comply with the State Implementation Plan for Allegheny County whenever it is temporarily able to do so and the Order, therefore, meets the requirements of section 113(d)(7)(B). The Order notifies Allegheny Label, Inc. of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420 as required by section 113(d)(1)(E) of the Act.

The Agency will not take final action on this proposal until its final approval of a proposed revision to Appendix 22, the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP). The proposed revision, which appeared in the Federal Register on March 12, 1986 (40 CFR Part 52, Volume 51, No. 48, Page 8518), provides the Allegheny County Health Department (ACHD) with the authority to grant, on a case-by-case basis, extensions of the final air pollution compliance dates for surface coating and graphic arts sources in Allegheny County. Such extensions can postpone the final compliance date until April 21, 1987, if they are approved by EPA as delayed compliance orders under section 113(d) of the Act.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded.

If approved, the Order would also constitute an addition to the SIP for Allegheny County. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

(Authority: 42 U.S.C. 7413, 7601)

Dated: August 8, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86-18879 Filed 8-20-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 122 and 403

[FRL-3068-2]

Water Pollution; General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: The United States Environmental Protection Agency (EPA) is today providing notice that the public comment period for proposed amendments to the General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) published in the Federal Register on June 12, 1986 (51 FR 21454) is being extended.

DATES: All comments on the June 12, 1986, proposed rule published at 51 FR 21454 must be received on or before September 22, 1986.

ADDRESS: Interested persons may submit written comments to: Hans I.E. Bjornson, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: George E Young, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8539.

SUPPLEMENTARY INFORMATION: On June 12, 1986, EPA published proposed amendments to the General Pretreatment Regulations for Existing and New Sources, 40 CFR Part 403 (51 FR 21454). The June 12 notice set a period of 60 days for the receipt of public comments. Since publication of the June 12 notice, EPA has received several requests to lengthen the comment period to allow sufficient time to consider and respond to issues raised concerning centralized waste treatment facilities. In response to these requests, EPA has decided to extend the comment period to September 22, 1986.

Dated: August 11, 1986.

Lawrence J. Jensen,

Assistant Administrator for Waste.

[FR Doc. 86-18881 Filed 8-20-86; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 51, No. 162
Thursday, August 21, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1986 Peanut Program; Notice of Determination

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination—1986-Crop Peanut Price Support Differentials.

SUMMARY: This notice of determination sets forth specified price support loan and purchase rates for the 1986-crop of quota and additional peanuts which reflect adjustments for differences in type, quality, location and other factors. These adjusted loan and purchase rates apply to warehouse-stored loans, farm-stored loans and purchases. The adjustments are made in accordance with Section 403 of the Agricultural Act of 1949 (the "1949 Act").

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Tobacco and Peanuts Division, ASCS, USDA, Room 5727 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5754.

The impact analysis describing options considered in developing this determination and the impact of implementing such options is available upon request from Mr. Whitfield.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major". It has been determined that this determination will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this determination applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

On the basis of an environmental evaluation, it has been determined that this action will have no significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitats, water quality, air quality, and land use and appearance. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Under the provisions of Section 108B of the 1949 Act, as added by section 705 of the Food Security Act of 1985, the Secretary is required to announce price support levels for quota peanuts (peanuts marketed under a quota held by or acquired by the producer) and additional peanuts (nonquota peanuts). The 1986 quota support level of $607.47 per ton and the additional support level of $149.75 per ton were announced on February 14, 1986. Section 403 of the 1949 Act permits adjustments in the support levels for type, quality, location and other factors.

Section 403 also provides that on the application of such adjustments the average level of support shall, to the extent practicable and based on the expected incidence of the factors on which the adjustments are made, be equal to the support level announced by the Secretary for the crop year involved.

A Notice of Proposed Determination regarding adjustments (or "differentials") in the levels of price support for the 1986-crop of peanuts was published in the Federal Register on June 17, 1986 (51 FR 21941)). In that notice, it was proposed that the premium for extra large kernels (ELKs) of Virginia-type peanuts would remain the same as for the 1985-crop level of 35 cents per percentage ELKs in a farmers stock ton. In addition, because abnormal weather in 1983 produced low quality Virginia-type peanuts, it was also proposed that a 4-year (1981, 1982, 1984 and 1985) average would be used to project 1986-crop Virginia-type peanuts rather than the customary 5-year average used for such estimates. The June 17, 1986 notice also proposed that the minimum support value for any quota lot of eligible peanuts of any type would decrease from 8 to 7 cents per pound of kernels in the lot so that the minimum level would not exceed the support level for loose shelled kernels (LSKs). Aside from the changes indicated in the June 17, 1986 notice, no other changes from the past method of determining differentials were proposed.

One peanut sheller/handler organization responded to the June 17 notice. The commenter suggested that the basic differentials allow the spread between the dollars per percentage of sound mature kernels (SMK) for Virginia and Runner-type peanuts to remain unchanged from the 1985-crop peanuts. Under the differentials which applied to the 1985-crop and all preceding crops since 1976, the base SMK value per percentage for Virginia-type peanuts has been 2 percent higher than the base SMK value per percentage for Runner-type peanuts. For Spanish-type peanuts, the base SMK value per percentage has been ½ percent higher than the Runner base SMK value per percentage. The Valencia base SMK value per percentage was not established as a proportion of any other base SMK value. However, peanut differentials have traditionally been established in such a manner that the average Valencia support per ton was tied to either the average level of support per ton for Virginia-type peanuts or Spanish-type peanuts depending on the quality and location of the Valencia-type peanuts.

The commenter supported a uniform excess moisture level for all peanut types and areas. The commenter recommended that the premium for ELKs for Virginia-type peanuts be reduced from 35 cents for each percentage of ELKs to 25 cents for each percentage of ELKs.

It has been determined that the 1986-crop differentials will be adopted as proposed. The proposed changes from

the 1985-crop were to use a 4-year average to project the expected quality of Virginia-type peanuts for the 1986-crop and to reduce the minimum support value from 8 to 7 cents per pound of kernels.

The determination to use a 4-year average (rather than the normal 5-year average) to project the quality of 1986-crop Virginia-type peanuts, excluding the 1983-crop data, increased the quantity of Virginia-type ELK peanuts available for price support which adequately compensates for the recent increase in plantings of the NC–7 variety of Virginia-type peanuts which produces an unusually large percentage of ELK peanuts. A reduction in the ELK premium to 25 cents per percentage of ELKs in a ton of Virginia-type peanuts was considered; however, it was determined that such a reduction in the ELK premium would cause a substantial increase in the use of Virginia-type peanuts in primary products which would force a larger than normal quantity of Runner-type peanuts into price support loan. It was also determined that a 25 cent ELK premium on Virginia-type peanuts would result in overly attractive loan rates for Runner and Spanish-type peanuts which would also increase the loan intake of these types of peanuts, resulting in an unbalanced use of the 1986-crop price support program. The continuation of the 35 cent premium avoids the possibility that CCC might undersupport the 1986-crop of Virginia-type peanuts and prevents a possible undesirable increase in peanuts pledged for price support loan.

The recommendation to allow for the same spread between the dollars per percentage SMK for Virginia and Runner-type peanuts as were applicable for the 1985-crop differentials would require the Commodity Credit Corporation of the Department of Agriculture to change the customary formula for determining the dollars per percentage SMK and such a change has not been found to be necessary. Absent a need, such a change could be disruptive to the extent it produced an actual change of prices.

Except as indicated, the 1986-crop differentials have been calculated in the same manner as the 1985-crop differentials, and employ the same premiums and discounts. As with the 1985-crop, the value of additional peanuts for price support purposes will, in effect, be calculated by using a two-step process. The first step is to calculate the level at which the peanuts would be supported if the particular peanuts involved were quota peanuts. That figure is then reduced by a factor that represents the ratio of the national average support level for additional peanuts for the 1986-crop ($149.75/ton) to the national average support level for quota peanuts for the 1986-crop ($607.47/ton). That factor for the 1986-crop year is .2465. Price support loans made on the basis of the following prices will be subject to adjustments for deductions permitted by CCC or required by law. Those required by law would include any adjustment arising in connection with the deficit reduction provisions of The Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. No. 99–177). Because of the onset of the marketing year for the 1986 crop and the need for interested parties to be informed of the prices set forth in this notice, good cause is shown for this Final determination to be effective upon publication.

Determination

Accordingly, the following support prices and applicable adjustments are set forth with respect to the 1986-crop of peanuts.

(a) *Average 1986 Support Values for Quota Peanuts by Type Per Average Grade Ton of Peanuts.*

(1) *Support Value for Warehouse-Stored Peanuts:*

Type	Per average grade ton
Virginia	$608.72
Runner	610.93
Spanish	579.85
Valencia:	
Southwest area—suitable for cleaning and roasting	608.72
Southwest area—not suitable for cleaning and roasting	579.85
Areas other than Southwest	579.85

(2) *Support Value for Farm-Stored Peanuts:*

Type	Per average grade ton
Virginia	$609
Runner	611
Spanish	580
Valencia:	
Southwest area	609
Areas other than Southwest	580

(b) *Calculation of Support Prices for Quota Peanuts by Type and Quality.*

The support price per ton for 1986-crop quota peanuts of a particular type and quality shall be calculated on the basis of the following rates (with no value assigned to damaged kernels (DKs)), premiums, and discounts (including a DK discount) except that the minimum support value for any quota lot of eligible peanuts of any type shall be 7 cents per pound of kernels in the lot:

(1) *Kernel Value Per Ton Excluding Loose Shelled Kernels (LSKs).*

(i) The price per ton for each percent of sound mature and sound split (SS) kernels shall be:

Type	Per percent
Virginia	$6.775
Runner	6.803
Spanish	6.646
Valencia:	
Southwest area—suitable for cleaning and roasting	9.050
Southwest area—not suitable for cleaning and roasting	6.646
Areas other than Southwest	6.646

(ii) The price per ton for each percent of other kernels (OK) shall be: All types, per percent, $1.40.

(iii) The premium per ton for each percent of ELKs for Virginia-type peanuts shall be: $0.35. However, no premium for ELKs shall be applicable to any ton of such peanuts containing more than four-percent DKs.

(2) *Price of LSKs Per Pound.* The price for each pound of LSKs shall be: All types, per pound, $0.07.

(3) *Foreign Material Discount.* For all types of peanuts, the discount per ton for foreign material shall be as follows:

Percent	Discount
0–4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 percent deduct an additional $2.

(4) *SS Kernel Discount.* For all types of peanuts, the discount per ton for SS kernels shall be as follows:

Percent	Discount
1 through 4	$0
5	1.00
6	1.60
7 and over	(2)

[2] For each full percent in excess of 6 percent deduct an additional $0.60.

(5) *DK Discount.*

(i) For all types of peanuts, the discount per ton for DKs shall be as follows:

Percent	Discount
1	$0
2	3.40
3	7.00
4	11.00
5	25.00
6	40.00
7	60.00
8 to 9	80.00
10 and over	100.00

(ii) **Notwithstanding the above discount schedule, the DK discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.**

(6) *Adjustment for Peanuts Sampled with Other Than Pneumatic Sampler.* **The support price per ton for Virginia-type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per every percentage point of sound mature (SM) and SS kernels.**

(7) *Mixed Type Discount.* Individual lots of farmers stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a price which is $10 per ton less than the support price available to the type in the mixture having the lowest support price.

(8) *Adjustments for Location Where Peanuts are not Customarily Shelled or Crushed.*

(i) **Farmers stock peanuts on which price support is made available in the States specified below shall be discounted as follows:**

State	Per ton
Arizona	$25.00
Arkansas	10.00
California	33.00
Louisiana	7.00
Mississippi	10.00
Missouri	10.00
Tennessee	25.00

(ii) Farmers stock peanuts on which price support is made available in Puerto Rico and all other States, territories and possessions of the United States (excluding the States specified in Paragraph (8)(i) and Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia), shall be discounted at $40.00 per ton.

(9) *Virginia-Type Peanuts.* Virginia-type peanuts, in order to be eligible for price support as Virginia-type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at 34/64 inch space. Virginia-type peanuts so determined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were Runner-type.

(10) *Discount for Aspergillus Flavus Mold (Segregation 3 Peanuts).* There will be no discount applied to Segregation 3 peanuts for Aspergillus flavus mold when such peanuts are pledged as loan collateral at the additional loan rate. Should such peanuts later be transferred to a quota loan pool under 7 C.F.R. Part 1446, they will be discounted at the rate of $25 per net ton from the quota price support rate.

(c) *Calculation of Support Values for Additional Peanuts.* The support price per ton for 1986-crop additional peanuts of a particular type and quality shall be calculated on the basis of 24.65 percent of the same rates, premiums and discounts as are applicable to quota peanuts. This percentage has been computed by dividing the national average support rate per ton for 1986-crop additional peanuts by the national average support rate per ton for 1986-crop quota peanuts.

Signed at Washington, DC, on August 15, 1986.

William C. Bailey,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-18863 Filed 8-20-86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service; Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
John. B. Christian
David L. Edgell
David Farber
Michael A. Levitt
Mark R. Policinski
Roger J. Whyte
Otto J. Wolff

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 86-18948 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-09-M

International Trade Administration

Boston University et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-290. Applicant: Boston University, 147 Bay State Road, Boston, MA 02215. Instrument: Motion Analysis System. Manufacturer: Northern Digital, Canada. Intended Use: Research process of studying and quantifying human movement. Populations to be studied will include both normal children and adults and those with motor problems. In addition, the instrument will be used to teach graduate students in the use of motion analysis with young children. Application Received by Commissioner of Customs: July 22, 1986.

Docket No. 86-291. Applicant: City College—C.U.N.Y., Physics Department J419, Convent Avenue & W. 138th Street, New York, NY 10031. Instrument: Interferometer. Manufacturer: Dr. John Sanderock, Laboratories RCA, Switzerland. Intended Use: The instrument will be used to study inelastic light scattering in the incommensurate ferroelectric crystals potassium selenate and rubidium zinc chloride. Application Received by Commissioner of Customs: July 24, 1986.

Docket No. 86-293. Applicant: Armed Forces Radiobiology Research Institute, Building #42, Bethesda, MD 20814-5145. Instrument: Rapid kinetics Accessory, Model SFA-11. Manufacturer: High-Tech Scientific Ltd., United Kingdom. Intended Use: The instrument is intended to be used for conducting experiments to determine the effects of ionizing radiation on the structural properties of DNA, lipids and membranes. Application Received by Commissioner of Customs: July 28, 1986.

Docket No. 86-294. Applicant: University of Massachusetts Medical

Center, 55 Lake Avenue North, Worcester, MA 01605. Instrument: PMV Cryo-Microtome, Model LKB 2250–041 with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended Use: The instrument is intended to be used to prepare cardiac specimens for study. The quality of the sections will give increased resolution for distribution isotopic studies and the ability to accurately quantitate the same material. The instrument will also produce adjacent sections of a quality which will allow for high resolution histochemistry and biochemical analyses of the large specimens. Application Received by Commissioner of Customs: July 29, 1986.

Docket No. 86–295. Applicant: Texas A&M University, Box 3578, USDA Building, Room 219, University Drive & Wellborn Road, College Station, TX 77843–3578. Instrument: Rapid Kinetic Accessory, Model SFA–11. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended Use: The instrument is intended to be used in the study of iron and anion exchange reactions of the proteins lactoferrin from milk and transferrin from blood. The objective of this study is to characterize these proteins with regard to metal and anion binding and release phenomena. Application Received by Commissioner of Customs: July 29, 1986.

Docket No. 86–296. Applicant: The Johns Hopkins University School of Medicine, 725 N. Wolfe Street, Baltimore, MD 21205. Instrument: Micromanipulator, Model MO–103. Manufacturer: Narishige, Japan. Intendeed Use: The instrument is intended to be used to carry and to position a microelectrode with the head stage of the sensing system in voltage clamp and membrane patch clamp experiments on excised muscle, isolated cardiocytes, and cultured cells. The objective of these studies is an understanding of a mechanism by which the hormone insulin acts, by examining insulin effects on ion channels in biological cell membranes. Applicantion Received by Commissioner of Customs: August 1, 1986.

Docket No. 86–297. Applicant: Northwestern University, Department of Biochemistry, Molecular Biology and Cell Biology, 2153 Sheridan Road, Evanston, IL 60201. Instrument: Circular Dichroism Spectropolariameter, Model J–600. Manufacturer: Jasco, Japan. Intended Use: The instrument is intended to be used for circular dichroic measurements of pigment-protein complexes to determine structural information relating to pigment binding and to ascertain the secondary structure of synthetic polypeptides in liposomes. Application Received by Commissioner of Customs: August 1, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18902 Filed 8–20–86; 8:45 am]

BILLING CODE 3510-DS-M

Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by Far East Machinery Co., Ltd. and Voss International Corporation, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The review covers two of the seven known manufacturers and/or exporters of this merchandise to the United States and the period October 1, 1983 through April 30, 1984. The review of Yieh Hsing Enterprise Co., Ltd. terminated on December 2, 1985, the date the Department received Yieh Hsing's withdrawal of its request for an administrative review for the period. The review indicates the existence of dumping margins for the two firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value for Far East Machinery Co., Ltd. Tai Feng Industries, a company that went out of business in November 1983, did not respond to our questionnaire. The Department used the best information available for assessment purposes for that firm.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah Grossman or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19369) the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. We began the October 1, 1983 through April 30, 1984 review of the order under our old regulations. After the promulgation of our new regulations, the respondents, Far East Machinery Co., Ltd., and Yieh Hsing Enterprise Co., Ltd., and an importer, Voss International Corporation, requested that we complete the administrative review in accordance with § 353.53a(a) of the Commerce Regulations. Yieh Hsing Enterprise Co., Ltd. withdrew its request on December 2, 1985.

Scope of the Review

The imports covered by the review are shipments of certain circular welded carbon steel pipes and tubes. The Department defines such merchandise as welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inches, and 0.375 inches or more but not over 4.5 inches in outside diameter, which are currently classified under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243 and 610.3252 of the Tariff Schedules of the United States Annotated ("TSUSA").

The review covers two of the seven known manufacturers and/or exporters of certain Taiwanese circular welded carbon steel pipes and tubes to the United States, and the period October 1, 1983 through April 30, 1984.

Tai Feng Industries went out of business in November 1983 and did not respond to our questionnaire. For that firm the Department used the best information available for assessment purposes. The best information available was the most recent antidumping duties cash desposit rate for that firm.

United States Price

In calculating United States price the Department used purchase price as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the packed f.o.b. price to unrelated purchasers in the United States. We made adjustments for foreign inland freight, customs clearance charges, and export duties.

We disallowed a claim for an adjustment for import duty drawback because this claim was insufficiently substantiated. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We made adjustments for inland freight, business taxes, and differences in credit costs. We disallowed claims for adjustments for bad debt and educational and stamp taxes because these claims were insufficiently substantiated. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value for Far East Machinery Co., Ltd., and our use of the best information available for Tai Feng Industries, we preliminarily determine that the following margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Far East Machinery Co., Ltd.	10/01/83–04/30/84	37.76
Tai Feng Industries	10/01/83–04/30/84	43.7

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held on September 19, 1986. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above for Far East Machinery Co., Ltd. The Department will issue appraisement instructions on each exporter directly to the Customs Service. Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margin shall be required for Far East Machinery Co., Ltd. For any future entries of this merchandise from a new exporter not covered in the investigation or this administrative review, whose first shipments occurred after April 30, 1984, and who is unrelated to any reviewed firm, a cash deposit of 37.76 percent shall be required. These deposit requirements are effective for all shipments of certain circular welded carbon steel pipes and tubes entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final result of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Traiff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-18900 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Harvard University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-122. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Microscope Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 7845.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: These are compatible accessories for an instrument previously imported for the use of the applicant. The instrument and accessories were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated July 11, 1986 that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18903 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Kansas State University; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 85-252R. Applicant: Kansas State University, Manhattan, KS 66506. Instrument: Equine Treadmill for Horses, Model 4785. Manufacturer: RTC Systems, KB Sweden. Original notice of this resubmitted application was published in the **Federal Register** of September 5, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides speed capacity to 13.8 meters per second, incline adjustment during operation, and a safety harness. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18904 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Northwestern University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-112. Applicant: Northwestern University, Evanston, IL 60201. Instrument: Stopped-Flow Fluorescence Spectrophotometer, Model

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SF–51. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended Use: See notice at 51 FR 6576.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (October 2, 1985).

Reasons: The foreign article provides small sample capability (minimum 100 microliters per reaction) and a dead time less than 1.0 millisecond. The National Institutes of Health advises in its memorandum dated July 11, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no demestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18905 Filed 8–20–86; 8:45 am]

BILLING CODE 3510–DS–M

The Ohio State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86–234. Applicant: The Ohio University, Columbus, OH 43210. Instrument: Mass Spectrometer/Gas Chromatograph Data System, Model VG–70250S. Manufacturer: VG Instruments, United Kingdom. Intended use: See notice at 51 FR 23256.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (May 21, 1986).

Reasons: The foreign article provides continuously variable mass resolution up to 50 000 (10% valley definition), mass range 1–1600 amu at 10 kV in the FAB mode and less than 0.3 second cycle time for mass 500–25–500. This capability is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commerical practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtme considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of comparable instruments it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No., 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–18906 Filed 8–20–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–507–601]

Preliminary Affirmative Countervailing Duty Determination: Roasted In-Shell Pistachios From Iran

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to growers, processor-roasters, or exporters in Iran of roasted in-shell pistachios. The estimated net bounty or grant is 317.89 percent *ad valorem*.

We are directing the U.S. Customs Service to suspend liquidation of all entries of roasted in-shell pistachios from Iran that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination on or before October 29, 1986.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC., 20230; telephone (202) 377–0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to growers, processor-roasters, or exporters in Iran of in-shell pistachios which are roasted and imported into the United States. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Foreign Exchange Benefits for Exporters.
- Price Supports and/or Guaranteed Purchase of All Production.
- Preferential Provision of Fertilizer and Machinery.
- Preferential Credit.
- Tax Exemptions.
- Provision of Water and Irrigation at Preferential Rates.

• Technical Support.

We preliminarily determine the estimated net bounty or grant for roasted in-shell pistachios to be 317.89 percent *ad valorem*.

Case History

On June 24, 1986, we received a petition in proper form filed by the California Pistachio Commission, Keenan Farms Inc. Kern Pistachio Hulling and Drying Co-op, and T.M. Duche Nut Company, Inc. on behalf of growers and processor-roasters in the U.S. pistachio nut industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that growers, processor-roasters, and exporters in Iran of roasted pistachios receive bounties or grants within the meaning of section 303 of the Act.

Since Iran is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303(a)(1) and (b) of the Act apply to this investigation. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 30, 1986, we initiated such an investigation (51 FR 25084, July 10, 1986). We stated that we intended to expedite the preliminary determination, which in any case would be issued no later than sixty-five days after the date of initiation.

We presented a detailed questionnaire to the Government of Algeria in Washington, DC on July 2, 1986, and requested that it forward the questionnaire to the Iranian authorities in its capacity as the protecting power for Iran in the United States. We requested a reponse to our questionnaire by August 1, 1986. We did not receive a reponse from either the Government of Iran or the growers, processor-roasters, or exporters of the subject merchandise in Iran.

Scope of Investigation

The product covered by this investigation is all roasted in-shell pistachio nuts, whether roasted in Iran or elsewhere, from which the hull has been removed, leaving the inner hard shells and the edible meat, currently provided for under item 145.53 of the *Tarriff Schedules of the United States* (TSUS).

Analysis of Programs

Because we did not receive a response to our questionnaire, we are using the best information available as required under section 355.39 of our regulations (19 CFR 355.39), adversely inferring countervailability and receipt of benefits based on the absence of a response. We will continue to seek information from our own sources to determine the countervailability and level of benefits of the programs under investigation.

I. Programs Preliminarily Determined to Confer Bounties or Grants

We preliminarily determine that bountries or grants are being provided to growers, processor-roasters, or exporters in Iran of in-shell pistachios which are roasted and imported into the United States under the following programs:

A. Foreign Exchange Benefits for Exporters

Petitioners allege that exporters of pistachios in Iran are entitled to exchange foreign currency earned from export sales at a premium of 11 percent above the official exchange rate and that this preferential rate is limited to exporters. According to information submitted in the petition, exporters of pistachios in Iran may retain this additional 11 percent as foreign exchange and they may benefit from this retained foreign currency in one of two ways.

First, an exporter can use the additional foreign currency to import goods for resale in Iran at whatever price the market will bear. According to the petition, the free market price of imported goods is often five to six times higher than the price set by the Government of Iran. Second, a pistachio exporter may sell retained foreign currency at the free-market rate to any person in Iran with a need for foreign currency. During the period of investigation, the average official exchange rate was 89.248 rials/dollar, derived from International Monetary Fund statistics, and, according to petitioners, the average free-market exchange rate was approximately 650 rials/dollar. Petitioners estimate the net bounty or grant from the preferential exchange rate and foreign currency retention schemes to be 56.65 percent *ad valorem*.

Petitioners further allege that when Iranian exporters surrender their foreign exchange to the Iranian Central Bank, they receive a *wariznameh*, or a foreign exchange certificate. This certificate, given in addition to the rial value of the foreign currency surrendered, is an acknowledgement by the Central Bank of receipt of foreign exchange and authorizes the holder to receive foreign currency equal to the amount indicated on the *wariznameh* to use for the payment of imports. The *wariznameh* has a face value equal to the full value of the foreign currency earned for exports. The *wariznameh* is transferable to importers needed foreign currency to pay their bills and, according to petitioners, has a market value of 240–360 rials/dollar. Therefore, the *wariznameh* potentially confers a benefit on the exporters of 240–360 rials for each dollar earned from exports.

We have been unable to ascertain from available information whether the preferential exchange rate/currency retention schemes and the *wariznameh* program coexist in Iran or, as the petitioners suggest, the former program has been superseded by the latter. As best information available, we determine that exporters of Iranian pistachios benefits from the *wariznameh* program. This is the program for which the petition provides the most recent information and, of the two, has the highest rate.

To calculate the benefit, we assumed an average value for the *wariznameh* of 300 rials for each dollar delivered to the Central Bank. Using the official exchange rate for 1985 of 89.248 rials, we calculated that the exporter received a benefit of $3.3614 on each dollar of exports, or 336.14 percent.

The petitioners allege that all roasted pistachios from Iran are exported as raw pistachios and are then roasted in a third country before importation into the United States. Therefore, we have adjusted the benefit from this program to reflect that any benefit earned in Iran is actually earned on the lower value of raw pistachios. We compared the average unit value of raw pistachios imported into the United States to the value of roasted pistachios imported into United States. This comparison showed the value of raw pistachios imported into the United States to be 82.7 percent of the value of imported roasted pistachios. Therefore, we adjusted the benefit from this program using this 82.7 percent and obtained an estimated net bounty or grant of 277.99 percent *ad valorem*.

B. Price Supports and/or Guaranteed Purchase of All Production

Petitioners allege that pistachio growers in Iran may benefit from a government policy of guaranteeing purchase of, and subsidizing prices for, certain major food commodities.

Petitioners state that the Government of Iran gave the Rafsanjan Cooperative, the country's principal pistachio cooperative, a $100 million loan on terms inconsistent with commercial considerations to purchase and stockpile pistachios.

Because we did not receive a response to our questionnaire in this investigation, we are assuming, as best information available, that this type of financing is limited to a specific enterprise or industry, or group of enterprises or industries, and that the loan was extended on terms inconsistent with commercial considerations.

We treated the loan under this program as a long-term, cost-free loan and calculated the benefit consistent with the Department's methodology as outlined in the *Subsidies Appendix* for long-term loans [*see, Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina* (49 FR 18006, April 26, 1984)]. We have assumed that the loan was given in 1983, when, according to information supplied by the petitioners, the Iranian banks still operated under a system of charging interest on loans. To determine a benchmark interest rate for loans in Iran, we are relying on information contained in the *Middle East Economic Digest*. This publication indicates that interest rates on bank loans in 1983 ranged from 12 to 18 percent. To quantify the benefit from this loan, we assumed the loan was given interest free and used 18 percent as our commercial benchmark rate. Because information in the record of this investigation indicates that the Rafsanjan Pistachio Producers Cooperative is the only pistachio cooperative in Iran, we divided the benefit received during the review period by the total value of 1985 pistachio production. This benefit of 6.05 percent was then applied to the adjustment factor for roasted pistachios of 82.7 percent. On the basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

C. Preferential Provision of Fertilizer and Machinery

Petitioners allege that agricultural cooperatives, such as the Rafsanjan Cooperative, can obtain fertilizer and machinery from the government at preferential prices. According to the petition, the extent of the benefit varies with the crop produced. Petitioners further allege that these cooperatives, in turn, provide both fertilizer and machinery to their members on terms inconsistent with commercial considerations.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degee the pistachio industry receives countervailable benefits under this program, we are applying, as best information available, the highest benefit rate for a domestic bounty or grant program found in this case. On this basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

D. Preferential Credit

Petitioners allege that agricultural cooperatives in Iran make preferential credit available from funds provided by the government to their members. Petitioners argue that the Rafsanjan Cooperative is the principal cooperative for pistachios in Iran and that this organization may provide loans on terms inconsistent with commerical considerations to its members.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degree the pistachio industry receives countervailable benefits under this program, we are applying, as best information available, the highest benefit rate for a domestic bounty or grant program found in this case. On this basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

E. Tax Exemptions

Petitioners allege that pistachio farmers may benefit from legislation exempting farmers and livestock breeders from paying taxes, provided they follow government agricultural guidelines.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degree the pistachio industry receives countervailable benefits under this program, we are applying, as best information available, the highest benefit rate for a domestic bounty or grant program found in this case. On this basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

F. Provision of Water and Irrigation

Petitioners allege that pistachio growers in Iran may benefit from the construction of soil dams, flood barriers, canals, and other irrigation projects undertaken by the government to increase agricultural production.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degree the pistachio industry receives countervailable benefits under this program, we are applying, as best information available, the highest benefit rate for a domestic bounty or grant program found in this case. On this basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

G. Technical Support

Petitioners allege that pistachio growers in Iran may receive technical support as part of the government's program to support agricultural development. Petitioners argue that technical support has included research projects to improve cultivation techniques, and assistance in harvesting, marketing, and use of fertilizer.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degree the pistachio industry receives countervailable benefits under this program, we are applying, as best information available, the highest benefit rate for a domestic bounty or grant program found in this case. On this basis, we preliminarily determine an estimated net bounty or grant of 6.65 percent *ad valorem*.

Verification

In accordance with section 776(a) of the Act, if we receive complete responses in a timely manner, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of roasted in-shell pistachios from Iran which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry in the amount of 317.89 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 29, 1986, at the U.S.

Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20203. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 22, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act [19 U.S.C. 1671b(f)].

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 15, 1986.

[FR Doc. 86-18901 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York, et al; Consolidated Decision on Applications For Duty-Free Entry of Reflected Light Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th & Constitution Avenue, NW. Washington, DC.

Docket No. 86-131. Applicant: State University of New York at Stony Brook, Stony Brook NY 11794. Instrument: Reflected Light Microscope with Accessories. Manufacturer: Sluzba Vyzkumu, Czechoslovakia. Intended Use: See notice at 51 FR 8691. Advice Submitted By: National Institutes of Health: July 11, 1986.

Docket No. 86-134. Applicant: The University of Iowa, Iowa City, IA 52242. Instrument: Reflected Light Microscope with Accessories. Manufacturer: Department of Biophysics, Charles University, Czechoslovakia. Intended Use: See notice at 51 FR 9500. Advice Submitted By: National Institutes of Health: July 24, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can image structures in subsurface layers to a depth of about 180 micrometers in reflectively appropriate media. The National Institutes of Health advises in its respectively cited memoranda that (1) the capability of each of the foreign instruments described above is pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18907 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois, Urbana Champaign Campus; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-073R. Applicant: University of Illinois, Urbana Champaign Campus; Urbana, IL 61801. Instrument: Excimer Laser, Model EMG 150E. Manufacturer: Lambda-Physik GmbH, West Germany. Intended Use: See notice at 51 FR 22097.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purpose as it is intended to be use, is being manufactured in the United States.

Reasons: The foreign article is an oscillator/amplifier configuration providing a timing range of 0.3 nm and a narrow bandwidth (0.01 at 193 nm). This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Satutory Import Programs Staff.

[FR Doc. 86-18908 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Washington University Medical School, Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-102. Applicant: Washington University Medical School, St. Louis, MO 63110. Instrument: Mass Spectrometer, Model ZAB-SE and 11/250 Data System. Manufacturer: VG Analytical Ltd., United Kingdom. Intended Use: See notice at 51 FR 6155.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a mass range of 12,000 atomic mass units at an accelerating potential of 10,000 volts and resolution of 75,000 in the FAB mode. The National Institutes of Health advises in its memorandum dated July 11, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-18909 Filed 8-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Washington University School of Medicine; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational,

VOL 51 ISS 162 AG 21 1986 UMI

Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86–128. Applicant: Washington University School of Medicine, St. Louis, MO 63110. Instrument: Microtome Cryostat with Accesories. Manufacturer: Hacker/Bright, United Kingdom. Intended Use: See notice at 51 FR 8691.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) Large, uniform serial sections in the range of 0.5 to 30 micrometers, (2) controlled temperatures between −10 and −30 degrees Centigrade, and (3) slow, reproducible cutting. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) these capabilities are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Satutory Import Programs Staff.

[FR Doc. 86–18910 Filed 8–20–86; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Deep Seabed Mining—Approval of Exploration License Revision

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of approval of exploration license amendment for Ocean Management, Inc.

SUMMARY: Pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970, the National Oceanic and Atmospheric Administration (NOAA) on August 12, 1986, approved revision number 1 to *Deep Seabed Hard Mineral Resources Exploration License USA–2* as proposed by the license, the Ocean Management, Inc. (OMI), c/o INCO Limited, One New York Plaza, New York, New York 10024 on November 19, 1985 as clarified on March 27 and April 3, 1986.

FOR FURTHER INFORMATION CONTACT: John W. Padan or Nancy Carter, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, Suite 710, 1825 Connecticut Avenue NW., Washington, DC 20235 (202) 673–5117..

Dated: August 18, 1986.

Approved:

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86–18876 Filed 8–20–86; 8:45 am]

BILLING CODE 3510–12–M

Tanner Crab off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice; request for comments.

SUMMARY: The North Pacific Fishery Management Council has for distribution an issues paper describing long-term alternatives for Federal management of the Alaskan Tanner crab fishery. Copies of the issues paper can be obtained from the address below. Comments are requested during this public review period and any comments received will be given to the Council for use at its September 24–26, 1986, meeting.

DATE: Comments are due by September 12, 1986.

ADDRESS: Comments should be sent to Steve Davis, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Steve Davis, 907–274–4563.

Dated: August 18, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–18927 Filed 8–20–86; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Ada Board Evaluation and Validation Panel Meeting

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Ada Board Evaluation and Validation Panel will be held Monday, 8 September 1986 from 9:00 A.M. to 5:00 P.M. and Tuesday, 9 September 1986 from 9:00 A.M. to 12:00 noon at the Institute for Defense Analyses Skyline Office, Five Skyline Place, Suite 300, 5111 Leesburg Pike, Falls Church, VA.

FOR FURTHER INFORMATION CONTACT: Dr. Dudrey Smith, Lear Siegler Inc., Instrument Division, Grand Rapids, MI 49508 (616) 241–7665.

Patricia H. Means,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

August 18, 1986.

[FR Doc. 86–18858 Filed 8–20–86; 8:45 am]

BILLING CODE 3910–01–M

Ada Board Language Maintenance Panel Meeting

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Ada Board Language Maintenance Panel will be held Wednesday, 10 September 1986 from 9:00 A.M. to 5:00 P.M. and Thursday, 11 September 1986 from 9:00 A.M. to 4:30 P.M. at New York University, 73 Fifth Avenue (5th Avenue and 15th Street), floor 11, New York, New York.

FOR FURTHER INFORMATION CONTACT: Dr. John Goodenough, SofTech, Inc., 460 Totten Pond Road, Waltham, MA 02254 (617) 890–6900.

Patricia H. Means,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

August 18, 1986.

[FR Doc. 86–18859 Filed 8–20–86; 8:45 am]

BILLING CODE 3910–01–M

Ada Board Meeting

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Ada Board will be held Monday, November 17, 1986 from 9:00 a.m. to 5:00 p.m. at the Charleston Marriott, 200 Lee Street East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine McDonald, Institute for Defense Analyses, 1801 N. Beauregard Street, Alexandria, Virginia, 22311, (703) 824–5531.

Patricia H. Means,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

[FR Doc. 86–18860 Filed 8–20–86; 8:45 am]

BILLING CODE 3910–01–M

ISO Working Group 9

ACTION: Notice of Meeting.

SUMMARY: A meeting of ISO Working Group 9 will be held Monday, November 17, 1986 from 1:00 p.m. to 5:00 p.m. and Tuesday, November 18, 1986 from 9:00 a.m. to 5:00 p.m. at the Charleston Marriott, 200 Lee Street East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine McDonald, Institute for Defense Analyses, 1801 N. Beauregard Street, Alexandria, Virginia, 22311, (703) 824-5531.

Patricia H. Means,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

[FR Doc. 86-18861 Filed 8-20-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI86-372-000]

Chevron U.S.A. Inc. and Texas Eastern Transmission Corp.; Supplement to Application

August 15, 1986.

Take notice that on July 23, 1986, Chevron U.S.A. Inc. (Chevron) 575 Market Street, San Francisco, California 94105, and Texas Eastern (Texas Eastern), Post Office Box 2521, Houston, Texas 77252, filed a supplement to their Joint Application filed April 22, 1986, in the above referenced docket, on file with the Commission and open for public inspection.

The joint application filed April 22, 1986, was (i) for any necessary Certificates of Public Convenience and Necessity authorizing or an order otherwise approving Chevron to sell quantities of natural gas from certain designated fields to Texas Eastern upon expiration of the contract between Gulf Oil Corporation (Gulf) and Texas Eastern dated January 8, 1964 (1964 Contract) and an order approving the arrangements described therein for the transportation of such natural gas from the designated fields to Texas Eastern's pipeline system and (ii) for an order or orders amending the order of the Federal Power Commission of December 19, 1963, issuing a certificate of public convenience and necessity to Gulf to sell natural gas to Texas Eastern pursuant to the 1964 Contract and "Opinion No. 780 and Order on Deliveries of Gas Under Certificate and Warranty Contract" issued October 15, 1976, in Docket No. CI64-26, to authorize Chevron to sell and deliver natural gas to Texas Eastern in accordance with an amendment dated April 11, 1986, (1986 Amendment) to the 1964 Contract. The joint application filed April 22, 1986, contained four agreements, of which the two basic agreements are the 1986 Amendment and the Tail End Agreement, dated April 11, 1986.

As part of their supplement to the joint application, Applicants have filed a Supplement to the 1986 Amendment dated July 21, 1986, and a Supplement to the Tail End Agreement dated July 21, 1986. Applicants state that these supplemental agreements were entered into to meet specific concern raised by intervenors in this docket.

Applicants state that the Supplement to the 1986 Amendment amends the 1986 Amendment so that the 1964 Contract, as amended and supplemented, will provide for a Daily Contract Quantity of 400,000 Mcf each day, an obligation by Chevron to warrant and agree to have sufficient gas to enable Chevron to deliver such quantity on any day or days, and a right for Texas Eastern to purchase the Daily Contract Quantity at any time. The Supplement to the 1986 Amendment also deletes Paragraphs 5 and 6 of the 1986 Amendment and changes Paragraph 4(b) of the 1964 Contract to conform that billing provision to the other changes in the 1964 Contract. Applicants state that the pricing provisions of the 1964 Contract are not changed in any manner whatsoever by the 1986 Amendment and the Supplement to the 1986 Amendment.

Applicants state that the Supplement to the Tail End Agreement adds a new paragraph to Paragraph 4 of that agreement to make clear that the provisions of section 4 of the Tail End Agreement set forth the terms and conditions of the transportation and/or exchange of the tail end gas to be effective beginning on the expiration of the 1964 Contract and the procedures for entering into agreements for such transportation and/or exchange. The Supplement to the Tail End Agreement also amends the Tail End Agreement to extend the time within which to secure final Commission authorization of necessary transportation or exchange from 180 days to 270 days after the filing is made to secure such authorization.

Applicants also filed a Supplemental Letter Agreement dated July 21, 1986, to the Tail End Agreement which sets forth certain prior obligations of Chevron with respect to the South Pass 24 Field and the Eugene Island 238 Field. Applicants state that Texas Eastern considered these prior obligations in making its estimate of natural gas reserves upon expiration of the 1964 Contract underlying the fields and leases on Appendices A and A-1 to the Tail End Agreement.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 27, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18874 Filed 8-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-150-000]

El Paso Natural Gas Co.; Petition for Authority To Institute Direct Billing of Retroactive Order No. 94 Costs

August 14, 1986.

Take notice that El Paso Natural Gas Company ("El Paso") on August 8, 1986 tendered for filing with the Federal Energy Regulatory Commission ("Commission") a petition for authority to institute direct billing of certain retroactive payments for production related costs incurred pursuant to Order No. 94, *et seq.*, in purchasing gas during the period from July 25, 1980 through December 31, 1985.

Each customer's share of the month's production-related costs will be determined by multipying the costs by a fraction, the numerator of which is the customer's purchased volume that month and the denominator of which is the total sales volume by El Paso. The amount to be billed directly to each customer will be the total of each month's share so calculated for the retroactive period. El Paso proposed that any customer whose allocated cost exceeds $500.00 will have the option of either paying by a lump-sum payment or

paying its allocation monthly over a six-month period commencing with the billing on the first day of the first full month following the Commission's approval of this proposal. Those customers owing $500.00 or less will be required to make a lump-sum payment. Each customer electing the installment payment option will be charged interest on the allocated balance of retroactive costs which have been paid by El Paso but not recouped by El Paso.

Copies of this filing were served on El Paso's pipeline system customers and interested state commissions.

Any person desiring to be heard to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18918 Filed 8-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA86-16-20-002 and TA86-17-20-002]

Algonquin Gas Transmission Co.; Proposed Changes In FERC Gas Tariff

August 15, 1986.

Take notice that on August 8, 1986, Algonquin Gas Transmission Company (Algonquin Gas) tendered for filing the following substitute tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Second Substitute Fifteenth Revised Sheet No. 201
Second Substitute Sixth Revised Sheet No. 205
Second Substitute Ninth Revised Sheet No. 241
Substitute Sixteenth Revised Sheet No. 201

According to § 381.103(b)(2) (iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 12, 1986.

Algonquin Gas states that such tariff sheets are being filed to reflect concurrently in its rates lower purchased gas cost to be charged by its pipeline supplier Texas Eastern Transmission Corporation ("Texas Eastern"), as set forth in Texas Eastern's August 5, 1986 filing of Substitute Eightieth Revised Sheet No. 14D, proposed to be effective August 1, 1986. On July 1, 1986 Texas Eastern filed revised tariff sheets reflecting its semi-annual purchased gas adjustment filing ("PGA") with a proposed effective date of August 1, 1986. Texas Eastern's August 5, 1986 PGA filing reflects a further reduction in the commodity component of its sales rates resulting from recent market-out actions exercised by Texas Eastern that were not known at the time its July 1, 1986 PGA was filed.

Algonquin Gas proposes the effective date of Second Substitute Fifteenth Revised Sheet No. 201, Second Substitute Sixth Revised Sheet No. 205, and Second Substitute Ninth Revised Sheet No. 241, to be August 1, 1986; and proposes the effective date of Substitute Sixteenth Revised Sheet No. 201 to be September 1, 1986.

In addition, Algonquin Gas tendered for filing the following alternate tariff sheets:

Proposed to be effective August 5, 1986—

Alternate Second Substitute Fifteenth Revised Sheet No. 201
Alternate Second Substitute Sixth Revised Sheet No. 205
Alternate Second Substitute Ninth Revised Sheet No. 241

Proposed to be effective September 1, 1986—

Alternate Substitute Sixteenth Revised Sheet No. 201

Algonquin Gas states that such alternate tariff sheets are being filed to reflect the alternate effective date of August 5, 1986 proposed by Texas Eastern in the event the Commission does not permit Texas Eastern's effective date of August 1, 1986. Algonquin Gas states that the alternate tariff sheets are the same as the primary tariff sheets in every respect other than the proposed effective date of August 5, 1986.

Algonquin Gas requests that the Commission accept those tariff sheets which synchronizes the effective dates with that accepted for the underlying rates of Texas Eastern and to grant any waiver of the regulations as may be necessary by the Commission to permit such accepted tariff sheets to become effective as proposed on August 1, 1986 or, alternatively, on August 5, 1986.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18870 Filed 8-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-49-000]

MGF Oil Corporation v. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Complaint

August 15, 1986.

On July 16, 1986, MFG Oil Corporation (MGF) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. MGF requests the Production-Related Costs Board (Board) to find that Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) is in violation of 18 CFR 271.1104 by refusing to reimburse MFG for $502,251.71 in production-related costs, plus interest, incurred during the December 1980 through June 1983 period.

MGF states that effective December 23, 1980, Tennessee, as buyer, and River Rouge Minerals, Inc. (River Rouge) and others, as sellers, entered into a contract whereby Tennessee agreed to purchase gas from the San Miguel Creek Field in Sabine Parish, Louisiana. In 1981, River Rouge assigned its interest in the 1980 contract to Griffin Southern Corporation who subsequently in 1982 was merged into MGF Newsub, Inc. (Newsub), a wholly-owned subsidiary of MGF. In 1982, Newsub changed its name to MGF Mansfield, Inc. and effective July 1, 1983, assigned its rights and interest in the 1980 contract to Midla Mansfield, Inc., but expressly retained all of its rights prior to July 1983. Subsequently MGF succeeded by way of assignment to

MGF Mansfield's rights to recover production-related costs incurred prior to July 1983 under this contract.

MGF further states that after the issuance of Commission Order No. 94–A in January 1983, it was required due to an economic crisis to lay-off numerous employees and file under Chapter 11 of the Bankruptcy Code. Consequently it did not identify its right to production-related costs under the 1980 contract until September 1985. It then invoiced Tennessee for such costs and Tennessee has refused to pay the bulk of MGF's claim attributable to costs incurred prior to March 7, 1983, because MGF did not file its claim by the end of 1984.

MGF asserts that the issue in this case is whether 18 CFR 271.1104 bars MGF from collecting production-related costs incurred prior to March 7, 1983, because it did not submit an invoice to Tennessee until after 1984. MGF believes that the Commission did not intend for its regulations to operate in the manner asserted by Tennessee and, thereby, to confer unwarranted windfalls on pipeline companies that contracted to pay such costs.

It is noted that MGF also filed with the Commission a Request for Clarification or Waiver of the Section 110 Regulations. This request is being handled separately from the Notice of Complaint.

MGF requests that the Board (i) issue an order finding Tennessee in violation of 18 CFR 271.1104 for failing to pay MGF $502,251.71 in production-related costs, plus interest, or if the Board believes that it must first await action by the Commission on MGF's concurrent Request for Clarification or Waiver, (ii) initially issue an order confirming MGF's contractual entitlement to production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Tennessee must file an answer to MGF's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Tennessee should file its answer with the Commission not later than September 5, 1986.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than September 5, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties of the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18872 Filed 8–20–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86–2–27–000, 001]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

August 15, 1986.

Take notice that North Penn Gas Company (North Penn) on August 7, 1986, tendered for filing Eighty-first Revised Sheet No. PGA–1 to its FERC Gas Tariff, First Revised Volume No. 1.

Specifically, North Penn has included in its semiannual PGA, to be effective September 1, 1986, the following:

1. A decrease in rates to reflect changes in Cost of Gas Purchased.

2. A surcharge credit of 66.730¢ per Mcf resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period January 1, 1986 through June 30, 1986; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with the Federal Energy Regulatory Commission's (Commission) Regulations; and a carry-over balance from the surcharge credit effective for the period September 1, 1985 through February 28, 1986.

3. A TOP surcharge of 0.595¢ to recover North Penn's funding of Take-or-Pay payments made to Tennessee Gas Pipeline Co. under procedures approved by the Commission in Docket No. RP83–8 et al., issued April 16, 1985.

As part of this filing, North Penn has also included Fourteenth Revised Sheet No. 15H which reflects no incremental pricing surcharges under section 15 of the General Terms and Conditions of its tariff.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective September 1, 1986 as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–18871 Filed 8–20–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86–652–000]

Northern Natural Gas Co. Division of Enron Corp.; Request Under Blanket Authorization

August 15, 1986.

Take notice that on August 6, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86–652–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act for authorization to reassign volumes of Natural gas to be delivered to Iowa Public Service Company (IPSC) and to modify one delivery point to IPSC under authorization issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern asserts that Midwest Energy Company (Midwest) has acquired two of Northern's current resale customers, North Central Public Service Company (NCPS) and Iowa Gas Company (IG). Northern further asserts that all the entitlements under Rate Schedules CD–1 and SS–1 previously assigned to NCPS and IG will be consolidated and assigned to IPSC, Midwest's subsidiary, pursuant to Northern's tariff filing of July 24, 1986.

By letter dated July 23, 1986, Northern states that it was requested by IPSC to realign volumes previously delivered at existing delivery points for NCPS, IG and IPSC. Therefore, Northern proposes to realign IPSC's daily volumes at the delivery points listed below.

Delivery point	Volumes (Mcf)	
	Rate schedule CD–1	Rate schedule SS–1
Anoka, MN	614	392
Belmo, MN	440	

Delivery point	Volumes (Mcf)	
	Rate schedule CD-1	Rate schedule SS-1
Coon Rapids, MN	865	557
Dayton, MN	620	588
Lexington, MN	453	129
Spring Lake, MN	213	135
Oscar Mayer Co./ Perry, IA	<230>	
Boone Valley Co-op Eagle Grove, IA	<2,400>	
John Deere Co. Waterloo, IA	<750>	
Dakota City, Nebraska		<4>
7 South Dakota Communities		<115>
85 Iowa Communities		<1,481>
Net Change	0	0

In order to make the proposed deliveries at Anoka, Minnesota, Northern proposes to expand the existing capacity at the Anoka meter station. Northern states that the proposed capacity will be to accommodate commercial and residential heating needs. Northern estimates that peak day deliveries at the Anoka meter station would be 4,190 Mcf per day and that the cost to construct the proposed facilities would be $8,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18873 Filed 8-20-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OMS-FRL-3068-1]

In-Use Motor Vehicle Evaporative Hydrocarbon Emission Testing Public Workshop; Notice of Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This Notice extends the period for comments to the public workshop to discuss in-use motor vehicle evaporative hydrocarbon emission testing procedures held on July 17, 1986. the notice announcing the workshop appeared in the Federal Register June 17, 1986 (51 FR 21977).

DATE: the Agency will consider all written comments regarding the procedures for evaporative hydrocarbon emission testing of in-use vehicles received on or before September 30, 1986.

ADDRESS: All comments should be sent to: Public Docket EN-85-12, Central Docket Section (LE-131), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tony Tesoriero, U.S. Environmental Protection Agency, Manufacturers Operations Division (EN-34OF), 401 M Street, SW., Washington, DC 20460, (202-382-2510).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) has received a request from the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA) for an extension of time to comment on the issues discussed at the July 17, 1986, public workshop.

This request was based on the need to develop the new information necessary to more completely answer the questions raised at the workshop.

EPA has considered this request and decided that an extension would be appropriate. Therefore, the comment period for the workshop is extended to September 30, 1986.

Dated: August 15, 1986.

Richard D. Wilson,

Director, Office of Mobile Sources.

[FR Doc. 86-18882 Filed 8-20-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 86-830]

Approval of Application for Unlisted Trading Privileges; Cincinnati Stock Exchange, Inc.

Date: August 11, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On May 9, 1986, The Cincinnati Stock Exchange, Inc. filed with the Federal Home Loan Bank Board ("Board") an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 [17 CFR 240.12f-1] thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange:

Columbia Savings and Loan Association (FHLBB No. 6325), Common Stock, 1.00 Par Value

Notice of the Application and opportunity for hearing was published in the Federal Register on June 26, 1986, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 86-624, dated June 19, 1986. (51 FR 23271, June 26, 1986). The Board received no comments with respect to the Application. Notice is hereby given that the Board approved the Application for unlisted trading privileges in these securities on August 5, 1986.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Cincinnati Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3-1 under the Act [17 CFR 240.11Aa3-1]. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Cincinnati Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Application for unlisted trading privileges in the above named securities was approved on August 5, 1986.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.
[FR Doc. 86-18818 Filed 8-20-86; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-498]

Nashua Federal Savings and Loan Assoc., Nashua, NH; Final Action Approval of Conversion Application

Date: August 7, 1986.

Notice is hereby given that on July 14, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Nashua Federal Savings and Loan Association, Nashua, New Hampshire, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, Post Office Box 9106, Boston, Massachusetts 02205.

By the Federal Home Loan Bank Board
Jeff Sconyers,
Secretary.
[FR Doc. 86-18819 Filed 8-20-86; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-497]

MidFed Savings Bank Middletown, OH; Final Action Approval of Conversion Application

Date: August 7, 1986.

Notice is hereby given that on July 18, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of MidFed Savings Bank, Middletown, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Cincinnati, Post Office Box 598, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board
Jeff Sconyers,
Secretary.
[FR Doc. 86-18820 Filed 8-20-86; 8:45 am]
BILLING CODE 6720-01-M

Presidio Savings and Loan Association, a Federal Savings and Loan Association, Porterville, CA; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Presidio Savings and Loan Association, a Federal Savings and Loan Association, Porterville, California on August 8, 1986.

Dated: August 15, 1986.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 86-18821 Filed 8-20-86; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; AMCO Brokers and Fowarders et al.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Dennis M. Kelley dba AMCO Brokers & Forwarders, 10 South Calvert Street, Baltimore, MD 21202.

Memphis Forwarding Company, Inc., c/o Emmet, Marvin & Martin, 48 Wall Street, New York, NY 10005
Officers: Captain Ahmed Mahmoud Samy, President/Director, Wolfgang Emden, Vice President, Admiral Mohamed Adly Abdel Mooty, Director, Admiral Aly Shokry Ahmed Shokry, Director, Mohamed Kadry Abd al Kadr, Director.

Total Cargo Services, Inc., 6231 N.E. 112th Avenue, Portland, OR 97220.
Officers: John E. Flack, President, Dale E. Wolfer, Vice President, Dale A. Bouray, Vice President.

Dated: August 18, 1986.
Joseph C. Poling,
Secretary.
[FR Doc. 86-18895 Filed 8-20-86; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Shipper's Export Inc.

Notice is hereby given that the following ocean freight forwarder license has been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2080.
Name: Shipper's Export Inc.
Address: 26 Broadway, Room 1210, New York, NY 10004.
Date Revoked: August 7, 1986.
Reason: Requested revocation voluntarily.
Robert G. Drew,
Director, Bureau of Tariffs.
[FR Doc. 86-18896 Filed 8-20-86; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Epidemiologic Study of Radiofrequency Heater Operators; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: September 11, 1986.
Time: 9 a.m.-4 p.m.
Place: Auditorium, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To review and discuss the scientific merit of an epidemiologic study designed to determine whether men who work with radiofrequency heat sealers experience adverse reproductive effects. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.
Additional information may be obtained from: Clinton Cox, Division of Biomedical and Behavioral Science, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-8482, Commercial: 513/533-8482.

Dated: August 12, 1986.
Robert L. Foster,
Assistant Director, Office of Program Support, Centers for Disease Control.
[FR Doc. 86-18849 Filed 8-20-86; 8:45 am]
BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Neurological Devices Panel

Date, time, and place. September 8, 9 a.m., Rm. 1207, Silver Spring Plaza Bldg., 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 11 a.m.; closed presentation of data, 11 a.m. to 12 m.; open public hearing, 2 p.m. to 3 p.m.; Robert Munzner, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before August 22, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss an application for premarket approval of an implanted diaphragmatic/ phrenic nerve stimulator.

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information presented to the committee regarding a premarket approval application for a diaphragmatic/phrenic nerve stimulator. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Blood Products Advisory Committee

Date, time, and place. September 11 and 12, 8:30 a.m., Lister Hill Auditorium, Bldg. 38A, National Library of Medicine, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, September 11, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; closed committee deliberations, September 12, 8:30 a.m. to 1:30 p.m., Isaac F. Roubein, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4696.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss: (1) Methods to further decrease the number of people who are at high risk for HTLV–III/LAV infection from donating blood; (2) the impact of testing for antibody to HTLV–III on the adequacy of the nation's blood supply; (3) the shelf-life of frozen red cells; (4) donor selection for source plasma; and (5) validation of hepatitis B core antibody test materials.

Closed committee deliberations. The committee will review and discuss trade secret and/or confidential commercial information relevant to in vitro testing of blood for antibody to Human T-Cell Lymphotropic Virus, Type III (HTLV–III). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial

information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10 (a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 14, 1986.

Gerald F. Meyer,

Acting Commissioner of Food and Drugs.

[FR Doc. 86-18846 Filed 8-20-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6661-A; 6-00163-GP6-0112]

Alaska Native Claims Selection; Eklutna, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613, will be issued to Eklutna, Inc. for approximately 120 acres. The lands involved are in the vicinity of Eklutna, Alaska.

Seward Meridian, Alaska

T. 16 N., R. 1 E., (Surveyed)
T. 16 N., R. 1 W., (Surveyed)

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 22, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18851 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Knikatnu, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions adjusting the entitlement under Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611(a), pursuant to Sec. 12(a)(3) of Pub. L. 94-204 and section 4(a) of Pub. L. 94-456, 43 U.S.C. 1611 nt, will be issued to Knikatnu, Inc., for the Native village of Knik; Chickaloon-Moose Creek Native Association, Inc., for the Native village of Chickaloon; Salamatof Native Association, Inc., for the Native village of Salamatof; The Tyonek Native Corporation, for the Native village of Tyonek; and Ninilchik Natives Association, Inc., for the Native village of Ninilchik. The adjusted entitlements are as follows:

Village corporation	Statutory entitlement [1]	Adjusted entitlement [2]
Knikatnu, Inc.	[illegible],120	[3] 55,217
Chickaloon-Moose Creek Native Association, Inc.	[illegible],920	[3] [4] 86,739/ 61,651
Salamatof Native Association, Inc.	[illegible],150	76,229
The Tyonek Native Corporation	115,200	[3] 115,200
Ninilchik Natives Association, Inc.	115,200	115,200

[1] As published in the FEDERAL REGISTER, February 2, 1977 (FR Vol. 42, No. 22, pg. 6430)

[2] The formula used to determine the adjusted entitlement is as follows:

Statutory entitlement—(lands already conveyed)—(deficiency selections needed to reach entitlement)——0.

Statutory entitlement—(Lake Clark selections within above deficiency selections)——adjusted entitlement.

The adjusted entitlement is approximate, due to unsurveyed lands and because the villages have not prioritized any valid selections remaining in the ANCSA section 11(a)(1) areas. As lands in the subsections 11(a)(1) and 11(a)(3) areas are surveyed, the entitlement will be adjusted.

[3] Does not take into account selections by the village corporations on lands which are selected by or approved to the State of Alaska under the Mental Health Enabling Act of July 28, 1956. The selections by the village corporations are considered invalid; however, the issue is the subject of an appeal presently before the Ninth Circuit Court of Appeals (*Tyonek v. Secretary of the Interior and the State of Alaska* (docket No. 86-3827)). In the event that the selections for the mental health lands are determined valid, further adjustment will be made in the statutory entitlement.

[4] As the validly selected lands in the ANCSA section 11(a)(1) area have not been requested for conveyance by Chickaloon-Moose Creek Native Association, Inc., the entitlement has been calculated to show minimum and maximum adjustments. Minimum adjusted entitlement means the village would take *all* valid selections in the section 11(a)(1) area, thereby requiring a *minimum* amount of deficiency lands to satisfy the remaining entitlement; *maximum adjusted entitlement* means the village would take a *maximum* amount of deficiency lands and a minimum amount of valid selections in the section 11(a)(1) area to satisfy the remaining entitlement. Minimum adjusted entitlement is 86,739 acres; maximum adjusted entitlement is 61,651 acres.

Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513; phone No. (907) 271-5960.

Any party claiming a property interest which is adversely affected by the decisions shall have until September 22, 1986, to file an appeal. Parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), at the address given above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart

E. shall be deemed to have waived their rights.

Michael J. Penfold,

State Director.

[FR Doc. 86-18850 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6680-A]

Alaska Native Claims Selection; Paug-Vik Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Paug-Vik Incorporated, Limited, for approximately 1 acre. The lands involved are in the vicinity of Naknek, Alaska.

Seward Meridian, Alaska

T. 17 S., R. 47 W. (Partially Surveyed)
Sec. 9, Lot 2, those lands within Sec. 3(e) application AA-12835 excluded from Interim Conveyance No. 265, dated November 27, 1979.

A notice of the decision will be published once a week for four (4) consecutive weeks in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until September 22, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-18838 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-JA-M

[UT-050-06-4322-14]

Grazing Advisory Board Meeting and Tour

AGENCY: Bureau of Land Management, Richfield, Utah, Interior.

ACTION: District Grazing Advisory Board Meeting and Field Tour.

SUMMARY: The Richfield District Grazing Advisory Board will hold a meeting and field tour on September 25, 1986 at 9:00 a.m. in the BLM District Office, 150 East 900 North, Richfield, Utah.

Agenda for the meeting will be:

1. Election of Officers.
2. Review FY 87 Range Projects.
3. Update on House Range and Warm Springs Resource Areas Planning.
4. Fire season and fire rehabilitation.
5. Update of the weed program.
6. Coordinated Resource Management Planning and status of the CMA program.

An afternoon field tour will be held to review the range rehabilitation done in the Sand Ledge area.

The meeting and tour are open to the public. Interested persons may make oral statements to the Board between 11:00 a.m. and 12:00 p.m. or file written comments for the Board's consideration. Anyone wishing to make an oral statement or participate in the tour must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Donald L. Pendleton,

District Manager.

August 15, 1986.

[FR Doc. 86-18840 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-020-06-4212-11; A-7310]

Realty Action Lease or Conveyance of Public Lands for Recreation and Public Purpose; Arizona

The following public lands in Maricopa County, near the city of Apache Junction, Arizona have been found suitable for lease or conveyance to the Maricopa County Board of Supervisors (Parks and Recreation Department) for use as an equestrian facility (rodeo grounds) and are classified under the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 seq.).

Gila & Salt River Meridian

T. 1 N., R. 7 E.
Sec. 12: S½SE¼SE¼.
Containing 20.00 acres.

The lands are not needed for any federal purposes. The environmental assessment process has determined that the lease or conveyance of these lands would not effect any BLM ongoing programs and would be in the public interest.

The lease or conveyance would be subject to the following conditions:

1. Provisions of the Recreation and Public Purpose Act and to all regulations of the Secretary of the Interior.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
3. Rights-of-way for ditches and canals constructed by the authority of the United States.
4. Rights-of-way under Serial No. A-19369 for a buried cable 20 ft. R/W and access road, and A-18792 for a road R/W.

Upon publication of this notice in the **Federal Register** these lands will continue to be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purpose Act. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance of these lands to the District Manager, Phoenix District, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action. In the absence of any objections this realty action shall become the final determination of the Department of the Interior. Further information concerning this realty action may be obtained from the Phoenix Resource Area, Phoenix District (602-863-4464).

Dated: August 7, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc 86-18844 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-32-M

[WY-040-06-4212-10; W-94559]

Realty Action, Lease of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive Lease of Public Lands in Sweetwater County, Wyoming.

SUMMARY: This notice is to advise the public that the Green River Resource Area (BLM) proposes to lease public land for an automobile salvage and recycling facility.

DATE: Interested parties must submit comments or a proposal within 45 days of this notice to the Area Manager, Green River Resource Area, Bureau of Land Management, P.O. Box 1170, Rock Springs, Wyoming 82902-1170. Any adverse comments will be evaluated by the State Director who may vacate or

modify this realty action. In absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: A prospectus containing information related to the lease is available at the Green River Resource Area office.

SUPPLEMENTAL INFORMATION: The following described lands have been examined and identified as suitable for lease under section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732), at not less than the appraised fair market rental:

T. 18 N., R. 107 W., 6th P.M., Sweetwater County, Wyoming

Sec. 6: S½SE¼NE¼, N½NE¼SE¼, except that portion west of County Road 4–5 (Blue Rim Road).

Containing 35.2 acres more or less.

All or portion of the identified area will be available to one lessee. Applicants will be responsible for reimbursement of administrative costs.

There will be no reduction in authorized grazing use since the loss of 35.2 acres (3 AUMs) in the Rock Springs Grazing Allotment is insignificant. The allotment is currently being monitored for changes in range trend and condition.

Donald H. Sweep,

District Manager

August 11, 1986.

[FR Doc 86–18836 Filed 8–20–86; 8:45 am]

BILLING CODE 4212–10–M

Colorado: Filing of Plats of Survey

July 28, 1986.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 A.M., July 28, 1986.

The plat, in three sheets, representing the dependent resurvey of portions of the south and west boundaries, subdivisional lines, the Ouray Townsite, and certain mineral claims; the survey of lots 10 and 11 in section 30, and lot 19 in section 31, T. 44 N., R. 7 W., New Mexico Principal Meridian, Colorado, Group 782, was accepted July 15, 1986.

The plat, representing the survey of lot 13, section 25, T. 44 N., R. 8 W., New Mexico Principal Meridian, Colorado, Group No. 782, was accepted July 15, 1986.

The plat, representing the survey of Tract 50, in unsurveyed T. 43 N., R. 7 W., New Mexico Principal Meridian, Colorado, Group No. 782, was accepted July 15, 1986.

These surveys were executed to meet certain administrative needs of the U. S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Marlin G. Livermore,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc 86–18843 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–84–M

[NV–030–06–4410–08]

Availability of the Record of Decision for the Walker Resource Management Plan and Environmental Impact Statement, Carson City District, NV

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Record of Decision for the Walker Resource Management Plan and Environmental Impact Statement, Carson City District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Carson City District of the Bureau of Land Management has prepared a Record of Decision for the Resource Management Plan and Environmental Impact Statement for the Walker Resource Management Planning area.

SUPPLEMENTARY INFORMATION: The Record of Decision (ROD) completes the environmental analysis process associated with the Walker Resource Management Plan (RMP). The ROD is a concise record of the decisions made for the RMP. These decisions deal with rangeland management, wilderness, land tenure, rights-of-way corridors, scenic areas, and Areas of Critical Environmental Concern (ACEC) for the 1.9 million acre planning area in Mineral, Lyon, and Douglas Counties, Nevada. The plan estabishes a 16,000 acre ACEC in Stewart Valley. The valley has paleontological resources of worldwide significance. Within this area 1,420 acres will be withdrawn from mineral entry. Off-road vehicle use is limited to designated routes. The ACEC will be managed as a Research Natural Area. Special rules and permits for scientific research and field schools will be established. No commercial or private collection will be allowed.

FOR FURTHER INFORMATION CONTACT: John Matthiessen, Walker Resource Area Manager, Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, NV 89701, (702) 882–1631.

Copies of the document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240

Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520

Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, NV 89445, (702) 623–3676

Bureau of Land Management, Carson City District Office, 1535 Hot Springs Rd., Ste. 300, Carson City, NV 89701, (702) 882–1631

Government Publication Dept., University of Nevada, Reno, Reno Library, Reno, NV 89557

University of Nevada, Reno, Getchell Library, Reno, NV 89557

Bureau of Land Management, Elko District Office, 3900 E. Idaho Street, Elko, NV 89801, (702) 738–4071

Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, NV 89102, (702) 385–6403

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, NV 89301, (702) 289–4865

Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, NV 89820, (702) 635–5181

Carson City Library, 900 N. Roop St., Carson City, NV 89701

University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, NV 89154

Mineral County Library, 1st and D Streets, Hawthorne, NV 89415

Nevada State Library, Library Building, Carson City, NV 89710

Lyon County Library, 20 Nevin Way, Yerington, NV 89447

Dated: July 31, 1986.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86–18887 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–HC–M

[CO–010–06–4322–02]

Colorado; Craig District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Craig District Grazing Advisory Board will be held September 30, 1986, at the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado. The meeting will convene at 10:00 a.m.

Agenda items will include:

1. Area reports including updates on land use and activity planning

VOL 51 ISS 162 AG 21 1986 UMI

2. Status report on FY86 range improvement projects

3. Expenditure of Grazing Advisory Board funds

4. Election of officers

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. October 17, 1986, or file written statements for the Board's consideration.

Dated: August 15, 1986.

William J. Pulford,

District Manager.

[FR Doc. 86-18869 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-JB-M

Proposed All-American Pipeline Extension, McCamey, TX, to Webster, TX; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Additional Scoping Meeting.

SUMMARY: Notice is hereby given that the Bureau of Land Management will conduct an additional public scoping meeting prior to the preparation of a Supplemental Environmental Impact Statement for the McCamey, Texas to Webster, Texas, proposed extension of the All-American crude oil transmission pipeline. A description of the proposed project and a list of scheduled public scoping meetings was published in the **Federal Register**, Vol. 51, No. 137, July 17, 1986.

The additional public scoping meeting is scheduled for 7:00 p.m., Monday, August 25, 1986, at the University Savings, Mortgage and Loan Building, 308 E. Hopkins, San Marcos, Texas 78666.

The purpose of the scoping meeting is to receive public comments, concerns and interests which should be addressed in the SEIS. Issues raised at this, and previously scheduled scoping meetings, will be considered in the SEIS.

FOR FURTHER INFORMATION CONTACT: William S. Haigh, Project Manager, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507 (714) 351-6428.

Dated: August 13, 1986.

Hugh Riecken,

Acting District Manager.

[FR Doc. 86-18837 Filed 8-20-86; 8:45 am]

BILLING CODE 4310-40-M

[NV-030-06-4410-08]

Availability of the Record of Decision for the Walker Resource Management Plan and Environmental Impact Statement, Carson City District, NV

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Record of Decision for the Walker Resource Management Plan and Environmental Impact Statement, Carson City District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Carson City District of the Bureau of Land Management has prepared a Record of Decision for the Resource Management Plan and Environmental Impact Statement for the Walker Resource Management Planning area.

SUPPLEMENTARY INFORMATION: The Record of Decision (ROD) completes the environmental analysis process associated with the Walker Resource Management Plan (RMP). The ROD is a concise record of the decisions made for the RMP. These decisions deal with rangeland management, wilderness, land tenure, rights-of-way corridors, scenic areas, and Areas of Critical Environmental Concern (ACEC) for the 1.9 million acre planning area in Mineral, Lyon, and Douglas Counties, Nevada. The plan establishes a 16,000 acre ACEC in Stewart Valley. The valley has paleontological resources of worldwide significance.

Within this area 1,420 acres will be withdrawn from mineral entry. Off-road vehicle use is limited to designated routes. The ACEC will be managed as a Research Natural Area. Special rules and permits for scientific research and field schools will be established. No commercial or private collection will be allowed.

FOR FURTHER INFORMATION CONTACT: John Matthiessen, Walker Resource Area Manager, Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, NV 89701 (702) 882-1631.

Copies of the document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets N.W., Washington, DC 20240

Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520

Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, NV 89445, (702) 623-3676

Bureau of Land Management, Carson City District Office, 1535 Hot Springs Rd., Ste. 300, Carson City, NV 89701, (702) 882-1631

Government Publication Dept., University of Nevada, Reno, Reno Library, Reno, NV 89557

University of Nevada, Reno, Getchell Library, Reno, NV 89557

Bureau of Land Management, Elko District Office, 3900 E. Idaho Street, Elko, NV 89801, (702) 738-4071

Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, NV 89102, (702) 385-6403

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, NV 89301, (702) 289-4865

Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, NV 89820, (702) 635-5181

Carson City Library, 900 N. Roop St., Carson City, NV 89701

University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, NV 89154

Mineral County Library, 1st and D Streets, Hawthorne, NV 89415

Nevada State Library, Library Building, Carson City, NV 89710

Lyon County Library, 20 Nevin Way, Yerington, NV 89447.

Dated: July 31, 1986.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86-18839 Filed 8-20-86; 8:45 pm]

BILLING CODE 4310-HC-M

[Serial No. AA-54894]

Lease of Public Land, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, FLPMA section 302 lease.

SUMMARY: The following described tract of land has been examined and through land use planning, identified as suitable for non-competitive lease pursuant to section 302 of the Federal Land Policy and Management Act of 1976.

Seward Meridian

T. 33 N., R. 16 W.,
Sec. 23, S1½NW¼SW¼NE¼NW¼, N½SW¼SW¼NE¼NW¼, SW¼SW¼SW¼NE¼NW¼, SE¼SE¼SE¼NW¼NW¼.

This notice of realty action proposes the lease of land, under the jurisdiction of the Bureau of Land Management, located approximately 60 miles east of Farewell Landing, Alaska. The lease is

intended to legalize valuable improvements, long term occupancy, and to facilitate land use planning in the area.

This lease action is a non-competitive offering at fair market value to the owner of the existing improvements.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Anchorage District Office, 6881 Loop Road, Anchorage, Alaska 99507, or call Robert Conquergood at (907) 267–1321.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments at the above address. Any adverse comments will be evaluated by the Anchorage District Manager who may cancel or modify this action and issue a final determination. In the absence of any adverse action by the Anchorage District Manager, this will become the final determination of the Department of the Interior.

Robert Conquergood,

Area Manager, McGrath Resource Area.

[FR Doc. 86–18897 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–JA–M

[CO–950–06–4111–02]

Colorado State Office Moves; Correction

The Bureau of Land Management (BLM), Colorado State Office, will move from downtown Denver to Lakewood, effective September 12, 1986. The new mailing address will be: 2850 Youngfield Street, Lakewood, Colorado 80215.

The Public Room, containing more than 350,000 official case files of lands and minerals transactions for the 8.5 million surface and 27.2 million subsurface acres of public lands in Colorado, will be closed from September 2–8 with no phone service available. The office will reopen at 10:00 a.m., September 9, except that public examination of case files will remain unavailable until September 17, at 10:00 a.m. The new telephone number for our public room will be (303) 236–2100.

Neil Morck,

State Director.

[FR Doc. 86–18845 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–JB–M

Bureau of Reclamation

Grass Valley Creek Debris Dam, Trinity County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation has prepared a Final Environmental Impact Statement (EIS) for the Grass Valley Creek Debris Dam, Trinity County, California. The EIS addresses the impacts associated with the construction and operation of the dam.

FOR FURTHER INFORMATION: Copies are available for review at the following locations: Director, Office of Environmental Affairs, Room 7429, Bureau of Reclamation, Washington, DC 20240, telephone (202) 343–4991. Division of Acquisition and Property Management, Document Systems Management Branch, Library Section, Code 823, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, telephone (303) 236–6963. Environmental Compliance Branch Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Room W–2103, Sacramento, CA 95825, telephone (916) 978–5130.

SUPPLEMENTARY INFORMATION: Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Washington, DC, or Regional Environmental Officer, Sacramento, California. Copies will also be available for inspection in libraries in the project vicinity.

Dated: August 15, 1986.

Joseph B. Marcotte, Jr.,

Acting Commissioner.

[FR Doc. 86–18886 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Endangered Species Permit Issued for the Months of May, June, July 1986

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was detemined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, telephone (703/235–1903) between the hours of 7:45 a.m. to 4:15 p.m. weekdays.

May 1986

Peregrine Fund Inc	X701572	May 7
Duke University	X704956	May 9.
John Estes	X703787	May 14.
USFWS/Denver	X704930	May 21
Milwaukee County Zoo	X703246	May 28.
Kansas City Zoo Gardens	X708144	May 29.

June 1986

Region 6	X697823	June 3.
USFWS	X707274	June 4.
Don Melnick	X706306	June 5.
Don Melnick	X706144	June 5.
Wilbur Brown	X703160	June 6.
New York Zoological Society	X703056	June 6.
Pamela Bompart	X706591	June 10.
New York Zoological Society	X706715	June 11.
Gary Ingersol	X706673	June 11.
V.H. Wanamaker	X703869	June 12.
University of Minnesota	X706233	June 13.
Fred Wiedenfeld	X705101	June 13.
Albert McMillan	X706717	June 19.
Ned Goecken	X702932	June 19.
New York Zoological Society	X703056	June 19.
County of San Mateo	X2–9818	June 19.
Amendment No. 2; I–K Productions	X707241	June 24.

July 1986

Gladys Porter Zoo	X706243	July 11.
George Carden Circus	X706206	July 16.
Int'l Succulent Inst., Inc	X707277	July 21
San Francisco Zoological Garden	X705441	July 22.
Oliver Ryder	X706303	July 23.
Florida State Museum	X706074	July 29.
Florida State Museum	X706073	July 29.
Florida State Museum	X707683	July 29
I–K Productions	X706550	July 29.
U.S. Fish & Wildlife Service	X704930	July 30.

Dated: August 18, 1986.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–18917 Filed 8–20–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3147, Block 26, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on August 8, 1986.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 11, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–18841 Filed 8–20–86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–1 (Sub–No. 191X)]

Chicago and North Western Transportation Co.; Abandonment Exemption Between Maple River and Ida Grove, IA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption and interim trail use or abandonment.

SUMMARY: The Commission grants an amended petition filed by Chicago and North Western Transportation Company (C&NW), under 49 U.S.C. 10505, to exempt abandonment of a 38.4-mile line of railroad between milepost 0.0 at Maple River, and milepost 38.0 at Ida Grove (including a 0.4-mile line between mileposts 0.9 and 1.3 near Sacton), subject to employee protective conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), and subject to the terms and conditions for interim trail use and rail banking under 16 U.S.C. 1247(d) set forth below, between milepost 0.1 near Maple River and milepost 13.5 near Carnarvon, IA. C&NW may: (1) For those portions of the line between mileposts 0.0 and 0.1, and between Carnarvon and Ida Grove, abandon the right-of-way and cancel tariffs on one days' notice to the Commission; and (2) For that portion of the line between Maple River and Carnarvon, discontinue service, cancel tariffs on not less than 10 days' notice to the Commission, and salvage track and material consistent with interim trail use and rail banking. If the Carroll County Conservation Board intends to terminate trail use, it must file a petition to reopen, referring to this Notice of Interim Trail Use or Abandonment (NITU) and the accompanying decision, by date and docket number, and request that the NITU be vacated on a specific date.

DATES: The C&NW abandonment exemption is effective on August 21, 1986. The remainder of the exemption is effective on August 25, 1986. Petitions for reconsideration must be filed by September 10, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–1 (Sub–No. 191X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Robert T. Opal, One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275–7693.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided August 14, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–18857 Filed 8–20–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment; Nissan Motor Corp. in U.S.A.

Notice is hereby given that Nissan Motor Corporation in U.S.A. ("Nissan") has filed with the United States District Court for the Northern District of California a motion to terminate the final judgment in *United States* v. *Nissan Motor Corporation in U.S.A.*, Civil No. C–72–1212–RHS; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on June 30, 1972) alleged that the defendant and its dealers had conspired to engage in resale price maintenance, and confine the sale of Nissan products by Nissan dealers to designated market areas. The judgment (entered on February 26, 1973) enjoined the defendant from engaging in resale price maintenance, or restricting the geographical areas in which or the people to whom Nissan dealers may sell or advertise Nissan products.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, defendant's motion papers, the stipulation containing the Government's consent, the Department's memorandum, and all further papers filed with the court in connection with this motion will be available for inspection at Room 7233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Northern District of California, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the sixty day period established by court order, and will be filed with the court. Comments should be addressed to Gary R. Spratling, Chief, San Francisco Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, CA 94102 (telephone 415–556–6300).

Dated: August 14, 1986.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–18922 Filed 8–20–86; 8:45 am]

BILLING CODE 4410-01-M

LIBRARY OF CONGRESS

Copyright Office

Change in Procedure Regarding Filing of Notifications (17 U.S.C. 508 Filings)

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of change in procedures.

SUMMARY: This notice informs the public of a change in procedure regarding the filing of notification received under 17 U.S.C. 508. The Register of Copyrights has determined that it is no longer practicable to maintain a separate index to documents received in compliance with section 508. Henceforth the documents will be received and retained until enough have accumulated to fill one reel of microfilm. They will then be microfilmed alphabetically under the plaintiff's name.

EFFECTIVE DATE OF PUBLICATION: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Winston Tabb, Chief, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, Telephone: (202) 287–6800.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Copyright Office is revising its procedures concerning the handling of notifications of filing and determinations of actions under section 508 of the Copyright Act, title 17 of the United States Code. This section of the Act reads as follows:

§ 508. Notification of filing and determination of actions.

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

On June 19, 1980 the Copyright Office published in the **Federal Register** [45 FR 41548] a change in the procedure regarding section 508 filings. Under the procedure announced at that time the notifications were filed by a serial number in the Certifications and Documents Section of the Information and Reference Division. To provide access to these notifications, an index card under the plaintiff's name was prepared for each document. The preparation of the index cards has proven to be an unnecessary workload item. There have been fewer than five requests per year for information contained in this file. Consequently, we cannot justify the time and expense required to continue the indexing procedure.

Therefore, we have revised our practices and procedures regarding section 508 filings. Beginning immediately we are discounting the preparation of the index cards. Documents will be received and retained in the Certifications and Documents Section until enough have accumulated to fill one reel of microfilm. They will then be microfilmed alphabetically under the plaintiff's name. Each reel will have affixed to it the inclusive dates of receipt in the Copyright Office of all the documents contained on the reel. The microfilm reels will be maintained by the Certifications and Documents Section, LM–402, Copyright Office, Library of Congress. The hours of public access to the Certifications and Documents Section are from 8:30 a.m. until 5:00 p.m., Monday through Fridays (except legal holidays).

Dated: August 12, 1986.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86–18885 Filed 8–20–86; 8:45 am]

BILLING CODE 1410–07–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (86–55)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's, supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATES: Comments must be received in writing by September 2, 1986. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Ray S. Mayfield, NASA Agency Clearance Officer, Code NM, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453–1090.

Reports

Title: Information Collection from the Public in Support of the NASA Acquisition Process.
OMB Number: 2700–0042.
Type of Request: Extension.
Frequency of Report: As required.
Type of Respondent: Individuals or households, state or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.
Annual Responses: 398,298.
Annual Burden Hours: 12,703,860.

Abstract-Need/Uses: The information collection is required to evaluate bids and proposals from offerors to award contracts for required goods and services in support of NASA's mission.

Ray S. Mayfield,

Director, Management Analysis Office.

[FR Doc. 86–18822 Filed 8–20–86; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice of

the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

DATE: September 15, 1986.

Time: 8:30 a.m. to 5:30 p.m.

Room: 730.

Program: This meeting will review applications for Preservation projects, submitted to the Office of Preservation, for projects beginning after June 1, 1986.

DATE: September 19, 1986.

Time: 8:30 a.m. to 5:30 p.m.

Room: 730.

Program: Office of Preservation: U.S. Newspaper Program. This program supports cataloguing and preservation on newspapers published in the U.S. since 1690. This meeting will review applications submitted to the Office of Preservation, for project beginning after June 1, 1986.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to Authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86–18875 Filed 8–20–86; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket 72–3 (50–261)]

Carolina Power & Light Co., Issuance of Materials License SNM–2502 for the H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation at the H.B. Robinson Unit 2 Site

The U.S. Nuclear Regulatory Commission (the Commission) has issued a materials license under the provisions of 10 CFR Part 72 to Carolina Power and Light Company (CP&L or the licensee) authorizing the receipt and storage of spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) located onsite at the H.B. Robinson Steam Electric Plant in Darlington County, South Carolina.

The function of the ISFSI is to provide interim storage of 56 spent fuel assemblies from H.B. Robinson Steam Electric Plant Unit 2 (HBR2). Seven spent fuel assemblies are stored in an inert atmosphere inside a stainless steel canister which provides confinement, shielding, criticality control and heat removal. Spent fuel loading and canister preparation takes place within the H.B. Robinson Steam Electric Plant fuel handling building. The canister is then moved to the onsite ISFSI inside an IF–300 shipping cask where the canister is then placed inside a concrete horizontal storage module, which provides additional shielding and passive heat dissipation. A total of eight concrete storage modules would be installed under the requested license.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of the issuance of this license. The Commission authorized issuance of this license pursuant to § 2.764(c) of 10 CFR Part 2.

Following receipt of the CP&L application filed February 4, 1985, a Notice of Proposed Action was published in the **Federal Register** on April 18, 1985 (50 FR 15513). CP&L planned to rely on a topical report submitted in November 1984 by NUTECH, Inc., for its NUTECH Horizontal Modular Storage (NUHOMS) system, a concrete module stainless steel canister design, and on the safety review of this design by NMSS staff. Subsequently, CP&L informed NRC by letter dated May 30, 1985, of its intention to modify the NUTECH design for its site-specific application. Revision of CP&L's safety analysis report and updating of its environmental report were based on this modified design and referenced the basic NUTECH topical report design where appropriate. In March 1986, NMSS staff completed its safety review of the NUTECH topical report for the NUHOMS system design and issued a letter of approval with a Safety Evaluation Report. The "Environmental Assessment Related to the Construction and Operation of the H.B. Robinson Independent Spent Fuel Storage Installation" (dated April 1986), along with a Finding of No Significant Impact was issued and noticed in the **Federal Register** (51 FR 12006, April 8, 1986) in accordance with 10 CFR Part 51. The scope of the Environmental Assessment included the construction and operation of an ISFSI on the HBR2 site, including impacts specifically derived from the NUHOMS system design to be used.

The staff has completed its safety review of the HBR2 site application. CP&L's safety analysis report, as supplemented, includes confirmation by CP&L's reactor safety committee that no technical specification changes are required under the HBR2 reactor operating license to accommodate a Part 72 license for onsite storage, that joint operation of the reactor and onsite storage does not affect the safety margins of either one and that onsite storage is an independent operation as defined in Part 72. The staff's Safety Evaluation Report of the H.B. Robinson Steam Electric Plant Unit 2 Independent Spent Fule Storage Installation was completed in June 1986.

Materials License SNM–2502, the staff's Environmental Assessment, Safety Evaluation Report, and other documents related to this action are available for public inspection and for copying for a fee at the NRC Public Document Room 1717 H Street, NW., Washington, DC, and at the Local Public Document Room at the Hartsville Memorial Library, 220 N. Fifth Street, Hartsville, South Carolina 29550.

Dated at Silver Spring, Maryland, this 13th day of August 1986.

For the U.S. Nuclear Regulatory Commission.

Leland C. Rouse,

Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 86–18920 Filed 8–20–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-247]

Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability; Consolidated Edison Co. of New York

I

Consolidated Edison Company of New York (the licensee) is the holder of Facility Operating License No. DPR-26 which authorized the operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) at steady-state power levels not in excess of 2758 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Westchester County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include improvements in operational safety, siting and design, and emergency preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

The licensee responded to Generic Letter 82-33 by letter dated April 15, 1983, as supplemented August 31, 1983, November 18, 1983, February 14, 1984 and March 12, 1984. In these submittals, the licensee made commitments to complete the basic requirements. The licensee's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 12, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed the licensee's commitments. By letter dated March 11, 1985, the NRC corrected an error in the original order concerning the implementation date of Regulatory Guide 1.97 with respect to Emergency Response facilities.

IV

The June 12, 1984, Order stated that for those requirements for which the licensee committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 12, 1984 Order, as revised March 11, 1985, the licensee's letters dated November 29, 1985 as supplemented June 2, 1986, provided a completion schedule for the following requirement:

3. Regulatory Guide 1.97—Application to Emergency Response Facilities
3b. Implement (installation or upgrade) requirements.

The attached Table summarizing the licensee's schedular commitment for the above item was developed by the NRC staff from the information provided by the licensee. The staff reviewed the licensee's November 29, 1985 and June 2, 1986 letters and discussed the date with the licensee.

The NRC staff finds that this date is a reasonable and an achievable date for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of the licensee's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Part 50, It Is Hereby Ordered, Effective Immediately, That License DPR-26 is modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this Order in the manner described in the licensee's submittals noted in Section IV herein no later than the dates in the Attachments.

VI

Extension of time for completing these items may be granted by the Director, Division of PWR Licensing-A, for good cause shown.

VII

The licensee or any other person who has an interest adversely affected by this Order may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy shall be sent to the Office of the General Counsel, Assistant General Counsel for Enforcement, at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

Dated in Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

Attachment: Licensee's Additional Commitment on Requirements Specified in Supplement 1 to NUREG-0737.

BEST COPY AVAILABLE

VOL 51 ISS 162 AG 21 1986 UMI

INDIAN POINT UNIT 2.—LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
3. Regulatory Guide 1.97—Application to Emergency Response.	3b. Implement (installation or upgrade) requirements	Cycle 9/10 Refueling Outage (scheduled for about second quarter 1989).

[FR Doc. 86-18921 Filed 8-20-86; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena Meeting, Date Change

The ACRS Subcommittee on Thermal Hydraulic Phenomena scheduled for August 27, 1986 has been *changed to Thursday, August 28, 1986, 8:30 a.m., Room 1046, 1717 H. Street NW, Washington, DC.* This meeting notice was previously published August 8, 1986 (51 FR 28642). All other items regarding this meeting remain the same as previously announced.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 18, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-18924 Filed 8-20-86; 8:45 am]
BILLING CODE 7590-01-M

Receipt of Petition for Director's Decision

Notice is hereby given that by letter dated June 25, 1986, Marvin Lewis has requested that the Commission shut down all BWR nuclear reactors until all residual heat removal system problems at BWR reactors have been resolved. As grounds for his request, Mr. Lewis has cited several NRC notices where residual heat removal system problems have occurred at BWR reactors, and contends that these separate problems at those reactors cumulatively have the potential to cause a Class 9 accident. This request is being treated as a request for action under 10 CFR 2.206 and, accordingly, the staff will take appropriate action on this request within a reasonable time. A copy of Mr. Lewis' letter is available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this 7th day of August, 1986.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86-18919 Filed 8-20-86; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1986, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, Section 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, shall be published annually as a notice in the **Federal Register.** That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Policy Analysis Division, Room 6504, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 632-6817.

The following exceptions were current on June 30, 1986:

Schedule A

Section 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) [Reserved].

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are parttime or intermittent in which the appointee will receive compensation during his/her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS-3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of OPM, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., positions excluded from Classification Act coverage by section 202(7) of the Act) on

construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Positions filled by (1) appointment of persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) in positions at the same or equivalent grade level, or below, who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment; or (2) reassignment, promotion or demotion within the same agency of former National Guard Technicians originally appointed under this authority.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of OPM where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (1) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, Interior, and Energy, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by OPM that this authority is applicable for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's completion of requirements for the graduate degree.

(q) Positions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. The appointment of any individual under this authority shall terminate upon the individual's ceasing to be enrolled in a qualifying educational program or to be employed as a teacher. No person shall be employed under this provision in (i) positions of a routine clerical type or (ii) positions in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(r)–(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and OPM. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v) Between May 13 and September 30 only, temporary Summer Aid positions the duties of which involve work of a routine nature not regularly covered under the General Schedule requiring no specific knowledge or skills, when filled by youths, either (1) appointed under economic needs standards prescribed by OPM or (2) who are mentally retarded or severely physically handicapped. Youths may not be appointed unless they have reached their 16th birthday. This paragraph shall apply only to positions for which pay is fixed at the highest Federal minimum wage rate established by the Fair Labor Standards Act of 1938, as amended.

(w) Part-time or intermittent positions, the duties of which involve routine work up to and including the GS–4 level of difficulty or equivalent under the Federal Wage System, when filled by bona fide students appointed under the Stay-in-School Program. Students may be appointed if they need the earnings from this employment to continue in school or if they are mentally retarded or severely physically handicapped, provided that the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 20 hours in any calendar week except that students may work full time during any period in which their school is officially closed and during any school vacation period;

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees meet the economic criteria prescribed by OPM, except that

this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. *However*, such appointments may be made for additional periods of not to exceed 1 year each, if the conditions for initial appointment are still met. Students may not be appointed under this authority unless they have reached their 16th birthday. No new appointments may be made between May 13 and August 31, inclusive.

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed one additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) Positions at grade GS–2 and below for summer employment as defined in § 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved].

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) [Reserved].

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to one additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj) Legal intern positions. Appointments under this paragraph shall be confined to bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

(kk) [Reserved].

(11) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President.

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through –15 on the staff of the Council.

(d)–(f) [Reserved].

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/ 14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

Section 213.3104 Department of State.

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Office of the Under Secretary for Management.

(2)–(5) [Reserved].

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c) [Reserved].

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrument men, foremen, recorders, packers, cooks, and axemen, for not to exceed 180 working days within any one calendar year.

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) Two Physical Science Administration Officer positions at GS–16.

(f) [Reserved].

(g) *Office of Refugee and Migration Affairs.* (1) Not to exceed 10 positions at grade 5 through 11 on the staff of the office.

(h) *Bureau of Administration.* (1) One Presidential Trip Specialist. No new appointments may be made under this authority after June 11, 1981.

Section 213.3105 Department of the Treasury.

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of

complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved].

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) [Reserved].

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his/her service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his/her service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7)–(8) [Reserved].

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of the Comptroller of the Currency.* (1) Not to exceed six positions filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years.

(d) [Reserved].

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) [Reserved].

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) [Reserved].

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Not to exceed 30 positions at grades GS–6/15 in the Defense Mobilization Systems Planning Activity, Office of the Deputy Assistant Secretary of Defense (Mobilization Planning and Requirements.) No new appointments may be made under this authority after March 31, 1989.

(2)–(5) [Reserved].

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force.)*

(1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided,* that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to one additional year when the military department concerned finds the additional employment is in the interest of management.

(7) Fifteen secretarial and staff support positions at GS–12 or below on the White House Support Group.

(c) *Defense Contract Audit Agency.* (1) Not to exceed two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Accounting Fellowship Program. Appointments under this authority may not exceed 2 years.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to Cryptologic and Communications Intelligence Activities/Functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, or estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of Dean, Associate Dean, Assistant Dean, faculty members, postdoctoral fellows, research associates, senior research associates, and visiting scientists.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

Section 213.3107 Department of the Army.

(a) *General.* (1) Not to exceed 30 positions on the faculty and staff which are classified in the GS–1700 occupational group and the GS–1410

Librarian series, located at the U.S. Army Russian Institute, Garmisch Germany, and the U.S. Army Foreign Language Training Center Europe, Munich, Germany.

(b) *Aviation Systems Command.* (1) One scientific and professional research position in the U.S. Army Research and Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations.

(c) *Corps of Engineers.* (1) [Reserved].

(2) Nonsupervisory trades, crafts, and manual labor positions at grades WG–6 and below on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when OPM has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in OPM central office, regional, and branch office cities or in cities where there is a local OPM area office to service the employing establishment.

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, chapel organist and choir-master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Facility Manager, Building Manager, Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e) *U.S. Army School of the Americas, Fort Benning, Georgia.*

(1) Positions of Translator (Typing), GS–1040–5/9, and Supervisory Translator, GS–1040–11. No new appointments may be made under this authority after December 31, 1985.

(f) [Reserved].

(g) *Defense Language Institute.* (1) All positions of the faculty and staff which are classified in the GS–1700 occupational group, the GS–1040 Language Specialist series, and the GS–303 Bilingual Clerk series, that require either a proficiency in a foreign language or a knowledge of foreign language teaching methods.

(2)–(4) [Reserved].

(h) *Army War College, Carlisle Barracks, Pa.* (1) Five positions of Educational Specialist for employment of not to exceed 1 year: Provided, that such employment may, with the prior approval of OPM, be extended for not to exceed one additional year.

(2) Nine senior policy analyst positions, GS–14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(3) Five research oriented faculty positions, GS–14/15, with the U.S. Army War College, at Carlisle Barracks, Pennsylvania, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(i) *Defense Systems Management School, Fort Belvoir, Va.*

(1) The Deputy Commandant and professors in grades GS–13 through 15.

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head and Instructor.

Section 213.3108 Department of the Navy.

(a) *General.* (1) [Reserved].

(2) Positions of Student Pharmacist for temporary, part-time, or intermittent employment in U.S. Naval Regional Medical Centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(3) [Reserved].

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) [Reserved].

(6) Positions of Student Operating Room Technician for temporary, part-time or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating non-Federal institution, whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under

5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved].

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) [Reserved].

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) [Reserved].

(g) *Office of Naval Research.* (1) Not to exceed 5 positions of Liaison Scientists, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientists who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of OPM, total employment under this authority may be for as long as 3 years.

Section 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Sixty positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, Instructors in Music (choirmasters), one Training Instructor (Parachuting), one Training Instructor (Code of Conduct and Evasion), and two Physical Therapists/Athletic Trainers.

(e) Not to exceed five positions, GS–12 through GS–15, in the Specialized Management Office (WR–ALC/QL) at Robins Air Force Base, Georgia, which will provide logistic support management staff guidance for highly sensitive and high priority programs and projects. Employment under this authority is not to exceed May 30, 1988.

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed 7 positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Materiel Management, Office of Special Activities, Wright Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) One Chief of Engineering, GM–13, in Detachment 2, 2762 Logistics Squadron (Special), Air Force Logistics Command, Greenville, Texas.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

Section 213.3110 Department of Justice.

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) [Reserved].

(3) U.S. Marshal in the Virgin Islands.

(4) Staff positions, GS–15 and below, to assist in the resettlement of Cuban and Haitian entrants. Employment under this authority may not exceed September 30, 1985. No new appointments may be made under the authority after September 30, 1984.

(5)–(6) [Reserved].

(b) *Immigration and Naturalization Service.* (1) Not to exceed 1,500 positions at grades GS–15 and below engaged in planning for and implementing the processing of claims for resident status which may be submitted by aliens already in the United States as authorized by immigration control and reform legislation. Employment under this authority is not to exceed 4 years from the effective date of such legislation. New appointments under this authority may not be made after March 30, 1985 unless applicable authorizing legislation has been enacted.

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(c) *Drug Enforcement Administration.* (1) [Reserved].

(2) One hundred and fifty positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

Section 213.3112 Department of the Interior.

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided,* that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services

VOL
51
ISS
162
AG
21
1986
UMI

to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in non-professional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum rate. Employment under this authority may not exceed 10 weeks.

(b) [Reserved].

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) [Reserved].

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) [Reserved].

(2) Not to exceed 4 positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) [Reserved].

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–2 through GS–5 to perform practical and technical work supporting the management of Park Service areas and resources in the functional areas of interpretation, resources management, visitor protection, and visitor services; and positions at salaries equivalent to grades GS–6 and GS–7 in which the duties are supervisory or consist of highly specialized technical work in support of National Park Service operations in the functional areas delineated above. The total number of Park Ranger positions at salaries equivalent to GS–6 and GS–7 excepted under this paragraph shall not exceed 200. Employment under this paragraph is limited to persons who meet the qualification standards for each salary level that have been agreed upon by OPM and the Department of the Interior. These standards include as a minimum the following number of previous seasons' experience at a salary equivalent to the next lower grade or equivalent experience in a Federal, State, or local park:

(i) For IGS–7: Two seasons at IGS–6 level in the National Park Service.

(ii) For IGS–6: Two seasons at IGS–5 level in the National Park Service.

(iii) For IGS–5: One season at IGS–4 level or its equivalent in experience.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this paragraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this paragraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) [Reserved].

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Pub. L. 95–250.

(4) One Special Representative of the Director.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) [Reserved].

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102.

(6) [Reserved].

(7) Not to exceed 30 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b) [Reserved].

(c) *Forest Service.* (1) [Reserved].

(2) Positions in Alaska of Laborers, Boat Operaters, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.*

(1) Not to exceed 24 positions of Agricultural Program Specialist, GS–1145–7/12, engaged in conversion of ASCS' directives and information system to a completely automated format. Appointments to these positions may be made initially at the GS–7/11 levels and may not exceed September 30, 1987.

(2) Members of State Committees: *Provided,* that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(3) [Reserved].

(e) *Farmers Home Administration.* (1) [Reserved].

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM, be further extended for additional periods not to exceed 1 year each.

(4) [Reserved].

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior OPM approval for not to exceed one additional year.

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(7) Positions concerned with an economic emergency loan program authorized by the Agricultural Credit Act of 1978, for seasonal employment not to exceed August 31, 1982.

(f) *Agricultural Marketing Service.* (1) Positions of Cotton, Tobacco Dairy, and Poultry Agricultural Commodity Graders and Meat Acceptance Specialists, GS–11 and below, for employment not to exceed 1280 hours in a service year. (Agricultural Commodity Graders (Cotton), GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the hour limitation. In addition, until December 31, 1987, Meat Acceptance Specialists engaged in work required by the Food Security Act of 1985 may be employed without regard to the hour limitation.) Positions of Agricultural Commodity Technicians, GS–5 through GS–7, Agricultural Commodity Aids, GS–2 through GS–5, Clerks, GS–4 and below, and laborers employed on a seasonal basis not to exceed 180 days or 1280 hours a year.

(2) Positions of Raisin Inspectors and Aids and Processed Fruit and Vegetable Graders and Aids, GS–9 and below, for employment not to exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year.

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(g)–(i) [Reserved].

(j) *Food and Nutrition Service.* (1) [Reserved].

(2) Three hundred and fifty positions of food assistance program specialist, GS–5/7, under the Child Nutrition Summer Feeding Program, for temporary employment not to begin before March 1 and not to exceed September 30 of each year, on a fulltime, part-time, or intermittent basis.

(k) *Animal and Plant Health Inspection Service.*

(1) [Reserved].

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock and plant diseases and emergency outbreaks of animal and plant pests. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate without prior approval of OPM. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock and plant industries of the country.

(l) *Food Safety and Inspection Service.* (1)–(2) [Reserved].

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Federal Grain Inspection Service.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) [Reserved].

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) One position of Administrative Assistant, GS–301–8, in the Office of Economic Affairs. New appointments may not be made after March 30, 1979.

(c) [Reserved].

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for temporary, part-time or intermittent employment in connection with major economic and demographic censuses or with surveys of a nonrecurring or noncyclical nature: *Provided,* that temporary, part-time employment will be for periods not to exceed 1 year; and that such appointments may be extended for additional periods of not to exceed 1 year each; but that prior OPM approval

VOL 51 ISS 162 AG 21 1986 UMI

is required for extension of total service beyond 2 years.

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(3) Not to exceed 20 professional and scientific positions at grades GS–9 through GS–12 filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years.

(e)–(h) [Reserved].

(i) *Office of the Under Secretary for International Trade.*

(1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of OPM, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) [Reserved].

(3) All civilian positions on vessels operated by the National Ocean Survey.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Survey. Appointment to such positions shall not exceed 8 months in any one calendar year.

(k) [Reserved].

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,600 work hours in a service year. No new appointment may be made under this authority after December 31, 1984.

(c) [Reserved].

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services.

(a) *Saint Elizabeth's Hospital.* (1)–(4) [Reserved].

(5) Fifteen positions of psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6)–(8) [Reserved].

(9) Positions of Chaplain Residents: *Provided,* that employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of 5 U.S.C. 5351 and 5352.

(10) [Reserved].

(11) Ten positions of group dynamics and group psychotherapy trainees, including interns and residents in the Overholser Training and Research Division. Employment under this authority shall not exceed 2 years, and shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(12) Ten positions of Interns, Residents and Fellows for work in mental health and deafness. Employment under this authority may not exceed 1 year for any individual.

(13) Fifteen positions of Interns and Residents in Applied and Evaluative Research (Mental Health) Program. Employment under this authority may not exceed 2 years for any individual.

(b) *Public Health Service.* (1) Not to exceed five positions a year of Medical Technologist Resident, GS–644–7/9, in the Blood Bank Department, Clinical Center, of the National Institutes of Health. Appointments under this authority will not exceed 1 year.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in the Public Health Service Hospital, Carville, La.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* that appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by OPM.

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) Twelve positions of Therapeutic Radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11) Pharmacy Resident positions at GS–7 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

(13) Not to exceed 30 positions of Cancer Control Science Associate in the Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, for assignments at a level of difficulty and responsibility at or equivalent to GS–11/13. No one may be employed under this authority for more than 3 years, and no more than 10 appointments will be made under the authority in any 1 year.

(14) Not to exceed 30 positions at grades GS–11/13 associated with the postdoctoral training program for interdisciplinary toxicologists in the National Institute of Environmental Health Sciences, National Institutes of Health, Research Triangle Park, North Carolina.

(c) [Reserved].

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fouth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(4) [Reserved].

(5) Eleven clerical and technical positions at grade GS–5 in the Social Security Administration that involve contact with recent Indochinese immigrants and that require a knowledge of Indochinese languages and an understanding of and sympathy for the problems faced by recent Indochinese immigrants.

(6) [Reserved].

(e) [Reserved].

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants, The President's Council on Physical Fitness.

(g)–(i) [Reserved].

(j) *Health Care Financing Administration.* (1) [Reserved].

(2) Not to exceed 10 professional positions, GS–9 through GS–15, to be filled under the Health Care Financing Administration Professional Exchange Program. Appointments under this authority will not exceed 1 year.

(k) *Office of the Secretary.* (1) Not to exceed 75 positions providing direct services to Cuban and Haitian entrants.

(2) Not to exceed 10 positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years.

Section 213.3117 Department of Education.

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

Section 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) [Reserved].

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Veterans Administration Vietnam Era Veterans Readjustment Counseling Program. No one may serve under this authority after August 31, 1988.

Section 213.3128 U.S. Information Agency.

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3130 Securities and Exchange Commission.

(a)–(b) [Reserved].

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program, as follows: (1) Four positions, for employment of any one individual not to exceed 2 years; and

(2) Two additional identical positions, for employment of any one individual not to exceed 90 days, which may be used to provide a period of transition and orientation between Fellowship appointments. These additional identical positions must be filled by persons who either have completed a 2-year Fellowship or have been selected as replacement Fellows for a 2-year term. Appointments of outgoing Fellows under this authority must be made without a break in service of 1 workday following completion of their 2-year terms; incoming Fellows appointed under this provision must be appointed to 2-year Fellowships without a break in service of 1 workday following their 90-day appointments.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3372(b)(2).

Section 213.3131 Department of Energy.

(a) [Reserved].

(b) *Bonneville Power Administration.*

(1) Five Area Managers.

Section 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior OPM approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) of this section. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(c) Positions of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Entrepreneurship Teams of which they are members. No new appointments may be made under this authority after May 1, 1977.

Section 213.3133 Federal Deposit Insurance Corporation.

(a) All Liquidation Graded, temporary field positions concerned with the work of liquidating the assets of closed banks, of liquidating loans to banks, or of paying the depositors of closed insured banks. New appointments may be made under this authority only during the 5-year period following a bank closing and/or establishment of a consolidated liquidation site.

Section 213.3136 U.S. Soldiers' and Airmen's Home.

(a) All positions.

Section 213.3137 General Services Administration.

(a) [Reserved].

(b) Not to exceed 25 positions at grades GS–14/15, in order to bring into the agency current industry expertise in various program areas. Appointments under this authority may not exceed 2 years.

Section 213.3141 National Labor Relations Board.

(a) Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor-Management Relations Act.

Section 213.3142 Export-Import Bank of the United States.

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System.

(a) State Directors.

(b)–(c) [Reserved].

(d) Executive Secretary, National Selective Service Appeal Board.

Section 213.3148. National Aeronautics and Space Administration.

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Not to exceed 40 positions of fully qualified pilot and mission specialists astronauts.

(c)–(e) [Reserved].

(f) Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the High School Students Summer Research Apprenticeship Program.

Section 213.3152 U.S. Government Printing Office.

(a) Not to exceed three positions of Research Associate at grades GS–15 and below, involved in the study and analysis of complex problems relating to the reduction of the Government's printing costs and to provision of more efficient service to customer agencies and the public. Appointments under this authority may not exceed 1 year, but may be extended for not to exceed one additional year.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the University of the District of Columbia.

Section 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved].

(c) Positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom; and positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions. Appointments under this authority may not exceed 3 years.

Section 213.3156 Commission on Civil Rights.

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

Section 213.3174 Smithsonian Institution.

(a) Not to exceed 25 positions at grades GS–11 and below that support planning and production of the Annual American Folklife Festival. Employment under this authority may not exceed 6 months in connection with any one Festival.

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) One Russian Studies Program Administrator, one East Asian Studies Program Administrator, one International Security Studies Program Administrator, and one Latin American Program Administrator in the Woodrow Wilson International Center for Scholars.

Section 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.*

(1) Until September 30, 1990, one position of Assistant Director, Artists-in-

Education Programs, Office for Partnership, GS–301–14.

(2) [Reserved]

(3) Until September 30, 1990, one position of Director of Literature Programs.

(4) Until September 30, 1990, one position of Assistant Director of Theatre Programs.

(5) Until September 30, 1990, one position of Director of Folk Arts Programs.

(6) Until September 30, 1990, one position of Director, Opera/Musical Theatre Programs.

(7) Until September 30, 1990, one position of Assistant Director of Opera/Musical Theatre Programs.

(8) Until September 30, 1990, one position of Assistant Director of Literature Programs.

(9) Until September 30, 1990, one position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) Until September 30, 1990, one position of Deputy to the Chairman for Public Partnership.

(11) Until September 30, 1990, four Project Evaluators.

(12) Until September 30, 1990, one position of Director of Museum Programs.

(13) Until September 30, 1990, one position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) Until September 30, 1990, one position of Assistant Director of Music Programs.

(15) Until September 30, 1990, one position of Director of Expansion Arts Programs.

(16) Until September 30, 1990, one position of Director of Media Arts Programs.

(17) Until September 30, 1990, one position of Director, Challenge and Advancement Grant Program.

(18)–(19) [Reserved].

(20) Until September 30, 1990, one position of Director of Inter Arts Program.

(21) Until September 30, 1990, one position of Assistant Director of Expansion of Arts Programs.

(22) Until September 30, 1990, one position of Assistant Director of Media Arts Programs.

(23) Until September 30, 1990, one position of Assistant Director of Design Arts Program.

(24) Until September 30, 1990, one position of Assistant Director of Dance Programs.

(25) Until September 30, 1990, one position of Assistant Director of Visual Arts Programs.

(26) Until September 30, 1990, one position of Assistant Director of Museum Programs.

(27)–(29) [Reserved].

(30) Until September 30, 1990, one position of Director of Education Programs.

(31) Until September 30, 1990, one position of Director of Music Programs.

(32) Until September 30, 1990, one position of Director of Theater Programs.

(33) Until September 30, 1990, one position of Director of Dance Programs.

(34) Until September 30, 1990, one position of Director of Visual Arts Programs.

(35) Until September 30, 1990, one position of Director of Design Arts Program.

(36) [Reserved].

(37) Until September 30, 1990, one Director for State Programs.

(38) Until September 30, 1990, one Director for Artists-in-Education Programs.

Section 213.3184 Department of Housing and Urban Development.

(a) One position of Special Advisor to the Regional Administrator, GS–301–14, in San Francisco. Employment under this authority may not exceed 2 years.

Section 213.3191 Office of Personnel Management.

(a) Not to exceed 500 positions in Federal Job Information Centers, to be filled under the Community Outreach Information Network program. Appointments under this authority may not exceed 90 days, and no one may receive more than one appointment under the authority.

(b)–(c) [Reserved].

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation.

(a) *U.S. Coast Guard.* (1) Not to exceed 25 positions of Marine Traffic Controller (Pilot), at grade GS–11 and below for temporary, intermittent or seasonal employment in the State of Louisiana. Temporary appointments may not exceed 1 year, and temporary appointees may be reappointed under this authority only after a break in service of at least 6 months. Intermittent or seasonal employment may not exceed 180 working days in a service year, except that this limitation for an individual employee may be extended to 220 days when necessitated by emergencies caused by unusual flooding conditions or high river stages.

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) [Reserved].

(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Federal Highway Administration at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and constructions projects, for not to exceed 180 working days a year, when in the opinion of OPM, appointment through competitive examination is impracticable.

(d) [Reserved].

(e) *Maritime Administration.* (1)–(2) [Reserved].

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) [Reserved].

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers: including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Asssistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

Section 213.3195 Federal Emergency Management Agency.

(a) Field positions at grades GS–15 and below, or equivalent, that are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate that are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary organizations.

(a) Positions at GS–15 and below on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s) does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions at GS–15 and below on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of OPM.

Schedule B

Section 213.3202 Entire executive civil service.

The provisions established under paragraphs (a) through (i) are authorized under provisions of E.O. 12015 and support career-related work-study programs. OPM's requirements relating to appointment under paragraphs (a) through (i) will be published in the Federal Personnel Manual. Further, appointments under paragraphs (a) through (i) are subject to all the requirements and conditions governing career or career-conditional appointments, including investigation by OPM to establish an appointee's qualifications and suitability. Appointments of participants may be converted to career or career-conditional at any time within a 120-day period after satisfactory completion of a career-related work-study program.

(a) Student positions established in connection with a bachelor's degree cooperative education program which provide for a formally arranged schedule of attendance at an institution of higher learning combined with at least 26 weeks, or 1040 hours, of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and must provide the experience necessary for a career or career-conditional appointment to administrative, professional or technical positions in the Federal career service upon the student's graduation.

(b) Student positions established in support of cooperative education programs for graduate students which provide for scheduled periods of attendance at a graduate school combined with a least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements for the graduate degree and provide experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(c) Student positions established in connection with associate degree cooperative education programs which provide for formally arranged schedules of attendance at a recognized 2-year educational institution combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study together must satisfy the requirements for graduation and must provide the experience necessary for career or career-conditional appointment in selected occupations in the Federal career service upon the student's graduation.

(d) Student positions established in connection with the Harry S. Truman Foundation Scholarship Program under the provisions of Pub. L. 93–642 to permit scheduled periods of attendance at institutions of higher education combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements of programs established by agreement between the Harry S. Truman Scholarship Foundation and the employing agency and provide the experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(e) Positions at shipyards, air rework facilities and other major industrial activities in the Department of the Navy which prepare students at the high school level, upon satisfactory completion of a cooperative education program of at least 1,040 hours for employment in preapprentice positions or in helper positions at the WG–5 level as pipefitters, marine machinist, inside machinist, welder, sheet metal machanic, and such other occupations where the journeyman level is WG–9 or above as the Associate Director, Staffing Group, shall have approved, provided that: (1) Not more than 25 percent of the positions in covered occupations will be filled annually at any single installation through this conversion authority, and (2) the maximum time during which any student will be employed in the program is 18 months, and (3) except for conditions specified in this authority, students will be subject to instructions governing all other high school vocational education students in cooperative education programs, and (4) any student who completes a program without a diploma must have an authenticated certificate from the school indicating satisfactory completion in his/her personnel folder.

(f) Positions under the Federal Junior Fellowship Program, a career-related work-study program covered under the provisions of E.O. 12015.

(g)–(i) [Reserved].

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding three years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who: (1) Are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Horner* and numbered as No. 79–271, which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree, and which are to be filled, under the conditions described below, by appointment of individuals other than those who at the time of such appointment already have competitive status in the Federal civil service. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and the agency has made maximum use of priority placement sources and has given appropriate consideration to available and qualified status applicants, then OPM may authorize the agency to make a new appointment under this paragraph. Such appointments shall be authorized and made pursuant to such Schedule B requirements for PAC positions as shall be prescribed in the Federal Personnel Manual. Terms of use of this appointment authority shall be established by an appointment authority agreement to be executed for each position excepted from the competitive service pursuant to this authority. An incumbent of a Schedule B PAC position may be appointed to a competitive position upon a demonstration that the employee has met qualifications on the basis of an examination of the employee's experience and such other measures as may be prescribed for such position in civil service laws, rules, and regulations, including the Federal Personnel Manual.

Section 213.3203 Executive Office of the President.

(a) [Reserved].

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State.

(a)–(c) [Reserved].

(d) Eight positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) Four Physical Science Administration Officer positions at GS–11 and GS–12 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 1 year.

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Pub. L. 99–190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of any organization carrying out projects or contracts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

Section 213.3206 Department of Defense.

(a) *Office of the Secretary.* (1) [Reserved].

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) [Reserved].

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(c) *National Defense University.* (1) Twenty-one positions of professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in 1-, 2-, or 3-year increments indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

Section 213.3207 Department of the Army.

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(b) *Brooke Army Medical Center, Fort Sam Houston, Texas.*

(1) Two Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical school surgical residency programs. Employment under this authority shall not exceed 12 months.

Section 213.3208 Department of the Navy.

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

Section 213.3209 Department of the Air Force.

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) [Reserved].

(c) One Director of Instruction and 14 civilian Instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period which may be followed by an appointment of indefinite duration.

(d) Seven positions of professor or associate professor at the Air University, Maxwell Air Force Base, Ala., for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in 1-, 2-, or 3-year increments indefinitely thereafter.

Section 213.3210 Department of Justice.

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through GS–11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed between the Department and OPM.

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

(c) Not to exceed 50 positions at grades GS–7 through GS–15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) Until September 30, 1986, positions, other than those providing routine clerical and administrative support, on the staff of the offices of United States Trustees. Terms of service under this authority shall be established in accordance with provisions of the Bankruptcy Reform Act of 1978 and subsequent applicable legislation.

Section 213.3213 Department of Agriculture.

(a) *Office of International Cooperation and Development.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 2 years on a single project for any individual. No more than 20 new appointments may be made under this authority in any 12-month period.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator and may not exceed 2 years.

Section 213.3214 Department of Commerce.

(a) *Bureau of the Census.* (1) [Reserved].

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(b) [Reserved].

(c) *Minority Business Development Agency.* (1) One position of minority business opportunity specialist at grades GS–9 through GS–15. This authority may not be used for new appointments after December 31, 1977.

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor.

(a) Positions of Chairman and Member, Wage Appeals Board.

(b) *Office of the Inspector General.* (1) Not to exceed 110 positions of Criminal Investigator (Special Agent), GS–1811–5/15, in the Office of Labor Racketeering.

Section 213.3216 Department of Health and Human Services.

(a) *Public Health Service.* (1) Not to exceed 68 positions at GS–11 and below on the Health and Nutrition Examination Survey teams of the National Center for Health Statistics.

(b)–(c) [Reserved].

(d) *National Library of Medicine.* (1) Ten positions of Librarian, GS–7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

Section 213.3217 Department of Education.

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of OPM, be extended for an additional period of 1 year.

Section 213.3227 Veterans Administration.

(a) Not to exceed 800 principal investigatory, scientific, professional and technical positions at grades GS–11 and above in the medical research program. Employment under this authority may not exceed 7 years for any individual.

Section 213.3228 U.S. Information Agency.

(a) *Voice of America.* (1) Not to exceed 150 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under

this authority to administrative, clerical, and technical support positions.

(b) Positions of English Language Radio Broadcast Intern, GS–1001–5/7/9. Employment is not to exceed 2 years for any intern.

Section 213.3231 Department of Energy.

(a) Twenty Exceptions and Appeals Analyst positions at grades GS–7 through 11, when filled by persons selected under DOE's fellowship program in its Office of Hearings and Appeals, Washington, D.C. Appointments under this authority shall not exceed 3 years.

Section 213.3234 Federal Trade Commission.

(a) Positions filled under the Economic Fellows Program. No more than five new appointments may be made under this authority in any fiscal year. Service of any individual Fellow may not exceed 4 years.

Section 213.3237 General Services Administration.

(a) One position of Deputy Director of Network Services.

Section 213.3242 Export-Import Bank of the U.S.

(a) One position of Food Service Worker WG–7804–3/4/5, in the Office of the President and Chairman.

Section 213.3248 National Aeronautics and Space Administration.

(a) Not to exceed 40 positions of Command Pilot, Pilot and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3254 Federal Home Loan Bank Board.

(a) Positions of Accounting Policy Analyst, GS–13/14/15, in the Office of Examinations and Supervision filled in connection with a fellowship program. Appointments under this authority may not exceed 2 years. No more than three new appointments may be made under this authority during any consecutive 12-month period.

(b) Up to 287 positions at GS–15 and below in the Federal Home Loan Bank Board engaged in exploring methods to promote stability in the thrift industry, restore the industry to profitability, and protect individual savers. No new appointments may be made under this authority after September 30, 1988.

Section 213.3257 National Credit Union Administration.

(a) *Central Liquidity Facility.* (1) All managerial and supervisory positions at pay levels greater than the equivalent of GS–13.

Section 213.3259 ACTION.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(b) *Office of Voluntary Liaison.* (1) Three positions of Program Specialist at grades GS–7 through GS–15.

Section 213.3264 U.S. Arms Control and Disarmament Agency.

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3272 Administrative Office of the U.S. Courts.

(a) Not to exceed 18 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(b) [Reserved].

(c) Six positions of Clerks Liaison Officer in the Division of Clerks of Court.

Section 213.3274 Smithsonian Institution.

(a) National Zoological Park. (1) Four positions of Veterinary Intern, GS–8/9/11. Employment under this authority is not to exceed 36 months.

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

Section 213.3282 National Foundation on the Arts and the Humanities.

(a) [Reserved].

(b) *National Endowment for the Humanities.* (1) Until September 30, 1990, Humanist Administrator, Reference Materials Programs, Division of Research Programs.

(2) Until September 30, 1990, Humanist Administrator (Assistant Director), Central Disciplines in Undergraduate Education Program, Division of Education Programs.

(3) Until September 30, 1990, Deputy Director, Division of Education Programs.

(4) Until September 30, 1990, Director, Division of Research Grants.

(5) Until September 30, 1990, one position of Director, GS–1701–15, one position of Deputy Director, GS–1701–14, and six positions of Humanist Administrator, GS–1701–13, Division of State Programs.

(6) Until September 30, 1990, one Director and one Deputy Director, Division of Fellows and Seminars.

(7) Until September 30, 1990, one Humanist Administrator, Fellowships for College Teachers, Division of Fellowships.

(8) Until September 30, 1990, four positions of Humanist Administrator, Media Program, Division of General Programs.

(9) Until September 30, 1990, one position of Humanist Administrator (Assistant Director), Exemplary Projects, Nontraditional Learners, and Teaching Materials Program, Division of Education Programs.

(10) Until September 30, 1990, one position of Assistant Director for the Elementary and Secondary Education Program, Division of Education Programs.

(11) Until September 30, 1990, one position of Assistant Director for the Museums and Historical Organizations Program, Division of General Programs.

(12) Until September 30, 1990, three positions of Humanist Administrator, Museums and Historical Organizations Program, Division of General Programs.

(13) Until September 30, 1990, two positions of Humanist Administrator, Elementary and Secondary Education Program, Division of Education Programs.

(14) Until September 30, 1990, Director of General Programs.

(15) Until September 30, 1990, one Assistant to the Director, General Programs.

(16) Until September 30, 1990, one Humanist Administrator, Younger Scholars Programs, Division of Fellowships and Seminars.

(17) Until September 30, 1990, one Humanist Administrator, Humanities Programs for Adults, Division of General Programs.

(18) Until September 30, 1990, one position of Director, Division of Education Programs.

(19) Until September 30, 1990, one Humanist Administrator (Assistant Director), Texts Programs, Division of Research Programs.

(20) Until September 30, 1990, one Humanist Administrator, Centers for

Advanced Study, Division of Research Programs.

(21) Until September 30, 1990, one Challenge Grants Officer.

(22) Until September 30, 1990, one Assistant Director, Media Program, Division of General Programs.

(23) Until September 30, 1990, one position of Humanist Administrator, Publications Program, Division of Research Grants.

(24) Until September 30, 1990, one Deputy Director, Division of Research Grants.

(25) Until September 30, 1990, one Humanist Administrator, Summer Seminars for College Teachers, Division of Fellowships and Seminars.

(26) Until September 30, 1990, two positions of Humanist Administrator, Humanities Libraries Projects, Division of General Programs.

(27) Until September 30, 1990, one position of Humanist Administrator, GS–14, Humanities Planning and Assessment Studies Program, Office of Planning and Policy Assessment.

(28) Until September 30, 1990, one position of Humanist Administrator, Humanities Programs for Adults, Division of General Programs, GS–14.

(29) Until September 30, 1990, one position of Humanist Administrator, GS–1701–14, in the Interpretive Research Programs, Division of Research Programs.

(30) Until September 30, 1990, one Humanist Administrator, Office of Challenge Grants.

(31)–(32) [Reserved].

(33) Until September 30, 1990, one Assistant Director, Special Projects Program, GM–1701–14, Division of General Programs.

(34) Until September 30, 1990, one Humanist Administrator, GS–1701–12, Central Disciplines in Undergraduate Education Program, Division of Education Programs.

(35) Until September 30, 1990, two Humanist Administrators, Central Disciplines in Undergraduate Education Program, Division of Education Programs.

(36) Until September 30, 1990, three Humanist Administrators, Exemplary Projects, Nontraditional Learners, and Teaching Materials Program, Division of Education Programs.

(37) Until September 30, 1990, one Humanist Administrator, Summer Seminars for Secondary School Teachers, Division of Fellowships and Seminars.

(38) Until September 30, 1990, one Humanist Administrator, Summer Stipends, Division of Fellowships and Seminars.

(39) Until September 30, 1990, one Humanist Administrator, Travel to Collections, Division of Fellowships and Seminars.

(40) Until September 30, 1990, one Humanist Administrator, Translation Program, Reference Works Program, Division of Research Programs.

(41) Until September 30, 1990, one Humanist Administrator, Editions Program, Reference Works Program, Division of Research Programs.

(42) [Reserved].

(43) Until September 30, 1990, one Humanist Administrator, Bicentennial of the Constitution Program, Division of General Programs.

(44) Until September 30, 1990, one Humanist Administrator, Humanities Projects in Museums and Historical Organizations, Division of General Programs.

(45) Until September 30, 1990, two Humanist Administrators, Office of Preservation.

(46) Until September 30, 1990, one Director Office of Preservation.

(47) Until September 30, 1990, one Humanist Administrator (Program Officer), Regrant Programs, Division of Research Programs.

(48) Until September 30, 1990, one Director, Office of Planning and Budget.

(49) Until September 30, 1990, one Humanist Administrator, Tools Program, Reference Materials Program, Division of Research Programs.

(50) Until September 30, 1990, one Humanist Administrator, Access Program, Reference Materials Program, Division of Research Programs.

(51) Until September 30, 1990, one Humanist Administrator, Project Research, Interpretive Research Program, Division of Research Programs.

(52) Until September 30, 1990, one Humanist Administrator, Humanities, Science, and Technology Program, Interpretive Research Program, Division of Research Programs.

Section 213.3285 Pennsylvania Avenue Development Corporation.

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management.

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years, and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Individual appointments under this authority may be made for initial period(s) up to 3 years which may be followed by an appointment of indefinite duration.

Section 213.3294 Department of Transportation.

(a) *Federal Railroad Administration.* (1) Regional Director of Railroad Safety, Fort Worth, Texas.

Schedule C

Section 213.3303 Executive Office of the President

Council of Economic Advisors

CEA 4 Secretary to the Council Member.

Council on Environmental Quality

CEQ 2 Executive Assistant to the Chairman.

CEQ 3 Confidential Assistant to a Member.

Office of Management and Budget

OMB 8 Secretary to the Deputy Director.

OMB 10 Secretary to the Associate Director for Public Affairs.

OMB 11 Secretary to the Associate Director, National Security and International Affairs.

OMB 21 Confidential Assistant to the Director.

OMB 25 Legislative Assistant to the Assistant Director for Legislative Affairs.

OMB 30 Special Assistant to the Assistant Director for Legislative Affairs.

OMB 31 Executive Secretary to the Executive Associate Director for Budget and Legislation.

OMB 33 Executive Assistant to the Deputy Director.

OMB 38 Confidential Secretary to the Counsel to the Director for Policy Analysis and Law.

OMB 41 Administrative Assistant to the Assistant Director for Legislative Affairs.

OMB 46 Legislative Assistant to the Assistant Director for Legislative Affairs.

OMB 50 Legislative Assistant to the Assistant Director for Legislative Affairs.

OMB 52 Secretary to the Director.

OMB 53 Legislative Clerk to the Assistant Director for Legislative Affairs.

OMB 56 Secretary to the Director.

OMB 57 Confidential Secretary to the Associate Director for Natural Resources, Energy and Science.
OMB 59 Public Affairs Assistant to the Assistant Director for Public Affairs.

President's Commission on Executive Exchange

PCEE 1 Confidential Assistant to the Executive Director.
PCEE 2 Confidential Assistant to the Executive Director.
PCEE 4 Secretary (Typing) to the Executive Director.
PCEE 5 Public Information Officer to the Executive Director.
PCEE 6 Staff Assistant (Typing) to the Executive Director.

Office of the United States Trade Representative

USTR 10 Confidential Assistant to the United States Trade Representative.
USTR 13 Confidential Assistant to the General Counsel.
USTR 14 Confidential Secretary to the United States Trade Representative.
USTR 17 Public Affairs Specialist to the Director for Public and Intergovernmental Affairs.
USTR 21 Confidential Assistant to the Deputy United States Trade Representative.
USTR 24 Public Affairs Specialist to the Assistant United States Trade Representative for Public, Private and Intergovernmental Affairs.
USTR 25 Confidential Secretary to the General Counsel.
USTR 26 Executive Assistant to the Deputy United States Trade Representative.

Section 213.3304 Department of State

ST 8 Secretary (Steno) to the Secretary.
ST 9 Secretarial Assistant (Steno) to the Secretary.
ST 59 Secretary (Steno) to the Under Secretary for Economic Affairs.
ST 79 Special Assistant to the United States Representative to the United Nations.
ST 81 Secretary (Steno) to the Assistant Secretary, Bureau of Near Eastern and South Asian Affairs.
ST 83 Assistant Chief of Protocol to the Chief of Protocol.
ST 86 Foreign Affairs Officer to the Assistant Secretary, Bureau of International Organization Affairs.
ST 90 Foreign Affairs Officer to the Chief of Protocol.
ST 91 Secretary (Steno) to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 102 Special Assistant to the Under Secretary.
ST 105 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs.
ST 109 Secretary (Steno) to the Director, Management Operations.
ST 116 Special Assistant to the Counselor.
ST 117 Confidential Clerk to the Secretary.
ST 120 Special Assistant to the Spokesman, Office of the Spokesman.
ST 122 Staff Assistant to the Under Secretary for Management.
ST 124 Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.
ST 127 Secretary (Steno) to the Assistant Secretary for Human Rights and Humanitarian Affairs.
ST 128 Legislative Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs.
ST 132 Secretary (Typing) to the Assistant Secretary, Bureau of International Organizational Affairs.
ST 134 Secretary (Steno) to the Deputy Secretary.
ST 137 Foreign Affairs Officer to the Assistant Secretary, Policy Planning Staff.
ST 139 Protocol Officer (Visits) to the Chief of Protocol.
ST 155 Protocol Officer (Visits) to the Chief of Protocol.
ST 156 Member, Policy Planning Staff to the Chairman, Policy Planning Council.
ST 157 Member, Policy Planning Staff to the Chairman, Policy Planning Council.
ST 159 Protocol Officer (Visits) to the Chief of Protocol.
ST 161 Secretary (Steno) to the Under Secretary for Management.
ST 162 Secretary (Steno) to the Assistant Secretary, Bureau of Consular Affairs.
ST 164 Manager, President's Guest House.
ST 167 Protocol Officer to the Chief of Protocol.
ST 168 Staff Assistant to the Legal Adviser.
ST 173 Special Assistant to the Under Secretary for Management.
ST 174 Public Affairs Specialist to the Deputy Assistant Secretary for Public Affairs.
ST 175 Congressional Relations Officer to the Principal Deputy Assistant Secretary for Congressional Relations.
ST 177 Special Assistant to the Chairman, International Joint Commission.
ST 178 Secretary (Steno) to the Assistant Secretary for International Narcotics Matters.
ST 179 Congressional Relations Officer to the Assistant Secretary, Office of Congressional Relations.
ST 180 Policy and Program Officer to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 181 Director, Office of Intergovernmental and Public Liaison to the Assistant Secretary for Legislative and Governmental Affairs.
ST 182 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs.
ST 183 Public Affairs Advisor to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 184 Special Assistant to the Assistant Secretary, Office of African Affairs.
ST 187 Secretary (Steno) to the Chairman, International Joint Commission.
ST 188 Staff Assistant to the Assistant Secretary for International Narcotics Matters.
ST 190 Special Assistant to the Ambassador-at-Large and Special Advisor to the Secretary.
ST 192 Staff Assistant to the Deputy Secretary of State.
ST 193 Assistant to the Under Secretary for Security Assistance, Science and Technology.
ST 195 Staff Assistant to the Assistant Secretary for Congressional Relations.
ST 199 Executive Assistant to the Ambassador-at-Large.
ST 200 Staff Assistant to the Deputy Secretary of State.
ST 201 Staff Assistant to the Ambassador on Space and Defense Arms and Head of the U.S. Delegation to Geneva.
ST 202 Special Assistant to the Ambassador-at-Large.
ST 203 Special Assistant to the Counselor.
ST 206 Special Assistant to the Under Secretary for Security Assistance, Science and Technology.
ST 208 Foreign Affairs Officer to the Assistant Secretary, Bureau of International Organization Affairs.
ST 209 Protocol Officer (Visits) to the Chief of Protocol.
ST 211 Protocol Officer (Visits) to the Chief of Protocol.
ST 213 Special Assistant to the Assistant Secretary for Human Rights and Humanitarian Affairs.
ST 214 Staff Assistant to the Under Secretary for Political Affairs.
ST 215 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs.

ST 219 Special Assistant to the Ambassador, U.S. Permanent Representative to the Organization of American States.
ST 221 Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs.
ST 222 Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 224 Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 226 Special Assistant to the Assistant Secretary, Bureau of Near Eastern and South Asian Affairs.
ST 227 Special Assistant to the Deputy Assistant Secretary for Private Sector Initiatives, Bureau of International Organization Affairs.
ST 229 Special Assistant to the Coordinator for Public Diplomacy for Latin America and the Caribbean.
ST 230 Special Assistant for Policy to the Under Secretary for Political Affairs.
ST 232 Secretary (Typing) to the Ambassador and U.S. Negotiator on Strategic Nuclear Arms.
ST 233 Staff Assistant to the Ambassador and U.S. Negotiator on Strategic Nuclear Arms.
ST 236 Special Assistant to the Under Secretary for Security Assistance, Science and Technology.
ST 238 Staff Assistant to the Ambassador on Space and Defense Arms and Head of the United States Delegation to Geneva.
ST 239 Protocol Assistant to the Chief of Protocol.
ST 240 Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.
ST 241 Protocol Specialist to the Chief of Protocol.
ST 242 Special Assistant to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 243 Protocol Assistant to the Chief of Protocol.
ST 244 Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.

Section 213.3305 Department of the Treasury.

TREA 28 Special Assistant to the Director of the Mint.
TREA 33 Special Assistant to the Assistant Secretary for Business and Consumer Affairs.
TREA 39 Executive Assistant to the Assistant Secretary for Legislative Affairs.
TREA 47 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 52 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 56 Confidential Assistant to the Assistant Secretary for Legislative Affairs.
TREA 61 Special Assistant to the Assistant Secretary for Policy Planning and Communications.
TREA 72 Confidential Secretary to the Deputy Treasurer.
TREA 74 Confidential Assistant to the Assistant Secretary for Policy Planning and Communications.
TREA 89 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 91 Staff Assistant to the Deputy Assistant Secretary for Administration.
TREA 92 Director, Consumer Affairs, to the Assistant Secretary for Business and Consumer Affairs.
TREA 93 Special Assistant to the Deputy Assistant Secretary for Public Affairs.
TREA 94 Executive Assistant to the Commissioner of Customs.
TREA 99 Staff Assistant to the Director, Office of Revenue Sharing.
TREA 101 Director, Office of Business Affairs, to the Assistant Secretary for Business and Consumer Affairs.
TREA 108 Staff Assistant to the Treasurer of the United States.
TREA 112 Assistant to the Director, Office of Revenue Sharing.
TREA 113 Executive Assistant to the Special Assistant to the Commissioner of Customs.
TREA 114 Staff Assistant to the Commissioner of Customs.
TREA 115 Staff Assistant to the Deputy Assistant Secretary for Financial Systems.
TREA 118 Staff Assistant to the Executive Secretary.
TREA 120 Special Assistant to the Assistant Secretary for Policy Planning and Communications.
TREA 122 Public Affairs Specialist to the Assistant Secretary for Policy Planning and Communications.
TREA 123 Public Affairs Specialist to the Treasurer.
TREA 125 Congressional Liaison Specialist to the Commissioner of Customs.
TREA 127 Special Assistant to the Assistant Secretary (Management).
TREA 128 Confidential Assistant to the Secretary.
TREA 129 Staff Assistant to the Assistant Secretary (Administration).
TREA 131 Staff Assistant to the Deputy General Counsel.
TREA 132 Deputy Assistant Secretary to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 133 Confidential Assistant to the Assistant Secretary for Policy Planning and Communications.
TREA 134 Staff Assistant to the Deputy Secretary.
TREA 135 Staff Assistant to the Deputy Assistant Secretary (Administration).
TREA 136 Staff Assistant to the General Counsel.
TREA 137 Special Assistant to the Deputy Assistant Secretary.
TREA 138 Special Assistant to the Assistant Secretary (Management).
TREA 139 Director of Scheduling to the Assistant Secretary (Public Affairs and Public Liaison).
TREA 140 Staff Assistant to the Assistant Secretary (Management).
TREA 141 Staff Assistant to the Deputy Assistant Secretary (Public Affairs and Public Liaison).
TREA 142 Travel Assistant to the Deputy Assistant Secretary for Administration
TREA 143 Deputy Director of Scheduling to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 144 Staff Assistant to the Deputy Assistant Secretary for Policy, Planning and Communications.
TREA 145 Travel Assistant to the Deputy Assistant Secretary for Administration.
TREA 146 Legislative Aide to the Assistant Secretary for Legislative Affairs.
TREA 147 Travel Assistant to the Deputy Assistant Secretary for Administration.
TREA 148 Director, Special Operations Division, to the Deputy Assistant Secretary for Administration.
TREA 149 Special Assistant to the Executive Secretary.
TREA 151 Staff Assistant to the Assistant Secretary (Management).
TREA 152 Confidential Assistant to the Deputy Assistant Secretary for Public Liaison.
TREA 153 Legislative Specialist to the Assistant Secretary (Legislative Affairs).

Section 213.3306 Department of Defense.

DOD 3 Private Secretary to the Secretary.
DOD 5 Private Secretary to the Deputy Secretary.
DOD 8 Private Secretary to the Deputy Under Secretary for Research and Engineering (Tactical Warfare Programs).

DOD 9 Private Secretary to the Deputy Under Secretary for Research and Engineering (Strategic and Theater Nuclear Forces).

DOD 10 Private Secretary to the Deputy Under Secretary for Research and Engineering (Research and Advanced Technology).

DOD 13 Private Secretary to the Assistant Secretary (Force Management and Personnel).

DOD 14 Private Secretary to the Assistant Secretary for International Security Affairs.

DOD 18 Private Secretary to the Assistant Secretary (Comptroller).

DOD 19 Private Secretary to the Director, Program Analysis and Evaluation.

DOD 20 Personal and Confidential Assistant to the General Counsel.

DOD 23 Private Secretary to the Military Assistant to the Secretary.

DOD 30 Secretary (Steno) to the Defense Advisor to US NATO.

DOD 32 Special Assistant to the Assistant Secretary for Legislative Affairs.

DOD 33 Personal Secretary to the Deputy Secretary.

DOD 34 Private Secretary to the Principal Deputy Assistant Secretary of Defense for International Security Affairs.

DOD 35 Confidential Assistant to the Executive Secretary.

DOD 37 Assistant to the Secretary for Personnel Security.

DOD 51 Private Secretary to the Assistant Secretary for Reserve Affairs.

DOD 54 Private Secretary to the Judge, U.S. Court of Military Appeals.

DOD 55 Private Secretary to the Chief Judge, U.S. Court of Military Appeals.

DOD 62 Administrative Services Specialist to the Chairman, President's Intelligence Oversight Board.

DOD 66 Private Secretary to the Physician to the President, White House Support Group.

DOD 73 Private Secretary to the Assistant Secretary of Defense for Health Affairs.

DOD 75 Chauffeur to the Deputy Secretary.

DOD 89 Private Secretary to the Principal Deputy Assistant Secretary (Public Affairs).

DOD 100 Private Secretary to the Director of Net Assessment.

DOD 101 Personal and Confidential Assistant to the Director of Net Assessment.

DOD 112 Special Assistant to the Assistant Secretary for Legislative Affairs.

DOD 119 Private Secretary to the Principal Deputy Director, Program Analysis and Evaluation.

DOD 133 Special Assistant to the Principal Deputy Assistant Secretary (Public Affairs).

DOD 152 Special Assistant to the Assistant General Counsel (Legal Counsel).

DOD 171 Special Assistant to the Deputy Assistant Secretary (Reserve Affairs).

DOD 174 Private Secretary to the Under Secretary for Policy.

DOD 175 Personal and Confidential Assistant to the Judge, U.S. Court of Military Appeals.

DOD 178 Special Assistant to the Assistant Secretary for Legislative Affairs.

DOD 186 Counselor to the Assistant Secretary for Health Affairs.

DOD 187 Special Assistant for African Affairs to the Deputy Assistant Secretary for International Security Affairs.

DOD 199 Administrative Assistant to the Associate Director, Presidential Personnel Office.

DOD 209 White House Director of Television Services to the Assistant to the President/Director of Support Services.

DOD 211 Special Assistant to the Principal Deputy Assistant Secretary for Public Affairs.

DOD 212 Private Secretary to the Deputy Under Secretary, Research and Engineering (International Programs and Technology).

DOD 216 Private Secretary to the Principal Deputy Assistant Secretary for International Security Policy.

DOD 217 Private Secretary to the Assistant Secretary (Command, Control, Communications and Intelligence).

DOD 220 Assistant to the Director for Emergency Planning.

DOD 226 Special Assistant to the Assistant Secretary (Health Affairs).

DOD 227 Private Secretary to the Assistant Secretary for Research and Technology/Director, Defense Advanced Research Projects Agency.

DOD 228 Private Secretary to the Director, Defense Testing and Evaluation.

DOD 234 Deputy Assistant to the Secretary and Deputy Secretary of Defense.

DOD 235 Special Assistant to the Deputy Assistant Secretary, Near Eastern and South Asian Affairs.

DOD 236 Special Assistant to the Assistant Secretary for Public Affairs.

DOD 238 Special Assistant to the Assistant Secretary for Legislative Affairs.

DOD 239 Speechwriter to the Assistant Secretary for Public Affairs.

DOD 251 Assistant to the Deputy Assistant Secretary for East Asian and Pacific Affairs.

DOD 252 Confidential Assistant to the Secretary.

DOD 254 Special Assistant for Emergency Planning to the Assistant Secretary (Acquisition and Logistics).

DOD 255 Personal and Confidential Assistant to the Deputy Secretary.

DOD 256 Special Assistant to the Assistant Secretary for Force Management and Personnel.

DOD 257 Special Assistant for Technology Transfer Policy to the Deputy Under Secretary (Trade and Security Policy)/Director, Defense Technology Security Administration.

DOD 259 Staff Assistant to the Special Assistant to the President, White House Support Group.

DOD 261 Special Assistant for European Security and Political Affairs to the Deputy Assistant Secretary (European and NATO Policy).

DOD 263 Special Assistant to the Assistant Secretary for International Security Policy.

DOD 265 Special Assistant to the Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs.

DOD 267 Joint Chiefs of Staff Representative to the Conference on Disarmament in Europe, to the Chairman, Joint Chiefs of Staff.

DOD 268 Private Secretary to the Senior Judge, U.S. Court of Military Appeals.

DOD 270 Private Secretary to the Director, Strategic Defense Initiative Organization.

DOD 271 Private Secretary to the Principal Deputy Assistant Secretary (Reserve Affairs).

DOD 272 Assistant for Policy Analysis to the Deputy Assistant Secretary (European and NATO Policy).

DOD 273 Staff Advisor to the Assistant to the President, White House Support Group.

DOD 274 Security Coordinator to the Assistant to the President, White House Support Group.

DOD 275 Assistant for European Security Negotiations to the Deputy Assistant Secretary (Negotiations Policy).

DOD 276 Counselor and Director, Long-Range Policy, to the Deputy Assistant Secretary (Negotiations Policy).

DOD 279 Personal and Confidential Assistant to the Director, Operational Testing and Evaluation.

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DOD 280 Staff Assistant to the Principal Deputy Assistant Secretary for Public Affairs.

DOD 281 Assistant Deputy Under Secretary for Policy.

DOD 282 Assistant for Multilateral Negotiations to the Deputy Assistant Secretary of Defense (Negotiations Policy).

DOD 283 Special Assistant to the Assistant Secretary for Public Affairs.

DOD 284 Special Assistant to the Director, Office of Civilian Health and Medical Programs of the Uniformed Services.

DOD 286 Special Assistant for East African Affairs to the Deputy Assistant Secretary for African Affairs.

DOD 287 Special Assistant for Strategic Defense and Space Arms Control Policy to the Deputy Assistant Secretary of Defense (Nuclear Forces and Arms Control Policy).

DOD 288 Special Assistant to the Deputy Assistant Secretary for Near Eastern and South Asian Affairs.

DOD 289 Special Assistant and Polital/Military Counselor to the United States Ambassador to Austria.

Section 213.3307 Department of the Army.

ARMY 1 Staff Assistant to the Secretary.

ARMY 2 Secretary (Steno) to the Under Secretary.

ARMY 3 Secretary (Steno) to the Assistant Secretary of the Army, Manpower and Reserve Affairs.

ARMY 5 Secretary (Steno) to the Assistant Secretary for Installations and Logistics.

ARMY 6 Secretary (Steno) to the Assistant Secretary, Research, Development and Acquisition.

ARMY 17 Secretary (Steno) to the Assistant Secretary for Civil Works.

ARMY 21 Secretary (Steno) to the General Counsel.

ARMY 30 Secretary (Typing) to the Principal Deputy Assistant Secretary, Installations, Logistics and Financial Management.

ARMY 38 Plans Coordinator to the Chief of Public Affairs.

ARMY 41 Assistant Director to the Chairman and Executive Director of the President's Foreign Intelligence Advisory Board.

ARMY 44 Executive Director to the Deputy Assistant Secretary, Reserve Affairs.

ARMY 51 Confidential Staff Assistant to the Deputy Director, Office of Private Sector Initiatives.

ARMY 54 Staff Assistant to the Deputy Assistant to the President for Presidential Personnel.

Section 213.3308 Department of the Navy.

NAVY 5 Private Secretary to the Assistant Secretary of Research and Engineering Systems.

NAVY 20 Special Assistant to the Military Assistant to the President.

NAVY 23 Special Assistant to the Military Assistant to the President.

NAVY 24 Private Secretary to the Assistant Secretary (Manpower and Reserve Affairs).

NAVY 25 Special Assistant to the Director, White House Military Office.

NAVY 27 Special Assistant for Emergency Planning to the Military Assistant to the President.

NAVY 31 Staff Assistant to the Under Secretary.

NAVY 32 Private Secretary to the Assistant Secretary for Shipbuilding and Logistics.

NAVY 35 Staff Assistant to the Deputy Assistant Secretary (Logistics).

NAVY 36 Staff Assistant to the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs).

NAVY 38 Private Secretary to the Under Secretary.

NAVY 40 Special Assistant to the Deputy Under Secretary (Policy).

Section 213.3309 Department of the Air Force.

AF 2 Secretary (Steno) to the Under Secretary.

AF 3 Secretary (Steno) to the Assistant Secretary for Manpower, Reserve Affairs and Installations.

AF 5 Secretary (Steno) to the Assistant Secretary for Research and Development Logistics.

AF 6 Secretary (Steno) to the Assistant Secretary (Financial Management).

AF 8 Secretary (Steno) to the General Counsel.

AF 17 Administrative Officer to the Assistant to the Vice President for National Security Affairs.

AF 18 Special Assistant to the Assistant to the Vice President for National Security Affairs.

AF 20 Secretary (Steno) to the Military Assistant to the President.

AF 21 Special Assistant to the Military Assistant to the President.

AF 22 Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.

AF 28 Special Assistant to the Assistant Secretary for Manpower, Reserve Affairs and Installations.

AF 28 Special Assistant to the General Counsel.

AF 29 Staff Assistant to the Secretary.

AF 30 Special Assistant to the Assistant to the President/Director of the White House Military Office.

AF 31 Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.

AF 32 Special Assistant to the Assistant Secretary (Financial Management).

Section 213.3310 Department of Justice.

JUS 21 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Antitrust Division.

JUS 25 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Criminal Division.

JUS 35 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Office of Legal Counsel.

JUS 62 Special Assistant to the Assistant Attorney General, Office of Justice Assistance, Research and Statistics.

JUS 70 Special Assistant to the Assistant Attorney General, Civil Rights Division.

JUS 101 Confidential Assistant to the Associate Deputy Attorney General.

JUS 115 Confidential Assistant to the Assistant Attorney General, Legislation and Intergovernmental Affairs.

JUS 122 Staff Assistant to the Director, Office of Public Affairs.

JUS 132 Special Assistant to the Commissioner, Immigration and Naturalization Service.

JUS 133 Secretary (Steno) to the Counselor to the Attorney General.

JUS 135 Staff Assistant to the Assistant Attorney General, Antitrust Division.

JUS 149 Counselor to the Assistant Attorney General, Land and Natural Resources Division.

JUS 152 Secretary and Confidential Assistant to the U.S. Attorney.

JUS 153 Special Assistant to the Director, Office of Public Affairs.

JUS 158 Secretary and Confidential Assistant to the U.S. Attorney.

JUS 162 Special Assistant to the Assistant Attorney General, Civil Division.

JUS 166 Special Assistant to the Attorney General, Offices, Boards and Divisions.

JUS 167 Special Assistant to the Attorney General.

JUS 168 Special Assistant to the Attorney General.

JUS 178 Associate Director of Public Affairs to the Director, Office of Public Affairs.

JUS 190 Staff Assistant to the Assistant Attorney General, Office of Legal Policy.

JUS 200 Secretary and Confidential Assistant to the U.S. Attorney.
JUS 208 Confidential Assistant to the Director, Office of Public Affairs.
JUS 210 Secretary (Steno) to the Attorney General.
JUS 211 Confidential Assistant to the Deputy Attorney General.
JUS 213 Staff Assistant to the Counselor to the Attorney General.
JUS 217 Special Assistant to the Director, Bureau of Justice Statistics.
JUS 218 Confidential Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 220 Special Assistant to the Assistant Attorney General, Tax Division.
JUS 221 Special Assistant to the Director, Bureau of Justice Statistics.
JUS 227 Staff Assistant to the Director, Community Relations Service.
JUS 229 Special Assistant to the Director, National Institute of Justice.
JUS 230 Staff Assistant to the Commissioner, Immigration and Naturalization Service.
JUS 234 Confidential Assistant to the Assistant Attorney General for Justice Assistance.
JUS 237 Secretary (Steno) to the Deputy Assistant Attorney General, Office of Justice Assistance, Research and Statistics.
JUS 238 Attorney-Advisor (Tax) to the Deputy Assistant Attorney General, Tax Division.
JUS 240 Special Assistant to the Deputy Assistant Attorney General, Civil Rights Division.
JUS 241 Confidential Assistant and Private Secretary to the Chairman, Foreign Claims Settlement Commission.
JUS 243 Staff Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 245 Attorney-Advisor to the Assistant Attorney General, Land and Natural Resources Division.
JUS 246 Special Assistant to the Deputy Assistant Attorney General, Office of Justice Assistance, Research and Statistics.
JUS 247 Special Assistant to the Commissioner, Immigration and Naturalization Service.
JUS 248 Missing Children Program Coordinator to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 249 Staff Assistant to the Attorney General.
JUS 250 Special Assistant (Public Relations) to the Director, Civil Division.
JUS 251 Confidential Assistant to the Special Assistant to the Attorney General for Cabinet Affairs.
JUS 253 Special Assistant to the Director, Office of Public Affairs.
JUS 254 Confidential Assistant to the Counselor to the Attorney General.
JUS 255 Confidential Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 256 Special Assistant to the Director, Office of Public Affairs.
JUS 257 Special Assistant to the Assistant Attorney General, Civil Division.
JUS 258 Executive Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 260 Administrator, Office for Victims of Crime/Federal Crime Victims Assistance Administrator.
JUS 261 Special Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 262 Confidential Assistant to the Director, Bureau of Justice Statistics.
JUS 263 Attorney-Advisor (Policy and Legislation) to the Assistant Attorney General, Civil Division.
JUS 264 Confidential Assistant to the Deputy Assistant Attorney General, Antitrust Division.
JUS 265 Staff Assistant to the Director, Office of Public Affairs.
JUS 267 Deputy Assistant Attorney General, Civil Rights Division
JUS 268 Attorney-Advisor (General) to the Assistant Attorney General, Civil Rights Division.
JUS 269 Special Assistant to the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.
JUS 270 Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 271 Confidential Assistant to the Assistant Attorney General, Office of Legal Policy.
JUS 272 Attorney-Advisor to the Director, Office of Regulatory and Legislative Affairs.
JUS 273 Deputy Associate Attorney General.
JUS 274 Special Assistant to the Assistant Attorney General, Office of Legal Counsel.
JUS 275 Deputy Assistant Attorney General, Office of Legal Policy.
JUS 277 Staff Assistant to the Assistant Attorney General/ Chief of Staff.
JUS 279 Confidential Assistant to the Deputy Assistant Attorney General, Office of Legislative Affairs.
JUS 280 Confidential Assistant to the Deputy Associate Attorney General.
JUS 281 Congressional and Public Liaison Officer to the Deputy Assistant Attorney General, Office of Justice Programs.
JUS 282 Assistant Director, Office of Liaison Services.

Section 213.3311 Federal Judicial Center.

FJC 2 Secretary (Steno) to the Director.

Section 213.3312 Department of the Interior.

INT 3 Special Assistant to the Assistant to the Secretary and Director, External Affairs.
INT 18 Special Assistant to the Assistant Secretary, Water and Science.
INT 25 Steward to the Secretary.
INT 73 Staff Assistant to the Executive Assistant to the Secretary.
INT 95 Director, Management Analysis Staff, to the Assistant Secretary for Policy, Budget and Administration.
INT 111 Staff Assistant to the Secretary.
INT 112 Confidential Assistant to the Assistant to the Secretary and Director, External Affairs.
INT 141 Executive Assistant to the Commissioner of Reclamation.
INT 143 Special Assistant to the Assistant Secretary, Fish, Wildlife and Parks.
INT 152 Special Assistant to the Deputy Director, National Park Service.
INT 155 Confidential Assistant to the Director, Office of Surface Mining and Reclamation.
INT 165 Special Assistant to the Director, Bureau of Land Management.
INT 171 Public Information Officer to the Commissioner, Bureau of Reclamation.
INT 177 Special Assistant to the Director, Office of Surface Mining.
INT 191 Special Assistant to the Director, Bureau of Land Management.
INT 193 Special Assistant to the Director, Office of Surface Mining and Reclamation.
INT 194 Staff Assistant to the Counselor to the Secretary.
INT 195 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 196 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 201 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 202 Special Assistant to the Director, National Park Service.
INT 204 Staff Assistant to the Counselor to the Secretary.
INT 205 Special Assistant to the Assistant Secretary, Indian Affairs.
INT 215 Confidential Assistant to the Executive Assistant.

INT 219 Staff Assistant to the Director, Public Affairs, Bureau of Reclamation.

INT 220 Special Assistant to the Assistant Secretary, Territorial and International Affairs.

INT 225 Special Assistant to the Director, Office of Surface Mining.

INT 231 Special Assistant to the Assistant to the Secretary and Director, Office of Public Affairs.

INT 232 Staff Assistant to the Assistant to the Secretary and Director, External Affairs.

INT 235 Confidential Assistant to the Director, Fish and Wildlife Service.

INT 238 Director, Office of Congressional and Legislative Affairs, to the Commissioner of Reclamation.

INT 241 Congressional Affairs Officer, to the Director, Fish and Wildlife Service.

INT 243 Confidential Assistant to the Secretary.

INT 246 Public Affairs Specialist to the Director, Minerals Management Service.

INT 248 Congressional Liaison Officer to the Director, Bureau of Mines.

INT 250 Special Assistant to the Chief, Office of Congressional Liaison, Bureau of Mines.

INT 252 Staff Assistant to the Associate Director, Offshore Minerals Management, Minerals Management Service.

INT 253 Special Assistant to the Assistant Secretary, Territorial and International Affairs.

INT 254 Assistant to the Director, Minerals Management Service.

INT 256 Staff Assistant to the Associate Director, Bureau of Land Management.

INT 259 Special Assistant to the Congressional Liaison Officer, Bureau of Mines.

INT 262 Supervisory Public Affairs Specialist to the Director, Bureau of Land Management.

INT 264 Confidential Assistant to the Special Assistant (Field Representative) to the Secretary.

INT 265 Special Assistant to the Director, Bureau of Land Management.

INT 268 Special Assistant to the Director, Office of Surface Mining.

INT 271 Special Assistant to the Director, Office of Policy Analysis.

INT 272 Special Assistant to the Director, Office of Policy Analysis.

INT 274 Congressional Liaison Specialist to the Director, Office of Surface Mining and Reclamation.

INT 275 Secretary (Steno) to the Assistant Secretary for Policy, Budget and Administration.

INT 276 Staff Assistant (Public Affairs and Congressional Liaison) to the Assistant Secretary for Water and Science.

INT 277 Staff Assistant to the Assistant Secretary for Indian Affairs.

INT 278 Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks.

INT 279 Deputy Congressional Affairs Officer, Bureau of Land Management.

INT 280 Special Assistant to the Director, Fish and Wildlife Service.

INT 281 Confidential Assistant to the Inspector General.

INT 282 Confidential Assistant to the Solicitor.

INT 283 Deputy Assistant Secretary for Water.

INT 284 Deputy Assistant Secretary for Land and Minerals Management.

INT 285 Special Assistant to the Commissioner of Reclamation.

INT 286 Special Assistant to the Director, National Park Service.

INT 287 Assistant to the Director and Deputy Director, Office of External Affairs.

INT 288 Staff Assistant to the Director, Office of External Affairs.

INT 289 Special Assistant to the Commissioner of Reclamation.

INT 290 Congressional Affairs Officer to the Director, Bureau of Land Management.

INT 291 Special Assistant to the Commissioner of Reclamation.

INT 292 Special Assistant to the Director, Bureau of Land Management.

Section 213.3313 Department of Agriculture

AGR 1 Confidential Assistant to the Secretary.

AGR 2 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.

AGR 3 Confidential Assistant to the Secretary.

AGR 5 Confidential Assistant to the Secretary.

AGR 6 Confidential Assistant to the Executive Assistant to the Secretary.

AGR 8 Chauffeur to the Secretary.

AGR 13 Private Secretary to the Assistant Secretary for Food and Consumer Services.

AGR 17 Confidential Assistant to the Administrator, Rural Electrification Administration.

AGR 18 Confidential Assistant to the Administrator, Rural Electrification Administration.

AGR 25 Staff Assistant to the Administrator, Farmers Home Administration.

AGR 27 Private Secretary to the Administrator, Farmers Home Administration.

AGR 28 Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.

AGR 29 Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.

AGR 30 Private Secretary to the Manager, Federal Crop Insurance Corporation.

AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.

AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.

AGR 33 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.

AGR 35 Private Secretary to the Administrator, Agricultural Stabilization and Conservation Service.

AGR 44 Private Secretary to the Assistant Secretary for Economics.

AGR 48 Confidential Assistant to the Administrator, Food and Nutrition Service.

AGR 58 Private Secretary to the Assistant Secretary for Governmental and Public Affairs.

AGR 61 Private Secretary to the Assistant Secretary for Natural Resources and Environment.

AGR 64 Confidential Assistant to the Under Secretary for Small Community and Rural Development.

AGR 66 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.

AGR 74 Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services.

AGR 75 Private Secretary to the Deputy Under Secretary for Small Community and Rural Development.

AGR 77 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.

AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration.

AGR 95 Private Secretary to the Director, Rural Development Policy.

AGR 98 Confidential Assistant to the Assistant Secretary for Natural Resources and Environment.

AGR 97 Special Assistant to the Secretary.

AGR 102 Special Assistant to the Assistant Secretary for Food and Consumer Services.

AGR 103 Confidential Assistant to the Administrator, Foreign Agricultural Service.

AGR 105 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.

AGR 106 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 109 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 110 Confidential Assistant to the General Counsel.
AGR 114 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 115 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 116 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 118 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 121 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 128 Private Secretary to the Administrator, Federal Grain Inspection Service.
AGR 129 Private Secretary to the Assistant Secretary, Marketing and Inspection Service.
AGR 130 Private Secretary to the Deputy Assistant Secretary, Marketing and Inspection Service.
AGR 131 Private Secretary to the Deputy Assistant Secretary for Natural Resources and Environment.
AGR 136 Confidential Assistant to the Administrator, Food Safety and Inspection Service.
AGR 139 Confidential Assistant to the Executive Assistant to the Secretary.
AGR 141 Confidential Assistant to the Administrator, Food Safety and Inspection Service.
AGR 143 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 151 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 152 Executive Assistant to the General Counsel.
AGR 154 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 156 Confidential Assistant to the Administrator, Federal Grain Inspection Service.
AGR 157 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 159 Special Representative to the Administrator, Foreign Agricultural Service.
AGR 160 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 161 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 162 Confidential Assistant to the Administrator, Federal Grain Inspection Service.
AGR 163 Confidential Assistant to the Secretary.
AGR 164 Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 169 Private Secretary to the Deputy Assistant Secretary for Economics.
AGR 175 Confidential Assistant to the Assistant Secretary for Intergovernmental Affairs.
AGR 177 Special Assistant to the Director, Office of Transportation.
AGR 178 Confidential Assistant to the Administrator, Rural Electrification Administration.
AGR 182 Assistant to the Administrator, Rural Electrification Administration.
AGR 183 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 184 Office Assistant (Receptionist) to the Executive Assistant to the Secretary.
AGR 185 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 187 Confidential Assistant to the Assistant Secretary for Food and Consumer Services.
AGR 188 Northeast Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 189 Southeast Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 190 Midwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 191 Northwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 192 Southwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 193 Assistant to the Deputy Secretary.
AGR 194 Confidential Assistant to the Under Secretary for Small Community and Rural Development.
AGR 201 Confidential Assistant to the Executive Assistant to the Secretary.
AGR 203 Staff Assistant to the Executive Assistant.
AGR 204 Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 206 Director, Office of the Consumer Advisor to the Assistant Secretary for Food and Consumer Services.
AGR 207 Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 208 Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 209 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 210 Staff Assistant to the Administrator, Office of International Cooperation and Development.
AGR 212 Special Assistant to the Assistant Secretary for Administration.
AGR 213 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 216 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 217 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 218 Special Assistant to the Deputy Assistant Secretary for Administration.
AGR 220 Private Secretary to the Deputy Assistant Secretary for Administration.
AGR 222 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 224 Director, Congressional and Public Affairs Division, to the Manager, Federal Crop Insurance Corporation.
AGR 225 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 226 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 227 Private Secretary to the Chief, Soil Conservation Service.
AGR 228 Confidential Assistant to the Inspector General.
AGR 229 Secretary (Typing) to the Executive Assistant to the Secretary.
AGR 230 Private Secretary to the Assistant Secretary for Administration.
AGR 231 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 232 Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 233 Private Secretary to the Special Assistant to the Secretary.
AGR 234 Confidential Assistant to the Administrator, Office of International Cooperation and Development.
AGR 236 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service.
AGR 237 Private Secretary to the Administrator, Agricultural Marketing Service.

AGR 238 Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 241 Staff Assistant to the Assistant Secretary for Administration.
AGR 242 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 243 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 244 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 245 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 246 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 247 Private Secretary to the Inspector General.
AGR 250 Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs.
AGR 252 Confidential Assistant (Typing) to the Chief, Soil Conservation Service.
AGR 256 Staff Assistant to the Assistant Secretary for Administration.
AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 260 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 262 Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 264 Confidential Assistant to the Assistant Secretary for Economics.
AGR 265 Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 266 Staff Assistant to the Administrator, Food and Nutrition Service.
AGR 267 Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 269 Staff Assistant to the Secretary.
AGR 270 Director, Executive Secretariat to the Secretary.
AGR 271 Confidential Assistant to the Secretary.

Section 213.3314 Department of Commerce.

COM 1 Confidential Assistant to the Secretary.
COM 4 Confidential Assistant to the Secretary.
COM 5 Confidential Assistant to the Special Assistant to the Secretary.
COM 12 Private Secretary to the Deputy Secretary.
COM 16 Confidential Assistant to the General Counsel.
COM 18 Private Secretary to the Deputy General Counsel.
COM 19 Chauffeur to the Secretary.
COM 20 Confidential Assistant to the Deputy Assistant Secretary for Administration.
COM 22 Deputy Director to the Deputy Assistant Secretary for Congressional Affairs.
COM 73 Congressional Liaison Officer to the Director, Economic Development Administration.
COM 114 Private Secretary to the Director, Minority Business Development Agency.
COM 152 Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 156 Special Assistant to the Assistant Secretary, Economic Development Administration.
COM 158 International Tourism Officer to the Deputy Under Secretary, Travel and Tourism Administration.
COM 159 Deputy Director to the Director, Office of Public Affairs.
COM 160 Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations, International Trade Administration.
COM 161 Confidential Assistant to the Under Secretary for International Trade.
COM 162 Confidential Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration.
COM 173 Special Assistant to the Deputy Assistant Secretary, Economic Development Administration.
COM 175 Congressional Liaison Specialist to the Assistant Secretary for Congressional Affairs.
COM 184 Confidential Assistant to the Director, National Bureau of Standards.
COM 188 Private Secretary to the Chief Economist.
COM 189 Private Secretary and Confidential Assistant to the Associate Administrator, National Oceanic and Atmospheric Administration.
COM 190 Director, Office of Congressional Affairs, to the Assistant Secretary for Communications and Information.
COM 191 Confidential Assistant to the General Counsel.
COM 192 Legislative Director to the Director, Office of Congressional Affairs.
COM 197 Congressional Liaison Officer to the Deputy Assistant Secretary for Congressional Affairs.
COM 198 Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 199 Congressional Liaison Specialist to the Deputy Assistant Secretary for Congressional Affairs.
COM 200 Congressional Liaison Officer to the Assistant Secretary for Congressional Affairs.
COM 202 Congressional Liaison Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 205 Special Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration.
COM 207 Deputy Director to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 217 Special Assistant to the Director, Office of Public Affairs.
COM 218 Special Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration.
COM 220 Confidential Assistant to the Deputy Assistant Secretary for East Asia and the Pacific, International Trade Administration.
COM 222 Private Secretary to the Inspector General.
COM 224 Confidential Assistant to the Under Secretary, International Trade Administration.
COM 237 Confidential Assistant to the Under Secretary, International Trade Administration.
COM 247 Private Secretary to the Under Secretary for International Trade.
COM 248 Special Assistant to the Deputy Secretary.
COM 254 Supervisory Public Affairs Specialist to the Director, Minority Business Development Agency.
COM 258 Confidential Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.
COM 259 Confidential Assistant to the Deputy Under Secretary, International Trade Administration.
COM 263 Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration.
COM 265 Confidential Assistant to the Deputy Assistant Secretary for Export Administration.
COM 266 Confidential Assistant to the Assistant Secretary for Trade Administration, International Trade Administration.
COM 270 Secretary (Typing) to the Special Assistant to the Secretary.
COM 275 Confidential Assistant to the Director, Office of Business Liaison.
COM 278 Confidential Assistant to the Assistant Secretary for Trade Administration, International Trade Administration.
COM 281 Special Assistant to the Deputy Assistant Secretary for Import

Administration, International Trade Administration.

COM 282 Special Assistant to the Deputy Assistant Secretary for Congressional Affairs.

COM 284 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.

COM 288 Confidential Assistant to the Director, Office of Business Liaison.

COM 290 Confidential Assistant to the Director, Office of Business Liaison.

COM 291 Special Assistant to the Director, Office of Public Affairs.

COM 292 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.

COM 293 Special Assistant to the Director, Office of Intergovernmental Affairs.

COM 294 Confidential Assistant to the Special Assistant to the Secretary.

COM 296 Confidential Assistant to the Special Assistant to the Secretary.

COM 297 Confidential Assistant to the Assistant Secretary for Administration.

COM 300 Confidential Assistant to the Deputy Under Secretary for International Trade, International Trade Administration.

COM 301 Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.

COM 303 Confidential Assistant to the Assistant Secretary for Administration.

COM 304 Special Assistant to the Under Secretary for Travel and Tourism.

COM 305 Private Secretary to the Under Secretary for Travel and Tourism.

COM 309 Confidential Assistant to the Director, Minority Business Development Agency.

COM 310 Private Secretary to the Deputy Under Secretary for Travel and Tourism.

COM 311 Confidential Assistant to the Special Assistant to the Secretary.

COM 312 Confidential Assistant to the Director General, U.S. and Foreign Commercial Service.

COM 317 Confidential Assistant to the Assistant Secretary for Trade Development.

COM 320 Confidential Assistant to the Special Assistant to the Secretary.

COM 321 Director, Office of Public Affairs to the Under Secretary for International Trade.

COM 323 Special Assistant to the Assistant Secretary for Economic Development Administration.

COM 324 Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy.

COM 325 Confidential Assistant to the Deputy Assistant Secretary for Africa, Near East, and South Asia, International Trade Administration.

COM 326 Confidential Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service.

COM 327 Special Assistant to the Deputy Secretary.

COM 329 Congressional Liaison Specialist to the Director, Congressional Affairs, International Trade Administration.

COM 330 Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration.

COM 331 Confidential Assistant to the Assistant Secretary for Tourism Marketing.

COM 332 Confidential Assistant to the Deputy Assistant Secretary for Capital Goods and International Construction, International Trade Administration.

COM 335 Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs.

COM 337 Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs.

COM 340 Special Assistant to the Assistant Administrator, National Oceanic and Atmospheric Administration.

COM 342 Confidential Assistant to the Special Assistant to the Deputy Secretary.

COM 343 Confidential Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Service.

COM 344 ongressional Liaison Specialist to the Under Secretary, International Trade Administration.

COM 345 Confidential Assistant to the Under Secretary, International Trade Administration.

COM 348 Special Assistant to the Director, Office of Public Affairs.

COM 350 Deputy Director to the Director, Office of Business Liaison.

COM 356 Confidential Assistant to the Deputy Director, Minority Business Development Agency.

COM 357 Confidential Assistant to the Director, Office of Export Trading Company Affairs.

COM 358 Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.

COM 359 Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy, International Trade Administration.

COM 360 Congressional Liaison Officer to the Under Secretary for Economic Affairs.

COM 362 Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.

COM 363 Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.

COM 365 Confidential Assistant to the Director, Minority Business Development Agency.

COM 367 Confidential Assistant to the Director of Policy and Planning, National Oceanic and Atmospheric Administration.

COM 368 Congressional Affairs Specialist to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration.

COM 370 Congressional Affairs Officer to the Director, Minority Business Development Agency.

COM 372 Deputy Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration

COM 376 Confidential Assistant to the Special Assistant to the Deputy Secretary.

COM 378 Congressional Liaison Specialist to the Under Secretary for Economic Affairs.

COM 379 Confidential Assistant to the General Counsel.

COM 380 Special Assistant to the Deputy Assistant Secretary for Impact Administration, International Trade Administration.

COM 381 Chief, Executive Services, Economic Development Administration.

COM 383 Confidential Assistant to the Assistant Secretary for Economic Development.

COM 384 Special Assistant to the Director, Minority Business Development Agency.

COM 385 Special Assistant to the Director, Bureau of the Census.

COM 386 Confidential Aide to the Deputy Under Secretary for Travel and Tourism.

COM 387 Confidential Assistant to the Director, Office of Business Affairs, National Oceanic and Atmospheric Administration.

COM 389 Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis.

COM 390 Confidential Assistant to the Under Secretary for Economic Affairs.

COM 391 Confidential Assistant to the Chief Economist, Office of the Under Secretary for Economic Affairs.

COM 392 Confidential Assistant to the Deputy Assistant Secretary for Basic Industries, International Trade Administration.

COM 394 Supervisory Public Affairs Specialist to the Director, Office of Public Affairs.
COM 396 Assistant Legislative Director to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 397 Congressional Affairs Advisor to the Director, Bureau of the Census.
COM 398 Confidential Assistant (Typing) to the Deputy Assistant Secretary for Domestic Operations, International Trade Administration.
COM 400 Confidential Assistant to the Deputy Under Secretary for International Trade, International Trade Administration.
COM 404 Special Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration.
COM 405 Confidential Assistant to the Deputy Assistant Secretary for Science and Electronics, International Trade Administration.
COM 406 Associate Director, National Oceanic and Atmospheric Administration.

Section 213.3315 Department of Labor.

LAB 7 Private Secretary to the Under Secretary.
LAB 17 Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 18 Special Assistant to the Deputy Under Secretary for International Affairs.
LAB 25 Executive Director to the Deputy Under Secretary for Congressional Affairs.
LAB 35 Special Assistant to the Director, Women's Bureau.
LAB 41 Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 44 Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 45 Executive Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 49 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 55 Staff Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 62 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 64 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 66 Special Assistant to the Director, Office of Federal Contract Compliance Programs.
LAB 79 Executive Assistant to the Assistant Secretary for Policy.
LAB 84 Special Assistant to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs.
LAB 89 Executive Assistant to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs.
LAB 91 Confidential Staff Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 93 Special Assistant to the Secretary.
LAB 94 Associate Under Secretary.
LAB 97 Confidential Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 100 Executive Assistant to the Deputy Under Secretary for International Affairs.
LAB 103 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 104 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 105 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 106 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 107 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 108 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 109 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 111 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 112 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 114 Secretary to the Regional Representative.
LAB 115 Secretary (Typing) to the Regional Representative.
LAB 116 Secretary (Typing) to the Regional Representative.
LAB 117 Secretary (Typing) to the Regional Representative.
LAB 118 Secretary (Typing) to the Regional Representative.
LAB 121 Secretary (Typing) to the Regional Representative.
LAB 122 Secretary (Typing) to the Regional Representative.
LAB 125 Special Assistant to the Deputy Under Secretary, Employment Standards Administration.
LAB 127 Staff Assistant to the Director, Office of Workers' Compensation Programs.
LAB 128 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 129 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 130 Special Assistant to the Secretary.
LAB 132 Associate Deputy Under Secretary for Legislative Affairs.
LAB 133 Special Assistant to the Director, Women's Bureau.
LAB 138 Special Assistant to the Assistant Secretary, Mine Safety and Health Administration.
LAB 141 Staff Assistant to the Director, Office of Workers' Compensation Programs.
LAB 146 Staff Assistant to the Solicitor.
LAB 154 Senior Liaison Officer to the Deputy Under Secretary for Legislative Affairs.
LAB 159 Special Assistant to the Deputy Under Secretary for International Affairs.
LAB 160 Confidential Assistant to the Secretary.
LAB 163 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 171 Special Assistent to the Secretary.
LAB 172 Special Assistant to the Under Secretary.
LAB 174 Special Assistant to the Under Secretary.
LAB 175 Special Assistant to the Under Secretary.
LAB 178 Executive Assistant to the Director, Office of Federal Contract Compliance Programs.
LAB 179 Executive Assistant to the Deputy Under Secretary, Employment Standards Administration.
LAB 180 Senior Liaison Officer to the Deputy Under Secretary for Legislative Affairs.
LAB 182 Staff Director of Industrial Relations Policy to the Deputy Under Secretary for Labor Management Relations and Cooperative Programs.
LAB 183 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 184 Special Assistant for Public Affairs to the Deputy Under Secretary for Employment Standards.
LAB 186 Special Assistant to the Director, Women's Bureau.
LAB 187 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 189 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 191 Secretary to the Secretary of Labor.
LAB 192 Staff Assistant to the Assistant Secretary for Pension and Welfare Benefits Programs.

LAB 195 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 196 Special Assistant to the Assistant Secretary for Veterans' Employment and Training.
LAB 199 Deputy Liaison Officer to the Deputy Under Secretary for Legislative Affairs.
LAB 202 Staff Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 203 Executive Assistant to the Assistant Secretary for Veterans' Employment and Training.
LAB 206 Deputy Liaison Officer to the Deputy Under Secretary for Legislative Affairs.
LAB 210 Special Assistant to the Assistant Secretary for Policy.
LAB 211 Executive Assistant to the Chief of Staff.
LAB 212 Staff Assistant to the Secretary.
LAB 213 Special Assistant to the Assistant Secretary for Education and Training.
LAB 214 Staff Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.
LAB 217 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 220 Special Assistant to the Deputy Under Secretary for Public and Intergovernmental Affairs.
LAB 224 Confidential Staff Assistant to the Special Assistant to the Assistant Secretary, Mine Safety and Health Administration.
LAB 225 Special Assistant to the Administrator, Pension and Welfare Benefits Programs.
LAB 226 Staff Assistant to the Administrator for Pension and Welfare Benefit Programs.
LAB 228 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 229 Special Assistant to the Associate Deputy Under Secretary for Legislative Affairs.
LAB 230 Special Assistant to the Associate Deputy Under Secretary for Legislative Affairs.
LAB 231 Special Assistant to the Associate Deputy Under Secretary for Legislative Affairs.
LAB 232 Special Assistant to the Director, Office of Federal Contract Compliance Programs.
LAB 233 Special Assistant to the Director, Office of Federal Contract Compliance Programs.
LAB 235 Senior Liaison Officer to the Deputy Under Secretary for Legislative Affairs.

Section 213.3316 Department of Health and Human Services.

HHS 2 Special Assistant to the Chief of Staff.
HHS 5 Writer to the Secretary.
HHS 11 Special and Confidential Assistant to the Under Secretary.
HHS 14 Special Assistant to the Executive Secretary.
HHS 17 Staff Assistant to the Secretary.
HHS 22 Assistant to the Secretary for Special Programs.
HHS 23 Assistant to the Secretary for Special Programs.
HHS 26 Special Assistant to the Executive Secretary.
HHS 34 Assistant to the Secretary.
HHS 53 Special Assistant to the Assistant Secretary for Legislation.
HHS 62 Special Assistant to the Assistant Secretary for Legislation.
HHS 120 Assistant to the General Counsel.
HHS 129 Special Assistant for Special Groups to the Director, Office of Civil Rights.
HHS 130 Special Assistant for Special Groups to the Director, Office of Civil Rights.
HHS 167 Executive Director, Federal Council on Aging to the Assistant Secretary for Human Development Services.
HHS 171 Special Assistant/Advisory Committee Officer to the Under Secretary.
HHS 172 Director of Consumer Information to the Director of Consumer Affairs.
HHS 187 Special Assistant to the Deputy Assistant Secretary for Legislation (Health).
HHS 196 Confidential Executive Assistant to the Assistant Secretary for Public Affairs.
HHS 213 Steward to the Secretary.
HHS 220 Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health).
HHS 236 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 237 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 239 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 240 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 241 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 242 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 244 Director, Intergovernmental and Congressional Affairs to the Regional Director.
HHS 246 Director, Public Affairs to the Regional Director.
HHS 247 Director, Public Affairs to the Regional Director.
HHS 248 Director, Public Affairs to the Regional Director.
HHS 249 Director, Public Affairs to the Regional Director.
HHS 250 Director, Public Affairs to the Regional Director.
HHS 251 Director, Public Affairs to the Regional Director.
HHS 252 Director, Public Affairs to the Regional Director.
HHS 253 Director, Public Affairs to the Regional Director.
HHS 254 Director, Public Affairs to the Regional Director.
HHS 259 Special Assistant to the Assistant Secretary for Human Development Services.
HHS 264 Special Assistant to the Secretary.
HHS 267 Special Assistant to the Secretary.
HHS 273 Special Assistant to the Deputy Assistant Secretary for Legislation.
HHS 276 Special Assistant to the Deputy Commissioner, Food and Drug Administration.
HHS 285 Confidential Assistant to the Secretary.
HHS 289 Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration.
HHS 290 Director of Public Affairs, Office of Human Development Services.
HHS 293 Special Assistant to the Commissioner, Administration for Children, Youth and Families, Office of Human Development Services.
HHS 295 Confidential Assistant to the Executive Secretary.
HHS 305 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 306 Special Assistant to the Director, Office of Policy and Legislation.
HHS 315 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 318 Confidential Assistant to the Executive Assistant to the Secretary.
HHS 336 Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services).
HHS 339 Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation.
HHS 344 Congressional Liaison Specialist to the Assistant Secretary, Office of Legislation.

HHS 348 Congressional Liaison Specialist to the Assistant Secretary, Office of Legislation.

HHS 349 Confidential Assistant to the Executive Assistant.

HHS 350 Special Assistant to the Surgeon General.

HHS 353 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.

HHS 354 Associate Commissioner for Children's Bureau, Administration for Children, Youth and Families.

HHS 355 Counselor to the Director, United States Office of Consumer Affairs.

HHS 359 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation.

HHS 361 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation.

HHS 362 Secretary (Steno) to the Assistant Secretary for Human Development Services.

HHS 363 Special Assistant to the Director, Office of Public Affairs, Office of Human Development Services.

HHS 368 Director, Office of Intergovernmental Affairs, Health Care Financing Administration.

HHS 370 Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration.

HHS 372 Special Assistant to the Director, Office of Program Coordination and Review.

HHS 373 Confidential Assistant to the Executive Secretary.

HHS 378 Confidential Secretary to the Regional Director.

HHS 387 Confidential Secretary to the General Counsel.

HHS 389 Special Assistant to the Director, Office of Private Sector Initiatives.

HHS 393 Special Assistant to the Director, Office of Community Services.

HHS 394 Confidential Assistant to the Executive Secretary.

HHS 395 Special Assistant to the Director, Office of Community Services.

HHS 397 Special Assistant to the Director, Office of State and Project Assistance, Office of Community Services.

HHS 399 Special Assistant to the Assistant Secretary for Human Development Services.

HHS 400 External Affairs Specialist to the Director, Office of Community Services.

HHS 402 Confidential Assistant to the Director, Office of Community Services.

HHS 404 Confidential Assistant to the Chief of Staff.

HHS 406 Special Assistant to the Assistant Secretary for Health.

HHS 407 Special Assistant to the Commissioner, Administration on Development Disabilities.

HHS 408 Confidential Assistant to the Director, Office of Community Services.

HHS 411 Confidential Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration.

HHS 412 Special Assistant to the Regional Director.

HHS 414 Director, Division of Legislative Services and Congressional Affairs to the Director of Legislation and Policy, Health Care Financing Administration.

HHS 415 Confidential Assistant to the Secretary.

HHS 416 Confidential Assistant to the Administrator, Alcohol, Drug Abuse and Mental Health Administration, Public Health Service.

HHS 418 Confidential Staff Assistant to the Chief of Staff.

HHS 420 Confidential Assistant to the Associate Administrator for Operations, Health Care Financing Administration.

HHS 424 Staff Assistant to the Secretary.

HHS 427 Executive Director, President's Committee on Mental Retardation.

HHS 429 Confidential Staff Assistant to the Secretary.

HHS 430 Director, Office of Intergovernmental Communications to the Associate Commissioner for Family Assistance, Social Security Administration.

HHS 432 Confidential Staff Assistant to the Associate Commissioner for Family Assistance, Social Security Administration.

HHS 434 Confidential Assistant to the Commissioner, Administration for Youth, Children and Families.

HHS 435 Executive Assistant to the Director, Office of Child Support Enforcement.

HHS 436 Associate Commissioner for Family and Youth Services Bureau, Administration for Children, Youth and Families.

HHS 437 Special Assistant to the Director, National Institutes of Health.

HHS 438 Confidential Assistant to the Director, Office of Intergovernmental Affairs, Health Care Financing Administration.

HHS 439 Director, Office of Family Planning, Public Health Service.

HHS 440 Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration.

HHS 443 Confidential Staff Assistant to the Director, Office of Child Support Enforcement.

HHS 444 Special Assistant to the Director, Office of Public Affairs, Office of Human Development Services.

HHS 445 Special Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration.

HHS 446 Special Assistant to the Chief of Staff.

HHS 447 Confidential Assistant to the Deputy Administrator, Health Care Financing Administration.

HHS 448 Staff Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration.

Section 213.3317 Department of Education.

EDU 3 Confidential Assistant to the Chief of Staff/Counselor to the Secretary.

EDU 4 Special Assistant to the Director, Intergovernmental Affairs Staff.

EDU 8 Special Assistant to the Executive Secretary.

EDU 9 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education.

EDU 11 Personal Assistant to the Assistant Secretary, Office of Educational Research and Improvement.

EDU 13 Personal Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services.

EDU 14 Special Assistant to the Deputy Under Secretary for Management.

EDU 15 Special Assistant to the Deputy Under Secretary for Management.

EDU 16 Confidential Assistant to the General Counsel.

EDU 20 Steward to the Executive Assistant.

EDU 26 Personal Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.

EDU 28 Staff Assistant to the Director of Regional Liaison.

EDU 29 Special Assistant to the Executive Assistant.

EDU 35 Special Assistant to the Secretary.

EDU 37 Special Assistant to the Secretary.

EDU 38 Special Assistant to the Assistant Secretary, Office of Postsecondary Education.

EDU 42 Personal Assistant to the Assistant Secretary for Postsecondary Education.

EDU 44 Director of Policy Planning to the Assistant Secretary for Elementary and Secondary Education.
EDU 46 Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 47 Confidential Assistant to the Director, National Institute of Education.
EDU 49 Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation and Public Affairs.
EDU 51 Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 52 Special Assistant to the Under Secretary.
EDU 53 Confidential Assistant to the Director, Office of Intergovernmental and Interagency Affairs.
EDU 54 Confidential Assistant to the Executive Assistant.
EDU 55 Special Assistant to the Director, Intergovernmental Affairs Staff.
EDU 63 Special Assistant to the Under Secretary.
EDU 64 Policy Advisor to the Director, Office of Educational Philosophy and Practice.
EDU 66 Special Assistant to the Chief of Staff/Counselor to the Secretary.
EDU 67 Staff Assistant to the Chief of Staff/Counselor to the Secretary.
EDU 70 Confidential Assistant to the Director, Intergovernmental Affairs Staff.
EDU 71 Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 72 Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 83 Special Assistant to the Deputy Under Secretary, Office of Planning, Budget and Evaluation.
EDU 84 Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 86 Confidential Assistant to the Commissioner, Rehabilitation Services Administration.
EDU 87 Special Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 88 Special Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 90 Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 94 Confidential Assistant to the Assistant Secretary for Postsecondary Education.
EDU 96 Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs.
EDU 99 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 104 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services.
EDU 105 Secretary's Regional Representative.
EDU 106 Secretary's Regional Representative.
EDU 107 Secretary's Regional Representative.
EDU 108 Secretary's Regional Representative.
EDU 109 Secretary's Regional Representative.
EDU 110 Secretary's Regional Representative.
EDU 111 Secretary's Regional Representative.
EDU 112 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 113 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 115 Special Assistant to the Deputy Assistant Secretary for Higher Education Programs.
EDU 117 Director, Historically Black Colleges and Universities Staff, Office of Postsecondary Education.
EDU 118 Confidential Assistant to the Counselor to the Secretary/Chief of Staff.
EDU 121 Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 127 Special Assistant to the Secretary.
EDU 131 Secretary's Regional Representative.
EDU 132 Personal Assistant to the Deputy Under Secretary for Management.
EDU 136 Confidential Assistant to the Director, Bilingual Education and Minority Languages Affairs.
EDU 140 Special Assistant to the Deputy Assista?t Secretary for Operations, Office of Civil Rights.
EDU 142 Special Assistant to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 143 Personal Assistant to the Special Assistant to the Secretary.
EDU 144 Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 147 Secretary's Regional Representative.
EDU 155 Special Assistant to the Under Secretary.
EDU 157 Personal Assistant to the Deputy Under Secretary for Management.
EDU 158 Confidential Assistant to the Deputy Assistant Secretary for Intergovernmental and Interagency Affairs.
EDU 161 Special Assistant to the Deputy Assistant Secretary for Higher Education Programs.
EDU 167 Director, Operations Support Services to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 168 Confidential Assistant to the Under Secretary.
EDU 169 Special Assistant to the Executive Assistant to the Under Secretary.
EDU 173 Confidential Assistant to the Assistant Secretary for Civil Rights.
EDU 175 Confidential Assistant to the Assistant Secretary for Educational Research and Improvement.
EDU 177 Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 179 Special Assistant to the Executive Assistant to the Secretary for Private Education.
EDU 181 Deputy Director, Postsecondary Relations Staff to the Director, Postsecondary Relations Staff.
EDU 182 Special Assistant to the Director of Regional Liaison.
EDU 185 Staff Assistant to the Secretary's Regional Representative.
EDU 186 Staff Assistant to the Secretary's Regional Representative.
EDU 187 Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 188 Staff Assistant to the Secretary's Regional Representative.
EDU 189 Legislative Liaison to the Director, Legislative Liaison Staff.
EDU 190 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 192 Deputy Director, Office of Bilingual Education and Minority Languages Affairs to the Director of Bilingual Education and Minority Languages Affairs.
EDU 193 Executive Secretary to the Chief of Staff.
EDU 194 Confidential Assistant to the Executive Assistant to the Secretary for Private Education.
EDU 195 Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 196 Special Assistant to the Director, Special Education Programs, Office of Special Education and Rehabilitative Services.
EDU 197 Confidential Assistant to the Special Assistant to the Chief of Staff.
EDU 198 Special Assistant to the Director, Issues Analysis Staff.
EDU 200 Director, Office of Intergovernmental Affairs to the Deputy

Under Secretary for Intergovernmental and Interagency Affairs.

EDU 201 Special Assistant to the Assistant Secretary for Vocational and Adult Education.

EDU 202 Confidential Assistant to the Director, Office of Intergovernmental Affairs.

EDU 203 Confidential Assistant to the Executive Assistant to the Under Secretary.

EDU 204 Special Assistant to the Secretary's Regional Representative.

EDU 205 Special Assistant to the Secretary.

EDU 206 Special Assistant to the Director, Office of Intergovernmental Affairs.

EDU 207 Director of Regional Liaison to the Under Secretary for Regional Liaison.

EDU 210 Special Assistant to the Director, Historically Black Colleges and Universities Staff, Office of Postsecondary Education.

EDU 211 Special Assistant to the Secretary's Regional Representative.

EDU 212 Special Assistant to the Executive Assistant to the Under Secretary.

EDU 213 Special Assistant to the Director, Center for International Education.

EDU 214 Special Assistant to the Secretary's Regional Representative.

EDU 215 Attorney-Advisor to the Assistant Secretary for Civil Rights.

EDU 216 Confidential Assistant to the Chief of Staff/Counselor to the Secretary.

EDU 217 Personal Assistant to the Deputy Under Secretary for Management.

EDU 218 Special Assistant to the Deputy Assistant Secretary for Higher Education, Office of Postsecondary Education.

EDU 219 Special Assistant to the Director, Office of Legislative Liaison.

EDU 220 Special Assistant to the Director, Programs for the Improvement of Practice, Office of Educational Research and Improvement.

EDU 221 Confidential Assistant to the Under Secretary.

EDU 222 Special Assistant to the Secretary's Regional Representative.

EDU 223 Confidential Assistant to the Chief of Staff/Counselor to the Secretary.

Section 213.3318 Environmental Protection Agency.

EPA 5 Confidential Assistant to the Deputy Administrator.

EPA 19 Program Advisor to the Assistant Administrator for Water.

EPA 52 Special Assistant to the Executive Assistant to the Administrator.

EPA 55 Assistant to the Deputy Administrator.

EPA 58 Congressional Liaison Specialist to the Director, Office of Congressional Liaison.

EPA 59 Special Assistant to the Deputy Administrator.

EPA 61 Special Assistant to the Assistant Administrator for Administration and Resource Management.

EPA 70 Congressional Relations Officer to the Director, Office of Congressional Liaison.

EPA 75 Congressional Relations Officer to the Deputy Director, Office of Congressional Liaison.

EPA 86 Special Assistant to the Regional Administrator.

EPA 89 Special Assistant to the Assistant Administrator for Water.

EPA 93 Staff Assistant to the Executive Assistant to the Administrator.

EPA 94 Special Assistant to the Regional Administrator.

EPA 99 Staff Assistant to the Deputy Assistant Administrator for Administration and Resources Management.

EPA 101 Special Assistant to the Assistant Administrator for External Affairs.

EPA 103 Staff Assistant to the Assistant Administrator for External Affairs.

EPA 106 Special Assistant to the Director, Office of Public Affairs.

EPA 107 Special Assistant to the Deputy Administrator.

EPA 108 Staff Assistant to the Associate Administrator for Regional Operations.

EPA 109 Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response.

EPA 110 Special Assistant to the Executive Assistant to the Administrator.

Section 213.3322 Interstate Commerce Commission.

ICC 1 Confidential Assistant to a Commissioner.

ICC 2 Confidential Assistant to a Commissioner.

ICC 3 Confidential Assistant to a Commissioner.

ICC 5 Confidential Assistant to a Commissioner.

ICC 6 Confidential Assistant to a Commissioner.

ICC 8 Confidential Assistant to the Chairman.

ICC 10 Secretary (Steno) to a Commissioner.

ICC 22 Staff Advisor (Economics) to a Commissioner.

ICC 24 Staff Advisor (Economics) to a Commissioner.

Section 213.3323 Overseas Private Investment Corporation.

OPIC 1 Chauffeur to the President.

OPIC 19 Secretary (Steno) to the Executive Vice President.

OPIC 22 Assistant to the Treasurer.

Section 213.3325 The Tax Court of the United States.

TCOUS 40 Secretary and Confidential Assistant to the Judge.

TCOUS 42 Secretary and Confidential Assistant to the Judge.

TCOUS 43 Secretary and Confidential Assistant to the Judge.

TCOUS 44 Secretary to the Judge.

TCOUS 45 Secretary and Confidential Assistant to the Judge.

TCOUS 46 Secretary and Confidential Assistant to the Judge.

TCOUS 47 Secretary and Confidential Assistant to the Judge.

TCOUS 48 Secretary and Confidential Assistant to the Judge.

TCOUS 49 Secretary and Confidential Assistant to the Judge.

TCOUS 50 Secretary and Confidential Assistant to the Judge.

TCOUS 51 Secretary and Confidential Assistant to the Judge.

TCOUS 52 Secretary and Confidential Assistant to the Judge.

TCOUS 53 Secretary to the Judge.

TCOUS 54 Secretary and Confidential Assistant to the Judge.

TCOUS 55 Secretary and Confidential Assistant to the Judge.

TCOUS 56 Secretary and Confidential Assistant to the Judge.

TCOUS 57 Secretary and Confidential Assistant to the Judge.

TCOUS 58 Secretary and Confidential Assistant to the Judge.

TCOUS 59 Secretary and Confidential Assistant to the Judge.

TCOUS 60 Secretary and Confidential Assistant to the Judge.

TCOUS 61 Secretary and Confidential Assistant to the Judge.

TCOUS 62 Secretary and Confidential Assistant to the Judge.

TCOUS 63 Secretary and Confidential Assistant to the Judge.

TCOUS 64 Secretary and Confidential Assistant to the Judge.

TCOUS 65 Secretary and Confidential Assistant to the Judge.

TCOUS 66 Trial Clerk to the Judge.

TCOUS 67 Trial Clerk to the Judge.

TCOUS 68 Trial Clerk to the Judge.

TCOUS 69 Trial Clerk to the Judge.

TCOUS 70 Trial Clerk to the Judge.

TCOUS 74 Trial Clerk to the Judge.

Section [illegible] Veterans Administration.

VA 3 Confidential Assistant to the Associate Deputy Administrator for Management.

VA 5 Confidential Assistant to the Associate Deputy Administrator for Logistics.

VA 6 Confidential Assistant to the Administrator.

VA 11 Confidential Assistant to the Administrator.

VA 15 Confidential Assistant to the Administrator.

VA 20 Confidential Assistant to the Director, Intergovernmental Affairs.

VA 21 Confidential Assistant to the Associate Deputy Administrator for Congressional and Public Affairs.

VA 38 Confidential Assistant to the Administrator.

VA 40 Confidential Assistant to the Associate Deputy Administrator for Congressional and Intergovernmental Affairs.

VA 41 Confidential Assistant to the Associate Deputy Administrator for Public and Consumer Affairs.

VA 42 Confidential Assistant to the Director, Congressional Affairs.

VA 43 Confidential Assistant to the Director, Office of Intergovernmental Affairs.

VA 45 Confidential Assistant to the Associate Deputy Administrator for Logistics.

VA 48 Confidential Assistant to the Associate Deputy Administrator for Logistics.

Section 213.3328 U.S. Information Agency.

USIA 2 Special Assistant to the Director.

USIA 14 Special Assistant to the Associate Director for Programs.

USIA 21 Staff Assistant to the Director.

USIA 22 Director, New York Foreign Press Center to the Associate Director for Programs.

USIA 29 Assistant Counselor for Press and Public Affairs to the Counselor for Press and Public Affairs.

USIA 30 Staff Assistant to the Special Assistant to the Director.

USIA 33 Staff Assistant to the Director, Office of Public Liaison.

USIA 34 Special Assistant to the Director, Private Sector Programs.

USIA 35 Staff Assistant to the Director.

USIA 37 Staff Assistant to the Special Assistant, Private Sector Liaison.

USIA 40 Staff Specialist to the Special Assistant, Private Sector Liaison.

USIA 41 Special Assistant (Private Sector Committee) to the Director, Office of Public Liaison.

USIA 42 Secretary (Typing) to the Associate Director for Management.

USIA 43 Special Assistant to the Associate Director, Bureau of Educational and Cultural Affairs.

USIA 49 Special Projects Officer to the Director.

USIA 53 Staff Specialist to the Director, Office of Private Sector Liaison.

USIA 57 Special Assistant to the Associate Director for Educational and Cultural Affairs.

USIA 58 Special Assistant to the Deputy Director.

USIA 59 Special Assistant to the Deputy Director.

USIA 60 Confidential Assistant to the Associate Director for Broadcasting.

USIA 63 Special Assistant to the Director of Public Liaison.

USIA 65 Special Assistant (Cultural Centers and Resources) to the Associate Director for Educational and Cultural Affairs.

USIA 67 Chief, Voluntary Visitor Division to the Associate Director for Educational and Cultural Affairs.

USIA 73 Special Assistant to the Associate Director for Educational and Cultural Affairs.

USIA 77 Special Assistant to the Associate Director for Management.

USIA 79 Special Projects Officer to the Associate Director for Broadcasting.

USIA 80 Special Assistant (Media Relations) to the Director, Office of Public Liaison.

USIA 81 Special Assistant to the Associate Director for Programs.

USIA 86 Public Affairs Specialist to the Associate Director for Broadcasting.

USIA 87 Staff Assistant to the Director, Office of Public Liaison.

USIA 89 Special Projects Officer to the Chairman, Advisory Board for Radio Broadcasting to Cuba.

USIA 90 Staff Assistant to the Coordinator, U.S.-Soviet Exchange Initiative.

USIA 91 Program Assistant to the Coordinator, U.S.-Soviet Exchange Initiative.

USIA 92 Special Assistant to the Associate Director for Programs.

USIA 93 Program Assistant to the Coordinator, U.S.-Soviet Exchange Initiative.

USIA 94 Special Assistant to the Director, Television and Film Service.

Section 213.3330 Securities and Exchange Commission.

SEC 3 Confidential Assistant to the Commissioner.

SEC 4 Confidential Assistant to the Commissioner.

SEC 5 Confidential Assistant to the Commissioner.

SEC 6 Confidential Assistant to the Commissioner.

SEC 8 Secretary (Steno) to the Chief Accountant.

SEC 9 Secretary to the General Counsel.

SEC 11 Confidential Assistant to the Chairman

SEC 12 Public Information Officer to the Chairman.

SEC 14 Secretary (Typing) to the Director of Economic and Policy Research.

SEC 15 Secretary (Steno) to the Director, Market Regulation Division.

SEC 16 Secretary to the Director, Division of Enforcement.

SEC 19 Secretary (Typing) to the Director, Division of Corporate Finance.

SEC 21 Confidential Adviser on Corporate Practices to the Director, Division of Enforcement.

SEC 22 Staff Assistant to the Regional Administrator.

Section [illegible] Department of Energy.

DOE 2 Confidential Assistant (Secretary) to the Secretary.

DOE 7 Secretary (Confidential Assistant) to the Under Secretary.

DOE 8 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.

DOE 11 Private Secretary to a Member, Federal Energy Regulatory Commission.

DOE 12 Private Secretary to a Member, Federal Energy Regulatory Commission.

DOE 19 Confidential Assistant (Secretary) to the Director, Energy Research.

DOE 38 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.

DOE 40 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.

DOE 41 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.

DOE 42 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.

DOE 47 Technical Advisor, to a Member of the Commission, Federal Energy Regulatory Commission.

DOE 49 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.

DOE 52 Staff Assistant to the Assistant Secretary for International Affairs.

DOE 55 Staff Assistant to the Special Assistant to the Secretary.
DOE 59 Staff Assistant to the Director, Office of Energy Research.
DOE 68 Confidential Assistant to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 69 Staff Assistant (Legislative Affairs) to the Assistant to the Secretary for Legislative Affairs.
DOE 73 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 75 Legal Adviser to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 77 Staff Assistant to the Administrative Assistant to the Secretary and Chief of Staff.
DOE 87 Staff Assistant to the Associate Director, Office of Resource Management.
DOE 95 Staff Assistant to the General Counsel.
DOE 104 Secretary (Confidential Assistant) to the Secretary.
DOE 105 Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 106 Confidential Assistant to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 109 Private Secretary to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 112 Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 114 Staff Assistant to the Administrator, Bonneville Power Administration.
DOE 171 Special Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 172 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 175 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 179 Staff Assistant to the General Counsel.
DOE 182 Staff Assistant to the Director, Office of Congressional, Intergovernmental and Public Affairs.
DOE 189 Staff Assistant to the General Counsel.
DOE 192 Staff Assistant to the Special Assistant, Office of Programs and Policy.
DOE 195 Staff Assistant to the Director, Minority Economic Impact.
DOE 197 Director, House Liaison Division to the Associate General Counsel for Legislation, Regulation and Congressional Affairs, Federal Energy Regulatory Commission.
DOE 198 Director, Senate Liaison Division to the Associate General Counsel for Legislation, Regulation and Congressional Affairs, Federal Energy Regulatory Commission.
DOE 200 Staff Assistant to the Deputy Secretary.
DOE 204 Director, Division of Public Liaison, Office of Communications, Office of the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 206 Executive Assistant to the Director, Office of Energy Research.
DOE 207 Staff Assistant to the Special Assistant to the Secretary.
DOE 213 Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison.
DOE 217 Confidential Assistant (Secretary-Steno) to the Director, Office of Regulatory Analysis, Federal Energy Regulatory Commission.
DOE 220 Staff Assistant to the Director, Office of Communications.
DOE 223 Confidential Assistant to the Acting Administrator, Economic Regulatory Administration.
DOE 225 Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 227 Technical Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 228 Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 229 Deputy Assistant Secretary for House Liaison to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 232 Research Assistant to the Special Assistant to the Secretary.
DOE 234 Director, Office of Public Affairs to the Director, Office of Communications.
DOE 238 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 243 Staff Assistant to the Assistant Secretary for International Affairs.
DOE 244 Director, Office of Consumer Affairs to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 245 Staff Assistant to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 246 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 248 Confidential Assistant to the Chairman, Federal Energy Regulatory Commission.
DOE 251 Intergovernmental Affairs Specialist to the Director of Intergovernmental Affairs, Federal Energy Regulatory Commission.
DOE 252 Director, Office of Domestic Issues to the Director, Office of Communications.
DOE 259 Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 263 Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 264 Staff Assistant to the Administrator, Energy Information Administration.
DOE 266 Staff Assistant to the Special Assistant to the Secretary.
DOE 265 Executive Assistant to the Secretary.
DOE 268 Secretary (Confidential Assistant) to the Assistant Secretary for Management and Administration.
DOE 269 Intergovernmental Affairs Specialist to the Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 271 Special Assistant (Legislative) to the Deputy General Counsel.
DOE 272 Secretary (Confidential Assistant) to the Deputy Secretary.
DOE 274 Secretary (Confidential Assistant) to the Special Assistant to the Secretary.
DOE 279 Special Assistant to the Assistant Secretary for Nuclear Energy.
DOE 282 Staff Assistant to the Assistant Secretary for International Affairs and Energy Emergencies.
DOE 288 Special Assistant to the Deputy Assistant Secretary for Breeder Reactor Programs.
DOE 289 Director, Press Services Division, to the Director of Communications.
DOE 290 Staff Assistant to the Director of Energy Research.
DOE 291 Confidential Assistant to the Under Secretary.
DOE 292 Chauffeur to the Secretary.
DOE 293 Secretary (Confidential Assistant) to the Deputy Secretary.
DOE 295 Staff Assistant to the Deputy Secretary.
DOE 296 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 297 Staff Assistant to the Deputy Assistant Secretary for Security Affairs.
DOE 299 Legislative Affairs Assistant, Program Liaison Division, Office of Congressional Affairs.
DOE 300 Special Assistant to the Assistant Secretary for Environment, Safety and Health.
DOE 301 Secretary (Confidential Assistant) to the Associate Director for Geological Repositories, Office of Civilian Radioactive Waste Management.

DOE 302 Staff Assistant to the Deputy Assistant Secretary for Security Affairs.
DOE 303 Staff Assistant to the Assistant Secretary for Environment, Safety and Health.
DOE 304 Principal House Liaison Specialist to the Director of Congressional Affairs.
DOE 305 Staff Assistant to the Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 306 Special Assistant to the Assistant Secretary for Defense Programs.
DOE 307 Staff Assistant to the Assistant Secretary for Environment, Safety and Health.
DOE 308 Public Affairs Specialist to the Director, Office of Public Affairs.

Section 213.3332 Small Business Administration.

SBA 11 Deputy Assistant Administrator for Congressional and Legislative Affairs.
SBA 18 Special Assistant to the Administrator.
SBA 20 Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.
SBA 30 Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.
SBA 39 Assistant Administrator for Public Communications.
SBA 43 Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
SBA 45 Special Assistant to the Associate Administrator for Procurement Affairs.
SBA 50 Special Assistant to the Administrator.
SBA 54 Special Assistant to the Assistant Administrator for Public Communication.
SBA 55 Special Assistant to the Associate Deputy Administrator for Management and Administration.
SBA 59 Director of Information Services to the Assistant Administrator for Public Communications.
SBA 60 Special Assistant to the Associate Deputy Administrator for Management and Administration.
SBA 64 Special Assistant to the Regional Administrator.
SBA 65 Special Assistant to the Regional Administrator.
SBA 66 Special Assistant to the Regional Administrator.
SBA 68 Special Assistant to the Regional Administrator.
SBA 69 Special Assistant to the Regional Administrator.
SBA 70 Special Assistant to the Regional Administrator.
SBA 71 Special Assistant to the Regional Administrator.
SBA 73 Special Assistant to the Regional Administrator.
SBA 76 Executive Assistant to the Director of Women's Business Ownership.
SBA 90 Confidential Program Assistant to the Chief of Staff.
SBA 91 Special Assistant to the Assistant Administrator for Public Communication.
SBA 92 Staff Assistant to the Administrator.
SBA 94 Special Assistant to the Associate Deputy Administrator for Management and Administration.
SBA 96 Special Assistant to the Associate Administrator for Management Assistance.
SBA 99 Special Assistant to the Regional Administrator.
SBA 100 Special Assistant to the Regional Administrator.
SBA 101 Special Assistant to the Associate Deputy Administrator for Management and Administration.
SBA 104 Special Assistant to the Associate Deputy Administrator for Special Programs.
SBA 105 Special Assistant to the Administrator.
SBA 107 Confidential Assistant to the Associate Deputy Administrator for Special Programs.
SBA 108 Director, Office of Public Affairs to the Assistant Administrator for Public Communications.
SBA 113 Director, Executive Secretariat to the Administrator.
SBA 115 Special Assistant to the Regional Administrator.
SBA 117 Staff Assistant to the Director of Women's Business Ownership.
SBA 118 Staff Assistant to the Director of Women's Business Ownership.
SBA 121 Special Assistant to the Regional Administrator.
SBA 122 Special Assistant to the Regional Administrator.
SBA 123 Special Assistant to the Regional Administrator.
SBA 125 Special Assistant to the Director of Women's Business Ownership.
SBA 126 Assistant to the Assistant Administrator for Public Communications.
SBA 127 Special Assistant to the Associate Deputy Administrator for Special Programs.
SBA 130 Confidential Assistant to the Administrator.
SBA 131 Confidential Assistant to the Associate Administrator for Management Assistance.
SBA 133 Director of Veterans Affairs to the Associate Deputy Administrator for Special Programs.

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 2 Secretary to a Member.
FDIC 7 Special Assistant to the Director, Congressional Liaison Staff.
FDIC 9 Legislative Attorney and Advisor to the Director, Office of Congressional and Public Information.

Section 213.3334 Federal Trade Commission

FTC 2 Director, Office of Public Affairs to the Chairman.
FTC 5 Staff Assistant to a Commissioner.

Section 213.3337 General Services Administration

GSA 16 Confidential Assistant to the General Counsel.
GSA 24 Special Assistant to the Commissioner, Public Building Service.
GSA 52 Confidential Assistant to the Commissioner, Public Building Service.
GSA 64 Deputy (External Affairs) to the Associate Administrator for Operations.
GSA 66 Confidential Assistant to the Deputy Commissioner, Public Building Service.
GSA 72 Confidential Assistant to the Assistant Administrator for Federal Supply and Services.
GSA 79 Confidential Assistant to the Regional Administrator.
GSA 82 Confidential Assistant to the Director of Public Affairs.
GSA 87 Confidential Assistant to the Regional Administrator.
GSA 89 Confidential Assistant to the Director of Congressional Affairs.
GSA 90 Special Assistant to the Associate Administrator for Congressional Affairs.
GSA 91 Confidential Assistant to the Commissioner, Public Building Service.
GSA 100 Director of Executive Secretariat to the Administrator.
GSA 106 Special Assistant to the Associate Administrator for Public Affairs.
GSA 107 Special Assistant to the Executive Director, Office of Information Resources Management.
GSA 109 Confidential Assistant to the Regional Administrator.
GSA 110 Special Assistant to the Associate Administrator for Administration.
GSA 113 Confidential Assistant to the Regional Administrator.

GSA 114 Confidential Assistant to the Regional Administrator.

Section 213.3338 Federal Communications Commission.

FCC 9 Confidential Assistant to the Chief of Staff.
FCC 10 Legislative Affairs Officer to the Director, Office of Congressional and Public Affairs.
FCC 11 Special Assistant to the Director, Office of Congressional and Public Affairs.
FCC 12 Confidential Staff Assistant to the Managing Director.
FCC 13 Special Assistant to the Director, Office of Congressional and Public Affairs.

Section 213.3339 U.S. International Trade Commission.

ITC 1 Confidential Assistant to a Commissioner.
ITC 3 Staff Assistant (Economics) to a Commissioner.
ITC 5 Confidential Assistant to a Commissioner.
ITC 7 Special Assistant (Economics) to a Commissioner.
ITC 9 Confidential Assistant to a Commissioner.
ITC 12 Staff Assistant (Economics) to a Commissioner.
ITC 13 Staff Assistant (Legal) to a Commissioner.
ITC 15 Confidential Assistant to the Chairwoman.
ITC 17 Staff Assistant (Legal) to a Commissioner.
ITC 18 Confidential Assistant to a Commissioner.
ITC 19 Staff Assistant (Economics) to a Commissioner.
ITC 22 Staff Assistant (Legal) to a Commissioner.
ITC 25 Staff Assistant (Legal) to a Commissioner.
ITC 27 Congressional Liaison to the Chairwoman.
ITC 30 Confidential Assistant to a Commissioner.
ITC 32 Staff Assistant (Economics) to the Chairwoman.
ITC 33 Staff Assistant to a Commissioner.
ITC 34 Staff Assistant (Legal) to a Commissioner.

Section 213.3340 National Archives and Records Administration.

NARA 1 Congressional Relations Officer to the Archivist of the United States.

Section 213.3341 National Labor Relations Board.

NLRB 2 Confidential Assistant to the Chairman.
NLRB 3 Confidential Assistant to a Board Member.
NLRB 5 Confidential Assistant to a Board Member.
NLRB 6 Confidential Assistant to a Board Member.
NLRB 9 Confidential Staff Assistant to the General Counsel.

Section 213.3342 Export-Import Bank of the United States.

EXIM 3 Administrative Assistant to a Director.
EXIM 4 Private Secretary to a Director.
EXIM 5 Administrative Assistant to a Director.
EXIM 12 Secretary (Steno) to the Senior Vice President.
EXIM 16 Administrative Assistant to the General Counsel.
EXIM 24 Secretary (Steno) to the Senior Vice President-Director for Credits and Financial Guarantees.
EXIM 26 Assistant to the President and Chairman.
EXIM 31 Deputy Vice President for Public Affairs and Publications to the Vice President for Public Affairs and Publications.
EXIM 32 Special Assistant to the First Vice President and Vice Chairman.

Section 213.3346 Selective Service System.

SSS 9 Assistant Director for Government Affairs.
SSS 14 Deputy Director for Congressional Affairs.

Section 213.3347 Federal Mediation and Conciliation Service.

FMCS 2 Secretary to the Director.
FMCS 3 Public Affairs Director to the Executive Director.

Section 213.3348 National Aeronautics and Space Administration.

NASA 1 Secretary (Steno) to the Administrator.
NASA 17 Secretary (Steno) to the Acting Administrator.

Section 213.3351 Federal Mine Safety and Health Review Commission.

FM 1 Secretary (Steno) to a Commissioner.
FM 5 Confidential Assistant to the Chairman.
FM 7 Attorney-Adviser (General) to a Commissioner.
FM 9 Attorney-Adviser (General) to a Commissioner.
FM 12 Confidential Secretary to the General Counsel.

Section 213.3352 Government Printing Office.

GPO 1 Staff Assistant to the Public Printer.
GPO 6 Administrative Assistant to the Public Printer.
GPO 7 Confidential Assistant to the Deputy Public Printer.

Section 213.3354 Federal Home Loan Bank Board.

FHLB 1 Secretary to the Chairman.
FHLB 3 Secretary to a Board Member.
FHLB 11 Director, Office of Communications to the Chairman.
FHLB 19 Congressional Liaison to the Executive Staff Director.
FHLB 21 Secretary (Steno) to the Congressional Liaison.
FHLB 25 Staff Assistant to the Congressional Liaison.
FHLB 35 Congressional Relations Officer to the Executive Director and Chief of Staff.

Section 213.3356 Commission on Civil Rights.

CCR 1 Confidential Assistant to the Staff Director.
CCR 7 Supervisory Public Affairs Specialist to the Staff Director.
CCR 10 Special Assistant to the Staff Director.
CCR 11 Special Assistant to the Assistant Staff Director.
CCR 12 Confidential Assistant to a Commissioner.
CCR 13 Confidential Assistant to the Chairman.
CCR 15 Confidential Secretary to a Commissioner.
CCR 16 Confidential Secretary to a Commissioner.
CCR 17 Special Assistant to the Staff Director.
CCR 21 Special Assistant to the Vice Chairman.
CCR 22 Special Assistant to the General Counsel.
CCR 23 Special Assistant to a Commissioner.

Section 213.3357 National Credit Union Administration.

NCUA 6 Confidential Assistant to the Chairman.
NCUA 9 Staff Assistant to the Vice Chairman.
NCUA 12 Executive Assistant to the Vice Chairman.
NCUA 15 Secretary (Typing) to the President, Central Liquidity Facility.
NCUA 16 Confidential Assistant to the Board Member.
NCUA 17 Executive Assistant to the Chairman.

Section 213.3359 ACTION.

ACT 42 Legislative Officer to the Assistant Director, Office of Legislative and Governmental Affairs.

ACT 44 Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 48 Special Assistant to the Deputy Director.
ACT 51 Special Assistant to the Assistant Director for Volunteer Liaison.
ACT 58 Special Assistant to the Director.
ACT 62 Special Assistant to the Assistant Director for Volunteer Liaison.
ACT 75 Special Assistant to the Assistant Director for Policy and Planning.
ACT 78 Assistant Director for Policy and Planning to the Associate Director for Management and Budget.
ACT 79 Assistant Director for VISTA and Service Learning Programs to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 81 Special Assistant to the Director.

Section 213.3360 Consumer Product Safety Commission.

CPSC 6 Special Assistant to a Commissioner.
CPSC 7 Special Assistant (Legal) to a Commissioner.
CPSC 12 Special Assistant (Legal) to a Commissioner.
CPSC 14 Special Assistant to a Commissioner.
CPSC 16 Director, Office of Congressional Relations to the Chairman.
CPSC 20 Special Assistant to a Commissioner.
CPSC 22 Staff Assistant to the Executive Assistant to the Chairman.
CPSC 26 Staff Assistant to a Commissioner.
CPSC 28 Staff Assistant to a Commissioner.
CPSC 34 Special Assistant (Legal) to a Commissioner.
CPSC 37 Supervisory Public Affairs Specialist to the Executive Director, Office of Public Affairs.
CPSC 38 Staff Assistant to a Commissioner.
CPSC 39 Public Affairs Specialist to the Chairman.
CPSC 40 Congressional Relations Specialist to the Director, Office of Congressional Relations.
CPSC 41 Special Assistant to the Chairman.
CPSC 42 Public Affairs Specialist to the Chairman.
CPSC 45 Attorney-Advisor to the General Counsel.

Section 213.3364 U.S. Arms Control and Disarmament Agency.

ACDA 2 Private Secretary to the Deputy Director.
ACDA 4 Private Secretary to the Assistant Director for Verification and Intelligence.
ACDA 10 Deputy Director for Congressional Affairs to the General Counsel.
ACDA 11 Congressional Affairs Specialist to the Deputy Director.
ACDA 19 Private Secretary to the Special Advisor to the President and Secretary.
ACDA 20 Special Assistant to the Deputy Director for Public Affairs.
ACDA 23 Staff Assistant to the Assistant Director for Multilateral Affairs.
ACDA 24 Special Assistant to the Assistant Director for Multilateral Affairs.
ACDA 26 Secretary to the Representative to the Conference on Disarmament.
ACDA 27 Special Assistant to the Director.
ACDA 28 Staff Assistant to the Director.
ACDA 29 Congressional Affairs Specialist to the Director, Office of Congressional Affairs.
ACDA 30 Secretary (Steno) to the Special Representative for Arms Control and Disarmament.
ACDA 31 Special Assistant to the Director.

Section 213.3367 Federal Maritime Commission.

FMC 2 Confidential Assistant to a Commissioner.
FMC 3 Confidential Assistant to a Commissioner.
FMC 4 Confidential Assistant to a Commissioner.
FMC 5 Confidential Assistant to a Commissioner.
FMC 7 Secretary (Steno) to a Commissioner.
FMC 8 Secretary (Steno) to a Commissioner.
FMC 9 Secretary (Typing) to a Commissioner.
FMC 10 Secretary (Steno) to a Commissioner.
FMC 11 Secretary to the Chairman.
FMC 23 Secretary (Steno) to the Counsel to the Chairman.

Section 213.3368 Agency for International Development.

AID 20 Special Assistant to the Assistant Administrator, Bureau for Asia.
AID 21 Special Assistant to the Assistant Administrator, Bureau for Africa.
AID 33 Legislative Research Assistant to the Director, Legislative Affairs.
AID 34 Special Assistant to the Assistant Administrator, Bureau for Private Enterprise.
AID 36 Deputy Director to the Assistant Administrator, Bureau of Program and Policy Coordination.
AID 37 Associate Director for Legislative Affairs.
AID 44 Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 45 Deputy Assistant to the Administrator for Public Affairs to the Assistant Administrator, External Affairs.
AID 47 Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 48 Special Assistant to the Director of Policy Development and Program Review.
AID 54 Special Assistant to the Deputy Assistant Administrator for External Affairs.
AID 55 Special Assistant to the Assistant to the Administrator, External Affairs.
AID 57 Program Operations Assistant to the Director, Office of Private and Voluntary Cooperation.
AID 58 Special Assistant to the Coordinator, Office of Public Diplomacy for Latin America and the Caribbean.
AID 60 Special Assistant to the Assistant Administrator, Bureau for Asia.
AID 61 Public Affairs Specialist to the Assistant to the Administrator for External Affairs.
AID 63 Administrative Operations Assistant to the Deputy Assistant Administrator for External Affairs.
AID 64 Special Assistant to the Deputy Assistant Administrator for Management.
AID 65 Supervisory Public Affairs Specialist to the Deputy Assistant Administrator for External Affairs.
AID 66 Supervisory Public Affairs Specialist to the Director, Office of Publications.
AID 67 Administrative Operations Assistant to the Deputy Assistant Administrator for External Affairs.

Section 213.3372 Administrative Office of United States Courts.

AOUSC 4 Supervisory Attorney-Advisor (Legal) to the Legislative Affairs Officer.
AOUSC 5 Secretary (Steno) to the Deputy Legislative Affairs Officer.
AOUSC 6 Supervisory Attorney-Advisor (Legal) to the Legislative Affairs Officer.
AOUSC 7 Attorney-Advisor (Legal) to the Legislative Affairs Officer.

Section 213.3376 Appalachian Regional Commission.

ARC 8 Congressional Affairs Officer to the Federal Co-Chairman.
ARC 9 Special Assistant to the Alternate Federal Co-Chairman.

Section 213.3377 Equal Employment Opportunity Commission.

EEOC 5 Confidential Assistant to a Member.
EEOC 12 Media Contact Specialist to the Chairman.
EEOC 13 Confidential Assistant to the Chairman.
EEOC 17 Special Assistant to a Member.
EEOC 22 Director, Office of Congressional Affairs.
EEOC 23 Special Assistant to the Executive Director.
EEOC 26 Staff Assistant to the Chairman.
EEOC 29 Media Contact Officer to the Chairman.
EEOC 31 Attorney-Advisor (Civil Rights) to the Chairman.
EEOC 37 Social Science Research Specialist to the Director, Office of Program Research.
EEOC 38 Congressional Liaison Assistant to the Director, Office of Congressional Affairs.
EEOC 39 Confidential Assistant to the Chairman.
EEOC 40 Media Contact Specialist to the Chairman.

Section 213.3379 Commodity Futures Trading Commission.

CFTC 1 Administrative Assistant to the Chairman.
CFTC 3 Administrative Assistant to a Commissioner.
CFTC 4 Administrative Assistant to a Commissioner.
CFTC 5 Administrative Assistant to a Commissioner.
CFTC 6 Administrative Assistant to a Commissioner.
CFTC 7 Supervisory Public Affairs Specialist to the Chairman.
CFTC 12 Special Assistant to a Commissioner.
CFTC 14 Special Assistant to a Commissioner.
CFTC 21 Governmental Affairs Officer to the Chairman.

Section 213.3382 National Endowment for the Arts.

NEA 9 Congressional Liaison Officer to the Chairman.
NEA 45 Special Assistant to the Chairman.
NEA 49 Associate Deputy Chairman for Programs to the Deputy Chairman for Programs.
NEA 50 Special Assistant (Development) to the Chairman.
NEA 51 Executive Director, President's Committee on the Arts and Humanities, to the Chairman.
NEA 53 Special Assistant (Public Affairs) to the Chairman.

Section 213.3382 National Endowment for the Humanities.

NEH 47 Special Assistant to the Chairman.
NEH 48 Congressional Liaison Officer to the Chairman.
NEH 54 Confidential Assistant to the Director, Institute of Museum Services.
NEH 58 Administrative Assistant to the Acting Chairman.

Section 213.3384 Department of Housing and Urban Development.

HUD 6 Confidential Assistant to the General Counsel.
HUD 33 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 35 Senior Assistant for Legislation to the Deputy Assistant Secretary for Legislation.
HUD 36 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 37 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 39 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 41 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 42 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 60 Supervisory Public Affairs Specialist to the Assistant Secretary for Public Affairs.
HUD 64 Confidential Assistant to the Assistant Secretary for Community Planning and Development.
HUD 65 Special Assistant to the Deputy Assistant Secretary for Program Management.
HUD 66 Executive Assistant to the Assistant Secretary for Community Planning and Development.
HUD 78 Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 120 Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 126 Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 135 Special Assistant to the General Deputy Assistant Secretary for Fair Housing and Equal Employment Opportunity.
HUD 143 Special Assistant to the Director, Executive Secretariat.
HUD 151 Confidential Assistant to the President, Government National Mortgage Association.
HUD 153 Executive Assistant to the President, Government National Mortgage Association.
HUD 160 Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 163 Special Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 172 Special Assistant to the Director, Office of Indian Housing.
HUD 175 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 177 Special Assistant to the Secretary.
HUD 184 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Legislation and Congressional Relations.
HUD 193 Special Assistant to the Secretary.
HUD 196 Special Assistant to the Executive Assistant to the Secretary.
HUD 199 Staff Assistant (Typing) to the Assistant Secretary for Housing, Federal Housing Commissioner.
HUD 203 Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 205 Senior Advisor to the Deputy Under Secretary for Field Coordination.
HUD 206 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 207 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 208 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 209 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 215 Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 217 Special Assistant to the Deputy Assistant Secretary for Policy Development.
HUD 218 Executive Assistant to the Regional Administrator.
HUD 222 Special Assistant for Congressional Relations and Public Affairs to the Regional Administrator.

VOL 51 ISS 162 AG 21 1986 UMI

HUD 224 Special Assistant to the Regional Administrator.
HUD 226 Special Assistant to the Regional Administrator.
HUD 227 Executive Assistant to the Regional Administrator.
HUD 238 Special Assistant to the Secretary.
HUD 245 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 255 Executive Assistant to the Assistant Secretary for Policy Development and Research.
HUD 258 Special Assistant to the Under Secretary.
HUD 259 Special Assistant to the Secretary.
HUD 260 Executive Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 261 Special Assistant to the Secretary.
HUD 266 Special Assistant to the President, Government National Mortgage Association.
HUD 268 Executive Assistant to the Deputy Assistant Secretary for Housing.
HUD 272 Special Assistant to the Deputy Assistant Secretary for Program Policy Development and Evaluation.
HUD 274 Special Assistant to the Secretary.
HUD 279 Executive Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 280 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 281 Special Assistant to the Regional Administrator.
HUD 285 Senior Legislative Specialist to the Deputy Assistant Secretary for Legislative and Congressional Relations.
HUD 287 Special Assistant to the Regional Administrator.
HUD 289 Special Assistant to the Deputy Assistant Secretary for Program Policy Development and Evaluation.
HUD 292 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 312 Special Assistant to the Regional Administrator.
HUD 314 Confidential Assistant to the Under Secretary.
HUD 315 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 316 Special Assistant to the Regional Administrator.
HUD 317 Special Assistant to the Regional Administrator.
HUD 318 Executive Assistant to the General Deputy Assistant Secretary for Public and Indian Housing.
HUD 320 Special Assistant to the Assistant Secretary for Administration.
HUD 322 Special Assistant to the Regional Administrator.
HUD 323 Executive Assistant to the General Deputy Assistant Secretary for Housing/Federal Housing Commissioner.
HUD 324 Special Assistant to the Regional Administrator.
HUD 329 Special Assistant to the Assistant Secretary for Labor Relations.
HUD 332 Special Assistant to the Regional Administrator.
HUD 334 Special Assistant for Public Affairs to the Regional Administrator.
HUD 336 Special Assistant (Advance) to the Assistant Secretary for Public Affairs.
HUD 337 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs.
HUD 341 Special Assistant to the Secretary.
HUD 346 Special Assistant to the Deputy Assistant Secretary for Operations and Management.
HUD 347 Special Advisor for Elderly Programs to the Deputy Under Secretary for Intergovernmental Relations.
HUD 349 Special Assistant to the Assistant Secretary for Housing/Federal Housing Commissioner.
HUD 351 Special Assistant to the Regional Administrator.
HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 356 Executive Assistant to the Regional Administrator.
HUD 359 Special Assistant to the Regional Administrator.
HUD 361 Special Assistant to the Regional Administrator.
HUD 362 Staff Assistant to the Deputy Assistant Secretary for Housing.
HUD 363 Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 366 Special Assistant to the Assistant Secretary—Federal Housing Commissioner.
HUD 367 Special Assistant to the Regional Administrator.
HUD 370 Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 373 Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 374 Executive Assistant to the Deputy Under Secretary for Field Coordination.
HUD 376 Special Assistant to the Regional Administrator.
HUD 377 Special Assistant to the Regional Administrator.
HUD 378 Staff Assistant to the Manager, Solar Energy and Energy Conservation Bank.
HUD 379 Assistant Director for Executive Secretariat Operations to the Executive Assistant to the Secretary.
HUD 382 Staff Assistant (Typing) to the Deputy Under Secretary for Intergovernmental Relations.
HUD 383 Special Assistant to the Regional Administrator.
HUD 384 Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 385 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs.
HUD 389 Associate Deputy Assistant Secretary for Policy Development and Research to the Assistant Secretary for Policy Development and Research.
HUD 390 Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 391 Special Assistant to the Regional Administrator.
HUD 392 Special Assistant for Community Relations to the Regional Administrator.
HUD 393 Associate Deputy Assistant Secretary for Demonstration Projects to the Deputy Assistant Secretary for Policy Development.
HUD 395 Special Assistant to the Regional Administrator.
HUD 398 Special Assistant to the Deputy Under Secretary for Field Coordination.
HUD 399 Special Assistant to the President, Government National Mortgage Association.
HUD 400 Special Advisor to the Assistant Secretary for Legislation and Congressional Relations.
HUD 401 Special Assistant to the Deputy Assistant Secretary for Multifamily Housing.
HUD 402 Special Assistant to the Deputy Assistant Secretary for Single Family Housing.
HUD 403 Special Assistant to the Regional Administrator.

Section 213.3388 President's Commission on White House Fellows.

PCWHF 1 Assistant Director for Education Programs.
PCWHF 2 Associate Director to the Director.
PCWHF 3 Special Assistant to the Director.

Section 213.3389 National Mediation Board.

NMB 49 Special Assistant to the Chairman.

NMB 52 Confidential Assistant to a Member.
NMB 53 Confidential Assistant to the Chairman.
NMB 54 Confidential Assistant to a Member.

Section 213.3391 Office of Personnel Management

OPM 1 Special Assistant to the Director.
OPM 7 Supervisory Legislative Analyst to the Assistant Director for Congressional Relations.
OPM 8 Confidential Assistant to the Director.
OPM 9 Confidential Assistant (Typing) to the General Counsel.
OPM 10 Staff Assistant to the Assistant Director for Public Affairs.
OPM 11 Staff Assistant to the Director of Executive Administration.
OPM 20 Special Assistant to the Assistant Director for Public Affairs.
OPM 22 Supervisory Attorney-Advisor to the General Counsel.
OPM 24 Special Assistant to the Director, Office of Government Ethics.
OPM 25 Special Assistant to the Director, Office of Congressional Relations.
OPM 26 Confidential Assistant (Typing) to the Director, Office of Government Ethics.
OPM 28 Congressional Relations Officer to the Assistant Director for Congressional Relations.

Section 213.3392 Federal Labor Relations Authority

FLRA 6 Executive Assistant to a Member.
FLRA 8 Staff Assistant to a Member.
FLRA 9 Special Assistant to the General Counsel.

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 1 Staff Assistant to the Executive Director.
PBGC 4 Special Assistant to the Executive Director.
PBGC 6 Staff Assistant to the Executive Director.

Section 213.3394 Department of Transportation

DOT 1 Confidential Secretary to the Secretary.
DOT 3 Staff Assistant to the Secretary.
DOT 8 Staff Assistant to the Deputy Secretary.
DOT 14 Chauffeur to the Secretary.
DOT 20 Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 21 Special Counsel to the Secretary.
DOT 38 Special Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 43 Confidential Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 55 Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 56 Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 57 Confidential Assistant to the Assistant Secretary for Governmental Affairs.
DOT 60 Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 67 Secretary (Typing) to the Administrator, Federal Railroad Administration.
DOT 69 Supervisory Public Affairs Specialist to the Administrator, Federal Railroad Administration.
DOT 77 Special Assistant to the Assistant Secretary for Public Affairs.
DOT 94 Staff Assistant to the Administrator, Federal Aviation Administration.
DOT 100 Supervisory Public Affairs Specialist to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration.
DOT 105 Secretary (Steno) to the Administrator, Federal Highway Administration.
DOT 110 Confidential Staff Assistant to the Chief Counsel, Federal Aviation Administration.
DOT 115 Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 121 Deputy Director, Office of Congressional Affairs to the Director of Congressional Affairs.
DOT 122 Special Assistant to the Director, Executive Secretariat.
DOT 123 Intergovernmental Liaison Officer to the Director, Office of Intergovernmental Affairs.
DOT 126 Director, Office of Public Affairs, to the Administrator, Federal Highway Administration.
DOT 127 Special Assistant to the Assistant Secretary for Budget and Programs.
DOT 128 Special Assistant to the Administrator, Federal Highway Administration.
DOT 129 Special Assistant to the General Counsel.
DOT 130 Staff Assistant to the Deputy Secretary.
DOT 142 Intergovernmental Liaison Specialist to the Director, Office of Intergovernmental Affairs.
DOT 143 Staff Assistant to the Deputy Administrator, Federal Railroad Administration.
DOT 147 Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 148 Director, Office of Media Relations to the Assistant Secretary for Public Affairs.
DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 153 Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 157 Secretary (Steno) to the Associate Administrator for Policy and International Aviation, Federal Aviation Administration.
DOT 158 Confidential Secretary to the General Counsel.
DOT 159 Special Assistant to the Administrator, Federal Highway Administration.
DOT 175 Special Assistant to the Assistant Secretary for Policy and International Affairs.
DOT 176 Staff Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 185 Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs.
DOT 186 Director, Office of Public Affairs, to the Administrator, Urban Mass Transportation Administration.
DOT 192 Special Assistant to the Director, Office of Small and Disadvantaged Business Utilization.
DOT 193 Special Assistant to the Director, Office of Civil Rights.
DOT 203 Staff Assistant to the Assistant Secretary for Governmental Affairs.
DOT 207 Staff Assistant to the Inspector General.
DOT 208 Director, Executive Secretariat to the Administrator, Urban Mass Transportation Administration.
DOT 209 Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 216 Confidential Special Assistant to the Administrator, Federal Aviation Administration.
DOT 218 Staff Assistant to the Director, Office of Congressional Affairs.
DOT 219 Executive Officer to the Director, Executive Secretariat.
DOT 220 Chief, Minority Business Resource Center to the Director, Small and Disadvantaged Business Utilization.
DOT 221 Secretary to the Administrator, Maritime Administration.
DOT 224 Special Assistant to the Director, Office of Public Affairs, Urban Mass Transportation Administration.

DOT 225 Special Assistant to the Regional Representative.
DOT 228 Special Assistant to the Associate Administrator for Budget and Policy, Urban Mass Transit Administration.
DOT 231 Policy Advisor to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.
DOT 232 Special Assistant to the Regional Administrator, Urban Mass Transportation Administration.
DOT 233 Special Assistant to the General Counsel.
DOT 235 Special Assistant to the Secretary.
DOT 236 Special Assistant to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration.
DOT 237 Special Assistant to the Assistant Secretary for Public Affairs.
DOT 239 Executive Assistant to the Administrator, Maritime Administration.
DOT 240 Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 241 Secretary (Typing) to the Coordinator for Minority Affairs.
DOT 244 Deputy Executive Secretary for Management to the Director, Executive Secretariat.
DOT 247 Private Sector Initiatives Coordinator to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.
DOT 250 Staff Assistant to the Assistant Secretary for Governmental Affairs.
DOT 251 Staff Assistant to the Administrator, Maritime Administration.
DOT 252 Director, Executive Secretariat, to the Administrator, National Highway Traffic Safety Administration.
DOT 253 Intergovernmental Affairs Coordinator to the Administrator, Federal Railroad Administration.
DOT 254 Special Assistant to the Deputy Secretary.
DOT 255 Confidential Assistant to the Chief of Staff.
DOT 256 Staff Assistant to the Coordinator for Minority Affairs.
DOT 257 Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 258 Deputy Director, Office of Intergovernmental Affairs.
DOT 263 Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 267 Receptionist to the Deputy Secretary.
DOT 268 Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 269 Research Assistant to the Director, Executive Secretariat.
DOT 272 Deputy Director, Office of Small and Disadvantaged Business Utilization.
DOT 276 Special Assistant to the Administrator, Research and Special Programs Administration.
DOT 277 Special Assistant to the Deputy Administrator, Research and Special Programs Administration.
DOT 278 Staff Assistant to the Deputy Secretary.
DOT 280 Secretary (Typing) to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 281 Special Assistant for Intergovernmental Relations to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 282 Confidential Staff Assistant to the Deputy Administrator, Federal Aviation Administration.
DOT 283 Marketing Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 284 Special Assistant to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration.
DOT 285 Special Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 287 Staff Assistant to the Deputy Secretary.
DOT 288 Deputy Director of Community and Consumer Affairs.
DOT 289 Attorney-Advisor (General) to the Chief Counsel.
DOT 291 Director, Office of Special Projects to the Assistant Secretary for Public Affairs.
DOT 293 Secretary to the Associate Deputy Secretary.
DOT 294 Special Assistant to the Associate Deputy Secretary.
DOT 295 Staff Assistant to the Associate Deputy Secretary.
DOT 299 Special Assistant to the Director, Office of External Affairs.

Section 213.3395 Federal Emergency Management Agency.

FEMA 14 Special Assistant to the Administrator, Federal Insurance Administration.
FEMA 29 Special Assistant to the Associate Director, State and Local Programs and Support Directorate.
FEMA 33 Director, Office of Regional Operations to the Director.
FEMA 34 Executive Assistant to the Deputy Director.

Section 213.3396 National Transportation Safety Board.

NTSB 2 Secretary (Typing) to the Chairman.
NTSB 30 Confidential Assistant to the Chairman.
NTSB 31 Confidential Assistant to a Board Member.
NTSB 33 Confidential Assistant to a Board Member.
NTSB 92 Government and Public Affairs Officer to the Managing Director, Office of Government and Public Affairs.
NTSB 98 Special Assistant to the Vice-Chairman.
NTSB 102 Special Assistant and Counsel to the Chairman.
NTSB 105 Special Assistant to the Chairman.

Section 213.3397 African Development Foundation.

ADF 1 Confidential Assistant to the President.

Section 213.3398 Architectural and Transportation Barriers Compliance Board.

ATBCB 1 Executive Assistant to the Chairman.

Authority: 5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-18098 Filed 8-20-86 8:45 am]

BILLING CODE 6325-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

State Agency Advisory Committee; meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its State Agency Advisory Committee, to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix 1, 1–4. Activities will include:

- Discussions of changes in the electric market brought on by three factors.
  —Self generation.
  —Cogeneration
  —Natural gas deregulation.
- Discussion of the Western Energy Study Workplan.
- Discussion by Syd Berwager of Bonneville of the Super Good Cents Program being offered to Investor-owned Utilities.

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VOL 51 ISS 162 AG 21 1986 UMI

- Discussion of the 6(c) issue paper.
- Other issues of interest to the task force.

DATE: Wednesday, August 27, 1986, 9:00 a.m.–5:00 p.m.

ADDRESS: The meeting will be held at the Northwest Power Planning Council; 1321 Lockey Street; First Floor (Behind the Capitol); Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Jim Litchfield, (503)222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–18823 Filed 8–20–86; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23534; File No. SR–CBOE–86–25]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Incorporated; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange will rebate to a market-maker his membership dues for one quarter upon satisfactory participation by the market-maker in the experimental use of mark sense cards for a designated two-month period.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange is experimenting with the use of mark sense cards on the trading floor.[1] The first experiment will be a two-month pilot using these cards in one options class group, consisting of the options classes of Hewlett-Packard and Bethlehem Steel. CBOE Indicates there will likely be other experiments with the use of these cards. The proposed rule change allows the Exchange to rebate one quarter of Exchange dues to any market-maker who satisfactorily participates in the experiment.

The proposed rule change is consistent with the Securities and Exchange Act of 1934 and section 6(b)(5) thereof, in particular, because it is designed to assist in the development of technologically advanced trading cards for the purpose of enhancing trade clearance, reporting, and processing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Divison of Market Regulation, pursuant to delegated authority.

Dated: August 14, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18912 Filed 8–20–86; 8:45 am]

BILLING CODE 8010–01–M

[1] Make sense cards are computer readable trading cards.

[Released No. 34–23537; File No. SR–MSRB–86–10]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Supervision

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1986, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board ("Board") is filing amendments to rule G–27 concerning supervision (hereafter referred to as "the proposed rule change"), as follows:

Rule G–27. Supervision.

[Brackets] indicate deletions.

(a) thru (c) (iii) No change.

No municipal securities broker or municipal securities dealer that maintains and enforces written supervisory procedures in accordance with the rules of a registered securities association, [rule 15b10–4 under the Act,] or rules or regulations of an appropriate regulatory agency, to the extent applicable to such municipal securities broker or municipal securities dealer, shall be required to adopt a separate set of written supervisory procedures for the conduct of its municipal securities business if the procedures established under such other rules or regulations meet the requirements of section (c) of this rule. Nothing herein contained shall be construed to require the person designated as responsible for supervising the activities with respect to municipal securities of a branch office or other location or unit to be physically located at such branch office or other location or unit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) In December 1983, the Securities and Exchange Commission rescinded rule 15b10–4 "Supervision of Associated Persons" in light of amendments to the Securities Exchange Act which eliminated the Commission's SECO program. As a result, the rule 15b10–4 reference in Board rule G–27 on Supervision should be deleted.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, which directs the Board to propose and adopt rules which are

> . . . designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest . . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change would not impose any burden on competition since it merely deletes a reference to a rescinded Commission rule in rule G–27.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 11, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 15, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19014 Filed 8–20–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23535; File No. SR–NYSE–86–23]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Option Fees

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is waiving its Options Trading Right ("OTR") transfer charge for all transfers (purchases or leases) contracted in the period from July 21 through October 24, 1986.

The Exchange is also instituting an Option Trading Right Holder ("OTRH") fee of $1,000 per year for all non-NYSE member OTRHs. The new fee will be effective September 1, 1986.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in section A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

When NYSE options trading began on September 23, 1983, the Exchange amended its Constitution to grant each member of the New York Stock Exchange a permanent OTR. Each member of the New York Futures Exchange ("NYFE") was granted a temporary OTR to last for three years from the start of trading. With the expiration of these temporary OTRs on September 23, 1986, these NYFE members must find another means of access to the options floor. Their choices are the purchase or lease of an OTR. To encourage transfers to permanent OTRH status, the Exchange is waiving for a period of approximately three months the fee imposed on transfers of OTRs by either sale or lease. The transfer charge is 5% of the last purchase price of an OTR, with a cap at $5,000. The waiver will apply to all transfers contracted between July 21 and October 24, 1986, inclusive, whether or not they involve a NYFE member.

VOL 51 ISS 162 AG 21 1986 UMI

Effective September 1, 1986, the Exchange is implementing an annual fee for all non-NYSE member Option Trading Right Holders ("OTRHs") of $1,000 per year, payable on a monthly basis. Until September 23, 1986 those members of the NYFE who are using their temporary OTRs will not be charged this new OTRH fee. Regular NYSE members, including those members who are also OTRHs, pay an annual membership fee of $1,500 established by Article X of the NYSE Constitution and will pay no additional annual fee for trading in the NYSE Options market. Implementation of this fee will more reasonably allocate the costs of the options trading facility, as well as the other services the Exchange provides, to those parties using the facilities. The proposed fees are similar to fees collected by other exchanges.

The statutory basis under the Securities Exchange Act of 1934 (the "Act") is section 6(b)(4) and its requirement that a national securities exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed fees were reviewed and approved by the Options Subcommittee on Market Performance, comprised of Exchange members and representatives of member organizations.

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 11, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 14, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18915 Filed 8–20–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23533; File No. SR–PHLX–86–23]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 24, 1986, the Philadelphia Stock Exchange Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to amend Rule 1012 relating to series of options open for trading.

The following is the full text of the proposed rule change. (New language is italicized; deleted language is bracketed.)

Philadelphia Stock Exchange, Inc. Option Rules

* * * * *

Series of Options Open for Trading

Rule 1012. * * *

(b) On the business day prior to the expiration date of particular series of options, a closing rotation (as defined in Commentary .01 to Rule 1047) for such series shall commence at [4:00 p.m.] *4:10 p.m.* in the case of options on stocks.

* * *

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The rule change is merely a housekeeping matter that corresponds with an amendment to Rule 1047 (SR–PHLX–85–33) that has been approved by the Commission in Securities Exchange Act Release No. 22855 (February 4, 1986), 51 FR 5434. As a result of an oversight, Rule 1012 currently conflicts with the amendment to Rule 1047. This rule change is consistent with the Exchange Act in that it will harmonize Rule 1012 with the Commission approved substantive changes to the timing of certain closing rotations.

B. Self-Regulatory Organization's Statement on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("Act") because the rule change is merely a "housekeeping matter" that corresponds with a previously approved amendment to Rule 1047. The Exchange states that the rule change will harmonize Rule 1012 with Rule 1047.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change conforms Phlx Rule 1012 with a previous approved amendment to Rule 1074, by which the Exchange extended, to 4:10 p.m., the time for commencement of closing rotations in equity options on the business day prior to expiration.[1]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications related to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within *21* days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18913 Filed 8-20-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23536; File No. SR-PCC-86-04]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Clearing Corporation Relating to its Trades Settling Pacific Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

TSP is an interface operation that enables PCC members having New York executions to settle their trades at PCC without requiring them to become members of the National Securities Clearing Corporation ("NSCC") or the Depository Trust Company ("DTC"). To offer this service, PCC has joined NSCC as a full service member.

TSP offers trade settlement either through PCC's Continuous Net Settlement system ("CNS") or if the security is ineligible for CNS, through a delivery network for the handling of physicals.

Most TSP trades are eligible for CNS. Trades executed in New York are first entered into the NSCC clearing system. Trades eligible for CNS settlement at both NSCC and DTC will settle as any other interface (RIO) trade.

For executions ineligible for the bookentry system, TSP provides a link between NSCC's envelope delivery service and PCC's SCD service. A PCC New York messenger picks up physical deliveries from the NSCC window three times daily. PCC will process the envelopes in the box as a sealed draft through its present SCD system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

TSP is an interface operation that enables PCC members having New York executions to settle their trades at PCC without requiring them to become members of NSCC or DTC. This service exempts PCC members from the burden of direct NSCC/DTC membership fees.

TSP provides PCC members the opportunity to do an execution at a market of their choice and consolidate all their settlement activities in one clearing agency.

The proposed rule change is consistent with section 17A(b)(3)(F) of the Securities Exchange Act of 1934 ("Act"), in that it furthers the objectives of the Act with respect to supplementing the existing interface between registered clearing agencies, promoting the prompt and accurate clearance and settlement of securities transactions, fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and perfecting the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The proposed rule change also provides for the equitable allocation of reasonable fees and other charges among PCC members who use its services, and thus is also consistent with section 17A(b)(3)(D) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PCC perceives no burden on competition by reason of the proposed rule change.

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[1] *See* Securities Exchange Act Release No 22855 (February 4, 1986), 51 FR 5434.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth St., NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth St., NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 11, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 15, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18868 Filed 8-20-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 979]

Receipt of Application for a Permit for Pipeline Facilities To Be Constructed and Maintained on the Borders of the United States Polysar Hydrocarbons, Inc.

AGENCY: Department of State.

The Department of State has received an application from Polysar Hydrocarbons, Inc. for a permit, pursuant to Executive Order 11423 of August 20, 1968, to construct, connect, operate and maintain at the United States/Canada International Border four pipelines, crossing the St. Clair River between St. Clair County, Michigan and Lambton County, Ontario. Polysar Hydrocarbons, Inc. (a Michigan corporation having its principal office located in Akron, Ohio) is a wholly owned subsidiary of Polysar Limited, a Canadian international petrochemical company with its principal office located in Sarnia, Ontario, Canada. The pipelines to be constructed would be used for the transportation of natural gas liquids, propylene, and ethylene.

Dated: August 13, 1986.

W. Allen Wallis,

Under Secretary for Economic Affairs.

[FR Doc. 86-18877 Filed 8-20-86; 8:45 am]

BILLING CODE 4710-06-M

[Public Notice 978]

Privacy Act of 1974; New System of Records

Notice is hereby given that the Department of State proposes to create a new system of records, the "Bureau of Economic and Business Affairs Data Bank of Economic Officers, STATE-56," pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)) and the Office of Management and Budget Circular No. A-130, Appendix I.

The Department's report was filed with the Office of Management and Budget on August 5, 1986.

Recently, the Secretary of State initiated significant steps to enhance the personnel and management policies of the Department in order to enable the Foreign Service to be more responsive to the complex economic priorities of the nation's foreign policy agenda. A major objective of this initiative is to insure that the Department is able to more effectively train, motivate, and utilize highly-qualified personnel who will be responsible for the development, negotiation, and implementation of international economic policy matters. A cornerstone of this effort is the Secretary's delegation to the Bureau of Economic and Business Affairs a significant role in the management of the Service's economic talent. The proposed system will facilitate the Bureau's function in the assignment process by providing a database which will include all individuals with primary or secondary economic skill codes. The Data Bank will contain information pertinent to the assignment process and will be utilized for that purpose only.

Any persons interested in commenting on the new system of records may do so by submitting comments in writing, on or before October 20, 1986, to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street NW., Washington, DC 20520. This system of records will become effective October 20, 1986, unless a notice is published to the contrary. The new system, the "Bureau of Economic and Business Affairs, STATE-56," will read as set forth below.

Dated: August 5, 1986.

For the Secretary of State.

Donald J. Bouchard,

Assistant Secretary for Administration.

STATE-56

SYSTEM NAME:

Bureau of Economic and Business Affairs Data Bank of Economic Officers.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Bureau of Economic and Business Affairs, Executive Office, Department of State, 2201 C Street NW., Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Foreign Service and Civil Service employees of the Department of State and other U.S. Foreign Affairs Agencies who have economics as a primary or secondary skill code; all International Relations Officers General (IROGs).

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name; Social Security Account Number; current position, grade, organization functional skill, position pay class, transfer eligibility date, diplomatic title, tour type, arrival date; languages and competency levels; employment history; economic courses taken at the university level; and Bid List information including organization, location, position, position title, position pay class, language designation, officer preference, status of position in

personnel, status of position in the Bureau of Economic and Business Affairs, and comments submitted by employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Foreign Service Act of 1980, as amended, (22 U.S.C. 3901) and Civil Service Reform Act of 1978 (5 U.S.C. 1101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Bureau of Economic and Business Affairs will use this record system in the assignment, reassignment, transfer, detail, and training of those individuals with economics as a primary or secondary skill code. Information from this system will be made available to personnel offices of Government agencies having employment opportunities. Information may also be disclosed to multinational corporations, international organizations, business firms, foundations, and foreign governments who are interested in hiring an officer to perform a task commensurate with his/her work experience.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy, computer media.

RETRIEVABILITY:

By individual name or social security number, as well as by each of the data items listed as a category in this description.

SAFEGUARDS:

All employees of the Department of State have undergone a background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. All records containing personal information on a computerized data base are accessible only through computer media under Department of State jurisdiction and placed in restricted areas access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct responsibility of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

Biographic data may be maintained in the system for as long as the individual is employed by a U.S. Foreign Affairs Agency. Information pertaining to particular assignments will be maintained for the duration of the current bid cycle. More specific information may be obtained by writing to Director, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street NW., Washington, DC 20520.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Bureau of Economic and Business Affairs, Department of State, 2201 C Street, NW., Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the EB Data Bank of Economic Officers might contain records pertaining to them should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, NW., Washington, DC 20520. The individual must specify that she/he wishes the records of the EB Data Bank of Economic Officers to be checked. At a minimum, the individual must include: date and place of birth; current mailing address and zip code; signature.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center (address above).

CONTESTING RECORD PROCEDURES:

(See above).

RECORD SOURCE CATEGORIES:

The individual employee and the Department's central personnel database.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-18603 Filed 8-20-86; 8:45 am]
BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 86-4-102 set the currently effective two-month SFFL applicable through May 31, 1986.

In establishing the SFFL for the two-month period beginning August 1, 1986, we have projected nonfuel costs based on the year ended March 31, 1986 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as reported to the Department.

By Order 86-8-36 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic—0.9658
Latin America—1.1528
Pacific—1.1785
Canada—1.2074

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk (202) 366-2441.

By the Department of Transportation.
Dated: August 16, 1986.

Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-18883 Filed 8-20-86; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 14, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0198
Form Number: ATF F 5110.28
Type of Review: Revision
Title: Distilled Spirits Plant (DSP) Processing Records and Report

Clearance Officer: Robert G. Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

S.F. Timothy Mullen,

Departmental Reports Management Office.

[FR Doc. 86–18853 Filed 8–20–86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 14, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: IRS 8453–P
Type of Review: New
Title: U.S. Partnership Declaration for Magnetic Media/Electronic Filing

OMB Number: 1545–0054
Form Number: 1000
Type of Review: Extension
Title: Ownership Certificate

OMB Number: 1545–0115
Form Number: IRS Form 1099–MISC)
Type of Review: Revision
Title: Statement for Recipients of Miscellaneous Income

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

S.F. Timothy Mullen,

Departmental Reports Management Office.

[FR Doc. 86–18854 Filed 8–20–86; 8:45 am]

BILLING CODE 4810-25-M

[Number: 150–02]

Establishment of Certain Offices in the National Office of the Internal Revenue Service

Dated: July 30, 1986.

By the authority vested in me as Secretary of the Treasury by section 1002 of 31 U.S.C.; section 7801(a) and 7803 of the Internal Revenue Code of 1954, as amended; section 321(b) of 31 U.S.C., and Reorganization Plan No. 1 of 1952 as made applicable to the Internal Revenue Code of 1954 by section 7804(a) of such Code and by Executive Order No. 10574, approved November 5, 1954; and as provided by section 7802(b) of the Internal Revenue Code of 1954, the following offices continue uninterrupted as they existed prior to this order, with the following changes:

The office of Assistant Commissioner (Support and Services) under the Associate Commissioner (Policy and Management) is abolished;

The title of Assistant Commissioner (Human Resources) is changed to Assistant Commissioner (Human Resources Management and Support); and

Certain functional responsibilities are moved from the Office of the Associate Commissioner (Policy and Management). Specifically, functional responsibility for disclosure and for administration of regulations governing the practice of representatives before the Service and the Bureau of Alcohol, Tobacco and Firearms are moved to the Associate Commissioner (Operations); functional responsibility for data security and for tax form and publication design is moved to the Associate Commissioner (Data Processing).

Also with this order, a paragraph on Assistant to the Commissioner (Legislative Liaison), published at the time of that position's creation, is dropped because that office is listed elsewhere, and other portions of text are resequenced and reworded solely for clarity, with no change in meaning.

1. *Office of Commissioner of Internal Revenue.* The Office of the Commissioner shall consist of the Commissioner, Deputy Commissioner, Assistants to the Commissioner, the Assistant to the Commissioner (Public Affairs), Assistant to the Commissioner (Legislative Liaison), Assistant to the Commissioner (Taxpayer Ombudsman), Assistant to the Commissioner (Equal Opportunity) and the Assistant to the Deputy Commissioner.

a. Except for the specific positions and titles in Sections 1 through 5 of this order, the Commissioner may create, abolish, or modify offices and positions within the Internal Revenue Service as may be necessary to effectively and efficiently provide for the administration of the tax laws or other responsibilities assigned to the Internal Revenue Service. The authority of the Commissioner to create, abolish, or modify offices under this delegation is subject only to limitations that exist by law or Department of the Treasury rules and regulations.

2. *Office of the Associate Commissioner (Operations).* The Associate Commissioner (Operations) is the principal advisor to the Commissioner on policy matters affecting operations. The Associate Commissioner (Operations) is responsible for the following activities:

a. Serves as the spokesperson for the operating functions, which are: Collection of delinquent accounts and securing of delinquent returns; investigation of criminal fraud involving any internal revenue laws (except those concerning alcohol, tobacco, or firearms); examination of tax returns; approval and subsequent examination of Employee Plans and Exempt Organizations; guidance on tax treaty administration, international compliance, and foreign tax administration assistance; disclosure; and administration of regulations governing the practice of representatives before the Internal Revenue Service and the Bureau of Alcohol; Tobacco and Firearms.

b. Supervises and provides policy guidance and direction to the Assistant Commissioner (Collection), Assistant Commissioner (Examination), Assistant Commissioner (Criminal Investigation), Assistant Commissioner (Employee Plans and Exempt Organizations); and the Assistant Commissioner (International).

c. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, foreign tax authorities and the public on major cross-functional issues and discusses or explains the Service's policy formulation and long-term plans.

3. *Office of Associate Commissioner (Policy of Management.)* The Associate Commissioner (Policy and Management) is the principal advisor to the Commissioner on policy matters affecting agency administration. The Associate Commissioner (Policy and Management) is responsible for the following activities:

a. Serves as the spokesperson for the management functions, which are: Personnel administration; financial

management; planning; research; training and employee development; management of the Service's real and personal property, equipment and support services; and operation of the Data Center.

b. Supervises and provides policy guidance and direction to the Assistant Commissioner (Human Resources Management and Support) and the Assistant Commissioner (Planning, Finance, and Research).

c. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, and the public on major policy and management issues, and discusses or explains the Service's policy formulation and long-term plans.

4. *Office of Associate Commissioner (Data Processing).* The Associate Commissioner (Data Processing) is the principal advisor to the Commissioner on policy matters affecting data processing. The Associate Commissioner (Data Processing) is responsible for the following activities:

a. Serves as the spokesperson for the data processing functions, which are: Processing of tax returns and information documents; accounting for all revenues collected by the Service; maintaining master files of all taxpayer accounts; managing all large-scale tax-processing computers in the Service; the tax information program; tax form and publication design; data security; and designing, developing, testing, and maintaining computer software used on large-scale tax-processing computers in the Service.

b. Supervises and provides policy guidance and direction to the Assistant Commissioner (Computer Services), the Assistant Commissioner (Returns and Information Processing), and the Assistant Commissioner (Tax System Redesign).

c. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, and the public on major data processing issues, and discusses or explains the Services' policy formulation and long-term plans.

5. *The Assistant Commissioner (Inspection) and the Deputy Assistant Commissioner (Inspection)* will, to ensure objectivity and integrity, report directly to the Commissioner and Deputy Commissioner.

6. *The Chief Counsel,* pursuant to delegated authority from the General Counsel, is authorized to take necessary action on all personnel and administrative matters pertaining to the Office of Chief Counsel, including but not limited to those for the appointment, classification, promotion, demotion, reassignment, transfer or separation of officers or employees; however, all personnel and administrative matters concerning Senior Executive Service or Performance Management Recognition System employees in the Office of Associate Chief Counsel (International) whose primary duties do not involve litigation or in the Office of Associate Chief Counsel (Technical), shall be approved by the Commissioner of Internal Revenue prior to implementation.

a. The Corporation Tax and Individual Tax Divisions are under the supervision of the Chief Counsel, with the authority to supervise and evaluate the work of all officers and employees of these functions.

b. The Appeals Division is under the supervision of the Chief Counsel, and the Commissioner of Internal Revenue will exercise line supervision over the Chief Counsel for this function.

c. The Commissioner of Internal Revenue will exercise the Service's final authority concerning substantive interpretation of the tax laws as reflected in legislative and regulatory proposals, revenue rulings, letter rulings, and technical advice memoranda.

7. The above changes shall be implemented at a date determined by the Commissioner of Internal Revenue. Effective immediately, the Commissioner of Internal Revenue is authorized to effect, at appropriate times and in an orderly manner, such transfers of functions, personnel, positions, equipment and funds as may be necessary to implement the provisions of this order.

8. All offices in existence within the Internal Revenue Service but not mentioned in this order are continued without interruption.

9. *Effect on Other Treasury Department Orders.* This order supersedes Treasury Department Order: 150–02, February 27, 1986.

James A. Baker III,

Secretary of the Treasury.

[FR Doc. 18655 Filed 8–20–86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Senior Executive Service; Performance Review Board

ACTION: This notice lists the membership of the Office of the Secretary Performance Review Board (PRB), superseding the list published in 51 FR 11868, April 7, 1986, in accordance with 5 U.S.C. 4313(c)(4).

Scope: This notice applies to all components within the Office of the Secretary, except the Legal Division.

Purpose: The purpose of the Board is to review performance appraisals, ratings, recommendations for performance awards, and other personnel actions, and to make recommendations to the appointing authority, who is the Deputy Secretary or his designee.

Composition of PRB: Each session of the Performance Review Board will be attended by the Chairperson or his designee and at least two of the members listed below. The Board will be composed of more than 50 percent career appointees in cases involving the appraisal of an SES career appointee. The names and titles of the PRB members are as follows:

Chairperson, John F.W. Rogers, Assistant Secretary of the Treasury (Management)
Paul W. Bateman, Deputy Treasurer of the United States
Thomas J. Berger, Deputy Assistant Secretary (International Monetary Affairs)
William J. Bremner, Deputy Assistant Secretary (Federal Finance)
Philip E. Carolan, Director of Personnel
Francis X. Cavanaugh, Director, Office of Government Finance and Market Analysis
James W. Conrow, Deputy Assistant Secretary (Developing Nations)
Paul H. Cooksey, Deputy Assistant Secretary (Management) for Administration
Roger M. Cooper, Deputy Assistant Secretary (Management) for Information Systems
Robert A. Cornell, Deputy Assistant Secretary (Trade and Investment Policy)
Stephen J. Entin, Deputy Assistant Secretary (Economic Forecasting)
Don Fullerton, Deputy Assistant Secretary (Tax Analysis)
Richard A. Greenstein, Director, Office of Information Resources Management
Michael F. Hill, Deputy Assistant Secretary for Departmental Management
Michael R. Hill, Inspector General
J. Michael Hudson, Assistant Secretary (Legislative Affairs)
Francis A. Keating, II, Assistant Secretary (Enforcement)
Jill E. Kent, Deputy Assistant Secretary (Departmental Finance and Planning)
Arthur W. Long, Senior National Intelligence Adviser
J. Roger Mentz, Assistant Secretary (Tax Policy)

David C. Mulford, Assistant Secretary (International Affairs)
S.F. Timothy Mullen, Director, Office of Administrative Programs
Gerald Murphy, Fiscal Assistant Secretary
Robert P. Newcomb, Director, Office of Trade and Tariff Affairs
Thomas P. O'Malley, Director, Office of Procurement
Katherine D. Ortega, Treasurer of the United States
David D. Queen, Deputy Assistant Secretary (Enforcement)
Charles Schotta, Deputy Assistant Secretary (Arabian Peninsula Affairs)
Charles O. Sethness, Assistant Secretary (Domestic Finance)
Margaret D. Tutwiler, Assistant Secretary (Public Affairs and Public Liaison)
D. Edward Wilson, Jr., Deputy General Counsel
Robert B. Zoellick, Executive Secretary to the Department

FOR FURTHER INFORMATION CONTACT: Jack R. Howard, Acting Executive Secretary, PRB, Room 1314, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, Telephone: (202) 566–5468. This notice does not meet the Department's criteria for significant regulations.

John F.W. Rogers,
Assistant Secretary of the Treasury (Management).

[FR Doc. 86–18852 Filed 8–20–86; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

Importations Bearing Recorded U.S. Trademarks; Solicitation of Public Comment on Gray Market Policy Options

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments concerning the importation of parallel imports, or so-called gray market goods, which are products manufactured overseas bearing genuine trademarks that are purchased from foreign retailers or wholesalers and imported into the U.S. without the permission of the individual or corporation who owns the rights to the trademark in the U.S. market. Customs regulations traditionally have interpreted existing U.S. law to permit these goods to enter the U.S. when the foreign and American owners of the trademark are "related". Three U.S. Courts of Appeal recently reached different conclusions concerning the validity of the regulations.

A previous solicitation for comments was published in the **Federal Register** on June 17, 1986 (51 FR 22005). Comments were to have been received on or before August 18, 1986. Customs has received several requests to extend the comment period because additional time is required to prepare reasonably responsive comments. Customs believes the requests have merit. Accordingly, the period of time for the submission of comments is extended to October 17, 1986.

DATE: Comments and/or data are requested on or before October 17, 1986.

ADDRESS: Comments and/or data may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

All comments and/or data submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the address above.

FOR FURTHER INFORMATION CONTACT: Steven Pinter, Entry, Licensing and Restricted Merchandise Branch (202–566–5765).

Dated: August 15, 1986.

John P. Simpson,
Director, Office of Regulations and Rulings.

[FR Doc. 86–18916 Filed 8–20–86; 8:45 am]
BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 21, 1986.

Dated: August 18, 1986.

By direction of the Administrator.

David Cox,
Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits.
2. Requests for Information Concerning Medical, Legal or Other Expenses.
3. VA Form 21–8416.
4. On occasion.
5. Individuals or households.
6. 56,400 responses.
7. 11,280 hours.
8. Not applicable.

Revision

1. Department of Veterans Benefits.
2. Certification of Delivery of Advance Payment and Enrollment.
3. VA Form 22–1999V.
4. On occassion.
5. State or local governments; Non-profit institutions; Small business or organizations.
6. 57,600 responses.
7. 4,800 hours.
8. Not applicable.

Extension

1. Department of Veterans Benefits.
2. Income-Net Worth and Employment Statement.
3. VA Form 21–527.
4. On occasion.
5. Individuals or households.
6. 104,440 responses.
7. 104,440 hours.
8. Not applicable.

Extension

1. Department of Veterans Benefits.
2. Request for Employment Report in Connection with a Claim for Disability Insurance Benefits.
3. VA Form Letter 29–30a.
4. On occasion.
5. Individuals or households.
6. 8,198 responses.

7. 2,050 hours.
8. Not applicable.

Reinstatement

1. Department of Medicine and Surgery.
2. National Needs Assessment Study of Vietnam Veterans.
3. VA Form 10–20769c(NR) through 10–20769dd(NR)
4. On occasion.
5. Individuals or households.
6. 9,738 responses.
7. 16,535 hours.
8. Not applicable.

[FR Doc. 86–18990 Filed 8–20–86; 8:45 am]
BILLING CODE 8320–01–M

VOL 51 ISS 162 AG 21 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 162
Thursday, August 21, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Farm Credit Administration	1
National Transportation Safety Board	2, 3
Nuclear Regulatory Commission	4

1

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given pursuant to the Government in the Sunshine Act (5 U.S.C. 5526(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board ("Board").

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 15, 1986, from 3:00 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This special meeting of the Farm Credit Administration Board will be closed to the public pursuant to exemption prescribed in 5 U.S.C. 5526(c)(8) and (9). The meeting is being called to discuss examination and supervision matters.

Dated: August 15, 1986.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 86-18959 Filed 8-21-86; 11:30 am]

BILLING CODE 6705-01-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 27110, July 29, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, August 5, 1986.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was added to the agenda and discussed in closed session.

7. *Opinion and Order:* Administrator v. Towner, Docket SE-7497, disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: H. Ray Smith (202) 386-6527.

Ray Smith,

Federal Register Liaison Officer.

August 18, 1986.

[FR Doc. 86-18967 Filed 8-19-86; 12:07 pm]

BILLING CODE 7533-01-M

3

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 28912, August 12, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, August 19, 1986.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following two items were deleted and the last item was added to the agenda.

2. *Highway Accident Report:* Tractor-Semitrailer/Wagon Runaway, Collision and Fire in Van Buren, Arkansas.

3. *Aircraft Incident Summary Report:* USAir, Flight 4381, McDonnell-Douglas DC-9, N965VJ, Erie, Pennsylvania.

Board Response to FAA Petition for Rulemaking, "Regulation of VFR Cruising Altitude of Flight Level."

CONTACT PERSON FOR MORE INFORMATION: H. Ray Smith (202) 386-6527.

Ray Smith,

Federal Register Liaison Officer.

August 18, 1986.

[FR Doc. 86-18968 Filed 8-19-86; 12:07 pm]

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NUCLEAR REGULATORY COMMISSION

DATES: Weeks of August 18, 25, September 1, and 8, 1986.

PLACE: Commissioners' Conference Room 1717 H Street NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 18

No Commission meetings

Week of August 25—Tentative

Thursday, August 28

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of September 1—Tentative

Wednesday, September 3

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)
2:00 p.m.
Briefing on IAEA Chernobyl Meeting (Open/Closed to be Determined)

Thursday, September 4

2:00 p.m.
Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Comanche Peak Construction Permit Extension (*Postponed* from August 6)

Friday, September 5

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Perry-1 (Public Meeting)

Week of September 8—Tentative

Thursday, September 11

2:00 p.m.
Meeting with the Advisory Committee on Reactor Safeguards on Standardization Policy Statement (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Andrew L. Bates,

Office of the Secretary.

August 14, 1986.

[FR Doc. 86-18923 Filed 8-19-86; 8:52 am]

BILLING CODE 7590-01-M

federal register

Thursday
August 21, 1986

Part II

Nuclear Regulatory Commission

10 CFR Part 50

Safety Goals for the Operations of Nuclear Power Plants; Correction and Republication of Policy Statement

VOL 51 ISS 162 AG 21 1986 UMI

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Safety Goals for the Operation of Nuclear Power Plants; Policy Statement; Correction and Republication

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement; correction and republication.

SUMMARY: This document corrects a number of typographical errors found in a policy statement that was published in the **Federal Register** on August 4, 1986 (51 FR 28044). The policy statement pertains to 10 CFR Part 50 and establishes goals that broadly define an acceptable level of radiological risk with regard to the operation of nuclear power plants. In addition, the policy statement is being republished in its entirety in order to highlight the key elements of the policy statement.

FOR FURTHER INFORMATION CONTACT: Merrill Taylor, Regional Operations and Generic Requirements Staff, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–4356.

In FR Doc. 86–17496, published in the **Federal Register** of Monday, August 4, 1986, make the following corrections:

1. On page 28044, in the first column, in the Summary statement, in the 12th line, the word "Commission" should read "Committee".

2. On page 28044, in the third column, in the 6th line, the word "on" should read "of", and in the 11th line following the word "everything" add the word "that".

3. On page 28045, in the heading of the first column, the word "This" should read "this".

4. On page 28045, in the second column, in the second complete paragraph, in the 13th line, the word "goals" should read "goal".

5. On page 28045, in the second column, the last word at the bottom of the column, "plants" should read "plant".

6. On page 28045, in the third column, in the third complete paragraph, in the 4th line, the last word "have" should read "has", and in the 11th line, the word "need" should read "needed".

7. On page 28046, in the first column, in the fourth paragraph under the C heading, in the 7th line, the word "exceed" should read "exceeds".

8. On page 28046, in the third column, in the second complete paragraph, in the 10th line, the word "estmates" should read "estimates".

9. On page 28047, in the first column, in the second paragraph under **V**, in the 2nd line, the word "goal" should read "goals".

10. On page 28047, in the first column, in the second paragraph under **V**, in the 18th line, the word "guidence" should read "guidance".

11. On page 28047, in the second column, in the 1st line, the word "Sitting" should read "Siting", and in the 2nd line, the word "in" should read "is".

12. On page 28047, in the third column, under General Performance Guideline, in the 2nd line, the phrase "to a low" should read "to an as low".

13. On page 28048, in the second column, in the second paragraph under Commissioner Bernthal's separate views, in the 4th line, place the word "does" between the words "it" and "all".

14. On page 28048, in the second column, in the last paragraph of the column, on the 7th line, the word "options" should read "option".

15. On page 28048, in the third column, in the 2nd line, the term "defense-in-dept" should read "defense-in-depth".

Dated at Bethesda, Maryland, this 14th day of August, 1986.

For the Nuclear Regulatory Commission.

John Philips,

Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration.

[FR Doc. 86–18771 Filed 8–20–86; 8:45 am]

BILLING CODE 7590–01

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10 CFR Part 50

Safety Goals for the Operations of Nuclear Power Plants; Policy Statement; Republication

[**Editorial Note.**—The following document was originally published at page 28044 in the issue of Monday, August 4, 1986. It is being republished in its entirety, with corrections, at the request of the agency.]

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This policy statement focuses on the risks to the public from nuclear power plant operation. Its objective is to establish goals that broadly define an acceptable level of radiological risk. In developing the policy statement, the NRC sponsored two public workshops during 1981, obtained public comments and held four public meetings during 1982, conducted a 2-year evaluation during 1983 to 1985, and received the views of its Advisory Committee on Reactor Safeguards.

The Commission has established two qualitative safety goals which are supported by two quantitative objectives. These two supporting objectives are based on the principle that nuclear risks should not be a significant addition to other societal risks. The Commission wants to make clear that no death attributable to nuclear power plant operation will ever be "acceptable" in the sense that the Commission would regard it as a routine or permissible event. The Commission is discussing acceptable risks, not acceptable deaths.

• The *qualitative safety goals* are as follows:

—Individual members of the public should be provided a level of protection from the consequences of nuclear power plant operation such that individuals bear no significant additional risk to life and health.

—Societal risks to life and health from nuclear power plant operation should be comparable to or less than the risks of generating electricity by viable competing technologies and should not be a significant addition to other societal risks.

• The following *quantitative objectives* are to be used in determining achievement of the above safety goals:

—The risk to an average individual in the vicinity of a nuclear power plant of prompt fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1 percent) of the sum of prompt fatality risks resulting from other accidents to which members of the U.S. population are generally exposed.

—The risk to the population in the area near a nuclear power plant of cancer fatalities that might result from nuclear power plant operation should not exceed one-tenth of one percent

(0.1 percent) of the sum of cancer fatality risks resulting from all other causes.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Merrill Taylor, Regional Operations and Generic Requirements Staff, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301/492–4356).

SUPPLEMENTARY INFORMATION: The following presents the Commission's Final Policy Statement on Safety Goals for the Operation of Nuclear Power Plants:

I. Introduction

A. Purpose and Scope

In its response to the recommendations of the President's Commission on the Accident at Three Mile Island, the Nuclear Regulatory Commission (NRC) stated that it was "prepared to move forward with an explicit policy statement on safety philosophy and the role of safety-cost tradeoffs in the NRC safety decisions." This policy statement is the result.

Current regulatory practices are believed to ensure that the basic statutory requirement, adequate protection of the public, is met. Nevertheless, current practices could be improved to provide a better means for testing the adequacy of and need for current and proposed regulatory requirements. The Commission believes that such improvement could lead to a more coherent and consistent regulation of nuclear power plants, a more predictable regulatory process, a public understanding of the regulatory criteria that the NRC applies, and public confidence in the safety of operating plants. This statement of NRC safety policy expresses the Commission's views on the level of risks to public health and safety that the industry should strive for in its nuclear power plants.

This policy statement focuses on the risks to the public from nuclear power plant operation. These are the risks from release of radioactive materials from the reactor to the environment from normal operations as well as from accidents. The Commission will refer to these risks as the risks of nuclear power plant operation. The risks from the nuclear fuel cycle are not included in the safety goals.

These fuel cycle risks have been considered in their own right and determined to be quite small. They will continue to receive careful consideration. The possible effects of sabotage or diversion of nuclear material are also not presently included in the safety goals. At present there is no basis on which to provide a measure of risk on these matters. It is the Commission's intention that everything that is needed will be done to keep these types of risks at their present very low level; and it is the Commission's expectation that efforts on this point will continue to be successful. With these exceptions, it is the Commission's intent that the risks from all the various initiating mechanisms be taken into account to the best of the capability of current evaluation techniques.

In the evaluation of nuclear power plant operation, the staff considers several types of releases. Current NRC practice addresses the risks to the public resulting from operating nuclear power plants. Before a nuclear power plant is licensed to operate, NRC prepares an environmental impact assessment which includes an evaluation of the radiological impacts of routine operation of the plant and accidents on the population in the region around the plant site. The assessment undergoes public comment and may be extensively probed in adjudicatory hearings. For all plants licensed to operate, NRC has found that there will be no measurable radiological impact on any member of the public from routine operation of the plant. (Reference: NRC staff calculations of radiological impact on humans contained in Final Environmental Statements for specific nuclear power plants; e.g., NUREG–0779, NUREG–0812, and NUREG–0854.)

The objective of the Commission's policy statement is to establish goals that broadly define an acceptable level of radiological risk that might be imposed on the public as a result of nuclear power plant operation. While this policy statement includes the risks of normal operation, as well as accidents, the Commission believes that because of compliance with Federal Radiation Council (FRC) guidance, (40 CFR Part 190), and NRC's regulations (10 CFR Part 20 and Appendix I to Part 50), the risks from routine emissions are small compared to the safety goals. Therefore, the Commission believes that these risks need not be routinely analyzed on a case-by-case basis in order to demonstrate conformance with the safety goals.

B. Development of this Statement of Safety Policy

In developing the policy statement, the Commission solicited and benefited from the information and suggestions provided by workshop discussions. NRC-sponsored workshops were held in Palo Alto, California, on April 1–3, 1981 and in Harpers Ferry, West Virginia, on July 23–24, 1981. The first workshop addressed general issues involved in developing safety goals. The second workshop focused on a discussion paper which presented proposed safety goals. Both workshops featured discussions among knowledgeable persons drawn from industry, public interest groups, universities, and elsewhere, who represented a broad range of perspectives and disciplines.

The NRC Office of Policy Evaluation submitted to the Commission for its consideration a Discussion Paper on Safety Goals for Nuclear Power Plants in November 1981 and a revised safety goal report in July 1982.

The Commission also took into consideration the comments and suggestions received from the public in response to the proposed Policy Statement on "Safety Goals for Nuclear Power Plants," published on February 17, 1982 (47 FR 7023). Following public comment, a revised Policy Statement was issued on March 14, 1983 (48 FR 10772) and a 2-year evaluation period began.

The Commission used the staff report and its recommendations that resulted from the 2-year evaluation of safety goals in developing this final Policy Statement. Additionally, the Commission had benefit of further comments from its Advisory Committee on Reactor Safeguards (ACRS) and by senior NRC management.

Based on the results of this information, the Commission has determined that the qualitative safety goals will remain unchanged from its March 1983 revised policy statement, and the Commission adopts these as its safety goals for the operation of nuclear power plants.

II. Qualitative Safety Goals

The Commission has decided to adopt qualitative safety goals that are supported by quantitative health effects objectives for use in the regulatory decisionmaking process. The Commission's first qualitative safety

goal is that the risk from nuclear power plant operation should not be a significant contributor to a person's risk of accidental death or injury. The intent is to require such a level of safety that individuals living or working near nuclear power plants should be able to go about their daily lives without special concern by virtue of their proximity to these plants. Thus, the Commission's first safety goal is—

Individual members of the public should be provided a level of protection from the consequences of nuclear power plant operation such that individuals bear no significant additional risk to life and health.

Even though protection of individual members of the public inherently provides substantial societal protection, the Commission also decided that a limit should be placed on the societal risks posed by nuclear power plant operation. The Commission also believes that the risks of nuclear power plant operation should be comparable to or less than the risks from other viable means of generating the same quantity of electrical energy. Thus, the Commission's second safety goal is—

Societal risks to life and health from nuclear power plant operation should be comparable to or less than the risks of generating electricity by viable competing technologies and should not be a significant addition to other societal risks.

The broad spectrum of expert opinion on the risks posed by electrical generation by coal and the absence of authoritative data make it impractical to calibrate nuclear safety goals by comparing them with coal risks based on what we know today. However, the Commission has established the quantitative health effects objectives in such a way that nuclear risks are not a significant addition to other societal risks.

Severe core damage accidents can lead to more serious accidents with the potential for life-threatening offsite release of radiation, for evacuation of members of the public, and for contamination of public property. Apart from their health and safety consequences, severe core damage accidents can erode public confidence in the safety of nuclear power and can lead to further instability and unpredictability for the industry. In order to avoid these adverse consequences, the Commission intends to continue to pursue a regulatory program that has as its objective providing reasonable assurance, while giving appropriate consideration to the uncertainties involved, that a severe core damage accident will not occur at a U.S. nuclear power plant.

III. Quantitative Objectives Used To Gauge Achievement of The Safety Goals

A. General Considerations

The quantitative health effects objectives establish NRC guidance for public protection which nuclear plant designers and operators should strive to achieve. A key element in formulating a qualitative safety goal whose achievement is measured by quantitative health effects objectives is to understand both the strengths and limitations of the techniques by which one judges whether the qualitative safety goal has been met.

A major step forward in the development and refinement of accident risk quantification was taken in the Reactor Safety Study (WASH–1400) completed in 1975. The objective of the Study was "to try to reach some meaningful conclusions about the risk of nuclear accidents." The Study did not directly address the question of what level of risk from nuclear accidents was acceptable.

Since the completion of the Reactor Safety Study, further progress in developing probabilistic risk assessment and in accumulating relevant data has led to a recognition that it is feasible to begin to use quantitative safety objectives for limited purposes. However, because of the sizable uncertainties still present in the methods and the gaps in the data base—essential elements needed to gauge whether the objectives have been achieved—the quantitative objectives should be viewed as aiming points or numerical benchmarks of performance. In particular, because of the present limitations in the state of the art of quantitatively estimating risks, the quantitative health effects objectives are not a substitute for existing regulations.

The Commission recognizes the importance of mitigating the consequences of a core-melt accident and continues to emphasize features such as containment, siting in less populated areas, and emergency planning as integral parts of the defense-in-depth concept associated with its accident prevention and mitigation philosophy.

B. Quantitative Risk Objectives

The Commission wants to make clear at the beginning of this section that no death attributable to nuclear power plant operation will ever be "acceptable" in the sense that the Commission would regard it as a routine or permissible event. We are discussing acceptable risks, not acceptable deaths. In any fatal accident, a course of conduct posing an acceptable risk at one moment results in an unacceptable death moments later. This is true whether one speaks of driving, swimming, flying or generating electricity from coal. Each of these activities poses a calculable risk to society and to individuals. Some of those who accept the risk (or are part of a society that accepts risk) do not survive it. We intend that no such accidents will occur, but the possibility cannot be entirely eliminated. Furthermore, individual and societal risks from nuclear power plants are generally estimated to be considerably less than the risk that society is now exposed to from each of the other activities mentioned above.

C. Health Effects—Prompt and Latent Cancer Mortality Risks

The Commission has decided to adopt the following two health effects as the quantitative objectives concerning mortality risks to be used in determining achievement of the qualitative safety goals—

- *The risk to an average individual in the vicinity of a nuclear power plant of prompt fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1 percent) of the sum of prompt fatality risks resulting from other accidents to which members of the U.S. population are generally exposed.*
- *The risk to the population in the area near a nuclear power plant of cancer fatalities that might result from nuclear power plant operation should not exceed one-tenth of one percent (0.1 percent) of the sum of cancer fatality risks resulting from all other causes.*

The Commission believes that this ratio of 0.1 percent appropriately reflects both of the qualitative goals—to provide that individuals and society bear no significant additional risk. However, this does not necessarily mean that an additional risk that exceeds 0.1 percent would by itself constitute a significant additional risk. The 0.1 percent ratio to other risks is low enough to support an expectation that people living or working near nuclear power plants would have no special concern due to the plant's proximity.

The average individual in the vicinity of the plant is defined as the average individual biologically (in terms of age and other risk factors) and locationally who resides within a mile from the plant site boundary. This means that the average individual is found by accumulating the estimated individual

risks and dividing by the number of individuals residing in the vicinity of the plant.

In applying the objective for individual risk of prompt fatality, the Commission has defined the vicinity as the area within 1 mile of the nuclear power plant site boundary, since calculations of the consequences of major reactor accidents suggest that individuals within a mile of the plant site boundary would generally be subject to the greatest risk of prompt death attributable to radiological causes. If there are no individuals residing within a mile of the plant boundary, an individual should, for evaluation purposes, be assumed to reside 1 mile from the site boundary.

In applying the objective for cancer fatalities as a population guideline for individuals in the area near the plant, the Commission has defined the population generally considered subject to significant risk as the population within 10 miles of the plant site. The bulk of significant exposures of the population to radiation would be concentrated within this distance, and thus this is the appropriate population for comparison with cancer fatality risks from all other causes. This objective would ensure that the estimated increase in the risk of delayed cancer fatalities from all potential radiation releases at a typical plant would be no more than a small fraction of the year-to-year normal variation in the expected cancer deaths from nonnuclear causes. Moreover, the prompt fatality objective for protecting individuals generally provides even greater protection to the population as a whole. That is, if the quantitiative objective for prompt fatality is met for individuals in the immediate vicinity of the plant, the estimated risk of delayed cancer fatality to persons within 10 miles of the plant and beyond would generally be much lower than the quantitative objective for cancer fatality. Thus, compliance with the prompt fatality objective applied to individuals close to the plant would generally mean that the aggregate estimated societal risk would be a number of times lower than it would be if compliance with just the objective applied to the population as a whole were involved. The distance for averaging the cancer fatality risk was taken as 50 miles in the 1983 policy statement. The change to 10 miles could be viewed to provide additional protection to individuals in the vicinity of the plant, although analyses indicate that this objective for cancer fatality will not be the controlling one. It also provides more representative societal protection, since the risk to the people beyond 10 miles will be less than the risk to the people within 10 miles.

IV. Treatment of Uncertainties

The Commission is aware that uncertainties are not caused by use of quantitative methodology in decisionmaking but are merely highlighted through use of the quantification process. Confidence in the use of probabilistic and risk assessment techniques has steadily improved since the time these were used in the Reactor Safety Study. In fact, through use of quantitative techniques, important uncertainties have been and continue to be brought into better focus and may even be reduced compared to those that would remain with sole reliance on deterministic decisionmaking. To the extent practicable, the Commission intends to ensure that the quantitative techniques used for regulatory decisionmaking take into account the potential uncertainties that exist so that an estimate can be made on the confidence level to be ascribed to the quantitative results.

The Commission has adopted the use of mean estimates for purposes of implementing the quantitative objectives of this safety goal policy (i.e., the mortality risk objectives). Use of the mean estimates comports with the customary practices for cost-benefit analyses and it is the correct usage for purposes of the mortality risk comparisons. Use of mean estimates does not however resolve the need to quantify (to the extent reasonable) and understand those important uncertainties involved in the reactor accident risk predictions. A number of uncertainties (e.g., thermal-hydraulic assumptions and the phenomenology of core-melt progression, fission product release and transport, and containment loads and performance) arise because of a direct lack of severe accident experience or knowledge of accident phenomenology along with data related to probability distributions.

In such a situation, it is necessary that proper attention be given not only to the range of uncertainty surrounding probabilistic estimates, but also to the phenomenology that most influences the uncertainties. For this reason, sensitivity studies should be performed to determine those uncertainties most important to the probabilistic estimates. The results of sensitivity of studies should be displayed showing, for example, the range of variation together with the underlying science or engineering assumptions that dominate this variation. Depending on the decision needs, the probabilistic results should also be reasonably balanced and supported through use of deterministic arguments. In this way, judgements can be made by the decisionmaker about the degree of confidence to be given to these estimates and assumptions. This is a key part of the process of determining the degree of regulatory conservatism that may be warranted for particular decisions. This defense-in-depth approach is expected to continue to ensure the protection of public health and safety.

V. Guidelines For Regulatory Implementation

The Commission approves use of the qualitative safety goals, including use of the quantitative health effects objectives in the regulatory decisionmaking process. The Commission recognizes that the safety goal can provide a useful tool by which the adequacy of regulations or regulatory decisions regarding changes to the regulations can be judged. Likewise, the safety goals could be of benefit in the much more difficult task of assessing whether existing plants, designed, constructed and operated to comply with past and current regulations, conform adequately with the intent of the safety goal policy.

However, in order to do this, the staff will require specific guidelines to use as a basis for determining whether a level of safety ascribed to a plant is consistent with the safety goal policy. As a separate matter, the Commission intends to review and approve guidance to the staff regarding such determinations. It is currently envisioned that this guidance would address matters such as plant performance guidelines, indicators for operational performance, and guidelines for conduct of cost-benefit analyses. This guidance would be derived from additional studies conducted by the staff and resulting in recommendations to the Commission. The guidance would be based on the following general performance guideline which is proposed by the Commission for further staff examination—

Consistent with the traditional defense-in-depth approach and the accident mitigation philosophy requiring reliable performance of containment systems, the overall mean frequency of a large release of radioactive materials to the environment from a reactor accident should be less than 1 in 1,000,000 per year of reactor operation.

To provide adequate protection of the public health and safety, current NRC regulations require conservatism in design, construction, testing, operation

and maintenance of nuclear power plants. A defense-in-depth approach has been mandated in order to prevent accidents from happening and to mitigate their consequences. Siting in less populated areas is emphasized. Furthermore, emergency response capabilities are mandated to provide additional defense-in-depth protection to the surrounding population.

These safety goals and these implementation guidelines are not meant as a substitute for NRC's regulations and do not relieve nuclear power plant permittees and licensees from complying with regulations. Nor are the safety goals and these implementation guidelines in and of themselves meant to serve as a sole basis for licensing decisions. However, if pursuant to these guidelines, information is developed that is applicable to a particular licensing decision, it may be considered as one factor in the licensing decision.

The additional views of Commissioner Asselstine and the separate views of Commissioner Bernthal are attached.

Dated at Washington, DC, this 30th day of July 1986.

For the Nuclear Regulatory Commission.

Lando W. Zech, Jr.,

Chairman.

Additional Views by Commissioner Asselstine on the Safety Goal Policy Statement

The commercial nuclear power industry started rather slowly and cautiously in the early 1960's. By the late 1960's and early 1970's the growth of the industry reached a feverish pace. New orders were coming in for regulatory review on almost a weekly basis. The result was the designs of the plants outpaced operational experience and the development of safety standards. As experience was gained in operational characteristics and in safety reviews, safety standards were developed or modified with a general trend toward stricter requirements. Thus, in the early 1970's, the industry demanded to know "how safe is safe enough." In this Safety Goal Policy Statement, the Commission is reaching a first attempt at answering the question. Much credit should go to Chairman Palladino's efforts over the past 5 years to develop this policy statement. I approve this policy statement but believe it needs to go further. There are four additional aspects which should have been addressed by the policy statement.

Containment Performance

First, I believe the Commission should have developed a policy on the relative emphasis to be given to accident prevention and accident mitigation. Such guidance is necessary to ensure that the principle of defense-in-depth is maintained. The Commission's Advisory Committee on Reactor Safeguards has repeatedly urged the Commission to do so. As a step in that direction, I offered for Commission consideration the following containment performance criterion:

> In order to assure a proper balance between accident prevention and accident mitigation, the mean frequency of containment failure in the event of a severe core damage accident should be less than 1 in 100 severe core damage accidents.

Since the Chernobyl accident, the nuclear industry has been trying to distance itself from the Chernobyl accident on the basis of the expected performance of the containments around the U.S. power reactors. Unfortunately, the industry and the Commission are unwilling to commit to a level of performance for the containments.

The argument has been made that we do not know how to develop containment performance criteria (accident mitigation) because core meltdown phenomena and containment response thereto are very complex and involve substantial uncertainties. On the other hand, to measure how close a plant comes to the quantitative guidelines contained in this policy statement and to perform analyses required by the Commission's backfit rule, one must perform just those kinds of analyses. I find these positions inconsistent.

The other argument against a containment performance criterion is that such a standard would overspecify the safety goal. However, a containment performance objective is an element of ensuring that the principle of defense-in-depth is maintained. Since we cannot rule out core meltdown accidents in the foreseeable future, given the current level of safety, I believe it unwise not to establish an expectation on the performance of the final barrier to a substantial release of radioactive materials to the environment, given a core meltdown.

General Performance Guideline

While I have previously supported an objective of reducing the risks to an as low as reasonably achievable level, the general performance guideline articulated in this policy (i.e., ". . . the overall mean frequency of a large release of radioactive materials to the environment from a reactor accident should be less than 1 in 1,000,000 per year of reactor operation.") is a suitable compromise. I believe it is an objective that is consistent with the recommendations of the Commission's chief safety officer and our Director of Research, and past urgings of the Advisory Committee on Reactor Safeguards. Unfortunately, the Commission stopped short of adopting this guideline as a performance objective in the policy statement, but I am encouraged that the Commission is willing at least to examine the possibility of adopting it. Achieving such a standard coupled with the containment performance objective given above would go a long way toward ensuring that the operating reactors successfully complete their useful lives and that the nuclear option remains a viable component of the nation's energy mix.

In addition to preferring adoption of this standard now, I also believe the Commission needs to define a "large release" of radioactive materials. I would have defined it as "a release that would result in a whole body dose of 5 rem to an individual located at the site boundary." This would be consistent with the EPA's emergency planning Protective Action Guidelines and with the level proposed by the NRC staff for defining an Extraordinary Nuclear Occurrence under the Price-Anderson Act. In adopting such a definition, the Commission would be saying that its objective is to ensure that there is no more than a 1 in 1,000,000 chance per year that the public would have to be evacuated from the vicinity of a nuclear reactor and that the waiver of defenses provisions of the Price-Anderson Act would be invoked. I believe this to be an appropriate objective in ensuring that there is no undue risk to the public health and safety associated with nuclear power.

Cost-Benefit Analyses

I believe it is long overdue for the Commission to decide the appropriate way to conduct cost-benefit analyses. The Commission's own regulations require these analyses, which play a substantial role in the decisionmaking on whether to improve safety. Yet, the Commission continues to postpone addressing this fundamental issue.

Future Reactors

In my view, this safety goal policy statement has been developed with a steady eye on the apparent level of safety already achieved by most of operating reactors. That level has been arrived at by a piecemeal approach to designing, constructing and upgrading of the plants over the years as experience

was gained with the plants and as the results of required research became available. Given the performance of the current generation of plants, I believe a safety goal for these plants is not good enough for the future. This policy statement should have had a separate goal that would require substantially better plants for the next generation. To argue that the level of safety achieved by plant designs that are over 10 years old is good enough for the next generation is to have little faith in the ingenuity of engineers and in the potential for nuclear technology. I would have required the next generation of plants to be substantially safer than the currently operating plants.

Separate Views of Commissioner Bernthal on Safety Goals Policy

I do not disapprove of what has been said in this policy statement, but too much remains unsaid. The public is understandably desirous of reassurance since Chernobyl; the NRC staff needs clear guidance to carry out its responsibilities to assure public health and safety; the nuclear industry needs to plan for the future. All want and deserve to see clear, unambiguous, practical safety objectives that provide the Commission's answer to the question, "How safe is safe enough?" at U.S. nuclear power plants. The question remains unanswered.

It is unrealistic for the Commission to expect that society, for the foreseeable future, will judge nuclear power by the same standard as it does all other risks. The issue today is not so much calculated risk; the issue is public acceptance and, consistent with the intent of Congress, preservation of the nuclear option.

In these early decades of nuclear power, TMI-style incidents must be rendered so rare that we would expect to recount such an event only to our grandchildren. For today's population of reactors, that implies a probability for severe core damage of 10^{-4} per reactor year; for the longer term, it implies something better. I see this as a straightforward policy conclusion that every newspaper editor in the country understands only too well. If the Commission fails to set (and realize) this objective, then the nuclear option will cease to be credible before the end of the century. In other words, if TMI-style events were to occur with 10–15 year regularity, public acceptance of nuclear power would almost certainly fail.

And while the Commission's primary charge is to protect public health and safety, it is also the clear intent of Congress that the Commission, if possible, regulate in a way that preserves rather than jeopardizes the nuclear option. So, for example, if the Commission were to find 100 percent confidence in some impervious containment design, but ignored what was inside the containment, the primary mandate would be satisfied, but in all likelihood, the second would not. Consistent with the Commission's long-standing defense-in-depth philosophy, both core-melt and containment performance criteria should therefore be clearly stated parts of the Commission's safety goals.

In short, this pudding lacks a theme. Meaningful assurance to the public; substantive guidance to the NRC staff; the regulatory path to the future for the industry—all these should be provided by plainly stating that, consistent with the Commission's "defense-in-depth" philosophy:

(1) Severe core-damage accidents should not be expected, on average, to occur in the U.S. more than once in 100 years;

(2) Containment performance at nuclear power plants should be such that severe accidents with substantial offsite damages are not expected, on average, to occur in the U.S. more than once in 1,000 years;

(3) The goal for offsite consequences should be expected to be met after conservative consideration of the uncertainties associated with the estimated frequency of severe core-damage and the estimated mitigation thereof by containment.[1]

The term "substantial offsite damages" would correspond to the Commission's legal definition of "extraordinary nuclear occurrence." "Conservative consideration of associated uncertainties" should offer at least 90 percent confidence (typical good engineering judgment, I would hope) that the offsite release goal is met.

The broad core-melt and offsite-release goals should be met "for the average power plant"; i.e., for the aggregate of U.S. power plants. The decision to fix or not to fix a specific plant would then depend on achieving "the goal for offsite consequences." As a practical matter, this offsite societal risk objective would (and should) be significantly dependent on site-specific population density.

The absence of such explicit population density considerations in the Commission's 0.1 percent goals for offsite consequences deserves careful thought. Is it reasonable that Zion and Palo Verde, for example, be assigned the same theoretical "standard person" risk, even though they pose considerably different risks for the U.S. population as a whole? As they stand, these 0.1 percent goals do not explicitly include population density considerations; a power plant could be located in Central Park and still meet the Commission's quantitative offsite release standard.

I believe the Commission's standards should preserve the important principle that site-specific population density be quantitatively considered in formulating the Commission's societal risk objective; e.g., by requiring that for the *entire* U.S. population, the risk of fatal injury as a consequence of U.S. nuclear power plant operations should not exceed some appropriate specified fraction of the sum of the expected risk of fatality from all other hazards to which members of the U.S. population are generally exposed.

I am further concerned by the arbitrary nature of the 0.1 percent incremental "societal" health risk standard adopted by the Commission, a concept grounded in a purely subjective assessment of what the public might accept. The Commission should seriously consider a more rational standard, tied statistically to the average variations in natural exposure to radiation from all other sources.

Finally, as noted in its introductory comments, the Commission long ago committed to "move forward with an explicit policy statement on safety philosophy and the role of safety-cost tradeoffs in NRC safety decisions." While this policy statement may not be very "explicit", as discussed above, it contains nothing at all on the subject of " 'safety-cost' tradeoffs in NRC safety decisions." For example, *is* $1,000 per person-rem an appropriate cost-benefit standard for NRC regulatory action? While I have long argued that such fundamental decisions are more rightly the responsibility of Congress, the NRC staff continues to use its own ad-hoc judgment in lieu of either the Commission or the Congress speaking to the issue.

In summary, while the Commission has produced a document which is not in conflict with my broad philosophy in such matters, I doubt that the public expected a philosophical dissertation, however erudite. It is a tribute to Chairman Palladino's efforts that the Commission has come this far. But the task remains unfinished.

[FR Doc. 86–17496 Filed 8–1–86; 8:45 am]

BILLING CODE 7590–01–M

[1] Interestingly enough, the Commission has adopted proposed goals similar to the above core-melt and containment performance objectives—without clearly saying so. Taken together, the Commission's: (1) 0.1 percent offsite prompt fatality goals; (2) proposed 10^{-6} per-reactor-year "large offsite release" criterion; (3) commitment "to provide reasonable assurance . . . that a severe core-damage accident will not occur at a U.S. nuclear power plant," though they may be ill-defined, can be read to be more stringent than the plainly stated criteria suggested above.

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Part III

Department of Labor

Wage and Hour Division, Employment Standards Administration

29 CFR Part 530

Employment of Homeworkers in Certain Industries; Notice of Proposed Rulemaking

BEST COPY AVAILABLE

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 530

Employment of Homeworkers in Certain Industries

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides a notice of proposed rulemaking on restrictions affecting the employment of industrial homeworkers in certain industries under section 11(d) of the Fair Labor Standards Act (FLSA). Under this proposal, any employer who would employ any homeworker in six currently restricted industries would be required to first obtain a certificate from the Department of Labor (the Department) authorizing such employment. Any such employer who did not first obtain a certificate could not legally employ any homeworkers (other than those homeworkers issued special certificates under certain specified conditions) and would be subject to the existing restrictions and sanctions provided by the FLSA .

DATE: Comments are due on or before October 20, 1986.

ADDRESS: Submit comments to Paula V. Smith, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8305. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

Background

Statutory Provisions and Homework Regulations

Section 11(d) of the FLSA provides that the Secretary of Labor is "authorized to make such regulations and orders regulating, restricting or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act." Pursuant to this authority, the Secretary has issued regulations, published as Part 530 of Title 29 of the Code of Federal Regulations. As originally issued in the 1940's, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry manufacturing; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. Homework in other industries has not been restricted. The regulations essentially provide that the production of goods in these restricted industries may not be carried on by employees in or about a home, apartment, tenement, or room in a residential establishment except by a certified homeworker. Under specified conditions, an employer may obtain a certificate for employees who are unable to adjust to factory work because of age or physical or mental disability or who are unable to leave home because their presence is required to care for an invalid there. Individuals may also be employed as industrial homeworkers in the restricted industries under the supervision of a sheltered workship without obtaining a certificate under Part 530.

Final Rule Establishing a Certification System in Knitted Outerwear Industry Effective December 5, 1984

In 1980, in light of the fact that the homework regulations had been in effect for almost 40 years without substantive revision, the Department undertook a review of the status of industrial homework. The Department published a proposal in the Federal Register on May 5, 1981 (46 FR 25166) to remove the existing restrictions on homework in all seven industries. On October 9, 1981, after reviewing the entire record, the Department issued a final rule rescinding the restrictions on the employment of homeworkers in the knitted outerwear industry only (46 FR 50368).

This rulemaking action was challenged in court by the International Ladies' Garment Workers' Union (ILGWU), various knitgoods manufacturers, the New York and California State Labor Commissioners, and others who sought to enjoin the rescission. The United States District Court for the District of Columbia upheld the rule. However, on November 29, 1983, the Court of Appeals for the District of Columbia Circuit vacated the rescission of the restriction and remanded the case to the district court resulting in the reinstatement of restrictions in the knitted outerwear industry on May 23, 1984.

The Court of Appeals ruled that the final rule had been promulgated in violation of the Administrative Procedure Act, in that the Department had failed to articulate adequately the reasons for its action (*ILGWU* v. *Donovan*, 722 F.2d 795 (D.C. Cir. 1983)). The court was concerned that the Department had failed to consider alternatives to the complete lifting of the ban, and that the record lacked factual support for the Department's assertion that an effective enforcement program would be feasible if the ban were lifted. In this connection, the court focused on four factors which arguably rendered the enforcement of the minimum wage for homeworkers difficult or impossible:

1. Difficulty of locating and identifying homeworkers;
2. Inadequate or nonexistent recordkeeping by employers and employees;
3. Strain on departmental resources required by excessive investigative time in homework cases; and
4. Difficulty in recovering back wages when violations were discovered.

Thereafter, the Department published a proposal on March 27, 1984 (49 FR 11786) to repromulgate a permanent rule rescinding the restrictions in knitted outerwear, and solicited comments on various alternatives to total rescission. A second comment period was announced on June 22, 1984 (49 FR 25641) inviting comments on the alternatives to total rescission, and in particular comments pertaining to licensing/registration of employers of industrial homeworkers.

On March 27, 1984, the Department also promulgated an "emergency" rule (49 FR 11792) temporarily rescinding the restrictions on homework in knitted outerwear for 120 days, to avoid potential disruption to homeworkers while the new rulemaking was pending. On May 8, 1984, the District Court ruled that the emergency rule was invalid, and ordered that it be rescinded forthwith.

On November 5, 1984, a final rule was published in the Federal Register (49 FR 44232) which permits the use of homeworkers in the knitted outerwear industry, provided the employer first obtains a certificate from the Department. Those knitted outerwear employers who do not obtain such certificates remain subject to the ban on homework and to the same restrictions applicable in the case of the other six restricted industries. The authority of the Department to promulgate this regulation was never challenged.

Inconsistencies in Current Regulations

Except for the 1961 and 1984 revisions to the homework regulations for the knitted outerwear industry, these

regulations have not been substantively changed since the early 1940s. The theory behind these regulations was that people working in their homes in these industries would invariably be abused through denial of federally mandated minimum wages. We know, today, however, that the prohibition on homework in these industries did not prevent homework from being done in them or prevent wage abuse of workers. We believe the prohibition on homework merely prevented homeworkers from reporting wage violations because reporting such violations would result in the loss of homework employment opportunity.

Today, we also know that many individuals prefer and choose to work at home instead of in a factory for a variety of personal reasons. These reasons include the desire to be at home to care for their children; an inability to afford the costs of employment outside the home including child care, clothing, transportation, and meals; a lack of transportation or difficulty in commuting to a factory; and a desire to work part-time and/or to be able to set their own work schedule. These individuals not only prefer to work at home, but consider the ability to work at home their right.

In the 1980s homework is being performed by men and women in a variety of industries throughout the country. Yet, homework remains prohibited in only six specific industries by regulations that have not been substantively changed since the 1940s.

The current regulations prohibit the manufacture at home of certain articles while other similar articles may be manufactured at home without restrictions. Men's apparel can be producted by a homeworker, while women's apparel cannot be produced at home. Bathrobes can be produced at home but housecoats cannot. Women's ski suits may be made at home, but infants ski suits may not. Leather watch straps can be produced at home while metal watch straps cannot. Golf gloves can be produced at home while work gloves cannot. Metal buttons can be produced at home while wooden buttons cannot. And, under the present certification system, a homeknitter whose employer has obtained a certificate may knit sweaters and hats at home, but may not knit mittens. The extension of the certification system to the remaining six industries would alleviate these inequities and inconsistencies in the current regulations.

Petitions To Lift the Remaining Restriction on Homework

Since the implementation of the certification system, the Department has received several petitions requesting amendment of Regulations Part 530 to rescind the remaining restrictions on homework.

On July 2, 1985, the President of Maine Brand Manufacturing, Inc., Houlton, Maine petitioned the Department to rescind the restrictions in the gloves and mittens industry.

On March 13, 1986, the Director of The Center on National Labor Policy also petitioned the Department to lift the restrictions in the gloves and mittens industry. He requested that the Department issue a regulation under the "emergency temporary rulemaking" procedures to protect homeworkers employed by the Tom Thumb Glove Co., Wilkesboro, North Carolina who may lose their jobs if the restrictions are not lifted.

On May 7, 1986, Congressman Stephen L. Neal forwarded a petition to the Secretary signed by 884 of his constituents in the Wilkesboro, North Carolina, area. The petition urged the lifting of all the restrictions on homework and cited the economic hardship these regulations are causing in the 5th Congressional District of North Carolina. The Department also received two other petitions with a total of 609 signatures, urging a rescission of all the restrictions on homework.

Opposition To Lifting the Remaining Restrictions on Homework

The ILGWU is strongly opposed to any further attempts to lift the restrictions on homework. When the Department published its existing rule permitting homework in the knitted outerwear industry under a certification system, the ILGWU stated it would not challenge the rule in court, but would view the new system as an experiment. The ILGWU stated it would closely monitor the enforcement experience of the Department for 12 to 24 months to give the Department a reasonable period of time to demonstrate that the certification system was a viable alternative to an outright ban on homework.

Between March 1984, and July 1986, the Department responded to several extensive requests under the Freedom of Information Act (FOIA) from the ILGWU and provided nearly 6750 pages of documents related to the homework enforcement program, particularly in the knitted outerwear industry.

In three meetings with the Department staff on April 14, 1986, June 12, 1986, and July 10, 1986, the ILGWU stated its opposition to any further deregulation of homework, and its contention that the enforcement effort to date in the knitted outerwear industry had been ineffective.

In addition to the ILGWU, other garment industry unions and manufacturer associations in the knitted outerwear and other restricted industries have expressed their opposition to deregulation of homework, although none of these parties formally challenged the present rule. The Amalgamated Clothing and Textile Workers Union (AFL–CIO) has joined the ILGWU in its opposition to extension of the certification system to other restricted industries, particularly the gloves and mittens industry.

Enforcement Experience in Knitted Outerwear Industry

The knitted outerwear certification program has been in place since December 1984. After 17 months, 58 certificates have been requested, of which 56 have been granted. Two employers were not issued certificates because of investigations revealing monetary and recordkeeping violations of the FLSA. In one of these cases, litigation has been instituted, and the other case is currently being considered for litigation. One certificate was revoked because of the firm's refusal to pay back wages due its employees.

All employers of homeworkers in the knitted outerwear industry who were issued certificates to employ homeworkers have been scheduled for investigation within 60 days of certification. During the 17 month period investigations were completed of 37 of the 58 firms which requested certificates. Seventeen firms requesting certificates were not investigated because they did not currently employ homeworkers covered by the FLSA. Investigations of the remaining firms were still in process.

Upon completion of the initial investigation, a reinvestigation of each employer has been scheduled for a future date not to exceed one year from the first investigation. Reinvestigations of four certified employers were completed as of April 30, 1986. These employers were found to be in compliance with the monetary provisions of the FLSA and three of the four have corrected the specific recordkeeping violations found in the initial investigations.

These investigations have been undertaken pursuant to the Department's enforcement program established specifically to assure FLSA protections for homeworkers in the

knitted outerwear industry. Under this enforcement program, the Department has closely monitored the certification system, and has provided extensive guidance and instructions to its compliance staff on the handling of investigations of certified and uncertified employers. The importance of the homework enforcement program has been continually emphasized in management conferences and staff meetings. The Field Operations Handbook (FOH), used by all Wage and Hour Division compliance staff has been regularly revised and updated to provide specific instructions regarding FLSA enforcement under the certification system. Included in these FOH instructions are detailed definitions of the knitted outerwear and other restricted industries; instructions regarding review of certificates and the conduct of time studies; a detailed listing of homeworker employer recordkeeping requirements; instructions on investigation leads; and special instructions for investigations of firms in the knitted outerwear industry.

The enforcement experience in knitted outerwear has demonstrated the effectiveness of the certification program in improving the Department's ability to enforce the FLSA and in fostering FLSA compliance. During the pre-certification period of October 1981 through December 1984, 18 of 58 (36 percent) knitted outerwear homeworker investigations disclosed monetary violations which averaged $1,000 in back wages due per underpaid worker. By contrast, during the period of December 1984 through April 1986, 19 of 44 knitted outerwear homeworker investigations (43 percent) revealed monetary violations. Significantly, only 5 of 35 (14 percent) investigations of certified employers of knitted outerwear homeworkers disclosed monetary violations which averaged only $340 in back wages due per underpaid worker. The 14 percent violation rate for certified employers of knitted outerwear homeworkers since the certification process has been in place is extremely low in comparison with the results of all Wage-Hour investigations, which, although primarily based on complaints, historically disclose back wages due employees in 60 percent of the cases. The traditional pattern of back wage violations affecting homeworkers in the other (non-knitted outerwear) restricted industries has continued during the period of certification. Investigations of 123 firms using homeworkers in the other restricted industries that were completed between December 1984 through April 1986 disclosed back wages due employees in 44 (36 percent) of the cases, with an average underpayment of $340 per worker.

While 27 of the 35 (77 percent) certified employers investigated were in violation of one or more FLSA recordkeeping requirements, three out of the four employers for which reinvestigations were completed by April 30, 1986, had corrected the recordkeeping violations found in the initial investigation. It is important to note that the recordkeeping requirements for employers of homeworkers are much more stringent than the recordkeeping requirements for other employers subject to the FLSA. In addition to the records required of all employers who have employees subject to the FLSA minimum wage (including a record of daily and weekly hours worked), an employer of homeworkers must maintain records containing the following information for each and every homeworker employed:

(1) With respect to each lot of work:

(i) Date on which work is given out to worker, or begun by worker, and amount of such work given out or begun.

(ii) Date on which work is turned in by worker, and amount of such work.

(iii) Kind of articles worked on and operations performed.

(iv) Piece rates paid.

(v) Hours worked on each lot of work turned in.

(vi) Wages paid for each lot of work turned in.

(vii) Date of wage payment and pay period covered by payment.

(2) With respect to any agent, distributor, or contractor: The name and address of each such agent, distributor, or contractor through whom homework is distributed or collected and name and address of each homeworker to whom homework is distributed or from whom it is collected by each such agent, distributor, or contractor.

In addition, an employer of homeworkers must:

(1) Maintain homeworker handbooks for each homeworker;

(2) Distribute such handbooks to each homeworker employed;

(3) Assure that the required entries are made in the handbooks;

(4) See that the handbook remains in the possession of the homeworker until such time as the handbook is filled or the homeworker is no longer employed;

(5) Retain filled handbooks and those of former homeworkers for the required 2-year period.

All but one of the 27 employers with recordkeeping violations agreed to future compliance with these requirements. One employer refused to pay back wages due and stated she would no longer employ homeworkers. This employer's certificate was revoked.

The Department did not consider it appropriate to revoke the certificates of employers who, in the first investigation, were found to be in violation of one or more of the recordkeeping requirements. However, as a result of the high rate of recordkeeping violations in initial investigations, the Department has accelerated its enforcement efforts by scheduling reinvestigations of these employers within three months of the first investigation. Any employer who does not correct the recordkeeping or other violations found in the initial investigation will be subject to certificate revocation.

Thus, the Department's enforcement experience in the knitted outerwear industry demonstrates that the certification system has resulted in increased FLSA compliance in this industry, including compliance with the recordkeeping requirements.

In the first seventeen months of the certification program, the increased willingness of employers and homeworkers in the knitted outerwear industry to identify themselves has resolved a major obstacle to effective FLSA enforcement which existed prior to the certification program, namely, the difficulty of locating homeworkers and obtaining their cooperation in investigations. The ability of the Department to locate homeworkers under this program is demonstrated by the identification and investigation over the period December 1984—April 1986 of 44 knitted outerwear employers (36 certified and 9 noncertified employers) employing approximately 665 homeworkers during the first seventeen months of the certification program. The number of knitted outerwear employers investigated in the years from 1983 to 1984 prior to the certification system ranged from 8 to 28 annually.

As previously indicated, two applicants did not receive certificates, and these cases have been referred for consideration of litigation. The remaining seven noncertified employers in the knitted outerwear industry were advised of the requirement to obtain a certificate if they wished to employ homeworkers in the future. Two of these employers have gone out of business, and one employer is in a State which bans homework (Johnson Cassette), and was informed by the State that homework was illegal. The remaining four employers agreed to apply for a certificate should they wish to employ homeworkers. The Department has

scheduled reinvestigations of these employers.

Through investigations of certified employers, five leads were obtained identifying employers of homeworkers. One of these is among the 35 certified employers. The remaining four were being investigated or were scheduled for investigation as of April 30, 1986.

The certification program in knitted outerwear was implemented to permit law-abiding employers to employ homeworkers who want or need to work in their homes and to enable the Department to effectively enforce the FLSA with respect to such homeworkers. An informal telephone survey in May 1986 reflects that approximately 500 homeworkers are currently employed by certified knitted outerwear employees, at an estimated total annual payroll of over $3 million. It appears that these 500 homeworkers represent a sizable portion of the universe of homeworkers in the knitted outerwear industry. In the 1981 hearings, the testimony regarding estimates of the number of homeworkers in the industry indicated that there were fewer than 1000 homeworkers nationwide. In 1985, at the request of the Department, the Census Bureau prepared a Work at Home Tabulation based on the 1980 census which indicated there were less then 636 homeworkers in the knitted outerwear industry.

The experience under the knitted outerwear certification program has demonstrated that this program is an acceptable alternative to a total ban on the use of homeworkers in promoting FLSA compliance.

Increased Homeworker Enforcement Efforts

Since 1981, the Department has conducted a concerted compliance effort to detect violations of the FLSA among homeworkers. As part of this effort, the Department has given priority to investigating all complaints received involving homework and it has actively sought to ensure that homework activity, wherever it occurs, is in compliance with the FLSA. Between October 1981, and April 30, 1986, 1442 investigations of employees utilizing homeworkers were conducted, as compared with approximately 75 to 80 such investigations during the entire previous six-year period.

The Department is fully committed to maintaining a strong and effective FLSA enforcement program in industries utilizing homeworkers and will continue to provide a sufficient level of resources to insure the accomplishment of this goal.

It is the Department's view that the existing prohibition against homework in the remaining restricted industries has been counterproductive. Of prime significance is the fact that a ban on homework reduces an employee's incentive to file a complaint regarding minimum wage violations, since a successful complaint may lead to a loss of the homeworker's job. Unlike a certification system, a ban provides no alternative basis for identifying those firms employing homeworkers. Also, homework firms operating in the restricting industries are operating in violation of the law simply by employing homeworkers. Thus, these firms have little incentive to comply with the FLSA wage provisions, since, in any event, their very existence violates the FLSA, and if found by the Department, their homework operations must be discontinued regardless of any minimum wage or overtime pay violations.

The Department has carefully reviewed its experience with the certification system in the knitted outerwear industry which has been in effect since December 5, 1984, and believes that the FLSA can be effectively enforced under this system while allowing persons employed in this type of work the same basic freedom to work at home that is allowed to almost all other workers. Accordingly, the Department proposes to apply the same certification procedure to the remaining restricted industries.

Interest in Removing Remaining Restrictions on Homework

Since the implementation of the certification system in the knitted outerwear industry the Department has received five petitions with 1483 signatures requesting further deregulation of homework, as well as over 400 letters from individuals and organizations urging that the remaining homework restrictions be lifted. Among the reasons for wishing to work at home cited by employees are: the desire to be at home to care for their children; their inability to afford the costs of child care, transportation, clothing, and meals, if they had to work in a factory; the lack of transportation or the difficulty in commuting from their homes to a factory; their desire to set their own work schedules; and their ability to engage in farming operations or other pursuits while working part-time at home.

Individuals who write to the Department regarding the homework restrictions continually point out the inequity and incongruity of regulations which permit the manufacture at home of certain articles of clothing and prohibit the manufacture at home of other similar articles of clothing. For example homeknitters whose employer has obtained a certificate may knit sweaters and hats at home, but they may not knit mittens which are in a restricted industry. Men's apparel can be produced by a homeworker, while women's apparel cannot be produced at home. The extension of the certification system to the remaining six restricted industries will alleviate these inequities while permitting the Department to enforce compliance with the FLSA more effectively.

Scope of the Proposed Rule

Under the proposed rule, employers in the remaining six restricted industries who obtain certificates would be permitted to employ homeworkers, while employers without such certificates would continue to be subject to the existing prohibitions on the employment of homeworkers. The same certification procedures used in knitted outerwear would be used in all restricted industries. Employers legally utilizing homeworkers would be known to the Department and their compliance with the FLSA could be determined by investigation. Employers who do not identify themselves and obtain certificates would remain subject to the current restrictions on the use of homeworkers. Homeworkers who will be paid properly will not be deprived of employment opportunities and employers of homeworkers who fail to identify themselves could not legally employ homeworkers.

Under this rule, employers in the restricted industries who wish to utilize homeworkers will notify the Department of the name(s), physical address and mailing address of their firm(s). The certification procedure has been made as simple as possible in order to avoid unnecessary paperwork burdens.

Authorization for such firms to employ homeworkers may be denied or revoked should it be determined that they have failed to notify the Department of changes in the information already provided, or have failed to comply with any of the provisions of the FLSA.

The Department is prepared to commit the necessary resources and to use available sanctions where appropriate to ensure effective enforcement of this rule.

Violations of any provision of the FLSA could result in the employer's homeworker certificate being revoked for up to one year. In determining whether to deny a certificate or to revoke an existing certificate for FLSA

violations, the Department will give careful consideration to an employer's past compliance record and the employer's willingness to comply in the future and to restore the full amount of any back wages found due employees. Consistent with the existing provisions of Part 530, before a certificate is denied, interested parties will be given written notice and afforded an opportunity to demonstrate or achieve compliance. In appropriate circumstances, the Administrator of the Wage and Hour Division will afford an opportunity for a hearing to resolve a disputed matter. By this procedure, due process will be provided to affected employers.

Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

The proposed rule, if promulgated, will not have a significant effect on a substantial number of small entities. This conclusion is based on all information presently available to the Department concerning the employment of homeworkers. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB).

This document was prepared under the direction and control of Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 530

Employment, Investigations, Labor, Law enforcement, Minimum wages, Wages, Licenses.

Accordingly, it is proposed to amend 29 CFR Part 530 as set forth below. In addition, the complete text of existing 29 CFR Part 530 is reprinted as an appendix solely for information purposes and ease of reference for interested parties. As indicated by the regulatory text below, the Department is proposing changes only to the introductory text of paragraph (c) and paragraph (c)(2)(i) of § 530.4 and comments are requested only on these paragraphs.

Signed at Washington, D.C., on this 15th day of August 1986.

William E. Brock,

Secretary of Labor.

Susan R. Meisinger,

Deputy Under Secretary for Employment Standards.

Paula V. Smith,

Administrator, Wage and Hour Division.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

1. The authority citation for Part 530 is revised to read as set forth below and the authority citations following all of the sections in Part 530 are removed.

Authority: Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by Sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 6–84, 49 FR 32473, August 14, 1984; and Employment Standards Order No. 85–01, June 5, 1985.

2. In § 530.4, the introductory text of paragraph (c) and paragraph (c)(2)(i) are revised to read as follows:

§ 530.4 Terms and conditions for the issuance of certificates.

* * * * *

(c) A certificate may be issued to an employer authorizing the employment of homeworkers in any industry defined in paragraphs (d) through (j) of § 530.1 of this part; this certificate may be issued irrespective of whether individual homeworkers meet the conditions set forth in paragraph (a) of this section. In the absence of a certificate, the employment of homeworkers in these industries is prohibited, and an employer violating this prohibition is subject to all the sanctions provided in this Act and in this subpart, including an injunction restraining the employment of homeworkers. Certificates authorizing such employment may be issued on the following terms and conditions upon written notice to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210:

* * * * *

(2) * * *

(1) Employment of homeworkers in an industry defined in paragraphs (d) through (j) of § 530.1 without a certificate may be cause for denial of a request for certification for a period of up to one year from the final date of the violation.

* * * * *

Appendix

Note.—The following is the existing text of 29 CFR Part 530 as it appears in the Code of Federal Regulations, revised as of July 1, 1986.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Sec.

530.1 Definitions.
530.2 Restriction of homework.
530.3 Application on official forms.
530.4 Terms and conditions for the issuance of certificates.
530.5 Investigation.
530.6 Termination of certificates.
530.7 Revocation and cancellation.
530.8 Preservation of certificates.
530.9 Records and reports.
530.10 Delegation of authority to grant, deny, or cancel a certificate.
530.11 Petition for review.
530.12 Special provisions.
530.13 Petition for amendment of regulations.

Authority: Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 6–84, 49 FR 32473, Aug. 14, 1984; and Employment Standards Order No. 78–1, 43 FR 51469, Nov. 3, 1978, unless otherwise noted.

Source: 24 FR 729, Feb. 3, 1959, unless otherwise noted.

§ 530.1 Definitions.

(a) The meaning of the terms "person," "employ," "employer," "employee," "goods," and "production," as used in this part, is the same as in the Fair Labor Standards Act of 1938, as amended.

(b) "Industrial homeworker" and "homeworker," as used in this part, mean any employee employed or suffered or permitted to perform industrial homework for an employer.

(c) "Industrial homework," as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in such production.

(d) The women's apparel industry is defined as follows: The production of women's, misses' and juniors' dresses, washable service garments, blouses, and neckwear from woven or purchased knit fabric; women's, misses', children's and infants' underwear, nightwear, and

negligees from woven fabrics; corsets and other body supporting garments from any material; other garments similar to the foregoing; and infants; and children's outerwear.

(e) The jewelry manufacturing industry is defined as follows:

(1)(i) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein includes without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including, without limitation, cigar and cigarette cases, holders, and lighters; watch cases; metal mesh bags and metal watch bracelets; and chain, mesh, and parts for use in the manufacture of any of the articles included in this definition. Jewelry as used in this part does not include pocket knives, cigar cutters, badges, emblems, military and naval insignia, belt buckles, and handbag and pocketbook frames and clasps, or commercial compacts and vanity cases, except when made from or embellished with precious metals or precious, semiprecious, synthetic or imitation stones, or the assaying, refining, and smelting of base or precious metals.

(ii) The term "parts" as used in paragraph (e)(1)(i) of this section does not include parts which are used predominantly for products other than jewelry, such as springs, blades, and nail files. The term "commercial compacts and vanity cases" as used means compacts and vanity cases which bear the trade name or mark of a cosmetic manufacturer and are made for the purpose of distributing or advertising said cosmetics.

(2) The manufacturing, cutting, polishing, encrusting, engraving, and setting of precious, semiprecious, synthetic, and imitation stones.

(3) The manufacturing, drilling, and stringing of pearls, imitation pearls, and beads designed for use in the manufacture of jewelry.

(4) The term "hand-fashioned jewelry" as used in § 530.12(b) means articles of jewelry commonly known as genuine Navajo, Pueblo, Hopi, or Zuni handmade jewelry which in all elements of design, fashioning and ornamentation are handmade by methods and with the help of only such devices as permit the maker to determine the shape and design of each individual product: *Provided*, That silver used in the making of such jewelry shall be of at least nine hundred fineness, and that turquoise and other stones used shall be genuine stones, uncolored and untreated by artificial means: *And provided further*, That power machinery is permitted in the production of findings, in the cutting and polishing of stones, in the buffing and polishing of completed products, and in incidental functions. Equipment specifically prohibited shall include hand presses, foot presses, drop hammers, and similar equipment: *And provided further*, That solder may be of less silver content than nine hundred; *And provided further*, That findings may be mechanically made of any metal by Indians or others: *And provided further*, That turquoise and other stones may be cut and polished by Indians or others without restrictions as to methods or equipment used.

(f) The knitted outerwear industry is defined as follows: The knitting from any yarn or mixture of yarns and the further manufacturing, dyeing or other finishing of knitted garments, knitted garment sections, or knitted garment accessories for use as external apparel or covering which are partially or completely manufactured in the same establishment as that where the knitting process is performed; and the manufacture of bathing suits from any purchased fabric: *Provided*, That the manufacturing, dyeing or other finishing of the following shall not be included:

(1) Knitted fabric, as distinguished from garment sections or garments, for sale as such.

(2) Fulled suitings, coatings, topcoatings, and overcoatings.

(3) Garments or garment accessories made from purchased fabric, except bathing suits.

(4) Gloves or mittens.

(5) Hosiery.

(6) Knitted garments or garment accessories for use as underwear, sleeping wear, or negligees.

(7) Fleece-lined garments made from knitted fabric containing cotton only or containing any mixture of cotton and not more than 25 percent, by weight, of wool or animal fiber other than silk.

(8) Knitted shirts of cotton or any synthetic fiber or any mixture of such fibers which have been knit on machinery of 10-cut or fine: *Provided*, That this exception shall not be construed to exclude from the knitted outerwear industry and the manufacturing, dyeing, or other finishing of knitted shirts made in the same establishment as that where the knitting process is performed, if such shirts are made wholly or in part of fibers other than those specified in this clause, or if such shirts of any fiber are knit on machinery coarser than 10-cut.

(g) The gloves and mittens industry is defined as follows: The production of gloves and mittens from any material or combination of materials, except athletic gloves and mittens.

(h) The button and buckle manufacturing industry is defined as follows: The manufacture of buttons, buckles, and slides, and the manufacture of blanks and parts for such articles from any material except metal, for use on apparel.

(i) The handkerchief manufacturing industry is defined as follows: The manufacture of men's, women's and children's handkerchiefs, plain or ornamented, from any materials.

(j) The embroideries industry is defined as follows: The production of all kinds of hand and machine-made embroideries and ornamental stitchings, including but not by way of limitation, tucking shirring, smocking, hemstitching, hand rolling, fagoting, Bonner embroidery, appliqueing, crochet beading, hand drawing, machine drawing, rhinestone trimming, sequin trimming, spangle trimming, eyelets, passementerie, pleating, the application of rhinestones and nailheads, stamping and perforating of designs, Schiffli embroidery and laces, burnt-out laces and velvets, Swiss handmachine embroidery, thread splitting, embroidery thread cutting, scallop cutting, lace cutting, lace making-up, making-up of embroidered yard goods, straight cutting of embroidery and cutting out of embroidery, embroidery trimmings, bindings (not made in textile establishments), pipings and emblems: *Provided*, That (1) the foregoing when produced or performed by a manufacturer of a garment, fabric or other article for use on such garment, fabric or other article, and (2) the manufacture of covered buttons and buckles, shall not be included.

(Sec. 11, 52 Stat. 1060 (29 U.S.C. 211); Secretary's Order No. 16–75, 40 FR 55913, Dec. 2, 1975; and Employment Standards Order No. 75–1, 43 FR 51469, Nov. 3, 1978)

[24 FR 729, Feb. 3, 1959, as amended at 46 FR 50349, Oct. 9, 1981; 49 FR 22036, May 24, 1984]

§ 530.2 Restriction of homework.

Except as provided in § 530.4(c), no work in the industries defined in paragraphs (d) through (j) of § 530.1 shall be done in or about a home, apartment, tenement, or room in a residential establishment unless a special homework certificate issued and in effect pursuant to this part has been obtained for each homemaker or unless the homeworker is so engaged under the supervision of a Sheltered Workshop, as defined in § 525.2 of this chapter.

[49 FR 44270, Nov. 5, 1984]

§ 530.3 Application on official forms.

Certificates authorizing the employment of industrial homeworkers in the industries defined in § 530.1 may be issued on the following terms and conditions upon application therefore on forms provided by the Wage and Hour Division. Such forms shall be signed by both the homeworker and the employer.

(Approved by the Office of Management and Budget under control number 1215–0005)

[24 FR 729, Feb. 3, 1959, as amended at 49 FR 18294, Apr. 30, 1984]

§ 530.4 Terms and conditions for the issuance of certificates.

(a) Upon application by the homeworker and the employer on forms provided by the Wage and Hour Division, certificates may be issued to the applicant employer authorizing the employment of a particular worker in industrial homework in a particular industry, provided that the application is in proper form and sets forth facts showing that the worker:

(1)(i) Is unable to adjust to factory work because of age or physical or mental disability; or

(ii) Is unable to leave home because the worker's presence is required to care for an invalid in the home; and

(2)(i) Was engaged in industrial homework in the particular industry for which the certificate is applied, as such industry is defined in § 530.1, prior to: (*a*) April 4, 1942, in the button and buckle manufacturing industry; (*b*) November 2, 1942, in the embroideries industry; (*c*) April 1, 1941, in the gloves and mittens industry; (*d*) October 7, 1942, in the handkerchief manufacturing industry; (*e*) July 1, 1941, in the jewelry manufacturing industry; or (*f*) March 5, 1942, in the women's apparel industry, except that if this requirement shall result in unusual hardship to the individual homeworker it shall not be applied; or

(ii) Is engaged in industrial homework under the supervision of a State Vocational Rehabilitation Agency.

(b) No homeworker shall perform industrial homework for more than one employer in the same industry, but homework employment in one industry shall not be a bar to the issuance of certificates for other industries.

(c) A certificate may be issued to an employer authorizing the employment of homeworkers in the knitted outerwear industry, as defined in § 530.1(f) of this part; this certificate may be issued irrespective of whether individual homeworkers meet the conditions set forth in paragraph (a) of this section. In the absence of a certificate, the employment of homeworkers in this industry is prohibited, and an employer violating this prohibition is subject to all the sanctions provided in this Act and in this subpart, including an injunction restraining the employment of homeworkers. Certificates authorizing such employment may be issued on the following terms and conditions upon written notice to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210:

(1) The notice of request for certification shall be signed by the employer and shall contain the name of the firm, its mailing address, and the physical location of the firm's principal place of business. The employer shall provide the Administrator, within thirty (30) days, a notice of each change of address of the principal place of business. The notification shall be in writing and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210. Such change of address shall be deemed effective upon receipt by the Administrator unless a later date is specified in the notice.

(2) A request for certification under this subpart may be denied for cause.

(i) Employment of homeworkers in the knitted outerwear industry without a certificate may be cause for denial of a request for certification for a period up to one year from the final date of the violation.

(ii) Failure to pay back wages found to be due as a result of a violation of sections 15(a)(2) or 15(a)(3) shall be cause for denial of a certificate until the back wages are paid.

(iii) Failure to pay civil money penalties determined to be owing for a violation of section 15(a)(4) shall be cause for denial of a certificate until the civil penalties are paid.

(iv) Violation of any provision of the FLSA or the regulations issued thereunder may be cause for denial of a certificate for a period of up to one year from the final date of the violation.

(v) An open investigation may result in the withholding of a certificate pending the conclusion and resolution thereof.

Before any certificate is denied, interested parties shall be notified in writing of the facts warranting such denial and afforded an opportunity to demonstrate or achieve compliance. In appropriate circumstances, the Administrator shall afford an opportunity for a hearing to resolve the disputed matter.

(3) An employer issued a certificate under this subpart may be subject to investigaton at any time to determine compliance with the provisions of the Fair Labor Standards Act.

(Information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1215–0005. Information collection requirements contained in paragraph (c) were approved under control number 1215–0159.)

(Secretary's Order No. 16–75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76–2, dated Feb. 23, 1976 (41 FR 9016))

[24 FR 729, Feb. 3, 1959, as amended at 43 FR 28470, June 30, 1978; 46 FR 50349, Oct. 9, 1981; 49 FR 44270, Nov. 5, 1984]

§ 530.5 Investigation.

An investigation may be ordered in any case to obtain additional data or facts. A medical examination of the worker or invalid may be ordered or a certification of facts concerning eligibility for the certificate by designated officers of the State or Federal Government may be required.

§ 530.6 Termination of certificates.

(a) A certificate shall be valid under the terms set forth in the certificate for a period to be designated by the Administrator or his authorized representative. Application for renewal of any certificate shall be filed in the same manner as an original application under this part.

(b) No effective certificate shall expire until action on an application for renewal shall have been finally determined, provided that such application has been properly executed in accordance with the requirements, and filed not less than 15 nor more than 30 days prior to the expiration date. A final determination means either the granting of or initial denial of the application for renewal of a certificate, or withdrawal of the application. A "properly executed" application is one which contains the complete information required on the form.

[24 FR 729, Feb. 3, 1959, as amended at 27 FR 7020, July 25, 1962]

§ 530.7 Revocation and cancellation.

Any certificate may be revoked for cause at any time. Violation of any provision of the Fair Labor Standards Act shall be sufficient grounds for revocation of all certificates issued to an employer, in which event no certificates shall be issued to the offending employer for a period of up to one year. Before any certificate is cancelled, however, interested parties shall be notified in writing of the facts warranting such cancellation and afforded an opportunity to demonstrate or achieve compliance. In appropriate

circumstances, the Administrator shall afford an opportunity for a hearing to resolve the disputed matter.

[49 FR 44271, Nov. 5, 1984]

§ 530.8 Preservation of certificates.

A copy of all certificates provided to the employer under this part shall be maintained for a period of at least three years after the last employment under the certificate.

[49 FR 44271, Nov. 5, 1984]

§ 530.9 Records and reports.

The issuance of a certificate shall not relieve the employer of the duty of maintaining the records required in the regulations in Part 516 of this chapter and failure to keep such records shall be sufficient cause for the cancellation of certificates issued to such an employer.

§ 530.10 Delegation of authority to grant, deny, or cancel a certificate.

The Administrator may from time to time designate and appoint members of the Administrator's staff or State Agencies as his authorized representatives with full power and authority to grant, deny, or cancel homework certificates.

(Secretary's Order No. 16–75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76–2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28470, June 30, 1978]

§ 530.11 Petition for review.

Any person aggrieved by the action of an authorized representative of the Administrator in granting or denying a certificate may, within 15 days thereafter or within such additional time as the Administrator for cause shown may allow, file with the Administrator a petition for review of the action of such representative praying for such relief as is desired. Such petition for review, if duly filed, will be acted upon by the Administrator or an authorized representative of the Administrator who took no part in the proceeding being reviewed. All interested parties will be afforded an opportunity to present their views in support of or in opposition to the matters prayed for in the petition.

§ 530.12 Special provisions.

(a) *Gloves and mittens industry.* Any certificate issued to an industrial homeworker by the New York State Department of Labor under paragraph II of Home Work Order No. 4 Restricting Industrial Homework in the Glove Industry, dated June 28, 1941, will be given effect by the Administrator as a certificate permitting the employment of the homeworker under the terms of § 530.4 for the period during which such certificate shall continue in force.

(b) *Jewelry manufacturing industry.* Nothing contained in the regulations in this part shall be construed to prohibit the employment, as homeworkers, of American Indians residing on the Navajo, Pueblo, and Hopi Indian Reservations, who are engaged in producing genuine hand-fashioned jewelry on the Indian reservations mentioned, provided the employment of such homeworker is in conformity with the following conditions:

(1) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall submit in duplicate to the regional office of the Wage and Hour Division for the region in which the employer's place of business is located, on April 1, August 1, and December 1 of each year, the name and address of such employee engaged during the preceding 4-month period in making hand-fashioned jewelry on Indian reservations;

(2) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall file copies of the piece rates in duplicate with the regional office of the Wage and Hour Division for the region in which the employer's place of business is located on April 1, August 1, and December 1 of each year, and

(3) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall keep, maintain, and have available for inspection by the Administrator or the Administrator's authorized representative at any time, records and reports showing with respect to each of the homeworkers engaged in making hand-fashioned jewelry on these Indian reservations, the following information:

(i) Name of the homeworker.

(ii) Address of the homeworker.

(iii) Date of birth of the homeworker, if under 19 years of age.

(iv) Description of work performed.

(v) Amount of cash wage payments made to the homeworker for each pay period.

(vi) Date of such payment.

(vii) Schedule of piece rates paid.

These records shall be kept by each employer for each of the employer's homeworkers engaged in making hand-fashioned jewelry on Indian reservations, as provided in this section, in lieu of the records required under §§ 516.2 and 516.31 of this chapter: *Provided, however,* That nothing in this section shall relieve an employer from maintaining all other records required by Part 516 of this chapter.

(Secretary's Order No. 16–75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76–2, dated Feb. 23, 1976 (41 FR 9016))

[24 FR 729, Feb. 3, 1959, as amended at 43 FR 28470, June 30, 1978]

§ 530.13 Petition for amendment of regulations.

Any person wishing an amendment, addition, or revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and reasons for proposing them. If upon inspection of the petition, or upon the Administrator's own motion, the Administrator believes that reasonable cause for amendment of the rules and regulations appears, the Administrator will, unless it is impractical, unnecessary, or contrary to the public interest to do so, either schedule a hearing with due notice to interested persons or make other provisions to afford interested persons opportunity to present their veiws in support of or in opposition to the proposed changes.

(Secretary's Order No. 16–75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76–2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28470, June 30, 1978]

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VOL
51
ISS
162
AG
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1986
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INFO

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Priva
TDD

FEDE

27515
27811
28059
28210
28321
28509
28687
28799
28921
29085
29201
29443
29545
29629
29901

Reader Aids

Federal Register

Vol. 51, No. 162

Thursday, August 21, 1986

INFORMATION AND ASSISTANCE

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Code of Federal Regulations

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United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7
28509-28686	8
28687-28798	11
28799-28920	12
28921-29084	13
29085-29200	14
29201-29442	15
29443-29544	18
29545-29628	19
29629-29900	20
29901-30044	21

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	28509

3 CFR

Proclamations:

5514	27515
5515	28218
5516	29200

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219
August 14, 1986	29443, 29445

5 CFR

532	28799
890	28799
1201	28321

Proposed Rules:

540	29655
870	28576
871	28576
872	28576
873	28576
890	28576, 29655

7 CFR

2	29201
12	29901
26	28800
29	28687
51	27813, 28802
272	28196
273	28196
400	29202
402	29204
403	29204, 29205
405	29205
409	29204, 29205
410	29204
411	29204, 29205
413	29204, 29205
414	29204
415	29204, 29205
416	29204, 29205
417	29204, 29205
418	29204-29207
419	29204-29207
420	29204-29207
421	29204-29207
422	29204, 29205
423	29204, 29205
424	29204-29207
425	29204, 29205
426	29204
427	29204-29207
428	29204, 29205
429	29204, 29205
430	29204, 29205
431	29204, 29205
432	29204-29207
433	29204, 29205
435	29204, 29205
436	29204, 29205
437	29204, 29205
438	29204, 29205
439	29204, 29205
440	29204
441	29204
442	29204
443	29204
444	29204
445	29204
446	29204, 29205
447	29204, 29205
448	29204-29207
449	29204
450	29204, 29205
451	29204, 29205
652	29208
770	28921
908	27816, 28509, 29208
910	28059
911	27517
918	27518
923	29209
926	29447
932	28922
944	29447
982	29545
991	28802
1064	28687
1102	28687
1106	28687
1108	28687
1126	28687
1138	28687
1240	29210
1427	28321
1475	28803
1900	29449, 29903
1924	29903
1930	27636
1940	29901
1941	29901
1943	29901
1944	27636
1945	29901
1951	27636
1965	27636
1980	29901, 29903

Proposed Rules:

52	28719, 29658
235	29236
250	29236
252	29236
255	29236
330	29401
340	29401
441	29246
447	27862
656	29251
920	29473

929.....29936
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819, 29936
1068.....28819
1079.....27554, 28819
1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27868
1137.....27554
1139.....27555
1496.....29557
1709.....28722
1772.....29557, 29558

5 CFR

238.....28060, 28923, 29085

Proposed Rules:

214.....27867, 28576
248.....27867

9 CFR

77.....29629
78.....29629
92.....28805, 29210
205.....29449
302.....29905
303.....29905
317.....29456
318.....29456
381.....29905

Proposed Rules:

92.....27871

10 CFR

Ch. I.....29211
50.....27817, 28044, 30028
73.....27817, 27822
110.....27825

Proposed Rules:

50.....27872
73.....29656
435.....29754, 29773

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
337.....29630
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29256
337.....29657

13 CFR

310.....27828

14 CFR

21.....28509–28525
23.....28509–28525
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213, 29910–29915
71.....27833–27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630
75.....28809
97.....28326, 29631
121.....28322
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28386, 28725
1.....28095
21.....29938–29944
23.....29938–29944
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256–29259, 29474, 29475, 29659, 29946
71.....28388–28390, 28956, 28957, 29261–29263, 29534
73.....28095
75.....28096, 28957
91.....29476

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695, 29633
423.....28222
444.....28328
1500.....28529, 29094

Proposed Rules:

13.....28594, 29265, 29660, 29664
703.....29666
1500.....29778

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:

271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:

113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:

404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546, 29916
520.....28546, 29215
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
888.....28486
892.....29633
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....29098
1620.....29816
1952.....27534
1956.....29917
1960.....28378
2603.....28379
2676.....29215

Proposed Rules:

530.....30036
602.....28840
1613.....29482
2603.....29497

30 CFR

901.....29098
914.....29100
917.....29919
931.....28553
943.....28554

Proposed Rules:

250.....29947
774.....
910.....
912.....
915.....
920.....
921.....
922.....
933.....
935.....
937.....
939.....
941.....
947.....
950.....

31 CFR

16.....
315.....
332.....
352.....
353.....
545.....
550.....

Proposed Rules:

10.....
357.....

32 CFR

90.....
706.....
28933–

Proposed Rules:

553.....

33 CFR

100.....
117.....
140.....
142.....
161.....
165.....

Proposed Rules:

100.....
117.....
334.....

34 CFR

63.....
211.....
617.....
619.....
624.....
668.....
674.....
796.....

36 CFR

1.....
3.....
34.....

Proposed Rules:

7.....
60.....
63.....

37 CFR

1.....
2.....

306.....

38 CFR

21.....

39 CFR

10.....

774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

Proposed Rules:

10.....29113
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468

Proposed Rules:

553.....29115

33 CFR

100.....28706, 29919
117.....28380, 28707, 29101
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468

Proposed Rules:

100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396, 29920
674.....28312
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101

Proposed Rules:

7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707, 29920
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636

Proposed Rules:

10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923
60.....29104
61.....27956
65.....28224, 29216
81.....27843–27845
180.....28225–28227
228.....29923, 29927
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556

Proposed Rules:

Ch. I.....29499
52.....27560, 27878, 29116
65.....28113, 29949
81.....29268
85.....28114
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–26.....29104
101–38.....29638
101–40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847

Proposed Rules:

405.....29560
447.....29560

43 CFR

11.....27674

Public Land Orders:

6620.....28229
6622.....28229
6623.....29641

Proposed Rules:

4.....28846

44 CFR

11.....29222
64.....28230, 28232

Proposed Rules:

67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384

Proposed Rules:

1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:

31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552
87.....29106
97.....28237

Proposed Rules:

0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:

501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233, 29471
509.....29552
571.....28238, 29552

Proposed Rules:

Ch. X.....28847
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241, 29642
604.....28575
630.....28575
641.....28094, 29471
651.....29642
655.....28241, 29555
661.....27859, 28717, 28954, 29234, 29471, 29654, 29932
663.....29933
671.....28242
672.....28385
674.....27860, 28243, 29107

Proposed Rules:

17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 19, 1986

VOL
51
ISS
1
6
2
AG
21
1986
UMI

VOL
51
ISS
1
6
2
AG
21
1986
UMI

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51
ISS
1
62
AG
21
1986
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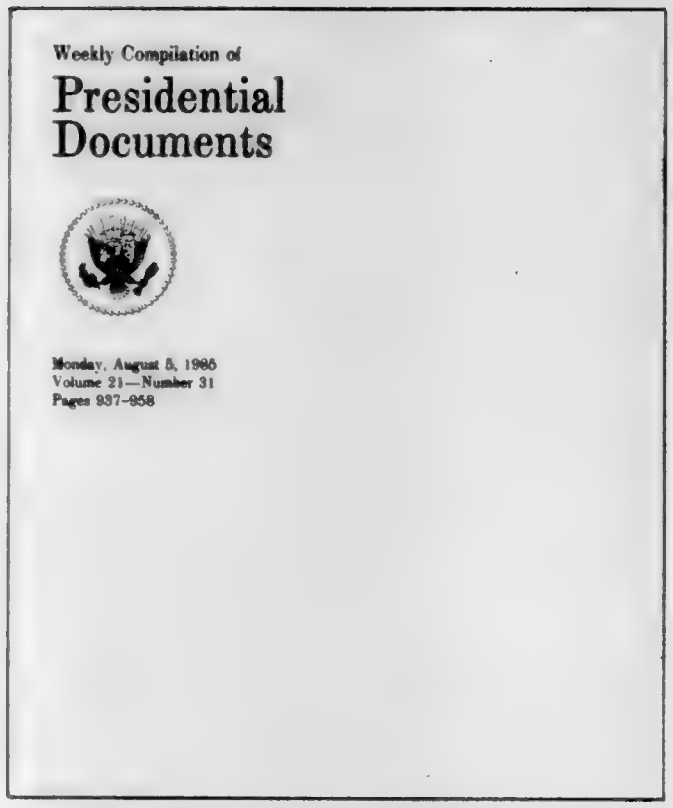

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1986
UMI

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Friday
August 22, 1986

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VOL
51
ISS
1
63
AG
22
1986
UMI

8-22-8
Vol. 51
Pages

8-22-86
Vol. 51 No. 163
Pages 30045-30200

federal register

Friday
August 22, 1986

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VOL
51
ISS
163
AG
22
1986
UM 1

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WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202–523–3419

Contents

Federal Register
Vol. 51, No. 163
Friday, August 22, 1986

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agricultural Marketing Service
RULES
Oranges (Valencia) grown in Arizona and California, 30051
Tobacco inspection:
Imported tobacco; testing and certification, 30196
PROPOSED RULES
Cotton:
Research and promotion—
Assessment collection, 30069

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Food Safety and Inspection Service

Air Force Department
NOTICES
Procurement:
Contracts—
Conversion determinations, 30102, 30103
(4 documents)

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Harry S Truman Animal Import Center; technical amendment, 30051
Plant-related quarantine, domestic:
Golden Nematode, 30049

Army Department
NOTICES
Military traffic management:
Freight rate acquisition programs; motor carrier rates and services, standard rules and class solicitations, 30103

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase From the Blind and Other Severely Handicapped

Coast Guard
RULES
Drawbridge operations:
North Carolina, 30060, 30061
(2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 30101

Committee for the Implementation of Textile Agreements
NOTICES
Textile consultation; review of trade:
China, 30100

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Rice, 30083

Copyright Office, Library of Congress
RULES
Office organization, and information provision procedures, etc., 30061

Defense Department
See also Air Force Department; Army Department; Defense Logistics Agency
NOTICES
Meetings:
DIA Scientific Advisory Committee, 30102
Science Board task forces, 30102
(3 documents)

Defense Logistics Agency
NOTICES
Privacy Act:
Systems of records, 30104

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Methylphenidate, 30136

Economic Regulatory Administration
NOTICES
Environmental statements; availability, etc.:
New England/Hydro Quebec Phase II Interconnection, 30106

Education Department
PROPOSED RULES
Postsecondary education:
Student assistance and Pell grant program; alternate disbursement system, 30190
NOTICES
Grants; availability, etc.:
National direct student loan, college work-study, and supplemental educational opportunity grant programs; report filing date, 30194

Employment and Training Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
Federal Committee on Apprenticeship, 30137
Job Training Partnership Act:
Migrant and seasonal farmworker programs—
Preapplications and funding applications, 30137

VOL 51 ISS 163 AG 22 1986 UMI

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 30140

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission; Western Area Power Administration
NOTICES
Meetings:
National Petroleum Council, 30106

Energy Information Administration
NOTICES
Natural gas, high cost; alternative fuel price ceilings and incremental price threshold, 30107

Energy Research Office
NOTICES
Meetings:
Health and Environmental Research Advisory Committee, 30109

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Missouri, 30063
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 30064
Air quality planning purposes; designation of areas:
South Carolina, 30065
Tennessee, 30065
PROPOSED RULES
Air quality implementation plans; delayed compliance orders:
Pennsylvania, 30080
Hazardous waste:
Domestic Sewage study, 30166
Water pollution control:
Ocean dumping—
Site designations cancellation, 30081
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 30122
Weekly receipts, 30122

Executive Office of the President
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Farm credit system:
Loan documentation related to borrower financial statements; policy, 30123
Meetings; Sunshine Act, 30161

Federal Aviation Administration
RULES
Control zones and transition areas, 30054
PROPOSED RULES
Airworthiness directives:
British Aerospace, 30074, 30075
(2 documents)
DeHavilland, 30077
Fairchild, 30070
McDonnell Douglas, 30073
Pilatus Britten-Norman Ltd., 30072
NOTICES
Grants; availability, etc.:
Airport improvement program, 30157
Meetings:
Aeronautics Radio Technical Commission, 30157

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30161
(2 documents)

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Indiana & Michigan Electric Co. et al., 30111
Environmental statements; availability, etc.:
West Slope Power Co. et al., 30116
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 30110
Preliminary permits surrender:
Independence Electric Corp., 30114
Small power production and cogeneration facilities; qualifying status:
Caribbean Energy Co. Inc., 30111
Applications, hearings, determinations, etc.:
ANR Pipeline Co. et al., 30109
Kentucky West Virginia Gas Co., 30114

Federal Home Loan Bank Board
NOTICES
Self-regulatory organizations; unlisted trading privileges:
Philadelphia Stock Exchange, Inc., 30124

Federal Labor Relations Authority
NOTICES
Amicus briefs:
Drug abuse testing of civilian employees, 30124

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30126
(2 documents)

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 30162
Applications, hearings, determinations, etc.:
Antrim Financial Corp. et al., 30126
Lakeside Bancshares, Inc., 30127

Federal Trade Commission
RULES
Organization and functions:
Advisory committee management, 30055

Food and Drug Administration
RULES
Food additives:
Adhesive coatings and components—
1,6-hexanediol with azelaic acid, polybasic and monobasic acids, 30059

Ethylene-carbon monoxide copolymer, 30060
NOTICES
Food additive petitions:
Allied Colloids, Inc., 30128
Borg-Warner Chemicals, Inc., 30128
Medical devices; premarket approval:
STERx Tip Pacing Lead, Models 4003 and 4503, 30129
STERx Tip Pacing Lead, Models 5025 and 5525, 30128

Food and Nutrition Service
RULES
Food stamp program:
Food Security Act of 1985; educational grants treatment and technical corrections, 30045

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate in fresh pork cuts, 30052

Health and Human Services Department
See also Food and Drug Administration; Public Health Service
NOTICES
Agency information collection activities under OMB review, 30127

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandums of agreements:
Gifford Pinchot National Forest, WA; historic cedar trees, 30083

Housing and Urban Development Department
PROPOSED RULES
Conflict of interests, 30178
NOTICES
Environmental statements; availability, etc.:
Detroit, MI, 30131

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service

International Trade Administration
NOTICES
Antidumping:
Brass sheet and strip from—
Brazil, 30092
Canada, 30093
France, 30096
Italy, 30097
Korea, 30086
Sweden, 30088
West Germany, 30090
Applications, hearings, determinations, etc.:
Norwich University, 30099

International Trade Commission
NOTICES
Meetings; Sunshine Act, 30162
(2 documents)

Interstate Commerce Commission
NOTICES
Motor carriers:
Compensated intercorporate hauling operations, 30134
Railroad services abandonment:
Missouri Pacific Railroad Co., 30135
(2 documents)

Justice Department
See also Drug Enforcement Administration; Juvenile Justice and Delinquency Prevention Office
NOTICES
Pollution control; consent judgment:
Hoosier Energy Rural Electric Cooperative, Inc., 30135

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
Coordinating Council, 30137

Labor Department
See Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration

Land Management Bureau
NOTICES
Resource management plans, etc.:
San Juan Resource Area, UT, 30132

Library of Congress
See Copyright Office, Library of Congress

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
A. & D. Coal Co., 30142
NACCO Mining Co., 30142
Saginaw Mining Co., 30142
Three L Coal Co., 30143
Wells Fargo Coal Co., Inc., 30143

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Kerr-McGee Corp., 30133
(2 documents)

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
General Motors Corp., 30157

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 30066
NOTICES
Meetings:
South Atlantic Fishery Management Council, 30100

National Park Service
NOTICES
Environmental statements; availability, etc.:
Sequoia-Kings Canyon National Parks, CA, 30133
Management and land protection plans; availability, etc.:
Blue Ridge Parkway, 30134
National trails system:
Appalachian National Scenic Trail—
Rights-of-way relocation, 30133

National Transportation Safety Board
NOTICES
Accident reports, safety recommendations, and responses, etc.; availability, 30143

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 30162

Nuclear Regulatory Commission
RULES
Plants and materials, physical protection:
Safety related equipment; designation and protection of vital locations, etc.; miscellaneous amendments Correction, 30054
NOTICES
Agency information collection activities under OMB review, 30145
Meetings:
Reactor Safeguards Advisory Committee, 30145
Applications, hearings, determinations, etc.:
Florida Power & Light Co., 30146
University of New Mexico, 30145

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
PROPOSED RULES
Health benefits, Federal employees:
Reserve funds transfers, 30068
NOTICES
Agency information collection activities under OMB review, 30147

Public Health Service
See also Food and Drug Administration
NOTICES
AIDS vaccine development; private sector/government collaborative efforts, 30130

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 30162
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 30155 (2 documents)
Applications, hearings, determinations, etc.:
Evergreen Total Return Fund, Inc., et al., 30147
Fidelity Special Situations Fund, 30148
Lyons Funding Corp., 30150
MetLife Holdings, Inc., 30152
Pennink, Mark J., et al., 30151
Public utility holding company filings, 30153

State Department
NOTICES
Committees; establishment, renewals, terminations, etc.:
International Law Advisory Committee, 30156

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 30163

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
European Economic Community:
Pasta articles; withdrawal of increased duty rates, 30146

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration
PROPOSED RULES
Special regulations:
Nondiscrimination on basis of handicap; air travel by blind persons, 30078

Veterans Administration
NOTICES
Agency information collection activities under OMB review, 30159 (2 documents)
Environmental statements; availability, etc.:
Alexander City, AL, 30158
Meetings:
Former Prisoners of War Advisory Committee, 30158
Geriatrics and Gerontology Advisory Committee, 30159
Readjustment Problems of Vietnam Veterans Advisory Committee, 30159
Privacy Act:
Computer matching program, 30160
Reports, program evaluations; availability, etc.:
Geriatric research, education and clinical centers program, 30158
Spinal cord injury program, 30158

Western Area Power Administration
NOTICES
Power application requests:
Navajo Generating Station, 30116
Power rate adjustments:
Navajo Generating Station, 30120

Separate Parts In This Issue

Part II
Environmental Protection Agency, 30166

Part III
Department of Housing and Urban Development, 30178

Part IV
Department of Education, 30190

Part V
Department of Education, 30194

Part VI
Department of Agriculture, Agricultural Marketing Service, 30196

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
890 30068

7 CFR
29 30196
272 30045
273 30045
301 30049
908 30051
Proposed Rules:
1205 30069

9 CFR
92 30051
317 30052
318 30052

10 CFR
50 30054
73 30054

14 CFR
71 30054
Proposed Rules:
39 (6 documents) 30070–30077
382 30078

16 CFR
16 30055

21 CFR
175 (2 documents) 30059, 30060

24 CFR
Proposed Rules:
0 30178

33 CFR
117 (2 documents) 30060, 30061

34 CFR
Proposed Rules:
668 30190
690 30190

37 CFR
201 30061

40 CFR
52 30063
65 30064
81 (2 documents) 30065
Proposed Rules:
Ch. I 30166
65 30080
228 30081

50 CFR
661 30066

VOL
51
ISS
163
AG
22
1986
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Rules and Regulations

Federal Register
Vol. 51, No. 163
Friday, August 22, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 277]

Food Stamp Program: Treatment of Certain Educational Grants and Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends Food Stamp Program Regulations pertaining to the treatment of educational assistance or student earnings when determining the income eligibility and benefit levels for students. This action implements several student provisions of the Food Security Act of 1985, enacted December 23, 1985, which continue longstanding Departmental regulatory policy with regard to the treatment of various types of educational assistance as income. Another student provision of the Food Security Act included in this action is a statutory mandate to provide an income exclusion for origination fees and insurance premiums placed on educational loans. This action also clarifies current policy relative to granting an exemption for persons physically or mentally unfit for employment from provisions which restrict Program participation by students and from provisions which require certain individuals to register for and seek employment as a condition of continued eligibility. In addition, this action contains technical amendments to correct a provision which appeared in a final rule issued on May 21, 1986, entitled *Food Stamp Program: the Food Security Act of 1985; Nondiscretionary Provisions; Final Rule and Correction* and to correct a typographical error which appeared in an interim rule issued on August 5, 1986, entitled *Food Stamp Program: Categorical Eligibility for Certain Public Assistance and Supplemental Security Income Recipients.*

EFFECTIVE DATE: This action is effective August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Judith M. Seymour, Supervisor, Eligibility and Rulemaking Section, Eligibility and Monitoring Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification.

Executive Order 12291

This final action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Department has classified this action as nonmajor. The annual effect of this action on the economy will be less than $100 million. This final action will have no effect on costs or prices. Competition, employment investment, productivity, and innovation will remain unaffected. There will no effect on the competition of United States-based enterprises with foreign-based enterprises.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. *10.551.* For the reasons set forth in the Final rule and related Notice to 7 CFR 3015, Subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. State welfare agencies are affected to the extent that they must implement the provisions described in this action. Potentially eligible and currently participating households are affected to the extent that such households contain students. Some currently ineligible student households will become eligible and many others could receive increased benefits.

Public Participation and Justification for Less Than a Thirty-Day Effective Date

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b) (A) and (B). Generally see, *Alcaraz* v. *Block*, 746 F. 2nd 593 (9th Cir., 1984); *Sepulveda* v. *Block*, 782 F. 2nd 363 (2nd Cir., 1986). It is in the public interest to effectuate all these statutory educational assistance provisions at the beginning of the next school term when the potential for student households applying for the Program is at its greatest. In accordance with Pub. L. 99–198, this action: 1) Prohibits an income exclusion for Federal educational assistance beyond that used for tuition and mandatory school fees; 2) allows an income exclusion for non-Federal educational assistance beyond that used for tuition and mandatory school fees, to the extent earmarked for educational expenses and not provided for normal living expenses; 3) expands current policy to provide an income exclusion for educational assistance used for tuition and mandatory school fees at institutions of post secondary education; 4) excludes origination fees and insurance premiums charged on student loans from consideration as income; and 5) prohibits an income exclusion for certain third party vendor payments. Under these statutory provisions some currently ineligible student households will become eligible and others may receive higher benefit levels. These provisions, effective before the fast approaching school year, restate, define or apply the statute or restate current regulatory policy within the statutory framework. While Pub. L. 99–198 provides until April 1, 1987 to implement these provisions, the Department believes that implementation of these statutory provisions before the school year is in the public interest.

Lastly, this final action includes technical amendments which clarify current policy relative to granting an exemption for persons physically or mentally unfit for employment from provisions which restrict student

VOL
51
ISS
163
AG
22
1986
UMI

participation in the Program and from provisions which require certain individuals to register for and seek employment as a condition of continued eligibility.

For these reasons, the Department has determined in accordance with 5 U.S.C. 553(b) that notice of proposed rulemaking and opportunity for public comment is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this action effective less than 30 days from date of publication.

Paperwork Reduction Act

This action does not contain any reporting and recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Background

Educational Grants Used at Post-Secondary Institutions—§ 273.9(c)

Under current regulations at 7 CFR 273.9(c)(3), educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent they are used for tuition and mandatory school fees at institutions of higher education or schools at any level for the mentally or physically handicapped and excluded from consideration as income for Food Stamp Program purposes. Current regulations at 7 CFR 271.2 define institution of higher education as "any institution which normally requires a high school diploma or equivalency certificate for enrollment, including, but not limited to, colleges, universities and vocational or technical schools at the post high school level."

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(3)), as amended by section 1509(a)(2)(A) of the Food Security Act of 1985 (Pub. L. 99–198), enacted December 23, 1985, expands current policy at 7 CFR 273.9(c)(3) to include educational assistance used for tuition and mandatory school fees at institutions of post-secondary education. Legislative history accompanying Pub. L. 99–198 explains Congressional intent to expand current policy to include students enrolled in "vocational schools and junior and community colleges" which do not require a high school diploma for enrollment but which offer educational programs which have a "direct impact on the employability and economic self-sufficiency of the participants." Granting an exclusion for such students "constitutes sound approach toward reducing future dependency." (H.R. Rep. 99–271, 99th Cong., 1st Session, p. 143.)

Thus, this final action implements the statutory change by eliminating the previous high school diploma or equivalency certificate test as the only criteria for obtaining an income exclusion under 7 CFR 273.9(c)(3). This action allows students without a diploma or equivalency certificate which are determined eligible for the Program under 7 CFR 273.5 and enroll in post secondary educational programs to obtain an income exclusion for tuition and mandatory school fees. Students who are eligible for, or could have been eligible for, an income exclusion under the previous high school diploma test are not affected by this action.

Accordingly, this action amends 7 CFR 273.9(c)(3) to replace the reference to "institution of higher education" with a reference to "institution of post secondary education" and to clarify that such institutions are those which admit students beyond the age of compulsory school attendance in the State as well as those which require students to have a high school diploma or equivalent certificate. The provision further provides that the institution must be legally authorized or recognized by the State to provide education beyond secondary education or provide a training program to prepare students for gainful employment. This regulation is designed to interpret and define the statutory phrase "institution of post secondary education" so that the provision implements Congressional goals and is applied only to *post* secondary schools in a consistent manner nationwide.

Mandatory School Fees

As stated earlier, current regulations at 7 CFR 273.9(c)(3) provide that educational assistance used for mandatory school fees shall not be considered when determining household eligibility and benefit levels. Mandatory school fees are those charged uniformly by the school to all students or those charged to all students within a certain curriculum by the institution providing the course of study. For example, all students enrolled in a chemistry course may be required by the institution to purchase protective gloves from the institution offering the course, or may be required by the institution to pay a fee for the use of certain equipment. However, transportation, routine supplies (such as pens, pencils, paper, etc.) and textbook expenses are not uniformly charged to all students by the school and, therefore, are not excludable as mandatory school fees.

The recent Senate Report (S. Rept. No. 99–145, 99th Cong., 1st Session) and House Conference Report (H. Conf. Rept. No. 99–447, 99th Cong., 1st Session) regarding the Food Security Act of 1985 expressed concern that some students may be required by the school to furnish their own special equipment or materials above and beyond books and routine supplies but not receive an exclusion for those expenses. While Pub. L. 99–198 does not provide a specific statutory provision to address this issue, the Senate and Conference Reports provide Congressional intent that the regulatory definition of mandatory school fees be broadened to recognize that certain supplies are required of all students even though a separate fee is not imposed for these supplies.

The Department shares this concern. However, the Department is concerned that an expanded definition of mandatory school fees strike a reasonable balance between the benefit a client could potentially receive and the administrative complexities that could be incurred by State agencies and clients alike for implementing and verifying expenses incurred for required special equipment or supplies. Therefore, the Department intends to carefully examine the administrative implications of expanding the definition within the confines of Congressional intent. The Department will address this issue in the near future through notice of proposed rulemaking and public comment procedures.

Educational Grants as Vendor Payments—§ 273.9(c)(1)(iv)

Some students receive income assistance for items other than tuition and mandatory fees in such a manner that the students have construed the assistance to be a vendor payment and excluded from income under the general rules for exclusion of vendor payments at 7 CFR 273.9(b). Department policy is that the assistance should be considered income based on the provision at 7 CFR 273.9(c)(1)(iii) which does not allow an income exclusion for a vendor payment made from funds legally obligated or otherwise payable to the household. Section 5(k)(3) of the Food Stamp Act, as added by section 1509(b) of Pub. L. 99–198, reinforces Department policy by providing that educational assistance which is provided to a third party on behalf of the household for living expenses shall be treated as money payable directly to the household and not excluded from income as a vendor payment. The intent of Congress is to handle expenses for items other than tuition and mandatory school fees in the

same manner for all students whether or not they receive educational assistance directly or through a third party. (Senate Report 99–145, September 30, 1985, pg. 235.) Accordingly, the Department proposes to amend 7 CFR 273.9(c)(1) to include this specific statutory provision.

Reimbursements/Allowances for Eduational Expenses—§ 273.9(c)(5)

Regulations prior to this final action, provided that grants or scholarships to students for education expenses other than tuition and mandatory school fees, such as books or travel may be excluded from consideration as income if they are specifically earmarked by the grantor agency as provided for education expenses rather than normal living expenses. In litigation filed against the Department regarding the reimbursement income exclusion policy, student food stamp recipients have alleged: 1) That the "Statement of Educational Purpose" (for example see 34 CFR 676.16(h)(1) and 34 CFR 690.79) which each student must sign to be eligible for Federal aid *specifically earmarked* the grants; 2) that "student budgets" prepared by colleges and used to calculate the *amount* of the grant *specifically earmarked* how the grants were to be spent, or; 3) that "award letters" which some colleges send to students announcing the grants *earmarked* those grants. However, under Department of Education (ED) regulations colleges do not and cannot *specifically earmark* portions of Pell Grants or Supplemental Educational Opportunity Grant (SEOG) assistance received by students for "education expenses" rather than for "living expenses" (7 CFR 273.9(c)(5)(iv)). Thus, no portions of Pell or SEOG assistance are excludable under 7 CFR 273.9(c)(5) nor has such assistance ever been properly excludable as a reimbursement for Food Stamp Program purposes. Pell and SEOG award checks, as well as Guaranteed Student Loan (GSL; 34 CFR 675) and National Direct Student Loans proceeds (NDSL; 34 CFR 674), may be used by students as they determine appropriate to meet the vast range of expenses associated with attending college. The "student budgets" prepared by colleges and used to calculate the amount of the grants, the "Statement of Education Purpose", and the "award letters" sent by some colleges to announce the awards, do not limit or otherwise restrict, define, identify or earmark how portions of the grant must or should be spent by particular students. The Department's longstanding position based on ED regulations has been upheld in Federal courts that have decided these issues. See *Shaffer* v. *Block*, 705 F. 2d 805 (6th Cir. 1983); *Burkett* v. *Block*, 764 F. 2nd 1203 (6th Cir., 1985); *Reichley* v. *Block*, Civ. 84–M–2039 (D. Colo., July 12, 1985); *Malone* v. *Block*, Civ. 83–34–D–2 (S.D. Iowa, 1985); and *Alvarez* v. *Block*, 82 Civ. 4998 (SD, NY, May 6, 1986). Also see *Knebel* v. *Hein*, 429 U.S. 288 (1977).

Section 5(d) of the Food Stamp Act, as amended by section 1509(a)(3) of Pub. L. 99–198, eliminates any possibility of continued litigation regarding the issue of whether Federal educational assistance spent on other than tuition and mandatory school fees is excludable. The statute provides that no portion of any Federal educational grant, scholarship, fellowship, veterans' educational benefit, educational loan on which payment is deferred, and the like which provides income assistance beyond that used for tuition and mandatory school fees shall be excluded as a reimbursement.

Section 5(d) of the Food Stamp Act, as amended by section 1509 of Pub. L. 99–198, also reinforces the educational reimbursement policy as it relates to non-Federal educational assistance. The statute provides that no portion of any non-Federal grant, scholarship, fellowship, veterans' educational benefit, educational loan on which payment is deferred, and the like provided for living expenses shall be considered as a reimbursement.

Many non-Federal institutions also provide assistance to students to cover multiple expenses including living expenses. Again, the provider (grantor agency) does not necessarily restrict the student on how to use the grant. In other words, the student may choose to use the entire grant for living expenses connected with attending college or for other expenses such as books or transportation or some combination of educational living expenses and other expenses. Legislative history clarifies Congress' intent that the longstanding Departmental position be continued—that the portion of the non-Federal assistance available for living expenses is not excludable under this provision. Current regulations at 7 CFR 273.9(c)(5) governing the treatment of reimbursements generally describe living expenses as "normal living expenses such as rent or mortgage, personal clothing or food eaten at home." Senator Helms, Chairman, Senate Committee on Agriculture, Nutrition and Forestry, discussed this point. See 131 Cong. Rec. 17886, daily ed., Dec. 18, 1985. His unopposed comments on this matter, in part, are:

> The bill also specifically addresses how State, local, or private educational benefits are counted as income. However, since almost all of such educational aid provides students with funds which may be used for living expenses connected with attending college, as the student determines appropriate, such educational aid even where spent on necessary books or supplies would not be excludable as a reimbursement from income. Where the student receives a fund of money to be used for all future educational expenses—including living expenses such as food or rent—each dollar is "provided for living expenses," although it may be used for necessary books, and is not excludable as a reimbursement. This same principle has been properly applied by the courts to Federal educational assistance. . . . Neither the computational budgets used by colleges to compute the amounts of aid, nor the award letters colleges issue to announce the awards, preclude students from using general grants or scholarship which they receive for living expenses connected with attending college.

Accordingly, this final action amends 7 CFR 273.9(c)(5) to provide that Federal educational assistance provided for other than tuition and mandatory school fees is not excludable as a reimbursement and that non-Federal educational assistance provided for other than tuition and mandatory school fees are excludable as a reimbursement but only if the grantor agency specifically earmarks such assistance as provided for education expenses rather than living expenses.

The types of educational assistance referenced under the new provision are educational grants, scholarships, fellowships, veterans' educational benefits and the like. Pub. L. 99–198 also included a reference to educational loans on which payment is deferred with regard to this reimbursement provision. Current regulations at 7 CFR 273.9(c)(4) governing the exclusion of loans, makes reference to the fact that deferred payment loans are not excludable income. Therefore, the Department has decided to address the issue of deferred payment educational loans at 7 CFR 273.9(c)(4) in a manner parallel to the reimbursement educational provisions at § 273.9(c)(5) of this final action. Accordingly, this final action amends 7 CFR 273.9(c)(4) to provide that Federal deferred payment loans which provide income assistance beyond that used for tuition and mandatory school fees are not excludable from income. The provision also further provides that non-Federal deferred payment loans which provide income assistance beyond that used for tuition and mandatory school fees are excludable if the lendor specifically earmarks portions of the loan as provided for education expenses rather than living expenses. This treatment parallels the longstanding treatment

accorded grants and scholarships by this Department.

Other Concerns—§ 273.5

Current regulations at 7 CFR 273.5 provide that any person who is between the ages of 18 and 60, physically or mentally fit for employment, and enrolled at least half-time in an institution of higher education are ineligible to participate in the Program. Additional regulatory text within this provision makes reference to the fact that persons physically or mentally disabled are not subject to this provision. Using the term "disabled" in this additional text could potentially be misinterpreted by caseworkers to refer to the definition of a "disabled member" at section 3(r) of the Food Stamp Act and at 7 CFR 271.2 of the regulations. Generally, that definition *mandates* that an individual must be eligible for, or in receipt of, certain temporary or permanent disability benefits to be considered disabled. Section 6(e) of the Act does not reference persons physically or mentally "disabled" with regard to the student provisions; it refers to persons not physically or mentally "fit". In order to avoid potential confusion or misinterpretation of the student provisions, this final action amends 7 CFR 273.5(a) to reference the term "unfit" throughout the provision rather than "disabled" as does the statute and to clarify that if a student claims that he/she is "unfit" for employment, acceptable verification *may* consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

A concurring amendment is also being made by this final action to the work registration provision at 7 CFR 273.7(b)(1)(ii) to reference to term "unfitness" rather than "disability." The provision at 7 CFR 273.7(b)(1)(ii) provides that persons physically or mentally "unfit" for employment are exempt from the requirement to seek work. As with the student provision, additional regulatory text within this provision makes reference to the term "disability." Again, section 6(e) of the Act does not reference persons with a physical or mental "disability" with regard to work registration requirements; it refers to persons not physically or mentally "fit." Therefore, it is necessary to also amend this provision to be more consistent with the statute and avoid potential misinterpretation by caseworkers.

Implementation—§ 272.1(g)

State agencies shall implement the provisions of this rule on August 22, 1986. If, for any reason, a State agency fails to implement these provisions on that date, affected households, shall be provided lost benefits which they would have received if the State agency had implemented these provisions as required.

Rescission of Proposed Provision

On November 19, 1982, the Department published a proposed rulemaking at 47 FR 52185 which contained a provision relative to the treatment of Federal educational assistance as an income exclusion. The Food Security Act of 1985 renders the proposed provision moot. Therefore, the amendment to add a new sentence to the end of 7 CFR 273.9(c)(5)(iv) as published at 47 FR 52189, November 19, 1982 is hereby rescinded.

List of Subjects

7 CFR Part 272

Alaska, Civil rights Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

1. The authority citation for Parts 272 and 273 continue to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(79) is added in numerical order to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(79) Amendment No. 277. State agencies shall implement the provisions of Amendment No. 277 on August 22, 1986. If, for any reason, a State agency fails to implement the provisions, affected households shall be entitled to restored benefits but not prior to August 22, 1986.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.5, paragraph (a) is amended by replacing the word "disabled" appearing in the second sentence with the word "unfit" and by adding two new sentences to the end of paragraph (a) to read as follows:

§ 273.5 Students.

(a) *Applicability.*

* * * If mental or physical unfitness is claimed and the unfitness is not evident to the State agency, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

* * * * *

§ 273.7 [Amended]

4. In § 273.7, the second sentence of paragraph (b)(1)(ii) is amended by replacing the phrase "If a mental or physical disability is claimed and the disability" with the phrase "If mental or physical unfitness is claimed and the unfitness".

5. In § 273.9:

a. a new paragraph (c)(1)(iv) is added.

b. the first sentence of paragraph (c)(3) is amended by replacing the words "higher education" with the words "post-secondary education".

c. three new sentences are added after the first sentence in paragraph (c)(3).

d. two new sentences are added to the end of paragraph (c)(4).

e. paragraphs (c)(5)(i) through (c)(5)(v) are redesignated as paragraphs (c)(5)(i)(A) through (c)(5)(i)(E), respectively.

f. newly redesignated paragraph (c)(5)(i)(D) is amended by replacing the first word in the paragraph "Reimbursements" with the words "Non-Federal reimbursements".

g. the last sentence of the introductory text of paragraph (c)(5) is designated as paragraph (c)(5)(i).

h. a new paragraph (c)(5)(ii) is added.

i. the second sentence of the introductory text of paragraph (c)(5) is designated as paragraph (c)(5)(ii)(A) and new paragraphs (c)(5)(ii)(B) and (c)(5)(ii)(C) are added.

The additions read as follows:

§ 273.9 Income and deductions.

* * * * *

(c) *Income exclusions.* * * *

(1) * * *

(iv) Educational loans on which payment is deferred, grants,

scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and not excluded as a vendor payment.

* * * * *

(3) * * * For the purpose of this provision, institution of post secondary education means any public or private educational institution which normally requires: a high school diploma or equivalency certificate for enrollment or admits persons who are beyond the age of compulsory school attendance in the State in which the institution is located provided that the institution is legally authorized or recognized by the State to provide an educational program beyond secondary education in the State or provides a program of training to prepare students for gainful employment. Origination fees and insurance premiums on student loans are excludable charges. Only the amount of the loan after these charges have been excluded is to be considered income. * * *

(4) * * * Federal deferred payment educational loans, such as, but not limited to National Direct Student Loans or Guaranteed Student Loans, to the extent that they provide income assistance beyond that used for tuition and mandatory school fees set forth in paragraph (c)(3) of this section are not excludable under this provision. Portions of non-Federal (State, local or private) deferred payment educational loans are excludable under this provision only to the extent that the lendor specifically earmarks portions or all of such loan as provided for education expenses, such as travel or books, but not for living expenses, such as rent or mortgage, personal clothing or food eaten at home.

(5) * * *

(ii) The following shall not be considered a reimbursement excludable under this provision:

* * * * *

(B) No portion of any Federal educational grant, scholarship, fellowship, veterans' educational benefit and the like to the extent it provides income assistance beyond that used for tuition and mandatory school fees as set forth in paragraph (c)(3) of this section shall be considered excludable under this provision. Therefore, none of the expenses of college, such as expenses for books, travel, supplies, board, rent, transportation or equipment, paid for with Pell Grant or Supplemental Educational Opportunity Grant (SEOG) assistance are excludable under this provision.

(C) No portion of any non-Federal (State, local or private) educational grant, scholarship, fellowship, veterans' educational benefit, and the like that is provided for living expenses shall be considered excludable under this provision. Thus, to be excludable such assistance must be specifically earmarked by the grantor for education expenses, such as travel or books, but not for living expenses, such food rent or clothing.

* * * * *

Corrections

In FR Doc. 86-11256, appearing at page 18744, as Part III, in the issue of Wednesday, May 21, 1986, make the following correction:

§ 273.2 [Corrected]

On page 18750, in the second column, amendatory statement number 5.d. under § 273.2, is corrected to read: Paragraph (f)(1)(viii)(A)(*2*) is amended by replacing the phrase, "paragraph (3)" with the phrase, "paragraph (6)" and by adding the phrase "or nonservice-connected" after the word "service-connected".

A conforming amendment to add the phrase "or nonservice-connected" was unintentionally overlooked when the May 21, 1986 regulations were developed. The phrase is directly related to the reference change from paragraph (3) to paragraph (6) and is hereby incorporated to conform paragraph (f)(1)(viii)(A)(*2*) to Department intent.

In FR Doc. 86-17535, appearing at page 28196, as Part III, in the issue of Tuesday, August 5, 1986, make the following correction:

§ 273.2 [Corrected]

On page 28201, in the second column, under paragraph (1)(iv) of § 273.2, the phrase "reduced, suspended, or when the grant is received." (appearing in the fourth sentence of the amendment) is corrected to read "reduced, suspended, or terminated when the grant is received."

The word "terminated" was inadvertently omitted when the August 5, 1986 regulations were developed and is hereby incorporated to conform all of paragraph (1)(iv) to Department intent.

Dated: August 19, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86-19011 Filed 8-21-86; 8:45 am]

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Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-326]

Golden Nematode; Regulated Areas

AGENCY: Animal Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Golden Nematode quarantine and regulations by deleting Yates County in New York from the list of suppressive regulated areas. This action is necessary as an emergency measure in order to delete unnecessary restrictions on the interstate movement of regulated articles.

DATES: Effective date of this interim rule August 22, 1986. Written comments concerning this interim rule must be received on or before October 21, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination Group, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-326. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Michael J. Shannon, Senior Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Background

The golden nematode (*Heterodera rostochiensis*), is a plant pest which is highly destructive to potatoes and other solanaceous plants. It is undoubtedly the most serious pest threatening the American potato industry. Potatoes cannot be grown economically on land containing large numbers of the nematode.

The golden nematode has been determined to occur in the United States only in parts of New York. The Golden Nematode quarantine and regulations (referred to below as the regulations; 7 CFR 301.85 through 301.85-10) quarantine the State of New York because of the golden nematode, and

VOL
51
ISS
163
AG
22
1986
UMI

restrict the interstate movement from areas in New York designated as regulated areas of articles designated as regulated articles because of the golden nematode. Such restrictions are necessary for the purpose of preventing the artificial spread of the golden nematode.

Regulated areas are those areas in which the golden nematode has been found or in which there is reason to believe that the golden nematode is present, or those areas which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas where eradication of the golden nematode is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from generally infested areas and suppressive areas in order to prevent the artificial movement of golden nematode to noninfested areas and to prevent the reinfestation of suppressive areas when the golden nematode no longer occurs.

Yates County in New York

Prior to the effective date of this document, the following area in Yates County in New York was designated as a golden nematode suppressive area and was the only area in Yates County that was designated as a golden nematode regulated area:

"The town of Italy".

Based on negative soil sample surveys conducted by inspectors of the United States Department of Agriculture and the New York Department of Agriculture and Markets, it has been determined that the golden nematode no longer occurs in this area. Accordingly, there is no longer a basis for continuing to list such an area as a regulated area for the purpose of preventing the artificial spread interstate of golden nematode. Therefore, as an emergency measure, it is necessary to delete Yates County in New York from the list of regulated areas in order to delete unnecessary restrictions on the interstate movement of golden nematode regulated articles.

Emergency Action

William F. Helms, Acting Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule because otherwise there would be unnecessary restrictions imposed on the interstate movement of regulated articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are unnecessary and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the Federal Register as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United State-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of regulated articles from Yates County in New York. The regulated articles that are affected by this interim rule represent significantly less than one percent of such articles that are moved interstate in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Golden nematode.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances referred to above, the Golden Nematode quarantine and regulations (contained in 7 CFR 301.85 *et seq.*) are amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.85–2a is revised to read as follows:

§ 301.85–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as golden nematode regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

New York

(1) *Generally infested area:*

Cayuga County. The town of Montezuma.

Genesee County. The towns of Elba and Byron.

Livingston County. The towns of Avon, Caledonia, Geneseo, Groveland, Leicester, Lima, Livonia, Mount Morris, West Sparta, and York.

Nassau County. The entire county.

Orleans County. The towns of Barre and Clarendon.

Seneca County. The town of Tyre.

Steuben County. The towns of Prattsburg and Wheeler; that area known as "Arkport Muck" located in the town of Dansville and bounded by a line beginning at a point where the Conrail right-of-way (Erie Lackawanna Rail Road) intersects County Road 52 (known as Burns Road), then north and northeast along County Road 52 to its junction with New York Route 36, then

south and southeast along New York Route 36 to its intersection with the Dansville Town line, then west along the Dansville Town line to its intersection with the Conrail right-of-way (Erie Lackawanna Rail Road), then north and northwest along the Conrail right-of-way to the point of beginning; and the Werth, Dale, farm, known as the "Werthwhile Farm," located in the town of Cohocton on the north side of County Road 5 (known as Brown Hill Road), and 0.2 mile west of the junction of County Road 5 with County Road 58 (known as Wager Road).

Suffolk County. The entire county.

Wayne County. The town of Savannah.

(2) *Suppressive area:* None.

Done at Washington, DC, this 19th day of August 1986.

William F. Helms,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-19036 Filed 8-21-86; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 377]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 377 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period August 22–28, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 377 (§ 908.677) is effective for the period August 22–28, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The committee met publicly on August 19, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and the effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges, Valencias.

1. The authority citation for 7 CFR Part 908 continues to read:

Authority: (Secs. 1–19, 48 State 31, as amended; 7 U.S.C. 601–674).

2. Section 908.677 is added to read as follows:

§ 908.677 Valencia Orange Regulation 377.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 22, 1986, through August 28, 1986, are established as follows:

(a) District 1: 374,000 cartons;

(b) District 2: 476,000 cartons;

(c) District 3: Unlimited cartons.

Dated: August 20, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-19157 Filed 8-21-86; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-061]

Importation of Animals Through the Harry S. Truman Animal Import Center; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Technical amendment.

SUMMARY: This document corrects an error in a cross reference in the regulations concerning the importation of animals into the United States.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

This document corrects an error in a cross reference in the regulations concerning the importation of animals into the United States. Prior to February 16, 1979 (44 FR 10052), the requirements for the importation of animals into the United States through the Harry S. Truman Animal Import Center were set forth in § 92.4(e). On that date, paragraph (e) of § 92.4 was removed and such requirements were set forth in a newly designated § 92.41. However, a reference to paragraph (e) in § 92.4(a)(2) was not amended to reflect the change. Therefore, this document corrects that reference.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.4 [Amended]

2. In paragraph (a)(2) of § 92.4, "paragraphs (d) and (e) of this section" is revised to read "paragraph (d) of this section and § 92.41."

Done at Washington, DC, this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–18986 Filed 8–21–86; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 317 and 318

[Docket No. 85–030F]

Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Ascorbate, and Sodium Citrate in Fresh Pork Cuts

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations to permit the use of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to maintain the color of fresh pork cuts. Fresh pork cuts which have been treated to maintain color by the addition of these substances will be required to be labeled with a qualifying phrase, contiguous to the product name, which indicates that they have been treated to maintain color. The Federal meat inspection regulations do not currently permit the use of these substances for that purpose. It is therefore necessary to amend the regulations to provide for this use of these substances. It is also necessary to modify the labeling regulations to insure that purchasers are informed that the fresh pork cuts have been treated with these substances to maintain color. Use of these substances will result in maintenance of color for a period of time equivalent to the microbiological shelf life of fresh pork cuts. This will permit extended distribution of pork cuts prepared and packaged in Federally inspected establishments. The petitioner has supplied FSIS with sufficient information to satisfy the requirements of 9 CFR 318.7(a)(2) for amending the Federal meat inspection regulations to permit the requested use. However, due to the potential significance of color maintenance through the use of added substances, this rule is being published as an interim final rule with request for comments so that commercial experience and public comment can be obtained and considered prior to confirmation of the rule as final.

DATES: Effective date: September 22, 1986.

Comments must be received by December 22, 1986.

ADDRESS: Post-promulgation written comments may be mailed to the U.S. Department of Agriculture, Food Safety and Inspection Service, Attn: Hearing Clerk, Room 3168–S, South Agriculture Building, Washington, DC 20250. See "Comments" for Agency rationale in issuing this rule without prior proposal for public comment.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that this interim final rule is not a "major rule" within the scope of E.O. 12291. It will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This interim final rule provides for the discretionary use of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to maintain the color of fresh pork cuts. Industry will benefit from this action by being able to extend the color shelf life of fresh pork cuts, thereby reducing costs to consumers and losses to producers.

Effect on Small Entities

The Administrator certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612).

This interim final rule will impose no new requirements on industry. The implementation of this rule will allow the meat industry to use a new method of color preservation to help maintain the fresh appearance of fresh pork cuts. Costs will be incidental and offset by distribution efficiencies and reduction of losses due to color deterioration of fresh pork cuts.

Comments

This is an interim final rule with request for comments issued without prior proposal for public comment under authority of § 318.7 of the Federal meat inspection regulations (9 CFR 318.7). Under that provision the Administrator may approve new substances, new uses of substances, or new levels of substances in meat or meat products provided that (1) the substance has been previously approved by the Food and Drug Administration (FDA) for use in meat or meat food products as a food additive, color additive, or as a substance generally recognized as safe (GRAS), and is listed in 21 CFR Parts 73, 74, 81, 172, 173, 179, 182, and 184, and (2) that its intended use would be in compliance with applicable FDA requirements. If these criteria are met, the Administrator may issue a final or interim final rule without prior proposal for public comment upon further finding that (1) the use of the substance will not render the product in which it is added adulterated, misbranded, or otherwise not in compliance with the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), and (2) that the substance is functional and suitable for the product and is permitted for use at the lowest level necessary to accomplish the stated technical effect.

The Administrator finds that the above criteria have been met in this instance. However, this rule is being issued as an interim final rule with request for comments rather than as a final rule so that interested parties may comment on the use of added substances to maintain the color of fresh pork cuts. This will also provide an

opportunity for comments on descriptive labeling to disclose the use and purpose of such added substances. Written comments should be forwarded pursuant to the "ADDRESS" section shown above. In order to be considered, such comments should arrive within 120 days of the date this interim final rule is published.

Background

Wilson Foods Corp. has petitioned FSIS to permit the addition of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate in conjunction with phosphates to fresh pork cuts packaged in a controlled atmosphere of carbon dioxide, oxygen and nitrogen in order to maintain the fresh appearance of such meat. This treatment is claimed to result in the retention of a fresh color and appearance throughout the product's microbiological shelf life.

Fresh pork which is packaged and stored at low temperatures will remain safe and wholesome for periods up to and exceeding 30 days. However, even though the pork cut may be safe and wholesome, color loss occurs sooner and the product loses its appeal and marketability. The darkened or browned appearance detracts from the appearance of the product, and purchasers are reluctant to purchase the product even though there is no loss of food value or wholesomeness.

The petitioner presented data demonstrating that the addition of the above mentioned substances did result in extension of the color and appearance of fresh pork cuts. The experiments were run on products which were packaged in a controlled atmosphere of carbon dioxide, oxygen and nitrogen. However, this rulemaking concerns the addition of substances rather than packing gases, which are not a part of this rule. Phosphates are also not a part of this rule since they are already permitted to be added to fresh meat cuts to help protect flavor under provisions of 9 CFR 318.7(c)(4).

The intended technical effect of the ascorbic acid, erythorbic acid and sodium ascorbate is to serve as antioxidants. The amount of these substances required to achieve the intended technical effect is between 250 and 500 parts per million (ppm), or up to 1.8 milligrams per square inch of surface area collectively. This rule provides for use of these substances at levels not to exceed either 500 ppm or 1.8 milligrams per square inch of surface, singly or in combination. Neither of these levels may be exceeded.

The intended technical effect of the citric acid and sodium citrate is to serve as sequestrants. The amount of these substances required to achieve the intended technical effect is 250 ppm or 0.9 milligrams per square inch of surface area collectively. This rule provides for use of these substances at levels not to exceed either 250 ppm or 0.9. milligrams per square inch of surface, singly or in combination. Neither of these levels may be exceeded.

When processors request to apply the above mentioned substances to fresh pork cuts, they will be required to follow an approved Partial Quality Control (PQC) program as set forth in 9 CFR 318.4(d). Processing will not be permitted, nor will labeled products be permitted to be distributed in commerce, until such PQC programs are approved and utilized according to the requirements set forth in 9 CFR 318.4(e). This will insure that the substances will not be applied in excessive amounts and that color maintenance will not exceed microbiological shelf life.

Fresh pork cuts which are treated with these substances to maintain the color during distribution will be required to be labeled with a statement identifying the specific approved substance by its common name and the purpose for which it is added, such as "sprayed with a solution of water, ascorbic acid and citric acid to maintain color." This phrase must be contiguous to the product name and must be in the same style of print no smaller than one fourth the size of the print in the product name. The requirement of the presence of the qualifying statement is consistent with established regulatory standards when other preservatives, such as antioxidants or mold inhibitors, are added to meat food product (9 CFR 317.2(j)(10) and 317.8(b)(27)(28)).

The substances addressed in this rulemaking are listed as GRAS in the food and drug regulations. Ascorbic acid is listed as a chemical preservative in 21 CFR 182.3013, erythorbic acid is listed as a chemical preservative in 21 CFR 182.3041, citric acid is listed as a sequestrant in 21 CFR 182.6033, sodium ascorbate is listed as a chemical preservative in 21 CFR 182.3731, and sodium citrate is listed as a sequestrant in 21 CFR 182.6751. The only condition on the use of these substances in the food and drug regulations is good manufacturing practice.

The Administrator finds that information provided by the petitioner and other data available to the Agency indicate that (1) the proposed use of these substances is functional and suitable for the product, (2) the substances would be used at the lowest level necessary to accomplish their intended technical effect, and (3) the use of these substances will not render the product on which it is used adulterated, misbranded, or otherwise not in accordance with the requirements of the Act *provided* that certain quality control measures are taken. These include treatment only under an approved partial quality control (PQC) program monitored by FSIS. All such PQC programs must cover certain critical control points, including but not necessarily limited to:

(1) Condition of meat before treatment (must be fresh or previously frozen meat maintained in a wholesome condition as evidence by time and temperature records from the point of slaughter).

(2) Solution formulation control.

(3) Single application control.

(4) Finished product ingredient analysis monitoring.

(5) Integrity of packaging during storage, transportation, and distribution.

(6) Further processing control (ascorbate treated cuts may not be further processed into fresh, ground pork products).

With the foregoing conditions, the Department is amending the Federal meat inspection regulations to (1) amend the table of approved substances in 9 CFR 318.7(c)(4) to include the use of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination, as color maintainers for fresh pork cuts and (2) require descriptive labeling of fresh pork products to which ascorbic acid, erythorbic, acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination, are added to maintain color.

List of Subjects in 9 CFR Parts 317 and 318

Labeling and food additives, Meat Inspection.

For reasons explained in the preamble, Parts 317 and 318, Subchapter A, Chapter III or Title 9, Code of Federal Regulations are amended as set forth below.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for Part 317 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254, unless otherwise noted.

2. Section 317.8(b) of the Federal meat inspection regulations (9 CFR 317.8(b)) is amended by adding a new paragraph (36) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

(a) * * *
(b) * * *

(36) When ascorbic acid, erythorbic acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination, are added to fresh pork cuts as permitted under Part 318 of this subchapter, there shall appear on the label of that product, in letters of the same style and type and not less than one fourth the size of letters in the product name, contiguous to the name of the product, a statement identifying the specific approved substance(s) by its common name and the purpose for which it is added, such as, "sprayed with a solution of water, ascorbic acid and citric acid to maintain color."

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

4. In Part 318, § 318.7(c)(4) is amended to include ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate as the first substances listed under Miscellaneous in the Class of substance column as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *
(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous.....	Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination, under an approved partial quality control (PQC) program (9 CFR 318.4 (d) & (e)).	To maintain color.	Fresh pork cuts...	Not to exceed either 500 ppm or 1.8 mg/sq inch of surface of ascorbic acid, erythorbic acid or sodium ascorbate, singly or in combination; and/or not to exceed either 250 ppm or 0.9 mg/sq inch of surface of citric acid or sodium citrate, singly or in combination.
. . .	. . .	. . .	. . .	. . .

Done at Washington, DC on: August 19, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-19037 Filed 8-21-86; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule amending 10 CFR Parts 50 and 73 with regard to regulations pertaining to refined policy on vital area access controls, authority to suspend safeguards measures during safety emergencies, protection of certain items of security equipment which significantly impact nuclear plant security, and key and lock controls that was published on August 4, 1986 (51 FR 27817). This action is ncessary in order to make several minor typographical corrections.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Dwyer, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-427-4773.

In FR Doc. 86-17500, published in the **Federal Register** of Monday, August 4, 1986, make the following corrections:

1. On page 27817, in the third column, in the second complete paragraph, in the 15th line, add a closing parenthesis to "independent".

2. On page 27818, in the second column, under item 4 in the last line of the first paragraph, add another "§" before "§ 50.54(x)".

3. On page 27819, in the first column, under the Regulatory Flexibility Certification, in the 9th line, the word "dominate" should read "dominant".

4. On page 27820, in the third column, under § 50.54, in the 12th line, remove "50.34(f)" and in the 18th line, the reference to "§ 50.54(d)" should read "§ 50.34(d)".

5. On page 27821, in the second column, under § 73.55, in the 5th line of the first paragraph, remove "(d)(2)".

6. On page 27821, in the third column, in the 33rd line, add another "§" before "§ 50.54(x)".

Dated at Bethesda, Maryland, this 18th day of August 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86-19022 Filed 8-21-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWP-25]

Amendment to the Control Zone and Transition Area, Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: There has been a change in the airport reference point (ARP) for Libby AAF, Fort Huachuca, Arizona. This action will amend the description of the Fort Huachuca, Arizona, control zone and transition area and include the correct ARP.

EFFECTIVE DATE: 0901 u.t.c., October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

The Rule

These amendments to Part 71 of the Federal Aviation Regulations amend the descriptions of the Fort Huachuca, Arizona, control zone and transition area and includes the correct airport reference point. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor amendments in which the

public would not be particularly interested. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B, dated January 2, 1986.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety/Control zones/ Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as amended (51 FR 27835), is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

Fort Huachuca, AZ—[Amended]

After "Fort Huachuca, AZ.," remove "(lat. 35°55'00" N., long. 110°20'30" W.)" and substitute "(lat. 31°35'23" N., long. 110°20'49" W.)."

3. Section 71.181 is amended as follows:

Fort Huachuca, AZ—[Amended]

After "Fort Huachuca, AZ.," remove "(lat. 31°35'00" W., long. 110°20'30" W.)" and substitute "(lat. 31°35'23" N., long. 110°20'49" W.)."

Issued in Los Angeles, California, on August 14, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86–18929 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 16

Organization, Procedures, and Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This document implements the Federal Advisory Committee Act ("FACA"), 5 U.S.C. App. I, by setting out Federal Trade Commission policy and procedures governing the establishment, termination and renewal of advisory committees; conduct of committee meetings; review of committee activities; and compensation of committee members.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Mark J. Horoschak, Office of the General Counsel, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 523–3442.

SUPPLEMENTARY INFORMATION: On February 11, 1986, the Federal Trade Commission ("Commission") announced its intent to use negotiated rulemaking to develop recommendations for revising the Commission's Rule on Informal Dispute Settlement Procedures, 16 CFR Part 703. See 51 FR 5205 (1986). It is contemplated that a negotiating group, composed of representatives of each potentially affected interest group, will attempt to develop specific proposals for amending the existing rule. The negotiations, if successful, will lay the groundwork for a notice-and-comment rulemaking proceeding. Negotiated rulemaking has been endorsed by the Administrative Conference of the United States as a "practical technique in appropriate instances." Recommendation No. 85–5, 50 FR 52,895 (1985) (to be codified at 1 CFR 305.85–5); *see also* Recommendation No. 82–4, 1 CFR 305.82–4.

To date, the Commission has not established or utilized an advisory committee within the meaning of FACA. However, since the purpose of the negotiating group contemplated by the Commission would be to develop consensus advice and recommendations, the group would constitute an advisory committee under FACA. 5 U.S.C. App. I Section 3(2). FACA requires that agencies promulgate general regulations governing the establishment and conduct of advisory committees. 5 U.S.C. App. I Section 8. Accordingly, the regulations set forth below reflect the requirements of FACA and the General Services Administration Interim Rule on Federal Advisory Committee Management, 41 CFR Part 101–6, and are intended to govern the proposed negotiating group as well as similar advisory committees which the Commission may establish or utilize in the future. These regulations constitute rules of agency organization, procedure or practice, and thus are being promulgated without prior notice and comment. 5 U.S.C. 553(b)(3)(A).

List of Subjects in 16 CFR Part 16

Administrative practice and procedure; Federal Advisory Committee Act.

For the reasons stated in the preamble above, Title 16 of the Code of Federal Regulations is hereby amended by adding a Part 16, as follows:

PART 16—ADVISORY COMMITTEE MANAGEMENT

Sec.

16.1 Purpose and scope.
16.2 Definitions.
16.3 Policy.
16.4 Advisory Committee Management Officer.
16.5 Establishment of advisory committees.
16.6 Charter.
16.7 Meetings.
16.8 Closed meetings.
16.9 Notice of meetings.
16.10 Minutes and transcripts of meetings.
16.11 Annual Comprehensive Review.
16.12 Termination of advisory committees.
16.13 Renewal of advisory committees.
16.14 Amendments.
16.15 Reports of advisory committees.
16.16 Compensation.

Authority: Federal Advisory Committee Act, 5 U.S.C. App. I Section 8(a).

§ 16.1 Purpose and scope.

(a) The regulations in this part implement the Federal Advisory Committee Act, 5 U.S.C. App. I.

(b) These regulations shall apply to any advisory committee, as defined in paragraph (b) of § 16.2 of this part. However, to the extent that an advisory committee is subject to particular statutory provisions that are inconsistent with the Federal Advisory Committee Act, these regulations do not apply.

§ 16.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the General Services Administration.

(b) "Advisory committee," subject to exclusions described in paragraph (b)(2) of this section, means any committee, board, commission, council, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is established or utilized by the

Commission for the purpose of obtaining advice or recommendations for the Commission or other agency or officer of the Federal Government on matters that are within the scope of the Commission's jurisdiction.

(1) Where a group provides some advice to the Commission but the group's advisory function is incidental and inseparable from other (e.g., operational or management) functions, the provisions of this part do not apply. However, if the advisory function is separable, the group is subject to this part to the extent that the group operates as an advisory committee.

(2) Groups excluded from the effect of the provisions of this part include:

(i) Any committee composed wholly of full-time officers or employees of the Federal Government;

(ii) Any committee, subcommittee or subgroup that is exclusively operational in nature (e.g., has functions that include making or implementing decisions, as opposed to the offering of advice or recommendations);

(iii) Any inter-agency advisory committee unless specifically made applicable by the establishing authority.

(c) "Commission" means the Federal Trade Commission.

(d) "GSA" means the General Services Administration.

(e) "Secretariat" means the Committee Management Secretariat of the General Services Administration.

(f) "Sunshine Act" means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 16.3 Policy.

(a) The Commission's policy shall be to:

(1) Establish an advisory committee only when it is essential to the conduct of agency business;

(2) Insure that adequate information is provided to the Congress and the public regarding advisory committees, and that there are adequate opportunities for access by the public to advisory committee meetings;

(3) Insure that the membership of the advisory committee is balanced in terms of the points of view represented and the functions to be performed; and

(4) Terminate an advisory committee whenever the stated objectives of the committee have been accomplished; the subject matter or work of the advisory committee has become obsolete; the cost of operating the advisory committee is excessive in relation to the benefits accruing to the Commission; or the advisory committee is otherwise no longer a necessary or appropriate means to carry out the purposes for which it was established.

(b) No advisory committee may be used for functions that are not solely advisory unless specifically authorized to do so by law. The Commission shall be solely responsible for making policy decisions and determining action to be taken with respect to any matter considered by an advisory committee.

§ 16.4 Advisory Committee Management Officer.

(a) The Commission shall designate the Executive Director as the Advisory Committee Management Officer who shall:

(1) Exercise control and supervision over the establishment, procedures, and accomplishments of the advisory committees established by the Commission;

(2) Assemble and maintain the reports, records, and other papers of any advisory committee during its existence;

(3) Carry out, on behalf of the Commission, the provisions of the Freedom of Information Act, 5 U.S.C. 552, with respect to such reports, records, and other papers;

(4) Maintain in a single location a complete set for the charters and membership lists of each of the Commission's advisory committees;

(5) Maintain information on the nature, functions, and operations of each of the Commission's advisory committees; and

(6) Provide information on how to obtain copies of minutes of meetings and reports of each of the Commission's advisory committees.

(b) The name of the Advisory Committee Management Officer designated in accordance with this part, and his or her agency address and telephone number, shall be provided to the Secretariat.

§ 16.5 Establishment of advisory committees.

(a) No advisory committee shall be established under this part unless such establishment is:

(1) Specifically authorized by statute; or

(2) Determined as a matter of formal record by the Commission, after consultation with the Administrator, to be in the public interest in connection with the performance of duties imposed on the Commission by law.

(b) In establishing an advisory committee, the Commission shall:

(1) Prepare a proposed charter for the advisory committee in accordance with § 16.6 of this part; and

(2) Submit an original and one copy of a letter to the Administrator requesting concurrence in the Commission's proposal to establish an advisory committee. The letter from the Commission shall describe the nature and purpose of the proposed advisory committee, including an explanation of why establishment of the advisory committee is essential to the conduct of agency business and in the public interest and why the functions of the proposed committee could not be performed by the Commission, by an existing committee, or through other means. The letter shall also describe the Commission's plan to attain balanced membership on the proposed advisory committee in terms of points of view to be represented and functions to be performed. The letter shall be accompanied by two copies of the proposed charter.

(c) Upon the receipt of notification from the Administrator of his or her concurrence or nonconcurrence, the Commission shall notify the Administrator in writing that either:

(1) The advisory committee is being established. The filing of an advisory committee charter as specified in § 16.6 of this part shall be deemed appropriate written notification in this instance; or

(2) The advisory committee is not being established.

(d) If the Commission determines that an advisory committee should be established in accordance with paragraph (c) of this section, the Commission shall publish notice to that effect in the **Federal Register** at least fifteen days prior to the filing of the advisory committee's charter unless the Administrator authorizes publication of such notice within a shorter period of time. The notice shall identify the name and purpose of the advisory committee, state that the committee is necessary and in the public interest, and identify the name and address of the Commission official to whom the public may submit comments.

(e) The Commission may issue regulations or guidelines as may be necessary to operate and oversee a particular advisory committee.

§ 16.6 Charter.

(a) No advisory committee established, utilized, reestablished or renewed by the Commission under this part shall meet or take any action until its charter has been filed by the Commission with the standing committees of the Senate and House of Representatives having legislative jurisdiction over the Commission.

(b) The charter required by paragraph (a) of this section shall include the following information:

(1) The committee's official designation;

(2) The committee's objectives and the scope of its activity;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The Commission component or official to whom the committee reports;

(5) The agency or official responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(7) The estimated annual operating cost in dollars and man-years for the committee;

(8) The estimated number and frequency of committee meetings;

(9) The committee's termination date, if less than two years from the date of committee's establishment; and

(10) The date the charter is filed.

(c) A copy of the charter required by paragraph (a) of this section shall also be furnished at the time of filing to the Secretariat and the Library of Congress.

(d) The requirements of this section shall also apply to committees utilized as advisory committees, even though not expressly established for that purpose.

§ 16.7 Meetings.

(a) The Commission shall designate an officer or employee of the Federal Government as the Designated Federal Officer for the advisory committee. The Designated Federal Officer shall attend the meetings of the advisory committee, and shall adjourn committee meetings whenever he or she determines that adjournment is in the public interest. The Commission, in its discretion, may authorize the Designated Federal Officer to chair meetings of the advisory committee.

(b) No meeting of any advisory committee shall be held except at the call of, or with the advance approval of, the Designated Federal Officer and with an agenda approved by such official.

(c) The agenda required by paragraph (b) of this section shall identify, in general terms, matters to be considered at the meeting and shall indicate whether any part of the meeting will concern matters that the General Counsel has determined to be covered by one or more of the exemptions of the Sunshine Act.

(d) Timely notice of each meeting of the advisory committee shall be provided in accordance with § 16.9 of this part.

(e) Subject to the provisions of § 16.8 of this part, each meeting of an advisory committee as defined in § 16.2(b) of this part shall be open to the public. Subcommittees and subgroups that are not utilized by the Commission for the purpose of obtaining advice or recommendations do not constitute advisory committees within the meaning of § 16.2(b) and are not subject to the meeting and other requirements of this part.

(f) Meetings that are completely or partly open to the public shall be held at reasonable times and at places that are reasonably accessible to members of the public. The size of the meeting room shall be sufficient to accommodate members of the public who can reasonably be expected to attend.

(g) Any member of the public shall be permitted to file a written statement with the committee concerning any matter to be considered in a meeting. Interested persons may be permitted by the committee chairman to speak at such meetings in accordance with procedures established by the committee and subject to the time constraints under which the meeting is to be conducted.

(h) No meeting of any advisory committee shall be held in the absence of a quorum. Unless otherwise established by statute or in the charter of the committee, a quorum shall consist of a majority of the committee's authorized membership.

§ 16.8 Closed meetings.

(a) Paragraphs (e), (f) and (g) of § 16.7 of this part, which require that meetings shall be open to the public and that the public shall be afforded an opportunity to participate in such meetings, shall not apply to any advisory committee meeting (or any portion thereof) which the Commission determines is concerned with any matter covered by one or more of the exemptions set forth in paragraph (c) of the Sunshine Act, 5 U.S.C. section 552b(c).

(b) An advisory committee that seeks to have all or part of its meeting closed shall notify the Commission at least thirty days before the scheduled date of the meeting. The notification shall be in writing and shall identify the specific provisions of the Sunshine Act which justify closure. The Commission may waive the thirty-day requirement when a lesser period of time is requested and justified by the advisory committee.

(c) The General Counsel shall review all requests to close meetings and shall advise the Commission on the disposition of each such request.

(d) If the Commission determines that the request is consistent with the policies of the Sunshine Act and the Federal Advisory Committee Act, it shall issue a determination that all or part of the meeting may be closed. A copy of the Commission's determination shall be made available to the public upon request.

(e) The advisory committee shall issue, on an annual basis, a report that sets forth a summary of its activities in meetings closed pursuant to this section, addressing those related matters as would be informative to the public and consistent with the policy of the Sunshine Act and of this part. Notice of the availability of such annual reports shall be published in accordance with § 16.15 of this part.

§ 16.9 Notice of meetings.

(a) Notice of each advisory committee meeting, whether open or closed to the public, shall be published in the **Federal Register** at least 15 days before the meeting date. Such notice shall include the exact name of the advisory committee as chartered; the time, date, place and purpose of the meeting; and a summary of the meeting agenda. Notice shall also state that the meeting is open to the public or closed in whole or in part, and, if closed, cite the specific exemptions of the Sunshine Act as the basis for closure. The Commission may permit the advisory committee to provide notice of less than fifteen days in extraordinary situations, provided that the reasons for doing so are included in the meeting notice.

(b) In addition to the notice required by paragraph (a) of this section, other forms of notice such as press releases and notices in professional journals may be used to inform interested members of the public of advisory committee meetings.

§ 16.10 Minutes and transcripts of meetings.

(a) Detailed minutes of each advisory committee meeting shall be kept. The minutes shall reflect the time, date and place of the meeting; and accurate summary of each matter that was discussed and each conclusion reached; and a copy of each report or other document received, issued, or approved by the advisory committee. In addition, the minutes shall include a list of advisory committee members and staff and full-time Federal employees who attended the meeting; a list of members of the public who presented oral or written statements; and an estimated number of members of the public who were present at the meeting. The minutes shall describe the extent to which the meeting was open to the public and the nature and extent of any public participation. If it is impracticable to attach to the minutes of the meeting any document received, issued, or approved by the advisory committee,

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VOL 51 ISS 163 AG 22 1986 UMI

then the minutes shall describe the document in sufficient detail to enable any person who may request the document to identify it readily.

(b) The accuracy of all minutes shall be certified to by the chairperson of the advisory committee.

(c) Minutes need not be kept if a verbatim transcript is made.

§16.11 Annual comprehensive review.

(a) The Commission shall conduct an annual comprehensive review of the activities and responsibilities of each advisory committee to determine:

(1) Whether such committee is carrying out its purpose;

(2) Whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) Whether it should be merged with any other advisory committee or committees; or

(4) Whether it should be abolished.

(b) Pertinent factors to be considered in the comprehensive review required by paragraph (a) of this section include the following:

(1) The number of times the committee has met in the past year;

(2) The number of reports or recommendations submitted by the committee;

(3) An evaluation of the substance of the committee's reports or recommendations with respect to the Commission's programs or operations;

(4) An evaluation (with emphasis on the preceding twelve month period of the committee's work) of the history of the Commission's utilization of the committee's recommendations in policy formulation, program planning, decision making, more effective achievement of program objectives, and more economical accomplishment of programs in general.

(5) Whether information or recommendations could be obtained from sources within the Commission or from another advisory committee already in existence;

(6) The degree of duplication of effort by the committee as compared with that of other parts of the Commission or other advisory committees; and

(7) The estimated annual cost of the committee.

(c) The annual review required by this section shall be conducted on a fiscal year basis, and results of the review shall be included in the annual report to the GSA required by § 16.15 of this part. The report shall contain a justification of each advisory committee which the Commission determines should be continued, making reference, as appropriate, to the factors specified in paragraph (b) of this section.

§ 16.12 Termination of advisory committees.

Any advisory committee shall automatically terminate not later than two years after it is established, reestablished, or renewed, unless:

(a) Its duration is otherwise provided by law;

(b) It is renewed in accordance with § 16.13 of this part; or

(c) The Commission terminates it before that time.

§ 16.13 Renewal of advisory committees.

(a) Any advisory committee established under this part may be renewed by appropriate action of the Commission and the filing of a new charter. An advisory committee may be continued by such action for successive two-year periods.

(b) Before it renews an advisory committee in accordance with paragraph (a) of this section, the Commission will inform the Administrator by letter, not more than sixty days nor less than thirty days before the committee expires, of the following:

(1) Its determination that a renewal is necessary and in the public interest;

(2) The reasons for its determination;

(3) The Commission's plan to maintain balanced membership on the committee;

(4) An explanation of why the committee's functions cannot be performed by the Commission or by an existing advisory committee.

(c) Upon receipt of the Administrator's notification of concurrence or nonconcurrence, the Commission shall publish a notice of the renewal in the **Federal Register**, which shall certify that the renewal of the advisory committee is in the public interest and shall include all the matters set forth in paragraph (b) of this section. The Commission shall cause a new charter to be prepared and filed in accordance with the provisions of §§ 16.5 and 16.6 of this part.

(d) No advisory committee that is required under this section to file a new charter for the purpose of renewal shall take any action, other than preparation and filing of such charter, between the date the new charter is required and the date on which such charter is actually filed.

§ 16.14 Amendments.

(a) The charter of an advisory committee may be amended when the Commission determines that the existing charter no longer accurately describes the committee itself or its goals or procedures. Changes may be minor, such as revising the name of the advisory committee, or may be major, to the extent that they deal with the basic objectives or composition of the committee.

(1) To make a minor amendment to an advisory committee charter, the Commission shall:

(i) Amend the charter language as necessary; and

(ii) File the amended charter in accordance with the provisions of § 16.6 of this part.

(2) To make a major amendment to an advisory committee charter, the Commission shall:

(i) Amend the charter language as necessary;

(ii) Submit the proposed amended charter with a letter to the Administrator requesting concurrence in the amended language and an explanation of why the changes are essential and in the public interest; and

(iii) File the amended charter in accordance with the provisions of § 16.6 of this part.

(b) Amendment of an existing charter does not constitute renewal of the advisory committee under § 16.13 of this part.

§ 16.15 Reports of advisory committees.

(a) The Commission shall furnish, on a fiscal year basis, a report of the activities of each of its advisory committees to the GSA.

(b) Results of the annual comprehensive review of the advisory committee made under § 16.11 shall be included in the annual report.

(c) The Commission shall notify the GSA, by letter, of the termination of, changes in the membership of, or other significant developments with respect to, an advisory committee.

§ 16.16 Compensation.

(a) *Committee members.* Unless otherwise provided by law, the Commission shall not compensate advisory committee members for their service on an advisory committee. In the exceptional case where the Commission is unable to meet the need for technical expertise or the requirement for balanced membership solely through the appointment of noncompensated members, the Commission may contract for or authorize the advisory committee to contract for the services of a specific consultant who may be appointed as a member of the advisory committee. In such a case, the Commission shall follow the procedures set forth in paragraph (b) of this section.

(b) *Consultants.* Prior to hiring or authorizing the advisory committee to

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hire a consultant to an advisory committee, the Commission shall determine that the expertise or viewpoint to be offered by the consultant is not otherwise available without cost to the Commission. The compensation to be paid to such consultant may not exceed the maximum rate of pay authorized by 5 U.S.C. section 3109. Hiring of consultants shall be in accordance with OMB Circular A–120 and applicable statutes, regulations, and Executive Orders.

(c) *Staff members.* The Commission may fix the pay of each advisory committee staff member at a rate of the General Schedule, General Management Schedule, or Senior Executive Service in which the Staff member's position would appropriately be placed (5 U.S.C. Chapter 51). The Commission may not fix the pay of a staff member at a rate higher than the daily equivalent of the maximum rate for GS–15, unless the Commission has determined that under the General Schedule, General Management Schedule, or Senior Executive Service classification system, the staff member's position would appropriately be placed at a grade higher than GS–15. The Commission shall review this determination annually.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–18983 Filed 8–21–86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 85F–0035]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of the reaction products of 1,6-hexanediol (CAS Reg. No. 629–11–8) with azelaic acid, polybasic and monobasic acids identified in 21 CFR 175.300(b)(3)(vii) (*a*) and (*b*), and tetrahydrophthalic acid as components of adhesives for use in articles intended for use in contact with food. This action responds to a petition filed by Witco Chemical Corp.

DATES: Effective August 22, 1986; objections by September 22, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 22, 1985 (50 FR 7388), FDA announced that a petition (FAP 5B3844) had been filed by Witco Chemical Corp., 3230 Brookfield St., Houston, TX 77045, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of the reaction products of 1,6-hexanediol with azelaic acid, polybasic and monobasic acids identified in 21 CFR 175.300(b)(3)(vii) (*a*) and (*b*), and tetrahydrophthalic acid as components of adhesives for use in articles intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use is safe and that the regulations should be amended as set forth below. The agency is also deleting the entry for "polyester of 1,6-hexanediol and adipic acid" in 21 CFR 175.105(c)(5) because the amendment covers this substance.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Under FDA's regulations implementing the National Environmental Policy Act (21 CFR 25), an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before September 22, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 175.105(c)(5) by removing from the list of substances the item "Polyester of 1,6-hexanediol and adipic acid (CAS Reg. No. 25212–06.0)" and by alphabetically inserting a new item in the list of alcohols for the substance "Polyester resins (including alkyd type) * * *" to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Polyester resins (including alkyd type) * * *	
* * * * *	
Alcohols:	
* * * * *	
1,6-Hexanediol (CAS Reg. No. 629-11-8).	
* * * * *	

Dated: August 15, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc 86-18940 Filed 8-21-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 175

[Docket No. 85F-0132]

Indirect Additives; Adhesives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-carbon monoxide copolymer as a component of adhesives for use in articles intended for use in contact with food. This action responds to a petition filed by The Dow Chemical Co.

DATES: Effective August 22, 1986; objections by September 22, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 15, 1985 (50 FR 14770), FDA announced that a petition (FAP 5B3855) had been filed by The Dow Chemical Co., 1803 Bldg., Door 7, Midland, MI 48674, proposing that the food additive regulations be amended to provide for the safe use of ethylene-carbon monoxide copolymer (CAS Reg. No. 25052-62-4) as a component of adhesives for use in articles intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25) that was published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985).

Any person who will be adversely affected by this regulation may at any time on or before September 22, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Ethylene-carbon monoxide copolymer (CAS Reg. No. 25052-62-4) containing not more than 30 weight percent of the units derived from carbon monoxide.	
* * * * *	

Dated: August 15, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-18942 Filed 8-21-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-86-21]

Temporary Deviation From Drawbridge Operation Regulations for Bridge Across Atlantic Intracoastal Waterway, at Hobucken, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard has granted

a temporary deviation from the regulations for the drawbridge across the Atlantic Intracoastal Waterway at mile 157.2, at Hobucken, North Carolina. The purpose of this deviation from the regulations is to allow the project contractor for the U.S. Army Corps of Engineers, the owner of the bridge, to repair the bridge. The repairs are expected to be completed in less than 60 days.

DATES: This temporary deviation from the regulations becomes effective on August 6, 1986, and will terminate upon completion of the work and further public notice. A definite termination date for completion of the work cannot be given because the extent of the repairs is not known at this time.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Fifth Coast Guard District (804) 398–6222.

Drafting Information

The drafters of this notice are Ann B. Deaton, project officer, and LT Wayne M. Patrick, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Deviation From Drawbridge Regulations

In consideration of the foregoing, the regulations in § 117.5 of Title 33, Code of Federal Regulations, do not apply to the bridge across the Atlantic Intracoastal Waterway, mile 157.2 at Hobucken, North Carolina.

From Monday through Friday, the bridge will be closed to boat traffic from 10 a.m. to 3 p.m. At all other times, the bridge will be open on signal for the passage of boats.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g), 117.35.

Dated: August 6, 1986.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 86–18892 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5–86–022]

Temporary Deviation From Drawbridge Operation Regulations for Bridge Across Atlantic Intracoastal Waterway, at Core Creek, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard has granted a temporary deviation from the regulations for the drawbridge across the Atlantic Intracoastal Waterway at mile 195.8, Core Creek, at Beaufort, North Carolina. The purpose of this deviation from the regulations is to allow the project contractor for the U.S. Army Corps of Engineers, the owner of the bridge, to repair the bridge. This notice replaces an earlier deviation issued on July 30, 1986, 51 FR 28707, August 11, 1986. It extends the period that the draw will be closed to marine and vehicle traffic by two hours each day. As a result of the extension of the closed periods, the Corps of Engineers expects to complete the maintenance project by the end of September, 1986. Without the additional closed hours, the project would not be completed until the end of October, 1986.

DATES: This temporary deviation from the regulations becomes effective on August 18, 1986, and will terminate upon completion of the work and further public notice. A definite termination date for completion of the work cannot be given because the extent of the repairs is not known at this time.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Fifth Coast Guard District, (804) 398–6222.

Drafting Information. The drafters of this notice are Ann B. Deaton, project officer, and CDR Robert J. Reining, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Deviation From Drawbridge Regulations

In consideration of the foregoing, the regulations in § 117.5 of Title 33, Code of Federal Regulations, do not apply to the bridge across the Atlantic Intracoastal Waterway, mile 195.8, at Core Creek, Beaufort, North Carolina.

From Monday through Friday, the bridge will be closed to boat traffic from 6 a.m. to 3 p.m. The bridge will open for boat traffic on the hour and the half-hour from 6 a.m. to 8 a.m., and again from 3 p.m. to 7 p.m. From 7 p.m. to 6 a.m., the bridge will open on signal. On weekends, the bridge will open on signal from 7 p.m. on Friday through 6 a.m. on Monday.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g), 117.35.

Dated: August 11, 1986.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 86–18891 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-14-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 86–2]

General Provisions; Information Given by the Copyright Office

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is amending 37 CFR 201.2(b)(2) and (c)(1), concerning Office procedures, to provide direct public access to limited information contained in in-process files and to permit inspection and a request for copies of certain additional correspondence.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Washington, DC 20559, Telephone: (202) 287–8380.

SUPPLEMENTARY INFORMATION: On July 24, 1985 the Copyright Office promulgated and made effective rules regarding public access to information contained in the Office's in-process files and official correspondence files. [50 FR 30169]. By this notice, the Office is adopting two amendments to the regulations governing the dissemination of information by the Office.

1. Computer Search of In-Process Files

"In-process files" are those which the Copyright Office makes for its own immediate internal use in connection with pending applications for registration or the recordation of documents and which are preliminary to the completion of the public record. These files include the Receipt-in-Process system, Correspondence Management system, accounting files, open unfinished business files (U.B.), and other files of a similar nature. These files are maintained and are constantly used to facilitate the internal administrative operations of the Office in processing applications for registration and recording documents. They are not a part of the records that are required by section 705 of the Copyright Act to be open to public inspection.

The amended regulation, § 201.2(b)(2), will generally continue to deny *direct* public access to in-process files and to any of the work areas where they are kept. The amended regulation however, will permit direct public access to a

limited amount of information contained in the in-process files by means of a computer terminal.

The computer terminal can be used to determine if a request for registration of document recordation has been received in the Copyright Office, but cannot be used to determine final facts of copyright registration or document recordation. Access is by title, although in some cases a claimant's name may appear in the index.

Only the following information will be provided by a direct computer search of Office "in-process" files: Title of the work, including issue date, volume number, and issue number, if a serial; receipt date; name of remitter; description of classification if an application for registration; number of copies; and the claimant's name, if different from the name of the remitter. Direct public use of the computer terminal is permitted between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, when the Office is open for business upon payment of applicable fees. The computer terminal is located in the Records Maintenance Unit, Room LM B–14 of the James Madison Memorial Building of the Library of Congress.

In addition, the Office will continue to make available to the public information contained in its "in-process" files by means of an Office-conducted search of those files pursuant to § 201.2(b)(3), which is unchanged.

2. Partial Access to Re-Opened, Pending Cases

"Official correspondence" is correspondence, including preliminary applications, between copyright claimants or their agents and the Copyright Office, directly relating to rejected applications for registration and documents for which recordation was refused. In our July 24, 1985 rule change, the Office made such correspondence files open to public inspection and copying as a record once the case is closed.

The amended regulation, § 201.2(c)(1), makes it clear that the portion of such correspondence, directly relating to rejected applications for registration and documents for which recordation was refused which once represented a closed case will be open for public inspection and copying even though the once-closed case may have been reopened by some subsequent action on the part of the copyright claimant or his agent or by the Copyright Office. The rationale for this amendment is that the correspondence in such instances was open for public inspection prior to the subsequent reopening of the case, and the Office believes that the portion of the correspondence file that constituted a record because it was a closed case, should remain open to public inspection.

Examples of ways in which a case may be reopened after final Office action include where an appeal is made requesting reconsideration of an Office refusal to register a claim to copyright or to record a document, or where action is taken to cancel a completed registration. Public access will be allowed for the portion of the file which constituted a completed record before the case was reopened. The correspondence, if any, which triggered the reopening of the case, and any correspondence subsequently added to the file before final action will be considered part of an in-process file and public access will be governed by the rules for in process-files found in § 201.2(b)(1).

These amendments are issued as final regulations, effective immediately, without public comment, since they constitute minor changes regarding Office information procedures and are not substantive in nature.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5 Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that the regulations will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Copyright Office.

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

Final Regulations

In consideration of the foregoing, Part 201 of Title 37, Chapter II is amended as set forth below.

PART 201—[AMENDED]

The authority citation for Part 201 continues to read as follows:

Authority: Sec. 702, 90 Stat. 2541; 17 U.S.C. 702.

* * * * *

2. Section 201.2 is amended by revising the last sentence in paragraph (b)(2) and by adding additional language before the last sentence of paragraph (c)(1) to read as follows:

§ 201.2 Information given by the Copyright Office.

* * * * *

(b) *Inspection and copying of records.*

* * * * *

(2) * * * However, direct public use of computers intended to access the automated equivalent of limited portions of these files is permitted on a specified terminal in the Records Maintenance Unit, LM B–14, 8:30 a.m. to 5:00 p.m., Monday through Friday, upon payment of applicable fees.

* * * * *

(c) *Correspondence*

(1) * * * Included in the correspondence available for public inspection is that portion of the file directly relating to a completed registration, recorded document, a rejected application for registration, or a document for which recordation was refused which was once open to public inspection as a closed case, even if the case is subsequently reopened. Public inspection is available only for the correspondence contained in the file during the time it was closed because of one of the aforementioned actions. Correspondence relating to the reopening of the file and reconsideration of the case is considered part of an in-process file until final action is taken, and public inspection of that correspondence is governed by § 201.2(b). * * *

* * * * *

Dated: August 12, 1986.

Ralph Oman,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86–18956 Filed 8–21–86; 8:45 am]

BILLING CODE 1410-07-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Action 2066; A-7-FRL-3069-2]

Approval and Promulgation of State Implementation Plans; Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is approving a new state regulation as a revision to the Air Pollution Control State Implementation Plan (SIP) of the state of Missouri. The purpose of this state regulation is to reduce volatile organic compound emissions into the air from the production of maleic anhydride in the St. Louis ozone nonattainment area. The purpose of EPA approval is to make this state regulation federally enforceable against the one subject facility in the St. Louis area.

EFFECTIVE DATE: This action will be effective October 21, 1986 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be sent to Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the state's submission is available for review at the above address and at the Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC; the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC; and the Missouri Department of Natural Resources, 101 Jefferson Street, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (913) 236-2893, (FTS) 757-2893.

SUPPLEMENTARY INFORMATION: On August 15, 1985, the Missouri Air Conservation Commission adopted a new regulation designed to reduce emissions of volatile organic compounds (VOC) in the St. Louis ozone nonattainment area. VOCs react in the atmosphere to form ozone, and reductions in VOC emissions must be required as part of the SIP in order to attain the ozone standard in the St. Louis area.

This new regulation is state Rule 10 CSR 10-5.400, Control of Emissions from the Production of Maleic Anhydride. It applies to one facility in the St. Louis area. The regulation requires this one plant to reduce emissions by 98 percent from what they would be in the absence of controls.

The state adopted this regulation in compliance with section 172(b)(2) of the Clean Air Act, which requires SIPs to provide for the implementation of all reasonably available control measures as expeditiously as practicable. For major stationary sources of VOCs, reasonably available control technology (RACT) is prescribed by EPA policy as a presumptive norm developed by EPA and published in a Control Techniques Guideline (CTG) Document. The applicable CTG in this case is "Control of Volatile Organic Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry" published by EPA in December 1984 (EPA-450/3-84-015). The state has certified in its most recent St. Louis SIP revision that there are no other sources in the area covered by the SOCMI air oxidation category.

With respect to maleic anhydride production, the CTG provides that one acceptable control technique is to use a thermal oxidizer that removes 98 percent of the VOCs before emission to the atmosphere. Missouri Rule 10 CSR 10-5.400 requires a removal efficiency of 98 percent, along with recordkeeping and reporting requirements and testing methods. Final compliance was required by October 11, 1985. EPA's review of the regulation finds that it meets the control requirements of the CTG and is therefore approvable as part of the SIP.

The state regulation also requires a 70 percent continuous removal efficiency for carbon monoxide. This was one of the measures included in the SIP for carbon monoxide control in St. Louis. With the approval of this regulation, all measures in the St. Louis carbon monoxide SIP have been approved by EPA. The exemption included in the applicability section of this regulation for VOC (100 TPY or less) is neither consistent with agency policy nor an acceptable CTG required provision for SOCMI-air oxidation regulations. However, since VOC emissions from this single maleic anhydride plant are greater than the exemption level involved in this SIP revision, and since there are no other plants in the nonattainment area, the "100 TPY provision" appears to have no practical significance. Therefore, EPA is approving the regulation in its entirety.

This state submission constitutes a proposed revision to the Missouri SIP. The Administrator's decision to approve this submission is based on a determination that the revision meets the requirements of sections 110 and 172 of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective 60 days after publication unless we receive written notice within 30 days from today that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the state of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons, Reporting and Recordkeeping requirements, Intergovernmental relations and Incorporation by reference.

Dated: August 18, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by adding a new paragraph (c)(59) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(59) A new rule, Control of Emissions from the Production of Maleic Anhydride, was submitted by the

Department of Natural Resources on January 21, 1986.

(i) Incorporation by reference

(A) 10 CSR 10–5.400, Control of Emissions from the Production of Maleic Anhydride, adopted by the Missouri Air Conservation Commission and effective on October 26, 1986.

[FR Doc. 86–18985 Filed 8–21–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 65

[A–3–FRL–3068–7]

Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to Fisher Scientific Company

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order (Order) issued by the Pennsylvania Department of Environmental Resources to Fisher Scientific Company. The order requires the company to bring air emissions from its laboratory equipment manufacturing facility in Indiana County, Pennsylvania, into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 21, 1987. Because of the Administrator's approval, compliance with the Order will preclude suits under the enforcement provisions under Section 113 of the Act or the citizen suit provisions under Section 304 of the Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Rosemarie P. Nino, Environmental Protection Specialist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–9839.

ADDRESSES: A copy of the Delayed Compliance Order, and supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying (for appropriate charges) during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: On April 21, 1986, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 51, No. 76, Page 13530, a notice proposing approval of a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to Fisher Scientific Company. The notice asked for the public comments by May 21, 1986, on the EPA proposal.

No public comments were received in response to the notice. The Delayed Compliance Order issued to Fisher Scientific Company is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Fisher Scientific Company on a schedule to bring its laboratory equipment facility in Indiana County into compliance as expeditiously as practicable with Title 25 of the Pennsylvania Code, § 129.52, Table 1, Miscellaneous Metal Parts and Products, 10(f), a part of the federally approved Pennsylvania State Implementation Plan. The Order requires emission monitoring and reporting requirements as required by Sections 113(d)(1)(C) and 113(d)(7) of the Act. If the conditions of the Order are met, it will permit Fisher Scientific Company to delay compliance with SIP regulations covered by the Order until April 21, 1987. The Company is unable to immediately comply with these regulations. EPA has determined that its approval of the Order shall be effective (the date of publication of this notice) because of the need to immediately place Fisher Scientific Company on a federally enforceable schedule under the Clean Air Act requiring compliance with the applicable requirements of the State Implementation Plan.

Under section 307(b)(1) of the Act, petitions for judicial review of this Action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication of this notice of final rulemaking. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

Each DCO affects only one entity and involves an "Order" rather than a "Rule" and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: August 15, 1986.

Lee M. Thomas,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 7413(d), 7601.

2. Section 65.431 is amended by adding the following entry in alphabetical order to the table to read as follows:

§ 65.431 EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Fisher Scientific Company	Indiana Township, Indiana County, PA		Apr. 21, 1986	§ 129.52, Table 1, Miscellaneous Metal Parts and Products, 10(f), Title 25 Pa. Code.	Apr. 21, 1987.

* * * * *

[FR Doc. 86–18986 Filed 8–21–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A-4-FRL-3069-1; SC-014]

Designation of Areas for Air Quality Planning Purposes; Redesignation of an Ozone Nonattainment Area in South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today granting the request by South Carolina to redesignate York County from nonattainment to attainment for ozone. The redesignation of York County to attainment is based on three years of ambient monitoring data showing a calculated expected exceedance of less than 1.0 and on implementation of an EPA-approved control strategy.

DATE: This action is effective September 22, 1986.

ADDRESSES: Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Jill Thomas, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/347-4253 or FTS 257-4253.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962), EPA designated York County, South Carolina as nonattainment for ozone. The State was therefore required to revise their state implementation plan (SIP) for ozone. South Carolina drafted and adopted statewide regulations for controlling volatile organic compound (VOC) emissions from stationary sources in nonattainment and unclassified areas. Through the Federal Motor Vehicle Control Program (FMVCP) and implementation of the VOC regulations, South Carolina demonstrated attainment of the ozone standard in the urban nonattainment areas. Because York County was a non-urban area, a demonstration of attainment of the ozone standard was not required. EPA approved South Carolina's accommodative ozone SIP on January 29, 1980.

South Carolina has requested that EPA change the attainment status of York County from nonattainment to attainment for ozone. In order to redesignate a nonattainment area, EPA policy requires that the most recent three years of ozone data show an expected exceedance calculation of less than or equal to 1.0. The most recent eight quarters of quality assured ambient air data may suffice provided that no exceedances have occurred. In addition, the data must be accompanied by a demonstration of implementation of an EPA-approved control strategy. South Carolina has submitted ambient air quality data collected at the Chester Airport monitoring site located in Chester County. The most recent three years of air quality data (1982, 1983, and 1984) show the number of expected exceedances to be less than or equal to 1.0. Furthermore, York County has experienced no ozone exceedances during the first three quarters of 1985.

For a more detailed discussion, please refer to the March 7, 1986, **Federal Register** (45 FR 7963) and to the Technical Support Document. Both documents are available for inspection at the EPA Region IV office.

On March 7, 1986, EPA proposed to approve the request to redesignate York County to attainment for ozone. At that time the public was invited to submit written comments on the proposed action. However, no comments were received.

Final Action

Therefore, on the basis of three years of air quality data showing attainment and evidence of an implemented EPA-approved control strategy, EPA today redesignates York County from ozone nonattainment to attainment.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 21, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 18, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.341 the attainment status table titled "South Carolina—O_3" is amended by removing the entry for York County and by revising the remaining entry from "Rest of State" to "Statewide." As revised, the table reads as follows:

§ 81.341 South Carolina.

* * * * *

SOUTH CAROLINA—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards[1]
Statewide		X

[1]Designations of "Cannot be classified or better than national standards" were reaffirmed on July 23, 1982.

[FR Doc. 86-18987 Filed 8-21-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-4-FRL-3068-9; TN-027]

Designation of Areas for Air Quality Planning Purposes, Tennessee; Redesignation of Knox County CO Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today granting the request by the State of Tennessee that the Knox County carbon monoxide nonattainment area be redesignated attainment. The redesignation request is based on eight quarters of ambient monitoring data that shows no exceedances and is accompanied by evidence of the implementation of control strategies approved by EPA. The redesignation is therefore in accord with EPA policy.

EFFECTIVE DATE: This action will be effective October 21, 1986 unless notice is received within 30 days that adverse or critical comments will be submitted.

VOL 51 ISS 163 AG 22 1986 UMI

ADDRESSES: Written comments should be addressed to Waymond Blackmon of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Tennessee Division of Air Pollution, Control, Customs House 4th Floor, 701 Broadway, Nashville, Tennessee 37219–5403.

FOR FURTHER INFORMATION CONTACT: Waymond Blackmon, EPA, Region IV, Air Programs Branch, 404/347–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On February 3, 1983, the Agency published a **Federal Register** notice regarding the status of all areas designated nonattainment under Part D of the Clean Air Act. In that notice (48 FR 4972 at 5019), EPA proposed a finding that Knox County would not attain the CO standards by the end of 1982. The notice also stated that the basic existing policy for redesignation to attainment would be continued. Under this policy, all available information relative to the attainment status of the area should be reviewed. These data should include the most recent eight (8) consecutive quarters of quality assured, representative ambient air quality data plus evidence of an implemented control strategy that EPA had fully approved.

In February 1984, EPA issued a number of SIP revision calls on the basis of continued evaluation of the areas listed in the February 3, 1983, proposal. No such call was issued for Knox County. On February 22, EPA gave its current position in response to a letter dated January 12, 1984, from Mr. James E. Lovett, Director of the Knox County Department of Air Pollution Control on the attainment status of the area. EPA explained that because the primary Knox County monitor was located very near the World's Fair site and that the number of CO exceedances were the highest in the winter immediately prior to the Fair, it appeared likely that the number of exceedances recorded in Knox County was influenced by traffic disruptions near the Fair site.

During the winter of 1982–83, when more or less "normal" conditions prevailed, the number of exceedances was substantially less (only one exceedance in October 1982). However, the CO monitor near the fair site was down for repairs from November 8, 1982, to February 1, 1983, during much of the peak carbon monoxide season. Because eight consecutive quarters of data showing attainment are normally required, EPA did not feel that sufficient data was available at the time to redesignate the area to attainment. However, based on the lack of any monitored exceedances since the end of 1982, and the likelihood that the traffic influences cited earlier might have been substantially responsible for most of the large number of exceedances recorded prior to mid-1982, EPA felt that a finding that Knox County was still nonattainment for CO was not supportable. If quality assured data continued to indicate no exceedances of the CO standard, we expected Tennessee to request redesignation for Knox County. On May 16, 1985, Knox County submitted an August 28, 1984, amendment to the Tennessee State Implementation Plan concerning the ambient air quality attainment status for Knox County. The amendment was, in effect, a request that the Knox County carbon monoxide area be reclassified as attainment. Eight consecutive quarters of data submitted to EPA at the same time indicated no exceedances of the primary standard since January 1983.

In addition, the request was supported by evidence that the Part D control strategy approved by EPA for the area had been implemented (February 3, 1983, 48 FR 5036). The Part D Plan included improvements to the interstate highway system as well as completion of the computerized traffic signal system. Through the Federal Motor Vehicle Control Program (FMVCP) and implementation of the transportation control measures, Tennessee demonstrated attainment of the carbon monoxide standard in the Knox County nonattainment area.

Final Action. Based on the foregoing, EPA is today granting the State's request to redesignate Knox County, Tennessee to attainment for carbon monoxide. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective 60 days from today.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 21, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 15, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart C—Section 107 Attainment Status Designations

§ 81.343 [Amended]

2. Section 81.343 is amended by removing from the "Tennessee—CO" table the entry for Knox County.

[FR Doc. 86–18968 Filed 8–21–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477–6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of recreational fishery closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) from

the Red Buoy Line to Cape Falcon, Oregon, at midnight, August 18, 1986, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife (ODFW), and the Washington Department of Fisheries (WDF) that the recreational fishery quota of 103,200 coho salmon for the subarea will be reached by that time. The closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATES: Closure of the FCZ from the Red Buoy Line to Cape Falcon, Oregon, to recreational salmon fishing is effective at 2400 hours local time, August 18, 1986. Comments on this closure will be received until September 2, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 recreational fishery for all salmon species in the FCZ from the Red Buoy Line (as defined at 51 FR 16525) to Cape Falcon, Oregon, was established as June 29 through the earliest of September 25 or attainment of a quota of either 103,200 coho salmon or 11,700 chinook salmon.

Based on the best available information, the recreational fishery catch in the subarea is projected to reach the 103,200 coho salmon quota by midnight August 18, 1986.

The Regional Director consulted with the Assistant Directors of ODFW and WDF regarding a closure of the recreational fishery between the Red Buoy Line to Cape Falcon, Oregon. The Assistant Director of ODFW confirmed that Oregon will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight August 18, 1986.

Therefore, the Secretary issues this notice to close the recreational fishery in the FCZ from the Red Buoy Line to Cape Falcon, Oregon, effective midnight August 18, 1986. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

Other Matters

This action is taken under the authority of 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 19, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–19059 Filed 8–19–86; 5:01 pm]

BILLING CODE 3510-33-M

Proposed Rules

Federal Register
Vol. 51, No. 163
Friday, August 22, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing to revise its Federal Employees Health Benefits (FEHB) regulations to modify the formula for transferring reserve funds between health benefits carriers and OPM. The proposed regulations would increase the proportion of the reserves under OPM's control.

DATE: Comments must be received on or before October 21, 1986.

ADDRESS: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margaret Sears, (202) 632–0003.

SUPPLEMENTARY INFORMATION: Under the FEHB law, a portion of the premiums OPM collects for each health benefits plan is designated to be placed in the contingency reserve account that OPM holds for the plan. In addition, experience-rated plans (whose premiums are based on the plan's actual claims experience) hold a special reserve in which they maintain funds that were in excess of the amount needed to pay claims in prior contract years. These reserves provide a "cushion" in the event that a plan's actual claims experience exceeds the projected claims experience on which its rates were based. Experience-rated carriers also hold an "incurred claims" reserve for paying claims that have been incurred but have not yet been paid by the plan.

Current regulations provide a formula for triggering a transfer of funds from the carrier's reserves to OPM when the carrier's reserves at the end of the contract year exceed the desired level. Similarly, a transfer of funds from the OPM-held contingency reserves is triggered if carrier reserves at the end of the contract year are below the desired level and the contingency reserves exceed the preferred minimum balance. This formula was designed to limit the carrier-held reserves to the amount needed to pay claims and, at the same time, avoid cash-flow problems in the event of unanticipated fluctuations in claims experience. (A carrier may ask for a transfer of funds from the contingency reserves at any time when the carrier has good cause.)

The proposed regulations would change the amount of the reserves under OPM's control, but would not change the overall level of reserves in the FEHB Program. Specifically, the proposed regulations would increase the preferred minimum balance for the contingency reserve of experience-rated plans from 1 to 1½ months' average claims paid plus administrative expenses and retentions. (The preferred minimum balance for community-rated plans would remain at 1 month's subscription charges.) The regulations would also reduce the level of carrier-held reserves necessary to trigger a transfer of funds between OPM and the experience-rated carriers, from a total (incurred claims and special reserves) of 4 months', to 3½ months' average claims paid plus administrative expenses and retentions.

The proposed regulations would not apply to reserves held by carriers until December 31, 1986.

The proposed regulations are based on the principle that FEHB Program funds should be held within the Government to the extent consistent with sound administration and adhere to the Administration's emphasis on improved cash management.

In addition, the proposed regulations would eliminate the exception to the general formula for plans having more than 50 percent of their enrollees stationed at foreign posts of duty. OPM has found that this exception is no longer needed.

E.O. 12291, Federal Regulation.

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they relate to OPM's management of the Employees Health Benefits Fund.

List of Subjects in 5 CFR Part 890

Administrative practices and procedures, Government employees, Health insurance.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM proposes to amend 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; sec. 890.301 also issued under 5 U.S.C. 8905(b); sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

2. Section 890.503 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read as follows:

§ 890.503 Reserves.

* * * * *

(c) (1) The contingency reserve for each plan is credited with—

(i) The three one-hundred-and-fourths of the enrollment charge set aside for the contingency reserve from the enrollment charges for employees and annuitants enrolled for that plan;

(ii) Amounts transferred in accordance with law from other contingency reserves and the administrative reserve;

(iii) Income from investment of the reserve;

(iv) Its proportionate share of the income from investment of the administrative reserve; and

(v) Any return of reserves of the plan.

The preferred minimum balance for the contingency reserve for community-rated plans is 1 month's subscription charges at the average recurring monthly rate paid from the Employees Health Benefits Fund for the plan during the most recent contract period. The preferred minimum balance for the contingency reserve for experience-rated plans is 1½ times an amount equal to an average month's claims paid plus an average month's administrative expenses and retentions, as determined under paragraph (c)(3) of this section. Amounts in excess of the preferred minimum balance for a contingency reserve account may be used with respect to the plan from which the reserve derives: to defray increases in future rates; to increase plan benefits, or to reduce contributions of eligible subscribers and the Government under the program through devices such as temporary suspension of, or reduction in, required contributions or a refund of contributions to eligible subscribers and the Government.

(2) When, as of the end of a contract period, the total of all the reserves held by an experience-rated carrier for the plan is less than its target level as determined under paragraph (c)(3) of this section, the carrier is entitled to payment from the contingency reserve of the lesser of: An amount equal to the difference between the target level for the plan's reserves and the total of the reserves held by the carrier for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OPM must authorize this payment promptly after accepting the accounting report for the contract period. The carrier must credit the amount so paid to the special reserve of the plan. When as of the end of a contract period, the total of all reserves held by an experience-rated carrier for the plan amounts to more than the plan's target level, the carrier must return to OPM any excess over the plan's target level. The payment must be made at the same time the plan submits its annual accounting statement unless OPM specifies a later date. If the accounting statement is not filed by the time limit specified in the plan's contract with OPM or the plan fails to return the excess reserves with the accounting statement (or at a later date specified by OPM), OPM may estimate the amount of excess reserves and offset that amount from future subscription payments.

(3) The target level for reserves held by experience-rated plans is 3⅓ times an amount equal to an average month's paid claims plus an average month's administrative expenses and retentions. In this section, an average month's paid claims is one-sixth of the total claims paid during the last 6 months of the most recent contract period, and an average month's administrative expenses and retentions is one-twelfth of the administrative expenses and retentions for the most recent contract period.

* * * * *

[FR Doc. 86-18964 Filed 8-21-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

Revised Rules for Collecting Cotton Research and Promotion Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the Cotton Board Rules and Regulations governing collecting handlers and the collection of the supplemental assessment for the Cotton Research and Promotion Program. Under the proposed revision, the Agricultural Stabilization and Conservation Service (ASCS) would deduct the supplemental assessment from loan deficiency payments made available with respect to cotton in accordance with the Agricultural Act of 1949, as amended. This would assure that all cotton which is either placed under loan or which is the basis for a loan deficiency payment would be assessed on the same basis and prevent a decline in funding for the cotton research and promotion activities budgeted by the Cotton Board.

DATE: Comments must be received on or before September 11, 1986.

ADDRESS: Written comments may be sent to Naomi Hacker, Chief, Research and Promotion, Cotton Division, AMS, USDA, Washington, DC 20250, (202) 447-2259.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order.

The Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) This action would assure that the research and promotion assessment would be levied equally on producers who (a) pledge cotton to the Commodity Credit Corporation (CCC) for a price support loan or (b) sell cotton on the open market and receive from CCC a loan deficiency payment; (2) Contributions to the support of the cotton research and promotion program are voluntary since cotton producers are entitled to a complete refund of assessments collected; (3) The assessment does not affect the competitive position or market access of small entities in the cotton industry; and (4) The benefits of the cotton research and promotion program (stimulation of consumer demand for cotton, increased market share for cotton products) accrue to all U.S. cotton producers regardless of size or degrees of support for the program.

Background

The Cotton Research and Promotion Act of 1966 (7 U.S.C. 2101 *et seq.*) and the implementing Order provide for the operation and funding of a producer financed cotton research and promotion program designed to maintain and expand markets for U.S. cotton. The program is administered by a 20-member Cotton Board, appointed by the Secretary of Agriculture, which represents cotton producers in each cotton-producing state. The Cotton Board reviews research, advertising, sales, promotion and development projects and related budgets developed by the contracting organization established to carry out such projects (7 CFR 1205.328). The Board makes recommendations concerning these projects and budgets to the Secretary of Agriculture who has final budget approval authority.

A per-bale assessment is collected from the producer by the first handler of the cotton and transmitted to the Cotton Board to be used to finance research and promotion projects. Cotton producers are entitled to a full refund of assessments collected from them (7 CFR 1205.520). Initially, the Cotton Research and Promotion Act of 1966 (Act) authorized a flat $1 per bale assessment. On July 14, 1976, the Act was amended (7 U.S.C. 2106(e)) to authorize a supplemental assessment to be collected in addition to the existing levy of $1 per bale that was not to exceed one percent of the value of the cotton.

The Cotton Board Rules and Regulations were amended to implement a supplemental assessment of six-tenths of one percent of the value of cotton effective July 24, 1985 (50 FR 30131).

Assessment of Loan Deficiency Payments

Under the Agricultural Act of 1949, as amended (The "1949 Act"), cotton producers have the option of either: (1) Pledging cotton to the Commodity Credit Corporation (CCC) as security for a price support loan with the opportunity to repay the loan at a lower rate; or (2) Foregoing the loan to sell their cotton on the open market and, instead of a loan, receiving from CCC a payment that is based upon the difference between the loan rate and the loan repayment rate. The payment is referred to as a loan deficiency payment.

In the current Cotton Board Rules and Regulations, ASCS is designated a collecting handler of assessments on cotton tendered to CCC for a Form A loan (7 CFR 1205.513). The Cotton Board proposal would amend § 1205.513 to authorize ASCS to also collect assessments on the loan deficiency payment.

Since a producer who elects to receive a loan deficiency payment will receive a return on the producer's cotton approximately equivalent to the loan level established for the crop of cotton, the supplemental assessment of six-tenths of one percent of the value of the cotton represented by the loan deficiency payment will be collected from each producer choosing this method of marketing the crop.

The ASCS County Office or a cooperative marketing association will be the collecting handler of the supplemental assessment on the value of the cotton represented by the loan deficiency payment at the time such payment is made available to the producer or the cooperative.

If the supplemental assessment is not deducted from the loan deficiency payment there would be, in effect, a difference in the total assessment collected with respect to cotton entered into the Form A loan program and cotton with respect to which a loan deficiency payment was made. This proposal would assure that the assessment is applied equally since all participating producers would utilize either the Form A loan program or receive a loan deficiency payment and therefore would pay approximately the same assessment under either option.

In addition, the Cotton Board estimates that failure to collect the assessment on cotton would reduce research and promotion program funding by nearly $1 million. This proposed rule would prevent such a serious disruption of funding for cotton research and promotion activities.

A 20-day comment period is deemed appropriate because the cotton season is already underway and collections should begin as soon as possible. If adopted, these changes should be implemented as soon as possible.

Proposed Amendment

In consideration of the foregoing, AMS propose to amend the Cotton Board rules and regulations to provide for the collection of supplemental cotton research and promotion assessments on any loan deficiency payment made by CCC in accordance with the 1949 Act.

A new definition of loan deficiency payments would be added as paragraph (n) to the list of terms defined in § 1205.500. In addition, the definition of current value of cotton in § 1205.500(d) would be revised to reflect the inclusion of loan deficiency payments. Miscellaneous non-substantive changes are also proposed to be made to the definition for clarity.

Section 1205.513, dealing with collecting handlers and the time of collection of the supplemental assessment, wuold be amended by redesignating paragraphs (d) through (j) as paragraphs (e) through (k) respectively and inserting a new paragraph (d). The new paragraph (d) would set forth the methods of collecting the supplemental assessment on the value of the cotton represented by the loan deficiency payment and would also identify the collecting handler for such assessments.

As required by 1 CFR 18.20 (46 FR 1762) the following are the indexing terms for this regulation:

List of Subjects in 7 CFR Part 1205

Cotton, Administrative practice and procedure, Research and promotion, Cotton Board, Producer assessments, Producer refunds.

PART 1205—[AMENDED]

Accordingly, Part 1205 of Chapter II, Title 7 of the Code of Federal Regulations would be amended as follows:

1. The authority citation for Part 1205 continues to read as follows:

Authority: Sec. 15, 80 Stat. 285, 7 U.S.C. 2114; Sec. 7, 80 Statg. 281, 7 U.S.C. 2106.

2. Section 1205.500 would be amended by revising paragraph (d) and adding a new paragraph (n) to read as follows:

§ 1205.500 Terms defined.

* * * * *

(d) "Current value of Cotton" means the gross price per pound of lint cotton received by the producer for cotton as shown on the producers' settlement document before deductions are made for weight penalties, buyer's commission or brokerage fees, marketing fees, the $1 per bale cotton research and promotion assessment, picking charges, ginning charges, warehouse receiving charges, warehouse storage charges, transportation charges or any other charges, plus any amount receive by a producer in the form of a loan deficiency payment with respect to such cotton.

* * * * *

(n) loan deficiency payment means any payment on Upland cotton made by the Commodity Credit Corporation to a producer in accordance with 7 CFR 713.55.

3. Section 1205.513 would be amended by redesignating paragraphs (d) through (j) as paragraphs (e) through (k) respectively, and by adding a new paragraph (d) to read as follows:

§ 1205.513 Collecting handlers and time of collection of the supplemental assessment.

* * * * *

(d) With respect to any Upland cotton on which the producer or a cooperative marketing association acting on behalf of a producer receives a loan deficiency payment, the ASCS County Office or the cooperative marketing association shall be the collecting handler of the supplemental assessment on the value of the cotton represented by the loan deficiency payment at the time such payment is made to the producer or the cooperative marketing association. A copy of a document reflecting this transaction issued by the ASCS County Office or cooperative marketing association shall show the amount collected as the supplemental assessment and shall constitute the producer's receipt for payment of the supplemental assessment.

Dated: August 18, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-18963 Filed 8-21-86; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-ASW-63]

Airworthiness Directives; Fairchild Models AS26-T and SA26-AT Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revise Airworthiness Directive (AD) 81–26–05, Amendment 39–4286, applicable to Fairchild (previously Swearingen) Models SA26–T and SA26–AT airplanes. AD 81–26–05 requires inspection of the lower forward wing Station 99 attach joint fittings and bolts for deterioration and cracks and replacement of any damaged parts. Since the issuance of AD 81–26–05, the inspection procedures requested therein were revised for clarification and Supplemental Type Certificate (STC) SA1830NM was issued which provides structural reinforcement of the wing spar. This revision clarifies the inspection procedures to prevent improper wing assembly and provides an alternate means of compliance by authorizing the installation of a wing spar strap modification with adjusted inspection intervals.

DATES: Comments must be received on or before September 28, 1986.

ADDRESSES: Fairchild Aircraft Corp. Service Bulleting (S/B) 26–56–40–015 applicable to this AD may be obtained from Fairchild Aircraft Corp., Post Office Box 32486, San Antonio, Texas 78284; Telephone (512) 824–9421 or the Rules Docket at the address below. STC SA2830NM information applicable to this AD may be obtained from AviaDesign Inc., Hangar 1, 173 Durley Avenue, Camarillo Airport, Camarillo, California 93010; Telephone (805) 987–2871.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 81–ASW–63, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Ms. Michele M. Owsley, Airplane Certification Branch, Aircraft Certification Division, ASW–150, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101; Telephone (817) 624–5161.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regultory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 81–ASW–63, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Since issuance of AD 81–26–05, Amendment 39 4286 (46 FR 63213) applicable to Fairchild Models SA26–T and SA26–AT airplanes, several reports have been received of corroded or cracked bolts and cracked wing fittings. While the service history indicates that the current AD inspection interval is adequately detecting problems in these parts before failure occurs, the FAA has received reports that the wing has been improperly reassembled following the inspections required by this AD. Fairchild has issued S/B No. 26–56–40–015 dated January 16, 1972, revised June 26, 1986, to prevent improper assembly. In addition, the FAA has issued an STC which modifies these airplanes to install a wing spar reinforcement strap designed to reduce the loads and fatigue damage to the wing attach fittings and bolts. The FAA has determined that this modification is an acceptable alternate method of compliance with an extended inspection interval.

Since the condition described in likely to exist or develop in other Fairchild Models SA26–T and SA26–T airplanes of the same design, the proposed revision to AD 81–26–05 would require clarification of the inspecection procedures to prevent improper wing assembly, and provide an alternate means of compliance by installing a wing spar strap modification with adjusted inspection intervals. In addition, this proposed amended AD will contain minor editorial changes that do not change the requirements of the previous AD.

The FAA has determined there are approximately 125 airplanes affected by the proposed AD. The optional cost of performing the inspections required by this AD has been revised to reflect inflationary increases and is now estimated at $366 per inspection. The optional cost of modifying the airplane in accordance with STC SA1830NM is estimated to be $16,900 per airplane. The total cost to the private sector for either option is approximately $2.5 million for the life of the fleet.

Because the potential cost reduction made available by the proposal is small, few if any small entities are expected to experience a significant economic impact as the result of this proposal.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By revising AD 81–26–05 so that it now reads as follows:

Fairchild Aircraft Corp.: Applies to Models SA26–T (Serial Numbers (S/N T26–2 through T26–99) and SA26–AT (S/N's T26–100 through T26–999) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 200 hours time-in-service since last compliance, unless already accomplished.

To prevent a failure at the lower forward wing station 99 attach joint accomplish the following:

(a) In accordance with Fairchild Service Bulletin 26-57-40-015, issued January 18, 1972, as revised June 26, 1986:

(1) Remove the lower forward wing station 99 attach joint coverplate and wing attach bolt.

(2) Inspect the lower forward wing station 99 attach fitting for deterioration and cracks and prior to further flight replace damaged parts with new parts of the same part numbers.

(3) Inspect the lower forward wing station 99 attach bolt for identifying part number, deterioration and cracks and prior to further flight replace any damaged bolt or bolt not identified as P/N MS20014-29 bolt with a new P/N MS20014-29 bolt.

(b) When the wing has been modified by STC SA1830NM, "installation of Wing Spar Reinforcement", the inspection intervals required by this AD may be increased from 200 hours time-in-service to 1,500 hours time-in-service or every three years since last compliance, whichever occurs first.

(c) The intervals between repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) A special flight permit may be issued in accordandce with FAR 2.197 to a location where this AD may be accomplished.

(e) An equivalent method of compliance with this AD may be used when approved by the Manager, Airplane Certification Branch, ASW-150, Southwest Regional Office, FAA, Fort Worth, Texas 76101; Telephone (817) 624-5150.

All persons affected by this AD may obtain copies of the documents referred to herein upon request to Fairchild Aircraft Corporation, Post Office Box 32486, San Antonio, Texas 78284 and AviaDesign, Inc., Hangar 1, 173 Durley Avenue, Camarillo Airport, Camarillo, California, 93010; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This AD revises AD 81-26-05, Amendment 39-4286.

Issued in Kansas City, Missouri, on August 14, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-18933 Filed 8-21-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-52-AD]

Airworthiness Directives; Pilatus Britten-Norman Ltd., Models BN-2, BN-2A and BN-2B Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revise Airworthiness Directive (AD) 83-10-06, Amendment 39-4656, applicable to Pilatus Britten-Norman Ltd., Models BN-2, BN-2A and BN-2B Islander airplanes. This proposed revision would increase the 50 hours time-in-service (TIS) repetitive inspection interval requirement of airplanes already incorporating Modification No. NB/M/1117, to 100 hours TIS in light of operational experience since 1981, as stated in Pilatus Britten-Norman Service Bulletin (S/B) No. BN-2/SB.142, Issue 4, dated January 22, 1986.

DATES: Comments must be received on or before October 27, 1986.

ADDRESSES: Pilatus Britten-Norman Ltd. S/B No. BN-2/SB.142, Issue 4, dated January 22, 1986, applicable to this AD may be obtained from Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England, or from the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, or the Rules Docket at the address below. Send comments on the proposal in duplicate the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 83-CE-52-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, Holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. H. Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitted such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-CR-52-AD Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 83-10-06, Amendment 39-4656, was issued to prevent structural failure of the elevator trim tabs of Britten-Norman Models BN-2, BN-2A, and BN-2B airplanes. It incorporated Britten-Norman Service Bulletin BN-2/SB.142 Issue 2, which introduced Modification No. NB/M/1117, authorizing the installation of a redesigned tab and permitting a 50 hour time-in-service (TIS) repetitive inspection period. The manufacturer had determined that based upon service experience since 1981, an increase of 50 hours TIS over the previous repetitive inspection interval to 100 hours TIS since last inspection shall be allowed. This new 100 hour TIS repetitive inspection interval is only applicable on airplanes that have incorporated Modification No. NB/M/1117 and is incorporated in Pilatus Britten-Norman Ltd. S/B No. BN-2/SB.142, Issue 4, dated January 22, 1986. The Civil Aviation Authority of the United Kingdom (CAA-UK) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in England has classified this latest Pilatus Britten-Norman S/B No. BN-2/SB.142 revision, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under CAA-UK registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Pilatus Britten-Norman S/B

No. BN–2/SB.142, Issue 4 dated January 22, 1986, and the mandatory classification of this service bulletin by the CAA–UK. Based on the foregoing, the FAA believes that the condition addressed by Pilatus Britten-Norman S/B No. BN–2/SB.142, Issue 4 dated January 22, 1986, may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD revision would allow an increase of the repetitive inspection interval from 50 hours TIS to 100 hours TIS for those airplanes that have incorporated Britten-Norman Modification NB/M/1117.

The FAA had determined there are approximately 92 Britten-Norman Islander airplanes affected by the proposed AD. The cost of increasing the repetitive inspection interval from 50 hours TIS to 100 TIS of the proposed AD is negligible for the relieving action.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

2. By revising AD 83–10–06, Amendment 39–4656, as follows: Revise paragraph (a)(1) to read:

Visually inspect, using a 5x power magnifying glass, the elevator trim tab skins, front channel member (spar) and drive ribs for cracks in accordance with the instructions contained in the "Inspection" section of Pilatus Britten-Norman Ltd. Service Bulletin (SB) No. BN–2/SB.142 Issue 4, dated January 22, 1986 (hereinafter referred to as the SB), or an FAA-approved equivalent."

Revise paragraph (a)(6)ii to read:

These inspections are performed at least once each 100 hours time-in-service by a properly rated mechanic.

Revise paragraph (b) to read:

For those airplanes which have incorporated Mod NB/M/1117, the intervals between repetitive inspections specified in paragraph a) of this AD may be increased to 100 hours time-in-service (as prescribed in the Airplane Maintenance Schedules (Pub. Ref. MS/1 and MS/4) and with the instructions in the Airplane Maintenence Manual (Pub. Ref. MM/1))/".

Issued in Kansas City, Missouri, on August 13, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–18935 Filed 8–21–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–136–AD]

Airworthiness Directives: McDonnell Douglas Model DC–9–80 (MD–80) Series Airplanes Equipped With Pratt and Whitney (P&W) JT8D–209, –217, or 217A Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of Comment Period for Notice of Proposed Rulemaking; Notice of Public Technical Conference.

SUMMARY: This action extends the period for submission of public comments on a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on June 23, 1986 (51 FR 22822) which proposed an amendment to require engine and airplane performance limitations on McDonnell Douglas DC–9–80 series airplanes equipped with Pratt and Whitney (P&W) JT8D–209, –217, and –217A engines. The proposed rule is considered necessary to maintain an acceptable level of safety until modified blades are installed.

This action also announces a public technical conference, which is being called at the request of the Air Transport Association of America (ATA), to discuss the provisions of this proposed amendment. All interested persons are invited to the meeting to comment both verbally and/or in writing on the provisions of the NPRM.

DATES: Comments must be received no later than September 15, 1986. The public technical conference will be held Thursday, September 4, 1986, beginning at 9:00 a.m.

ADDRESSES: The public technical conference will be held at Rochelle's Motel, 3333 Lakewood Boulevard, Long Beach, California. Comments on the proposal must be mailed in duplicate to FAA, Northwest Mountain Region, Office of the Regional Counsel (ATTN: ANM–103), Attention: Airworthiness Rules Docket 86–NM–136–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service material may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Supervisory Aerospace Engineer, Propulson Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6327.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) proposing to adopt a new airworthiness directive (AD) which would require engine and airplane performance limitations on McDonnell Douglas Model DC–9–80 series airplanes equipped with Pratt and Whitney (P&W) JT8D–209, –217, or –217A engines, was published in the **Federal Register** on June 23, 1986 (51 FR 22822).

The decision to issue this proposal was prompted by reports that, during certification testing on three P&W JT8D–219 engines, fifth stage compressor blades failed at maximum power. One failure caused a complete loss of thrust. The FAA New England Engine Certification Office findings confirmed that the blade failures were caused by flutter, which necessitated a blade redesign to successfully pass the certification standards. Follow-on testing by P&W, also confirmed that the blade flutter problem exists in the prior JT8D–209, –217, and –217A series engines in certain environments. The FAA is presently considering a proposal to mandate blade replacement in these engines.

In the interim, this proposed AD would require engine and airplane performance limitations, N_1 rotor speed limits, Minimum Equipment List (MEL) restrictions, and a placard, to minimize the potential for engine failure from this cause.

On July 15, 1986, the FAA received a petition from the Air Transport Association (ATA) of America requesting a 30-day extension of time for comments and a public meeting to discuss the provisions of the NPRM. According to the petition, the ATA, on behalf of its affected member operators, states:

> The proposed rule, if adopted, goes beyond what is necessary in order to assure that blade flutter does not occur in operation. The proposed action could create a more unsafe condition by an increase in crew workload and more restrictive performance limitations . . . We believe that suitable alternatives are available which should be orally presented to the FAA and discussed . . . The petition to extend the comment period should be granted because, without the additional time, the procedural requirements of notice for a public meeting cannot be fully satisfied.

The FAA will conduct a technical conference, open to the public, on September 4, 1986, beginning at 9:00 a.m. at Rochelle's Motel, 3333 Lakewood Boulevard, Long Beach, California. It is the intent of this conference to afford interested parties the opportunity to present their views and to submit relevant data in regards to the statements indicated above and the provisions of the NPRM, Docket No. 86-NM-136-AD.

The FAA has determined that the extension of the closing date for submission of comments on the proposed AD to September 15, 1986, would be in the public interest and will not adversely affect air safety. Such an extension will permit interested parties to assemble and prepare meaningful data in support of their respective positions.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Extension of the Comment Period

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration revises a proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

> **Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By revising Docket No. 86-NM-136-AD, as published in the **Federal Register** on June 23, 1986 (51 FR 22822), to reflect the closing date for the submission of comments as September 15, 1986.

Issued in Seattle, Washington, on August 11, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18934 Filed 8-21-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-34-AD]

Airworthiness Directives; British Aerospace Models HP-137 MK 1, Jetstream 200, and Jetstream 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to British Aerospace Model HP137 MK 1 Series, Jetstream 200 Series and certain Jetstream 3101 Series airplanes which will require inspection of the nut securing the special stud located on the aileron drive quadrant at the wing root end for tightness, security and locking, and correction thereof as necessary. A report has been received of inadequate peening of this special stud. This situation, if not detected and corrected, may result in vibration being felt through the aileron controls or restriction or jamming of the ailerons and loss of control of the airplane.

DATES: Comments must be received on or before October 28, 1986.

ADDRESSES: British Aerospace Mandatory Service Bulletin (S/B) BAe 27-JM-5257, dated June 6, 1986, applicable to this AD may be obtained from British Aerospace PLC., Manager, Product Support Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland, or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-34-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey A. Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (316) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submittted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-34-AD Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

An incident has occurred on a BAe Jetstream type airplane which was caused by a loosening of the nut (BAe P/N A103-JT) securing the special stud (BAe P/N 13705E29) located on the aileron drive quadrant at the wing root end. The manufacturer has determined that the cause of this problem is due to inadequate peening of the special stud. This looseness may result in vibrations being felt through the aileron controls or can possibly cause restriction in aileron control and jamming. As a result, British Aerospace has issued British Aerospace Mandatory S/B BAe 27-JM-5257, dated June 6, 1986, which requires a visual inspection using a suitable light source and an inspection mirror of the special stud and nut for tightness, security and correct locking. A bench inspection will be required if the condition of the special stud cannot be accurately determined while the quadrant is installed on the aircraft. If the special stud is found satisfactory then the

quadrant may be re-installed on the aircraft. If the special stud is found loose, then it must be replaced and fitted with a nut and lock pin which have different part numbers than the original.

The Civil Airworthiness Authority United Kingdom (CAA–UK) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom has classified this BAe Mandatory S/B BAe 27–JM–5257, dated June 6, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of British Aerospace Mandatory S/B No. 27–JM–5257, dated June 6, 1986, and the mandatory classification of this S/B BAe 27–JM–5257, dated June 6, 1986, by CAA–UK. Based on the foregoing, the FAA believes that the condition addressed by British Aerospace Mandatory S/B BAe 27–JM–5257, dated June 6, 1986, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require inspection and replacement as necessary of components in the aileron drive quadrant.

The FAA has determined there are approximately 75 airplanes affected by the proposed AD. The cost of inspecting and modifying the proposed AD is estimated to be $320 per airplane. The total cost is estimated to be $24,000 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

British Aerospace: Applies to Model HP–137 MK I and Jetstream 200 Series (all Serial Numbers) and Model Jetstream 3101 (S/N 601–633, 635–646 and 648–654 inclusive) airplanes certified in any category.

Compliance: Required within 600 hours time-in-service (TIS) after the effective date of this AD unless already accomplished.

To prevent unacceptable aileron control vibration and aileron jamming accomplish the following:

(a) Inspect the special stud BAe P/N 13705E29 and nut BAe P/N A103–JT for tightness, visible thread length and punch marks, in accordance with Section 2. "Accomplishment Instructions" in BAe Mandatory S/B No. 27–JM–5257 dated June 6, 1986.

(1) If the special stud and nut are secure, and the special stud end protrudes 1½ to 2 threads beyond the nut and all three punch marks are visible, no further action is necessary.

(2) If the special stud and nut are loose, or the special stud end does not protrude 1½ to 2 threads beyond the nut, or all three punch marks are not visible, prior to further flight, remove aileron quadrant in accordance with Section 2. "Accomplishment Instructions", Paragraph B. "Removal/Installation" in BAe Mandatory S/B No. 27–JM–5257 dated June 6, 1986, and check the security of the nut P/N A103–JT securing the special stud P/N 13705E29 to the quadrant, and determine that peening of the stud is in accordance with the above BAe Service Bulletin.

(i) If security and locking are satisfactory, prior to further flight re-install aileron control quadrant using steps (13) to (20) inclusive of the above Service Bulletin, and no further action is required.

(ii) If the securing nut P/N A103–JT or special stud P/N 13705E29 is loose or the peening of the stud is not in accordance with the above BAe Service Bulletin, prior to further flight, remove and replace nut BAe P/N A103–JT with new nut BAe P/N RMTE 9868–6, install new stud BAe P/N 13705E91 and add split pin SP90–C7 to lock the nut on, according to the instructions in BAe Mandatory S/B 27–JM–5257, dated June 6, 1986.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to British Aerospace PLC, Manager, Product Support Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland, or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 14, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–18930 Filed 8–21–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–26–AD]

Airworthiness Directives; British Aerospace (BAe) Model 3101 (Jetstream) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain BAe Model 3101 (Jetstream) airplanes. This modification changes the electrical supply source for the lighting of the standby artifical horizon and altitude alert controller indicator (if fitted), from the main to the essential +28V busbar, which will ensure that the lighting supply to these indicators is maintained subsequent to a loss of the main busbar supply. The loss of lighting to essential cockpit instrumentation may result in the airplane deviating from an assigned altitude and encroaching into Instrument Flight Rule (IFR) assigned airspace, causing an unsafe condition.

DATES: Comments must be received on or before October 20, 1986.

ADDRESSES: BAe Alert Service Bulletin (ASB) No. 24–A–JM7490 original issue dated October 30, 1985, applicable to this AD, may be obtained from British

VOL 51 ISS 163 AG 22 1986 UMI

Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–26–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holiday excepted.

FOR FURTHER INFORMATION CONTACT:

Mr. T. Ebina, Brussels Aircraft Certification Office, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassay, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. H. Chimerine, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–CE–26–AD Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

There has been a report, on a BAe Jetstream Model 3100 aircraft in flight, of loss of lighting supply to the standby artifical horizon and altitude alert controller indicator during loss of the main busbar supply. As a result, British Aerospace has issued Alert Service Bulletin (ASB) No. 24–A–JM7490 dated October 30, 1985, which changes the electrical supply source for the lighting converter unit (1LH9) from the 28V d.c. main busbar to the 28V d.c. essential busbar. This change ensures that the lighting supply to the standby artifical horizon and altitude alert controller indicator (if fitted) is maintained during loss of the main busbar supply. The United Kingdom Civil Aviation Authority (CAA–UK), which has the responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kindgom, has classified this ASB No. 24–A–JM7490 and the actions recommended therein by the manufacturer as mandatory to ensure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom Registration, this CAA–UK mandatory classification on service bulletins has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of ASB No. 24–A–JM7490 dated October 30, 1985, and the mandatory classification of this Alert Service Bulletin by the CAA–UK. Based on the foregoing, the FAA believes that the condition addressed by ASB No. 24–A–JM7490 dated October 30, 1985, is an unsafe condition that may exist on other product of this type design certificated for operation in the United States. Consequently, the FAA is proposing an AD on certain British Aerospace (BAe) Jetstream Model 3101 airplanes, which would require modification to the supply for the lighting of converter unit (1LH9) from the 28V d.c. main busbar to the 28V d.c. essential busbar. This action affects terminal block T1BT which is located under the left pilot's seat. In order to provide the right upper center instrument panel lighting converter with a supply from the 28V d.c. essential busbar, a wire on terminal block T1BT is transferred from one terminal to another.

The FAA has determined there are approximately sixteen (16) U.S. Registered airplanes affected by the proposed AD. The cost of modifying these airplanes as required by the proposed AD is estimated to be $50 dollars per airplane. The total cost is estimated to be $800 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

British Aerospace (BAe): Applies to Model 3101 Jetstream airplanes, (Serial Numbers 603, 604, 606 to 610, 614, 620, 622, 624 to 626, 628 to 632, 634 to 636, and 638 to 653 inclusive) certificated in any category.

Compliance: Required within 200 hours time-in-service after the effective date of this AD, unless already accomplished.

To ensure that adequate lighting supply to the standby artificial horizon and altitude alert controller indicator (if fitted) is maintained during loss of the main busbar supply, accomplish the following:

(a) Incorporate British Aerospace (BAe) modification JM7490 in accordance with the "Accomplishment Instructions" contained in BAe Alert Service Bulletin No. 24–A–JM7490 dated October 30, 1985, by changing the electrical supply source for the right upper center panel instrument lighting converter unit (1LH9) from the 28V d.c. main busbar to the 28V d.c. essential busbar.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100 or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 5, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 86-18931 Filed 8-21-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-32-AD]

Airworthiness Directives; DeHavilland Models DHC-2 MK I, and MK III Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to DeHavilland Models DHC-2 MK I (L-20A, YL-20, U-6 and U-6A) and DHC-2 MK III airplanes which would require initial and repetitive dye penetrant inspections for cracks in the lugs of the lower attachment fork fitting of certain wing lift strut assemblies, and replacement of these strut assemblies if cracked. The proposed AD is prompted by a report of a stress corrosion crack in a lug of a lower fork fitting on one wing lift strut during a routine inspection. If undetected, a cracked lug could progress to failure of the wing strut with resultant loss of the wing. The required inspections will detect cracks before they result in failure of the strut.

DATES: Comments must be received on or before September 29, 1986.

ADDRESSES: DeHavilland Service Bulletin (S/B) No. 2/41 dated April 26, 1985, applicable to this AD may be obtained from The DeHavilland Aircraft Company of Canada, A Division of Boeing Canada Limited, Downsview, Ontario, Canada, M3K 1Y5, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-32-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the propsed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the propsed rule. The propsals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-32-AD Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

DeHavilland has received a report of a stress corrosion crack in a lug of a lower fork fitting on one wing lift strut of a DHC-2 airplane during a routine inspection. If undetected, the crack could propagate and lead to failure of the strut with resultant loss of the wing. As a result, DeHavilland has issued S/B No. 2/41, dated April 26, 1985, which specifies a one-time dye penetrant inspection for cracks of lower fitting lugs on both wing lift strut assemblies, P/N C2W1103A (LH) and P/N C2W1104A (RH) (Serial Numbers (S/N) A071 through A0129 inclusive, manufactured between July 1977 and March 1981), on all DHC-2 MK I and MK III airplanes. If cracks are found, the lift strut assembly must be replaced before further flight. Transport Canada who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has issued a Canadian AD CF-85-06 and has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Canadian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of S/B No. 2/41, dated April 26, 1985, and the mandatory classification of this S/B on DeHavilland DHC-2 MK I and MK III airplanes by Transport Canada. Based on the foregoing, the FAA believes that the condition addressed by S/B No. 2/41, dated April 26, 1985, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require an initial and repetitive dye penetrant inspections for cracks in the lugs of lower fork attachment fittings of wing lift strut assemblies, P/N C2W1103A (LH) and P/N C2W1104A (RH), on DeHavilland Models DHC-2 MK I and MK III airplanes, and replacement of strut assemblies if cracks and found.

The FAA has determined there are approximately 160 airplanes affected by the proposed AD. The cost of inspecting these struts as required by the proposed AD is estimated to be $120 per airplane assuming only one strut per airplane is affected. If a defective strut is found, the replacement cost is $2092 per strut per airplane. The total cost is estimated to be $19,200 for the inspections only and $334,720 to replace all affected struts to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a

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VOL 51 ISS 163 AG 22 1986 UMI

significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the craft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend §39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD:

DeHavilland: Applies to all Models DHC-2 MK I (including L-20A, YL-20, U-6, and U-6A), and DHC-2 MK III (Turbo Beaver) (all Serial Numbers) airplanes with wing strut assemblies, P/N C2W1103A and C2W1104A (strut S/N A071 through S/N A0129 inclusive) certificated in any category.

Compliance: Required as indicated after the effective date of this AD unless already accomplished.

To detect cracks due to stress corrosion in wing strut assemblies accomplish the following:

(a) Within 100 hours time-in-service (TIS) or one month, whichever occurs first, after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS or 12 months, whichever occurs first:

(1) Remove wing strut assemblies C2W1103A and C2W1104A from the aircraft in accordance with "Accomplishment Instructions" in DeHavilland Service Bulletin No. 2/41, dated April 26, 1985.

(2) Conduct a dye penetrant inspection with a 10-power glass for cracks in the lugs of the lower attachment clevis fitting.

(3) If cracks are found, replace the complete strut assembly, prior to further flight, with a strut assembly of the same part number that has had the lower clevis fitting inspected by dye penetrant procedure and has been found free of cracks.

(4) If no cracks are found, prior to further flight, clean the lower clevis fitting and re-install the wing strut assembly.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where the requirements of this AD may be accomplished.

(c) Upon submission of substantiating data by an owner or operator, through an FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance time in this AD.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to the DeHavilland Aircraft Company of Canada, a Division of Boeing Canada Limited, Downsview, Ontario, Canada, M3K 1Y5, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 13, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-18932 Filed 8-21-86; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 382

[Notice No. 86-7]

Nondiscrimination on the Basis of Handicap—Air Travel

AGENCY: Office of the Secretary, DOT.

SUMMARY: This is a notice requesting information about airline practices and procedures afecting the travel of blind passengers. The notice requests the comments of interested persons on a series of issues and questions concerning air travel by blind persons. Blind individuals and their groups have expressed concern over what they view as improper treatment of blind passengers by airlines.

DATE: Comments should be received by November 20, 1986.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56e, Department of Transportation, Room 4107, 400 7th Street, SW., Washington, DC, 20590. Comments will be available for review by the pubic at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing acknowledgment of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 7th Street SW., Washington DC 20590, (202) 366-9306 (voice) or (202) 755-7687 (TDD), or Ira Laster, Office of Transportation Regulatory Affairs, Room 9217, (202) 366-4859 (same mailing address). This notice has been taped for use by visually-impaired persons. Requests for taped copies of the notie should be made to Mr. Ashby.

SUPPLEMENTARY INFORMATION:

Allegations of Improper Conduct by Airlines

The Department has received considerable correspondence in recent months, from blind individuals and their groups as well as from members of Congress, concerning the policies and practices of air carriers with respect to blind passengers. The correspondents have said that many air carriers treat blind passengers unfairly. They charge that many of the carriers assert to passenges that their practices affecting blind passenges are required for safety purposes, when in fact they may be more for the convenience of carriers than for the safe transportation of persons with visual impairments and other passengers.

Among the airline practices which are alleged to exist and to be discriminatory are seating restrictions (e.g., refusing to allow blind persons to sit in emergency exit rows, requiring blind and other handicapped persons to sit in the rear portion of the plane), restrictions on the placement of dog guides (e.g., requiring persons with dog guides to sit in bulkhead seats,) requiring blind persons to pre-board, requiring blind and other handicapped persons to be sequestered in a special holding area in the terminal prior to boarding, requiring special safety briefings for blind persons, giving discriminatory safety instructions to blind persons (e.g., informing a blind person that in case of an emergency evacuation, he or she should wait until other passengers have left the plane before attempting to exit), requiring blind persons to wait for assistance from carrier personnel before deplaning, and imposing conditions on travel inconsistent with the dignity of blind individuals (e.g., requiring a blind individual to sit on a blanket or next to a person of the same sex).

In addition, the letters have said, airlines are very inconsistent in their treatment of blind individuals. Some airlines permit or require what other discourage or prohibit. It is often difficult to get accurate information in advance about what a given airline's procedures may be, and some airlines do not make their policies and procedures readily available. Moreover, some blind persons allege, air carriers do not succeed in ensuring that their

ground or aircraft personnel know or follow airline procedures, resulting in inconsistent treatment by different personnel of the same carrier.

Existing DOT Regulations

Three existing DOT regulations affect airline practices concerning blind individuals and other persons with disabilities. First, 14 CFR Part 382 prohibits discrimination on the basis of handicap in the provision of air travel services by all air carriers. The rule includes more specific requirements for accommodations which carriers receiving a direct Federal subsidy must make to handicapped persons. If disabled persons believe that an air carrier has discriminated against them, they may file a complaint with the Department under Part 382. If the Department's Office of Aviation Proceedings and Enforcement believes that the complaint has merit, that Office may, if informal resolution cannot be achieved, commence enforcement action against the carrier. For example, the Department brought enforcement action against Southwest Airlines concerning that carrier's policy requiring blind-deaf individuals to travel with an attendant in all cases. A decision in this enforcement action is pending.

Second, 14 CFR 121.586 requires carriers to file with the Federal Aviation Administration (FAA) their procedures concerning persons who may need assistance in the event of an emergency evacuation. This rule does not include any criteria for assessing the impact of these procedures on blind or other disabled passengers, and the rule does not require that carriers establish only those procedures which are essential for safety purposes. FAA reviews the procedures only for consistency with safety. That is, FAA would not direct a carrier to change a procedure unless FAA determined that the procedure itself created a safety problem.

Because this regulation does not attempt to impose a single regulatory framework on carrier procedures, these procedures may differ. For example, one carrier may require a blind person traveling with a dog guide to sit in a bulkhead seat; another carrier may permit the person and dog to occupy any seat location. It should also be emphasized that carrier procedures, by virtue of being filed with the FAA under this regulation, do not become, or become clothed with the authority of, Federal regulations. They are simply company policies, which the FAA does not enforce.

Third, 14 CFR 121.589(e) permits stowage of flexible travel canes used by blind persons under aircraft seats. Problems concerning the stowage of canes have not been mentioned in the correspondence received recently from blind persons and their groups.

General Questions Concerning Regulatory Action

The Department is considering whether it should take additional regulatory action to address the concerns of blind individuals. One of the basic decisions the Department must make is whether any regulatory action is needed. Are the policies and practices of carriers concerning blind passengers a serious, widespread problem requiring a regulatory solution? To what extent could non-regulatory solutions or innovative regulatory techniques (e.g., regulatory negotiation, in which representatives of the airline industry and groups representing disabled persons meet with Department of Transportation representatives and negotiate the content of a proposed rule) be used to solve whatever problems exist?

If it is determined that the Department should take regulatory action, should that action be to require uniform practices toward blind persons by all carriers? What differences, if any, should be permitted to accommodate differing equipment, cabin configurations, and overall seating procedures (e.g., open seating vs. reserved seating)? Should the Department, if it decides to take regulatory action, publish new substantive regulations or should it proceed by issuing interpretive rules or policy statements concerning how it will apply the general nondiscrimination provision of Part 382? Should carrier procedures concerning blind (or otherwise disabled) passengers be subject to prior approval within the Department to ensure that they meet whatever substantive criteria may be established? The Department seeks comment on all these issues.

We are aware that the general regulatory issues about which we are seeking comments are likely to be of interest not only to blind persons, but to other disabled persons as well. We welcome comments from all interested persons and organizations on these issues. In addition, while this notice focuses on the specific concerns that have been expressed by blind persons, we would also welcome comments on particular issues or practices affecting persons with other kinds of disabilities.

Specific Issues Concerning Blind Passengers

The Department seeks comment with respect to what position it should take on the following specific issues affecting blind passengers. We are particularly interested in obtaining the views of and information from interested parties on the following questions, but comments on any specific issues or practice are welcome. In discussing these issues, we request that commenters provide as much data as possible on the effects of, rationales for, and safety implications of, differing approaches. The Department would appreciate copies of any studies commenters may have relating to the safety implications of various requirements. We would also appreciate reports of specific incidents (e.g., emergency evacuations) involving blind passengers that may be relevant to the issues discussed in this notice.

1. *Pre-boarding*—Should it be permissible for carriers to require that all unaccompanied blind persons be pre-boarded, regardless of whether they desire such assistance or need assistance from other persons? If so, what is the basis for such a requirement?

2. *Deplaning*—What, if any, restrictions should be placed on blind individuals during routine deplaning? Should blind individuals be required to wait until carrier personnel arrive to assist them, or until other passengers have deplaned, before they may leave the aircraft? If yes, what is the basis for such a requirement?

3. *Emergency Evacuation*—What restrictions, if any, should apply to blind persons in an emergency evacuation situation? Should blind persons be required to wait until other passengers have evacuated or until carrier personnel arrive to assist them? If yes, what is the basis for such requirements?

4. *Seating of blind persons accompanied by a dog guide*—Should there be seating restrictions for blind persons accompanied by dog guides? Specifically, should such persons and their dogs be required to be seated in bulkhead rows? If yes, what is the basis for such restrictions?

5. *Seating of blind persons near emergency exists*—What are the safety risks, if any, in permitting blind persons to sit in rows of seat adjacent to emergency exits? How have such risks been determined? Does the risk differ depending upon the configuration of aircraft? How does the risk differ, if at all, from that posed by other individuals (e.g., elderly, other disabled, or young) seated in the same positions?

6. *Pre-flight and in-flight briefings*—What should be the content and procedures for pre-flight and in-flight briefings for unaccompanied blind passengers? Should they be required to

receive special briefings? Should such briefings differ if the blind passenger is accompanied? If so, why? (Note that 14 CFR 121.571(a)(3) requires an individual pre-flight briefing for passengers who may need assistance in the event of an emergency evacuation.)

7. *Emergency information*—How should emergency information be communicated to blind individuals at various times (e.g., the beginning of a flight, during an emergency)?

8. *Training of carrier personnel*—Should carrier personnel be required to receive training concerning how to relate respectfully, courteously, and helpfully to blind persons? If so, what should be the criteria for providing such training, and what substantive information should be provided? What procedures should carrier personnel follow in order to best serve blind passengers?

9. *Notification*—Should blind persons traveling unaccompanied be required to notify carriers in advance of their disability? If so, should such notification be given at the same time that the reservation is made, the time of ticketing, or at the time of boarding? What would be the basis for such a requirement, as applied to blind persons who did not desire special assistance?

10. One group of blind persons has requested that airlines have no special conditions or procedures for dealing with blind passengers at all, suggesting that blind passengers simply be regarded as part of the general passenger population. What are the likely safety and service impacts of the elimination of all special practices and procedures affecting blind persons? Would such an outcome be desirable? If so, would it be appropriate for the Department to mandate this outcome by regulation?

We ask that commenters, in responding to these questions, consider whether any different rules or standards should apply to small aircraft. If the Department decides to promulgate further rules in this area, should the rules apply to operations under both 14 CFR Part 121 (e.g., large air carriers) and 14 CFR Part 135 (e.g., air taxis), or only to the former? Should any different requirements apply to flights that do not use flight attendants?

It appears that changes in airline practices concerning blind passengers about which this notice seeks comment would not be costly for airlines to implement. They would not require alterations in the physical configuration of aircraft, for example. Any changes in carrier operations would seem to be administrative in character. Nevertheless, we seek comment on what, if any, cost impacts such changes would have? Would such changes result in undue financial or administrative burdens on carriers?

In connection with this notice, the Department has asked the FAA to compile, from the procedures filed under 14 CFR 121.586, the various carriers' policies affecting blind passengers. We also request that each carrier review its own filings, ensure that they are current, and inform the Department of any practices affecting the transportation of blind passengers that may not specifically appear in its filings.

On June 27, 1986, the Supreme Court decided the case of *Department of Transportation* v. *Paralyzed Veterans of America*. By a 6–3 vote, the Court held that section 504 of the Rehabilitation Act of 1973 does not apply to non-subsidized air carriers, since they are not recipients of Federal financial assistance. The ruling leaves intact the existing provisions of 14 CFR Part 382, the Department's regulation concerning air transportation services for disabled persons. In making its decisions concerning whether additional regulatory action with respect to disabled airline passengers is appropriate, we will consider our discretion under the legal authorities available to the Department.

Issued this 5th day of August 1986, at Washington DC.

Elizabeth Hanford Dole,

Secretary.

[FR Doc. 86–19044 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-62-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-3-FRL-3068-8]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Allegheny County Health Department

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking; invitation for public comment.

SUMMARY: EPA is proposing to approve an Administrative Order as a Delayed Compliance Order (Order), issued by Allegheny County Health Department to Papercraft Corporation. The Order requires the company to bring air emissions from its graphic arts systems facility located in Papercraft Park, Allegheny County, Pennsylvania, into compliance with certain regulations contained in the federally approved State Implementation Plan (SIP) for Allegheny County for the control of ozone. Compliance shall be achieved by April 21, 1987 utilizing low solvent technology (LST) or through the installation of appropriate air pollution control equipment. Because the Order has been issued to a major source and permits delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act).

If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the enforcement provisions of section 113 of the Act or citizen suit provisions of section 304 of the Act, for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 22, 1986.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business hours.

FOR FURTHER INFORMATION CONTACT: Rosemarie P. Nino, Environmental Protection Specialist, Enforcement Policy and State Coordination Section (3AM21), Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–9839.

SUPPLEMENTARY INFORMATION: Papercraft Corporation operates six (6) multicolor rotogravure printing presses and two (2) flexographic presses at its Papercraft Park facility in Allegheny County, Pennsylvania. The Order under consideration addresses emissions from the graphic arts systems processes, which are subject to section 531(A) of Allegheny County Health Department, Rules and Regulations, Article XX, Air Pollution Control.

The regulations limit the emissions of Volatile Organic Compounds (VOCs) and are part of the federally approved State Implementation Plan for Allegheny County for the control of ozone. The

Order requires final compliance with the regulation by April 21, 1987 through the use of low solvent technology (LST) or through the installation of appropriate air pollution control equipment.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicates that the Papercraft Corporation's graphic arts systems facility is a major source of VOC emissions. The facility is located in the Southwest Pennsylvania Intrastate Air Quality Control Region, a nonattainment area for the National Ambient Air Quality Standard for ozone. The facility as presently constructed is unable to comply with regulations limiting emissions of VOCs, codified at section 531(A) of Allegheny County Health Department Rules and Regulations, Article XX, Air Pollution Control, part of the federally approved State Implementation Plan for Allegheny County, because low solvent inks are still being developed. Prior to issuance of the Order, Allegheny County provided an opportunity for public comment and hearing on the Order. No public comments or requests for public hearing were received by Allegheny County. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7)(A) of the Clean Air Act. The first increment of progress, which requires Papercraft Corporation to submit quarterly reports to Allegheny County on the steps Papercraft is taking to achieve compliance with section 531(A) of Allegheny County Health Department, Rules and Regulations, Article XX, Air Pollution Control, has been completed.

The Papercraft Corporation plans to achieve compliance through the combined use of water and solvent based inks in accordance with Article XX, Chapter 5, section 531(A), Graphic Arts Systems by April 21, 1987 or through the installation of appropriate air pollution control equipment. The 1984 estimated VOC emissions of 1025.8 Tons/Year (T/Y) will be reduced to 360.0 T/Y no later than April 21, 1987.

Papercraft Corporation Inc. had committed to completing its research and development of low solvent inks by April 21, 1986. On April 16, 1986, Papercraft did commit to achieve compliance by April 21, 1987 through the use of low solvent inks. Since low solvent technology is being pursued by Papercraft, they will complete an evaluation of product quality and commercial acceptance of low solvent inks and issue purchase orders for complying low solvent inks by February 21, 1987. In addition, a written plan shall accompany the notice committing to full compliance with section 531(A) of Article XX by April 21, 1987. Said plan shall describe the control equipment and installation schedule in detail and shall include application for any plan or installation permit approvals required by Article XX.

The Order requires the facility to comply with the State Implementation Plan for Allegheny County whenever it is temporarily able to do so and the Order, therefore, meets the requirements of section 113(d)(7)(B). The Order notifies Papercraft Corporation of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420 as required by section 113(d)(1)(E) of the act.

The Agency will not take final action on this proposal until its final approval of a proposed revision to Appendix 22, the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP). The proposed revision, which appeared in the **Federal Register** on March 12, 1986 (40 CFR Part 52, Volume 51, No. 48, Page 8518), provides the Allegheny County Health Department (ACHD) with the authority to grant, on a case-by-case basis, extensions of the final air pollution compliance dates for surface coating and graphic arts sources in Allegheny County. Such extensions can postpone the final compliance date until April 21, 1987, if they are approved by EPA as delayed compliance orders under section 113(d) of the Act.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded.

If approved, the Order would also constitute an addition to the SIP for Allegheny County. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413, 7601.

Dated: August 4, 1986.

Bruce M. Diamond,

Acting Regional Administrator.

[FR Doc. 86-18990 Filed 8-21-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[OW-4-FRL-3067-7]

Ocean Dumping; Proposed Cancellation of Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to cancel the designation of ten ocean dumping sites which are currently designated on an interim basis. This action is being taken because there is no projected future need for these sites. These sites will be removed from the list of "Approved Interim and Final Ocean Dumping Sites."

DATE: Comments must be received on or before October 6, 1986.

ADDRESS: Send comments to:

Mr. Reginald Rogers, Environmental Protection Agency, Water Management Division, Marine and Estuarine Branch, Marine Protection Section, Region IV, 345 Courtland St., NE., Atlanta, GA 30365

Paul Pan, Chief, Environmental Analysis Branch (WH-556M), Office of Marine and Estuarine Protection, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald Rogers, 404/357-2156 or Paul Pan, 202/475-7130.

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping

Regulations and Criteria in the Federal Register on January 11, 1977 (42 FR 2462 *et seq.*). Section 228.12 contains a list of "Approved Interim and Final Ocean Dumping Sites." This list was amended on December 9, 1980 (45 FR 81042 *et seq.*) to extend the interim designation of some ocean dumping sites and cancel the designation of six industrial sites and one dredged material site. At that time EPA stated its intention to identify additional ocean dumping sites for which there is no projected future need.

Ten such sites have not been identified, and EPA proposes to cancel the interim designation of these sites based upon recommendations from the Corps of Engineers.

The purpose of this notice is to provide the public an opportunity to comment on the proposed cancellation of ten interim designated ocean dumping sites for the disposal of dredged material. These sites with their identifying coordinates are listed below:

St. Augustine Harbor, FL—29°55'04" N., 81°17'04" W; 29°55'13" N., 81°16'11" W; 29°54'30" N., 81°15'58" W; 29°54'19" N., 81°16'51" W;

St. Lucie Inlet, FL—27°09'58" N., 80°09'30" W; 27°09'58" N., 80°08'42" W; 27°09'52" N., 80°08'42" W; 27°09'52" N., 80°09'30" W;

Ponce de Leon Inlet, FL—29° 04'46" N., 80° 53'40" W; 29°04'36" N., 80°53'40" W; 29°04'36" N., 80°54'26" W; 29°04'46" N., 80°54'26" W;

Largo Sound, FL—25°06'06" N., 80°24'42" W; 25°05'58" N., 80°24'05" W; 25°05'50" N., 80°24'10" W; 25°05'58" N., 80°24'47" W;

Anclote, FL—28°09'00" N., 82°53'48" W; 28°09'00" N., 82°52'48" W; 28°08'30" N., 82°52'48" W; 28°08'30" N., 82°53'40" W;

Pithlachascotee, FL—28°17'02" N., 82°46'21" W; 28°17'02" N., 82°45'12" W; 28°16'25" N., 82°45'00" W; 28°16'42" N., 82°45'00" W;

Withlacoochee, FL—28°59'08" N., 82°48'48" W; 28°59'32" N., 82°47'40" W; 28°59'18" N., 82°47'32" W; 28°58'54" N., 82°48'40" W;

Cedar Keys, FL—29°08'43" N., 83°07'53" W; 29°08'43" N., 83°07'03" W; 29°08'33" N., 83°07'03" W; 29°08'33" N., 83°07'53" W;

Cedar Keys, FL—29°04'08" N., 83°04'06" W; 29°04'01" N., 83°03'54" W; 29°03'28" N., 83°04'12" W; 29°03'28" N., 83°04'24" W;

Horseshoe Cove, FL—29°25'58" N., 83°17'32" W; 29°25'53" N., 83°17'22" W; 29°25'44" N., 83°17'28" W; 29°25'49" N., 83°17'38" W;

The cancellation of these ten sites as EPA Interim Approved Ocean Dumping Sites is being published as a proposed rulemaking. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis.

EPA has determined that this proposal will not have a significant impact on small entities. No small entities are using or, as far as EPA is aware, are planning to use these sites in the near future. Furthermore, the cancellation of these site designations will have no effect on the economy or cause any of the other effects which could result in its being qualified as a "major" action. Consequently, this proposal does not necessitate the preparation of a Regulatory Flexibility Analysis or Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: August 7, 1986.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Part 228 of Title 40 is proposed to be amended as set forth below.

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. sections 1412 and 1418.

2. It is proposed to amended § 228.12(a)(3) by removing from the list of dredged material sites the following ten ocean dumping sites:

St. Augustine Harbor, FL—29°55'04" N., 81°17'04" W; 29°55'13" N., 81°16'11" W; 29°54'30" N., 81°15'58" W; 29°54'19" N., 81°16'51" W.

St. Lucie Inlet, FL—27°09'58" N., 80°09'30" W; 27°09'58" N., 80°08'42" W; 27°09'52" N., 80°08'42" W; 27°09'52" N., 80°09'30" W.

Ponce de Leon Inlet, FL—29°04'46" N., 80°53'40" W; 29°04'36" N., 80°53'40" W; 29°04'36" N., 80°54'26" W; 29°04'46" N., 80°54'26" W.

Largo Sound, FL—25°06'06" N., 80°24'42" W; 25°05'58" N., 80°24'05" W; 25°05'50" N., 80°24'10" W; 25°05'58" N., 80°24'47" W.

Anclote, FL—28°09'00" N., 82°53'48" W; 28°09'00" N., 82°52'48" W; 28°08'30" N., 82°52'48" W; 28°08'30" N., 82°53'40" W.

Pithlachascotee, FL—28°17'02" N., 82°46'21" W; 28°17'02" N., 82°45'12" W; 28°16'25" N., 82°45'00" W; 28°16'42" N., 82°45'00" W.

Withlacoochee, FL—28°59'08" N., 82°48'48" W; 28°59'32" N., 82°47'40" W; 28°59'18" N., 82°47'32" W; 28°58'54" N., 82°48'40" W.

Cedar Keys, FL—29°08'43" N., 83°07'53" W; 29°08'43" N., 83°07'03" W; 29°08'33" N., 83°07'03" W; 29°08'33" N., 83°07'53" W.

Cedar Keys, FL—29°04'08" N., 83°04'06" W; 29°04'01" N., 83°03'54" W; 29°03'28" N., 83°04'12" W; 29°03'28" N., 83°04'24" W.

Horseshoe Cove, FL—29°25'58" N., 83°17'32" W; 29°25'53" N., 83°17'22" W; 29°25'44" N., 83°17'28" W; 29°25'49" N., 83°17'38" W.

[FR Doc. 86-18880 Filed 8-21-86; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 51, No. 163
Friday, August 22, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Management of Historic Cedar Trees in the Gifford Pinchot National Forest, WA

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.6 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Forest Service, U.S. Department of Agriculture, and the Washington State Historic Preservation Officer, providing for the management of historic trees affected by the Forest Service's management of the Gifford Pinchot National Forest in Washington. The proposed Programmatic Memorandum of Agreement will establish mechanisms for the inventory and recordation of all cedar trees from which bark was peeled by prehistoric and early historic Indian groups in the area, and for the preservation of about one-third of all identified such trees in the Gifford Pinchot National Forest for the purpose of future research. The Forest Service has proposed the Agreement in order to meet the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f) in a manner compatible with its ongoing management of the Forest.

Comments Due: September 22, 1986.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, Suite 450, 730 Simms Street, Golden, Colorado 80401.

Dated: August 13, 1986.

John M. Fowler,

Acting Executive Director.

[FR Doc. 86-18947 Filed 8-21-86; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Proposed Determinations With Regard to the 1987 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1987 crop of rice: (a) The loan and purchase level; (b) loan rate adjustments; (c) whether the Secretary should require producers to purchase marketing certificates as a condition of permitting loan repayment at a reduced level; (d) whether the Secretary should make loan deficiency payments available to producers; (e) the level of the established (target) price; (f) whether an acreage limitation program (ALP) should be implemented and, if so, the percentage reduction under such ALP; (g) whether an optional land diversion program should be established and, if so, the percentage of diversion under the program; (h) the national program acreage (NPA); (i) whether a voluntary reduction percentage should be proclaimed and, if so, the level of such percentage; (j) whether a portion of the deficiency or diversion payments should be made in the form of commodity certificates or other in-kind compensation; (k) the provisions of a marketing certificate program: (l) Whether an inventory reduction program should be implemented; (m) what cost reduction options should be implemented, if any; and (n) other related determinations. These determinations are to be made in accordance with the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"), the Food Security Act of 1985, and the Commodity Credit Corporation Charter Act, as amended.

DATE: Comments must be received on or before September 8, 1986.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene Rosera, Agricultural Economist, Commodity Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447-5954. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available on request.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal assistance programs to which this notice applies are: Title-Rice Production Stabilization: Number 10.065 and Title-Commodity Loans and Purchases: Number 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject of this notice.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On May 13, 1986 (51 FR 17598) a notice of proposed determinations was published which set forth provisions common to the 1987 wheat, feed grain, upland cotton, and rice price support and production adjustment programs. Any comments that were received with respect to such notice which are applicable to the 1987 crop of rice and any comments received with respect to this notice of proposed determinations will be reviewed in determining the provisions of the 1987 Rice Program.

Accordingly, the following program determinations with respect to the 1987-crop of rice are to be made by the Secretary.

Proposed Determinations

(a) *Loan and Purchase Level:* Section 101A(a) of the 1949 Act provides that the Secretary shall make loans and purchases available to producers for the 1987 crop of rice at a level that is not less than the higher of: (1) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or (2) $6.50 per hundredweight. Under that subsection the loan level for a crop of rice may not be reduced by more than 5 percent from the loan level determined for the preceding crop. Further, Section 101A(a) requires that the Secretary determine and announce the loan and purchase level for the 1987 crop of rice not later than January 31 of 1987. A loan shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

Comments are requested as to the level of the loan and purchase rate for the 1987 crop of rice.

(b) *Loan Rate Adjustments:* Section 403 of the 1949 Act provides that appropriate adjustments may be made in the level of the support price for rice for differences in grade, type, quality, location, and other factors. Section 403 further provides that such adjustments shall, insofar as practicable, be made in such manner that the average support price will, on the basis of the anticipated incidence of such factors, equal the statutory support level.

Consideration is being given to adjusting the grade discounts applied to the loan repayment level in order to reflect the relationship of the loan repayment level to the loan level.

Comments, along with supporting data, are requested as to: (1) The loan and purchase rate for different classes of whole kernels; (2) the loan and purchase rate for broken kernels; (3) appropriate national average milling outturns for use in determining class loan rates; and (4) adjusting grade discounts applied to the loan repayment level to reflect the relationship between the loan repayment level and the loan level.

(c) *Marketing Loan Certificates:* Section 101A(a)(5)(A) of the 1949 Act provides that the Secretary shall permit a producer to repay a loan at a level that is the lesser of: (1) The loan level determined for such crop or (2) the higher of the loan level multiplied by 50 percent or the prevailing world market price for rice, as determined by the Secretary. Further, this section provides that as a condition of permitting a producer to repay a loan, the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. Such certificates shall be negotiable and shall be redeemable for rice owned by the Commodity Credit Corporation ("CCC") valued at the prevailing market price, as determined by the Secretary. If CCC owned rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable in cash. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested on whether the Secretary should require producers to purchase certificates and, if so, for what percentage of the difference in value between the loan level and the loan repayment rate. Comments are also requested with respect to the amount of time CCC should allow such certificates to be held before they are discounted.

(d) *Loan Deficiency Payments:* Section 101A(b)(1) of the 1949 Act provides that the Secretary may make payments available to producers who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payments.

Such payments shall be computed by multiplying: (1) The loan payment rate by (2) the quantity of rice the producer is eligible to place under loan. The quantity of rice eligible to be placed under loan may not exceed the product obtained by multiplying the individual farm program acreage for the crop by the farm program payment yield established for the farm. The loan payment rate shall be the amount by which the loan level determined for such crop exceeds the level at which a loan may be repaid. Section 101A(b) further provides that the Secretary shall make up to one half the amount of such payments available in the form of negotiable marketing certificates redeemable in CCC-owned rice.

Comments are requested with respect to whether loan deficiency payments should be made available, and if so, what portion should be made in the form of certificates.

(e) *Established (Target) Price:* Section 101A(c)(1)(A) of the 1949 Act provides that the Secretary shall make payments available to producers for the 1987 crop of rice in an amount computed by multiplying: (1) The payment rate, by (2) the individual farm program acreage, by (3) the farm program payment yield.

Section 101A(c)(1)(C) provides that the payment rate for the 1987 crop of rice shall be the amount by which the established (target) price for the crop exceeds the higher of: (1) The national average market price received by producers during the first five months of the marketing year for such crop or (2) the loan level for such crop.

Section 101A(c)(1)(D) of the 1949 Act provides that the established (target) price for rice shall be not less than $11.66 per hundredweight for the 1987 crop. Section 101A(c)(1)(F) provides that the Secretary may pay not more than 5 percent of the total amount of a payment made under section 101A(c)(1) in the form of rice.

Comments are requested as to the level of the established price for 1987-crop rice, and whether the Secretary should make a portion of the 1987 rice crop deficiency payment in the form of rice.

(f) *Acreage Limitation Program:* Section 101A(f)(1)(A) of the 1949 Act provides that if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program (ALP), will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may implement an ALP. The section provides that in making such a determination the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under Section 1231 of the Food Security Act of 1985. If the Secretary elects to implement an ALP for 1987, the Secretary shall announce any such program not later than January 31 of 1987.

The Secretary shall, to the maximum extent practicable, carry out an ALP for a crop of rice in a manner that will result in a carryover of 30 million hundredweight of rice. If an ALP is announced for a crop of rice such reduction in production shall be achieved by applying a uniform percentage reduction (not to exceed 35 percent) to the rice crop acreage base for the crop for each rice-producing farm. Except as provided under the Inventory Reduction Program, producers

who knowingly produce rice in excess of the permitted rice acreage for the farm, shall be ineligible for rice loans, purchases, and payments with respect to that farm.

Comments are requested with respect to the need for an ALP, the appropriate level of reduction under an ALP, and other provisions of such program.

(g) *Land Diversion Program (LDP):* Section 101A(f)(4)(A) of the 1949 Act provides that the Secretary may make land diversion payments to producers of rice, whether or not an ALP is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made available to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

Any acreage reduction under an LDP would be at a producer's option. If such a program were implemented, the Secretary proposes to make payments in the form of cash or commodity certificates.

Comments are requested with respect to the need for an optional paid LDP, appropriate payment rates, and the other provisions of such program.

(h) *National Program Acreage (NPA).* Section 101A(d) of the 1949 Act provides that the Secretary shall proclaim a National Program Acreage (NPA) for the 1987 crop of rice not later than January 31, 1987. The NPA shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year 1987–88. If the Secretary determines that carryover stocks of rice are excessive or that an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the NPA by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks. The Secretary may later revise the NPA if the Secretary determines it to be necessary based upon the latest information. If an acreage limitation program is implemented for the 1987 crop of rice, the NPA shall not be applicable to such crop. If required, the likely NPA for the 1987 crop of rice would be:

1. Estimated Domestic Use, 1987–88—64.0 million cwt.
2. Plus Estimated Exports, 1987–88—85.0 million cwt.
3. Minus Imports—1.5 million cwt.
4. Minus Stock Adjustment—10.0 million cwt.
5. Divided by National Weighted Average Farm Program Payment Yield—47.80 cwt./acre
6. Equals 1987-crop NPA—2.87 million acres.

Comments on the NPA and the appropriate carryover level for the 1987 crop of rice, along with supporting data, are requested.

(i) *Whether a Voluntary Reduction Percentage Should Be Proclaimed and, if so, the Level of Such Voluntary Reduction Percentage.* Section 191A(d)(3)(B) of the 1949 Act provides that the 1987 individual farm program acreage of rice may not be further reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer voluntarily reduces the acreage of rice planted for harvest on the farm from the 1987-crop rice acreage base established for the farm by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1987 crop.

If an acreage limitation program is implemented for the 1987 crop of rice, the voluntary reduction percentage shall not be applicable to such crop. If required, the likely national recommended voluntary reduction percentage for the 1987 crop of rice would be:

1. 1987 Established Rice Acreage Base—4.25 million acres
2. Minus 1987 Preliminary NPA—2.87 million acres
3. Equals Acreage Reduction Needed from Acreage Base—1.38 million acres
4. Divided by 1987 Rice Acreage Base—4.25 million acres
5. Equals 1987-Crop Recommended Reduction Percentage—32.47 percent

Comments from interested persons with respect to the voluntary reduction percentage, if any, are requested.

(j) *Commodity Certificates:* Section 107E of the 1949 Act provides that, in making in-kind payments under any rice program, other than those programs which provide for payments in the form of negotiable marketing certificates, the Secretary may: (1) Acquire and use commodities that have been pledged to CCC as security for price support loans, including loans made to producers under the farmer-owned reserve program and (2) use other commodities owned by CCC.

The Secretary may make such in-kind payments: (1) By delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary; (2) by the transfer of negotiable warehouse receipts; (3) by the issuance of certificates which CCC shall redeem for a commodity; and (4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

Accordingly, comments are requested with respect to the use of commodity certificates in making payments under the 1987 rice program.

(k) *Marketing Certificates:* Section 603 of the Food Security Act of 1985 provides that whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, under such regulations as the Secretary may prescribe, CCC shall make payments to persons who have entered into an agreement with CCC to participate in the program established by this section. Such payments shall be made in the form of negotiable marketing certificates. Such certificates shall be in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices.

The value of each certificate shall be based on the difference between: (1) The loan repayment rate for the class of rice; and (2) the prevailing world market price for the class of rice, as determined by the Secretary of Agriculture.

Comments are requested with respect to the provisions of the marketing certificate program for rice.

VOL 51 ISS 163 AG 22 1986 UMI

(l) *Inventory Reduction Program (IRP):* Section 101A(g) of the 1949 Act provides that the Secretary may make payments available to producers who: (1) Agree to forgo obtaining a loan or purchase agreement; (2) agree to forgo receiving deficiency payments; and (3) do not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under the announced acreage limitation program. Such payments shall be made in the form of rice owned by CCC and shall be subject to the availability of such rice. Payments under this program shall be determined in the same manner as loan deficiency payments.

Comments are requested on whether the IRP should be implemented for the 1987 crop of rice.

(m) *Cost Reduction Options:* Section 1009(a) of the Food Security Act of 1985 provides that whenever the Secretary determines that an action authorized by section 1009(c), (d), or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium sized producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) Commercial purchases of commodities by the Secretary, (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount plus accumulated interest, but not less than the principal amount, if such action will result in: (A) Receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral, and (3) reopening of a production control or loan program at any time prior to harvest for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has determined that: (A) Changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop and (B) the Federal Government and producers will be faced with a burdensome and costly surplus unless action is taken to further adjust production. Such payments are not subject to the maximum payment limitation of $50,000 provided for by Section 1001 of the Food Security Act of 1985, but are limited to $20,000 per year per producer for any one commodity.

Comments are requested on the manner in which these cost reduction options should be administered in the event the Secretary determines to implement any of these provisions.

(n) *Other Related Provisions:* A number of other determinations such as commodity eligibility and other provisions must be made in order to carry out the rice loan and purchase programs.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: Secs. 101A and 107E of the Agricultural Act of 1949, as amended, 99 Stat. 1419, 1448, as amended, (7 U.S.C. 1441-1 and 1445e); Sec. 603 of the Food Security Act of 1985, 99 Stat. 1429, (7 U.S.C. 1441-1a).

Signed at Washington, DC, on August 20, 1986.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-19150 Filed 8-20-86; 3:57 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-603]

Preliminary Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from The Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from The Republic of Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5404 or 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from The Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. We have preliminarily found the weighted-average margin for the company investigated to be 7.52 percent *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of

brass sheet and strip from Korea materially injure a U.S. industry (USITC Pub. No. 1837).

On April 24, 1986, we presented an antidumping duty questionnaire to Poongsan Metal Corporation (Poongsan), which accounts for at least 60 percent from the Republic of Korea of exports of the subject merchandise to the United States. We requested a response in 30 days. On June 3, 1986, at the request of Poongsan, we granted an extension of the due date for the questionnaire response. We received a response from Poongsan on June 9. On July 1, we requested additional information from Poongsan. We received a supplemental response on July 14, 1986.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3962, and 612.3985.

The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) c20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States purchase price with the foreign market value based on home market prices.

For this merchandise there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, since the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated the purchase price based on the c.i.f. or c.&f., delivered to either the U.S. port or to the customer, packed price to unrelated purchasers in the United States.

We made deductions, where appropriate, for foreign inland freight and insurance, brokerage in Korea and the United States, ocean freight, marine insurance, and U.S. freight. We added duty drawback to the United States price.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on c.&f. packed home market prices to both related and unrelated purchasers. We preliminarily determined that sales to a related company were made at arm's length. We made deductions, where appropriate, for inland freight and handling fees. We made adjustments to the foreign market value for differences in circumstances of sale for credit expenses, advertising and warranty costs and bank charges incurred on U.S. sales.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we made comparisons of "such or similar" merchandise groups based on grade (chemical composition) and dimensions.

Where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

We subtracted home market packing costs and added U.S. packing costs to home market prices.

Currency Conversion

In calculating foreign market value, we made currency conversions from Korean won to U.S. dollars in accordance with section 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of Poongsan.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price which was 7.52 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files.

provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m., on October 6, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B–099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by October 1, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86–19018 Filed 8–21–86; 8:45 am]

BILLING CODE 3510–DS–M

[A–401–601]

Preliminary Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from Sweden

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from Sweden are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from Sweden that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from Sweden are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value. We have preliminarily found the weighted-average margin for the company investigated to be 8.49 percent *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL–CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Sweden are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11776, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Sweden materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to counsel for Granges Metallverken, which accounts for at least 60 percent of exports from Sweden of the subject merchandise to the United States. We requested a response in 30 days. On May 12, 1986, at the request of Granges Metallverken, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 6. On June 1, we requested additional information from Granges Metallverken. We received a response to our supplemental request on July 17.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States purchase price with the foreign market value based on home market prices.

For this merchandise there are two types of sales: tolled and non-tolled. In

tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, making the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the Swedish home market.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, where the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated the purchase price based on the c.i.f., delivered, duty paid, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, ocean freight, marine insurance, U.S. brokerage, U.S. freight, and U.S. customs duty.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales prices to represent the United States price, as provided in section 772(c) of the Act. We made deductions, where appropriate, for foreign inland freight and insurance, ocean freight, marine insurance, U.S. brokerage, U.S. inland freight, U.S. customs duty, commissions, credit expenses, other U.S. selling expenses, and the value added through further manufacture prior to sale in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on c.i.f. packed home market prices to both related and unrelated purchasers. We preliminarily determined that sales to a related company were made at arm's length. We made deductions to home market prices, where appropriate, for inland freight and insurance. For U.S. purchase price sales, we made adjustments under section 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses in the United States and home market. We offset commissions paid on U.S. purchase price sales with indirect selling expenses in the home market, in accordance with § 353.15(c) of our regulations.

When comparing foreign market value to U.S. exporter's sales prices, we made an additional deduction from home market prices for credit expenses in the home market. We also used indirect selling expenses in the home market to offset other United States selling expenses, in accordance with § 353.15(c) of our regulations.

For both purchase price and exporter's sales price, in order to adjust for differences in packing between the two markets, we subtracted home market packing and added U.S. packing to home market prices.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we made comparisons of "such or similar" merchandise groups based on grade (chemical composition), coating, and dimensions.

For those categories where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

We did not make a claimed adjustment for differences in quantities sold because we had insufficient information to determine whether the requirements of § 353.14 were met.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Swedish kroner to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of Granges Metallverken.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Sweden that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 8.49 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing

that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m., on September 23, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 16, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86-19019 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-602]

Preliminary Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From the Federal Republic of Germany (FRG)

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Terri Feldman or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0160 or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminary determine that brass sheet and strip from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. The margins preliminary found for all companies investigated are listed in the "Suspension of Liquidation" section of this notice.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation, Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353/36), the petition alleged that imports of the subject merchandise from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from the FRG materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented antidumping duty questionnaires to Wieland-Werke AG (Wieland) and to Langenberg Kupfer-und Messingwerke GmbH KG, (Langenberg), which account for at least 60 percent of exports from the FRG of the subject merchandise to the United States. We requested responses in 30 days. On May 7, 1986, at the request of respondents, we granted 14-day extensions of the due dates for the questionnaire responses. On June 2, we received a response from Wieland and on June 5, we received Langenberg's response. On June 27 and July 18, we requested additional information from respondents. We received supplemental responses on June 14 and July 23.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3962, and 612.3968.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States price with the foreign market value based on home market prices.

In the brass market there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices to non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, where there were a significant number of tolled sales in the United States, we asked the respondents to provide information on home market tolled sales. We then compared prices of tolled sales in the United States to tolled sales in the home market. Similarly, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market. Where the number of tolled sales in the United States was insignificant, we compared only the non-tolled sales to the United States to the non-tolled sales in the home market.

In this investigation, because there was an insignificant number of tolled sales in the United States for Wieland, we did not ask Wieland to report tolled sales to the United States.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, where the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated purchase price based on the c.i.f. delivered, duty paid, packed price to unrelated purchasers in the United States. We made deductions, were appropriate, for foreign inland freight and insurance, brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and insurance, and end-of-year loyalty rebates.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales price to represent the United States price, as provided in section 772(c) of the Act. We made deductions, where appropriate, for foreign inland freight and insurance, brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and insurance, end-of-year loyalty rebates, credit expenses, other U.S. selling expenses and the value added through further manufacture prior to sale in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered, packed home market prices to unrelated purchasers. We made deductions, where appropriate, for inland freight, handling, and insurance. For U.S. purchase price sales, we made an adjustment under section 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses in the United States and home markets; for U.S. exporter's sales price transactions we made a deduction for home market credit expenses.

For both purchase price and exporter's sales price comparisons, we subtracted home market packing and added U.S. packing to home market prices.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we made comparisons of "such or similar" merchandise groups based on grade (chemical composition), coating and dimensions.

When there was no identical product in the home market with which to compare a product sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

For Langenberg, we adjusted for differences in home market and U.S. unrelated party commissions. For Wieland, we offset home market unrelated commissions with indirect selling expenses in the United States, in accordance with § 353.15(c) of the Commerce Regulations.

We disallowed claimed adjustments by Wieland and Langenberg for costs associated with consignment warehousing. We disallowed these claims because we have no evidence from information on the record that these expenses constitute post-sale warehousing expenses.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Deutsche marks to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. for comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of respondents.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States

price as shown in the table below. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin percentage
Wieland	5.35
Langenberg	24.14
All others	9.98

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all priviledged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m., on October 6, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 30, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86-19020 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-603]

Preliminary Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from Brazil are being, or are likely to be, sold in the United States at less that fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Jess Bratton or Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3963 or 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value furnished by petitioners. We have preliminarily found the average margin for the company investigated to be 42.25 percent *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Inustrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishers brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning to section 731 of the Tariff Act to 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11771, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Brazil materially injure a U.S. industry (USITC Pub. No. 1837).

On April 22, 1986, we presented an antidumping duty questionnaire to Eluma International (Eluma), which accounts for at least 60 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 19, 1986, at the request of Eluma, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 5. On June 26, we requested additional information from Eluma. We received a supplemental response on July 10. On July 17 and August 6, 1986, we again requested additional information. We have not received responses to these additional requests.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3988.

The chemical composition of the product under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition is defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available as required by section 776(b) of the Act, because we did not receive a timely or complete response.

United States Price

For purposes of our preliminary determination, we have not used sales data presented by respondent to calculate United States price. Instead of providing actual sales data, respondent has made an upward adjustment to United States price to reflect greater metal costs in the Brazilian home market. Respondent has not identified the amount of this adjustment. Therefore, we calculated the purchase price of brass sheet and strip on the basis of the best information available which is the ex-factory prices provided by petitioners. These prices were based on actual sales or offers made by a Brazilian producer and on monthly average unit values derived from the Bureau of Census import statistics. Petitioners arrived at ex-factory prices by deducting, where appropriate, estimated charges for ocean freight, insurance, customs duties and U.S. inland freight.

Foreign Market Value

For purposes of our preliminary determination, we also have not used sales data presented by respondent to calculate foreign market value. Respondent failed to provide cost data for differences in merchandise which were necessary for accurate comparisons. Therefore, we calculated the foreign market value of brass sheet and strip on the basis of the best information available which is the ex-factory prices furnished by petitioners. These prices were based on a Brazilian producer's ex-factory prices in the home maket.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of Eluma.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the positing of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 42.25 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

Article VL5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. We will consider this issue after we make a final countervailing duty determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford intersted parties an opportunity to comment on this preliminary determination at 10:00 a.m., on September 15, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 8, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

August 18, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19014 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-601]

Preliminary Determination of Sales at Less than Fair Value: Brass Sheet and Strip from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from Canada are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from Canada that are entered,

VOL 51 ISS 163 AG 22 1986 UMI

or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–5332 or 377–5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on approximately 80 percent of the sales of the class or kind of merchandise to the United States by these respondents during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. We have preliminarily found the weighted-average margins for the companies investigated to be as listed in the "Suspension of Liquidation" section of this notice.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL–CIO), and Mechanics Educational Society of America (Local 56). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip.

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11771, April 7, 1986) and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Canada materially injure a U.S. industry (USITC Pub. No. 1837).

On April 29, 1986, we presented antidumping duty questionnaires to Arrowhead Metal Limited (Arrowhead) and to Noranda Metal Industries Limited (Noranda) which account for approximately 80 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 22 and 28, 1986, at the request of respondents, we granted a 14-day extension of the due date for the questionnaire response. We received responses on June 12. On June 24 and June 27, we requested additional information from the respondents. We received supplemental responses on July 7.

Another company, Ratcliffs (Canada) Limited filed a voluntary response on June 20, 1986. This response was incomplete and, therefore, was not used.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States purchase price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, where there were a significant number of tolled sales in the United States, we asked the respondents to provide information on home market tolled sales. Whenever possible we compared prices of tolled sales in the United States to tolled sales in the home market. Similarly we compared prices of non-tolled sales in the United States to non-tolled sales in the home market. Where the number of tolled sales in the United States was small, we compared only the non-tolled sales to the United States to the non-tolled sales in the home market.

In this investigation, both respondents had a significant number of tolled sales to the United States. However, Noranda had no tolled sales in the home market. Therefore, for this company, we compared U.S. tolled sales to non-tolled sales in the home market. We requested information to make a downward adjustment to the non-tolled sales prices. Respondent did not provide us with this information. Consequently, we have used the unadjusted non-tolled sales prices in the home market as the best information available.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for certain sales because the merchandise was sold to unrelated purchasers prior to its importation into the United States. As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for other sales because the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated the purchase price based on the c.&f. delivered, duty paid, packed price to unrelated customers in the United States. We made deductions, where appropriate, for discounts, for foreign inland freight, U.S. duty, U.S. brokerage, and U.S. inland freight. We disallowed Noranda's claim for an increase in the purchase price for a slitting cost incurred by an unrelated U.S. distributor, because such a claim is an inappropriate addition to purchase price. We calculated exporter's sale price by deducting, where appropriate, discounts, foreign inland freight, U.S. duty, U.S. brokerage and U.S. inland freight. We also made a deduction for credit expenses. Additional information on other selling expenses was requested in a supplemental questionnaire, but received too late to analyse. We will consider making a deduction for other selling expenses for our final determination.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on f.o.b. delivered, packed home market prices to unrelated purchasers. We made deductions, where appropriate, for discounts and foreign inland freight. We made an adjustment for difference in circumstances of sales for credit expenses pursuant to § 353.15 of our regulations. We also deducted home market packing costs and added U.S. packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we made comparisons of "such or similar" merchandise groups based on grade (chemical composition), dimensions, special finishes and traverse wound coils.

For those categories where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead. For tolled sales by Noranda to the United States, we were unable to make a difference in merchandise adjustment as this respondent did not furnish the required cost information.

Where U.S. purchase price sales involved unrelated party commissions, indirect selling expenses were granted as an offset for the cost of the U.S. commission expenses, in accordance with §353.15(c) of the Commerce Regulations.

Certain claims were disallowed in calculating foreign market value. Respondents claimed an adjustment in the home market for rebates. This claim was disallowed because such expenses are not shown to be directly related to specific sales.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Canadian dollars to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Tariff and Trade Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of respondents.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin percentage
Arrowhead	1.56
Noranda	11.69
All others	8.86

ITC Notification

In accordance with section 733(f) of the Act, we will notifiy the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m., on September 15, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 8, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30

VOL 51 ISS 163 AG 22 1986 UMI

days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86-19015 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-602]

Preliminary Determination of Sales at Less than Fair Value: Brass Sheet and Strip from France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from France are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of brass sheet and strip from France that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from France are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices provided by petitioners. We have preliminarily found the weighted-average margin for the company investigated to be 40.95 percent *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from France materially injure a U.S. industry (USITC Pub. No. 1837).

On April 21, 1986, we presented an antidumping duty questionnaire to Trefimetaux S.A., which accounts for at least 60 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 19, 1986, at the request of Trefimetaux, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 6. On June 20, we requested additional information from Trefimetaux. We have not received a response to our supplemental request.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3962, and 612.3966.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on selected information from the response, with the foreign market value, based on the best information available. We used the best information available as required by section 776(b) of the Act, because we did not receive a timely or complete response.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material

inputs and processing activities when adding or subtracting material costs.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

United States Price

For purposes of our preliminary determination, we have not used sales data presented by respondent to calculate exporter's sales price, since we did not receive requested information concerning the amount of any increased value resulting from a claimed manufacturing process performed after importation and before sale to a person who is not the exporter of the merchandise. We were able to calculate the purchase price of brass sheet and strip, as provided in section 772(b) of the Act, on the basis of respondent's c. & f., duty paid, packed price to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight and United States duty.

Foreign Market Value

In accordance with section 773(a), we used home market prices to determine foreign market value. Respondent failed to provide both a listing of home market sales for a related company and cost data for differences in merchandise, which were necessary for accurate comparisons. Therefore, we have used home market price information provided in the petition as the best information available, pursuant to section 776(b) of the Act. Using the French producer's home market prices alleged in the petition, we arrived at ex-factory prices by deducting discounts.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of Trefimetaux.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from France that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to his investigation exceeds the United States price, which was 40.95 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. We will consider this issue after we make a final countervailing duty determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m., on September 16, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 8, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86-19016 Filed 8-21-86; 8:45 pm]

BILLING CODE 3510-DS-M

[A-475-601]

Preliminary Determination of Sales at Less Than Fair Value; Brass Sheet and Strip From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that brass sheet and strip from Italy are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Italy that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by November 3, 1986.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4136 or 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that brass sheet and strip from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in

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VOL
51
ISS
163
AG
22
1986
UMI

section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based in United States price and foreign market value, based on home market prices. We have preliminarily found the weighted-average margin for the company investigated to be 4.02 percent, *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL–CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Italy materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to La Metalli Industriale S.p. A. (LMI), which accounts for at least 60 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 21, 1986, at the request of LMI, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 2. On June 16, we requested additional information from LMI. We received supplemental responses on June 30 and July 14.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering Systems (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States purchase price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, since the merchandise was sold to unrelated puchasers prior to importation into the United States. We calculated the purchase price based on the f.o.b., c.i.f. or c.i.f. duty paid, packed price to unrelated purchasers in the United States.

We made deductions, where appropriate, for foreign inland freight and insurance, brokerage in Italy and the United States, ocean freight, marine insurance, U.S. duty, U.S. freight and insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on f.o.b. packed home market prices to unrelated purchasers. We made deductions, where appropriate, for inland freight, insurance and rebates. We made adjustments for differences in circumstances of sale for credit expenses, advertising and technical services pursuant to § 353.15 of our regulations. We also adjusted for differences in packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we made comparisons of "such or similar" merchandise groups based on grade (chemical composition), dimensions, special finishes and traverse wound coils.

Where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

An adjustment was also made, where appropriate, for the differences between commissions on sales to the United

States and indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations.

Certain claims were disallowed in calculating foreign market value. LMI claimed an adjustment in the home market for currency hedging expenses to safeguard against exchange rate fluctuations, associated with the purchase of imported raw materials used to produce brass sheet and strip sold in Italy. This claim was disallowed because such expenses are not viewed by the department as directly related to the sales in question. Rather, the transaction costs of engaging in these hedging operations are considered to be related to the general operations of the company.

LMI also claimed an adjustment for inventory financing costs associated with maintenance of inventory for immediate sale to home market customers. We disallowed this claim because these expenses were incurred prior to sale and, therefore, are not directly related to specific sales.

We also disallowed the portion of LMI's technical service claim attributable to salaries because we do not consider salaries which would have been paid to be direct expenses. We also disallowed the portion of LMI's technical service claim related to the amortization of laboratory machinery and related equipment, because these are fixed expenses. Only that portion of the home market claim reflecting travel expenses for customer service was allowed.

Lastly, LMI requested an adjustment to home market prices for an expedited handling fee charged to customers to cover administrative costs on sales made directly from warehouse. We disallowed this claim as a circumstance-of-sale adjustment because of insufficient evidence that these administrative expenses are directly related to the home market sales on which this claim was made. Instead, we included these costs in the total amount of home market indirect selling expenses used to offset unrelated U.S. commissions. We will seek further information on this claim for our final determination.

Currency Conversion

In calculating foreign market value, we made currency conversions from Italian Lira to U.S. dollars in accordance with §353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of LMI.

Suspension of Liquidation

In accordance with section 773(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Italy that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 4.02 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protection order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry prior to the later of 120 days after our preliminary affirmative determination or 45 days after we make our final determination.

Public Comment

In accordance with §353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m., on September 16, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, ten copies of any pre-hearing briefs must be submitted to the Deputy Assistant Secretary by September 9, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.46, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1986.

[FR Doc. 86-19017 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

Norwich University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-230. Applicant: Norwich University, Northfield, VT 05663. Instrument: Electromagnetic Geophysical Instrument, Model EM-16. Manufacturer: Geonics Limited, Canada. Intended use: See notice at 51 FR 23255.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of measuring the quad phase and the in-phase secondary field in mapping geological structure and fault tracing. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19021 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council, Amended Meeting Notice; Closed

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The agenda for the South Atlantic Fishery Management Council's public meeting, August 18–22, 1986, as published in the **Federal Register** (July 31, 1986, page 27440), has been amended to include a closed session (not open to the public) to discuss litigation relative to Fishery Management Plans. The South Atlantic Council will convene the closed session August 20, 1986, from 1:30 p.m. to 2:30 p.m. All other information remains unchanged. For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

FR Doc. 86-19058 Filed 8-19-86; 5:00 pm]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations with the Government of the People's Republic of China Concerning Cotton and Wool Textile Products in Categories 319/320pt. and 442

August 18, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 25, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On July 29, 1986, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton duck fabric in Category 319/320pt. (only TSUS items 320.—through 331.—with statistical suffix 66), and wool skirts and culottes in Category 442, produced or manufactured in China and exported to the United States.

Summary market statements concerning these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584) April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 319/320pt. and 442 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of cotton and wool textile products in the following categories during the ninety-day period which began on July 29, 1986 and extends through October 26, 1986 to the following levels:

Category	90-day restraint level
319/320pt.	399,274 square yards.
442	8,633 dozen.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period (October 27, 1986–October 26, 1987) to the following levels:

Category	12-month restraint level
319/320pt.	1,113,516 square yards.
442	20,188 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Categories 319/320pt. and 442 exported during the ninety-day period at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limits established for Categories 319/320pt. and 442 for the ninety-day period are exceeded, such excess amounts, if allowed to enter, will be charged to the levels defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 30, 1985 a letter to the Commissioner of Customs was published in the **Federal Register** (50 FR 53182) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986. The notice which preceded that letter referred to the

consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 319/320pt. and 442, which are not subject to specific ceilings and for which levels may be established during the year. In the letter to the Commissioner of Customs which follows this notice, ninety-day levels are established for those categories.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 319/320 Pt.—Cotton Duck Fabric

July 1986.

Summary and Conclusions

United States imports of cotton duck fabric—Category 319/320 Pt.—from China were 1.1 million square yards for the year ending May 1986. This compares with 404 thousand square yards for the same period one year earlier.

The market for cotton duck fabric is being disrupted by imports and imports from China contributed to the market disruption. Continuation of the growth of imports from China would further the disruption.

Production and Market Share

U.S. production of cotton duck fabric fell sharply, 19 percent, in 1985 and continues to decline. Production during the first quarter of 1986 was 13.8 million square yards, down 47 percent from the same period a year earlier. The U.S. producers' share of the market for domestically produced and imported cotton duck fabric was 56 percent in 1985. The ratio dropped to 36 percent during the first quarter of 1986.

Imports and Import Penetration

U.S. imports of cotton duck fabric from all sources were 22.9 million square yards for the first quarter of 1986, up 20 percent from the 19.0 million square yards imported in the first quarter of 1985.

The ratio of imports to domestic production more than doubled, increasing from 74 percent during the first quarter in 1985 to 160 percent for the first quarter 1986.

Import Values

Approximately 94 percent of China's Category 319/320 Pt. imports are entered under TSUSA 326.1963. This is a lightweight cotton duck fabric not fancy or figured, of 10 yarn count. This fabric is being entered at duty-paid values well below the U.S. producer price for comparable fabrics.

Summary and Conclusions

U.S. imports of Category 442 from China were 8,982 dozen during the first five months of 1986, a 265 percent increase over the January–May 1985 level. Imports from China accounted for 64 percent of the increase in Category 442 imports from the world during the first five months of 1986 compared to the same period in 1985.

In 1985 China was the tenth largest supplier of Category 442 imports. Based on the year-to-date May 1986 data, China is now the third largest supplier.

The U.S. market for Category 442 has been disrupted by imports. The sharp and substantial increase of imports from China has contributed to this disruption.

U.S Production and Market Share

U.S. production of wool skirts continues to decline. U.S. production declined 9 percent in 1983 and another 19 percent in 1984. During this same period wool skirt imports increased nearly three-fold. The U.S. producers' share of the wool skirt market fell from 92 percent in 1982 to 75 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 442 increased from 131 thousand dozen in 1982 to 353 thousand dozen in 1984, a 169 percent increase. Imports continued to grow reaching 444 thousand dozen in 1985, a 26 percent increase over the previous year. Imports are up 15 percent in the first five months of 1986. The ratio of imports to domestic production increased from 8 percent in 1982 to 19 percent in 1983 to 34 percent in 1984.

Duty-Paid Value and U.S. Producers' Price

Approximately 90 percent of Category 442 imports from China during the first five months of 1986 entered the U.S. under TSUSA No. 384.6340—women's and girls' wool knit skirts not ornamented over five U.S. dollars per pound. These skirts are entered at duty-paid landed values below the U.S. producers' price for comparable skirts.

August 18, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 25, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 319/320pt.[1] and 442, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on July 29, 1986 and extends through October 25, 1986, in excess of the following levels of restraint:

Category	90-day restraint level [2]
319/320pt.	399,274 square yards.
442	8,533 dozen.

[2] The limits have not been adjusted to account for any imports exported after July 28, 1986.

[1] In Category 320, only TSUS items 320.— , through 331.— with statistical suffix 66.

Textile products in Categories 319/320pt. and 442 which have been exported to the United States prior to July 29, 1986 shall not be subject to this directive.

Textile products in Categories 319/320pt. and 442 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 F.R. 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19013 Filed 8-21-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1986 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 22, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 20, 1986 the Committee for the Purchase from the Blind and Other Severely Handicapped published a notice (51 FR 22540) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to produce the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1986: Janitorial/Custodial, Westover Air Force Base, Massachusetts.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–18996 Filed 8–21–86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: Friday, 5 September 1986, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on future initiative in emergency planning.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 19, 1986.

[FR Doc. 86–19031 Filed 8–21–86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on LHX Requirements; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on LHX Requirements will meet in closed session on September 11, 1986 at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the Army's current requirements for the LHX helicopter.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 18, 1986.

[FR Doc. 86–19032 Filed 8–21–86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Pacific Command Air Defense; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Pacific Command Air Defense will meet in closed session on October 3, 1986 in the Pentagon, Washington, DC and November 6–7, 1986 in CINCPAC Headquarters, Pearl Harbor, Hawaii.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine defense capabilities for shore installations in the Pacific Command and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Panel meetings, concerns matters listed in 5 U.S.C. 552(c)((1) (1982), and that accordingly these meetings will be closed to the public.

August 18, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–19033 Filed 8–21–86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow on Forces Attack; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Follow on Forces Attack will meet in closed session on September 3–4, 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO to include special targeting requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Panel meetings, concerns matters listed in 5 U.S.C. 552(c)((1) (1982), and that accordingly these meetings will be closed to the public.

August 18, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–19034 Filed 8–21–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the following functions and locations will be examined for conversion to contract: the Retail Sales Warehouse function at Altus AFB, OK; Bolling AFB, DC; Cannon AFB, NM; Chanute AFB, IL; Dover AFB, DE; Edwards AFB, CA; Ellsworth AFB, SD; Fairchild AFB, WA; Hanscom AFB, MA; Hill AFB, UT; Holloman AFB, NM; Malmstrom AFB, MT; McClellan AFB, CA; McConnell AFB, KS; Minot AFB, ND; Mt Home AFB, ID; Norton AFB, CA; Peterson AFB, CO; Scott AFB, IL; Tyndall AFB, FL; Beale AFB, CA; Castle AFB, CA; Dyess AFB, TX; England AFB, LA; F.E. Warren AFB, WY; George AFB, CA; Grand Forks AFB, ND; Kelly AFB, TX; K.I. Sawyer AFB, MI; March AFB, CA; Pease AFB, NH; Plattsburgh AFB, NY; Robins AFB, GA; Seymour Johnson AFB, NC; Shaw AFB, SC; Sheppard AFB, TX; USAF Academy, CO; Vandenburg AFB, CA; and Williams AFB, AZ.

For further information contact Mr. Jack Flenner, HQ AFCOMS/XPMO, (512) 925–6692, Kelly AFB, TX 78214–6290.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–18949 Filed 8–21–86; 8:45 am]

BILLING CODE 3910-01-M

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Administrative Switchboard functions at Loring AFB, ME and Blytheville AFB, AR will be examined for conversion to contract.

For further information contact Ms. Jean Webster, HQ AFCC/XPMQA, Scott AFB, IL, 62225–6001, telephone (618) 256–5255.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–18952 Filed 8–21–86; 8:45 am]

BILLING CODE 3910-01-M

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Commercial Gateways functions at Los Angeles IAP, CA; Charleston IAP, SC; and Philadelphia IAP, PA will be examined for conversion to contract.

For further information contact Mr. Noble Loucks, HQ MAC/XPMRS, Scott AFB, IL 62225, telephone (618) 256–4105.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–18950 Filed 8–21–86; 8:45 am]

BILLING CODE 3910-01-M

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Grounds Maintenance Residual Work Force function at Mather AFB, CA will be examined for conversion to contract.

For further information contact Mr. Bob Moore, HQ ATC/XPMRC, Randolph AFB, TX 78150, telephone (512) 652–2384.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–18951 Filed 8–21–86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Standard Rules and Class Rate Publications for Motor Carrier Rates and Services

AGENCY: Military Traffic Management Command, DOD.

ACTION: Procedural changes in DOD freight rate acquisition programs—Final Action.

SUMMARY: On April 30, 1985 (50 FR 18285) the Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), published notice of intent to modify the procedures used to acquire rates and charges from the commercial carrier industry for the movement of its freight traffic. These modifications included the issuance of a series of freight traffic rules and baseline rate publications designed to standardize and simplify the procurement of carrier rates and services under 49 U.S.C. 10721. The first two publications in this series, MTMC Freight Traffic Rules Publication No. 1 and MTMC Class Rate Publication No. 100 are now final. Copies of the two publications may be obtained by writing to: HQ Military Traffic Management Command, ATTN: MT–INN–G, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

EFFECTIVE DATE: October 1, 1986.

SUPPLEMENTARY INFORMATION: The transportation regulatory reform legislation enacted over the past several years has brought an influx of carriers into the business, a corresponding proliferation of rate publications, and a great diversity in the manner in which carriers' rates, rules, and services are expressed within those publications. All of these factors have impacted on DOD freight traffic. As a result, the automation of individual carriers' rates and charges is essential to the DOD in order to provide a rational and practical means of selecting low-cost carriers, instead of reviewing all variations in rates, services, and charges given by different carriers. Automation is feasible only when a carrier's rates and charges are expressed in a uniform manner compatible with electronic data processing.

MTMC Freight Traffic Rules Publication No. 1 (MFTRP No. 1): This publication contains rules and accessorial services which will govern the rates and services of motor carriers doing business with DOD, including those rates and services offered by surface freight forwarders, shippers associations and shipper agents which utilize motor carrier services. It will govern the movement of all DOD shipments by motor EXCEPT (1) bulk commodities requiring tank truck service, (2) vehicles moving in driveaway/towaway service, (3) privately owned mobile homes, (4) shipments moving in courier and package express service, and (5) Foreign Military Sales (FMS) shipments. Separate rules publications to govern these shipments (except for FMS) are now under development.

MTMC Class Rate Publication No. 100 (MCRP No. 100): This publication contains a baseline class rate and minimum charge structure upon which the above motor carriers can base their actual rates and charges for the movement of DOD less-than-truckload freight shipments. It is designed to provide a simple, flexible, computer-oriented method of expressing rates for Freight All Kinds and specific class-rated commodities without substantially changing the manner in which those rates have traditionally been expressed.

Both of these publications are designed to be used with the new DOD Standard Tender of Freight Services (tenders), approved by the Office of Management and Budget on June 16, 1986, and will apply from, to, or between points in the continental United States, Alaska and/or Canada which are specified in carriers' individual tenders filed with HQMTMC. Tenders of carriers subject to these publications may not refer to any other publication for application of rates and charges therein.

Although both publications become effective October 1, 1986, affected carriers are not subject to the publications until such time as they individually file the DOD tender referring to these governing publications. An implementation schedule for the DOD tender will be announced through a series of letters directed to the motor carrier industry and to all applicable carriers having the present tender, Form OP 280, on file. MFTRP No. 1 and MCRP No. 100 are for carrier reference and will not be submitted to MTMC with, or as part of, individual carrier tender filings.

John O. Roach,

Army Liaison Officer With the Federal Register.

[FR Doc. 86-18971 Filed 8-21-86; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974; Amendment of Record System Notice

AGENCY: Defense Logistics Agency, (DoD).

ACTION: Notice of an amendment of a record system.

SUMMARY: The Defense Logistics Agency is amending a system of records subject to the Privacy Act of 1974. The specific changes to the amended system is set forth below followed by the amended system notice published in its entirety.

DATES: This proposed action shall be effective without further notice September 22, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments may be submitted to the System Manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, Administrative Management Branch, Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314-6100. Telephone: 202/274-6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22897) May 29, 1985 (compilation)
FR Doc. 85-30123 (50 FR 51898) December 20, 1985
FR Doc. 86-17259 (51 FR 27444) July 31, 1986

This proposed amendment is not within the purview of Subsection (o) of the Privacy Act 5 U.S.C. 552a which requires the submission of a new or altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 19, 1986.

Amendment

S322.10 DLA-LZ

System name:

Defense Manpower Data Center Base. (50 FR 51899) December 20, 1985.

Changes:

Categories of individuals covered by the system:

Add: "Former Military and Civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 USC 2397."

Authority for maintenance of the system:

Add: "; 10 U.S.C. 2358, 10 U.S.C. 2397."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add: "Department of Labor (DOL): To reconcile the accuracy of unemployment compensation payments made on behalf of former DoD employees and members."

Add: "Defense Contractors: To monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397."

S322.10 DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93920.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA.

Decentralized segments—Portions of this file may be maintained by the military personnel and finance centers of the services; selected civilian contractors with research contracts in manpower area and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel who served on active duty from July 1, 1968 and later or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later. DoD civilian employees or DoD civilian employees separated since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969. Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services, National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1978; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Veterans Administration; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Veterans Administration or who are covered by a Veterans Administration insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants. Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training; programs, military hospitalization records and home and work addresses.

Champus claim records containing enrollee, patient and provider data such

as cause of treatment, amount of payment, name and social security or tax ID of providers or potential providers of care, military compensation data, selective service registration data, Veterans Administration disability payment records, security clearance records and credit or financial data as required for security background investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; Pub. L. 97–252; 10 U.S.C. 2358; 10 U.S.C. 2397

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions, perform longitudinal statistical analysis, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs and to collect debts owed to the United States Government and state and local governments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Veterans Administration (VA): To administer Veterans Administration and DoD programs for Reserve pay, VA compensation, military retired pay and active duty separation payments. To analyze the costs to the individual of military service connected disabilities, to monitor the amount of coverage under the Veterans' Group Life Insurance program, and to provide information on individuals' eligibility for GI Bill education and training benefits. To Veterans Administration and its contractor, the Prudential Insurance Company, to notify members of the Individual Ready Reserve (IRR) of their right to apply for Veterans' Group Life Insurance coverage. To the Veterans Administration Management Sciences Staff for Reports and Statistics Services, Office of the Comptroller, for the purpose of selecting samples for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Internal Revenue Service (IRS): For the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for debt collection. For the purpose of conducting aggregate statistical analyses on the impact on DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses of lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay and benefits.

Department of Health and Human Services (DHHS): Disclosure of information from this system may be made to the Office of the Inspector General for the purpose of identification and investigation of DoD employees (military and civilian) who may be improperly receiving funds under the Aid for Families of Dependent Children Program. To the Office of Child Support Enforcement, pursuant to Pub. L. 93–647, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

Social Security Administration (DHHS): To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earning. To the Bureau of Supplemental Security Income for the purpose of verification and adjustment of payments made by the SSA to the active and retired military members under the Supplemental Security Income Program.

DoD Civilian Contractors: Disclosure of information may be made from this system to contractors for the purpose of performing research on manpower problems for statistical analyses.

Office of Personnel Management (OPM): Disclosure of information may be made from this system for the purpose of OPM carrying out its management functions. Records disclosed concern pay, benefits, retirement deductions, and other information necessary for those management functions.

Selective Service System (SSS): Information from this system may be disclosed to the Director of the Selective Service System for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service System registration regulations.

Department of Education (DOE): Disclosure of information may be made from this system to DOE for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit DOE to take action, where appropriate, to accelerate recoveries of defaulted loans.

Department of Labor (DOL): To reconcile the accuracy of unemployment compensation payments made on behalf of former DoD employees and members.

Federal Government and Quasi-Federal Agencies: To identify military retirees employed in a civilian capacity whose civilian pay must be offset as a result of increases in military retiree pay pursuant to the Budget Reconciliation Act of 1982, Pub. L. 97–252.

To Federal Agencies, Territorial, State and Local Governments: To support personnel functions requiring data on prior military service credit for their employees or for job applications. To help eliminate fraud and abuse in their benefit programs and to collect debts and overpayments owed to those programs. Information released includes name, social security account number and mailing address of individuals.

Other Federal Agencies: To help eliminate fraud and abuse in the programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government. Information release may include aggregate data and/or individual records in the record system may be transferred to any other federal agencies having a legitimate need for such information and applying appropriate safeguards to protect data so provided. Records of debtors obligated to DoD, but currently employed by another federal agency may be referred to the employing agency under the provisions of the Debt Collection Act of 1982 for the purpose of the debt.

Consumer Reporting Agencies: Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Credit Bureaus and Debt Collection Agencies: Disclosures may be referred to private contract organizations to comply with the provisions of the Debt Collection Act of 1982 (10 U.S.C. 136) for non-payment of an outstanding debt, and to comply with requirements to update security clearance investigations.

Defense Contractors: To monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

Blanket Routine Uses: See also the blanket routine uses set forth at the beginning of the Defense Logistics Agency's listing of systems of records which are also applicable to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Retrievable by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Primary location—At W.R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—tapes are stored in a bank type vault and buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Director, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The Military Services, the Veterans Administration, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, federal and Quasi-federal agencies, Selective Service System, the U.S. Postal Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-19035 Filed 8-21-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council Historical Factors Task Group; Meeting

Notice is hereby given that the Historical Factors Task Group will meet in August 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Historical Factors Task Group is responsible for the identification and analysis of events, governmental policies, and actions (federal, state, and local), and the reactions of the oil and gas industries to such events, policies and actions (i.e., the "factors") that affect the supply of and demand for oil and gas in the U.S. since the end of World War II.

The Historical Factors Task Group will hold its sixth meeting on Thursday, August 28, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Historical Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Discussion for the factors affecting petroleum supply and demand.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Historical Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Historical Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat. Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Ave, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 18, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 18980 Filed 8-21-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. PP-76A]

Availability of a Draft Environmental Impact Statement for the New England/Hydro-Quebec Phase II Interconnection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Availability of a Draft Environmental Impact Statement, DOE/EIS-0129-D, for the New England/Hydro-Quebec Phase II Interconnection.

SUMMARY: The Department of Energy (DOE) has published a draft Environmental Impact Statement (EIS), DOE/EIS-0129-D, to assess the environmental impacts of a proposed DOE action: To grant (with terms and conditions) or to deny an amendment to a Presidential permit authorizing the Vermont Electric Transmission Company (VETCO), the New England Hydro-Transmission Corporation, and the New England Hydro-Transmission Electric Company, Inc. to construct, connect, operate, and maintain new facilities in Massachusetts and New Hampshire for the transmission of electric energy between Hydro-Quebec, a public agency of the Province of Quebec, and the New England Power Pool (NEPOOL), an association of New England utilities.

Written comments and requests for copies should be addressed to: Mr. Anthony J. Como, Office of Fuels Programs (RG-22), Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-5935.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Echols, Office of General Counsel (GC-11), Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-6947.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 10485, as amended, a Presidential permit must be obtained from the DOE before electric transmission facilities which cross the U.S. international border may be constructed. On April 5, 1984, the DOE issued Presidential Permit PP-76 to VETCO granting it permission, subject to certain conditions, to construct, connect, operate, and maintain at the international border of the United States

and Canada, one ±450 kilovolt (kV) direct current (dc) transmission line. Presidential Permit PP–76 also authorized the construction of a converter terminal at the southern terminus of the dc transmission line in Monroe, New Hampshire, to convert the dc power to alternating current (ac) power.

These facilities (known as Phase I) are currently under construction. The Phase I converter terminal was designed with a capacity of 690 MW to match the capability of the New England ac transmission system to absorb power delivered to Monroe, New Hampshire. The ±450 kV line was designed with the capability to transmit additional power should further contracts with Hydro-Quebec be deemed desirable.

Subsequent to the issuance of Presidential Permit PP–76, NEPOOL concluded that additional purchases of hydroelectric energy would be desirable. Accordingly, NEPOOL, on behalf of its member utilities, has signed a contract with Hydro-Quebec for the purchase of an additional 70 billion KWH of energy over a ten-year period, currently scheduled to begin in 1990. In order to accept delivery of this additional hydroelectric energy, the international interconnection authorized in Presidential Permit PP–76 must be operated at power levels above the previously authorized level of 690 MW. In addition, certain new facilities must be constructed to transmit this additional hydroelectric energy to load centers in central New England. Consequently, on March 4, 1985, VETCO applied to ERA to amend Presidential Permit PP–76, authorizing an increase in the nominal operating level of the previously permitted facilities and the construction of certain new facilities required to implement the new energy purchase agreement with Hydro-Quebec.

The proposed new facilities, referred to as Phase II, consist of three principal elements. The first element is the extension of the ±450 kV dc transmission line predominantly along an existing transmission corridor between the town of Monroe, New Hampshire and the town of Groton, Massachusetts, a distance of approximately 133.1 miles. The second element is the construction of an 1800 MW dc/ac converter terminal at the new terminus of the proposed dc line on a site straddling the town line between Groton and Ayer, Massachusetts, adjacent to an existing 345 kV ac substation. The third element is the construction of two new 345 kV transmission lines with a combined length of 51.8 miles along existing transmission corridors. These new transmission lines are needed to reinforce the existing New England 345 kV ac transmission system. In addition to these principal elements, other miscellaneous new facilities, such as a communication system and a grounding system, would be required to assure successful operation of the Phase II facilities.

The DOE considers that the granting of the subject amendment would be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore, the preparation of an EIS is required in accordance with 40 CFR 1502.3 *et seq.* Accordingly, the DOE published a notice of intent to prepare an EIS in the May 8, 1985, **Federal Register** (50 FR 19439). Public meetings were held on June 4 and June 5, 1985, to obtain information from all interested parties regarding the scope of the EIS.

A draft EIS has been prepared and distributed to Federal, State and local agencies, environmental organizations and individuals known to be interested in the proposed transmission facilities.

Additional copies may be obtained from the Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Ave., SW., (Room GA–093), Washington, DC 20585, Phone (202) 252–5935. Copies of the draft EIS also are available for public inspection at the following locations:

Andover Public Library, Andover, New Hampshire 03216
Beaman Memorial Public Library, 8 Newton Street, West Boylston, Massachusetts 01583
Bedford Public Library, 3 Meetinghouse Road, Bedford, New Hampshire 03102
Groton Public Library, 99 Main Street, Groton, Massachusetts 01450
Leach Library, Mammoth Road, Londonderry, New Hampshire 03053
Littleton Public Library, Main Street, Littleton, New Hampshire 03576
Medway Public Library, 26 High Street, Medway, Massachusetts 02053
Millbury Public Library, 128 Elm Street, Millbury, Massachusetts 01527
Woodsville Public Library, School Street, Woodsville, New Hampshire 03785
Monroe Free Public Library, P.O. Box 67, Monroe, New Hampshire 03771
Colebrook Public Library, Main Street, Colebrook, New Hampshire 03576
New Hampshire State Library, 20 Park Street, Concord, New Hampshire 03301
New Hampshire State Clearinghouse, Office of State Planning, 2 1/2 Beacon St., Concord, NH 03301
Massachusetts State Clearinghouse, Executive Office of Communities & Development, 100 Cambridge Street, Room 904, Boston, Massachusetts 02202

Interested parties are invited to submit written comments to Mr. Anthony J. Como at the address given in the previous section. Comments should be received by the DOE no later than September 29, 1986.

Issued in Washington, DC on August 7, 1986.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 86–18981 Filed 8–21–86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission [FERC] computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective September 1, 1986. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue SW., Room BE–034, Washington, DC 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for

the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceiling is described in section III.

State	Dollars per million Btu's
Alabama	1.34
Arizona [1]	1.26
Arkansas [1]	1.43
California	1.19
Colorado [2]	1.41
Connecticut [1]	1.41
Delaware [1]	1.46
Florida	1.10
Georgia	1.37
Idaho [1]	1.41
Illinois	1.47
Indiana [1]	1.62
Iowa [1]	1.79
Kansas	1.74
Kentucky [1]	1.62
Louisiana	1.33
Maine	1.39
Maryland [1]	1.46
Massachusetts	1.38
Michigan [1]	1.62
Minnesota [1]	1.79
Mississippi	1.35
Missouri	1.34
Montana [2]	1.41
Nebraska [1]	1.79
Nevada [1]	1.26
New Hampshire [1]	1.41
New Jersey [1]	1.46
New Mexico [1]	1.43
New York	1.42
North Carolina [1]	1.42
North Dakota [1]	1.79
Ohio	1.48
Oklahoma [1]	1.48
Oregon [1]	1.26
Pennsylvania	1.40
Rhode Island [1]	1.41
South Carolina [1]	1.42
South Dakota [1]	1.79
Tennessee	1.61
Texas [1]	1.43
Utah [2]	1.41
Vermont [1]	1.41
Virginia [1]	1.42
Washington [1]	1.26
West Virginia	1.54
Wisconsin [1]	1.62
Wyoming [2]	1.41

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during June 1986 was $15.83 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold become effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending August 14, 1986, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of June 1986. This lag adjustment factor was applied to the June price yielding $14.78 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective September 1, 1986, is $3.31 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of April 1986, May 1986, and June 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective September 1, 1986, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, April 1986, May 1986, and June 1986. Reported prices for sales in April 1986 were adjusted by the percent change in the nationwide volume-weighted average price from April 1986 to June 1986. Prices for May 1986 were similarly adjusted by the percent change in the nationwide volume-weighted average price from May 1986 to June 1986. The volume-weighted 3-month average of the adjusted April 1986 and May 1986, and the reported June 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of April 1986, May 1986, and June 1986. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending August 14, 1986, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of June 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, DC, August 18, 1986.

L.A. Pettis,

Deputy Administrator, Energy Information Administration.

[FR Doc. 86-19116 Filed 8-21-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and time: September 11, 1986–9:00 a.m.–5:00 p.m., September 12, 1986–9:00 a.m.–3:00 p.m.

Place: Conference Room S–116, University of California, San Francisco, California 94143.

Contact: David A. Smith, Department of Energy, Office of Health and Environmental Research (ER–72), Office of Energy Research, Washington, DC 20545, Telephone: 301/353–2987.

Purpose of the committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative agenda: Briefings and discussions of:

September 11, 1986

- Presentations by Staff of the Laboratory of Radiobiology and Environmental Health, University of California.
- Report from HERAC Subcommittee on Ecology.
- Public comment (10 minute rule).

September 12, 1986

- Report from HERAC Subcommittee on Biotechnology.
- Report from HERAC Subcommittee on Radiation Biology.
- New Business Discussion.
- Public comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact David A. Smith at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on August 19, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-18982 Filed 8-21-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI86-637-000 et al. and Docket No. CI86-641-000 et al.]

ANR Pipeline Co. and Northwest Pipeline Corp. and Northwest Marketing Co.; Applications for Blanket Limited-Term Abandonment and Blanket Limited-Term Certificates With Pre-Granted Abandonment Filed by Pipeline Companies on Behalf of Their Producer-Suppliers or for Company Owned Production

August 19, 1986.

Take notice that the pipeline companies (Applicants) listed herein have filed applications pursuant to section 7 of the Natural Gas Act for blanket limited-term abandonment and blanket limited-term certificates with pre-granted abandonment as described herein.[1]

Any person desiring to be heard or to make any protest with reference to said applications should, on or before September 3, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene in a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protects filed with the Commission will be considered by it in determining the appropriate action to be taken but will

[1] The notice does not provide for consolidation for hearing of the several matters covered herein.

not serve to make the protestants parties to the proceeding. Persons wishing to become a party to the proceeding herein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-637-000, B, Aug. 5, 1986	ANR Pipeline Company,[1] 500 Renaissance Center, Detroit, Michigan 48243.	ANR Pipeline Company, various locations	(2)	
CI86-638-000, A, Aug. 5, 1986	do		(2)	
CI86-641-000, A, Aug. 8, 1986	Northwest Pipeline Corporation and Northwest Marketing Company, P.O. Box 8900, Salt Lake City, Utah 84108-0899.		(3)	
CI86-642-000, B, Aug. 8, 1986	do	Northwest Pipeline Corporation, various locations	(3)	

[1] Applicant is filing on behalf of its producer-suppliers.

[2] Applicant requests blanket, limited-term abandonment, subject to Applicant's right of first refusal for a maximum period of two years. Applicant states that it contemplates release of gas under contracts which have a weighted average contract price in excess of Applicant's currently effective market-out price of $1.50 per MMBtu. Applicant states that its full and partial requirements customers purchased approximately 480 Bcf of gas in 1985, but are only projected to purchase approximately 311 Bcf of gas in 1986. Applicant states that the market demand for its system supply has fallen precipitously and that Applicant is unable to purchase available natural gas supplies from its producer-suppliers. Applicant states that the authorizations requested herein are necessary for Applicant's producer-suppliers to participate in the current market for natural gas, as well as to permit Applicant to address its mounting take-or-pay problem. In conjunction with the proposed releases, Applicant states that it would be absolved of all take-or-pay liability for any volumes released under its requested authorizations. Applicant further states that all certificated sales under contracts with a weighted average contract price in excess of Applicant's currently effective market-out price could be subject to the authorization requested, and as such, Applicant proposes to file a report with the Commission every six months providing details regarding the proposed limited-term abandonment. Applicant states that it is currently providing transportation under § 311 of the NGPA and as such expects significant volumes of gas to be subject to its requests.

[3] Applicant requests in Docket No. CI86-636-000 a blanket, limited-term certificate with pre-granted abandonment for a maximum period of two years to make sales for resale in interstate commerce of gas which is released and subject to the limited-term abandonment in Docket No. CI86-637-000.

[4] Applicant requests in Docket No. CI86-641-000 a limited-term certificate with pre-granted abandonment for a two-year period to make sales for resale to its affiliate Northwest Marketing Company (NW Marketing), pursuant to a July 29, 1986, contract, and a blanket limited-term certificate for NW Marketing to make subsequent sales for resale in interstate commerce also for a two-year period of gas which is released and subject to the limited-term abandonment in Docket NO. CI86-642-000.

[5] Applicant requests partial limited-term abandonment subject to recall upon 30 days written notice, for certain company-owned production pursuant to an Intracompany Operating Statement covering the intracompany transfer of such production at the wellhead for subsequent resale as part of Applicant's system supply. Applicant states that its request covers production from 182 company-owned wells located in the San Juan Basin area of La Plata County, Colorado, and Rio Arriba and San Juan Counties, New Mexico for a period of five years. Applicant states that the subject gas qualifies under NGPA sections 104-flowing, 104 replacement, 104 Post-1974, 104 1973-1974 biennium, 108 and 109, and that the maximum deliverability from such wells is approximately 10 MMcf/d or approximately 3.6 Bcf for 1986. Applicant states that during 1985 the subject wells produced approximately 35% of deliverability and Applicant forecasts that, absent approval of its requests, production for 1986 would be approximately 95% of deliverability. Applicant further states that it values its production from the subject wells at the lower of the applicable maximum lawful price or a calculated market-out price which, as of August 1, 1986, is $1.694/MMBtu. Applicant states that it currently has system supply deliverability of approximately 512 Bcf per year, of which less than 248 Bcf (48%) is projected for system supply requirements. Applicant further states that abandonment of approximately 266 Bcf from the subject wells would represent approximately 0.7% of its total system supply. Additionally, Applicant states that approval of its requests would allow Applicant to increase its takes under contracts accruing take-or-pay liability to the benefit of Applicant and its customers. Applicant estimates it could incur as much as $100 million in take-or-pay deficiencies during 1986. Applicant further states that its system is currently available for transportation services under NGPA section 311 and Applicant has filed an application in Docket No. CP86-578-000 for a blanket transportation certificate under Order No. 436. Finally, Applicant requests waiver of certain Commission regulations concerning the establishment and maintenance of rate schedules with respect to sales made under the requested certificates, and proposes to provide periodic reports detailing the terms and conditions of any sales made thereunder.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-19046 Filed 8-21-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-197-001 et al.]

ARCO Oil and Gas Co., Division of Atlantic Richfield Co. et al.; Applications for Certificates, Abandonments of Service, and Petitions to Amend Certificates[1]

August 19, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 2, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-197-001 D, Aug. 11, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Southern Natural Gas Company, Bayou Gentilly field, Plaquemines Parish, Louisiana.	(1)	
CI86-636-000 (CI86-730) B, Aug. 4, 1986	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Okla. 74004.	Apache Gas Corporation, Alamo area, Pecos County, Texas.	(2)	
CI86-639-000 A, Aug. 6, 1986	do	ANR Pipeline Company, High Island block A-310, offshore Texas.	(3)	
CI86-640-000 B, Aug. 6, 1986	Wellings Oil & Gas Co., TERM Energy Corporation, Agent.	Consolidated Gas Transmission Corporation, Ritchie County, West Virginia.	(4)	
CI86-613-000 F, Aug. 4, 1986	BHP Petroleum (Americas) Inc. (Succ. in interest to Graham-Michaelis Drilling Company), 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056.	Panhandle Eastern Pipe Line Company, certain acreage in Texas County, Oklahoma.	(5)	
CI86-627-000 F, Aug. 4, 1986	Amoco Production Company (succ. in interest to Shell Western E&P Inc.), 1670 Broadway, Room 1754, Denver, Colorado 80202.	Northern Natural Gas Company, certain acreage in Ellis County, Oklahoma.	(6)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-643-000 D, Aug. 6, 1986	Oxy Petroleum, Inc. (predecessor to Cities Service Oil and Gas Corporation), P.O. Box 300, Tulsa, Okla. 74102.	Transcontinental Gas Pipe Line Corp., Maxie Ellis Field, Acadia Parish, Louisiana.	[7]	
CI86-650-000 D, Aug. 6, 1986	do	Columbia Gas Transmission Corporation, OCS-G-2591 S. Marsh Island block 146, offshore Louisiana.	[8]	
CI86-651-000 D, Aug. 6, 1986	do	Columbia Gas Transmission Corporation, OCS-G-2623, S. Timbalier block 31, offshore Louisiana.	[8]	
CI86-661-000 (CI61-1077) B, Aug. 12, 1986.	BHP Petroleum Company, Inc., 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056.	United Gas Pipe Line Company, Maydelle field, Cherokee County, Texas.	[10]	
CI86-662-000 (CI63-249) B, Aug. 12, 1986.	do	Southern Natural Gas Company, Kokomo field, Walthall County, Mississippi.	[10]	
CI86-660-000 (CI61-876) B, Aug. 12, 1986.	do	Tennessee Gas Transmission Corporation, El Eberito field, Starr County, Texas.	[10]	
CI86-659-000 (G-14874) B, Aug. 12, 1986.	BHP Petroleum Company, Inc., 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056.	United Gas Pipe Line Company, Brousserd-Cypress Island field, Lafayette and St. Martin Parishes, Louisiana.	[10]	
CI86-658-000 (G-12330) B, Aug. 12, 1986.	do	Arkla Energy Resources, Darley field, Bienville Parish, Louisiana.	[10]	
CI86-657-000 (G-11398) B, Aug. 12, 1986.	do	Arkla Energy Resources, SW. Hunter field, Garfield County, Oklahoma.	[10]	
CI86-656-000 (CI63-1373) B, Aug. 12, 1986.	do	Texas Eastern Transmission Corporation, N. Brandt field, Goliad County, Texas.	[11]	
CI86-655-000 (CI65-1577) B, Aug. 12, 1986.	do	Texas Eastern Transmission Corporation, NW. Brandt field, Goliad County, Texas.	[11]	
CI86-654-000 (G-17499) B, Aug. 12, 1986.	do	Tennessee Gas Transmission Company, Decker's Prairie field, Harris County, Texas.	[12]	
CI86-653-000 (CI65-94) B, Aug. 12, 1986.	do	Texas Eastern Transmission Corporation, Pena field, DeWitt County, Texas.	[13]	
CI86-652-000 (CI67-535) B, Aug. 12, 1986.	do	Arkla Energy Resources, Clay field, Lincoln and Jackson Parishes, Louisiana.	[14]	

[1] Deletion of acreage. ARCO no longer holds an interest in acreage to be deleted.
[2] The only property (P-108285) covered by the subject Rate Schedule No. 425 was assigned to Lewis B. Burleson, Inc. effective 7-1-86.
[3] Applicant is filing under Gas Purchase Contract dated 7-1-86.
[4] No longer able to economically produce these wells due to age of wells (low reservoir pressure) and consistently high line pressure maintained by Consolidated Gas. The imposition by purchaser of a $75 per month meter fee was also a major factor in this decision.
[5] By Assignment effective 6-1-84, Applicant acquired an interest in the subject area from Graham-Michaelis Drilling Company.
[6] By an Assignment dated 1-27-86, and made effective as 12-1-85, Shell Western E&P Inc. (Shell Western) assigned to Amoco a specified leasehold interest in certain acreage lying in Section 8 and Section 11 of Township 22 North, Range 25 West, Ellis County, Oklahoma.
[7] Gas reserves attributable to the acreage committed to the subject contract (NW/4 Sec. 18-8S-1W), Acadia Parish, Louisiana) have been depleted and all wells have been plugged and abandoned.
[8] Production ceased in October, 1985, and OCS Lease No. G-2591 expired 5-29-86.
[9] Production ceased 11-29-84 and OCS Lease No. G-2628 was terminated 2-28-85.
[10] The well(s) have been plugged and abandoned. There have been no gas sales under this contract for many years. Contract expired by its own terms. BHP Petroleum Company Inc. owns no interest in the properties and/or leases involved. Further service is unwarranted.
[11] There have been no gas sales under this contract for many years. Contracts expired by its own terms. BHP Petroleum Company Inc. owns no interest in the properties and/or leases involved. Further service is unwarranted.
[12] The well(s) have been sold to Piney Point Petroleum Company, effective 8-1-87. There have been no gas sales under this contract for many years. BHP Petroleum Company Inc. owns no interest in the properties and/or leases involved. Further service is unwarranted.
[13] The well(s) have been sold to Nelson A. McCarter, effective 4-4-86. There have been no gas sales under this contract for many years. BHP Petroleum Company Inc. owns no interest in the properties and/or leases involved. Further service is unwarranted.
[14] The well(s) have been plugged and abandoned. All leases covered by the Contract were past primary term and expired upon cessation of production. There have been no gas sales under this Contract for many years. BHP Petroleum Company Inc. owns no interest in the properties and/or leases involved. Further service is unwarranted.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-19047 Filed 8-21-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF86-965-000]

Caribbean Energy Co., Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 19, 1986.

On August 8, 1986, Caribbean Energy Co., Inc. (Applicant), of 140 Broadway, 48th Floor, New York, New York 10005, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Virgin Islands Water & Power Authority's Estate Richmond site near Christiansted St. Croix, in U.S. Virgin Islands. The facility will consist of three diesel engine-generators and three heat recovery steam generators (HRSG). Thermal energy recovered from the facility will be used for desalination. The net electric power production capacity of the facility will be 19,347 kW. The facility is expected to be installed by the first quarter of 1988.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-19048 Filed 8-21-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER86-610-000, et al.]

Indiana and Michigan Electric Company et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Indiana and Michigan Electric Company

[Docket No. ER86-610-000]

August 15, 1986.

Take notice that American Electric Power Service Corporation (AEP) on August 12, 1986 tendered for filing on behalf of its affiliated Indiana & Michigan Electric Company (I&ME), Modification No. 21, dated April 30, 1986 to the Interconnection Agreement dated

VOL 51 ISS 163 AG 22 1986 UMI

November 1, 1961 between Northern Indiana Public Service Company (NIPS) and I&ME, I&ME's Rate Schedule FERC No. 22.

Sections 1 through 4 of this Agreement update the Short Term Power, Emergency Energy, Interchange Power, and Limited Term Power Service Schedules to comply with present FERC Rulemaking and insure uniform rates from I&ME for the same service to unaffiliated system companies. These schedules are the same as schedules previously filed by I&ME and accepted for filing by the Federal Energy Regulatory Commission (FERC).

AEP requests that this Modification become effective in two parts, allowing the 2.75 mills per kilowatthour transmission rate for Emergency Energy to become effective as of November 3, 1985 and the remainder of this Modification to become effective immediately. These effective dates would update I&ME's rates with NIPS to levels in effect between I&ME and other interconnected electric utility systems for the time periods specified allowing I&ME to charge similar rates for similar services.

Copies of this filing were served upon the Northern Indiana Public Service Company, the Michigan Public Service Commission, and the Public Service Commission of Indiana.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Alabama Power Company

[Docket No. ER86-647-000]

August 18, 1986.

Take notice that on August 11, 1986, Alabama Power Company (APCO) tendered for filing Delivery Point Specification Sheets under an Agreement for Partial Requirements Service and Complementary Services between APCO and the Alabama Municipal Electric Authority (AMEA). The Delivery Point Specification Sheets will supersede and replace the delivery point contracts executed under current Rate MUN-1 of APCO. The Delivery Point Specification Sheets are executed by APCO, AMEA and the member municipalities representing consent of all parties to the PR Agreement.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central Louisiana Electric Company, Inc.

[Docket No. ER86-590-000]

August 18, 1986.

Take notice that on August 12, 1986, Central Louisiana Electric Company, Inc. (CLECO) tendered additional information relating to the executed contract for the sale of Replacement Energy by CLECO to the Louisiana Energy Power Authority.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. The Connecticut Light and Power Company

[Docket No. ER86-642-000]

August 18, 1986.

Take notice that on August 7, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing an initial rate schedule of an exchange agreement (the Agreement) between CL&P and Public Service Company of New Hampshire (PSNH). The Agreement, dated as of October 1, 1985, provides for CL&P to exchange unit capacity and associated energy from certain of its generating units for capacity and associated energy from a certain one of PSNH's generating units.

The term of the Agreement began on October 1, 1985 and will continue until at least October 31, 1986, and may then be terminated by not less than 90 days written notice.

The capacity exchange ratios were derived from negotiation and are based on the value each party places on the entitlement being received from the other party. The basis of the charges and their derivations are stated in the Agreement.

CL&P requests that the Commission waive its standard notice period and allow the Agreement to become effective as of October 1, 1985.

PSNH has filed a Certificate of Concurrence in this docket.

The services provided by CL&P under this Agreement are not similar to any services currently provided by CL&P pursuant to other rate schedules filed with the Commission. The services provided are similar to an earlier Exchange Agreement between CL&P and the United Illuminating Company ("UI") dated May 7, 1976 (Rate Schedule FPC CL&P No. 126, UI No. 36) and terminated effective May 31, 1978 by letter dated October 25, 1985, Docket No. ER86-87-000.

CL&P states that a copy of this filing has been mailed to PSNH, Manchester, New Hampshire.

CL&P further states that this filing is in accordance with section 35 of the Commission's Regulations.

Comment date: August 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Consumers Power Company

[Docket No. ER86-649-000]

August 18, 1986.

Take notice that on August 11, 1986, Consumers Power Company (Consumers) tendered for filing Consumers' (1) Supplemental Agreement No. 5 to the Coordinated Operating Agreement with the City of Holland, Michigan, (2) Supplemental Agreement No. 5 to the Coordinated Operating Agreement with the City of Lansing, Michigan, and (3) Supplemental Agreement No. 7 to the Coordinated Operating Agreement with the Wolverine Power Supply Cooperative, Inc.; City of Grand Haven, Michigan; City of Traverse City, Michigan; and City of Zeeland, Michigan, all dated as of January 1, 1986.

Each of the three supplemental agreements provides for the addition of Service Schedule G—Kilovar Supply to its respective coordinated operating agreement.

The extent of transactions under each Service Schedule G among the parties for the next twelve months is not known at the present time, as such transactions will only be scheduled from time to time as conditions on the respective systems dictate. Accordingly, it is not possible to estimate the transactions for such period under any of the supplemental agreements being filed.

Consumers states that copies of the filing were served on Wolverine Power Supply Cooperative, Inc., on the Cities of Holland, Lansing, Grand Haven, Traverse City and Zeeland (all in Michigan) and on the Michigan Public Service Commission.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. The Detroit Edison Company

[Docket No. ER86-648-000]

August 18, 1986.

Take notice that The Detroit Edison Company on August 11, 1986 tendered for filing the following proposed changes in its FERC Electric Service Tariff, 1st Revised Volume No. 1:

Amendment to Electric Supply Agreement

Detroit Edison is requesting that the Commission approve an amendment to the Electric Supply Agreement with the Thumb Electric Cooperative to enable Detroit Edison to add a new service delivery point with the customer. No other term of the Electric Supply Agreement has been changed as a result of this Agreement.

Detroit Edison requests that the Commission grant such waivers and authorizations as are required to enable the implementation of this Agreement as soon as possible.

Copies of the filing were served upon The Detroit Edison Company's jurisdictional customers and upon the Michigan Public Service Commission.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this document.

7. El Paso Electric Company

[Docket No. ER86-638-000]

August 18, 1986.

Take notice that on August 5, 1986, El Paso Electric Company (EPE or the Company) tendered for filing rates and a rate moderation plan for service to Rio Grande Electric Cooperative Inc. (Rio Grande). The Company is extending the plan to its other wholesale customers Texas-New Mexico Power Company (TNP) and Imperial Irrigation District (Imperial).

On March 26, 1986 the Company filed increased rates for service to Rio Grande, TNP and Imperial in Docket No. ER86-368. On May 22, 1986 the Commission accepted and suspended the rates for service to TNP and Imperial but rejected the rates for service to Rio Grande on the ground that EPE had not complied with Article 4.2 of the settlement agreement between EPE and Rio Grande in the last wholesale rate case (Docket No. ER84-236). The Commission construed Article 4.2 as requiring EPE to file a rate moderation plan for service to Rio Grande.

The Company does not agree with the Commission's reading of Article 4.2 but has chosen to comply by filing a rate moderation plan similar to that proposed by the Commission Staff as adopted in an initial decision issued June 4, 1986 in *Union Electric Company*, Docket No. ER84-560. Under the plan the Company would phase its non-fuel operating costs of the Palo Verde Nos. 2 and 3 nuclear units into cost of service in 20% annual increments over the five year periods beginning when each unit enters commercial service. During these periods, the Company would defer unrecovered costs and accrue a return on those costs. It would recover the accumulated deferrals on a straight-line basis over the ensuing five year periods. The second Palo Verde unit is presently scheduled to enter service on August 30, 1986 and the third to enter service on September 30, 1987. The phase-in period for the first unit would thus end in 1991 followed by a period of recovery ending in 1996. The phase-in and recovery periods for the third unit would end in 1992 and 1997.

The Company is initiating the plan for service to Rio Grande through first and second step rates enclosed with this filing. Those rates are based on the Company's 1986 compliance cost of service in Docket No. ER86-368 as adjusted (a) to reduce the Palo Verde No. 2 investment included in rate base from one-third to one-fifth of the total investment in the unit in accordance with the plan, (b) to reduce the cost of equity supporting the second step rate from 15.75% to 14.75% to take account of recent improvement in the capital market, (c) to eliminate a portion of Palo Verde No. 1 investment from the rate base supporting the second step of the increase to reflect a February 28, 1986 service date which the Company has decided to accept consistent with a stipulation approved for Texas retail purposes in May 1986 and (d) other downward adjustments to the overall cost of service described in the enclosed testimony of Mr. Johnson.

The Company asks that the proposed first and second step rates for service to Rio Grande be made effective subject to refund on October 5 and 6, 1986, respectively. If Palo Verde No. 2 has not entered commercial service by those dates the Company requests suspension of the rates until the service date. The Company will notify the Commission of the date when the unit enters service within 10 days thereafter.

The proposed rates for service to Rio Grande would result in increases on the basis of the 1986 test period of $631,899 in the first step and an additional $19,338 in the second for a total increase of $651,237. The first and second step increases are 25.19% and 25.96%, respectively, above the level of the present rates for service to Rio Grande. The increases are below the increases of $1,027,008 and $339,937 which the Company proposed for service to Rio Grande in its filing in Docket No. ER86-368.

The Company has developed rates to TNP and Imperial based on the same cost of service which it used to develop the rates filed herewith for service to Rio Grande. TNP and Imperial have 30 days from the date of the filing to accept the rates and rate moderation plan to become effective for service beginning with the in-service date of Palo Verde No. 3. The Company will file the rates promptly when acceptances are received and will request waiver of the 60 day notice requirement based on those acceptances.

The Company requests all necessary waivers of the Commission's filing requirements in order to allow EPE to rely on the cost data filed in Docket No. ER86-368. EPE also requests that the filing here be consolidated for hearing with the proceeding in Docket No. ER86-368. Granting these requests will permit this filing and the filing in Docket No. ER86-368 to be reviewed based on the same cost data in the same proceeding and will not result in any prejudice to Rio Grande. Rio Grande is an intervenor in Docket No. ER86-368 and has participated actively by engaging in extensive discovery in that docket.

The Company has served copies of its filing on the affected customers and the Texas, New Mexico and California Commissions.

Comment date: August 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Middle South Services, Inc.

[Docket No. ER86-646-000]

August 18, 1986.

Take notice that on August 11, 1986, Middle South Services, Inc. (MSS), as agent for Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L) and New Orleans Public Service Inc. (NOPSI), tendered for filing a Contract for Purchases of Economic Energy by Florida Power & Light Company from AP&L, LP&L, MP&L, NOPSI and MSS.

MSS requests an effective date of June 20, 1986 for the Agreement. MSS requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Oklahoma Gas and Electric

[Docket No. ER86-653-000]

August 18, 1986.

Take notice that on August 12, 1986, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Amended Appendix "B" dated July 31, 1986, between OG&E and Oklahoma Municipal Power Authority (OMPA).

The amendment modifies the Transmission Service Agreement, Appendix "B" regarding the Points of Receipt for power and energy into OG&E's system. The parties request an effective date of August 1, 1986, and request a waiver of the Commission's notice requirements.

Copies of this filing have been served on OMPA, the Corporation Commission of the State of Oklahoma and the Arkansas Public Service Commission.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER86-307-000]

August 18, 1986.

Take notice that on July 28, 1986, Southern California Edison Company (Edison) tendered for filing an amendment to the Economy Energy Agreement (Agreement) with Desert Generation and Transmission Co-Operative (Desert).

Federal Energy Regulatory Commission (Commission) notified Edison that § 5.4.6 of the Agreement, which defines incremental cost to include payments to third parties, and § 7.2 of the Agreement, which sets a rate of 115 percent of incremental cost, together are in violation of § 35.23 of the Commission's Regulations. Edison was then directed to submit an appropriate revision to the Agreement in compliance with § 35.23 within thirty days of the date of the Commission's letter order. By letter dated July 16, 1986, Edison requested and subsequently was granted an extension to July 28, 1986, for submittal of this revision.

Comment date: August 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Tucson Electric Power Company

[Docket No. ER86-651-000]

August 18, 1986.

Take notice that on August 11, 1986 Tucson Electric Power Company ("Tucson") tendered for filing an Interconnection Agreement between Tucson and Deseret Generation and Transmission Co-operative ("Deseret"). The primary purpose of this Agreement is to provide the terms and conditions relating to the interconnection of the electrical systems of TEP and Deseret and the exchange of capacity and energy between the two systems. Tucson states that services may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance.

2. Service Schedule B—Economy Energy Interchange.

3. Service Schedule C—Banked Energy.

Tucson states that copies of the filing were served upon Deseret.

Tucson requests an effective date of October 15, 1986.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this document.

12. Upper Peninsula Power Company

[Docket No. ER86-650-000]

August 18, 1986

Take notice that on August 11, 1986, Upper Peninsula Power Company (the Company) tendered for filing Addendum B between the Company and the Alger-Delta Cooperative Electric Association dated August 2, 1986. The Federal Energy Regulatory Commission designated rate schedule for this contract is FERC No. 14.

The Company requests that the 60 day period between filing and effective dates be waived and that this new point of service be effective.

Comment date: September 2, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19045 Filed 8-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8920-001]

Independence Electric Corp.; Surrender of Preliminary Permit

August 8, 1986.

Take notice that Independence Electric Corporation, Permittee for the proposed Sugar Creek Hydroelectric Project No. 8920, has requested that its preliminary permit be terminated. The permit was issued on August 5, 1985, and would have expired July 31, 1988. The project would have been located on the Catawba River, in York County, South Carolina. The Permittee states that it has been determined that the project is not economically feasible.

The Permittee filed the request on July 30, 1986, and the preliminary permit for Project No. 8920 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19051 Filed 8-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-462-000]

Kentucky West Virginia Gas Co.; Stipulation and Agreement

August 19, 1986.

Take notice that on July 30, 1986, Kentucky West Virginia Gas Company (Kentucky West), filed a Stipulation and Agreement to resolve all issues in the above captioned proceeding. If approved, the Stipulation and Agreement will result in the following:

(i) The issuance of a certificate of public convenience and necessity to Kentucky West, pursuant to section 7(c) of the Natural Gas Act, authorizing service under a new Market Incentive Purchased Gas Cost Rate Schedule (Rate Schedule MI);

(ii) The granting of an amendment to Kentucky West's certificate of public convenience and necessity issued in Docket No. G-272, authorizing Kentucky West to partially abandon the service there authorized so as to reduce Equitable Gas Company's ("Equitable") maximum daily contract quantity under Rate Schedule PLS-1 from 71,013 dth to 56,900 dth, effective June 1, 1986. This reduction will constitute Equitable's first year contract conversion/reduction rights under any Order No. 436 blanket certificate issued to Kentucky West.

(iii) Upon issuance of an Order No. 436 blanket certificate to Kentucky West, Kentucky West will permit any other customer in the first year to reduce or convert up to 20% of that customer's maximum daily contract quantity in lieu of any other first year reduction/conversion rights provided in § 284.10 of the Commission's Regulations. The agreement will not reduce any remaining reduction or conversion rights.

(iv) Granting Kentucky West permission for and approval of the abandonment of the MI service, pursuant to section 7(b) of the Natural Gas Act, effective eighteen (18) months from the date of the Commission's Order

approving the Stipulation and Agreement.

On April 18, 1986, Kentucky West filed an application in Docket No. CP86–462–000 for a limited term certificate of public convenience and necessity to implement a market incentive rate schedule. This application was filed because Kentucky West had experienced a substantial decline in sales under its PLS–1 Rate Schedule. In order to encourage optimum sales and to protect Kentucky West against potential take-or-pay liability, Kentucky West proposed an experimental market incentive rate for any sales in excess of 66⅔% of its PLS–1 customers' Maximum Daily Contract Quantity subject to the following: (1) These sales would be made under the proposed Market Incentive Purchased Gas Cost Rate Schedule MI; (2) such sales would be available for volumes taken on any day in excess of the higher of 66⅔% of the customer's Maximum Daily Contract Quantity or the volume nominated by the Buyer for delivery under Rate Schedule PLS–1 for that day up to the level of the Maximum Daily Contract Quantity; and (3) additional volumes would be available on an interruptible basis subject to the availability of surplus gas. The availability of all volumes would be subject to Kentucky West being able to arrange with its gas suppliers a reduced price to permit the sale of gas under Rate Schedule MI. Since the MI Rate Schedule is experimental, Kentucky West proposed that it be effective only for a limited term of 18 months with pregranted abandonment to be effective at the end of that period.

Kentucky West's application noted that if Kentucky West can obtain from its producer/suppliers the necessary volumes of gas to implement the market incentive sales, such sales will optimize to the extent such reduced cost gas supplies are made available, the economic utilization of Kentucky West's system. Kentucky West also states that such sales will protect against potential take-or-pay liability with its producer/suppliers. For these reasons Kentucky West submitted that the proposed service will inure to the benefit of all system customers and is, therefore, required by the public convenience and necessity and in the public interest.

The following summarizes the provisions of the Stipulation and Agreement.:

Article I: Provision is made for the Commission's issuance of a limited-term certificate authorizing a market incentive rate to be made available to all of Kentucky West's customers, effective for eighteen months commencing upon issuance of the Commission's order approving the Stipulation.

Article II: This Article, by reference to pro forma tariff sheets attached to the filing, establishes the mechanism for applying the market incentive rate. Within fifteen days of Commission approval of the Stipulation and Agreement Kentucky West will file such tariff sheets to implement a market incentive rate for any sales in excess of 66⅔% of Kentucky West's PLS–1 customers' Maximum Daily Contract Quantity subject to the following: (1) These sales are to be made under the Market Incentive Purchased Gas Cost Rate Schedule MI; (2) such sales would be available for volumes taken on any day in excess of the higher of 66⅔% of the customer's Maximum Daily Contract Quantity or the volume nominated by the Buyer for delivery under Rate Schedule PLS–1 for that day, up to the level of the Maximum Daily Contract Quantity; and (3) additional volumes would be available on an interruptible basis subject to the availability of surplus gas. The availability of all volumes is subject to Kentucky West being able to arrange with its gas suppliers a reduced price to permit the sale of gas under Rate Schedule MI.

The pro forma tariff sheets attached to the filing further provide that for GSS–1 customers, the Market Incentive Purchased Gas Cost Charge applicable to purchases under the MI Rate Schedule, will be applied to the volume of gas taken during any months by a GSS–1 Buyer which is equal to the volume determined by multiplying the total gas taken by such GSS–1 Buyer by the ratio of the total volumes of gas purchased during the month under Rate Schedule MI by PLS–1 Buyer's divided by the total volumes of gas purchased during the month by PLS–1 buyers under both the PLS–1 Rate Schedule and the MI Rate Schedule.

Article III: Upon approval of the Stipulation and Agreement, an amendment to Kentucky West's certificate in Docket No. G–272 shall be issued that provides for a reduction in Equitable's maximum daily contract quantity under Rate Schedule PLS–1 from 71,013 dth to 56,900 dth, effective June 1, 1986. Such reduction constitutes Equitable's first year contract conversion/reduction rights under any Order No. 436 blanket certificate issued to Kentucky West.

Article IV: Upon approval of the Stipulation and Agreement and issuance of an Order No. 436 blanket certificate of Kentucky West, Kentucky West will permit any other customer in the first year to reduce or convert up to 20% of such customer's maximum daily contract quantity in lieu of any other first year reduction/conversion rights provided in § 284.10 of the Commission's Regulations. The Stipulation and Agreement is not intended to reduce remaining reduction or conversion rights of any customer under Order No. 436. Furthermore, Kentucky West agrees that during the eighteen month period after issuance of the certificate described in Article I there will be no increase in costs allocated to GSS–1 customers or PLS–1 customers by reason of the reduction in Equitable's Maximum Daily Contract Quantity from 71,013 dth to 56,900 dth, and such Agreements without prejudice to any party's right to object to any increase in costs allocated to Rate Schedule GSS–1 or PLS–1 customers by reason of the reduction in Equitable's maximum daily contract quantity which may thereafter be proposed by Kentucky West.

Article V: The Stipulation and Agreement is limited to providing for (1) the establishment of the Market Incentive Purchased Gas Cost Rate Schedule and (2) the reduction in Equitable's maximum daily contract quantity under Rate Schedule PLS–1. Except to the extent any matter is specifically addressed in the Stipulation and Agreement, the Stipulation and Agreement is without prejudice to the position of any party on any other issues, whether or not any such issues may be involved in Kentucky West's currently pending general rate proceeding in Docket No. RP86–52–000. In addition, unless expressly required or prohibited therein, the Stipulation and Agreement is also expressly without prejudice to the position of any party concerning the minimum commodity bill in Kentucky West's PLS–1 Rate Schedule.

Article VI: If the Commission does not approve the Stipulation and Agreement, any party may amend its intervention in this proceeding so as to raise additional issues.

Article VII: The Stipulation and Agreement is effective for the term of the certificate issued by the Commission, except that the provisions in Article II of the Stipulation and Agreement shall survive the term of the Stipulation and Agreement.

Article VIII: The Stipulation and Agreement is submitted pursuant to Rule 602 of the Commission's Rules of practice and procedure, and it is agreed by all parties and the Commission Staff that unless the Stipulation and Agreement becomes effective in accordance with its terms, the Stipulation and Agreement shall be

privileged and of no effect. It is further specifically agreed and understood that the Stipulation and Agreement represents a negotiated settlement.

Kentucky West states that it has served the Stipulation and Agreement, and a proposed Commission order approving the Stipulation and Agreement, upon all parties to the proceeding in Docket No. CP86-462-000, and any additional parties required to be served by Rule 602(d)(ii) of the Commission's Rules.

Pursuant to Rule 602(f)(2) of the Commission's Rules, any comments on the Stipulation and Agreement may be filed with the Commission no later than August 29, 1986 and any reply comments may be filed no later than September 8, 1986. Any failure to file comments constitutes a waiver of all objections to the Stipulation and Agreement filed by Kentucky West.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19049 Filed 8-21-86; 8:45 am]

BILLING CODE 6717-01-M

Availability of Environmental Assessment and Finding of No Significant Impact

West Slope Power Company..... 5248-004
West Slope Power Company..... 5250-003
Mega Hydro Inc..... 5756-005
West Slope Power Company..... 5862-003
Joseph M. Keating..... 3188-003
Joseph M. Keating..... 3194-003
Lind and Associates..... 5192-002
Larry Hensley..... 7930-001
Larry Hensley..... 7931-001

August 8, 1986.

In accordance with the National Environmental Policy Act of 1969 and the Regulations of the Council for Environmental Quality, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for the major license, minor license, and exemption from licensing listed below for proposed hydroelectric projects within the Upper San Joaquin River Basin and South Fork of the American River Basin. The Commission's staff has determined the significance of potential cumulative adverse impacts on target resources in these two basins.

I. Upper San Joaquin River Basin

Project No.	Project name	State	Water body	Nearest town or county	Applicant
Exemption					
5756-005	Rock Creek	CA	Rock Creek	Madera	Mega Hydro Inc.
Licenses					
5248-004	Whisky Creek No. 2	CA	Whisky Creek	Madera	West Slope Power Company.
5250-003	Whisky Creek No. 1	CA	Whisky Creek	Madera	West Slope Power Company.
5862-003	Whisky Creek No. 3	CA	Whisky Creek	Madera	West Slope Power Company.

II. South Fork of the American River Basin

Project No.	Project name	State	Water body	Nearest town or county	Applicant
Licenses					
3188-003	Pyramid Creek	CA	Pyramid Creek	Twin Bridges	Joseph M. Keating.
3194-003	Foottrail	CA	Silver Fork	Kyburz	Joseph M. Keating.
5192-002	Upper Rock Creek	CA	Rock Creek	Placerville	Lind and Associates.
7930-001	Fry Creek	CA	Fry Creek	White Hall	Larry Hensley.
7931-001	29 Mile Creek	CA	Unnamed Stream	White Hall	Larry Hensley.

Environmental assessments (EA's) were prepared on the potential cumulative impacts associated with hydropower development in the above two river basins. Based on independent analyses presented in the EA's, the Commission's staff concludes that the four proposed projects in the Upper San Joaquin River Basin and the five proposed projects in the South Fork of the American River Basin would have cumulative adverse impacts to the target resources. These impacts, however, would not be significant and would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, environmental impact statements will not be prepared for these projects. Copies of the EA's are available for review in the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19050 Filed 8-21-86; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Request for Applications for Power From the Navajo Generating Station

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice and Request for Applications.

SUMMARY: Western is requesting additional applications for the power available from the Navajo Generating Station (Navajo). Applications received in response to this notice will be considered along with the applications received in response to the "Request for Applications for Short-Term Power From the Navajo Generating Station" published in the **Federal Register** (49 FR 11873) on March 28, 1984. The applications for Navajo power must include the amount of power requested, expressed as a percentage of the amount of capacity available from Navajo, and the applicant profile data requested in this notice. Specific instructions on the application are outlined in the "Request for Applications" section of this notice. Western also requests those entities which previously submitted applications to Western for short-term Navajo power to amend their application by requesting power as a percentage of the amount of capacity available from Navajo. Those entities that have already submitted applications are not required to submit additional applicant profile data. Supplemental information may be submitted if the entity feels it is necessary to update the applicant profile

data previously submitted. Power available from Navajo will be offered by Western for an interim period under an Interim Power Marketing Plan (Interim Plan) developed pursuant to the Hoover Power Plant Act of 1984 (98 Stat. 1333) (Act).

The Act, specifically section 107, requires that a marketing plan be established for the capacity and energy (power) from the United States entitlement to Navajo that is surplus to the Central Arizona Project (CAP) needs. The Act requires that the Secretary of the Interior adopt such a plan after consultation with the Central Arizona Water Conservation District (CAWCD), the Governor of Arizona, and the Secretary of Energy. Work is continuing by the above-named entities on a long-range Navajo power marketing plan. However, early in the process, it became apparent that an interim power marketing plan was necessary to support funding obligations of the CAWCD prior to establishing a long-term plan. Therefore, an Interim Plan was developed and adopted by the Commissioner of the Bureau of Reclamation (Reclamation) on March 17, 1986.

The Commissioner forwarded the Interim plan to the Administrator, Western Area Power Administration (Western), by letter dated April 14, 1986, for implementation. The interim Plan will terminate as provided in a long-term marketing plan or on September 30, 1990, whichever occurs first. The Interim Plan is appended as appendix A and includes the estimated maximum capacity and energy available (by water year) through 1990 and other future years before regulatory storage is completed. The Navajo interim power will be allocated on a percentage of capacity basis.

Western will immediately begin accepting and reviewing the applications received pursuant to this notice. A proposed allocation will be published in a **Federal Register** notice upon completion of the review and analysis of all applications received.

DATES: Applications for Navajo power available under the Interim Plan will be accepted until September 22, 1986. Applications postmarked after that date will not be accepted.

ADDRESS: Applications should be submitted to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Carter, Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477–3255.

SUPPLEMENTARY INFORMATION: Section 107 of the Act provides that capacity and energy associated with the United States interest in Navajo, which is in excess of the pumping requirements of CAP, and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974 (Navajo surplus), shall be marketed and exchanged by the Secretary of Energy, pursuant to a plan adopted by the Secretary of the Interior, directly to, with, or through the Arizona Power Authority and/or other entities having the status of preference entities under the reclamation law in accordance with the preference provisions of section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(h)) and as provided in part IV, section A of the "General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" (48 FR 20872).

An Interim Plan, herein published, has been developed and adopted by the Commissioner of Reclamation. The Interim Plan provides for marketing of the Navajo surplus by Western during the initial delivery and pump-testing period of the CAP and during the pre-New Waddell period. The New Waddell Project is a proposed regulatory storage feature of CAP that would give Reclamation operational flexibility to increase winter season pumping and reduce summer season pumping, thereby providing an enhanced resource during the peakload season of the Southwest.

The Interim Plan provides the quantities and classes of service that will be available under the Interim Plan. Applications are being requested for the quantities and classes of service provided in the Interim Plan

Those Arizona entities which have preference to Navajo power pursuant to section 107 of the Act who receive an allocation of Navajo interim power will have first right-of-refusal for 50 percent of their power allocation under the Interim Plan, if available, when the long-range Navajo Marketing Plan is adopted.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Only those parties requesting Navajo power are requested to submit information. Nevertheless, this is at their sole election. There is no requirement that members of the public supply information about themselves to the Government. It follows that the request for applications is exempt from the Paperwork Reduction Act.

Request for Applications

Western is requesting additional applications for power available from Navajo. Applications received in response to this notice will be considered along with the applications received in response to the "Request for Applications for Short-Term Power From the Navajo Generating Station" published in the **Federal Register** (49 FR 11873) on March 28, 1984. First-time applicants and those entities that previously submitted applications to Western for short-term Navajo power should provide a statement of the amount of Navajo power they are applying for, by season, expressed as a percentage of the maximum capacity estimated to be available in the following table 1:

TABLE 1

Period	Summer MW	[illegible] MW
1987	474	[illegible]
1988	395	333
1989	155	324
1990	137	313

For example: In the 1987 summer season, approximately 474 MW is estimated to be available. If the applicant wants approximately 47 MW of capacity during the 1987 summer season, the applicant would request 10 percent of the power for the 1987 summer season.

The capacity amounts provided in table 1 are the peak capacity amounts estimated in the Interim Plan to be available and are provided in Exhibit 1 to the Interim Plan. The Exhibit 1 Summary included in this notice provides estimated monthly capacity amounts and the energy amounts available with such capacity. The Exhibit 1 Summary provides only an estimate of the maximum power expected to be available for marketing by Western under the Interim Plan. The acutal power available may be more or less than estimated. If the power available from Navajo is more than estimated, each contractor will be obligated to take up to a 10 percent increase in the power that was estimated to be available to such

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contractor. Energy deliveries will be subject to CAP pumping requirements.

Each applicant (first-time and existing) should indicate: (1) The percentage of power requested if the power is made available at a proposed Navajo interim rate of 28.59 mills per kilowatthour and $10 per kilowattmonth for the summer season, and 24.51 mills per kilowatthour (no charge per kilowattmonth) for the winter season; and (2) the percentage of power requested if the power is made available at an alternative rate of 15, 20, 30, or 35 mills per kilowatthour. Entities requesting Navajo power for the first time pursuant to this notice are requested to submit the applicant profile data set out in this section. Those entities with existing applications are not required to submit additional applicant profile data.

The marketing area and eligibility criteria (including the order of priority for sales), contract provisions, conditions of delivery, and system reserve requirements are provided in section V of the Interim Plan. Additional conditions are described in the "Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" (49 FR 50582).

Section III of the Interim Plan identifies the quantities and classes of power that will be available under the Interim Plan. Applications for power are being requested for the power specifically identified in subsection B of section III.

The application information shall comply with the following applicant profile data as approved through September 30, 1988, by the Office of Management and Budget (OMB No. 1910–1200):

Applicant Profile Data

If an entity is applying for power on behalf of another organization which is not a member or subsidiary of the applicant, the applicant should provide a statement to that effect, which includes the reason(s) why the other organization is not applying for power on its own behalf. All items of information in the applicant profile data should be answered as if prepared by the organization seeking the allocation of Federal power.

A. Applicant Organization

1. Organization name and address.

2. Name, address, title, and telephone number of person(s) who will represent the entity in dealing with Western.

3. Type of organization (municipality, rural electric cooperative, irrigation district, State agency, Federal agency, other). Parent organization, if applicable. Names of members, if applicable. Applicable law under which organization was established.

4. Organization's geographic service area. If readily available, submit a map of the service area and indicate the date prepared.

5. Number and types of customers served and percentage of load: residential, commercial, industrial, agricultural, military base, etc.

B. Loads

1. Maximum demand (kW) and energy use (kWh) for each month for each year for the 3-year period of 1981, 1982, and 1983.

2. Daily peak demand for the peak week in each of the two most recent seasons (summer season, March–September; winter season, October–February).

C. Resources

1. Operating generating resources, if any, including for each resource, rated capacity, plant factor by month for the last 12 months, type of fuel, and location.

2. If the applicant's load is served wholly or partially by purchases from others, please provide for each purchase, the name of the power supplier, amounts of firm and nonfirm capacity and energy supply under the contract, and the termination date.

D. Transmission

1. A brief description of the applicant's transmission and distribution system, including major interconnections.

2. Requested point(s) of delivery on Western's system, voltage of service required, and capacity desired at the points of delivery.

3. Description of the transmission arrangements necessary to deliver power from the requested point(s) of delivery to the applicant's load. Please provide a single-line drawing of the applicant's service arrangements, if one is readily available.

E. Service Requested

1. The amount(s) and type(s) of service requested for each season expressed as a percentage of the capacity available from Navajo. (Refer to table 1).

2. The date when the applicant can first use the service requested from Western.

F. Any other information the applicant wishes to include.

G. The signature and title of an appropriate official who is able to attest to the validity of the information submitted and who is authorized to submit the application.

All applications for Navajo power will be available for public review at the Boulder City Area Office after 30 days from publication of this notice.

Issued in Golden, Colorado, August 18, 1986.

William H. Clagett,

Administrator.

Appendix A

The Interim Navajo Power Marketing Plan is being published as adopted. A summary of the Exhibit 1 to the Interim Plan is also included in this Appendix A.

Interim Navajo Power Marketing Plan

I. Purpose and Scope

Section 107 of the Hoover Power Plant Act of 1984, Pub. L. 98–381, requires that a Power Marketing Plan be developed to provide for the sale of the capacity and energy from the Central Arizona Project's share of the Navajo Generating Station that is surplus to the Project needs (Navajo surplus). Specifically, subsection 107(c) of this Act requires that a Power Marketing Plan be developed to provide for marketing and exchanges of electrical capacity and energy which are in excess of the pumping requirements of the Central Arizona Project (CAP) and any such needs for desalting and protective pumping facilities as may be required under Title I, to section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act (Pub. L. 93–320) (Salinity Control Act facilities).

This Interim Navajo Power Marketing Plan will provide for marketing of Navajo surplus during the initial delivery and pump-testing period of CAP operations and during the pre-New Waddell period. The long-range Navajo Marketing Plan which is presently under development will provide for the subsequent marketing of Navajo surplus.

A. This Interim Navajo Power Marketing Plan will maintain the obligation for the United States to use its entitlement to the Navajo resources to provide necessary power for the CAP pumping needs and Salinity Control Act facilities use. The Interim Plan will provide financial assistance to assure the timely construction and applicable repayment of CAP costs reimbursable by CAWCD. This plan is also designed to maximize the amount of capacity and energy available for sale as required by the Colorado River Basin Project Act of 1968. The estimated amounts of Navajo surplus were obtained from data contained in a report by the Bureau of Reclamation entitled "Central Arizona Project Power Marketing and Water Supply Study—October 1985." The attached Exhibit 1, entitled, "Surplus/Shortage Pumping Power Profile—Pre-New Waddell", summarizes the data to show the approximate capacity and energy available, by month, for the interim period.

B. This Interim Navajo Power Marketing Plan is consistent with section 107(d) of the Hoover Power Plant Act of 1984.

This Interim Navajo Power Marketing Plan provides that Western Area Power Administration (Western), will work closely

with the CAWCD and the Bureau of Reclamation on CAP and river operations. Western, working closely with CAWCD, will market the surplus Navajo capacity and energy under conditions similar to the existing layoff contracts, the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria), and in accordance with the Navajo allocation process already in progress as announced in the **Federal Register** on March 28, 1984, at 49 FR 11873. Western will manage the marketing and exchange of the Navajo surplus under this Interim Power Marketing Plan. This plan will terminate as provided in the long-range Navajo Power Marketing Plan or on September 30, 1990. Revenues from the sale and exchange of Navajo surplus power and energy derived from added-rate component(s) set forth in Article V of this plan will be utilized and assigned to make repayment and establish reserves for repayment of $175,000,000 (or more) of funds advanced by or for CAWCD for construction of authorized features of the CAP. These revenues, together with such revenues under the long-range Navajo Marketing Plan should be sufficient to make repayment and establish reserves for repayment of the funds advanced by or for CAWCD for the construction of authorized CAP features and to provide financial assistance for repayment of CAP costs reimbursable by CAWCD.

During the Interim Marketing period, optimization of Navajo surplus will be achieved primarily through delivering maximum amounts of water in the daytime from aqueduct storage and then recharging that storage to the maximum extent possible by utilizing offpeak pumping.

II. Authorities

A. Federal reclamation laws including, but not limited to, the Colorado River Basin Project Act (Pub. L. 90–537) and the Hoover Power Plant Act (Pub. L. 98–381).

B. Rules, regulations, and agency agreements of the United States Department of Interior, Bureau of Reclamation, and the United States Department of Energy, Western Area Power Administration, issued or made pursuant to applicable law.

III. Quantities and Classes of Power

A. Classes of services have been defined based upon the following principles:

1. Excess capacity and energy is defined as that amount in excess of the pumping requirements of the CAP and any such needs for Salinity Control Act facilities use. Under this Plan, such excess capacity and energy will be offered for sale and for exchange. It is expected that the Salinity Control Act facilities will not create a demand on Navajo surplus during the term of the Interim Plan. Accordingly this Interim Plan assumes that there will be no Navajo surplus furnished to the Salinity Control Act facilities.

2. A feature of the proposed CAP operation during the interim Navajo marketing period is daily energy management as well as weekly management. Pumping will be done during offpeak hours to the extent possible in order to maximize daily onpeak availability of surplus Navajo capacity and energy. For the purposes of this interim plan, a typical day (Monday through Saturday) consists of 12 hours of "onpeak" time and 12 hours of "offpeak" time. The onpeak summer period is typically from 9:00 a.m. to 9:00 p.m. The onpeak winter day periods are typically from 5:00 a.m. to 10:00 a.m. and from 3:00 p.m. to 10:00 p.m.

3. Western working closely with CAWCD and the Bureau of Reclamation will annually modify exhibit I to reflect anticipated surplus Navajo generation for the upcoming year considering anticipated Navajo availability and anticipated pumping requirements.

B. Classes.

1. Capacity and energy marketed in the interim period shall be offered as contingent Navajo power as has been the case in the present layoff contracts. Any Navajo power reserved for pumping shall also be contingent power. Any call for curtailment of Navajo schedules shall affect pump schedules and surplus power sales proportionally in any given hour.

2. Capacity and energy exchanges will be used during the interim marketing period to the extent possible in order to provide for monthly shortages and to provide for CAP pump testing.

3. Any Navajo surplus that is not marketed or exchanged under 1 or 2 above, will be marketed by Western under short-term arrangements.

IV. Contract Term

Capacity and energy shall be marketed or exchanged under terms of contracts which will terminate when the long-range plan is implemented.

V. Ratesetting Methodology

Rates shall be determined by Western Area Power Administration in accordance with the accepted methods contained in existing layoff contracts except that there shall also be additional rate components as follows:

Additional rate component(s) will be established (in addition to components currently collected) pursuant to provisions of section 107 of the Hoover Power Plant Act of 1984 (Act). The revenues from the additional rate components will be collected and may be deposited in an escrow account established pursuant to an escrow agreement entered into between the Bureau of Reclamation and CAWCD, to implement section 107 of the Act. Additional rate components shall not exceed amounts which, when added to the rate component currently collected, allow for appropriate savings to the contractor as required by section 107(d) of the Act.

A. Market Area and Eligibility

1. Sales will be offered, in the following order of priority, to entities having the status of preference entities under the provisions of section 9(c) of the Reclamation Project Act of 1939 and as provided in part IV, section A. of the Criteria.

a. Preference entities within Arizona.

b. Preference entities within the Boulder City Marketing Area.

c. Preference entities in adjacent Federal marketing areas.

d. Nonpreference entities in the Boulder City Marketing Area.

B. Contract Provisions.

Contract provisions shall comply with Western's Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria) published in the **Federal Register** on December 28, 1984, at 49 FR 50582.

C. Conditions of Delivery.

1. Point of Delivery. Power and energy sold under this plan shall be delivered to purchasers at any of the following Navajo transmission system switchyards: Westwing Switchyard, McCullough Switchyard. Any necessary transmission service beyond these points will be the responsibility of the contractor.

2. Voltage. All deliveries shall be at 500 kV except deliveries to Westwing Switchyard shall be at 230 kV.

3. Operation Procedures/Power Accounting. Operations and accounting procedures to be in effect through the interim period shall be those previously employed for layoff contracts, except that Western shall have authority to alter such procedures to effect improved operations.

4. System Losses. As per existing layoff principles.

D. System Reserve Requirements. All power and energy sold under this plan shall be contingent upon the operation of the Navajo Generating Station. Any curtailment of capacity at the station shall be proportionally deducted from capacity entitlements of each purchaser and the CAP pumps.

VI. Consultation

The Interim Navajo Power Marketing Plan is deemed most acceptable in accordance with section 107(c) of the Hoover Power Plant Act of 1984 as evidenced by the attached letters of concurrence from the Western Area Power Administration (Secretary of Energy), the Governor of Arizona, and the Central Arizona Water Conservation District.

Dated: March 17, 1986.

C. Dale Duvall,

Commissioner of Reclamation.

VOL 51 ISS 163 AG 22 1986 UMI

EXHIBIT 1.—SUMMARY, INTERIM NAVAJO POWER MARKETING PLAN

[Surplus/Shortage Pumping Power Profile (Pre-Flow Weighted)]

	Line units	October	November	December	January	February	March	April	May	June	July	August	September	Annual total
1987 Water Year														
Surplus to cap:														
Onpeak capacity	MW	364.5	364.5	364.5	341.7	331.6	258.7	273.8	374.1	428.1	382.9	391.0	481.8	
Onpeak energy	GWH	129.6	136.2	149.5	143.6	79.8	78.4	78.6	116.2	105.1	78.1	72.8	148.5	1,284.8
Offpeak capacity	MW	364.5	364.5	354.8	253.7	159.8	76.7	9.8	254.1	180.1	180.3	159.0	188.4	
Offpeak energy	GWH	172.6	181.5	199.3	186.5	58.4	29.8	−0.2	71.5	46.0	39.1	38.5	50.9	1,048.2
1988 Water Year														
Surplus to cap:														
Onpeak capacity	MW	313.4	333.4	326.8	325.3	301.8	214.8	103.2	395.7	180.1	119.7	119.9	232.3	
Onpeak energy	GWH	139.1	146.7	143.5	139.4	73.6	61.6	25.2	106.7	45.6	20.5	20.1	52.1	944.2
Offpeak capacity	MW	187.4	343.4	189.6	188.9	125.6	−5.2	−26.8	175.7	106.1	119.7	119.9	194.9	
Offpeak energy	GWH	107.9	122.3	145.4	141.4	60.8	9.1	−26.2	41.3	27.9	21.0	21.2	20.3	684.0
1989 Water Year														
Surplus to cap:														
Onpeak capacity	MW	293.9	324.2	316.5	311.2	276.7	142.7	−80.9	355.8	105.7	106.9	107.8	101.0	
Onpeak energy	GWH	77.6	104.1	137.3	135.8	109.2	62.6	−20.7	32.6	14.5	15.9	16.1	18.7	696.9
Offpeak capacity	MW	73.9	132.2	184.5	179.2	12.7	−33.3	−80.9	211.8	109.7	106.9	107.6	101.0	
Offpeak energy	GWH	39.6	66.0	132.8	135.1	60.0	6.0	−32.3	18.5	14.6	16.4	16.7	13.5	500.8
1990 Water Year														
Surplus to cap:														
Onpeak capacity	MW	262.1	313.9	311.5	305.2	276.3	137.6	−94.1	84.2	88.4	82.4	83.7	96.2	
Onpeak energy	GWH	111.5	100.9	135.7	133.0	109.4	58.2	−49.4	8.7	9.8	14.3	11.7	8.1	533.9
Offpeak capacity	MW	62.1	161.9	179.5	167.2	56.9	−88.4	−94.1	84.2	68.1	82.4	83.7	55.2	
Offpeak energy	GWH	70.3	89.1	130.8	119.8	72.2	−27.0	−70.6	10.8	8.3	10.2	10.8	7.8	426.0

[FR Doc. 86-19011 Filed 8-21-86; 8:45 am]
BILLING CODE 6450-01-M

Proposed Navajo Interim Power Rate

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Rates and Request for Comments.

SUMMARY: The Hoover Power Plant Act of 1984 (98 Stat. 1333) (Act), specifically section 107, requires that the Secretary of the Interior adopt a marketing plan for the capacity and energy from the United States entitlement in the Navajo Generating Station (Navajo), that is surplus to the Central Arizona Project (CAP) needs. An Interim Navajo Power Marketing Plan (Interim Plan) was developed and adopted by the Commissioner of the Bureau of Reclamation (Reclamation) on March 17, 1986.

The Commissioner forwarded the Interim Plan to the Administrator, Western Area Power Administration (Western), by letter dated April 14, 1986, for implementation.

In order to implement the Interim Plan, it is necessary to develop a rate for the capacity and energy (power) expected to be available. This notice contains the proposed ratemaking methodology and proposed rates developed pursuant to section V of the Interim Plan. The proposed ratemaking methodology contained in this document will be effective until a long-range Navajo Power Marketing Plan is adopted by the Secretary of the Interior or until September 30, 1990, whichever occurs first.

Interested parties are invited to submit comments concerning the rate methodology and proposed rates. Western will review and consider each comment prior to the effective date of rates for power marketed under the Interim Plan.

DATES: Interested parties may submit written comments on the proposed rates within 90 days of publication of this notice. A public information forum on this subject will be held on September 8, 1986, beginning at 9:30 a.m. An opportunity will be given all interested parties to present written or oral statements at a public comment forum to be announced later.

ADDRESSES: The public information forum will be held at the Phoenix Hilton Hotel, Hopi Room B, Central and Adams, Phoenix, Arizona, on the date cited above. Written comments concerning the proposed rates should be sent to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Carter, Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477-3255.

SUPPLEMENTARY INFORMATION: The United States acquired the right to 24.3 percent of generation available at Navajo for use by CAP. The CAP is a Reclamation multipurpose water resource development and management project in Arizona. During the construction of CAP, the United States entitlement to Navajo power was sold on an interim basis to various public and private utilities (layoff contractors). The layoff contracts were subject to withdrawal of power as needed by the United States. CAP construction is nearing completing and notice of withdrawal has been given to all layoff contractors.

In 1972, Reclamation contracted with the Central Arizona Water Conservation District (CAWCD) for delivery of water and the repayment of the costs of CAP. The contract provided that CAWCD would assume the repayment responsibility for specific CAP costs identified in the contract.

Section 107 of the Act provides that capacity and energy associated with the United States interest in Navajo, which is in excess of the pumping requirements of CAP, and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1571 *et seq.*) (Navajo surplus), shall be marketed and exchanged by the Secretary of Energy. Section 107(c) provides that a power marketing plan be

adopted by the Secretary of the Interior to provide for the marketing and exchange of Navajo surplus. An Interim Plan has been developed and adopted by the Commissioner of Reclamation.

The Interim Plan provides for the interim marketing of the Navajo surplus until a long-range Navajo Power Marketing Plan is adopted by the Secretary of the Interior or until September 30, 1990, whichever occurs first.

The rates developed pursuant to the Interim Plan are to provide financial assistance in the repayment of applicable CAP costs reimbursable by CAWCD, and establish reserves for repayment to CAWCD of funds advanced for construction of CAP features as provided in section 107 of the Act.

Section V of the Interim Plan provides that Western will determine the rates for Navajo surplus in accordance with accepted methods contained in the layoff contracts and will provide additional rate components specified in the Interim Plan. This notice provides Western's proposed rates developed pursuant to the directive in the Interim Plan.

The proposed Navajo interim rate has been determined to be a major rate adjustment as defined by the "Procedures for Public Participation in Power and Rate Adjustments and Extensions" (10 CFR Part 903) published in the Federal Register on September 18, 1985. These regulations establish the procedures for the development of power and transmission rates; for the providing of opportunities for interested members of the public to participate in the development of such rates, for the confirmation, approval, and placement in effect on an interim basis of such rates; and for the submission of such rates to the Federal Energy Regulatory Commission.

The Navajo interim rate will be developed pursuant to the above-cited 10 CFR Part 903 and Delegation Order No. 0204–108 (48 FR 5564, December 14, 1983), as amended on May 30, 1986 (51 FR 19744).

Executive Order 12291

Under the provisions of section 3 of Executive Order 12291, dated February 17, 1981, a regulatory impact analysis must be made prior to the publication of a major rule. This proposal is of a technical nature and considered to be a nonmajor rule within the meaning of the Executive Order. Western has an exemption from sections 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of these regulations by the Office of Management and Budget (OMB) is required.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA) Council on Environmental Quality regulations, and the Department of Energy regulations for compliance with NEPA, published in the Federal Register on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Due to the nature of this proposed rate increase, an environmental assessment will be prepared and copies will be available to interested persons upon request.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required to publish a general notice of proposed rule, shall prepare for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, this proposal relates to particular electric services and rates provided by Western. Under 5 U.S.C. 601(2), such rules and practices relating to services are not considered "rules" within the meaning of this Act. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the OMB before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Ample opportunity is provided for the interested public to participate in the development of the Navajo interim rates. Nevertheless, this is at their sole election. There is no requirement that members of the public participating in the development of Navajo interim rates supply information about themselves to the Government. It follows that the proposed Navajo rates are exempt from the Paperwork Reduction Act.

Availability of Information

Data used in the development of the rate are available at the Boulder City Area Office for inspection and/or copying. Upon written request, interested parties will be provided with copies of the principal documents used in developing the proposed rate. Written comments will be available for inspection at the Boulder City Area Office upon completion of the comment period.

Proposed Ratemaking Methodology and Rates

In accordance with section V of the Interim Plan, the additional rate components established pursuant to provisions of section 107 of the Act shall not exceed amounts which, when added to the rate components currently collected, will allow for "appropriate savings to the contractor as required by section 107(d) of the Act."

In order to determine what an "appropriate savings to the contractor" is, Western examined economy energy transactions within Arizona from Western's fuel replacement program, recognizing that the character of the Navajo surplus is somewhat different than fuel replacement program transactions. Fuel replacement program transactions are nonfirm interruptible energy sales that are generally made at 85 percent of decremental fuel costs for a generating utility, or 85 percent of the highest alternative purchase price for a nongenerating utility, while Navajo surplus is a unit-contingent power. With the amount of fuel replacement energy sales using this pricing mechanism in the Boulder City area (over 2 billion kilowatthours for each of the last 2 fiscal years), Western believes that the average sales price in Arizona for fuel replacement energy would be a good measure of a rate which would result in an "appropriate savings to the contractor" in that State, as well as other States in the Boulder City area. This would comprise the energy component of the Navajo surplus rate. Certainly, if the purchaser of fuel replacement energy was not receiving an "appropriate savings," the sale would not have been made.

Experience with the fuel replacement program has indicated that an annual average energy rate for Navajo surplus would not be appropriate since there are four distinct time periods with significantly different rates. These are: (1) Summer season onpeak; (2) summer season offpeak; (3) winter season onpeak; and (4) winter season offpeak. Experience also indicates that the fuel replacement market varies from year to year, depending on numerous factors, including available generation in the area, weather patterns, and pricing of alternative generation. Therefore, the pricing of Navajo surplus cannot be tied to a single-year average, but must be flexible enough to take these variables into account and still meet the "appropriate savings" standard. Another standard which must be met is that of revenue stability for CAP. If the Navajo surplus rates were tied to a

single-year average, income could be drastically reduced in some years and dramatically increased in a subsequent year. Therefore, a limit on the increase or decrease allowed in the Navajo surplus rate must be set. Additionally, energy cannot be sold below the production costs. This is true of the energy rate only. The capacity rate will be fixed for the life of the contract.

The setting of a capacity rate for Navajo surplus is appropriate as significant amounts of capacity are available during onpeak hours in the summer season. This capacity is unit-contingent capacity and is the major difference between fuel replacement transactions and the sales of Navajo surplus. Under the fuel replacement program, sales are interruptible in whole or in part. Under a single contingency outage at Navajo, the contractor would still receive two-thirds of its allocation. Therefore, a capacity value for the commodity is appropriate. No price for such a comparable commodity is readily available. Therefore, Western is proposing a price of $10 per kilowattmonth payable only for the summer season (March–September). The price will be applied to the maximum capacity scheduled to each contractor during each month.

In reveiwing fuel replacement program purchases of Arizona entities, fuel replacement program rates for the above-noted time periods were reviewed and were used to develop average rates. The average rates were the basis for calculating the proposed Interim Navajo rates. The proposed rates are in accordance with section V of the Interim Plan and include the additional rate component required by section 107 of the Act. Application of the proposed rate formula yields the following proposed energy rates for Navajo surplus:

Summer Season (March–September)—
26.59 mills per kilowatthour
Winter Season (October–February)—
24.51 mills per kilowatthour

These rates will be reviewed annually and will be revised, as appropriate, based on the average price of fuel replacement sales within the States where Navajo power was sold during the three preceding fiscal years and other factors, including cost of production. The energy rates will not be allowed to either increase or decrease more than 3 mills per kilowatthour in any annual rate adjustment. The energy rate will not be allowed to be reduced below 115 percent of Navajo production costs.

Issued in Golden, Colorado, August 15, 1986.

William H. Clagett,
Administrator.

[FR Doc. 86–19057 Filed 8–21–86; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3068–4]

Environmental Impact Statements; Notice of Availability

Responsive Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed August 11, 1986 Through August 15, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860322, Final, FHW, OR, 185th Avenue Improvements, Rock Creek Boulevard to Tualatin Valley Highway, Washington County, Due: September 22, 1986, Contact: Dale Wilken (503) 399–5749

EIS No. 860323, Final, AFS, WI, Nicolet National Forest, Land and Resource Management Plan, Due: September 22, 1986, Contact: Jim Berlin (715) 362–3415

EIS No. 860324, Final, AFS, MT, Kootenai National Forest, Noxious Weed Treatment Program, Lincoln County, Due: September 22, 1986, Contact: Michael O'Farrell (406) 296–2536

EIS No. 860325, Final, AFS, WI, Chequamegon National Forest, Land and Resource Management Plan, Due: September 22, 1986, Contact: John Walters (715) 762–2461

EIS No. 860326, Final, CDB, NY, Atlantic Terminal and Brooklyn Center Development, Construction, UDAG, Kings County, Due: September 22, 1986, Contact: Mark Moss (212) 619–5000

EIS No. 860327, Final, BLM, UT, West Desert Pumping Project, Great Salt Lake Flood Control, Construction, Box Elder and Tooele Counties, Due: September 22, 1986, Contact: Jack Peterson (801) 524–5348

EIS No. 860328, Final, EPA, REG, Glass Manufacturing Plants, Inorganic Arsenic Emissions, Standards, Due: September 22, 1986, Contact: Robert Ajax (919) 541–5624

EIS No. 860329, Final, EPA, REG, Primary Copper Smelters and Arsenic Plants, Inorganic Arsenic Emissions, Standards, Due: September 22, 1986, Contact: Robert Ajax (919) 541–5624

EIS No. 860330, Final, FHW, MI, US 31 Improvement, US 31/US 10 Intersection to US 31, Mason County, Due: September 22, 1986, Contact: Kenneth Barkema (517) 337–1851

EIS No. 860331, Draft, FWS, CA, Southern Sea Otters Translocation Plan, Recovery and Research, San Nicolas Island, Ventura County, Due: November 17, 1986, Contact: Wilbur Ladd, Jr. (916) 978–4873

EIS No. 860332, Final, FHW, VA, East-West Expressway Construction, Jefferson Avenue to Armistead Avenue, Due: September 22, 1986, Contact: James Tumlin (804) 771–2371

EIS No. 860333, Draft, UAF, SEV, Central Radar, Over-the-Horizon Backscatter Radar System, Construction and Operation, North Central Region of the United States, Due: October 6, 1986, Contact: V. G. Brown (617) 271–5360

EIS No. 860334, FSuppl, COE, CA, Upper Santa Ana River Main Stem and Santiago Creek Flood Control Project and Mentone Dam Upstream Flood Storage Alternatives, Due: September 22, 1986, Contact: Jack Kennedy (213) 894–2314

EIS No. 860335, Final, FHW, IN, US 24 Logansport Bypass Construction, IN–25/US 35 to US 24/US 31, Due: September 22, 1986, Contact: James Threlkeld (317) 269–7481

Amended Notice

EIS No. 860313, Draft, AFS, CA, Shasta-Trinity National Forest, Land and Resource Management Plan, Due: November 17, 1986, Published FR 08–15–86—Review period extended

Dated: August 19, 1986.

Allan Hirsch,
Director, Office of Federal Activities.

[FR Doc. 86–19061 Filed 8–21–86; 8:45 am]
BILLING CODE 6560–50–M

[ER–FRL–3068–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA Comments prepared August 4, 1986 through August 8, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA Comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements

(EISs) was published in Federal Register dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D–FAA–B51012–CT, Rating LO, Groton-New London Airport Runway 5 Medium Intensity Approach Lighting System Installation, CT. Summary: EPA recommends that FAA commit to implementing the draft EIS's proposed mitigation measures and time of year restriction (late September through December) in the final EIS and FAA's Record of Decision.

ERP No. DS–COE–E36066–AL, Rating LO, Mallard-Fox Creek Area, Morgan County Port Access Channel and Dredged Material Disposal, Development and Use, AL. Summary: EPA's review concluded in a lack of objections.

Final EISs

ERP No. F1–BLM–J65114–WY, Buffalo Resource Area, Wilderness Designation or Non-Designation, Gardner Mtn. North Fork and Fortification Creek WSA's WY. Summary: EPA's review found that although the WSA's described in this EIS fully meet wilderness suitability criteria, none were recommended for wilderness designation. In deleting all three WSA's from further consideration, BLM appears to have emphasized local rather than national values and to have misapplied the criteria in favor of resources development.

ERP No. F–COE–C36059–00, Port Jervis Ice Related Flood Control Plan, Upper Delaware River Basin, NJ, NY and PA. Summary: EPA's concerns on the draft EIS have been addressed. The COE will coordinate the final mitigation plan for the project with EPA.

ERP No. F–FHW–J40004–UT, W. Valley Highway Construction, 9000 South to 2100 South Streets, UT. Summary: EPA reviewed the final EIS and our concerns with the draft EIS were satisfactorily addressed.

ERP No. F–JUS–L81007–OR, Sheridan Federal Correctional Institution Complex, Construction and Operation, OR. Summary: EPA concluded that the construction and operation of the correctional facility would not result in any significant adverse environmental effects. Supplemental information was provided to assure EPA that providing the proposed facility with potable water and wastewater treatment should not result in any significant environment impacts. The Bureau of Prisons has agreed to complete a technical analysis report that will more fully document the evaluation of water supply and wastewater treatment issues. This report will be circulated for public review before the Bureau takes any action which could limit the alternatives for providing these utility services to the proposed prison.

ERP No. F–SCS–G36122–AR, Tyronza River Watershed Protection and Flood Prevention, AR. Summary: EPA has no objections to the proposed action with proper implementation of mitigation measures as described.

Regulations

ERP No. R–OSM–A99170–00, Surface Coal Mining and Reclamation Operation; Permanent Regulatory Program Fish and Wildlife Resource Information Plan; Protection of Fish, Wildlife, Related Environmental Values; 30 CFR Parts 779, 780, 783, 784, 816, 817 (51 FR 19498). Summary: EPA expressed concern that the proposed rule fails to provide for consultation and coordination with State and Federal fish and wildlife agencies as needed to protect fish and wildlife resources. EPA recommended several additions to the rule, as well as revision of the Environmental Assessment.

Amended Notice

The following review should have appeared in the FR Notice published on August 15, 1986.

ERP No. F–COE–F90007–MI, Keweenaw Waterway Navigation Channel, Polluted Dredged Material Confined Disposal Facility, Construction, MI. Summary: EPA's review resulted in concerns regarding sediment contamination and inadequate consideration of a nearby Superfund site. EPA requested continuing coordination regarding sediment studies and studies to determine the need for a clay cap on the confined disposal facility.

Dated: August 19, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86–19062 Filed 8–21–86; 8:45 am]

BILLING CODE 6560–50–M

FARM CREDIT ADMINISTRATION

Policy of the Farm Credit Administration With Respect To Loan Documentation Related To Borrower Financial Statements

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Farm Credit Administration Board at its scheduled meeting of August 5, 1986, adopted a policy with respect to loan documentation relating to borrower financial statements. The text of the policy is as follows:

On July 1, 1986, the Farm Credit Administration ("FCA") Board incorporated guidelines in giving policy direction to the FCA staff for making recommendations to the FCA Board on approving Farm Credit System ("System") bank and association interest rate approval requests. The FCA Board's action was the subject of a July 1, 1986 letter to the Farm Credit Corporation of America ("FCCA"). As part of that action, the FCA Board addressed the area of loan documentation by requiring that Farm Credit System ("System") institutions obtain current financial statements from borrowers who apply for or are granted interest rate reductions as a condition to approval of individual district programs. The condition related to rate reductions through differential interest rate or fixed interest rate programs.

By letter of July 16, 1986 to the FCCA, the FCA provided additional guidance to System institutions in the area of interest rate approval in identifying provisions of a System model pricing program which, if included in individual district interest rate programs, could expedite FCA approval of such programs. In that letter the FCA indicated that "System institutions are expected to develop and implement an orderly plan to obtain updated financial statements from all borrowers receiving rate reductions under this authorization prior to yearend 1987."

The FCA Board believes it appropriate to provide System institutions with additional policy guidance on the subject of loan documentation as it relates to borrower financial information. It is the FCA's position that accurate, reliable and current financial statements are a cornerstone to sound analysis by System institutions in connection with both loan underwriting and loan servicing. The availability of such information is also essential to the exercise of the FCA's examination function. Thus, it is critical that System institutions obtain current borrower financial statements when the loan is made, when any significant loan administration action is taken, and at the close of the borrower's fiscal year. This applies to Federal land bank loans, as well as loans made by production credit associations and bank for cooperatives. System loan agreements should clearly establish the institution's enforceable right to obtain borrower financial statements, and financial statements should be attested to by the borrower in all instances and audited by an independent accountant where appropriate.

In meeting FCA expectation that loan documentation will be strengthened in the area of financial statements by yearend 1987, each System bank and association should develop and implement a plan which: (1) Establishes the right of the institution to obtain a verified balance sheet and income statement from all borrowers at least annually; and (2) require borrowers to submit annually to the institution a verified balance sheet and income statement on all loans in a principal amount over $100,000 or where the value of the collateral pledged comprises more than 25 percent of production or storage facilities (i.e. poultry houses, feedlots, silos etc.). Both standards should be implemented for all new loans made on or after September 1, 1986, and for all existing loans whenever a concessionary interest rate or a partial release of security is granted or the loan is renewed, extended, reamortized or otherwise modified by its terms to the benefit of the borrower.

FCA examiners will monitor the progress of System institutions in this area during the examination process. A failure to demonstrate timely development and implementation of a program to meet the requirements of this policy statement will constitute and be cited as an unsafe and unsound practice, and appropriate supervisory action will be considered in such instances.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 86-18958 Filed 8-21-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

Application for Unlisted Trading Privileges and Opportunity for Hearing

Dated: August 14, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Philadelphia Stock Exchange has filed on July 18, 1986, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1, an application with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following securities:

Great American First Savings Bank (FHLBB No. 0789)

Common Stock, $1.00 Par Value

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Comments: Any interested person may inspect the application at the Board and, within 15 days of publication of this notice in the **Federal Register**, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, written data, views and arguments bearing upon whether the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will approve the application after the date mentioned above if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Assistant General Counsel for Securities Policy, Corporate and Securities Division, Office of General Counsel, at (202) 377-6415 or at the above address.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-19054 Filed 8-21-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Federal Employees; Testing of Employees in Certain Occupational Categories To Discover Positive Indicators of Drug Abuse, 5 U.S.C. 7101, et seq.

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of opportunity to file amicus briefs in certain proceedings in which agency management has asserted the nonnegotiability of Union proposals relating to various aspects of agency initiated testing of civilian employees to identify drug abuse.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested agencies, labor organizations, and other interested persons to file amicus briefs on significant issues of law common to a number of cases pending before the Authority. These cases involve allegations of nonnegotiability by agency management concerning union proposals relating to the substance of, procedures for, and/or appropriate arrangements concerning, the implementation by the agency of changes to agency regulations describing its Alcohol and Drug Abuse Prevention and Control Program.

DATE: Amicus briefs submitted in response to this notice will be considered if received by October 22, 1986. Requests for extensions of time will not be granted absent extraordinary circumstances.

ADDRESS: All briefs shall be captioned "Drug Testing Cases Amicus Brief," and shall contain separate, numbered headings for each issue discussed. An original and four (4) copies of each amicus brief, with any enclosures, on 8½ x 11 inch size paper, shall be addressed to Harold D. Kessler, Director, Office of Case Management, FLRA, Attn: Drug Testing Cases, 500 C Street, SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, (202) 382-0715.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority currently has before it several cases involving the implementation by agency management of programs to randomly test incumbent employees in certain occupational series for positive indications of drug use. These cases are before the Authority because of statements of nonnegotiability made by agency management pursuant to 5 U.S.C. 7117. *See also* 5 CFR 2424.3. In addition, many of the issues raised in these cases can potentially be the subject of unfair labor practice and/or arbitration proceedings.

These cases are properly before the Authority. *See, for example, National Federation of Federal Employees, et al.* v. *Caspar W. Weinberger, et al.* (D.D.C. June 23, 1983), where the Court, in denying plaintiffs' application for a preliminary injunction and granting the defendants' motion to dismiss, stated that "the ultimate question on the merits concerns a labor-management dispute—i.e., an issue of federal personnel policy . . . . Although not without concern over the serious issues presented, the Court concludes, on the basis of the record before it that the FLRA and MSPB will eventually afford plaintiffs sufficient judicial review of their substantial challenges to the (drug abuse) testing program . . . ." It is the Authority's information that other judicial challenges to similar agency initiated drug testing programs are and have been pending.

The Authority has identified several cases, listed below, which address issues of law common to the range of matters involving drug abuse testing.

Since these matters are likely to be of concern to agencies, labor organizations and other interested parties, the Authority believes it appropriate to provide for the filing of amicus briefs addressing these issues. These cases are the following:

NAGE, Local R14 and Army, Army Dugway Proving Ground, Case No. O–NG–1288; *NFFE, Local 15 and Headquarters, U.S. Armament Munition and Chemical Command,* Case No. O–NG–1289; *IAM&AW, Lodge 282 and Army, Headquarters, I Corps, Ft. Lewis, WA,* Case No. O–NG–1277; *NAGE, Local R14–5 and Pueblo Depot Activity,* Case No. O–NG–1286; and *AFGE, Local 2185 and Army, Tooele Army Depot, Tooele, Utah,* Case No. O–NG–1288.

The proposals in these cases include the following:

A. Frequency of Testing.

The parties agree that employees in sensitive positions defined by AR 600–85 (Army Regulation 600–85, "Alcohol and Drug Abuse Prevention and Control Program") may be directed to submit to urinalysis testing to detect presence of drugs only when there is probable cause to suspect the employees have engaged in illegal drug abuse.

B. Testing Methods and Procedures.

The parties agree that methods and equipment used to test employee urine samples for drugs be the most reliable that can be obtained.

C. Testing Methods and Procedures.

The employer agrees that the following procedure will be utilized to assure drug testing is reliable:

1. Upon direction of management under terms of Section 2 above, affected employees will report to designated location to provide urine sample.

2. *The Employer agrees to provide safeguards to assure the urinalysis testing for affected employees is not performed by unqualified or uncertified operators or test personnel.*

3. *Upon "positive" reading of urine sample indicating presence of illegal/controlled substance, a 2nd testing will be accomplished upon the same sample.*

4. *If the 2nd test confirms results of the 1st test, employee will be notified to return to the designated site the next work day to provide a second urine sample.*

5. *Second urine sample will be subject to same test as first sample, which will be testing for identical substance as first 3 tests. "Positive" results will again be verified by a second test.*

6. *Upon confirmation of presence of illegal/controlled substance in urine sample, the sample will be submitted to Army testing labs at site determined by employer for refined testing to confirm results of field tests at employer location.*

7. *If employee urine sample leaves worksite (RIA), the employee shall have the option of retaining a portion of the sample for freezing and later use in case of inadvertent break in chain of custody or loss of identification of samples.*

8. All samples will be subject to strict chain of custody as outlined in appendix H to AR 600–85.

9. *At each and every step of testing the employee has the option to have a urinalysis test by an independent lab at his/her cost utilizing the existing sample or a new sample. If independent testing refutes employer results, employee will be reimbursed for any cost associated with testing process.*

(Only the above italicized portions (items 2, 3, 4, 5, 6, 7, and 9) are in dispute).

D. Safeguarding of Information.

1. The parties agree that information concerning results of field tests will be held in strict confidence and will be released to only those officials of the employer that have an absolute need to know.

2. Information will normally be retained by testing personnel until 4 "positive" results have been determined. At such time, the supervisor and other management officials involved in possible discipline/adverse action or other personnel actions will be provided with such information.

(All of the above proposals are at issue in Case O–NG–1289).

E. No bargaining unit employee will be requested, required or compelled to provide a urine sample in the presence of any observer or under the surveillance of any observing device (overt, covert, mechanical, technical, or otherwise). The employer will provide and maintain a sanitary restroom facility so in the event a bargaining unit employee provides a urine sample, such sample will be provided in absolute and total privacy.

F. No employee will be requested or required, as a condition of employment to sign or complete any document or form or provide any oral or written statement either agreeing to compliance with any civilian drug abuse testing, or waiving said employee's right to decline participation in any civilian drug abuse testing.

G. No bargaining unit employee will be screened under any Civilian Drug Abuse Testing Program.

(All the above proposals are at issue in Case O–NG–1286).

In deciding these cases the Authority must resolve which, if any, rights reserved to management under 5 U.S.C. 7106(a), are affected by the Union proposals. To what extent are the Union's proposals "procedures" or "appropriate arrangements" under 5 U.S.C. 7106(b)?

The Authority believes evidence and/or argument on the following questions will be necessary and helpful in addressing the issues in these cases:

1. To what extent is the negotiability of the Union proposals affected by the nature of the positions held by employees to be made subject to the random drug testing? Does limiting the scope of the testing to certain categories of employees engaged in security-sensitive work affect negotiability?

2. To what extent does scientific evidence concerning the reliability of drug testing procedures (particularly the enzyme multiplied immunoassay technique [EMIT], gas chromotography/mass spectrometry [GC/MS] and radioimmunoassay [RIA]) affect the negotiability of the various proposals?

3. Assuming *arguendo* that one or more of the Union's proposals may properly be viewed as an "appropriate arrangement" for adversely affected employees, to what extent does that proposal(s) interfere with a right reserved to management? What considerations should apply under the "excessive interference" test enunciated by the Authority in *NAGE R14–87 and Kansas Army National Guard,* 21 FLRA No. 4 (1986)?

4. Assuming *arguendo* that a drug testing policy relates to an agency's right "to determine . . . internal security practices of the agency," to what extent is the negotiability of the proposals affected by the availability to the agency of alternative methods for assuring internal security? To what extent is the presence, or absence, of evidence of breaches of security in the past relevant to this determination?

5. To what extent does the precise nature and extent of the consequences to an individual employee of a "positive" test result affect the negotiability of the Union's proposal(s)?

6. Testing of employees for indication of drug use has been proposed and has occurred in a wide-range of industrial settings (rail carriers, professional sports, public law-enforcement agencies, etc.). What, if any, legal precedents have been established under these initiatives? How does such precedent impact on the negotiability of union proposals concerning drug testing of Federal employees?

7. What, if any, other legal issues under the Federal Service Labor-Management Relations Statute (5 U.S.C. 7101, *et seq.*) are raised by agency plans

requiring random testing of employees for indications of drug use?

Dated: August 19, 1986.

For the Authority.

Jacqueline R. Bradley,

Executive Director.

[FR Doc. 86-19000 Filed 8-21-86; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may impact and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010270-017
Title: Gulf-European Freight Association
Parties:
Compagnie Generale Maritime (CGM)
Lykes Bros. Steamship Co., Inc.
Gulf Container Line (GCL), B.V.
Hapag-Lloyd AG
Sea-Land Service, Inc.
Trans-Freight Lines
Nedlloyd Lijnen, B.V.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-010656-013
Title: North Europe-U.S. Gulf Freight Association
Parties:
Atlanticargo (South Atlantic Cargo Shipping NV)
Compagnie Generale Maritime (CGM)
Lykes Bros. Steamship Co., Inc.
Gulf Container Line (GCL), B.V.
Nedlloyd Lijnen, B.V.
Hapag-Lloyd AG
Sea-Land Service, Inc.
Trans Freight Lines
United States Lines, Inc.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-010714-002
Title: Trans-Atlantic American Flag Liner Operators
Parties:
Farrell Lines Incorporated
Sea-Land Service, Inc.
United States Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-010833-001
Title: Eurocorde I
Parties:
North Europe-U.S. Atlantic Conference
U.S. Atlantic-North Europe Conference
Polish Ocean Lines
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

By Order of the Federal Maritime Commission.

Dated: August 18, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18946 Filed 8-21-86; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-000150-085
Title: Trans-Pacific Freight Conference of Japan
Parties: American President Lines, Ltd.; Barber Blue Sea Line; Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; A.P. Moller-Maersk Line; Neptune Orient Lines Limited; Nippon Yusen Kaisha; Orient Overseas Container Line, Inc.; Sea-Land Service, Inc.; Showa Line, Ltd.; United States Lines, Inc.; Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-003103-067
Title: Japan-Atlantic and Gulf Freight Conference
Parties: Barber Blue Sea Line; Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; A.P. Moller-Maersk Line; Neptune Orient Lines Limited; Nippon Yusen Kaisha; Orient Overseas Containes Line, Inc.; United States Lines, Inc.; Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-008190-018
Title: Japan-Puerto Rico and Virgin Islands Freight Conference
Parties: Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 224-010963
Title: Bermuda Terminal Company/ Bermuda Container Line Terminal Service Agreement
Parties: Bermuda Terminal Company Inc. (BTC); Bermuda Container Line Ltd. (BCL)
Synopsis: The proposed agreement would permit BTC to provide terminal services to BCL at Perth Amboy, New Jersey in connection with BCL's transportation service between the Port of New York and Bermuda.

Dated: August 19, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19012 Filed 8-21-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Antrim Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank

holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 12, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Antrim Financial Corporation,* Mancelona, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Antrim County State Bank, Mancelona, Michigan. Comments on this application must be received by September 15, 1986.

2. *Community Financial Corporation,* Harbor Beach, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of First of America Bank—Huron, Harbor Beach, Michigan. Comments on this application must be received by September 10, 1986.

3. *MH Bancorp, Inc.,* Orland Park, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of FNB Bancorp, Inc., Chicago Heights, Illinois, and thereby indirectly acquire The First National Bank in Chicago Heights, Chicago Heights, Illinois.

4. *State Financial Services Corporation,* Hales Corners, Wisconsin; to acquire 66.67 percent of the voting shares of Edgewood Bank, Greenfield, Wisconsin

5. *Waterman Bancshares, Inc.,* Waterman, Illinois; to become a bank holding company by acquiring 80 or more of the voting shares of Waterman State Bank, Waterman, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Commonwealth Bancshares, Inc.,* McLeansboro, Illinois; to become a bank holding company by acquiring at least 80.0 percent of the voting shares of Salem National Bank, Salem, Illinois.

2. *Portland Bankshares, Inc.,* Portland, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Portland Bank, Portland, Arkansas.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Northeastern Oklahoma Bankshares, Inc,* Inola, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Northeastern Oklahoma Bancorporation, Inc., Inola, Oklahoma, and thereby indirectly acquire Bank of Inola, Inola, Oklahoma.

Board of Governors of the Federal Reserve System, August 18, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-18938 Filed 8-21-86; 8:45 am]

BILLING CODE 6210-01-M

Lakeside Bancshares, Inc.; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Lakeside Bancshare, Inc.,* Lake Charles, Louisiana; to engage *de novo* through its subsidiary, Lakeside Life Insurance Company, Inc., Lake Charles, Louisiana, in the sale and underwriting of credit life, accident and health insurance, and other insurances, arising from an extension of credit by a bank or bank holding company pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 18, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-18939 Filed 8-21-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 15, 1986

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages).

Food and Drug Administration

Subject: Initial Registration of Medical Device Establishment—Extension—(0910-0059).

Respondents: Businesses or other for-profit; Small businesses or organizations.

OMB Desk Officer: Bruce Artim

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–8650 for copies of package).

Subject: Information Collection Requirements in 42 CFR Part 282—Hospital Conditions of Participation—Revision—(0938–0328)—HCFA–R–48.

Respondents: Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.

Subject: Information Collection Requirements for Sole Community Home Health Agencies at 45 CFR 405.1633(b)(2), (F) and (G) BERC–197–F—NEW—HCFA–R–85.

Respondents: Individuals or households.

Subject: Health Maintenance Organizations/Competitive Medical Plans National Data Reporting Requirements—Revision—(0938–0469) HCFA–906.

Respondents: State or local governments; Businesses or other for-profit; Non-profit institutions.

OMB Desk Officer: Fay S. Iudicello.

Office of the Secretary

(Call Reports Clearance Officer on 202–245–6511 for copies of package).

Subject: 45 CFR Part 95.600 State Requests for HHS Approval of Federal Financial Participation in the Cost of ADP Systems, Equipment and Services—Revision—(0990–0058).

Respondents: State or local governments.

OMB Desk Officer: Fay S. Iudicello.

Office of Human Development Services

(Call Reports Clearance Officer on 202–472–4415 for copies of package).

Subject: Runaway and Homeless Youth Centers—NEW—

Respondents: State or local governments.

OMB Desk Officer: Judy A. McIntosh.

Social Security Administration

(Call Reports Clearance Officer on 301–594–5706 for copies of package).

Subject: Beneficiary Recontact Report—Revision—(0960–0354).

Respondents: Individuals or households.

OMB Desk Officer: Judy A. McIntosh.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. Attn: (name of OMB Desk Officer)

Dated: August 18, 1986.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–18998 Filed 8–21–86; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 86F–0333]

Allied Colloids, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Allied Colloids, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of alkyl (C_{12}–C_{20}) methacrylate-methacrylic acid copolymers as a stabilizer in the manufacture of paper and paperboard in contact with food.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3911) has been filed by Allied Colloids, Inc., 2301 Wilroy Rd., Suffolk, VA 23434, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of alkyl (C_{12}–C_{20}) methacrylate-methacrylic acid copolymers as a stabilizer in the manufacture of paper and paperboard in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 14, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18943 Filed 8–21–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0328]

Borg-Warner Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Borg-Warner Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butyl-phenyl) ester as an antioxidant for olefin polymers in contact with food.

FOR FURTHER INFORMATION CONTACT: Mary Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3944) has been filed by Borg-Warner Chemicals, Inc., Washington, WV 26181, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butyl-phenyl) ester as an antioxidant for olefin polymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: August 14, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–18941 Filed 8–21–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0329]

Medtronic, Inc.; Premarket Approval of STERx Tip™ Pacing Lead, Models 5025 and 5525

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by

Medtronic, Inc., Minneapolis, MN for premarket approval, under the Medical Device Amendments of 1976, of the STERx Tip™ Pacing Lead, Models 5025 and 5525. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 22, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tara Ryan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: On December 17, 1985, Medtronic, Inc., Minneapolis, MN 55432, submitted to FDA an application for premarket approval of the STERx Tip™ Pacing Lead, Models 5025 and 5525. Model 5025 ventricular and Model 5525 atrial leads may be used where permanent ventricular or atrial or dual chamber pacing systems are indicated.

On May 23, 1986, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 29, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Tara Ryan (HFZ–450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 22, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 13, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–18944 Filed 8–21–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0330]

Medtronic, Inc.; Premarket Approval of the STERx TIP ™ Pacing Lead, Models 4003 and 4503

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic, Inc., Minneapolis, MN, for premarket approval, under the Medical Device Amendments of 1976, of the STERx TIP ™ Pacing Lead, Models 4003 and 4503. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 22, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tara Ryan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: On March 19, 1986, Medtronic, Inc., Minneapolis, MN 55432, submitted to CDRH an application for premarket approval of the STERx TIP ™ Pacing Lead, Models 4003 and 4503. The Model 4003 ventricular and Model 4503 atrial leads have application where permanent ventricular or atrial or dual chamber pacing systems are indicated.

On May 23, 1986, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 29, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Tara Ryan (HFZ–450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory

VOL 51 ISS 163 AG 22 1986 UMI

committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 22, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 13, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–18945 Filed 8–21–86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

AIDS Vaccine Development: Private Sector/Government Collaborative Efforts

AGENCY: Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice establishes a framework for collaborative efforts between the Public Health Service (PHS) and the private sector for the development, testing, production and distribution of a vaccine for the prevention of Acquired Immune Deficiency Syndrome (AIDS).

DATE: To facilitate consideration, plans for collaborative efforts should be submitted by October 21, 1986, but plans submitted after that date will also be considered.

Address for submission and contact for further information: Dr. Lowell T. Harmison, Science Advisor, PHS, Room 13–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–2650.

SUPPLEMENTARY INFORMATION: The PHS and its involved component agencies, the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA) and the National Institutes of Health (NIH) are engaged in ongoing research toward the development of an AIDS vaccine and have developed the capacity necessary for the support of those efforts. The PHS is now at an important stage in the development of an AIDS vaccine. We would like to couple our own efforts with those of industry, universities, and other parts of the private sector to facilitate the prompt development, testing, production and distribution of an AIDS vaccine. Therefore, the PHS is establishing a more formal framework for its collaborative efforts with the private sector. This framework is intended to ensure that all entities have an equal opportunity to seek collaborative agreements with the PHS and that proposals for such agreements are considered in an orderly fashion.

Collaborative agreements will be negotiated on a case-by-case basis in accordance with the considerations set forth in this notice. Under these collaborative research and development agreements, the PHS may provide: (1) *Patent licensing (both exclusive and nonexclusive),* (2) *research results,* (3) *scientific knowledge,* (4) *laboratory facilities,* (5) *animal models and animal testing,* (6) *assistance in the formulation of clinical protocols and clinical trials,* and (7) *other assistance, as appropriate,* to private entities that are seeking to develop, produce and market an immunological approach (vaccine) for the prevention of AIDS. The PHS does not provide financial assistance through the collaborative agreement mechanism and thus this notice does not establish an assistance program or a request for proposals. The framework established by this notice is limited to comprehensive efforts to develop, test and produce an AIDS vaccine as described below.

Vaccine Approaches

A broad base of research exists upon which to build an AIDS vaccine development and testing program—a program consisting of steps leading from vaccine conceptualization through prototype development and animal and clinical testing to FDA approval, production and availability. To implement this program, the PHS welcomes collaborative plans for pursuing vaccine development that include virus subunits, genetically engineered subunit antigens, synthetic peptides, infectious recombinant viruses, anti-idiotype antibodies, attenuated HTLV–III/LAV, killed HTLV–III/LAV and other potentially immunogenic molecular configurations. These approaches have been grouped as follows to assist in preparing your plans:

(a) *Development of Synthetic Vaccine.* Define optimum pathogen growth, identify essential immunogen and prepare immunogen from: (1) purified viral antigen extracted from whole virus, virus particles or mammalian cells expressing virus proteins (this approach will provide preliminary information on the immunogenicity of natural antigens); (2) antigen produced by recombinant DNA technology (this strategy is based on identification of an antigen and its subsequent synthesis in a microbiological system); (3) antigen produced by chemical synthesis (similar to (2) but based on chemically synthesized antigen); and (4) anti-idiotype antibodies produced by monoclonal antibody techniques. If necessary, identify adjuvants to enhance immunogenicity in animals and humans. Demonstrate immunogenicity protection in animals with standardized challenge goals.

(b) *Development of a Live, Genetically Modified Viral Vector or Attenuated Vaccine.* These approaches would involve one or more of the following steps: (1) growth in acceptable cells, tissues or other cultures of a virus in which has been inserted a gene coding for HTLV–III/LAV antigen which would be expressed in a vaccinated host and would subsequently elicit protective antibodies against HTLV–III/LAV; (2) a demonstration of satisfactory infectivity and antigenicity; (3) a demonstration of genetic stability (lack of reversion); (4) a demonstration of immunogenicity in animals; and (5) a demonstration of protection in animals.

(c) *Other Approaches.* Identification and development of other immunization approaches (for example, passive immunization) that would be medically useful and safe.

Although the PHS encourages the pursuit of a broad range of approaches, it recognizes that there is no assurance of success for any of these approaches.

Available Technology

The following patent applications may be made available for licensing under this collaborative vaccine development and testing program:

1. Peptides which inhibit AIDS virus activity;
2. Non-cytopathic clone of HTLV-III;
3. Recombinant vaccinia virus expressing human retrovirus gene—(Comprising gene expressing envelope proteins of HTLV-III and process for production of HTLV-III envelope proteins);
4. Plasmids which inhibit HTLV-III replication (Plasmid—process for producing plasmid);
5. Sor Gene Product from HTLV-III—(Plasmid process of producing protein);
6. Plasmid + phage clones of HTLV-III—(Process for producing clones);
7. Transactivating factor of HTLV-III/LAV (Transactivating factor—Method of producing monoclonal antibodies);
8. HTLV-LAV synthetic peptide—(Method of producing monoclonal antibodies using peptide);
9. Test kits and In Situ Detection of HTLV-III—(In Situ hybridization of HTLV-III);
10. Detection of Human T-Cell leukemia virus Type III—(Assaying for HTLV-III antibodies);
11. A method for detecting HTLV-III neutralizing antibodies in sera—(Measuring neutralization of HTLV-III by natural human antibodies);
12. Molecular clones of the genome of HTLV-III (Method of production of clones);
13. Method of continuous production of retroviruses (HTLV-III) from patients with AIDS and pre-AIDS using permissive cells—(Method of production of virus and method of production of infected cell line using other permissive cells, MOLT-3, CEM, T1Z.4 and HUT78);
14. Method of continuous production of retroviruses (HTLV-III) from patients with AIDS and pre-AIDS using permissive cells—(H9/HTLV-III cell line method of production of infected cell line and method of production of virus); and
15. Isolation of p24 core protein of HTLV-III, in sera of patients with AIDS and pre-AIDS conditions and detection of HTLV-III infection by immunoassays using purified p24.

Collaborative agreements will be negotiated on a case-by-case basis, but entities wishing to be considered for collaborative efforts should submit the following type information to the PHS Science Advisor at the address shown above (consideration will be facilitated if the submission is made within 60 days of the publication date of this notice, but plans submitted after that date will also be considered):

For each vaccine approach identified above, define fully the scaling up from research quantities through pilot lots to final production quantities and FDA approval and marketing of the vaccine, including as appropriate—

(a) Identification of the resources that will be committed to the effort, including any existing agreement or working relationship with the PHS, and a statement of the initial or additional contribution being sought from the PHS;

(b) Identification, and a description of the roles of those who will collaborate in the effort;

(c) Identification of pertinent existing patents, patent applications and additional patent rights that are considered necessary for the production and marketing of the vaccine;

(d) A complete description of clinical trials (phase I, II, and III) considering specifically safety, antigenicity, reactogenicity and efficacy, including:

(i) A protocol for the use of animal models to test the vaccine;

(ii) A protocol for the human clinical testing of the vaccine, including plans for obtaining the informed consent of participants and protecting their privacy; and

(e) A plan for marketing the vaccine, which will provide for delivery of the product at a reasonable cost, taking into account limitations on availability and distribution, including the availability and cost of insurance.

The PHS prefers collaborations involving comprehensive plans, from one organization or from a team of collaborating organizations, covering all aspects of the development, testing, production and marketing phases of one or more of the vaccine approaches as outlined above. Entities that alone would not be able to carry out a comprehensive plan should enter into the collaborative relationships necessary to accomplish that end.

In submitting descriptions, plans and supporting materials to the PHS, *an original and two (2) copies will be required, and an entity may designate by page number and paragraph, those items of information it believes constitute trade secrets, or commercial or financial information that is privileged or confidential which the entity does not want disclosed for any purpose other than evaluation of plan.* The use and disclosure of such designated information will be so restricted, to the extent permitted by the Freedom of Information Act (FOIA), 5 U.S.C. 552. If an FOIA request for any such designated information is received, the PHS shall notify the entity in writing requesting that its justification for withholding be submitted within five working days of the date of the notification. If the entity objects to release, but the FOI official disagrees with the justification for withholding, the official will notify the entity in writing of the determination to disclose and that the disclosure will be made within five working days from the date of the notification.

In determining whether to enter into collaborative agreements with some or all of the entities submitting plans in response to this notice, the PHS and its involved component agencies (1) will be guided by the submitter's experience, capability and commitment and their intent to research, develop, and make readily available as promptly as possible, a safe, effective vaccine for the prevention of AIDS and (2) will consider the ability of an entity to make significant scientific contributions toward the achievement of this goal and to manage the development, testing, production and distribution of a vaccine. Proposed collaborative efforts will be reviewed by the pertinent agency or agencies of the PHS, i.e., ADAMHA, CDC, FDA and/or NIH and a committee established by the Assistant Secretary for Health. All submissions not resulting in a collaborative agreement will be returned.

Dated: August 15, 1986.

Robert E. Windom, M.D.,

Assistant Secretary for Health.

[FR Doc. 86-18997 Filed 8-21-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. I-86-140]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared by the City of Detroit, Michigan, for the Hubbard-Richard Development/International Border Station Project under the HUD programs described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR Part 1500).

Interested individuals, governmental

VOL 51 ISS 163 AG 22 1986 UMI

agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, than a new and updated Notice of Intent will be published.

Issued at Washington, DC, dated August 12, 1986.

Dorothy S. Williams,

Acting Director, Office of Environment and Energy.

APPENDIX

EIS on the Hubbard—Richard Development/ International Border Station Expansion Project

The City of Detroit, Michigan, intends to prepare an Environmental Impact Statement for the Hubbard-Richard Development/ International Border Station Expansion Project and solicits information and comments for consideration in the EIS.

Description: The proposed project is to develop and stabilize housing within that portion of the Hubbard-Richard community bounded by Fort Street to the south, Bagley to the north, I–75 to the west, and Sixteenth Street to the east and to expand the international border station at the Ambassador Bridge. Specifically, the proposed action calls for developing new housing on an 11-acre parcel and for addressing ways to mitigate the adverse impact of truck traffic from the Ambassador Bridge on existing Hubbard-Richard residential areas, while permitting a needed expansion of the border station.

The proposed new housing is to be located on a site bordered by Sixteenth Street, Porter, Eighteenth Street, and Lafayette that is largely vacant, city-owned land. The type and density of housing to be constructed on the site will be assessed within the EIS in terms of market demand, community needs for senior citizens housing, and the requirement for replacement housing for community members that may have to be relocated in order to resolve traffic problems associated with the operation of the international border station at the Ambassador Bridge.

In addition to the development of new residential units, the EIS will focus on ways to stabilize and retain existing housing through the mitigation of major truck movements in or directly adjacent to residential areas. The growth in these truck movements in recent years has created capacity problems for the international border station. A larger border station is believed to be necessary to provide service for the increasing number of trucks and other vehicle using the Ambassador Bridge. The EIS will examine the Environmental Impact resulting from increased traffic and a larger border station and also will examine actions which can be implemented to mitigate the environment impact.

Federal funding for the project is expected to be from U.S. Department of Housing and Urban Development (HUD) Urban Development Action Grants and Community Development Block Grants. Participation by the Michigan State Housing Development Authority also is anticipated.

Need: A decision to prepare an EIS has been based upon the large-scale nature of the project in a dense urban setting and the possible impacts on air quality, noise pollution, as well as numerous socio-economic effects.

Alternatives: Alternatives being considered include:

a. The development of new housing on an 11-acre site and assisting in the stabilization of existing housing by mitigating truck traffic impacts, while alleviating capacity constraints at the international border station at the Ambassador Bridge;

b. The same new housing development as Alternative "a" and a smaller size expansion of the international border station, requiring less residential relocation;

c. The same new housing development as Alternative "a" and assisting in the stabilization of a different set of existing houses by alternatively configuring the border station facilities and roadway modifications;

d. Immediate development of new housing as in Alternative "a", followed by phased development of additional new housing and with border station expansion as in Alternative "a";

e. No action.

Scoping: Responses to this Notice will be used to: (a) help determine significant environmental issues; (2) identify data that will be used in the EIS, and (3) identify agencies, groups, and individuals that will participate in the EIS process.

Comments: Comments should be sent within twenty-five days of publication of this Notice to: Robert Davenport, City of Detroit, Community and Economic Development Department, 150 Michigan Avenue, Detroit, Michigan 48226, (313) 224–6513.

[FR Doc. 86–19052 Filed 8–21–86; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–06–4410–08]

Extension of Public Review and Comment Period; San Juan Resource Management Plan

AGENCY: Bureau of Land Management, Moab.

ACTION: Notice of extension of the public review and comment period for the draft San Juan Resource Management Plan/Environmental Impact Statement (RMP/EIS).

SUMMARY: The public comment period for the draft San Juan RMP/EIS has been extended until November 3, 1986. The draft RMP/EIS addresses management of 1.8 million acres of public land in the San Juan Resource Area, Moab District, in San Juan County, Utah.

FOR FURTHER INFORMATION CONTACT: Ed Scherick, San Juan Resource Area Manager, BLM, Box 7, Monticello, UT 84532; (801) 587–2141.

SUPPLEMENTARY INFORMATION: The draft San Juan RMP/EIS analyzes five alternative multiple use management plans. BLM released the draft for public review on June 6, 1986, as announced in the **Federal Register** on that date. The 90-day public review and comment period formally began with publication of the Notice of Availability in the **Federal Register** by the Environmental Protection Agency on June 20, 1986.

Due to the public interest in reviewing this document, as expressed through several formal requests, the BLM Utah State Director has agreed to extend the public comment period for an additional 45 days. This brings the total comment period on the draft RMP/EIS to 5 months. Comments postmarked by Monday, November 3, 1986 will be addressed in the final RMP/EIS.

The draft RMP/EIS includes analysis of sixteen areas for special management designation. Nine of these areas were considered for designation as an Area of Critical Environmental Concern; designations as Research Natural Area and Outstanding Natural Area were also considered. Public comment on these designations will be accepted concurrently with the comments on the draft RMP/EIS.

A. Lynn Jackson,

Acting District Manager.

[FR Doc. 86–18948 Filed 8–21–86; 8:45 am]

BILLING CODE 4310–DQ–M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6136, Block 21, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on August 12, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: August 15, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–18969 Filed 8–21–86; 8:45 am]

BILLING CODE 4310-MR-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6137, Block 34, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on August 12, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Date: August 15, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–18970 Filed 8–21–86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Grant Grove and Redwood Mountain Development Concept Plan, Sequoia-Kings Canyon National Parks, Availability of Draft Environmental Impact Statement

Summary: Pursuant to section 102(2)(c) of the National Environmental Policy Act, the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) assessing the potential impacts of future development options in conjunction with the Development Concept Plan for the Grant Grove/Redwood Mountain area of Sequoia-Kings Canyon National Parks.

The DEIS addresses a number of alternatives ranging from no action to various levels and types of increased visitor accommodations provided through either refurbishment of existing facilities and/or construction of new facilities in the Grant Grove/Redwood Mountain area of the park.

Dates: Written comments on the DEIS will be accepted until November 7, 1986.

Addresses: Comments on the DEIS should be directed to: Superintendent, Sequoia-Kings Canyon National Parks, Three Rivers, California 93271.

Copies of the DEIS are available for inspection at the park headquarters in Three Rivers, the Grant Grove Visitor Center and in libraries located in the park vicinity.

Copies are also available at the following address: Western Regional Office, National Park Service, Attn: Division of Planning, Grants and Environmental Quality, P.O. Box 36063, 450 Golden Gate Avenue, Room 14033, San Francisco, California 94103.

Dated: August 14, 1986.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 86–19028 Filed 8–21–86; 8:45 am]

BILLING CODE 4310-70-M

Appalachian Trail Route Changed

A proposed relocation of the Appalachian Trail right-of-way, and Trail routes within the right-of-way, was published on July 9, 1986 (51 FR 24941) to provide an opportunity for public review and comment. The only comment received endorsed the proposed relocation. An Environmental Assessment has been prepared, and a Finding of No Significant Impact for the relocation is on file in the Appalachian Trail Project Office, National Park Service, Harpers Ferry, West Virginia 25425. This notice confirms this right-of-

way relocation as the official route of the Appalachian Trail.

Charles R. Rinaldi,

Acting Project Manager.

August 13, 1986.

[FR Doc. 86-19027 Filed 8-21-86; 8:45 am]

BILLING CODE 4310-70-M

Availability of Draft Land Protection Plan, Blue Ridge Parkway

SUMMARY: On May 7, 1982, the Department of the Interior published in the **Federal Register** a new policy statement on use of the Land and Water Conservation Fund to acquire private land. In response to this policy, the National Park Service is preparing a land protection plan for each unit with non-Federal land witin its boundary. These individual land protection plans will provide landowners with more current information about National Park Service (NPS) intentions for buying land or protecting it through other methods.

Locations where plans may be reviewed: The draft land protection plan for the Blue Ridge Parkway may be reviewed at the following parkway offices:

Virginia Offices:

Virginia Unit Office, Rural Route 3, Box 39D, Vinton, Virginia 24179, Milepost 112-(703) 982-6213

Peaks of Otter District, District Office, Route 2, Box 163, Bedford, Virginia 24523, Milepost 85.9, (703) 586-4357

James River District, Montebello Office, RFD 1, Box 17, Vesuvius, Virginia 24483, Milepost 29, (703) 377-2377

Roanoke Valley District, District Office, Rural Route 3, Box 39D, Vinton, Virginia 24179, Milepost 112, (703) 982-6490

Rocky Knob District, District Office, Route 1, Box 465, Floyd, Virginia 24091, Milepost 167.1-(703) 745-3451

North Carolina Offices:

North Carolina Unit Office, P.O. Box 9098-Oteen, Asheville, NC 28815, Milepost 382.3, (704) 259-0713

Cone Park District, District Office (Sandy Flats), Route 1, Box 565, Blowing Rock, NC 28605, Milepost 294.6, (704) 295-7591

Swannanoa District, District Office, P.O. Box 9098-Oteen Asheville, NC 28815, Milepost 382.3, (704) 259-0701

Doughton Park District, District Office (Bluffs), Route 1, Box 50, Laurel Springs, NC 28644, Milepost 245.5 (919) 372-8565

Gillespie Gap District, District Office, Route 1, Box 798, Spruce Pine, NC 28777, Milepost 330.9, (704) 765-6082

Balsam Gap District, District Office, P.O. Box 99, Balsam, NC 28707, Milepost 442.8, (704) 456-9530

FOR FURTHER INFORMATION CONTACT: Gary Everhardt, Superintendent, Blue Ridge Parkway, 700 Northwestern Plaza, Asheville, North Carolina 28801 (704-259-0718).

SUPPLEMENTARY INFORMATION: Under a policy and guideline adopted in 1979 (44 FR 24790), the National Park Service prepared land acquisition plans for approximatley 120 areas. A land acquisition plan was approved for the Blue Ridge Parkway on August 19, 1980, following extensive public review. A new policy statement on land protection was adopted by the Department of the Interior on May 7, 1982 (47 FR 19784). Under this new policy, land acquisition plans are being revised or replaced by land protection plans.

Only minor revisions are being made in the Blue Ridge Parkway's plan to reflect current policy. The land protection plan does not represent any major change in the scope of the 1980 plan.

Public review period: The public review period will expire 30 days from the date that this notice is published in the **Federal Register**.

Dated: August 8, 1986.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 86-19029 Filed 8-21-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Fort Howard Paper Company (incorporated in Delaware), 1919 South Broadway, Green Bay, WI 54304.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) HAC Holding Corp. (incorporated in Delaware), 1919 South Broadway, Green Bay, WI 54304;

(b) Harmon Assoc., Corp. (incorporated in New York), 86 Garden Street, Westbury, NY 11590;

(c) Harco Trucking Corp. (incorporated in New York), 86 Garden Street, Westbury, NY 11590;

(d) Lily-Tulip, Inc. (incorporated in Delaware), 209 Seventh Street, Augusta, GA 30901;

(e) Sweetheart Packaging Corporation (incorporated in Delaware), 10100 Reisterstown Road, Owings Mills, MD 21117;

(f) Harmon International Paper Corp. (incorporated in New York), 86 Garden Street, Westbury, NY 11590;

(g) Maryland Cup Corporation (incorporated in Maryland), 10100 Reisterstown Road, Owings Mills, MD 21117;

(h) Lily Cups, Inc. (incorporated Under the Laws of the Province of Ontario, Canada), 300 Danforth Road, Scarborough, Toronto, Ontario, MIL 3X5, Canada.

B. 1. Parent corporation and address of principle office: Grinnell Stamping Company, 22931 Industrial Drive, West, St. Clair Shores, MI 48080.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation:

(a) Grinnell-Dixie Brake Mfg. (State of Incorporation: North Carolina), 107 West Grantham Street, Goldsboro, NC 27530;

(b) Grinnell-Dixie Brake Mfg. (State of Incorporation: Michigan), Route 634, Walkerton, VA 23177;

(c) Virginia Friction Products, Inc. (State of Incorporation: Virginia), Route 634, Walkerton, VA 23177.

C. 1. Parent Corporation: Magic Chef, Inc. (a Delaware Corp.), 740 King Edward Ave., Clevelend, TN 37311.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Dixie Narco, Inc. (a West Virginia Corp.), P.O. Box 460, Ranson, W.VA 25438;

(b) Toastmaster, Inc. (a Delaware Corp.), 1801 North Stadium Blvd., Columbia, MO 65202.

D. 1. Parent corporation and address of principal office: Stone Container Corporation, 150 North Michigan Avenue, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation:

Name and State of Incorporation

(a) Stone Container Corporation, AZ
(b) Stone Forest Products, Inc., DL
(c) Stone Container Corporation, DL
(d) Stone Packaging Systems, Inc., FL
(e) Stone Container Corporation, GA
(f) Cameo Container Corporation, IL
(g) Stone Container Corporation, IL
(h) Gulf Container Corporation, LA
(i) Stone Container Corporation, MI
(j) Stone Container of Kansas City, Inc., MO
(k) Stone Container Corporation, MO

(l) Sampson Paper Bag Co., Inc., NY
(m) Cousins Leasing Corp., NY
(n) Sampson Mid-America Inc., IN
(o) Sampson Mid-Atlantic Inc., MD
(p) Tarheel Container Corporation, NC
(q) Stone Resource & Energy Corporation, OH
(r) Stone Container Corporation, PA
(s) Orangeburg Trucking, Inc., SC
(t) Dean-Dempsey Corporation, SC
(u) Stone Forest Industries, Inc., DL
(v) Great Plains Bag Corp., DL
(w) Stone Corrugated, Inc., DL
(x) Stone Port Wentworth, Inc., DL
(y) Stone Can Properties, Inc., DL
(z) Stone Hodge, Inc., DL
(aa) North Louisiana & Gulf Railroad, LA
(bb) Central Louisiana & Gulf Railroad, DL
(cc) Stone Hopewell, Inc., DL
(dd) Forest Energy Construction Management Corp., DL
(ee) Stone Lease, Inc., DL
(ff) Stone Container International Corporation, IL
(gg) Dean-Dempsey International Corporation, SC
(hh) Stone Brown Papers, Inc., DL
(ii) Great Southern Box Company, Inc., DL
(jj) Strong-Robinette Bag Company, Inc., VA

E. 1. Parent corporation and address of principal office: WNS, INC., a Texas Corporation, 7915 FM 1960 West, Suite 300, Houston, Texas 77070

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Wicks 'N' Sticks (incorporated in Texas), 6937 Flintlock, Houston, Texas 77040;

(b) Deck the Walls (incorporated in Texas), 6937 Flintlock, Houston, Texas 77040;

(c) Prints 'N Things (incorporated in New Jersey), 299 Route 22 East, Greenbrook, New Jersey 08812;

(d) Wallpapers To Go (incorporated in California), 3700 Inpark Circle, Dayton, Ohio 45414.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18961 Filed 8-21-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 54)]

Missouri Pacific Railroad Co.; Abandonment in Cass and Lancaster Counties, NE

By decision served May 27, 1986, the Commission found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 25.4-mile line of railroad between Omaha Junction (milepost 463.7) and Lincoln (milepost 489.1), in Cass and Lancaster Counties, NE. A certificate authorizing the abandonment was served July 14, 1986.

It has just come to our attention that, through inadvertence, notice of the Commission's findings was not published in the **Federal Register** at the time the decision permitting the abandonment was served. In order to afford interested parties an opportunity to submit offers of financial assistance, the certificate served July 14, 1986, will be vacated and a supplemental certificate will be issued authorizing this abandonment unless within 10 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Noreta R. McGee,

Secretary.

[FR Doc. 86-18960 Filed 8-21-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 59)]

Missouri Pacific Railroad Company—Abandonment—in Memphis, Shelby County, TN; Findings

The Commission has issued a certified authorizing Missouri Pacific Railroad Company to abandon its 3.1-mile rail line between Sargent Yard (milepost 0.6) and the Illinois Central Gulf Railroad connection (milepost 3.7) in Memphis, Shelby County, TN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Noreta R. McGee,

Secretary.

[FR Doc. 86-19040 Filed 8-21-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Order Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 8, 1986 a proposed Consent Order in *United States* v. *Hoosier Energy Rural Electric Cooperative, Inc.*, Civil Action No. TH 85-8-C was lodged with the United States District Court for the Southern District of Indiana. The proposed Consent Order concerns the operation and maintenance of Defendant's two coal-fired boilers at its generating station, located in Merom, Indiana, in compliance with the Clean Air Act and New Source Performance Standards for fossil-fuel-fired steam generators. The proposed Consent Order requires the defendant to maintain compliance with the New Source Performance Standards requirements, to implement a preventative maintenance program, to maintain a low-sulfur coal stockpile and to conduct audits of the sulfur dioxide continuous emission monitors. The proposed Consent Order also requires the Defendant to pay a civil penalty of $40,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hoosier Energy Rural Electric Cooperative, Inc.*, D.J. Ref. 90-5-2-1-750.

The proposed Consent Order may be examined at the office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, 46 E. Ohio Street, Indianapolis, Indiana 46204, and at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Order may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW, Washington, DC 20530. A copy of the proposed Consent Order may be obtained in person or by mail from the

Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.40 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-18979 Filed 8-21-86; 8:45 am]

BILLING CODE 4401-01-M

Drug Enforcement Administration

Proposed 1986 Aggregate Production Quota for Methylphenidate; Hearing

AGENCY: Drug Enforcement Administration, Department of Justice

ACTION: Notice of Hearing on Formal Proposed Rule Making and Adjudication Methylphenidate Quotas—1986, Docket No. 86-52.

SUMMARY: This is notice of a hearing with respect to a formal proposed rule making to establish the aggregate production quota for 1986 for the Schedule II controlled substance methylphenidate. Notice of the 1986 proposed aggregate production quota for this substance was published in the **Federal Register** on October 1, 1985 at 50 FR 40070 (1985). Notice of an initial interim 1986 production quota for the substance was published on December 27, 1985 at 50 FR 53025 (1985). Notice of a 1986 proposed revised aggregate production quota for it was published on July 7, 1986 at 51 FR 24590 (1986). This is also notice of an adjudicatory hearing with respect to 1986 individual manufacturing and disposal quotas for methylphenidate.

DATES: Interested persons desiring to participate in the formal rule making hearing must give wirtten notice of such desire as set out below on or before September 22, 1986. The hearing will commence at 10:00 on October 1, 1986 at the place specified below.

ADDRESS: Notices of desire to participate in the hearing are to be sent to: Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, 1405 I Street, N.W., Room 1204 Washington, DC 20537.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie Baltz, Hearing Clerk, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 333-1350.

SUPPLEMENTARY INFORMATION: October 1, 1985 a notice was published in the **Federal Register** (50 F.R. 40070) announcing the proposed aggregate production quotas for 1986 for Schedule I and Schedule II substances including methylphenidate. Opportunity was provided to submit comments or objections.

In a letter dated October 29, 1985 MD Pharmaceutical, Inc. submitted comments and objections and requested a hearing in the matter of the proposed aggregate production quota for 1986 for methylphenidate. In a letter dated October 30, 1985 CIBA-GEIGY Corporation did the same.

In a notice published in the **Federal Register** on December 27, 1985 (50 Fed. Reg. 53025), the aggregate production quotas for 1986 for Schedule I and Schedule II substances were established, except for methylphenidate. This notice acknowledged the filing of comments and requests for hearing by MD Pharmaceutical and CIBA-GEIGY on the 1986 aggregate production quota for methylphenidate. The notice went on to say that "during the pendency of the consideration of the matter for hearing, a final initial aggregate production quota will be established for this interim period [in the] amount which was initially proposed, and will be subject to revision upon further consideration and possible hearing."

In a letter dated January 27, 1986 CIBA-GEIGY requested a hearing in the matter of the 1986 individual manufacturing quota and disposal quota granted it for methylphenidate by DEA. In a letter dated May 5, 1986 DEA advised CIBA-GEIGY that its 1986 manufacturing quota was revised upward. On June 4, 1986 CIBA-GEIGY sent a letter to DEA requesting a hearing "in the matter of its 1986 individual manufacturing and 'disposal' quotas for methylphenidate, as adjusted by DEA on May 5, 1986."

On July 7, 1986 notice was published in the **Federal Register** (51 FR 24590) stating the proposed revised 1986 aggregate production quotas for numerous Schedule II substances, including methylphenidate. Opportunity was provided for the filing of comments and objections. In a letter dated August 4, 1986 CIBA-GEIGY requested a hearing on the proposed revised aggregate production quota.

In a letter dated July 8, 1986 the Acting Deputy Administrator of DEA referred the matter to Administrative Law Judge Francis L. Young and requested that the judge commence administrative proceedings on three issues:

1. "Adequacy of the 1986 methylphenidate manufacturing quota;"

2. "Amount of the quota to be allocated to each manufacturer of methylphenidate" and

3. "Propriety of the disposal allocation".

On July 28, 1986 MD Pharmaceutical requested a hearing on its final 1986 manufacturing and disposal quotas for methylphenidate. In the same letter, MD Pharmaceutical acknowledged the late filing of this request for hearing but asked that the request be granted. As good cause for the late filing, MD Pharmaceutical stated that the revised 1986 aggregate production quota as set in the July 7, 1986 **Federal Register** notice "represents a substantial and unanticipated (almost 60%) increase . . . greatly affecting MD's view of the degree to which DEA is permitting generic competition in the methylphenidate market" and that the revised figures were not available to the company at the time it was notified of its 1986 individual quotas.

Notice is now hereby given that a hearing with respect to the 1986 aggregate production quota for methylphenidate will be held. This hearing is a formal rule making proceeding and will be conducted pursuant to the provisions of Title 5, U.S.C. 556 and 557, and 21 CFR 1303.31(a). Every interested person desiring to participate in the hearing, including DEA Agency counsel, on behalf of the Agency staff, shall file a written notice of intention to participate, in duplicate, with the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, 1405 I Street, N.W., Room 1204, Washington, DC 20537, within thirty days after the date of publication of this notice of hearing in the **Federal Register**. Each notice of intention to participate must be in the form prescribed in 21 CFR 1316.48. The entities that have filed requests for hearing herein need not file a notice of intention to participate.

Hearings with respect to 1986 individual manufacturing quotas and disposal quotas for methylphenidate also will be held at the same time as the hearing on the aggregate production quota. The hearing sessions may be held simultaneously. Hearings with respect to individual manufacturing and disposal quotas are adjudication proceedings and will be conducted pursuant to the applicable provisions of Title 5, U.S.C., and of 21 CFR 1303.31(b).

The first hearing session in the formal rulemaking proceeding and in the adjudication proceedings will be held on October 1, 1986 in Room 1213, Drug Enforcement Administration, 1405 I Street, N.W., Washington, DC.

The proceedings at the first hearing session will be limited to a preliminary discussion to identify parties and issues

and positions, and the manner of proceeding, including whether or not the formal rule making and adjudication proceedings should be combined and heard simultaneously.

Dated: August 14, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-18766 Filed 8-21-86; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council; Meeting

The third quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, DC, on September 24, 1986. The meeting will take place in the Main Auditorium at the Department of Health and Human Services, Hubert Humphrey Building, 200 Independence Avenue, SW., from 9:30 a.m. to 11:30 a.m. The public is welcome to attend.

The agenda will include matters related to the coordination of the Federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724-7655.

Dated: August 19, 1986.

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 86-19030 Filed 8-21-86; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Renewal of the Federal Committee on Apprenticeship

Notice is given that after consultation with the General Services Administration, it has been determined that the FCA, whose charter expires September 27, 1986, is hereby renewed for the period September 27, 1986, to September 27, 1988. This action is necessary and in the public interest.

The Committee will an effective instrument for providing assistance through advice and counsel to the Secretary of Labor and the Assistant Secretary of Labor for Employment Training in their development and implementation of administration policies addressing critical skill shortage occupations with particular current emphasis in the defense industry; in carrying out their program responsibilities in the apprenticeship and other structured training, and by furnishing recommendations on such matters as training for the unemployed, the disadvantaged, minorities and women.

The Committee will consist of 10 representatives of employers, 10 representatives of organized labor, and 5 representatives of the public, including one or more educators.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the reestablishment of the Federal Committee on Apprenticeship. Such comments should be addressed to: Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 601 D Street, NW. (Room 6314), Washington, D.C. 20213.

Signed at Washington, DC, this 18th day of August 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-19063 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-30-M

Migrant and Seasonal Farmworker Programs; Job Training Partnership Act; Preapplications for Federal Assistance, and Solicitation for Grant Application

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of invitation to submit preapplications and funding applications for migrant and seasonal farmworker training and employment programs.

SUMMARY: The Department of Labor announces preapplication and funding application instructions for Program Year (PY) 1987 (July 1, 1987 through June 30, 1988) Migrant and Seasonal Farmworker Programs funded under Job Training Partnership Act. Applicants selected for funding will be designated as grantees for a 1-PY period, PY 1987, and will not have to compete for funding for PY 1988 (July 1, 1988 to June 30, 1989) if applicable regulatory requirements are met, an acceptable training plan is submitted, and funds are available .

DATES: No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Preapplications and applications not meeting the conditions set forth in this notice will not be accepted.

Preapplications submitted by mail must be posted by certified or registered mail, return receipt requested, and postmarked no later than September 11, 1986. Preapplications submitted by hand-delivery will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time, but no later than 4:45 p.m., Eastern Time, on September 11, 1986.

Applications submitted by mail must be posted by certified or registered mail, return receipt requested, and postmarked no later than October 6, 1986. Applications submitted by hand-delivery will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time, but no later than 4:45 p.m., Eastern time, on October 6, 1986.

ADDRESS: Preapplications and applications must be mailed or hand-delivered to Robert D. Parker, Grant Officer, ETA, Room S4203, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Charles C. Kane, Chief, Division of Seasonal Farmworker Programs, 601 D Street, NW., Room 6122, Washington, DC 20213. Phone (202) 376-1226.

SUPPLEMENTARY INFORMATION: This notice consists of: Part I—Introduction, Part II—Preapplication for Federal Assistance, and Part III—Solicitation for Grant Application (SGA). Parts II and III—Solicitation for Grant Application (SGA). Parts II and III constitute invitations from the Department of Labor (DOL) for public agencies, and private nonprofit organizations authorized by their Charters or Articles of Incorporation to provide training and employment, and other services described in this notice, to submit Preapplications for Federal Assistance and funding applications for PY 1987 Job Training Partnership Act (JTPA), Title IV, Section 402, Migrant and Seasonal Farmworker Programs.

Part I—Introduction

The DOL announces preapplication and funding application instructions for PY 1987 (July 1, 1987 through June 30, 1988) Migrant and Seasonal Farmworker Programs funded under JTPA. Applicants selected for funding will be designated as grantees for a 1-PY period, PY 1987, and will not have to compete for funding for PY 1988 (July 1, 1988 to June 30, 1989) if applicable regulatory requirements are met, an acceptable training plan is submitted, and funds are available.

BEST COPY AVAILABLE

VOL 51 ISS 163 AUG 22 1986 UMI

Background

JTPA establishes programs to prepare youth and unskilled adults for entry into the labor force, and to afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment. In accordance with 29 U.S.C. 1501 *et seq.*, regulations promulgated by the DOL to implement JTPA are set forth at Parts 626 through 638 and 684 of Title 20, Code of Federal Regulations.

As stated at 20 CFR 633.102, it is the purpose of Section 402 of JTPA, 29 U.S.C. 1672, to provide job training, employment opportunities, and other services for those individuals who suffer chronic unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization resulting in displacement and contribute significantly to the Nation's rural employment problem. These factors substantially affect the entire national economy. Because of farmworker employment and training problems, such programs shall be centrally administered at the national level. Programs and activities supported under this section shall, in accordance with section 402(c)(3) of JTPA:

(1) Enable farmworkers and their dependents to obtain or retain employment;

(2) Allow participation in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment;

(3) Allow activities leading to stabilization in agricultural employment; and

(4) Include related assistance and supportive services.

Regulations promulgated by the DOL to implement the provisions of Title IV, Section 402, of JTPA are set forth in 20 CFR Part 633 and Part 636. These Parts contain all the regulations under JTPA applicable to migrant and other seasonally employed farmworker programs. 20 CFR 633.103(a). Should the regulations at Parts 633 and 636 conflict with regulations elsewhere in 20 CFR, the regulations at Parts 633 and 636 shall prevail with respect to programs and activities governed by these Parts. 20 CFR 633.103(b). Further, should any instructions in this notice conflict with the JTPA regulations, the JTPA regulations shall prevail. Applicants should consult and be familiar with 20 CFR Part 633 in its entirety.

Pursuant to 20 CFR 633.201, the DOL will not consider any funding application when fraud or criminal activity has been proven to exist within the applicant organization, or when efforts by the DOL to recover debts established by final agency action have been unsuccessful. Prior to the final selection of an applicant as a potential grantee, the DOL, as provided for in 20 CFR 633.204, will conduct a responsibility review of the available records to establish an organization's overall responsibility to administer federal funds. Any applicant which does not have its application considered or is not selected as a potential grantee because of these provisions shall be advised of its appeal rights.

Comments From the States

Executive Order 12372, "Intergovernmental Review of Federal Programs," and the implementing regulations at 29 CFR Part 17, are applicable to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the DOL. 20 CFR 633.202(d).

To strengthen the implementation of E.O. 12372, the DOL specifies the following timeframe for its treatment of comments from the State's Single Point of Contact (SPOC) on JTPA section 402 applications:

1. As required by 29 CFR 17.8(a)(2), the SPOC must submit comments, if any, to the DOL no later than 60 days after the deadline date for applications;

2. The DOL will forward those comments to the applicant within 10 days of their receipt from the SPOC;

3. The applicant must submit its response to the SPOC's comments, if any, to the DOL no later than 10 days after the date of receipt from the DOL; and

4. The DOL will notify the SPOC of its decision regarding the comments and response, but will not implement that decision for at least 10 days after the SPOC has been notified.

State Planning Estimates

State planning estimates are provided in an Appendix to this notice solely for the purpose of developing the funding applications. These estimates are the same as the PY 1986 allocations. Final allocation levels for PY 1987 will be published at a later date.

Recommendation From the Governor

Following a recent review of JTPA section 402 grantee selection procedures, the DOL decided to award five extra rating points in the competition to the one application for each State that receives a recommendation from the Governor. This practice is consistent with the requirement of JTPA section 402(d) that the DOL consult with State and local officials in the administration of Section 402 programs.

The recommendation must be in writing, and shall be submitted as part of the application package to the Grant Officer. The application deadline date is announced elsewhere in this notice.

Part II—Preapplication for Federal Assistance

All States and the Commonwealth of Puerto Rico are open for competition for section 402 funds for PY 1987. Regulations at 20 CFR 633.105(b)(2) reserve for the DOL the right not to allocate any funds for use in a State whose funding allocation, to be determined by formula at a later date, is less than $120,000.

Applications for Statewide programs are strongly encouraged. Applicants applying for grants shall submit a preapplication consisting of:

(1) A Standard Form 424 described at 41 CFR 29–70.214–4(a);

(2) An attachment indentifying, by State or counties, the target area to be served;

(3) For a private nonprofit organization, a certification from a certified public accountant that its financial management system is capable of properly accounting for and safeguarding federal funds; and

(4) For a public agency, a certification by the Chief Fiscal Officer attesting to the adequacy of the agency's accounting system to properly account for and safeguard federal funds.

Two copies of the Preapplication for Federal Assistance shall be submitted either by mail or hand-delivery, along with two copies of the following:

(a) A statement indicating the legally constituted authority under which the organization functions;

(b) An employer identification number from the Internal Revenue Service and, for nonprofit applicants, proof of the organization's tax-exempt status.

As noted earlier in this announcement, mailings must be requested, and postmarked no later than September 11, 1986. All hand-delivered preapplications will be accepted daily between the hours of 8:15 a.m. and 4:45

p.m., Eastern Time. A receipt will be provided bearing the time and date of delivery. No hand deliveries will be accepted after 4:45 p.m., Eastern Time on September 11, 1986. No exceptions to these mailing and hand-delivery conditions will be granted. Preapplications not meeting these conditions will not be accepted.

Preapplications for Federal Assistance must be mailed or hand-delivered to: Robert D. Parker, Grant Officer, ETA, 200 Constitution Avenue, NW., Room S4203, Washington, DC 20210.

Part III— Solicitation for Grant Application

The DOL is soliciting applications for grants under the provisions of JTPA Title IV, section 402, to provide training, employment opportunities, and other services to migrant and seasonal farmworkers.

Review of Funding Applications

Applications will be reviewed and rated by a competitive review panel, using the specific review standards cited at 20 CFR 633.203. Panel results are advisory in nature and are not binding on the Grant Officer. In addition, prior to the final selection of an applicant as a potential grantee, the DOL will conduct a responsibility review of the available records pursuant to 20 FR 633.204. This review is intended to establish overall responsibility to administer federal funds and is independent of the competitive process. Applicants failing to meet the requirements of this section of the regulations will not be selected as potential grantees irrespective of their standing in the competition.

Specific Rating Criteria

The rating criteria and the weights assigned to each are described below:

(i) *An understanding of the problems of migrant and seasonal farmworkers. Range 0 to 20 points.* This factor rates the applicant's analysis of the needs of the target group, and the proposed program's potential to address those needs. Ratings will be based on a clear and concise narrative demonstrating this understanding, and the appropriateness of the proposed program mix of training and supportive services to be implemented to meet the identified needs.

(ii) *A familiarity with the area to be served. Range 0 to 20 points.* This factor rates the applicant's knowledge of the socioeconomic characteristics and resources of the target area, and the proposed linkages and coordination; *i.e.*, plans for involving appropriate area agencies and programs in the design and delivery of training and other services proposed to meet the needs of participants. Ratings will be based on a clear and concise narrative demonstrating this familiarity, and documented programmatic ties to appropriate area agencies and programs.

(iii) *A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers. Range 0 to 30 points.* This factor rates program experience, and capability of meeting or exceeding planned goals. Ratings will be based on the successful past operation of a comprehensive multiactivity training and employment program for farmworkers, and on documentation that planned performance goals were either met or exceeded during the period of performance.

(iv) *General administrative and financial management capability. Range 0 to 30 points.* This factor rates the applicant's managerial experience, and the potential for efficient and effective administration of the proposed program. Ratings will be based on consideration of the administrative expertise of present and proposed managerial and decision-making staff, and the extent to which the management plan demonstrates the ability to capably operate a multiactivity delivery system.

Content and Format of Funding Application

Exclusive of charts or graphs and letters of support and commitment, the funding application should not exceed 75 pages of double-spaced unreduced type. Detailed budgets and planning estimates are not to be a part of the funding application. These will be negotiated later with applicants selected for grant awards. The application format must be followed and contain the sections listed below. The sections correspond to the rating criteria listed in the preceding subpart of this notice, so that information pertinent to rating criterion item (i) is contained in Section I, information pertinent to rating criterion item (ii) is contained in Section II, etc.

Section I—Program Approach

This section should describe the applicant's approach to fulfilling the intent of JTPA section 402. Elements to be included are:

(a) A description of the needs and problems of migrant and seasonal farmworkers in the target area, including the socioeconomic characteristics of the farmworker population to be served;

(b) A detailed description of each major activity and component of the program proposed to meet the identified needs, including a discussion of outreach and recruitment, eligibility verification, and participant assessment; and

(c) The rationale for the program mix of training, employability development, and supportive services activities.

Section II—Linkages/Coordination and Delivery System

This section should describe the applicant's current and proposed programmatic ties to appropriate State and local agencies, private nonprofit organizations, and other groups providing resources and services to farmworkers, and the method of delivering the program proposed in Section I. Elements to be included are:

(a) A description of linkages to agencies, organizations and institutions within the target area that will result in the coordinated delivery of services to the disadvantaged farmworker population. Letters of commitment documenting appropriate programmatic ties should be attached to the application;

(b) A description of the proposed delivery system, including a list of any delivery agents and the services to be provided by each;

(c) A labor market assessment with projections for employment growth and specific job opportunities available in the target area; and

(d) An analysis of the extent to which the proposed employment and training program is consistent with the labor market assessment.

Section III—Program Experience

This section should describe the applicant's experience in capably administering employment and training programs for migrant and seasonal farmworkers. Elements to be included are:

(a) The type of programs operated, including the contract, grant or agreement number, the name of the funding agency, the amount of funding and the period of performance;

(b) The nature of the training, employability development, and supportive services activities which were provided; and

(c) The number of participants involved in each program activity, and the actual vs. planned performance by activity and by any performance standard measurements.

VOL 51 ISS 163 AG 22 1986 UMI

Section IV—Administration and Staff

This section should describe the applicant's organizational and staffing plans. Elements to be included are:

(a) The number of people presently involved in the administration of the organization and the number of people who will be involved in the administration of the proposed program, including job titles. Position descriptions of managerial and decision-making positions should be attached;

(b) A description of the management and administration plan including:

(1) Organizational structure;

(2) Personnel management procedures;

(3) Fiscal accounting system, including a plan for maintaining cash on hand at a reasonable level, not to exceed an average daily need; the allowance payment system, if applicable; and fiscal reporting procedures;

(4) Participant reporting system;

(5) Internal monitoring system;

(6) Program evaluation system;

(7) Property management system;

(8) Participant grievance procedures; and

(9) Equal Employment Opportunity policy.

Submission of Funding Application

Three copies of the funding applications shall be submitted either by mail or hand-delivery. As noted earlier in this announcement, mailings must be posted by registered or certified mail, return receipt requested, no later than October 6, 1986. All hand-delivered applications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time. A receipt will be provided bearing the time and date of delivery. No hand-deliveries will be accepted after 4:45 p.m., Eastern Time, on October 6, 1986. No exceptions to these mailing and hand-delivery conditions will be granted. Applications not meeting these conditions will not be accepted.

Funding applications must be mailed or hand-delivered to: Robert D. Parker, Grant Officer, ETA, 200 Constitution Avenue, NW., Room S4203, Washington, DC 20210.

Notification of Selection

The following conditions are applicable, pursuant to 20 CFR 633.205:

(a) Respondents to this SGA which are selected as potential grantees will be notified by the DOL. The notification will invite each potential grantee to negotiate the final terms and conditions of the grants, will establish a reasonable time and place for the negotiation, and will indicate the State or area to be covered by the grant. Grants will be awarded for a 1-PY period (July 1, 1987 to June 30, 1988). Applicants selected will not have to compete for funding for PY 1988 (July 1, 1988 to June 30, 1989) if applicable regulatory requirements are met, an acceptable training plan is submitted, and funds are available.

(b) In the event that no grant applications are received for a specific State or area or those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the DOL may give the Governor first right to submit an acceptable application pursuant to the Precondition for Grant Application and responsibility review tests at 20 CFR 633.201 and 633.204, respectively. Should the Governor not accept the offer within 15 days, the Department may then: (1) Designate another organization or organizations, (2) reopen the area for competitive bidding, or (3) use the funds for national account activities.

(c) An applicant whose grant application is not selected by the DOL to receive JTPA section 402 funds will be notified in writing.

(d) Applicants who submit grant applications which have been rejected may not resubmit a new grant application for the State(s) or area(s) in which they are interested in providing services until the area(s) is announced by the DOL as reopened for competition.

(e) Any applicant whose grant application is denied in whole or part by the DOL will be advised of its appeal rights.

Signed at Washington, DC, this 14th day of August 1986.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Robert D. Parker,

Grant Officer, Division of Acquisition and Assistance.

Charles C. Kane,

Chief, Division of Seasonal Farmworker Programs.

Roger D. Semerad,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1986 MSFW ALLOTMENT TO STATES

[7-1-1986]

	Allotment
Alabama	774,193
Alaska	0
Arizona	1,001,568
Arkansas	1,140,959
California	7,661,007
Colorado	705,940
Connecticut	253,520
Delaware	120,000

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1986 MSFW ALLOTMENT TO STATES—Continued

[7-1-1986]

	Allotment
District of Columbia	0
Florida	3,419,487
Georgia	1,515,670
Hawaii	241,161
Idaho	796,276
Illinois	1,059,592
Indiana	808,617
Iowa	1,456,699
Kansas	894,709
Kentucky	1,342,394
Louisiana	781,203
Maine	322,950
Maryland	274,928
Massachusetts	261,121
Michigan	835,651
Minnesota	1,379,565
Mississippi	1,437,736
Missouri	1,060,765
Montana	661,908
Nebraska	1,077,714
Nevada	132,732
New Hampshire	120,000
New Jersey	316,914
New Mexico	463,978
New York	1,373,941
North Carolina	2,825,894
North Dakota	646,628
Ohio	907,535
Oklahoma	599,973
Oregon	831,679
Pennsylvania	1,160,237
Rhode Island	0
South Carolina	1,049,588
South Dakota	668,665
Tennessee	941,977
Texas	4,521,771
Utah	215,105
Vermont	211,483
Virginia	947,703
Washington	1,415,186
West Virginia	215,573
Wisconsin	1,338,286
Wyoming	195,995
Puerto Rico	2,870,098
Formula Total	55,535,000
TA/HOUS	2,227,000
Grand Total	57,762,000

[FR Doc. 86-19064 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar

character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classses engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Releted Acts," shall be the minimum paid by contractors and subcontractors to labors and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3504, Washington, D.C. 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II

Michigan:
MI86-16 ..... pp. 467a-467b

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Pennsylvania:
PA86-2 (Jan. 3, 1986) ..... pp. 807,814
PA86-9 (Jan 3, 1986) ..... pp. 872-874
p. 878
PA86-11 (Jan. 3, 1986) ..... p. 885
PA86-20 (Jan. 3, 1986) ..... pp. 926-928
PA86-22 (Jan. 3, 1986) ..... pp. 939-940
pp. 945-946

Volume II

Iowa:
IA86-4 (Jan. 3, 1986) ..... p. 39
IA86-5 (Jan. 3, 1986) ..... pp. 43-50
IA86-6 (Jan.. 3, 1986) ..... pp. 52-53
Illinois:
IL86-1 (Jan. 3, 1986) ..... p. 70
IL86-2 (Jan. 3, 1986) ..... pp. 88,92
IL86-2 (Jan. 3, 1986) ..... p. 105
IL86-4 (Jan. 3, 1986) ..... p. 112
IL86-5 (Jan. 3, 1986) ..... pp. 116, 119
IL86-6 (Jan. 3, 1986) ..... p. 121
IL86-13 (Jan. 3, 1986) ..... p. 162
IL86-15 (Jan. 3, 1986) ..... pp. 183-184
Louisiana:
LA86-5 (Jan. 3, 1986) ..... p. 361
Michigan:
MI86-5 (Jan. 3, 1986) ..... pp. 429-441
Minnesota:
MN86-5 (Jan. 3, 1986) ..... pp. 497-498
MN86-7 (Jan. 3, 1986) ..... pp. 507-523
pp. 523a-523b
MN86-8 (Jan. 3, 1986) ..... pp. 527-531
Missouri:
MO86-1 (Jan. 3, 1986) ..... pp. 540-557
MO86-2 (Jan. 3, 1986) ..... pp. 559-567
MO86-3 (Jan. 3, 1986) ..... p. 570
MO86-5 (Jan. 3, 1986) ..... p. 579
MO86-9 (Jan. 3, 1986) ..... p. 598
pp. 600-602
MO86-10 (Jan. 3, 1986) ..... pp. 606-607
MO86-11 (Jan. 3, 1986) ..... pp. 611-614
Nebraska:
NE86-3 (Jan. 3, 1986) ..... p. 624
Wisconsin:
WI86-1 (Jan. 3, 1986) ..... pp. 946-947
LISTING BY LOCATION (index). p. xxix

Volume III

Arizona
AZ86-1 (Jan. 3, 1986) ..... p. 11
AZ86-2 (Jan. 3, 1986) ..... pp. 17-20
AZ86-3 (Jan. 3, 1986) ..... pp. 30-31
California:
CA86-4 (Jan. 3, 1986) ..... pp. 66-65
Nevada:
NV86-4 (Jan. 3, 1986) ..... p. 267
South Dakota:
SD86-1 (Jan. 3, 1986) ..... p. 276
Utah:
UT86-3 (Jan. 3, 1986) ..... pp. 294-295
p. 297
pp. 297a-297f
Washington:
WA86-1 (Jan. 3, 1986) ..... p. 302

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 60 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

VOL 51 ISS 163 AG 22 1986 UMI

Signed at Washington, DC, this 15th day of August 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-18812 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-86-89-C]

A. & D. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

A. & D. Coal Company, R.D. #1, Box 32A, Dornsife, Pennsylvania 17823 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Slope (I.D. No. 36-07540) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1986. Copies of the petition are available for inspection at that address.

Dated: August 14, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-19065 Filed 8-21-86; 8:45 pm]

BILLING CODE 4510-43-M

[Docket No. M-86-119-C]

The NACCO Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The NACCO Mining Company, 12800 Shaker Boulevard, Cleveland, Ohio 44120 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Powhatan No. 6 Mine (I.D. No. 33-01159) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to the continued deterioration of the roof conditions the return aircourses cannot be travelled, and rehabilitation of these areas would be exposing miners to hazardous conditions.

3. As an alternate method, petitioner proposes to establish input and output air measurement stations where methane, air quality, and air quantity readings would be taken by a certified person. These air measurement stations and approaches to them would be maintained in a safe condition. A date board, containing the initials, date and time of each examination would be located at each check point.

4. These return aircourses are located in a non-coal-producing area of the mine. The entries are not used as an escapeway and no miners or materials would pass through them and no methane or other harmful, noxious or poisonous gases will be permitted to accumulate in the airways.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1986. Copies of the petition are available for inspection at that address.

Dated: August 14, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-19066 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-130-C]

Saginaw Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Saginaw Mining Company, P.O. Box 275, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Saginaw Mine (I.D. No. 33-00941) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that the high humidity in the main south intake airway is causing excessive spalling from the mine roof and ribs, posing a hazard to persons required to work in or examine the area.

3. As an alternate method, petitioner proposes to establish check points where examinations would be made to assure that the ventilating current is flowing in the proper direction, to test air velocity and volume, and to assure that the ventilating current contains less than 1 percent methane.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1986. Copies of the petition are available for inspection at that address.

Dated: August 14, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-19067 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-92-C]

Three L Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Three L Coal Company, R.D. #1, Box 952, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Slope (I.D. No. 36-07262) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1986. Copies of the petition are available for inspection at that address.

Dated: August 14, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-19068 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-110-C]

Wells Fargo Coal Co., Inc., Petition for Modification of Application of Mandatory Safety Standard

Wells Fargo Coal Company, Inc., 789 Millard Highway, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-08431) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be intalled on the mine's electric face equipment.

2. The Elkhorn seam is 47 inches in height with ascending and descending grades creating rolls and dips.

3. Petitioner states that the use of canopies in certain mining heights could strike and dislodge roof bolts and cause the machine to become wedged in place. In addition, the canopies would limit the operator's vision and limit the seating capacity increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1986. Copies of the petition are available for inspection at that address.

Dated: August 14, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-19069 Filed 8-21-86; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Safety Recommendations Issued

Recommendation No.	Respondent	Date	Subject
H-86-01-02	MI State Highway Dept	5/17/86	Revise bridge inspection report form to include an entry that denotes if underwater elements inspected.
H-86-03	FHA	6/17/86	Establish criteria for inspecting the underwater elements of bridges.
H-86-04	FHA	6/17/86	Require States to inspect underwater elements of bridges on a 5-year cycle.
H-86-05	FHA	6/17/86	Require State highway officials to determine the safe load capacity for all bridges.
H-86-06	FHA	6/17/86	Develop procedures for examining the elements below water; develop criteria to determine tolerances for bridge span misalignment, expansion joint openings or closures.
H-86-07	Amer. Assoc. of State Highway and Transportation Officials.	7/17/86	Develop a bridge inspection procedure for examining the elements below water; develop criteria to determine tolerances for bridge span misalignment, expansion joint openings or closures.
H-86-08	DOT	7/14/86	Develop a program to administer a National Driver License for commerial truck drivers.
H-86-09	DOT	7/14/86	Develop uniform licensing critera, performance, test procedures, and a driver's manual.
H-86-10	Amer. Assoc., of Motor Vehicle Administrators.	7/14/86	Develop recommendations on how a National Driver License for truck drivers could be administrated.
H-86-11	....do	7/14/86	Urge all States to implement the NDR as soon as possible.
H-86-12	American Insurance Assoc	7/14/86	Undertake a program to offer financial incentives to drivers with formal training.
H-86-13	Canal Ins. Company	7/14/86	Undertake a program to offer financial incentives to drivers with formal training.
H-86-14	Prof. Trucks Driver Inst	7/14/86	Compile views of members about the Revisions in the BMCS Standards.
H-86-15	....do	7/14/86	Develop a program for evaluating training schools.
H-86-16	....do	7/14/86	Develop a guidance program to reach people who are considering a career in commerical truck driving.
H-86-17	NSC	7/14/86	Coordinate a program designed to reach people who are considering a career in commercial truck driving.
H-86-18	Amer. Trucking Assoc	7/14/86	Work with NSC to develop program to reach people who are considering a career in commencal truck driving.
H-86-19	....do	7/14/86	Develop guidelines and requirements for an apprenticeship training program

Recommendation No.	Respondent	Date	Subject
H-86-20	....do	7/14/86	Undertake a program urging companies to hire drivers who have formal truck driving training.
H-86-21	Private Truck Council of America	7/14/86	Work with NSC to develop a program to reach people who are considering a career in truck driving.
H-86-22	....do	7/14/86	Undertake a program urging companies to hire only drivers who have formal truck driving training.
H-86-23	Owner-Op. Independent Drivers Assoc. of America.	7/14/86	Work with the National Safety Council to develop a program to reach people who are considering a career in commercial truck driving.
H-86-24	Inter. Brotherhood of Teamsters	7/14/86	Work with NSC to develop program to reach people who are considering a career in truck driving.
H-86-25	....do	7/14/86	Develop guidelines and requirements for an apprenticeship training program for truck drivers.
H-86-26	U.S. Dept. of Labor	7/14/86	Draft and issue standards for apprenticeship programs in commercial truck driving.
H-86-27	FHA	7/14/86	Expedite development of questions and procedures for standards for training tractor-trailer drivers.
H-86-28	FHA	7/14/86	Undertake a program to impose licensing requirements on truck driver training schools.
H-86-29	FHA	7/14/86	Develop a program for evaluating truck driver training schools.
H-86-30	FHA	7/14/86	Eliminate the exemption granted to commercial drivers who work within a city zone.
H-86-31	FHA	7/14/86	Clarify the purpose and procedures of the annual review of employee traffic records.
H-86-32	FHA	7/14/86	Stipulate that no driver may screen his own driving record.
H-86-33	FHA	7/14/86	Restructure the examination required of drivers.
H-86-34	FHA	7/14/86	Eliminate exemptions granted to drivers not regularly employed.
H-86-35	NHTSA	7/14/86	Take action to assure the Problem Driver Point System is operational and available by February 1989.
H-86-36	NHTSA	7/14/86	Encourage authorities to use the Rapid Response System to obtain access to records.
H-86-37	NHTSA	7/14/86	Work with States to prepare them to anticipate the Problem Driver Point System.
A-86-30	FAA	5/13/86	Revise training curriculum at ATC Academy.
A-86-31	FAA	5/13/86	Establish program to improve supervision of ATC performance.
A-86-32	FAA	5/13/86	Develop effective memory aids to reduce incidents of controllers forgetting traffic.
A-86-33	FAA	5/13/86	Require controllers to obtain a readback for all hold, takeoff, or crossing clearances.
A-86-34	FAA	5/13/86	Emphasize the importance of reading back taxi, hold-short, runway crossing, and takeoff clearances in proper phraseology.
A-86-35	FAA	5/13/86	Emphasize that a good practice is to monitor only assigned ATC communication frequencies after a clearance onto an active runway.
A-86-36	FAA	5/13/86	Revise controller phraseology when issuing takeoff and landing clearances to include the runway number.
A-86-37	FAA	5/13/86	Issue a GENOT directing the management of all terminal facilities to brief all controllers on attempting to expedite traffic.
A-86-38	FAA	5/13/86	Issue an Advisory Circular delineating pilot and controller roles and responsibilities preventing runway incursions.
A-86-39	FAA	5/13/86	Revise near-midair collision reporting and investigating program.
A-86-40	FAA	5/13/86	Revise and enforce requirements to report and investigate operational errors, pilot deviation, and near-midair collisions.
A-86-41	FAA	5/13/86	Issue a bulletin to require air carrier inspections to review training and operations manuals and pilot training programs.
A-86-42	FAA	5/13/86	Disseminate copies of the Board's report on runway incursions.
A-86-43	FAA	5/13/86	Determine effective signs, markings, and procedures to prevent pilot-induced runway incursions.
A-86-44	FAA	5/27/86	Issue a GENOT to terminal facilities to require that controllers be briefed on issuing traffic information to planes that have been cleared into position.
A-86-45	FAA	5/27/86	Establish local control coordinator positions in O'Hare Int. Airport.
A-86-46	FAA	5/27/86	Evaluate the need for a local control coordinator position at all major airports that use intersection runways in concurrent operations.
A-86-47	FAA	7/1/86	Issue an Airworthiness Directive superseding AD46-38-03 and applicable to Ercoupe Model 415 airplanes.
A-86-48	FAA	7/7/86	Provide surveillance of operators to assure timely accurate adjustment and calibration of fuel quantity.
A-86-49	FAA	7/7/86	Encourage development and application of fuel tank dipsticks for airplanes used in 14 CFR 135 operations.
A-86-50	FAA	7/7/86	Require that air carriers operating general aviation type airplanes under 14 CFR 135 use calibrated dipsticks to verify fuel quantities.
A-86-51	FAA	7/7/86	Issue an AD to require number of flight cycles for the replacement of or inspection and repair of sealed needle bearings of the main landing gear assemblies on Boeing 727 airplanes.
A-86-52	FAA	6/30/86	Issue an Emergency AD: (1) Require an inspection of all tail rotor drive shaft flexible couplings installed on any McDonnell Douglas Model 369 helicopters, (2) any service coupling contain cracks or damage be removed from service; and (3) periodic inspections of the couplings.
A-86-53	FAA	6/30/86	Issue an AD to require: (1) installation of fail-safe components within the tail rotor drive shaft flexible couplings on applicable McDonnell Douglas Model 369 helicopters; (2) that helicopters with the fail-safe system be checked before each flight; and (3) that any broken or damaged couplings be removed from service.
A-86-54	FAA	7/11/86	Conduct a review of the fuel system installed in 1967-1972 Bellanca Viking and Super Viking airplanes.
A-86-55	FAA	7/11/86	Require the Bellanca Aircraft Corporation to review the airplane flight manuals of 1967-1972 Bellanca Viking and Super Viking airplanes.
A-86-56	FAA	7/11/86	Require the Bellanca Aircraft Corporation to prepare and disseminate to all owners of 1967-1972 Bellanca Viking and Super Viking models a Safety Advisory that provides information on the fuel system.
A-86-57	FAA	7/11/86	Revise AD 76-23-03 to require inspection of the exhaust system on Bellanca Viking and Super Vikings.
A-86-58	FAA	7/11/86	Publish details of recent accidents and incidents in which Bellanca Viking and Super Viking airplanes have experienced engine power loss as a result of broken exhaust tailpipe assemblies.
A-86-59	FAA	7/11/86	Issue an AD to require the installation of fuel quick-drain valves in the wing fuel tanks of Bellanca Viking and Super Viking airplanes.
A-86-60	FAA	7/11/86	Issue an AD to require an inspection of the wing fuel filler well drain of the Bellanca Viking and Super Viking airplanes.

Note.—Single copies of these recommendation letters are available on written request to Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include addressee's name, date of the letter, and the recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,
Alternate Federal Register Officer.
August 18, 1986.

[FR Doc. 86-18953 Filed 8-21-86; 8:45 am]
BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on September 9, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, September 9, 1986—1:00 P.M. until the conclusion of business.

The Subcommittee will review NRR's Action Plan to address concerns with the reliability of certain plants' AFW systems.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 19, 1986.

Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 86-19024 Filed 8-21-86; 8:45 am]
BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection:

10 CFR Part 2—Rules of Practice for Domestic Licensing Proceedings; Appendix B—General Statement of Policy and Procedures Concerning Petitions Pursuant to § 2.802 for Disposal of Radioactive Waste Streams Below Regulatory Concern.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time, upon submission of a petition.

5. Who will be required or asked to report: Persons submitting petitions for rulemaking to exempt specific radioactive waste streams from regulation by the Commission.

6. An estimate of the number of responses: 6.

7. An estimate of the total number of hours needed to complete the requirement or request: 18,000.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies:

Not applicable.

9. Abstract: The policy statement and staff implementation plan, to be incorporated as Appendix B to 10 CFR Part 2, provides regulatory guidance for obtaining expeditious action on rulemaking petitions to exempt specific radioactive waste streams from NRC regulation because the radionuclides present are in such low concentrations or quantities as to be below regulatory concern.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB, reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 18th day of August 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,
Director, Office of Administration.

[FR Doc. 86-19023 Filed 8-21-86; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-252]

University of New Mexico; Consideration of Application for Renewal of Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-102, issued to the University of New Mexico for operation of the University of New Mexico AGN-201M reactor located on the University's campus in Bernalillo County.

The renewal would extend the expiration date of Facility License No. R-102 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated June 2, 1986, as supplemented July 14, 1986.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 22, 1986, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

VOL 51 ISS 163 AUG 22 1986 UMI

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered to the Commission's Public Document Room, at 1717 H Street NW., Washington, DC 20555 by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); (University of New Mexico); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Nick Estes, University Counsel, Scholes Hall 152, The University of New Mexico, Albuquerque, New Mexico 87131, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated June 2, 1986 as supplemented July 14, 1986, which is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this 18th day of August 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–19028 Filed 8–21–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–250–OLA–1 and 50–251–OLA–1]

Vessel Flux Reduction; Florida Power & Light Co.; Turkey Point Plant, Units 3 and 4; Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following Panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding:

Gary J. Edles, Chairman
Dr. Reginald L. Gotchy
Howard A. Wilber.

Dated: August 18, 1986.

Barbara A. Tompkins,

Secretary of the Appeals Board.

[FR Doc. 86–19025 Filed 8–21–86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Withdrawal of Increased Rates of Duty on Certain Pasta Articles From the European Economic Community

AGENCY: Office of the United States Representative.

ACTION: Notice.

SUMMARY: This notice withdraws the increased rates of duty on imports of certain pasta articles from the European Economic Community (EEC), following an agreement between the United States and the EEC on EEC citrus preferences.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Lynn Candon 202–395–5006.

SUPPLEMENTARY INFORMATION: On June 20, 1985, the President determined, pursuant to section 301(a) of the Trade Act of 1974, that preferential tariffs granted by the EEC on imports of lemons and organges from certain Mediterranean countries deny benefits to the United States under the General Agreement on Tariffs and Trade (GATT), are unreasonable and discriminatory, and constitute a burden or restriction on U.S. commerce. Accordingly, on June 21, 1985, in Proclamation 5354 (50 FR 26143), the President proclaimed increases in the rates of duty on imports into the United States of specified pasta articles the product of any member country of the EEC, effective as of July 6, 1985. The President also directed the United States Trade Representative (USTR) to advise the President when a mutually acceptable solution of the issue had been reached, and to recommend the modification or termination of the duties as appropriate.

In light of continuing discussions between the United States and the EEC, the President issued Proclamation 5363 of August 15, 1985 (50 F.R. 33711), suspending the application of the increased duties until November 1, 1985. The President also authorized the USTR to suspend, modify, or terminate the increased duties upon publication in the

Federal Register of the USTR's determination that such action is justified by EEC actions toward a mutually acceptable solution of the dispute. The increased duties ultimately became effective on November 1, 1985.

On August 10, 1986, following additional discussions, the United States and the EEC reached an agreement on a solution to the dispute concerning citrus products. The agreement provides for the elimination by the United States of the increased duties on EEC pasta, and by the EEC of retaliatory increased duties on U.S. lemons and walnuts.

Action

Accordingly, pursuant to the authority granted in Proclamation 5363, I have determined that, based on the citrus settlement the increased duties on imports from the EEC of the pasta articles provided for in Tariff Schedules of the United States (TSUS) items 945.80 and 945.82 is no longer justified, and that such duties shall not apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after August 21, 1986.

Dated: August 19, 1986.

Michael B. Smith,

Acting U.S. Trade Representative.

[FR Doc. 86-19129 Filed 8-21-86; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of OPM Forms 1496 and 1496A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed extension of information collections from the public that were submitted to OMB for clearance. OPM Form 1496, Application for Deferred Annuity (for persons separated on or before September 30, 1956) and OPM Form 1496A, Application for Deferred Annuity (for persons separated on or after October 1, 1956) were developed by the Office of Personnel Management for use by former Federal employees to apply for deferred annuities as established under 5 U.S.C. 8338. For copies of this proposal call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

ADDRESSES: Send or deliver comments within 10 working days from the date of publication to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-18965 Filed 8-21-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15255; File No. 812-6423]

The Evergreen Total Return Fund, Inc. et al.; Application for Order Granting Retroactive Relief in Connection With an Overissuance of Fund Shares

August 15, 1986.

Notice is hereby given that The Evergreen Total Return Fund, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, Saxon Woods Asset Management Corp. ("Adviser") and Lieber & Company ("Sub-Adviser", collectively with Fund and Adviser, "Applicants"), 50 Mamaroneck Avenue, Harrison, New York, NY 10528 filed an application on July 1, 1986, and an amendment thereto on July 30, 1986, requesting an order pursuant to section 6(c) of the Act, granting a retroactive exemption from all provisions of the Act with respect to the transactions described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions.

According to the application, at all relevant times, the Adviser and Sub-Adviser were investment advisers to the Fund and were registered under the Investment Advisers Act of 1940. Applicants state that the Adviser is a Delaware corporation and is wholly-owned by the Sub-Adviser, a New York partnership consisting of several individuals all of whom are also directors and/or officers of the Fund.

Applicants state that, prior to December 13, 1985, the Fund's Articles of Incorporation authorized the issuance of up to 10,000,000 shares of capital stock with a par value of $.10 per share. Applicants further state that the Fund had issued all 10,000,000 authorized shares as of August 23, 1985. According to the application, due to an administrative error, Fund shares continued to be sold until October 30, 1985, when the Fund's management became aware that the authorized capital had been exceeded, and further sales were thereafter discontinued. Applicants represent that orders for 2,039,420 Fund shares in excess of the 10,000,000 authorized shares were received and accepted through October 30, 1985, with sales made at prices ranging from $15.99 to $16.66 per share.

Applicants state that on November 4, 1985, the Board of Directors of the Fund determined that an amount equal to the current net asset value of all of the unauthorized shares which had not yet been redeemed, should be withdrawn from the Fund and held in a temporary segregated account ("Account"). Applicants further state that those amounts were transferred to such Account as of the close of business on November 26, 1985, with the net asset value per Fund share being $17.23 on said date. Applicants represent that the funds in the Account were invested in short-term money market securities. Applicants further represent that investors were informed that they could immediately request repayment of their investments from the Account and that amounts not so repaid at the time the Fund increased its authorized capital would be invested in Fund shares at the then current net asset value.

According to the application, at a special shareholders' meeting held on December 13, 1985, the Fund's shareholders approved an increase in the Fund's authorized capital stock from 10,000,000 shares with a par value of $.10 per share to 100,000,000 shares with a par value of $.001 per share. Following such approval and the filing of Articles of Amendment on the same date, all amounts held in the Account on December 13, 1985, were reinvested in Fund shares at $17.74 per share, the net asset value per share at the close of business on that date. The Adviser and Sub-Adviser paid in to the Fund a total of $1,011,162.89 on that date so that investors whose funds were held in the Account were made whole in respect of the difference in the Fund's per share net asset value between November 26 and December 13, 1985.

Applicants represent that the overissuance of Fund shares was inadvertent, resulting from a dramatic increase in sales of Fund shares that

began in the spring of 1985. Applicants state that the Adviser entered into an agreement, guaranteed by the Sub-Adviser, to indemnify the Fund from any loss or expense that the Fund may suffer by reason of the continued sale of Fund shares in excess its authorized capital, including but not limited to the costs of establishing and maintaining the Account, excess brokerage fees incurred by the Fund, and other legal and accounting costs involved in resolving the matter. Applicants represent that the Fund's Board of Directors, in particular, the Directors who are not "interested persons" (as that term is defined in section 2(a)(19) of the Act) of the Fund, the Adviser or Sub-Adviser, reviewed and unanimously approved the determination of the amount to be reimbursed to the Fund by the Adviser or the Sub-Adviser under the indemnification arrangement for costs associated with establishing and maintaining the Account.

Applicants seek retroactive exemption from all provisions of the Act to the extent necessary to make lawful thereunder the transfer of Fund assets representing the sale of unauthorized capital stock to the Account, the maintaining of the Account and all activities incidental thereto. Applicants represent that the Account was created solely to serve as a vehicle for preserving the investments of purchasers of over-issued Fund shares and that participation and investment in the Account was limited to those investors. Applicants represent that the Account was maintained only until December 13, 1985, when shareholders approved an increase in the Fund's authorized capital stock and that Articles of Amendment were filed with the State of Maryland, at which time all assets held in the Account were automatically reinvested in the Fund.

Applicants state that during the existence of the Account, funds held therein were invested in short-term money market securities so that investors earned interest, but were not exposed to the risks of market gains or losses of equity securities. Applicants represent that the Account paid no fees or expenses throughout its duration. Applicants note that the formation of, and activities associated with, the Account may have constituted engaging in business in interstate commerce by an investment company without registering under the Act. However, Applicants contend that the limited purposes for which the Account was created, its discrete functions, the nature of its assets, and its short-term duration obviate the need for the regulatory protections afforded by the Act, and that the nature of the Account did not give rise to the types of abuses which the Act was principally designed to remedy.

Notice is further given that any person wishing to request a hearing on the application may, not later than September 8, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18979 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15258; File No. 812-6331]

Fidelity Special Situations Fund; Application for Order Permitting Separate Classes of Shares Representing Interests in the Same Portfolio

August 15, 1986.

Notice is hereby given that Fidelity Special Situations Fund ("Fund"), 82 Devonshire Street, Boston, MA 02109, filed an application on April 1, 1986, and an amendment thereto on July 29, 1986, requesting an order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), granting exemption from the provisions of sections 18(f)(1), 18(g) and 18(i) of the Act to the extent necessary to permit the Fund to issue and sell two classes of securities representing interests in its investment portfolio in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

The Fund states that it is a Massachusetts business trust registered under the Act as an open-end, diversified management investment company. The Fund also states that it currently offers a single class of common stock representing interests in a single investment portfolio ("Class A" shares), which are sold exclusively by its distributor, Fidelity Distributors Corporation ("Distributors"). The Fund represents that Fidelity Management & Research Company ("FMR") is the Fund's investment adviser, Brown Brothers Harriman & Co. acts as its custodian and Fidelity Service Co. ("Fidelity Service") serves as its transfer agent.

According to the application, the Fund intends to create and issue a new class of shares ("Class B" shares) and will thereafter restrict the purchase of Class A shares to holders of such shares who have accounts ("Existing Accounts") on a specified date ("Effective Date") prior to commencement of the offering of Class B shares. The Fund proposes to offer the Class B shares primarily through independent broker-dealers, although the shares may also be purchased from Fidelity Brokerage Services, Inc., a broker-dealer affiliated with FMR. As is the case with Class A shares, the Class B shares would be sold at net asset value with a three percent sales load and no redemption charge would be imposed. The net asset values for Class A and Class B shares would be calculated in the same manner, and would be determined on the same days and at the same times, and both classes would have the same investment objectives, policies and limitations. The Fund asserts that, except for its class designation, the allocation of certain expenses and voting rights associated therewith and the differing exchange privileges, as described below, the Class B shares would be identical in all respects to Class A shares.

First, the Fund states that participating broker-dealers will receive all or a portion of the sales charge collected in connection with the sale of Class B shares. Second, Class B shares would be offered in connection with a distribution plan, which would be approved by the Class B shareholders in accordance with Rule 12b-1 under the Act ("Plan"). Pursuant to the Plan, Distributors would enter into selling agent agreements ("Agreements") with broker-dealers whereby such broker-dealers would provide distribution assistance and related support services in connection with the offer and sale of Class B shares. The Fund represents that the provision of support services and distribution assistance under the Plan would augment (and not duplicate) the services that are currently provided to holders of Existing Accounts by Distributors. The Fund states that

Distributors and FMR will be responsible for all distribution costs, including payments to each broker-dealer for distribution assistance and services provided in accordance with each Agreement. The Fund represents that payments made to broker-dealers pursuant to the Plan will not reimburse such broker-dealers for expenses for which they have already been compensated by the reallowing of the sales load. The Fund further states that Distributors will not participate in selling Class B shares to the public, but will only perform administrative tasks in connection therewith. Should any prospective purchaser tender money to Distributors for the purpose of purchasing Class B shares, the Fund represents that Distributors will return such money to the prospective purchaser, together with a letter identifying the brokers from whom Class B shares may be purchased. The Fund also represents that the expense of the 12b-1 payments under the Plan would be borne entirely by the owners of Class B shares, which payments would equal .65% (on an annualized basis) of the average daily net asset value of the Fund represented by the Class B shares, excluding assets attributable to Class B shares purchased more than 144 months prior to the calculation of such fee.

According to the application, a third difference between Class A shares and Class B shares is that Class A shares will continue to use Fidelity Service as transfer agent, while the transfer agent for Class B shares would be another company unaffiliated with FMR. The Fund represents that Class A and Class B shares would each bear their own transfer agent fees, but that the fees of each transfer agent would be at substantially comparable levels.

Finally, the Fund states that Class A and Class B shares will also differ in that Class A shares will continue to have their existing exchange privilege among all other FMR-advised funds, while the exchange privilege applicable to Class B shares would apply only among certain other FMR-advised funds that have adopted a plan of distribution in accordance with Rule 12b–1 under the Act. Thus, an Existing Account holder of Class A shares on the Effective Date may continue to exchange shares into or out of any other FMR-advised fund, including any such fund with a Plan. If Class A shares are exchanged for Class B shares, however, the Class B shares so acquired may not be re-exchanged for Class A shares. The Fund represents that, in accordance with Rule 22d–1 under the Act, the Class A and Class B prospectuses will fully disclose the sales charges applicable to such exchange privileges.

In sum, the Fund represents that under the contemplated arrangement each Class A and Class B share would represent an equal *pro rata* interest in the same portfolio and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (1) Only shareholders outstanding on the Effective Date would be entitled to purchase additional Class A shares for their Existing Accounts; (2) Class A and Class B shares would have different class designations; (3) Class B shares would bear the expense of the 12b–1 payments; (4) only holders of Class B shares would be entitled to vote on matters pertaining to the Plan in accordance with the procedures set forth in Rule 12b–1 under the Act; (5) Class A and Class B shares would have different transfer agents and would bear their transfer agent costs separately, and (6) Class A and Class B shares would have differing exchange privileges. The Fund also represents that the gross income of its portfolio will be allocated on a *pro rata* basis to each outstanding share in the portfolio regardless of class, and that all expenses incurred by the portfolio would be borne on a *pro rata* basis by all outstanding shares, except for the 12b–1 payments and the different transfer agent service fees.

The Fund notes that because the 12b–1 payments would be borne solely by the Class B shares, the net income of (and dividends payable to) the Class B shares would be somewhat lower than the net income of the Class A shares. However, the Fund states that dividends paid to both classes of shares will be declared and paid on the same days and at the same times, and, except as noted with respect to the expense of the 12b–1 payments and differing transfer agent fees, will be determined in the same manner and paid in the same amounts.

The Fund requests an exemptive order pursuant to section 6(c) of the Act to the extent that the proposed issuance and sale of Class B shares might be deemed: (1) To result in a "senior security" within the meaning of Section 18(g) of the Act and to be prohibited by section 18(f)(1) of the Act; and (2) to violate the equal voting provision in section 18(i) of the Act. In support of the requested relief, it is asserted that certain benefits will enure to the Fund. For example, the Fund states that the sale of Class B shares will facilitate the distribution of the Fund's securities and allow it to expand the scope and depth of services to investors without assuming excessive accounting and bookkeeping costs or unnecessary investment risks. The Fund also states that it will be able to compensate broker-dealers for providing distribution and support services that are tailored to the needs of their customers and that these customers will, in turn, enjoy the benefits of such services provided by the broker-dealers they have selected to service their investment needs.

The Fund asserts that the proposed allocation of expenses and voting rights relating to the Plan is equitable and would not discriminate against any group of shareholders. In this regard, the Fund notes that investors purchasing shares offered in connection with the Plan and receiving the services provided thereunder would bear the costs associated with such services, but would also enjoy exclusive shareholder voting rights with respect to matters relating to the Plan. Conversely, shareholders with Existing Accounts on the Effective Date may purchase additional Class A shares and would not bear such expenses or enjoy such voting rights. Also, if a shareholder with an Existing Account wanted the services provided by a broker-dealer, such shareholder could purchase Class B shares by establishing a separate account with a participating broker-dealer. The Fund states that the restriction on the continued sale of Class A shares after the Effective Date is necessary because Distributors will be unable to attract adequate broker-dealer support for the sale of the Class B shares if Class A shares continue to be offered to the general public after the effective date. In this regard, the Fund states that the prospective broker-dealers have indicated to Distributors that they would not sell Class B shares should Distributors continue to offer Class A shares to the general public after the Effective Date.

The Fund also states that the proposed arrangement does not establish a distribution or liquidation preference for either class of shares with respect to particular assets, and does not involve borrowings and does not affect the Fund's existing assets or reserves. Nor, it is asserted, will the proposed arrangement increase the speculative character of the shares in the portfolio because all shares will participate *pro rata* in all of the portfolio's income and all of the portfolio's expenses (with the exception of the proposed 12b–1 payments and with the exception of transfer agent fees, as described above).

The Fund expressly consents to the following conditions with respect to the requested order:

1. The only differences between the Class A and Class B shares representing interests in the same portfolio will relate solely to: (a) Priorities with respect to the payment of dividends and such priority will reflect only the impact of the 12b–1 payments made by the Fund under the Plan relating to particular classes of shares, and the fact that each class will bear its own transfer agent expenses; (b) voting rights on matters which pertain to the Plan and 12b–1 payments thereunder; (c) the restriction on sale of the Class A shares solely to Existing Accounts; (d) the differing exchange privileges described in the prospectus applicable to each class and (e) the designation of each class of shares in the portfolio.

2. The Plan and 12b–1 payments relating to Class B shares will be approved and reviewed by the Fund's Board of Trustees in accordance with the procedures set forth in Rule 12b–1. In addition, the Plan and 12b–1 payments thereunder relating to Class B shares will be approved by those shareholders of the Fund in accordance with said Rule 12b–1. Moreover, the Board of Trustees, in approving and reviewing 12b–1 payments pursuant to the Plan, will conclude in good faith based on information available to them that such expenditures are competitive with those offered in the industry.

3. Dividends paid by the Fund with respect to Class A and Class B shares will be calculated in the same manner and will be in the same amounts except that the expenses of any 12b–1 payments made by the Fund under the Plan relating to the Class B shares and transfer agent fees allocable to each class, will be borne exclusively by that class.

4. The prospectus relating to the Class B shares will describe the services rendered by broker-dealers and their compensation under the Plan and Agreements with respect to such shares and the fees payable by the Fund for such services.

5. The Fund acknowledges that the granting of the requested exemptive order will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Fund may make pursuant to the Plan.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 8, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–18978 Filed 8–21–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15259; 812–6370]

Lyons Funding Corp.; Application for Collateralized Mortgage Obligations

August 15, 1986.

Notice is hereby given that Lyons Funding Corporation ("Applicant"), 1300 King Street, Wilmington, Delaware 19801, filed an application on May 5, 1986, and amendments thereto on July 7 and July 21, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the relevant provisions thereof.

Applicant states that it is a Delaware limited purpose corporation created on August 8, 1985. Applicant also states that it is a direct wholly-owned subsidiary of Lyons Savings and Loan Association, an Illinois-chartered savings and loan association. Applicant represents that it was organized for the purpose of issuing and selling one or more series of bonds ("Bonds") secured primarily by mortgage loans and mortgage certificates (as defined below) and investing in certain mortgage loans and mortgage certificates to be purchased with the proceeds of Bonds secured by such mortgage collateral. Applicant further represents that it does not intend to engage in any business or investment activities other than issuing and selling bonds under one or more indentures, acquiring, owning, holding and pledging mortgage loans and mortgage certificates in connection therewith, investing cash balances on an interim basis in certain short-term investments and engaging in any activities incidental to and necessary for such purposes.

Applicant states that each series of Bonds will be issued pursuant to an indenture (the "Indenture") between the Applicant and an independent trustee (the "Trustee"), as supplemented by one or more supplemental indentures. The Indenture for each series of Bonds will be qualified under the Trust Indenture Act of 1939, as amended. Applicant states that each series of Bonds will be secured separately by assignments to the Trustee of any combination of the following collateral: mortgage-backed certificates (the "GNMA Certificates") guaranteed by the Government National Mortgage Association ("GNMA"), Mortgage Participation Certificates (the "FHLMC Certificates") issued by the Federal Home Loan Mortgage Corporation ("FHLMC"), Guaranteed Mortgage Pass-Through Securities (the "FNMA Certificates") issued by the Federal National Mortgage Association ("FNMA") and mortgage loans (the "Mortgage Loans") consisting of conventional mortgage loans, mortgage loans insured by the Federal Housing Administration and mortgage loans partially guaranteed by the Veterans Administration, all of which will be secured by first mortgages or deeds of trust on one-to-four family residences. (As used herein, the term "Mortgage Certificates" includes the GNMA Certificates, the FHLMC Certificates and the FNMA Certificates and the term "Mortgage Collateral" includes the Mortgage Loans and the Mortgage Certificates.) Each series of Bonds may also be secured by certain collateral proceeds accounts, debt service funds and reserve funds. Applicant states that the collateral securing each series of Bonds will serve as collateral only for that series of Bonds, and that the cash flow from such collateral will be sufficient to pay accrued interest on the Bonds and to amortize the entire principal amount of each series by its respective stated maturity.

Applicant states that the Indenture authorizes the Trustee to invest the funds of the collection account, the reserve fund and any debt service reserve funds in certain eligible investments, including but not limited to, obligations of the United States or certain agencies thereof, federal funds sold by, certificates of deposit of, time deposits in, and bankers' acceptances issued by, eligible depository institutions or trust companies; certain repurchase obligations, the collateral

thereof being held by the Trustee or its agent; interest-bearing securities or securities sold at a discount issued by eligible corporations; and commercial paper of eligible issuers. In the absence of a continuing default and with certain specified exceptions, certain amounts in the collection account, the reserve fund and any debt service reserve fund following a payment date will be remitted to the Applicant.

Applicant represents that its future securities offerings will be limited to Bond offerings meeting the following conditions:

(1) Each series of Bonds will be registered under the Securities Act of 1933 ("Securities Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. However, the Mortgage Collateral underlying the Bonds (whether owned by Applicant or pledged pursuant to collaterized obligations) will be limited to: mortgages that are first liens on single (one-to-four) family residences ("Mortgage") and Mortgage Certificates.

(3) If new Mortgage Collateral is substituted, the substitute collateral must: (i) be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2), (4) and (6) hereof. In addition, new collateral will not be substituted for more than 20% of the aggregate face amount of the Mortgages initially pledged as Mortgage Collateral or for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Collateral. New Mortgages may be substituted for Mortgages initially pledged as Mortgage Collateral only in the event of default, late payments or defect in the collateral being replaced. In no event will any new Mortgage Collateral be substituted for any substitute Mortgage Collateral. New collateralized obligations may be substituted for collateral obligations initially pledged only if the substitution of Mortgage Collateral underlying those instruments would be permitted under this condition.

(4) All Mortgage Collateral, funds, accounts or other collateral securing a series of Bonds ("Bond Collateral") will be held by the Trustee or on behalf of the Trustee by an independent custodian (the "Custodian"). The Custodian may not be an affiliate (as the term "affiliate" is defined in Securities Act Rule 405, 17 CFR 230.405) of Applicant, or of the master servicer or originating lender of any Mortgages that are pledged as Mortgage Collateral. If there is no master servicer, no servicer of those Mortgages may be an affiliate of the Custodian. The Trustee will have a first priority perfected security or lien interest in and to all Bond Collateral.

(5) Each series of Bonds will be rated in the highest bond rating category by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the Act.

(6) The master servicer of any Mortgages that are pledged as Mortgage Collateral may not be an affiliate of the Trustee. If there is no master servicer, no servicer of those Mortgages may be an affiliate of the Trustee. Any master servicer and servicer of such Mortgages will be approved by the "FNMA" or "FHLMC" as an eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of Mortgages shall obligate the servicer to provide substantially the same services with respect to those Mortgages as it is then currently required to provide in connection with the servicing of Mortgages insured by Federal Housing Administration, guaranteed by the Veterans Administration or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent public accountant will audit the books and records of Applicant and in addition will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the Trustee.

Applicant requests that the Commission exempt it from all provisions of the Act because: (1) The Applicant should not be deemed to be an entity to which the provisions of the Act were intended to be applied (and does not concede herein that it is such an entity); (2) the Applicant submits that the safeguards afforded to purchasers of the Bonds fully protect investors; and (3) the Applicant's activities will promote the public interest by expanding the market for mortgage securities, thereby increasing the pool of funds available for mortgage loans and increasing the capacity of mortgage lenders to meet the housing finance needs of the nation.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 8, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18077 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15257; File No. 812-6444]

Mark Pennink and Alan Pitcairn; Application for an Order Declaring That Applicants Are Not Interested Persons

August 15, 1986.

Notice is hereby given, that Mark J. Pennink and Alan Pitcairn (collectively, the "Applicants"), One Pitcairn Place, Jenkintown, Pennsylvania 19046, filed an application on July 29, 1986 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940, as amended, (the "Act") declaring that each Applicant is not an "interested person" as defined in section 2(a)(19) of the Act of an investment company or its investment adviser. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicants state that they plan to serve as Independent General Partners of Pitcairn Group L.P. (the "Partnership"), a limited partnership organized under Delaware law pursuant to a Certificate and Agreement of Limited Partnership (the "Partnership Agreement"), which will elect to become a business development company pursuant to section 54 of the Act. Applicants state that the Partnership plans to register the limited partnership interests (which will be beneficially owned by the direct descendants of John Pitcairn and their immediate families) ("Limited Partners") under the Securities Exchange Act of 1934. Applicants state that the Partnership has been organized as a limited partnership primarily because business development companies organized as corporations do not currently qualify for "pass-through" tax treatment under the Internal Revenue Code.

Applicants expect that the Pitcairn Company will serve as the initial limited partner (the "Initial Limited Partner") of the Partnership. Applicants state that the Initial Limited Partner is currently in liquidation and, in connection therewith,

VOL 51 ISS 163 AG 22 1986 UMI

will contribute approximately $100 million of its cash and assets to the Partnership on or before September 12, 1986. Applicants state that the cash portion of the capital contribution of the Initial Limited Partner is expected to be invested by the Partnership in venture capital investments and it is anticipated that the Partnership will thereby meet the 70% qualifying investments tests of section 55 of the Act. Applicants state that the general partners of the Partnership, including Applicants, will contribute capital to the Partnership in an amount sufficient to cause their aggregate capital contribution to be at least equal to one percent of the aggregate capital contributions of all partners of the Partnership. Thus, Applicants state that they will also be Limited Partners of the Partnership. Applicants state that the Partnership will terminate not later than December 31, 2011.

Applicants state that Valad Partners, L.P., a Delaware limited partnership formed on July 18, 1986, is expected to serve as the managing general partner of the Partnership and as its investment adviser (the "Managing General Partner" or the "Investment Adviser"). Applicants represent that the Managing General Partner will be responsible for investments of the Partnership and is also expected to provide managerial, administrative, and supervisory services for the Partnership. Applicants further state that the Managing General Partner will register as an investment adviser under the Investment Advisers Act of 1940.

Applicants state that under the proposed Partnership Agreement, there will be at least three but no more than eight individual general partners (the "Individual General Partners") (the Managing General Partner and the Individual General Partners being collectively referred to as the "General Partners").

Applicants further state that for so long as the Partnership remains a business development company under the Act, a majority of the Individual General Partners will also be persons who are not an "interested person" of the Partnership as that term is defined in the Act or who have been exempted from that definition by an order of the Commission (the "Independent General Partners"). Applicants state that there are currently expected to be four Individual General Partners, two of whom will be Applicants.

Applicants assert that the exemptive relief requested by them is necessitated in part because the Act defines all partners of a partnership (whether general partners or limited partners) and co-partners of an investment adviser to be an "interested person" of that partnership. Thus, without the requested relief, both Applicants, as partners of the Partnership and co-partners of the General Managing Partner, would be "interested persons" of the Partnership and the Partnership would not comply with the requirement in section 56(a) of the Act that a majority of a business development company's directors or general partners be persons who are not "interested persons" of such company.

Applicants state that their requested exemption from the definition of "interested person" of an investment company, as set forth in section 2(a)(19) of the Act, is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support of the exemptive relief requested, Applicants assert that they have full-time employment with entities unrelated to the Partnership, have substantial business experience which they will bring to their positions as Independent General Partners and are, thus, in a position to act capably and independently on behalf of the Partnership and the Limited Partners. Applicants further assert that their actions as the Individual General Partners will be constrained legally by their fiduciary responsibilities to the Limited Partners imposed by applicable partnership law. Finally, Applicants assert that they will diligently protect the interests of all Limited Partners not only because they will be acting within well-established fiduciary standards in representing those interests but also because of their personal investment as Limited Partners in the Partnership.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 8, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18975 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15256; (812-6109)]

MetLife Holdings, Inc.; Application for an Order Granting Exempting To Finance Subsidiary

August 15, 1986.

Notice is hereby given that MetLife Holdings, Inc. ("Holdings"), One Madison Avenue, New York, NY 10010, filed an application on May 6, 1985, and amendments thereto on April 8 and July 30, 1986, for an order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting MetLife Funding II, Inc. ("Funding"), a direct subsidiary of Holdings currently in formation, from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the relevant provisions thereof.

Holdings states that it is a Delaware corporation and that it is a holding company and a subsidiary of Metropolitan Tower Corp. ("Tower"), also a Delaware corporation. Holding further states that Tower is a wholly-owned subsidiary of Metropolitan Life Insurance Company ("Metropolitan"), and is the holding company through which Metropolitan conducts the major portion of its non-insurance businesses. According to the application, Metropolitan is a mutual life insurance company organized under New York law and qualified to do business as an insurer in all 50 states, and Metropolitan had total assets of $76.5 billion and total revenues of $14.1 billion in the year ending December 31, 1985.

Holdings represents that Funding will be formed as a Delaware corporation and that all of its outstanding voting stock will initially be owned by Holdings. Holdings states that it may transfer the voting stock of Funding to Metropolitan or to a subsidiary thereof, in which case Holdings will enter into a contract with such transferee whereby such transferee will agree to cause Funding to comply with the representations contained in the application.

According to the application, Funding's primary business will be to borrow money in the United States and foreign debt markets and to lend the

proceeds to Metropolitan and its direct and indirect subsidiaries. Holdings represents that Funding will remit to Metropolitan and/or its direct or indirect subsidiaries at least 85% of the cash or cash equivalents raised by Funding as soon as practicable after receipt thereof, but in no event later than six months after the Funding receives such cash or cash equivalents. Funding will hold no equity securities either of Metropolitan or Metropolitan's direct or indirect subsidiaries to which it will lend money. Further, Funding will not hold securities issued by any persons other than Metropolitan and its direct and indirect subsidiaries, except for temporary investments of amounts borrowed in excess of the needs of the Metropolitan group, which investments will not exceed ten percent of the outstanding principal amount of Funding's securities held by non-affiliates. Such temporary investments will be limited to Government securities and debt securities exempted from the registration requirements of the Securities Act of 1933 ("1933 Act") by section 3(a)(3) thereof.

Holdings states that loans made by Funding to Metropolitan and its subsidiaries will bear interest equal to the amount Funding is required to pay to obtain the funds through its corresponding borrowings, plus a small mark-up sufficient to cover operating costs (or, in the alternative, fees or charges may be assessed by Funding in amounts necessary to cover its operating costs). Holdings also states that the amount and maturities of such loans will allow Funding to make timely payments of principal and interest on such corresponding borrowings.

Holdings represents that before Funding engages in any borrowings, Metropolitan and Funding will enter into a support agreement ("Agreement") providing that:

(i) Metropolitan shall continue to own, directly or indirectly all the outstanding voting stock of Funding and will not pledge, encumber or dispose of such stock;

(ii) Metropolitan will cause Funding to have at all times a tangible net worth of at least $1.00.

(iii) the Agreement is made for the benefit of the holders of all Funding's debt instruments (other than subordinated indebtedness of Funding held by Metropolitan or its subsidiaries) and the holders of all debt instruments guaranteed by Funding (collectively, "Holders");

(iv) Funding will, for the benefit of the Holders, timely take all action under the Agreement to require Metropolitan to perform its obligations thereunder;

(v) each Holder has a direct and immediate right of action against Metropolitan to enforce Metropolitan's obligations under the Agreement should Funding fail to do so;

(vi) The Agreement may be modified or amended only in ways not less favorable to Funding or its creditors, but may be terminated by either Metropolitan or Funding provided that Metropolitan's obligation to maintain at all times Funding's tangible net worth at $1.00 will remain in full force and effect until the retirement of all outstanding debt of, and all outstanding debt guaranteed by, Funding.

Holdings states that the Agreement will provide that it shall not be deemed to constitute a direct or indirect guarantee of Funding's indebtedness. According to the application, although Metropolitan believes that it will never be required to carry out its undertakings under the Agreement, the Agreement provides assurance that Funding will always have sufficient funds to pay principal and interest on its indebtedness.

Holdings represents that Funding may also issue non-voting preferred stock having a fixed dividend rate and providing for mandatory redemption. Holdings represents that before Funding issues such preferred stock, the Agreement will be amended to extend its benefits to the holders of such preferred stock, or, Metropolitan and Funding will enter into a separate support agreement whereby holders of such preferred stock will be provided with the same benefits as holders of securities under the Agreement.

According to the application, Funding's securities will be offered and sold either in transactions exempt from the registration requirements of the 1933 Act or in public offerings of securities registered under the 1933 Act. Holdings represents that, in the case of a public offering of securities, Funding will, prior to offering such securities, file a registration statement under the 1933 Act and will not sell such securities until the registration statement is declared effective by the Commission. Holdings also represents that Funding will comply with the prospectus delivery requirements of the 1933 Act in connection with the offer and sale of such securities.

Holdings further states that, in the case of an offering exempt from registration under the 1933 Act, Funding will provide each offeree with disclosure materials which will include a description of the business of Metropolitan and other data of the character customarily supplied in such offerings. In the event of subsequent offerings, these materials will be updated at the time thereof to reflect material changes in the financial condition of Metropolitan and its subsidiaries.

Holdings represents that prior to any issuance and sale of the Funding's debt securities, such securities shall have received one of the three highest investment grade ratings from at least one nationally recognized rating organization. No such rating shall be required to be obtained, however, if in the opinion of Funding's counsel, an exemption from registration is available with respect to such issue and sale under section 4(2) of the 1933 Act.

Holdings submits that Funding's limited activities as well as the provisions of the Agreement alleviate the concerns addressed by the Act. Accordingly, Holdings asserts that the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 8, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18976 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-24168]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

August 14, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested

persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 8, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

James River Paper Company (31-793)

James River Paper Company, Inc. ("James River"), formerly James River-Groveton, Inc., Tredegar Street, Richmond, Virginia 23217, has filed an application and an amendment thereto pursuant to section 2(a)(3) of the Act for an order declaring it not to be an electric utility company for the purposes of the Act.

James River is a wholly owned subsidiary of James River U.S. Holdings, Inc., which is in turn a wholly owned subsidiary of James River Corporation, an integrated manufacturer and converter of paper and paper-related products and a manufacturer of certain plastic products and coated film with facilities located in twenty-three states, Canada and the United Kingdom. The application is made in connection with the operations of James River in Groveton, New Hampshire. In 1983, James River acquired a tissue and fine paper facility in Groveton which is located in the vicinity of two other facilities owned by parties unrelated to James River or James River Corporation and engaged in the manufacture of paper and paper products: a pulp mill, a related waste treatment facility, and a paper board plant. Because of the interrelationships between the operations of the three facilities, it was considered efficient and cost effective for one party to manage and operate the three facilities. Accordingly, pursuant to contractual arrangements, James River has managed the three facilities since 1983.

As part of its contractual undertaking, James River supplies the pulp mill and the paper board plant with electricity at cost. This electricity is purchased by James River from the Public Service Company of New Hampshire ("NH") or is produced by a steam turbine generating facility owned and operated by James River at Groveton.

It is stated that the power supplied to the three facilities was 132,727,000 KWH in 1982, that is, in the year prior to the acquisition by James River of its Groveton facility. The total cost of such power was $7,300,000. Following the acquisition, James River supplied the following amounts of power to the three facilities in 1983, 1984, and 1985, respectively: 66,058,000 KWH; 137,083,000 KWH; and 147,455,000 KWH. These amounts were produced by James River and by NH: in 1983, James River produced 9,704,000 KWH of the KWH supplied and NH produced 56,354,000 KWH; in 1984, the respective figures were 13,880,000 and 123,203,000 KWH; in 1985, 20,456,000 KWH and 126,999,000 KWH. The total cost of such power supplied was approximately $7,300,000 in 1982, $3,811,000 in 1983 $8,742,000 in 1984 and $7,920,000 in 1985. The respective percentages of power used by the pulp mill and the paper mill, *i.e.*, the nonassociated facilities, during those years were 60.0% in 1982, 41.7% in 1983, 42.4% in 1984 and 42.3% in 1985. The cost of the power supplied to those facilities was $4,380,000 in 1982, $1,590,000 in 1983, $3,710,000 in 1984 and $3,350,000 in 1985.

During this period, the approximate net annual revenues of James River were $110,000,000 in 1982, $86,500,000 in 1983, $150,000,000 in 1984 and $745,800,000 in 1985. If the deliveries of power to the three Groveton facilities were treated as sales rather than as distributions of power reimbursed to James River at cost, the percentages of James River's net annual revenues derived from the supply of power to the non-associated facilities would be approximately as follows: 3.80% in 1982, 2.36% in 1983, 2.46% in 1984 and 0.45% in 1985.

It is asserted that because James River is primarily engaged in non-utility businesses and sells only a small amount of electric energy to the Groveton facilities, it is not necessary in the public interest or for the protection of investors and consumers that it be considered an electric utility company for purposes of the Act.

Central Ohio Coal Company (70-7277)

Central Ohio Coal Company ("COCCo") (c/o American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215), a coal-mining subsidiary of Ohio Power Company, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application pursuant to sections 6(b), 9(a), and 10 of the Act.

COCCo proposes to issue short-term notes to banks during the period September 30, 1986, to December 31, 1987, in aggregate amounts not to exceed $20 million outstanding at any one time. The notes will mature not more than 270 days after the date of issuance or renewal, and none will mature later than June 30, 1988. The notes will be sold under various lines of credit with different terms, including rates at prime. Compensating balances may be required. In addition, credit arrangements with the banks generally require the payment of a fee in the approximate amount of ⅜ of 1% per annum of the size of the line of credit. With such fees and with balances maintained solely to fulfill borrowing requirements, no line of credit would result in an effective cost of borrowing exceeding 125% of the prime commercial rate in effect from time to time, or not more than 10.625% based on a prime rate of 8.5%.

The proceeds of the proposed notes will be utilized by COCCo to acquire and erect a new 8200 Dragline for its coal-mining operations. The new dragline will replace certain existing mining equipment which, because of the age thereof and because of present mining conditions at COCCo, is increasingly inefficient to operate. COCCo estimates that the total in-place cost of the new dragline will be approximately $15 million and that, in addition, it will be necessary to spend approximately $1,500,000 for capitalized spare parts and materials and supplies to support the new dragline.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18974 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23541; File No. SR-NASD-86-19]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change; Relating to Small Order Execution System ("SOES") Fees

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 2, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Schedule D of the NASD's By-Laws. The proposal implements a permanent fee structure for NASD's Small Order Execution System ("SOES"). Under the proposal, a 5 cent per share fee will be assessed SOES market makers for all SOES transactions, with a minimum charge per execution of 50 cents and a maximum change per execution of $1.00. In addition, the SOES computer to computer ("CTCI") charge will be rebated on a monthly basis to CTCI subscribers who enter or receive 1000 or more SOES executions during the month.

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23411, July 9, 1986) and by publication in the **Federal Register** (51 FR 25627, July 15, 1986). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 11A and 15A, and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 18, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19043 Filed 8-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23538; File No. SR-NASD-86-20]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Amendment to the Board of Governors' Interpretation With Respect to "Free-Riding and Withholding"

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 16, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend the Board of Governors' Interpretation With Respect to "Free-Riding and Withholding" by establishing an exemption covering conversion offerings by savings and loan associations and certain other organizations.

The following is the full text of the proposed amendment which is to appear as new language at the end of the Interpretation (Text to be added is italicized).

Sales by Issuers in Conversion Offerings

Definitions

(a) For purposes of this subsection, the following terms shall have the meanings stated:

(1) "Conversion offering" shall mean any offering of securities made as part of a plan by which a savings and loan association or other organization converts from a mutual to a stock form of ownership.

(2) "Eligible purchaser" shall mean a person who is eligible to purchase securities pursuant to the rules of the Federal Home Loan Bank Board or other governmental agency or instrumentality having authority to regulate conversion offerings.

Conditions for Exemption

(b) The Interpretation shall not apply to a sale of securities by the issuer on a non-underwritten basis to any person who would otherwise be prohibited or restricted from purchasing a hot issue security if all of the conditions of this Subsection (b) are satisfied.

(1) Sales to Members, Associated Persons of Members and Certain Related Persons.

If the purchaser is a member, person associated with a member, member of the immediate family of any such person to whose support such person contributes, directly or indirectly, or an account in which a member or person associated with a member has a beneficial interest:

(A) the purchaser shall be an eligible purchaser;

(B) the securities purchased shall be restricted from sale or transfer for a period of 150 days following the conclusion of the offering; and

(C) the fact of purchase shall be reported in writing to the member where the person is associated within one day of payment.

(2) Sales to Other Restricted Persons.

If the purchaser is not a person specified in Subsection (b)(1) above, the purchaser shall be an eligible purchaser.

II. Self-Regulatory Organization's Statement Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed the comments it had received. The text of these statements and the comments may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to provide limited exemptive relief from the Board of Governors' Interpretation With Respect to Free-Riding and Withholding ("Interpretation") for certain person desiring to purchase publicly offered securities issued in connection with the converson of savings and loan associations and certain other organizations from a mutual to a stock form of ownership. A growing number of savings and loan associations recently have converted to the stock form of ownership and in the process have sold securities to their depositors, officers, directors, employees and residents of the community serviced by the savings and loan association. There is every

reason to believe this development will continue.

The NASD is concerned that the Interpretation has the effect of prohibiting or seriously restricting the ability of such persons from exercising their subscription rights or otherwise purchasing the securities from the converting institutions, if they come within any of the classes of persons now covered by the restrictions and prohibitions of the Interpretation. The proposed exemption would be applicable only to sales of securities by issuing savings and loan associations or other organizations in conversion offerings made directly by the converting institutions to persons who are eligible to purchase as depositors or otherwise under the applicable regulations of the Federal Home Loan Bank Board or other agency having authority to regulate the conversion process. The exemption would not be available for any other types of public offerings of securities by savings and loan associations or to sales of conversion securities made directly by broker/dealer members which would continue to be subject to the existing prohibitions and restrictions of the Interpretation.

The amendment would establish various conditions which must be met before any exemption would be available. In the case of purchasers who are now prohibited under the Interpretation such as members and associated persons of members there are three (3) conditions: (1) The purchaser must be an eligible purchaser, (2) the securities being acquired must be restricted against sale or transfer for a period of 150 days and (3) the purchase must be reported to the person's employer-member. In the case of other persons who are restricted under the Interpretation, the sole condition is that they be eligible purchasers.

The proposed rule change is believed to be consistent with sections 15A(b)(2) and 15A(b)(6) of the Securities Exchange Act of 1934, as amended ("Act").

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In Notice to Members 85–81 (December 2, 1985), the NASD solicited comments on an earlier version of the proposed rule change. A number of commentators objected to the proposal as cumbersome and unnecessarily complex. These comments were reviewed and in Notice to Members 86–26 (April 8, 1986) the present proposed rule change was circulated for comment. The NASD received five (5) comments on the proposal filed, generally favoring adoption.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after its publication in the Federal Register.

There has been no lessening in the number of savings and loan associations and savings banks which are converting from the mutual to the stock form of ownership. The problems under the present Interpretation without the exemptive relief proposed by the amendment continue to be matters of concern to all affected persons. The present prohibitions and restrictions are also matters of concern to the converting institutions faced with the maintenance of the good will of depositors and borrowers who have legitimate expectations to be given the opportunity to become shareholders of the institutions where they do their banking business. The plans of the converting institutions for encouraging ownership by management and employees are also affected by the limitations upon such plans which may result from application of the present Interpretation. The interests of the individual depositors, borrowers, and community residents are equally at issue to the extent that the present Interpretation limits their opportunity to become shareholders at the time of the conversion.

The inequities and unwarranted discrimination among purchasers who would be entitled to relief under the proposed amendment continues to be widespread and members continue to face the uncertain risk of disciplinary action in the face of the amendment which is generally known to have been adopted subject to approval of the Commission.

The NASD Board of Governors has spent much time and effort to focus on all the issues which it believes require consideration under the applicable provisions of the Act. In summary, it is believed that the membership, savings and loan associations and their depositors and other affected persons deserve to have any continued period of unfairness and uncertainty shortened to the extent possible.

For these reasons, the NASD believes that good cause exists for the Commission to approve the proposed rule change prior to the thirtieth day after publication of notice of the filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450—5th Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 12, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 15, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19042 Filed 8–21–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM–8/990]

Establishment of the Department of State's Advisory Committee on International Law

The Department of State is establishing an Advisory Committee on International Law (to be distinguished from the Secretary of State's Advisory Committee on Private International Law) to obtain the views and advice of outstanding members of this country's legal profession on significant issues of international law.

The Committee will consist of no more than twenty individuals appointed by the Legal Adviser of the Department of State. The Committee will follow the

procedures prescribed by the Federal Advisory Committee Act.

The Committee will provide expertise on a wide range of legal issues. Because of the complexity of the issues involved, and because action on these issues will require continuing consultations, no other effective means of obtaining the expertise of the legal community appears feasible. The Committee will thus serve the public interest.

For further information, contact: Ted A. Borek, Assistant Legal Adviser for United Nations Affairs (202) 647–1320 or George Taft, Attorney Adviser, Office of the Legal Adviser, (202) 653–0852.

Michael G. Kozak,

Principal Deputy Legal Adviser.

[FR Doc 86–19001 Filed 8–21–86; 8:45 am]

BILLING CODE 4710-35-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program for Fiscal Year 1987

Section 509(e) of the Airport and Airway Improvement Act of 1982 (Act) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for entitlement funds. Notification of the sponsor's intent to apply during fiscal year 1987 for any of its entitlement funds, including those unused from prior years, shall be in the form of a project preapplication or application (SF 424 and FAA Forms 5100–30 or 5100–100, as appropriate) submitted to the FAA field office no later than January 31, 1987. FAA field offices, in developing their regional programs, may request sponsors' input at an earlier date. Every effort should be made to meet these regional deadlines.

Approval of preapplications or applications received after the deadline may be deferred by the FAA until the following fiscal year. Although the Act expires on September 30, 1987, section 505(b) authorizes grants to be made after that date with the sponsor's unused entitlement funds which would remain available for the normal two-year carryover period.

The FAA also recommends that all other airports or planning agencies expecting to apply for airport grant funds do so early in the fiscal year. Such prospective applicants should contact the appropriate FAA field office for information on that office's deadlines. These offices will assist in the preparation of preapplications/applications and provide procedural information as needed.

This notice is being published early to allow adequate time for sponsors to prepare their preapplications or applications.

Prompt submission of complete requests will allow earlier funding decisions by the FAA. This, in turn, may be advantageous to sponsors in competing for available funds and in maximizing construction during a construction season.

This notice submitted by Mr. Edgar Williams, APP–510, on (202) 267–8809.

Issued in Washington, DC on August 18, 1986.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 86–18936 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA);

Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment to be held on September 16–17, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Minutes of the Eighteenth Meeting Held on April 15–16, 1986; (3) Review of EUROCAE and Space Working Group-20 Activities; (4) Review of Draft MOPS Material; (5) Report of the Pilot Factors Working Group; (6) Discuss Structure of Committee Final Report; (7) Establish Future Work Program; (8) Assignment of Tasks; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 18, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86–18937 Filed 8–21–86; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP86–02; Notice 2]

General Motors Corp; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Detroit, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims.* The bais of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on February 13, 1986, and an opportunity offered for comment (51 FR 5439).

The petitioner determined that 4,100 Buick Grand National passenger cars manufactured during the 1984 and 1985 model years, with P215/65R15 tires and 7.25 inch rims, do not comply with one of the requirements of Standard No. 110. This tire and rim combination is not listed as an approved combination in the Tire and Rim Association publications, as required by Motor Vehicle Safety Standard No. 109 *New Pneumatic Tires.*

General Motors states that—

"* * * However, the P215/65R15 tire with 7 and 7.5 inch rims are both listed as approved combinations by the Tire and Rim Association. In addition, GM Engineering and GM Tire and Wheel Systems have determined that performance is not affected in any way by use of the 7.25 inch rim, with the P215/65R15 tire. Accordingly, General Motors believes that the specific noncompliance with FMVSS No. 110 is inconsequential as it relates to motor vehicle safety."

The petitioner also indicated that the 7.25 inch rim has been cancelled and is being replaced with a 7 inch rim, and that it is not aware of any customer complaints relative to the performance of the tire and rim combination.

No comments were received on the petition at the end of the comment period.

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VOL 51 ISS 163 AG 22 1986 UMI

The agency has no information indicating that a safety problem exists with either the 7.00 or 7.50 inch rims, approved by the Tire and Rim Association when P215/65R15 tires are mounted on them. Therefore there should be no problem when these tires are mounted on a 7.25 inch rim which lies between the 7.00 and 7.50 rims. Accordingly petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 96-492, 88 Stat. 1470 (15 U.S.C. 1417) delegations of authority at 49 CFR 150 and 49 CFR 501.8)

Issued on: August 19, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-18995 Filed 8-21-86; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Alabama State Veterans Nursing Home, Alexander City, AL; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a 150-bed Alabama State Veterans Nursing Home in Alexander City, Alabama. The approximate cost of this project is $7.1 million, inclusive of contingencies, professional design services and inflation at the time of construction.

Construction related traffic may cause disruption of nearby traffic flow. In addition, construction noise associated with the development of the new facility is likely to cause annoyance to residents within the area. The impact of dust and fumes that will exist during construction will be of short effect lasting only during that phase of project development. In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State and local air quality standards.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40, CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of that document may do so at the following office:

Director, Office of Environmental Affairs, Room 653, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202/389-3544). Questions or requests for single copies of the Environmental Assessment may be addressed to the above.

Dated: August 13, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86-19004 Filed 8-21-86; 8:45 am]

BILLING CODE 8320-01-M

Availability of Report of 38 U.S.C. 219 Program Evaluation; Geriatric Research, Education and Clinical Centers (GRECC) Program

Notice is hereby given that the program evaluation of the Veterans Administration's Geriatric Research, Education and Clinical Centers (GRECC) Program has been completed.

Single copies of the GRECC Program Evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: August 14, 1986.

By direction of the Administrator.

Walter J. Besecker,

Acting Director, Office of Program Analysis and Evaluation.

[FR Doc. 86-19009 Filed 8-21-86; 8:45 am]

BILLING CODE 8320-01-M

Availability of Report of 38 U.S.C. 219 Program Evaluation; Spinal Cord Injury Program

Notice is hereby given that the program evaluation of the Veterans Administration's Spinal Cord Injury Program has been completed.

Single copies of the Spinal Cord Injury Program Evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: August 14, 1986.

By direction of the Administrator.

Walter J. Besecker,

Acting Director, Office of Program Analysis and Evaluation.

[FR Doc. 86-19010 Filed 8-21-86; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under Pub. L. 92-463, section 10(a)(2) that a meeting of the Advisory Committee on Former Prisoners of War will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, on September 11 and 12, 1986. The purpose of the Committee is to consult with and advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the need of such veterans for compensation, health care and rehabilitation.

The meeting will convene at 9 a.m. both days in Room 304. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Herbert Mars, Deputy Director, Compensation and Pension Service, Veterans Administration Central Office (202/389-3029) prior to August 30, 1986.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only to Herbert Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

A summary report of the meeting and rosters of the Committee members may be obtained from Mr. Herbert Mars at the aforementioned address.

Dated: August 11, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc 86-19005 Filed 8-21-86; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held September 4 and 5, 1986, in the Omar Bradley Conference Room of Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Both meetings will begin at 8:45 a.m. and conclude at 4:30 p.m.

These meetings will be open to the public to the seating capacity of the room. Anyone having questions concerning the meetings may contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Veterans Administration Central Office, (phone number 202–389–3317/3303).

Dated: August 13, 1986.

Rose Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–19007 Filed 8–21–86; 8:45 am]

BILLING CODE 8320–01–M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 15, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits.
2. Veterans Supplemental Application for Assistance in Acquiring Specially Adapted Housing.
3. VA Form 26–4555c.
4. On occasion.
5. Individuals or households.
6. 424 responses.
7. 106 hours.
8. Not applicable.

[FR Doc. 86–19002 Filed 8–21–86; 8:45 am]

BILLING CODE 8320–01–M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 14, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits.
2. Statement of Dependency of Parent(s).
3. VA Form 21–509.
4. On occasion.
5. Individuals or households.
6. 40,000 responses.
7. 20,000 hours.
8. Not applicable.

[FR Doc. 86–19003 Filed 8–21–86; 8:45 am]

BILLING CODE 8320–01–M

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in the Omar Bradley Conference Room on the 10th floor of the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on September 12 and 13, 1986. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers established by the Department of Medicine and Surgery.

The session on September 12 will convene at 8:30 a.m. and conclude at noon. That session will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Jacqueline Holmes, Program Assistant, Office of the Assistant Chief Medical Director for Geriatrics and Extended Care, Veterans Administration Central Office (phone 202/389–3781) prior to August 22, 1986.

The afternoon session will convene at 1:00 p.m. and the following days session will convene at 8:30 a.m. and conclude at noon. Both of these sessions will be closed since they will be evaluating the research, education and clinical services being provided through the Geriatric Research, Education and Clinical Centers as requested by Pub. L. 94–330.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. The discussion and recommendations will deal with qualifications of personnel conducting these studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of

VOL 51 ISS 163 AG 22 1986 UMI

proposed agency action regarding such research projects. Closure of these meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in U.S.C. 552B(c) and (9)(B).

Dated: August 11, 1986.
By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Office.

[FR Doc. 86–19006 Filed 8–21–86; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program—Defense Manpower Data Center records of veterans in receipt of readjustment or severance pay.

SUMMARY: The Veterans Administration is providing notice of the intent by the Department of Veterans Benefits to match the BIRLS (Beneficiary Identification and Records Locator Subsystem) master records with readjustment or severance pay data records from Defense Manpower Data Center.

The goal of these matches is to identify VA compensation recipients who have received DOD separation payments and to recoup those payments from VA monthly compensation.

DATES: It is anticipated that matches will commence in approximately September 1986.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Director, Administrative Services Staff (203C3), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC, 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Johnson, Chief, Administrative Systems Division (203C3), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC, 20420, area code (202) 389–3461.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: August 11, 1986.

Thomas K. Turnage,

Administrator.

Report of Matching Program: Veterans Administration Records of Beneficiaries Receiving VA Monthly Compensation/ Defense Manpower Data Center Records of Veterans in Receipt of Readjustment or Severance Pay

a. *Authority:* Title 38, United States Code, section 361, and title 10, United States Code, sections 1174 and 1212(c).

b. *Program Description:*

(1) *Purpose:* The Department of Veterans Benefits plans to match lists of beneficiaries receiving VA monthly compensation with lists, provided by DMDC (Defense Manpower Data Center), of recently discharged veterans who received severance or readjustment pay. The purpose of this match is to identify VA compensation recipients who have received DOD separation payments or applicants for such benefits and to recoup those payments from VA monthly compensation benefits paid.

Title 38, United States Code, section 361, and title 10 United States Code, sections 1174 and 1212(c), specify that any individual who receives severance or readjustment pay when separated from military service shall have an amount equal to the severance and readjustment pay withheld from the VA monthly compensation to which the person is entitled. The matches will identify those individuals who have applied for, or are receiving, VA compensation benefits who also received severance or readjustment pay when they left military service.

(2) *Procedures:* The Department of Veterans Benefits will perform the match using extracts of VA system of records consisting of names and social security numbers and records in a similar format provided by the DMDC. These matches will be performed on a quarterly basis by the Austin VA Data Processing Center. In the event of a "hit", i.e., the determination through the matching program that a veteran is in receipt of readjustment or severance pay, the identity of the individual will be confirmed. When needed to confirm the identity of individuals who may be listed in the records as receiving readjustment or severance pay, DVB will request that additional information be furnished by DMDC or DVB may release additional identifying data to DMDC in accordance with published routine uses. In those instances where matches are made, the data processing center will extract data on readjustment and severance pay and incorporate same into existing BIRLS master records. The VA will then collect any severance or readjustment overpayments from the VA monthly compensation payments in accordance with established VA procedures.

c. *Records to be Matched:* Data extracted from the following system of records will be matched with readjustment or severance pay records from Defense Manpower Data Center:

Veterans and Beneficiaries Identification and Records Location Subsystem—VA (38VA23), as set forth in the **Federal Register** publication, "Privacy Act Issuances," 1984 Comp., Vol. V, pages 722 and 723, and amended at 50 FR 13449 (April 4, 1985).

d. *Period of Match:* Continuously on a quarterly basis beginning in approximately September 1986.

e. *Safeguards:* Access to the basic file in the Austin VA Data Processing Center is restricted to authorized VA employees and vendors. Access to the computer room where the magnetic tape is located within the data processing center is further restricted to specifically authorized employees and is protected by an alarm system, the Federal Protective Service, and other VA security personnel. Records used in the matches and data generated as a result, will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. The matching files to be used in this project will remain under the control of DVB and will be destroyed upon completion of the match. The matching file will be used and accessed only to match files in accordance with this notice; will not be used to extract information concerning "non-hit" individuals for any purpose; and will not be duplicated or disseminated within or outside the VA unless authorized by the Chief Benefits Director.

f. *Retention and Disposal:* Records not resulting in matches will be destroyed by burning, shredding, or electronic erasing within six months of the completion of the individual match. Records resulting in matches will be retained by Austin VA Data Processing Center until the completion of any necessary administrative action, and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 86–19006 Filed 8–21–86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 163
Friday, August 22, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Farm Credit Administration	1
Federal Deposit Insruance Corporation	2, 3
Federal Reserve System	4
International Trade Commission	5, 6
International Reinvestment Corporation	7
Securities and Exchange Commission	8
Tennessee Valley Authority	9

1

FARM CREDIT ADMINISTRATION

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 22, 1986, from 3:00 p.m. unitl such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Part of this special meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Consideration of Agency Policy Covering Submission of Comments on Regulations by the Farm Credit System;

*2. Examination and Supervisory Matters; and

3. Proposal by the Amarillo Production Credit Association for Voluntary Liquidation.

*Closed session—exempt pursuant to 5 U.S.C. 552b(c) (4), (8) and (9).

Dated: August 20, 1986.

Frank W. Naylor, Jr.,

Chairman.

[FR Doc. 86–19091 Filed 8–20–86; 10:20 am]

BILLING CODE 6705–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, August 26, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

General Acceptance Company DBA Horizon Thrift and Loan, an operating noninsured industrial bank located at 86 West Center, Cedar City, Utah.

Application for Federal deposit insurance and for consent to merge:

The Bank of Hartford, Inc., Hartford, Connecticut, a noninsured State savings bank, for Federal deposit insurance and for consent to merge, under its charter and title, with TONE Savings Bank, Inc., Hartford, Connecticut, a proposed new bank in organization.

Applications for consent to purchase assets and assume liabilities:

The First National Bank, Sidney, Ohio, for consent to purchase certain assets of and assume the liability to pay deposits made in the Botkins Branch of First Border Savings Bank, Piqua, Ohio, a non-FDIC-insured institution.

Bank of New England—Old Colony, National Association, Providence, Rhode Island, for consent to purchase certain assets of and assume the liability to pay deposits made in the Newport Branch of Old Stone Bank, a Federal Savings Bank, Providence, Rhode Island, a non-FDIC-insured institution.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,601–SR (Amendment)
Security State Bank, Broken Bow, Nebraska
Case No. 46,603–SR (Amendment)
Farmers & Merchants Bank, Comstock, Nebraska
Case No. 46,639–SR
Elba State Bank, Elba, Nebraska

Memorandum regarding the Corporation's liquidation activities.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications,requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re:
Quarterly Report for Actions Approved Under Delegated Authority as of March 31, 1986.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: August 19, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–19117 Filed 8–20–86; 11:56 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, August 26, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be

resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8, and (c)(9)(A)(ii))

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendations regarding the Corporation's assistance agreement with an insured bank.

Recommendation regarding the Corporation's corporate activities.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: August 19, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 19118 Filed 8–20–86; 11:56 am]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, August 27, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–19060 Filed 8–20–86; 8:59 am]

BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, August 25, 1987 at 2:30 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratification List 86–29
4. Investigation Numbers 701–TA–280 (P) and 731–TA–337 (P) (Certain paint filters and strainers from Brazil)—briefing and vote.
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

August 11, 1986.

[FR Doc. 86–19089 Filed 8–20–86; 10:15 am]

BILLING CODE 7020–02–M

6

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, August 27, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and Complaints

Certain small aluminum flashlights and components thereof (Docket Number 1335).

2. Investigation Numbers 731–TA–338, 339, and 340 (P) (Urea from German Democratic Republic, Romania and the Union of Soviet Socialist Republics)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

August 11, 1986.

[FR Doc. 86–19090 Filed 8–20–86; 10:16 am]

BILLING CODE 7020–02–M

7

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 3:30 p.m., Tuesday, August 26, 1986 (Rescheduled from June 6, 1986).

PLACE: 1325 G Street NW., Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE IMFORMATION: Timothy McCarthy, Director of Communications, 376–2623.

AGENDA:

I. Call to Order and remarks of the Acting Chairman
II. Approval of minutes, March 17, 1986
III. Executive Director's activity report
IV. Personnel committee report
V. Election of officers and Assistant Secretary
VI. Approval of board committee appointments
  A. Audit Committee
  B. Budget Committee
  C. Personnel Committee
VII. Budget Committee reports, May 16 and August 25, 1986
  A. Approval of FY 1987 line item budget
  B. Approval of FY 1988 budget submission
  C. Recommendation for corporate investments
  D. NHSA secondary market proposal
VIII. Treasurer's report

Carol J. McCabe,

Secretary.

[FR Doc. 86–19056 Filed 8–20–86; 8:56 am]

BILLING CODE 7570–01–M

8

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [51 FR 29186/ August 14, 1986].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, August 12, 1986.

CHANGE IN THE MEETING: Additional meeting.

The following item was considered at a closed meeting scheduled on Friday, August 15, 1986, at 5:30 p.m.

Administrative proceeding of an enforcement nature.

Commissioner Peters, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272–2092.

Jonathan G. Katz,

Secretary.

August 18, 1986.

[FR Doc. 86–19123 Filed 8–20–86; 8:45 am]

BILLING CODE 8010–01–M

9

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 11:30 a.m. (edt), Friday, August 22, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

MATTER FOR ACTION:

Budget and Financing

1. Adoption of supplemental resolution authorizing 1986 Series D power bonds.
2. Resolution authorizing the Chairman and other executive offices to take further action relating to issuance and sale of 1986 Series D power bonds.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: August 19, 1986.

Approved:

C.H. Dean, Jr.,

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86–19075 Filed 8–21–86; 9:23 am]

BILLING CODE 8120–01–M

VOL
51
ISS
1
63
AG
22
1986
UMI

federal register

Friday
August 22, 1986

Part II

Environmental Protection Agency

40 CFR Ch. I

Preliminary Approaches to Implementing the Recommendations of the Domestic Sewage Study; Advance Notice of Proposed Rulemaking

VOL
51
ISS
163
AG
22
1986
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[EN FRL-3046-7]

Preliminary Approaches to Implementing the Recommendations of the Domestic Sewage Study; Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In 1984, Congress enacted the Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA). Section 3018(a) of RCRA, as amended, directed EPA to submit a report to Congress concerning wastes discharged through sewer systems to publicly owned treatment works (POTWs) that are exempt from RCRA regulation as a result of the Domestic Sewage Exclusion of RCRA. This report (the Domestic Sewage Study, hereinafter referred to as "the Study") was prepared by EPA's Office of Water and submitted to Congress on February 7, 1986. The Study examined the nature and sources of hazardous wastes discharged to POTWs, measured the effectiveness of Agency programs in dealing with such discharges, and recommended ways to improve the programs to achieve better control of hazardous wastes entering POTWs.

As a follow-up to the Study, section 3018(b) of RCRA directs the Administrator to revise existing regulations and promulgate such regulations as are necessary to assure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. The regulations must be promulgated within eighteen months after submission of the Study to Congress (August 1987).

The Agency is today publishing an Advance Notice of Proposed Rulemaking (ANPR) which will be the first step towards promulgating the regulations required by section 3018(b). EPA wishes to use today's notice primarily to obtain public comments and suggestions on possible ways to implement or address the recommendations of the Study. The Agency will then evaluate the comments and suggestions and use them to help prepare specific proposed rules for publication. Today's notice contains no formal proposals for regulatory amendments. Instead, EPA suggests a range of preliminary approaches to improving the control of hazardous wastes discharged to the nation's POTWs. The Agency solicits comments on these approaches and invites suggestions on any other approaches the public believes appropriate.

DATES: Comments must be received on or before October 21, 1986.

ADDRESS: Comments should be addressed to Ms. Marilyn Goode, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-9534.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Goode, Permits Division, (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-9534.

For copies of the Domestic Sewage Study, contact Ms. Carol Swann, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, (202) 382-7137.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

The origins of the Study lie in the Domestic Sewage Exclusion of RCRA. The exclusion, established by Congress in section 1004(27) of RCRA, provides that solid or dissolved material in domestic sewage is not solid waste as defined in RCRA. A corollary is that such material also cannot be considered a hazardous waste for purposes of RCRA.

The regulatory exclusion applies to domestic sewage as well as mixtures of domestic sewage and other wastes that pass through the sewer system to a POTW (see 40 CFR 261.4(a)(1)). The exclusion thus covers industrial wastes discharged to POTW sewers which contain domestic sewage, even if the industrial wastes would otherwise be considered hazardous wastes.

Under the exclusion, industrial facilities which discharge such wastes to sewers containing domestic sewage are not subject to RCRA generator and transporter requirements, such as manifesting and reporting. In addition, POTWs receiving such wastes mixed with domestic sewage are not thereby deemed to have received hazardous wastes and therefore need not comply with certain RCRA hazardous waste treatment, storage, and disposal requirements with respect to these wastes. However, the Domestic Sewage Exclusion does not apply to sludge produced by a POTW as a result of wastewater treatment if such sludge is found to be a RCRA characteristic waste under 40 CFR 261 Subpart C. In addition, hazardous wastes delivered to a POTW by truck, rail, or dedicated pipe are not covered by the Domestic Sewage Exclusion, and are subject to regulation under the RCRA permit-by-rule (see 40 CFR Part 270.60(c)).

The legislative history of RCRA indicates that the Domestic Sewage Exclusion stems from the assumption that the pretreatment program of the Clean Water Act (CWA) can ensure adequate control of industrial discharges to sewers. This program, mandated by section 307(b) of the CWA and implemented in 40 CFR Part 403, provides for pretreatment by industrial facilities of pollutants discharged to POTWs, to the extent that such pollutants would interfere with, pass through, or otherwise be incompatible with the operations of POTWs. The Exclusion avoids the potential regulatory redundancy of subjecting hazardous wastes mixed with domestic sewage to RCRA management requirements if these wastes are already subject to appropriate pretreatment requirements under the CWA.

In 1984, Congress enacted the Hazardous and Solid Waste Amendments to RCRA. The legislative history of these amendments reveals that Congress wanted EPA to evaluate the effects of the Domestic Sewage Exclusion. Congressman Molinari (R.N.Y.), one of the sponsors of the amendment, expressed concern about possible gaps in RCRA which could threaten public health and the environment. He stated that EPA should:

> . . . quantify, as accurately as possible, the nature and scope of hazardous waste disposal into domestic sewers . . . the extent to which the exclusion is justified . . . *and the adequacy of pretreatment as a means of dealing with the problem.* [CONG. REC. H9150 (daily ed. November 3, 1983), emphasis added]

To this end, section 3018(a) of the Hazardous and Solid Waste Amendments to RCRA required EPA to prepare:

> . . . a report to Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size, and number of generators which dispose of substances in this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner sufficient to protect human health and the environment.

Section 3018(b) then requires the Administrator to revise existing regulations and to promulgate such additional regulations as are necessary to ensure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. These regulations are to be promulgated pursuant to RCRA, section 307 of the CWA, or any other appropriate authority possessed by EPA. The regulations must be promulgated within eighteen months after submission of the Study to Congress (August 1987).

II. Summary of the Domestic Sewage Study

EPA submitted the Study to Congress on February 7, 1986. In performing the Study, the Agency reviewed information on 160,000 waste dischargers from 47 industrial categories and the residential sector. Because of the nature of the available data sources, the Study provided estimates for the discharge of 165 specific constituents of hazardous waste (e.g., benzene, acetone, etc.) rather than estimates for hazardous wastes as they are more generally defined under section 3001 of RCRA (i.e., characteristic wastes such as ignitable or reactive materials, or listed wastes such as spent solvents, electroplating baths, etc.).

Data limitations also led the Study to provide more extensive estimates for those hazardous constituents which are also CWA priority pollutants. The CWA priority pollutant list was originally developed as part of a settlement agreement between the Natural Resources Defense Council (NRDC) and EPA (*NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976)). This agreement required the Agency to promulgate technology-based standards for 65 compounds or classes of compounds. Congress then incorporated this list of toxic pollutants as part of the 1977 amendments to the CWA. From the list of compounds or classes of compounds, EPA later developed a list of 126 individual priority pollutants.

A more thorough assessment of hazardous waste discharges depends on collecting additional data on discharges of non-priority hazardous wastes to POTWs. Furthermore, the Agency possesses little knowledge about the behavior and effects of many hazardous constituents in aqueous solutions. In particular, the Study determined that little is known about groundwater contamination as a result of exfiltration (leakage) from POTW systems or air emissions due to the volatilization of industrial wastes discharged to sewers.

In spite of these limitations, EPA was able to give estimates in the Study on the types, sources, and quantities of many hazardous constituents discharged to POTWs. The Study provides information on industrial categories ranging from the largest hazardous waste generators (such as the organic chemicals and petroleum refining industries) to small quantity generators (such as laundries and motor vehicle services). In selecting hazardous constituents to be included in the Study, EPA took care to choose those which seemed representative of actual industrial discharges. For example, the Study emphasized hazardous constituents for which national production rates are high (as opposed to specialty chemicals), as well as constituents found in the wastestreams of industries known to be significant generators of hazardous wastes.

The Study also examines the fate of hazardous constituents once they are discharged to POTW collection and treatment systems and discusses the potential for environmental effects resulting from the discharge of these constituents after treatment by POTWs. The Study then measures the effectiveness of government controls in dealing with these discharges, paying particular attention to federal and local pretreatment programs and categorical pretreatment standards applicable to industrial users of POTWs.

After considering all the pertinent data, EPA concluded that the Domestic Sewage Exclusion should be retained at the present time. The Study found that CWA authorities are generally the best method of controlling hazardous waste discharges to POTWs. However, the Study also found that these authorities should be more broadly and effectively employed to regulate these discharges. The Study therefore recommended ways to improve various EPA programs under the CWA to obtain better control of hazardous wastes entering POTWs. In addition, the Study recommended research efforts to fill certain information gaps, and indicated that other statutes (such as RCRA and the Clean Air Act) should be considered along with the CWA to control hazardous waste dischargers and/or receiving POTWs if the recommended research indicates the presence of problems not adequately addressed by the CWA. These recommendations are discussed in Part IV below.

III. Public Participation

As stated earlier, EPA wishes to obtain through this notice suggestions and comments from the public about the best ways to deal with the problem of hazardous wastes discharged into the nation's municipal treatment plants. For this reason, the Agency is not proposing any specific regulatory amendments at this time. Some of the regulatory efforts in which EPA has been and continues to be engaged under the CWA are related directly to the recommendations of the Study. Where relevant, these efforts are described below. Generally, however, EPA is today presenting a range of new ideas that could be starting points for specific future regulatory proposals that, when implemented, would improve control of hazardous wastes discharged to POTWs. EPA invites comment on these ideas and actively solicits comments and suggestions on any other alternative methods of dealing with the problems discussed by the Study.

Besides inviting comments on the merits of all approaches, the Agency also requests comments on the resource implications of all alternative suggestions, since such implications must be taken into account when EPA selects options for formal proposals and final rulemakings.

The Agency believes that wide public participation is essential to help EPA select the best choices among all available options. To this end, the Agency has announced in a separate **Federal Register** notice three public meetings to be held after today's ANPR is published (51 FR 29499, August 18, 1986). The meetings will take place as follows:

Hall of States, Skyline Inn, 10 I St. SW, Washington, D.C. 20024—9:30 a.m., September 11, 1986

Grand Ballroom North, Sheraton International at O'Hare, 6810 North Mannheim Road, Rosemont, Illinois 60018—9:30 a.m., September 17, 1986

Continental Parlor, San Francisco Hilton and Tower, 333 O'Farrell Street, San Francisco, California 94102—10:00 a.m., September 18, 1986

Each meeting will last for approximately four hours. All interested persons are invited to attend.

In addition to holding public meetings and evaluating comments received in response to today's notice, the Agency plans to consult interested groups and organizations (including environmental groups, industry trade associations, and State and local pollution control authorities) to obtain the benefit of their advice and expertise. EPA will then publish formal proposals, followed by promulgation of final rules.

VOL 51 ISS 163 AG 22 1986 UMI

IV. Recommendations of the Domestic Sewage Study and Preliminary Approaches Toward Their Implementation

The Study summarizes its recommendations for improvement of EPA programs as follows:

- Improvements can be made to federal categorical standards and local pretreatment controls to enhance control of hazardous wastes discharged to sewers;
- EPA should emphasize improvement of controls on hazardous wastes through ongoing implementation of water programs, including enforcement, sludge management, and water quality programs;
- Additional research is necessary on the sources and quantities of hazardous wastes, their fate and effects in POTW systems and the environment, and the design of any additional regulatory controls that might be necessary;
- RCRA, CERCLA, and the CAA should be considered along with the CWA to control hazardous waste discharges and/or receiving POTWs if the recommended research indicates the presence of problems.

The specific recommendations of the Study are discussed in more detail below. The Agency's planned approaches to implementing these recommendations are also described. In each case, comments are invited and any other new ideas are requested and welcomed.

A. General Pretreatment Program

1. General and Specific Prohibited Discharge Standards

As part of its evaluation of the national pretreatment program, the Study recommended modifying the prohibited discharge standards of the general pretreatment regulations to improve control of characteristic hazardous wastes and solvents.

The prohibited discharge standards forbid certain types of discharges to POTWs from all industrial users (including those not regulated by categorical pretreatment standards). The general prohibitions (40 CFR 403.5(a)) forbid discharges which pass through the POTW or interfere with its operation or performance. The specific prohibitions (40 CFR 403.5(b)) currently forbid the discharge of specific types of materials which can harm POTW collection and treatment systems. These are:

- Pollutants which create a fire or explosion hazard;
- Pollutants which cause corrosive damage;
- Pollutants which cause obstruction to flow within a POTW;
- Any pollutants discharged in concentrations or flow rates which cause interference with a POTW;
- Heat which inhibits POTW biological activity.

With respect to the specific discharge prohibitions, the Study suggested ways that EPA might amend these prohibitions to improve the control of hazardous wastes. In particular, the Study discussed expanding the list of specific prohibitions to include certain characteristics of hazardous wastes under RCRA (i.e., wastes that are deemed hazardous if they possess certain characteristics). These characteristics of hazardous wastes are ignitability, corrosivity, reactivity, and Extraction Procedure (EP) toxicity.

The existing specific prohibition against pollutants which create a danger of fires and explosions could possibly be used to control discharges of certain RCRA characteristic wastes, particularly ignitable and reactive wastes. However, the current wording of the pretreatment prohibitions is general in nature and may not be fully effective in preventing the discharge of wastes exhibiting these characteristics.

With respect to the EP toxicity characteristic, the Agency will soon propose a rule to expand this characteristic under RCRA to include 38 additional organic chemicals and an improved leaching test (the Toxicity Characteristic Leaching Procedure, or TCLP). The new test method allows better evaluation of organic pollutants (including volatiles), provides enhanced precision and accuracy, solves several operational problems associated with the EP protocol, and models effects of leaching the constituents into the environment. However, there is some question about whether these test procedures are appropriate for determining whether particular pollutants are likely to cause pass through and interference. Materials may be subsequently diluted when mixed with large amounts of domestic sewage, and POTWs are capable of removing many such materials even in small amounts.

EPA believes that the current specific discharge prohibitions for characteristic wastes are probably adequate to control hazardous wastes which exhibit the corrosion characteristic as defined under RCRA. Further, as described above, a specific discharge prohibition against wastes exhibiting the EP toxicity characteristic may be neither appropriate nor necessary. The reactivity and ignitability characteristics may be appropriate additions to the specific discharge prohibitions under the CWA pretreatment program, and EPA currently plans to propose to add these characteristics to 40 CFR 403.5(b). EPA solicits comments on whether to modify the specific prohibitions to include some or all characteristics of hazardous wastes under RCRA. (Comments on the TCLP procedure not related to the specific prohibitions should be submitted in the context of that rulemaking.)

Alternatively, or perhaps in conjunction with this approach, the Agency could prohibit (absolutely or conditionally) the discharge to POTWs of some or all constituents of hazardous waste identified in Appendix VIII of 40 CFR Part 261. Some or all listed hazardous wastes (see 40 CFR 261.31-33) could be prohibited as well. The Agency currently believes that listed hazardous wastes and constituents of hazardous wastes may often be appropriately addressed through local limits. While generally applicable discharge prohibitions may be appropriate for some wastes, constituents or classes of constituents found to cause pass through or interference, EPA does not now plan to develop general or specific discharge prohibitions for all hazardous wastes. Nevertheless, the Agency would like to receive comments on this method of implementing the recommendations of the Study.

With respect to the general prohibitions against pass through and interference (40 CFR 403.5(a)), the Agency solicits comments on whether or how to reconsider the notion of which activities should constitute violations of these prohibitions. The definitions of pass through and interference (40 CFR 403.3 (i) and (n), currently suspended) were proposed on June 19, 1985 at 50 FR 25526. Under these proposed definitions, interference occurs when an industrial user's discharge (alone or in conjunction with other sources) causes a violation of the POTW's NPDES permit or prevents sewage sludge use or disposal by the POTW in accordance with applicable laws. Similarly, pass through occurs when pollutants discharged by an industrial user (alone or in conjunction with other sources) pass through the POTW into navigable waters in quantities or concentrations that, alone or in conjunction with other sources, cause a violation of the POTW's NPDES permit. POTWs are required to establish needed local limits to prevent pass through and interference.

The Study suggested that these definitions are not fully effective in cases where hazardous wastes, though potentially harmful, do not actually

cause a violation of the POTW's NPDES permit or applicable sludge requirements. For example, it is possible for hazardous wastes discharged by an industrial user to impair plant efficiency (producing toxicity or sludge problems) without actually causing the POTW to violate its permit or applicable sludge requirements. The addition of the hazardous waste may also produce toxicity without impairing the plant's treatment efficiency for the pollutants limited in the permit. Likewise, the prohibition against pass through may not be effective in regulating hazardous wastes if water quality-based effluent limitations for toxic pollutants or total toxicity have not been specifically incorporated in the POTW's permit. In that case a permit violation would not occur regardless of the rate of discharge.

The Agency has encountered considerable difficulty in promulgating definitions of pass through and interference that are acceptable to members of the regulated community and that can withstand legal challenge (for a history of the relevent rulemakings and a discussion of the issues raised in litigation, see the preamble of the above-referenced **Federal Register** notice published on June 19, 1985). Nevertheless, EPA solicits useful comments on how these definitions might be amended in a way that strengthens control of hazardous waste discharges while at the same time giving adequate notice to industrial users of their potential responsibilities. One possible approach that the Agency is actively considering is to retain the current definitions of pass through and interference for enforcement purposes, but to require local limits development for pollutants of concern even if no POTW permit violation occurs or is threatened.

A second way to implement the prohibitions against pass through and interference is to move aggressively to set toxicity-based limits in NPDES permits issued to POTWs. Since findings of pass through and interference depend, by EPA's regulatory definition, on a violation of the POTW's NPDES permit, permit limits developed to protect against toxicity or based on toxicity testing would help POTWs develop local limits designed to avoid such violations. EPA has found that the effluents from many POTWs exhibit toxicity, so testing for compliance with toxicity-based limits should often serve as a reliable measure of whether pass through or interference has occurred. Expanding the use of toxicity-based permit limits is one of the Agency's principal goals, and EPA is currently emphasizing this concern in its quality reviews of NPDES State permit programs (for a more detailed discussion of this issue, see Part IV–C–1 below).

A related way to implement these prohibitions is to require that water-quality based permit limits for POTWs be established for additional constituents of hazardous waste likely to cause pass through or interference. These limits, when violated, would serve as a basis for determining instances of pass through or interference and for developing local limits designed to avoid such pass through and interference. Although EPA believes that this method would be more difficult to implement and would prefer to implement the prohibitions by amending the definitions of pass through and interference and by generally expanding the use of toxicity-based permit limits, the Agency nevertheless solicits comments on which constituents (if any) would be appropriate for additional permit limits.

2. Improvement of Controls on Spills and Batch Discharges, Illegal Discharges, and Discharges by Liquid Waste Haulers

Spills and batch discharges, as well as illegal discharges and discharges by liquid waste haulers, present special control and operational challenges to POTWs. Responses to an informal EPA questionnaire submitted by members of the Association of Metropolitan Sewerage Authorities (AMSA) indicated that spills and batch discharges to sewage treatment plants are frequent occurrences. As documented by POTW incidents data, these discharges cause many problems at the treatment plant, including worker illness, actual or threatened explosion, biological upset/inhibition, toxic fumes, corrosion, and contamination of sludge and receiving waters. Although some POTWs have adopted spill control measures, others are poorly prepared to cope with spills and batch discharges of hazardous wastes from industries.

Likewise, many respondents in the AMSA survey indicated concern about discharges from liquid waste haulers (legal and illegal) and "midnight dumpers" who utilize public sewers for illegal waste disposal. To address these problems, the Study recommended strengthening pretreatment regulatory and program controls.

The current general pretreatment regulations do not address these problems comprehensively, although present procedures may minimize some of the risks associated with these sources. The principal pretreatment regulation concerning spills is the requirement that all industrial users notify POTWs of slug loads of pollutant discharges that, because of volume or concentration, will interfere with or pass through the POTW (40 CFR 403.12). The Agency recently proposed to expand this requirement to include notification of slug loads that would violate any of the specific prohibitions of 40 CFR 403.5(b) (see 51 FR 21454, June 12, 1986).

Several options are available to strengthen the general pretreatment regulations to deal with these problems. For example, the pretreatment regulations might also be amended to require all industrial users to undertake preventive measures and institute follow-up on spill incidents. Alternatively, or in addition, the Agency could amend the regulations to require that POTWs develop their own enforceable plans for accidental spill prevention and control. Many POTWs already have such plans, and EPA believes that they hold promise in giving POTWs better control of hazardous wastes entering their treatment and collection systems. EPA's Region X has adopted this approach, and reports that it has been successful.

With respect to discharges from liquid waste haulers, these are subject to the same categorical standards, general and specific prohibitions, and local limits presently in effect for any industrial user. In addition, POTWs that receive RCRA hazardous wastes by truck, rail, or dedicated pipe are not covered by the Domestic Sewage Exclusion of RCRA, and are therefore subject to regulation under the RCRA permit-by-rule (40 CFR 270.60(c)), which includes a requirement that POTWs take corrective action for releases at their own solid waste management units.

One way to strengthen the present controls on discharges from liquid waste haulers would be to amend the general pretreatment regulations to require POTWs to develop and obtain EPA approval of procedures (in addition to those presently required under RCRA) for dealing with trucked-in wastes (whether trucked to the POTW headworks or to the sewer). These procedures could include manifesting, monitoring, and sampling requirements. Another method would be to amend the regulations to ban the introduction of hazardous wastes or constituents of hazardous wastes to sewer systems by truck except at specific points designated by the POTW (in addition to the RCRA requirements already applicable to generators or transporters of hazardous wastes).

EPA believes that each of these options would help improve controls on

spills and batch discharges and discharges by liquid waste haulers, and now plans to propose regulations along the lines described above. The Agency solicits comments or information on the number and types of local programs which already have measures in place to deal with such problems, and requests alternative suggestions on ways to address these concerns.

A related recommendation of the Study was that EPA assess the incidence and effects of "midnight dumping" into sewers. Part of the Agency's follow-up effort on the Study consists of consulting groups such as state and local water pollution control agencies and AMSA who will be able to help EPA review the incidence of illegal discharges of hazardous wastes to sewers. In this way, the Agency hopes to learn more about the number and significance of these discharges to determine whether it needs to develop a more effective program for their control. At present, it is unclear whether more regulatory requirements would be useful, or whether an aggressive policy of monitoring and enforcement is the only effective way to deal with these illegal actions. The Agency invites comment on this question.

In the meantime, EPA is continuing its criminal enforcement effort against these and other violators of the Clean Water Act. Investigators from the EPA National Enforcement Investigations Center's Office of Criminal Investigation continue to follow leads and gather evidence against illegal dischargers. If evidence exists that a crime has been committed, the case is referred first to EPA's Office of Criminal Enforcement and then, if warranted, to the Department of Justice or the appropriate U.S. Attorney's Office. Since 1983, several prosecutions have been initiated for willful illegal discharges into sewers or POTWs, all of which have resulted in convictions and substantial fines. The Agency will vigorously continue this effort to deter similar potential violators.

3. Notification Requirements

Proper notification to POTWs of hazardous waste discharges is essential to the control of such wastes. Without workable notification requirements, any further attempt to regulate hazardous constituents discharged to POTWs is difficult if not impossible.

Section 3010(a) of RCRA requires that any person who generates or transports a RCRA hazardous waste, or who owns or operates a facility for the treatment, storage, or disposal of such waste, must file a notification with EPA or with a State with an authorized hazardous waste permit program. Section 3018(d) of RCRA (enacted as part of the HSWA in 1984) clarifies that wastes mixed with domestic sewage are also subject to this notification requirement.

The Agency has not yet promulgated regulations to implement the Section 3018(d) notification requirements. The Study recommended that these requirements be implemented to ensure that regulatory authorities were aware of discharges of hazardous wastes to POTWs. EPA presently plans to amend the general pretreatment regulations to require that industrial users notify their POTW (rather than EPA or the State) of any constituents of hazardous wastes discharged. In addition, EPA has recently proposed to require industrial users to notify the POTW of certain changes in their discharges (see 51 FR 21454, June 12, 1986). The Agency solicits comments on these and other ways to improve notification requirements (including amendments to the RCRA regulations) to give POTWs greater control of hazardous constituents entering their treatment and collection systems.

4. Enforcement of Categorical Standards

The Study recommended that EPA implement stringent enforcement of categorical pretreatment standards. Such enforcement would cause a significant reduction of pollutant loadings to POTWs, particularly of heavy metals. More stringent enforcement of the standards was also recommended recently by the Pretreatment Implementation Review Task Force (PIRT) which last year gave the Agency recommendations for improving the national pretreatment program.

A series of audits performed by EPA of pretreatment programs at many municipalities has revealed that there is considerable room for improvement in compliance by industry with the categorical standards. One way to address the problem is through the relevant PIRT recommendations. In accordance with those recommendations, EPA has prepared guidance on compliance monitoring and enforcement for POTWs. This guidance will help POTWs set priorities for their local enforcement programs by providing definitions of "significant" industrial users and "significant" noncompliance. The guidance will also recommend monitoring frequencies for industrial users and provide guidance on the semi-annual reports required of industrial users.

The Agency is also conducting audits of all approved local pretreatment programs over a five-year period, as well as conducting pretreatment compliance inspections at POTWs once a year. EPA Regions and States will ensure that compliance is achieved by reviewing annual reports, conducting audits and inspections, ensuring public notice of violations, and, where appropriate, enforcing against industrial users. EPA has already filed many enforcement actions against violations of the pretreatment standards. However, the Agency's enforcement efforts are only one portion of the total effort envisioned by Congress. Improved POTW pretreatment programs are essential to the implementation and enforcement of pretreatment requirements.

The Agency will provide assistance and advice to POTWs experiencing difficulty in the early stages of local pretreatment program implementation. To this end, EPA plans to develop guidance on what constitutes proper implementation of a local program. The guidance would indicate the circumstances under which EPA would take action against a POTW for unacceptable performance. In addition, EPA Regions and States will establish an inventory of industrial users in areas where there is no local program and will establish control mechanisms for these users, as well as initiating enforcement actions where necessary.

EPA also intends to complete existing enforcement cases against any POTWs with unapproved local programs and will initiate new enforcement actions against POTWs that fail to implement approved programs.

The Agency has also recently proposed amendments to the general pretreatment regulations which would clarify and expand the requirements applicable to industrial users for self-monitoring (see 51 FR 21454, June 12, 1986). These amendments will help both POTWs and industrial users to become aware if categorical standards have been violated and to take the appropriate remedial or enforcement measures.

Industrial users must currently submit to the Control Authority (i.e., the POTW, the State, or EPA) a baseline monitoring report containing basic information on the user's discharge and compliance status (this report must be submitted within 180 days after the effective date of the applicable categorical standard). Industrial users must also submit a preliminary report on compliance with categorical pretreatment standards (to be submitted within 90 days of the deadline for compliance with the applicable standard) and subsequent periodic reports on compliance with the standards (to be submitted twice

yearly). The proposed amendments would clarify that the periodic compliance reports must be based on an appropriate amount of sampling and analysis (to be determined by the POTW) performed during the reporting period. The amendments also propose to require that industrial users report the results of sampling and analysis if these results indicate that a violation has occurred (this report must be submitted within three weeks of the apparent violation). The proposed amendments would further require industrial users to inform the Control Authority of any substantial changes in the volume or character of pollutants in the user's discharge. However, they would clarify that the Control Authority may elect to conduct its own monitoring program in lieu of relying solely on self-monitoring by its industrial users. Finally, the proposed amendments require the Control Authority to impose appropriate reporting requirements for pollutants not regulated by categorical standards.

EPA believes that these proposed changes, when promulgated, will substantially improve POTWs' ability to enforce compliance with categorical pretreatment standards. The Agency solicits comments on any additional ways to ensure that these standards are enforced to the fullest extent possible.

5. Local Limits

The Study recommended that local limits be improved and fully implemented at POTWs to control discharges of organic pollutants and other hazardous wastes.

Under the general pretreatment regulations (40 CFR 403.5(c)), POTWs administering local pretreatment programs must develop and enforce local limits to implement the general and specific prohibitions discussed above. All other POTWs must develop specific effluent limits if pollutants contributed by industrial users have resulted in instances of pass through or interference that are likely to recur.

Local limit-setting offers high potential for improved control of hazardous waste discharges. Efforts by POTWs to establish local limits have been successful in the case of toxic metals (cadmium, chromium, copper, lead, nickel, and zinc) which are frequently found in the sludges, the effluent, and the influent at POTWs. In August 1985, EPA Headquarters issued interpretive guidance to EPA Regions and States that clarified EPA's minimum local limits requirements for POTWs, especially the requirements for local limits on the metals mentioned above. Additional technical guidance is available in EPA's *Guidance Manual for Pretreatment Program Development* (October 1983).

Nevertheless, much work remains to be done to develop local limits for other hazardous constituents, especially organic solvents and other organic constituents. It is particularly important that these limits be derived from a sound technical analysis of interference and pass through concerns, so that the requirements of the CWA prohibiting interference and pass through will be more readily enforceable through specific, verifiable numeric effluent limits.

Issuing guidance in certain areas might be useful in helping POTWs to develop effective and enforceable local limits. For example, the Agency could issue guidance on limit-setting methodologies that emphasize pass through or interference concerns, although this is a technically difficult problem which may be best approached by issuing guidance in several steps, beginning with those constituents that are best understood. Likewise, the Agency could provide guidance and information on available technologies for use by POTWs in setting limits based on best professional judgment. EPA is now preparing such guidance, which will include advice on the use of toxicity testing to help POTWs set priorities for local limits by identifying discharges of particular concern.

In addition, the Agency might consider amending the general pretreatment regulations to require POTWs to use a permit system as the basis of their pretreatment programs, unless the POTW could demonstrate an adequate alternative approach. Such a system would involve a written document such as a permit that would reflect a binding agreement between the POTW and the industrial user concerning effluent limitations and monitoring frequency. Such a document, besides being a useful enforcement tool, could serve as a convenient mechanism for POTWs to develop local limits applicable to all industrial users. Although the Agency has not heretofore required POTWs to adopt such an approach, it is possible that many pretreatment programs would benefit from it.

As mentioned above, EPA also intends to propose modifying the regulations relating to pass through and interference to require that local limits be established for hazardous constituents in the absence of NPDES permit limits for these pollutants (for a further discussion of this issue, see Part IV.A.1 above).

EPA solicits comments on these and other ways to help POTWs set specific limits to control hazardous constituents.

B. Categorical Pretreatment Standards

One of the main recommendations of the Study was that EPA review and amend categorical pretreatment standards to achieve better control of the constituents of hazardous wastes. The Study recommended that the Agency modify existing standards to improve control of organic priority pollutants and non-priority pollutants, and that EPA promulgate categorical standards for industrial categories not included in the Natural Resources Defense Council consent decree (*NRDC v. Train*, 8 ERC 2120, D.C.C. 1976). As part of the effort of developing new categorical standards and amending existing standards, the Study also recommended that the Agency evaluate sources of solvents listed as hazardous wastes under RCRA that are discharged to POTWs and develop sampling and analytical protocols for nonpriority pollutants. In addition, the Study recommended that EPA consider including selected RCRA constituents on the CWA priority pollutant list, or adopting an equivalent approach for regulating these constituents.

Categorical pretreatment standards are an important means of reducing toxic loadings to the nation's sewers. EPA has made considerable progress in promulgating these national standards. Currently, categorical pretreatment standards for existing sources which include discharge limits for toxic pollutants apply to 23 specific industrial categories. The Study estimated that roughly 14,000 indirect dischargers are subject to categorical pretreatment standards, including such major contributors of industrial wastes as metal finishers, manufacturers of pesticides, and iron and steel manufacturers. Full compliance with the standards will result in a significant reduction in toxic loadings to POTWs.

The effluent guidelines rulemakings for these standards have concentrated on the control of the 126 compounds on the CWA priority pollutant list. Because heavy metals (e.g., lead, cadmium, nickel) are well represented on this list, the Study found that full compliance with existing categorical standards should significantly reduce loadings to POTWs of metal constituents such as those discharged by the metal finishing, battery manufacturing leather tanning and inorganic chemicals industries.

However, the Study predicted that implementing the standards would not reduce loadings of organic pollutants to

the same extent. The Study found that significant organics sources (e.g., pharmaceutical manufacturers, laundries, equipment manufacturing, wood refinishing, petroleum refining) are largely unregulated for these pollutants under existing categorical pretreatment standards.

Moreover, by authority of paragraph 8 of the NRDC consent decree, EPA determined that national categorical standards for all or part of twelve other industrial categories (including paint formulation, printing and publishing, and auto and other industrial laundries) were not necessary. Sources in these categories are still subject to the prohibited discharge standards of the general pretreatment regulations and may also be specifically regulated by local POTW ordinances, including local limits.

After considering the scope of the NRDC consent decree and the extent of paragraph 8 exemptions, the Study found that potential industrial sources of hazardous waste discharges to POTWs may not be sufficiently regulated by categorical standards. These unregulated sources include emerging industries (e.g., hazardous waste treatment and solvent and oil recovery) that are not addressed in the consent decree, and service-oriented industries (such as industrial laundries and hospitals) that tend to discharge smaller quantities of toxic pollutants on a facility-specific basis.

In addition, EPA has identified three other unregulated industrial categories as potential candidates for regulatory action to control discharges of toxic and hazardous pollutants. These are ferroalloy manufacturing, hot dip coating, and textiles.

In response to the recommendations of the Study, EPA has begun to collect additional data from twelve regulated and unregulated industries to determine which warrant national regulation. The unregulated industries are hazardous waste treaters (including centralized waste treaters), solvent reclaimers, barrel reclaimers, waste oil reclaimers, equipment manufacturers and rebuilders, paint manufacturers, transportation, industrial laundries, and hospitals. The regulated industries are textiles, timber, and pharmaceuticals. The data collection efforts consist of workplan development, characterization of the industry, sampling and analysis, wastestream characterization, determination of wastewater treatability, and environmental impact analyses. Wastestream sampling and analysis will be initiated for most of the twelve industries in FY 1986. Wastewater and sludges from five municipal wastewater treatment facilities will also be collected and analyzed.

The Agency will use the information collected through these efforts to develop decision documents, which will eventually be published for all the industries discussed above (beginning with hazardous waste treaters, solvent reclaimers, and pharmaceuticals in FY 1987). These decision documents will provide a technical basis to determine whether a regulation should be developed for a particular industry, and will also serve as a summary of information to be used by permit writers and POTWs in controlling hazardous wastes until final rules are published.

In response to the Study's recommendations concerning evaluation of solvents and development of sampling and analytical protocols, EPA has already begun to develop analytical techniques for the measurement of hazardous waste constituents, using Gas Chromatography/Mass Spectroscopy methods with new extraction procedures, standards for new compounds, new response time information, and spectra identification information. The Agency will use these techniques to evaluate industrial wastewaters for the presence of heretofore unmeasured pollutants in these wastewaters, including hazardous constituents which are also non-priority pollutants under the CWA. As part of this effort, EPA will be analyzing industrial and municipal wastewaters for over 350 chemicals in 1986.

EPA solicits comments on these and other ways to improve categorical pretreatment standards to achieve better control of hazardous constituents discharged to POTWs.

C. Water Quality Issues and Sludge Control

1. Issuance of Water Quality Criteria; Water Quality-Based Permitting

The Study recommended that EPA develop additional water quality criteria for constituents of RCRA hazardous waste, particularly pollutants that are not listed as priority pollutants under the CWA. The Study further recommended that the Agency expand the use of biomonitoring techniques and water quality-based permitting to improve protection of receiving waters. Expedited issuance of water quality standards was also recommended by PIRT.

Under section 303 of the CWA, water quality standards are developed by States, based either on federal water quality criteria or site specifically-derived criteria. The standards are meant to protect certain uses for receiving waters, such as fishing, swimming, water supply, or industrial use. Using wasteload allocation techniques, these water quality-based pollutant standards, in turn, are translated into effluent limits needed to protect water quality and designated uses pursuant to sections 301 and 302 of the CWA. The standards are also used by POTWs in developing local limits for industrial users to prevent pass through of pollutants which would cause a violation of the water quality-based limits of the POTW's NPDES permit (see 40 CFR 403.3(n), currently suspended). Guidance on the application of water quality criteria and standards and on general water quality-based toxics control is available in the Agency's *Technical Support Document for Water Quality-Based Toxics Control* (September, 1985).

The Agency has published water quality criteria documents for many organic pollutants, including some hazardous constituents evaluated in the Study. These pollutants include benzene, chlorinated benzenes, phenols, and toluene (for copies of the complete documents for individual pollutants, contact the National Technical Information Service [NTIS], 5285 Port Royal Road, Springfield, Virginia 22161). The Agency is presently developing criteria for some additional RCRA constituents (particularly organic pollutants, including solvents) which will help States to implement more water quality standards.

In addition, the Agency is conducting other activities to improve receiving water quality as part of its third round permits strategy. For example, every State and territory now has a water quality standard requiring that discharges must be free from toxic pollutants in toxic amounts. Using the chemical-specific and biological approaches presented in the *Technical Support Document*, EPA plans to encourage permitting authorities to implement these "free from" water quality standards more aggressively in permits to help ensure that hazardous constituents are not discharged from POTWs in toxic amounts. As part of this effort, EPA has begun working with the States to develop a list of waters for which technology-based requirements are not sufficient to protect water quality standards. The Agency's target is for States to develop needed water quality-based controls for twenty percent or more of the waters on the list by September 1987.

The Agency also plans to prepare a methodology for screening chemicals

not specifically covered by regulations promulgated by EPA to date under the Clean Water Act. This methodology would include scientific analysis of the particular chemical, review of toxicity information and ambient levels, treatability analysis, determination of whether the chemical is likely to be removed by technology-based treatment, and a decision about the need for a water quality criterion. Completing and implementing this methodology will continue over several years.

The Agency solicits suggestions on these and other ways to improve the state of water quality-based programs.

2. Sludge Criteria for RCRA Hazardous Wastes; Criteria for the Use and Disposal of Sewage Sludge

The Study recommended that EPA develop sewage sludge criteria for RCRA hazardous constituents, as well as criteria for the use and disposal of sewage sludge. These criteria will help POTWs set local limits to prevent interference with their sludge disposal options (see 40 CFR Part 403.3(i), currently suspended). PIRT also recommended that sludge management and disposal requirements be developed as soon as possible.

Section 405 of the CWA requires EPA to develop regulations providing guidelines for the use and disposal of municipal sludge. These regulations must identify sludge use and disposal options, specify factors to be considered in determining the practices applicable to each option, and identify concentrations of pollutants that interfere with each option. To date, regulations defining acceptable land disposal practices (40 CFR Part 257) have been promulgated under the joint authority of section 405 of the CWA and Subtitle D of RCRA which establish general requirements for the landfilling and land application of sludge and set maximum contaminant levels for cadmium and polychlorinated biphenyls (PCBs). Other laws, such as the Clean Air Act (CAA), RCRA Subtitle C, and the Toxic Substances Control Act (TSCA) also govern municipal sludge use or disposal, depending on the disposal option employed or the constituents and their levels present in the sludge.

EPA is currently preparing comprehensive sludge management regulations under the authority of section 405 of the CWA. This initiative has two parts. The first is programmatic: regulations have been proposed (February 4, 1986; 51 FR 4458) which delineate the roles of Federal and State governments in sludge management and which set forth the minimum criteria for state sludge management programs. The second part is technical: the Agency plans to propose and promulgate in two phases (the first phase is due to be promulgated in 1987) technical regulations addressing certain constituents in sludges managed by different practices (distribution and marketing, ocean dumping, landfilling, land application, and incineration). As a first step towards promulgating the technical sludge criteria, EPA has already developed a list of approximately 41 pollutants to be considered for regulation, many of which are RCRA constituents. The Agency plans to continue research on additional constituents of hazardous waste to be included in the second phase criteria. Promulgating these technical regulations for the use and disposal of sewage sludge should alleviate sludge management problems occasioned by the discharge of hazardous constituents to POTWs.

The Agency solicits comments on these and other ways to improve the quality and management of municipal sewage sludge. Comments concerning the specific proposed rules on state program requirements and technical criteria should be submitted in the context of those rulemakings.

D. Research and Data Collection

In addition to recommending regulatory and program changes to improve control of hazardous constituents, the Study recommended certain research and data collection efforts to fill information gaps on the sources and quantities of hazardous wastes and their fates and effects in POTW systems and the environment. The results of these efforts can then be used to design any additional controls which might prove necessary. If the recommended research indicates the presence of problems, RCRA, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Air Act (CAA) may be considered along with the CWA to control hazardous constituents and/or receiving POTWs.

EPA has already begun two of the research efforts recommended by the Study (development and refinement of sampling and analytical protocols for non-priority pollutants, and evaluation of RCRA solvents discharged to POTWs) as part of the process of modifying the categorical pretreatment standards as discussed above. Another research effort (assessment of midnight dumping into sewers) is discussed in Part IV–A–2 above. The remaining recommendations of the Study concerning research and data collection are discussed below.

1. General Pollutant Fate and Effects

The Study recommended that the Agency continue research on pollutant fate within POTW collection and treatment systems, including examination of the effects of biological acclimation on POTW removal efficiencies and pollutant fate. The Study also recommended continued research concerning the effects on human health and the environment of the discharge of hazardous wastes to POTWs.

The Study identified four significant pollutant fates within POTW treatment systems: air stripping, adsorption to sludge, biodegradation, and pass through to receiving waters. The first three of these constitute "removal" of pollutants from wastewaters; however, air stripping and adsorption do not necessarily destroy the pollutant and may result in adverse environmental impacts. Based on laboratory studies, the Study estimated that 92 percent of the pollutants identified in the Study are removed by a fully *acclimated* biological treatment system before discharge to surface waters. Assuming an *unacclimated* biological treatment system at a POTW, an estimated 82 percent of the pollutants identified in the Study are removed before discharge to surface waters. Of course, the actual removals at any site will depend upon the quality of the influent and can vary from little removal to substantial removal. In addition, as indicated by these projections, the degree of biological acclimation in POTW treatment units may significantly affect POTW removal efficiencies. The Agency needs additional information on wastewater discharge patterns and biological acclimation rates at POTWs before it can determine the importance of the individual fate mechanisms and the potential for adverse environmental impacts.

As an additional caveat, the Study also found that significant effects on water quality and sludge are caused as much by toxicity and other characteristics of the pollutants discharged, as by the mere quantities of these pollutants entering the environment. Water quality analyses and bioassays conducted by EPA's Office of Research and Development, EPA Regions, and States indicate that POTW effluent discharges frequently exhibit adverse water quality impacts when measured in terms of toxicity. The results of these studies depend on the particular methodology used and the

circumstances present at each site. There is no general study on the fate and effects of hazardous constituents discharged to POTWs. Therefore, research should be continued to learn more about the causes of toxicity, including hazardous constituents and non-priority pollutants.

EPA intends to continue its research on the fates and effects of hazardous wastes discharged to POTWs. In the meantime, the Agency solicits comments on these and other ways to improve its knowledge in this area.

2. Air Emissions

The Study recommended collecting data on emissions of volatile organic compounds (VOCs) and other potentially toxic air pollutants from POTWs, as well as developing and refining techniques for monitoring air releases at POTWs.

Air emissions from POTWs may emanate from collection and treatment systems in several ways. Organic compounds contained in the discharges from industrial users may volatilize both en route to the POTW and at the POTW itself. These pollutants are emitted as gases to both the ambient air and the workplace (POTW) environment. In addition, the incineration of sewage sludge may emit to the ambient air hazardous constituents (especially VOCs and metals) which have been adsorbed to the sludge during treatment. Both volatilization and incineration may affect worker health and safety and ambient air quality. Worker health and safety might be affected by the increased potential for explosions due to volatile constituents in the wastestream, and by acute and chronic health effects due to contact with volatilized pollutants.

With respect to ambient air quality, EPA estimates that at least 12 million kilograms per year of VOCs are emitted by POTWs to ambient air. POTW emission of VOCs is predicted by mathematical models and has been confirmed by EPA through ambient monitoring at Philadelphia, Pennsylvania as well as in laboratory tests. However, a more thorough evaluation of the health effects of these and other volatile pollutants is hampered substantially by difficulties in measuring emissions from POTWs, limited understanding of pollutant fate in ambient air, lack of exposure assessments, and lack of human health criteria for exposure to toxics in the ambient air environment. In addition, more information is needed on the effect of incineration of contaminated municipal sludges on air quality. To this end, the Agency is preparing a risk assessment methodology which will improve its knowledge of the environmental impacts of sludge incineration.

The Study recommended that EPA conduct further study of air emissions from POTWs before developing regulatory or other strategies to deal with the problems. Strengthening the general pretreatment program as discussed in Parts A and B below should result in improvement of the quality of such emissions. In addition (depending on the results of the recommended research), the Agency may consider expanding the regulation of VOCs under the CAA. For example, emission limits might be established for VOCs from sewers and POTWs (on a State-by-State basis using State Implementation Plans or by means of permits for non-attainment areas) in order to meet the National Ambient Air Quality Standards established under section 109 of the CAA. In addition, the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) under section 112 of the CAA might also be used to control air releases of hazardous wastes. Section 112 of the CAA also provides for imposition of management practices that could be employed to keep volatile materials out of the system before they can pose a problem.

Alternatively, EPA might consider regulating air emissions from POTWs receiving hazardous wastes under section 3004(n) of RCRA, which requires the Agency to promulgate regulations for the monitoring and control of air emissions at RCRA treatment, storage, and disposal facilities (TSDFs). Such an action would require modifying the Domestic Sewage Exclusion. Other possible RCRA regulatory mechanisms for the control of air emissions are section 3004(m), which requires EPA to promulgate treatment standards for wastes subject to the land disposal ban, and section 3005(c), which enables the Agency to add site-specific conditions to RCRA permits as necessary to protect human health and the environment.

EPA solicits comments on these and other ways to improve control of hazardous constituents discharged to the ambient air from POTW treatment and collection systems.

3. Groundwater Contamination

The Study recommended that EPA assess possible sources of groundwater contamination from POTWs, including exfiltration (leakage) from sewers and contamination due to leachates from landfills which handle sewage sludges.

At the present time, the Agency does not know whether leaks from POTW sewer systems have caused groundwater contamination. There are several theoretically possible pathways for the contamination of groundwater by the discharge of hazardous wastes to POTWs, including exfiltration from sewers, leaks from wastewater treatment units, land application of municipal sludge (land filling and land spreading), wastewater treatment lagoons, land treatment of municipal wastewater, and deep well injection.

Of these pathways, the Study singled out exfiltration from sewers as most deserving of further study (because of current lack of knowledge on the subject rather than because contamination from this pathway seemed likely). Municipal sludge disposal and land treatment are already regulated and under consideration for further regulation. With respect to wastewater treatment lagoons, the Agency is conducting a study under the authority of section 3018(c) of the HSWA of 1984 to determine the impact of these lagoons on groundwater contamination. This study is due to be completed in the spring of 1987. Concerning deep well injection, the Study estimated that fewer than 100 POTWs use this method of waste disposal. The Study assumed that injection would in any event produce minimal groundwater impacts because of its regulation under the Safe Drinking Water Act. Therefore, compared to other pathways to contamination discussed by the Study, exfiltration to groundwater from sewers seemed to be the most likely candidate for future research.

After study is completed on the effects (if any) of groundwater contamination resulting from hazardous constituents discharged to POTWs, the Agency will consider regulatory or program strategies to control such contamination. In the meantime, EPA solicits comments on ways to improve its knowledge about groundwater contamination caused by the discharge of hazardous wastes to POTWs.

V. Related Issues

Section 3018(a) and the Study are both concerned with the results of the Domestic Sewage Exclusion of RCRA. Since today's notice is intended by EPA to address the specific recommendations of the Study, it does not discuss all related issues concerning hazardous and other wastes received by POTWs. These peripheral issues include the interpretation of RCRA corrective action requirements, the RCRA mixture rule for the definition of hazardous waste, and the dimensions of the RCRA "permit by rule." Other issues include the application of RCRA financial

responsibility requirements (including the closure and financial assurance provisions for hazardous waste management), the disposal of wastes to POTWs from CERCLA sites, the role of quantitative risk assessment in protecting human health and the environment, and the relation of future regulatory actions to current RCRA delegation to States. EPA is now separately examining these related concerns, and plans to issue policies and propose regulatory changes as appropriate in the future.

In addition, the Agency wishes to point out that, according to the Study, approximately half of all hazardous wastes studied in four organic chemicals industries are treated and discharged directly to surface waters under National Pollutant Discharge Elimination System (NPDES) permits. Such wastes are not deemed hazardous under RCRA section 1004(27) (see 40 CFR 261.4(a)(2)). Although this ANPR addresses mainly hazardous waste disposal to POTWs, the Agency is also interested in receiving comments about the implications of this finding for the NPDES permit program.

VI. Regulatory Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis (RIA) be conducted if certain criteria are met, such as an annual economic impact of a regulation totaling $100 million. Because no regulatory amendments are proposed in today's notice, EPA has not yet evaluated whether or not an RIA is necessary. When formal proposals are developed for publication, the Agency will reconsider the question of the necessity for an RIA.

VII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) requires an analysis of any significant economic impact of proposed and final regulations on small entities. Because the Agency is proposing no regulatory amendments in today's notice, we have not developed an RFA analysis. When EPA develops formal proposals for publication pursuant to today's notice, we will reconsider whether or not to develop an RFA analysis.

VIII. Paperwork Reduction Act

Today's notice contains no formal proposals for regulatory amendments and therefore contains no information collection requirements which must be reviewed by OMB under Section 3504(h) of the Paperwork Reduction Act of 1980. These requirements will be submitted for review at the time the Agency makes a decision on proposals for publication.

Lee M. Thomas,

Administrator.

August 14, 1986.

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Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 0
Standards of Conduct; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 0

[Docket No. R-86-1303; FR 2146]

Standards of Conduct

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise and improve the Department's Standards of Conduct regulations. It would clarify certain provisions of the current regulations and eliminate redundant and outdated material. In addition, it would conform the current regulations to subsequently enacted statutes. During the comment period, this rule will be referred to officials of the American Federation of Government Employees (AFGE) for review. The AFGE may request negotiations concerning certain changes to the rule. In addition, after consideration of the comments received, the rule will be submitted to the Office of Personnel Management for approval prior to publication as a final rule.

DATES: Comments due by October 21, 1986.

ADDRESS: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David D. White, Assistant General Counsel for Administrative Law, Office of General Counsel, Room 10254, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-7137 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This proposed rule would comprehensively amend the Department's Standards of Conduct regulations. The proposed rule would specifically define permissible financial interests and outside activities for Department employees as well as interests which are prohibited by the Ethics in Government Act of 1978 and Office of Personnel Management regulations.

Major Provisions: Major changes which would be made by this proposed rule are as follows:

Subpart A

1. The statement of purpose in § 0.735-101 would be shortened and simplified. In addition, a similar statement now set forth in § 0.735-201 would be deleted entirely.

2. The provisions of § 0.735-104 would be modified to clarify the role and responsibilities of the Department Counselor and to identify the Department's Deputy Counselors.

3. A new provision would be added in § 0.735-106 authorizing waiver of one or more of the regulations' restrictions by the Department Counselor when their application is not necessary to prevent an actual or apparent conflict of interest in a particular case.

4. Section 0.735-201 of the current regulations would be eliminated because it is superfluous and unnecessary. Section 0.735-202 of the current regulations would be renumbered § 0.735-201 and all following sections would be renumbered accordingly. Unless otherwise indicated, all subsequent section references in Subpart B of this preamble are to the renumbered sections.

5. The prohibition in § 0.735-202(a)(3) on accepting gifts from a person or organization whose interests may be substantially affected by the performance of an employee's official duties would be changed to prohibit acceptance when these interests may be substantially affected by "the actions of the Department."

6. In § 0.735-202(b)(2), the present standards under which food and refreshments may be accepted would be modified to cover two situations. First, the existing standard by which food and refreshments of "nominal value" may be accepted by Department employees on infrequent occasions in the ordinary course of business would be changed to permit acceptance "at conferences, seminars, or other similar meetings when payment by the employee would not be practicable." Second, the new regulation would permit the acceptance by HUD employees of food and refreshments at "meetings which do not involve the inspection, monitoring, or selection of grantees, contractors, or others who do business, or are seeking to do business, with the Department."

7. A new paragraph (b)(5) would be added to § 0.735-202 permitting attendance by Department employees "at no charge or at a reduced charge at a broadly attended conference, workshop or seminar, which is related to the work of the Department or a broadly attended social function."

8. A new paragraph (b)(6) would be added to § 0.735-202 permitting acceptance by Department employees of in-kind contributions toward official travel (for example, donated transportation tickets and meals) made by a non-Federal entity, if consistent with the Department's official travel policies. These policies would be intended to permit such acceptance only in circumstances where no actual or apparent conflict of interest would result. The policies would be available for public inspection.

9. In § 0.735-203(b)(4), the prohibition against engaging in outside employment or activities related to the substantive programs of the Department would be clarified so that the prohibition would be against "active participation in, or conduct of, a business dealing with, or related to, real estate or manufactured housing including, but not limited to, real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, construction, construction financing, land planning and real estate development." The new standard would permit employees to engage in isolated transactions in areas that may be related to programs of HUD when there is no actual conflict of interest.

10. In § 0.735-203(b)(5) a provision would be added prohibiting an employee from "serving as an officer or director of any organization which engages in lobbying activities concerning HUD's programs." This provision would codify existing Department policy on this issue.

11. A provision would be added at § 0.735-203(d)(3) prohibiting an employee from using his title or government experience to promote a commercial enterprise.

12. Current provisions concerning honoraria in § 0.735-203(e)(4) would be revised to reflect the statutory limitation (2 U.S.C. 441i) on receipt of honoraria. The limit, with certain exceptions, is $2000 per appearance, speech or article.

13. A new provision would be added in § 0.735-203(f) to reflect the statutory limitation on outside earned income that may be received by Presidential appointees at or above GS-16. That limitation is 15% of annual salary.

14. In § 0.735-203(g) and (h), new provisions would be added incorporating the restrictions on outside activities set forth in 18 U.S.C. 203 and 205. In general, these restrictions pertain to off-duty employee involvement in outside claims, requests for rulings,

contracts and applications or other similar particular matters in which the United States is a party or has a direct and substantial interest and which are pending before a Federal or District of Columbia Department or agency or, in some instances, court.

15. A new § 0.735–203(k) would be added permitting an employee to serve as a member of the Board of a Federal Credit Union or a cooperative or condominium association for a housing project which is not subject to Department regulation or, if so regulated, in which the employee resides. This provision would codify existing Department policy.

16. Section 0.735–204, which deals with permissible holdings, would be substantially revised. Most restrictions on employee investment in non-HUD related properties would be eliminated, but restrictions against employee investment in HUD-related interests or properties would be expanded. Thus, the current restriction on the number of permissible investment units (the so-called "six unit rule") would be eliminated, but restrictions on FHA-financing of properties other than the employee's principal residence would be broadened. Most of the new or revised provisions in this section would reflect this change in emphasis, and would also codify existing Department policy concerning HUD-related financial interests.

17. The primary purpose of § 0.735–204(a) of the new regulation would be to regulate certain financial interests acquired after beginning employment with the Department. Prohibited interests acquired prior to HUD employment would be governed by § 0.735–204(c).

18. The current prohibition in § 0.735–205(a)(3) against the acquisition of GNMA securities would be eliminated. Accordingly, employees would now be able to purchase GNMA securities and funds comprised of GNMA securities. The holding of GNMA-guaranteed securities will not create a potential conflict-of-interest on the part of a HUD employee, because actions that may be taken by GNMA vis-a-vis the issuer after default will not affect the security holder. GNMA's guarantee of timely payment of principal and interest on mortgage-backed securities is backed by the full faith and credit of the United States. From the perspective of the investor, therefore, GNMAs are essentially similar to Treasury securities, which are not prohibited investments. However, an employee who has access to information unavailable to the general public relevant to GNMA securities (such as prepayment trends) still would be prohibited from acquiring, selling, or otherwise dealing in GNMA securities on the basis of this "inside information." GNMA transactions based on inside information would be in violation of § 0.735–201(a) of the new regulation which would prohibit using public office for private gain and § 0.735–206 which would prohibit the use of inside information.

19. The new regulation would continue to prohibit the holding and acquisition of FNMA securities and would also bar the holding of securities collateralized by FNMA securities. See § 0.735–204(a)(1). The obligations of FNMA are not backed by the full faith and credit of the United States, and the interests of holders of FNMA debt obligations (including guaranteed pass-through securities) or equity securities could be affected by actions taken by HUD under its oversight and regulatory responsibility.

20. A new provision would be added at § 0.735–204(a)(4) barring an employee from having any interest in a Department-owned insured, or subsidized project or unit other than an employee's principal residence. This is a departure from the current rule at § 0.735–204(a)(6) which permits an employee, for example, to obtain a HUD-insured loan for an immediate past residence, vacation or retirement home.

21. In § 0.735–204(a)(5), a new provision would be added barring the receipt of HUD subsidies under Section 8 of the United States Housing Act of 1937, as amended except in certain limited situations. The provision would codify existing Department policy.

22. The prohibition against "speculation" in real estate, currently in § 0.735–205(a)(6), would be deleted since it is ambiguous and unenforceable.

23. A new § 0.735–204(a)(6) would be added barring acquisition of a direct creditor interest in mortgages insured by HUD. This restriction would be in addition to that set forth in § 0.735–204(a)(4) which would prohibit an employee from acquiring an interest in a HUD-insured investment property. This provision would not bar the acquisition of an indirect interest in HUD-insured mortgages, such as through GNMA securities.

24. A new provision would be added in § 0.735–204(b)(1) permitting employee investments in widely held mutual or money market funds which have broadly diversified portfolios although these funds may have HUD-related assets. The provision would codify existing Department policy.

25. A new provision would be added in § 0.735–204(b)(2) permitting acquisition or holding of an interest in a publicly traded municipal bond fund or trust if less than 25% of the assets are bonds or notes which financed HUD-related projects. This position would codify existing Department policy.

26. A new § 0.735–204(b)(3) would be added permitting investment as a limited partner in a large public partnership if less than 25% of the partnership assets are involved in HUD-related housing. This also would codify existing Department policy.

27. Section 0.735–204(c) would add a new provision setting forth a procedure to resolve conflicts which may arise because of prohibited interests acquired involuntarily or acquired before employment with the Department. Prohibited interests acquired involuntarily or prior to HUD employment must be reported to, and considered by, a Deputy Counselor. Generally, an employee will be permitted to retain such interests in the absence of an actual conflict of interest. For example, an employee who owned a property with Section 8 tenants in place prior to HUD employment may normally retain the property and the tenants after beginning employment with the Department. However, the employee would not be permitted to take on new Section 8 tenants during HUD employment.

28. A portion of the present regulations implementing 18 U.S.C. 208 would be deleted. Currently, § 0.735–205(b)(2) permits an employee to act in a matter involving a corporation if the employee owns stock in the corporation worth less than $7500, (and which is less than 1% of the total stock in that corporation), and if the employee, his or her spouse, or minor child is not involved in managing the corporation. This provision would be deleted because the $7500 ceiling is arbitrary and is not "inconsequential" within the meaning of 18 U.S.C. 208. Further, retaining this provision would be inconsistent with other portions of the proposed rule which would prohibit the mere acquisition of certain HUD-related interests.

29. The provision of the present regulations (currently in § 0.735–205(c)) which attributes the financial interests of an employee's spouse and minor child to the employee, would be deleted. We believe that this provision is unfair and unenforceable, particularly when an employee's spouse has independent means and the employee has no actual control over the spouse's investments. Of course, sham transactions would still be barred by § 0.735–204. For example, the acquisition of a prohibited interest in

the name of a minor child would be barred as a sham transaction if the employee's funds were used to purchase the interest or if the employee directed purchase of the interest with other funds.

30. Section 0.735–205 would be expanded to include a prohibition against the use of Government personnel for other than official purposes. In addition, the prohibition against the misuse of Government property set forth in this section is intended to include intangible property such as the Government's rights in data, patents, and copyrights, as well as products and services it has under grants, loans, subsidies, and insurance.

31. A new § 0.735–207 would be added prohibiting an employee from misusing his or her supervisory relationship or management position to obtain favors from, encourage a contribution from, or sell to, another HUD employee or someone who has business with the Department.

32. A number of miscellaneous employee conduct provisions contained in §§ 0.735–207 through 0.735–212 of the present regulations would be revised and streamlined.

Subpart C

33. Section 0.735–301 would add a new provision setting forth the groups of employees required to submit public financial disclosure statements.

34. A new provision would be added at § 0.735–302(d) requiring all employees who serve on Source Evaluation Boards and Technical Evaluation Panels to file a confidential disclosure statement.

35. Much of the technical information in the present regulations concerning time and place of filing confidential statements would be deleted. This information would be set forth in a Handbook detailing filing procedures.

Subpart D

36. All provisions relating to special Government employees would be consolidated in Subpart D, §§ 0.735–401–405.

37. Section 0.735–402 would add a new provision prohibiting special Government employees from having financial interests or engaging in outside employment or activities that constitute an actual conflict of interest. This section would codify existing Department policy.

Subpart E

38. Subpart E would be new and would implement the post employment restrictions set forth in the Ethics in Government Act of 1978.

39. Current § 0.735–213 would be transferred to Subpart E, § 0.735–501, to consolidate provisions dealing with conduct and responsibilities of former employees. Section 0.735–501(f) would incorporate the provisions of 25 U.S.C. 450i(f), permitting representation before any Federal Department, agency, court or commission by a former federal employee employed by an Indian tribe.

40. Sections 0.735–502–509 would set forth provisions concerning disciplinary actions that may be initiated against former employees who violate post employment restrictions.

Determinations

HUD regulations published at 24 CFR Part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions for certain actions, activities and programs specified in § 50.20. Since the amendments made by this proposed rule would fall within the categorical exclusions for internal administrative procedures set forth in paragraph (k) of § 50.20, the preparation of an Environmental Impact Statement or a Finding of No Significant Impact is not required for this proposed rule.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities. The proposed rule would affect only present and former Government employees.

This proposed rule does not constitute a "major rule" as the term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule is listed as item 786 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 0

Conflict of interest.

Accordingly, 24 CFR Part 0 is proposed to be revised as follows:

PART 0—STANDARDS OF CONDUCT

Subpart A—General Provisions

Sec.
0.735–101 Purpose.
0.735–102 Definitions.
0.735–103 Notification to employees.
0.735–104 Interpretation and advisory service.
0.735–105 Disciplinary and other remedial actions.
0.735–106 Waivers.

Subpart B—Conduct and Responsibilities of Employees

0.735–201 Proscribed actions.
0.735–202 Gifts, entertainment, and favors.
0.735–203 Outside employment and other activities.
0.735–204 Financial interests.
0.735–205 Misuse of Government personnel and property.
0.735–206 Misuse of official information.
0.735–207 Misuse of official position.
0.735–208 General conduct and conduct prejudicial to the Government.
0.735–209 Intermediaries and product recommendations.
0.735–210 Membership in organizations in an official capacity.
0.735–211 Political activities.
0.735–212 Miscellaneous statutory provisions.

Subpart C—Statements of Employment and Financial Interests

0.735–301 Employees required to file under the Ethics in Government Act of 1978.
0.735–302 Employees required to file confidential financial disclosure statements.
0.735–303 Employee's grievance regarding filing requirements.
0.735–304 Reporting and review requirements.
0.735–305 Confidentiality of employees' statements.

Subpart D—Conduct and Responsibilities of Special Government Employees

0.735–401 Applicable provisions.
0.735–402 Outside employment, activities and financial interests.
0.735–403 Political activities.
0.735–404 Financial reporting.
0.735–405 Post employment restrictions.

Subpart E—Conduct and Responsibilities of Former Employees

0.735–501 Prohibited activities by former employees.
0.735–502 Disciplinary action.
0.735–503 Initiating disciplinary proceedings.
0.735–504 Notice.
0.735–505 Hearings.
0.735–506 Decision without a hearing.
0.735–507 Appeals.
0.735–508 Sanctions.
0.735–509 Judicial review.

Authority: 5 U.S.C. 301; 18 U.S.C. 201–212; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306; 5 CFR 735.101–412.

Subpart A—General Provisions

§ 0.735–101 Purpose.

The maintenance of high standards of honesty, integrity and impartiality by Government employees is essential for the proper performance of the public business and the maintenance of confidence by citizens in their Government. To inform the public and Department staff as to the specific application of this general principle, this Part sets forth the Department's regulations prescribing standards of conduct for, and governing the submission of statements of employment and financial interests by its employees. All questions about, or requests for, interpretations should be directed to the Department Counselor or to a Deputy Counselor.

§ 0.735–102 Definitions.

(a) "Department" means the Department of Housing and Urban Development.

(b) "Employee" means an employee of the Department, other than a Special Government employee.

(c) "Special Government employee" means a person who is retained, designated, appointed or employed by the Department to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis, as defined in 18 U.S.C. 202.

(d) "Person" means an individual human being.

(e) "Business entity" means a corporation, company, firm, partnership, society, joint stock company, or any other organization or institution having a business purpose including, but not limited to:

(1) Non-profit organizations or institutions which own or operate housing units, and

(2) Educational and other institutions doing research and development or related work involving grants or other types of financial assistance from, or contracts with, the Government.

§ 0.735–103 Notification to employees.

The provisions of this Part shall be brought to the attention of, and made available to, each employee and special Government employee at the time of entrance on duty and at least annually thereafter. Each revision of this Part shall be brought promptly to the attention of all employees and special Govenment employees.

§ 0.735–104 Interpretation and advisory service.

(a) Department Counselor: The General Counsel is the Standards of Conduct Counselor for the Department and shall serve as the Department's designee to the Office of Personnel Management on matters covered by this Part. The Department Counselor shall be responsible for directing and coordinating the Department's activities under this Part and assuring that adequate counseling is provided to prospective, present and former employees of the Department.

(b) Deputy Counselors: the Department's Deputy Standards of Conduct Counselors are the Associate General Counsel for Equal Opportunity and Administrative Law, the Assistant General Counsel for Administrative Law, all Regional Counsel and any other employees designated by the Department Counselor. The Department Counselor and the Deputy Counselors shall provide authoritative advice to former, current and prospective Department employees who seek guidance on questions of conflicts of interest and on other matters covered by this Part.

§ 0.735–105 Disciplinary and other remedial actions.

(a) When an actual or apparent conflict of interest or other violation of this Part is not resolved to the satisfaction of a Deputy Counselor, the matter shall be reported by the Deputy Counselor to the employee's supervisor; copies of the report shall also be provided to the Office of Personnel and Training and other concerned offices, such as the Office of the Inspector General, and the Office of the appropriate Assistant Secretary, Regional Administrator or other field office head.

(b) The employee's supervisor must consider the report of the Deputy Counselor, initiate appropriate remedial action, and inform the Deputy Counselor of the action taken. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of the conflicting interest within a reasonable time, but normally not more than 60 days after notice that a conflict exists;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

§ 0.735–106 Waivers.

(a) The Department Counselor, in an individual case, may waive any requirement of this Part not required by law if the Department Counselor finds that application of the requirement is not necessary to prevent an actual or apparent conflict of interest in a particular case.

(b) Each such waiver shall be in writing and supported by a statement of the facts and conclusions on which it is based.

(c) The Department Counselor's authority under this section may not be delegated.

Subpart B—Conduct and Responsibilities of Employees

§ 0.735–201 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office or official title for private gain;

(b) Giving preferential treatment;

(c) Impeding Government efficiency or economy;

(d) Losing independence or impartiality;

(e) Making a Government decision outside official channels;

(f) Adversely affecting the confidence of the public in the integrity of the Government;

(g) Discriminating against any other employee, or applicant for employment, on the ground of race, color, religion, national origin, sex, age, or handicap;

(h) Excluding any person from participating in, or denying to any person the benefits of, any program or activity administered by the Department on the ground of race, color, religion, sex, national origin, age, or handicap; or

(i) Knowingly participating in, or attending while on official business, any segregated meetings, or meetings held in segregated facilities, from which persons are excluded because of race, color, religion, national origin, sex, age or handicap.

§ 0.735–202 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of value, from a person, State government, local government or business entity, or a group of persons, State governments, local governments or business entities, who or which:

(1) Has, or is seeking, any contractual or other business or financial relationship with the Department;

(2) Conducts operations or activities that are regulated by the Department; or

(3) Has interests, or whose members or clients have interests, that may be

VOL 51 ISS 163 AG 22 1986 UMI

substantially affected by the actions of the Department.

(b) The prohibitions of paragraph (a) of this section do not apply:

(1) When the circumstances make it clear that family or personal relationships are the motivating factors for a gift, entertainment or favor;

(2) To acceptance of food and refreshments (i) at conferences, seminars, or other similar meetings where payment by the employee would not be practicable, and (ii) at meetings which do not include the inspection, monitoring, or selection of grantees, contractors, or others who do business, or are seeking to do business, with the Department;

(3) To acceptance by an employee of loans from banks or other financial institutions on customary terms;

(4) To acceptance by an employee of unsolicited advertising or promotional material, such as pens, pencils, plaques, note pads, calendars, and other items of nominal intrinsic value;

(5) To attendance by an employee at no charge or at a reduced charge at a broadly attended conference, workshop or seminar, which is related to the work of the Department, or a broadly attended social function;

(6) To acceptance by the Department, under its policies governing official travel, of a donation of transportation, lodging or meals from a non-federal entity to permit an employee to attend a meeting or other event in an official duty status.

(c) An employee shall not solicit contributions for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself (5 U.S.C. 7351). However, this paragraph does not prohibit voluntary gifts or donations of modest value made because of special circumstances such as marriage, illness or retirement.

(d) An employee shall not accept any gift, present, decoration or other item from a foreign government, except as authorized by the Foreign Gifts and Decorations Act (5 U.S.C. 7342).

§ 0.735–203 Outside employment and other activities.

(a) Reference in this section to outside employment and outside activities is not intended to cover employee investments. That subject is covered in § 0.735–204.

(b) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the employee's official duties and responsibilities. Incompatible activities include, but are not limited to:

(1) Outside activities which tend to impair the employee's ability or capacity to perform official duties and responsibilities;

(2) Outside activities that may be construed by the public to be the official acts of the Department;

(3) Outside activities that establish relationships or property interests that may result in a conflict between private interests and official duties;

(4) Active participation in, or conduct of, a business dealing with, or related to, real estate or manufactured housing including, but not limited to, real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, construction, construction financing, land planning, and real estate development;

(5) Serving as an officer or director of any organization which engages in lobbying activities concerning Department programs;

(6) Serving as an officer or director of a Department approved mortgagee, lending instutition or organization which services mortgages or other securities for the Department;

(7) Accepting employment, with or without compensation, with any person or business entity doing business with the Department;

(c) An employee shall not receive any salary or any thing of monetary value from a private source as compensation for his or her services to the Government (18 U.S.C. 108).

(d) An employee must obtain the prior approval of the appropriate Deputy Counselor:

(1) Before maintaining a publicly listed place of business, or

(2) Before using his or her title or reference to his or her government employment or experience in order to promote a commercial enterprise, or

(3) Before accepting employment, with or without compensation

(i) With a State or local government, or

(ii) In the same professional field as that of the employee's official position; however, an attorney of this Department may, in off duty hours and consistent with his or her official responsibilities, participate without compensation in an organized program to provide legal assistance and representation to those who do not have meaningful access to counsel.

(e) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive order, Office of Personnel Management regulations, or this Part, except that:

(1) An employee may not receive compensation for any lecture, writing, or consultation, the subject matter of which is substantially related to the responsibilities, programs, or operations of the Department;

(2) An employee may not, either with or without compensation, engage in teaching, lecturing or writing that is dependent on information obtained as a result of his or her Government employment, except when that information has been made available to the general public, or will be made available on request, or when the appropriate Assistant Secretary or his or her designee gives written authorization for the use of nonpublic information on the basis that the use is in the public interest;

(3) An employee may use his or her title in connection with writing for publication only if:

(i) The writing contains a statement indicating that the views contained therein are those of the employee as an individual and do not necessarily represent the views of the Department of Housing and Urban Development; or

(ii) Such use of the employee's title is approved in advance by the appropriate Assistant Secretary or equivalent, or his or her designee;

(4) An employee may not accept any honorarium of more than § 2,000 for any appearance, speech or article (2 U.S.C. 441i), except if the honorarium is paid directly to a charitable organization at the request of the employee and selected by the payor from a list of 5 or more charitable organizations provided by the employee. In computing the § 2,000 amount, the following may be excluded:

(i) Actual travel and subsistence expenses for the employee and the employee's spouse or aide; and

(ii) Amounts paid or incurred for any agent's fees or commissions.

(f) Any employee who is compensated at an amount equal to or above GS–16 in the General Schedule and who occupies a full-time position, appointment to which must be made by the President by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of the employee's salary (Pub. L. 95–521, section 210, 5 U.S.C. App.).

(g) An employee may not directly or indirectly seek or receive compensation for services, rendered by himself or others, in connection with any proceeding, application, request for ruling, contract, claim, or other

particular matter in which the United States is a party or has a direct and substantial interest and which is before any Federal or District of Columbia department or agency (18 U.S.C. 203).

(h) An employee may not act, with or without compensation, as agent or attorney for another:

(1) In prosecuting a claim against the United States; or

(2) In connection with any proceeding, application, request for ruling, contract or other particular matter in which the United States is a party or has a direct and substantial interest and which is before any Federal or District of Columbia department, agency or court (18 U.S.C. 205).

(i) Permissible exceptions to the prohibitions set forth in paragraphs (g) and (h) of this Section include:

(1) Representation without compensation in connection with a disciplinary, loyalty, or personnel proceeding;

(2) Representation with or without compensation of immediate family members and those to whom the employee owes a fiduciary duty except in those matters in which the employee has participated personally and substantially as a Government employee; and

(3) Statements required to be made under penalty for perjury or contempt.

An employee seeking to engage in one of these excepted activities is encouraged to consult in advance with a Deputy Counselor.

(j) The prohibitions set forth in paragraphs (g) and (h) of this section are in addition to, and not in lieu of, any other restrictions contained in this subpart.

(k) This section does not prohibit an employee from serving in an individual capacity as an officer or a member of the Board of Directors of:

(1) A Federal Credit Union, or

(2) A cooperative or condominium association for a housing project which is not subject to regulation by the Department or, if so regulated, in which the employee personally resides.

(l) When participating in any activity permitted by this section, an employee shall make certain that his or her official title or Department connection is not shown or used in a manner which implies that the employee is acting in an official capacity.

§ 0.735–204 Financial interests.

(a) An employee shall not have a direct or indirect financial interest that conflicts, or appears to conflict, with his or her official duties and responsibilities. Such interests include, but are not limited to, the voluntary acceptance, acquisition or holding of:

(1) Securities issued by the Federal National Mortgage Association and securities collateralized by FNMA securities.

(2) FHA debentures or certificates of claim.

(3) Bonds or notes issued by a local or State government, or an agency thereof, the proceeds of which are to be used to facilitate the construction, rehabilitation, or purchase of housing which is, or will be, insured or subsidized by the Department.

(4) Stock or other interest in a Department-owned, insured or subsidized multifamily project or single family dwelling, cooperative unit, or condominium unit, except to the extent that that stock or other interest represents the employee's principal residence. Employees who wish to purchase a Department-held property as a principal residence must adhere to the procedures established by the Assistant Secretary for Housing for the administration of the property disposition program set forth in Handbook 4310.5.

(5) Any Department subsidy provided pursuant to Section 8 of the United States Housing Act of 1937, as amended, to or on behalf of a tenant of property owned by the employee. However, an employee may accept the benefit of such a subsidy when:

(i) The employee involuntarily acquires a property which at the time of acquisition has a tenant receiving such a subsidy but only as long as that tenant continues to reside in the property, or

(ii) An incumbent tenant who has not previously received such a subsidy becomes the beneficiary thereof but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments.

(6) Any direct creditor interest in a mortgage insured by the Department.

(b) Notwithstanding paragraph (a) of this section, an employee may accept, acquire or hold

(1) An interest in a mutual or money market fund which has holdings listed in paragraph (a) of this section, and which:

(i) Has a broadly diversified portfolio not specializing in any particular industry;

(ii) Is widely held; and

(iii) Is not under the employee's control.

(2) An interest in any publicly traded fund or trust less than 25% of the assets of which are bonds or notes described in paragraph (a) (3) o: tl'is section;

(3) A limited partnership interest in a large public partnership (i.e. one which has at least 5000 partnership interests) less than 25% of the assets of which are Department insured or subsidized projects;

(c) If an employee acquires an interest prior to the commencement of employment with the Department which is prohibited under paragraph (a) of this section, or involuntarily acquires such a prohibited interest after the commencement of employment with the Department, the matter must be reported promptly to a Deputy Counselor. The Deputy Counselor will then determine whether retention of the interest is permissible or whether divestment or other appropriate remedial action is required.

(d)(1) An employee must not participate in his or her capacity as a Government employee in any matter in which, to his or her knowledge, the employee, his or her spouse, minor child, any organization in which the employee is serving as an officer, director, trustee, partner, or staff member, or a partner of the employee has a financial interest. In addition, an employee must not participate in his or her capacity as a Government employee in any matter in which, to the employee's knowledge, a person, business, or nonprofit organization with whom the employee is negotiating, or has an arrangement for, employment has a financial interest. For purposes of this paragraph a "matter" includes an application, contract, claim, request for a ruling, controversy, charge, accusation, arrest, judicial or other proceeding, or other particular matter (18 U.S.C. 208(a)).

(2) Paragraph (d)(1) of this section does not apply:

(i) If a Deputy Counselor first determines that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee; or

(ii) If the financial interest is within one of the following categories which are hereby exempted from the requirements of section 208(a) of Title 18, United States Code, as being too remote or too inconsequential to affect the integrity of an employee's service:

(A) Any holding in a widely held mutual or money market fund, or regulated investment company, which is not under the employee's control and which has a broadly diversified portfolio not specializing in any particular industry;

(B) Participation in a bona fide employee benefit plan, other than a profit-sharing or stock-bonus plan, that is maintained by a former employer to the extent that the employee's rights in

VOL 51 ISS 163 AG 22 1986 UMI

the plan are vested and require no additional services by him or her or further payment to the plan by the former employer with respect to the services of the employee.

§ 0.735–205 Misuse of government personnel and property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, or the services of any HUD employee, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment and supplies, entrusted to him or her.

§ 0.735–206 Misuse of official information.

For the purpose of furthering a private interest, an employee shall not directly or indirectly use, or allow the use of, official information which has not been made available to the general public.

§ 0.735–207 Misuse of official position.

Except as may be permitted in the course of official business, an employee shall not use his or her supervisory relationship or management position, directly or indirectly, to seek a favor from, encourage a contribution from, or attempt to sell to, another HUD employee or person who has business with HUD.

§ 0.735–208 General conduct and conduct prejudicial to the Government.

(a) Each employee shall be courteous, considerate, and prompt in dealing with the public and with persons or organizations having business with the Department.

(b) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 0.735–209 Intermediaries and product recommendations.

In communicating with any person or organization doing, or seeking to do, business with the Department, an employee shall not recommend or suggest the use of any particular or identified nongovernmental intermediary to deal with the Department, except as required by the employee's official duties.

§ 0.735–210 Membership in organizations in an official capacity.

(a) An employee may not, in his or her official capacity, serve as a member of a non-Federal or private organization except where express statutory authority exists, or statutory language necessarily implies such authority, or where the Secretary has determined in writing that such service would be beneficial to the Department and consistent with the employee's service to the Department.

(b) An employee may be designated to serve as a liaison representative of the Department to a non-Federal or private organization when the Secretary, the Under Secretary, an Assistant Secretary, the General Counsel, or a Regional Administrator, as appropriate, has determined in writing that such service would be beneficial to the Department and provided that:

(1) The activity relates to the work of the Department.

(2) The employee does not participate by vote in the policy determinations of the organization.

(3) The Department is not bound by any vote or action taken by the organization.

§ 0.735–211 Political activities.

Employees are required to observe the prohibitions against partisan political activities in 5 U.S.C. 7321–7327 and 18 U.S.C. 602, 603 and 607. Regulations implementing these restrictions are set forth in 5 CFR Part 733.

§ 0.735–212 Miscellaneous statutory provisions.

The attention of each employee is directed to the following statutory provisions which relate to his or her conduct:

(a) Public Law 96–303, 5 U.S.C. 7301 note, the "Code of Ethics for Government Service."

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783(b); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse or unauthorized use of a Government vehicle (31 U.S.C. 1344, 18 U.S.C. 641).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against concealing, removing, mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement and theft of Government money, property, or records (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement or wrongful conversion of the money or property of another which comes under the control, or into the possession, of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized taking or use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act of 1938, as amended (18 U.S.C. 219).

(q) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

Subpart C—Statements of Employment and Financial Interests

§ 0.735–301 Employees required to file under the Ethics in Government Act of 1978.

(a) The following employees shall submit public financial disclosure reports in accordance with the provisions of Title II of the Ethics in Government Act of 1978, as amended:

(1) Officers and employees whose positions are classified at GS–16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to, or greater than, the rate for GS–16 (step 1);

(2) Officers and employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS–16;

(3) Administrative Law Judges;

(4) Employees in the excepted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics;

(5) Designated agency ethics officials.

(b) Those employees required to file under paragraph (a) of this section are

subject to the provisions of 5 CFR Part 734 regarding procedures for filing, contents of reports, and penalties for failure to file or for falsifying a report.

§ 0.735–302 Employees required to file confidential financial disclosure statements.

The following categories of employees, other than those required to file under § 0.735–301, shall submit confidential statements of employment and financial interests:

(a) Employees classified at GS–13 or above who are in positions which include responsibility for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprises; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(b) Employees classified at GS–13 or above who are in positions which the Department has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in possible conflicts of interest.

(c) Employees classified below GS–13 who are in positions which otherwise meet the criteria in paragraphs (b) or (c) of this Section and for which the Office of Government Ethics has required filing in order to protect the integrity of the Government and to avoid employee involvement in possible conflicts of interest.

(d) Employees, regardless of grade level, who have been selected to serve on a Technical Evaluation Panel or Source Evaluation Board.

§ 0.735–303 Employee's grievance regarding filing requirements.

If an employee believes that his or her position has been improperly designated as one requiring its incumbent to submit a confidential statement of employment and financial interest, the employee may obtain review of the designation through the Department's grievance procedures.

§ 0.735–304 Reporting and review requirements.

(a) Confidential statements of employment and financial interest and supplementary statements:

(1) Shall be submitted on forms prescribed by the Department Counselor;

(2) Shall contain information required by the Department Counselor regarding the employment background and financial interests of the employee, the employee's spouse and family members; and

(3) Shall be submitted at the times and places designated by the Department Counselor.

(b) Notwithstanding paragraph (a) of this section, the Department Counselor shall not require reporting of information relating to the interests of an employee, or his or her spouse and family members, in professional associations or charitable, religious, social, fraternal, recreational, public service, civic, or political organizations or similar organizations not conducted as business enterprises.

(c) The appropriate Deputy Counselor shall review and retain employees' statements and shall advise employees as to corrective action if necessary.

§ 0.735–305 Confidentiality of employees' statements.

To insure the confidentiality of statements filed under § 0.735–302, the appropriate Deputy Counselors shall not allow access to, or allow information to be disclosed from, statements except as the Office of Personnel Management or the Department Counselor may determine for good cause shown.

Subpart D—Conduct and Responsibilities of Special Government Employees

§ 0.735–401 Applicable provisions.

(a) Every special Government employee is subject to the provisions of §§ 0.735–101 through 0.735–106, 0.735–201, 0.735–202, 0.735–204(d), 0.735–205 through 0.735–210.

(b) Every special Government employee should become familiar with the statutes listed at § 0.735–212.

§ 0.735–402 Outside employment, activities and financial interests.

(a) Special Government employees may not engage in outside employment and activities or have financial interests that conflict with the responsibilities and duties of Federal employment. However, because special Government employees usually are employed outside the Department, they may engage in employment or activities prohibited other Federal employees under § 0.735–203 when there is no actual conflict of interest. Special Government employees may also have financial interests prohibited other Federal employees under § 0.735–204(a)(1) through (a)(6) when there is no actual conflict of interest.

(b) Notwithstanding the provisions of paragraph (a) of this section, a special Government employee may not directly or indirectly seek or receive compensation for services rendered by himself, herself or others in connection with any proceeding, application, request for ruling, contract, claim or other particular matter in which: the United States is a party or has a direct and substantial interest and:

(1) Which is before any Federal or District of Columbia department or agency and in which he or she participated personally and substantially for the Government, or

(2) Which is pending before the Department, provided that a special Government employee who has served in the Department no more than 60 days in the previous 365 days shall be bound only as to a matter in which he or she participated personally and substantially (18 U.S.C. 203).

(c) Notwithstanding the provisions of paragraph (a) of this section, a special Government employee may not act, with or without compensation, as an agent or attorney for another in prosecuting a claim against the United States, or in connection with any proceeding, application, request for ruling, contract or other particular matter in which the United States is a party or has a direct and substantial interest, and

(1) Which is before any Federal or District of Columbia department, agency or court and in which he or she participated personally and substantially for the Government, or

(2) Which is pending before the Department, provided that a special Government employee who has served in the Department no more than 60 days in the previous 365 days shall be bound only as to a matter in which he or she participated personally and substantially (18 U.S.C. 205).

(d) Permissible exceptions to the prohibitions set forth in paragraphs (b) and (c) of this section include:

(1) Representation without compensation in connection with a disciplinary, loyalty, or personnel proceeding;

(2) Representation with or without compensation of immediate family members and those to whom the employee owes a fiduciary duty except in those matters in which the employee has participated personally and substantially as a Government employee; and

(3) Statements required to be made under penalty for perjury or contempt.

(e) A special Government employee seeking to engage in one of the excepted activities should consult in advance with a Deputy Counselor.

(f) The Secretary may allow a special Government employee to represent his or her regular employer or another person or organization before the

VOL 51 ISS 163 AG 22 1986 UMI

Department in the performance of work under a grant or a contract. The Secretary must first certify in the Federal Register that such representation is in the national interest (18 U.S.C. 205).

(g) The prohibitions set forth in paragraphs (b) and (c) of this section are in addition to any other restrictions contained in this subpart and do not permit any activities which are otherwise prohibited.

§ 0.735–403 Political activities.

Special Government employees are bound by the political activity restrictions cited in § 0.735–210. Such restrictions apply to a special Government employee engaged on an irregular or occasional basis, however, only on days in which service is rendered and then for the entire 24 hours of such service day.

§ 0.735–404 Financial reporting.

(a) Special Government employees who will work more than 60 days in a calendar year must submit public financial disclosure reports in accordance with the provisions of Title II of the Ethics in Government Act of 1978 when their rate of pay is equal to or greater than the basic rate for GS–16, Step 1. Such employees are covered by the reporting requirements at 5 CFR Part 734.

(b) All special Government employees not required to file under paragraph (a) of this section shall submit Confidential Statements of Employment and Financial Interests and supplementary statements to the appropriate Deputy Counselor for review and custody.

(c) The provisions of §§ 0.735–304 and 0.735–305 are applicable to a special Government employee who is required to file a statement under paragraph (b) of this section.

§ 735–405 Post employment restrictions.

All special Government employees are bound by the restrictions concerning post employment set forth in § 0.735–501 (a) and (b) and are subject to the provisions regarding disciplinary proceedings set forth in Subpart E. However, the restrictions set forth in § 0.735–501 (c) and (d) apply only to special Government employees who serve as Senior Employees, as defined in 5 CFR 737.3(a)(6), over sixty days in any calendar year. The exception to the post employment restrictions set forth in § 0.735–501(f) for former employees employed by an Indian tribe also apply to former special Government employees.

Subpart E—Conduct and Responsibilities of Former Employees

§ 0.735–501 Prohibited activities by former employees.

(a) No former employee, after terminating Government employment, shall knowingly act as agent or attorney for, or otherwise represent another in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of another to, any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which such employee participated personally and substantially as a Department employee.

(b) No former employee, within two years after terminating employment by the United States, shall knowingly act as agent or attorney for, or otherwise represent another in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of another to, any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, if such matter was actually pending under the employee's official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

(c) No former Senior Employee, as defined in 5 CFR 737.3(a)(6), within two years after terminating employment by the United States, shall knowingly represent or aid, counsel, advise, consult, or assist in representing another by personal presence at any formal or informal appearance before any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which matter he or she participated personally and substantially.

(d) For a period of one year after terminating employment by the United States, no former Senior Employee shall knowingly act as an agent or attorney for, or otherwise represent, anyone in a formal or informal appearance before, or with the intent to influence, make any written or oral communication on behalf of anyone, to the Department or any of its officers or employees, in connection with any particular Government matter, whether or not involving a specific party, which is pending before the Department, or in which it has a direct and substantial interest.

(e) The prohibitions set forth in paragraphs (a) through (d) of this section will be applied in accordance with regulations of the Office of Government Ethics as set forth in 5 CFR Part 737.

(f) The prohibitions in paragraphs (a) through (d) of this section do not bar a former employee employed by an Indian tribe from representing the tribe in connection with any matter pending before any Federal department, agency, court or commission. However, a former employee who intends to engage in representational activities must advise the head of the department, agency, court, or commission, in writing, of any personal and substantial involvement he or she may have had as a federal employee in the matter (25 U.S.C. 4501(f)).

§ 0.735–502 Disciplinary action.

(a) Disciplinary action may be taken against any former Department employee or special Government employee (hereafter referred to as "former employee") found under this subpart to have violated the post employment restrictions set forth in §§ 0.735–405 and 0.735–501 of this Part.

(b) The Department Counselor or a Deputy Counselor may initiate disciplinary proceedings. For purposes of this subpart, such an official is referred to as an Initiating Official.

(c) Disciplinary action may consist of:

(1) Prohibiting the former employee from making, on behalf of another, except the United States, any informal or formal appearance before, or with the intent to influence, any oral or written communication to the Department, on any matter of business for a period not to exceed five years. This prohibition may be accomplished by directing Department personnel to refuse to participate in any such appearance or to accept any such communication; or

(2) Other appropriate disciplinary actions, including but not limited to:

(i) Prohibiting, for a definite period of not more than five years, the former employee from any representational activity in connection with a specific office in the Department, or with a specific matter, in which the employee had an interest;

(ii) Issuing a letter of warning to the former employee.

§ 0.735–503 Initiating disciplinary proceedings.

(a) The Initiating Official, upon receiving information indicating grounds for disciplinary action, shall request that the Office of the Inspector General conduct an investigation and report all

relevant investigative findings back to the Initiating Official.

(b) The Inspector General shall coordinate all investigations under this subpart with the Department of Justice to avoid prejudicing actual or possible criminal proceedings.

(c) All investigations under this subpart shall be conducted in a manner which protects the privacy of former employees. To ensure privacy, information received as a result of the Inspector General's investigation shall remain confidential except as necessary to carry out the purposes of this subpart.

(d) After the Inspector General reports the facts of the investigation to the Initiating Official, the Initiating Official shall determine either:

(1) That there is reasonable cause to believe that a violation has occurred, in which event the Initiating Official shall expeditiously provide all relevant information, along with any comments or agency regulations, to the Director of the Office of Personnel Management (OPM) and to the Assistant Attorney General for the Criminal or the Civil Division of the Department of Justice (DOJ), as appropriate; in addition, the Initiating Official shall commence disciplinary action against the former employee by serving notice in accordance with § 0.735–504; or

(2) That there is no reasonable basis for believing that a violation has occurred, in which event the Initiating Official shall advise the former employee and the Inspector General's office of that determination.

(e) In the event disciplinary action is initiated, the Department Counselor shall promptly appoint an impartial hearing officer who shall be a member of the HUD Board of Contract Appeals or an Administrative Law Judge. The hearing officer shall not have participated in any manner in the decision to initiate disciplinary action.

§ 0.735–504 Notice.

(a) The Initiating Official shall notify the former employee of the proposed disciplinary action in writing, by registered or certified mail, return receipt requested, or by any other means which gives actual notice or is reasonably calculated to give actual notice.

(b) The Notice shall include:

(1) A statement of allegations and the basis thereof sufficiently detailed to enable the former employee to prepare an adequate defense;

(2) A statement that the former employee is entitled to a hearing with a right to counsel if he or she requests a hearing within 15 days after receiving the notice;

(3) A statement explaining the method by which a hearing may be requested including the name, business address, and telephone number of the person to be contacted if there are further questions;

(4) A statement explaining the right to submit documentary evidence and a report to the hearing officer if a hearing is not requested and the method by which evidence may be submitted; and

(5) The disciplinary action proposed.

§ 0.735–505 Hearings.

(a) Formal rules of evidence and procedure applicable to a proceeding in a court of law will not be applied. Parties may object to clearly irrelevant material, but technical objections to testimony as used in a court of law will not be sustained.

(b) A former employee, against whom disciplinary action is proposed, is entitled to a hearing upon a written request submitted to the hearing officer within 15 days after the former employee receives notice as set forth in § 0.735–504. If no timely request is made, the hearing officer may proceed under § 0.735–506 to make a decision without a hearing.

(c) An attorney from the Department's legal staff shall represent the Department in the matter.

(d) The hearing shall be conducted at a reasonable time, date, and place as set by the hearing officer.

(1) In setting a hearing date, the hearing officer shall give due regard to the former employee's need for adequate time to prepare a defense and to an expeditious resolution of allegations that may be damaging to the former employee's reputation.

(2) Notice of the time, date, and place of such hearing shall be transmitted in writing to all interested parties by the hearing officer and shall include a statement indicating the nature of the proceedings and their purpose.

(e) At a hearing, the former employee shall have the right to:

(1) Represent himself or herself or be represented by counsel;

(2) Introduce and examine witnesses and submit relevant evidence;

(3) Confront and cross-examine adverse witnesses;

(4) Present oral argument; and

(5) Receive a transcript or recording of the proceedings, upon request.

(f) In a hearing, the Department has the burden of proof and must establish substantial evidence of a violation.

(g) The hearing officer shall make a determination based exclusively on matters of record in the proceeding and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

§ 0.735–506 Decision without a hearing.

(a) If no hearing is requested under § 0.735–505(b), the hearing officer shall make a decision on the basis of evidence submitted under paragraph (b) of this section. The proposed disciplinary action shall be sustained upon a showing, by substantial evidence, of cause as specified in § 0.735–502. Notice shall be provided to all interested parties stating the findings of fact and conclusions of law, the sanctions to be imposed if a violation has been found, and the procedure for filing an appeal to the Secretary.

(b) If no hearing is requested, the former employee and the Initiating Official may submit relevant information and reports on their behalf to the hearing officer. In making a decision the hearing officer shall consider all evidence and reports received prior to the decision.

§ 0.735–507 Appeals.

(a) The former employee may appeal the hearing officer's decision finding a violation of the post-employment restrictions, as set forth in §§ 0.735–405 and 0.735–501 of this Part, to the Secretary by making a written request within 20 days of the decision.

(b) Upon receiving an appeal, the Secretary or his or her designee shall review the decision of the hearing officer. The decision of the Secretary or designee shall be based solely on:

(1) The record of the proceedings if there has been a hearing;

(2) The record upon which the hearing officer made his or her decision if there has not been a hearing; or

(3) Those portions of the record cited by the parties to limit the issues.

(c) If the decision of the hearing officer is modified or reversed, the decision by the Secretary or designee shall state any findings of fact or conclusions of law which differ from the findings or conclusions of the hearing officer.

§ 0.735–508 Sanctions.

Disciplinary action may be imposed by the hearing officer if there was no appeal, or by the Secretary or his or her designee if there was an appeal, against a former government employee found to have violated the post-employment restrictions set forth in §§ 0.735–405 and 0.735–501 of this Part. The sanctions shall not exceed those proposed by the Initiating Official in the notice which initiated the disciplinary action against the former employee.

VOL
51
ISS
163
AG
22
1986
UMI

§ 0.735–509 Judicial review.

Any person found to have violated the post-employment restrictions set forth in §§ 0.735–405 and 0.735–501 of this Part, may seek judicial review of the Department's final administrative determination.

Dated: August 18, 1986.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc 86–19082 Filed 8–21–86; 8:45 am]

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federal register

Friday
August 22, 1986

Part IV

Department of Education

34 CFR Parts 668 and 690
Student Assistance General Provisions and Pell Grant Program; Proposed Rule

VOL 51 ISS 163 AUG 22 1986 UMI

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 690

Student Assistance General Provisions and Pell Grant Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: Starting with the 1987–88 award year, the Secretary proposes to end the Alternate Disbursement System of making awards to students under the Pell Grant Program. Under that System, the Secretary, rather than the institution the student is attending, calculates and disburses Pell Grant awards to students. The Secretary is thus proposing to amend the Pell Grant Program regulations, 34 CFR Part 690, to revoke Subpart H, "Administration of Grant Payments—Alternate Disbursement System (ADS)" and to eliminate references to the Alternate Disbursement System in the other subparts of Part 690 as well as in the Student Assistance General Provisions regulations, 34 CFR Part 668. The Secretary is proposing to eliminate the Alternate Disbursement System because he believes that the reasons for operating the System no longer justify the cost to the Department of Education (ED) of operating it.

The Pell Grant Program is authorized by section 411 of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1070a.

DATES: Comments must be received on or before October 21, 1986.

ADDRESSES: Comments should be addressed to Mr. Fred Sellers, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW. [Room 4318, Regional Office Building No. 3], Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Carney McCullough, (202) 472–4300.

SUPPLEMENTARY INFORMATION: The Pell Grant Program is authorized by section 411 of the HEA. Section 411(b)(3)(A) of the HEA provides that:

> Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section.

The Secretary implemented this section by devising two systems of paying Pell Grants to students, the Regular Disbursement System (RDS) and the Alternate Disbursement System (ADS). The Secretary developed the ADS as an accommodation to institutions that did not wish, for philosophical or economic reasons, to involve themselves directly in the administration of the Pell Grant Program.

Under the RDS, an institution determines whether a student is eligible to receive a Pell Grant and the amount of the Pell Grant. The institution further disburses the Pell Grant award to the student for a payment period by either crediting the student's institutional account or paying the award directly to the student. The Secretary provides funds to the institution to make those payments. Under the ADS, the Secretary determines whether a student is eligible to receive a Pell Grant and the amount of the Pell Grant. Further, under the ADS, the Secretary pays the student his or her Pell Grant award for a payment period by mailing a check to the student for that period.

During the 1984–85 award year, approximately 7600 institutions of higher education participated in the Pell Grant Program, of which 6500 institutions participated under the RDS and 1100 institutions participated under the ADS. Almost 3 million students received Pell Grant awards from institutions under the RDS, while only approximately 40,000 students received Pell Grant awards from the Secretary under the ADS.

Under the ADS, ED essentially carries out financial aid office functions for ADS institutions at no cost to these institutions. These same functions are routinely carried out by RDS institutions either directly or through a financial aid consultant and the costs of these functions are paid by the RDS institutions. Under section 489 of the HEA, an institution receives a $5 administrative cost allowance for each Pell Grant Program recipient attending the institution regardless of whether the institution participates in the Pell Grant Program under the RDS or ADS. Thus, institutions participating in the Pell Grant Program under the ADS received approximately $200,000 in administrative cost allowances.

The operation of the ADS costs ED $1,000,000 in addition to the $200,000 the ADS institutions receive in administrative cost allowances. The Secretary believes that it is no longer necessary or appropriate for ED to continue this $1,000,000 subsidy for institutions participating in the Pell Grant Program properly under the RDS by either hiring their own staff or by contracting with financial aid consultants with the expertise to provide that administration.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as nonmajor because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant impact on a substantial number of small entities. Most of the institutions that participate in ADS have very few Pell Grant recipients. Those institutions which are considered small entities and have a large number of Pell Grant recipients will still be able to participate in the Pell Grant Program by contracting with financial aid services for the calculation and payment of grants rather than expanding its administrative functions.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 60th day after publication of this document will be considered before the Secretary issues final regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, ROB–3, 7th and D Streets SW., Washington, DC 20202, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the overall requirement of reducing regulatory burden, public comment is especially invited on further opportunities to reduce regulatory burden in these proposed regulations.

Paperwork Reduction Act of 1980

These regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which governs such requirements.

Assessment of Educational Impact

The Secretary requests comments on whether the regulations in this document would require transmission of information that is being gathered by or

is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance: No. 84.063, Pell Grant Program)

Dated: August 19, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Parts 668 and 690 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141; 50 U.S.C. App. 482, unless otherwise noted.

§ 668.14 [Amended]

2. In § 668.14, "or" is inserted after the semicolon at the end of paragraph (c)(1)(ii), "; or" is removed at the end of paragraph (c)(2) and a period is inserted in that place, and paragraph (c)(3) is removed.

§ 668.21 [Amended]

3. In § 668.21, paragraph (a)(3) is removed.

§ 668.22 [amended]

4. In § 668.22, in paragraph (a)(1), the term "(Regular Disbursement System)" is removed.

5. In § 668.32, paragraph (d) is revised to read as follows:

§ 668.32 Statement of Educational Purpose.

* * * * *

(d) Until a student who is applying for title IV, HEA program assistance under the Pell Grant, campus-based, or State Student Incentive Grant programs files a Statement of Educational Purpose with the institution, an institution may not, for any period of instruction, disburse funds to the student under any title IV, HEA program.

Authority: 20 U.S.C. 1091.

§ 668.33 [Amended]

6. In § 668.33, "or" is inserted after the semicolon at the end of paragraph (a)(1)(i), "; or" is removed at the end of paragraph (a)(1)(ii) and a period is inserted in that place, and paragraph (a)(1)(iii) is removed.

§ 668.41 [Amended]

7. In § 668.41, the phrase ", including the Pell Grant Program under the Alternate Disbursement System (ADS)," is removed.

§ 668.85 [Amended]

8. In § 668.85, in paragraph (c)(1), the phrase "or to the Secretary if the student is attending an institution which is under the alternate disbursement system," is removed.

PART 690—PELL GRANT PROGRAM

9. The authority for Part 690 is revised to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

Subpart H—[Removed]

10. Subpart H of Part 690 is removed.

§ 690.2 [Amended]

11. In § 690.2, paragraph (b), the definitions for "ADS institution" and "RDS institution" are removed.

§ 690.3 [Amended]

12. In § 690.3, paragraph (c) is removed.

§ 690.7 [Amended]

13. In § 690.7, paragraph (b), introductory text, the phrase "(or to the Secretary if it is an ADS institution)" is removed, the term "RDS" is removed in paragraph (c) introductory text, and paragraph (d) is removed.

14. Section 690.61 is revised to read as follows:

§ 690.61 Submission process and deadline for student aid report.

(a) *Submission process.* (1) In order to receive a Pell Grant at an institution, a student shall submit a valid Student Aid Report (SAR) to that institution.

(2) An institution is entitled to rely on SAR information except under conditions set forth in §§ 668.16(f) and 668.60.

(b) *Student Aid Report deadline.* (1) Except as noted in § 668.60, to receive a Pell Grant for an award year, a student shall submit the relevant parts of the SAR to his or her institution before June 30 of that award year.

(2) Except as noted in § 668.60, to receive a Pell Grant for an award year, a student shall submit the relevant parts of the SAR to an institution while he or she is still enrolled and eligible for payment at that institution.

Authority: 20 U.S.C. 1070a.

15. In § 690.65, paragraphs (a), (b), and (c) are revised to read as follows:

§ 690.65 Transfer student: attendance at more than one institution during an award year.

(a) If a student who receives a Pell Grant at one institution subsequently enrolls at a second institution in the same award year, the student shall submit an SAR to the second institution to receive a grant at the second institution. (The institution shall follow the procedures regarding transfer students set forth in 34 CFR 668.14.)

(b) The second institution shall calculate the student's award according to § 690.63.

(c) The second institution may pay a Pell Grant for only that portion of the award year in which a student is enrolled at that institution. The grant amount must be adjusted if necessary to ensure that the grant does not exceed the student's Scheduled Pell Grant for that award year.

* * * * *

§ 690.66 [Amended]

16. In § 690.66, paragraph (d) is removed.

17. In §§ 690.3, 690.7, 690.63, 690.66, 690.71, 690.72, 690.73, and 690.74, the terms "Regular Disbursement System" and "RDS" are removed wherever they appear.

[FR Doc. 86-19038 Filed 8-21-86; 8:45 am]

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VOL
51
ISS
1
63
AG
22
1986
UMI

federal register

Friday
August 22, 1986

Part V

Department of Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Notice

VOL 51 ISS 163 AG 22 1986 UMI

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Filing the Fiscal-Operations Report and Application to Participate in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 1987 funds—for use in the 1987–88 award year—under the NDSL, CWS and SEOG programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the costs of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. Institutions will be notified of the closing date for establishing institutional eligibility to participate in the NDSL, CWS and SEOG programs through a separate notice in the **Federal Register**.

The Secretary further gives notice that an institution that had an NDSL fund or expended CWS or SEOG funds during the 1985–86 award year is required to report its program expenditures as of June 30, 1986, to the Secretary.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Part A Subpart 2, respectively, of title IV of the Higher Education Act of 1965, as amended. (20 U.S.C. 1087aa–1087ii; 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3.)

Closing Date: To ensure consideration for 1987–88 funds, an institution must submit the 1985–86 Fiscal-Operations Report and the 1987–88 Application to Participate in the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs (FISAP–OMB No. 1845–0073) by September 26, 1986.

FISAPs Delivered by Mail: A FISAP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 400 Maryland Avenue, SW., (Room 4621, Regional Office Building 3), Washington, DC 20202.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

FISAPs Delivered by Hand: A FISAP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, DC. The Campus-Based Programs Branch will accept hand-delivered FISAPs between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays and Federal holidays. A FISAP that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

FISAP Information: FISAPs were mailed by the program office in mid-July. An institution must prepare and submit its FISAP in accordance with the instructions included in the package.

The program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations: The following regulations are applicable to these programs:

National Direct Student Loan—34 CFR Parts 674 and 668.

College Work-Study—34 CFR Parts 675 and 668.

Supplemental Educational Opportunity Grant—34 CFR Parts 676 and 668.

Further Information: For further information or to request a FISAP, contact Ms. Gloria Easter, Chief, Financial Management Section, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, DC 20202, Telephone (202) 245–2432.

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

(20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

Dated: August 18, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 86–19039 Filed 8–21–86; 8:45 am]

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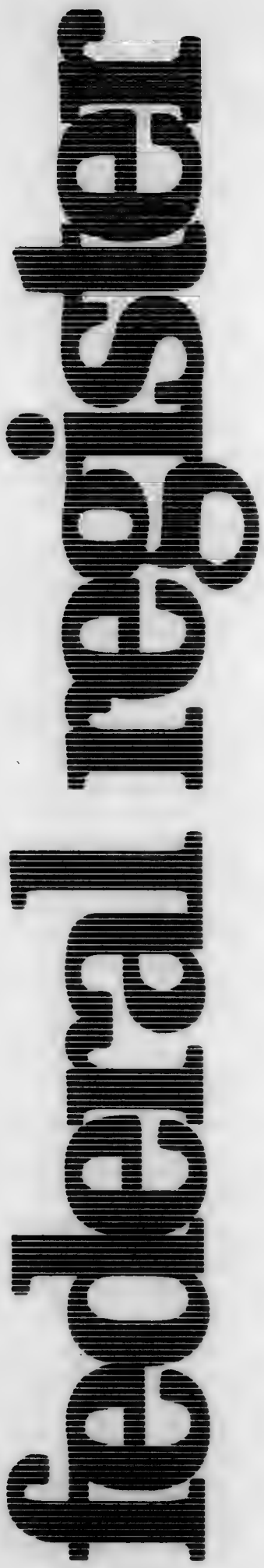

Friday,
August 22, 1986

Part VI

Department of Agriculture Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Final rule

VOL 51 ISS 163 AG 22 1986 UMI

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Dairy and Tobacco Adjustment Act of 1983, as amended, requires that all flue-cured and burley tobacco offered for importation into the United States not contain any prohibited residue of any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide and Rodenticide Act, and further requires that all flue-cured or burley tobacco permitted entry into the United States must be accompanied by a written identification of end users or purchasers to whom the importer may transfer such imported tobacco. A notice of proposed rulemaking was published in the **Federal Register** on April 25, 1986, allowing interested parties a 30-day comment period on the procedures to certify and test for pesticide residues and identification of the end users or purchasers. Based on the comments received and other available information, the proposed rule, with modifications, is adopted as a final rule.

EFFECTIVE DATE: This final rule is effective September 2, 1986.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, telephone (202) 447–2567.

SUPPLEMENTARY INFORMATION: The authority for these regulations is contained in the Dairy and Tobacco Adjustment Act of 1983, as amended (7 U.S.C. 511r) ("the Act"), and the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*). This final rule implements statutory requirements for the certification and testing of imported flue-cured and burley tobacco for pesticide residues and the identification of end users in a manner that, insofar as practicable, does not place an undue burden on the Federal Inspection Service or impede the expeditious movement of the tobacco in commerce. The action was reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and is hereby classified as a nonmajor rule because the annual economic impact will be less than $100 million. Accordingly, a regulatory impact analysis is not required.

This action was also reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, and will not substantially affect the normal movement of the commodity in the marketplace.

Domestic producers of flue-cured and burley tobacco are required to certify that no pesticide has been used on the tobacco that has not been approved for use on tobacco. It is the intent of the Act that importers of flue-cured and burley tobacco be treated the same. The purposes of the Act are to assure that domestic producers are not placed at an unfair disadvantage, and to protect the public from residues of pesticides not approved for use on tobacco.

The Department currently inspects for grade and quality all tobacco offered for importation into the United States except oriental and cigar types. Most imported tobacco arrives in this country by vessel, typically in 40-foot containers which carry 90–99 packages weighing approximately 500 pounds each. Generally, these containers are transferred to a rail or truck carrier and transported to an inland port of entry where the tobacco is unloaded for warehousing, manipulation, or manufacturing. The majority of imported tobacco is initially stored in bonded warehouses. Shipments are identified by invoices and packing lists which give detailed accountings of the tobacco, including country of origin, weight, and company grade. Virtually no flue-cured and burley tobacco is imported by firms which are small businesses as defined by the RFA.

Beginning September 2, 1986, all flue-cured and burley tobacco offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, will be subject to testing for pesticide residues, and information will be collected for the identification of end users. The importer will be required to complete a Pesticide and End User Certification form at the time of importation. On the form the importer will certify either that the tobacco is free of prohibited pesticide residues, or that it will not move in commerce until it is tested pursuant to these regulations and found to be free of prohibited pesticide residues. Tobacco certified as being free of prohibited pesticide residues would be subject to random sampling and testing.

All imported flue-cured and burley tobacco will be assessed fees to cover the costs of sampling and testing under these regulations. The fee for sampling and testing imported flue-cured and burley tobacco in accordance with these regulations shall initially be set at $.0010 per pound. Imported flue-cured and burley tobacco not accompanied by a certification that it is free of prohibited pesticide residues shall be subject to an additional fee of $.0030 per pound. These fees were determined after a thorough review of the procedures to be used, the anticipated volume to be sampled and tested and the number of staff hours necessary to provide and supervise the testing service. Since this is a new program, the costs actually incurred would be closely monitored during the startup phase. Adjustments would be made in the fees as necessary.

Initial review of the regulations contained in 7 CFR Part 29 for need, currentness, clarity, and effectiveness has been completed. During the startup phase of this operation, the Department will closely monitor the procedures established in the final rule to insure that any problems which may arise are promptly addressed.

In compliance with the Office of Management and Budget (OMB) regulations, 5 CFR Part 1320, Controlling Paperwork Burdens on the Public, which implement the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, the information collection and recordkeeping requirements contained in this final rule were submitted to OMB for review as prescribed in Section 1320.13, Clearance of Collection of Information Requirements in Proposed Rules under section 3504(h) of the Paperwork Reduction Act. OMB approved the request under No. 0581–0056.

A total of 13 comments were received concerning the proposed rule, 2 from associations representing domestic producers, 4 from associations representing importers, and 7 from firms which import tobacco. One of the associations representing domestic producers expressed support for the rule as proposed; the other commenters made specific suggestions concerning various aspects of the proposed rule. The substantive comments are discussed below, together with changes made by the agency upon review.

Four commenters (2 importer associations and 2 importers) suggested that pesticide residue levels should be established only for pesticides that have been specifically prohibited under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 135 *et*

seq.). Since the Dairy and Tobacco Adjustment Act provides that all flue-cured and burley tobacco offered for importation into the United States not contain any prohibited residue of any pesticide that has been cancelled, suspended, revoked, *or otherwise prohibited* under the FIFRA, any pesticide not specifically approved under FIFRA is subject to the provisions of this Act. Accordingly, the comment that only pesticides specifically prohibited under FIFRA be subject to the Act cannot be adopted in this final rule.

An importer association and an importer suggested that the establishment of prohibited pesticide residue levels in tobacco should be deferred until data has been obtained from studies specifically relating to residue levels in tobacco. It is the clear intent of the statute that it be implemented by regulations for this sales season. Data specifically relating to pesticide residues in tobacco are not presently available, and it would take years to complete studies to obtain such data. Such a delay would defeat the clear congressional intent. Although data from tests on tobacco would be ideal, prohibited pesticide residue levels for tobacco may be established on a reasonable and informed basis by analogy to levels established for other agricultural commodities by the Environmental Protection Agency (EPA) in 40 CFR Part 180. Accordingly, this suggestion is not adopted in this final rule.

Twelve commenters, including an association representing domestic tobacco growers, 4 importer associations and 7 importers, suggested that the residue levels in the proposed rule were, in general, too low. In particular, the commenters suggested that the levels should be set higher because the EPA allows higher residue levels for various food crops. Pesticide levels allowed by EPA vary for different commodities. In instances where there was a wide variation in EPA levels, the Department selected levels at approximately the mean level for plants or fruits that are consumed directly by humans. Therefore, the residue levels for permethrin and toxaphene have been raised and the residue levels for heptachlor and ethylene dibromide have been lowered. However, no levels are set lower than 0.1 parts per million because accurate testing procedures for lower levels would be prohibitively expensive, and would place an undue burden on importers and domestic producers contrary to the intent of the Act.

Ten commenters, including an association representing domestic producers, 4 importer associations, and 5 importers, suggested that the proposed residue levels for "other (unlisted)" compounds of 4 times the lowest detectable limit would be impractical because the lowest detectable limit would be subject to change as testing methods improve. Further, new compounds will certainly be developed and used in the future. The proposed residue level for "other (unlisted)" compounds would make it impossible for most importers to certify that imported tobacco complies with the regulations and would frustrate the clear congressional intent. Accordingly, this provision has been deleted from this final rule and the regulations will apply only to the pesticides specifically listed.

This change, however, makes it necessary to modify the proposed list of pesticide residues. Four pesticides have been added to that list in this final rule, with residue levels established by analogy to permissible levels established by the EPA for other agricultural commodities. Three of these compounds, dicamba, 2, 4D, and 2, 4, 5T, are herbicides (weed killers) capable of being misused as ripening agents. The fourth compound, heptachlor epoxide, is so closely related to heptachlor that a test for heptachlor might not be conclusive. It should be noted that these pesticides would have been included in the category of "other (unlisted)" pesticides, and that the residue levels established for these pesticides in this final rule are higher than they would otherwise have been if the proposed rule were not modified. The pesticides which have been included in the list are those which might reasonably be expected to be used on tobacco. It would be impractical to establish residue levels for all pesticides used anywhere in the world, since most of them would never be used on tobacco. Also, one pesticide which was listed in the proposed rule, tamaron, has been deleted from the list of pesticides in this final rule. Orthene, a pesticide approved under FIFRA for use on tobacco, breaks down into the equivalent of tamaron, thus making a test for tamaron inconclusive.

In order to keep abreast of additional pesticides that may be prohibited in the United States, the Department will monitor the list of pesticides approved for use on tobacco in the United States and 51 foreign countries maintained and published by the Tobacco Industry Technical Committee at the North Carolina State University. Also, the Department will monitor EPA regulations, trade journals and information issued by Pesticide Residue Research Laboratories at various land grant Universities.

Four commenters suggested that importers be allowed to submit proof of testing and that this be accepted in lieu of testing by the Department in order to save time and expense. However, the Act provides that tobacco which is not certified must be tested by the Department. Four commenters suggested that submitted sample testing be permitted rather than having all samples drawn by the Department. However, the testing of submitted samples would not fulfill the requirement of the Act that the tobacco be tested by the Department. Accordingly, these suggestions are not adopted in this final rule.

Five commenters suggested that if importers are not notified within 20 days after a sample is taken, the tobacco should be presumed to have passed the test and should be allowed to enter the country. However, the Act requires that imported flue-cured or burley tobacco may not be entered unless it has been certified by the importer, or the Department has tested the tobacco and found that it contains no pesticide residue exceeding the established standards. Accordingly, this suggestion is not adopted in this final rule.

Five commenters suggested that imported tobacco placed temporarily in bond for reexport at a later date should not be subject to this rule. However, the Act requires that all flue-cured and burley tobacco offered for importation into the United States must either be certified as being free of prohibited pesticide residues or be tested. Accordingly, this suggestion is not adopted in this final rule.

Eight commenters suggested that regulations for testing imported tobacco should not be established until regulations are established for the testing of domestic tobacco. As stated in the proposal, the testing of domestic flue-cured and burley tobacco required by the Act will be undertaken by the Agricultural Stabilization and Conservation Service (ASCS) of the Department. It may be noted that existing law and regulations require that domestic producers of flue-cured and burley tobacco must certify that no pesticide has been used that has not been approved for use on tobacco, and that no pesticide has been used other than in accordance with the approved label directions.

Three commenters suggested that the term "lot" should be defined. This term is defined in 7 CFR Part 29, 401(e), which applies to this final rule as well as the

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existing regulation for the inspection of imported tobacco.

Nine commenters suggested that a provision assuring the confidentiality of the end user certification should be incorporated into the final rule. The Act does not specifically address confidentiality. However, except as required by law, Department personnel are not permitted to disclose details of transactions or records pertaining to individual firms.

One importer suggested that the provisions for end user certification are unnecessary, and should be deleted. However, end user certification is required by the Act. Accordingly, this suggestion is not adopted in this final rule.

An association representing domestic producers suggested that the provisions of end user(s) certification at 29.431 be amended so that continued certification would be required after tobacco has reached the end user(s) and that certification be required for export. This suggestion is not authorized by the Act, and accordingly, is not adopted in this final rule.

Finally, a number of technical changes of a non-substantive nature have been made in style and organization. The separate sections providing for pesticide residue certification and for end user(s) certification have been combined into one section and the certifications will be made on one form.

It is hereby determined that it is impractical, unnecessary, and contrary to the public interest to delay the effective date of this final rule for 30 days after its publication in the **Federal Register** because the domestic flue-cured tobacco sale season has begun and further delay would disrupt domestic marketing and place domestic producers at a competitive disadvantage. The affected industry is aware of the requirements contained in this final rule, and implementation prior to 30 days after publication in the **Federal Register** will not cause any hardship. Accordingly, this final rule will be effective 10 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Tobacco.

For the reasons set out in the preamble, the regulations contained in 7 CFR Part 29, are amended as follows:

1. The authority citation for 7 CFR Part 29 is revised to read as follows:

Authority: Sec. 19, 49 Stat. 734 as amended, 7 U.S.C. 511m; and Sec. 213, 97 Stat. 1149, as amended, 7 U.S.C. 511r, unless otherwise noted.

2. The heading of § 29.400 is revised to read as follows:

§ 29.400 Inspection, certification, and testing of imported tobacco.

3. The present text of § 29.400 is designated as paragraph (a) and a new paragraph (b) is added as follows:

(b) All flue-cured or burley tobacco, including stems, offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, shall be accompanied by a pesticide and end user certification completed by the importer. Any flue-cured or burley tobacco that is not certified as being free of prohibited pesticide residues shall not be permitted entry into the United States until the Secretary has determined that the tobacco meets the pesticide residue requirements in these regulations.

4. In § 29.401 the following definitions are added:

§ 29.401 Definitions.

* * * * *

(m) *End User Certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer or subsequent purchaser to identify any and all end users of imported flue-cured or burley tobacco.

(n) *Pesticide.* Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(o) *Pesticide Certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer that flue-cured and burley tobacco offered for importation does not exceed the maximum allowable residue levels of any banned pesticide.

(p) *Banned Pesticide.* Any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 *et seq.*), or has not been approved or sanctioned by the Environmental Protection Agency (EPA) for use on tobacco.

(q) *Stems.* The midribs or large central veins of tobacco leaves.

(r) *Pesticide Test Sample.* An official sample or samples, collected from a lot of tobacco by the Secretary of Agriculture for analysis by a certified chemist to ascertain the residue levels of banned pesticides.

(s) *Sample Identification Form.* A document approved by the Director that identifies and accompanies the sample to the testing facility on which the test results will be certified by a chemist in charge of testing.

(t) *Subsequent Purchaser.* Any entity that acquires ownership of tobacco after importation.

(u) *Testing.* The chemical analysis of a pesticide test sample to determine residue levels of banned pesticides.

(v) *End User.* A domestic manufacturer of cigarettes or other tobacco products; an entity that mixes, blends, processes, alters in any manner, or stores imported tobacco for export; or any individual that the Secretary may identify as making use of imported tobacco for the manufacture of tobacco products.

(w) *Reexported.* Any imported tobacco not used to manufacture tobacco products that is subsequently exported.

(x) *Blended.* Tobacco that is combined or mixed into a uniform product.

(y) *Leaves.* Whole, undivided tobacco leaves containing lamina and stem.

(z) *Strips.* The sides (including portions of sides) of tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

5. The following sections are added.

§ 29.425 Submission and disposition of pesticide residues and end user(s) certification.

(a) Completion of Certification: The importer shall complete a pesticide residue and end user(s) certification on a form approved by the Director for each lot of flue-cured or burley tobacco, including stems, offered for importation. If the importer is unable to identify the end user(s) or purchasers at the time of importation, an amended certification shall be executed within 30 days or at such time as the end user(s) or subsequent purchasers can be identified for any portion of the lot. Subsequent purchasers or end users so identified shall also complete an end user(s) certification until the tobacco is used in the manufacture of tobacco products or is reexported.

(b) Disposition of Copies: The importer shall deliver the original and first copy to the inspector at the time the tobacco is inspected under the provisions of 29.400–29.407. Subsequent purchasers or end users and importers submitting amended forms shall mail the original and first copy to Director, Tobacco Division, AMS, USDA, Washington, DC 20250.

(c) The information collection and recordkeeping requirements contained in this section have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C.

Chapter 35 and have been assigned OMB control number 0581–0056.

§ 29.426 Collection of pesticide test samples.

Any lot of tobacco not certified by the importer as being free of prohibited pesticide residues shall be sampled in sufficient detail to determine whether the lot conforms with the pesticide residue standards. Lots of imported tobacco certified by the importer shall be sampled on a random basis and tested to determine whether they conform with the pesticide residue standards.

§ 29.4279 Pesticide residue standards.

The maximum allowable residue levels expressed in total parts per million for the following specific pesticides are as follows:

DDT	1.5
TDE	1.0
Toxaphene	3.0
Endrin	.1
Aldrin	.1
Dieldrin	.1
Heptachlor	.1
Heptachlor Epoxide	.1
Chlordane	.3
EDB (Ethylene Dibromide)	.1
Formothion	.5
DBCP (dibromocloropropane)	50.0
Permethrin	3.0
2, 4 D	5.0
2, 4, 5 T	.5
DICAMBA	.5

§ 29.428 Identification of sample for testing.

Samples of imported tobacco shall be identified by the inspector on a form approved by the Director. The original and first two copies shall accompany the sample to the designated testing facility. The remaining copy of the identification form will be sent to the Director. Upon the completion of testing the designated facility will complete the form and mail the original and one copy to the Director and retain one copy for their records.

§ 29.429 Disposition of imported tobacco exceeding pesticide residue standards.

Within 10 days of the receipt of test results from pesticide test samples, the Director shall notify the importer or entity responsible for the lot of tobacco of the test results. If the test results indicate that the lot or any portion of the lot contains a banned pesticide exceeding the standards, the Director will notify the importer or entity responsible for the affected tobacco and the appropriate U.S. Customs officials that the tobacco cannot enter the United States. The importer or other entity shall notify the Director in writing of the methods by which the tobacco will be disposed of and provide 5 days advance notice of the time and place of final disposition. The Department will monitor the disposition procedures to verify that the tobacco has been accurately identified as to lot, kind, type, and grade.

§ 29.430 Appeals.

Appeals of test results for imported tobacco must be made in writing to the Director within 30 days from the receipt of notification. The statement must specify in detail the relief requested. The importer or entity requesting the appeal will bear the cost of any subsequent sampling and testing. Subsequent samples will be selected only from tobacco which is in the original package and from tobacco which has not been mixed, blended, or altered in any manner since the initial sampling.

6. The heading of § 29.500 is revised to read as follows:

§ 29.500 Fees and charges for inspection and testing of imported tobacco.

7. The present text of § 29.500 is designated as paragraph (a) and a new paragraph (b) is added as follows:

(b) The fee for sampling, testing and certification of imported flue-cured and burley tobacco for prohibited pesticide residues is $.0010 per pound, and shall be paid by the importer. The fee for testing imported flue-cured and burley tobacco not accompanied by a certification that it is free of prohibited pesticide residues shall be an additional $.0030 per pound. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to "Agricultural Marketing Service."

Dated: August 21, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

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VOL
51
ISS
163
AG
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1986
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INFORM
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General
Printing
Laws
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United S
Other S
Library
Privacy
TDD for

FEDERA

27515-27
27811-28
28059-28
28219-28
28321-28
28509-28
28687-28
28799-28
28921-29
29085-29
29201-29
29443-29
29545-29
29629-29
29901-30
30045-30

Reader Aids

Federal Register

Vol. 51, No. 163

Friday, August 22, 1986

INFORMATION AND ASSISTANCE

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Daily Federal Register

General information, index, and finding aids	523-5227
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Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

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Printing schedules and pricing information	523-3419

Laws 523-5230

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Executive orders and proclamations	523-5230
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United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19
29629-29900.....20
29901-30044.....21
30045-30200.....22

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:
5514.....27515
5515.....28218
5516.....29200

Administrative Orders:

Memorandums:
July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445

5 CFR

532.....28799
890.....28799, 30068
1201.....28321

Proposed Rules:
540.....29655
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576, 29655

7 CFR

2.....29201
12.....29901
26.....28800
29.....28687, 30196
51.....27813, 28802
272.....28196, 30045
273.....28196, 30045
301.....30049
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
908.....27816, 28509, 29208, 30051
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
932.....28922
944.....29447
982.....29545
991.....28802
1064.....28687
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449, 29903
1924.....29903
1930.....27636
1940.....29901
1941.....29901
1943.....29901
1944.....27636
1945.....29901
1951.....27636
1965.....27636
1980.....29901, 29903

Proposed Rules:
52.....28719, 29656
235.....29236
250.....29236
252.....29236
255.....29236
330.....29401
340.....29401
441.....29246
447.....27862
656.....29251

920 29473
929 29936
985 29109
987 29251
1007 29252
1011 29252
1046 29252
1065 ..... 27553, 28721, 28819, 29936
1068 28819
1079 ..... 27554, 28819
1093 29252
1094 29252
1096 29252
1098 29252
1136 27866
1137 27554
1139 27555
1205 30069
1496 29557
1709 28722
1772 ..... 29557, 29558

8 CFR

238 ..... 28060, 28923, 29085

Proposed Rules:

214 ..... 27867, 28576
248 27867

9 CFR

77 29629
78 29629
92 ..... 28805, 29210, 30051
205 29449
302 29905
303 29905
317 ..... 29456, 30052
318 ..... 29456, 30052
381 29905

Proposed Rules:

92 27871

10 CFR

Ch. I 29211
50 ..... 27817, 28044, 30028, 30054
73 ..... 27817, 27822, 30054
110 27825

Proposed Rules:

50 27872
73 29656
435 ..... 29754, 29773

11 CFR

Proposed Rules:

100 28154
106 28154
9001 28154
9002 28154
9003 28154
9004 28154
9005 28154
9006 28154
9007 28154
9012 28154
9031 28154
9032 28154
9033 28154
9034 28154
9035 28154
9036 28154
9037 28154
9038 28154
9039 28154

12 CFR

1 29085
17 29089
207 27518
220 27518
221 27518
224 27518
303 27826
337 29630
501 28221
522 ..... 28221, 28690
523 28221
570 29458
620 29459
621 29459
622 29460
623 29460
741 27522

Proposed Rules:

205 28589
226 ..... 28245, 29256
337 29657

13 CFR

310 27828

14 CFR

21 28509–28525
23 28509–28525
25 28322
39 ..... 27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213, 29910–29915
71 ..... 27833–27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630, 30054
75 28809
97 ..... 28326, 29631
121 28322
1204 27528
1209 28924

Proposed Rules:

Ch. I 28386, 28725
1 28095
21 29938–29944
23 29938–29944
36 27556
39 ..... 27557, 27874, 28386, 28832, 29110, 29256–29259, 29474, 29475, 29659, 29946, 30070–30077
71 ..... 28388–28390, 28956, 28957, 29261–29263, 29534
73 28095
75 ..... 28096, 28957
91 29476
382 30078

15 CFR

20 28825
370 28692
371 28692
373 28692
374 28692
379 28692
399 ..... 28692, 28693

16 CFR

13 ..... 28694, 28695, 29633
16 30055
423 28222
444 28328
1500 ..... 28529, 29094

Proposed Rules:

13 ..... 28594, 29265, 29660, 29664
703 29666
1500 29778

17 CFR

1 27529
5 27529
16 27529
33 27529

Proposed Rules:

231 28596
240 28096
241 28596

18 CFR

37 27835
154 ..... 27529, 28331
157 ..... 27529, 28331
270 ..... 27529, 28331
271 ..... 27529, 28068, 28331
284 ..... 27529, 28331
410 28810

Proposed Rules:

271 28102

19 CFR

6 27836
101 28070

Proposed Rules:

113 27875
141 28390
353 29046

20 CFR

404 28544
416 28544

Proposed Rules:

404 28834
410 28834
416 28834
655 28599

21 CFR

74 ..... 28331, 28346, 28929
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
175 ..... 30059, 30060
176 28545
178 ..... 28930, 29460
193 28223
211 28810
310 28810
314 28810
331 27762
332 27762
344 28556
357 27756
369 27756
436 27531
440 27531
442 27531
510 ..... 28546, 29916
520 ..... 28546, 29215
522 ..... 28546, 28932, 29462
546 28546
556 ..... 28932, 29097, 29462
558 ..... 28546, 28547, 29097, 29463
561 28223
1308 28695

Proposed Rules:

1308 ..... 28725, 28727

22 CFR

Proposed Rules:

2a 28391

23 CFR

635 27532

24 CFR

0 30178
20 28364
35 27774
200 28696
203 28548
204 28548
207 ..... 27837, 28547, 28699
221 ..... 27837, 28547
251 28699
255 28699
300 27838
390 28551
511 28703
812 29463
882 29463
888 28486
892 29633
905 27774
965 27774
968 27774

Proposed Rules:

35 27793
203 28247
510 27793
511 27793
570 27793
590 27793

26 CFR

1 28553
20 28365
25 28365
602 28365

27 CFR

19 28071
250 28071
270 28078
275 28078
290 28078
295 28078
296 28078

Proposed Rules:

4 28836
5 28836
7 28836
9 29478
270 28106
275 28106
290 28106
295 28106
296 28106

28 CFR

0 29464

29 CFR

1601 29098
1620 29816
1952 27534
1956 29917
1960 28378
2603 28379
2676 29215

Proposed Rules:

530 30036
602 28840
1613 29482
2603 29497

30 CFR

901 29098

914.....29100
917.....29919
931.....28553
943.....28554

Proposed Rules:
250.....29947
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
332.....28933
352.....28933
353.....28933
545.....28933
550.....28933

Proposed Rules:
10.....29113
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468

Proposed Rules:
553.....29115

33 CFR

100.....28706, 29919
117.....28380, 28707, 29101, 30060, 30061
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468

Proposed Rules:
100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396, 29920, 30190
674.....28312
690.....30190
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101

Proposed Rules:
7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555

2.....28052, 28555, 28707, 29920
201.....30061
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636

Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923, 30063
60.....29104
61.....27956
65.....28224, 29216, 30064
81.....27843–27845, 30065
180.....28225–28227
228.....29923, 29927
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556

Proposed Rules:
Ch. I.....29499, 30166
52.....27560, 27878, 29116
65.....28113, 29949, 30080
81.....29268
85.....28114
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669
228.....30081
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101-26.....29104
101-38.....29638
101-40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847

Proposed Rules:
405.....29560
447.....29560

43 CFR

11.....27674

Public Land Orders:
6620.....28229
6622.....28229
6623.....29641

Proposed Rules:
4.....28846

44 CFR

11.....29222
64.....28230, 28232

Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384

Proposed Rules:
1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552
87.....29106
97.....28237

Proposed Rules:
0.....27566
1.....27566
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:
501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233, 29471
509.....29552
571.....28238, 29552

Proposed Rules:
Ch. X.....28847
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241, 29642
604.....28575
630.....28575
641.....28094, 29471
651.....29642
655.....28241, 29555
661.....27859, 28717, 28954, 29234, 29471, 29654, 29932, 30066
663.....29933
671.....28242
672.....28385
674.....27860, 28243, 29107

Proposed Rules:
17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 19, 1986

VOL
51
ISS
163
AG
22
1986
UMI

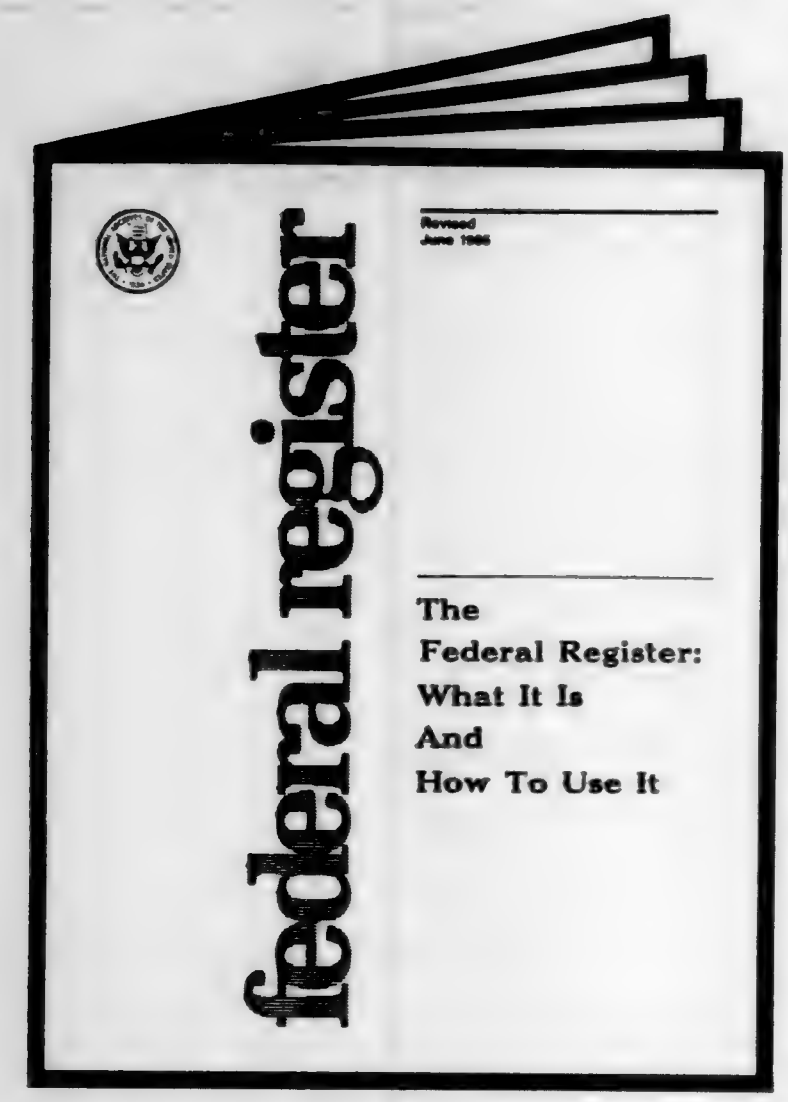

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VOL
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VOL
51
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164
AG
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1986
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8-25-86
Vol. 51
Pages 30

8-25-86
Vol. 51 No. 164
Pages 30201-30322

federal register

Monday
August 25, 1986

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VOL
51
ISS
164
AG
25
1986
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202–523–3419

Contents

Federal Register

Vol. 51, No. 164

Monday, August 25, 1986

Agricultural Marketing Service
RULES
Almonds grown in California, 30203
Milk marketing orders:
Nebraska-Western Iowa, 30204
PROPOSED RULES
Milk marketing orders:
Iowa, 30220
Oranges (navel) grown in Arizona and California; Navel Orange Administrative Committee, reapportionment, 30219

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Foreign Agricultural Service; Forest Service
RULES
Export sales reporting requirements:
Corn and grain sorghum, 30203

Animal and Plant Health Inspection Service
PROPOSED RULES
Exportation and importation of animals and animal products:
African swine fever—
Disease status change for Belgium, 30221
Viruses, serums, toxins, etc.:
Pasteurella multocida bacterin, avian isolate; standard requirements, 30222

Army Department
NOTICES
Meetings:
Science Board, 30264

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase from the Blind and Other Severely Handicapped

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Connecticut, 30258
Delaware, 30258
Maryland, 30258
Vermont, 30258
(2 documents)

Coast Guard
PROPOSED RULES
Dangerous cargoes:
Incinerator vessels, 30241

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 30263

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 30263

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Cotton, 30255

Consumer Product Safety Commission
RULES
Hazardous substances:
Flammability classifications
Correction, 30209

Copyright Office, Library of Congress
RULES
Cable systems:
Compulsory license—
Retransmission of copyrighted works, 30214

Defense Department
See also Army Department; Navy Department
NOTICES
Meetings:
Graduate Medical Education Advisory Committee, 30263

Drug Enforcement Administration
NOTICES
Environmental statements; availability, etc.:
Cannabis eradication program—
Non-Federal and Indian lands, 30274
Applications, hearings, determinations, etc.:
Taylor, Jack E., M.D., 30275

Education Department
NOTICES
Grantback arrangements; award of funds:
Oklahoma, 30264
Grants; availability, etc.:
Funding priorities, 30320
Handicapped research, 30320

Environmental Protection Agency
RULES
Toxic substances:
Testing requirements—
Mesityl oxide, 30216
NOTICES
Agency information collection activities under OMB review, 30267

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness standards, etc.:
Petersen Aviation, Inc.; anti-detonation injection system, 30206, 30207
(2 documents)
Prohibited areas, 30208
PROPOSED RULES
Restricted areas, 30228
VOR Federal airways, 30227

Federal Communications Commission
PROPOSED RULES
Practice and procedure:
Cable television hardware; utility poles attachment, 30254
NOTICES
Agency information collection activities under OMB review, 30267
Common carrier services:
Satellite television signals, scrambling; home satellite dish antennas, 30267
Rulemaking proceedings; petitions filed, granted, denied, etc., 30268

Federal Emergency Management Agency
RULES
Flood insurance program:
Flood plain management standards, claims, coverage, rating, and sale of insurance, etc., 30290

Federal Highway Administration
NOTICES
Meetings:
National Motor Carrier Advisory Committee, 30288

Federal Home Loan Bank Board
PROPOSED RULES
Federal home loan bank system:
Liquidity requirements; withdrawn, 30225
Federal Savings and Loan Insurance Corporation:
Loans to one borrower, 30225

Federal Maritime Commission
NOTICES
Agreements; additional information requests:
Sea-Barge Agreement, 30269
Agreements filed, etc., 30268

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 30269
Applications, hearings, determinations, etc.:
Citizens Banking Corp., 30269
Habersham Bancorp, 30270
Shawmut Corp. et al., 30270
Westpac Banking Corp., 30271

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds and notes, U.S. Savings; issuing agencies and payments by financial institutions; issuing agent fees, 30212

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Antibiotic drugs; exemptions from certification, 30211
Sulfamethazine sustained-release boluses, 30211
Food for human consumption:
Grated cheese; identity standard, 30210
NOTICES
Memorandums of understanding:
National Marine Fisheries Service; illegal commerce in molluscan shellfish, cooperative methods, 30271

Foreign Agricultural Service
RULES
Export sales reporting requirements:
Corn and grain sorghum [Editorial Note: For a document on this subject, see entry under Agriculture Department.]
NOTICES
Import quotas and fees:
Dairy import licenses, 30257

Forest Service
NOTICES
Environmental statements; availability, etc.:
Inyo National Forest, CA, 30257

Health and Human Services Department
See Food and Drug Administration

Interior Department
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Oil country tubular goods from—
Israel, 30259
Antidumping and countervailing duties:
Administrative review requests, 30259

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Interstate Railroad Co. et al., 30274

Justice Department
See Drug Enforcement Administration

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Meetings:
Vernal District Grazing Advisory Board, 30273
Realty actions; sales, leases, etc.:
California, 30273
Nevada; correction, 30274

Library of Congress
See Copyright Office, Library of Congress

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
Florida, 30261
Mississippi, 30261

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 30218
NOTICES
Meetings:
Caribbean Fishery Management Council, 30262
Oceans and Atmosphere National Advisory Committee, 30262
Pacific Fishery Management Council, 30262

National Science Foundation
NOTICES
Meetings:
Astronomical Sciences Advisory Committee, 30276

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Sampson and USS Hoel, 30213
NOTICES
Meetings:
Education and Training Advisory Board, 30264
Naval Research Advisory Committee, 30264

Nuclear Regulatory Commission
PROPOSED RULES
Reactor site criteria:
Seismic and geologic siting criteria, nuclear power plants, reassessment, 30224
NOTICES
Environmental statements; availability, etc.:
Florida Power & Light Co., 30276
Applications, hearings, determinations, etc.:
Duke Power Co., 30276

Occupational Safety and Health Administration
PROPOSED RULES
Marine terminals and health and safety standards:
Servicing of single piece and multi-piece rim wheels, 30230

Postal Rate Commission
NOTICES
Preferred rate study, 30277

Presidential Documents
ADMINISTRATIVE ORDERS
Trading With the Enemy Act; extension of authorities (Memorandum of Aug. 20, 1986), 30201

Prospective Payment Assessment Commission
NOTICES
Meetings, 30278

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
National Securities Clearing Corp., 30278
Applications, hearings, determinations, etc.:
Dow Chemical Co., 30279
Pratt Street Ventures III Ltd. Partnership, 30280
Pro-Med Capital, Inc., 30282
Zero Coupon Bond Fund, 30285

Small Business Administration
NOTICES
Disaster loan areas:
Wisconsin, 30287

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 30287
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 30287

Treasury Department
See also Fiscal Service
PROPOSED RULES
Currency and foreign transactions; financial reporting and recordkeeping; Bank Secrecy Act, implementation, 30233

Separate Parts In This Issue

Part II
Federal Emergency Management Agency, 30290

Part III
Department of Education, 30320

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 164 AG 25 1986 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
August 20, 1986.....30201

7 CFR
20.....30203
981.....30203
1065.....30204
Proposed Rules:
907.....30219
1079.....30220

9 CFR
Proposed Rules:
94.....30221
113.....30222

10 CFR
Proposed Rules:
100.....30224

12 CFR
Proposed Rules:
523.....30225
563.....30225

14 CFR
21 (2 documents).....30206, 30207
23 (2 documents).....30206, 30207
73.....30208
Proposed Rules:
71 (2 documents).....30227, 30228
73.....30228

16 CFR
1500.....30209

21 CFR
133.....30210
510.....30211
520.....30211

29 CFR
Proposed Rules:
1910.....30230
1917.....30230

31 CFR
317.....30212
321.....30212
500 (authority extended by Memorandum of Aug. 20, 1986).....30201
505 (authority extended by Memorandum of Aug. 20, 1986).....30201
515 (authority extended by Memorandum of Aug. 20, 1986).....30201
520 (authority extended by Memorandum of Aug. 20, 1986).....30201
Proposed Rules:
103.....30233

32 CFR
706.....30213

37 CFR
201.....30214

40 CFR
799.....30216

44 CFR
59.....30290
60.....30290
61.....30290
65.....30290
70.....30290
73.....30290
76.....30290

46 CFR
Proposed Rules:
150.....30241

47 CFR
Proposed Rules:
1.....30254

50 CFR
611.....30218
672.....30218

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

Presidential Documents

Title 3—

The President

Memorandum of August 20, 1986

Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State, the Secretary of the Treasury

Under Section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on September 5, 1985 (50 F.R. 36563), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1986.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by Section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1987, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This memorandum shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, August 20, 1986.

[FR Doc. 86–19304
Filed 8–22–86; 8:50 am]
Billing code 3195–01–M

VOL
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Rule

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SUMMAR
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Rules and Regulations

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 20

Export Sales Reporting Requirements; Corn and Grain Sorghum

AGENCY: Foreign Agricultural Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Export Sales Reporting Regulations (7 CFR Part 20) to change the marketing year for corn and grain sorghum from "October 1 through September 30" to "September 1 through August 31". This change would conform such marketing year with the marketing year used for other programs and data collection activities of the Department of Agriculture.

EFFECTIVE DATE: This rule shall become effective for reports to be submitted on and after September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard E. Passig, Director, Export Sales Reporting Division, Room 5965–S, Foreign Agricultural Service, Department of Agriculture, Washington, DC 20250. Telephone: (202) 447–3273.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "non-major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that this rule will not have a significant economic impact on a substantial number of small entities. In accordance with the Regulatory Flexibility Act, a copy of this rule has been submitted to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

Information collection requirements contained in the regulation (7 CFR Part 20) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB clearance number 0551–0007.

The Food Security Act of 1985 changed the definition of the term "marketing year" for corn from "October 1—September 30" to "September 1—August 31" in the Agricultural Adjustment Act of 1938, as amended. On March 11, 1986, the Department published regulations (7 CFR Part 713) governing various programs for 1986 and subsequent crops of certain agricultural commodities which, among other things, provided that for these programs the marketing year for corn and grain sorghum would be the period September 1—August 31. See 51 FR 8440. It is deemed desirable to use the same marketing year (September 1—August 31) for corn and grain sorghum under the Export Sales Reporting Program in order to avoid potential confusion on the part of submitters of export sales data and to make comparison of such data received more meaningful. Implementation of this rule on and after September 1, 1986 will not cause an increased reporting burden on the public and constitutes merely a minor change in reporting procedures. Consequently, it is found, upon good cause, that the requirements for notice, public procedure and effective date provided in 5 U.S.C. 553 are impracticable, unnecessary and contrary to the public interest.

List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting and recordkeeping requirements.

PART 20—[AMENDED]

Accordingly, Part 20 of Subtitle A of Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 20 is revised to read as follows.

Authority: Sec. 812, Pub. L. 91–524, as added by Pub. L. 98–86, Sec. 1(27)(B), 87 Stat. 238 (7 U.S.C. 612c–3); Sec. 7(g), Pub. L. 96–72, as amended, 93 Stat. 519 (50 U.S.C. App. 2406(g)).

2. The table of contents is amended by adding at the end thereof the following:

Sec.
* * * * *
20.12 OMB control number assigned pursuant to Paperwork Reduction Act.

3. A new § 20.12 is added to read as follows:

§ 20.12 OMB control number assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0007.

Appendix I to Part 20—[Amended]

4. Appendix I to 7 CFR Part 20 is amended to read as follows:

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
•	•	•	•
Corn, unmilled	Metric tons	Sept. 1	Aug. 31
•	•	•	•
Grain sorghums, unmilled	Metric tons	Sept. 1	Aug. 31
•	•	•	•

Signed at Washington, DC, on August 8, 1986.

Thomas O. Kay,

Administrator, Foreign Agricultural Service.

[FR Doc. 86–19108 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Marketing Service

7 CFR PART 981

Almonds Grown in California; Extension of the Disposition Date for 1985–86 Crop Year Reserve Almonds

AGENCY: Agricultural Marketing Service, UDSA.

ACTION: Final rule.

SUMMARY: This action extends the time which handlers of California almonds have to sell their 1985–86 crop year reserve almonds to reserve outlets. Normally, reserve almonds not sold by handlers to reserve outlets by September 1 would be disposed of by the Almond Board of California. This action was recommended in view of the projected short almond crop for the 1986–87 season, and is needed to allow almond handlers to utilize 1985–86 season reserve almonds for sales to reserve outlets (secondary markets). Without this action, handlers would have to use new crop 1986–87 almonds for such uses.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultureal Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatability.

It is estimated that 70 handlers of California almonds under the marketing order for almonds grown in California will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. This extension issued under this marketing order has been issued in prior years, and has resulted in decreased reserve inventories and the stabilization of almond supplies, from one season into another, with attendant benefits to handlers and the industry.

This final rule adds § 981.466a to the Subpart—Administrative Rules and Regulations. This subpart is issued under the marketing agreement and order No. 981, both as amended, regulating the handling of almonds grown in California. Section 981.466a is added pursuant to § 981.66(e) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board" and upon other available information. It is further found that this action will tend to effectuate the declared policy of the act.

Section 981.66(e) provides that any reserve almonds remaining unsold to reserve outlets as of each September 1, subsequent to any crop year in which handlers are required to withhold such almonds from normal outlets, shall be disposed of by the Board as soon as practicable through the most readily available reserve outlets. Section 981.66(e) also provides that the date of September 1 may be extended by the Secretary of Agriculture upon recommendation of the Board or the receipt of other information. This action extends the September 1 date to March 1, 1987, for the purpose of disposing of 1985–86 crop year reserve almonds.

The extension of the date for the disposition of reserve almonds to reserve outlets was recommended in view of the projected short 1986–87 almond crop. Reserve outlets include: Market development, which includes school lunch, almond butter, and complementary promotional projects; and noncompetitive outlets, such as animal feed and almonds used for crushing into oil. In particular this is the fifth year of a market development program for almond butter, in which reserve almonds have been committed to the trade. The extension of the date will allow the industry to meet its market development obligation for almond butter promotion with reserve almonds from the 1985–86 crop, rather than using almonds from the 1986–87 season. Thus, the extension would benefit the industry by stabilizing almond suppliers over the 1986–87 season.

It has been determined that an emergency situation exists which warrants publication of this final rule without prior opportunity for public comment. This action will relax a restriction on handlers by allowing them additional time to sell their 1985–86 crop year reserve almonds beyond the current September 1, 1986, deadline. Therefore, this action should take effect on or before September 1, 1986, and consequently, there is not sufficient time to issue a notice of proposed rulemaking soliciting comments from the public.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedure with respect to this emergency action are impracticable and contrary to the public interest, and that good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, California, Almonds.

1. The authority citation for 7 CFR Part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 981—ALMONDS GROWN IN CALIFORNIA

2. Section 981—466a is added to the Subpart—Administrative Rules and Regulations as follows: (This section will not appear in the Code of Federal Regulations).

§ 981.466a Extension of the disposition date for 1985–86 crop year reserve almonds.

Pursuant to § 981.66(e), the date of September 1, contained in § 981.66(e) shall be changed to March 1, 1987, with regard to the disposition of 1985–86 crop year reserve almonds.

Dated: August 20, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86–19158 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily reduces for the months of September 1986 through March 1987 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status under the Nebraska-Western Iowa order. The revision is made in response to a request by a supply plant operator in order to maintain the pool status of producers historically associated with the Nebraska-Western Iowa order.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Supply Plant Shipping Percentage: Issued July 29, 1986; published August 1, 1986 (51 FR 27553).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (51 FR 27553) concerning a proposed reduction in the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status. The temporary reduction would be effective for the months of September 1986 through March 1987. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by August 8, 1986.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1065.7(b) should be reduced by 10 percentage points from the present 40 percent to 30 percent for the months of September 1986 through March 1987.

Pursuant to the provisions of § 1065.7(b)(3), the supply plant shipping percentage as set forth in § 1065.7(b) may be increased or decreased by up to 20 percentage points during any month. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Neu Cheese Company, a handler operating a supply plant historically pooled under the Nebraska-Western Iowa order, requested that for the months of September 1986 through March 1987, the supply plant shipping percentage requirement be reduced by 10 percentage points. Neu Cheese Company stated that it has consistently supplied milk to the fluid market by shipping its share of milk to distributing plants from its supply plant. However, the handler stated that it is having trouble finding fluid outlets at which to qualify its supply of milk for the period September 1986 through March 1987 because of a change in the ownership of a distributing plant traditionally supplied by Neu Cheese Company. Neu Cheese Company claimed that the distributing plant's new management is requiring the supply plant operator to pay significant fees in order to pool milk on the basis of its sales to the distributing plant, and that Neu Cheese Company agree to deliver to the distributing plant a percentage of its milk supply substantially in excess of the market's Class I utilization percentage. The handler stated that in order to continue the pool status of producers long associated with the Nebraska-Western Iowa order, the pool supply plant shipping percentage must be temporarily reduced by 10 percentage points, from 40 percent of the supply plant's receipts to 30 percent.

The temporary revision was supported in additional comments filed on behalf of Neu Cheese Company, and in comments filed by Wells' Dairy, Inc., a fluid milk processor regulated under the order, and by Associated Milk Producers, Inc., a cooperative association representing a substantial number of producers who supply milk to the Nebraska-Western Iowa market. Data in the comments indicate that there will be sufficient supplies of milk available for fluid use if the supply plant shipping percentage is temporarily reduced. Comments filed by Goodrich Dairy, a distributing plant regulated under the order, opposed the proposed revision but stated no reason for doing so.

Without the temporary revision, milk would have to be shipped from the Neu Cheese plant to a Beatrice distributing plant 160 miles away, pumped into and out of the distributing plant, and transported back to New Cheese solely to qualify all of Neu Cheese's supply of milk for pooling. Such movement would be inefficient and uneconomic, and the additional pumping to which the milk would be subject would be detrimental to the quality of the milk. It is concluded that the relaxation of the supply plant shipping percentage by 10 percentage points for the months of September 1986 through March 1987 will prevent uneconomic movements of milk to pool distributing plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September 1986 through March 1987;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

PART 1065—[AMENDED]

It is therefore ordered, that in paragraph (b) of § 1065.7, the provision "40 percent" is revised to read "30 percent" for the months of September 1986 through March 1987.

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Effective date: Upon publication in the **Federal Register**.

Signed at Washington, DC, on: 19 August, 1986.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 86–19159 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–02–M

VOL 51 ISS 164 AG 25 1986 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 015CE, Special Conditions No. 23-ACE-14]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes, To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series airplanes that are modified to incorporate ADI provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1985, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Model 95( )55 Series airplanes. This installation incorporates ADI tanks, pumps, and associated control system to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

The installation of ADI systems in small airplanes for this purpose was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for these ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60 percent alcohol and 40 percent water) is a flammable liquid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

Type Certification Basis

The certification basis (TC 3A16) for the Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series Airplane is Part 3 of the Civil Air Regulations as amended to May 15, 1956, and sections 23.1385(c), 23.1387(a) and 23.1387(e) of Federal Aviation Regulations, Part 23, dated February 1, 1965, as amended by Amendment 23-12; Equivalent Safety Findings: CAR sections 3.663 and 3.757 for Models 95-B55 and 95-B55A (S/N TC-2003 and up), Models E55 and E55A (S/N TE-1084 and up), Models 58 and 58A (S/N TH-773 and up); CAR section 3.387 for Models 95-B55 and 95-B55A (all serials), Models E55 and E55A (all serials), and Models 58 and 58A (all serials); and Part 36 through Amendment 36-10 of the Federal Aviation Regulations for Models 95-B55 (S/N TC-2285 and after), for Models E55 (S/N TEI-1171 and after), and for Model 58 (S/N TH-1090 and after) and these special conditons.

Discussion of Comments

The FAA received no comments in response to Notice No. 23-ACE-14, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986.

Conclusion

This action affects only the Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series airplanes incorporating ADI systems. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series airplanes modified to Incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) system as follows:

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b), § 23.953(a) and (b), § 23.954, § 23.955(a) and (c)(1), § 23.959, § 23.961, § 23.963(a), (d), and (e), § 23.965(a)(1), § 23.967(a)(1) and (2), (b), (c), (d), and (e), § 23.969, § 23.971, § 23.973(a), (b), and (c), § 23.975(a)(1), (2), (3), (5), (6), an d(7), § 23.977(a)(2), (b), (c), and (d), § 23.991, § 23.993, § 23.995, § 23.997(a), (b), (c), and (d), § 23.999, § 23.1141(a), (b), (c), (d), (f), and (g), § 23.1143(a), (e), and (f), § 23.1189(a) and (c), and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations Part 23, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in §§ 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph with "this flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary Pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicously market at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 5, 1986.

Edwin S. Harris,

Director Central Region

[FR Doc. 86-19070 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 017CE, Special Conditions No. 23-ACE-16]

Special Conditions; Peterson Aviation, Inc., Modified Cessna Model 188 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Cessna Model 188 Series airplanes that are modified to incorporate Anti-Detonation Injection (ADI) system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional safety standards which the Administration finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 188 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control system to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Peterson Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

The installation of ADI systems in small airplanes for this purpose was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for these ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid (a mixture of 60 percent alcohol and 40 percent water) is a flammable liquid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

Type Certification Basis

TC A9CE, for Restricted Category, Part 21 of the Federal Aviation Regulations, dated February 1, 1965; for Normal Category, Part 23 of the Federal Aviation Regulations, dated February 1, 1965. In addition (S/N 18803297 and on) § 23.1559, effective March 1, 1978; for the T188C only, Part 21 of the Federal Aviation Regulations dated February 1, 1965, and Part 23 of the Federal Aviation Regulations dated February 1, 1965, with exception to § 23.221, per § 21.25(a)(1). In addition, § 23.1559, effective March 1, 1978; Equivalent Safety Items on S/N 678T, 18802349 and on, S/N T18803307T, T18803308T, T18803325T and on, Airspeed Indicator § 23.1545 (see Note 7 on TCDS on use of IAS), Airspeed Limitations § 23.1583(a)(1); and these special conditions.

Discussion of Comments

The FAA received one comment in response to Notice No. 23-ACE-16, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986.

The commenter ". . . takes issue with the FAA's determination that the anti-detonation injection (ADI) fluid is a flammable liquid in the same volatility class as gasoline. While the Petersen Aviation, Inc., ADI fluid might be a flammable liquid, other ADI liquids are not. ADI fluid is normally a mixture of water and alcohol. Alcohol is added to water to prevent freezing at low ambient temperature conditions. The concentration of alcohol required to

effectively lower the freezing temperature is insufficient to support a flame.

"Anti-detonation injection (ADI) is a generic term covering different combinations and types of alcohol and water. All ADI fluids are not flammable and some change in terminology must be incorporated to exclude non-flammable ADI fluids from having to be specifically handled and protected as gasoline."

The FAA recognizes that ADI systems have been used in both reciprocating and turbine engines for many years. In those systems, the ADI mixture ratio of alcohol to water was so low that flammability was not a problem. The ADI fluid to be used in the Petersen installation is 60 percent alcohol and 40 percent water. This ADI fluid, if spilled and allowed to separate and vaporize, will form a flammable mixture in air.

The FAA agrees that ADI is a generic term. However, unless and until Petersen adopts a descriptor or trade name for this system, the FAA will refer to it as a flammable fluid system as distinguished from a nonflammable fluid system. Other ADI systems using lower alcohol content fluid, determined to be nonflammable, may not require similar special conditions. The FAA does not plan a change in terminology at this time.

Conclusion

This action affects only the Cessna Model 188 Series airplanes incorporating ADI systems. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for the Cessna Model 188 Series airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System as follows:

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); § 23.953(a) and (b); § 23.954, § 23.955(a) and (c)(1); § 23.959; § 23.961; § 23.963(a), (d), and (e); § 23.965(a)(1); § 23.967(a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973(a), (b), and (c); § 23.975(a)(1), (2), (3), (5), (6), and (7); § 23.977(a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997(a), (b), (c), and (d); § 23.999; § 23.1141(a), (b), (c), (d), (f), and (g); § 23.1143(a), (e), and (f); § 23.1189(a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of Part 23 of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in §§ 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in § 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace "The ability of the fuel system to provide fuel at the rates specified in this section and at a pressure sufficient for proper carburetor operation must be shown . . ." with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955, replace the entire paragraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when each pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) and "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph to read, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI Systems Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 8, 1986.

Edwin S. Harris,

Director Central Region.

[FR Doc. 86-19071 Filed 8-22-86; 8:45am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 85-AWA-42]

Alteration of Prohibited Area P-56 Rancho del Cielo, Goleta, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the description, altitudes, and times of designation of Prohibited Area P-56 located near Goleta, CA. This action will provide additional prohibited area airspace over the President's residence for security purposes as requested by the U.S. Secret Service. This action will prohibit aircraft flight within the designated prohibited area.

EFFECTIVE DATE: 0901 U.t.c., October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

SUPPLEMENTARY INFORMATION:

History

On June 11, 1986, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the

description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA, (51 FR 21179). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.93 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations alters the description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA. This action is necessary since the U.S. Secret Service has determined there is a need to raise the ceiling of the prohibited area and its lateral boundaries to enhance the level of security provided the president. The lateral boundaries of the existing prohibited area will be expanded and the area will be subdivided into P–66A and P–66B. P–66A will be active on a continuous basis from the surface to 4,000 feet MSL. P–66B, which will have the same lateral dimensions as P–66A, will be activated from 4,000 feet MSL to but not including 5,000 feet MSL by Notice to Airmen (NOTAM) only when the President is in residence.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Prohibited areas.

Adoption of the Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.93 [Amended]

2. Section 73.93 is amended as follows:

P–66 Rancho del Cielo, Goleta, CA [Removed]
P–66A Rancho del Cielo, Goleta, CA [New]
Boundaries. Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 31°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, FAA, Washington, DC.
P–66B Rancho del Cielo, Goleta, CA [New]
Boundaries. Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.
Designated altitudes. 4,000 feet MSL to but not including 5,000 feet MSL.
Time of designation. By NOTAM.
Using agency. Administrator, FAA, Washington, DC.

Issued in Washington, DC, on August 18, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–19072 Filed 8–22–86; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances and Articles; Amendment of Flammability Regulations; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued by the Commission to amend regulations for classification of extremely flammable, flammable, and combustible substances which release ignitable vapors. The rule was published in the **Federal Register** of August 8, 1986 (51 FR 28529). This action is necessary to correct technical errors which appear in the text of § 1500.3(c)(6) of the final rule.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

§ 1500.3 [Corrected]

The following corrections are made to the amendment of 16 CFR 1500.3, published in the **Federal Register** of August 8, 1986 (51 FR 28529):

1. In 1500.3(c)(6)(i), (ii), (iii), and (vii) on pages 28536 in the third column and on page 28537 in the first column, the reference to "§ 1500.43" is corrected to read "§ 1500.43a."

2. Section 1500.3(c)(6)(iv) on page 28537 is correctly revised to read as follows:

(iv) To determine flashpoint temperatures for purposes of enforcing and administering requirements of the Federal Hazardous Substances Act applicable to "extremely flammable," "flammable," and "combustible" hazardous substances, the Commission will follow the procedures set forth in § 1500.43a. However, the Commission will allow manufacturers and labelers of substances and products subject to those requirements to rely on properly conducted tests using the Tagliabue open-cup method which was in effect prior to the issuance of § 1500.43a (as published at 38 FR 27012, September 27, 1973, and set forth below), and the defintions of the terms "extremely flammable," "flammable," and "combustible" in this section before its amendment (as published at 38 FR 27012, September 27, 1983, and amended 38 FR 30105, November 1, 1973, set forth in the note following this section) if all of the following conditions are met;

(A) The substance or product was subject to and complied with the requirements of the Federal Hazardous Substances Act for "extremely flammable," "flammable," or "combustible" hazardous substances before the effective date of § 1500.43a; and

(B) No change has been made to the formulation or labeling of such substance or product after the effective date of § 1500.43a, prescribing a closed-cup test apparatus and procedure.

Dated: August 19, 1986.

Sheldon Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 86–19122 Filed 8–22–86; 8:45 am]

BILLING CODE 6355-01-M

VOL 51 ISS 164 AG 25 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 85P-0182]

Grated Cheeses; Amendment of the Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standard of identity for grated cheeses to permit the use of safe and suitable anticaking agents, including powdered cellulose. This action responds to a petition filed by cheese manufacturers and would promote honesty and fair dealing in the interest of consumers.

DATES: Compliance may begin October 24, 1986; objections by September 24, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 29, 1985 (50 FR 43720), FDA published a proposal, based on a petition from the National Cheese Institute, the Kroger Co. (Pace Dairy Foods), Sargento Cheese Co., Inc., Schreiber Foods, Inc., and Paniplus Co. (a wholly-owned subsidiary of Continental Baking Co., Inc.), to amend the standard of identity for grated cheeses (21 CFR 133.148) to permit the use of safe and suitable anticaking agents, including powdered cellulose. Interested persons were given until December 30, 1985, to comment on the proposal.

FDA received 11 comments, from the food industry and a consumer, on the proposal. Ten of the comments favored the proposal.

One of the comments in favor of the proposal pointed out that, in some circumstances, it is necessary to use more than 1 percent of powdered cellulose in order to achieve the desired results. The comment asked FDA to make it clear that "* * * while usage levels of powdered cellulose often do not exceed 1 percent, amounts up to 2 percent may be appropriate under some circumstances and are thus within good manufacturing practice for this ingredient."

In order to properly account for the variation in moisture content, texture, and age of different types of cheese, FDA believes that the use of powdered cellulose in amounts up to 2 percent of the weight of the finished food should be permitted. The agency advises that it considers 2 percent of the weight of the finished food to be the maximum use level for powdered cellulose, either alone or in combination with other suitable anticaking agents within the meaning of 21 CFR 130.3(d)(2).

The comment opposing the proposal argued that consumers expect grated cheeses to be pure and not to contain ingredients such as cellulose.

The use of anticaking agents is necessary in some cases if industry is to provide consumers with grated cheese products having the characteristic flavor and texture of freshly grated cheese. For example, prior to the use of anticaking agents, grated cheeses were dried to reduce the moisture content. The drying process altered the flavor and texture of the cheese, thereby limiting many of the uses of grated cheese products. The use of safe and suitable anticaking agents avoids the limitation, presents no safety concerns, and is clearly advantageous to consumers. The agency, therefore, concludes that it is reasonable to provide for the optional use of safe and suitable anticaking agents in these products and that doing so will promote honesty and fair dealing in the interest of consumers. Accordingly, the agency is amending the standard of identity for grated cheeses as set forth below.

Economic Impact

In the preamble to the proposal (50 FR 43720), the impact of the proposed amendment on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601). No comments were received on the review presented. FDA determined that the proposed action would not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

Objections

Any person who will be adversely affected by this regulation may at any time on or before September 24, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 is revised to read as follows:

Authority: Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61.

2. Section 133.148 is amended by revising paragraph (b)(2) to read as follows:

§ 133.148 Grated cheeses.

* * * * *

(b) * * *

(2) Safe and suitable anticaking agents.

* * * * *

Dated: August 18, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-19083 Filed 8-22-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

[Docket No. 85N-0372]

New Animal Drugs; Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the animal drug regulations by consolidating the exemptions from certification requirements for certain antibiotic drugs. This final rule revokes the regulation providing for exemption from certification for antibiotic drugs treating fish disease and amends another regulation to cover the products that are subject to the revoked regulation. This final rule is based on a notice of proposed rulemaking published in the Federal Register of March 10, 1986 (51 FR 8202).

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Pugliese, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4560.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 10, 1986 (51 FR 8202), FDA proposed to amend the animal drug regulations by revoking § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases* and amending § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act.* The intent of this proposal was to incorporate the specific exemption for antibiotic drugs subject to section 512(n) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(n)) when such drugs are intended for treatment of disease in aquarium fish not intended for food use, into the general exemption for all antibiotic drugs subject to section 512(n) of the act. Interested persons were given 30 days in which to comment.

In response to the proposal, three comments were received, two from trade associations and one from the representative of an aquarium drug manufacturer. All comments requested that the language of § 510.505 be incorporated into § 510.520 to assure the continued exemption from batch certification for antibiotic drugs used in treating diseases of aquarium fish.

The agency does not agree with the request. The exemption from the certification provisions of section 512(n) of the act is explicit in § 510.520. The incorporation of a specific reference to antibiotic drugs intended for treatment of diseases in aquarium fish would be contrary to the intent of the proposed rule. The status of antibiotic drugs intended for treatment of diseases of aquarium fish is not changed by this action.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has examined the potential economic effects of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The rule does not impose new or different requirements on industry, because it consolidates into one regulation the exemptions from the certification requirements of the Federal Food, Drug, and Cosmetic Act that are currently contained in two regulations. The agency therefore concludes that the rule is not a major rule as defined in Executive Order 12291. Furthermore, the agency certifies that the rule will not have a significant impact on a substantial number of small business entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 [21 U.S.C. 360b, 371(a)]; 21 CFR 5.10.

§ 510.505 [Removed]

2. By removing § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases.*

§ 510.520 [Amended]

3. In § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act*, paragraph (a) introductory text is amended by revising the phrase "in §§ 510.505, 510.510, and 510.515" to read "in §§ 510.510 and 510.515."

Dated: August 8, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-19081 Filed 8-22-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Sustained-Release Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc. The application provides for use of sustained-release boluses containing 30 grams of sulfamethazine for the treatment of certain disease conditions in beef cattle and nonlactating dairy cattle.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., Elkan Estates, P.O. Box 338, Elwood, KS 66024, filed NADA 140-270 providing for use of a sulfamethazine sustained-release bolus containing 30 grams of sulfamethazine for the treatment of certain disease conditions caused by organisms sensitive to sulfamethazine in beef cattle and nonlactating dairy cattle. The application is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

VOL 51 ISS 164 AG 25 1986 UMI

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)); 21 CFR 5.10 and 5.83.

2. Section 520.2260b is amended by adding new paragraphs (f) and (g) to read as follows:

§ 520.2260b Sulfamethazine sustained-release bolusse.

* * * * *

(f)(1) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter for use of a 30-gram sulfamethazine sustained-release bolus.

(2) *Conditions of use*—(i) *Amount.* Administer at the rate of 1 bolus (30 grams per bolus) per 200 pounds of body weight, as a single dose.

(ii) *Indications for use.* Administer orally to beef cattle and nonlactating dairy cattle for the treatment of the following diseases when caused by one or more of the listed pathogenic organisms sensitive to sulfamethazine: bovine respiratory disease complex (shipping fever complex) associated with *Pasteurella* spp.; bacterial pneumonia associated with *Pasteurell* spp.; necrotic pododermatitis (foot rot) and calf diphtheria caused by *Fusobacterium necrophorum*; colibacillosis (bacterial scours) caused by *Escherichia coli*; coccidiosis caused by *Eimeria bovis* and *E. zurnii*; acute mastitis and metritis caused by *Streptococcus* spp.

(iii) *Limitations.* For use in beef cattle and nonlactating dairy cattle only; if symptoms persist for 2 or 3 days after use, consult a veterinarian; do not slaughter animals for food for at least 8 days after the last dose; do not use in lactating dairy cattle; do not administer more than two consecutive doses.

(g) *Related tolerances.* See § 556.670 of this chapter.

Dated: August 14, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-19082 Filed 8-22-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 317 and 321

[Department of the Treasury Circular Nos. 4-67, First Revision and 750, Third Revision]

U.S. Savings Bonds and Notes; Revised Schedule of Fees for Issuing and Paying Agents

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice of change in the method of calculation of issuing agent fees.

SUMMARY: This notice is being published to set out a revised schedule of fees payable to eligible issuing agents of United States Savings Bonds issued through payroll savings plans, and to explain the basis upon which the fees are computed. The revised fee schedule is applicable to issues transferred to the Bureau of the Public Debt on and after the effective date of this notice.

No changes have been made (1) in the fees paid to issuing agents for bonds issued over-the-counter or reissued to effect distribution from employee thrift savings and similar plans, or (2) in the schedule of fees payable to eligible paying agents of United States Savings Bonds and Savings Notes (Freedom Shares), including the bases on which such fees are computed. Provisions relating thereto are included here for ease of reference.

Revision of the issuing agent fee schedule has been undertaken to correct certain administrative difficulties and inequities existing under the current fee schedule. Heretofore, financial institutions qualified as issuing agents received fees for bonds issued under payroll savings plans based on their inscription methodology, i.e., a larger fee was paid for bonds inscribed manually than for bonds inscribed by computer. Fees to non-financial institutions were paid at a flat rate, lower than those paid to financial institutions.

Fees for savings bonds issued under payroll savings plans will be based, after the effective date of the change, solely on the volume issued in any calendar quarter. Because the requirements placed on both financial and non-financial institutions in issuing and delivering savings bonds are the same, the revised fee schedule has eliminated all distinctions among categories of issuing agents. The revised schedule will also recognize efficiencies and economies of scale achieved at large-volume agent sites.

The schedule was derived from an assessment of the alternative costs that the Treasury would incur if it had to obtain or provide this issuing service. Analysis indicates that 94 percent of issuing agents receiving fees for payroll issues during the last quarter of fiscal year 1985 would have received the same or somewhat larger fee payment under the new schedule.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Cief Counsel, Bureau of the Public Debt, Parkersburg, WV 26101 (304) 420-6505.

SUPPLEMENTARY INFORMATION: Department of the Treasury Circular, Public Debt Series No. 4-67, First Revision (31 CFR Part 317), at § 317.6(b), provides that issuing agents, other than Federal agencies, will be paid a fee for each savings bond issued, and that a schedule of fees, and the bases upon which the fees are computed and paid, will be separately pubished in the **Federal Register.**

Department of the Treasury Circular No. 750, Third Revision (31 CFR Part 321), at § 321.23(a), provides that paying agents will receive a fee for each eligible savings bond and note redeemed and that a schedule of fees and the bases on which the fees are computed and paid, will be separately published in the **Federal Register.**

Procedural Requirements

This notice is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

The notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Parts 317 and 321

Banks and banking, Federal Reserve System, Government securities.

Dated: August 11, 1986.

Gerald Murphy,

Fiscal Assistant Secretary.

Schedules of Fees

The following schedules of fees for the issue and redemption of savings bonds and savings notes are hereby published:

Issuing Agent Fees

Eligible organizations qualified as issuing agents by Federal Reserve Banks and Branches, acting as fiscal agents, under the provisions of Department of the Treasury Circular, Public Debt Series No. 4–87 (31 CFR Part 317), will receive payment for each savings bond they issue.

Fee Schedule—Over-the-Counter Issues

Financial institutions, which include banks, trust companies, credit unions, and savings institutions, chartered by or incorporated under the laws of the United States, or of any State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, will be paid a fee of $.85 for each Series EE bond issued on the basis of (i) a purchase application received over-the-counter or by mail, or (ii) a Bond-a-Month Plan.

Fee schedule—Payroll and Other Issues

Fees payable to financial institutions, as defined above, and to non-financial institutions, which include private employers, State and local governments and other eligible organizations which issue bonds only for their employees, will be calculated as follows:

(a) For each Series EE savings bond issued on the basis of deductions under a payroll savings plan, on the following scale:

(i) For the first 1,500 Series EE bonds issued in a calendar quarter, $.12.

(ii) For the next 8,500 Series EE bonds issued in a calendar quarter, $.11.

(iii) For all Series EE bonds over 10,000 issued in a calendar quarter, $.06.

(b) For each Series E and EE savings bond issued to effect distribution to participants in a thrift, savings, vacation, or similar plan, $.05.

Basis for Determining Fees

Fee payments will be determined by the number of individual issues included in transmittal of registration stubs or magnetic tape to the Bureau of the Public Debt for the account of an eligible agent during each calendar quarter, based on the transfer dates assigned to the transmittals by a Federal Reserve Bank.

Coverage of Fee

In establishing and paying a fee for the issue of savings bonds, the Treasury is recompensing agents for costs associated with obtaining and controlling bond stock and inscribing and delivering bonds to purchasers (exclusive of the cost of postage for bonds mailed in penalty envelopes provided to agents through the Federal Reserve Banks). The amount of the fee is based generally on the alternative costs to the Treasury of obtaining or providing this issuing service.

Charges to Customers

Financial institutions accepting fees from the Treasury for issuing savings bonds shall not make any charge to customers for the same service. Customers, in this context, are employers which provide a payroll savings plan for employees and which have arranged for a financial institution to issue the bonds. Individuals purchasing savings bonds over-the-counter or through payroll deduction may not be charged a fee by either the issuing agent or employer.

Paying Agent Fees

Financial institutions qualified as paying agents by Federal Reserve Banks and Branches, acting as fiscal agents, under the provisions of Department of the Treasury Circular No. 750 (31 CFR Part 321), will receive payment for each Series A–E and EE savings bond and savings note (Freedom Share) redeemed for cash, and for each such security redeemed in exchange for Series HH savings bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR Part 352).

Fee Schedule

Fees to paying agents will be calculated as follows:

(a) For each savings bond and savings note redeemed for cash, $.34.

(b) For each savings bond and savings note redeemed in exchange for Series HH bonds, $.50.

Basis for Determining Fees

Fee payments will be determined by the number of eligible paid bonds transmitted to the Bureau of the Public Debt for the account of an agent during the calendar quarter, based on the transfer dates assigned to the transmittals by a Federal Reserve Bank.

Charges to Customers

Paying agents are not authorized to make any charge for redeeming savings bonds and savings notes presented by customers.

[FR Doc. 19076 Filed 8–22–86; 8:45 am]

BILLING CODE 4810–40–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SAMPSON (DDG 10) and USS HOEL (DDG 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION:

Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SAMPSON (DDG10) and USS HOEL (DDG 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS SAMPSON (DDG 10) and USS HOEL (DDG 13) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS,

VOL 51 ISS 164 AG 25 1986 UMI

Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these two vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
USS SAMPSON	DDG 10.	2.47
USS HOEL	DDG 13.	1.97

Dated: July 16, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-19077 Filed 8-22-86; 8:45 am]

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Copyright Office

37 CFR Part 201

[Docket RM 85-6]

Compulsory License for Cable Systems; Interim Rule

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is amending 37 CFR 201.17 on an interim basis. These regulations implement portions of section 111 of the Copyright Act of 1976, title 17 of the United States Code. That section prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works, including the filing of periodic Statements of Account and the periodic payment of copyright royalties. The amendments establish new reporting requirements for cable systems that file Statements of Account, and are issued on an interim basis to permit their immediate application pending appeal of the U.S. District Court for the District of Columbia's decision in *Cablevision Company* v. *Motion Picture Association of America, Inc., et al.,* Civil Action No. 83-1655 (D.D.C. July 31, 1986) and consolidated cases.

EFFECTIVE DATE: August 25, 1986. Written comments should be received on or before September 24, 1986.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department D.S., Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Copyright Act of 1976 establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirements that cable systems comply with provisions regarding deposit of Statements of Account and statutory royalty fees under section 111(d)(2).

On June 27, 1978, the Copyright Office adopted Statement of Account forms and regulations implementing portions of section 111 of the Copyright Act. In the course of a later Copyright Office rulemaking on the cable compulsory license which was concluded on July 3, 1980 (45 FR 45270), representatives of cable system operators requested a review of the Copyright Office regulation defining "gross receipts" for purposes of calculating the cable copyright royalties which cable systems must pay under the compulsory license. In response to this request and to petitions from copyright owners on other matters, the Copyright Office held a public hearing (Docket RM 80-2) on July 28, 1981 (Notice of June 10, 1981, 46 FR 30649) and requested written comments on, among other issues, the proper definition of "gross receipts" in light of the "tiering" of services by cable systems. On April 2, 1984, the Copyright Office issued final regulations (49 FR 13029) that included a clarifying amendment to the Copyright Office's definition of "gross receipts." (37 CFR 201.17(b)(1)).

In issuing the "gross receipts" amendment, the Copyright Office confirmed its 1978 interpretation that the Copyright Act does not allow cable systems to allocate gross receipts or the "distant signal equivalent" (DSE) value where any secondary transmission service is combined with nonbroadcast service and offered to cable subscribers for a single fee. Cablevision Company and the National Cable Television Association ("NCTA") challenged that interpretation before the U.S. District Court for the District of Columbia. On July 31, 1986, the court held the Copyright Office's regulation defining "gross receipts" invalid and concluded that "any calculation of gross receipts under section 111(d) of the Copyright Act of 1976 must include the revenues from both local and distant signals notwithstanding their tier placement[,]" and that "[a]ny revenues attributable to nonbroadcast signals are excluded from this calculation." *Cablevision Company* v. *Motion Picture Association of America, Inc., et al.,* Civil Action No. 83-1655, slip op. at 25 (D.D.C. July 31, 1986) and consolidated cases. The Court found it "beyond the province of the Court to dictate the specific method of calculating the royalties to be paid . . ." *Id.* at 26.

The defendants in the case are appealing the decision. The Copyright Office has supported the copyright owner defendants' Motion for Stay Pending Appeal which would, if granted, stay the court's Order regarding the regulation defining "gross receipts" pending determination of the case by the U.S. Court of Appeals for the District of Columbia Circuit. Until such time as the case is decided on appeal, the Copyright Office regards its interpretation of "gross receipts" as the correct interpretation of the Copyright Act, and expects the regulation to be upheld on appeal.

1. Reporting and Record-Keeping Regulation

In view of the district court's July 31, 1986 decision, however, some cable system operators may not deposit Statements of Account and royalty fees for the first accounting period in 1986 and subsequent periods in accordance with the Copyright Office regulation, even if a stay of the court's Order is granted. These system operators may allocate gross receipts by a variety of methods. It will be impossible for the Copyright Office to evaluate which of these methods are acceptable under the compulsory license, and whether cable systems have submitted the proper royalty fee for the current accounting periods, until the ultimate resolution of the *Cablevision* litigation. It is therefore of critical importance that the Copyright Office have contemporaneous records of whether each filing cable system allocates gross receipts and, if so, what method the system used to calculate its royalty fee.

In order to ensure that such records are available for evaluation at the conclusion of the appeal process, the Copyright Office is implementing a two-part interim regulation. First, this regulation requires that a cable system filing a Statement of Account for the first accounting period of 1986 and henceforth must declare to the Copyright Office whether it allocated gross receipts in calculating its royalty fee for the relevant accounting period, and if it has allocated, must also report the figure for gross receipts as calculated under the Copyright Office's definition in 37 CFR 201.17(b)(1). The Copyright Office will issue a special form for this declaration to each system that files Statements of Account with the Office. That form must be completed by the cable system operator and returned to the Copyright Office along with the Statement of Account or, in accounting period 1986–1, within thirty (30) days of receipt of the form from the Copyright Office. Second, the regulation requires a cable system that allocates gross receipts in determining its royalty fee for a particular accounting period to maintain detailed records that describe each step of the method followed by the system operator in computing the gross receipts reported in the Statement of Account. A written explanation of the method of allocation utilized by the system must also be maintained. The regulation provides that the Copyright Office may require cable systems to report the information maintained in those records at any time within a five year period following the relevant Statement of Account filing deadline.

The Copyright Office believes that this reporting and recordkeeping regulation places a minimum burden on both cable system operators and the Copyright Office while providing an adequate interim response to the administrative problems the Office foresees as a result of the district court's decision, until such time as the issues are decided on appeal.

2. Requests for Refund Based on Allocation of Gross Receipts

On August 7, 1986, the Copyright Office received a petition from the Motion Picture Association of America, Inc. ("MPAA") requesting the Copyright Office to amend its current regulations governing the calculation of gross receipts and payment of royalty fees (37 CFR 201.17(j)) by providing an expanded period for accepting and processing refund requests related to the district court's decision. The Office received statements in support of MPAA's overall proposal from Major League Baseball and the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC Inc., and comments in support of the specific language of MPAA's proposed interim regulation from a law firm representing the Community Antenna Television Association and several cable system operators. MPAA proposed the following addition to § 201.17(j):

> Requests for royalty refunds for the first accounting period of 1986 and subsequent periods based upon exclusion from gross receipts of revenues attributable to nonbroadcast signals when these signals are offered in combination with broadcast signals subject to complusory licensing under Section 111 must be in writing, must clearly be consistent with the final decision of the courts concerning this issue, and must be received in the Copyright Office before the expiration of 60 days from the date of a final decision concerning this issue.

The Copyright Office acknowledges that it will be necessary for the Office to waive the 60-day deadline for filing refund requests under § 201.17(j)(3)(i) if, when all appeals are exhausted, 37 CFR 201.17(b)(1) is held invalid. The Office cannot now evaluate such refund requests because the court's *Order* did not specify a permissible method for the allocation of gross receipts, and because the *Order* is being challenged on appeal. The current situation creates considerable confusion which could easily lead to chaos for the Copyright Office in receiving and processing requests for refund based on a court decision that may be altered or overturned on appeal, and which if upheld requires a new rulemaking proceeding to revise the regulation at issue.

The Office believes that it would be premature and inefficient to determine a proper method of calculating gross receipts and to process refund requests based upon that method until the appeal process is exhausted. Any interim approach now adopted by the Copyright Office could ultimately be different from any final, revised "gross receipts" regulation, and would only further confuse the final tabulation of refund requests and supplemental payments for various accounting periods.

While the Copyright Office recognizes that the refund issue poses serious problems for cable systems as well as copyright owners, the Office has determined that it is not necessary to amend § 201.17(j) now. The Office instead makes a commitment to waive the 60-day deadline for filing refund requests under § 201.17(j)(3)(i) for cable systems that request refunds based upon allocation of gross receipts, if 37 CFR 201.17(b)(1) is finally held invalid. In that event, at the conclusion of the new rulemaking proceeding the Office will establish a reasonable time period during which refund requests will be accepted. Until that time, the Copyright Office will not accept refund requests based upon a cable system's allocation of gross receipts. This interim measure will facilitate the continued orderly operation of the royalty payment system during the pendency of the appeal of the district court's decision and will also assure that, upon completion of the appellate process, cable system operators and copyright owners will have a better means for collecting royalties that were overpaid or underpaid because of the uncertain status of the Copyright Office's regulation defining "gross receipts" during the pendency of the *Cablevision* cases.

These regulations are issued on an interim basis, immediately and without public comment, since they are necessary to the orderly functioning of the cable compulsory license in the emergency situation created by the court's decision in the *Cablevision* cases. Moreover, the regulations are not substantive in nature.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative

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Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that the regulations will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Cable television, Cable compulsory license.

Interim Regulations

PART 201—[AMENDED]

In consideration of the foregoing, Part 201 of 37 CFR, Chapter II is amended on an interim basis in the manner set forth below.

1. The authority citation for Part 201 continues to read as follows:

Authority: Section 702, 90 Stat 2541; 17 U.S.C. 702.

§ 201.17 [Amended]

* * * * *

2. A new paragraph (k) is added to § 201.17 to read as follows:

* * * * *

(k) *Additional declaration of gross receipts.*

(1) Every cable system subject to compulsory licensing under section 111 of title 17 of the United States Code must complete and submit a "Declaration of Gross Receipts" on a form prepared by the Copyright Office. For the first accounting period of 1966, the "Declaration of Gross Receipts" shall be received in Copyright Office within 30 days of its receipt by the cable system. For subsequent accounting periods the declaration shall be received in the Copyright Office no later than the relevant filing deadline for Statements of Account.

(2) Any cable system that excludes from gross receipts those revenues allegedly attributable to nonbroadcast signals when these are offered for a single price in combination with broadcast signals subject to compulsory licensing under section 111 of title 17 of the United States Code must:

(i) Prepare adequate and detailed records that describe each step of the method used to determine gross receipts as reported in the Statements of Account;

(ii) Prepare a complete, written, explanation of the method of allocation used to exclude certain receipts;

(iii) Maintain the records and explanation required by paragraphs (k)(2) (i) and (ii) above for at least five years from the filing deadline for the relevant accounting period, and submit the reports and explanation within 30 days of a request from the Copyright Office for this information; and

(iv) Calculate the gross receipts for the "basic service of providing secondary transmissions of primary broadcast transmitters" in accordance with paragraph (b)(1) of this section and declare the amount on the "Declaration of Gross Receipts" form.

* * * * *

Dated: August 15, 1986.

Ralph Oman,

Register of Copyrights.

Approved.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86-19212 Filed 8-22-86; 8:45 am]

BILLING CODE 1410-07-M

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-211019; FRL 3064-7]

Denial of the Petition To Reconsider and Withdraw the Phase I Test Rule for Mesityl Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of Denial of Petition.

SUMMARY: The Chemical Manufacturers Association (CMA) has petitioned EPA under section 21 of the Toxic Substances Control Act (TSCA) to reconsider and withdraw its Phase I test rule for mesityl oxide (MO; CAS No. 141-91-7). The Phase I rule was issued under section 4 of TSCA and requires that MO be tested for certain health effects. This notice announces the decision of the Administrator of EPA to deny CMA's petition.

ADDRESS: A copy of the petition and all related information, under docket number (OPTS-211019), is located in: Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

This material is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, DC, (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is denying CMA's petition to reconsider and withdraw the testing requirements for mesityl oxide. Industry's claims of exposure reduction are not adequate to support a decision to withdraw the rule.

I. Introduction

Section 21 of TSCA (15 U.S.C. 2620) provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under various sections of the Act. The Administrator may hold a public hearing or may conduct such investigation or proceeding as he deems appropriate in order to determine whether or not the petition should be granted. If the Administrator grants the petition, the Agency must promptly commence an appropriate proceeding. If the Administrator denies the petition, the reasons for denial must be published in the **Federal Register**. The petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a proceeding as requested in the petition. Any such civil action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after the petition is filed, within 60 days following expiration of the 90-day response period.

In the **Federal Register** of December 20, 1985 (50 FR 51857), EPA published a Phase I final rule pursuant to TSCA section 4(a) requiring that manufacturers and processors of MO conduct certain health effects studies. These studies included testing MO for subchronic, mutagenic, and oncogenic effects (if certain mutagenicity tests were positive). The Agency based these requirements on a finding that the manufacture, processing, and distribution in commerce of MO may

present an unreasonable risk of injury to human health. Before industry must initiate the studies, however, EPA must finalize a Phase II rule that will establish the test standards and data submission deadlines (reporting requirements).

On April 30, 1986, EPA received a petition, under section 21 of TSCA, from CMA on behalf of the Ketones Program Panel, comprised of Eastman Kodak Co., Exxon Chemical Americas, Shell Chemical Co., and Union Carbide Corp., sponsors of the testing required by the final Phase I test rule for MO. The petitioners requested that the Administrator reconsider and withdraw the test rule for the following reasons: (1) MO henceforth will be manufactured only as a site-limited, non-isolated intermediate; (2) merchant sales of MO will cease by the end of June, 1986; (3) the total number of exposed workers will be reduced from about 200 to between 109 and 113, and their mean exposure level (8-hour time-weighted average (TWA)) will be generally below 0.03 to 1 part per million (ppm); and (4) the petitioners do not intend to resume MO sales.

Furthermore, in their petition, the manufacturers agreed that EPA should be notified if any terminated activities are reinitiated. They are not opposed to the Agency promulgating a rule under section 5(a)(2) which defines resumption of MO sales as a significant new use. However, they would prefer a section 8(a) reporting rule. They further requested that EPA postpone promulgation of the final test standards for MO pending consideration of their petition.

On June 17, 1986, EPA requested that CMA provide clarification of the information submitted in the section 21 petition as well as additional data to verify industry's claim of low exposures in the manufacture and processing of MO (Ref. 2). CMA submitted supplemental information on July 23, 1986 (Ref. 4) and stated that CMA would not object to EPA's delaying its response to the petition until 30 days after receipt of the supplemental information. The Agency accepted this additional time so that it could fully consider the supplemental information prior to making its decision (Ref. 7).

II. The Administrator's Decision

EPA is denying this petition filed under section 21 of TSCA for the following reasons:

1. The production methods of all the manufacturers have not been fully described nor has the degree of exposure from each different process been adequately quantified to allow EPA to verify industry's claim that its process changes will so reduce exposure to MO as to eliminate the need for evaluating the chemical's toxicity. To the contrary, certain information provided on the revised manufacturing practices indicates that products and streams containing significant levels of MO are isolated and may result in exposure to MO. In at least one facility, the chemical is stored on site in surge tanks, disposed of in waste streams, and vented to the atmosphere under upset conditions. Wastes containing MO are shipped between reactor vessels and disposal facilities. MO also exists as a constituent in other manufactured chemicals which enter commerce. MO, therefore, is not manufactured solely as a non-isolated, transient, site-limited intermediate. It exists as a chemical substance in waste streams, fugitive emissions, and chemicals all of which leave the manufacturing sites. The information provided to the Agency refutes industry's claims that MO is manufactured solely as a non-isolated, transient intermediate.

2. In the past, MO has been isolated from reactor vessel wastes which were shipped from one manufacturer to another for recycling. These wastes are now shipped by tank trucks for disposal. The information provided fails to account for exposure resulting from handling, transport, and/or disposal of such wastes. For each process involving MO, each of the manufacturers was requested to provide a mass balance to account for the amount of MO generated and subsequently converted to methyl isobutyl ketone (MIBK) or lost during production, and the amount of MO associated with any discharges or waste products. Such data were not submitted by all of the manufacturers.

3. Most of the exposure data provided in the petition were previously reviewed during section 4 rulemaking for this chemical. The new data provided in the petition were limited in scope and did not adequately characterize worker exposure to MO resulting from MIBK production (Refs. 3 and 6). The exposure monitoring data in the petition were not accompanied by appropriate quality assurance/quality control (QA/QC) data nor a documented sampling plan to permit evaluation of the representativeness of the exposure monitoring data (Ref. 6). In addition, the analytical methods used in the monitoring studies included undocumented protocols (Ref. 6). Although the submitted data only address inhalation exposure, EPA believes there may also be a potential for dermal contact in many worker activities (such as loading, and unloading tank trucks containing MO waste streams). Furthermore, these data do not represent an adequate (or current) sampling of all activities which may result in significant exposure to MO. There was only minimal information describing the frequency of activities and job categories, such as cleaning and repair of process equipment, waste removal and disposal, and the frequency of upset conditions, such as spills and seal leaks. The nonroutine operations reported were shown to give rise to higher levels of exposure (i.e., levels as high as 87 ppm). In addition, the petition and supplemental information do not provide information on engineering controls used by each of the manufacturers during routine operations or upset conditions.

All of the manufacturers were also requested to provide, but did not submit on a per site basis: A list of the worker job categories (such as field operator, maintenance, and loader); the activities (both routine and non-routine) in each category where workers are potentially exposed to MO; the number of workers represented by that category; the duration (hours/day) and frequency (days/year) of exposure to MO during the activities shown; and the levels of exposure from personal monitoring. Two of the manufacturers did provide some additional data, but these were judged incomplete (Ref. 5). For example, exposure level data expressed as the geometric mean and range of 8-hour TWA data were not provided; nor were raw data which show the level and duration of sampling and the duration of each activity. Peak levels for non-routine activities also were needed when the duration of activity or possible duration of exposure to MO is very short (i.e., less than 15 minutes). Although the most important data are those from monitoring of personnel, data from area monitoring that show the airborne concentrations from fugitive emissions around such equipment as seals, valves and flanges were not provided along with details on the amount of time a worker might be in the vicinity of such emissions as a measure of potential worker exposure. Information was not provided by all the manufacturers on the analytical techniques used to measure the personal and area levels which would document the range of validity and limit of detection of the methods used. In addition, information on the amount of dermal contact expected and the activities where such contact might occur was not provided by all of the manufacturers.

VOL 51 ISS 164 AG 25 1986 UMI

4. Although the exact amounts of MO that will be stockpiled as of June 1986 have been claimed confidential business information (CBI), these quantities are large. Given the volumes of MO stockpiled and its possible uses, the exposure data submitted for processing activities are inadequate to eliminate the Agency's concerns for such exposures as presented in the Phase I final rule.

Industry has failed to submit adequate information and exposure data to substantiate their claims of low exposures to MO. In fact, the information provided in the petition and supplemental submission reinforces the Agency's concern for testing this chemical. Although certain activities giving rise to potential exposure to MO have been modified or eliminated subsequent to EPA's promulgation of the Phase I test rule, the information now available to the Agency continues, in EPA's judgment, to support the section 4(a)(1)(A)(i) finding that the manufacture and processing of MO may present an unreasonable risk to human health. Therefore, the Agency plans to proceed with its Phase II test standards and reporting requirements rulemaking proposed in the Federal Register of December 20, 1985 (50 FR 51888).

III. Public Record

EPA has established a record for its response to this petition under section 21 of TSCA (docket number OPTS-211019). The public record contains basic information considered by the Agency in reaching this decision and includes:

(1) This notice and the petition to which it responds.

(2) U.S. Environmental Protection Agency (EPA). Letter from Edwin F. Tinsworth, Acting Office Director, Office of Toxic Substances, Washington, DC 20460, to Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (June 17, 1986).

(3) Records of communications between EPA personnel concerning the development of the Agency's response to this petition.

(4) Chemical Manufacturers Association. Supplemental information regarding exposure to MO. Submitted by Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (July 22, 1986).

(5) U.S. EPA. Internal memorandum from Kin Wong, Chemical Engineering Branch, to Frank Benenati, Test Rules Development Branch. Review of supplementary information on the mesityl oxide section 21 petition (August 15, 1986).

(6) U.S. EPA. Internal memorandum from Richard Kent, Field Studies Branch, to Frank Benenati, Test Rules Development Branch. Review of supplementary information on the mesityl oxide section 21 petition (August 15, 1986).

(7) U.S. EPA. Letter from Edwin F. Tinsworth, Acting Office Director, Office of Toxic Substances, Washington, DC 20460, to Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (July 25, 1986).

(8) Contact reports of telephone conversations.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OTS Public Information Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Authority: 15 U.S.C. 2620.

Dated: August 21, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-19294 Filed 8-21-86; 4:30 pm]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 60590-6090]

Foreign Fishing, Groundfish of the Gulf of Alaska, Extension of Effective Date

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends an emergency rule amending regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) in effect through August 20, 1986. This extension is necessary to amend optimum yields (OYs) for five species of groundfish at levels consistent with the best available biological and socioeconomic information, and to make available allocations of Pacific ocean perch (POP) and "other rockfish" to joint venture fisheries, and POP, "other rockfish", and sablefish to foreign fisheries. This action is intended as a conservation measure that responds to the best available biological and socioeconomic information on the status of the groundfish fishery and provides for full development and utilization of the existing Gulf of Alaska groundfish resources.

EFFECTIVE DATE: August 20, 1986 through November 18, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: Under section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule effective on May 22, 1986 (51 FR 19203, May 28, 1986) to allow closures as summarized above. The reasons for these actions, which are discussed in the preamble to the emergency rule, still continue and are not repeated here.

When the North Pacific Fishery Management Council voted for the optimum yield amendments and the prohibited species (PSC) limits for "other rockfish" and POP in joint venture and foreign fisheries and also for sablefish in foreign fisheries, it based its decision on the amount of fishing that would be conducted on available stocks for the entire 1986 fishing year. The Council's action is affirmation that this emergency rule be extended through November 18, 1986 under section 305(e)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that Order.

(16 U.S.C. 1801 *et seq.*)

List of Subjects

50 CFR Part 611

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 672

Fisheries, Reporting requirements.

Dated: August 20, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-19153 Filed 8-20-86; 4:37 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Reapportionment of Navel Orange Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would reapportion the membership on the Navel Orange Administrative Committee to assure equitable representation among the different marketing organizations in the industry.

DATE: Comments due September 9, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be available for public inspection in the office of the Docket Clerk during regular working hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202/447-5679.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This action would increase the number of members on the Navel Orange Administrative Committee representing other cooperatives from two to three and would decrease the number of members representing independents from three to two. Such allocation of representation reflects the proportional amount of navel oranges handled by the respective types of marketing organizations.

It is estimated that 119 handlers of navel oranges under the marketing order for navel oranges grown in Arizona and a designated part of California would be subject to regulation during the course of the current season and that a great majority of these firms may be classified as small entities. The reapportionment of Navel Orange Administrative Committee members, proposed under this rulemaking, would provide equitable representation of the different marketing groups on the committee, with attendant benefits to producers, handlers, and the industry.

If adopted, this rule will be issued under Marketing Order 907, as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On July 15, 1986, the Navel Orange Administrative Committee (NOAC), which administers the marketing order locally, voted to recommend to the Department that membership on the committee be reallocated to more accurately reflect the quantity or oranges handled by the various marketing organizations eligible for membership on the committee. The committee recommended that the number of members in the other cooperative category of membership be increased by one grower member and that the members in the independent or unaffiliated category of membership be decreased by one grower member. Presently, there are two other cooperative member positions (one grower and one handler and their respective alternates) and three independent positions (two growers and one handler and their respective alternates).

The authority for the committee's recommendation is contained in § 907.29(n) of the marketing order which states that the committee is authorized, with the approval of the Secretary, "to reapportion the number of grower members or handler members on the Navel Orange Administrative Committee who are nominated pursuant to § 907.22(c) and (d). Any such reapportionment shall be based, insofar as practicable, upon the proportionate amount of navel oranges handled by the respective types of marketing organizations: Provided, That each of the grower groups described in § 907.22(c) and (d) shall be entitled to nominate at least one grower member and one handler member together with their respective alternates." As of July 24, 1986, for the 1985-86 crop year, other cooperative marketing organizations handled 26.67 percent (12,800,500 cartons) of the navel oranges shipped to fresh domestic markets while independents handled 22.49 percent (10,789,294 cartons).

Therefore, § 907.102 would be revised to reflect the reapportionment of committee members in the other cooperative and independent categories of membership to more accurately reflect industry representation. Miscellaneous non-substantive technical changes are also proposed to § 907.102, including deleting language, to conform the revised section to the provisions of the present § 907.104(a). In addition, paragraph (b) of § 907.104, which provides for selection of committee members, alternates, and additional alternates is proposed to be removed because it is unnecessary. The remaining portion of the section would be redesignated as is appropriate.

Comments on this proposal will be accepted until September 9, 1986. A 15-day comment period is considered adequated because: (1) The final rule should be issued prior to the beginning of the 1986-88 committee term which begins October 1, 1986; (2) the current term of office for committee members will expire on September 30, 1986, and nomination meetings need to be held

VOL 51 ISS 164 AG 25 1986 UMI

prior to that time; (3) a new committee should be appointed prior to the completion of deliberations on the policy for the 1986–87 navel orange season; and (4) § 907.26(n) of the order authorizes the committee, with the approval of the Secretary, to reapportion the number of grower or handler members on the committee; in this instance the proportionate amount of navel oranges handled by the respective types of marketing organizations has shifted enough to require a change in committee represention.

List of Subjects in 7 CFR Part 907

Marketing agreements an orders, California, Arizona, Oranges, Navels.

For the reasons set out in the preamble, Title 7, Chapter IX of the Code of Federal Regulation is proposed to be amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.102 is proposed to be amended by revising paragraphs (a)(2), paragraph (a)(3) introductory text, and (a)(3)(viii) to read as follows:

§ 907.102 Nomination procedure.

(a) * * *

(2) All cooperative marketing organizations which are not qualified to nominate member and alternate members pursuant to § 907.22(b), or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, two additional altelrnate grower members, one handler member, one alternate handler member, and one additional alternate handler member of the committee. The vote of each such organization shall be weighted, as provided in § 907.22(e), by the quantity of oranges which it handled during the marketing year in which the nominations are made.

(3) All growers referred to in § 907.22(d) shall nominate one grower member, one alternate grower member, one additional alternate grower member, one handler member, one alternate handler member, and one additional alternate handler member, in accordance with the following procedures: * * *

(viii) The name of the person receiving the highest total number of votes for a particular grower or handler position shall be submitted to the Secretary as the nominees for such positions.

* * * * *

3. Section 907.104 is proposed to be revised to read as follows:

§ 907.104 Selection criteria.

For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers (i.e. growers) that:

(a) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292); and

(b) Markets oranges regulated under this part, or performs handling functions as defined in § 907.10 for the producers thereof.

Dated: August 20, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86–19160 Filed 8–22–86; 9:56 am]

BILLING CODE 3410–02–M

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7 CFR Part 1079

Proposed Temporary Revision of Shipping Percentage; Milk in the Iowa Marketing Area

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily certain provisions of the Iowa Federal milk order. The proposed action would relax for September, October and November 1986 the supply plant shipping requirements. This action was requested by the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

DATE: Comments are due not later than September 2, 1986.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area, 7 CFR Part 1079, is being considered for the months of September, October and November 1986.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1986 in the temporary revision.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the supply plant shipping percentages for the months of September, October and November 1986. The proposed action would reduce the shipping requirement 10 percentage points from the present 35 percent to 25 percent.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Companies, Inc. (Beatrice), on behalf of Beatrice Cheese, requested this action in order to prevent uneconomic shipments of milk during September, October and November 1986. Beatrice said that marketwide producers receipts during the April through June 1986 period showed an increase each month over the same month of 1985. The monthly increases for this period cited by Beatrice were 8.5, 6.7 and 12.9 percent, respectively. Beatrice indicated that receipts at their

supply plant for this same period have been approximately 6 percent higher than in 1985. Beatrice also indicated that without a downward revision in the supply plant shipping standards, it would have to uneconomically backhaul approximately 3.5 to 3.8 million pounds of milk per month in order to pool this milk.

The petitioners stated that distributing plants could be adequately served if supply plant shipping requirements were lowered to 25 percent. Beatrice said that thus there will be no need for supply plants to ship as much as 35 percent of their producer receipts and that a temporary lowering of the supply plant shipping requirement to a 25 percent shipping standard, is needed to prevent uneconomic shipments of fluid milk.

On July 29, 1986, the Deputy Administrator invited comments on a proposal by Associated Milk Producers, Inc. (AMPI), to suspend the supply plant shipping requirements for September through November. If that action were granted, there would be no need to consider Beatrice's request. However, AMPI has withdrawn the request to suspend the shipping requirements. Therefore, comments are sought concerning whether it may be appropriate to relax the aforementioned provisions of § 1079.7(b) for the months of September, October and November 1986 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1079 continues to read as follow:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Signed at Washington, DC, on August 19, 1986.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 86–19105 Filed 8–22–86; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 86–070]

Change in Disease Status of Belgium Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the importation into the United States of pork and pork products by removing Belgium from the list of countries regulated because of African swine fever (ASF). It has been determined that ASF has now been eradicated from Belgium. The effect of the adoption of this proposal would be to remove certain restrictions on the importation into the United States of pork and pork products derived from swine of Belgian origin. For example, Belgian processing establishments seeking to export to the United States could use pork of Belgian origin. However, Belgium is not included in the lists of countries declared to be free of rinderpest and foot-and-mouth disease, hog cholera, and swine vesicular disease. Therefore, even if the proposal is adopted, the restrictions imposed because of these diseases would remain in effect for Belgium, and pork and pork products would, among other things, still have to be heat treated or cured as a condition of importation into the United States.

DATE: Written comments must be received on or before October 24, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86–070. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Emergency Planning Staff, VS, APHIS, USDA, Room 805, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of pork and pork products in order to prevent the introduction into the United States of African swine fever (referred to below as ASF). ASF is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus is highly virulent and may be present in swine, pork, and pork products originating in countries where the disease exists.

Section 94.8 of the regulations restricts the importation into the United States of pork and pork products from listed countries in which ASF exists or the Administrator of the Animal and Plant Health Inspection Service has reason to believe the disease exists because of the following factors:

1. When a country allows the importation of host animals, pork or pork products or vectors of the disease from a country affected with African swine fever under conditions less stringent than those prescribed for importing host animals, pork or pork products or vectors of the disease into the United States from a country affected with African swine fever; or

2. When a country allows the movement or use of African swine fever virus or cultures under conditions less stringent than those prescribed for similar movements or use into or within the United States; or

3. The proximity of a country to another country or countries with known outbreaks of African swine fever; or

4. A country's lack of a disease detection, control or reporting system capable of detecting or controlling the disease and reporting it to the United States in time to allow this country to take appropriate action to prevent the introduction of African swine fever into this country; or

5. Any other factor or circumstance found to exist which constitutes a risk of introduction of the disease into the United States.

The restrictions in § 94.8 on the importation of pork and pork products from listed countries are designed to ensure that the pork or pork products are cooked or heated sufficiently to destroy organisms capable of spreading ASF.

On March 8, 1985, the Department was notified by the International Office of Epizootics that an outbreak of ASF has been diagnosed in swine in Belgium. Belgium was added on March 12, 1985 (50 FR 10752–10753), to the list of countries regulated because of ASF. That same year the government of Belgium began an eradication program which included slaughter of swine confirmed or suspected of having ASF, and cleaning and disinfection of the farms and buildings housing such swine. Based on surveys, it has been determined that the last case of ASF in Belgium was diagnosed May 22, 1985.

The Department recently received a request from the Belgian Ministry of Agriculture that the regulations be amended by removing Belgium from the list of countries regulated because of ASF based on the assertion that ASF no longer exists in Belgium. Based on information furnished by Belgium and a review of Belgium's eradication and reporting methods, it has been determined that there is no reason to

believe that ASF exists in Belgium. Therefore, this document proposes to remove Belgium from the list of countries in which ADF exists or is reasonably believed to exist.

Effect of Adoption of This Proposal

The regulations in § 94.8 currently restrict the importation into the United States of pork and pork products from countries in which ASF exists or countries in which the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, has reason to believe ASF exists.

If the proposal were adopted, pork or pork products from Belgium would no longer be subject to the restrictions in § 94.8. Section 94.8 requires, among other things, that the processing establishment obtain all pork or pork products from countries recognized by the Department as free of African swine fever. However, the importation into the United States of pork and pork products derived from swine of Belgian origin would remain subject to the provisions in Part 94 imposed because of rinderpest and foot-and-mouth disease, hog cholera, and swine vesicular disease. These provisions, among other things, require that pork or pork products from Belgium be heat treated or cured as a condition of importation.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule would not have a significant annual effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In the year prior to the 1985 outbreak of ASF less than three-tenths of one percent of the pork and pork products imported into the United States came from Belgium. It is, therefore, anticipated that insignificant quantities of pork and pork products would be imported into the United States from Belgium as a result of the adoption of this proposal.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 94

African swine fever, Animal disease, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, it is proposed to amend 9 CFR Part 94 as follows:

1. The authority citation for Part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.8 [Amended]

2. The introductory paragraph is § 94.8 would be amended by removing "Belgium."

Done at Washington, D.C., this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19106 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 113

[Docket No. 86-053]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Pasteurella Multocida Bacterin, Avian Isolate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the regulations by reducing the number of birds required to conduct the potency test for Pasteurella Multocida Bacterin, Avian Isolates, Types 1, 3, and 4. The regulations currently requires at least 60 birds to complete a potency test for each of the three types. Licensees producing bacterins containing all three types must use 180 birds to complete the potency test for each serial of the product. This proposed amendment would reduce the number of birds in the potency test by 50 percent without reducing the validity of the potency test and with little additional risk of unsatisfactory test results due to an undetected overchallenge.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Interested parties are invited to submit written date, views, or arguments regarding the proposed regulations to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Department Regulation 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rules would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Its purpose is to reduce regulatory burdens on the affected industry by reducing the number of birds required to be used in potency tests without compromising the validity and reliability of such tests.

Background

Standard requirements consist of test methods, procedures, and criteria established by Veterinary Services (VS) for evaluating biological products for purity, safety, potency, and efficacy. When standard requirements for Pasteurella Multocida Bacterins, Avian Isolates, Types 1, 3, and 4, were developed, the knowledge available at that time supported the need to employ at least 60 birds in potency test procedures for each of the three types. The potency test currently requires 20 birds to be vaccinated with the test bacterin according to label recommendation; 20 birds to be vaccinated with two doses of a reference bacterin available from Veterinary Services; and, 20 birds to be retained as unvaccinated controls. Therefore, a licensee manufacturing a bacterin containing all three types of isolates must utilize at least 180 birds in potency tests for each serial of product. Each group of test birds is challenged 14 days after the second injection. The 20 birds injected with the reference bacterin act as positive controls in each group. The purpose of the positive controls is to assure that an overchallenge has not occurred.

Manufacturers of these bacterins petitioned the Agency to reduce the number of birds required for the potency tests. In response to this request, the Agency conducted a statistical analysis of data from at least 225 potency tests representing each of the three avian isolate types. Although there were differences in overall test results between firms, the actual rate of failure was very low in each case. The data were also examined to determine the effect of reducing the total number of birds, and the best alternative to reducing the number of birds. From this evaluation it appeared that an acceptable reduction in the number of birds could be achieved by making changes in the two control groups. The results obtained in the negative control groups indicate that each challenge has been at least 80 percent effective in almost every case. The data indicate that there would be little additional risk in meeting the validity requirements with 10 rather than 20 negative controls. Although the reference bacterin occasionally fails to protect at least 12 of the 20 birds, the result is seldom used to declare the test invalid due to an overchallenge. The reason for this is the low incidence of test bacterins failing to protect the required number of vaccinated birds. This suggests that overchallenge is not a significant problem in this test and that the reference bacterin test could be eliminated or made optional. More specifically, this revision of the regulations would provide that the use of the reference would be deleted from the Standard Requirements, but the manufacturer could retain the option to include the reference if desired to validate a test. This option could be retained through provisions in the Outline of Production.

Current knowledge and experience with testing these products are the basis for the Agency proposing these changes. Therefore, by deleting the reference bacterin test which uses 20 birds as positive controls and by reducing the unvaccinated (negative) control group from 20 to 10 birds, the total number of birds currently required would be reduced by 50 percent. This reduction would result in a significant reduction in the cost of testing without significantly affecting the validity of the potency test and with only a minimum risk of unsatisfactory test results due to an undetected overchallenge.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Accordingly, 9 CFR Part 113 would be amended as follows:

1. The authority citation for Part 113 continues to read as follows:

Authority: 21 U.S.C. 151–158; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 113.101 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.101 Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

* * * * *

(c) * * *

(2) *Unvaccinated Controls.* Each of not more than 11 turkeys shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second dose, each of 20 vaccinates, and each of 10 unvaccinated controls shall be challenged intramuscularly with virulent *Pasteurella multocida,* Strain P–1662, Type 4 (Little and Lyons classification) and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If this requirement is met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirement is not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

2. Second 113.102 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.102 Pasteurella Multocida Bacterin, Avian Isolate, Type 1.

* * * * *

(c) * * *

(2) *Unvaccinated controls.* Each of not more than 11 chickens shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates and each of 10 unvaccinated controls shall be challenged intramuscularly with a minimum of 250 colony-forming units of virulent *Pasteurella multocida,* Strain K–78, Type 1 (Little and Lyons Classification)

and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative total number of vaccinates	Cummulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

3. Section 113.103 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.103 Pasteurella Multocida Bacterin Avian Isolate, Type 3.

* * * * *

(c) * * *

(2) *Unvaccinated controls.* Each of not more than 11 turkeys shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates, and each of 10 unvaccinated controls shall be challenged intramuscularly with a minimum of 150 colony-forming units of virulent *Pasteurella multocida,* Strain P–1059, Type 3 (Little and Lyons Classification) and observed daily for a 14 day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative total number of vaccinates	Cummulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

Done at Washington, DC, this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–19107 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 100

Seismic and Geologic Siting Criteria for Nuclear Power Plants; Reassessment of Current Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting and request for comments.

SUMMARY: The Nuclear Regulatory Commission is initiating a reassessment of its current seismic and geologic siting criteria for nuclear power plants. The NRC is taking this action in view of the experience gained in applying the current procedures and because of state-of-the-art advance that have been made in earth sciences since the promulgation of the regulations setting forth these criteria.

DATES: Submit written comments by September 22, 1986. Public meetings to be held on October 7, 8, and 9, 1986.

ADDRESSES: Submit written comments to: The Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Public meetings to be held at the Ramada Inn, Route 28 and I–270, Rockville, Maryland. Copies of comments received will be available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Leon Beratan, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7671.

SUPPLEMENTARY INFORMATION: The Atomic Energy Commission published Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," to 10 CFR Part 100, "Reactor Site Criteria," as a rule in 1973 (C38 FR 2575; November 27, 1973). In view of the experience gained in the application of the procedures and methods set forth therein, and the advancement of the state-of-the-art of earth sciences, the NRC staff has initiated a reassessment of Appendix A to determine the need for its revision.

To aid the staff in this reassessment, all interested persons are invited to submit information, comments, and suggestions. The staff is interested in learning both about the problems that may have been encountered in applying Appendix A and about those portions

that may have been particularly helpful in its application. Commenters are invited to describe these in detail, to suppport their conclusions and, if they can, to recommend corrective actions.

In addition to soliciting written comments on Appendix A, the staff plans to hold a public meeting on this subject to provide all interested parties an opportunity to express their views and present information to the staff. The meeting is scheduled for October 7, 8, and 9, 1986, at the Ramada Inn (Route 28 and I–270), Rockville, Maryland, starting at 8:30. Parties are requested to notify the staff of their intention to speak at the meeting and/or attend the meeting. Specific details for the time and place of the meeting will be provided to all parties requesting the information.

Dated at Rockville, Md. this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross, Jr.,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86–19154 Filed 8–22–86; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 86–853]

Liquidity Requirements; Withdrawal of Proposed Amendment

Date: August 15, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; withdrawal.

SUMMARY: On April 24, 1986, the Board proposed to amend its regulations governing the liquidity requirements applicable to institutions which are members of the Federal Home Loan Bank system or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. *See* Board Res. No. 86–428, 51 FR 16536 (May 5, 1986). At that time, the Board invited comment on its liquidity proposal. Many commenters responded with thoughtful letters addressing the issues covered by the proposal and suggesting alterations to some of its provisions, including modifications to simplify the provisions of the proposal.

The Board has decided to study further the issues raised by the commenters before determining whether and in what manner to propose to amend its current liquidity regulations. Accordingly, today the Board is withdrawing in its entirety the proposed amendments to the liquidity regulations contained in its Resolution No. 86–428. The Board does not contemplate taking any further action with respect to liquidity at this time.

DATE: This withdrawal is effective August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Ben F. Dixon, (202) 377–6399, Financial Analyst, Office of Examinations and Supervision; Donald G. Edwards, (202) 377–6914, Director, General Research Division, Office of Policy and Economic Research; or Karen Knopp O'Konski, (202) 377–7240, Attorney, Regulations and Legislation Division, Office of General Counsel; Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–19053 Filed 8–22–86; 8:45 am]

BILLING CODE 6720–01–M

12 CFR Part 563

Loans to One Borrower

Dated: August 15, 1986.

AGENCY: Federal Home Loan Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), proposes to amend its regulation pertaining to loans to one borrower in a number of ways, most significantly to reduce the amount of aggregate loans to one borrower that may be made by an institution the accounts of which are insured by the FSLIC ("insured institution"). The proposal is intended to reduce risk to insured institutions and the FSLIC without depriving institutions of appropriate operational flexibility. To this end, the Board invites comment on all aspects of the proposal, including alternatives to it.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael D. Solomon, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377–6432, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under Title IV of the National Housing Act ("NHA"), 12 U.S.C. 1724–30, to issue regulations relating to safe and sound practices of insured institutions, the Board for many years has imposed limitations on the amount of credit an insured institution may extend to one borrower. The loans-to-one-borrower limitations are currently codified at 12 CFR 563.9–3 ("section 563.9–3"). The Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain"), Pub. L. No. 97–320, 96 Stat. 1469, superimposed a new layer of loans-to-one-borrower restrictions on existing Board regulations by providing that Federal associations may not make commercial loans to one borrower in excess of the amount that a national bank with identical total capital and surplus could loan to one borrower. 12 U.S.C. 1464(c)(1)(R). This particular restriction is codified for all insured institutions at § 563.9–3(b)(2).

Among the paramount purposes of Title IV of the NHA and the Federal Home Loan Bank Act, 12 U.S.C. 1421–29, is the development and maintenance of a system of sound and economical home financing. An additional and closely related purpose of the NHA is the protection of the FSLIC fund from undue risk. It has been the Board's longstanding position, supported by legislative history and prior administrative practice, that the NHA authorizes the Board to regulate all insured institutions, whether federally or state-chartered, in furtherance of these two purposes. Section 402(a) of the NHA, 12 U.S.C. 1725(a), empowers the Board to prescribe rules and regulations "for carrying out the purposes of [the Act]."

Since this proposed rulemaking is designed to maintain safe, sound, and economical home financing, as well as to protect the FSLIC fund from undue risk, the proposal carries out the purposes of the NHA and consequently represents a permissible exercise of regulatory authority under section 402(a).

Moreover, under section 407 of the NHA the Board has the authority to terminate insurance coverage entirely, 12 U.S.C. 1730(b), and to initiate cease-and-desist proceedings pursuant to "rules and regulations" promulgated by the Board, 12 U.S.C. 1730(m), in order to prevent "unsafe or unsound practices" that threaten the integrity of insured institutions and, hence, of the FSLIC fund. These powers encompass the less drastic power to prevent unsafe or unsound practices through regulations such as those amendments to the loans-to-one-borrower rule.

VOL 51 ISS 164 AG 25 1986 UMI

On October 17, 1985, the Board amended § 563.9–3, adopting portions of the "common enterprise" test similar to that utilized by the Office of the Comptroller of the Currency to determine when loans to separate borrowers must be combined; clarifying that a second tier of entities is considered "one borrower"; creating an exception from the lending limitations for loans to service corporations; expanding the types of investments that may be made in commercial paper and corporate debt securities of one issuer; and clarifying other miscellaneous matters. Board Res. No. 85–936, 50 FR 45089 (Oct. 30, 1985). That amendment left intact the § 563.9–3(b)(1) authority of an institution to have outstanding aggregate loans to one borrower in an amount equal to the lesser of its net worth or 10 percent of its withdrawable accounts or, if greater than the lesser of these two amounts, $500,000 (adjusted annually to reflect movement in the Consumer Price Index ("CPI")).

The Board believes that the current limitation on aggregate loans to one borrower may no longer adequately restrain unsafe or unsound practices. Specifically, the Board notes that under the current rule even a single disastrous loan by an insured institution could deplete its entire net worth. The Board has long placed great emphasis on the economic premise that prudent portfolio diversification can reduce risk (*see, e.g.*, H.M. Markowitz, *Portfolio Selection*, 7 Journal of Finance 77 (March 1952)), and it believes that the proposed revisions to its loans-to-one-borrower regulation would better address safety and soundness concerns by requiring greater portfolio diversification without increasing credit risk. Both theory and the Board's experience with critical losses to insured institutions and to the FSLIC fund resulting from large loans support the proposal as a reasonable and necessary means of promoting prudent diversification in an institution's portfolio and reducing overall risk.

To protect against the hazard of large loans, and thereby reduce risk to national banks (and, since its creation, their federal insurer, the Federal Deposit Corporation), Congress has, since the 1906 enactment of section 5200 of the Revised Statutes (later codified at 12 U.S.C. 84), imposed a strict limitation upon loans to one borrower by national banks. National banks are prohibited from lending to one borrower more than an amount equal to 25 percent of their unimpaired capital and surplus. As the Board noted above, its current rule incorporates this standard for commerical loans by insured institutions.

Many insured institutions—particularly *de novo* and rapidly growing institutions chartered by the states that have granted them very liberal commercial lending and equity investment powers—have in the recent past pursued investment strategies that may pose credit risk comparable to that associated with the asset portfolios of commercial banks. Therefore, the Board is proposing to extend to thrift institutions the diversification requirement that has applied to national banks for 80 years by reducing from 100 percent to 25 percent of net worth the amount of aggregate loans that an insured institution may make to one borrower.

In placing this proposal before the public, the Board's objective is to initiate a process of comment and analysis that will enable the Board to establish a new loans-to-one-borrower limitation on aggregate loans that will promote safety and soundness without unduly limiting the business discretion of well-managed institutions committed to home financing. This is especially important to the Board because, notwithstanding the shift in investment strategies pursued by many thrifts, most insured institutions continue to have asset portfolios that are significantly committed to home loans, which have historically posed less credit risk than the unsecured commercial loan portfolios of banks. Accordingly, the Board is aware that reducing the aggregate amount of loans to one borrower that an insured institution may make from 100 percent to 25 percent of net worth may well be too severe.

The Board therefore invites suggestions as to whether a lesser reduction in the limitation on aggregate loans to one borrower would better achieve the Board's twin goals of reducing risk to insured institutions and the FSLIC and of preserving for institutions an appropriate degree of operational flexibility. Specifically, the Board seeks comment on (1) whether the proposed 25 percent of net worth aggregate lending authority is too low, (2) whether a separate limitation should be established for loans secured by a single real estate project that is more or less restrictive than the proposed limitation on aggregate loans to one borrower, (3) whether it is feasible to establish criteria—and if so, what criteria—for a waiver, upon appropriate application, of the proposed aggregate limitation, and (4) whether it is feasible to establish a higher maximum aggregate limitation for certain classes of institutions based upon criteria such as their capital strength. In addition, the Board solicits comment as to whether the lending limitations of the rule—whether aggregate or otherwise—should be applied to loans made by service corporation subsidiaries of insured institutions as a means of preventing circumvention of the rule.

The Board also is proposing to eliminate the alternative aggregate amount for loans to one borrower of 10 percent of withdrawable accounts if less than net worth. This alternative amount is only rarely less than net worth and, moreover, it is an inappropriate measure in that withdrawal accounts have no necessary relationship to net worth.

Under the proposed rule all insured institutions would retain the present authority to have outstanding loans to one borrower in an aggregate amount equal to $500,000 if that amount is greater than 25 percent of an institution's net worth. However, the Board proposes to eliminate the annual adjustment of this $500,000 amount to reflect movement in the CPI because the automatic adjustment of this minimum lending authority in the absence of a specific Board determination is inappropriate.

Finally, the Board proposes to modify the rule's definition of the term "outstanding loans" in two respects. First, the Board proposes to clarify that the term "outstanding loans" includes funds an institution is obligated to advance under an executed promisssory note, regardless of whether such funds are accounted for or deemed to be other than a loan (for example, an "investment") for any other purpose, unless the loan is subject to a legally binding overline purchase commitment of another person. Second, the Board proposes to expand the term "outstanding loans" to include the amount of funds "wrapped" as well as advanced by the institution in a "wraparound" loan.

The first proposed change is merely a classification that funds classified as an "investment" pursuant to § 571.17 or other accounting requirements are still a "loan" for purposes of § 563.9–3 if an obligor has executed a note and is responsible for repaying debt to the insured institution. The second proposed change would recognize the institution's true potential exposure on a wraparound loan. Including not only the funds advanced but also the portion wrapped in the total of outstanding loans to one borrower would recognize that in order for an institution to avoid losing its investment in a loan it must

sometimes purchase the liens which are wrapped by its loan.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Small entities to which the proposed rule would apply.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). Therefore, the proposed rule would apply to the 1,742 insured institutions that had assets totaling $100 million or less as of December 31, 1985.

3. *Impact of the proposed rule on small entities.* The proposal should not have a significant economic impact on small institutions. The $500,000 floor for aggregate loans to one borrower would remain, although the proposal would reduce this floor from the CPI adjusted amount, which as of November 1985 was $555,900. All institutions—including small ones—should benefit from the safety and soundness resulting from the greater portfolio diversification required by the proposal.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* In the above **SUPPLEMENTARY INFORMATION** the Board is soliciting comment on possible alternatives to the rule as proposed.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 10, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469, as amended (12 U.S.C. 1729(f)); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 406, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

§ 563.9–3 [Amended]

2. Section 563.9–3(a)(2) is amended by indenting paragraphs (i) through (v) and by capitalizing the first letter of the first word of each such paragraph; by starting the sentence beginning "The term does not include . . ." flush with the left margin on the next line after the conclusion of paragraph (v); and by revising the last sentence of the section to read as follows: "The amount of an outstanding "wraparound" loan is determined by the sum of the amount of obligations secured by all liens on the security property prior to the institution's lien and the amount of funds advanced by the institution.".

3. Paragraph (a)(2)(ii) of §563.9–3 is revised to read as follows:

§ 563.9–3 Loans to one borrower.

(a) * * *

(2) * * *

(ii) Funds an insured institution has an obligation to advance under an executed promissory note, regardless of whether such funds are accounted for or deemed to be other than a loan for any other purpose, unless the loan is subject to a legally binding overline purchase commitment of another person;

* * * * *

4. Section 563.9–3(b)(1) is revised to read as follows:

§ 563.9–3 Loans to one borrower.

* * * * *

(b) *Limitations.*—(1) *Aggregate loans.* No insured institution shall make any loan to one borrower if the sum of the amount of such loan and the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower exceeds an amount equal to the greater of twenty-five percent of such institution's net worth or $500,000.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–19138 Filed 8–22–86; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ANM–15]

Proposed Alteration of Federal Airways—Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of several Federal Airways located in the vicinity of Portland, OR, by revoking some segments and renumbering other segments. This action supports the FAA agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate route designations.

DATE: Comments must be received on or before October 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 86–ANM–15, Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Rule Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental,

VOL 51 ISS 164 AG 25 1986 UMI

and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ANM–15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several VOR Federal Airways located in the vicinity of Portland, OR, by deleting all alternate route designations from the National Airspace System. In addition, some airway segments would be revoked and other segments would be renumbered. This action supports the FAA agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–112 [Amended]

By removing the words "including a S alternate from Portland via the Portland 110° and The Dalles 255° radials to The Dallas;"

V–520 [Amended]

By removing the words "From Portland, OR, via The Dallas, OR;" and by substituting the words "From Portland, OR, via INT Portland 110°T(089°M) and The Dallas, OR, 225°T(234°M) radials; The Dalles;"

V–121 [Amended]

By removing the words "Redmond, OR; including a N alternate via Eugene 089° and Redmond 281° radials;" and by substituting the words "Redmond, OR;"

V–269 [Amended]

By removing the words "to Redmond, OR." and by substituting the words "Redmond, OR; INT Redmond 281°T(261°M) and Eugene, OR, 069°T(049°M) radials; to Eugene.

V–287 [Amended]

By removing the words "Newberg, OR, including a west alternate from North Bend to Newberg via Newport, OR, Portland, OR, including an east alternate via INT Newberg 069° and Portland 196° radials;" and by substituting the words "Newberg, OR; Portland, OR;"

V–182 [Amended]

By removing the words "Portland, OR;" and by substituting the words "North Bend, OR, via Newport, OR; Newberg, OR: INT Newberg 069°T(048°M) and Portland, OR, 196°T(175°M) radials; Portland;"

Issued in Washington, DC, on August 18, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–19074 Filed 8–22–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 73

[Airspace Docket No. 86–AGL–8]

Proposed Aleration of R–6901 Fort McCoy, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the boundaries and time of designation of Restricted Area R–6901 Fort McCoy, WI. The proposal would delete the southwest corner of the area to remove McCoy Army Airfield from restricted airspace and subdivide the remaining area into two separate restricted areas. In addition, the time of designation of the restricted airspace would be reduced.

DATES: Comments must be received on or before October 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86–AGL–8, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration , 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9246.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AGL–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to modify the boundaries and time of designation of R–6901 and to correct the title of the area in the Continental Control Area. The change would exclude McCoy Army Airfield (AAF) from R–6901, internally subdivide the remaining area into two separate restricted areas, and reduce the time of designation of the airspace. Under the proposal, the southwest corner of R–6901 would be deleted and the remaining area would be subdivided to form two separate restricted areas along a line where Wisconsin State Highway 21 crosses the area. R–6901A would be designated north of the highway and R–6901B would be established south of the highway. Removing McCoy AAF from the restricted area would facilitate the possibility of civil use of the airfield under a joint-use arrangement currently under study. The Department of the Army has determined that the majority of activities conducted in the present R–6901 occur in that portion of the area north of Wisconsin State Highway 21. Only occasional use is made of that section south of the highway. The proposed subdivision would facilitate the activation of only that airspace actually required by the using agency and allow the release of the unused portion for public access. Present and forecast use of the restricted area indicates that a "continuous" time of designation is no longer warranted. The proposed time of designation reduces the amount of time that the airspace is reserved. Specific times would be designated for R–6901A. R–6901B would be subject to only occasional use and therefore would be activated by NOTAM. The new times more accurately depict actual use and make the airspace available for public access when it is not required by the using agency. Sections 71.151 and 73.69 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an estimated body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R–6901 Camp McCoy, WI [Removed]
R–6901A Fort McCoy, WI [New]
R–6901B Fort McCoy, WI [New]

PART 73—[AMENDED]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.6 [Amended]

4. Section 73.69 is amended as follows:

R–6901 Fort McCoy, WI [Removed]
R–6901A Fort McCoy, WI [New]
Boundaries. Beginning at lat. 44°08'40" N., long. 90°44'20" W.; to lat. 44°08'40" N., long. 90°40'22" W.; to lat. 44°09'36" N., long. 90°40'22" W.; to lat. 44°09'36" N., long. 90°38'50" W.; to lat. 44°00'27" N., long. 90°38'45" W.; west along Wisconsin State Highway 21; to lat. 44°00'03" N., long. 90°43'10" W.; to lat. 44°00'03" N., long. 90°44'40" W.; to lat. 44°02'45" N., long. 90°44'30" W.; to the point of beginning.
Designated altitudes. Surface to 20,000 feet MSL.
Time of designation. May 1 through September 30—Continuous; October 1 through April 30–0600–2200 Monday–Thursday and 0800 Friday–2200 Sunday; other times by NOTAM issued at least 24 hours in advance. Controlling agency. FAA, Minneapolis ARTCC.
Using agency. U.S. Army, Commanding Officer, Fort McCoy, WI.
R–6901B Fort McCoy, WI [New]
Boundaries. Beginning at lat. 44°00'03" N., long. 90°43'10" W.; east along Wisconsin State Highway 21; to lat. 44°00'27" N., long. 90°38'45" W.; to lat. 44°00'02" N., long. 90°38'35" W.; to lat. 44°00'02" N., long. 90°35'15" W.; to lat. 43°56'22" N., long. 90°35'22" W.; to lat. 43°56'22" N., long. 90°39'00" W.; to lat. 43°56'36" N., long. 90°41'00" W.; to lat. 43°56'44" N., long. 90°43'17" W.; to the point of beginning.
Designated altitudes. Surface to 20,000 feet MSL.
Time of designation. By NOTAM issued 24 hours in advance.
Controlling agency. FAA, Minneapolis ARTCC.

Using agency. U.S. Army, Commanding Officer, Fort McCoy, WI.

Issued in Washington, DC, on August 14, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19073 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1917

[Docket No. S-506 B]

Servicing of Single Piece and Multi-Piece Rim Wheels at Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to revise the Marine Terminals Standard, 29 CFR Part 1917, to include rules that address the servicing of both single piece and mutli-piece rim wheels.

Section 1917.44(o) of the current Marine Terminals Standards, which was published in 1983, includes rules for servicing multi-piece rim wheels, but not single piece rim wheels. In 1984 OSHA revised its General Industry Standard on multi-piece rim wheels, 1910.177, to add coverage for the servicing of single piece rim wheels. This proposed action will make the requirements of the revised General Industry Standard applicable at marine terminals.

DATE: Comments, objections and requests for hearing must be postmarked by September 24, 1986.

ADDRESS: Comments and requests for hearing should be sent to the Docket Officer, Docket No. S-506 B, U.S. Department of Labor, Room N-3670, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

On February 3, 1984, OSHA issued a final general industry standard on the servicing of single piece and multi-piece rim wheels (49 FR 4338). That action amended § 1910.177 by making minor revisions to the provisions for multi-piece rim wheels, and by adding provisions for the servicing of single piece rim wheels to the existing provisions for multi-piece rim wheels.

The Marine Terminals Standard, 29 CFR Part 1917, as published in 1983 (48 FR 30886), also included coverage for the servicing of multi-piece rim wheels (1917.44(o)). However, in that the revision of the general industry standard occurred subsequent to issuance of the final rule for marine terminals, single piece rim wheel coverage was not included within the framework of Part 1917. This rulemaking seeks to bridge that existing gap in coverage.

It has been OSHA's intent to undertake this action since the issuance of the Part 1910 single piece/mutli-piece final rule. In the preamble to that rule (49 FR 4342), the Agency stated the following:

> Subsequent to the proposal, OSHA has issued a Final Rule on Marine Terminals (46 FR 30886) which does not address single piece rim wheels. It is planned to include coverage of single piece rim wheels for maritime employment by further rulemaking.

Additionally, OSHA has been petitioned by both labor and management (Exs. 2, 3) to follow up on this intention.

The first of the petitions the Agency received came from Mr. Francis A. Scanlan, General Counsel of the National Maritime Safety Association (NMSA). In their petition, NMSA pointed to the need for addressing the servicing of single piece and multi-piece rim wheels at marine terminals stating: "Parallel requirements (to the general industry rim wheel standards) would eliminate any possible confusion and assure adequate protection regardless of where the servicing operation is being conducted." Further, it was noted that this proposed action is ". . . necessary and appropriate for tire servicing operations at marine terminals."

Similarly, Mr. Rudy Rubio, Vice President of the International Longshoremen's Union, petitioned on his organization's behalf stating: "The potential for injury to longshore maintenance and repair workers servicing single piece rim wheels is no different than that of workers in general industry."

This document proposes to amend Part 1917 by deleting the current multi-piece rim wheel servicing requirements in § 1917.44(o). In its place, OSHA is proposing to place a reference to the general industry standard for the servicing of multi-piece and single piece rim wheels, § 1910.177. As a result of that reference, § 1910.177 would be made applicable to marine terminals, and marine terminal employers would be required to comply with the provisions of that section in the same manner as any other Part 1917 standard. This reference would also be inserted into § 1917.1 and § 1910.16, which contain lists of the limited number of Part 1910 provisions having application at marine terminals. In addition, the proposal would also amend paragraph (a)(2) of § 1910.177, which currently indicates that the general industry standard does not apply to any maritime employment covered by Parts 1915-1918, to reflect that marine terminals covered by Part 1917 would not be covered by § 1910.177.

II. Hazards of Servicing Single Piece Rim Wheels

Based upon a review of available accident and injury data, OSHA has determined that the servicing of single piece rim wheels is a hazardous undertaking. This data (Ex. 4:2-13) compellingly supports OSHA's determination that employees involved in the servicing of single piece rim wheels are exposed to significant risk of serious injury.

A detailed discussion of the hazards associated with the servicing of single piece rim wheels is contained in the preamble to the final rule for general industry (49 FR 4338, February 3, 1984). That discussion, which is equally applicable to the servicing operations that take place at marine terminals, is incorporated by reference into this preamble.

To summarize that discussion, the principal hazard present during the servicing of single piece rim wheels is that the pressurized air contained in the tire may suddenly be released, either by the bead breaking or by the bead slipping over the rim flange. These incidents are caused by mismatching of the wheel and tire, by using damaged components, by failing to restrain the components, by welding on the wheel and/or improperly mounting the tire on the wheel. The resulting air blast is strong enough to hurl an employee who is in close proximity to the rim wheel, and positioned within the trajectory, across the workplace where the employee may suffer serious injury or death. When the pressurized air is released on the side of the rim wheel against a solid surface, the flexure of the tire can also propel the rim wheel itself across the workplace and into an employee in its path, also resulting in injury or death. The force exerted on the rim flange of a single piece wheel by a pressurized tire is comparable to that of

a tire mounted on a multi-piece wheel (e.g., a 10.00 × 20 tire, when inflated to 105 psi creates a force in excess of 40,000 pounds against the rim flange).

As noted above, the force of the pressurized air released from a single piece rim wheel is comparable to that force from a multi-piece rim wheel. The principal differences between accidents involving single piece rim wheels and those involving multi-piece rim wheels center around the reaction to the release of the pressurized air in the tire. In multi-piece rim wheel accidents, the wheel components separate and are released from the rim wheel with violent force. The primary agent of employee injury in multi-piece rim wheel separations is any of the individual components of the wheel, such as the lock ring, which can be propelled toward an employee with explosive force as the wheel components separate. In the single piece rim wheel accident, the air blast itself is another primary agent of injury. The severity of the hazard is not only related to the air pressure but also to the air volume. Employees have been seriously or fatally injured when they were thrown against walls, ceilings, gas pumps or other hard and unyielding objects.

In addition, if the air blast is not released directly toward an employee but against a floor or wall, the unrestrained rim wheel can be hurled across the workplace. Therefore, if the release of air occurs on the side of the wheel that is lying against a solid surface, and the rim wheel is unrestrained, the entire asembly may become a projectile. Such movement is caused primarily by the flexure of the tire as the air escapes. An employee standing in the trajectory can be hit by the rim wheel when the air is released.

The petitioners have contended, and OSHA agrees, that the number of single piece rim wheels transiting marine terminals is on the increase. Based on communications with chassis manufacturers, OSHA has determined that a significant number of new orders for rolling stock placed by chassis owners specify single piece rims. As in general industry, the increased presence of single piece rim wheels in marine terminal environments will inevitably result in an increased need to service such wheels at the terminal setting. OSHA believes that inclusion of the general industry rules for single piece rim wheel servicing is necessary for protection of employees at marine terminals. The need for such comprehensive coverage is made even more evident by the increased use of single piece rim wheels on vehicles operating on these facilities. Therefore, OSHA is proposing to provide marine terminal workers with the same protection from servicing hazards as is provided to workers in general industry.

A complete explanation of the requirements of § 1910.177 and the rationale behind the 1984 amendments to that section may be found in Section 2 of the Final Rule document published in the **Federal Register** on February 3, 1984 (49 FR 4338). The following discussion summarizes the differences between the present multi-piece rim wheel servicing requirements for marine terminals, § 1917.44(o), and the provisions of § 1910.177, which cover both multi-piece and single piece rim wheel servicing. The requirements of § 1910.177 for servicing of multi-piece rim wheels are essentially the same as those currently imposed on marine terminal employers by § 1917.44(o), including provisions for the use of restraining devices which meet speficied strength criteria, training of employees in proper servicing techniques, establishment of safe operating procedures, and the use of rim manuals and matching charts to prevent mismatching of wheel components. The definitions paragraph (paragraph (b)) of § 1910.177 is more extensive than that of the current marine terminals provision, and provides more information as to the terminology used in the standard.

The primary difference between § 1917.44(o) and § 1910.177 is, as noted above, the Part 1910 standard's coverage of single piece rim wheel servicing in addition to servicing of multi-piece rim wheels. In brief, § 1917.177 imposes requirements for single piece rim wheel servicing which parallel those for multi-piece rim wheels, but which reflect the differences in construction and hazards posed by the single piece rim wheel. For example, because the single piece rim wheel does not separate and throw rim components during an explosion, the standard allows servicing to take place without a restraining device if the wheel is securely bolted to the axle during the servicing operation. Similarly, because the primary hazard from a single piece rim wheel explosion is from the air blast and not from the separation of wheel components, a "cage" or other restraining device is not necessary if a suitable barrier is placed between the rim wheel and the servicing employee. Accordingly, the standard provides for the use of such a barrier (defined as a fence, wall, or other structure or object) or a restraining device, either of which must meet the applicable strength requirements in the standard (i.e., it must withstand the maximum force occurring at 150 percent of the maximum tire specification pressure). In addition, since the air blast is capable of propelling the entire wheel assembly across the workplace if the explosion flexes the tire sidewall against a solid surface, the standard also prohibits the inflation of a tire on a single piece rim when a flat, solid surface, including a barrier, is within one foot of the sidewall. As is the case with multi-piece rim wheels, the standard requires that the servicing employee stay out of the trajectory of the rim wheel during tire inflation.

In addition to these requirements, § 1910.177 contains provisions for employee training and safe operating practices for single piece rim wheel servicing. For the most part, these practices are the same as for multi-piece rim wheels. These are several differences which reflect the different construction and hazards of single piece rim wheels. For example, to avoid tire damage, the standard requires that mounting and demounting be done only from the narrow ledge side of the single piece rim wheel. The standard also requires that the tire and wheel bead diameter and width be compatible, to avoid mismatching of tires with single piece rims. Other differences from multi-piece rim wheel servicing include details on the use of tire changing machines to seat the tire bead, and limitations on inflation pressures.

III. Preliminary Regulatory Impact Assessment and Regulatory Flexibility Analysis for Servicing Single Piece Rim Wheels in Marine Terminals

In accordance with Executive Order No. 12291 (46 FR 13193, February 17, 1981), OSHA has assessed the potential economic impact of this proposed standard. Based on the Executive Order criteria, OSHA has determined that this proposal is not a "major" action. Therefore, it does not require a Regulatory Impact Assessment (RIA).

OSHA's determination that the amendment will not have a major impact is based primarily upon four studies. The first study was June 1978 report by Centaur Management Consultants, Inc., for OSHA entitled, "Economic Impact Statement/ Assessment for Multi/Piece Rim Assemblies" [Docket S–005, Ex. 2–33]. The second study was a March 1981 report by Dr. Roger L. McCarthy and Mr. James R. Finnegan of Failure Analysis Associates for the National Wheel and Rim Association (NWRA) entitled, "Large Vehicle Wheel Servicing: Reduction of Risk Through Implementation of an OSHA Standard Governing Multi/Piece and Single/Piece

Rims" [Docket S–010, Ex. 31]. The third study was a March 1981 report prepared for NWRA by Dr. Thomas Gale Moore of the Hoover Institute, entitled "An Economic Evaluation for Proposed OSHA Single Piece Rim Standard" [Docket S–010, Ex. 4]. The fourth study was the August 1983 report by OSHA's Office of Regulatory Analysis entitled, "Regulatory Impact and Regulatory Flexibility Assessment of the Final Standard on Servicing Single/Piece Rim Wheels" [Docket S–010 Ex. 11]. These four studies demonstrated that the single piece wheel servicing standard is technologically feasible in general industry. Consequently, because this proposed amendment to the Marine Terminals Standard covers the exact same activity that is covered by the general industry single piece rim wheel servicing standard, OSHA has concluded that this proposed amendment would also be technologically feasible in marine terminals.

Currently, most, if not all, marine terminals servicing single piece rim wheels also service multi-piece rim wheels. As a result, OSHA has concluded that the promulgation of a single piece rim wheel servicing standard will result in no additional capital costs because the equipment currently required to meet the multi-piece rim wheel servicing provisions will also meet the equipment requirements for single piece rim wheel servicing.

Based on the NWRA Reports, OSHA has determined that the number of large vehicle rim wheels serviced within marine terminals will remain constant over the next 10 years. However, the percentage of single piece rim wheels of all large vehicle rim wheels is expected to increase from about one-third in 1985 to about one-half by 1990. This increase is due largely to greater fuel efficiency of tubeless tires which require, for the most part, the use of single piece rim wheels. Thus, OSHA expects that the number of single piece rim wheels serviced will increase while the number of multipiece rim wheels serviced will decrease. As a result, since equipment currently used to service multi-piece rim wheels can be shifted to servicing single piece rim wheels, no additional equipment will need to be purchased in order to comply with the single piece rim wheels servicing provisions.

Nevertheless, OSHA does expect that there will be some initial and continuing costs of compliance due to the provision requiring employee safety training and to the provision requiring tires on single piece wheels to be inflated at a safe distance from the employee. In the preamble to the general industry rule on servicing single piece rim wheels (49 FR 4338 [Ex. 6]), OSHA had estimated that the present value in 1981 dollars of the costs of compliance to be incurred by general industry during 1981–1990 would be $16.47 million. The average yearly cost for the approximately 102,000 workplaces was about $16. This same $16 average annual cost is projected for each of the approximately 400 affected marine terminals. OSHA seeks information concerning the number of affected marine terminals, the number of employees who will need to be trained at those marine terminals, and the number of tires serviced at those facilities.

In addition, OSHA received no adverse public comments during its marine terminals rulemaking concerning its finding that there were no significant costs of compliance with the multi-piece rim wheel servicing provisions in the marine terminals safety standard. By way of comparison, the estimated costs of general industry compliance with the multi-piece rim wheel servicing standard (Federal Register, January 29, 1980, p. 6713) were about twice that of the estimated costs of complying with the single piece rim wheel servicing standard. That same ratio is also likely to be true for marine terminals. Thus, because the multi-piece rim wheel servicing standard did not impose significant costs of compliance upon marine terminals, OSHA has tentatively concluded that the single piece rim wheel servicing standard also would not impose significant costs of compliance upon marine terminals.

OSHA does not now have direct information concerning the injuries and fatalities accurring to marine terminal employees while servicing single piece rim wheels. Nevertheless, the physical hazards associated with servicing single piece rim wheels are the same in both general industry and in marine terminals. Consequently, OSHA assumes that the accident rate per tire serviced would be the same in both sectors. Thus, as incorrect methods of servicing single piece rim wheels were determined to constitute a serious safety hazard in general industry, OSHA has similarly concluded that such servicing methods will also produce a serious safety hazard in marine terminals. OSHA seeks additional information concerning the number of tire changing injuries that have occurred at marine terminals.

OSHA's analysis of the accident data available for single piece rim wheel servicing in general industry indicated that compliance with the provisions of the single piece rim wheel servicing would have prevented nearly all of the reported accidents. As a result, OSHA has concluded that promulgating this general industry standard for marine terminals would also prevent nearly all single piece rim wheel servicing accidents in marine terminals because the causes of the accidents are the same in both sectors. OSHA therefore, concludes that this proposed standard will likely reduce the number of worker deaths and disabilities, will provide net benefits to society and will not have a significant adverse effect on marine terminals.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, [5 U.S.C. 601 et seq.]), OSHA has assessed the potential economic impact of this proposed standard on small entities and has examined some of the alternatives to it. Based on this assessment, OSHA certifies that the proposed standard will not have a significant economic effect on small entities.

The only provisions that may impose costs of compliance are those requiring employee safety training and those requiring that tires be inflated at a distance from the employee. The fact that firms must train new employees at the time they are hired largely precludes training many employees at the same time. Consequently, large employers will not garner any significant economies of scale in training and these costs will be largely proportional to the number of employees trained. Similarly, the increased time needed to service each single piece rim wheel, because the employee must move away from the tire to inflate it, is independent of the number of such rim wheels serviced. As the smaller marine terminals would service fewer rim wheels than would the large marine terminals, OSHA believes that these minimal costs of compliance will neither significantly affect nor create any competitive disadvantages for small entities.

IV. Environmental Impact Assessment—Finding of No Significant Impact

This proposed rule and its major alternatives have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and the Department of Labor's NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has

determined that the proposed rule will have no significant environmental impact.

The proposed amendment to 29 CFR Parts 1910 and 1917 for servicing multi-piece and single piece rim wheels, covered the same activity as the general industry standard. In other words, the reduction of accidents or injuries is to be achieved by means of work practices and procedures, proper use and handling of equipment, and training. Such procedures do not impact on air, water, or soil quality; or plant or animal life; or on the use of land or other aspects of the environment. These safety-oriented revisions are therefore categorized as excluded actions according to Subpart B, Section 11.10 of the DOL NEPA regulations.

V. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal. These comments must be postmarked on or before September 24, 1986, and submitted in quadruplicate to the Docket Officer, Docket S–506B, U.S. Department of Labor, Room N3670, Francis Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210. Written submission must clearly identify the specific provisions of the proposal which are addressed and the position taken with regard to each issue.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

Additionally, under section 6(b)(3) of the Occupational Safety and Health Act, interested persons may file objections to the proposal and request an informal hearing with respect thereto. The objections and hearing requests should be submitted to the address given above and should be filed in accordance with the following conditions.

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before September 24, 1986;

3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of evidence proposed to be adduced at the requested hearing.

List of Subjects

29 CFR Part 1910

Chemicals, Diving, Electric power, Electric products, Fire prevention, Gases, Hazardous substances, Health records, Noise control, Occupational Safety and Health, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

29 CFR Part 1917

Cargo, Certification, Gear, Intermodal container, Longshoring, Maritime, Occupational safety and health, Safety.

VI. Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, under sections 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 657; section 41 of the Longshoremen's and Harborworker's Compensation Act, 33 U.S.C. 941; Secretary of Labor's Order 9–83 (48 FR 35736), and 29 CFR Part 1911, 29 CFR Parts 1910 nd 1917 are proposed to be amended, as set forth below.

Signed at Washington, DC, this 20th day of August 7, 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

29 CFR Part 1910 is proposed to be amended as follows:

1. By revising the authority citation for Subpart B of 29 CFR Part 1910 to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Healey Act, 41 U.S.C. 35, et seq; Service Contract Act of 1965, 41 U.S.C. 351 et seq; Sec. 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 333; Sec. 41 of the Longshoremen's and Harborworkers Compensation Act, 33 U.S.C. 941; National Foundation on Arts and Humanities Act, 20 U.S.C. 951 et seq; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736) as applicable; and 29 CFR Part 1911.

2. By adding a new paragraph (b)(2)(ix) to § 1910.16 to read as follows:

§ 1910.16 Longshoring and marine terminals.

* * * * *

(b) * * *

(2) * * *

(ix) Servicing multi-piece and single piece rim wheels. Subpart N, § 1910.177.

* * * * *

3. By revising paragraph (a)(2) of § 1910.177 to read as follows:

§ 1910.177 Servicing multi-piece and single piece rim wheels.

(a) * * *

(2) This section does not apply to employment and places of employment regulated under the Construction Safety Standards, 29 CFR Part 1926; the Agriculture Standards, 29 CFR Part 1928; the Shipyard Standards, 29 CFR Part 1915; or the Longshoring Standards, 29 CFR Part 1918.

* * * * *

PART 1917—MARINE TERMINALS

29 CFR Part 1917 is proposed to be amended as follows:

4. The authority citation for Part 1917 would be revised to read as follows:

Authority: Secs. 4, 6, and 8, of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Sec. 41, Longshoremen's and Harborworker's Compensation Act, 33 U.S.C. 941; Secretary of Labor's Orders 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

5. A new paragraph (a)(2)(ix) would be added to § 1917.1 to read as follows:

§ 1917.1 Scope and applicability.

(a) * * *

(2) * * *

(ix) Servicing multi-piece and single piece rim wheels. Subpart N, § 1910.177.

6. Paragraph (o) of § 1917.44 would be revised to read as follows:

§ 1917.44 General rules applicable to vehicles.

* * * * *

(o) *Servicing of multi-piece and single piece rim wheels.*

Servicing of multi-piece and single piece rim wheels is covered by § 1910.177 of this Chapter.

* * * * *

[FR Doc. 86–19161 Filed 8–22–86; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to Implementing Regulations; the Bank Secrecy Act

AGENCY: Office of the Secretary, Treasury.

ACTION: Proposed rule.

SUMMARY: The Bank Secrecy Act, Pub. L. No. 91–508 (permanently codified at 12 U.S.C. 1829b, 12 U.S.C. 1951 *et seq.* and at 31 U.S.C. 5311 *et seq.*), empowers the Secretary of the Treasury to require

financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. At present, Treasury regulations implementing the Act require a variety of financial institutions to file reports of large currency transactions. The Secretary also can direct designated institutions to file reports regarding specified transactions with foreign financial agencies. Financial institutions also are required to maintain records necessary to trace transactions through the nation's banking system.

The Department's experience in enforcing the Act in recent years has indicated that the following proposed substantive regulatory changes are needed to strengthen enforcement of the Act. In particular, recent judicial decisions, such as *United States* v. *Anzalone*, 766 F.2d 676 (1st Cir. 1985), have drawn attention to the fact that the regulations may be inadequate to sustain prosecutions for failing to report transactions that have been structured to evade the current reporting requirements. In light of cases such as *Anzalone*, the Department of Justice believes that certain changes to the currency transaction reporting requirements are needed to expand the coverage of the Act to ensure the collection of needed information, and to strengthen enforcement of the Act.

DATE: Comments must be received on or before November 24, 1986.

ADDRESS: Address written comments to Jonathan J. Rusch, Acting Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 1458, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Linda Noonan, Attorney Advisor, Office of the Assistant General Counsel (Enforcement), Department of the Treasury, Room 2000, 1500 Pennsylvania Ave., NW., Washington, DC 20220 (202/566-2941).

SUPPLEMENTARY INFORMATION:

Background

The following amendments are made to strengthen enforcement of the Bank Secrecy Act and to make clarifications to the existing regulations, as noted:

(1) *Expand the definition of "bank" to include Edge Act corporations:* An "Edge" or "Agreement" corporation, as defined by 12 U.S.C. 611 *et seq.*, is a corporation organized in the United States for the purpose of engaging in international or foreign banking, or other foreign financial operations; such institutions are supervised by the Board of Governors of the Federal Reserve System. This amendment to expand coverage of the regulations to include these entities is justified by the rapidly expanding roles played by such financial entities in the banking system and the need to maintain a comprehensive scheme of reporting and recordkeeping requirements. See regulatory proposal #2.

(2) *Add a new definition of "common carrier":* This new definition is intended to clarify the reporting responsibilities for currency and monetary instruments that are transported into or out of the United States. See regulatory proposal #2.

(3) *Revise the definition of "financial institution" in light of recent case law, and to include certain selling agents of traveler's checks, money orders and similar instruments:* This revision modifies the definition to comport with recent case law defining financial institutions for Bank Secrecy Act purposes. It also expands the definitions of "financial institution" to include certain selling agents of certain monetary instruments and all transmitters of funds. Coverage of these additional entities is justified by the rapidly expanding roles played by such financial institutions in the banking system and the need to maintain a comprehensive scheme of reporting and recordkeeping requirements. See regulatory proposal #2.

(4) *Clarify and expand the definition of "monetary instruments" to include promissory notes, checks made out to fictitious payees and certain other types of checks:* These substantive changes are warranted by enforcement experience, which indicates that casino markers, certain cashier's checks and checks made out to fictitious payees are being used for money laundering, but arguably are not subject to current reporting requirements. Other amendments to the definition are intended to clarify the regulations. See regulatory proposal #2.

(5) *Add a new definition for "transaction account" and insert it in place of the deleted term "demand deposit account" wherever it appears in the Part:* This new term combines currently covered demand deposit accounts with recently developed money market and NOW accounts, which have many of the same characteristics as demand deposit accounts. See regulatory proposals #2 & 3.

(6) *Add a new definition for "business day":* This amendment provides that the term "business day" for banks means banking day. See regulatory proposal #2.

(7) *Clarify that financial institutions must report multiple, same-day currency transactions of which they are aware that total more than $10,000:* This amendment codifies the CTR Form 4789 instruction that currently requires financial institutions to report multiple, same-day transactions of which they are aware that are by or on behalf of any person and total more than $10,000. It does not impose any new burden on financial institutions to adopt systems to reveal the existence of multiple, same-day transactions. See regulatory proposal #4.

(8) *Require financial institutions to report cash purchases exceeding $3,000 of monetary instruments, such as cashier's checks, money orders or traveler's checks, where the aggregate of all such same-day purchase exceeds $10,000:* The Department of Justice is concerned that unreported money laundering is being conducted through "smurfing" organizations that employ numerous agents to launder large amounts of cash by conducting repetitive transactions with numerous financial institutions, each involving less than $10,000 in currency. Treasury has found that unreported money laundering is being conducted through the use of various negotiable instruments, especially cashier's checks. For example, "smurfs" use multiple, same-day cash purchases of cashier's checks to convert large amounts of cash into a more compact form without currently triggering the filing of a report with the Treasury Department of leaving an audit trail that investigators can readily detect. The Department of Justice recommends this regulatory approach, which addresses the problem of reporting aggregate transactions by placing a certification requirement on the individual conducting the transactions. If an individual misrepresents to the financial institution either the existence or aggregate amount of the transactions, the financial institution will have no duty to report unless it has actual knowledge of the transactions. Such a misrepresentation would, however, be a criminal offense on the part of the individual responsible for it. See regulatory proposal #4.

(9) *Require banks to obtain signed statements from their customers attesting to the basis for their exemption from the currency transaction reporting requirements:* Recent enforcement experience suggests that many banks are not paying sufficient attention to compliance with the requirements for granting reporting exemptions pursuant

to the authority set out in § 103.22. This amendment seeks to ensure that banks are more diligent in controlling their exempt lists while, at the same time, making customers accountable for their representations to banks that justify such reporting exemptions. See regulatory proposal #4.

(10) *Permit banks to exempt from the currency transaction reporting requirement deposits by certain public utilities and commercial passenger carriers:* This proposed amendment to the exemption procedure would permit banks to exempt cash deposits by certain public utilities and commercial passenger carriers. See regulatory proposal #4.

(11) *Clarify the prohibition on exempting automobile, boat and airplane dealerships:* This proposed amendment makes clear that no motor vehicle dealership may be exempted from the currency reporting requirements. This includes, but is not limited to, motorcycle, recreational vehicle, and farm equipment dealers. See regulatory proposal #4.

(12) *Revise the procedures for filing all reports and for recording foreign financial accounts:* This amendment updates and clarifies the procedures for filing all reports, and for keeping records of interests in foreign financial accounts. All reports previously subject to filing within 30 days would be filed within 15 days of the reportable event or the request for the report, whichever is applicable. See regulatory proposals #5, 6 & 8.

(13) *Require that customer identification be verified by document examination:* This amendment addresses a compliance problem Treasury has identified with financial institutions that report insufficient information on Forms 4789 to show proper identification of customers. Many financial institutions have opened bank accounts for individuals based on inadequate identifications, and then have relied on the signature cards for those accounts to satisfy the current identification requirement. This amendment requires financial institutions to exercise no less care in identifying the individuals conducting reportable transactions than they do when identifying nondepositors cashing checks. Signature cards alone would not satisfy the identification requirement. This regulation would make the instruction for the completion of item 12 on the existing Currency Transaction Report partially obsolete. See regulatory proposal #7.

(14) *Limit financial institution recordkeeping requirements to extensions of credit exceeding $10,000 instead of $5,000:* This amendment modifies recordkeeping requirements to eliminate recordkeeping that is no longer justified by the usefulness of the information retained. See regulatory proposal #9.

(15) *Expand financial institution recordkeeping requirements to include incoming as well as outgoing transactions with persons, accounts or places outside the United States:* This amendment responds to increasingly sophisticated international financial schemes, and simply requires that recordkeeping cover incoming as well as outgoing transactions, including transactions that are later cancelled or not completed for any reason. See regulatory proposal #9.

(16) *Require records to be kept on certain purchases of more than $3,000 in monetary instruments:* In concert with the proposed reporting requirement for monetary instrument purchases, this recordkeeping requirement would ensure that information in addition to that provided on the reports would be retained as part of the normal business records of the financial institution. Such information would provide a paper trail that would be available to investigators pursuant to traditional forms of legal process. See regulatory proposal #9.

(17) *Revise additional recordkeeping requirements for banks, casinos and brokers or dealers in securities to simplify the procedures for recording taxpayer identification numbers, and require those financial institutions to keep lists of all persons from whom taxpayer identification numbers have not been obtained:* This amendment replaces the current lengthy exemption provisions in §§ 103.34, 103.35 and 103.36 regarding taxpayer identification numbers with a simpler requirement in § 103.38(c) that a list be maintained of all persons from whom a taxpayer identification number is not obtained. This procedure also is incorporated in the new additional recordkeeping requirements for foreign currency exchanges. See regulatory proposals #10, 12, 13, 14, & 15.

(18) *Clarify that additional recordkeeping requirements for banks include deposit slips and credit tickets:* This amendment to the additional recordkeeping requirement for banks makes clear that deposit slips and credit tickets should be retained as part of the paper trail already required by § 103.34 to be recorded and that such records must stipulate whether transactions involve currency. See regulatory proposal #11.

(19) *Require foreign currency dealers to keep certain additional records:* Treasury's enforcement experience indicates that foreign currency dealers are an increasingly important component of sophisticated money laundering and tax evasion schemes. The rapid evolution of international financial activity in recent years makes the imposition of recordkeeping requirements on foreign currency dealers appropriate at this time. Foreign currency dealers currently are subject to little or no oversight other than under the Bank Secrecy Act. These recordkeeping requirements serve to place foreign currency dealers on a par with brokers or dealers in securities, casinos and banks in retaining additional records that the Secretary finds have a high degree of usefulness in criminal, tax and regulatory matters. See regulatory proposal #14.

(20) *Establish a uniform minimum retention period for transaction account records:* Under present regulations, bank records required to reconstruct deposits to demand deposit accounts can be destroyed two years after the transaction. These records normally consist of deposit slips, proof tapes, copies of checks deposited, and related records. Since deposits reflect income, these types of records are the most important bank records for documenting unreported income in, for example, a criminal tax investigation. However, the constraints placed on the Department by the two-year retention period make it extremely difficult to document violations for more than one year with deposit records. Since tax and related financial crimes may not be discovered until several years after they occur, the deposit records needed to reconstruct income often may be destroyed before the investigation starts. Without records to reconstruct income, an investigation may not be initiated or may have to be discontinued. This proposed amendment to the record retention period would alleviate this problem and standardize the retention requirement for all records covered under the Act. See regulatory proposal #15.

(21) *Clarify the overall Bank Secrecy Act enforcement and compliance authority of the Assistant Secretary (Enforcement):* This amendment restates the overall responsibility of the Assistant Secretary for implementation and administration of Bank Secrecy Act reporting and recordkeeping requirements. It also updates regulatory language to reflect the recent change in the Assistant Secretary's title from "(Enforcement & Operations)" to "(Enforcement)". See regulatory proposal #16.

(22) *Replace references to "Administrator" of the NCUA with*

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"Chairman of the Board": This amendment corrects a technical error in the delegations of Bank Secrecy Act compliance responsibility. See regulatory proposal #16.

(23) *Delegate enforcement responsibility to the Commissioner, Internal Revenue Service:* This amendment delegates to the Commissioner of Internal Revenue responsibility for the criminal investigation of all violations of Part 103 other than § 103.23. See regulatory proposal #16.

(24) *Specify the criminal investigatory responsibilities of the Commissioners of Customs and Internal Revenue:* This amendment states existing delegations of investigatory responsibility. See regulatory proposal #16.

(25) *Specify the requirement for periodic reports to the Assistant Secretary (Enforcement):* This amendment restates the requirement of periodic reports to the Assistant Secretary by agencies to which BSA compliance responsibility has been delegated. The amendment also provides that the reports will be made in such form and at such intervals as the Assistant Secretary directs. See regulatory proposal #16.

(26) *Correct the civil penalty amount that can be assessed for willful violations of the recordkeeping requirements of this Part:* This amendment corrects a technical error in the regulations that implemented the increase in civil penalty amount made by the Comprehensive Crime Control Act of 1984. That statutory change applied only to the reporting and recordkeeping requirements imposed by the provisions of the Bank Secrecy Act codified at 31 U.S.C. 5311 *et seq.* The recordkeeping provisions for financial institutions contained in 12 U.S.C. 1829b and 12 U.S.C. 1951 *et seq.* have not been amended. See regulatory proposal #17.

Executive Order 12291

This proposed rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Most of the recordkeeping and reporting requirements imposed by this proposed regulation concern information already found in routine business records. To the extent an affected financial institution has prudent record retention practices, it will already be retaining a substantial portion of the information identified in this proposed regulation. The Department, however, specifically requests comments concerning the effect of this proposal on affected small financial institutions.

Paperwork Reduction Act

The collection of information requirements contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for the Office of the Secretary, Department of the Treasury. Copies of such comments should also be submitted to the Department at the address previously specified.

Comments

Treasury requests comments from all interested persons concerning the proposed amendments. Treasury specifically requests comments from financial institutions and associations of financial institutions whose members would be affected by the proposed amendments. Treasury is particularly interested in the effect the proposed amendments would have on their overall operations, and what, if any, additional records would have to be maintained as a result of the proposed amendments.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize any material or comments, including the name of any person submitting comments, as confidential. Any material not intended to be disclosed to the public should not be included in comments. All comments submitted will be available for public inspection during regular business hours at the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement), Department of the Treasury. However, personnel from the Department of Justice and other Treasury offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

It is proposed to amend 31 CFR Part 103 as set forth below:

PART 103—[AMENDED]

1. The authority citation for Part 103 is revised to read as follows:

Authority: Sec. 21 of the Federal Deposit Insurance Act, Pub. L. 91–508, Title I, 84 Stat. 1114, 1116 (12 U.S.C. 1829b, 1951–9); and the Currency and Foreign Transactions Reporting Act, Pub. L. No. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–23).

2. It is proposed to revise § 103.11 to read as follows:

§ 103.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

(a) *Bank.* Each agent, agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A commercial bank or trust company organized under the laws of any State or of the United States;

(2) A private bank;

(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;

(4) An insured institution as defined in section 401 of the National Housing Act;

(5) A savings bank, industrial bank or other thrift institution;

(6) A credit union organized under the laws of any State or of the United States; and

(7) Any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State.

(8) a bank organized under foreign law.

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(9) Any national banking association or corporation acting under the provisions of section 25(a) of the Act of Dec. 23, 1913, as added by the Act of Dec. 24, 1919, ch. 18, 41 Stat. 378, as amended (12 U.S.C. 611–32).

(b) *Broker or dealer in securities.* A broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

(c) *Common carrier.* Any person engaged as a public employment in the business of transporting individuals or goods for a fee who holds himself out as ready to engage in such transportation for hire and who undertakes to do so indiscriminately for all persons.

(d) *Currency.* The coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

(e) *Domestic.* When used herein, refers to the doing of business within the United States, and limits the applicability of the provision where it appears to the performance by such institutions or agencies of functions within the United States.

(f) *Financial institutions.* Each agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed below:

(1) A bank (except bank credit card systems);

(2) A broker or dealer in securities;

(3) A currency dealer or exchanger, including a check casher;

(4) An issuer, seller, or redeemer of traveler's checks, money orders, or similar instruments, except as a selling agent exclusively who sells less than $150,000 of such instruments within any given 30-day period;

(5) A transmitter of funds, including telegraph companies;

(6)(i) A casino or gambling casino licensed as a casino or gambling casino by a State or local government and having gross annual gaming revenue in excess of $1,000,000.

(ii) A casino or gambling casino includes the principal headquarters and any branch or place of business of the casino or gambling casino.

(7) A person subject to supervision by any state or federal bank supervisory authority.

(g) *Foreign bank.* A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

(h) *Foreign financial agency.* A person acting outside the United States for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(i) *Investment security.* An instrument which:

(1) Is issued in bearer or registered form;

(2) Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;

(3) Is either one of a class or series or by its terms is divisible into a class or series of instruments; and

(4) Evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.

(j) *Monetary instruments.*

(1) Monetary instruments include:

(i) Currency;

(ii) All negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, third-party checks, promissory notes, traveler's checks, money orders and other similar instruments) that are either in bearer form, endorsed without restriction, signed but with the payee's name omitted, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; and

(iii) securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery.

(2) Monetary instruments do not include warehouse receipts or bills of lading.

(k) *Person.* An individual, a corporation, a partnership, a trust or estate, a joint stock company, association, a syndicate, joint venture, or other unincorporated organization or group, and all entities cognizable as legal personalities.

(l) *Secretary.* The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

(m) *Transaction account.* Transaction accounts include those accounts described in 12 U.S.C. 461(b)(1)(C), money market accounts and similiar accounts that take deposits and are subject to withdrawal by check or other negotiable order.

(n) *Transaction in currency.* A transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency is not a transaction in currency within the meaning of this part.

(o) *United States.* The various States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(p) *Business day.* Business day, as used in this Part with respect to banks, means banking day.

3. It is proposed to amend Part 103 by removing the phrase "demand deposit account" wherever it appears and inserting in its place the phrase "transaction account".

4. It is proposed to revise § 103.22 to read as follows:

§ 103.22 Reports of currency transactions.

(a)(1) Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000. Multiple currency transactions shall be treated as a single transaction if the financial institution is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any one business day. Deposits made at night or over a weekend or holiday shall be treated as if received on the next business day following the deposit.

(2) Each casino shall file a report of each deposit, withdrawal, exchange of currency, gambling tokens or chips, or other payment or transfer, by, through, or to such casino which involves a transaction in currency of more than $10,000. Multiple currency transactions shall be treated as a single transaction if the casino is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any twenty-four hour period.

(3) Each financial institution shall obtain and retain a report from each

purchaser of any official bank check, cashier's check, money order or traveler's check, or combination thereof, where the purchase involves a transaction in currency of more than $3,000. Each such report shall be signed by the purchaser and shall certify whether or not the purchaser, or person on whose behalf the purchase is made, has transacted during that same business day other such cash purchases with the same or any other financial institution where the aggregate value of all such purchases exceeds $10,000. The selling financial institution shall treat any affirmative certification, or refusal or failure to file a full and complete report as required by this subparagraph, as a reportable transaction under subparagraph (a)(1), and shall file a report as required by subparagraph (a)(1), along with the report obtained from the purchaser pursuant to this subparagraph.

(4) A financial institution includes all of its domestic branch offices for the purpose of this paragraph's reporting requirements.

(b) Except as otherwise directed in writing by the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue:

(1) This section shall not require reports:

(i) Of transactions with Federal Reserve Banks or Federal Home Loan banks;

(ii) of transactions between domestic banks; or

(iii) By nonbank financial institutions of transactions with commercial banks. Commercial banks must report covered transactions with nonbank financial institutions.

(2) A bank may exempt from the reporting requirement of paragraph (a) of this section the following:

(i) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a retail type of business in the United States. For the purpose of this subsection, a retail type of business is a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portions by currency, except that dealerships which buy or sell motor vehicles, vessels, conveyances or aircraft are not included and their transactions may not be exempted from the reporting requirements of this section.

(ii) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, theater, regularly scheduled passenger carrier whose stock is publicly traded, or any public utility company supervised by a state or federal regulatory agency.

(iii) Deposits or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities.

(iv) Withdrawals for payroll purposes from an existing account by an established depositor who is a United States resident and operates a firm that regularly withdraws more than $10,000 in order to pay its employees in currency.

(c) In each instance the transactions exempted under paragraph (b) of this section must be in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business or that customer, or in the case of transactions with a local or state government or the United States or any of its agencies or instrumentalities, in amounts which are customary and commensurate with the authorized activities or the agency or instrumentality. This section does not permit a bank to exempt its transactions with nonbank financial institutions, nor will additional exemption authority be granted for such transactions.

(d) After [insert effective date of regulations], a bank may not place any customer on its exempt list without first obtaining a written statement, on a form prescribed by the Secretary and signed by the customer, attesting to the customary conduct of the lawful, domestic business of that customer that justifies the exemption. The statement shall include the name, address, nature of business, taxpayer identification number, and account number of the customer being exempted. The bank shall indicate on the form whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption both for deposits and withdrawals. In each instance the exempted transactions must be in amounts that the banks may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer. Each statement obtained by a bank pursuant to this subparagraph must be retained by the bank for a period of five years following removal of the customer from the bank's exempt list.

(e) A bank may apply to the Commissioner of Internal Revenue for additional authority to grant an exemption to the reporting requirement, not otherwise provided for under paragraph (b), if the bank believes that circumstances warrant such an exemption. Such requests shall be addressed to: Chief, Currency and Banking Reports Branch, Exemption Review Staff, IRS Data Center, Post Office Box 32063, Detroit, Michigan 48232, and must be accompanied by a statement of the circumstances that warrant special exemption treatment and a copy of the form completed pursuant to paragraph (d).

(f) A record of each exemption granted under this section and the reason therefor must be kept in a centralized list. The record shall include the names and addresses of all banks referred to in paragraph (b)(1)(ii) of this section, as well as the name, address, business, taxpayer identification number and account number of each depositor that has engaged in currency transactions which have not been reported because of the exemption provided in paragraph (b)(2) of this section. The record concerning the group of depositors exempted under the provisions of paragraph (b)(2) of this section shall also indicate whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption.

(g) Upon the request of the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue, a bank shall provide a report containing the list of the bank's customers whose transactions have been exempted under this section and such related information as the Assistant Secretary or Commissioner shall require, including copies of the forms required in paragraph (d). The report must be provided within 15 days of the request. Any exemption may be rescinded at the discretion of the requesting official, who may require the bank to file reports required by paragraph (a) of this section with respect to future transactions of any customer whose transactions previously were exempted.

5. It is proposed to revise the first sentence of § 103.24 to read as follows:

§ 103.24 Reports of foreign financial accounts.

Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship to the Commissioner of the Internal Revenue for each year in which such relationship exists, and shall provide such information as shall be specified in

a reporting form prescribed by the Secretary to be filed by such persons.
* * *

6. It is proposed to revise § 103.26 to read as follows:

§ 103.26 Filing of reports.

(a)(1) A report required by § 103.22(a) shall be filed by the financial institution within 15 days following the day on which the reportable transaction occurred.

(2) A report required by § 103.22(g) shall be filed by the bank within 15 days after receiving a request for the report.

(3) A copy of each report filed pursuant to § 103.22 shall be retained by the financial institution for a period of five years from the date of the report. The original report submitted by the purchaser pursuant to § 103.22(a)(3) shall be retained by the financial institution for a period of five years from the date of the reported transaction unless required to be submitted with a report under § 103.22(a)(1).

(4) All reports required to be filed by § 103.22 shall be filed with the Commissioner of Internal Revenue, unless otherwise specified.

(b)(1) A report required by § 103.23(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise specified by the Commissioner of Customs.

(2) A report required by § 103.23(b) shall be filed within 15 days after receipt of the currency or other monetary instruments.

(3) All reports required by § 103.23 shall be filed with the Customs officer in charge at any port of entry or departure, or as otherwise specified by the Commissioner of Customs. Reports required by § 103.23(a) for currency or other monetary instruments not physically accompanying a person entering or departing from the United States, may be filed by mail on or before the date of entry, departure, mailing or shipping. All reports required by § 103.23(b) may also be filed by mail. Reports filed by mail shall be addressed to the Commissioner of Customs, Attention: Currency Transportation Reports, Washington, DC 20226.

(c) Reports required to be filed by § 103.24 shall be filed with the Commissioner of Internal Revenue on or before June 30 each calendar year with respect to foreign financial accounts exceeding $10,000 maintained during the previous calendar year.

(d) Reports required by §§ 103.22, 103.23 or 103.24 shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.

(e) Forms to be used in making the reports required by §§ 103.22 and 103.24 may be obtained from the Internal Revenue Service. Forms to be used in making the reports required by § 103.23 may be obtained from the U.S. Customs Service.

7. It is proposed to revise § 103.27 to read as follows:

§ 103.27 Identification required.

Before effecting any transaction with respect to which a report is or may be required under § 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity for whose or which account such transaction is to be effected. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence. Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (*e.g.*, a driver's license or credit card). In each instance, the method used in verifying the identity of the customer shall be recorded on the report.

8. It is proposed to revise the first sentence of § 103.32 to read as follows:

§ 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported to the Commissioner of Internal Revenue shall be retained by each person having a financial interest in or signature or other authority over any such account. * * *

9. It is proposed to revise § 103.33 to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

Each financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) A record of each extension of credit in an amount in excess of $10,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;

(b) A record of each advice, request, or instruction received or given regarding any transaction resulting (or intended to result and later cancelled) in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit, of more than $10,000 to or from any person, account, or place outside the United States.

(c) A purchaser's application or other similar record of the sale of each official bank check, cashier's check, traveler's check or money order of more than $3,000. Multiple purchases shall be treated as a single purchase if the financial institution is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $3,000 during any one business day. Such records shall contain the following information:

(i) Date, amount, number and type of instrument being purchased;

(ii) Method of payment;

(iii) Name of payee;

(iv) Purchaser name, signature and such other information as is described in § 103.27.

10. It is proposed to revise § 103.34(a) to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a)(1) Each bank shall secure and maintain a record of the taxpayer identification number of each customer purchasing or redeeming a certificate of deposit, or opening a deposit or share account. Where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of each person having a financial interest in the certificate or account. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.

(2) A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction.

11. It is proposed to add a new paragraph (b)(13) to § 103.34 to read as follows:

VOL 51 ISS 164 AG 25 1986 UMI

§ 103.34 Additional records to be made and retained by banks.

* * * * *

(b) * * *

(13) Each deposit slip or credit ticket reflecting a transaction in excess of $100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The slip or ticket shall record the amount of any currency involved and list the individual deposited items that accompanied the slip or ticket.

12. It is proposed to revise paragraph (a) of § 103.35 to read as follows:

§ 103.35 Additional records to be made and retained by brokers or dealers in securities.

(a) Each broker or dealer in securities shall secure and maintain a record of the taxpayer identification number of each person opening a brokerage account and who either resides, is a citizen of, or does business in, the United States. Where the account is in the names of two or more persons, the broker or dealer in securities shall secure the taxpayer identification number of each person having a financial interest in the account. Where a person is a non-resident alien, the broker or dealer in securities shall also record the person's passport number or a description of some other government document used to verify his identity.

* * * * *

13. It is proposed to revise paragraph (a) of § 103.36 to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

(a) Each casino shall secure and maintain a record of the taxpayer identification number of each person depositing funds, or for whom an account is opened or a line of credit is extended. Where the deposit, account or credit line is in the names of two or more persons, the casino shall secure the taxpayer identification number of each person having a financial interest in the deposit, account or credit line. Where a person is a nonresident alien, the casino shall also record the person's passport number or a description of some other government document used to verify his identity.

* * * * *

14. It is proposed to redesignate §§ 103.37 and 103.38 as 103.38 and 103.39, and to add new a § 103.37 to read as follows:

§ 103.37 Additional records to be made and retained by dealers in foreign currency.

(a) Each dealer in foreign currency shall secure and maintain a record of the taxpayer identification number of each person for whom a transaction account is opened or a line of credit is extended after [insert effective date of regulations]. Where the account or credit line is in the names of two or more persons, the dealer in foreign currency shall secure the taxpayer identification number of each person having a financial interest in the account or credit line. Where a person is a non-resident alien, the dealer in foreign currency shall also record the person's passport number of a description of some other government document used to verify his identify.

(b) Each dealer in foreign currency shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Statements of accounts from banks, including paid checks, charges or other debit entry memoranda, deposit slips and other credit memoranda representing the entries reflected on such statements;

(2) Daily work records, including purchase and sales slips or other memoranda needed to identify and reconstruct currency transaction with customers and foreign banks;

(3) A record of each exchange of currency involving transactions in excess of $500, including the name and address of the customer (and passport number or taxpayer identification number unless received by mail or air express), date and amount of the transaction and currency name, country, and total amount of each foreign currency;

(4) Signature cards or other documents evidencing signature authority over each deposit or security account, containing the name of the depositor, street address, taxpayer identification number (TIN) or employer identification number (EIN) and the signature of the depositor or of a person authorized to sign on the account (if customer accounts are maintained in a code name, a record of the actual owner of the account);

(5) Each item, including checks, drafts, or transfers of credit, or more than $10,000 remitted or transferred to a person, account or place outside the United States

(6) A record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account or place outside the United States;

(7) Records prepared or received by a dealer in the ordinary course of business, that would be needed to reconstruct an account and trace a check in excess of $100 deposited in such account through its internal recordkeeping system to its depositary institution, or to supply a description of a deposited check in excess of $100;

(8) A record maintaining the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and date of transaction;

(9) A system of books and records that will enable the dealer in foreign currency to prepare an accurate balance sheet and income statement.

15. It is proposed to redesignate paragraph (c) of newly redesignated § 103.38 as (d), add a new paragraph (c), and revise newly renumbered paragraph (d) to read as follows:

§ 103.38 Nature of records and retention period.

* * * * *

(c)(1) In the event that a bank, broker or dealer in securities, casino, or dealer in foreign currency has been unable to secure the taxpayer identification number required by §§ 103.34, 103.35, 103.36, or 103.37 it shall not be a violation of that respective section if the recordkeeper (i) has made a reasonable effort to secure the taxpayer identification number, and (ii) maintains a list containing the names, permanent addresses, and account numbers, where applicable, of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary upon request.

(2) The rules and regulations issued by the Internal Revenue Service under 26 U.S.C. 6109 determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

(d) All records that are required to be retained by this Part shall be retained for a period of five years. All such records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

16. It is proposed to amend § 103.46, by removing paragraph (b), by redesignating paragraph (a) as paragraph (b), by revising the introductory text of newly redesignated (b) and by revising (b)(5) and (b)(8), and by adding new paragraphs (a), (c) and (d), to read as follows:

§ 103.46 Enforcement.

(a) Overall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this Part, is delegated to the Assistant Secretary (Enforcement).

(b) Authority for assuring compliance with the requirements of this Part is delegated as follows:

* * * * *

(5) To the Chairman of the Board of the National Credit Union Association with respect to those financial institutions regularly examined for safety and soundness by NCUA examiners.

* * * * *

(8) To the Commissioner of Internal Revenue with respect to all financial institutions, except brokers or dealers in securities, not currently examined by Federal bank supervisory agencies for soundness and safety.

(c) Authority for investigatory criminal violations of this Part is delegated as follows:

(1) To the Commissioner of Customs with respect to § 103.23;

(2) To the Commissioner of Internal Revenue except with respect to § 103.23.

(d) Periodic reports shall be made to the Assistant Secretary by each agency to which compliance authority has been delegated under paragraph (b) of this subsection. These reports shall be in such a form and submitted at such intervals as the Assistant Secretary may direct.

17. It is proposed to redesignate paragraph (b) of § 103.47 as (c), revise paragraph (a) and insert a new paragraph (b) to read as follows:

§ 103.47 Civil penalty.

(a) For any willful violations of any reporting requirement for financial institutions under this part or of the recordkeeping requirements of § 103.32, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not to exceed $10,000.

(b) For any willful violation of any recordkeeping requirement for financial institutions, except violations of § 103.32, under this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not to exceed $1,000.

* * * * *

Dated: August 20, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86-18955 Filed 8-22-86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

[CGD 84-025]

Incinerator Vessels; Safety Rules

AGENCY: Coast Guard.

ACTION: Proposed rules.

SUMMARY: This notice proposes safety rules for incinerator vessels carrying bulk hazardous wastes for the purpose of incineration at sea. The rules incorporate standards in Chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (International Bulk Chemical Code) of the International Maritime Organization (IMO) as well as standards in existing safety regulations that apply to chemical tank vessels. These rules would apply to vessels required to obtain an ocean incineration permit from the Environmental Protection Agency (EPA). EPA has recently proposed rules for obtaining a permit.

DATE: Comments must be received on or before October 24, 1986.

ADDRESSES: (1) Comments should be mailed to the Commandant (G-CMC/21) (CGD 84-025), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday.

(2) A draft regulatory evaluation has been included in the public docket for this rulemaking, and may be inspected and copied at the Marine Safety Council (G-CMC/21) at the address listed above.

FOR FURTHER INFORMATION CONTACT: LCDR David B. Crawford, Office of Marine Safety, Security, and Environmental Protection (202) 267-1217.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking (NPRM) by submitting written views, data, or arguments. Comments should include the names and addresses of persons making them, identify this NPRM (CGD 84-025) and the specific section or paragraph of the NPRM to which each comment applies, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if a written request for a hearing is received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal drafters of these regulations were LCDR David B. Crawford, Office of Marine Safety, Security, and Environmental Protection, and William R. Register, Office of the Chief Counsel.

Discussion of Proposed Rulemaking

(a) Background Information

Ocean incineration is a process for disposing of hazardous waste by high temperature destruction at sea. In a typical disposal operation, a tank vessel which has one or more specially designed incinerators receives hazardous waste at a port, transits to a designated burn site, burns the waste at the site, and then returns.

The Coast Guard, under 46 U.S.C. 3703, has responsibility for prescribing regulations for incinerator vessels as may be necessary for navigation, vessel safety, and safety of vessel personnel as well as for enhanced protection of the marine environment. These regulations may include, among other things, requirements for the design, construction, equipment, and operation of incinerator vessels. The Environmental Protection Agency (EPA) has general responsibilities relating to ocean incineration activities. These responsibilities include setting standards for incinerator emissions, issuance of ocean incineration permits, and the designation and management of ocean incineration sites. The EPA published a comprehensive proposal for obtaining ocean incineration permits in the **Federal Register** of February 28, 1985, at page 8222 (50 FR 8222).

Technology concerning ocean incineration of hazardous waste originated in Europe in the early 1970's. As it developed, a need for specific requirements for incinerator vessels became increasingly apparent. Existing vessel safety requirements for tank

vessels did not specifically address hazards associated with incinerators and incinerator spaces, the sources of ignition in these spaces, and the potential for release of hazardous wastes in these spaces during transfer from vessel cargo tanks to an incinerator. The International Maritime Organization (IMO) in recognizing and responding to this need, developed a set of comprehensive incinerator vessel requirements which have been included in Chapter 19 of the International Bulk Chemical Code (IBC). The Coast Guard actively participated in the development of Chapter 19. Input was also obtained from the U.S. Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea of the Shipping Coordinating Committee. The standards in Chapter 19 are widely accepted as the best, most practicable safety standards available for incinerator vessels.

The IBC, including Chapter 19, becomes mandatory for states signatory to the 1974 International Convention for the Safety of Life at Sea, including the United States, on July 1, 1986. Chapter 19 contains detailed requirements relating to incinerator vessels and also incorporates applicable requirements of Chapters 1–16 of the IBC that apply generally to all chemical tank vessels. The requirements of Chapters 1–16 in turn incorporate provisions of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (Bulk Chemical Code) which was originally adopted in 1971 as a recommended international standard for all chemical tank vessels. The Coast Guard incorporated the Bulk Chemical Code into United States regulations in 1977. These requirements are currently published in 46 CFR Part 153.

The proposed rules in this document incorporate the provisions of Chapter 19 of the IBC into U.S. regulations. They are being proposed as measures to provide for the safety of incinerator vessels and their crews and for the protection of the marine environment when transporting hazardous wastes and while operating at an incineration site.

At present, there is one United States flag incinerator vessel, APOLLO I. Another, APOLLO II, is currently under construction. The plans for both of these vessels have been approved by the Coast Guard and they will meet the level of safety provided by Chapter 19 of the IBC and these proposed regulations. Also, several inquiries have been received from prospective builders of other incinerator vessels.

Two foreign flag incinerator vessels, VULCANUS I and VULCANUS II, have requested EPA authorization to burn U.S. generated hazardous wastes. Both of these vessels are required by Public Law 97–389 (96 Stat. 1954, 46 U.S.C. 883) to undergo full inspection, including drydock inspections and internal examinations of the tanks and void spaces, and meet the same standards as U.S. vessels. The VULCANUS II was recently certified by the Coast Guard in accordance with Public Law 97–389 and was found to comply with the principal requirements proposed in this notice, and the second vessel has applied for a certification. Public Law 97–389 also prohibits other foreign vessels (*i.e.*, foreign vessels not owned or under construction on May 1, 1982, by a corporation wholly owned by a citizen of the U.S.) from loading bulk hazardous wastes from U.S. ports for the purpose of incineration at sea.

(b) Description of Proposed Rules

(1) Activities to be Regulated

Incinerator vessels conduct two primary activities both of which are addressed in these proposed regulations. The first activity is to transport hazardous waste to an ocean incineration site. In this respect an incinerator vessel's operation is similar to any other tank vessel. The second activity involves the actual process of incineration. Incinerators pose hazards similar to other fired units onboard ship such as boilers. In addition, the operation of transferring hazardous waste which may be flammable and toxic from the incinerator vessel's cargo tanks to an incinerator is an operation unique to incinerator vessels.

(2) Proposed Regulatory Approach

(a) *Transportation of Waste Material.* The proposed regulatory approach for shipboard transportation of hazardous waste to an incineration site is to apply, where appropriate, the existing requirements for chemical tank vessels that carry hazardous materials in bulk. The standards necessary to safely transport hazardous waste materials are essentially the same as those applied to the carriage of hazardous materials as cargo in bulk.

The principal safety regulations for all tank vessels are in Subchapter D of Title 46, Code of Federal Regulations. Examples of these requirements include: firefighting systems, structural fire protection, lifesaving equipment, cargo venting systems, and ventilation systems. For chemical tank vessels, the Subchapter D requirements are supplemented by requirements in Part 153 of Subchapter O of Title 46, Code of Federal Regulations. As stated above, these supplemental requirements incorporate the provisions of the Bulk Chemical Code which are carried forward into Chapters 1–16 of the IBC. Examples of these requirements are: vessel arrangements, cargo containment systems, cargo tank gauging, cargo pumps and pumprooms, monitors, alarms, and control systems, toxic vapor protection, emergency shutdown, and various operational procedures and controls. In addition to the existing requirements in Subchapters D and O, specific requirements are also necessary to address construction and arrangement features concerning incinerators and incinerator spaces. These additional requirements are found in Chapter 19 of the IBC.

(b) *Incineration of Wastes.* The proposed regulatory approach for incineration of hazardous waste is to apply requirements from 46 CFR Part 63 which relate to large water heating equipment and other large fired units on board ship. The hazards involved in using this equipment are essentially the same as those associated with shipboard incinerators. The principal purposes of the Part 153 requirements are to preclude the introduction of fuel or hazardous waste into an incinerator in the absence of an ignition source and to preclude the ignition of flammable vapor in amounts that would damage an incinerator or cause an explosion.

The proposal also includes requirements from Chapter 19 of the IBC as measures to minimize hazards resulting from an accidental release of hazardous wastes from cargo piping during transfer to an incinerator. These additional requirements include automatic shutdown systems, electrical equipment requirements for equipment located in compartments containing cargo piping, ventilation requirements for spaces surrounding the incinerators, and special pumproom requirements.

Design and operating features necessary to meet EPA emission standards for incinerators are addressed in EPA's proposed rules of February 28, 1985 (40 FR 8222) principally in proposed §§ 234.11, 234.12, 234.47, and 234.48.

(3) Specific Application

The proposed regulations would apply to all vessels, both ships and seagoing barges, engaged in the incineration of bulk hazardous wastes at sea. As provided in § 150.215, an incinerator barge would also be required to meet specific requirements in addition to those proposed in this NPRM if determined by the Coast Guard to be necessary because of unique features involving the construction, arrangement, or operation of these vessels.

VOL 51 ISS 164 AG 25 1986 UMI

The hazardous wastes to be covered by the proposed regulations would include both liquid and solid wastes. As provided in proposed § 150.230, requirements in addition to or in lieu of those in this NPRM may be necessary with respect to solid wastes depending upon specific hazards presented by transporting and burning these wastes. As provided in proposed § 150.295(c), liquid wastes to be covered would include both flammable and combustible liquids as defined in Subchapter D of Title 46 as well as hazardous materials included under Department of Transportation regulations in Title 49, Parts 171 and 172.

(4) Additional Limitations and Controls.

The Coast Guard anticipates that the requirements in this NPRM would be supplemented on a case by case basis with specific operational limitations and controls that may be needed with respect to vessel loading and port transit of bulk hazardous wastes. The types of operational controls and limitations to be imposed would depend on the hazard of the cargo being carried and would take into account local port conditions. The Coast Guard has broad authority in 33 CFR Parts 126, 154–156, and 160–165 to impose these limitations and controls. As provided in EPA's proposed regulations, (proposed 40 CFR § 234.52), the ocean incineration permit issued to an incinerator vessel would be conditioned in part upon limitations and controls determined to be necessary after consultation with the Coast Guard. Examples of port transit limitations and controls may include where appropriate: establishment of a moving safety zone, requirements for Coast Guard escort vessels, restriction of operations to daylight hours, weather and visibility restrictions, requirements for tug assistance, and a requirement to provide at least 24 hours advance notice before transferring hazardous waste to an incinerator vessel.

(5) Hull Construction

In order to comply with the proposed requirements, and particularly the proposed construction and arrangement provisions, incinerator vessels will need at least a type II hull (double hull construction) to reduce the potential for discharges caused by collisions and groundings and meet a two compartment damage stability standard. Appendix I to the Draft Evaluation, which is discussed in more detail below, contains a detailed discussion of requirements concerning type II construction.

These proposed regulations do not include provisions allowing carriage of hazardous wastes on incinerator vessels that have type III hulls. Specific provisions are not being proposed for type III vessels since they cannot safely carry many of the hazardous wastes that the Coast Guard anticipates will be routinely transported, and, when the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships becomes effective in April 1987, type II vessels will be required. As explained in Appendix I to the Draft Evaluation, vessels that have a type III hull are not required to meet certain standards required for type II construction.

(c) Source of Proposed Regulations.

The proposed regulations incorporate the provisions of Chapter 19 of the IBC Code. The proposed regulations also include provisions from 46 CFR Part 153 which correspond to provisions in the Bulk Chemical Code and Chapters 1–16 of the IBC Code, and provisions from 46 CFR Part 63 which in part include requirements for large heating plants on vessels as well as other safety features applicable to incinerators. The Part 63 requirements have been revised and published in a new proposed 46 CFR Part 62, entitled "Automated Vital Systems". Proposed 46 CFR Part 62 was recently published in the Federal Register of September 23, 1985 (50 FR 38606). The Part 153 provisions upon which the proposed regulations are based also include amendments to Part 153 published in the Federal Register of May 22, 1985 (50 FR 21166).

Table I below lists the source of each regulation in this NPRM. Because many of the proposed regulations are the same as or similar to a corresponding regulation in 46 CFR Part 153 or proposed Part 62, a citation to Part 153 or proposed Part 62 is given as the source. Several of the regulations derived from Part 153 also are included in Chapter 19 of the IBC Code. In drafting the text of the proposed regulations, the same words appearing in Part 153 or in proposed Part 62 have been used whenever possible to provide consistency with those regulations and to facilitate the understanding of readers familiar with them.

Proposed regulations in Table I which are derived solely from Chapter 19 of the IBC are assigned an "IMO" notation. The few proposed regulations designated as "NEW" have been developed for the most part on the basis of Coast Guard experience in the certification process of the APOLLO and VULCANUS incinerator vessels.

TABLE I

Proposed regulations	Source
150.200	NEW
150.205	153.2, except as noted below
"Cargo"	NEW
"Incinerator"	NEW
"Incinerator blower space"	IMO 19.1.3.2
"Incinerator control room"	IMO 19.1.3.3
"Incinerator space"	IMO 19.1.3.1
"Incinerator vessel"	NEW
150.210	153.940
150.215	NEW
150.220	153.8, 153.900
150.225(a)	153.900(a)
150.225(b)	153.9(a)
150.225(c)	153.5(b) 153.900
150.225(d)	153.15
150.225(e)	153.9(b)
150.230	153.5(b)
150.235(a)	153.12(a)(2)
150.235(b)	153.12(a)
150.235(c)	153.12(b)
150.240	153.10
150.245(a)	153.19
150.245(b)	Table I,Part 153
150.250(a)	153.486
150.250(b)	IMO 19.8
150.255(a)	153.231
150.255(b)	153.235
150.255(c)	IMO 19.5.3
150.255(d)	153.525
150.255(e)	153.525
150.255(f)	153.525
150.255(g)	IMO 19.3.2
150.255(h)	153.365
150.255(i)	153.251, 153.281
150.255(j)	IMO 19.5.2
150.255(k)	IMO 19.4.1
150.255(l)	153.254
150.255(m)	153.254
150.255(n)	153.254
150.255(o)	153.256
150.255(p)	153.236
150.260	153.233
150.265	153.234(b)
150.270(a)	153.234(a)
150.270(b)	153.201(a)
150.270(c)	153.201(b)
150.270(d)	IMO 3.2.3
150.270(e)	IMO 3.2.2
150.270(f)	IMO 3.2.3
150.270(g)	IMO 19.3.2, IMO 19.3.3
150.270(h)	IMO 19.3.2,
150.270(i)	IMO 19.3.4
150.270(j)	IMO 19.3.8, IMO 19.4.2
150.275	153.206
150.280	153.209
150.285	153.217
150.290	153.219
150.295(a)	153.350
150.295(b)	153.352
150.295(c)	153.353
150.295(d)	153.354
150.295(e)	153.355
150.295(f)	153.358(a)
150.295(g)	153.358(b)
150.295(h)	153.360
150.295(i)	153.362
150.295(j)	153.364
150.295(k)	153.366(b)
150.295(l)	153.372
150.295(m)	IMO 19.7.1
150.300(a)	153.404, 153.409
150.300(b)	153.409(a)
150.300(c)	153.406(b)
150.300(d)	153.406(c)
150.300(e)	153.406(d)
150.300(f)	153.406(e)
150.300(g)	153.406(f)
150.305	153.368
150.310	153.392
150.315	153.338
150.320(a,b)	153.394
150.320(c)	IMO 19.5.2
150.325	153.236
150.330(a)	IMO 19.4.4
150.330(b)	IMO 19.4.3
150.335(a)	62.35-20(a)
150.335(b)	62.25-1(c)
150.335(c)	62.25-5(d)
150.335(d)	62.25-25(a)

TABLE I—Continued

Proposed regulations	Source
150.335(e)	62.25-25(b)
150.335(f)	62.25-30(a)
150.335(g)	63.05-20(b)
150.335(h)	62.25-15(e)(2)
150.335(i)	62.35-20(e),(f) and (g)
150.340(a)	62.25-15(c)
150.340(b)	62.25-20(b)(1)
150.340(c)	62.25-20(e)(2)
150.340(d)	62.25-20(c)
150.340(e)	62.25-20(d)(6)
150.340(f)	IMO 19.4.5
150.340(g)	IMO 19.4.5
150.340(h)	62.25-20(e)(1)
150.345(a)	62.35-20(c)
150.345(b)	153.10
150.350	62.35-20(d)
150.355(a)(b)(1-4)	62.35-20(h)
150.355(b)(5)	63.05-35(a)
150.360(a-d)	62.35-20(f)
150.360(g)	62.30-1(b)
150.365(a)	62.25-1(b)
150.365(b)	61.40
150.370(a)	153.310
150.370(b)(1-4, 6,7)	153.312
150.370(b)(5)	153.316
150.370(c) and (d)	IMO 19.11
150.375(a)	153.314(a)
150.375(b)	153.314(b)
150.380	IMO 19.3.9
150.385	IMO 19.3.9
150.390(a)	153.296(a)
150.390(b)	153.296(b)
150.390(c)	IMO 19.5.4
150.390(d)	IMO 19.5.4
150.390(e)	153.296(g)
150.395(a)	153.214(a),(b)
150.395(b)	153.215(a)
150.395(c)	153.215(b)
150.395(d)	153.215(c)
150.395(e)	153.215(d)
150.395(f)	153.216
150.395(g)	153.527
150.395(h)	Proposed 33 CFR 142.39 (49 FR 1083)
150.400(a)	153.460
150.400(b)	IMO 19.10.1
150.400(c)	153.460
150.405(a)	IMO 19.8.1
150.405(b)	IMO 19.8.2
150.410	153.500 (a-d)
150.415	153.901
150.420	153.904
150.425	153.905
150.430	153.907
150.435	153.910
150.440	153.920
150.445	153.923
150.450(a)	153.932(a)
150.450(b)	153.932(b)
150.455	153.933 and 153.932(c)
150.460(a)	153.934
150.460(b)	153.934
150.465	153.935
150.470	153.935
150.475	153.936
150.480	153.940
150.485	153.953
150.490	153.955
150.495(a)	153.957
150.495(b)	153.959
150.500	153.968
150.505	153.806
150.510	153.970
150.515	153.972
150.520	153.975
150.525	153.976
150.530(a)-(c)	153.977
150.530(d)	153.981
150.535	153.980
150.540	153.983
150.545	153.1504
150.550	33 CFR 153.203

NOTE:—(1) Unless otherwise specified, section numbers listed above refer to section numbers in 46 CFR Part 153, or Proposed Part 62.
(2) "IMO" refers to Chapter 19 of IMO's International Bulk Chemical Code.

Draft Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and significant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed above under **ADDRESSES.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

The draft evaluation provides a detailed explanation of the estimated costs of these proposed regulations. The estimated costs are approximately $3 million per vessel with an expectation of a maximum of 3 incinerator vessels being built per year for the next 10–11 years.

These costs take into account a potential savings to prospective shipowners of as great as $1 million per vessel over the $4 million cost per vessel required to meet current Coast Guard conditions for certification as an incinerator vessel. The savings would result from reducing the time needed for Coast Guard concept plan review in the certification process. The savings would be considerably reduced if several vessels were built to the same plans; however, this is not the usual practice.

Due to a lack of operational experience for incinerator vessels, it is impossible to quantify the extent to which the proposed regulations will affect the risk of explosion and fire aboard ships during the incineration process and the potential for exposure of the crew to toxic wastes; however, all known hazards are addressed by the proposed regulations and these risks should be minimal.

These regulations, in conjunction with the EPA proposed permit requirements, would result in an essentially negligible potential for harmful releases affecting coastal areas as a consequence of a vessel casualty.

Based upon the information in the draft evaluation, as discussed above, the Coast Guard certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking includes information collection requirements that have already been approved for all chemical tank vessels. These requirements are in § 150.225(b) and (e), § 150.235(b), § 150.240(b), § 150.365(a), § 150.415, § 150.430, § 150.435, and § 150.480 and are approved under OMB Approval No. 2115–0089. Other information collection requirements are in § 150.460 approved under OMB Approval No. 2115–0071, § 150.550 under OMB Approval No. 2115–0518, 150.365(b) under OMB Approval No. 2115–0648, and §§ 150.490 and 150.505 are approved under OMB Approval No. 2115–0078.

The information collection requirements in this rulemaking and their corresponding control numbers will be listed in 46 CFR § 150.105 concurrently with the publication of final rules.

List of Subjects 46 CFR Part 150

Hazardous materials transportation, Marine safety, incinerator vessels.

In accordance with the foregoing, the Coast Guard proposes to amend Title 46 of the Code of Federal Regulations as follows:

1. The authority citation for Part 150 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46.

2. A new Subpart B is added to read as follows:

Subpart B—Requirements for Vessels Engaged in Bulk Hazardous Waste Incineration at Sea

General

SEC.
150.200 Applicability.
150.205 Definitions.
150.210 Incorporation by reference.
150.215 Non self-propelled vessels.
150.220 Inspection for Certificate of Inspection.
150.225 Required endorsement.
150.230 Carriage of bulk solid hazardous waste.
150.235 IMO Certificates for U.S. flag vessels.
150.240 Equivalent standards.

Construction and Arrangements

150.245 Hull type and damage stability.
150.250 Electrical equipment.
150.255 Cargo containment system.
150.260 Separation of tanks from machinery, service and other spaces.
150.265 Fore and aft location.
150.270 Vessel arrangements.
150.275 Ballast equipment.
150.280 Bilge pumping system.
150.285 Access to enclosed spaces and dedicated ballast tanks.
150.290 Access to double bottom tanks serving as dedicated ballast tanks.
150.295 Cargo venting system.
150.300 Cargo tank gauging.
150.305 Access to a cargo pumproom.
150.310 Hoisting arrangement.
150.315 Cargo pump discharge pressure gauge.
150.320 Bilge pumping systems.
150.325 Pumproom respiratory requirements.

Sec.

Incinerator and Controls

150.330 Incinerator construction.
150.335 Incinerator control and monitoring: general.
150.340 Incinerator monitoring and alarms.
150.345 Combustion control.
150.350 Programming control.
150.355 Incinerator burner safety trip control.
150.360 Incinerator safety trip control.
150.365 Operating instructions and test procedures.
150.370 Ventilation of cargo handling spaces, incinerator spaces and incinerator blower spaces.
150.375 Ventilation of spaces not usually occupied.
150.380 Incinerator space access.
150.385 Incinerator blower space.

Equipment and Operations

150.390 Emergency shutdown stations.
150.395 Personnel emergency and safety equipment.
150.400 Special requirements for fire protection.
150.405 Inert gas system: General.
150.410 Inert gas system: Specific requirements.
150.415 Certificates required to be on bridge.
150.420 Limitation in the endorsement.
150.425 Regulations required to be on board.
150.430 Shipping document.
150.435 Cargo piping plan.
150.440 Cargo quantity limitations.
150.445 Inerting system operation.
150.450 Eye Protection.
150.455 Protective clothing.
150.460 Entry into spaces containing cargo vapor.
150.465 Opening of tanks and cargo sampling.
150.470 Storage of cargo samples.
150.475 Illness, alcohol, drugs.
150.480 Standards for marking of cargo hose.
150.485 Signals during cargo transfer.
150.490 Warning signs during cargo transfer.
150.495 Person in charge of cargo transfer.
150.500 Cargo transfer conference.
150.505 Loading information.
150.510 Cargo transfer piping.
150.515 Connecting a cargo hose.
150.520 Preparation for cargo transfer.
150.525 Transfer of ship stores.
150.530 Supervision of cargo transfer.
150.535 Isolation of automatic closing valves.
150.540 Terminal procedures.
150.545 Inspection of personnel emergency and safety equipment.
150.550 Reporting discharges of cargo.

General

§ 150.200 Applicability.

This subpart prescribes rules that apply to vessels engaged in the incineration of bulk hazardous waste at sea.

Note.—Regulations in 40 CFR Part 234 require these vessels to obtain an ocean incineration permit from the Environmental Protection Agency.

§ 150.205 Definitions.

In this subpart:

"Accommodation spaces" means halls, dining rooms, lounges, lavatories, cabins, staterooms, office, hospitals, cinemas, game and hobby rooms, pantries containing no cooking appliances, and similar permanently enclosed spaces.

"B" means the breadth of the vessel and is defined in § 42.13–15(d) of this chapter.

"Cargo" means liquid hazardous waste that is carried in bulk for the purpose of incineration at sea and that is—

(1) A hazardous material as defined in 49 CFR 171.8 and has a vapor pressure of less than 172 kPa (25 psig) at 37.8 °C (100 °F); or,

(2) A flammable or combustible liquid as defined in Subpart 30.10 of this chapter.

"Cargo area" means that part of a vessel that includes the cargo tanks, spaces adjacent to the cargo tanks, and the part of the deck over the cargo tanks and adjacent spaces.

"Cargo containment system" means a cargo tank, its cargo piping system, its venting system, and its gauging system.

"Cargo handling space" means an enclosed space that must be entered during a routine loading, carriage, or burning of cargo and that contains an element of the cargo containment system having a seal or packing to prevent the escape of cargo such as a valve or cargo pump.

"Cargo piping system" means an incinerator vessel's permanently installed piping arrangement, including any valves and pumps, that carries cargo to or from a cargo tank.

"Closed gauging system" means an arrangement for gauging the amount of cargo in a tank, such as a float and tape, a magnetically coupled float and indicator, or a radar system that does not have any opening through which cargo vapor or liquid can escape.

"Commandant" means Commandant of the U.S. Coast Guard. The term is often followed by a mailing code in parentheses. The mailing address should include any mailing code and should be written as follows: Commandant (mailing code), U.S. Coast Guard, Washington, DC 20593.

"Control space" is defined in § 30.10–19a of this chapter.

"IMO" means the International Maritime Organization.

"IMO Certificate" means a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk issued under the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, Resolution A.212(VII), 1971, as amended, or issued under the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (International Bulk Chemical Code).

"Incinerator" means an enclosed device used to thermally break down hazardous waste.

"Incinerator blower space" means an enclosed space containing a blower that supplies combustion air to an incinerator.

"Incinerator control room" means the space where controls, alarms, and monitoring systems for the incinerator operation are located.

"Incinerator space" means a cargo handling space surrounding the portion of an incinerator where waste is introduced into it.

"Incinerator vessel" means a tank vessel constructed or converted to carry and burn hazardous waste at sea.

"Independent," as applied to a cargo piping, venting, or heating system means that the system is connected to no other system, and has no means available for connection to another system.

"Independent tank" means a cargo tank that is permanently affixed to the vessel, that is self-supporting, that incorporates no part of the vessel's hull and that is not essential to the integrity of the hull.

"Integral tank" means a cargo tank that also is part of or is formed in part by the vessel's hull structure so that the tank and the hull may be stressed by the same loads.

"L" means the length of the vessel and is defined in § 42.13–15(a) of this chapter.

"OCMI" means "Officer in Charge, Marine Inspection, as defined in § 1.05(b) of this chapter.

"Pressure-vacuum (PV) valve" means a valve that is normally closed and which opens under a preset positive pressure or a vacuum.

"Separate" and "separated," as applied to a cargo piping, venting, heating or cooling system, means either an independent system or one that may be disconnected from all other systems by—

(1) Removing spool pieces or valves and blanking the open pipes ends; or

(2) Blocking each system interconnection with two blind flanges in series and providing a means of detecting leakage into the pipe section between the flanges.

"Service space" means a space outside the cargo area used for galleys, pantries containing cooking appliances, lockers, store rooms, workshops other than those forming part of the

machinery spaces, and trunks to such spaces.

"Venting System" means a permanent piping arrangement leading from a cargo tank and used to control the flow of vapor to and from the tank.

§ 150.210 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division (G–MTH), Washington, DC 20593.

(b) The materials approved for incorporation by reference in this subpart are:

American National Standards Institute, 1430 Broadway, NY, NY 10018

ANSI B16.31–71, Non-Ferrous Pipe Flanges.
ANSI Z87.1–79, Practice for Occupational and Educational Eye and Face Protection.
ANSI Z88.2–80, Practices for Respiratory Protection.
ANSI/NFPA 306, Control of Gas Hazards on Vessels.

§ 150.215 Non-self-propelled vessels.

Each non-self-propelled incinerator vessel must meet the requirements of this subpart and any additional requirements that the Commandant (G–MTH) may prescribe.

§ 150.220 Inspection for Certificate of Inspection.

Each incinerator vessel must be certificated under Subchapter D of this chapter.

§ 150.225 Required endorsement.

(a) Each incinerator vessel must have its Certificate of Inspection endorsed as follows:

(1) "Inspected and approved for the carriage of Grade A and lower flammable or combustible liquids and hazardous waste for incineration"

(2) "Maximum specific gravity allowable: ———".

Note.—Specific gravity is calculated in accordance with § 150.255(g).

(b) Each request for the endorsements required by this section must be submitted to one of the Coast Guard offices described in § 91.55–15 of this chapter.

(c) No incinerator vessel may load or carry cargo unless it has the endorsement required by this section.

(d) No endorsement will be issued unless the vessel meets the requirements of this subpart.

(e) The person requesting an endorsement under paragraph (a) of this section must also transmit to the Coast Guard when requested—

(1) Hull type calculations;

(2) The test procedure prescribed in § 150.370(b);

(3) The plans and information listed in § 150.295(g) and in § 54.01–18, § 56.01–10, § 91.55–5 (a), (b), (d), (g), and (h), and § 110.25–1 of this chapter; and

(4) Any other vessel information, such as plans, design calculations, test results, certificates, and manufacturer's data needed to determine whether the vessel meets the requirements of this subpart.

§ 150.230 Carriage of bulk solid hazardous waste.

Bulk solid hazardous waste may not be carried on board an incinerator vessel unless specific requirements that the Commandant (G–MTH) may prescribe in addition to or in lieu of requirements of this subpart are met.

§ 150.235 IMO Certificates for U.S. flag vessels.

(a) Subject to any amendments to the International Bulk Chemical Code, vessels that meet the requirements of this subpart are considered to meet the International Bulk Chemical Code requirements for obtaining an IMO Certificate of Fitness.

(b) Upon request made to the OCMI, the owner of an incinerator vessel may obtain an IMO Certificate of Fitness if the vessel has a valid Certificate of Inspection endorsed under § 150.225.

Note.—After July 1, 1986, the IMO Certificate of Fitness is required for loading and transporting hazardous waste from most foreign ports for incineration at sea.

(c) The IMO Certificate of Fitness expires on the same date that the incinerator vessel's Certificate of Inspection expires.

§ 150.240 Equivalent standards.

(a) A vessel that does not meet each standard required in this subpart for an endorsement on a Certificate of Inspection may meet an alternate standard if the Commandant (G–MTH) finds that the alternate standard provides an equivalent level of protection for the purpose of safety.

(b) The Commandant considers on a case by case basis the issuance of a determination of equivalence to a standard required by this subpart if the person requesting the determination sends a written application to Commandant (G–MTH) that includes—

(1) A detailed explanation of the vessel's characteristics that do not meet the requirements in this subpart; and,

(2) An explanation of how the substituted standards enable the vessel to meet a level of safety equivalent to the standards of this subpart.

Construction and Arrangements

§ 150.245 Hull type and damage stability.

(a) Each incinerator vessel must have either a type I or type II hull.

(b) Each incinerator vessel must meet the applicable stability requirements in Subpart F of Subchapter S of this chapter for type I or II hull.

§ 150.250 Electrical equipment.

(a) Each incinerator vessel must meet Subchapter J of this chapter.

(b) Electrical equipment in an incinerator space or incinerator blower space that is not suitable for use in a Class I, Division 1 location or that does not must meet the requirements of § 111.105 of this chapter must have interlocks sufficient to automatically de-energize the equipment upon ventilation system failure or loss of the pressure required by § 150.370.

§ 150.255 Cargo containment system.

(a) Each cargo containment system on a vessel must be no closer to the incinerator vessel's shell than 76 cm (approx. 29.9 in) and it may not be located in any part of the incinerator vessel subject to the damage described in Table 172.135 of this chapter for GROUNDING PENETRATION, Vertical extent from the baseline upward.

(b) Cargo piping must not be located in those areas from which a containment system is excluded by paragraph (a) of this section unless the cargo piping:

(1) Drains back to its cargo tank under any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter; and

(2) Enters the cargo tank above the liquid level for a full tank in any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter.

(c) Fuel piping for an incinerator and the cargo piping system may be connected at the incinerator burner only by a three-way valve having "fuel",

"cargo", and "off" positions. The fuel piping must include two automatic non-return valves with positive means of closure, or an equivalent arrangement. These valves must be located in the incinerator space.

(d) A cargo tanks' relief valve setting must be not less than 21 kPa gauge (approx. 3 psig).

(e) All cargo pumps and valves located below the weatherdeck must be operative from on or above the weatherdeck.

(f) The cargo must be separated from any bunkers by at least two bulkheads, except that an oil fuel tank containing oil fuel used exclusively in the incineration process may be adjacent to a cargo tank.

(g) A tank containing liquid used for washing cargo tanks and cargo piping may be adjacent to a cargo tank.

(h) Each cargo containment system must be designed to withstand the maximum pressure that develops during an overfill of cargo having the maximum specific gravity endorsed on the vessel's Certificate of Inspection.

(i) Each independent tank must meet the following requirements:

(1) Section 38.05–10(a)(1), (b), (d), and (e)(1) of this chapter.

(2) Its piping must penetrate the tank only through that part of the tank or dome extending above the weatherdeck.

(j) The cargo piping system must not be connected to any sea valve.

(k) A cargo tank may be an integral tank.

(l) A cargo tank must have at least one covered manhole opening into the vapor space described in § 150.295.

(m) An access through a horizontal cargo tank surface must be at least 60 cm by 60 cm (approx. 23.6 x 31.5 in.).

(n) An access trunk must be no less than 76 cm (approx. 29.9 in.) in diameter.

(o) The hatch of a cargo tank must:

(1) Be at the highest point of the tank; and

(2) Open on or above the weatherdeck.

(p) Aluminum, copper, copper alloys, zinc, galvanized steel, mercury and materials of construction having a melting point below 925 °C (approx. 1697 °F) may not be used in the construction of a cargo containment system.

§ 150.260 Separation of tanks from machinery, service and other spaces.

(a) To prevent leakage through a single weld failure, the following spaces must be separated from a cargo by two walls, two bulkheads, or a bulkhead and a deck not meeting in a cruciform joint:

(1) Machinery spaces.

(2) Service spaces.

(3) Accommodation spaces.

(4) Spaces for storing potable domestic or feed water.

(5) Spaces for storing edibles.

(b) Some examples of arrangements that may separate cargo from the spaces listed in paragraph (a) of this section are the following:

(1) Dedicated ballast tanks.

(2) Cargo pumprooms.

(3) Ballast pumprooms.

(4) Double walled piping or a piping tunnel.

§ 150.265 Fore and aft location.

Each cargo containment system must be located at least 0.05L aft of the forward perpendicular, but in no case forward of a collision bulkhead.

§ 150.270 Vessel arrangements.

(a) The following must be outside the cargo area:

(1) Accommodation spaces.

(2) Service spaces.

(3) Incinerator spaces.

(4) Control spaces.

(5) Incinerators.

(6) Machinery spaces.

(7) Incinerator control rooms.

(b) Except as allowed in paragraph (c) of this section, entrances, ventilation intakes and exhausts, and other openings to accommodation or service or control spaces, must be located at a distance from the athwartship bulkhead facing the cargo area that is at least equal to the following:

(1) 3 m (approx. 10 ft) if the vessel is less than 75 m (approx. 246 ft).

(2) L/25 if the vessel is between 75 and 125 meters (approx. 246 ft and 410 ft).

(3) 5 m (approx. 16.5 ft) if the vessel length is more than 125 m (approx. 410 ft).

(c) Fixed port lights, wheelhouse doors, and windows need not meet the location requirements specified in paragraph (b) of this section if they do not leak when tested with a fire hose at 207 kPa gauge (30 psig).

(d) Portlights in the hull plating below the uppermost continuous deck and in the first tier of the superstructure must be a fixed type.

(e) Air intakes and openings into accommodation and service spaces must have metal closures that do not leak when tested with a fire hose at 207 kPa (30 psig).

(f) The closures required by paragraph (e) of this section must be capable of being closed from inside the space.

(g) Each oil fuel containment system must be located inside the cargo area unless the fuel has a closed cup flashpoint above 60 °C (140 °F).

(h) The containment system for liquids used for washing cargo tanks or cargo piping must be located inside the cargo area.

(i) Pumproom bilge discharges and cargo tank and piping washings must be stored in a slop tank in the cargo area. A cargo tank may be used as a slop tank.

(j) Each incinerator stack must be positioned in a manner approved by Commandant (G–MTH) for that vessel.

§ 150.275 Ballast equipment.

(a) Except for the arrangement described in paragraph (b) of this section, no piping that serves a dedicated ballast tank that is adjacent to a cargo tank may enter an engine room or accommodation space.

(b) Piping used only to fill a dedicated ballast tank adjacent to a cargo tank may enter an engine room or accommodation space if the piping has a valve or valving arrangement—

(1) Within the part of the incinerator vessel where a containment system may be located under § 150.265;

(2) That allows liquid to flow only towards that ballast tank (such as a check valve); and

(3) That enables a person to shut off the fill line from the weatherdeck (such as a stop valve).

(c) Except as prescribed in paragraph (d) of this section, pumps, piping, vent lines, overflow tubes, and sounding tubes serving dedicated ballast tanks must not be located within a cargo containment system.

(d) Each vent line, overflow tube, and sounding tube that serves a dedicated ballast tank and that is located within a cargo containment system must meet § 32.60–10(e)(2) of this chapter.

§ 150.280 Bilge pumping system.

Bilge pumping systems for cargo pumprooms, slop tanks, and void spaces separated from cargo tanks by only a single bulkhead must be entirely within the locations allowed containment systems in § 150.265.

§ 150.285 Access to enclosed spaces and dedicated ballast tanks.

An access opening to an enclosed space or a dedicated ballast tank must meet the requirements for a cargo tank access in § 150.255 (i), (j), and (k) if:

(a) The enclosed space or dedicated ballast tank is located within the cargo area of the vessel; or

(b) A part of a cargo containment system lies within the enclosed space or dedicated ballast tank.

§ 150.290 Acces to double bottom tanks serving as dedicated ballast tanks.

(a) Except as prescribed in paragraph (b) of this section, access opening to double bottom tanks serving as

dedicated ballast tanks must not be located within a cargo containment system.

(b) Each access opening to a double bottom tank that is a dedicated ballast tank and that is located within a cargo containment system must be:

(1) Enclosed in an access trunk extending to the weatherdeck;

(2) Separated from the cargo containment system by two manhole coverings; or

(3) Approved by the Commandant (G–MTH).

§ 150.295 Cargo venting system.

(a) Except as permitted paragraph (c) of this section, each cargo venting system must discharge—

(1) At the highest of the following points:

(i) 6 m (approx. 19.7 ft) above the weatherdeck.

(ii) B/3 above the weatherdeck.

(iii) 6 m (approx. 19.7 ft) above a walkway, if the walkway is within 6 m (19.7 ft) horizontal radius from the vent discharge.

(2) At least 15 m (approx. 49.2 ft) from air intakes for, or openings into, accommodation and service spaces.

(b) Each venting system outlet must—

(1) Discharge vertically upwards; and

(2) Prevent precipitation from entering the vent system.

(c) The discharge point of the venting system must be located at least 3 m (10 ft) above the weatherdeck or walkway if—

(1) The discharge is a vertical unimpeded jet;

(2) The jet has a minimum exit velocity of 30 m/sec. (approx. 98.4 ft/sec.); and

(3) The high velocity vent has been approved by Commandant (G–MTH).

(d) Each venting system must terminate in the vapor space above the cargo when the cargo tank is filled to a 2 percent ullage and the incinerator vessel has no heel or trim.

(e) Each cargo tank must have a PV valve in its vent line. The PV valve must be located between the tank and any connection to another tank's vent line (such as a vent riser common to two or more tanks).

(f) The cross sectional flow area of any vent system segment, including any PV valve, must at no point be less than that of a pipe whose inside diameter is 6.4 cm (approx. 2.5 in.).

(g) Calculations must show that under conditions in which a saturated cargo vapor is discharged through a venting system at the maximum anticipated loading rate, the pressure differential between the cargo tank vapor space and the atmosphere does not exceed 28 kPa gauge (approx. 4 psig), or, for independent tanks, the maximum working pressure of the tank.

(h) A venting system must have not assembly that could reduce its cross-sectional flow area or flow capacity to less than that required in paragraph (f) of this section.

(i) Unless a cargo venting system at every point is level or slopes back to the cargo tank under all conditions of heel and trim allowed under § 150.505 of this chapter, the cargo vent system must have a drain valve at each low point (trap) in the vent line.

(j) Supports for a vent system must meet § 38.10–10(c) of this chapter.

(k) Each pressure-vacuum relief valve must meet the requirements of Subpart 162.017 of this chapter.

(l) A cargo containment system that carries at ambient temperature a cargo whose vapor pressure exceeds 100 kPa absolute at 37.8 °C (approx. 14.7 psia at 100 °F) must have a tank pressure gauge at the point where cargo flow is controlled during transfer.

(m) Cargo vent heads must have the flame arrestors prescribed by § 32.55–22(b) of this chapter.

§ 150.300 Cargo tank gauging.

In this section, "Independent", as applied to two systems, means that one system will operate with a failure of any part of the other system.

(a) Each cargo containment system must have—

(1) A permanently installed closed gauging system;

(2) A vapor return connection;

(3) A closed cargo sampling system; and

(4) A high level alarm—

(i) That gives an audible and visible alarm before the tank fills to 97 percent of its capacity;

(ii) That can be seen and heard at the location where cargo transfer is controlled and on the open deck;

(iii) Whose operation can be checked prior to each loading; and

(iv) That must be marked "HIGH LEVEL ALARM" in lettering as specified for the warning sign in § 150.490 so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

(b) In addition to the cargo high level alarm meeting paragraph (a)(4)(i)-(iv) each cargo containment system must have:

(1) A second high level (cargo overflow) alarm, or

(2) A system that automatically stops cargo flow to the tank (automatic shutdown system).

(c) The high level alarm and the cargo overflow alarm or automatic shutdown system must—

(1) Be independent of one-another; and

(2) Operate on loss of power.

(d) The cargo overflow alarm or the automatic shutdown system must operate early enough to—

(1) Stop the loading operation before the cargo tank overflows; and

(2) Avoid surge pressures that exceed the working pressure of the cargo piping system as prescribed in § 38.10–10(a) of this chapter.

(e) A tank overflow must be identified with the legend "TANK OVERFLOW ALARM" in lettering as specified for the warning sign in § 150.490.

(f) A tank overflow alarm must be audible and visible in that part of the deck where the containment systems are located and at the point where cargo loading is controlled.

(g) The automatic shutdown system or tank overflow alarm must be able to be checked at the tank for proper operation (for example, by electrically simulating an overfill at the tank gauge connections).

§ 150.305 Access to a cargo pumproom.

(a) The access door to a cargo pumproom must open onto the weatherdeck.

(b) The access way to a cargo pumproom and its valving must allow passage of a man wearing the breathing apparatus required by § 150.395(a)(2)(i).

(c) Each ladderway in a cargo pumproom must be free from obstructions by piping, framework, or other equipment.

(d) Cargo pumproom ladders and platforms must have guard railings.

(e) Each ladder to a cargo pumproom must have an incline from the horizontal of less than 60°.

§ 150.310 Hoisting arrangement.

(a) A cargo pumproom located below the weatherdeck must have a permanent hoisting arrangement with a lifting capacity of 2500 N (approx. 562 lbs), operable from a weatherdeck, for the removal of an unconscious person.

(b) The cargo pumproom must have a 60 cm by 60 cm (approx. 2 ft by 2 ft) cross-sectional clearance through the hoistway.

§ 150.315 Cargo pump discharge pressure gauge.

Each cargo pump within a pumproom must have a discharge pressure gauge outside the pumproom.

§ 150.320 Bilge pumping systems.

(a) A cargo pumproom must have a bilge pumping system.

(b) The bilge pumping system must have—

(1) Complete remote operating controls outside the cargo pumproom; and

(2) An alarm that operates when the depth of liquid in the bilges exceeds 50 cm (approx. 20 in.).

(c) The discharge piping of the bilge pumping system must not be connected to any sea valve.

§ 150.325 Pumproom respiratory requirements.

(a) Each cargo pumproom must have a low pressure air supply system that provides breathing quality air for use with the breathing apparatus in the pumproom.

(b) The low pressure air supply system described in paragraph (a)(1) of this section must—

(1) Run from fixed air bottles to the pumproom;

(2) Have an air compressor to recharge the fixed air bottles;

(3) Have connections in the pumproom suitable for use with the breathing apparatus required in § 150.395(a)(2)(i); and

(4) Have the air capacity to enable two men to work in the pumproom for at least one hour each without using the cartridges for the breathing apparatus required in § 150.395(a)(2)(i).

Incinerator and Controls

§ 150.330 Incinerator construction.

(a) Each incinerator must have enough bricklining and insulation so that the temperature on its outside surface does not exceed 180 °C (356 °F) during burning.

(b) Calculations must show that the incinerator, including its structural supports, is designed to withstand a static angle of heel of 30° and the dynamic loading prescribed in § 38.05–2(d) of this chapter.

§ 150.335 Incinerator control and monitoring: general.

(a) Each incinerator must have—

(1) Monitoring and alarms that meet § 150.340;

(2) Combustion control that meets § 150.345;

(3) Programming control that meets § 150.350;

(4) Safety trip control that meets §§ 150.355 and 150.360.

(b) Systems that perform the functions listed in paragraphs (a)(1)–(a)(4) of this section must perform all assigned tasks continuously, *i.e.*, the detection of unsafe conditions must not prevent continued control or monitoring of other conditions.

(c) Inadvertent grounding of an electrical or electronic control or alarm system must not cause false signals or safety trip control bypassing.

(d) Programmable control or alarm system logic must not be altered after initial testing without the approval of the cognizant OCMI. Control and automatic alarm systems must be provided with means, acceptable to the cognizant OCMI, of ensuring that setpoints remain within the safe operating range of the equipment.

(e) Operating programs for microprocessor-based or computer-based control, alarm and monitoring systems must—

(1) Be stored in non-volatile memory;

(2) Automatically operate on supply power resumption; and

(3) Not rely on mechanical devices.

(f) All incinerator controls and all alarm and monitoring equipment must be of a type suitable for the marine environment and its intended application.

(g) All control systems must be so designed that, as far as practicable, failure of equipment causes safe and immediate incinerator shutdown.

(h) Safety trip controls must require manual reset before renewed operation of the incinerator.

(i) Each incinerator burner must be provided with a valve, operated by the programming controls, that is automatically closed by the burner safety trip control and the incinerator safety trip control. Each incinerator must be provided with a master fuel oil valve and a master cargo valve to stop fuel and cargo to the incinerator upon actuation by the incinerator safety trip control. Burner and master valve shutoff must occur within 4 seconds of the detection of an unsafe condition or operation of an emergency shutdown station control. These valves must also be manually operable at the incinerator.

§ 150.340 Incinerator monitoring and alarms.

(a) Operation of a safety trip control described in §§ 150.355 and 150.360 must be alarmed at the incinerator space and the incinerator control room, if any; otherwise, in the vessel's control space.

(b) Manual incinerator control locations, including remote manual control and local manual control, must be provided with the instrumentation necessary for safe operation from that location.

(c) Visual alarm displays must initially indicate the malfunction without operator intervention.

(d) If the remote instrumentation installed does not provide a continuous display, readings must be obtainable with minimal effort by the operator.

(e) Failure of an incinerator automatic control, remote control, or alarm system must be immediately alarmed in the incinerator space and the incinerator control room, if any, and at the vessel's control space.

(f) Alarms must be provided in each incinerator space to indicate failure to maintain the pressure differential required by § 150.375(b)(5) of this chapter.

(g) Alarms must also be provided to indicate when temperature on the surface of the incinerator exceeds 180 °C (356 °F) during burning. The alarms must be in each incinerator control room, if any, otherwise in the vessel's control spaces.

(h) All alarm systems must—

(1) Have no means to reduce or eliminate the annunciated signal other than the manual acknowledgement device;

(2) Be continuously powered;

(3) Be provided with a means to test audible and visual annunciators;

(4) Be able to simultaneously indicate more than one alarm condition if multiple inputs are provided;

(5) Visually annunciate until the alarm is manually acknowledged and the alarm condition is cleared;

(6) Audibly annunciate until manually acknowledged;

(7) Not prevent annunciation of subsequent alarms because of previous alarm acknowledgement;

(8) Automatically reset to the normal operating condition only after the alarm has been manually acknowledged and the alarm condition is cleared; and

(9) Clearly distinguish between normal, alarm, and acknowledged alarm conditions.

§ 150.345 Combustion control.

(a) Automatic combustion control must provide the air-fuel-cargo relationships necessary for complete and safe combustion under all normal light off and operating conditions, but in no case less than 3% excess air.

(b) If combustion control is not automatic, the programming controls and safety trip control must provide a level of safety equivalent to automatic combustion control.

§ 150.350 Programming control.

Programming control must provide a specific sequence of interlocks for the safe ignition and normal shutdown of the incinerator burners. The programming control must prevent

ignition if unsafe conditions exist and must include the following minimum sequence of events and interlocks:

(a) *Prepurge.* Incinerators must undergo a continuous purge of the combustion chamber to make sure of a minimum of 5 changes of air. The purge must occur immediately prior to the trial for ignition of fuel oil in the initial burner of an incinerator. All registers and dampers must be open and an air flow of at least 25 percent of the maximum volumetric air flow must be established before the purge period commences. The prepurge must be complete before fuel oil trial for ignition of the initial burner.

(b) *Trial for ignition and ignition of fuel oil.* Total incinerator air flow during light off must be at least 25 percent of the incinerator's maximum volumetric air flow. The burner igniter must be in position and proven energized before admission of fuel to the incinerator. The igniter must remain energized until the burner flame is established and stable, or until the trial for ignition period ends. The trial for ignition period must not exceed 5 seconds. Failure of the burner to ignite during a trial for ignition must automatically actuate the burner safety trip controls.

(c) *Post-purge.* Immediately after normal shutdown of the incinerator, an automatic purge of the incinerator equal to the volume and duration of the prepurge must occur. Following shutdown caused by the conditions listed in § 150.360, the air flow to the incinerator must not automatically increase. Post-purge in such cases must be under manual control.

§ 150.355 Incinerator burner safety trip control.

(a) Each burner must be provided with at least one flame detector.

(b) The burner fuel oil and cargo valves must automatically close when—

(1) Loss of burner flame occurs;

(2) Actuated by the incinerator safety trip control;

(3) The burner is not properly seated or in place;

(4) Trial for ignition fails; or

(5) The burner flame detector fails.

§ 150.360 Incinerator safety trip control.

Each incinerator must be provided with a safety trip control that automatically closes the master and all incinerator burner fuel and cargo valves upon—

(a) Inadequate air flow to support complete combustion;

(b) Loss of control power;

(c) Manual trip operation in the incinerator space or the emergency shutdown station of § 150.390(c);

(d) Loss of flame at all burners; or

(e) Control system failure.

§ 150.365 Operating instructions and test procedures.

(a) Normal and emergency operating instructions must be provided for all remote and automatic control systems, and must include safety precautions, as applicable. Specific emergency operating instructions must be posted at incinerator control locations.

(b) A written Coast Guard approved test procedure for periodically verifying the operational conditions required by §§ 150.335–150.360 must be retained aboard the vessel.

§ 150.370 Ventilation of cargo handling spaces, incinerator spaces and incinerator blower spaces.

(a) Except as provided in paragraphs (c) and (d) of this section, each cargo handling space must have a permanent forced exhaust ventilation system.

(b) Except as provided in paragraph (c) of this section, each cargo handling space ventilation system must meet the following:

(1) Each ventilation system exhaust duct must discharge no less than 10 m (approx. 32.8 ft) from openings into, or ventilation intakes for, accommodation or service spaces.

(2) Each ventilation system must not recycle vapors from ventilation discharges.

(3) Except for the space served by the ventilation duct, each ventilation duct must not pass through a machinery room, an accomodation space, or working space.

(4) Each ventilation system must be operable from outside the space it ventilates.

(5) Each ventilation system must be sized to change the air in the ventilated space at least 45 times per hour.

(6) Each ventilation system must not allow air to stagnate in any part of a ventilated space.

(7) Each ventilation system must be able to exhaust air from both above and below the deck plates of a ventilated space.

(c) The ventilation system for an incinerator space must be permanent, be of a positive pressure type, and keep the pressure in the space greater than the pressure in the incinerator.

(d) The ventilation system for an incinerator blower space must be permanent, be of a positive pressure type, and be independent of other air supply systems and the ventilation system—

(1) Must provide a pressure greater than the pressure within the incinerator; and

(2) Must change the air in the space at least 20 times per hour based on the total volume of the incinerator blower space.

§ 150.375 Ventilation of spaces not usually occupied.

(a) Each incinerator vessel must have portable ventilation equipment that fits the mount required in paragraph (b)(1) of this section.

(b) Each enclosed space within the cargo area that does not have a permanent ventilation system meeting § 150.375(a) must have—

(1) A mount for the portable mechanical ventilation equipment required by this section; and

(2) Either permanent ventilation ductwork connected to the mount and arranged to supply air to the extremities of the space; or

(3) An attachment for temporary ductwork at the mount with enough ductway in the ventilated space and temporary ductwork stowed aboard the vessel to supply air to the extremities of the space.

§ 150.380 Incinerator space access.

(a) Two accesses must be provided to each incinerator space. One of these must be from the weather deck. If an incinerator control room is provided adjacent to the incinerator space, it must have at least one access that is not to the incinerator space.

(b) Each access opening to an incinerator space must be fitted with a self-closing door that does not leak when tested with a firehose at 207 kPa (approx. 30 psig).

§ 150.385 Incinerator blower space.

If an incinerator blower space is provided adjacent to an incinerator space, it must have at least one access that is not to the incinerator space.

Equipment and Operations

§ 150.390 Emergency shutdown stations.

(a) Each incinerator vessel must have at least two emergency shutdown stations.

(b) One emergency shutdown station must be located on the weather deck in the cargo area.

(c) The second emergency shutdown must be located in the incinerator control room, if any, otherwise in the vessel's control space.

(d) Each emergency shutdown station must have the controls necessary to stop—

(1) All pumps supplying cargo and oil fuel to the incinerator; and

(2) the flow of cargo from the cargo area.

(e) Each emergency shutdown station must be marked as described in § 150.490 (c), (d), and (e) with the legend "EMERGENCY SHUTDOWN STATION".

§ 150.395 Personnel emergency and safety equipment.

(a) Each incinerator vessel must have the following:

(1) Two stretchers or wire baskets complete with equipment for lifting an injured person from a pumproom or a cargo tank.

(2) In addition to any similar equipment required by Subchapter D of this chapter, three each of the following:

(i) A 30 minute self-contained breathing apparatus of the pressure demand type, approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health, with five refill tanks or cartridges of 30 minutes capacity each.

(ii) A set of coveralls or large apron, boots, long sleeved gloves, and goggles, each made of materials resistant to the cargo endorsed on the Certificate of Inspection.

(iii) A steel-cord lifeline with harness.

(iv) An explosionproof lamp.

(3) First aid equipment.

(b) Each incinerator vessel must have at least two safety equipment lockers.

(c) One safety equipment locker must be adjacent to the emergency shutdown station required by § 150.390(b). This locker must contain one set of the equipment required by paragraph (a)(1) of this section and two of the sets required by paragraph (a)(2) of this section.

(d) The second safety equipment locker must be adjacent to the second emergency shutdown station required by § 150.390. This locker must contain the remaining equipment required by paragraphs (a) (1) and (2) of this section.

(e) Each safety equipment locker must be marked as described in § 150.480(c), and (d) with the legend "SAFETY EQUIPMENT."

(f) Each incinerator vessel must have a shower and an eyewash fountain that:

(1) Operate in any ambient temperature;

(2) Maintain the water at a temperature between 0 °C and 40 °C (approx 32 °F and 104 °F);

(3) Are located on the weatherdeck; and

(4) Are marked "EMERGENCY SHOWER" so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

(g) Each incinerator vessel must have on board for each crew member:

(1) A five minute or greater self-contained compressed air breathing apparatus for escape approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health.

(2) If the emergency escape breathing apparatus does not protect the eyes from vapor, a set of goggles that meets the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z87.1(1979).

(h) Each incinerator vessel must have a comprehensive respiratory program meeting ANSI Practices for Respiratory Protection, Z88.2(1980) including approval, use, and maintenance of all respiratory equipment.

§ 150.400 Special requirements for fire protection.

(a) With the exception of the vent riser, each part of a cargo containment system exposed on the weatherdeck must be covered by a fixed foam system.

(b) The incinerator space must be fitted with a fixed foam system. The area protected must meet the requirements of § 34.17–5(a)(1) of this chapter.

(c) Each fire protection system required by this section must meet Part 34 of this chapter or be specifically approved by the Commandant (G–MTH).

§ 150.405 Inert gas system: General.

A permanent inert gas system must be provided for—

(a) Each cargo tank having a fill or circulation line that terminates higher than 10cm or the radius of the line above the bottom of the tank whichever is greatest; and

(b) Each cargo tank washed with flammable solutions.

§ 150.410 Inert gas system: Specific requirements.

When required by § 150.405, an inerting system must—

(a) Maintain the vapor space of the containment system in an inert state by filling the vapor space with a gas that is neither reactive with the cargo nor flammable;

(b) Have a pressure control system that—

(1) Prevents the inert gas system from raising the cargo tank pressure to more than the relief valve settings; and

(2) Maintains at least a 3.5 kPa gauge (approx. 0.5 psig) pressure within the containment system.

(c) Has stocage for enough inerting gas to replace that normally lost through tank breathing and relief valve leakage, but in no case an amount less than five percent of the tank's capacity when measured with the gas at —18 °C (approx. 0 °F) and a pressure equal to the cargo tank's relief valve setting; and

(d) Has connections for any supplemental gas supply necessary to maintain the inert gas pressure described in paragraph (b) of this section while supplying cargo to the incinerator for burning.

§ 150.415 Certificates required to be on bridge.

Each incinerator vessel must have its endorsed Certificate of Inspection posted on the bridge.

§ 150.420 Limitation in the endorsement.

No person may operate an incinerator vessel unless the vessel is operated in compliance with all limitations in the endorsement on the incinerator vessel's Certificate of Inspection.

§ 150.425 Regulations required to be on board.

No person may operate an incinerator vessel unless the most recent editions of this subpart and Part 35 of this chapter are on board.

§ 150.430 Shipping documents.

No person may operate an incinerator vessel without the EPA manifest and waste analysis as required in 40 CFR 234.58 both being on the bridge of the vessel.

§ 150.435 Cargo piping plan.

No person may operate an incinerator vessel unless the vessel has a cargo piping plan that—

(a) Shows all cargo piping on the vessel;

(b) Shows all cargo valving, pumps, and other equipment that is used during cargo transfer;

(c) Shows the cargo tanks;

(d) Shows any modification necessary to any cargo containment system that is to be separated from other cargo containment systems to handle cargo that is incompatible with cargo handled in the other systems; and

(e) Emphasizes the piping and equipment described in paragraphs (a), (b) and (d) of this section by using contrasting colors, line widths or similar methods.

§ 150.440 Cargo quantity limitations.

No person may load a cargo tank or operate an incinerator vessel that carries a cargo tank containing in excess of 3000 m^3 (approx. 105,932 ft^3) of cargo.

§ 150.445 Inerting system operation.

The master shall ensure that the inert gas system required by § 150.405(a) is in use and operating correctly.

§ 150.450 Eye protection.

(a) The master shall ensure that each person wear a face mask or tight fitting goggles for eye protection against splashing or spraying cargo if that person is—

(1) Sampling cargo;

(2) Transferring cargo;

(3) Making or breaking a cargo hose connection; or

(4) Opening a cargo tank for purposes of tank cleaning by opening a Butterworth hatch, ullage hatch, cargo tank hatch, or similar opening.

(b) The master shall ensure that each person wears a face mask or tight-fitting goggles for eye protection against splashing or spraying cargo if the person is—

(1) In the area of the deck where the cargo tanks, cargo piping, and cargo handling spaces are located while a cargo transfer is taking place; or

(2) In a cargo handling space, an enclosed space adjacent to a cargo tank, or a space containing part of a cargo containment system while cargo transfer is taking place.

§ 150.455 Protective clothing.

(a) The master shall ensure that every person in the cargo area who is involved in cargo sampling, opening a cargo tank, transferring cargo, or making or breaking cargo connections wears coveralls or a large apron, boots, and gloves.

(b) The master shall ensure that each person described in § 150.450(b), in addition to the clothing required by paragraph (a) of this section, wears any other protective clothing the master believes necessary to protect the person from the cargo's hazards.

§ 150.460 Entry into spaces containing cargo vapor.

(a) No person may enter a cargo tank, cargo handling space, pumproom, or enclosed space in the cargo area without the permission of the master.

(b) Before permitting anyone to enter a cargo tank, cargo handling space, pumproom, or other enclosed space in the cargo area, the master shall make sure that—

(1) The atmosphere of the space is tested in accordance with procedures in ANSI/NFPA 306, "Control of Gas Hazards on Vessels" to ensure that it contains at least 19.5 percent oxygen by volume, flammable concentration in air less than 10% of the Lower Explosive Limit (LEL), and toxic contaminant concentrations less than the Threshold Limit Value (TLV) as recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) or in the alternative that those entering the space—

(i) Wear the type of respiratory equipment required for the atmosphere as specified in ANSI Z88.2;

(ii) Follow the procedures in section 6 of ANSI Z88.2 concerning proper selection of a respirator and individual fit testing;

(iii) Are trained in the matters set forth in section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(iv) Are made aware of, in terminology understandable to the personnel entering the atmosphere, of the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

(2) A deck safety watch is in attendance when any person is in the tank or space and that an officer closely supervises the entire operation; and

(3) The results of the test required in paragraph (b)(1) of this section are logged in the vessel's Official Log Book.

§ 150.465 Opening of tanks and cargo sampling.

(a) Except as provided by paragraph (b) of this section, the master shall ensure that all cargo tank hatches, ullage openings, and tank cleaning openings are tightly closed at all times.

(b) The master may authorize the opening of a cargo tank to clean it.

(c) The master shall make sure that cargoes are sampled only through the controlled sampling arrangement required by § 150.300 of this chapter.

§ 150.470 Storage of cargo samples.

(a) The master shall make sure that any cargo samples are stored in—

(1) A designated and ventilated space in the cargo area of the vessel; or

(2) An area approved by the Commandant (G–MTH) for the stowage of cargo samples.

(b) The master shall make sure that cargo sample bottles are stored—

(1) In a way that prevents shifting of the sample bottles when the vessel is at sea;

(2) In bins or containers constructed of materials that are resistant to the cargo samples; and

(3) Apart from other sample bottles containing incompatible cargo.

§ 150.475 Illness, alcohol, drugs.

The master shall ensure that no person participates in cargo related operations who appears to be intoxicated by alcohol or drugs or to be so ill as to be unfit for the particular operation.

§ 150.480 Standards for marking of cargo hose.

No person may mark a hose assembly as meeting the standards of this section unless the hose assembly meets the following requirements:

(a) Each hose assembly must have—

(1) Fully threaded connections;

(2) Flanges that meet standard B16.5, Steel Pipe Flanges and Flange Fittings, or standard B16.31, Nonferrous Pipe Flanges, of the American National Standards Institute; or

(3) Quick-connect couplings that are acceptable to the Commandant (G–MTH).

(b) Each hose assembly must be marked with the—

(1) Date of manufacture;

(2) Working pressure described in paragraph (d) of this section;

(3) Date of the last test made as prescribed in paragraph (e) of this section; and

(4) Manufacturer's recommended maximum and minimum temperatures.

(c) A cargo hose assembly must have a minimum bursting pressure as stated by the manufacturer of at least 5152 kPa gauge (approx. 750 psig).

(d) The working pressure marked on a hose must meet the following:

(1) Be at least 1030 kPa gauge (approx. 150 psig).

(2) Not exceed 20 percent (one fifth) of the manufacturer's stated bursting pressure.

(3) Not exceed the manufacturer's recommended working pressure.

(4) Not exceed the test pressure used in the latest test under paragraph (e)(3) of this section.

(e) A cargo hose assembly must be inspected and tested by placing it in a straight, horizontal position so that its entire external surface is accessible. It must be ascertained that the hose assembly—

(1) Has no loose covers, kinks, bulges, soft spots, and no gouges, cuts, or slashes that penetrate any hose reinforcement;

(2) Has no external and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration; and

(3) Does not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1⅓ times the recommended working pressure.

§ 150.485 Signals during cargo transfer.

The master shall ensure that the incinerator vessel displays a red flag in

the day and a red light at night when transferring cargo while fast to a dock.

§ 150.490 Warning signs during cargo transfer.

(a) When transferring cargo to the vessel, the master shall ensure that the incinerator vessel displays a warning sign at the gangway facing the shore so that it may be seen from the shore and another warning sign facing outboard toward the water so that it may be seen from the water.

(b) Except as provided in paragraph (f) of this section, each warning sign must have the following legends. (See figure 1):

(1) Warning.
(2) Dangerous Cargo.
(3) No Visitors.
(4) No Smoking.
(5) No Open Lights.

(c) Each letter must be block style, black on a white background.

(d) Each letter must—

(1) Be 7.5 cm (approx. 3 in.) high;

(2) Be 5 cm (approx. 2 in.) wide except for "M" and "W" which must be 7.5 cm (Approx. 3. in.) wide and the letter "I" which may be 1.3 cm (approx. ½ in.) wide; and

(3) Have 1.3 cm (approx. ½ in.) stroke width.

(e) The spacing must be—

(1) 1.3 cm (approx. ½ in.) between letters of the same word;

(2) 5 cm (approx. 2 in.) between words;

(3) 5 cm (approx. 2 in.) between lines; and

(4) 5 cm (approx. 2 in.) at the borders of the sign.

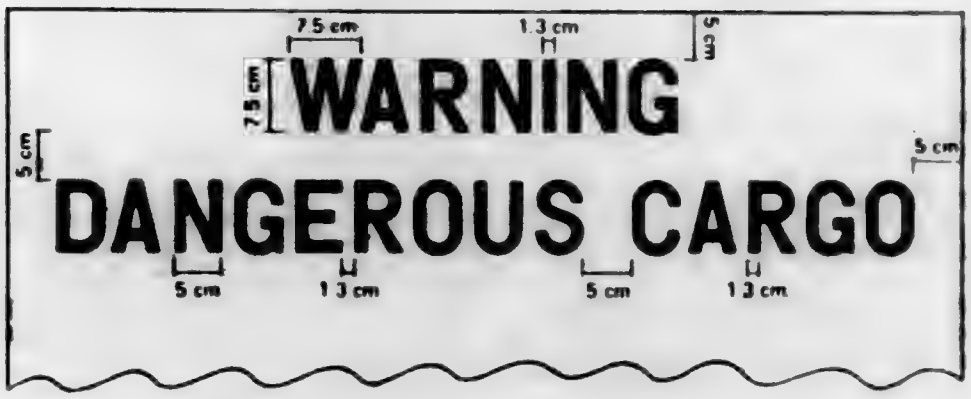

Figure 1 - Minimum Dimensions for Warning Sign

§ 150.495 Person in charge of cargo transfer.

(a) The master shall ensure that cargo transfer operations are supervised by a person designated as a person in charge of cargo transfer under 33 CFR 155.710.

(b) No person may make connections for cargo transfer or transfer cargo unless he has authorization from the person in charge of cargo transfer.

§ 150.500 Cargo transfer conference.

(a) Before making connections for cargo transfer, the person in charge of cargo transfer shall confer with the person supervising the cargo transfer at the facility.

(b) The person in charge of cargo transfer shall discuss the important aspects of the transfer operation, such as the following, with the supervisor at the facility:

(1) The cargo to be transferred.

(2) The cargo loading rates marked on the cargo piping plan or the maximum safe transfer rates.

(3) The critical or hazardous stages of the transfer operation.

(4) The emergency procedures in case of a spill.

(5) A procedure for shutdown of shore pumps, shore valves, and vessel's valves that prevents piping system pressures from exceeding those for which the piping system is designed.

§ 150.505 Loading information.

Each incinerator vessel must have a manual containing information that enables the master to load and ballast the vessel while keeping structural stresses within design limits.

§ 150.510 Cargo transfer piping.

The person in charge of cargo transfer shall ensure that—

(a) Cargo is transferred to or from a cargo tank only through the fixed cargo piping system;

(b) Vapor not returned to shore through the incinerator vessel's vapor return system is discharged at the height required for the vessel's cargo vent riser in § 150.295 of this chapter.

(c) All cargo vapor is returned to shore through the valved connection on the venting system if—

(1) The transfer terminal has vapor return equipment; and

(2) In that person's estimation, the vapor return equipment is adequate to handle the vapor expected from the tank.

§ 150.515 Connecting a cargo hose.

The person in charge of cargo transfer may not authorize the connection of a hose to a cargo containment system unless—

(a) That person ensures that the cargo will not weaken or damage the hose;

(b) The hose is marked as meeting the standards of § 150.460;

(c) The date of the hose's last pressure test is within one year of the date on which the hose is used to transfer cargo;

(d) The recommended working pressure marked on a hose used for discharge meets or exceeds the working pressure marked on the cargo piping at the hose connection; and

(e) The cargo's temperature is within the manufacturer's recommended maximum and minimum hose temperatures.

§ 150.520 Preparation for cargo transfer.

The person in charge of cargo transfer may not begin or continue cargo transfer unless the following conditions are met:

(a) No fires or open flames are on deck or in compartments near the hose connections.

(b) Any electrical bonding of the vessel incinerator vessel to the transfer facility is made before the cargo transfer piping is joined.

(c) The transfer connections have enough slack to allow for vessel movement.

(d) The transfer connections are supported by tackles.

(e) The cargo high level alarms, tank overflow alarms and overflow control systems are functioning correctly when the cargo is loaded.

(f) Joints and couplings are gasketed and mated tightly.

(g) Flanges are bolted tightly.

(h) No repair work is underway in area where cargo vapors may collect.

(i) Cargo valves are properly set.

(j) Venting system bypass valves are set for cargo transfer and are operating properly.

(k) All scuppers are plugged.

(l) Smoking is limited to safe places.

(m) Fire fighting and safety equipment is ready.

(n) Discharge containment as required by 33 CFR 155.310 is in place and periodically drained to a cargo tank.

(o) The person in charge of cargo transfer is in effective communication with the transfer terminal.

(p) The person in charge of the transfer terminal has acknowledged that the transfer terminal is ready to transfer.

(q) Pressures within the cargo transfer and containment systems do not exceed the pressure ranges for which the transfer hose and containment systems are designed.

(r) No vessels that would hazard cargo transfer are alongside the incinerator vessel.

§ 150.525 Transfer of ship stores.

The person in charge of cargo transfer may neither begin nor continue the transfer of a cargo while ship's stores are transferred unless transfer of ship's stores does not hazard transfer of the cargo.

§ 150.530 Supervision of cargo transfer.

The person in charge of cargo transfer shall—

(a) Supervise the operation of cargo system valves;

(b) Monitor the cargo loading rate to ensure it does not exceed that stated on the cargo piping plan; and

(c) Monitor the cargo level in the tanks to make sure they do not overflow.

(d) Ensure that the amount of cargo in a tank does not exceed the tank's capacity at any ambient temperature between −18 °C (approx. 0 °F) and 46 °C (approx. 115 °F).

§ 150.535 Isolation of automatic closing valves.

The person in charge of cargo transfer may not isolate automatic closing valves described in § 150.300 of this chapter from a cargo containment system.

§ 150.540 Terminal procedures.

Upon completion of the transfer operation, the person in charge of cargo transfer shall ensure that—

(a) The cargo transfer connections are closed off;

(b) The transfer lines and hoses are drained of cargo, either into the tank or back to the transfer terminal;

(c) Any electrical bonding between the vessel and the shore facility is broken only after the cargo hose is disconnected; and

(d) Each vent system is returned to its nonloading configuration.

§ 150.545 Inspection of personnel emergency and safety equipment.

The master shall ensure that the personnel emergency and safety equipment required by § 150.395 of this chapter is inspected every 30 days and found to be in good condition and operating properly.

§ 150.550 Reporting discharges of cargo.

The master shall ensure that any overboard discharges of cargo are reported in the manner prescribed for oil and hazardous substances in 33 CFR 153.203.

Dated: August 13, 1986.

J.C. Irwin,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 86-18660 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 86-212]

Amendment of the Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order granting extension of time for filing comments.

SUMMARY: In response to a further request by the National Cable Television Association, Inc., the Commission's Common Carrier Bureau has granted a 15-day extension of time for filing comments on matters discussed in the Commission's Notice of Proposed Rulemaking, Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles in CC Docket No. 86-212, published on June 16, 1986, 51 FR 21774. The extension also established a new date for filing reply comments.

DATES: Comments are now due by September 11, 1986, and reply comments by September 26, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub or Suzan Friedman, (202) 632-4887.

In the matter of amendment of rules and policies governing the attachment of cable television hardware to utility poles; order; CC Docket No. 86-212.

Adopted: August 14, 1986.

Released: August 19, 1986.

By the Chief, Common Carrier Bureau.

1. Before the Bureau is a further motion for extension of time filed by the National Cable Television Association, Inc. ("NCTA"), requesting that the Bureau extend for 15 days, *i.e.*, from August 27, 1986, to September 11, 1986, the deadline for interested persons to file comments in the above-captioned proceeding.[1] The Bureau had previously granted a 30-day extension, until August 27, 1986. Mimeo No. 5941 (released July 23, 1986).

2. In support of its further request, NCTA states that its members are currently gathering raw data and other supporting materials to respond to the issues raised in the Commission's Notice of Proposed Rulemaking ("NPRM"). It explains that pole cost information is often not available in summary form at the corporate headquarters of cable companies, but must be compiled from individual system operators. Other information is in the possession of the utilities, and the cable industry is attempting to obtain such data from a review of public records of pole rate proceedings. However, it explains, identifying, accumulating, and reviewing the data cannot be completed in time for inclusion in NCTA's comments unless the additional 15-day extension of time is granted.

3. Good cause has been shown to grant an additional extension, and no evidence has been submitted that other interested parties will suffer harm from another short delay. Therefore, we will grant the requested 15-day extension of time in which to file comments and will adjust the due date for reply comments to September 26, 1986.

4. Accordingly, it is ordered, pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, that the request for extension of time filed by the National Cable Television Association, Inc., is granted.

5. It is further ordered that all interested parties may file comments on the matters discussed in the NPRM and its proposed rule changes by September 11, 1986, and reply comments by September 26, 1986.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86-19066 Filed 8-22-86; 8:45 am]

BILLING CODE 6712-01-M

[1] 51 FR 21774 (1986).

Notices

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1986 Extra Long Staple Cotton; Determinations Regarding the Proclamation of the 1986-Crop Program Provisions for Extra Long Staple Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determinations.

SUMMARY: The purpose of this notice is to: (1) Affirm the following determinations which were made by the Secretary of Agriculture on December 31, 1985, and February 12, 1986, with respect to the 1986 crop of extra long staple (referred to as "ELS") cotton: (a) A loan rate for ELS cotton of 85.40 cents per pound; (b) an established (target) price of 102.48 cents per pound; and (c) an acreage reduction program with a uniform required reduction of 10 percent; and (2) make certain other determinations with respect to the 1986 crop of ELS cotton. These determinations are required to be made in accordance with section 103(h) of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: This notice of determinations is effective for the 1986 crop of extra long staple cotton.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3758, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 475–4645. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major" since the program provisions are not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the federal assistance programs to which this notice applies are: Cotton Production Stabilization, Number 10.052 and Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

An environmental evaluation has been completed and it has been determined this action will have no significant adverse environmental impacts. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultations with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This notice affirms determinations with respect to the following issues which are briefly described:

1. *Loan Level.* Section 103(h)(2) of the 1949 Act provides that the loan level for 1986-crop ELS cotton must be established at 85 per centum of the simple average price received by producers of ELS cotton during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

2. *Established (Target) Price.* Section 103(h)(3)(B) of the 1949 Act provides that the established price for 1986-crop ELS cotton shall be 120 per centum of the 1986-crop ELS loan level.

3. *Acreage Reduction Program.* Section 103(h)(8)(A) of the 1949 Act provides that the Secretary may establish a limitation on the acreage planted to ELS cotton if the Secretary determines that the total supply of ELS cotton, in the absence of such limitation, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each ELS-cotton-producing farm. Producers who knowingly produce ELS cotton in excess of the permitted acreage for the farm shall be ineligible for ELS cotton loans and payments in respect to that farm.

This notice also sets forth determinations with respect to the following issues which are briefly described:

1. *Land Diversion Program.* Section 103(h)(8)(B) of the 1949 Act provides that the Secretary may make land diversion payments to producers of ELS cotton, whether or not an acreage limitation (reduction) program is in effect, if the Secretary determines that such payments are necessary to assist in adjusting the total national acreage of ELS cotton to desirable goals.

2. *Haying and Grazing of Acreage Conservation Reserve (ACR).* Section 103(h)(8)(A) of the 1949 Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses (the "Acreage Conservation Reserve") shall assure protection of such acreage from weeds and wind and water erosion. The Secretary may authorize haying and grazing of land devoted to the Acreage Conservation Reserve (ACR).

3. *Binding Program Contracts.* For the 1985 crop of ELS cotton, contracts signed by program participants were binding contracts. The contracts provided for liquidated damages in the event the producer did not fulfill the terms and conditions of the contract.

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4. *Offsetting Compliance.* Section 103(h)(13) of the 1949 Act provides that the Secretary may issue such regulations as the Secretary determines to be necessary to carry out the ELS cotton program. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, owners and operators of farms, in order to be eligible for ELS cotton program benefits, would have to ensure either that all of the farms in which they have an interest are in compliance with ELS cotton program requirements or that the acreage of ELS cotton planted for harvest on each of such farms does not exceed the ELS cotton acreage bases established for such farms.

5. *Loan Level for Seed Cotton.* Section 103(h)(17) of the 1949 Act provides that, in order to assist cotton producers in the orderly ginning and marketing of their ELS cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act.

6. *The National Program Acreage (NPA).* Section 103(h)(4) of the 1949 Act provides that the Secretary shall proclaim a national program acreage (NPA for the 1986 crop by November 1, 1985. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision shall be announced as soon as it has been made. The NPA shall be the number of harvested acres the Secretary determines necessary, based on the estimated weighted national average of the farm program payment yields for the 1986 crop, to produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the 1986–87 marketing year. The Secretary may make such adjustments in the NPA as the Secretary determines to be necessary, taking into consideration the estimated carryover supply and stocks not accounted for by official domestic consumption and export data, so as to provide for an adequate but not excessive total supply of ELS cotton for the 1986–87 marketing year. In no event shall the national program acreage be less than 60,000 acres. If an acreage reduction program is implemented for the 1986 crop of ELS cotton, the NPA determination shall not be applicable to such crop.

7. *Voluntary Reduction Percentage.* Section 103(h)(6) of the 1949 Act provides that the individual farm program acreage for the 1985 crop of ELS cotton that is eligible for payments shall not be further reduced by application of an allocation factor if the producer reduces the acreage of ELS cotton planted for harvest on the farm from the acreage base established for the farm for the 1986 crop of ELS cotton by at least the percentage recommended by the Secretary in the proclamation of the national program acreage for the 1986 crop. If an acreage reduction program is implemented for the 1986 crop of ELS cotton, the voluntary reduction percentage shall not be applicable to such crop.

Determinations

1. *Loan Level.* Based on the formula prescribed in section 103(h)(2) of the 1949 Act, the loan rate for the 1986 crop of ELS cotton has been determined to be 85.40 cents per pound, which is 85 percent of the simple average of the price received during 3 years of the 5-year period ending July 31, 1985, excluding the year in which the acreage price was highest and the year in which the average price was lowest during that period.

The calculation of the loan rate for the 1986 crop of ELS cotton is as follows:

(1) Prices received by producers of ELS cotton:

August 1980 through July 1981—108.00 cents
August 1981 through July 1982—96.90 cents
August 1982 through July 1983—98.50 cents
August 1983 through July 1984—106.00 cents
August 1984 through July 1985—91.90 cents

(2) Eight-five percent of the simple average of the price received of the five years, excluding the highest and the lowest years–85.396 cents.

(3) Loan rate for 1986 crop of ELS cotton–85.40 cents.

2. *Established (Target) Price.* In accordance with the provisions of section 103(h)(3)(B) of the 1949 Act, the 1986 established (target) price for ELS cotton has been determined to be 102.48 cents per pound.

The calculation of the established (target) price is as follows:

(1) The determined 1986 ELS cotton loan rate is 85.40 cents per pound.

(2) The 1986 established (target) price, which must be at 120 percent of the determined 1986 ELS cotton loan level, is 102.48 cents per pound.

3. *Acreage Reduction Program.* In accordance with the provisions of section 103(h)(8)(A) of the 1949 Act, it has been determined that a 10 percent acreage reduction program shall be applicable to the acreage planted to ELS cotton in 1986. Producers are required to limit their production of ELS cotton to the permitted cotton acreage for the farm in order to be eligible for price support loans and deficiency payments for the 1986 crop fo ELS cotton. The Secretary has determined that the total supply of ELS cotton, in the absence of such limitation, will be excessive taking into account the need for any adequate carryover to maintain reasonable and stable prices and to meet a national emergency. The 10 percent reduction requirement was selected because it achieves the best balance among the multiple objectives of providing an adequate supply of ELS cotton for domestic and foreign utilization, maintaining adequate carryover stocks, supporting farm income, and conserving natural resources.

A number of acres equal to 11.11 per cent of the acreas planted to ELS cotton must be devoted to ACR in accordance with regulations issued by the Secretary. Land designated as ACR must be cropland the was devoted to row crops or small grains in two of the last three years, except for a summer fallow rotation. In order for acreage which is in a summer fallow rotation to be designate as ACR, such land must be acreage that was devoted to small grains or row crops in one of the last two years.

4. *Land Diversion Program.* In accordance with section 103(h)(8)(B) of the 1949 Act, it has been determined that there will be no cash land diversion payments for the 1986 crop of ELS cotton. It has been determined that there will be sufficient producer participation in the acreage reduction program without such an incentive.

5. *Haying and Grazing of Acreage Conservation Reserve.* In accordance with section 103(h)(8)(A) of the 1949 Act, the Secretary has determiend that haying of covered crops on ACR acreage will be permitted. However, ACR acreage may not be grazed during the five principal growing months as designated by country Agricultural Stabilization and Conservation (ASC) committees. In the event of a natural disaster, emergency haying and grazing may be approved as needed on a county-by-county basis.

6. *Binding Program Contracts.* Contract signed by program participants for the acreage reduction program will be considered binding at the end of the signup period and will provide for liquidated damages if producers do not comply with contractual requirements.

7. *Offsetting Compliance.* In accordance with section 103(h)(13) of the 1949 Act, it has been determined

that offsetting compliance will not be required as a condition of eligibility for program benefits.

8. *Loan Level for Seed Cotton.* In accordance with section 103(h)(17) of the 1949 Act, recourse loans will be offered on 1986-crop seed cotton. The seed cotton will be adjusted to a lint basis for loan-making purposes, and the loans rates applicable to lint cotton will be used.

9. *National Program Acreage.* In accordance with section 103(h)(8)(A) of the 1949 Act, it has been determined that the NPA will not be applicable to the 1986 crop ELS cotton since an acreage reduction program has been announced.

10 *Voluntary Reduction Percentage.* In accordance with section 103(h)(8)(A) of the 1949 Act, it has been determined that voluntary reduction percentage will not be applicable to the 1986 crop of ELS cotton since an acreage reduction program has been announced.

Authority: Sec. 103(h), 97 Stat. 494 (7 USC 1444(h)).

Signed at Washington, DC, August 20, 1986.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-19152 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-05-M

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of the fee for dairy import licenses for the 1987 quota year.

SUMMARY: This notice announces that the fee to be charged for the 1987 quota year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles which are subject to quotas proclaimed under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended, will be $63.00 per license.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616-South Building, U.S. Department of Agriculture, Washington, DC 20250 or telephone at (202) 447-5270.

SUPPLEMENTARY INFORMATION: Regulations promulgated by the Department of Agriculture and codified at 7 CFR 6.20-6.33 provide for the issuance of licenses to importers of certain dairy articles which are subject to quotas proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Those dairy articles may only be entered into the United States by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of such licenses and the regulations.

The licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country. The use of licenses by the license holder to import dairy articles is monitored by the Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture (the "Licensing Authority") and the U.S. Customs Service.

Section 6.33(a) of Title 7 of the CFR provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to reimburse the Department of Agriculture for the costs of administering the licensing system under this regulation.

The fee is to be based upon the total costs to the Department of Agriculture of administering the licensing system during the calendar year preceding the year for which the fee is to be charged, divided by the average number of licenses issued per year for the three years preceding the year for which the fee is to be assessed.

Section 6.33(b) provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be filed with the **Federal Register**. Accordingly, this notice sets out the fee for the licenses to be issued for the 1987 calendar year.

Notice

The total cost to the Department of Agriculture of administering the licensing system during 1986 has been determined to be $221,710. Of this amount, $159,710 represents the cost of the staff and supervisory hours devoted directly to administering the licensing system during 1986 (total personnel costs for the Import Licensing Group of the Foreign Agricultural Service equaled $133,740; a proportionate share of the supervisory costs devoted directly to administering the licensing system equaled $25,970); $38,000 represents the cost of the computer on-line entry system used to monitor the use of licenses during 1986; and $24,000 represents other miscellaneous costs, including travel, postage, and an in-hour computer system. The average number of licenses issued for the three years immediately preceding 1987 has been determined to be 3,494.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 1987 calendar year, in accordance with the regulations codified at 7 CFR 6.20-6.33, will be $63.00 per license.

Issued at Washington, DC, the 16th day of July 1986.

Phillip J. Christie,

Licensing Authority.

[FR Doc. 86-19109 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Sherwin Bowl Ski Area; Inyo National Forest Mono County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to permit the development of Sherwin Bowl Ski Area on the Mammoth Lakes Ranger District.

The Mammoth-Mono Unit Plan, implemented in 1979, reserved the Sherwin area to allow for further evaluation and possible development of a winter sports site. In addition, the proposed Inyo National Forest Land and Resource Management Plan recognizes the Sherwin area as having high potential for alpine skiing.

A range of alternatives will be considered. One of those alternatives will be nondevelopment of the site. Other alternatives will consider development designs with capacities varying from 4,000 to 12,000 skiers at one time. Alternative locations for uphill facilities, ski runs, and support facilities will be examined.

Federal, State, and local agencies; project proponents; and other organizations and individuals who may be affected by or interested in the decision will be invited to participate in the scoping process.

The process will include:

1. Identification of potential issues.
2. Identification of significant issues to be analyzed in depth.
3. Elimination of insignificant issues and those which have been covered by prior environmental review.

A public scoping session will be held September 20, 1986, starting at 1 p.m. in the multipurpose room at Mammoth High School in Mammoth Lakes, California. This is the only scoping session planned to be held.

Dennis W. Martin, Forest Supervisor, Inyo National Forest, is the responsible official.

The analysis is expected to take about seven months. The draft environmental impact statement is scheduled to be available for public review by July, 1987. The final environmental impact statement should be completed by March, 1988 or sooner.

Written comments and suggestions concerning the analysis should be sent to Dennis W. Martin, Forest Supervisor, Inyo National Forest, Bishop, California 93514, by November 1, 1986.

Questions about the proposed action and environmental impact statement should be directed to Bob Wood, Winter Sports Specialist, Mammoth Lakes Ranger District, phone (619) 934-2505.

Dated: August 19, 1986.

Dennis W. Martin,

Forest Supervisor.

[FR Doc. 86-19148 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Cancellation of Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission originally scheduled for September 8, 1986, convening at 3:00 p.m. and adjourning at 5:00 p.m., at Yale University, Phelps Hall, Room 402, College Street, New Haven, Connecticut (FR Doc. 86-18195, Page 28969), has been cancelled.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-19111 Filed 8-22-86; 8:45 am]

BILLING CODE 6335-01-M

Delaware Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on September 19, 1986, at the Boggs Federal Courthouse, Room 3207, 844 King Street, Wilmington, Delaware. The purpose of the meeting is to review and approve final changes in a briefing memorandum to the Commission on "Nutrition Services and the Black Elderly."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee chairperson, William Conner, or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523-5264 (TDD 202/523-5264). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-19112 Filed 8-22-86; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on September 17, 1986, at the Omni International, 101 West Fayette Street, Baltimore, Maryland. The purpose of the meeting is to discuss and review final changes in "Equity Issues in Special Education and Gifted and Talented Programs in Maryland," a briefing memorandum to the Commissioners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Lorretta Johnson, or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523-5264 (TDD 202/523-5264). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 19113 Filed 8-22-86; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on September 5, 1986, at Tavern Motor Inn, Coolidge Room, 100 State Street, Montpelier, Vermont. The purpose of the meeting is to review the agenda for the next day's factfinding meeting on Civil Rights Laws and Methods of Enforcement in Vermont.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617) 233-4671 (TDD 617/233-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc 86-19114 Filed 8-22-86; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:30 p.m. on September 6, 1986, at Pavilion Auditorium, 109 State Street, Montpelier, Vermont. The purpose of the gathering is to conduct a factfinding meeting on Civil Rights Laws and Methods of Enforcement in Vermont.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617) 223-4671, (TDD 617/223-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc 86-19115 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than August 31, 1987.

Antidumping duty proceedings and firms	Periods to be reviewed
Pig Iron from Canada: Dofasco	07/86-06/86
Salted Codfish from Canada:	
Canadian Saltfish	07/03/85-06/86
Granville Gates	07/03/85-06/86
Pacheries Maibaie	07/03/85-06/86
Pacheries Shechan	07/03/85-06/86
Sans Souci	07/03/85-06/86
Stoney Island	07/03/85-06/86
Waybret	07/03/85-06/86
High Power Microwave Amplifiers from Japan: NEC	07/86-07/11/86
Neoprene Laminate from Japan:	
Heiwa	03/11/85-06/86
Yamamoto	03/11/85-06/86
Synthetic Methionine from Japan:	
Nippon Kayaku	07/85-06/86
Nippon Soda	07/85-06/86
Sumitomo Chemical	07/85-06/86
Countervailing duty proceeding	
Leather Wearing Apparel from Uruguay	01/84-12/86

In the antidumping case on Canadian pig iron, although a domestic manufacturer requested a review, we are not initiating that requested review since the request did not adequately explain the need for the review, as required by § 353.53a(a)(1) of the Commerce Regulations. However, we are initiating the review requested by one exporter, Dofasco, Inc.

We will instruct the Customs Service to liquidate all entries of Canadian pig iron exported to the U.S. by other firms entered, or withdrawn from warehouse, for consumption during the period at the cash deposit rate required at the time of entry and to continue to collect the cash deposit previously ordered.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and sections 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: August 15, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19141 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-602]

Oil Country Tubular Goods From Israel; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that oil country tubular goods (OCTG) from Israel are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of OCTG from Israel that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 3, 1986.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: James Rigga or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-4929, or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminary determined that OCTG from Israel are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The period of review for this investigation is April 1, 1985 through March 31, 1986. The margin preliminary found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by November 3, 1986.

Case History

On March 12, 1986, we received a petition filed in proper form from Lone Star Steel Company and CF&I Steel Corporation on behalf of the U.S. industry producing OCTG. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Israel are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. The petition also alleged that critical circumstances exist. We initiated the investigation on April 1, 1986 (51 FR 11963), and notified the ITC of our action.

On April 17, 1986, a questionnaire was presented to counsel for the respondent.

VOL 51 ISS 164 AG 25 1986 UMI

On April 28, 1986, the ITC found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of OCTG from Israel (U.S. ITC Pub. No. 1840, April 1986).

On June 9, 1986, the respondent filed a response to our questionnaire, with supplemental responses filed on June 12, June 26, June 30, July 2, August 4, and August 9, 1986. We investigated Middle East Tube Company (METCO), the manufacturer that accounts for all Israeli exports of the merchandise to the United States. We examined 74 percent of the sales made by this company to the United States.

Scope of Investigation

The products under investigation are "oil country tubular goods," which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States Annotated* items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4230, 610.4240, 610.4310, 610.4320, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

For purposes of its preliminary determination, the ITC ruled that drill pipe is a separate "like product" from other types of OCTG. Since neither of the petitioners manufactures, produces, or wholesales drill pipe, they are not "interested parties" with respect to drill pipe, within the meaning of section 711(9)(c) of the Act. Therefore, we are not investigating sales of drill pipe in this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the C&F or CIF, packed price. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and handling charges. Although respondent submitted information that METCO receives a duty drawback on each export shipment, we could not make any adjustment to United States price for purposes of this preliminary determination because this information was received too late.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on constructed value since there were no sales of OCTG either in the home market or to third countries. We used the constructed value data submitted by METCO. In determining constructed value, we calculated the cost of materials, fabrication costs, general expenses, profit and packing cost. An imputed revenue claimed by METCO based on its favorable payment terms for raw materials purchases was disallowed. Insufficient information was provided by METCO regarding general expenses. METCO's financial statements do not contain information on general expenses adjusted for inflation, so the calculation of general expenses was based on nominal currency information in the company's financial statements.

Our calculation of financial expenses for constructed value purposes included interest expenses and credit expenses. Interest expense was based on the interest expenses for the consolidated corporation, net of appropriate interest income, during fiscal 1985. Credit expense was based on U.S. credit expense because no information was provided on the home market credit expenses. Credit expenses represent the cost of financing accounts receivable. Because credit expense was included in the constructed value calculations, the interest associated with the financing of accounts receivable was deducted from total interest expense to avoid double counting. This deduction was based on the relationship of accounts receivable to total assets.

The actual general expenses as calculated above exceeded 10 percent of the sum of the materials and fabrication expenses. Therefore, the actual general expenses were used. The statutory minimum for profit of 8 percent of the cost of materials, fabrication and general expenses was used, because actual profit was less than 8 percent.

As Federal Reserve certified exchange rates were not available, we made currency conversions using rates listed in the IMF International Financial Statistics. We will attempt to obtain Federal Reserve rates for our final determination.

Preliminary Negative Determination of Critical Circumstances

Petitioners have alleged that critical circumstances exist with respect to imports of OCTG from Israel. For purposes of section 733(e)(1) of the Act, critical circumstances exist if we find that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports. Based on our analysis of recent import statistics, we find that there is no reasonable basis to believe that imports of the subject merchandise from Israel have been massive over a relatively short period. We examined all available Special Summary Steel Invoice import statistics for Israel for 1986 and found no imports of OCTG for the three months prior to or after the filing of the petition. Accordingly, we do not have to consider whether section 733(e)(1)(A) of the Act applies in this case. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of OCTG from Israel.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Israel that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S.

Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Middle East Tube Company	25.00
All Others	25.00

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 19, 1986 in room 1851, the United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 9, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, no later than 30 days before the final determination is due, at the above address and in at least 10 copies.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19140 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Minority Business Development Center Program; Solicitation of Competitive Applications for Financial Assistance

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$105,000* for the project performance of *01/01/87* to *12/31/87*. The MBDC will operate in the *Orlando, Florida* Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-87002-01* for the *Orlando, Florida* MSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is *September 26, 1986*. Applications must be postmarked on or before *September 26, 1986*.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, September 12, 1986 at 9:00 a.m., 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

August 19, 1986.

[FR Doc. 86-19103 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Center Program; Solicitation of Competitive Applications for Financial Assistance

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available

funds. The cost of performance for the first *12* months is estimated at *$165,000* for the project performance of *01/01/87* to *12/31/87*. The MBDC will operate in the *Jackson, Mississippi* Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–87001–01* for the *Jackson, Mississippi* MSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *September 26, 1986*. Applications must be postmarked on or before *September 26, 1986*.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, Georgia, September 12, 1986 at 9:00 a.m., 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

August 19, 1986

[FR Doc. 86–19104 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, August 29, 1986, from 9:30 a.m. to approximately 3 p.m., at the Council's Office (address below) to discuss issues related to the Subcommittee's regular administrative operations. For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; telephone: (809) 753–4926.

Date: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–19100 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, September 3–5, 1986, beginning at 1 p.m. on September 3 at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE, Room 2079, Building 4, Seattle, WA, to review groundfish landings and projections under current trip limits; develop preliminary estimates of 1987 acceptable biological catches (ABCs); develop a draft definition of ABC; prepare a list of issues for amending the fishery management plan in 1988, as well as to develop a report for the Council's September 17–18, 1986 meeting in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 S.W. First Avenue, Suite 420, Portland OR 97201; telephone: (503) 221–6352.

Date: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–19101 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–22–M

National Advisory Committee on Oceans and Atmosphere; Meeting

August 18, 1986.

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), notice is hereby given that the NOAA Study Crosscut Panel of the National Advisory Committe on Oceans and Atmosphere (NACOA) will meet Thursday, September 4. The panel, chaired by RADM Nathan Sonenshein, USN (Ret.) will meet in San Francisco, CA. For the exact location of the meeting please call Catherine Mills at 202/673–5225. This work session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 5:00 p.m.

Persons desiring to attend will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman of the Crosscut Panel, RADM Nathan Sonenshein, USN (Ret.) in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and dicussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Acting Executive Director, Dr. James A. Almazan or Ms. Catherine Mills, the staff member for the Crosscut Panel. The mailing address is 1825 Connecticut Avenue, NW., Suite 620, Universal South, Washington, DC 20235.

Dated: August 18, 1986.

James A. Almazan,

Acting Executive Director.

[FR Doc. 86–19093 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

August 20, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 20, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 30, 1985 a notice was published in the Federal Register (50 FR 53182), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including cotton trousers in Category 347/348, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. CITA has determined in a data investigation concerning this category that 135,822 dozen of 1985 exports, currently charged to the 1986 limit, should be charged to the 1985 limit. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to deduct this amount from the import charges made to the current year limit and charge it to the 1985 limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 20, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on August 20, 1986, you deduct 135,822 dozen from charges made to the restraint limit established in the directive of December 24, 1985 for cotton textile products in Category 347/348, produced or manufactured in China and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. This same amount should be charged to the limit established for Category 347/348 during the agreement year which began on January 1, 1985 and extended through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19142 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Proposed Addition

AGENCY: Committee for Purchase from the Blind and other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee is considering the addition to Procurement List 1986 of one medal and six medal sets which have been produced by a workshop for the other severely handicapped.

Comments Must be Received on or Before: September 26, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

On January 27, 1984, the Committee approved the addition to the Procurement List of the medal and six medal sets listed below. On June 4, 1986, the United States Court of Appeals for the Fourth Circuit directed that the Committee's decision be set aside due to the inadequacy of the explanatory statement in the Committee's notice of January 27, 1984. The United States District Court for the Eastern District of Virginia by order dated August 20, 1986 vacated the decision of the Committee which added the medal and six medal sets to the Procurement List. The Committee is considering if it is appropriate to procure the medal and medal sets listed below under the Committee's program. If the Committee approves their addition to the Procurement List, all entities of the Federal Government will be required to procure future requirements for the medal and medal sets listed below from workships for the blind or other severely handicapped. It is proposed to add the following commodities to Procurement List 1986, October 15, 1985 (50 FR 41809):

Medal

8455–00–261–4501 (Good Conduct, Marine Corps)

Medal Set

8455–00–082–5528 (Good Conduct, Air Force)
8455–00–269–5761 (Good Conduct, Army)
8455–00–269–5783 (Women's Army Corps)
8455–00–269–5763 (Army of Occupation, World War II)
8455–00–269–5764 (Asiatic-Pacific Campaign)
8455–00–269–5782 (World War II Victory)

C.W. Fletcher,

Executive Director.

[FR Doc. 86–19203 Filed 8–22–86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Meeting of Graduate Medical Education Advisory Committee

AGENCY: Department of Defense Graduate Medical Education Advisory Committee, DOD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of Public Law 92–463, notice is hereby given that an open meeting of the Department of Defense Graduate Medical Education Advisory Committee has been scheduled as follows:

VOL 51 ISS 164 AG 25 1986 UMI

DATE: September 12, 1986, 9:00 a.m. to 5:00 p.m.

ADDRESS: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Michael Herndon, Executive Secretary, DOD Graduate Medical Education Advisory Committee, Office of the Assistant Secretary of Defense (Health Affairs), Room 1B657, the Pentagon, Washington, DC 20301, (202) 694–0748.

SUPPLEMENTARY INFORMATION: This will be the fourth meeting of the Committee. Presentations of current and projected Service programs will be made. A DOD projection of wartime requirements by specialty will be presented.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

[FR Doc. 86–19110 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday–Friday, 10–12 September 1986.

Times of Meeting: 0830–1630 hours.

Places: REDCOM and CENTCOM Hqs, McDill AFB, Florida.

Agenda: The Army Science Board AHSG on Army Combat Models will meet for briefings by REDCOM, CENTCOM, and Joint Deployment Agency staffs. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5 U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19236 Filed 8–22–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training (SABET) will meet at the Sheraton National Hotel at the intersection of Columbia Pike and Washington Boulevard, Arlington, Virginia, on 23, 24, 25 September 1986.

The purpose of SABET is to advise the Secretary of the Navy on policy concerning all facets of education and training for Navy Marine Corps personnel. This meeting is a follow-on to the November meeting which provided an overview of the naval Medical Command. Follow-on policy issues related to military medicine will be discussed.

The meeting will commence at 2:30 p.m. on 23 September to review the agenda. Regular sessions will run 24 September from 8:30 a.m. until 5:00 p.m. The 25 September executive session will commence at 8:30 a.m. and terminate at 11:00 a.m. All sessions are open to the public.

For further information concerning this meeting, contact Mrs. Carol Osborn (Code N–51), Professional Assistant to the Principal Civilian Advisor on Education and Training, Chief of Naval Education and Training, Naval Air Station, Pensacola, Florida 32508–5100, telephone (904) 452–4019.

Dated: August 19, 1986.

Harold L. Stoller,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–19079 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on Over the Horizon Targeting Capabilities will meet on September 16–18, 1986, at the Naval Ocean Systems Center, San Diego, California. The meeting will commence at 9:00 A.M. and terminate at 4:00 P.M. on September 16 and 17, and commence at 9:00 A.M. and terminate at 4:30 P.M. on September 18, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to conduct a comprehensive review of existing and planned over the horizon targeting programs; determine current and projected over the horizon targeting and related command and control capabilities and limitations; identify and problems and recommend solutions. The agenda for the meeting will consist of technical briefings addressing over the horizon targeting capabilities and limitations, programs, facilities and activities. These briefings and tours will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy; Office of the Chief of Naval Research (Code OONR); 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: August 18, 1986.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 86–19080 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Intent To Repay to the Oklahoma State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Notice is given that, under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay under a grantback arrangement to the Oklahoma State Department of Education an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination issued by the Deputy Commissioner for Elementary

and Secondary Education (now Assistant Secretary) on September 12, 1977. This notice describes the State educational agency's (SEA's) plan, submitted on behalf of six local educational agencies (LEAs), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before September 24, 1986.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 5004, ROB–3, MS–3580), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane, Telephone: (202) 245–9846.

SUPPLEMENTARY INFORMATION:

A. Background

On September 12, 1977, the Deputy Commissioner for Elementary and Secondary Education issued a final audit determination against the SEA, finding that six LEAs had improperly spent $598,250 of Federal funds provided under Title I of the Elementary and Secondary Education Act of 1965 (Title I). This final audit determination was based on an audit of the SEA's administration of the Title I program for the period July 1, 1968 through June 30, 1973 conducted by the Department of Health, Education, and Welfare Audit Agency. The six LEAs cited for violations in the final audit determination were El Reno, Frederick, Anadarko, Okmulgee, Enid, and Oklahoma City.

Under Title I, funds had to be expended on programs designed to meet the special educational needs of educationally deprived students in low-income areas and not for general aid to meet the needs of the school population as a whole (20 U.S.C. 241e(a)(1)(A)(1976) and 45 CFR 116.17(a) and (g)(1973)). Additionally, Title I funds had to be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, have been made available from non-Federal sources for the education of the participating Title I children, and in no case to supplant such funds from non-Federal sources (20 U.S.C. 241e(a)(3)(B)(1976) and 45 CFR 116.17(h)(1973)).

The Deputy Commissioner concluded in his final audit determination that $598,250 had been misspent by the six LEAs on activities that violated the general aid and supplanting restrictions on Title I funds. The general aid violations included library programs, counseling services, nursing programs, art programs, teacher aide activities, and attendance services. The Deputy Commissioner also determined that Title I funds had been used to supplant State and local funding in the areas of nursing services, reduction of class size, and counseling services.

In an application for review filed with the Title I Audit Hearing Board (now the Education Appeal Board (EAB)) on October 7, 1977, the SEA challenged the Deputy Commissioner's final audit determination. After lengthy administrative proceedings, the EAB ordered the SEA to refund a total amount of $514,675. The SEA appealed this decision to the United States Court of Appeals for the Tenth Circuit. On May 21, 1984, the Court affirmed the Department's final administrative decision requiring the SEA to refund $514,675.

The SEA was notified by the Department that in addition to the $514,675, it was liable for $141,536 in accrued interest. On July 27, 1984, the SEA paid the Department the principal amount of $514,675, but argued that it was not liable for the accrued interest. On April 21, 1986, after the Comptroller General of the United States issued an opinion upholding the Department's claim for this interest (No. B–217215), the SEA submitted a check for $141,536 to the Department. With this additional payment, the Department's total claim against the SEA for the Title I audit disallowance was settled.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available to that program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determinations have been corrected, and that the SEA or LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On May 27, 1986, the SEA formally requested in writing repayment of $386,006 (75 percent of the $514,675 repaid to the Department as a result of the final audit determinaton) under a grantback arrangement. With its request, the SEA provided assurances that the practices and procedures of the LEAs that resulted in the final audit determination have been corrected and that the LEAs are in all other respects in compliance with the requirements of the program. Detailed budgets prepared by the LEAs for the expenditure of the funds to be awarded under the grantback arrangement were also included with the SEA's request.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the SEA submitted a plan on behalf of the LEAs outlining their intent to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1) (20 U.S.C. 3801 *et seq.*). Since Chapter 1 has superseded Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The SEA's plan proposes that the grantback funds will be used during school year 1986–87. A description of how these funds will be used by each of the LEAs to augment their regular Chapter 1 program follows:

El Reno Public School ISD #34—$25,755

Based on a needs assessment, the LEA will provide under its regular Chapter 1 program supplementary services for educationally deprived children in the basic skills areas of language arts, mathematics, and reading. The grantback funds will be used to pay the salary and fixed charges for one additional language arts teacher. Approximately 56 children in grades 1–6 will benefit from the grantback funds. There are no private school children

eligible for Chapter 1 services in this LEA.

Frederick Public Schools—$55,733

The needs assessment conducted by this LEA revealed that the children's greatest need was remedial instruction in language arts. The salaries and fringe benefits of two additional language arts teachers and two aides will be paid for with the grantback funds. Thirty children in grade 2 and 38 children in grades 6, 7, and 8 will participate in the language arts program. There are no private school children eligible for Chapter 1 services in this LEA.

Anadarko Public Schools—$21,141

The grantback funds will be used to purchase additional instructional materials, supplies, and equipment needed for the Chapter 1 program. The instructional services for this program will be funded from the LEA's regular Chapter 1 entitlement for school year 1986–87. The Chapter 1 program will consist of remedial reading, remedial mathematics, and remedial language arts for approximately 250 children in grades 1–8. There are no private school children eligible for Chapter 1 services in this LEA.

Okmulgee Public Schools—$63,116

An early childhood program for approximately 60 children will be provided. The grantback funds will pay the salaries and fixed charges for two teachers and one aide. Materials and supplies for the program will also be purchased with grantback funds. Private school children in the LEA have chosen not to accept Chapter 1 services for the 1986–87 school year.

Enid Public Schools ISD #57—$9,528

Computers and software will be purchased with grantback funds to enhance the regular Chapter 1 program. In this program, 640 children in grades 1–8 will receive supplementary instructions in mathematics. Private school children in the LEA have chosen not to participate in the Chapter 1 program for 1986–87 school year.

Oklahoma City Public Schools—$210,733

Under its Chapter 1 program, the Oklahoma City Public Schools will provide remedial reading, mathematics, and language arts in grades 1–8 for 5,446 public school children and 73 private school children. The grantback funds will pay the salaries of 82 part-time teachers, 24 aides, and 12 part-time administrative and support staff.

E. The Secretary's Determinations

Based upon a thorough review of the SEA's request for the repayment of funds under section 456 of GEPA, including the SEA's discharge of its payment obligations to the Department, the SEA's assurances described in Part C of this notice, and the plan and budgets describing the use of funds, the Secretary makes the following determinations:

(1) The SEA and the LEAs have corrected the practices and procedures that resulted in the final audit determination, and they are in all other respects in compliance with the requirements of the Chapter 1 program.

(2) The SEA has submitted a plan on behalf of the LEAs for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 1 program and, to the extent possible, benefits the Chapter 1 children who were affected by the misexpenditures that resulted in the audit exceptions.

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Chapter 1 program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least 30 days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the **Federal Register** a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an amount of $386,006 which is 75 percent of the funds (not including interest) the Department has recovered as a result of the final audit determination. The Secretary bases has intention to enter into a grantback arrangement under section 456 of GEPA on his determinations outlined in Part E of this notice, and payment by the SEA to the Department of $514,675, plus $141,526 in interest, as a result of the final audit determination.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA and LEAs agree to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) Funds awarded under the grantback will be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budgets that were submitted with the plan and any amendments to the budgets that are approved in advance by the Secretary.

(2) In accordance with section 456(c) of GEPA and SEA's plan, all funds received under the grantback arrangement will be obligated by September 30, 1987.

(3) The SEA, on behalf of the LEAs, will, not later than January 1, 1988, submit a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budgets.

(4) Separate accounting records will be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Invitation to Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the Oklahoma SEA on behalf of the six LEAs identified in Part D of this notice. Interested persons may send written comments to Dr. James Spillane at the address at the beginning of this notice. All comments must be received on or before September 24, 1986.

Dated: August 20, 1986

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance No: 84.010, Educationally Deprived Children—Local Education Agencies)

[FR Doc. 86-[illegible] Filed 8-[illegible]; 8:45 am]

BILLING CODE [illegible]

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3069-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Water Quality and Health Effects Associated with Shellfish Consumption (EPA ICR #1282). (This is a new, one-time information collection request).

Abstract: Approximately two hundred college students at the University of North Carolina will volunteer to eat raw shellfish provided by EPA. The students will give their medical histories and report any health effects that occur after the ingestion of the shellfish. EPA will use the data to determine how raw shellfish of a certain quality affect human health.

Respondents: Students at the University of North Carolina.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0111, NESHAP for Asbestos Demolition and Renovation, was approved 8/11/86 (OMB #2060–0101; expires 10/31/88).

EPA ICR #0275, Nondiscrimination in EPA-Assisted Programs: Recordkeeping Requirement and Report Form, was approved 8/11/86 (OMB #2090–0014; expires 8/31/89).

EPA ICR #1031, Recordkeeping and Reporting of Allegations of Significant Adverse Reactions, was approved 8/11/86 (OMB #2070–0017; expires 8/31/89).

EPA ICR #1237, State Sewage Sludge Management Program Information, was approved 5/21/86 (OMB #2040–0102; expires 8/31/86).

EPA ICR #1259, Non-Occupational Pesticide Exposure Study, was approved 7/2/86 (OMB #2080–0022; expires 9/30/88).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: August 18, 1986.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86–18993 Filed 8–22–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review.

August 14, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission are available from Doris Benz, FCC, (202) 632–7513. Comments should be sent to J. Timothy Sprehe, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395–4814.

OMB No.: 3060–0007

Form No.: FCC 435

Title: Application for a New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21

Action: Extension

Estimated Annual Burden: 5,000 Responses; 10,000 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19088 Filed 8–22–86; 8:45 am]

BILLING CODE 6712–01–M

[Report No. DC–592; (Gen. Docket 86–336)]

Inquiry Begun on Scrambling of Satellite Television Signals

August 7, 1986.

The Commission has opened an inquiry into the scrambling of satellite television signals and access to them by owners of home satellite dish (HSD) antennas.

Home Box Office began scrambling its satellite feed on January 15, 1986. Since then, several other popular channels have begun scrambling or announced plans to do so. There has been considerable concern regarding the availability and price of satellite programing to the more than 1.3 million HSD households.

The Commission initiated its inquiry in response to a Congressional request, made during a June 12, 1986, House subcommittee hearing. The National Telecommunications and Information Administration is participating in the inquiry, also in response to a Congressional request.

The overall objective of the inquiry is to determine whether HSD households have reasonable access to satellite programing at competitive prices. To that end, the inquiry will explore the development of descrambling equipment, the scrambling and marketing plans of satellite television channels, competition for HSD patronage (between HSDs and rival media, as well as among alternative satellite-delivered channels), the public benefits of scrambling, issues relating to the network feed, and other legal issues.

Descrambling Equipment: The development, price, and availability of equipment will be studied, as well as the question of whether the marketplace is creating a *de facto* standard for scrambling.

Developments to Date in Scrambling Satellite Television Channels. The scrambling timetables of the various satellite-delivered channels, the prices charged, the extent to which a group of channels can be ordered from a single source ("one-stop shopping"), and the availability of program packages with discounts for buying several channels will be examined.

Competition for the Patronage of HSD Owners: The inquiry will analyze both intermodal competition and intramodal competition. Intermodal competition takes place among broadcasting, cable, videocassette recorders, and HSDs. Intramodal competition is rivalry among satellite-distributed premium channels, such as Home Box Office and Showtime, among basic cable services, and among

alternative distributors of the same programing (for example, self-retailing by Home Box Office v cable systems sales).

Public Benefits of Scrambling: The inquiry will investigate the extent to which allowing collection of revenues from all viewers strengthens programers' incentives and ability to acquire quality new programing and encourages entry into the programing business. It also will investigate the proposition that scrambling treats copyright owners fairly by providing them with appropriate control over their intellectual property. The role of scrambling in encouraging further development of direct-to-home satellite television transmission will be assessed. (In this connection, the investigation will examine the potential migration of satellite television channels from C band to Ku band and the effect it would have on HSDs.)

The Network Feed: Information will be gathered on the number of households unable to receive network programing via terrestrial broadcast facilities or cable and on the reasons that the networks prefer to distribute exclusively via affiliates. The inquiry also will consider what incentives the networks have to reach a wide audience and options for reaching those outside affiliate service areas.

Legal Issues: Comments will be solicited on Commission authority to set scrambling standards, to regulate rates, and to regulate the retail distribution structure for satellite programing. Other issues raised are the applicability of Section 705 of the Communications Act to the network feed and the impact of copyright law on the "superstations."

The Commission expressed the hope that a comprehensive record will be developed in this proceeding. This will allow it to decide if it should propose any action, and will also provide a wealth of useful information to the Congress.

The Commission also noted that a companion item adopted today examines the methods of combating unauthorized interference with satellite signals. (The recently-solved "Captain Midnight" episode is a prime example.)

Comments are due by October 10, 1986, replies by October 27, 1986.

Note.—Due to the Commission's ongoing effort to minimize publishing costs, the full text of the Notice of Inquiry will not be printed herein. However, copies may be obtained from the International Transcription Services, 1919 M St., NW., Washington, DC 20036 Tel. No.: (202) 857–3800.

Action by the Commission August 7, 1986, by Notice of Inquiry (FCC 86–355). Commissioners Fowler (Chairman), Quello, Dawson, Patrick and Dennis.

For more information contact Jonathan D. Levy at (202) 653–5940.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19085 Filed 8–22–86; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1612]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

August 18, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Revision of the Uniform System of accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42, and 43 of the FCC's Rules) (CC Docket No. 78–196); Number of petitions received: 5

Applications for Review

Subject: Amendment of Section 606(b), Table of Assignments, FM Broadcast Stations. (Morehead City, North Carolina) (MM Docket No. 84–790, RM–4801); Number of applications received: 2.

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19087 Filed 8–22–86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–007690–019.

Title: The India, Pakistan, Bangladesh, Ceylon & Burma Outward Freight Conference.

Parties:

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Sysnopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–008050–015

Title: Sri Lanka/U.S.A. Conference.

Parties:

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–008650–013.

Title: Calcutta, East Coast of India and Bangladesh/U.S.A. Conference.

Parties:

The Bangladesh Shipping Corporation.

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–010984.

Title: Mediterranean/Puerto Rican Conference.

Parties:

Compania Trasatlantic Espanola, S.A.

d'Amico Societa di Navigazione per Azioni

Nordana Line/Dannebrog Rederi A/S

Sea-Land Service, Inc.

Synopsis: The proposed agreement would establish a conference between the parties in the trade from French Mediterranean ports, Italian and Yugoslavian ports, including islands, Spanish ports, including the North African/Spanish ports and those of the Spanish Mediterranean Islands and the Canary Islands, Portuguese ports, including ports on Madeira Island but excluding ports on the Azores Islands, and points in Continental Europe via such ports to all ports and points in Puerto Rico.

By Order of the Federal Maritime Commission.

Dated: August 20, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19144 Filed 8-22-86; 8:45 am]

BILLING CODE 6730-01-M

Request for Additional Information; Sea-Barge Agreement

Agreement No.: 203-010970.
Title: Sea-Barge Agreement.
Parties:
S.E.L. Maduro (Florida), Inc.
Luis A. Ayala Colon Sucesores, Inc.
Zapata Gulf Marine Corporation

Synopsis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701-1720) has requested additional information from the parties to the agreement in order to complete the statutory review of Agreement No. 203-010970 as required by the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of the Federal Maritime Commission.

Dated: August 20, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19145 Filed 8-22-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 19, 1986.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have recieved initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the Federal Register.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

Proposal to approve under OMB delegated authority the implementation of the following report:

1. Report title: Survey of Machinery Dealers
Agency form number: FR 3039
OMB Docket number: 7100-0222
Frequency: One-time
Reporters: Machine-dealers
Small businesses are affected.
General description of report: This information collection is voluntary [12 CFR Parts 225a, 263, 353 et seq., and 461] and is given confidential treatment [5 U.S.C. 552(b)4].

Survey of machine dealers that collects general information on the market for use machine tools, the sources of used machinery, and estimates of useful lives of the equipment traded. Information on specific transactions, such as, the transaction price and transaction date, is also collected.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19095 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Citizens Banking Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would

not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 17, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Banking Corporation,* Flint, Michigan; to acquire First National Capital Corporation, Birmingham, Michigan, and thereby engage in leasing personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19096 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Habersham Bancorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Habersham Bancorp,* Cornelia, Georgia; to engage *de novo* through CDM, Helen, Georgia, in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. Applicant proposes to own, install and operate a cash dispensing machines. These activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19097 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Shawmut Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the office of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 15, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation,* Boston, Massachusetts; to acquire 100 percent of the voting shares of The Fidelity Trust Company, Stamford, Connecticut.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Moxham Bank Corporation,* Johnstown, Pennsylvania; to acquire 100 percent of the voting shares of The First National Bank of Garrett, Garrett, Pennsylvania.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *ABC Holding Company,* Moultrie, Georgia; to acquire 51.5 percent of the voting shares of The Citizens Bank of Tifton, Tifton, Georgia.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Oak Brook Bancshares, Inc.,* Oak Brook, Illinois; to acquire 100 percent of the voting shares of FNB Bancorp, Inc., Chicago Heights, Illinois, and thereby indirectly acquire First National Bank in Chicago Heights, Chicago Heights, Illinois.

2. *First of America Bank Corporation,* Kalamazoo, Michigan; to merge with First Bancorp, Indianapolis, Indiana, and thereby indirectly acquire First Bank and Trust Company, Speedway, Indiana.

3. *Jackson County Bancshares, Inc.,* Black River Falls, Wisconsin; to become a bank holding company by aquiring 80 percent of the voting shares of Jackson County Bank, Black River Falls, Wisconsin.

4. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of Industrial Trust and Savings Bank, Muncie, Indiana. Comments on this application must be received by September 17, 1986.

5. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of South Central Bancorp, Edinburg, Indiana, and thereby indirectly acquire The Edinburg State Bank, Edinburg, Indiana.

6. *Versailles Bancorporation, Inc.,* Versailles, Indiana; to become a bank holding company by acquiring 87.48

percent of the voting shares of Bank of Versailles, Versailles, Indiana. Comments on this application must be recevied by September 10, 1986.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Caliendo Bancorp, Inc.*, Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Sedgwick State Bank, Sedgwick, Kansas. Comments on this application must be recevied by September 17, 1986.

2. *First Bancshares of Durant, Inc.*, Durant, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Durant, Durant, Oklahoma.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Do. 86-19098 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Westpac Banking Corp.; Proposal To Engage in Certain Gold and Silver Activities

Westpac Banking Corporation, Sidney, Australia, has applied pursuant to section 4(c)(8) of the Bank Holding Company (12 U.S.C. 1843(c)(8)) and § 225.23(a) (2) and (3) of the Board's Regulation Y (12 CFR 225.23(a) (2) and (3)), for permission to engage through subsidiary, Mase Westpac, Inc., New York City, New York, in certain activities relating to dealing in gold and silver. Specifically Applicant proposes to engage in the following activities: (a) Buying and selling gold and silver bullion, bars, rounds and bullion coins; (b) Dealing in gold and silver futures contracts traded on exchanges, options on gold and silver futures contracts and options on gold and silver bullion; (c) Financing the production, refining, and fabrication of gold and silver including lending and borrowing gold and silver in connection with such financing; (d) Arbitraging gold and silver in markets throughout the world; and (e) Providing various incidental services for customers, such as the safe custody, assaying and shipment of gold and silver. These services will be provided from offices in New York City, New York.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that these activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto because the activities are, in Applicant's opinion, either provided by banks or functionally similar to services provided by banks.

While the Board has decided to publish Westpac's proposal, the Board does not, thereby take any position on the issues under the Bank Holding Company Act raised by the proposal. The Board is publishing this proposal in order to seek the views of interested persons on the issues that this application presents and does not represent a determination that the activity is likely to meet the standards of the Bank Holding Company Act.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at the hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Comments or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than September 18, 1986.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19099 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-86-2060]

Memorandum of Understanding Between the National Marine Fisheries Service and the Food and Drug Administration

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the National Marine Fisheries Service (NMPS) of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and FDA of the Public Health Service, U.S. Department of Health and Human Services. This MOU describes the cooperative methods that FDA and NMFS will employ to deal with illegal commerce in molluscan shellfish.

DATE: The agreement became effective July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)), which states that all agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing this memorandum of understanding.

Dated: August 18, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Between the Food and Drug Administration and the National Marine Fisheries Service Concerning Enforcement of Laws Against Illegal Commerce in Molluscan Shellfish

I. Purpose

The Food and Drug Administration (FDA) of the Public Health Service, U.S. Department of Health and Human Services and the National Marine Fisheries Service (NMPS) of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce enter this Memorandum of Understanding to increase and to improve their cooperation in the enforcement of laws against the illegal

harvest, transport, export, import, sale, and purchase of molluscan shellfish. This Memorandum describes the arrangements that FDA and NMFS will follow to ensure that the activities of each agency under its respective authorities complement those of the other agency, and the cooperative methods that the two agencies will employ to deal with illegal commerce in molluscan shellfish.

II. Background

FDA is responsible for enforcement of the Federal Food, Drug and Cosmetic (FD&C) Act (Act of June 25, 1938, as amended 21 U.S.C. section 301 et seq.) and the Public Health Service Act (42 U.S.C. section 201 et seq.). Under these Acts, FDA works to protect the health and welfare of the Nation by ensuring that foods, including molluscan shellfish, are safe and wholesome. In fulfilling this responsibility, FDA promulgates regulations dealing with the safety, quality, and identity of foods; establishes action levels and tolerances for natural defects and unavoidable defects; inspects the processing and distribution of foods; examines samples of foods to assure compliance with the Act; and conducts research to support these activities. The States and a number of foreign nations also have laws that relate to the illegal commerce in molluscan shellfish. FDA works with states and foreign nations to increase the effectiveness of these laws and coordinates its activities in this area with those of the States and foreign nations through its participation in the National Shellfish Sanitation Program (NSSP). FDA assists States and foreign nations with training, technical projects and the development of model ordinances and guidelines; and advises States and foreign nations as to the effectiveness of their public health control programs.

Under the authorities of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742e et seq.), NMFS conducts a voluntary fishery products inspection program which is concerned with the safety, wholesomeness, and quality of fishery products, including molluscan shellfish. NMFS is also responsible for enforcement of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.), as they apply to molluscan shellfish. In pertinent part, the Lacey Act prohibits and prescribes penalties for the transport, export, import, sale, and purchase of shellfish taken or possessed in violation of United States laws and regulations. The Act also forbids the transport, export, import, sale, purchase, receipt, acquisition, or possession in interstate or foreign commerce of molluscan shellfish taken, possessed, transported, or sold in violation of State or foreign law. False records, accounts, labels, and identifications of molluscan shellfish are also forbidden. NMFS conducts investigations of alleged illegal transactions in molluscan shellfish through its Office of Enforcement. These investigations can lead to the imposition of civil penalties by the National Oceanic and Atmospheric Adminstration, the referral of cases to the Department of Justice for criminal prosecution, and the forfeiture of illegal molluscan shellfish and the vessels and gear with which they were caught.

FDA and NMFS believe that it is in the public interest for them to cooperate more closely in carrying out the these responsibilities and taking maximum advantage of their respective expertise.

III. Substance of Agreement

A. *FDA agrees to*: 1. Provide periodically, preferably annually, summary reports of the status of State shellfish enforcement control programs which identify States with enforcement program weaknesses and illegal shellfish harvesting problems, and recommend priorities for Lacey Act investigations for the purpose of providing improved public health protection and industry integrity.

2. Support NMFS Lacey Act investigations to the extent that regulatory authority and resources allow. This may include conducting food sanitation inspections of suspect shellfish shippers, reviewing interstate shipping records and obtaining affidavits to the extent possible, collecting and analyzing shellfish samples to be used as evidence of violations, and removing adulterated shellfish from the marketplace.

B. *NMFS agrees to*: 1. Utilize FDA's report on State shellfish control programs and illegal shellfish harvesting problems when establishing planning priorities for potential Lacey Act investigations. To the extent that resources and agency policies allow, investigations for the purpose of protecting the public health and the integrity of the shellfish industry will be given a high priority.

2. Advise FDA when Lacey Act or other investigations reveal information of illegal shelfish harvesting problems in particular States, and when Lacey Act related arrests and prosecutions are undertaken by NMFS that relate to shellfish program activities.

C. *FDA and NMFS agree to*: 1. Consult regularly concerning enforcement of laws against illegal commerce in molluscan shellfish. These consultations will be guided by the considerations that FDA is in a favorable position to determine the situations most in need of enforcement attention from the public health perspective; and that NMFS has a particular expertise in investigations involving the harvesting, processing, and transportation of molluscan shellfish.

2. Coordinate their activities under this Memorandum with the public health and fisheries agencies of interested and affected States. Upon request of FDA, NMFS may authorize FDA personnel to assist NMFS in the enforcement of the Lacey Act as it applies to molluscan shellfish.

3. Coordinate activities to negotiate and implement agreements with agencies of foreign governments to eliminate illegal commerce in foreign molluscan shellfish and to assure the continued viability of domestic molluscan shellfish resources so that the authorities and expertise of both FDA and NMFS will be effectively utilized. In particular, FDA will consult with NMFS concerning the potential impact on domestic molluscan shellfish whenever FDA considers initial requests or negotiates agreements to import live molluscan shellfish into the United States without regard to the stated purpose of such importation.

4. Develop arrangements for the most effective use of the authorities and resources available to each agency for enforcement of laws against illegal commerce in molluscan shellfish. In particular, NMFS will seek appropriate administrative or criminal sanctions for violations of the Lacey Act with respect to molluscan shellfish that could adversely affect public health, the aquatic environment, or stability of aquatic resources; and FDA will, consistent with its resources, upon request provide expert testimony and scientific support necessary to demonstrate the actual or potential public health effects of such violations.

Designate a primary contact to implement this agreement and to assure regular communication concerning the activities of the agencies covered by the Memorandum. The primary contact for each agency will be responsible for ensuring that other agency employees who have an interest in activities under this Memorandum are informed of those

activities. If either agency is unable to carry out any of its responsibilities under this Memorandum, the primary contact for that agency shall so advise the primary contact for the other agency promptly.

6. Have the primary contacts meet at least twice a year to discuss activities undertaken pursuant to this agreement and identify ways of fostering further cooperation between the two agencies. The primary contacts will prepare a joint written annual summary of activities undertaken pursuant to this Memorandum to present at the annual meeting of the Interstate Shellfish Sanitation Conference.

IV. Participating Parties

A. National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Washington, DC 20235.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857.

V. Primary Contacts

A. National Marine Fisheries Service: Director, Office of Enforcement, Mr. Morris M. Palloszi, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC 20235, 202–673–5295.

B. Food and Drug Administration: Chief Shellfish Sanitation Branch (currently, Mr. J. David Clem), Center for Food and Safety and Applied Nutrition (formerly Bureau of Foods), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0149.

VI. Period of Agreement

This Memorandum will take effect upon its signature by the authorized representatives of both FDA and NMFS. It may be modified by consent of both agencies and terminated by either agency upon 30 days written notice to the other.

Approved and accepted on behalf of the Food and Drug Administration and the National Marine Fisheries Service.

Dated: July 24, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs, Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services.

Dated: July 17, 1986.

James E. Douglas, Jr.,

for Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

[FR Doc. 86–19084 Filed 8–22–86; 8:45 am]

BILLING CODE 4165-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-080-06-4322-02]

Vernal District Grazing Advisory Board Meeting

ACTION: Notice of Vernal District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Vernal District Grazing Advisory Board will be held Friday, September 26, 1986, commencing at 10:00 a.m. Meeting will be held in the district conference room at 170 South 500 East, Vernal, Utah.

The agenda items will include: (1) Predator and Pest Control, (2) Range Improvements, (3) Range Program Summary Update, (4) Land Exchanges/ Sales-Brush Creek and Little Hole, (5) Wild Horse Roundup, (6) Taylor Flat Shrub Die-Off and Regeneration Studies and Chaining, Control Burning and Grazing, (7) Subleasing of Grazing Preference, (8) Approval of Applications for Non-Use, (9) Blue Mountain Brush Control, and (10) Status of Coop Maintenance Agreements.

The meeting is open to the public. Interested persons wishing to participate or present a statement should notify the District Manager at the above-mentioned address or phone him at (801) 789–1362 no later than September 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dean Evans, Assistant District Manager, Resources, 170 South 500 East, Vernal, Utah 84078, Phone (801) 789–1362.

Craig M. Hansen,

Acting District Manager.

[FR Doc. 86–19121 Filed 8–22–86; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-010-06-4212-13]

Realty Action, Exchange of Public and Private Land in Calaveras and Placer Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private land in Calaveras and Placer Counties, California.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the *Federal Land Policy and Management Act of 1976*, (43 U.S.C. 1716):

Mount Diablo Meridian, California, Calaveras County

Parcel A–T.6N., R.14E.,
Sec. 32, Portion of Rainbow Lode
T.5N., R.14E.,
Sec. 5, Portion of Rainbow Fallen Pine, White Elephant Lode Claims 37.05± acres;
Parcel B–T.5N., R.14E.,
Sec. 5, Lot 2, 37.2± acres;
Parcel C–T.5N., R.14E.,
Sec. 7, E½NW¼, 80± acres
Parcel D–T.6N., R.14E.,
Sec. 31, SE¼NW¼, 40± acres.

The areas described aggregate approximately 194.25 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Gerald and Shirley Hodnefield:

Mount Diablo Meridian California, Placer County

T.15N., R.10E.,
Sec. 1, N½SW¼, 80 acres;
Lot 12, 24.59 acres;
Lot 15, 39.50 acres;
W½ Lot 1 NE¼, 40 acres;
Lot 2 NE¼ 80 acres;
E½ Lot 2 NW¼, 40 acres;
E½ Lot 1 NW¼, 40 acres.

The areas described aggregate approximately 344.09 acres of private lands.

The purpose of this exchange is to acquire the non-Federal lands which have high public values for recreation. These lands are within the North Fork of the American River canyon which has been designated a Wild and Scenic River since 1978. The acquisition would protect the area and its spectacular scenery as well as provide public access to a remote section of the river. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Gerald and Shirley Hodnefield of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945) on all parcels (A,B,C,D).

2. Parcels A,B,C,D have been found to have no known mineral value but the exchange proponent acknowledges that parcels A,B and C are encumbered by certain mining claims filed pursuant to the mining laws of the United States 30 U.S.C. 21 et seq. The exchange conveyance on parcels A,B, and C will be subject to the existing claims and the following rights:

(a) Right to continue to prospect for, mine and remove locatable minerals under applicable laws.

(b) Right to obtain mineral patent to both the surface and mineral estate within the mining claim if valid discovery was made prior to the date of FLPMA patent, or;

(c) Right to obtain patent to the mineral estate only if discovery is made subject to the patent.

The United States of America by this conveyance does not intend to preclude the grantee from challenging the validity of any mining claim located on the land conveyed.

The exchange proponent, by accepting this Land Patent, will hereby waive any liability against the United States in the event of subsequent title litigation.

Parcel A encumbered by CAMC 25885, CAMC 34520, CAMC 34521, CAMC 42250, CAMC 81077, CAMC 92979, CAMC 114650, CAMC 142568–70, CAMC 142578–80, CAMC 142583, CAMC 142591–95, CAMC 142607–11.

Parcel B encumbered by CAMC 129918–20, CAMC 142581–2, CAMC 142584–5,

Parcel C encumbered by CAMC 142525–7, CAMC 142532–36.

3. Parcel A will be conveyed when resurvey has been completed, and lot numbers have been assigned.

4. Parcel D will be conveyed after publication of an opening order vacating the land withdrawl in part for Power Project No. 284, pursuant to the determination of the Federal Energy Regulatory Commission Order dated November 29, 1985.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public lands from appropriation under the public land laws including the mining laws for a period of 2 years from the date of first publication. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Further information concerning the exchange, including the environmental assessment/land report is available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630.

For a period of 45 days from the date of first publication, interested parties may submit comments to District Manager, Bakersfield District, Bureau of Land Management, 800 Truxton Avenue, Room 311, Bakersfield, California 93301: (805) 861–4191. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

Deane K. Swickard,

Area Manager.

[FR Doc. 86–19149 Filed 8–22–86; 8:45 am]

BILLING CODE 4310–40–M

[NV–930–06–4212–11; N–43025]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

Correction

In FR Doc. 86–17847 beginning on page 28631 in the issue of Friday, August 8, 1986, make the following corrections: On page 28632, in the first column, under "T. 13 S., R. 71E.,", in the third line, "SE1/4N1/2SE1/4NW1/4," should read "N1/2SE1/4SE1/4NW1/4"; in the fourth line the comma should be removed between "E1/2" and "NE1/4".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–26 (Sub–No. 35X)]

Interstate Railroad Co. & Norfolk and Western Railway Co.; Abandonment and Discontinuance of Service Between Tacoma and Miller Yard, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, abandonment by Interstate Railroad Company and discontinuance of service by Norfolk and Western Railway Company over 10.7 miles of track between Tacoma and Miller Yard in Wise and Scott Counties, VA, subject to standard labor protective conditions.

DATES: This exemption is effective on September 25, 1986. Petitions to stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–26 (Sub–No. 35X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Nancy S. Fleischman, Norfolk Southern Corporation, 1050 Connecticut Ave., NW., Suite 740, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Decided: August 15, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19094 Filed 8–22–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Final Environmental Impact Statement on Cannabis Eradication on Non-Federal and Indian Lands in the Contiguous United States and Hawaii

AGENCY: Notice of Record of Decision.

SUMMARY: This is the Record of Decision of the Administrator of the Drug Enforcement Administration [DEA], pursuant to 40 CFR 1505.2, with respect to DEA-EIS-2, the Final Environmental Impact Statement on the Eradication of Cannabis on non-Federal and Indian Lands in the Contiguous United States and Hawaii. A Notice of the Availability of the Final EIS was published in the **Federal Register** on May 23, 1986 (51 FR 18955).

Notice

Based on the environmental analysis documented in the Final EIS, I have decided, pursuant to 40 CFR 1505.2, to adopt Alternative 5, Operational Flexibility, calling for the full range of manual and mechanical methods, and both directed and broadcast application of herbicides to eradicate illegally cultivated cannabis on non-Federal and Indian lands. With regard to disposal of eradicated cannabis, it is my decision to adopt disposal Alternative 4, allowing the full range of disposal methods, including haul and burn, haul and bury, shred and till, and posting of the area. This decision is made after careful consideration of all written and oral comments received during scoping meetings, written and oral comments on the May 1985 Draft EIS and January 1986 Supplemental EIS, and comments received on the May 1986 Final EIS. I have also considered the May 8, 1986, comments of the U.S. Department of

Health and Human Services advising DEA that a screening program for detection of residues of the herbicides glyphosate and 2,4–D on confiscated marijuana is not necessary to assess the public health impact of use of those herbicides for cannabis eradication. In addition, I have considered the August 8, 1986, comments of the U.S. Environmental Protection Agency advising DEA that the worst case analyses of 2,4–D cancer risk contained in the EIS are adequately conservative in light of EPA's preliminary assessment of the most recent 2,4–D oncogenicity study.

The other alternatives considered were:

Alternative 1: Manual Eradication (no action);

Alternative 2: Herbicidal Eradication;
2.1: Eradication Using Paraquat
2.2: Eradication Using Glyphosate
2.3: Eradication Using 2,4–D

Alternative 3: No Application of Herbicides.

Alternative 4: No Broadcast Application of Herbicides.

Other disposal alternatives considered were:

Alternative 1: Haul and Burn or Haul and Bury (after manual or mechanical eradication).

Alternative 2: Till Under.

Alternative 3: Leave Cannabis Onsite (after herbicidal eradication in noncrop areas only).

The nature of domestic cannabis cultivation places it primarily within the jurisdiction and enforcement capabilities of state and local authorities. Through the Domestic Cannabis Eradication/Suppression Program, DEA provides financial and other assistance to support state and local eradication efforts. The alternatives which I have selected will permit state and local authorities to request, and DEA to provide, funding for the full range of eradication and disposal methods. Providing DEA and state and local authorities with the ability to employ the mix of eradication and detection methods which best satisfies each jurisdiction's needs will allow DEA to more effectively meet its mandate under the 1961 Single Convention on Narcotics Drugs and the 1984 National Strategy for the Prevention of Drug Abuse and Drug Trafficking.

Although eradication Alternative 1 and disposal Alternative 1 are the environmentally preferable alternatives at the programmic level, eradication Alternative 5 and disposal Alternative 4 will allow DEA and participating state and local authorities operational flexibility in selecting the most appropriate method, given safety, health, and environmental considerations. The selected alternative will be carried out by DEA personnel, state or local law enforcement personnel, or by contractors employed by any of these agencies. Decisions on which method to use for any given site will ordinarily be made by state or local law enforcement personnel on a case-by-case basis in accordance with the environmental laws and regulations of the jurisdiction and the procedures described in the EIS. Selection of the eradication method would be based on a number of factors described in the EIS, including available manpower and equipment, number of plants and configuration of plots, proximity to water bodies and human habitation or developed recreational areas, topography, foliage density and plant height, soil type, presence of endangered or threatened species or cultural resources, site accessibility, weather conditions, time of year, and maturity of plants. The responsible official at the site-specific level, ordinarily a state or local law official, will ensure that all appropriate mitigation measures and operational procedures provided in Table 2–1 of the EIS are met.

Mitigation measures for all methods of eradication are provided in the EIS. They include following all applicable Federal, state or local law environmental laws and regulations in conducting eradication operations, following all EPA- and State-approved herbicide label requirements, as well as requirements regarding application procedures, drift control measures, and public notification procedures, as set forth in Table 2–1.

The need for monitoring herbicide residues in soil and ground and surface water will be determined on a case-by-case basis by apropriate State agencies. DEA will continue to monitor domestically seized marijuana for paraquat residues. On the recommendation of the United States Department of Health and Human Services, DEA will not monitor domestically seized marijuana for glyphosate or 2,4-D residues.

I have carefully considered the analyses in the EIS, including worst case situations involving workers accidentally exposed to herbicides, humans and wildlife directly sprayed ore ingesting contaminated foodstuffs, oncogenicity, and the possible risk to persons smoking marijuana contaminated with herbicides.

Since the probability of the worst case accidents occurring is very low, and because all DEA personnel, State and local officials, and their contractors, will be required to adhere to label instructions and to mitigation measures and operational procedures stipulated in Table 2–1 of the EIS, I believe the risk under eradication Alternative 5 and disposal Alternative 4 to be acceptable.

Eradication Alternative 5 allows the use of the herbicides glyphosate, 2,4-D and paraquat. The analysis indicates that the proper use of paraquat does not pose significant risk to public health or the environment. DEA, however, has entered into a consent judgment in Federal court in which it agreed that it would not use or authorize the use of paraquat to eradicate marijuana on "U.S. Federal lands" under the current paraquat label. Indian lands are arguably sufficient Federal in character to be considered "U.S. Federal lands." Accordingly, I have not authorized the use of paraquat on Indian lands at this time

Dated: August 19, 1986.

John C. Lawn

Administrator.

[FR Doc. 86–19132 Filed 8–22–86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86–14]

Jack E. Taylor, M.D., Gillette, WY; Hearing

Notice is hereby given that on December 27, 1985, the Drug Enforcement Administration, Department of Justice, issued to Jack E. Taylor, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AT6858407, as a practitioner under 21 CFR 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, September 16, 1986, in the Federal Mine Safety and Health Review Commission Hearing Room, Suite 400, 333 W. Colfax Avenue, Denver Colorado.

Dated: August 18, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86–19133 Filed 8–22–86; 8:45 am]

BILLING CODE 4410-09-M

BEST COPY AVAILABLE

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee to Evaluate Procedures Used to Review the Quality of the Science Activities at the National Astronomy Centers.

Date and Time: September 10, 11, 12, 1986, 9 am–5 pm.

Place: September 10, room 615–F; September 11–12, room 212.

Type of Meeting: Open.

Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C. 20550 (202/357–9488).

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Subcommittee: To evaluate the procedures used to review the quality of the scientific activities of the National Astronomy Centers.

Agenda:

Wednesday, September 10

9 am–5 pm—Description and discussion of procedures used to review the quality of the scientific activities at the National Astronomy Centers

Thursday, September 11

9 am–5 pm—Continuation of presentations and discussions from previous day

Friday, September 12

9 am–5 pm—Continuation of discussions from previous day

M. Rebecca Winkler,

Committee Management Officer.

August 20, 1986.

[FR Doc 86–19134 Filed 8–22–86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power & Light Co; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix H to 10 CFR Part 50 to Florida Power and Light Co (the licensee), for the Turkey Point Plant, Units No. 3 and 4, located in Dade County, Florida.

Environmental Assessment

Identification of Proposed Action

The exemption would permit the extension of the time for the submittal of the summary technical report of the analysis of the surveillance capsule "V" from Turkey Point, Unit 3, from March 16, 1986 to on or before September 1, 1986. The summary technical report is applicable to both Turkey Point Plant Units 3 and 4. This proposed action is responsive to the licensee's request for exemption dated July 11, 1986.

The Need for the Proposed Action

10 CFR Part 50, Appendix H, Section III.A., requires licensees to submit a summary technical report of the analysis and testing of the materials in surveillance capsule(s) within one year after the capsule(s) withdrawal from the reactor vessel unless an extension is granted by the Director, Office of Nuclear Reactor Regulation. By letter dated April 30, 1986, the licensee requested an extension pursuant to 10 CFR Part 50, Appendix H, Section III.A. The request was not timely and an extension could not be granted, therefore, the licensee requested an exemption from the one year requirement for submitting the summary technical report.

The licensee has indicated that the requested extension of approximately six months for providing the summary technical report is due to material circumstances beyond their control. The capsule "V" analysis and testing is contracted to Southwest Research, Inc. (SWRI) and the SWRI project manager in charge of the program died recently. The extension would allow SWRI to complete the report and provide sufficient time for the licensee to review the report and resolve any comments since they are responsible for the content and accuracy of the information documented in the report.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the submittal date for providing the capsule "V" summary technical report and does not affect previously analyzed accidents. Thus, post-accident radiological releases will not differ from those previously determined and the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. Likewise, the exemption does not affect facility nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measureable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to deny the request for exemption. Such an action would result in environmental impacts which are equal to or greater than the proposed action.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (operating licenses) for the Turkey Point Plant, Unit Nos. 3 and 4, dated July 1972.

Agencies and Persons Consulted

The NRC staff did not consult with any other agencies of persons.

Finding of no Sigificant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemption.

For futher details with respect to this action, see the application for exemption dated July 11, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW. Washington, DC, and at the Envinonmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 20th day of August, 1986.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Acting Director, PWR Project Directorate No. 2, Division of PWR Licensing–A.

[FR Doc. 86–19155 Filed 8–22–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. to Facility Operating License No. NPF–9, and Amendment No. to Facility Operating License No. NPF–17, issued to Duke Power Company (the licensee), which revised the Technical Specifications for operation of the McGuire Nuclear Station, Units 1 and 2 (the facility) located in Mecklenburg County, North Carolina. The

amendments are effective as of the dates of their issuance.

The amendments change the Technical Specifications to modify steam generator tube plugging requirements for tube defects located in the tubesheet region.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on July 16, 1986 (51 FR 25777). No request for a hearing or petition for leave to intervene was filed following this notices.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (51 FR 2973) related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1976 and its addendum dated January 1981.

For further details with respect to the action see (1) the application for amendment dated June 24, 1986, as revised August 5, 13, and 18, 1986, and as supplemented July 1 and 23, 1986, (2) Amendment No. 59 to License No. NPF–9 and Amendment No. 40 to License No. NPF–17, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Paul O'Connor,

Acting Director PWR Project Directorate #4 Division of PWR Licensing–A.

[FR Doc. 86–19156 Filed 8–22–86; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. SS86–1]

Preferred Rate Study

Issued August 19, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Bonnie Guiton, Vice-Chairman; Henry R. Folsom; John W. Crutcher; Patti Birge Tyson.

In the matter of Report to the Congress: Preferred Rate Study, Issued June 18, 1986, and Notice of Supplemental Tables for Library Rate Mail.

In the Commission's Preferred Rate Study, we cautioned that the figures presented on library rate mail were from raw data which had not yet been weighted to reflect more precisely the composition of the library rate subclass. As explained in Appendix F of the study, the Postal Service collected the library rate data in conjunction with its regular Revenue, Pieces and Weight (RPW) data collection system. At the time the study was released, the Postal Service was unable to provide the weighting factors necessary to convert the raw data into figures representative of the library rate universe. In the study we presented tables which gave each library rate piece equal weight.

With the information recently supplied by the Postal Service, we are able to "weight" the data to account for the different sampling probabilities for the post office delivery units where the data were collected. The weighting—a customary procedure in such data collection efforts—resulted in changes in most of the figures presented in Appendix F. As previously explained in Appendix F, information was collected on each library rate piece sampled at the 611 post offices in the Postal Service's normal RPW data collection during April 12 through May 9, 1986.

The attached Supplemental Tables are titled 1A, 2A and 3A, and they replace tables 1, 2, and 3 in Appendix F. The new tables put the data into the same categories for sender and recipient as used previously in the study, and follow the format used for the tables published in Appendix F of the study. As a breakdown of the library rate subclass by sender and recipient categories, Table 1A shows percentages of pieces, Table 2A shows percentages of pounds, and Table 3A shows percentages of subsidy.

The Commission believes that its recommendation concerning library rate mail should not be affected by the information developed by properly weighting the raw data. The "relatedness" standard remains applicable. We continue to recommend the adoption of legislation precluding any commercial entity from using library rate mail. Using the weighted data, the Commission estimates that the recommended change would reduce the appropriation for library rate mail by $8.9 million.

By the Commission.

Charles L. Clapp,

Secretary.

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 1A.—PERCENT OF LIBRARY RATE PIECES BY SENDER AND RECIPIENT

Sender category	Recipient Category							Total
	Publisher/ distributor	Educational organizations	Libraries	Religious organizations	Other organizations	Individuals	Unknown	
Publisher/Distributor	0.1	15.4	1.6	2.3	1.2	1.2	1.1	22.9
Educational Organizations	12.9	7.0	8.5	(*)	1.6	1.1	0.8	32.1
Libraries	0.1	1.0	14.6		1.9	2.6	0.7	20.8
Religious Organizations	(*)	0.4		0.7	0.4	7.5	3.1	12.0
Other Organizations	1.2	1.2	1.2	0.2	2.8	1.8	(*)	7.5
Individuals	(*)	0.1	0.1	(*)	0.1	0.2		0.5
Unknown	3.2	0.2	0.1	(*)	0.5	(*)	0.3	4.2
	17.5	25.3	25.2	3.2	8.4	14.3	6.1	100.0

*Less than 0.1 percent.
Does not add due to rounding.

August 1986

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 2A.—PERCENT OF LIBRARY RATE POUNDS BY SENDER AND RECIPIENT

Sender category	Recipient category							Total
	Publisher/ distributor	Educational organizations	Libraries	Religious organizations	Other organizations	Individuals	Unknown	
Publisher/Distributor	0.2	36.1	5.5	6.0	1.7	4.7	0.4	54.6
Educational Organizations	13.4	3.8	3.5	0.1	1.4	0.4	0.9	23.5
Libraries	0.1	0.6	2.9		1.3	1.0	0.4	6.3
Religious Organizations	(*)	0.1		0.5	0.2	2.6	0.2	3.7
Other Organizations	1.4	3.1	0.2	0.1	2.1	0.3	(*)	7.4
Individuals	(*)	0.1	0.3	(*)	0.1	0.2		0.7
Unknown	3.0	0.1	0.1	(*)	0.2	(*)	0.5	3.9
	18.2	44.0	12.5	6.6	7.0	9.3	2.4	100.0

Less than 0.1 percent.
Does not all due to rounding.

August 1986

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 3A.—PERCENT OF LIBRARY RATE SUBSIDY BY SENDER AND RECIPIENT

Sender category	Recipient category							Total
	Publisher/ distributor	Educational organizations	Libraries	Religious organizations	Other organizations	Individuals	Unknown	
Publisher/Distributor	0.2	26.7	3.7	4.5	1.6	2.8	0.7	40.2
Educational Organizations	13.8	5.2	5.5	(*)	1.5	0.7	0.9	27.6
Libraries	0.1	0.8	8.0		1.4	1.7	1.5	12.5
Religious Organizations	(*)	0.2		0.6	0.2	5.0	1.6	7.7
Other Organizations	1.4	2.2	0.2	0.1	2.4	1.0	(*)	7.3
Individuals	(*)	0.1	0.2	(*)	0.1	0.2		0.8
Unknown	3.2	0.1	0.1	(*)	0.2	(*)	0.5	4.1
	18.7	35.3	17.7	5.3	7.5	11.5	4.1	100.0

* Less than 0.1 percent.
Does not add due to rounding.

[FR Doc. 86-19092 Filed 8-22-86; 8:45 am]
BILLING CODE 7715-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Subcommittee on Diagnostic and Therapeutic Practices; Meetings

Notice is hereby given of meetings of the Prospective Payment Assessment Commission on September 9–10, 1986, at the Shoreham Hotel, 2500 Calvert Street NW., Washington, DC.

The Subcommittee on Diagnostic and Therapeutic Practices will meet in the Diplomat room at 9 o'clock a.m., September 9, 1986. The Subcommittee on Hospital Productivity and Cost-Effectiveness will convene at 10 o'clock a.m., September 9, 1986, in the Executive room.

The full commission will convene at 10 o'clock a.m., on Septembr 10, 1986 in the Hampton room.

All meetings will be open to the public.

Donald A. Young,
Executive Director.
[FR Doc. 86-18972 Filed 8-22-86; 8:45 am]
BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-23539; File No. SR-NSCC-86-08]

Self-Regulatory Organizations, Order Approving Proposed Rule Change by the National Securities Clearing Corp.

On June 27, 1986 the National Securities Clearing Corporation ("NSCC") submitted a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposed rule change establishes the authority and the procedures for the Stock Loan Rebate Payment and Collection Service ("Stock Loan Rebates Service"). Notice of the proposed rule change appeared in the **Federal Register** on July 10, 1986.[1] The Commission received one comment letter enthusiastically supporting the proposal.

The proposal amends NSCC's rules by adding a new Rule 53, Stock Loan Rebate Payment and Collection Service. The Stock Loan Rebates Service will allow members to submit the name of the member due a rebate and the amount of the rebate. NSCC then will produce a report indicating the amount debited or credited a member and, on settlement date, make the appropriate adjustments to the member's settlement account.

Under the proposal, members that have rebate payment obligations to other members under stock loan agreements may process those payments through NSCC. Each member with a rebate payment obligation may instruct NSCC to process payments by submitting to NSCC a "Stock Loan Rebate Debit List" of charges to be debited to its account and the members whose account should be credited for rebates. NSCC will accept submission of

[1] Securities Exchange Act Release No. 23396 (July 2, 1986), 51 FR 25134 (July 10, 1986).

the listings on the second Tuesday, Wednesday and Thursday of each month. Settlement will occur the following Monday (the third Monday of the month). On the business day prior to the rebate settlement date (the second Friday of the month), NSCC will issue to members a Rebate Settlement Statement listing credits and debits, the contra firm, and the net credit or debit. On rebate settlement day, NSCC will debit or credit the appropriate member's settlement accounts.

NSCC does not guarantee payments processed through this Service. Thus, NSCC reserves the right to withhold credit to a member's account for funds not received or to reverse the credit if NSCC is unable to collect the funds from the contra party.

NSCC believes that the proposal is consistent with Section 17A of the Act in that it will faciliate the prompt and accurate payment and collection of stock loan rebates.

The Commission agrees with NSCC that the proposal is consistent with Section 17A of the Act. Currently, the billing, payment and reconcilement of stock loan rebates is a manually intensive, decentralized process. Parties to a stock loan agreement must develop, use and monitor their own arrangements for the payment and collection of rebates. Generally, the payee submits a rebate bill to the payor for verification and payment. To alleviate these manually intensive and burdensome processing arrangements, the Securities Industry Association and a number of NSCC members urged NSCC to develop a centralized and automated mechanism for the payment and collection of stock loan rebates. The Stock Loan Rebates Service is a result of that effort.

The proposal will enable NSCC to provide a centralized and automated mechanism for the payment and collection of stock loan rebates, thereby facilitating the prompt and accurate payment and collection of stock loan rebates. The Commission understands that broker-dealers who have rebate payment obligations may continue to require payees to submit rebate bills before issuing payment instructions to NSCC. Nevertheless, implementation of the Stock Loan Rebates Service represents an important step that will further centralize and automate broker-dealer stock loan activity. Accordingly, the Commission finds that the proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–86–08) be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19128 Filed 8–22–86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22–15300]

Application and Opportunity for Hearing; The Dow Chemical Co.

August 19, 1986.

Notice Is Hereby Given that The Dow Chemical Company (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Citibank, N.A. ("Citibank") under indentures of the Company dated as of (i) September 15, 1963 (the "September 1963 Indenture"), (ii) June 1, 1968, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "June 1968 Indenture"), (iii) May 1, 1970 (the "May 1970 Indenture"), (iv) November 1, 1970, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "November 1970 Indenture"), (v) July 1, 1973 (the "July 1973 Indenture"), (vi) February 1, 1975, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "February 1975 Indenture"), and (vii) February 15, 1978 (the "February 1978 Indenture"), which Indentures were heretofore qualified under the Act, and the trusteeships by Citibank under the Indentures dated as of (i) June 15, 1971, between Dow Corning Overseas Capital Company N.V. ("Dow Overseas"), and the Company and Corning Glass Works ("Corning Glass"), as Guarantors, and Citibank, as Trustee (the "June 1971 Indenture") which Indenture has not been qualified under the Act, and (ii) December 15, 1974, as amended by First Supplemental Indenture dated as of May 12, 1981, between Merrell Dow Pharmaceuticals Inc., formerly Richardson-Merrell Inc. ("Merrell Dow"), the Company, as Guarantor, and Morgan Guaranty Trust Company of New York ("Morgan"), as Trustee (the "December 1974 Indenture"), which Indenture was heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as successor trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture or the February 1975 Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

In support of its application the Company alleges that:

(1) The Company has outstanding on the date hereof approximately (i) $8,630,000 aggregate principal amount of its 4.35% Debentures due September 15, 1988, issued under the September 1963 Indenture (the "4.35% Debentures"), (ii) $62,084,000 aggregate principal amount of its 8.875% Debentures due May 1, 2000, issued under the May 1970 Indenture (the "8.875% Debentures"), (iii) $44,560,000 aggregate principal amount of its 7.625% Debentures due July 1, 2003, issued under the July 1973 Indenture (the "7.625% Debentures"), and (iv) $275,100,000 aggregate principal amount of its 8.625% Debentures due February 15, 2008, issued under the February 1978 Indenture (the "8.625% Debentures"). Citibank is currently acting as trustee under each of such Indentures. The September 1963 Indenture was filed as an exhibit to Registration Statement No. 2–21682 under the Securities Act of 1933, as amended (the "Securities Act"), and has been qualified under the Act. The May 1970 Indenture was filed as an exhibit to Registration Statement No. 2–38607 under the Securities Act and has been qualified under the Act. The July 1973 Indenture was filed as an exhibit to Registration Statement No. 2–48318 under the Securities Act and has been qualified under the Act. The February 1978 Indenture was filed as an exhibit to Registration Statement No. 2–60717 under the Securities Act and has been qualified under the Act.

(2) The Company has outstanding on the date hereof approximately (i) $33,903,000 aggregate principal amount of its 6.70% Debentures due June 1, 1998, issued under the June 1968 Indentures (the "6.70% Debentures"), (ii) $66,177,000 aggregate principal amount of its 6.90% Debentures due November 1, 2000, issued under the November 1970 Indenture (the "6.90% Debentures") and

(iii) $162,000,000 aggregate principal amount of its 8.50% Debentures due February 1, 2005, issued under the February 1975 Indenture (the "8.50% Debentures"). Morgan is currently the trustee under each of such Indentures. The June 1968 Indenture was filed as an exhibit to Registration Statement No. 2-29045 under the Securities Act and has been qualified under the Act. The November 1970 Indenture was filed as an exhibit to Registration Statement No. 2-38607 under the Securities Act and has been qualified under the Act. The February 1975 Indenture was filed as an exhibit to Registration Statement No. 2-52699 under the Securities Act and has been qualified under the Act.

(3) Merrell Dow has outstanding on the date hereof approximately $48,769,000 aggregate principal amount of its 8.85% Debentures due December 15, 1999, issued under the December 1974 Indenture (the "8.85% Debentures"). The 8.85% Debentures are guaranteed by the Company. Morgan is currently the trustee under the December 1974 Indenture which was filed as an exhibit to Registration Statement No. 2-52382 under the Securities Act and has been qualified under the Act.

(4) Morgan, on January 22, 1986, gave written notice to the Company of its intention to resign as trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture and the February 1975 Indenture (the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture and the February 1975 Indenture being collectively referred to as the "Morgan Indentures"). The Company has requested Citibank to accept appointment as successor trustee under the Morgan Indentures.

(5) The Company's obligations with respect to the 4.35% Debentures, the 6.70% Debentures, the 8.875% Debentures, the 8.90% Debentures, the 7.625% Debentures, the 8.50% Debentures and the 8.625% Debentures and the Company's obligations as a guarantor with respect to the Dow Overseas Debentures and the 8.85% Debentures are in each case wholly unsecured and rank *pari passu* with each other.

(6) There is no default under the September 1963 Indenture, the June 1968 Indenture, the May 1970 Indenture, the November 1970 Indenture, the June 1971 Indenture, the July 1973 Indenture, the December 1974 Indenture, the February 1975 Indenture, or the February 1978 Indenture.

(7) Such differences as exist among the Indentures referred to herein and the respective obligations of the Company as principal obligor under the September 1963 Indenture, the June 1968 Indenture, the May 1970 Indenture, the November 1970 Indenture, the July 1973 Indenture, the February 1975 Indenture, the February 1978 Indenture, and as guarantor under the June 1971 Indenture and the December 1974 Indenture, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as successor trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture or the February 1975 Indenture.

(8) The Company has waived (a) notice of hearing, (b) hearing on the issues raised by its application and (c) all rights to specify procedures under the Commission's Rules of practice with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22-15300, which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than September 8, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19124 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15261; File No. 812-6291]

Pratt Street Ventures III Limited Partnership; Notice of Filing of Application for Exemption

August 18, 1986.

Notice Is Hereby Given that Pratt Street Ventures III Limited Partnership ("Applicant"), 100 East Pratt Street, Baltimore, Maryland 21202, registered under the Investment Company Act of 1940 ("Act") as a closed-end, management investment company, filed an application on January 28, 1986, and amendments thereto on July 3, 1986, and August 14, 1986, pursuant to section 6(c) of the Act requesting an order exempting Applicant from all provisions of the Act, and pursuant to section 8(f) of the Act requesting an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions thereof.

Applicant was organized on May 1, 1985, as a limited partnership under the laws of the State of Maryland. Applicant's general partner is T. Rowe Price Associates, Inc. ("Price Associates") and its limited partners are Price Associates and George J. Collins, a senior officer of Price Associates. Applicant's capitalization consists predominantly of the assets transferred to Applicant on May 10, 1985 from Pratt Street Ventures II Limited Partnership, another Maryland limited partnership organized by Price Associates to serve as a medium through which Price Associates could hold limited partnership interests in various venture capital investments. Those assets consist principally of a limited partnership interest in New Enterprise Associates III, Limited Partnership ("New Enterprise"), a venture capital partnership investing in domestic securities, and cash. It is further stated that Price Associates is a registered investment adviser under the Investment Advisers Act of 1940, and that together with its affiliate, Rowe Price-Fleming International, Inc., Price Associates manages the investments of seventeen publicly-owned mutual funds which use the "T. Rowe Price" name, in addition to various pension funds and other institutional and individual clients. As of December 31, 1985, the common stock of Price Associates was held as follows: 123 current employees of Price Associates (including one outside director) and their family members held approximately 79.5% of the outstanding stock, with the remaining 20.5% of the stock held by 42 former employees of Price Associates and their family members.

Applicant represents that the board of directors of Price Associates has determined that income tax advantages would accrue to shareholders of Price

Associates from the distribution to them of limited partnership interests in Applicant. Such a distribution—essentially a fragmentation of Price Associates' present 99% interest in Applicant—would afford stockholders of Price Associates a more tax-efficient medium through which to receive the benefits to be produced by the venture capital investments currently held by New Enterprise, and through New Enterprise, Price Associates.

To effectuate the proposed distribution, Price Associates has declared a dividend on its common stock payable in limited partnership interests in Applicant, to stockholders of Price Associates. The interests would be transmitted to Price Associates stockholders in proportion to their ownership of Price Associates common stock as of the record date. All limited partnership interests so distributed would be owned by employees, former employees, or immediate family members of employees, or former employees of Price Associates, and in one instance, a charitable trust established by a major stockholder of Price Associates under which the income beneficiary is a private university, and the remaindermen of which are children of the grantor, who are also current stockholders of Price Associates.

After the proposed dividend has been paid, Price Associates will have retained a 1% interest in the profits, losses and capital of Applicant as general partner. It is anticipated that this "spin-off" distribution will have beneficial tax consequences to the current stockholders of Price Associates, by, for example, eliminating double taxation of distributions through the corporate structure which presently applies. It is further stated that although the spin-off of initial limited partnership interests in Applicant would be a taxable transaction to Price Associates shareholders (determined by the appraised fair market value of those interests), subsequent distributions of portfolio securities from New Enterprise would not be taxable to these shareholders, as limited partners of Applicant, at the time of distribution; and, if these interests were thereafter sold, they would be taxable, under present federal income tax law, at capital gains rates applied to the difference between the proceeds of sale and the tax basis of the securities (i.e., the basis of the securities in the hands of New Enterprise). Applicant believes that these consequences would be most favorable if a distribution were made at the present time, because the risk of tax under the present corporate structure would be eliminated.

Applicant further represents that the partnership agreement and limited partnership certificate of Applicant prohibit transfers of interests in Applicant other than to: (i) A limited partner's spouse, parent, or child, or a trust established for the benefit of such limited partner, spouse, parent or child, provided that either the limited partner, or the proposed transferee was a stockholder of record of Price Associates on December 31, 1985; (ii) another limited partner who was a stockholder of record of Price Associates, as well as a current or former employee of Price Associates, on December 31, 1985; (iii) the Applicant; or (iv) Price Associates. It is further represented that under the partnership agreement, absent an effective registration statement under the Securities Act of 1933 covering the disposition of limited partnership interests, Applicant may require as a condition to the transfer of a limited partnership interest an opinion of counsel reasonably acceptable to it to the effect that, among other things, the transfer of the interest: (i) Would be exempt from the registration and the prospectus-delivery requirements of any applicable state securities laws; (ii) would not require that the Applicant register the interests under the Securities Exchange Act of 1934; and (iii) would not require that Applicant register as an investment company under the Act. Additionally, Applicant represents that the proposed spin-off distribution of its securities to the stockholders of Price Associates would not constitute a public offering under the Securities Act of 1933, and notes that its notification of registration on Form N-8A, filed on January 27, 1986, disclaimed any intent on Applicant's part of making a public offering of its securities.

Applicant further states that it is a closely-held, private partnership to which the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that it is not the type of company intended to be regulated under the Act, and that its current and prospective limited partners are not the types of persons who need the protections afforded by the Act. Applicant further argues that it is appropriate for the Commission to grant its requested exemption under section 6(c) of the Act, and not require Applicant to request an order as an employees' securities company under section 6(b) of the Act. Applicant states that there are important differences in its operations from those of a traditional employees' securities company.

In order to assure that its status as a closely-held, private entity will not change prospectively, Applicant agrees that the exemption requested herein may be made conditioned upon its adherence to the following undertakings:

(1) Applicant will not amend its limited partnership agreement, or its certificate, to authorize any additional units of limited partnership interests without first obtaining with respect to any such amendment an amended order of exemption from the Commission, or first registering with the Commission as an investment company;

(2) That, unless Applicant shall have first obtained an amended order of exemption from the Commission in respect of its ceasing to do so, Applicant will continue to:

(a) Hold special meetings of its limited partners for the purpose of (i) electing members of an advisory committee to advise the general partner (Price Associates) with respect to the business of Applicant, if at any time less than a majority of the members of such committee have been elected as such by the limited partners at a duly-called meeting, or by signed written consent; and (ii) transacting such other business as may properly come before such meetings and be permitted to be acted upon by limited partners under the Maryland Revised Uniform Limited Partnership Act;

(b) Submit for ratification by the limited partners on an annual basis (at either a meeting of members, or by written consent signed by the holders of a majority of the limited partnership interests) the appointment of the independent certified public accountants engaged by Applicant;

(c) Submit for approval, or ratification, by the limited partners any transfer of the interest in any venture capital partnership; and

(d) Furnish annually to the limited partners of Applicant audited financial statements of Applicant and a written report of Applicant's operations by the general partner of Applicant;

(3) That, unless Applicant shall have first obtained an amended order of exemption from the Commission in respect of its ceasing to do so, or first registering with the Commission as an investment company, Applicant shall not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning Applicant for the purpose of knowingly

enabling such broker or dealer to initiate any regular trading market in Applicant's limited partnership interests;

(4) That, unless Applicant shall have first obtained an amended order of exemption from the Commission, or first registering with the Commission as an investment company, Applicant will not issue any additional limited partnership interests to persons other than stockholders of Price Associates who become limited partners of Applicant on the record date for the distribution, or members of the immediate families of such persons;

(5) That, unless Applicant shall have first given notice thereof to the Commission, Applicant will not permit the transfer of any additional limited partnership interests to Price Associates, if, after such transfer, Price Associates would be the owner of 10% or more of the partnership interests in Applicant, and the aggregate value of the partnership interests of Price Associates (including the interests proposed to be purchased) in Applicant (together with the securities of all issuers which are or would, but for the exception set forth in section 3(c)(1)(A) of the Act, be excluded from the definition of investment company solely by section 3(c)(1) of the Act) exceeds 10% of the value of Price Associates' total assets.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than September 12, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19125 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15263 (File No. 812-6409)]

Pro-Med Capital, Inc.; Notice of Application To Amend Prior Exemptive Order

August 19, 1986.

Notice Is Hereby Given that Pro-Med Capital, Inc. ("Applicant"), 1380 NE. Miami Gardens Drive, Suite 225, North Miami Beach, Florida 33181, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on June 16, 1986, requesting an order to extend the exemptive relief granted by the Commission in Investment Company Act Release No. 13597, dated October 26, 1983 ("1983 Order"), to Applicant's newly formed wholly-controlled subsidiary and to certain future wholly-owned or wholly-controlled subsidiaries of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

According to the application, Applicant has two wholly-owned subsidiaries that are licensed by the Small Business Administration ("SBA") and which are registered under the Act as closed-end, non-diversified investment companies. The first of these, Western Financial Capital Corporation, a Florida corporation ("Western Financial"), is a licensed small business investment company, and the second, First Western SBLC, Inc., also a Florida corporation ("SBLC"), is a licensed small business loan company. Western Financial obtains direct loans, or guarantees of borrowings, from the SBA for reinvestment. SBLC's activities consist of making loans solely to qualifying small business in conjunction with SBA guarantee programs pursuant to which SBA provides guarantees of up to 90 percent of the principal amount of such loans.

Applicant states that it incorporated another Florida subsidiary, Pro-Med Investment Corporation ("PMIC") on May 9, 1986, and that it owns all of PMIC's only class of voting common stock. Applicant further represents that the SBA will own non-voting preferred stock of PMIC and, thus, PMIC will be wholly-controlled, and not wholly-owned, by Applicant. Applicant represents that PMIC has applied to the SBA for a license, receipt of which will require PMIC to dedicate itself to assisting socially or economically disadvantaged small business entrepreneurs. Applicant further represents that PMIC's operations will be nearly identical to those of Western Financial with the exception that PMIC's funding from the SBA will be obtained not only from loans but also from the sale of non-voting preferred stock to the SBA.

According to the application, the 1983 Order under section 6(c) of the Act exempts Applicant, Western Capital, SBLC and certain affiliated small business concerns from the provisions of sections 8(b), 12(d), 17(a), 17(d), 18(a), 18(c), 30(a), and 30(d) of the Act and Rules 8b-16, 17d-1, 30a-1 and 30d-1 thereunder to permit certain continuing transactions. Applicant is now seeking to extend the exemptions granted in the 1983 Order to PMIC and to future wholly-owned or wholly-controlled subsidiary investment companies of Applicant that are SBA-licensed.

Specifically, Applicant requests an exemption from section 8(b) of the Act and Rule 8b-16 thereunder, to the extent necessary, to permit Applicant to file on behalf of itself, Western Financial, SBLC and PMIC, amendments to its registration statement filed under the Act containing information with respect to, and financial statements of, Applicant and its subsidiaries, on a consolidated basis. Applicant also requests an exemption from section 30(a) of the Act and Rules 30a-1 and 30b1-1 thereunder, to the extent necessary, to permit Applicant to file on behalf of itself, Western Financial, SBLC and PMIC, annual reports on Form N-SAR (formerly Form N-1R), containing information with respect to Applicant and its subsidiaries on a consolidated basis. (Applicant notes that Rule 30b1-1 did not exist at the time of the 1983 Order and that, while Rule 30b1-2 would permit Applicant to file semi-annual reports on Form N-SAR on behalf of its wholly-owned subsidiaries Western Financial and SBLC, Rule 30-b1-2 is not available to PMIC because it will not be wholly-owned by Applicant). Applicant also requests an exemption from section 30(d) of the Act and Rule 30d-1 thereunder, to the extent necessary, to permit Applicant to transmit to its shareholders, semi-annually, reports containing financial information and statements on a consolidated basis for itself, Western Financial, SBLC and PMIC.

In support of the relief requested, it is contended that separate filings for Applicant, Western Financial, SBLC and PMIC would be burdensome and that multiple filings would not provide a convenient source of information to investors. Applicant also asserts that transmitting semi-annual reports containing consolidated financial statements will not lessen investors' understanding of the financial position

or operation of Applicant and its subsidiaries. It is further asserted that because Applicant and its subsidiaries operate essentially as a single economic unit, consolidated financial statements present the most meaningful financial information for financial reporting purposes.

Applicant agrees that separate financial statements will not be required in any amendment filed with the Commission pursuant to Rule 8b–16 under the Act or in any semi-annual report to shareholders, only as long as the amount of Applicant's total assets on a consolidated basis invested in assets other than securities of its three investment company subsidiaries do not exceed 10 percent. In the event that 10 percent or more of Applicant's total assets on a consolidated basis should be invested in securities other than those of its three investment companies, applicant undertakes to provide additional financial statements namely, combined financial statements of Applicant's three investment company subsidiaries, and separate financial statements of any other subsidiary in which Applicant's investment exceeds 10 percent of its total assets on a consolidated basis. Applicant represents that these terms and conditions are identical to those in the 1983 Order, except with respect to Rule 30b1–1 under the Act which did not exist at that time.

Applicant also requests an exemption for sections 12(d)(1)(A) and 12(d)(1)(C) of the Act, to the extent necessary, to permit Applicant to make further acquisitions of PMIC's common stock where such purchases cause Applicant's investment therein to exceed five percent of the value of Applicant's total assets at the time of such purchase. Further relief is sought to permit Applicant, banks, insurance companies and other financial institutions to acquire, notwithstanding the restriction of section 12(e) of the Act, notes or other evidences of indebtedness of PMIC. Applicant represents this exemptive relief is identical to the exemptive relief granted in the 1983 Order.

Applicant further states that from time to time it may wish to transfer property or securities to PMIC (or vice versa). According to the application, these transactions would occur in the regular course of business, in the course of increasing Applicant's capital investment in PMIC, or as a means of enabling PMIC to make distributions on its outstanding stock. Because such transactions may constitute affiliated transactions within the prohibitions of section 17(a) of the Act, Applicant requests blanket exemptive relief from section 17(a) of the Act that will extend to transactions in which a small business concern which has become an affiliated person of Applicant, Western Financial, SBLC or PMIC, sells securities to, or borrows funds from, Applicant, Western Financial, SBLC or PMIC.

Applicant also requests relief to permit transfers of property and securities and the borrowing of funds and other property effectuated solely between Applicant and PMIC under circumstances prohibited by section 17(d) of the Act and Rule 17d–1 thereunder. Applicant states that in the course of business it may become necessary or desirable for it, Western Financial, SBLC and PMIC, to participate together with third persons having no other affiliation with Applicant, Western Financial, SBLC and PMIC or their affiliates in joint transactions. The blanket exemption requested would extend to transactions in which a small business concern which has become an affiliated person of Applicant, Western Financial, SBLC or PMIC, sells its securities to, or borrows funds from Applicant, Western Financial, SBLC or PMIC. Applicant agrees that the following conditions (which are identical to those in the 1983 Order) may be imposed with respect to the exemptions it seeks from section 17 of the Act:

1. Any small business concern which may become an affiliated person of Applicant, Western Financial, SBLC or PMIC, may borrow from or sell securities issued by it to, Applicant, Western Financial, SBLC or PMIC provided, that such transaction meets the requirements for an exemption pursuant to Rule 17a–6 under the Act, except to the extent it fails to meet the requirements of such rule solely because Applicant, Western Financial, SBLC or PMIC is also a party to the transaction or has, within six months prior to the transaction had, or pursuant to an arrangement will require, a direct or indirect financial interest in the small business concern.

2. Applicant, Western Financial, SBLC or PMIC, may participate in any joint enterprise or joint arrangement involving other participants provided that such transaction fails to meet the requirements of Rule 17a–6 solely because Applicant, Western Financial, SBLC or PMIC is, was, or proposes to be a participant in the joint enterprise or joint arrangement.

Applicant also requests relief from section 18 of the Act to permit Applicant, Western Financial, SBLC or PMIC to borrow from banks, insurance companies and other financial institutions, on a secured or unsecured basis, and to permit Applicant to guarantee the borrowings of its subsidiaries. Applicant represents that all borrowings by itself, Western Financial, SBLC or PMIC, except borrowings by Western Financial, SBLC or PMIC from Applicant, will be subject to the asset coverage requirements of section 18(a) of the Act as applied on an individual basis to each company and on a consolidated basis to Applicant and its subsidiaries; however, an amount of assets equal to Western Financial's and PMIC's borrowings shall be excluded for this purpose as described below. In addition, Applicant requests that any guarantee by Applicant of borrowings by its subsidiaries shall not be deemed a senior security, and not be subjected to the asset coverage requirements of section 18(a) of the Act, provided that 90 percent of Applicant's assets are represented by investments in Western Financial, SBLC, PMIC, or in securities similar to those in which such companies invest. Applicant represents that, although any borrowings by PMIC or sales of PMIC's preferred stock to the SBA are not subject to the asset coverage requirements of section 18(a) by reason of the exception from the provisions of section 18(a) afforded to SBA by section 18(k) of the Act, in applying the asset coverage requirements of section 18(a) to Applicant on a consolidated basis, an amount of assets equal to Western Financial's and PMIC's borrowings shall be excluded. Applicant also requests an exemption from the provisions of section 18(c) of the Act to permit Applicant and its investment company subsidiaries to have outstanding more than one class of senior security representing indebtedness.

In support of the relief requested, it is contended that requiring Applicant to borrow and relend proceeds to its subsidiaries would result in considerable duplication in effort. It is further asserted that permitting direct borrowings by PMIC will be consistent with the purposes and protections of the Act, because Applicant and PMIC individually, and Applicant and its subsidiaries on a consolidated basis, as adjusted for the borrowings of Western Financial and PMIC, will continue to be required to comply with the asset coverage requirements of section 18(a) of the Act, subject to the above noted exclusions. In addition, Applicant states that by excluding an amount of assets equal to the borrowings of Western Financial and PMIC for purposes of

calculating asset coverage provided by section 18(a), investors will be protected from the adverse effects of leveraging. Moreover, Applicant argues that exclusion from the asset coverage protections of section 18(a) of borrowings from Applicant by PMIC, and the Applicant's guarantee of PMIC's borrowings do not impair the protections of section 18 since neither of these senior securities (as defined in the Act) increases the aggregate indebtedness incurred by Applicant and PMIC. Finally, Applicant asserts that these justifications were found adequate by the Commission in issuing the 1983 Order granting an indentical exemption from section 18 of the Act of Applicant, and its subsidiaries, Western Financial and SBLC.

With respect to the requested order Applicant agrees to the following conditions in addition to the conditions imposed in the 1983 Order:

1. At all times Applicant will own and hold, beneficially and of record, all of the outstanding voting capital stock of PMIC;

2. Applicant will not cause or permit PMIC to adopt or pursue any of its fundamental investment policies which are in conflict with those of Applicant (which are set forth in the Form N-2 filed with the Commission by Applicant, and which reflect the investment activities described in the application), or take any action referred to in section 13(a) of the Act unless such action shall have been authorized by Applicant after approval of such action by a vote of a majority (as defined in the Act) of the outstanding voting securities of Applicant;

3. Applicant will not cause or permit PMIC to enter into, renew or perform any investment advisory or underwriting contract or agreement, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15, and where any vote of the shareholders of PMIC would be required by said section 15, unless the shareholders of Applicant shall also have approved the same by vote of a majority (as defined in the Act) of the outstanding voting securities of Applicant, or where any action of the directors of PMIC would be required by section 15, unless the board of directors of Applicant, including a majority of those directors who are not parties to any such contract or agreement or interested persons of any such party, also shall have approved the same;

4. Applicant will not itself, and Applicant will not cause or permit PMIC, to issue any security or sell any senior security of which Applicant or PMIC, is an issuer except as hereinafter set forth:

(a) Applicant and PMIC may issue and sell to banks, insurance companies and other financial institutions, their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) Such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidences of indebtedness are not convertible into, exchangeable for or accompanied by any options to acquire any equity security, and (iii) Applicant and its subsidiaries on a consolidated basis, and Applicant and PMIC individually, shall have the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any such notes or evidences of indebtedness by any of them, except that, in determining whether Applicant and its subsidiaries on a consolidated basis have the asset coverage required by section 18(a) of the Act, any borrowings by PMIC shall not be considered senior securities and, for purposes of the definition of "asset coverage" in section 18(h) of the Act, shall be treated as indebtedness not represented by senior securities;

(b) In addition, (i) PMIC may borrow from the SBA on such basis as the SBA may from time to time lend to small business investment companies or sell non-voting preferred stock to the SBA, (ii) PMIC may borrow from Applicant, and (iii) Applicant may guarantee any borrowings by PMIC provided that 90 percent of the total assets of Applicant on a consolidated basis are represented by Applicant's investment in Western Financial, SBLC, PMIC or securities similar to those in which such subsidiaries invest. None of the borrowings or other arrangements permitted in this subparagraph (b) shall be deemed senior securities for the purposes of the requested order, the 1983 Order or section 18 of the Act;

5. Applicant will cause to be elected as directors of PMIC only persons who are directors of Applicant elected in compliance with section 16(a) of the Act and at all times officers of Applicant will also be officers of PMIC;

6. Any independent public accountant who signs a financial statement filed by Applicant or PMIC with the Commission will be selected and approved in compliance with section 32 of the Act by a majority (as defined in the Act) of Applicant's outstanding voting securities.

Applicant asserts that it would be an anomaly creating an undue hardship if one of its subsidiaries were treated differently under the Act than one of its other subsidiaries. Applicant believes that such an inconsistency would confuse its shareholders and would create unreasonable effort and expense for Applicant which, in turn, would be unfavorable to Applicant's shareholders without accruing to them any benefit. Thus, Applicant also requests that the exemptions sought in connection with the formation and operations of PMIC be extended prospectively to include SBA-licensed subsidiaries of Applicant to be formed in the future. In this respect, Applicant submits that it would require unreasonable effort and expense for Applicant to prepare and submit a new exemptive application under section 6(c) of the Act every time a new subsidiary is formed and licensed by SBA.

Applicant agrees that only subsidiaries that meet the following conditions would be eligible for the requested relief automatically without a further application pursuant to section 6(c) of the Act:

1. The subsidiary would be wholly-owned by Applicant, as are Western Financial and SBLC, or would be wholly-controlled by Applicant as is PMIC;

2. The subsidiary must be licensed by the SBA as a small business investment company or a small business loan company;

3. Wholly-owned subsidiaries would be subject to each and every provision of the 1983 Order which is applicable to Western Financial or SBLC, as the case may be, and

4. Wholly-controlled subsidiaries would be subject to each and every provision of the amendment to the 1983 Order which is applicable to PMIC.

Notice is further given that any person wishing to request a hearing on the application may, not later than September 12, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19126 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15262; File No. 812-6422]

Application and Opportunity for Hearing; Zero Coupon Bond Fund and Certain Life Insurance Companies and Variable Life Insurance Separate Accounts Investing Therein

August 18, 1986.

Notice is hereby given that the Zero Coupon Bond Fund ("Fund") or ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, a Massachusetts business trust registered under the Act as an open-end diversified investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting certain life insurance companies and variable life insurance separate accounts investing therein from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Fund and any other existing or future investment companies of which Fidelity Management & Research Company ("FMR") or any affiliate thereof now or in the future serves as investment manager, adviser, principal underwriter or sponsor (the "Funds") to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies. All persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for a statement of the relevant provisions.

The Fund intends to offer shares of its existing and future series to separate accounts of any interested insurance company in order to fund variable annuity contracts and variable life insurance contracts (collectively referred to herein as "variable contracts"). It is anticipated that insurance companies whose separate accounts own shares of the Fund ("participating insurance companies," or "insurers") will rely on Rule 6e-2 or 6e-3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with variable life insurance contracts. The use of a common managment investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to herein as "mixed funding." The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding."

For the reasons stated below, Applicant believes that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rules 6e-2 and 6e-3(T) under the Act provide certain exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e-2(b)(15), however, precludes mixed and shared funding, and Rule 6e-3(T)(b)(15) precludes shared funding. Applicants request relief extending to a class consisting of life insurers and variable life separate accounts investing in the Fund or the Funds (and principal underwriters and depositors of such separate Accounts) which would otherwise be precluded from investing in the Fund or the Funds by virtue of the Fund or the Funds offering their shares to variable annuity separate accounts or unaffiliated variable life separate accounts.

Applicant asserts that mixed and shared funding will benefit variable contractowners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for the development of larger pools of assets resulting in greater cost efficiencies, diversification, and investment flexibility; (3) making the addition of new portfolios more feasible, thus, providing contractowners with additional investment alternatives; and (4) encouraging more insurance companies to offer variable contracts, which should result in increased competition and lower contract charges. Applicant states that the Fund and the Funds will not be managed to favor or disfavor any particular insurer or type of insurance product.

1. Disqualification

Applicant requests relief from section (a) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) to the extent necessary to permit mixed and shared funding by a class of insurance companies and variable life separate accounts which may use the Fund as investment media to fund variable life insurance contracts, suject to the conditions, set out in the application and summarized below, regarding conflicts of interest. Applicant asserts that the same considerations that led the Commission to limit the provisions of section 9(a) to those employees of an insurance company engaged in managing a separate account are applicable to insurance companies and their separate accounts funded by funds offered to other affiliated and unaffiliated separate accounts. Thus, Applicant argues that it is unnecessary to apply the provisions of section 9(a) to all the employees of participating insurance companies. Moreover, Applicant submits that applying the requirements of section 9(a) in such cases would increase the expense of monitoring compliance with that section, thereby reducing the net rates of return realized by contractowners.

2. Voting

Applicant requests relief from sections 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding by a class of insurance companies and variable life separate accounts which may use the Fund or the Funds as an investment medium to fund variable life contracts, subject to the conditions, summarized below, regarding conflicts of interest.

Applicant represents that all variable annuity and variable life insurance contractowners will receive voting rights and proxy materials with respect to Fund shares attributable to their contracts inasmuch as all sponsoring insurance companies will vote these shares in accordance with contractowner instructions. Applicant states that paragraphs (b)(15) of both Rule 6e-2 and Rule 6e-3(T) permit the insurance company to disregard these voting instructions in certain limited circumstances, and acknowledges that such an action may cause an irreconcilable conflict among the separate accounts. Applicant proposes to resolve these potential conflicts through certain undertakings described below. Consequently, Applicant states that if a particular insurer's disregard of voting instructions conflicted with a majority of contractowners' voting instructions, or precluded a majority vote, the Fund may require the insurer to withdraw its separate account's investments in the Fund. Applicant states that this requirement (which also encompasses the situation where one state insurance regulator's decision conflicts with the decisions of other state regulators) shall appear in agreements between Participating Insurance Companies and the Fund.

3. Conditions

Applicants state that they will comply with conditions set forth in the application, which are summarized as follows: (1) A majority of the board of trustees of the Fund or the Funds ("board") shall consist of persons who are not "interested persons" of the Fund, as defined by the Act. (2) The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with section 16(a) and, if applicable, section 16(b). Further, the Fund will act in accordance with the Commission staff's interpretation of the requirements of section 16(a) with respect to periodic election of trustees and with whatever rules the Commission may promulgate with respect thereto. (3) The board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by a state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner of investment management of any series; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (f) a decision by an insurer to disregard the voting instructions of contractowners. (4) Participating Insurance Companies and FMR will report any potential or existing conflicts to the board. Participating Insurance Companies and FMR will share responsibility for assisting the board in carrying out its responsibilities under these conditions, by providing the board with all information reasonably necessary for the board to consider any issues raised. This includes, but is not limited to, an obligation by each Participating Insurance Company to inform the board whenever it disregards contractowner voting instructions. (5) If a majority of the board, or a majority of its disinterested trustees, determines that a material irreconcilable conflict exists, the insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, including: (a), withdrawing the assets allocable to the relevant separate accounts from the Fund or any series or submitting the questions whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b), establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the Fund may require the insurer to withdraw (without penalty) its separate account's investment in the Fund in the event of a board determination of an irreconcilable material conflict. A majority of the members of the board who are not interested persons of the Fund shall determine whether or not any action proposed to be taken pursuant to condition (5) adequately remedies any irreconcilable material conflict, but this shall not obligate the Fund or FMR to establish a new funding medium for any insurer. Participating Insurance Companies shall not be required to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contractowners adversely affected by the irreconcilable material conflict. (6) The Board shall promptly notify all Participating Insurance Companies of any determination of the existence of an irreconcilable material conflict. (7) Participating Insurance Companies will provide pass-through voting privileges to all variable contractowners as long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contractowners. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. (8) The Fund will notify all Participating Insurance Companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. (9) All reports received by the board of potential or existing conflicts, and all board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

Applicants represent that if and to the extent that Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

Finally, Applicants represent that all Participating Insurance Companies shall enter into a written agreement with the Fund providing, among other things, that:

(a) Each will assume responsibility for calculating pass-through voting privileges discussed in (7) above in a manner consistent with all other separate accounts investing in the Fund;

(b) Each will be responsible for effecting remedial actions described in (5) above (including bearing the costs thereof) and will exercise this responsibility solely in the best interests of contractowners; and

(c) Each will assume responsibility to report to the Board, with a view only to the interests of contractowners, information and conflicts described in (4) above and to provide the board assistance as required by (4) above.

Notice is further given that any interested person wishing to request a hearing on an application may, no later than September 15, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices or orders issued

in this matter. After said date an order disposing of this application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19127 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2247]

Declaration of Disaster Area; Wisconsin

As a result of the President's major disaster declaration on August 14, 1986, I find that Milwaukee County in the State of Wisconsin constitutes a disaster loan area because of severe storms occurring on August 6, 1986. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on October 13, 1986, and for economic injury until the close of business on May 15, 1987, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Building, 75 Spring Street, SW., Suite 822, Atlanta, Georgia 30303.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) (without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 224711 for physical damage and for economic injury the number is 643200.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: August 18, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-19102 Filed 8-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending August 15, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44254—R-1-R-11

Parties:
Members of International Air Transport Association
Date Filed: August 13, 1986
Subject: Resolutions of Passenger Agency Committees
Proposed Effective Date: January 1, 1987

Docket No. 44260

Parties:
Members of International Air Transport Association
Date Filed: August 14, 1986
Subject: Specific Commodity Rates
Proposed Effective Date: August 15, 1986

Docket No. 44253

Parties: Alaska Air Group Inc., AAG Holdings, Inc. and Jet America Airlines, Inc.
Date Filed: August 13, 1986
Subject: Application of Alaska Air Group Inc., AAG Holdings, Inc. requests an exemption from section 408 of the Act of, in the alternative, for approval of acquisition of control of Jet America Airlines, Inc.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-19119 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 15, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44249

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 8, 1986.
Description: Application of Scandinavian Airlines System pursuant to section 402 of the Act and Subpart Q of the Regulations applies for an amendment to its foreign air carrier permit to provide authority, now granted by exemption, to carry passengers, mail and cargo (the latter on the lower deck only, but not on all-cargo services) between Anchorage, Alaska, on the one hand, and Tokyo, Japan, on the other.

Docket No. 44250

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 8, 1986.
Description: Application of Tower Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity (or amendment of its current Certificate), authorizing it to engage in scheduled foreign air transportation of passengers, property and mail, on a permissive basis, between New York, N.Y., on the one hand and Paris, France and Athens, Greece, on the other hand.

Docket No. 44259

Date Filed: August 14, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 11,. 1986.
Description: Application of Sabena pursuant to section 402 of the Act and Subpart Q of the Regulations requests issuance of a renewed, amended foreign air carrier permit to authorize it to continue to engage in foreign air transportation for an additional period of five years, as follows:

(1) Between a point or points in Belgium and the terminal point Anchorage, Alaska, with respect to persons, property and mail.

(2) Between a point or points in Belgium and the terminal point Anchorage, Alaska, and between the intermediate point Anchorage, Alaska, and the terminal point Tokyo, Japan, with respect to persons and their accompanied baggage.

Docket No. 44251

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 9, 1986.
Description: Pan American World Airways, Inc., c/o David M. O'Connor Suite 901, 1660 L Street, N.W.,

Washington, D.C. 20036. Application of Pan American World Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests renewal of authority to serve Nairobi, Kenya, and Abidjan, Ivory Coast, granted by its certificate to public convenience and necessity for Route 133 which is scheduled to expire on February 11, 1987 and March 28, 1987 respectively.

Docket No. 44261

Date Filed: August 15, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 29, 1986.
Description: Application of Eastern Air Lines, Inc., prusuant to section 401 of the Act and subpart Q of the Regulations, applies for amendment of its certificate of public convenience and necessity for Route 50 so as to authorize service between the terminal point San Juan, Puerto Rico and the terminal point Caracas, Venezuela. (Conforming Applications re Docket 44181).

Docket No. 44263

Date Filed: August 15, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 12, 1986.
Description: Application of Aerovias Venezolanas S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to provide scheduled foreign air transportation of persons, property and mail between Venezuela and the United States.

Docket No. 37799

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 8, 1986.
Description: Application of Scandinavian Airlines System, pursuant to section 402 of the Act and Subpart Q of the Regulations applies for renewal of its foreign air carrier permit authorizing conditional stopover and emergency transfer of passengers at Anchorage, Alaska, on scheduled flights operated over its polar route between Europe and Japan.

Docket No. 37780

Date Filed: August 12, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 9, 1986.
Description: Application of Japan Air Lines Company, Ltd. applies for renewal of its foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Regulations to engage in foreign air transportation of persons, and their accompanying baggage, between a point or points in Japan and the intermediate point Anchorage, Alaska, and between the intermediate point Anchorage, Alaska and a point or points in Europe.

Docket No. 37778

Date Filed: August 12, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 9, 1986.
Description: Application of Lufthansa applies for renewal of its foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Regulations to engage in foreign air transportation of persons, property and mail between the Federal Republic of Germany and Anchorage or Fairbanks, Alaska and to grant stopover privileges at Anchorage or Fairbanks to its passengers traveling between Germany and Japan.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 86-19120 Filed 8-22-86; 8:45 am]
BILLING CODE 4910-62-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on September 17, 18, and 19, 1986, beginning at 1:00 p.m., in Columbus, Ohio, at the Radisson Hotel Columbus, 4900 Sinclair Road, Columbus, Ohio. The meeting is open to the public.

The agenda includes the following topics: status of motor carrier related legislation; rulemaking regarding single, classified commercial vehicle drivers license; status of the National Governors' Association contract on uniformity; the Secretary of Transportation's Internal Safety Review Task Force; and priority agenda items for the future consideration of the Committee. On September 19, the Committee will attend a demonstration of front wheel braking at the University of Ohio's Transportation Research Center in East Liberty, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA-1, Room 4218, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366-2236. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: August 20, 1986.

R.D. Morgan,
Executive Director, Federal Highway Administration.

[FR Doc. 86-19287 Filed 8-22-86; 8:45 am]
BILLING CODE 4910-22-M

federal register

Monday
August 25, 1986

Part II

Federal Emergency Management Agency

44 CFR Parts 59, 60, 61, 65, 70, 73, and 76

National Flood Insurance Program; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 65, 70, 73, and 75

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program regulations dealing with flood plain management standards, criteria for recognizing levees as providing protection from 100-year floods, and procedures for revising or amending maps (including the types of supporting data needed when map changes are requested). It also covers the Standard Flood Insurance Policy (SFIP) terms and provisions, criteria for the denial of the sale of insurance, the announcement of the termination of the State Assistance Program (SAP), and new criteria for the State Coordinating Agencies.

EFFECTIVE DATES: October 1, 1986, except for certain revisions to the Standard Flood Insurance Policy in Part 61 that are effective January 1, 1987, as listed and explained in the Supplementary Information under the heading, "Standard Flood Insurance Policy."

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472; telephone number (202) 646–3422.

SUPPLEMENTARY INFORMATION: On March 28, 1986, FEMA published for comment in the **Federal Register** (Vol. 51, Page 10742) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were the result of a continuing reappraisal of the NFIP to achieve greater administrative and fiscal effectiveness in the operation of the NFIP and to encourage sound flood plain management so that reductions in loss to life and property and in disaster expenditures can be realized. This reappraisal included the claims, coverage, rating, and sale of insurance component, the loss reduction (i.e. flood plain management) component and the risk assessment (i.e. mapping of flood hazard areas) component of the NFIP.

In the process of developing this final rule, 61 comments were received, logged and analyzed based on the 13 subject areas discussed in the proposed rule supplementary information. The tally of comments included 2 individuals, 11 associations (including 1 specialized journal), 2 Federal agencies, 20 State governments and 26 local governments. Many of the comments generally concurred with the proposed rule although some of them commented specifically on one or more of its provisions. The comment contents ranged from a simple acknowledgment of receipt of the proposed rule to strong support for or strong opposition to one or more of the proposed changes.

The analysis of the comments resulted in language clarifications, minor changes to some provisions, the identification of some overlooked typographical errors and the insertion of one or two phrases inadvertently omitted. However, no major substantive changes were made to the language in the proposed rule.

Although the comments focused primarily on the 13 topics, 12 respondents made generalized comments about the proposed rule or the supplementary information topic headings. A number of these comments supported the rule and definitional changes while others expressed concern over perceived economic impacts. In addition, several commentators made statements about specific topics and problems, not covered in the proposed rule, to which FEMA shall respond under the heading of "Miscellaneous Subjects."

Miscellaneous Subjects

Several State comments expressed concern over the length and frequency of changes to NFIP criteria. In part, this concern reflects the fact that major changes have been made in this final rule and the September 4, 1985, final rule (which became effective on January 1, 1986). FEMA recognizes that, although many of the revisions are procedural and require no action by NFIP communities, some revisions will require those communities to amend their flood plain management regulations to remain in compliance. FEMA has tried to minimize those revisions that require ordinance changes at the local level in order to avoid imposing unnecessary burdens on communities. However, it was recognized when NFIP criteria were first developed that there would need to be revisions as experience was acquired under the program and as new information on flood loss reduction techniques became available. Between 1976 and 1985 no significant changes were made to NFIP criteria. The September 4, 1985, final rule and this final rule reflect a 2-year effort to incorporate 10 years of knowledge and experience gained in implementing the program. Now that this effort is essentially completed, FEMA anticipates making no additional substantive changes to criteria at § 60.3 until several years of additional experience have been gained. Overall, FEMA believes that these two final rules have clarified and simplified NFIP flood plain management requirements and that this should improve the effectiveness of implementation at the local level.

One local government recommended for flash flood areas that the NFIP not provide coverage for new construction, reconstruction of demolished structures, or additions to existing structures located within the 100-year floodway of streams known to be flood-prone, if said construction will increase existing 100-year water surface elevations by more than 0.1 feet. NFIP criteria at § 60.3(d)(3) already prohibit encroachments in designated floodways that would result in any increase in flood levels during the occurrence of the base flood discharge. If this community wishes FEMA to deny flood insurance coverage for such structures, it can declare them to be in violation of its local ordinance as provided for in Section 1316 of the National Flood Insurance Act of 1968. Procedures for implementing Section 1316 are contained in Part 73 of this final rule. FEMA has no plans to seek additional authorities to deny flood insurance coverage.

Another specific comment on a topic not covered in the proposed rule came from a Federal agency. It suggested that FEMA engage in flood studies to determine impacts downstream and damages which would result from increased flooding due to destruction of wetlands. FEMA recognizes the importance of the preservation of wetlands in providing flood protection and will continue to work with this Federal agency to address mutual concerns. However, this topic was not at issue in the proposed rule.

Adoption of the Final Rule by Communities

Several communities requested information on the requirements and procedure for adoption of the final rule revisions. Much of the final rule is procedural or pertains to risk identification which does not have to be incorporated in local flood plain management regulations. This was also true for the September 4, 1985, final rule. A community can choose to adopt or have in force regulations that are more restrictive than NFIP criteria. Therefore, some communities may wish to retain requirements such as the prohibition on

the placement of manufactured homes in V-zones or floodways. In addition, there may be some communities that have adopted more restrictive ordinances that already meet or exceed provisions in the final rule. For instance, some communities may already require the elevation of replacement manufactured homes in existing "mobile home parks" (sic) and subdivisions. These communities may already comply with the final rule. However, FEMA believes that most NFIP communities will have to amend one or more of their flood plain management ordinance provisions to remain in compliance.

Copies of this final rule will be mailed to all participating NFIP communities prior to the October 1, 1986, effective date. This mailing will include instructions on which changes are required and on how these changes are to be made. NFIP criteria at § 60.7 require that communities revise their flood plain management regulations to comply with any revised regulations within six months of the effective date of that revised regulation. Therefore, communities will have to amend their regulations no later than April 1, 1987. FEMA regional office staff will be available to provide advice and assistance. After adoption communities should submit copies of their amended regulations to the appropriate regional office.

If, subsequent to the conclusion of this six-month adoption period on April 1, 1987, FEMA determines that a particular community has not amended its regulations so that they comply with this final rule, the community will be subject to suspension. However, prior to suspending the community, the Federal Insurance Administrator will follow the procedure at § 59.24(a). The Administrator will provide written notice to the community, at least 90 days prior to the proposed suspension date, indicating that the community's flood plain management measures are deficient and must be amended to comply with the final rule. If compliant regulations are not submitted at least 30 days prior to the suspension date, the Administrator will provide written notice to the community of its loss of eligibility for the sale of flood insurance and will publish notice in the Federal Register under Part 64 of Subchapter B. The suspension will go into effect if compliant regulations are not adopted and submitted prior to the suspension date.

Manufactured Homes

In the proposed rule supplementary information, FEMA outlined its intention to revise NFIP criteria to incorporate the terms "manufactured home" and "manufactured home park or subdivision" and to apply the same standards to "manufactured homes" as are applied to conventional structures. The definition of "manufactured home" that was proposed, included for flood plain management purposes, those park and travel trailers and similar vechicles that are placed on a site for a period of greater than 180 days.

The changes to the current regulations that would eliminate most of the distinctions between "mobile homes" and conventional homes fell into three categories: Deleting the prohibition on the placement of "mobile homes" in V-zones (coastal high hazard areas) except in existing "mobile home parks" and subdivisions; eliminating the current prohibition on placement of "mobile homes" in floodways except in existing "mobile homes parks" and subdivisions [per § 60.3(d)(4)]; and finally, eliminating the current provisions which allow the replacement, new placement or substantial improvement of "mobile homes" in existing "mobile home parks" and subdivisions without elevation. The latter provision is commonly referred to as the "grandfathering" of existing "mobile home parks" and subdivisions.

The manufactured home provision in the proposed rule generated the largest number of comments from all categories of respondents. Ten States commented on various aspects of the proposed regulation as did 3 associations, 10 local governments and 1 Federal agency.

The change in terminology to "manufactured home" resulted from a decision by FEMA to make the NFIP terminology consistent with terminology used by the U.S. Department of Housing and Urban Development (HUD) in "Manufactured Home Safety and Construction Standards" (24 CFR 3280.2) and by other Federal agencies and the industry. However, the NFIP definition will be more inclusive because the HUD definition includes only "manufactured homes" used as dwelling units which have a specified minimum square footage and meet other requirements. NFIP criteria must also regulate "manufactured homes" used for other purposes; "mobile homes," built prior to the June 15, 1976, effective date of the HUD standards, which are moved to flood plain locations; and those park trailers, travel trailers, and similar vehicles which are permanently placed on a flood plain site. The discussion by respondents about the terminology change from "mobile home" to "manufactured home" focused on the inclusion of certain park and travel trailers in the definition. No comment argued that FEMA should continue to use the term "mobile home".

Eight respondents commented on the overall definitional change concerning "manufactured homes." One State strongly supported the inclusion of certain park trailers, travel trailers and other similar vehicles in the definition of "manufactured home." Two associations disagreed with their inclusion in the definition. One of those associations pointed out that FEMA implies in the proposed rule that "manufactured homes" are vehicles and that the usage and risk are the same as other vehicles and that this is not true even if those other vehicles occupy a site for more than 180 days. This association further stated that park and travel trailers are not constructed in accordance with either a Federal or nationally recognized code and are not designed for use as permanent residences. This group recommended that FEMA further amend its regulation to change "manufactured home park" to "manufactured home rental community" to conform with industry use. FEMA researched this issue and determinded that the term "manufactured home rental community" was not commonly used by either other Federal agencies or local governments. Consequently, FEMA will continue to use "manufactured home park." If, at some later date, the term "manufactured home rental community" becomes the standard, FEMA will consider amending its regulations at that time.

A second association also disagreed with the proposed inclusion of travel trailers in the definition because it claims that they are not built to (manufactured home) industry standards for permanent residences. A State office disagreed with the inclusion of trailers of any kind in the definition because it contended that trailers can be moved on short notice. Finally, an association also recommended that travel trailer parks be required to install warning systems. FEMA encourages this practice but regards it as an optional safety measure to be taken by park operators or required by State regulation or local ordinance.

As indicated in the supplementary information to the proposed rule, the intent of this provision in the definition is to include these vehicles when they are permanently left on a site and their usage is the same as a "manufactured home" but not include them when they are placed on sites only seasonally or used for camping or other short-term occupancies. Although park and travel trailers were not constructed or intended to be permanently placed on sites and/or permanent foundations or

to be used for long-term occupancies, they frequently are. In particular these trailers are commonly used as vacation homes and placed on foundations with their wheels removed or otherwise permanently affixed to the site.

FEMA considered the alternative of developing two definitions, one for "manufactured homes" that met the HUD standards and one for all other structures or vehicles which would be included under the definition in the proposed rule. However, it believes that two definitions would add unnecessary complexity to NFIP criteria, especially since the same general performance standards would apply. Instead FEMA chose to use an all-inclusive term for all manufactured homes, "mobile homes," park and travel trailers and other vehicles that would be regulated by NFIP criteria.

Although FEMA chose to retain the proposed definition, it clearly recognizes the two inherent components of it—a "manufactured home" on a permanent foundation and some form of park or travel trailer which is permanently placed on a site. FEMA stresses that it uses this definition for the sole purpose of implementing flood plain management regulations and that it does not equate "manufactured homes," built in accordance with industry standards, with park and travel trailers and other similar vehicles. This is reflected in the fact that the definition of "manufactured home" in the proposed rule for insurance purposes specifically excludes park trailers, travel trailers, and other similar vehicles. As a result, they will not be provided flood insurance under the NFIP.

In addition to the definitional changes in the proposed rule, another major area of change centered on the revision of NFIP criteria so that the same standards are applied to "manufactured homes" and conventional structures, except that separate anchoring and placement provisions would be retained for clarity and reflect differences in construction. Three different sections of the regulations would be affected.

The first proposed change would remove the prohibition on the placement of "mobile homes" in Zones V, VE and V1–30 (coastal high hazard areas) except in existing "mobile home parks" and subdivisions, at § 60.3(e)(7). Two local governments agreed with this change and indicated that their ordinances currently make no differentiation between conventional structures and "mobile homes" (sic) for any other purpose. One group also stated that the proposed deletion was both reasonable and positive.

One State agency opposed the prohibition deletion, believing that it would encourage the placement of inadequately anchored "manufactured homes" in V-zones. This State's concern apparently relates to the capabilities of some local governments to administer and enforce V-zone elevation requirements at § 60.3(e) for "manufactured homes." While FEMA shares this concern, this is a compliance issue that would likely also occur for conventional construction built in these same V-zones. FEMA believes that this issue should be addressed by its continuing to monitor enforcement by these communities and by providing technical assistance as required. If communities fail to adequately enforce these requirements, those communities will be subject to the probation and suspension procedures at § 59.24.

One Federal agency also disagreed with the deletion of the prohibition of "manufactured homes" in the V zones because it seemed inconsistent with the preamble's goal "to encourage sound flood plain management" because FEMA stated that "manufactured homes," when their floor systems are inundated, suffer greater damages than conventional homes. As indicated in the supplementary information in the proposed rule, FEMA concluded that a "manufactured home," which is elevated to or above the base flood elevation (BFE) and properly anchored to and placed on a foundation system that meets the criteria at § 60.3(e), is no more subject to damage from the base flood than a comparably elevated and anchored conventional structure. For floods greater than the base flood in a V-zone, both types of structures are likely to be severely damaged due to wave impact. For this reason, FEMA believes that there are insufficient grounds to distinguish between the two types of construction and that the deletion of the prohibition is not inconsistent with achieving sound flood plain management.

The second major change was the deletion of the prohibition on placement of "mobile homes" in floodways except in existing "mobile home parks" and subdivisions at § 60.3(d)(4). One local government agreed with the proposal because it offers additional flexibility and greater development options at the local level.

Three States agreed with the deletion. One said that the proposal conformed with their State standard. The Federal agency noted above also opposed deletion of this provision again on the grounds that it would be inconsistent with the preamble's goal "to encourage sound flood plain management."

In the proposed rule, FEMA noted that if a "manufactured home" were placed in a floodway, it would have to meet the same performance standards required for a conventional structure. Thus, the "manufactured home" would have to be elevated to or above the base flood elevation and could not cause any increase in upstream flood stages during the base flood. The proposed rule supplementary information stated that this would require that a registered engineer analyze the proposed development and demonstrate that the development would not increase the flood stages. FEMA had also pointed out that most developments proposed for floodways caused an increase in flood stages and could not meet the no-rise criteria.

One local government recommended that the prohibition be retained on the grounds that it is expensive and uneconomic for private applicants to demonstrate that their structures would meet the no-rise criteria. This local government further recommended that conventional residences also be prohibited in floodways. FEMA believes that these requirements would be unnecessarily restrictive and that applicants should continue to have the option of demonstrating that their proposed developments would not adversely impact other properties. This option has been available for all other forms of development since the initial incorporation of floodway requirements into NFIP criteria. FEMA's purpose in making this change is so that the same limitations are placed on manufactured homes as on other forms of housing.

Three State offices disagreed with the proposed deletion. One State believed that local enforcement of flood plain management ordinances was inadequate and to delete the prohibition would place many people in life-threatening situations during a flood. FEMA believes that this is a compliance issue that should be addressed through monitoring enforcement of the standards by communities, providing technical assistance, and applying program sanctions such as probation and suspension as appropriate. A second State cited opposition to the deletion because it believes that "mobile homes" are subject to greater damage based upon that State's evidence from its riverine damage assessments. This same State opposed the deletion in principle because it would consequently increase overall insurance rates. FEMA notes that "manufactured homes" already have higher rates and these rates reflect

the fact that riverine floods greater than the 100-year flood generally would result in higher damages to a "manufactured home" than to a comparable conventional house.

The third proposed change, which would treat "manufactured homes" the same as conventional housing, provides for the elimination of provisions which allow the replacement, new placement or substantial improvement of "mobile homes" in "existing mobile home parks and mobile home subdivisions" without elevation. All replacement, newly placed or substantially improved manufactured homes would have to be elevated to or above the base flood elevation regardless of the age or status of the manufactured home park or subdivision. Six respondents supported the proposed rule, seven respondents opposed the change and one respondent made a related comment. In the final rule this provision will appear unchanged except for the correction of several typographical errors and the insertion of an inadvertently omitted phrase.

Although this change was intended to apply NFIP flood plain management criteria uniformly to "mobile homes" and conventional homes, FEMA had additional reasons for this proposed change in the regulations. One anticipated result will be reduced flood losses to owners of "manufactured homes." This is particularly important since many owners and renters of "manufactured homes" have low or moderate incomes and would be least able to recover from a flood which destroyed their manufactured home and personal possessions. In addition there will be savings to the Federal government due to reduced flood insurance claims payments and other disaster assistance, such as the provision of temporary housing to the victims of floods. In the latter cases, post disaster Interagency Hazard Mitigation Teams, chaired by FEMA, have identified a number of instances where large numbers of "mobile homes" in "mobile home" parks were destroyed by floods, replaced by new non-elevated "mobile homes" which in turn were destroyed and subsequently replaced by similar structures. The new regulation intends to break that cycle of damage and loss.

Two States concurred with the proposal to remove the "grandfathering" provision. They were joined in this support by two local governments, one association and one Federal agency. Two associations, five local governments and one State opposed the elimination of the "grandfathering" provision because they believed that it may create economic hardships for park owners and future renters. The State felt that past discrimination against "mobile home parks" had forced the owners to locate them in unsuitable areas such as flood plains. In the supplementary information section of the proposed rule, FEMA pointed out that the rationale for the "grandfather" provision was to allow "mobile home park" operators to amortize their investments in park infrastructures. FEMA believes that these "mobile home park" operators have had sufficient time to amortize their costs. In addition, FEMA believes that the costs following flooding of these "mobile parks" are such that continuation of the "grandfather provision" is contrary to the interests of the individual owners and renters of "manufactured homes," the community, and the Federal government.

Any cost of these parks should be no more significant than the cost of developing any property in a flood plain. FEMA recognizes the possibility that some park owners might have to eliminate some sites and would incur additional costs in order to comply with the elevation requirements. However, these costs are not unlike those associated with the construction of conventional housing. In addition, there are elevation techniques available which require no more area than an at-grade installation and which are economical.

The manual, "Manufactured Home Installation in Flood Hazard Areas," published by FEMA in September 1985, provides information on appropriate techniques for different flood areas.

Two associations objected to the elimination of the "grandfathering" provision on the grounds of aesthetic appearances. They both urged a phasing sequence for this regulation and the use of the variance procedure as a flexible alternative. FEMA believes that the potential damages, from the flooding of a non-elevated manufactured home, and the consequences in terms of losses to the manufactured home owner or renter as well as to the Federal government through flood insurance claims payments and disaster assistance, are such that use of a phasing sequence or a variance procedure based solely on aesthetic grounds could not be justified.

Two of the States which supported the proposed rule made recommendations for placing additional restrictions on "manufactured homes." The first State recommended that a freeboard factor be included in addition to requiring the elevation of the lowest floor to the base flood elevation. The second State recommended that "manufactured homes" be spaced at least 20 feet apart to prevent a manufactured home, that is dislodged from its foundation by floodwaters, from damaging adjacent manufactured homes. These issues were not addressed in the proposed rule and, as a result, it would be inappropriate for them to be considered for this final rule. FEMA notes that the latter problem should not occur if the "manufactured home" were properly anchored to its foundation system in accordance with § 60.3(b)(8).

One State recommended retention of the provision at § 60.3(b)(9) requiring evacuation plans for "mobile homes" in "mobile home parks and subdivisions" which was to be deleted. FEMA decided to delete this requirement for a number of reasons. First, the final rule requires that all newly placed, and replacement "manufactured homes" be elevated regardless of the age or status of the "manufactured home parks or subdivision." This should, over time, reduce the need for evacuation plans. Furthermore, it is difficult to evacuate "manufactured home parks and subdivisions" given the permanent nature of many installations, the general lack of sufficient haulers, and competing demands on local officials and road systems. Such an action would only be advisable where extended flood warning times are available. Although FEMA would encourage such plans where practicable, a general requirement for evacuation plans is not warranted.

Mechanical and Utility Equipment

The proposed rule provision covering this topic clarified the current requirement in § 60.3(a)(3)(iii) by the addition of a new provision at (iv) which specifically requires that mechanical and utility equipment be designed and/or elevated to prevent water from entering or accumulating in its components. Of the eight responses to this topic, three State offices and one local government supported the proposed rule provision while three local governments and one State agency disagreed. Three of these respondents also made recommendations.

Two of the supporting State offices simply stated their support without detail while the third one encouraged FEMA to incorporate the use of freeboard to offset debris blockage and other factors not usually addressed in flood studies. Since NFIP criteria contain no freeboard requirements for the lowest floors of structures, there would be no reason to include such a requirement for mechanical and utility

VOL 51 ISS 164 AG 25 1986 UMI

equipment. However, State or local governments can adopt such requirements if they wish to do so. The local government indicated that the proposed rule would facilitate the implementation of the existing program.

The State office which disagreed with the proposed requirement did so on the grounds that base flood elevations (BFE) have not been provided to many NFIP communities. It feared that the proposed rule would create additional confusion for permit officials in the large number of communities which have Flood Hazard Boundary Maps (FHBM) or Flood Insurance Rate Maps (FIRM) with approximate A zones. FEMA's response to this State is that this requirement has always been at § 60.3(a)(iii) but it was not as clearly stated as in the proposed rule. The requirement has been that structures have utility equipment resistant to flood damage. If a BFE were available, it would be used as a basis to determine the amount of protection needed. If FEMA has not provided the community with BFE's and no other flood data are available, local officials must use their best judgement to determine to what degree of protection the permit applicant must provide.

One of the local governments that opposed this provision felt that enforcement of the proposed rule would be difficult and require additional time and cost. It cited the example of the addition of an outside air-conditioner unit to an older home and surmised that, according to the proposed rule, this air-conditioner would require the construction of a pedestal and submission of a certificate of elevation. This commentator also noted that permits are not required in all instances at present for the installation of an air-conditioner unit. It again should be noted that this is a clarification of a current requirement and not a new requirement. In addition the requirement would apply only to new construction and substantial improvements to existing construction. It would not apply to any alterations to existing structures which were not substantial improvements. For alterations to new construction, permits should already be required. Since an elevation certificate already has been prepared for the structure and should be on file, it should be relatively easy for community officials to verify that newly installed mechanical and utility equipment is compliant.

Another local government which opposed this provision also argued that it would be difficult to implement. It also recommended that the problem of damage to mechanical and utility equipment should be addressed through the insurance rate mechanism and not through the flood plain management requirements. FEMA does provide some coverage at additional cost for specified mechanical and utility equipment placed in enclosures or basements and it would be possible to individually rate structures which did not have their mechanical and utility equipment properly protected. However, FEMA does not believe that insurance rates alone would be effective in ensuring that mechanical and utility equipment is elevated or properly protected from flood damage. As FEMA indicated in the supplementary information in the proposed rule, much of this equipment is critical to the continued habitability of the structure after a flood. Even though the residence itself would not be damaged, it would not be habitable until the equipment was repaired or replaced. This would create hardships on the inhabitants of the structure and could increase Federal disaster assistance expenditures for temporary housing.

This same local government and another local government raised issues regarding specialized mechanical and utility equipment such as water pumps in pump houses and certain heat pumps used in a passive solar house. The requirement is that the equipment be designed and/or located so as to prevent water from entering or accumulating with the components. Generally, the preferred means of meeting these performance standards is elevation to or above the base flood elevation. However, there are other alternatives. For instance, many water pumps are submersible and only the switch and junction box servicing the pumps would have to be elevated. FEMA believes that the problems cited by these communities are design problems that can be overcome.

The second local government also stated that utility companies are opposed to placing electric meters above eye level and that current placement of the meters provides ample protection. FEMA has been informed that, if an electric meter were to be inundated by floodwaters, electrical service generally could not be provided to the house unless the meter were replaced. If a number of electric meters were damaged, large numbers of homes in a community could be without power for extended periods of time. FEMA's objective is that residences become habitable as soon as possible after a flood. This minimizes the adverse impact on families as well as demands for temporary housing provided by FEMA's disaster assistance programs. FEMA believes that, under most flood conditions, electric meters can be placed at eye level and still be above the base flood elevation. In some instances an access platform may have to be built or, if the local utility does not permit such platforms, the meter may have to be placed at the top of the stairs to the front or rear entrance to the house. Although this may cause some inconvenience to the readers of the meters, FEMA believes that this inconvenience should be limited as compared to the likelihood that the house could be without power for extended periods of time after a flood and not be habitable.

Finally, this same community argued that it would cost as much to elevate air-conditioner condensers and other equipment on platforms as the equipment is worth. FEMA has reviewed this issue and disagrees with the community's estimate of the cost of such platforms. These platforms are commonly used to elevate mechanical and utility equipment above floodwaters. For new construction, in particular, the platforms can be readily incorporated into the overall design of the structure. Furthermore, FEMA regards the major issue as the continued habitability of the structure after a flood and a rapid return to normalcy. This alone would justify costs required to meet the provision.

Start of Construction

The proposed rule modified the definition of start of construction so that structures built on piles or columns were treated the same as other types of structures and to be consistent with changes to the manufactured home provisions in NFIP criteria. Under the old definition, the actual start of construction for a pile or column structure occurred when the first permanent framing took place. For other structures, actual start occurred when the first placement of permanent construction took place on a site, such as the pouring of slabs or footings. FEMA does not believe that there is any rationale for distinguishing among those construction methods and therefore proposed changing the definition for the start of construction to read that "actual start" occurs when piles are installed or columns are constructed. For a "manufactured home," "actual start" will occur when it is placed on a site or foundation.

Three State offices and one local government commented on this proposed change. Two State offices agreed with the change because, according to one, it is "clearer and

easier for a community to regulate." The local government respondent thought that the proposed definition would permit piles to be installed on a site up to 180 days prior to issuance of building permits which, in its jurisdiction, violates the building code. This local official also surmised that this might be true nationwide. FEMA believes that this local government has misinterpreted the phrase "within 180 days of permit date." In fact, this phrase also appears in the current definition.

The definition requires that actual start of construction must begin within the 180-day period following the issuance of the building permit. Building permits are required for all development including the installation of piles or the construction of columns.

One State commented that there was no need for a special provision in the start of construction definition regarding "manufactured homes." FEMA believes that this is one instance where continuing to distinguish between "manufactured homes" and conventional housing is useful for the sake of clarity. If this provision were not included in this definition, "actual start" would occur when a "manufactured home" pad was poured. Each new placement of a "manufactured home" on this pad would then become a substantial improvement. In either case the "manufactured home" would have to be elevated to or above the base flood elevation. However, FEMA believes that the requirement would be more clearly understood if the definition specifically addressed the placement of a "manufactured home."

Functionally Dependent Uses

The proposed rule added a definition of "functionally dependent use" at § 59.1 and a special provision in NFIP variance criteria at § 60.6(a)(7) that provided for the issuance of variances by communities to accommodate the needs of functionally dependent uses if specified conditions are met. The intent of these changes is to clearly indicate to communities that there are instances in which variances for functionally dependent uses may be appropriate and to provide guidance on how FEMA will evaluate such variances when monitoring a community's flood plain management program.

Of the 11 specific responses received concerning this category, 7 of the 11 agreed with and supported the proposed revision. Of these respondents, three were State agencies, one was a specialized journal, one a Federal agency, one a local government and one a specialized local government entity—a port director. One of the supporting comments suggested that in the case of functionally dependent uses, wet-floodproofing be encouraged by giving a premium rate credit. It will take further study to determine the feasibility of such a procedure, particularly in light of FEMA's on-going effort to simplify the rating system.

Four of the respondents supported having special provisions in NFIP criteria for functionally dependent uses, but disagreed with FEMA's decision to use the variance procedure at § 60.6(a) to meet their needs. Instead, these comments generally recommended use of a conditional or special use procedure which still provided for a case-by-case review of each proposal. One local government called the variance process "inadequate" because of cost and time delays at the local level. An association disagreeing with the approach in the proposed rule stated that it had "hoped for specific revisions, not relief through the variance process because of the burden it places on local officials." This group felt that there were insufficient guidelines available for a process which could have notable impacts.

As indicated in the proposed rule supplementary information, FEMA decided against revising each individual provision in § 60.3 that could impact on functionally dependent uses because it believes that most functionally dependent uses should be able to fully comply with NFIP criteria (e.g. § 60.3). The inability to comply with one or more of these standards should be limited to a relatively small number of instances. For these reasons, it was decided that the variance procedure at § 60.6(a) was the appropriate mechanism for addressing the needs of individual functionally dependent uses. If FEMA chose to use the conditional or special use procedure as suggested in these comments, a detailed set of criteria would have to be developed and included in NFIP criteria. Furthermore, while nearly all NFIP communities have established variance boards, many do not use the conditional or special use procedures recommended by these comments. FEMA agrees that use of the variance procedure will result in some costs to communities and possibly some delay in the approval of development proposals. However, the case-by-case review required to properly implement a conditional or special use procedure would require similar costs and review time.

A State office objected to use of the variance process because it could directly conflict with existing case law which in its State expressly prohibits the granting of use variances. This comment also recommended the practice of conditional use permits instead. FEMA does not believe that variances to any of the NFIP criteria would constitute a use variance. NFIP criteria are performance standards and do not directly regulate the uses to which a property can be put. It is these performance standards which would be varied. The provisions in current NFIP criteria regulating use are § 60.3 (d)(4) and (e)(7), which prohibit the placement of manufactured homes in floodways and coastal high hazard areas (V-zones). This final rule deletes these provisions. FEMA will make no changes to this new provision in the final rule but will continue to monitor implementation of use of the variance procedure to address the needs of functionally dependent uses. If FEMA determines that this procedure does not work effectively, further changes will be considered.

A number of comments addressed the definition of functionally dependent use proposed by FEMA. The specialized journal, although supporting the proposed definition of functionally dependent uses because of its clarity regarding ports, cited its concern about seeming restrictions on storage and manufacturing facilities. They noted distance as a cost factor in the placement of these facilities. One local government asked if chemical/petroleum product-oriented industrial facilities were banned because they were not specifically mentioned. FEMA wishes to emphasize that the placement of storage and manufacturing facilities in flood plains is not prohibited by NFIP criteria provided that they meet the performance standards in § 60.3. The fact that these uses are excluded from the definition merely excludes them from the special variance provision at § 60.6(a)(7). These facilities generally involve high value mechanical equipment and contents. In addition the closing down of such facilities to repair flood damages can cause severe adverse economic impacts on the community. FEMA believes that these facilities can and should fully comply with NFIP criteria and that this usually can be achieved with minimal impacts on the conduct of such uses. For chemical/petroleum-related industries, FEMA believes that it is particularly important that these uses fully comply. Not only do these processes require high value mechanical and other equipment, they also pose potential threats to public safety if hazardous chemicals are released into floodwaters.

One comment from an association asked whether seafood processing facilities were included as docking facilities and if they would be a

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functionally dependent use. FEMA regards facilities for the unloading and handling of fresh seafood for transshipment as port facilities necessary for the unloading of cargo. Such facilities would be included in the definition of functionally dependent use. However, any seafood processing beyond the amount necessary to transship fresh seafood after it is unloaded or which requires the use of expensive equipment would be considered related manufacturing and would not be included in the definition. These processing facilities should be able to perform their intended use while still meeting all NFIP criteria.

One comment cited the arbitrary limits imposed in many places on the amount of additional rise in flood levels that can be caused by structures. FEMA believes this comment refers to NFIP floodway requirements at § 60.3(d) (2) and (3). These provisions require communities to designate a floodway that causes no more than a one foot increase in upstream water surface elevations. Within this floodway, no development can be permitted which causes any increase in flood levels. As indicated in the supplementary information in the proposed rule, these requirements were intentionally excluded from the new variance procedures regarding functionally dependent uses due to the increase in flood damages to upstream property owners that could result from the increased flood stages. If a functionally dependent use has no option but to locate in a floodway, the applicant must either demonstrate that no increase in flood stages will result or must provide additional carrying capacity such as through channel improvements to ensure that no increase in flood stages will result. Communities should contact FEMA regional offices for technical assistance if they encounter situations where functionally dependent uses must locate in a floodway, but cannot meet the no-increase-in-flood-stage requirement.

Finally, a Federal agency encouraged FEMA to stipulate that inadequate floodproofing of "functionally dependent" short-term storage of possible water contaminants (noxious chemicals, oil, etc.) could constitute a threat to public safety if such contaminants were released in a flood. FEMA agrees that this could constitute a threat to public safety and advises communities that short-term storage of these contaminants without adequate safeguards would be inconsistent with the requirements at § 60.6(a)(7).

Probation and Suspension

This topic in the proposed rule covered the addition of three definitions to § 59.1 which further defined terms used in changes to §§ 59.24 (b) and (c) which became effective became on January 1, 1986. Definitions were included for "program deficiency," "violation" and "remedy a violation." Five comments were received on this subject. Two State agencies agreed with the proposed changes as did two associations. One of the associations also supported FEMA's acknowledgement that there should be a broad range of actions available to a community when violations are addressed.

FEMA alerts the public to the fact that it altered the definition of violation in this final rule based on internal review after the proposed rule was published. The definition of violation in the final rule will be amended to read ". . . without the elevation certificate, other certifications, or other evidence of compliance . . . ." The phrase "other evidence of compliance" was added because of references in the definition to requirements at §§ 60.3 (c)(10) and (d)(3). These provisions do not specifically require certifications but do require that the applicant can demonstrate compliance with certain performance standards. Generally, this will require submission of an analysis by a qualified engineer.

Use of Openings in Enclosures Below a Structure's Lowest Floor

In the proposed rule, FEMA intended to eliminate any confusion on the part of communities regarding the application of the requirement at § 60.3(a)(i) that structures be designed and adequately anchored to prevent flotation, collapse or lateral movement. This provision would be clarified to specify that the structure must be protected from hydrostatic and hydrodynamic loads, including the effects of buoyancy. Furthermore, at § 60.3(c)(5), a provision would be added which required the use of a specified set of openings in the walls of enclosures below the lowest floor of an elevated structure. These openings are intended to provide for the ingress and egress of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. As an alternative the permit applicant could submit a design certified by a registered engineer or architect. The final rule makes no change in these provisions.

Three State offices agreed with the proposed changes and a fourth made editorial suggestions regarding typographical errors, which have been corrected in the final rule. One of the agreeing States further commented that it thought that local officials will have difficulty with the technical aspects of the techniques available to facilitate these openings and suggested the issuance of a technical bulletin by FEMA. FEMA is preparing a bulletin on the use of these openings and will make it available to communities and individuals.

Another agreeing State office commented that it believed that the openings below a structure's lowest floor should be limited to existing buildings and not permitted for new construction. FEMA does not encourage the enclosure of areas below the lowest floor of an elevated structure. However, it recognizes that these enclosures are a common practice in areas which experience deep flooding. Provided that these enclosures are used only for parking, access, or limited storage, and they are properly constructed, FEMA believes that there is no reason to prohibit their construction. Since more restrictive State requirements would take precedence over NFIP criteria, this State could choose to place additional limitations on such enclosures.

An individual expressed great concern about the possibility of these enclosures being used for habitation. This respondent not only saw the potential for such occurrences continuing, but believes that the proposed rule may encourage them. This person then recommended that FEMA increase the required total area of the openings, increase the number of required openings from two to four, and impose a height limitation of five or six feet on any enclosure. As indicated in its response to the previous comment, FEMA does not believe there are sufficient reasons to prohibit construction of such enclosures. FEMA believes that its calculations of the areas of openings required are sufficient and that additional area or number of openings are not necessary.

Section 1316 Denial of Flood Insurance

The proposed rule included a new Part 73 which formalized procedures for implementing section 1316 of the National Flood Insurance Act of 1968. One of the provisions in that part provided that the State or community shall determine whether or not to declare a structure to be in violation and to submit that declaration to FEMA for the purpose of denial of insurance under Section 1316. Of the nine respondents who commented on this proposal, five State offices and two local governments supported the proposed rule.

Two of the States including one which supported the proposed rule recommended that the State Coordinating Agency in each State be given the authority to declare a property to be in violation of NFIP criteria or of local ordinances for the purpose of denial of flood insurance coverage under section 1316. Section 1316 specifically states that the property must be declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State, or local flood plain management laws, regulations, or ordinances. In most instances this property will also be built inconsistent with NFIP criteria. However, this is not always the case since the property could be in violation of a State or local requirement that is more restrictive. Section 1316 is clearly tied to the State or local law, regulation or ordinance, and not to NFIP criteria. A State agency may declare a property to be in violation of a State law, regulation, or ordinance, if it is authorized to do so. A State agency may not declare a property to be in violation of a local ordinance unless that agency is authorized to take such action by a State law or regulation.

A local government official queried the cost effectiveness of local enforcement of denials of insurance. FEMA responds that the National Flood Insurance Act of 1968 requires participating communities to adopt and enforce flood plain management regulations and, as a result, there is a concomitant cost of participating in the National Flood Insurance Program. These costs should be no greater than the costs associated with enforcing any local ordinance or code. Section 1316 is a tool to assist local government in this effort. Communities may choose not to utilize section 1316 denial of insurance, but must take other actions to remedy any violations to the maximum extent possible.

A Federal agency thought that it would be more appropriate for FEMA to promote section 1316 as a deterrent factor in the hopes of reducing the number of properties which are in violation of the regulations. This agency further recommended that FEMA stipulate that any failure on the part of a local government to use section 1316 under appropriate conditions would consititute a program deficiency for the community. As indicated in the supplementary information to the proposed rule, the community has the responsibility of ensuring that its flood plain management measures are enforced and that any violations are remedied to the maximum extent possible. FEMA believes that the preferred remedy for a violation is to modify the structure so that it is made compliant and can continue to be insured at affordable rates. Only when this cannot be done would application of section 1316 to the structure be the most effective remedial measure available. FEMA wishes to provide communities with the flexibility to take actions that they feel are most effective in ensuring that violations are remedied and do not re-occur. When FEMA evaluates a community's enforcement of its flood plain management measures, a community that chooses not to use section 1316 will have the opportunity to demonstrate that alternative remedial measures have been taken and that these measures remedy the violation to the maximum extent possible.

Use of Available Base Flood Data

The proposed rule clarified the existing requirement that communities obtain, review, and reasonably utilize base flood elevation data from Federal, State and other sources. It also specifically required the reasonable use of floodway data in addition to base flood elevation data as well as data from preliminary, draft, and final Flood Insurance Studies (FIS).

FEMA received eight responses which specifically commented on this topic. Four State offices agreed with the proposed rule. One State noted that the clarification language encouraged the use of available base flood data but pointed out that many local governments often do not know about or have access to data generated by State and Federal agencies. This same State office suggested a greater interagency effort to provide information for local officials that participate in the program. FEMA notes that it already participates in Federal level interagency efforts and encourages and supports efforts by other Federal agencies as well as States to provide technical assistance to NFIP communities.

Another responding State office indicated that the proposed changes should preclude "11th hour" permits from being issued by communities to escape having to enforce flood plain management requirements. This comment references the use of these data prior to the adoption of a Flood Insurance Rate Map (FIRM) by a community participating in the program.

A third State recommended the addition of a provision which would permit insurance agents and lenders to use preliminary Flood Insurance Rate Maps (FIRM) and flood profiles if that information is not outdated and if it is based on improved technical information. This same State also suggested allowing the use by insurance agents and lenders of flood data developed by communities for insurance purposes. The office cited instances where local agencies had better data than that which was available for the preparation of the FIRM. Lenders and agents are required to use the current effective Flood Hazard Boundary Map (FHBM) or FIRM when determining whether a property is in the special flood hazard area and for determining the applicable rates for flood insurance for a structure. The insurance aspects of the NFIP could not be properly administered if each agent or lender were permitted to use other data. However, FEMA does recognize that a preliminary, draft or final Flood Insurance Study (FIS) often will utilize more detailed information than the current effective flood map for a community. FEMA also recognizes that communities and individuals may have access to more detailed topographic and other data than were used in developing the communities' current FHBM or FIRM. In these situations an individual or community can obtain a map revision as provided for in Part 65 of NFIP criteria or a Letter of Map Amendment as provided for in Part 70.

One State agency commented that the requirement to use available base flood data did not provide for comparison of FEMA maps with the Sea, Land, Overland Storm and Hurricane (SLOSH) models developed by the National Oceanic and Atmospheric Administration (NOAA). Data generated by SLOSH models would constitute available data and should be used by communities where FEMA has not provided the community with base flood elevations. FEMA also recognizes that SLOSH models provide valuable information for community emergency management planning and encourages its use for these purposes.

One local government stated its agreement with the part of the proposed rule which stated the use of available flood elevation and floodway data but it considered it unfair to require a community to use these types of data from preliminary and draft Flood Insurance Studies (FIS) prior to the community's acceptance of the data. The purpose of specifically including use of data from preliminary draft, and final Flood Insurance Studies (FIS) was to clarify an already existing requirement. Subsequent to the publication of the proposed rule, FEMA determined that it was not necessary to single out this type of data for the purpose of the provision at § 60.3(b)(4). However, data from

preliminary, draft, and final Flood Insurance Studies will continue to constitute base flood data available from a Federal, State, or other source. Those data are to be used under § 60.3(b)(4) until such time as the community's Flood Insurance Rate Map (FIRM) becomes effective or the community adopts flood plain management measures compliant with § 60.3(c)(d), or (e) whichever comes first. In response to this community's comments, the requirement is that the community obtain, review and reasonably utilize this data. If the base flood elevations were currently being appealed on technical or scientific grounds by the community, the community would not be required to utilize the data provided that other measures were taken to minimize the structure's exposure to flood damages. FEMA notes that significantly lower flood insurance rates are available in those instances in which a structure has been elevated using available base flood data.

One of the responding States noted that inclusion of available floodway data was important but thought that its availability was limited. This State also questioned the use of floodway data in communities which only have A-zones within their boundaries. Linking this with another State comment which thought it unnecessary to mandate the use of available floodway data, FEMA believes that the preservation of the carrying capacity of floodways is critical to achieving program objectives of reducing the Nation's overall flood damages since obstruction of floodways can significantly increase potentional flooding upstream. Although FEMA recognizes that floodway data will only occasionally be available from sources other than preliminary and draft Flood Insurance Studies, it is important that communities reasonably utilize this data.

One State also recommended that communities not be required to use floodway data which do not meet more restrictive State standards. FEMA notes that more restrictive State and local regulations would take precedence over NFIP criteria. If floodway data were available that met more restrictive State standards, that data would be utilized under § 60.3(b)(4). However, if no floodway data are available that meet State standards, the community would have to obtain, review, and reasonably utilize any other floodway data that are available.

Exceptions for Floodproofed Residential Basements

The proposed rule at § 60.3(c) provided for a new and separate category of exception for communities that wished to permit construction of residences with floodproofed basements. Based on a review of past exception requests, the current procedure and a special study that was conducted, FEMA determined that exceptions to allow construction of residential floodproofed basements will continue to be granted, but FEMA will use the new simplified procedure to do so. This procedure, designed solely for exceptions for floodproofed basements, would involve a technical review by FEMA to determine if flooding characteristics in the community met specified criteria and would no longer require a determination that there would be severe hardship or gross inequity for the community if the exception were not granted. The procedure would also not require preparation of an environmental assessment.

Eight respondents commented on this topic. One State office and one local government agreed in full with the proposed rule. The State office viewed the effect of the criteria at § 60.6(c)(1) as continuing to limit the number of exceptions that were granted. The local government commented that in many flood plain areas conditions discourage construction of basements but, that where feasible, their construction should be permitted.

One State office which adversely commented on the proposed rule felt that the new subpart (c) at § 60.6 represented a complex set of standards which communities would find difficult to implement. However, the purpose of § 60.6(c)(1) is to set criteria for FEMA to determine if a particular community has flooding characteristics that pose no special problems for floodproofed basements. Only § 60.6(c)(2) would have to be incorporated into local ordinances. If a community felt that it did not have the technical expertise to enforce these provisions, it should not apply for an exception.

Another State office opposed the granting of exceptions for floodproofed basements on the grounds that it felt that it had been documented that residential structures with basements suffer greater damages than residences without basements. This is no doubt true for basements that are not adequately floodproofed or where no additional freeboard has been provided to compensate for the catastrophic nature of the losses that would occur if the floodproofing measures were overtopped by floodwaters. However, FEMA believes that a residence with a floodproofed basement which meets the requirements at § 60.6(c) should be no more subject to flood damages than a residence built on a slab with its lowest floor at the base flood elevation. This is due both to the review criteria at § 60.6(c)(1) and the freeboard and other construction requirements at § 60.6(c)(2). Since publication of the proposed rule, FEMA has had the opportunity to evaluate the performance of floodproofed basements in a flood approximating a base flood in a community that had been previously granted an exception. These floodproofed basements sustained no damage.

One State commented that it did not believe that exceptions to allow construction of floodproofed basements should be granted to communities. Their concerns related to their feeling that most communities lack the technical expertise and resources necessary for inspections and for the enforcement of floodproofing requirements. FEMA agrees that adequately enforcing a local ordinance that allows for construction of floodproofed basements will require more technical expertise and resources at the local level than an ordinance which requires that residential structures have their lowest floor elevated above the base flood elevation. However, communities are responsible for adequately enforcing their ordinances. As indicated previously, if a community feels that it does not have the expertise or resources to ensure that basements are properly floodproofed, it should not apply for an exception. FEMA believes that by limiting exceptions to communities which meet the criteria at § 60.6(c)(1) the need for specialized expertise will be minimized since information provided in the FEMA publication, "Manual for the Construction of Residential Basements in Non-Coastal Flood Environs," can be directly applied in such situations.

A Federal agency questioned a statement by FEMA in the supplementary information in the proposed rule which appeared to indicate that floodproofed basements in areas subject to flash flooding or deep flooding were more likely to fail or to be overtopped by floods larger than the base flood. FEMA agrees that this statement was improperly phrased. This statement was intended to indicate that basements exposed to such conditions would be more likely to fail and that the consequences of these basements being overtopped in floods larger than the base flood would be greater. This is

because, if property owners could not be warned of impending floods, they may not be able to evacuate the basement or remove irreplaceable contents. Both of these factors would increase the risk.

FEMA also received a comment from a Federal agency which recommended retention of the requirement for an environmental assessment prior to granting basement exceptions to assess the impacts of such exceptions on the natural environment. FEMA's experience, in preparing 46 environmental assessments on exceptions granted to communities with similar flooding characteristics to those in the criteria at § 60.6(c)(1) of the final rule, indicates that most building sites would eventually be developed regardless of whether basement exceptions are granted. As a result there would be few if any differences in the impacts on the natural environment. The development in communities which have been granted exceptions has generally occurred in established town sites where the natural environment has already been disturbed. As a result FEMA believes that the continued preparation of the assessments would serve little purpose.

The final comment on this topic came from a local government that was concerned that the continuation of these exceptions would encourage marginal flood plain development and also that the reference to the 500-year flood in § 60.6(c)(1) meant that FEMA would eventually adopt that standard for all development. The 500-year flood elevation is to be used only to determine the amount of freeboard that would be required for a basement in a particular community. FEMA will continue to use the 100-year or base flood elevation as a basis for delineating flood plains and as the elevation to which other structures must be elevated or floodproofed.

State Coordination

The proposed rule revises § 60.25 to enable States to more effectively respond to the needs of their NFIP communities and to enhance and clarify the role of the coordinating agency of the NFIP within each State. FEMA received several comments relative to § 60.25. One commentator supported the revisions to § 60.25 in its entirety. Two commentators supported the revisions to § 60.25 (a) and (b) as appropriate activities for the State Coordinating Agencies to conduct.

Concerning § 60.25(c), five commentators questioned the necessity of requiring States to request the Administrator's approval prior to carrying out activities in the capacity of the State Coordinating Agency other than those referred to under § 60.25(b)(1) through (12). One commentator specifically expressed concern that the proposed rule could have the effect of eliminating or significantly reducing the kind of timely and appropriate responses needed for the diverse circumstances encountered in the implementation of the NFIP. Finally, two commentators asserted that the proposed language was inappropriate because FEMA cannot dictate what activities a State agency will carry out. FEMA, after considering these comments and concerns, has revised § 60.25(c) in the final rule. It is not FEMA's intention to limit those activities State agencies perform to fulfill needs they perceive regarding implementation of the NFIP in their State. However, because there are diverse NFIP issues and activities with which States might not be familiar and, in order to ensure that misinformation is not inadvertently provided to NFIP constituencies, FEMA asks in the final rule that, when acting in its capacity as State Coordinating Agency, a State notify FEMA prior to its undertaking such activities. The revision is also intended to avoid duplication of assistance to NFIP communities in order to ensure that resources are being utilized effectively.

After discovering a typographical error, FEMA revised § 60.25(d)(2) for the final rule by deleting the word "on" and replacing it with the word "or" under this subsection.

State Assistance Program Termination

Four commentators expressed concern over the removal of Part 76. Specifically, two commentators expressed concern that if the Community Assistance Program—State Support Services Element (CAP-SSSE) is not incorporated into Part 76, funding could be arbitrarily cut for the program. Also, specific concern was expressed over the formal termination of the State Assistance Program (SAP) and the failure to subsequently incorporate the CAP-SSSE into the regulations. It was asserted that this action indicates that FEMA is no longer concerned about the States' participation in NFIP coordination and that the action "would raise a veil of discretion and uncertainty" for future support and stability in the area of flood hazard reduction activities. One commentator suggested that Part 76 be retained for the purpose of developing new capabilities commensurate with the responsibilities outlined under the proposed rules changes for § 60.25.

FEMA responds by noting that the SAP was never designed to be an indefinite program, but to provide States the opportunity and financial support to strengthen their role in NFIP flood hazard mitigation activities and to develop and enhance their individual capabilities in order to eventually provide technical assistance services to communities. FEMA determined that the intent and objectives of this program had been met and that those implementing regulations were no longer applicable or necessary. Therefore, removal of Part 76 and its subsequent reservation is strictly a procedural action to reflect the SAP's termination on October 1, 1985.

FEMA developed a comprehensive Community Assistance Program to enable it to enter into specific agreements with other Federal agencies, States and the private sector to provide services to meet the identified technical assistance needs of the participating NFIP communities. The State Support Services Element of the CAP utilizes the existing capabilities of the States to provide needed technical assistance services to NFIP communities.

The SSSE funding is covered in FEMA's budget under an ongoing line item for Flood Hazard Reduction. The Flood Hazard Reduction line item provides a logical means of matching the assistance needs of NFIP communities with the appropriate resources available. This line item includes funding for all the Community Assistance Program Delivery Systems designed to provide needed services to NFIP communities as well as funding for specific flood loss reduction projects such as the development of technical guidance materials and providing technical assistance to States and local governments on flood loss reduction standards and techniques.

The formal termination of the State Assistance Program and subsequent rescission of its regulations does not indicate FEMA's lack of interest in the States' role in the NFIP's flood loss reduction efforts. To the contrary, FEMA recognizes that State involvement is most necessary to help ensure the proper implmentation and administration of NFIP flood plain management standards at the local level. Thus, the State Support Services Element becomes the cornerstone in a successful Community Assistance Program.

Standard Flood Insurance Policy

Comments on the changes in the Standard Flood Insurance Policy (SFIP) focused on four areas.

One of the areas receiving comments was the proposal to pay policy building

limits, where an insured building is flooded continuously for 90 days and it appears that flood damage will eventually reach those limits, without waiting for further damage to occur. One commentator supported the proposal without suggesting any change. A second commentator supported the proposal but suggested reducing the 90 days to 30 days or even applying this procedure to properties in imminent danger of being continuously flooded. FEMA continues to believe that the 90-day period is appropriate so no change has been made in this regard in the final rule. A third commentator understood this proposal to be intended to deal with repetitive flooding and suggested that flood plain management measures could help reduce flood damage. The situations FEMA has encountered that gave rise to this proposal did not involve repetitive flooding, and this is not what the proposal is intended to address. However, FEMA's Community Assistance Program is certainly available to assist communities with special flood plain management measures if needed. This commentator also questioned what would happen if the insured refused to sign the release provided for in the proposal. In that case, the procedure would not be available to that insured, and multiple claim payments would be made as new damage occurred (as is the case currently). This commentator also felt that the phrase "before the end of the policy term" in the last sentence needed to be clarified. FEMA believes that both references to the policy term in the last sentence of this provision clearly are to the policy term during which the continuous flooding began so that this clarification is not needed. The first sentence of the provision has been revised for clarity, including clarifying that it does not apply to erosion coverage, and has also been revised to take into account the possibility of an over-insured building.

A second area receiving a comment was the proposed addition of a definition of "base flood" to the SFIP. The commentator wrote, ". . . [this] definition of 'base flood' is misleading in that the freeboard requirement and, therefore, the base flood elevations used in § 65.10 'Mapping', is actually the computed base flood elevation with the expected probability adjustment." The definition of "base flood" in the proposed rule is the same as that given by § 59.1 of the existing regulations. The proposed rule was not redefining this definition but was merely adding the definition to the Standard Flood Insurance Policy. It is evident from the commentator's citation that the commentator had confused the definition of "base flood" with the procedure that is to be followed to account for hydrologic uncertainties when an exception is being sought to the freeboard requirements for levees to be recognized as providing protection from the base flood. Since these procedures have no bearing on the definition of "base flood," no changes have been made to this definition in the final rule.

A third area was the proposed deletion of coverage for the expenses incurred in the removal of an insured mobile (manufactured) home away from the peril of flood. Three commentators recommended continuing to provide this coverage, with two of them stating that removing a mobile home is a safer and less expensive method of preventing flood damage than sandbagging. FEMA has reconsidered and has decided not to delete removal expense coverage for mobile homes. While removal expense coverage will apply to all insured property removed because of the imminent danger of flooding, a limit will be imposed on the amount of removal expense that is reimbursable. However, no deductible will be applied to this reimbursement. Reasonable expenses incurred by the insured in the temporary removal and storage of insured property will be reimbursable for buildings up to the amount of the minimum building deductible (currently $500) and for contents up to the amount of the minimum contents deductible (also currently $500). This change will have a delayed effective date as explained below.

A fourth area receiving a comment was the need for printing new policy forms to reflect the changes being made to the SFIP. A private insurance company participating in the Write-Your-Own Program of the NFIP suggested handling these changes to the SFIP in a way that avoids the need for printing new policy forms. While FEMA understands the complications and expenses involved in printing new policy forms, it believes that this is, nonetheless, the best way to proceed to assure that policyholders receive notice of the changes to their flood insurance coverage. However, to allow more time for new policy forms to be printed, the effective date of the SFIP changes in this rule that restrict coverage has been delayed until January 1, 1987. The other SFIP changes in this rule—those that are liberalizations of coverage or are clarifications of coverage or are of an editorial nature—will be effective October 1, 1986. Under the Liberalization Clause of the SFIP (Article IX of the Dwelling Form and paragraph I of the GENERAL CONDITIONS AND PROVISIONS section of the General Property Form), these liberalizations of coverage will apply to all claims arising on and after October 1, 1986, regardless of the date of issue of the policy involved.

The following SFIP changes (and one related change to § 61.5) in Part 61 will be effective January 1, 1987 (corresponding changes to the Dwelling Form, the General Property Form, and § 61.5 are listed together):

1. The change to the definition of "Direct Physical Loss by or from Flood" in Article II—Definitions of Appendix A(1) (item 12.c of this rule) and to the DEFINITIONS section of Appendix A(2) (item 13.e of this rule).

2. The change to paragraph C of Article V—Property Not Covered of Appendix A(1) (item 12.k of this rule).

3. The change to paragraph D of Article V-Property Not Covered of Appendix A(1) (item 12.l of this rule) and the change to paragraph D of the PROPERTY NOT COVERED section of Appendix A(2) (item 13.l of this rule).

4. The removal of paragraph D of Article VI-Deductibles of Appendix A(1) (item 12.q of this rule); the removal of paragraph D of the DEDUCTIBLES section of Appendix A(2) (item 13.q of this rule); and the change to § 61.5(d) (item 9.a of this rule). These changes relate to the changes in 1 above.

5. The change to paragraph H of Article VIII-General Conditions and Provisions of Appendix A(1) (item 12.v of this rule) and the change to paragraph G of the GENERAL CONDITIONS AND PROVISIONS section of Appendix A(2) (item 13.r of this rule).

Mapping Changes in the Proposed Rule

Section 61.12 contains procedures for applying section 1307(e) (commonly referred to as the "Brooks Amendment") of the National Flood Insurance Act of 1968, as amended, which grants communities relief from insurance premiums based on adequate progress towards completion of federally funded flood protection systems. Adequate progress is defined in terms of project cost as 100 percent authorized, 60 percent appropriated, 50 percent expended, and 50 percent of physical feature construction completed. A complicating factor of § 61.12 is that it does not address the applicability of the flood plain management provisions of § 60.3. FIA has established the procedure of designating areas affected by § 61.12 determinations as Zone A99, which in effect reduces insurance premiums and relaxes flood plain

management criteria in recognition of the protection to be provided by the flood protection system under construction.

To support both the provisions of section 1307(e) of the Act and the provisions of the Act relating to actuarial soundness and effective flood loss reduction, determinations under § 61.12 should include a review of the construction status of all critical physical features within the flood protection system under consideration. Consideration of each critical physical feature will assure that unreasonable § 61.12 applications are not made for structures that will not provide flood protection for extended periods of time. To promote a reasonable and objective means of making decisions relating to § 61.12, FIA must further clarify the original requirement that a flood protection system's physical features be under construction and be 50 percent completed to mean that *all* of the critical features (i.e., physical features) comprising a flood protection system must be under construction and 50 percent completed. A critical feature was defined in the proposed rule as an integral and readily identifiable part of the flood protection system without which the flood protection provided by the entire system would be compromised.

For example, a large project such as a hurricane flood protection project often consists of many different features such as levee sections, flood walls, and flood gates. For such a system to be considered under the provisions of § 61.12, the proposed rule required that each of these critical features must be under construction and 50 percent complete. The approach of reviewing the completion status of each critical feature, instead of only assessing the entire flood protection system's construction completion level as a unit, will allow more structured decision making in § 61.12 applications; will assure that adequate progress is being made toward an effective flood protection system and will assure that the design level of protection will be achieved within a reasonable period of time after insurance rates are reduced and nonstructural flood plain management requirements are relaxed. This was the intention of section 1307(e) of the National Flood Insurance Act of 1968, as amended.

The flood risk data published in NFIP maps and Flood Insurance Study (FIS) reports form the technical basis for the administration of the NFIP in each flood-prone community in the nation. These data provide the basis for flood plain management measures required of each community participating in the NFIP, as well as the basis for actuarial flood insurance premiums. Although the preparation of NFIP maps and FIS reports is subject to rigorous technical standards, it is recognized that improvements in techniques used to estimate flood risks, changes in physical conditions in flood plains or watersheds, and availability of new technical data may necessitate revisions of the maps and studies.

In making such revisions, there must be adherence to the same engineering standards applied in the preparation of the original map and FIS report. When requesting changes to NFIP maps and FIS reports, adequate supporting data must be submitted. These data allow FEMA to review and evaluate the requests and to carry out its responsibility to ensure that the information to be presented is scientifically and technically correct.

A great deal of time and effort is expended by individuals, communities, and FEMA in obtaining the technical information needed to evaluate requests for changes to the NFIP maps. The proposed rule provided more detailed information on the types of supporting data that FEMA needs to review and evaluate requested map changes.

The granting of revisions to NFIP maps without specifications for the placement of fill has been a concern in the past. The basis of this concern is threefold. First, improperly protected fill can be subject to scour and erosion which can result in the exposure of the structure to damages due to undermining. Second, improperly compacted fill can settle. In extreme cases this could result in the fill surface subsiding below the base flood elevation (BFE) or in major structural damage to the building if differential settling occurs. Third, the removal of property from the flood plain permits the construction of homes with non-floodproofed basements. These basements can suffer significant damages due to hydrostatic pressure if the fill that is used is highly permeable or improperly compacted.

By establishing criteria requiring that fill be engineered to ensure its permanency, adverse impacts such as those mentioned will be minimized as a condition of granting a map revision. The proposed rule had requirements for compaction and density of fill layers, elevation of fill, and adequate protection of fill slopes. A certification from a community's NFIP permit official, a registered professional engineer, or an accredited soils scientist that these requirements have been met was required by the proposed rule.

The degree of protection afforded by a levee system is never known precisely because of the uncertainties involved in establishing the base flood elevations and the structural stability of the levee itself. Therefore, levee systems must meet certain requirements to be recognized by the NFIP as providing protection from the base flood. In this regard, the proposed rule provided requirements for the treatment of earthen riverine and coastal levees involving: (1) Design, including freeboard requirements, closures, embankment protection, stability, settlement, and interior drainage; (2) operation, including closures and interior drainage; and (3) maintenance.

Freeboard is required to offset the hazards that might arise from underestimation of the base flood elevations as a result of uncertainties in the hydraulic and hydrologic analyses. The freeboard must be sufficient to protect against overtopping and to ensure the structural stability of the levee system under the loading conditions expected to occur during the base flood.

Under the proposed rule, a levee system that involves closure devices would only be recognized if these devices are appropriately designed and are structurally a part of the levee system. Sandbags would not be recognized for this purpose. The design and operation of these devices must ensure the structural stability of the levee system.

The proposed rule also prescribed requirements for analyses which demonstrate that appreciable erosion of the levee embankment will not occur during the base flood; that seepage during loading conditions associated with the base flood will not jeopardize embankment or foundation stability; that the potential and magnitude of freeboard loss resulting from levee settlement is not critical; that facilities to eliminate flooding due to interior drainage are adequate; and that operation and maintenance requirements are sufficient to ensure continuation of the protection afforded by the levee as designed and constructed. Under the proposed rule, FEMA could require that other factors, in addition to those listed in the proposed rule, be considered in certain situations.

The accuracy of the flood plain boundaries shown on NFIP maps is limited by the scales at which maps are prepared and by the topographic data available to prepare them. These

limitations may result in structures or parcels of land being incorrectly included in an area of special flood hazard. When alteration of topography (i.e., earth fill) has not occurred since the effective date of the first NFIP map and it is demonstrated that the property has been inadvertently included in an area of special flood hazard, a Letter of Map Amendment may be granted removing the property from the area of special flood hazard.

The proposed rule clarified Part 70 by eliminating its application in situations where there has been alteration of topography since the effective date of the first NFIP map showing the property within the area of special flood hazard. Also, a statement was inserted referencing Part 65 if alteration of topography has occurred.

To further clarify the regulations, the definitions of "critical feature", "levee", and "levee system" were added. The definitions of "mean sea level" and "water surface elevation" were revised to include reference to the NGVD of 1929.

Comments on Mapping Changes

Of the 61 sets of comments received, 27 commentators addressed the proposed mapping changes in about 33 different areas. Comments received on the proposed mapping changes have been consolidated and are discussed below.

Comments on § 61.12

One commentator agreed with the proposed clarifications to § 61.12 and especially with the clarification provided on "critical features."

One commentator suggested that § 61.12 should also make allowance for relief from insurance premiums based on adequate progress toward completion of *locally* funded flood protection systems. Section 61.12 is based on Section 1307(e) of the National Flood Insurance Act of 1968, as amended. Public Law 93-383, which added paragraph (e) to section 1307, is more commonly known as the "Brooks Amendment." The Brooks Amendment requires the Federal Insurance Administrator to make allowances for relief from insurance premiums based on adequate progress toward completion of flood protection systems. The proposed rule did not add the limitation that considerations of adequate progress only be applied to federally funded flood protection systems. This requirement was specified by the regulations that existed prior to the proposed rulemaking and is consistent with the intent of Congress when it enacted the Brooks Amendment. As can be seen from a quote from the *Congressional Record* in a subsequent paragraph of this discussion, the Brooks Amendment was enacted to provide relief to a small district in Texas where a flood control project had been substantially completed at the time of the enactment of the Brooks Amendment. The flood control project alluded to in this quotation was federally-funded and the language of the amendment clearly applies to the Federal process of authorization and appropriation. To act as suggested by the commentator is not authorized by this statute.

Two commentators objected to the definition of adequate progress and saw no reason for granting any relief from insurance rates until the total project is 100% complete and certified as adequate by a registered professional engineer. The proposed rule did not add a definition of "adequate progress" as it had been previously defined by existing regulation. In addition, the Brooks Amendment provides the specific definitions the Federal Insurance Administrator shall use in making "adequate progress" determinations. To act differently, as was suggested, is not authorized by the Brooks Amendment.

One commentator took exception to the clarification proposed in § 61.12(b)(4) stating that the inclusion of the requirement for all critical features to meet the "adequate progress" definitions of the Brooks Amendment would violate its mandate and spirit. The mandate and spirit of the Brooks Amendment can be gleaned fro.n the following quote from the *Congressional Record* (House, June 20, 1974, page 20309) that was made by the sponsor of the Brooks Amendment prior to its enactment.

> This amendment will allow an area where a flood control project is substantially completed and which has not been delayed through any fault of the local sponsors to continue to receive flood insurance coverage at the subsidized rate.
>
> This problem arises in a unique case in my district in Texas. It is my understanding that this will not have any material effect on the proposed legislation or on the overall flood insurance program other than to prevent undue hardship to a small area of Texas.

A "critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised. To permit the definition of "adequate progress" to be applied to a flood protection system without first determining that all critical features are substantially completed, as has been suggested by the commentator, would not be in keeping with the spirit and the letter of the Brooks Amendment in that such action would have a material effect on the flood insurance program. If the commentator's suggestion were implemented, the Federal Insurance Administrator would no longer have assurances that adequate progress is being made toward an effective flood protection system and that the design level of protection would be achieved within a reasonable period of time after insurance rates are reduced and nonstructural floodplain management requirements are eliminated. This is true because if the system were viewed only in the context of percentage completion without reference to critical components then credit could be given to such a system even though no progress was being made on critical components necessary to provide flood protection.

General Comments on Part 65

Two comments were received strongly supporting the requirements of the proposed rule for certification of fill and the inclusion of the requirements for revision of special flood hazard areas, base flood elevations, floodways, and the mapping of areas protected by levees. The commentators noted that the requirements of proposed rule are currently covered by operating procedures within the Agency.

Comments on Data Submissions

Two commentators expressed an opinion that communities should be responsible for notifying FEMA of any changes that affect flooding conditions regardless of when the information became available. The Agency shares the opinion that data should be submitted as early as possible but retained the phrase "within six months of the date that such information becomes available . . ." in the proposed rulemaking to establish a suspense date for receipt of this information to insure administrative efficiency. However, to clarify the intent of this regulation, the final rule will be changed to read:

> As soon as practicable, but not later than six months after the date that such information becomes available, a community shall notify . . .

Two commentators noted that § 65.4 provides communities with the right to request changes to an effective map because of changes in a community's corporate boundaries. These commentators expressed an opinion that the Agency should require communities to notify FEMA of any and all changes in their corporate boundaries. A mandatory reporting requirement on corporate boundary changes already

exists under § 60.2(f) and § 64.4(b) in the current regulations. Since this provision exists, there is no need to modify the language of § 65.4 to incorporate it.

Two commentators expressed the opinion, "where states have jurisdiction over the adoption and amendment of floodplain ordinances, including maps, state concurrence on these changes should be required as a condition of submittal." The Agency recognizes that where states or local communities have adopted floodplain management regulations that are more comprehensive than the minimum Federal criteria specified by Part 60, that these criteria take precedence. However, the delineation of areas of special flood hazard and the establishment of base flood elevations remain a FEMA responsibility and are based on the physical conditions existing at the time the map is created or revised. Since it is the responsibility of FEMA to assure that flood mapping accurately represents current risks, revisions to areas of special flood hazard or base flood elevations based on existing conditions cannot be held in abeyance pending reviews by other levels of government. Section 65.7(b)(3) does require state approval prior to floodway revisions where state jurisdiction is involved.

Comments on Revising Maps Without BFE Changes

Two commentators opined that § 65.5 should be expanded to allow communities to request map revisions based on topographic data where no physical changes have occurred in the floodplain. It was the Agency's intent to also permit this action when no fill has been placed and the natural grade is above the base flood elevation (BFE). The final rule incorporates this clarification.

One commentator asked for a clarification of the procedures FEMA follows in determining whether a parcel of land or a structure shall be excluded from the special flood hazard area (SFHA). The phrase, "special flood hazard area" means the same as "area of special flood hazard" which is defined at § 59.1. If a legally defined parcel of land is to be excluded from the SFHA, then the entire parcel of land must be at or above the BFE. If a structure is to be excluded from the SFHA, then the entire structure, including the basement, if any, must be at or above the base flood elevation. A determination of exclusion for a structure is made by comparing the elevation of the first floor and lowest adjacent grade to the structure with the elevation of the base flood. This clarification has been added to the final rule at §§ 65.5(a)(3), 65.5(a)(4), and 70.4.

Two commentators suggested that FEMA may wish to consider that changes to maps only be made where the physical changes resulting from a fill in the floodplain are contiguous to lands outside the floodplain. The Agency recognizes the concern for evacuation routes during periods of flooding implicit in the suggestion, but has no technical basis for distinguishing a difference in floodplain status between properties under these conditions.

One commentator recommended that the proposed rule include, in the placement of fill provision [§ 65.5(a)] that contact is made with the U.S. Army Corps of Engineers when discharges or dredged or fill material into regulated waters may be involved. The existing regulations, § 60.3(a)(2) already require the contact suggested by the commentator by requiring that the Chief Executive Officer of the community review all proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or state law. Specific mention is made here of Section 404 of the Federal Water Pollution Control Act Amendments of 1972.

One commentator voiced agreement with the changes suggested by the proposed rule, specifically ". . . the strengthening of the policy on the use of fill."

One commentator noted that the requirement to certify the compaction of fill would make monitoring and enforcement unnecessarily difficult and imposes undue hardship on residents. The commentator remarked that it would mean extra cost to obtain a certified test and that there were many areas where this type of test cannot be locally obtained. The Agency recognizes that this is a valid concern and there may be instances where the certification of the compaction of fill may be expensive and difficult for an individual homeowner to obtain.

The requirements of § 65.5(a)(6) have been rewritten to provide an exemption to individual home or property owners who submit a request to gain exclusion from an area of special flood hazard for a single structure or a single lot that has been elevated by the placement of fill. These persons are encouraged to take note of the provisions of this section and are urged to reduce their vulnerability and exposure to flooding by voluntarily complying with the design standards specified therein to the extent possible.

Comments on Certification Requirements

Two commentators submitted several comments on the certification requirements of § 65.5(b), 65.6(f), 65.7(d), and 65.10(e) noting, among other things, that in some instances the certifications sought were "performance guarantees" and that the certifications should be limited to only the accuracy of the information provided.

In general, §§ 65.5(b), 65.6(f), 65.7(d), and 65.10(e) of the proposed rule state that the technical information submitted in support of a request for a revision to an effective FEMA map must be certified by a registered professional engineer or licensed land surveyor. This information, which usually consists of topographic maps, survey data, as-built plans, and engineering analyses, is usually submitted, not by disinterested parties, but rather by those who stand to gain in some way from the requested revisions. Given that FEMA is responsible for the information presented on its maps, and because this information is used for insurance purposes and for floodplain management decisions, FEMA must be assured that the information used to revise flood insurance maps is as accurate as possible. The required certification provides this assurance. It would be irresponsible of FEMA to proceed with map revisions in the absence of such certifications. Also, the lack of certifications could lead to extensive requests for corroborating information, therefore causing unnecessary delays and expenses in maintaining FEMA maps as accurate sources of flood risk information. Thus, the requirement for certification of the information submitted to support requests for map revisions is necessary, and should be included in the rule.

The intent of the requirement is not to extract from the person or agency providing the information a guarantee that flood protection structures will function as intended or that specific areas will not be subject to flooding. The intent, rather, is for FEMA to be assured that the person or agency provides data, analyses or other information in accordance with sound practices established by the engineering profession.

Section 62.2 has been amended to include a definition of certification for the intent and purposes Part 65. This definition is cross-referenced under §§ 65.5(c), 65.6(f), 65.7(d) and 65.10(e).

Revision of BFEs

Three commentators noted that the wording of § 65.6(a)(2) was difficult to understand regarding the tie-in to areas not affected by the revision. The Agency has rephrased § 65.6(a)(2) in the final rule to improve its readability.

One commentator concerned with the requirement that revision requests must demonstrate that topographic changes do not encroach in the floodway, asked about raising existing levees within the floodway. Before a community could encroach upon its floodway by adding fill materials to the existing levee, the community would first have to request a revision to its regulatory floodway and demonstrate that the loss of conveyance created by the additional fill materials is offset by other actions the community proposed to take to restore the lost conveyance.

One commentator expressed opposition to using "confidence limit" criteria just for discharges and stated that this should apply to the three foot levee freeboard requirement as well. The "confidence limit" approach is one measure of uncertainty. The proposed rule does not preclude a person seeking an exception from the three foot levee freeboard requirement from using this technique or any other valid measure to establish the level of uncertainty in the water surface elevation profile of the base flood.

Two commentators expressed a desire for the establishment of generalized criteria under which flood levels could be increased by more than the amount specified under the Agency's floodway regulations provided the rights of property owners affected by the increase are protected. This topic was not within the scope of the proposed rulemaking. The Agency has taken this matter under advisement and is formulating a position which could be the subject of future rulemaking during FY 1988.

Comments on Use of Original Computer Model

Sections 65.6(a)(3) and 65.7(c)(2)(i) of the proposed rule required the use of the same hydraulic computer model used in preparing the effective Flood Insurance Rate Map and Flood Boundary Floodway Map when revisions to these maps are proposed. More comments were received on this requirement than on any other portion of the proposed rulemaking on mapping changes. Commentators noted that the original model and data are sometimes not available or outmoded because of natural and man-made changes in the floodplain as well as because of improvements made in computational methodologies. These commentators were also concerned because the wording of the proposed rule also implied that the exact same computer model, not the same hydraulic model, must be used in preparing the revisions. The Agency recognizes these concerns. FEMA's intention in requiring the use of the original hydraulic computer model is to ensure consistency and to prevent the introduction of discrepancies that may be attributable to model differences. The final rule clarifies the Agency's intent with regard to the use of the original model and provides an alternative when it is no longer available.

Comments on Floodway Revisions

One commentator suggested that § 65.7(c)(2)(iii) of the proposed rule read as follows, "The floodway limits must be set so that the combined effects of past and *proposed* encroachments and the new floodway limits do not increase the effective base flood elevations by more than the amount specified in . . ." Once a new floodway is established any proposed encroachments must not result in any increase in flood levels or the entire purpose of a floodway would be defeated. No change has been made in the rule since such a change would circumvent the purpose of establishing floodways.

One commentator noted that the proposed rule at § 65.6(a)(3) stipulates that revisions of Base Flood Elevations (BFEs) cannot be made based on the effects of proposed projects or future conditions. This commentator apparently interpreted this language to preclude any highway activity that would result in a change in BFEs. The commentator misinterpreted these provisions. Section 65.6(a)(3) simply states that only those projects that are in place and effectively functioning can be used as the basis for a map revision. Proposed projects will only result in a map revision when they have achieved "as-built" status.

One commentator stated that § 65.7(c)(2)(iii) implies no increase to effective BFEs more than the limits stated and suggested that this section be crossed referenced to § 65.7(b) since the effective elevations could be in error. Since § 65.7(c) addresses only those changes not affecting base flood determinations, the Agency believes this to be an unnecessary cross reference.

Comments on Review and Response by the Administrator

One commentator suggested that the response time of the Administrator be limited to 30 days instead of the 90 days shown under § 65.9. All requests for revisions are processed by the Agency as expeditiously as possible. Many are granted within the 30 day period suggested by the commentator, but because of the complexity of the technical evaluation and the cartographic effort that must be expended in responding to these requests it is virtually impossible to process all of them within the suggested timeframe. No change has been made to the provisions of § 65.9 by the final rule.

Comments on Mapping of Areas Protected by Levees

Five commentators expressed objections to the criteria of § 65.10 noting in their opinion, that levees providing protection, albeit less than 100-year protection, mitigate flood losses and thought that these levees should be credited for insurance rating purposes. These comments are beyond the scope of the proposed rulemaking. The proposed rulemaking was limited to the specification of criteria for the recognition of levees that provide protection against the 100-year, or base flood for the purpose of identifying areas of special flood hazard. The proposed rulemaking does not address criteria or the establishment of actuarial rates for levees providing lesser degrees of protection. However, the Agency has taken this matter under advisement. It is in the process of considering individual community rating criteria that may incorporate consideration of levees that provide less than 100-year protection. Such criteria would be the subject of future rulemaking.

Four commentators opposed the three foot freeboard requirement for levees and stated that the proposed rule needs to be more flexible in addressing area-specific circumstances associated with an individual river system. Only a small percentage of all earthen levees built with crown elevations at the computed 100-year, or base flood, elevation can be expected to provide protection to the event that has a true one percent annual exceedance probability because of the uncertainty involved in establishing flood elevations, changing hydrologic and hydraulic conditions, and the possibility the levee will fail structurally before it is overtopped. The freeboard requirement is intended to compensate for these uncertainties. Recognizing a levee system as providing 100-year protection on an NFIP map has the net effect of removing all floodplain management requirements, lender notification requirements, and insurance purchase requirements within the area protected by the levee. It is because of these far-reaching impacts that the

Agency has established procedures to recognize only levees that are properly engineered, structurally sound, and have a reasonable expectation of providing the design level of 100-year protection. FEMA first promulgated the levee freeboard requirements in an interim levee policy dated February 10, 1981 and has been operating under that policy since that time. The requirement for a three foot freeboard is consistent with that specified by the Corps of Engineers in Engineering Manuals 1110–2–1913 and 1110–2–1601, Design and Construction of Levees and Hydraulic Design of Flood Control Structures, respectively. It is also consistent with the findings of the National Academy of Science report entitled, "A Levee Policy for the National Flood Insurance Program," wherein it was recommended that new levees should be recognized for the purpose of reducing insurance rates where they provide protection against 100-year or larger floods and where they meet specified structural design criteria including freeboard.

The rulemaking is flexible in addressing area-specific circumstances. These regulations specify an exception process whereby the freeboard requirements would be relaxed if the community or levee owner can demonstrate that protection from the 1 percent chance flood can be reasonably assured with a lesser freeboard. To do so, the party seeking the exception must demonstrate that the uncertainties in the base flood elevations and their impact on the structural stability of the levee itself are relatively small.

Also, the minimum freeboard requirements can be waived if a Federal agency with responsibility for levee design certifies that the levee has been adequately designed, constructed and maintained to provide protection against the base flood.

One commentator noted that the freeboard requirement for coastal levees would be difficult to establish and suggested the proposed rule be modified by either omitting the parenthetical phrase "whichever is higher" or by specifying an acceptable methodology for determining wave periods. The commentator then continued with a discussion of the relative merits of different methodologies. It is evident from the commentator's suggestion that the commentator does not have a problem with the criteria provided an acceptable methodology is used in establishing its parameters. The debate of alternative methodologies is beyond the scope of this rulemaking and the intent of the provision at § 65.10(b)(1)(iii). The Agency will establish or refine acceptable methodologies as it has in the past for other study aspects through coordination and consultation with entities having the cognizant expertise, or with the scientific and professional community.

One commentator suggested a revision to § 65.10(b)(6) to "include high ground water behind the levee system which results from prolonged flooding on the river side of the levee system, especially if damage from such high ground water is not eligible for flood insurance coverage." The Agency was unable to interpret this suggestion or to put it into context so that it could be evaluated for possible inclusion into the rulemaking.

One commentator thought it was inappropriate for FEMA to recognize a large structural project as providing protection from the base flood on NFIP maps and then to reduce insurance rates and eliminate floodplain management requirements in the protected area. The commentator based his supposition on the fact that hurricane flood protection projects are susceptible to damage and failure by coastal storms and erosion and that susceptibility to failure may be compounded by the long term maintenance needs of these projects which may be beyond the financial capabilities of most local governments. The Agency recognizes that such systems are susceptible to damage from coastal storms and the effects of wind, wave and water action and has included provisions in the design criteria to require that the system provides adequate protection. Included in these criteria are requirements for analyses that demonstrate that no appreciable erosion of the levee embankment can be expected during the base flood, as a result of either water currents or waves, and that the anticipated erosion will not result in the failure of the levee embankment or foundation. The rule also requires an officially adopted maintenance plan before a levee will be recognized as providing protection from the base flood. The maintenance activities to be performed must be under the jurisdiction of a Federal or state agency, an agency created by Federal or state laws, or an agency of a community participating in the NFIP.

The same commentator cited recent studies that predict sea level rises in the range of 3 to 6 feet over the next 100 years and expressed the concern that proposed rule appeared to be treating coastal levees as if sea level rise is not occurring. The Agency recognizes that most authorities agree that the sea level will rise during the next century, but also recognizes that there is much disagreement when it comes to quantifying the expected rise. The values cited by the commentator are the greatest expected. The Agency is limited to mapping conditions as they exist at the time of the study because the studies are used to establish actuarial insurance rates that must reflect the existing risk for the area in question. The Agency has a maintenance program of keeping flood risk data current and accurate through map revisions and restudies. Even if restudies were conducted for an area once every 20 years, the restudy process will be sufficient to keep flood hazard identifications current with the slowly changing risk induced by sea level rise.

Comments on Mapping Definitions

One commentator suggested that the term "accepted engineering standards" to be found in § 59.1 under the proposed definitions for "Levee" and "Levee System" needs to be clarified, referenced and better specified—especially regarding the freeboard issue. Clarification regarding the freeboard requirements have been provided elsewhere in the section addressing comments received on the proposed rule. The terms "accepted engineering standards" and "sound engineering practices" appear in the literature with the latter being cited more frequently when the intent is to convey that the actions of a registered professional engineer would pass the scrutiny of, or meet with, the approval of a peer board of review. Since the latter is slightly more favored by the literature, the definitions of "Levee" and "Levee System" will be revised by the final rule to incorporate the phrase "sound engineering practices."

One commentator voiced the concern that the revised definition of "mean sea level" to be the National Geodetic Vertical Datum of 1929 (NGVD) or other datum could possibly lead to confusion if the "other datum" is not specified on the Flood Insurance Rate Map (FIRM). The FIRM always specifies the datum to which the Base Flood Elevations (BFEs) are referenced. In the vast majority of instances, the FIRM is referenced to NGVD. In those rare instances when a FIRM is referenced to another datum, particular care is taken to ensure that the FIRM bears a reference to the datum used in a prominent and conspicuous place.

Changes in the Final Rule From the Proposed Rule for Mapping

The final rule contains the following changes in regard to the mapping changes described in §§ 59.1 and 61.12

VOL 51 ISS 164 AG 25 1986 UMI

and Parts 65 and 70 of the proposed rule published on March 28, 1986:

1. The definitions of "Levee" and "Levee System" of § 59.1 have been refined by replacing the phrase "accepted engineering standards" with "sound engineering practices" which is more commonly used in the literature.

2. The requirement to submit new technical data under § 65.3 was changed to read "As soon as practicable, but in no event later than six months after the date that information becomes available . . ." This change was made to place emphasis on the administrative need for the timely submission of data.

3. A new paragraph (b) was added to § 65.5 and the paragraph (b) of the proposed rule was redesignated (c). This addition was made to provide communities with an opportunity to request map revisions that are solely based on new or improved topographical maps.

4. Sentences have been added to §§ 65.5(a)(3), 65.5(a)(4), and 70.4 to describe how determinations will be made as to whether entire parcels of land or structures should be excluded from the area of special flood hazard (100-year floodplain).

5. A definition of "certification" by a registered professional engineer or other party has been added to § 65.2 and is incorporated by reference in §§ 65.5(c), 65.6(f), 65.7(d), and 65.10(e).

6. The Agency has added language to the rule at § 65.5(a)(6) to alleviate the economic burden individual home and property owners would have otherwise incurred in complying with the design criteria for the placement of fill.

7. The Agency has added a new paragraph (7) to § 65.5(a). This change was necessary to be consistent with § 65.6(a)(10) which denies map revision requests when it is demonstrated that topographic changes in the floodplain have caused an encroachment of the floodway.

8. Section 65.6(a)(8) has been revised to provide the map revision requestor with an alternative to using the original hydraulic computer model which may no longer be available.

9. Section 65.7(c)(2)(ii) has been revised to provide the map revision requestor with an alternative to using the original hydraulic computer model which may no longer be available or is inappropriate to use.

10. The Agency has revised § 65.10(b) to clarify its intent in specifying design criteria.

In addition to the changes described above the final rule also made a few minor editorial or typographical corrections to the proposed rule.

Three commentators took exception to FEMA's finding that the establishment of levee design criteria by the proposed rule would not have a significant economic impact. Two of these three commentators also took exception with the finding that the rule does not have significant environmental impact and requested that an environmental impact statement be prepared and circulated for public comment. The basic reason cited for taking exception to FEMA's findings would be the costs these three communities might incur in implementing the levee design criteria to have a levee recognized as providing 100-year flood protection.

The rule does not advocate or encourage levee construction. Nor does it set any mandatory requirements for levee construction. It provides criteria for evaluating when existing or new levees should be recognized as providing protection from the 100-year flood for purposes of identifying areas of special flood hazard on NFIP maps.

FEMA recently completed a levee inventory of about 12,200 communities. These were all the communities that had an effective FIRM. About 6.7% of these communities, or 816, had levee systems providing 100-year or greater flood protection. This percentage would support FEMA's finding that, even though the rule does not advocate construction of flood protection systems and compliance with the criteria is voluntary, the rule does not have a significant economic impact on a substantial number of entities and, therefore, a regulatory flexibility analysis is not required.

In addition to the changes discussed above that this final rule made to the proposed rule, some changes of an editorial nature were also made.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. As a result, an Environment Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

This rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, 65, 70, 72, and 76

Flood insurance, Flood plains, Grant programs, National resources, Intergovernmental relations.

Accordingly, 44 CFR Chapter 1, Subchapter B is amended as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 continues to read as follows and all authority citations to individual sections are removed:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 59.1 [Amended]

2. Section 59.1 is amended as follows:

a. By adding, alphabetically, a definition of "Critical feature" to read as follows:

* * * * *

"Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

* * * * *

b. By removing the definition of "Existing mobile home park or mobile home subdivision."

c. By removing the definition of "Expansion to an existing mobile home park or mobile home subdivision."

d. By adding, alphabetically, a definition of "Functionally dependent use" to read as follows:

* * * * *

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

* * * * *

e. By adding, alphabetically, a definition of "Levee" to read as follows:

* * * * *

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of

water so as to provide protection from temporary flooding.

* * * * *

f. By adding, alphabetically, a definition of "Levee system" to read as follows:

* * * * *

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

* * * * *

g. By adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

* * * * *

h. By adding, alphabetically, a definition of "Manufactured home park or subdivision" to read as follows:

* * * * *

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

* * * * *

i. By revising the definition of "Mean sea level" to read as follows:

* * * * *

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

* * * * *

j. By removing the definition of "Mobile home."

k. By removing the definition of "Mobile home park or mobile home subdivision."

l. By removing the definition of "New mobile home park or mobile home subdivision."

m. By adding, alphabetically, a definition of "Program deficiency" to read as follows:

* * * * *

"Program deficiency" means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards in §§ 60.3, 60.4, 60.5, or 60.6.

* * * * *

n. By adding, alphabetically, a definition of "Remedy a violation" to read as follows:

* * * * *

"Remedy a violation" means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

* * * * *

o. By revising the definition of "Start of construction" to read as follows:

* * * * *

"Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

* * * * *

p. By removing in the definition of "Structure" the phrase "mobile home" both times it appears and adding in its place both times the phrase "manufactured home" and by adding before the word "foundation" the words "a permanent".

q. By adding, alphabetically, a definition of "Violation" to read as follows:

* * * * *

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

* * * * *

r. By adding, alphabetically, a cross reference from "V zone" to "Coastal high hazard area" to read as follows:

* * * * *

"V Zone"—see "coastal high hazard area."

* * * * *

s. By revising the definition of "Water surface elevation" to read as follows:

* * * * *

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 60.3 [Amended]

4. Section 60.3 is amended in the following particulars:

a. By removing in paragraph (a)(1) the phrase "mobile homes" and adding in its place the phrase "manufactured homes".

b. By revising paragraph (a)(3) to read as follows:

* * * * *

(a) * * *

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads,

including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

* * * * *

c. By adding in the first sentence of paragraph (a)(4) between the words "development" and "to" the phrase ", including manufactured home parks or subdivisions,".

d. By removing in paragraphs (b)(1) and (b)(8) (twice) the phrase "mobile homes" and adding in its place the phrase "manufactured homes".

e. By revising paragraphs (b)(3) through (b)(5) to read as follows:

* * * * *

(b) * * *

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (d)(2) and (d)(3) of this section;

(5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(ii) Obtain, if the structure has been floodproofed in accordance with paragraph (c)(3)(ii), the elevation (in relation to mean sea level) to which the structure was floodproofed, and

(iii) Maintain a record of all such information with the official designated by the community under § 59.22 (a)(9)(iii);

* * * * *

f. By removing paragraph (b)(9).

g. In paragraph (c)(2), by removing the phrase "and/or storm cellars" and also by removing the phrase "§ 60.6(b)(3) and (b)(4)" and adding in its place the phrase "§ 60.6 (b) or (c)".

h. By revising paragraphs (c)(5) and (c)(6) to read as follows:

* * * * *

(c) * * *

(5) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Require that all manufactured homes to be placed or substantially improved within Zones A1–30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of paragraph (b)(8) of this section.

* * * * *

i. By removing paragraph (d)(4).

j. By removing paragraph (e)(7) and redesignating paragraph (e)(8) as (e)(7).

§ 60.6 [Amended]

5. Section 60.6 is amended in the following particulars:

a. By adding paragraph (a)(7) to read as follows:

(a) * * *

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

* * * * *

b. By removing paragraphs (b)(3) and (b)(4).

c. By adding paragraph (c) to read as follows:

* * * * *

(c) A community may propose flood plain management measures which adopt standards for floodproofed residential basements below the base flood level in zones A1–30, AH, AO, and AE which are not subject to tidal flooding. Nothwithstanding the requirements of paragraph (b) of this section the Administrator may approve the proposal provided that:

(1) The community has demonstrated that areas of special flood hazard in which basements will be permitted are subject to shallow and low velocity flooding and that there is adequate flood warning time to ensure that all residents are notified of impending floods. For the purposes of this paragraph flood characteristics must include:

(i) Flood depths that are five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots;

(ii) Flood velocities that are five feet per second or less; and

(iii) Flood warning times that are 12 hours or greater. Flood warning times of two hours or greater may be approved if the community demonstrates that it has a flood warning system and emergency plan in operation that is adequate to ensure safe evacuation of flood plain residents.

(2) The community has adopted flood plain management measures that require that new construction and substantial improvements of residential structures with basements in zones A1–30, AH, AO, and AE shall:

(i) Be designed and built so that any basement area, together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the 500-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.

(ii) Have the top of the floor of any basement area no lower than five feet below the elevation of the base flood;

(iii) Have the area surrounding the structure on all sides filled to or above

the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover;

(iv) Have a registered professional engineer or architect develop or review the building's structual design, specifications, and plans, including consideration of the depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph;

(v) Be inspected by the building inspector or other authorized representative of the community to verify that the structure is built according to its design and those provisions of this section which are verifiable.

6. Section 60.25 is revised to read as follows:

§ 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.

(a) States are encouraged to demonstrate a commitment to the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the designation of an agency of State government to be responsible for coordinating the Program aspects of flood plain management in the State.

(b) State participation in furthering the objectives of this part shall include maintaining capability to perform the appropriate duties and responsibilities as follows:

(1) Enact, whenever necessary, legislation enabling counties and municipalities to regulate development within flood-prone areas;

(2) Encourage and assist communities in qualifying for participation in the Program;

(3) Guide and assist county and municipal public bodies and agencies in developing, implementing, and maintaining local flood plain management regulations;

(4) Provide local governments and the general public with Program information on the coordination of local activities with Federal and State requirements for managing flood-prone areas;

(5) Assist communities in disseminating information on minimum elevation requirements for development within flood-prone areas;

(6) Assist in the delineation of riverine and coastal flood-prone areas, whenever possible, and provide all relevant technical information to the Administrator;

(7) Recommend priorities for Federal flood plain management activities in relation to the needs of county and municipal localities within the State;

(8) Provide notification to the Administrator in the event of apparent irreconcilable differences between a community's local flood plain management program and the minimum requirements of the Program;

(9) Establish minimum State flood plain management regulatory standards consistent with those established in this part and in conformance with other Federal and State environmental and water pollution standards for the prevention of pollution during periods of flooding;

(10) Assure coordination and consistency of flood plain management activities with other State, areawide, and local planning and enforcement agencies;

(11) Assist in the identification and implementation of flood hazard mitigation recommendations which are consistent with the minimum flood plain management criteria for the Program;

(12) Participate in flood plain management training opportunities and other flood hazard preparedness programs whenever practicable.

(c) Other duties and responsibilities, which may be deemed appropriate by the State and which are to be officially designated as being conducted in the capacity of the State Coordinating Agency for the Program, may be carried out with prior notification of the Administrator.

(d) For States which have demonstrated a commitment to and experience in application of the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the establishment and implementation of programs which substantially encompass the activities described in paragraphs (a), (b), and (c) of this section, the Administrator shall take the foregoing into account when:

(1) Considering State recommendations prior to implementing Program activities affecting State communities;

(2) Considering State approval or certifications of local flood plain management regulations as meeting the requirements of this part.

PART 61—INSURANCE COVERAGE AND RATES

7. The authority citation for Part 61 continues to read as follows and all authority citations to individual sections are removed:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 61.3 [Amended]

8. Section 61.3 is amended by removing the last sentence.

§ 61.5 [Amended]

9. Section 61.5 is amended as follows:

a. In paragraph (d), by removing in the second sentence the semicolon after "$500.00" the second time that amount appears and adding in its place a period, and by removing the remainder of that sentence.

b. By revising paragraph (f)(2) to read as follows:

* * * * *

(f) * * *

(2) A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

c. By removing in paragraph (f)(4) the words "paved or poured".

d. In paragraph (f)(8), by removing the word "mobile" both times it appears and adding in its place both times the phrase "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

e. By removing paragraph (f)(9) and redesignating paragraphs (f)(10) and (f)(11) as (f)(9) and (f)(10) respectively.

f. In newly designated paragraph (f)(9), by removing the word "mobile" and adding in its place the word "manufactured"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them"; by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

§ 61.11 [Amended]

10. Paragraph (e) of § 61.11 is amended by removing in both the third and fourth sentences the words "at the NFIP" and by removing in the fifth

VOL 51 ISS 164 AG 25 1986 UMI

sentence the words "by the NFIP" and adding in their place each of the three times the words "at the office of the NFIP".

§ 61.12 [Amended]

11. Section 61.12 is amended by revising paragraph (b)(4) to read as follows:

* * * * *

(b) * * *

(4) All critical features of the flood protection system, as identified by the Administrator, are under construction, and each critical feature is 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

* * * * *

Appendix A(1) of Part 61—[Amended]

12. Appendix A(1) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. Article II—Definitions is amended by adding, alphabetically, a definition of "Base flood" to read as follows:

* * * * *

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

* * * * *

b. In Article II—Definitions, the definition of "Building" is amended by adding a comma after the word "tank" and by removing the words "mobile home on" and adding in their place the words "manufactured (i.e., mobile) home on a permanent".

c. In Article II—Definitions, the definition of "Direct Physical Loss by or from Flood" is amended by removing the phrase "(building or personal property contents)" and adding in its place the phrase "(building or contents (personal property))"; by removing the phrase "the property shall necessarily be removed" and adding in its place the phrase "the insured property shall necessarily be removed"; and by removing the phrase "your insured property away from the peril of flood and storing your property at the temporary location shall be reimbursed to you." and adding in its place the phrase "any of your insured property temporarily away from the peril of flood and storing this property at the temporary location (not exceeding 45 days) shall be reimbursed to you for buildings in an amount up to the amount of the minimum building deductible and for contents in an amount up to the amount of the minimum contents deductible. This policy's deductible amounts, as provided for at Article VI, shall not be applied to this reimbursement, but shall be applied to any other benefits under this policy's coverage."

d. Article II—Definitions is amended by removing the definition of "Doublewide Mobile Home".

e. Article II—Definitions is amended by adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a building transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. To be eligible for coverage under this policy, a manufactured home must be on a permanent foundation and if located in a FEMA designated Special Flood Hazard Area, must meet the requirements of paragraph H of Article V.

* * * * *

f. Article II—Definitions is amended by adding, alphabetically, a definition of "Mobile home" to read as follows:

* * * * *

"Mobile home" means a manufactured home.

* * * * *

g. In Article III—Losses Not Covered, paragraph B is amended by removing paragraph 1 and redesignating paragraphs 2 through 7 as 1 through 6 respectively and by removing the word "internationally" and adding in its place the word "intentionally" in newly designated paragraph B.4.

h. In Article IV—Property Covered, paragraph A is amended by removing in paragraph 1 the words "or, as described in the Application as a residence designed for principal use as a dwelling place for no more than one family, we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in the building's common elements" and adding in its place the words "or we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in that building's common elements, if your dwelling unit is a residence designed for principal use as a dwelling place for no more than one family and if it is so described in the Application" and by adding paragraphs 6 and 7 to read as follows:

* * * * *

6. A building in the course of construction before it is walled and roofed subject to the following conditions: (i) The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed; (ii) coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and (iii) there is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1–30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or VI–30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE or A1–30.

7. When the insurance under this policy covers a building, the reasonable expenses incurred by you for the purchase of (i) sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, (ii) fill for temporary levees, (iii) pumps, and (iv) wood, all for the purpose of saving the building due to the imminent danger of a flood loss, including the value of your own labor at prevailing Federal minimum wage rates, are a covered loss in an aggregate amount up to the amount of the minimum building deductible. The policy's building deductible amount, as provided for at Article VI, shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage. For reimbursement under this paragaraph 7 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

i. In Article IV—Property Covered, paragraph C is amended by removing the heading "Limitation" and adding in its place the heading "Limitations".

j. In Article V—Property Not Covered, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

k. In Article V—Property Not Covered, paragraph C is amended by removing the word "outdoor".

l. In Article V—Property Not Covered, paragraph D is amended by removing the words "paved or poured".

m. In Article V—Property Not Covered, paragraph F is amended by removing the word "mobile" and adding in its place the words "manufactured (i.e., mobile)"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them"; and by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

n. In Article V—Property Not Covered, paragraph H is amended by removing the word "mobile" both times it appears and adding in its place both times the words "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

o. Article V—Property Not Covered is amended by removing paragraph J and redesignating paragraph K as J.

p. In Article VI—Deductibles, paragraph B is revised to read as follows:

* * * * *

B. The loss deductible shall apply separately to each building loss and contents (personal property) loss including, as to each, any appurtenant structure loss and debris removal expense.

* * * * *

q. Article VI—Deductibles, is amended by removing paragraph D.

r. In Article VII—Replacement Cost Provisions, paragraph G is amended by removing the words "mobile home" and adding in their place the words "manufactured (i.e., mobile) home which when assembled is not at least 16 feet wide or does not have an area within its perimeter walls of at least 600 square feet".

s. In Article VIII—General Conditions and Provisions, paragraph D is amended by removing in the last sentence the words "without the consent of the Administrator".

t. In Article VIII—General Conditions and Provisions, paragraph F is amended in the last sentence of paragraph 1.d thereof by removing the comma after the word "year" and adding in its place a closing parenthesis and by removing the closing parenthesis before the semicolon.

u. In Article VIII—General Conditions and Provisions, paragraph G is amended by removing in the sixth sentence the words "received by the NFIP prior" and adding in their place the words "received at the office of the NFIP prior" and by removing in the seventh sentence both times they appear the words "by the NFIP" and adding in their place both times the words "at the office of the NFIP".

v. In Article VIII—General Conditions and Provisions, paragraph H is amended by adding in the first sentence after the word "time" and before the following comma the words "and at your own expense" and by removing the remainder of paragraph H after the first sentence.

w. In Article VIII—General Conditions and Provisions, paragraph I is amended by removing paragraph 2 and redesignating paragraphs 3 through 7 as 2 through 6 respectively.

x. In Article VIII—General Conditions and Provisions, paragraph O is amended by removing the word "items" in the first paragraph and adding in its place the word "coverage".

y. Article VIII—General Conditions and Provisions is amended by adding paragraph S to read as follows:

* * * * *

S. Continuous Lake Flooding: Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to the insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing (i) to make no further claim under this policy, (ii) not to seek renewal of this policy, and (iii) not to apply for any flood insurance under the National Flood Insurance Act of 1968, as amended, for property at the property location of the insured building. If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph S still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

Appendix A(2) of Part 61—[Amended]

13. Appendix A(2) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. The first paragraph following the heading "GENERAL PROPERTY FORM" in Appendix A(2) is amended by removing the misspelled word "resonable" and adding in its place the word "reasonable"; by removing the phrase "loss. Without" and adding in its place the phrase "loss, without"; by removing the word "only" and adding in its place the word "any"; and by removing the phrase "*direct loss by or from 'flood'*" and by adding in its place the phrase "*'direct loss by or from flood'*".

b. The first sentence of the second paragraph following the heading "GENERAL PROPERTY FORM" in Appendix A(2) is amended by adding after the word "policy" the phrase ", in writing," and by adding after the word "allowed" the phrase "upon transfer of title except for (i) a contents only policy and (ii) a policy issued to cover a building in the course of construction."

c. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Base flood" to read as follows:

* * * * *

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

* * * * *

d. In the DEFINITIONS section, the definition of "Building" is amended by adding a comma after the word "tank" and by removing the words "mobile home on" and adding in their place the words "manufactured (i.e., mobile) home on a permanent".

e. In the DEFINITIONS section, the definition of "Direct physical loss by or from flood" is amended by removing the phrase "(building or personal property contents)" and adding in its place the phrase "(building or contents (personal property))"; by removing the phrase "the property shall necessarily be removed" and adding in its place the phrase "the insured property shall necessarily be removed"; by adding after the phrase "against loss)" and before the period the words "in which case the reasonable expenses incurred by the Insured in moving any of the insured property temporarily away from the peril of flood and storing this property at the temporary location (not exceeding 45 days) shall be reimbursed to the Insured for buildings in an amount up to the amount of the minimum building deductible and for contents in an amount up to the amount of the minimum contents deductible. This policy's deductible amounts, as provided for herein under "DEDUCTIBLES", shall not be applied to this reimbursement, but shall be applied to any other benefits under this policy's coverage."; and by removing after the word "ordinance" and before

the word "regulating" the words "or repair".

f. The DEFINITIONS section is amended by removing the definition of "Double-wide mobile home".

g. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a building, transportable in one or more section, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. To be eligible for coverage under this policy, a manufactured home must be on a permanent foundation and if located in a FEMA designated Special Flood Hazard Area, must meet the requirements of paragraph H of PROPERTY NOT COVERED.

* * * * *

h. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Mobile home" to read as follows:

* * * * *

"Mobile home" means a manufactured home.

* * * * *

i. The PERILS EXCLUDED section is amended by removing paragraph F and redesignating paragraphs G through K as F through J respectively.

j. In the PROPERTY COVERED section, paragraph A is amended by adding after the phrase "A. Building," the number "1." and by adding paragraphs 2 and 3 to read as follows:

* * * * *

2. When the insurance under this policy covers a building in the course of construction, such insurance shall apply before the building is walled and roofed subject to the following conditions: (i) The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed; (ii) coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and (iii) there is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1–30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1–30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE or A1–30.

3. When the insurance under this policy covers a building, the reasonable expenses incurred by the Insured for the purchase of (i) sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, (ii) fill for temporary levees, (iii) pumps, and (iv) wood, all for the purpose of saving the building due to the imminent danger of a flood loss, are a covered loss in an aggregate amount up to the amount of the minimum building deductible. The policy's building deductible amount, as provided for herein under "DEDUCTIBLES," shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph 3 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

k. In the PROPERTY NOT COVERED section, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

l. In the PROPERTY NOT COVERED section, paragraph D is amended by removing the words "paved or poured".

m. In the PROPERTY NOT COVERED section, paragraph F is amended by removing the word "mobile and adding in its place the word "manufactured (i.e., mobile)"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them", by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

n. In the PROPERTY NOT COVERED section, paragraph H is amended by removing the word "mobile" both times it appears and adding in its place both times the words "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

o. The PROPERTY NOT COVERED section is amended by removing paragraph J and redesignating paragraph K as J.

p. In the DEDUCTIBLES section, paragraph B is amended by removing the phrase ", the reasonable expenses incurred by the Insured pursuant to paragraph 'F' of Perils Excluded," and by removing the word "coverage" and adding in its place the words "expenses covered".

q. The DEDUCTIBLES section is amended by removing paragraph D.

r. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph G is amended in the first sentence by removing the words "Permission is granted to" and adding in their place the words "The Insured may, at the Insured's own expense," and by removing between the words "and" and "complete" the word "to" and is further amended by removing the remainder of paragraph G after the first sentence.

s. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph J is amended by removing in the sixth sentence the words "received by the NFIP prior" and adding in their place the words "received at the office of the NFIP prior" and by removing in the seventh sentence both times they appear the words "by the NFIP" and adding in their place both times the words "at the office of the NFIP".

t. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph M is amended by removing the word *"items"* in the italics heading and adding in its place the word *"coverage"*.

u. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph P is amended by removing the phrase "protect the property from further damage," in the first sentence.

v. The GENERAL CONDITIONS AND PROVISIONS section is amended by adding paragraph W just above the sentence which reads in part "IN WITNESS WHEREOF . . ." to read as follows:

* * * * *

W. Continuous Lake Flooding: Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to

the insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, the Insurer will pay the Insured the lesser of these two amounts without waiting for the further damage to occur if the Insured signs a release agreeing (i) to make no further claim under this policy, (ii) not to seek renewal of this policy, and (iii) not to apply for any flood insurance under the National Flood Insurance Act of 1968, as amended, for property at the property location of the insured building. If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph W still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

Appendix C of Part 61—[Removed]

14. Part 61 is amended by removing Appendix C.

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

15. The authority citation for Part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

16. Sections 65.2, 65.3, and 65.4 are revised to read as follows:

§ 65.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part, a certification by a registered professional engineer or other party does not constitute a warranty or guarantee of performance, expressed or implied. Certification of data is a statement that the data is accurate to the best of the certifier's knowledge. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices to provide protection from the base flood. Certification of "as built" conditions is a statement that the structure(s) has been built according to the plans being certified, is in place, and is fully functioning.

§ 65.3 Requirement to submit new technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

§ 65.4 Right to submit new technical data.

(a) A community has a right to request changes to any of the information shown on an effective map that does not impact flood plain or floodway delineations or base flood elevations, such as community boundary changes, labeling, or planimetric details. Such a submission shall include appropriate supporting documentation in accordance with this part and may be submitted at any time.

(b) All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing by the Chief Executive Officer of the community (CEO) or an official designated by the CEO. Should the CEO refuse to submit such a request on behalf of another party, FEMA will agree to review it only if written evidence is provided indicating the CEO or designee has been requested to do so.

17. Part 65 is amended by adding §§ 65.5, 65.6, 65.7, 65.8, 65.9, 65.10, and 65.11 to read as follows:

§ 65.5 Revision to special hazard area boundaries with no change to base flood elevation determinations.

(a) *Data requirements for topographic changes.* In many areas of special flood hazard (excluding V zones and floodways) it may be feasible to elevate areas with earth fill above the base flood elevation. Scientific and technical information to support a request to gain exclusion from an area of special flood hazard of a structure or parcel of land that has been elevated by the placement of fill shall include the following:

(1) A copy of the recorded deed indicating the legal description of the property and the official recordation information (deed book volume and page number) and bearing the seal of the appropriate recordation official (e.g., County Clerk or Recorder of Deeds).

(2) If the property is recorded on a plat map, a copy of the recorded plat indicating both the location of the property and the official recordation information (plat book volume and page number) and bearing the seal of the appropriate recordation official. If the property is not recorded on a plat map, copies of the tax map or other suitable maps are required to aid FEMA in accurately locating the property.

(3) If a legally defined parcel of land is involved, a topographic map indicating present ground elevations and date of fill. FEMA's determination as to whether a legally defined parcel of land is to be excluded from the area of special flood hazard shall be based upon a comparison of the ground elevations of the parcel with the elevations of the base flood. If the ground elevations of the entire legally defined parcel of land are at or above the elevations of the base flood, the parcel may be excluded from the area of special flood hazard.

(4) If a structure is involved, a topographic map indicating structure location and ground elevations including the elevations of the lowest floor (including basement) and the lowest adjacent grade to the structure. FEMA's determination as to whether a structure is to be excluded from the area of special flood hazard shall be based upon a comparison of the elevation of the lowest floor (including basement) and the elevation of the lowest adjacent grade with the elevation of the base flood. If the entire structure and the lowest adjacent grade are at or above the elevation of the base flood, the structure may be excluded from the area of special flood hazard.

(5) Data to substantiate the base flood elevation. If FEMA has completed a Flood Insurance Study (FIS), that data will be used to substantiate the base flood. Otherwise, data provided by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, U.S. Soil Conservation Service, state and local water resource departments, or technical data prepared and certified by a registered professional engineer may be submitted. If base flood elevations have not previously been established, hydraulic calculations may also be requested.

(6) Where fill has been placed to raise the ground surface to or above the base flood elevation and the request to gain exclusion from an area of special flood hazard includes more than a single structure or a single lot, it must be demonstrated that fill will not settle below the elevation of the base flood, and that the fill is adequately protected from the forces of erosion, scour, or differential settlement as described below:

(i) Fill must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method issued by the American Society for Testing and Materials (ASTM Standard D–698). This

requirement applies to fill pads prepared for residential or commercial structure foundations and does not apply to filled areas intended for other uses.

(ii) Fill slopes for granular materials are not steeper than one vertical on one-and-one-half horizontal unless substantiating data justifying steeper slopes is submitted.

(iii) Adequate protection is provided fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five feet per second or less by covering them with grass, vines, weeds, or similar vegetation undergrowth.

(iv) Adequate protection is provided fill slopes exposed to flood waters with velocities during the occurrence of the base flood of greater than five feet per second by armoring them with stone or rock slope protection.

(7) A revision of flood plain delineations based on fill must demonstrate that any such fill has not resulted in a floodway encroachment.

(b) *New topographic data.* The procedures described in paragraphs (a)(1) through (5) of this section may be also followed to request a map revision when no physical changes have occurred in the area of special flood hazard, when no fill has been placed, and when the natural ground elevations, as evidenced by new topographic maps, more detailed or more accurate than those used to prepare the map to be revised, are shown to be above the elevation of the base flood.

(c) *Certification requirements.* The items required in paragraphs (a)(3) and (4) and (b) of this section shall be certified by a registered professional engineer or licensed land surveyor. Items required in paragraph (a)(6) of this section shall be certified by the community's NFIP permit official, a registered professional engineer, or an accredited soils engineer. Such certifications are subject to the provisions of § 65.2 of this subchapter.

(d) *Submission procedures.* All requests shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.6 Revision of base flood elevation determinations.

(a) *General conditions and data requirements.* (1) The supporting data must include all the information FEMA needs to review and evaluate the request. This may involve the requestor's performing new hydrologic and hydraulic analysis and delineation of new flood plain boundaries and floodways, as necessary.

(2) To avoid discontinuities between the revised and unrevised flood data, the necessary hydrologic and hydraulic analyses submitted by the map revision requestor must be extensive enough to ensure that a logical transition can be shown between the revised flood elevations, flood plain boundaries, and floodways and those developed previously for areas not affected by the revision. Unless it is demonstrated that it would not be appropriate, the revised and unrevised base flood elevations must match within one-half foot where such transitions occur.

(3) Revisions cannot be made based on the effects of proposed projects or future conditions. Section 65.8 of this subchapter contains provisions for obtaining conditional approval of proposed projects that may effect map changes when they are completed.

(4) The datum and date of releveling of benchmarks, if any, to which the elevations are referenced must be indicated.

(5) Maps will not be revised when discharges change as a result of the use of an alternative methodology or data for computing flood discharges unless the change is statistically significant as measured by a confidence limits analysis of the new discharge estimates.

(6) In order for an alternative hydraulic or hydrologic methodology to be accepted, any computer program used must be accepted for general use by a governmental agency or notable scientific body, must be well documented including a user's and programmer's manual, and must be available to the general user.

(7) A revised hydrologic analysis for flooding sources with established base flood elevations must include evaluation of the same recurrence interval(s) studied in the effective FIS, such as the 10-, 50-, 100-, and 500-year flood discharges.

(8) A revised hydraulic analysis for a flooding source with established base flood elevations must include evaluation of the same recurrence interval(s) studied in the effective FIS, such as the 10-, 50-, 100-, and 500-year flood elevations, and of the floodway. Unless the basis of the request is the use of an alternative hydraulic methodology or the requestor can demonstrate that the data of the original hydraulic computer model is unavailable or its use is inappropriate, the analysis shall be made using the same hydraulic computer model used to develop the base flood elevations shown on the effective Flood Insurance Rate Map and updated to show present conditions in the flood plain. Copies of the input and output data from the original and revised hydraulic analyses shall be submitted.

(9) A hydrologic or hydraulic analysis for a flooding source without established base flood elevations may be performed for only the 100-year flood.

(10) A revision of flood plain delineations based on topographic changes must demonstrate that any topographic changes have not resulted in a floodway encroachment.

(11) Delineations of flood plain boundaries for a flooding source with established base flood elevations must provide both the 100- and 500-year flood plain boundaries. For flooding sources without established base flood elevations, only 100-year flood plain boundaries need be submitted. These boundaries should be shown on a topographic map of suitable scale and contour interval.

(b) *Data requirements for correcting map errors.* To correct errors in the original flood analysis, technical data submissions shall include the following:

(1) Data identifying mathematical errors.

(2) Data identifying measurement errors and providing correct measurements.

(c) *Data requirements for changed physical conditions.* Revisions based on the effects of physical changes that have occurred in the flood plain shall include:

(1) *Changes affecting hydrologic conditions.* The following data must be submitted:

(i) General description of the changes (e.g., dam, diversion channel, or detention basin).

(ii) Construction plans for as-built conditions, if applicable.

(iii) New hydrologic analysis accounting for the effects of the changes.

(iv) New hydraulic analysis and profiles using the new flood discharge values resulting from the hydrologic analysis.

(v) Revised delineations of the flood plain boundaries and floodway.

(2) *Changes affecting hydraulic conditions.* The following data shall be submitted:

(i) General description of the changes (e.g., channelization or new bridge, culvert, or levee).

(ii) Construction plans for as-built conditions.

(iii) New hydraulic analysis and flood elevation profiles accounting for the effects of the changes and using the original flood discharge values upon which the original map is based.

(iv) Revised delineations of the flood plain boundaries and floodway.

(3) *Changes involving topographic conditions.* The following data shall be submitted:

(i) General description of the changes (e.g., grading or filling).

(ii) New topographic information, such as spot elevations, cross sections grading plans, or contour maps.

(iii) Revised delineations of the flood plain boundaries and, if necessary, floodway.

(d) *Data requirements for incorporating improved data.* Requests for revisions based on the use of improved hydrologic, hydraulic, or topographic data shall include the following data:

(1) Data that are believed to be better than those used in the original analysis (such as additional years of stream gage data).

(2) Documentation of the source of the data.

(3) Explanation as to why the use of the new data will improve the results of the original analysis.

(4) Revised hydrologic analysis where hydrologic data are being incorporated.

(5) Revised hydraulic analysis and flood elevation profiles where new hydrologic or hydraulic data are being incorporated.

(6) Revised delineations of the flood plain boundaries and floodway where new hydrologic, hydraulic, or topographic data are being incorporated.

(e) *Data requirements for incorporating improved methods.* Requests for revisions based on the use of improved hydrologic or hydraulic methodology shall include the following data:

(1) New hydrologic analysis when an alternative hydrologic methodology is being proposed.

(2) New hydraulic analysis and flood elevation profiles when an alternative hyrologic or hydraulic methodology is being proposed.

(3) Explanation as to why the alternative methodologies are superior to the original methodologies.

(4) Revised delineations of the flood plain boundaries and floodway based on the new analysis(es).

(f) *Certification requirements.* All analysis and data submitted by the requester shall be certified by a registered professional engineer or licensed land surveyor, as appropriate, subject to the definition of "certification" given at § 65.2 of this subchapter.

(g) *Submission procedures.* All requests shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.7 Floodway revisions.

(a) *General.* Floodway data is developed as part of FEMA Flood Insurance Studies and is utilized by communities to select and adopt floodways as part of the flood plain management program required by § 60.3 of this subchapter. When it has been determined by a community that no practicable alternatives exist to revising the boundaries of its previously adopted floodway, the procedures below shall be followed.

(b) *Data requirements when base flood elevation changes are requested.* When a floodway revision is requested in association with a change to base flood elevations, the data requirements of § 65.6 shall also be applicable. In addition, the following documentation shall be submitted:

(1) Copy of a public notice distributed by the community stating the community's intent to revise the floodway or a statement by the community that it has notified all affected property owners and affected adjacent jurisdictions.

(2) Copy of a letter notifying the appropriate State agency of the floodway revision when the State has jurisdiction over the floodway or its adoption by communities participating in the NFIP.

(3) Documentation of the approval of the revised floodway by the appropriate State agency (for communities where the State has jurisdiction over the floodway or its adoption by communities participating in the NFIP).

(4) Engineering analysis for the revised floodway, as described below:

(i) The floodway analysis must be performed using the hydraulic computer model used to determine the proposed base flood elevations.

(ii) The floodway limits must be set so that neither the effective base flood elevations nor the proposed base flood elevations if less than the effective base flood elevations, are increased by more than the amount specified under § 60.3 (d)(2). Copies of the input and output data from the original and modified computer models must be submitted.

(5) Delineation of the revised floodway on the same topographic map used for the delineation of the revised flood boundaries.

(c) *Data requirements for changes not associated with base flood elevation changes.* The following data shall be submitted:

(1) Items described in paragraphs (b)(1) through (3) of this section must be submitted.

(2) Engineering analysis for the revised floodway, as described below:

(i) The original hydraulic computer model used to develop the established base flood elevations must be modified to include all encroachments that have occurred in the flood plain since the existing floodway was developed. If the original hydraulic computer model is not available, an alternate hydraulic computer model may be used provided the alternate model has been calibrated so as to reproduce the original water surface profile of the original hydraulic computer model. The alternate model must be then modified to include all encroachments that have occurred since the existing floodway was developed.

(ii) The floodway analysis must be performed with the modified computer model using the desired floodway limits.

(iii) The floodway limits must be set so that combined effects of the past encroachments and the new floodway limits do not increase the effective base flood elevations by more than the amount specified in § 60.3(d)(2). Copies of the input and output data from the original and modified computer models must be submitted.

(3) Delineation of the revised floodway on a copy of the effective NFIP map and a suitable topographic map.

(d) *Certification requirements.* All analyses submitted shall be certified by a registered professional engineer. All topographic data shall be certified by a registered professional engineer or licensed land surveyor. Certifications are subject to the definition given at § 65.2 of this subchapter.

(e) *Submission procedures.* All requests that involve changes to floodways shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.8 Review of proposed projects.

A community, or individual through the community, wishing FEMA's comments on whether a proposed project, if built as proposed, would justify a map revision may request a Conditional Letter of Map Amendment or Revision in accordance with Part 72 of this subchapter. The data required to support such requests are the same as those required to support requests for revisions in accordance with §§ 65.5, 65.6, and 65.7, except as-built certification is not required.

§ 65.9 Review and response by the Administrator.

If any questions or problems arise during review, FEMA will consult the Chief Executive Officer of the community (CEO), the community official designated by the CEO, and/or

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VOL 51 ISS 164 AG 25 1986 UMI

the requester for resolution. Upon receipt of a revision request, the Administrator shall mail an acknowledgment of receipt of such request to the CEO. Within 90 days of receiving the request with all necessary information, the Administrator shall notify the CEO of one or more of the following:

(a) The effective map(s) shall not be modified;

(b) The base flood elevations on the effective FIRM shall be modified and new base flood elevations shall be established under the provisions of Part 67 of this subchapter;

(c) The changes requested are approved and the map(s) amended by Letter of Map Revision (LOMR);

(d) The changes requested are approved and a revised map(s) will be printed and distributed;

(e) The changes requested are not of such a significant nature as to warrant a reissuance or revision of the flood insurance study or maps and will be deferred until such time as a significant change occurs;

(f) An additional 90 days is required to evaluate the scientific or technical data submitted; or

(g) Additional data are required to support the revision request.

§65.10 Mapping of areas protected by levee systems.

(a) *General.* For purposes of the NFIP, FEMA will only recognize in its flood hazard and risk mapping effort those levee systems that meet, and continue to meet, minimum design, operation, and maintenance standards that are consistent with the level of protection sought through the comprehensive flood plain management criteria established by § 60.3 of this subchapter. Accordingly, this section describes the types of information FEMA needs to recognize, on NFIP maps, that a levee system provides protection from the base flood. This information must be supplied to FEMA by the community or other party seeking recognition of such a levee system at the time a flood risk study or restudy is conducted, when a map revision under the provisions of Part 65 of this subchapter is sought based on a levee system, and upon request by the Administrator during the review of previously recognized structures. The FEMA review will be for the sole purpose of establishing appropriate risk zone determinations for NFIP maps and shall not constitute a determination by FEMA as to how a structure or system will perform in a flood event.

(b) *Design criteria.* For levees to be recognized by FEMA, evidence that adequate design and operation and maintenance systems are in place to provide reasonable assurance that protection from the base flood exists must be provided. The following requirements must be met:

(1) *Freeboard.* (i) Riverine levees must provide a minimum freeboard of three feet above the water-surface level of the base flood. An additional one foot above the minimum is required within 100 feet in either side of structures (such as bridges) riverward of the levee or wherever the flow is constricted. An additional one-half foot above the minimum at the upstream end of the levee, tapering to not less than the minimum at the downstream end of the levee, is also required.

(ii) Occasionally, exceptions to the minimum riverine freeboard requirement described in (b)(1)(i) above may be approved. Appropriate engineering analyses demonstrating adequate protection with a lesser freeboard must be submitted to support a request for such an exception. The material presented must evaluate the uncertainty in the estimated base flood elevation profile and include, but not necessarily be limited to an assessment of statistical confidence limits of the 100-year discharge; changes in stage-discharge relationships; and the sources, potential, and magnitude of debris, sediment, and ice accumulation. It must be also shown that the levee will remain structurally stable during the base flood when such additional loading considerations are imposed. Under no circumstances will freeboard of less than two feet be accepted.

(iii) For coastal levees, the freeboard must be established at one foot above the height of the one percent wave or the maximum wave runup (whichever is greater) associated with the 100-year stillwater surge elevation at the site.

(iv) Occasionally, exceptions to the minimum coastal levee freeboard requirement described in (b)(1)(iii) may be approved. Appropriate engineering analyses demonstrating adequate protection with a lesser freeboard must be submitted to support a request for such an exception. The material presented must evaluate the uncertainty in the estimated base flood loading conditions. Particular emphasis must be placed on the effects of wave attack and overtopping on the stability of the levee. Under no circumstances, however, will a freeboard of less than two feet above the 100-year stillwater surge elevation be accepted.

(2) *Closures.* All openings must be provided with closure devices that are structural parts of the system during operation and design according to sound engineering practice.

(3) *Embankment protection.* Engineering analyses must be submitted that demonstrate that no appreciable erosion of the levee embankment can be expected during the base flood, as a result of either currents or waves, and that anticipated erosion will not result in failure of the levee embankment or foundation directly or indirectly through reduction of the seepage path and subsequent instability. The factors to be addressed in such analyses include, but are not limited to: Expected flow velocities (especially in constricted areas); expected wind and wave action; ice loading; impact of debris; slope protection techniques; duration of flooding at various stages and velocities; embankment and foundation materials; levee alignment, bends, and transitions; and levee side slopes.

(4) *Embankment and foundation stability.* Engineering analyses that evaluate levee embankment stability must be submitted. The analyses provided shall evaluate expected seepage during loading conditions associated with the base flood and shall demonstrate that seepage into or through the levee foundation and embankment will not jeopardize embankment or foundation stability. An alternative analysis demonstrating that the levee is designed and constructed for stability against loading conditions for Case IV as defined in the U.S. Army Corps of Engineers (COE) manual, "Design and Construction of Levees" (EM 1110–2–1913, Chapter 6, Section II), may be used. The factors that shall be addressed in the analyses include: Depth of flooding, duration of flooding, embankment geometry and length of seepage path at critical locations, embankment and foundation materials, embankment compaction, penetrations, other design factors affecting seepage (such as drainage layers), and other design factors affecting embankment and foundation stability (such as berms).

(5) *Settlement.* Engineering analyses must be submitted that assess the potential and magnitude of future losses of freeboard as a result of levee settlement and demonstrate that freeboard will be maintained within the minimum standards set forth in paragraph (b)(1) of this section. This analysis must address embankment loads, compressibility of embankment soils, compressibility of foundation soils, age of the levee system, and construction compaction methods. In addition, detailed settlement analysis using procedures such as those

described in the COE manual, "Soil Mechanics Design—Settlement Analysis" (EM 1110–2–1904) must be submitted.

(6) *Interior drainage.* An analysis must be submitted that identifies the source(s) of each flooding, the extent of the flooded area, and, if the average depth is greater than one foot, the water-surface elevation(s) of the base flood. This analysis must be based on the joint probability of interior and exterior flooding and the capacity of facilities (such as drainage lines and pumps) for evacuating interior floodwaters.

(7) *Other design criteria.* In unique situations, such as those where the levee system has relatively high vulnerability, FEMA may require that other design criteria and analyses be submitted to show that the levees provide adequate protection. In such situations, sound engineering practice will be the standard on which FEMA will base its determinations. FEMA will also provide the rationale for requiring this additional information.

(c) *Operation plans and criteria.* For a levee system to be recognized, the operational criteria must be as described below. All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual, a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or when the manual for a previously recognized system is revised in any manner. All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.

(1) *Closures.* Operation plans for closures must include the following:

(i) Documentation of the flood warning system, under the jurisdiction of Federal, State, or community officials, that will be used to trigger emergency operation activities and demonstration that sufficient flood warning time exists for the completed operation of all closure structures, including necessary sealing, before floodwaters reach the base of the closure.

(ii) A formal plan of operation including specific actions and assignments of responsibility by individual name or title.

(iii) Provisions for periodic operation, at not less than one-year intervals, of the closure structure for testing and training purposes.

(2) *Interior drainage systems.* Interior drainage systems associated with levee systems usually include storage areas, gravity outlets, pumping stations, or a combination thereof. These drainage systems will be recognized by FEMA on NFIP maps for flood protection purposes only if the following minimum criteria are included in the operation plan:

(i) Documentation of the flood warning system, under the jurisdiction of Federal, State, or community officials, that will be used to trigger emergency operation activities and demonstration that sufficient flood warning time exists to permit activation of mechanized portions of the drainage system.

(ii) A formal plan of operation including specific actions and assignments of responsibility by individual name or title.

(iii) Provision for manual backup for the activation of automatic systems.

(iv) Provisions for periodic inspection of interior drainage systems and periodic operation of any mechanized portions for testing and training purposes. No more than one year shall elapse between either the inspections or the operations.

(3) *Other operation plans and criteria.* Other operating plans and criteria may be required by FEMA to ensure that adequate protection is provided in specific situations. In such cases, sound emergency management practice will be the standard upon which FEMA determinations will be based.

(d) *Maintenance plans and criteria.* For levee systems to be recognized as providing protection from the base flood, the maintenance criteria must be as described herein. Levee systems must be maintained in accordance with an officially adopted maintenance plan, and a copy of this plan must be provided to FEMA by the owner of the levee system when recognition is being sought or when the plan for a previously recognized system is revised in any manner. All maintenance activities must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP that must assume ultimate responsibility for maintenance. This plan must document the formal procedure that ensures that the stability, height, and overall integrity of the levee and its associated structures and systems are maintained. At a minimum, maintenance plans shall specify the maintenance activities to be performed, the frequency of their performance, and the person by name or title responsible for their performance.

(e) *Certification requirements.* Data submitted to support that a given levee system complies with the structural requirements set forth in paragraphs (b)(1) through (b)(7) of this section must be certified by a registered professional engineer. Also, certified as-built plans of the levee must be submitted. Certifications are subject to the definition given at § 65.2 of this subchapter. In lieu of these structural requirements, a Federal agency with responsibility for levee design may certify that the levee has been adequately designed and constructed to provide protection against the base flood.

§ 65.11 List of communities submitting new technical data.

This section provides a cumulative list of communities where modifications of the base flood elevation determinations have been made because of submission of new scientific or technical data. Due to the need for expediting the modifications, the revised map is already in effect and the appeal period commences on or about the effective date of the modified map. An interim rule, followed by a final rule, will list the revised map effective date, local repository and the name and address of the Chief Executive Officer of the community. The map(s) is (are) effective for both flood plain management and insurance purposes.

PART 70—PROCEDURES FOR MAP CORRECTION

18. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 70.1 [Amended]

19. Section 70.1 is amended by removing the last two sentences and by adding the following two sentences in place thereof:

* * * These procedures shall not apply when there has been any alteration of topography since the effective date of the first NFIP map (i.e., FHBM or FIRM) showing the property within an area of special flood hazard. Appeals in such circumstances are subject to the provisions of Part 65 of this subchapter.

§ 70.3 [Amended]

20. Section 70.3 is amended in the following particulars:

a. In paragraph (b)(2)(i) by adding after the word "contours" and before the comma the words "in relation to the National Geodetic Vertical Datum (NVGD) of 1929".

b. By removing the last sentence of paragraph (b)(4).

§ 70.4 [Amended]

21. Section 70.4 is amended by adding after the word "that" and before the colon the words "either the ground elevations of an entire legally defined

parcel of land or the elevation of the lowest adjacent grade to a structure have been compared with the elevation of the base flood and that".

22. Part 70 is amended by adding § 70.9 to read as follows:

§ 70.9 Review of proposed projects.

An individual who is proposing to build on that portion of a property that may be inadvertently included in an area of special flood hazard may request a Conditional Letter of Map Amendment in accordance with Part 72 of this subchapter. The data required to support such requests are the same as those required to support requests for final Letters of Map Amendment in accordance with 70.3, except as-built certification is not required.

23. Part 73 is added to 44 CFR Chapter 1, Subchapter B to read as follows:

PART 73—IMPLEMENTATION OF SECTION 1316 OF THE NATIONAL FLOOD INSURANCE ACT OF 1968

Sec.

73.1 Purpose of part.
73.2 Definitions.
73.3 Denial of flood insurance coverage.
73.4 Restoration of flood insurance coverage.

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 73.1 Purpose of part.

This part implements Section 1316 of the National Flood Insurance Act of 1968.

§ 73.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a "duly constituted State or local zoning authority or other authorized public body" means an official or body authorized under State or local law to declare a structure to be in violation of a law, regulation or ordinance.

(c) For the purpose of this part, "State or local laws, regulations or ordinances intended to discourage or restrict development or occupancy of flood-prone areas" are measures such as those defined as "Flood plain management regulations" in § 59.1 of this subchapter. Such measures are referred to in this part as State or local flood plain management regulations.

§ 73.3 Denial of flood insurance coverage.

(a) No new flood insurance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(b) New and renewal flood insurance shall be denied to a structure upon a finding by the Administrator of a valid declaration of a violation.

(c) States and communities shall determine whether to submit a declaration to the Administrator for the denial of insurance.

(d) A valid declaration shall consist of:

(1) The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

(2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

(3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

§ 73.4 Restoration of flood insurance coverage.

(a) Insurance availability shall be restored to a property upon a finding by the Administrator of a valid rescission of a declaration of a violation.

(b) A valid rescission shall be submitted to the Administrator and shall consist of:

(1) The name of the property owner(s) and an address or legal description of the property sufficient to identify the property and to enable FEMA to identify the previous declaration;

(2) A clear and unequivocal statement by an authorized public body rescinding the declaration and giving the reason(s) for the rescission;

(3) A description of and supporting documentation for the measures taken in lieu of denial of insurance in order to bring the structure into compliance with the local flood plain management regulations; and

(4) A clear statement that the public body rescinding the declaration has the authority to do so and a citation to that authority.

PART 76—[REMOVED AND RESERVED]

24. By removing and reserving Part 76.

Dated: August 18, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-18999 Filed 8-22-86; 8:45 am]
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federal register

Monday
August 25, 1987

Part III

Department of Education

Research in Education of the Handicapped Program; Notice Inviting Applications for New Awards and Proposed Biennial Funding Priorities

VOL 51 ISS 164 AG 25 1986 UMI

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards under the Research in Education of the Handicapped Program for Fiscal Year 1987 (CFDA 84.023)

Purpose: To assist research and related purposes, and to conduct research, surveys, or demonstrations, relating to the education of handicapped children.

Applications Available: August 29, 1986.

Applicable Regulations: (a) The Research in Education of the Handicapped Program Regulations, 34 CFR Part 324, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (c) when adopted in final form, the Biennial Funding Priorities for this program. A notice of proposed biennial funding priorities is published in this issue of the Federal Register. Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final annual funding priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

Priorities: The Secretary proposes to establish, pursuant to 34 CFR 75.105(c)(3) and 34 CFR 324.30, the following priorities for fiscal year 1987. The Secretary intends to give an absolute preference to applications that meet any of these priorities.

CFDA No.	Priority	Closing date	Project period	Available funds	Estimated No. of awards
84.023C	Field initiated research projects	10/14/86	Up to 60 mo.	$3,500,000	25
84.023B	Student initiated research projects	02/27/87	Up to 18 mo.	150,000	20
84.023H	Research implementation and demonstration (cooperative agreements).	12/01/86	Up to 48 mo.	1,929,800	13
84.023K	Educating learning disabled and mildly handicapped students in general education classrooms (cooperative agreements).	02/27/87	Up to 36 mo.	1,200,000	8
84.023M	Research for educating seriously emotionally disturbed students (cooperative agreements).	10/24/86	Up to 36 mo.	1,200,000	4
84.023R	Synthesis, validation, and dissemination of research methods for mainstreamed settings (cooperative agreement).	10/14/86	Up to 24 mo.	$309,000	1

For Applications or Information Contact: Linda Glidewell, U.S. Department of Education, Office of Special Education Programs, Division of Innovation and Development, 400 Maryland Avenue SW., (Switzer Building, Room 3511–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1441–1444.

Dated: August 20, 1986.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 86–19136 Filed 8–22–86; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Research in Education of the Handicapped

AGENCY: Department of Education.

ACTION: Notice of proposed biennial funding priorities.

SUMMARY: The Secretary proposes biennial funding priorities for the Research in Education of the Handicapped program. To ensure wide and effective use of program funds, the Secretary proposes to select from among ten priorities in order to direct funds to the areas of greatest need for fiscal years 1987 and 1988. A separate competition will be established for each selected priority.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Comments should be addressed to Linda Glidewell, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: The Research in Education of the Handicapped program, authorized by sections 641–644 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441–1444), supports research, surveys, and demonstration projects relating to the educational needs of handicapped children. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and services for handicapped children and youth, including physical education or recreation.

The Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199, included amendments to the provisions of section 641 of the Act. Under section 641(c) of the Act, the Secretary is expressly required to publish proposed research priorities in the Federal Register every two years, to analyze and consider any public comments received, and then to publish final research priorities. In accordance with this requirement, the Secretary proposes to select from among the following priorities to make fiscal year 1987 and fiscal year 1988 new awards.

Priorities

(a) Field-Initiated Research Projects

This priority would provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth consistent with the purpose of the program as stated in 34 CFR 324.1.

(b) Student-Initiated Research Projects

This priority would provide support to postsecondary students to initiate and direct a broad range of research and research-related projects focusing on the education of handicapped children consistent with the purpose of the program as stated in 34 CFR 324.1.

(c) Research Implementation and Demonstration

This priority would support projects which involve collaboration between local educational agencies and researchers in translating validated research findings into new or improved approaches for educating school-aged handicapped children. This translation would include the development and verification of information and materials necessary to implement these new approaches, and would determine the effectiveness and applicability of these approaches in various settings and among subgroups of handicapped children. The translation of research findings into demonstrable practice must provide the informational bridge necessary to move research into schools and classrooms and reduce the time lag

between research and practice. These projects would disseminate and make visible new or innovative approaches and provide the information necessary for other educational agencies to incorporate those advancements into their administrative and instructional practices. Applications submitted under this priority must present the specific research findings that will be used to develop new approaches for educating handicapped students.

(d) Educating Learning Disabled and Mildly Handicapped Students in General Education Classrooms

Projects supported under this priority must study the effect of modified classroom instruction and management practices on mildly handicapped and learning disabled students in general education classrooms. Such studies must include: (1) A translation of research findings into classroom instruction and management practice; (2) a strategy for modifying current classroom instruction or management practice to deliver the special education and related services needed by mildly handicapped and learning disabled students within the general education classroom; and (3) identification of the types of mildly handicapped and learning disabled students for whom the modified classroom instruction or management practice is effective. Outcome measures for the projects must include measures of progress in meeting the goals and objectives in the individualized education plans (IEPs). Applications submitted under this priority must provide a conceptual framework that is based on previous research and shows the relationship among the following: (1) Characteristics of mildly handicapped and learning disabled children; (2) special education needs of mildly handicapped and learning disabled children; (3) instructional and management characteristics of the general education classroom; (4) requisite special education services; and (5) anticipated outcomes for handicapped and non-handicapped students. Though applications should propose specific research variables, measures, and instruments, it is anticipated that all projects funded under this priority will be required to adopt certain common variables, measures, and instruments in order to facilitate the synthesis of results among projects.

(e) Research for Educating Seriously Emotionally Disturbed Students

This priority would support research projects that develop and test intervention strategies or components for educating seriously emotionally disturbed students (pre-adolescents), and translate research findings into demonstrable practices. Strategies would be developed within general education settings. Outcome measures for the projects would include successful integration of seriously emotionally disturbed students into general education programs. Applications submitted under this priority must provide a conceptual framework, based on previous research, that shows the validated and hypothesized relationships between the intervention variables and the outcome measures included in the proposed research activities.

(f) Synthesis, Validation, and Dissemination of Research Methods for Mainstreamed Settings

This priority would support a project whose goal is to obtain consensus among researchers on variables, measures, and instrumentation for researching the effective education of mildly handicapped and learning disabled students in general education settings. This consensus would then be used as the basis for common measures that projects under Priority (d) would be required to include in their studies. A project under this priority (f) must: (1) Synthesize current practice in measurement and instrumentation relevant to the research area; (2) provide a strategy for obtaining agreement or consensus on common variables, measurement, and instrumentation; and (3) provide a strategy to disseminate information regarding the variables, measures, and instrumentation to projects under Priority (d) as well as other researchers. This strategy should include on-site assistance, if needed, to projects funded under Priority (d).

(g) Extant Data Base Projects

This priority would support projects that use existing records and information as the subject of research focusing on issues related to the education of handicapped children. Applications submitted under this priority must provide documentation regarding the availability, completeness, and usefulness of existing records for the proposed research.

(h) Home and School Cooperation in Social and Motivational Development

This priority would support research projects that identify strategies and experiences to promote the social and personal development of handicapped students in the elementary grades. Projects would explore practices and experiences at home, in school, and in the community that result in the development of self-esteem, feelings of self-confidence and independence which have been found to be related to the achievement of handicapped students. Projects would research the cooperative involvement of parents, educational personnel, and guidance and other related service personnel in planning and implementing those strategies and experiences. Applications submitted under this priority must provide a conceptual frame work, based on previous research, that shows the hypothesized relationships between the home, school, and community practices and experiences to be studied and the development of self-esteem, self-confidence, and independence by handicapped students. Procedures and instruments that will be used to measure self-esteem, self-confidence and independence must also be specified.

(i) The Impact of Effective School Reforms on Handicapped Students

This priority would support projects that examine the effects on handicapped children in general education classes of: (a) Instructional practices that research has shown as effective in general education, or (b) changes to more rigorous curricula and graduation requirements. Applications submitted under this priority must identify the specific instructional, curricular, and graduation practices that will be studied, and must provide a research design that allows effects on handicapped students to be attributed to the specified practices.

(j) Research on Special Education and Related Service Personnel Shortages

This priority would support research projects that use demographic statistics from multiple State or local educational agencies to identify and validate patterns, and explanations for patterns associated with special education and related service personnel entering, remaining in, and exiting employment in educational agencies. These projects would be designed to enhance the effectiveness of educational agencies in the recruitment and retention of special education and related service personnel, or to provide information useful in directing resources toward relieving shortages of personnel. Applications submitted under this priority must document the completeness and reliability of the demographic statistics that will be used for the research.

Invitation to Comment

Interested persons are invited to submit comments and recommendations

regarding the proposed biennial funding priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in room 3522, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1441–1444)

(Catalog of Federal Domestic Assistance Number 84.023; Research in Education of the Handicapped)

Dated: August 20, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-19137 Filed 8-22-86; 8:45 am]

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VOL 51 ISS 164 AG 25 1986 UMI

Reader Aids

Federal Register

Vol. 51, No. 164

Monday, August 25, 1986

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Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19
29629-29900.....20
29901-30044.....21
30045-30200.....22
30201-30322.....25

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:

5514.....27515
5515.....28218
5516.....29300

Administrative Orders:

Memorandums:

July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445
August 20, 1986.....30201

5 CFR

532.....28799
890.....28799, 30068
1201.....28321

Proposed Rules:

540.....29655
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576, 29655

7 CFR

2.....29201
12.....29901
20.....30203
26.....29800
29.....28687, 30196
51.....27813, 28802
272.....28196, 30045
273.....28196, 30045
301.....30049
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
908.....27816, 28509, 29208, 30051
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
932.....28922
944.....29447
981.....30203
982.....29545
991.....28802
1064.....28687
1065.....30204
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449, 29903
1924.....29903
1930.....27836
1940.....29901
1941.....29901
1943.....29901
1944.....27836
1945.....29901
1951.....27836
1965.....27836
1980.....29901, 29903

Proposed Rules:

52.....28719, 29656
235.....29236
250.....29236
252.....29236
255.....29236
330.....29401

340.....29401
441.....29246
447.....27862
656.....29251
907.....30219
920.....29473
929.....29936
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819, 29938
1068.....28819
1079.....27554, 28819, 30220
1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1205.....30069
1496.....29557
1709.....28722
1772.....29557, 29558

8 CFR

238.....28060, 28923, 29085

Proposed Rules:

214.....27867, 28576
248.....27867

9 CFR

77.....29629
78.....29629
92.....28805, 29210, 30051
205.....29449
302.....29905
303.....29905
317.....29456, 30052
318.....29456, 30052
381.....29905

Proposed Rules:

92.....27871
94.....30221
113.....30222

10 CFR

Ch. I.....29211
50.....27817, 28044, 30028, 30054
73.....27817, 27822, 30054
110.....27825

Proposed Rules:

50.....27872
73.....29656
100.....30224
435.....29754, 29773

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
337.....29630
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29256
337.....29657
523.....30225
563.....30225

13 CFR

310.....27828

14 CFR

21.....28509–28525, 30206, 30207
23.....28509–28525, 30206, 30207
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213, 29910–29915
71.....27833–27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630, 30054
73.....30208
75.....28809
97.....28326, 29631
121.....28322
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28386, 28725
1.....28095
21.....29938–29944
23.....29938–29944
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256–29259, 29474, 29475, 29659, 29946, 30070–30077
71.....28388–28390, 28956, 28957, 29261–29263, 29534, 30227, 30228
73.....28095, 30228
75.....28096, 28957
91.....29476
382.....30078

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695, 29633
16.....30055
423.....28222
444.....28328
1500.....28529, 29094, 30209

Proposed Rules:

13.....28594, 29265, 29660, 29664
703.....29666
1500.....29778

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:

271.....28102

19 CFR

6.....27836
101.....28070

Proposed Rules:

113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544

Proposed Rules:

404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
133.....30210
175.....30059, 30060
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28546, 29916, 30211
520.....28546, 29215, 30211
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

0.....30178
20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28699
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
888.....28486
892.....29633
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
602.....28365

27 CFR

19.....28071
250.....28071
270.....28078
275.....28078
290.....28078
295.....28078
296.....28078

Proposed Rules:

4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....
1620.....
1952.....
1956.....
1960.....
2603.....
2676.....

Proposed R

530.....
602.....
1613.....
1910.....
1917.....
2603.....

30 CFR

901.....
914.....
917.....
931.....
943.....

Proposed R

250.....
774.....
910.....
912.....
915.....
920.....
921.....
922.....
933.....
935.....
937.....
939.....
941.....
947.....
950.....

31 CFR

16.....
315.....
317.....
321.....
332.....
352.....
353.....
500 (autho extended Memora Aug. 20,
505 (autho extended Memora Aug. 20,
515 (autho extended Memora Aug. 20,
520 (autho extended Memora Aug. 20,
545.....
550.....

Proposed R

10.....
103.....
357.....

32 CFR

80.....
706.....2 28941,

Proposed R

553.....

29 CFR

1601.....29098
1620.....29816
1952.....27534
1956.....29917
1960.....28378
2603.....28379
2676.....29215
Proposed Rules:
530.....30036
602.....28840
1613.....29482
1910.....30230
1917.....30230
2603.....29497

30 CFR

901.....29098
914.....29100
917.....29919
931.....28553
943.....28554
Proposed Rules:
250.....29947
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
317.....30212
321.....30212
332.....28933
352.....28933
353.....28933
500 (authority extended by Memorandum of Aug. 20, 1986).....30201
505 (authority extended by Memorandum of Aug. 20, 1986).....30201
515 (authority extended by Memorandum of Aug. 20, 1986).....30201
520 (authority extended by Memorandum of Aug. 20, 1986).....30201
545.....28933
550.....28933
Proposed Rules:
10.....29113
103.....30233
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468, 30213
Proposed Rules:
553.....29115

33 CFR

100.....28706, 29919
117.....28380, 28707, 29101, 30060, 30061
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468
Proposed Rules:
100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396, 29920, 30190
674.....28312
690.....30190
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101
Proposed Rules:
7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707, 29920
201.....30061, 30214
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636
Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923, 30063
60.....29104
61.....27956
65.....28224, 29216, 30064
81.....27843–27845, 30065
180.....28225–28227
228.....29923, 29927
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556
799.....30216
Proposed Rules:
Ch. I.....29499, 30166
52.....27560, 27878, 29116
65.....28113, 29949, 30090
81.....29268
85.....28114
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669
228.....30081
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

101–26.....29104
101–38.....29638
101–40.....27539

42 CFR

405.....27847, 28710, 29386
417.....28569
482.....27847
Proposed Rules:
405.....29560
447.....29560

43 CFR

11.....27674
Public Land Orders:
6620.....28229
6622.....28229
6623.....29641
Proposed Rules:
4.....28846

44 CFR

11.....29222
59.....30290
60.....30290
61.....30290
64.....28230, 28232
65.....30290
70.....30290
73.....30290
76.....30290
Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384
Proposed Rules:
1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
150.....30241
160.....29117
157.....29116
159.....29116
189.....29116
502.....29124

47 CFR

22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552
87.....28106
97.....28237
Proposed Rules:
0.....27566
1.....27566, 30254
2.....28249
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848
Proposed Rules:
501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233, 29471
509.....29552
571.....28238, 29552
Proposed Rules:
Ch. X.....28847
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567

531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241, 29642
604.....28575
611.....30218
630.....28575
641.....28094, 29471
651.....29642
655.....28241, 29555
661.....27859, 28717, 28954, 29234, 29471, 29654, 29932, 30066
663.....29933
671.....28242
672.....28385, 30218
674.....27860, 28243, 29107

Proposed Rules:

17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 19, 1986

CFR CH

This che
published
revision d
An asteri
week and
Office.
New unit
the daily
A checkli
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Affected)
The annu
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Order fro
Washingt
Deposit A
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Title

1, 2 (2 Re
3 (1985 C
4
5 Parts:
1-1199....
1200-End,
7 Parts:
0-45.....
46-51.....
52 .....
53-209....
210-299..
300-399..
400-699..
700-899..
900-999..
1000-105
1060-111
1120-119
1200-149
1500-189
1900-194
1945-End.
8
9 Parts:
1-199.....
200-End...
10 Parts:
0-199.....
200-399..
400-499..
500-End...
11
12 Parts:
1-199.....
200-299..
300-499..
500-End...
13
14 Parts:
1-59.....
60-139....
140-199..
200-1199
1200-End.
15 Parts:
0-299.....
300-399..
400-End...

VOL 51 ISS 164 AG 25 1986 UMI

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1985 Compilation and Parts 100 and 101)	14.00	[5] Jan. 1, 1986
4	11.00	Jan. 1, 1986
5 Parts:		
1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
53–209	14.00	Jan. 1, 1986
210–299	21.00	Jan. 1, 1986
300–399	11.00	Jan. 1, 1986
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	9.50	Jan. 1, 1986
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
1500–1899	7.00	Jan. 1, 1986
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	7.00	Jan. 1, 1986
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1986
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	8.50	Jan. 1, 1986
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1986
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	7.00	Jan. 1, 1986
300–399	20.00	Jan. 1, 1986
400–End	15.00	Jan. 1, 1986

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	18.00	Jan. 1, 1986
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
1–149	15.00	Apr. 1, 1986
150–399	25.00	Apr. 1, 1986
400–End	6.50	Apr. 1, 1986
19	29.00	Apr. 1, 1986
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
1300–End	6.50	Apr. 1, 1986
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	16.00	July 1, 1985
29 Parts:		
0–99	11.00	July 1, 1985
100–499	5.00	July 1, 1985
500–899	19.00	July 1, 1985
900–1899	7.00	July 1, 1985
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[2] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
200–699	8.50	July 1, 1986
700–End	13.00	July 1, 1985
31 Parts:		
0–199	8.50	July 1, 1985
*200–End	16.00	July 1, 1986

VOL 51 ISS 164 AG 25 1986 UMI

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[3] July 1, 1984
1–39, Vol. II	19.00	[3] July 1, 1984
1–39, Vol. III	18.00	[3] July 1, 1984
1–189	13.00	July 1, 1985
*190–399	23.00	July 1, 1986
400–629	15.00	July 1, 1985
630–699	12.00	[3] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
*300–399	11.00	July 1, 1986
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
*39	12.00	July 1, 1986
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[4] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[4] July 1, 1984
3–6	14.00	[4] July 1, 1984
7	6.00	[4] July 1, 1984
8	4.50	[4] July 1, 1984
9	13.00	[4] July 1, 1984
10–17	9.50	[4] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[4] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[4] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[4] July 1, 1984
19–100	13.00	[4] July 1, 1984
1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	16.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	12.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
48 Chapters:		
1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
3–6	13.00	Oct. 1, 1985
7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	19.00	Nov. 1, 1985
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
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50 Parts:		
1–199	11.00	Oct. 1, 1985
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t. 1, 1985
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t. 1, 1985
t. 1, 1985

t. 1, 1985
t. 1, 1985

t. 1, 1986

1986

1983
1984
1986
1986

0 to March

84 to June

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51
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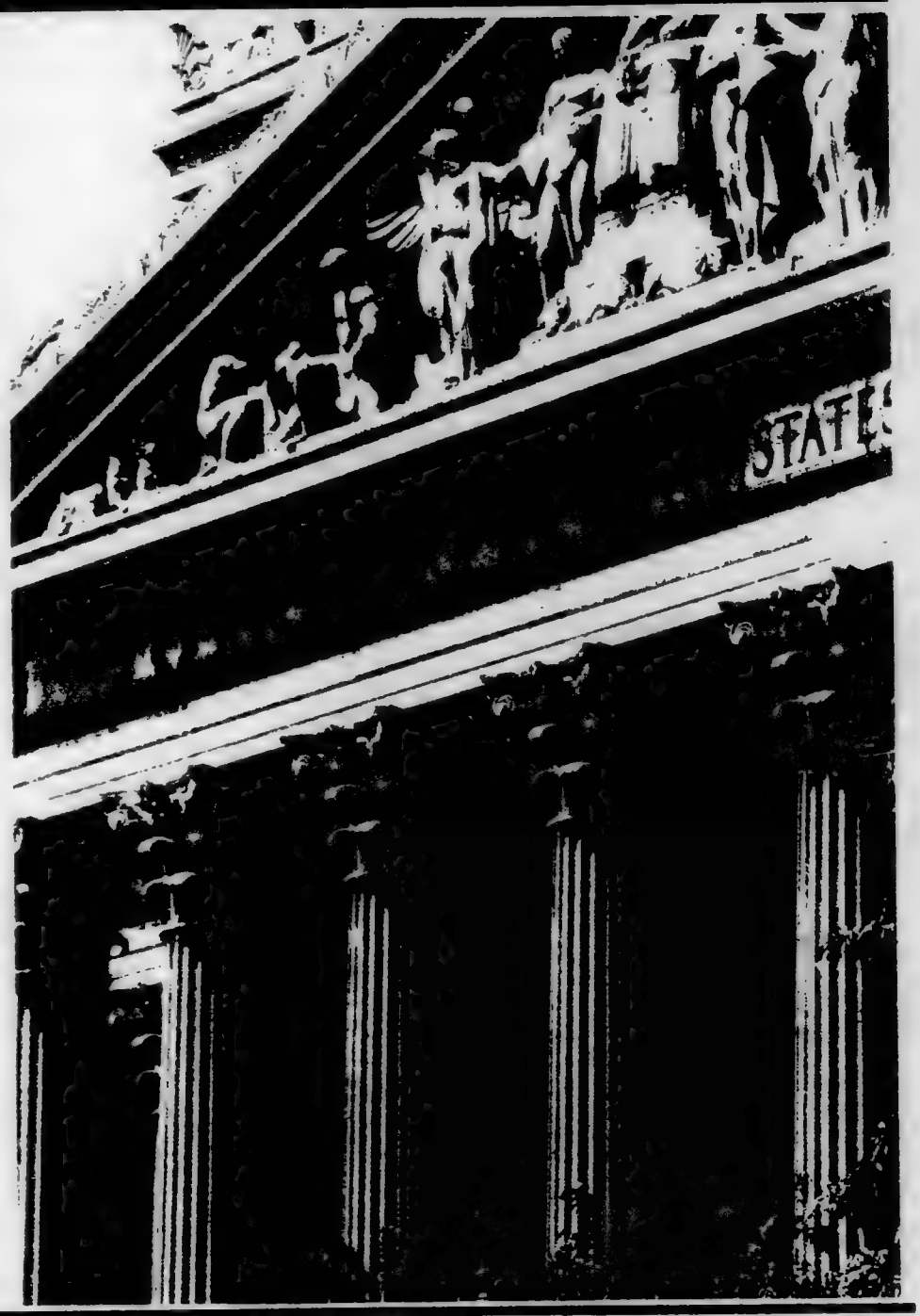

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Tuesday
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165
AG
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Vol. 5
Pages

8-26-86
Vol. 51 No. 165
Pages 30323-30472

federal register

Tuesday
August 26, 1986

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165
AG
26
1986
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RESERVATIONS: Doris Tucker 202–523–3419

Contents

Federal Register

Vol. 51, No. 165

Tuesday, August 26, 1986

Agricultural Marketing Service
RULES
Milk marketing orders:
Eastern Ohio-Western Pennsylvania, 30325

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Federal Grain Inspection Service; Forest Service
NOTICES
Cooperative agreements:
Washington State University, 30383
Program payments; income tax exclusion; primary purpose determination:
Wisconsin animal waste water pollution grant program, 30383

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 30392

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol viticultural area designations:
Alexander Valley and Northern Sonoma, CA, 30352

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Equine infectious anemia; official tests, 30327

Army Department
NOTICES
Meetings:
Science Board, 30392, 30393
(2 documents)

Centers for Disease Control
NOTICES
Grants and cooperative agreements; availability, etc.:
Acquired Immunodeficiency Syndrome (AIDS)—
Surveillance and associated epidemiologic investigations, 30432

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Alabama, 30384
Utah, 30384
Wyoming, 30385

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 30385
(2 documents)

Committee for the Implementation of Textile Agreements
NOTICES
Textile consultation; review of trade:
India, 30391

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
New York Futures Exchange—
Russell 3,000 Index, etc., 30392

Copyright Office, Library of Congress
NOTICES
Records searches; in-process materials and telephone requests, policy decisions, 30450

Customs Service
RULES
Customs brokers:
Single license, separate permits, grounds for license suspension or revocation, monetary penalty, etc., 30336
Organization and functions; field organization, ports of entry, etc.:
Brunswick, GA, 30335
Tariff classifications:
Backpacking tents, imported, 30348
PROPOSED RULES
Air commerce:
Private aircraft arriving from areas south of U.S.—
Douglas, AZ; international aircraft reporting requirements, 30375
Cartmen and lightmen; license suspension or revocation, 30376

Defense Department
See Air Force Department; Army Department; Navy Department

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation applications:
Brymore Gas Marketing, Inc., 30394
Enron Gas Marketing Inc., 30395
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
O'Brien Energy Systems, Inc., 30396

Education Department
See also National Council on the Handicapped
RULES
Postsecondary education:
National direct student loan program
Correction, 30355
NOTICES
Meetings:
Research in Vocational Education National Center Advisory Committee, 30394

VOL
51
ISS
165
AG
26
1986
UMI

Employment and Training Administration
RULES
Alien temporary employment; labor certification process:
Meal charges, 30348
NOTICES
Adjustment assistance:
American Standard, Inc., et al., 30446
Badger Coal Co., 30448
Buckeye, Inc., et al., 30448

Energy Department
See also Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department
NOTICES
Nuclear waste management:
Civilian radioactive waste management—
Toll-free telephone information service, 30394

Energy Research Office
NOTICES
Meetings:
Energy Research Advisory Board, 30397

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Minnesota, 30378
Air quality planning purposes; designation of areas:
Indiana, 30379
NOTICES
Air quality; prevention of significant deterioration (PSD):
Permit determinations, etc.—
Region II, 30429
Hazardous waste:
Permits, guidance manual availability, 30429
Meetings:
Science Advisory Board, 30430
Privacy Act; systems of records, 30430
Toxic and hazardous substances control:
Premanufacture notices receipts, 30428, 30428 (2 documents)

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 30327, 30328 (2 documents)
CASA, 30329
McDonnell Douglas, 30330, 30331 (2 documents)
VOR Federal airways, 30332, 30333 (2 documents)
VOR Federal airways and jet routes, 30334
PROPOSED RULES
Airworthiness directives:
Boeing, 30370
British Aerospace, 30371
Weber, 30372
Transition areas, 30373

Federal Communications Commission
RULES
Communications equipment:
Computing devices; technical standards exemptions, 30362
Radio stations; table of assignments:
North Carolina, 30363
Puerto Rico et al., 30363
Television stations; table of assignments:
Indiana, 30364
PROPOSED RULES
Communications equipment:
Industrial, scientific, and medical equipment; RF lighting devices, radiation limits, 30381
Radio stations; table of assignments:
South Dakota, 30381

Federal Contract Compliance Programs Office
RULES
Vietnam era veteran; definition, 30467

Federal Crop Insurance Corporation
PROPOSED RULES
Administrative regulations:
Appeal procedure, 30369

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30462

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities (Federal Power Act):
Generic determination of rate of return on common equity for public utilities
Correction, 30374
NOTICES
Electric rate and corporate regulation filings:
Boston Edison Co. et al., 30398
Natural Gas Policy Act:
Well category determinations, etc., 30398
Applications, hearings, determinations, etc.:
Forest Oil Corp., 30399

Federal Grain Inspection Service
RULES
Grain standards:
Wheat, 30323
PROPOSED RULES
Inspection and certification standards; agricultural commodities and products:
Lentils, whole dry peas, and split peas, 30368

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30430

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Burlington Northern Railroad Co., 30459

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 30462
Applications, hearings, determinations, etc.:
Dominion Bankshares Corp. et al., 30431
Susquehanna Bancshares, Inc., 30432

Susquehanna Bancshares, Inc., et al., 30432

Forest Service
RULES
Prohibitions; fossil collecting, 30355
NOTICES
Meetings:
Pacific Crest National Scenic Trail Advisory Council, 30384

Harry S. Truman Scholarship Foundation
NOTICES
Meetings; Sunshine Act, 30462

Health and Human Services Department
See Centers for Disease Control; Health Care Financing Administration; National Institutes of Health

Health Care Financing Administration
RULES
Medicare:
End stage renal disease program; redesignation of networks and reorganization of network organizations, 30356
NOTICES
Medicare:
End-stage renal disease program; network area designations, 30434

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
Cases filed, 30402, 30403
(2 documents)
Decisions and orders, 30404
Special refund procedures; implementation, 30399, 30404, 30407, 30416, 30420, 30423
(6 documents)

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service

Internal Revenue Service
RULES
Procedure and administration:
Magnetic media returns; requirements, 30351

International Trade Administration
NOTICES
Countervailing duties:
Carbon black from Mexico, 30385
Export privileges, actions affecting:
Datalec, Ltd., et al., 30388
Meetings:
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee, 30388
Telecommunications Equipment Technical Advisory Committee, 30390
(2 documents)
Applications, hearings, determinations, etc.:
Medical Research Foundation of Oregon, 30389
National Bureau of Standards, 30389
Solomon R. Guggenheim Foundation, 30389
SUNY, Optometric Center of New York, 30389

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Chesapeake & Ohio Railway Co., 30444
Sumter & Choctaw Railway Co., 30445

Justice Department
NOTICES
Pollution control; consent judgments:
Browning-Ferris Industries of Kansas City, Inc., 30445

Labor Department
See also Employment and Training Administration; Federal Contract Compliance Programs Office; Occupational Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 30445

Land Management Bureau
NOTICES
Closure of public lands:
California, 30437
Meetings:
Ely District Advisory Council, 30437
Motor vehicles; off-road vehicle designations:
Oregon, 30439
Oil and gas leasing:
Wyoming, 30440
Public lands; special area caves, noncommercial use, 30438
Realty actions; sales, leases, etc.:
California, 30440
Colorado; correction, 30438, 30440
(2 documents)

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
NOTICES
Agency information collection activities under OMB review, 30440

National Aeronautics and Space Administration
NOTICES
Inventions, Government-owned; availability for licensing, 30450
Patent licenses, exclusive:
Millen, Ernest W., 30451

National Council on the Handicapped
NOTICES
Meetings; Sunshine Act, 30462

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Institutes of Health
NOTICES
Meetings:
Dental Research Programs Advisory Committee, 30436
National Institute of Neurological and Communicative Disorders and Stroke, 30437

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
High seas salmon off Alaska, 30365

Ocean salmon off coasts of Washington, Oregon, and California, 30364
Pacific Coast groundfish, 30365
Western Pacific bottomfish and seamount groundfish Correction, 30367
NOTICES
Permits:
Marine mammals, 30390

National Park Service
NOTICES
Historic Places National Register; pending nominations:
Alabama et al., 30441

Navy Department
PROPOSED RULES
Privacy Act; implementation, 30377
NOTICES
Privacy Act; systems of records, 30393

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Niagara Mohawk Power Corp., 30452
Meetings:
Reactor Safeguards Advisory Committee, 30451
Meetings; Sunshine Act, 30463
Reports; availability, etc.:
Technical bases for estimating source terms, reassessment, 30455
Applications, hearings, determinations, etc.:
Public Service Co. of New Hampshire et al., 30454, 30456 (2 documents)
Purdue University, 30454
Virginia Polytechnic Institute and State University, 30455

Occupational Safety and Health Administration
NOTICES
State plans; standards approval, etc.:
New York, 30449

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 30456

Presidential Documents
PROCLAMATIONS
Cuban immigration; suspension (Proc. 5517), 30470

Public Health Service
See Centers for Disease Control; National Institutes of Health

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; Federal Railroad Administration
PROPOSED RULES
Nondiscrimination on basis of handicap in federally-assisted programs, 30382
NOTICES
Aviation proceedings:
Hearings, etc.—
Air Hawaii, 30458
Samoa Airlines, Inc., 30458
SEAIR Alaska Airlines, Inc., 30459

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service
NOTICES
Notes, Treasury:
L-1991 series, 30459

Truman, Harry S., Scholarship Foundation
See Harry S. Truman Scholarship Foundation

Separate Parts In This Issue

Part II
Department of Labor, Office of Federal Contract Compliance Programs, 30467

Part III
The President, 30470

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR	
Proclamations:	
5517	30470
7 CFR	
810	30323
1036	30325
Proposed Rules:	
68	30368
400	30369
9 CFR	
75	30327
14 CFR	
39 (5 documents)	30327–30331
71 (3 documents)	30332–30334
75	30334
Proposed Rules:	
39 (3 documents)	30370–30372
71	30373
18 CFR	
Proposed Rules:	
37	30374
19 CFR	
101	30335
111	30336
171	30336
177	30346
178	30336
Proposed Rules:	
6	30375
112	30376
20 CFR	
655	30348
26 CFR	
301	30351
27 CFR	
9	30352
32 CFR	
Proposed Rules:	
701	30377
34 CFR	
674	30355
36 CFR	
261	30355
40 CFR	
Proposed Rules:	
52	30378
81	30379
41 CFR	
60–250	30467
42 CFR	
405	30356
47 CFR	
15	30362
73 (3 documents)	30363, 30364
Proposed Rules:	
18	30381
73	30381
49 CFR	
Proposed Rules:	
27	30382
50 CFR	
661	30364
663	30365
674	30365
683	30367

Rules and Regulations

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Standards for Wheat

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Federal Grain Inspection Service (FGIS) is revising the U.S. Standards for Wheat to certificate dockage to the nearest 0.1 percent. The current method of dockage certification rounds the actual dockage percentage down to the nearest half or whole percent. This method may result in understating the level of dockage up to 0.49 percent on the certificate. Certification of dockage to the nearest 0.1 percent is more precise than the current method and should enhance the marketability of U.S. wheat traded in domestic and export markets. In addition, FGIS is changing certification procedures stated in the Grain Inspection Handbook to certificate the protein content of wheat on a constant 12.0 percent moisture basis. Certification on the basis of a constant 12.0 percent moisture instead of the current "as is" moisture will add uniformity to the protein reporting procedure.

EFFECTIVE DATE: May 1, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, RM, USDA, FGIS, Room 1661, South Building, 1400 Independence Ave., SW., Washington, DC 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1521–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the order.

Regulatory Flexibility Act Certification

David R. Galliart, Acting Administrator, FGIS has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of wheat inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) (the Act), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, it has been determined that in the public interest the revision becomes effective May 1, 1987. This effective date will coincide with the beginning of the 1987 crop year and facilitate domestic and export marketing of wheat. This effective date will provide adequate time to implement the revised standards and procedures and allow the industry to make any necessary marketing changes.

Final Action

A proposed rule to revise the U.S. Standards for Wheat to certificate dockage to the nearest one-tenth percent was published in the May 30, 1986 **Federal Register** (51 FR 19556), and comments were solicited during a 45-day period. In the proposed rule, FGIS also solicited views and comments on the use of a constant moisture basis of 12.0 percent to certificate wheat protein content. A total of 114 comments was received. Fifty-one comments were from wheat producers. Thirty-eight comments were from individuals representing producer and trade associations and commissions. Twelve comments were from foreign buyers of U.S. wheat. Four comments were from individuals associated with State Departments of Agriculture. Three comments were received from individuals associated with grain marketing firms. One comment each was received from a congressional representative, a country elevator operator, and a university professor. Three comments were received which did not address the proposed dockage and protein changes. The large majority of commenters addressed both dockage and protein certification. On the basis of these comments and other available information, FGIS is revising the wheat standards to certificate dockage to the nearest one-tenth percent. In addition, FGIS will certify wheat protein content on a constant moisture basis of 12.0 percent.

Certification of Dockage in Wheat

Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken wheat, and coarse grains larger than wheat. Domestic millers usually remove dockage during grain cleaning and may use it as animal feed. Foreign buyers use dockage in a variety of ways. Some use the dockage in animal feeds, others mill the dockage with the wheat, and some remove and discard the dockage.

In the current U.S. Standards for Wheat (7 CFR 810.301–810.309), dockage is certificated by rounding down to the nearest half or whole percent (7 CFR 810.305). For example, for 0.0 to 0.49 percent no dockage is shown, 0.5 to 0.99 is shown as 0.5 percent dockage, 1.0 to 1.49 percent is shown as 1.0 percent dockage and so forth. Many foreign buyers question the adequacy of the current dockage certification method asserting that the actual dockage is almost always understated. In current practice a wheat shipment may contain up to 0.49 percent more dockage than the percentage shown on the official inspection certificate. Export shipments certificated with no dockage generally contain 0.3 to 0.4 percent dockage. Export shipments certificated at 0.5 percent dockage generally contain 0.8 to 0.9 percent dockage. An understated amount of dockage may impact on foreign buyers due to wheat prices being paid for understated dockage, freight, and, when applicable, levy charges paid on each ton of imported wheat.

FGIS held a Wheat Dockage Meeting in Denver, Colorado, on January 7, 1986.

VOL 51 ISS 165 AG 26 1986 UMI

Although a number of options were discussed, a large majority of industry personnel who spoke at the meeting favored certification of dockage to the nearest 0.1 percent. They stated this method of certification would more accurately indicate dockage content and would enhance the quality of U.S. wheat.

In addition to the Wheat Dockage Meeting, Grain Quality Workshops were initiated by the trade. The objective of the workshops was to study problems related to the quality of grain exported from the United States. Workshop members included representatives from different segments of the grain industry, academia, and government personnel. After discussing the current dockage certification procedure and potential alternatives, the majority of the Grain Quality Workshop members recommended that dockage be certificated to the nearest 0.1 percent.

The large majority of comments received on the proposed rule published in the **Federal Register** supported certification of dockage in wheat to the nearest 0.1 percent. Only two commenters opposed the proposal. One commenter stated that the change would provide no assurance of increased sales of wheat and might penalize producers since elevators would use stricter dockage testing procedures. The other commenter stated that certification to the nearest 0.1 percent leaves little margin for error. Testing may be unattainable if equipment is not accurate, and this could result in foreign buyer complaints. While any change to the wheat standards does not assume increased sales, FGIS believes that the dockage and protein changes will be beneficial for the reasons discussed below.

Prior to publication of the proposed rule, FGIS gathered information and data on the levels of wheat dockage in the domestic and export markets. This was used to compile a USDA, Economic Research Service (ERS) report entitled: "Economic Implications of Alternate Methods of Certificating Dockage in U.S. Wheat." The report outlined potential benefits of revising the dockage certification procedure and concluded that elimination of the problem of understated dockage will strengthen the credibility of the official inspection certificate, enhance buyer confidence in the U.S. Standards for Wheat, and strengthen the competitive position of U.S. wheat in the world market.

The ERS report also concluded that dockage certificated to the nearest 0.1 percent could affect price per bushel depending on how market participants view the price quotations for wheat in relation to the certified dockage content. The report stated that the price effect on all classes of wheat in the interior market could vary from a decrease of 0.971 cents per bushel to an increase of 0.674 cents per bushel and in the export market, from a decrease of 0.981 cents per bushel to an increase of 0.789 cents per bushel.

Studies conducted by FGIS indicated that dockage results to the nearest 0.1 percent are reproducible. FGIS concurs that dockage testing equipment must be well maintained and periodically checktested for accuracy to maintain this reproducibility.

One commenter opposed to the proposed change to dockage certification indicated a preference for certification to the nearest half or whole percent. Three other commenters who did not oppose the proposal also indicated the same preference. The certification procedure suggested by these commenters would, however, allow up to 0.25 percent of understated dockage, and foreign buyer complaints about excess dockage would, FGIS believes, be likely to continue.

Five commenters supporting the proposal stated that the factor for dockage and foreign material should be combined. However, these two factors can be easily calculated since both will be certificated to the nearest 0.1 percent. In addition, this reporting method could allow extra dockage to be introduced up to the maximum amount for each grade.

Two commenters, while expressing overall support for the proposal raised concern regarding the impact of the dockage and/or protein changes on existing wheat inventories graded prior to the effective date of this action and shipped after that date. As with other changes to the grain standards, the marketplace, whether through discounts, premiums or otherwise, should adjust to these changes. These same commenters inquired about changes to dockage certification as related to the Uniform Shiplot and Combined Lot Inspection Plan (CuSum). Necessary changes in the CuSum loading plan related to dockage certification to the nearest 0.1 percent are currently being reviewed by FGIS. Prior to implementation, information related to the development of these changes will be shared with the wheat industry to gather input on the subject.

Based on all information available including the ERS study on the economics of alternative dockage methods, FGIS studies, comments submitted at the public meeting, recommendations received from the Grain Quality Workshops, and comments received on the proposed rule, FGIS is revising § 810.305(b) in the U.S. Standards for Wheat to state the percentage of dockage to the nearest 0.1 percent. Accordingly, pursuant to the provisions of § 810.305, the percentage of dockage would be stated, as certain other factors presently are, in whole and tenth percents to the nearest 0.1 percent.

Protein Moisture Basis

In addition to the proposed rule on wheat dockage certification, the May 30, 1986, **Federal Register** (51 FR 19556) also proposed that wheat protein be certified on a constant 12.0 percent moisture basis to provide uniformity to the certification procedure. Changing to a constant 12.0 percent moisture basis was unanimously recommended by the Grain Quality Workshop members following discussion of this topic. A 12.0 percent basis was recommended because based upon information available to FGIS this percentage is representative of the approximate average moisture content of wheat exported from the United States.

Protein is an official criteria under the U.S. Grain Standards Act. The procedure for reporting protein content appears in Aux. 21 of the Grain Inspection Handbook. Unless otherwise requested, protein content is currently reported on "as is" moisture basis; that is, the percentage of protein is calculated on the actual moisture content of the wheat. Current procedures also allow protein content to be recorded on a specified moisture basis if requested by the applicant for inspection. This practice will be discontinued. When reported on an "as is" moisture basis, the protein quantity of wheat which has different moisture levels cannot be easily compared. Protein content is inversely related to moisture content. Protein quantity certificated on a constant moisture basis of 12.0 percent will provide buyers, sellers, and users of U.S. wheat with results which could be easily evaluated and compared. Also, use of a constant moisture basis will conform with protein reporting procedures used by other major wheat exporting countries.

Only one commenter opposed the proposal to certificate protein on a constant 12.0 percent moisture basis. This commenter stated that producers who deliver low-moisture, high protein wheat will assume a disproportionate decrease in price due to loss of protein for the 12.0 percent adjustment and will receive no premium for low moisture. In addition, this same opinion was expressed by two commenters who indicated a preference for use of the "as is" moisture basis. The commenter opposed to the proposal also stated that

the protein content of export sales could be understated or overstated in comparison to contract specifications if such contracts are not in compliance with the 12.0 percent basis.

Premiums and discounts are set by the trade pursuant to contract specifications. Consequently, initiating new or changing current premiums and discounts should be set according to the demand of the market and trade practices.

FGIS does not believe that changing to a constant moisture basis for protein certification will disrupt the export market or confuse foreign buyers. Reporting protein quantity on a constant moisture basis will provide results which may be easily evaluated and compared. Other major wheat exporting countries certify protein content on a constant moisture basis. Foreign buyers will be notified of the change in advance of the effective date, so contracts can be adjusted accordingly.

Five commenters did not oppose the proposal to certificate protein on a constant 12.0 percent moisture basis but indicated a preference for a 0.0 percent or 14.0 percent basis. The 0.0 percent and 14.0 percent basis are frequently used in European and American flour mill specifications, respectively. However, the majority of commenters, including foreign buyers, supported the proposal to certificate protein on a 12.0 percent basis. This percentage is the approximate average moisture content of wheat exported from the U.S., and the protein content on any other moisture basis can be easily calculated.

Based on all information available including the recommendation of the Grain Quality Workshops and the comments received on the proposed rule, FGIS is changing its Grain Inspection handbook to provide that the protein content of wheat be certified on a constant 12.0 percent moisture basis.

Other Comments

Some of the commenters on wheat dockage and protein certification also included information and opinions on the following quality related topics:

—use of the falling numbers test in the inspection process,

—the need for better cleaning practices,

—revision of the CuSum and Protein Uniform Inspection Plans,

—limits for heat-damaged and heavy heat-damaged kernels,

—addition of foreign material, other grains, screenings, and wheat of other classes to export shipments,

—revising the classification of red wheats, and

—reducing tolerances for wheat of other classes and considering hard red and soft red wheats as contrasting classes

These and other topics related to the wheat standards and/or inspection procedures will be reviewed by FGIS and may be addressed during the next regulatory review of the standards or otherwise, as deemed appropriate. This review is tentatively scheduled to begin in late-1986 or early-1987.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

1. The authority citation for Part 810 continues to read as follows:

Authority: Sections 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

Accordingly, the U.S. Standards for Wheat § 810.305 *Percentages* is amended by revision § 810.305(b) to read as follows:

§ 810.305 Percentages.

* * * * *

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of wheat, the class, the subclass, and the percentage of ergot. The percentage when determining the identity of wheat, the class, and the subclass shall be stated to the nearest whole percent. The percentage of ergot shall be stated to the nearest hundredth percent.

Dated: August 13, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86-19284 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1036

[Docket No. AO-179-A49]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends several provisions of the Eastern Ohio-Western Pennsylvania milk order. As amended, the pooling requirements for a cooperative operated balancing plant are reduced, the Director of the Dairy Division is permitted to adjust pooling standards for pool supply plants and cooperative balancing plants on a temporary basis when aberrations occur in the market's supply-demand conditions, and handlers are provided more flexibility in moving milk directly from producer farms to nonpool manufacturing plants. This action is based on industry proposals considered at a public hearing held in Strongsville, Ohio on August 7–8, 1985. The order changes are needed to reflect current marketing conditions and to promote marketing efficiencies. The amended order was approved by the market's dairy farmers who voted in a referendum.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250 (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued July 19, 1985; published July 24, 1985 (50 FR 30204).

Suspension Order: Issued September 4, 1985; published September 10, 1985 (50 FR 36865).

Partial Recommended Decision: Issued February 14, 1986; published February 21, 1986 (51 FR 6245).

Partial Decision: Issued July 24, 1986; published July 30, 1986 (51 FR 27178).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Eastern Ohio-Western Pennsylvania order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings upon the basis of the hearing record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

VOL
51
ISS
165
AG
26
1986
UMI

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order is hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings

It is necessary in the public interest to make this order amending the order effective September 1, 1986. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The partial decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued July 24, 1986 (51 FR 27178). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1986, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) Determinations

It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved by more than the necessary two-thirds of the producers who voted in the referendum.

List of Subjects in 7 CFR Part 1036

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. The authority citation for 7 CFR Part 1036 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. The suspension order issued September 4, 1985, and published September 10, 1985 (50 FR 36865), to be effective pending the completion of this proceeding, is hereby terminated.

3. Section 1036.7 is amended by revising paragraph (d) and adding a new paragraph (f) to read as follows:

§ 1036.7 Pool plant.

* * * * *

(d) A plant operated by a cooperative association if, during the month, 35 percent or more of the producer milk of members of the association is delivered to a distributing pool plant(s) or to a nonpool plant(s) when a Class II or Class III classification is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association's plant, subject to the following conditions:

(1) The cooperative requests pool status for such plant;

(2) The 35-percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12-month period ending with the current month;

(3) The plant is approved by a duly constituted health authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant under paragraph (a), (b), or (c) of this section or under the similar provisions of another Federal order applicable to a distributing plant or supply plant.

* * * * *

(f) The percentage delivery requirement in paragraphs (b) and (d) of this section may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if the Director finds that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision on either the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and invite data, views, or arguments in favor of or in opposition to the proposed revision.

4. Section 1036.13 is amended by revising paragraph (e), the introductory text of paragraph (f), and paragraphs (f)(1)(ii) and (f)(2)(ii) to read as follows:

§ 1036.13 Producer milk.

* * * * *

(e) During March through August and December, subject to the conditions of paragraph (g) of this section, the operator of a pool plant or a cooperative association may divert the milk of a producer without limit.

(f) During September through February excluding December and subject to the conditions of paragraph (g) of this section:

(1) * * *

(ii) The plant operator may divert an aggregate quantity of milk of producers not exceeding 40 percent of the producer milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator.

(2) * * *

(ii) The cooperative association may divert an aggregate quantity of milk not exceeding 40 percent of the producer milk that the cooperative association causes to be delivered to pool plants or diverted therefrom.

* * * * *

Effective date: September 1, 1986.

Signed at Washington, DC on: August 19, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86–19283 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 86-074]

Official Tests for Equine Infectious Anemia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the equine infectious anemia (EIA) regulations by including the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) test as an official test for EIA, if conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. This action is warranted to provide an additional official test for EIA which has been determined to be adequate for its intended purpose.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, Program Planning Staff, VS, APHIS, USDA, Room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 75 (referred to below as the regulations) include provisions concerning the interstate movement of horses, asses, mules, ponies, and zebras found to be affected with equine infectious anemia (referred to below as EIA), also known as swamp fever. Prior to the effective date of this amendment, the regulations provided that the Agar gel immunodiffusion test, conducted in a laboratory approved by the Deputy Administrator, Veterinary Services, was the official EIA test for determining whether horses, asses, mules, ponies, and zebras are affected with EIA.

A document published in the **Federal Register** on May 20, 1986 (51 FR 18455-18456), proposed to amend the regulations by including the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) test as an official EIA test, if conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. The document of May 20, 1986, invited the submission of written comments on or before June 19, 1986. The two comments received supported the proposed rule. Based on the rationale set forth in the proposal, the regulations are amended as proposed.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This amendment to the regulations provides for the use of an additional official EIA test as an option for use in determining whether an animal is infected with the disease. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 75

Animal diseases, Contagious equine metritis, Dourine, Equine, Equine infectious anemia, Horses, Quarantine, Transportation.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 75 continues to read as set forth below:

Authority: 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134-134h; 7 CFR 2.17, 2.51, and 371.2(d).

2. In paragraph (a) of § 75.4, the definition of "Official test" is revised to read:

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities and research facilities.

(a) * * *

Official test. The Agar gel immunodiffusion test or the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) Test, conducted in a laboratory approved by the Deputy Administrator.

* * * * *

Done at Washington, DC, this 15th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19216 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-105-AD; Amdt. 39-5404]

Airworthiness Directives; Boeing Model 737-300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires replacement of air conditioning ducts installed in certain Model 737-300 airplanes. This action is necessary because it has been discovered that the ducts have unsatisfactory flammability characteristics and do not comply with the flammability requirements of Federal Aviation Regulations (FAR) 25.853. The ducts presently installed could contribute to the propagation of a fire occurring on the airplane.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of certain air conditioning ducts on Boeing Model 737-300 airplanes, was published in the **Federal**

Register on May 29, 1986 (51 FR 19357). This modification will provide for fire safety on the affected aircraft by replacing air conditioning ducts which have inadequate flammability characteristics.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to the comments received.

Two comments were received in response to the Notice of Proposed Rulemaking. The first commenter had not objection to the proposal.

The second commenter agreed with the intent of the AD, but offered additional comments on details of the proposal. The commenter pointed out that it is the insulation material bonded to the duct and forming its exposed surface which actually requires replacement. From a practical standpoint, since the insulation is bonded to the duct, the FAA has determined that it is more efficient to replace the entire duct. The commenter also questioned the hazard posed by the duct, because of its size and location. The FAA agrees that the duct is not located in a location near what are typically considered ignition sources. However, the FAA has determined that there is a sufficient likelihood that this area could become involved in a fire to warrant replacement of the duct. Finally, the commenter proposed changing the compliance time from 180 days, to require accomplishment at the next scheduled "C" check. "C" check intervals for the Model 737 vary considerably in length and are sometimes accomplished in stages which may take more than a year to complete. The FAA has determined that a 180-day compliance time is appropriate, in light of the nature of the hazard and the apparent ability of all affected operators to comply within that time.

After careful review of all available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Approximately 120 airplanes of U.S. registry will be affected by this AD. It is estimated that 4 manhours will be required to modify each airplane at a cost of $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $19,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737-300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737-300 airplanes listed in Boeing Service Bulletin 737-21-1085, dated February 14, 1986, certificated in any category. Compliance required within 180 days after the effective date of this amendment, unless already accomplished.

To ensure air ducts have adequate flammability characteristics accomplish the following:

A. Replace air ducts in accordance with Boeing Service Bulletin 737-21-1085, dated February 14, 1986, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the applicable service bulletin from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19166 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-25-AD; Amdt. 39-5402]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, which requires the incorporation of a stronger access door for the opening within the empennage that provides access to the vertical fin. This action is needed because the vertical fin could be overpressurized to the point of structural failure in the event of an aft pressure bulkhead rupture.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Yarges, Aerospace Engineer, Airframe Branch, ANM-120S; telephone (206) 431-2925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive which requires replacement or modification of the Boeing Model 767 fin access door, was published in the **Federal Register** on May 14, 1986 (51 FR 17647). This action was considered necessary to preclude a structural failure in the vertical fin in the event of a rupture of the aft pressure bulkhead.

Interested parties have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to the two comments received.

The first commenter supported the proposal.

The second commenter, the Air Transport Association (ATA) of America, objected to the proposed six-month compliance period, which they argued could cause disruption in their member operators' scheduled service. The ATA stated that ruptures of the aft pressure bulkhead would most likely be the result of an inadequate structural repair and, because of the new condition of the B–767 fleet, which is only 4 years old, such failures are not likely. Therefore, the ATA requested a two-year compliance period for the requirements of the proposed AD.

The FAA concurs that some allowance can be made because the B–767 fleet is young and has no history of bulkhead failures or major bulkhead structural repairs. However, the modification should be accomplished in the shortest, nondisruptive time period. The FAA had determined that the fleet can be modified within one year without any disruption of an operator's scheduled service. Therefore, the final rule has been revised to reflect a one-year compliance period.

After careful review of all available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously noted.

It is estimated that 60 airplanes of U.S. Registry will be affected by the requirements of this AD. Modification will require approximately 8 manhours to accomplish, at an average labor charge of $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators will be $19,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767 airplanes, certificated in any category, listed in Boeing Service Bulletin 767–52–0042, Revision A, dated January 15, 1986. To prevent structural failure of the vertical fin in the event of a rupture of the aft pressure bulkhead, accomplish the following within 12 months after the effective date of this amendment, unless already accomplished:

A. Install a stronger replacement fin access door or reinforce the existing fin access door in accordance with Boeing Service Bulletin 767–52–0042, Revision A, dated January 15, 1986, or later FAA-approved revisions.

B. Alternate means of compliance or adjustment of compliance times, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19165 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–146–AD; Amdt. 39–5406]

Airworthiness Directives; CASA Model C–212 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires the installation of split bus bars in the overhead electrical panel and a new transformer on certain CASA Model C–212 airplanes. These actions are necessary to provide two independent power sources for navigation and communications systems. A single failure could cause the loss of all navigation and communications systems.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM–113; telephone (206) 431–2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires installation of split bus bars and a new transformer on certain CASA Model C–212 airplanes, was published in the **Federal Register** on January 23, 1986 (51 FR 3073).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated at $500 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,240.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($1,780). A final evaluation has been prepared for

VOL 51 ISS 165 AG 26 1986 UMI

this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

CASA: Applies to CASA Model C-212 series airplanes as listed in CASA Service Bulletin 212-24-33, Revision 2, dated October 23, 1985, certificated in any category. Compliance is required within 90 days after the effective date of this AD. To preclude the loss of navigation and communications capability due to a single electrical system failure, accomplish the following, unless previously accomplished:

A. Modify the electrical system in accordance with CASA Service Bulletin 212-24-33, Revision 2, dated October 23, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19169 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-158-AD; Amdt. 39-5403]

Airworthiness Directives; McDonnell Douglas Corporation Model DC-10-10, -15, -30, -40, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement or modification of tanks 1, 2, and 3 transfer pump check valves and associated pressure switches, and installation of additional surge relief valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. This AD is prompted by numerous incidents in which failures occurred in fuel transfer lines. This action is necessary to minimize the potential of unusable fuel being trapped in any of the wing tanks and possible fuel imbalance, resulting in a reduction of airplane control or loss of range, or both.

EFFECTIVE DATE: October 2, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require replacement or modification of tanks 1, 2, and 3 transfer pump check valves and associated pressure switches and modification of existing valves, and the installation of additional surge relief valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register on February 28, 1986 (51 FR 7079). The comment period for the proposal closed on April 22, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Comments were received from eight organizations, four domestic airlines, one foreign operator, the airplane manufacturer, and two associations.

All operators stated that they felt the compliance time of 12 months after the effective date of the AD was too short. They suggested compliance times varying from 18 months to 22 months; one commenter suggested 15 months after receipt of parts. The airplane manufacturer noted that approximately 1,000 pressure switches are required in order to comply with McDonnell Douglas Service Bulletin (S/B) 28-140, and estimated the supplier will require 17 months for production of the switches, which would be September 1987. The airplane manufacturer suggested a compliance time of 24 months after the effective date of this AD. One association, which represented several domestic airlines, also suggested a 24-month compliance time. Two operators suggested increasing the compliance time, and stating it in flight hours as well. The FAA has considered these comments and has determined that the compliance time can be extended to 18 months or 4,500 flight hours after the effective date of the AD, whichever occurs first, without compromising safety. The FAA has determined that any further extension is unnecessary and compliance can be accomplished in the allotted time period.

One of the domestic airline operators and the airplane manufacturer noted that the estimate of 21 manhours for the accomplishment of the required procedures, which was stated in the economic impact paragraph in the Preamble to the NPRM, does not account for draining, opening, purging, and venting the fuel tanks to accomplish the rework. The operator estimates the total out-of-service time as 2 days. The manufacturer assumes that an operator would normally accomplish the requirements of the AD at a time when the airplane is out of service for a major maintenance check; if the airplane is not out of service, the manufacturer estimates that 4 manhours per airplane would be required. The FAA concurs, and has added this information in the economic impact paragraph in the Preamble.

The foreign operator noted that as of the date of the communication, it was unable to obtain a copy of the valve

supplier's service bulletin and the supplier's lead time was 6 months. The supplier states that the service bulletin, which is dated September 1985, should be available to the operator. The foreign operator also noted that McDonnell Douglas DC–10 Service Bulletin 28–163 requires a proof test at 330 psi, but does not specify any method, equipment, or tools for the test. The FAA agrees that the original issue did not include a testing procedure, but Revision 1, dated July 18, 1986, does include it; the reference in the AD has been revised accordingly.

The final comment, from another association, strongly endorsed the adoption of the proposed AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes previously noted.

It is estimated that 189 airplanes of U.S. registry will be affected by this AD. It will require approximately 21 manhours per airplane to accomplish the required repair, and the average labor cost will be $40 per manhour. The cost of parts exclusive of surge relief valves is estimated at $5,284 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators would be $1,157,436. For those operators required to drain, open, purge, and vent the fuel tanks, approximately 4 additional manhours will be necessary to accomplish the requirements of the AD; at an average labor charge of $40 per manhour, this will entail an additional $160 per airplane. The FAA has no method of estimating how many airplanes would fall under this category.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model DC–10 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pusuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –15, –30, and –40, and KC–10A (Military) series airplanes, cetificated in any category.

Compliance is required as indicated, unless previously accomplished.

To preclude potential fuel feed line failures and resulting unusable fuel or fuel imbalance, complete the following:

A. Within the next eighteen (18) months, or 4500 flight hours, whichever occurs first, after the effective date of this AD, complete the modifications and installations in accordance with the accomplishment instructions of McDonnell Douglas DC–10 Service Bulletin 28–140, Revised 1, dated October 16, 1985, and Service Bulletin 28–163, Revision 1, dated July 18, 1986, or lated revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewook Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19164 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–NM–16–AD; Amdt. 39–5405]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –40, and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the right-hand forward passenger door partition shroud panel assemblies on McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes. This action is prompted by reports in production that an interference condition could occur when moving the forward door handle to the emergency position. This AD is necessary to minimize the potential for interference between the right-hand forward door handle and the shroud, which could result in the loss of one use of emergency door exit.

EFFECTIVE DATE: October 2, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Edward S. Chalpin, Aerospace Engineer, Systems & Equipment Branch, ANM–131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6323.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring the modification of the right-hand forward passenger door partition shroud panel assemblies on McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on April 2, 1986 (51 FR 11322). The comment period for the proposal closed May 25, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

VOL 51 ISS 165 AG 26 1986 UMI

consideration has been given to all comments received. Three comments were received.

The first commenter disagreed with the statement in the NPRM that a slight flexing of the shroud can result in "jamming of the door." The commenter's reasoning was based upon the contention that only if the shroud were damaged could any significant interference with the handle occur. Furthermore, the commenter indicated that if interference did occur, the flexibility of the shroud would allow it to be easily positioned to eliminate the interference. The FAA disagrees. As designed, the shroud floats in place around the handle. The shape and rigidity of the shroud is such that if it moves within the path of the handle's swing it can impede the handle's movement and cause it to stop. The object of the AD is to modify the shroud and prevent the possibility of obstructing the handle.

The second commenter suggested that, in view of the close proximity of operating mechanisms of both the right and left hand doors, the modification should affect the manual emergency mode as well as the normal mode in which the doors are operated pneumatically. The FAA offers a clarification on the intent of the modification. The modification involves the door shroud and its impingement on the operation of the handle. It only involves the manual system. Since the pneumatic system is internal and has no bearing on the shroud or external handle, the modification does not affect the operation of that system.

The third commenter observed that model DC-10F aircraft noted in the NPRM do not have the panel assemblies on the right-hand forward door partitions as described in the NPRM. The FAA has changed the applicability of the AD to reflect only those aircraft with the deficient shroud. This is also reflected in the economic impact statement.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes noted above.

It is estimated that 93 U.S. registered airplanes will be affected by this AD, that it will take a total of 2 manhours per airplane to accomplish the required action, and that the average labor cost will be $40 per manhour. The cost of the modification parts is estimated to be $371 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $41,943.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, model DC-10 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -15, -30, -40, and KC-10A (Military) series airplanes, certificated in any category. Compliance required as indicated unless previously accomplished.

To assure proper operation of the right-hand forward passenger emergency exit operating handle, accomplish the following:

A. Within the next 12 months after the effective date of this AD, modify, reidentify, and reinstall the right-hand forward door assembly and escutcheon assembly in accordance with the Accomplishment Instructions of McDonnell Douglas DC-10 Service Bulletin 25-339, dated December 4, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Hamell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19163 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-14]

Alteration of VOR Federal Airways—CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airways V-283 and V-372 which are located in the vicinity of Box Springs, CA. In order to eliminate the confusion of similar sounding names of navigational aids (NAVAID), the FAA has decided to change the name of the Box Springs, CA, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) to Homeland, CA. Currently, pilots confuse the name of Box Springs, CA, VORTAC with Palm Springs, CA, VORTAC and have proceeded to the wrong NAVAID. This action will eliminate that confusion, thereby increasing safety.

EFFECTIVE DATE: 0901 UTC. October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to change the name of the Box Springs, CA, VORTAC. The Box Springs VORTAC is only 38 miles from the Palm Springs VORTAC. Due to the proximity of these NAVAID's and their similar sounding names they are creating problems for

the air traffic control system causing aircraft to proceed to the wrong NAVAID. This action will eliminate that problem, thereby increasing flight safety. This action does not affect any airspace or route designations. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

Under the circumstances presented, the FAA concludes that there is a need for a regulation to change the name of the Box Springs VORTAC to the Homeland VORTAC. Because this is a minor technical amendment in which the public would not be particularly interested, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (50 FR 47044, 51 FR 7, 2352 and 6102), is further amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-283 [Amended]

Wherever "Box Springs" appears substitute "Homeland".

V-372 [Amended]

Wherever "Box Springs" appears substitute "Homeland".

Issued in Washington, DC, on August 20, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-19174 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-31]

Alteration of VOR Federal Airways—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V-308 located between Nottingham, MD, and Hedge Intersection, NJ. This action is part of the Expanded East Coast Plan (EECP). The EECP's objective is to establish an improved air traffic system that is designed to reduce delays for aircraft en route to or departing from terminals in the eastern United States. The EECP is being implemented in several segments until completed.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On June 11, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-308 in the vicinity of Nottingham, MD, and Hedge Intersection, NJ, (51 FR 21178). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters VOR Federal Airway V-308 located between Nottingham, MD, and Hedge Intersection, NJ. Currently, east coast traffic flows are so saturated and compressed in the New York metropolitan area that substantial delays are experienced daily. The EECP would alleviate this congestion and would reduce delays to and from terminals in the eastern United States.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-308 [Amended]

By removing the words "From INT Kenton, DE, 217° and Sea Isle, NJ, 256° radials, via Sea Isle;" and substituting the words "From INT Patuxent, MD, 002° and Nottingham, MD, 075° radials; Sea Isle, NJ;"

Issued in Washington, DC, on August 20, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-19172 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 86-AWA-9]

Alteration of VOR Federal Airway V-77 and Jet Route J-21—OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign a segment of Jet Route J-21 between Will Rogers, OK, and Wichita, KS, and a segment of Federal Airway V-77 between Will Rogers and Pioneer, OK. The Will Rogers very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been relocated. These changes will enhance flight planning and provide additional flexibility for maneuvering traffic and permit more expeditious handling of aircraft in the Oklahoma City terminal area.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On March 31, 1986, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend the descriptions of VOR Federal Airway V-77 and Jet Route J-21 located in the vicinity of Oklahoma City, OK (51 FR 10882). The Will Rogers VORTAC has been relocated and this action realigns V-77 and J-21 which will facilitate procedural requirements for flights proceeding through the airspace assigned to the Oklahoma City Airport air traffic control tower's airspace and permit additional flexibility for maneuvering departure and arrival traffic. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal on the FAA. The only objection to the proposal was submitted by the U.S. Air Force from the 71st Flying Training Wing (FTW), Vance AFB, OK. The Air Force comments are as follows:

1. "The proposed relocation of V-77 creates safety considerations for the undergraduate pilot training (UPT) operations in the Vance MOA. The proposed adjacent alignment of V-77 and the MOA does eliminate a previous buffer zone protection for this extremely busy airspace. The 71 FTW submits the following recommendation for your consideration: That portion of V-77 just north of IRW be moved and aligned with the IRW 355° radial north to 29 DME, then direct to ALTOR intersection and rejoin V-77 as currently published. This alignment would provide increase safety for the military and civil aviators."

The FAA has determined that the proposed relocation of V-77 places the airway in approximately the same location as it was prior to the relocation of the Will Rogers, OK, VORTAC, therefore, we conclude there are no safety problems due to the realignment of V-77.

2. "The proposed relocation of J-21 to pass through the Vance MOA will directly impact the UPT mission for Vance AFB. Without the use of ATC assigned airspace between FL 180 to FL 240 the loss of training requirements would be unacceptable. If the relocation of J-21 is necessary, the Air Force formally objects due to the impact on UPT operations, the loss of air traffic control assigned airspace (ATCAA) overhead the MOA airspace. This airspace is critical to T-37 spin training requirements and is mandatory for pilot qualification."

The FAA has determined that the proposed realignment of J-21 places the route in approximately the same location as it was prior to the relocation of the Will Rodgers VORTAC. Also, the realignment of J-21 does not pose a safety problem because the Vance MOAs' approval altitudes are up to but nor including FL 180. However, as in the past, the Kansas City Air Route Traffic Control Center will continue it's cooperation with the Air Force by allowing operations above the MOSs' altitudes in the ATCAA up to FL 240 whenever traffic conditions permit. FAA does not anticipate undue delays to military aircraft as a result of the realignment. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign a segment of Jet Route J-21 between Will Rogers, OK, and Wichita, KS, and a segment of Federal Airway V-77 between Will Rogers and Pioneer, OK. The Wichita VORTAC has been relocated. These actions enhance flight planning and provide additional flexibility for maneuvering traffic and permit expeditious flow of traffic in the Oklahoma City terminal area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways and jet routes.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-77 [Amended]

By removing the words "Will Rogers; Pioneer, OK;" and substituting the words "Will Rogers; INT Will Rogers 002° and Pioneer, OK, 201° radials; Pioneer;"

PART 75—[AMENDED]

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J–21 [Amended]

By removing the words "Pioneer, OK."

Issued in Washington, DC, on August 19, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–19173 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 86–162]

Customs Regulations Amendment Relating to a Change in the Customs Service Field Organization; Brunswick, GA

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the Customs field organization by extending the geographical limits of the port of entry at Brunswick, Georgia. Currently, Customs officers at the port service many locations which are outside the Brunswick city limits, those limits having been the unofficial port limits. This expansion will better serve the public by including several locations routinely requiring Customs service within the official port limits.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by notice published in the Federal Register on February 3, 1986 (51 FR 4172), Customs proposed to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending and officially defining the geographical limits of the port of entry of Brunswick, Georgia, located in the Savannah, Georgia, Customs District in the Southeast Region.

Currently, there is no official definition of the Brunswick port limits. The Brunswick city limits have been serving as the port limits. However, Customs officers at the port routinely service many locations which are outside the city limits, and an additional out-of-port terminal facility recently began operation. Therefore, it was proposed to expand the Brunswick port limits to include those several locations now receiving service.

Discussion of Comments

In response to the notice, only one comment was received. No specific opposition was raised in regards to the expansion and redefinition of the port limits. The commenter was against increasing ports of entry. This change does not increase the number of ports of entry. Therefore, after further review of the matter, Customs has determined that it is in the public interest to extend and redefine the geographical limits of the port of entry of Brunswick.

The expanded port limits are as follows: Beginning from the intersection of the boundary between the counties of Camden and Glynn and the Atlantic Ocean, and proceeding in a northwesterly direction along the Little Satilla River to U.S. Highway Interstate 95; then in a northeasterly direction along U.S. Highway Interstate 95 to the boundary between McIntosh and Glynn Counties; then in an easterly direction along the Altahama River to the Atlantic Ocean; then in a southerly direction along the Atlantic coastline to the place of beginning.

Changes in the Customs Field Organization

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR Part 1965 Supp.

§ 101.3 [Amended]

2. To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing the period after "Brunswick" in the column headed "Ports of entry" in the Savannah, Georgia, Customs District of the Southeast Region and inserting, in its place, the phrase, "including the territory described in T.D. 86–162.".

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Brunswick, Georgia, area, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because the amendment relates to the Customs field organization, and will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by the E.O. are not required.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

VOL 51 ISS 165 AG 26 1986 UMI

Approved: August 5, 1986.
Alfred R. De Angelus,
Acting Commissioner of Customs.
Francis A. Keating, II,
Assistant Secretary of the Treasury.
[FR Doc. 86-19261 Filed 8-25-86; 8:45 am]
BILLING CODE 4820-02-M

19 CFR Parts 111, 171, and 178

[T.D. 86-161]

Customs Regulations Amendments Relating to Customs Brokers

AGENCY: Customs Service, Treasury.
ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the statutory changes made by the Trade and Tariff Act of 1984 relating to the regulation of customs brokers. Among these changes were the creation of a single license for each broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty and specific procedures to be followed when an action is initiated to suspend or revoke a license or assess a monetary penalty. In addition, the regulations are being amended to incorporate recommendations of a Customs Headquarters Task Force on broker licensing and regulation.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter or Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A customs broker ("broker") is a person who is licensed by the Customs Service ("Customs") to transact customs business on behalf of importers and other persons. Under section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), the Secretary of the Treasury may prescribe rules and regulations governing the licensing as brokers of citizens of the U.S. of good moral character, and of corporations, associations, and partnerships. Rules and regulations also may be prescribed as necessary to protect importers and the revenue of the U.S., to include requiring the keeping of books, accounts, and records by brokers, and the inspection of these and related papers, documents, and correspondence by any duly accredited agent of the U.S. Part 111, Customs Regulations (19 CFR Part 111), contains the regulations prescribed by the Secretary relating to the licensing of brokers and their duties and responsibilities.

A Customs Headquarters Task Force on broker licensing and regulations (Task Force) was established to make a comprehensive study of the laws and regulations administered by Customs which relate to brokers and to make recommendations for regulatory amendments.

Based upon the recommendations of the Task Force for regulations changes, on April 7, 1983, Customs published a notice in the **Federal Register** (48 FR 15154), proposing amendments to 19 CFR Part 111.

Subsequently, by section 212 of Pub. L. 98-573, the Trade and Tariff Act of 1984 (the Act), substantial revisions were made to 19 U.S.C. 1641, relating to brokers. Among the changes were the creation of a single license for each broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty, and specific procedures to be followed when an action is initiated to suspend or revoke a license or assess a monetary penalty.

Because of these legislative changes, the earlier proposal was redrafted and published in a **Federal Register** notice on August 7, 1985 (50 FR 31871).

Discussion of Comments

Fourteen comments were received in response to the notice, some quite detailed, touching on many aspects of the proposal. Many commenters offered suggestions of an editorial nature to clarify the existing and the proposed regulations. Some suggestions were adopted and others were found to be unnecessary.

Editorial Comments

The following editorial comments were not adopted.

(1) A suggestion that § 111.16(b)(4) be eliminated because it duplicates § 111.53.

We believe it is useful to spell out clearly that a willful misstatement of pertinent facts in the application for a broker's license is sufficient cause to justify the denial of a license. Section 111.53 concerns grounds for suspension or revocation of a license, not grounds for refusal to issue one.

(2) A suggestion that § 111.5(a) not be amended because a strict reading would preclude a broker with a West Coast permit from representing his importer before a National Import Specialist in New York or at Headquarters because he does not transact customs business in those districts.

The commenter is incorrectly interpreting § 111.5(a). A broker is not permitted to represent a client at a local level in a district where a permit has not been granted. However, a broker may represent a client at a national level at either Headquarters or with a National Import Specialist.

(3) A suggestion that the title of § 111.19(d) be changed to "Requirement for Permit" and that a subheading "Waiver of District Responsible Supervision" be inserted. No specific reasons were given for this suggestion.

We believe that no changes in the headings are necessary.

(4) A suggestion that the words "(including several related corporations)" be inserted in § 111.23(e)(1) before the words "in more than one region" because corporate brokers may choose to transact business in different districts under different names or may operate other offices in subsidiary or affiliate relationships.

We believe that the section is clear without the addition of the parenthetical explanation. Brokers who have been granted permits to do business in more than one region will personally have the permits. It is clear from the language that it makes no difference whether the broker with the permit to do business transacts the business under different names, as long as he has a permit.

The following editorial comments were adopted.

(1) In § 111.11(b)(2), the words "been granted" was changed to "applied for" to more clearly reflect the correct sequence of events.

(2) In § 111.11(c)(3), the words "where it has been granted" was changed to "where it has applied for" to more clearly reflect the correct sequence of events.

(3) In § 111.19(d), in the second sentence, the words "on or after" was changed to "on and after" to clarify that starting October 31, 1987, an applicant for a broker's permit must employ, in each district for which a permit is granted at least one licensed individual to exercise responsible supervision and control.

(4) In § 111.19(d), the word "matter" in the second to last sentence was changed to "request for waiver".

(5) In § 111.23(b), the words "may record on microfilm any records other than powers of attorney" was changed to "may maintain on microfilm or similar medium, in lieu of an original,

any records other than powers of attorney", to clarify that original powers of attorney must be maintained, but there is no restriction against also putting copies of powers of attorney on microfilm or similar medium.

(6) Section 111.23(d), was revised to clarify that any document may be records relating to their adherence to the laws and regulations administered documents.

Other minor, non-substantive editorial changes have also been made to these regulations.

General Concerns

One of the major areas of concern indicated in the comments relate to the term "customs business". Some commenters were concerned that brokers be regulated by Customs only regarding their "customs business".

Customs traditional mission is to assess and collect duties on imported merchandise; to prevent fraud and smuggling; and to control carriers, persons, and articles entering and departing the U.S. In carrying out its mission, Customs must, to a certain extent, regulate the business of brokers. This includes requiring the retention of records relating to their adherance to the laws and regulations administrated and enforced by Customs. Customs will not go beyond the scope of its mission.

One commenter stated that special permits should be issued to individuals who prove themselves capable of transacting customs business related to drawback. Customs cannot adopt this suggestion. As defined in 19 U.S.C. 1641(a)(2), "customs business" includes drawback transactions and, according to 19 U.S.C. 1641(b), no person may conduct customs business unless that person holds a broker's license.

Another requested clarification that 19 U.S.C. 1641, as amended by the Act, does not require an attorney to obtain a broker's license to represent a client in an administrative proceeding before Customs.

Customs assures the commenter that it would not consider it a violation of the Act if an attorney represents a client before Customs without possessing a broker's license.

Two commenters stated that existing § 111.44, dealing with limits of liability for brokers' business activities, should be deleted as the broker-client relationship is not within Customs regulatory objective. As no change was proposed in this section, the comment is beyond the scope of this rulemaking and is not being adopted.

Another general concern was that brokers be protected from any arbitrary and/or capricious actions taken by Customs officials. This concern was indicated in suggested changes in various provisions concerning giving brokers reasonable notice in writing regarding Customs actions.

We are also concerned that adequate notice be given to all parties in their Customs dealings. Accordingly, specific language regarding notice has been included in §§ 111.23(e)(2)(v), 111.23(e)(3), and 111.45.

Requirements for Obtaining License or Permit

It was suggested by one commenter that a basic requirement for an individual obtaining a broker's license be that the applicant demonstrate a minimum of 2 years experience with Customs procedures in the U.S. Customs rejects this suggestion as an unnecessary restraint. Knowledge of Customs procedures is demonstrated by the applicant obtaining a passing grade on the broker examination.

A commenter stated that § 111.19 should not require, as a condition for the granting of a permit, that the district director be satisfied that the person intends to transact business within the district.

Customs disagrees. As amended by section 212 of the Act, 19 U.S.C. 1641(c) clearly provides that permits will be granted only in districts in which the broker conducts customs business.

Another stated that the issuance of permits should be pro forma and that the primary permit to accompany the license was automatically to be included with the license.

A permit is required in the district in which a license is issued. However, Customs agrees that issuance of a permit will be pro forma (1) if the applicant has a valid license which is not subject to an on-going revocation or suspension action, (2) the applicant has a place of business in the district for which the permit is sought, and (3) if a licensed broker is employed as a permanent employee in that district subject to the conditions in § 111.28 relating to responsible supervision and control. A permit for the district through which the license application was submitted will be issued concurrently with the license if these conditions are met.

It was also suggested that when a broker applies for a permit in an additional district, unnecessary delay could be eliminated if Headquarters would contract other district directors where brokers have permits to conduct business, rather than having the district directors contact each other.

Customs disagrees. Direct communication between district directors will facilitate and expedite the approval process, whereas centralized processing would create a bottleneck. Moreover, the issuance of a permit depends upon the applicant's holding a valid license, having a place of business within the district, and having made satisfactory arrangements to have responsible supervision of the work performed by his employees in the district. Inasmuch as the district director is in a better position to verify that these conditions exist than Headquarters, the suggested change is not adopted.

Another suggestion concerning § 111.19 was that when a corporation goes into another district located in another state and applies for a permit to do business in that district, it should be required to first apply to the state or local government for the right to use the business name in that state. This would prevent the possibility of more than one broker using the same business name, thus confusing the public.

Customs agrees. A sentence is added to the end of § 111.19(b) stating, "When a broker applies for a permit in an additional district, he must provide the district director with a document which reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers".

Duties and Responsibilities of Brokers Responsible Supervision and Control

Some concern was indicated regarding the term "responsible supervision and control" as explained in § 111.11(d). One commenter stated that the level of supervision and control that Customs is requiring—that of "substantially the same quality of service in handling customs transactions that the licensed broker is required to provide"—is unreasonable. If Congress had expected such a level of performance, it would have required all employees to be licensed brokers. This commenter also stated that the regulations should provide that an employee who is competent and experienced in the transaction of customs business shall be deemed to not require the same degree of supervision and control as an inexperienced employee.

It is Customs view that a broker must ensure the competence of services provided by his employees. The broker must supervise the work of his employees to the extent necessary to ensure that the service provided by those employees in particular aspects of customs business, if not exactly the same quality that is required of a broker,

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is "substantially" the same. We believe that this is necessary to ensure that competent service is provided to the public in transactions with Customs. Determinations of whether employees are adequately supervised will vary depending upon the particular circumstances in each instance. Accordingly, it would be impracticable to list all possible circumstances in the regulations.

Another commenter requested clarification as to whether the responsibility of supervision and control lies solely with the licensed broker who is an officer of a corporation.

Customs believes the regulations are clear that while customs transactions may be performed by a qualified employee of an association or corporation who need not be a licensed individual, that employee must be under the responsible supervision and control of a licensed individual, who may or may not be an officer of the corporation.

Employee Reports

Many comments concerned § 111.28(b), which requires that a broker submit, in writing to each district director, a list of the names of persons currently employed in the district and other pertinent information concerning the employees.

Information on a broker's employees is used by Customs for law enforcement purposes. With this information, Customs is able to ascertain if any employees have criminal records which may affect their suitability for employment in the brokerage business. Customs believes that demanding this information from brokers is reasonable because the employing broker is in the best position to know when employees are hired or terminated. Demanding the information from the employees would not be feasible as Customs regulates the brokers, not the employees.

One commenter stated that it is not fair for Customs to require immediate notification in the event of the death or substantial disability of an individual broker.

Customs believes that in the event of the death or substanial disability of a broker, a member of the brokerage firm must notify Customs immediately in order to enable Customs to verify compliance with the requirement of replacing the deceased or disabled licensee within the requisite period of time. For this reason, notification must be provided immediately or as soon as practicable after the death or disability of the broker.

In a related matter, § 111.28(b)(3) has been changed to increase the time a broker is allowed to submit the name of a terminated employee from 10 to 30 days.

Recordkeeping

The duties and responsibilities of brokers regarding maintenance of records of transactions was another area that generated comments. It was suggested that some of the items on the form provided for in § 111.22(d) do not fall within the definition of "customs business" and that the vast majority of brokers are exempted from maintaining the form anyway.

While the normal regulatory audits performed by Customs are limited in scope, Customs can, when a complaint against a broker is received, expand the scope of the audit to all charges relating to customs business. The suggestion to eliminate this section of the regulations is rejected. Customs ability to respond to complaints would be impaired if records were not maintained in the prescribed manner or some other manner approved by Customs.

While Customs is aware that many brokers are currently exempt from maintaining the prescribed form because of the adequacy of their recordkeeping systems, § 111.22 must be retained for those brokers who do not have an adequate system. Customs agrees with the comments that some of the item numbers on the form do not fall within the definition of "customs business". Accordingly, when the form is used, columns 7–15 may be left blank.

It was suggested by a few commenters that centralized storage be provided for other than accounting records. One commenter specifically would like centralized storage of microfilmed entry records.

Customs agrees that this suggestion has merit. We are looking into the possibility of allowing centralized storage for all broker's records. However, certain administrative and enforcement concerns must be resolved before such an option can be approved. Guidelines, which would ensure that Customs could examine records as necessary to carry out its enforcement and revenue-collection responsibilities, would have to be developed before the option could be offered. If, after consulting with affected parties, acceptable guidelines are developed, a notice will be published in the **Federal Register** proposing the option.

Two commenters stated that proposed § 111.23(a) would require brokers to retain powers of attorney for 5 years after the date of revocation. Yet some powers of attorney are never revoked. Accordingly, it was recommended that the wording be changed to indicate that powers of attorney and letters of revocation should be retained for 5 years after either the date of revocation or the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii). Customs has adopted language to this effect.

One commenter took issue with the requirement in § 111.23(e)(2)(i) that in the written request for authorization to maintain centralized financial records of customs business, the address indicated at which the broker desires to maintain the records must be within a district where the broker has been granted a permit.

Customs believes that this requirement is reasonable. By requiring brokers to maintain records within a district where a broker has a permit, Customs will have better control over entries in that district.

According to proposed § 111.23(f), when an audit indicates that a broker to whom an exemption has been granted is not keeping records as required, the regional commissioner who has granted the exemption shall notify the broker. The broker has 30 days to respond and if a satisfactory response is not given, the regional commissioner can withdraw the exemption. Two commenters suggested that in such a situation a broker should be able to appeal to the Commissioner and the exemption should remain in effect pending the Commissioner's decision.

Customs does not agree. The regional commissioner has the authority in these matters and there is no reason to have an appeal to the Commissioner. If an exemption is withdrawn, the broker can still operate; he simply must maintain records in the prescribed format. The loss of an exemption is not the loss of a right, but the loss of a privilege.

A few commenters stated that existing §§ 111.25 and 111.27 should be amended to state that records maintained by brokers should be made available to Customs regulatory auditors or special agents "upon reasonable notice."

Customs sees no reason to include that language because Part 162, Customs Regulations (19 CFR Part 162), which concerns recordkeeping, inspection, search, and seizure, states that reasonable notice will be given by Customs officers when they are conducting an examination. Sections 162.1a through 162.1i are specifically cited in § 111.25.

Accounting for Funds From Client

One commenter stated that Customs should more specifically state in proposed § 111.29 the kind of document a broker is required to give a client to account for funds received from the

client. The commenter is concerned that Customs may require more than the normal accounting documents such as invoices or credit memos and that the requirement of a written statement other than an accepted accounting document should be extremely onerous.

Customs agrees that normal accounting documents are sufficient. However, we believe the section, as written, encompasses these documents, and need not be changed.

Notification of Changes in Brokerage Firm

One commenter stated that in proposed § 111.30(b), only the district directors of the districts to which the changes relate should have to be notified when there is a change in the broker's organization. We agree and wording to that effect has been added. The same commenter believes that it is onerous to require notification of the changes to be made immediately. We disagree. Immediate notification is now required and Customs has found this to be workable.

Cancellation, Suspension or Revocation of License

It was suggested by one commenter that when a broker receives a statement of charges against him as provided for in proposed § 111.58, a maximum time period of suspension should be specified. Customs disagrees. As charges are merely being stated and the broker has the right to respond to them, it would be premature to decide on the length of a suspension until all the facts are submitted and evaluated, and a determination made.

One commenter suggested that the word "defense" be changed to "response" in the first and last sentences of existing § 111.60 to be consistent with the statutory language. We agree. As well as making that change, the word "defense" is changed to "response" in the second sentence of existing § 111.58.

Proposed § 111.74, concerning the notification to a broker of suspension or revocation or monetary penalty, generated several comments. A few commenters stated that the Secretary of the Treasury's determination should be based solely on the record and that a notice of suspension, revocation, or monetary penalty should not be published in the **Federal Register** and Customs Bulletin if an appeal is filed and the action is not final yet.

Customs agrees and § 111.74 has been amended to reflect these changes.

One commenter asked that standards be set forth for determining the maximum penalties for certain types of violations by brokers based upon degree of culpability and seriousness of the violation.

Customs has drafted such guidelines. They are attached to this document and will be incorporated as Appendix C of Part 171, Customs Regulations.

Customs disagrees with the commenter who believes an administrative review should be provided for a determination that a monetary penalty of $1,000 or less should be assessed. Owing to the cost of such a review to both parties, it has been concluded that penalties of $1,000 or less should not be subject to a supplemental petition for relief.

Regarding the suggestions by commenters to increase from 30 to 60 days the time within which a broker must respond to a notice of possible disciplinary proceedings or penalties in §§ 111.59, 111.92, and 171.12, Customs believes that 30 days is generally adequate. However, district directors will be given explicit authority to grant extentions for good cause.

A suggestion to delete the parenthetical expression concerning infractions that will form the basis for an action to suspend or revoke a broker's license or permit, in proposed § 111.53(b)(3), is rejected because 19 U.S.C. 1641(d)(1) states that these infractions are not subject to a monetary penalty.

Fees

After publication of the proposal, Part 3 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, passed on April 7, 1986), established that an annual user fee of $125 is to be assessed for each broker's permit held by an individual, partnership, association or corporate broker. The legislative history of this law provides that this fee will help to defray the costs of regulating the brokerage industry. Accordingly, by T.D. 86–109, published in the **Federal Register** on June 11, 1986 (51 FR 21152), a new § 111.96, Customs Regulations, was provided to set forth the fee.

In this document we are setting forth the fees for the issuance of licenses and accompanying permits and the fee for filing a status report. The purpose of these fees is to defray the costs of issuing licenses and permits and of processing the receipt and storage of the triennial reports. Pursuant to 19 U.S.C. 1641(h), the Secretary of Treasury may prescribe reasonable fees and charges for these functions. While originally Customs planned to review these fees annually and revise them as necessary, it has been decided to charge a one-time fee of $300 for licenses, a $100 fee for the issuance of each permit, and a fee of $100 for filing the triennial reports. Customs will assess no further fees at this time. Of course, if current costs escalate, Customs will increase the fee and public notice of the increase will be published in the **Federal Register** and Customs Bulletin. However, it is not anticipated that these fees will be revised annually. These fees are set forth in § 111.96.

Executive Order 12291

These amendments do not constitute a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. As most of the changes reflect section 212 of the Trade and Tariff Act of 1984 (Pub. L. 98–573), and Part 3 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272), any economic impact would be attributable to the actions of Congress and not Customs.

Paperwork Reduction Act

The regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Several commenters claimed that the collection of information requirements were too broad to be within the scope of this Act. Most of these comments are responded to in the discussion of comments in this document. Regarding the 5-year record retention period, pursuant to section 508, Tariff Act of 1930, as amended (19 U.S.C. 1508), Customs has authority to require maintenance of records of any owner, importer, consignee or agent thereof who imports any merchandise for up to 5 years from the date of entry of the merchandise. Due to their complexity, many cases extend to that length of time. Therefore, Customs believes it is in the best interest of the Government and the importing public to require maintenance of records for that time span.

As a result of our analysis of the issues and the changes made in this document, the regulation meets the requirements of this Act. Accordingly, applicable sections of the regulation have been cleared by the Office of Management and Budget and assigned Control Number 1515–0100.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports.

19 CFR Part 171

Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Parts 111, 171, and 178, Customs Regulations (19 CFR Parts 111, 171, 178), are amended as set forth below.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111, Customs Regulations (19 CFR Part 111), continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, 1641.

§ 111.3 also issued under 19 U.S.C. 1484.

§ 111.96 also issued under 31 U.S.C. 9701.

2. The heading for Part 111 and §111.0 are revised to read as follows:

PART 111—CUSTOMS BROKERS

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalities, and the revocation or suspension of licenses.

3. Section 111.1 is amended by redesignating paragraphs (c), (d), (e), (f), and (g) as paragraphs (d), (e), (f), (g) and (h), respectively, revising the heading and text of paragraph (b) and redesignated paragraphs (d), (f), and adding a new paragraph (c), to read as follows:

§ 111.1 Definitions.

* * * * *

(b) *Customs Broker.* "Customs broker" means a person who is licensed under this part to transact customs business on behalf of others.

(c) *Customs business.* "Customs business" means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Customs upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

(d) *Broker.* "Broker" means "customs broker".

* * * * *

(f) *Records.* "Records" means those documents identified in § 162.1a of this chapter and kept as provided in § 162.1b of this chapter.

* * * * *

4. The heading and text of § 111.2 are revised to read as follows:

§ 111.2 License and district permit required.

A person shall obtain the license provided for in this part in order to transact the business of a broker. A separate permit is required for each Customs district in which a licensee conducts customs business.

§ 111.5 [Removed]

§ 111.4 [Redesignated as § 111.5]

5. Part 111 is amended by removing § 111.5, redesignating existing § 111.4 as § 111.5 and adding a new § 111.4 to read as follows:

§ 111.4 Transacting customs business without a license.

Any person who intentionally transacts customs business, other than as provided in § 111.3, without holding a valid broker's license, shall be liable for a monetary penalty for each such transaction as well as for each violation of the requirements of 19 U.S.C. 1641. The penalty shall be assessed in accordance with Subpart E of this chapter.

§ 111.5 [Amended]

6. Paragraph (a) of redesignated § 111.5 is amended by removing the words "is not licensed" and inserting, in their place, "has not been granted a permit".

Subpart B—[Amended]

7. The heading to Subpart B is amended by adding the words "Or Permit" after the word "License".

8. Section 111.11(a)(4) is amended by removing the words "regulations, and procedures" and inserting, in their place, "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

9. Section 111.11 (b) and (c) is revised and a new paragraph (d) is added, to read as follows:

§ 111.11 Basic requirements.

* * * * *

(b) *Partnership.* A partnership must:

(1) Have at least one member of the partnership who is a licensed broker, and

(2) Establish that it will have an office in the customs district where it has applied for a permit in which its customs transactions will be performed by the licensed member of the partnership, or an employee under the responsible supervision and control of the licensed member.

(c) *Association or corporation.* An association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs brokerage business;

(2) Have at least one officer who is a licensed broker; and

(3) Establish that it will maintain an office in the Customs district in which it has applied for a permit. Further, customs transactions in that office must be performed by a licensed officer or an employee under the responsible supervision and control of the licensed officer.

(d) *Responsible supervision and control.* The term "responsible supervision and control" means that degree of supervision and control necessary to ensure that the employee provides substantially the same quality of service in handling customs transactions that the licensed broker is required to provide. While the determination of what is necessary to maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which Customs will consider include, but are not limited to: The frequency of visits to offices of the licensee by the licensed broker(s); the training required of employees; the issuance of written instructions and guidelines to the employees; the volume and type of business of the licensee; the reject rate for the various customs transactions; the maintenance of current editions of the Customs Regulations, Tariff Schedules of the United States, and Customs issuances; the availability of the licensed broker(s) for consultation with the employee(s), when necessary; the frequency of audits and reviews by the

licensed broker(s) of the customs transactions handled by the employee(s); and any circumstance which indicates whether a licensed broker of the firm has a real interest in the firm's operations.

§ 111.12 [Amended]

10. Section 111.12(a) is amended by removing the heading *"(1) Application"* and the entire paragraph *"(2) Fee"*. The section is also amended by removing the words "paragraph (a)(2) of this section" in the third sentence and inserting, in their place, "§ 111.96 of this part". Also, § 111.12(a) is amended by adding at the end of the section the following:

"Applications may be accepted within 30 days before the scheduled examination in the district director's discretion".

§ 111.13 [Amended]

11. Section 111.13(a) is amended by removing the words "regulations, and procedures" and inserting, in their place, "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

12. Section 111.13(c) is revised to read as follows:

§ 111.13 Examination of applicant for individual license.

* * * * *

(c) *Special examination.* When a partnership, association, or corporation loses the licensed member or officer and its license will lapse under the provisions of 19 U.S.C. 1641(b)(5) before the next scheduled examination, the Commissioner may authorize a special examination for an applicant who will serve as the licensed member or officer. He may also authorize a special examination for one who will be authorized to continue the business of an individual broker. A special examination may also be authorized when a licensed brokerage firm loses its qualifying individual exercising responsible supervision and control over a district office and that office's permit will lapse before the next scheduled examination. Application and a statement of the reasons for the necessity of a special examination shall be filed with the district director in accordance with § 111.12.

§ 111.13 [Amended]

13. Sections 111.13(d) and (e) are amended by removing the last sentence of each paragraph.

14. The heading and text of § 111.19 is revised to read as follows:

§ 111.19 Permits

(a) *General.* Each person granted a broker's license under this part shall be concurrently issued a permit for the district through which the application was submitted, without the payment of the fee required by § 111.96 if it is shown to the satisfaction of the district director that the person intends to transact customs business within the district through which the broker's license application is submitted and the person otherwise complies with the requirements of this part.

(b) *Submission of application for permits for additional districts.* A licensed person who intends to conduct customs business in an additional Customs district, or a licensed person who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, shall submit an application for each additional Customs district to the district director of that district on Customs Form 3124. If the information set forth by the applicant on the Customs Form 3124 submitted pursuant to § 111.12 is current, a copy of that application may be submitted in place of a new Customs Form 3124. The Customs Form 3124 shall be modified to indicate that it is an application for a permit. The applicant shall comply with the requirements set forth in § 111.12(a). Each application for a permit shall identify the broker's license number and date of issuance. The broker shall list in its application all districts for which a permit has been granted. When a broker applies for a permit in an additional district, he must provide the district director with a document which reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers.

(c) *Fee.* Each application for a permit shall be accompanied by the fees set forth in § 111.96.

(d) *Responsible supervision and control.* The applicant shall have a place of business within the district for which the application is filed, or shall have made firm arrangements satisfactory to the district director to establish such a place of business. The applicant shall exercise responsible supervision and control over the office as defined by § 111.1(d). On and after October 31, 1987, other than as provided below, the applicant shall employ in each district for which a permit is granted at least one individual licensed under this subpart to exercise responsible supervision and control over the customs business conducted in the district. If the applicant can demonstrate to the satisfaction of the Commissioner that he regularly employs, in the region in which the district is located, at least one individual who is licensed, and that adequate procedures exist for the person employed in that region to exercise responsible supervision and control, as defined by § 111.1(d), over the customs business conducted in the district, the Commissioner may waive the requirement for a licensed broker in that district. A request for a waiver, supported by information on the volume and type of customs business conducted, or planned to be conducted, and evidence demonstrating that the applicant is able to exercise responsible supervision and control, shall be sent to the district director of the district in which the waiver is sought. The district director shall review the request for a waiver and make recommendations which will be sent to the Director, Entry Procedures and Penalties Division, Customs Headquarters, through the appropriate regional commissioner. The regional commissioner will review the district's recommendations and make appropriate recommendations before referring the matter to Customs Headquarters for a decision.

(e) *Action on application.* Upon receipt of the application for a permit, the district director shall immediately notify the district director in each other district in which the applicant has a permit and request comments as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit his comments and recommendation to the district director making the request. The district director who received the application shall make a decision on it after considering all of the facts and circumstances. An application shall be approved unless action is pending in another district to suspend or revoke the applicant's license.

(f) *Investigation.* The district director may require an investigation to be conducted if additional facts are deemed necessary before making a decision upon the application.

§ 111.21 Amended

15. The second sentence of § 111.21 is amended by removing the word "papers" both times it appears and inserting, in its place, "records".

16. The introductory text of § 111.22(b) and § 111.22(b)(2) are amended by removing the words "books and" each time they are used.

17. Further, § 111.22 is amended by adding a new paragraph (e) to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

VOL 51 ISS 165 AG 26 1986 UMI

(e) *Authorization.* The regional commissioner for the region in which a broker has been granted an exemption to maintain records of financial transactions on a centralized system basis, as set forth in § 111.23(e), is responsible for providing an exemption or withdrawal of exemption under paragraphs (b) and (c) of this section.

18. The heading to § 111.23, paragraph (a), and the introductory text to paragraph (b) are revised to read as follows:

§ 111.23 Retention of records.

(a) *Place and period of retention.* (1) *Place.* The records, as defined in § 111.1(f), and required by §§ 111.21 and 111.22 to be kept by a broker, shall be retained within the Customs district to which they relate, unless an exemption has been granted for centralized accounting records under paragraph (e) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, shall be retained for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters of revocation shall be retained for 5 years after either the date of revocation or the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii). When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

(b) *Microfilming of records.* A broker, with the approval of the district director for the district in which he has been granted a permit and the records are located, may maintain on microfilm or similar medium, in lieu of an original, any records other than powers of attorney required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these records pertain has been liquidated, upon the following conditions:

* * * * *

19. Section 111.23(d) is revised to read as follows:

* * * * *

(d) *Other methods of reproduction for record retention.* If approved by the district director in which a broker has been granted a permit and in which he has records located, a broker may use, in lieu of original documents, methods of reproduction other than microfilm, including microfiche, for the reproduction of records, provided the requirements of paragraphs (b) and (c) of this section are met. While original powers of attorney must be retained, copies also may be retained.

20. Further, § 111.23 is amended by adding new paragraphs (e), (f), and (g), to read as follows:

* * * * *

(e) *Exemption.* (1) *Applicability.* The procedure to maintain financial records on a centralized system basis is available to brokers who have been granted permits to do business in more than one district.

(2) *Request.* A written request for authorization to maintain financial records on a centralized system basis shall be submitted to the regional commissioner responsible for the region in which the centralized records are to be maintained. The written request shall include:

(i) The address at which the broker desires to maintain the centralized accounting records. This location must be within a district where the broker has been granted a permit.

(ii) A detailed statement describing all the records of financial transactions to be maintained at the centralized location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations.

(iii) An agreement that if the authorization is granted, no change in the records, the manner of recordkeeping, or the location at which they will be maintained, will be made unless approved by Customs. Each request for a change requires prior approval in the same manner as prescribed above.

(iv) An agreement to comply with § 111.22,

(v) An agreement that all financial records pertaining to customs transactions will be made available to Customs for complete inspection in accordance with § 111.25 and § 162.1d of this Chapter after reasonable notice in writing has been provided.

(3) *Approval.* After the broker's request has been received and reviewed by the regional commissioner, he shall advise the broker, in writing, of his decision whether to authorize the broker to maintain financial records on a centralized system basis. If the regional commissioner denies the request he shall advise the broker of the reasons. Denial shall be without prejudice to reapply for an exemption. If the request involves records from districts not within the jurisdiction of the regional commissioner of the region where the request was filed, the regional commissioner should consult with the other affected regional commissioners before acting on the request.

(f) *Withdrawal of exemption.* Whenever an audit by Customs indicates that a broker to whom an exemption has been granted is not keeping records in accordance with the requirements of paragraph (e) of this section, the regional commissioner who granted the exemption shall notify the broker, in writing, of the audit finding(s). The regional commissioner shall provide the broker with 30 days from the date of notification to respond to the audit finding(s) unless a shorter period is deemed necessary. If the broker fails to respond, or if the regional commissioner determines that a broker has not responded satisfactorily to the audit finding(s), the regional commissioner shall withdraw the exemption by notice in writing. The withdrawal shall not become effective until 30 days after the date of mailing of the notice. The broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(g) *Reproduction of centralized accounting records.* The regional commissioner for the region in which a broker has been granted an exemption to maintain financial records on a centralized system basis, provided in paragraph (e) of this section, is responsible for approving requests for the reproduction of centralized financial records provided under paragraphs (b) and (d) of this section.

§§ 111.24 and 11.25 [Amended]

21. Sections 111.24 and 111.25 are amended by removing the words "Books and papers" in the section headings and, in each instance inserting, in their place, "Records".

§§ 111.24, 111.25, 111.26, and 111.27 [Amended]

22. The first sentence of §§ 111.24, 111.25, and 111.27, the second sentence of § 111.27, and the section heading of §§ 111.26 and 111.27 are amended by removing the words "books and papers" and, in each instance inserting, in their place, "records".

23. Section 111.26 is amended by removing the words "book or paper" and inserting, in their place, "record".

24. Section 111.28 is amended by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 111.28 Responsible supervision.

* * * * *

(b) *Employee information.*

(1) *Current employees; General.* Each broker shall submit, in writing, to each district director where the broker has a

permit to transact customs business, a list of the names of persons currently employed in that district. For each such employee, the broker also shall provide the current home address, last prior home address, social security number, date and place of birth, and if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker. After the initial submission, the list shall be updated and submitted with the status report required by § 111.30(d) of this part.

(2) *New employees.* Within 10 days after a new employee has been employed for 30 days, the broker shall submit, in writing, to the district director, the same information as set forth above for any new employee.

(3) *Terminated employees.* Within 30 days after the termination of employment of any employee employed longer than 30 days, the broker shall submit, in writing, to the district director, the name of the terminated employee.

(4) *Broker's responsibility.* A broker is responsible for providing the information required in paragraphs (b)(1), (b)(2), and (b)(3) of this section. However, in the absence of culpability by the broker, Customs will not hold him responsible for the accuracy of information provided to the broker by the employee.

(c) *Termination of qualifying member or officer.* If a licensed broker who is a qualifying member of a partnership, or officer of an association or corporation, ceases his employment as a qualified member or officer, that broker shall give written notice immediately of that fact to the Commissioner and send a copy of the written notice of each district director where a permit has been granted to the partnership, association, or corporation.

25. Section 111.29(a) is revised to read as follow:

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any customs business matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client, shall be made to the Government on or before the date that payment is due. Payments received by a broker from a client after the due date shall be transmitted to the Government within 5 working days from receipt by the broker. Each broker shall provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's customs business, within 60 days of receipt. No written statement is required if there is actual payment by a broker of such funds.

* * * * *

26. Section 111.30 is amended by revising the section heading and paragraph (b) to read as follows, by removing the words "is licensed" in the first sentence of paragraph (c) and inserting in their place, "has been granted a permit", by revising paragraph (d) and adding a new paragraph (e) to read as follows:

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report.

* * * * *

(b) *Organization.* A partnership, association, or corporation shall immediately inform the Commissioner and each district director of the districts in which it has a permit, of the following changes:

(1) The date on which the licensed member or officer who is the qualifying member or officer ceases to be a member or officer and the name of the broker who will succeed as the qualifying member or officer; or

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation relating to the transaction of customs business.

* * * * *

(d) *Status report.* Each broker shall file a status report with Customs on February 1, 1979, and on February 1 of each third year thereafter. The report shall be accompanied by a fee as set forth in § 111.96. A report received during the month of February will be considered filed timely. The report shall be addressed to the U.S. Customs Service, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, DC 20229. A copy also shall be filed with the district director in each district where the broker has been granted a permit to transact customs business. No form or particular format is required. Each individual broker shall state whether he is actively engaged in transacting business as a broker. If so, he shall state the name under, and the address at which, his business is conducted (if he is a sole proprietor); or the name and address of his employer, unless his employer is a corporation, partnership or association broker for which he is a qualifying officer or member. The report of each corporation, partnership or association shall state the name under which its business as a broker is being transacted, its business address, the names and addresses of the members of the partnership or officers of the corporation or association qualifying it for a license, and whether it is actively engaged in transacting business as a broker. If the licensed person fails to file the required report by March 1 of the reporting year, the license is suspended by operation of law on that date. By March 31 of the reporting year, the Commissioner shall transmit written notice of the suspension to the licensee by certified mail, return receipt requested, at the address reflected in Customs records. If the licensed person files the required report within 60 days of receipt of the notice, the license shall be reinstated upon payment of $100. If the licensed person does not file the required report within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license. Notice of the revocation shall be published in the Customs Bulletin.

(e) *Location.* Upon the permanent termination of a brokerage business, both the Commissioner and the district director of each Customs district for which a permit has been issued shall be provided written notification of the name and address of the party having legal custody of the brokerage business records. Responsibility for notification shall be as follows:

(1) The broker, upon the permanent termination of his brokerage business;

(2) The licensed partner(s), upon the permanent termination of the partnership brokerage business;

(3) The licensed association or corporate officer(s), upon the permanent termination of the association or corporate brokerage business.

§ 111.35 [Amended]

27. Section 111.35 is amended by removing the words "merchandise imported after March 15, 1962," and inserting in their place, "customs transactions".

28. The heading and text of § 111.37 are revised to read as follows:

§ 111.37 Misuse of license or permit.

A broker shall not permit his license, permit or his name to be used by or for

any unlicensed person, other than his own employees authorized to act for him, or by or for any broker whose license or permit is under suspension in the solicitation, promotion or performance of any customs business or transaction.

29. The heading and text of § 111.43 are revised to read as follows:

§ 111.43 Display of license and permits.

Each licensee shall display its permit in the principal office within the district so it may be seen by anyone transacting business in the office. Photocopies of the permit shall be conspicuously posted in each branch office within the district. Photocopies of the license also may be posted.

30. Part 111 is revised by adding a new § 111.45 to read as follows:

§ 111.45 Revocation by operation of law.

(a) *License.* The failure of a broker that is licensed as a corporation, association, or partnership to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed, shall, in addition to causing the broker to be subject to any other sanction, result in the revocation by operation of law of its license and any permits issued to a corporation, association, or partnership. The Commissioner will notify the broker in writing of an impending revocation or lapse by operation of law 30 days before the revocation or lapse is due to occur.

(b) *Permit.* On or after October 31, 1987, the failure of a broker who has been granted a permit, to employ, for any continuous period of 180 days, at least one individual who is licensed within the district (or region, if an exception has been granted pursuant to § 111.19(d)), for which a permit was issued, shall, in addition to causing the broker to be subject to any other sanction, result in the revocation of the permit by operation of law.

(c) *Notification.* If the license or permit of a partnership, association, or corporation is revoked by operation of law, the Commissioner will notify the organization of the revocation. If an individual broker's permit is revoked by operation of law, the Commissioner will notify the broker. A copy of the notice will be sent to the district director. Notice to the public of the revocation will be given by publication in the Customs Bulletin.

31. The heading for Subpart D is revised to read as follows:

Subpart D—Cancellation, Suspension, or Revocation of License or Permit, or Monetary Penalty in Lieu Thereof

32. Part 111 is revised by adding a new § 111.50 to read as follows:

§ 111.50 General.

This subpart relates to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu thereof under the provisions of section 641(d)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)(B)). The provisions for assessment of a monetary penalty under sections 641(b)(6) and 641(d)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(6), 1641(d)(2)(A)), are contained in Subpart E.

§ 111.51 [Amended]

33. The heading and text of § 111.51 are amended by adding the words "or permit" after "license" each time it is used.

34. Section 111.52 is revised to read as follows:

§ 111.52 Voluntary suspension of license or permit.

The Commissioner may accept a broker's written voluntary offer of suspension for a specific period of time of the broker's license or permit under such terms and conditions as the parties may agree.

35. The heading and text of § 111.53 are revised to read as follows:

§ 111.53 Grounds for suspension or revocation of license or permit or monetary penalty in lieu thereof.

Other than as set forth below, the appropriate Customs official may suspend, for a specific period of time, or revoke the license or permit of any broker or assess a monetary penalty in lieu of suspension or revocation, for the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under this part, or report filed with Customs, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required.

(b) The broker has been convicted, at any time after filing of an application for a license under § 111.12, of any felony or misdemeanor which the appropriate Customs officer finds:

(1) Involved the importation or exportation of merchandise;

(2) Arose out of the conduct of customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds (infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only);

(c) The broker has violated any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(d) The broker has counseled, commanded, induced, procured, or knowingly aided or abetted the violation by any other person of any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without the written approval of the Commissioner; or

(f) The broker has, in the course of customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

§ 111.54 [Amended]

36. Section 111.54 is amended by removing the words "section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b))" in the first sentence and inserting, in their place, "section 641(d)(2), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2))".

37. Section 111.57(b) is revised to read as follows:

§ 111.57 Determination by Commissioner.

* * * * *

(b) *Determination to prefer charges.* If the Commissioner determines that charges will be preferred, he shall notify the district director of his determination and require that a proposed statement of charges be prepared for his review, if not previously submitted.

38. Section 111.58 is amended by removing the last sentence and by adding a new sentence between the first and second sentences to read as follows:

§ 111.58 Content of statement of charges.

* * * The statement of charges also shall specify the sanction being proposed (e.g., suspension of the broker's license, or revocation of the license) but if a suspension is proposed the charges need not state a specific period of time for which suspension is proposed. * * *

39. Section 111.59(a) is amended by removing the words "Unless the

Commissioner, under § 111.57, has determined that the preliminary proceedings shall not be followed, the" and inserting, in their place, "The", and by revising paragraph (b) to read as follows:

§ 111.59 Preliminary proceedings.

* * * * *

(b) *Notice of preliminary proceedings.* The district director shall serve upon the broker, as set forth in § 111.63, written notice that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs him that formal proceedings are available to him;

(3) Informs him that 5 U.S.C. 554 and 558 will be applicable if formal proceedings are necessary;

(4) Invites him to show cause why the formal proceedings should not be instituted;

(5) Informs him that he may make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(6) Invites any negotiation for settlement of the complaint or charge that the broker deems it desirable to enter into;

(7) Advises him of his right to be represented by counsel;

(8) Specifies the place where the broker may respond in writing; and

(9) Advises the broker that the response must be received within 30 days of the date of the notice.

§§ 111.58 and 111.60 [Amended]

40. Sections 111.58 and 111.60 are amended by removing the word "defense" and inserting, in its place "response", wherever it appears.

§ 111.61 [Amended]

41. Section 111.61 is amended by inserting the words "no response is filed or" between "If" and "the" in the fourth sentence.

§ 111.64 [Amended]

42. Section 111.64(a) is amended by removing the number "5" and inserting, in its place, "15".

§ 111.65 [Amended]

43. Section 111.65 is amended by removing the words "on the ground that additional time is necessary to prepare a defense" and inserting, in their place, "for good cause".

§ 111.66 [Amended]

44. Section 111.66 is amended by removing the words "on behalf of the Government" in the first sentence and inserting, in their place, "by the parties", and the words "suspension or revocation" in the last sentence and inserting, in their place, "suspension for a specified period of time or revocation or monetary penalty in lieu thereof".

45. Section 111.67 is amended by revising paragraphs (a) and (d) and adding a new paragraph (e) to read as follows:

§ 111.67 Hearing.

(a) *Hearing officer.* The hearing officer shall be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

* * * * *

(d) *Transcript of record.* The district director shall provide a competent reporter to make a record of the hearing. When the record of the hearing has been transcribed by the reporter, the district director shall deliver a copy to the hearing officer, the broker and the Government representative without charge.

(e) *Government representatives.* The Commissioner shall designate one or more persons to represent the Government at the hearing.

46. The heading and text of § 111.74 are revised to read as follows:

§ 111.74 Decision and notice of suspension or revocation or monetary penalty.

If the Secretary of the Treasury, in the exercise of his discretion based solely on the record, issues an order of suspension for a specified period of time or revocation of the license of a broker or a monetary penalty in lieu thereof, the Commissioner will notify the broker in writing and publish a notice of suspension or revocation or monetary penalty in lieu thereof in the **Federal Register** and in the Customs Bulletin unless an appeal is filed by the broker in the Court of International Trade as provided for under section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The order of suspension or revocation shall become effective 60 days after the issuance of such order unless the Secretary finds that a more immediate effective date is in the national or public interest. If a monetary penalty is assessed and no appeal is filed, that penalty shall be tendered within 120 days of the issuance of the order, or the license shall automatically be suspended until payment is made.

47. Section 111.75 is revised to read as follows:

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license or permit or assessing a monetary penalty in lieu thereof may be taken in accordance with the provisions of section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of such proceedings shall, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

§ 111.76 [Amended]

48. Section 111.76 is amended by removing the words "hearing officer" in the first sentence of paragraph (a) and in every sentence of paragraph (b) and, in each instance, inserting, in their place, "Commissioner".

49. Section 111.80 is revised to read as follows:

§ 111.80 Saving provision.

Any proceeding for revocation or suspension of a license instituted prior to October 30, 1984, shall be governed by the provisions of 19 CFR Part 111 which were in force at the time the proceeding was instituted. For the purposes of this provision, the commencement of preliminary proceedings shall be considered the institution of proceedings for revocation or suspension, if preliminary proceedings were held.

50. Part 111 is amended by adding a new § 111.81 to read as follows:

§ 111.81 Settlement and compromise.

The Commissioner, with the approval of the Secretary of the Treasury, may settle and compromise any disciplinary proceeding which has been instituted under this Part according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

51. Further, Part 111, Subpart E, is amended by adding §§ 111.91 through § 111.95 to read as follows:

Subpart E—Monetary Penalty

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

The appropriate Customs officer may assess a monetary penalty or penalties as follows: (a) An amount not to exceed an aggregate of $30,000 for any of the reasons set forth in § 111.53, except for those listed in paragraph (b)(3) of that section; or (b) An amount not to exceed an aggregate of $30,000 for all violations and $10,000 for each violation of § 111.4.

§ 111.92 Notice.

The appropriate Customs officer shall issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the person has a right to respond to the allegations or complaints in writing

within 30 days of the date of mailing of the notice. The district director has discretion to provide additional time for good cause. Any notice, the basis of which is an alleged violation of § 111.53(b) or which exceeds an aggregate of $10,000 for all alleged violations, shall be referred to the Director, Entry Procedures and Penalties Division, Customs Headquarters, for approval before it is issued.

§ 111.93 Application for relief.

The person shall follow the procedures set forth in Part 171 of this Chapter in filing an application for relief.

§ 111.94 Decision of appropriate Customs officer.

The appropriate Customs officer shall follow the procedures set forth in Part 171 of this Chapter in considering the application for relief. After the appropriate Customs officers have considered the allegations or complaints and any timely response made, a written decision shall be issued which sets forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the person is liable for a monetary penalty, the person shall pay, or make arrangements for payment, within 60 days of the date of the final determination. If the monetary penalty is not paid or arrangements made for payment within the time limitations, the appropriate Customs officer shall refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 111.95 Supplemental petition for relief.

A final determination of the district director or other appropriate Customs officer in excess of $1,000 may be the subject to a supplemental petition for relief under the provisions of § 171.33 of this Chapter. A final determination of $1,000 or less is a final decision and is not subject to further administrative review.

52. Part 111 is amended by removing the words "Customhouse broker" and "Customhouse brokers" wherever they appear and inserting, in their place, "Customs broker" and Customs brokers", respectively.

53. Section 111.96 is revised to read as follows:

§ 111.96 Fees.

(a) *License fee.* Each applicant for a broker's license pursuant to § 111.12, or by special examination pursuant to § 111.13(c), shall be charged a fee of $300 to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. If an applicant either fails to appear for an examination without giving notice at least 24 hours before the examination, or does not pass the examination required by § 111.11(a)(4), $100 of the fee will be refunded.

(b) *Permit fee.* Each application for a permit pursuant to § 111.19 shall be accompanied by a one-time fee of $100 to defray the costs of processing the application. If for any reason a permit lapses or is revoked, payment of the permit fee is necessary before the permit can be reinstated.

(c) *User fee.* An annual user fee of $125 will be assessed for each permit held by an individual, partnership, association or corporate broker.

(1) The fee is payable for each calendar year in each district where a broker has a permit to do business. If a broker receives a permit at a time other than the beginning of a calendar year, the full $125 must be paid immediately. If a broker fails to pay the fee by January 1 of each year or immediately at the time he receives his permit, the district director will notify the broker in writing of failure to pay and revoke the permit to operate. The notice will constitute revocation of the permit.

(2) For calendar year 1986, brokers must remit payment of $125 by August 5, 1986, in each district where they have a permit to do business. If payment is not made by August 5, 1986, notice will be given and revocation will be effective August 5, 1986.

(d) *Status report fee.* The status report provided for in § 111.30 shall be accompanied by a fee of $100 to defray the costs of administering the reporting requirement.

(e) *Payment of fee.* All fees shall be paid by check or money order payable to the U.S. Customs Service.

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The authority citation for Part 171, Customs Regulations (19 CFR Part 171), is revised to read as set forth below. Statutory citations appearing elsewhere in Part 171 are removed.

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

a. Section 171.14 also issued under 46 U.S.C. 883.

b. Subpart C also issued under 19 U.S.C. 1641, 22 U.S.C. 401, 46 U.S.C. 7, 320.

c. Section 171.44 also issued under 40 U.S.C. 304j, 304k.

§ 171.12 [Amended]

2. Section 171.12(b) is amended by removing the words "paragraph (c)" and inserting, in their place, "paragraph (c) or (d)".

3. Paragraph (d) of § 171.12 is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 171.12 Filing of petition.

* * * * *

(d) *Petitions for remission or mitigation of monetary penalty.* Petitions for remission or mitigation of a monetary penalty assessed under the provisions of Part 111, Subpart E, shall be filed within 30 days of the date of mailing of the notice.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by deleting OMB Control No. 1515–0089 and the entry pertaining to it and the language presently pertaining to OMB Control No. 1515–0100 and inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR Section	Description	OMB Control No.
•	•	•
Part 111	Requirements that licensed customs brokers must keep current records of all accounts and all financial transactions as a broker.	1515–0100
•	•	•

William von Raab,
Commissioner of Customs.

Approved: July 31, 1986.

Francis A. Keating, II,
Assistant Secretary of the Treasury.

[FR Doc. 86–19256 Filed 8–25–86; 8:45 am]

BILLING CODE 4820–02–M

19 CFR Part 177

[T.D. 86–163]

Revision of Guidelines Concerning Tariff Classification of Imported Backpacking Tents

AGENCY: Customs Service, Treasury.

ACTION: Notice of revised guidelines.

SUMMARY: Pursuant to a court decision that recognized backpacking as a sport, Customs developed a set of guidelines to use to determine which imported backpacking tents qualify as sports equipment for tariff purposes. Those guidelines established parameters concerning the material, capacity, dimensions, and weight of tents. However, due to technological advances involving tent material and construction methods, Customs was of the opinion that the guidelines may have become obsolete. Comments were solicited on the matter, and after review and further analysis, this document sets forth a revised set of guidelines for the classification of imported backpacking tents. Use and application of the new guidelines will in some instances result in higher rates of duty being assessed on certain tents that will no longer qualify as sports equipment.

EFFECTIVE DATE: The revised guidelines will become effective for all merchandise entered for consumption or withdrawn from warehouse for consumption on or after November 24, 1986.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Classification and Value Division, U.S. Customs Service, 1301 Constitution avenue, NW., Washington, DC (202)–566–8181).

SUPPLEMENTARY INFORMATION:

Background

On July 8,1985, Customs published a notice in the **Federal Register** (50 FR 27831), that the guidelines used to determine the tariff classification of imported backpacking tents were being reviewed. The necessity for these guidelines resulted from the decision in *The Newman Importing Co., Inc. v. United States*, 76 Cust. Ct. 143, C.D. 4648 (1976), wherein the court held that backpacking was a sport and tents used in pursuit of backpacking could be considered sport equipment. This made it necessary to distinguish between tents used for backpacking and tents used for other purposes.

Those guidelines, published in C.S.D. 79–108 (August 21, 1978) are as follows:

(1) Backpacking tents must be composed of dacron or nylon.

(2) Such tents must be designed for no more than 4 persons.

(3) If designed for 1 or 2 persons, the tents must weigh no more than 10 pounds, including all accessories necessary to pitch the tent, and have a carry size of no more than 24 inches in length and 8 inches in diameter.

(4) If designed for 3 or 4 persons, the tents must weigh no more than 15 pounds, including all accessories necessary to pitch the tent, and have a carry size of no more than 36 inches in length and 12 inches in diameter.

Tents meeting these guidelines are currently classified as sport equipment, not specially provided for, in item 735.20, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202), at a rate of duty of 5.04 percent ad valorem. Prior to the issuance of these guidelines Customs had been classifying backpacking tents under items 389.60, TSUS, a residual provision for articles of textile materials.

Since those guidelines were issued in 1978, technological advances in tent material and construction methods have occurred which permit tent manufacturers to produce lightweight camping tents for general recreational use, so-called family or car camping tents. These lightweight camping tents fall within the specifications of the 1978 guidelines and, therefore, for Customs purposes, are classified in item 735.20, TSUS, although the tents were not "specially designed" for backpacking within the meaning of *Newman Importing, supra*. Tents not designed as sport equipment for backpacking should be classified under the provision for tents and sleeping bags, of manmade fibers, in item 386.11, TSUS, at a current rate of duty of 12.5 percent ad valorem.

To correct this situation, Customs proposed that a revised set of guidelines be used for classifying tents. These revisions were planned to account for new materials and construction methods and return the classification scheme to one consistent with the intent of *Newman Importing, supra*. The proposed revised guidelines were as follows:

To qualify for classification as "sport equipment" under item 735.20, TSUS, Customs is of the opinion that a tent must meet the following guidelines:

(1) It must be specially designed for the support of backpacking.

(2) It must be composed of nylon or polyester fabric.

(3) If designed for 1 or 2 persons, the tent must meet the following criteria:

(a) Have a floor area of 45 square feet or less;

(b) Weigh 8½ pounds or less, including tent bag and all accessories necessary to pitch the tent;

(c) Have a carry size of 30 inches or less in length and 9 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 1,900 cubic inches.

(4) If designed for 3 or 4 persons, the tent must meet the following criteria:

(a) Have a floor area of 65 square feet or less;

(b) Weigh 12 pounds or less, including tent bag and all accessories necessary to pitch the tent;

(c) Have a carry size of 30 inches or less in length and 10 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 2,350 cubic inches.

Any tent with a floor space of more than 65 square feet and a standing height of more than 60 inches is a tent designed for general recreational use. Written comments were solicited concerning this proposal.

Discussion of Comments

Seven comments were received, the majority being favorable. Those in favor generally were of the view that lightweight tents for general recreational use should not be classifiable as sports equipment.

Four commenters suggested that the language as to fabric content be broadened. Specifically, it was requested that item 2 of the criteria be amended to read "2) It must be composed of nylon, polyester or any other fabric of man-made fibers." The commenters claimed that such a definition would encourage and permit the development and use of higher technology fabrics and finishes. Customs agrees with this change and has incorporated it into the final revised guidelines.

Another concern of three commenters was the current practice of certain importers entering tent "skins", i.e., the fabric portion of the tent, separately from the metal frame portion in order to comply with the size and weight standards of the guidelines. Through such action these importers would receive the more favorable duty treatment that the sport equipment classification provides. It is proposed that the revised guidelines specifically address this issue and permit classification of tent "skins" under item 735.20, TSUS, only if Customs is supplied with the remainder of the tent package that will actually be sold with the tent skin and that the entire package comply with the provisions of these guidelines.

Customs agrees that tent "skins" imported separately from the total tent package should not be classified as sport equipment unless the entire package complies with the guidelines. Customs would go further, however, and deny classification of tent "skins" as sport equipment unless proof satisfactory to Customs is provided that the entire package of which the "skins" are a part complies with the guidelines. If any part of the tent package (including

VOL 51 ISS 165 AG 26 1986 UMI

tent skin, frame, tent bag, accessories or packing) is not imported in the same shipment with all remaining parts, in order to receive the benefit of the sport equipment classification for such part, the importer must supply Customs with a sample of the complete tent package so a determination of compliance can be made. The burden in such situations shall be on the importer.

One commenter suggests that an effective date for the guidelines of July 1, 1986, should be promulgated. This would ensure that the revised guidelines apply only to prospective transactions. Many transactions have been negotiated in the industry on the basis of existing guidelines. Through specifications of the July 1, 1986, effective date, the guidelines would become effective without compromising those transactions. Customs agrees that the effective date of these revised guidelines should provide sufficient time for the industry to adjust. However, instead of naming a specific date which might provide too short a period when finally published, the revised guidelines will come effective for merchandise entered for consumption or withdrawn from warehouse for consumption 90 days after publication in the **Federal Register**

One commenter who generally favors the proposed guidelines suggests further refinement of the guidelines to provide specific measurements for 3 as well as 4-person tents. Customs does not believe separate guidelines for 3 and 4-person tents are necessary. Further refinement will only serve to cause confusion and defeat the purpose of relatively uncomplicated guidelines.

One commenter states that the phrase "sport of backpacking"is ambiguous. We do not agree. In *Newman Importing, supra*, the court provided a clear definition, holding backpacking to be "an activity in which persons travel on foot in wild areas and maintain themselves with supplies and equipment carried on their backs. . . ". *The Newman Importing Co., Inc. v. United States, supra*, at p. 144. These guidelines are in inappropriate forum in which to expand clear judicial definition.

Three commenters state that no technological advances have occurred that warrant revision of the guidelines. Customs notes that this view is in direct contravention to statements made by other commenters taking notice of the changes that technology has wrought in this area. Without further proof that no advances have been made, the bare statements of these commenters cannot be accepted.

One commenter requested that an alternative standard of measurement be made applicable because of nontraditional tent packages that are now being marketed. Customs is of the view that the new guidelines take such alternatives into account. Carry size may now be measured in cubic inches. The guidelines further recognize that not all tents are carried in a cylindrical shape.

One commenter suggests that backpacking tents should be classified on the basis of their portability. The physical measurements and weight of the tent are deemed to be arbitrary standards upon which to classify the tent. Customs is of the view that this argument is without merit. Portability is an absolutely subjective means upon which no meaningful standards can be constructed. The only sensible method of determining a tent's eligibility for classification as a backpacking tent is by quantifying its size and weight.

It was noted by one commenter that technological advances have expanded the numbers and styles of tents available to the backpacker and that the proposed guidelines would curtail the choices available. Customs notes that many of the tents entering under the current guidelines are general recreational tents and not those contemplated by judicial decision as qualifying for treatment as sport equipment.

Finally, one commenter states that size restrictions penalize tall people who wish to backpack. The guidelines do not take into account the comfort of these backpackers. Customs is of the opinion that backpacking tents are not designed for the storage of gear and equipment, changing, standing, or eating, but rather to serve as a shelter and a temporary sleeping area for backpackers. Therefore, Customs believes that the square footage and size criteria in the revised guidelines are more than ample for the designated number of persons. The tents qualifying for the tariff classification as sport equipment are not to be used for general recreation.

Revised Guidelines

The following are the final revised guidelines governing the classification of imported backpacking tents.

To qualify a tent as "sport equipment" under item 730.20, TSUS, the following criteria must be met:

(1) It must be specially designed for the sport of backpacking.

(2) It must be composed of nylon, polyester, or any other fabric of man-made fibers.

(3) If designed for 1 or 2 persons, the tent must meet the following criteria:

(a) Have a floor area of 45 square feet or less, and

(b) Weight 8½ pounds or less, including tent bag and all accessories necessary to pitch the tent, and

(c) Have a carry size of 30 inches or less in length and 9 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 1,900 cubic inches.

(4) If designed for 3 or 4 persons, the tent must meet the following criteria:

(a) Have a floor area of 65 square feet or less; and

(b) Weigh 12 pounds or less, including tent bag and all accessories necessary to pitch the tent; and

(c) Have a carry size of 30 inches or less in length and 10 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 2,350 cubic inches.

Any tent with a floor space of more than 65 square feet and a standing height of more than 60 inches is a tent designed for general recreational use.

If any part of the tent package (including tent skin, frame, tent bag, accessories or packing) is not imported in the same shipment with all remaining parts, in order to receive the benefit of the sport equipment classification for such part, the importer must supply Customs with a sample of the complete tent package so a determination of compliance can be made.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfres R. De Angelus,

Acting Commissioner of Customs.

Approved: August 5, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-19258 Filed 8-25-86; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging; Charges for Meals

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is amending the temporary alien agricultural and logging labor certification regulations to increase the amount covered agricultural and logging employers may charge their U.S. and alien workers each day for meals. The final rule also provides for annual adjustments of the allowable charges based upon Consumer Price Index (CPI) data.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Bruening. Telephone: 202-376-6228.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 10, 1985, DOL published in the **Federal Register**, at 50 FR 50313, a proposed rule to amend the temporary alien agricultural and logging labor certification regulations to increase the amount covered agricultural and logging employers may charge their U.S. and alien workers each day for meals, and to provide for annual adjustments of the allowable charges based upon Consumer Price Index (CPI) data. Interested persons were requested to submit written comments, to be received on or before January 9, 1986. This document adopts the proposed rule as the final rule.

II. Temporary Alien Labor Certification Process

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(h)(ii) and 1184(a) and (c); 8 CFR Part 2. Pursuant to the requirement that the Attorney General consult with appropriate agencies of the Government concerning the importation of nonimmigrant alien (so-called "H-2") workers, INS has determined that prior to granting or denying such petitions it first will request DOL to advise INS on the availability of qualified U.S. workers for the jobs offered to the H-2 aliens, and whether the wages and working conditions attached to such job offers will adversely affect similarly employed workers. 8 U.S.C. 1184(c); 8 CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, DOL has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States.

III. Provisions of Meals

The temporary alien agricultural labor certification regulations require the employer to provide the worker with three meals a day, except that where under prevailing practice or longstanding arrangement at the establishment workers prepare their own meals, employers need furnish only free and convenient cooking facilities. 20 CFR 655.202(b)(4)(1985).

The regulations require that the job offer to the alien and U.S. workers state the charge to the worker for daily employer-provided meals. Previously, the maximum charge was $4.00 per day, unless the Regional Administrator for Employment and Training (RA) had approved a higher cost. 20 CFR 655.211 (1985). The final rule increases the charge permitted without RA approval to $4.94 per day. Employers may petition the RA to allow a higher daily meal charge, previously up to $5.00 per day. 20 CFR 655.202(b)(4) and 655.211 (1985). The final rule increases that higher amount to $6.17 for providing 3 meals per day. The final rule's increase in the maximum daily meal charge does not mean that all or most employers covered by this program will be permitted to increase their meal charges to $6.17 per day. For any charge over $4.94 per day, the petition and documentation requirements of 20 CFR 655.211(b) (1985) remain in force.

In developing the final rule, ETA examined several statistical series related to food. These were: (1) The Bureau of Labor Statistics' (BLS') Consumer Price Index for All Urban Consumers for Food (CPI-U for Food); (2) the U.S. Department of Agriculture's (USDA's) Market Basket of Farm Foods Index; (3) the Farm to Retail Price Spread Series; and (4) the Thrifty Food Plan Series.

The CPI, published monthly by the BLS in DOL, is one of the best known economic indicators of prices. It is a measure of the average change in prices over time in a fixed market basket of goods and services. The CPI-U for Food includes the measurement of the retail cost of food purchased in stores as well as food consumed away from home, such as meals in restaurants.

The USDA Market Basket of Farm Foods Index includes food prepared at home. However, it excludes food prepared and consumed away from home.

The Farm to Retail Price Spread Series measures the difference between retail cost and the equivalent farm value of foods. It indicates the total charge made by firms for assembling, processing, transporting and distributing the foods that make up the market basket.

The Thrifty Food Plan uses a base which comes from what households eligible for food stamps pay for food. The data base assumes that food for all meals is purchased at the store and prepared and consumed at home. It excludes food prepared and consumed away from home.

Based upon ETA's review of these statistical series, which included consultation with BLS and USDA, it has concluded that the CPI-U for Food Series, since it does include food consumed away from home, is the most appropriate series to use in computing adjustments in meals charge for the type of operation where food is prepared and served to groups at centralized feeding facilities, as is the case with most employers who provide daily meals to their agricultural and logging workers.

The Consumer Price Index for All Urban Consumers for Food showed an increase of 23.4 percent from March 1980 (when the charges set forth in the regulations at §§ 655.202(b)(4) and 655.211 last were amended) through December 1984. Consequently, ETA will use these CPI data and authorize employers who provide their covered U.S. and alien workers with three meals a day to charge the workers each day, without RA approval, no more than $4.94, an increase of 23.4 percent from the current $4.00. ETA also will increase the current maximum daily charge, with RA approval, of $5.00 by 23.4 percent to $6.17. A charge higher than $4.94 per day may be authorized with the approval of the RA based on documentary evidence submitted by the employer to justify a higher charge. ETA also will use the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that to compute future annual adjustments in the allowable charges, and will provide for annual publication of such adjustments by notice in the **Federal Register**. The first such adjustments will be made and published in 1986.

IV. Anticipated Effect of Final Rule on Covered Workers

The majority of employers who provide meals to their covered workers were granted approval in 1980/1981 to charge their workers the then current maximum rate of $5.00 per day. A sampling of information supplied by such employers, primarily those in the sugarcane industry in Florida, where virtually all of the workers are served daily meals in centralized facilities,

VOL 51 ISS 165 AG 26 1986 UMI

shows that the acutal costs to the employers for providing three daily meals to a worker range from $5.00 to $6.61 per day. Not all employers are expected to be able to justify actual costs substantially higher than the proposed new maximum of $6.17 per day for the next season. Hence, employers may be authorized to charge their workers up to the maximum, but not always the maximum allowed. In most cases, based upon information available at present to ETA, the increased daily charge to a worker is expected to be no more than $1.00. The modest increase in the daily meal charge is not expected to have any impact on the recruitment of workers. Moreover, when workers are provided meals in centralized facilities, they get the benefit of more substantial and nutritious food than they might purchase for themselves, as well as having food prepared for them, thus saving them time and energy which would be needed to prepare their own meals.

As the result of increases in computed agricultural adverse effect wage rates (AEWRs) since 1980, ranging from 12.6 percent to 48 percent, depending upon the State involved, the increases in the minimum daily wages of the workers, calculated on the basis of an 8-hour day, range from $3.75 to $15.76. The highest AEWR applies to Florida sugarcane harvesting, where the AEWR increased from $4.90 per hour in 1980 to $6.06 per hour in 1985. Even the lowest estimated increase in the minimum daily wage of a worker exceeds the maximum possible increase in the daily meal charge. Moreover, workers employed on a piece-rate basis, such as apple and citrus fruit pickers, or on a task-rate basis, such as sugarcane harvesters, usually earn considerably more than the guaranteed minimum. Piece rates and task rates have also increased since 1980, since they must be designed to produce at least the applicable AEWR. Hence, disposable income of the workers has increased to the point where an increase in the daily meal charge of about $1.00, in most cases, should impose no undue hardship upon the workers.

Employers have indicated they will be hard pressed to maintain the current quality and quantity of food provided to their workers unless they can help defray a greater portion of the total expense of providing such food by means of an increase in the daily meal charge.

V. Comments on Proposed Rule

Eight comments were received on the proposed rule. Seven were from employers or their representatives. They generally supported adoption of the proposed rule. One commenter representing farmworkers objected to its adoption.

One employer-commenter recommended adoption of the rule as it was proposed.

Five employer-commenters preferred elimination of the maximum limits on charges which can be made and adoption of the "reasonable cost" standard in the Employment Standards Administration's (ESA's) regulation at 29 CFR Part 531 which relates to wage payments under the Fair Labor Standards Act. ETA has not accepted this suggestion because of paperwork requirements and other financial complexities of ESA's standards, which ETA believes would be extremely burdensome to all but the largest-sized agricultural and logging employers, and ETA's lack of expertise in this area (as well as insufficient resources), which would render proper administration of this approach impractical.

Three employer-commenters suggested that meal charges higher than those proposed be adopted. The ETA believes the increased charges set forth in the present rulemaking are fair to both employers and workers. Moreover, as the rule provides, the charges will be adjusted annually.

Four employer-commenters commented on the one-year lag in the indexing approach, and two of them recommended the inclusion of an allowance to provide for inflation in costs which may have occurred between December of the year just concluded and December of the year prior to that. While the ETA acknowledges there is a one-year lag, it is not persuaded that there is a suitable methodology to compensate for the lag. The suggestion, therefore, was not adopted.

Two commenters contended that farmworkers consume more food than urban workers and their meal costs, as a class, are higher. No evidence is available to support this contention.

The worker-representative who commented based his objections to the proposed rule on the following observations: (1) Costs of providing food may be lower in a rural setting than they are in an urban area; (2) too much reliance was being placed upon data from one crop activity in one area of the country (Florida sugarcane) to justify the need for an adjustment; and (3) farmworkers have not actually realized the benefits from wage increases in recent years because of litigation on the adverse effect wage rate (AEWR) methodology. The commenter also suggested that adjustments should be based on statistics which do not include inflationary factors present in an urban restaurant situation, but not present in the farm environment. The commenter suggested use of the Thrifty Food Plan Series as an alternative to the CPI–U for Food Series.

ETA has not been persuaded by this commenter for the following reasons:

(1) There is no statistical series related to food consumed away from home that separates rural/urban data. The BLS does not obtain data separately for rural areas;

(2) While Florida sugarcane growers employ about 50 percent of the 20,000 H–2 aliens certified annually by the ETA, reliance also was placed upon information supplied by East Coast apple growers who use H–2 aliens and who also indicated that actual costs for providing food to workers had greatly exceeded the established ceilings; and

(3) Most of the litigation between 1983–1985 concerning the AEWR methodology has been resolved, and arrangements are being made for disbursement of pay due workers from escrow accounts which growers had established.

Further, ETA has considered and rejected use of the Thrifty Food Plan Series because it is based on the amount households eligible for food stamps pay for food. This assumes that food for all meals is purchased at a store and prepared and consumed at home. It specifically excludes food prepared and consumed away from home, thereby making it inappropriate for this purpose.

After reviewing the comments, EPA remains convinced that the CPI–U for Food Series is the most appropriate series to use in computing adjustments in meal charges for the type of operation where food is prepared and served to groups at centralized feeding facilities, as in the case with most employers who provide daily meals to their agricultural and logging workers. ETA, therefore, has determined to revise the regulations at 20 CFR 655.202(b)(4) and 20 CFR 655.211(a) as set forth below.

Regulatory Impact

The final rule will affect only those relatively few employers in the agricultural and logging sectors using nonimmigrant alien workers ("H–2 visaholders") in temporary agricultural and logging jobs. It will not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291 (February 17, 1981).

At the time of publication of the proposed rule in the **Federal Register**,

the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule will not have a significant economic impact on a substantial number of small entities. It applies only to the small number of employers (and their workers) who employ nonimmigrant aliens in agriculture and logging in the United States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects In 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Promulgation of Final Rule

Accordingly, 20 CFR Part 655 is amended as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for Part 655 is revised to read as follows and the authority citations following all the sections in Part 655 are removed:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c); 29 U.S.C. 49 *et seq.*; 8 CFR 214.2(h)(3)(i).

2. Section 655.202 is amended by revising paragraph (b)(4) to read as follows:

§ 655.202 Contents of job offers.

* * * * *

(b) * * *

(4) The employer will provide the worker with three meals a day, except that where under prevailing practice or longstanding arrangement at the establishment workers prepare their meals, employers need furnish only free and convenient cooking and kitchen facilities. Where the employer provides the meals, the job offer shall state the cost to the worker for such meals. Until a new amount is set pursuant to this paragraph (b)(4), the cost shall not be more than $4.94 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part. Each year the charge allowed by this paragraph (b)(4) will be changed by the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on their publication by the Administrator in the **Federal Register**.

* * * * *

3. Section 655.211 is amended by revising paragraph (a) to read as follows:

§ 655.211 Petition for higher meal charges.

(a) Until a new amount is set pursuant to this paragraph (a), the RA may permit an employer to charge workers up to $6.17 for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentary evidence required by paragraph (b) of this section. A denial in whole or in part shall be reviewable as provided in § 655.212 of this Part. Each year the maximum charge allowed by this paragraph (a) will be changed by the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on their publication by the Administrator in the **Federal Register**.

* * * * *

Signed at Washington, DC, this 20th day of August, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-19233 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8097]

Procedure and Administration; Returns Required on Magnetic Media

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the required use of magnetic media for filing certain returns. The regulations extend the due date for certain requests for waiver or approval of a magnetic medium to July 31, 1986. The regulations apply to persons required to file Forms W-2 and W-2P in 1987.

EFFECTIVE DATE: The regulations are effective as of August 26, 1986 and generally apply to returns filed after December 31, 1986.

FOR FURTHER INFORMATION CONTACT:

1. Magnetic Media Reporting, Internal Revenue Service, National Computer Center, P.O. Box 1359, Martinsburg, West Virginia 25401-1359, 304-263-8700 (not a toll-free call), if the inquiry relates to the waiver procedure.

2. If the inquiry relates to magnetic media filing for returns required on Form W-2 or W-2P, see the list of regional magnetic coordinators of the Social Security Administration under supplementary Information.

SUPPLEMENTARY INFORMATION:

List of Regional Magnetic Coordinators, Social Security Administration

For further information contact the following regional magnetic media coordinators of the Social Security Administration, if the inquiry relates to magnetic media filing for returns required on Form W-2 or W-2P:

SSA Regional Office—For Persons Residing In

Social Security Administration, J.F. Kennedy Building, Boston, Mass. 02203, ATTN: Joanne Shulman, R. 1109, 617-223-4375 (not a toll-free call)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Social Security Administration, 26 Federal Plaza, New York, New York 10007, ATTN: Anne Coe, Rm. 4012, 212-264-0253 (not a toll-free call)—New Jersey, New York, Puerto Rico, Virgin Islands.

Social Security Administration, P.O. Box 8788, 3535 Market Street, Philadelphia, Penn. 19101, ATTN: Frank O'Brien, Rm. 8490, 215-596-0474 (not a toll-free call)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Social Security Administration, P.O. Box 1684, 101 Marietta Tower, Atlanta, Ga. 30301, ATTN: Pat McCarron, Suite 1804, 404-221-2587 (not a toll-free call)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Social Security Administration, 300 South Wacker Drive, Chicago, Illinois 60606, ATTN: Jim Juntunen, 32nd Floor, 312-353-6717 (not a toll-free call)—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Social Security Administration, 1200 Main Tower, Room 1535, Dallas, Texas 75202, ATTN: Pat Insko, 214-767-4311 (not a toll-free call)—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Social Security Administration, 601 East 12th Street, Kansas City, Mo. 64106, ATTN: Dale Fick, 4th Floor East, 816-374-2095 (not a toll-free call)—Iowa, Kansas, Missouri, Nebraska.

Social Security Administration, Federal Office Building, 1961 Stout Street, Denver, Col. 80294, ATTN: Rick Schremp, Rm. 1194, 303-837-2364 (not a toll-free call)—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Social Security Administration, 100 Van Ness Avenue, San Francisco, Cal. 94102, ATTN: Bill Brees, Systems Branch, 415-556-4788 (not a toll-free call)—American Samoa, Arizona, California, Guam, Hawaii, Nevada.

Social Security Administration, 2901 Third Avenue, Seattle, Wash. 98121, ATTN: Jan Hotson, M/S 302, 206-442-0468 (not a toll-free call)—Alaska, Idaho, Oregon, Washington.

Background

On March 25, 1986, the **Federal Register** published final regulations relating to section 6011(e) of the Internal Revenue Code of 1954 (51 FR 10348). The regulations were adopted to reflect the addition to the Code of section 6011(e) by section 319 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 610) and its amendment by section 109 of the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 383).

Under those regulations, any person that is required to use certain forms, including Form W-2 (Wage and Tax Statement) or W-2P (Statement for Recipients of Annuities, Pensions, Retired Pay, or IRA Payments), for the purpose of making a return must provide the information required by such form on magnetic media, unless (a) the person is a low-volume filer with respect to the return or (b) the person is granted a waiver with respect to the return by the Internal Revenue Service. Failure to file a return on magnetic media when required to do so by the regulations is treated as a failure to file the return and may subject the person to the corresponding penalty.

Returns required on Form W-2 or W-2P for calendar year 1986 may generally be filed on the prescribed paper form if fewer than 500 returns were required to be filed on that form for the preceding calendar year. Returns required on such forms for calendar years after 1986 may generally be filed on the prescribed paper form if fewer than 250 returns were required to be filed on that form for the preceding calendar year. The regulations also provide that a person required to file a return on magnetic media may receive a waiver from such requirement in appropriate circumstances upon a showing of hardship.

In addition, under the regulations, persons subject to the magnetic media requirement are required to obtain prior consent to the use of the magnetic medium on which the information is to be submitted. The regulations provide that applications for consent to the use of a magnetic medium and requests for waiver generally must be filed at least 90 days before the filing of the first return for which the consent or waiver is requested. In the case of returns of Forms W-2 and W-2P filed in 1987 and 1988, however, the application for consent or request for waiver is due no later than June 30 of the preceding year. The regulations contained in this document extend the due date for applications for consent and requests for waivers to July 31, 1986, for Forms W-2 and W-2P to be filed in 1987.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for final regulations subject to 5 U.S.C. 553(b)(B). Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is C. Scott McLeod of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

Procedure and Administration Regulations (26 CFR Part 301)

Paragraph 1. The authority citation for Part 301 continues to read as follows:

Authority: 26 U.S.C. 7805. * * * Section 301.6601-2 also issued under 26 U.S.C. 6011(e).

§ 301.6011-2 [Amended]

Par. 2. Section 301.6011-2 is amended as follows:

1. Paragraph (b)(2)(i) is amended by removing "June 30, 1986" and by adding in its place "July 31, 1986".

2. Paragraph (c)(4)(i)(A) is amended by removing "June 30, 1986" and by adding in its place "July 31, 1986".

This Treasury decision merely extends the due date for certain requests for waiver or approval of a magnetic medium. For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: August 11, 1986.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 86-19302 Filed 8-25-86; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-233; Re: Notice No. 591, T.D. ATF-187/204]

Revision and Realignment of the Boundaries of Alexander Valley and Northern Sonoma Viticultural Areas

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: ATF is revising the boundary of the Alexander Valley viticultural area in Sonoma County, California, to include vineyard land which ATF had inadvertently omitted from the northeastern corner of the viticultural area with the issuance of T.D. ATF-187 [49 FR 42719], to extend the boundary at the northeastern corner to include land on which new vineyards were planted in 1985; to realign the western portion of the boundary to conform with that of the Northern Sonoma viticultural area; and, to include the Digger Bend area north and east of Healdsburg.

ATF is revising the boundary of the Northern Sonoma viticultural area in Sonoma County, California, to include land on which the new vineyards were planted in 1985 and to realign the northeastern and northwestern portions of the boundary to conform to the descriptions of like portions of the boundary of the Alexander Valley viticultural area.

EFFECTIVE DATE: This final rule is effective September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA,

Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, Room 6237, Washington, DC 20226, Telephone: (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

With the issuance of T.D. ATF–187 on October 24, 1984, and T.D. ATF–204 on May 17, 1985, ATF established, respectively, the Alexander Valley and the Northern Sonoma viticultural areas on Sonoma County, California.

Petition No. 1

On January 25, 1985, ATF received a petition for revision of the northeastern corner of the Alexander Valley viticultural area to include sections 33 and 34, Township 12 N., Range 10 W. Both sections are in Sonoma County and adjoin the Sonoma County-Mendocino County line. The area within these sections, approximately 2.4 square miles or 1,536 acres, consists of uplands at elevations between 1,600 feet and 2,400 feet above sea level on Pine Mountain. Within the area there are 57.5 acres of vineyards consisting of one established vineyard (1974) of 13 acres and four newly planted vineyards (1985) of 3, 8, 11, and 22.5 acres, respectively.

Based on the evidence submitted with this petition, ATF finds that the land in the area shares similar geological history, topographical features, soils, and climatic conditions as adjoining land within the previously established boundary of the viticultural area.

Northern Sonoma

ATF's decisions to establish and now to revise the boundary of the Alexander Valley viticultural area affect the boundary of the Northern Sonoma viticultural area.

In the preamble to the notice proposing the Northern Sonoma viticultural area, ATF stated its intention to have the proposed boundary coincide generally with the "outer" portions of the boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley and Knights Valley viticultural areas. In the preamble to T.D. ATF–204, ATF repeated this statement.

In reviewing the petition to revise the Alexander Valley boundary, however, ATF discovered that the statement in the preceding paragraph, while conforming to ATF's expressed intentions, was not in agreement with the final rule in T.D. ATF–204. ATF attributes this discrepancy to the fact that in T.D. ATF–187 ATF compressed the eastern and western legs of the boundary of the Alexander Valley viticultural area but failed to incorporate conforming changes in T.D. ATF–204.

The revised Northern Sonoma boundary includes the site of the vineyard established in 1974 in section 33, T. 12 N., R. 10 W., as well as the sites of the four vineyards planted in 1985 in section 34, T. 12 N., R. 10 W.

In addition, the revisions of the northeastern and northwestern portions of the boundary effectively exclude approximately 32.5 square miles of rugged mountainous terrain on which ATF had found no evidence of viticulture via the rulemaking process for establishment of the Alexander Valley viticultural area.

Petition No. 2

T.D. ATF–187 established the southern portion of the boundary of the Alexander Valley viticultural area along a ridge of low-lying hills to the north of the Digger Bend area which is north and east of Healdsburg. T.D. ATF–159 [48 FR 48813] issued October 21, 1983, established the northern portion of the boundary of the Russian River Valley viticultural area along this same ridge of hills.

Based on the evidence submitted in a petition filed on January 16, 1986, ATF finds that the Digger Bend area has climate, soil, and other features which are common to the Alexander Valley viticultural area. Accordingly, ATF is amending the southern portion of the boundary of the Alexander Valley viticultural area to include the land and vineyards in the Digger Bend area. The southern portion of the boundary of the Alexander Valley viticultural area is extended to encompass approximately 8 square miles or 5,120 acres of which 275 acres are devoted to vineyards.

Amended Boundaries

The description of the boundary of the established Alexander Valley viticultural area, as found in 27 CFR 9.53(c), is amended (1) to provide for inclusion of sections 33 and 34, Township 12 N., Range 10 W., and portions of sections 3 and 4, Township 11 N., Range 10 W., (U.S.G.S. "Asti" Quadrangle 7.5 minute series map), (2) to effect a minor conforming change in the western portion of the boundary at the southwest corner of section 1, T. 11 N., R. 11 W., and (3) to extend the boundary from the southwestern corner at State Highway 101 east and south to Fitch Mountain and Black Peak, effectively creating overlapping of the Alexander Valley and Russian River Valley viticultural areas at Digger Bend.

ATF is revising the boundary of the Northern Sonoma viticultural area, as found in 27 CFR 9.70, (1) to include part of section 3, T. 11 N., R. 10 W., and the entirety of section 34, T. 12 N., R. 10 W., (U.S.G.S. "Sonoma County, CA" map dated 1970, scale 1:100,000) and (2) to align the northeastern and northwestern portions of the boundary with the eastern and western portions of the boundary for the Alexander Valley viticultural area.

Comments

ATF received two written comments addressing two different aspects of the proposal.

One commenter opposed any further dilution of the appellation "Alexander Valley" by amendments which would increase the land area within the viticultural area. However, this commenter did not dispute any of the data submitted by either petitioner.

The second commenter, the petitioner for the pending Coastal Sonoma viticultural area, opposed inclusion of the Digger Bend area within the Russian River Valley viticultural area. This commenter states that the Digger Bend area should be removed from the Russian River Valley viticultural area since "(F)rom a climatic point of view, the boundary of the Russian River Valley as it was first proposed was a good first approximation, but not entirely accurate."

The establishment and subsequent revision of a viticultural area is dependent upon the finding by ATF that the area is distinctive from surrounding areas pursuant to the criteria prescribed in 27 CFR 4.25(e)(2). It is the responsibility of the petitioner(s) to submit evidence distinguishing the land area within the boundary from that excluded by the boundary line.

ATF finds that the evidence submitted by the petitioner for the Digger Bend revision supports the proposal in Notice No. 591 to include the Digger Bend area within the Alexander Valley and Russian River Valley viticultural areas. ATF's review of the data submitted by the petitioner, the letter from the former agricultural advisor for Sonoma County, the topography of the Digger Bend area in relation to areas to its north and south, and the limited thermograph readings, supports consideration of the Digger Bend area as being transitional between the "Coastal Warm" Alexander Valley and the "Coastal Cool" Russian River Valley. At the time of publishing Notice No. 591, ATF found little data to support a revision of the boundary of the Russian River Valley viticultural area to exclude the Digger Bend area. Upon the receipt of a petition containing such evidence, however, ATF would consider

proposing a revision of the boundary of the Russian River Valley viticultural area at a later date.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Par. 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. ATF is amending § 9.53 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by revising paragraphs (c)(3) through (c)(5) and (c)(21) through (c)(24), removing paragraphs (c)(25) and (c)(26), revising and redesignating paragraph (c)(27) as (c)(25), redesignating paragraphs (c)(28) through (c)(39) as paragraphs (c)(26) through (c)(37), removing paragraph (c)(40), and adding new paragraphs (c)(38) through (c)(40) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) *Boundary.* * * *

(3) Then east southeasterly in a straight line to the southeast corner of section 2, T. 11 N., R. 11 W.;

(4) Then south southeasterly in a straight line to the southeast corner of section 24, T. 11 N., R. 11 W.;

(5) Then southeasterly in a straight line across sections 30, 31 and 32, T. 11 N., R. 10 W., to the point at 38°45′ N. latitude and 123°00′ E. longitude in section 5, T. 10 N., R. 10 W.;

* * * * *

(21) Then southeasterly in a straight line approximately 11,000 feet to the 991-foot peak of Fitch Mountain;

(22) Then east southeasterly approximately 7,000 feet in a straight line to the peak identified as having an elevation of 857 feet;

(23) Then east southeasterly approximately 1,750 feet to the peak identified as Black Peak;

(24) Then southeasterly approximately 7,333 feet to the peak identified as having an elevation of 672 feet;

(25) Then northeasterly approximately 5,000 feet in a straight line to the point of confluence of Brooks Creek with the Russian River in T. 9 N., R. 8 W., on the Healdsburg Quadrangle map;

* * * * *

(38) Then east-northeasterly approximately 10,000 feet in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

(39) Then north along the east boundary of section 34, T. 12 N., R. 10 W., to the northeast corner of section 34, T. 12 N., R. 10 W.;

(40) Then west along the north boundaries of sections 34 and 33, T. 12 N., R. 10 W., to the point of beginning.

* * * * *

Par. 3. ATF is amending § 9.70 of Subpart C of Title 27, Code of Federal Regulatons, Part 9, by revising paragraphs (b), (c) introductory text, (c)(1), and (c)(11) through (c)(14), redesignating paragraph (c)(15) as (c)(19), adding new paragraphs (c)(15) through (c)(18), redesignating paragraphs (c)(18) through (c)(23) as paragraphs (c)(23) through (c)(28) adding new paragraphs (c)(20) through (C)(22) to read as follows:

§ 9.70 Northern Sonoma.

* * * * *

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, and the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978.

(c) *Boundary.* The Northern Sonoma Viticultural area is located in Sonoma County, California. The boundary description in paragraphs (c)(1) through (c)(28) of this section includes (in parentheses) the local names of roads which are not identified by name on the map.

(1) On the U.S.G.S. Topographical Map of Sonoma County, California, the beginning point is the point, in the town of Monte Rio, at which a secondary highway (Bohemian Highway) crosses the Russian River.

* * * * *

(11) The boundary proceeds north northwesterly in a straight line to the southeast corner of Section 14, Township 10 North, Range 9 West.

(12) The boundary proceeds north northwesterly in a straight line to the most eastern point of the northeastern line of Tzabaco land grant.

(13) The boundary proceeds west-northwesterly along the northeastern line of the Tzabaco land grant.

(14) On the Asti Quadrangle 7.5 minute series map, the boundary proceeds west-northwesterly in a straight line to the point on a peak identified as having an elevation of 830 feet.

(15) The boundary proceeds northwesterly 13,350 feet in a straight line to the point on a peak identified as having an elevation of 1,070 feet.

(16) The boundary proceeds northwesterly in a straight line to the point on a peak identified as having an elevation of 1,301 feet.

(17) The boundary proceeds east-northeasterly approximately 10,000 feet in a straight line to the southeast corner of section 34, Township 12 North, Range 10 West.

(18) On the U.S.G.S. Topographical Map of Sonoma County, California, the boundary proceeds north along the east boundary of section 34, Township 12 North, Range 10 West, to the Sonoma County-Mendocino County line.

(19) The boundary follows the Sonoma County-Mendocino County line west then south to the southwest corner of Section 34, Township 12 North, Range 11 West.

(20) The boundary proceeds in a straight line east southeasterly to the southeast corner of section 2, Township 11 North, Range 11 West.

(21) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(22) The boundary proceeds in a straight line southeasterly across sections 30, 31 and 32 in Township 11 North, Range 10 West, to the point at 38°45′ North latitude parallel and 123°00′ East longitude in section 5, T. 10 N., R. 10 W.

* * * * *

Signed: July 14, 1986.

W.T. Drake,

Acting Director.

Approved August 5, 1986.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 86-19139 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF EDUCATION

34 CFR Part 674

Postsecondary Education; National Direct Student Loan Program

Correction

In FR Doc. 86-17690, beginning on page 28312, in the issue of Wednesday, August 6, 1986, make the following corrections:

§ 674.6a [Corrected]

1. On page 28314, first column, in amendatory instruction 3, "674.6" should read "674.6a".

2. On the same page, first column, in the section heading, "§ 673.6a" should read "§ 674.6a".

3. On the same page, first column, § 674.6a(a) third line, after "subsequent" insert "award years".

4. On the same page, first column, § 674.6a(c)(1), third line, "in" should read "to".

5. On the same page, first column, § 674.6a(c)(2), fourth line, "repayments" was misspelled.

6. On the same page, second column, § 674.6a(c)(3)(ii), first line, "Subtracting" was misspelled.

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261

Prohibitions; Fossil Collecting

AGENCY: Forest Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: In keeping with the language of the Archaeological Resources Protection Act of 1979 and in response to informal comments from the scientific and academic communities, the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to vertebrate fossils and commercial activities.

DATES: Effective date: August 26, 1986. Comments due on or before October 27, 1986.

ADDRESSES: Send written comments to R. Max Peterson, Chief (2800), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect comments received on this interim rule in the office of the Director, Minerals and Geology Management Staff, Room 606, 1621 North Kent Street, Rosslyn, Virginia 22209, from the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom King, Minerals and Geology Management Staff, USDA, P.O. Box 2417, Washington, DC 20013. (703-235-9745).

SUPPLEMENTARY INFORMATION: Current regulations prohibit the excavation and removal of any paleontological object from National Forest System lands without first obtaining a special use authorization in accordance with 36 CFR 261.1a. The regulations define a paleontological resource as ". . . evidence of fossilized remains of multicellular invertebrate and vertebrate animals and multicellular plants, including imprints thereof . . . ." Moreover, the language of The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb) distinguishes between "archaeological" and "paleontological" resources, which we interpret to mean that Federal land management agencies are not mandated to exercise the same degree of protection for the two resources.

The collection of paleontological objects on National Forest System lands is a legitimate scientific and educational pursuit and there is no evidence of widespread conflicts or problems that would require a blanket prohibition on all activities as currently provided in 36 CFR 261.9. Vertebrate fossils have traditionally been accorded special significance and will remain subject to regulation. Where there is a need to protect other paleontological resources at a unique site, land managers may issue special closure orders pursuant to 36 CFR 261.53(c).

Paleontological objects found in an archaeological context are considered part of the archaeological resource and would remain subject to the prohibitions at 36 CFR 261.9 and 36 CFR 296.4.

Since the field season for scientific and academic research is already underway, there is a need to make this interim rule effective immediately. However, public comments are invited and will be fully considered in developing a final rule.

Regulatory Impacts and Review

This interim rule has been reviewed under Executive Order 12291, The Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and implementing Departmental procedures. The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that the regulation is not a major rule and will not have a significant economic impact on a number of small entities. It will have little or no effect on the economy because it affects only Forest Service land managers. The regulation may reduce administrative costs for analysis of permit conditions, permit issuance and administration, law enforcement, and other legal actions previously required to control fossil collecting.

Based on both past experience and environmental analysis, this interim rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

This interim rule contains no information collection requirements as defined in 5 CFR Part 1320.

List of Subjects in 36 CFR Part 261

Law enforcement, National Forests.

VOL 51 ISS 165 AG 26 1986 UMI

Therefore, for the reasons, set forth above, Part 261 of Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 261—[Amended]

1. The authority citation for Part 261 continues to read as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 101, (f)); 82 Stat. 916 (16 U.S.C. 1246, (i)); 92 Stat. 1650 as amended (16 U.S.C. 1133 (c)–(d)(1)), unless otherwise noted.

2. Paragraphs (g) and (h) are revised and a new paragraph (i) is added to § 261.9 to read as follows:

§ 261.9 Property.

* * * * *

(g) Digging in, excavating, disturbing, injuring, destroying, or in any way damaging any prehistoric, historic, or archaeological resource, structure, site, artifact, or property.

(h) Removing any prehistoric, historic, or archaeological resource, structure, site, artifact, property.

(i) Excavating, damaging, or removing any vertebrate fossil or removing any paleontological resource for commercial purposes without a special use authorization.

Dated: July 26, 1986.

George S. Dunlop,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86–19151 Filed 8–25–86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[HSQ-115-F]

Medicare Program; End Stage Renal Disease Program: Redesignation of Networks and Reorganization of Network Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises the requirements in current regulations pertaining to the End-Stage Renal Disease (ESRD) networks and organizations and establishes provisions for new, more efficient network organizations. This rule removes the criteria that define existing networks, removes the requirement that HCFA change designations of ESRD networks through rulemaking, and removes the list of currently-designated networks that now appears in regulations. It is intended that these amendments will increase the efficiency and effectiveness of the ESRD program by instituting a faster process for changing network designations and organizations as program needs arise. These amendments also permit the reduction of the number of existing networks to as few as 14, which is consistent with section 9214 of Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

DATES: These regulations are effective September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Spencer Colburn (301) 594–3413.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Amendments of 1972 (Pub. L. 92–603) extended Medicare coverage to individuals with end-stage renal disease (ESRD) who require dialysis or transplantation. At that time, the broad array of professionals and facilities involved in the treatment of persons with ESRD indicated the need for a system to promote effective coordination. We believed that the integration of hospitals and other health facilities into organized networks was the most effective way to assure the delivery of needed ESRD care. Therefore, on July 1, 1975, we published proposed regulations (40 FR 27782) and final regulations on June 3, 1976 (41 FR 22502) that included provisions for implementing the existing ESRD networks.

Those regulations—

- Required that ESRD facilities be organized into coordinated systems ("networks") for the delivery of ESRD care;
- Required that the "networks" organize themselves through the establishment of a network coordinating council for each network area, with representation from all ESRD facilities in each network;
- Required that each network coordinating council appoint a medical review board to review the appropriateness of ESRD patient care and services;
- Required that a network and its coordinating council act as liaison between the Federal government and the available community resources, with the coordinating council supplying the Secretary information which the Secretary could use to make determinations, and make recommendations to member facilities as needed to achieve the objectives of the network;
- Specified the membership requirements and responsibilities of medical review boards;
- Provided for a relationship between networks and health care review organizations and health service planning organizations;
- Identified minimal utilization rates and the requirements for approval of facilities with respect to such rates;
- Outlined general requirements for all facilities furnishing ESRD services; and
- Contained a list of designated network areas.

Subsequently, the End-Stage Renal Disease Amendments of 1978 (Pub. L. 95–292), amended title XVIII of the Social Security Act (the Act) by adding section 1881; section 1881(c) statutorily authorizes the establishment of ESRD network areas and network organizations, consistent with criteria the Secretary finds appropriate to assure the effective and efficient administration of ESRD program benefits.

With respect to ESRD networks, section 1881(c) of the Act requires the Secretary to—

- Establish ESRD network areas and organizations;
- Prescribe in regulations requirements with respect to membership in network organizations by individuals having financial or control relationships with ESRD providers and facilities;
- Take into account the network goals and performance in determining whether to certify new or expanded facilities in the network area and to terminate or withhold certification of a facility for failure to cooperate with network goals; and
- Provide guidelines for the planning and delivery of services as necessary to assist the network organizations in developing their goals to promote the use of self-dialysis and transplantation.

Section 1881(c) further requires the Secretary to establish a national ESRD medical information system to assure the effective and efficient administration of Medicare benefits. The existing networks have been receiving copies of the national medical information forms from ESRD facilities prior to submitting the forms to us.

Section 1881(c) of the Act also specifies that the network organizations for each area—

- Include a coordinating council, an executive committee, and a medical review board;
- Include at least one patient as a member on each coordinating council and executive committee;

- Encourage the use of treatment settings most compatible with the successful rehabilitation of the patient;
- Develop criteria and standards relating to the quality and appropriateness of patient care;
- Develop network goals for the placement of patients in self-care settings and for transplantation;
- Evaluate the procedures used in the network to assess the appropriateness of patients for proposed treatment modalities;
- Identify those network members that are not cooperating with network goals and assist those facilities to develop appropriate plans of correction; and
- Submit an annual report on July 1 of each year that includes the network goals, data on the network's performance in meeting its goals (including data on the comparative performance of network members), identification of facilities that have consistently failed to cooperate with network goals and recommendations with respect to the need for additional or alternative services in the network area including self-dialysis training, transplantation and organ procurement facilities.

In summary, the amendments made to section 1881(c) of the Act did not include all of the provisions related to networks which had been included in the final regulations published on June 3, 1976 (41 FR 22502). These regulations were more prescriptive than the statute. The requirements contained in the 1976 regulations that were not statutorily required included the following:

- Specific criteria for designating network areas (§ 405.2110).
- Representation from all ESRD facilities on each network coordinating council (§ 405.2111).
- Review of the appropriateness of ESRD patient care and service by medical review boards (§ 405.2111).
- Membership of network coordinating councils by professional disciplines (§ 405.2111).
- Specific initial functions of network coordinating councils (§ 405.2111).
- Specific ongoing functions of network coordinating councils and network executive committees (§ 405.2112).
- Relationship of network coordinating councils with the Federal government and the available community resources (§ 405.2112).
- Membership requirements of specific disciplines for medical review boards (§ 405.2113).
- Current responsibilities of medical review boards (§ 405.2113).
- Reporting requirements of medical review boards (§ 405.2113).
- Relationship of ESRD networks to health care review organizations and health service planning organizations (§ 405.2114).

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) was enacted which requires the Secretary to maintain renal disease network organizations as authorized under section 1881(c) of the Act, and not merge the network organizations into other organizations or entities. The Secretary may consolidate network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

II. Notice of Proposed Rulemaking

On April 15, 1986, we published a notice of proposed rulemaking to implement section 9214 of Pub. L. 99-272 (51 FR 12714). Briefly, the major provisions of the notice proposed to:

- Remove the definition of "Network Coordinating Council" (§ 405.1202).
- Redefine "Network, ESRD" as all Medicare-approved ESRD facilities in a geographic area that we designate and define "Network Organization" as the administrative governing body to the network and liaison to the Federal government (§ 405.2102).
- Delete the requirements for publishing network designations in regulations, and remove the criteria for designating networks which would result in reducing the number of network organizations to a minimum number (but not fewer than 14) (§ 405.2110).
- Delete the specific membership requirements for the network coordinating council in § 405.2111 that go beyond the statutory requirements and include the remaining requirements of that section as new network organization requirements in § 405.2112.
- Specify the duties, responsibilities and functions of the new network organizations (§ 405.2112).
- Delete the requirements that specific professional medical and social service personnel be members of the medical review board and the specific functions required of the medical review board (§ 405.2113).
- Remove the requirements for network coordinating councils to enter into working arrangements with health care review organizations and health service planning organizations (§ 405.2114).
- Delete the requirement that information obtained from network coordinating councils be used in the utilization rate determination (§ 405.2121).
- Delete the requirement that an ESRD facility must provide evidence of service needs in a network for additional dialysis services (§ 405.2132).
- Remove the requirements for membership and representation in the network (§ 405.2134).
- Make conforming regulation changes concerning the roles of the network organization, network executive committee and medical review board (§§ 405.2136 and 405.2138).
- Delete the Appendix to Subpart U that provides the list of designated ESRD networks.

III. Analysis of and Reponses to Public Comments

We received 192 pieces of correspondence from 18 of the 32 existing ESRD network, 3 hospitals, 104 ESRD facility staff, 11 ESRD patients, 3 ESRD patient advocacy groups, and 3 members of Congress. In addition, we received comments from ESRD facility chain organizations, State Health Departments, physician and nurse associations, hospital associations, a health systems agency, the Forum of ESRD Networks, medical schools, physicians, nurses, social workers, and other interested parties. The comments and our responses to those comments are discussed below.

A. Consolidation of Networks

Comment: A number of commenters opposed consolidation of the current ESRD network organizations. These commenters suggested that new larger organizations would lose the personal contact that has been established among the facilities, eliminate the authority and capability to fulfill the statutory mandates, and be unable to address the problems unique to a small geographic area. The commenters also suggested that there are financial disincentives to consolidation (for example, start-up costs of new organizations, increased travel and meeting expenses, and increased costs due to lack of voluntary participation in the organization).

Several commenters were in favor of consolidating the 32 networks to streamline the ESRD program and to concentrate on the quality assurance activities.

Response: We agree that initial phase-in of the new contract organizations will result in changes in the working relationships between ESRD facilities and the new network organizations. This effect can be expected from any reorganization of an existing program. However, prudent management of the networks requires that the networks be

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VOL 51 ISS 165 AG 26 1986 UMI

designated in the most efficient structure possible to meet the organization goals.

B. Elimination of Networks

Comment: A few commenters stated that the concept of networks, while originally a good idea, is no longer valid and that the networks should be eliminated.

Response: The maintenance of ESRD networks is mandated by section 1881(c) of the Act, and we do not have statutory authority to eliminate them.

C. Provisions of Pub. L. 99–272

Comment: A few commenters believe that the proposed regulations did not take into account the provisions of Pub. L. 99–272. The commenters believe that the intent of Pub. L. 99–272 requires that the regulations define specifically the criteria for the new organizations, explain the transition from 32 networks to as few as 14, provide information on the projected level of funding, better define the functions of the new organizations, and describe the raw data that will be gathered for quality assurance studies.

Response: Section 9214 of Pub. L. 99–272 specifies that the Secretary will maintain renal disease networks as authorized under section 1881(c) of the Act, and may not merge the network organizations into other organizations or entities. The statute further provides that the Secretary may consolidate the network organizations, but only if the consolidation does not result in fewer than 14 such organizations being permitted to exist.

These regulations require specifically that the network organizations perform the network functions as mandated by section 1881(c) of the Act. In addition, we intend to award contracts for at least 14 organizations in keeping with the provisions of Pub. L. 99–272. We do not believe it necessary to specify in regulations the number of network organizations. We also do not believe it appropriate to explain the network transition process, the funding mechanism or other administrative functions in regulations. The level of funding, number of facilities or networks, and the size of the patient population are all subject to change, and the regulations process does not permit timely and rapid response to these changes. We will respond to these changes administratively to assure the flexibility to accomplish the goals of the statute.

D. Quality Assurance, Patient Health and Safety

Comment: A number of commenters expressed concern that the network organizations would no longer conduct quality assurance activities and that only the current ESRD networks can evaluate care and assure patient health and safety in the specialized environment of ESRD facilities.

Response: We will require the new network organizations to develop criteria and standards relating to the quality and appropriateness of care and to evaluate the procedures used by the facilities in the network in accessing patients for placement in appropriate treatment modalities to ensure the quality of care. We will include these activities in the contracts with the network organizations and monitor them as appropriate.

We continue to believe that ensuring patient health and safety in ESRD facilities is the responsibility of the State survey agencies and HCFA regional offices. These organizations have the experience and expertise to evaluate compliance with health and safety requirements by all types of Medicare providers, including ESRD facilities. In addition, we are developing an outcome-oriented survey process for ESRD facilities to provide a more valid and reliable assessment of the care being furnished to patients and to assure that the facilities are meeting the needs of their patients.

E. Patient Access and Health Planning

Comment: Two commenters suggested that changes to the present network system would limit patient access to care and compromise health planning activities in areas without a certificate of need program.

Response: The regulations provide specifically that designation of ESRD networks does not require a patient to seek care only in facilities in the network area where the patient lives, or limit patient choice of physicians or facilities, or limit patient referral by physicians to facilities in another network. We do not believe the regulations will in any way compromise patients' access to care. Networks do not have the authority to participate directly in the health planning process. Networks have provided necessary data to the authorized health planning agencies and will continue to do so.

F. Area Designation Process

Comment: Several commenters objected to the removal of the current requirement that ESRD networks be designated through rulemaking. The commenters believe that there should be an opportunity to comment on network area designations and that the provider community should be consulted about network configurations.

Response: Because of the dynamic nature of the ESRD program, as evidenced by the rapid growth of both facilities and the patient population, the rulemaking process is inadequate to address properly program needs with respect to the designation of ESRD networks. Section 1881(c) of the Act provides the Secretary with broad authority to designate ESRD networks in accordance with any criteria the Secretary believes appropriate. Therefore, the Secretary may choose network configurations that would best serve ESRD patients, the facilities and the ESRD program. We do not wish to exclude the concerns of patients or providers with respect to this issue, but we do not believe it is necessary to include network designations in regulations. Any comments that we have received have been given extensive consideration and any future recommendations regarding network designations will be given full consideration prior to the designation of networks.

G. Network Organization Duties

Comment: A few commenters suggested that the regulations do not provide specific functions and duties for the network organizations. One commenter suggested that networks be given a specific consultative role to Utilization and Quality Control Peer Review Organizations (PROs) and Health Systems Agencies (HSAs).

Response: We intend to remove burdensome requirements that were not statutorily mandated. We have specified in § 405.2112 the network functions that are authorized by the statute. As we stated in the proposed rule (51 FR 12715), we believe the duties and responsibilities contained in the current regulations are burdensome and obsolete. By requiring network organizations to perform only those duties specified in the statute, we believe we are providing for more effective and efficient administration of network activities. If it becomes necessary to require network organizations to pursue additional activities (such as the data collection activities discussed below), we will amend the contract with the network organizations to include those activities. In addition, we have revised § 405.2112 to reflect the statutory requirement that networks develop criteria and standards to evaluate the quality and appropriateness of care that we included in our preamble discussion in the proposed rule but inadvertently omitted from the regulation section.

We agree that it may be desirable for some of the network organizations to have formal arrangements with HSAs or PROs. However, we have not included this requirement in regulations because it may not be necessary for each network organization to maintain formal arrangements with HSAs or PROs. We will monitor network organizations and include the requirement as appropriate in contracts.

H. Network Data Activities

Comment: Two-thirds of all commenters expressed concern about the role of networks in data collection and validation. Many of the commenters believe that removing network organizations from these activities would seriously compromise the integrity of the national medical information data system and possibly hinder the network organizations in their medical review activities.

Response: We agree with the commenters that removal of the network organizations from the various data activities would, at least temporarily, affect the high degree of compliance currently exhibited by ESRD facilities in supplying complete, valid data to the medical information system. Therefore, we will retain the network data collection and validation functions for the new network organizations. Contracts will specify the necessary data collection functions and provide mechanisms for monitoring those functions.

I. Appointed Panels

Comment: Several commenters expressed concerns regarding the appointment of the network coordinating council, executive committee and medical review board by the network organization. The commenters believe that there should be universal participation on the network coordinating council by all providers and that elected, rather than appointed, bodies will elicit better participation by member facilities.

Response: The network organizations, under contract to HCFA, will be responsible for naming the members of these three entities, assigning them specific duties and monitoring their performance. As stated in the proposed rule (51 FR 12717), the mechanism used to identify and recruit these members, and the delineation of their duties, will be addressed by the potential network organizations in their contract proposals. This does not preclude the contractors from having full participation on the network coordinating council if they believe that this would most effectively address the contract's task.

In addition all ESRD facilities are required, by virtue of their Medicare certification, to participate in network activities and pursue network goals. Finally, we are developing regulations to implement intermediate reimbursement sanctions against facilities that fail to cooperate with network goals.

J. Requirements for Representation by Specific Disciplines

Comment: A few commenters believe it is appropriate to retain the current regulatory requirements that specific health disciplines be represented on the network coordinating council and medical review board. They contend that these individuals are best qualified to evaluate the quality and appropriateness of care and to resolve patient grievances.

Response: We do not agree that it is necessary to retain these prescriptive requirements in regulations. We will include in the contract with the new network organizations a requirement that members of the medical review board be individuals qualified to evaluate the quality and appropriateness of care delivered to ESRD patients. We will also require network organizations to develop a patient grievance protocol. As stated above, the mechanism for identifying potential board members and their actual appointment is subject to approval by us through the contracting process. We believe that these provisions adequately address the concerns raised regarding this issue.

K. Patient Representation

Comment: Several commenters expressed concern over consumer representation on network committees. Many believe that the requirement for one patient representative will limit patient participation and patient services such as health education and review of grievances.

Response: We do not intend to diminish consumer participation in network activities. The proposed rule specifies that the network coordinating council and executive committee must include *at least* one patient representative; that requirement is mandated by section 1881(c) of the Act. There is nothing to preclude a network organization from appointing additional patient representatives if necessary or appropriate.

L. Contracting Process

Comment: A number of commenters opposed the use of competitive contracts for funding the organizations. They believe that competitive contracts would substantially reduce voluntary participation in network activities and that potential contractors would be less committed to renal patients and facilities. The commenters are concerned that the new network organizations would not take advantage of existing network expertise. The commenters are also concerned that the current organizations would be precluded from participating in the competitive bid process.

One commenter supports the contracting process but believes it should be subject to public comment.

Response: The competitive bidding process will take into account potential contractors' technical capabilities, experience and proposed plans for performing the requirements of the contract. We believe these elements will assure that network contracts are awarded to organizations that are fully committed to meeting the needs of the ESRD program. We further believe that the competitive bidding process will result in a more effective and more efficient delivery of the network services and enhance our monitoring capability of network organizations. There will be nothing in the request for proposals that will preclude existing networks from submitting proposals for the new networks organizations.

We will specify in contracts the details of the duties and responsibilities of the network organizations. However, we believe that the substance of the contracts has already been subject to notice and public comment through our publication of the April 15, 1986 proposed rule and this final rule.

M. Extension of Comment Period

Comment: Two commenters requested that we extend the public comment period, so that they may thoroughly consider the long-term implications the proposed rule would have on the ESRD program.

Response: We believe that the 30-day period was sufficient time for receipt of comments on the proposed regulation changes and the number, diversity, and detail of the comments received support our belief.

N. Consideration of Public Comments

Comment: Two members of Congress requested that we consider comments submitted by an ESRD network in promulgating the final regulations.

Response: We wish to assure all commenters that we gave every timely comment we received thorough consideration and careful deliveration in formulating this final rule. We believe

VOL 51 ISS 165 AG 26 1986 UMI

that our discussion of the specific comments provides adequate rationale for the changes we made from the proposed rule and those instances where we maintained the position stated in the proposed rule.

O. Withdrawal of Regulation Changes

Comment: Several commenters suggested that our proposed rule be withdraw, primarily because it did not retain the network data collection function. A few commenters expressed general opposition to any changes in the current network system.

Response: We continue to believe that this final rule will result in more efficient network organizations that will better address the needs of ESRD patients and the renal community. To the extent that network performance relative to available resources is enhanced, the entire ESRD program will benefit. As mentioned previously, we will include, as a task for the contractors, the network data collection and validation activities.

IV. Summary of Changes in the Final Regulations

A. Network Data Activities

After reviewing the public comments, we have decided to retain the network data functions that network organizations have been performing. The existing networks have been receiving copies of the national medical information forms from ESRD facilities for validation, analysis, and support of network activities prior to submitting the forms to us. We will specify these functions, and any additional data collection activities, in our contracts with the new network organizations, and we will continue to monitor network performance regarding these functions.

B. Technical Correction

In the proposed rule, we included mention in the preamble of the statutory requirement for network organizations to develop criteria and standards relating to the quality and appropriateness of patient care (51 FR 12715) and inadvertently omitted the requirement from the regulations text. We have revised § 405.2112 to add a new paragraph (c) to include this requirement as a function of a network organization.

V. Final Notice and Request for Proposals

We are developing separately a list of the consolidated ESRD network boundaries that we will be publishing shortly as a final notice in the **Federal Register**.

Additionally, we will publish an announcement of a request for proposals (RFP) in the Commerce Business Daily (CBD) that will appear for 15 consecutive days. During those 15 days, interested parties may request copies of the RFP. On the fifteenth day the announcement appears in the CBD, we will distribute copies of the RFP to existing organizations that we feel currently have the expertise to perform network organization functions and any other parties that request copies. We will accept proposals within 30 days from the date that we issue copies of the RFP.

VI. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any "major rule" that is likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, government agencies or geographic regions, or meet other threshold criteria that are specified in that order. In addition, consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–12), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

Because ESRD networks are such a small activity, with a total FY 1986 budget of less than $5 million, these changes do not meet any of the criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. However, the planned reductions in numbers of network areas and organizations will clearly affect all or almost all existing network organizations. Since these organizations are a creation of the government and are funded by us solely to fulfill the requirements of the law, they are not the kind of small entities to which the Regulatory Flexibility Act is usually considered to apply. Nonetheless, they are small organizations, and a substantial number of them would experience a significant adverse economic effect as a result of our changes. Therefore, the following discussion, in combination with the other sections of the preamble of this rule, serves as a voluntary regulatory flexibility analysis.

As previously noted, this rule will expedite the ESRD network designation or redesignation process by eliminating the requirement that such designation be accomplished through rulemaking. This rule will also delete the network criteria from the current regulations and provide for the reorganization of network organizations in each designated network. These procedural changes will not have any economic impact in themselves.

Existing network organizations will be affected only when we actually redesignate networks and make arrangements with new network organizations. We do not expect this redesignation to have an adverse effect on ESRD facilities or beneficiaries. Rather, to the extent that network performance relative to available resources is enhanced, the entire ESRD program will benefit.

We intend to replace existing network organizations with a more effective and efficient system. We believe that at this time there is no need for a narrow geographic focus and that essential functions may be best accomplished by the smallest number of entities. The health care delivery system generally is capable of accomplishing operational coordination of the delivery of needed services without reliance on special additional organizations such as the ESRD networks. As a desirable by-product, these changes will reduce the regulatory burden on the suppliers of ESRD services, while continuing to assure the health and safety of Medicare beneficiaries.

In conclusion, we believe that the adverse economic impact of our reductions will be limited to the affected entities and their immediate employees. Such adverse consequences as may be anticipated will not be of sufficient magnitude to offset the advantages to be gained by anticipated improvements in efficiency, effectiveness, economy, and quality of care.

VII. Information Collection Requirements

Sections 405.2112(f) and 405.2136(c)(3) of this final rule contain information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). A notice will appear in the **Federal Register** when approval is obtained.

If you wish to submit comments on the information collection requirements contained in this final rule, you may submit comments to:

Desk Officer, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below.

Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

1. The authority citation for Part 405 Subpart U is revised to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), unless otherwise noted.

2. The table of contents for Subpart U is amended by removing the section numbers and titles for §§ 405.2111, 405.2114 and 405.2132; revising the titles of §§ 405.2112 and 405.2134 to read "ESRD network organizations." and "Condition: Participation in network activities.", respectively; and removing the reference to the APPENDIX.

3. Section 405.2100 is revised to correct the statutory reference in paragraph (a) and to remove references to ESRD networks and coordinating councils as follows:

§ 405.2100 Scope of subpart.

(a) The regulations in this subpart prescribe the role which End-Stage Renal Disease (ESRD) networks have in the ESRD program, establish the mechanism by which minimal utilization rates are promulgated and applied, under section 1881(b)(1) of the Act, and describe the health and safety requirements that facilities furnishing ESRD care to beneficiaries must meet. These regulations further prescribe the role of ESRD networks in meeting the requirements of section 1881(c) of the Act.

(b) The general objectives of the ESRD program are contained in § 405.2101, and general definitions are contained in § 405.2102. The provisions of §§ 405.2110, 405.2112 and 405.2113 discuss the establishment and activities of ESRD networks, network organizations and membership requirements and restrictions for members of the medical review boards. Sections 405.2120 through 405.2124 discuss the establishment of minimal utilization rates and the requirements for approval of facilities with respect to such rates. Sections 405.2130 through 405.2140 discuss general requirements for, and description of, all facilities furnishing ESRD services. Sections 405.2160 through 405.2164 discuss specific requirements for facilities which furnish ESRD dialysis services. Sections 405.2170 and 405.2171 discuss specific requirements for facilities which furnish ESRD transplantation services.

4. Section 405.2102 is amended by removing the lower-case, lettered paragraph designations and placing the definitions in alphabetical order, revising the definitions of "Network, ESRD" and removing the definition of "Network Coordinating Council", and adding, in alphabetical order, a definition of "Network Organization" to read as follows:

§ 405.2102 Definitions.

* * * * *

Network, ESRD. All Medicare-approved ESRD facilities in a designated geographic area specified by HCFA.

Network Organization. The administrative governing body to the network and liaison to the Federal government.

* * * * *

5. Section 405.2110 is revised to read as follows:

§ 405.2110 Designation of ESRD networks.

HCFA designated ESRD networks in which the approved ESRD facilities collectively provide the necessary care for ESRD patients.

(a) *Effect on patient choice of facility.* The designation of networks does not require an ESRD patient to seek care only through the facilities in the designated network where the patient resides, nor does the designation of networks limit patient choice of physicians or facilities, or preclude patient referral by physicians to a facility in another designated network.

(b) *Redesignation of networks.* HCFA will redesignate networks, as needed, to ensure that the designations are consistent with ESRD program experience, consistent with ESRD program objectives specified in § 405.2101, and compatible with efficient program administration.

§ 405.2111 [Removed]

6. Section 405.2111 is removed.

7. Section 405.2112 is revised to read as follows:

§ 405.2112 ESRD network organizations.

HCFA will designate an administrative governing body (network organization) for each network. The functions of a network organization include but are not limited to the following:

(a) Developing network goals for placing patients in settings for self-care and transplantation.

(b) Encouraging the use of medically appropriate treatment settings most compatible with patient rehabilitation.

(c) Developing criteria and standards relating to the quality and appropriateness of patient care.

(d) Evaluating the procedures used by facilities in the network in assessing patients for placement in appropriate treatment modalities.

(e) Making recommendations to member facilities as needed to achieve network goals.

(f) On or before July 1 of each year, submitting to HCFA an annual report that contains the following information:

(1) A statement of the network goals.

(2) The comparative performance of facilities regarding the placement of patients in appropriate settings for—

(i) Self-care; and

(ii) Transplantation.

(3) Identification of those facilities that consistently fail to cooperate with the goals specified under paragraph (f)(1) of this section.

(4) Recommendations with respect to the need for additional or alternative services in the network including self-dialysis training, transplantation and organ procurement.

(g) Evaluating and resolving patient grievances.

(h) Appointing a network coordinating council, executive committee (each including at least one patient representative), and a medical review board, and supporting and coordinating the activities of each.

8. Section 405.2113 is revised to read as follows:

§ 405.2113 Medical review board.

(a) *General.* The medical review board must be composed of individuals qualified to evaluate the quality and appropriateness of care delivered to ESRD patients.

(b) *Restrictions on medical review board members.*

(1) A medical review board member must not review or provide advice with respect to any case in which he or she has, or had, any professional involvement, received reimbursement or supplied goods.

(2) A medical review board member must not review the ESRD services of a facility in which he or she has a direct or indirect financial interest (as

described in section 1128(a)(1) of the Act).

§ 405.2114 [Removed]

9. Section 405.2114 is removed.

§ 405.2120 [Amended]

10. Section 405.2120 is amended by removing the reference "Section 226(g) of the Social Security Act (42 U.S.C. 426(g))" and inserting in its place, the correct reference "Section 1881(b)(1) of the Social Security Act (42 U.S.C. 1395rr(b)(1))".

§ 405.2121 [Amended]

11. Section 405.2121 is amended by removing paragraph (a) and redesignating paragraphs (b), (c) and (d) as (a), (b) and (c), respectively.

§ 405.2122 [Amended]

12. Section 405.2122(b)(2)(ii) is amended by removing the reference "§ 405.2102(r)(7)" and inserting, in its place, the reference "§ 405.2102".

§ 405.2132 [Removed]

13. Section 405.2132 is removed.

14. Section 405.2134 is revised to read as follows:

§ 405.2134 Conditions: Participation in network activities.

Each facility must participate in network activities and pursue network goals.

15. Section 405.2136 is amended by revising the introductory paragraph, removing paragraph (b)(5), and revising paragraph (c) introductory text, reprinting paragraph (c)(3) introductory text unchanged for the convenience of the reader, and revising paragraphs (c)(3)(v), (c)(3)(vi), and (h) to read as follows:

§ 405.2136 Condition: Governing body and management.

The ESRD facility is under the control of an identifiable governing body, or designated person(s) so functioning, with full legal authority and responsibility for the governance and operation of the facility. The governing body adopts and enforces rules and regulations relative to its own governance and to the health care and safety of patients, to the protection of the patients' personal and property rights, and to the general operation of the facility. The governing body receives and acts upon recommendations from the network organization. The governing body appoints a chief executive officer who is responsible for the overall management of the facility.

* * * * *

(c) Standard: chief executive officer. The governing body appoints a qualified chief executive officer who, as the ESRD facility's administrator: Is responsible for the overall management of the facility; enforces the rules and regulations relative to the level of health care and safety of patients, and to the protection of their personal and property rights; and plans, organizes, and directs those responsibilities delegated to him by the governing body. Through meetings and periodic reports, the chief executive officer maintains on-going liaison among the governing body, medical and nursing personnel, and other professional and supervisory staff of the facility, and acts upon recommendations made by the medical staff and the governing body. In the absence of the chief executive officer, a qualified person is authorized in writing to act on the officer's behalf.

* * * * *

(3) The responsibilities of the chief executive officer include but are not limited to:

* * * * *

(v) Maintaining and submitting such records and reports, including a chronological record of services provided to patients, as may be required by the facility's internal committees and governing body, or as required by the Secretary.

(vi) Participating in the development, negotiation, and implementation of agreements or contracts into which the facility may enter, subject to approval by the governing body of such agreements or contracts.

* * * * *

(h) *Standard: medical staff.* The governing body of the ESRD facility designates a qualified physician (see § 405.2102) as director of the ESRD services; the appointment is made upon the recommendation of the facility's organized medical staff, if there is one. The governing body establishes written policies regarding the development, negotiation, consummation, evaluation, and termination of appointments to the medical staff.

§ 405.2138 [Amended]

16. Section 405.2138(e) is amended by removing the words "Network Council" and inserting in their place, the words "network organization".

§ 405.2161 [Amended]

17. Section 405.2161(a) is amended by removing the reference "§ 405.2102(r)(5)" and inserting in its place, the reference "§ 405.2102".

§ 405.2162 [Amended]

18. Sections 405.2162 (a) and (c) are amended by removing the reference "§ 405.2102(r)(4)" and inserting in its place, the reference "§ 405.2102".

§ 405.2163 [Amended]

19. Sections 405.2163 (c) and (d) are amended by removing the references "§ 405.2102(r)(6)" and "§ 405.2102(r)(2)" and inserting in their places, the references "§ 405.2102" and "§ 405.2102", respectively.

§ 405.2164 [Amended]

20. Section 405.2164(a) is amended by removing the phrase "§§ 405.2132, 405.2134, and 405.2137.", and inserting in its place, the phrase "§§ 405.2134 and 405.2137 that relate to participation in the network activities and patient long-term programs.".

§ 405.2170 [Amended]

21. Section 405.2170 is amended by removing the references "§ 405.2102(r)(7)" and "§ 405.2102(r)(5)" and inserting in their places, the reference "§ 405.2102".

§ 405.2171 [Amended]

22. Sections 405.2171 (b) and (c) are amended by removing the references "§ 405.2102(r)(6)" and "§ 405.2102(r)(2)" and inserting in their places, the reference "§ 405.2102".

23. The Appendix to Subpart U is removed.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Supplementary Medical Insurance)

Dated: July 11, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 25, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-19146 Filed 8-25-86; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket 84-801; FCC 86-350]

Exemptions from Technical Standards for Computing Devices

AGENCY: Federal Communications Commission.

ACTION: Clarification of final rule; notice of availability.

SUMMARY: The Commission gives notice of availability of a clarification of its exemptions from the computing devices rules under Part 15, Subpart J. This

action is intended to provide the public with a better understanding of the type of equipment the Commission considers to fall under the scope of the exemption for computing test equipment, as specified in § 15.801(c) of the Rules.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Technical Standards Branch, Office of Engineering & Technology, (202) 653-7316.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, GEN Docket 84-801, adopted, August 5, 1986, released August 12, 1986.

The full text of Commission decisions is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Washington, DC 20037.

Summary of Report and Order

1. The Commission clarifies its exemptions from the rules under Part 15, Subpart J, with regard to large computing equipment built in small quantity and industrial, scientific, and medical test equipment. This action is taken in response to petitions filed by Electronic Associates Inc. (RM-4246), Cray Research, Inc. (RM-4797), and Denelcor, Inc. (RM-4816), seeking relief from the computing device rules for large digital or computing equipment built in small quantity and/or used in facilities such as public utilities, industrial plants, laboratories, hospitals, universities for research, simulation, evaluation, maintenance and other analytical or scientific applications. More specifically, the Commission concludes that it is ineffective to exempt computing devices from Part 15 of the Rules based on production quantity or equipment size, and to restrict the definition of digital test equipment to applications in scientific and university laboratories. Further, the Commission describes in more detail the type of equipment it considers to fall under the scope of the exemption of § 15.801 of the Rules covering computing test equipment.

Final Regulatory Flexibility Analysis

2. Because it has been decided not to amend the Rules, a final regulatory flexibility analysis is not necessary.

Ordering Clauses

3. Accordingly, it is ordered that the subject petitions are dismissed. It is further ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-19199 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-27; RM-5157, RM-5364]

Radio Broadcasting Services; Topsail Beach and Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 267A to Topsail Beach, North Carolina, as the community's first local FM service, at the request of Jeffrey D. Southmayd, and dismisses the request of Woolfson Broadcasting Corporation of Wilmington, Inc. to substitute Channel 266C2 for Channel 265A at Wilmington, North Carolina. Channel 267A requires a site restriction of 8.4 kilometers (5.2 miles) southwest to avoid short-spacing to Station WRAL, Raleigh, North Carolina, and to the construction permit for Station WAZZ, New Bern, North Carolina, specifying minimum Class C facilities.

DATES: Effective September 26, 1986. The filing window for applications for this channel will be announced at a future date following the grant of a license for Station WAZZ, New Bern, North Carolina, at its new site.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-27, adopted August 8, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments is amended by adding under North Carolina, Topsail Beach, Channel 267A.

Charles Schott

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19197 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-209, RM-4923; RM-5154]

Radio Broadcasting Services; Naguabo, Puerto Rico, Charlotte Amalie, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 225A to Naguabo, P.R., with a site restriction of 9.7 kilometers east, as the community's first local FM service, at the request of Reyes Ruiz Rivera and Robert Rodriguez. The license of Station WSTT, Caribbean Basin Broadcasting, Ch. 226 at Charlotte Amalie, V.I., is modified to specify Channel 282. Applicants for Ch. 225A at Naguabo will be required to share with Station WRIO, Ponce, P.R., the costs incurred by Station WSTT in changing its channel of operation. With this action, this proceeding is terminated.

DATES EFFECTIVE: September 26, 1986. The filing window for Channel 225A at Naguabo, P.R. will open on September 29, 1986, and close on October 27, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-209, adopted August 8, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

VOL 51 ISS 165 AG 26 1986 UMI

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments is amended by adding Naguabo, Channel 225A, under Puerto Rico, and by revising Channel 226 to Channel 282 for Charlotte Amalie, Virgin Islands.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19192 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-80; RM-5303; FCC 86-374]

Television Broadcasting Services; Gary, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action approves an agreement to exchange channels by the permittees of noncommercial educational television Station WCAE, Channel *50, Gary, Indiana and commercial television Station WDAI, Channel 56, Gary, Indiana. As a result of this approval, Channel 56 in the Television Table of Assignments is now reserved for noncommercial educational use while Channel 50 is no longer reserved. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-80, adopted August 11, 1986, and released August 19, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606(b), the table of assignments is amended, under Indiana, by revising Channels *50 to 50 and 56+ to *56+ for Gary.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-19196 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of commercial fishery closure and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial coho salmon fishery in the fishery conservation zone (FCZ) from Point Delgada, California, to the U.S.-Mexico border at midnight, August 20, 1986, because the overall coho quota south of Cape Falcon, Oregon, has been met. The commercial salmon fishery in the same area continues as scheduled for all salmon species except coho. The closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATES: Closure of the FCZ from Point Delgada, California, to the U.S.-Mexico border to commercial salmon fishing for coho is effective at 2400 hours Pacific Daylight Time (PDT), August 20, 1986. Comments on this notice will be received until September 3, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specific at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 15620, May 5, 1986). The 1986 commercial fisheries for all salmon species in the FCZ from Cape Falcon, Oregon, to the U.S.-Mexico border were established as follows:

Subarea	All-Species Season
Cape Falcon to Cape Blanco, OR.	July 1-July 20, July 23 through coho quota (fishery continues for all except coho from coho quota through October 31)
Cape Blanco, OR to Pt. Delgada, CA.	June 16-19, June 23-26, June 30 through earlier of August 31, coho quota or chinook quota (fishery continues for all except coho after coho quota is met through earlier of August 31 or chinook quota)
Pt. Delgada, CA to U.S.-Mexico Border.	June 1 through earlier of September 30 or coho quota (fishery continues for all except coho after coho quota is met through September 30)

An overall quota of 463,000 coho salmon (hooking mortality and harvest) was established for the ocean troll fisheries south of Cape Falcon, Oregon. The overall area quota was partitioned into two major subarea quotas. The subarea from Cape Falcon, Oregon, to Point Delgada, California, has a harvest quota of 383,000 coho, while the subarea south of Point Delgada, California, has a harvest quota of 26,800 coho salmon.

The commercial fishery in the subarea from Cape Falcon, Oregon, to Point Delgada, California, was closed to coho fishing effective midnight, July 24, 1986, when it was projected that its 383,000 coho harvest quota had been met (51 FR 26899, July 28, 1986). Fishing continued for all species except coho salmon.

Based on the best available information through August 17, commercial landings plus hooking mortality allowances from the overall area south of Cape Falcon are estimated

to have exceeded the overall quota of 463,000 coho.

The Regional Director consulted with the Chairman of the Pacific Fishery Management Council and the Directors of the Oregon Department of Fish and Wildlife and the California Department of Fish and Game (CDFG) regarding a closure of the commercial coho fishery in the subarea from Point Delgada, California, to the U.S.-Mexico border. The CDFG Director confirmed that California will close the commercial coho fishery in State waters adjacent to this subarea of the FCZ effective 2400 hours PDT August 20, 1986, and will reopen the commercial fishery in the same area for all salmon species except coho effective 0001 hours PDT August 21, 1986.

Therefore, the Secretary issues this notice to close the commercial coho fishery in the FCZ from Point Delgada, California, to the U.S.-Mexico border effective 2400 hours PDT August 20, 1986. At 0001 hours PDT August 21, 1986, the commercial fishery in the same area reopens as scheduled for all salmon species except coho.

This notice does not apply to other fisheries which may be operating in other areas.

Other Matters

This action is taken under 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 21, 1986.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 86-19301 Filed 8-21-86; 4:57 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 60845-6045]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restriction and request for comments.

SUMMARY: NOAA issues this notice announcing the amount of the quota remaining and the allocation of this remainder between gear types for the 1986 sablefish fishery off Washington, Oregon, and California. This action is required by the emergency interim rule effective August 22, 1986 which supersedes regulations promulgated under the Pacific Coast Groundfish Fishery Management Plan. This action is necessary to provide a year-round fishery, minimize discards, and allocate the remainder of the sablefish quota equitably between user groups based on the best available scientific data.

EFFECTIVE DATE: August 22, 1986, until modified, superseded, or rescinded.

ADDRESSES: Comments on this action should be sent to Rolland A. Schmitten, Director Northwest Region, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115, or E. Charles Fullerton, Director Southwest Region, 300 S. Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150 or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: An emergency interim rule effective August 22, 1986 (51 FR 29933 on August 21, 1986) imposes an 8,000 pound trip limit on trawl landings of sablefish caught off Washington, Oregon, and California. It also states that the remainder of the optimum yield (OY) quota for sablefish will be determined at the time the trip limit is imposed, and that this remainder will be allocated 55 percent for trawl landings and 45 percent for fixed gear landings based on the ratio of average landings by these two gear types between 1981 and 1985. The reasons for the trip limit and allocations, and the provisions for announcing and changing them, are set forth in the emergency interim rule and are not repeated here.

The best scientific information available indicates that 5,300 metric tons (mt) of the 13,600 mt OY for sablefish remain as of August 22, 1986. Accordingly, 2,915 mt (55 percent) is allocated for trawl landings and 2,385 mt (45 percent) is allocated for fixed gear landings. These allocations and the trawl trip limit may be adjusted based on the best data available on or near October 1, but the 55:45 per cent ratio will not change. Any changes in the allocations will be published by notice in the **Federal Register**. As provided in the emergency rule, if either allocation is reached before the end of the fishing year, further landings by that gear type will be prohibited. If the OY is reached, all further landings of sablefish by any gear are prohibited.

Classification

The determination of the amount of OY remaining and the allocations based on this amount are calculated using the most recent data available. The aggregate data upon which these determinations are based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

This action is taken under the authority of the emergency interim rule at 51 FR 29933, 50 CFR 663.22 and 663.23 and is in compliance with Executive Order 12291. Section 663.23 states that the Secretary will publish a notice in the **Federal Register** in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to public interest. These allocations are necessary to reduce the rate of catch of sablefish, thereby minimizing the likelihood of closure of the fishery. They also provide for equitable shares of the remainder of OY for trawl and fixed gear. As stated in the emergency interim rule, these allocations must be determined at the time the trawl trip limit becomes effective. Consequently, delay of these actions is impracticable and contrary to the public interest and they are taken in final form effective August 22, 1986.

The public had opportunity to comment on sablefish issues at meetings of the Pacific Fishery Management Council and its advisory bodies in July 1986. Public comments on this action will be accepted for 15 days after publication of this notice in the **Federal Register**.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 21, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-19300 Filed 8-21-86; 4:54 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 50694-5094]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of opening of fishery.

SUMMARY: NOAA issues this notice opening specific parts of the fishery conservation zone (FCZ) off Southeastern Alaska to commercial fishing for chinook salmon for six days. This action is necessary to allow fishermen more time to harvest the number of chinook salmon authorized by the Pacific Salmon Commission. This action is a conservation and management measure intended to fully

VOL 51 ISS 165 AG 26 1986 UMI

utilize the chinook salmon resources available.

DATES: This notice is effective at 0001 hours Alaska Daylight Time (ADT), August 21, 1986, through 2400 hours ADT on August 26, 1986. Public comments on this notice are invited until September 20, 1986.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (0800 to 1630 ADT, Monday through Friday) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Chief, Fisheries Management Division, NMFS), 907–586–7228.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended by the North Pacific Fishery Management Council (Council) and is implemented by NOAA through regulations appearing at 50 CFR Part 674.

In March 1986, the Pacific Salmon Commission limited the 1986 chinook salmon harvest by all fisheries in Southeastern Alaska to 254,000 fish, exclusive of the harvest of chinook salmon resulting from Alaska's new enhancement activities. A final rule announcing this limit and setting the base salmon fishing periods for 1986 was published on July 21, 1986 (51 FR 26159). The commercial salmon fishery in the FCZ began on June 20, 1986.

On July 9, 1986, the Secretary of Commerce (Secretary) closed a small area of the FCZ to commercial salmon fishing (51 FR 25528, July 15, 1986) to slow the rate at which chinook salmon were being harvested so that the number harvested did not exceed the limit imposed by the Pacific Salmon Commission (51 FR 25528). The notice stated that if the actual number of chinook salmon harvested fell considerably short of the limit before the season ended on September 20, 1986, then NMFS might reopen the closed area to allow the troll fishery to harvest the remainder of its quota.

On July 30, 1986, the Secretary closed an area between Cape Cross and Cape Fairweather to all commercial salmon fishing to protect coho salmon returning to the northern inside areas of Southeastern Alaska (51 FR 27860, August 4, 1986).

On August 11, 1986, NOAA closed the entire FCZ to all commercial salmon fishing for 10 days (51 FR 29107, August 14, 1986). This closure was intended to allow coho salmon to escape the ocean and coastal fishery so they could move to inside waters and the spawning grounds.

As of August 20, 1986, the estimated harvest of chinook salmon in Southeastern Alaska by all fisheries amounted to 211,000, exclusive of the harvest of 9,000 chinook salmon from Alaska's new enhancement facilities. The components of the chinook salmon harvest are winter troll, 23,000; summer troll, 155,000; net fisheries, 20,000; and the sport fishery, 22,000. Thus, the 211,000 harvest of chinook salmon as of August 20 fell short of the 254,000 chinook salmon limit set by the Pacific Salmon Commission by approximately 43,000 chinook salmon.

Because this is a substantial number of chinook salmon still available for harvest, the Secretary has decided to reopen the troll fishing season for chinook salmon in all areas of the FCZ, including those which were previously closed. Based on the number of boats expected to be fishing and their historical catch per boat-day, this 43,000 will probably be harvested in six days. This fishing period will begin when the fishery for other salmon species resumes on August 21. When this chinook harvesting period ends, trollers may continue to harvest other salmon species in the FCZ, with one exception, after they have unloaded any chinook salmon they have on board. The exception is the area known as the Outer Fairweather grounds, described in the closure notice referred to above at 51 FR 25528, which will close again on August 27 to minimize hook-and-release mortality on sublegal chinook salmon.

If the total chinook harvest is still short of the limit after the actual chinook harvest from this fishery has been tabulated and the remaining harvests by the gillnet and sport fisheries have been forecasted, then another short period for harvesting chinook will be granted the trollers before the season closes on September 20, 1986.

Regulations implementing the FMP at § 674.23(a) provide that the Secretary may modify the time and area limitations governing the fishery whenever he determines that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the FMP. In making such a determination, he may consider the following factors:

(a) The effect of overall fishing effort within any part of the management area;

(b) The catch per unit of effort and the rate of harvest;

(c) The relative abundance of salmon stocks within the management area;

(d) The condition of salmon stocks throughout their ranges; and

(e) Any other factors relevant to the conservation of salmon.

Having reviewed the evidence of the 1986 harvest of chinook salmon, the Secretary has determined that the effect of overall fishing effort in the FCZ, the catch per unit of effort, the high rate of harvest, and the apparent relative abundance of chinook stocks within the FCZ portion of the management area indicate that the condition of chinook stocks is substantially different from the condition anticipated in the FMP. He has also found that this difference reasonably requires a modification of time or area limitations if chinook stocks are to be conserved and managed adequately. Therefore, the Secretary is implementing the 6-day reopening of the chinook fishery prescribed by this action.

The reopening will become effective after this notice has been filed for public inspection with the Office of the Federal Register and the chinook fishery reopening has been publicized for 48 hours through procedures of ADF&G.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the chinook harvest in Southeastern Alaska will fall short of the salmon treaty limit unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 553 (b) and (c).

This action is authorized by 50 CFR Part 674 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 21, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–19285 Filed 8–21–86; 4:13 pm]

BILLING CODE 3510–22–M

50 CFR Part 683

[Docket No. 60583-6128]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

Correction

In FR Doc. 86-17211, beginning on page 27413, in the issue of Thursday, July 31, 1986, make the following corrections:

§ 683.7 [Corrected]

1. On page 27417, first column, in § 683.7(d)(2), first line, the Morse code should read "(.–.–.–.–.–.–)".

683.9 [Corrected]

2. On the same page, second column, § 683.9(d)(1), first line, "applicant" should read "application".

3. On the same page § 683.9(d)(3)(i), first line, "had" should read "has".

§ 683.21 [Corrected]

4. On page 27418, § 683.21(b)(2)(vii), "part" should read "port".

BILLING CODE 1505-01-M

VOL 51 ISS 165 AG 26 1986 UMI

Proposed Rules

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Proposed Revision of the U.S. Standards for Lentils, Review of the U.S. Standards for Whole Dry Peas and U.S. Standards for Split Peas

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Lentils, U.S. Standards for Whole Dry Peas, and U.S. Standards for Split Peas. Pursuant to this review, FGIS proposes to set grade limits for skinned lentils for U.S. No. 1 and U.S. No. 2 grades, and lower the percentage of skinned lentils necessary for a Sample grade designation. This change is proposed to facilitate the marketing of lentils. No changes are proposed to the U.S. Standards for Whole Dry Peas and the U.S. Standards for Split Peas.

DATE: Comments must be submitted on or before September 25, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

David R. Galliart, Acting Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of pea and lentil inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Standards Review

The review of the U.S. Standards for Lentils (7 CFR 68.601–68.611), U.S. Standards for Whole Dry Peas (7 CFR 68.401–68.410), and U.S. Standards for Split Peas (7 CFR 68.501–68.510) included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective of the review was to assure that the standards continue to serve the needs of the market to the greatest extent.

In the course of reviewing the standards for whole dry peas, split peas, and lentils, various meetings were held by the dry pea and lentil industry that were attended by pea and lentil producers, processors, and domestic and export merchandisers as well as representatives of FGIS. It was the consensus of industry members attending these discussions that the current U.S. Standards for Whole Dry Peas and U.S. Standards for Split Peas are meeting the needs of the pea industry and no changes are needed at this time. However, industry representatives recommended revisions to the U.S. Standards for Lentils to establish in the lentil grade requirements (§ 68.607) the factor of skinned lentils.

Skinned lentils are defined in the standards as lentils from which three-fourths or more of the seedcoat has been removed (§ 68.601(1)). On October 15, 1981, FGIS proposed a Sample grade designation for lentil samples found to contain more than 15.0 percent skinned lentils (46 FR 50802). In the comments received on that proposal, two commenters stated that, if more than 15.0 percent skinned lentils graded a lot U.S. Sample grade, there should be some limits on skinned lentils for U.S. No. 1 and U.S. No. 2 grades. In response to the comments FGIS stated that further study would be necessary to determine grade limits for skinned lentils for U.S. No. 1 and No. 2 grades. The Sample grade designation for samples containing more than 15.0 percent skinned lentils was made effective February 11, 1982 (47 FR 6245).

An FGIS study of the percentages of skinned lentils found in the 1985 crop year, determined that the average percentage of skinned lentils was 1.01 percent based on 150 samples. Four of the samples examined exceeded 4.0 percent skinned lentils, three samples exceeded 7.0 percent, and the range of skinned lentils was from 0.0 to 11.2 percent. The results of this study support the industry recommendations for new limits for skinned lentils in the grade requirements. This change would facilitate the marketing of lentils.

Based on all information available including the results of the FGIS study and recommendations from the lentil industry, it is proposed that maximum limits be established for skinned lentils at 4.0 percent for a U.S. No. 1 grade and 7.0 percent for a U.S. No. 2 grade. Currently, if lentils contain more than 15.0 percent skinned lentils, they would not meet the requirements in the standards for U.S. No. 1 or U.S. No. 2. Therefore, in § 68.607, the requirement for sample grade regarding skinned lentils which is designated as (d) would be removed.

Accordingly, FGIS proposes that the U.S. Standards for Lentils be revised to include grade limits for skinned lentils under § 68.607, Grades and grade requirements for dockage-free lentils. FGIS proposes that no changes be made to the U.S. Standards for Whole Dry Peas which appear at 7 CFR 68.401–68.410 and the U.S. Standards for Split Peas which appear at 7 CFR 68.501–68.510.

Comments including data, views, and arguments are solicited from interested persons. In addition, minor non-

substantive changes are proposed to be made to the table format in § 68.607.

A comment period of 30 days is specified in this proposed rule in order that any revised standards, if adopted, may be made effective during the 1986–87 marketing year.

List of Subjects in 7 CFR Part 68

Administrative practices and procedures–FGIS, Agricultural commodities, Export.

PART 68—[AMENDED]

1. The authority citation for Part 68 is revised to read as follows:

Authority: Sec. 203, 205, Agricultural Marketing Act of 1946 (7 U.S.C. 1622, 1624).

Accordingly, it is proposed that 7 CFR Part 68 be amended by revising § 68.607 to read as follows:

§ 68.607 Grades and grade requirements for dockage-free lentils. (See also § 68.609.)

Grade	Maximum limits of—						Minimum requirements—color
	Defective lentils			Foreign material			
	Total	Weevil-damaged lentils	Heat-damaged lentils	Total	Stones	Stemmed lentils	
	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	
U.S. No. 1	2.0	0.3	0.2	0.2	0.1	4.0	Good.
U.S. No. 2	3.5	0.8	0.5	0.5	0.2	7.0	Fair.

U.S. Sample grade: U.S. Sample grade shall be lentils which—
(a) Do not meet the requirements for the grades U.S. Nos. 1 or 2; or
(b) Contain more than 14.0 prcent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or
(c) Are materially weathered, heating, or distinctly low quality.

Dated: August 13, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86–19217 Filed 8–25–86; 8:45am]

BILLING CODE 3410–EN–M

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 1; Doc. No. 3252S]

General Administrative Regulations—Appeal Procedure

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend Subpart J to Part 400 in Chapter IV of Title 7 of the Code of Federal Regulations (CFR), known as 7 CFR Part 400—General Administrative Regulations—Subpart J. Appeal Procedure. The intended effect of this rule is to prescribe procedures under which a person may request review of determinations made by FCIC, as they affect the Standard Reinsurance Agreement between FCIC and a Multi-Peril Crop Insurance Company (MPCI), with respect to yields and coverages established on the basis of actuarial data provided by FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments on this proposed rule must be received not later than October 27, 1986, to be sure of consideration.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Corp Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1990.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small business, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The Appeal Regulations provide administrative procedures under which any person or organization may request and obtain review and appeal of determination made by FCIC. The regulations, found at 7 CFR Part 400, Subpart J, and published in the **Federal Register** on Wednesday, February 12, 1986 at 41 FR 5147, set forth the levels of appeal and prescribe the manner and format of such procedure.

FCIC, upon review of these regulations, has determined that no provision exists for an appeal by a producer whose contract with an MPCI company has been reinsured by FCIC under the Standard Reinsurance Agreement, when such producer disagrees with the actuarial data relative to yields and coverages relating to the producer's farming operation. FCIC provides such actuarial data for this purpose. Under the present Appeal Regulations, a producer who disagrees with the actuarial data provided by FCIC and used by the MPCI company for insurance purposes, has no means of appealing the actuarial determination of FCIC.

Under this proposed amendment to the Appeal Regulations the insured producer will be afforded access to the appeal process administered by FCIC for the purpose of contesting the actuarial data affecting the MPCI policy.

The information collection control numbers assigned by Office of Management and Budget (OMB) are found at Subpart H to 7 CFR Part 400.

FCIC is soliciting comments on this proposed rule for 60 days after the date of publication of the rule in the **Federal**

Register. All written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 400

Crop insurance, Administrative regulations–Review and appeal procedure.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend 7 CFR Part 400, Subpart J—General Administrative Regulations; Appeal Procedure, in the following instances:

PART 400—[AMENDED]

1. The authority citation for 7 CFR Part 400, Subpart J, continues to read as follows:

Authority: Pub. L. 75–430, 52 Stat. 72 et seq., as amended (7 U.S.C. 1501 et seq.).

2. 7 CFR 400.92 is revised to read as follows:

§ 400.92 Rights of appeal.

Appeal is available to:

(a) Any person determined to be indebted to the Corporation as a result of:

(1) Overpaid indemnities; or

(2) Non-payment of premium.

(b) Any person whose claim for indemnity under insurance obtained pursuant to this Chapter has been denied;

(c) Any person whose request for insurance provided for in this Chapter has been denied;

(d) Any party to a contract who has received notification of a determination by the Corporation regarding any terms or conditions of the contract between the person and the Corporation which the party disputes;

(e) Any person whose request for relief under the Good Faith Reliance on Misrepresentation provisions of the crop insurance regulations contained in this Chapter has been denied in whole or in part; or

(f) Any party to a crop insurance contract with a multi-peril insurance company (a company which is a party to a Standard Reinsurance Agreement with the Corporation) whose contract has been reinsured by the Corporation, provided that the appeal is related to yield and coverage issues based upon actuarial data furnished by the Corporation, which said party disputes. In such cases, the Corporation shall notify the multi-peril insurance company of the appeal request and such company shall be offered an opportunity to participate in the appeal hearing.

Done in Washington, DC, on April 30, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–19288 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–162–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would requires replacement of an existing 50-ampere, 3-phase circuit breaker with a 35-ampere circuit breaker on certain Boeing Model 757 airplanes. This circuit breaker provides current overload protection for the auxiliary power unit (APU) starter transformer rectifier unit (TRU). This action is prompted by reports of smoke and fumes in the aft cargo compartment and passenger deck, resulting from seizure of the APU starter motor and failure of the existing circuit breaker to open.

DATES: Comments must be received on or before October 17, 1986.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–162–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth J. Schroer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S; telephone (206) 431–2943. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before asking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested person. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–162–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

An operator of a Boeing Model 757 airplane reported two occurrences of overheating of the transformer recitifier unit (TRU) for the auxiliary power unit (APU) starter motor, due to the seizure and over current of the starter motor. In one instance, the overheat condition caused the aft cargo compartment to fill with smoke. In the other instance, an open flame was reported coming from the transformer rectifier unit.

An examination revealed that the existing 50-ampere circuit breaker does not provide current overload protection for the transformer rectifier unit when an auxiliary power unit starter motor has seized.

Boeing has issued Alert Service Bulletin 757–24A0032, dated May 16, 1986, which describes the installation of a 35-ampere circuit breaker to protect the starter transfomer rectifier unit against a possible overheat condition.

Since this condition may exist or develop on other airplanes of the same type design, an AD is proposed that would require replacement of a 50-ampere circuit breaker with a 35-ampere breaker in accordance with Boeing Alert Service Bulletin 757-24A0032, dated May 16, 1986, or later FAA-approved revision.

It is estimated that 28 airplanes of U.S. registry would require modification, that it would require 2 manhours per airplane to accomplish installation, and that the average labor charge would be $40 per manhour. The cost of one 35-ampere circuit breaker per airplane is estmated to be $145 per unit. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,300.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation of Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing

Applies to the Model 757 series airplanes specified in Boeing Alert Service Bulletin 757-24A0032, dated May 16, 1986, certificated in any category. To minimize the fire hazard associated with overheating of the transformer rectifier unit of the auxiliary power unit starter motor, accomplish the following within 3 months after the effective date of this AD, unless previously accomplished:

A. Replace the 50-ampere circuit breaker used for the auxiliary power unit starter transformer rectifier unit with a 35-ampere circuit breaker in accordance with Boeing Service Bulletin 757-24A0032, dated May 16, 1986, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this proposal who have not already received copies of the appropriate service document may obtain copies upon request to the Boeing Commerical Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9100 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19167 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-128-AD]

Airworthiness Directives; British Aerospace Model DH/HS/BH-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require modifications to the Auxiliary Power Unit (APU) installation on certain British Aerospace (BAe) Model DH/HS/BH-125 series airplanes. This action is needed to prevent APU fuel leakage into the rear equipment bay and to provide the electrical grounding of the starter/generator to the airframe. This action is necessary to correct a reported potential fire hazard.

DATE: Comments must be received on or before October 17, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-128-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68968, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-128-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of conditions on certain Model

VOL 51 ISS 165 AG 26 1986 UMI

BAe–125 series airplanes in which: (1) inadequate sealing of the APU plenum shroud at the turbine plenum drain outlet may result in APU fuel leakage into the rear equipment bay, and (2) the APU starter/generator case is not electrically grounded. These conditions may result in a potential fire hazard.

British Aerospace has issued BAe Service Bulletin 49–31–9286A, dated March 24, 1986, which describes modification of the sealing method in the area of the turbine plenum drain outlet (Modification No. 259286A); and BAe Service Bulletin 49–32–9210A, dated March 24, 1986, which describes installation of twin duty bonding cables between the APU accessory case and ground terminal post 16 on the main engine beam (Modification No. 259210A). The CAA has classified both service bulletins as mandatory.

These airplane models are manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the modification and installation described in the British Aerospace service bulletins previously mentioned. This AD would apply to all BAe Model 125 series airplanes, up to and including aircraft serial number 258030, equipped with an APU in accordance with Modification No. 251605 or 258748.

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 14 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $11,200.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($560). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace

Applies to British Aerospace (BAe) Model DH/HS/BH–125 series airplanes identified in BAe Service Bulletins 49–31–9286A and 49–32–9210A, both Revision 1, and both dated March 24, 1986, certificated in any category. Compliance is required within 6 months after the effective date of this AD. To reduce the possibility of APU fuel leakage in the rear equipment bay, and assure electrical bonding of the starter/generator to the airplane, accomplish the following, unless previously accomplished:

1. Seal the APU plenum shroud at the turbine plenum drain outlet in accordance with BAe Service Bulletin 49–31–9286A, Revision 1, dated March 24, 1986, Modification No. 259286A.

2. Install twin heavy duty bonding cables between the APU accessory case and ground terminal post 16 on the main engine beam in accordance with BAe Service Bulletin 49–32–9210A, dated March 24, 1986, Modification No. 259210A.

3. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

4. Special flights permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19168 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–152–AD]

Airworthiness Directives: Weber Aircraft Technical Standard Order (TSO) C39a Passenger and Flight Attendant Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require replacement of certain aft seat track fittings on Weber passenger and flight attendant seats. This proposal is prompted by a report that some seat floor attach fittings were not processed in accordance with the prescribed heat treat specification. As a result, in certain critical installations, the strength of these fittings is inadequate. This AD is necessary to reduce the potential for structural failure of a seat attachment fitting during an emergency landing.

DATE: Comments must be received no later than October 16, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration (FAA), Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–152–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Weber Aircraft, 2620 Ontario Street, Burbank, California 91510. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Systems & Equipment Section, ANM–173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; telephone (213) 297–1388. Mailing Address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM–173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-152-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

It was reported that certain aft seat track fittings on Weber seats were not processed in accordance with the prescribed heat treat specification. The seats are approved under TSO C39a. Under critical loading conditions that occur on unsymmetrical triple seats, seat track fittings which do not meet the prescribed heat treat specification are understrength and structurally inadequate.

The FAA has reviewed and approved Weber Service Bulletins 833437-25-505 and 833509-25-508 which describe how these fittings can be identified, and list the seat assembly part numbers, seat assembly serial numbers, aircraft and aircraft customers on which these seat track fittings were installed by Weber.

Since this condition is likely to exist on any Weber seat using these seat track fittings, an airworthiness directive (AD) is being proposed which will require the replacement of the existing seat track fittings in accordance with the service bulletins previously mentioned. It is estimated that 7,000 seats would be affected by this AD, that it would require one man hour per seat to replace the fittings, and that the average labor cost would be $40 per hour. Replacement parts would be furnished by the manufacturer at no charge. Based on these figures the total cost impact of the AD on U.S. operators is estimated to be $280,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regualtion which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Felxibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, airplanes using Weber seats are operated by small entities. A copy of a draft regultory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Weber Aircraft

Applies to Ancra part number 45238-10 (Weber SCD 833437-401) and Ancra part numbers 45232-10, -11, -12 (Weber SCD 833509-401, 403, 405) aft seat track fittings used on Weber Aircraft TSO C39a passenger and flight attendant seats.

Note: Part numbers are not marked on the individual seat track fittings. Weber Service Bulletins Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, describe how these fittings can be identified and list the seat assembly part numbers, seat assembly serial numbers, aircraft, and aircraft customer on which these seat track fittings were installed by Weber.

Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To eliminate aft seat track fittings from service which do not meet minimum airworthiness requirements and would not provide required seat restraint in the event of an emergency landing, accomplish the following:

A. Replace the seat track fittings in accordance with Weber Aircraft Service Bulletin Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, or later FAA-approved revisions.

B. Alternate means of compliance which provide and acceptable level of saftey may be used when approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Weber Aircraft, 2820 Ontario Street, Burbank, California 91510. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

Issued in Seattle, Washington, on August 18, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19171 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AAL-3]

Proposed Revision of Transition Area at Galena, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area at Galena, AK. The revised transition area will provide additional controlled airspace from 1,200 feet above the surface (AGL) to the base of overlying controlled airspace between the 40-mile radius of Galena VORTAC and 46-mile radius of Galena VORTAC. This action is proposed so that it will allow for the use of radar vectors routinely within a 40 nautical mile (NM) radius of Galena VORTAC between 1,200 feet AGL and 14,500 feet above mean sea level (AMSL.) This would permit the minimum vectoring altitude in this area to be lowered from 15,000 feet AMSL to 6,000 feet AMSL.

DATE: Comments must be received on or before October 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attention: Manager, Air Traffic Division, Docket

VOL
51
ISS
165
AG
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1986
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No. 86–AAL–3, 701 C Street, Box 14, Anchorage, AK 99513–0087.

The official docket may be examined in the FAA Rules Docket, Office of the Regional Counsel, Third Floor, Module F, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL–536), Air Traffic Division, Federal Aviation Administration, 701 C. Street, Box 14, Anchorage, AK 99513–0087, telephone (907) 271–5903.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AAL–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, 701 C Street, Box 14, Anchorage, AK, 99513–0087. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend the base of controlled airspace at 1,200 feet above the surface, from within a 40-mile radius of the Galena VORTAC, to within a 46-mile radius of the Galena VORTAC, Galena, AK.

This airspace designation will permit Galena Approach Control to vector departure and arrival aircraft below 15,000 feet AMSL within a 40 NM radius of the Galena VORTAC. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Galena, AK—[Amended]

By removing the words "40-mile" wherever it appears and substituting the words "46-mile".

Issued in Anchorage, Alaska, on August 20, 1986.

John H. Groeneveld,

Acting manager, Air Traffic Division.

[FR Doc. 86–19170 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM86–12–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Errata

August 21, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; errata.

SUMMARY: The Commission is correcting errors in the Notice of Proposed Rulemaking which appeared in the **Federal Register** on July 29, 1986 (51 FR 27050). The errors appear in footnote 23 which presents some statistics on bond ratings and bond yields.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8293.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is correcting errors which appeared in its Notice of Proposed Rulemaking issued July 21, 1986. 51 FR 27050 (July 29, 1986).

Through a miscalculation, footnote 23 presents some statistics on bond ratings and bond yields which are in error. The middle 90 percent range for Standard and Poor's bond ratings is from AA+ to BB+, not AA to BBB− as reported. For this range, the spread of bond yields was 97 basis points not 90 basis points as reported.

The workpapers supporting the statistics in this footnote have been placed in the public record.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

The following correction is made in Generic Determination of Rate of Return on Common Equity for Public Utilities published in the Federal Register on July 29, 1986 at 51 FR 27050:

On page 27054, change the third sentence of footnote 23

from

"For the same time period, the middle 90 percent range would have been from AA to BBB− and the spread was 90 basis points".

to

"For the same time period, the middle 90 percent range would have been from AA+ to BB+ and the spread was 97 basis points".

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19255 Filed 8-25-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 6

Proposed Customs Regulations Amendments Relating to International Aircraft Reporting Requirements at Douglas, AZ

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the requirements concerning the arrival and reporting to Customs of civil aircraft at Douglas, Arizona.

Within the Douglas, Arizona, area there are two airports: Bisbee-Douglas International, which has been designated as an "international airport", and Douglas Municipal, a "landing rights" airport. Bisbee-Douglas International has also been designated by Customs as one of the airports at which private aircraft arriving from areas south of the U.S. must land for Customs processing.

Because of minimal use of the facility and due to various enforcement considerations detailed in this document, it is not feasible for Customs to continue to provide service.

Accordingly, the designation of Bisbee-Douglas as an international airport should be revoked and Douglas-Municipal should be substituted for Bisbee-Douglas on the list of airports designated for the arrival of private aircraft from areas south of the U.S. for Customs processing.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Thomas Hargrove, Office of Inspection & Control (202) 566-5807.

SUPPLEMENTARY INFORMATION:

Background

Under section 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the U.S. as ports of entry for civil aircraft arriving from any place outside of the U.S., and for merchandise carried on the aircraft. These airports are referred to as "international airports", and the location and name of each are listed in § 6.13, Customs Regulations (19 CFR 6.13). In accordance with § 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the U.S. must be at one of these international airports unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Custom officers are assigned to all international airports to accept entries of merchandise, collect duties, and enforce Customs laws and regulations. If a civil aircraft desires to land at a "landing rights airport", which means an airport which has not been designated as an international airport, permission must first be obtained and Customs must assign personnel to that airport for that aircraft.

Within the Douglas, Arizona, area there are two airports: Bisbee-Douglas International Airport, which has been designated as an "international airport", and Douglas Municipal Airport, a landing rights airport.

A review of Customs operations in the area indicates that there is a relatively low number of international aircraft arrivals at Bisbee-Douglas International Airport. Most of the arrivals are light aircraft (single/multi-engine) as opposed to jets or turbos and very few of the arrivals are locally based. It has also been learned that the Federal Aviation Administration (FAA) is planning on closing its facility at the airport. Because of the minimal use of the facility, it is not cost-effective for the FAA, Customs, or the Immigration & Naturalization Service, which share responsibility for clearing private aircraft, to continue to provide service. It has also been determined that because of the surrounding mountainous terrain; three restricted military areas to the west; and two military operations areas to the northeast; safety hazards exist in landing in the area. Of particular concern to Customs is the fact that the airport is located approximately 15 miles from the U.S.-Mexican border. This distance gives smugglers the opportunity to engage in "touch and go" or air drop smuggling of illegal drugs and contraband. "Touch and go" smuggling involves reporting Bisbee-Douglas as the first U.S. destination but actually landing somewhere else first, quickly unloading contraband, and continuing on the Bisbee-Douglas. Air drop smuggling involves flying very low over some point between the border and Bisbee-Douglas, pushing contraband out of the aircraft to be retrieved on the ground, and continning on to Bisbee-Douglas. Additionally, the lack of security lighting and inability to see aircraft on touchdown makes tracking of individual aircraft very difficult. This is a further impediment to effective drug interdiction in the area. It takes 10–15 minutes after touchdown for aircraft to arrive for inspection.

Douglas Municipal Airport is located closer to the U.S.-Mexican border thus significantly reducing the distance in which aircraft can "touch and go" or engage in air drop smuggling. Further, the lighting and space available for Customs officers will allow full view of aircraft immediately on touchdown.

For all of these reasons, the designation of Bisbee-Douglas as an international airport should be revoked and Douglas Municipal should be substituted for Bisbee-Douglas on the list of airports designated for the arrival of private aircraft from areas south of the U.S. for processing.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1310

VOL 51 ISS 165 AG 26 1986 UMI

Constitution Avenue, NW., Washington, DC 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air carriers, Aircraft, Airports.

Proposed Amendments

It is proposed to amend Part 6, Customs Regulations (19 CFR Part 6), as set forth below.

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 49 U.S.C. 1474, 1509.

§ 6.13 [Amended]

2. It is proposed to amend § 6.13 by removing "Douglas, Ariz." under the column headed "Location" and "Bisbee-Douglas International Airport" under the column headed "Name".

§ 6.14 [Amended]

3. It is proposed to amend § 6.14(g) by removing "Bisbee-Douglas International Airport" under the column headed "Name" and inserting, in its place, "Douglas Municipal Airport".

William von Raab,

Commissioner of Customs.

Approved: July 31, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-19259 Filed 8-25-86; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 112

Proposed Customs Regulations Amendment Concerning Suspension or Revocation of a Cartman's or Lighterman's License

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations concerning the suspension or revocation of a cartman's or lighterman's license. Currently, one of the enumerated circumstances under which a district director may suspend or revoke such a license is when the holder of that license, or the officer of a corporation holding that license, is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime.

It has come to Customs attention that a literal interpretation of the regulation allows corporation officers to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore allow the corporation to retain its cartman or lighterman license. This may occur even if the officer resigns in name only but continues to exercise control over the corporation.

Therefore, Customs now proposes to amend its regulations to permit suspension or revocation of a cartman or lighterman license if the officer of a corporation holding such a license is convicted of a felony or a misdemeanor involving theft, if the criminal act was committed while the person was still an officer of that corporation. This would end the ploy of resigning to avoid suspension or revocation of the license and would more accurately reflect Customs position that those demonstrating criminal behavior are not entitled to the position of trust involved in the professions of cartman or lighterman.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Kathleen McGuigan, Office of the Chief Counsel, (202-566-6245).

SUPPLEMENTARY INFORMATION:

Background

Part 112, Customs Regulations (19 CFR Part 112), contains the regulations governing the conduct of carriers, cartmen, and lightermen. Subpart C of that part sets forth the regulations controlling the licensing of cartmen and lightermen. Cartmen are those who transport goods or merchandise within the limits of a port. Lightermen are those who transport goods or merchandise on a barge, scow, or other small vessel to or from a vessel within a port, or from place to place within a port.

Section 112.30, Customs Regulations (19 CFR 112.30), lists the grounds under which the license of a cartman or lighterman may be suspended or revoked. Section 112.30(a)(5) states that if the holder of such a license, or an officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, the district director may suspend or revoke the license.

It has come to Customs attention that a literal interpretation of this regulation is allowing officers of corporations to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore allow the corporation to retain its cartman or lighterman license. This is occurring even in instances when the officer has resigned from his or her corporation in name only but continues to exercise control over the corporation.

Customs desires to make it clear that application of this provision is dependent upon a conviction arising from an act or acts committed while a person was a corporate officer. The person's employment status at the time of the conviction is unimportant. Therefore, resignation, discharge, demotion, or promotion, or any change in the employment status of the corporate officer prior to conviction will not preclude the district director from suspending or revoking the corporation's cartman or lighterman license.

Therefore, Customs is now proposing to amend § 112.30(a)(5) to permit suspension or revocation of a cartman or lighterman license if the officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, if the criminal act was committed while the person was still an officer of that corporation. This amendment would end the ploy of the corporate officer resigning to avoid the corporation losing its cartman or lighterman license even thought the resignation may be in name only. The amendment would also more accurately reflect Customs position that those demonstrating criminal behavior are not entitled to the position of trust

involved in the professions of cartman or lighterman.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

In General

Customs duties and inspection, Imports.

19 CFR Part 112

Administrative practice and procedures, Common carriers.

Proposed Amendment

It is proposed to amend Part 112, Customs Regulations (19 CFR Part 112), as set forth below.

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for Part 112 continues to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

§ 112.30 [Amended]

2. It is proposed to amend § 112.30(a)(5) by removing the semicolon, replacing it with a period, and adding the following, "Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or conviction for a misdemeanor involving theft, smuggling, or a theft-connected crime resulting from acts committed while a corporate officer, will not preclude application of this provision."

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 8, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-19257 Filed 8-25-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[SECNAV Instruction 5211.5C]

Availability of Department of Navy Records and Publications of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rulemaking amendment.

SUMMARY: The Department of the Navy proposes to establish a specific exemption from certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a) for a system of records.

DATE: Comments must be received on or before September 25, 1986.

ADDRESS: Send any comments to Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Aitken at the above address or telephone: 202/697-1459, Autovon: 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy proposes to exempt certain provisions of system of records No4385-2, "Hotline Program Case File" under the provisions of 5 U.S.C. 552a (k) (1), (2), (5), (6), and (7).

List of Subjects in 32 CFR Part 701

Privacy, Exemption, Investigative information, Records.

Accordingly, it is proposed to amend Subpart G of 32 CFR Part 701 as follows:

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 552, as amended by Public Law 93-502. 32 CFR Part 286 (40 FR 8190).

2. Add paragraph (o) to § 701.117

Subpart G—Privacy Act Exemptions

* * * * *

§ 701.117 Exemptions for specific Navy record systems.

* * * * *

(o) *Naval Sea Systems Command.*

(1) *ID-N04385-2.*

System name: Hotline Program Case File.

Exemption: Portions of this system of records are exempt from the following subsections of Title 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f).

Authority: 5 U.S.C. 552a (k) (1), (2), (5), (6), and (7).

Reason: Exempted portions of this system consist of information compiled for the purpose of investigations, including reports of informants and investigators. Such investigations may be associated with identifiable individuals. Disclosure of files in this system would interfere with orderly investigations, and possibly result in the concealment, destruction, or fabrication of evidence, and possibly jeopardize the safety and well-being of informants, witnesses and their families. Such disclosures could also reveal and render ineffectual investigatory techniques and methods and sources of information and could further result in the invasion of the personal privacy of individuals only incidentally related to an investigation. Depending on the nature of the complaint, records may contain information that: Is currently and properly classified pursuant to executive order and must be kept secret in the interest of national defense or foreign policy, is confidentially provided information located in investigatory records compiled for the purposes of enforcement of non-criminal law, relates to qualifications, eligibility, or suitability for Federal employment, is test or examination material used to determine qualifications for appointment or promotion in the Federal service, is confidentially provided information used to determine potential for promotion in the armed services.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

[FR Doc. 86-19207 Filed 8-25-86; 8:45 am]

BILLING CODE 3810-01-M

BEST COPY AVAILABLE

VOL 51 ISS 165 AG 26 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52
[A-5-FRL-3070-4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a revision to the carbon monoxide (CO) portion of the Minnesota State Implementation Plan (SIP), pertaining to the intersection of Snelling and University Avenues in the City of St. Paul (Ramsey County). USEPA is proposing to approve this SIP revision because it provides for attainment of the CO national ambient air quality standards (NAAQS) as expeditiously as practicable.

DATE: Comments on this revision and on the proposed USEPA action must be received by September 25, 1986.

ADDRESSES: Copies of the revision request, the technical support document and other materials relating to this rulemaking are available at the following addresses: (It is recommended that you contact Steven D. Griffin, at (312) 353-3849 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Minnesota Pollution Control Agency, Division of Air Quality, 1935 West County Road B-2, Roseville, Minnesota 55113

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353-3849.

SUPPLEMENTARY INFORMATION: On June 16, 1980 (45 FR 40579), USEPA approved the CO SIP for air quality control region (AQCR) 131. AQCR 131 is comprised of the Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington, which includes the Minneapolis-St. Paul area. The SIP includes such measures as the Federal Motor Vehicle Control Program (FMVCP), along with a transportation control plan (TCP). The FMVCP allows for CO reduction allowances based on emissions controls for late-model vehicles. Minneapolis-St. Paul's TCP consists of reductions based on a bus/freeway project, computerized traffic management, a fringe parking program, stricter enforcement of traffic ordinances, improved transit system, and the development of Hennepin and First Avenue North as a one-way street pair. These measures were designed to ensure attainment and maintenance of the CO NAAQS by December 31, 1982.

Despite the implementation of the measures contained in the 1980 SIP, a monitor located at the intersection of University and Snelling Avenues in the City of St. Paul continued to record violations of the CO NAAQS after December 31, 1982. USEPA formally notified the State, in a February 24, 1984, letter to the Governor, that the CO SIP for the City of St. Paul (Ramsey County) was deficient, and a revised SIP was requested of MPCA.

This notice of SIP deficiency was issued pursuant to section 110(a)(2)(H) of the Act. In response to the notice of SIP deficiency, MPCA has submitted two requests for rulemaking action to USEPA: (1) On June 18, 1984, MPCA submitted to USEPA a request to redesignate all of AQCR 131 to attainment for CO, excluding only the intersection of Snelling and University Avenues; and (2) On May 20, 1985, MPCA submitted a CO SIP revision for the Snelling/University intersection. These submittals will be discussed separately below.

I. Redesignation Request

In a separate rulemaking action, pursuant to 40 CFR Part 81, USEPA is proposing a redesignation to CO attainment for the 7-county AQCR 131, excluding an area of approximately 15 square miles within the City of St. Paul which would be retained as primary nonattainment. The redesignation is based on monitoring and modeling data for Ramsey and Hennepin Counties (Minneapolis-St. Paul area). Due to USEPA's concerns over possible isolated, unmonitored CO "hotspots", or localized areas experiencing standards violations, the Minnesota Department of Transportation (DOT) conducted modeling for the Snelling and University intersection, as well as three nearby intersections along Snelling and University Avenues. Based on this modeling and subsequent evaluations by USEPA, it was determined that arterial streets adjacent to Snelling and University Avenues comprised potential hotspot intersections, which required additional modeling and analysis in compiling an attainment demonstration. These potential hotspot intersections will be addressed by a future SIP revision or redesignation request to be submitted by MPCA.

II. SIP Revision for the Snelling/University Intersection

A. Background

Snelling Avenue is a major north-south thoroughfare in the City of St. Paul and carries 30,000 to 35,000 vehicles per day. University Avenue is a major east-west thoroughfare connecting the Cities of Minneapolis and St. Paul and carries 17,000 to 25,000 vehicles per day. Due to the large amount of traffic on Snelling and University Avenues, MPCA began monitoring for CO near the intersection of these thoroughfares in August 1979. Since the start of this monitoring, the 8-hour CO standard has been consistently violated, despite implementation of the 1980 CO SIP. In 1982, the Snelling/University monitor recorded 30 exceedances of the 8-hour standard. The following contains a further discussion of the transportation control measures (TCMs) and the modeled attainment demonstration relating to the CO SIP. Review of this revision was based on USEPA's *Guidance Document for Correction of Part D SIPs for Nonattainment Areas*, January 27, 1984.

B. SIP Status

1. Review of the TCMs

The Metropolitan Council of the Twin Cities Area (the Council) was the lead agency in the preparation of the revised TCP. The May 20, 1985, submittal, included the Council's proposal to improve traffic flow along University and Snelling Avenues. The proposal contained Traffic System Management (TSM) actions and a comparative impact analysis of these actions, based on traffic evaluation programs and air quality emission and dispersion models. The TSM actions studied included signal timing upstream of the intersection, termed "GPGN progression", which was designed to allow good signal progression on northbound and southbound Snelling Avenue, perfect progression on westbound University Avenue and, if necessary, no progression for eastbound traffic. (For the purposes of this discussion, 'progression' is the relative flow of traffic from one signal to the next.) Other possible actions included a parking prohibition on University Avenue between Asbury and Fry (within 1 block in either direction of the Snelling intersection), prohibitions on turning movements which tend to slow traffic at the intersection, and diverting traffic from University Avenue.

Based on the Council's proposal on April 23, 1985, the MPCA Board approved the following:

(a) Implementation of the improved (GPGN) signal progression upstream of the Snelling/University intersection by December 31, 1987, to provide for attainment of the CO NAAQS; and

(b) Implementation of a parking ban on University Avenue by December 31, 1989, to ensure continuing maintenance of the CO NAAQS.

The City of St. Paul has agreed to implement any TCMs approved as part of the CO SIP. A letter dated April 17, 1986, from MPCA documents the City of St. Paul's commitment to implement the above measures.[1]

2. Additional Requirements for Part D CO SIPs

On January 22, 1981 (46 FR 7182), USEPA announced that several TCMs must be considered in developing a SIP submittal, pursuant to section 108(f) of the Act. These measures include vehicle inspection/maintenance, public transit improvements, car/van-pooling, traffic flow measures, and vehicle emissions controls. MPCA reviewed the TCMs, as required under section 108(f), and chose to implement those which were feasible.

USEPA's *Guidance Document* states that an approvable SIP submittal must also include a contingency plan to ensure progress toward attainment in the event that CO levels do not decrease as predicted. The Transportation Advisory Board will consider nonimplemented TCMs and make recommendations to the Council, if necessary.

The *Guidance Document* also requires reasonable further progress (RFP), or incremental CO reductions leading to the ultimate attainment of the CO NAAQS. In this instance, RFP will be achieved through reductions gained through the implementation of the FMVCP.

C. Modeled Attainment Demonstration

USEPA found that the Minnesota DOT used a model calibration technique which was unacceptable, because the modeling data were inappropriately calibrated using monitoring data. To correct this deficiency, a rollback technique was developed by USEPA using the modeling and monitoring concentration data. The rollback model showed that continuous application of GPGN signal progression by the end of 1987 would provide for CO reductions sufficient to attain the CO NAAQS at the Snelling/University intersection.

Therefore, USEPA believes that this SIP revision provides for attainment of the CO NAAQS at the University and Snelling intersection by December 31, 1987. In addition, USEPA believes that implementation of the parking ban will ensure continued maintenance of the CO NAAQS after the attainment date, as evidenced by the modeling analysis. Because MPCA's submittal of May 20, 1985, concerned only the intersection of Snelling and University Avenues, the remainder of the CO nonattainment area will be addressed by a future SIP revision or redesignation request to be submitted by MPCA.

Conclusion

USEPA proposes to approve MPCA's request to revise the CO SIP for the Snelling/University intersection. This SIP revision includes a commitment to implement the following measures:

1. GPGN signal progression, no later than December 31, 1987.

2. The University Avenue parking ban, no later than December 31, 1989.

This action does not constitute approval of an attainment demonstration for intersections adjacent to the Snelling/University intersection. These intersections were previously discussed in this notice. Any future rulemaking on this area, or portions thereof, will be based on attainment demonstrations to be submitted by MPCA. Implementation of signal progression on Snelling and University Avenues may be an important element in preparing these demonstrations.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether USEPA will approve the SIP revision. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the SIP revision.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP revisions do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

[1] USEPA notes that St. Paul's commitment to implement is conditioned on USEPA's final approval of this SIP revision by December 1, 1986, due to the time required to design and implement the signal changes. USEPA will endeavor to accommodate this condition by the December 1 deadline. However, USEPA cannot compromise rulemaking procedures in this regard, and as a result, will not be able to approve the SIP revision if final rulemaking occurs after this deadline.

Authority: 42 U.S.C. 7401–7642.

Dated: December 31, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86–19238 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–5–FRL–3070–5]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 8, 1985, the State of Indiana requested that USEPA change the Total Suspended Particulates (TSP) designation for a portion of Lake County, Indiana, from primary and secondary nonattainment to secondary non-attainment only, with the exception of the City of East Chicago which would remain primary nonattainment. Under the Clean Air Act (Act), attainment status designations can be changed if sufficient data are available to warrant such a change. USEPA is proposing to disapprove the State's request because the technical information submitted by Indiana not adequately support the proposed redesignation.

DATE: Comments on this request and on USEPA's proposed action must be received by October 27, 1986.

ADDRESSES: Copies of the redesignation request, the technical support documents, and the supporting air quality data are available at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886–6034, before visiting the Region V office).

U.S. Environmental Protection Agency, Region V, Air Programs Branch (5AR–26), 230 S. Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Comments on this proposed action should be addressed to (please submit an original and three copies, if possible): Gary Gulezian, Chief Regulation Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886–6034.

SUPPLEMENTARY INFORMATION:

Background

Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for each area of Indiana (43 FR 8962, March 3, 1978; 43 FR 45993, October 5, 1978). These area designations may be revised whenever the available data warrant a revision.

On May 8, 1985, the State of Indiana requested that USEPA redesignate a small area of Lake County, Indiana, for TSP. This area is currently designated as both primary and secondary nonattainment. The boundaries of the area are given below:

North—Lake Michigan
West—Illinois/Indiana Stateline
South—US 30 from the Stateline to I–65, I–65 from US 30 to I–94, and I–94 from I–65 to the Lake/Porter County line

The State has requested that USEPA redesignate this area to secondary nonattainment only, with the exception of the City of East Chicgo which would remain primary nonattainment. To support its request, the State submitted monitoring data collected from seven monitoring sites during the period 1980 to 1984. The data show no violations of the annual primary standard or the 24-hour primary standard outside of East Chicago during 1983 and 1984. In addition to the monitoring data, the State submitted operating permits, a status report on fugitive dust control, and an analysis of industrial production rates and the associated TSP concentrations at the three major steel companies located within this area. The State submittal also referred to the Lake County TSP plan, which was submitted for USEPA review on October 11, 1983, October 24, 1983, and April 16, 1984.

Redesignation Criteria

USEPA's criteria for section 107 redesignations are summarized in three policy memoranda: (1) An April 21, 1983, memorandum from Sheldon Meyers, then Director of the Office of Air Quality Planning and Standards, entitled "Section 107 Designation Policy Summary"; (2) A December 23, 1983, memorandum from G.T. Helms, Chief of the Control Programs Operation Branch, entitled "Section 107 Questions and Answers"; and (3) A September 30, 1985, memorandum from Gerald A. Emison, Director of the Office of Air Quality Planning and Standards, entitled "Total Suspended Particulate (TSP) Redesignations."

The major criteria for TSP redesignations from nonattainment are:

1. The most recent eight consecutive quarters of quality assured, representative air quality data must show no violations of the applicable NAAQS;

2. There must be a demonstration that the monitoring data accurately characterize the worst-case air quality in the area, if the redesignation is based primarily on monitored data;

3. There must be evidence of an implemented and enforceable control strategy that has been approved by USEPA;

4. Projections of ambient TSP levels at *anticipated* future operating rates for industrial sources must show no violations;

5. The redesignations must not result in a relaxation in the State Implementation Plan (SIP), unless the State demonstrates that the NAAQS will still be maintained with the relaxation; and

6. There must be evidence that disposition techniques are not responsible for the improvement in air quality.

Indiana's Technical Support

USEPA has reviewed Indiana's technical support in light of the above criteria and has found that the data are insufficient to support the redesignation request. Indiana's monitoring and modeling data, their representatives, the SIP and related permits, and projected TSP concentrations from industrial sources are discussed below.

The State submitted four years of air quality data, including the most recent eight consecutive quarters, showing no primary violations of the TSP NAAQS outside of East Chicago during 1983 and 1984. However, USEPA does not believe that these data accurately characterize the worst-case air quality in the area, or the maximum anticipated operating levels for major industrial sources. For instance, recent exceedances (1985) of the 24-hour primary NAAQS have been measured at a USEPA special purpose monitoring (SPM) site, which is located near U.S. Steel in Gary. Sharp variations in ambient TSP concentrations around the major sources located in Lake County, Indiana, have indicated to USEPA that the monitors may not be measuring the maximum ambient TSP levels in the area. Therefore, USEPA does not accept the State's rationale that the existing monitoring network is providing representative ambient air quality data. Lastly, industrial production in the Lake County area during the past few years has been down significantly from 1978 levels. Therefore, current data reflect lower operating levels. If production levels were to increase there is no guarantee that the increased emissions accompanying an increase in operation would not violate the primary TSP NAAQS, as discussed further below.

In its request for redesignation the State of Indiana took credit for the State-approved TSP plan, which was submitted to USEPA as a SIP revision on October 11, 1983, October 24, 1983, and April 16, 1984. USEPA published a notice of proposed rulemaking on January 31, 1985 (50 FR 4537), proposing to disapprove the Lake County TSP plan. To qualify as a basis for redesignation, a control strategy must be approved by USEPA. This is not the case with the Lake County TSP plan. In addition, the State, as part of their submittal, referred to the modeling included in the Lake County plan. The State's reliance on this modeling is inappropriate in view of USEPA's proposed disapproval of the plan and the citing of modeling deficiencies as one of the reasons for USEPA's proposed action.

The operating permits and the fugitive dust control plans submitted by Indiana as technial support for its redesignation offer no evidence of compliance by the affected sources. The technical support has to provide evidence of an implemented and enforceable control strategy by showing that the specified control efficiencies are based, first of all, on verified data, and, secondly, on some method of ensuring that sources comply with the specified emission limits, or control plans. The technical support also did not address whether dispersion techniques are responsible for the improvement in air quality. The technical support showing consistency with USEPA's stack height regulations is absent. Lastly, the State's comparison of industrial production levels and TSP concentrations contained numerous problems. These are detailed in USEPA's June 5, 1985, Technical Support Document. In short, the State's analysis failed to show that primary attainment would be maintained despite variations in industrial production.

Conclusion

USEPA is proposing to disapprove the redesignation of Lake County from primary and secondary nonattainment to secondary nonattainment (with the exception of the City of East Chicago), because the State has not submitted sufficient technical support. The technical support is insufficient for the following reasons:

(1) Failure to demonstrate that the existing air quality data accurately represents the worst-case air quality in the area (Note: recent primary TSP NAAQS exceedances in Lake County,

monitored by USEPA, indicate that the data provided by the existing monitoring network are not representative of worst-case ambient air quality);

(2) Lack of approved control measures (Note: USEPA has proposed disapproval of the State's plan (January 31, 1985; 50 FR 4537));

(3) Even if USEPA were to approve the Lake County TSP control measures there is a lack of evidence showing that the affected sources have complied with the specified emission limits and control strategies;

(4) Failure to demonstrate attainment at anticipated future production levels; and

(5) Failure to demonstrate consistency with USEPA's Stack Height Regulations.

All interested persons are invited to submit written comments on the proposed disapproval. Written comments received by the date specified above will be considered in determining whether USEPA will finally disapprove the redesignation. After review of all comments, the Administrator of USEPA will publish the Agency's final action on the redesignation in the Federal Register.

Under 5 U.S.C. § 605(b), the Administrator has certified that redesignations do not have significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: 42 U.S.C. 7401–7642.

Dated: December 26, 1985.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 86–19237 Filed 8–25–86; 8:45am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[GEN Docket 83–806]

Regulations concerning RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending time to file reply comments.

SUMMARY: The Commission extends the deadline to file reply comments on the Notice of Proposed Rule Making (Notice), released May 8, 1986, in this proceeding, 51 FR 18004, (May 16, 1986). In the Notice, the Commission proposed to adopt radiated emission limits at frequencies below 30 MHz for RF lighting devices. This action is being taken in response to a request by the National Association of Broadcasters.

DATE: Reply comments are due September 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Office of Engineering and Technology, tel: (202) 653–7316.

Order Extending Time To File Reply Comments

Adopted: August 14, 1986.

Released: August 19, 1986.

By the Chief Engineer.

1. On May 8, 1986, the Commission released a *Notice of Proposed Rule Making (Notice)*, FCC 86–205, 51 FR 18004 (May 16, 1986) in this proceeding. The *Notice* specified filing deadlines of June 30, 1986, for comments, and July 15, 1986, for reply comments. These deadlines were extended by thirty (30) days by the *Order Extending Time to File Comments and Reply Comments*, 51 FR 24872 (July 9, 1986).

2. Pursuant to § 1.46(b) of the Rules, the National Association of Broadcasters (NAB), on August 7, 1986, requested a 30-day extension of the deadline for filing reply comments. NAB asserts that there is insufficient time to respond properly to the issues raised in the comments on the *Notice* due to their technical complexity.

3. We recognize the concerns of NAB that additional time may be needed to gather relevant information in order to respond adequately to all issues. Because of the importance of this proceeding and our desire to have the most definitive response possible, we shall extend the time to file reply comments. However, since an extension of thirty (30) days had previously been granted, we believe that a twenty (20) day extension is sufficient to respond to the comments filed in this proceeding. Accordingly, an extension of time to September 5, 1986, for filing reply comments is Hereby Ordered, pursuant to the authority granted under § 0.241 of the Rules.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 86–19194 Filed 8–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86–341, RM–5331]

Radio Broadcasting Services; Lowry, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by South Dakota State Board of Directors. Action taken herein proposes the allocation of Channel 264 to Lowry, South Dakota, at the request of the South Dakota State Board of Directors for Educational Television. Petitioner requests that the allocation be reserved as a first local noncommercial educational service. However, the Commission has found that Channel 220 is available within the noncommercial portion of the band. Therefore, Channel 264 is proposed for allotment on a nonreserved basis.

DATES: Comments must be filed on or before October 14, 1986, and reply comments on or before October 29, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Roy R. Russo, Esq., Martin L. Levy, Esq., Cohn & Marks, 1333 New Hampshire Ave. NW., Suite 600, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–341, adopted August 1, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19198 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Notice 86-8]

Nondiscrimination on the Basis of Handicap in Financial Assistance Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 23, 1986 (51 FR 19032), the Department published a notice of proposed rulemaking (NPRM) concerning making commuter rail services available to persons with disabilities. In response to several requests, the Department is extending the comment period for this NPRM.

DATE: Comments should be received by September 22, 1986.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56d, Department of Transportation, Room 4107, 400 7th Street, SW., Washington, DC 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing ackowledgment of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 7th Street SW., Washington, DC 20590; (202) 366-9306 or (202) 755-7687 (TDD).

SUPPLEMENTARY INFORMATION: On May 23, 1986, the Department published an NPRM requesting comment on serveral alternatives for providing commuter rail service, or a substitute for it, to disabled persons. The NPRM also requested comment on withdrawing 49 CFR Part 609 and shifting some of its provisions (concerning standards for vehicles and fixed facilities) to 49 CFR Part 27. The comment period on the NPRM was scheduled to close August 21, 1986.

The Department has received several requests to extend the comment period. These requests, most of which have come from commuter rail operators, ask that the comment period be extended until 60 days after certain studies concerning the utilization and costs of accessible commuter rail systems become available. The requests suggest that it would be useful for commenters to postpone making their comments until they had had the opportunity to review and respond to these studies.

The Department is concerned that an extension of the comment period of the length requested could unnecessarily delay the rulemaking. Since the Department is not certain of the date on which the studies will be available, the Department could not, at this time, designate a specific date as being 60 days after the studies are available. We do not believe it would be appropriate to extend the comment period for what, in effect, would be an indefinite time.

In addition, the Department is interested in receiving comments from commuter rail operators and other interested persons based on existing data and experience. While the Department hopes that the studies referred to in the NPRM will provide useful information for the regulatory evaluation or regulatory impact analysis to be produced in connection with the decision the Department makes on what, if any, final regulatory action to take on this subject, the Department does not believe it appropriate to delay the rest of the rulemaking process so that interested persons can comment on the basis of these studies.

For these reasons, the Department has decided not to extend the comment period until 60 days following the completion of studies which the Department hopes to use. If, following the receipt of these studies, the Department decides that it would be useful to seek the views of interested persons on the studies and their implications for the NPRM, the Department will re-open the comment period at that time.

However, few substantive comments on the NPRM have been received to date. In addition, the Department is aware that some potential commenters may have not sent comments to the docket pending the Department's, response to the requests for extending the comment period. In order to elicit additional comments, the Department will extend the comment period for 30 days. The new comment closing date is September 22, 1986.

Issued this 21st day of August, 1986, at Washington DC.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 86-19456 Filed 8-25-86; 10:12 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Intent To Enter Into a Cooperative Agreement; Washington State University

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of intent to enter into a cooperative agreement.

ACTIVITY: The Office of International Cooperation and Development (OICD) intends to enter into a Cooperative Agreement with Washington State University. The purpose of this relationship is to collaborate in the Mali Livestock Sector Improvement Project.

Authority

Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds during fiscal year 1986 (FY86) to enter into a cooperative agreement with Washington State University to collaborate in the Mali Livestock Sector Improvement Project. This activity is designed to improve the income and well-being of Mali's livestock producers as well as of others wholly or partially dependent on the livestock sector, including owners of draft animals, and consumers and suppliers of milk and meat. National and foreign exchange will also benefit from increased production of the national herd. This project builds on the collaboration of USDA, AID, and the university community. Results from the project, especially those activities in the Central Veterinary Laboratory will be shared with researchers in the US. The University will provide team leadership as a mechanism for its involvement and to expand their current involvement in animal health and livestock production in West Africa. This latter will build upon the University's long experience and considerable capabilities in East and Southern Africa related to animal health and livestock production. OICD will provide project assistance to the University.

Based on above, this is not a formal request for applications. Approximately $175,000 will be available in FY86–88. The proposed agreement will be funded for 24 months. Fund estimate and time period may vary and are subject to change.

Information may be obtained from: Nancy J. Croft, Contracting Officer, Management Services Branch, Office of International Cooperation and Development, U.S. Department of Agriculture (58–319R–6–036).

Dated: August 21, 1986.

Allen Wilder,

Contracting Officer.

[FR Doc. 86–19181 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–DF–M

Office of the Secretary

Wisconsin Animal Waste Water Pollution Grant Program, Determination of Primary Purpose of Payments for Consideration as Excludable From Income

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that cost-share payments made to individuals under the Wisconsin Animal Waste Water Pollution Grant Program (i.e., the Wisconsin Farmers Fund) are made primarily for the purpose of soil and water conservation and protecting or restoring the environment. This determination, which is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended, and provisions of 7 CFR Part 14, permits recipients of these payments to exclude them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Howard C. Richards, Secretary, Wisconsin Department of Agriculture, Trade and Consumer Protection, 801 West Badger Road, P.O. Box 8911, Madison, Wisconsin 53708 (608) 266–1721 or James R. McMullen, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as added by the Revenue Act of 1978 and amended by the Technical Corrections Act of 1979 (the "Act"), provides that certain payments made under state programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a state program, as described in section 126(a)(10) of the Act, are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination, the Secretary of Agriculture must evaluate each program according to criteria set forth in 7 CFR Part 14.

One such conservation program carried out by the state of Wisconsin is the Wisconsin Animal Waste Water Pollution Grant Program authorized by the Wisconsin Farmers Fund (Wis. Stat. Ann. §§ 92.15 and 92.16). According to the state of Wisconsin regulations in effect with respect to this program, individual cost-share grants shall be used for the construction or repair of animal waste treatment or storage facilities or permanent runoff control structures needed to meet most water quality objectives. Cost-share grants may be applied to engineering design costs or construction costs or both. Individual cost-share grants shall be made under an agreement with the owner or operator. Payments may be made only upon certification by a qualified technician that the facility or structure has been completed in compliance with the agreement.

Wisconsin Stat. Ann. § 92.15 provides for cost-share assistance for animal waste treatment or storage facilities. Wisc. Stat. Ann. § 92.16 provides for earthen manure storage facilities. In order to be eligible for cost-share assistance from the state of Wisconsin for earthen manure storage facilities the county in which the facility is to be located must adopt an ordinance establishing minimum standards for design and construction which must be submitted to the state of Wisconsin Department of Agriculture for approval.

In order to be eligible for cost-share assistance for animal waste water-pollution control, a county must adopt a plan which is submitted to the state of Wisconsin Department of Agriculture for approval. State of Wisconsin cost-share funds may only be allocated to counties which have followed these procedures. Under the state of Wisconsin regulations, criteria have been developed for the allocation of funds generally based upon the number of feeding operations in the country and the relative severity of the water-pollution problems caused by the animal feeding operations.

The amount paid to an owner or operator of an animal feeding operation uder a cost-share grant is based on the cost of the proposed project, as determined by the county. Counties are required to establish standard cost-share rates applicable to animal waste storage facilities, animal waste treatment facilities, and permanent runoff control structures. The rate for cost-share grants may not exceed 70 percent of the total cost of the design and construction of the project. The maximum combined grant from all governmental sources may not exceed $10,000.

Individual cost-share grants shall be used for the engineering design, construction or repair of animal waste treatment or storage facilities or permanent runoff control structures needed to meet water quality objectives. Cost-share grants for permanent runoff control structures may include payments for: (1) Diversions, gutters, downspouts, collection basins, filter strips, waterways, outlet structures, conduits, and land shaping needed to manage runoff from the animal feeding operation; (2) permanent fencing needed to protect the structures; and (3) measures needed to establish perennial grasses including fertilizer, mineral and mulch materials.

The authorizing legislation, regulations, and operating procedures for the Wisconsin Farmers Fund Program of the state of Wisconsin which creates the Wisconsin Animal Water Pollution Grant Program have been carefully examined using the criteria set forth in 7 CFR Part 14. The Department has concluded that the payments made under this cost-share program are made to provide financial assistance to eligible persons in carrying out soil and water conservation measures and protecting or restoring the environment.

A "Record of Decision-Wisconsin Farmers Fund Program which creates the Wisconsin Animal Water Pollution Grant Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS. Requests may be sent to the address listed above.

Determination

Therefore, it is hereby determined in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended, and 7 CFR Part 14, that all cost-share payments made after February 1, 1985, for conservation practices under the Wisconsin Animal Waste Water Pollution Grant Program (Wis. Stat. Ann. §§ 92.15, 92.16) are for soil and water conservation and protecting or restoring the environment.

Signed at Washington, DC, on August 21, 1986.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 86-19282 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Pacific Crest National Scenic Trail Advisory Council Southern California Sub-Committee; Meeting

The Southern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 9:30 a.m. on October 23, 1986 at the Angeles National Forest Headquarters, 701 North Santa Anita, Arcadia, California.

The subcommittee will discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the Southern California portion of the Pacific Crest Trail. Specifically, it will discuss the remaining rights-of-ways needed to be acquired and Forest land and resource management plans.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Assistant Regional Forester for Recreation, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California, (415) 556-6983.

Dated: August 18, 1986.

Zane G. Smith, Jr.,

Chairman.

[FR Doc. 86-19211 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 12:00 noon and adjourn at 3:00 p.m. on September 16, 1986 at the Sheraton Riverfront, Seaboard Room, 200 Coosa Street, Montgomery, Alabama. The purpose of the meeting is to release the SAC report, *Police/Community Relations in Montgomery, Alabama.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Commitee Chairperson, Rodney Max or Bobby Doctor, Director of the Southern Regional Office at (404)221-4391, (TDD 404/221-4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at lease five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19279 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:30 p.m. on September 16, 1986 at the State Office of Education Building, 250 East 500 South, Salt Lake City, Utah. The purpose of the meeting is to review and approve a briefing memorandum on pay equity for men and women in Utah.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Wilfred Bocage or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-211, (TDD (303) 844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at

least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19280 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on September 13, 1986 at the Holiday Inn, 300 West "F" Street, Casper, Wyoming. The purpose of the meeting is to review and approve a briefing memorandum on current civil rights issues in Wyoming.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald Tolin or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2211, (TDD (303) 844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19281 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: Bureau of the Census
TITLE: Survey of Pollution Abatement Cost and Expenditures
FORM NUMBER: Agency—MA-200; OMB-0607-0176
TYPE OF REQUEST: Revision of a currently approved collection
BURDEN: 20,800 respondents; 35,000 reporting hours
NEEDS AND USERS: This survey is the only source of comprehensive data on pollution abatement capital expenditures, operating costs and cost recovered and used to determine what effect pollution spending has on U.S. economy, to forecast growth, to measure productivity determinants and assist in the calculation of the gross national product.
AFFECTED PUBLIC: Businesses or other for-profit institutions
FREQUENCY: Annually
RESPONDENT'S OBLIGATION: Mandatory
OMB DESK OFFICER: Timothy Sprehe 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1986.

Linda Engelmeier,

Acting Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-19250 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44U.S.C. Chapter 35).

AGENCY: Bureau of the Census
TITLE: 1987 New York City Housing and Vacancy Survey
FORM NUMBER: Agency—H-100, H-100(L), H-108, H-100A OMB—NA
TYPE OF REQUEST: New collection
BURDEN: 19,800 respondents; 4,650 reporting hours
NEEDS AND USES: This survey is being conducted for the City of New York to determine the vacancy rate of rental housing units and to measure the quality of housing in the city.
AFFECTED PUBLIC: Individuals or households
FREQUENCY: One time
RESPONDENT'S OBLIGATION: Voluntary
OMB DESK OFFICER: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michaels, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1986.

Linda Engelmeier,

Acting Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-19251 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-201-012]

Carbon Black From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 18, 1986, the Department of Commerce published the preliminary results of its administrative review of the contervailing duty order on carbon black from Mexico. The review covers the period April 8, 1983 through September 30, 1983 and eleven programs.

We gave interested parties an opportunity to comment on the preliminary results. After review of the comments received, the Department has determined the total bounty or grant during the period of review to be 3.18 percent *ad valorem*.

EFFECTIVE DATE: August 26, 1986.

FOR FURTHER INFORMATION CONTACT: David Layton or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 29564) a countervailing duty order on

carbon black from Mexico. We began this review under our old regulations. On September 18, 1985, after the promulgation of our new regulations, the petitioner, the Cabot Corporation, requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of this order. We published the new initiation on November 27, 1985 (50 FR 48825) and the preliminary results of the review on April 18, 1986 (51 FR 13269). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican carbon black. Such merchandise is currently classifiable under item 473.0400 of the Tariff Schedules of the United States Annotated. The review covers the period April 8, 1983 through September 30, 1983 and eleven programs: (1) FOMEX; (2) FONEI; (3) CEPROFI; (4) NDP preferential discounts; (5) preferential pricing of natural gas and carbon black feedstock; (6) accelerated and immediate depreciation allowances; (7) state tax incentives; (8) Article 94 of the Banking Law; (9) FOGAIN; (10) import duty reductions and exemptions; and (11) CEDI.

In the preliminary results of this review, we inadvertently excluded the benefits resulting from three FOMEX export loans received during the period of review. After including the benefits arising from those loans, we determine that the total FOMEX benefit for the period of review is 0.52 percent *ad valorem*.

Additionally, as described in our response to Comment 7, we now find a benefit from preferentially-priced carbon black feedstock ("CBFS") of 1.90 percent *ad valorem*. We continue to maintain that no. 6 fuel oil is a generally-available similar or related product to CBFS. Moreover, we have continued to measure the benefit conferred on Mexican carbon black producers by constructing a benchmark price for CBFS in Mexico through reference to the differences in the cost of producing those related products. We have used the difference between U.S. Gulf Coast prices as the best information available in establishing our benchmark price for CBFS in Mexico. The differences in prices between no. 6 fuel oil and CBFS serve as a surrogate for differences in the costs of producing those two products. We have not used the U.S. price of CBFS as the measure of what the price of CBFS should be in Mexico.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results. At the request of the Cabot Corporation, we held a public hearing on June 12, 1986.

We are in the process of reviewing all comments on the Preferentiality Appendix attached to our preliminary results. We will withhold our responses to any comment relating to that appendix in this review pending completion of our overall analysis of the comments on the appendix.

Comment 1. The exporters, Hules Mexicanos, S.A., and Negromex, S.A., contend that sales of CBFS by PEMEX do not constitute the provision of goods or services, by government action or rquirement to a specific enterprise or industry. Those CBFS sales, therefore, are not countervailable under the general availability (specificity) doctrine. The exporters define general availability as follows: "*No countervailable subsidy exists if a directly or indirectly provided government benefit is available on equal terms to all within its jurisdiction who may wish to avail themselves of it.*" Accordingly, they conclude that the Department's position, that ". . . there are too few users of CBFS for us to find that it is provided on a generally-available basis . . . ." is erroneous.

The exporters argue that there is no evidence that feedstock used as CBFS in Mexico is a special product manufactured and processed to meet the rquirements of a specific industry. There are, in fact, a number of potential users of CBFS besides producers of carbon black, including producers of needle coke for the electrode industry, creosote for wood preservation, and petroleum pitch for the aluminum industry. It is only because of the poor quality of Mexican CBFS (associated with the infant stage of the industry) that Mexican CBFS is currently limited to one commercial use. The only limitations on the sale of CBFS in Mexico are due to the inherent nature of the product and the level of technological development rather than any deliberate government action or policy by the Mexican government to limit the availability of CBFS to carbon black producers. There is, therefore, no basis for the Department to create any exception to its established doctrine of general availability.

Cabot, on the other hand, argues that: (1) The Court of International Trade has held that the Department's general availability test is contrary to law; and (2) even if that were not the case, the Department under its own standards must determine that a benefit is generally available in fact as well as in name.

Department's Position. We believe that the test is not contrary to law but agree with Cabot that, in applying the specificity test for domestic subsidies, we must be concerned with both nominal and *de facto* availability. Although CBFS is theoretically available to all industries in Mexico, there is in fact only one industrial use at present and only two actual users. Therefore, we reaffirm our position in the preliminary results that there are too few users of CBFS for us to find that it is provided on a generally-available basis.

Comment 2. Cabot contends that the Department incorrectly applied its proposed methodology in the preliminary results by selecting no. 6 fuel oil as a similar or related product to CBFS. According to Cabot, no. 6 fuel oil is chemically different from CBFS; it has a wholly different purpose; and it is produced in an entirely different manner. There may be a general price correlation between the two products insofar as they are both derived from crude oil, but there is no reason to believe that prices for the two products are related in any direct way. Furthermore, the demand for no. 6 fuel oil, used by utility companies and cement makers, is unaffected by the price of CBFS. By the same token, the demand for CBFS is unaffected by the price of no. 6 fuel oil. Therefore, according to Cabot, there is no real relationship between these products and, consequently, no justification for selecting no. 6 fuel oil, and not another petroleum product, as a similar or related product to CBFS.

Department's Position. We disagree. We continue to maintain, for the reasons set forth in our preliminary results, that no. 6 fuel oil is a similar or related product to CBFS. The differences in chemical composition and the ultimate use of CBFS and no. 6 fuel oil do not prohibit us from comparing these products. We have measured preference by comparing prices, and it is well accepted in the petroleum industry that the price of no. 6 fuel oil is directly related to the price of CBFS.

Comment 3. Cabot does not believe that the Department's methodology, used in the preliminary results for determining if CBFS is preferentially priced, accurately reflects the amount of the subsidy. If the Department employes the same method in its final results, it should compare the Mexican prices of a number of related petrochemical and refined products to those in a free market and, from this information,

calculate a weighted-average ratio of prices. If the price of any particular Mexican product falls much below the ratio in the free market, there is an indication that the Mexican government priced that product in a preferential manner. Cabot, having undertaken such an analysis, states that it is clear that the Mexican domestic prices for CBFS and no. 6 fuel oil are very much lower, in relative terms, than prices in the Mexican market for almost all other similar or related petroleum products. The prices of both no. 6 fuel oil and CBFS, therefore, are set at artificially low levels by the Mexican government. This indicates that no. 6 fuel oil is not the proper benchmark since its price is out of line with other petrochemical and refined products.

Department's Position. We disagree. We find Cabot's proffered choice of products inappropriate for use in comparing price ratios. The petitioner's selections are heavily weighted toward petrochemical products, *i.e.*, products involving more advanced stages of petroleum product processing than no. 6 fuel oil and CBFS. The cost factors and pricing considerations for Cabot's selected list of petrochemical products are quite different from those of the basic refinery products at issues in this review. We have applied the petitioner's test to a more appropriate group of products, other industrial fuels, and found that the prices of no. 6 fuel oil is in line with the prices of those other industrial fuels.

Comment 4. Cabot contends that, under the Department's current methodology, the most appropriate similar product for price comparison with CBFS is crude oil, since crude oil is the raw material that eventually results in CBFS.

Department's Position. Since PEMEX does not sell crude oil in the Mexican market, we have no basis for making this comparison.

Comment 5. The exporters argue that the Department's methodology for determining the extent to which CBFS is provided at a preferential price is incorrect insofar as it uses external cross-border price comparisons. Such an approach is contrary both to the fundamental intent of U.S. law and the GATT. Thus, the Department erred in comparing the difference in prices between CBFS and no. 6 fuel oil in the U.S. market with the difference in prices between the same two products in Mexico. Such a methodology could potentially harm Mexican carbon black producers if price differences in the U.S. market between the two products should change during future reviews, a development over which the Mexican government could have absolutely no control. Activities beyond the control of the Mexican government are not countervailable.

Department's Position. We did not use cross-border price comparisons to determine whether CBFS is preferentially priced not did we use the U.S. Gulf Coast price of no. 6 fuel oil or CBFS as a benchmark of what CBFS should sell for in Mexico. Rather, we compared the price differential between two Mexican products with the price differential between two U.S. products on the grounds that the price differential in a non-controlled market is a reasonable estimate of the difference in the cost of producing those two products in Mexico.

We have continued to rely on the comparison of price relationships in the Mexican market and a non-controlled market as the best information available in estimating a benchmark price for CBFS in Mexico.

Comment 6. The exporters contend that the Department's cross-border comparisons necessitate the conclusion that the purpose or intent of the countervailing duty law is to correct for differences between prices in different markets, regardless of the reasons for their existence. According to the exporters, the purpose however of the countervailing duty law is not to equalize world prices or to countervail against the natural comparative advantage that certain producers in certain countries may enjoy vis-a-vis their competitors in other countries. The purpose of the countervailing duty law is to offset the effects in the United States of unfair benefits bestowed by a foreign government upon certain segments of its economy at the expense or exclusion of other segments.

Department's Position. As explained in the response to Comment 5, we have not made a cross-border comparison. We have made an adjustment to reflect the differences in cost between two related products.

Comment 7. Cabot contends that the Department erred by using the average price differentials between Mexican and U.S. Gulf Coast prices for the complete review period instead of comparing the differentials on a quarterly basis. At certain times during the review period, the Mexican differential was substantially lower than the U.S. Gulf Coast differential, indicating that a subsidy existed. That the Mexican differental may have been higher than the U.S. Gulf Coast differential at others times during the review period is irrelevant because such a comparison merely indicates that no subsidy existed at those particular times. By comparing the average differentials for the review period, the Department is in effect offsetting the subsidies that exist in part of the review period with the absence of subsidies in another part of the review period. Such an allowance is clearly contrary to law and contrary to the definition of the term "offset" provided in section 771(6)(C) of the Tariff Act. As support for this argument, the petitioner points to the Department's policy regarding preferential financing. The Department does not offset preferential loans with other loans obtained at or above the commercial benchmark rate. Rather, it ignores such loans and merely countervails the preferential ones.

Department's Position. We agree. We have now compared the quarterly differentials between the two products in Mexico against the average benchmark differential for the review period. Based on this comparison, we have found a preferential price for CBFS in one quarter of the review period. We have prorated the benefit from that quarter over the review period and now find a benefit of 1.90 percent *ad valorem* due to the pricing of CBFS.

Comment 8. Cabot contends that there is no evidence in the Department's verification report that the Department tried to determine if the exporters received any Article 94 loans during the period of review.

Department's Position. The Department investigated the Article 94 loan program during each step of this administrative review. We requested information in our questionnaire regarding each company's use of Article 94 loans, and we verified the Mexican response to our questionnaire regarding this program at both the government and company levels.

Article 94 loans are short-term loans. We examined the short-term loans outstanding for each firm during the period of review. We found that the only short-term government loans outstanding for either company during the period of review were FOMEX loans, a FONEP loan, and a one-year FONEI bridge-loan. As we stated in our verification report, we found no evidence to indicate the use of other short-term government loan programs by either company during the period of review, *i.e.*, we looked for Article 94 loans and found none.

Comment 9. Cabot contends that the Department's policy and the countervailing duty law require a comparison of effective commercial interest rates to effective FOMEX preferential rates in order to determine accurately the amount of the FOMEX subsidy bestowed on Mexican

VOL 51 ISS 165 AG 26 1986 UMI

producers of carbon black. In the preliminary results, the Department stated that it used nominal rather than effective commercial rates because of the lack of information on effective FOMEX interest rates in this case. Cabot argues that the Department is required to investigate the actual terms under which preferential financing is provided to a foreign producer. Otherwise, it cannot fulfill its statutory duty to calculate and countervail the full amount of the subsidy.

The Mexican exporters argue that Cabot's comments regarding FOMEX loans are not relevant to the facts of this case because the Department only looks at effective commercial interest rates for pre-export FOMEX loans, which are peso-denominated, and neither exporter used pre-export FOMEX loans during the review period.

Department's Position. We agree with Cabot that a comparison of effective preferential interest rates to effective commercial interest rates is the most appropriate measure of the benefit from preferential financing programs. The Department has investigated in other Mexican cases the actual terms under which the Mexican government provides both peso-denominated and dollar-denominated preferential financing. However, the information we have collected is insufficient to determine the effective cost of either commercial or preferential loans. Because it appears at this time that certain financial charges that we have found on commercial loans are just as likely to be levied on government preferential loans, thereby nullifying any difference between the effective rates, we do not now believe that the best information available is the assumption of high effective rates for commercial loans and low effective rates for preferential loans. Rather, we believe that, in the absence of more conclusive information on effective interest rates, the best information is a comparison of nominal interest rates.

Final Results of the Review

After consideration of the comments received, we determine the total bounty or grant during the period of review to be 3.18 percent *ad valorem*.

The Department will instruct the Customs Service to assess countervailing duties of 3.18 percent of the f.o.b. invoice price on all shipments of Mexican carbon black exported on or after April 8, 1983 and on or before September 30, 1983.

Due to the increase in the FOMEX interest rate described in the preliminary results, the total estimated bounty or grant for future entries is 3.08 percent *ad valorem*. Therefore, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.08 percent of the f.o.b. invoice price on all shipments of Mexican carbon black entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: August 20, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-19270 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

SUMMARY: The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on January 10, 1986 in accordance with the Export Administration Act.

Time and Place:

September 16, 1986, 9:30 a.m., the Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Introduction of public attendees.
3. Introduction of invited guests.
4. Goals of Sub-Committees: Technical Regulations, Foreign Availability, Policy & Procedures.
5. Status of Foreign Availability Submissions.
6. Public Rule-Making.
7. ECCN 1565: Plotters–Review of the language. Recommendations from our TAC regarding "accuracy" parameters.
8. Section 379: Tech Data–What do we want to control and how?
9. 1" Video Tape and Video Recorders–Parameters for Decontrol.
10. Discussion: The Future Direction of Video Recording and the Development of International Standards.
11. Tutorial Presentation: Coated Magnetic Material (Webs, Cookies, Donuts, Pancakes) and Suitability of Export Control.
12. New Business.

Executive Session

13. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meetings or portions of meetings of the committee to the public on January 10, 1986, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes call 202–377–2583.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 19248 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Numbers 1617-01, 1618-01]

Export Privileges; Datalec, Ltd., Bryan V. Williamson, Respondents

Order

On May 15, 1986, the Administrative Law Judge entered an Order in the above matter, which was referred to me pursuant to section 13(c) of the Export Administration Act of 1979, 50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Act Amendments of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.8(a) for final action.

On June 16, 1986, I affirmed the Order of the Administrative Law Judge, but concurrently remanded for additional review the determination of whether Mr. Martin Coyle should be included as a related person. By Order of July 30, 1986, the Administrative Law Judge modified his May 15 Order deleting therefrom all reference to said Martin Coyle. I affirm that Order of the Administrative Law

Judge. This constitutes the final agency action in the case.

Dated: August 18, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-19240 Filed 8-25-86; 8:45am]

BILLING CODE 3510-01-M

Medical Research Foundation of Oregon, Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-140. Applicant: Medical Research Foundation of Oregon, Beaverton, OR 97006. Instrument: Schleimpflug Camera with ultraviolet attachments. Manufacturer: Topcon Deutschland GmbH, West Germany. Intended Use: See notice at 51 FR 9500.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures fluorescence and opacity of a human lens using slit-image photography and densitometric image analysis. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19271 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-146. Applicant: National Bureau of Standards, Gaithersburg, MD 20899. Instrument: Mass Spectrometer System, Model 261 and Accessories. Manufacturer: Finnigan-MAT, West Germany. Intended Use: See Notice at 51 FR 10647.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) A guaranteed external precision of 0.002% for strontium isotope analysis and 0.03% for uranium; and (2) Simultaneous and independent calibration of seven collectors accurate to 2 parts in 100,000. These capabilities are pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19272 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

The Solomon R. Guggenheim Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M.. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-201. Applicant: The Solomon R. Guggenheim Foundation, New York, NY 10279. Instrument: Light Microscope with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 19242.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high numerical aperture, planapochromatic lens for maximum resolution, polarizing filters, quartz-wedge compensation, upright mechanical state, 100 W multipurpose illuminator and attachments for photographic equipment. The National Bureau of Standards advises in its memorandum dated July 24, 1986 that (1) these features are pertient to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19273 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

SUNY, Optometric Center of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-137. Applicant: SUNY, Optometric Center of New York, New York, NY 10010. Instrument: CRT Display Unit and GRSYS-2 Microprocessor Grating Generator with special interface hardware. Manufacturer: Joyce Electronics Ltd., United Kingdom. Intended use: See notice at 51 FR 9500.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high luminance (mean of 500 candelas per square meter) and raster rotation through 360 degrees. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19274 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held September 17, 1986, 9:00 a.m. Herbert C. Hoover Building, Room B-841, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda:

1. Opening remarks by the Chairperson.
2. Review and approval of the minutes of July 22, 1986, meeting.
3. Presentation of papers or comments by the public.
4. Discussion and recommendations for key telephone systems related to ECCN 1567.
5. Report on the discussion at the Electronic Instrumentation Technical Advisory Committee meeting of August 11, 1986, on ECCN 1531.
6. Discussion and recommendations on Motorola's proposal for modifications to ECCN 1531.
7. Discussion and recommendations for changes to ECCN 1528 related to fiber optic cable sales to the People's Republic of China.
8. Subcommittee concerns and reports.

Executive Session

9. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-19276 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committe will be held September 18, 1986, 9:00 a.m. Herbert C. Hoover Building, Room B-841, 14th Street and Constitution Avenue NW., Washington, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technololgy & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda:

1. Opening remarks by the Chairperson.
2. Presentation of papers or comments by the public.
3. Industry recommendations for revisions to ECCN 1567. The objectives of these revisions is to provide more precise definition of terms, more precise wording to eliminate ambiguities as to the commodities described, and to eliminate overlaps with other ECCN's.

Specific recommendations on these issues and on the procedure for revision are requested.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Comitttee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for pubic inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86-19277 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification; Susan H. Shane

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 397 issued to Ms. Susan H. Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, on December 16, 1982 (47 FR 57083) as modified July 19, 1985 (50 CFR 29467) is further modified as follows:

Section B.5 is modified by substituting the following:

5. "This Permit is valid with respect to the authorized taking until December 31, 1987."

This modification became effective August 19, 1986.

The permit as modified and documentation pertaining to the modification are available for review in the following offices:

Protected Species Division, National Marine Fisheries Service, 1825 Connecticut Avenue, Room 805, NW., Washington, DC and;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-19289 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations with the Government of India on Category 642

August 21, 1986.

On July 31, 1986, the Government of the United States requested consultations with the Government of India with respect to Category 642 (women's, girls' and infants' skirts and culottes of man-made fibers). This request was made on the basis of the bilateral agreement of December 21, 1982, as amended, between the Governments of the Untied States and India relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United States has decided to control imports during the ninety-day consultation period which began on July 31, 1986 and extends through October 28, 1986 at a level of 49,314 dozen. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may establish a prorated specific limit on 71,336 dozen for Category 642 for the entry and withdrawal from warehouse for consumption of textile products, produced or manufactured in India and exported during the period beginning on October 29, 1986 and extending through December 31, 1986.

In the letter published below, the chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit imports of man-made fiber textile products in Category 642, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1986 and extends through October 28, 1986 in excess of the established limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 642 under the agreement with India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the categoy, is invited to submit such comments or information in ten copies to Mr. William H., Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20203. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Category 642—Man-Made Fiber Skirts

India

July 1986.

Summary and Conclusions

U.S. imports of Category 642 from India were 157 thousand dozen during year-ending May 1986, a 75 percent increase over the year-ending May 1985 level. India is the fourth largest supplier of Category 642 accounting for 7 percent of total imports during the latest twelve month period. During the first five months of 1986, U.S. imports of Category 642 from India totaled 84 thousand dozen compared to 32 thousand dozen a year earlier.

The sharp and substantial increase of low-valued Category 642 imports from India is disrupting the U.S. market for man-made fiber skirts.

U.S. Production and Market Share

U.S. production of man-made fiber skirts declined by 10 percent in 1983 from 6.9 million dozen in 1982 to 6.2 million dozen in 1983. This downward trend continued into 1984 as production dropped an additional 4 percent to 6.0 million dozen. Production data for 1985 are not currently available, however, industry sources estimate another decline in 1985. The U.S. producers' share of the man-made fiber skirt market fell from 92 percent in 1982 to 82 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 642 increased 121 percent between 1982 and 1984, rising from 592 thousand dozen to 1.3 million dozen. Imports continued to grow in 1985, rising 17 percent to 1.5 million dozen. During the first five months of 1986, Category 642 imports totaled 1.2 million dozen compared with 537 thousand dozen in 1985, a 114 percent increase. The import to production ratio rose from 9 percent in 1982 to 22 percent in 1984.

Domestic vs Import Values

Approximately 73 percent of Category 642 imports from India during the first five months of 1986 entered under TSUSA No. 384.9445—women's man-made fiber skirts, not knit, not ornamented. These garments entered at landed, duty-paid values below U.S. producers' prices for comparable skirts.

August 21, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC, 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile

Agreement of December 21, 1982, as amended and extended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 27, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 642, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1986 and extends through October 28, 1986, in excess of 49,314 dozen.[1]

Textile products in Category 642 which have been exported to the United States prior to July 31, 1986 shall not be subject to the ninety-day limit established in this directive.

Textile products in Category 642 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19275 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after July 30, 1986.

COMMODITY FUTURES TRADING COMMISSION

Contract Market Proposals; New York Futures Exchange; Russell 3,000 Index, Russell 2,000 Index, Russell 1,000 Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The New York Futures Exchange ("NYFE") has applied for designation as contract markets in the Russell 3,000 Index, Russell 2,000 Index, and Russell 1,000 Index. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the NYFE Russell 3,000 Index, Russell 2,000 Index, and Russell 1,000 Index futures contracts.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission 2033 K Street NW., Washington, DC 20581, (202) 254-7227.

Copies of the terms and conditions of the proposed NYFE futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYFE in support of the applications for contract market designations may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the NYFE in support of their applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by October 27, 1986.

Issued in Washington, DC on August 21, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-19252 Filed 8-25-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 15, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Airbase Performance will meet at Headquarters, Ninth Air Force, Shaw AFB SC, and at various airbases in the European Theater during the period September 12-21.

The purpose of these meetings is to receive briefings on and to observe factors affecting airbase development, performance, and survivability, threats to airbases, basing posture, and logistics resupply to deployed forces.

These meetings will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-19189 Filed 8-25-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday and Thursday, September 17-18, 1986.

Times of Meeting: 0800-1700 hours.

Places: U.S. Army Research and Development Center, Dover, New Jersey.

AGENDA: The Army Science Board AHSG on the U.S. Army Research and Development Center Effectiveness Review will meet for information briefings and a kickoff session. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any

portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19235 Filed 8–25–86; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 17–25 September 1986.

Times of Meeting: 0800–1700 hours.

Places: Alaska.

AGENDA: An Army Science Board Ad Hoc Subgroup will travel to Alaska to review/study technology initiatives. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19234 Filed 8–25–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Privacy Act of 1974; New Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new record system subject to the Privacy Act.

SUMMARY: The Department of the Navy is adding a new record system to its existing inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice on or before September 25, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000, telephone: 202–697–1459, autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc 86–8485 (51 FR 12908) April 16, 1986
FR Doc 86–10763 (51 FR 16086) May 16, 1986 (Compilation)
FR Doc 86–12448 (51 FR 19884) June 3, 1986.

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on July 29, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Linda M. Lawson,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

NO4385–2

SYSTEM NAME:

Hotline Program Case Files.

SYSTEM LOCATION:

Department of the Navy shore activities. The official mailing addresses are in the Navy's Address Directory in the appendix to the Navy Department's systems notices appearing in the **Federal Register.**

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing hotline complaints. Also individuals alleged or suspected of administrative misconduct, including, but not limited to, fraud, waste, or inefficiency.

CATEGORIES OF RECORDS IN THE SYSTEM:

All records resulting from an inquiry into a hotline complaint such as the name of the examining officials assigned to the case, the hotline control number, date of complaint, date investigation completed, the allegations, whether or not the case was referred to Naval Security and Investigative Command, the investigators' findings, disposition of the case, and background information regarding the investigation itself such as the scope of the investigation, relevant facts discovered, information obtained from witnesses, and specific source documents reviewed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 6011, 10 U.S.C. 987, and implementing instructions.

PURPOSE(S):

For the Commanding Officer and/or his designated auditors, inspectors, or investigators to conduct and coordinate official hotline investigations. To compile statistical information to disseminate to other components within the Department of Defense engaged in the Hotline Program. To provide prompt, responsive and impartial actions and improve efficiency in investigating hotline complaints. To provide management with a source to identify potential problems and weaknesses. To provide a record of complaint disposition. Hotline complaints appearing to involve major criminal wrongdoing will be referred immediately to the Naval Security and Investigative Command.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICE FOR STORING, RETRIEVING/ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, log books, magnetic tapes/disks.

RETRIEVABILITY:

By hotline case number, complainant, subject of the complaint and individual accused.

SAFEGUARDS:

Access is limited to local hotline staff, and, as delegated by the Commanding Officer or Officer-in-Charge, and the Executive Officer, on a need-to-know basis. Paper records are stored in locked cabinets. Automated records may be controlled by limiting physical access to CRT data entry terminals or use of passwords. Access to central computer mainframe, other peripheral equipment and tape and disc storage is strictly controlled. Work areas are sight-controlled during normal working hours. Building access is controlled and doors are locked during non-duty hours.

RETENTION AND DISPOSAL:

Files are maintained at the local command for a minimum of two years after final action is taken. Thereafter, files are stored with the nearest Federal Records Center. Electronic data are erased, over-printed or destroyed, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Sea Systems Command, Washington, DC 20362–5101.

NOTIFICATION PROCEDURE:

Written requests may be addressed to the appropriate Naval activity concerned (official mailing addresses are listed in the Navy's Address Directory in the appendix to the Navy Department's systems notices).

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, investigations, judicial and administrative reports, and complainants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system may be exempt under 5 U.S.C. 552a(k) (1), (2), (5), (6) and (7), as applicable. For additional information, contact the system manager. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553 and has been published in SECNAV INSTRUCTION 5211.5 and the Code of Federal Regulations at 32 CFR Part 701.

[FR Doc. 86-19208 Filed 8-25-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Center for Research in Vocational Education Advisory Committee Meeting

AGENCY: National Center for Research in Vocational Education Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Center for Research in Vocational Education Advisory Committee. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 15, 1986.

ADDRESS: The National Center for Research in Vocational Education, Ohio State University, 1960 Kenny Road, Columbus, Ohio 43210.

FOR FURTHER INFORMATION CONTACT: Dr. Howard F. Hjelm, Director, Office of Vocational and Adult Education, Division of Innovation and Development, 300 7th Street, SW., Rm. 519, Reporters Building, Washington, DC 20202-5516, (202) 732-2350.

SUPPLEMENTARY INFORMATION: The National Center for Research in Vocational Education Advisory Committee is established under section 404 of the Carl D. Perkins Vocational Education Act of 1984 (Pub. L. 98-524). The Committee is established to advise the Secretary and the National Center's Director with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and demonstration projects and activities of the National Center. Meetings held at the request of the Secretary are conducted in accordance with the Federal Advisory Committee Act (FACA).

The meeting of the Committee is governed by FACA and is open to the public on Septebmer 15, 1986 from 1:00 p.m. to 4:00 p.m. the proposed agenda includes:

1:00-1:30—A National Strategy for Vocational Education Program Improvement
1:30-2:15—The National Network of Curriculum Coordination in Vocational and Technical Education
2:15-2:45—The Center on Education and Employment
2:45-3:15—Recompetition of the National Center for Research in Vocational Education
3:15-3:45—Update on the Administration's Fiscal Year 1987 Budget Request
3:45-4:00—Other items

This meeting will be held in conjunction with a regular meeting of the Committee to advise the Center Director.

Records are kept of all Committee proceedings and are available for public inspection in the Program Improvement Systems Branch, 300 7th Street, SW., Rm. 519, Reporters Building, Washington, DC 20202-5516, (202) 732-2367.

Joyce L. Winterton,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc. 86-19190 Filed 8-25-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Toll-Free Telephone Information Service

On June 17 and June 27, 1983, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Energy (DOE), respectively, signed a Procedural Agreement (48 FR 38701, 8-25-83) which outlines the procedures which DOE and NRC will observe in their interactions on the characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425, 96 Stat. 2201).

The Procedural Agreement specifies that schedules for technical meetings between DOE and NRC will be made publicly available by DOE in a timely manner with members of the public invited to attend.

To provide members of the public with timely information pertaining to the time, location, and agenda for all such public meetings, DOE established a toll-free telephone information service. The purpose of this notice is to announce a change in the telephone numbers for this service as follows:

For calls originating in all states (now including Maryland), 800-368-2235.

For calls originating in the District of Columbia, 479-0487.

For additional information about the toll-free telephone information service, contact: Charles Head, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW-24, Washington, DC, 20585.

Issued in Washington, DC August 19, 1986.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 86-19219 Filed 8-25-86; 8:45 am]

BILLING CODE 6459-01-M

Economic Regulatory Administration

[ERA Docket No. 86-47-NG]

Natural Gas Imports, Brymore Gas Marketing, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 1, 1986, of an application from Brymore Gas Marketing, Inc., (BGMI), for blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market or to act as an agent for such sales. Authorization is requested to import up to 200 Bcf of Canadian natural gas for a two-year term beginning on the date of first delivery of the import. BGMI proposes to purchase natural gas from various reliable Canadian suppliers and producer associations and arrange for delivery of the gas to the United States' purchasers or have the purchaser arrange for transportation. BGMI

intends to utilize existing pipeline facilities for the transportation of the volumes imported. BGMI proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 25, 1986.

FOR FURTHER INFORMATION CONTACT:

Chuck Boehl, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6050

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 pm e.s.t., September 25, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of BGMI's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 am and 4:30 pm, Monday through Friday, except holidays.

Issued in Washington, DC, August 19, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19218 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket Nos. 86–39–NG; 86–40–NG]

Enron Gas Marketing, Inc.; Applications To Export and Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of applications for blanket authorization to export and import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 10, 1986, of two applications from Enron Gas Marketing, Inc. (EGM). A joint notice is being issued to avoid confusion and to emphasize the fact that the applications are separate and are not alternatives to each other. Both applications request blanket authorizations to export to Canada on an interruptible, best-efforts basis, 60,000 Mcf per day (120,000 total Mcf/d) of natural gas produced in the State of Montana, and to import, in exchange, an equivalent volume of natural gas from Canada. The exported gas would be supplied by Tricentrol Holdings, Inc. (THI), a Montana producer, and the imported volumes would be sold on a short-term or spot market basis to U.S. purchasers. Under both applications the export point is near Willow Creek, Saskatchewan, and the import point near Emerson, Manitoba.

In ERA Docket No. 86–40–NG the authorization requested is pursuant to a spot market agreement between EGM and THI, and would begin when EGM's affiliate pipeline system, Northern Natural Gas Company (Northern), opens its pipeline for transportation under Federal Energy Regulatory Commission (FERC) Order No. 436 and all regulatory approvals are granted. The authorization would remain in effect until the sale of Northern's Montana pipeline facilities to THI.

In ERA Docket No. 86–39–NG the authorization requested is pursuant to a sales and repurchase agreement between EGM and THI, and would begin when Northern opens its pipeline for transportation under FERC Order No. 436 and all regulatory approvals are granted. In this docket EGM asks that the authorization run until October 31, 1992, or until notice by THI to EGM of termination of the sales and repurchase agreement between them.

The applications are filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments should be filed in the specific docket no later than 4:30 p.m., on September 25, 1986.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–6116

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: EGM has requested expedited treatment of its applications, including dispensing with the procedure of providing an opportunity for additional comments. EGM states that prompt approval will serve the public interest by allowing producers from the State of Montana the opportunity to bring competitively priced domestic natural gas supplies to United States' consumers. No decision will be made on EGM's expedited procedures request until the ERA has reviewed all comments and material received in response to this notice.

The decisions on these applications to import natural gas will be made consistent with the DOE's import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose either or both of these applications should address their responses to the specific docket and should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that these arrangements are competitive. Parties opposing the arrangements bear the burden of overcoming this assertion.

The decisions on the applications to export natural gas will be made consistent with the Secretary of Energy's Delegation Order to the Administrator of the ERA (49 FR 6690, February 22, 1984), under which the domestic need for the gas to be exported is the primary consideration in determining whether it is in the public interest. Parties that may oppose these applications should comment in their responses on the issue of the domestic need for the gas as set forth in the Delegation Order with the knowledge that the applicants intend to import equivalent volumes of any authorized exports.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to either or both proceedings and to have written comments considered as the basis for any decision on the applications must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to either application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed to the specific dockets with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.s.t., September 25, 1986.

The Administrator intends to develop a decisional record on these applications through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, final opinions and orders may be issued based on the official records, including the applications and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

Copies of EGM's applications are available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays.

Issued in Washington, DC, on August 19, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19222 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–45; OFP Case No. 65041–9321–20, 21–24]

Powerplant and Industrial fuel use; O'Brien Energy Systems, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to O'Brien Energy Systems, Inc. (O'Brien) an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted to O'Brien Energy Systems, Inc. (O'Brien) a permanent cogeneration exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). The exemption granted permits the use of oil or natural gas as the primary energy source for its proposed Hartford, Connecticut cogeneration facility.

The facility for which O'Brien is requesting a permanent exemption is to be comprised of two combustion generators having the capability of burning natural gas or #2 oil. The facility will also contain two waste heat recovery boilers and extraction/condensing steam turbines. The steam turbines will accept high pressure steam from the boilers and deliver low pressure steam and/or generate additional electricity. The system will normally operate with two gas turbines running during all on-peak hours and one running during all off-peak hours.

The facility's average output will be 54,630 kw, an equivalent of 440 MM BTU/hr. The facility is expected to operate its two combustion turbine generators at base load for

approximately 4,134 hours per year. The facility's capacity factor is expected to be 95% and its utilization factor will be 70%.

The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on September 25, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–093, Washington, DC 20585, Telephone (202)252–4708

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202)252–6749.

SUPPLEMENTARY INFORMATION:

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including O'Brien's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

3. Prior to operation, all applicable environmental approvals will be secured.

The last certification is required under 10 CFR 503.13(b). In further compliance with that section, O'Brien submitted and certified as accurate the information required by the environmental checklist in § 503.13(b), as amended (51 FR 18866, May 22, 1986).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on June 24, 1986 (50 FR 39755), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on August 8, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental checklist, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined the O'Brien Energy System, Inc. has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to the O'Brien Energy System, Inc., to permit the use of oil or natural gas as the primary energy source for its proposed cogeneration facility.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on August 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19220 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Solid Earth Sciences Panel of the Energy Research Advisory Board

Date and Time: September 15 and 16, 1986—9:00 a.m.–5:00 p.m.

Place: Solar Energy Research Institute (SERI), Conference Room, 1617 Cole Boulevard, Golden, CO 80401, (303) 231–7114

Contact: William L. Woodard, Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 252–5787.

Purpose of the Parent Board. To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel. The purpose of the Panel is to review the research and development programs of the Department of Energy involving the solid earth sciences, including such topics as basic research in continental structure, modeling enhanced oil recovery, and underground migration of chemicals. The Panel will also review the arrangements for coordination between industry, universities, and Federal agencies.

Tentative Agenda:

September 15, 1986

- Preparation of Panel Report
- Research Programs at SERI
- Public Comment (10 minute rule)

Tentative Agenda

September 16, 1986

- Preparation of Panel Report
- Research Programs at SERI
- Public Comment (10 minute rule)

Public Participation. The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes of the Meeting. The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 19, 1986.

Charles Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 86–19221 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

BEST COPY AVAILABLE

Federal Energy Regulatory Commission

[Docket Nos. ER86-645-000 et al.]

Electric Rate and Corporate Regulation Filings; Boston Edison Co. et al.

August 20, 1986.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. ER86-645-000]

Take notice that on August 8, 1986, Boston Edison Company (Boston Edison) of Boston, Massachusetts, tendered for filing proposed rate schedule supplements to 13 of its contracts for the sale of unit power from its Pilgrim No. 1 Nuclear Unit. The purpose of this filing is to implement the recovery of decommissioning charges from the affected purchasers. The affected purchasers, their rate schedule numbers, and the percentage of each purchaser's Pilgrim 1 entitlement are:

Light department	Rate schedule No.	Entitlement (percent)
Boylston	77	.07463
Holyoke	79	.89552
Westfield	81	.22388
Hudson	83	.37313
Littleton	85	.14925
Marblehead	87	.14925
North Attleboro	89	.14925
Peabody	91	.22388
Shrewsbury	93	.37313
Templeton	95	.04478
Wakefield	97	.14925
West Boylston	99	.07463
Middleborough	102	.10448
Total		2.98506

The Company has proposed to implement the charges in two steps with the Step A charge to take effect on October 8, 1986 and the Step B charge on October 9, 1986. The aggregate monthly charge for the 13 purchasers is $12,433 under Step A and $18,168 under Step B. Boston Edison states that it had served copies of the filing upon each of the affected purchasers and the Massachusetts Department of Public Utilities.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Vermont Public Service Corporation

[Docket No. ER86-542-000]

Take notice that on August 12, 1986, Central Vermont Public Service Corporation ("the Company") tendered for filing Exhibit No. 3, part of the original filing concerning increased charges pursuant to Central Vermont Public Service Corporation Rate Schedule FERC No. 121.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Interstate Power Company

[Docket No. ER86-654-000]

Take notice that on August 13, 1986, Interstate Power Company (the Company) tendered for filing a set of revised exhibits to the Agreement for Intergrated Transmission Area between Central Iowa Power Cooperative and Interstate Power Company (FERC No. 125, Supplements 6, 13, 14 and 15).

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Power & Light Company, assumed business name of PacificCorp

[Docket No. ER86-652-000]

Take Notice that on August 11, 1986 Pacific Power & Light Company (Pacific), an assumed business name of PacificCorp, tendered for filing, in accordance with section 35 of the Commission's Regulations, the following:

(1) Wholesale Power Purchase Agreement dated June 16, 1986, between Pacific and Montana-Dakota Utilities Company (Montana-Dakota), superseding a prior agreement designated as Service Agreement No. 2 to Pacific's FERC Electric Tariff, Original Volume No. 4 (Tariff);

(2) Notice of Cancellation of Service Agreement No. 3 of the Tariff, which, Pacific states, will be terminated as a result of notice from the Town of Torrington; and

(3) Third Revised Sheet Nos. 5, 6, 8 and 9 superseding Second Revised Sheets 5, 6, 8 and 9 respectively, of the Tariff.

Pacific requests waiver of Commission's notice requirements to permit the Montana-Dakota agreement to become effective on August 23, 1986, and the termination of Service Agreement No. 3 (Town of Torrington) on August 25, 1986, which Pacific claims are the dates of commencement and termination of service, respectively.

Copies of the filing were served upon all parties hereto and the Wyoming Public Service Commission.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Sierra Pacific Power Company

[Docket No. ER86-655-000]

Take notice that on August 13, 1986, Sierra Pacific Power Company ("Sierra") tendered for filing a "Transmission Services Agreement" between Sierra and Beowawe Geothermal Power Company ("Beowawe") executed August 6, 1986. This agreement provides for electric power transportation service to be rendered by Sierra to Beowawe.

Sierra states that it does not presently render any jurisdictional electric power service to Beowawe and therefore that the Agreement constitutes an initial rate schedule pursuant to § 35.12 of the Commission's regulations.

Sierra proposes an effective date of August 6, 1986 for its wheeling obligations under the Agreement.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19187 Filed 8-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP86-36-000 GP86-37-000]

Chevron U.S.A. Inc.; Petition to Reopen and Vacate Final Well Category Determination and Withdraw Application for Determination

August 21, 1986.

On July 17, 1986, Chevron U.S.A. Inc. (Chevron) as a successor to Gulf Oil Corporation and Warren Petroleum Company, filed with the Federal Energy Regulatory Commission, pursuant to section 275.205 of the Commission's regulations, a petition to reopen and vacate final well category determinations made for the J.B. Tubb (Tr. A) No. 29, J.B. Tubb (Tr. B) No. 15, J.B. Tubb "B" (Tr. B) No. 43, J.V. Terrill "A" No. 11, Sand Hills Field, Crane County, Texas. Chevron requests that the Commission grant its petition to reopen the well category determination proceedings as to the above mentioned

wells, vacate their designations as NGPA section 108 stripper wells, and permit Chevron to withdraw the underlying applications.

On July 12, 1984, Chevron filed a well category determination application before the Texas Railroad Commission (Texas) seeking a determination that the J.B. Tubb (Tr. A) No. 29, J.B. Tubb (Tr. B) No. 43 and J.V. Terrill No. 11 wells qualified for stripper well status. These filings were followed on July 16, 1984, by a request by Chevron to grant stripper well status to the J.B. Tubb (Tr. B) No. 15 well. Subsequently, Texas determined that the wells qualified for stripper well status. The well determinations became final forty-five days after the Commission received notice of Texas' action.

Chevron states that the subject wells all produced in excess of the 60 Mcf per day during the 90-day qualifying period necessary for a well to be classified as a stripper well. Chevron discovered that the applications for the three J.B. Tubb wells under Docket No. GP86–36–000 were filed based on gas production from one producing zone instead of total well production. The discovery of the excess production for the J.V. Terrill well covered by GP86–37–000 was made during an internal audit by Warren Petroleum Company.

Chevron had filed refund reports and statements of concurrence from El Paso Natural Gas Company, which purchases gas from the four wells. El Paso acknowledges that it received appropriate refunds of principle and interest due resulting from Chevron's requested withdrawal of the applications and reopening and vacating of the section 108 determination.

Any person desiring to be heard or to make any protest to Chevron's petition, should file, within 30 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rules 214 or 211 of the Commission's Rules of Practice and Procedure. Filings should be made with the Federal Energy Regultory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19253 Filed 8–25–86; 8:45am]

BILLING CODE 6717–01–M

[Docket Nos. CI75–547–000, CI86–565–000]

Forest Oil Corp.; Amendment of Application for Abandonment of Service; Withdrawal of Application for Blanket Certificate of Public Convenience and Necessity, and Pre-Granted Abandonment; and Request for Expedited Consideration.

August 21, 1986

Take notice that on August 18, 1986, Forest Oil Corporation ("Applicant" or "Forest"), 1500 Colorado National Building, 950 Seventeenth Street, Denver, Colorado, 80202 filed in the captioned proceeding an amendment to Applicant's Application for abandonment of service authority filed in Docket No. CI75–547–000 withdrawing Applicant's request for limited-term authorization of abandonment and requesting permanent abandonment of said service; and a withdrawal of Applicant's application in Docket No. CI86–565–000 for a limited-term blanket certificate authorization to make sales for resale in interstate commerce with pre-granted authorization to abandon such sales, all as more fully set forth in the filing, which is on file with the Commission and open to public inspection.

Applicant states that it is amending its original application in response to Columbia Gas Transmission Corporation's (Columbia) request that the Commission deny Applicant's request for a limited-term blanket certificate authorization to make sales for resale in interstate commerce and blanket pre-granted abandonment of such sales. Applicant's filing withdraws those requests.

Applicant further states that it is amending its original application in response to Columbia's objection to Applicant's request for limited-term abandonment instead of permanent abandonment of the service authorized in Docket No. CI75–547–000. Applicant's filing requests amendment of its original application to request permanent abandonment of this service.

Applicant requests expedited consideration of its application pursuant to Docket No. RM85–1 and Section 2.77 and Rules 801 and 802 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19254 Filed 8–25–86; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $27,571 (plus accrued interest) obtained as a result of a Consent Order which the DOE entered into with Arkansas Valley Petroleum of Tulsa, Oklahoma (Case No. HEF–0029). The fund will be available to customers who purchased motor gasoline from Arkansas Vallye during the consent order period.

DATE AND ADDRESS: Applications for refund of a portion of the consent order must be filed no later than November 24, 1986 and should be addressed to: Arkansas Valley Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. HEF–0029.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to a consent order entered into by Arkansas Valley Petroleum (Arkansas Valley) of Tulsa, Oklahoma

which settled possible pricing and allocation violations with respect to the firm's sales of motor gasoline during the period March 1, 1979 through October 31, 1979. Under the terms of the consent order, $27,571 has been remitted by Arkansas Valley and is being held in an interest-earning escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established refund procedures and solicited comments from interested parties concerning proper disposition of the Arkansas Valley consent order funds. The Proposed Decision and Order discussing the distribution of the funds remitted by the consent order firm was issued on June 2, 1986. 51 FR 21408 (June 12, 1986).

As the Decision indicates, Applications for Refund from the Arkansas Valley consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of the Decision and Order in the **Federal Register**.

Applications will be accepted from customers who purchased motor gasoline from Arkansas Valley during the consent order period. The specific information required in an Application for Refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: August 19, 1986.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Arkansas Valley Petroleum
Date of Filing: October 13, 1983
Case Number: HEF-0029

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Arkansas Valley Petroleum (Arkansas Valley) of Tulsa, Oklahoma.

I. Background

Arkansas Valley is a "reseller-retailer" of "motor gasoline," as these terms were defined in 10 CFR 212.31. An ERA audit of Arkansas Valley's operations during the period March 1, 1979 through October 31, 1979 (the audit period) revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Arkansas Valley and the DOE regarding sales of motor gasoline during the the audit period (hereinafter referred to as the consent order period), the firm entered into a Consent Order with the DOE on September 1, 1981. Under the terms of the Consent Order, the firm agreed to remit $27,571 to the DOE for deposit in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, the Consent Order states that Arkansas Valley does not admit that it committed any such violations.

On June 2, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order fund. 51 FR 21408 (June 12, 1986). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of Arkansas Valley's pricing practices during the consent order period. A copy of the PD&O was published in the **Federal Register** on June 12, 1986, and comments were solicited regarding the proposed refund procedures. We have received no comments regarding those procedures.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the Arkansas Valley consent order fund. We therefore propose to grant the ERA's petition and assume jurisdiciton over distribution of the fund.

III. Refund Procedures

Since we have not received any adverse comments regarding our proposed refund procedures, we have determined that those procedures should be adopted.

The distribution of refunds will take place in two stages. In the first stage, refund monies will be refunded to customers who purchased Arkansas Valley motor gasoline during the consent order period and who demonstrate that they were injured by Arkansas Valley's pricing practices. Such purchasers must file claims and document their purchases in order to be eligible for a portion of the consent order fund.

After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*). However, we will not discuss the second stage refund procedures in this Decision and Order.

A. Showing of Injury

Claimants who resold petroleum products purchased from Arkansas Valley must demonstrate that they did not pass on to their customers the price increases implemented by Arkansas Valley. Accordingly, in order to qualify for a refund, resellers (including retailers) must show that during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, a reseller will be required to show that it had "banks" of unrecovered increased product costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its prices.[1] As

[1] Some of the motor gasoline sales covered by the Consent Order occurred subsequent to the amendment of the retailer price rule that eliminated the bank requirement for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly retailers will not be required to submit bank information concerning any purchases of motor gasoline they made after July 15, 1979.

we noted in the PD&O, however, the maintenance of banks will not, however, automatically establish injury. *See, e.g., Tenneco Oil Co./Chevron U.S.A.* 10 DOE ¶ 85,014 (1982).

The presumptions described below were proposed in the PD&O and are being adopted here to enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available. *See* 10 CFR 205.282(e).

1. Applicants Claiming a Refund of $5,000 or Less

In the present case, we will adopt a presumption of injury which has been used in many previous special refund cases. We will presume that reseller applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of motor gasoline from Arkansas Valley. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs or to show that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims procedure to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We will adopt such a procedure in this case. Therefore, any applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[2]

2. Spot Purchasers

We further adopt our proposal that resellers who made spot purchases from Arkansas Valley be ineligible to receive a refund, even a refund at or below the threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, a spot purchaser tends to have considerable discretion in where and when to make purchases and would therefore not have made spot purchases of Arkansas Valley motor gasoline at increased prices unless it was able to pass through the full amount of the alleged overcharges to its own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured as a result of the spot purchase(s). *See Saber Energy, Inc./U.S. Oil Co.*, 14 DOE ¶ 85,246 (1986).

3. End-users

We will not require end-users or ultimate consumers whose businesses are unrelated to the petroleum industry to make a detailed showing of injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Id.* We have therefore concluded that end-users of Arkansas Valley motor gasoline need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE. regulationy program and who purchased Arkansas Valley motor gasoline for consumption as fuel will not be considered end-users for the purposes of the showing of injury. *See Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985).

B. Calculation of Refund Amounts

We will use a volumetric method to divide the consent order fund among applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all the gallons of the consent order product(s) sold by a consent order firm. *See, e.g., Vickers.* To determine the per gallon volumetric factor, the consent order amount will be divided by the total volume of covered products which the firm sold during the consent order period. Based upon information submitted by Arkansas Valley regarding their total volume of motor gasoline sold during the consent order period, we have determined this volumetric factor to be $0.0032. Refunds will be calculated by multiplying the volumetric factor by the total amount of motor gasoline purchased from Arkansas Valley by the applicant during the consent order period. The interest that has accrued on the money in the escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

We also adopt our proposal to establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 at 85,225 (1982).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Arkansas Valley consent order fund. Accordingly, we shall not accept Applications for Refund from eligible customers who purchased Arkansas Valley gasoline during the consent order period. There is no official application form. Applications for Refund should be written or typed on business letterhead or personal stationery. The following information should be included in all Applications for Refund:

1. The name of the consent order firm: Arkansas Valley Petroleum, the case number: HEF–0029, and the applicant's name should be prominently displayed on the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the Application.

3. The manner in which the applicant used the Arkansas Valley motor gasoline, i.e., whether it was a reseller or end-user.

4. The volume of Arkansas Valley motor gasoline that the applicant purchased in each month of the period of time for which it is claiming it was injured by the alleged overcharges.

5. If the applicant is a reseller who wishes to claim a refund in excess of $5,000, it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations from the month in which purchases were first made until the termination of banking regulations (July 15, 1979 for retailers; April 30, 1980 for resellers and retailer-resellers).

(b) Submit evidence to establish that it did not pass through the alleged overcharges to its customers. For example, a firm may compare the prices it paid for Arkansas

[2] As in prior refund cases, resellers whose calculated refund exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to make a detailed demonstration of injury.

Valley motor gasoline with the prices paid for that product by its competitors to show that price increases to recover alleged overcharges were infeasible.

6. A statement of whether the applicant was in any way affiliated with Arkansas Valley. If so, the applicant should state the nature of the affiliation.

7. A statement of whether there has been any change in ownership of the entity that purchased the motor gasoline from Arkansas Valley since the end of the consent order period. If so, the name and address of the current (or former) owner should be provided.

8. A statement of whether the applicant is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

9. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief.

Applications for Refund must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of its Application and submit two additional copies of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

All Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Arkansas Valley Petroleum Company pursuant to the Consent Order executed on September 1, 1981 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 19, 1986.

Richard W. Dugan,

For Director, Office of Hearings and Appeals.

[FR Doc. 86–19224 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of July 18 Through July 26, 1986

During the Week of July 18 through July 26, 1986, the appeal and the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 15, 1986.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 18 through July 25, 1986]

Date	Name and location of applicant	Case No.	Type of submission
June 21, 1986	Highway Oil Company, Inc., Topeka, KS	KRZ–0035	Interlocutory. If granted: Additional information submitted by Highway Oil Company in connection with its Statement of Objections to the Proposed Remedial Order issued to the firm (Case No. HRO–0123) would be accepted as part of the record of the enforcement proceeding.
July 23, 1986	Research Fuels, Inc., Dallas, TX	KEX–0018	Supplemental order. If granted: The Office of Hearing and Appeals would resolve all of the underlying controversies presented in Research Fuels, Inc. (Case No. HCX–0100) which was remanded by the United States District Court for the Northern District of Texas.
July 25, 1986	Ellsworth & Lassow, Inc., Manchester, CT	KEE–0045	Exception to the reporting requirements. If granted: Ellsworth & Lassow, Inc., would not be required to file EIA–782B, "Reseller's/Retailers' Monthly Petroleum Product Sales Report".
Do	John D. Monis, Portland, OR	KFA–0046	Appeal of an information request denial. If granted: The June 20, 1986 Freedom of Information Request Denial issued by the Office of Personnel Management would be rescinded, and John D. Monis would receive access to information pertaining to persons hired by the Bonneville Power Administration since May 1954 for the position of Power System Electrician.

Refund Applications Received

[Week of July 18 to July 25, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
01/04/86	Gulf/R&W Oil Products	RF40–3222
07/14/86	Colins/Rhode Island	RQ3–317
07/14/86	National Helium/Rhode Island	RQ3–318
07/18/86	Howell; Quintana/Ultramar Petroleum	RF245–9
07/18/86	King/United Oil Co	RF256–1
07/21/86	U.S.A./Kerr McGee Corp	RF252–8
07/21/86	Howell; Quintana/Day & Zimmerman	RF245–10
07/21/86	Howell; Quintana/Odessa L.P.G. Transport	RF245–11
07/21/86	Howell; Quintana/Kerr-McGee Corp	RF245–12
07/21/86	Martin/Ashland Oil Co	RF240–21

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 18 to July 25, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
07/21/86	Pride/Odessa L.P.G. Transport Inc	RF235-17
07/21/86	Gulf/Wyrick's Gulf Station	RF40-3218
07/21/86	Gulf/Moreno's Gulf Station	RF40-3219
07/21/86	Gulf/Kirkland Gulf Station	RF40-3220
07/21/86	Gulf/Georgia Power Co	RF40-3216
07/21/86	Gulf/Vaughn's Gulf Station	RF40-3217
07/21/86	National Helium/Idaho	RQ3-316
07/22/86	Hicks/W. E. Stoll Coal & Gas Co	RF237-9
07/23/86	King/D&D Oil Co	RF256-2
07/22/86	Gulf/Chatham County Georgia	RF40-3221
07/23/86	Union Texas/Ergon Oil Purchasing	RF104-12
07/23/86	Pride/Western Marketing, Inc	RF235-18
07/24/86	E. B. Lynn/Rome DiLorenzo	RF246-7
07/24/86	MAPCO/Chumbley's LP Gas	RF108-16
07/24/86	Gulf/Hoffman Oil Co., Inc	RF40-3223
07/25/86	Napco/Gulf States Oil & Refining	RF108-17
07/25/86	Conoco/Eveleth Oil Co. Inc	RF220-385
07/25/86	Conoco/Itasca Oil Co	RF220-386
07/21/86 through 07/25/86	Mobil Refund Applications	[illegible] through RF225-9162
07/21/86 through 07/25/86	Marathon Refund Applications	RF250-570 through RF250-722

[FR Doc. 86-19929 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of July 11 Through July 18, 1986

During the Week of July 11 through July 18, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 11 through July 18, 1986]

Date	Name and location of applicant	Case No.	Type of submission
July 14, 1986	Richard L. Brewer, Albuquerque, NM	KFA-0044	Appeal of an information request denial. If granted: The June 14, 1986, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Richard L. Brewer would receive access to information relating to Mr. Brewer's security clearance.
Do	Supreme Oil Co., Inc., New Albany, IN	KEE-0058	Exception to the reporting requirements. If granted: Supreme Oil Co., Inc. would no longer be required to file form EIA-782B "Reseller/Retailer's Monthly Petroleum Product Sales Report."
July 15, 1986	Panhandle/Western Petroleum Company, Washington, DC.	RR15-1	Request for modification/rescission in the Panhandle Eastern Refund Proceeding. If granted: The July 20, 1983, Decision and Order (Case No. RF15-3) issued to Western Petroleum Company would be modified regarding the firm's application for refund submitted in the Panhandle Eastern Pipeline refund proceeding.
July 16, 1986	Natural Resources Defense Council, Washington, DC	KFA-0045	Appeal of an information request denial. If granted: The June 13, 1986, Freedom of Information Request Denial issued by the Office of Procurement Operations would be rescinded and the Natural Resources Defense Council would receive access to certain information contained in proposals submitted in response to the Program Opportunity Notice for the Clean Coal Technology Program.
July 17, 1986	Pennzoil Company, Washington, DC	KCF-0047	Supplemental order. If granted: The Office of Hearings and Appeals would implement new refund procedures pursuant to 10 CFR Part 105, Subpart V, in connection with the June 30, 1986, U.S. District Court Eastern District of Michigan's Order regarding Pennzoil Company.
July 18, 1986	Belridge/North Carolina and Amoco/North Carolina, Raleigh, NC.	RM8-33 and RM21-34	Amoco refund proceedings. If granted: The February 6, 1985, Decision and Order (Case Nos. RQ8-144 and RQ21-145) issued to North Carolina would be modified regarding the State's application for refund submitted in the Belridge and Amoco refund proceedings.

Date received	Name of refund proceeding/name of refund applicant	Case No.
7/11/86	E.B. Lynn/Richard E. Werley	RF246-6
7/11/86	Gulf/Fike's Gulf	RF40-3206
7/11/86	Gulf/Max's Gulf	RF40-3207
7/11/86	Gulf/Whitener Enterprises, Inc	RF40-3208
7/11/86	Gulf/Newman's Gulf	RF40-3209
7/11/86	Gulf/Anderson & Watkins, Inc	RF40-3210
7/11/86	Gulf/Florida Power Corp	RF40-3205
7/15/86	Gulf/Leakesville Gulf	RF40-3213

Date received	Name of refund proceeding/name of refund applicant	Case No.
7/15/86	Amoco/Public Service Electric & Gas	RF21-12621
7/17/86	Gulf/J.B. Dewar, Inc.	RF40-3215
7/17/86	Gulf/Three Bros. Gulf	RF40-3214
7/17/86	GCO/Getty Oil	RF254-2
7/17/86	Beacon/Coast Oil Company	RF238-65
7/17/86	Armour/Central Oregon Oil Company	RF167-8
7/14/86	Amoco/New Orleans Public, Service, Inc	RF21-12620
7/14/86	Gulf/New Orleans Public, Service, Inc	RF40-3211
7/14/86	Gulf/Greyhound Lines, Inc	RF40-3212
7/14/86	Howell Quintana/The Coastal Corp	RF245-5
7/14/86	Earth/Malone Oil Co	RF238-16
7/16/86	Amnoil/Toledo Edison Co	RF139-156
5/27/86	OKC/Missouri Self Serve	RF13-44
7/16/86	U.S.A./J.B. Dewar	RF252-5
7/14/86	Elm City/Defense Logistics Agency	RF255-1
7/16/86	U.S.A./Watkins Oil Co	RF252-4
7/14/86 through 7/18/86	Mobil Refund Applications	RF225-6919 through RF225-6967
7/14/86 through 7/18/86	Marathon Refund Applications	RF250-327 through RF250-569

[FR Doc. 86-19230 Filed 8-25-86; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of July 21 Through August 1, 1986

During the period of July 21 through August 1, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 pm and 5:00 pm except federal holidays.

August 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Ekrut Oil Company, Valley Mills, Texas; KEE-0054 Reporting Requirements

Ekrut Oil Company filed an Application for Exception from the reporting requirements of Form EIA-782B. The exception request, if granted, would excuse Ekrut Oil Company from filing Form EIA-782B, "Resellers'/Retailers' Monthly Petroleum Sales Report." On July 31, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-19231 Filed 8-25-86; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $8,300,000, obtained as a result of a Consent Order which the DOE entered into with Crown Central Petroleum Corporation, a reseller-retailer of petroleum products located in Baltimore, Maryland. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should conspicuously display a reference to case number KEF-0044.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $8,300,000 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Crown Central Petroleum Corporation (Crown Central). The funds were provided to the DOE by Crown Central to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period January 1, 1973 through January 28, 1981.

The OHA proposes that the consent order funds be divided into two pools: one for crude oil and one for refined petroleum products. For the 7.8 percent of the consent order funds to be allocated to crude oil, the OHA tentatively proposes to distribute that money according to the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27899 (August 4, 1986). With regard to the balance of the consent order funds allocated to refined petroleum products,

the OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that the consent order funds should be distributed to firms and individuals that purchased Crown Central refined petroleum products during the consent order period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Crown Central refined petroleum products and, in the case of large refund applicants, demonstrate that it was injured by Crown Central's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund *should not be filed at this time.* Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: August 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 15, 1986.

Name of Firm: Crown Central Petroleum Corporation.

Date of Filing: June 30, 1986.

Case Number: KEF–0044.

On June 30, 1986, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Crown Central Petroleum Corporation (Crown Central). *See* 10 CFR Part 205, Subpart V. On March 4, 1986, the DOE and Crown Central entered into a Consent Order in which Crown Central agreed to refund $8,300,000 in settlement of certain issues regarding the firm's compliance with the federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (consent order period). In accordance with the ERA's request, this proposed decision contains OHA's plan for distributing these funds to qualified refund applicants.

I. Background

During the audit period, Crown Central was engaged in the production, importation, sale and refining of crude oil, the sale of residual fuel oil, motor gasoline, middle distillates, propane and other refined petroleum products and the extraction and fractionalization of natural gas liquids and natural gas liquid products. Thus during the audit period, Crown was subject to the Mandatory Petroleum Price and Allocation Regulations in 6 CFR Part 150 and 10 CFR Parts 210, 211 and 212. The ERA conducted audits of Crown Central's operations during the consent order period. These audits resulted in several enforcement proceedings being initiated against the firm for alleged violations. The parties settled the issues raised in the enforcement proceedings in a Consent Order which became final on April 29, 1986. 51 FR 15,959 (April 29, 1986) Under the terms of the Consent Order, Crown Central remitted $8,300,000 to the DOE in settlement of all pending civil and administrative claims, including those raised by the audits of the firm, that occurred between January 1, 1973 and January 27, 1981.[1] The funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution.

II. Proposed Refund Procedures

In previous refund proceedings involving major integrated refiners who have entered into global consent orders with the DOE the alleged violations have been divided up into two pools: one for crude oil and one for refined products. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*). According to information set forth in the Federal Register Notice announcing the proposed Crown Central Consent Order, 51 Fed. Reg. 8532 (March 12, 1986), approximately 7.8 percent of the aggregate amount of the alleged violations settled by the Consent Order concerns Crown Central's production and sales of crude oil. Therefore 7.8 percent of the principal contained in the Crown Central escrow account, or $647,400, will be set aside as a pool of crude oil funds. *See, Conoco, Inc.,* 13 DOE ¶ 85,316 (1985). The remaining 92.2 percent of the Crown Central funds, or $7,652,600, will be available for distribution to claimants who demonstrate that they were injured by Crown Central's alleged violations in sales of refined petroleum products.

A. Crude Oil

As we indicated above, $647,400 of Crown Central's settlement amount is attributable to Crown Central's crude oil overcharges. That sum will be placed in an escrow account and will be distributed according to the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27,899 (August 4, 1986).

B. Refined Products

The remainder of the Crown Central settlement fund, $7,652,600, will be distributed pursuant to the same two stage-refund process that we have utilized in numerous previous proceedings. *See Atlantic Richfield Company,* 14 DOE ¶ 90,062 (1986) (Proposed Decision); *Marathon Petroleum Company,* 14 DOE ¶ 90,060 (1986) (*Marathon*). In the first stage, purchasers of Crown Central refined petroleum products will be afforded an opportunity to submit refund applications. Past experience indicates that the potential claimants will fall into the following categories: (1) End-users, *i.e.,* consumers who used Crown Central refined products; and (2) Refiners, resellers or retailers who resold Crown Central refined products.

In establishing the procedures which will govern the first stage of the Crown Central Special Refund Proceeding, we will adopt certain presumptions which will permit claimants to participate in the refund process without incurring inordinate expense and enable OHA to consider and process refund applications in the most efficient manner possible.[2] *See Marathon, supra.* First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined petroleum products made by Crown Central during the consent order period and that

[1] Section 801 of the Crown Central Consent Order resolves all pending and potential civil and administrative claims by the DOE against Crown Central, with certain enumerated exceptions regarding the Entitlements Program and reporting requirements. *See* Consent Order section 801(a) through (c).

[2] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. *See* 10 CFR Part 205, Subpart V.

refunds should therefore be made on a pro-rata or volumetric basis. In order to implement this presumption, we will calculate a volumetric figure which will be the per gallon refund amount. This figure is equal to the amount of available consent order funds divided by the number of gallons of refined petroleum products that Crown Central sold during the consent order period. Based on Crown Central's figures, the firm sold 6,785,983,790 gallons of refined petroleum products during the consent order period. Since the consent order amount that will be allocated to the pool of refined products is $7,652,600, the volumetric amount is $.0011 per gallon ($7,652,600/6,785,983,790 = $.0011). Thus a claimant will be eligible to receive a refund equal to the number of gallons of covered product purchased from Crown Central times the volumetric figure of $.0011, plus a proportionate share of interest. However, we also recognize that some claimants may have been disproportionately overcharged. Therefore, any purchaser may file a refund application with supporting evidence based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Marathon, supra; Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

C. Specific Refund Application Requirements

We intend to adopt a number of presumptions and findings concerning injury. These presumptions and findings will excuse certain categories of refund applicants from proving that they were injured by Crown Central's alleged overcharges, thus simplifying the refund process for those applicants.

For end-users and ultimate consumers whose business used petroleum purchased from Crown Central to produce a non-petroleum product, we will adopt a finding that they were injured by Crown Central's alleged refined product overcharges. Since the selling prices of non-petroleum products were not subject to the federal petroleum price regulations, an analysis of the impact of the alleged overcharges on the final prices of these goods and services would be beyond the scope of this special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). End-users of Crown Central products need only document that they were ultimate consumers of a specific amount of Crown Central products, *viz.*, show monthly purchases from Crown Central, to make a sufficient showing that they were injured by the alleged overcharges.

We also will not require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury as a result of alleged overcharges on refined products. Although such firms, *e.g.*, public utilities and agricultural cooperatives, generally would have passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of Crown Central products to non-members will be treated in the same manner as sales by other resellers.

We will establish a rebuttable presumption that claimants who made only spot purchases from Crown Central were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchases and generally would not have made spot market purchases from Crown Central at increased prices unless they were able to pass through the full amount of the selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Therefore, a firm which made only spot purchases from Crown Central will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured as a result of its spot purchases from Crown Central.

In addition to the volumetric presumption, we will also employ a presumption with regard to injury for resellers and retailers of Crown Central's refined petroleum products. *See, e.g., Marathon supra; Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,224–25 (1982). First, for small claimants, we will adopt a small claims presumption. In previous refund proceedings we noted that it is often costly and time-consuming for a small claimant to gather and submit the factual information required for a showing of injury as a result of the overcharges by the consent order firm. *See Petroleum Heat and Power Co.*, 14 DOE ¶ 90,069 (1986). We therefore streamlined the refund process for small claims to ensure that potential claimants would not be denied an opportunity to receive a refund. We determined that claimants who were requesting a refund of $5,000 or less would not be required to submit any evidence of injury beyond establishing the volumes of refined petroleum products purchased during the consent order period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). We propose adoption of that presumption in this proceeding.

For resellers and retailers seeking refunds greater than $5,000 but less than $50,000 excluding interest, we will require a more detailed showing of injury. In previous cases involving consent order funds remitted by a large integrated company we performed a detailed economic analysis to determine the months during the consent order period in which resellers or retailers were injured by the firm's alleged overcharges. The percentage of time in which there was injury generally ranged between 20 and 45 percent. However, in *Marathon, supra*, we did not perform an in-depth economic analysis. Rather, we adopted the mean percentage injury of several previous refund proceedings. That amount, 35 percent, became the level of injury for the medium range refund claimants. *See Marathon* at 90,128. Like Marathon, Crown Central is a regional firm.[3] Therefore for the reasons stated in *Marathon, supra*, we will adopt that percentage level of injury. Accordingly, any medium-range claimant may elect to receive a refund based on 35 percent of its total allocable or volumetric share. In order to receive a refund based on this 35 percent presumption, an applicant will only be required to substantiate the volume of refined products it purchased from Crown Central. *See, Marathon, supra* at 88,511.[4] However, any medium-range claimant may elect not to receive a refund based on this presumption and may, instead, prove the extent of its injury using the criteria set forth below for large refund claimants. As with any of the proposals set forth in this proceeding, we would welcome comments and data regarding this level of injury.

A large refund applicant, one whose total claims, if granted, would result in a refund of $50,000 or more excluding interest, will be required to provide more detailed showing of injury. In order to show that it did not pass along the alleged overcharges to its customers,

[3] Crown Central marketed its refined petroleum products in only 12 eastern states.

[4] However, using the volumetric figure of .0011 per gallon and the 35 percent medium range presumption, an applicant that purchased more than 4,545,455 gallons of Crown Central product would receive a refund of less than $5,000. Such a claimant may elect to limit his claim to $5,000 under the small claims threshold.

the firm will be required to demonstrate that it maintained a bank of unrecovered product costs beginning with the first month of the period for which a refund is claimed through the date on which that product was decontrolled. In addition, a claimant must specifically show that market conditions would not permit it to pass through those increased costs. *See Panhandle Eastern Pipeline Co./H.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 at 88,265 (1983). For periods in which the DOE regulations did not require retailers or resellers to compute cost banks, a retailer or reseller will only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be made through a demonstration of lowered profit margins, decreased market share, or depressed sales volume during the period of purchases from Crown Central. *API, supra.*[5]

We also recognize that we may receive claims alleging Crown Central allocation violations. Such claims would be based on Crown Central's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based on allocation claims by referring to standards such as those set forth in *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

D. General Refund Application Requirements

In addition to the specific requirements outlined above, all applications for refund must be in writing and signed by the applicant. An application must make reference to the Crown Central Petroleum Corporation Special Refund Proceeding (Case No. KEF–0044). Each applicant must submit a monthly purchase schedule for Crown Central refined petroleum products during the period in which the relevant product was controlled. If an applicant purchased Crown Central refined petroleum products from a reseller, it must establish its basis for belief that the products originated with Crown Central and identify the reseller from whom the product was purchased.

Applications for Refund *should not be filed at this time.* Detailed procedures for filing Applications for Refund will be provided in a final Decision and Order. Before distributing any portion of the consent order fund, we intend to solicit comments on the proposed refund procedures and to publicize the distribution process, in order to provide an opportunity for an affected party to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the Federal Register.

E. Distribution of the Remainder of the Consent Order Funds Attributable to Crown Central's Refined Product Sales

In the event that money remains after all first stage claims have been disposed of, undistributed funds attributable to Crown Central's alleged refined product violations may be distributed in a number of different ways in the second stage of the refund proceeding. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Crown Central's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Crown Central Petroleum Corporation pursuant to the Consent Order made final on April 29, 1986, will be distributed in accordance with the foregoing Decision.

[FR Doc. 86–19223 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

[5] We noted in Marathon that if a large refund claimant was unable to prove injury we would still consider a request for refund at the presumption percentage level of injury for medium-range claimants.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,101,123.19, plus interest, obtained as a result of two consent orders and one letter of agreement which the DOE entered into with Gull Industries, Inc. of Seattle, Washington (Case Nos. HEF–0084, HEF–0085, HEF–0086). The funds will be available to customers who purchased refined petroleum products from Gull during the applicable consent order periods.

DATE: Date and address: Applications for refund of a portion of the consent order fund must be postmarked within 90 days of publication of this notice in the Federal Register and should be addressed to: Gull Industries, Inc. Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. A separate application must be filed for each of the consent order funds. All applications should conspicuously display a reference to the applicable case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to two consent orders and one letter of agreement (the consent orders) entered into by the Department of Energy and Gull Industries, Inc. of Seattle, Washington. The consent orders settled possible pricing violations with respect to Gull's sales of motor gasoline and middle distillates during the consent order periods. The case numbers, consent order periods, and consent order amounts are set forth below:

Case No.	Consent order period	Escrow amount
HEF–0084	May 3, 1975—June 30, 1977, February 1, 1974—September 30, 1974.	$52,342.00
HEF–0085	August 18, 1973—June 8, 1977.	873,680.54
HEF–0086	November 1, 1973—May 2, 1975.	174,900.65

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on January 16, 1986. 51 FR 3410 (January 27, 1986).

As the Decision and Order indicates, applications for refund from the consent order funds may now be filed. A separate application must be filed for each of the consent order funds. Applications must be postmarked no later than 90 days after publication of this Decision and Order in the Federal Register.

Applications will be accepted from customers who purchased refined petroleum products from Gull during the relevant consent order periods. The specific information required in each application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: August 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy Special Refund Procedures

August 4, 1986.

Name of Firm: Gull Industries, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0084,HEF-0085,HEF-0086.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) of the DOE on October 13, 1983. The petition requests that the OHA formulate and implement special procedures for the distribution of funds received pursuant to three consent orders entered into by the DOE and Gull Industries, Inc. (Gull) of Seattle, Washington.

This Decision contains the procedures which the OHA has formulated to distribute the three Gull Settlement funds. Claimants should take note of the requirements which are applicable to their particular circumstances for each of the three special refund proceedings. *See* section III(B-(F). The specific background and filing requirements for each consent order fund are set forth in section IV(A)-(C). The Appendices to this Decision set forth the names of and potential refund amounts for eligible Gull customers in each of the three consent order proceedings. Claimants should consult these Appendices before completing the suggested refund application forms appened to this Decision.

I. Background

Gull sells motor gasoline and middle distillates in the States of Idaho, Oregon and Washington. It sells those products to other petroleum marketers (resellers), in bulk sales to end-users, and to retail stations which were either Gull-owned and operated by commission agents (commission accounts) or Gull-owned but leased to independent operators ("consignment" accounts).[1] Gull was therefore a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31. ERA audits of the firm's operations revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Gull and the DOE regarding the firm's compliance with the DOE price regulations during the audit periods involved, the firm entered into three consent orders with the DOE. The consent orders were signed on April 7, 1978 (Case No. HEF-0086), September 1, 1981 (Case No. HEF-0084), and January 15, 1982 (Case No. HEF-0085). The consent orders refer to the ERA's allegations of overcharges, but that no formal findings of violations were made. Additionally, the consent orders state that Gull does not admit that it committed any such violations. The case numbers and applicable consent order information are set forth below:

Case numbers	Consent order periods [1]	Consent order amounts [2]
April 7, 1978 Consent Order: HEF-0086	Nov. 1, 1973–May 2, 1975.	[3] $174,900.65
September 1, 1981 Consent Order: HEF-0084	Feb. 1, 1974–Sep. 30, 1974.	52,342
	May 3, 1975–Jun. 30, 1977.	
January 15, 1982 Consent Order: HEF-0085	Aug. 19, 1973–Jun. 9, 1977.	[4] 873,880.54

[1] The consent order periods for middle distillates in HEF-0084 and HEF-0085 terminated with the decontrol of those products on June 30, 1976.

[2] These amounts represent the portions of the Gull consent order funds subject to the ERA's October 13, 1983 Subpart V Petition.

[3] In executing the April 7, 1978 consent order, Gull agreed to refund:

(i) $198,092.28 to the marketplace through price rollbacks at its commission account stations;

(ii) $169,121.67 to its wholesale accounts, i.e., reseller and bulk purchase end-user customers; and

(iii) $165,942.12 to its consignment accounts, i.e., independent operators who leased Gull-owned stations.

As of August 31, 1978, Gull had completed its rollback obligation at its commission account stations (category (i) above). According to the terms of the consent order, Gull was to refund directly any alleged overcharges of $1,000 or less to its wholesale accounts (category (ii) above), except for one of those customers, Seattle Ready Mix, who was to receive $2,868.53. In order to accomplish refunds to its other wholesale accounts and to its consignment accounts (category (iii) above), Gull was required to deposit the remainder of its refund obligation in an interest bearing escrow account. From this account, Gull paid refunds, subject to DOE approval, to its consignment accounts and its wholesale accounts that had not received direct refunds. Gull was also permitted to offset its consignment account refund obligations by price reductions, as approved by the DOE. Consent Order ¶ 7. By April 10, 1981, Gull had completed its refund obligations to all but 26 of its customers (12 wholesale accounts and 14 consignment accounts). The refund amounts attributable to these customers were deposited with the DOE. The consent order amount in Case No. HEF-0086 represents $100,859.42 in residual funds which were not distributed to consignment accounts and $74,041.23 which was deposited with DOE as part of Gull's restitution for alleged violations in wholesale sales.

[4] Case No. HEF-0085 actually pertains to a letter of agreement (hereinafter referred to in this Decision as a consent order) between the DOE and Gull. The consent order involves Gull's sales of Texaco Inc. (Texaco) petroleum products during the period August 19, 1973 through June 9, 1977, and sets forth the terms for distribution by Gull of funds it received from Texaco pursuant to a consent order executed by the DOE and Texaco on April 25, 1978. The letter of agreement required that Texaco's refund to Gull totalling $3,087,770.72, plus interest, be distributed in the following manner:

(i) $156,180.31, plus interest, to be refunded by Gull directly to identified customers to whom it had passed through Texaco overcharges,

(ii) $2,100,694.26, plus interest, to be retained by Gull, to compensate it for Texaco overcharges that Gull did not pass through to its customers, and

(iii) $830,896.15, plus interest, to be paid to the DOE for disbursement to Gull customers unidentified in the audit. *See* January 15, 1982 Letter of Agreement ¶ 5a–c.

The consent order amount in this case represents the $830,896.15 principal and $42,984.39 interest which accrued prior to Gull's payment to the DOE.

On January 16, 1986, OHA issued a Proposed Decision and Order setting forth a tentative plan for the distribution of the three Gull escrow accounts. 51 FR 3410 (January 27, 1986). We stated in the Proposed Decision that the basic purpose of a special refund proceeding is to make restitution for injuries which were incurred as the result of alleged or adjudicated violations of the DOE regulations. In order to effectuate restitution in this proceeding, we proposed to establish three separate first-stage claims procedures whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of the alleged overcharges settled by one or more of the consent orders. In addition to publishing the Proposed Decision in the **Federal Register**, we sent copies of the proposed procedures to over 250 Gulf customers whose names and addresses were listed in the EPA audit files. We have received written comments from two of these customers and from various States.[2] The comments we have received from the Gull customers generally concern the eligibility for refunds of (a) commission accounts, and (b) firms not specifically named in the Appendices to the Proposed Decision. We will specifically

[1] The term consignment accounts, as used by Gull, does not refer to the type of operations the DOE has traditionally called "consignees" in other situations. *See, e.g.*, Ruling 1975–8, 2 Fed. Energy Guidelines ¶ 16,048; *See also Texas Oil Marketers Association*, 7 DOE ¶ 81,066 at 82,702 (1980); *Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 (1986). In its business operations, Gull used the term "commission" accounts to refer to those entities that we have traditionally called "consignees."

[2] Comments were filed on behalf of the States of Washington, Arkansas, Delaware, Louisiana, North Dakota, Rhode Island, Iowa, Utah, and West Virginia. These States assert that state governments are the proper recipients of second stage refunds. However, the purpose of this Proposed Decision and Order is limited to establishing the procedures to be used in filed and processing claims in the first stage of the refund proceeding. The formulation of plans for the distribution of any remaining funds will necessarily depend on the size of the remaining escrow accounts. It would therefore be premature for us to consider the issues raised by the States at this time. Moreover, with the exception of the State of Washington, it is not clear that any of the commenting States has a direct interest in this proceeding which involves Gull's sales in Washington, Idaho and Oregon.

address these comments in the appropriate sections below.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to utilize the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82, 553 (1982); *Office of Enforcement*, 9 DOE ¶ 82, 508 (1981); *Office of Enforcement*, 8 DOE ¶ 82, 597 (1981). As we stated in the Proposed Decision, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Gull consent order funds. We will therefore grant the ERA's petition and assume jurisdiction over the funds.

III. General Refund Procedures

We have determined that the procedures proposed for two of the three special refund proceedings (Case Nos. HEF-0086 and HEF-0085) should be adopted as final. With regard to the proceeding involving the September 1, 1981 consent order (Case No. HEF-0084), we have concluded that adjustments to our proposed methodology should be made in order to more equitably distribute the consent order fund. The distribution of all refunds will take place in two stages. In the first stage, refund monies will be refunded to those customers who purchased Gull motor gasoline or middle distillates during the applicable consent order periods and who demonstrate that they were injured by the alleged overcharges. Claimants in each of the three proceedings will fall into one of two general categories: (i) Resellers and retailers (hereinafter collectively referred to as resellers) who resold Gull petroleum products or (ii) individuals or firms that consumed Gull petroleum products for their own use (end-users). Such purchases must meet the specific requirements set forth in the applicable section governing each consent order. For a general overview of eligibility and potential refund amounts, claimants should refer to Appendices A and B. After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*). As we indicated earlier, however, we will not discuss second-stage refund procedures in this Decision and Order.

A. Showing of Injury

As in prior refund proceedings, we will require claimants who were resellers of refined petroleum products purchased from Gull to demonstrate that during the applicable consent order period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Gull, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, the reseller applicant is generally required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover the increased costs associated with the alleged overchanges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.C., Inc., 10 DOE ¶ 85,014 (1982).*

B. Small Claims Presumption

In each of these proceedings, we will adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Gull petroleum products. Such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Therefore, any reseller whose claim in any of the Gull special refund proceedings is $5,000 or less, or who chooses to limit its claim in any of the proceedings to $5,000, does not need to make a detailed showing of injury in order to be eligible to receive a refund in that proceeding.

C. End-users

As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the consent orders. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of these special refund proceedings. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) and cases cited therein. Therefore end-users of Gull petroleum products do not need to make a detailed showing that they were injured by the alleged overcharges.

D. Spot Purchasers

We are also adopting a rebuttable presumption that resellers which made only spot purchases of Gull petroleum products have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Gull's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, a firm which made only spot purchases from Gull will not receive a refund, even one at or below the small claims threshold level, unless it presents evidence which rebuts the spot purchaser presumption and establishes the extent to which it was injured as a result of its spot purchase(s).[3]

E. Commission Accounts

In the Proposed Decision, we proposed that Gull's commission accounts be ineligible to receive refunds. This proposal was based on our experience in previous cases where we have adopted the rebuttable

[3] The Gull audit files specifically state that two reseller customers, Winston Oil Company and Drain Oil were spot purchasers. Under our procedures, these firms are ineligible to receive a refund unless they rebut the spot purchaser presumption.

presumption that commission agents which sold a consent order firm's products were not injured as a result of their contractual arrangement. *See, e.g., Amoco* at 88,200. In the *Amoco* Decision, we pointed out that commission agents generally "established their prices at a set, per gallon commission fee that was added to Amoco's wholesale price. That type of arrangement insured that a [commission account] did not absorb any alleged overcharges." *Id. See also Tenneco Oil Co./Kellermyer Inc.*, 10 DOE ¶ 85,092 (1983). In numerous previous cases, we have adopted a presumption that commission accounts of this type generally did not experience injury as a result of their purchases from their supplier. In those cases we have stated, however, that such accounts would be permitted to rebut the presumption by establishing that their sales volumes, and their corresponding commission revenues, declined due to the alleged uncompetitiveness of their supplier's prices. *Amoco* at 88,200; *Aztex Energy Co.*, 12 DOE ¶ 85,116 at 88,358–59 n.2 (1984); *cf. Gulf Oil Co./C.R. Hill Oil Co.*, Case No. RF40–1004 (September 11, 1985) (Proposed Decision) (generalized arguments to rebut presumption rejected).

We will adopt the same presumption in the Gull refund proceedings.[4] However, the comments we have received regarding this issue require further discussion of the applicability of the presumption in this proceeding. Those comments have confirmed our belief that a number of Gull's commission accounts were at one time independent consignment accounts. *See* Gull Proposed Decision at n.6. As we indicated in the Proposed Decision, the presumption of no injury will not apply to any commission agent with regard to its purchases of Gull products during any period in which it was an independent consignment or wholesale account.

A number of firms who were identified as commission accounts during the audit period have commented that they were involuntarily forced by Gull to give up their consignment status, and that this special refund proceeding should be used to address their contractual grievances. While we recognize that these firms may have legitimate grievances against Gull, we reject this argument because it is irrelevant to this proceeding. The alleged violations and affected customers covered by the consent orders were clearly defined in those documents. The April 7, 1978 consent order itemized the alleged regulatory violations and included attachments which set forth the names of Gull customers and the amounts by which they were allegedly overcharged. *See* n.4, *supra*, and section IV.A *infra*. *See also* Proposed Decision, Appendices A & B. The September 1, 1981 consent order covered "specified transactions" and the accompanying audit files specifically identified the customers' names and alleged overcharge amounts. *See* December 9, 1980 Computer Printout entitled "Gull Industries Overcharges and Interest/Texaco Refund." In the case of the January 15, 1982 consent order concerning Gull's alleged passthrough of Texaco's overcharges, the consent order specifically provided for refunds to be made to Gull customers to whom Gull had passed through the Texaco overcharges. *See* n.5. As we have already stated, commission accounts did not actually purchase the Gull product and therefore could not have been overcharged. Since the first two consent orders set forth specific alleged overcharge amounts for specified customers, and the third consent order covered alleged overcharges to customers which *purchased* Gull products, it is clear that the type of private contractual grievance claim advanced by the commission accounts falls outside the scope of the consent orders.

F. $15 Minimum

We will also establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR 205.286(b).

IV. Specific Refund Procedures

A. Case No. HRF–0086 (April 7, 1978 Consent Order)

We have not received any specific comments on our proposed distribution plan concerning the April 7, 1978 consent order and we will therefore adopt it. The April 7 consent order covers Gull's sales of motor gasoline and middle distillates during the period November 1, 1973 through May 2, 1975. According to the consent order, the alleged overcharges occurred in specified transactions during the consent order period. Consent Order ¶¶ 3, 4 and 5.[5] The ERA audit files contain very specific data concerning the customers and alleged overcharges involved in the transactions covered by the April 7, 1978 consent order. We therefore find it is appropriate to use the ERA audit files to determine the manner in which refunds should be distributed. *See Marion.* In relying on the information in the ERA files, we note that the ERA audit of the Gull transactions covered by the April 7, 1978 consent order had been substantially completed, that a Notice of Probable Violation had been drafted but not issued, and that the allegedly overcharged parties and amounts were clearly identified in the appendices attached to the consent order and the subsequent records kept to monitor Gull's progress in issuing refunds.

The April 7, 1978 consent order fund will therefore be distributed to the Gull consignment and wholesale account customers who have not already received their designated refund amount.[6] In order to allocate the consent order fund in a manner which will correspond to the injuries experienced, we will use the information provided in the April 7, 1978 consent order and the reports which Gull prepared in accordance with paragraph 12 of the consent order. These reports show for each customer the alleged overcharge amount plus interest, the amounts refunded by Gull prior to the consent order, and amounts refunded during the period from the signing of the consent order until Gull's remittance of funds to the DOE. The ERA used these reports to monitor Gull's refunds to identified customers. In the absence of any later documentation of additional payments or price rollbacks by Gull to its consignment and wholesale account customers, we presume that the balances remaining as stated in the ERA audit files are accurate. We will therefore use these records to determine the firms' potential refunds. *See Harris Enterprises, Inc.*, 13 DOE ¶ 85,179 (1985). The potential refunds for the specified firms are set forth in Column 1 of Appendix A of this Decision and Order.

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[4] Gulf's commission account customers are listed in Appendix C to this Decision and Order.

[5] The alleged overcharges resulted from, *inter alia*, Gull's erroneous base period and maximum lawful selling price computations based on the firm's failure to take into account certain May 15, 1973 transactions and to place spot purchasers into the appropriate class of purchaser.

[6] As indicated earlier, the ERA audit files reveal that, pursuant to the 1978 consent order, Gull completed refunds to retail customers at all of its commission account stations and to a portion of its wholesale and consignment accounts. *See* n.4. The wholesale and consignment accounts with remaining refund balances should receive further restitution for Gull's alleged overcharges.

In addition to the specified refund, successful claimants will be entitled to a proportionate share of the interest which has accrued since the funds were remitted to the DOE.

B. Case No. HEF–0084 (September 1, 1981 Consent Order)

The September 1, 1981 consent order covers Gull's sales of motor gasoline and middle distillates during the period May 3, 1975 through June 30, 1977 and alleged credit card violations between February 1, 1974 and September 30, 1974. According to the refund methodology set forth in the Proposed Decision, eligibility for the September 1, 1981 consent order fund would be determined by giving each firm listed in the April 7, 1978, consent order a pro rata share of the September 1, 1981 consent order fund. This proposal was based upon our belief that, because the audit underlying the September 1, 1981 consent order was the continuation of the audit underlying the April 7, 1978 consent order, it covered similar alleged violations in transactions with roughly the same customer population. *See* January 16, 1986 Proposed Decision and Order at 10–11. Upon our review of the comments received regarding this consent order and our further review of the Gull audit files, we have determined that there is a more appropriate and equitable method of distributing this consent order fund. In this regard, we now recognize that the proposed methodology would not effectuate the restitutionary purposes of this proceeding since certain allegedly overcharged firms who began purchasing Gull petroleum products after May 2, 1975 (the termination date of the April 7, 1978 consent order) would not be eligible for refunds, and firms that purchased before May 2, 1975 but did not purchase after that date would be eligible. This would be an inappropriate and unfair result. Upon further review of the relevant audit files, we find that specific wholesale and consignment accounts were identified by the ERA as being allegedly overcharged by Gull during the consent order period. The audit files also show the amounts by which each customer was allegedly overcharged. Since we are relying on the accuracy and validity of audit files in Case No. HEF–0086 and HEF–0085, we believe it is appropriate to do so in the present case also. We will therefore use the applicable audit files in determining refund eligibility and amounts. The potential refunds for the identified firms who are eligible in this proceeding are set forth in Column 2 of Appendix A of this Decision and Order. A successful applicant will also receive a pro rata share of the interest which has accrued on the fund since its remittance to the DOE.

C. Case No. HEF–0085 (January 15, 1982 Consent Order)

We did not receive any comments opposing the proposed refund methodology in this case and we will therefore adopt it as final. The January 15, 1982 consent order covers all Gull sales of Texaco motor gasoline and middle distillates during the period August 19, 1973 through June 9, 1977. This consent order fund will be distributed to Gull customers who have not already received a direct refund from Gull pursuant to the January 15, 1982 consent order and who satisfactorily demonstrate that they were injured by Gull's passthrough of Texaco's alleged overcharges. *See* n.5. The consent order indicates that the ERA reviewed Gull's records to determine the extent of Gull's passthrough of Texaco's alleged overcharges to certain customers. The consent order specified 41 firms and the amounts which should be directly refunded by Gull to its customers from its Texaco consent order fund. The audit records indicate that these identified firms all received their refunds. These firms are therefore ineligible for refunds from the consent order escrow account. The eligible claimants will therefore be Gull customers who did not receive a refund from Gull in connection with Texaco's alleged overcharges.[7] Column 3 of Appendix A indicates whether a firm is eligible for a refund in Case No. HEF–0085.

In order to calculate refunds for eligible claimants in this proceeding we will adopt a volumetric refund presumption. The volumetric presumption assumes that the alleged Texaco overcharges were spread equally over all gallons of Texaco petroleum products marketed by Gull. The volumetric refund amount in this case will be calculated by dividing the amount deposited in the consent order escrow account by the total gallonage of Texaco covered products sold by Gull to its wholesale and consignment accounts during the January 15, 1982 consent order period (excluding gallons for which refunds were made by Gull). Based upon the information available to us, the volumetric refund amount will be $0.007470 per gallon, exclusive of interest ($873,880.54 consent order fund divided by 116,990,880 gallons of Texaco motor gasoline and middle distillates resold by Gull during the consent order period). Any Gull customer (including a firm not listed in Appendix A) who has not already received a refund from Gull for the Texaco overcharges may file a refund application based on the total gallons of motor gasoline and middle distillates it purchased during the August 19, 1973 through June 9, 1977 consent order period.[8]

In order to assist claimants in filing a refund application in this proceeding, we have set forth in Appendix B the partial purchase amounts (and the periods in which those purchases were made) which we located in the audit files. An eligible applicant may rely on these volume figures for the period of time involved in lieu of submitting monthly purchase schedules. These partial figures only represent purchases made during the period May 1975 through June 1977, or 26 months of the 45 month consent order period. An eligible applicant should consult its own records to determine the amount of Texaco product purchased from Gull during the period August 19, 1973 through April 30, 1975. If an applicant requests a refund for volumes purchased during the period prior to May 1975, it must include a monthly breakdown showing gallon amounts purchased.[9] A successful applicant will receive a refund equal to the total number of gallons of Texaco products it purchased from Gull during the consent order period times the volumetric refund amount, plus a proportionate share of the accrued interest.[10]

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[7] Texaco also made direct refunds totalling $1,777,810.40 to Gull customers. These refunds have no bearing on the current proceeding, and a firm may apply for a Gull refund regardless of whether it received a direct refund from Texaco.

[8] Claimants will not be eligible for refunds with respect to middle distillate purchases after June 30, 1976, the date that product was decontrolled.

[9] If an applicant is unable to determine precise volume amounts for the prior period, it may submit estimates. In order for estimates to be considered, however, an applicant must provide an explanation as to how the estimates were derived. For example, an applicant may use the figures provided as a basis for extrapolating its August 1973 through April 1975 purchase volumes.

[10] Since a consent order is necessarily the result of compromise, the volumetric refund amount derived from a consent order settlement is also a compromise. The volumetric refund amount does not purport to calculate the exact amount that a customer may have been overcharged. Rather it is a method by which we can estimate the portion of the consent order fund that should be allocated to a given purchaser. We recognize that the impact on an individual purchaser could have been greater than the applicable volumetric refund amount, and any purchaser may file a refund application based on a claim that it incurred a disproportionate share of the injury associated with Texaco's alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984) and cases cited therein.

V. Application for Refund Procedures

We have determined that the procedures described in this Decision and Order are the most equitable and efficacious means of distributing the three consent order funds. Accordingly, we shall now accept applications for refund from customers who purchased Gull motor gasoline or middle distillates during the relevant consent order periods.[11] All potential applicants should review the Appendices of this Decision to determine in which proceeding(s) they are eligible to apply for a refund. Suggested application forms are attached to this Decision and Order. While these forms need not be used, all of the items in them must be included in a refund claim in order for it to be processed. Each claimant must submit a separate refund application for each of the consent order funds from which it is claiming a refund. All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue SW., Washington, DC. Any applicant that believes its application contains confidential information must so indicate on the first page of its application and submit two additional copies from which the confidential material has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

It Is Therefore Order That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Gull Industries, Inc. pursuant to the consent orders executed on April 7, 1978 and September 1, 1981 and the Letter of Agreement signed on January 15, 1982 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[11] Appendix D lists the eligible applicants whom we are unable to locate due to outdated addresses. We have requested Gull's assistance in locating these potential claimants.

Appendix A.—Consignment and Wholesale Accounts

[Eligibility]

Firm	HEF-0086 principal	HEF-0084 principal	HEF-0085 eligible
A-1 Oil	$0.00	$0.00	Yes
Acme	.00	53.00	Yes
Addison, F.	0.00	709.90	No
Allen, Lon	0.00	5,658.69	Yes
Autotronic [2]	0.00	3.64	Yes
B&B Service (T. Jarvis) [1]	0.00	11.41	No
Beaverton (C. Redmond) [2]	0.00	13.51	No
Bob's Gull (B. Gelnder)	7,417.26	86.75	Yes
Bolser Tire Service	4,263.18	0.00	Yes
C.K. Company (G. DeChenne)	0.00	0.00	No
Champion of Washington	0.00	0.00	Yes
Christensen Oil	0.00	0.00	No
Chuck's Oil	0.00	0.00	No
Circle S Dist. (R. Snyder) [1]	0.00	1.10	Yes
Coronato, Mario (Auburn Gull)	9,211.02	0.00	No
D&D Discount (D. Roady)	11,150.79	0.00	Yes
D&D Distributing	0.00	0.00	Yes
Danny's Gull	1,459.53	2,181.06	No
Danny's Heating Oil	0.00	0.00	No
Denny's HO [1]	0.00	6.66	No
Digas Oil	0.00	100.65	Yes
Distler, J. (Independent Oil)	190.90	1,806.24	No
Drain Oil [2]	0.00	0.00	No
Don's Truck Stop (D. Reiff)	12,175.14	225.37	No
Dvorak Oil	0.00	701.57	Yes
Egell, Robert	8,515.82	0.00	Yes
Eugene Heating Oil [1]	0.00	14.81	No
Farley, Herbert	0.00	0.00	Yes
Farwest Cab	0.00	0.00	Yes
Ferguson	0.00	0.00	Yes
Flores, William	0.00	297.96	Yes
4 Corners Gull (M. Wilson)	0.00	707.02	No
Flying J	0.00	3,173.67	No
Franko Oil	0.00	204.48	Yes
Gas-A-Matic	0.00	21.39	Yes
Glenn's Gull (G. Mentzel) [3]	0.00	1.78	No
Golden Gate	0.00	6,136.16	No
Gor-Mart	0.00	0.00	Yes
Goshen T/S (R. Russell/Newton)	0.00	2,055.29	No
Grand Gull (J. Stillman)	0.00	0.00	No
Gunner, Don (D & D Gull)	0.00	0.00	No
Harper	0.00	0.00	Yes
H&E Enterprises	0.00	0.00	Yes
Hanson, Thomas	0.00	1,867.95	No
Hill, Charles	0.00	0.00	Yes
Huling Brothers	0.00	41.12	No
Jack's Auto Parts	1,808.36	0.00	No
Jerry's Gulf (G. Way) [1]	0.00	1.73	No
Joe's Gas Stop	0.00	0.00	Yes
Johanson, Ron [1]	0.00	13.36	No
John's Carousel	0.00	0.00	Yes
Leathers Oil	0.00	1,499.42	Yes
Leslie, Aaron	0.00	867.55	No
Lost Creek (C. Lilley)	0.00	15,414.51	No

Appendix A.—Consignment and Wholesale Accounts—Continued

[Eligibility]

Firm	HEF-0086 principal	HEF-0084 principal	HEF-0085 eligible
Martin, Stanley & Marge	12,078.53	27.77	No
Maxwell Oil [3]	1,367.70	0.00	Yes
McCall Oil & Chemical	0.00	1,924.85	No
Mennis Oil Co	0.00	0.00	Yes
Mercer, D.E.	0.00	0.00	No
Milk Barn (Millett)	0.00	0.00	Yes
Midway Service (B. Jones)	348.89	18.82	Yes
Mills, Arthur	7,521.44	0.00	No
Mustang Oil	0.00	337.35	No
Newlun, Al	2,985.80	0.00	Yes
New Way Fuel (Asberg)	5,886.32	3,436.78	No
Nicholls' Cash System	0.00	0.00	Yes
Northwest Co	0.00	0.00	Yes
OK Cash	0.00	0.00	Yes
Pacific Petroleum	0.00	0.00	Yes
Paramount Oil	1,302.95	0.00	Yes
Perovich, William [1]	552.33	13.14	Yes
Pittman, Harold	0.00	0.00	Yes
Powerine	0.00	0.00	Yes
Port Angeles Pulp Workers	0.00	0.00	Yes
Prine Oil	0.00	0.00	Yes
Quick Service [1]	0.00	1.47	Yes
Reid, Claire (Bestway)	0.00	0.00	Yes
Reinhard Distributing	2,058.25	0.00	Yes
Robben Oil	0.00	0.00	No
Ronco Oil	0.00	82.42	Yes
Rusich, Ivan	0.00	0.00	No
Salem #1/Russell #2 (H. Russell)	0.00	113.77	Yes
Salem #2/Boedecker	0.00	0.00	No
Salem #2/Flynn	0.00	0.00	Yes
Salem #2/Keith Carlson	0.00	0.00	Yes
Salem #2/Mackens	0.00	0.00	Yes
Salem #2/Russell #1	0.00	0.00	No
Seattle Ready Mix	0.00	318.90	Yes
Seiflein, Richard	4,672.06	0.00	No
Shane, Richard [1]	5,057.34	1.20	Yes
Shourd, William [1]	0.00	4.24	No
Smith, Ed	0.00	0.00	Yes
Smith Brothers	0.00	0.00	Yes
Smith, R.H	0.00	0.00	Yes
Spear Oil	0.00	0.00	Yes
Spurlock, Lou	0.00	572.34	No
Stanley, Everett	8,280.83	0.00	Yes
Star Oil [1]	3,015.57	1.05	Yes
Stark/Boedecker	0.00	0.00	No
Stark/Russell #1 (H. Russell)	0.00	0.00	Yes
Swanstrom, Howard	0.00	0.00	No
Taylor, John	0.00	1,388.57	No
Thrifty Gas	0.00	0.00	Yes
Thunderbird	0.00	0.00	Yes
Time Oil	0.00	0.00	No
Tire Center	0.00	0.00	Yes
Tru-El	0.00	0.00	Yes
Truex, Eugene	9,176.62	0.00	Yes
Traux, Portland	0.00	0.00	Yes
Trunkey Oil	4,864.90	0.00	No
USA Petroleum	0.00	0.00	Yes
Valley Coop	0.00	0.00	Yes
Vess, Mike	0.00	43.27	No
Vitt, Edmund	0.00	102.57	Yes
Wagnon Trucking	0.00	0.00	Yes
Wambaugh, Fred	0.00	67.68	Yes
Westcott, Steve	10,930.46	0.00	No
Western Oil Sales	0.00	0.00	Yes
Winston Oil Co. [1,2]	0.00	6.44	Yes
Yaden, Cliff	1,309.35	22.91	Yes
Totals	174,900.65	82,342.60	

[1] These firms fall below the minimum $15.00 for granting a refund in at least one of the special refund proceedings. Although these applicants are ineligible to apply for the refund which is below $15.00, they may still apply for a refund in another case if they are eligible. *See* section III.F.

[2] These firms are listed in the Consent Order as spot purchasers.

[3] Maxwell is currently in default in the amount of $9,943.39 plus interest in its obligations pursuant to a settlement agreement it entered into with the DOE. *See Maxwell Oil Co.*, Case No. HEF-0125 (dismissed by letter July 3, 1985). In the event Maxwell files a refund application, the fact that it is in arrears to the DOE will be taken into consideration in determining whether to disburse any refund.

Appendix B.—HEF-0085—Consignment and Wholesale Accounts

[Texaco gallons purchased during period May 1975–June 1977 as set forth in audit files [1]]

Firm	Volume of motor gasoline purchased during following period	Period in which volumes were purchased	volume of middle distillates purchased during following period	Period in which volumes were purchased
A-1 Oil	4,999	1/76–3/76	824,781	1/76–6/76
Acme	70,350	5/75–6/75	0	n/a
Allen, Lon	1,217,074	5/75–6/77	0	n/a
Autotronic	7,934,366	10/75–2/77	0	n/a
Bob's Gull (B. Grinder)	123,579	5/75–2/76	8,544	5/75–2/76
Bolser Tire Service	27,075	5/75–6/76	0	n/a
Champion of Washington	9,200	7/75	0	n/a
Circle S Dist. (R. Snyder)	108,900	5/75–12/75	0	n/a
D&D Discount (D. Roady)	595,186	5/75–2/77	0	n/a
D&D Distributing	39,305	5/77	0	n/a
Digas Oil	2,860,453	5/75–5/77	0	n/a
Dvorak Oil	180,751	5/75–7/75	62,512	4/75–6/76
Eigell, Robert	249,706	5/75–9/75	0	n/a
Farley, Herbert	0	n/a	1,755	3/76–6/76
Farwest Cab	539,200	9/75–5/76	0	n/a
Ferguson	89,420	6/75–7/76	0	n/a
Flores, William	357,371	5/75–11/75	0	n/a
Franko Oil	2,912,935	5/75–6/76	8,000	5/75
Gas-A-Matic	223,303	6/75–8/75	0	n/a
Gor-Mart	315,300	5/75–7/75	0	n/a
Harper	106,850	5/75–12/75	0	n/a
H&E Enterprises	1,063,264	5/75–6/77	0	n/a
Hill, Charles	1,338,114	5/75–6/77	0	n/a
Joe's Gas Stop	279,750	6/75–3/76	91,408	9/75–6/76
John's Carousel	438,965	7/75–12/76	0	n/a
Leathers Oil	1,908,595	5/75–9/76	0	n/a
Martin, Stanley & Marge	514,320	5/75–9/76	0	n/a
Maxwell Oil	672,079	6/75–1/76	291,619	5/75–1/76
Mennis Oil Co.	8,250	5/75–6/75	294,911	5/75–6/76
Midway Service (B. Jones)	500	3/77	0	n/a
Milk Barn (Millett)	407,200	5/75–4/77	0	n/a
Newlun, Al	111,980	6/75–8/75	0	n/a
Nicholls' Cash System	121,952	6/75–9/75	0	n/a
Northwest Co.	0	n/a	45,600	3/76–6/76
OK Cash	51,204	12/75–3/76	669,542	4/75–6/76
Pacific Petroleum	18,400	5/75	0	n/a
Paramount Oil	8,300	5/75–8/75	636,200	5/75–6/76
Perovich, William	47,755	5/75–6/75	123,090	5/75–6/76
Pittman, Harold	129,249	5/75–10/75	0	n/a
Port Angeles Pulp Workers	64,500	5/75–8/75	0	n/a
Powerine	442,671	9/75–10/75	0	n/a
Prine Oil	8,101	5/75–8/75	0	n/a
Quick Service	36,453	8/75	0	n/a
Reid, Claire (Beetway)	88,625	5/75–6/76	1,058,833	5/75–6/76
Reinhard Distributing	0	n/a	1,208,851	5/75–6/76
Ronco Oil	71,959	5/75–8/75	233,172	5/75–10/75
Salem No. 1/Russell No. 2 (H. Russell)	2,597,356	5/75–6/77	0	n/a
Salem No. 2/Flynn	123,190	2/77–6/77	0	n/a
Salem No. 2/Keith Carlson	205,639	11/76–2/77	0	n/a
Salem No. 2/Mackens	35,520	8/77	0	n/a
Seattle Ready Mix	12,000	5/75–6/75	11,500	5/75
Shane, Richard	159,733	5/75–9/75	600	5/75–7/75
Smith, Ed	629,910	8/75–8/76	17,400	8/75–11/75
Smith Brothers	0	n/a	45,600	5/75–12/75
Smith, R.H.	52,200	6/75–8/76	132,400	5/75–2/76
Speal Oil	0	n/a	375,000	5/75–6/76
Stanley, Everett	108,331	5/75–10/75	0	n/a
Stark/Russell No. 1 (H. Russell)	973,567	5/75–1/76	0	n/a
Star Oil	950	8/75	81,200	5/75–10/75
Thrifty Gas	1,406,420	5/75–5/77	51,780	4/75–6/76
Thunderbird	184,000	12/75–9/76	0	n/a
Tire Center	8,900	6/75–7/75	0	n/a
Truax, Eugene	88,377	6/75–8/75	0	n/a
Truax, Portland	57,450	6/75–9/75	0	n/a
Tru-El	0	n/a	8,200	5/75
USA Petroleum	5,084,850	9/75–5/77	0	n/a
Valley Coop	0	n/a	30,277	5/75–7/75
Vitt, Edmund	20,250	10/75–12/75	0	n/a
Wagnon Trucking	0	n/a	54,610	5/75–10/75
Wambough, Fred	27,450	6/75–3/76	0	n/a
Western Oil Sales	0	n/a	21,272	5/75–3/76
Winston Oil Co.	5,901	5/75–8/75	150,206	4/75–5/76
Yaden, Cliff	1,264,956	5/75–3/76	532,811	5/75–5/76

[1] The Gull/Texaco consent order period covers August 19, 1973 through June 30, 1976 for middle distillates and August 19, 1973 through June 9, 1977 for motor gasoline. The gallonage figures provided above represent the purchase volumes set forth in the ERA audit files for each eligible applicant during the period May 1, 1975 through June 9, 1977. An applicant who purchased Gull petroleum products during the period August 19, 1973 through April 30, 1975 must submit monthly purchase schedules showing those earlier volumes. In the alternative, an applicant may submit estimated volumes, provided it explains the basis for the estimated figures.

Appendix C.—Commission Accounts

Elbert Adams
Robert Adams
Robert Akers
Gerald Andersen
Russell Appleyard
Jay Arlen
Bastian
Beums
Beaweja
Gary Becker
William Bentley
Terry Berg
Clyde Bingham
Gale Bishop
Richard Boedecker [1]
M. Brainard
Phil Browder
Chetan Chopra
Dinesh Chhabra
Henry Child
Troy Church
Ken Compton
Gary DeChenne
Mario Coronato [1]
Delbert Cox
Bill Cummins
Martin Diesberg
John Distler
Rose Draper
Oscar Eady
Viola Edison
Arthur Ellis
Marlin Erickson
Carl Estes
Herbert Farley [1]
Robet Fite
Flores
Fox & Bell
Ralph Gabbard
Ken Geist
Chet Goad
Ray Halverson
R. Hammon
Victor Harris
Melvin Hayes
David Haught
James Haven
Robert Hofferber
Don Hofstra
Gerald Holland
Holt
Dave Hopkins
Fred Hosking
Howland
Jerry Huddleston
Tsai Hsu
Robert Jenkins
William Jensen
Ronald Johanson [1]
David Johnson
Hayes Johnson
Bert Jolley
James Kelly
Kortman
LaFrance
John Lane
Jerry Langham
Marvin Larson
Ki Moon Lee
Loren Lindstrand
Norm MacDonald
Charles Mackens [1]
Steve Maglione
Maneur
Fred Mayer
Larry Meyers
Arthur Mills [1]
Moorman
Bill McCally
Richard Neff
Al Newlun [1]
Charles Northrop
Oster
Richard Oughton
Tom Papineau
Frank Papasedero
Lloyd Paxton
William Perovich [1]
Carlton Pingrey
Darwin Reynolds
William Roberts
Ivan Rusich
James Russell
Richard Seiflein [1]
Anton Selzler
Shamblin
Richard Shane [1]
Maurice Smith
Dick Snyder
Lou Spurlock [1]
William Streukens
Dan Sweeney
Don Taylor
John Taylor [1]
Don Thomas
Wayne Thomas
Betty Thompson
Robert Utermarck
Mike Vess [1]
Robert Vessey
Doug Ward
Tryphonia Wade
Mark Waldren
Warnke
Ralph Webb
Ken Weiss
Steve Wescott [1]
Don Wesley
Duane Wesley
Wichai
Wichienwidhtaya
Allan Widell
Burton Williams

Appendix D.—Eligible Applicants Whose Addresses are Outdated

Mrs. Bert Jolley, 4032 115th NE, Seattle, WA 98125

Bob Grinder, Bob's Gull, Rte. 4, Box 522, Eugene, OR 97405

Dennis Senn, Denny's Gull & Heating Oil, 1817 W. 6th, Eugene, OR 97402

Mrs. C.V. "Buck" Newton, Goshen Truck Stop, 1635 E. Adams Street, Cottage Grove, OR 97424

Dvorak Oil Company, 1428 No. Wenatchee, Wenatchee, WA 98801

Stanley & Marge Martin, P.O. Box 33, Tonasket, WA 98855

Cletus E. Redmond, P.O. Box 5179, Beaverton, OR 97006

Charles Hills, 2502 Broadway, Everett, WA 98201

[1] The ERA records indicate that these firms also operated as consignment or wholesale accounts during some portions of the Gull consent order periods. Therefore, in some instances, commission accounts appear in appendix A as eligible applicants.

Port Angeles Pulp Workers Co-op, 333 East 1st Street, Port Angeles, WA 98362
William R. Flores, Gull U-Saves Sales, Box 488, Omak, WA 98841
Nicholl's Cash System, 3945 Franklin Blvd, Eugene, OR 97403
Tom Jarvis–B & B Service, 2147½ Main Street, Springfield, OR 97477
John Morley, Lost Creek Arco/Lowell Oil Co., 84591 Pheasant Lane, Pleasant Hill, OR 97401
Mario Coronato, 27257 42nd Avenue South, Kent, WA 98031
Arthur Mills, 10 Front Street South, Issaquah, WA 98027
Tire Center #2, 315 Coburg Road, Eugene, OR 97401
Albert Newlun, 2617 N. Atlantic, Spokane, WA 99205
Thomas Hanson, Hillyer Oil Company, 943 Summit, Medford, OR 97501
Denny's Keylock, 1817 West Sixth, Eugene, OR 97401
Autotronic Systems, Inc., 4550 Post Oak Place Drive, Houston, TX 77027
Herbert Kettler & Elden Markham, H & E Enterprises, Box 173, Moscow, ID 83843
Craig Hansen, Western Auto, Redmond, OR 97756
Northwestern Petroleum, P.O. Box 976, Tacoma, WA 98401
AWI Sand & Gravel, Inc., Seattle Ready Mix Concrete Company, 5701 First Avenue South Seattle, WA 98108

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF-0086

Consent Order Date: April 7, 1978.
Consent Order Period: November 1, 1973–May 2, 1975.
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF-0086? Yes ____ No ____.
If no, do not file this application form.
2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (_____) _____
5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user
6. Principal refund amount requested (from Appendix A): $ _____
If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).
7. During what period did you purchase Gull petroleum products? _____ through _____
8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.
10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.
11. Have you ever been involved as a party in any DOE enforcement or private Section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.
12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.
13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understood that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title
Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0086), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF-0084

Consent Order Date: September 1, 1981.
Consent Order Period: May 3, 1975–June 30, 1977 and February 1, 1974–September 30, 1974.
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF-0084? Yes ____ No ____.
If no, do not file this application form.
2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (_____) _____
5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user
6. Principal refund amount requested (from Appendix A): $ _____
If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).
7. During what period did you purchase Gull petroleum products? _____ through _____
8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.
10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.
11. Have you ever been involved as a party in any DOE enforcement or private Section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.
12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.
13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understood that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title
Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0084), Office of Hearings and Appeals, Department of Energy, 1000

Independence Avenue, SW., Washington, DC 20585.

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF–0085

Consent Order Date: January 15, 1982
Consent Order Period: August 19, 1973–June 9, 1977)
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF–0085? Yes _____ No ____
If you are listed as *ineligible*, do not file this application form.

2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (____) _____

5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user

6. Total gallons of motor gasoline and middle distillates purchased during consent order period (a + b from page 6 of application): _____ gals.

a. Total gallons of Gull motor gasoline and middle distillates purchased between August 19, 1973 and April 30, 1975: (attach purchase schedule or explanation of estimates) _____ gals.

b. Total gallons of Gull motor gasoline and middle distillates purchased between May 1, 1975 and June 9, 1977 (through June 30, 1976 for middle distillates): (see Appendix B) _____ gals.

c. If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).

7. During what period did you purchase Gull petroleum products? _____ through _____

8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.

10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.

11. Have you ever been involved as a party in any DOE enforcement or private section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.

12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.

13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title

Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0085), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

[FR Doc. 86–19225 Filed 8–25–86; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $21,818.84 and $67,623.34 obtained as a result of consent orders which the DOE entered into with Ramos Oil Company, Inc. (Ramos) and Farstad Oil Company (Farstad), both reseller-retailers of refined petroleum products. Ramos is located in West Sacramento, California; Farstad is located in Minot, North Dakota. The monies are being held in separate escrow accounts following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

Date and address: Applications for refund of a portion of the Ramos or Farstad consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer either to Case Number HEF–0159 (for Ramos) or HEF–0567 (for Farstad) and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to consent orders that the DOE entered into with Ramos Oil Company, Inc. (Ramos) and Farstad Oil Company (Farstad). The Ramos consent order settled all claims and disputes between Ramos and the DOE regarding the firm's compliance with the Mandatory Petroleum Price and Allocation Regulations with respect to its sales of covered products during the period, August 20, 1973, through January 27, 1981. The Farstad consent order settled all claims and disputes between Farstad and the DOE regarding the manner in which the firm applied the Mandatory Petroleum Price Regulations with respect to its sales of motor gasoline and No. 1 and No. 2 diesel fuel (covered products) between November 1, 1973, and April 30, 1974. Proposed Decisions and Orders tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Ramos and Farstad consent order funds were issued on May 20, 1986. 51 FR 19400 (May 29, 1986); 51 FR 19397 (May 29, 1986).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of two escrow accounts funded by Ramos and Farstad pursuant to their respective consent orders. The DOE has decided to accept Applications for Refund from firms and individuals that purchased covered products sold by Ramos or Farstad during the appropriate consent order periods. Eligible applicants include indirect customers as well as first purchasers. In order to receive a refund, a claimant will be required to submit a schedule of its monthly purchases of Ramos or Farstad covered products and to demonstrate that it was injured by firm's pricing practices. An indirect purchaser must also submit the name of its immediate supplier and indicate why it believes the products were originally sold by Ramos or Farstad.

As the accompanying Decision and Order indicates, Applications for Refund may now be filed by customers that purchased Ramos covered products during the period, August 20, 1973, through January 27, 1981, or Farstad covered products between November 1, 1973, and April 30, 1974. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the Federal Register. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 7, 1986.

Names of firms: Ramos Oil Company, Inc.; Farstad Oil Company.

Dated of filing: October 13, 1983—March 6, 1985.

Case Nos. HEF–0159; HEF–0567.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Ramos Oil Company, Inc. (Ramos). ERA also filed a similar petition on March 6, 1985, in connection with a consent order entered into with Farstad Oil (Farstad). This Decision and Order contains the procedures which OHA has formulated to distribute the funds received pursuant to those consent orders.

I. Background

Each of these firms is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31. Ramos is located in West Sacramento, California; Farstad is located in Minot, North Dakota. An ERA audit for each firm's records revealed possible violations of DOE regulations. Subsequently, each firm entered into a consent order with DOE. The consent orders refer to ERA's allegations of regulatory violations but note that there were no findings that infractions occurred. In addition, each consent order states that the subject firm does not admit that it committed any such violations. A brief discussion of other pertinent matters covered by each consent order follows.

The Ramos consent order, executed on May 19, 1983, settled all claims and disputes between Ramos and the DOE regarding the firm's compliance with the Mandatory Petroleum Price and Allocation Regulations during the period, August 20, 1973, through January 27, 1981. The consent order pertains to all of Ramos' sales of covered products during that period.[1] Under the terms of the consent order, Ramos was required, in three annual installments, to deposit a total of $19,000, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Ramos made its final payment on May 30, 1985.[2]

In the Farstad case, the ERA audit alleged that between November 1, 1973, and April 30, 1974, Farstad committed possible pricing violations in its sales of motor gasoline and No. 1 and No. 2 diesel fuel (covered products). The Farstad consent order, executed on September 1, 1981, settled all claims and disputes between Farstad and the DOE regarding the firm's sales of covered products during the period encompassed by the audit. Under the terms of the consent order, Farstad agreed to refund $78,636.17, plus interest, as follows: Checks totaling $27,472.56, plus interest, were to be directly issued to Farstad's end-user customers; for restitution to its wholesale customers, Farstad was required to deposit $51,163.61, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. To discharge the latter obligation, on February 14, 1984, Farstad remitted $67,623.34 to the DOE. In addition to the $66,981.67 paid as settlement for the alleged wholesale overcharges, Farstad also remitted an additional $641.67 which was to have gone to end-user customers which Farstad could not locate.[3]

[1] The covered products which Ramos sold included motor gasoline, No. 2 diesel fuel, and lubricants.

[2] Ramos paid $21,818.84, including installment interest, into the escrow account. This amount represents the principal which will form the basis for refund calculations. As of June 30, 1986, the total value of the Ramos escrow account was $25,230.25.

[3] The end users that received direct refunds, all of which are affiliated with the United States Government, are not eligible to apply for refunds in this proceeding. However, applications will be accepted from end users that did not receive direct refunds from Farstad. All of these latter customers are either individuals or non-U.S. Government entities.

As of June 30, 1986, the total value of the Farstad account was $82,785.01.

II. Jurisdiction and Authority to Fashion Refund Procedures

The general guidelines which OHA may use to formulate and implement a plan to distribute funds received as the result of an enforcement proceeding are set forth in 10 CFR Part 205, Subpart V. The Subpart V procedures may be used in situations where the DOE is unable either to readily identify those persons who might have been injured by any regulatory violations or to ascertain the amount of such injuries. For a more detailed discussion of Subpart V and the authority to fashion refund procedures, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

OHA issued Proposed Decisions and Orders (PD&Os) in the Ramos and Farstad proceedings on May 20, 1986. 51 FR 19400 (May 29, 1986); 51 FR 19397 (May 29, 1986). The PD&Os set forth tentative plans for the distribution of refunds to parties that make reasonable showings of injury as a result of the alleged regulatory violations in the firms' sales of covered products during the respective consent order periods. The PD&Os stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, copies of the Proposed Decisions were published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. In addition, copies of the PD&Os were sent to various petroleum dealers associations. Comments were submitted in both proceedings on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia concerning the distribution of any funds remaining after refunds have been made to injured parties. The purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Ramos and Farstad refund proceedings. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the sizes of the funds. *See Office of Enforcement*, 9 DOE at 85,055. Therefore, it would be premature for us to address the issues raised by the states' comments at this time. Since no comments were received concerning the first-stage procedures in either case, they will be adopted as proposed.

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III. Refunds to Identifiable Purchasers

In the first stage of the Ramos and Farstad refund proceedings, we will distribute the funds in the escrow accounts to claimants that demonstrate that they were injured by the alleged overcharges.[4] In order to be eligible to receive a refund, a claimant will have to file an application and, with the three exceptions discussed below, show the extent to which injury resulted from the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the monies in the appropriate consent order fund.[5]

In these cases we will adopt two rebuttable presumptions as well as two findings regarding injury. These presumptions and findings have been used in many previous special refund cases. First, we will presume that purchasers of Ramos or Farstad covered products that are claiming small refunds ($5,000 or less, exclusive of accrued interest) were injured by the alleged overcharges. In the absence of compelling material, we will also presume that spot purchasers were not injured. In addition, we find that end-users or ultimate consumers of Ramos or Farstad covered products whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. Finally, we will not require a detailed demonstration of injury from regulated utilities or agricultural cooperatives that purchased Ramos or Farstad covered products and passed the alleged overcharges associated with those products through to their end-user members. Prior OHA decisions provide detailed explanations of the bases of these presumptions and findings. *E.g., Peterson Petroleum, Inc.*, 13 DOE ¶ 85,191 at 88,508–10 (1985). The rationale for their use was also fully explained in the PD&Os. 51 FR 19397 at 19398–99 (May 29, 1986); 51 FR 19400 at 19401–02 (May 29, 1986). These presumptions and findings will permit claimants to apply for refunds without incurring disproportionate expenses and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a claimant might make such a showing, it is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices.[6]

A modification of the standard injury requirement is necessary in the Ramos proceeding because for a portion of the 7½-year Ramos consent order period, retailers and resellers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 23546 (1980). Instead, effective July 18, 1979, for retailers and May 1, 1980, for resellers, these firms were required to calculate their MLSPs by adding a specified profit margin to their cost of product. Unrecouped increased product costs could no longer be banked for later recovery. *Id.* Since, as of those dates, retailers and resellers of motor gasoline were not required to maintain or compute cost banks, any requirement that these claimants make demonstrations of injury based on unrecovered banks is unnecessary for portions of the consent order period. Therefore, in this proceeding, retailers and resellers claiming refunds greater than $5,000 need not supply bank documentation for the periods after July 18, 1979, and May 1, 1980, respectively.[7] However, retailers and resellers will be required for the entire consent order period to show that market conditions prevented them from recovering those increased product costs, *e.g.*, through a demonstration of reduced profit margins, decreased market shares, depressed sales volumes or competitive disadvantages.[8]

A. Calculation of Refund Amounts

In both the Ramos and Farstad proceedings we will use a volumetric method to determine the refunds of eligible applicants. This method presumes that the alleged overcharges in each case were spread equally over all the gallons of products covered by the respective consent orders. Under the volumetric method, a claimant will be eligible to receive a refund equal to the number of gallons of Ramos or Farstad covered products that it purchased during the consent order period times the appropriate volumetric factor. The volumetric factor, which is the average per gallon refund, equals $0.000213 in the Ramos case and $0.007551 in the Farstad proceeding.[9] In addition, successful claimants will receive a proportionate share of the interest which has accrued on the appropriate escrow account.

We recognize that a particular purchaser could have incurred a disproportionate share of the alleged overcharges. Any purchaser which can make such a showing may file a refund application based on such a claim.

As in previous cases, only claims for at least $15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims in either of the two proceedings exceed the funds available in the particular escrow account, all refunds in that proceeding will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

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[4] The ERA audit file and record in the Ramos proceeding does not include any information pertaining to alleged allocation violations. Nevertheless, the Ramos consent order resolves all disputes between Ramos and the DOE concerning the firm's compliance with both the Mandatory Petroleum Price and Allocation Regulations and the Ramos escrow funds may appropriately be used to make restitution for injury related to Ramos' allocation practices. The consideration of such claims will entail the same procedures that have been used in prior Subpart V proceedings involving alleged allocation violations. *See* Power Pak Co., Inc., 14 DOE ¶ 85,001 (1986).

[5] The Appendix to this Decision and Order contains the names of some customers that may have purchased petroleum products from Farstad during the consent order period. We will accept information regarding the present locations of these purchasers for a period of 90 days following publication of this Decision and Order.

[6] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on November 1, 1973, and ending on July 18, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 14, 1973, with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that these costs could be recouped in a later month, if possible. *See* 10 CFR 212.93; 45 FR 23546 (1980).

[7] The cost bank requirement has been relaxed in other instances involving the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,005 at 88,017 n.1 (1982).

[8] Resellers or retailers that claim a refund in excess of $5,000 but which do not attempt to establish that they did not pass through the price increases will be eligible for a refund of up to $5,000 without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,022 at 88,121 (1982).

[9] The Ramos volumetric factor is computed by dividing the $21,818.84 received from Ramos by the 102,402,443 gallons of covered products estimated to have sold by the firm between August 20, 1973, and January 27, 1981.

The Farstad volumetric factor is computed by dividing the $67,828.26 received from Farstad by the 8,956,972 gallons of covered products sold by the firm during the period, November 1, 1973, through April 30, 1974, to its customers that did not receive direct refunds.

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IV. Applications for Refund

Through the procedures described above, we will be able to distribute the Ramos and Farstad consent order funds as equitably and efficiently as possible. Accordingly, we will now accept Applications for Refund from individuals and firms that purchased Ramos covered products during the period, August 20, 1973, through January 27, 1981, or Farstad covered products between November 1, 1973, and April 30, 1974. Eligible applicants include subsequent repurchasers as well as first purchasers.

There is no specific application form which must be used. In order to receive a refund, each claimant must submit the following information:

(1) A schedule, broken down by product, of its monthly purchases of Ramos or Farstad covered products during the approrpiate consent order period along with any relevant information necessary to support its claim in accordance with the presumptions and findings outlined above.[10] If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the products were originally sold by Ramos or Farstad;

(2) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying the proceeding in which it is claiming a refund;

(3) Whether there has been a change in ownership of the firm since the consent order period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(4) Whether the applicant is or has been involved as a party in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d); and

(5) The name and telephone number of a person who may be contracted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to the appropriate case number (HEF–0159 for Ramos and HEF–0567 for Farstad) and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to Department of Energy by Ramos Oil Company, Inc. pursuant to the Consent Order executed on May 19, 1983, may now be filed.

(2) Applications for Refund from the funds remitted to Department of Energy by Farstad Oil Company pursuant to the Consent Order executed on September 1, 1981, may now be filed.

(3) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix.—Farstad Oil Company

First Purchasers

Ahmann's Service
William Albrecht
American Grain & Cattle
Thomas Anderson
Armours Oil Co.
Lynn Arneson
Arrowhead Tesero
Art's Body Shop
Austads
B&B Friendly Service
Bair's Truck Stop
Bell Communications
Ken Benson
Big Steer Restaurant
Bigwood Oil Co.
Bill's Husky
John Blake
Bottineau Oil Co.
Brown's Service
Jery Buettner
Burlington Texaco
Campus Texaco
Lloyd Charron
City Shop
T.W. Cockrell
Cole Petroleum
Columbus Oil Co.
Coop Oil Association
D & E Oil
Phil Dahle
Dale's Cash Supply
Dale's Truck Stop
Dave's Oil Co.
Andy Dejarlais
Denius Oil Co.
Dickinson Husky
John Dickman
Don Moe Dodge
Dunseith Public Schools
Economy Fuel
Emerald Moggard
Errco Service
Farmers Elevator
Farmers Grain and Oil
Farmers Union Oil Co.
Fish Garbage Service
Floyd Prieze Exxon
Floyd's Interstate
Garden Valley Exxon
Norman Glenz
Goulding Mobil
Green Oil Co.
Gary Gross
Peter A. Gross
Gustafson Oil Co.
Gwinner Oil Co.
Haas Mobil
Marlin Hankinson
Heringer Oil Co.
Hershey-Patterson
Norris Heskin
Highway Corners Texaco
Husky Truck Co.
Hutton Oil Co.
I–94 Oasis Skelly
I–94 Truck Oasis
Ihringer Oil Co.
Independent Farmers Oil
Interstate Oil Co.
Industrial Builders
Bob Irwin
Jakes' Auto Glass
Jamestown Truck Plaza
Johnson Chevrolet
Fred Johnson
Irver Johnson
Jones Oil Co.
Kal's Texao
Leonard Kasaner
Joan King
Elmer Knutson
Kraft's grocery
Clarence Kringlee
Lake Region Coop Oil
Lane Sheet Metal
Laraway Bulk Station
Larry's Auto
Ernest Livingston
Lockrem Oil Co.
Stan Lozensky
Don Lund
Roger Lund
Ken Lystad
Maddock Oil Co.
Major Brands
Jules Mathis
Maxbass Oil Co.
Mayer Truck
Merv's Errco Service
Guy Metzdorf
Midland Coop
Midland Diesel
Midwest Service
City of Minot
Minot Salvage
Minot Sand and Gravel
Mohler Oil Co.
Morty Oil Co.
Mouse River Oil
Mutchler Grain Co.
Muus Lumber
Myles Myhre
Lowell Ness
New Rockford Fessenden Co-op
Nifta Enterprises
Nolan Surge Service
Erwin Norenberg
North Dakota State Highway Department
North Hill Texaco
Northwest Grain and Salvage
Northwest Spraying
Nortonville Oil Co.
O'Day Equipment
Ohio Brass Co.
Oskey Brothers
Ostby Service
Ottoshine
Overby Oil Co.
Palroies Brothers
Parker and Parker
Payne Brothers
Peavy Co.
Perry's Grocery
Perry's Texaco
Pioneer Construciton
Prime Petroleum
Rabbit Marketing
Ralph Hatford Texaco
Refrigerator Equipment
Jim Reinharts
Rensch Garage
Rick's Skelly
Riverside Texaco
Robo Wash
Rolla Oil Co.
Roughrider Truck Stop
Ron Ruther
Ruthville Texaco
Schaan Oil Co.
Paul Schoty
Merle Schumocher
Shunk's Oil Co.
Jim Soltis
Soo Line Railroad
Sornsin Construction
Southdale Texaco
Speedway Service
Speedy's Tire Center
Roy Stenson
Jim Storud
Struckness Construction
Surry Grocery
Surry Skelly
Carl Swartout
Rube Swenson
Taste Rite Packing
Taylor Oil Co.
Ted's Garage
Tesoro Oil
Texaco Co., New Rockford
Thomas Enterprises
Thomas, Inc.
Tooley Texaco
Roy Tripp
Turtle Mountain Oil
Twin City Barge & Towing
United Parcel Service
Joe Volk
Larry Vannett
Ward County
Westlie Skelly Truck Stop
Jerry Wolfe
Wood River Oil and Refining
Conrad Zeigler
Alec Zorn

[FR Doc. 86–19226 Filed 8–25–86; 8:45 am]

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[10] Although the price of motor gasoline was controlled until January 27, 1981, No. 2 diesel fuel and lubricants were deregulated on July 1, 1976, and September 1, 1976, respectively. In compiling its schedule of monthly purchases, a claimant in the Ramos proceeding should not include purchases of deregulated products.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a $15,907,465.76 settlement fund to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Howard Oil Company of Maspeth, New York (Case No. KEF-0008).

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to Howard Oil Company Settlement Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case No. KEF-0008.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to a Settlement Agreement entered into by Howard Oil Company of Maspeth, New York and the DOE which settled possible regulatory violations in the firm's sales of middle distillates and residual fuel oil during the settlement period, August 1973 through January 27, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the escrow account funded by Howard Oil pursuant to the settlement agreement. The DOE has tentatively established procedures under which purchasers of Howard Oil middle distillates and residual fuel oil during the settlement period may file claims for refunds. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 pm, Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: August 12, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

August 12, 1986.

Name of Firm: Howard Oil Company, Inc.

Date of Filing: October 28, 1985.

Case Number: KEF-0008.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed a petition on October 28, 1985, requesting that the OHA implement a proceeding to distribute funds received pursuant to a Settlement Agreement entered into by the DOE and Howard Oil Company, Inc. of Maspeth, New York (Howard).[1]

I. Background

Howard was a "reseller-retailer" of middle distillates and residual fuel oils as those terms were defined in 10 CFR 212.31, and was therefore subject to the Mandatory Petroleum Price Regulations. As a result of an ERA audit, the ERA alleged that Howard violated the price regulations in sales of middle distillates and residual fuel oil during 1973 and 1974 and also failed to pass through a refund made by Sun Oil Company (Sun) to Howard in 1974. On April 9, 1985, Howard entered into a Settlement Agreement with the DOE in a proceeding in the United States District Court for the Eastern District of New York. *DOE* v. *Howard Oil Co.*, Civ. No. 78-C-2002 (E.D.N.Y. Apr. 9, 1985). This agreement settled all disputes and claims between Howard and the DOE regarding the firm's compliance with the price regulations in sales of petroleum products during the period from August 1973 through January 27, 1981. Specifically, Howard agreed to remit $15.4 million to the DOE for deposit in an interest bearing escrow account. Of that amount, $3 million was stated to be in settlement of the alleged overcharges by Howard in sales of middle distillates and residual fuel oil during 1973 and 1974; $4.5 million settled allegations regarding Howard's failure to pass through the refund received from Sun in 1974;[2] and $7.9 million was accrued interest on both Howard's alleged overcharges and the Sun refund through October 31, 1984.[3]

II. Jurisdiciton

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82.597 (1981) (hereinafter cited as *Vickers*). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing

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[1] Other parties to the Settlement Agreement were York Oil Trading and Transport Company (York Oil); South Pacific Oil Company Limited (Sopac); Howard Ross, a principal stockholder and officer of Howard, York Oil and Sopac; H. Peter Ross, a principal stockholder and officer of York Oil and Howard; and Theodore Ross, a principal stockholder and officer of York Oil and Howard.

[2] On February 8, 1974, the Federal Energy Office (FEO), one of the DOE's predecessors, issued an Order directing Sun to refund $6,047,180 to Howard for overcharges in Sun's November and December 1973 sales of No. 2 oils and kerosene. Sun complied with this Order on March 11, 1974. The Order also directed that Howard, in turn, pass on this refund directly to its customers. Instead, Howard attempted to implement the refund by means of a rollback of prices to its customers of No. 2 oils. In its audit, the ERA determined that Howard's rollbacks did not compensate the firm's classes of purchaser of No. 2 oils in the same proportionate amounts by which the Sun overcharges had been passed through to them by Howard. Furthermore, the ERA alleged that Howard failed to pass through $251,484 of the Sun refund attributable to kerosene sales when it sold the Sun kerosene in November 1974.

[3] The total amount which Howard remitted to the DOE was $15,907,465.76. This included $100,000 which was forwarded to the Treasury of the United States for civil penalties connected to this case, and additional interest of $407,465.76, which accrued between the date of the settlement and the date payment was made. The actual consent order amount which is the subject of this proceeding is thus $15,907,465.76.

the Howard settlement. We therefore propose to grant the ERA's petition and assume jurisdiciton over distribution of the fund.

III. Proposed Refund Procedures

A. Refund Claimants

Insofar as possible, the settlement fund should be distributed to those customers of Howard who were injured either by the alleged overcharges or by Howard's alleged failure to pass through the Sun refund. Since the Settlement Agreement allocates the refund monies to alleged violations during specific periods of time, we propose to limit eligibility to firms who purchased product that was sold by Howard during those periods, *See* Part IIB, *infra*. We expect that claimants will fall into one of the following general categories: (i) Resellers and retailers (hereinafter collectively referred to as resellers) who resold Howard middle distillates and residual fuel oil, (ii) individuals or firms that consumed Howard petroleum products for their own use (end-users), or (iii) public utilities. The product purchased by these claimants will have been purchased from Howard, or from other firms in the chain of distribution leading back to Howard. In this case, the ERA audit files identified certain customers who may have been injured by Howard's allegedly wrongful actions. These parties are listed in the Appendices to this Decision and Order. In our view, these identified customers are only some of the parties who were adversely affected, at least initially, by Howard's alleged overcharges or failure to distribute the Sun refund. We therefore propose to accept refund applications from the customers identified in the Appendices and any other parties who can demonstrate that they were injured by the firm's pricing practices.

1. Showing of Injury

As in prior refund proceedings, we propose to require claimants who were resellers of refined petroleum products purchased from Howard to demonstrate that during the settlement period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Howard, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges.[4] *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, the reseller is generally required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small Claims Presumption

We further propose to adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Howard petroleum products. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g, Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We propose to adopt such a procedure in this case. Therefore, we propose that any reseller claiming a refund of $5,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund.[5]

3. End-Users

As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the Howard settlement. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) and cases cited therein. We therefore propose that end-users of Howard petroleum products need only document their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

4. Regulated Firms

We further propose that firms whose prices for goods and services are regulated by a government agency, e.g., public utilities, not be required to make a detailed demonstration of injury in this case. Although these firms generally passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass through any refund received to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body of their receipt of the refund money. *See Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

5. Spot Purchasers

We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of Howard petroleum products have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Howard's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).

6. $15 Minimum

We also propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the

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[4] These alleged violations would have been committed by either Howard or by Sun and passed through by Howard.

[5] As in prior special refund proceedings, reseller applicants whose purchase volume might qualify them for a larger refund may choose to limit their claims to $5,000, in lieu of making a detailed showing of injury.

cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR § 205.286(b).

B. Calculation of Refund Amounts

We must further determine the proper method for dividing the settlement fund among successful applicants. The Settlement Agreement explicitly states that $3 million (plus interest) is intended as restitution for alleged overcharges by Howard during 1973 and 1974, and that $4.5 million (plus interest) is intended as restitution for Howard's failure to pass through to its customers Sun's 1974 refund for overcharges in sales of No. 2 oil and kerosene to Howard in November and December 1973.[6] Since the settlement comprises restitution for two very different types of allegation, we propose to establish separate refund pools based on these allegations. Specifically, we will establish one refund pool for Howard's middle distillate and residual fuel oil customers during the period from August 19, 1973, when the price regulations went into effect, through December 31, 1974, and a second pool for the customers to whom Howard failed to pass through the Sun Oil refund to which they were entitled in sales of middle distillates. *See Gull Industries, Inc.*, 6 Fed. Energy Guidelines ¶ 90,058 (1986) (Proposed Decision). The former pool totals $7,776,743.71 consisting of $3 million plus $4,776,743.71 interest which accrued on the alleged overcharges prior to payment to the DOE. The latter pool totals $8,130,722.05 consisting of $4.5 million plus $3,630,722.05 interest on the upaid Sun refund accrued prior to payment.

1. Claims Based Upon Howard's Alleged Overcharges

We propose that the maximum refund for the identified firms listed in Appendix A be based on the amounts they were allegedly overcharged, as indicated in the Howard audit files.[7] To calculate the size of each identified applicant's potential refund, we propose to multiply the alleged overcharge amount for that claimant by 0.451478, a pro rata factor representing the portion of the total alleged overcharges that Howard remitted to the DOE pursuant to the Settlement Agreement.[8] The potential refunds for those customers identified in the Howard audit files are set forth in Appendix A. In addition, successful applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow account.

For firms who were allegedly overcharged by Howard but who are not identified in the audit files, we propose to adopt a volumetric refund presumption. The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric system we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of middle distillates and residual fuel oils purchased from Howard between August 19, 1973 through December 31, 1974, times the volumetric factor. The volumetric factor for this refund pool equals $0.008186 per gallon.[9] In addition, successful claimants will receive a proportionate share of the interest which has accrued since the deposit of the funds in the escrow account.

2. Claims Based Upon the Sun Oil Refund

The audit files shows four identified purchasers and two groups of unidentified customers who did not receive their full share of the Sun refund from Howard. *See* n.7, *supra*. To calculate the size of each identified applicant's potential refund we propose to multiply the Sun refund amount designated for that claimant by 0.668646, a pro rata factor representing the portion of the total Sun refund amount that Howard remitted to the DOE pursuant to the settlement.[10] These potential refund amounts are set forth in Appendix B.[11] Also, successful applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds in the escrow account.

The unidentified claimants for the Sun Oil refund monies consist of Howard customers that purchased kerosene in November 1974 or No. 2 oils in November or December 1973. The audit files set forth the total Sun refund amounts attributable to these two groups. Accordingly, in order to calculate refunds for claimants in these groups, we propose to adopt two volumetric refund amounts.[12] Based upon the information available to us at this time, the volumetric refund amount for unidentified kerosene purchasers will be $0.381705 per gallon ($403,169.98 divided by 1,056,233 gallons). For unidentified No. 2 oil purchasers the volumetric refund amount will be $0.357903 per gallon ($343,644.97 divided by 960,161 gallons). Successful claimants will also receive a proportionate share of the interest which has accrued since the deposit of the funds into the escrow account.

[6] The Settlement Agreement, ¶ 2 states:

Howard Oil will pay the sum of $15,500,000 in full settlement of the above captioned civil action through November 1, 1984. Of that amount, $3,000,000 is paid as restitution to the Department of Energy on behalf of any customers of Howard Oil who may be entitled to refunds for alleged overcharges during 1973 and 1974; $4,500,000 is paid to the Department of Energy on behalf of customers of Howard Oil who may be entitled to refunds in connection with the refund received by Howard Oil from Sun Oil Company in 1974; $7,900,000 is paid on account of claims for accrued interest on the alleged overcharges and the Sun Oil refund through October 31, 1984 and $100,000 represent civil penalties to be paid to the Treasury of the United States.

We recognize that the time periods of the alleged violations described in this provision of the Settlement Agreement are not as comprehensive as the August 1973 through January 27, 1981 settlement period established by provision six of the Settlement Agreement. Nonetheless, as indicated above, we propose to follow the specific allocation terms of the Settlement Agreement.

[7] Although we recognize that the ERA audit files do not provide conclusive evidence as to the identity of all allegedly overcharged parties or the amount of money they should receive in a Subpart V proceeding, we will use this information in the present case as a basis for identifying overcharged customers and their potential refunds since it can be used to fashion a refund plan which will correspond closely to the injuries experienced. *See Marion.*

[8] The alleged overcharge amount includes accrued interest through October 31, 1984.

[9] The $0.008186 volumetric factor was derived by dividing the $6,280,461.49 balance of this refund pool by 767,127,246, the total number of gallons of middle distillates and residual fuel oil sold by Howard to unidentified purchasers during the August 1973–December 1974 period.

[10] The Sun refund amount includes accured interest through October 31, 1984.

[11] Since York Oil is affiliated with Howard and was a party to the Settlement Agreement (*see* footnote 1), we propose that it and any other applicant similarly affiliated with Howard be ineligible for refunds in this proceeding. *See Dalco Petroleum, Inc.*, 14 DOE ¶ 85,248 at 88,464 (1986); *Bayside Fuel Oil Depot Corp.*, 13 DOE ¶ 85,139 at 88,381–82 (1985).

[12] These volumetric factors were derived by multiplying the aggregate Sun refund amounts attributable to the respective unidentified customer group by the pro-rated overcharge factor, 0.668646, and then dividing each amount by the respective number of gallons of kerosene and No. 2 oils purchased during the applicable time periods.

IV. Conclusion

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in that final Decision. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim.[13] In addition to publishing copies of the proposed and final decisions in the **Federal Register**, copies will be provided to the Howard customers whose names and addresses we have obtained from the DOE audit files.

In the event that money remains after all first stage claims have been disposed of, these funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first stage of this refund proceeding is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Howard Oil Company pursuant to the Settlement Agreement executed on April 9, 1985 will be distributed in accordance with the foregoing Decision.

APPENDIX A

Customers allegedly overcharged by Howard	Potential refund
Melenol Corp	$223,498.77
Orange & Rockland Utilities, Inc	571,839.19
Carbonit Curacao, N.V	218,599.32
Texaco Inc	72,344.94
Unidentified customers 5/19/73–12/31/74	[1] 6,290,461.49
Total	7,776,743.71

[1] $0.006186 per gallon.

APPENDIX B

Sun Oil refund customers	Potential refund
Melenol Corp	$6,087,024.41
Carbonit Curacao N.V	819,163.03
York [1] Oil Trading & Transportation Co. Inc	345,815.87
Con Edison	40,913.79
Unidentified Customers:	
Kerosene sold during 11/74	[2] 403,189.88
No. 2 oil sold from 11/6/73–12/31/73	[3] 342,544.97
Total	8,139,722.05

[1] See footnote 11 concerning eligibility.
[2] $0.381705 per gallon.
[3] $0.357903 per gallon.

[FR Doc. 86-19227 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

[13] The potential refund figures in Appendices A and B are based on the best information available. However, should the number of eligible claimants result in meritorious claims in excess of the fund, it will be necessary to reduce proportionately the amounts to be refunded. *See* 10 CFR 205.286. Accordingly, we will not process refund applications until the end of the filing period.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,009,609.84 obtained as a result of a consent order which the DOE entered into with Northeast Petroleum Industries, Inc. (Northeast), a reseller-retailer of refined petroleum products located in Chelsea, Massachusetts. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the Northeast consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case Number HEF–0138 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Gloria Walach, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282)c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Northeast Petroleum Industries, Inc. (Northeast) which settled all claims and disputes between Northeast and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period, May 1, 1974 through August 31, 1979 (consent order period). A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Northeast consent order funds was issued on February 4, 1986. 51 FR 5242 (February 12, 1986).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Northeast pursuant to the consent order. The DOE has decided to accept Applications for Refund from firms and individuals that purchased motor gasoline sold by Northeast during the consent order period. Eligible applicants include indirect customers as well as first purchasers. In order to receive a refund, a claimant will be required to submit a schedule of its monthly purchases of Northeast motor gasoline and to demonstrate that it was injured by Northeast's pricing practices. An indirect purchaser must also submit the name of its immediate supplier and indicate why it believes the motor gasoline was originally sold by Northeast.

As the accompanying Decision and Order indicates, Applications for Refund may now be filed by customers that purchased motor gasoline sold by Northeast during the consent order period. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: August 15, 1986.

George B. Breznay,

Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 15, 1986.

Name of Firm: Northeast Petroleum Industries, Inc.

Date of Filing: October 13, 1983

Case Number: HEF–0138

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Northeast Petroleum Industries, Inc. (Northeast) and its subsidiaries. This Decision and Order contains the procedures which OHA has formulated to distribute the

funds received pursuant to that consent order.

I. Background

Northeast is a "reseller-retailer" of petroleum products as that term is defined in 10 CFR 212.31, with its home office located in Chelsea, Massachusetts. Based on an audit of Northeast's records, ERA alleged that Northeast had committed possible violations of the Mandatory Petroleum Price Regulations with respect to the firm's sale and allocation of motor gasoline during the period May 1, 1974 through August 31, 1979. 10 CFR Part 212, Subpart F.

In order to settle all claims and disputes between Northeast and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Northeast and the DOE entered into a consent order on June 17, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. The consent order also states that Northeast does not admit that it violated the regulations.

Under the terms of the consent order, Northeast agreed to deposit $840,000, plus installment interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Northeast completed its payments on March 15, 1985. Including installment interest, Northeast's deposit totaled $1,009,609.84. As in other proceedings this figure will be considered to be principal in this Decision.[1]

On February 4, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable showing of injury as a result of Northeast's alleged violations in its sales of motor gasoline during the consent order period. 51 FR 5242 (February 12, 1986). The PD&O stated that the purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations. In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited.

This decision establishes procedures for filing claims in the first stage of the refund proceeding and describes the information that a claimant should submit in order to demonstrate that it is eligible to receive a portion of the funds. In establishing these requirements, we have considered comments filed by several interested parties in response to the first-stage proposals in the February 4, 1986 PD&O. We will not, however, determine procedures for a second stage of the refund process in this decision. Although we received comments from several states regarding disposition of funds remaining at the conclusion of the first stage of the refund proceeding, it is premature for us to address the issues raised by the States until all the first-stage claims have been paid.[2]

II. Jurisdiction

The Subpart V regulations set forth general guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of enforcement proceedings. It is DOE policy to use the Subpart V process to distribute such funds. For a detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). As we stated in the Proposed Decision, we have determined that a Subpart V proceeding is an appropriate method for distributing the Northeast consent order funds. Therefore, we will grant the ERA's petition and assume jurisdiction over the funds received pursuant to the Northeast consent order.

III. Refunds to Identifiable Purchasers

In the first stage of the Northeast refund proceeding, we will distribute the funds currently in escrow to claimants that demonstrate that they were injured by the alleged overcharges. In order to be eligible to receive a refund, claimants will have to file an application and, with three exceptions which will be discussed later in this Decision, show the extent to which they were injured by the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the consent order fund.

In this case we will adopt three rebuttable presumptions regarding injury. These presumptions have been used in many previous special refund cases. First, we will not require a detailed demonstration of injury from regulated utilites or agricultural cooperatives that purchased Northeast motor gasoline and passed the alleged overcharges associated with that product through to their end-user members. Second, we will presume that purchasers of Northeast motor gasoline who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. Third, in the absence of compelling material, we will adopt a presumption that spot purchasers were not injured. In addition, we are finding that end-users or ultimate consumers of Northeast products whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. Prior OHA decisions provide detailed explanations of the bases of these presumptions and the end-user finding. *E.g., True Co.*, 13 DOE ¶ 85,178 at 88,484–85 (1985). The rationale for these presumptions was also fully explained in the PD&O. 51 FR 5242 (February 12, 1986). These presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

Several comments were received in response to the PD&O. Best Petroleum Company (Best) contends that it is inequitable to limit the small claims presumption to claims of $5,000 or less when the value of the "potential average claim" is much greater. The firm urges that the threshold figure be increased to $55,000. That figure is produced by dividing the amount of money which was in the Northeast escrow account when the PD&O was issued by the number of potential claimants identified in the ERA audit of Northeast.

The small claims presumption was established to facilitate relatively small refund claims. *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,510 (1986). If all applicants were required to make a separate detailed showing of injury, in many cases the cost of making such a showing would exceed the value of the potential refund. As a result, these applicants would effectively be denied an opportunity to seek restitution. Since that result would be inequitable, we concluded that no detailed showing of injury should be required of applicants seeking a refund of $5,000 or less. After all, applicants for refunds of less than $5,000 are most often small firms that usually do not have the resources or records to compile a detailed showing of injury. From this discussion, it is clear that the factors raised by Best, such as the value of a "potential average claim" (which could not be determined in advance anyway) or the product of the escrow account divided by the number of purchasers identified by the ERA

[1] As of July 31, 1986, the Northeast escrow account contained a total of $1,680,335.59, representing $1,009,609.84 in principal and $670,725.75 in accrued interest.

[2] Comments were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia.

audit, are irrelevant. In this latter regard, it is clear from our experience that any firm seeking a refund of $55,000 will at least attempt a detailed showing of injury. It is of course possible that the small claims threshold should be adjusted and we continue to solicit comments towards that end. However, there is no material in the Best submission which would lead us to change the threshold in this proceeding.

Parker Fuel Corporation also submitted comments urging that firms which did not maintain contemporaneous cost bank records of unrecouped product costs be allowed to show injury through alternate methods. As in other proceedings, when cost bank data is not available, we will accept alternative demonstrations. For example, in *Tenneco Oil Co./Northern Petroleum, Inc.*, 13 DOE ¶ 85,207 (1985) (*Northern*), Northern provided "approximate banks" which were based upon product-wide profit margin figures for the consent order period. *See also Bayou State Oil Corp. & Ida Gasoline Inc./E–Z Mart Stores, Inc.*, 14 DOE ¶ 85,302 (1986). We have also accepted other evidence which shows that an applicant could not have recovered increased product costs and was likely to have had banks of unrecovered costs at the time of the alleged overcharges. For example, in *Waller Petroleum Co., Inc./Tower Sales, Inc.*, 13 DOE ¶ 85,033 (1985), the firm submitted a comparison between the selling price of the consent order product and the prices it paid to acquire the product. This comparison revealed that the firm suffered more than a 15 cent per gallon loss in over 50 percent of its sales of the consent order product. Based on this data, together with the fact that the acquisition price paid for the firm from its principal supplier—which was less than half the price charged by the consent order firm—was also higher than the local market average price, we concluded that it was very likely that the firm had banks of unrecouped product cost and accordingly, granted the application for refund.

These alternative calculations took into account the cumulative nature of cost banks. In other words, a firm which could not recover all increased product costs in the month incurred could have recovered them in a later period. A firm which was ultimately able to recoup these costs could not have been injured by the alleged overcharges and would not be eligible for a refund. *See, e.g., Husky Oil Co.*, 13 DOE ¶ 85,045 at 88,113 (1985); *Bayou State, supra.*

As stated in the PD&O, the volumetric method will be employed to allot the consent order funds among eligible claimants. This method incorporates the rebuttable presumption that the alleged overcharges fell equally over all of the gallons of motor gasoline which Northeast sold during the consent order period. Dividing the consent order funds by the approximate number of gallons of motor gasoline which Northeast sold produces a volumetric refund amount of $0.000998 per gallon.[3] Successful claimants may receive a refund based upon their volume of purchases from Northeast, multiplied by its volumetric figure, plus a proportionate share of the interest accured in the escrow account. It is possible that the alleged overcharges were not distributed equally and, as a result, a particular purchaser could have suffered a disproportionate injury. Any purchaser that can make a showing of disproportionate overcharge may be entitled to a larger refund.

As in previous cases, only claims for at least $15 will be processed. We have found in other refund proceedings that the cost of processing claims for less than $15 outweights the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). The same principle applies here.

IV. Applications for Refund

Through the procedures described above, we will be able to distribute the Northeast consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refunds from individuals and firms who purchased motor gasoline from Northeast during the period May 1, 1974 through August 31, 1979.

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline from Northeast. Purchasers will be required to provide specific information as to the volume of motor gasoline purchased, the date of purchase, and the extent of any injury alleged. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions stated above.

In addition, all applications must state:

(1) How it used the Northeast motor gasoline—*i.e.*, whether it was a reseller, retailer or ultimate consumer;

(2) Whether the applicant is a public utility regulated by a government agency or an agricultural cooperative which sold the covered products to its membership. Such applicants are not required to submit proof of injury but are required to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money;

(3) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(4) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(5) Whether the applicant is or has been involved as a party in DOE enforcement or private, Section 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep the OHA informed of any change in status while its application for refund is pending. *See* 10 CFR 205.9(d); and

(6) The name and telephone number of a person who may be contracted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF–0138 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

[3] This figure is derived by dividing the $1,009,609.84 principal amount by the 1,012,031,000 gallons of motor gasoline which Northeast reported it sold during the consent order period.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by Northwest Petroleum Industries, Inc. pursuant to the consent order executed on June 17, 1980, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: August 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-19228 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51637; FRL-3070-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty three such PMNs and provides a summary of each.

Dates: Close of Review Period:

P 86-1505, 86-1506, 86-1507, 86-1508, 86-1509, 86-1510, 86-1511 and 86-1512, November 8, 1986

P 86-1513, 86-1514, 86-1515, 86-1516, 86-1517, 86-1518, November 9, 1986

P 86-1519, 86-1520, 86-1521, 86-1522, 86-1523, 86-1524, 86-1525, 86-1526, 86-1527, 86-1528 and 86-1529, November 10, 1986

P 86-1530, 86-1531, 86-1532, 86-1533, 86-1534, 86-1535, 86-1536, and 86-1538, November 11, 1986

Written comments by:

P 86-1505, 86-1506, 86-1507, 86-1508, 86-1509, 86-1510, 86-1511 and 86-1512, October 7, 1986

P 86-1513, 86-1514, 86-1515, 86-1516, 86-1517, 86-1518, October 10, 1986

P 86-1519, 86-1520, 86-1521, 86-1522, 86-1523, 86-1524, 86-1525, 86-1526, 86-1527, 86-1528 and 86-1529, October 11, 1986

P 86-1530, 86-1531, 86-1532, 86-1533, 86-1534, 86-1535, 86-1536 and 86-1538, October 12, 1986

ADDRESS: Written comments, identified by the document control number "[OPTS-51637]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-1505

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1506

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1507

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1508

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1509

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1510

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1511

Manufacturer. Confidential.

Chemical. (G) Oil modified polyurethane.

Use/Production: (S) Used in lacquer systems as one component of a two component system with nitro-cellulose, it can be used alone for air dry purposes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1512

Manufacturer. Confidential.

Chemical. (G) Oil modified polyurethane.

Use/Production: (S) Used in lacquer systems as one component of a two component system with nitro-cellulose, it can be used alone for air dry purposes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1513

Manufacturer. Detrex Corporation.
Chemical. (G) Amphoteric surface active polymer solution.
Use/Production: (G) Product for use in metal finishing. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1514

Manufacturer. Dynamit Nobel Chemicals.
Chemical. (G) Alkylalkoxysilane.
Use/Production: (G) Industrial additive for polymerization catalyst in a closed process. Prod. range: 5,000 to 50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to .5 hrs/day, up to 17 days/hr.
Environmental Release/Disposal. 1 kg/batch released to land. Disposal by Resource Conversation and Recovery Act (RCRA) and permitted approved landfill.

P 86–1515

Manufacturer. Confidential.
Chemical. (G) Alkyl imine.
Use/Production: (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1516

Manufacturer. Confidential.
Chemical. (G) Alkyl quaternary ammonium salt.
Use/Production: (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,500 mg/kg; Irritation: Skin—Moderate to severe, Eye—Gross destruction at 24 hours.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1517

Importer. Confidential.
Chemical. (G) Salt of heteropolycycle compound and organic acid.
Use/Production: (S) Site-limited intermediate. Prod. Range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1518

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic latex.
Use/Production: (G) Exterior wood panel coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1519

Manufacturer. Confidential.
Chemical. (G) Half-blocked aromatic isocyanate.
Use/Production: (S) Site-limited industrial isolated intermediate. Prod. range: 66,000 to 161,000 kg/yr.
Toxicity Data. No data on PMN substance submitted.
Exposure. Manufacture and processing: a total of 52 workers, up to 8 hrs/day, up to 22 days/yr.
Environmental Release/Disposal. Trace to 120 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1520

Manufacturer. Confidential.
Chemical. (G) Blocked aromatic isocyanate.
Use/Production: (S) Site-limited and industrial isolated intermediate. Prod. range: 30,000 to 71,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 35 workers, up to 8 hrs/day, up to 22 days/yr.
Environmental Release/Disposal. 0.04 to 112 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1521

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 ky/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1522

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1523

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1524

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1525

Manufacturer. GAF Chemicals Corporation.
Chemical. (S) 2-Pyrrolidone-1-dodecyl.
Use/Production: (G) Detergent additive, biotechnology processing acid, cosmetic formulary and fuel additive. Prod. range: Confidential.
Toxicity Data. Acute dermal: >5.0 gms/kg; Irritation: Skin—Mild to severe material, Eye—Non-irritant to moderate; Ames test: Non-mutagenic.
Exposure. Manufacture: dermal, a total of 12 workers, up to 4 hrs/day.
Environmental Release/Disposal. Minimal release to water. Disposal by biological treatment system.

P 86–1526

Manufacturer. GAF Chemicals Corporation.
Chemical. (S) N-n-octyl-2- pyrrolidone 2-pyrrolidone-1-octyl.
Use/Production: (G) Detergent additive, biotechnology processing acid, reaction medium, and metal working fluid. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Minimal to extreme, Eye—Severe.
Exposure. Manufacture: dermal, a total of 12 workers, up to 4 hrs/day.
Environmental Release/Disposal. Minimal release to water. Disposal by biological treatment system.

P 86-1527

Manufacturer. Confidential.
Chemical. (G) Aliphatic urethane-modified alkyd polymer.
Use/Production. (S) Clear and pigmented air-dry coatings Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1528

Manufacturer. Confidential.
Chemical. (G) Propanedioic acid, bis(2-(2-hydroxy ethoxy) ethyl)ester.
Use/Production: (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute dermal: Non-toxic; Irritation: Skin—Mild, Eye—Non-irritant; Sdin Sensitization: Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1529

Manufacturer. Confidential.
Chemical. (G) Tertiary amine adduct with epoxy resin.
Use/Production: (G) Industrial cross-linking agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 3 workers, up to 3 hrs/day, up to 4 days/yr..
Environmental Release/Disposal. 1 kg/batch released by land. Disposal by Resource Conservation and Recovery Act (RCRA).

P 86-1530

Manufacturer. Confidential.
Chemical. (G) Saturated polyester silane.
Use/Production: (G) Commercial industrial specialty chemical. Prod. range: 15,000 to 21,000 kg/yr.
Toxicity Data. No data on PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 8 hrs/day, up to 31 days/yr.
Environmental Release/Disposal. 2 to 46 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1531

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Silylated carboxylic acid.
Use/Production: (G) Industrial contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—mild, Eye—Non-irritant..
Exposure. No data submitted.
Environmental Release/Disposal. Confidential.

P 86-1532

Manufacturer. The Dow Chemical Company.
Chemical. (G) Prepolymer of benzene, 1,1+methylene bis, hexanedioic acid.
Use/Production: (S) Industrial urethane elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1533

Manufacturer. The Dow Chemical Company.
Chemical. (G) Thermoplastic polyurethane elastomer.
Use/Production: (S) Industrial injection molding of plastic articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1534

Manufacturer. The Dow Chemical Company.
Chemical. (G) Thermoplastic polyurethane elastomer.
Use/Production: (S) Industrial injection molding of plastic articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1535

Manufacturer. The Dow Chemical Company.
Chemical. (G) Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.
Use/Production. (S) Industrial extrusion and injection molding of polyurethane articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1536

Manufacturer. The Dow Chemical Company.
Chemical. (G) Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.
Use/Production. (S) Industrial extrusion and injection molding of polyurethane articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-1538

Manufacturer. Lawler International, Inc.
Chemical. (S) Isophthalic, nonanoic acid, isophorondiamine, trimethylolpropane, ester-amide polymer.
Use/Production. (S) Industrial fluorescent pigment (resin carrier for daylight dyes). Prod. range: 227,000 to 363,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 10 workers, up to 10 hrs/day, up to 35 days/yr.
Environmental Release/Disposal. 0.1 to 1 kg/day released to air and water. Disposal by approved landfill and navigable waterway.

Dated: August 20, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-19246 Filed 8-25-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59781; FRL-3070-9]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of five such PMNs and provides a summary of each.

DATES: Close of Review Period: Y 86-219 and 86-220, September 1, 1986. Y 86-221, 86-222 and 86-223, September 2, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett,

Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-219

Manufacture. Confidential.
Chemical. (G) Modified polyester of carbomonocyclic acids and anhydride with neopentyl glycol.
Use/Production. (S) Industrial coil coatings to be applied to steel substrate. Prod. range: 32,000 to 160,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-220

Manufacturer. Confidential.
Chemical. (G) Acrylic solution.
Use/Production. (S) Industrial alkyd resin modification and gloss enamel vehicle. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 14 hrs/day, up to 3 day/yr.
Environmental Release/Disposal. No release.

Y 86-221

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (S) Low shrink thermoset molding additive Prod. range: 150,000 to 225,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-222

Manufacture. Confidential.
Chemical. (G) Vinyl acetate-acrylate copolymer (vinyl acrylic copolymer).
Use/Production. (G) Coatings ingredient, an open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-223

Manufacturer. Confidential.
Chemical. (G) Styrene-acrylic copolymer.
Use/Production. (G) Coatings ingredient, an open, non-dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: August 15, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-19245 Filed 8-25-86; 8:45 am]

BILLING CODE 6560-50-M

[SW-FRL-3070-2]

Hazardous Waste Permits; Availability of Guidance Manual

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance manual.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of a guidance manual entitled "Guidance Manual for Research, Development, and Demonstration Permits Under 40 CFR 270.65" (EPA/530-SW-86-008, OSWER Policy Directive #9527.00-1A). The purpose of this manual is to provide guidance to permit applicants and permit writers on preparing and processing research, development, and demonstration (RD&D) permit applications and permits, respectively. Topics covered include criteria for RD&D permits, types of permit application information, types of permit terms and conditions, and the roles of the State and EPA Regional Offices. This manual also contains an appendix with answers to frequently asked questions about the RD&D permit program.

ADDRESS: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Telephone: (703) 487-4650. NTIS Order No. PB-86229192. The manual is currently available for purchase from the National Technical Information Service (NTIS) either as a paper copy ($11.95) or as microfiche ($5.95). A 25% discount is available for orders of 5 to 99 copies (for orders of 100 or more, contact NTIS for more information). Also, there is an additional $3.00 processing charge per order, regardless of the number of copies.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 414-9346 (toll free), or (202) 382-3000. For technical information contact Arthur Glazer at (202) 382-4692.

Dated: August 13, 1986

J.W. McGraw

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-19240 Filed 8-25-86; 8:45 am]

BILLING CODE 6560-50-M

[A-2-FRL-3070-1]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that between February 1, 1986, and June 30, 1986, the United States Environmental Protection Agency (EPA), Region II Office, issued one final determination and the New York State Department of Environmental Conservation (NYSDEC) issued five final determinations pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region II Office and the NYSDEC have made final determinations relative to the sources listed below:

Name of applicant	Location	Project description	Reviewing agency	Final action	Date of final action
Northern Energy Group, Incorporated.	Chateaugay, New York	Installation of a 15 megawatt wood-fired electrical generating facility.	NYSDEC	PSD Permit Approval	2/3/86

Name of applicant	Location	Project description	Reviewing agency	Final action	Date of final action
General Foods Corporation	Saratoga Springs, New York	Replacement of a printing press line	NYSDEC	PSD Non-applicability Determination.	2/19/86
Hess Oil Virgin Islands Corporation.	St. Croix, U.S. Virgin Islands	Revision of existing permit to add new conditions and to clarify certain existing conditions.	EPA Region II	Revised PSD Permit Approval	5/25/86
IBM Corporation	Endicott, New York	Increase in hours of operation of a natural gas/No. 6 oil-fired boiler.	NYSDEC	PSD Permit Approval	4/20/86
R. H. Miller, Division of the Penwalt Corporation.	Homer, New York	Replacement of an existing oil-fired boiler	NYSDEC	PSD Non-applicability Determination.	5/14/86
Algonquin Gas Transmission Company.	Stony Point, New York	Removal of permit conditions restricting hours of operation for two natural gas-fired turbines.	NYSDEC	PSD Permit Approval	6/15/86

This notice lists only the sources that have received final PSD determinations. Copies of these determinations and related materials may be available for public inspection at the following offices:

EPA Region II Action

United States Environmental Protection Agency, Region II Office, Permits Administration Branch, 26 Federal Plaza—Room 432, New York, New York 10278

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001

If available pursuant to the Consolidated Permit Regulations (40 CFR Part 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: August 11, 1986.

William J. Muszynski

Acting Regional Administrator.

[FR Doc. 86–19241 Filed 8–25 86; 8:45 am]

BILLING CODE [illegible]

[SAB–FRL–3069–8]

Science Advisory Board Integrated Air Cancer Project Review Subcommittee; Open Meeting

September 16–17, 1986.

Under Pub. L. 92–463, notice is hereby given of a meeting on September 16–17, 1986 of the Science Advisory Board's Integrated Air Cancer Project Review Subcommittee. The Subcommittee will meet at the Environmental Protection Agency's Environmental Research Center Auditorium located at the corner of Route 54 and Alexander Drive, Research Triangle Park, North Carolina 27711. The meeting will begin at 9:00 a.m. on Tuesday and adjourn no later than 5:00 p.m. on Wednesday.

The purpose of the meeting is to enable the Subcommittee to review the Office of Research and Development's Integrated Air Cancer Project which is an interdisciplinary effort planned both to identify the principal airborne carcinogens and their sources, and to improve EPA's ability to assess human exposure and risk from these carcinogens. Copies of the project may be obtained by calling or writing Joellen Lewtas (919) 541–3849 at U.S. Environmental Protection Agency, Health Effects Research Laboratory, Mail Drop 68, Research Triangle Park, North Carolina 27711.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend or obtain information should contact Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101–F) Radiation Advisory Committee, Science Advisory Board, by the close of business on September 12, 1986. The telephone number is (202) 382–2552.

Dated: August 19, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–19243 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

[OARM–FRL–3070–3]

Privacy Act of 1974; Deletion of a System of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Privacy Act of 1974; Notice of Deletion of a System of Records.

SUMMARY: The Environmental Protection Agency is deleting a system of records, Security Computer Program System (EPA–6), that is no longer in use.

DATE: Effective September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Anna M. Virbick, Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–4912.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, EPA previously published in the **Federal Register** notices for the system of records called Security Computer Program System (EPA–6). These notices were published at 41 FR 39689 (September 15, 1976) and 43 FR 3502 (January 25, 1978). Since those notices were published, EPA has deleted all information in this system from its computer files. Hard copy of some data formerly in this system is now maintained in the EPA systems of records called OIG Personnel Security Files (EPA–5) published at 51 FR 15825 (April 28, 1986) and General Personnel Records (EPA–2) published at 45 FR 3502 (January 25, 1978). Accordingly, this notice formally deletes the EPA–6 system of records.

Dated: August 12, 1986.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

[FR Doc. 86–19239 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for

comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010676-016
Title: Mediterranean/U.S.A. Freight Conference
Parties:
Achille Lauro
C.I.A. Venezolana de Navegacion
Compania Transatlantica Espanola, S.A.
Costa Line
Farrell Lines, Inc.
"Italia" de Navigazione, S.p.A.
Jugolinija
Jugooceanija
Lykes Lines
Med-America Express Service
Nedlloyd Lines
Nordana Line/Dannebrog Lines AS
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.
Synopsis: The proposed amendment would delete Puerto Rico from the scope of the agreement. It would also provide that any party to the agreement may serve any one or more of the four port ranges covered by the agreement while still operating as an independent in the other ranges of the agreement, and would reduce the notice period for a party's withdrawal from 60 days to 45 days.

Agreement No.: 203-010717-012
Title: United States Atlantic and Gulf/Central America Conference
Parties:
Coordinated Caribbean Transport, Inc.
Ecuadorian Line, Inc.
Compania Sud Americana de Vapores, S.A.
Seaboard Marine Line, Ltd.
Transportes Navieros Equatorianos
Sea-Land Service, Inc.
United States Lines, Inc.
Synopsis: The proposed amendment would include U.S. West Coast ports and inland and coastal U.S. points via such ports in the scope of the agreement. It would also exclude from carriage under the agreement household goods, personal effects and privately owned vehicles moving on U.S. Government bills of lading. It would further authorize the establishment of additional rate-making sections as the parties may deem necessary and would restate the agreement to incorporate all previously effective amendments.

Dated: August 21, 1986.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.

[FR Doc. 86-19201 Filed 8-25-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Dominion Bankshares Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 17, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation,* Roanoke, Virginia; to acquire 100 percent of the voting shares of Nashville City Bank and Trust Company, Nashville, Tennessee.

2. *James Madison Limited,* Washington, DC; to acquire 100 percent of the voting shares of TMB National Bank, McLean, Virginia, the successor by merger of The McLean Bank, McLean, Virginia.

3. *NCNB Corporation,* Charlotte, North Carolina; to acquire up to 100 percent of the voting shares of Hartsville Bancshares, Inc., Hartsville, South Carolina, and thereby indirectly acquire The Bank of Hartsville, Hartsville, South Carolina.

4. *Washington National Holdings, N.V.,* Curacao, Netherlands Antilles; Colson, Inc., Wilmington, Delaware; and Washington Bancorporation, Washington, DC; to acquire 100 percent of the voting shares of Enterprise Bank Corporation, Reston, Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Central Bancshares of the South, Inc.,* Birmingham, Alabama; to acquire 100 percent of the voting shares of Jacksonville State Bank, Jacksonville, Alabama.

2. *Southeast Banking Corporation,* Miami, Florida; to acquire 100 percent of the voting shares of Southeast Bank of Tallahassee, Tallahassee, Florida, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *City Bancorp of Bloomington-Normal, Inc.,* Bloomington, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Saybrook, Saybrook, Illinois.

2. *The Marine Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Marine Bank of Mt. Pleasant, National Association, Mt. Pleasant, Wisconsin, a *de novo* bank.

3. *Marisub, Inc.,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Marine Bank of Mt. Pleasant, National Association, Mt. Pleasant, Wisconsin, a *de novo* bank.

4. *Mid-Citco Incorporated,* Chicago, Illinois; to acquire 100 percent of the voting shares of Bank of Elmhurst, Elmhurst, Illinois. Comments on this application must be received by September 15, 1986.

5. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of Clinton County Bancorp, Frankfort, Indiana, and thereby indirectly acquire Clinton County Bank and Trust Company, Frankfort, Indiana.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Rainier Bancorporation,* Seattle, Washington; to acquire 100 percent of the voting shares of United Bank, A Savings Bank, Tacoma, Washington.

2. *Ventura County National Bancorp,* Oxnard, California; to acquire 100 percent of the voting shares of Conejo Valley National Bank, Thousand Oaks, California.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19179 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 17, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire DALA Company, Inc., Lancaster, Pennsylvania, and thereby engage in leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

2. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire General Funding Services Corporation, Huntingdon, Pennsylvania, and thereby engage in leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19180 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 15, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to engage *de novo* through its subsidiary, Susque-Bancshares Leasing Company, Inc., Lititz, Pennsylvania, in leasing personal property as permitted under § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to engage *de novo* in the origination of home mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to engage *de novo* through its subsidiary, Express Life Insurance Company, Lawton, Oklahoma, in the sale of life, accident, and health insurance related to extensions of credit by Applicant or its subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Viejo Bancorp*, Mission Viejo, California; to engage *de novo* through its subsidiary, Viejo Escrow Corporation, Mission Viejo, California, in the functions or activities that may be performed by a trust company pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19178 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services; Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Program Announcement and Availability of Funds for Fiscal Year 1987

The Centers for Disease Control (CDC) announces that competitive Cooperative Agreement applications are

being accepted for acquired immunodeficiency syndrome (AIDS) active surveillance and associated epidemiologic investigations. The Catalog of Federal Domestic Assistance number is 13.118.

Program Objective

The objective of these cooperative agreements is to assist State and local health departments in (1) designing, implementing, and maintaining active surveillance programs for AIDS cases and conducting associated epidemiologic investigations to determine incidence trends of AIDS, identify risk groups and risk factors; and (2) monitoring infection with human T-lymphotropic virus type II/ lymphadenopathy-associated virus (HTLV–III/LAV or HIV) in population groups at risk.

Authority

This program is authorized under section 301(a), 304(a), 306(b), and 308(d) of the Public Health Service Act, as amended.

Eligibility Requirements

Eligible applicants are the official health departments of any State or local government, including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. Awards will be limited to health departments which have reported at least 50 AIDS cases that meet the CDC surveillance case definition for national reporting:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immunodeficiency; and

2. Absence of all known underlying causes of cellular immunodeficiency (other than HTLV–III/LAV infection) and absence of all other causes of reduced resistance reported to be associated with the disease.

Eligible State and local health agencies are stongly encouraged to coordinate their request for assistance, ideally in a single application, to ensure the most efficient use of federal, State, and local resources.

Availability of Funds

Based upon the President's Budget, approximately $4.1 million is anticipated to be available in Fiscal Year 1987 to continue existing cooperative agreements and to support new or competing continuation cooperative agreements. Although new applications will be considered, priority for funding will be given to continue existing programs. The average award is expected to be $100,000, with individual awards ranging from $75,000 to $125,000. New projects and competing continuations will be funded with a 12-month annual budget period and a 3-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding estimate outlined above may vary and is subject to change, based upon final congressional appropriations.

Type of Assistance

Awards resulting from this announcement will be cooperative agreements.

Collaborative Activities

The collaborative and programmatic involvement of CDC and recipients of funds is as follows:

1. Recipient Agency Activities

a. Design and conduct surveillance activities directed to improving the reporting of all AIDS cases (including pediatric cases) diagnosed in the public health agency's geographic jurisdiction. In those jurisdictions which encourage or require the reporting of disease other than AIDS associated with HTLV–III/ LAV infections, the CDC classification system for HTLV/LAV infections (Morbidity and Mortality Weekly Report v. 35, no. 20, pp. 334–9, May 23, 1986) for such reporting should be used.

b. Establish systems with physicians, hospitals or clinics, cancer registries, laboratories, hemophilia centers, death certificate registries, and other public health agencies for identifying and reporting cases.

c. Develop and maintain a central registry of all reported cases which includes epidemiologic and clinical information for individual cases, and which allows for rapid, uniform updates and retrieval of case information for regular and special tabulations of data for analysis. The case registry must be of limited access and have procedures in existence to insure confidentiality of patient records.

d. Evaluate the effectiveness of surveillance approaches.

e. Conduct epidemiologic investigations of cases that have no identified risk factors including possible blood transfusion-related cases and their donors.

f. Where feasible, serologically survey and thereby monitor the prevalence of infection with HTLV–III in accessible, potentially high risk populations [e.g.: methadone clinic or detoxification center attendees; STD clinic patients subdivided by sex, sexual orientation, use of IV drugs, etc; hemophilia centers; newborns (in areas reporting appreciable amounts of AIDS in children and/or women)].

g. Analyze, present, and publish the results of surveillance activities and epidemiologic investigations in consultation with CDC.

2. Centers for Disease Control Activities

a. Collaborate in the design, development, and implementation of surveillance and associated epidemiologic investigations including specific approaches to AIDS surveillance and epidemiologic investigations, methods for establishing and maintaining a central registry of cases, sampling and reporting format for serologically surveying accessible high risk groups, and analysis and publication of findings.

b. Provide criteria for the surveillance definition of AIDS cases and case report forms, and the classification system for other diseases associated with HTLV–III/LAV infection.

c. Assist State and local public health agencies in analyzing data from reported cases including incidence trends and groups at risk.

d. Provide on-site technical assistance in planning, operating, and evaluating surveillance activities.

e. Assist State and local public health agencies in conducting epidemiologic investigations of selected AIDS cases including those with no identified risk factors.

f. Assist in providing sampling and reporting format for serologic surveys in accessible high risk groups in order to monitor the prevalence of infection, and providing confirmatory serologic testing as needed.

Applications

1. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161–1 (revised 3–86) on or before September 30, 1986 to: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Room 321, 255 East Paces Ferry Road, NE, Atlanta, Georgia 30305.

Application forms should be available in the institution's business office or from the above address.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-

dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier of U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. Late Application

Applications which do not meet the criteria in either paragraph 2 a or b immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

4. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Content

Applications must include a narrative which details the following:

a. The background and need for project support including information that relates to factors by which the applications will be evaluated.

b. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

c. The methods that will be used to accomplish objectives for active AIDS surveillance to improve the identification and reporting of AIDS cases, conduct epidemiologic investigations of selected cases, establish a central registry of cases in the official public health department, and where feasible, monitor the seroprevalence of HTLV-III/LAV in accessible at-risk populations.

d. The methods that will be used to evaluate the success of active surveillance and epidemiologic investigations.

e. The methods that will be used to serologically survey accessible high risk groups including proposed sampling methods, which types of groups would be surveyed, and the number of individuals to be tested.

f. The methods that will be used to assure confidentiality both of AIDS patients and persons found serologically positive for HTLV-III/LAV.

g. Fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

h. Any other information that will support the request for assistance.

Use of Funds

Cooperative agreement funds may be used to support personnel and to purchase supplies, services, and computer equipment directly related to AIDS surveillance, epidemiologic investigation activities, and serologic surveys. Funds may not be used to supplant funds supporting existing AIDS activities provided by the health department or to support construction costs.

Review Criteria

1. Initial applications and competing continuation applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicant's ability to meet the following critera:

a. The applicant's understanding of the AIDS problem and the purpose of the cooperative agreement.

b. The qualifications and time allocation of the proposed staff and a description of how the project will be administered.

c. The applicant's activities in AIDS surveillance and a demonstration of close collaboration and working relationships between the public health department and those medical institutions diagnosing and treating patients with AIDS and related illnesses.

d. The establishment of objectives which are consistent with the stated purpose of the cooperative agreement and which are specific, measurable, and time-phased.

e. The methods to be used by the applicant in developing, implementing and maintaining surveillance systems for AIDS in hospitals and among physicians, including establishing and maintaining a central registry of cases; how epidemiologic investigations of selected cases (e.g., cases with no identified risk factors, etc.) will be conducted; and how serologic studies of accessible high risk groups will be undertaken.

f. The soundness of the plan for evaluation.

g. The degree to which confidentiality of all records related to case reports, the central registry, and serologic surveys will be maintained.

2. Continuation awards within the project period will be made on the basis of the following criteria:

a. The accomplishments of the current budget period show that the applicant is meeting its objectives.

b. The objectives for the new budget period are realistic, specific, and measurable.

c. The methods described will clearly lead to achievement of these objectives.

d. The evaluation plan will allow management to monitor whether the methods are effective.

e. The budget requested is clearly explained, adequately justified, reasonable, and consistent with the intended use of cooperative agreement funds.

Information

Information on application procedures, copies of applicants forms, and other materials may be obtained from Marsha Driggans, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Technical assistance may be obtained from Lawrence D. Zyla, AIDS Program, Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-3651, FTS: 236-3651.

Dated: August 20, 1986.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-19204 Filed 8-25-86; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

[HSQ-115-FN]

Medicare Program; End Stage Renal Disease Program: Revised Network Area Designations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice.

SUMMARY: A final rule published separately in this issue of the Federal Register provides for consolidating the existing 32 End Stage Renal Disease (ESRD) networks into as few as 14, establishes provisions for new, more efficient network organizations, and removes the requirement that we change ESRD network area designations through rulemaking. This notice provides for 14 networks and sets forth the geographic areas of the new network organizations (area designations) under the ESRD program.

EFFECTIVE DATE: This final notice is effective on September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Jeffrey Clark, (301) 597-5137.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Amendments of 1972 (Pub. L. 92-603) extended Medicare coverage to individuals with end-stage renal disease (ESRD) who require dialysis or transplantation. The End-

Stage Renal Disease Amendments of 1978 (Pub. L. 95–292) authorized the establishment of ESRD network areas and network organizations under the Medicare program, consistent with the criteria the Secretary finds appropriate to assure the effective and efficient administration of ESRD program benefits.

In June 1984 Congress (House Report 98–861, p. 1336) directed the Secretary to consider consolidating the existing 32 network areas.

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. 99–272) was enacted. Section 9214 of that law requires the Secretary to maintain renal disease network organizations as authorized under section 1881(c) of the Act, and not merge the network organizations into other organizations or entities. The Secretary may consolidate network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

Consistent with section 9214 of Pub. L. 99–272, we published a notice of proposed rulemaking on April 15, 1986 (51 FR 12714) and the final rule that appears separately in this issue of the **Federal Register**. Briefly, the final rule revises regulations that appear at 42 CFR Part 405, Subpart U, to restructure ESRD network organizations to more closely reflect statutory requirements. The final rule provides for the consolidation of the existing 32 network organizations into as few as 14 network organizations. It also announces that we will no longer publish in regulations a list of the ESRD network area designations (previously published as an appendix to Subpart U). Rather, we will publish a revised list of the network area designations as a final notice in the **Federal Register**. We will also issue area designations through revisions to the ESRD Facility Manual and the Provider Reimbursement Manual. We will require facilities to notify patients of the area designation changes, and we will notify patient advocacy groups (for example, The National Association of Patients on Hemodialysis and Transplantation and The Kidney Patients Association) directly. (The published notice of proposed rulemaking and final rule provide detailed explanations and rationale for the regulation and program changes.)

Accordingly, this final notice announces the new ESRD network area designations and discusses the factors we considered in developing those designations.

II. Provisions of This Final Notice

A. Development of Revised Network Area Designations

Section 1881(c) of the Act provides HCFA very broad authority to establish ESRD networks. That section provides that HCFA will use such criteria as it finds appropriate and such network organizations as are necessary to assure effective and efficient administration of the ESRD program.

In considering criteria for the consolidation of the existing 32 network organizations, we were mindful of our paramount responsibility—the protection of ESRD beneficiary health and safety. In keeping with that responsibility, we have designed a configuration of 14 geographic areas that we believe is cost-effective without compromising quality of care. By reducing the number of network organizations to 14, we expect the expenditures for administrative costs to be reduced and ot constitute a relatively smaller portion of the total operating costs. Thus, a larger proportion of funds will be available for quality assurance activities supported by meaningful data analysis.

We adopted the 14 ESRD network area configuration after careful analysis and 20 years of experience with the ESRD program. As stated in the April 15, 1986 notice of proposed rulemaking (51 FR 12716), we also consulted with the Public Health Service on issues of health care quality and access in establishing the new network designations. We considered other configurations but found them to be deficient in one or more of the factors that were used to choose the new network areas.

Prior to designing the 14 network area configuration criteria were established that focused on achieving an area size that is adequate to provide for: (1) A data base that permits meaningful analysis; (2) An interchange of perspectives that is conducive to effective medical review; and (3) The needs of the ESRD population served. A list of the factors we considered in developing the 14 ESRD network area configuration follows.

1. Sufficient number of dialysis and transplant facilities to:

- Assure patient access to all treatment modalities of ESRD care;
- Ensure effective and comprehensive medical review based on peer review and an interchange of perspectives;
- Provide a broad data base to ensure meaningful analyses in support of quality assurance activities; and
- Provide optimum utilization of network staff and equipment.

2. Preservation and/or consolidation of ESRD patient referral and treatment areas

Since the early 1960s, when the feasibility of facility dialysis, home dialysis, and renal transplantation was being explored by the Public Health Service, specific ESRD patient referral patterns and treatment areas have emerged. In designing the 14 area configuration, we made every effort to consolidate the existing patient referral and treatment areas.

3. Geography of each area

The size of each designated area does not prohibit patients and facility staff from participating in the activities of the network organization.

4. More than One State in each designated area

By eliminating single State networks, we will enhance peer review and provide for a more diverse interchange or perspectives. A larger base of clinical data will be developed that will enhance quality assurance studies.

5. Preservation of State boundaries

State boundaries—

- Preserve the integrity of State Health Departments, State Medical Societies, State renal committees, etc.;
- Preserve the applicability of State laws;
- Are consistent with PRO boundaries;
- Facilitate the comparison of incidence/prevalence statistics by defined United States census areas;
- Facilitate the sharing of data between State agencies;
- Coincide with uniform State billing and data collection; and
- Coincide with HCFA's records format changes.

6. Comparability (to the greatest extent feasible) of the number of patients and facilities

The comparability of the number of patients and facilities provides for similar workloads for network staff, similar data requirements, and a more equitable distribution of resources. Because of the geography and population of the areas, parity was not possible in all 14 areas. For example, the large geographical area of Network No. 14 (five States) has a patient population of 2,664, where a smaller geographical area of Network No. 2 (two States) has a patient population of 9,429.

Comparability, however, was obtained in nine out of 14 areas.

The 14-area configuration provides a similar number of transplant centers in

each area and provides a larger forum of transplantation expertise in each network area.

7. Economic consideration

Expenditures for administrative costs will constitute a relatively smaller portion of total costs. A lesser number of computer systems will be needed, which will enable HCFA to ensure compatibility and efficiency.

8. Compatibility with HCFA program evaluation and assessment needs

Onsite assessments will be enhanced by fewer areas. Monitoring of network activity and performance will be strengthened to ensure compliance with HCFA requirements and guidelines.

9. Program experience

The configuration of 32 ESRD network areas has been administratively cumbersome. The 32 areas varied in geographic size, facility membership, and number of patients. Escalating administrative costs and an emphasis on administrative operations resulted in the networks focusing less attention on quality assurance initiatives. There are substantial and unjustified variations in the quality of performance and in the cost effectiveness of the different networks in meeting their statutory responsibilities.

B. ESRD Network Area Designations

The following is a list of the 14 new network area designations.

ESRD Network No. 1

Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

ESRD Network No. 2

Connecticut
New York

ESRD Network No. 3

Delaware
New Jersey
Pennsylvania
Puerto Rico, Virgin Islands

ESRD Network No. 4

District of Columbia
Maryland
North Carolina
Virginia

ESRD Network No. 5

Florida
Georgia
South Carolina

ESRD Network No. 6

Alabama
Arkansas
Louisiana
Mississippi
Tennessee

ESRD Network No. 7

Indiana
Kentucky
Ohio
West Virginia

ESRD Network No. 8

Illinois
Michigan

ESRD Network No. 9

Minnesota
North Dakota
South Dakota
Wisconsin

ESRD Network No. 10

Iowa
Kansas
Missouri
Nebraska

ESRD Network No. 11

Oklahoma
Texas

ESRD Network No. 12

Arizona
Colorado
New Mexico
Utah
Wyoming

ESRD Network No. 13

California
Hawaii
Nevada
American Samoa, Guam

ESRD Network No. 14

Alaska
Idaho
Montana
Oregon
Washington

III. Request for Proposals

We are developing separately an announcement of a request for proposals (RFP) to solicit prospective contractors as the new ESRD network organizations for these newly designated areas. We will publish the announcement in the Commerce Business Daily (CBD) for 15 consecutive days. During those 15 days, interested parties may request copies of the RFP. On the fifteenth day that the announcement appears in the CBD, we will distribute copies of the RFP to existing organizations that we feel currently have the expertise to perform network organization functions and any other parties that request copies. We will accept proposals within 30 days from the date that we issue copies of the RFP.

IV. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any "major rule" that is likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, government agencies or geographic regions, or meet other threshold criteria that are specified in that order. In addition, consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–12), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

Because ESRD networks are such a small activity, with a total FY 1986 budget of less than $5 million, these redesignations do not meet any of the criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. The existing network organizations are small, and a substantial number of them would experience a significant adverse economic effect as a result of our changes. The reduction in the number of network areas clearly affects all existing network organizations. However, these organizations are a creation of the government and are funded by us solely to fulfill the requirements of the law. They are not the kind of small entities to which the Regulatory Flexibility Act is usually considered to apply. Further, the final rule eliminated the requirement that redesignation be accomplished through rulemaking. Therefore, although we have voluntarily prepared initial and final regulatory flexibility analyses for the proposed and final rules, we have determined that it is neither necessary nor appropriate to prepare a regulatory flexibility analysis for this notice.

V. Collection of Information Requirements

This notice contains no information collection requirements. Consequently, this notice need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Supplementary Medical Insurance)

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr).

Dated: July 11, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 25, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–19147 Filed 8–25–86; 8:45 am]

BILLING CODE 4120-01-M

HEALTH AND HUMAN SERVICES

National Institutes of Health

Meeting of the Dental Research Programs Advisory Committee

Pursuant to Pub. L. 92–463 notice is hereby given of the meeting of the Dental Research Programs Advisory Committee from 9:00 a.m. to recess on September 11 and from 9:00 a.m. to adjournment on September 12, 1986, Conference Room #7, Building 31, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Marie Nylen, Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 503, Bethesda, MD 20892 [telephone: 301/496-7723] will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior, Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845—Dental Research Institutes, National Institutes of Health).

Dated: August 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-19293 Filed 8-25-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Solicitation of Public Comments for the Interagency Committee on Spinal Cord Injury

Notice is hereby given that the Interagency Committee on Spinal Cord Injury plans to solicit public comments in conjunction with the charge to the Interagency Committee to seek information from the scientific community and other interested groups or individuals. The meeting will be held on October 24, 1986, from 9:30 a.m. until 5:00 p.m., in the Rayburn House Office Building, Room 2325, South Capitol Street and Independence Avenue, SW., Washington DC.

Pursuant to section 7 of Pub. L. 99-158, the Secretary of Health and Human Services established in the National Institute of Neurological and Communicative Disorders and Stroke an Interagency Committee on Spinal Cord Injury. The Interagency Committee consists of representatives from the National Institute of Neurological and Communicative Disorders and Stroke, the Department of Defense, the Department of Education, the Veterans Administration, the Office of Science and Technology Policy, and the National Science Foundation. The Interagency Committee is to develop a report that includes a description of research projects on spinal cord injury and central nervous system regeneration conducted or supported by Federal agencies. The report will also contain a plan to develop, coordinate, and implement comprehensive Federal initiatives on research on spinal cord injury and central nervous system regeneration.

The attendance and the number of presentations during the meeting will be limited to the time and space available. Thus, all individuals who wish to attend or present statements at the meeting should notify Michael D. Walker, M.D., Executive Secretary, Interagency Committee on Spinal Cord Injury, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, 7550 Wisconsin Avenue, Federal Building, Room 8A08, Bethesda, Maryland 20892 by October 10, 1986. Notification should indicate complete name, affiliation, address, and telephone number.

Those who wish to make a presentation must file a written statement or detailed summary of their presentation with the Executive Secretary before 5:00 p.m., October 15, 1986. Only speakers discussing subjects relevant to the mission of the Interagency Committee will be scheduled. Each speaker will be limited to 10 minutes to summarize or highlight their written statement. Those who cannot attend the meeting but would like to submit a written statement are encouraged to do so. Statements longer than a few pages must also contain a succinct summary.

Dated: August 19, 1986.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 86-19292 Filed 8-25-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-010-06-4333-19]

Camping, Campfire and Road Closure Order; Hoyt Crossing, South Yuba River, Folsom Resource Area, Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of Camping, Campfire and Road Closure Order on Public Lands along the South Yuba River of Folsom Resource Area, Bakersfield District, California.

SUMMARY: No camping or campfires shall be allowed in T.17N., R.8E., Sec. 28-33, known as Hoyt Crossing and vicinity. The area shall be open for day use recreation only. Augustine Road leading to Hoyt Crossing is closed to vehicle access.

DATE: This order goes into effect September 15, 1986 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Area Manager, Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. Telephone: (916) 985-4474.

SUPPLEMENTARY INFORMATION: The purpose of this order is to protect resources, to reduce fire hazards on Public Land and to implement rules consistent with those of the California Department of Parks and Recreation which manages adjacent State Park lands. Authority for this restriction order is contained in CFR Title 43 Part 8364, §§ 8364.1 and 8365.1-2(a).

Any person who fails to comply with this restriction order may be subject to a fine not-to-exceed $1,000 and/or imprisonment not-to-exceed twelve (12) months. Penalties are contained in CFR Title 43, Chapter II, Part 8360, § 8630.0-7.

D. K. Swickard,

Area Manager, Folsom Resource Area.

[FR Doc. 86-19184 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-40-M

[NV-040-06-4322-10]

Ely District; District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Tuesday, October 7, 1986. The meeting will convene a 10:00 a.m., in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada.

The main agenda items will be a briefing on the status of the activity planning efforts, and the major District programs by Resource Area.

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard at 1:00 p.m. Depending upon the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: October 7, 1986.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

BEST COPY AVAILABLE

FOR FURTHER INFORMATION CONTACT: Wayne Lowman, 702–289–4865.

Dated: August 18, 1986.

Kenneth G. Walker,

District Manager.

[FR Doc. 86–19210 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–HC–M

[CO–070–06–4212–14; C–35209]

Realty Action; Non-Competitive Sale of Public Lands in Garfield County, Colorado; Correction

In Federal Register Document 86–17157 beginning on Page 27466 in the issue dated Thursday, July 31, 1986, in the third column, first paragraph, lines 6 and 7, "at the fair market value of $1,000,000" should have read "at the fair market value of $1,000.00."

Dated: August 18, 1986.

Robert D. Kaiser,

District Manager, Acting, Grand Junction District.

[FR Doc. 86–19186 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–JB–M

Roswell District, New Mexico; Establishment of Supplementary Rules for Noncommercial Use of Special Area Caves

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of change in administrative authority for management of certain caves located on public land.

SUMMARY: Notice is hereby given in accordance with authority contained in 43 CFR Part 8360, § 8365.1–6 of the establishment of supplementary rules for noncommercial use of special area caves administered by the Bureau of Land Management (BLM), Roswell District, New Mexico.

SUPPLEMENTARY INFORMATION: Publication of this notice also modifies access requirements for 19 caves, retains existing closure authority on 20 caves, and rescinds closure authority for one cave. On July 17, 1980, (45 FR 47935) the following named caves were closed to public access, determined to be "special areas" and established as areas where special recreation permits were required:

Agogino	Honest Injun Cave
Big Manhole Cave	Jurnigan No. 1 Cave
Blue Tick Cave	Jurnigan No. 2 Cave
Doc Brito Cave	Little Sand Cave
Dry Cave	Lost Cave
Endless Cave	Manhole Cave
Feather Cave	McKittrick Cave
Fort Stanton Cave	Sand Cave
Hick's (Wind) Cave	Torgac Cave

On October 7, 1982, (47 FR 44438) Burnet Cave, Crockett's Cave, and Oso Cave were closed to public access, subject to specifically authorized travel. Crockett's Cave was determined to be a "special area" and established as being subject to the issuance of special recreation permits.

The existing closures, made under authority contained in 43 U.S.C. 1201 and regulations contained in 43 CFR 8364.1–1, are retained on all the previously named caves, except Oso Cave. At the time Oso Cave was discovered, it was situated near an indefinite boundary in an unsurveyed township. After the completion of a survey on September 1, 1983, it was determined that Oso Cave was located on lands administered by the Lincoln National Forest, Guadalupe Ranger District. Since the BLM has no authority to manage this cave, the previous closure is rescinded. The previous determination of "special area" status is continued for the 19 caves named above, and is rescinded for Oso Cave.

Noncommercial public use of these caves will be conducted in accordance with the supplementary rules contained in this notice; and approved use will be granted on a Cave Entrance Registration Form instead of a Special Recreation Permit Form. Commercial or competitive use of these same caves will continue to be subject to special recreation permit requirements contained in 43 CFR Part 8370 regulations.

These administrative changes are being made to maintain consistency with cooperating Federal land management agencies concerning nonfee requirements for the use of undeveloped caves. Also, by changing from a special recreation permit authorization which would require payment of user fees, there will be reduced administrative workloads for BLM personnel, less paperwork burden for the public, and the wide variety of cave uses (recreation, research, exploration, and education) can be accommodated using a consistent set of rules and registration document.

Supplementary Rules for Cave Visitation

In order to provide for the protection of public lands and resources, minimize safety or health risks for the visiting public, and reduce agency liability by exercising reasonable care for visitors, noncommercial use of "special area" caves will be allowed in accordance with the following procedures, general conditions, and special stipulations:

A. Procedures

1. Applications to enter caves must be directed to the appropriate BLM, Resource Area Manager, who is the authorized officer for BLM. Current addresses and areas of responsibility are listed below:

(a) Applications for use of the following caves—Agogino, Blue Tick, Crockett's, Feather, Fort Stanton, and Torgac are the responsibility of the Roswell Resource Area Manager, P.O. Drawer 1857, Roswell, NM 88201, telephone number (505) 624–1790.

(b) Use applications for all other caves are the responsibility of the Carlsbad Resource Area Manager, P.O. Box 1778, Carlsbad, NM 88220, telephone number (505) 887–6544.

2. Applications are considered on a first-come-first-served basis. Use applications and reservations for intended use dates may be requested in person, by mail or telephone, but no verbal entrance authorizations will be granted. All cave visitors must have completed Pre-entrance Registration Forms and have a copy in their possession prior to entering a cave. Possession of a completed registration form will be authorization for use.

3. Applicants will be required to furnish sufficient information, as contained on the application form, to enable the BLM authorized officer to reach a determination to grant or deny a request. One person who is at least 18 years old and elects to serve as trip leader for a group, may provide the necessary information to BLM and secure an authorization on behalf of other individuals.

4. Application forms should be submitted to BLM at least 10 days in advance of the intended use date. Forms which are submitted with less processing time may not be assured of being returned to the applicant by the intended date of use.

B. General Conditions

The following conditions apply to all cave visitors or groups:

1. Intentional or unintentional damage or removal of cave resources is neither authorized nor implied.

2. Visitors must signify they have been informed of hazards and agree to hold harmless the United States for all property damage, injury to or death of persons that are connected with the authorized activity.

3. Visitors shall protect the land and property of the United States from damage and shall compensate the United States for any damage due to negligence, violation of use conditions,

or violation of applicable law or regulation.

4. Authorizations are revocable for any breach of conditions or at the discretion of the authorized officer.

5. All visitors are required to wear a safety helmet and have in their possession at least two sources of light.

6. At least one person in a group must be 18 years or older, and must be responsible for the actions of younger members of the group.

7. All materials or equipment taken into a cave must be removed and properly disposed of at the end of each cave visit.

8. Visitors must agree to abide by special stipulations which pertain to a particular cave or portion thereof.

9. All pets are prohibited from entering any cave.

10. All locking devices on cave fences or gates must be secured after entry or departure from a cave, and mechanical problems with locks must be promptly reported to the authorized officer.

11. Expired authorization forms, including those for trips which are cancelled, will be returned to the issuing BLM office within 5 days after the expiration date.

12. Entrance authorizations are validated only upon signature of each person prior to entering a cave. Signature of a parent or legal guardian is required for all individuals under 18 years of age.

13. Approved and validated authorizations must be visibly displayed on the dashboard of a vehicle when participants are in a cave, or otherwise made readily available for inspection by BLM personnel.

C. Special Stipulations

Special stipulations have been developed which apply only to activities in a particular cave. These requirements were developed to provide for protection of unusual resource values, visitor health, or safety. Stipulations described below represent the range of requirements currently in effect at 9 of 20 caves. Based on resource protection requirements or safety problems, special stipulations may be applied to other caves, or these requirements may be waived by the authorized officer in order to accommodate certain activities such as research use.

1. Minimum group size shall be no less than three people and maximum group size limits vary from six to 10 people.

2. Overnight camping, use of firearms, and open fires (except carbide lamps) are prohibited in caves.

3. Sections of caves which are blocked off with flagging tape or signs to protect seasonal bat populations or cave studies must not be entered.

4. In cave areas that have marked trail systems, travel must be confined to the marked routes.

5. Contact with or disturbance of bats is prohibited.

6. Certain caves or portions of caves may be visited only if a group is accompanied by a guide that is approved by the authorized officer.

7. Special safety equipment, such as the use of dust masks to prevent airborne diseases, must be used when required by the authorized officer.

D. Enforcement

All members of a noncommercial group that enter a cave without possessing a valid authorization, or persons who violate a general condition or special stipulation of a valid authorization will be subject to the penalties prescribed in 43 CFR 8360.0–7. Violations are punishable upon conviction by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

The provisions of this notice and supplementary rules shall become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the State Director.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kreager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, telephone (505) 622–9042, (FTS) 572–0222.

Dated: August 15, 1986.

Monte G. Jordan,

Acting State Director.

[FR Doc. 86–19182 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–FB–M

Closure Order on Use of Motor Vehicles on Certain Designated Road Systems

AGENCY: Bureau of Land Management, Interior.

Charge Code: (OR120–6310–02: GP6–321).

ACTION: Notice is hereby given that certain road systems in the Coos Bay District are closed to use by motorized vehicles in accordance with the current Habitat Management Plan (HMP) and other appropriate Bureau of Land Management (BLM) planning documents. Closures are 12 months per year. This does not affect non-motorized forms of travel. The reason for this order is to implement a planning system mitigation to benefit elk habitat primarily, with certain other benefits outlined in the HMP.

Copies of the HMP and maps of the roads closed are available from the Coos Bay District Office, BLM, 333 South 4th Street, Coos Bay, Oregon, 97420. Lands administered by the Coos Bay District are in Coos, Curry, Douglas, and Lane counties. The road closure system will be reviewed annually by BLM, the Oregon Department of Fish and Wildlife and Oregon State Police, with opportunities for public comment. Particular roads may be added or dropped from the system.

This is a cooperative road closure program with the Oregon Department of Fish and Wildlife. All persons authorized to enforce state game laws may enforce this closure. Oregon State Police and County Sheriffs are hereby authorized to enforce state and federal laws and regulations on federal properties in accordance with the HMP. Administrative details are spelled out in the HMP.

This closure order is in accordance with the provisions of Pub. L. 93–452, the Sikes Act (88 Stat. 1369), (16 U.S.C. 670 et. seq) and Pub. L. 94–579, the Federal Land Policy and Management Act of 1976 (90 Stat. 2743), (43 U.S.C. 1701) and 43 CFR, Subpart 8364. Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7 or as ordered through the Oregon criminal justice system.

The following is a listing of roads closed for 1986 by road number and resource area:

Tioga Resource Area	*Umpqua Resource Area*
25–10–33.2	23–10–7.1
26–10–3.1/3.5	23–9–9.0
26–10–7.1	23–9–10.0
26–10–19.4	23–9–4.4
26–10–23.3	23–9–15.2
26–10–24.3	23–9–15.0
26–10–28.5/28.8	23–9–21.0
26–10–28.0	23–9–15.4
26–10–30.1	23–9–14.2
26–10–35.0	23–9–13.0/13.7/13.4
26–10–36.1	25–10–13.2
26–9–33.1	23–9–17.0/19.0
26–9–19.0	
26–9–21.2	
26–9–33.2	
27–10–26	
26–12–19.1 B	
26–12–19.2 B	
27–10–32.1	
27–10–29.5	
27–9–31.0/31.1	
27–10–19	
27–10–23.1	
25–10–33	

David W. Taylor,

Acting Associate District Manager.

[FR Doc. 86–19191 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–33–M

[CA-050-06-5440-10-ZBKD; CA 17122]

Realty Actions; Sale of Public Lands, California

ACTION: Notice.

SUMMARY: The purpose of this action is the direct sale of the public land in Lot 30, section 10, T. 19 N., R. 6 E., M.D.M., 1.18 acres to Mr. and Mrs. Doug Matthiessen at the appraised value of $8000 sixty days after publication of this notice. The lands described above have been examined, and through the development of land-use planning decisions based upon public input, resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of this parcel to terminate an occupancy trespass in the town of Forbestown is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, and approved Redding Resource Area Land Use Plans as measured by the criteria in 43 CFR 2711.3–3.

All minerals beneath the parcel will also be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)).

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, as provided by the regulations of 43 CFR 2711.1–2(d). This segregation will expire 270 days from the date of publication of this notice.

Sale Procedures

Mr. and Mrs. Matthiessen, the designated bidders, will be required to submit payment of at least 20% of the fair market value by certified check, cashier's check, or money order to the Bureau of Land Management, 355 Hemsted Drive, Redding, California, within 45 days of this notice date. Concurrently, the bidder will be required to deposit an additional $50.00 nonrefundable filing fee and application for the conveyance of offered minerals pursuant to 43 CFR 2720.1–2(c).

The balance of the appraised fair market value will be due within 180 days, payable in the same form at the same location. Failure to submit initial payment of 20% during the stated time or remainder of the payment within 180 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forefeiture of deposited monies.

Further Information and Public Comment

Additional information concerning this sale including the environmental assessment and land report are available for review at the Redding Bureau of Land Management Office. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Redding Resource Area. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: August 11, 1986.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 86–19186 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-40-M

[CO-050-06-4212-12; C-42677]

Realty Action; Colorado; Correction

ACTION: Notice of Realty Action: Correction of Legal Description in Notice of Direct Sale of Public Land to Mr. and Mrs. Gerald Tannehill.

SUMMARY: The Notice of Realty Action published in Vol. 51, No. 151 of the **Federal Register** on August 6, 1986 contained an incorrect section number for the land to be sold. The correct legal description is:

T. 29 S., R. 69 W., 6th P.M., Colorado
Section 5, Lots 6, 7, and 8
Contains 18.27 acres.

DATE: The comment period continues for 45 days from publication of this notice.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 86–19278 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-JB-M

[WY-920-06-4990-14; W-98476]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3106.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–98476 for lands in Niobrara County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–98476 effective January 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86–19209 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7313; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Minerals Management.

Abstract: Respondents submit information necessary for the Minerals Management Service to

determine which tracts will be leased, to identify areas for environmental study and further consideration for leasing, and to determine if the applicant or bidder filing for a lease in the Outer Continental Shelf is qualified to hold such a lease.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees, potential bidders, and the public.

Annual Responses: 2,693

Annual Burden Hours: 12,819

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213

Dated: June 5, 1986.

Richard B. Krahl,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 86–19185 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 16, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning teh significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 10, 1986.

Beth Grosvenor,

Acting Chief of Registration, National Register.

Alabama

Jefferson County

Birmingham, *Second Presbyterian Church,* Tenth Ave. and Twelfth Sts., S.

Arkansas

Washington County

Springdale, *Rabbits Foot Lodge,* 3600 Silent Grove Rd.

California

Amador County

Jackson, *Butterfield, John A., House,* 115 Broadway

Los Angeles County

West Hollywood, *Patio del Moro,* 8225–8237 Fountain Ave.

Monteray County

Pacific Grove, *Buck, Frank LaVerne, House,* 581 Pine Ave.

Orange County

San Juan Capistrano, *Forster, Frank A., House,* 27182 Ortega Hwy.

San Meteo County

Woodside, *Green Gables—Fleishhacher, Mortimer, Country House,* 329 Albion Ave.

Florida

Alachua County

Gainesville, *Rolfs Hall,* Buckman Dr., University of Florida Campus

Hillsborough County

Tampa, *Masonic Temple No. 25,* 508 E. Kennedy Blvd.

Volusia County

Daytona Beach, *Rogers House,* 436 N. Beach St.

Georgia

Elbert County

Elberton, *Elberton Depot,* N. Oliver and Deadwyler Sts.

Franklin County

Royston, *Bond-Baker-Carter House,* 211 Franklin Springs St.

Maine

Aroostook County

Houlton, *Amazeen House,* 15 Weeks St.

Cumberland County

Portland, *Maine Eye and Ear Infirmary, 794–800 Congress St.*

South Portland, *Seavey-Robinson House,* 580 Ocean St.

Hancock County

Brooklin, *Holden House,* ME 175

Castone, *Off-the-Neck Historic District,* ME 166

Kennebec County

Augusta, *Crosby Street Historic District,* Crosby St. and Crosby Ln.

Lincoln County

Waldboro, *Waldo Theatre,* Main St.

Oxford County

Fryeburg, *Parsons, Marion, House,* 90 Main St.

York County

Old Orchard Beach, *Staples Inn,* 8 Portland Ave.

Maryland

Alleghany County

Cumberland, *Truog, George, House,* 230 Baltimore Ave.

Carroll County

Westminster vicinity, *Frizzell, Andrew P., House and Farm Complex,* 3801 Salem Bottom Rd.

Cecil County

Calvert vicinity, *Churchman, John and George, House,* 115 Churchman Ln.

Queen Anne's County

Stevensville, *Stevensville Historic District,* MD 18 and Love Point Rd.

Somerset County

Somerset Academy

Talbot County

St. Michaels, *St. Michaels Historic District,* Roughly bounded by North Ave., Mill St., Miles River, Seymour, Baltimore & Eastern RR tracks, and Glory Ave.

Massachusetts

Essex County

Lynn, *English High School,* Essex and James Sts.

Hampden County

Springfield, *McKnight District (Boundary Increase),* Roughly bounded by New England RR, Dartmouth St., Buchingham, State, and Bowdoin Sts.

Mississippi

Coahoma County

Dickerson Site (22-Co-502),

Spendthrift Site (22-Co-520)

Holmes County (also in Carroll County),

French Site (22-Ho-565),

Quitman County

Posey Site (22-Qu-500)

Shady Grove Site (22-Qu-525)

Nevada

Clark County

Las Vegas, *Las Vegas High School Academic Building and Gymnasium,* 315 S. Seventh St.

New Mexico

Barnalillo County

Albuquerque, *Silver Hill Historic District,* Roughly bounded by Central Ave., Yale Blvd., Lead Ave., and Sycamore St.

Guadalupe County

La Placita de Abajo (Anton Chico Land Grant MRA),

Anton Chico, *Anton Chico de Abejo Historic District (Anton Chico Land Grant MRA),* Roughly village limits of Anton Chico

Colonias vicinity *Colonias de San Jose Historic District (Anton Chico Lnad Grant MRA),* Roughly village limits of Colonias

Rio Arriba County

Encenada vicinty, *El Porvenir Community Ditch (La Tierra Amarilla MRA),* Extending from 4.5 mi. E of Encenada to 0.5 mi. N of Encenada

Ecenada vicinty, *Encenada Community Ditch (La Tierra Amarilla MRA),* Extending from 4.5 mi. E of Encenada to 0.3 mi. W of US 84 0.5 mi. NE of State Fish Hatchery

Ecenada, *Jaramillo, Ramon, House and Barn (La Tierra Amarilla MRA),* Ensenada Rd.

Encenada, *San Joaquin Church (La Tierra Amarilla MRA),* NM 162

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Encenada, *Valdez, Miguel, Barn (La Tierra Amarilla MRA)*, San Joaquin Church Loop Rd.
La Puente vicinity, *La Puente Community Ditch (La Tierra Amarilla MRA)*, Extending from Parkview discharge point to 0.7 mi. SW of La Puenta on the Chama River
Los Brazos vicinity, *El Barranco Community Ditch (La Tierra Amarilla MRA)*, Extending from Chama River at Chama Division to Upper Brazos Ditch
Los Brazos vicinity, *Sanchez, Samuel, Barns (La Tierra Amarilla MRA)*, Off US 64
Los Brazos vicinity, *Sanchez, Samuel, House (La Tierra Amarilla MRA)*, Off US 64
Los Ojos vicinity, *Parkview Community Ditch (La Tierra Amarilla MRA)*, Extending from 4.5 mi. E of Encenada to 1 mi. SW of State Fish Hatchery
Los Ojos, *Our Lady of Lourdes Grotto (La Tierra Amarilla MRA)*, Old Highway
Plaza Blanca vicinity, *Plaza Blanca Community Ditch (La Tierra Amarilla MRA)*, Extending from 2 mi. WSW of State Fish Hatchery to 1 mi. SSW of Plaza Blanca
Plaza Blanca, *Plaza Blanca Historic District (La Tierra Amarilla MRA)*, Roughly Plaza Blanca Rd. and Old La Puente Ford Rd. adjacent to Plaza Blanca Ditch
Tierra Amarilla vicinity, *Tierra Amarilla Community Ditch (La Tierra Amarilla MRA)*, Extending from 2 mi. ESE of Tierra Amarilla to 0.2 mi. N. of La Corridera Rd.
Tierra Amarilla, *Tierre Amarilla Historic District (La Tierra Amarilla MRA)*, Rougly along La Puenta Rd. on both sides of US 84, and along Old Highway and Creek Rd.

New York

Bronx County

New York, *United Workers Cooperatives*, 2700–2870 Bronx Park, E.

Cortland County

McGraw, *Presbyterian Church of McGraw*, 3 W. Main St.

New York County

New York, *Tudor City Historic District*, Roughly bounded by Fourty-third St., First Ave., Fourty-first St., and Second Ave.
New York, *University Settlement House*, 184 Eldridge St.

Suffolk County

Branch, *Village of Branch Historic District*, Along N side of Middle Country Rd.
Center Moriches, *Masury Estate Ballroom*, Old Neck Rd., S.
Yaphank, *Suffolk County Almshouse Barn*, Yaphank Ave.

Ulster County

Rosendale, *All Saints' Chapel*, Main St.

Oklahoma

Garfield County

Covington vicinity, *Hoy, R. E., No. 1 Oil Well*, Off US 64

Lincoln County

Stroud, *Bon Ton House*, 404 N. Fourth Ave.
Stroud, *Carpenter, Joseph, House*, 204 W. Sixth St.
Stroud, *Hadley, Walter, House*, 424 W. Seventh St.
Stroud, *Hughes, George, House*, 308 W. Fifth St.

Osage County

Pawhuska, *Pauhuska Historic District*, Roughly bounded by Grand View Ave., E. Eighth St., Leahy Ave., and E. Fifth St.

Texas

Anderson County

Palestine *Palestine High School*, 400 Micheaux Ave.

Ellis County

Ennis, *Allen, I.R., House (Ennis MRA)*, 601 N. Dallas
Ennis, *Atwood, E.K., House (Ennis MRA)*, 605 N. Preston
Ennis, *Barkley-Floyd House (Ennis MRA)*, 709 N. Dallas
Ennis, *Barrington House (Ennis MRA)*, 206 W. Belknap
Ennis, *Boren, E.T., House (Ennis MRA)*, 616 W. Denton
Ennis, *Dunkerly, G.G., House (Ennis MRA)*, 607 W. Baylor
Ennis, *Ennis Commercial Historic District (Ennis MRA)*, Roughly bounded by Baylor, Main, Crockett, and McKinney Sts.
Ennis, *Ennis Cotton Compress (Ennis MRA)*, 111 E. Lampasas
Ennis, *Ennis Cotton Oil Company (Ennis MRA)*, 800 blk. S. Kaufman
Ennis, *Ennis High School (Ennis MRA)*, 501 N. Gaines
Ennis, *Fain House (Ennis MRA)*, 403 N. Preston
Ennis, *Farrar House (Ennis MRA)*, 601 S. Main, W.
Ennis, *Gillespie Farm (Ennis MRA)*, 908 S. Mulberry
Ennis, *H&TC Railroad Division Yard Shop (Ennis MRA)*, 1311 N. Main, W.
Ennis, *House at 106 East Denton (Ennis MRA)*, 106 E. Denton
Ennis, *House at 404 East Crockett (Ennis MRA)*, 404 E. Crockett
Ennis, *House at 500 North Main, E. (Ennis MRA)*, 500 N. Main, E.
Ennis, *House at 508 North Dallas (Ennis MRA)*, 508 N. Dallas
Ennis, *House at 509 West Brown (Ennis MRA)*, 509 W. Brown
Ennis, *House at 722 West Madison (Ennis MRA)*, 722 W. Madison
Ennis, *House at 708 East Brown (Ennis MRA)*, 708 E. Brown
Ennis, *House at 802 East Ennis (Ennis MRA)*, 802 E. Ennis
Ennis, *House at 806 South Dallas (Ennis MRA)*, 806 S. Dallas
Ennis, *House at 807 North Preston (Ennis MRA)*, 807 N. Preston
Ennis, *House at 810 North Preston (Ennis MRA)*, 810 N. Preston
Ennis, *Jolesch House (Ennis MRA)*, 504 W. Knox
Ennis, *MacCanless-Williams House (Ennis MRA)*, 402 W. Tyler
Ennis, *Matthews-Atwood House (Ennis MRA)*, 307 N. Sherman
Ennis, *Matthews-Templeton House (Ennis MRA)*, 606 W. Denton
Ennis, *Meredith-McDowal House (Ennis MRA)*, 701 N. Gaines
Ennis, *Moore House (Ennis MRA)*, 400 W. Denton
Ennis, *Moorhead, J.B., House (Ennis MRA)*, 801 S. Main, W.
Ennis, *Morton House (Ennis MRA)*, 1007 N. McKinney
Ennis, *Neal House (Ennis MRA)*, 704 N. Preston
Ennis, *Novy, Joe, House (Ennis MRA)*, 401 N. Clay
Ennis, *Old City Mills (Ennis MRA)*, 212 E. Ennis and 108 E. Brown
Ennis, *Ransom House (Ennis MRA)*, 501 N. McKinney
Ennis, *Raphael House (Ennis MRA)*, 500 W. Ennis
Ennis, *Sanderson, James S., House (Ennis MRA)*, 201 N. Gaines
Ennis, *Sharp House (Ennis MRA)*, 206 N. Gaines
Ennis, *Story, Jesse and Mary, House (Ennis MRA)*, 510 W. Brown
Ennis, *Telfair House (Ennis MRA)*, 209 N. Preston
Ennis, *Weatherford House (Ennis MRA)*, 501 N. Preston
Ennis, *Weekley, John M., House (Ennis MRA)*, 510 W. Denton
Waxahachie, *Adamson, F.R., House (Waxahachie MRA)*, 309 University
Waxahachie, *Alderdice, J.M., House (Waxahachie MRA)*, 1500 W. Main
Waxahachie, *Alderman, G.H., House (Waxahachie MRA)*, 317 E. Marvin
Waxahachie, *Berry, J.S., House (Waxahachie MRA)*, 201 E. University
Waxahachie, *Building at 441 East Main (Waxahachie MRA)*, 441 E. Main
Waxahachie, *Building at 500–502 East Main (Waxahachie MRA)*, 500–502 E. Main
Waxahachie, *Bullard, T.J., House (Waxahachie MRA)*, 221 Patrick
Waxahachie, *Central Presbyterian Church (Waxahachie MRA)*, 402 N. College
Waxahachie, *Chapman, Oscar H., House (Waxahachie MRA)*, 201 Overhill
Waxahachie, *Cohn, Joe, House (Waxahachie MRA)*, 501 Sycamore
Waxahachie, *Cole-Hip House (Waxahachie MRA)*, 309 E. Marvin
Waxahachie, *Coleman-Cole House (Waxahachie MRA)*, 1219 E. Marvin
Waxahachie, *Connally, Roy, House (Waxahachie MRA)*, 205 E. University
Waxahachie, *Paillet House (Waxahachie MRA)*, 800 S. College
Waxahachie, *Rockett, Paris Q., House (Waxahachie MRA)*, 321 E. University
Waxahachie, *Dillon, George C., House (Waxahachie MRA)*, 123 E. University
Waxahachie, *Eastham, D.D., House (Waxahachie MRA)*, 401 E. Marvin
Waxahachie, *Erwin, J.R., House (Waxahachie MRA)*, 414 W. Marvin
Waxahachie, *Forrest, W.B., House (Waxahachie MRA)*, 500 Royal
Waxahachie, *Graham, Dr. L.H., House (Waxahachie MRA)*, 909 W. Marvin
Waxahachie, *Hines, E.M., House (Waxahachie MRA)*, 124 Kaufman
Waxahachie, *House at 104 Kaufman (Waxahachie MRA)*, 104 Kaufman
Waxahachie, *House at 108 Kaufman (Waxahachie MRA)*, 108 Kaufman

Waxahachie, *House at 111 Brown (Waxahachie MRA)*, 111 Brown
Waxahachie, *House at 111 Williams (Waxahachie MRA)*, 111 Williams
Waxahachie, *House at 113 East Ross (Waxahachie MRA)*, 113 E. Ross
Waxahachie, *House at 1301 East Marvin (Waxahachie MRA)*, 1301 E. Marvin
Waxahachie, *House at 1423 Sycamore (Waxahachie MRA)*, 1423 Sycamore
Waxahachie, *House at 301 Turner (Waxahachie MRA)*, 301 Turner
Waxahachie, *House at 320 East Marvin (Waxahachie MRA)*, 320 E. Marvin
Waxahachie, *House at 418 North College (Waxahachie MRA)*, 418 N. College
Waxahachie, *House at 501 North Grand (Waxahachie MRA)*, 501 N. Grand
Waxahachie, *House at 512 North Grand (Waxahachie MRA)*, 512 N. Grand
Waxahachie, *House at 523 Highland (Waxahachie MRA)*, 523 Highland
Waxahachie, *House at 625 Cantrell (Waxahachie MRA)*, 625 Cantrell
Waxahachie, *House at 700 South Rogers (Waxahachie MRA)*, 700 S. Rogers
Waxahachie, *House at 703 South College (Waxahachie MRA)*, 703 S. College
Waxahachie, *House at 712 East Marvin (Waxahachie MRA)*, 712 E. Marvin
Waxahachie, *House at 803 Cantrell (Waxahachie MRA)*, 803 Cantrell
Waxahachie, *House at 816 Cantrell (Waxahachie MRA)*, 816 Cantrell
Waxahachie, *House at 816 West Water (Waxahachie MRA)*, 816 W. Water
Waxahachie, *House at 901 Cantrell (Waxahachie MRA)*, 901 Cantrell
Waxahachie, *Joshua Chapel A.M.E. Church (Waxahachie MRA)*, 110 Ailen
Waxahachie, *Kirven, J.D., House (Waxahachie MRA)*, 801 Sycamore
Waxahachie, *Koger, William, House (Waxahachie MRA)*, 409 Kaufman
Waxahachie, *Langsford, Samuel, House (Waxahachie MRA)*, 1208 E. Marvin
Waxahachie, *Lwis, William, House (Waxahachie MRA)*, 1201 E. Marvin
Waxahachie, *McCartney House (Waxahachie MRA)*, 603 W. Marvin
Waxahachie, *Moore, W.B., House (Waxahachie MRA)*, 912 E. Marvin
Waxahachie, *National Compress Company Building (Waxahachie MRA)*, 508 E. Flat
Waxahachie, *North Rogers Street Historic District (Waxahachie MRA)*, 500–600 blks. N. Rogers, 500–600 blks. N. Monroe, and 100–200 blks. W. Marvin Sts.
Waxahachie, *Odom, Frank, House (Waxahachie MRA)*, 910 W. Marvin
Waxahachie, *Oldham Avenue Historic District (Waxahachie MRA)*, Oldham Ave. roughly bounded by N. Jackson, Bethel, Williams, and McClain
Waxahachie, *Patrick, Marshall T., House (Waxahachie MRA)*, 233 Patrick
Waxahachie, *Payne, M.S., House (Waxahachie MRA)*, 521 N. Grand
Waxahachie, *Phillips, E.F., House (Waxahachie MRA)*, 902 W. Marvin
Waxahachie, *Plumhoff House (Waxahachie MRA)*, 612 S. Rogers
Waxahachie, *Ralston, Mary, House (Waxahachie MRA)*, 116 E. University
Waxahachie, *Ray, M.B., House (Waxahachie MRA)*, 401 N. Monroe
Waxahachie, *Reinmiller, W.B., House (Waxahachie MRA)*, 206 E. Marvin
Waxahachie, *Second Trinity University Campus (Waxahachie MRA)*, 1200 blk. Sycamore
Waxahachie, *Sims, O.B., House (Waxahachie MRA)*, 1408 W. Main
Waxahachie, *Solon, John, House (Waxahachie MRA)*, 617 Solon Rd.
Waxahachie, *St. Paul's Episcopal Church (Waxahachie MRA)*, 308 N. Monroe
Waxahachie, *Templeton, Judge M.B., House (Waxahachie MRA)*, 203 N. Grand
Waxahachie, *Thompson, D.H., House (Waxahachie MRA)*, 312 Kaufman
Waxahachie, *Trippet-Shive House (Waxahachie MRA)*, 209 N. Grand
Waxahachie, *Trippet-Shive House (Waxahachie MRA)*, 1104 E. Grand
Waxahachie, *Waxahachie Lumber Company (Waxahachie MRA)*, 123 Kaufman
Waxahachie, *West End Historic District (Waxahachie MRA)*, Roughly bounded by W. Water, Monroe, Madison, W. Jefferson, W. Main, and Central
Waxahachie, *Williams, Porter L., House (Waxahachie MRA)*, 200 E. University
Waxahachie, *Witten, Pat, House (Waxahachie MRA)*, 204 Brown
Waxahachie, *Wyatt Street Shotgun House Historic District (Waxahachie MRA)*, E side 300 blk. Wyatt St.

Jones County

Stanford, *AMA Building (Stamford MRA)*, 101 S. Wetherbee & 210 E. McHarg
Stanford, *Astin, J.P., House (Stamford MRA)*, 111 E. Campbell
Stanford, *Buena Vista Hotel (Stamford MRA)*, 123 N. Wetherbee
Stanford, *Bunkley, Dr. E.P., House and Garage (Stamford MRA)*, 1034 E. Reynolds
Stanford, *First Baptist Church (Stamford MRA)*, E. Oliver and E. Swenson
Stanford, *House at 501 North Swenson (Stamford MRA)*, 501 N. Swenson
Stanford, *House at 502 South Orient (Stamford MRA)*, 502 S. Orient
Stanford, *House at 610 East Oliver (Stamford MRA)*, 610 E. Oliver
Stanford, *House at 709 East Reynolds (Stamford MRA)*, 709 E. Reynolds
Stanford, *House at 719 East Reynolds (Stamford MRA)*, 719 E. Reynolds
Stanford, *House at 815 East Campbell (Stamford MRA)*, 815 E. Campbell
Stanford, *Jackson, A.J., House (Stamford MRA)*, 305 S. Ferguson
Stanford, *Old Bryant—Link Building (Stamford MRA)*, 120 S. Swenson
Stanford, *Old Panick—Hughes Company (Stamford MRA)*, 100—106 E. Hamilton
Stanford, *Old West Texas Utilities Company (Stamford MRA)*, 127 E. McHarg
Stanford, *Old Wooten, H. O., Grocery Company (Stamford MRA)*, 128 E. Rotan
Stanford, *St. John's Methodist Church (Stamford MRA)*, S. Ferguson St.
Stanford, *Stamford City Hall (Stamford MRA)*, 201 E. McHarg
Stanford, *Swenson, A.J., House (Stamford MRA)*, 510 E. Oliver
Stanford, *United States Post Office (Stamford MRA)*, Town Square

Victoria County

Victoria, *Barden—O'Connor House (Victoria MRA)*, 305 N. Moody
Victoria, *Hauschild, George H., Building (Victoria MRA)*, 206 N. Liberty
Victoria, *O'Connor—Proctor Building (Victoria MRA)*, 202 N. Main
Victoria, *Alden, C.R., Building (Victoria MRA)*, 108—110 W. Juan Linn
Victoria, *Alonso, Frank, House (Victoria MRA)*, 401 S. Cameron
Victoria, *B'nai Isreal (Victoria MRA)*, 604 N. Main
Victoria, *Barnes, W.C., House (Victoria MRA)*, 106 W. Stayton
Victoria, *Bendt, E.H.D, House (Victoria MRA)*, 407 S. DeLeon
Victoria, *Bettin, Max, House (Victoria MRA)*, 602 E. Santa Rosa
Victoria, *Braman House (Victoria MRA)*, 206 W. Stayton
Victoria, *Buhler, Theodore, House (Victoria MRA)*, 202 W. Stayton
Victoria, *Burrough—Daniel House (Victoria MRA)*, 502 W. North
Victoria, *Calhoun Bakery (Victoria MRA)*, 209 N. Wheeler
Victoria, *City of Victoria Pumping Plant—Waterworks (Victoria MRA)*, 105 W. Juan Linn
Victoria, *Clark House (Victoria MRA)*, 606 S. Liberty
Victoria, *Clark, Robert, House (Victoria MRA)*, 317 N. Main
Victoria, *Clegg, John H., House (Victoria MRA)*, 507 N. Vine
Victoria, *Crain, F.H., House (Victoria MRA)*, 307 N. Vine
Victoria, *DeLeon Plaza and Bandstand (Victoria MRA)*, 100 blk. W. Constitution
Victoria, *Diebel—Hyak House (Victoria MRA)*, 501 S. Cameron
Victoria, *Farmers and Merchants Cotton Gin Warehouse (Victoria MRA)*, 402 S. East
Victoria, *Fleming—Welder House (Victoria MRA)*, 607 N. Craig
Victoria, *Fossati, E.J., House (Victoria MRA)*, 607 S. DeLeon
Victoria, *Fox, Jacob, House (Victoria MRA)*, 708 W. Power
Victoria, *Gaylord—Levy House (Victoria MRA)*, 402 N. Bridge
Victoria, *Goldman's Cotton Gin Warehouse (Victoria MRA)*, 901 E. Murray
Victoria, *Goldman, A., Building (Victoria MRA)*, 207 E. Constitution
Victoria, *Gramann House (Victoria MRA)*, 203 E. Goodwin
Victoria, *Hauschild, George & Adele, House (Victoria MRA)*, 208 N. Liberty
Victoria, *Hill—Howard House (Victoria MRA)*, 802 W. Power
Victoria, *Hiller House (Victoria MRA)*, 501 E. Church
Victoria, *Hiller House (Victoria MRA)*, 3003 N. Vine
Victoria, *House at 1602 North Moody (Victoria MRA)*, 1602 N. Moody
Victoria, *House at 1907 Southwest Ben Jordon (Victoria MRA)*, 1907 S.W. Ben Jordon
Victoria, *House at 205 East Constitution (Victoria MRA)*, 205 E. Constitution
Victoria, *House at 304 West Stayton (Victoria MRA)*, 304 W. Stayton

Victoria, *House at East Forrest (Victoria MRA)*, 306 E. Forrest
Victoria, *House at 401 East Stayton (Victoria MRA)*, 401 E. Stayton
Victoria, *House at 407 East Convent (Victoria MRA)*, 705 E. Polk
Victoria, *House at 4402 East Juan Linn (Victoria MRA)*, 4402 E. Juan Linn
Victoria, *House at 604 East Santa Rosa (Victoria MRA)*, 604 E. Santa Rosa
Victoria, *House at 702 Siegfried (Victoria MRA)*, 702 Siegfried
Victoria, *House at 706 Siegfried (Victoria MRA)*, 706 Siegfried
Victoria, *House at 804 Siegfried (Victoria MRA)*, 804 Siegfried
Victoria, *Hull House (Victoria MRA)*, 1002 NE Water
Victoria, *Jecker, E.J., House (Victoria MRA)*, 201 N. Wheeler
Victoria, *Jecker, J.T., House (Victoria MRA)*, 104 N. Liberty
Victoria, *Jordan—Koch House (Victoria MRA)*, 307 N. Deleon
Victoria, *Kaufman, E.C., House (Victoria MRA)*, 502 S. DeLeon
Victoria, *Keef—Filley Building (Victoria MRA)*, 214 S. Main
Victoria, *Krenek House (Victoria MRA)*, 607 N. Main
Victoria, *Lander—Hopkins House (Victoria MRA)*, 202 W. Power at N. Bridge
Victoria, *Lawrence House (Victoria MRA)*, 1203 N. Bridge
Victoria, *Levi—Welder House (Victoria MRA)*, 403 N. Main
Victoria, *Little House (Victoria MRA)*, 502 N. Victoria
Victoria, *Martin—Thumford, Vera Fiek, House (Victoria MRA)*, 507 N. William
Victoria, *McCable Building (Victoria MRA)*, 508 N. Wheler
Victoria, *McCan—Nava House (Victoria MRA)*, 401 N. Glass
Victoria, *McDonald House (Victoria MRA)*, 408 E. Constitution
Victoria, *McFaddin, James, House (Victoria MRA)*, 207 W. Commercial
Victoria, *McNamara—O'Connor House (Victoria MRA)*, 502 N. Liberty
Victoria, *Mitchell, Guy, House (Victoria MRA)*, 402 W. Goodwin
Victoria, *Moeller House (Victoria MRA)*, 901 S. East
Victoria, *Mohris—Abschiar House (Victoria MRA)*, 101 N. DeLeon
Victoria, *Murphy, Mrs. J.V., House (Victoria MRA)*, 204 E. Santa Rosa
Victoria, *Nave, Royston, Memorial (Victoria MRA)*, 306 W. Commercial
Victoria, *O'Conner, Thomas M., House (Victoria MRA)*, 303 S. Bridge
Victoria, *Old Brownson School (Victoria MRA)*, 500 blk. W. Power
Victoria, *Old Federal Building & Post Office (Victoria MRA)*, 210 E. Constitution
Victoria, *Old Municipal Assembly Hall (Victoria MRA)*, 800 E. Pine
Victoria, *Old Nazareth Academy (Victoria MRA)*, 105 W. Church
Victoria, *Our Lady of Lourdes Church (Victoria MRA)*, 105 N. William
Victoria, *Pela House (Victoria MRA)*, 309 E. Santa Rosa
Victoria, *Pickering House (Victoria MRA)*, 403 N. Glass
Victoria, *Pippert House (Victoria MRA)*, 207 E. Third
Victoria, *Presbyterian Iglesia Nicea (Victoria MRA)*, 401 S. DeLeon
Victoria, *Proctor House (Victoria MRA)*, 507 N. Glass
Victoria, *Proctor—Vandenberge House (Victoria MRA)*, 604 N. Craig
Victoria, *Randall Building (Victoria MRA)*, 103–105 W. Santa Rosa
Victoria, *Regan, D.H., House (Victoria MRA)*, 507 S. DeLeon
Victoria, *Schrader, Henry, House (Victoria MRA)*, 607 S. Cameron
Victoria, *Schroeder House (Victoria MRA)*, 1507 N. Vine
Victoria, *Schummocker Company Building (Victoria MRA)*, 402 E. Power
Victoria, *Senegla, A.T., House (Victoria MRA)*, 502 E. Juan Linn
Victoria, *Sigmund House (Victoria MRA)*, 508 E. Santa Rosa
Victoria, *South Bridge Street Historic District (Victoria MRA)*, W. side 700 blk. S. Bridge St. and N side 700 blk. Water St.
Victoria, *St Mary's Catholic Church (Victoria MRA)*, 101 W. Church
Victoria, *Stuart House (Victoria MRA)*, 506 S. Bridge
Victoria, *Tasin House (Victoria MRA)*, 202 N. Wheeler
Victoria, *Texas Company Filling Station (Victoria MRA)*, 102 S. William
Victoria, *Townsend—Wilkins House (Victoria MRA)*, 106 N. Navarro
Victoria, *Trinity Lutheran Church (Victoria MRA)*, 402 E. Constitution
Victoria, *Urban, Fred, House (Victoria MRA)*, 501 E. River
Victoria, *Vandenberge, J.V., House (Victoria MRA)*, 301 N. Vine
Victoria, *Victoria Colored School (Victoria MRA)*, 702 E. Convent
Victoria, *Weber—Schubert House (Victoria MRA)*, 302 E. Constitution
Victoria, *Webster Chapel United Methodist Church (Victoria MRA)*, 405 S. Wheeler
Victoria, *Wheeler, William, House (Victoria MRA)*, 303 N. William
Victoria, *Williams, B.F., House (Victoria MRA)*, 401 E. Murray
Victoria, *Woodhouse House (Victoria MRA)*, 609 N. Wheeler
Victoria, *Zahn, Herman and Alvin, House (Victoria MRA)*, 107 S. DeLeon

Virginia

South Boston (Independent City)

South Boston Historic District, Along Railroad Ave. Ferry, Factory, and Main Sts., Wilborn Ave., N. Main St., Washington and Peach Aves., and Jefferson St.

Wisconsin

Door County,

Sister Bay, *Jischke's Meat Market*, 414 Maple Dr.

Iowa County

Barneveld, *Cassidy Farmhouse (Barneveld MRA)*, Off WI K, N of US 18/151
Barneveld, *Grove Street Historic District (Barneveld MRA)*, 304–316 Grove St.
Barneveld, *Harris House (Barneveld MRA)*, 202 W. Wood St.
Barneveld, *Ihm House (Barneveld MRA)*, 203 N. Garfield St.
Barneveld, *Kittleson House (Barneveld MRA)*, 104 W. Wood St.
Barneveld, *Roberts House (Barneveld MRA)*, 302 Front St.
Barneveld, *Roethlisberger House (Barneveld MRA)*, 206 N. Grove St.

La Crosse County

La Crosse, *Our Lady of Sorrows Chapel*, 519 Losey Blvd., S.

Milwaukee County

Milwaukee, *East Side Commercial Historic District*, Roughly bounded by E. Wells, and N. Jefferson Sts., E. Wisconsin Ave., N. Milwaukee St., E. Clybourn, N. Water, and E. Mason Sts.

Waukesha County

Hartland, *East Capitol Drive Historic District (Hartland MRA)*, 337–702 E. Capitol Dr.

Wyoming

Carbon County

Savery vicinity, *Stone Wall Ranch*, Star Rte. Box 1300

Uinta County

Triagulation Point Draw Site District (48UT114, 48UT337, 48UT392, 48UT440)

Washakie County

Big Trails, *Ainsworth House*, Spring Creek Rd.

Ten Sleep, Ten Sleep Mercantile, Second and Pine Sts.

[FR Doc. 86–19260 Filed 8–25–86; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18 (Sub–No. 85X)]

The Chesapeake and Ohio Railway Co.; Abandonment Exemption; Boone County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by The Chesapeake and Ohio Railway Company of 3.99 miles of track in Boone County, WV, subject to standard labor protection.

DATES: This exemption is effective September 25, 1986. Petitions for stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–18 (Sub-No. 85X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7093.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided: August 19, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19214 Filed 8–25–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–270 (Sub-No. 1X)]

Sumter and Choctaw Railway Co.; Exemption; Abandonment in Sumter County, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Sumter & Choctaw Railway Company from the requirements of 49 U.S.C. 10903, *et seq.*, to abandon its entire 3.1-mile line of railroad in Sumter County, AL.

DATES: This exemption will be effective on September 25, 1986. Petitions for stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–270 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's Representative: Ralph J. Libsohn, American Can Company, American Lane, P.O. Box 3610, Greenwich, CT 06836–3610

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided: August 19, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19215 Filed 8–25–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Browning-Ferris Industries of Kansas City

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on *August 15, 1986* a proposed consent decree in *United States* v. *Browning-Ferris Industries of Kansas City, Inc.*, was lodged simultaneously with the filing of the complaint with the United States District Court for the Western District of Missouri. The proposed consent decree concerns discharges of pollutants without a permit into the Missouri river, in violation of the Clean Water Act. The proposed consent decree requires defendant to pay a civil penalty of $11,250.00, to never allow such a discharge again, and to take certain steps to assure that such a discharge will never again occur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Browning-Ferris Industries of Kansas City, Inc.*, D.J. Ref. #90–5–1–1–2567.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Missouri, 549 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri, 64106, and at the Region VII Offices of the United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas, 66101. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–19163 Filed 8–25–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected. An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to

Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, telephone (202) 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration

Accident Data on School Bus Drivers Annual Report
1215-0045; WH-374
Annually
State or local governments
9 responses; 18 hours; 1 form

Section 570.52 declares the occupation of motor vehicle driver to be hazardous for 16 and 17-year-olds. Upon application by a State, an exemption may be granted to permit such minors to drive school buses. The data provided annually on form WH-374 is used to evaluate whether an exemption is warranted.

Employment Standards Administration

Employment Information Forms
1215-0001; WH-3 and WH-3 (Sp.)
On occasion
Individuals or households
41,000 responses; 13,667 hours; 2 forms

These forms are used to obtain information (i.e., complaints) from individuals about alleged violations of the various laws enforced by the Wage-Hour Division. They are also used as a screening device to determine whether the Division has jurisdiction in handling alleged violations.

Employment and Training Administration

Unemployment Compensation for Ex-Servicepersons (UCX) Handbook
1205-0176; ETA 841, 842 & 843
On Occasion
Individuals or households; State or local governments
183,333 respondents; 4,736 burden hours; 3 forms

Federal law (5 U.S.C. 8521 et seq.) provides unemployment insurance protection, to former members of the Armed Forces (ex-servicepersons) and is referred to in abbreviated form as "UCX." The forms in Chapter V through VIII of the *UCX Handbook* are used in connection with the provisions of this benefit assistance.

Office of the Assistant Secretary for Administration and Management

Supplemental Experience Statement
1225-0010; DL-1-2034
On occasion
Individual or households; Federal agencies or employees
10,350 responses; 15,525 hours; 1 form

The form is a supplement to the basic Federal employment application form (SF-171) to elicit specific job-related information from applicants to assure that their qualifications are accurately, completely, and efficiently evaluated.

Extension

Employment Standards Administration

OFCCP Complaint Form
1219-0131; CC-4
As needed
Individuals or households
3,213 responses; 3,213 hours; 1 form

Complaint forms are prepared by individual citizens who allege discrimination by Government contractors. These forms are received by OFCCP, reviewed for coverage, and, where appropriate, assigned for investigation.

Employment and Training Administration

Customer Survey Data Request
1205-0190; ETA 8562
On Occasion
Businesses or other for-profit; Small businesses or organizations 16,238 respondents; 16,238 hours; 1 form

Information needed for Secretary of Labor to make determinations of eligibility of petitioning workers to apply for trade adjustment assistance in accordance with sections 222, 223 & 249 of the Trade Act of 1974 as amended, affecting manufacturers, wholesalers, retailers and distributors.

Employment and Training Administration

Producers/Purchasers Survey Data Request
1205-0191; ETA 8566
On occasion
Businesses or other for-profit; Small businesses or organizations 30 respondents; 53 hours; 1 form

To acquire aggregate statistics needed by the Secretary of Labor to make determinations of eligibility of petitioning workers to apply for worker trade adjustment assistance in accordance with section 223 of the Trade Act of 1974 as amended.

Mine Safety and Health Administration

Noise Data Report Form and Calibration Records
1219-0037
Semi-annually; annually
Businesses and other for profit; small businesses or organizations
5,024 respondents; 9,130 hours

Requires coal mine operators to report to MSHA when noise exposure surveys show noncompliance with permissible levels. Records are also required to be kept at the mine of when and by whom noise dosimeters and acoustical calibrators are recalibrated.

Assistant Secretary for Veterans' Employment and Training

Implementing Regulations for Veterans' Employment Programs under Title IV, Part C of the Job Training Partnership Act
1293-0001
Other (at time of application for grant)
State or local governments; non-profit institutions
140 responses; 4,480 hours

The information is needed as the basis upon which the cost-effectiveness of the program proposed by the grant application will be evaluated. It is the primary focus of the application for funding used for approving or denying the application for funds under Title IV-C of JTPA.

Signed at Washington, DC, this 21st day of August 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 19299 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

American Standard, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 11, 1986—August 15, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate

subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–17,139; American Standard, Inc., Union Switch & Signal Division, Swissvalle, PA

TA–W–17,863; JC Embroidery Co., Fairview, NJ

TA–W–16,975; Howard Uniforms Co., Baltimore, MD

TA–W–16,301; Inspiration Mines, Inc., Tennessee Zinc Div., Jefferson City, TN

TA–W–17,206; Standard Steel Enterprise of Freedom Forge Corp., Burnham, PA

TA–W–17,152; Bethlehem Steel Corp., Sparrows Point Shipyard, Sparrows Point, MD

TA–W–17,237; General Electric Co., Drive Systems Operations, Salem, VA

TA–W–17,175; SKF Industries, Tapered Bearings Div., Massillon, OH

TA–W–17,154; Eagle Plastic of Maine, Inc., Sanford, ME

TA–W–17,241; Allen Steel Co., Salt Lake City, UT

TA–W–17,118; Bibb Company, Columbus, GA

TA–W–16,909; Nu Art Cutting Co., Guttenburg, NJ

TA–W–16,928; Schiffli Arts Corp., North Bergen, NJ

TA–W–16,958; Wartsky Embroidery Co., West New York, NJ

TA–W–16,812; Diament Embroidery Co., West New York, NJ

TA–W–16,849; Hampshire Embroidery, West New York, NJ

TA–W–16,852; Herman Stern & Son Corp., West New York, NJ

TA–W–16,787; RJ Novelties, North Bergen, NJ

TA–W–16,911; Paris Schiffli Fashions Corp., Fairview, NJ

TA–W–16,845; H.M. Frank Embroidery Co., Fairview, NJ

TA–W–16,957; Walker Eight Corp., T/A Universal Thread & Scallop Cutting, North Bergen, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–17,232; Offshore Navigation, Inc., Harahan, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–17,250; On Site Machine Service, Inc., Farmington, NM

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–16,893; Majestic Emb Co., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,945; Tony Embroidery, Inc. West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification. Sales increased in 1985 compared to 1984.

Affirmative Determinations

TA–W–17,180; Hart Fireplace Furnishings, New Albany, IN

A certification was issued covering all workers of the firm separated on or after January 27, 1985.

TA–W–16,861; J & H Embroidery, West New York, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,985: Wilner Wood Products, Norway, ME

A certification was issued covering all workers of the Heel Department separtated on or after November 27, 1984 and before February 28, 1986.

TA–W–17,252; Ree Bee Sportswear, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after February 13, 1985 and before June 1, 1985.

TA–W–16,968; California Manufacturing Co., St. James, MO

A certification was issued covering all workers of the firm separated on or after November 22, 1984.

TA–W–16,975; Cal-Crest Outerwear, Inc., Murphysboro, IL

A certification was issued covering all workers of the firm separated on or after October 11, 1985 and before December 11, 1985.

TA–W–17,223; Amax Chemical Corp., Carlsbad, NM

A certification was issued covering all workers of the firm separated on or after February 2, 1986.

TA–W–17,213; Mackintosh-Hemphill Manufacturing Co., Pittsburgh, PA

A certification was issued covering all workers of the firm separated on or after February 3, 1985 and before May 15, 1986.

TA–W–17,148; U.S. Repeating Arms Co., New Haven, CT

A certification was issued covering all workers of the firm separated on or after January 17, 1985.

TA–W–11,153; Black and Decker, Inc., Hampstead, MD

A certification was issued covering all workers of the firm separated on or after April 1, 1985.

TA–W–17,266; Wilson Sporting Goods Co., Humboldt, TN

A certification was issued covering all workers of the firm separated on or after March 10, 1985 and before April 1, 1986.

TA–W–17,142; Edgewater Steel Co., Oakmont, PA

A certification was issued covering all workers of the firm separated on or after January 22, 1985.

TA–W–16,795; Broadway Thread & Scallop Cutting, Inc., Guttenberg, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–17,151; The Alliance Machine Co., Alliance, OH

A certification was issued covering all workers of the firm separated on or after January 15, 1985.

TA–W–17,239; Lynchburg Foundry Co., Lower Basin Plant, Lynchburg, VA

A certification was issued covering all workers of the firm separated on or after February 13, 1985.

TA–W–16,793; Borden Thread & Scallop, West New York, NJ

A certification was issued covering all workers of the firm separated on or after November 25, 1984.

TA–W–17,107; Eastern Stainless Steel Co., Baltimore, MD

A certification was issued covering all

workers of the firm separated on or after January 13, 1985.

TA-W-17,169; Elgin Electronics, Erie, PA

A certification was issued covering workers engaged in employment in the assembly of transformers separated on or after January 1, 1986.

TA-W-17,170; Elgin Electronics, Waterford, PA

A certification was issued covering workers engaged in employment in the assembly of transformers separated on or after January 1, 1986.

TA-W-17,178; USS (Formerly S.S. Steel) Irvin Works, Dravosburg, PA

A certification was issued covering all workers employed in the production of tin mill products separated on or after January 21, 1985 and before June 30, 1988.

I hereby certify that the aforementioned determinations were issued during the period August 11, 1986—August 15, 1986. Copies of these determinations are available for inspection Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 19, 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-19297 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,188]

Badger Coal Co.; Mine No. 1 and Preparation Plant, Buckhannon, WV

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Badger Coal Company's Mine #1 and Preparation Plant, Buckhannon, West Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-17,188; Badger Coal Compnay, Mine No. 1 and Preparation Plant, Buckhannon, West Virginia (August 15, 1986)

Signed at Washington, DC, this 19th day of August 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-19298 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-30-M

Buckeye, Inc., et al.; Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 5, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Singed at Washington, DC this 18th day of August 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/Workers or Former Workers of—	Location	Date received	Date of petion	Petition No.	Articles produced
Buckeye, Inc. (workers)	Midland, TX	8/4/86	7/31/86	TA-W-17,836	Oil well services.
Cherokee Drilling & Development Corp (workers)	Midland, TX	8/12/86	8/1/86	TA-W-17,837	Oil drilling.
Coastal Oil and Gas Corp. (workers)	Houston, TX	8/11/86	7/17/86	TA-W-17,838	Oil exploration and production
Dee Drilling Co (workers)	Mt Carmel, IL	8/5/86	7/20/86	TA-W-17,839	Oil drilling.
Dwight Brehm Resources (workers)	Mt. Vernon, IL	8/5/86	7/12/86	TA-W-17,840	Oil drilling.
H&L Rentals, Inc. (workers)	Williston, ND	8/11/86	7/31/86	TA-W-17,841	Oil well services.
Hayhurst Bros. Drilling Co. (workers)	Abilene, TX	8/5/86	7/31/86	TA-W-17,842	Oil well drilling.
Oilgear Co (The) (workers)	Longview, TX	8/12/86	8/5/86	TA-W-17,843	Ball flow meters and valves, hydraulic pumps.
Texas Oil and Gas Corp. (workers)	Amarillo, TX	8/12/86	8/5/86	TA-W-17,844	Oil, gas and gas by-products.
Timex Drilling, Inc (company)	Millersburg, OH	8/5/86	7/28/86	TA-W-17,845	Natural gas-crude oil.
West Sierra Drilling Co. (workers)	Abilene, TX	8/5/86	7/30/86	TA-W-17,846	Oil drilling.
Atlas Energy Group, Inc. (company)	Corsopolis, PA	8/7/86	8/5/86	TA-W-17,847	Petroleum products.
Baker Packers (workers)	San Antonio, TX	8/7/86	7/31/86	TA-W-17,848	Oil tools used in cementing process of oil and gas wells.
Columbia Footwear Corp. (UFCW)	Hazleton, PA	8/8/86	7/30/86	TA-W-17,849	Casual footwear, and sneakers.
Container Products Inc. (workers)	Port Arthur, TX	8/13/86	8/5/86	TA-W-17,850	Steel
Cullman Lingerie Corp (ILGWU)	Cullman, AL	8/12/86	8/6/86	TA-W-17,851	Womens lingerie.
Halliburton Services, Inc. (workers)	Odessa, TX	8/12/86	8/8/86	TA-W-17,852	Oil well service.
Honeymead Products (USWA)	Fridley, MN	8/6/86	8/1/86	TA-W-17,853	Crushed sunflower seeds for edible oils and soaps.
Lenwood Tarpley, Inc. (workers)	Crane, TX	8/8/86	8/1/86	TA-W-17,854	Oilfield construction and maintaining.
Parker Plastics Inc. (workers)	Odessa, TX	8/8/86	8/4/86	TA-W-17,855	Plastic pipe and fittings.
Strata Energy Minerals (company)	Williston, ND	7/31/86	7/28/86	TA-W-17,856	Exploration-oil and gas, and dydrocarbons.
Vulcan Mold & Iron Co. (USWA)	Lansing, IL	8/6/86	7/29/86	TA-W-17,857	Molds used for pouring steel.
Amber Refining, Inc. (workers)	Forth Worth, TX	7/29/86	7/17/86	TA-W-17,858	Oil and refined products such as gasoline diesel and jet fuel.
BHP Petroleum Co, Inc. (workers)	Synder, TX	8/5/86	7/28/86	TA-W-17,859	Oil and natural gas.
Cocoa River Garment Co., (ILGWU)	Gadsen, AL	8/5/86	7/31/86	TA-W-17,860	Ladies sportswear.
Cam Drilling Co. (workers)	Abilene, TX	7/18/86	8/22/86	TA-W-17,861	Oil and gas drilling.
Dresser Industries, Gulberson Div. (USWA)	Dallas, TX	7/14/86	7/7/86	TA-W-17,862	Oilwell completion equipment and related oil tools.
Schlumberger Offshore (workers)	Corpus Christi, TX	8/5/86	7/30/86	TA-W-17,863	Oil and gas well services.

APPENDIX—Continued

Petitioner Union/Workers or Former Workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Hammond Cold Finish Bar Plant of LTV Steel (workers).	Hammond, IN	7/31/86	7/24/86	TA-W-17,864	Carbon and alloy cold finish steel bars.
I-F Manufacturing Co. (USWA)	New Philadelphia, OH	8/5/86	8/1/86	TA-W-17,865	Iron castings.
Geoservice, Inc. (workers)	Denver, CO	8/12/86	8/8/86	TA-W-17,866	Mudlogs and equipment.
Wills Drilling Co. (workers)	Edinburg, TX	8/5/86	7/29/86	TA-W-17,867	Oil well drilling.
Thermo Serv Plastics Inc. (workers)	Anoka, MN	7/29/86	7/16/86	TA-W-17,868	Plastic products.
Bryson Tank Company (workers)	Odessa, TX	8/4/86	7/29/86	TA-W-17,869	Production of oil storage equipment.
Tuscaloosa Energy Corp., Republic Mine (workers)	Elkhorn City, KY	7/31/86	7/25/86	TA-W-17,870	Metallurgical coal.

[FR Doc. 86-19296 Filed 8-25-86; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

New York State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called "the Act") by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Parts 1902 or 1956. On June 1, 1984, notice was published in the **Federal Register** (49 FR 22794) of the approval of the New York State Plan for Public Employees and the adoption of Subpart F to Part 1956 containing the decision.

Pursuant to section 27–a, Subdivision 4a of the New York State Labor Law Chapter 729, Laws of 1980, the New York plan provides for the adoption by reference, of Federal standards as State standards applicable to public employees of the State and its political subdivisions. Section 1956.51 of 29 CFR Part 1956, Subpart F, sets forth the State schedule for the adoption of Federal standards. By letter dated November 14, 1984, from Joseph F. Drayton, Director, Division of Occupational Safety and Health, New York Department of Labor, to Gerald P. Reidy, Regional Administrator, Occupational Safety and Health Administration, the State submitted revisions and additions to its existing public employee occupational safety and health standards to bring them into conformance with Federal OSHA standards as of July 1, 1983. The November 14, 1984 State submission contained documentation of New York's adoption of State standards identical to Federal OSHA standards contained in the following parts of Title 29 of the Code of Federal Regulations revised as of July 1, 1983: 29 CFR Parts 1910 (General Industry), 1915 (Shipyard Employment), 1917 (Marine Terminals), 1918 (Longshoring), 1928 (Construction) and 1928 (Agriculture). These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on April 13, 1984, after publication of Notice of Proposed Agency Action in the New York State Register on March 14, 1984. These State standards became effective upon filing with the New York Department of State on April 17, 1984. By letter dated September 3, 1985 from Stuart Schrank, Assistant Director, Division of Safety and Health, New York Department of Labor, to Elie Yadoff, Program Analyst, Occupational Safety and Health Administration, the State submitted documentation of New York's updating of State standards to bring them into conformance with the Federal OSHA standards contained in 29 CFR Parts 1910, 1915, 1917, 1918, 1926 and 1928 of the Code of Federal Regulations revised as of June 30, 1984. These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on July 18, 1985 after publication of Notice of Proposed Agency Action in the New York State Register on May 22, 1985. These State standards became effective upon filing with the New York State Department of State on July 19, 1985. By letter dated May 30, 1986, from Stuart Schrank, Director, Division of Safety and Health, New York State Department of Labor, to Byron Chadwick, Acting Regional Administrator, Occupational Safety and Health Administration, the State has submitted supplements and incorporated as part of the plan, State certification documenting promulgation of State standards comparable to Educational and Scientific Diving—Guidelines, 29 CFR Part 1910, Subpart T, as published in the **Federal Register** (50 FR 1046), dated January 9, 1985; Amendments to Power Lawn Mowers, 29 CFR 1910.243, as published in the **Federal Register** (50 FR 4649), dated February 1, 1985; Coke Oven Emissions, Conforming Deletions, 29 CFR 1910.1029, as published in the **Federal Register** (50 FR 37352), dated September 13, 1985; Ethylene Oxide Labeling Requirements, 29 CFR 1910.1047, as published in the **Federal Register** (50 FR 41491), dated October 11, 1985; Hazard Communication: Interim Final Rule and Corrections, 29 CFR 1910.1200, as published in the **Federal Register** (50 FR 48750), dated November 27, 1985. These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on March 3, 1986, after publication of Notice of Proposed Agency Action in the New York State Register on January 29, 1986. These State standards became effective upon filing with the New York Department of State on March 4, 1986.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, United States Department of Labor, OSHA, 1515 Broadway, Room 3445, New York, New York 10036; Office of the Director, New York State Department of Labor, Division of Safety and Health, One Main Street, Brooklyn, New York 11201; and the Office of the Director of Federal-State Operations, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent

with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the New York State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 26, 1986.

Authority: Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at New York, New York, this eighth day of July 1986.

Byron R. Chadwick,

Acting Regional Administrator.

[FR Doc. 86-19232 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-26-M

LIBRARY OF CONGRESS

Copyright Office

Policy Decisions Regarding Searches of Certain In-Process Materials and Telephone Requests for Searches of Copyright Office Records

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of policy decisions.

SUMMARY: The purpose of this notice is to inform the public of two policy decisions made by the Copyright Office.

1. The Copyright Office will no longer conduct free searches to ascertain the status of certain fee service requests that are in-process and that have been in the Office less than eight weeks.

2. The Copyright Office will no longer give free expedited service to telephone requests for searches of the Copyright Office records.

These changes in practice are effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Winston Tabb, Chief, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, Telephone: (202) 287-8900.

SUPPLEMENTARY INFORMATION: 1. *In-Process Searches:* This notice refers to status searches requested to be performed by the Certifications and Documents and the Reference and Bibliography Sections of the Information and Reference Division with respect to fee service requests that have been submitted and have been in the Copyright Office for a period of less than eight weeks. The types of fee service requests referred to are those such as requests for searches of the Office records and requests for certified copies of various materials. Heretofore upon receiving a request for a status report on a submitted fee service request the Office would conduct a search without charge and provide such a report. This service consumes valuable time and taxes resources that are needed to fill pending fee service requests.

The normal processing time for fee service requests is six to eight weeks depending upon the current work load. In order to provide better service for all fee service requests, the Copyright Office will no longer conduct free searches of fee service requests that have been in the Office less than eight weeks. The Office discourages the making of such requests. However, if the person making the request is adamant about receiving a status report on requests less than eight weeks old, the Office will provide the service for a fee of $10.00 per hour or fraction thereof expended in making the search and providing the report. If persons sending in a fee service request wish to know when the Copyright Office receives their request, it is suggested that the request be sent via registered or certified mail with return receipt requested.

2. *Telephone Search Requests:* In the past the Reference and Bibliography Section has provided expedited service to requests for searches of the Copyright Office records received by telephone from deposit account holders, without charging an additional fee above the statutory fee of $10.00 per hour or fraction thereof expended on the search. The Office will continue to accept telephone requests for such searches from deposit account holders, but these searches will be processed in sequence with all other pending requests for Copyright Office record searches. The normal processing time of such requests is usually six to eight weeks.

Responses to telephone search requests will be made in writing *or* by telephone, in accordance with the requester's instructions. If both telephone and written search reports of the Office records are required, the Copyright Office will provide both services. However, statutory fee charges will be made for *all* of the time consumed in making both sequences. Any telephone calls that may be necessary for the Copyright Office to make will be made at Office expense.

If an expedited search report is required due to pending or prospective litigation, customs matters, or contract or publishing deadlines, the Office will make every reasonable effort to provide this service in writing, and by telephone if requested, within five working days after approval of the request. The written search report will be sent via first class mail unless other arrangements are made by the requester. Because expedited service of this type can be provided only by the staff working overtime, it is necessary to charge a fee of $30 per hour or fraction thereof. There is a minimum fee of $60 for expedited service.

Dated: August 13, 1986.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86-19213 Filed 8-25-86; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-57]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent.) Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: August 26, 1986.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP, Washington, DC 20546, telephone (202) 453-2430.

Patent Application 705,979: Multispectral Glancing Incidence X-Ray Telescope; filed August 15, 1985.

Patent Application 806,916: Apparatus and Method for Quiescent Containless Processing of High Temperature Metals and Alloys in Low Gravity; filed December 9, 1985.

Patent Application 804,039: Method for Machining Holes in Composite Materials; filed December 3, 1985.
Patent Application 805,012: Quasi-Containerless Glass Formation Method and Apparatus; filed December 5, 1985.
Patent Application 815,099: Neighborhood Comparison Operator; filed December 31, 1985.
Patent Application 815,103: Programmable Pipelined Image Processor; filed December 31, 1985.
Patent Application 815,105: Convoler; filed December 31, 1985.
Patent Application 809,975: High Band Gap III–IV Tunneling Junction for Silicon Multijunction Solar Cells; filed December 17, 1985.
Patent Application 805,011: Reconfigurable Work Station for a Video Display Unit and Keyboard; filed December 5, 1985.
Patent Application 798,713: Liquid Hydrogen Polygeneration System and Process; filed November 15, 1985.
Patent Application 751,644: Personnel Emergency Carrier Vehicle; filed July 3, 1985.
Patent Application 790,597: Tool and Process for Explosive Joining of Tubes; filed October 23, 1985.
Patent Application 775,989: Acoustic Radiation Stress Measurement; filed September 13, 1985.
Patent Application 806,572: Aminophenoxycyclotriphosphazene Cured Epoxy Resins and the Composites Laminates, Adhesives and structures thereof; filed November 21, 1985.
Patent Application 823,712: Airborne Tracking Sun Photometer Apparatus and System; filed January 29, 1985.
Patent Application 838,648: Floating Emitter Solar Cell Junction Transistor; filed March 11, 1986.
Patent Application 802,769: Method of Measuring Field Funneling and Range Straggling in Semiconductor Charge-Collecting Junctions; filed November 27, 1985.
Patent Application 831,371: Deployable Geodesic Truss Structure; filed February 20, 1986.
Patent Application 831,372: Inductive Energy for Rapid Strain Gauge Attachment; filed February 20, 1986.
Patent Application 829,042: Ultransonic Depth Gauge for Liquids Under High Pressure; filed February 13, 1986.
Patent Application 831,377: Adjustable Mount for Electro-Optic Transducers in an Evacuted Cryogenic System; filed February 20, 1986.
Patent Application 804,196: Flat-Panel, Full-Color Electroluminescent Display; filed December 3, 1985.
Patent Application 804,040: Measurement Apparatus and Procedure for the Determination of Surface Emissivities; filed December 3, 1985.
Patent Application 846,429: Ice Detector; filed March 31, 1986.
Patent Application 840,825: Laser Ranging and Video Display System; filed March 18, 1986.
Patent Application 846,430: Braille Reading System; filed March 31, 1986.
Patent Application 840,812: Semi-2-Interpenetrating Polymer Networks of High Temperature Polymer Systems; filed March 18, 1986.
Patent Application 840,900: Oxygen Diffusion Barrier Coating; filed March 18, 1986.
Patent Application 834,978: Poly(carbonate-imides); filed February 27, 1986.
Patent Application 838,655: Process for Crosslinking and Extending Conjugated Diene-Containing Polymers; filed March 11, 1986.
Patent Application 838,654: Process for Cross-Linking Methylene-Containing Aromatic Polymers with Ionizing Radiation; filed March 11, 1986.
Patent Application 846,428: Liquid Seeding Atomizer; filed March 31, 1986.
Patent Application 846,439: Swashplate Control System; filed March 31, 1986.
Patent Application 846,437: Dual Mode Laser Velocimeter; filed March 31, 1986.
Patent Application 831,193: Method and Apparatus for Measuring Distance; filed February 20, 1986.
Patent Application 852,468: Variable Energy High Flux, Ground-State Atomic Oxygen Source; filed April 10, 1986.
Patent Application 855,982: Oxygen Chemisorption Cryogenic Refrigerator; filed April 24, 1986.
Patent Application 834,977: Oxidation Protection Coatings for Polymers; filed February 27, 1986.
Patent Application 855,983: Lightning Discharge Protection Rod; filed April 24, 1986.
Patent Application 832,296: Heat Treatment for Superalloy; filed February 24, 1986.
Patent Application 855,879: Polyether-Polyester Graft Copolymer; filed April 24, 1986.
Patent Application 838,649: Active Control of Boundary Layer Transistor and Turbulence; filed March 11, 1986.
Patent Application 765,991: Planar Oscillatory Stirring Apparatus; filed August 15, 1985.

Dated: August 15, 1986.

Edward A. Frankle,

Deputy General Counsel.

[FR Doc. 86-19177 Filed 8-25-86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-56]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Ernest W. Millen, Seaford, Virginia, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,586,140 for a "Aircraft Liftmeter," which issued on April 29, 1986, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart, 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATE: Comments to this notice must be received by October 27, 1986.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453–2430.

Dated: August 14, 1986.

Edward A. Frankle,

Deputy General Counsel.

[FR Doc. 86-19176 Filed 8-25-86; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on September 11–13, 1986, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 19, 1986.

VOL 51 ISS 165 AG 26 1986 UMI

Thursday, September 11, 1986

8:30 A.M.–8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.–11:45 A.M.: Improved Light-Water Reactors (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations to the NRC regarding proposed characteristics of improved light-water reactors.

11:45 A.M.–12:30 P.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee meetings and items proposed for full Committee consideration. The schedule for ACRS full Committee meetings for CY 1987 will also be discussed.

1:30 P.M.–1:50 P.M.: Topics for Meeting with NRC Commissioners (Open)—The members will discuss the presentation of its report dated August 12, 1986 (Revised 8/15/86) on the proposed NRC policy statement on standardization of nuclear power plants.

2:00 P.M.–3:30 P.M.: Meeting with NRC Commissioners (Open)—Presentation and discussion of ACRS report dated August 12, 1986 (Revised 8/15/86) on the proposed NRC Standardization Policy Statement.

3:45 P.M.–6:00 P.M.: Emergency Core Cooling Systems (Open)—The members will hear presentations and discuss proposed changes in NRC regulatory requirements for emergency core cooling systems. Representatives of the NRC Staff will participate in this discussion.

6:00 P.M.–6:30 P.M.: Primary System Integrity (Open)—The members will hear and discuss the report of its subcommittee regarding research activities related to the integrity of the primary coolant systems in nuclear power plants.

Friday, September 12, 1986

8:30 A.M.–9:30 A.M.: Decay Heat Removal (Open)—The members will hear and discuss a Subcommittee report regarding activities related to resolution of Unresolved Generic Issue 124, Auxiliary Feedwater System Reliability. Members of the NRC Staff will participate as appropriate.

9:30 A.M.–10:30 A.M.: International Operating Experience (Open)—Briefing by member of the U.S. Team regarding the sequences which contributed to the Chernobyl Nuclear Power Plant accident.

10:45 A.M.–12:00 Noon and 1:00 P.M.–2:15 P.M.: Babcock and Wilcox Light-Water Reactor Safety (Open/Closed)—The members will hear and discuss a presentation by representatives of the Babcock and Wilcox Company regarding plans for review of the long-term safety of B&W nuclear plants.

Portions of this session may be closed as necessary to discuss Proprietary Information related to B&W nuclear plants.

2:15 P.M.–5:15 P.M. Long-Range Planning (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations regarding the preparation of a long-range plan for NRC activities.

5:15 A.M.–6:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of designated ACRS subcommittees regarding safety-related matters, including the NRC incident investigation program, activities of the NRC Office of Inspection and Enforcement, and evaluation of seismic margins with respect to nuclear power stations.

Saturday, September 13, 1986

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed ACRS reports and memoranda to the NRC regarding items considered during this meeting. In addition, proposed ACRS comments on seismic qualification of safety-related equipment in nuclear power plants and use of aptitude testing in the selection of nuclear power plant personnel will be discussed.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed.

1:30 p.m.–2:30 p.m.: ACRS Subcommittee Activities (Open/Closed)—The members will hear and discuss reports of its subcommittees on management and conduct of ACRS activities, including the prioritization and allocation of ACRS resources and the non-ACRS activities of individual members.

Portions of this session will be closed as necessary to discuss information; the release of which would represent a clearly unwarranted invasion of personal privacy.

2:30 p.m.–3:30 P.M.: Miscellaneous (Open/Closed)—The member will complete discussion of matters noted above.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matter being discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)] applicable to the facilities being discussed and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m.

Dated: August 21, 1986.

John C. Hoyle,

Advisory, Committee Management Officer.

[FR Doc. 86–19263 Filed 8–25–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–410]

Niagara Mohawk Power Corp.; Nine Mile Point Nuclear Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from certain requirements of 10 CFR Part 50 to the Niagara Mohawk Power Corporation (the applicant) for the Nine Mile Point Nuclear Station, Unit 2

(NMP–2), located at the applicant's site in Scriba, New York.

Environmental Assessment

A. Containment Air Lock Testing

Identification of Proposed Action: The exemption would eliminate the full pressure test required by Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50 each time the air lock is opened during periods when containment integrity is not required. Instead a seal leakage test would be conducted at a pressure and intervals specified in the Technical Specifications. The exemption is discussed in the applicant's request dated March 3, and June 24, 1986.

The Need for the Action: The exemption is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impact of the Action: The exemption would allow the substitution of an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite radiological consequences. However, the potential increase from this exemption is small and would result from the potential leakage path through the door mechanism which will not be measured by this modified test. The 6-month test requirement of paragraph III.D.2(b)(i) of Appendix J, the 3-day test requirement of paragraph III.D.2(b)(iii) of Appendix J and the test requirements when maintenance is performed on the air lock, will measure the leakage through the door mechanism and provide assurance that the air lock will not leak excessively.

Likewise the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological impacts associated with the exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The prinicpal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

B. Leak Rate Testing of Main Steam Isolation Valves (MSIV's)

Identification of Proposed Action: The exemption would exclude the measured leakage from the MSIV's from the summation of the local leak rate test results. The proposed exemption is in accordance with the applicant's request dated March 3, 1986.

The Need for the Proposed Action: Paragraph III.C.3 of Appendix J of 10 CFR Part 50 states, "The combined leakage rate for all penetrations and valves subject to Type B and C tests shall be less than 0.6 La."

The Nine Mile Point, Unit 2 (NMP–2) Technical Specifications are being written to exclude the measured leakage from MSIVs from the combined leakage rate limit of 0.60 La. The NMP–2 Technical Specifications are being written based on the NRC staff's evaluation in Supplement 2 to the NMP–2 SER.

Environmental Impact of the Action: The exemption would exclude the measured leakage through the MSIVs from the combined local leak rate test results (limit 0.60 La). In the radiological analysis for the design basis loss-of-coolant accident (LOCA), doses were calculated on the basis of MSIV leakage being considered as a separate leakage path bypassing secondary containment. This leakage was conservatively assumed to be released directly to the environment without dilution in the reactor building or filtration by the standby gas treatment system. The MSIVs will be periodically tested to verify that the leakage assumed in the radiological analysis is not exceeded.

The proposed NMP–2 Technical Specification requirements will provide reasonable assurance against undue MSIV leakage and that no material increase in the probability or extent of MSIV leakage is to be expected. Therefore, there is no significant increase in the probability of higher post-accident offsite or onsite doses related to the proposed exemption and no significant increase in environmental impact beyond that experienced with no exemption.

In addition, the radiological analysis for the design basis LOCA has already considered leakage from the MSIVs up to the limit specified in the Technical Specification. Thus, the radiological releases will not be greater than previously determined, nor does the proposed relief otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact of plant operations and would provide no greater assurance that offsite or onsite doses, in the event of an accident that resulted in fission product release, would be any less.

Alternative Use of Resources: These actions in the granting of exemptions A and B above do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Nine Mile Point Nuclear Station, Unit No. 2" dated May 1985.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests that support the requested exemptions A and B above. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

On the basis of the foregoing environmental assessments, we conclude that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

For further details with respect to the action, see the applicant's requests for the exemption dated March 3, 1986, and June 24, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the local public document room, Penfield Library, State University College, Oswego, New York 13126.

Dated at Bethesda, Maryland this 19th day of August 1986.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–19267 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-443-OL-1; 50-444-OL-1]

Public Service Co. of New Hampshire, et. al; (Seabrook Station, Units 1 and 2); Order; Scheduling Hearing

Atomic Safety and Licensing Board: Before Administration Judges: Sheldon J. Wolfe, Chairman, Emeth A. Luebke, Jerry Harbour; On-site Emergency Planning and Safety Issues; (ASLBP No. 82-471-02-OL) August 20, 1986.

The reopened hearing will commence on September 29, 1986 at 9:00 a.m. (EDT) at the following location: Howard Johnson's Motor Lodge, Interstate Traffic Circle, Salons A & B, Portsmouth, New Hampshire 03801.

The hearing will be held each day from 9:00 a.m. to 6:00 p.m. on September 29–30, October 1 and, if necessary, on October 3, 1986.

During the reopened hearing, the Board will receive supplementary evidence upon NECNP Contention 1.B.2 (Environmental Qualification of Electrical Equipment) and upon NECNP Contention III.1 and NH Contention 20 (Emergency Classification and Action Levels). Evidence may be received upon SAPL Supplemental Contention 6 (Control Room Design), which, being the subject of Applicants' motion for summary disposition, is currently under consideration by the Board. As soon as is possible, before formally issuing its ruling, the Board will informally advise the parties whether it has granted or denied Applicants' motion for summary disposition of SAPL Supplemental Contention 6.

The public is invited to attend.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman, Administrative Judge.

Dated at Bethesda, Maryland, this 20th day of August, 1986.

[FR Doc. 86-19262 Filed 8-25-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-182]

Purdue University; Consideration of Application for Renewal of Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-87, issued to Purdue University for operation of the Purdue University Reactor (PUR-I) located on the University's campus in West Lafayette, Indiana.

The renewal would extend the expiration date of Facility License No. R-87 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated June 30, 1986 as supplemented July 17, 1986.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 25, 1986, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); (Purdue University) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to John F. Vogel, 801 Life Building, Lafayette, Indiana, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated June 30, 1986 as supplemented July 17, 1986; which is available for public inspection at the Commission's

Public Document Room at 1717 H Street, NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing–B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–19285 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–124]

Virginia Polytechnic Institute and State University; Proposed Issuance of Orders Authorizing Dismantling of Facility and Disposition of Component Parts, and Terminating Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of Orders authorizing Virginia Polytechnic Institute and State University (Virginia Tech or the licensee) to dismantle the reactor facility and dispose of the component parts, and termination of Facility Operating License No. R–62, in accordance with the licensee's application dated July 17, 1986.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 25, 1986, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate Order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the Order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); Virginia Tech; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ms. Jane Bulbin, attorney for the licensee, University Legal Counsel, Virginia Polytechnic Institute and State University, Blacksburg, Virginia 24061.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this section, see the licensee's application dated July 17, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Maryland this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing–B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–19286 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[NUREG–0956]

Issuance as a Final Report

NUREG–0956, "Reassessment of The Technical Bases for Estimating Source Terms," has been issued by the NRC as a Final Report. A source term is defined

as the timing, quantity, and characteristics of the release of radioactive material to the environment following a severe reactor accident. NUREG–0956 was issued for public comment in August 1985. The comment period ended on January 7, 1986.

NUREG–0956 is a report on the technology for estimating source terms and has been issued after several years of research, analysis, peer review, and public comment.

Copies of NUREG–0956 are for sale through the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

Dated at Rockville, Maryland, this 20th day of August 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86–19288 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443]

Public Service Co. of New Hampshire, et al.;[1] Seabrook Station, Unit 1; Order Extending the Latest Construction Completion Date

On July 7, 1976, the Nuclear Regulatory Commission issued Construction Permits CPPR–135 and CPPR–136 to the Public Service Company of New Hampshire, et al. for the Seabrook Station, Units 1 and 2. The facility is located in the Town of Seabrook, Rockingham County, New Hampshire.

When issued, CPPR–135 for the Seabrook Station, Unit 1, listed the latest construction completion date as June 30, 1983. By Order, dated May 1, 1984, the latest construction completion date for CPPR–135 was extended to June 30, 1986.

By letter, dated May 7, 1986, Public Service Company of New Hampshire requested an extension of the latest construction completion date for Seabrook Station, Unit 1 from June 30, 1986 to June 30, 1987. The appplicant stated that construction of Seabrook Station, Unit 1 is essentially complete. However, necessary approvals for fuel loading and low power operation have not been issued. Certification of readiness for fuel load has been delayed.

Delays in the formulation of offsite emergency plans by various state and local governmental entities assured that necessary NRC approval for full power operation would not be forthcoming by June 30 1986, the estimated fuel load date in applicants' May 7, 1986, letter.

The fuel load schedule of July 20, 1986, was updated by Public Service Company of New Hampshire letter dated July 3, 1986. By Memorandum and Order dated July 25, 1986, the Atomic Safety and Licensing Board reopened the hearing to be held in a four-day session sometime between September 29 and October 10, 1986. Upon completion of the hearing a decision on licensing the Seabrook Station, Unit 1 is imminent.

The requested revised completion date extends beyond the date by which Public Service Company of New Hampshire expects to load fuel at Seabrook Station, Unit 1. The applicants have requested an extension from June 30, 1986 to June 30, 1987, to address the condition.

As discussed more fully in the staff's related Safety Evaluation, dated, August 19, 1986, we have concluded that good cause has been shown for delay, and that the requested extension involves no significant hazards consideration, and therefore no prior public notice is required.

The NRC staff has prepared an environmental assessment and finding of no significant impact which was published in the **Federal Register** on June 19, 1986 (51 FR 22366).

The NRC staff has concluded that this action will not have significant impact on the quality of the human environment and therefore no environmental impact statement need be prepared.

The applicants' letters dated May 7, 1986 and July 3, 1986, and the NRC staff's letter and evaluation, dated August 19, 1986, issued in support of this Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Exeter Public Library, Front Street, New Hampshire 03833.

It is hereby ordered that the latest construction completion date for CPPR–135, Unit 1 of the Seabrook Station be extended from June 30, 1986 to June 30, 1987.

Date of Issuance: Aug. 19, 1986.

For the Nuclear Regulatory Commission.

George Lear,

Acting Director, Division of PWR Licensing-A.

[FR Doc. 86–19289 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[1] The current construction permit holders for Seabrook Station are: Bangor Hydro-Electric Company, Canal Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Connecticut Light & Power Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, United Illuminating Company, and Vermont Electric Generation and Transmission Cooperative, Inc.

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on July 29, 1986 (51 FR 27101). Individual authorities established or revoked under Schedule A, B, or C between July 1, 1986, and July 31, 1986, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A exceptions were established during July. However, the following exceptions are revoked:

Department of Agriculture

Two Schedule A excepted appointing authorities for temporary and seasonal positions in the Farmers Home Administration engaged in making and servicing loans under the Economic Opportunity Act of 1964 and the Agricultural Credit Act of 1978 were revoked because they are no longer used. Effective July 14, 1986.

The Animal and Plant Health Inspection Service's Schedule A excepted appointing authority for temporary field positions concerned with the control, suppression, and eradication of emergency livestock and plant diseases and emergency outbreaks of plant pests was revoked because it is no longer needed. Effective July 14, 1986.

Department of Health and Human Services

Schedule A excepted appointing authority for 11 technical and clerical positions in the Social Security Administration that involve contact with recent Indochinese refugees was revoked because the organization is no longer responsible for providing direct assistance to refugees and, consequently, its positions no longer require qualifications that cannot be measured through a competitive examination. Effective July 16, 1986.

Schedule B

The following exception was established:

Department of Health and Human Services

One position of Public Health Education Specialist, GS–1725–15, in the Centers for Disease Control, Atlanta, Georgia. Effective July 16, 1986.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Office of International Cooperation and Development. Effective July 1, 1986.

One Confidential Assistant to the Administrator. Effective July 3, 1986.

One Confidential Assistant to the Administrator, Farmers Home Administration. Effective July 22, 1986.

One Administrator, Human Nutrition Information Service, to the Assistant Secretary for Food and Consumer Services. Effective July 23, 1986.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective July 25, 1986.

Department of the Air Force

One Secretary (Steno) to the Secretary of the Air Force. Effective July 18, 1986.

One Secretary (Steno) to the General Counsel of the Air Force. Effective July 22, 1986.

Department of the Army

One Executive Director to the Assistant Secretary of the Army. Effective July 8, 1986.

Department of Commerce

One Confidential Aide to the Special Assistant to the Secretary. Effective July 1, 1986.

One Confidential Assistant to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration. Effective July 9, 1986.

One Confidential Aide to the Special Assistant to the Secretary. Effective July 9, 1986.

One Public Affairs Specialist to the Director, Office of Public Affairs, International Trade Administration. Effective July 10, 1986.

One Special Assistant to the Director, Bureau of the Census. Effective July 11, 1986.

One Congressional Staff Assistant to the Deputy Assistant for Congressional Affairs. Effective July 16, 1986.

One Secretary to the Deputy Assistant Secretary for Africa, Near East and South Asia. Effective July 16, 1986.

One Confidential Assistant to the Deputy Assistant Secretary for Services, International Trade Administration. Effective July 21, 1986.

One Special Assistant to the Deputy Assistant Secretary for Loan Programs. Effective July 23, 1986.

Department of Defense

One Special Assistant for Technology Transfer Policy to the Director, Defense Technology Security Administration. Effective July 10, 1986.

One Staff Assistant to the Secretary of Defense. Effective July 25, 1986.

One Special Assistant to the Principal Deputy Assistant Secretary of Defense. Effective July 29, 1986.

Department of Education

One Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget, and Evaluation. Effective July 2, 1986.

One Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget, and Evaluation. Effective July 22, 1986.

One Executive Assistant to the Deputy Assistant Secretary for Operations/Coordinator for Operations. Effective July 25, 1986.

One Special Assistant to the Assistant Secretary for Postsecondary Education. Effective July 29, 1986.

Department of Energy

One Special Assistant to the Administrator, Bonneville Power Administration. Effective July 1, 1986.

One Staff Assistant to the Special Assistant to the Secretary. Effective July 7, 1986.

One Confidential Assistant to the General Counsel. Effective July 7, 1986.

One Principal Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison. Effective July 16, 1986.

One Confidential Assistant to a Member, Federal Energy Regulatory Commission. Effective July 22, 1986.

Department of Health and Human Services

One Special Assistant to the Director, Office of Minority Health. Effective July 9, 1986.

One Confidential Staff Assistant to the Chief of Staff. Effective July 10, 1986.

One Director, Office of Legislation and Policy, to the Administrator, Health Care Financing Administration. Effective July 21, 1986.

One Confidential Staff Assistant to the Director, Office of Community Services. Effective July 23, 1986.

One Special Assistant for External Affairs to the Commissioner, Social Security Administration. Effective July 23, 1986.

One Special Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration. Effective July 25, 1986.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective July 7, 1986.

One Assistant for Congressional Relations to the Deputy Assistant Secretary. Effective July 16, 1986.

One Staff Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner. Effective July 18, 1986.

One Executive Assistant to the President, Government National Mortgage Association. Effective July 18, 1986.

One Executive Assistant to the General Deputy Assistant Secretary for Housing. Effective July 18, 1986.

One Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Projects. Effective July 18, 1986.

Department of the Interior

One Special Assistant to the Director, Fish and Wildlife Service. Effective July 1, 1986.

One Staff Assistant to the Director, Geological Survey. Effective July 3, 1986.

Department of Justice

One Confidential Assistant to the Special Assistant to the Attorney General for Cabinet Affairs. Effective July 7, 1986.

One Confidential Assistant to the Assistant to the Attorney General and Chief of Staff. Effective July 28, 1986.

Two Associate Deputy Attorney Generals to the Deputy Attorney General. Effective July 29, 1986.

One Confidential Assistant to the Associate Deputy Attorney General. Effective July 29, 1986.

BEST COPY AVAILABLE

Department of Labor

One Special Assistant to the Deputy Under Secretary for International Affairs. Effective July 1, 1986.

One Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration. Effective July 21, 1986.

Department of State

One Secretary to the United States Representative to the United Nations. Effective July 8, 1986.

One Public Affairs Adviser to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs. Effective July 21, 1986.

One Secretary (Stenography) to the Ambassador-at-Large for Cultural Affairs. Effective July 29, 1986.

Department of Transportation

One Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective July 24, 1986.

Department of the Treasury

One Special Assistant to the Assistant Secretary for Management. Effective July 1, 1986.

Action

One Staff Director to the Director. Effective July 1, 1986.

One Assistant Director for VISTA and Service Learning Programs to the Associate Director for Domestic and Anti-Poverty Operations. Effective July 16, 1986.

Agency for International Development

One Public Affairs Specialist to the Supervisory Public Affairs Specialist, Bureau for External Affairs. Effective July 2, 1986.

One Confidential Assistant to the Deputy Administrator. Effective July 10, 1986.

One Special Assistant to the Assistant Administrator for Latin America and the Caribbean. Effective July 18 1986.

One Special Assistant to the Deputy Administrator. Effective July 16, 1986.

One Special Assistant to the Assistant Administrator for External Affairs. Effective July 25, 1986.

Arms Control and Disarmament Agency

One Special Assistant to the Assistant Director, Strategic Programs Bureau. Effective July 18, 1986.

Equal Employment Opportunities Commission

One Confidential Assistant to the Director, Office of Communications. Effective July 25, 1986.

Farm Credit Administration

One Private Secretary to a Member. Effective July 10, 1986.

One Executive Assistant to the Chairman. Effective July 18, 1986.

One Deputy Director of Public Affairs to the Director of Congressional and Public Affairs. Effective July 23, 1986.

Federal Home Loan Bank Board

One Staff Assistant to the Chairman. Effective July 22, 1986.

Federal Trade Commission

One Confidential Assistant to the Chairman. Effective July 25, 1986.

General Services Administration

One Special Assistant for Media Relations to the Associate Administrator for Public Affairs. Effective July 14, 1986.

International Trade Commission

One Executive Director to the Chairman. Effective July 15, 1986.

One Staff Assistant to the Chairman. Effective July 15, 1986.

One Staff Assistant (Legal) to a Commissioner. Effective July 23, 1986.

One Confidential Assistant to a Commissioner. Effective July 23, 1986.

Two Staff Assistants (Economics) to a Commissioner. Effective July 23, 1986.

National Transportation Safety Board

One Special Assistant to a Member. Effective July 23, 1986.

Office of Management and Budget

One Secretary to the Deputy Director. Effective July 8, 1986.

Office of Personnel Management

One Speical Assistant to the Associate Director for Administration. Effective July 31, 1986.

Small Business Administration

One Special Assistant to the Administrator. Effective July 23, 1986.

One Special Assistant to the Associate Administrator for Procurement Assistance. Effective July 25, 1986.

United States Tax Court

Two Trial Clerks to a Judge. Effective July 22, 1986.

U.S. Information Agency

One Deputy Chief of Staff and Deputy Counsel to the Director to the Chief of Staff and Counsel to the Director. Effective July 16, 1986.

U.S. Trade Representative

One Deputy Assistant U.S. Trade Representative for Congressional Affairs. Effective July 10, 1986.

One Congressional Affairs Officer to the Assistant U.S. Trade Representative for Congressional Affairs. Effective July 16, 1986.

Authority: 5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., P.218.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-19202 Filed 8-25-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-8-53; Docket 41961]

Proposed Revocation of the Section 401 Certificate of Airwest International, Inc. d/b/a Air Hawaii

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause, (Order 86-8-53) Docket 41961.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Airwest International, Inc. d/b/a Air Hawaii, issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than September 11, 1986.

ADDRESS: Responses should be filed in Docket 41961 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-9721.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19200 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-62-M

[Order 86-8-56; Docket 40589]

Proposed Revocation of the Section 401 Certificate of Samoa Inc. d/b/a Samoa Airlines, Inc

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause, (Order 86-8-56) Docket 40589.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Samoa, Inc. d/b/a Samoa Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than September 11, 1986,

ADDRESS: Responses should be filed in Docket 40580 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 755-3812.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19290 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-62-M

[Order 86-8-52; Docket 41893]

Proposed Revocation of the Section 401 Certificate of SEAIR Alaska Airlines, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause (Order 86-8-52) Docket 41893.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of SEAIR Alaska Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATES: Persons wishing to file objections should do so no later than September 11, 1986.

ADDRESSES: Responses should be filed in Docket 41893 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-9721.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19291 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

[BS-Ap. No. 2576]

Burlington Northern Railroad Co.; Postponement of Public Hearing;

The Federal Railroad Administration (FRA) has postponed the public hearing in Billings, Montana, on the captioned block signal application until September 25, 1986, at 10 a.m. The location of the hearing remains the Parmly Billings Library, Third Floor, at 510 N. Broadway in Billings, Montana.

The postponement became necessary because a principal witness had a scheduling conflict. The hearing had originally been scheduled for September 11, 1986.

In the application that is to be the subject of this hearing, the Burlington Northern Railroad Company has petitioned FRA for approval of the postponed discontinuance of (i) the traffic control signal system from Mobridge, South Dakota, to Hettinger, North Dakota, and (ii) the automatic block signal system from Hettinger, North Dakota, to Terry, Montana. This proceeding is identified as FRA Block Signal Application No. 2576. (See the original hearing notice published July 30, 1986, at 51 FR 27304.)

FRA regrets any inconvenience caused by the postponement of this hearing.

Issued in Washington, DC, on August 18, 1986.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-19162 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.—Public Debt Series—No. 29-86]

Treasury Notes of November 15, 1991, Series L-1991

Washington, August 20, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of November 15, 1991, Series L-1991 (CUSIP No. 912827 TZ 5), hereafter referred to as Notes. The notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 3, 1986, and will accrue interst from that date, payable on a semiannual basis on May 15, 1987, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The notes will be issued only in book-entry form in denomiations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, August 27, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 26, 1986, and received no later than Wednesday, September 3, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a one-eighth of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determinaiton of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, September 3, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlment date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, August 29, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and loan Note Accounts on or before Wednesday, September 3, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-18624 Filed 8-25-86; 1:42 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Reserve System	2
Harry S. Truman Scholarship Foundation	3
National Council on the Handicapped	4
Nuclear Regulatory Commission	5

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:38 p.m. on Wednesday, August 20, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Mendon State Bank, Mendon, Illinois, which was closed by the Commissioner of Banks and Trust Companies for the State of Illinois on Wednesday, August 20, 1986; (2) accept the bid for the transaction submitted by First Midwest Bank/Quincy, National Association, Quincy, Illionis; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B) Consider a recommendation regarding the Corporation's assistance agreement with an insured bank; and

(C) Approve the application of Sherman County Bank, Loup City, Nebraska, for consent to purchase the assets of and assume the liability to pay deposits made in Farwell Credit Union, Farwell, Nebraska, a non-FDIC-insured institution, and for consent to establish the sole office of Farwell Credit Union as a branch of Sherman County Bank.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clark (Comptroller of the Currency), the Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 21, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-19328 Filed 8-22-86; 11:59 am]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, September 2, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed Federal Reserve Bank salary structure adjustments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 22, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19373 Filed 8-22-86; 3:59 pm]

BILLING CODE 6210-01-M

3

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 11:00 am, Tuesday, September 16, 1986.

PLACE: National Press Club, 14th and F Street, NW, Washington, DC 20005.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Call meeting to order.
2. Adoption of proposed agenda.
3. Approval of minutes of April 14, 1986 meeting.
4. Discussion of 1987-88 Scholarship Program.
5. Report of Executive Secretary.
6. Resolution to empower Chairman/Executive Secretary to enter/renew contracts, conclude agreements, etc.
7. New business.
8. Discuss and set date, time, and place of Spring Board meeting.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary (202) 395-4831.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 19327 Filed 8-22-86; 11:59 am]

BILLING CODE 6500-01-M

4

NATIONAL COUNCIL ON THE HANDICAPPED

Quarterly Meeting

AGENCY: National Council on the Handicapped.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on the Handicapped. This notice also describes the functions of the Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (Pub. L. 94-409).

DATES: Sept. 4, 1986, 9:30 a.m. to 5:00 p.m.; Sept. 5, 1986, 9:00 a.m. to 5:00 p.m.; Sept. 6, 1986; 9:00 a.m. to 5:00 p.m.

ADDRESS: Biltmore Plaza Hotel, Kennedy Plaza; Providence, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Andrea Farbman, National Council on the Handicapped, 800 Independence Avenue, SW, Suite 814, Washington, DC 20591; (202) 267-3846, TDD: (202) 267-3232.

The National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. 95-602 in 1978), the

Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. 98–221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute of Handicapped Research (NIHR).

The meeting of the Council shall be open to the public. The proposed agenda includes:

Reports from Chairperson and Executive Director
Prevention of Disability
NCH Draft Section 504 Regulations
Legislative Update
Workplan Update and *Toward Independence* Follow-Up
Reports from the Research, Adult Services, Children's Services, and Public Affairs Committees
NCH's discussion of unfinished and new business
NCH Consumer Forum in conjunction with the Rhode Island State House Conference on Individuals with Disabilities, Private Industry and Service Providers

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on the Handicapped.

Signed at Washington, DC, on August 20, 1986.

Lex Frieden,

Executive Director.

[FR Doc. 86–19365 Filed 8–22–86; 3:22 pm]

BILLING CODE 8539-34-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 25, September 1, 8, and 15, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 25

Thursday, August 28

2:00 p.m. Affirmation Meeting (Public Meeting) (if needed)

Week of September 1—Tentative

Wednesday, September 3

10:00 a.m. Discussion of Pending Investigations (Closed—Ex. 5 & 7)
2:00 p.m. Briefing on IAEA Chernobyl Meeting (Open/Closed to be Determined)

Thursday, September 4

2:00 p.m. Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)
3:30 p.m. Affirmation/Discussion and Vote (Public Meeting)

a. Comanche Peak Construction Permit Extension (*Postponed* from August 6)

Friday, September 5

10:00 a.m. Discussion/Possible Vote on Full Power Operating License for Perry–1 (Public Meeting)

Week of September 8—Tentative

Thursday, September 11

2:00 p.m. Meeting with the Advisory Committee on Reactor Safeguards on Standardization Policy Statement (Public Meeting)
3:30 p.m. Affirmation Meeting (Public Meeting) (if needed)

Week of September 15—Tentative

Wednesday, September 17

2: 00 p.m. Continuation of 8/5 Quarterly Source Term Briefing (Public Meeting)

Thursday, September 18

2:00 p.m. Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
3:30 p.m. Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker, (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

August 21, 1986.

[FR Doc. 86–19374 Filed 8–22–86; 3:59 pm]

BILLING CODE 7590-01-M

VOL
51
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federal register

Tuesday
August 26, 1986

Part II

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Part 60-250

Amendment of Definition of Vietnam Era Veteran; Final Rule

VOL
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DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–250

Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era; Amendment of the Definition of Vietnam Era Veteran

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: This regulation incorporates statutory changes in the definition of "veteran of the Vietnam era" as that definition relates to Federal contractors' and subcontractors' affirmative action obligations with respect to disabled and Vietnam era veterans. The regulation amends the current definition by deleting the 48-month post-service limitation period for eligibility, and by substituting a coverage cut-off date of December 31, 1991.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Leonard J. Biermann, Director, Division of Policy, Planning and Review, Office of Federal Contract Compliance Programs, Room C–3324, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–9426.

SUPPLEMENTARY INFORMATION: The Veterans' Rehabilitation and Education Act Amendments of 1980 (Pub. L. 96–466) amended numerous laws relating to veterans' benefits. Section 508 of Pub. L. 96–466 amends 38 U.S.C. 2011, the definitional section applicable, *inter alia*, to veterans' affirmative action coverage under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012), which requires nonexempt Federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

Prior to the enactment of Pub. L. 96–466, eligibility under 38 U.S.C. 2012 as a "veteran of the Vietnam era" was limited to a 48-month period following a veteran's discharge or release from military service. In Pub. L. 96–466, Congress substituted a coverage cut-off date of December 31, 1991, in place of the previous 48-month post-service limitation. Regulations issued by the Office of Federal Contract Compliance Programs (OFCCP) at 41 CFR Part 60–250 implement 38 U.S.C. 2012. The regulation published today amends OFCCP's definition of "veteran of the Vietnam era," at 41 CFR 60–250.2, to make it consistent with Pub. L. 96–466.

Waiver of Proposed Rulemaking

This rule is a nondiscretionary, ministerial action which merely incorporates, without change, a statutory amendment into pre-existing regulations. Publication in proposed form serves no useful purpose, and therefore is unnecessary within the meaning of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). We, therefore, find good cause to waive notice of proposed rulemaking.

Executive Order 12291

The Secretary of Labor has determined that this is not a major rule as defined in Excutive Order 12291, and thus a regulatory impact analysis is not required.

Paperwork Reduction Act

Because this rule does not contain information collection requirements, it is not subject to approval by the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 41 CFR Part 60–250

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Veterans.

Dated: Signed this 21st day of August 1986 at Washington, D.C.

William E. Brock,

Secretary of Labor.

Susan R. Meisinger,

Deputy Under Secretary for Employment Standards.

Joseph N. Cooper,

Director, Office of Federal Contract Compliance Programs.

PART 60–250—[AMENDED]

For the reasons set forth above, 41 CFR Part 60–250 is amended as set forth below.

1. The authority citation for Part 60–250 is revised to read as follows:

Authority: 38 U.S.C. 2011 and 2012; 29 U.S.C. 793; Executive Order 11758 (39 FR 2075, January 15, 1974).

2. All other authority citations following sections 41 CFR 60–250.2 and 41 CFR 60–250.29 are removed.

3. In § 60.250.2, the definition "Veteran of the Vietnam era" is revised as follows:

§ 60–250.2 Definitions.

* * * * *

"Veteran of the Vietnam era" means a person who (1) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975. No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

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VOL
51
ISS
1
65
AG
26
1986
UMI

federal register

Tuesday
August 26, 1986

Part III

The President

Proclamation 5517—Suspension of Cuban immigration

VOL
51
ISS
165
AG
26
1986
UMI

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

Presidential Documents

Title 3—

The President

Proclamation 5517 of August 22, 1986

Suspension of Cuban Immigration

By the President of the United States of America

A Proclamation

In light of the May 20, 1985, statement of the Government of Cuba that it had decided "to suspend all types of procedures regarding the execution" of the December 14, 1984, immigration agreement between the United States and Cuba, thereby disrupting normal migration procedures between the two countries, and in light of the continuing failure of the Government of Cuba to resume normal migration procedures with the United States while at the same time facilitating illicit migration to the United States, I have determined that it is in the interest of the United States to suspend entry into the United States as immigrants by all Cuban nationals, with the exceptions noted below, pending the restoration of normal migration procedures between the two countries.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, including Section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)) ("the Act"), having found that the unrestricted entry into the United States as immigrants by Cuban citizens would, except as provided in Section 2, be detrimental to the interests of the United States, do proclaim that:

Section 1. Entry of Cuban nationals as immigrants is hereby suspended, except as noted in Section 2.

Sec. 2. The suspension of entry as immigrants contained in Section 1 shall not apply: (a) to Cuban nationals applying for admission to the United States as immediate relatives under Section 201(b) of the Act (8 U.S.C. 1151(b)) and special immigrants described in Section 101(a)(27)(A) of the Act (8 U.S.C. 1101(a)(27)(A)); (b) to Cuban nationals applying for admission into the United States as preference immigrants under Section 203(a) of the Act (8 U.S.C. 1153(a)) at United States consular posts designated by the Secretary of State for the processing of Cuban nationals, where the applicant can demonstrate that he or she departed Cuba pior to the date of this proclamation, has remained outside Cuba since that date, and otherwise qualified for preference immigrants status; and (c) in such other cases or categories of cases as may be designated from time to time by the Secretary of State or his designee.

[FR Doc. 86
Filed 8-25-
Billing code

Sec. 3. This proclamation shall be effective immediately and shall remain in effect until such time as the Secretary of State, after consultation with the Attorney General, determines that normal migration procedures with Cuba have been restored. Any such determination by the Secretary of State shall be published in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of August, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

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Billing code 3195-01-M

VOL
51
ISS
1
6
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AG
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1986
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INFORMA

SUBSCR

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PUBLICA

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General i
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Laws

President

Executive

Public Pa
Weekly C

United St

Other Se

Library
Privacy A
TDD for

FEDERAL

27515-278
27811-280
28059-282
28219-283
28321-285
28509-286
28687-287
28799-289
28921-290
29085-292
29201-294
29443-295
29545-296
29629-299
29901-300
30045-302
30201-303
30323-304

Reader Aids

Federal Register

Vol. 51, No. 165

Tuesday, August 26, 1986

INFORMATION AND ASSISTANCE

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Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

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Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19
29629-29900.....20
29901-30044.....21
30045-30200.....22
30201-30322.....25
30323-30472.....26

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:

5514.....27515
5515.....28218
5516.....29200
5517.....30470

Administrative Orders:

Memorandums:

July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445
August 20, 1986.....30201

5 CFR

532.....28799
890.....28799, 30068
1201.....28321

Proposed Rules:

540.....29655
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576, 29655

7 CFR

2.....29201
12.....29901
20.....30203
26.....28800
29.....28687, 30196
51.....27813, 28802
272.....28196, 30045
273.....28196, 30045
301.....30049
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
810.....30323
906.....27816, 28509, 29208, 30051
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
932.....28922
944.....29447
981.....30203
982.....29545
991.....28802
1036.....30325
1064.....28687
1065.....30204
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449, 29903
1924.....29903
1930.....27636
1940.....29901
1941.....29901
1943.....29901
1944.....27636
1945.....29901
1951.....27636
1965.....27636
1980.....29901, 29903

Proposed Rules:

52.....28719, 29656
68.....30368
235.....29236

250.....29236
252.....29236
255.....29236
330.....29401
340.....29401
400.....30369
441.....29246
447.....27882
656.....29251
907.....30219
920.....29473
929.....29936
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819, 29938
1068.....28819
1079.....27554, 28819, 30220
1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1205.....30069
1496.....29557
1709.....28722
1772.....29557, 29558

8 CFR

238.....28080, 28923, 29085

Proposed Rules:

214.....27867, 28576
248.....27867

9 CFR

75.....30327
77.....29629
78.....29629
92.....28905, 29210, 30051
205.....29449
302.....29905
303.....29905
317.....29456, 30052
318.....29456, 30052
381.....29905

Proposed Rules:

92.....27871
94.....30221
113.....30222

10 CFR

Ch. I.....29211
50.....27817, 28044, 30028, 30054
73.....27817, 27822, 30054
110.....27825

Proposed Rules:

50.....27872
73.....29656
100.....30224
435.....29754, 29773

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29085
17.....29089
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
337.....29630
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29256
337.....29657
523.....30225
563.....30225

13 CFR

310.....27828

14 CFR

21.....28509-28525, 30206, 30207
23.....28509-28525, 30206, 30207
25.....28322
39.....27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211-29213, 29910-29915, 30327-30331
71.....27833-27835, 28067, 28325, 28326, 28526, 28923, 29460, 29630, 30054, 30332-30334
73.....30208
75.....28809, 30334
97.....28326, 29631
121.....28322
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28388, 28725
1.....28095
21.....29938-29944
23.....29938-29944
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256-29259, 29474, 29475, 29659, 29946, 30070-30077, 30370, 30372
71.....28388-28390, 28956, 28957, 29261-29263, 29534, 30227, 30228, 30373
73.....28095, 30228
75.....28096, 28957
91.....29476
382.....30078

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695, 29633
16.....30055
423.....28222
444.....28328
1500.....28529, 29094, 30209

Proposed Rules:

13.....28594, 29265, 29660, 29664
703.....29666
1500.....29778

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
410.....28810

Proposed Rules:

37.....30374
271.....28102

19 CFR

6.....27836
101.....28070, 30335
111.....30336
171.....30336
177.....30346
178.....30336

Proposed Rules:

6.....30375
112.....30376
113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544
655.....30348

Proposed Rules:

404.....28834
410.....28834
416.....28834
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28363
82.....28331, 28346
133.....30210
175.....30059, 30060
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
436.....27531
440.....27531
442.....27531
510.....28545, 29916, 30211
520.....28545, 29215, 30211
522.....28546, 28932, 29462
546.....28545
556.....28932, 29097, 29462
558.....28545, 28547, 29097, 29463
561.....28223
1308.....28695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

0.....30178
20.....28364
35.....27774
200.....28696
203.....28548
204.....28548
207.....27837, 28547, 28689
221.....27837, 28547
251.....28699
255.....28699
300.....27838
390.....28551
511.....28703
812.....29463
882.....29463
886.....28486
892.....29633
905.....27774
965.....27774
968.....27774

Proposed Rules:

35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553
20.....28365
25.....28365
301.....30351
602.....28365

27 CFR

9.....30352
19.....28071
250.....28071
270.....28078

275.....
290.....
295.....
296.....

Proposed R

4.....
5.....
7.....
9.....
270.....
275.....
290.....
295.....
296.....

28 CFR

0.....

29 CFR

1601.....
1620.....
1952.....
1956.....
1960.....
2603.....
2676.....

Proposed R

530.....
602.....
1613.....
1910.....
1917.....
2603.....

30 CFR

901.....
914.....
917.....
931.....
943.....

Proposed R

250.....
774.....
910.....
912.....
915.....
920.....
921.....
922.....
933.....
935.....
937.....
939.....
941.....
947.....
950.....

31 CFR

16.....
315.....
317.....
321.....
332.....
352.....
353.....
500 (author extended Memoran Aug. 20,
505 (author extended Memoran Aug. 20,
515 (author extended Memoran

275.....28078
290.....28078
295.....28078
296.....28078
Proposed Rules:
4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464

29 CFR

1601.....29098
1620.....29816
1952.....27534
1956.....29917
1960.....28378
2603.....28379
2676.....29215
Proposed Rules:
530.....30036
602.....28840
1613.....29482
1910.....30230
1917.....30230
2603.....29497

30 CFR

901.....29098
914.....29100
917.....29917
931.....28553
943.....28554
Proposed Rules:
250.....29947
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
317.....30212
321.....30212
332.....28933
352.....28933
353.....28933
500 (authority extended by Memorandum of Aug. 20, 1986).....30201
505 (authority extended by Memorandum of Aug. 20, 1986).....30201
515 (authority extended by Memorandum of Aug. 20, 1986).....30201
520 (authority extended by Memorandum of Aug. 20, 1986).....30201
545.....28933
550.....28933
Proposed Rules:
10.....29113
103.....30233
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468, 30213
Proposed Rules:
553.....29115
701.....30377

33 CFR

100.....28706, 29919
117.....28380, 28707, 29101, 30060, 30061
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468
Proposed Rules:
100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396, 29920, 30190
674.....28312, 30355
690.....30190
796.....29190

36 CFR

1.....29469
3.....29469
34.....29101
261.....30355
Proposed Rules:
7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707, 29920
201.....30061, 30214
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636
Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923, 30063
60.....29104
61.....27956
65.....28224, 29216, 30064
81.....27843–27845, 30065
180.....28225–28227
228.....29923, 29927
260.....28864, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556
799.....30216
Proposed Rules:
Ch. I.....29499, 30166
52.....27560, 27878, 29116, 30378
65.....28113, 29947, 30081
81.....29268, 30379
85.....28114
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29589
228.....30081
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

60–250.....30467
101–26.....29104
101–38.....29638
101–40.....27539

42 CFR

405.....27847, 28710, 29386 30356
417.....28569
482.....27847
Proposed Rules:
405.....29560
447.....29560

43 CFR

11.....27674
Public Land Orders:
6620.....28229
6622.....28229
6623.....29641
Proposed Rules:
4.....28846

44 CFR

11.....29222
59.....30290
60.....30290
61.....30290
64.....28230, 28232
65.....30290
70.....30290
73.....30290
76.....30290
Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28364
Proposed Rules:
1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
150.....30241
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

15.....30362
22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552, 30363, 30364
87.....29106
97.....28237
Proposed Rules:
0.....27566
1.....27566, 30254
2.....28249
18.....30381
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576, 30381
74.....27566
90.....29130, 29273

48 CFR

223.....28943, 29231
228.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1601.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848

BEST COPY AVAILABLE

1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848

Proposed Rules:
501.....29131
513.....29131
553.....29131

49 CFR

1.....29231, 29233, 29471
509.....29552
571.....28238, 29552

Proposed Rules:
Ch. X.....28847
27.....30382
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946
285.....28240, 28241, 29642
604.....28575
611.....30218
630.....28575
641.....28094, 29471
651.....29642
655.....28241, 29555
661.....27859, 28717, 28954, 29234, 29471, 29654, 29932, 30066, 30364
663.....29933, 30365
671.....28242
672.....28385, 30218
674.....27860, 28243, 29107 30365
683.....30367

Proposed Rules:
17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 19, 1986

VOL
51
ISS
1
6
5
AG
26
1986
UMI

VOL
51
ISS
166
AG
27
1986
UMI

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Vol. 5

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8-27-86
Vol. 51 No. 166

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Wednesday
August 27, 1986

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VOL
51
ISS
166
AG
27
1986
UMI

8-27-
Vol.
Page

8-27-86
Vol. 51 No. 166
Pages 30473-30622

federal register

Wednesday
August 27, 1986

Briefings on How to Use the Federal Register—
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VOL
51
ISS
166
AG
27
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202-523-3419

Contents

Federal Register

Vol. 51, No. 166

Wednesday, August 27, 1986

Agricultural Marketing Service
RULES
Tomatoes grown in Florida, 30473

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation

Alcohol, Tobacco and Firearms Bureau
RULES
Cigars, cigarettes, etc.:
Tax rate increase on cigarettes, floor stocks tax, etc., 30484

Army Department
See also Engineers Corps
NOTICES
Military traffic management:
Household goods shipments domestic; interstate shipments, rate procedures, 30528

Bonneville Power Administration
NOTICES
Energy-efficient awards, refrigerators and freezers, etc., 30530

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
West Virginia, 30525
(2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Commission of Fine Arts
NOTICES
Meetings, 30526

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Sri Lanka, 30526

Defense Department
See also Army Department; Defense Intelligence Agency; Engineers Corps; Navy Department
RULES
Federal Acquisition Regulation (FAR):
U.S.-Israel free trade area agreement, 30618

Defense Intelligence Agency
PROPOSED RULES
Privacy Act; systems of records, 30510
NOTICES
Privacy Act; systems of records, 30527

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
South Carolina Electric & Gas Co., 30537
Wellington, KS, 30536

Education Department
PROPOSED RULES
Advisory committee management, 30511
NOTICES
Agency information collection activities under OMB review, 30529
Grants; availability, etc.:
Handicapped children's early education program, 30530
Handicapped children's early education program—Funding priorities, 30622
Projects with industry
Funding priorities; correction, 30530

Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 30538
Meetings:
American Statistical Association Committee on Energy Statistics, 30538

Energy Research Office
NOTICES
Meetings:
High Energy Physics Advisory Panel, 30540

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Water delivery plan, Everglades National Park, FL, 30528

Environmental Protection Agency
RULES
Pesticide programs:
Wood preservative use of creosote, pentachlorophenol and inorganic arsenicals; applicator certification, 30494
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Barium sulfate and carnauba wax, 30516
Dextrin, 30517
NOTICES
Pesticide programs:
Confidential information and data transfer to—Contractors, 30542
Pesticides; emergency exemption applications:
Carbaryl, 30541
Mancozeb, 30541
Pesticides; temporary tolerances:
Dow Chemical Co., 30542
Toxic and hazardous substances control:
Premanufacture notices; monthly status reports, 30612

Equal Employment Opportunity Commission
RULES
Employment discrimination:
Charges; designation of State and local fair employment practice agencies (706 agencies)—
North Carolina, 30486

Family Support Administration
NOTICES
Grants; availability, etc.:
Refugee resettlement program—
Services to refugees and Cuban/Haitian entrants in local areas of high need, 30546

Federal Aviation Administration
PROPOSED RULES
Restricted areas, 30498

Federal Communications Commission
PROPOSED RULES
Common carrier services:
MTS and WATS market structure, etc.—
Separation rules for revenue accounting expenses, 30522

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
Cotton, 30496
Peanuts, 30497
Rice, 30497

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30608

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Headwater improvements; benefit payments, 30478
PROPOSED RULES
Electric utilities (Federal Power Act):
Generic determination of rate of return on common equity for public utilities, 30499
NOTICES
Applications, hearings, determinations, etc.:
Clinton Gas Marketing, Inc., 30539
Colorado Interstate Gas Co., 30539
Seagull Interstate Corp., 30539
Sun Exploration & Production Co., 30540

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Allegheny County, PA, 30606

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Locher Evers International, Inc., et al., 30545
Morrison Express Corp., 30544
TECNO 2000 International, Inc., et al., 30544
Peruvian cargo reservation; government of Peru supreme decree impact, 30543
Shipping Act of 1984:
Ocean common carriers survey; liner service in U.S. foreign waterborne commerce, 30544

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 30545
Applications, hearings, determinations, etc.:
First Bryson Bancorporation, Inc., 30545
First National of Nebraska, Inc., et al., 30545

Fine Arts Commission
See Commission of Fine Arts

Fish and Wildlife Service
NOTICES
Meetings:
Endangered Species of Wild Fauna and Flora International Trade Convention Conference, 30556

Food and Drug Administration
RULES
Human drugs:
Antibiotic drugs—
Over-the-counter (OTC) use; certification exemption; correction, 30478

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
U.S.-Israel free trade area agreement, 30618

Health and Human Services Department
See also Family Support Administration; Food and Drug Administration; Health Care Financing Administration; Social Security Administration
NOTICES
Organization, functions, and authority delegations:
Facilities and Management Services Office, 30546

Health Care Financing Administration
PROPOSED RULES
Medicare:
Health maintenance organizations and competitive medical plans; application fees, 30518

Housing and Urban Development Department
RULES
Audit requirements for State and local governments, 30478
NOTICES
Agency information collection activities under OMB review, 30553

Immigration and Naturalization Service
RULES
Transportation line contracts:
Freedom Air, 30474

Indian Affairs Bureau
NOTICES
Agency information collection activities under OMB review, 30555
(2 documents)

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office
NOTICES
Privacy Act; systems of records, 30554

Internal Revenue Service
RULES
Income taxes:
Product liability losses and accumulations for payment, 30481
NOTICES
Meetings:
Commissioner's Advisory Group, 30607

International Trade Administration
NOTICES
Applications, hearings, determinations, etc.:
Veterans Administration Medical Center et al., 30525

International Trade Commission
NOTICES
Import investigations:
Aircraft carbon disc brakes and replacement carbon discs, 30557
Butt-weld pipe fittings from—
Brazil, Japan, and Taiwan, 30557
Candles from China, 30558
Fans with brushless DC motors, 30559
Laser inscribed diamonds and method of inscription, 30559
Miniature hacksaws, 30559

Justice Department
See also Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
Drug Enforcement Administration Administrator; redelegation to Immigration and Naturalization Service officer or employee; inter-agency drug enforcement, 30485
NOTICES
Pollution contol; consent judgments:
Boise State University et al., 30559
Privacy Act; systems of records, 30559

Labor Department
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Meetings:
Susanville District Advisory Council, 30555

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
U.S.-Israel free trade area agreement, 30618

National Oceanic and Atmospheric Administration
NOTICES
Permits:
Foreign fishing, 30525

National Park Service
NOTICES
Meetings:
National Park System Advisory Board, 30557

National Science Foundation
NOTICES
Meetings:
Chemical, Biochemical, and Thermal Engineering Advisory Committee, 30561

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 30608

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Newport, et al., 30493
USS Sterett, 30493
NOTICES
Meetings:
Health Care Advisory Committee, 30529

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Duke Power Co., 30593
Niagara Mohawk Power Corp., 30596
Operating licenses, amendments; no significant hazards considerations:
Bi-weekly notices, 30561
Regulatory guides:
Issuance, availability, and withdrawal, 30597
Applications, hearings, determinations, etc.:
Duke Power Co., 30591

Pension and Welfare Benefits Administration
PROPOSED RULES
Employee benefit plans:
Civil penalties; amount involved, etc., 30501
Civil sanctions; procedures, 30504

Postal Service
NOTICES
Meetings; Sunshine Act, 30608

Public Health Service
See Food and Drug Administration

Research and Special Programs Administration
RULES
Aviation proceedings:
Oversales; reporting and recordkeeping requirements, 30475

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 30601
Chicago Board Options Exchange, Inc., 30602
Depository Trust Co., 30602
Midwest Securities Trust Co., 30603
Options Clearing Corp., 30604
Applications, hearings, determinations, etc.:
Acacia National Life Insurance Co. et al., 30598
Prudential Realty Securities II, Inc., 30599

Small Business Administration
NOTICES
Meetings; regional advisory councils:
New York, 30606
Vermont, 30606

Social Security Administration
PROPOSED RULES
Supplemental security income:
Determinations or decisions; reopening, etc., within four years of initial determination notice, 30499

Surface Mining Reclamation and Enforcement Office
RULES
Permanent submission:
Kentucky, 30486

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 30609

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration
RULES
Aviation proceedings:
Oversales; reporting and recordkeeping requirements [Editorial Note: For a document on this subject see entry under Research and Special Programs Administration, 30475

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service
PROPOSED RULES
Practice before Internal Revenue Service:
Tax returns and tax return preparation; due diligence in giving advice, etc., 30510
Correction, 30510
NOTICES
Agency information collection activities under OMB review, 30607
Notes, Treasury:
AD-1988, 30607

Separate Parts In This Issue

Part II
Environmental Protection Agency, 30612

Part III
Department of Defense; General Services Administration; National Aeronautics and Space Administration, 30618

Part IV
Department of Education, 30622

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
966 30473
Proposed Rules:
421 30496
424 30497
425 30497

9 CFR
238 30474

14 CFR
250 30475
Proposed Rules:
71 30498
73 30498

18 CFR
11 30478
13 30478
375 30478
Proposed Rules:
37 30499

20 CFR
Proposed Rules:
416 30499

21 CFR
433 30478

24 CFR
44 30478
111 30478
203 30478
207 30478
236 30478
290 30478
511 30478
570 30478
571 30478
850 30478
880 30478
881 30478
882 30478
883 30478
884 30478
886 30478
941 30478
968 30478
970 30478
990 30478

26 CFR
1 30481
602 30481

27 CFR
270 30484
275 30484
296 30484

28 CFR
0 30485

29 CFR
1601 30486
Proposed Rules:
2560 30501
2570 30504

30 CFR
917 30486

31 CFR
Proposed Rules:
10 (2 documents) 30510

32 CFR
706 (2 documents) 30493
Proposed Rules:
292a 30510

34 CFR
Proposed Rules:
11 30511

40 CFR
171 30494
Proposed Rules:
180 (2 documents) 30516, 30517

42 CFR
Proposed Rules:
110 30518
417 30518
434 30518

47 CFR
Proposed Rules:
67 30522

48 CFR
25 30618

Rules and Regulations

Federal Register
Vol. 51, No. 166
Wednesday, August 27, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. AO-265-A5]

Tomatoes Grown in Florida; Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal marketing agreement and order for tomatoes grown in Florida. The four amendments to the tomato marketing order will: (1) Provide for production research and promotion, including paid advertising; (2) allow the Florida Tomato Committee to accept voluntary contributions for research and promotion projects; (3) provide authority for the committee to accept assessments in advance or to borrow money on a short-term basis; and (4) allow for interchange of alternates within districts at meetings for absent committee members from the same district. Tomato producers voting in a June 25–July 3 referendum favored the amendments. These growers represented approximately 96 percent of the growers who voted and produced approximately 97 percent of the production voted. The intent of these changes is to improve program administration and effectiveness. The committee works with the Department in administering the program.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250; telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding. Notice of Hearing on proposed rule issued December 16, 1985, and published December 20, 1985 (50 FR 51872); Notice of Recommended Decision issued May 20, 1986, and published May 23, 1986 (51 FR 18890); and Secretary's Decision and Referendum Order issued June 19, 1986, and published June 24, 1986 (51 FR 22941).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), as public hearing was held in Orlando, Florida, on January 14, 1986, upon proposed amendments to the marketing agreement, as amended, and to Order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act.

(2) The order, as amended, and as hereby further amended, regulates the handling of tomatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing order upon which a hearing has been held.

(3) The order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as pacticable, such different terms applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of tomatoes grown in different parts of the production area; and

(5) All handling of tomatoes grown in the production area is in the current of interstate or foreign commerce, or directly burdens, obstructs, of affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make all of the amendatory provisions effective upon publication in the **Federal Register**. Any delay beyond that date would interfere with effective order administration.

The provisions of this amendatory order authorize production research and promotion projects including paid advertising, authorize the Florida Tomato Committee to accept assessments in advance or to borrow money on a short-term basis, authorize the committee to accept voluntary contributions for research and promotion projects, and allow for

VOL 51 ISS 166 AG 27 1986 UMI

interchange of alternates within districts at meetings for absent committee members from the same district. It is the desire of the Florida Tomato Committee to implement these amendments as soon as possible to improve the financial operations of the marketing order and to enhance program administration and functioning. Moreover, the committee intends to consider research, promotion, and advertising programs under the new provisions for the 1986–87 season. Time is needed for advance planning and to allow the various subcommittees to formulate recommendations to be presented to the committee for its consideration at its 1986–87 season organizational meeting on September 5, 1986.

In view of the foregoing, it is hereby found and determined that good cause exists for making this amendatory order effective upon publication in the Federal Register, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after publication in the Federal Register (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Further Amended, Regulating the Handling of Tomatoes Grown in Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping, covered by this order, as further amended) who during the period August 1, 1984, through July 31, 1985, handled not less than 50 percent of the volume of such tomatoes covered by the said order, as hereby further amended, and

(2) The provisions of this amendatory order, amending the aforesaid order, as amended, were favored by at least two-thirds of the producers who participated in the referendum, or by producers who produced for market at least two-thirds of the volume of tomatoes represented in the referendum, all of such producers having been engaged during the aforementioned representative period within the production area in the production of such tomatoes for market.

Order Relative to Handling

It is therefore ordered, That, on and after the effective date hereof, all handling of tomatoes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

PART 966—[AMENDED]

1. The authority citation for 7 CFR Part 966 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 966.32 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 966.32 Procedure.

* * * * *

(b) If both a member and respective alternate are unable to attend a committee meeting, the committee may designate any other alternate present from the same district to serve in place of the absent member.

* * * * *

3. Section 966.42 is amended by adding a new paragraph (e) to read as follows:

§ 966.42 Assessments

* * * * *

(e) In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance, or may borrow money on a short-term basis not to exceed one full-year coinciding with the existing committee's term of office. The authority of the committee to borrow money may be used only to meet financial obligations as they occur and to allow the committee a season to adjust its reserve funds to meet any additional obligations.

4. Add a new § 966.45 to read as follows:

§ 966.45 Contributions.

The committee may accept voluntary contributions but these shall only be used for production research, market research and development and marketing and promotion including paid advertising pursuant to § 966.48. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use. The committee is prohibited from accepting contributions from handlers subject to the order, or any person whose contributions would constitute a conflict of interest.

5. Revise § 966.48 to read as follows:

§ 966.48 Research and promotion.

The committee may, with the approval of the Secretary, establish, or provide for the establishment of projects including production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve or promote the marketing, distribution and consumption or efficient production of tomatoes. The expenses of such projects shall be paid by funds collected pursuant to §§ 966.42 and 966.45. Upon conclusion of each project, but at least annually, the committee shall summarize the program status and accomplishments, to its members and the Secretary. A similar report to the committee shall be required of any contracting party on any project carried out under this section. Also, for each project the contracting party shall be required to maintain records of money received and expenditures and such shall be available to the committee and the Secretary.

Signed at Washington, DC, on August 22, 1986, to become effective upon publication.

Karen K. Darling,

Deputy Assistant Secretary Marketing and Inspection Services.

[FR Doc. 86–19331 Filed 8–26–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Aviation Services, Ltd., dba Freedom Air

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Aviation Services, Ltd. dba Freedom Air to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Aviation Services, Ltd. dba Freedom Air on August 1, 1986 to guarantee passage through the United States in immediate and continuous tranist of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Aviation Services, Ltd. dba Freedom Air.

Dated: August 14, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-19353 Filed 8-26-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

14 CFR Part 250

[Docket No. 43872; Amendment No. 1]

Aviation Economic Regulations; Oversales

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule

SUMMARY: This final rule reduces the filing frequency of Form 251 "Report of Passengers Denied Confirmed Space" from monthly to quarterly. This action reduces the reporting burden on the airline industry and is consistent with the goals of the Paperwork Reduction Act of 1980.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Jack Calloway or Bernie Stankus, Office of Aviation Information Management, Data Requirements and Public Reports Division, DAI-10, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4387.

SUPPLEMENTARY INFORMATION:

Background

In a notice of proposed rulemaking published March 19, 1986 (Notice 86-1, 51 FR 9459), the Department proposed to amend 14 CFR Part 250 by changing the reporting frequency of Form 251 "Report of Passengers Denied Confirmed Space" from monthly to quarterly. This change was recommended because the latest statistics available showed that from 1977 to 1984 the involuntary denied-boarding rate per 10,000 passengers had decreased 27 percent. Since the denied boarding rate had improved and domestic air transportation had been economically deregulated for the most part, quarterly reporting was found adequate for monitoring the Department's oversales provisions.

In addition, the proposed rulemaking aligned the reporting frequency of Form 251 with the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) as codified at 35 CFR 1320. Section 1320.6 of Part 1320 requires quarterly reporting unless a demonstration is made that more frequent reporting is necessary to satisfy statutory requirements or other substantial need.

The rulemaking also proposed to retitle § 250.10 "Reports of Unaccommodated Passengers" to read "Report of Passengers Denied Confirmed Space". This proposal would standardize the section heading with the title of Form 251 for clarity.

Comments

Comments were received from United Air Lines, Trinidad and Tobago Airways Corporation and Finnair. All respondents endorsed the Department's proposal and urged that the proposal be made final. Respondents agreed that quarterly reporting reduces burden.

Paperwork Reduction Act

The information collection requirements contained in 14 CFR 250.10 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control number 2138-0018.

Regulatory Evaluation and Regulatory Flexibility Act Determination

This final rule has been reviewed under Executive Order 12291 "Federal Regulations" dated February 17, 1981 and the Department of Transportation's Regulatory Policies and Procedures dated February 26, 1979. The rule is not considered "major" as defined by E.O. 12291 because it will not result in an annual effect on the economy of $100 million or more; it will not cause a major increase in production costs or prices for consumers, individual industries, agencies or geographic regions; and it will not adversely affect competition or any other aspect of the economy.

This rule is not significant under the Department's Regulatory Policies and Procedures, because it does not involve important Departmental policies. Its economic impact is minimal and full regulatory evaluation is not required.

I certify this rule will not have a significant economic impact on a substantial number of small entities. Departmental policy categorizes certificated air carriers, operating aircraft in strictly domestic service with 60 seats or less or 18,000 pounds maximum payload or less, as small entities for purposes of the Regulatory Flexibility Act. The rule affects only large U.S. and foreign air carriers. The net effect of this rule is a reduction in reporting burden.

List of Subjects in 14 CFR Part 250

Air transportation, Airlines, Oversales, Consumer protection.

Final Rule

PART 250—[AMENDED]

Accordingly, the Department of Transportation amends 14 CFR Part 250, Oversales as follows:

1. The authority for Part 250 continues to read as follows:

Authority: Secs. 204, 401, 402, 404, 407, 411, 416, 1002, of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386 and 1482.

2. The table of contents is amended by retitling § 250.10 now reading *Reports of unaccommodated passengers* to read:

Sec.

* * * * *

250.10 Report of passengers denied confirmed space.

* * * * *

3. Section 250.10 *Reports of unaccommodated passengers* is revised to read as follows:

§ 250.10 Report of passengers denied confirmed space.

Every carrier shall file, on a quarterly

basis, the information specified in RSPA Form 251. The reporting basis shall be flights originating or terminating at, or servicing, a point within the United States. The reports are to be submitted within 30 days after the quarter covered by the report. The calendar quarters end March 31, June 30, September 30 and December 31. "Total Boardings" on line 7 of Form 251 shall include only passengers on flights for which confirmed reservations are offered. No reports need be filed for inbound international flights on which the protections of this part do not apply.

(Approved by the Office of Management and Budget under control number 2138-0018)

4. RSPA Form 251 "Report of Passengers Denied Confirmed Space" is amended as shown in EXHIBIT A attached.

Issued in Washington, DC on August 21, 1986.

M. Cynthia Douglass,
Administrator, Research and Special Programs Administration, DOT.

Editorial Note.—This form will not appear in the Code of Federal Regulations.

Exhibit A

OMB No. 2138-0018
Expires 8-31-89

Research and Special Programs Administration

REPORT OF PASSENGERS DENIED CONFIRMED SPACE

(To be filed with the Data Administration Division, Office of Aviation Information Management, RSPA within 30 days after the end of each quarter)

Name of Air Carrier

OAG Carrier Code

Quarter ended _____

(See Instructions on Back)

1.	Number of passengers denied boarding involuntarily who qualified for denied boarding compensation and:	
	(a) were given alternate transportation within the meaning of §250.5.	
	(b) were not given such alternate transportation.	
2.	Number of passengers denied boarding involuntarily who did not qualify for denied boarding compensation due to:	
	(a) accommodation on another flight that arrives within 1 hour after the scheduled arrival time of the original flight.	
	(b) substitution of smaller capacity equipment.	
	(c) failure of passenger to comply with ticketing, check-in, or reconfirmation procedures, or to be acceptable for transportation under carrier's tariff.	
3.	TOTAL NUMBER DENIED BOARDING INVOLUNTARILY	
4.	Number of passengers denied boarding involuntarily who actually received compensation.*	
5.	Number of passengers who volunteered to give up reserved space in exchange for a payment of the carrier's choosing.	
6.	Number of passengers accommodated in another section of the aircraft:	
	(a) Upgrades	
	(b) Downgrades	
7.	Total Boardings	
8.	Amount of compensation paid to passengers who:	
	(a) were denied boarding involuntarily and were given alternate transportation within meaning of §250.5 (See item 1(a) above).	
	(b) were denied boarding involuntarily and were not given alternate transportation. (See item 1(b) above).	
	(c) volunteered for denied boarding. (See item 5 above).	

I, the undersigned, (Title)_____ of the above-named carrier certify that the above report has been examined by me and to the best of my knowledge and belief is a true, correct and complete report for the period stated.

_____ (Date)

_____ (Signature)

* If any passengers qualified for denied boarding compensation but were not offered compensation, attach a statement as to the number of such passengers and an explanation of why the offer was not made.

RSPA Form 251
Formerly CAB Form 251

BILLING CODE 4910-62-M

(a)
(b)
(c)
(d)
(e)
(f)
(g)

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INSTRUCTIONS

(a) Reports shall be filed by every carrier with respect to flight segments with large aircraft (more than 60 seats) in (1) interstate or overseas air transportation and (2) foreign air transportation originating at a point within the United States. Carriers are defined as air carriers holding certificates under section 401(d)(1), (2), (5), or (8) or exemptions from section 401(a) of the Federal Aviation Act of 1958, and all foreign route air carriers holding section 402 permits or exemption from section 402, authorizing the transportation of persons in scheduled service. See Part 250 of DOT regulations (14 CFR Part 250) for further information.

(b) With respect to line 1, "alternate transportation" for passengers denied boarding involuntarily means comparable air transportation accepted by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's destination or first stopover (of 4 or more hours) no later than 2 hours for domestic flights or 4 hours for international flights. See § 250.5 of DOT regulations for further information.

(c) "Total number denied boarding involuntarily" should equal the sum of lines 1 and 2. If this is not so, attach notes explaining any discrepancy.

(d) With respect to line 5, a passenger who "volunteers" is a person who responds to the carrier's request for volunteers pursuant to §250.2b of DOT regulations and willingly consents to exchange his confirmed reserved space for a payment of the carrier's choosing. Any passenger selected by the carrier for denied boarding in accordance with any boarding priority other than a request for volunteers is considered to have been denied boarding "involuntarily," whether or not the passenger accepts denied boarding compensation.

(e) "Total Boardings" on line 7 shall include only passengers on flights for which confirmed reservations are offered. For international flights, "Total Boardings" shall include only passengers on flight segments from the United States that are subject to Part 250, and for which confirmed reservations are offered.

(f) With respect to line 8, "compensation paid" includes all payments made to passengers, i.e. payments actually accepted by passengers, plus payments offered or mailed that are not rejected.

(g) Note on the report any abnormal conditions, such as strikes, having a bearing on the results.

[FR Doc. 86-18957 Filed 8-26-86; 8:45 am]
BILLING CODE 4910-62-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 11, 13, and 375

[Docket No. RM83-57-001]

Payments for Benefits From Headwater Improvements

Issued: August 22, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for further consideration.

SUMMARY: On June 24, 1986, the Federal Energy Regulatory Commission issued a final rule governing the payments that are required to be made by certain beneficiaries of upstream headwater projects, pursuant to section 10(f) of the Federal Power Act, 16 U.S.C. 803(f) (1982).

In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Janet L. Oakley, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-5769.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

Order Granting Rehearing of Final Rule for Purpose of Further Consideration

On June 24, 1986, the Commission issued a final rule governing the payments that are required to be made by certain beneficiaries of upstream headwater projects, pursuant to section 10(f) of the Federal Power Act, 16 U.S.C. 803(f) (1982).[1] The rulemaking: (1) Establishes procedures for determining and assessing headwater benefits payments; (2) establishes a cap that limits headwater benefits charges to 85 percent of the actual value of energy grains; (3) adopts the energy gains method and generic formula for apportioning section 10(f) costs between headwater and downstream projects; (4) incorporates the separable cost/remaining benefits methodology historically used by the Commission for allocating project costs; (5) waives headwater benefits payments for all projects with a generating capacity of 1.5 MW or less; and (6) exempts from the energy gains method: (a) Projects for which the Commission has approved headwater benefits charges pursuant to an existing coordination agreement; (b) projects for which headwater benefits charges have been established in a Commission-approved settlement; and (c) certain projects for which charges have been assessed prior to the effective date of the rule.

A timely request for rehearing of the final rule was filed by the City of Santa Clara, California (City). In order to provide sufficient time to consider the substantive issues raised in the City's rehearing request, the Commission is granting rehearing solely for the purpose of further consideration.

The Commission orders:

The request for rehearing filed by the City of Santa Clara, California is granted solely for the purpose of further consideration of the substantive issues raised. This action does not constitute a grant or denial, in whole or in part, of the rehearing request on the merits. Because this order is not a final order on rehearing, no responses to the request for rehearing will be entertained by the Commission. *See* 18 CFR 385.713(d) (1985).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19371 Filed 8-26-86; 8:45 am]

BILLING CODE 6717-01-M

[1] Payments for Benefits from Headwater Improvements, 51 FR 24 308 (July 6, 1986) (Order No. 453) (to be codified in 18 CFR Parts 11, 13, 375).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 433

[Docket No. 85N-0373]

Antibiotic Drug Products for Over-the-Counter Human Use; Exemption From Certification

Correction

In FR Doc. 86-15850, beginning on page 25523, in the issue of Tuesday, July 15, 1986, make the following correction:

§ 433.1 [Corrected]

On page 25524, second column, § 433.1(a) fifth line, after "case" insert "of".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 44, 111, 203, 207, 236, 290, 511, 570, 571, 850, 880, 881, 882, 883, 884, 886, 941, 968, 970, 990

[Docket No. R-86-1255; FR-2075]

Implementation of the Single Audit Act of 1984 and OMB Circular A-128

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts the interim rule for the implementation of the Single Audit Act of 1984 and OMB Circular A-128 which was published in the **Federal Register** of Setember 27, 1985 (50 FR 39083). The rule implements statutory and Executive direction concerning audit policy.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Steven A. Switzer, Assistant Inspector General for Audit, Office of Inspector General, Department of Housing and Urban Development, Room 8284, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-6364. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The Department published in the **Federal Register** of September 27, 1985 (50 FR 39083) an interim rule that implemented, with reference to HUD program authorities, the requirements of the Single Audit Act of 1984 and OMB Circular A-128. (For a discussion of the requirements of the Single Audit Act and OMB Circular A-128, see 50 FR 39083-85.) A correction notice for this rule was published in the **Federal Register** of October 15, 1985 (50 FR 41680). The Department determined that there was ample justification for making this rule effective without awaiting public comments. However, because the Department determined that public interest might be expressed with reference to the particular programs of HUD to which the rule was being made applicable, public comment was invited on the interim rule. The Department received one public comment, but no revision to the interim rule is necessary to respond appropriately to that comment.

The Department is making two minor revisions to the rule, *i.e.*, to clarify the applicability of § 570.496(g) and to modify § 570.512 to reflect HUD single audit requirements under 24 CFR Part 44. The revisions to § 570.512 delete references to final grant audits and clarify that Community Development Block Grant (CDBG) costs not audited at the time of grant closeout are subject to coverage in the recipient's next single audit.

II. The Single Audit Act of 1984 and OMB Circular A–128

The Single Audit Act of 1984, 31 U.S.C. 7501–07, substantially revised Federal audit requirements for State and local governments. The audit requirements in the Act apply to fiscal years of State and local government fiscal years that begin after December 31, 1984. OMB Circular A–128, issued on April 12, 1985, was issued to implement the requirements of the Single Audit Act. Among the features of the Single Audit Act and OMB Circular A–128 are:

(a) Definitions of "financial assistance", "State", and "local government";

(b) Threshold standards for applicable levels of Federal financial assistance covered by the single audit requirements;

(c) Requirements for compliance review, testing, and reporting;

(d) Standards for the auditing of "major Federal assistance programs";

(e) Requirements for the annual performance of single audits; and

(f) Procedures for audit reports and plans for corrective action, including provisions for the allocation of audit costs.

III. HUD Program Regulations Affected by the Single Audit Act and OMB Circular A–128

Critical to the identification of HUD program regulations affected by the Single Audit Act and OMB Circular A–128 is the Act's definition of "financial assistance". The Act defines "financial assistance" to include a broad range of HUD's program activities: "grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations" (31 U.S.C. 7501(4)). Given the broad scope of definition, the Department has determined that the following HUD programs with codified regulations are affected by the audit requirements of the Act and the OMB Circular:

1. Fair Housing Assistance Program (24 CFR Part 111);
2. Mutual Mortgage Insurance and Rehabilitation Loans (24 CFR Part 203);
3. Multifamily Housing Mortgage Insurance (24 CFR Part 207);
4. Multifamily Housing Interest Reduction Payments and Mortgage Insurance (24 CFR Part 236);
5. Management and Disposition of HUD-Owned Multifamily Housing Projects (24 CFR Part 290);
6. Rental Rehabilitation Grant Program (24 CFR Part 511);
7. Programs Authorized under Title I of the Housing and Community Development Act of 1974, as Amended, and Codified at 24 CFR Part 570 (Entitlement Grants, the Secretary's Fund, the HUD-Administered Small Cities Program, Urban Development Action Grants, the State's Program, and Loan Guarantees);
8. CDBG Program for Indian Tribes and Alaskan Native Villages (24 CFR Part 571));
9. Urban Homesteading Program (24 CFR Part 590) (see revised 24 CFR 590.27, which was promulgated in the **Federal Register** of June 24, 1985 (50 FR 25941, 25948));
10. Housing Development Grant Program (24 CFR Part 850);
11. Section 8 Housing Assistance Payments Program (24 CFR Parts 880, 881, 882, 883, 884, and 886);
12. Public Housing Developing Program (24 CFR Part 941);
13. Comprehensive Improvement Assistance Program (24 CFR Part 968);
14. Annual Contributions for Operating Subsidies for Public Housing Projects (24 CFR Part 990); and
15. Solar Energy and Energy Conservation Bank (24 CFR Part 1800). (Revisions to the Solar Bank rule to implement HUD audit requirements in 24 CFR Part 44 were promulgated at 24 CFR 1800.125(b) and 1890.135(b), in the **Federal Register** of June 14, 1985 (50 FR 25010, 25020.))

The only comment on the interim rule was received from the City of Stamford, Connecticut. The City of Stamford raised certain issues concerning whether various single audit requirements of 24 CFR Part 44 apply to subrecipient nonprofit organizations that receive funding from local governments under the CDBG Program. In particular, the commenter requested HUD's opinion on whether the annual single audit requirement (§ 44.4), the threshold of $25,000 for compliance by local governments with the rule (§ 44.1(c)(3)), and the organization-wide audit requirements (§ 44.3) apply to subrecipient nonprofit organizations. Audit requirements for subrecipients receiving $25,000 or more in a fiscal year are contained in § 44.6. ("Subrecipient" is defined in § 44.2.) Nonprofit subrecipients covered under OMB Circular A–110 ("Uniform requirements for grants to universities, hospitals, and other nonprofit organizations") are not required to conduct an audit in accordance with Part 44. Section 44.6 requires that recipient State or local governments determine whether subrecipients which are covered under A–110 and which meet the $25,000 threshold have met the audit requirements in OMB Circular A–110 and have spent the Federal assistance funds in accordance with applicable statutes and regulations. In addition, 24 CFR 570.610 of the CDBG regulations states that certain OMB circulars are applicable to recipients and subrecipients and requires that all nonprofit subrecipients (not restricted to those subrecipients meeting the $25,000 threshold) conduct audits in accordance with OMB Circular A–110.

IV. Miscellaneous

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies of geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule implements the significant audit requirements in the Single Audit Act and in OMB Circular A–128. It does not impose additional audit requirements.

Consistent with the provisions of 5 U.S.C. 605 (the Regulatory Flexibility Act), the Secretary has determined that this rule would not have a significant economic impact on a substantial number of small entities, because the audit requirements in this rule follow the Single Audit Act and OMB Circular A–128. The audit requirements of these authorities apply to State and local governments that meet certain threshold requirements for Federal assistance. In addition, section 19 of the OMB Circular is intended to encourage the use of small and minority audit firms to implement the Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

The information collection requirements contained in this rule have

VOL 51 ISS 166 AG 27 1986 UMI

been submitted to OMB under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–20) and have been assigned OMB control number 2535–0094.

This rule is listed as item number 22 in the Correction to the Department's Semiannual Agenda of Regulations published on June 11, 1986 (51 FR 21290, 21292) under Executive Order 12291 and the Regulatory Agenda.

The Catalog of Federal Domestic Assistance program numbers affected by this rule are 14.108, 14.110, 14.112, 14.115, 14.116, 14.117, 14.119, 14.120, 14.121, 14.122, 14.123, 14.124, 14.125, 14.126, 14.127, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.140, 14.156, 14.161, 14.162, 14.163, 14.164, 14.165, 14.166, 14.167, 14.169, 14.170, 14.172, 14.173, 14.174, 14.218, 14.219, 14.221, 14.222, 14.223, 14.225, 14.227, 14.228, 14.230, 14.401, 14.506, 14.550, 14.850, 14.851, and 14.852.

List of Subjects

24 CFR Part 44

Audit requirements—non-federal governmental entities; Reporting and recordkeeping requirements.

24 CFR Part 111

Fair housing, Cooperative agreements, Grant programs—housing and community development.

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 290

Mortgage insurance, Low and moderate income housing.

24 CFR Part 511

Rental Rehabilitation grants, Administrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 570

Community development block grants, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

24 CFR Part 571

Community development block grants.

24 CFR Part 850

Grant programs—housing and community development, Relocation assistance, Rental housing, Low and moderate income housing, Cooperatives.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing, New construction.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 882

Grant programs—housing and community development, Housing, Mobile homes, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, New construction and substantial rehabilitation, Low and moderate income housing.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Rural areas, Low and moderate income housing.

24 CFR Part 886

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 941

Loan programs—housing and community development, Public housing, Prototype costs, Cooperative agreements, Turnkey.

24 CFR Part 968

Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Substantial rehabilitation.

24 CFR Part 970

Public housing.

24 CFR Part 990

Grant programs—housing and community development, Low and moderate income housing, Public housing.

Accordingly, the interim rule published on September 27, 1985 (50 FR 39083) as corrected in a Notice published in the **Federal Register** of October 15, 1986 (50 FR 41680) is adopted as final without further change except as indicated below.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR Part 570 continues to read as follows:

Authority: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 570.496, paragraph (g) is revised to read as follows:

§ 570.496 Program requirements.

* * * * *

(g) *Audits.* Audits of the State and units of general local government that receive financial assistance under this subpart shall be conducted in accordance with the Department's audit regulations at 24 CFR Part 44.

3. In § 570.512, the first sentence of paragraph (b)(1) up to and including (b)(1)(i) and paragraphs (b)(3), (g), and (h) are revised to read as follows:

§ 570.512 Grant closeouts.

* * * * *

(b) * * *

(1) All costs to be paid with grant funds have been incurred, with the exception of (i) closeout costs such as payment for the next single audit if unaudited costs remain; * * *

* * * * *

(3) Other responsibilities of the recipient under the grant agreement and any closeout agreement, applicable law and regulations appear to have been carried out satisfactorily, or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance, such as a good faith effort by the recipient to achieve its housing assistance plan goals for the grant period or securing performance by parties to legally binding commitments entered into in connection with Urban Development Action Grant assistance.

* * * * *

(g) *Unaudited costs.* Any costs paid with CDBG funds that were not audited previously shall be subject to coverage in the recipient's next single audit. The recipient may be required to repay HUD any disallowed costs based on the results of the audit or additional HUD reviews provided for in the closeout agreement.

(h) *Certificate of completion and final cost.* Upon resolution of any remaining findings, the recipient shall prepare a certificate of completion and final cost, subject to the requirements in paragraph (g) of this section and in a form prescribed by HUD, and submit it to the appropriate HUD Office.

* * * * *

Dated: August 13, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86-19325 Filed 8-26-86; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8096]

Income Taxes; Product Liability Losses and Accumulations for Product Liability Losses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to product liability losses and accumulations for the payment of reasonable anticipated product liability losses. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the public with guidance needed to comply with the applicable parts of that act.

DATE: The amendments made by section 371 of the Revenue Act of 1978 generally are effective for taxable years beginning after September 30, 1979.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3935).

Background

On March 25, 1983, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 172 and 537 of the Internal Revenue Code of 1954 (48 FR 12557). A few comments were received regarding this proposal. A public hearing was neither requested nor held. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Public Comments

Proposed § 1.172-13(b)(2)(iv) provided that amounts paid for insurance against product liability risks are not paid on account of product liability. Two commentators suggested that this provision be deleted in the final regulations. Alternatively, one commentator suggested that even if commercial product liability insurance premiums are not to be generally considered paid on account of product liability for purposes of section 172, so-called "retrospective premiums" should be. After consideration of these comments, the final regulations adopt § 1.172-13(b)(2)(iv) as proposed. However, the final regulations clarify the definition of "product liability" by including certain amounts paid within that definition even if such amounts are paid to an insurance company. The final regulations state that an amount is considered paid on account of product liability (even if such amount is paid to an insurance company) if the amount otherwise qualifies as "product liability" and if the amount (1) is paid on account of specific claims against the taxpayer (or on account of expenses incurred in connection with the investigation or settlement of or opposition to such claims), subsequent to the events giving rise to the claims and pursuant to a contract entered into before those events, (2) is not refundable, and (3) is not applicable to other claims, other expenses or to subsequent coverage.

Another commentator suggested that the final regulations be clarified with respect to the interaction of the election under section 172(b)(3)(C) (relating to election to relinquish the entire carryback period) and the election under section 172(j)(3) (relating to election to forgo 10-year product liability loss carryback period). The final regulations are clarified by providing in § 1.172-13(c)(4) that the election pursuant to section 172(b)(3)(C) does not preclude a product liability loss from being carried back 10 years.

One commentator suggested that the manner in which a taxpayer must elect to forgo the 10-year carryback period was unknown prior to the publication of the proposed regulations and that therefore those rules should only apply to elections made after the publication of the proposed regulations. In response to this comment, the final regulations provide that the statement to be filed with the Service must contain the information specified in § 1.172-13(c)(3) only in the case of statements filed with the Service after April 25, 1983.

The proposed regulations stated that the term "product liability loss" includes, *inter alia*, expenses incurred in connection with the settlement of claims on account of alleged product liability. Additionally, the proposed regulations excluded from the definition of "product liability" liabilities arising under warranty theories relating to repair or replacement of the property that are essentially contract liabilities. One commentator suggested that the final regulations specifically include in the term "product liability loss" settlement expenses related to replacement products that are provided other than under the terms of a warranty. Since such expenses already are within the scope of this term, the final regulations are adopted without this change.

Section 537(b)(4) states that amounts accumulated for the payment of reasonably anticipated product liability losses are treated as accumulated for the reasonably anticipated needs of the business. The proposed regulations stated generally that whether an accumulation is reasonable in amount shall be determined in light of all the facts and circumstances of the taxpayer making such accumulation. The proposed regulations identified some factors that should be considered in determining the reasonableness of the accumulation. The final regulations provide that another factor to be considered in determining whether an accumulation is reasonable in amount is the fact that the taxpayer in accounting for its potential future liability took into account the reasonably estimated present value of the potential future liability.

Regulatory Flexibility Act

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the

Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980. These requirements have been approved by OMB. (Assigned control number 1545-0863).

Drafting Information

The principal author of these regulations was George T. Magnatta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 1.61-1-1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 1.531-1-1.565-6

Income taxes, Corporations, Tax avoidance, Holding companies.

26 CFR 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, Part 1 and Part 602 of 26 CFR are amended as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805.* * *

Par. 2. Section 1.172-4 is amended by removing the references to (viii) and ix) in paragraph (a)(1)(ii), and adding in their places references to (viii), (ix), and (x), and by adding a new paragraph (a)(1)(x). The added provision reads as follows:

§ 1.172-4 Net operating loss carrybacks and net operating loss carryovers.

(a) *General provisions*—(1) *Years to which loss may be carried.* * * *

(x) *Product liability losses.* A product liability loss (as defined in section 172(j) and § 1.172-13(b)(1)) sustained in a taxable year beginning after September 30, 1979, by any taxpayer shall be carried back to the 10 peceding taxable years, unless the taxpayer elects (in accordance with the rules set forth in section 172(j)(3) and § 1.172-13(c)) not to have this provision apply. Any unused portion of the net operating loss remaining after this 10-year carryback period shall be carried forward under the general provisions of section 172(b)(1)(B) and its status as a product liability loss shall be disregarded.

* * * * *

Par. 3. A new § 1.172-13 is added after § 1.172-12, to read as follows:

§ 1.172-13 Product liability losses.

(a) *Entitlement to 10-year carryback*—(1) *In general.* Unless an election is made pursuant to paragraph (c) of this section, in the case of a taxpayer which has a product liability loss (as defined in section 172(j) and paragraph (b)(1) of this section) for a taxable year beginning after September 30, 1979 (hereinafter "loss year"), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year.

(2) *Years to which loss may be carried.* A product liability loss shall first be carried to the earliest of the taxable years to which such loss is allowable as a carryback and shall then be carried to the next earliest of such taxable years, etc.

(3) *Example.* The application of this paragraph may be illustrated as follows:

Example. Taxpayer A incurs a net operating loss for taxable year 1980 of $80,000, of which $60,000 is a product liability loss. A's taxable income for each of the 10 years immediately preceding taxable year 1980 was $5,000. The product liability loss of $60,000 is first carried back to the 10th through the 4th preceding taxable years ($5,000 per year), thus offsetting $35,000 of the loss. The remaining $25,000 of product liability loss is added to the remaining portion of the total net operating loss for taxable year 1980 which was not a product liability loss ($20,000), and the total is then carried back to the 3rd through 1st years preceding taxable year 1980, which offsets $15,000 of this loss. The remaining loss ($30,000) is carried forward pursuant to section 172(b)(1) and the regulations thereunder without regard to whether all or any portion thereof originated as a product liability loss.

(b) *Definitions*—(1) *Product liability loss.* The term "product liability loss" means, for any taxable year, the lesser of—

(i) The net operating loss for the current taxable year (not including the portion of such net operating loss attributable to foreign expropriation losses, as defined in § 1.172-11), or

(ii) The total of the amounts allowable as deductions under sections 162 and 165 directly attributable to—

(A) Product liability (as defined in paragraph (b)(2) of this section), and

(B) Expenses (including settlement payments) incurred in connection with the investigation or settlement of or opposition to claims against the taxpayer on account of alleged product liability.

Indirect corporate expense, or overhead, is not to be allocated to product liability claims so as to become a product liability loss.

(2) *Product liability.* (i) The term "product liability" means the liability of a taxpayer for damages resulting from physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer. The preceding sentence applies only to the extent that the injury, harm, or damage occurs after the taxpayer has completed or terminated operations with respect to the product, including, but not limited to the manufacture, installation, delivery, or testing of the product, and has relinquished possession of such product.

(ii) The term "product liability" does not include liabilities arising under warranty theories relating to repair or replacement of the property that are essentially contract liabilities. For example, the costs incurred by a taxpayer in repairing or replacing defective products under the terms of a warranty, express or implied, are not product liability losses. On the other hand, the taxpayer's liability for damage done to other property or for harm done to persons that is attributable to a defective product may be product liability losses regardless of whether the claim sounds in tort or contract. Further, liability incurred as a result of services performed by a taxpayer is not product liability. For purposes of the preceding sentence, where both a product and services are integral parts of a transaction, product liability does not arise until all operations with respect to the product are completed and the taxpayer has relinquished possession of it. On the other hand, any liability that arises after completion of the initial delivery, installation, servicing, testing, etc., is considered "product liability" even if such liability arises during the subsequent servicing of the product pursuant to a service agreement or otherwise.

(iii) Liability for injury, harm, or damage due to a defective product as described in this subparagraph shall be "product liability" notwithstanding that the liability is not considered product liability under the law of the State in which such liability arose.

(iv) Amounts paid for insurance against product liability risks are not paid on account of product liability.

(v) Notwithstanding subparagraph (iv), an amount is paid on account of

product liability (even if such amount is paid to an insurance company) if the amount satisfies the provisions of paragraph (b)(2) (i) through (iii) of this section and the amount—

(A) Is paid on account of specific claims against the taxpayer (or on account of expenses incurred in connection with the investigation or settlement of or opposition to such claims), subsequent to the events giving rise to the claims and pursuant to a contract entered into before these events,

(B) Is not refundable, and

(C) Is not applicable to other claims, other expenses or to subsequent coverage.

(3) *Examples.* Paragraph (b)(2) of this section is illustrated by the following examples:

Example (1). X, a manufacturer of heating equipment, sells a boiler to A, a homeowner. Subsequent to the sale and installation of the boiler, the boiler explodes due to a defect causing physical injury to A. A sues X for damages for the injuries sustained in the explosion and is awarded $250,000, which X pays. The payment was made on account of product liability.

Example (2). Assume the same facts as in example (1) and that A also sues under the contract with X to recover for the cost of the boiler and recovers $1,000, the boiler's replacement cost. The $1,000 payment is not a payment on account of product liability. Similarly, if X agrees to repair the destroyed boiler, any amount expended by X for such repair is not payment made on account of product liability.

Example (3). Y, a professional medical association, is sued by B, a patient, in an action based on the malpractice of one of its doctors. B recovers $25,000. Because the suit was based on the service of B, the payment is not made on account of product liability.

Example (4). R, a retailer of communications equipment, sells a telecommunication device to C. R also contracts with C to service the equipment for 3 years. While R is installing the equipment, the unit catches on fire due to faulty wiring within the unit and destroys C's office. Because R had not relinquished possession of this equipment when the fire started, any amount paid to C by R for the damage to C's property on account of the defective product is not payment on account of product liability.

Example (5). Assume the same facts as in example (4) except that the fire and resulting property damages occurred after R had installed the equipment and relinquished possession of it. Any amount paid for the property damages sustained on account of the defective product is payment on account of product liability.

Example (6). Assume the same facts as in example (4) except that the equipment catches on fire during the subsequent servicing of the unit. Because C is in possession of the unit during the servicing, any amount paid for the property damage sustained on account of the defective product would be payment on account of product liability.

Example (7). X, a manufacturer of computers, sells a computer to A. X also has its employees periodically service the computer for A from time to time after it is placed in service. After the initial delivery, installation, servicing, and testing of the computer is completed, the computer catches on fire while X's employee is servicing the equipment. This fire causes property damage to A's office and physical injury to A. Any amount paid for the property or physical damage sustained on account of the defective product is payment on account of product liability.

(c) *Election*—(1) *In general.* The 10-year carryback provision of this section applies, except as provided in this paragraph, to any taxpayer who, for a taxable year beginning after September 30, 1979, incurs a product liability loss. Any taxpayer entitled to a 10-year carryback under paragraph (a) of this section in any loss year may elect (at the time and in the manner provided in paragraph (c)(2) of this section) to have the carryback period with respect to the product liability loss determined without regard to the carryback rules provided by paragraph (a) of this section. If the taxpayer so elects, the product liability loss shall not be carried back to the 10th through the 4th taxable years preceding the loss year. In such case, the product liability loss shall be carried back or carried over as provided by section 172(b) (except subparagraph (1)(I) thereof) and the regulations thereunder.

(2) *Time and manner of making election.* An election by any taxpayer entitled to the 10-year carryback for the product liability loss to have the carryback with respect to such loss determined without regard to the 10-year carryback provision of paragraph (a) of this section must be made by attaching to the taxpayer's tax return (filed within the time prescribed by law, including extensions of time) for the taxable year in which such product liability loss is sustained, a statement containing the information required by paragraph (c)(3) of this section. Such election, once made for any taxable year, shall be irrevocable after the due date (including extensions of time) of the taxpayer's tax return for that taxable year.

(3) *Information required.* In the case of a statement filed after April 25, 1983, the statement referred to in paragraph (c)(2) of this section shall contain the following information:

(i) The name, address, and taxpayer identifying number of the taxpayer; and

(ii) A statement that the taxpayer elects under section 172(j)(3) not to have section 172(b)(1)(I) apply.

(4) *Relationship with section 172(b)(3)(C) election.* If a taxpayer sustains during the taxable year both a net operating loss not attributable to product liability and a product liability loss (as defined in section 172(j)(1) and paragraph (b)(1) of this section), an election pursuant to section 172(b)(3)(C) (relating to election to relinquish the entire carryback period) does not preclude the product liability loss from being carried back 10 years under section 172(b)(1)(I) and paragraph (a)(1) of this section.

Par. 4. Section 1.537–1 is amended by revising the first two sentences of paragraph (a) and by adding a new paragraph (f) after paragraph (e). These amended and added provisions read as follows:

§ 1.537–1 Reasonable needs of the business.

(a) *In general.* The term "reasonable needs of the business" includes (1) the reasonable anticipated needs of the business (including product liability loss reserves, as defined in paragraph (f) of this section), (2) the section 303 redemption needs of the business, as defined in paragraph (c) of this section, and (3) the excess business holdings redemption needs of the business as described in paragraph (d) of this section. See paragraph (e) of this section for additional rules relating to the section 303 redemption needs and the excess business holdings redemption needs of the business. * * *

* * * * *

(f) *Product liability loss reserves.* (1) The term "product liability loss reserve" means, with respect to taxable years beginning after September 30, 1979, reasonable amounts accumulated for the payment of reasonably anticipated product liability losses, as defined in section 172(j) and § 1.172–13(b)(1).

(2) For purposes of this paragraph, whether an accumulation for anticipated product liability losses is reasonable in amount and whether such anticipated product liability losses are likely to occur shall be determined in light of all facts and circumstances of the taxpayer making such accumulation. Some of the

factors to be considered in determining the reasonableness of the accumulation include the taxpayer's previous product liability experience, the extent of the taxpayer's coverage by commercial product liability insurance, the income tax consequences of the taxpayer's ability to deduct product liability losses and related expenses, and the taxpayer's potential future liability due to defective products in light of the taxpayer's plans to expand the production of products currently being manufactured, provided such plans are specific, definite and feasible. Additionally, a factor to be considered in determining whether the accumulation is reasonable in amount is whether the taxpayer, in accounting for its potential future liability, took into account the reasonably estimated present value of the potential future liability.

(3) Only those accumulations made with respect to products that have been manufactured, leased, or sold shall be considered as accumulations made under this paragraph. Thus, for example, accumulations with respect to a product which has not progressed beyond the development stage are not reasonable accumulations under this paragraph.

Par. 5. Section 1.537–2 is amended by removing "or" at the end of paragraph (b)(4); by removing the period at the end of paragraph (b)(5) and adding "; or" in its place, and by adding a new paragraph (b)(6) after paragraph (b)(5). The added provision reads as follows:

§ 1.537–2 Grounds for accumulation of earnings and profits.

* * * * *

(b) *Reasonable accumulation of earnings and profits.* * * *

(6) To provide for the payment of reasonably anticipated product liability losses, as defined in section 172(j), § 1.172–13(b)(1), and § 1.537–1(f).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 1.172–13 . . . . 1545–0863".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 11, 1986.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 86–19303 Filed 8–26–86; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, and 296

[T.D. ATF–234]

Cigarettes; Increase in Rate of Tax, and Floor Stocks Tax

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This document implements section 13201 of The Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, 100 Stat. 311. This section of the Act amended 26 U.S.C. Chapter 52 by making permanent the cigarette tax increase put into effect by subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, 96 Stat. 568).

This document also eliminates obsolete regulations relating to the floor stocks tax on cigarettes held for sale on January 1, 1983, and changes the title of the regional regulatory administrator in the table of sections to Part 296 to reflect the new designation of the position.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: Clifford A. Mullen Coordinator, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226; telephone (202) 566–7531.

SUPPLEMENTARY INFORMATION: Pub. L. 99–272, entitled The Consolidated Omnibus Budget Reconciliation Act of 1985, was enacted on April 7, 1986. Section 13201 of this act makes permanent the temporary cigarette tax increase imposed by subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248.

The regulations in Subpart H of Part 296 relating to the floor stocks tax imposed by subsection (b) of section 283 of Pub. L. 97–248 on cigarettes held for sale on January 1, 1983, are now obsolete and are deleted.

Administrative Procedure Act

Because the existing tax rates do not expire but are made permanent and therefore remain unchanged, it is hereby found to be impracticable and unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because the economic effects of the increased cigarette tax rates flow directly from Pub. L. 99–272 and not from this regulation. Therefore, it is found that this regulation will not cause:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any significant secondary or incidental effects, and any significant reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal drafter of this document is Clifford A. Mullen of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and

cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Authority and Issuance

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

Paragraph A. The authority citation for Part 270 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5711–5713, 5721–5723, 5741, 5751, 5753, 5761–5763, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 27 U.S.C. 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. B. Section 270.23(b) is revised to reflect permanent tax rates prescribed by Pub. L. 99–272 and the introductory text is republished to read as follows:

§ 270.23 Cigarette tax rates.

On cigarettes, manufactured in or imported into the United States, the following taxes are imposed by law:

* * * * *

(b) *Cigarettes removed on or after January 1, 1983*—(1) *Small cigarettes.* $8 per thousand.

(2) *Large cigarettes.* $16.80 per thousand; except that where such cigarettes are more than 6⅛ inches in length, the rate of tax is $8 per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(Sec. 13201, Pub. L. 99–272, 100 Stat. 311, as amended (26 U.S.C. 5701))

PART 275—IMPORTATION OF CIGARS, CIGARETTES AND CIGARETTE PAPERS AND TUBES

Par. C. The authority citation for Part 275 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5708, 5722, 5723, 5741, 5761–5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7652(a), 7805; 31 U.S.C. 9301, 9303, 9304, 9306; 44 U.S.C. 3504(h).

Par. D. Section 275.32(b) is revised to reflect the permanent tax rates prescribed by Pub. L. 99–272 and the introductory text is republished to read as follows:

§ 275.32 Cigarettes.

On cigarettes imported or brought into the United States, the following internal revenue taxes are imposed by law:

* * * * *

(b) *Cigarettes removed on or after January 1, 1983*—(1) *Small cigarettes.* $8 per thousand.

(2) *Large cigarettes.* $16.80 per thousand; except that where such cigarettes are more than 6⅛ inches in length, the rate of tax is $8 per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. E. The authority citation for Part 296 is revised to read as follows:

Authority: 31 U.S.C. 9304, 9306; 18 U.S.C. 2341–2346; 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7608, 7805; 44 U.S.C. 3504(h); 49 U.S.C. 782.

Par. F. The Table of Contents of Part 296 is amended by changing the title of the regional regulatory administrator in § 296.78 to reflect the new designation of the position and by removing Subpart H to read as follows:

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

* * * * *

Sec.

§ 296.78 Action by regional director (compliance).

* * * * *

§ 296.171–296.179 (Subpart H) [Removed]

Par. G. Subpart H of Part 296 is removed.

Signed: June 23, 1986.

W.T. Drake,

Acting Director.

Approved: July 2, 1986.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 86–19366 Filed 8–26–86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1146–86]

Delegation of Authority to the Drug Enforcement Administration

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order delegates to the Administrator for the Drug Enforcement Administration the power to redelegate his authority to any officer or employee of the Immigration and Naturalization Service (INS). The order will permit increased utilization of INS personnel in inter-agency drug enforcement actions. It is being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: John C. Lawn, Administrator, Drug Enforcement Administration (202–633–1337).

SUPPLEMENTARY INFORMATION: This order has been issued to increase efficiency within the Department and is a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive order No. 12291.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 533 and 5 U.S.C. 301, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows.

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 200(c); 50 U.S.C. App. 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

2. Section 0.104 is revised to read as follows:

§ 0.104 Redelegation of authority.

The Administrator of the Drug

Enforcement Administration is authorized to redelegate to any of his subordinates or any of the officers or employees of the Immigration and Naturalization Service any of the powers and functions vested in him by this Subpart R.

Dated: August 15, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86-19308 Filed 8-26-86; 8:45 am]

BILLING CODE 4410-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the North Carolina State Office of Administrative Hearings as a 706 Agency.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: Mike Torres, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 2401 E Street, NW., Washington, DC 20507, telephone (202) 634-6922.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

1. The authority citation for Part 1601 continues to read as follows:

Authority: Secs. 709, 713, 78 Stat. 263, 265; 42 U.S.C. 2000e-8, 2000e-12.

PART 1601—[AMENDED]

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.74(a) by adding in alphabetical order, the North Carolina State Office of Administrative Hearings.

Signed at Washington, DC this 21st day of August, 1986.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 86-19359 Filed 8-26-86; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Approval of Permanent Program Amendments from the Commonwealth of Kentucky under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of program amendments submitted by Kentucky as modifications to the State's permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments, which were submitted on August 30, 1985, September 16, 1985, and February 7, 1986, pertain to coal processing plants, definitions, hydrology, experimental practices, permitting requirements, diversions, backfilling and grading, subsidence and prime farmland.

After providing for public comment and conducting a thorough review, the Director has determined that the proposed amendments meet the requirements of SMCRA and the Federal regulations and is approving them. The Federal rules at 30 CFR Part 917 codifying decisions concerning the Kentucky program are being amended to implement this action. At Kentucky's request, the Director is also suspending rulemaking on certain proposed amendments pertaining to subsidence control and protection for underground mining.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Kentucky program was conditionally approved by the Secretary of the Interior subject to the correction of 12 minor deficiencies (47 FR 21404-21435). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register**. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Submission of Proposed Amendments

On August 30, 1985, Kentucky submitted proposed amendments to modify requirements for experimental practices, permitting, diversions, backfilling and grading, subsidence and prime farmland. On October 31, 1985, OSMRE published a notice in the **Federal Register** (50 FR 45431) announcing receipt of the amendments and inviting public comment on their adequacy. The public hearing scheduled for November 25, 1985, was not held because no one requested an opportunity to testify. The public comment period closed on December 2, 1985, but was reopened as noted below.

On September 16, 1985, Kentucky submitted proposed amendments to modify its general hydrological requirements. On October 25, 1985, OSMRE published a notice in the **Federal Register** (50 FR 43413) announcing receipt of the amendments and inviting public comment on their adequacy. The public hearing scheduled for November 19, 1985, was not held because no one requested an opportunity to testify. The public comment period closed on November 25, 1985 but was reopened as noted below. The September 16, 1985 submission also included revisions to Kentucky's liability insurance requirements. The final rule announcing approval of those revisions was published in the **Federal Register** on March 17, 1986 (51 FR 9008).

In a letter dated December 13, 1985, (Administrative Record Number KY-682), Kentucky withdrew its proposed amendments to 405 KAR 18:010 pertaining to protection of underground mining, which had been submitted on August 30, 1985. In that same letter, Kentucky informed OSMRE that the proposed amendments to 405 KAR 8:040 section 28 and 405 18:210 pertaining to subsidence control, also submitted on August 30, 1985, were being reconsidered by the State. Therefore, this notice suspends rulemaking on the proposed amendments to 405 KAR 8:040

section 26 and 405 KAR 18:210. Future submittal of amendments to these provisions will be handled through a separate rulemaking.

On February 7, 1986, Kentucky submitted proposed amendments pertaining to coast processing plants, the definition of "experimental practice" and modifications to the August 30, 1985 and September 16, 1985 submissions. The amendments pertaining to coal processing plants supersede the emergency rules approved by OSMRE on April 9, 1986 (51 FR 12138), and differ only slightly from those emergency rules. On March 31, 1986, OSMRE published a notice in the **Federal Register** (51 FR 10886) announcing receipt of these materials and inviting public comment on their adequacy. The public hearing scheduled for April 25, 1986 was not held because no one requested an opportunity to testify. The public comment period on the rules and modifications ended April 30, 1986.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendments submitted on August 30, 1985 and September 17, 1985, as modified on February 7, 1986, and the new program amendments submitted on February 7, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII, except for the provisions requiring further amendment as discussed below. Only those provisions of particular interest are discussed below. Any provisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal rules.

405 KAR 7:020—Definitions

1. Kentucky has amended its definition of "coal processing plant" to mean "a facility where coal is subjected to chemical or physical processing or cleaning, concentrating, crushing, sizing, screening, or other processing or preparation including all associated support facilities including but not limited to: loading facilities, storage and stockpile facilities; settling basins and impoundments; and coal processing and other waste disposal areas." This definition is identical to that approved by the Director on April 9, 1986 as an emergency rule (51 FR 12138), except that the word "screening" has been added. Since the addition further clarifies the definition in an acceptable manner, the Director finds that the revised definition is no less effective than the Federal definition of "coal preparation plant" at 30 CFR 701.5 (50 FR 28186, July 10, 1985).

2. Kentucky has deleted the definition of "experimental practice." Since the Federal rules do not contain a definition of "experimental practice", the Director finds that the deletion does not render the Kentucky rules less effective than the Federal rules.

3. The Director finds that various minor proposed editorial changes to 405 KAR 7:020 do not change the effectiveness of the rules with respect to the corresponding Federal regulations.

405 KAR 7:060—Experimental Practices Mining

4. Kentucky has amended 405 KAR 7:060 to contain all the requirements concerning experimental practices found in the Federal rules at 30 CFR 785.13. In addition, the Kentucky experimental practice rules also contain provisions in 405 KAR 7:060 section 2(2)(e) and section 3(3) which clarify that (1) procedures must be outlined for the steps to be taken if the experimental practice should fail to provide the required protection of the environment or public health or safety, and (2) these procedures, and any others required by the regulatory authority or OSMRE, must be followed in the event the practice fails to provide the required level of protection, so that maximum protection is provided to the environment and public health and safety. The Director finds this clarification to be consistent with the Federal requirements. Therefore, the Director finds the Kentucky rules no less effective than the Federal rules.

405 KAR 8:030—Surface Coal Mining Permits

5. Kentucky has amended 405 KAR 8:030 section 21(2), to add the phrase "to the satisfaction of the cabinet" to specify the degree to which certain demonstrations of the lack of prime farmland must be made. The Director finds that the phrase clarifies the requirements in a manner which does not alter the effectiveness of the rule. Also, revisions to subsection (4) of section 21 would require that, if no soil survey exists for lands within a proposed permit area, the applicant shall request the U.S. Soil Conservation Service (SCS) to conduct a soil survey. The Federal rule at 30 CFR 785.17(b)(3) specifies that, if no such survey exists and if a reconnaissance inspection indicates the possibility of prime farmland, the applicant shall have a survey made of the detail used by the SCS for operational conservation planning. Since the SCS has agreed to perform this function, the Director finds the rule to be no less effective than the Federal rule, as the end result is that a soil survey of the detail used by SCS must be made of all areas in question prior to approval of the permit application.

Kentucky has added subsections 5, 6, and 7 to section 21 to require that the Natural Resources and Environmental Protection Cabinet (NREPC) (1) decide to grant or deny a negative prime farmland determination based upon pertinent information, (2) consult with the SCS in deciding upon the determination when it would be based on certain factors, and (3) examine records on crop history available from the Agriculture Stabilization and Conservation Service when deciding whether the land was historically used as cropland. The Director finds that the new subsections clarify the regulatory authority responsibilities implied in 30 CFR 785.17(b) and are therefore, no less effective than the Federal rule.

6. Kentucky has proposed several editorial changes to update sections 32 and 38, which the Director finds do not alter the effectiveness of the rule.

405 KAR 8:040—Underground Coal Mining Permits

7. Kentucky has amended sections 21, 32, and 38 of 405 KAR 8:040 in a manner identical to that for 405 KAR 8:030, as discussed above in Findings 5 and 6. Therefore, the Director finds the proposed rules to be no less effective than the corresponding Federal rules.

405 KAR 8:050—Permits for Special Categories of Mining

8. Kentucky has amended the prime farmland permit requirements of 405 KAR 8:050 section 3 to include and expand upon all applicable requirements of the Federal rules in 30 CFR 785.17, except for the Kentucky counterparts to 30 CFR 785.17(b), which are found in 405 KAR 8:030 section 21 and 405 KAR 8:040 section 21. Therefore, the Director finds the Kentucky rules to be no less effective than the Federal rules. The Federal rule at 30 CFR 823.11(a), which exempts certain long-term facilities from prime farmland performance standards, has been suspended insofar as it applies to surface mining operations (50 FR 7278, February 21, 1985). However, 405 KAR 8:050 section 2(1)(d), which contains the Commonwealth's counterpart to 30 CFR 823.11(a), applies only to underground mining activities and is, therefore, consistent with the Federal rule. Kentucky has included no counterpart to 30 CFR 823.11(b), which has also been suspended.

9. Kentucky has made minor wording changes and technical corrections to 405

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KAR 8:050 section 7, which establishes requirements for variances for delay of contemporaneous reclamation in combined surface and underground mining operations. The Director finds that the revised Kentucky rule is no less effective than its Federal counterpart at 30 CFR 785.18. Kentucky has deleted the counterpart to 30 CFR 785.18(c)(9)(ii), which requires that a finding be made that the permit contains specific conditions identifying the applicable provisions of section 515(b) of SMCRA, 30 CFR Part 816 and the regulatory program. The Director finds that deletion of this requirement does not render the rule less effective than the Federal rule since all applicable provisions will apply regardless of whether they are identified in a specific finding.

10. Kentucky has amended 405 KAR 8:050 section 8, which concerns coal processing plants not located within the permit area of a specified mine, in a manner identical to the emergency rules approved by the Director on April 9, 1986 (51 FR 12138). A discussion of this rule and the Director's findings can be found in Finding 2 of that **Federal Register** notice. For the reasons stated in that finding, the Director finds this rule no less effective than the Federal provisions.

11. Section 9 of 405 KAR 8:050 repeals 405 KAR 20:020, which establishes performance standards for surface and underground mining. Since the corresponding Federal rules at 30 CFR 816.100 and 817.100 have been remanded by the U.S. District Court for the District of Columbia (*In re: Permanent Surface Mining Regulation Litigation II*, October 1, 1984) for failure to provide adequate guidelines, there are currently no Federal provisions with which to compare the Kentucky rules. As discussed in Finding 9 above, the Kentucky rules at 405 KAR 8:050 section 7 establish requirements for concurrent surface and underground mining operations which are no less effective than the Federal rules and no less effective than section 515(b)(16) of SMCRA. Therefore, the Director finds that the Kentucky program with the deletion of 405 KAR 20:020 continues to be no less stringent than SMCRA and no less effective than the Federal regulations.

405 KAR 16:010—General Provisions

12. Kentucky has made several minor editorial changes and technical corrections to its rules at 405 KAR 16:010, which contain general provisions for performance standards for surface mining and reclamation activities. Revised section 3 is amended to clarify the requirements for protection of underground mines when surface mining is allowed within 500 feet of an underground mine (by joint approval of the NREPC, the Mine Safety and Health Administration and the Kentucky Department of Mines and Minerals). The Director finds that section 3 as revised contains requirements which are no less effective than the Federal rules at 30 CFR 816.79.

405 KAR 16:060 and 405 KAR 18:060—General Hydrologic Requirements

13. The Kentucky rules at 405 KAR 16:060 and 18:060 establish general hydrology requirements for surface mining activities and underground mining activities, respectively. Section 1 is amended to add new requirements similar to those of 30 CFR 816.41(a) and 817.41(a). A minor change is made to section 2 to clarify that sediment control measures include sedimentation ponds. Revised section 4 closely resembles the requirements for acid- and toxic-forming materials specified in 30 CFR 816.41(f) and 817.41(f).

Section 5 as amended resembles the Federal hydrologic balance protection requirements at 30 CFR 816.41(b) and 817.41(b). Section 6 as amended contains groundwater protection requirements similar to those of 30 CFR 816.41(d) and 817.41(d). Section 7 as amended contains requirements for transfer of wells similar to those at 30 CFR 816.41(g) and 817.41(g). Section 8 of 405 KAR 16:060, as amended, contains water replacement requirements similar to those of 30 CFR 816.41(h). Section 8 of 405 KAR 18:060, as amended, contains requirements for gravity discharges from underground mines similar to those at 30 CFR 817.41(i). Section 9 of 405 KAR 16:060 and of 405 KAR 18:060, as amended, contains requirements similar to those of 30 CFR 816.41(i) and 817.41(h), respectively, for discharges into an underground mine.

Therefore, the Director finds Kentucky's revised rules at 405 KAR 16:060 and 18:060 to be no less effective than the Federal regulations.

405 KAR 16:080 and 405 KAR 18:080—Diversions

14 Kentucky has amended 405 KAR 16:080 and 405 KAR 18:080, which contain the requirements for diversions of overland flow, shallow groundwater flow, ephemeral streams and intermittent and perennial streams, for surface and underground mining, respectively, to closely resemble the requirements found in 30 CFR 816.43 and 30 CFR 817.43, the corresponding Federal regulations. The revised Kentucky rules also contain design specifications for diversions, as allowed by the Federal rules at 30 CFR 816.43(a)(4) and 817.43(a)(4). The Director finds Kentucky's design specifications to be technically acceptable and consistent with all Federal requirements.

Kentucky has revised its rules at 405 KAR 16:080 section 1(7)(b) and 405 KAR 18:080 section 1(7)(b) to provide that each ephemeral stream channel affected by surface coal mining and reclamation operations shall be reclaimed so as to restore or approximate the premining characteristics of the original stream channel to promote the recovery and enhancement of aquatic habitats, except for situations in which such restoration is precluded by the existence of an approved excess spoil fill, permanent stream crossing, permanent impoundment, coal mine waste disposal area or mountaintop removal constructed in accordance with all requirements of the approved program. Although the Federal regulations at 30 CFR 816.43(a)(3) and 817.43(a)(3) do not expressly provide for such exemptions, the Director finds that they are implicit in the nature of surface coal mining operations and the lesser protection afforded to ephemeral streams by SMCRA and the Federal regulations. The State regulations at 405 KAR 16:180 section 1(1) and 18:180 section 1(1) continue to require that disturbances to and adverse impacts on fish, wildlife and related environmental values be minimized to the extent possible using the best technology currently available. Therefore, the Director finds that section 1(7)(b) of 405 KAR 16:080 and 18:080 is no less effective than the Federal requirements.

The Kentucky rules consistently require that designs be based on the 24-hour precipitation event in lieu of the 6-hour event specified in the Federal rules. Kentucky has determined that, because of watershed characteristics in the mining regions, structures designed for the 24-hour event generally will also be adequate to handle the 6-hour event. In the preamble to its revisions to 30 CFR 816.72(a) and 817.72(a), OSMRE recognized that, depending on the watershed, either the 6-hour or 24-hour event could result in the higher peak runoff volume, but that any difference in peak flow volume would be minor from a practical design and construction standpoint (48 FR 32920, July 19, 1983).

Therefore, except as discussed below, the Director finds the amended rules at 405 KAR 16:080 and 405 KAR 18:080 no less effective than the Federal rules at 30 CFR 816.43 and 30 CFR 817.43, respectively.

Kentucky has revised section 2(3) of 405 KAR 16:080 and 18:080 to provide that, where the NREPC approves the placement of a coal refuse pile, coal waste impoundment or excess spoil fill in an intermittent or perennial stream under 405 KAR 16:060 section 11, and it is not practical to comply with the stream channel restoration requirements of section 2(2), then the stream channel diversion shall comply with the performance standards for diversions affiliated with the structure in question. Kentucky does not specify the situations under which it would be impractical to comply with stream channel restoration requirements. Furthermore, in exempting such diversions from all requirements of section 2(2), it also exempts these structures from the fish and wildlife protection and enhancement requirements of 405 KAR 16:180 and 18:180.

The Federal regulations at 30 CFR 816.43(b) and 817.43(b) provide no such exemptions for diversions of intermittent and perennial streams. Moreover, they require that such diversions be approved only after the regulatory authority makes the findings of 30 CFR 816.57(a)(1) or 817.57(a)(1) that the diversion will not adversely affect water quantity or quality or the related environmental resources of the stream. The corresponding Kentucky rules at 405 KAR 16:060 section 11 and 18:060 section 11 require only that the NREPC find that the mining activities will not adversely affect water quantity or quality. There is no mention of related environmental resources.

The Director recognizes that it sometimes may be appropriate to construct a waste disposal structure or excess spoil fill in an intermittent or perennial stream, and that under certain circumstances (such as a fill in a stream's headwaters) it may not be practical or necessary to provide a restored stream channel. However, no such structures may be built where the stream's environmental resources would be adversely affected. Therefore, the Director finds that proposed 405 KAR 16:060 section 2(3), 405 KAR 18:060 section 2(3), 16:060 section 11(1)(c) and 18:060 section 11(1)(c) are less effective than the corresponding Federal regulations at 30 CFR 816.43(b)(1), 817.43(b)(1), 816.57(a)(1) and 817.57(1), and he is requiring that Kentucky submit further proposed amendments to clarify that, in addition to the limitations imposed by the amendments approved by this rulemaking, exemptions to the channel restoration requirements for intermittent and perennial streams may be approved only where the NREPC finds that the environmental resources of the stream will not be adversely affected.

405 KAR 16:190—Backfilling and Grading (Surface Mining Activities).

15. Kentucky has amended the requirements for backfilling and grading in 405 KAR 16:190 sections 2 and 3 to contain backfilling and grading provisions similar to those of 30 CFR 816.102, except that Kentucky has elected not to exercise its option to adopt a counterpart to 30 CFR 816.102(d), which provides for the disposal of spoil outside the mined-out area in a manner other than that specified for the disposal of excess spoil. Kentucky considers all spoil disposed of outside the mined-out area to be excess spoil, which must be disposed of in accordance with 405 KAR 16:130. Kentucky has also added certain clarifying provisions to the requirements concerning small depressions, retention of impoundments, final grading, disposal of acid-forming and toxic-forming material and coverage of coal seams. Kentucky has also retained its existing requirements for cut-and-fill terraces in 405 KAR 16:190 section 2 (4) unchanged. Although the counterpart Federal rule at 30 CFR 816.102(g) has been remanded by the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation II* (October 1, 1984), States will not be required to amend their programs until revised Federal rules are promulgated. Therefore, the Director finds Kentucky's proposed rules to be consistent with and no less effective than the Federal requirements.

16. Kentucky has amended 405 KAR 16:190 section 6 to require that rills and gullies deeper than nine inches be filled, graded or otherwise stabilized and reseeded and/or replanted. For rills and gullies less than nine inches deep, the NREPC may require this treatment if the rills and gullies are disruptive of the approved postmining land use or to the establishment of vegetation, may result in additional erosion and sedimentation, or may cause or contribute to the violation of a water quality standard. The Director finds that the Kentucky rule contains requirements no less effective than those found in 30 CFR 816.95.

17. Kentucky has amended section 7 of 405 KAR 16:190, which establishes requirements for the remining of previously mined areas, to delete the definition of "adverse physical impact" and to revise all performance standards using this term in accordance with the court's decisions in *In re: Permanent II* (October 1, 1984 and July 15, 1985), and to make minor editorial changes and technical corrections. The revised rule thus requires, inter alia, that all highwalls be eliminated to the maximum extent technically practical using all reasonably available spoil. Therefore, the Director finds that the revised rules are no less effective than the Federal regulations at 30 CFR 816.106, as modified by the suspension notice of January 3, 1985 (50 FR 257). Kentucky has also revised its definition of "previously mined area" at 405 KAR 16:190 section 7(2)(c) to mean "land which was disturbed or affected by coal mining operations that occurred prior to May 3, 1978, which was not reclaimed to the standards of this Title, and for which there is no continuing responsibility to reclaim to the standards of this Title." Although the corresponding Federal definition at 30 CFR 701.5 which does not contain the May 3, 1978 cutoff date, has been remanded by the court to the extent that it includes land subject to the requirements of SMCRA, the revised Kentucky rule addresses the court's concerns by limiting its application to certain lands mined prior to May 3, 1978 (the effective date of SMCRA for most operations) for which there is no responsibility to reclaim in accordance with SMCRA (this excluding those operations receiving new or revised permits after February 3, 1978 which are also subject to SMCRA). Therefore, the Director finds that the definition proposed by Kentucky is no less stringent than the requirements of section 151(b)(3) of SMCRA.

405 KAR 18:190—Backfilling and Grading (Underground Mining Activities)

18. Kentucky has amended sections 2 and 3 of 405 KAR 18:190 in a manner similar to that for 405 KAR 16:190, as discussed in Finding 15 above, except that provisions for cut-and-fill terraces are not included. The Director finds the rules no less effective that the Federal rules in 30 CFR 817.106 except as discussed below.

Rule 405 KAR 18:190 sections 2(8)(c) and 2(9) contain additional provisions allowing underground mining activities under permit as of the effective date of the rule and having a face-up area created before May 3, 1978, to comply with the backfilling and grading plan in the approved permit, even if the permit does not require complete elimination of the pre-existing face-up area. These amended sections do not reference the requirements of amended 405 KAR 18:190 Section 5, which allows a variance for approximate original contour in certain cases when

reaffecting existing highwalls in remaining areas, if all reasonably available spoil is used to backfill the highwall to the maximum extent technically practicable. Since Section 5 is not referenced in 405 KAR 18:190 section 2(8)(c) and (9), the rules may be interpreted to allow a variance from approximate original contour beyond that allowed by the Federal rules. The Federal rules at 30 CFR 816.106 and 817.106, as modified by the suspension notice of January 3, 1985 (50 FR 257), allow a variance from approximate original contour when reaffecting existing highwalls only if all reasonably available spoil is used to eliminate the highwall to the maximum extent technically practical. Therefore, the Director finds the rules at 405 KAR 18:190 section 2(8)(c) and (9) are less effective than the Federal requirements in 30 CFR 816.106 and 817.106, and is requiring that Kentucky further amend its rules to delete these paragraphs.

19. Kentucky has amended section 5 of 405 KAR 18:190, regrading or stabilizing rills and gullies, in a manner similar to section 6 of 405 16:190. For the reasons stated in Finding 16 above, the Director finds the rule no less effective than its Federal counterpart at 30 CFR 817.95.

20. Kentucky has amended 405 KAR 18:190 section 5, remining previously mined areas, in a manner indentical to section 7 of 405 KAR 16:190. Therefore, for the reasons stated in Finding 17 above, the Director finds 405 KAR 18:190 section 5 no less effective than its Federal counterpart at 30 CFR 817.106(a).

21. Kentucky has added section 6 to 405 KAR 18:190 to establish requirements for temporary storage of materials removed during excavation for underground mining. The rule allows for temporary storage of excavated materials not immediately returned to a mined-out area. Temporary storage areas must be designed and constructed in accordance with all applicable requirements for excess spoil or coal processing waste. All topsoil, substitutes and topsoil supplements to be used in reclamation of the temporary storage area must be stockpiled or temporarily redistributed. If the temporary storage area will exist for six months or more, the area must be seeded or planted. Subsection 3 provides that these temporary storage fills may be retained as permanent structures if (1) the cabinet approves retention as a permit revision after finding that alternate backfill materials are available for the minesite, (2) topsoil, topsoil substitutes and topsoil supplements are redistributed on the fill, (3) the fill in revegetated and reclaimed in accordance with regular program standards, and (4) the borrow area from which alternate backfill material is obtained in permitted under a valid permit.

Although the Federal rules for backfilling and grading do not specifically address temporary storage of excavated materials, the Director finds that the Kentucky provisions do not conflict with the Federal rules. The requirement that the temporary storage areas be designed and constructed in accordance with the Kentucky rules for disposal of excess spoil or coal processing waste ensures that if the temporary storage area is later approved as a permanent structure, all applicable standards will have already been met. Since any borrow material must be obtained from a permitted area, regulatory standards will be met on the borrow area. The requirements for handling of topsoil, topsoil substitutes and topsoil supplements are not less effective than the corresponding Federal rules at 30 CFR 817.22. Therefore, the Director finds that the revised Kentucky rules at 405 KAR 18:190 section 6 do not conflict with the Federal rules and provide protection no less effective than the Federal rules for backfilling and grading at 30 CFR 817.102 and for topsoil protection at 30 CFR 817.22.

405 KAR 20:040—Prime Farmland

22. Except as discussed below, Kentucky has amended its prime farmland performance standards at 405 KAR 20:040 by replacing all existing requirements with new language closely resembling all applicable portions of the counterpart Federal rules at 30 CFR Part 823. Therefore, the Director finds that 405 KAR 20:040, as revised, is no less effective than the Federal regulation at 30 CFR Part 823.

(a) To conform with 30 CFR 823.4(b), which requires that the regulatory authority employ the specifications for prime farmland soil removal, storage, replacement and reconstruction established by the SCS for each State, section 2 of 405 KAR 20:040 provides for the incorporation by reference of the SCS document entitled "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland" as it existed in January 1986. The Director finds that the Kentucky rules reflect the requirements of 30 CFR 823.4 and are no less effective than the Federal rule.

(b) In lieu of including language similar to that of 30 CFR 823.14(b) specifically defining when soil horizons shall be considered as inhibiting or preventing root penetration, Kentucky requires that such a determination be made in accordance with the SCS specifications contained in SCS manual incorporated by reference in section 2. The Director finds the standards incorporated by reference are no less effective than specified in 30 CFR 823.14(b).

(c) Subsection (1) of section 6 incorporates by reference the requirements for prime farmland revegetation and demonstration of successful restoration of soil productivity contained in "Kentucky Prime Farmland Revegetation and Crop Production Restoration After Mining," published by the Kentucky Department for Surface Mining Reclamation and Enforcement in consultation with the SCS in June 1985. The referenced publication establishes requirements for revegetation requirements, crop growth and measurement, target yields and measurement of crop yields which the Director finds to be no less effective than the corresponding Federal requirements at 30 CFR 823.15.

(d) Subsection (2) of section 6 requires that the NREPC verify data on crop yields from restored prime farmland; it also requires that the permittee provide the NREPC with 30 days notice of anticipated harvest dates. Subsection (3) extends Section 6 to initial program prime farmland sites as well as permanent program sites. Although there are no direct counterparts in the Federal rules, the Director finds that these rules do not conflict with any Federal rule and that they are no less effective then the Federal provisions.

405 KAR 20:070—Office Coal Processing Plants

23. Kentucky has proposed permanent rules for offsite coal processing plants to supersede the emergency regulations at 405 KAR 20:070E approved on April 9, 1986 (51 FR 12138). The proposed rules are identical to the emergency rules except for minor editorial changes and the deletion of section 7, the Statement of Emergency. Therefore, for the reasons set forth in Findings 4 through 10 in the April 9, 1986 Federal Register, the Director finds the proposed Kentucky rules at 405 KAR 20:070 to be consistent with and no less effective than the Federal rules at 30 CFR 785.21 and 30 CFR Part 827.

IV. Public Comments

For a complete history of the opportunity provided for public comment on the proposed amendment, please refer to the portion of this notice

entitled "Submission of Proposed Amendments". Of the government agencies invited to comment on the proposed Kentucky amendments pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), responses were received from the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture Soil Conservation Service (SCS) and the U.S. Department of the Interior Fish and Wildlife Service (FWS). A summary of the responses appears below:

1. EPA Concurred With the Proposed Amendments

2. The SCS stated that the proposed regulations accurately describe the role the SCS is currently assuming in the Kentucky program. Because SCS has completed soil surveys in many of Kentucky's coal counties, future involvement of SCS personnel will be reduced, although the SCS said it would continue to work with Kentucky as needed. The SCS also forwarded a copy of a letter sent to the Kentucky Department of Surface Mining Reclamation and Enforcement, stating that the SCS will interpret paragraph 4 of 405 KAR 8:030 section 21, which provides that the applicant shall request the SCS to conduct a soil survey on unmapped lands, to mean that any survey will be conducted in conjunction with the National Cooperative Soil Survey agencies. The Director acknowledges these comments and finds no conflict with the SCS interpretation of Kentucky's regulations.

3. The FWS recommended that 405 KAR 16:080 section 2(3) and 405 KAR 18:080 section 2(3) be deleted because they appear to allow an applicant to place mine-related fill into an intermittent or perennial stream without complying with the prescribed environmental performance standards for stream channel diversions. The Director notes that the proposed Kentucky rules provide an exemption only from certain channel restoration requirements, not all environmental performance standards. While he does not agree that these provisions should be deleted, the Director is requiring that Kentucky further amend its program to limit these exemptions to circumstances where the NREPC finds that the stream's environmental resources would not be adversely affected, as discussed in Finding 14 elsewhere in this notice.

In response to the request for comments from the public, Thomas J. FitzGerald submitted several comments on behalf of the Kentucky Resources Council. The comments were generally supportive of the proposed amendments except as discussed below.

1. Mr. FitzGerald expressed concern over use of the term "processing" in place of "preparation" in Kentucky's definition of "coal processing plant" at 405 KAR 7:020, but he also noted that the difference would be nonsubstantive if the extent of jurisdiction reflects that specified in the corresponding Federal rules and judicial opinions. The Director finds that use of "processing" in place of "preparation" is not a substantive difference, since Kentucky defines "coal processing plant" as including all facilities listed in the Federal definition of "coal preparation plant".

2. Mr. FitzGerald questioned the authority by which Kentucky proposes [in 405 KAR 8:030 and 405 KAR 8:040 section 21(2)(b)] to allow a negative prime farmland determination based solely on the slope of the land. OSMRE defines "prime farmland", in part as those lands defined by the Secretary of Agriculture in 7 CFR 657. The referenced regulations assign the responsibility for defining and identifying prime farmlands in each State to the SCS State Conservationist. In response to the above comment, OSMRE consulted with the SCS State Conservationist for Kentucky to clarify his concurrence with Kentucky's rule allowing a negative determination based on a 10% slope. The SCS reaffirmed its concurrence, stating that there are no prime farmlands in Kentucky on lands where the slope exceeds 10%.

3. With regard to prime farmland requirements, Mr. FitzGerald stated that Kentucky lacks the authority to defer submission of cropping plans until after permit issuance, since this omission woud hinder the ability of the Commonwealth and the public to adequately evaluate the applicant's proposed restoration plan. If OSMRE accepts deferred submission of cropping plans, the commenter stated that opportunity should be provided for public review and comment on the proposed plans when they are actually submitted.

The commenter is apparently referring to 405 KAR 8:050 section 3(2)(c), which requires that the application include a plan for revegetation, crop production and demonstration of restoration of soil productivity in conformance with 405 KAR 20:040 section 5. The rule grants the cabinet the authority to allow detailed cropping plans to be submitted as a permit revision after issuance of the permit. The rule rather narrowly defines detailed cropping plans as including items such as identification of reference crops, locations of test plots and yield measurement methodologies, and it further requires that the initial revegetation plan be included in the application before the permit is issued. Furthermore, Kentucky requires in 405 KAR 20:040 section 6 that prime farmland revegetation and restoration be accomplished in accordance with the requirements of a document entitled "Kentucky Prime Farmland Revegetation and Crop Production Restoration After Mining." This publication clearly specifies that all restoration plans must include the crop with the deepest root zone requirements, and that in Kentucky that crop is corn. Therefore, since, as required by 30 CFR 785.17(c)(2) and (3), Kentucky requires that all applications involving prime farmland include a detailed plan for soil removal, storage and reconstruction, and a demonstration that the proposed method of reclamation will achieve equivalent levels of yield, the Director finds that applications will contain sufficient information to enable all parties to conduct an adequate analysis, and that the Kentucky rules are no less effective than the Federal regulations.

4. The commenter questioned the authority of the NREPC to allow temporary storage areas approved under 405 KAR 18:190 section 6 to remain permanently and to authorize the utilization of borrow material. As discussed in Finding 21 of this notice, the Director has found these provisions to be no less effective than the Federal regulations.

5. Mr. Fitzgerald expressed concern that 405 KAR 20:040 section 4(b), which allows mixing of the B and C soil horizons or other soil materials where such a combination is shown to be equally or more favorable for plant growth than the B horizon, places the demonstration burden on the NREPC. The Director finds that this concern is misplaced in that 405 KAR 8:050 section 3(2)(b)(6) requires that the applicant include these demonstrations in the permit application.

6. The commenter expressed concern with the exceptions to the 48-inch minimum depth requirement for reconstructed prime farmland soils provided in 405 KAR 20:040 section 5(1), especially those for fragipan soils. Proposed 405 KAR 20:040 section 5(1) specifies that the determination of whether a horizon inhibits or prevents root penetration shall be in accordance with the SCS specifications incorporated by reference. The Director has found these specifications to be similar to and no less effective than the Federal regulations at 30 CFR 823.14(b).

7. The commenter stated that design requirements concerning slope steepness and length and vegetative

VOL 51 ISS 166 AG 27 1986 UMI

cover should be established for prime farmland soil stockpiles. The Director believes that the general performance standards contained in the Kentucky program adequately provide for the protection desired by the commenter and that inflexible design requirements are unnecessary. The SCS specifications for prime farmland restoration, which the State rules incorporate by reference, also address the commenter's concerns.

8. The commenter stated that the rules should specify that prime farmland soils be stockpiled separately from non-prime farmland soils. The Director believes that this is an implicit requirement of 405 KAR 20:040 section 4 unless an alternate resoiling material variance has been obtained. In addition, the SCS specifications for prime farmland restoration, which State rules incorporate by reference, explicitly include this requirement.

9. The commenter stated that final regraded slopes exceeding 150 feet in length on prime farmland should be broken with terraces to minimize erosion, and that overall slopes should be within the slope range of similar unmined prime farmland units. The Director finds that such requirements are unsupported by the Federal regulations and that Kentucky's general erosion control and approximate original contour performance standards provide adequate protection. In addition, the SCS specifications for prime farmland restoration, which the State rules incorporate by reference, do include the commenter's second recommendation.

10. The commenter believes that 405 KAR 8:050 and 20:040 do not adequately address the compaction issue for prime farmland soils. Specifically, the commenter believes the use of certain equipment and soil replacement techniques should be encouraged. The Director finds that the SCS specifications, which the State rules incorporate by reference, already do so. In addition, the commenter stated that the proposed rules fail to require measurement of premining bulk density and fail to establish maximum allowable bulk density standards for reclaimed areas. The Director notes that 405 KAR 8:050 section 3(2)(a)(3) requires evaluation of premining bulk densities and that 405 KAR 20:040 section 5(2) requires that the operator replace soil material with proper compaction. The SCS prime farmland restoration specifications, which the State rules incorporate by reference, also include more specific soil reconstruction standards and planning guidelines. The Director finds these program provisions to be no less effective than the Federal rules at 30 CFR 823.14(a) and (c), which require both use of SCS soil reconstruction specifications and soil replacement with adequate compaction.

V. Director's Decision

The Director, based on the above findings, is approving the Kentucky program amendments as submitted on February 7, 1986, and as submitted on August 30, 1985 and September 16, 1985, and modified on February 7, 1986. In addition, he is requiring that Kentucky submit further proposed amendments. As discussed in Finding 14, Kentucky is required to submit amendments to clarify that no exemptions to stream channel restoration requirements for intermittent and perennial streams will be approved unless the NREPC finds that the environmental resources of the stream will not be adversely affected. As discussed in Finding 18, Kentucky is required to delete its rules at 405 KAR 18:190 sections 2(8)(c) and 2(9). The Federal rules at 30 CFR Part 917 are being amended to implement the Director's decision.

VI. Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE as exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 19, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 917—KENTUCKY

30 CFR Part 917 is amended as follows:

1. The authority citation for Part 917 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

2. 30 CFR 917.15 is amended by adding a new paragraph (v) as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * *

(v) The following amendments submitted to OSMRE on February 7, 1986, and on August 30, 1985 and September 16, 1985, as modified on February 7, 1986, are approved effective August 27, 1986: Revisions to the Kentucky Administrative Regulations (KAR) at 405 KAR 7:020, 405 KAR 7:060, 405 KAR 8:030, 405 KAR 8:040, 405 KAR 8:050, 405 KAR 16:010, 405 KAR 16:060, 405 KAR 16:080, 405 KAR 16:190, 405 KAR 18:060, 405 KAR 18:080, 405 KAR 18:190, 405 KAR 20:040, 405 KAR 20:070; and the following documents incorporated by reference: "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland;" "Kentucky Prime Farmland Revegetation and Crop Production After Mining;" "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields;" and "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields."

3. 30 CFR 917.16 is amended by adding a new paragraph (d) to read as follows:

§ 917.16 Required program amendments.

* * * * *

(d) By February 27, 1987 Kentucky must submit copies of proposed regulations or otherwise propose to amend its program: (1) to provide that, in addition to the limitations imposed by 405 KAR 16:080 section 2(3) and 405 KAR 18:080 section 2(3), no exemptions to channel restoration requirements for intermittent and perennial streams shall be approved unless the NREPC finds that the environmental resources of the stream will not be adversely affected; and (2) to delete the provisions found at

405 KAR 18:190 section 2(8)(c) and 405 KAR 18:190 section 2(9).

[FR Doc. 86-13131 Filed 8-26-86; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS NEWPORT et al.

AGENCY: Department of the Navy, DOD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS NEWPORT (LST 1179), USS SUMTER (LST 1181), USS FRESNO (LST 1182), USS FREDERICK (LST 1184), USS SCHENECTADY (LST 1185), USS TUSCALOOSA (LST 1187) USS RACINE (LST 1191), USS SPARTANBURG COUNTY (LST 1192), USS FAIRFAX COUNTY (LST 1193), USS LA MOURE COUNTY (LST 1194), USS HARLAN COUNTY (LST 1196), USS BARNSTABLE COUNTY (LST 1197), and USS BRISTOL COUNTY (LST 1198) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLRECS without interfering with their special function as naval tank landing ships. The intended effect of the rule is to warn mariners in waters where 72 COLRECS apply.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS NEWPORT (LST 1179), USS SUMTER (LST 1181), USS FRESNO (LST 1182), USS FREDERICK (LST 1184), USS SCHENECTADY (LST 1185), USS TUSCALOOSA (LST 1187), USS RACINE (LST 1191), USS SPARTANBURG COUNTY (LST 1192), USS FAIRFAX COUNTY (LST 1193), USS LA MOURE COUNTY (LST 1194), USS HARLAN COUNTY (LST 1196), USS BARNSTABLE COUNTY (LST 1197), and USS BRISTOL COUNTY (LST 1198) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as Navy ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these ships in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS NEWPORT	LST 1179	N/A	N/A	N/A	N/A	N/A	N/A	X	57
USS SUMTER	LST 1181	N/A	N/A	N/A	N/A	N/A	N/A	X	91
USS FRESNO	LST 1182	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS FREDERICK	LST 1184	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS SCHENECTADY	LST 1185	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS TUSCALOOSA	LST 1187	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS RACINE	LST 1191	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS SPARTANBURG COUNTY	LST 1192	N/A	N/A	N/A	N/A	N/A	N/A	X	86
USS FAIRFAX COUNTY	LST 1193	N/A	N/A	N/A	N/A	N/A	N/A	X	90
USS LA MOURE COUNTY	LST 1194	N/A	N/A	N/A	N/A	N/A	N/A	X	86
USS HARLAN COUNTY	LST 1196	N/A	N/A	N/A	N/A	N/A	N/A	X	86
USS BARNSTABLE COUNTY	LST 1197	N/A	N/A	N/A	N/A	N/A	N/A	X	86
USS BRISTOL COUNTY	LST 1198	N/A	N/A	N/A	N/A	N/A	N/A	X	90

Dated: August 13, 1986

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-19320 Filed 8-26-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS STERETT

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS STERETT (CG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS

without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400 Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS STERETT (CG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i).	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical seperation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of foward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS STERETT	CG 31	N/A	N/A	N/A	N/A	N/A	X	X	31

Dated: July 16, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-19078 Filed 8-26-86; 8:45 am]
BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 171

[OPP-41002; FRL-3069-9]

Pesticide Programs; Creosote, Pentachlorophenol and Inorganic Arsenicals; Certification of Wood Preservative Applicators in EPA-Administered Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification of policy.

SUMMARY: Today's notice outlines the procedures EPA will institute to certify wood preservative applicators in EPA-administered pesticide applicator certification programs in Colorado and Nebraska.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT:

Nebraska Program: C.E. Poindexter, Environmental Protection Agency, Region VII, 726 Minnesota Ave., Kansas City, KS 66101, (913-236-2835).

Colorado Program: David Combs, Environmental Protection Agency, Region VIII, One Denver Place, Suite 1300, 999 18th St., Denver, CO 80202-2413, (303-293-1744).

SUPPLEMENTARY INFORMATION: EPA issued a Notice of Intent to Cancel registrations of pesticide products containing creosote, pentachlorophenol, and inorganic arsenicals (hereafter referred to collectively as "wood preservatives") which was published in the **Federal Register** of July 13, 1984 (49 FR 28666). The notice, among other things, classified for restricted use wood preservative uses of creosote, pentachlorophenol and inorganic arsenicals.

In response to this notice some registrants made applications to amend their product registrations for restricted use. Other registrants challenged the label changes required by the notice. Products for which challenges were filed could, under the provisions of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), continue to be sold with their existing labeling pending resolution of the challenge. EPA then issued notices on October 31, 1984 and January 30, 1985 indefinitely postponing imposition of the restricted use labeling on products where revised restricted use labeling had been voluntarily submitted. By taking this action EPA retained similar general use labeling on all wood preservative products pending the outcome of the challenges to the July 13, 1984 notice. This action prevented the confusion and inequity that would have resulted from having similar products with general and restricted use labels available.

A notice of settlement was issued on September 30, 1985. Pursuant to this notice of settlement, a notice outlining the final registration requirements was published in the **Federal Register** of January 10, 1986 (51 FR 1334).

EPA certifies commercial and private pesticide applicators in Nebraska and private applicators only in Colorado. The Agency expects that most wood preservatives will be used by commercial applicators. However, some wood preservatives have registered farm uses and may be applied by private applicators. Any private applicator applying wood preservatives for the approved farm uses must be acting in the capacity as a private applicator as defined by FIFRA section 2(e)(2). Section 2(e)(2) of FIFRA defines a private applicator as—

". . . a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity . . . ."

Competency requirements for private applicators in EPA-administered programs established at 40 CFR 171.5 have been reviewed by the Office of Pesticide Applicator Certification and Training and deemed adequate to assure proper farm use of wood preservatives. Circumstances where a private applicator can use wood preservatives are limited. Therefore, private applicators presently certified in EPA-administered programs will not require additional certification to use wood preservatives.

EPA has also reviewed the competency standards for commercial applicators established at 40 CFR 171.4. Based on this review EPA has determined that commercial applicators certified by EPA in the established categories at 40 CFR 171.3 are competent to use wood preservatives in support of their normal activities. Examples of this would be the treating of landscape timbers by commercially certified ornamental and turf applicators or the treating of poles, ladders, etc., by commercially certified right-of-way or forest pest control applicators. As is the case with private applicators, presently certified commercial applicators will not require additional certification to use wood preservatives under these circumstances.

However, there is another group of pesticide applicators, who primarily use wood preservatives, generally work in fixed locations and treat wood that will later be used in construction as opposed to treating of structures in support of their normal activities. To accommodate this group of applicators, programs will include a wood preservation subcategory under the existing category defined at 40 CFR 171.3(b)(7), Industrial, Institutional, Structural and Health Related Pest Control. This wood preservation subcategory is established pursuant to the authority at 40 CFR 171.11(c)(2) which states—

". . . The Administrator may adopt subcategories as he or she deems necessary, consonant with the needs of the individual State or Reservation."

Wood preservation applicators certified in this subcategory must meet the general standards of competency requirements at 40 CFR 171.4(b) and also demonstrate a practical knowledge of pest problems and pests associated with wood degradation, including the pests' life cycles, types of formulations appropriate for their control, and methods of application, including proper means of container storage, disposal of containers, and wastes and procedures to contain spills that avoid contamination and exposure of the environment including people, domestic animals, and wildlife. Since human exposure, and particularly applicator exposure, is frequently a potential problem, applicators must demonstrate a practical knowledge of possible chronic and acute adverse effects and of the specific factors which may lead to these hazardous conditions, including continuous exposure in the various situations encountered in this subcategory. Applicators must also be aware of basic first aid procedures, appropriate protective equipment, and any required monitoring procedures. Applicators must also demonstrate practical knowledge of environmental conditions, including surface and ground waters, related to this activity.

Dated: August 5, 1986.

Morris Kay,

Regional Administrator, Region VII.

Dated: August 13, 1986.

Irwin L. Dickstein,

Acting Regional Administrator, Region VIII.

[FR Doc. 86-18989 Filed 8-26-86; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 51, No. 166
Wednesday, August 27, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Amendment No. 1; Doc. No. 3629S]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1987 and succeeding crop years. The intended effect of this rule is to remove the Premium Adjustment Table and establish premium on an actual production history basis. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data and opinions, on this proposed rule must be submitted not later than September 26, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures The sunset review date established for these regulations is August 1, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Corporation has established that rate adjustments for insurance experience (loss ratio) can best be accomplished through establishing production guarantees based on an Actual Production History (APH) basis. Further adjustments based on the number of losses and corresponding loss ratio has no actuarial basis in crop insurance.

In complying with this new direction, the premium adjustment provisions based on insurance experience have been or are being removed as crop policies are converted from an area to APH basis. Cotton was one of the first crop policies converted to APH and its premium adjustment was modified at that time.

However, experience has indicated that APH and premium adjustment based on experience are duplicative and that the premium adjustment table should be removed to be consistent with other programs. It is therefore proposed that the cotton crop insurance regulations be amended for the 1987 crop year to delete the premium adjustment provision from the policy.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the Federal Register. Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 421

Crop insurance; Cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby proposes to amend the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1987 and succeeding crop years, in the following instances:

PART 421—[AMENDED]

1. The authority citation for 7 CFR Part 421 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In § 421.7(d), Section 5. of the FCIC policy is amended by removing the Premium Adjustment Table and revising subsection 5.a. to read as follows:

§ 421.7 The application and policy.

* * * * *

(d) * * *

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

* * * * *

Done in Washington, DC, on August 4, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–19335 Filed 8–26–86; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 424

[Amendment No. 1; Doc. No. 3627S]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1987 and succeeding crop years. The intended effect of this rule is to remove the Premium Adjustment Table, and establish premium on an "actual production history" basis. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 26, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Corporation has established that rate adjustments for insurance experience (loss ratio) can best be accomplished through establishing production guarantees based on an Actual Production History (APH) basis. Further adjustments based on the number of losses and corresponding loss ratio has no actuarial basis in crop insurance.

In complying with this new direction, the premium adjustment provisions based on insurance experience have been or are being removed as crop policies are converted from an area to an APH basis. Rice was one of the first crop policies converted to APH and its premium adjustment table was modified at that time.

However, experience has indicated that APH and premium adjustment based on experience are duplicative and that the premium adjustment table should be removed to be consistent with other programs. It is therefore proposed that the rice crop insurance regulations be amended for the 1987 crop year to delete the premium adjustment provision from the policy.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 424

Crop insurance; Rice.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1987 and succeeding crop years, in the following instances:

PART 424—[AMENDED]

1. The authority citation for 7 CFR Part 424 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In § 424.7(d), Section 5. of the FCIC policy is amended by removing the Premium Adjustment Table and revising subsection 5.a. to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

* * * * *

Done in Washington, DC, on August 4, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–19336 Filed 8–26–86; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 425

[Amendment No. 1; Doc. No. 3630S]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Require the selection of the high price election for quota peanuts when an insured chooses to use the contract price option; and (2) allow greater flexibility concerning the date the contract must be signed. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data and opinions on this proposed rule must be submitted not later than September 26, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

VOL
51
ISS
166
AG
27
1986
UMI

FOR FURTHER INFORMATION CONTACT: Peter F Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC proposes to amend the price election agreement for non-quota peanuts as contained in the Peanut Crop Insurance Regulations (7 CFR Part 425) by (1) requiring the selection of the high price election for quota peanuts when the insured chooses to use the contract price option; and (2) allowing greater flexibility concerning the date the contract must be signed.

Background

Price elections are established at three levels: Low, medium, and high. On certain crops, as with peanuts, multiple price elections are provided at each level, and the insured is required to select a level basis. However, with the use of the contract price option, the insured can, in effect, select price elections at two different levels.

This is possible because the contract price is equivalent to the highest price election for non-quota peanuts and is selected independently of the prices provided by the actuarial table. For example, the insured may select the low price election for quota peanuts provided by the actuarial table and the highest price election, in the form of a contract price, for non-quota peanuts.

To assure consistency with Corporation policy regarding the selection of price elections, it is necessary to require selection of the high price election for quota peanuts, if the insured wishes to use the contract price option.

The requirement that "the contract is dated on or before the date planting begins" was initially provided in compliance with USDA–ASCS peanut contracting regulations. In subsequent crop years, this date has varied. For example, ASCS allows contracts to be signed until August for the 1986 crop year.

For insurance purposes, the contract need only be signed by the acreage reporting date. To require the insured to sign a contract earlier than necessary limits the time the producer has to analyze current and developing marketing conditions upon which contracting decisions are made.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 425

Crop insurance; Peanut.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1987 and succeeding crop years, in the following instances:

PART 425—[AMENDED]

1. The authority citation for 7 CFR Part 425 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75.430, 52 Stat 73, 77, as amended (7 U.S C. 1506, 1516).

2. 7 CFR § 425.8(a) is revised to read as follows:

§ 425.8 Price election agreement for non-quota peanuts.

(a) Notwithstanding the provisions of § 425.7 of this part, an insured may, upon submission and approval of a Contract Price Election Agreement Option form approved by the Corporation, elect as the price at which indemnities will be computed for all non-quota peanuts, the price stipulated on such form for the current crop year: if (1) you have elected for your quota peanuts the high price election provided by the actuarial table; (2) all non-quota peanuts are contracted as provided under regulations established by the Secretary of Agriculture; (3) the contract is dated by the earlier of the applicable acreage reporting date or the date provided in such non-quota peanut contracting regulations, and shows the pounds contracted and the applicable contract price; and (4) the pounds contracted equal or exceed the pounds of guarantee of non-quota peanuts for the insured's share on all units.

* * * * *

Done in Washington, DC, on August 4, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–19334 Filed 8–26–86; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 85–ANM–7]

Proposed Alteration of Restricted Areas R–5701 and R–5706 Boardman, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 85–ANM–7, which was published in the **Federal Register** on February 24, 1986. That NPRM proposed to alter the descriptions, altitudes, and times of use of Restricted Areas R–5701 and R–5706 located near Boardman, OR.

Based on comments received, the Navy Department requested further rulemaking action be terminated.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

The Proposed Rule

On February 24, 1986, a Notice of Proposed Rulemaking was published in the **Federal Register** to alter the descriptions, altitudes, and times of use of Restricted Areas R-5701 and R-5706 located near Boardman, OR. This would have given the Department of Navy additional restricted airspace to accommodate changes in weapons delivery tactics.

Summary of Comments

The comment period for the NPRM regarding alteration of Restricted Areas R-5701 and R-5706 located near Boardman, OR, closed on April 11, 1986. Comments were received from the State of Oregon Aeronautics Division, the City of Boardman, OR; and the Boeing Commercial Airplane Company. The objections received did not deal with the vertical or lateral expansion of the restricted areas as proposed, but rather with the existing boundaries of R-5701 and the floor of R-5706. The Oregon Aeronautics Division requested the east boundary of R-5701 be terminated along long. 119°30'W., and the airspace east of that longitude freed for other users. In addition, they requested the present floor of R-5706 overlying the City of Boardman and the Boardman Airport be raised to 6,000 feet. The Boeing Company requested a 5,000-foot floor and the City of Boardman a floor level of 7,500 or 8,000 feet.

Conclusions

In light of the aforementioned concerns, the Department of the Navy requested further rulemaking action be terminated on these proposals. The airspace requirements to meet their mission needs will be readdressed in the near future with a proposal to establish military operations area airspace over R-5701 and R-5706.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 85-ANM-7, as published in the **Federal Register** on February 24, 1986, (51 FR 6418), is hereby withdrawn.

(Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.)

Issued in Washington, DC, on August 19, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19175 Filed 8-26-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM 86-12-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities: Extension of Time for Reply Comments

August 21, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; extension of reply comment period.

SUMMARY: On July 21, 1986, the Commission issued a notice of proposed rulemaking involving the generic determination of rate of return on common equity for public utilities (51 FR 27050, July 29, 1986). The reply comment period is being extended at the request of the Edison Electric Institute and the Public Service Company of Colorado.

DATE: Reply comments shall be filed on or before September 30, 1986.

ADDRESS: Submit reply comments to: Office of the Secretary Federal Energy Regulatory Commission 825 North Capitol Street, NE. Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357-8400.

SUPPLEMENTARY INFORMATION: On August 7, 1986 and August 11, 1986, Edison Electric Company (EEI), the American Public Power Association (APPA) and the Public Service Company of Colorado (PSCC) filed respective motions for an extension of time to file initial comments and reply comments in response to the Commission's Notice of Proposed Rulemaking issued July 21, 1986, in the above-docketed proceeding. In its motion, the APPA requests that the initial comment period be extended in order to allow the APPA to receive and consider the views of its membership, a large portion of which will be affected by the issues addressed in the proposed rule. In its motion, EEI requests that the reply comment period be extended in order to allow EEI to review what it is anticipated will be numerous and highly technical comments which should be filed in this proceeding, and also to coordinate and solicit the views of EEI's member companies for the preparation of a complete and representative response. PSCC requests that the reply comment period be extended in order to allow the company to review all initial comments filed in this docket and to formulate a response.

Upon consideration, notice is hereby given that APPA's motion to extend the period for filing initial comments is denied. An extension of time for filing reply comments is granted to and including September 30, 1986. Commission staff will be submitting certain information into the record in the near future and notice of this will be issued at that time.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19369 Filed 8-26-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind and Disabled; Reopening and Revising Supplemental Security Income Determinations or Decisions Within Four Years of the Notice of the Initial Determination

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations provide for the reopening and revising of Supplemental Security Income determinations and decisions within four years of the notice of the initial determination if we discover an error affecting a claimant's eligibility or benefit amount during this period through the use of information which we receive through programs for information exchange and data gathering involving either our records or

our records and those of other Federal or State agencies (e.g., the Veterans Administration, the Railroad Retirement Board, the Office of Personnel Management, or State social service agencies). The other time limits for reopening and revising determinations and decisions in the current regulations at section 20 CFR 416.1488 remain unchanged.

We are proposing this regulation because experience has revealed that the two-year period within which we may reopen and revise a determination based on new and material evidence we acquire through data exchange is often too short. In some situations when we complete our exchange, analysis and comparison of data received from other Federal or State agencies, the two-year period has expired before we have reopened the determination to correct errors revealed by the data. When this occurs, we may reopen and revise the determination beyond the two-year period only if the information reveals fraud or similar fault. (Section 20 CFR 416.1488(c))

The proposed regulatory change affects 20 CFR 416.1488.

DATES: Your comments will be considered if we receive them no later than October 27, 1986.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7452.

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations affect the Supplemental Security Income program under Title XVI of the Social Security Act. The Social Security Act makes no provision for reopening and revising determinations and decisions. Our existing regulations, which provide for reopening and revising determinations and decisions within specified time limits (or at any time with regard to certain matters) are based on the general rulemaking authority invested in the Secretary by the Social Security Act. We believe that we and the individual to whom the determination applies should be able to rely on its correctness and at some point, its finality. Therefore, current regulations provide that when a determination or decision is made with respect to eligibility for, the amount of, or the actual payment of benefits, it is generally final and binding upon us and the individual unless an appeal is filed on time or we find that special circumstances exist as set out in current regulations which permit reopening and revising a determination or decision which is otherwise final.

The Proposed Regulations

Under our existing regulations, a determination or decision we make about a person's rights under title XVI of the Social Security Act may be reopened: (1) Within 12 months of the date of the notice of the initial determination for any reason, (2) within 2 years of the date of the notice of the initial determination if we find good cause as defined in our regulations, or (3) at any time if the determination was obtained by fraud or similar fault. We will find that there is good cause to reopen a determination or decision if: (1) New and material evidence is furnished; or (2) a clerical error was made; or (3) the evidence considered in making the determination clearly shows on its face that an error was made. (20 CFR 416.1489)

Currently, data received through the various exchange programs that reveal an error in an eligibility determination constitute "new and material evidence" pursuant to 20 CFR 416.1489(a) and thus provide good cause to reopen and revise a determination or decision within the two-year time span set forth in 20 CFR 416.1488(b).

We are not changing any existing provisions. Rather, we are adding a new provision which creates an exception to the two-year period of limitations and provides a four-year period within which time a determination or decision in a title XVI case may be reopened and revised on the basis of new and material evidence when that new and material evidence surfaces as a result of data exchange programs. Because of the time it takes to run certain of our data exchanges, we do not have time within the current 2-year rule to correct erroneous payments made in previous determinations or decisions that we have identified through those exchanges. The new 4-year period will give us time to make these corrections. (Reopened and revised determinations and decisions are reviewable under § 416.1492.) The proposed four-year period, like the existing two-year period, starts with the date of the notice of the initial determination (§ 416.1488(b) and proposed § 416.1488(c)).

Because of the way we run our data exchanges, we are more likely to detect overpayments than underpayments; we will correct underpayments to the extent that we identify them.

Example: On August 1, 1983, a person applies for SSI benefits, and on September 20, 1983, we send him a letter, the notice of the initial determination of eligibility, informing him that he is eligible for benefits beginning August 1, 1983. On September 10, 1987, we receive information from another Federal agency indicating that his income in August 1983 was too high to permit SSI eligibility in that month. Under the proposed rule, we could reopen and revise the determination that his eligibility began August 1, 1983, provided we inform him in writing about the matter at any time before September 20, 1987, the date which is four years from the date of the notice of the initial determination of eligibility.

Example: On August 1, 1983, a person applies for SSI benefits, and on September 20, 1983, we send him a letter, the notice of the initial determination of eligibility, informing him that he is eligible for benefits beginning August 1, 1983. On September 10, 1987, we receive information from another Federal agency indicating that his income in August 1983 was less than we realized at that time, and as a result his benefit rate should have been higher. Under the proposed rule, we could reopen and revise the initial determination to correct the underpayment, provided we inform him in writing about the matter at any time before September 20, 1987, the date which is four years from the date of the notice of the initial determination of eligibility.

The change will be made by revising section 20 CFR 416.1488.

Regulatory Procedures

Executive Order No. 12291

These regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. We estimate that if we had put the proposed rule into effect in 1982 we could have recovered an additional $42 million in Federal SSI overpayments and $6 million in State SSI overpayments caused by unreported earned income in the first year. We cannot estimate subsequent annual additional recovery, but it would be somewhat less. We estimate the additional administrative

VOL 51 ISS 166 AG 27 1986 UMI

cost to accomplish this additional recovery at $1.1 million (37 work-years) a year. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements.

Regulatory Flexibility Act

We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807 Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 25, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: May 27, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 416 of 20 CFR is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart N of Part 416 reads as follows:

Authority: Secs. 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

2. Section 416.1488 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 416.1488 Conditions for reopening

* * * * *

(c) Within four years of the date of the notice of the initial determination if we discover an error affecting eligibility or benefit amount during the four-year period through the use of information which we receive through programs of information exchange and data gathering involving either our records or our records and those of other Federal or State agencies; or

(d) At any time if it was obtained by fraud or similar fault.

[FR Doc. 86-19344 Filed 8-26-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2560

Proposed Regulation Relating to Civil Penalties Under ERISA Section 502(i)

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation that defines the terms "amount involved" and "correction" under section 502(i) of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act). Section 502(i) of ERISA authorizes the Secretary of Labor to assess civil penalties against parties in interest who engage in prohibited transactions with certain employee benefit plans. This section generally applies to prohibited transactions involving welfare plans and nonqualified pension plans and provides for the imposition of an initial penalty of up to five percent of the "amount involved" in the underlying prohibited transaction. Section 502(i) specifies that if the prohibited transaction is not "corrected" within 90 days, the penalty may be up to 100 percent of the "amount involved". The Department of Labor (the Department) has determined that the interests of participants and beneficiaries of employee benefit plans would be advanced by the exercise of the Department's authority to impose such sanctions under ERISA section 502(i). The proposed regulation would clarify the manner in which the Department will impose sanctions under ERISA section 502(i) and enable the Department to carry out its authority under that section. A separate document which contains regulations establishing procedures for the imposition of civil penalties under ERISA section 502(i) is also being proposed today.

DATES: Written comments concerning the proposed regulations must be received by October 27, 1986. If adopted, the regulation would be effective with respect to section 502(i) proceedings commenced after 30 days from the date of its publication as a final regulation.

ADDRESS: Written comments on the proposed regulation (preferably three copies) should be submitted to: The Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, Washington, DC 20210, Attention: "Proposed Section 502(i) Regulation".

FOR FURTHER INFORMATION CONTACT: Doris F. Jacobs, Esq., Plan Benefits Security Division, Office of the Solicitor, (202) 523-8610, U.S. Department of Labor, Washington, DC 20210, or Rudy Nuissl, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210 (202) 523-8671.

SUPPLEMENTARY INFORMATION: Section 406 of ERISA prohibits certain transactions between an employee benefit plan and a "party in interest" (as defined in section 3(14) of ERISA) with respect to the plan. In section 502(i), Congress granted the Secretary of Labor the authority to impose civil penalties against parties in interest who engage in prohibited transactions with plans that are not subject to the excise tax imposed by section 4975 of the Internal Revenue Code (the Code). These plans include welfare plans and pension plans which are not "qualified" plans under the Code. Section 502(i) provides that the amount of the civil penalty may not exceed 5 percent of the "amount involved" in the transaction except that if the transaction is not "corrected" within 90 days after notice from the Secretary, such panalty may be in an amount not more than 100 percent of the "amount involved." Under section 502(i), the term "amount involved" has the same meaning given it in the prohibited transaction excise tax provisions of the Code. Moreover, section 502(i) directs the Secretary of Labor to issue regulations relating to the term "corrected" which are consistent with the definition of that term in the prohibited transaction excise tax provisions of the Code. The proposed regulation would provide: (1) A definition of the "amount involved" in a prohibited transaction to which the civil penalty in ERISA section 502(i) may be applied, (2) a description of the form and scope of the "correction" of a prohibited transaction which is required to avoid liability for the 100 percent penalty, (3) a description of the "correction period" for purposes of section 502(i), and (4) illustrations of the computation of the civil penalty under section 502(i).

The Department has never assessed the civil sanctions under section 502(i) of ERISA because it has not issued the regulations contemplated by that section and because it has not implemented procedures for an administrative hearing which takes into account the special features and purposes of those sanctions. In the Department's view, the section 502(i) sanction is a valuable additional enforcement tool which is necessary for the effective implementation of its ERISA enforcement program. In this respect, the Department has, in recent years,

devoted more of its enforcement resources to violations involving welfare plans, and the Department anticipates that the availability of the section 502(i) sanction will assist it in resolving these enforcement matters. Thus, the Department is proposing this proposed regulation and, in a separate document, proposed procedural regulations relating to the section 502(i) sanction.

The proposed regulation would provide that the initial civil penalty under section 502(i) shall be 5 percent of the "amount involved" (and that the "second tier" penalty discussed above shall be 100 percent of the "amount involved"). However, the proposed regulation also makes it clear that the decision of an administrative law judge may incorporate a voluntary settlement by the parties for an amount less than 5 percent (or 100 percent).[1]

Amount Involved

In section 502(i) Congress expressly indicated that the term "amount involved" under ERISA section 502(i) is to be defined as that term is defined in section 4975(f)(4) of the Code. Section 4975(f)(4) provides:

> (4) Amount involved.—The term "amount involved" means, with respect to a prohibited transaction, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in paragraphs (2) and (10) of subsection (d) [corresponding to sections 408(b)(2) and 408(c)(2) of ERISA] the amount involved shall be only the excess compensation.
>
> For purposes of the preceding sentence, the fair market value—
>
> (A) in the case of the tax imposed by subsection (a) [the five percent "first-tier" tax], shall be determined as of the date on which the prohibited transaction occurs; and
>
> (B) in the case of the tax imposed by subsection (b) [the 100 percent "second-tier" tax], shall be the highest fair market value during the taxable period.

The definition of "amount involved" under section 4975(f)(4) of the Code is virtually identical to the definition of that term under section 4941 of the Code. Section 4941 prohibits certain transactions between disqualified persons and private foundations and provides for a two-tiered excise tax similar to that imposed by section 4975 of the Code and section 502(i) of ERISA. Temporary Treasury regulations, which are published at 26 CFR 141.4975–13, state that the applicable regulations under section 4941 of the Code will control for purposes of construing certain terms, including "amount involved" and "correction" for purposes of section 4975 of the Code.

Regulations under section 4941 of the Code are found at 26 CFR 53.4941. These regulations discuss the computation of the "amount involved" in several different factual circumstances in which prohibited transactions might arise. 26 CFR 53.4941(e)–1(b). For example, with respect to a prohibited sale of property by a plan to a "disqualified person" (the term under sections 4941 and 4975 of the Code analogous to "party in interest" under ERISA), the regulations provide that the "amount involved" is generally the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received. The regulations under Code section 4941 adopt a different approach for determining the amount involved where the prohibited transaction involves a use of money or property rather than a permanent exchange of property. Thus, in a prohibited loan transaction, the "amount involved" is the greater of the fair market rate of interest on the loan or the rate of interest actually charged in the transaction. With respect to prohibited service arrangements between plans and disqualified persons which do not fit within any of the relevant exemptions, the "amount involved" is the excess of the amount paid by the plan over the fair market value of the services.

In light of the Congressional mandate that "amount involved" be defined under section 502(i) of ERISA as it is defined under Code section 4975(g)(4) (and the adoption of temporary regulations applying the standards developed under section 4941 of the Code for purposes of making determinations of the amount involved under section 4975), the Department proposes to adopt the definition of the term "amount involved" under 26 CFR 53.4941(e)–1(b) for the purpose of computing the civil penalty under section 502(i) of ERISA.

Correction

Section 502(i) of ERISA also states that the regulations for determining "correction" under that section shall be consistent with the standards of "correction" under Code section 4975(f)(5). Section 4975(f)(5) states:

> (5) Correction.—the terms "correction" and "correct" mean, with respect to a prohibited transaction, undoing the transaction to the extent possible, but in any case placing the plan in a financial position not worse than that in which it would be if the disqualified person were acting under the highest fiduciary standards.

As note above, 26 CFR 141.4975–13 provides that principles set out in regulations under section 4941 of the Code are controlling for purposes of construing the term "correction" under section 4975 of the Code. Those regulations (26 CFR 53.4941(e)–1(c)) describe the form and scope of "correction" for various types of prohibited transactions. For example, in the case of a prohibited sale of property by a disqualified person to a plan, "correction" includes rescission of the transaction, where possible, and a payment by the disqualified person of any net income derived from his use of the sale proceeds which exceeds the net income derived from the property received in the transaction. With respect to the prohibited use of property by a disqualified person, "correction" must include the termination of such use. In addition, the disqualified person must pay to the plan an amount equal to the excess (if any) of the fair market value of the use of the property over the amount actually paid until termination, and the excess (if any) of the amount which would have been paid by the disqualified person over the fair market value for its intended period of use (without regard to extensions) if such termination had not occurred. In the case of payment of excessive compensation for services rendered by a disqualified person, "correction" must include a payment to the plan by the disqualified person of any amount which is excessive.

The Department proposes that the specific measures for effecting "correction" contained in 26 CFR 53.4941(e)—1 (c) are also appropriate in the context of proceedings under section 502(i) of ERISA. Therefore, the Department proposes to adopt the standards of "correction" set out in 26 CFR 53.4941(e)—1 (c) for use in section 502(i) proceedings. A party in interest which meets these standards of "correction" in a timely manner (as discussed below) shall not be liable for the second tier 100 percent tax under section 502(i).

The Operation of the Correction Period

Section 502(i) of ERISA allows a party in interest to "correct" a prohibited transaction within 90 days after notice from the Secretary of Labor and thereby avoid the 100 percent second tier penalty. As a general matter, the proposed regulation provides that the "correction period" begins on the date of the prohibited transaction and ends 90

[1] As provided in proposed § 2570.6 of this chapter, the administrative law judge would be required to include the terms and conditions of any settlement agreed to by the parties into his decision.

VOL 51 ISS 166 AG 27 1986 UMI

days after final agency action has been taken in a particular case.

The proposed procedural rules under section 502(i) (which are being published simultaneously with this proposal) provide that when the party in interest receives notice of the Department's intent to impose the sanction, and does not invoke the ERISA section 502(i) prohibited transaction penalty proceedings within 30 days of such notice, then such notice shall become the final agency order and the initiatl five percent penalty will be automatically imposed. If the transaction is not "corrected" within 90 days of such notice, the sanction would thus be increased to 100 percent of the amount involved in the transaction.

If, however, the party in interest elects to invoke the prohibited transaction penalty proceedings and thereby contest the Department's allegations, the initial five percent penalty is not imposed until there is a final agency decision that the prohibited transaction has occurred. Such a final agency determination will occur as a result of the failure of the party in interest to invoke any of its appellate rights within the agency, or by virtue of a final agency decision adverse to the party in interest. However, the proposed regulation also provides that when the party in interest appeals the final agency decision in any case in which the prohibited transaction penalty proceedings have been invoked the period in which the party in interest may "correct" th prohibited transaction and thus avoid the second tier sanction will continue through any subsequent judicial consideration of the case.

The Computation of the Sanction

The proposed regulation also illustrates the method of computing the civil penalty under section 502(i) of ERISA. In this respect, many prohibited transactions between a plan and a party in interest, such as a sale or exchange of property, involve a single prohibited act. In such cases, the computation of the amount of the civil penalty is simply five percent of the "amount involved" in the transaction. However, other prohibited transactions, such as loans or leases, are continuing in nature. In these cases, the proposed regulation provides that the sanction under section 502(i) of ERISA is separately imposed for each year during which the transaction is not corrected. Thus, a continuing prohibited transaction is treated as giving rise to a separate event subject to the saction for each year (as measured from the anniversary date of the transaction) in which the transaction occurs.

Unlike section 4975 of the Code, section 502(i) of ERISA does not expressly refer to an annual sanction for prohibited transactions which are continuing in nature.[2] Congress intended, however, that the sanction under section 502(i) of ERISA would operate in a manner similar to (and would have a similar deterrent effect to) the excise tax under section 4975 of the Code. Further, Congress derived the prohibited transaction provisions of ERISA from the private foundation excise tax language under section 4941 of the Code,[3] and the method of computing the tax under the private foundation excise tax regulations as well-established at the time that Congress passed ERISA.[4] Thus, the Department has concluded that it would be consistent with Congressional intent to compute the sanction under section 502(i) of ERISA in accordance with the method of computation used in the private foundation excise tax regulations.

The above approach is illustrated by the following example. In the case of a prohibited transaction involving a four year lease between a plan and a party in interest at a fair market rental rate of $10,000 per year which is not corrected before the expiration of the lease, the "amount involved" (as determined under 26 CFR 53.4941(e)–1(b)) would be $40,000 (the $10,000 annual rental × the four years the lease was outstanding). The amount of the initial sanction under ERISA section 502(i) would be a total of $5,000: $2,000 ($10,000 × 5% × 4 with respect to the rentals paid in the first year of the lease); $1,500 ($10,000 × 5% × 3 with respect to the second year); $1,000 ($10,000 × 5% × 2 with respect to the third year); $500 ($10,000 × 5% × 1 with respect to the fourth year). This method of calculating the sanction on a prohibited transaction is the same as that illustrated in the private foundation excise tax regulations. 26 CFR 53.4941(e)(1)(ii), Example (2).

Regulatory Flexibility Act

The proposed regulation would not have any significant impact on a substantial number of small entities, and contains no reporting and disclosure requirements. The primary purpose of the regulation is to deter individuals that manage welfare plan assets from engaging in prohibited transactions, e.g., from using such assets for their own benefits. To that extent, the regulation will enable the Department to assess civil penalties on those individuals who are found to be violating the ERISA prohibited transaction provisions. Based on enforcement experience and information filed by welfare plans on annual financial reports (Form 5500's), the Department estimates that it will identify approximately 100 cases each year which will result in penalties. Some, and perhaps many, of the penalties will involve parties in interest with respect to small plans; however, given the selective nature of the burden imposed by this regulation, the Department believes that, if adopted, the proposed regulation will not have a significant impact on small employee benefit plans. In addition, the proposed regulation will not substantially affect small entites which provide services to such plans or small entities in which such plans invest.

Executive Order 12291

The Department has determined that the proposed regulation would not constitute a "major rule" as that term is used in Executive Order 12291 because the action would not result in: an annual effect on the economy of $100 million; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

The proposed regulation defining terms which relate to the imposition of civil sanctions under ERISA section 502(i) does not contain any new information collection requirements and does not modify any existing requirements. Thus, it is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

Statutory Authority

The proposed regulation would be adopted pursuant to the authority contained in section 502 and 505 of ERISA (Pub. L. 93–406, 88 Stat. 892, 894; 29 U.S.C. 1132, 1135).

Written Comments

The Department invites interested persons to submit written data, views, or arguments regarding the proposed regulation. Such written comments (preferably 3 copies) should be submitted to: Office of Regulations and

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[2] Section 502(i) of ERISA also differs from section 4975 of the Code in that it does not expressly exclude fiduciaries acting only as such from the class of persons against whom the civil penalty may be imposed. See sections 4975(a) and 4975(b) of the Code.

[3] H.R. Rep. 1280, 93d Cong., 2d Sess., 321 (1974).

[4] Regulations under section 4941 of the Code were adopted on April 17, 1973 (38 FR 9493).

Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5669, 200 Constitution Avenue, NW., Washington, DC, 20210, Attention: "Proposed Section 502(i) Regulation". All submissions will be open to public inspection in the Office of Public Disclosure, Pension and Welfare Benefits Administration, Room N-4677, 200 Constitution Avenue, NW., Washington, DC, 20210.

List of Subjects in 29 CFR Part 2560

Claims, Employee benefit plans, Employee Retirement Income Security Act, Law enforcement, Pensions.

Proposed Regulation

PART 2560—[AMENDED]

In view of the foregoing, the Department proposes to amend Part 2560 of Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

1. By removing the authority citations following all the sections in Part 2560 and by revising the general authority citation for Part 2560 to read as set forth below:

Authority: 29 U.S.C. 1132, 1135. Section 2560.502–1 also issued under 29 U.S.C. 1132(b)(2); Section 2560.503–1 also issued under 29 U.S.C. 1133, 1022; Section 2560.502i–1 also issued under 29 U.S.C. 1132(i).

2. By adding a new § 2560.502i–1 in the appropriate place to read as follows:

§ 2560.502i–1 Civil penalties under section 502(i).

(a) *In general.* Section 502(i) of the Employee Retirement Income Security Act of 1974 (the Act) permits the Secretary of Labor to assess a civil penalty against a party in interest who engages in a prohibited transaction with respect to an employee benefit plan other than a plan described in section 4975(e)(1) of the Internal Revenue Code (the Code). The initial penalty under section 502(i) is five percent of the total "amount involved" in the prohibited transaction (unless a lesser amount is otherwise agreed to by the parties). However, if the prohibited transaction is not corrected during the "correction period," the civil penalty shall be 100 percent of the "amount involved" (unless a lesser amount is otherwise agreed to by the parties). Paragraph (b) of this section defines the term "amount involved," paragraph (c) defines the term "correction," and paragraph (d) defines the term "correction period." Paragraph (e) illustrates the computation of the civil penalty under section 502(i). Paragraph (f) is a cross reference to the Department's procedural rules for section 502(i) proceedings.

(b) *Amount involved.* Section 502(i) of ERISA states that the term "amount involved" in that section shall be defined as it is defined under section 4975(f)(4) of the Code. As provided in 26 CFR 141.4975–13, 26 CFR 53.4941(e)–(b) is controlling with respect to the interpretation of the term "amount involved" under section 4975 of the Code. Accordingly, the Department of Labor will apply the principles set out at 26 CFR 53.4941(e)–1(b) in determining the "amount involved" in a transaction subject to the civil penalty provided by section 502(i) of the Act and this section.

(c) *Correction.* Section 502(i) of the Act states that the term "correction" shall be defined in a manner that is consistent with the definition of that term under section 4975(f)(5) of the Code. As provided in 26 CFR 141.4975–13, 26 CFR 53.4941(e)–1(c) is controlling with respect to the interpretation of the term "correction" for purposes of section 4975 of the Code. Accordingly, the Department of Labor will apply the principles set out in 26 CFR 53.4941(e)–(1)(c) in interpreting the term "correction" under section 502(i) of the Act and this section.

(d) *Correction Period.* (1) In general, the "correction period" begins on the date the prohibited transaction occurs and ends 90 days after final agency action with respect to such transaction.

(2) When a party in interest seeks judicial review of the final agency decision in a section 502(i) proceeding the correction period will end 90 days after the entry of a final order in the action.

(3) The following examples illustrate the operation of this paragraph:

(i) A party in interest receives notice of the Department's intent to impose the section 502(i) penalty and does not invoke the ERISA section 502(i) prohibited transaction penalty proceedings described in [proposed] § 2570.1 of this chapter within 30 days of such notice. As provided in [proposed] § 2570.5 of this chapter, the notice of the intent to impose a penalty becomes a final order after 30 days. Thus, the "correction period" ends 90 days after the expiration of the 30 day period.

(ii) A party in interest contests a proposed section 502(i) penalty, but does not appeal an adverse decision of the administrative law judge in the proceeding. As provided in [proposed § 2570.11(a) of this chapter, the decision of the administrative law judge becomes a final order of the Department unless the decision is appealed within 20 days after the date of such order. Thus, the correction period ends 90 days after the expiration of such 20 day period.

(e) *Computation of the Section 502(i) penalty.* (1) In general, the civil penalty under section 502(i) is determined by applying the aplicable percentage (five percent or 100 percent) to the aggregate amount involved in the transaction. However, a continuing prohibited transaction, such as a lease or a loan, is treated as giving rise to a separate event subject to the sanction for each year (as measured from the anniversary date of the transaction) in which the transaction occurs.

(2) The following examples illustrate the computation of the section 502(i) penalty:

(i) An employee benefit plan purchases property from a party in interest at a price of $10,000. The fair market value of the property is $5,000. The "amount involved" in that transaction, as determined under 26 CFR 53.4941(e)–1(b), is $10,000 (the greater of the amount paid by the plan or the fair market value of the property). The initial five percent penalty under section 502(i) is $500 (five percent of $10,000).

(ii) An employee benefit plan executes a four year lease with a party in interest at an annual rental of $10,000 (which is the fair rental value of the property). The amount involved in each year of that transaction, as determined under 26 CFR 53.4941(e)–1(b), is $10,000. The amount of the initial sanction under ERISA section 502(i) would be a total of $5,000: $2000 ($10,000 × 5% × 4 with respect to the rentals paid in the first year of the lease); $1500 ($10,000 × 5% × 3 with respect to the second year); $1000 ($10,000 × 5% × 2 with respect to the third year); $500 ($10,000 × 5% × 1 with respect to the fourth year).

(f) *Cross Reference.* See [proposed] §§ 2570.1–13 of this chapter for procedural rules relating to section 502(i) penalty proceedings.

Signed at Washington, DC, this 20th day of August, 1986.

Dennis M. Kass,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 86–19372 Filed 8–26–86; 8:45 am]

BILLING CODE 4510–29–M

29 CFR Part 2570

Proposed Regulation Establishing Procedures for the Imposition of Civil Sanctions Under ERISA Section 502(i)

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation that sets forth the procedures for the imposition of civil sanctions under section 502(i) of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act). Section 502(i) of ERISA authorizes the Secretary of Labor to assess civil penalties against parties in interest who engage in prohibited transactions with certain employee benefit plans. This section generally applies to prohibited transactions involving welfare plans and

nonqualified pension plans, and provides for the imposition of penalties equal to specified percentages of the amount involved in the underlying prohibited transaction. The proposed regulation would establish the procedural framework for such civil penalties. A separate document containing regulations which would define the terms "amount involved" and "correction" under ERISA section 502(i) is also being proposed today.

DATES: Written comments concerning the proposed regulation must be received by October 27, 1986.

If adopted, the regulation would be effective for purposes of establishing procedures governing the imposition of civil sanctions under ERISA section 502(i) at any time on or after 30 days from the date of its publication as a final regulation.

ADDRESS: Written comments on the proposed regulation (preferably three copies) should be submitted to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, Washington, DC 20210, Attention: "Proposed Section 502(i) Procedural Regulation."

FOR FURTHER INFORMATION CONTACT: Doris F. Jacobs, Esq., Plan Benefits Security Division, Office of the Solicitor, (202) 523-8610, U.S. Department of Labor, Washington, DC 20216, or Rudy Nuissl, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210 (202) 523–8671.

SUPPLEMENTARY INFORMATION: Section 406 of ERISA prohibits certain transactions between an employee benefit plan and a "party in interest" (as defined in section 3(14) of ERISA). In section 502(i) of ERISA, Congress granted the Secretary of Labor the authority to impose civil penalties against parties in interest with respect to prohibited transactions with welfare plans and pension plans which are not "qualified" plans under the Internal Revenue Code.[1] That section of the Act provides that the amount of such penalty may not exceed 5 percent of the amount involved in the transaction except that if the transaction is not corrected within 90 days after notice from the Secretary, such penalty may be in an amount not more than 100 percent of the amount involved. This notice contains proposed procedural rules that provide for an administrative proceeding with respect to the imposition of the ERISA section 502(i) sanction. A separate notice of proposed rulemaking dealing with the definition of the terms "amount involved" and "correction" is also being published today. As discussed in the supplementary information accompanying that notice, the Department believes that adoption of regulations implementing the section 502(i) sanctions is necessary for the effective implementation of its ERISA enforcement program.

The proposed regulations would establish procedures for: (1) Notification to a party in interest that the Department of Labor (the Department) intends to impose the penalty provided by section 502(i), (2) requesting a hearing with respect to the matter before an Administrative Law Judge (ALJ), and (3) the appeal of an ALJ decision to the Secretary or his delegate. In this regard, the Secretary has established the Pension and Welfare Benefits Administration (PWBA) within the Department for the purpose of carrying out most of the Secretary's responsibilities under ERISA. *See,* Secretary's Order 1–86, 51 FR 3521 (January 28, 1986).

The Department has published rules of practice and procedure for 9administrative hearings before the Office of Administrative Law Judges at 29 CFR Part 18, 48 FR 32538 (1983). As explained in 29 CFR 18.1, those provisions generally govern administrative hearings before ALJ's assigned to the Department and are intended to provide maximum uniformity in the conduct of administrative hearings. However, in the event of an inconsistency or conflict between the provisions of 29 CFR Part 18 and a rule or procedure required by statute, executive order or regulation, the latter controls.

The Department has reviewed the applicability of the provisions of 29 CFR Part 18 to the imposition of civil sanctions under ERISA section 502(i), and has decided to adopt many, though not all, of the provisions of 29 CFR Part 18 for these proceedings. Accordingly, adjudications relating to the civil penalty under ERISA section 502(i) will be governed by the following sections of 29 CFR Part 18:

§ 18.4 Time Computations.
§ 18.5 Responsive Pleadings; answer and request for hearing.
§ 18.6 Motions and requests.
§ 18.7 Prehearing statements.
§ 18.8 Prehearing conferences.
§ 18.11 Consolidation of hearings.
§ 18.12 Amicus Curiae.
§ 18.13 Discovery methods.
§ 18.15 Protective orders.
§ 18.16 Supplementation of responses.
§ 18.17 Stipulations regarding discovery.
§ 18.18 Written interrogatories to parties.
§ 18.19 Production of documents and other evidence.
§ 18.20 Admissions.
§ 18.21 Motion to compel discovery.
§ 18.22 Depositions.
§ 18.23 Use of depositions at hearings.
§ 18.24 Subpoenas.
§ 18.25 Designation of administrative law judge.
§ 18.27 Notice of hearing.
§ 18.28 Continuances.
§ 18.29 Authority of administrative law judge.
§ 18.30 Unavailability of administrative law judge.
§ 18.31 Disqualification.
§ 18.32 Separation of functions.
§ 18.33 Expedition.
§ 18.34 Representation.
§ 18.35 Legal assistance.
§ 18.36 Standards of conduct.
§ 18.37 Hearing room conduct.
§ 18.38 Ex parte communications.
§ 18.39 Waiver of right to appear and failure to participate or to appear.
§ 18.40 Motion for summary decision.
§ 18.41 Summary decision.
§ 18.43 Formal hearings.
§ 18.44 Evidence.
§ 18.45 Official notice.
§ 18.46 In camera and protective orders.
§ 18.47 Exhibits.
§ 18.48 Records in other proceedings.
§ 18.49 Designation of parts of documents.
§ 18.50 Authenticity.
§ 18.51 Stipulations.
§ 18.52 Record of hearings.
§ 18.53 Closing of hearings.
§ 18.54 Closing of record.
§ 18.55 Receipt of documents after hearing.
§ 18.56 Restricted access.
§ 18.57 Decision of the administrative law judge.
§ 18.59 Certification of official record.

The regulations proposed herein relate specifically to procedures for imposing civil sanctions under section 502(i) of ERISA and are controlling to the extent they are inconsistent with any portion of 29 CFR Part 18. The proposed regulations are designed to maintain the maximum degree of uniformity with the rules set forth at 29 CFR Part 18 consistent with the need for an expedited procedure, while recognizing the special characteristics of proceedings under ERISA section 502(i). For purposes of clarity, where a particular section of the existing procedural rules would be affected by the proposed rules the entire section (with the appropriate modifications) has been set out in this document. Thus, only a portion of the provisions of the procedural regulations set forth below involve changes from, or additions to,

[1] A similar penalty is assessed against disqualified persons who engage in prohibited transactions with qualified pension plans and certain similar retirement plans under the excise tax provisions of section 4975 of the Internal Revenue Code.

the rules in 29 CFR Part 18. The specific modifications to the rules in 29 CFR Part 18, and their relationship to the conduct of these proceedings generally, are outlined below in the preamble.

General

The applicability of these rules under ERISA section 502(i) is set forth at the outset of the procedural regulations (§ 2570.1). The definitional section (§ 2570.2) incorporates the basic adjudicatory principles set forth at 29 CFR Part 18, but includes terms and concepts of specific relevance to proceedings under ERISA section 502(i). In this respect it differs from its more general counterpart at § 18.2 of this title. In particular, § 2570.2(1) states that the term "Secretary" means the Secretary of Labor and includes various individuals to whom the Secretary may delegate authority. This definition is not intended to suggest any limitation on the authority which the Secretary has delegated to the Assistant Secretary for Pension and Welfare Benefits. As noted above, the Secretary of Labor has delegated most of his authority under ERISA, including authority to make final decisions to assess the penalty provided under section 502(i), to the Assistant Secretary for Pension and Welfare Benefits. Thus, the Department contemplates that the duties assigned to the Secretary under the procedural regulation will in fact be discharged by the Assistant Secretary for Pension and Welfare Benefits.

The section for service of documents (§ 2570.3) indicates that PWBA will be the agency within the Department under which ERISA section 502(i) proceedings will be docketed by the Office of the Administrative Law Judges.

Proceedings Before Administrative Law Judges

The rules in 29 CFR Part 18 concerning the computation of time, pleadings, prehearing conferences and statements, and settlements are adopted in these procedures for adjudications under ERISA section 502(i). The section on the designation of parties (§ 2570.4) differs from its counterpart under § 18.10 of this title in that it specifies that the respondent in these proceedings will be the party against whom the Department seeks to enforce a civil sanction under ERISA section 502(i). A section on the consequences of default (§ 2570.5) has been included in these rules to indicate that unless the respondent invokes the adjudicatory procedures under ERISA section 502(i) within 30 days after it is informed of the intention of the Department to impose a civil sanction under ERISA section 502(i), the imposition of that penalty will become final. A section on consent orders or settlements (§ 2570.6) states that the administrative law judge's decision shall include the terms and conditions of any consent order or settlement which has been agreed to by the parties. That section also provides that the decision of the administrative law judge which incorporates such consent order shall become final agency action within the meaning of 5 U.S.C. 704.

Section 2570.7 states that discovery may be ordered by the administrative law judge only upon a showing of good cause by the party seeking discovery. This differs from the more liberal standard for discovery contained in 29 CFR 18.14. In cases in which discovery is ordered by the administrative law judge, the order shall expressly limit the scope and terms of discovery to that for which good cause has been shown. To the extent that the order of the administrative law judge does not specify rules for the conduct of the discovery permitted by such order, the rules governing the conduct of discovery from 29 CFR Part 18 are to be applied in these proceedings under section 502(i). For example, if the order of the administrative law judge states only that interrogatories on certain subjects may be permitted, the rules under 29 CFR Part 18 concerning the service and answering of such interrogatories shall apply. The procedures under 29 CFR Part 18 for the submission of facts to the administrative law judge during the hearing are also to be applied in proceedings under ERISA section 502(i).

The section on summary decisions (§ 2570.8) provides the requisite authorization for an administrative law judge to issue a summary decision which may become final when there are no genuine issues of material fact in a case arising under ERISA section 502(i). The section on expedited proceedings (§ 2570.9) states that the scheduling and disposition of all section 502(i) cases shall be on an expedited basis. Under the counterpart section of Part 18 of this title, § 18.42, expedited treatment of a case generally occurs only at the discretion of the administrative law judge. The section concerning the decision of the administrative law judge (§ 2570.10) differs from its counterpart at § 18.57 of this title in that it states that the decision of the administrative law judge in a section 502(i) case shall become the final decision of the Secretary unless a timely appeal is filed.

Appeals

The procedures for appeals of administrative law judge decisions under ERISA section 502(i) are governed solely by the rules set forth in §§ 2570.11 through 2570.13, and without any reference to the appellate procedures contained in 29 CFR Part 18. Section 2570.11 establishes the time period in which such appeals must be filed, the manner in which the issues for appeal are determined, and the procedures for making the entire record before the administrative law judge available to the Secretary. Section 2570.12 provides that review of the Secretary shall not be on a *de novo* basis, but rather on the basis of the record before the administrative law judge, and without an opportunity for oral argument. Section 2570.13 sets forth the procedure for establishing a briefing schedule for such appeals, and states that the decision of the Secretary on such an appeal shall be final agency action within the meaning of 5 U.S.C. 704. As noted above, the authority of the Secretary with respect to the appellate procedures has been delegated to an Assistant Secretary for Pension and Welfare Benefits. As required by the Administrative Procedure Act (5 U.S.C. 552(a)(2)(A)) all final decisions of the Department under section 502(i) of ERISA shall be compiled in the Office of Public Disclosure, Pension and Welfare Benefits Administration, Room N-4677, U.S. Department of Labor, Washington, DC 20210.

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to proposed rules which would have a significant impact on a substantial number of small entities. A "rule" under the Regulatory Flexibility Act is one for which a general notice of proposed rulemaking is required under section 553(b) of the Administrative Procedure Act. Under section 553(b) of the Administrative Procedure Act a general notice of proposed rulemaking is not required for rules of agency organization, procedure or practice. Thus, such rules are excluded from the definition of "rule" under the Regulatory Flexibility Act. Since the proposed procedural regulation is a rule of agency procedure or practice it is thus not subject to the requirements of the Regulatory Flexibility Act.

Executive Order 12291

The Department has determined that the proposed regulatory action would not constitute a "major rule" as that term is used in Executive Order 12291 because the action would not result in: an annual effect on the economy of $100 million; a major increase in costs or prices for consumers, individual

industries, government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

The Paperwork Reduction Act mandates that agencies provide data with respect to information collection requirements which may be imposed by certain proposed regulatory action. Section 3518(c)(1)(B) of the Paperwork Reduction Act provides that the requirements of that Act do not apply to administrative actions involving specific individuals or entities. The Department has determined that the administrative adjudications which would be conducted pursuant to the procedures contained in this proposed regulation fall within the scope of this exemption from the Paperwork Reduction Act.

Statutory Authority

The proposed regulation would be adopted pursuant to the authority contained in sections 502(i) and 505 of ERISA (Pub. L. 93-406, 88 Stat. 892, 894; 29 U.S.C. 1132(i), 1135).

Written Comments

The Department invites interested persons to submit written data, views, or arguments regarding the proposed regulation. Such written comments (preferably 3 copies) should be submitted to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5669, 200 Constitution Avenue, NW., Washington, DC, 20210, Attention: "Proposed section 502(i) Procedural Regulation". All submissions will be open to public inspection in the Office of Public Disclosure, Pension and Welfare Benefits Administration, Room N-4677, 200 Constitution Avenue, NW., Washington, DC, 20210.

List of Subjects in 29 CFR Part 2570

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Party in interest, Prohibited transactions, Pensions.

Proposed Regulation

In view of the foregoing, Part 2570 is proposed to be added to 29 CFR Chapter XXV as follows:

By adding in the appropriate place the following new Part 2570:

PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

Subpart A—Procedures for the Imposition of Civil Sanctions Under ERISA Section 502(i)

Sec.

2570.1 Scope of rules.
2570.2 Definitions.
2570.3 Service: Copies of documents and pleadings.
2570.4 Parties, how designated.
2570.5 Consequences of default.
2570.6 Consent order or settlement.
2570.7 Scope of discovery.
2570.8 Summary decision.
2570.9 Expedited proceedings.
2570.10 Decision of the administrative law judge.
2570.11 Review by the Secretary.
2570.12 Scope of review.
2570.13 Procedures for review by the Secretary.

Authority: 29 U.S.C. 1132(i), 1135.

Subpart A—Procedures for the Imposition of Civil Sanctions Under ERISA Section 502(i)

§ 2570.1 Scope of rules.

The rules of practice set forth in this part are applicable to "prohibited transaction penalty proceedings" (as defined in § 2570.2(n) of this part) under section 502(i) of the Employee Retirement Income Security Act of 1974. The rules of procedure for administrative hearings published by the Department's Office of Administrative Law Judges at Part 18 of this Title will apply to matters arising under ERISA section 502(i) except as specifically modifed by this section. Such proceedings shall be conducted expeditiously and the parties shall make every effort to avoid delay at each stage of the proceedings.

§ 2570.2 Definitions.

For prohibited transaction penalty proceedings, this section shall apply in lieu of the definitions in § 18.2 of this title:

(a) "Adjudicatory proceeding" means a judicial-type proceeding leading to the formulation of a final order;

(b) "Administrative law judge" means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. § 3105;

(c) "Notice" means any document, however designated, initiating an adjudicatory proceeding under ERISA section 502(i);

(d) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended;

(e) "Hearing" means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission, to the administrative law judge;

(f) "Order" means the whole or any part of a final procedural or substantive disposition of a matter under ERISA section 502(i);

(g) "Final order" means the final decision or action of the Department of Labor concerning the imposition of a civil sanction under ERISA section 502(i) against a particular party. Such final order may result from a decision of an administrative law judge or the Secretary, or the failure of a party to invoke the procedures for hearings or appeals under these rules and the applicable rules of Part 18 of this Title. Such a final order shall constitute final agency action within the meaning of 5 U.S.C. 704;

(h) "Party" includes a person or agency named or admitted as a party to a proceeding;

(i) "Person" includes an individual, partnership, corporation, employee benefit plan, association, exchange or other entity or organization;

(j) "Pleading" means the notice, the answer to the notice, any supplement or amendment thereto, and any reply that may be permitted to any answer, supplement or amendment;

(k) "Respondent" means the party against whom the Department is seeking to impose a civil sanction under ERISA section 502(i);

(l) "Secretary" means the Secretary of Labor and includes, pursuant to any delegation of authority by the Secretary, any assistant secretary (including the Assistant Secretary for Pension and Welfare Benefits), administrator, commissioner, appellate body, board, or other official;

(m) "Petition" means a written request, made by a person or party, for some affirmative action;

(n) "Prohibited transaction penalty proceeding" means a proceeding relating to the imposition of the civil penalty provided for in section 502(i) of ERISA;

(o) "Consent agreement" means any written document containing a specified proposed remedy or other relief acceptable to all parties;

(p) "Commencement of proceeding" is the filing of a request for a hearing by the respondent;

(q) "Solicitor" means the Solicitor of Labor or his or her delegate.

§ 2570.3 Service: Copies of documents and pleadings.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.3 of this title.

BEST COPY AVAILABLE

(a) *General.* Copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of all matters. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges, Suite 600, 1111 Twentieth Street, NW., Washington, DC 20036, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *By parties.* All motions, petitions, pleadings, briefs or other documents shall be filed with the Office of Administrative Law Judges with a copy including any attachments to all other parties of record. When a party is represented by an attorney, service shall be made upon the attorney. Service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The Department shall be served by delivery to the Associate Solicitor, Plan Benefits Security Division, ERISA Section 502(i) Proceeding, P.O. Box 1914, Washington, DC 20013. The person serving the document shall certify to the manner and date of service.

(c) *By the Office of Administrative Law Judges.* Service of orders, decisions and all other documents, except notices, shall be made by regular mail to the last known address.

(d) *Service of Notices.* (1) Service of notices shall be made either:

(i) By delivering a copy to the individual, any partner, any officer of a corporation, or any attorney of record;

(ii) By leaving a copy at the principal office, place of business, or residence of such individual, partner, officer or attorney; or

(iii) By mailing a copy to the last known address of such individual, partner, officer or attorney.

(2) If service is accomplished by certified mail, service is complete upon mailing. If done by regular mail, service is complete upon receipt by the addressee.

(e) *Form of pleadings.* (1) Every pleading shall contain information indicating the name of the Pension and Welfare Benefits Administration (PWBA) as the agency under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Office of Administrative Law Judges and a designation of the type of pleading or paper (e.g., notice, motion to dismiss, etc.). The pleading or paper shall be signed and shall contain the address and telephone number of the party or person representing the party. Although there are no formal specifications for documents, they should be typewritten when possible on standard size 8½ x 11 inch paper.

(2) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise, will not be accepted. Papers may be reproduced by any duplicating process provided all copies are clear and legible.

§ 2570.4 Parties, how designated.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.10 of this title.

(a) The term "party" wherever used in these rules shall include any natural person, corporation, employee benefit plan, association, firm, partnership, trustee, receiver, agency, public or private organization, or government agency. A party against whom a civil sanction is sought shall be designated as "respondent". The Department shall be designated as the "complainant".

(b) Other persons or organizations shall be permitted to participate as parties only if the administrative law judge finds that the final decision could directly and adversely affect them or the class they represent, that they may contribute materially to the disposition of the proceedings and their interest is not adequately represented by existing parties, and that in the discretion of the administrative law judge the participation of such persons or organizations would be appropriate.

(c) A person or organization wishing to participate as a party under this section shall submit a petition to the administrative law judge within fifteen (15) days after the person or organization has knowledge of or should have known about the proceeding. The petition shall be filed with the administrative law judge and served on each person or organization who has been made a party at the time of filing. Such petition shall concisely state:

(1) Petitioner's interest in the proceeding,

(2) how his or her participation as a party will contribute materially to the dispostion of the proceeding,

(3) who will appear for petitioner,

(4) the issues on which petitioner wishes to participate, and

(5) whether petitioner intends to present witnesses.

(d) Objections to the petition may be filed by a party within fifteen (15) days of the filing of the petition. If objections to the petition are filed, the administrative law judge shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraph (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may request all such petitioners to designate a single representative, or he or she may recognize one or more of such petitioners. The administrative law judge shall give each such petitioner as well as the parties, written notice of the decision on his or her petition. For each petition granted, the administrative law judge shall provide a brief statement of the basis of the decision. If the petition is denied, he or she shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae.

§ 2570.5 Consequences of default.

(a) For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.5(b) of this title.

(b) Failure of the respondent to file an answer within the 30 day period time provided in § 18.5 of this title shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice, and such failure shall be deemed to be an admission of the facts as alleged in the notice for purposes of the prohibited transaction penalty proceeding. Such notice shall then become the final order of the Secretary.

§ 2570.6 Consent order or settlement.

For prohibited transaction penalty proceedings, the following shall apply in lieu of § 18.9 of this title.

(a) *General.* At any time after the commencement of a proceeding, but at least five (5) days prior to the date set for hearing, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the administrative law judge, after consideration of such factors as the nature of the proceeding, the requirements of the public interest, the representations of the parties and the probability of reaching an agreement which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice and the agreement;

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(3) A waiver of any further procedural steps before the administrative law judge;

(4) A waiver of any right to challenge or contest the validity of the order and decision entered into in accordance with the agreement; and

(5) That the order and decision of the administrative law judge shall be final agency action.

(c) *Submission.* On or before the expiration of the time granted for negotiations, but, in any case, at least five (5) days prior to the date set for hearing, the parties or their authorized representative or their counsel may:

(1) Submit the proposed agreement containing consent findings and an order to the administrative law judge; or

(2) Notify the administrative law judge that the parties have reached a full settlement and have agreed to dismissal of the action subject to compliance with the terms of the settlement; or

(3) Inform the administrative law judge that agreement cannot be reached.

(d) *Disposition.* In the event a settlement agreement containing consent findings and an order is submitted within the time allowed therefor, the administrative law judge shall incorporate such findings and agreement into his decision as expeditiously as possible but in any event within 30 days of his receipt of such document. The decision of the administrative law judge shall incorporate all of the findings, terms, and conditions of the settlement agreement and consent order of the parties. Such decision shall become final agency action within the meaning of 5 U.S.C. 704.

(e) *Settlement without consent of all parties.* In cases in which some, but not all, of the parties to a proceeding submit a consent agreement to the administrative law judge, the following procedure shall apply:

(1) If all of the parties have not consented to the proposed settlement submitted to the administrative law judge, then such non-consenting parties must receive notice, and a copy, of the proposed settlement at the time it is submitted to the administrative law judge;

(2) Any non-consenting party shall have fifteen (15) days to file any objections to the proposed settlement with the administrative law judge and all other parties;

(3) If any party submits an objection to the proposed settlement, the administrative law judge shall decide within thirty (30) days after receipt of such objections whether he shall sign or reject the proposed settlement. Where the record lacks substantial evidence upon which to base a decision or there is a genuine issue of material fact, then the administrative law judge may establish procedures for the purpose of receiving additional evidence upon which a decision on the contested issues may reasonably be based;

(4) If there are no objections to the proposed settlement, or if the administrative law judge decides to sign the proposed settlement after reviewing any such objections, the administrative law judge shall incorporate the consent agreement into a decision meeting the requirements of paragraph (d).

§ 2570.7 Scope of discovery.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.14 of this title.

(a) A party may file a motion to conduct discovery with the administrative law judge. The motion for discovery shall be granted by the administrative law judge only upon a showing of good cause. In order to establish "good cause" for the purposes of this section, a party must at least show that he or she has substantial need of the materials or information in the preparation of his or her case and that he or she is unable without undue hardship to obtain the substantial equivalent of the materials or information by other means. The order of the administrative law judge shall expressly limit the scope and terms of discovery to that for which "good cause" has been shown, as provided in this paragraph.

(b) A party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (a) of this section and prepared in anticipation of or for the hearing by or for another party's representative (including his or her attorney, consultant, surety, indemnitor, insurer, or agent). In ordering discovery of such materials when the required showing has been made, the administrative law judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

§ 2570.8 Summary decision.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.41 of this title.

(a) *No genuine issue of material fact.* (1) Where no genuine issue of a material fact is found to have been raised, the administrative law judge may issue a decision which, in the absence of an appeal pursuant to §§ 2570.11 through 2570.13 of this part, shall become a final order.

(2) A decision made under this paragraph shall include a statement of:

(i) Findings of fact and conclusions of law, and the reasons therefor, on all issues presented; and

(ii) Any terms and conditions of the rule or order.

(3) A copy of any decision under this paragraph shall be served on each party.

(b) *Hearings on issue of fact.* Where a genuine question of material fact is raised, the administrative law judge shall, and in any other case may, set the case for an evidentiary hearing.

§ 2570.9 Expedited proceedings.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.42 of this title.

(a) The scheduling and disposition of a proceeding shall be accomplished on an expedited basis.

(b) A hearing on the merits before an administrative law judge shall not be scheduled with less than five (5) working days notice to the parties unless all parties consent to such scheduling.

§ 2570.10 Decision of the administrative law judge.

For prohibited transaction penalty proceedings, this section shall apply in lieu of § 18.57 of this title.

(a) *Proposed findings of fact, conclusions, and order.* Within twenty (20) days of the filing of the transcript of the testimony or such additional time as the administrative law judge may allow, each party may file with the administrative law judge, subject to the judge's discretion, proposed findings of fact, conclusions of law, and order together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision of the administrative law judge.* Within a reasonable time after the time allowed for the filing of the proposed findings of fact, conclusions of law, and order, or within thirty (30) days after receipt of an agreement containing consent findings and order disposing of the disputed matter in whole, the administrative law judge shall make his or her decision. The decision of the administrative law judge shall include findings of fact and conclusions of law with reasons therefor upon each material issue of fact or law presented on the record. The decision of the administrative law judge shall be based upon the whole record. In a contested case in which the Department and the

Respondent have presented their positions to the administrative law judge pursuant to the procedures for prohibited transaction penalty proceedings as set forth in this part, the penalty (if any) which may be included in the decision of the administrative law judge shall be limited to the sanction expressly provided for in section 502(i) of ERISA. It shall be supported by reliable and probative evidence. The decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704 unless an appeal is made pursuant to the procedures set forth in §§ 2570.11 through 2570.13.

§ 2570.11 Review by the Secretary.

(a) The Secretary may review a decision of an administrative law judge. Such a review may occur only when a party files a notice of appeal from a decision of an administrative law judge within twenty (20) days of the issuance of such decision. In all other cases, the decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704.

(b) A notice of appeal to the Secretary shall state with specificity the issue(s) in the decision of the administrative law judge on which the party is seeking review. Such notice of appeal must be served on all parties of record.

(c) Upon receipt of a notice of appeal, the Secretary shall request the Chief Administrative Law Judge to submit to him a copy of the entire record before the administrative law judge.

§ 2570.12 Scope of review.

The review of the Secretary shall not be a *de novo* proceeding but rather a review of the record established before the administrative law judge. There shall be no opportunity for oral argument.

§ 2570.13 Procedures for review by the Secretary.

(a) Upon receipt of a notice of appeal, the Secretary shall establish a briefing schedule which shall be served on all parties of record. Upon motion of one or more of the parties, the Secretary may, in his discretion, permit the submission of reply briefs.

(b) The Secretary shall issue a decision as promptly as possible after receipt of the briefs of the parties. The Secretary may affirm, modify, or set aside, in whole or in part, the decision on appeal and shall issue a statement of reasons and bases for the action(s) taken. Such decision by the Secretary shall be final agency action within the meaning of 5 U.S.C. 704.

Signed at Washington, DC, this 20th day of August, 1986.

Dennis M. Kass,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 86-19379 Filed 8-26-86; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

Tax Practitioners

Correction

In FR Doc. 86-18334, beginning on page 29113, in the issue of Thursday, August 14, 1986, make the following corrections:

1. On page 29113, second column, last paragraph, second line from the bottom, "missions" was misspelled; third column, first complete paragraph, sixth line, "proceeding" was misspelled; in the tenth line, "relevant" was misspelled; in the twelfth line, "be" is removed; and in the fourteenth line, after "tax" insert "law".

2. On the same page, third column, last paragraph, fifth line, "professional" was misspelled.

3. On page 29114, first column, first line, "his" should read "him", and in the fifth line, "serves" was misspelled.

4. On the same page, first column, first complete paragraph, twenty-ninth line, "taxpayers" should read "taxpayer's".

5. On page 29115, first column, in amendatory instruction 1, "Part 31" should read "Part 10".

§ 10.22 [Corrected]

6. On the same page, first column, § 10.22(a), third line, "and" should read "on".

§ 10.34 [Corrected]

7. On the same page, first column, § 10.34(a), fifth line, before "the" insert "in".

8. On the same page, first column, § 10.34(b), fourth line, "time" should read "item".

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31 CFR Part 10

Tax Practitioners; Extension of Comment Period

AGENCY: Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 14, 1986, the Treasury Department published in the **Federal Register** (51 FR 29113) a notice of proposed rulemaking concerning the standard of care to be exercised by tax practitioners in giving advice regarding positions to be taken on federal tax returns. Requests have been made from within the tax practitioner community for a thirty day extension to comment on the proposed rule due to the current involvement of many of its members with analysis and discussion of tax reform legislation pending before Congress. Accordingly, the comment period is being extended thirty days in order to allow the tax practitioner community a full opportunity to review and comment on the proposed rule.

DATE: Comments must be submitted in writing on or before November 13, 1986.

ADDRESSES: Comments should be sent to the Director of Practice, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, ATTN: PM:HR:DP.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Internal Revenue Service, Washington, DC 20224, (202) 535-6787.

Dated: August 21, 1986.

Leslie S. Shapiro,

Director of Practice.

[FR Doc. 86-19307 Filed 8-26-86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

32 CFR Part 292a

[DIA Regulation 12-12]

Defense Intelligence Agency Privacy Program

AGENCY: Defense Intelligence Agency (DIA), DoD.

ACTION: Proposed rulemaking amendment.

SUMMARY: Two new specific exemption rules are proposed to be added to the existing DIA exemption rules for exempted systems of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, to accommodate a new exempted record system identified as LDIA 0275, entitled: "DoD Hotline Referrals," and an existing record system LDIA 0800, entitled: "Operation Record System." Exemption from certain provisions of the Privacy Act of 1974 is required for these record systems to protect the information contained therein from access and to protect the identity of sources who furnish information to the Government under an express promise

that the identity of the source will be held in confidence.

DATE: Written comments must be received on or before September 26, 1986.

ADDRESS: Send any comments to Mrs. Helen E. Shuford, Administrative and Management Services Division (RTS-1) Defense Intelligence Agency, Washington, DC 20301-6111. Telephone: 202/373-3913, Autovon: 243-3913.

SUPPLEMENTARY INFORMATION: The proposed specific exemption rules are to be added to the existing DIA exemption rules pursuant to the specific provisions of the Privacy Act of 1974, 5 U.S.C. 552a (k)(2), (k)(5) and (k)(7) so as to exempt record systems LDIA 275 and LDIA 0800 from certain subsections of the Privacy Act. The publication of these new exemption rules are made in accordance with the requirements of Title 5, U.S.C. section 553 of the Administrative Procedures Act.

Accordingly, for reasons set out in the preamble it is proposed to amend 32 CFR Part 292a as follows:

PART 292a—[AMENDED]

1. The authority citation continues to read as follows:

Authority: Pub. L. 93-579, section (f) of 5 U.S.C. 552a.

2. Revise the CFR Title of Part 292a now reading "Privacy Act of 1974" to "Defense Intelligence Agency Privacy Program."

§ 292a.15 [Amended]

3. Amend § 292a.15 Specific exemptions, by adding the following after exemption rule ID-LDIA 0271.

* * * * *

ID-L DIA 0275

System name. DoD Hotline Referrals.

Exemption. Parts of this record system may be exempt from the following portions of Title 5, U.S.C.; section 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

Authority. 5 U.S.C. 552a: (k)(2), (k)(5), and (k)(7).

Reason. The reasons for asserting these exemptions are to insure that informants can report instances of fraud and mismanagement without fear of reprisal or unauthorized disclosure of their identity. The execution of this function requires that information be provided in a free and open manner without fear of retribution of harassment in order to facilitate a just, thorough and timely resolution of the case. These records are privileged Director, DIA, documents and the information contained therein is not routinely released or disclosed to anyone.

* * * * *

Add the following after exemption rule LDIA 0600:

* * * * *

ID-L DIA 0800

System name. Operation Record System.

Exemption. Parts of this record system may be exempt from the following portions of Title 5, U.S.C.; section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

Authority. 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7).

Reason. The reasons for asserting these exemptions are to insure the integrity of ongoing foreign intelligence collection and/or training activities conducted by the Defense Intelligence Agency and the Department of Defense. The execution of these functions requires that information in response to national level intelligence requirements be provided in a free and open manner without fear of retribution or unauthorized disclosure. Disclosures from this system can jeopardize sensitive sources and methodology.

* * * * *

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

[FR Doc. 86-19205 Filed 8-26-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 11

Advisory Committee Management

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Department of Education (ED) Committee Management regulations. These proposed regulations are necessary to provide administrative guidelines and management controls for ED Federal advisory committees. The proposed amendments are intended to update the existing committee management regulations by incorporating existing administrative procedures and provisions of the General Education Provisions Act (GEPA) that apply to certain ED advisory committees.

DATES: Comments must be received on or before October 14, 1986.

ADDRESSES: Comments should be addressed to Ann V. Bailey, Committee Management Officer, U.S. Department of Education, 400 Maryland Avenue SW., Room 1017, FOB-6, Washington, DC 20202-6177.

FOR FURTHER INFORMATION CONTACT: Ann V. Bailey, Telephone: (202) 732-3677.

SUPPLEMENTARY INFORMATION: The Committee Management regulations published by the Department of Health, Education, and Welfare (HEW) were adopted by ED on May 9, 1980 at 45 FR 30817 and codified in Part 11 of Title 34 of the Code of Federal Regulations (CFR).

On April 28, 1983, the General Services Administration (GSA) published an interim rule at 48 FR 19324 (41 CFR Part 101-6). The interim rule provides administrative and interpretive guidelines and management controls for Federal agencies concerning the implementation of FACA.

This notice of proposed rulemaking proposes changes necessary to update the existing regulations.

The regulations establish procedures governing the establishment and administration of all advisory committees consistent with applicable laws, while ensuring that the Secretary maintains flexibility regarding their operation and use. Changes in the regulations include the following:

- Inclusion of the March 31 annual report requirement in GEPA.
- Exemption of GEPA Presidential advisory committees from the requirements of subsections (e) and (f) of section 10 of FACA.
- Definition of a Presidential advisory committee governed by GEPA as distinguished from the definition in FACA.
- Instructions which clarify how to establish and renew a statutory and nonstatutory advisory committee.
- Updated instructions and guidelines for committees to follow when citing Government in the Sunshine Act exemptions to justify closure of advisory committee meetings.
- General guidelines and procedures for obtaining approval to conduct an emergency meeting by telephone conference call.
- Updated instructions and clarification of the function and responsibilities of subcommittees.
- Procedures for approving the location of meetings outside the Washington, D.C. area, the boundaries of which are governed by the Federal Travel Regulations. (FPMR 101-7)

In addition to the provisions of these regulations, Department officials are

guided by the ED Standards of Conduct (34 CFR Part 73), the Federal Personnel Manual, and Federal statutes on conflict of interest (18 U.S.C. 201 *et seq.*), in preventing conflicts of interest or appearance of conflicts of interest on the part of Department employees concerned with advisory committees, advisory committee members and staff, and consultants and experts concerned with advisory committees.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These regulations relate to ED administrative management with respect to advisory committees established or utilized by the Department. They are not applicable to small entities as defined in the Regulatory Flexibility Act.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2135 FOB–6, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 11

Advisory committees, Committee management.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance number does not apply)

Dated: August 22, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to revise Part 11 of Title 34 of the Code of Federal Regulations to read as follows:

PART 11—ADVISORY COMMITTEE MANAGEMENT

Subpart A—General

Sec.

11.1 What is the purpose of these regulations?
11.2 What committees are governed by these regulations?
11.3 What definitions apply to these regulations?
11.4 What kind of group is an advisory committee?
11.5 What kind of group is excluded from these regulations?

Subpart B—What Are the Procedures for the Establishment or Renewal of an Advisory Committee?

11.10 How does the Secretary establish or renew an advisory committee?
11.11 When is an advisory committee renewed?
11.12 How is an advisory committee chartered?
11.13 When can an advisory committee meet or take action?

Subpart C—What Are the General Requirements for Committee and Subcommittee Membership?

11.20 Who may be a member of a committee or subcommittee?
11.21 What action may be taken by a subcommittee?

Subpart D—How Does an Advisory Committee Operate?

11.30 What meeting requirements affect advisory committees?
11.31 What is a quorum?
11.32 What special provisions govern the voting rights of certain committee members?
11.33 What notice is required for advisory committee and subcommittee meetings?
11.34 What public participation is allowed at advisory committee meetings?
11.35 What are the requirements for closing a meeting?
11.36 What special procedures may be used for emergency advisory committee meetings?
11.37 How is the agenda established and distributed?
11.38 What records are kept of advisory committee meetings?
11.39 What reports are made by advisory committees?
11.40 What records must an advisory committee make available to the public?

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

Subpart A—General

§ 11.1 What is the purpose of these regulations?

The regulations in this part—

(a) Implement the Federal Advisory Committee Act, as amended; and

(b) Provide guidance for advisory committees that are governed by Part D of the General Education Provisions Act, as amended.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

§ 11.2 What committees are governed by these regulations?

(a) The regulations in this part apply to all advisory committees and their subcommittees providing advice to the Secretary or any other official of the Department. These regulations do not apply to any entity governed by the Government in the Sunshine Act.

(b) The functions of an advisory committee are to be solely advisory. If a group provides advice to the Department, but the group's advisory function is incidental to and inseparable from other (*e.g.*, operational) functions, these regulations do not apply. However, if the advisory function is separable, the group is subject to these regulations to the extent that the group operates as an advisory committee.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

§ 11.3 What definitions apply to these regulations?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Department
ED
EDGAR
GEPA
Secretary

(b) *Definitions that apply to this part.* The following definitions also apply to this part:

"Administrator" means Administrator of the General Services Administration.

"Advisory Committee" or "Committee", subject to the factors and exclusions described in §§ 11.4 and 11.5, means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is established by statute or reorganization plan, or established or utilized by the Secretary in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government.

"Committee Management Officer" or "CMO" is the ED employee designated as required by Section 8 of FACA.

"Committee Member" means an individual who serves by appointment on an advisory committee and, except as otherwise limited by statute or the terms under which the committee is established, has the full right and obligation to participate in the activities of the committee, including voting rights.

"Designated Federal Official (DFO)" means the ED employee designated for each committee who performs duties under section 10 (e) and (f) of FACA. The DFO is an employee who holds a full-time permanent position in the Department and may be assigned other administrative duties in connection with the committee.

"Executive Director" means the person who has that title and is responsible for overseeing the daily operation or staff or both of an advisory committee.

"FACA" means the Federal Advisory Committee Act, as amended, 5 U.S.C. Appendix 2.

"GEPA Presidential Advisory Committee" means a statutory advisory committee, governed by Part D of GEPA, the members of which are appointed by the President.

"GSA Committee Management Secretariat" is the office within the General Services Administration that administers FACA.

"Nonstatutory Advisory Committee" means an advisory committee established by the Secretary under section 442 of GEPA or by the President.

"OMB" means the Office of Management and Budget.

"Presidential Advisory Committee" as defined by FACA means an advisory committee which advises the President. It may be established by the President or by the Congress, or be a committee used by the President to obtain advice or recommendations.

"Statutory Advisory Committee" means an advisory committee established by or pursuant to statute other than section 442 of GEPA.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

11.4 What kind of group is an advisory committee?

Although no single factor is determinative in deciding whether a group is an advisory committee, the following factors are significant:

(a) Fixed membership, including at least one person who is not a full-time Federal employee.

(b) Establishment by a Federal official or law. If not Federally established, the initiative for its use as an advisory body for the Federal Government comes from a Federal official rather than from a private group.

(c) A purpose of providing consensus advice regarding a particular subject or subjects.

(d) An organizational structure, *e.g.*, officers and staff.

(e) Regular or periodic meetings.

Authority: 5 U.S.C. App. 2.

11.5 What kind of group is excluded from these regulations?

Groups excluded from the effect of the regulations in this part include—

(a) Any committee which is composed wholly of full-time officers or employees of the Federal Government;

(b) Any committee which is exclusively operational in nature (*e.g.*, has functions which include making or implementing decisions, as opposed to the offering of advice or recommendations);

(c) Any local civic group whose primary function is that of rendering a public service with respect to a Federal program;

(d) Any State or local committee or similar group established to advise State or local officials or agencies; and

(e) Any body governed by the Government in the Sunshine Act, 5 U.S.C. 552b.

Authority: 5 U.S.C. App. 2, 20 U.S.C. 1233 *et seq.*; 5 U.S.C. 552b.

Subpart B—What are the Procedures for the Establishment or Renewal of an Advisory Committee?

§ 11.10 How does the Secretary establish or renew an advisory committee?

(a) To establish or renew a non-statutory advisory committee, the Secretary—

(1) Determines that the committee is essential to the conduct of ED business and in the public interest and that its functions cannot otherwise be performed effectively within the Department or by an existing advisory committee;

(2) Consults with the Administrator;

(3) After that consultation, publishes a notice in the **Federal Register** at least 15 days before filing a charter for the advisory committee; and

(4) Files a charter.

(b) To establish or renew a statutory advisory committee, the Secretary—

(1) Notifies the GSA Committee Management Secretariat that the advisory committee is established or renewed pursuant to its enabling legislation; and

(2) Files a charter.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233a.

§ 11.11 When is an advisory committee renewed?

(a) Except for an advisory committee established under section 442 of GEPA, the Secretary makes a renewal determination not more than 60 days before the scheduled date of termination of an advisory committee.

(b) A nonstatutory advisory committee established under section 442 of GEPA terminates not later than one year from the date of its creation, unless the Secretary determines in writing not more than 30 days prior to the expiration of the one-year period that renewal for a period not to exceed one year is necessary to complete the recommendations or reports for which it was established.

(c) For an advisory committee authorized by Congress for more than two years, the Secretary recharters the committee at the end of each two-year period.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233a.

§ 11.12 How is an advisory committee chartered?

(a) An advisory committee charter must contain in a format approved by the Secretary—

(1) The committee's official designation;

(2) The committee's objectives and the scope of its activity;

(3) The period of time necessary for the committee to carry out its purpose;

(4) The official to whom the committee reports;

(5) The official responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible, including the specific authority for any non-advisory functions;

(7) The estimated annual operating costs in dollars and person-years for the committee;

(8) The estimated number and frequency of committee meetings;

(9) The committee's termination date;

(10) The date the charter is approved by the Secretary; and

(11) The filing date.

(b) The Committee Management Officer includes information concerning a subcommittee in the charter of the parent committee if this information is known at the time of establishment or renewal. This information includes—

(1) The subcommittee's name;

(2) A brief description of the functions of the subcommittee; and

(3) The frequency of meetings.

(c) If an advisory committee is being established or renewed and the functions of a subcommittee are not

known at the time of establishment or renewal, the Committee Management Officer includes in the charter of the parent committee general language authorizing the parent committee to appoint subcommittees.

(d) The Committee Management Officer files the charter with the appropriate standing committees of the Senate and House of Representatives, and the Library of Congress. A copy is also filed with the GSA Committee Management Secretariat.

Authority: 5 U.S.C. App. 2.

§ 11.13 When can an advisory committee meet or take action?

An advisory committee must be properly established or renewed, and chartered, as provided in 11.10, 11.11 and 11.12, before it can meet or take any action.

Authority: 5 U.S.C. App. 2.

Subpart C—What are the General Requirements for Committee and Subcommittee Membership?

§ 11.20 Who may be a member of a committee or subcommittee?

(a) In the selection of committee and subcommittee members, there must be no discrimination on the basis of race, national origin, religion, creed, age, sex, or handicap.

(b) All members of a subcommittee must be drawn from the parent committee unless expresaly allowed by statute.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

§ 11.21 What action may be taken by a subcommittee?

(a) Subcommittees shall act under the policies that have been established by the parent committee and shall comply with the requirements of FACA and applicable Department regulations.

(b) Unless expressly authorized by charter or by the full committee in advance, all recommendations and findings of subcommittees must be presented to the parent committee for subsequent action.

Authority: 5 U.S.C. App. 2.

Subpart D—How Does an Advisory Committee Operate?

§ 11.30 What meeting requirements affect advisory committees?

(a) The DFO is not required to call, chair, attend or adjourn meetings of GEPA Presidential advisory committees. Meetings may be held and conducted without the DFO being present. The DFO does not approve the agenda for these meetings.

(b) (1) For Presidential advisory committees not governed by the provisions of GEPA, the DFO is required to—

(i) Call or approve meetings in advance; and

(ii) Chair or attend these meetings.

(2) The DFO is authorized, whenever he or she determines it to be in the public interest, to adjourn any meeting.

(3) Meetings may not be conducted in the absence of the DFO.

(4) The DFO does not approve the agenda for these meetings.

(c) (1) For committees other than those covered by paragraph (a) or (b) of this section, the DFO is required to—

(i) Call or approve meetings in advance; and

(ii) Chair or attend these meetings.

(2) The DFO is authorized, whenever he or she determines it to be in the public interest, to adjourn these meetings.

(3) Meetings may not be conducted in the absence of the DFO.

(4) The DFO approves the agenda for these meetings.

Authority: 5 U.S.C. App. 2; 20 U.S.C. 1233 *et seq.*

§ 11.31 What is a quorum?

(a) An advisory committee shall not hold a meeting and take any action on its deliberations without a quorum. Unless otherwise required by statute or provided in a committee's charter, a quorum consists of the majority of the committee's authorized membership including *ex officio* members.

(b) For a subcommittee, a quorum is the majority of the authorized membership of the subcommittee.

Authority: 5 U.S.C. App. 2

§ 11.32 What special provisions govern the voting rights of certain committee members?

(a) An *ex officio* committee member or a committee member who is a full-time Federal employee may delegate his or her committee duties, including voting rights. An advisory committee member who is not a Federal employee may not delegate his or her duties, including voting rights, unless a delegation is explicitly permitted by legislation establishing the committee.

(b) Unless provided in the legislation or charter governing a committee, *ex officio* members of committees must have full voting rights.

Authority: 5 U.S.C. App. 2.

§ 11.33 What notice is required for advisory committee and subcommittee meetings?

(a) (1) Unless the Administrator determines otherwise for reasons of national security, or except as otherwise provided in the regulations in this part, notice of each advisory committee or subcommittee meeting must be published in the **Federal Register**. This requirement applies even if all or a part of a meeting is closed to the public.

(2) Except for emergency meetings, notice of advisory committee or subcommittee meetings must be published in the **Federal Register** at least 15 days prior to the meeting. If a meeting is called and must be held without 15 days' notice, the reasons for failure to give the full 15-day notice must be included in the **Federal Register** notice.

(b) A notice must state—

(1) The name of the advisory committee;

(2) The date, time, and place of the meeting;

(3) The purpose of the meeting, including a summary of the agenda;

(4) The extent to which the public will be permitted to attend or participate in the meeting;

(5) The reasons for closing any portion of the meeting, including the appropriate exemption from the Government in the Sunshine Act, 5 U.S.C. 552b(c); and

(6) Where records of the meeting, including a summary of any closed portion, are available for public inspection.

(c) If a meeting is postponed or canceled, a notice must be published in the **Federal Register** to inform the general public of the change.

(d) In addition to the notice of meeting published in the **Federal Register**, the Executive Director or DFO of each advisory committee shall maintain a list of persons and organizations who have requested to be notified of all meetings and notify them by mail in advance of each meeting. Other forms of notice, such as press releases and notices in professional journals, may be used by the Executive Director or DFO to the extent practicable.

Authority: 5 U.S.C. App. 2; 5 U.S.C. 552b(c).

§ 11.34 What public participation is allowed at advisory committee meetings?

(a) Subject to the exception in § 11.35, each advisory committee meeting must be open to the public, and interested persons must be permitted to attend, appear before, or file statements with the advisory committee in accordance with this section.

(b) With respect to any advisory committee meeting, all or part of which is open to the public, the Executive Director or DFO of each committee shall ensure compliance with the following rules:

(1) Meetings must be held at reasonable times and at places that are reasonably accessible to members of the public. If feasible, Government facilities must be used and meetings held in places involving the least expense to the Government.

(2) The size of the meeting room must be reasonable, considering such factors as the number of committee members, committee staff, Department employees, and interested persons from the general public expected to attend.

(3) Any member of the public may file a written statement with the committee, either before or within a reasonable time after a meeting.

(4) If time permits and advance approval has been obtained from the Chairperson, Executive Director, or DFO, interested persons may present oral statements. If the Chairperson has given authorization, the committee may respond to questions from the public.

(5) The Chairperson or the designee of the Chairperson shall make a written request to the Secretary for approval of any meeting held outside the Washington, D.C. area and provide a narrative justification for the request. Before the meeting can be held, proper authorization must be given by the Secretary.

Authority: 5 U.S.C. App. 2.

§ 11.35 What are the requirements for closing a meeting?

(a) All or part of an advisory committee meeting may be closed to the public if the Secretary determines in writing that closing is warranted under an exemption in the Government in the Sunshine Act.

(b) To request closing all or part of a meeting, the Chairperson or the Chairperson's designee shall make a written request to the Secretary at least 30 days before the date of the meeting, except in emergency circumstances. The request must contain the reasons for the closed meeting and the Government in the Sunshine Act exemption that authorizes the closing.

(c) In requesting the closing of all or part of a meeting, the Chairperson or the designee of the Chairperson shall—

(1) Restrict the closing to the shortest reasonable time;

(2) Request closing only the portion of the meeting dealing with exempt matters if several separable matters will be considered, not all of which are within the exemptions; and

(3) Arrange the agenda to facilitate attendance by the public at the open portion of the meeting.

(d) Committee members, committee staff, and interested Department officials or employees may attend closed or partially closed meetings.

(e) Within 14 days after the closed or partially closed meeting, advisory committees shall make available to the public a written summary report of the closed deliberations consistent with the policy of the Government in the Sunshine Act.

Authority: 5 U.S.C. App. 2; 5 U.S.C. 552b(c).

§ 11.36 What special procedures may be used for emergency advisory committee meetings?

(a) In emergency circumstances, the Secretary may permit a committee to conduct its business by a telephone conference call, under the procedures in this section.

(b) In determining whether conducting a meeting by telephone conference call is justified, the Secretary considers—

(1) Whether the nature of the emergency is critical to the operation of the committee, but not sufficient to justify holding a regular meeting;

(2) Whether the meeting involved committee projects or assignments with very short deadlines requiring assistance from an advisory committee, and whether there is enough time to convene a regular meeting; and

(3) Whether the Secretary requires advice or important information from the committee, but the Department is under financial constraints that prevent the expenditure of Federal funds for the expenses of convening a regular meeting.

(c)(1) If an advisory committee calls an emergency meeting by telephone conference call, the committee Chairperson or the Chairperson's designee shall provide the Secretary with a written request for the meeting including a justification explaining the necessity and urgency for the meeting.

(2) The Secretary publishes a notice in the **Federal Register** informing the general public of the intent to have a meeting by telephone conference call. The notice specifies how the public will have access to the meeting. At a minimum, one participating member must be in a room with seating space for the public and telephonic devices that permit the public to hear and to participate in the deliberations to the extent provided by § 11.34.

(3) The Chairperson or the Chairperson's designee shall ensure that detailed minutes of the proceedings are accurately taken and filed in the committee's staff office and that the meeting complies with any other applicable laws and regulations.

Authority: 5 U.S.C. App. 2.

§ 11.37 How is the agenda established and distributed?

(a) The Committee Chairperson or the Chairperson's designee shall distribute advance copies of a committee's agenda to committee members, Departmental officials, and interested individuals, groups or organizations at least two days prior to the date of the meeting.

(b) The agenda must include the matters to be discussed and considered at the meeting, and state whether any portion of the meeting is closed to the public.

Authority: 5 U.S.C. Appendix 2.

§ 11.38 What records are kept of advisory committee meetings?

(a) The Chairperson or the Chairperson's designee shall ensure that an advisory committee keeps detailed minutes of each meeting, including meetings of subcommittees, unless a verbatim transcript is made of the meeting.

(b) The minutes must include—

(1) The date, time and place of the meeting;

(2) A list of committee members, committee staff, Federal employees, and an estimated number of the general public present at the meeting;

(3) A detailed summary of matters discussed at the meeting, including different positions taken and conclusions reached by the committee;

(4) Copies of all reports, papers, and other documents received, issued, or approved by the committee;

(5) An explanation of the extent to which the meeting was open to the public and the public participated in the proceedings; and

(6) A list of the public participants who presented oral or written statements.

(c) The Chairperson or Chairperson's designee shall ensure that minutes are completed within a reasonable time after the meeting. The Chairperson shall certify the accuracy of the minutes.

(d) A copy of the minutes must be kept on file by the advisory committee, and a copy must be sent to the Committee Management Officer.

Authority: 5 U.S.C. Appendix 2.

§ 11.39 What reports are made by advisory committees?

(a) Each statutory and non-statutory advisory committee shall make an annual report of its activities, findings, and recommendations to the Congress not later than March 31, which is submitted with the Secretary's annual report to Congress. Each committee's

annual report must cover committee activities for the preceding fiscal year.

(b) Statutory advisory committees shall prepare reports that are mandated by their enabling legislation.

(c) Copies of all reports must be submitted to the Committee Management Officer.

Authority: 5 U.S.C. App. 2; 20 U.S.C. *et seq.*

§ 11.40 What records must an advisory committee make available to the public?

(a) All records, reports, and other documents on advisory committees are available for public inspection and copying consistent with the Department's Freedom of Information Act regulations, 34 CFR Part 5.

(b) Copies of Transcripts of committee proceedings or meetings are available at a cost determined under the fee schedule in 34 CFR 5.61.

Authority: 5 U.S.C. App. 2.

[FR Doc. 86-19392 Filed 8-26-86; 8:45 am]
BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300152; FRL-3069-7]

Barium Sulfate and Carnauba Wax; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that barium sulfate and carnauba wax be exempted from the requirements of a tolerance when used as carrier, density control agent (barium sulfate), and binder (carnauba wax) in pesticide formulations applied to animals. This proposed regulation was requested by Mobay Corp., Animal Health Division.

DATE: Written comments, identified by the document control number [OPP-300152], must be received on or before September 26, 1986.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number:

Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700

SUPPLEMENTARY INFORMATION: At the request of the Mobay Corp., Animal Health Division, the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for barium sulfate and carnauba wax when used as a carrier and density control agent (barium sulfate) and as a binder (carnauba wax) in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Barium sulfate and carnauba wax.

Name and address of requestor. Mobay Corp., Animal Health Division, Shawnee, KS 66201.

Bases for approval.

Barium sulfate. 1. Barium sulfate is cleared under 21 CFR 175.300(b)(3)(xxvi) as a pigment and colorant in resinous and polymeric coatings.

2. Barium sulfate is cleared under 21 CFR 177.2600(c)(4)(v) as a filler in rubber articles intended for repeated use.

3. Barium sulfate is cleared under 21 CFR 175.105(c)(5) as a component in adhesives.

4. Barium sulfate is cleared under 40 CFR 180.1001(d) for use as a carrier in pesticide formulations applied to growing crops only.

5. Barium sulfate is used as a radio-opaque contrast medium in gastroenterology. It is not toxic based on its insolubility and biological unavailability.

6. Barium chloride as soluble barium salt has an oral toxicity with no-observable-effect-level (NOEL) of 2,000 ppm in a 2-year rat study and a NOEL of 20 mg/kg in a 56-week dog study.

Carnauba wax. 1. Carnauba wax is cleared under 40 CFR 180.1001(c) as a coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

2. Carnauba wax is cleared under 21 CFR 184.1978 as a direct food substance affirmed as generally recognized as safe (GRAS).

3. Carnauba wax is cleared under 21 CFR 582.1978 as a food additive affirmed as GRAS.

EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures, the Agency conducts a review of the data base supporting any prior clearances, data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support this regulation for barium sulfate. The Agency has also determined that no additional test data will be required to support this regulation for carnauba wax.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices these ingredients are useful and do not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the proposed amendments to 40 CFR Part 180 will protect the public health. It is therefore proposed that the

regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300152]. All written comments filed in response to this proposal will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 7, 1986.

J.W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the following inert ingredients:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Barium sulfate (CAS Reg. No. 7727-43-7).	.....	Carrier, density control agent.
* * * * *		
Carnauba wax (CAS Reg. No. 8015-86-9).	.....	Binder.
* * * * *		

[FR Doc. 86-18991 Filed 8-26-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300151; FRL-3069-5]

Dextrin; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that dextrin be exempted from the requirement of a tolerance when used as an inert ingredient (surfactant, suspending agent, dispersing agent), in pesticide formulations applied to animals. This proposed regulation was requested by Scientific Research Associates, Inc.

DATE: Written comments, identified by the document control number [OPP-300151], must be received on or before September 26, 1986.

ADDRESSES: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Room 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Office location and telephone number: Registration Support and Emergency Response Branch, Room 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700

SUPPLEMENTARY INFORMATION: At the request of Scientific Research Associates, Inc., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for dextrin when used as a surfactant, suspending agent, or dispersing agent in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Dextrin.

Name and address of requestor. Scientific Research Associates, Inc., Silver Spring, MD 20901.

Bases for approval. 1. Dextrin is cleared under 40 CFR 180.1001(c) when used as a surfactant, suspending agent, or dispersing agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

2. Dextrin is cleared under 21 CFR 182.90 as an adjuvant for pesticide chemicals.

3. Dextrin is cleared under 21 CFR 184.1277 as Generally Recognized As Safe (GRAS) as a direct food additive.

Dextrin is recommended for use as a food additive with no limits other than

good manufacturing practices by the Joint FAO/WHO Expert Committee on Food Additives (WHO Food Additive Series 5, p. 378, WHO, Geneva, Switzerland 1974).

EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support this regulation.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the proposed amendment to 40 CFR Part 180 will protect the public health. It is therefore proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300151]. All written comments filed in response to this proposal will be available for inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 7, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the following inert ingredient:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Dextrin (CAS Reg. No. 9004-53-9)		Surfactant, suspending agent, dispersing agent.
* * * * *		

[FR Doc. 86-18992 Filed 8-27-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 110, 417, and 434

[BERC-382-P]

Medicare Program; Application Fees for Health Maintenance Organizations and Competitive Medicare Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to charge an application fee for the following:

- An entity that seeks either qualification as a Federal health maintenance organization (HMO) or certification as a competitive medical plan (CMP).
- An HMO that seeks expansion of its service area or qualification of a regional component of its organization as an HMO in itself.
- A CMP that seeks expansion of its geographic area.

We intend that these fees help offset the administrative costs incurred in these determinations.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on September 26, 1986.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-382-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Humbert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC; or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-382-P.

Comments received timely will be available for public inspection as they are received, which generally begins about three weeks after publication of a document, in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Frank H. Seubold, Ph.D., (301) 443-6016, Office of Health Maintenance Organizations;

or

Rita McGrath, (301) 594-6719, Office of Coverage Policy.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIII of the Public Health Service Act (42 U.S.C. 300e through 300e-17.), which was established by the Health Maintenance Organization Act of 1973 (Pub. L. 93-222), provides for standards under which an organization may be designated a Federally qualified health maintenance organization (HMO). These standards involve the provision of basic health services and the organization and operation of HMOs and are implemented by regulations in 42 CFR Part 110. In addition, section 1876 of the Social Security Act authorizes Medicare payment to qualified HMOs and certified competitive medical plans

(CMPs) (collectively known as eligible organizations) through contracts under which the HMOs and CMPs are paid on a prepaid capitation basis that is either prospectively determined or based on reasonable cost of furnishing covered services to Medicare beneficiaries. The regulations implementing section 1876 of the Social Security Act are set forth in 42 CFR Part 417. (section 1903(m) of the Social Security Act authorizes Federal financial participation (FFP) to States that contract with Federally qualified HMOs to furnish services to Medicaid recipients on a prepaid capitation basis.)

A. Change in Delegation of Authority

Until recently, the authority for determining whether an entity is an eligible organization within the meaning of section 1876(b) of the Social Security Act was delegated to the Assistant Secretary for Health of the Department of Health and Human Services (the Department). This delegation was published in the **Federal Register** on April 22, 1983 (48 FR 17395) and is set forth in regulations at § 417.406. However, that authority was recently redelegated to the Administrator of HCFA as described in the **Federal Register** on March 21, 1986 (51 FR 9694). That document states that the ". . . change in authority for the Federal HMO program was made in order to more closely coordinate the Health Maintenance Organization Program with the Medicare Program and improve the objectives of both programs to improve health care and the use of prepaid health care."

The regulations at §417.406(a)(2) currently state that the Assistant Secretary for Health uses the procedures set forth in § 110.605 (a) through (d) to determine whether an entity meets the definition of a CMP as set forth in § 417.407(b).

B. Fees for Government Services

Under 31 U.S.C. 9701 (Fees and charges for Government services and things of value), Congress requires that a Federal agency charge for a service or thing of value in certain circumtances so that the provision of services or things of value are self-sustaining to the extent possible. Paragraph (b) of 31 U.S.C. 9701 requires that each charge be both—

- Fair; and
- Based on—
  - — The costs to the agency;
  - — The value of the service or thing to the recipient;
  - — The public policy or interest served; and
  - — Other relevant facts.

Imposition of fees by Federal agencies under 31 U.S.C. 9701 has been the subject of many lawsuits and court decisions. Courts have consistently upheld the imposition of fees by Federal agencies when the provisions of 31 U.S.C. 9701 are followed and the service provided by the Federal agency primarily benefits a specific recipient rather than the general public. As stated by the Supreme Court in *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345 (1974):

> A reasonable charge "should be made to each identifiable recipient for a measurable unit or amount of government service or property from which he derives a special benefit" . . . no charge should be made for services rendered "when the identification of an ultimate beneficiary is obscure and the service primarily considered benefiting broadly the general public." 415 U.S. at 349 (citing OMB Circular No. A–25, September 23, 1959)

We have determined that the services provided in qualifying HMOs and certifying CMPs are services that should be subject to application fees under 31 U.S.C. 9701. Whereas the public benefits from the increased competition provided by the qualification of additional HMOs and the certification of additional CMPs, these benefits derive almost exclusively from the additional provider choices made available to employers and individuals, and do not involve substantial, broad, and indivisible public benefits like those provided by government functions such as public safety, national defense, vaccination against infectious diseases, and fluoridation of water. The direct and substantial recipients of these benefits are the HMOs and CMPs themselves. Only qualified HMOs benefit from access to the employer market under the "dual choice" provision under section 1310 of the Public Health Service Act, which requires that an employer with 25 or more employees and a health benefits plan must include a qualified HMO among the plans offered, if an HMO is operating in the area. A qualified HMO also benefits from section 1311 of the Public Health Service Act (Restrictive State Laws and Practices), which preempts or overrides some State laws that restrict HMO operation. In addition, under section 1903(m) of the Social Security Act, a federally qualified HMO may also contract with a State to furnish services to Medicaid recipients. Both qualified HMOs and certified CMPs benefit from access to contracts under which they are paid on a prospectively determined basis or on a reasonable cost basis for furnishing medical services to Medicare beneficiaries, if these eligible organizations meet qualifying conditions for a contract under 42 CFR 417.410 through 417.418.

II. Proposed Changes

We are proposing to charge an application fee for the following:

- An entity that seeks either qualification as a Federal health maintenance organization (HMO) or certification as a competitive medical plan (CMP).
- An HMO that seeks expansion of its service area or qualification of a regional component of its organization as an HMO in itself.
- A CMP that seeks expansion of its geographic area.

Each fee would be payable to the time of submission of an application and would be refunded, upon request, if an application is withdrawn within 10 business days of its receipt.

The fee would be charged to applicants whose applications are received on or after the effective date of the final rule. An applicant that submits an incomplete application before the effective date of the final rule would not be charged an application fee if the information needed to complete the application is received by HCFA by 5:00 p.m. on the day before the effective date. However, if information necessary for completion of the application is received by HCFA on or after the effective date, HCFA would charge the appropriate application fee.

Specifically, the fee for both new HMO applications and applications from Federally qualified HMOs seeking qualification for regional components would be $34,600. The fee for a Federally qualified HMO seeking to expand its service area would be $17,300. The fee for an entity seeking certification as a CMP would be $22,900.

The amounts of the application fees are based on two elements. One element is the average cost per full-time equivalent (FTE) position in the Bureau of Resources Development, Health Resources and Services Administration (HRSA) in which the former Office of Health Maintenance Organizations (now the Office of Prepaid Health Care) was located prior to its transfer to HCFA in March 1986. We estimated the average cost per FTE in Federal FY 1986 as $60,000 ($46,200 for salary and related benefits and $13,800 for administrative costs). Next, an inflation factor of 4.2 percent (based on the factor used in the Federal FY 1987 Budget of the United States) was added to this amount to determine the amounts of the application fees that would be charged in Federal FY 1987. (Administrative costs include travel, standard level user's

VOL 51 ISS 166 AG 27 1986 UMI

charge (rent and utilities), telecommunications, printing, training, postage, express mail, supplies, equipment, ADP computer usage, and building service charges associated with support services provided by organizational components, for example, the computer center.)

The second element is associated with contractual support. The HMO qualification and CMP certification processes require specialists in marketing, law, finance, health services delivery, management, and management information systems. The Office of Prepaid Health Care, through contractual arrangements, complements its existing staff by contracting with non-Federal experts to review applications. These experts bring a valuable operational perspective to the review of application materials and their subsquent participation in site visits.

The amount of the application fee to be charged for a new HMO or regional component application would be $34,600. (Staff time associated with processing an application equals .41 FTE for a cost of $19,700. This includes the time of one qualification officer, two qualification technical specialists, the Office of Qualification management staff who participate in meetings before and after the HMO site visit, and support personnel. Administrative costs associated with processing the application are $5,900. The cost of the specialist reviewers provided under contract is $9,000, which covers travel and per diem for three reviewers at five days per reviewer, for a total of 15 days per application.) Because a request for a service expansion does not require an indepth review, we estimate that the cost to the agency for an HMO service area expansion would be $17,300, which is one half of the application fee for a new HMO or a regional component.

The application fee that would be charged for a new CMP application would be $22,900. (Staff time associated with processing an application equals .27 FTE for a cost of $13,000. This includes the time of one qualification officer, one qualification technical specialist, the Office of Qualification management staff who participate in meetings, before and after the CMP site visit and support personnel. Administrative costs associated with processing the application are $3,900. The cost of the specialist reviewers provided under contact is $6,000, which covers travel and per diem for two reviewers at five days per reviewer, for a total of 10 days per application.) In addition, we would charge $11,500 for a CMP that seeks to expand its geographic area. (We recently received and processed our first application from a CMP to expand its geographic area. However, we have not yet had enough experience with processing this type of application to calculate a fee. Thus, our proposed fee is based on an estimate of the resources that the Federal government would expend.)

We are especially interested in public comments concerning the amounts of these application fees.

In addition, we are considering the use of an inflation factor under which we would update the amount of each application fee at the beginning of each Federal fiscal year in the same manner as we used the inflation factor from the FY 1987 Budget of the United States to derive the proposed fees, as described above. In this connection, we could use an update factor as measured by one of the consumer price indexes compiled by the Bureau of Labor Statistics (for example, the Consumer Price Index of All Urban Consumers) as an alternative to the inflation factor used in the annual Budget of the United States. Our intent here is to ensure that the fees over time accurately reflect costs to the government for processing the HMO and CMP applications. We are specifically requesting comments concerning this issue.

Changes concerning application fees for HMOs would be added to §110.604. In § 417.406, we would add changes concerning application fees for both certification as a CMP and expansion of a CMP's geographic area.

A technical conforming change would be made to § 417.406(a)(2). This revised section would state that an entity that is seeking an eligibility determination must comply with the application requirements of § 110.604. In addition, in §§ 417.406, 417.494, and 434.2 we would make technical revisions necessary to conform the regulations to the redelegation of authority published in the **Federal Register** March 21, 1986 (51 FR 9694) that was described above.

We also plan to move the regulations in Part 110 that pertain to HMOs to Part 417. We would make these changes as part of the final rule, if we proceed with a final rule.

III. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or result in significant adverse effects on competition, employment, investment, productivity, or innovation. In addition, consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612), we prepare and publish a regulatory flexibility analysis for regulations that would have a significant economic impact on a substantial number of small entities. (The majority of HMOs are "small entities" within the meaning of that Act, by virtue of non-profit status or size or both.) For the reasons given below, we conclude that this regulation does not require a regulatory impact analysis, and the Secretary certifies that a regulatory flexibility analysis is not required. Nonetheless, we believe that these proposals could at least raise a question as to economic effects, and have therefore prepared the voluntary analysis below.

As of April 1, 1986, there were 356 active, Federally qualified HMOs. This is a substantial increase from earlier years, despite the termination of grant and loan subsidies early in this Administration. Indeed, according to the InterStudy HMO Census, during the most recent year for which HMO data are available (July 1984 to June 1985) HMOs experienced a record-breaking increase in both members and numbers of organizations. For a variety of reasons, including their demonstrated ability to contain health costs while providing quality health care, and the "dual choice" provision of section 1310 of the Public Health Service Act, HMOs are a vibrant and rapidly growing segment of the American health care delivery and financing system. As of 1985, HMOs enrolled about 19 million persons, and revenues were about $15 billion, an increase of about 25 percent from the prior year.

In this context, imposition of a small user fee would have negligible effects on industry costs, growth, and competitiveness. We estimate that the total revenues generated by these fees would be less than $7 million in Federal FY 1987. Most of the revenues would come from HMOs and the remainder from CMPs, with the precise amounts and proportions depending primarily on the number of applications of each type received. If industry revenues in FY 1987 were in the range of $20 billion (a conservative projection), user fees raising $7 million would represent less than one-twentieth of one percent of revenues.

These fees would be paid by new applicants (and existing HMOs establishing regional components or expanding their service areas), not by the industry at large. To examine the potential effect on new applicants, we simulated the effect of such a fee on HMOs qualified in 1981 (that is, HMOs for which we have five years of detailed

cost data). For these HMOs, a $34,600 application fee amortized over five years would, in 1981 dollars, have on average represented less than one-tenth of one percent of total costs over five years. We also examined HMOs that qualified in calendar year 1984 and found that after one year of operating experience these HMOs had average costs about double the constant dollar level of costs that HMOs qualified in calendar year 1981 had at the same stage of develpment. Thus, our data show that even on a one-year basis, the fee would represent less than one-fourth of one percent of annual costs over the first five years of a new HMO existence.

We also examined the potential effect on each HMO that qualified in 1981, taking into account size. In only one case would the fee have represented as much as one-half of one percent of five year expenses, and in that case the HMO in question was among the most financially successful, with a surplus of revenues over cost, in fewer than five years, several times higher than the fee. Furthermore, in most if not all cases an HMO could recover the cost of the fee simply by increasing its premium a fraction of one percent (only in the hypothetical case of a perfectly competitive local market with a totally inelastic demand curve would this be impossible). We therefore conclude that the imposition of these fees would not have a significant effect on the financial viability of any HMOs, create a significant barrier to entry, or have any other adverse economic effect.

We believe that similar conclusions apply to CMPs, though the data do not yet exist to allow precise calculations.

We also examined the possibility of imposition of fees for the ongoing compliance reviews to already qualified HMOs. However, we believe that these reviews, which serve to assure that HMOs continue to meet the financial stability and other requirements for Federal qualification, benefit the public at large (as opposed to the individual HMO) to a greater extent than do initial qualification reviews.

In addition, we also considered charging lower fees (perhaps related to projected revenues) for the smallest applicants. However, we do not believe that any applicants are small enough to find the proposed fees burdensome. Further, the procedures and costs for reviewing applications are virtually identical for all applications, except when deficiencies require extra review. Because the smallest entities do not have the resources and sophistication of larger organizations, the cost of reviewing their applications is, if anything, higher. Thus, charging a flat fee unrelated to size is itself arguably a slight preference for such applicants. Therefore, we rejected this option.

IV. Other Required Information

A. Paperwork Reduction Act

42 CFR 110.604 contains information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the preamble and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, Attention: Desk Officer for HCFA.

B. Responses to Public Comment

Because of the large number of items of correspondence we normally receive on proposed regulations, we cannot acknowledge or respond to them individually. However, we will consider all comments that are received by the date and time specified in the "Date" section of the preamble, and, if we proceed with a final rule, we will respond to those comments in the preamble to that rule.

List of Subjects

42 CFR Part 110

Grant programs/health, Health care, Health facilities, Health insurance, Health maintenance organizations, Loan programs/health.

42 CFR Part 417

Administrative practice and procedures, Health maintenance organization (HMO), Medicare.

42 CFR Part 434

Grant programs-health, Health maintenance organizations (HMO), Medicaid, Reporting and recordkeeping requirements.

Title 42 CFR would be amended as set forth below:

I. Chapter I, Part 110 is amended as follows:

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

A. Subpart A is amended as follows:

Subpart A—Requirements for a Health Maintenance Organization

1. The authority citation for Subpart A is revised to read as follows:

Authority: Secs. 215 and 1301 through 1318 of the Public Health Service Act, as amended (42 U.S.C. 216 and 300e through 300e–17)

§ 110.101 [Amended]

2. Section 110.101 is amended by adding the following definition in alphabetical order:

"HCFA" stands for Health Care Financing Administration.

B. Subpart F is amended as follows:

Subpart F—Qualification of Health Maintenance Organizations

1. The authority citation for Subpart F is revised to read as follows:

Authority: Secs. 215 and 1301 through 1318 of the Public Health Service Act, as amended (42 U.S.C. 216 and 300e through 300e–17); and 31 U.S.C. 9701.

2. Section 110.604 is revised to read as follows:

§ 110.604 Application Requirements.

(a) *General requirements.* This section sets forth application requirements for entities that seek qualification as HMOs; HMOs that seek expansion of their service areas; and HMOs that seek qualification of their regional components as HMOs.

(b) *Completion of an application form.* (1) In order to receive a determination concerning whether an entity is a qualified HMO, an individual authorized to act for the entity (the applicant) must complete an application form provided by HCFA.

(2) The authorized individual must describe thoroughly how the entity meets, or will meet, the requirements for qualified HMOs described in the Act and in Subparts A and F of this part.

(c) *Collection of an application fee.* In accordance with the requirements of 31 U.S.C. 9701, Fees and charges for Government services and things of value, HCFA determines the amount of the application fee that must be submitted with each type of application.

(1) The fee is reasonably related to the Federal government's cost of qualifying or certifying an entity and may vary based on the type of application.

(2) Each type of application has one set fee rather than a charge based on the specific cost of each determination. (For example, each Federally qualified HMO applicant seeking Federal qualification of one of its regional components as an HMO is charged the same amount, unless the amount of the fee has been

changed under paragraph (f) of this section.)

(d) *Application fee amounts.* The application fee amounts for applications completed on or after [effective date of the final rule] are as follows:

(1) $34,600 for an entity seeking qualification as an HMO or qualification of a regional component of an HMO.

(2) $17,300 for an HMO seeking expansion of its service area.

(3) $22,900 for an entity seeking certification as a CMP.

(4) $11,500 for a CMP seeking expansion of its geographic area.

(e) *Refund of an application fee.* HCFA refunds an application fee only if the entity withdraws its application within 10 days after receipt by HCFA. Application fees are not returned in any other circumstance, even if qualification or certification is denied.

(f) *Procedure for changing the amount of an application fee.* If HCFA determines that a change in the amount of a fee is appropriate, HCFA issues a notice of proposed rulemaking in the **Federal Register** to announce the proposed new amount.

(g) *New application after denial.* An entity may not submit another application under this subpart for the same type of determination for four full months after the date of the notice in which HCFA denied the application.

(h) *Disclosure of application information under the Freedom of Information Act.* An applicant submitting material that he or she believes is protected from disclosure under 5 U.S.C. 552, the Freedom of Information Act, or because of exceptions provided in 45 CFR Part 5, the Department's regulations providing exceptions to disclosure, should label the material "privileged" and include an explanation of the applicability of an exception described in 45 CFR Part 5.

II. Chapter IV, is amended as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. Part 417 is amended as follows:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for Part 417 is revised to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1871, 1874, and 1876 of the Social Security Act as amended (42 U.S.C. 1302, 13951(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); section 114(c) of Pub. L. 97-248 (42 U.S.C. 1395mm note); section 1301 of the Public Health Service Act (42 U.S.C. 300e); and 31 U.S.C. 9701.

2. Subpart C is amended as follows:

Subpart C—Health Maintenance Organizations and Competitive Medical Plans

a. Section 417.406 is revised to read as follows:

§ 417.406 Eligible organization determinations.

(a) *Responsibility for making determinations.* (1) HCFA has the responsibility for determining if an entity is an eligible organization.

(2) The application requirements set forth in §110.604 of this title apply to—

(i) An entity that seeks a determination that it is an eligible organization; and

(ii) A CMP that seeks to expand its geographic area.

(3) HCFA uses the procedures set forth in § 110.605 (a) through (d) of this title in determining whether an entity meets the definition of a competitive medical plan as set forth in §417.407(b). For purposes of this paragraph, references in those sections to "qualified HMO" are deemed references to "competitive medical plan" and references to requirements for qualification are deemed references to the requirements contained in the definition of "competitive medical plan", except that references in those sections to the requirements of section 1301 of the Public Health Service Act, Subpart A of Part 110, and § 110.603 apply only to HMOs and not to CMPs.

(b) *Oversight of continuing eligibility.* (1) HCFA is responsible for overseeing an entity's continuing compliance with the definition of an eligible organization as set forth in § 417.407.

(2) If an entity no longer meets the definition of an eligible organization, HCFA will terminate the entity's contract as specified in § 417.494(b)(iii).

b. In §417.407, paragraph (b) is revised to read as follows:

§417.407 Definition of an eligible organization.

* * * * *

(b) *Health maintenance organization (HMO).* An HMO is a legal entity that is a qualified HMO as defined in section 1301 of the Public Health Service (PHS) Act. The regulations for qualified HMOs are set forth in Subpart A of Part 110 of this title.

* * * * *

§417.494 [Amended]

c. In §417.494, paragraph (b)(1)(iii) is amended by replacing the acronym "PHS" with "HCFA".

B. Part 434 is amended as follows:

PART 434—CONTRACTS

1. The authority citation for Part 434 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

§434.2 [Amended]

2. In §434.2, the definition for "Federally Qualified HMO" is amended by replacing "Public Health Service (PHS)" with "HCFA".

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance Program and No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: July 28, 1986.

W.L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 7, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-19367 Filed 8-26-86; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 78-72; 80-286]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission: Federal-State Joint Board.

ACTION: Order inviting comments and request for data.

SUMMARY: The Federal-State Joint Board seeks comments on four proposed options for revisions to the separations rules applicable to the revenue accounting expenses in Account 662 which are incurred in the provision of billing and collection service. This Order is Part of the Joint Board's comprehensive review of the procedures for allocating local exchange costs between the state and interstate jurisdictions in CC Docket No. 80-286. The Joint Board also requests that parties submit data showing the revenue requirements under the existing separations rules and the revenue requirements under the proposed options. That data will be used in the evaluation of the options and the review of the comments filed in response to the Order.

DATES: Comments on the rule changes proposed in the Order must be filed by September 2, 1986. The date submitted in response to the Notice must also be submitted by September 2, 1986. Reply

comments are due by September 23, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Michael Wilson, Chief, Audits Branch, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632–7500.

Cindy Schonhaut, Special Counsel, Federal-State Joint Board Matters, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal-State Joint Board's Order Inviting Comments and Request for Data, CC Docket Nos. 78–72 and 80–286, adopted July 11, 1986 and released July 25, 1986.

The full text of this decision is available for inspection and copying during normal business hours in the Federal Communications Commission Dockets Branch, 1919 M Street, NW., room 230, Washington, DC 20554. The complete text of the decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Order Inviting Comments and Request for Data

1. On July 11, 1986, the Federal-State Joint Board adopted an Order Inviting Comments and Request for Data (Order) which proposes to change the manner in which the revenue accounting expenses in Account 662 are separated between the state and interstate jurisdictions. See 47 CFR 31.662. Revenue accounting expenses represent a major portion of billing and collection costs. Those expenses are allocated between the state and interstate jurisdictions according to procedures set forth in Part 67 of the Commission's rules. A change in the rules may be required because the American Telephone and Telegraph Company (AT&T) plans to discontinue subscribing to the billing and collection services of the local exchange carriers (LECs). AT&T is currently the only interexchange carier (IC) generating significant amounts of billing and collection revenue for the LECs. The assumption of billing and collection functions by AT&T may have an impact on the state and interstate revenue requirements for revenue accounting expenses. In addition, the Commission recently decided to detariff interstate billing and collection services as of January 1, 1987. Although those services will be detariffed, the LECs assert that under the current separations procedures, they will be unable to fully recover all the costs allocated to the interstate jurisdiction because those costs will exceed the actual costs of providing billing and collection services.

2. The Order requests comment on three proposed options for revising the separations rules applicable to revenue accounting expenses and seeks comments on the option of retaining the current rules, 47 CFR 67.381 through 67.386. The first and second options propose to eliminate the current separations categories and to change the allocator applied to revenue accounting expenses. Under Option A, booked revenue would be the basis for the allocation; under Option B, billed revenue would be the basis for the allocation. Option C would recategorize revenue accounting expenses and would change some of the allocation factors applied to those categories. Option D would retain the current rules. The Order also requests data on the existing state and interstate revenue requirements for revenue accounting expenses and on the projected state and interstate revenue requirements under the four proposed options.

3. This action is part of the Federal-State Joint Board's ongoing proceeding in CC Docket No. 80–286, in which it is reexamining the procedures for the allocation of local exchange costs between the state and interstate jurisdictions. This action was taken pursuant to section 4(i) 4(j), 201–295, 221(c) and 410 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201–201, 221(c) and 410(c).

Ex Parte Contacts

4. Members of the public are advised that the *ex parte* rules applicable to nonrestricted informal rulemakings are applicable to Commission decisions in this proceeding. *See* 47 CFR 1.1201 through 1.1245. For actions taken by the Joint Board, however, special *ex parte* rules apply. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80–286, 89 FCC 2d 36 (1982).

Regulatory Flexibility Analysis

5. We certify that the Regulatory Flexibility Act is not applicable to the rules we propose in this proceeding. See 5 U.S.C. 603.

6. Although we find that the Regulatory Flexibility Act does not apply to this proceeding, we are cognizant of the potential effect that the options proposed in this Order may have on a small exchange carriers. We therefore seek comment on the effect on the separations options proposed above on small exchange carriers.

Comments

7. Interested parties may file comments and responses to the data request on or before September 2, 1986, and reply comments on or before September 23, 1986. All relevant and timely comments will be considered by the Joint Board before final action is taken in this proceeding. Parties are requested to serve copies of all comments and responses to the data request on the Joint Board Commissioners and staff listed in Appendix E to the Order.

Ordering Clauses

8. Accordingly, it is ordered that, pursuant to the provisions of sections 4(i), 4(j), 201–205, 221(c) and 410 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201–205, 221(c) and 410, comments and data are hereby requested concerning the separations procedures for revenue accounting expenses.

List of Subjects in 47 CFR Part 67

Communications common carriers, Telephone.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 67 of Title 47 of the Code of Federal Regulations is proposed to be amended as shown in Options A, B, or C below:

1. The authority citation for Part 67 would continue to read:

Authority: (47 U.S.C. 151) 48 Stat. 1064, as amended 50 Stat. 189 (47 U.S.C. 154 (j), 48 Stat. 1064 (47 U.S.C. 221 (c)), 48 Stat. 1080 (47 U.S.C. 410 (c)) 85 Stat. 363

Option A

1. Revise § 67.381(a) to read as follows:

§ 67.381 General.

(a) Revenue accounting expenses comprise the salaries and other expenses in account 662 directly assignable or allocable to the billing of customers and the accounting for revenues, including the supervision of such work.

(1) The expenses for those general accounting administrative employees engaged in administrative, developmental methods, and personnel work which cannot be directly assigned to the revenue accounting function or to other accounting functions are apportioned to revenue accounting on the basis of an analysis of the employee

hours for the revenue accounting function and for all other accounting department functions.

(2) The term "ticket" denotes either a ticket prepared manually by an operator or the mechanized equivalent of such a ticket processed by the revenue accounting office.

* * * * *

2. Amend § 67.382 by revising the section heading and paragraph (a) to read as follows:

§ 67.382 Apportionment of revenue accounting expense.

(a) Revenue accounting expenses shall be allocated between the interstate and state jurisdictions on the ratio of interstate booked revenue to total booked revenues. Booked revenue is defined as exchange, state and interstate toll, access charge revenue (including end user common line) and billing and collection revenue both regulated and nonregulated. The ratio of interstate toll, interstate access charge revenue (including end user common line) interstate billing and collection revenue both regulated and unregulated to total booked revenue is the proportion to be applied to total revenue accounting expense to obtain the interstate cost assignment.

* * * * *

§§ 67.383 through 67.386 [Removed]

3. Remove § 67.383 through 67.386.

Option B

1. Revise § 67.381(a) to read as follows:

§§ 67.381 General.

(a) Revenue accounting expenses comprise the salaries and other expenses in account 662 directly assignable or allocable to the billing of customers and the accounting for revenues, including the supervision of such work.

(1) The expenses for those general accounting administrative employees engaged in administrative, developmental methods, and personnel work which cannot be directly assigned to the revenue accounting function or to other accounting functions are apportioned to revenue accounting on the basis of an analysis of the employee hours for the revenue accounting function and for all other accounting department functions.

(2) The term "ticket" denotes either a ticket prepared manually by an operator or the mechanized equivalent of such a ticket processed by the revenue accounting office.

* * * * *

2. Amend § 67.382 by revising the section heading and paragraph (a) to read as follows:

§ 67.382 Apportionment of revenue accounting expense.

(a) Revenue accounting expenses shall be allocated between the interstate and state jurisdictions on the ratio of interstate billed revenue to total billed revenues. Billed revenue is defined as the amount billed to interexchange carriers' and end users by the exchange carrier, including those revenues not retained by the exchange carrier. The ratio of interstate toll, interstate access charges and interstate billing and collecting revenues both regulated and unregulated to total billed toll, access charge, exchange, and billing and collection, both regulated and nonregulated, revenues are to be applied to total revenue accounting expense to obtain the interstate cost assignment.

* * * * *

§§ 67.383 through 67.386 [Removed]

3. Remove § 67.383 through 67.386.

Option C

1. Revise § 67.381 to read as follows:

§ 67.381 General.

(a) Revenue accounting expenses comprise the salaries and other expenses in Account 662 directly assignable or allocable to the billing of customers and the accounting for revenues, including the supervision of such work.

(1) The expenses for those general accounting administrative employees engaged in administrative, developmental methods, and personnel work which can not be directly assigned to the revenue accounting function or to other accounting functions are apportioned to revenue accounting on the basis of an analysis of the employee hours for the revenue accounting function and for all other accounting department functions.

(b) Revenue accounting expenses for the study area are separated on the basis of a Job Function analysis into three main classifications: Message processing expense, end user billing and collection expenses and carrier access charge billing and collection expense.

(c) As used in this section, the term "ticket" denotes either a ticket prepared manually by an operator or the mechanized equivalent of such a ticket processed by the revenue accounting office.

2. Revise § 67.382 to read as follows:

§ 67.382 Message processing expense.

(a) This category includes the salary and machine expense of data processing equipment, including supervision, general accounting administrative and miscellaneous expense associated with the processing of individual toll tickets and local message tickets.

(b) The expense assigned to this category is divided into subcategories for "message processing provided to others" and "message processing for telephone company provided services" on the basis of work functions. "Message processing for telephone company provided services" is further separated into local message processing and toll ticket processing. The local message processing is assigned to exchange operations. The toll tickets processing expenses are assigned between the state and interstate jurisdiction based on the basis of relative number of toll messages "Message processing provided to others" is separated between interstate and state jurisdictions on the basis of relative messages.

3. Revise § 67.383 to read as follows:

§ 67.383 End user billing and collection expense.

(a) This category includes the expense associated with the preparation of customer bills other than access charge bills.

(b) The expense assigned to this category is divided into subcategories for "billing and collection service provided to others" and "billing and collection for Telephone Company provided services" based on work functions. Expense associated with "Billing and collection for Telephone Company provided services" are apportioned between the interstate and state jurisdiction based on relative billed revenue. Expense associated with "Billing and collection service provided to others" is separated based on relative billed revenues.

4. Revise § 67.384 to read as follows:

§ 67.384 Carrier access charge billing and collection expense.

(a) This classification includes the revenue accounting functions associated with the billing and collection of access charges to interexchange carriers.

(b) The expenses assigned to this classification are separated between the interstate and state jurisdiction on the basis of relative access charge billings.

§§ 67.385 and 67.386 [Removed]

5. Remove §§ 67.385 and 67.386.

[FR Doc. 86-18411 Filed 8-26-86; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 166
Wednesday, August 27, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

West Virginia Advisory Committee; Cancellation

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission originally scheduled for August 26, 1986, convening at 10:00 a.m. and adjourning at 12:30 p.m. at the 17th Circuit Court of Monongalia County, High Street, Morgantown, West Virginia (FR Doc 86-171795, Page 27435) has been cancelled.

Dated at Washington, DC, August 22, 1986

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-19361 Filed 8-26-86; 8:45 am]

BILLING CODE 6335-01-M

West Virginia Advisory Committee; Agenda and Notice of Public Meetings

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a community forum of the West Virginia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on August 28, 1986 at the Professional Building, Room 215, 1036 Quarrier Street, Charleston, West Virginia. The purpose of the forum is to identify civil rights issues in West Virginia to submit to the Commission.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Adam Kelly or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523-5264, (TDD 202/523-5264). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of rules and regulations of the Commission.

Dated: at Washington, DC, August 22, 1986.

Donald A. Peppe,

Program Specialist for Regional Programs.

[FR Doc. 86-19360 Filed 8-26-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Veterans Administration Medical Center

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-289. Applicant: Veterans Administration Medical Center, 700 South 19th Street, Birmingham, AL 35233. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi Corporation, Japan. Intended use: The diagnosis of tumors and other conditions that require ultrastructural examination for final evaluation. Research projects that will include a variety of topics such as toxic injury to kidney and lung, mycoplasma and other factors affecting respiratory mucosa, immunolabelling at the ultrastructural level, and various other projects. In addition, the instrument will be used to teach pathology residents and Ph.D. candidates. Application received by Commissioner of Customs: July 22, 1986.

Docket No. 86-298. Applicant: Iowa Methodist Medical Center, Mercy Health Center of Central Iowa, Inc., 8th and University, Des Moines, IA 50314. Instrument: Kidney Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended use: The instrument is intended to be used to crush and ultimately remove kidney stones of patients without the need for a surgical procedure. The instrument will also be used for training in the correct operation of theory behind and purpose of the lithotripter. Application received by Commissioner of Customs: August 6, 1986.

Docket No. 86-299. Applicant: University of Cincinnati, Department of Chemistry, Cincinnati, OH 45221-0172. Instrument: Plasma Mass Spectrometer for trace element analysis. Manufacturer: Sciex, Canada. Intended use: The instrument will be used to quantify the elements of interest in samples to be studied and also to allow element specific detection for high performance liquid chromatography techniques at extremely low concentrations (typically 1 ppb). The objectives of these investigations will be to provide a more thorough understanding of the chemical/biological/medical implications of the presence of these elements in a biological milieu. Application received by Commissioner of Customs: August 7, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19362 Filed 8-26-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Permits; Foreign fishing

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235.

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management

VOL 51 ISS 166 AG 27 1986 UMI

Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231–0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 320 South New Street, Dover, DE 19901, 302/674–2331.

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571–4366.

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753–4926.

Wayne E. Swingle, Executive Director, Gulf of Mexcio Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228–2815.

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Building, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201, 503/221–6352.

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907/274–4563.

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523–1368.

For further information contact John D. Kelly or Shirley Whitted (Fees, Permits, and Regulations Division, 202–673–5319).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1986 have been received from the Governments shown below.

Dated: August 21, 1986.

Richard B. Roe,

Director, Office of Fisheries Management.

Fishery codes and designation of Regional Fishery Mangement Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Groundfish	North Pacific.
GAO	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean	New England, Mid-Atlantic.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California)	Pacific.
PBS	Pacific Billfishes and Sharks	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
*	Vessel(s) in support of U.S. vessels Joint Venture).

Nation Vessel name, vessel type	Application No.	Fishery	Activity
Government of Japan: Akebono Maru No. 77, Large Stern Trawler.	JA–86–0157	BSA,GOA	1
Ohyo Maru Cargo Transport Vessel.	JA–86–0158	BSA,GOA	3
Government of the Union of Soviet Socialist Republics: Pioner Murmana, Cargo Transport Vessel.	UR–86–0348	NWA	3

Joint Venture
Korea

The Government of Korea has submitted a permit application for the *Gae Cheog Ho* to participate in joint venture activities in the Alaskan fisheries. The species request is for Alaska pollock, 14,000 mt; Pacific code, 600 mt; other flounders 200 mt; and yellowfin sole, 200 mt. The designated American partner is Alaska Surimi Products, Inc., Washington, D.C. The *Gae Cheog Ho* was authorized for support activities in Alaska for 1986 on December 31, 1985.

Spain

The Government of Spain has requested that the *Laxe Dos Picos*, authorized for directed fishing activities February 21, 1986, replace the *Piniero Caniero* in an approved joint venture operation with Stonavar Trading, Inc., Bristol, RI.

[FR Doc. 86–19309 Filed 8–26–86; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts will next meet in open session on Thursday, September 18, 1986 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566–1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, August 20, 1986.

Charles H. Atherton,

Secretary.

[FR Doc. 86–19195 Filed 8–26–86; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

August 22, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 28, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On June 5, 1986 and May 28, 1986, notices were published in the **Federal Register** (51 FR 20541 and 51 FR 19246) which announced levels for Categories 351 (cotton pajamas and other nightwear) and 644 (women's girls' and infants' suits of man-made fiber), produced or manufactured in Sri Lanka and exported during the ninety-day consultation periods which began, for Category 351, on May 2, 1986 and extended through July 30, 1986, and, for Category 644, began on April 29, 1986 and extended through July 27, 1986.

During consultations held under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, the Governments of the United States and Sri Lanka agreed to further amend their agreement to establish specific limits for Categories 351 and 644, produced or manufactured in Sri Lanka and exported, in the case of Category 351, during the period which began on May 2, 1986 and extends through May 31, 1987; and, in the case of Category 644, on April 29, 1986 and extends through May 31, 1987. To facilitate administration under this agreement, the new limits of 113,630 dozen (Category 351) and 23,989 dozen (Category 644) have been prorated from the date of the original request for consultations concerning these categories and extending through the end of the current agreement year.

In the letter which follows this notice, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 351 and 644, in excess of the designated limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 22, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, December 22, 1981 and July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 28, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351 and 644, produced or manufactured in Sri Lanka and exported during the indicated periods, in excess of the following limits:

Category	Restraint limit [1]	Restraint period
351	113,630 dozen	May 2, 1986–May 31, 1987.
644	23,989 dozen	Apr. 29, 1986–May 31, 1987.

[1] The levels have not been adjusted to account for any imports exported after May 1, 1986 for Category 351 and after April 28, 1986 for Category 644.

Textile products in the foregoing categories, exported during the previously established restraint periods, shall be subject to this directive. The necessary charges will be provided in a separate letter.

Textile products in Categories 351 and 644 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19388 Filed 8-26-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

Privacy Act of 1974; New Record System

AGENCY: Defense Intelligence Agency (DIA), DoD.

ACTION: Notice of a new record system subject to the Privacy Act.

SUMMARY: The DIA is adding a new exempted record system to its existing inventory of record systems subject to the Privacy Act of 1974, an amended. (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice before September 26, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Helen E. Shuford, Administrative and Management Services Division (RTS-1), Defense Intelligence Agency, Washington, DC 20301-6111. Telephone: 202/373-3913, Autovon: 243-3913.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22858) May 29, 1985.

The new record system identified as LDIA 0275, entitled: DoD Hotline Referrals, is required to determine the facts and circumstances surrounding allegations made to the DoD/IG Hotline and referred by then to DIA/IG concerning DIA employees.

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on July 29, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Linda M. Laws,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

LDIA 0275

SYSTEM NAME:

DoD Hotline Referrals.

SYSTEM LOCATION:

Office of the Inspector General (OIG), Defense Intelligence Agency (DIA), Washington, D.C. 20301-6111.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian and military personnel who were the subject of Inspector General, DIA, actions as a result of DoD/IG Hotline referrals.

CATEGORY OF RECORDS IN THE SYSTEM:

Materials relating to the referral by DoD/IG Hotline and the follow-on of documentation created as a result of actions conducted by the OIG, including reports, records of action taken and supporting papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended, DoD Directive 5105.21, "Defense Intelligence Agency," and DoD Directive 7050.1, "DoD Hotline," as

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implemented by DIAM 40-1, "Investigations and Inspections, Inspector General Activities and Procedures," Chapter 2, paragraph 8.

PURPOSE(S):

Information is collected to determine the facts and circumstances surrounding allegations made to the DoD/IG Hotline and referred by them to DIA/IG concerning DIA employees. Records are used as a basis for recommending actions to the Command Element and other DIA elements. Results are reported back to the DoD/IG.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES:

See the "Blanket Routine Uses" set forth at the beginning of this Agency's listing of systems of records notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in an alarmed secure area. Records ar accessible only by authorized DIA/IG personnel who are properly cleared and trained, and who require access in connection with their official duties.

RETENTION AND DISPOSAL:

Records are held in current files for 3 years after completion and adjudication of all actions and then destroyed.

SYSTEM MANAGER AND ADDRESS:

Inspector General's Office, Defense Intelligence Agency, Washington, D.C. 20301-6111.

NOTIFICATION PROCEDURES:

Information may be obtained by submitting a written request to: the Freedom of Information Office (RTS-1), Defense Intelligence Agency, Washington, DC 20301-6111. Your request must include your full name, current address, telephone number and social security account number or date of birth. Requests submitted on behalf of other persons must include their written, notarized authorization. Providing of the social security number under E.O. 9397 is voluntary and it will be used solely for identification purposes. Failure to provide the social security number will not affect the individual's rights.

RECORD ACCESS PROCEDURES:

Individuals may access records pertaining to them by writing as indicated in 'Notification procedures', providing information specified therein.

CONTESTING RECORD PROCEDURES:

DIA rules for access to records and for contesting and appealing initial determinations are contained in 32 CFR Part 292a and DIA Regulation 12-12.

RECORD SOURCE CATEGORIES:

Personal interviews, personal history statements, abstracts from personnel records and security records, observations from employee's behavior, related notes, papers from counselors and/or supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5, U.S.C. 552a, subsections k(2), k(5), or k(7). For additional information see Agency rules contained in DIA Regulations 12-12 (32 CFR Part 292a).

[FR Doc. 86-19206 Filed 8-26-86; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement on a Modified Water Delivery Plan for Everglades National Park

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposal consists of structural and non-structural means of delivering surface water to Shark River Slough in order to provide an adequate supply and distribution of water of an acceptable quality to Everglades National Park, Florida.

2. The following action alternatives or combinations will be considered:

a. Increase the hydrologic interaction between Water Conservation Areas (WCA) 3A and 3B, and re-distribute water deliveries from the WCA's to the Park through Northeast Shark River Slough.

b. Replace the existing fixed schedule of water deliveries to the Park with a variable schedule based on rainfall or a flow-through system.

c. In conjunction with increasing the flow of water through NESRS, provide some combination of the following flood protection measures, if justified, for private landowners in the East Everglades and the Miccosukee Indian Camp on L-29:

(1) A system of levees, canals, and pumps for the residential areas.

(2) A system of levees, canals, and pumps for the residential and agricultural areas.

(3) Acquisition/relocation.

(4) Flood proofing (primarily the Indian camps).

3. a. Public involvement to date has included several meetings and agency technical workshops. Public input on issues has been received in conjunction with several related Corps actions in the area recently. A public workshop to discuss alternative plans will be held during the last quarter of CY 1986. A Public Meeting is expected during the 2nd quarter of 1987. Comments on alternatives and environmental concerns are invited from any interested parties.

b. Significant issues to be analyzed in depth in the DEIS are as follows:

(1) Impact of altered hydroperiod on fish and wildlife resources in Everglades National Park, Northeast Shark River Slough, and Water Conservation Area No. 3.

(2) Impact of altered hydrology on private landowners and agricultural interests in the East Everglades.

(3) Impact of altered hydrology on the water supply for Dade County.

c. Coordination with appropriate Federal and State agencies is required under provisions of the Endangered Species Act and the National Historic Preservation Act.

4. A Scoping meeting is not contemplated.

5. The DEIS is expected to be available for review in the 2nd quarter of CY 1987.

ADDRESS: Questions about the proposed action and DEIS may be referred to Dr. Gerald Atmar, Chief, Environmental Studies Section, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019. Telephone (904) 791-2615.

Dated: August 14, 1986.

Charles T. Myers III,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86-19314 Filed 8-26-86; 8:45 am]

BILLING CODE 3710-AJ-M

Department of the Army

Military Traffic Management Command, Directorate of Personal Property; Interstate Program

AGENCY: Military Traffic Management Command (MTMC).

ACTION: Notice of invitation to comment on a proposal to increase the minimum released valuation for all Department of Defense (DOD) and U.S. Coast Guard household goods shipments effective May 1, 1987.

SUMMARY: MTMC is considering increasing the current 60 cents per pound per article released valuation to a minimum $1.25 times the net weight of the shipment for all Department of Defense and U.S. Coast Guard household goods shipments. This proposal supports our view that the current 60 cents per pound article is far below the average household goods' value, and the limitation may contribute to less than satisfactory service. Comments from industry and other interested persons are being solicited for the following proposed provision.

a. The $1.25 minimum released valuation would become the lowest value to be cited for all shipments. The cost for released valuation at $1.25 times the net weight of the shipment will be determined by the carrier and folded into the rate submission.

b. The 50 cents valuation charge will be retained for shipments at a greater released value. In the event that a higher valuation is declared by the member, additional charges for coverge over the minimum $1.25 times the net weight of the shipment will be at the member's expense and the Government bill of lading will be annotated accordingly. The provisions for full replacement protection will be retained in the solicitation.

c. In formulating the proposal, consideration was given to the legal aspects. The General Accounting Office has advised that the fold-in approach under the proposed procedure would represent transportation rather than premiums or costs of insurance, and is therefore acceptable. The use of a valuation charge is not considered acceptable. The proposal does not contradict any Comptroller General decision in this regard.

d. Current procedures for processing claims are expected to remain in effect.

This invitation consists of issues identified by MTMC and applies only in the connection with the movements of Department of Defense and U.S. Coast Guard household goods shipments.

DATES: Submit written comments by September 30, 1986.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Jeffry McKenzie, HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church Virginia 22041–5050, Commercial Phone (202) 756–1190

Address Comments To: HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church Virginia 22041–5050.

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301–2314 and DOD Directives 4500.9 and 4500.34.

Joseph R. Marotta,

Colonel, General Staff, Director of Personal Property.

[FR Doc. 86–19316 Filed 8–26–86; 8:45 am]

BILLING CODE 3710–04–M

Department of the Navy

Health Care Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of the Navy Health Care Advisory Committee will meet September 15, 16 and 17, 1986 from 8 a.m. to 4 p.m. in the conference room at the Naval Medical Command, Southwest Region, San Diego, California. All sessions will be open to the public.

The purpose of the meeting is to provide guidance concerning cost containment in the Navy Medical Department. The agenda for the meeting will consist of a series of briefings from the Office of the Surgeon General concerning fiscal and personnel resources in Navy medicine today.

For further information concerning this meeting, contact Captain Joseph J. Smith, MC, USN, (202) 653–1730.

Dated: August 21, 1986.

Harold Stoller,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–19324 Filed 8–26–86; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection reqeusts.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 26, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Deck Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interesterd Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 21, 1986.

George P. Sotos, *Director, Information Resources Management Services.*

Office of Postsecondary Education

Type of Review: Extension.

Title: Institutional Quality Control Pilot Project.

Agency Form Number: E40–9P.

Frequency: One-time.

Affected Public: Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.

Reporting Burden: Responses: 80; Burden Hours: 2,584.

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.

Abstract: Financial aid administrators and their staffs will compete and implement data collection activities inlcuded in the Institutional Quality Control Workbook and describe the process of completing such activities. Information will be used to evalute the appropriateness of an institutional-level approach to quality control in student aid programs funded under Title IV of the Higher Education Act of 1965, as amended.

Type of Review: Extension.

Title: Lender's Annual Report on Guaranteed Student Loans Outstanding

Agency Form Number: ED 799-1.

Frequency: Annually.

Affected Public: Businesses or other for profit.

Reporting Burden: Responses: 12,000; Burden Hours: 4,200.

Recordkeeping Burden: Recordkeepers: 12,000; Burden Hours: 960.

Abstract: This report is submitted by all lenders participating in the Guaranteed Student Loan Program and provides updated information on the lender's loan portfolio. It also is used to determine the amount that the lender can bill for interest in the next quarter.

[FR Doc. 86-19393 Filed 8-26-86; 8:45 am]

BILLING CODE 4000-01-M

Invitation of Applications for New Awards Under the Handicapped Children's Early Education Program for Fiscal Year 1987 (CFDA No. 84.024L, and 84.024T)

Purpose: To provide support for developing and implementing experimental preschool and early education programs for handicapped children from birth through eight years of age.

Deadline for transmittal of applications: January 16, 1987.

Deadline for Intergovernmental Review Comments: March 17, 1987.

Applications available: November 21, 1986.

Project period: Up to 36 months.

Priorities: The Secretary establishes, pursuant to 34 CFR 75.105(c)(3) and 34 CFR 309.30, the following two priorities for fiscal year 1987. The Secretary will give an absolute preference to applications that meet either of these priorities.

CFDA No.	Priority title	Available funds	Estimated number of awards	Estimated range of awards
84.024L	Severely Handicapped Infant Demonstration Projects	$300,000	3	$75,000-$125,000
84.024T	Community Involvement Demonstration Projects	700,000	7	$75,000-$125,000

Applicable regulations: (a) The Handicapped Children's Early Education Program Regulations, 34 CFR Part 309, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, and (c) when adopted in final form, the Notice of Proposed Priorities published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

For applications or information contact: Dr. Thomas E. Finch, Chief, Early Childhood Branch, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4611, Switzer Building), Washington, DC 20202. Telephone: (202) 732-1084.

Program authority: 20 U.S.C. 1423.

Dated: August 22, 1986.

Carol R. Inman,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-19396 Filed 8-26-86; 8:45 am]

BILLING CODE 4000-01-M

Projects With Industry; Correction

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: A Notice of Proposed Annual Funding Priorities for Fiscal Year 1987 for the Projects With Industry program was published in the **Federal Register** on August 11, 1986 at 51 FR 28742. In column one, under the heading **"DATES"** the closing date for submission of comments was inadvertently omitted. It should read:

DATES: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur W. Cox, Telephone: (202) 732-1333.

Program authority: (29 U.S.C. 795G).

(Catalog of Federal Domestic Assistance No. 84.128, Rehabilitation Services Administration—Special Projects)

Dated: August 21, 1986.

Carol R. Inman,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-19394 Filed 8-26-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: AEP-1]

Awards for the Most Energy-Efficient Refrigerators and Freezers

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of final action.

SUMMARY: On April 15, 1986, the Bonneville Power Administration issued a proposal to identify for consumers in the Pacific Northwest which new refrigerators and freezers on the market are the most energy-efficient. This action was proposed as a part of the BPA "Cold facts. Hot ideas." applicance efficiency promotion campaign. The campaign goal is to increase the "market share" of energy-efficient models purchased in the BPA service territory.

The proposal was published in the **Federal Register** on April 25, 1986 (51 FR 15666). BPA invited comments on the proposal and considered the comments received before making a decision on the final action.

The purpose of this notice is to inform the appliance industry (manufacturers, distributors, and retailers that BPA has decided to implement the program and to describe how the program will be implemented. Included in this notice are:

1. The final procedures BPA will use to establish program qualification levels each year for new refrigerators and freezers;

2. The qualification levels for 1986; and

3. The deadlines for manufacturers to notify BPA of models which are not listed in the most recent product directories published by the Association of Home Appliance Manufacturers (AHAM). This information is requested so that these models may be considered for possible inclusion in periodic BPA brochures listing qualifying models.

Responsible Official: Sydney D. Berwager, Director of Residential

Conservation Programs, is the official responsible for development and implementation of the final action.

DATES: Information on models not listed in the most recent AHAM product directories is due to BPA by September 22, 1986, to be considered for inclusion in the next BPA by September 22, 1986, to be considered for inclusion in the next BPA brochure (to be distributed in November 1986). In 1987, information on models not listed in the AHAM directories is due to BPA by January 15 (for the first brochure of the year), May 15 (for the second brochure), and September 15 (for the third brochure). These due dates will be repeated each year until further notice. Identification of refrigerator models with thru-the-door ice service in the January editions of the AHAM directory is due to BPA by January 15th of each year, unless future directories specify these models.

ADDRESSES: The requested product information should be addressed to Cold facts. Hot ideas., Consumer Products and Service Branch (KRP), Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Mr. Grant W. Vincent, Consumer Products and Services Branch (KRP), Office of Conservation, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. Telephone (503) 230–5499. Information may also be obtained from:

Public Involvement office, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Telephone numbers, voice/TTY, for the Public Involvement office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–547–6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington, 99201, 509–456–2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Terence G. Esvelt, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, 550 W. Fort Street, Rm. 376, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Process for Developing the Final Action
B. Summary of the Final Action
C. Summary of Major Issues
D. Changes from the Proposed Action

II. Final Action

A. Program Description
B. Program Schedule/Deadlines
C. Procedure for Establishing Energy Efficiency Qualification Levels (EEQLs) and Annual Energy Cost Limits (AECLs)
D. EEQLs and AECLs for 1986

III. Availability of Documents

I. Background

A. Process for Developing the Final Action

BPA issued a proposal for "Awards for the Most Energy-Efficient Refrigerators and Freezers" on april 15, 1986. The proposal included information on legal authority, purpose, scope, past actions by BPA, compliance with NEPA, and other related issues. Reviewers of this notice should refer to the proposal for this information. The proposal also included a request for comments, with a comment deadline of May 22, 1986.

BPA published the proposal and request for comments in the Federal Register on April 25, 1986 (51 FR 15666). BPA also distributed approximately 1200 copies of the proposal to various organizations and individuals, including: manufacturers who participate in the AHAM refrigerator-freezer certification program, individuals on the mailing list of the AHAM Refrigerator-Freezer Executive Board, appliance distributors for the Pacific Nortwest region, appliance retailers who are participating in the BPA "Cold facts. Hot ideas." campaign, individuals on the BPA Appliance Efficiency Program mailing list, BPA customer utilities, State energy offices, the Northwest Power Planning Council, BPA State Government Consultation Group, interest group leaders, and others. BPA staff also gave a presentation on the proposal at the April 17, 1986, meeting of the AHAM Refrigerator-Freezer Executive Board.

In addition to the comments received at the AHAM Board Meeting on April 17, 1986, written comments were received from 13 organizations: Oregon Department of Energy, W.C. Wood Company Limited, Seattle City Light, North Pacific Supply Co. Inc., Solar Energy Association of Oregon, AHAM, Public Utility District of Clark County, White Consolidated Industries, Inc., Whirlpool Corporation, Oregon State University Extension Service, Amana Refrigeration, Inc., General Electric (Kentucky-manufacturer), and General Electric (Washington-distributor).

BPA gave full consideration to the comments form these parties before deciding to implement the final action. These comments are addressed in BPA's "Staff Evaluation of Comments," dated July 29, 1986, which is available upon request from the BPA Public Involvement office.

B. Summary of Final Action

BPA will establish qualification levels at the beginning of each calendar year for new refrigerators and freezers. The qualification levels will be set so that approximately 15 percent of the models listed in the January Edition of the AHAM Directory of Certified Refrigerators and Freezers will qualify. Once the qualification levels are established for a year, any models which meet the qualification levels (including new models introduced during the year and models from previous years which are still in the market) will be eligible to receive "Energy Efficiency Awards" from BPA.

The "Energy Efficiency Awards" will be in the form of blue ribbon stickers which will be made available to appliance retail outlets in the BPA service territory. Retailers who requires the award stickers from BPA must agree to place them only on qualifying models on display in their stores.

All qualifying models will be listed in a brochure, which will be distributed to consumers through appliance retail outlets, utilities, and State agencies. A toll-free telephone number will also be established for consumers to request a copy of the brochure. The brochure will be updated and printed three times each year.

C. Summary of Major Issues

A number of issues were raised by individuals who submitted comments in the April 15, 1986 proposal. Detailed discussions of these issues are included in BPA's "Staff Evaluation of Comments," dated July 29, 1986, which is available upon request from the BPA Public Involvement Office. The major

issues discussed in the "Staff Evaluation of Comments" are identified below:

1. Adjustments to the Energy Efficiency Qualifications Levels (EEQLs)—BPA proposed to establish EEQLs so that at least 15 percent of the models in most size groups in each product class would qualify. However, under certain conditions, BPA proposed to adjust the EEQLs of size groups so that less than 15 percent would qualify. Some of the commenters were concerned that the proposed adjustments to the EEQLs could discriminate against some energy-efficient models.

2. Size Range for Product Groups—BPA proposed to rank order models within size groups that span 4 cubic feet. Many of the commenters recommended that a 2-cubic-foot size range be used instead.

3. Refrigerators with Thru-the-Door Ice Service—BPA proposed to use the same procedure to establish EEQLs for refrigerators with and without thru-the-door ice service. There was concern that the proposed procedure did not appear to work very well for refrigerators with thru-the-door ice service.

4. Updating the Brochure—BPA proposed to issue one brochure each year, followed by periodic supplements that list additional qualifying models. There was concern about the timing and frequency of the brochure, and about the effectiveness of the supplements.

5. Program Complexity—BPA proposed that the brochure include information on how to calculate if a model qualifies for the award sticker (the EEQLs for each size group, the energy factor rating of the qualifying models, and the formulas for calculating energy factors). There was cncern that this information is too complex and would confuse consumers and retailers.

D. Changes from the Proposed Action

BPA made a number of changes to the April 15, 1986 proposal. The rationale for making these changes is included in BPA's "Staff Evaluation of Comments," dated July 29, 1986, which is available upon request from the BPA Public Involvement office. The major changes to the proposal are summarized below:

1. Adjustments to EEQLs—The "No Significant Difference," "75%," nd "50%" adjustments to the EEQLs in the proposal have been replace by the "Energy Factor/Size Adjustment." The "Fairness Adjustment" in the proposal is now referred to as the "Energy Consumption/Size Adjustment."

2. Group Size Ranges—Models will be rank ordered within a two-cubic-foot size range instead of the proposed four-cubic-foot size range.

3. EEQLs for Refrigerators with Thru-the-Door Ice Service—The EEQLs for refrigerators with thru-the-door ice service will be eleven percent less than the EEQLs for comparable models without this feature.

4. Annual Energy Cost Limits (AECLs).—A model not listed in the January AHAM Directory (use to establish the EEQLs) must also have an annual energy cost within the AECL for its size group in order to qualify.

5. Energy Factor Calculations—The Adjusted Total Volume for refrigerators with single exterior doors will be calculated differently than refrigerators with more than one exterior door.

6. Brochure of Qualifying Models—The brochure will be updated and printed three times each yer. The brochure will not include the EEQLs for each size group or energy factor ratings and formulas.

7. Award Sticker—The proposed "Energy Winner" award sticker is now referred to as the "Energy Efficiency Award" sticker, and will have the appearance of a blue ribbon.

II. Final Action

A. Program Description

BPA will establish Energy Efficiency Qualification Levels (EEQLs) and Annual Energy Cost Limits (AECLs) by March of each year for new refrigerators and freezers (see Section II.C. of this notice for the specific procedure and definitions of EEQLs and AECLs). Models with energy factors (see Section II.C.3.) greater than or equal to the EEQLs, and annual energy costs less than or equal to the AECLs, will be eligible to receive "Energy Efficiency Awards" from BPA.

1. Energy Efficiency Award Sticker—The "Energy Efficiency Awards" will be in the form of blue ribbon stickers which will be made available to appliance retail outlets in the BPA service territory. Retailers who request the award stickers from BPA must agree to place them only on qualifying models on display in their stores. The award sticker will indicate:

a. It has been placed on the appliance by the retailer;

b. The year for which the appliance qualifies;

c. A limited number of models are eligible to receive the awards;

d. A brochure is available that lists all qualifying models; and

e. Consumers should verify that the appliance is listed in the BPA brochure.

The award sticker will also include a product endorsement disclaimer and a toll-free telephone number for consumers to call if they have questions or feel that the sticker has been placed on a non-qualifying model.

BPA will conduct spot checks on retail outlets that have received the award stickers. If BPA finds than an award sticker has been placed on a non-qualifying model in a retail outlet, the retail outlet will receive a warning notice. If BPA later finds that an award sticker has placed on a non-qualifying model in the same retail outlet, the retail outlet will not be eligible to receive award stickers from BPA for a period of one year from the date of the second infraction.

2. Brochure of Qualifying Models—To be eligible to receive the "Energy Efficiency Award" sticker, a model must be listed in a BPA brochure of qualifying models. The brochure will be updated and printed three times per year according to the schedule in Section (II.B) of this notice. The brochure will be distributed to consumers through appliance retail outlets, utilities, and State agencies. A toll-free telephone number will also be established for consumers to request a copy of the brochure.

The brochure will include a brief description of the program and identify the qualifying models by their brand names, model numbers, sizes, and Energy Guide Label ratings. The brochure will also include a toll-free telephone number (same as on the award sticker) for consumers and retailers to call for more information about the program and how the qualifying models were selected.

The BPA brochure will include all qualifying models listed in AHAM Directories for the current year and previous year. If the same model number is listed in more than one of the AHAM Directories, the data from the most recent Directory will be used. BPA will assume the information in the AHAM Directory is correct, unless otherwise notified by AHAM or individual manufacturers.

Manufacturers are responsible for notifying BPA of other models not listed in the specified AHAM Directories if they wish these models to be considered for inclusion in the brochure. This includes new models, older models still in the market, on models produced by manufacturers who do not participate in the AHAM certification program.

When submitting information on these models, manufacturers must identify the brand, model number, product class (see section II.C. of this notice), refrigerated volume (total, fresh food, and freezer), annual energy cost, and the electricity rate (¢/kWh) assumed for determining the annual energy cost. The refrigerated

volume and annual energy cost of a model must have been determined in the same manner as models which are listed in the AHAM Directory. Specifically:

a. The refrigerated volume must have been independently verified in accordance with American National Standard ANSI/AHAM HRF-1 for household refrigerators, combination refrigerator-freezers, and household freezers.

b. The annual energy cost must have been determined according to the Federal Trade Commission (FTC) Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act (16 CFR Part 305).

B. Program Schedule/Deadlines

The program will be implemented each year according to the following schedule:

January 15—Deadline for manufacturers to notify BPA of models not listed in the January AHAM Directory for the current year (or the January and June AHAM Directories for the previous year) to be considered for inclusion in the *first* edition of that year's brouchure. Since the EEQLs and AECLs for the year will not be announced by PBA until March, BPA recommends that manufacturers provide information about all models on the market that are not listed in these directories (even though some may not qualify). January 15 is also the deadline for manufacturers to provide BPA with identification of each refrigerator model that has thru-the-door ice service in the January AHAM Directory for the current year, if these models are not already specified in the Directory (See section II.C.1. of this notice).

March 31—BPA notifies manufacturers of the EEQLs and AECLs for current year. BPA distributes the "Energy Efficiency Award" stickers and *first* edition of the brochure for the current year (which replace award stickers and last edition of brochure from the previous year).

May 15—Deadline for manufacturers to notify BPA of additional qualifying models for the *Second* edition of the brochure.

July 31—BPA distributes the *second* edition of the brochure (which replaces the first edition).

September 15—Deadline for manufacturers to notify BPA of additional qualifying models for the *third* edition of the brochure.

Note.—All qualifying models listed in the June Edition of the AHAM Directory for the current year will be included in the third edtion.

November 30—BPA distributes the *third* edition of the brochure (which replaces the second edition). This brochure will be in effect until replaced by the first edition of the brochure for the next year (approximately March 31).

Note.—The above schedule begins in 1987. In 1986, BPA will only print two brochures. The deadline for the first edition (May 22, 1986) was announced in the April 15, 1986, proposal. The deadline for manufacturers to notifiy BPA of additional qualifying models for the second edition is September 22, 1986 (to be distributed by November 30, 1986).

C. Procedure for Establishing Energy Efficiency Qualification Levels (EEQLs) and Annual Energy Cost Limits (AECLs)

1. Using the January issue of the AHAM Directory for the current year, BPA will separate the models in the Directory into the following product classes:

a. Refrigerators (R):

(1) Compacts (all confrigurations and defrost system types with total volumes less than 8.5 cubic feet)
(2) Manual Defrost
(3) Partial-Automatic Defrost
(4) Automatic Defrost with Single Door or Top-Mounted Freezer
(5) Automatic Defrost with Top-Mounted Freezer and Thru-the-Door Ice Service
(6) Automatic Defrost with Side-Mounted Freezer (Side-by-Side)
(7) Automatic Defrost with Side-Mounted Freezer and Thru-the-Door Ice Service
(8) Automatic Defrost with Bottom-Mounted Freezer.

Note Regarding Product Classes (5) and (7).—The AHAM Directory currently does not identify which refrigerator models have thru-the-door ice service. BPA has recommended to AHAM that this information be included in the future Directories, and AHAM has indicated that it will be considered by its Refrigerator/Freezer Executive Board. In the meantime, BPA will identify these models through its surveys. However, since it is possible that BPA may not be able to identify all models with this feature, manufacturers are requested to provide this information to BPA by January 15 of each year. This will help assure that the qualification levels established by BPA are appropriate for these product classes.

b. *Freezers (F):*
(1) Upright with Manual Defrost
(2) Upright with Automatic Defrost
(3) Chest with Manual Defrost

2. For the *Compact refrigerator* product class (class R1), BPA will separate the models into the following size groups:

a. 0.0 to 2.4 cubic feet
b. 2.5 to 4.4 cubic feet
c. 4.5 to 6.4 cubic feet
d. 6.5 to 8.4 cubic feet

3. For each of the remaining *refrigerator* product classes (classes R2 through R8), BPA will separate the models into the following size groups:

a. 8.5 to 10.4 cubic feet
b. 10.5 to 12.4 cubic feet
c. 12.5 to 14.4 cubic feet
d. 14.5 to 16.4 cubic feet
e. 16.5 to 18.4 cubic feet
f. 18.5 to 20.4 cubic feet
g. 20.5 to 22.4 cubic feet
h. 22.5 to 24.4 cubic feet
i. 24.5 to 26.4 cubic feet
j. 26.5 to 28.4 cubic feet

4. For each of the *freezer* product classes (classes F1 through F3), BPA will separate the models into the following size groups:

a. 0.0 to 5.4 cubic feet
b. 5.5 to 7.4 cubic feet
c. 7.5 to 9.4 cubic feet
d. 9.5 to 11.4 cubic feet
e. 11.5 to 13.4 cubic feet
f. 13.5 to 15.4 cubic feet
g. 15.5 to 17.4 cubic feet
h. 17.5 to 19.4 cubic feet
i. 19.5 to 21.4 cubic feet
j. 21.5 to 23.4 cubic feet
k. 23.5 to 25.4 cubic feet
l. 25.5 to 27.4 cubic feet
m. 27.5 to 29.4 cubic feet
n. 29.5 to 31.4 cubic feet

5. In each size group of each product class, BPA will rank order the models from highest Energy Factor (EF) to lowest EF (rounded to one decimal place). The EF of a model is determined by the following formula, as described in the **Federal Register** (September 14, 1977, 42 FR 46140):

$$EF = \frac{\text{Adjusted Total Volume}}{\text{Daily Electricity Consumption}}$$

where,

a. *Adjusted Total Volume* (ATV) is expressed in cubic feet and is calculated as follows:

(1) *Refrigerator with single exterior door.*
$ATV_1 = \text{Fresh Food Volume} + (1.44 \times \text{Freezer Volume})$

(2) *Refrigerator with more than one exterior door.*
$ATV_2 = \text{Fresh Food Volume} + (1.63 \times \text{Freezer Volume})$

(3) *Freezer.*
$ATV_3 = 1.73 \times \text{Freezer Volume}$

b. *Daily Electricity Consumption* (DEC) is expressed in kilowatt hours per day and is calculated as follows:

$$DEC = \frac{\text{Annual Energy Cost}}{\text{Unit Cost of Energy} \times \text{365 Days/Year}}$$

where,

(1) *Annual Energy Cost* (AEC) is the FTC EnergyGuide label rating of the model, expressed in dollars per year.

(2) *Unit Cost of Energy* (UCE) is the electricity rate (in dollars per kilowatt hour) on which the AEC of the model is based.

Note.—For 1986, the AEC data from Column 1 of the "FTC Energy Cost in Dollars" columns in the AHAM Directory will be used. Therefore, the UCE will be equal to $0.0675/kWh.

6. Energy Efficiency Qualification Levels (EEQLs)—Within each product class, BPA will establish an EEQL for each size group with one or more models listed (if no models listed, no EEQL will be established for the size group for the year). Except as noted in Steps 7 and 8 below, the EEQL of each size group will be equal to the EF of the model located 15 percent of the way from the highest-ranked model to the lowest-ranked model. This location on the list is determined by:

a. Multiplying the total number of models in the group by 0.15;

b. Rounding to the nearest whole number (if the number from the previous step is less than 0.5, round to 1).

Note.—There may be several models in the group with EFs equal to the EEQL. All models with EFs equal to the EEQL will qualify, even if located more than 15 percent away from the highest-ranked model.

7. EEQL Adjustments—The EEQL for a size group (as determined in Step 6 or Step 8) will be adjusted (made more restrictive) under certain conditions:

a. Energy Factor/Size Adjustment—If the EEQL of the group is less than the EEQL of a group of smaller-sized models in the same product class, the EEQL of the group will be increased so that it is equal to the EEQL of the next group of smaller-sized models in the same product class.

Note.—A model with the same EF as a smaller model is actually less energy-efficient than the smaller model. This is because the EF formula does not account for the relationship of volume to surface area, and the smaller model has more surface area per unit volume to overcome. The "Energy Factor/Size Adjustment" prevents a model from receiving an "Energy Efficiency Award" if it has an EF which is less than the EF of a smaller model which did not receive an award.

b. Energy Consumption/Size Adjustment—If a qualifying model in the group has an AEC greater than or equal to the AEC of a model which does not qualify in a group of larger-sized models in the same product class, the EEQL of the group will be increased by increments of 0.1 until the condition no longer exists.

Note.—A model with the same AEC as a larger model is less energy-efficient than the larger model. This adjustment prevents a model from receiving an "Energy Efficiency Award" if it has an AEC greater than or equal to the AEC of a larger model which did not receive an award.

8. Refrigerator Models with Thru-the-Door Ice Service—The EEQLs for refrigerator models with thru-the-door ice service will be eleven percent less than the adjusted EEQLs for comparable models without this feature (rounded to one decimal place), except as noted in Step 7 above.

Note.—The eleven percent factor is largely based on a comparison of current products to the California 1987 and 1992 minimum efficiency standards for refrigerators. The California standards allow a refrigerator with thru-the-door ice service to use eleven percent more energy than a comparable model without this feature.

9. Annual Energy Cost Limits (AECLs)—Once the EEQLs have been determined for each product class (according to Steps 6, 7 and 8 above), an AECL for each size group in the product class will be established. The AECL for a group will be equal to one dollar less than the lowest AEC of non-qualifying models in groups of larger-sized models in the same product class.

Note.—The AECLs are necessary for models not listed in the January AHAM Directory that was used to establish the EEQLs. The AECL prevents a model with an EF greater than or equal to the EEQL from receiving an "Energy Efficiency Award" if it has an AEC greater than or equal to the AEC of a larger non-qualifying model in the Directory (see Step 7.b. above).

D. EEQLs and AECLs for 1986

The following tables show the Energy Efficiency Qualification Levels (EEQLs) and Annual Energy Cost Limits (AECLs) for each product class size group for 1986, using the procedures in Section (II.C) of this notice. The last column of each table shows the number of qualifying models listed in the January 1986 edition of the AHAM Directory.

As can be seen from these tables, 159 (16 percent) of the refrigerator models and 81 (19 percent) of the freezer models in the AHAM Directory qualify for the "Energy Efficiency Award" sticker. The total number of refrigerator and freezer models that qualify is 240 (out of 1429 models), or 17 percent of all refrigerator and freezer models listed in the Directory.

TABLE 1.—REFRIGERATOR EEQLS AND EEQLS AND ACECLS FOR 1986 BASED ON PRODUCTS LISTED IN THE JANUARY 1986 AHAM DIRECTORY

Group No.	Size Range (cubic feet)	Number of Models in group	EEQL (cubic feet/kwh/day)	AECL (6.75¢/@kWh)	Number of qualifying models
Compact Refrigerators					
R1a	0.0 to 2.4	25	2.9	$21	4
R1b	2.5 to 4.4	[2] 4.0	23	1	1
R1c	4.5 to 6.4	47	5.7	31	7
R1d	6.5 to 8.4	2	7.0	32	1
Manual Defrost Refrigerators					
R2a	8.5 to 10.4	17	9.5	32	11
R2b	10.5 to 12.4	25	[1] 9.5	37	2
R2c	12.5 to 14.4	26	10.0	45	20
R2d	14.5 to 16.4	1	[1] 10.0	(*)	0
Partial-Automatic Defrost Refrigerators					
R3a	8.5 to 10.4	11	[2] 5.9	48	0
R3b	10.5 to 12.4	31	6.7	56	5
R3c	12.5 to 14.4	28	7.8	None	7
R3d	14.5 to 16.4	3	8.1	(*)	3
Top-Freezer and Single Door—Automatic Defrost Refrigerators					
R4a	8.5 to 10.4	10	5.9	60	5
R4b	10.5 to 12.4	18	[1] 5.9	60	0
R4c	12.5 to 14.4	54	[2] 6.6	60	2
R4d	14.5 to 16.4	83	7.6	62	17
R4e	16.5 to 18.4	[3] 183	7.9	69	27
R4f	18.5 to 20.4	93	[1] 7.9	79	7
R4g	20.5 to 22.4	[3] 45	8.3	88	8

TABLE 1.—REFRIGERATOR EEQLS AND EEQLS AND ACECLS FOR 1986 BASED ON PRODUCTS LISTED IN THE JANUARY 1986 AHAM DIRECTORY—Continued

Group No.	Size Range (cubic feet)	Number of Models in group	EEQL (cubic feet/ kwh/ day)	AECL (6.75¢/ @kWh)	Number of qualifying models
R4h	22.5 to 24.4	12	8.3	(3)	2
Top-Freezer/Automatic Defrost Refrigerators With Thru-the-Door Ice					
R5e	16.5 to 18.4	*15	7.0	89	0
R5g	20.5 to 22.4	*30	7.4	(3)	1
Side-by-Side/Automatic Defrost Refrigerators					
R6e	16.5 to 18.4	2	[2]5.6	86	0
R6f	18.5 to 20.4	*61	[2]6.5	86	3
R6g	20.5 to 22.4	*40	7.5	89	10
R6h	22.5 to 24.4	*12	8.4	89	3
R6i	24.5 to 26.4	*3	8.6	122	1
R6j	26.5 to 28.4	*4	[1]8.6	(3)	0
Side-by-Side/Automatic Defrost Refrigerators With Thru-the-Door Ice					
R7f	*18.5 to 20.4	*4	5.6	106	1
R7g	*20.5 to 22.4	*22	6.7	112	2
R7h	*22.5 to 24.4	*42	7.5	112	0
R7i	*24.5 to 26.4	*13	7.7	(3)	8
Bottom Freezer/Automatic Defrost Refrigerators					
R8f	18.5 to 20.4	7	7.8	(3)	1
	Total refrigerators	999			159

TABLE 2. FREEZER EEQLS AND AECLS FOR 1986 BASED ON PRODUCTS LISTED IN THE JANUARY 1986 AHAM DIRECTORY

Group No.	Size range (cubic feet)	Number of models in group	EEQL(cubic feet Kwh/ day)	AECL (@6.75 ¢/kWh)	Number of qualifying models
Upright/Manual Defrost Freezers					
F1a	0.0 to 5.4	26	7.3	$36	11
F1b	5.5 to 7.4	1	[1]7.3	42	0
F1c	7.5 to 9.4	1	[2]8.6	42	0
F1d	9.5 to 11.4	23	10.4	47	4
F1e	11.5 to 13.4	28	11.6	53	11
F1f	13.5 to 15.4	18	12.4	54	7
F1g	15.5 to 17.4	37	[1]12.4	54	5
F1h	17.5 to 19.4	12	16.7	54	2
F1i	19.5 to 21.4	31	[1]16.7	96	0
F1j	21.5 to 23.4	1	[1]16.7	113	0
F1n	29.5 to 31.4	8	[1]16.7	(3)	0
Upright/Automatic Defrost Freezers					
F2f	13.5 to 15.4	4	8.9	$80	4
F2g	15.5 to 17.4	35	10.6	80	9
F2h	17.5 to 19.4	5	[1]10.6	80	0
F2i	19.5 to 21.4	2	[1]10.6	181	0
F2n	29.5 to 31.4	2	[1]10.6	(3)	0
Chest/Manual Defrost Freezers					
F3a	0.0 to 5.4	19	9.5	$27	5
F3b	5.5 to 7.4	19	12.6	28	4
F3c	7.5 to 9.4	23	13.2	28	3
F3d	9.5 to 11.4	19	[2]14.9	28	0
F3e	11.5 to 13.4	6	18.9	35	1
F3f	13.5 to 15.4	31	[1]18.9	38	3
F3g	15.5 to 17.4	15	[1]18.9	38	1
F3h	17.5 to 19.4	8	21.9	38	1
F3i	19.5 to 21.4	24	[1]21.9	87	3
F3j	21.5 to 23.4	9	21.9	87	3
F3k	23.5 to 25.4	13	[1]21.9	72	0
F3l	25.5 to 27.4	9	23.0	85	4
F3m	27.5 to 29.4	1	[1]23.0	(3)	0
	Total Freezers	430			81

Key for Tables 1 and 2.

"Number of Models on Group" Column:

(*)The number of models in this group may not be accurate. Since the AHAM Directory does not currently identify which refrigerator models have thru-the-door ice service, BPA requested this information from manfacturers (see April 15, 1986, proposal). However, not all manufacturers responded to BPA's request for information. BPA placed models in this group according to the best information available.

"EEQL" Column:

[1] EEQL affected by "Energy Factor/ Size Adjustment."

[2] EEQL affected by "Energy Consumption/Size Adjustment."

[3] None.

Note: Size groups are not included in these tables if they had no models listed in the January 1986 AHAM Directory.

III. Availability of Documents

The following documents are available from BPA:

AHAM January 1986 Directory of Certified Refrigerators & Freezers.

BPA Proposal: "Awards for the Most Energy Efficient Refrigerators and Freezers," April 15, 1986.

Staff Evaluation of Comments on Proposal: "Awards for the Most Energy-Efficient Refrigerators and Freezers," July 29, 1986.

Report on Market Research and Program Recommendations: BPA Regionwide Promotion of Energy-Efficient Appliances.

To obtain a copy of these documents, call BPA's toll-free document request line: 800–841–5867 for Oregon; 800–624–9495 for other Western States. You will reach a recorded message where you may leave your request. Please request the document by its exact title.

Issued in Portland, Oregon, on August 14, 1986.

James J. Jura,

Administrator Bonneville Power Administration.

[FR Doc. 86–19338 Filed 8–26–86; 8:45am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–C&E–86–44; OFP Case No. 68012–9322–20–22]

Powerplant and Industrial Fuel Use; City of Wellington, KS

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting city of Wellington, Kansas exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On June 3, 1986, City of Wellington, Kansas (Wellington), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at a new site on the east side of the City of Wellington, Kansas, operated by Wellington from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

Wellington requested a permanent peakload exemption under 10 CFR 503.41. Wellington proposes to install one combustion turbine generating unit of 20 MW nominal capability to be used for summer peaking and emergency use in the event of the loss of the Kansas Gas and Electric tie line.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to Wellington a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed peaking gas turbine at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on October 27, 1986.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–093, Washington, DC 20585, Telephone (202) 252–8233.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A–113, Washington, DC 20585, Telephone (202) 252–6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION:

FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Wellington has filed a petition for a permanent peakload powerplant exemption to use natural gas or oil as a primary energy source in its proposed facility.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on June 24, 1986 (51 FR 4424), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the Wellington petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed August 8, 1986. Comments were received from the United States Environmental Protection Agency (EPA). EPA raised no objection to the issuance of the exemption provided the applicant comply with the requirements of 40 CFR, Subpart GG regulations and that the applicant likewise comply with the air standards regulation requirements of Kansas. A condition of this exemption requires the applicant to secure all applicable environmental permits and approvals prior to operating the unit.

Wellington certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours."

As ERA has determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that Wellington has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants Wellington a permanent exemption for a peakload powerplant to be installed at its facility on the east side of Wellington, Kansas, permitting the use

of natural gas or oil as a primary energy source in the unit.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on August 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-19351 Filed 8-26-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-51; OFP Case No. 52692-3285-21, 22-22]

Powerplant and Industrial Fuel Use; South Carolina Electric & Gas Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition from South Carolina Electric & Gas Company, for exemption and availability of certification.

SUMMARY: On July 17, 1986, South Carolina Electric & Gas Company (SCE&G) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent peakload exemption for its proposed units near the city of Charleston, South Carolina from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new electric powerplants and prohibits the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

SCE&G requested a permanent peakload exemption under 10 CFR 503.41. The proposed combustion turbine generating units will be installed at SCE&G's existing Hagood Station to provide repowering of the existing Units 1 & 2 through the use of combining the existing steam turbine generators with a new gas turbine generator and heat recovery steam generator for each unit.

SCE&G proposes to repower Units 1 and 2 steam cycles through the use of a combined cycle with each unit consisting of a gas turbine generator, a heat recovery steam generator, an existing steam turbine and its associated facilities at the existing Hagood Electric Generating Station. The units are being installed to provide at least 206 MW of peaking capacity to the SCE&G.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the final rules under 10 CFR 501.3 and 501.63. ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from SCE&G at any time during these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 791 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday thru Friday, 9:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension will be published in the **Federal Register.**

DATES: Written comments are due on or before October 14, 1986. A request for public hearing must also be made within this 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-86-51 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Office of Fuels Programs, Coal & Electricity Division, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Phone (202) 252-6233.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, DC 20585, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. SCE&G has filed a petition for a permanent peakload powerplant exemption to use natural gas or oil as a primary energy source in its proposed peakload powerplant.

Under the requirements of 10 CFR 503.41(a)(2)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify to ERA that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

SCE&G submitted a certified statement by a duly authorized officer to the effect that the proposed natural gas or oil combustion turbine generator will be operated solely as a peakload powerplant.

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for peakload powerplants, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly

effect the quality of the human environment. SCE&G has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by SCE&G pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on SCE&G's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that SCE&G is entitled to the exemption requested. That determination will be made on the basis of the entire record of these proceedings, including any comments received in response to this document.

Issued in Washington, DC, on August 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-19350 Filed 8-26-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the energy information collections, listed at the end of this notice, to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The collection number(s); (2) Collection title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Affected public; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (9) A brief abstract describing the proposed collection and, briefly, the respondents.

DATES: Comments must be filed by September 26, 1986. Last notice published Tuesday, July 29, 1986, (51 FR 27076).

ADDRESS: Address comments to Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments may also be addressed to, and copies of the submissions obtained from, Mr. Gross at the address below.)

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Data Collection Services Division (EI-73), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2308.

SUPPLEMENTARY INFORMATION: If you anticipate commenting on a collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise Mr. Broussalian of your intent as early as possible.

Issued in Washington, DC, August 21, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE COLLECTIONS UNDER REVIEW BY OMB

Collection No. (1)	Collection title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Affected public (6)	Estimated No. of respondents (7)	Annual respondent burden HRS (8)	Abstract (9)
EIA: EIA-846(F) and (S).	Manufacturing Energy Consumption Survey.	Revision [1]	Triennially	Mandatory	Manufacturing establishments in SIC 20-39.	[2] 7,000	32,000	EIA-846 (F) and (S) will collect data on the consumption of energy sources and the fuel-switching capability of establishments in the manufacturing sector.

[1] This revision will enable the Bureau of the Census, acting as the data collection agent for the Energy Information Administration, to collect data on the fuel-switching capabilities of the manufacturing sector.
[2] Annually.

[FR Doc. 86-19339 Filed 8-26-86; 8:45 am]

BILLING CODE 6450-01-M

American Statistical Association Committee on Energy Statistics; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee

Date and time: Thursday, October 9, 1986, 1:30 p.m.—5:30 p.m. Friday, October 10, 1986, 9:00 a.m.—2:30 p.m.

Place: Park Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005

Contact: Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI-74, Washington, DC 20585, Telephone: (202) 252-2088

Purpose of Committee

To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, October 9, 1986

A. Opening Remarks
B. Major Topics:
1. Revised Coal Data Program
2. Forecast Evaluation
3. Model Verification (Public Comments)

Friday, October 10, 1986

4. Natural Gas Contracts
5. Panel on Presenting Information on Data Quality

6. A Comparison of Production Efficiency of Electric Utilities
7. Update on Match-Merge Techniques (Public Comments)

C. Topics for Future Meetings

Public Participation

The meeting is open to the public. The chairperson of the panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above. Requests must be received at least five days prior to the meeting. Reasonable provisions will be made to include such presentations on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, (Room 1E–190), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6025, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Issued at Washington, DC, on August 21, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86–19341 Filed 8–26–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CI86–672–000]

Clinton Gas Marketing, Inc.; Application

August 22, 1986.

Take notice that on August 14, 1986, Clinton Gas Marketing, Inc. (Clinton), of 4770 Indianola Avenue, Columbus, Ohio 43214, filed an Application pursuant to section 4 and 7 of the Natural Gas Act and Part 157 of Title 18 of the Code of Federal Regulations for a blanket certificate of public convenience and necessity. Clinton requests that the blanket certificate authorize the sale of all duly certificated natural gas for resale in interstate commerce, the purchase of natural gas by Clinton for resale in interstate commerce, and authorization of sales for resale of natural gas by others through Clinton acting as agent. Further, Clinton requests an order granting abandonment of all future sales for resale for which sale certificate authority is authorized pursuant to the blanket certificate of public convenience and necessity described above.

The purpose for which Clinton seeks the above-described blanket certificate and order of pre-granted abandonment, is to permit Clinton to purchase gas dedicated to the interstate market from various producers and resell such gas to end users. The above blanket certificate would also permit Clinton to purchase gas from various producers and resell such natural gas which is subject to Natural Gas Act jurisdiction. Finally, the above requested blanket certificate will permit Clinton to act as agent in sales by producers of natural gas which is subject ot the jurisdiction of the Natural Gas Act.

Clinton seeks this certificate authority to cover the purchase and sale for resale of two separate categories of gas subject to Natural Gas Act jurisdiction: (1) Volumes of gas previously certificated for which an abandonment of the previous sale to the interstate market had been granted by the Commission and (2) volumes of gas that had never been sold into the interstate market. Clinton also requests that the term of sales authority be co-extensive with the contract life for each particular sale and that it be granted pre-granted abandonment which will coincide with the contract.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 9, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19375 Filed 8–26–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–127–002]

Colorado Interstate Gas Co.; Compliance Filing

August 21, 1986.

Take notice that on August 11, 1986, Colorado Interstate Gas Company (CIG) tendered for filing Substitute Original Sheet No. 61D1 and Substitute Original No. 61D2 to its FERC Gas Tariff, Original Volume No. 1, in compliance with Ordering Paragraph (D) of the Commission's order issued July 11, 1986 in Docket No. RP86–127–000.

CIG states that these tariff sheets: (1) Clarify CIG's tariff language to make the effective date of the filing at least one day after the interim adjustment is filed with the Commission; (2) include the term "any other persons" in § 21.81; (3) clarify § 21.83 of CIG's tariff, that, to the extent any minimum bill payments shall also be reflected in the determination of the actual cost of gas; (4) eliminate language relating to the inclusion of interest in lieu of principal payments in PGA filings; and (5) to delete language in § 21.83 which excludes certain increases in supplier costs from the determination of CIG's actual cost of gas.

CIG requests that the Commission grant any waivers of its regulations deemed necessary to accept this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19376 Filed 8–26–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–151–000]

Seagull Interstate Corp.; Tariff Filing

August 21, 1986.

Take notice that on August 12, 1986, Seagull Interstate Corporation (Seagull Interstate) tendered for filing its FERC

Gas Tariff, Original Volume No. 1 containing Original Sheet Nos. 1 through 78.

Seagull Interstate's filing contains its Rate Schedules FT-1 and IT-1 for firm and interruptible service, respectively, through the Block 555 System, and Rate Schedules FT-2 and IT-2 for firm and interruptible service, respectively, through the Block 213 System. The rates for both firm and interruptible service are cost-based, volumetric commodity rates and include no reservation fee. For the Block 555 System, the maximum rates for both firm and interruptible service is 5.42¢ per MMBtu, the same rate approved by the Commission in Docket No. CP84-676. The minimum rate for the Block 555 System is 1.0¢ per MMBtu. For the Block 213 System, the maximum rate for both firm and interruptible service 38.0¢ per MMBtu, the same as the cost of service rate filed pursuant to the Commission's order in Docket No. CP85-319. The minimum rate for the Block 213 System is also 1.0¢ per MMBtu.

Seagull Interstate requests any waivers necessary so that the tariff sheets may become effective August 25, 1986. Copies of this filing have been sent to Seagull Interstate's shippers under its Original Volume No. 2 Tariff and to all parties included on the official service list in Docket No. CP86-364.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19377 Filed 8-26-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-675-000]

Sun Exploration and Production Co.;

August 22, 1986.

Take notice that on August 15, 1986, Sun Exploration and Production Company ("SUN") filed an application for limited-term blanket authorization to sell on the open market natural gas produced from Sun's interest in High Island 310 (H.I. 310), Offshore Texas. Sun also requests an order granting pregranted abandonment of any sales made pursuant to the authority above. Sun additionally requests waiver of any filing and reporting requirements which may be inconsistent with the authority sought under the above application.

Sun specifically requests authority permitting sales for resale in interstate commerce of all natural gas to be produced from its interest in H.I.310 for a limited-term of three years, without geographic limitations. Sun states that all the gas in question qualifies for above-section 109 pricing under the Natural Gas Policy Act of 1978, but would be sold for resale in the interstate spot-market at competitive, market-sensitive prices, not to exceed the applicable Maximum Lawful Price. Waiver of filing and reporting requirements inconsistent with this limited-term authority and pre-granted abandoment is sought in order to make sales possible under said authority. Sun claims the application is consistent with prior precedents, with the Commission's goals as enunciated in Order No. 436 *et al.*, and is in the public interest.

Any person desiring to be heard or to make protest with reference to said application should on or before September 9, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211-.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless Sun is otherwise advised, it will be unnecessary for Sun to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19378 Filed 8-26-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time: Monday, September 22, 1986, 9:00 am—6:00 pm; Tuesday, September 23, 1986, 9:00 am—4:00 pm.

Place: U.S. Department of Energy, Room A-410, 19901 Germantown Road, Germantown, MD 20874.

Contact: Dr. P.K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone: 301/353-4829.

Purpose of Panel

To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Monday, September 22, 1986

—Discussion of the FY 1987 Budget Status for National Science Foundation/Elementary Particle Physics FY 1986 Budgets
—Discussion of the FY 1987 Budget Status for the Department of Energy High Energy Physics
—Status of and discussion on status of Superconducting Super Collider (SSC) R&D activities
—Status Report on Construction of the Stanford Linear Collider and Detector Fabrication at Stanford Linear Accelerator Center
—Status Report on Construction of the Tevatron Collider and Detector Fabrication at Fermi National Accelerator Laboratory
—Discussion on Advanced Detector Research and Development
—Status Report on US/USSR Cooperation in Peaceful Uses of Atomic Energy
—Report on Activities of the CERN Committee on Long Range Planning
—Report on the Meeting of the International Committee on Future Accelerators
—Report on the Meeting of the US/Japan Committee on High Energy Physics
—Public Comment (10 minute rule)

Tuesday, September 23, 1986

—Status Report on the Tevatron Fixed Target Program at Fermi National Accelerator Laboratory
—Status Report on the Alternating Gradient Synchrotron Fixed Target Program at Brookhaven National Laboratory
—Status Report on the PEP and SPEAR Collider Programs at Stanford Linear Accelerator Center

—Status Report on the CESR Collider Program at Cornell
—Further Discussion of foregoing items
—Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 21, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86–19340 Filed 8–26–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180699; FRL–3070–7]

Pesticides; California Department of Food and Agriculture; Receipt of Application for Emergency Exemption To Use Mancozeb and Notification of Issuance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and issuance.

SUMMARY: EPA has received a request for an emergency exemption from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use the active ingredient mancozeb to control the fungi, *Alternaria alternata*, on 5,000 acres of dates in California. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemption. Due to the critical nature of the emergency situation, there was insufficient time to solicit public comments. The Agency has granted a specific exemption for this use of mancozeb.

FOR FURTHER INFORMATION CONTACT: By mail:

Jack E. Housenger, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (17 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant requested the Administrator to issue a specific exemption to permit the use of the fungicide, mancozeb (CAS 8018–01–7) available as Dithane M–45–S Dust (California State Registration No. 11169–50008 AA) from San Joaquin Sulphur Co., to control *Alternaria* infections on dates in California. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant indicated that Ferbam dust, the only product registered for control of *Alternaria* on dates, is no longer manufactured by FMC Corporation and is no longer available. According to the Applicant, without effective control, date growers could experience 30 to 50 percent crop losses. With the use of Dithane M–45–S Dust, growers expect their crop losses to be less than 5 percent. The 1985 crop was valued at $31.07 million.

Dithane M–45–S Dust will be applied at a maximum rate of 30 pounds product per acre. Up to three applications at 15-day intervals may be made. A maximum of 450,000 pounds product will be needed to treat a maximum of 5,000 acres.

The regulations governing section 18 require publication of notice of receipt in the **Federal Register** of an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been the subject of the Special Review (40 CFR 166.24(a)(5)). Such notice provides for the opportunity for public comment on the application; however, this comment period can be eliminated if the time available for a decision on the application requires it. A Decision Document (Final Resolution of Rebuttable Presumption Against Registration) for the ethylene bisdithiocar bamate fungicides (EBDC's), which include mancozeb, was issued October 27, 1982 (47 FR 47669). The risks considered in that document which could be similar to the risks posed by this proposed use are: oncogenicity; teratogenicity; and thyroid toxicity. Also of potential concern is mutagenicity.

Shortly after receiving the application, the Agency was informed that unexpected rains had occurred which would result in conditions favorable for development of this disease. Consequently, the need for a means of control was immediate. The Agency decided to issue the specific exemption on July 24, 1986, after determining that an emergency situation existed and that this action would not cause unreasonable adverse effects on the environment. The finding of an emergency situation was based on the lack of an effective pesticide or other means to control this disease and that without the proposed use of mancozeb, substantial economic losses would be expected to result. The specific exemption will expire on November 15, 1986.

Dated: August 15, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–19247 Filed 8–26–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180700; FRL–3071–1]

Pesticides; California Department of Food and Agriculture; Receipt of Application for an Emergency Exemption To Use Carbaryl and Notification of Issuance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Issuance.

SUMMARY: EPA received a specific exemption request from the California Department of Food and Agriculture (hereafter referred to as "Applicant") to use the active ingredient carbaryl (CAS 63–25–2) to control filbert moths on 3,500 acres of pomegranates in California. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemption. Due to the critical nature of the emergency situation, there was insufficient time to solicit public comment. The Agency has

granted a specific exemption for this use of carbaryl.

FOR FURTHER INFORMATION CONTACT: By mail:

Jim Tompkins, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant requested the Administrator to issue a specific exemption to permit the use of Sevin, EPA Reg. No. 264–316, on pomegranates to control filbert moths. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant indicated that during 1984 and 1985, methomyl became available for use on pomegranates. Use of methomyl over the past 2 years has shown that methomyl is not effective in controlling the filbert moth.

According to the Applicant, with the use of carbaryl the percentage of crop loss is expected to be approximately 5 percent. Without the use of carbaryl the percentage of crop loss due to the filbert moth and its larvae would be approximately 30 percent. The Applicant expects the use of carbaryl to save $486 per acre or $1.7 million for the total 3,500 acres.

The Applicant plans to treat up to 3,500 acres using 35,000 pounds of product. A maximum of two applications will be made by aerial and ground application equipment. Applications will not be made within 30 days of harvest.

The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** of an application for a specific exemption proposing use of a pesticide which has been requested or granted in any 3 previous years (40 CFR 166.24(a)(6)). Such notice provides for the opportunity for public comment on the application; however, this comment period can be eliminated if the time available for a decision on the application requires it.

The Agency decided to issue the specific exemption on July 30, 1986, after determining that an emergency situation existed, that this action would not cause unreasonable adverse effects on the environment, and that one-third of the proposed use season had already passed. The finding of an emergency situation was based on the lack of an effective pesticide or other means to control filbert moths and that without the proposed use of carbaryl, substantial economic losses could be expected to result. This specific exemption will expire on October 23, 1986.

Dated: August 15, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–19244 Filed 8–26–86; 8:45 am]

BILLING CODE [illegible]

[PF–465; FRL–3069–9]

Pesticide Tolerance Petition; Dow Chemical Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Dow Chemical USA's amendment of a pesticide petition proposing tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–465] at the following address:

Information Services Section (TS–757C), (Attn: Product Manager (PM) 23), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. Written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 13, 1983 (48 FR 32078), EPA issued a notice which announced that Dow Chemical USA submitted pesticide petition 1F2439 to the Agency which proposed that 40 CFR Part 180 be amended by establishing tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on certain raw agricultural commodities. Dow Chemical USA has amended the petition as follows:

a. Increasing the tolerance levels for the following commodities:

Commodities	Proposed 48 FR 32078; July 13, 1983	New level
Cattle, fat, meat, and meat byproducts (mbyp) (except kidney and liver)	0.1	0.2
Cattle, kidney	0.10	5.0
Eggs	0.05	0.1
Horses, fat, meat, and mbyp (except kidney and liver)	0.1	0.2
Milk, whole	0.05	0.1
Sheep, fat, meat, and mbyp (except kidney and liver)	0.1	0.2

b. Adding tolerances for the following commodities:

Commodities	Parts per million
Cattle, liver	0.5
Goats, fat, meat, and mbyp (except kidney and liver)	0.2
Goats, kidney	5.0
Goats, liver	0.5
Horses, kidney	5.0
Horses, liver	0.5
Sheep, kidney	5.0
Sheep, liver	0.5

Authority: 21 U.S.C. 346a.

Dated: August 18, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–19242 Filed 8–26–86; 8:45 am]

BILLING CODE [illegible]

[OPP–100029; FRL–3069–8]

Versar, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Versar, Inc., has been awarded two contracts to perform work for the EPA's Office of Pesticide Programs (OPP) and Office of Drinking Water (ODW), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Versar, Inc., consistent with the requirements of 40 CFR 2.307(h) and 40 CFR 2.308(h)(2) respectively. This action will enable Versar, Inc., to fulfill the obligations of the contracts and this notice serves to notify affected persons.

DATE: Versar, Inc., will be given access to this information no sooner than September 2, 1986.

FOR FURTHER INFORMATION CONTACT: By mail:

William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2613).

SUPPLEMENTARY INFORMATION: Under Contract No. 68–01–7053, Versar, Inc., will support the OPP in establishing a generic exposure monitoring data base. This data base will contain data from pesticide applicator/mixer/loader exposure studies conducted by the chemical industry, as well as those studies published in the open literature. Versar, Inc., will collect completed survey forms, along with hard copies of the exposure studies, from all member companies of the National Agricultural Chemicals Association participating in this project.

Under Contract No. 68–03–3339, Versar, Inc., will provide technical support to EPA's ODW in preparation of environmental guidance documentation for Best Available Technology (BAT) regulations and prepare environmental evaluations of pollutant sources. This office deals with evaluations of toxic pollutants to surface waters and provides environmental guidance for decisions on technology-based regulations controlling direct and indirect industrial discharges.

These contracts involve no subcontractor. The ODW and the OPP have jointly determined that these two contracts involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under these contracts. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contracts with Versar, Inc., prohibit use of the information for any purpose other than purposes specified in the contracts; prohibit disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, Versar, Inc., is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for these contracts in the EPA OPP and ODW. All information supplied to Versar, Inc., by EPA for use in connection with these contracts will be returned to EPA when Versar, Inc., has completed its work.

Dated: August 14, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86–18994 Filed 8–26–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Peruvian Cargo Reservation, Supreme Decree No. 009–86–TC

By Notice published in the **Federal Register** on April 22, 1986 (51 FR 15069) (April Notice), the Federal Maritime Commission (Commission) requested interested persons to submit comments as to the impact of the Government of Peru's Supreme Decree No. 009–86–TC (February Decree). The comment period, which was originally scheduled to close on May 18, 1986, was extended by the Commission until June 1986, at the request of three carriers in the United States/Peru trade, Compania Sud Americana de Vapores (CSAV), Naviera Neptuno, S.A., and Campania Peruana de Vapores (CPV). The April Notice was prompted by the Commission's receipt of a number of letters and telexes from shippers and shipper organizations expressing concern about the impact of the Decree.

The April Notice indicated that, based on comments received, the Commission would evaluate conditions in the U.S./Peru trade and determine whether action pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. App. 876(1)(b), was warranted. In addition, the Notice advised that the Commission was requesting the Department of State to attempt to resolve the matter diplomatically.

The Commission received comments from 17 interested parties in response to its April Notice. Parties commenting included carriers, shippers, and shipper organizations. The comments generally indicate that the Government of Peru's waiver and cargo manifest certification requirements are creating impediments to the free movement of cargoes in the trade. While these comments do not aver that the implementation of the February Decree has in fact resulted in the imposition of fines for noncompliance with these requirements, the threat of such fines and the possibility that fines may be imposed retroactively is said to have deterred shippers from selecting their preferred carriers.

On June 17, 1986, Mr. Jeffrey N. Shane, Deputy Assistant Secretary for Transportation Affairs at the Department of State, transmitted to the Commission a diplomatic note from the Government of Peru which requested a six-month extension of the period allowed for submitting comments to the Commission's April Notice. The Government of Peru based its request on a "guarantee that there will be no interruption of services or disruption in the trade and that all procedures for better services shall be expedited."

In responding to the Department of State, Chairman Edward V. Hickey, Jr. indicated that the Commission could not act upon the Government of Peru's request in the absence of more information on the current status of third-flag and U.S.-flag carrier operations in the U.S./Peru trade, and some clarification of the effect on those carriers of the guarantees referred to by the Peruvian Government.

By letter of August 19, 1986, the Department of State has now transmitted to the Commission a

"communique" from the Government of Peru apparently intended to provide the clarification requested by the Commission. The communique offers certain assurances regarding the implementation of Supreme Decree No. 009–86–TC, most notably, that the Government of Peru will not impose any fines during the six month extension period requested for noncompliance with its waiver/certification requirements, and will not impose any such fines retroactively once the six-month period has elapsed. The commitments undertaken by the Government of Peru in its communique were contained in an announcement issued by the Peruvian Maritime Transport Authority and published in the *Journal of Commerce* on August 20, 1986.

The Department of State noted in its August 19 letter transmitting the communique that it has held preliminary discussions with shippers and carriers and that these groups "would probably not object to the Peruvian request for an extension if during the extension period shippers would be allowed to use the carriers of their choice, including third-flag carriers, without fear of any fines being levied on any party." In addition, the Commission is advised that the shippers and carriers caution that "in order to be effective, the assurances should be widely publicized, and would have to encompass any Peruvian measures which would implement the waiver system," including provisions recently inserted by the Government of Peru into letters of credit and import licenses which require shipment on Peruvian-flag carriers unless a waiver is obtained.

The Department of State's letter indicates that on the basis that shippers might be willing to test the assurances, and the Department's own assessment that they could, if fully implemented, be effective in ensuring freedom of choice, it recommends "that the Commission extend the comment period and consider deferring action for the period the assurances are valid and applied in practice."

By removing the threat of penalties for noncompliance with the waiver and cargo manifest certification requirements, the communique from the Government of Peru is taken by the Commission to mean, in effect, that shippers will be allowed to select the carrier of their choice and all carriers, including U.S. and third-flag, will have free and open access to the U.S./Peru trade. Based on this understanding, the Commission is hereby serving notice that it will defer any action pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, with respect to the implementation of the February Decree, for a period of six months from the date of publication of this Notice in the **Federal Register** provided the assurances given in the Peruvian communique transmitted to the Commission on August 19, 1986, are observed. Therefore, while the Commission accepts the Government of Peru's assurances in good faith, it is reserving the right to take immediate action pursuant to section 19 if the situation in the trade should require such action.

The Commission welcomes the Department of State's offer to convey to the Government of Peru the importance which it attaches to the assurances being effectively implemented "in both letter and spirit." The effectiveness of the assurances will depend in large measure on their being given the widest publication possible. The Commission therefore requests the Department to also use its good offices with the Government of Peru to ensure that this is done.

The Department of State has also requested that the Commission extend the period for submitting comments on the impact of the February Decree. Presumably, the Department is referring to the period provided for in the April Notice. As noted above, the comment period prescribed in that Notice, originally scheduled to close on May 18, was extended to June 19, 1986, and comments have been received from various interested parties. We therefore see neither a need nor purpose to further extend that period. The Commission could ask for additional or supplemental comments at a later date if that is deemed necessary. In any event, we would expect interested parties to advise the Commission promptly if they believe that conditions in the U.S/Peru trade warrant further Commission action.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86–19354 Filed 8–26–86; 8:45 am]

BILLING CODE 6730–01–M

Survey of Ocean Common Carriers

The Federal Maritime Commission recently sent surveys to ocean common carriers offering liner service in the United States foreign waterborne commerce seeking their views as to the impact of the U.S. Shipping Act of 1984. The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act. The Commission has been directed by the U.S. Congress to "collect and analyze information concerning the impact of this Act upon the international shipping industry," and to present its findings to an Advisory Commission on Conferences in Ocean Shipping, to be convened five and one-half years after enactment of the Act.

The Commission would like its survey to have the widest possible distribution. All interested ocean common carriers offering liner service who have *not* received a copy of the survey, are urged to contact:

Sandra Kusumoto, Bureau of Economic Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, Tel. (202) 523-5870.

Dated: August 22, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–19355 Filed 8–26–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Reissuance; Morrison Express Corp.

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. App. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/address	Date Reissued
2630	Morrison Express Corp., 11100 Hindry Ave., Los Angeles, CA 90045.	July 31, 1986.

Eugene P. Stakem,

Deputy Director, Bureau of Tariffs.

[FR Doc. 86–19354 Filed 8–26–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants; TECNO 2000 International, Inc., et al.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1717) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders,

Federal Maritime commission, Washington, DC 20573.

TECNO 2000 International, Inc., 8430 NW. 66th Street, Miami, FL 33166

Daniel Abraham dba Daniel Abraham International Freight Forwarder, 1080 Ocean Avenue, Bayshore, NY 11706

Wilbur J. Reine dba Samoa Transfer & Storage, P.O. Box 1026, Pago Pago, American Samoa 96799

Dated: August 22, 1986

Joseph C. Polking,

Secretary.

[FR Doc. 86-19362 Filed 8-26-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations; Locher Evers International, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Party 510.

License number: 2627
Name: Locher Evers Internatioinal, Inc.
Address: 600 1st St., #532, Seattle, WA 98104
Date revoked: August 13, 1986
Reason: Surrendered license voluntarily

License number: 2758
Name: Al-Rad International, Inc.
Address: 5525 N. Pearl St., Rosemont, IL 60018
Date revoked: August 13, 1986
Reason: Failed to maintain a valid surety bond

License number: 465
Name: Dunnington and Arnold, Inc.
Address: 45 John St., New York, NY 10038
Date revoked: August 13, 1986
Reason: Failed to maintain a valid surety bond.

Eugene P. Stakem,

Deputy Director, Bureau of Tariffs.

[FR Doc. 86-19363 Filed 8-26-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 21, 1986.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880)

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Weekly Report of Foreign Branch Liabilities to, and Custody Holdings for, U.S. Addressees.

Agency form number: FR 2077
OMB Docket number: 7100-0176
Frequency: Weekly
Reporters: Foreign branches of U.S. banks

Small businesses are not affected.

General description of report:

This information collection is voluntary [12 U.S.C. 248(a)(2)] and is given confidential treatment [5 U.S.C. 552(b)(4)].

This report collects weekly data from a sample of foreign branches of U.S. banks on certain types of dollar-denominated time deposits and certificates of deposit. These data are essential in calculating the money aggregate M3. The proposed revision would involve a substantial reduction in the reporting panel.

Board of Governors of the Federal Reserve System, August 21, 1986

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19323 Filed 8-27-86; 8:45 am]

BILLING CODE 6210-01-M

First Bryson Bancorporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than September 15, 1986.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bryson Bancorporation, Inc.*, Bryson, Texas; to become a bank holding company by acquiring 87.25 percent of the voting shares of Bryson Bancshares, Inc., Bryson, Texas, and thereby indirectly acquire The First State Bank of Bryson, Bryson, Texas.

Board of Governors of the Federal Reserve System, August 21, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19322 Filed 8-26-86; 8:45 am]

BILLING CODE 6210-01-M

First National of Nebraska, Inc.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 19, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National of Nebraska, Inc.*, Omaha, Nebraska; to engage *de novo* through its subsidiary, First National Leasing, Inc., in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, vice president) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp*, Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware; to engage *de novo* through their subsidiary, MBank Facilities, Corp., Dallas, Texas, in the activity of providing management consulting services to depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y.

2. *Wisetex Bancshares, Inc.*, Rhome, Texas; to engage *de novo* in the activity of making, acquiring and/or servicing loans for itself or for the account of others of the type made by a mortgage company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 21, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19321 Filed 8-26-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Facilities and Management Services Office

Part A, Office of the Secretary, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services is amended to reflect a change in responsibility for the physical security function. Specifically, Chapter AMS, Office of Facilities and Management Services (as last amended at 51 FR 9894, March 21, 1986) is amended. This change clarifies responsibility for the policy and oversight aspects of employee and facility protection services and assigns responsibility to the Office of Facilities and Management Services, Office of Special Programs Coordination.

This change is as follows:

1. Amend Chapter AMS, Office of Facilities and Management Services as follows:

a. Add to section AMS.20 Functions, subsection B, Office of Special Programs Coordination a new item 12 to read:

12. Provides policy and oversight Department-wide for employee and facility protection services.

Dated: August 18, 1986.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 86-19343 Filed 8-26-86; 8:45 am]

BILLING CODE 4150-04-M

Family Support Administration

Availability of Funding for FY 1986 Targeted Assistance Grants for Services to Refugees and Entrants in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), FSA, HHS.

ACTION: Notice of availability of funding for FY 1986 targeted assistance grants for services to refugees and entrants in local areas of high need.

SUMMARY: This notice announces the availability of funds and award procedures for FY 1986 targeted assistance project grants for services to refugees and Cuban and Haitian entrants under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee and entrant populations, high refugee and entrant concentrations, and high use of assistance, and where specific needs exist for supplementation of currently available resources.

Application Deadline: Applications from States for grants under this notice *must be received by ORR no later than September 15*, 1986. No applications will be accepted after that date.

Applications not meeting this requirement will not be considered and will be returned to the sending agency.

FOR FURTHER INFORMATION CONTACT: Sara Stone, Grants Management Office, Office of Refugee Resettlement, Family Support Administration, Room 1229 Switzer Building, 330 C Street, SW., Washington, DC 20201, Telephone (202) 245-0323.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for targeted assistance grants for services to refugees and Cuban and Haitian entrants in counties where, because of factors such as unusually large refugee and entrant populations, high refugee and entrant concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

A total of $47,850,000 in FY 1986 funds which Congress has designated for this purpose is available under this notice for targeted assistance for refugees and entrants.

Several changes were made as a result of comments received in response to the proposal published in the Federal Register on July 17, 1986 (51 FR 25940). These include modifications of the proposed requirement regarding cash assistance recipients as program clients and on the applicability of this requirement to non-employment services, and a clarification that State determination of allocation amounts for qualified local areas is a permitted but not required option.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees and Cuban/Haitian entrants.

Services funded under targeted assistance should focus primarily on those refugees who, either because of their considerable and protracted use of public assistance or continued difficulty in securing employment, constitute a major resettlement problem for the affected jurisdiction which cannot be addressed without additional services. Targeted assistance funds should also respond to the needs of difficult-to-place

refugees whose inability to secure employment and achieve self-sufficiency cannot be overcome without such special services. In order to ensure sufficient emphasis on service to appropriate clients, each State is required to provide an assurance in its application to ORR that, for each qualified local area, cash assistance recipients (time-eligible or time-expired recipients under any program of the State or locality) will make up a percent of the FY 1986 targeted assistance clientele no less than the State's final FY 1985 dependency rate.[1] (See section VIII, below, for additional discussion of this requirement.)

Funds awarded under this program are intended to support projects which directly enhance refugee and entrant employment potential and increase the ability of refugees and entrants to find and retain jobs, and to provide special services, identified below, where essential to the adjustment of refugees/entrants in targeted assistance communities. Innovative approaches to accomplish these objectives, including strategies which address the employment potential of more than one wage earner in a household unit simultaneously, are encouraged.

Up to 15% of a local area's allocation may be used for non-employment-related services to meet extreme and unusual needs, provided such needs are clearly demonstrated and such use is approved by the State, or by ORR in the case of State-administered local programs. A State may request a waiver in order to be able to allow a county to use more than 15% for non-employment-related services. ORR will approve such a request only in the most extreme circumstances of need.

Cases in which county plans contain proposed program activities not allowable under section VIII, below, may be entertained by a State only where extreme and unusual need exists and is clearly demonstrated therein. Such cases would be considered to involve a change in program scope or objectives, and would, therefore, be subject to ORR prior approval.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section X, below.

II. Delivery of Applications

To be considered complete an application package must consist of a signed original and two copies. All application packages must be received by the U.S. Department of Health and Human Services, Family Support Administration, Office of Refugee Resettlement, Grants Management Office, Room 1229 Switzer Building, 330 C Street, SW., Washington, DC 20201, no later than 5:00pm Eastern Daylight Time of the application deadline specified by this notice.

An application that is hand-delivered should be taken to the U.S. Department of Health and Human Services, Family Support Administration, Office of Refugee Resettlement, Grants Management Office, Room 1229 Switzer Building, 330 C Street SW., Washington, DC 20201.

The Grants Management Office will accept a hand-delivered application between 8:30 am and 5:00 pm Eastern Daylight Time daily, except Saturdays, Sundays, and Federal holidays.

III. Discussion of Comments Received

Twenty-three comments were received in response to the notice of proposed availability of funds for FY 1986 targeted assistance. The comments supported the overall targeted assistance program as proposed in the July 17, 1986, notice. Many of the commenters expressed concern about or support for two specific aspects of the proposal which represent changes in targeted assistance policy, and some included recommendations for particular revisions in ORR's approach to these changes. These are summarized below and are followed in each case by the Department's response.

Client Prioritization

Comment: Several commenters supported the proposed requirement that if a State's dependency rate is below the national average, 50% of the targeted assistance clients in its qualified counties would have to be assistance recipients, and that if the dependency rate is above the national average, an equal percent of clients would have to be on aid. A larger number of commenters either disagreed with the imposition of this policy as inflexible, or indicated that the required percent which would apply to their program would be too difficult to reach.

Response: The Department believes that a primary purpose of the Targeted Assistance Program is to provide specially-directed employment services to refugees who have had difficulty in becoming employed and achieving self-sufficiency. As this temporary program is now in its fourth year, we believe that additional specificity in the targeting of clients is necessary. However, it is recognized that in some circumstances the proposed approach to this objective may be inappropriate or infeasible. In this notice, therefore, we have removed the 50% minimum level for recipient clients for programs in States with a dependency rate below the national average. In its place we have included a more individualized requirement that in all targeted assistance programs recipient clients must constitute no less than a percent equal to the State's dependency rate. In addition to this change, we have included a provision to allow local targeted assistance administrators to seek a waiver of the requirement if their program is in a State which has a dependency rate above the national average. Waiver requests are to be submitted to the State, and forwarded by the State with its recommendation to ORR for approval. Waiver requests should be supported by a justification as to why the requirement cannot or should not be met, and a description of who would be substituted as non-recipient priority clients. Waiver requests will be entertained only to the extent that they apply to a programmatically reasonable portion of the clientele represented by the difference between the dependency rate and the national average.

Comment: Several commenters expressed their disagreement with the apparent application of the client prioritization requirement to projects funded under the provision for addressing extreme and unusual service needs. This provision is limited to 15% of a local area's total allocation amount, but is viewed as an important option for addressing special service needs not directly related to refugee employment.

Response: The Department fully supports the use of up to 15% of a local area's funds for non-employment services, under provisions of this notice and as approved by a State in its review of local targeted assistance plans. The language in this notice has been amended to make clear that the client prioritization requirement does not apply to components of a local plan which are approved as part of a response to extreme and unusual needs of the target population.

State Determination of Local Allocation Amounts

Comment: The proposal included allocation amounts for each State containing a targeted assistance area based upon the historic proportions available to local qualified areas in those States. It stipulated that each State should, in turn, determine appropriate allocation amounts for the qualified areas within its jurisdiction. The Department received both positive and negative comments on this

[1] As determined by the Office of Refugee Resettlement.

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proposal, from a variety of commenters. Both States and counties commented that the provision would allow the possibility of an adjustment of funding proportions in response to changes in client need, local circumstances, and available resources. Other commenters, primarily counties and service providers, indicated that any change might be disruptive to the current targeted assistance service system, and have detrimental effects on the local capacity to address refugee service needs.

Response: The Department believes that the possibility for States to respond to changes in refugee need and their ability to gather information to make such a determination is an appropriate addition of flexibility to the Targeted Assistance Program. Therefore, the opportunity for States to determine local allocations has been retained. However, recognizing that there are legitimate reasons as to why a State may not be able or desire to exercise this option, this notice makes clear that, in lieu of an allocation plan, a State may in its application to ORR merely indicate that it intends to distribute funds according to the same proportions available to local areas under previous targeted assistance announcements. In such a case, ORR will provide to the State the appropriate FY 1986 amounts.

Additional Comments

Comment: Some commenters also raised specific concerns relating to implementation problems, the application process, or grant policies. Included among these are questions about carry over of program funds, project period, use of State dependency rates, outcome definitions and reporting requirements.

Response: No changes in the proposal were made in response to comments on these issues. Some of them have been addressed in previous targeted assistance notices and our position has remained the same since publication of those notices. Others have been addressed in implementational guidance issued to States and/or local targeted assistance administrators. Grant policies that apply to targeted assistance are standard Department policies, and their description is contained in the various regulations and circulars which govern similar State grants, as well as in occasional clarification issuances prepared by the Grants Management Office, Office of Refugee Resettlement, and distributed to States. The Department, however, has considered the content of these additional comments, and will take them into consideration in the development or revision of future guidance issuances.

IV. Authorization

Targeted assistance projects will be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c), and section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above.

V. Eligible Grantees

The Department is limiting eligible grantees to those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5. Eligibility for targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

Under this notice, State agencies will submit a single application on behalf of all county governments of the qualified counties in that State. This application will contain information as required by section X, below, pertaining to the State's role as grantee and to its implementation of the FY 1986 targeted assistance program through the review and approval of county targeted assistance plans and the transfer of targeted assistance funds to qualified counties.

Subsequent to the approval of the State's application by ORR, local targeted assistance plans would be developed by the county government or other designated entity and submitted to the State. These plans would propose targeted assistance projects based upon the special needs and capabilities of the targeted refugee and entrant populations, and must give due consideration to the availability of local employment opportunities and outcomes of previously funded projects. Such plans must be developed in cooperation with voluntary refugee resettlement agencies, the business community, refugees and entrants, and public officials in that area.

In the absence of a statewide county system, or in the absence of an appropriate county-level refugee program agent or agency and with the concurrence of the county government, the State is permitted to designate a city or other governmental entity, or to procure the services from either a private for-profit or nonprofit organization, to administer the targeted assistance funds for a qualified local area.

In submitting its application, the State agency must provide assurances (described in section X, below) that targeted assistance funds will be made available to counties in a timely manner, for purposes most appropriate to the nature and extent of need as indicated by each county in its targeted assistance plan. In this regard, the State review of county plans is intended to ensure that targeted assistance programs address identifiable needs in a programmatically sound manner. It is not intended, however, that the local determination of needs and responses to those needs would be removed through a State's exercise of its review responsibility under this program.

Under this notice, a State with more than one qualified county is permitted but is not required to determine allocation amounts for each county within the State. If a State chooses to exercise this option, it is required to provide, in its application, county-specific data upon which it will base allocation amounts within the State. Each qualified county would receive an allocation amount relative to its proportion of need as defined by the State's allocation formula. The application would: Describe the types of data and their source(s), describe how they are used to determined the county allocations, and indicate the allocation amounts. If a State chooses to allocate funds on the same proportionate basis as previous years, it should so indicate in response to item 3, section X, below. ORR will provide to the State the appropriate FY 1986 allocation amount.

The State agency is also required to assure that amounts allocated to counties or other qualifying local entities under targeted assistance would not be used to offset funds that have otherwise been obligated to those jurisdictions.

A State's application must also include a description of its plan for the review and approval of county targeted assistance plans; its specifications and requirements for county plans with regard to identification of priority services and target populations, procurement, monitoring and evaluation, and reporting; and a timetable of its process for implementing the FY 1986 targeted assistance program. States may apply for a grant of up to eighteen months, ending no later than March 31, 1988, to continue or expand current activities or to initiate new activities.

Applications submitted in response to this notice are not subject to review by

State and areawide clearinghouses under Executive Order 12372, "Intergovernmental Review of Federal Aid Programs."

VI. Qualification and Allocation Formula

The Director of ORR considers any county which qualified for targeted assistance funds in FY 1984 (as announced at 49 FR 36685, September 19, 1984) as qualified to apply for funds available under this proposal. Funds are being made available to eligible States on the same basis as that which has been used since FY 1983.

Under the FY 1983 refugee targeted assistance program, a two-stage formula for qualification for, and allocation of, targeted assistance funds was utilized.

The first stage of the formula defined the qualification of counties for targeted assistance through three of four equally-weighted criteria which had been selected to collectively indicate local conditions and problems which the proposed program was intended to address. In order to qualify for application for targeted assistance funds, a county (or group of adjacent counties within the same Standard Metropolitan Statistical Area, or SMSA) was required to be above the median or above a selected cutoff point of jurisdictions for which data were reviewed in three of the four following criteria: (1) The number of refugees placed in the county during Federal fiscal years 1980–1982; (2) the ratio of the overall county population to the refugees in item (1), above; (3) the number of refugees in the county who were receiving cash assistance under the programs of aid to families with dependent children (AFDC), including the unemployed parent (UP) portion of that program, and refugee cash assistance (RCA) on October 1, 1982; and (4) the ratio of refugees in item (3) to the number of refugees in item (1). A county which placed above the cutoff point in any three of the above categories qualified to apply for targeted assistance funds. It was then included in the list of qualifying localities for determination of its targeted assistance allocation.

For the proposed FY 1986 targeted assistance program, an initial list of counties was developed and screened according to the qualification criteria used in FY 1983. All counties that received awards for targeted assistance in FY 1983 for either refugees or entrants were included. ORR also screened data on refugee arrivals in FY 1983 through FY 1985 to identify counties that might have received significant numbers of refugees for the first time. A list of 171 counties was derived from this review.

Analysis of the new data for the 171 counties indicated that no jurisdiction would qualify in FY 1986 that had *not* previously received targeted assistance funds. Further tests were performed to determine whether any area had approached qualification during the past year. This was found not to be the case. Therefore a continuation of original county qualification was determined to be most appropriate for targeted assistance in FY 1986. A list of the qualified counties is provided as Table 1.

Table 1.—Counties Which Qualify for Fiscal Year 1986 Targeted Assistance Program

County, State
Alameda CA
Contra Costa CA
Fresno CA
Los Angeles CA
Merced CA
Orange CA
Riverside/San Bernardino CA
Sacramento CA
San Diego CA
San Francisco CA (*)
San Joaquin CA
Santa Clara CA
Stanislaus CA
Denver CO (b)
Dade/Broward FL
Hillsborough FL
Palm Beach FL
Honolulu HI
Cook/Kane IL
Sedgwick KS
Orleans LA (c)
Montgomery/Prince Georges MD
Middlesex MA
Suffolk MA
Hennepin MN
Ramsey MN
Jackson MO (d)
Essex NJ
Hudson NJ
Union NJ
New York NY (e)
Multnomah OR (f)
Philadelphia PA
Providence RI
Harris TX
Salt Lake UT (g)
Arlington VA
Fairfax VA (h)
King/Snohomish WA
Pierce WA

(*) Includes Marin and San Mateo Counties.
(b) Includes Adams, Arapahoe, and Boulder Counties.
(c) Includes Jefferson Parish.
(d) Includes Wyandotte County, KS.
(e) Includes the five boroughs.
(f) Includes Clackamas and Washington Counties and Clark County, WA.
(g) Includes Davis and Utah Counties.
(h) Includes the independent cities of Alexandria, Fairfax, and Falls Church.
Note.—The District of Columbia Voluntarily withdrew from the targeted assistance program.

The second stage of the 1983 targeted assistance formula was designed to reflect the relative level of need for funds among those counties which qualified to apply under the formula's first stage. The relative degree of need of each qualified locality was indicated by the number of refugees residing in that locality who were not self-sufficient. The Department thus noted the following single criterion as the basis for the allocation of targeted assistance funds among the eligible counties: The number of refugees residing in the county who had been in the United States 36 months or less and who were receiving cash assistance under AFDC, AFDC–UP, or RCA on October 1, 1982.

Taking into consideration the fact that no additional counties were found to meet the criteria used in the original determination of qualification for targeted assistance funding—a finding which reflects the much lower numbers of refugees reaching the U.S. in recent years—allocation of FY 1986 targeted assistance funds will continue under the existing proportional relationship among the States that contain qualified counties.

However, in the case of a State which contains more than one qualified county, the State is permitted to determine (in accordance with the requirements set forth in this notice) the appropriate allocation of the State's targeted assistance award among the qualified counties in the State. ORR sees this step as continuing a trend of providing greater authority and flexibility to States in the targeted assistance program and as recognizing that the relative needs of qualified counties within a State may have changed over time. Thus each such State would be responsible for determining an appropriate and equitable basis for allocating the funds among the qualified counties in the State and for including in its application for approval by ORR a description of this allocation basis and the data to be used.

The basic intent of the targeted assistance program remains: To concentrate available funds in those areas where there are appreciable numbers of unemployed and dependent refugees and entrants on whose behalf special self-support efforts are required.

VII. Allocation Amounts

The allocation available to each State for FY 1986 refugee and entrant targeted assistance is shown in Table 2.

TABLE 2.—ALLOCATION AMOUNTS BY STATE

State	Allocation
California	$15,297,949
Colorado	310,567
Florida	20,396,993
Hawaii	341,984
Illinois	1,908,446
Kansas	382,812
Louisiana	261,516
Maryland	318,147
Massachusetts	828,142
Minnesota	975,031
Missouri	148,767
New Jersey	777,821
New York	1,285,347
Oregon	873,288
Pennsylvania	597,789
Rhode Island	426,956
Texas	700,690
Utah	213,009
Virginia	814,226
Washington	1,290,540

Note.—For Florida, the allocation includes $10,534,471 for Jackson Memorial Hospital (Miami) and the Dade County (Miami) public schools. This is equal to the $11,000,000 previously awarded annually for these purposes less the FY 1986 Gramm-Rudman reduction. The amounts, after this reduction, are $5,746,075 for Jackson Memorial and $4,788,396 for the Dade County schools.

The District of Columbia voluntarily withdrew from the targeted assistance program, and the amount allocated to D.C. has been prorated to all other grantees.

For Kansas, the award amount includes $47,436 for Wyandotte County, which qualifies for targeted assistance in conjunction with Jackson County, Missouri. The amount allocable to Wyandotte County is therefore not included in the Missouri award.

VIII. Allowable Activities and Client Prioritization

Allowable activities under the FY 1986 targeted assistance program include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of refugee economic self-sufficiency by aiding refugees in finding and retaining jobs, increasing refugee employability potential, and/or enhancing refugee job market possibilities. Creative approaches to such activities are encouraged. Allowable activities include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training.

Use of targeted assistance funds for venture capital, either as grants or loans, to provide working capital associated with the acquisition of land, buildings, equipment or the operating budget for a business (except in the case of equipment or business operating budgets required for a specific training activity) is specifically not allowed. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement are especially welcome.

Stipends or needs-based payments to program participants are allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation in a job preparation or training project. In any case, no more than 30% of funds used for this program component are allowed to be used for such payments. Essential support services, such as day care and transportation, are allowable only when it is demonstrated that they are directly related to the employment of those identified as the target population, or are a necessary component in the employability plan of those targeted assistance clients.

Also allowable are other services which are not directly related to the employment of individual clients but which are nonetheless identified and demonstrated in the county plan to be essential services in addressing extreme and unusual needs of the refugee and/or entrant population in the targeted assistance area. Subject to State review and approval, a maximum of 15% of the allocation amount for each area may be used in funding these services. In the event that the State wishes to grant a local area's request to allocate more than 15% of its funds for non-employment-related services, the State must receive prior formal approval of ORR. Since ORR discourages such arrangements, only the most extreme need will be considered adequate justification to support the requests. Allowable services under this special needs provision could include any activity allowable under section 412(c)(3) of the INA. In order to justify the provision of services for extreme and unusual needs, a county plan must identify the target population and clearly demonstrate the nature and extent of the needs, and must describe how the use of targeted assistance funds for the proposed purposes contributes to the adjustment of the refugee/entrant population in the community.

Services funded under targeted assistance should focus primarily on those refugees who, either because of their considerable and protracted use of public assistance or continued difficulty in securing employment, constitute a major resettlement problem for the affected jurisdiction which cannot be addressed without additional services. Targeted assistance funds should also respond to the needs of difficult-to-place refugees whose inability to secure employment and achieve self-sufficiency cannot be overcome without such special services. In order to ensure sufficient emphasis on service to appropriate clients, each State is required to provide an assurance in its application to ORR that, for each qualified local area, cash assistance recipients (time-eligible or time-expired recipients under any program of the State or locality) will make up a percent of the FY 1986 targeted assistance clientele no less than the State's final FY 1985 dependency rate.[3]

In cases where the State's final FY 1985 dependency rate is greater than the national average of States' dependency rates, ORR will entertain a request for waiver of the requirement for a portion of the difference between the two rates. If a county wishes to seek such a waiver, it must provide in its plan to the State a justification as to the reason that the requirement cannot or should not be applied, and a description of the clients who are proposed as non-recipient priority clients. In the event that a State wishes to grant a local area's request to substitute non-recipient for recipient clients, the State must receive formal prior approval of ORR. In seeking such approval, the State must forward to ORR a copy of the relevant portion of the local plan and its recommendation.

This client prioritization requirement applies to all services except those which may be funded in response to extreme and unusual needs, as described above. For those services, which may with State approval constitute up to 15% of a local area's allocation, or more if approved by ORR, the client prioritization requirement discussed above does not apply.

IX. Application and Implementation Process

Under the FY 1986 targeted assistance program, States apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans. The amount which is available to each qualified county will be determined by the State, as set forth in its application, and approved by ORR. On the basis of the acceptability of these county plans, the State will award the funds to qualified counties or local administering entities.

States are allowed to submit applications to ORR at any time from the date of publication of the final announcement of availability of funds in the **Federal Register** until September 15, 1986. Reasonable and identifiable planning costs may be incurred by the State during the pre-award period. The

[3] As determined by the Office of Refugee Resettlement.

award of funds to States with acceptable applications will then be made as soon as possible after such determination, but in any case by September 30, 1986.

Upon notification of the acceptability of its application and the award of funds, a State will notify the qualified counties in its jurisdiction that it is able to review proposed county plans for the use of FY 1986 targeted assistance funds. Due dates, consultation and review procedures, and other aspects of the process of county plan development and submission must be established by the State and included in a timetable in its own application to ORR. A State is required to make the county award(s) in sufficient time to allow continuity or expansion of existing targeted assistance services which the State determines to be acceptable in its county plan review.

States may apply for a grant of up to eighteen months, with the grant period ending no later than March 31, 1988. Except for planning, application preparation and review, procurement processes, and funding for new or expanded activities, States and local areas must use funds awarded under previous targeted assistance grant programs prior to using funds issued under FY 1986 targeted assistance awards. In the event that targeted assistance funds would be appropriated in future years, applications would be received in those years as continuation grant applications.

It should be noted that in instances where a State will also act as the local administering entity and/or provider of direct services, ORR will receive, review, and determine acceptability of individual, local targeted assistance plans. This review process will parallel that of the normal State review of county-administered plans. In addition to the application content requirements specified by this notice, States which are administering local targeted assistance programs must submit their local plans to ORR for review and approval at least 60 days prior to the desired date of program implementation, but no later than December 31, 1986.

Although funding for educational services in Dade County and for medical services at Jackson Memorial Hospital (included as part of Florida's award) is part of the appropriation amount for targeted assistance as indicated in this notice, the scope of activities for those projects has been administratively determined. Application for these funds is therefore not subject to provisions contained in section X of this notice, but to other requirements which will be conveyed separately to the State.

X. Application Content

In applying for targeted assistance funds, a State agency is required to provide the following:

1. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs—e.g., social services, cash and medical assistance, etc.

2. Assurance that the State has consulted with targeted assistance entities (counties) in its development of State application guidelines.

3. A statement of the State's intention to determine allocation amounts for its qualified counties, or to allocate funds on the same proportionate basis as previous years. (Not required for States which contain only one local area that qualifies for the program. If a State chooses not to determine allocation amounts, ORR will provide to the State the appropriate FY 1986 allocation amounts. If a State chooses to determine county allocations it should provide a description of, and supporting data for, the State's proposed allocation plan. The allocation approach should be based upon objective indicators of refugee and entrant need for targeted assistance services. It might include one or more measures, such as current social service caseload of unserved clients, cash assistance caseload, or a needs assessment study. The application should contain the allocation approach description, the data used in its implementation, and the calculated allocation amount for each county. Data offered should be appropriate to the allocation approach rationale and based on objective, verifiable measures.

4. A description of the State's guidelines for the required content of county targeted assistance plans. Acceptable county plans must minimally include the following:

a. Procedures for carrying out a local planning process for determining targeted assistance priorities and service strategies. All local targeted assistance plans will be developed through a planning process that involves, in addition to representatives of the local planning agency, representatives of the private sector (for example, private employers, Private Industry Council, Chamber of Commerce, etc.), leaders of refugee/entrant community-based organizations, voluntary resettlement agencies where such exist, and other public officials associated with social services and employment agencies.

b. Assurance that all services will be provided by qualified providers (public or private, non-profit or for-profit, agencies or individuals).

c. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, a description of characteristics and needs of targeted populations, prioritization of refugee/entrant clients to be served, and justification for the designation of specific client populations.

d. Assurance that, for each qualified local area, cash assistance recipients (time-eligible or time-expired recipients under any program of the State or locality) will make up a percent of the FY 1986 targeted assistance clientele no less than its final FY 1985 dependency rate, except in the case that a waiver of this requirement is granted by ORR.

e. Identification and justification of specific strategies to meet needs of targeted populations. These should be justified where possible through analysis of strategies and outcomes from projects previously implemented under the targeted assistance programs, the regular refugee social service programs, and any other services available to the refugee population.

f. Relationship of proposed FY 1986 targeted assistance projects to FY 1984 and 1985 funded projects.

Identify procedures which will prevent any duplication of services to individual clients should any components of the two grants overlap.

g. Relationship of targeted assistance projects to other services available to refugees/entrants in the county including State-allocated ORR social service programs.

h. Justification for support services as they relate to the removal of barriers to employment of the specified targeted populations.

i. Analysis of available employment opportunities and relationship of targeted assistance strategies to local employment opportunities. Examples of acceptable analyses of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, review of studies conducted by city/county or State institutions on employment opportunities/forecasts which would be appropriate to the refugee population.

j. Statement of projected performance outcomes for each program component including the number of full-time unsubsidized job placements, and placements with at least 90 days' retention on the job, as reported at six and twelve month periods.

k. Monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

l. Reporting requirements including, at a minimum, the frequency of submissions and data elements outlined in (j) above.

m. Justification for any service not directly related to the employment of individual clients as addressing extreme and unusual needs of the refugee and/or entrant population. Adequate justification must include a discussion of the extent of extreme and unusual need and indicate number of refugees/entrants to be served, absence of or limited availability of necessary resources, and the expected results from the provision of the proposed services. Without specific ORR prior approval, a maximum of 15% of the allocation amount for each targeted area is allowed.

n. Program component summary which includes a justification of the projected allocation for the component, including relationship of funds allocated to numbers of clients served, characteristics of clients, projected outcomes, and cost per placement. In addition, the program component summary should describe specific services or activities inclusive of equipment for training purposes and stipends (if applicable), duration of training and services, ancillary services or subcomponents such as day care or language training, and any other activities relevant to determining the basis for the projected cost of the component. Such justification shall constitute the basis for determining the reasonableness of the costs of the services in relationship to client needs and outcomes.

o. Assurance that the local administrative budget will be limited to the amount available as indicated in the schedule below:

TABLE 3.—SCHEDULE OF ALLOWABLE ADMINISTRATIVE COST AMOUNTS

Allocation amount for local targeted assistance area	Allowable percentage for administrative costs	Maximum amount for administrative costs
$500,000 or below	15	$75,000
$500,001 to $600,000	14	84,000
$600,001 to $700,000	13	91,000
$700,001 to $800,000	12	96,000
$800,001 to $900,000	11	99,000
$900,001 and above	10	(1)

[1] Depends on allocation.

Note.—The Targeted Assistance grants are cost-based awards. Neither a State nor a county is "entitled" to a certain amount for administrative costs. Rather, administrative cost requests should be based on and defended as projections of actual needs. The amounts shown above reflect only the maximum which may be claimed.

p. Assurance, from States that elect to administer the program directly or otherwise to provide direct service to the refugee/entrant population (with the concurrence of the county), that the State will not request or use targeted assistance funds for program services in the target area for which it will serve as administering entity until the local targeted assistance plan has been reviewed and approved by ORR. The State must provide ORR with the same information required above under this part of the application requirement (item 4) for review and prior approval. The State should provide ORR with this plan at least 60 days prior to the date of desired program implementation.

5. A description of the process for awarding funds to the local area, to include:

a. An identification of the local administering entity, procedures for selection of such if other than local government, and award instrument to be used.

b. Assurance that any deviation from having the qualified county administer the TA grant occurs with the concurrence and approval of the designated county or qualified local jurisdiction.

c. A workplan which describes major activities and timetables for their completion, including identification of the period during which local entities could incur planning costs.

d. Procedures for the review and approval of local plans. At a minimum, these procedures must enable the State to ensure that all elements required under item 4, above, have been met and that an objective review process is carried out consistent with State requirements.

e. A timetable indicating the approximate dates by which qualifying counties shall receive FY 1986 funds.

f. Assurance that no county will receive funds for the continuation or expansion of an existing project until such time as demonstrable evidence exists that such a project should be continued or expanded, and that, if an existing project is deficient in its performance, a corrective-action plan has been submitted to, and determined acceptable by, the State.

g. Other requirements which the State considers appropriate to ensure an orderly funding process which accommodates the need to provide timely funding without prematurely funding projects or activities for which previously awarded targeted assistance funds could be used, where limited project activity has occurred, or where performance assessments cannot be made.

6. A description of the State's plan for monitoring and evaluating the targeted assistance programs. The plan must minimally include the following:

a. Provision for consolidating program data to measure overall progress of program—i.e., number of persons being removed from cash assistance, number of persons in target populations placed on jobs and retaining jobs for 90 days.

b. Provision for verifying and assessing quality of data submitted, corrective actions to be taken, and followup.

c. Provisions for relating program data to financial data to determine service costs as well as cost effectiveness of service components.

d. Provision for timely submission of complete, accurate, and unduplicated outcome data on all components of individual targeted assistance plans so that categories or types of projects can be tracked and assessed.

e. Description of State's plan for fiscal and programmatic monitoring of local projects, including frequency of on-site monitoring.

f. Description of the State's procedures for reviewing changes in county plans which require prior approval in accordance with 45 CFR Part 74, Subpart L, and the appropriate cost principles. The State agency shall continue to exercise all programmatic responsibility for issues relating to previous targeted assistance awards to qualifying local jurisdictions. These responsibilities cover determinations about modifications to an approved scope of work and amendments to grant awards. Where modifications involve grant period or carry-over, the State agency shall require the concurrence of ORR in order to effect such changes in either FY 1984, 1985, or 1986 awards..

7. Projected line item and budget justification of State administrative costs not to exceed 5% of the total award.

8. Assurance that the State will adhere to the provisions of its approved Cost Allocation Plan for Public Assistance Programs as mandated under 45 CFR Part 95, Subpart E.

9. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan.

10. Assurance that the State will not support county administrative costs in excess of the amounts allowed under this notice.

11. Assurance that the State will follow or mandate that its subrecipients will follow appropriate procurement standards in the acquisition of services. Applicable standards are outlined in

Subpart P of the Department's grants administration regulations, 45 CFR Part 74. In essence, this subpart provides that agencies of government (e.g., State, county) follow the provisions of Attachment O of OMB Circular A–102 and that non-profit organizations follow provisions of Attachment O of OMB Circular A–110. Both attachments are included as appendices to 45 CFR Part 74. The exception would involve a situation in which an agency of government (e.g., State, county) sought to acquire services from another agency of government (e.g., county or county welfare agency). In such cases, the procurement standards of the agency of government (State, county) acquiring the services would apply.

XI. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section X, above), satisfactory progress by the grantee, and ORR's determination that continued funding is in the best interest of the Government. The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed allocation amount and if such assistance is requested by the applying State agency. Final determination as to the acceptability of applications is at the discretion of the Director of ORR.

XII. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F, Services: Requirements and Limits Applicable to Specific Services—Abortions and Sterilizations
45 CFR Part 16, Procedures of the Departmental Grant Appeals Board
45 CFR Part 74, Administration of Grants
45 CFR Part 75, Informal Grant Appeals Procedures
45 CFR Part 80, Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81, Practice and Procedure for Hearings Under Part 80 of this Title
45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance
45 CFR Part 91, Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
45 CFR Part 95, Subpart E, General Administration—Grant Programs (Public assistance and medical assistance)—Cost Allocation Plans

XIII. Reporting and Recordkeeping

Applications for grants under this announcement are to be submitted on Standard Form 424 which has current OMB approval (0960–0184). In completing Form 424, States must address the criteria listed in section X.

Financial reporting is to be provided semiannually on Standard Form 269 (80–R0180). These reporting requirements directly follow Department grants administration regulations at 45 CFR Part 74.

ORR requires grantees to report semiannually on their oversight of the implementation of county plans for targeted assistance and to report outcomes. Instructions specific to the Reporting Requirements for Targeted Assistance Grants for Services for Refugees and Entrants in Local Areas of High Need (Form ORR–12) were approved by the Office of Management and Budget. (Approval number: 0960–0334.)

[No Catalog of Federal Domestic Assistance number has been assigned.]

Dated: August 19, 1986.

Billie F. Gee,

Acting Director, Office of Refugee Resettlement.

[FR Doc. 86–19349 Filed 8–26–86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–86–1633]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ACTION: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: State Authorized Enterprise Zone Data
Office: Community Planning and Development
Form Number: None
Frequency of submission: Semi-annually
Affected public: State or Local Governments
Estimated burden hours: 1,000
Status: New
Contact: Robert Brever, Jr., HUD, (202) 755–1312 Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

VOL 51 ISS 166 AG 27 1986 UMI

Dated: June 23, 1986

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86-19326 Filed 8-26-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Establishment of New Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new notice describing a system of records to be maintained by the Office of Surface Mining Reclamation and Enforcement (OSMRE). The records pertain to the examination and certification of individuals who are qualified to use explosives in mining operations under the jurisdiction of OSMRE. The new system of records notice is titled "Application for Blaster Certification in Federal Program States and on Indian Lands-Computer Tracking System—Interior, Office of Surface Mining Reclamation and Enforcement-12", and is published in its entirety below.

As required by section 3 of the Privacy Act of 1974, as amended (5 U.S.C. 552a(o)), the Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget in its Circular No. A-130 requires a 60-day period to review such proposals. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240. Comments received on or before October 27, 1986, will be considered. The notice shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: August 19, 1986.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

PRIVACY ACT SYSTEM NOTICE

Interior/OSMRE-12

SYSTEM NAME:

Application for Blaster Certification in Federal Program States and on Indian Lands-Computer Tracking System-Interior, Office of Surface Mining Reclamation and Enforcement-12.

SYSTEM LOCATION:

Office of Surface Mining Reclamation and Enforcement (OSMRE), Department of the Interior, Washington, D.C. 20240 and Field Offices in Knoxville, Tennessee; Casper, Wyoming; and Albuquerque, New Mexico. For specific addresses of Field Offices contact the program coordinator at the address given below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains applicants for certification as blasters in Federal Program States and on Indian Lands. Each application will be for one type of blaster certificate or purpose, from the following categories; issuance, renewal, reissuance, reexamination, replacement, or reciprocity. The application form will contain information on; personal data, examination dates, employment history, blasting experience, education, blaster training, blaster certification history, law violation history, and personal affirmation of all of the above information.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complete application information submitted by candidate; (2) Application Status Reports listing; the number received, incomplete, complete and not scheduled for examination, list of rejected applications, and list of applicants scheduled for examination; (3) Report Generation menu, contains; summary report of receipt of applications, and alphabetic directory of Federal licensed blaster; (4) Certification Status reports contain; listing of certifications due to expire, expired certificates and a list of revoked or suspended certificates; (5) Query processing sub-systems to access information on candidates by social security number, last name, and print output of entire application information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., and sections 30 CFR 750.19, 816.61, 900, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 955.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to; (a) review an applicant's background, status, employment history, blasting experience and violation status; (b) record the fact that the person is in compliance with specific State and Federal authority and regulations; (c) maintain adequate control and access of record information, (d) serve as a tool for OSMRE to grant as blaster certificate for issuance, renewal, reissuance and reciprocity status, administration and notification procedure (e) provide an adequate system of records for the Department, and for compliance within the Department for a Federal program, (f) enable OSMRE to track appropriate actions when a blasting violation occurs, or a discrepancy with application information and the affirmation by the applicant, (g) verify the status of a blaster when queried by a State or mining company official, and (h) enable OSMRE as the regulatory authority to effectively monitor its program requirements.

Disclosure outside the Department of the Interior may be made to: (1) The appropriate Federal, State, local or foreign agency responsible for obtaining information relevant to a Federal blaster for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order when OSMRE becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) the U.S. Department of Justice or in a proceeding before a court or adjudicative body when; (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a State or mining company officials to verify that an individual is or is not certified blaster under the Federal programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in secured file cabinets; and recorded on computer magnetic media.

RETRIEVABILITY:

For each field Office, information is filed and retrievable by social security number and last name alphabetically, or date of entry. For each Field Office, information is filed alphabetically by applicant, candidate, or blasters, and consolidated in summary format at the Knoxville Field Office.

SAFEGUARDS:

Maintained in locked file cabinets for manual files, standard password files on computer and software, and accessible only by those authorized persons. Manual records are maintained in OSMRE areas occupied by OSMRE personnel during working hours with buildings locked off hours.

RETENTION AND DISPOSAL:

Data stored on magnetic media will be retained until it is determined that the information is no longer needed or required. Manual records will be retained for a minimum of 6 years to serve as verification and backup material. ADP printout records will be updated and disposed of periodically, when superseded or recertification of a certified blaster occurs. Records are disposed of in accordance with items 25 through 30 of General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Blaster Certification Program Coordinator, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW Washington, DC 20240.

NOTIFICATION PROCEDURE:

A written request addressed to the appropriate State designated OSMRE Field Office Director stating that the requestor seeks information concerning records pertaining to him is required. See 43 CFR 2.60 for form of request.

RECORD ACCESS PROCEDURES:

To review your records, write the State designated OSMRE Field Office Director. Describe as specifically as possible the records sought and mark the request "Privacy Act Request for Access." See 43 CFR 2.63 for required content of request.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the designated OSMRE Field Office Director and meet the content requirement of 43 CFR 2.71. The petition for amendment must be submitted in writing.

RECORD SOURCE CATEGORIES:

(1) Application for Blaster Certification in Federal Program States and on Indian Lands (2) Federal Blaster Examination Test Scores and Status. (3) State program approved certified blasters records. (4) State and Federal criminal or law violation records.

[FR Doc. 86-19311 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirements and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the OMB Interior Desk Officer at (202) 395-7340.

Title: 25 CFR, Subchapter E, Part 41—Grants to Tribally Controlled Community Colleges and Navajo Community College, Grants Application.

Abstract: The collection of information is necessary to provide financial assistance to the Tribally Controlled Community Colleges and Navajo Community College.

Frequency: Annually.

Description of Respondents: Tribally Controlled Community Colleges, and the Navajo Community College Indian students.

Annual Response: 20.

Annual Burden Hours: 60 hours.

Bureau Clearence Officer: Cathie Martin (202) 343-1676.

William A. Mehojah, Jr.,

Acting Deputy to the Assistant Secretary/ Director—Indian Affairs (Indian Education Programs).

[FR Doc. 86-19312 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted for Review

The proposal for the collection of information listed has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made to the Office of Management and Budget Interior Desk Officer at (202) 395-7340.

Title: 25 CFR, Subchapter E, Part 39—The Indian School Equalization Program

Abstract: All Bureau-funded elementary and secondary schools complete one form for each student in attendance during the count week. Specific data on grade, residential status and handicapping conditions are weighted of the formula distribution of appropriated funds. About ⅛ of the Bureau-funded schools are operated by contract with Indian tribes, and the data must be collected for distribution of funds.

Frequency: Annually.

Description of Respondents: Principals, School Administrators.

Annual Response: 9,500.

Annual Burden Hours: 1,900 hours.

Bureau Clearance Officer: Cathie Martin (202) 343-1674.

William A. Mehojah, Jr.,

Acting Deputy to the Assistant Secretary/ Director—Indian Affairs (Indian Education Programs).

FR. Doc. 86-19313 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CA-020-4341-02; 4351-02]

Susanville District Advisory Council; Meeting

In accordance with sec. 309 of Pub. L. 94-579 (Federal Land Policy and Management Act as amended), the Susanville District Advisory Council will meet September 18-19, 1986. The meeting on September 18 will begin at 9:00 a.m. in the conference room of the Alturas Resource Area Office, 120 S. Main St., Alturas, California. The meeting on September 19 will begin at 8:00 a.m. at the same address.

The meeting agenda will include such topics as:

1. Opening remarks, introductions, general topics.

2. The tour on September 18 will include the Fitzhugh Creek riparian rehabilitation area.

3. The tour on September 19 will include the Cinderpit prescribed burn area, Pit River mini-hydro project/ Vestal land exchange, and Sheep Valley best management practices area.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

For further information contact Louisa Beld, Public Affairs Officer, Bureau of Land Management, 705 Hall St., Susanville, CA 96130, 916/257-5381.

Loren Siegelmilch,

Acting District Manager.

[FR Doc. 86-19317 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourteenth Standing Committee Meeting, Sixth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes the time of the sixth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and invites the public to provide suggestions for agenda items. The sixth meeting has been scheduled for July 12-25, 1987, in Ottawa, Canada.

The Service also announces the time and place of two public meetings to provide the public with an opportunity to assist in preparations for the fourteenth meeting of the Standing Committee of the Conference of the Parties to be held in Ottawa, Canada, October 27-31, 1986.

ADDRESS: Suggestions for agenda items for the sixth regular meeting of the Conference of the Parties should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, room 611, Arlington, Virginia 22201.

DATES: To assure consideration of suggestions for agenda items for the sixth regular meeting of the Conference of the Parties they should be received by September 3, 1986. Two public meetings relating to preparations for the fourteenth Standing Committee meeting will be held on September 24 and October 15, 1986, (see "Announcement of Public Meetings Concerning the Fourteenth Meeting of the Standing Committee.")

FOR FURTHER INFORMATION CONTACT: Earl B. Baysinger, Chief, Federal Wildlife Permit Office, 1000 N. Glebe Road, Arlington, Virginia 22201, telephone (703) 235-1937, telex WILDLIFE64508.

Background

SUPPLEMENTARY INFORMATION:

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES, is an international agreement designed to control international trade in certain listed animal and plant species which are or may become threatened with extinction. Currently, around 92 nations, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties (COP's) to review implementation, make provisions enabling the Secretariat of CITES to carry out its functions, consider adopting amendments to Appendices I and II to CITES (2 of 3 lists which contain the names of species and other taxonomic categories controlled by CITES (the third list may be amended unilaterally), consider any reports presented by the Secretariat, any Party of committee of the COP, and make recommendations for the improved effectiveness of CITES.

The Standing Committee was established by resolution of COP2. Its mandate was revised by COP3 (see document Conf. 3.1). At COP4 its membership was revised and voting procedures established.

Briefly, the Standing Committee's mandate is to oversee the execution of the Secretariat's budget, provide guidance to the Secretariat on CITES implementation, on preparation of meetings and on any matters brought to it by the Secretariat in exercise of its functions and perform other tasks assigned by the COP.

This is the first of a series of notices which, together with public meetings, provide the public with an opportunity to participate in the development of the United States negotiating positions for COP6. The Services's regulations governing this process are found in Title 50 of the Code of Federal Regulations, § 23.31, through 23.39.

Notice of Sixth Regular Meeting of the Conference of the Parties and of the Fourteenth Meeting of The Standing Committee

The Secretariat has formally informed the Parties to CITES that COP6 will be held in Ottawa, Canada, July 12-25, 1987. A provisional agenda for the meeting will be prepared by the Secretariat and the Standing Committee at its fourteenth meeting.

The text of any draft resolutions other documents or amendments to the CITES Appendices I and II (lists of controlled species) must be communicated by the Parties to the Secretariat by February 12, 1987.

Provisional Rules of Procedure for COP6 will be prepared at the fourteenth Standing Committee meeting to be held in Ottawa, Canada, October 27-31, 1986. Further information on arrangements for COP6, including a schedule of preparations and the provisional agenda for COP6, will be published in a **Federal Register** notice soon after the fourteenth Standing Committee meeting. The provisional agenda for the fourteenth Standing Committee meeting is as follows:

Fourteenth Meeting of the Standing Committee

Ottawa, Canada, 27 to 31 October 1986

Provisional Agenda

1. Introductory remarks by the Chairman
2. Report of the Secretariat on financial matters
   - —Expenditure for 1985
   - —Projection 1986-87
   - —Status of contributions
   - —Financial amendment
   - —External funding
3. Status report on arrangements with UNEP
4. Arrangements for the 6th meeting of the Conference of the Parties
   - —Statement by Canada
   - —Statement by Secretariat
   - —Provisional agenda
   - —Provisional work programme
   - —Rules of procedure
5. Work programme of the Secretariat
   - —Report on missions
   - —Report on Enforcement Seminar
6. Technical Committee
7. Identification Manual matters
8. Arrangements for Future meetings of the Standing Committee
9. Any other business

The United States has suggested that the Committee's agenda also include items on infractions and major enforcement problems, and the structure of CITES committees.

Request For Suggestions for Agenda Items For the Sixth Regular Meeting of the Conference of the Parties

The Service requests that suggestions for agenda items for COP6 be sent to the Director (see ADDRESS above) by September 3, 1986 to assure inclusion by the Secretariat in its presentation to the fourteenth Standing Committee meeting if the Service considers the suggestion appropriate. Other appropriate suggestions received after September 3 will be advanced by the United States at the fourteenth Standing Committee meeting.

Announcement of Public Meetings Concerning the Fourteenth Meeting of the Standing Committee

The Service will conduct two public meetings on September 24 and October 15, 1986, from 2:00 p.m. to 4:30 p.m. in the North Penthouse of the U.S. Department of the Interior (Main Building), at 18th and C Streets, NW., Washington, DC for the purpose of providing the public with an opportunity to assist in preparations for the meeting (see the agenda for the meeting above).

This notice was prepared by Arthur W. Lazarowitz, of the Federal Wildlife Permit Office.

Dated: August 21, 1986.

Steve Robinson,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 86-19337 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Park System Advisory Board

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Park System Advisory Board will be held in Yellowstone and Grand Teton National Parks, September 14-19, 1986.

The general business sessions on Wednesday, September 17, starting at 1:00 p.m., and 8:00 a.m., on Thursday, September 18, will be held in the Sun Room of the Lake Hotel, Yellowstone National Park. The Advisory Board will consider administrative matters pertaining to the Board; policies regarding natural and cultural resources; National Historic Trails; National Historic Landmarks; and followup of issues associated with the Spring 1986 meeting.

The business meetings will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on first-come, first-served basis. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact James W. Stewart, Acting Associate Director, Planning and Development, Room 3116, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127. (202-343-1264).

Summary minutes of the meeting will be available for public inspection 6-8 weeks after the meeting in Room 3328 Interior Building, 18th and C Streets, NW., Washington, DC.

James W. Stewart,

Acting Associate Director, Planning and Development, National Park Service.

[FR Doc. 86-19342 Filed 8-26-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-249]

Aircraft Carbon Disc Brakes and Replacement Carbon Discs; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Ethel L. Morgan, Esq. of the Office of Unfair Import Investigations will be the Commission investigative attorney in the above-cited investigation instead of Gary L. Kaplan, Esq. and Deborah S. Strauss, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 22, 1986.

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

[FR Doc. 86-19396 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-308 through 310 (Final)]

Butt-Weld Pipe Fittings From Brazil, Japan, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-308 through 310 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Japan, and Taiwan of carbon steel butt-weld pipe and tube fittings, under 14 inches in inside diameter,[1] provided for in item 610.88 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before October 20, 1986, and the Commission will make its final injury determinations by December 8, 1986 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from Brazil, Japan, and Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in petitions filed on February 24, 1986, by the U.S. Butt-Weld Fittings Committee. In response to those petitions the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations,

[1] For purposes of these investigations, such fittings may be finished or unfinished but must be advanced beyond forging. Such advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping, or painting. Such fittings do not include couplings (provided for in TSUS item 610.86).

determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 12938, April 16, 1986).

Participation in the Investigation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the later entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in these investigations will be placed in the public record on October 10, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on October 28, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 14, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 21, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 21, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 4, 1986. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 4, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: August 21, 1986.

Kenneth R. Mason,

Secretary

[FR Doc. 86-19399 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-282 (Final)]

Candles From the People's Republic of China

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is materially injured by reason of imports from the People's Republic of China of candles of petroleum wax, provided for in item 755.25 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 19, 1986, following a preliminary determination by the Department of Commerce that imports of petroleum wax candles from the People's Republic of China are being, or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 12, 1986 (51 FR 8569). The hearing was held in Washington, DC, on July 16, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 21, 1986. The views of the Commission are contained in USITC Publication 1888 (August 1986), entitled "Candles From the People's Republic of China: Determination of the Commission in Investigation No. 731-TA-282 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: August 21, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-19400 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler and Vice Chairman Brunsdale dissenting.

[Investigation No. 337-TA-240]

Laser Inscribed Diamonds and the Method of Inscription Thereof; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Sears, Roebuck and Co. (Sears), I.B. Goodman Mfg. Co. Inc. (Goodman) and Aharon Schwartz & Sons (Schwartz).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 20, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: August 20, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-19403 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-237]

Miniature Hacksaws; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Lynn I. Levine, Esq. of the Office of Unfair Import Investigations will be the Commission investigative attorney in the above-cited investigation instead of Gary L. Kaplan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 22, 1986.

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

[FR Doc. 86-19404 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-228]

Fans With Brushless DC Motors; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Deborah S. Strauss, Esq. of the Office of Unfair Import Investigations will be the Commission investigative attorney in the above-cited investigation instead of Gary L. Kaplan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 22, 1986.

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

[FR Doc. 86-19402 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree in Clean Air Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Boise State University, et al.* was lodged with the United States District Court for the District of Idaho on August 11, 1986. The proposed consent decree requires the defendants to comply with applicable Clean Air Act requirements governing the demolition or renovation of facilities that contain friable asbestos materials, and pay a civil penalty of $28,000.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States* v. *Boise State University, et al.* 90-5-2-1-875.

The consent decree can be examined at the office of the United States Attorney, 550 West Fort Street, Boise, Idaho 83724, the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-19319 Filed 8-26-86; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 14-86]

Privacy Act of 1974; Appendix: List of Principal Offices of the Immigration and Naturalization Service

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), the Immigration and Naturalization Service (INS) proposes to update the appendix of locations where INS Privacy Act systems of records are found. The appendix, identified as the "INS Appendix: List of Principal Offices of the Immigration and Naturalization Service, JUSTICE/INS-999," is ancillary to the following published systems:

—INS Index System, JUSTICE/INS-001, published October 31, 1984 (49 FR 43812).

—INS Application/Petition Tracking System (APTS), JUSTICE/INS-002, published September 28, 1978 (43 FR 44711).

—INS Position Accounting/Control System (PACS), JUSTICE/INS-003, published September 28, 1978 (43 FR 44711).

—INS Top Priority Program (TPP), JUSTICE/INS-004, published January 10, 1980 (45 FR 2211).

—INS Integrated Case Control System (ICCS), JUSTICE/INS–006, published November 17, 1980 (45 FR 75928).

—INS Alien Address Reports, JUSTICE/INS–006, published December 9, 1981 (46 FR 60297).

—INS Orphan Petitioner Index and Files, JUSTICE/INS–007, published November 22, 1983 (48 FR 52784).

—INS Bond Accounting and Control System (BACS), JUSTICE/INS–008, published March 18, 1983 (48 FR 11533).

—INS Alien Status Verification Index, JUSTICE/INS–009 published May 2, 1985 (50 FR 18753).

—INS Freedom of Information Act/Privacy Act (FOIA/PA) Case Tracking and Reporting System, JUSTICE/INS–010, published January 15, 1985 (50 FR 2095).

The revised appendix is reprinted below in its entirety.

Dated: August 8, 1986.

Robert N. Ford,

Acting Assistant Attorney General for Administration.

Justice/INS–999

System Name:

INS Appendix: List of principal offices of the Immigration and Naturalization Service

Central Office: Immigration and Naturalization Service; 425 "I" Street NW, Washington, DC 20536.

Regional Offices: Eastern Regional Office, Federal Building, 11 Elwood Avenue, Burlington, VT 05401.

Northern Regional Office, Bishop Henry Whipple Federal Building, Twin Cities, St. Paul, MN 55111.

Southern Regional Office, Skyling Center Building, 311 North Stemmons Freeway, Dallas, TX. 75207.

Western Regional Office, Terminal Island, San Pedro, CA 90731.

District Offices in the United States:

Anchorage District Office, Federal Building, U.S. Courthouse, 701 "C" Street, Room D–229, Anchorage, AK 99513.

Atlanta District Office, Richard B. Russell Federal Building, Room 1408, 75 Spring Street SW, Atlanta, GA 30303.

Baltimore District Office, E.A. Garmatz Federal Building, 101 W. Lombard Street, Baltimore, MD 21201.

Boston District Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicago District Office, Dirksen Federal Office Building, 219 South Dearborn Street, Chicago, IL 60604.

Cleveland District Office, Anthony J. Celebrezze Federal Building, Room 1917, 1240 East Ninth Street, Cleveland, OH 44199.

Dallas District Office, Federal Building, Room 6A21, 1100 Commerce Street, Dallas, TX 75242.

Denver District Office, Federal Building, 1961 Stout Street, Room 1787, Denver, CO 80202.

Detroit District Office, Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207.

El Paso District Office, U.S. Courthouse, Room 343, El Paso, TX 79984.

Harlingen District Office, 2102 Teege Road, Harlingen, TX 78550.

Helena District Office, Federal Building, Room 512, 301 South Park, Drawer 10036, Helena, MT 59626.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96809.

Houston District Office, 2627 Caroline Street, Houston, TX 7704.

Kansas City District Office 9747 North Conant Avenue, Kansas City, MO 64106.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012.

Miami District Office, 7880 Biscayne Boulevard, Miami FL 33138.

Newark District Office, Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office, Postal Services Building, 701 Loyola Avenue, Room T–8005, New Orleans, LA 70113.

New York Distict Office, 26 Federal Plaza, New York, NY 10007.

Omaha District Office, Federal Building 106 South 15th Street, Room 1098 Omaha, NE 68102.

Philadelphia District Office, Independence Mall West, U.S. Courthouse, Room 1321, 601 Market Street, Philadelphia, PA 19106.

Phoenix District Office, Federal Building, 230 North First Avenue, Phoenix AZ 85025.

Portland Maine District Office, 76 Pearl Street, Porland, ME 04112.

Portland Oregon District Office, Federal Office Building, 511 NW Broadway, Portland, OR 97209.

St. Paul District Office, Main Post Office Building, Room 927 180 East Kellogg Boulevard, St. Paul MN 55101.

San Antonio District Office, U.S. Federal Building, Suite A301, 727 East Durango, San Antonio, TX 78206.

San Diego District Office, 880 Front Street, San Diego, CA 92188.

San Francisco District Office, Appraisers Building 630 Sansome Street, San Francisco, CA 94111.

San Juan District Office, GPO Box 5068, San Juan, PR 00936.

Seattle District Office, 815 Airport Way, South, Seattle, WA 98134.

Washington District Office, 4420 North Fairfax Drive Arlington, VA 22203.

Suboffices (Files Control Offices) in the United States:

Agana Office, 801 Pacific News Building, 238 O'Hara Street, Agana, GU 96910.

Albany Office, U.S. Post Office and Courthouse, 445 Broadway Room 220, Albany, NY 12207.

Charlotte Office, 1111 Hawthorne Lane, Charlotte, NC 28205.

Charlotte Amalie, St. Thomas Virgin Islands, New Federal Building Room 117, Charlotte, Amalie, St. Thomas, VI 00801.

Cincinnati Office, U.S. Post Office and Courthouse, 100 E. 5th Street, P.O. Box 537, Cincinnati, OH 45201.

El Paso Intelligence Center (EPIC), 2211 East Missouri Street, El Paso, TX 79903.

Hartford District Office, Ribicoff Federal Building, 450 Main Street Harford, CT 06103.

Indianapolis Office, U.S. Courthouse, 46 East Ohio Street, Room 148, Indianapolis, IN 46202.

Las Vegas Office, Federal Building, U.S. Courthouse, 300 Las Vegas Boulevard, South, Las Vegas, NV 89101.

Memphis Office, Federal Building, Room 814, 167 North Main Street, Memphis, TN 38103.

Milwaukee Office, Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, Room 439, 200 Granby Mall, Norfolk, VA 23510.

Pittsburgh Office, Federal Building, Room 2130, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building, U.S. Post Office, Exchange Terrance, Providence, RI 02903.

Reno Office 350 South Center Street, Suite 150, Reno, NV 89502.

St. Albans District Office, Federal Building, St. Albans, VT 97209.

St. Louis Office, 210 North Tucker Boulevard, Room 100, St. Louis, MO 63101.

Salt Lake City Office, 230 West 400 South Street, Salt Lake City, UT 84101.

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters:

Blaine Sector Headquarters, 1590 "H" Street, P.O. Drawer V, Blaine, WA 98230.

Buffalo Sector Headquarters, 231 Grant Island Boulevard, Tonawanda, NY 14150.

Chula Vista Sector Headquarters, 3752 Beyer Boulevard, San Ysidro, CA 92073.

Del Rio Sector Headquarters, Hudson Drive, P.O. Box 2020, Del Rio, TX 78840.

Detroit Sector Headquarters, P.O. Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, P.O. Box 60, El Centro, CA 92243.

El Paso Sector Headquarters, 8901 Montana Avenue, P.O. Box 9578, El Paso, TX 88958.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Havre Sector Headquarters, Beaver Creek Road, Havre, MT 59501.

Houlton Sector Headquarters, Route 1, P.O. Box 706, Houlton, ME 04730.

Laredo Sector Headquarters, 297 W. Del Mar Boulevard Laredo, TX 78041.

Livermore Sector Headquarters, Building 312, Camp Parks, Pleasanton, CA 94566.

Marfa Sector Headquarters, Madrid Street, Marfa, TX 79843.

McAllen Sector Headquarters, 2301 South Street, McAllen, TX 78301.

Miami Sector Headquarters, 161 NE 183rd Street, Miami, FL 33169.

New Orleans Sector Headquarters, 3819 Patterson Drive P.O. Box 6218, New Orleans, LA 70174.

Spokane Sector Headquarters, 10710 Newport Highway No. 6, P.O. Box 18930 Spokane, WA 99208.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05488.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85726.

Yuma Sector Headquarters, 350 First Street, Yuma, AZ 85364.

Border Patrol Academy: Officer Development and Training Facility, c/o Federal Law Enformcement Training Center (FLETC), Glynco, GA 31520.

District Ofices in Foreign Countries:

Bangkok District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Franciso, CA 96346.

Mexico District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Room 118, P.O. Box 3087, Lardo, TX 78044.

Rome District Office, Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in Foreign Countries:

Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York 09253.

Frankfurt Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Frankfurt, Germany Box 12, APO New York, New York 09213.

Guadalajara Office, U.S. Immigration and Naturalization Service, Box 3088, Guadalajara, Laredo, TX. 78044.

Hong Kong Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 30, FPO San Francisco, CA 96659.

Manila Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco CA 96526.

Monterrey Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Monterrey, P.O. Box 3098, Lardo, TX 78041.

Naples Office, U .S. Immigration and Naturalization Service, c/o American Consulate General, Box 18, FPO New York 09521.

Panama Office, U.S. Immigration and Naturalization Service c/o American Embassy, Panama, APO Miami, FL 34002.

Seoul, Korea, Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Franciso, CA 96301.

Singapore, Office, U.S. Immigration and Naturalization Service, c/o American Embasasy, Singapore, FPO San Francisco, CA 96699.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, 1010 Vienna, Austria.

[FR Doc. 86-19310 Filed 8-26-86; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee on Chemical, Biochemical, and Thermal Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463 as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Chemical, Biochemical, and Thermal Engineering.

Type of meeting: September 8—Open, September 9—Open, September 10—Closed.

Date: September 8, 9, and 10, 1986.

Place: Room 1242, 1800 G Street, NW., Washington, DC 20550.

Contract person: Dr. Marshall M. Lih, Division, Chemical, Biochemial, and Thermal Engineering, Room 1126, National Science Foundation, Washington, DC 20550. Telephone: 202-357-9606.

Summary minutes: May be obtained from Dr. Marshall M. Lih, Director, Division of Chemical, Biochemical, and Thermal Engineering, Room 1126, National Science Foundation, Washington, DC 20550. Telephone: 202-357-9606.

Purpose of committee: To provide directions to Chemical, Biochemical, and Thermal Engineering research.

Monday, September 8—Open

Agenda: 9:00 a.m.—Introduction by Chairman, Status Report by Division Director, and Briefing by Program Directors
11:00 a.m.—Status Report by NSF Management
11:45 a.m—Recess
1:15 p.m.—Continued Briefing, Questions and Answers, Discussion, and Task Group Meetings
5:00 p.m.—Adjournment for the Day

Tuesday, September 9—Open

8:30 a.m.—Reports from Task Groups
9:15 a.m.—Discussion of Issues
11:45 a.m.—Recess
1:15 p.m.—Continued Discussion of Issues and Drafting of Committee Report
4:00 p.m.—Adjourn

Wednesday, September 10—Closed

Review and comparison of declined proposal (and supporting documentation) with successful awards under the Chemical, Biochemical, and Thermal Engineering Division, including review of peer review materials and other privileged materials.

Reason for closing: The Oversight Review Team will be reviewing grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declination proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 86-19305 Filed 8-26-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on August 13, 1986 (51 FR 28992), through August 18, 1986.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this

proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By September 26, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: January 17, 1986 supplemented on June 24, 1986.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) and Bases for the Reactor Coolant System (RCS) pressure setpoint. Specifically, the amendment would change Specification 3.5.3, "Safety Features Actuation System Setpoints" for the RCS setpoint from 1500 psig to 1526 psig.

Basis for proposed no significant hazards consideration determination: The proposed changes have been reviewed against each of the criteria in 10 CFR 50.92, namely that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

Regarding the above Items 1, 2, and 3, the new setpoint is higher and more conservative than the current setpoint, and thus will not (1) increase the probability or consequences of an accident previously evaluated, (2) create the possibility of new or different kind of accidents from any previously evaluated, or (3) involve a significant reduction in a margin of safety.

On these bases, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street NW., Suite 700, Washington, DC 20036.

NRC Project Director: John F. Stolz

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: July 14, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) for the H.B. Robinson Steam Electric Plant, Unit No. 2. The proposed revision involves a change to the graph "Normalized Axial Dependence Factor for Fq versus Elevation," Figure 3.10–3 of the T.S. by increasing the 12-foot intercept from 0.431 to 0.647. The proposed change is a result of a plant-specific small break LOCA analysis performed to satisfy the requirements of NUREG–0737 Item II.K.3.31.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Carolina Power and Light has reviewed their proposed change in accordance with 10 CFR 50.92(c) and has determined that the proposed change does not:

(1) Involve a significant increase in the probability or consequences of a previously evaluated accident because the change is supported by an approved analytic methodology which demonstrates that the maximum peak cladding temperature for postulated small breaks would be 1398 °F. This result is clearly within the Acceptance Criteria Limits of 10 CFR 50.46 and in no case limiting.

(2) Create the possibility of a new or different kind of accident than previously evaluated because the change reflects the results of an enhanced, approved analytical method for a previously analyzed scenario and does not involve new or different accidents.

(3) Involve a significant reduction in a margin of safety because it reflects the results of an enhanced, approved analytical methodology and demonstrates results well within the Acceptance Criteria Limits of 10 CFR 50.46. In fact, the present analysis demonstrates an increased margin.

The NRC staff agrees with the licensee's evaluation in this regard and, therefore, proposes to find the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: August 6, 1986.

Description of amendment request: The proposed amendment would be an administrative change to properly identify the addressee for the Monthly Operating Reports currently required by Technical Specification 6.9.1.

Basis for proposed no significant hazards consideration determination: Technical Specification 6.9.1(d) currently requires the licensee to forward Monthly Operating Reports to the Director, Office of Management Information and Program Control within the Nuclear Regulatory Commission (NRC). As a result of the recent NRC reorganization, the addressee presently identified in the technical specifications is no longer applicable. The proposed revision to the technical specifications would change the current addressee to be consistent with the guidance found in the Standard Technical Specifications for this area.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples (April 16, 1983, 48 FR 14870) of actions not likely to involve significant hazards considerations. An example of an action not likely to involve a significant hazards consideration is example (i), which is a purely administrative change to the technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The staff has reviewed the proposed change and concludes that it falls within the envelope of example (i) because it is administrative in nature and changes the nomenclature for the addressee of the required Monthly Operating Reports.

Based on the above, the staff proposes to determine that the license amendment request involves no significant hazards considerations.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

Project Director: Christopher I. Grimes.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: July 31, 1985, as supplemented November 8, 1985, December 26, 1985, and March 7, 1986.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) Figure 3.2–3 to delete the DNB limit line and add a graduated scale to allow a tradeoff of reactor coolant system (RCS) flow against reactor thermal power (RTP) level.

The licensee proposes to reduce RTP level by 2% for each 1% reduction in the measured RCS flow below the flow requirement for 100% power which is equal to 396,100 gpm. The calculations show that a 5% reduction in flow results in a 4.4% reduction in power. But the licensee plans to use a 10% reduction in power. Thus, this is conservative. Furthermore, this ratio of RTP level to

RCS flow was used for the McGuire Nuclear Station TS and has been reviewed and approved by the Commission.

The current best estimate flow at Catawba Unit 1 is 399,112 gpm which is only 0.76 of 1% above the TS limit of 396,100 gpm. Considering an expected variance in flow measurement of about 2.2%, the licensee believes the proposed revision is needed because of the severity of the existing TS if any flow measurement indicates a flow slightly less than 396,100 gpm.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the accident analyses will be unaffected by this change. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the facility will be operating at flows and power levels taken into account in the accident analyses. Finally, it would not (3) involve a significant reduction in a margin of safety because the proposed change would not affect the design or operation of the facility. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: August 7, November 8, and December 4, 1985.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) Table 3.2–1, "DNB (Departure from Nucleate Boiling) Parameters," which specifies the operating limits of the reactor coolant average temperature and pressurizer pressure. The change to Table 3.2–1 would be more specific about the "indicated" coolant average temperature and pressurizer pressure (meter and computer averaged limits). Associated TS Bases 3/4.2.5 "DNB Parameters" would also be revised to reflect the proposed changes to TS Table 3.2–1.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Under the Commission's regulations (10 CFR 50.92) this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination are as follows:

The changes proposed by Duke Power Company would be specified for the indicated coolant temperature and pressure as obtained from the Catawba safety analysis, taking into account the instrumentation and indication uncertainties. The proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the DNB parameters were calculated using the Catawba safety analysis with the Westinghouse setpoint methodology for Catawba and were not rounded off as the current TS indicate. These changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed amendments only adjust the specified DNB parameter from analytical values to indicated (operational) values, and do not constitute a change to the limits themselves. Similarly, these changes would not (3) involve a significant reduction in a margin of safety because the Catawba safety analysis calculates the average coolant temperature and pressurizer pressure, taking into account the proper safety margin for uncertainties, and since the proposed DNB parameters are derived from this analysis, then no violation of the DNB ratio would occur or involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that this request does not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. William L. Porter, Duke Power Company, P.O. Box 33189, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 10, 1985, as supplemented November 27, 1985, January 7, 1986, and July 31, 1986.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to lower the Low-Low trip signal for the Steam Generator Water Level when the Catawba Unit 1 reactor is operating above 30% power level. The proposed changes to Tables 2.2–1, 3.3–2, 3.3–4 and 4.3–1 would (1) lower the trip setpoint for the Low-Low signal from 54.9% of span to 40.0% of span; (2) adjust the allowable value of the setpoint from 53.2% of span to 38.3% of span; and (3) increase the allowable response time of the Steam Generator Water Level Low-Low Reactor Trip from 2.0 seconds to 3.5 seconds. These changes pertain to Unit 1 only. However, because Units 1 and 2 TS are combined in one document, certain non-substantive changes in format with respect to Unit 2 are required.

These changes are proposed as part of Duke Power Company's effort to reduce the frequency of inadvertent actuations of the Auxiliary Feedwater System at Catawba, Unit 1. Such inadvertent actuations are undesirable because they are unnecessary challenges to the plant safety systems. Similar changes have already been made at the McGuire plant and those changes have been successful in reducing the numbers of such inadvertent actuations at McGuire.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. One example (vi) of an amendment which is not likely to involve significant hazards considerations is a change which may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. For Unit 1, the licensee has reanalyzed those accidents affected by the proposed changes and concluded that

the results meet the acceptance criteria of the NRC's Standard Review Plan, Chapter 15. The NRC staff has reviewed the changes and the accident reanalyses. The NRC staff agrees that the resultant analyses meet the Chapter 15 Standard Review Plan acceptance criteria. Therefore, the proposed changes for Unit 1 match the description of example (vi).

Another example (i) of actions not likely to involve significant hazards considerations relates to a purely administrative change to the technical specifications. The proposed changes to Unit 2 TS are non-substantive changes in format that are required because Units 1 and 2 TS are combined in one document. Therefore, the proposed changes for Unit 2 match the description of example (i).

Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations since they do not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: December 13, 1985.

Description of amendment request: The proposed amendments would involve: (1) A revision to the reporting requirements related to primary coolant iodine spikes, and (2) the deletion of existing Technical Specifications (TS) requirements to shut down the facility if coolant iodine activity limits are exceeded for 800 hours in a 12-month period. The proposed changes are in accordance with NRC Generic Letter No. 85–19 dated September 27, 1985.

The proposed changes in the primary coolant iodine spikes reporting requirements will reduce the present reporting from a short-term report (i.e., Special Report or License Event Report) to an item to be included in the Annual Report. Furthermore, the existing TS requirement to shut down the facility if coolant iodine activity limits are exceeded for 800 hours in a 12-month period is no longer considered necessary by the NRC as stated in Generic Letter 85–19.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed reduction in iodine spiking reporting requirements is not a factor in accident analysis. The proposed change to eliminate existing shutdown requirements if iodine activity limits are exceeded for 800 hours in a 12-month period does not affect the actual characteristics or operation of any system in the facility. Generic Letter 85–19 properly concludes that current fuel management and the reporting requirements of 10 CFR 50.72 would preclude ever approaching this limit. Thus, the existing shutdown requirements do not affect the design or operation oi the facility. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not involve physical changes to any system in the facility and do not introduce new modes of operation. Finally, it would not (3) involve a significant reduction in a margin of safety because the proposed changes do not affect the applicable accident analyses and fuel management and reporting requirements would reduce the limits currently addressed in the technical specifications. Accordingly, the Commission has determined that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: March 7, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications to correct errors, and clarify statements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to technical specification: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed amendment is directly related to this example. The changes consist of typographical errors, spelling errors, errors in valve designations, and clarification of statements. None of the corrections change the intent or requirements of the technical specification.

Based on the above, the Commission proposes to determine that the changes do not involve significant hazards considerations.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 9, 1986.

Description of amendment request: The proposed amendments would revise the Technical Specifications by (1) changing the setpoint for radiation monitor EMF–39 to correspond to rapid unexpected changes to effluent release activity or changes in atmosphere due to Reactor Coolant leakage and (2) changing the allowed outage time of the Auxiliary Building Filtered Exhaust from 24 hours to 7 days to correspond to the times provided by the Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination:

For both of the proposed changes, the Commission determination will be on the basis that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

For the first change, the radiation monitor EMF-39 is set at the 2mR/hr limit and during non-release periods, the EMF stays in alarm. This setpoint does not correspond to levels expected with Reactor Coolant System (RCS) leakage which the monitor (and alarm) are required to monitor.

The proposed change does not involve any increase in the probability or consequences of an accident previously evaluated. This change would allow the setpoint for EMF-39 to be adjusted according to the conditions within containment. The adjustments will allow the radiation monitor to fulfill its intended function during an accident and thus would potentially decrease the consequences of an accident.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated since the changes introduce no new mode of plant operation, and no physical modifications are required to be performed to the plant.

The proposed changes do not involve a significant reduction in a margin of safety. The proposed amendments would allow adjustment of a radiation monitor setpoint such that the monitor will be able to better perform its safety function. Therefore, the overall margin of safety will be increased with the issuance of this proposed change.

For the second change, the Auxiliary Building Filtered Exhaust System has an allowable outage time of 24 hours. In previous analyses to support the Standard Technical Specifications, it was determined acceptable for this system to have an outage time of 7 days based on the system and dose calculations in safety analyses. However, these amendments will not involve any increase in the probability or consequences of an accident previously evaluated since operation of the Auxiliary Building Filtered Exhaust System was not taken credit for in the Catawba FSAR (see FSAR section 15.6.5.4.1).

This amendment request will not create the possibility of a new or different kind of accident from any accident previously evaluated since the design and operation of the plant will not be affected.

The proposed amendments will not involve a significant reduction in a margin of safety. The proposed change to the ACTION statement would make Catawba's Technical Specifications consistent with the NRC's Standard Technical Specifications; i.e., 7 days is an appropriate allowed outage time for this system. Catawba's System does not involve a unique or unusual design and, therefore, the generic Specification is applicable.

Based on the above considerations, the Commission proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 29, 1986.

Description of amendment request: The proposed amendment would delete from the Design Features section 5.3.1 of the Technical Specifications (TS) the maximum fuel rod weight limit of 1619 grams of uranium. The purpose of the change would be to permit the use of assemblies found to be slightly over the weight limit.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The deletion of the fuel rod uranium weight limit does not significantly increase the probability or consequences of previously evaluated accidents. The variation in fuel rod weight that can occur even without a Technical Specification limit is small based on other fuel design constraints, e.g., rod diameter, gap size, UO-2 density and active fuel length; all of which provide some limit on the variation in rod weight. The current safety analyses are not based directly on fuel rod weight, but rather on design parameters such as power, and fuel dimensions. These parameters are either (1) not affected at all by fuel rod weight, or (2) are only slightly affected. However, a review of design parameters which may be affected indicated that a change in fuel weight does not cause other design parameters to exceed the values assumed in the various safety analyses, or to cause acceptance criteria to be exceeded. The effects are not significant with respect to measured nuclear parameters (power, power distribution, nuclear coefficients), i.e., they remain within their Technical Specification limits. Thus, it is concluded that the Technical Specification modification does not involve a significant increase in the probability or consequences of a previously evaluated accident.

The creation of a new or different kind of accident from any previously evaluated accident is not considered a possibility. All of the fuel contained in the fuel rod is similar to and designed to function similar to previous fuel. In addition, the existing new and spent fuel storage criticality analyses bound the proposed changes observed. Therefore this change does not create the possibility of a new or different kind of accident.

The margin of safety is maintained by adherence to other fuel related Technical Specification limits and the FSAR design bases. The deletion of fuel rod weight limits in the Technical Specifications Design Features section 5.3.1 does not directly affect any safety system or the safety limits, thus it does not affect the plant margin of safety.

Therefore, based on the above considerations, the Commission proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: July 15, 1986 and supplemented July 24, 1986. *Description of amendment request:* The proposed amendments would revise the Technical Specifications (TS) to allow operation with a positive moderator temperature coefficient and to make a number of editorial changes to reflect the related separation of tables and specifications for Unit 1 and Unit 2. The editorial changes also include correction of references which were in error.

TS Figure 3.1–0, "Moderator Temperature Coefficient Vs. Power Level," would be added for Units 1 and 2 to provide a more positive moderator temperature coefficient and a region of acceptable operation. The acceptable operation in the existing TS is based upon moderator temperature coefficients not to exceed 0.0×10^{-4} delta K/K/ degrees Fahrenheit for all power levels; the region of acceptable operation for the proposed new TS Figure 3.1–0 would be based upon moderator temperature coefficients not to exceed $+0.7\times10^{-4}$ delta K/K/degrees Fahrenheit for power levels up to 70 percent of rated thermal power, and extended thereafter (from 70 percent to 100 percent of rated thermal power) to decrease linearly to a coefficient of zero.

Basis for proposed no significant hazards consideration determination. The Commission has provided standards for the determination that an amendment request involves no significant hazards consideration (51 FR 7744).

To assess the effect of operation of Catawba Units 1 and 2 with the proposed positive moderator temperature coefficient, the licensee's letter of July 15, 1986, included safety analyses of all transients sensitive to a minimum or positive moderator temperature coefficient. These transients included control rod assembly withdrawal from subcritical conditions, control rod assembly withdrawal at power, loss of reactor coolant flow, locked rotor, turbine trip, loss of normal feedwater, rupture of a main feedwater pipe, boron dilution, station blackout, control rod ejection, and RCS depressurization. The study indicated that the proposed moderator temperature coefficient would not result in the violation of any safety limits. The results of the Commission's preliminary review of the licensee's analyses support this conclusion by the licensee.

The proposed change does not involve a significant increase in the probability or consequences of previous accident analyses because the evaluations discussed show that all of the accidents comprising the licensing bases which could potentially be affected by the proposed change were reviewed for the Unit 1 and 2 design and conclude that the proposed change does not cause the previously acceptable safety limits to be exceeded. Further, the changes do not create the possibility of a new or different kind of accident from any previously analyzed since the mode of operation has been analyzed and does not introduce any changes outside those analyses and accidents. The changes do not involve a significant reduction in a safety margin since they will not result in a condition outside the already established safety analysis.

Accordingly, the Commission proposes to determine that these changes for Unit 1 and 2 regarding moderator temperature coefficient, do not involve a significant hazards consideration.

Another example of actions not likely to involve a significant hazards consideration, example (i), relates to a purely administrative change to technical specifications to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The Commission proposes to find that the changes to Unit 1 and 2 specifications which preserve or eliminate the distinctions between units within the common document and do not change the content are administrative and involve no significant hazards consideration. The changes to correct an error in references within the TS to other TS sections are also directly applicable to this example. Therefore, the Commission proposes to determine that these changes also do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: August 6, 1986.

Description of amendment request: The proposed amendment would revise a license condition and the associated Attachment 1 to incorporate the test and maintenance program on the emergency diesel generators for Unit Nos. 1 and 2 in response to the Safety Evaluation Report issued by the Commission on July 2, 1986.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The proposed changes are somewhat like this example in that some test and maintenance requirements are better delineated in the revised Attachment 1 "TDI Diesel Engine Requirements." The revisions are also related to example (iv) which is a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. The proposed revision does provide relief in some areas, notably in the frequency of engine disassembly from approximately every 5 years to frequencies proposed by the Owners Group and found acceptable. The proposed revisions are responsive to the Commission's Safety Evaluation Report issued to the licensee by letter dated July 2, 1986.

On the basis of the above considerations, the Commission proposes to determine that the revisions to the license condition and the related Attachment 1 do not involve significant hazards considerations.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al., Docket Nos. 50–369 and 50–370, McGuire Nuclear Station Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 10, 1985 and April 15, 1986.

Description of amendment request: The proposed amendment request would change the Technical Specifications (TS) regarding emergency diesel generator (DG) testing and surveillance requirements. The changes are grouped for justification as follows:

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(1) Separation of 24 Hour Run Test and Essential Safety Feature (ESF) Actuation Test.

The current Technical Specifications have combined the requirements for three tests which the licensee proposes to separate or regroup. The ESF test is to confirm the ability of the DG to start and accept a load on an ESF actuation signal. The Hot Restart Test is to follow, within 5 minutes, a restart of the DG to confirm the ability to restart and load a hot diesel. The 24 hour test is to confirm the ability of the DG to carry varying loads continuously for an extended period of time. Currently, the 24 hour test is followed by a Hot Restart Test within 5 minutes. The proposed change is to perform the ESF actuation test followed within 5 minutes by a Hot Restart Test and separately perform the 24 hour test without a follow-on Hot Restart Test.

(2) Changes Pursuant to Generic Letter (GL) 84–15.

GL 84–15, dated July 2, 1984, provided proposed staff actions to improve and maintain DG reliability. Typical TS were included in GL 84–15 and the licensee proposes to incorporate many of the TS provisions by the proposed amendments. These changes include elimination from Action statement (a) the consideration of an inoperable DG for performing DC startup tests, establishing Action statement (c) for inoperable DG's, eliminate from Action statement (a) the need to restart operable DGs every 8 hours while an off-site A.C. source is inoperable, eliminate from Action statement (b) repetitive DG startup tests once the operability of the remaining DG has been verified, and include in Action statement (c) that a DG may be inoperable due to preplanned testing and maintenance of the diesel. The changes would also include elimination of repetitious DG starts in Action statement (d) and references to Action statement (c) in Action statement (e) when one DG is restored to operability. All of these changes are in accordance with the intent of GL 84–15 and its Attachment A to improve the reliability of the DGs.

(3) Changes Pursuant to GL 83–30.

The proposed change would delete the TS surveillance requirement to verify on a simulated loss of DG with offsite power not available, that load shedding and subsequent loading on the DG is in accordance with design requirements. GL 83–30, dated July 21, 1983, approved the removal of this requirement as not being consistent with GDC 17.

(4) Alternate Fuel Oil Viscosity Measuring Unit.

The proposed change would add an alternative measuring unit for viscosity testing of the fuel oil for the DGs. The current measurement is kinematic viscosity in centistokes; the alternative is Saybolt viscosity expressed as SUS.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The bases for this proposed determination are discussed below for the various proposed changes.

1. Separation of 24-hour diesel run and ESF Test. The licensee states that this change separates the two tests (24 hour run and Hot Restart) in order to minimize delays associated with testing during plant outages. As a result of the change, the Hot Restart Testing requirements to follow ESF testing are virtually unchanged because the D/Gs would be operated until temperature stabilization is achieved (the objective in both cases) and these requirements do not differ from the conditions of the current Hot Restart testing. This proposed change would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the Hot Restart testing requirements are virtually unchanged. This proposed change would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the tests under the proposed change would be carried out under conditions which are nearly identical to those required for the current tests.

Because the proposed change does not significantly alter the requirements for either the 24 hour test run or the Hot Restart test with full ESF load acceptance, it provides nearly the same degree of assurance regarding the D/G operability and reliability. Therefore, the proposed change would not (3) involve a significant reduction in a margin of safety. Accordingly, the staff finds that this proposed change does not involve a significant hazards consideration.

2. and 3. Changes pursuant to GL 84–15 and GL 83–30. In GL 84–15, the Commission determined that excessive D/G testing contributes to premature engine degradation and that an overall improvement in reliability and availability can be gained by eliminating excessive fast starts. The remaining changes are in conformance with GL 83–30 and do not significantly change the overall action requirements. In GL 83–30, the Commission concluded that the load shedding/loading was not consistent with the provisions of General Design Criterion (GDC) 17, Regulatory Guide 1.108, and Standard Review Plan Sections 8.2 and 8.3.1 and that technical specifications with surveillance requirements for this D/G testing should be modified to delete this requirement which is in excess of the scope of GDC 17. The proposed change on McGuire to TS 4.8.1.1.2e.6 would conform to the current Standard Technical Specifications.

The proposed changes associated with GL 84–15 and GL 83–30 would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the net overall effect of the changes is to increase the assurance that the D/Gs will start on demand, and to minimize degradation of the D/Gs, thereby improving the safety benefits associated with the diesels. These changes also would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes would introduce no new mode of plant operation and no physical modifications to the plant. Similarly, these changes would not (3) involve a significant reduction in a margin of safety because the changes are proposed to conform to GL 83–30 and GL 84–15 which were promulgated by the Commission to increase D/G reliability and thereby cause an increase in the overall margin of safety. Accordingly, the staff finds that these proposed changes do not involve significant hazards considerations.

4. Addition of Alternate Fuel Oil Viscosity Measurement Unit: This change involves only the use of an alternate, but equivalent, unit for measuring the viscosity of diesel fuel oil during testing. The requirements on the fuel oil itself would remain unchanged and the fuel oil would be maintained within the same viscosity. The proposed changes would, thus, have no adverse impact on D/G operation and reliability. Therefore, the proposed change would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously

evaluated, or (3) involve a significant reduction in a margin of safety.

Accordingly, the staff proposes to determine that this request does not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 12, 1985 as supplemented April 14, 1986.

Description of amendment request: The proposed amendments would revise Surveillance Requirement 4.6.5.3.1b. to reduce the surveillance frequency for testing the ice condensor inlet doors from at least once per 9 months to at least once per 18 months.

The testing and surveillance required to demonstrate operability of the ice condensor inlet doors are time consuming and require a unit shutdown. In the past the ice condensor door testing was scheduled concurrently with the ice weighing operations in the containment. The ice weighing surveillance is also required every 9 months. Recently, the McGuire Nuclear Station has acquired the capability to carry out the ice weighing operations with the reactor "ON LINE". The licensee stated that scheduling a unit shutdown solely to carry out the testing and surveillance required is not considered appropriate because this surveillance has a limited safety significance due to the high reliability of the doors.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the reduction in the surveillance frequency of the ice condensor inlet doors would not significantly affect the operability of the doors. The Surveillance records at McGuire show that the doors are highly reliable after a design change made to the door seals to prevent the doors from freezing was implemented. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the change would not affect the design and would not introduce new modes of operation of the facility. Finally, it would not (3) involve a significant reduction in a margin of safety because, as stated in item (1), the surveillance records show that the ice condensor inlet doors are highly reliable.

Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28233.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 15, 1985 and March 12, 1986.

Description of amendment request: The proposed amendment request would change the Technical Specifications (TS) by removing the valve, NI–122B, from Table 3.6–2 "Containment Isolation Valves." The NI–122B valve is a block valve to isolate the safety injection line from the non-safety grade check valve test header. The licensee also proposes to remove the containment isolation signal to this valve.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee proposes to remove the isolation signal to valve NI 122B and administratively control its closure during shutdown. The valve is normally closed during plant operation and opened during shutdown to allow pressure tests of check valves in the safety injection line. The safe position of the valve is closed and the isolation signal would not be necessary. The proposed change does not significantly increase the probabilities or consequences of an accident previously analyzed since the only accident involved is the loss of coolant accident and the valve in the open position would only affect the ECCS flow by an estimated 4%. With both trains of ECCS available, the flow capability is 200%. The condition where flow could be affected would not occur until hot leg injection was initiated 15 hours after an accident and at that time, the flow requirements and pressures are greatly reduced. There are valves downstream of NI–122B which would control this occurrence to prevent the loss of coolant outside containment. The change does not create the possibility of a new or different kind of accident from any previously evaluated since no other use is made of the hot leg injection line from that discussed above. The change does not significantly reduce a margin of safety since the only effect of leaving the valve open during hot leg safety injection would be an estimated flow reduction of 4% which would not influence the LOCA results (200% is available) and downstream valves would prevent any loss of coolant outside containment.

Therefore, based on the above considerations, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: August 19, 1985, and supplemented April 17, 1986.

Description of amendment request: The proposed amendments would revise the limiting condition for operation (LCO) action statements of Technical Specification (TS) 3.5.1.1 to increase the time allowance for restoration of boron concentration in an accumulator that is

VOL 51 ISS 166 AG 27 1986 UMI

out of specification. The proposed revision to the LCO action statements maintains the overall volume and boron delivery requirements, but increases the time allowed to restore a single accumulator to operable status. The proposed amendments would also revise surveillance requirement 4.5.1.1.1(b) to eliminate verification of boron concentration after a greater than 1% volume increase from the normal makeup source (refueling water storage tank). Associated TS Bases 3/4.5.1 "Accumulators" would also be revised to reflect the proposed changes to TS 3.5.1.1. These changes are intended to reduce the number of unnecessary plant mode changes and provide the operator more time in which to diagnose and correct low boron concentration while maintaining plant conditions which satisfy safety analyses assumptions.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations (10 CFR 50.92) this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The bases for this proposed determination are as follows.

The changes proposed by Duke Power Company are time limitation relaxations on permissible boron concentration in the accumulators. The proposed volume weighted averages for boron concentration of the three limiting accumulators (1500 ppm minimum) adequately insure that the increased time period for operation with a single accumulator inoperable and the volume weighted average boron concentration of the three accumulators greater than 1500 ppm does not significantly increase the probability of an accident. The proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the volume weighted average of 1500 ppm boron in the limiting accumulators provides reactor shutdown capability without control rod availability and with the designated shutdown margin. In addition, dual level and pressure controls on each accumulator would prevent extensive dilution of boron concentration in the accumulators. Because of the above arguments, the increase in probability of a LOCA when an accumulator is declared inoperable for the proposed extended time limit is negligible. These changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the changes don't significantly increase the probability of a LOCA, and no hardware changes are made to create any new failure or accident sequence. Similarly, these changes would not (3) involve a significant reduction in a margin of safety because the volume of borated water to be delivered to the core is unaffected, and the boron concentration would not fall below 1500 ppm. Accordingly, the staff proposes to determine that this request does not involve a significant hazards consideration.

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Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 12, 1985.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) surveillance requirement 4.2.5 and Table 3.2–1 "DNB (departure from nucleate boiling) parameters" for the Reactor Coolant System Tavg and the Pressurizer Pressure associated with station instrumentation. The existing TS specifying these limits does not account for indication instrumentation measurement uncertainties and therefore requires that the measured values, as given by station indication instrumentation, be adjusted for instrumentation uncertainties prior to comparison with the proposed parameter limits of TS Table 3.2–1. The proposed amendment would adjust these parameters to include the instrumentation uncertainties, allowing direct comparison against measured values, as indicated on station instrumentation. Associated TS Bases 3/4.2.5 "DNB Parameters" would also be revised to reflect the proposed changes to TS 4.2.5.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (51 FR 7744). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute an additional limitation, restriction, or control not presently included in the TS.

The proposed changes to TS 4.2.5 and Table 3.2–1 would be more specific about the indicated coolant average temperature and the indicated pressurizer pressure DNB parameters as determined by the meter and computer averaged channels. The DNB parameter limits are more conservative than the current TS limits (except the pressurizer pressure limit, in which case 2230 psia is a typographical error and should read 2220 psia) and were derived with the instrumentation uncertainties obtained from the Westinghouse Setpoint Methodology (WCAP–8330) using the actual instrument indication uncertainties at the McGuire Nuclear Station.

Accordingly, the staff proposes to determine that this request does not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 13, 1985.

Description of amendment request: The proposed amendments would involve: (1) A revision to the reporting requirements related to primary coolant iodine spikes, (2) the deletion of existing Technical Specifications (TS) requirements to shut down the facility if coolant iodine activity limits are exceeded for 800 hours in a 12-month period, and (3) a clarification of the sampling technique to allow analysis of a non-degassed reactor coolant system (RCS) sample for determination of total specific activity. The proposed changes in items (1) and (2) are in accordance with NRC Generic Letter No. 85–19 dated September 27, 1985.

The proposed changes in the primary coolant iodine spikes reporting

requirements will reduce the present reporting from a short-term report (i.e., Special Report or License Event Report) to an item to be included in the Annual Report. Furthermore, the existing TS requirement to shut down the facility if coolant iodine activity limits are exceeded for 800 hours in a 12-month period is no longer considered necessary by the NRC as stated in Generic Letter 85–19. The clarification to the RCS sampling is the result of an improved technology which will provide accurate quantification of activity while reducing radiation exposure to workers in accordance with ALARA.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed reduction in iodine spiking reporting requirements is not a factor in accident analysis. The proposed change to eliminate existing shutdown requirements if iodine activity limits are exceeded for 800 hours in a 12-month period does not affect the actual characteristics or operation of any system in the facility. Generic Letter 85–19 properly concludes that current fuel management and the reporting requirements of 10 CFR 50.72 would preclude ever approaching this limit. Thus, the existing shutdown requirements do not affect the design or operation of the facility. Furthermore, the proposed change to allow the use of an improved technology to quantify RCS activity would affect only the amount of RCS sample taken and how it is subsequently treated. Therefore, it is not a factor in the accident analysis. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not involve physical changes to any system in the facility and do not introduce new modes of operation. Finally, it would not (3) involve a significant reduction in a margin of safety because the proposed changes do not affect the applicable accident analyses and fuel management and reporting requirements would reduce the limits currently addressed in the technical specifications. Accordingly, the Commission has determined that the above changes involve no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: February 17, 1986.

Description of amendment request: The proposed amendments would revise the limiting condition for operation (LCO) action statements and surveillance requirements of Technical Specification (TS) 3/4.9.12, "Fuel Storage Spent Fuel Storage Pool." This proposed change seeks to add the capability to perform a safety analysis on individual fuel assemblies as an acceptance criteria for storage in region 2 of the spent fuel storage pool, if at first they do not meet the proposed criteria for TS Table 3.9–1. The proposed change would result in storage space savings for partially spent fuel and allow usage of Region 2 for assemblies with fuel burnup values that fall within the ambiguous part of the curve for Figure 3.9–2 of the current TS. The proposed amendments would also replace TS Figure 3.9–2 with Table 3.9–1, "Minimum Burnup versus Initial Enrichment for Region 2 Storage," to qualify fuel assemblies for storage in Region 2 of the Spent Fuel Storage Pool. Associated TS Bases 3/4.9.12, "Fuel Storage—Spent Fuel Storage Pool," would also be revised to reflect the proposed changes to TS 3.9.12.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations (10 CFR 50.92) this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The bases for this proposed determination are as follows.

The proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the methodology and acceptance criteria proposed to qualify fuel for storage in the Spent Fuel Storage Pool is the same as in the McGuire Safety Analysis Report (FSAR). The proposed safety analysis is also referenced in Section 5.6 of the TS. These changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed safety analysis for fuel storage is based on the previously evaluated and accepted methodology in TS 5.6. Similarly, these changes would not (3) involve a significant reduction in a margin of safety because the proposed safety analysis for individual fuel assemblies is based on K_{eff} less than or equal to 0.95 criteria, which is also the methodology used in TS 5.6. The safety analysis for proposed Table 3.9–1 is based on a K_{eff} less than or equal to 0.94, which is more conservative than TS 5.6. Accordingly, the staff proposes to determine that this request does not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: May 14, 1986 and July 14, 1986.

Description of amendment request: The proposed amendments would change the Technical Specifications by correcting valve designations in Table 3.6–2 "Containment Isolation Valves." Other changes in the submittals will be handled separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specification, correction of error, or a change in nomenclature. The proposed change in valve designations

is to correct errors and is directly related to this example.

Accordingly, the Commission proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: October 28, 1985, as revised January 24, 1986.

Description of amendment request: In Generic Letter (GL) 84–15, the Commission's staff informed the licensees that the frequency of diesel generator fast start tests from ambient conditions should be reduced. Licensees were encouraged to review their Technical Specifications (TSs) and to submit proposed changes to the TSs which would accomplish a reduction in the number of cold fast starts. Typical TSs modified to include changes to the diesel generator testing program were included in the GL. In the October 28, 1985 response to GL 84–15, the licensee proposed the following changes:

(1) Diesel generator cold fast start capability (from ambient conditions) will be demonstrated at least once per 184 days.

(2) The definition of "Ambient Condition" will be clarified in the bases to include the extent of diesel generator warmup permitted.

In addition to, but unrelated to the changes above, the licensee proposed changes to the snubber list, Table 3.7–3, to include additional safety related snubbers. This portion of the amendment request dealing with the snubber list was withdrawn by letter dated January 24, 1986, because it was superseded by a later request and handled separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In GL 84–15, the Commission's staff concluded that the frequency of fast start tests from ambient conditions of diesel generators should be reduced. Licensees were requested to review their TSs and propose appropriate changes. An example of acceptable TSs was included and the licensee proposed changes to the TSs that are in accordance with the staff's example.

Based on the above, the licensee concluded the amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the reduced number of fast starts should increase the probability of diesel generator availability in the event of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and no physical modifications are required to be performed on the plant.

3. Involve a significant reduction in a margin of safety. Any reduction in a margin of safety will be insignificant since the purpose of this change is to conform to NRC guidelines in Generic Letter 84–15. This change should increase diesel generator reliability and thus cause an increase in the overall margin of safety in the plant.

The Commission's staff agrees with the licensee's evaluation in this regard, and accordingly, the staff proposes to find that this change involves no significant hazards considerations.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

Attorney for licensee: R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Project Director: John F. Stolz.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: July 22, 1986.

Brief description of amendment: The amendment would revise Technical Specification 5.3.1 entitled "Reactor Core—Fuel Assemblies." The last sentence of the specification reads as follows: "Reload fuel shall be similar in physical design to the initial core loading and shall have a maximum enrichment of 3.70 weight percent U-235." The licensee proposes to delete the maximum U-235 enrichment part of the sentence. The proposed sentence would read as follows: "Reload fuel shall be similar in physical design to the initial core loading."

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of the examples of actions involving no significant hazards relates to fuel reload amendments involving no fuel significantly different than previously found acceptable at the facility in question.

This change revises the Technical Specifications (TS) to delete the reload fuel enrichment. Such a change in the TS does not directly affect safety since there are other provisions in the TS that determine safe operating and fuel storage limits related to fuel enrichment. These other limits are not proposed to be changed and therefore there would be no change to safety levels. This amendment is similar to the aforestated example in that the amendment would not authorize operation of the reactor with a core reload with fuel assemblies significantly different from those previously found acceptable at this facility.

Based on the foregoing discussion, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric, Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: June 20, 1986.

Description of amendment request: These amendments would modify the Technical specifications to:

(1) Change the recirculation system Limiting Conditions of Operation (LCOs) and Surveillance Requirements to allow for single loop operation (SLO). This includes limiting the region in which the plant can operate with a single

recirculation pump to core power and flow conditions where limit cycle oscillations are least likely to occur, consistent with General Electric Company's (GE) Service Information Letter (SIL) 380, Revision 1.

(2) Revise the Minimum Critical Power Ratio (MCPR) Safety Limit to allow for single-loop operation (SLO). This change requires an increase in the Safety Limit, therefore, causing an increase in the MCPR Operating Limit as compared to the two-loop Operating Limit.

(3) Add a correction factor to the average power range monitor (APRM) rod block and simulated thermal power monitor (STPM) scram trip setting equations to preserve the original relationship between core power and the actual effective drive flow, when operating with a single loop. Also, Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) curves would be modified conservatively by a derived reduction factor for use during SLO.

(4) Revise the jet pump surveillance requirements to reflect the procedure recommended in GE SIL–330.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The FSAR analyses were reviewed with respect to SLO by GE and the review was documented in NEDO–24205 "Edwin I. Hatch Nuclear Plant Units 1 and 2 Single Loop Operation," August 1979. It was concluded that SLO at reduced power is not more limiting than the abnormal transients and accidents analyzed for two-loop operation. The maximum permissible pump speed in SLO was chosen to ensure that vibration levels would remain within acceptable limits. Stability concerns are addressed in the proposed Technical Specifications by limiting the single-loop operating region to outside the region of concern and by providing the operator with procedures to detect and suppress limit cycle oscillations. The Safety and Operating MCPR Limits and the APRM STPM scram and rod block setpoints are conservatively adjusted due to the increased uncertainties in total core flow and traversing incore probe (TIP) readings. In addition, a reduction factor is applied to the MAPLHGR limit to assure that the consequences of the SLO ECCS limiting break are included.

The SLO revisions will not significantly increase the probability or consequences of an accident previously evaluated, because the appropriate setpoints and Operating Limits adjusted for SLO are bounded by the analysis performed for two-loop operation. They will not create the possibility of a new or different accident from any accident previously evaluated. Although the proposed Technical Specifications revision introduce a new mode of operation, the possible accidents during SLO are the same as those analyzed in the FSAR for two-loop operation and are within the bounds of the FSAR analysis.

The SLO revisions will not involve a significant reduction in a margin of safety, because the proposed Technical Specifications adjust the appropriate setpoints and Operating Limits for SLO to maintain or improve the current margin of safety.

In addition, similar changes permitting SLO at the Duane Arnold and FitzPatrick Nuclear Plants have been previously approved by the NRC.

The procedure for jet pump surveillance outlined in GE SIL 330 is one of the recommended procedures identified in NUREG/CR–3052, "Closeout of IE Bulletin 80–07 BWR Jet Pump Assembly Failure," November 1984. The licensee has stated that this procedure was selected, because it is more likely than the other procedures to detect a deteriorating jet pump condition prior to a structural failure and it has already been incorporated into the procedures for Plant Hatch. As part of a long-term solution to the concerns identified in IE Bulletin 80–07, NUREG/CR–3052 recommended that this procedure be included in the Technical Specifications.

The jet pump surveillance revision will not significantly increase the probability or consequences of an accident previously evaluated, because this revision reflects the existing approved plant procedures for detecting and responding to jet pump beam failures and it does not introduce any changes to the jet pump performance.

It will not create the possibility of a new or different accident from any accident previously evaluated, because it does not involve any physical changes to the jet pumps and does not alter their current modes of operation.

It will not involve a significant reduction in a margin of safety, because it will reflect only the current procedure for detecting jet pump beam failure in accordance with NUREG/CR–3052.

On the basis of the above, the Commission has determined that the requested amendments meet the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: Daniel R. Muller.

Long Island Lighting Company, Docket No. 50–322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of amendment request: June 26, 1986.

Description of amendment request: The proposed changes would revise the Technical Specifications (TS) to:

1. Correct an error in the listing of the types of radioactive waste shipping containers and solidification agents. The amendment would change T.S. 6.9.1.7 to read, "e. Type of container (e.g., LSA box, HIC, steel liner, 55 gallon drum), and f. Solidification agent (e.g., cement, bitumen, Dow media)." The current T.S. 6.9.1.7 contains erroneous examples for the types of containers and solidification agents.

2. Correct a T.S. internal inconsistency regarding the approval process for the Process Control Program (PCP). The proposed amendment would change T.S. 6.5.1.7a by removing Item k. This change would be consistent with T.S. 6.13.2b. The proposed change would enable the T.S. to be consistent regarding the review and approval process of the licensee-initiated changes to the PCP.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain Examples (51 FR 7744, March 6, 1986). The proposed changes to the T.S. fall within the scope of Example (i): "A purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." The proposed changes will not increase the likelihood of a malfunction of safety-related equipment, increase the consequences of an accident previously analyzed, or create the possibility of a malfunction different

VOL 51 ISS 166 AG 27 1986 UMI

than previously evaluated. Based on the above, the staff therefore proposes to determine that this request for changes to the T.S. involves no significant hazards consideration.

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

Attorney for licensee: W. Taylor Reveley, III, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Walter R. Butler.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: June 24, 1986.

Description of Amendment Request: The proposed change would correct an error in Technical Specification 5.3.1 by changing the phrase "maximum total weight." to "nominal weight" in reference to the uranium loading of a fuel rod.

Combustion Engineering uses a *nominal* 426.55 kilograms of uranium per fuel assembly loading. Assuming no burnable poison pins (i.e., 236 fuel rods), this is equivalent (after dividing kilograms/assembly by the number of fuel rods/assembly) to a nominal 1807 grams of uranium per fuel rod. Because fuel enrichment must vary for different core regions, it is clear that referring to 1807 grams of uranium per fuel rod as the "maximum total weight" is in error.

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes to determine that this change does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not (a) involve a significant increase in the probability or consequences of an accident previously evaluated; or (b) create the possibility of a new or different kind of accident from any accident previously evaluated; or (c) involve a significant reduction in a margin of safety. The basis for this proposed finding is as follows.

(a) The proposed change is to correct an error in the technical specifications. It does not affect any of the safety analyses or the operation of the plant. Because of this, implementing this change will not increase the probability or consequences of any accident previously evaluated.

(b) Because no physical change is being made to the facility, and because there will not be a change in how the facility is operated, the proposed change will not introduce a new or different kind of accident from those previously evaluated.

(c) Because the proposed change is to correct an error in the technical specifications, it does not affect any of the safety analyses or the operation of the plant. Therefore, there is no impact on the margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 CFR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

In this case the proposed change is similar to Example (i) in that the change to Technical Specification 5.3.1 is a correction of an error.

As the change requested by the licensee's June 24, 1986 submittal fits the example provided as well as satisfies the criteria of 10 CFR 50.92, it is concluded that: (1) The proposed change does not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is a reasonable assurance that the health and safety of the public will not be endangered by the proposed change; and (3) this proposed action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: June 24, 1986.

Description of Amendment Request: The proposed change would revise Technical Specification 5.6.1, Fuel Storage Criticality by removing the numerical uncertainty associated with k-eff as well as the reference to the FSAR.

According to Technical Specification 5.6.1, k-eff must be equal to or less than 0.95 when flooded with unborated water. This includes a conservative allowance of 0.0455 delta k-eff for uncertainties as described in section 9.1.2 and Table 9.1–6 of the FSAR. The conservative allowance value is specific to the criticality analyses currently documented in the FSAR. Middle South Services, Inc. has redone the criticality analysis for the spent fuel pool using KENO, a 3–D Monte Carlo analysis code. Based upon this analysis, the resultant k-eff is less than the required limit of 0.95 for enrichments up to 4.10 weight percent U-235.

Since the allowance for uncertainties has been changed as a result of the new analysis, it is necessary to modify the wording of this technical specification. The reference to the FSAR is also being deleted to avoid confusion as the analysis will not be included in the Waterford FSAR until December, 1987 in accordance with 10 CFR 50.71(e).

Basis for Proposed No Significant Hazards Consideration Determination: The NRC staff proposes that this change does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not (a) involve a significant increase in the probability or consequences of an accident previously evaluated; or (b) create the possibility of a new or different kind of accident from any accident previously evaluated; or (c) involve a significant reduction in a margin of safety. The basis for this proposed finding is as follows.

(a) Because the calculated k-eff values (including uncertainties) indicate that the fuel storage configurations are substantially sub-critical (i.e. less than or equal to 0.95), the probability of a criticality event in these areas is not increased. No physical change is being made to the storage areas. Therefore, the proposed change will not significantly increase the probability or consequences of any accident previously evaluated.

(b) Because no physical change is being made to the facility and there will not be a change in how the facility is operated, the proposed change will not introduce a new or different kind of accident from those previously evaluated.

(c) Because the calculated values for K-eff (including uncertainties) are below the regulatory limits and because they reflect a substantial sub-critical configuration for each of the fuel storage areas under adverse conditions, the margin of safety is not reduced by implementing the proposed change.

As the change requested by the licensee's June 24, 1986 submittal

satisfies the criteria of 50.92, it is concluded that: (1) The proposed change does not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is reasonable assurance that the health and safety of the public will not be endangered by the proposed change; and (3) this action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

Local Public Document Room Location: University of New Orleans Library, Louisiana collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for Licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 10036.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: June 24, 1986.

Description of Amendment Request: The proposed change would revise Surveillance Requirement 4.1.3.4c by requiring CEA drop time measurements to be performed at each refueling outage in lieu of every 18 months. This change will accommodate the present Waterford 3 Cycle 1 length and the extended cycle lengths for Cycle 1 and subsequent cycles.

Surveillance Requirement 4.1.3.4c was originally performed on February 6, 1985. The 18-month interval is up on August 6, 1986, with a late due date (as allowed by Surveillance Requirement 4.0.2a) of December 20, 1986.

Waterford 3 is currently scheduled to begin the first refueling outage in mid-November 1986 and, therefore the late due date for Cycle 1 may be acceptable. However, should unforeseen circumstances occur, the refueling outage could be extended beyond the late due date, thus forcing a premature outage to perform Surveillance Requirement 4.1.3.4c. Additionally, Waterford 3 will be using a nominal 18-month Cycle 2 and may go to 24-month refueling cycles in the future. Even allowing the 25% interval extension from Surveillance Requirement 4.0.2a will shortly force a mid-cycle outage due to the 3.25 times restriction of Surveillance Requirement 4.0.2b.

The factors that could potentially affect CEA drop times will not adversely change as a result of extending the test interval from 18 months to every refueling outage. These factors include changes in component clearances, changes in the physical configuration of the CEA or guide tube, and the build-up of corrosion products and suspended material in the RCS that could interfere with CEA motion.

Changes in component clearances or the physical configuration of the CEA guide tubes are most likely to occur due to reactor head removal and replacement, or maintenance on the CEA and that portion of the drive system directly interfacing with the assembly. For these cases Surveillance Requirements 4.1.3.4a and 4.1.3.4b, respectively, require CEA rod drop testing independent of the proposed change. Chemistry requirements (e.g. Technical Specification 3.4.6) and other controls on the reactor coolant system will minimize corrosion and the build-up of corrosion products or other suspended materials in those areas affecting CEA drop times. Additionally each full length CEA is exercised every 31 days in accordance with Surveillance Requirement 4.1.2.1.2. The surveillance will detect rods that are sticking. The loose parts detection system (Technical Specification 3.3.3.9) will alert the operating staff to conditions with a potential for affecting reactor internals.

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes that this change does not involve a significant hazards consideration because as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not (a) involve a significant increase in the probability or consequences of an accident previously evaluated; or (b) create the possibility of a new or different kind of accident from any accident previously evaluated; or (c) involve a significant reduction in a margin of safety. The basis for this proposed finding is given below.

(a) The proposed change will make explicit the intent to perform rod drop timing tests at refueling outages. Factors that could adversely affect rod drop times during a cycle (e.g. CEA drive maintenance) are addressed through other Surveillance Requirements not affected by the proposed change. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(b) The proposed change only redefines the surveillance interval for rod drop testing. It introduces no physical modification to the plant nor does it implement a change in how the facility is operated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(c) In redefining the rod drop testing surveillance interval to a refueling outage, the original intent of the surveillance interval is preserved. Actual interval periods may be somewhat longer or shorter than the nominal 18 months depending on plant availability for a particular cycle of operation. The actual factors affecting rod drop times continue to be controlled under other Technical Specifications. Therefore operation of Waterford 3 in accordance with the proposed change will not involve a significant reduction in a margin of safety.

As the change requested by the licensee's June 24, 1986 submittal satisfies the criteria of 10 CFR 50.92, it is concluded that: (1) The proposed change does not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is a reasonable assurance that the health and safety of the public will not be endangered by the proposed change; and (3) this action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW. Washington, DC 20036.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: July 15, 1986.

Description of Amendment Request: The proposed change would revise Technical Specification 3.2.7, AXIAL SHAPE INDEX. Technical Specification 3.2.7 defines acceptable limits of the Axial Shape Index (ASI) for power levels greater than 20% of RATED THERMAL POWER.

The present Technical Specification restricts the ASI to a range of −0.23 to +0.50 when the Core Operating Limits Supervisory System (COLSS) is operable and a range of −0.19 to +0.24 when COLSS is out of service. The proposed change would revise the ASI range to −0.23 to +0.28 when COLSS is operable and −0.17 to +0.22 when COLSS is out of service. All ASI range changes are in a more restrictive direction.

VOL 51 ISS 166 AG 27 1986 UMI

The proposed change is needed in order to increase the calculated thermal margin of Cycle 2. Additional thermal margin is needed to offset some of the thermal margin losses associated with the higher radial power peaking factors anticipated for Cycle 2. These higher peaking factors are caused by the increased fuel enrichments necessary for a nominal 18 month cycle and by the change from an out-in-in core loading scheme to an in-in-out loading scheme.

Basis for Proposed No Significant Hazards Consideration Determination: The NRC staff proposes that this change does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not (a) involve a significant increase in the probability or consequences for an accident previously evaluated; or (b) create the possibility of a new or different kind of accident from any accident previously evaluated; or (c) involve a significant reduction in a margin of safety. The basis for this proposed finding is as follows.

(a) The reason for this change is to ensure that the actual value of ASI is maintained within the range of values used in the Cycle 2 safety analyses which ensures that the peak Linear Heat Rate (LHR) and Departure from Nucleate Boiling Ratio (DNBR) remain within the safety limits for anticipated operational occurrences. Because the changes to the ASI band are in a more restrictive direction, the effect of this proposed change does not significantly increase the probability or consequences of any accident previously evaluated.

(b) The Cycle 2 safety analysis was performed assuming a range of potential axial shapes bounded by the more restrictive ASI limits of the proposed change. This analysis show that the peak linear heat rate and DNBR remained within the safety limits for anticipated operational occurrences and, since the changes to the ASI band are in a more restrictive direction with respect to previously analyzed events, the proposed change does not create the possibility of a new or different kind of accident from those previously evaluated.

(c) With respect to ASI, the margin of safety is maintained by ensuring that the actual value of ASI is within the range of values assumed in the safety analyses. The Cycle 2 safety analyses are performed assuming the more restrictive ASI limits of the proposed change to verify that the peak linear heat rate and DNBR remain within the safety limits for anticipated operational occurrences. Since these changes to the ASI band preserve key parameter safety limits, the effect of this proposed change does not involve a significant reduction in the margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

In this case, the proposed change is similar to Example (ii) in that the change to Technical Specification 3.2.7 provides additional restrictions on ASI not presently included in the Technical Specifications.

As the changes requested by the licensee's July 15, 1986 submittal fit the example provided, as well as satisfies the criteria of 10 CFR 50.92, it is concluded that: (1) The proposed change does not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is a reasonable assurance that the health and safety of the public will not be endangered by the proposed change; and (3) this proposed action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for Licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: July 15, 1986.

Description of Amendment Request: The proposed change revises Technical Specification 3.3.3.6, Accident Monitoring Instrumentation, to add the Heated Junction Thermocouple System (HJTCS)—Reactor Vessel Level Monitoring System (RVLMS) to Tables 3.3–10 and 4.3–7, and the Bases. This implements Items II.F.2, "Instrumentation for Detection of Inadequate Core Cooling", of NUREG–0737 as requested by NRC Generic Letter No. 83–37, "NUREG–0737 Technical Specifications", dated November 1, 1983.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

In this case, the proposed change is similar to Example (ii) in that the change to Technical Specification 3.3.3.6 is an addition to the accident monitoring instrumentation required by the NRC post TMI–2 Action Plan. Following the May 1979 accident at Three Mile Island Unit 2, many features were added to nuclear power plants to enhance the ability of the operator to manage accidents and transients. The RVLMS is one of these enhancements and serves to provide trending information to the plant operators relative to Reactor Coolant System (RCS) inventory. The proposed change would add the RVLMS to the Technical Specifications, to reflect its incorporation into the plant.

The RVLMS is neither credited nor required in the mitigation of analyzed accidents for Waterford 3. It is intended solely to provide corroborative information to the operator.

As the change requested by the licensee's July 15, 1986 submittal fits the example provided, as well as satisfies the criteria of 50.92, it is concluded that: (1) The proposed change does not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is a reasonable assurance that the health and safety of the public will not be endangered by the proposed change; and (3) this action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for Licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M St., N W., Washington, DC 20036.

NRC Project Director: George W. Knighton.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: January 29, 1986 as amended July 29, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications to incorporate the specific requirements for iodine spiking into the annual report as recommended in Generic Letter 85–19 (Reporting Requirements on Primary Coolant System Iodine Spikes) and delete the primary coolant iodine activity report from Technical Specification 5.9.1.7, Special Reports, since this aspect of plant operation would be reported on an annual basis pursuant to the proposed Technical Specification 6.9.1.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

This proposed change does not involve a significant hazards consideration because operation of Maine Yankee in the proposed manner would not:

a. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The elimination of the current Remedial Action Steps 1 and 2 of Technical Specification 3.2 requiring a plant shutdown if the coolant iodine activity limits are exceeded for 800 hours in a 12-month period and 500 hours in a 6-month period, respectively, does not significantly increase either the probability or the consequences of a previously evaluated accident.

The consequences of an accident analyzed with elevated coolant activity is bounded by analyses of applicable accidents assuming a pre-existing iodine spike of 60 μCi/gram dose equivalent I–131 activity.

The probability of previously evaluated accident is not significantly increased by the duration of the elevated coolant iodine activity. Proper fuel management ensures that appropriate actions would be taken in the event the Technical Specification iodine limit was exceeded to ensure that fuel cladding integrity would be maintained with design limits and preclude any possibility of 800 cumulative hours of coolant iodine activity above the Technical Specification limit. The NRC staff has determined [GL–85–19] that this Technical Specification requirement (shutdown if coolant iodine activity limits are exceeded for 800 cumulative hours in a 12-month period) is unnecessary and can be eliminated.

The remaining changes relax the special 30-day reporting requirements for iodine spikes to an annual report consistent with the guidance of Generic Letter 85–19. These are administrative changes and do not affect the probability or consequences of an accident previously evaluated.

b. Create the possibility of a new or different kind of accident from any previously analyzed.

The operating limits and sampling requirements for coolant iodine activity have not been altered by the proposed changes. Therefore, approval of these changes will not create the possibility of a new or different kind of accident from any previously analyzed.

c. Involve a significant reduction in a margin of safety.

As previously stated, the coolant iodine activity limits have remained unchanged at operating levels equal to or greater than 60% power. At operating levels less than 60% power, higher coolant iodine activity limits would be permitted than those previously allowed. While this could be considered as a relaxation of existing requirements, it is not considered a significant reduction in a margin of safety because these limits are only allowed at reduced thermal power conditions. The NRC has generically accepted these limits for Combustion Engineering plants in NUREG–0212, Revision 2.

Based on the above evaluation, this change does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J.A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: Ashok C. Thadani.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 15, 1986.

Description of amendment request: The amendment would change Technical Specification Table 3.3.7.2–1, "Seismic Monitoring Instrumentation," and Table 4.3.7.2–1, "Seismic Monitoring Instrumentation Surveillance Requirements," by deleting peak recording accelerographs for reactor recirculation piping, main steam piping, low pressure core spray piping, and high pressure core spray piping. An additional change in Table 3.3.7.2–1 changes the format for the upper end of the measurement range of the remaining peak recording accelerographs from "2g" to "2.0g."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its July 15, 1986 request for a license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The NRC staff has made a preliminary review of the licensee's analysis and associated bases. Staff's discussion of the proposed amendment as it relates to the three standards follows.

In the Grand Gulf Nuclear Station (GGNS), Unit 1, there are eleven peak recording accelerographs, four of which are mounted on reactor piping. The four peak recording accelerographs mounted on reactor piping were found to be non-functional during surveillance in 1983. In accordance with Technical Specification 3.3.7.2, the licensees submitted special reports to the NRC describing the restoration of the instruments to operable status and plans to analyze the design of the instruments and make design changes prior to restart following the first refueling outage. Based on their analysis of the design, the licensees have concluded that the design is not suitable for mounting on piping because the peak acceleration of the piping during normal reactor transients is larger than the predicted acceleration during a seismic event. The range of the instruments was designed for a seismic event, but the peak accelerations for transients exceed the instrument range and make them inoperable. The other seven peak recording accelerographs

mounted on foundations or more massive structures have remained operable. In addition to the peak recording accelerographs, there are five triaxial time history accelerographs installed in GGNS Unit 1. A sixth triaxial time history accelerograph is required by License Condition 2.C.(7) to be installed on a reactor piping support for the high pressure core spray system before restart from the first refueling outage. The installation of this accelerograph was previously noticed on April 23, 1986 (51 FR 15402). The first refueling outage is scheduled to begin September 1, 1986 and end November 3, 1986. The seismic instruments remaining after deletion of the four peak recording accelerographs and the addition of the triaxial time history accelerograph will provide adequate information for post-seismic damage evaluation and meet the guidelines of Regulatory Guide 1.12, Revision 1, "Instrumentation for Earthquakes." In summary, experience has shown that the four pipe mounted instruments, as specified in current Technical Specifications, cannot provide useful information for post-seismic evaluation. The triaxial accelerograph to be located on the pipe support will, when installed, provide valuable supplemental information that the pipe-mounted instruments were unable to provide for post-seismic evaluations.

This portion of the amendment (the deletion of the four peak recording accelerographs) would not involve a significant increase in the probability or consequences of an accident previously evaluated because the seismic instrumentation is used for post-seismic damage evaluation and not for actuation of an engineered safety feature or for accident mitigation. This amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because the four accelerographs are inoperable in their present location and the remaining seismic instrumentation is adequate for post-seismic damage evaluations until the additional instrument is installed. This amendment would not involve a significant reduction in a margin of safety because acceptable limits of seismic design are not changed by the deletion of the instruments and the accuracy of seismic damage evaluation is not significantly affected by the deletion of the four inoperable peak recording accelerographs.

The Commission has also provided guidance concerning the application of the three standards in 10 CFR 50.92 by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the Federal Register on March 6, 1986 (51 FR 7744). One example of amendments that are considered not likely to involve significant hazards consideration, (i), is a purely administrative change to achieve consistency throughout the Technical Specifications. The change of the format for the upper end of the measurement range in Table 3.3.7.2-1 was proposed to make this number format consistent with that for other numbers in the table. Therefore this change is similar to example (i).

For reasons described above, the Commission proposes to determine that the proposed changes to the Technical Specifications do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 26, 1985 and July 3, 1986.

Description of amendment request: The proposed amendment to the Technical Specifications would revise the surveillance requirements and bases for the station batteries to improve the demonstration of battery system operability. The existing battery system surveillance requirements lack sufficient detail to ensure full operability and verification that the batteries fully satisfy their design function. The proposed change would provide separate surveillance requirements for the 125 VDC unit batteries and 250 VDC unit batteries which would be more detailed than the single set of requirements for both types of batteries. The proposed surveillance requirements incorporate guidance form NRC Regulatory Guides, NRC-endorsed industry standards and battery manufacturer's recommendation and are more stringent than the current Technical Specifications. The April 26, 1985 submittal was published in the Federal Register on July 17, 1985 (50 FR 29012).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples of actions involving no significant hazards considerations, i.e. example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change would result in more stringent requirements for station battery surveillance and is, therefore, similar to this example. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Daniel R. Muller.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 2, 1986.

Description of amendment request: The proposed amendment would modify the Technical Specifications as follows:

A. The amendment would modify Table 3.1.1 "Reactor Protection System Instrumentation Requirements" of the Technical Specifications to: (1) Indicate that the APRM downscale reactor trip function is automatically bypassed in the RUN mode when the companion IRM instrumentation is operable and not upscale, (2) Indicate that the APRM downscale reactor trip function is automatically bypassed when in the SHUTDOWN, REFUEL or STARTUP condition, (3) Specify that the ratio of FRP (Fraction of Rated Thermal Power) to MFLPD (Maximum Fraction of Limiting Power Density) for the APRM flow biased high flux reactor trip setting shall be set equal to 1.0 unless the actual operating value is less than the design value of 1.0, in which case the actual operating value will be used, (4) Eliminate one of two indicated action statements applicable when the minimum number of APRM channels cannot be met. "Initiate insertion of operable rods and complete insertion of all operable rods within four hours" would be eliminated as an indicated action. The action statement "Reduce power level to IRM range and place mode switch in the Startup position within 8 hours and depressurize to less than 1000 psig" would remain, and (5) Change the APRM downscale reactor trip minimum setting from 2.5% of

indicated scale to 2.5% of rated thermal power.

B. The amendment would modify Table 3.2.C "Control Rod Withdrawal Block Instrumentation" of the technical specifications to: (1) Specify that the ratio of FRP to MFLPD for the APRM flow biased upscale rod block setting shall be set equal to 1.0 unless the actual operating value is less than the design value of 1.0, in which case the actual operating value will be used (2) Change the IRM downscale rod block minimum trip level setting from 2.5% of rated thermal power to 2.5/125 of full scale, and (3) delete statements that the APRM and RBM downscale rod blocks are automatically bypassed during RUN if the companion IRM instrumentation is not upscale or inoperable.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment serves only to clarify design and operational features of existing equipment and would not reduce the reliability of the reactor trip or rod block protective functions nor would it modify any associated protective system setpoints. It would thus not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed amendment does not create a new or different kind of accident from any accident previously evaluated because the proposed amendment serves only to clarify design and operational features and does not modify any of the systems, structures and equipment, or allow new modes of operation of the facility. The facility would thus not be subject to any new or different accidents.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because the proposed amendment serves only to clarify established design and operational features and would not modify any of the facility's safety limits or limiting safety system settings. Equipment operability requirements would not be reduced. Therefore no safety margins would be reduced.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Daniel R. Muller.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: May 12, 1986.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) sections 6.5.3.8, 6.5.3.9, 6.5.3.10 and Figure 6.2-1 to reflect changes in the management organization at Niagara Mohawk Power Corporation. The Vice President—Quality Assurance for Niagara Mohawk will assume the authority and functions associated with both Nine Mile Point Unit 1 and 2, formerly performed by the Director of Quality Assurance. Additionally, the Manager of Nuclear Engineering and Licensing will assume the authority and functions associated with both Nine Mile Point Unit 1 and 2, formerly performed by the Vice President—Nuclear Engineering and Licensing.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards considerations as follows:

As required by 10 CFR 50.91, a licensee must provide to the Commission an analysis using the standards in 10 CFR 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92 the following analysis has been performed.

1. *The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes will not affect the effectiveness of the Niagara Mohawk Quality Assurance Program. The Vice President—Quality Assurance will assume the authority and functions previously given to the Director of Quality Assurance. The Vice President will be responsible for Quality Assurance functions like the structure of the previously approved organization and will report directly to the President. The Nuclear Engineering and Licensing Departments will not be adversely affected by this amendment. The Manager of Nuclear Engineering and Licensing will, like the previously approved position, report directly to the Senior Vice President.

2. *The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

This proposed amendment reflects changes in organizational titles only. Functions and responsibilities assigned within the organization will remain the same.

3. *The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.*

The organizational title changes represent administrative changes only and do not affect the limiting conditions for operations as defined in the Technical Specifications. The margin of safety for Nine Mile Point Unit 1 will therefore be unaffected.

As determined by the analysis above, this proposed amendment has no significant hazards considerations.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: John A. Zwolinski.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: June 30, 1986.

Description of amendment request: The proposed amendment request would add a surveillace requirement to the Technical Specifications (TSs) in order to test the time delay feature of the

undervoltage protective device for the Reactor Protection System (RPS) alternate power supply. Technical Specification 4.1.D.2 requires a calibration check of the trip setpoint for the undervoltage device. However, the delay feature for this device is not currently identified in the TSs.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The alternate power source for the RPS is supplied from a 4 KV safeguard emergency bus. This bus is fed from an auxiliary 13.2 to 4.16 KV transformer. Both the 13.2 and 4.16 KV buses supply large motors, such as the Residual Heat Removal pumps, Core Spray pumps and Condensate pumps. The starting current for these motors has caused emergency bus voltage transients. To minimize the effect of these voltage transients, the licensee installed a 4-second time delay relay which provides sufficient time for the bus voltage to return to normal and prevents unnecessary RPS isolation of half-scram signals. The proposed TS change would add surveillance requirements that assure appropriate testing of this added time delay feature. For these reasons, the NRC staff concludes that the proposed change is similar to the example (ii) of an action involving no significant hazards consideration cited above.

Accordingly, the Commission proposes to determine that the proposed changes to the TSs involve no significant hazards considerations.

Local Public Document Room Location: Government Publication Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Daniel R. Muller.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: July 24, 1986.

Description of amendment request: The proposed amendment would revise section 5.5.B of the Technical Specifications (TS) concerning the criterion for storage of nuclear fuel in the spent fuel pool. The proposed change sets an upper limit for the infinite lattice neutron multiplication factor, k-infinity, for any fuel bundle stored in the spent fuel pool. This limit is based upon the k-infinity of the design basis fuel bundle. The current limit for fuel stored in the pool is based upon the axial loading of U-235 and the average lattice enrichment of the design basis fuel bundle.

The proposed amendment is required for storing fuel that will be delivered for an upcoming refueling outage (Reload 7). Reload 7 fuel and other new fuel designs to be stored in the FitzPatrick spent fuel pool may have U-235 enrichments above that allowed by the current TS. The inclusion of burnable poisons such as gadolinia in the fuel, maintain the reactivity of the new fuel bundles at or below that of the current design basis fuel bundle, despite the higher U-235 enrichments. Basing the loading criterion on maximum fuel reactivity instead of U-235 enrichment will ensure that the same subcriticality requirement in the TS for the spent fuel pool is met without unnecessary limitations on fuel bundle enrichment.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The overall safety criterion for section 5.5.B of the TS is to maintain the spent fuel pool subcritical with a k_{eff} less than 0.95 under all conditions. This criterion is achieved by placing restrictions on new fuel. The present TS limit is represented by the axial U-235 loading and enrichment of a design basis fuel bundle. The proposed revision merely changes the method of assuring compliance with the spent fuel storage pool reactivity criterion. An infinite lattice neutron multiplication factor, k-infinity, was calculated by General Electric using its approved method for the design basis fuel bundle. Any new fuel bundle with a maximum exposure-dependent k-infinity equal to or less than that of the design basis bundle will meet the safety criterion for the spent fuel pool by maintaining the pool subcritical with a k_{eff} of less than 0.95. Therefore, the probability of occurrence or the magnitude of the consequences of transients or accidents analyzed in the FSAR and Nuclear Criticality Analysis for the Spent Fuel Racks will not be changed by the proposed amendment since k_{eff} will remain below 0.95 under all conditions.

The proposed amendment also will not create the possibility of a new or different kind of accident from any accident previously evaluated because the amendment merely changes the method of assuring compliance with the spent fuel pool reactivity criterion to an equivalent method.

Furthermore, the proposed amendment does not involve a significant reduction in the margin of safety, since the margin of safety for the spent fuel pool is defined by the existing k_{eff} reactivity limit (k_{eff}=0.95), which is not changed by the proposed revisions. The replacement of the axial enrichment limit with an equivalent bundle lattice k-infinity limit will not reduce the margin of safety.

Based on the foregoing, the Commission proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 10, 1986.

Description of amendment request: The amendment would change Technical Specification 3.4.8, "Specific Activity" and its bases in accordance with NRC Generic Letter 85–19, "Reporting Requirements on Primary Coolant Iodine Spikes." The change would reduce the reporting requirement for iodine spiking from a 30 day Special Report to information to be included in the Annual Report. The change would

also delete the requirement regarding a 30 day Special Report if iodine activity limits are exceeded for 500 hours in any consecutive 6 month period and would delete the requirement for plant shutdown if iodine activity limits are exceeded for 800 hours in any consecutive 12 month period.

Basis for proposed no significant hazards consideration determination: The proposed changes to the Technical Specifications are being requested as a result of the review of Generic Letter 85–19, "Reporting Requirements on Primary Coolant Iodine Spikes." The generic letter recommended that the reporting requirements, currently in the form of a Special 30 Day Report, be changed to be included in the Annual Report required by the Technical Specifications. As stated in the generic letter, the information to be reported has been changed to more clearly designate the results to be included from the specific activity analysis (Surveillance Requirement 4.4.8) and to delete the information regarding fuel burnup by core region.

The generic letter also stated that the NRC had determined that existing requirements to shut down a plant if iodine activity limits were exceeded for 800 hours in a 12-month period could be eliminated. The generic letter cited the greatly improved quality of nuclear fuel and the 10 CFR 50.72(b)(1)(ii) immediate notification of fuel cladding failure requirements as reasons for no longer requiring the action statement. In addition, proper fuel management by the licensee should help to maintain iodine activity at a reasonably low level and thus preclude ever approaching the 800 hour limit.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from accidents previously evaluated; or (3) involve a significant reduction in margin of safety. The licensee has determined that the requested amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because greatly improved fuel quality and proper fuel management should preclude approaching the 800 hour limit;

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed; or

(3) Involve a significant reduction in a margin of safety because necessary reporting requirements will be sustained and proper fuel management will help to maintain iodine activity at a reasonably low level.

The staff has reviewed the licensee's determination and finds it acceptable. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: October 22, 1985.

Description of amendment request: The proposed amendments would increase the setpoint of the spent fuel pool monitors to 200 millirem per hour (mR/hr) and change the spent fuel pool criticality Technical Specifications (TS) 5.6.1.1 and 5.6.1.2 to further clarify the assumptions used in the fuel rack design analysis. The spent fuel pool is designed to prevent any inadvertent criticality and TS sections 5.3.1.1, 5.6.1.1 and 5.6.1.2 ensure that no criticality will occur.

Basis for proposed no significant hazards consideration determination: NRC published guidance in the Federal Register (51 FR 7744) concerning examples of amendments that are not likely to involve a significant hazards consideration.

Example (vi) provided in 51 FR 7744 identifies a proposed amendment to an operating license likely to involve no significant hazard if it is:

> A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The requested change would reduce the margin of safety because it would increase the setpoint of the spent fuel pool radiation monitors. However, the plant would still meet Acceptance Criteria 6 of Standard Review Plan section 9.1.2, "Spent Fuel Storage." Example (ii) identifies a proposed amendment to an operating license likely to involve no significant hazard if it is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, for example, a more stingent surveillance requirement. The proposed changes to TS sections 5.6.1.1 and 5.6.1.2 would place new limitations on the enrichment of fuel which can be placed in the spent fuel pool.

Accordingly, the Commission proposes to determine that these proposed amendments to the TS involve no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 7, 1986.

Description of amendment request: The proposed amendments would delete Table 3.3–11 "Fire Detection Instrumentation" and delete the Surveillance requirement 4.2.1.1.a.2. concerning acquisition of axial flux difference (AFD) data from the Technical Specifications (TS). The detectors listed in Table 3.3–11 are needed to be operable to provide early notification of a fire. The proposed change would not remove any detectors or change the type. In order to ensure proper control of any eliminations or additions to the table, it would be placed in the appropriate plant procedures and final safety analysis report; therefore, changes would have to be evaluated against the criteria given in the Code of Federal Regulations, Title 10, 50.59(a)(2), (10 CFR 50.59(a)(2)).

With respect to surveillance requirement 4.2.1.1.a.2, the request to remove this requirement is based on the relaxed axial offset control (RAOC), which was implemented following the first refueling outage. Prior to the use of RAOC, penalty minutes were assessed whenever the AFD went outside of its target band and the plant was required to operate at a reduced power level until the accrued penalty minutes were

reduced below an allowable limit. Because RAOC changes the method of calculating hot channel factors, penalty minutes are no longer utilized as part of the AFD control.

Basis for proposed no significant hazards consideration determination: The NRC published guidance in the **Federal Register** (51 FR 7744) concerning examples of amendments that are not likely to involve a significant hazards consideration.

Example (i) provided in 51 FR 7744 identifies a proposed amendment to an operating license likely to involve no significant hazard if it is "a purely administrative change to technical specifications." The TVA requested change to remove Table 3.3–11 would be purely administrative since it would alter the method of listing the fire detectors. There would be no change to the plant design, configuration, or testing requirements, and any changes made to the table would still require a 10 CFR 50.59(a)(2) review.

Example (iv) identifies a proposed amendment to an operating license likely to involve a no significant hazard if it is:

> relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met.

The use of RAOC has been previously approved by the staff and has demonstrated that the AFD restriction is no longer needed.

Accordingly, the Commission proposes to determine that these proposed amendments to the TS involve no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: July 24, 1986.

Description of amendment request: The proposed amendments would delete the differential pressure values from Surveillance Requirements 4.7.1.2.a.1 and 4.7.1.2.a.2 for Units 1 and 2. These values would be placed in the appropriate plant instructions where changes would have to be evaluated against the criteria given in the Code of Federal Regulations, Title 10, Part 50.59(a)(2), (10 CFR 50.59(a)(2)). This request resulted because the pressure control valves were removed from the discharge of the motor driven auxiliary feedwater pumps and replaced with cavitating venturi.

Basis for proposed no significant hazards consideration determination: The NRC published guidance in the **Federal Register** (51 FR 7744) concerning examples of amendments that are not likely to involve a significant hazards consideration.

Example (v) provided in 51 FR 7744 identifies a proposed amendment to an operating license likely to involve no significant hazard if:

> Upon satisfactory completion of construction in connection with an operating facility, a relief granted from an operating restriction that was imposed because the construction was not yet completed satisfactorily. This is intended to involve only restrictions where it is justified that construction has been completed satisfactorily.

Because the change has been generated as a result of a construction modification to the plant, the Commission proposes to determine that these proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 8, 1986.

Description of amendment request: The proposed change would reduce the tolerance of the water level in the water-filled accumulators from 82.1; ±5.6 inches to 82.1±2.0 inches. This tolerance is given in surveillance requirement 4.5.1.c.1 for low-level isolation of the upper head injection system.

Basis for proposed no significant hazards consideration determination: The Commission provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. Therefore, the staff has reviewed the proposed change and the no significant hazards analysis performed by the licensee.

Based on its review of the licensee's determination, the staff finds that the amendment request meets the standards for concluding that no significant hazard exists. Accordingly, the staff proposes to determine that the proposed changes do not involve a significant hazard.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 8, 1986.

Description of amendment request: The proposed amendments clarify the licensee's interpretation for testing molded case circuit breakers and verification of fuses. The proposed amendment also removes references to specific surveillance instructions by surveillance instruction number.

Basis for proposed no significant hazards consideration determination. The proposed changes to the technical specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated. These circuit breakers are installed to protect containment integrity at penetrations due to overcurrent conditions. They are also installed to protect IE busses from faulted conditions in nonqualified loads. The surveillance of these .devices is intended to verify their operability. The changes proposed by this revision serve only to clarify the licensee's interpretation for testing of these devices. That interpretation of requiring testing of the thermal trip function only, was based on several factors among which are simplicity of molded case circuit breaker instantaneous trip function design, damage due to instantaneous trip function testing, and redundant protection of containment penetrations. Therefore, the proposed changes will not significantly affect the operability of these devices. The

verification program for protective fuses adds assurance for protection of containment penetrations. Removal of the surveillance instruction numbers does. not change in any way the type of surveillance being performed. This portion of the change is administrative in nature only. Auditability is maintained by the licensee's method of cross referencing of surveillance requirements and associated procedures.

The proposed changes to the technical specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated. This change does not reflect any change in the physical configuration of the plant. This change only clarifies the licensee's current interpretation of verification testing. The testing of the breakers by thermal overcurrent method, where applicable, will continue to verify the operability of the devices. The verification program for protective fuses also only serves to ensure the protective capabilities of the devices. The removal of the specific surveillance instruction numbers does not in any way change the type of testing being performed. The change is administrative in nature and creates no possibility for any new or different type of accident.

The proposed changes do not involve a significant reduction in a margin of safety. The testing of the breakers by thermal overcurrent testing verifies to a high confidence level the operability of the instantaneous function without the potential damaging effects of the high currents necessary for the instantaneous only testing. The fuse verification programs adds assurance of the protection of containment penetrations by verifying the operability of these redundant protective features. The margin of safety is unaffected by the deletion of the references to specific surveillance instruction numbers. This change, which is administrative in nature only, will only serve to allow the licensee's administrative control of these procedures the flexibility of change without the need for a regulatory submittal.

Based on the above, the Commission proposes to determine that the changes involve no significant hazards consideration.

Local Public Document Room location: Chattanooga—Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: January 9, 1986.

Description of amendment request: The purpose of the proposed amendment is to revise Callaway Technical Specification Tables 3.3–1 and 4.3–1 in response to NRC staff requests (1) to require 48 hour restoration in the event of loss of one of the diverse reactor trip features (under voltage or shunt trip attachment), (2) to require independent verification of the operability of the undervoltage and shunt trip attachments, and (3) to explicitly require independent testing of the control room manual reactor trip switch contacts during each refueling outage;

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7744). One of the examples (ii) of these actions involving no significant hazards consideration relates to a change which constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed changes are similar in nature to the example provided by the Commission. The changes to the Callaway Technical Specifications add a new technical specification requiring that (1) an inoperable undervoltage or shunt trip attachment of the reactor trip breaker be restored to operability within 48 hours, (2) the undervoltage and shunt trip attachments of the reactor trip breakers be independently verified for operability, and (3) the trip actuating device operability test shall independently verify the operability of the undervoltage and shunt trip circuits for the manual reactor trip. These proposed changes introduce additional management controls not presently in the Technical Specifications and, therefore, involve no significant hazards. These requests do not involve a significant increase in the probability or consequence of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evalutions; or involve a significant reduction in a margin of safety. Based on this information, the requested license amendment does not present a significant hazard.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of amendment request: January 31, 1986.

Description of amendment request: This proposed amendment, if approved, would revise the WNP–2 Technical Specifications by modifying section 3.4.6, Pressure/Temperature Limits. Specifically the Supply System is requesting changes to Figures 3.4.6.1–1 and 3.4.6.1–2 in order to comply with the current version of 10 CFR Part 50, Appendix G. These figures present pressure/temperature limit curves that have been shifted 30 degrees (F) higher at 20 percent of the preservice system hydrostatic test pressure to assure an additional margin of safety during testing and operation of the reactor vessel. These proposed pressure/temperature limit curves thus incorporate the revised requirements of 10 CFR Part 50, Appendix G.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment per 10 CFR 50.92 does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed shift in the pressure/temperature limits reduces the possibility of brittle fracture which is more conservative than the present requirement; or (2) create the possibility of a new or different kind of accident

from an accident previously evaluated because, as stated above, the proposed curves are more conservative yet well within upper limits; therefore no new or different kind of accident is conceivable; or (3) involve a significant reduction in a margin of safety because the margin of safety is actually increased due to compliance with the additional conservatisms imposed by 10 CFR Part 50, Appendix G.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP-2 Operating License involves no significant hazards considerations.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire; Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW, Washington, DC 20036.

NRC Project Director: E. Adensam.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: March 20, 1986.

Description of amendment request: This proposed amendment, if approved, would revise the WNP-2 Operating License, NPF-21, by modifying paragraph 2.E of the license which governs the requirements for a Physical Security Plan, Guard Training and Qualification and a Safeguards Contingency Plan. Specifically, the proposed amendment would delete the commitment to use a redundant detection system to the plant protected area intrusion detection system.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined and the staff agrees that the requested amendment per 10 CFR 50.92 does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the redundant detection system was a backup to the primary system and equivalent backups remain available; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated because, in terms of security, the loss of the primary system was the worst case accident; or (3) involve a significant reduction in a margin of safety because the ability to observe and assess activity within the detection zone is not impacted by this change.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP-2 Operating License involves no significant hazards considerations.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire; Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036.

NRC Project Director: E. Adensam.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: July 21, 1986.

Description of amendment request: The proposed change would modify the Technical Specification requirements on the minimum number of operable neutron detector thimbles from twelve, with at least two per quadrant, to nine with at least one per quadrant. The measurement uncertainty would be increased from 6.8% to 8% when fewer than twelve detectors are operable. The incore neutron detector system has 22 thimbles. However, only 13 are presently operable; a minimum of twelve are required by the TS. Thus, should additional detectors fail, the TS requirement may not be met.

The incore detection system is used for core power distribution measurements. These measurements are used to determine the peak linear heat generation rate (LHGR), which helps establish operating limits such that safety analysis assumptions are satisfied. Sufficient coverage of detectors is needed such that the core power distribution is properly monitored. A factor is applied to the measurement to account for uncertainty. With the proposed changes, each quadrant of the core would still have coverage, and a larger uncertainty factor, and thus a more stringent limit on LHGR would be applied. The proposed change would be applicable for the balance of the cycle; at this point, the core characteristics are well established and the core power distribution is well defined.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee's application states:

> This change is requested in order to provide flexibility in plant operation with sufficient data gathering capability to ensure operation within licensed limits. As such, this proposed change would not:
>
> Involve a significant increase in the probability or consequences of an accident previously evaluated. This change merely increases the measurement uncertainty for a reduced complement of operable incore neutron detector thimbles. Therefore, the change cannot increase the probability or consequences of an accident, as the core will continue to be adequately monitored.
>
> Create the possibility of a new or different kind of accident from any previously analyzed. This modification only increases the measurement uncertainty for a reduced complement of operable incore neutron detector thimbles. Therefore, it does not create the possibility of a new or different kind of accident since it does not modify plant operation or components.
>
> Involve a significant reduction in a margin of safety. This modification of increasing the measurement uncertainty for a reduced complement of operable incore neutron detector thimbles will add sufficient additional margin to the power distribution measurements such that this change does not impact the safety margins which currently exist. Thus, this change does not involve a significant reduction in a margin of safety.

The staff has reviewed this discussion and is in agreement with it. Therefore, the staff proposes to determine that the

proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

GPU Nuclear Corporation and Jersey Central Power and Light Company, Docket 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: July 25, 1986 (TSCR 126).

Brief description of amendment: The proposed amendment would make changes to sections 3.5 and 4.5, Containment, of the Appendix A Technical Specifications (TS) to account for proposed changes to the existing requirements on containment leakage testing. The licensee is proposing to add a new requirement in TS 3.5.A.3.b on when an inoperable air lock must be returned to service before the reactor is shut down. The Applicability and Objectives sections in TS section 4.5 are being revised to list the major surveillances and tests described in section 4.5 and to refer to Appendix J to 10 CFR Part 50 and ANSI/ANS Standard 56.8–1981, respectively. The licensee is also proposing to revise existing TS 4.5.A through TS 4.5.L. The existing TS 4.5.G through TS 4.5.K are only being renumbered and there is no proposed revision to the existing TS requirements. Existing TS 4.5.L is a previously deleted TS and the existing TS 4.5.K is proposed to be renumbered TS 4.5.L to fill the previously deleted TS.

The licensee is proposing to revise the requirements in TS 4.5.A through 4.5.F. These TS affect the following existing requirements: (a) integrated primary containment leakage rate test, (b) acceptance criteria, (c) corrective action, (d) frequency of integrated leak rate tests, (e) local leak rate tests, and (f) corrective action. The new TS will be numbered TS 4.5.A through TS 4.5.G. The licensee is proposing a new TS section, 4.5.G, on the frequency for the local leak rate tests. The title for TS 4.5.E is proposed to be changed to "Type B and Type C Local Leak Rate Tests (LLRT)."

Date of publication of individual notice in **Federal Register:** August 13, 1986 (51 FR 29023).

Expiration date of individual notice: September 12, 1986.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Licensing.

Arizona Public Service Company, et al. Docket No. STN 50–529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of Application for Amendment: April 15, 1986, and supplemental letters dated June 3, July 30, August 7, August 8, and August 13, 1986.

Brief Description of Amendment: The amendment authorizes sale and lease back transactions of El Paso Electric Company's ownership share in Palo Verde Unit 2.

Date of Issuance: August 15, 1986.

Effective Date: August 15, 1986.

Amendment No.: 3.

Facility Operating License No. NPF–51: Amendment revised the license.

Dates of Initial Notice in **Federal Register:** June 4, 1986 (51 FR 20366).

The Commission's related evaluated of the amendment is contained in a Safety Evaluation dated August 15, 1986.

No signifitant hazards consideration comments were received: No.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Arizona Public Service Company, et al. Docket No. STN 50–529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of Application for Amendment: May 2, 1986, and supplemental letters dated July 30, August 2, August 6, August 7, August 8, and August 13, 1986.

Brief Description of Amendment: The amendment authorizes sale and lease back transactions of Arizona Public Service Company's ownership share in Palo Verde Unit 2.

Date of Issuance: August 15, 1986.

Effective Date: August 15, 1986.

Amendment No.: 4.

Facility Operating License No. NPF–51: Amendment revised the license.

Dates of Initial Notice in **Federal Register**: June 4, 1986 (51 FR 20367). The Commission's related evaluated of the amendment is contained in a Safety Evaluation dated August 15, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 10, 1985 and April 14, 1986 (partial).

Brief description of amendments: The amendments change the Technical Specifications (TS) as follows: (1) TS 4.1.2.2c surveillance requirement is modified to allow verification of boron injection flow path on SIAS signal at least every 18 months during any time period. (2) Incorporate the Main Steam Header Noble Gas Effluent Monitor (TS Tables 3.3–6 and 4.3–3) as per guidance provided in Generic Letter 83–37 (Several related administrative changes are also addressed). (3) Change the Unit 2 TS Table 3.3–9, "Remote Shutdown Monitoring Instrumentation", regarding the range of the pressurizer pressure instrumentation.

Date of issuance: August 6, 1986.

Effective date: August 6, 1986.

Amendment Nos.: 120 and 102

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1986 (51 FR 22226 at 22231).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: April 12, 1985.

Brief description of amendment: The amendment revises the Technical Specifications by changing the calibration frequency for certain surveillance instrument channels from once every 6 months to once each refueling outage.

Date of issuance: August 6, 1986.

Effective date: 30 days after date of issuance.

Amendment No.: 97

Facility Operating License No. DPR–35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1985 (50 FR 20970) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: March 5, 1986, as supplemented March 28, 1986.

Brief description of amendments: The amendments change the Technical Specifications (TS) by modifying the limiting conditions for operation for the chlorine detection system to reflect modifications to the control room isolation and alarm features of the chlorine detection system at the facility.

Date of issuance: August 12, 1986.

Effective date: August 12, 1986.

Amendment No.: 99 and 128

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1986 (51 FR 18678) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Southport Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket No. 50–237, Dresden Nuclear Power Station, Unit No. 2 and 3, Grundy County, Illinois

Date of application for amendment: December 4, 1984.

Brief description of amendment: The Technical Specification (TS) changes relate to the use of a Mobile Volume Reduction System (MVRS) at Dresden Station. The amendments add the MVRS.. radiological effluent monitoring equipment to TS Tables 3.2.5, 4.2.3 and 4.8.1 to allow the use of the MVRS at the Dresden Station.

Date of issuance: August 13, 1986.

Effective date: August 13, 1986.

Amendment No.: 93 and 88.

Provisional Operating License No. DPR–19 and Facility Operating License No. DPR–25. The amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1984 (49 FR 50801). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment: March 22, 1985.

Brief description of amendment: The amendments incorporate surveillance requirements for residual heat removal (RHR) vault flood protection systems which were recently installed for RHR service water sump pumps in the RHR vault rooms.

Date of issuance: August 11, 1986.

Effective date: August 11, 1986.

Amendment Nos.: 95 and 91.

Facility Operating License Nos. DPR–29 and DPR–30. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1985 (50 FR 29008). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: May 2 1983, and July 9, 1985, as amended August 13, 1985 and August 15, 1985, and by meeting summary dated June 3, 1986.

Brief description of amendment: In general, this license amendment revises many administrative sections in Chapter 6 of the technical specifications, adds new reporting requirements consistent with 10 CFR 50.72 and 10 CFR 50.73, and adds a new containment isolation valve to the plant technical specifications.

Date of issuance: August 6, 1986.

Effective date: August 6, 1986.

Amendment No.: 79.

Facility Operating License No. DPR–61. Amendment revised the technical specifications.

Date of notices in **Federal Register:** October 26, 1983 (48 FR 49581), August 14, 1986 (50 FR 32791), and July 2, 1986 (51 FR 24252).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: June 3, 1986.

Brief description of amendment: This amendment deletes the requirement that licensed senior reactor operators (SROs) of the plant crew be qualified in radiation procedures. The present requirement arose because health physics technicians were not routinely assigned to off-shifts and Technical Specification 6.2.2.d requires that an individual qualified in radiation protection procedures shall be on-site when fuel is in the reactor.

Date of issuance: August 7, 1986.

Effective date: August 7, 1986.

Amendment No. 80.

Facility Operating License No. DPR–61. Amendment revised the technical specifications.

Date of initial notice in **Federal Register:** July 2, 1986 (51 FR 24252). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: May 30, 1986.

Brief description of amendment: This amendment revises Technical Specifications 3.22 and 4.15 to add the control room Halon system to the technical specifications and to substitute the 18 smoke detectors associated with the new Halon system for the 10 existing smoke detectors in the control room. The amendment also deletes smoke detectors from the computer room/operations supervisors office.

Date of issuance: August 18, 1986.

Effective date: August 18, 1986.

Amendment No. 81.

Facility Operating License No. DPR–61. Amendment revised the technical specifications.

Date of initial notice in **Federal Register:** June 18, 1986 (51 FR 22232). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 18, 1985, as supplemented April 18, 1986.

Brief description of amendment: The amendment revises the Technical Specifications by changing the composition of the Station Nuclear Safety Committee, clearly specifying the number of members required for a forum and providing adequate time (14 days) for the review and approval of temporary changes to procedures.

Date of issuance: August 7, 1986.

Effective date: Immediately, to be implemented within 30 days.

Amendment No. 115.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 28, 1985 (50 FR 34936) and July 2, 1986 (51 FR 24253).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: October 8, 1984, and revised by letter dated February 3, 1986.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to comply with the requirements (NUREG–0737) imposed by the Commission as a result of the Three Mile Island accident. The changes are patterned after the staff's standard technical specification transmitted by Generic Letter 83–37 and are related to the containment sump water level and pressure instruments, the reactor coolant vent system, the containment hydrogen analyzer and the post-accident monitoring program.

Date of issuance: August 12, 1986.

Effective date: August 12, 1986.

Amendment No. 105.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** This amendment request was originally noticed on November 21, 1984 (49 FR 45947). The initial amendment request was revised by letter dated February 3, 1986. The February 3, 1986 letter was renoticed on July 2, 1986 (51 FR 24255).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: March 8, 1985, as supplemented May 14, 1985 and April 24, 1986.

Brief description of amendment: The amendment revises the TMI–1 Technical Specifications to provide decay heat removal capability in all modes of operation as requested in the NRC staff's generic letter dated June 11, 1980.

Date of issuance: August 14, 1986.

Effective date: August 14, 1986.

Amendment No. 119.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20981).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

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Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: February 28, 1986.

Brief description of amendment: This amendment changes the maximum closing time of a containment isolation valve and adds an automatic sprinkler system in the specification for fire suppression systems.

Date of issuance: August 11, 1986.

Effective date: August 11, 1986.

Amendment No. 15.

Facility Operating License No. NPF–29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1986 (51 FR 18685).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1986

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: March 31, 1986 as amended May 2, June 9, and June 20, 1986 and supplemented July 11, 1986.

Brief description of amendment: Technical Specification changes to allow operation with one recirculation loop and in the maximum extended operating domain (operation with increased power levels at reduced reactor core cooling water rates or with increased reactor core cooling water rates at reduced power levels).

Date of issuance: August 12, 1986.

Effective date: August 12, 1986.

Amendment No. 16.

Facility Operating License No. NPF–29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 2, 1986 (51 FR 24258) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: November 18, 1983 as updated by letters dated June 17, 1985 and July 8, 1986.

Brief description of amendment: The amendment changed the technical specifications to incorporate the requirements of 10 CFR 50.72 and 50.73 dealing with reporting requirements.

Date of issuance: August 13, 1986.

Effective date: August 13, 1986.

Amendment No.: 99.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1984 (49 FR 3344 at 3350). The FRN for the original application dated November 18, 1983 addressed the changes to the Technical Specifications required by the issuance of 10 CFR 50.72 and 50.73. Subsequent submittals addressing these changes have not altered the conclusions of that FRN. These subsequent submittals have clarified the language so that the changes more accurately reflect the changes required by 50 CFR 50.72 and 50 CFR 50.73 and are administrative in nature.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 14, 1986, as supplemented by information in a previous submission dated December 26, 1985.

Brief description of amendments: The specific changes to the TSs covered by these amendments involve changes to clarify the required spent fuel pool water level.

Date of issuance: August 11, 1986.

Effective date: August 11, 1986.

Amendments Nos.: 120 and 124.

Facility Operating License Nos. DPR–44 and DPR–56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1986 (51 FR 18692) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 11, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: January 2, 1986.

Brief description of amendment: This revision to the Technical Specifications reduces the reporting requirements for iodine spiking from a Special Report to an Annual Report, and eliminates the existing requirement to shutdown if the cummulative time for operation above the allowable primary coolant specific activity limit exceeds 10% of the Unit's total yearly operating time.

Date of issuance: August 7, 1986.

Effective date: August 7, 1986.

Amendment No.: 66.

Facilities Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 26, 1986 (51 FR 10469) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: October 16, 1985 and January 6, 1986.

Brief description of amendment: Changes the Technical Specifications in regard to facility and corporate organization, changes management titles and enables the formation of a new facility operation groups.

Date of issuance: August 8, 1986.

Effective date: August 8, 1986.

Amendment No.: 16.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1986 (51 FR 22242) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: January 22, 1986.

Brief description of amendment: The amendment will clarify the surveillance requirement for an outside fire hydrant.

Date of issuance: August 18, 1986.

Effective date: August 18, 1986.

Amendment No.: 17.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8601) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: July 16, 1985.

Brief description of amendment: The amendment adds Limiting Conditions for Operation and Surveillance Requirements for the Low Temperature Overpressure Protection System to the TSs.

Date of issuance: August 13, 1986.

Effective date: August 13, 1986.

Amendment No.: 82.

Facility Operating License No. DPR–54. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 18, 1985 (50 FR 51627) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: January 9, 1986, as supplemented April 14, 1986.

Brief description of amendment: The amendment changes License Condition 2.C(24) regarding continuation of the seismic monitoring program.

Date of issuance: August 5, 1986.

Effective date: August 5, 1986.

Amendment No. 52.

Facility Operating License No. NPF–12. Amendment revised the License.

Date of initial notice in **Federal Register:** June 4, 1986 (51 FR 20374) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company, et al. Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Dates of application for amendments: February 7, 1986.

Brief description of amendments: The amendments change the technical specifications to require the use of trisodium phosphate rather than NaOH to control the pH of the containment sump following containment spray actuation.

Date of Issuance: August 11, 1986.

Effective Date: Upon first entry into Mode 3 following installation of the TSP storage baskets.

Amendment Nos.: 51 and 40.

Facility Operating License Nos. NPF–10 and NPF–15: Amendments revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** June 4, 1986 (51 FR 20378).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 11, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Location: General Library, University of California at Irvine, Irvine, California 92713.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: March 12, 1986, March 27, 1986 and May 9, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to permit extended reactor operation with one recirculation loop out of service.

Date of issuance: August 8, 1986.

Effective date: August 8, 1986.

Amendment No.: 94.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1986 (51 FR 18696).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: March 4, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to reflect changes to reporting requirements due to a recent rule change to 10 CFR 50.72 and 50.73, deletion of requirements for monthly reporting of safety-related maintenance activities, and a number of administrative changes which are editorial in nature or corrections of errors.

Date of issuance: August 11, 1986.

Effective date: August 11, 1986.

Amendment No.: 95.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20994) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 14, 1984, as supplemented November 26, 1985.

Brief description of amendment: This amendment revises the Technical Specifications to address the items described in GL 83–36. The Technical Specifications revised in this

amendment complete the Technical Specification requirements for the following NUREG–0737 activities:

III.D.3.4 Control Room Habitability Requirements
II.F.1.3 Containment High Range Monitors
II.F.1.4 Containment Pressure Monitors
II.F.1.5 Containment Water Level Monitors
II.F.1.6 Containment Hydrogen Monitors:

Date of issuance: August 11, 1986.
Effective date: August 11, 1986.
Amendment No.: 96.
Facility Operating License No. DPR–28. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register**: February 27, 1985 (49 FR 8010) Subsequent to the initial notice in the **Federal Register**, the licensee provided clarifying information by letter dated November 26, 1985. This clarifying information does not affect the discussion or conclusions on the initial notice of our proposed determination in any way.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 26, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Arizona Public Service Company, et al., Docket Nos. STN 50–528 and STN 50–529, Palo Verde Nuclear Generating Station, Units 1 and 2, Maricopa County, Arizona

Date of Application for Amendment: August 3, 1986.

Brief Description of Amendment: The amendments revise the technical specifications to allow the use of the 1980 version of ANSI Standard N509 in lieu of the 1976 version to meet the guidelines of Regulatory Guide 1.52, Revision 2.

Date of Issuance: August 11, 1986.

Effective Date: August 5, 1986.

Amendment Nos.: 7 and 1.

Facility Operating License Nos. NPF–41 and NPF–51. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated August 11, 1986.

Attorney for Licensees: Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 11, 1986.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to (1) eliminate the fuel rod weight limitation, and (2) permit use of stainless steel or zircaloy rods ("dummy" rods) in place of fuel rods for certain fuel assemblies. Both changes are located in Section 5.3.

Date of issuance: August 11, 1986.

Effective date: August 11, 1986.

Amendment No.: 104.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. A short notice requesting public comments by August 6, 1986 was published in the **Federal Register** on July 25, 1986 (51 FR 26783).

Comments Received: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 11, 1986.

Attorney for Licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington DC 20036.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Bethesda, Maryland, this 21st day of August 1986.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Acting Director, Division of BWR Licensing.

[FR Doc. 86–19264 Filed 8–26–86; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287]

Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; Duke Power Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina.

In accordance with the licensee's application dated August 13, 1986, the proposed amendments would revise the Station's common Technical Specifications (TSs) to maintain consistency between Appendix J and the TSs. The licensee is also requesting an exemption from 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors", paragraph III.A.3. In 1973, Appendix J was issued to establish requirements for primary containment leakage testing and incorporated, by reference, ANSI N45.4–1972, "Leakage Rate Testing of Containment Structures for Nuclear

Reactors." This Standard requires that containment leakage calculations be performed by using either the point-to-point method or the total time method. The total time method was used most by the nuclear industry until about 1976. As noted in N45.4, the point-to-point method is suited to uninsulated containments where atmospheric stability is affected by outside diurnal changes, while the total time method is appropriate for insulated containments that are relatively unaffected by diurnal changes. In 1976, an article (reference: "Containment Leak Rate Testing: Why the Mass-Plot Analysis Method is Preferred," Power Engineering, February 1976) was written which compared the results of test analyses that were performed using point-to-point, total time, and mass-plot techniques. Subsequently, the mass-plot method received the Commission's endorsement and became the Commission-recommended method to use. A revision to the Standard (reference: ANSI/ANS 56.8–1981, "Containment System Leakage Testing") specifies the use of mass-plot, to the exclusion of the two older methods. Licensees who wish to use mass-plot must submit an application for exemption from the Appendix J requirement that containment integrated leak rate tests will conform to N45.4.

The proposed TS amendments will allow the use of the mass-plot method as means of calculating the leakage rate. The mass-plot is a newer and more accurate means of calculating containment leakage. In the mass-plot method, the mass of air in containment is calculated and plotted as a function of time. The slope of the Linear Least Squares fit to the data is the leakage.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

These requested amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendments allow the use of the mass-plot technique to calculate the leakage rate, which is a newer, more accurate method. The technique used to calculate containment leakage rate during testing is not considered to be an initiator of any accidents previously evaluated.

The licensee states that the mass-plot technique is judged to be a superior method in calculating containment leakage rates, resulting in a more reliable method of verifying that leakage from the containment is maintained within allowable limits. By using a more reliable calculating technique, the assessment of containment integrity is enhanced. We agree with the licensee's analysis.

The proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed amendments only involve the use of a different technique to calculate the leakage rate during a containment integrated leak rate test (CILRT) and no new or different kind of accident from any accident previously evaluated is created. The technique used to calculate leak rates in itself is not considered to be an initiator of any accidents, transients, incidents, or events.

The proposed amendments will not involve a significant reduction in a margin of safety. The proposed amendments allow the use of the mass-plot technique to calculate the leakage rate from the containment when performing a CILRT. The mass-plot technique is a newer, more accurate method of calculating the leakage rate. With the adoption of this technique, a more reliable determination of containment leakage during a CILRT is possible. As such, one's degree of understanding and confidence level of containment integrity would be enhanced. Therefore this proposed revision does not impact a margin of safety.

The licensee contends that the proposed amendments do not constitute a significant hazard consideration in that the revision adopts an enhanced method of calculating containment leakage during a CILRT. Thus, the revision does not impact the probabilities or consequences of a previously analyzed accident not does it create a new or different accident, and this change does not significantly reduce a margin of safety. Therefore, the licensee concludes that a determination of no significant hazards considerations is warranted. We agree with the licensee's determination.

Based on the above, the Commission's staff proposes to determine that these proposed amendments do not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

By September 26, 1986, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under Act to be made a party to the proceeding; (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also

identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, Any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to this take action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 13, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Oconee County Libraty, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Dated at Bethesda, Maryland, this 21st day of August 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86–19380 Filed 8–26–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–369 and 50–370]

Environmental Assessment and Finding of No Significant Impact; Duke Power Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenberg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would expand subparagraph 2.K.e of Facility Operating License NPF–9 for Unit 1 and corresponding subparagraph 2.J.e of Facility Operating License NPF–17 for Unit 2 to authorize use of Transnuclear, Inc. multielement spent fuel shipping cask, Model Numbers TN–8 and TN–8L, for receipt of irradiated Oconee fuel. These subparagraphs of the licenses presently limit such receipt of Oconee spent fuel at McGuire to use of the NFS–4 (NAC–1) and NLI–1/2 casks, which are single-element casks. The new authorization, therefore, would be in addition to existing authorized casks and would otherwise be subject to all previous requirements of license paragraphs 2.K. (Unit 1) and 2.J. (Unit 2). This change was requested in the licensee's application for amendments dated March 20, 1986. Additional information in support of the requested change was provided by the licensee's letters dated May 23, June 4, July 10, and August 5, 1986.

The Need for the Proposed Action

By letter dated March 20, 1986, the licensee notes that in order to maintain acceptable reserve spent fuel storage capacity (needed for potential full core off-loading, reload match and upender access) in the shared Oconee Units 1 and 2 spend fuel pool, it is necessary to use a multielement spent fuel shipping cask. The licensee notes that in addition to maintaining the necessary shipment rate, multielement casks have the advantage of fewer shipments (and hence lower probability of adverse offsite impact), lower station manpower requirements and reduced total radiation exposure to personnel.

Environmental Impacts of the Proposed Action

A. Background

Pursuant to the Decision dated August 10, 1981, of the Atomic Safety and Licensing Appeal Board [ALAB–651, 14 NRC 370] and the licensee's letters of

application dated March 9, 1978, and September 15, 1981, the Commission issued on October 27, 1981, Amendment No. 8 to Facility Operating License NPF-9. (The licensee's application was originally filed as a request for amendment to Special Nuclear Materials License SNM-1773. Subsequent to that request, NPF-9, which incorporated the authorities and requirements of SNM-1773, was issued.) Amendment No. 8 to NPF-9 consisted of license conditions and Technical Specification changes to authorize the licensee to receive, possess and store at McGuire Unit 1 300 irradiated fuel assemblies generated at the Oconee Nuclear Station. One of the license conditions, paragraph 2.K.e, stated that "Receipt of irradiated Oconee fuel shall be limited by the use of NFS-4 (NAC-1) of NLI-1/2 spent fuel casks." In connection with issuance of that amendment which based upon use of these single-element casks, the Commission issued an Enviornmental Impact Appraisal (EIA) in December 1978 which provided an analysis of radiological and non-radiological impacts of the various activities associated with the proposal. Those activities included the operation of the McGuire spent fuel storage facility, the motor carrier transportation of 300 spent fuel assemblies (including the possible sabotage of spent fuel in transit and the possible consequences of a severe transportation accident), and accidents during the handling of the transported fuel assemblies at destination. The EIA concluded that there would be no environmental impact significantly affecting the human environment attributable to the proposed action and that an environmental impact statement, therefore, was not warranted. Accordingly, a Negative Declaration was published in the **Federal Register** on December 29, 1978 (43 FR 61057).

By Amendment No. 25 to Facility Operating License NPF-17, dated July 26, 1985, the Commission granted to the licensee, license authority to receive, possess, and store at McGuire Unit 2 irradiated Oconee fuel assemblies under the same conditions as had earlier been specified for Unit 1, including use of the specified single-element casks. Amendment No. 25 followed the issuance of "Environmental Assessment and Finding of No Significant Impact," 50 FR 25804, on June 21, 1985.

B. Transportation

TN-8 and TN-8L are multielement truck casks which are physically capable of accommodating up to three PWR fuel assemblies. The two models have the same dimensions, but TN-8L is about one ton lighter than TN-8's forty tons because it has fewer external-cooling fins and, hence, a lower maximum authorized heat load. These casks have received a Certificate of Compliance for Radioactive Materials Packages, which was recently renewed by the Commission (Certificate No. 9015, Revision 12, expiration date January 31, 1991.) Such certificates are issed by the Commission to certify that the packaging (i.e., cask) and contents meet applicable safety standards of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material." By letter dated June 17, 1986, the Commission acknowledged Duke Power Company as a registered user of TN-8 and TN-8L shipping casks pursuant to § 71.12 of 10 CFR 71.

In meeting the requirements for obtaining a Certificate of Compliance, it was demonstrated that adequate containment exists under both normal and accident conditions. To satisfy normal condition requirements, the cask was required to withstand continuous exposure, i.e., equilibrium conditions, to direct sunlight at an ambient temperature of at least 130 °F in still air and continuous exposure to an ambient temperature of at least −40 °F in the shade in still air. It was also required to withstand rough handling which is typified by a one-foot free-fall on an unyielding surface in an attitude that produces maximum damage or other conditions representative of rough handling, and vibrations normally incident to the mode of transport. Under these normal conditions (which are really fairly severe abnormal conditions) no release of radioactive material or coolant was allowed and shielding effectiveness was not allowed to be reduced. In addition, contamination of liquid or gaseous primary coolants could not exceed certain specified low levels.

The attendant accident condition requirements for cask qualification were much more severe. The cask was required to withstand very severe impact, puncture, fire and immersion in water test criteria. (Impact is defined as a 30 foot free-fall onto an unyielding surface, in an attitude that produces maximum damage. Puncture is represented by a 40 inch free-fall onto a 6 inch diameter pin, mounted on an unyielding surface, at an attitude to produce maximum damage. Fire resistance requirements were that the cask withstand an exposure to an all-enveloping thermal radiating environment of at least 1475 °F for 30 minutes and no external cooling for 3 hours thereafter. The cask was also required to withstand immersion in water. The 10 CFR Part 71 regulations required sequential application of the above conditions.) The cast was able to withstand immersion in water after it had been subjected successively to these impact, puncture and fire conditions.

No changes in the offsite or onsite transportation routes are involved with the proposed amendments. The same transportation routes previously approved by the Commission (see McGure Unit 1, Amendment 8, and McGuire Unit 2, Amendment 25), in connection with use of the single-element casks would continue to be used when transporting irradiated fuel from the Oconee pools to the McGuire pools using the multielement casks. Upon arrival at the McGuire site, the multielement casks would be transported to the same unloading points designated for the single-element casks. A given multielement cask would be transported either to the unloading point for Unit 1 or to the unloading point for Unit 2, but not to both. The licensee states that the contents of a given multielement cask will not be divided between the two McGuire spent fuel pools.

By letter dated August 5, 1986, the licensee has addressed the proposed amendments in accordance with paragraphs (a) and (c) of 10 CFR 51.52, "Environmental effects of transportation of fuel and waste—Table S-4." Paragraph (c) consists of a Table S-4 which represents the contribution to environmental costs of transportation of fuel (and waste) to and from a "typical" reactor. The types of reactors, fuel and modes of transporation for which Table S-4 applies are set forth in various subparagraphs of paragraph (a). A summary of the licensee's evaluation follows:

Oconee and McGuire are both light-water-cooled-nuclear power reactors with thermal power ratings of 2568 and 3411 megawatts, respectively, which is in accordance with the maximum power level of 3800 megawatts specified by subparagraph (a)(1). The fuel that would be transported from Oconee would be sintered uranium dioxide pellets with a maximum uranium-235 initial enrichment of 3.2 percent, encapsulated in zircaloy rods and, therefore, is of the type described by subparagraph (a)(2). The fuel assemblies will have average irradiation levels less that 33,000 MWD/MTU and are expected to be retained within the Oconee spent fuel pool at least 5 years prior to shipment, which is consistent with the conditions of subparagraph (a)(3). All shipments of Oconee irradiated fuel to McGuire will be by truck, which is consistent with subparagraph (a)(5) which recognizes use of truck, rail or barge.

The expected heat content of the fully loaded cask in transit will be less than 10,200 BTU/hr, which represents less environmental impact due to heat discharge than the impact of the 250,000 BTU/hr/ cask in Table S–4. Shipments with the multielement cask would occur once per week and, therefore, the impact due to traffic density would not exceed the density of less than one truck per day in Table S–4. With respect to weights specified in Table S–4, the licensee will observe truck weight limitations specified by Federal and State regulations and will obtain overweight permits from the State of North Carolina and the State of South Carolina; these permits ensure that repetitive overweight shipments will not have any significant adverse effect on the roadways.

Radiological exposure to transportation workers would be less than the 4 man-rem per reactor year of Table S–4 (i.e., Department of Trasportation (DOT) regulations limit exposure in occupied areas of the truck to a maximum of 2 millirem/hour; at this limit, the 3½ hour trip 52 times a year with 2 people in the vehicle would not exceed an annual dose of 0.73 man-rem; actual exposures would be much less than the DOT limit). There are no planned stops during the 3½ hour trip between Oconee and McGuire Stations, and therefore, no radiological exposure to onlookers is expected. The total population within a one mile wide corridor along the 172 mile route is about 124,000 people (which is small compared to the total populations of 600,000 used in Table S–4) and the dose rates from the proposed casks are lower than those in Table S–4; therefore, annual doses to the general public due to exposure to the casks in transit would be less than the 3 man-rem of Table S–4.

The environmental risk associated with accidents in transit (both radiological and non-radiological) would be small and less than the risks in Table S–4 because the 8,944 miles per year for the proposed action is less than the 155,000 vehicle miles per year upon which Table S–4 is based.

The Commission has reviewed the licensee's evaluation pursuant to 10 CFR 51.52 and finds that the reactor fuel, and proposed transport mode meet the conditions of paragraph (a) to 10 CFR 51.52 and, therefore, are the type upon which Table S–4 is based. Accordingly, Table S–4 appropriately represents the environmental costs of transportation for the proposed amendments. The Commission finds that these environmental impacts are small and do not represent any significant adverse impact on the quality of the human environment.

C. Handling

In support of its request for authorization to use TN–8 and TN–8L multielement spent fuel casks for shipping Oconee irradiated fuel to McGuire, the licensee provided cask drop analyses (which evaluated the consequences of dropping or tipping, or a combination of both, of TN–8 and TN–8L casks in the McGuire spent fuel handling building), discussed the effects of the change upon the guidelines of NUREG–0612 "Control of Heavy Loads at Nuclear Power Plants," and identified plant operating procedures and training associated with the use of the new casks.

Control procedures already in the Technical Specifications, as well as in plant cask handling procedures, restrict the travel path of the cask, and thus provide additional assurance that the cask will not fall and tip into the spent fuel pool. The specifications (and procedures) require the cask to follow a prescribed path (see TS Figure 3.9–1) which restricts the cask approach to the cask pit to either side (i.e, the cask is precluded from approaching the cask pit in the direction of the spent fuel pool). The prescribed path will further cause the cask's center of gravity to be located over the spent fuel cask pit such that any tipping of a dropped cask would be within the confines of the cask pit. The prescribed path also precludes the cask from passing over or near safety related equipment and restricts the cask to areas designed to accommodate a dropped cask with only negligible damage to the structural concerete.

The staff has reviewed the licensee's analyses of the fuel cask drop accident and concludes that with the administrative control procedures, there is little likelihood that the cask will enter the spent fuel pool should it break free as postulated during cask handling. The staff also concludes that such an accident would not cause significant structural damage or damage to any safety related equipment.

In March 1985 the staff completed a review of the McGuire Units 1 and 2 overhead handling systems and programs used to handle heavy loads in the vicinity of the reactor vessel, near the spent fuel in the spent fuel pool, or in other areas where a load drop may damage safe shutdown systems or spent fuel. The staff review was based upon the guidelines of NUREG-0612. Plants conforming to these guidelines (1) have developed and implemented, through procedures and operator training, safe load travel paths such that, to the maximum extent practical, heavy loads are not carried over or near irradiated fuel or safe shutdown equipment, and (2) have provided sufficient operator training, handling system design, load-handling instructions and equipment inspection to ensure reliable operation of the handling systems. The staff concluded that these systems and programs for McGuire met the guidelines of NUREG-0612. The information provided by the licensee for that NUREG-0612 review was reevaluated along with the above cask drop accident analyses, including the plant operating procedures associated with the use of the TN–8 and TN–8L spent fuel casks, the physical characteristics of the TN–8 and TN–8L spent fuel casks, use of associated handling equipment, and plant staff training. The staff finds that in addition to the acceptability of the cask drop analyses and the procedures discussed above, the licensee is providing sufficient operator training, the handling system design has sufficient capacity to handle the casks, and the load-handling instructions and equipment inspection will ensure reliable operation of the handling systems. The staff concludes that the cask handling system and associated procedures at McGuire meet the guidelines of NUREG–0612 for the TN–8 and TN–8L spent fuel casks, and, therefore, that the probability of a cask drop event during handling of the multielement casks remains very unlikely and is not increased by the proposed license change.

The cask qualification requirements, which were met in obtaining a Certificate of Compliance (discussed above) imposed more severe conditions on the structural integrity of the cask and containment of its contents than would be experienced during handling at the McGuire site. These results provide assurance that the fuel and cask would remain intact in the event of a dropped cask during handling at the McGuire site. In addition, as discussed above, a dropped cask would not enter the spent fuel pool nor cause significant damage to any safety-related equipment. Therefore, the radiological consequences would be no more severe than those associated with the use of the single-element casks which was evaluated by the Commission as reported in the accident analyses of Chapter 7 of "Final Environmental Statement Related to Operation of William B. McGuire Nuclear Station, Units 1 and 2" (FES), dated April 1970.

Accordingly, we conclude that the handling aspects of the proposed amendments continue to represent only very small risks to the environment, do not result in any adverse change in our previous FES conclusions, and will not result in a significant adverse impact on the quality of the human environment.

D. Occupational Radiological Exposure

The license notes that one advantage of the multielement cask is that it results in less handling, only one third as many shipments, and therefore, less occupational exposure for the same number of fuel assemblies. The licensee

has determined that the average radiation dose to workers at Oconee and McGuire Stations using the single-element casks is 215 person millirem for each individual shipment (i.e., 645 person millirem for three individual shipments). If, instead, the three spent fuel assemblies had been shipped using the TN–8 or TN–8L multielement cask, the licensee estimates that the dose to all workers would have have been no more than 615 person millirem. Therefore, use of the multielement cask is estimated to result in a reduction in occupational exposure of at least 10 person millirem for each spent fuel assembly shipped.

E. Cumulative Effects

The proposed amendments would not increase the maximum number (i.e., 300) of Oconee spent fuel assemblies authorized for receipt for storage at McGuire Nuclear Station. The licensee states that it intends to deliver all spent fuel, including that shipped to McGuire Nuclear Station, to the Department of Energy for disposal pursuant to contract, and that it has no plans for other transfer of Oconee spent fuel at McGuire. Accordingly, we conclude that the proposed amendments do not involve any cumulative adverse impacts.

F. Additional Non-Radiological Effects

In addition to the radiological and non-radiological effects associated with transportation as discussed above, the licensee notes that certain minor modifications to the McGuire Nuclear Station are necessary to accommodate the additional handling tools and larger envelope of the multielement cask. These modifications include: (1) enlarging a grating opening in the decontamination pit, (2) adding grating at the bottom of the decontamination pit, (3) adding permanent lighting in the decontamination pit, (4) purchasing a new crane hook adapter, (5) fabricating and mounting a new spent fuel handling tool/crane hook adapter storage bracket in the transfer canal area, and (6) fabricating and mounting a storage stand for the cask primary lift beam on one wall of the decontamination pit. The Commission agrees that these are relatively simple modifications which do not (1) adversely affect any major structural components or use of the facility, or (2) create any adverse impact upon the environment.

G. Conclusion

The environmental impacts resulting from use of the multi-element cask are accounted for by the values contained in Table S–4 of 10 CFR 51.52, and, in accordance therewith, are small. Additionally, no new transportation routes are involved with the proposed amendments and the multielement casks have been certified to applicable requirements of 10 CFR 71. As a result of these considerations, transportation using the multielement cask as would be authorized by the proposed amendments will not result in adverse environmental impacts significantly affecting the human environment. Handling control procedures and analyses demonstrate that there is little likelihood that the cask could enter the spent fuel pool if dropped from the handling crane, or that it would cause significant structural damage or damage to any safety related equipment. The cask and its fuel contents would remain intact if dropped during handling and the radiological consequences, therefore, would be no more severe than those previously evaluated by the Commission and found acceptable in the FES. Use of the multielement cask is estimated to result in a reduction in occupational exposure to workers because it involves less handling and fewer shipments than the singleelement casks. The proposed amendments involve no adverse cumulative impacts. Minor modifications at the McGuire Nuclear Station to accommodate the larger cask will not create any adverse impact to the environment. The proposed amendments do not otherwise involve significant non-radiological effects.

Therefore, we conclude that the proposed amendments will not result in significant adverse environmental impacts.

Alternative to the Proposed Actions

Since we have concluded that the adverse environmental effects of the proposed action are not significant, any alternatives to the actions proposed would not result in substantial improvement in the quality of the environment and, therefore, need not be evaluated. The principal alternative would be to deny the requested amendments. That alternative, in effect, is the same as the "no action" alternative. Neither alternative would reduce environmental impacts of plants operation but would result in increased occupational exposure and reduced operational flexibility associated with reserve storage capacity in the Oconee spent fuel pool.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated April 1976 or its addendum dated January 1981 related to this facility.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request of March 20, 1986 supplemented May 23, June 4, July 10, and August 5, 1986, and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed licensed amendments.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendments dated March 20, 1986, and its supplements dated May 23, June 4, July 10 and August 5, 1986. These submissions, as well as the staff's prior environmental analysis pertaining to transshipment of Oconee spent fuel to McGuire, are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 22nd day of August 1986.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Acting Director, PWR Project Directorate No. 4, Division of PWR Licensing-A, NRR.

[FR Doc. 86–19381 Filed 8–26–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–410]

Environmental Assessment and Finding of No Significant Impact; Niagara Mohawk Power Corp., Nine Mile Point Nuclear Station, Unit 2

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50 to Niagara Mohawk Power Corporation (the applicant) for the Nine Mile Point Nuclear Station, Unit 2 (NMP–2), located at the applicant's site in Scriba, New York.

Environmental Assessment

Identification of Proposed Action

The exemption would allow the exclusion of the Traversing Incore Probe (TIP) shear valves from Type C testing

required by paragraph III.D.3 of 10 CFR 50, Appendix J.

The applicant's request for this exemption and the basis therefor, are contained in their letter dated April 29, 1986.

The Need for the Action

10 CFR Part 50, Appendix J, Paragraph III.D.3 requires valves which are classified as Type C valves to be leak tested by local pressurization during each reactor shutdown for refueling but in no case at intervals greater than two years.

Actuation of a TIP shear valve to perform Type C testing would result in the destruction of the shear valve. The TIP shear valve would then need to be replaced by another untested valve.

Environmental Impact of the Action

In lieu of Type C testing, the following actions will be implemented as an alternative in order to ensure that the shear valves will perform their intended function. First, the continuity of the explosive charge will be verified at least once each 31 days. Second, the explosive squib from at least one explosive valve will be removed at least once each 18 months (such that each explosive squib in each explosive valve is removed at least once per 36 months) and tested by initiating the explosive squib. Third, the replacement charge for the exploded squib will be from the same manufactured batch as the one fired or from another batch which has been certified as having at least one of that batch successfully fired. Finally, all charges will be replaced according to the manufacturer's recommendation. These four commitments are included in the proposed Nine Mile Point Unit 2 Technical Specification section 4.6.3.5.

As discussed above, Type C testing of the TIP shear valves would result in destruction of the valves requiring them to be replaced by untested valves. The alternate test program would provide greater assurance of meeting the leakage requirements for these valves than operating with an unqualified valve. Therefore, there is no significant increase in the probability of higher post-accident offsite or onsite doses related to the proposed exemption and no significant increase in environmental impact beyond that experienced with no exemption. The proposed relief does not otherwise affect radiological plant effluents, nor result in any significant occupational exposure.

Likewise, the relief does not affect non-radiological plant effluents and has not other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the exemption.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact of plant operations and would provide no greater assurance that offsite or onsite doses, in the event of an accident that resulted in fission produce release, would be any less.

Alternative Use of Resources

This action in the granting of the above exemption does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Nine Mile Point Nuclear Station, Unit No. 2" dated May 1985.

Agencies and Persons Consulted

The NRC staff reviewed the applicant's request that support the requested exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

On the basis of the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the requested exemption.

For further details with respect to the action, see the applicant's request for the exemption dated April 29, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the local public document room, Penfield Library, State University College, Oswego, New York 13126.

Dated at Bethesda, Maryland, this 19th day of August, 1986.

For the Nuclear Regulation Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86-19382 Filed 8-26-86; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its revew of applications for permits and licenses.

Revision 5 to Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability—ASME Section XI, Division 1," lists those code cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants. This guide is revised periodically to update the listing of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of final guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendant of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 20th day of August 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-19383 Filed 8-26-86; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15267; File No. 812-6332]

Application and Opportunity for Hearing; Acacia National Life Insurance Company, et al.

August 20, 1986.

Notice is hereby given that Acacia National Life Insurance Company ("Acacia National"), Acacia National Variable Life Insurance Account B ("Variable Account"), and Calvert Securities Corporation, referred to collectively herein as "Applicants," filed an application on April 1, 1986 and an amended and restated application on June 23, 1986, and on August 8, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting certain transactions from the provisions of sections 22(d), 22(e), 26(a), 27(c) and 27(d) of the Act, and Rules 6e–2 and 22c–1 promulgated thereunder, all to the extent indicated below. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant provisions.

Applicants propose to offer certain single premium variable life insurance contracts funded by Acacia National's Variable Account. Death benefits under the contract will equal the contract's face amount or variable insurance amount, whichever is larger. The variable insurance amount will equal the contract's cash value multiplied by a factor, required to comply with section 7702 of the Internal Revenue Code. The contractowner will have various rights under the contract, including rights to a policy loan and to a complete surrender of the contract. Applicants state that a contract will lapse only if there is indebtedness, if such indebtedness exceeds cash value, and if a 62-day grace period expires without a sufficient payment. Applicants state that a contract's cash value consists of two components: the amount held for investment in the variable account and payable to the contractowner on surrender ("net cash value") and any outstanding policy loan. Applicants state that consequently, lapsation can occur only if the monthly deduction exceeds the net cash value, which can be the result of a number of factors, primarily investment performance.

Applicants state that upon lapse any net cash value will be applied towards due and unpaid monthly deductions under the contract. On each monthly processing date a cost of insurance charge (including additional charges for substandard risks) is assessed against the contract's cash value. A sales charge (two percent), charge for premium tax, and administrative charge are deducted from the single premium, and other charges and expenses are reflected in the earnings of the underlying investment company.

Applicants state that the Variable Account's assets will be derived solely from the sale of the single premium variable life insurance contracts and from other variable life insurance contracts issued pursuant to Rule 6e–2 or Rule 6e–3(T), and advances made by Acacia National. Applicants state that the Variable Account will invest solely in shares of specified series of Acacia Capital Corporation ("Fund"), registered under the Act as a management investment company. The Variable Account does not have an investment adviser inasmuch as it is a unit investment trust, but the Fund will have an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act"). In addition, United States Trust Company of Boston ("Trust Company"), a commercial bank chartered by the Commonwealth of Massachusetts, will serve as sub-adviser to certain series of the Fund.

1. Contracts Issued Through Variable Account

Applicants request relief from paragraphs (a)(2) and (ab)(15) of Rule 6e–2 to the extent necessary to permit variable life insurance contracts relying on either Rule 6e–2 or Rule 6e–3(T) (or, when promulgated, Rule 6e–3) to be issued through the Variable Account. Applicants note that paragraph (a)(2) of Rule 6e–2 prescribes that, except for certain advances made by the life insurance company, the assets of the separate account must be derived solely from the sale of variable life contracts as defined in Rule 6e–2. Applicants state that since the Commission has adopted a second rule, Rule 6e–3(T), which defines a second type of variable life contract, it could be argued that a contract falling within the definition in paragraph (c)(1) of Rule 6e–3(T) would not be a "contract as defined in Rule 6e–2." Applicants have registered one class of flexible premium VLI contracts through the Variable Account pursuant to Rule 6e–3(T) and may register other such contracts in the future. Thus, an issue is raised whether, upon the sale of such contracts, the assets of the Variable Account would be derived solely from the specified type of contract so as to permit the single premium VLI contracts or other contracts issued in reliance on Rule 6e–2 to qualify for the relief granted by that rule.

Applicants submit that there is no reason why one separate account should be prohibited from issuing contracts qualifying under both Rule 6e–2 and Rule 6e–3(T). Applicants assert that no apparent conflicts of interest would arise as a result of one contract having scheduled premiums and another allowing flexible premiums. Applicants state that in adopting Rule 6e–3(T), the Commission placed no such restriction on the separate account. In addition, Applicants note, the Commission has proposed an amendment to Rule 6e–2 to permit the use of the same account for both types of contracts. (Release IC–14421, March 15, 1985).

2. Bank as Sub-Adviser

Applicants request relief from paragraph (a)(7) of Rule 6e–2 to the extent necessary to permit the Trust Company to act as a sub-adviser to certain series of the Fund. Because paragraph (a)(7), in effect, requires that an investment adviser to a separate account relying on Rule 6e–2 register under the Advisers Act, Applicants believe that the Fund may be precluded from engaging the Trust Company as sub-adviser (because the Trust Company is exempt from the Advisers Act pursuant to section 202(a)(11) thereof) if paragraph (a)(7) were to apply to the Fund. In support of their request for relief, Applicants assert that the Trust Company is a bank subject to comprehensive state and federal regulation, supervision and examination and that use of the Trust Company as a sub-adviser to the Fund does not present any of the issues or abuses that the Act and the rules and regulations thereunder are designed to prevent.

3. Deduction of Insurance Charges From Cash Value

Applicants request relief from sections 26(a), 27(c)(2), and Rule 6e–2(b)(13)(iii) to permit the deduction of insurance charges (including additional charges for substandard risks) from cash value. In support of their request for relief, Applicants assert that this relief is consistent with proposed amendments to Rule 6e–2, referred to *supra*.

Applicants state that the cost of insurance charge will compensate Acacia National for the insurance risks (including any additional risks with respect to insureds rated as substandard risks) assumed in connection with each contract. Applicants state that the cost of insurance charge is determined by

multiplying the cost of insurance rate or rates by the net amount at risk. Applicants state that the cost of insurance rates are based on the sex, attained age, and risk classification of the insured. Applicants state that the rates charged for standard risk insureds are guaranteed not to exceed those stated in the contract. The guaranteed rates are based on the 1958 Commissioners Standard Ordinary Mortality Table ("1958 CSO Table") and the insured's age at the last birthday. Applicants state that the rate for substandard risk insureds will be higher than the rate for standard risk insureds for the same age and sex. In computing net amount at risk (conceptually, the death benefit less the cash value), and thus the cost of insurance charge for a contract, a 4% interest rate assumption is used.

Applicants state that they are not requesting any relief with respect to paragraphs (b)(13) (other than subparagraphs (iii) and (iv) with respect to contract features unrelated to sales loads) or paragraphs (c)(4) or (c)(7) of Rule 6e–2. The application states that Applicants propose to assess a sale charge of 2% of the gross single premium, including any additional single premium required of substandard risk insureds. Applicants states that because under their underwriting standards and practices the gross premium for a substandard risk insured will in no case exceed 4½ times the premium for a comparable standard risk insured, that charge in all cases will not exceed 9% of the "payment" as defined in Rule 6e–2(c)(7).

4. Open Account Arrangement

Applicants seek exemptive relief to permit the Variable Account to hold shares of the Fund and shares of any other investment vehicle in which the Variable Account may invest under an open account arrangement wihout the use of stock certificates and where Acacia National will not be acting as a trustee or custodian pursuant to a trust indenture. Applicants state that they will comply with section 26 of the Act and paragraphs (A), (B) and (C) of Rule 6e–2(b)(13)(iii), except that the Variable Account will hold shares of the Fund under an open account arrangement without the use of stock certificates and Acacia National will not be acting as trustee or custodian pursuant to a trust indenture.

Applicants submit that the Commission has codified the relief requested in other contexts notably Rule 26a–2 and Rule 6e–3(T) and has included such relief in its proposed amendments to Rule 6e–2. Applicants further submit that since the Variable Account will not have physical possession of stock certificates, there is no need for a custodian and that the relief sought is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Lapsation

Applicants request an exemption from Rule 6e–2(b)(13)(iv) and sections 27(c)(1) and 27(d) of the Act to the extent necessary to permit Acacia National to retain any cash value attributable to a lapsed contract. Applicants assert that this relief is appropriate because the contract design provides that a lapse can occur only when indebtedness exists and there is a relatively small amount of net cash value (*i.e.*, an amount insufficient to meet the monthly deduction), and in this situation it is appropriate to permit Acacia National to retain that amount to offset, in part, the cost of providing the contractowner with coverage during the 62-day grace period preceding lapse.

Applicants state that policy indebtedness, a precondition for lapsation, can be incurred only at the contractowner's request. Applicants state that absent policy indebtedness, lapsation is guaranteed not to occur. Applicants state that these lapsation rules and procedures will be described in the prospectus for the contracts. Applicants state that the relief requested is identical to, and is justified for the same reasons as, the relief accorded flexible premium variable life insurance by paragraph (b)(13)(iv)(B) of Rule 6e–3(T).

6. Amount of Death Benefit

Applicants request relief from sections 22(d), 22(e) and 27(c)(1) and Rules 6e–2(b)(13)(i) and 22c–1 to the extent that the death benefit shall not be determined on a valuation day if the provisions of the contracts are such that the investment experience of the Fund does not increase or decrease the death benefit on that day, *i.e.*, if the face amount of the contract exceeds the specified percentage of cash value. In support of their request for relief, Applicants assert that this relief is consistent with proposed amendments to Rule 6e–2, referred to *supra*.

Applicants state that in the absence of contractowner control over the payment of death benefits, the proposed procedure provides no opportunity for an individual to act to disadvantage or dilute the interests of other contractowners. Nor does the proposed procedure cause any other result "unfair" to contractowners.

Applicants state that the proposed exception to daily determination of death benefits is limited to the circumstances where under the insurance benefit structure of the Contracts, such recomputation would have no effect.

7. Definition of Variable Life Insurance Contract

Applicants request relief from paragraph (c)(1) of Rule 6e–2 to the extent necessary to treat the contracts as variable life insurance contracts within the meaning of the Rule. While the contracts may not be entirely consistent with the technical requirements of paragraph (c)(1), inasmuch as the contract will lapse if indebtedness exceeds cash value and the death benefit is the greater of the face amount or the specified percentage of cash value, Applicants assert that the basis for the exemptions granted in Rule 6e–2 are fully applicable to the contracts.

Notice is further given that any interested person wishing to request a hearing on the application may not later than September 15, 1986, do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19348 Filed 8–26–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15266; (812p–6348)]

Prudential Realty Securities II, Inc.; Notice of Application for Collateralized Mortgage Obligations

August 20, 1986.

Notice is hereby given that Prudential Realty Securities II, Inc. ("Applicant"), Prudential Plaza, Newark, New Jersey

07101, filed an application on April 16, 1986, and an amendment thereto on July 9, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the pertinent statutory provisions.

Applicant states that it is a wholly-owned, limited purpose subsidiary of The Prudential Insurance Company of America ("Prudential") and was organized by Prudential for the purpose of issuing series of bonds collateralized by mortgages and mortgage-related securities ("Bonds"). Applicant also states that it does not intend to engage in any business other than acquiring, owning, holding, pledging and dealing with mortgage loans, investing in short-term eligible investments and activities incident thereto. According to the application, the Bonds will be secured by a collateral pool consisting of one or more of the following types of collateral: Direct mortgages on real property; and (a) "fully modified pass-through" certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"); (b) mortgage participation certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"); (c) guaranteed mortgage pass-through certificates issued by the Federal National Mortgage Association ("FNMA Certificates") (collectively, "Mortgage Certificates"); and related collection accounts and any reserve funds as described in the application. Applicant states that it desires to have the flexibility to collateralize the Bonds with GNMA Certificates, FHLMC Certificates, and FNMA Certificates which may or may not represent the entire undivided interest in any underlying pool of mortgage loans.

According to the application, principal and interest payments on each series of the Bonds would be payable solely from the cash flow generated by the collateral pool securing that series, and not from collateral securing other series of Bonds or from Applicant's general assets. Applicant states that the collateral pledged to secure a series of Bonds will be pledged to an independent trustee (the "Trustee"), will be held by the Trustee, or independent custodian banks acting as agent for the Trustee and will be registered, or an assignment thereof recorded, in the name of the Trustee, its nominee, or such a custodian, each of which will be independent of Applicant.

Applicant anticipates that each series of the Bonds will be issued in several maturities secured by the collateral pool. Interest on the Bonds will be payable monthly, quarterly, semiannually, or annually. The maturities of the various Bonds within the series will be calculated such that, even without any prepayments of principal on the mortgages or Mortgage Certificates making up the collateral pool, the Bonds in each maturity would be completely retired by their respective stated maturity dates at the latest. To the extent that prepayments of principal on the collateral pool are received, they will be used to retire Bonds in the earliest maturities within the series, before any payments or principal on later maturities within the series. Based upon past experience with prepayments of mortgages, Applicant believes that the earliest maturities of Bonds within a series will be retired significantly before their stated maturities. At each Bond payment date, the principal and interest payments received from the collateral pool and interest thereon will be first applied to pay interest then due on all maturities of the Bonds within the series.

Applicant represents that it may be entitled to direct the Trustee to sell a principal amount of the Mortgage Certificates securing the series if the net proceeds from the sale would be at least equal to the then current collateral value of such Mortgage Certificate. Applicant also represents that an amount equal to the collateral value of such Mortgage Certificates would then be available for payment to holders of the Bonds of the series in question.

Applicant states that principal and interest payments received will be held by the Trustee and reinvested in short-term obligations issued or guaranteed by the United States (and repurchase agreements relating thereto) or in other short-term obligations whose rating, by at least one nationally recognized statistical rating organization, is at least as high as the initial rating given the Bonds of that series. The Trustee will hold any such securities that are subject to repurchase agreements.

Applicant consents to the following conditions:

(a) Each series of Bonds will be registered under the Securities Act of 1933 ("Securities Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(b) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. However, the mortgage collateral underlying the Bonds (whether owned by Applicants or pledged pursuant to collaterized obligations) will be limited to: mortgages that are first liens on single (one-to-four) family residences ("Mortgages") and Mortgage Certificates ("Mortgage Collateral").

(c) If new Mortgage Collateral is substituted, the substitute collateral must: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (b), (d) and (f) hereof. In addition, new collateral will not be substituted for more than 20% of the aggregate face amount of the Mortgages initially pledged as Mortgage Collateral or for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Collateral. New Mortgages may be substituted for Mortgages initially pledged as Mortgage Collateral being replaced. In no event will any new Mortgage Collateral be substituted for any substitute Mortgage Collateral. New collateralized obligations may be substituted for collateral obligations initially pledged only if the substitution of Mortgage Collateral underlying those instruments would be permitted under this condition. New collateralized obligations may be substituted for collateral obligations initially pledged only if the substitution of mortgage collateral underlying those instruments would be permitted under this condition.

(d) All Mortgages, Mortgage Certificates, funds, accounts or other collateral securing a series of Bonds ("Bond Collateral") will be held by the Trustee or on behalf of the Trustee by an independent custodian (the "Custodian"). The Custodian may not be an affiliate (as the term "affiliate" is defined in Securities Act Rule 405, 17 CFR 230.405) of Applicant, or of the master servicer or originating lender of any Mortgages that are pledged as Mortgage Collateral. If there is no master servicer, no servicer of those Mortgages may be an affiliate of the Custodian. The Trustee will have a first priority perfected security or lien interest in and to all Bond Collateral.

(e) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with Applicant. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the Act.

(f) The master servicer of any Mortgages that are pledged as Mortgage Collateral may not be an affiliate of the Trustee. If there is no master servicer, no servicer of those Mortgages may be an affiliate of the Trustee. Any master servicer and servicer of such Mortgages will be approved by the "FNMA" or "FHLMC" as an eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of Mortgage shall obligate the servicer to provide substantially the same services with respect to those Mortgages as it is then currently required to provide in connection

with the servicing of mortgage loans insured by Federal Housing Administration, guaranteed by the Veterans Administration or eligible for purchase by FNMA or FHLMC.

(g) No less often than annually, an independent public accountant will audit the books and records of Applicant and in addition will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the Trustee.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 12, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19345 Filed 8-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23544; File No. SR-Amex-86-16]

Self-Regulatory Organizations; Approval of Proposed Rule Change by the American Stock Exchange, Inc.

The American Stock Exchange, Inc. ("Amex" or "Exchange") submitted on June 17, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, requesting permanent approval of the Exchange's AUTO-EX System for automatic execution of selected Major Market Index ("XMI") options series.[1]

AUTO-EX has been operating as a pilot program in XMI options since December 1985.[2] The Amex pilot has been extended twice.[3] The second extension will expire in October 1986.

AUTO-EX permits member firms to route public customers' market and marketable limit orders up to 10 contracts in selected XMI options series through the Exchange's electronic order routing system ("AUTOAMOS") [4] for an automatic execution at the best bid or offer displayed at the time the order is entered into the system. The contra side of the AUTO-EX trade is assigned on a rotational basis to Amex Registered Options Traders ("ROTs) who have signed on the system and to the XMI specialist who participates in the rotation. The AUTO-EX program is designed to insure that customer orders on the limit order book retain priority when a customer limit order represents the best bid or offer in the market. In that event, the incoming AUTO-EX order will be routed to the specialist's post for a manual execution against the limit order book.[5]

When proposed as a pilot AUTO-EX was to operate in only four XMI option series (two calls and two puts) which bracket the index value in the near-term expiration month. In March 1986, the Exchange expanded the pilot program to include a total of sex near-term XMI options series because of the increase in XMI order flow. Also during the course of the pilot, the Amex eased requirements for market makers participating in the program.[6] The Amex reduced the minimum net capital requirement from $100,000 to $50,000; deleted the trading volume requirement; and reduced the current minimum one-week participation requirement in the AUTO-EX pilot to a daily one. ROTs are required to be in the XMI trading crowd during the majority of the business day on any day they sign onto the system. Also any ROT participating in AUTO-EX during expiration week is equired to sign on the system on expiration Friday. Failure to participate on expiration Friday will result in a bar from system participation for the next expiration month.

The Amex is now seeking permanent approval of its AUTO-EX program for XMI options because of highly favorable comments received form participating member firms. In the filing the Amex states that permanent approval is consistent with the requirements of the Act, specifically section 6(b)(5), because it will reduce the operational burdens in executing and reporting XMI AUTOAMOS orders while maintaining the priority of orders on the limit order book.

The Commission believes that permanent approval of the AUTO-EX program in XMI options is appropriate. The AUTO-EX pilot has demonstrated its success in bringing execution and operational efficiencies to the XMI market without sacrificing protection for customer limit orders on the book.[7] In a recent order authorizing permanent approval for a similar automatic execution system on another options exchange, the Commission noted the Amex AUTO-EX pilot program demonstrated that enhanced execution efficiency and limit order protection are not mutually exclusive.[8]

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular the requirements of sections 6 and 11A of the Act.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

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[1] Comment was solicited on this proposal in Securities Exchange Act Release No. 23429 (July 14, 1986), 51 FR 26083 (File No. SR-Amex-86-16). No comments have been received.

[2] The Commission approved the Amex pilot program in Securities Exchange Act Release No. 22810 (November 8, 1985), 50 FR 47480 (File No. SR-Amex-85-29). ("AUTO-EX Pilot Approval Order").

[3] The Commission approved two three-month extensions for the Amex pilot in Securities Exchange Act Release Nos. 23063 (April 1, 1986), 51 FR 11121 (File No. SR-Amex-86-8). and 23388 (July 1, 1986), 51 FR 25132 (File No. SR-Amex-86-17).

[4] AUTOAMOS is a floor-wide electronic routing system which permits Amex member firms to send options orders of a certain size directly to the specialist's post for a manual execution. Execution reports are automatically received therough the system.

[5] For a more complete description of the AUTO-EX pilot, *see* AUTO-EX Pilot Approval Order, note 2, *supra*.

[6] The proposal easing participation requirements was approved in Securities Exchange Act Release No. 23324 (June 16, 1986), 51 FR 17420 (File No. SR-Amex-86-12).

[7] On July 7, 1986, a day which is representative of recent activity in XMI, over 50% of the 85,000 XMI contracts traded were executed through AUTO-EX.

[8] *See* Securities Exchange Act Release No. 23400 (August 1, 1986) 51 FR 28788 (Fild Nos. SR-CBOE-85-32 and SR-CBOE-85-16) in which the Commission authorized permanent approval for the Chicago Board Options Exchange's ("CBOE") Retail Automatic Execution System ("RAES") for selected Standard and Poor's 100 Index options series. In granting permanent approval for RAES, the Commission recognized that current technical limitations prevented the CBOE from providing both the benefits of automatic execution in the high volume OEX series and protection for customer limit orders on the limit order book.

Dated: August 20, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19346 Filed 8-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23543; File No. SR-DTC-86-08]

Self-Regulatory Organizations; Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on August 12, 1986, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. The Commission is publishing notice to solicit comment on the rule change.

The proposal clarifies that DTC's impartial lottery system is used to apportion among Participants debt securities which, after being deposited in DTC, are advance refunded in part or advance refunded to different redemption dates and prices. At times, outstanding debt issues are advance refunded so as to cause a single fully fungible issue to cease being fungible because they are secured by different sources of payment or will be redeemed at different dates and prices. The lottery system, used by DTC to fairly apportion a partial call, will provide a fair and impartial method by which DTC can allocate debt securities which are advance refunded.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after notice is published in the Federal Register. Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, will be available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-86-08 and should be submitted by September 17, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 20, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19345 Filed 8-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23545; File No. SR-CBOE-86-29]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to RAES in SPX (Six-Month Pilot Program)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

A six-month pilot program by the Exchange concerning a retail automatic execution system ("RAES") in the options class on the Standard & Poor's 500 Index ("SPX") was described in SR-CBOE-86-14.[1]

By this proposed rule change, the Exchange redefines eligible orders as market or marketable limit orders of up to ninety-nine contracts on series placed on the system. As currently is the case, the Exchange will have discretion to restrict the size and kind of eligible orders as well as the discretion to place on the system such series of options as it determines is appropriate. Announcements concerning the size and kind of eligible orders will be made as these are adjusted. Announcements concerning eligible series will be made daily by the Exchange in the same way new strike prices are currently announced, that is, by memoranda and taped telephone messages.

Each day the system is available, a post director or his representative will start the system, after quotes in the eligible series have been updated following opening rotation. If no market-makers sign on, the sytem will not be started. If the system is or becomes unavailable for any reason, eligible orders will be handled as they are handled currently in other options classes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In proposed rule change SR-CBOE-86-14, the Exchange described the six month pilot for RAES in SPX. The benefits of RAES have been discussed in great detail in SR-CBOE-85-16 (equity options) and SR-CBOE-85-32 (OEX).[2] Comparable benefits are hoped to be achieved in SPX. SPX is emerging as an actively traded options class with substantial institutional participation. Increased order activity is anticipated. The Exchange is willing to pilot SPX with deferral to book priority to determine how this affects market quality and the willingness or market-makers to participate in the system.

The current proposed rule change corrects an omission in the earlier SPX rule filing—to include marketable limit orders—and modifies the eligible contract ceiling. The potential contract limit is being raised from 10 to 99 contracts. The intention is to allow the experimentation during the pilot of a contract number greater than 10 but less than 100 to see how the system handles this increased contract size, and what effect, if any, order size changes might have on trading and order routing. Given the institutional nature of the SPX orders, and the larger per order contract size, the Exchange expects that the larger order size will be attractive to SPX customers.

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[1] The CBOE proposal for a RAES pilot in SPX was noticed in Securities Exchange Act Release No. 23330 (June 17, 1986), 51 FR 23289.

[2] The Commission authorized permanent approval for RAES in the Standard and Poor's 100 Index option ("OEX") and a six-month pilot in equity options in Securities Exchange Act Release No. 23400 (August 1, 1986), 51 FR 28788.

The Exchange believes that the proposed rule change is consistent with the Exchange Act, and in particular section 6(b)(5) in that RAES is expected to enhance audit trail, market efficiency, and order execution turnaround time and to improve quote reliability.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

None.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted September 17, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19384 Filed 8-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23546; File No. SR-MSTC-86-5]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co. Relating to Amendments to Midwest Securities Trust Company's By-laws.

Pursuant to section 19(b)(1) of the Security Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 11, 1986, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Article III, section 2 and Article V, section 2, 5 and 6 of the Midwest Securities Trust Company's By-Laws are hereby amended as follows:

Additions italicized—[Deletions Bracketed]

Article III—Directors

Number, Tenure and Election

Sec. 2. The board of directors of the Corporation shall be composed of eighteen Directors. *The president shall be a director ex-officio.* The *other seventeen* directors shall be divided into three classes [;] *: the first class shall consist of five directors, and the second and third classes shall each consist of six directors.* The term of office of directors of the first class shall expire at the first annual meeting of shareholders after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class shall expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose terms expire at the time of such meeting shall be elected to hold office until the third succeeding annual meeting.

No change in the remainder of section 2.

Article V—Officers

Election and Term of Office

Sec. 2 The officers of the corporation shall be elected annually by the board of directors at the first meeting of the board of directors held after each annual meeting of shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. The chairman of the board [,] *and* the vice chairman of the board [, and the president] shall be chosen from among the directors. Other officers need not be members of the Board. Vacancies may be filled or new offices filled at any meeting of the board of directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Election or appointment of an officer or agent shall not of itself create contract rights.

The Chairman of the Board

Sec. 5. The chairman of the board shall [be an ex-officio member of the board of directors, with right to vote. He shall] preside at all meetings of shareholders and of directors and shall perform such other duties as may from time to time be assigned to him by the board of directors.

The Vice-Chairman of the Board

Sec. 6. [The vice-chairman of the board shall be an ex officio member of the board of directors, with the right to vote.] In the absence of the chairman of the board or in the event of his inability or refusal to act, the vice-chairman of the board shall perform the duties of the chairman of the board, and when so acting, shall have all the powers of and be subject to all the restrictions upon the chairman of the board. In addition, the vice-chairman of the board shall perform such other duties as from time to time may be assigned to him by the board of directors.

II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments to MSTC's By-Laws clarify: (i) That MSTC's President is an ex-officio member of the Board, (ii) the number of Directors in each class; and (iii) that the chairman and vice chairman of the Board are chosen from among the directors and are not ex-officio members of the Board. These changes are intended to correct discrepancies currently in the By-Laws.

They are of a technical nature and do not affect the existing structure of the Board.

The proposed rule changes are consistent with section 17A of the Securities Exchange Act of 1934 in that MSTC's By-Laws are designed to assure a fair representation of its participants in the selection of directors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 17, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19385 Filed 8-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23547; File No. SR-OCC-86-17]

Self-Regulatory Organization; Proposed Rule Change by the Options Clearing Corp. Relating to the Cross-Margining of Securities Options With Commodities Products Cleared by the Intermarket Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(i) (the "Act"), notice is hereby given that on August 12, 1986, The Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Intermarket Clearing Corporation ("ICC"), in conjunction with OCC, has developed a system that would permit margin credits for "intermarket hedges" involving commodities products cleared by ICC and securities products cleared by OCC. ICC and OCC refer to this system as "cross-margining". The general purpose of this proposed rule change is to make cross-margining available to common Clearing Members of OCC and ICC ("Joint Clearing Members"). Cross-margining would be limited, at the prsent time, to positions carried in proprietary accounts.

The economic similarities between securities products and commodities products have created opportunities for intermarket hedging and arbitrage. An "intermarket hedge" involves a position in a commodities product on one side of the market and a position in a securities product relating to the same underlying asset on the other side of the market. An intermarket hedge position involves substantially less risk than either the securities leg or the commodities leg alone. Yet, because the positions comprising the two legs are currently carried with different clearing orgainzations, each leg is margined separately at the clearing level without regard to the other. As a result, firms carrying intermarket hedges must meet substantially higher clearing margin requirements than are warranted by the net risk posed by their positions.

In a memorandum to the Division of Market Regulation dated February 25, 1986, and in a subsequent meeting with Chairman of the Commission, ICC presented a brief description of cross-margining and identified some of the benefits of cross-margining as well as some of the regulatory issues raised thereby. The principal regulatory barriers to cross-margining arise from inconsistent customer protection systems applicable to securities products on the one hand and commodities products on the other. By letter dated January 31, 1986, ICC filed with the Commodity Futures Trading Commission a "Petition for Rulemaking to Permit Cross-Margining of Intermarket Positions." OCC expects in the near future to request the Commission staff to take a no action position with respect to certain provisions of the Commission's regulations that present obstacles to cross-margining. In the meantime, however, there are no regulatory obstacles to the implementation of a cross-margining system limited to the proprietary transactions of clearing firms and "non-customers" of those firms. The purpose of this rule filing is to implement such a cross-margining system.

In order to perform the functions described in this cross-margining proposal, ICC is preparing its application to become a registered clearing agency under the Securities Exchange Act of 1934. The application will be submitted to the Commission in the near future.

Mechanics of Cross-Margining

OCC proposes to add a new section 20 to Article VI of the By-Laws that would contain provisions relating to cross-margining. Paragraph (a) of section 20 provides that the provisions of section 20 shall supersede any other provisions of the By-Laws and Rules in respect of cross-margined positions to the extent that such other provisions are inconsistent with section 20.

Under the proposed rule change, a Joint Clearing Member could elect "cross-margining" of options positions in its firm account with OCC that have been designated by ICC as eligible for cross-margining. ICC would designate as eligible options those OCC-cleared

options that belong to the same "Class Group" or "Product Group" as one or more ICC-cleared commodities products. A "Class Group" consists of options and futures covering the same underlying asset and a "Product Group" consists of options and futures covering closely related assets whose prices may be expected to move together. At the present time, foreign currency products and certain index products would be eligible for cross-margining. OCC options on a particular foreign currency would be included in the same Class Group as ICC-cleared futures contracts on the same underlying foreign currency. In addition, all OCC options and ICC-cleared futures contracts on the Swiss franc, the French franc and the Deutsch mark would be included in the same Product Group. Futures on the "National Over-the-Counter Index" will form a Class Group with securities options on the same index, and futures and options on futures on the NYSE Composite Index will form a Class Group with securities options on that index. Finally, all NYSE Composite Index products will be included in the same Product Group with other broad based indices.

Positions in OCC options that are carried in a Joint Clearing Member's firm account and that are eligible for cross-margining would be margined under ICC's existing margin system based upon the net risk of all of the cross-margined positions in each Product Group and Class Group as if such positions were carried in a single firm account at ICC. ICC will collect and hold the margin in respect of all cross-margined positions and OCC will collect no margin on the cross-margined positions. Notwithstanding that cross-margined options will be margined in the ICC account, a Joint Clearing Member may effect opening and closing transactions, exercise options and effect premium and exercise settlement with OCC in respect of cross-margined options just as it does in the case of other OCC options.

In order to give margin credit for positions in options carried by a Joint Clearing Member in its firm account at OCC, ICC must be able to liquidate those positions and apply their value against the obligations of the Clearing Member to ICC in the event that the Clearing Member should fail. Accordingly, proposed section 20 of Article VI of the BY-Laws provides that a Joint Clearing Member that elects cross-margining shall be deemed to have assigned cross-margined positions in its OCC firm account to ICC, and ICC will, in effect, credit those positions to the Clearing Member's firm account at ICC. If the Joint Clearing Member should defalut in its obligations to ICC, ICC would have exclusive control over those cross-margined positions and would have the right to liquidate them and apply any proceeds in accordance with ICC's Rules.

The relationship between ICC and OCC would be a form of interface governed by an Intermarket Cross-Margining Agreement (the "Agreement") between OCC and ICC. OCC will remain the exclusive issuer and clearing agency for standardized options subject to the jurisdiction of the Commission. Because ICC, and not OCC, will hold all margin and clearing fund deposits in respect of cross-margined positions in OCC options, OCC must look to ICC for performance of the obligations of a defaulting Joint Clearing Member in respect of its cross-margined option positions. Accordingly, the Agreement provides that ICC will meet all premium and exercise settlement obligations of a failed Clearing Member in respect of such positions. The margin and clearing fund deposits of the Joint Clearing Member held by ICC are designed to be sufficient to cover those obligations. In the event that such deposits are sufficient, any resulting loss would be for the account of ICC. This is appropriate in that ICC will have the authority and responsibility to value cross-margined positions and set margin levels. ICC will not be required to deposit margin with OCC in respect of short option positions, nor will OCC be required to deposit margin with ICC on long option positions. Each clearing organization will therefore be relying upon the backup system of the other. ICC's backup system is substantially identical to that of OCC, and OCC therefore believes that the cross-margining system poses no greater risk to OCC than if OCC held the margin itself. Indeed, because ICC's entire backup system stands behind its obligations to OCC, OCC should be in a better position than if its only security in respect of cross-margined positions were the margin and clearing fund deposits of a single Clearing Member.

The proposed addition to paragraph (c) of Article VIII, section 5 of the By-Laws is intended to make clear that, in the unlikely event that ICC should become insolvent and unable to perform its obligations to OCC in respect of cross-margined positions, the OCC Clearing Funds could be applied against any resulting loss. The provision has been drafted to apply as well to losses resulting from a failure of ICC to perform its obligations pursuant to the Mutual Agency Agreement for Foreign Currency Settlement between ICC and OCC. That agreement was described in SR–OCC–86–14.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The most obvious benefit of cross-margining is that it would materially decrease the cost of maintaining intermarket hedges by reducing the amount of margin required to be deposited on hedged positions. This would eliminate an existing deterrent to intermarket hedging and arbitrage, which can contribute significantly to the depth and liquidity of the markets involved and the efficiency of intermarket pricing.

Cross-margining would also eliminate a deterrent to recognition of the unitary character of intermarket hedges for net capital purposes. In an interpretive letter to Philadelphia Stock Exchange, Inc. (available February 15, 1985), the Commission staff noted one of its concerns in moving toward a unified net capital treatment for intermarket hedge positions was "the different clearance and settlement systems for options and futures." That factor would be eliminated under the proposed cross-margining system since the hedged positions would, in effect, be maintained with a single clearing organization.

Cross-margining would also eliminate potential settlement problems associated with the maintenance of large intermarket hedge positions. If a clearing firm carries the two legs of an intermarket hedge with different clearing organizations, a sharp price movement in the underlying asset may generate obligations to one clearing organization that cannot be met except out of funds receivable from the other. The time required to transfer funds from one to the other could lead to temporary settlement defaults, possibly affecting a

clearing organization's own ability to make timely settlement. Under the proposed system, this problem is eliminated because both legs of the hedge will be margined at the same clearing organization.

In addition, cross-margining would enhance the security of the clearing system. It is better from a security standpoint for a clearing organization to carry both legs of a hedge position than to carry only one, even though that leg may be fully margined. The inherent weakness of margin systems is that they involve depositing cash or other assets of fixed value to cover obligations whose liquidation cost may be highly volatile. While a properly constructed cash margin system should provide a sufficient cushion to protect a clearing organization against reasonably foreseeable fluctuations in the cost of liquidating members' positions, no workable margin system based on cash or other fixed-value assets can be expected to protect fully against extraordinary price movements. In contrast, where an obligation is fully hedged by a position on the other side of the market, any increase in the cost of liquidating the hedged obligation should be offset by a corresponding increase in the value of the hedge. Concentrating both legs of intermarket hedge positions in a single clearing organization would thus reduce the overall risk of the securities/commodities clearing system in the event of a clearing firm's default.

In short, cross-margining offers substantial cost and net capital savings to market participants, the potential for greater liquidity and depth in the markets involved, and greater protection for the clearing organization. The proposed rule change is consistent with section 17A of the Act in that it promotes the prompt and efficient clearance of securities transactions by eliminating unnecessary and duplicative margin transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the filing will have an adverse impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were not requested or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission on, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–OCC–86–17 and should be submitted by September 17, 1986.

Dated: August 21, 1986.

For the Commission by the division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19386 Filed 8–26–86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region I (Vermont) Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., Thursday, September 25, 1986, at the Woodstock Inn, Woodstock, Vermont, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229–0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 20, 1986.

[FR Doc. 86–19390 Filed 8–26–86; 8:45 am]

BILLING CODE 8025-01-M

Region II (New York) Advisory Council; Public Meeting

The U.S. Small Business Administration, Region II Advisory Council, located in the geographical area of Syracuse, will hold a public meeting at 9:30 a.m. Tuesday, September 23, 1986, at the Federal Building, Room 1117, 100 South Clinton Street, Syracuse, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260. (315) 423–5374.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 21, 1986.

[FR Doc. 86–19391 Filed 8–26–86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Townships of Findlay and Moon, Allegheny County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the townships of Findlay and Moon, Allegheny County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: George Catselis, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086 Harrisburg, Pennsylvania 17108–1086, Telephone (717) 782–3410, or Henry M. Nutbrown, District Engineer, Pennsylvania Department of Transportation, Engineering District 11–0, Four Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania, 15220, Telephone (412) 937–4638, or John F. Graham, Jr. Director Department of Engineering and Construction, County of Allegheny, 501 County Office Building, Forbes Avenue and Ross Street, Pittsburgh,

Pennsylvania 15219, Telephone (412) 355–5902.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and Allegheny County, will prepare an Environmental Impact Statement (EIS) on a proposal for the reconstruction of the existing four lane limited access Traffic Route 60 (TR 60) and/or the construction of new multi-lane limited access highway south of existing TR 60 and the proposed Greater Pittsburgh International Airport Midfield Terminal Site. The project limits extend from the Montour Run Interchange with TR 60 south of White Swan Park in the east, to north of Flaugherty Run Road interchange with TR 60 in the west, for a total length of approximately 6.8 miles in Moon and Findlay Townships.

Functional, structural, operational, and physical deficiencies of existing TR 60; and significant land use and traffic changes—present and proposed; including the Greater Pittsburgh International Airport Midfield Terminal, dictate this action.

Four basic alternatives will be considered: (1) No Build, (2) TR 60 Improvements, (3) Southern Expressway, (4) and TR 60 Improvements/Southern Expressway combined.

The "No-Build" alternate will address the "Do nothing" option i.e., the maintenance of existing TR 60 with at grade intersections. The TR 60 Improvements alternate will address reconstruction of 6.1 miles of TR 60 to a level necessary to meet criteria to correct significant (but not all) safety and capacity deficiencies in design year. The Southern Expressway alternate will address proposed construction of a 6.8 mile, four lane, limited access facility. The TR 60 Improvements/Southern Expressway alternative will address operational improvements to existing TR 60 coupled with construction of the Southern Expressway. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment. Two separate actions presently proposed in the project area are the Thorn Run Interchange with TR 60, and the northern access from the Beaver Valley Expressway to the proposed Midfield Terminal. These separately proposed actions, which have utility independent of the proposed action, will be considered in the analysis of all alternatives, including the No. Build.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA, Pennsylvania Department of Transportation, or Allegheny County at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and federally assisted programs and projects apply to this program.

Issued on: August 13, 1986.

George L. Hannon,

Assistant Division Administrator.

[FR Doc. 86–19333 Filed 8–26–86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB No.: New
Form Number: IRS Form 1041–ES
Type of Review: New
Title: Estimated Tax for Decedent's Estates and Trusts
OMB Number: 1545–0720
Form Number: IRS Form 8038
Type of Review: Revision
Title: Information Return for Tax-Exempt Bond Issues
Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1986.

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86–19329 Filed 8–26–86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 28–86]

Treasury Notes, Series AD–1988

Washington, August 21, 1986.

The Secretary announced on August 20, 1986, that the interest rate on the notes designated Series AD–1988, described in Department Circular-Public Debt Series-No. 28–86 dated August 14, 1986, will be 6⅛ percent. Interest on the notes will be payable at the rate of 6⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–19352 Filed 8–26–86; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on September 24 and 25, 1986. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, NW., Washington, DC. The meeting will begin at 9:00 A.M. on Wednesday, September 24 and 9:00 A.M. on Thursday, September 25. The agenda will include the following topics:

Wednesday September 24, 1986

Federal-State Relationships
Tax Reform Implementation
Pensions and Qualified Plans
Taxpayer Identifying Number Penalties
Study of the Utility of Processing Electronic Returns
Accessibility of Problem Resolution Offices
Reimbursement of Bank Charges Due to Erroneous Levies
AT&T Refund Procedure

Thursday, September 25, 1986

International Tax Program
Automated Examination System Update

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call or write George O'Hanlon, Executive Secretary, 1111 Constitution Ave., NW., Room 3014, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: George O'Hanlon, Executive Secretary, (202) 566–4143 (Not toll-free).

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 86–19307 Filed 8–26–86; 8:45 am]

BILLING CODE 4830-01-M

BEST COPY AVAILABLE

Sunshine Act Meetings

Federal Register
Vol. 51, No. 166
Wednesday, August 27, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
National Transportation Safety Board	2
Postal Service Board of Governors	3
Tennessee Valley Authority	4

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:43 p.m. on Thursday, August 21, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United Bank of Minneapolis, Minneapolis, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, August 21, 1986; (2) accept the bid for the transaction submitted by the Bennington State Bank, Bennington, Kansas, an insured State nonmember bank; (3) approve the application of The Bennington State Bank, Bennington, Kansas, for consent to purchase certain assets of and assume the liability to pay deposits made in United Bank of Minneapolis, Minneapolis, Kansas, and for consent to establish the sole office of United Bank of Minneapolis as a branch of the Bennington State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

The meeting was recessed at 1:58 p.m. and at 4:00 p.m. that same day the meeting was reconvened in Room 6020 of the FDIC Building located at 550–17th Street, NW., Washington, DC., at which time the Board of Directors:

(A)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Danbury Bank, Danbury, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, August 21, 1986; (2) accepted the bid for the transaction submitted by Danbury State Bank, Danbury, Texas, a newly-chartered State nonmember bank; (3) approved the applications of Danbury State Bank, Danbury, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Danbury Bank, Danbury, Texas; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) adopted a resolution making funds available: (1) For the payment of insured deposits made in The First National Bank in Rifle, Rifle, Colorado, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, August 21, 1986, and (2) for an advance payment to uninsured depositors and other general creditors of the closed bank equal to 40 percent of their uninsured claims.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 22, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-19509 Filed 8-25-86; 2:48 pm]

BILLING CODE 6714-01-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Wednesday, September 3, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Bar Harbor Airlines Flight 1808, Beech 99, N60OWP, Auburn-Lewiston Airport, Auburn Maine
2. *Aircraft Accident Report:* Henson Airlines, Beech B99, N339HA, in Grottoes, Virginia
3. *Recommendations* to FAA and to the Regional Airline Association Regarding the Henson, Bar Harbor and Simmons Commuter Airline Accidents.
4. *Aircraft Incident Summary Report:* USAir, Flight 4381 McDonnell-Douglas DC-9, N965V] Erie, Pennsylvania.

FOR MORE INFORMATION, CONTACT: H. Ray Smith (202) 382-6525.

H. Ray Smith,

Federal Register Liaison Officer.

August 22, 1986.

[FR Doc. 86-19471 Filed 8-25-86; 10:30 am]

BILLING CODE 7533-01-M

3

POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 2:30 p.m. on Monday, September 8, 1986, at the Hilton Hotel in Washington, DC, and at 9:45 a.m. on Tuesday, September 9, 1986, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. As indicated in the following paragraphs, the September 8 meeting is closed to public observation. The September 9 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

At its meeting on August 5, 1986, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for September 8, 1986, to consider two capital investments: (1) Procurement of multi-position letter sorting machines and (2) Queens, NY, General Mail Facility project (See 51 FR 28912, August 12, 1986.)

By telephone votes, a majority of the members contacted and voting, the Board voted to add to the agenda for the closed session on September 8 consideration of the following: (1) A

filing with the Postal Rate Commission to increase the size standards for third-class carrier route mail and (2) a program for financing the Postal Service. With regard to the first item, the Board determined that pursuant to sections 552b(c) (3) and (10) of Title 5, United States Code, and §§ 7.3 (c) and (j) of Title 39, Code of Federal Regulations, the discussion of this item is exempt from the open meeting requirements of the Government in the Sunshine Act [5 U.S.C. 552(b)] because it is likely to disclose information in connection with proceedings under chapter 36 of Title 39 (having to do with postal rate making, classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code. With regard to the second item, the Board determined that pursuant to section 552b(c)(9)(B) of Title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, discussion of the matter is exempt from the open meeting requirements of the Government in the Sunshine Act because it is likely to disclose information, the premature disclosure of which would likely significantly frustrate implementation of proposed actions of the Board.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel has certified that in his opinion the additional agenda items of the meeting to be closed may properly be closed to public observation pursuant to sections 552b(c)(3), (9)(B) and (10) of Title 5, United States Code, and § 7.3(c), (i) and (j) of Title 39, Code of Federal Regulations.

Agenda

Monday Session

September 8, 1986—2:45 p.m. (Closed)

1. Financing the Postal Service.
2. Consideration of filing with the Postal Rate Commission to increase the size standards for third-class carrier route mail.
3. Capital Investments:
   a. MPLSM procurement.
   b. Queens, NY, GMF.

Tuesday Session

September 9, 1986—9:45 a.m. (Open)

1. Minutes of the Previous Meeting, August 4–5, 1986.
2. Remarks of the Postmaster General.
3. Postal Service Tentative Budget.
4. Postal Rate Commission FY 1987 Budget.
5. Board Administrative Matters:
   a. Contract Renewal for Audit Services.
   b. Contract Renewals for Legal Counsel.
6. Consideration of Postal Rate Commission Recommended Decision on *Complaint of The Enterprise, Inc.*
7. Capital Investments:
   a. 3,925 Intermediate Delivery Vans.
   b. 970 Semi-Trailers.
8. Review of Legislative Matters and Government Relations.
9. Tentative Agenda for October 6–7, 1986

David F. Harris,

Secretary.

[FR Doc. 86–19504 Filed 8–25–86; 2:28 pm]

BILLING CODE 7710-30-M

4

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9:00 a.m. (EDT), August 29, 1986.

PLACE: TVA West Tower Aduitorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on July 30, 1986, and August 22, 1986.

Action Items

Old Business Items

1. Proposed changes in wholesale and retail power rates.
2. Final rate review.
3. Fiscal year 1987 capital budget financed from power proceeds and borrowings (including nuclear capital facilities), comprising expenditures for ongoing and new projects during the fiscal year and the estimated total project cost for those projects final rate review.

New Business Items

B–Purchase Awards

*B1. Amendment to Contract 85KJ3–716522 with Control Data Corporation to provide for purchase of hardware and services.

*B2. Req. 56—Emergency spot coal for Widows Creek Steam Plant.

B3. Negotiation RB–121240—Rebuild of four 500–kV power transformers for use at Franklin, Tennessee, 500–kV substation.

B4. Negotiation RB–121233—Rebuild of four 500-kV power transformers for use at Freeport, Tennessee, 500–kV Substation.

B5. Negotiation GG–838856—Waste handling system at Shawnee Fossil Plant and the Atmospheric Fluidized Bed Combustion Demonstration Plant.

C—Power Items

C1. agreement between the Institute of International Education and TVA whereby TVA will conduct an Electric Utility Engineering Training Program and Intership Training Course for approximately 20 program participants from underdeveloped countries.

D—Personnel Items

*D1. Designation of Lewis E. Wallace as Acting General Counsel.

*D2. Appointment of Lewis E. Wallace as Secretary of the Tennessee Valley Authority.

*D3. Personal services contract with Sargent & Lundy, Engineers, Chicago, Illinois, for performance of general engineering, design, and architectural services, requested by Office of Nuclear Power.

D4. Personal services contract with S. G. Pinney & Associates, Inc., Port St. Lucie, Florida, for engineering and technical support related to nuclear protective coating during modifications to TVA nuclear plants, requested by Office of Nuclear Power.

D5. Personal services contract with American Computer Professionals, Inc., Columbia, South Carolina, for computer systems services, requested by Division of Management Systems.

D6. Personal services contract with SMC Information Systems, Landover, Maryland, for computer systems services, requested by Division of Management Systems.

D7. Personal services contract with Seltman, Cobb & Bryant, Inc., Memphis, Tennessee, for computer systems services, requested by Division of Management Systems.

D8. Personal services contract with Computer Horizons Corporation for computer systems services, requested by Division of Management Systems.

D9. Personal services contract with Manpower Temporary Services, Chattanooga, Tennessee, for temporary clerical services, requested by Division of Property and Services.

E—Real Property Transactions

E1. Abandonment of certain flowage easement rights affecting 0.5 acre of Chatuge Reservoir land in Clay County, North Carolina—Tract No. CHR-92F.

E2. Sale of noncommercial, nonexclusive permanent recreation easements to two applicants, affecting a total of 0.5 acre of Tellico Reservoir shoreline in Monroe County, Tennessee—Tract Nos. XTELR-50RE and —52RE.

E3. Filing of condemnation case.

F—Unclassified

*F1. Agreement among State of Georgia Department of Transportation; Union County, Georgia; and Tennessee Valley Authority providing for construction and maintenance of a detour to allow TVA to construct certain safety modifications to Nottely Dam (TV–67602A).

*F2. Agreement with White County, Tennessee, providing for construction of new access road and bridge to Great Falls Powerhouse (TV-68628A).

F3. Memorandum of Agreement No. TV-69190A with the United States Geological Survey covering arrangements for cooperation on water resources activities.

F4. Supplement No. 1 to Contract No. TV–66604A with City of Starkville, Mississippi, providing for cooperation in an economic development project to demonstrate the creation of new jobs by establishing new industries and expanding local industries.

F5. Contract No. TV–70312A between TVA and Alabama Department of Economic and Community Affairs, Office of Employment and Training, covering arrangements for continuation of a training program for unemployed craftspersons.

F6. Supplement to interagency agreement (TV–59928A) between TVA and Agency for International Development (AID) covering

arrangements for TVA's assistance to AID's bioenergy program.

F7. Research and development agreement among TVA, Department of Energy and Solar Energy Research Institute relating to TVA application of integrated alcohol production systems.

*F8. Resolution relating to appointments to the TVA Retirement System Board of Directors.

*Items approved by individual Board members.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: August 22, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86–19409 Filed 8–25–86; 10:30 am]

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federal register

Wednesday
August 27, 1986

Part II

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for March 1986; Notice

VOL 51 ISS 166 AG 27 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53084; FRL-3062-1]

Premanufacture Notices; Monthly Status Report for March 1986

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for March 1986.

Nonconfidential portions of the PMNs may be seen in Rm. NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53084]:" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during March; (b) PMNs received previously and still under review at the end of March; (c) PMNs for which the notice review period has ended during March; (d) chemical substances for which EPA has received a notice of commencement to manufacture during March; and (e) PMNs for which the review period has been suspended. Therefore, the March 1986 PMN Status Report is being published.

Dated: July 24, 1986.

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, March 1986

I. 256 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-595	Generic name: Linear saturated polyester resin containing hydroxyl groups	51 FR 8888 (8890) (3/14/86)	May 31, 1986.
P 86-596	Generic name: Alkenoate-terminated poly(dimethylsiloxane)	51 FR 8888 (8890) (3/14/86)	Do.
P 86-597	Isooctadecanoic acid, compound with 1-amino-2-propanol (1:1)	51 FR 8888 (8890) (3/14/86)	Do.
P 86-598	Isooctadecanoic acid, compound with 1,1'-iminobis-2-propanol (1:1)	51 FR 8888 (8890) (3/14/86)	Do.
P 86-599	Isooctadecanoic acid, compound with 1,1',1"-nitrilotris-2-propanol (1:1)	51 FR 8888 (8890) (3/14/86)	Do.
P 86-600	Generic name: Isocyanate-capped polyols	51 FR 8889 (8890) (3/14/86)	Do.
P 86-601	Generic name: Dialkyl ether	51 FR 8889 (8890) (3/14/86)	Do.
P 86-602	Generic name: Monoalkylfluorane	51 FR 8888 (8890) (3/14/86)	June 1, 1986.
P 86-603	Generic name: (Polyethylene)glycol ether ester	51 FR 8889 (8890) (3/14/86)	Do.
P 86-604	Generic name: Unsaturated polyester	51 FR 8889 (8890) (3/14/86)	Do.
P 86-605	Generic name: Aryl phenol ethoxylated, phosphated	51 FR 8889 (8890) (3/14/86)	Do.
P 86-606	Generic name: Poly(siloxyurea)	51 FR 8889 (8890) (3/14/86)	Do.
P 86-607	Generic name: Poly(silurethanesiloxyurea)	51 FR 8889 (8891) (3/14/86)	Do.
P 86-608	Generic name: Alkylsilyurethane	51 FR 8889 (8891) (3/14/86)	Do.
P 86-609	Benzenediazonium, 4,4'-bis(3-chloro)-, coupling product with N-(2,4-dimethylphenyl)-3-oxobutanamide and N-(4-chloro-2,5-dimethoxyphenyl)-3-oxobutanamide.	51 FR 8888 (8891) (3/14/86)	Do.
P 86-610	Generic name: Aromatic urethane polymer	51 FR 8889 (8891) (3/14/86)	Do.
P 86-611	Generic name: Fatty acids amines condensate	51 FR 8889 (8891) (3/14/86)	Do.
P 86-612	Generic name: Molecular weight branched saturated polyester	51 FR 8889 (8891) (3/14/86)	Do.
P 86-613	Acetamide, N-(1,2-dihydro-2-oxo-4-pyrimidinyl)-	51 FR 8889 (8891) (3/14/86)	Do.
P 86-614	Siloxanes and siliconse, methyl hydrogen, reaction products with vinyl terminated di-methyl siloxanes and allyl glycidyl ether.	51 FR 8889 (8891) (3/14/86)	Do.
P 86-615	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8891) (3/14/86)	Do.
P 86-616	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8891) (3/14/86)	Do.
P 86-617	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8891) (3/14/86)	Do.
P 86-618	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8891) (3/14/86)	Do.
P 86-619	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8891) (3/14/86)	Do.
P 86-620	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8892) (3/14/86)	Do.
P 86-621	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8892) (3/14/86)	Do.
P 86-622	Generic name: Diarylaroylphosphine oxide	51 FR 8889 (8892) (3/14/86)	Do.
P 86-623	Generic name: Dibutyltin borate	51 FR 8889 (8892) (3/14/86)	June 2, 1986.
P 86-624	4-(N-ethyl, N-hydroxyethyl)aminobenzene diazonium, 5-sulfoisophthalate	51 FR 8889 (8892) (3/14/86)	Do.
P 86-625	Methacrylic acid, 3-(chlorodimethylsilyl) propyl ester	51 FR 8889 (8892) (3/14/86)	Do.
P 86-626	Generic name: Ethanol, 2,2'-[[3-chloro-4-[[4-[functionalize alkenyl]phenyl]azo]phenyl]imino]bis-, bis(hydrogen sulfate) (ester) sodium salt.	51 FR 8889 (8892) (3/14/86)	Do.
P 86-627	Poly(oxy-1,2-ethanediyl), alpha-1-oxo-isononyl-omega hydroxy	51 FR 8889 (8892) (3/14/86)	Do.
P 86-628	Generic name: Unsaturated dimer acids, polyester, expoxidized	51 FR 8889 (8892) (3/14/86)	Do.
P 86-629	Generic name: Aminocarboxylic acid, alkaline salt	51 FR 8889 (8892) (3/14/86)	Do.
P 86-630	Generic name: Dodecenyl succinamide	51 FR 8889 (8892) (3/14/86)	Do.
P 86-631	Generic name: Protein associated dodecenyl succinamide	51 FR 8889 (8892) (3/14/86)	Do.
P 86-632	Generic name: Urethane oligomer	51 FR 8889 (8892) (3/14/86)	June 3, 1986.
P 86-633	Generic name: Tnalkoxypropyl metallic oxide	51 FR 8889 (8893) (3/14/86)	Do.
P 86-634	Generic name: 1,3,2-dioxaphosphonnane, 5,5-disubstituted-2-substituted-, 2-oxide	51 FR 10112 (3/24/86)	June 4, 1986.
P 86-635	Generic name: Silane modified styrenated acrylate methacrylate	51 FR 10112 (3/24/86)	June 7, 1986.
P 86-636	Generic name: Perfluoroelastomer	51 FR 10112 (3/24/86)	June 8, 1986.
P 86-637	Generic name: Epoxy containing acrylic polymer	51 FR 10112 (3/24/86)	Do.
P 86-638	Generic name: Epoxy containing acrylic polymer	51 FR 10112 (3/24/86)	Do.
P 86-639	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-640	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-641	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-642	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-643	Generic name: Polymeric isocyanate prepolymer	51 FR 10112 (10113) (3/24/86)	Do.
P 86-644	Generic name: Magnesium aluminum hydroxy anion	51 FR 10112 (10113) (3/24/86)	Do.
P 86-645	Generic name: Magnesium aluminum hydroxy anion	51 FR 10112 (10113) (3/24/86)	Do.
P 86-646	Generic name: Magnesium aluminum hydroxy anion	51 FR 10112 (10113) (3/24/86)	Do.

I. 256 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-647	Generic name: Unsaturated polyester	51 FR 10112 (10113) (3/24/86)	June 9, 1986.
P 86-648	Generic name: Polyurea urethane acrylate	51 FR 10112 (10113) (3/24/86)	Do.
P 86-649	Generic name: Alkoxylated diol diacrylate	51 FR 10112 (10113) (3/24/86)	Do.
P 86-650	Generic name: Methacrylic ester	51 FR 10112 (10113) (3/24/86)	Do.
P 86-651	Generic name: Diurea compound	51 FR 10112 (10113) (3/24/86)	Do.
P 86-652	Generic name: 1,2-Propanediol, 2,5-furandione, 1,2-ethanediol, 1,3-isobenzofurandione, aliphatic glycol, 1,4-benzenedicarboxylic acid.	51 FR 10112 (10113) (3/24/86)	June 10, 1986.
P 86-653	Generic name: Mixed glycol and oligoesters of aromatic and aliphatic dicarboxylic acids	51 FR 10112 (10113) (3/24/86)	Do.
P 86-654	Generic name: Alkyl oligoglycoside	51 FR 10663 (3/28/86)	June 11, 1986.
P 86-655	Generic name: Aliphatic polyester-etherated acrylic graft polymer	51 FR 10663 (3/28/86)	June 14, 1986.
P 86-656	Generic name: Substituted epoxy resin	51 FR 10663 (3/28/86)	Do.
P 86-657	Generic name: 1,3'-bipyridinium, 5',5'''-[1,2-ethanediylbis(4,1-phenyleneazo)]bis[1,2-dihydro-6'-hydroxy-4'-methyl-2'-oxo, acid salt.	51 FR 10663 (3/28/86)	Do.
P 86-658	Generic name: Nickel complexed diisomethin	51 FR 10663 (3/28/86)	Do.
P 86-659	Generic name: 2-[4-[2-hydroxy-1-(sulfate carbopolycycle carbamoyl prop-1-enylazo] phenyl]-substituted heterocycle sulfonic acid, mixed salts.	51 FR 10663 (10664) (3/28/86)	Do.
P 86-660	Generic name: Isocyanato polyester urethane acrylate	51 FR 10663 (10664) (3/28/86)	Do.
P 86-661	Generic name: Acrylated aromatic urethane terpolymer	51 FR 10663 (10664) (3/28/86)	Do.
P 86-662	Generic name: Isocyanato polyester urethane acrylate	51 FR 10663 (10664) (3/28/86)	Do.
P 86-663	Generic name: Diphenol phosphite	51 FR 10663 (10664) (3/28/86)	Do.
P 86-664	Generic name: Substituted acrylic polymer	51 FR 10663 (10664) (3/28/86)	June 15, 1986.
P 86-665	N,N'-dimethyl-N,N'-dithiobis (benzene sulfenamide)	51 FR 10663 (10664) (3/28/86)	Do.
P 86-667	N-Methyl-benzene sulfonamide	51 FR 10663 (10664) (3/28/86)	Do.
P 86-668	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-669	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-670	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-671	Generic name: Maleic modified resin ester amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-672	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-673	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10664) (3/28/86)	Do.
P 86-674	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-675	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-676	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-677	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-678	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-679	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-680	Generic name: Maleic modified rosin ester, amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-681	Generic name: Maleic modified rosin amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-682	Generic name: Maleic modified rosin amino alcohol salt urethane	51 FR 10663 (10665) (3/28/86)	Do.
P 86-683	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-684	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-685	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-686	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-687	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-688	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-689	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-690	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-691	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-692	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10665) (3/28/86)	Do.
P 86-693	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10666) (3/28/86)	Do.
P 86-694	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10666) (3/28/86)	Do.
P 86-695	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10666) (3/28/86)	Do.
P 86-696	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10666) (3/28/86)	Do.
P 86-697	Generic name: A maleic modified rosin ester, amino alcohol salt	51 FR 10663 (10666) (3/28/86)	Do.
P 86-698	3-Napthalenecarboxylic acid, 2-hydroxyphenyl ester	51 FR 10663 (10666) (3/28/86)	Do.
P 86-699	N,N'-Dimethylethanedithioamide	51 FR 10663 (10666) (3/28/86)	Do.
P 86-700	Generic name: Styrene-n-butylacrylate-dimethylaminoethylacrylate copolymer	51 FR 10663 (10666) (3/28/86)	June 16, 1986.
P 86-701	Generic name: Acrylic resin	51 FR 10663 (10666) (3/28/86)	Do.
P 86-702	Generic name: Aminosilane	51 FR 10663 (10666) (3/28/86)	Do.
P 86 703	Generic name: Epoxy acrylic copolymer	51 FR 12549 (4/11/86)	June 18, 1986.
P 86-704	Oleyl dimethyl ethyl ammonium ethyl sulfate N,N'-dimethyl-n-ethyl-n-9-octadecenyl ammonium ethyl sulfate	51 FR 12549 (4/11/86)	Do.
P 86-705	Generic name: Aromatic sulfonate of substituted heteropolycycle	51 FR 12549 (4/11/86)	Do.
P 86-706	Generic name: Alkyd resin (short oil)	51 FR 12549 (12550) (4/11/86)	Do.
P 86-707	Generic name: Alkyd resin solution	51 FR 12549 (12550) (4/11/86)	Do.
P 86-708	Generic name: Alkyd resin solution	51 FR 12549 (12550) (4/11/86)	Do.
P 86-709	Generic name: Partial metal complex of aminomethylene phosphonic acid	51 FR 12549 (12550) (4/11/86)	Do.
P 86-710	Generic name: Partial salt of amino-methylene phosphonic acid	51 FR 12549 (12550) (4/11/86)	Do.
P 86-711	Generic name: Heteropolycycle compound, with organic acid salt	51 FR 12549 (12550) (4/11/86)	Do.
P 86-712	Generic name: Cycloalkenyl alkenoate	51 FR 12549 (12550) (4/11/86)	Do.
P 86-713	Generic name: Alkyl cycloalkenyl alkenedioate	51 FR 12549 (12550) (4/11/86)	Do.
P 86-714	Generic name: Hydroxyalkyl metallic oxide	51 FR 12549 (12550) (4/11/86)	Do.
P 86-715	Generic name: Alkene/substituted alkene/substituted alkoxyalkene copolymer	51 FR 12549 (12550) (4/11/86)	June 21, 1986.
P 86-716	Generic name: Trialkyl amine methyl sulfate quaternary	51 FR 12549 (12550) (4/11/86)	Do.
P 86-717	Generic name: Polyfunctional acrylate of polyisocyanate adduct of alkoxylated polyol	51 FR 12549 (12550) (4/11/86)	June 22, 1986.
P 86-718	Generic name: Vinyl copolymer	51 FR 12549 (12550) (4/11/86)	Do.
P 86-719	Generic name: Polyester	51 FR 12549 (12250) (4/11/86)	Do.
P 86-720	Generic name: Epoxy acrylic polymer	51 FR 12549 (12250) (4/11/86)	Do.
P 86-721	Generic name: Polyester polymer	51 FR 12549 (12551) (4/11/86)	Do.
P 86-722	Generic name: Polyesteramide	51 FR 12549 (12551) (4/11/86)	Do.
P 86-723	Generic name: Triethoxysilyl modified poly(1,2-butadiene)	51 FR 12549 (12551) (4/11/86)	Do.
P 86-724	Generic name: Polymer of styrene, acrylonitrile, and mixed acrylates	51 FR 12549 (12551) (4/11/86)	Do.
P 86-725	Generic name: Alkyd resin	51 FR 12549 (12551) (4/11/86)	Do.
P 86-726	Generic name: Acrylic resin	51 FR 12549 (12551) (4/11/86)	Do.
P 86-727	Generic name: Polymer of styrene, acrylonitrile, ethylene, propylene and difunctional monomer	51 FR 12549 (12551) (4/11/86)	June 23, 1986.
P 86-728	Generic name: Crosslinked acrylate copolymer	51 FR 12549 (12551) (4/11/86)	Do.
P 86-729	Generic name: Weak acid ion exchange resin	51 FR 12549 (12551) (4/11/86)	Do.
P 86-730	Generic name: Crosslinked sodium acrylate copolymer	51 FR 12549 (12551) (4/11/86)	Do.
P 86-731	Generic name: Functionalized ethene copolymer	51 FR 12549 (12551) (4/11/86)	Do.
P 86-732	Generic name: Monosubstituted alkene	51 FR 12549 (12551) (4/11/86)	Do.
P 86-733	Generic name: Polymeric dithiocarbamate, alkali metal salt	51 FR 12549 (12551) (4/11/86)	Do.
P 86-734	Generic name: Amino hydroxy ester	51 FR 12549 (12551) (4/11/86)	Do.

I. 256 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-735	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12551) (4/11/86)	Do.
P 86-736	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12551) (4/11/86)	Do.
P 86-737	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-738	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-739	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-740	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-741	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-742	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-743	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-744	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-745	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-746	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-747	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-748	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-749	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-750	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-751	Generic name: Phenolic modified rosin ester, amino alcohol salt	51 FR 12549 (12552) (4/11/86)	Do.
P 86-752	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12552) (4/11/86)	Do.
P 86-753	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12552) (4/11/86)	Do.
P 86-754	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12552) (4/11/86)	Do.
P 86-755	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12552) (4/11/86)	Do.
P 86-756	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-757	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-758	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-759	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-760	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-761	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-762	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-763	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-764	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-765	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-766	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-767	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-768	Generic name: Phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12553) (4/11/86)	Do.
P 86-769	Generic name: Rosin, amino alcohol salt	51 FR 12549 (12553) (4/11/86)	Do.
P 86-770	Generic name: Ester gum, amino alcohol salt	51 FR 12549 (12553) (4/11/86)	Do.
P 86-771	Generic name: Rosin, maleated, amino alcohol salt	51 FR 12549 (12553) (4/11/86)	Do.
P 86-772	Generic name: Rosin, polymerized, amino alcohol salt	51 FR 12549 (12553) (4/11/86)	Do.
P 86-773	Generic name: Rosin, fumerated, amino alcohol salt	51 FR 12549 (12553) (4/11/86)	Do.
P 86-774	Generic name: Dimerized fatty acid, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-775	Generic name: Zincated phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-776	Generic Name: Zincated phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-777	Generic name: Zincated phenolic modified rosin ester, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-778	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-779	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-780	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-781	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-782	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-783	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-784	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-785	Generic name: Metal resinate, amino alcohol salt urethane	51 FR 12549 (12554) (4/11/86)	Do.
P 86-786	Generic name: Alkyd resin, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-787	Generic name: Maleated linseed oil, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-788	Generic name: Bodied linseed oil, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-789	Generic name: Ester gum, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-790	Generic name: Dicyclopentadiene-tall oil rosin maleic anhydride polymer, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-791	Generic name: Alkyd resin, amino alcohol salt	51 FR 12549 (12554) (4/11/86)	Do.
P 86-792	Generic name: Maleated linseed oil, amino alcohol	51 FR 12549 (12554) (4/11/86)	Do.
P 86-793	Generic name: Bodied linseed oil, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-794	Generic name: Ester gum, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-795	Generic name: Dicyclopentadiene-tall oil rosin maleic anhydride polymer, amino alcohol imide urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-796	Generic name: Rosin, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-797	Generic name: Ester gum, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-798	Generic name: Rosin, maleated amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-799	Generic name: Rosin, polymerized amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-800	Generic name: Rosin, fumerated, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-801	Generic name: Dimerized fatty acid, amino alcohol salt urethane	51 FR 12549 (12555) (4/11/86)	Do.
P 86-802	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-803	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-804	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-805	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-806	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-807	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-808	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-809	Generic name: Metal resinate, amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-810	Generic name: Zincated phenolic modified rosin ester amino alcohol salt	51 FR 12549 (12555) (4/11/86)	Do.
P 86-811	Generic name: Zincated phenolic modified rosin ester aminno alcohol salt	51 FR 12549 (12556) (4/11/86)	Do.
P 86-812	Generic name: Zincated phenolic modified rosin ester amino alcohol salt	51 FR 12549 (12556) (4/11/86)	Do.
P 86-813	Generic name: Anhydride glycol adduct	51 FR 12549 (12556) (4/11/86)	June 24, 1986.
P 86-814	Generic name: Modified monocyclic polyester	51 FR 12557 (4/11/86)	June 25, 1986.
P 86-815	Generic name: Salt of heterocyclic alkenyl, substituted (phenylpyrazole)	51 FR 12557 (4/11/86)	Do.
P 86-816	Generic name: Copolyamide from dicarbonic acid, diamine and lactams	51 FR 12557 (4/11/86)	June 26, 1986.
P 86-817	Generic name: Copolyamide from dicarbonic acid, diamine and lactams	51 FR 12557 (4/11/86)	Do.
P 86-818	Generic name: Alkyd resin	51 FR 12557 (12558) (4/11/86)	Do.
P 86-819	Methyl methacrylate, 2-ethyl hexyl acrylate, acrylic acid, acrylamide	51 FR 12557 (12558) (4/11/86)	Do.
P 86-820	Generic name: Aromatic modified polyterpene resin	51 FR 12557 (12558) (4/11/86)	Do.
Y 86-86	Generic name: Polyurethane	51 FR 8888 (3/14/86)	Mar. 23, 1986.
Y 86-87	Generic name: Unsaturated polyester resin	51 FR 8888 (3/14/86)	Do.
Y 86-88	Generic name: Unsaturated polyester resin	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-89	Castor oil, ethylene glycol, pentaery-thritol, phthalic anhydride, benzoic acid, dehydrated castor oil	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-90	Generic name: Polyester resin	51 FR 8888 (8889) (3/14/86)	Mar. 25, 1986.
Y 86-91	Generic name: Polyester resin	51 FR 8888 (8889) (3/14/86)	Do.

I. 256 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
Y 86-92	Generic name: Tall oil fatty acid modified alkyd resin	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-93	Generic name: Styrene-N-butylacrylate-dimethylaminoethylacrylate copolymer	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-94	Generic name: 2-Propenoic acid, 2-methyl-2-(dimethylamino) ethyl ester polymer with ethenyl benzene	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-95	Generic name: Bisphenol A type polyester resin	51 FR 8888 (8889) (3/14/86)	Do.
Y 86-96	Generic name: Alkyl-substituted acrylate copolymer ammonium salt	51 FR 10114 (3/24/86)	Mar. 27, 1986.
Y 86-97	Generic name: Alkyl-substituted acrylate copolymer	51 FR 10114 (3/24/86)	Do.
Y 86-98	Generic name: Polyester resin	51 FR 10114 (3/24/86)	Do.
Y 86-99	Generic name: Unsaturated polyester	51 FR 10114 (3/24/86)	Mar. 31, 1986.
Y 86-100	Generic name: Unsaturated polyester	51 FR 10114 (3/24/86)	Do.
Y 86-101	Generic name: Butyl acrylate, methyl methacrylate, carboxylated acrylate polymer	51 FR 10114 (3/24/86)	Do.
Y 86-102	Generic name: Alkyd resin	51 FR 10114 (3/24/86)	Apr. 1, 1986.
Y 86-103	Generic name: Acrylic copolymer	51 FR 10114 (3/24/86)	Apr. 2, 1986.
Y 86-104	Generic name: Water dispersible phenolic modified alkyd resin	51 FR 10926 (3/31/86)	Apr. 3, 1986.
Y 86-105	Generic name: Water dispersible alkyd resin	51 FR 10926 (3/31/86)	Do.
Y 86-106	Generic name: Polymer from alkane diols, alkanedioic acid and carbomonocyclic acids	51 FR 10926 (3/31/86)	Apr. 6, 1986.
Y 86-107	Generic name: Styrene-n-butylacrylate-polymer	51 FR 10926 (3/31/86)	Apr. 7, 1986.
Y 86-108	Generic name: Styrene-2-ethylhexyl acrylate copolymer	51 FR 10926 (3/31/86)	Do.
Y 86-109	Generic name: Styrene-2-ethylhexyl acrylate copolymer	51 FR 10926 (3/31/86)	Do.
Y 86-110	Generic name: Alkyd resin	51 FR 10926 (3/31/86)	Do.
Y 86-111	Generic name: Triethoxysilyl modified poly(1,2-butadiene)	51 FR 12556 (4/11/86)	Apr. 13, 1986.
Y 86-112	Generic name: Polyamide-polyether amide copolymer	51 FR 12556 (4/11/86)	Apr. 14, 1986.
Y 86-113	Generic name: Polyamide terpolymer	51 FR 12556 (4/11/86)	Apr. 15, 1986.
Y 86-114	Generic name: Alkyd resin	51 FR 12556 (4/11/86)	Do.
Y 86-115	Generic name: Polyester polyol	51 FR 23460 (6/27/86)	Apr. 20, 1986.
		51 FR 12559 (4/11/86)	Do.

II. 127 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.					
P 86-468	P 86-516	P 86-564	P 86-580	P 86-268	P 86-323
P 86-469	P 86-517	P 86-565	P 86-581	P 86-269	P 86-324
P 86-470	P 86-518	P 86-566	P 86-582	P 86-270	P 86-325
P 86-471	P 86-519	P 86-567	P 86-583	P 86-271	P 86-326
P 86-472	P 86-520	P 86-568	P 86-584	P 86-272	P 86-327
P 86-473	P 86-521	P 86-569	P 86-585	P 86-273	P 86-328
P 86-474	P 86-522	P 86-570	P 86-586	P 86-274	P 86-329
P 86-475	P 86-523	P 86-571	P 86-587	P 86-275	P 86-330
P 86-476	P 86-524	P 86-572	P 86-588	P 86-276	P 86-331
P 86-477	P 86-525	P 86-573	P 86-589	P 86-277	P 86-332
P 86-478	P 86-526	P 86-574	P 86-590	P 86-278	P 86-333
P 86-479	P 86-527	P 86-575	P 86-591	P 86-279	P 86-334
P 86-480	P 86-528	P 86-576	P 86-592	P 86-280	P 86-335
P 86-481	P 86-529	P 86-577	P 86-593	P 86-281	P 86-336
P 86-482	P 86-530	P 86-578	P 86-594	P 86-282	P 86-337
P 86-483	P 86-531	P 86-579		P 86-283	P 86-338
P 86-484	P 86-532			P 86-284	P 86-339
P 86-485	P 86-533			P 86-285	P 86-340
P 86-486	P 86-534			P 86-286	P 86-341
P 86-487	P 86-535			P 86-287	P 86-342
P 86-488	P 86-536			P 86-288	P 86-343
P 86-489	P 86-537			P 86-289	P 86-344
P 86-490	P 86-538			P 86-290	P 86-345
P 86-491	P 86-539			P 86-291	P 86-346
P 86-492	P 86-540			P 86-292	P 86-347
P 86-493	P 86-541			P 86-293	P 86-348
P 86-494	P 86-542			P 86-294	P 86-349
P 86-495	P 86-543			P 86-295	Y 86-74
P 86-496	P 86-544			P 86-296	Y 86-75
P 86-497	P 86-545			P 86-297	Y 86-76
P 86-498	P 86-546			P 86-298	Y 86-77
P 86-499	P 86-547			P 86-299	Y 86-78
P 86-500	P 86-548			P 86-300	Y 86-79
P 86-501	P 86-549			P 86-301	Y 86-80
P 86-502	P 86-550			P 86-302	Y 86-81
P 86-503	P 86-551			P 86-303	Y 86-82
P 86-504	P 86-552			P 86-304	Y 86-83
P 86-505	P 86-553			P 86-305	Y 86-84
P 86-506	P 86-554			P 86-306	Y 86-85
P 86-507	P 86-555			P 86-307	Y 86-86
P 86-508	P 86-556			P 86-308	Y 86-87
P 86-509	P 86-557			P 86-309	Y 86-88
P 86-510	P 86-558			P 86-310	Y 86-89
P 86-511	P 86-559			P 86-311	Y 86-90
P 86-512	P 86-560			P 86-312	Y 86-91
P 86-513	P 86-561			P 86-313	Y 86-92
P 86-514	P 86-562			P 86-314	Y 86-93
P 86-515	P 86-563			P 86-315	Y 86-94
				P 86-316	Y 86-95
				P 86-317	Y 86-96
				P 86-318	Y 86-97
				P 86-319	Y 86-98
				P 86-320	Y 86-99
				P 86-321	Y 86-100
				P 86-322	Y 86-101

III. 164 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	
P 83-461	P 86-241
P 84-1053	P 86-242
P 85-18	P 86-243
P 85-234	P 86-244
P 85-360	P 86-245
P 85-528	P 86-246
P 85-992	P 86-247
P 85-1067	P 86-248
P 85-1167	P 86-249
P 85-1264	P 86-250
P 85-1285	P 86-251
P 85-1283	P 86-252
P 85-1302	P 86-253
P 85-1318	P 86-254
P 85-1380	P 86-255
P 86-134	P 86-256
P 86-230	P 86-257
P 86-231	P 86-258
P 86-232	P 86-259
P 86-233	P 86-260
P 86-234	P 86-261
P 86-235	P 86-262
P 86-236	P 86-263
P 86-237	P 86-264
P 86-238	P 86-265
P 86-239	P 86-266
P 86-240	P 86-267

IV. 54 Chemical Substances for Which EPA Has Received Notices for Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 83-1054	Generic name: Substituted polyether polyurethane	Mar. 5, 1986.
P 84-249	Generic name: 1H-Indole,2,3-dihydro-1,3,3-trimethyl-2-[2,2,4,6-trisubstituted phenyl)ethenyl]-	Mar. 3, 1986.
P 84-289	Generic name: Alkylated onium salt, substituted sulfur compound, substituted sulfide	Mar. 1, 1986.
P 84-379	Generic name: Aromatic sulfonate of substituted heteropolycycle	Feb. 20, 1986.
P 84-825	Generic name: Polymer of substituted polyalkylene polyamine and substituted alkane, alkyl carboxylate	Do.
P 84-962	Generic name: Metal salt of phosphonic acid ester	Feb. 14, 1986.
P 85-260	Generic name: Substituted phenylazo substituted carbopolycycle	Feb. 25, 1986.
P 85-310	Generic name: Tri-substituted phenol	Feb. 10, 1986.
P 85-552	Generic name: Tetrasilyloxyethane/methacrylate polymer	Aug. 15, 1986.
P 85-558	Generic name: Waterborne urethane-acrylic polymer	Mar. 1, 1986.
P 85-581	Generic name: Chlorine-containing styrene copolymer	Mar. 3, 1986
P 85-641	Generic name: Substituted amino carboxamide	Feb. 14, 1986.
P 85-1017	Generic name: Disubstituted benzenesulfonic salt	Feb. 17, 1986
P 85-1078	N(alpha, alpha-dimethyl, meta-isopropenylbenzyl), poly(oxy 1,2-ethanediyl, alpha-(nonylphenyl) carbamate	Feb. 6, 1986.
P 85-1148	Generic name: Phenolic modified epoxy	Mar. 24, 1986.
P 85-1223	Generic name: Aliphatic amine adduct with epoxy resin	Mar. 31, 1986
P 86-1224	Polymer of N-(alpha, alpha-dimethyl, meta-isopropenylbenzyl), poly(oxy 1,2-ethanediyl), alpha-(nonyl phenyl), carbamate, methacrylic acid, ethyl acrylate	Feb. 13, 1986.
P 85-1285	Generic name: Molybdenum complex of organic nitrogen compound	Mar. 11, 1986.
P 85-1336	Generic name: Oil modified polyester of aromatic and dibasic acids	Jan. 31, 1986.
P 85-1339	Generic name: Bisphenol A, epichlorohydrin, diethanolamine, polysubstituted alkane adduct polymer	Feb. 13, 1986.
P 85-1374	Generic name: Resinous polyepoxide adduct	Mar. 4, 1986.
P 85-1424	Generic name: Copolymer of methacrylic acid ester and substituted methacrylic acid derivatives	Feb. 20, 1986.
P 85-1457	Generic name: Aliphatic ammonium salt of substituted aromatic acid	Mar. 4, 1986.
P 85-1516	Generic name: Polyester containing amide groups	Feb. 10, 1986.
P 85-1523	Generic name: Acrylate modified polyester of a carbomonocyclic acid, tall oil fatty acids and diols	Feb. 27, 1986.
P 86-26	Generic name: Aromatic quaternary ammonium salts of phosphonic acid esters	Feb. 5, 1986.
P 86-119	Generic name: Blocked polyurethane polyether	Mar. 20, 1986.
P 86-123	Generic name: Alkyd resin	Jan 31, 1986.
P 86-166	Generic name: Mixed glycol oligoesters of aromatic dicarboxylic acids	Mar. 2, 1986.
P 86-167	Generic name: Mixed glycol oligoesters of aromatic dicarboxylic acids	Feb. 27, 1986.
P 86-183	Generic name: Modified alkyd resin	Feb. 17, 1986.
P 86-184	Generic name: Alkyd resin	Do.
p 86-200	Generic name: Alkylamine polyglycol ether	Mar. 1, 1986.
P 86-206	Generic name: Unsaturated isophthalic polyesteracrylate copolymer	Feb. 20, 1986.
P 86-207	Generic name: Copolymer of unsaturated fatty acids and mixed acrylic monomers	Do.
P 86-216	Generic name: Polyurethane prepolymer	Feb. 26, 1986.
P 86-217	Generic name: Water-based polyurethane elastomer	Do.
P 86-234	Generic name: Alkyd	Mar. 10, 1986.
P 86-237	Generic name: Amine oxide	Do.
P 86-251	Generic name: 2-Oxepanone, polymer with n-decanol and heptadecafluorodecanol, reaction product with benzene, diisocyanatomethyl	Mar. 8, 1986.
P 86-263	Generic name: Penta substituted benzene	Mar. 17, 1986.
P 86-264	Generic name: Tetra substituted benzene	Do.
P 86-268	2-, 3- and 4-Pinanyl acetate mixture	Mar. 11, 1986.
P 86-269	1,2-Dimethyl-3-(1-methylethenyl)-cyclopentanol propionate mixture; pinyl propionate mixture	Do.
P 86-270	3,7-Dimethyl-3-octanol and 2,4-dimethyl-4-octanol and 1,2-dimethyl-3-(1-methylethyl)cyclopentanol mixture	Do.
P 86-275	Generic name: Acrylate, alkoxy silyl acrylate copolymer	Do.
P 86-276	Generic name: Alkoxy functional olefinic silyl hydrocarbon	Do.
P 86-318	Generic name: Unsaturated polyester polymer	Mar. 24, 1986.
Y 85-31	Generic name: Styrene acrylate t-thiol polymer	Feb. 26, 1986.
Y 85-146	Generic name: Acrylate-styrene modified oil	Feb. 11, 1986.
Y 85-148	Generic name: Aromatic-aliphatic ketone formaldehyde resin modified with a cycloaliphatic diisocyanate	Mar. 3, 1986.
Y 86-58	Generic name: Styrenated acrylic copolymer	Feb. 19, 1986.
Y 86-60	Polymer of neopentyl glycol, adipic acid, trimethylol ethane, dimethyl propionic acid and phthalic anhydride	Feb. 27, 1986.
Y 86-81	Generic name: Short oil coconut alkyd resin	Mar. 5, 1986.

V. 25 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No	Identity/generic name	FR citation	Date suspended
P 85-1008	Propanoic acid, 3[N-2C_{8-10} amido) ethyl] oxyethylamino, sodium salt	50 FR 24936 (24937) (6/14/85)	Mar. 7, 1986.
P 85-1272	Copper complex of naphthalene 1-hydroxy 2-(5'-ethylsulfonyl sulfuric acid ester potassium salt 2'-methoxy benzenazo) 8-(1''-hydroxy 8''-acetylamino 3'',6''-disulfonic acid dipotassium salt 2''-naphylazo)-3-sulfonic acid potassium salt	50 FR 32302 (32304) (8/9/85)	Mar. 10, 1986.
P 85-1296	Generic name: Saturated and unsaturated alkylcarboxylic acid diethanolamide/triethanolamine	50 FR 32302 (32306) (8/9/85)	Mar. 27, 1986.
P 85-1369	Generic name: Ethenyl silane ester	50 FR 35314 (35315) (8/30/85)	Mar. 5, 1986.
P 86-36	Generic name: Substituted epoxy resin	50 FR 42773 (42774) (10/22/86)	Do.
P 86-38	Generic name: Organosilazane	50 FR 42773 (42774) (10/22/85)	Mar. 4, 1986.
P 86-39	Generic name: Organosilazane	50 FR 42773 (42774) (10/22/85)	Do.
P 86-40	Generic name: Formaldehyde, reaction products with aliphatic carboxylic acid, aromatic amines and oxygen	50 FR 42773 (42774) (10/22/85)	Mar. 22, 1986.
P 86-46	Generic name: C_{14}-C_{20} alkyl ammonium sulfate quaternary	50 FR 43456 (43457) (10/25/85)	Mar. 20, 1986.
P 86-136	Generic name: Alkyl(heterocyclicyl) phenylazoheteromonocyclicpolyone-[(alkylimadazolyl)methyl] deriv	50 FR 47435 (47437) (11/18/85)	Mar. 4, 1986.
P 86-223	Generic name: Thioether	50 FR 50225 (50227) (12/9/85)	Mar. 7, 1986.
P 86-266	Generic name: Dialkyl substituted propionamide	50 FR 51944 (51946) (12/20/85)	Mar. 9, 1986.
P 86-282	Generic name: Reaction product of an amino alcohol and unsaturated organic acid	50 FR 51944 (51947) (12/20/85)	Mar. 25, 1986.
P 86-283	Generic name: Reaction product of an amino alcohol and unsaturated organic acid	50 FR 51944 (51947) (12/20/85)	Do.
P 86-294	Generic name: Polymeric aliphatic polyol methacrylate ester	50 FR 53194 (53195) (12/30/85)	Mar. 16, 1986.
P 86-295	Generic name: Polymeric aliphatic polyol methacrylate ester	50 FR 53194 (53195) (12/30/85)	Do.
P 86-296	Generic name: 2-Propylimidazole salt of [illegible] organic acid	50 FR 53194 (53195) (12/30/86)	Mar. 7, 1986.
P 86-330	Generic name: Propoxylated amines	51 FR 442 (443) (1/6/86)	Mar. 21, 1986.
P 86-332	Generic name: Propoxylated amines	51 FR 442 (443) (1/6/86)	Do.
P 86-334	Generic name: Aromatic amino compound	51 FR 1283 (1284) (1/10/86)	Mar. 24, 1986.
P 86-335	Generic name: Aromatic amino compound	51 FR 1283 (1284) (1/10/86)	Do.
P 86-639	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Mar. 27, 1986.
P 86-640	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-641	Generic name: Copolymer of fluoroolefin and vinyl esters	51 FR 10112 (10113) (3/24/86)	Do.
P 86-655	Generic name: Aliphatic polyester-styrenated acrylic graft polymer	51 FR 10663 (3/28/86)	Do.

[FR Doc. 86-17889 Filed 8-26-86; 8:45 am]

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Federal Register

Wednesday
August 27, 1986

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 25

Federal Acquisition Regulation; Interim Rule With Request for Comment

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[Federal Acquisition Circular 84-22]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: Federal Acquisition Circular (FAC) 84-22 amends the Federal Acquisition Regulation (FAR) with respect to the revision of Subpart 25.4, concerning implementation of Article 15 of the U.S.-Israel Free Trade Area Agreement.

DATES: Effective Date: August 27, 1986.

Comment Date: Comments must be received on or before October 27, 1986. Please cite FAC 84-22 in all correspondence on this subject.

ADDRESS: Interested parties should submit written comments to: GSA, Attn: FAR Secretariat, 18th & F Streets, NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background:

The Office of the U.S. Trade Representative has requested that the FAR be amended by August 19, 1986, to implement Article 15 of the U.S.-Israel Free Trade Area Agreement.

Under the referenced article, the Governments of the United States and Israel have made certain agreements with regard to their respective procurement programs.

Implementation of Article 15 of the Agreement requires that the FAR be amended to provide that agencies other than the Department of Defense (DOD) shall evaluate offers in the amount of $50,000 or more but less than the dollar threshold specified by the U.S. Trade Representative for use in implementing the Agreement on Government Procurement for an Israeli end product without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

B. Regulatory Flexibility Act

The revision of Subpart 25.4, concerning implementation of Article 15 of the U.S.-Israel Free Trade Area Agreement may have a significant economic impact on a substantial number of small entities. Current guidance requires that a regulatory flexibility analysis be prepared if the interim rule will have a significant impact on a substantial number of small entities even if the economic impact will benefit those entities. Accordingly, an initial regulatory flexibility analysis has been prepared in accordance with the Regulatory Flexibility Act of 1980, Pub. L. 96-354.

This initial regulatory flexibility analysis has been prepared in accordance with section 603, Title 5 of the United States Code.

Reasons for Proposed Agency Action

The Office of the U.S. Trade Representative has requested that requirements concerning acquisitions from Israel be included in the Federal Acquisition Regulation (FAR), implementing Article 15 of the U.S.-Israel Free Trade Area Agreement.

Objectives and Legal Basis

The objective is to implement Article 15 of the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the U.S.-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note). The legal basis is the aforementioned agreement.

Description of and Estimate of Number of Small Entities to Which Interim Rule Applies

This interim rule may have a significant economic impact on a substantial number of small entities. The actual impact is not known. Publication of this rule as an interim rule will afford the public the opportunity to comment on its economic impact on small entities, and such comments will be considered in the formulation of the final regulatory flexibility analysis and the final rule.

Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no reporting, recordkeeping, or other compliance requirements in the interim rule. Therefore, there is no impact in this area on small entities.

Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Interim Rule

There do not appear to be any relevant Federal rules which duplicate, overlap, or conflict with the interim rule.

Significant Alternatives

There are no significant alternatives since the interim rule merely implements Article 15 of the U.S.-Israel Free Trade Area Agreement.

C. Determination to Issue an Interim Regulation

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration to issue the regulation in FAC 84-22 as an interim regulation. This action is necessary in order to implement Article 15 of the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the U.S.-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note), which is effective as of August 19, 1986.

D. Paperwork Reduction Act

FAC 84-22 does not contain any additional information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: August 22, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

[Number 84-22]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-22 is effective immediately.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

Terence C. Golden,

Administrator.

August 22, 1986.

S.J. Evans,

Assistant Administrator for Procurement.

Federal Acquisition Circular (FAC) 84-22 amends the Federal Acquisition Regulation (FAR) as specified below.

ITEM I—IMPLEMENTATION OF ARTICLE 15 OF THE U.S.-ISRAEL FREE TRADE AREA AGREEMENT

Subpart 25.4 is revised to include requirements with respect to acquisitions from Israel by agencies other than DOD pursuant to Article 15 of the U.S.-Israel Free Trade Area Agreement.

Therefore, 48 CFR Part 25 is amended as set forth below.

PART 25—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Part 25 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 25.400 is revised to read as follows:

25.400 Scope of subpart.

This subpart provides additional policies and procedures peculiar to acquisitions subject to the Agreement on Government Procurement and the Trade Agreements Act of 1979 (19 U.S.C. 2501–2582) including (a) acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.); and (b) acquisitions involving offers of Israeli end products under the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note).

3. Section 25.402 is revised to read as follows:

25.402 Policy.

(a)(1) Executive Order 12260 requires the U.S. Trade Representative to determine from time to time the dollar threshold for use in implementing the Agreement on Government Procurement. The U.S. Trade Representative's dollar threshold determinations are published in the **Federal Register** and will be distributed through agency procedures on an expedited basis. Except as noted in paragraph (a)(2) of this section, agencies shall evaluate offers at or over the dollar threshold for an eligible product without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

(2) As required by Article 15 of the U.S.-Israel Free Trade Area Agreement, agencies other than the Department of Defense shall evaluate offers of Israeli end products at or above $50,000 in amount without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

25.403 [Amended]

4. Section 25.403 is amended in paragraph (a) by removing the word "threshold" and inserting in its place the word "thresholds".

5. Section 25.404 is revised to read as follows:

25.404 Labor surplus area set-asides.

(a) Except as provided in paragraph (b) of this section, when responsive offers are received for an eligible product, labor surplus area preference shall be accorded only to small business concerns.

(b) When responsive offers are received for an Israeli end product in an amount of at least $50,000 but less than the dollar threshold described in 25.402(a)(1), preference shall be accorded to all labor surplus area concerns.

25.405 [Amended]

7. Section 25.405 is amended by removing the words "threshold" and inserting in their place the words "thresholds" wherever they appear.

[FR Doc. 86–19407 Filed 8–26–86; 8:45 am]
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VOL
51
ISS
1
66
6
AG
27
1986
UMI

federal register

Wednesday
August 27, 1986

Part IV

Department of Education

Handicapped Children's Early Education Program; Proposed Annual Funding Priorities; Notice

VOL 51 ISS 166 AUG 27 1986 UMI

DEPARTMENT OF EDUCATION

Handicapped Children's Early Education Program; Proposed Annual Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposes annual funding priorities for the Handicapped Children's Early Education Program.

DATE: Comments must be received on or before September 26, 1986.

ADDRESS: Comments should be addressed to Dr. Thomas Finch, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4611), Washington, DC, 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch. Telephone: (202) 732-1084.

SUPPLEMENTARY INFORMATION: The Handicapped Children's Early Education Program (HCEEP) was established under Pub. L. 91-230 on April 13, 1970, and is currently authorized by section 623 of Part C of the Education of the Handicapped Act, as amended by Pub. L. 98-199. The purpose of the program is to support experimental preschool and early childhood demonstration, outreach and State Plan projects. These projects are intended to demonstrate, replicate, and disseminate improved program models for handicapped children from birth through eight years of age. The focus of these competitions is on the development of model demonstration, replication, and dissemination projects to assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication.

Awards will be made in each priority area described below. The Secretary may award grants or cooperative agreements.

Priorities

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(c)(3) and subject to available funds, the Secretary proposes to give an absolute preference to each application submitted in response to one of the following proposed priorities and which demonstrates innovative and experimental approaches to the education of handicapped children and demonstrates collaboration with the Early Childhood State Plan Grant. Each application must provide satisfactory assurance that the recipient will use funds made available to conduct one of the following activities:

1. Demonstration Projects

(a) Community Involvement Demonstrations.—This priority would support projects which demonstrate innovative and experimental approaches to the delivery of effective, comprehensive services to handicapped children from birth through age five (0-5) and their families. Projects under this priority must demonstrate a team approach (such as special education, health and social service agencies) in the planning and delivery of comprehensive services. Projects must also demonstrate a commitment to train parents and family members to facilitate team efforts to deliver effective services. Six cooperative agreements are anticipated to be awarded for a total of $900,000.

(b) Severely Handicapped Infants Demonstrations.—This priority would support projects which demonstrate innovative and experimental methods of effectively serving handicapped infants from birth through two years (0-2) who have multiple handicaps or who are medically fragile. Projects must demonstrate provision of these services in the community and in the least restrictive environment with emphasis on home care models. Four grants are anticipated to be awarded for a total of $500,000.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed annual funding priorities.

Comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 4611, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1423)

(Catalog of Federal Domestic Assistance Number 84.024: Handicapped Children's Early Education Program)

Dated August 1, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-19395 Filed 8-26-86; 8:45 am]

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Reader Aids

Federal Register

Vol. 51, No. 166

Wednesday, August 27, 1986

INFORMATION AND ASSISTANCE

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
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Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810	1
27811-28058	4
28059-28218	5
28219-28320	6
28321-28508	7
28509-28686	8
28687-28798	11
28799-28920	12
28921-29084	13
29085-29200	14
29201-29442	15
29443-29544	18
29545-29628	19
29629-29900	20
29901-30044	21
30045-30200	22
30201-30322	25
30323-30472	26
30473-30622	27

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	28509

3 CFR

Proclamations:

5514	27515
5515	28218
5516	29200
5517	30470

Administrative Orders:

Memorandums:

July 31, 1986	27811
August 1, 1986	28219
August 14, 1986	29443, 29445
August 20, 1986	30201

5 CFR

532	28799
890	28799
1201	28321

Proposed Rules:

540	29655
870	28576
871	28576
872	28576
873	28576
890	28576, 29655, 30068

7 CFR

2	29201
12	29901
20	30203
26	28800
29	28687, 30196
51	27813, 28802
272	28196, 30045
273	28196, 30045
301	30049
400	29202
402	29204
403	29204, 29205
405	29205
409	29204, 29205
410	29204
411	29204, 29205
413	29204, 29205
414	29204
415	29204, 29205
416	29204, 29205
417	29204, 29205
418	29204-29207
419	29204-29207
420	29204-29207
421	29204-29207
422	29204, 29205
423	29204, 29205
424	29204-29207
425	29204, 29205
426	29204
427	29204-29207
428	29204, 29205
429	29204, 29205
430	29204, 29205
431	29204, 29205
432	29204-29207
433	29204, 29205
435	29204, 29205
436	29204, 29205
437	29204, 29205
438	29204, 29205
439	29204, 29205
440	29204
441	29204
442	29204
443	29204
444	29204
445	29204
446	29204, 29205
447	29204, 29205
448	29204-29207
449	29204
450	29204, 29205
451	29204, 29205
652	29208
770	28921
810	30323
908	27816, 28509, 29208, 30051
910	28059
911	27517
918	27518
923	29209
926	29447
932	28922
944	29447
966	30473
981	30203
982	29545
991	28802
1036	30325
1064	28687
1065	30204
1102	28687
1106	28687
1108	28687
1126	28687
1138	28687
1240	29210
1427	28321
1475	28803
1900	29449, 29903
1924	29903
1930	27636
1940	29901
1941	29901
1943	29901
1944	27636
1945	29901
1951	27636
1965	27636
1980	29901, 29903

Proposed Rules:

52	28719, 29656
68	30368

235.....29236
250.....29236
252.....29236
255.....29236
330.....29401
340.....29401
400.....30369
421.....30496
424.....30497
425.....30497
441.....29246
447.....27862
656.....29251
907.....30219
920.....29473
929.....29936
985.....29109
987.....29251
1007.....29252
1011.....29252
1046.....29252
1065.....27553, 28721, 28819, 29936
1068.....28819
1079.....27554, 28819, 30220
1093.....29252
1094.....29252
1096.....29252
1098.....29252
1136.....27866
1137.....27554
1139.....27555
1205.....30069
1496.....29557
1709.....28722
1772.....29557, 29558

8 CFR

238.....28060, 28923, 29085, 30474

Proposed Rules:

214.....27867, 28578
248.....27867

9 CFR

75.....30327
77.....29629
78.....29629
92.....28805, 29210, 30051
205.....29449
302.....29905
303.....29905
317.....29456, 30052
318.....29456, 30052
381.....29905

Proposed Rules:

92.....27871
94.....30221
113.....30222

10 CFR

Ch. I.....29211
50.....27817, 28044, 30028, 30054
73.....27817, 27822, 30054
110.....27825

Proposed Rules:

50.....27872
73.....29656
100.....30224
435.....29754, 29773

11 CFR

Proposed Rules:

100.....28154
106.....28154
9001.....28154
9002.....28154
9003.....28154
9004.....28154
9005.....28154
9006.....28154
9007.....28154
9012.....28154
9031.....28154
9032.....28154
9033.....28154
9034.....28154
9035.....28154
9036.....28154
9037.....28154
9038.....28154
9039.....28154

12 CFR

1.....29065
17.....29069
207.....27518
220.....27518
221.....27518
224.....27518
303.....27826
337.....29630
501.....28221
522.....28221, 28690
523.....28221
570.....29458
620.....29459
621.....29459
622.....29460
623.....29460
741.....27522

Proposed Rules:

205.....28589
226.....28245, 29258
337.....29657
523.....30225
563.....30225

13 CFR

310.....27828

14 CFR

21.....28509–28525, 30206, 30207
23.....28509–28525, 30206, 30207
25.....28322
39.....27523–27527, 27828–27830, 27832, 27833, 28061–28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211–29213, 29910–29915, 30327–30331
71.....27833–27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630, 30054, 30332–30334
73.....30206
75.....28809, 30334
97.....28326, 29631
121.....28322
250.....30475
1204.....27528
1209.....28924

Proposed Rules:

Ch. I.....28386, 28725
1.....28095
21.....29938–29944
23.....29938–29944
36.....27556
39.....27557, 27874, 28386, 28832, 29110, 29256–29259, 29474, 29475, 29659, 29946, 30070–30077, 30370, 30372
71.....28388–28390, 28956, 28957, 29261–29263, 29534, 30227, 30228, 30373, 30498
73.....28095, 30228, 30498
75.....28096, 28957
91.....29476
382.....30078

15 CFR

20.....28925
370.....28692
371.....28692
373.....28692
374.....28692
379.....28692
399.....28692, 28693

16 CFR

13.....28694, 28695, 29633
16.....30055
423.....28222
444.....28328
1500.....28529, 29094, 30209

Proposed Rules:

13.....28594, 29265, 29660, 29664
703.....29666
1500.....29778

17 CFR

1.....27529
5.....27529
16.....27529
33.....27529

Proposed Rules:

231.....28596
240.....28096
241.....28596

18 CFR

11.....30478
13.....30478
37.....27835
154.....27529, 28331
157.....27529, 28331
270.....27529, 28331
271.....27529, 28068, 28331
284.....27529, 28331
375.....30478
410.....28810

Proposed Rules:

37.....30374, 30499
271.....28102

19 CFR

6.....27836
101.....28070, 30335
111.....30336
171.....30336
177.....30346
178.....30336

Proposed Rules:

6.....30375
112.....30376
113.....27875
141.....28390
353.....29046

20 CFR

404.....28544
416.....28544
655.....30348

Proposed Rules:

404.....28834
410.....28834
416.....28834, 30499
655.....28599

21 CFR

74.....28331, 28346, 28929
81.....28331, 28346, 28383
82.....28331, 28346
133.....30210
175.....30059, 30060
176.....28545
178.....28930, 29460
193.....28223
211.....28810
310.....28810
314.....28810
331.....27762
332.....27762
344.....28556
357.....27756
369.....27756
433.....30478
436.....27531
440.....27531
442.....27531
510.....28546, 29916, 30211
520.....28546, 29215, 30211
522.....28546, 28932, 29462
546.....28546
556.....28932, 29097, 29462
558.....28546, 28547, 29097, 29463
561.....28223
1308.....29695

Proposed Rules:

1308.....28725, 28727

22 CFR

Proposed Rules:

2a.....28391

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774
44.....30478
111.....30478
200.....28696
203.....28548, 30478
204.....28548
207.....27837, 28547, 28699, 30478
221.....27837, 28547
236.....30478
251.....28699
255.....28699
290.....30478
300.....27836
390.....28551
511.....28703, 30478
570.....30478
571.....30478
812.....29463
850.....30478
880.....30478
881.....30478
882.....29463, 30478
883.....30478
884.....30478
886.....30478
888.....28486
892.....29633
905.....27774
941.....30478

965.....27774
968.....27774, 30478
970.....30478
990.....30478
Proposed Rules:
0.....30178
35.....27793
203.....28247
510.....27793
511.....27793
570.....27793
590.....27793

26 CFR

1.....28553, 30481
20.....28365
25.....28365
301.....30351
602.....28365, 30481

27 CFR

9.....30352
19.....28071
250.....28071
270.....28078, 30484
275.....28078, 30484
290.....28078
295.....28078
296.....28078, 30484
Proposed Rules:
4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464, 30485

29 CFR

1601.....29098, 30486
1620.....29816
1952.....27534
1956.....29917
1960.....28378
2603.....28379
2676.....29215
Proposed Rules:
530.....30036
602.....28840
1613.....29482
1910.....30230
1917.....30230
2560.....30501
2570.....30504
2603.....29497

30 CFR

901.....29098
914.....29100
917.....29917, 30486
931.....28553
943.....28554
Proposed Rules:
250.....29947
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
317.....30212
321.....30212
332.....28933
352.....28933
353.....28933
500 (authority extended by Memorandum of Aug. 20, 1986).....30201
505 (authority extended by Memorandum of Aug. 20, 1986).....30201
515 (authority extended by Memorandum of Aug. 20, 1986).....30201
520 (authority extended by Memorandum of Aug. 20, 1986).....30201
545.....28933
550.....28933
Proposed Rules:
10.....29113, 30510
103.....30233
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468, 30213, 30493
Proposed Rules:
292a.....30510
553.....29115
701.....30377

33 CFR

100.....28706, 29919
117.....28380, 28707, 29101, 30060, 30061
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468
Proposed Rules:
100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....29396, 29920, 30190
674.....28312, 30355
690.....30190
796.....29190
Proposed Rules:
11.....30511

36 CFR

1.....29469
3.....29469
34.....29101
261.....30355
Proposed Rules:
7.....28107–28110, 29496
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707, 29920
201.....30061, 30214
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636
Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923, 30063
60.....29104
61.....27956
65.....28224, 29216, 30064
81.....27843–27845, 30065
171.....30494
180.....28225–28227
228.....29923, 29927
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
761.....28556
799.....30216
Proposed Rules:
Ch. I.....29499, 30166
52.....27560, 27878, 29116, 30378
65.....28113, 29947, 30081
81.....29268, 30379
85.....28114
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669, 30516, 30517
228.....30081
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

60–250.....30467
101–26.....29104
101–38.....29638
101–40.....27539

42 CFR

405.....27847, 28710, 29386, 30356
417.....28569
482.....27847
Proposed Rules:
110.....30516
405.....29560
417.....30518
434.....30518
447.....29560

43 CFR

11.....27674
Public Land Orders:
6620.....28229
6622.....28229
6623.....29641
Proposed Rules:
4.....28846

44 CFR

11.....29222
59.....30290
60.....30290
61.....30290
64.....28230, 28232
65.....30290
70.....30290
73.....30290
76.....30290
Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384
Proposed Rules:
1.....29560
19.....29560
74.....28960
1180.....29500

46 CFR

Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
150.....30241
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

15.....30362
22.....28236
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552, 30363, 30364
87.....29106
97.....28237
Proposed Rules:
0.....27566

1	27566, 30254
2	28249
18	30381
21	27566
22	27566
23	27566
62	27566
67	29126, 30522
73	27566, 27567, 28961, 29128–29130, 29273, 29574–29576, 30381
74	27566
90	29130, 29273

48 CFR

25	30618
223	28943, 29231
228	28943, 29231
232	28946
242	28943, 29231
252	28943, 29231
522	28815
552	28815
1801	27848
1804	27848
1805	27848
1806	27848
1807	27848
1809	27848
1813	27848
1814	27848
1815	27848, 28574
1819	27848
1825	27848
1827	27848
1832	27848
1836	27848
1837	27848
1839	27848
1842	27848
1845	27848
1847	27848
1851	27848
1852	27848, 28574
1853	27848
Proposed Rules:	
501	29131
513	29131
553	29131

49 CFR

1	29231, 29233, 29471
509	29552
571	28238, 29552
Proposed Rules:	
Ch. X	28847
27	30382
171	28962, 29503
172	28962
173	28605, 28962
175	29503
192	29504
385	28607
391	27567
531	28730
1058	28249
1152	28962
1312	28731

50 CFR

20	28946
285	28240, 28241, 29642
604	28575
611	30218
630	28575
641	28094, 29471
651	29642
655	28241, 29555
661	27859, 28717, 28954, 29234, 29471, 29654, 29932, 30066, 30364
663	29933, 30365
671	28242
672	28385, 30218
674	27860, 28243, 29107, 30365
683	30367
Proposed Rules:	
17	29362, 29671
20	29274, 29673
216	28320, 28963, 29674
611	28731, 29131
630	29132
661	29508
663	29508
685	29131

LIST OF PUBLIC LAWS

Last List August 19, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 4184/Pub. L. 99-383

National Science Foundation Authorization Act for Fiscal Year 1987. (Aug. 21, 1986; 100 Stat. 813; 5 pages) Price: $1.00

H.R. 5395/Pub. L. 99-384

To increase the statutory limit on the public debt. (Aug. 21, 1986; 100 Stat. 818; 1 page) Price: $1.00

H.J. Res. 683/Pub. L. 99-385

To provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Company and Portland Terminal Company labor-management dispute. (Aug. 21, 1986; 100 Stat. 819; 2 pages) Price: $1.00

S. 992/Pub. L. 99-386

Congressional Reports Elimination Act of 1986. (Aug. 22, 1986; 100 Stat. 821; 4 pages) Price: $1.00

H.R. 850/Pub. L. 99-387

To modify the boundary of the Humboldt National Forest in the State of Nevada, and for other purposes. (Aug. 23, 1986; 100 Stat. 825; 1 page) Price: $1.00

H.R. 1963/Pub. L. 99-388

To increase the development ceiling at Allegheny Portage Railroad National Historic Site and Johnstown Flood National Memorial in Pennsylvania, and for other purposes, and to provide for the preservation and interpretation of the Johnstown Flood Museum in the Cambria County Library Building, Pennsylvania. (Aug. 23, 1986; 100 Stat. 826; 2 pages) Price: $1.00

H.R. 3212/Pub. L. 99-389

To declare that the United States holds certain lands in trust for the Reno Sparks Indian Colony. (Aug. 23, 1986; 100 Stat. 828; 3 pages) Price: $1.00

H.R. 3556/Pub. L. 99-390

To provide for the exchange of land for the Cape Henry Memorial site in Fort Story, Virginia. (Aug. 23, 1986; 100 Stat. 831; 1 page) Price: $1.00

H.J. Res. 377/Pub. L. 99-391

To designate December 5, 1986, as "Walt Disney Recognition Day." (Aug. 23, 1986; 100 Stat. 832; 1 page) Price: $1.00

H.J. Res. 529/Pub. L. 99-392

Designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week." (Aug. 23, 1986; 100 Stat. 833; 1 page) Price: $1.00

H.J. Res. 630/Pub. L. 99-393

Designating the College of William and Mary as the official United States representative to the Tercentenary Celebration of the Glorious Revolution to be celebrated jointly in the United States, the Netherlands, and the United Kingdom. (Aug. 23, 1986; 100 Stat. 834; 1 page) Price: $1.00

H.J. Res 642/Pub. L. 99-394

To designate the week beginning May 17, 1987, as "National Tourism Week." (Aug. 23, 1986; 100 Stat. 835; 1 page) Price: $1.00

VOL 51 ISS 166 AG 27 1986 UMI

VOL
51
ISS
1
66
AG
27
1986
UMI

VOL
51
ISS
167
AG
28
1986
UMI

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VOL
51
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167
AG
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8-28-86
Vol. 51
Pages 30

8-28-86
Vol. 51 No. 167
Pages 30823-30834

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Thursday
August 28, 1986

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167
AG
28
1986
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Contents

Federal Register
Vol. 51, No. 167
Thursday, August 28, 1986

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agricultural Marketing Service
RULES
Pears (winter) grown in Oregon, Washington, and California, 30625

Agriculture Department
See also Agricultural Marketing Service; Forest Service
NOTICES
Agency information collection activities under OMB review, 30682

Antitrust Division
NOTICES
National cooperative research notifications:
ARCO Chemical Co., 30724
NAHB Research Foundation, Inc., 30724

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings, 30683

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Centers for Disease Control
NOTICES
Committees; establishment, renewals, terminations, etc.:
Injury Research Grant Review Committee, 30708

Coast Guard
RULES
Drawbridge operations:
Texas, 30638
Regattas and marine parades:
Burlington Triathlon, 30637
Scorpion 100 Powerboat Race, 30636
NOTICES
Meetings:
Towing Safety Advisory Committee, 30745, 30746 (2 documents)
Navigational rules:
Certificates of alternative compliance, 30745

Commerce Department
See also Economic Development Administration; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office
NOTICES
Senior Executive Service:
Performance Review Board; membership, 30683

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 30692

Defense Department
See Engineers Corps; Navy Department

Drug Enforcement Administration
PROPOSED RULES
Manufacturers, distributors, and dispensers of controlled substances, registration requirements, etc.:
Updating requirements, 30675

Economic Development Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 30683

Education Department
NOTICES
Meetings:
Education Research National Council, 30695

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
RULES
Navigation regulations:
McClellan-Kerr Arkansas River Navigation System, 30639

Environmental Protection Agency
RULES
Water pollution; effluent guidelines for point source categories:
Battery manufacturing, 30814
NOTICES
Pesticides; emergency exemption applications:
Dichlorprop, 30705
Toxic and hazardous substances control:
Premanufacture exemption applications, 30706
Premanufacture notices; monthly status report, 30808

Executive Office of the President
See Management and Budget Office; Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Maule Aerospace Technology, Inc., 30628
Piper, 30629
Jet routes, 30630
Jet routes; correction, 30630
PROPOSED RULES
Aircraft products and parts, certification and airworthiness standards:
Petersen Aviation, Inc.; anti-detonation injection system, 30666, 30667, 30669 (3 documents)
Airworthiness directives:
Airbus Industries et al., 30670
EON Corp., 30672
Transition areas, 30674

Federal Communications Commission
RULES
Radio services, special:
Amateur service—
Operator examinations; question pools maintenance, 30645
PROPOSED RULES
Practice and procedure:
Common carrier services; telecommunications service between Puerto Rico and off-island points; fair competition policies and guidelines, 30680
Radio services, special:
Satellite communications; direct broadcast satellite service; technical standards, 30681
NOTICES
Agency information collection activities under OMB review, 30706
Applications, hearings, determinations, etc.:
Powley, John R., et al., 30706

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Wisconsin, 30707
(2 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Incremental pricing—
Acquisition cost thresholds, 30634
NOTICES
Electric rate and corporate regulation filings:
Utah Power & Light Co. et al., 30698
Hydroelectric applications, 30699
Natural gas certificate filings:
Interstate Power Co. et al., 30700
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 30695
Colorado Interstate Gas Co., 30695
Florida Gas Transmission Co., 30696
Mid Louisiana Gas Co., 30696
Mountain Fuel Resources, Inc., 30696
Phillips Petroleum Co. et al., 30697

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Alexander and Iredell Counties, NC, 30746
Charlotte, NC, 30746
Johnson County, TX, 30747
Worcester/Millbury, MA, 30747

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30707

Federal Mediation and Conciliation Service
NOTICES
Meetings:
President's Mediation and Conciliation Advisory Committee, 30707

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Keokuk Junction Railway, 30748

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
F&M Financial Services Corp. et al., 30708
Hartford National Corp. et al., 30708

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
American Dairy Association, 30674

Fish and Wildlife Service
RULES
Hunting and sport fishing:
Open areas list; additions, 30655
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 30646

Food and Drug Administration
PROPOSED RULES
Medical devices:
Investigational device investigations; review
Correction, 30675
Neurological devices—
Central nervous system fluid shunt and components; performance standard development; correction, 30675

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Oregon, 30684
Texas; Champlin Oil Refinery, 30684

Forest Service
NOTICES
Livestock area special-use permits, Northern Region; fee basis, 30682

General Services Administration
PROPOSED RULES
Acquisition regulations:
Contracting; minimum bid acceptance period, etc., 30681

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; National Institutes of Health; Public Health Service; Social Security Administration

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandums of agreement:
Chief Joseph Dam project, WA; historic properties management, 30712

Housing and Urban Development Department
RULES
Public and Indian housing:
Lead-based paint hazard elimination
Correction, 30635
PROPOSED RULES
Community development block grants, rehabilitation loan and rental rehabilitation grant programs, etc.:
Lead-based paint hazard elimination
Correction, 30680

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service
NOTICES
Privacy Act; systems of records, 30712

International Trade Administration
RULES
Export licensing:
Authority citations and codification changes to CFR, 30631
Distribution license procedure, 30632
NOTICES
Antidumping:
Petroleum wax candles from China, 30686
Replacement parts for self-propelled bituminous paving equipment from Canada, 30685
Stainless steel wire rods from—
France, 30687
Tool steel from West Germany, 30687
Export privileges, actions affecting:
La Physique Appliques Industrie et al., 30688

International Trade Commission
NOTICES
Import investigations:
Dynamic random access memories, components and products containing same, 30722

Interstate Commerce Commission
NOTICES
Motor carriers:
Finance applications, 30722
Railroad services abandonment:
Southern Pacific Transportation Co., 30723

Justice Department
See also Antitrust Division; Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
Titanium Metals Corp. of America, 30723
Upper Occoquan Sewage Authority et al., 30724

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 30715
Alaska Native claims selection:
Port Graham Corp., 30716
Classification of public lands:
Nevada, 30716
Coal leases, exploration licenses, etc.:
North Dakota, 30720
Environmental statements; availability, etc.:
Flume Canyon wilderness study area, UT, 30720
Geothermal resource areas:
California, 30719
Management framework plans, etc.:
Utah, 30717
Meetings:
Albuquerque District Advisory Council, 30721
Helicopters and motorized vehicles used in gathering wild horses and burros, 30719
Motor vehicles; off-road vehicle designations:
Wyoming, 30717
Oil and gas leases:
Wyoming, 30721
Realty actions; sales, leases, etc.:
Arizona, 30717, 30718
(2 documents)
California, 30716
Oregon, 30718
Resource management plans, etc.:
Cascade Resource Area, 30721
Salem District et al., OR, 30718
Survey plat filings:
Colorado, 30719

Management and Budget Office
NOTICES
Budget rescissions and deferrals
Cumulative reports, 30820

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Conoco Inc., 30722
ODECO Oil & Gas Co., 30722

National Aeronautics and Space Administration
NOTICES
Meetings:
Advisory Council, 30725

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Humanities Panel, 30725
Inter-Arts Advisory Panel, 30726
Music Advisory Panel, 30726
Partnership Office Advisory Panel, 30726
Theater Advisory Panel, 30726

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Institutes of Health
NOTICES
Meetings:
National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council, 30710
National Institute of Allergy and Infectious Diseases, 30709
National Institute of Diabetes and Digestive and Kidney Diseases, 30711
National Institute of Environmental Health Sciences, 30709
National Institute of General Medical Sciences, 30710
Research Resources National Advisory Council, 30709

National Labor Relations Board
RULES
Procedural rules:
Time periods for response to Board actions, 30635

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 30663
Gulf of Mexico stone crab, 30663

National Transportation Safety Board
NOTICES
Accident reports, safety recommendations, and responses, etc.; availability, 30727–30730 (4 documents)

Navy Department
NOTICES
Environmental statements; availability, etc.:
Stapleton, Staten Island, NY; homeporting, 30693
Patent licenses, exclusive:
Western Instrument Corp., 30694

Office of Management and Budget
See Management and Budget Office

Patent and Trademark Office
NOTICES
Mask works; interim protection for nationals, domiciliaries, and sovereign authorities; extension of 1985 interim orders, 30690

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
North Westchester, CT, 30732

Presidential Documents
PROCLAMATIONS
Special observances:
Women's Equality Day, 1986 (Proc. 5518), 30623

Public Health Service
See also Centers for Disease Control; Food and Drug Administration; National Institutes of Health
RULES
Grants:
Health education assistance loan program, 30642
NOTICES
Meetings:
President's Council on Physical Fitness and Sports, 30711

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Options Clearing Corp., 30738
Applications, hearings, determinations, etc.:
Centex Collateralized Mortgage Corp., 30733
Citicorp, 30734
Colonial Option Income Trust et al., 30735
Pitcairn, Natalie Clara, 30737
Public utility holding company filings, 30736

Small Business Administration
RULES
Small business investment companies:
Accounting standards and financial reporting requirements, 30750

Social Security Administration
NOTICES
Organization, functions, and authority delegations, 30711

State Department
NOTICES
Meetings:
American Private Sector Overseas Security Advisory Council, 30744
Organization, functions, and authority delegations:
Central organizational statement, etc., 30739

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
U.S.-London authority, 30745
Regional airline industry study; marketing alliance impact, 30744

Separate Parts In This Issue

Part II
Small Business Administration, 30750

Part III
Environmental Protection Agency, 30808

Part IV
Environmental Protection Agency, 30814

Part V
Office of Management and Budget, 30820

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

VOL 51 ISS 167 AG 28 1986 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5518.....30623

7 CFR
927.....30625

13 CFR
107.....30750

14 CFR
39 (2 documents).....30628, 30629
75 (2 documents).....30630
Proposed Rules:
21 (3 documents).....30666, 30667, 30669
23 (3 documents).....30666, 30667, 30669
39 (2 documents).....30670, 30672
71.....30674

15 CFR
368.....30631
369.....30631
370.....30631
371.....30631
372.....30631
373 (2 documents).....30631, 30632
374.....30631
375.....30631
376.....30631
377.....30631
379.....30631
385.....30631
386.....30631
390.....30631
399.....30631

16 CFR
Proposed Rules:
13.....30674

18 CFR
282.....30634

21 CFR
Proposed Rules:
812.....30675
882.....30675
1301.....30675
1311.....30675
1312.....30675

24 CFR
35.....30635
905.....30635
965.....30635
968.....30635
Proposed Rules:
35.....30680
510.....30680
511.....30680
570.....30680
590.....30680

29 CFR
102.....30635

33 CFR
100 (2 documents).....30636, 30637
117.....30638
207.....30639

40 CFR
461.....30814

42 CFR
60.....30642

47 CFR
97.....30645
Proposed Rules:
1.....30680
100.....30681

49 CFR
Proposed Rules:
514.....30681
552.....30681

50 CFR
20.....30646
32.....30655
33.....30655
654.....30663
672.....30663

VOL
51
ISS
167
AG
28
1986
UMI

Federal
Vol. 51,
Thursday

Title 3-

The P

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Federal Register
Vol. 51, No. 167
Thursday, August 28, 1986

Presidential Documents

Title 3—

The President

Proclamation 5518 of August 26, 1986

Women's Equality Day, 1986

By the President of the United States of America

A Proclamation

Sixty-six years ago our Constitution was amended for the nineteenth time—to grant women a cherished privilege of citizenship in a free Nation, the right to vote. Since then, women have not only availed themselves of their access to the voting booth, they have gone on to take part at every level of politics and government. We as a Nation are much the better for this fundamental enlargement of our public life.

Women's growing participation in public life has been paralleled by their increasing importance in every field. All of us benefit from the accomplishments of women in commerce, law, science, medicine, the arts, and every other area of human activity. We are most grateful for all of these achievements, just as we are for women's special role at the heart of the family and for the freedom of opportunity women have to determine the vocations they wish to pursue.

Each year we celebrate August 26, the anniversary of the ratification of the Nineteenth Amendment, as "Women's Equality Day," to honor the many contributions of women to our Nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 26, 1986, as Women's Equality Day. I call upon all Americans to mark this occasion with appropriate observances.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

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Filed 8-26-86; 10:18 am
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Rules and Regulations

Federal Register
Vol. 51, No. 167
Thursday, August 28, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. AO-99-A5]

Winter Pears Grown in Oregon, Washington, and California; Order Amending the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This final rule further amends the marketing agreement and Marketing Order 927, covering winter pears grown in Oregon, Washington, and California. The amendment (1) authorizes funding for research, development, and paid advertising programs for specific varieties of pears; (2) revises the quorum, term of office, and voting procedures of the Control Committee; changes the committee representation districts; and authorizes the committee to appoint public advisers; (3) changes the varieties of winter pears covered under the marketing order by removing the Beurre Easter and Beurre Clairgeau varieties, and adding the Forelle and Seckel varieties grown in Oregon and Washington; and authorizes the committee to make further changes in the varieties or subvarieties covered; (4) limits the number of consecutive terms of office of committee members to three 2-year terms; (5) provides for the conduct of a referendum on continuance of the marketing order every 6 years beginning by 1992; (6) authorizes the committee to charge interest and late payment penalties on overdue assessments; (7) authorizes the committee to accept advance assessment payments and encourages such payments by authorizing payment discounts; and (8) authorizes the committee to recommend changes in the fiscal period. The changes should improve program operations. The changes were approved by winter pear growers in a mail referendum conducted July 3–12, 1986.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, telephone 202–447–5697.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued June 4, 1985, and published in the June 11, 1985, issue of the **Federal Register** (50 FR 24531); Recommended Decision issued March 12, 1986, and published in the **Federal Register** (51 FR 9663) on March 20, 1986; Secretary's Decision issued June 16, 1986, and published in the **Federal Register** (51 FR 22528) on June 20, 1986.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12291.

Preliminary statement

This final rule was formulated on the record of a public hearing held at Portland, Oregon, on June 20, 1985, to consider proposed further amendment of the marketing agreement and Marketing Order No. 927, hereinafter referred to as the "order". The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "act," and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900). Notice of this hearing was published June 11, 1985 in the **Federal Register** (50 FR 24531), containing several amendment proposals submitted by the Winter Pear Control Committee established under the order. The Department proposed that it be authorized to make any necessary conforming changes.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on March 12, 1986, filed with the Hearing Clerk, U.S. Department of Agriculture, the Recommended Decision containing the notice of the opportunity to file written exceptions thereto. That Recommended Decision was published in the March 20, 1986, issue of the **Federal Register** (51 FR 9663). The final date for receipt of written exceptions filed by interested persons was April 4, 1986. No exceptions were filed.

The Secretary's Decision issued June 16, 1986, directed that referendum be conducted during the period July 3–12, 1986, among winter pear producers in Oregon, Washington, and California to determine whether they favored various amendment proposals to the order. In that referendum, the winter pear producers voted in favor of all 8 amendment proposals listed on the referendum ballot.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Order Amending Order

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR

Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Marketing Order No. 927, as amended (7 CFR Part 927) regulating the handling of winter pears grown in Oregon, Washington, and Califorina.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of winter pears grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production areas which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of winter pears grown in the production area which make necessary different terms and provisions applicable to different parts of such areas; and

(5) All handling of winter pears grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make this order amending the order, as amended, effective not later than the date of publication in the **Federal Register**. Any delay beyond that date would tend to interfere with effective functioning and administration of the order. The amendatory order provides for improvements in the operation and functioning of the order, which need to be utilized as soon as possible during the current fiscal period, which began July 1, 1986. The specified effective date is necessary to meet these objectives.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective upon publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559);

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Winter Pears Grown in Oregon, Washington, and California" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping covered by the said order, as amended, and as hereby further amended) who, during the period July 1, 1985, through June 30, 1986, handled not less than 50 percent of the volume of such pears covered by the said order, as amended, and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period July 1, 1985, through June 30, 1986 (which has been deemed to be a representative period), have been engaged within Oregon, Washington, and California, in the production of winter pears for market, such producers having also produced for market, except for one amendment provision, at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative To Handling

It is therefore ordered, That, on and after the effective date hereof, the handling of winter pears grown in Oregon, Washington, and California shall be in conformity to and in compliance with the following terms and conditions of the said order, as amended, and as hereby further amended, as set forth below:

List of Subjects in 7 CFR Part 927

Marketing agreements and order, Winter pears.

1. The authority citation for 7 CFR Part 927 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

2. § 927.4 is revised to read:

§ 927.4 Pears.

"Pears" means and includes any and all of the Beurre, D'Anjou, Beurre Bosc, Winter Nelis, and Doyenne du Comice varieties of pears grown in Oregon, Washington, and California and any other winter pear varieties or subvarieties that are recognized by the Control Committee and approved by the Secretary, including the Forelle and Seckel varieties, that are commercially grown in the States of Oregon and Washington.

3. § 927.9 is revised to read:

927.91 Fiscal period.

"Fiscal period" means the period beginning July 1 of any year and ending June 30 of the following year or such annual beginning and ending dates as may be approved by the Secretary pursuant to recommendations by the Control Committee.

4. § 927.11 is amended by removing paragraph (f) and by revising paragraph (e) to read:

§ 927.11 District.

* * * * *

(e) California District shall include all of the State of California.

5. § 927.13 is added to read:

§ 927.13 Subvariety.

"Subvariety" means and includes any mutation, sport, or other derivation of any of the varieties covered in § 927.4 which is recognized by the Control Committee and approved by the Secretary. Recognition of a subvariety by the Control Committee shall include classification within a varietal group for the purposes of votes conducted under § 927.52.

6. § 927.20 is revised to read:

§ 927.20 Establishment and membership.

A Control Committee, consisting of 14 individual persons as its members, is hereby established to administer the terms and provisions of this subpart as specificially provided in §§ 927.20 through 927.35. There shall be two alternates, designated as the "first alternate" and the "second alternate," respectively, for each member of the committee. Seven members of the Control Committee and their respective alternates shall be growers of pears, and seven members and their respective alternates shall be handlers of pears. Each district shall be represented on the Control Committee by one grower member and one handler member except that the Hood River-White Salmon-Underwood District and the Wenatchee District shall be represented on the committee by two grower members and two handler members.

7. § 927.26 is revised to read:

§ 927.26 Qualifications.

Any person prior to or within 15 days after selection as a member or as an alternate for a member of the Control Committee shall qualify by filing with

the Secretary a written acceptance of the person's willingness to serve.

§ 927.27 is revised to read:

§ 927.27 Term of office.

The term of office of each member and alternate member of the Control Committee shall be for two years beginning July 1 and ending June 30: *Provided,* That the terms of office of one-half the initial members and alternates shall end June 30, 1988; and that beginning with the 1987–88 fiscal periods, no member shall serve more than three consecutive two-year terms unless specifically exempted by the Secretary. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. The terms of office of successor members and alternates shall be so determined that one-half of the total committee membership ends each June 30.

9. Paragraph (a) of § 927.33 is revised to read:

§ 927.33 Procedure of Control Committee.

(a) *Quorum and voting.* A quorum at a meeting of the Control Committee shall consist of ten members, or alternates then serving in the place of any members. Except as otherwise provided in § 927.52, all decisions of the Control Committee at any meeting shall require the concurring vote of at least 75 percent of those members present, including alternates then serving in the place of any members.

* * * * *

10. § 927.36 is added to read:

§ 927.36 Public advisors.

The Control Committee may appoint such public advisors as it deems appropriate and determine the compensation and defines the duties of such advisors.

11. § 927.41 is revised to read:

§ 927.41 Assessments.

(a) Assessments will be levied only upon the handler who first handles pears which subsequently are shipped from the State of Oregon, the State of Washington, or the State of California. Each handler shall pay, upon billing, assessments on all pears handled by such handler as the prorata share of the expenses which the Secretary finds are reasonable and are likely to be incurred by the Control Committee during a fiscal period. The payment of assessments for the maintenance and functioning of the Control Committee may be required under this part throughout the period such assessments are payable irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) Based upon a recommendation of the Control Committee or other available data, the Secretary shall fix the rate of assessment that handlers shall pay on all pears handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 927.47. At any time during the fiscal period when it is determined on the basis of a committee recommendation or other information that a different rate is necessary for all pears or for any varieties or subvarieties, the Secretary may modify a rate of assessment and such new rate shall apply to any or all varieties or subvarieties that are shipped during the fiscal period.

(c) The Control Committee may impose a late payment charge on any handler who fails to pay any assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Control Committee may impose an additional charge in the form of interest on such outstanding amount. The amount of such late payment charge and rate of interest, shall be prescribed by the Control Committee, with the approval of the Secretary.

(d) In order to provide funds to carry out the functions of the Control Committee prior to commencement of shipments in any season, handlers may make advance payments of assessments, which advance payments shall be credited to such handlers and the assessments of such handlers shall be adjusted so that such assessments are based upon the quantity of each variety of pears handled by such handlers during such season. Further, payment discounts may be authorized by the Control Committee upon the approval of the Secretary to handlers making such advance assessment payments.

12. § 927.47 is revised to read:

§ 927.47 Research and development.

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to § 927.41. Expenditures for a particular variety of pears shall approximate the amount of assessments collected for that variety of pears.

13. § 927.52 is revised to read:

§ 927.52 Prerequisites to Control Committee recommendations.

(a) Decisions of the Control Committee with respect to any recommendations to the Secretary pursuant to the establishment or modification of a supplemental rate of assessment for an individual variety of pears shall be made by affirmative vote of not less than 75 percent of the applicable total number of votes, computed in the manner hereinafter described in this section, of all committee members. Decisions of the Control Committee pursuant to the provisions of § 927.50 shall be made by an affirmative vote of not less than 80 percent of the applicable total number of votes, computed in the manner hereinafter prescribed in this section, of all committee members.

(b) With respect to a particular variety of pears, the applicable total number of votes shall be the aggregate of the votes allotted to the members of the committee in accordance with the following: Each member shall have one vote as an individual and, in addition, shall have an equal share of the vote of the district represented by such member; and such district vote shall be computed by the Control Committee as soon as practical after the beginning of each fiscal period on either—

(1) The basis of one vote for each 25,000 boxes (except 2,500 boxes for Forelle and Seckel varieties) of the average quantity of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods to destinations outside the State in which produced; or

(2) Such other basis as the Control Committee may recommend and the Secretary may approve.

The votes so allotted to a member of the committees may be cast by such member on each recommendation relative to the variety of pears on which such votes were computed.

14. Paragraphs (c) and (d) are revised, and a new paragraph (e) is added to § 927.78 to read:

§ 927.78 Termination.

* * * * *

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever the Secretary finds that such termination is favored by a majority of the growers of

pears who, during such fiscal period, have been engaged in the area in the production of pears for market: *Provided,* That such majority have produced for market during such period more than 50 percent of the volume of pears produced for market in the area. Such termination shall be effective only if announced on or before the last day of the then current fiscal period.

(d) The Secretary shall conduct a referendum within every six-year period beginning on the date this section becomes effective, to ascertain whether continuance of this subpart is favored by producers. The Secretary may terminate the provisions of this subpart at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of pears in the production area: *Provided,* That termination of the order shall be effective only if announced on or before the last day of the then current fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

EFFECTIVE DATE: August 28, 1986.

Signed at Washington, DC, on August 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86-19330 Filed 8-27-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-37-AD; Amendment 39-5401]

Airworthiness Directives; Maule Aerospace Technology, Inc., Models M-5-180C, M-5-210C, M-5-220C, and M-5-235C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Maule Models M-5-180C, M-5-210C, M-5-220C, and M-5-235C airplanes, which requires the inspection of the fuel crossover supply line and rerouting of those lines that are forward of the front fuselage seat support frame. This action is prompted by reported interference between the fuel crossover supply line and the flap ratchet handle when the line is forward of the front fuselage seat support frame. This interference has resulted in a damaged fuel line which could restrict fuel flow and cause engine power loss. The inspection and rerouting, if necessary, will detect and correct those lines subject to interference with the flap ratchet handle.

DATE: *Effective Date:* September 3, 1986.

Compliance: Required within the next 25 hours time in service.

ADDRESSES: Maule Service Bulletin No. 7, undated, applicable to this AD may be obtained from Maule Aerospace Technology, Inc., Route 5, Box 318, Moultrie, Georgia 31768, Telephone (912) 985-2045. A copy of the service bulletin is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Gil Carter, ACE-140A, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, GA 30337; Telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: A 20°/40° flap ratchet handle has been installed on certain Maule M-5 series airplanes. It has been reported that an airplane with this installation also had the fuel crossover supply line routed forward of the front fuselage seat support frame. When the flap handle was moved to a maximum up position, it interfered with the fuel line, crushed it and resulted in restricted fuel flow to the engine. Maule Aircraft Corporation Service Bulletin No. 7 provides a means for correcting the crossover fuel supply line routing problem.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring inspection and, if necessary, removing, reinstalling, and rerouting of the fuel crossover supply line aft of the front fuselage seat support frame on Maule Models M-5-180C, M-5-210C, M-5-220C, and M-5-235C airplanes in accordance with the service bulletin. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct this condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Maule Aerospace Technology (Formerly Maule Aircraft Corporation): Applies to Models M-5-180C (S/N 8001C through 8014C, 8016C through 8019C, and 8021C); M-5-210C (S/N 6001C through 6206C); M-5-220C (S/N 5001C through 5057C); and M-5-235C (S/N 7001C through 7045C, and 7047C through 7052C) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent restricted fuel flow in the fuel crossover supply line, accomplish the following:

(a) Visually inspect the fuel crossover supply line as follows:

(1) If the line is found to be collapsed, install a serviceable line aft of the front fuselage seat support frame in accordance with Maule Service Bulletin No. 7, undated.

(2) If the line is not collapsed but is installed forward of the front fuselage seat support frame, remove and reinstall it aft of the front fuselage seat support frame in accordance with Maule Service Bulletin No. 7.

(3) If the line is not collapsed and is installed aft of the front fuselage seat support

frame, in accordance with Maule Service Bulletin No. 7, no further action is required.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location, where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by Manager, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Maule Aerospace Technology, Inc., Route 5, Box 318, Moultrie, Georgia 31768; or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on September 3, 1986.

Issued in Kansas City, Missouri, on August 19, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-19441 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-33-AD; Amdt. 39-5400]

Airworthiness Directives; Piper PA-23, PA-31, and PA-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper PA-23, PA-31 and PA-42 series airplanes, which requires replacement of certain hydraulic hoses, installed or replaced after February 1, 1985. This AD is prompted by the manufacturer's report that approximately 200 hoses were manufactured using material that does not meet the pressure requirements for operation of the aircraft hydraulic system. Failure of the hose will result in loss of hydraulic capabilities which could result in a gear up landing. Replacement of the defective hoses will preclude malfunction of the hydraulic system and the landing gear system.

EFFECTIVE DATE: September 2, 1986.

Compliance: Required within the next 25 hours time in service after the effective date of this AD unless already accomplished.

ADDRESSES: Piper Service Bulletin No. 822 dated April 2, 1986, may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (305) 567-4361. A copy of the service bulletin is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Trammell, Atlanta Aircraft Certification Office, ACE-130A, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: The manufacturer has determined that certain Piper PA-23, PA-31 and PA-42 series airplanes may have hydraulic hose assemblies, Piper Part Number (P/N) 17766-02 (465-138), installed which were manufactured using hose material having less strength than required. The correct hose is manufactured in accordance with military specification MIL-H-8794 having operating pressure of 3000 psi. The incorrect hose was manufactured in accordance with military specification MIL-H-5593 having an operating pressure of only 200 psi and a burst pressure of only 1250 psi. The hydraulic system normal operating pressure in the airplane is 1950 psi. While no hose failure reports have been received by the FAA or by Piper, some aircraft manufactured after February 1, 1985, may have the incorrect hose installed. Also, any spare or replacement hose installed after February 1, 1985, may be the incorrect hose. Failure of the hose results in complete loss of hydraulic capabilities including the loss of ability to release the landing gear up-lock function required for gear extension. This results in a gear-up landing. The FAA has determined that this condition is likely to exist or develop on an airplane in service; therefore an Airworthiness Directive is being issued which requires replacement of this hose on certain Piper Aircraft Corporation PA-23, PA-31, and PA-42 Series airplanes. Since an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct this condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Piper Aircraft Corporation: Applies to the following model airplanes certificated in all categories:

Models affected:	Serial No. affected:
PA-23-150/160 Apache.	23-1 through 23-2046
PA-23-235 Apache.	27-506 through 27-622
PA-23-250 Aztec.	27-1 through 27-8154030
PA-31-300/310/325 Navajo.	31-5 through 31-8312019
PA-31-350 Navajo Chieftain.	31-5001 through 31-8452021
PA-31P Pressurized Navajo.	31P-3 through 31P-7730012
PA-31-350 T1020.	31-8253001 through 31-8553002
PA-31P-350 Mojave.	31P-8414001 through 31P-8414050
PA-31T Cheyenne.	31T-7400002 through 31T-7720069
PA-31T Cheyenne II.	31T-7820001 through 31T-8120104
PA-31T1 Cheyenne I.	31T-7804001 through 31T-8104101
PA-31T1 Cheyenne IA.	31T-8304001 through 31T-1104017
PA-31T2 Cheyenne IIXL.	31T-8166001 through 31T-1166006
PA-31T3 T1040	31T-8275001 through 31T-8375005, 31T-8475001 and 31T-5575001
PA-42 Cheyenne III.	42-7800001, 42-7800002, 42-7801003, 42-7801004, and 42-8001001 through 42-8001106
PA-42 Cheyenne IIIA.	42-8301001, 42-8301002, 42-5501003 through 42-5501023, 42-5501025

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent a gear-up landing resulting from loss of hydraulic system capability, accomplish the following:

(a) Replace all hydraulic hoses identified as Piper Part Number 17766-02 (465-138), and having a smooth rubber surface and a blue colored end nut, with hoses of the same part number having a woven outer covering and

black colored end nut, in accordance with the criteria and instructions contained in the Piper Service Bulletin No. 822, dated April 2, 1986.

Note.—These hoses were available for installation starting February 1, 1985, and may have been installed as spares at any subsequent time.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance may be approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

All persons affected by this directive may obtain copies of the document(s) referred herein upon request to Piper Aircraft Corporation, Vero Beach, Florida, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on September 2, 1986.

Issued in Kansas City, Missouri on August 18, 1986.

Edwin S. Harris,

Director Central Region.

[FR Doc. 86-19442 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 86-AWA-13]

Establishment of Jet Route J-212-AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule; establishment of effective date.

SUMMARY: This action establishes an effective date of October 23, 1986, for the establishment of Jet Route J-212 between Buckeye, AZ, and Palm Springs, CA. The action to establish J-212 was originally published in the **Federal Register** on June 17, 1986 (51 FR 21902). Due to technical problems, the effective date of J-212 was suspended indefinitely on August 12, 1986 (51 FR 28809). Those problems have since been resolved by a 2-degree realignment of a radial in the description of the route.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 86-13564 was published on June 17, 1986, to establish Jet Route J-212. On August 12, 1986 (51 FR 28809) the rule was suspended indefinitely due to air traffic control (ATC) sectorization and minimum en route altitude problems associated with the route. Since that time, the problems have been resolved by a minor alteration of 2 degrees to the Palm Springs radial which helps to make up the route. This slight alteration provides for a traffic flow which is consistent with ATC sector needs without impacting other airspace areas or airspace user activities. The resolution of these technical difficulties permits an effective date of October 23, 1986, to be established.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the effective date of **Federal Register** Document 86-13564, as published in the **Federal Register** on June 17, 1986 (51 FR 21902) is October 23, 1986. The amendment is corrected to read as follows:

§ 75.100 [Corrected]

J-212 [New]

From Stanfield, AZ; Buckeye, AZ; INT Buckeye 285° and Palm Springs, CA, 093° radials; to Palm Springs.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, D.C., on August 21, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19444 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 85-AWA-48]

Realignment and Revocation of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; establishment of effective date.

SUMMARY: This action establishes the effective date of October 23, 1986, for ASD 85-AWA-48. ASD 85-AWA-48 realigns Jet Routes J-4, J-104, J-169 and J-50 and revokes J-181. Action on the docket had been suspended indefinitely on August 12, 1986 (51 FR 28809) due to technical problems associated with a companion docket (86-AWA-13). The change in the effective date is made to coincide with the revised effective date of ASD 86-AWA-13 which establishes Jet Route J-212 in the same area.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 86-18042 published on August 12, 1986, suspended indefinitely the effective date of ASD 85-AWA-48 that was originally published on April 23, 1986 (51 FR 15310). This action establishes a revised effective date. The technical problems associated with a companion docket (86-AWA-13) have been resolved which permits an effective date of October 23, 1986, to be established.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Accordingly, pursuant to the authority delegated to me, the effective date for Federal Register Document 86-09013, as published in the Federal Register on April 23, 1986 (51 FR 15310) is October 23, 1986.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; EO 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, D.C., on August 21, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19443 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368, 369-377, 379, 385, 386, 390, and 399

[Docket No. 60620-6120]

Authority Citations and Codification Changes in the Code of Federal Regulations

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration Regulations (15 CFR Parts 368-399) published in the Federal Register contain citations of the legal authorities under which they are issued. These citations are subsequently displayed with the regulations when they are codified in the Code of Federal Regulations (CFR). Presently, there are many authority citations at the end of various sections and supplements to parts throughout the CFR. This document removes those authority citations in accordance with Office of the Federal Register requirements to centralize the authority citations at the part level. In addition, this document revises certain paragraph designations in various sections of the Regulations in order to conform them with the system of paragraph designation used in the CFR.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Joan Maguire, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone (202) 377-4479).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects

15 CFR Part 368

Imports, Penalties Reporting and recordkeeping requirements.

15 CFR Part 369

Boycotts, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 370

Administrative practice and procedure, Exports.

15 CFR Parts 371-376, 386, and 399

Exports, Reporting and recordkeeping requirements.

15 CFR Part 377

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 379

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 385

Communist countries, Exports.

15 CFR Part 390

Administrative practice and procedure, Advisory committees, Exports.

Accordingly, Parts 368-377, 379, 385, 386, 390, and 399 of the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PARTS 368, 369, 370, 372, 374, 375, AND 376—[AMENDED]

1. The authority citation for 15 CFR Part 369 is revised to read as set forth below and the authority citations for 15 CFR Parts 368, 370, 372, 374, 375, and 376 continue to read as set forth below. The authority citations following the sections in Parts 369, 370, 372, 374, 375, and 376 and the supplements in Parts 369, 370, and 375 are removed.

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PARTS 371, 373, 379, 385, 386, AND 399—[AMENDED]

2. The authority citations for 15 CFR Parts, 371, 373, 379, 385, 386, and 399 continue to read as set forth below. The authority citations following the sections in Parts 371, 373, 379, 385, 386, and 399 and the supplements in Parts 373, 379, and 385 are removed.

Authority: Pub. L. 96-72, 92 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 96-223, 50 U.S.C. 1701 *et seq.*, E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

PART 377—[AMENDED]

3. The authority citation for 15 CFR Part 377 continues to read as set forth below and the authority citations

following the sections and Supplement No. 3 in Part 377 are removed.

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); sec. 103, Pub. L. 94–163, as amended, (42 U.S.C. 6212) as amended by Pub. L. 99–58 of July 2, 1985; sec. 28, Pub. L. 93–153, (30 U.S.C. 185); sec. 28, Pub. L. 95–372, (43 U.S.C. 1354); E.O. 11912 of April 3, 1976 (41 FR 15825, as amended); sec. 101 and 201(11)(e), Pub. L. 94–258, (10 U.S.C. 7420 and 7430(e)); and Presidential Findings (50 FR 25189, June 18, 1985).

PART 390—[AMENDED]

4. The authority citation for 15 CFR Part 390 continues to read as set forth below and the authority citations following the sections in Part 390 are removed.

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); 50 U.S.C. 1701 *et seq.*; E.O. 12543 of January 7, 1986 (51 FR 875, January 9, 1986).

§ 368.2 [Amended]

5. Section 368.2 is amended by redesignating paragraphs (a)(12)(i) (*a*) and (*b*) as paragraphs (a)(12)(i) (A) and (B).

§ 369.2 [Amended]

6. Section 369.2 is amended by redesignating paragraphs (e)(2)(i) (*a*) and (*b*) as paragraphs (e)(2)(i) (A) and (B).

§ 370.11 [Amended]

7. Section 370.11 is amended by redesignating paragraphs (a)(1)(iii) (*a*), (*b*) and (*c*) as paragraphs (a)(1)(iii) (A), and (B), and (C); and paragraphs (a)(2)(iii) (*a*) and (*b*) as paragraphs (a)(2)(iii) (A) and (B).

§ 373.2 [Amended]

8. Section 373.2 is amended by redesignating paragraphs (c)(2)(iii) (*a*), (*b*) and (*c*) as paragraphs (c)(2)(iii) (A), (B), and (C); paragraphs (c)(2)(iv) (*a*) through (*e*) as paragraphs (c)(2)(iv) (A) through (E); and paragraphs (c)(2)(v) (*a*), (*b*) and (*c*) as paragraphs (c)(2)(v) (A), (B) and (C).

§ 373.7 [Amended]

9. Section 373.7 is amended by redesignating paragraphs (d)(1)(i) (*a*), (*b*) and (*c*) as paragraphs (d)(1)(i) (A), (B) and (C); paragraphs (d)(1)(ii) (*a*) through (*e*) as (d)(1)(ii) (A) through (E); paragraphs (d)(2)(ii) (*a*) through (*d*) as paragraphs (d)(2)(ii) (A) through (D); and paragraphs (d)(3)(ii) (*a*) and (*b*) as paragraphs (d)(3)(ii) (A) and (B).

§ 375.9 [Amended]

10. Section 375.9 is amended by redesignating paragraphs (g)(2)(iii) (*a*) through (*j*) as paragraphs (g)(2)(iii) (A) through (J).

§ 376.8 [Amended]

11. Section 376.8 is amended by redesignating paragraphs (b)(1)(i) (*a*) and (*b*) as paragraphs (b)(1)(i) (A) and (B).

§ 376.9 [Amended]

12. Section 376.9 is amended by redesignating paragraphs (b)(1)(iii) (*a*) through (*d*) as paragraphs (b)(1)(iii) (A) through (D); paragraphs (b)(2)(iii)(*a*), (*b*) and (*c*) as paragraphs (b)(2)(iii) (A), (B) and (C); paragraphs (b)(3)(iii) (*a*) through (*d*) as paragraphs (b)(3)(iii) (A) through (D); and paragraphs (c)(4)(ii) (*a*), (*b*) and (*c*) as paragraphs (c)(4)(ii) (A), (B), and (C).

§ 377.2 [Amended]

13. Section 377.2 is amended by redesignating paragraphs (c)(1)(ii) (*a*) and (*b*) as paragraphs (c)(1)(ii) (A) and (B); and paragraphs (d)(2)(ii) (*a*), (*b*) and (*c*) as paragraphs (d)(2)(ii) (A), (B) and (C).

§ 379.4 [Amended]

14. Section 379.4 is amended as follows:

a. Paragraphs (b)(1)(i) (*a*) through (*e*) are redesignated as paragraphs (b)(1)(i) (A) through (E) and paragraphs (b)(1)(ii) (*a*) through (*c*) are redesignated as paragraphs (b)(1)(ii) (A) through (C).

b. In paragraphs (f)(1) introductory text, the phrase "paragraph (f)(1)(i) (*a*) through (*o*) and (*q*) (not (*p*) or (*r*)) of this section" is revised to read "paragraph (f)(1)(i) (A) through (O) and (Q) (not (P) or (R)) of this section" (two revisions); the reference "§ 379.4(f)(1)(*p*)" is revised to read "§ 379.4(f)(1)(i)(P)" (three revisions); and the reference "§ 379.4(f)(1)(i)(*r*)" is revised to read "§ 379.4(f)(1)(i)(R)" (three revisions).

c. Paragraphs (f)(1)(i) (*a*) through (*r*) are redesignated as paragraphs (f)(1)(i) (A) through (R); and paragraphs (f)(1)(ii) (*a*) and (*b*) are redesignated as paragraphs (f)(1)(ii) (A) and (B).

d. Paragraphs (f)(2)(i) (*a*), (*b*) and (*c*) are redesignated as paragraphs (f)(2)(i) (A), (B) and (C); paragraphs (f)(2)(ii) (*a*), (*b*) and (*c*) are redesignated as paragraphs (f)(2)(ii) (A), (B) and (C); and paragraphs (f)(2)(v) (*a*), (*b*) and (*c*) are redesignated as paragraphs (f)(2)(v) (A), (B) and (C).

e. In the Note following newly redesignated paragraph (f)(2)(ii)(C), the reference "§ 379.4(f)(2)(ii) (*b*) and (*c*)" is revised to read "§ 379.4(f)(2)(ii) (B) and (C)" (two revisions); and the reference "§ 379.4(f)(2)(ii)(*b*)" is revised to read "379.4(f)(2)(ii)(B)".

f. In paragraph (g), the reference in the first sentence to "(f)(1)(i)(*k*)" is revised to read "(f)(1)(i)(K)".

§ 386.2 [Amended]

15. Section 386.2 is amended by redesignating paragraphs (b)(1)(i) (*a*) and (*b*) as paragraphs (b)(1)(i)(A) and (B).

§ 386.3 [Amended]

16. Section 386.3 is amended by redesignating paragraphs (p)(3)(ii) (*a*), (*b*) and (*c*) as paragraphs (p)(3)(ii) (A), (B) and (C).

§ 386.5 [Amended]

17. Section 386.5 is amended by redesignating paragraphs (b)(2)(i) (*a*), (*b*) and (*c*) as paragraphs (b)(2)(i) (A), (B) and (C).

§ 386.6 [Amended]

18. Section 386.6 is amended by redesignating paragraphs (d)(2)(i) (*a*) and (*b*) as paragraphs (d)(2)(i) (A) and (B); paragraphs (d)(2)(ii) (*a*) and (*b*) as paragraphs (d)(2)(ii) (A) and (B); paragraphs (g)(3)(ii) (*a*), (*b*) and (*c*) as paragraphs (g)(3)(ii) (A), (B) and (C); and paragraphs (g)(3)(iii) (*a*) through (*d*) as paragraphs (g)(3)(iii) (A) through (D).

§ 386.8 [Amended]

19. Section 386.8 is amended by redesignating paragraphs (b)(1)(iii) (*a*), (*b*) and (*c*) as paragraphs (b)(1)(iii) (A), (B) and (C).

§ 390.1 [Amended]

20. Section 390.1 is amended by redesignating paragraphs (b)(3)(ii) (*a*), (*b*) and (*c*) as paragraphs (b)(3)(ii) (A), (B) and (C).

Dated: August 21, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–19358 Filed 8–27–86; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Part 373

[Docket No. 60624–6124]

Distribution License Procedure; Clarifications, Corrections, and Conforming Amendments

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule and correction.

SUMMARY: Final regulations revising the Distribution License (DL) procedure were published at 50 FR 21561, May 24,

1985. The DL regulations contain provisions that need to be corrected or clarified and require conforming changes to other parts of the Export Administration Regulations (15 CFR Parts 368 through 399). Accordingly, this rule makes the correcting, clarifying and conforming changes that are based on the DL regulations. The changes include a correction to a provision that incorrectly restates the prohibition on the export or delivery of commodities to nuclear end-users or for nuclear end-uses except to countries listed in Supplement No. 2 or 3 to 15 CFR Part 373, a clarification of exceptions to destination control notice requirements; and, a conforming amendment based on a certification required by distributors and end-users reexporting to South Africa and Namibia.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone (202) 377–2440).

SUPPLEMENTARY INFORMATION:

Regulatory Requirements

Prohibition of Export or Delivery of Commodities to Nuclear End-Users or End-Uses; Correction

A provision of the Distribution License (DL) procedure regulations (50 FR 21561, May 24, 1985) regarding the letter of transmittal accompanying an approved Form ITA–6052P, sent by an exporter to a consignee, restated certain other provisions of the regulations incorrectly. Specifically, in 15 CFR 373.3(g)(3)(viii), provisions of 15 CFR 373.3(a)(2) were incorrectly restated as prohibiting the export or delivery of commodities to nuclear end-users or for nuclear end-uses except in countries not listed in Supplement No. 2 or 3 to 15 CFR Part 373. The exception referred to correctly applies to countries listed in Supplement No. 2 or 3. The word "not" was inadvertently picked up in the regulations and is being corrected by this document.

Destination Control Notices; Clarification

Under the DL procedure, a consignee who resells commodities must notify the customers of restrictions on unauthorized reexports by placing a destination control notice on the commercial invoice. The regulations are now being clarified to indicate that the notice is not required when the shipment is to a customer in a country listed in Supplement No. 2 to 15 CFR Part 373, to a customer in any other country designated as authorized to receive the equivalent of Supplement No. 2 status, and when the customer is another approved consignee, foreign government agency or retail customer.

South Africa and Namibia Certification Requirement; Conforming Amendment

In § 373.3(d)(3)(ii)(E)(*3*)(*i*) of the regulations, a special certification is required from distributors and end-users outside the Republic of South Africa and Namibia when exporting to these two countries under the DL procedure, in conformity with U.S. foreign policy toward these countries. The certification requirement currently contained in § 373.1(a)(2)(i) is now being amended to conform to the § 373.3 certification requirement.

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. This rule mentions a collection of information under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* However, the editorial corrections and clarifications being made do not affect this collection. The collection of this information has been approved by the Office of Management and Budget under control number 0625–0052.

List of Subject in 15 CFR Part 373

Exports, Reporting and recordkeeping requirements.

PART 373—[AMENDED]

Accordingly, Part 373 of the Export Administration Regulations (15 CFR Parts 368–399) is amended as follows:

1. The authority citation for 15 CFR Part 373 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. In § 373.1, paragraph (a)(2)(i) is amended by revising the text appearing after the paragraph heading and before the colon to read as follows:

§ 373.1 Introduction.

* * * * *

(a) * * *

(2) * * *

(i) *Sale to and servicing in the Republic of South Africa and Namibia.* The following certification is to be completed by resellers and end-users approved under the Distribution License procedure who are located in the Republic of South Africa or Namibia or are authorized to reexport to the Republic of South Africa or Namibia, and U.S. exporters and service facilities approved under the Service Supply (SL) procedure to service equipment in the Republic of South Africa or Namibia:

* * * * *

§ 373.3 [Corrected]

3. In § 373.3, paragraph (g)(3)(viii) is corrected by removing the word "not" appearing between the words "countries" and "listed" and paragraph (j)(3)(iii) is amended in the second sentence by adding the word "or" after "Part 373" and before "when the customer".

Dated: August 21, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–19357 Filed 8–27–86; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79–14]

Natural Gas Policy Act; Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond A. Beirne, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

[Docket No. RM79–14]

Publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978.
Issued August 22, 1986.

Order of the Director, OPPR

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1)of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of September, 1986 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing thresholds for September, 1986 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer, Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1985]

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental pricing threshold	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439	$2.446	$2.453
NGPA section 102, threshold	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091	4.116	4.141
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	2.532
130% of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630	6.940	7.140

[Calendar year 1986]

	January	February	March	April	May	June	July	August	September
Incremental pricing threshold	$2.460	$2.467	$2.474	$2.481	$2.487	$2.493	$2.499	$2.504	$2.509
NGPA section 102, threshold	4.166	4.191	4.216	4.241	4.264	4.287	4.310	4.332	4.354
NGPA section 109, threshold	2.539	2.546	2.553	2.560	2.566	2.572	2.578	2.583	2.588
130% of No. 2 fuel oil in New York City threshold	7.370	7.930	5.040	5.290	4.680	3.980	3.800	3.190	3.310

[FR Doc. 86–19370 Filed 8–27–86; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 35, 905, 965 and 968

[Docket No. R-86-1165; FR-1748]

Lead-Based Paint Hazard Elimination in Public and Indian Housing

Correction

In FR Doc. 86-17469 beginning on page 27774 in the issue of Friday, August 1, 1986 make the following corrections:

1. On page 27781, third column, in item 7, in the twenty-second line, "chemically" was mispelled, and in the twenty-sixth line, "increase" was misspelled.

2. On page 27782, second column, last paragraph, in the third line, insert "P" between "L" and "P".

3. On page 27784, third column, first complete paragraph, in the twelfth line, "ar" should read "are".

PART 965—[CORRECTED]

4. On page 27789, second column, in the Authority citation, in the second line, "1437a" should read "1937".

§ 965.705 [Corrected]

5. On page 27790, second column, in § 965.705(c), in the sixth line, the first "of" should read "to".

§ 968.9 [Corrected]

6. On page 27792, first column, in § 968.9(e)(2)(ii), in the sixth line, insert a comma in place of the period, and in the seventh line, lowercase "the".

BILLING CODE 1505-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: On 1 July 1986, the National Labor Relations Board published revisions to its rules and regulations that govern the time periods for responding to Board action. The published revisions omitted two rules that should have been changed but were not included in the 1 July publication. These further revisions shall become effective on the same date as the prior published revisions.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (20 U.S.C. 156), the National Labor Relations Board is revising its rules and regulations. On 1 July 1986, the Board published in the **Federal Register** (51 FR 23744) extensive revisions to its rules governing the time for responding to Board action. There were two revisions to the rules that were omitted from that publication. The first involves a change to a filing period and the second involves a cross-reference to a rule that was renumbered.

Section 102.88 of the rules and regulations establishes the procedure for holding a referendum under section 9(e)(1) of the National Labor Relations Act. This section presently provides for a 10-day period to appeal to the Board from a regional director's dismissal of a petition for a referendum. Consistent with the prior changes in times for filing with the Board, the new time period for filing is 14 days, which reflects the inclusion of 3 days for mail service of notification that commences the response time and a further increase in the time to utilize a multiple of 7 days.

Section 102.129(a), which governs prohibited communications, contains a cross-reference to § 102.112, which establishes what constitutes service and was revised and renumbered in the set of changes published in the 1 July 1986 **Federal Register**. Section 102.129(a) is now revised to refer to the new section 102.113, which will replace present § 102.112.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, labor management relations.

Accordingly, 29 CFR Part 102 is amended as follows:

BEST COPY AVAILABLE

PART 102—RULES AND REGULATIONS, SERIES 8, AS AMENDED

1. The authority citation for 29 CFR Part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143(c), 102.144(a) and 102.147(b) also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.88 is revised to read as follows:

§ 102.88 Refusal to conduct referendum; appeal to Board.

If, after a petition has been filed, and prior to the close of the hearing, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition by administrative action. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, DC, and filing a copy of such request with the regional director and the other parties within 14 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

3. Section 102.129 is amended by revising paragraph (a) to read as follows; the introductory text is republished.

§ 102.129 Communications prohibited.

Except as provided in § 102.130, *ex parte* communications prohibited by § 102.126 shall include:

(a) Such communications, when written, if copies thereof are not contemporaneously served by the communicator on all parties to the proceeding in accordance with the provisions of § 102.113.

* * * * *

Dated, Washington, DC, August 22, 1986.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 86-19473 Filed 8-27-86; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86-55]

Special Local Regulations: Scorpion 100 Powerboat Race, Long Island, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Scorpion 100 powerboat race. This event, sponsored by the South Bay Performance Association of East Patchogue, New York, is a high speed powerboat race involving offshore racing vessels ranging in size from 20 to 50 feet in length. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATE: This regulation becomes effective on September 6, 1986 from 10:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was received on August 6, 1986 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of regulations

The Scorpion 100 is a powerboat race sponsored by the South Bay Performance Association in conjunction with Race Headquarters of Freeport, New York. The race is to be held within a rectangular area approximately 7.0 nautical miles long by 2.0 nautical miles wide, whose northern-most boundry is formed by the shoreline on the south shore of Long Island, New York between Fire Island Inlet and Jones Inlet. This

regatta will be held on September 6, 1986. Approximately 50 offshore racing vessels ranging in size from 20 to 50 feet are expected to participate in the event. The sponsor plans to provide 30 vessels in conjunction with Coast Guard and local authorities to patrol this event. Spectator craft which may number up to 400 will be required to remain south of a line formed by the patrol vessels which will be in position just south of the race course. In order to provide for the safety of life and property of both participants and spectators, the Coast Guard will restrict vessel movement in the regulated area.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–331 to read as follows:

§ 100.35–331 Scorpion 100, New York.

(a) *Regulated area.* Atlantic Ocean, between Fire Island Inlet and Jones Inlet in a rectangular area bounded on the south by a line joining 40 degrees 35.2 minutes North; 73 degrees 22.4 minutes West and 40 degrees 33.4 minutes North; 73 degrees 32.5 minutes West. The regulated area is bounded on the East and West by a line drawn from each of the two points described above, 345 degrees True to the shoreline, a distance of about 2.0 nautical miles. The northern boundry of the regulated area is at the shoreline.

(b) *Effective period.* This regulation will be effective from 10:00 a.m. to 3:00 p.m. on September 6, 1986.

(c) *Special local regulations.* (1) The regulated area will be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless participating in the event or authorized by the sponsor or the Coast Guard Patrol Commander.

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels must remain in the area south of a line formed by the patrol vessels which will be in position south of the southern boundary of the race course.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: August 19, 1986.

J.C. Uithol,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 86–19521 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD3 86–54]

Special Local Regulations: Burlington Triathlon, Lake Champlain, VT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the swimming segment of the Burlington Triathlon. This event is sponsored by the Ski Rack Company of Burlington, VT. Swimmers will compete on Lake Champlain in an area frequented by recreational vessels off North Beach just north of the city of Burlington, VT. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATES: This regulation becomes effective on September 14, 1986 beginning at 8:30 a.m. and terminating the same day at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. A determination was not made until August 7, 1986 that this marine event would require a special local regulation and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of regulations

The Burlington Triathlon is a sporting contest, one segment of which involves a swimming event in Lake Champlain. The contest is sponsored by the Ski Rack Company in Burlington, Vermont. The swimming portion of the triathlon will take place in Lake Champlain starting and finishing at the North Beach area located north of the city of Burlington between 8:30 a.m. and 11:00 a.m. on September 14, 1986. The swimming event is to be held on triangular (isosceles) course whose apex is located in Lake Champlain, 1700 feet south of the North Beach bath house. Between 600 and 1000 swimmers are expected to participate in this portion of the Triathlon. The sponsor is providing from 5 to 8 vessels, some with life guards on board, in conjunction with Coast Guard and local authorities to patrol this event. Swimmers will use temporary buoys positioned by the sponsor as guides for the prescribed course. Spectator and transiting craft will be required to remain 50 yards away from any point along the swimming course. In order to provide for the safety of life and property of both participants and spectators, the Coast Guard will restrict vessel movement in the regulated area during the effective period of this special local regulation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–330 to read as follows:

§ 100.35–330 Burlington Triathlon, Burlington, Vermont.

(a) *Regulated area.* Lake Champlain off North Beach, located just north of Burlington, VT, within 50 yards of the swimming course which starts directly in front of the North Beach bath house and extends south southeast 175 degrees True for a distance of 1700 feet to a point described by Latitude 44 degrees 29 minutes 14 seconds North; Longitude 73 degrees 14 minutes 22 seconds West. Thence north northeast 035 degrees True returning to the beach.

(b) *Effective period.* This regulation will be effective from 8:30 a.m. to 11:00 a.m. on September 14, 1986.

(c) *Special local regulations.* (1) The regulated area will be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless authorized by the sponsor or the Coast Guard patrol commander.

(2) All persons or vessels not registered with the sponsor as participants or not part of the marine event patrol are considered spectators. Spectator vessels must not enter the area within 50 yards of the swimming course.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: August 21, 1986.

J.C. Uithol,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 86–19522 Filed 8–27–86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD8–86–7]

Drawbridge Operation Regulations; Clear Creek, TX

AGENCY: U.S. Coast Guard, DOT.

ACTION: Final rule—revocation.

SUMMARY: This amendment revokes the regulations for the State Highway 146 drawbridge across Clear Creek, mile 1.0, at Seabrook, Texas, because the drawbridge has been replaced by a fixed bridge. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this rule are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(B)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3).

§ 117.961 [Amended]

2. Section 117.961(a) is removed and § 117.961(b) becomes § 117.961.

Dated: August 13, 1986.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 86–19520 Filed 8–27–86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

Navigation Regulations; McClellan-Kerr Arkansas River Navigation System

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations which govern the use, administration, and navigation of the McClellan-Kerr Arkansas River Navigation System. The revised regulation eliminates obsolete requirements and provides for an improved format similar to regulations promulgated by the Corps of Engineers for other waterways.

EFFECTIVE DATE: August 28, 1986.

ADDRESS: CDR USACE (DAEN-CWO-M), Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Harold C. Tohlen, Jr., Office of the Chief of Engineers, (202) 272–0245.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the **Federal Register** on March 22, 1984, and comments were requested by April 23, 1984. One comment was received from the public. The discussion which follows responds to the comments received on the proposed regulations.

Section 207.275(g)(7)—This section limits the draft of a vessel to "at least two feet less than the least depth over the sills." The comment received stated that this requirement appeared excessive when compared with the requirement for the Ohio and Mississippi Rivers, which is found in 33 CFR 207.300 and states that "No vessel shall attempt to enter a lock unless its draft is at least three inches less than the least depth of water over the guard sills, or over the gate sills if there be no guard sills." The commentor suggested that an adequate clearance over the sills would be one foot. It is generally recognized that it is profitable for tow operators to load their barges to the greatest draft that conditions will allow. The purpose of the two-foot clearance restriction is to provide a margin of safety so that the risk of the sill being damaged is minimized. Damage to a sill would likely close the lock until repairs could be made. Since the locks on the waterway have single chambers, any lock closure stops navigation. As a practical matter, the two-foot clearance restriction will not normally restrict the drafts to which barges can be loaded. The locks on the waterway were designed to provide a minimum depth of 14 feet over the sills while the authorized channel depth is nine feet. Therefore, in the vast majority of situations, the drafts at which tows can operate will be controlled by depths in the channel, not by the allowable depth over the lock sills. Therefore, the final rule retains the two-foot clearance restriction.

Section 207.275(j)(2)(i)—This section states "Vessels over 40 feet in length shall not land against revetted banks without written permission of the district engineer." The comment received recommended that a provision be included for emergency situations that require a mariner to land against a revetted shore. The final rule permits vessels to land or anchor against revetted banks in an emergency without written permission of the district engineer, provided adjacent locks are notified.

Section 207.275(k)(2)—This section prescribes sound signals for use during lockage. The commentor pointed out that the descriptions of the types of blasts to be used are not consistent with the Inland Navigation Rules promulgated by the U.S. Coast Guard. The final rule changes terminology and the definitions of blasts to be consistent with the Inland Navigation Rules.

Section 207.275(k)(2)(iv)—This section describes the signal to be used by lock personnel as a means of attracting attention, to indicate caution or to signal danger. The comment received pointed out that the signal, "four or more short blasts of the lock horn," was inconsistent with the danger signal described in the Inland Navigation Rules, which is "five or more short and rapid blasts." The final rule has been changed to be consistent with the Inland Navigation Rules.

In addition to the above changes made in response to comments received from the public, the following additional changes have been made in the final rule:

Section 207.275(g)(5)—The tow width for which two deckhands are required on the bow of a tow until the bow passes the recessed miter gates has been changed from 105 feet to 100 feet. This is consistent with current operating procedures. In addition, the paragraph has been reworded for the purpose of clarification.

Section 207.275(g)(11)—This is a new section prohibiting the discharge of refuse into the lock, on the lock walls, on the esplanade, or on any other government property.

Section 207.275(k)(3)(iii)—This paragraph in the proposed regulations has been deleted. Use of a flashing amber light to indicate the lock is being made ready to receive vessels for lockage is not necessary and has been discontinued for safety reasons.

Sections 207.275(e)(2), (g)(9)(ii), and (l)(2)—These paragraphs have been reworded for the purpose of clarification.

The terms "guide wall" and "guard wall" have been changed to "river wall" and "land wall," respectively, throughout the regulations. This terminology is consistent with that used on other waterways. A limited number of additional revisions have been made for editorial purposes. All were minor.

Executive Order 12291

These regulations have been revised by the Department of the Army in accordance with Executive Order 12291. They are classified as non-major regulations because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary of the Army certifies that the revisions to these regulations will not have a significant economic impact on a substantial number of small entities and thus does not require the preparation of a regulatory flexibility analysis.

List of Subjects in 33 CFR Part 207

Navigation (Water), Water transportation, Waterways.

For the reasons set out in the preamble, 33 CFR Part 207 is amended as follows:

PART 207—NAVIGATION REGULATIONS

1. The authority for Part 207 continues to read as follows:

Authority: 40 Stat. 266; 33 U.S.C. 1.

2. Section 207.275 is revised to read as follows:

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§ 207.275 McClellan-Kerr Arkansas River navigation system: use, administration, and navigation.

(a) *Applicability of regulations.* These regulations apply to all locks and appurtenant structures, wharves, and other Corps of Engineers structures in the following waterways: The White River between Mississippi River and Arkansas Post Canal, Arkansas; Arkansas Post Canal, Arkansas; Arkansas River between Dam No. 2, Arkansas, and Verdigris River, Oklahoma; Verdigris River between Arkansas River and Catoosa, Oklahoma; and reservoirs on these waterways between Mississippi River, Arkansas, and Catoosa, Oklahoma.

(b) *Authority of district engineers.* The use, administration, and navigation of the structures to which this section applies shall be under the direction of the officers of the Army Corps of Engineers, detailed in charge of the respective districts, and their authorized assistants. The cities in which these district engineers are located, and the limits of their jurisdictions, are as follows:

(1) *District Engineer, U.S. Army Engineer District, Little Rock, Arkansas.* From Mississippi River, Arkansas, to Arkansas-Oklahoma State line at Fort Smith, Arkansas.

(2) *District Engineer, U.S. Army Engineer District, Tulsa, Oklahoma.* From Arkansas-Oklahoma State line at Fort Smith, Arkansas, to Catoosa, Oklahoma.

(c) *Authority of lockmasters.* The lockmaster shall be charge with the immediate control and management of the lock and of the area set aside as the lock area. The lockmaster shall ensure that all laws, rules, and regulations for the use of the lock and lock area are duly complied with, to which end he/she is authorized to give all necessary orders and directions both to employees of the Government and to any person within the limits of the lock area, whether navigating the lock or not. No one shall cause any movement of any vessel or other floating thing in the lock area except by or under the direction of the lockmaster. Failure to comply with directions given by the lockmaster pursuant to the regulations in this section may result in refusal of lockage. For the purpose of the regulations in this section, the "lock area" is considered to be between the upstream and downstream arrival points. The district engineer may extend the limits of the lock area consistent with the safe and efficient use of the waterway.

(d) *Precedence at locks.* (1) Precedence shall be given to vessels owned by the United States, licensed commercial passenger vessels operating on a published schedule or regularly operating in the "for hire" trade, commercial tows, rafts, and pleasure craft, in the order named. Precedence being equal, the first vessel to arrive at a lock will normally be the first to lock through; however, the lockmaster may depart from this procedure to achieve optimum utilization of the lock or in accordance with the order of precedence stated above and paragraphs (d)(2) and (h). Arrival points have been established ashore upstream and downstream of the locks. Vessels arriving at these markers or the mooring cells immediately upstream and downstream of the lock will be considered as having arrived at the lock within the meaning of this subparagraph.

(2) Vessels or tows, with overall dimensions greater than 105 feet wide or 595 feet long may transit the lock at such time as the lockmaster determines that they will neither unduly delay the transit of craft of lesser dimensions, nor endanger the lock structure and appurtenances because of wind, current, or other adverse conditions. These craft are also subject to such special handling requirements as the lockmaster deems necessary at the time of transit.

(e) *Safety rules for vessels using navigation locks.*

(1) Leaking vessels may be excluded from the locks.

(2) Smoking, open flames, and activities capable of producing a flammable atmosphere such as painting will not be permitted in the lock chamber.

(3) All deckhands handling lines during locking procedures shall wear a personal flotation device.

(f) *Dangerous cargo barges.* The following rules are prescribed for all tows containing dangerous cargoes as defined in Title 46, Code of Federal Regulations. These rules are applicable to both loaded barges and empty barges.

(1) All hatches on barges used to transport dangerous cargoes shall be closed before the tow enters the lock area.

(2) Prior to entering the lock area, towboat pilots shall furnish the name of product, the source of shipment, the company which made the shipment, and the consignee. If a towboat is not equipped with a radio or its radio is out of service, pilots shall furnish this information to the lockmaster while the tow is in the lock chamber. The shipping papers required by Title 46, Code of Federal Regulations, shall be available for review by the lockmaster. Lockage shall be refused when this information is not furnished to the lockmaster.

(3) Fenders shall be water-soaked or otherwise spark proofed.

(4) Smoking, open flames, chipping, or other spark producing activity are prohibited in the "lock area."

(5) Simultaneous lockage of other vessels with vessels carrying dangerous cargoes or containing flammable vapors shall normally not be permitted. if significant delays are occurring at a lock, such simultaneous lockages, except with pleasure craft, may be permitted by the lockmaster, when he/she determines such action safe and appropriate, provided:

(i) The first vessel entering or the last vessel exiting shall be secured before the other enters or leaves.

(ii) All masters involved have agreed to the joint use of the lock.

(g) *General locking procedures.* (1) In case two or more boats or tows are to enter for the same lockage, their order of entry and exit shall be determined by the lockmaster.

(2) Tows entering a lock shall come to a complete stop at a point designated by the district engineer before proceeding to the mooring position.

(3) When entering or exiting locks, tow speeds shall not exceed 200 feet per minute (rate of slow walk) or the rate of travel whereby the tow can be stopped by checking should mechanical difficulties develop. When navigating over Norrell Dam during high water, vessels shall reduce speed to the minimum necessary to maintain steerageway. Pilots should check with the individual lockmasters concerning prevailing conditions. It is also recommended that pilots check their ability to reverse their engines prior to beginning an approach. Towboat engines shall not be turned off in the lock unless authorized by lockmaster.

(4) The sides and ends of all vessels passing through any lock shall be free from protrusions of any kind which might damage the lock structure.

(5) All vessels shall be provided with suitable fenders. When entering and exiting locks, one deckhand, or more if the lockmaster so directs, shall be stationed at the bow and stern of tows. These deckhands shall maintain their stations while tows are moving adjacent to any part of a lock. They shall protect the lock walls by the use of hand-held fenders. In all cases, two deckhands shall be stationed at the bows of tows 100 feet wide or wider when entering locks. They shall remain at their stations until the bows of such tows pass the recessed miter gates.

(6) Masters and pilots must use every precaution to prevent unnecessary delay in entering or leaving locks. Vessels

failing to enter locks with reasonable promptness when signaled to do so shall lose their turn. Rearranging or switching of barges in the locks or in approaches is prohibited unless approved or directed by the lockmaster.

(7) No vessel shall enter a lock unless its draft is at least two feet less than the least depth of water over the sills. Information concerning controlling depth over sills can be obtained from the lockmaster at each lock or by inquiry at the office of the district engineer of the district in which the lock is located.

(8) Vessels awaiting their turn to lock shall be positioned so that they will not interfere with vessels leaving the lock. However, to the extent practicable under the prevailing conditions, vessels and tows shall be positioned so as to minimize approach time.

(9) *Number of lockages.* (i) Tows or rafts locking in sections will generally be allowed only two consecutive lockages if other vessels are waiting lockage, but may be allowed more in special cases. No part of a tow shall pass a lock until the whole of the one preceding it shall have passed. The lockmaster may prescribe a departure from the normal order of precedence to achieve the best lock utilization.

(ii) One deckhand, or more if the lockmaster so directs, shall tend the lines at the bow and stern of each section of a tow that transits a lock or moors to the river walls.

(10) Vessels shall enter and leave locks under such control as to prevent any damage to the walls and gates.

(11) Placing or discharging refuse of any description into the lock, on the lock walls, on the esplanade, or on any other government property is prohibited.

(h) *Lockage of pleasure craft.* In order to fully utilize the capacity of the lock, lockmasters may expedite the lockage of pleasure craft by locking them through with commercial vessels, except vessels carrying volatile cargoes or other substances likely to emit toxic, flammable, or explosive vapors. If the lockage of pleasure craft cannot be accomplished within the time required for three single lockages, a separate lockage of pleasure craft shall be made. Pleasure craft operators are advised that the locks have a pull chain located at the end of each river wall which signals the lockmaster that lockage is desired.

(i) *Locking rafts and floating dredge discharge line.* While awaiting lockage, rafts and tows containing floating dredge discharge line shall not obstruct the lock approaches. They shall be properly and securely assembled to assure adequate control while entering and exiting locks. The passage of loose logs through a lock is prohibited. Lockage will be refused to rafts unless the logs float sufficiently high to make it evident that the raft will not sink.

(j) *Mooring.*—(1) *At locks.* (i) When in the locks, all vessels shall be moored as directed by the lockmaster. Vessels shall be moored with bow and stern lines leading in opposite directions to prevent the vessel from "running" in the lock. All vessels will have one additional line available on the head of the tow for emergency use. The pilot of a vessel shall remain at his station in the pilot house and the deckhands shall stand by the mooring lines during the entire locking procedure. When the vessel is securely moored, the pilot shall not cause movement of the propeller except in an emergency or unless directed by the lockmaster. Tying to lock ladders is strictly prohibited.

(ii) Mooring of any vessel will not be permitted at or between the arrival points without permission of the lockmaster.

(2) *Outside of locks.* (i) Vessels over 40 feet in length shall not land or anchor against revetted banks without written permission of the district engineer, except in case of emergency. When an emergency landing is necessary, adjacent locks shall be notified. In all cases, every precaution to avoid damage to the revetment works shall be exercised. The construction of log rafts along mattressed or paved banks or the tying up and landing of log rafts against such banks require the permission of the district engineer.

(ii) Government mooring facilities at the junction of main stem and secondary channels are to provide temporary mooring for tows awaiting transfer of barges to or from ports, docks, or fleeting areas located on the secondary channels. These facilities shall not be used for storage of barges or fleeting activities. The maximum permissible time of mooring at the facilities shall be determined by the district engineer.

(k) *Locking signals.* Vessels must approach the locks with caution and not enter or leave the locks until signaled to do so by the lockmaster.

(1) *Signal by radio.* Requests for lockage by radio will be the primary signal for vessels equipped with VHF-FM radios operating in the FCC authorized Maritime Band. District engineers will advise all known interested parties of the channels available for use in communicating with the locks. Pilots of commercial tows should contact the locks at least one-half hour before arrival in order that they may be informed of current river and traffic conditions that may affect the safe passage of their tows.

(2) *Sound signals.* In addition to radio communication, the following sound signals are prescribed for use during lockage. Sound signals given by vessels and locks shall be given by means of a horn. The term prolonged blast means a blast of from four to six second's duration. The term short blast means a blast of about one second's duration.

(i) Vessels desiring a single lockage shall give notice to the lockmaster by one prolonged blast of the horn followed by one short blast. If a double lockage is required, vessels shall give one prolonged blast of the horn followed by two short blasts. These signals are not required from pleasure craft not equipped with horns. Locking procedures for pleasure craft are prescribed in paragraph (h).

(ii) When the lock is ready for entrance, the lockmaster shall give one prolonged blast of the horn to signal permission to enter the lock chamber.

(iii) The lockmaster shall give permission to leave the lock chamber by one short blast of the horn.

(iv) Five or more short and rapid blasts of the lock horn will be used as a means of attracting attention, to indicate caution, or to signal danger. This signal will be used to attract the attention of the masters and crews of vessels using the lock or navigating in the lock area and to indicate that something unusual involving danger or requiring special caution is happening or is about to happen. When this signal is given by the lockmaster, the masters and crews of vessels in the vicinity shall immediately become alert to determine the reason for the signal and shall take the necessary steps to cope with the situation.

(3) *Visual signals.* Signal lights are displayed outside each lock gate to supplement the radio and sound signals. Vessels will be governed as follows:

(i) One flashing green light to indicate that the lock is open to approaching navigation.

(ii) One flashing red light to indicate that the lock is not open to approaching navigation. Vessels shall stand clear.

(iii) Flashing amber and green lights to indicate that one or both lock gates can not be fully recessed or other unusual conditions exist. Vessels can enter the lock with caution.

(iv) In the absence of any of the above visual signals, pilots shall signal for lockage by radio or horn and wait for the lockmaster to acknowledge their signal.

(l) *Navigation lights on locks and dams.* (1) The following navigation lights will be displayed at all locks except Norrell Lock and Lock No. 2 during hours of darkness and heavy fog.

(i) Three green lights visible through an arc of 360 degrees arranged in a vertical line on the end of the upstream river wall.

(ii) Two green lights visible through an arc of 360 degrees arranged in a vertical line on the end of the downstream river wall.

(iii) A single red light visible through an arc of 360 degrees on the ends of the upstream and downstream land walls.

(2) The following navigation lights will be displayed at Lock No. 2 during hours of darkness and heavy fog. They shall also be displayed at Norrell Lock during hours of darkness and heavy fog except when navigation is passing over the dam.

(i) Three green lights visible through an arc of 360 degrees arranged in a vertical line on the end of the upstream river wall.

(ii) Two green lights visible through an arc of 360 degrees arranged in a vertical line on the end of the downstream river wall.

(iii) A single red light visible through an arc of 360 degrees on the dolphin located furthest upstream in line with the land wall and on the dolphin located furthest downstream in line with the land wall.

(3) The following navigation lights will be displayed at Norrell Lock and Dam during hours of darkness and heavy fog when navigation is passing over the dam. During daylight hours a yellow and black disc will be displayed on each end (upstream and downstream) of the river wall to signal navigation over the dam.

(i) Three red lights visible through an arc of 360 degrees arranged in a vertical line on the end of the upstream river wall.

(ii) Two red lights visible through an arc of 360 degrees arranged in a vertical line on the end of the downstream river wall.

(iii) A single red light visible through an arc of 360 degrees on the dolphin located furthest upstream in line with the land wall and on the dolphin located furthest downstream in line with the land wall.

(iv) A single, flashing blue light visible through an arc of 360 degrees located on the end of the dam opposite the lock.

(m) *Restricted areas at locks and dams.* All waters immediately above and below each dam, as posted by the respective district engineers, are hereby designated as restricted areas. No vessel or other floating craft shall enter any such restricted area without permission of the lockmaster. The limits of the restricted areas at each dam will be determined by the responsible district engineer and marked by signs installed in conspicuous and appropriate locations.

(n) *Trespass on lock and dam property.*

(1) Trespass on locks or dams or other United States property pertaining to the locks or dams is strictly prohibited except in those areas specifically permitted by the lockmaster. Any person committing a willful injury to any United States property or personnel will be prosecuted.

(2) No fishing will be permitted from the lock or dam structures.

(3) No one but employees of the United States shall move any lock machinery unless directed by the lockmaster. Tampering or meddling with the machinery or other parts of the lock is strictly forbidden.

(o) *Repair and construction of navigation structures.* To avoid damage to plant and structures connected with the construction or repair of locks and dams, vessels passing structures in the process of construction or repair shall reduce their speed and navigate with special caution while in the vicinity of such work.

(p) *Reporting the navigation incidents.* In furtherance of maintaining navigation safety the following rules are prescribed for all navigation interests:

(1) Any incident resulting in uncontrolled barges shall immediately be reported to the nearest lock and the appropriate U.S. Coast Guard Office. The report shall include information as to the number of loose barges, their cargo, and the time and location where they broke loose. The lockmaster shall be kept informed of the progress being made in bringing the barges under control so that he/she can initiate whatever actions may be warranted.

(2) Masters, owners, or other persons using the waterways to which the regulations in this section apply shall report to the nearest lockmaster or the district engineer by the most expeditious means available all marine accidents; such as fire, collision, sinking, or grounding, where there is possible obstruction of the channel or interference with navigation; furnishing a clear statement as to the name, address, and ownership of the vessel or vessels involved; the time and place; and the action taken. In all cases, the owner of a sunken vessel shall take immediate steps to mark the wreck properly.

(i) Sunken or sinking barges shall be reported to the nearest lock both downstream and upstream of the location in order that traffic passing those points may be advised of the hazards. The appropriate U.S. Coast Guard Office shall also be notified.

(ii) Whenever it is necessary to report an incident involving uncontrolled, sunken or sinking barges, the cargo in the barges shall be precisely identified.

(iii) The owners or masters of vessels sunk in the navigable waters of the United States shall provide the appropriate district engineer with a copy of the sunken vessel report furnished to the appropriate U.S. Coast Guard Marine Inspection Office.

(q) *Statistical information.* Masters of vessels shall furnish to the lockmaster such statistics on passengers or cargo as may be requested. Statistics must be furnished in writing and/or orally as requested by the lockmaster.

(r) *Liability for damage.* This section shall not affect the liability of the owners and operators of vessels for any damage caused by their operations. Should any Government property be damaged as the result of the operation of a vessel, the master of the vessel shall report the accident to the nearest lockmaster or the appropriate district engineer.

(s) *Persistent violation of regulations.* If the owner or operator of any vessel persistently violates the regulations of this section or any orders given in pursuance thereof, after due notice of same, lockage may be refused by the district engineer. The lockmaster may refuse lockage if deemed necessary to protect government property in the vicinity of the lock.

(t) *Vessels to carry regulations.* A copy of these regulations shall be kept at all times on board each commercial vessel engaged in navigating the waterway. Copies may be obtained from any lock or district engineer's office on request. Masters of such vessels are also required to have on board current copies of the navigation charts and applicable Notices to Navigation Interest.

Dated: August 14, 1986.

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 86-19315 Filed 8-27-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 60

Health Education Assistance Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These final regulations revise existing regulations governing the Health Education Assistance Loan (HEAL) program, to incorporate amendments made to the Public Health Service Act (the Act) by Public Law (Pub. L.) 99–129, the Health Professions Training Assistance Act of 1985, enacted October 22, 1985.

EFFECTIVE DATE: These regulations are effective August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions (BHPr), Room 8–48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: 301 443–4540.

SUPPLEMENTARY INFORMATION: These regulations implement amendments made in the HEAL legislation by the Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985. These regulations incorporate into the existing regulations those changes which are technical and ministerial in nature, to conform the regulations to the amendments made by Pub. L. 99–129.

These revisions are summarized below according to the section numbers and titles of the regulations.

Section 60.5 Who is an eligible student borrower?

Paragraph (h) has been added to state that if the student is required to present himself for and submit to registration under section 3 of the Military Selective Service Act, the student must do so to be eligible for a HEAL loan.

Section 60.6 Who is an eligible nonstudent borrower?

Paragraph (d) has been added to state that if the nonstudent is required to present himself for and submit to registration under section 3 of the Military Selective Service Act, the nonstudent must do so to be eligible for a HEAL loan.

Section 60.7 The loan application process.

Paragraphs (a)(3) and (c)(4) have been added to require that each student and nonstudent applicant certify that if required to register under section 3 of the Military Selective Service Act, he has done so.

Section 60.10 How much can be borrowed?

Paragraph (a)(2) has been revised to state that a student enrolled in a school of allied health may borrow up to $50,000 total HEAL program loans and up to $12,500 per academic year.

Section 60.11 Terms of repayment.

Paragraph (a)(1) has been amended to reflect the changes made by Pub. L. 99–129 affecting the beginning of the repayment period. Borrowers who received any HEAL program loan before October 22, 1985, and who begin internships or residencies within 9 months after leaving school have no limitation on the length of these deferment periods occurring prior to the beginning of the repayment period. For borrowers who receive their first HEAL program loan on or after October 22, 1985, deferments for internships and residencies are limited to a maximum of 4 years, whether the activity occurs before or after the repayment period begins.

Paragraph (b) has been amended to reflect that any HEAL program loan made to a borrower who receives his or her first HEAL loan on or after October 22, 1985, must be repaid within 33 years of the date it was made.

Paragraph (d) has been amended to reflect that a borrower's payments to all holders of his or her HEAL loans must total the interest that accrues during the year on all the loans, unless the borrower, in the promissory note or other written agreement, agrees to make payments during any year or any repayment period in a lesser amount.

Section 60.12 Deferment.

The Secretary has amended paragraph (a)(2) to indicate that for a borrower who receives his or her first HEAL loan on or after October 22, 1985, the 4-year limit on deferments for participation in internship or residency programs includes any period that occurs prior to the onset of the repayment period.

Section 60.13 Interest.

Paragraph (a)(1) has been amended to reflect the statutory change in the interest rate calculation. Regulations in effect prior to October 22, 1985, allowed 3½ percentage points to be added to the average bond equivalent rates for 91-day Treasury bills auctioned for the previous quarter. The statutory change allows only 3 percentage points to be added.

Section 60.14 The insurance premium.

Paragraph (b) has been revised to state that the insurance premium shall not exceed the statutory maximum and that changes in the rate will be announced through a general notice in the **Federal Register**.

Paragraph (c) of the current regulations allows the insurance premium to be calculated per year from the date the loan is made to a date 9 months after the student borrower's anticipated date of graduation or to the end of the month preceding the month the nonstudent borrower's loan payments are expected to begin or resume. Paragraphs (c)(1) and (c)(2) have been revised to reflect that, effective July 22, 1986, the insurance premium for both students and nonstudents must be calculated as a one-time flat rate based on the principal of the loan at the time of disbursement.

Section 60.33 Making a HEAL loan.

Paragraph (e)(1)(i) has been amended to require that the HEAL program loan must be paid to a student borrower by means of a check or draft made payable jointly to the borrower and the school.

Since these regulations implement technical revisions, which are ministerial in nature, to conform HEAL regulations with amendments made by Pub. L. 99–129, the Secretary has determined pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the new requirements in these regulations are minimal in comparison to the overall resources of the lenders and the schools. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act of 1980

This rule does not affect the recordkeeping, reporting, or disclosure/notification requirements for the HEAL program.

List of Subjects in 42 CFR Part 60

Educational study programs, Health professions, Loan programs—education, Loan programs—health, Medical and dental schools, Reporting and recordkeeping requirements, Student aid.

Accordingly, 42 CFR Part 60 is amended as follows:

(Catalog of Federal Domestic Assistance, No. 13.108, Health Education Assistance Loan Program)

Dated: July 22, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: August 12, 1986.

Otis R. Bowen,

Secretary.

PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

1. The authority citation for Part 60 is revised to read as follows:

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 727–739 of the Public Health Service Act, 90 Stat. 2243, as amended, 93 Stat. 582, 99 Stat. 529–532 (42 U.S.C. 294–294l).

2. Section 60.5 is amended by adding a new paragraph (h) to read as follows:

§ 60.5 Who is an eligible student borrower?

* * * * *

(h) If required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, he must have presented himself and submitted to registration under such section.

3. Section 60.6 is amended by adding a new paragraph (d) to read as follows:

§ 60.6 Who is an eligible nonstudent borrower?

* * * * *

(d) If required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, he must have presented himself and submitted to registration under such section.

4. Section 60.7 is amended by adding paragraphs (a)(3) and (c)(4) to read as follows:

§ 60.7 The loan application process.

(a) * * *

(3) A student applicant must certify on the application that if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, he has presented himself and submitted to registration under such section.

* * * * *

(c) * * *

(4) A nonstudent applicant must certify on the application that if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, he has presented himself and submitted to registration under such section.

* * * * *

5. Section 60.10 is amended by revising paragraph (a)(2) to read as follows:

§ 60.10 How much can be borrowed?

(a) * * *

(2) A student enrolled in a school of public health, pharmacy, chiropractic, or a graduate program in health administration, clinical psychology, or allied health may borrow up to $50,000 under this part. The amount received may not exceed $12,500 per academic year.

* * * * *

6. Section 60.11 is amended by revising paragraphs (a)(1), (b), and (d), to read as follows:

§ 60.11 Terms of repayment.

(a) *Commencement of repayment.* (1) The borrower's repayment period must begin the first day of the 10th month after the month he or she ceases to be a full-time student at a HEAL school. The 9-month period before the repayment period begins is popularly called the "grace period." However, if the borrower becomes an intern or resident in an accredited program within 9 full months after leaving school, then the borrower's repayment period must begin the first day of the 10th month after the month he or she ceases to be an intern or resident. For a borrower who receives his or her first HEAL loan on or after October 22, 1985, this postponement of the beginning of the repayment period for participation in an internship or residency program is limited to 4 years. If a nonstudent borrower obtains another HEAL loan during the grace period or period of internship, residency, or deferment (as defined in § 60.12), the borrower must begin to repay this loan when repayment on the borrower's other HEAL loans begins or resumes.

* * * * *

(b) *Length of the repayment period.* In general, a lender must allow a borrower at least 10 years, but not more than 25 years, to repay a loan calculated from the beginning of the repayment period. A borrower must fully repay a loan within 33 years from the date that the loan is made.

(1) For a HEAL borrower who received any HEAL loan prior to October 22, 1985, periods of deferment (as described in § 60.12) are not included when calculating the 10 to 25 or 33 years limitations.

(2) For a borrower who receives his or her first HEAL loan on or after October 22, 1985, periods of deferment (as described in § 60.12) are included when calculating the 33 years limitation, but are not included when calculating the 10 to 25 years limitation.

* * * * *

(d) *Minimum annual payment.* During each year of repayment, a borrower's payments to all holders of his or her HEAL loans must total the interest that accrues during the year on all of the loans, unless the borrower, in the promissory note or other written agreement, agrees to make payments during any year or any repayment period in a lesser amount.

* * * * *

7. Section 60.12 is amended by revising paragraph (a)(2) to read as follows:

§ 60.12 Deferment.

(a) * * *

(2) Up to 4 years during which the borrower is a participant in an accredited internship or residency program, as described in § 60.11(a)(2). For a borrower who receives his or her first HEAL loan on or after October 22, 1985, this total of 4 years for an internship or residency program includes any period of postponement of the repayment period, as described in § 60.11(a)(1);

* * * * *

8. Section 60.13 is amended by revising paragraph (a)(1) to read as follows:

§ 60.13 Interest.

(a) * * *

(1) For all loans made on or after October 22, 1985, for each calendar quarter, the Secretary determines the maximum annual HEAL interest rate by determining the average of the bond equivalent rates reported for the 91-day U.S. Treasury bills auctioned for the preceding calendar quarter, adding 3 percentage points, and rounding that amount to the next higher one-eighth of 1 percent.

* * * * *

9. Section 60.14 is amended by revising paragraphs (b), (c)(1), and (c)(2) to read as follows:

§ 60.14 The insurance premium.

* * * * *

(b) *Rate.* The rate of the insurance premium shall not exceed the statutory maximum. The Secretary announces changes in the rate of the insurance premium through a notice published in the Federal Register.

(c) *Method of calculation.* (1) *Student borrowers.* For loans disbursed prior to July 22, 1986, the lender must calculate the insurance premium on the basis of

the number of months beginning with the month following the month in which the loan proceeds are disbursed to the student borrower and ending 9 full months after the month of the student's anticipated date of graduation. For loans disbursed on or after July 22, 1986, the insurance premium shall be calculated as a one-time flat rate on the principal of the loan at the time of disbursement.

(2) *Nonstudent borrowers.* For loans disbursed prior to July 22, 1986, the lender must calculate the insurance premium for nonstudent borrowers on the basis of the number of months beginning with the month following the month in which the loan proceeds are disbursed to the borrower and ending at the conclusion of the month preceding the month in which repayment of principal is expected to begin or resume on the borrower's previous HEAL loans. For loans disbursed on or after July 22, 1986, the insurance premium shall be calculated as a one-time flat rate on the principal of the loan at the time of disbursement.

* * * * *

10. Section 60.33 is amended by revising paragraph (e)(1)(i) to read as follows:

§ 60.33 Making a HEAL loan.

* * * * *

(e) * * *

(1) * * *

(i) To a student borrower, by means of a check or draft payable jointly to the student borrower and the HEAL school. Except where a lender is also a school, a lender must mail the check or draft to the school (to the attention of the school official named on the loan application) for delivery to the student borrower. A lender may not mail the check or draft to a school earlier than is reasonably necessary to meet the cost of education for the period for which the loan is made.

* * * * *

[FR Doc. 86-19368 Filed 8-27-86; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 85-196; FCC 86-343]

Amateur Radio Service; Amendment of the Amateur Rules to Permit Volunteer Examiner Coordinators (VEC's) to Maintain Question Pools for Amateur Operator Examinations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The amended rules permit VEC's to maintain the question pools for amateur operator examinations and allow volunteer examiners (VE's) to prepare examination question sets now rather than beginning that function on January 1, 1987. The rules are necessary so that the Commission will be relieved of the task of maintaining the question pools. The effect of the rule amendments is to transfer additional functions of the amateur volunteer system to private sector volunteers.

EFFECTIVE DATE: These regulations contain information collection and reporting requirements. Therefore, they will not be made effective until notice of approval is received from the Office of Management and Budget. FCC will publish a notice of effective date when approval is received.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted August 4, 1986, and released August 8, 1986. The complete text of this Commission decision including the rule amendments is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision including the rule amendments may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. The responsibility for question pools for amateur operator written examinations has been transferred from the FCC to Volunteer Examiner Coordinators (VEC's) in the Volunteer Examination System. The Commission found that the VEC's are capable of maintaining the question pools and that question standardization could be achieved through VEC forums, spelling out the standards in the rules and using the basic question pools provided by the FCC.

PR Bulletin 1035, *Study Guide for FCC Amateur Radio Operator License Examinations*, has been eliminated since candidates are now using other study guides. Also eliminated are PR Bulletins 1035 A, B, C, and D which contain the examination questions.

The topics that must be mastered in order to pass the examinations for the various classes of licenses, the telegraphy speeds required, the scope of the written exam for each examination element and the number of questions for each examination element are contained in the amendments to the Amateur Rules.

The amended rules also provide that neither the same question set nor the same telegraphy message may be readministered to the same person. Finally, the amended rules provide that VE's may begin now to prepare, from the question pools provided by their VEC, question sets that they administer to candidates.

The amended rules are set forth at the end of this document.

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the amended rules will not have a significant impact on a substantial number of small entities because such entities may not use the Amateur Radio Service for commercial radio communication. See 47 CFR 97.3(b).

3. The rule amendments contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new information collection and record keeping requirement on the VEC's. Implementation of the new requirement will be subject to approval of the Office of Management and Budget as prescribed by that Act.

4. This Report and Order and these rule amendments are issued under the authority of 47 U.S.C. 154(i) and 303(r). The authority citation for Part 97 continues to read as follows: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

5. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

6. It is ordered that Part 97 is amended as shown at the end of this document. It is further ordered that these rule amendments shall become effective after receipt of approval of OMB of the new information collection and record keeping requirement. The effective date will be announced in a future Public Notice. It is further ordered that this proceeding is terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

List of Subjects in 47 CFR Part 97

Amateur radio, Examinations, Radio

Amended Rules

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. The heading and text of § 97.21 are revised to read, as follows:

§ 97.21 Examination elements and standards.

(a) A telegraphy examination shall be such as to prove that a person has the ability to send correctly by hand and to receive correctly by ear texts in the International Morse code at the speed listed for the appropriate examination element.

(1) Element 1(A): Five (5) words per minute;

(2) Element 1(B): Thirteen (13) words per minute;

(3) Element 1(C): Twenty (20) words per minute.

(b) A telegraphy examination shall consist of a prepared message containing all the letters of the alphabet, numerals 0–9, period, comma, question mark, AR, SK, BT, and DN. No telegraphy message known to the candidate shall be administered in a telegraphy receiving examination.

(c) A written examination shall be such as to prove that a person possesses the operational and technical qualifications required to perform properly the duties of an amateur radio licensee. Each written examination shall consist of a question set, as follows:

(1) Element 2: At least 20 questions concerning the privileges of Novice class licensees;

(2) Element 3: At least 50 questions concerning the additional privileges of Technician and General class licensees;

(3) Element 4(A): At least 50 questions concerning the additional privileges of Advanced class licensees;

(4) Element 4(B): At least 40 questions concerning the additional privileges of Amateur Extra class licensees.

(d) The topics and percentage of questions in each question set shall be that listed for the appropriate examination element:

Topics	Elements (percent)			
	2	3	4(A)	4(B)
(1) Federal Communications Commission's Rules for the Amateur radio service	35	18	12	20
(2) Amateur station operating procedures	5	12	2	10
(3) Radio wave propagation characteristics of amateur frequency bands	5	12	4	5
(4) Amateur radio practices	15	18	8	10
(5) Electrical principles as applied to amateur station equipment	15	8	20	15
(6) Amateur station equipment circuit components	5	8	12	10
(7) Practical circuits employed in amateur station equipment	5	4	20	10
(8) Signals and emissions transmitted by amateur stations	5	8	12	10
(9) Amateur station antennas and feed lines	10	14	10	10

3. The heading and text of § 97.27 are revised to read, as follows:

§ 97.27 Volunteer examiner examination preparation.

(a) Each examination administered for the Novice operator license shall be prepared by the administering volunteer examiner.

(b) Each examination administered for the Technician, General, Advanced or Amateur Extra operator license shall be prepared by the administering volunteer examiners according to instructions from their coordinating VEC, or obtained by the administering volunteer examiners from the coordinating VEC that accredited them. See § 97.517.

(c) Neither the same telegraphy message nor the same question set may be readministered to the same person.

(d) Each VEC and each volunteer examiner must hold telegraphy messages and question sets for current and future examinations in confidence. No examination which has been compromised shall be administered to any candidate.

4. Section 97.29(a) is revised to read, as follows:

§ 97.29 Examination grading.

(a) Each examination element shall be graded separately by the examiners. The examiners are responsible for determining the correctness of the candidate's answers.

* * * * *

5. The heading and text of § 97.517 are revised to read, as follows:

§ 97.517 Examination materials provided by a VEC.

(a) The coordinating VEC may provide telegraphy messages and question sets to the administering volunteer examiners it accredits for use in examination sessions it coordinates. See § 97.27.

(b) Each telegraphy message provided by a VEC shall be prepared by a volunteer examiner of the proper operator class, as follows:

(1) Element 1(C): Amateur Extra class;

(2) Element 1(B): Amateur Extra class;

(3) Element 1(A): Amateur Extra class, Advanced class or General class.

(c) Each question on each VEC question pool and question set shall be prepared by a volunteer examiner of the proper operator class, as follows:

(1) Elements 4(A) and 4(B): Amateur Extra class;

(2) Element 3: Amateur Extra class and Advanced class;

(3) Element 2: Amateur Extra class, Advanced class, General class or Technician class.

6. Section 97.521 is revised to read as follows:

§ 97.521 VEC question pools.

Each VEC must maintain a question pool for each written examination element. Each question pool must contain at least ten times the number of questions required for a single examination. See § 97.21. No question in a question set may be used for a written examination in an examination session coordinated by a VEC unless it appears on the question pool of that coordinating VEC. The question pool must be published and made available to the public prior to its use for making question sets.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons, Bag Limits and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens and purple gallinules; teal in September, in the contiguous United States; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky

and Tennessee; Canada geese in September in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Puerto Rico and the Virgin Islands; and extended falconry seasons during 1986–87. The taking of these migratory birds is prohibited unless hunting seasons are specifically provided. The rules will permit the hunting of these species within specified periods of time beginning as early as September 1, as has been the case in past years.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 536, Matomic Building, 1717 H Street NW., Washington, DC, telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 21, 1986, the U.S. Fish and Wildlife Service (herinafter the Service) published for public comment in the **Federal Register** (51 FR 9854) a proposal to amend 50 CFR Part 20, with comment periods ending June 19, July 14, and August 25, 1986, respectively, for the 1986–87 hunting season frameworks proposed for Alaska, Hawaii, Puerto Rico and the Virgin Islands; other early seasons; and late seasons. That document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. On June 6, 1986, the Service published in the **Federal Register** (51 FR 20677) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late-season frameworks. On July 3, 1986, the Service published for public comment in the **Federal Register** (51 FR 24415) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On July 25, 1986, the Service published in the **Federal Register** (51 FR 26712) a fourth document consisting of final frameworks for Alaska, Puerto Rico and the Virgin Islands. On August 13, 1986, the Service published a fifth document (51 FR 28946) consisting of a final rulemaking for the early-season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected early-season hunting dates, hours, areas and limits for the 1986–87 season. On August 15, 1986, the Service published a sixth document in the **Federal Register** (51 FR 29274) consisting of a proposed rulemaking dealing specifically with frameworks for late-season migratory bird hunting regulations. The final rule described here is the seventh in a series of proposed, supplemental and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR Part 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, snipe, and common moorhens and purple gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky and Tennessee; Canada geese in September in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Puerto Rico and the Virgin Islands; and extended falconry seasons.

Nontoxic Shot Regulations

In the January 6, 1986, **Federal Register** (51 FR 409), the Service published a proposed rule describing areas in which lead shot would be prohibited for waterfowl and coot hunting in the 1986–87 hunting season. Appendix O of the recently published Final Supplemental Environmental Impact Statement on the Use of Lead Shot for Hunting Migratory Birds in the United States contains a preliminary final rule addressing the 1986–87 nontoxic shot zones. The final rule describing areas where nontoxic shot is required will be published in the **Federal Register** when the Record of Decision on the Final Supplemental Environmental Impact has been signed. It is anticipated this will occur in mid-August.

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting. Attention is also directed to the January 6 and June 27, 1986, **Federal Register** (51 FR 409 and 23444) which gave notice if States do not approve nontoxic shot zones when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of Interior, acting through the Service, will not open those areas to waterfowl and coot hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] "shall insure that any action authorized, funded or carried out . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species . . . which is determined to be critical."

Subsequently, the Service initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 23, 1986, the Chief, Office of Endangered Species, gave a biological opinion that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240

VOL 51 ISS 167 AG 28 1986 UMI

Regulatory Flexibility Act and Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 21, 1986 (at 51 FR 9859), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget under the Paperwork Reduction Act of 1980.

Authorship

The primary author of this rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated July 25, 1986 (at 51 FR 26714).

Regulations Promulgation

After analysis of migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (51 FR 9854, March 21, 1986; 51 FR 20677, June 6, 1986; and 51 FR 24415, July 3, 1986), the Service published in the **Federal Register** on July 25, 1986 (51 FR 26712), final early-season frameworks for Alaska, Puerto Rico, and the Virgin Islands; and on August 25, 1986 (51 FR 26712), those for the contiguous United States and Hawaii. Copies of the final frameworks were sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 21, June 6, and July 3, 1986, the Service established what it believed were the longest periods possible for public comment. In doing this the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, with each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting imports, Transportation, Wildlife.

PART 20—[AMENDED]

For these reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K, is amended as set forth below.

1. The authority citation for Part 20 is revised to read as follows, and the authority citations following the sections in Part 20 are removed.

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–708h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–04.

(Editorial Note.—The following annual hunting regulations will not appear in the Code of Federal Regulations because of their seasonal nature)

2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

1. Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits, and areas for hunting the species designated in this section are prescribed as follows:

(a) Puerto Rico.

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species.	5
Possession limit	10 singly or in the aggregate of all permitted species.	5
Season dates	(1)	(1)
Shooting hours	(2)	(2)

[1] September 6 to November 3, 1986.
[2] One-half hour before sunrise to sunset daily.

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove *(Tortola cardosantera)*; white-winged dove *(Tortola aliblanca o cubanita)*; mourning dove *(Tortola rabilarga o rabiche)*; and scaly-naped pigeon *(Paloma turca o torcaz)*.

Closed Areas

No season is prescribed for doves and pigeons on Mona Island in order to protect the reduced population of white-crowned pigeon *(Columba leucocephala)*, known locally as "Paloma cabeciblanca."

No season is prescribed for doves and pigeons in the Municipality of Culebra and on Desecheo Island.

No season is prescribed in the El Verde Closure Area consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) All lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) All lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) All lands within Km 14 and Km 6 on the west and the Caribbean National

Forest Boundary on the east; and (5) All lands within the Caribbean National Forest Boundary whether private or public.

No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavata, west along the Rio Guavata to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

(b) *Puerto Rico.*

	Ducks	Coots	Common Moorhens (Gallinules)	Common Snipe
Daily bag limits	4	Closed	6	6
Possession limits	8	Closed	12	12
Season dates	(1)	(1)	(1)	(1)
Shooting hours	(2)	(2)	(2)	(2)

[1] November 8 to December 8, 1986 and January 31 to February 23, 1987.
[2] One-half hour before sunrise until sunset daily.

Restrictions: No season is prescribed for waterfowl in the Municipality of Culebra and on Desecheo Island. The season is closed on the ruddy duck *(Oxyura jamaicensis)*; White-cheeked pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*; masked duck *(Oxyura dominica)*; and purple gallinule *(Porphyrula martinica)*.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Note.—Local names for game birds: Ruddy duck *(Oxyura jamaicensis)* Pato rojo (protected); purple gallinule *(Porphyrula martinica)*—Gallareta azul (protected); and Puerto Rican plain pigeon *(Columba inornata wetmorei)*—Paloma sabanera (protected).

(c) *Virgin Islands.*

	Zenaida Dove	Scaly-naped Pigeon	Ducks
Daily bag limits	10	5	4
Possession limits	10	5	4
Season dates:			
Zenaida dove and scaly-naped pigeon	(1)	(1)	(1)
Ducks only	(2)	(2)	(2)
Shooting hours	(3)	(3)	(3)

[1] September 1 through October 30, 1986.
[2] December 1, 1986, through January 24, 1987.
[3] One half-hour before sunrise until sunset daily.

Restrictions: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands. The season is closed on the ruddy duck *(Oxyura jamaicensis)*; White-cheeked pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*; masked duck *(Oxyura, dominica)*, and purple gallinule *(Porphyrula martinica)*.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Note.—Local names for game birds: Zenaida dove *(Zenaida aurita)*—mountain dove; bridled quail dove *(Geotrygon mystacea)*—Barbary dove, partridge (protected); ground dove *(Columbina passerina)*—stone dove, tobacco dove, rola, tortolita (protected); and scaly-naped pigeon *(Columba squamosa)*—red-necked pigeon, scaled pigeon.

3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting and hawking hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Open Seasons—Ducks, Geese, Cranes and Common Snipe

Area		
Northern	State Game Mgmt. Units 11–13 and 17–26	Sept. 1 to Dec. 16
Gulf Coast	State Game Mgmt. Units 5–7, 9, 14–16, and Unimak Island	Sept. 1 to Dec. 16.
Southeast	State Game Mgmt. Units 1–4	Sept. 1 to Dec. 16.
Pribilof and Aleutian Islands	State Game Mgmt. Unit 10 except Unimak Island	Oct. 8 to Jan. 22.
Kodiak	State Game Mgmt. Unit 8	Oct. 8 to Jan. 22.

Daily Bag and Possession Limits

Area	Ducks (1)	Geese (2)	Emperor geese	[illegible]	Common [illegible]	Sandhill cranes
Northern	10–30	6–12	Closed	2–4	8–16	(1)
Gulf Coast	8–24	6–12	Closed	2–4	8–16	2–4
Southeast	7–21	6–12	Closed	2–4	8–16	2–4
Pribilof and Aleutian Islands	7–21	6–12	Closed	2–4	8–16	2–4
Kodiak	7–21	6–12	Closed	2–4	8–16	2–4

[1] 2–4 in unit 17; 3–6 in units 11–13 and 18–26.

(1) In Units 1–26 (Statewide) the basic daily bag and possession limit may include not more than 3 and 9 pintails, respectively. In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers.

(2) No more than 4 daily, or 8 in possession may be any combination of Canada and/or white-fronted geese, provided that: in Units 1–9 and 14–18, no more than 2 daily, or 4 in possession, may be white-fronted geese. In Units 5 and 6, the taking of Canada geese is only permitted September 21 through December 16. In Units 8, 9(E), 10 (except Unimak Island) and 18, the taking of Canada geese is prohibited. In Unit 1(C), the taking of snow geese is prohibited. In Units 1–26 (Statewide) the taking of Aleutian and cackling Canada geese and emperor geese is prohibited.

4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit.*

In all States except Alabama, Illinois and Tennessee:
Daily bag limit 12

Possession limit	24
In Illinois and Tennessee:	
Daily bag limit	15
Possession limit	30
In Alabama:	
North Zone:	
Daily bag limit	15
Possession limit	15
South Zone:	
Daily bag limit	12
Possession limit	12

Note.—Shooting and hawking hours: One-half hour before sunrise until sunset daily except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	
Alabama:	
North Zone (1):	
12 noon to sunset	Sept. 6.
One-half hour before sunrise to sunset.	Sept. 7–Sept. 15 and Sept. 20–Oct. 15 and Dec. 23–Jan. 15.
South Zone (1):	
One-half hour before sunrise to sunset.	Oct. 4–Nov. 30.
12 noon to sunset	Dec. 24–Jan. 4.
Connecticut	Closed.
Delaware (12 noon to sunset).	Sept. 6–Sept. 27 and Oct. 13–Oct. 25 and Dec. 8–Jan. 10.
Florida (2):	
12 noon to sunset	Oct. 4–Oct. 26.
One-half hour before sunrise to sunset.	Nov. 15–Nov. 30 and Dec. 13–Jan. 12.
Georgia:	
North Zone (3):	
12 noon to sunset	Sept. 6.
One-half hour before sunrise to sunset.	Sept. 7–Oct. 5 and Nov. 27–Nov. 30 and Dec. 11–Jan. 15.
South Zone (3):	
12 noon to sunset	Sept. 27.
One-half hour before sunrise to sunset.	Sept. 28–Oct. 26 and Nov. 27–Nov. 30 and Dec. 11–Jan. 15.
Illinois (12 noon to sunset).	Sept. 1–Oct. 30.
Indiana (12 noon to sunset).	Sept. 1–Oct. 26 and Nov. 27–Dec. 10.
Kentucky:	
11 a.m. to sunset	Sept. 1-Oct. 31.
Sunrise to sunset	Nov. 29–Dec. 7.
Louisiana:	
12 noon to sunset	Sept.6–Sept. 7 and Oct. 18–Oct. 19 and Dec. 13–Dec. 14.
One-half hour before sunrise to sunset.	Sept. 8–Sept. 14 and Oct. 20–Nov. 30 and Dec. 15–Dec. 29.
Maine	Closed.
Maryland:	
12 noon to sunset	Sept. 1 Oct. 25.
One-half hour before sunrise to sunset.	Nov. 15–Nov. 22 and Dec. 20–Dec. 26.
Massachusetts	Closed.
Michigan	Closed.
Mississippi (One-half hour before sunrise to sunset).	Sept. 6–Sept. 28 and Oct. 18–Nov. 16 and Dec. 20–Jan. 5.
New Hampshire	Closed.
New Jersey	Closed.
New York	Closed.
North Carolina (One-half hour before sunrise to sunset).	Sept. 1–Oct. 11 and Nov. 24–Nov. 29 and Dec. 19–Jan. 10.
Ohio	Closed.
Pennsylvania:	
12 noon to sunset	Sept. 1–Oct. 18.
One-half hour before sunrise to sunset.	Nov. 1–Nov. 22.
Rhode Island:	
12 noon to sunset	Sept. 8–Sept. 28.
Sunrise to sunset	Oct. 18–Nov. 30 and Dec. 29–Jan. 2.
South Carolina (One-half hour before sunrise to sunset).	Sept. 6–Oct. 11 and Nov. 22–Nov. 29 and Dec. 20–Jan. 14.
Tennessee:	
12 noon to sunset	Sept. 1.
One-half hour before sunrise to sunset.	Sept. 2–Sept. 29 and Oct. 11–Oct. 25 and Dec. 13–Dec. 28.
Vermont	Closed.
Virginia:	
12 noon to sunset	Sept. 1–Nov. 1.
One-half hour before sunrise to sunset.	Dec. 26–Dec. 27 and Dec. 29–Jan. 3.
West Virginia:	
12 noon to sunset	Sept. 1–Nov. 1.
One-half hour before sunrise to sunset.	Dec. 24–Dec. 31.
Wisconsin	Closed.

(1) In Alabama the South Zone is defined as: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: remainder of the State.

(2) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is 24 mourning and white-winged doves in the aggregate, of which not more than 8 may be white-winged doves.

(3) In Georgia, the North Zone is defined as that area lying north of a division line as follows: U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east along the southern border to Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, east to the eastern border of Tattnall County, north along the eastern boundary Tattnall County, north along the western border of Evans County to Candler County, east along the northern border of Evans County to Bulloch County, north along the western border of Bulloch County to Highway 301, then northeast along Highway 301 to the South Carolina line.

(b) *Mourning Doves—Central Management Unit.*

In Missouri:	
Daily bag limit	10
Possession limit	20
In Texas:	
Daily bag limit	12
Possession limit	24
In Arkansas, Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Wyoming, and Montana:	
Daily bag limit	15
Possession limit	30

Note.—Shooting and hawking hours: One-half hour before sunrise until sunset daily except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	
Arkansas	Sept. 1–Sept. 21 and Oct. 11–Oct. 26 and Dec. 20–Jan. 11.
Colorado	Sept. 1–Oct. 30.
Iowa	Closed.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1–Nov. 9.
Montana	Sept. 6–Oct. 12.
Nebraska	Sept. 1–Oct 30.
New Mexico (1)	Sept. 1–Sept. 30 and Dec. 1–Dec. 30.
North Dakota	Sept. 1–Oct. 30.
Oklahoma	Sept. 1–Oct. 30.
South Dakota	Sept. 1–Oct. 17.
Texas (2)(3):	
North Zone	Sept. 1–Nov. 9.
Central Zone	Sept. 1–Oct. 30 and Jan. 3–Jan. 12.
South Zone (4)	Sept. 20–Nov. 18 and Jan. 3–Jan. 12.
Wyoming	Sept. 1–Oct. 15.

(1) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white winged and mourning doves, singly or in the aggregate of these species.

(2) In Texas the three zones are North, South and Central as follows:

NORTH ZONE—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

SOUTH ZONE—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 at Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

CENTRAL ZONE—That portion of the State lying between the North and South Zones.

(3) In Texas, the daily bag limit is 12 mourning, white-winged and white-tipped doves in the aggregate, of which no more than 2 can be white-winged doves and 2 can be white-tipped doves; and the possession limit is 24, of which no more than 4 may be whitewings 4 may be whitetips.

(4) In Texas, the mourning dove season in the Special White-winged Dove Area of the South Zone is Sept. 20–Nov. 14 and Jan. 3–Jan. 12.

(c) *Mourning Doves—Western Management Unit.*

In Washington:
- Daily bag limit 10
- Possession limit 20

In Arizona:
- Daily bag limit 12
- Possession limit 24

In California, Idaho, Nevada, Oregon, and Utah:
- Daily bag limit 15
- Possession limit 30

Note.—Shooting and hawking hours: One-half hour before sunrise until sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:
- Arizona (1) ..... Sept. 1–Sept. 21 and Nov. 24–Jan. 11.
- California (2) ..... Sept. 1–Oct. 15 and Nov. 15–Nov. 29.
- Idaho ..... Sept. 1–Oct. 30.
- Nevada (2) ..... Sept. 1–Oct. 30.
- Oregon ..... Sept. 1–Sept. 30.
- Utah ..... Sept. 1–Sept. 30.
- Washington ..... Sept. 1–Sept. 15.

(1) In Arizona during September 1 through 21 the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. During November 24 through January 11, the bag and possession limits are 12 and 24 mourning doves, respectively.

(2) In those counties of California (Imperial, Riverside, and San Bernardino) and Nevada (Clark and Nye) having a season on white-winged doves, the daily bag limit is 15 and the possession limit is 30 mourning and white-winged doves, singly or in the aggregate of these species; however, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

Notice.—Hawaii—Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) *White-winged Doves.*

Shooting and hawking hours: One-half hour before sunrise until sunset except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in	Season dates	Limits	
		Bag	Poss.
Arizona (Statewide)	Sept. 1–Sept. 21	6(1)	12(1)
California:			
Counties of Imperial, Riverside, and San Bernardino.	Sept. 1–Oct. 15 and Nov. 15–Nov. 29.	10(2)	20(2)
Remainder of State	Closed		
Nevada:			
Counties of Clark and Nye.	Sept. 1–Oct. 30	10(2)	20(2)
Remainder of State	Closed		
New Mexico	Sept. 1–Sept. 30 and Dec. 1–Dec. 30.	15(3)	30(3)
Texas: (4) (5)			
Area in South Zone	Sept. 6, 7, 13 and 14.		
Remainder of State	See Mourning Dove regulations.		

(1) In Arizona during September 1 through 21 the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves.

(2) In designated counties of California and Nevada, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species; however, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

(3) In New Mexico the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species.

(4) SPECIAL WHITE-WINGED DOVE AREA IN THE SOUTH ZONE—That portion of State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

(5) In Texas, the daily bag limit in the Special White-winged Dove Area is 10 white-winged, mourning and white-tipped doves in the aggregate of which no more than 2 may be mourning doves and 2 may be white-tipped doves. Possession limit is twice the daily bag limit.

(e) *Band-tailed Pigeons.*

Shooting and hawking hours: One-half hour before sunrise until sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in	Season dates	Limits	
		Bag	Poss.
Arizona(1)	Oct. 10–Nov 8	5	10
California:			
Counties of Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.	Sept. 27–Oct. 26	5	5
Remainder of State	Dec. 13–Jan. 11	5	5
Colorado:			
In all lands west of U.S. Interstate 25 and Small Game Management Units 80, 81, 82 and 83.	Sept. 1–Sept. 30	5	10
Nevada:			
Carson City, Churchill, Douglas, Humboldt, Lyon, Mineral, Pershing, Washoe, and Storey Counties only.	Sept. 1–Sept. 30	5	5
New Mexico:			
North Zone (2)	Sept. 1–Sept. 20	5	10
South Zone (2)	Oct. 1–Oct. 20	5	10
Oregon	Sept. 1–Sept. 30	5	5
Utah	Sept. 1–Sept. 30	5	10
Washington	Sept. 1–Sept. 30	5	[illegible]

(1) Each hunter must have for Arizona a special bird permit stamp issued by the State

(2) In New Mexico the *North Zone* is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The *South Zone* is defined as that area lying south and west of the North Zone.

5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails	Rails (Sora & Virginia)	Woodcock (Clapper & King)	Common Snipe
Daily bag limit	[1] 25	See footnote 2	[2] 5	[illegible]
Possession limit	[1] 25	See footnote 2	[2] 10	16

Shooting and hawking hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS

Seasons in the Atlantic Flyway				
Connecticut	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Oct. 18–Dec. 1	Oct. 18–Dec. 1.
Delaware	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 17–Dec. 31	Nov. 17–Jan. 31.
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 13–Jan. 26	Nov. 1–Feb. 15.
Georgia	Sept. 17–Nov. 25	Sept. 17–Nov. 25	Nov. 29–Jan 12	Nov. 20–Feb. 28.
Maine	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Dec. 16.
Maryland	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Dec. 15–Nov. 28	Oct. 1–Jan. 15.
Massachusetts	Sept. 1–Nov. 8	Closed	Deferred	Sept. 1–Dec. 13.
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Oct. 1–Dec. 4.
New Jersey: [4]				
North Zone	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Oct. 11–Nov. 14	Oct. 4–Jan. 17.
South Zone	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Nov. 8–Dec. 6 and Dec. 20–Dec. 25	Oct. 4–Jan. 17.
New York: [4]				
Long Island	Closed	Closed	Oct. 1–Nov. 14	[illegible].
Remainder of State	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Dec. 16.
North Carolina	Sept. 15–Nov. 22	Sept. 15–Nov. 22	Nov. 22–Jan. 5	Nov. 14–Feb 28.
Pennsylvania	Sept. 1–Nov. 8	Closed	Oct. 18–Nov. 8	Oct. 18–Dec. 13.

	Rails	Rails (Sora & Virginia)	Woodcock (Clapper & King)	Common Snipe
Rhode Island	Sept. 15–Nov. 23	Sept. 15–Nov. 23	Oct. 18–Dec. 1	Sept. 15–Dec. 5 and Dec. 15–Jan. 8.
South Carolina	Sept. 15–Oct. 19	Sept. 15–Oct. 19 and Nov. 1–Dec. 5.	Nov. 27–Jan. 10 and Nov. 1–Dec. 5	Nov. 14–Feb. 28.
Vermont	Sept. 27–Dec. 5	Closed	Oct. 1–Nov. 14	Sept. 27–Dec. 5.
Virginia	Sept. 8–Nov. 15	Sept. 8–Nov. 15	Nov. 3–Nov. 24 and Dec. 22–Jan. 13.	Oct. 17–Jan. 31.
West Virginia	Sept. 1–Nov. 8	Closed	Oct. 18–Dec. 1	Sept. 1–Dec. 16.
Seasons in the Mississippi Flyway				
Alabama [5]	Nov. 12–Jan. 20	Nov. 12–Jan. 20	Nov. 28–Jan 31	Nov. 14–Feb. 28.
Arkansas	Sept. 1–Nov. 9	Closed	Nov. 8–Dec. 14 and Jan. 10–Feb.6	Sept. 13–Sept. 21 and Nov. 22–Feb. 27.
Illinois	Sept. 1–Nov. 9	Closed	Oct. 1–Dec. 4	Sept. 13–Dec. 28.
Indiana	Sept. 1–Nov. 9	Closed	Sept. 20–Sept. 28 and Oct. 4–Nov. 30.	Sept. 1–Dec. 16.
Iowa [6]	Sept. 6–Nov. 14	Closed	Sept. 20–Nov. 23	Sept. 6–Dec. 21.
Kentucky	Deferred	Closed	Oct. 1–Dec. 4	Oct. 1–Dec. 4.
Louisiana	Sept. 20–Sept. 28 and Nov. 8–Jan. 7	Sept. 20–Sept. 28 and Nov. 8–Jan. 7.	Dec. 6–Feb. 8	Nov. 8–Feb. 22.
Michigan [7]	Sept. 15–Nov. 14	Closed	Sept. 15–Nov. 14	Sept. 15–Nov. 14.
Minnesota	Sept. 1–Nov. 4	Closed	Sept. 1–Nov. 4	Sept. 1–Nov. 4.
Mississippi	Oct. 18–Dec. 26	Oct. 18–Dec. 26	Dec. 26–Feb. 28	Nov. 14–Feb. 28.
Missouri	Sept. 1–Nov. 9	Closed	Oct. 15–Dec. 18	Sept. 1–Dec. 16.
Ohio	Sept. 1–Nov. 5	Closed	Sept. 28–Nov. 29	Dept. 1–Nov. 29 and Dec. 5–Dec. 24.
Tennessee	Deferred	Closed	Oct. 11–Nov. 16 and Feb. 1–Feb. 28	Nov. 14–Feb. 28.
Wisconsin	Deferred	Closed	Sept. 13–Nov. 16	Deferred.
Seasons in the Central Flyway				
Colorado [8]	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 1.
Kansas	Sept. 13–Nov. 21	Closed	Oct. 4–Dec. 7	Sept. 13–Dec. 28.
Montana [8]	Closed	Closed	Closed	Oct. 4–Dec. 2.
Nebraska [9]	Sept. 1–Nov. 9	Closed	Sept. 15–Nov. 18	Sept. 1–Dec. 15.
New Mexico [8]	Sept. 1–Oct. 31	Closed	Closed	Sept. 1–Nov. 30.
North Dakota	Closed	Closed	Closed	Oct. 4–Nov. 23.
Oklahoma	Sept. 1–Nov. 9	Closed	Nov. 27–Jan. 30	Oct. 20–Feb. 3.
South Dakota [10]	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Deferred	Deferred.
Wyoming [8]	Sept. 20–Nov. 28	Closed	Closed	Sept. 20–Jan. 4.
Seasons in the Pacific Flyway				
Colorado [8]	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 1.
Montana [8]	Closed	Closed	Closed	Oct 4–Jan.4.
New Mexico [8]	Sept. 1–Oct. 31	Closed	Closed	Sept. 1–Nov. 30.
Wyoming [8]	Sept. 20–Nov. 28	Closed	Closed	Sept. 20–Dec. 21.

Note: No seasons are prescribed for woodcock. Snipe seasons have been deferred by all other States in the Pacific Flyway. Consult waterfowl regulations to be published later for information concerning the snipe seasons in Montana.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.
[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.
[3] In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.
[4] For description of zones or management units within a State, see State regulations.
[5] In Alabama, the rail limits are 15 daily and 15 in possession.
[6] In Iowa, the rail limits are 15 daily and 25 in possession. Shooting hours are sunrise to sunset.
[7] See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.
[8] The Central Flyway portion consists of: *Colorado* and *Wyoming*—the area lying east of the Continental Divide; *Montana*—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; *New Mexico*—the areas lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.
[9] In Nebraska, the rail limits are 10 daily and 20 in possession.
[10] In South Dakota, the snipe limits are 5 daily and 15 in possession.

Note: Some States may select rail, woodcock, and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons

6. Section 20.105 is amended by revising paragraphs (a) through (c) and by amending paragraph (d) to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and common moorhens and purple gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.*

(1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1986, and January 20, 1987, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter,

eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting and hawking hours are one-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in:	
Connecticut	Sept. 19–Jan. 3.
Delaware	Sept. 20–Jan. 3.
Georgia	Deferred.
Maine	Oct. 1–Jan. 15.
Maryland	Deferred.
Massachusetts	Deferred.
New Hampshire	Sept. 15–Dec. 30.
New Jersey	Oct. 4–Jan. 17.
New York (Long Island only).	Deferred.
North Carolina	Deferred.
Rhode Island	Deferred.
South Carolina	Deferred.
Virginia	Deferred.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

Note.—States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* September season: An open season for teal ducks (blue-winged, green-winged, and cinnamon) is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the following States:

Daily bag limit	4
Possession limit	8

Shooting and hawking hours: Sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in the Mississippi Flyway:	
Alabama [1]	Sept. 13–Sept. 21.
Arkansas	Sept. 13–Sept. 21.
Illinois [2]	Sept. 13–Sept. 21.
Indiana [3]	Sept. 6–Sept. 14.
Louisiana	Sept. 20–Sept. 28.
Mississippi	Sept. 13–Sept. 21.
Missouri	Sept.13–Sept. 21.
Ohio	Sept. 5–Sept. 13.
Seasons in the Central Flyway:	
Colorado [4 5]	Sept. 6–Sept. 14.
Kansas	Sept. 13–Sept. 21.
New Mexico [5]	Sept. 6–Sept. 14.
Oklahoma	Sept. 6–Sept. 14.
Texas	Sept. 13–Sept. 21.

[1] In Alabama, shooting hours in Mobile Delta north of the causeway and south of the L&N Railroad are sunrise to 12 noon.
[2] In Illinois, the shooting hours are from 7 a.m.–4 p.m. local time by State regulation.
[3] In Indiana, the Kankakee and LaSalle Fish and Wildlife Areas, and portions of Atterbury, Hovey Lake, Jasper-Pulaski and Pigeon River Fish and Wildlife Areas are closed to teal hunting by State regulations.
[4] Only in Lake and Chaffee Counties, and that portion of Colorado east of U.S. Highway-Colorado State Highway 85 from the Wyoming State line to its intersection with U.S. Interstate Highway 25 to the New Mexico State line.
[5] Central Flyway portion only.

(c) *Common Moorhens and Purple Gallinules.*

Daily bag limit	15 singly or in the aggregate of the two species.
Possession limit	30 singly or in the aggregate of the two species.

Shooting and hawking hours: One-half hour before sunrise to sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1–Nov. 8.
Delaware	Sept. 1–Nov. 9.
Florida [1]	Sept. 1–Nov. 9.
Georgia	Deferred.
Maine	Sept. 1–Nov. 9.
Maryland	Sept. 1–Nov. 6.
Massachusetts	Closed.
New Hampshire	Closed.
New Jersey [2]	Sept. 1–Nov. 8.
New York:	
Long Island	Closed.
Remainder of State.	Sept. 1–Nov. 9.
North Carolina	Sept. 15–Nov. 22.
Pennsylvania	Sept. 1–Nov. 8.
Rhode Island	Sept. 15–Nov. 23.
South Carolina	Sept. 15–Oct. 19 and Nov. 1–Dec. 5.
Vermont	Sept. 27–Dec. 5.
Virginia	Deferred.
West Virginia	Deferred.
Seasons in the Mississippi Flyway:	
Alabama [3]	Nov. 12–Jan. 20.
Arkansas	Sept. 1–Nov. 9.
Illinois	Closed.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Deferred.
Louisiana	Sept. 20–Sept. 28 and Nov. 8–Jan. 7.
Michigan	Deferred.
Minnesota	Deferred.
Mississippi	Oct. 18–Dec. 28.
Missouri	Closed.
Ohio	Sept. 1–Nov. 8.
Tennessee	Deferred.
Wisconsin	Deferred.
Seasons in the Central Flyway:	
Colorado [4]	Closed.
Kansas	Closed.
Montana [4]	Closed.
Nebraska	Closed.
New Mexico [4]	Oct. 13–Dec. 21.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 9.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming [4]	Closed.
Seasons in the Pacific Flyway:	
All States and portions thereof.	Deferred.

[1] The season in Florida applies to the common moorhen only. There is no open season on the purple gallinule in Florida.
[2] In New Jersey, the bag limit is 10 daily and 20 in possession.
[3] In Alabama, the bag limit is 15 daily and 15 in possession.
[4] Seasons apply to Central Flyway portion of State only.

Note.—States with deferred seasons may select common moorhen and purple gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

Atlantic Flyway

Flywaywide Restrictions. Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season dates	Limits	
		Bag	Possession
* * * * *			
Florida:			
Ducks, no more than 1 of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.	September 20–September 24.	4	8
* * * * *			

Mississippi Flyway

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season dates	Limits	
		Bag	Possession
* * * * *			
Iowa:			
Ducks:			
North of Interstate 80	September 20–September 24.	(1)	(1)
South of Interstate 80	September 20–September 22.		
* * * * *			
Kentucky:			
Ducks, no more than 2 of which may be wood ducks, and no more than 1 of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.	September 10–September 14.	4	8
* * * * *			
Michigan: [2]			
Geese, Canada	September 3–September 8.	2	4
* * * * *			
Tennessee:			
Ducks, no more than 2 of which may be wood ducks, and no more than 1 of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.	September 13–September 17.	4	8
* * * * *			

[1] Limits to conform to those set for the regular season.
[2] Check Michigan regulations for areas open to the hunting of Canada geese.

* * * * *

7. Section 20.106 is amended by revising the Central and Pacific Flyway to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes, and with shooting hours from one-half hour before sunrise until sunset in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley) the season has been deferred.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 25, 1986, through January 25, 1987.

(c) In Oklahoma (that portion west of I–35) the inclusive dates are October 11, 1986, through January 11, 1987.

(d) In Texas that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary the season has been deferred.

(e) In North Dakota, in Zone 1 (the area east of a line starting on the east shore of Lake Oahe at the South Dakota border, then north on this shore to Bismarck, then north on U.S. Highway 83 to Canada; and west of a line starting where ND No. 14 enters Canada, then south on ND No. 14 to U.S. Highway 83, then south on U.S. Highway 83 to South Dakota) the inclusive dates are September 6–November 2, 1986; in Zone 2 (that area east of Zone 1 and west of U.S. Highway 281) the inclusive dates are September 6–October 3, 1986.

(f) In Montana (the Central Flyway portion except that area south of I–90 and west of the Bighorn River), the inclusive dates are October 4 through November 30, 1986.

(g) In South Dakota, the inclusive dates are September 27 through November 2, 1986.

(h) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 20 through November 16, 1986.

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting, a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Pacific Flyway

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season has been deferred.

(b) In Wyoming's sandhill crane-Canada goose hunt areas:

Bear River drainage and Star Valley Lincoln County—hunting is by State permit only with limits of 2 sandhilll cranes and 3 Canada geese per season. The season dates are September 6–September 14.

Eden—Farson Agricultural Project in Sweetwater and Sublette Counties—hunting is by State permit only with limits of 3 sandhill cranes and 1 Canada goose per season. The season dates are September 1–September 3.

* * * * *

8. Section 20.109 is revised as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit.....3 singly or in the aggregate.
Possession limit....6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons. Hawking hours: One-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

ATLANTIC FLYWAY

Florida:	
Mourning doves and white-winged doves.	September 27–December 5.
Woodcock	October 25–December 8.
Snipe	November 1–February 15.
Ducks, mergansers, and coots	October 7–November 21.
Common moorhens and rails	September 27–December 5.

Maryland:	
Mourning doves	September 1–October 25 and November 15–January 5.
Rails	September 1–December 16.
Woodcock	October 15–January 29.
Snipe	October 1–January 15.
Common moorhens and purple gallinules.	September 1–December 16.
Ducks, coots, geese	Deferred.
Pennsylvania:	
Mourning doves	September 1–December 13.
Virginia:	
Woodcock and snipe	October 17–January 31.
Mourning doves and rails	September 1–November 30 and December 19–January 3.
MISSISSIPPI FLYWAY	
Illinois:	
Mourning doves, woodcock and rails.	September 1–December 16.
Snipe	September 13–December 30.
Teal	September 13–September 21.
Ducks, mergansers, and coots	October 4–January 9.
Indiana:	
Woodcock	September 1–September 19.
Mourning doves	October 27–November 26.
Iowa:	
Geese	October 4–January 7.
Ducks	September 20–September 30 and October 4–January 7.
Michigan:	
Snipe and rails	September 1–December 16.
Common moorhens, purple gallinules and geese.	September 1–December 16.
Ducks and coots	October 4–January 18.
Geese	October 4–January 18.
Minnesota:	
Woodcock, snipe, and rails	September 1–December 16.
Ducks, mergansers, coots, moorhens, purple gallinules and geese.	Deferred.
Mississippi:	
Ducks, mergansers and coots	November 1–December 12.
Mourning doves	September 20–October 12 and November 21–December 12.
Missouri:	
Mourning doves	September 1–December 16.
Wisconsin:	
Rails, woodcock, snipe, common moorhens and purple gallinules.	September 1–December 16.
Ducks, mergansers, and coots	October 4–January 19.
CENTRAL FLYWAY	
Montana:	
Mourning doves	September 1–October 12.
Nebraska:	
Ducks, geese, mergansers and coots.	Deferred.
New Mexico:	
Mourning doves and white-winged doves.	September 1–November 6 and November 22–December 30.
Band-tailed pigeons	September 1–November 30.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.	October 13–January 26.
Ducks, mergansers and coots	October 15–January 18.
Common moorhens and purple gallinules.	October 16–January 18.
Canada and white-fronted geese	October 16–January 18.
Snow, blue, and Ross' geese	November 1–January 11 and January 24–February 27.
Oklahoma:	
Ducks, mergansers and coots	October 11–January 16.
Texas:	
Mourning doves (statewide)	September 1–November 30 and January 3–January 18.
Rails, common moorhens and purple gallinules.	September 1–December 16.
White-winged doves	September 1–November 30 and January 3–January 18.
Wyoming:	
Mourning doves	September 1–October 15.
Snipe and rails	September 20–November 28.
PACIFIC FLYWAY	
Idaho:	
Ducks	October 4–January 11.
Coots, mergansers and snipe	October 4–January 11.
Geese	Deferred.
Montana:	
Mourning doves	September 1–October 12.
New Mexico:	
Mourning doves and white-winged doves.	September 1–November 6 and November 22–December 30.
Band-tailed pigeons	September 1–November 30.
Ducks, mergansers and coots	October 7–January 11.
Geese	October 5–January 19.
Common moorhens and purple gallinules.	October 7–January 11.
Oregon:	
Mourning doves and band-tailed pigeons.	September 1–December 16.
Wyoming:	
Mourning doves	September 1–October 15.
Snipe and rails	September 20–November 28.

Note.—See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

Dated: August 22, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-19356 Filed 8-27-86; 8:45 am]

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50 CFR Parts 32 and 33

Addition of Seven National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and Eleven Refuges for Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is adding 7 national wildlife refuges (NWR) to the lists of open areas for migratory game bird, upland game, and big game hunting, and 11 refuges for sport fishing. The Secretary of the Interior (Secretary) has determined that this action is in accordance with the provisions of all applicable laws, is consistent with the principles of sound wildlife management, and is otherwise in the public interest. The Secretary has further determined that such uses will be compatible with, and in some cases enhance, the major purposes for which each refuge was established. The hunting of migratory game birds, upland game and big game, and sport fishing will provide additional public recreational opportunities.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuges, Fish and Wildlife Service, 18th and C Streets, NW., Room 2343, Washington, DC 20240; Telephone (202) 343–4311.

SUPPLEMENTARY INFORMATION: National wildlife refuges, other than those in Alaska, are closed to hunting and sport fishing until opened by rulemaking. The Secretary may open refuge areas to hunting or fishing upon a determination that such uses are compatible with the major purposes for which the refuge areas were established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest.

On May 30, 1986, at 51 FR 19572, the Service published a proposed rule to open 7 refuges to hunting and 11 to sport fishing. Some of the hunting and fishing programs require refuge-specific hunting or fishing regulations, and these regulations were included in a separate rulemaking (51 FR 24179). The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, written comments received on the proposed rule are addressed in the following section.

Responses to Comments Received

Written comments on the proposed rule were received from 19 organizations, agencies, and individuals. Substantive comments on issues not already addressed in hunting and fishing plans, environmental assessments (EA),

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and section 7 endangered species analyses (all of which were available for public review during the comment period for the proposed rule) are responded to below:

Issue: Hunting on NWRs is illegal under the Refuge Administration Act and Refuge Recreation Act because it is incompatible with the legal responsibilities of the Refuge System to preserve, protect, and enhance wildlife.

Service Response: The Refuge Recreation Act states that the Secretary of the Interior is authorized to administer refuges for public recreation. The Refuge Administration Act authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including hunting. Thus, the Service believes that Congress clearly intended that recreation be an important part of a refuge management program to the extent that it is compatible with the primary purposes of a refuge. The compatibility provision applies to the purposes of individual refuges, not to the purposes of the entire Refuge System. The proposed rule contained a compatibility statement for each refuge where hunting was proposed. The purpose for which each refuge was established, and a brief description of how each hunting program is compatible with these purposes, was discussed. (These statements are also contained in the preamble of this final rule.) The hunting plans, EAs, and section 7 endangered species determinations for each refuge were also available to the public during the 30-day comment period for the proposed rule. The Service believes that these documents contain the necessary data to substantiate the compatibility of the proposed hunting programs, and that the statement that hunting on refuges is illegal is without statutory foundation.

Issue: The proposed refuge hunting programs violate the Refuge Recreation Act if their projected costs have not been specifically allocated within refuge budgets because they will take funds away from other refuge programs.

Service Response: The Service has determined that sufficient funds are available to manage the proposed refuge hunts without detracting from other refuge programs and that the hunts will only use a small percentage of the annual budgets of the refuges in question. The Refuge Recreation Act does not state that hunting programs cannot use funds that could have been used for other refuge programs. It merely requires that sufficient funding be available for refuge recreation. The allocation of a refuge's budget is made according to an annual work plan, which includes hunting as well as other refuge programs.

Issue: The proposed hunting programs are a violation of the Endangered Species Act.

Service Response: When the hunting plans and EAs for the hunting programs were developed, consideration was given to the potential impact upon any endangered or threatened species that might use the refuges involved. For all refuges being opened to hunting in this rule, the Service prepared analyses pursuant to section 7 of the Endangered Species Act. The analyses conclude that none of the proposed hunts is likely to jeopardize endangered or threatened species or interfere with their recovery or conservation. The hunting programs were developed to minimize any potential adverse impacts on endangered and threatened species and, when needed, refuge-specific regulations were proposed to ensure that the hunting programs would not affect threatened or endangered species. The programs will be administered by wildlife professionals who have the responsibility to conserve endangered and threatened species. Service studies of the impact of migratory bird hunting nationwide on endangered species suggest losses of such species are infinitesimal. Since refuge hunting is but a small fraction of total migratory game bird hunting, no impact to endangered species from such hunting is likely.

Issue: The Service did not comply with the National Environmental Policy Act (NEPA) because environmental impact statements (EISs) were not prepared for the individual refuge hunting programs.

Service Response: EAs were prepared for each proposed hunting program and were available for public review during the comment period. Based upon these EAs, the Service found that no significant environmental impacts would ensue from the Proposed hunting programs. The Service therefore determined that no EISs were required.

Issue: The surplus determinations required under 50 CFR 31.1 and 31.2 have not been made.

Service Response: 50 CFR Part 31 is limited to recognizing general authority to dispose of surplus wildlife and lists hunting as one method of control and disposition. The Service's procedure for permitting hunting on refuges is set forth in 50 CFR Part 32. This rule involves the policy and regulations in Part 32 which essentially require that hunting be consistent with the principles of sound wildlife management and otherwise be in the public interest.

Issue: The proposed hunting programs, because they will be governed principally by State regulations, will transfer authority to the States, which is illegal under the Refuge Administration Act.

Service Response: The regulations governing the proposed hunting programs will not transfer Service authority for managing NWRs. Refuges open to hunting are managed in accordance with the Secretary's authority under the Refuge Administration Act and the Refuge Recreation Act. The Refuge Administration Act requires hunting and fishing regulations on NWRs be consistent with State fish and wildlife laws, to the extent practicable. Moreover, the Act is not intended to affect the authority, jurisdiction, or responsibility of the States to regulate fish and resident wildlife under State law or regulations. Once the Secretary has made the mandated determinations under both of these Acts, it is Department policy to conduct hunting within the framework of State laws and regulations and to impose additional requirements, where necessary, as refuge-specific regulations.

This policy is clearly stated in 50 CFR 32.2(d): "Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulations." Under the regulations that will govern these hunts, the Service maintains its authority to enforce all State and Federal game regulations on NWRs.

Issue: Hunting on refuges violates the recommendations of the 1979 National Wildlife Refuge System Task Force.

Service Response: Task Force recommendations state that hunting is "consistent with the concept of providing habitat in refuges for healthy populations of wildlife and [is] compatible with sound wildlife management principles and practices." The Service feels that its hunting proposals are consistent with this viewpoint.

Issue: Some reviewers felt the biological data reported for some of the refuges in question are insufficient, or lacking, and do not justify the need for hunting.

Service Response: The Service recognizes hunting as an acceptable, traditional form of wildlife-oriented recreation that can be used as a management tool to effectively manipulate wildlife population levels. The primary objective of refuge hunting programs is to provide the general public with a quality recreational experience and an opportunity to utilize a renewable resource. A less often seen

need is to maintain wildlife populations at levels compatible with refuge habitat. The Service feels that the hunting plans and EAs available for public review during the comment period contain adequate biological information. The Service also endorses the generally held principle that hunting need not be allowed only when wildlife populations are so high that harvest is necessary to protect a species from the impacts of its own excessive numbers. To delay harvesting until populations reach maximum carrying capacity risks habitat damage, disease, and population crashes. Game species in suitable habitat will generate harvestable surpluses which can be taken regularly without impairing desired population trends. Refuge hunting programs are monitored and, if necessary, adjusted to ensure no detriment to desired population trends.

Issue: One commenter was concerned that opening Pond Island NWR to sport fishing would interfere with late nesting terns unless the proposed ban on sport fishing were extended from July 31 to August 15, in order to accommodate these late nesters.

Service Response: The Service has agreed to extend the date and the ban will now be from the first day of March to August 16.

Issue. Opening Ash Meadows to hunting would adversely impact the endangered species because proper management of the program would be lacking.

Service Response: The Service has recently increased its management presence at Ash Meadows, and the proposed management of the refuge hunt program during the upcoming season will be sufficient to provide resource protection and regulated public use. Active management of the refuge this summer has resulted in reestablishing water control structures, controlling salt cedar invasions and general cleanup work on the refuge. In carrying out these activities, Service staff have frequently been on site at Ash Meadows and in contact with refuge visitors and local residents. It appears that with the virtual abandonment of Amargosa and the closure of the Borax Mill, visitor use of the area is declining. Incidents of vandalism and habitat abuse have also decreased.

As stated in the proposed rule, the level of participation by hunters is expected to be extremely low. This low level is due largely to reductions in farming practices in the area which previously drew large populations of game birds.

Given the limited hunting demand in the area at the present time, the Service believes Ash Meadows can support regulated migratory bird and upland game hunting in designated areas of the refuge without impacting other refuge resources. The Service finds no evidence that threatened and endangered species habitat has been altered by traditional hunting activity, or by other casual visitor usage such as bird watching or sightseeing. Rather, activities such as peat mining, agricultural practices, ground water pumping, mining and livestock grazing have been responsible for habitat modification threatening the existence of listed species.

During the hunting season there will be a Service person at the refuge to answer questions and direct people to hunting areas and away from the sensitive areas. State personnel in Pahrump have also agreed to assist in this effort. Waterfowl hunting will only occur at two reservoirs that are not sensitive areas. Horseshoe reservoir will be closed to hunting. Regulatory signs will be posted closing all access around sensitive springs and a general information brochure will be available for the public this fall.

In view of the limited number of hunters anticipated and the proposed management of the hunt program, the Service considers it appropriate to open Ash Meadows to hunting at this time. Controls on access, designated area restrictions, and the presence of Service and State personnel should be sufficient to protect refuge resources during the upcoming hunting season. If it is determined that further measures are warranted to adequately safeguard resources, the hunt program will be modified accordingly.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of NWRs. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which such areas were established. The compatibility determination for each refuge affected by this rulemaking is discussed below.

The Refuge Recreation Act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, opening refuges to hunting or fishing under the Refuge Recreation Act requires that the Secretary determine that funds be made available for the development, operation, and maintenance of these permitted forms of recreation prior to initiating such uses of refuge areas.

The Secretary has determined that the hunting and fishing openings described below are appropriate in accordance with the NWRSAA and the Refuge Recreation Act, and are compatible and consistent with the primary purposes for which each of the refuges listed was established. The hunting and fishing programs are consistent with State and Federal regulatory frameworks. A discussion of the compatibility of the hunting and fishing programs with the purposes for which each refuge was established and the availability of funding for each program, as discussed in the proposed rule, follows:

Ash Meadows NWR was purchased in 1984 to protect the endemic, endangered, and rare plants and animals (primarily fish) from alteration of their terrestrial and aquatic environments [Supplemental Appropriations Act of 1983]. The refuge is currently administered by the Desert NWR Complex, is located in a sparsely populated area and does not attract a large number of visitors. The Service proposes to open the refuge to migratory game bird (waterfowl, mourning dove) and upland game (quail, pheasant, rabbit) hunting. Because of the very limited participation expected in the hunting program and the remote chance of adverse interaction by the hunters with any endangered plant or fish species, hunting would be compatible with refuge purposes. Further, an Endangered Species Act Section 7 consultation concludes that hunting "is not likely to jeopardize" the continued existence of any species listed as threatened or endangered. Opening Ash Meadows NWR to migratory game bird and upland game hunting would thus be in compliance with the NWRSAA. The annual cost of the hunting program will be approximately $9,500. Within the annual Refuge Complex budget of approximately $387,000, the necessary funds are available for the administration of the hunting program. Therefore, opening Ash Meadows NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

Bandon Marsh NWR was established in 1983 by authority of the Fish and Wildlife Act of 1956 to protect migratory bird habitat. It is administered by the Western Oregon Refuge Complex. The Service proposes to open the refuge to migratory game bird (waterfowl, snipe, dove, pigeon) hunting and sport fishing. Hunting and fishing pressures will be light because the area, and access to it, are somewhat remote, and most participants would come from the surrounding lowly populated area. Consequently, it is anticipated that these activities would result in only minor trampling of the vegetation which would recover the next growing season. A section 7 consultation concludes that hunting or sport fishing are "not likely to jeopardize" the continued existence of any species listed as threatened or endangered that are using the refuge. These recreational opportunities will not interfere with or distract from the purpose for which the refuge was established, therefore, they would be in compliance with the NWRSAA. The annual cost of the hunting and fishing program is estimated at $2,000. Within the annual Refuge Complex budget of approximately $430,000, the necessary funds are available for the administration of these hunting and fishing programs. Therefore, opening Bandon Marsh NWR to migratory game bird hunting and sport fishing would be in compliance with the Refuge Recreation Act.

Bear Valley NWR was established in 1978 by authority of the Fish and Wildlife Act of 1956 to protect a major winter roost for bald eagles. The refuge is administered by the Klamath Basin NWR Complex. The Service proposes to open the refuge to deer hunting. The refuge is closed to *all* public entry from November 1 through March 31, the only period of time eagles use the refuge. The hunt would occur from late August through October and will be regulated (such as vehicle access restrictions and no open fires) to insure that eagle roosting habitat is not jeopardized. A section 7 evaluation concludes that deer hunting "will not affect" the continued existence of the bald eagle. Therefore, opening Bear Valley NWR to deer hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. Refuge administration, operation and maintenance costs are derived from the general tax fund by congressional appropriation. The estimated annual cost of $2,500 to manage the hunt program would be available from the annual Klamath Basin NWR Complex budget of approximately $800,000. Therefore, opening Bear Valley NWR to deer hunting would be in compliance with the Refuge Recreation Act.

Cedar Island NWR was established in 1964 by authority of the Migratory Bird Conservation Act to preserve migratory waterfowl habitat. It is administered by the Mattamuskeet NWR. The Service proposes to open the refuge to sport fishing which would be limited to fishing from refuge ditch banks, islands and bridges during daylight hours. Because of the restricted locations where fishing would occur, there would be very little or no disturbance to the waterfowl habitat which is salt marsh dominated by *Spartina sp.* A. section 7 evaluation states that "no threatened or endangered species exist on the refuge." Opening Cedar Island NWR to sport fishing would therefore be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of the fishing program would be approximately $200. Within the annual Mattamuskeet NWR budget of approximately $406,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, opening Cedar Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Cedar Point NWR was established in 1964 by authority of the Migratory Bird Conservation Act to protect migratory bird habitat. Sport fishing is proposed for one 15-acre borrow pond and the Cedar Point Bay. It is proposed to open the pond to fishing only during the months of June, July and August when waterfowl use is very low. Access for fishing in the Bay will be limited to boats only thereby minimizing disturbance to shorebirds. A section 7 evaluation concludes that this sport fishing program "will not affect" bald eagles around the area. By selecting only those areas where fishing would cause little disturbance to the migratory birds and their habitat and limiting fishing activities to periods of low waterfowl use, opening Cedar Point NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of administering the program is $2,800.

Within the annual refuge budget of approximately $230,000, the necessary funds are available for the administration of the fishing program. Therefore, opening Cedar Point NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Chickasaw NWR was established in 1985 by authority of the Migratory Bird Conservation Act to manage and conserve habitat for migratory birds, but not as an inviolate sanctuary for such (as allowed by the 1978 Improvement Act). The Service proposes to open the refuge to migratory game bird (waterfowl, dove, snipe, woodcock), big game (deer, wild boar and turkey) and upland game (squirrel, rabbit, quail, raccoon, opossum) hunting. Hunting will have a beneficial effect in controlling the abundant game populations that can damage migratory bird habitat due to overpopulation. This is especially true of the deer population which could increase beyond the carrying capacity of the refuge and cause damage to the habitat through over-browsing. Further, in an Intra-Service Section 7 consultation the Region 4 Director concludes that the proposed hunting programs "are not likely to jeopardize the existence of the bald eagle or result in the destruction or adverse modification of its habitat." Opening Chickasaw NWR to migratory game bird, upland game, and big game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. With an estimated annual cost of $2,500 to administer the hunting program and an annual budget of $227,600 to operate the refuge, the necessary funds are available to administer the hunting program. Therefore, opening Chickasaw NWR to migratory game bird, upland and big game hunting would be in compliance with the Refuge Recreation Act.

Eufaula NWR was established in 1964 by authority of the Fish and Wildlife Act of 1956 to provide resting and feeding habitat for waterfowl, in a cooperative agreement with the U.S. Army Corps of Engineers. The Service proposes to open the refuge to deer hunting. Hunting will occur prior to the major arrival of migratory waterfowl in early November. The resultant deer harvest will help control the size of the herd which, if allowed to expand, could destroy the forest habitat and consume crops planted for waterfowl. A section 7 evaluation concludes that the proposed hunting program "will not affect" the bald eagle or American alligator. For these reasons, opening Eufaula NWR to big game hunting would further the purpose for which the refuge was established, and would be in compliance with the NWRSAA. The estimated annual cost to administer the hunting program is $1,000. Within the annual refuge budget of approximately $193,000, the necessary funds are available to

administer this program. Therefore, opening the Georgia portion of Eufaula NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Hanalei NWR was established in 1972 by authority of the Fish and Wildlife Act of 1956 to preserve and manage critical habitat for the endangered Hawaiian stilt, coot, duck and gallinule. It is administered by the Hawaiian/Pacific Islands Refuge Complex. The Service proposes to open the refuge to sport fishing. This recreational opportunity would involve fishing from a refuge dike into non-refuge waters. The location where this activity would occur is used very little by endangered waterbirds as the deep water and dense California grass on the river banks provide poor waterbird habitat. Further, a section 7 evaluation concludes that the proposed fishing program "is not likely to jeopardize" any of the species listed as endangered. Therefore, opening Hanalei NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The annual cost of the sport fishing program would be negligible, since no special services or facilities are required to administer it and public access would be via a county road available to all visitors. Within the annual Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000, the necessary funds are available for the administration of this sport fishing program. Therefore, opening Hanalei NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Johnston Atoll NWR was established in 1926 by Executive Order 4467 for "the protection of native birds." In 1934, President Roosevelt placed administrative control and jurisdiction of the refuge under the Secretary of the Navy but maintained the island as a refuge. Currently, the U.S. Department of Defense has overall administrative authority for the refuge. The Service provides the Base Commander with technical assistance on habitat maintenance, species management and environmental interpretation. The State of Hawaii has no jurisdiction over the refuge as it is outside State boundaries. Throughout the period of military occupation, residents and visitors to Johnston Atoll have been given recreational fishing opportunities which include shore fishing from the four islands in the lagoon and boat fishing in the lagoon and outside the reef. Recreational fishing at current levels has had minimal adverse impact on the resources. Present refuge and base regulations prohibit entry to the breeding seabird colonies during the breeding season and limit fishing to pier and unvegetated beach areas on the islands. Further, a section 7 evaluation concludes that the proposed fishing program "is not likely to affect" any threatened green and hawksbill turtles or humpback whales. Therefore, opening Johnston Atoll NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The Department of Defense currently provides approximately $50,000 annually to the Service to operate the refuge. Few special services or facilities are required by the Service to administer the fishing program and public access is not allowed on the refuge without prior approval by the Base Commander, so program administration costs are not great. Miscellaneous costs incurred by the program are met by the Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000. Therefore, opening Johnston Atoll NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Kakahaia NWR was established in 1977 by authority of the Fish and Wildlife Act of 1956 to preserve and manage critical habitat for the endangered Hawaiian stilt, coot, duck and gallinule. It is administered by the Hawaiian/Pacific Islands Refuge Complex. The Service proposes to open the refuge to sport fishing which would involve fishing from a refuge beach to take fish from ocean waters. A highway and fence separate the beach from wetlands used by the endangered waterbirds. Further, a section 7 evaluation concludes that the proposed fishing program "will not affect" the endangered waterbirds or adversely modify their habitat. Opening Kakahaia NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The annual cost of the program would be negligible, since no special services or facilities are required to administer it and public access would be via a county road available to all visitors. Within the annual Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000, the necessary funds are available for the administration of this program. Therefore, opening Kakahaia NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Nantucket NWR was established in 1973 by authority of the Fish and Wildlife Act of 1956 to preserve coastal habitat for shorebirds and migratory passerine birds and to provide wildlife-oriented recreation. It is currently administered by the Parker River NWR. The Service proposes to open the refuge to sport fishing. This activity would involve fishing from refuge lands into the waters of Nantucket Sound and the Atlantic Ocean. Access to the fishing areas will be allowed only over designated routes away from prime migratory bird habitat and driving within 20 feet of the bases of the dunes facing the beaches will be prohibited. A section 7 evaluation concludes that threatened and endangered wildlife will "not be affected" by the proposed fishing program. For these reasons, opening Nantucket NWR to sport fishing would not disturb coastal habitat, would enhance wildlife-oriented recreation and would be in compliance with the NWRSAA. The estimated annual cost to administer the fishing program is approximately $500. Within the annual Parker River NWR budget of approximately $430,000, the necessary funds would be available to administer the fishing. Therefore, opening Nantucket NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Ottawa NWR was established in 1961 by authority of the Migratory Bird Conservation Act for the conservation and management of migratory bird habitat. Sport fishing is proposed for the open water section of Metzger Marsh Bay, a part of the refuge. Fishing would be a management tool to remove carp whose feeding and spawning activities make the waters turbid, thereby reducing the growth of submergent and emergent vegetation necessary for migratory bird feeding and nesting. Waterfowl use of the Bay is moderate in the fall and spring with marsh and shorebird use low. A borrow pond, established as a result of dike construction, is also proposed to be opened for sport fishing during the months of June, July and August only. A section 7 evaluation indicates that "there are no threatened or endangered species on the refuge to be impacted by the proposed fishing program." By selecting only those areas where fishing would cause little disturbance, selecting the least disruptive time of year for public access, and encouraging an activity that would enhance the habitat for migratory birds, opening Ottawa NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost to administer

the program is approximately $2,500. Within an annual refuge budget of approximately $230,000, the necessary funds are available to administer the program. Therefore, opening Ottawa NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pond Island NWR was established in 1973 by authority of the Fish and Wildlife Act of 1956 to preserve habitat for waterfowl, shorebirds, and passerine birds and to provide wildlife-oriented recreation. It is currently administered by the Parker River NWR. The Service proposes to open the refuge to sport fishing. This activity would consist of access by boat to a small beach and fishing from refuge lands into the waters of Casco Bay. Fishing would not be permitted during the waterfowl and shorebird nesting season, March 1 through July 31. A section 7 evaluation indicates that "there are no threatened or endangered species on the refuge to be affected by the proposed fishing program." Because of limited access to the island restricting the volume/disturbance by the public and closing it to fishing during the nesting season, opening Pond Island NWR to sport fishing would be compatible with the purpose of habitat protection. Further, it would enhance wildlife-oriented recreation and would be in compliance with the NWRSAA. The estimated annual cost to administer the program is approximately $100. Within the annual Parker River NWR budget of approximately $430,000, the necessary funds would be available to administer the program. Therefore, opening Pond Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Prime Hook NWR was established in 1963 by authority of the Migratory Bird Conservation Act to preserve coastal wetlands as waterfowl habitat. Opening the refuge to sport fishing would be limited to two small freshwater ponds, and to certain tidal water areas for bank and boat fishing. Fishing in the ponds would be restricted seasonally so as not to interfere with wood duck and black duck nesting. Bank fishing along tidal waterways will be restricted to areas not over 250 feet off the roadways to prevent disturbance to nesting waterfowl. A section 7 evaluation indicates that the bald eagle and peregrine falcon "will not be affected" by the proposed fishing program. For these reasons, opening Prime Hook NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost to administer the fishing program would be approximately $2,300. Within the annual refuge budget of approximately $188,000, the necessary funds would be available to administer the program. Therefore, opening Prime Hook NWR to sport fishing would be in compliance with the Refuge Recreation Act.

San Bernardino NWR was established in 1982 by authority of the Endangered Species Act to preserve habitat for the endangered Rio Yaqui fish. The Service proposes to open the refuge (lands east of Black Draw) to migratory game bird (white-winged and mourning dove) and upland game (rabbit, quail) hunting. Sensitive springs and water developments east of Black Draw will be closed so that accidental pollution will be prevented. Also, vehicular traffic will be prohibited. Further, a section 7 evaluation concludes that the proposed hunting program "will not affect" the continued existence of the endangered fish. Therefore, opening San Bernardino NWR to upland game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. Annual costs to administer the program are expected to be approximately $3,600, primarily for enforcement. Within an annual refuge budget of approximately $75,000, the necessary funds are available to administer the program. Therefore, opening San Bernardino NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

San Pablo Bay NWR was established in 1974 by authority of the Migratory Bird Conservation Act to preserve migratory bird habitat. It is administered by the San Francisco Bay NWR Complex. Most of the refuge consists of tidelands leased from the State of California in 1982. They were leased to protect almost 12,000 acres of shoreline and open water and under the terms of the lease must be open to waterfowl hunting. The Service proposes to open the leased lands of the refuge to migratory game bird and upland game hunting. Pheasant hunting will be permitted on certain leased lands where the population consists of pen-reared birds which escape from a neighboring hunting club. Waterfowl hunting will be permitted on leased portions of San Pablo Bay and its tributaries in accordance with provisions of the lease. A section 7 evaluation and consultation concludes that the proposed hunting programs "are not likely to jeopardize" the threatened or endangered species on the refuge. Since the area being opened to waterfowl and pheasant hunting is required by the lease, opening San Pablo Bay NWR to migratory game bird and upland game is in compliance with the NWRSAA. The estimated annual cost to administer the hunting program would be approximately $5,000. Within the Refuge Complex operating budget of approximately $1,128,000, the necessary funds would be available to administer the hunting program. Therefore, opening San Pablo Bay NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

Swanquarter NWR was established in 1935 by authority of the Migratory Bird Conservation Act to provide winter sanctuary for migratory waterfowl. It is administered by the Mattamuskeet NWR. The Service proposes to open the refuge to sport fishing and only permit fishing from refuge islands and the Bell Island pier into State controlled waters. Waterfowl use of these areas in the winter is low, as is angler use, due to the colder weather at this time of year. Therefore, no disturbance to migratory waterfowl is expected to occur from this program. Sport fishing, permitted in the State controlled waters surrounding the refuge, also has had no adverse impacts on migratory bird habitat. Further, a section 7 evaluation concludes that the proposed fishing program "will not affect" the continued existence of the bald eagle or American alligator. Opening Swanquarter NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of the fishing program would be approximately $500. Within the annual Mattamuskeet NWR budget of approximately $408,000, the necessary funds would be available to administer the program. Therefore, opening Swanquarter NWR to sport fishing would be in compliance with the Refuge Recreation Act.

In summary, the Service has determined that these hunting and fishing programs will be appropriate incidental or secondary uses of these refuges; will be compatible with, will not interfere with, and in some cases will enhance, the primary purposes for which these refuges were established; will be biologically sound and compatible with the principles of sound wildlife management; and will not be inconsistent with any other previously authorized Federal programs or with the primary objectives of these refuges. The Service has further determined that funds are available for administration of these programs, and that these programs

are otherwise in the public interest in that they will provide recreational opportunities without impairment of the resource. Hunting and fishing plans are developed for each of these programs on a refuge prior to the opening of the refuge to these activities. In some cases, refuge-specific hunting or fishing regulations are included as a part of the hunting or fishing plan to ensure the compatibility of the programs with refuge purposes. Necessary refuge-specific regulations are included in a separate rulemaking document on refuge-specific hunting/fishing regulations.

It is also the intent of this rulemaking to make some technical corrections. One is to update an obsolete citation in § 32.1 for the Administrative Procedure Act. Another is to update a name change for Barnegat and Brigantine NWRs to Edwin B. Forsythe NWR in §§ 32.11 and 33.4; and for Charles Sheldon Antelope Range to Sheldon NWR in §§ 32.21 and 32.31. And yet another is to update the list of Alaska refuges which was made obsolete by the Alaska National Interest Lands Conservation Act of 1980. This Act changed some names and added more refuges to the list.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, and governmental jurisdictions.

It is estimated that the opening of these refuges to hunting and fishing will generate approximately 42,666 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately $975,708, or substantially less than $100 million. In addition, since these estimated receipts will be spread over 12 states, the implementation of this rule should not have a significant economic impact on the overall economy of a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule will have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The refuge openings will provide recreational opportunities and generate economic benefits that will not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be effected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule will be less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB Approval No.
Economic and public use permits	1018–0014

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), environmental assessments were prepared for these refuge openings. Based upon the EAs, the Service issued Findings of No Significant Impact with respect to the openings. Section 7 evaluations were prepared, where appropriate, pursuant to the Endangered Species Act.

In view of the rapidly approaching hunting seasons, there is an immediate need to place these regulations into effect. Most State hunting seasons begin about September 1. It is Service policy to conduct hunting within the framework of State laws, regulations and seasons. To delay opening the refuges to hunting may cause confusion to the public, deny a benefit to the public and small related businesses and would not be in the best interest of the Service or the public. Thus the Department of the Interior concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedures Act to make these regulations effective upon publication in the **Federal Register**.

Nancy A. Marx, Division of Refuges, Fish and Wildlife Service, Washington, D.C., is the primary author of this rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, Parts 32 and 33, Subchapter C, Chapter I of Title 50 of the Code of Federal Regulations are amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 is revised to read as follows and the authority citation following § 32.41 is removed.

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 690d, 715i, 718d, 725; 44 U.S.C. 3501 et seq.

2. The citation for the Administrative Procedure Act in § 32.1 is revised to read as follows: " (5 U.S.C. 553)"

3. Section 32.11 is amended by revising the entry for Alaska; by removing the Barnegat and Brigantine NWRs, NJ; and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, Edwin B. Forsythe NWR, NJ, Bandon Marsh NWR, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Alaska

Alaska Maritime National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge

Arctic National Wildlife Refuge
Becharof National Wildlife Refuge
Innoko National Wildlife Refuge
Izembek National Wildlife Refuge
Kanuti National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Selawik National Wildlife Refuge
Tetlin National Wildlife Refuge
Togiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge
Yukon Flats National Wildlife Refuge
* * * * *

Arizona
San Bernardino National Wildlife Refuge
* * * * *

California
San Pablo Bay National Wildlife Refuge
* * * * *

Nevada
Ash Meadows National Wildlife Refuge
* * * * *

New Jersey
Edwin B. Forsythe National Wildlife Refuge
* * * * *

Oregon
Bandon Marsh National Wildlife Refuge
* * * * *

Tennessee
Chickasaw National Wildlife Refuge
* * * * *

4. Section 32.21 is amended by revising the entry for Alaska; by removing the Charles Sheldon Antelope Range, OR; and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, Sheldon National Wildlife Refuge, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.21 List of open areas; upland game.
* * * * *

Alaska
Alaska Maritime National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge
Arctic National Wildlife Refuge
Becharof National Wildlife Refuge
Innoko National Wildlife Refuge
Izembek National Wildlife Refuge
Kanuti National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Selawik National Wildlife Refuge
Tetlin National Wildlife Refuge
Togiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge
Yukon Flats National Wildlife Refuge
* * * * *

Arizona
San Bernardino National Wildlife Refuge
* * * * *

California
San Pablo Bay National Wildlife Refuge
* * * * *

Nevada
Ash Meadows National Wildlife Refuge
* * * * *

Oregon
* * * * *
Sheldon National Wildlife Refuge
* * * * *

Tennessee
Chickasaw National Wildlife Refuge
* * * * *

5. Section 32.31 is amended by revising the entry for Alaska; by removing the Charles Sheldon Antelope Range, OR; and by adding Eufaula NWR, GA, Bear Valley and Sheldon NWRs, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.31 List of open areas; big game.
* * * * *

Alaska
Alaska Maritime National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge
Arctic National Wildlife Refuge
Becharof National Wildlife Refuge
Innoko National Wildlife Refuge
Izembek National Wildlife Refuge
Kanuti National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Selawik National Wildlife Refuge
Tetlin National Wildlife Refuge
Togiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge
Yukon Flats National Wildlife Refuge
* * * * *

Georgia
Eufaula National Wildlife Refuge
* * * * *

Oregon
Bear Valley National Wildlife Refuge
* * * * *
Sheldon National Wildlife Refuge
* * * * *

Tennessee
Chickasaw National Wildlife Refuge
* * * * *

6. The authority citation for Part 33 is revised as follows and the authority citation following § 33.4 is removed.

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 690d, 715i, 718d, 725; 44 U.S.C. 3501 et seq.

7. Section 33.4 is amended by revising the entry for Alaska; by removing Brigantine NWR, NJ; and by adding Prime Hook NWR, DE, Hanalei and Kakahaia NWRs, HI, Pond Island NWR, ME, Nantucket NWR, MA, Edwin B. Forsythe NWR, NJ, Cedar Island and Swanquarter NWRs, NC, Cedar Point and Ottawa NWRs, OH, and Bandon Marsh NWR, OR, alphabetically by State except Johnston Atoll NWR, Pacific Islands Territory which is inserted after Wyoming State to read as follows:

§ 33.4 List of open areas; sport fishing.
* * * * *

Alaska
Alaska Maritime National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge
Arctic National Wildlife Refuge
Becharof National Wildlife Refuge
Innoko National Wildlife Refuge
Izembek National Wildlife Refuge
Kanuti National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Selawik National Wildlife Refuge
Tetlin National Wildlife Refuge
Togiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge
Yukon Flats National Wildlife Refuge
* * * * *

Delaware
Prime Hook National Wildlife Refuge
* * * * *

Hawaii
Hanalei National Wildlife Refuge
Kakahaia National Wildlife Refuge
* * * * *

Maine
* * * * *
Pond Island National Wildlife Refuge
* * * * *

Massachusetts
* * * * *
Nantucket National Wildlife Refuge
* * * * *

New Jersey
Edwin B. Forsythe National Wildlife Refuge
* * * * *

North Carolina
* * * * *
Cedar Island National Wildlife Refuge
Swanquarter National Wildlife Refuge
* * * * *

Ohio
Cedar Point National Wildlife Refuge
Ottawa National Wildlife Refuge
* * * * *

Oregon
* * * * *

Bandon Marsh National Wildlife Refuge
* * * * *

Pacific Islands Territory

Johnston Atoll National Wildlife Refuge
* * * * *

Dated: August 14, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-19488 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 60597-6097]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends through November 30, 1986, an emergency rule amending regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) in effect through September 2, 1986. This extension is necessary to allow the Secretary (1) to close a regulatory area or district of the Gulf of Alaska to direct fishing for sablefish by a specific gear type prior to achievement of the share of the sablefish OY that has been allocated to that gear type, thereby providing for a bycatch, and (2) to allow continued fishing for other groundfish species in a regulatory area or district when the OY of any groundfish species has been reached, if the Regional Director determines that the resulting mortality inflicted on the species for which the OY had been reached would not constitute over fishing. The intended effect is to promote the full utilization of all groundfish species without biological harm to any one species and without inhibiting the development of fisheries that are dependent on sablefish and other groundfish species.

EFFECTIVE DATE: September 2, 1986 through November 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: Under section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule effective on June 3, 1986 (51 FR 20659, June 6, 1986) to allow closures as summarized above. The reasons for these actions, which are discussed in the preamble to the emergency rule, still continue and are not repeated here.

When the North Pacific Fishery Management Council voted for the species-specific fishery closures that authorize closure of the directed fishery for sablefish by any legal gear type prior to reaching its share of the OY and retaining a portion of the sablefish OY for bycatch to support groundfish fishing for other species with that gear type, it based its decision on the amount of fishing that would be conducted on available stocks for the entire 1986 fishing year. The Council's action is affirmation that this emergency rule be extended through November 30, 1986, under section 305(e)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that Order.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 672

Fisheries, Reporting requirements.

Dated: August 25, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-19478 Filed 8-25-86; 11:26 am]

BILLING CODE 3510-22-M

50 CFR Part 654

[Docket No. 60603-6144]

Stone Crab Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement conservation and management measures as prescibed in Amendment 3 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This final rule provides for measures designed (1) to increase the survival rate of declawed crabs and of the eggs of egg-bearing females, (2) to allow for a hardship extension for removal of traps, and (3) to delete the FMP reporting requirement. The intended effect is to increase productivity of the stock and to remove unnecessary reporting burdens from persons in the fishery.

EFFECTIVE DATE: September 25, 1986.

ADDRESS: Copies of the final supplemental regulatory impact review/regulatory flexibility analysis are available from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP was developed by the Gulf of Mexico Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations appearing at 50 CFR Part 654. This final rule implements Amendment 3 to the FMP.

The FMP manages the stone crab fishery in the fishery conservation zone of the Gulf of Mexico off Florida. The final rule applies only to this area. The preamble to the proposed rule for Amendment 3 (51 FR 21001, June 10, 1986) contained a description and discussion of the measures implemented by this rule (i.e., maintaining stored crabs in a damp and uncompressed condition; prohibiting declawing of egg-bearing female crabs; providing for a 10-day hardship extension for removal of traps from the water; and deletion of the requirement of mandatory reporting).

Comments

No comments were received on the proposed rule.

Changes From the Proposed Rule

In § 654.6, a new paragraph (a)(23) is added to aid in enforcement of the 10-day hardship extension period for removal of stone crab traps from the water.

In § 654.22, paragraph (a)(2) is modified to aid in enforcement of the 10-day hardship extension period for removal of stone crab traps from the water.

Classification

The Regional Director determined that the amendment is necessary for the conservaton and management of the stone crab fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You

may obtain a copy of the EA from the address above.

The Administrator, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A summary appears in the proposed rule.

The Council prepared a final regulatory flexibility analysis which describes the effects this rule will have on small business entities. You may obtain a copy of this analysis from the address above.

This rule modifies a collection of information requirement subject to the Paperwork Reduction Act by deleting the mandatory Federal system approved by the Office of Management and Budget (OMB control number 0648–0016).

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Florida. This determination was submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act. The State agency agreed with this determination.

List of Subjects in 50 CFR Part 654

Fisheries, Fishing.

Dated: August 22, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 654 is amended as follows:

PART 654—[AMENDED]

1. The authority citation for Part 654 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In Part 654, the table of contents is amended by the removing the title "Recordkeeping and Reporting Requirements" and reserving § 654.5, and by revising the title of § 654.6 "Restrictions" to read "Prohibitions".

§ 654.5 [Removed and Reserved]

3. The text and title of § 654.5 is removed and the section number is reserved.

4. Section 654.6 is amended by revising the title to read "Prohibitions", removing the word "to" at the beginning of paragraphs (a) (1), (2), and (4) through (7), and after the word "forcibly" in paragraph (a)(3), revising the introductory text of paragraph (a), revising paragraph (a)(6), and adding new paragraphs (a) (8) through (24) to read as follows:

§ 654.6 Prohibitions.

(a) It is unlawful for any person to do any of the following:

* * * * *

(6) Falsify any report submitted under this part;

* * * * *

(8) Fish for stone crabs in the FCZ with other than a U.S. vessel which is properly documented, registered, or numbered as required in § 654.4(a);

(9) Falsify or fail to display the vessel's appropriate documentation or registration number and the appropriate stone crab number and color code as specified in § 654.4(b) (2) and (3);

(10) Falsify or fail to mark all stone crab traps and trap buoys with their Florida permit number and color code or their Federal number and color code as specified in § 654.4(b) (1) and (3);

(11) Remove from stone crabs; or possess in the FCZ, regardless of where taken, stone crab claws with a propodus (Figure 2) measuring less than 2¾ inches; or remove, possess, or land stone crab claws from stone crabs taken in the FCZ with a propodus measuring less than 2¾ inches, as specified in § 654.20(a);

(12) Fail to return declawed stone crabs to the sea prior to the vessel's reaching port, shore, or dock as specified in § 654.20(b);

(13) Fail to store stone crabs at sea in containers protected from direct sunlight and in a manner which does not compress the crabs, as specified in § 654.20(b);

(14) Fail to keep stored stone crabs damp by wetting as necessary, as specified in § 654.20(b);

(15) Tend, open, pull or otherwise molest or have in possession aboard a vessel another person's stone crab traps, except as specified in § 654.20(c);

(16) Tend, open, pull, or otherwise molest stone crab traps, except during the hours specified in § 654.20(d);

(17) Possess at sea, land, or fail immediately to return to the sea egg-bearing female stone crabs or to remove eggs or claws from egg-bearing female stone, crabs, as specified in § 654.20(e);

(18) Take or possess stone crabs or any part thereof in the FCZ during the closed season specified in § 654.22(a); except as provided by § 654.22(a)(3);

(19) Have stone crab traps in the water before or after the dates specified in § 654.22(a);

(20) Trawl in a closed area of the FCZ during the time periods specified in § 654.23(a);

(21) Place stone crab traps in a closed area in the FCZ, as specified in § 654.23(b)(1);

(22) Place into the FCZ any article, as specified in § 654.23(b)(2); or

(23) Fail to have on board or present for inspection an extension authorization, as required under § 654.22(a)(2); or

(24) Use stone crab traps without a biodegradable panel, as required under § 654.21.

* * * * *

5. Section 654.20 is amended by revising paragraph (b) and by adding a new paragraph (e), to read as follows:

§ 654.20 Catch limitations.

* * * * *

(b) *Holding crabs aboard fishing vessels.* Stone crab bodies from which the claws have been removed must be returned to the sea before the vessel reaches shore or a port or a dock. Live stone crabs may be held aboard a vessel while it is at sea until such time as the claws are removed, provided the crabs are held in containers shaded from direct sunlight and are wet with sea water as necessary to keep the crabs in a damp condition. Containers holding stone crabs must be stacked in a manner which does not compress the crabs.

* * * * *

(e) *Egg-bearing female crabs.* It is prohibited to remove claws from egg-bearing female stone crabs or to have any egg-bearing female stone crabs aboard a vessel or to remove the eggs from any stone crab. Egg-bearing female stone crabs must be returned to the sea immediately.

6. Section 654.22 is revised to read as follows:

§ 654.22 Closed seasons.

(a) No person may possess stone crabs or any parts thereof in the FCZ during the period from 0001 hours (local time) May 16 through 2400 hours (local time) October 14.

(1) Prior to the fishing season, baited traps may be placed in the water one hour before sunrise on October 5 (soak period).

(2) After the fishing season, traps must be removed from the water by one hour after sunset on May 20 (removal period); unless an extension to the removal period in granted by the State of Florida in accordance with Chapter 46–13, Stone crab, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code. The extension authorization must be carried aboard the fishing vessel. The operator of a fishing vessel must present the authorization for inspection upon request of an authorized officer.

(3) Holding crabs in traps while in the water during the soak period (October 5–14), or during the removal period (May 16–20), or during an extension thereto, will not be deemed as possession provided that such crabs are returned immediately to the water with claws unharvested whenever the traps are removed from the water during these periods.

(4) No traps may be transported on or set in the waters of the FCZ between one hour after sunset on May 20 (or May 30, if an extension to the removal period is granted) and one hour before sunrise on October 5.

(b) Stone crab traps, floats, or ropes in the management area at times not authorized in paragraph (a) will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. Owners of these stone crab traps remain subject to appropriate civil penalties.

[FR Doc. 86–19477 Filed 8–27–86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 167
Thursday, August 28, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 019CE, Notice No. 23-ACE-19]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 310 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Cessna Aircraft Company Model 310 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 29, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 019CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 019CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis for the Cessna Aircraft Company Model 310 Series (TC 3A10) is as follows: Model 310 through 310F, CAR 3 dated November 1, 1949, as amended by 3-1 through 3-10; Models 310G through T310P, same as earlier models plus §§ 3.109, 3.111, 3.112, 3.115, 3.118 and 3.120 of CAR 3, dated May 15, 1956, as amended by 3-2 and 3-5; Models 310Q and T310Q, same as earlier models plus § 3.688 of CAR 3 dated May 15, 1956, as amended by 3-2, 3-5, and 3-8; Models 310R and T310R, same as earlier models plus §§ 23.161 and 23.171 through 23.181 of FAR 23 dated February 1, 1965, as amended by 23-1 through 23-7, and 23.1327, as amended through 23-23, in addition, for S/N 310R0801 and up, compliance with ice protection has been demonstrated in accordance with FAR 23.1419 of Amendment 23-14, effective December 20, 1973, when ice protection equipment is installed in accordance with the Pilot's Operating Handbook and Factory Kit No. 194; S/N 310Q0901 and on, markings, placards, and manuals are primarily in knots instead of m.p.h., as required by CAR 3, but permitted by FAR 23, Amendment 23-7; S/N 310R0501 and up, findings of equivalent level of safety were made for CAR 3.757 and 3.778(a); Model 310R/T310R, S/N 310R1801 and up, compliance with noise certification requirements has been demonstrated in accordance with FAR 36, dated December 1, 1969, as amended through 36-10; and any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 310 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems

to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Cessna Model 310 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air Transportation, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Cessna Model 310 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in §§ 23.951(a) and (b); 23.953(a) and (b); 23.954, 23.955(a) and (c)(1); 23.959; 23.961; 23.963(a), (d), and (e); 23.965(a)(1); 23.967(a)(1) and (2), (b), (c), (d), and (e); 23.969; 23.971; 23.973(a), (b), and (c); 23.975(a)(1), (2), (3), (5), (6), and (7); 23.977(a)(2), (b), (c), and (d); 23.991; 23.993; 23.995; 23.997(a), (b), (c), and (d); 23.999; 23.1141(a), (b), (c), (d), (f), and (g); 23.1143(a), (e), and (f); 23.1189(a) and (c); and 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23–30, except as set forth in sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

§ 23.955 [Amended]

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

§ 23.967 [Amended]

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

§ 23.971 [Amended]

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

§ 23.991 [Amended]

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine." In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

§ 23.997 [Amended]

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

§ 23.999 [Amended]

(g) In § 23.999, delete subparagraph (b)(1).

§ 23.1141 [Amended]

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraphs (e)(1) of § 23.1555 which is incorporated by reference.

§ 23.1143 [Amended]

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 14, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–19445 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 21 and 23

[Docket No. 021CE, Notice No. 23–ACE–21]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 206 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Cessna Aircraft Company Model 206 Series Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 29, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 021CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 021CE. Comments may be inspected in the

Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The certification basis (TC A4CE) for the Cessna Aircraft Company Model 206 Series airplane is Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by 3–1 through 3–8. In addition, effective U20602589 and U20604650 and up, FAR 23.1559, effective March 1, 1978. Dual wheel amphibious float criteria Special Conditions dated January 14, 1969, and Amendment No. 1 dated February 20, 1969. FAR 36 and Amendments 1 through 6, S/N U20604075 and up.

Equivalent Safety Items S/N U20602589 and U20603021 and up.

Airspeed Indicator, CAR 3.757

Operating Limitations, CAR 3.778(a)

In addition, any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 206 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Cessna Model 206 Series airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems. In addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air Transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Cessna Model 206 Series airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system. 1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); 23.953(a) and (b); 23.954, 23.955(a) and (c)(1); 23.959; 23.961; 23.963(a), (d), and (e); 23.965(a)(1); 23.967(a)(1) and (2), (b), (c), (d), and (e); 23.969; 23.971; 23.973(a), (b), and (c); 23.975(a)(1), (2), (3), (5), (6), and (7); 23.977(a)(2), (b), (c), and (d); 23.991; 23.993; 23.995; 23.997(a), (b), (c), and (d); 23.999; 23.1141(a), (b), (c), (d), (f), and (g); 23.1143(a), (e), and (f); 23.1189(a) and (c); and 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23–30, except as set forth in sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

§ 23.955 [Amended]

(a) In § 23.955(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown . . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate in required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

§ 23.967 [Amended]

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

§ 23.971 [Amended]

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

§ 23.991 [Amended]

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

§ 23.997 [Amended]

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

§ 23.999 [Amended]

(g) In § 23.999, delete subparagraph (b)(1).

§ 23.1141 [Amended]

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on August 14, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-19446 Filed 8-27-86; 8:45 am]

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14 CFR Parts 21 and 23

[Docket No. 025CE, Notice No. 23-ACE-25]

Special Conditions; Petersen Aviation, Inc., Modified Bellanca Model 17-30 Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to adopt special conditions for Petersen Aviation, Inc., modified Bellanca, Incorporated, Model 17-30 Airplanes to incorporate ADI system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. This notice proposes additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

DATE: Comments must be received on or before September 29, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 025CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 025CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certificiation Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Type Certification Basis

The type certification basis (TC 1A3) for the Bellanca, Incorporated, Model 17-30 Airplane is Part 03 of the Civil Air Regulations dated December 15, 1946 as amended by Amendments 03-1 through 03-4; §§ 3.80, 3.84a, 3.85a, 3.87, 3.112(c), 3.120, and 3.124(a) of Amendment 3-4, Amendments 3-6 and 3-7, and § 3.74 of Amendment 3-13 to Part 3 of the CAR dated November 1, 1949; and § 3.75(c) of Amendment 3-2 to Part 3 of the CAR dated May 15, 1956; and any special conditions which result from this proposal.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Bellanca Model 17-30 airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

Discussion

The installation of ADI systems in small airplanes was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not

contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60% alcohol and 40% water) is a flammable fluid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

The FAA has considered the features proposed by Petersen Aviation, Inc. for the ADI installation in the Bellanca Model 17–30 airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems, in addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air Transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for Bellanca Model 17–30 airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system.

1. Each Anti-Detonation Injection (AID) system must meet the applicable requirements for the design of a fuel system as specified in §§ 23.951(a) and (b) 23.953(a) and (b); 23.954, 23.955(a) and (c)(1); 23.959; 23.961; 23.963(a), (d), and (e); 23.965(a)(1); 23.967(a)(1) and (2), (b), (c), (d), and (e); 23.969; 23.971; 23.973(a), (b), and (c); 23.975(a)(1), (2), (3), (5), (6), and (7); 23.977(a)(2), (b), (c), and (d); 23.991; 23.993; 23.995; 23.997(a), (b), (c), and (d); 23.999; 23.1141(a), (b), (c), (d), (f), and (g); 23.1143(a), (e), and (f); 23.1189(a) and (c); and 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23–30, except as set forth in Sections 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

§ 23.955 [Amended]

(a) In § 23.995(a) General. In the first sentence, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph (c)(1) with "This flow rate is requried for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

§ 23.967 [Amended]

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

§ 23.971 [Amended]

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

§ 23.991 [Amended]

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It msut be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

§ 23.997 [Amended]

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operations of the ADI system," and add a new paragraph, "(e) Be located with repsect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

§ 23.999 [Amended]

(g) In § 23.999 delete subparagpah (b)(1).

§ 23.1141 [Amended]

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagpaph (e)(1) of § 23.1555 which is incorporated by reference.

§ 23.1143 [Amended]

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 14, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–19448 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–143–AD]

Airworthiness Directives: Airbus Industries Models A300 and 310; Boeing Models 707, 720, 727, 737, 747, 757, and 767; British Aerospace Models BA–146 and BAC 1–11; Lockheed Model L–1011; and McDonnell Douglas Models DC–8, DC–9, and DC–10

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to certain transport category airplanes, that would require the servicing of aircraft tires with nitrogen, in lieu of air, as the need to fill or service the tires occurs. This action is prompted by three confirmed, and other suspected, cases in which the oxygen in air-filled tires combined with volatile gases given off by a severly overheated tire, and exploded upon reaching autoignition temperature. A tire explosion in the wheel well during flight is suspected in the catastrophic loss of one airplane and severe damage to two others.

DATES: Comments must be received no later than November 17, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-143-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Lium, Systems and Equipment Branch, ANM-130S, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 431-2946; or Mr. Anthony Bonanno, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certificate Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 514-6323.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-143-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: There have been numerous instances of tires failing in the wheel well during flight on transport category airplanes. The great majority of these have been classified as tire bursts, with only a few having been identified as tire explosions. This is an important distinction, and provides a basis for this proposed AD action.

A tire burst, as referenced in the Federal Aviation Regulations [FAR 25.729(f)], is a sudden, sometime violent, venting of the pressure from within a tire, usually associated with a flaw in the tire, foreign object damage, or tire overheat/overload. A tire burst is not an unlikely event, given the rather severe operating environment of aircraft tires, and the fact that certain tire damage may go undetected until tire failure. With this in mind, equipment installed in wheel wells is evaluated at the time of certification to determine its ability to withstand the effects of a bursting tire. Analyses and laboratory tests are performed to identify critical areas, and design changes are often made to insure that a single tire burst will not cause loss of critical functions.

A tire explosion is a completely different phenomenon. It results from the autoignition and explosion of a mixture of explosive vapors released from the innerliner of a severely overheated or abused tire, and any oxygen which may be present inside the tire. A tire explosion in the wheel well is an unlikely event, since it is the result of a combination of several related events: a brake must be severely overheated due to some brake system failure; the wheel thermal fuse plugs, because of their orientation when the landing gear are retracted, must fail to respond quickly enough to the overheat condition; the overheated and possibly damaged tire must hold together long enough to allow the gas mixture in the tire to reach autoignition temperature; and there must be sufficient oxygen inside the tire to support an explosion.

It is impossible to design a thermal fuse plug that would be effective in a tire explosion, because the pressure and temperature rise would be nearly instantaneous following ignition, and the fuse plug melt, which is basically a mechanical process, would not have time to take place. Also, the cross sectional area of a series of fuse plugs sufficient to safely vent the energy of an explosion would be so large that it would seriously compromise the structural integrity of the wheel. It is more logical to prevent the tire explosion that to attempt to deal with it after it happens. The tire explosion can be prevented by the use of an inert gas such as nitrogen for tire inflation.

Laboratory tests conducted by the Boeing Company in 1973 show a definite relationship between the quantity of oxygen present in a tire and autoignition temperature. Test data indicate that at nitrogen concentrations between 80% and 90% (the atmosphere contains approximately 80% nitrogen and 20% oxygen), ignition occurred in the test chamber with temperatures varying from 478°F to 518°F. Nitrogen concentrations between 90% and 95% raised the autoignition temperatures to a range of 520°F to 531°F. At nitrogen concentrations greater than 95%, there was no pressure increase in the test chamber, even at chamber temperatures of 670°F, indicating that there was no ignition. Based on these tests, it was concluded that any concentration of oxygen in a tire in excess of 5% of the total gas will support a reaction. At a concentration about 10%, this reaction is an abrupt autoignition. At concentrations from 5% to 10%, this reaction is assumed to be a low level autoignition, based on measurement of test chamber pressure and temperature.

If a tire contains at least 95% nitrogen, and is involved in a severe overheat situation as described above, the inert atmosphere inside the tire would prevent autoignition, or at least delay it long enough for either the fuse plugs to react and release tire pressure, or for the tire itself to fail from overheat, resulting in the less severe tire burst. Since the hazard associated with a tire explosion in the wheel well during flight is likely to exist or develop on large transport airplanes using tires inflated with air, this AD would require that tires be inflated with nitrogen. It is proposed that a placard be placed on or near the landing gear struts which would state the requirement to use nitrogen for tire inflation.

The FAA recognizes that nitrogen may not always be available at some small, remote airports, and that the prohibition against the use of air to refill a low tire may cause some inconvenience. As indicated by the testing describing above, the nitrogen in the tire may be diluted with oxygen to a 95% concentration without compromising safety. The FAA would consider, as an

VOL 51 ISS 167 AG 28 1986 UMI

alternate means of compliance with the AD, a procedure developed by an operator which would assure that any tire refill using air would not allow the nitrogen concentration to drop below 95%. A manufacturer has published in the maintenance manuals of two of its models a chart which explains an air-refill procedure for a residual tire nitrogen content of 90%. It is envisioned that similar procedures for a minimum nitrogen concentration of 95% for a range of tire sizes and pressures could be developed. Depending on tire size and pressure, it is estimated that 2 or 3 such air refills may be allowed, even assuming that the tire is not purged of air prior to its initial inflation.

It is proposed to apply this AD to the large transport category airplanes listed above. The mechanism of the tire explosion is not fully understood, but it is clear that sufficient energy to raise the air in a tire to autoignition temperature must be provided by an overheated brake. Larger airplanes generally have higher takeoff and landing speeds and, at the higher gross weights, this provides for more kinetic energy to be absorbed by the brakes as heat. In addition, a review of service difficulty reports has revealed that more severe tire failures occur on the larger, heavier airplanes. The FAA has no records of adverse service history on the smaller transport category airplanes which would suggest that the use of air for tire inflation constitutes a hazard. The FAA specifically requests comments relating to service experience on the smaller transport category airplanes not listed herein which may indicate the need for similar action in that area.

It is estimated that 3200 airplanes of U.S. registry would be affected by this AD. There would be no change in the number of manhours expended in routine tire servicing, since only the inflation gas would be different. It is estimated that the cost of bottled nitrogen in excess of locally obtainable compressed air would be approximately $4.00 for the initial tire inflation and for any subsequent tire refills over the life of any given tire. Assuming an average of 200 landings per tire, and considering the current U.S. fleet utilization and mix of aircraft types, it is estimated that the total cost of compliance with this AD for U.S. operators would be $650,000 per year. This figure assumes that no U.S. operators are currently using nitrogen in their tires, when in fact many operators are using nitrogen, and thus would be unaffected by this AD. Assuming that 60% of U.S. operators are currently using nitrogen, a realistic estimate of the annual cost would be $260,000.

An ancillary benefit to the use of nitrogen in lieu of air would be a reduction in wheel corrosion, due to the fact that nitrogen is an inert gas and generally contains less moisture than does compressed air. The longer wheel life may, in some cases, offset the anticipated higher cost of nitrogen. Also, nitrogen is free of oil and other contaminants which may be present in compressed air. There is evidence that tires inflated with air have shortened service life because the air diffusing into the carcass degrades its interply adhesion. Finally, nitrogen bottles are portable, and may facilitate tire servicing at airport gates and other locations removed from maintenance areas.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few of the airplanes affected by this AD are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industries, Boeing, British Aerospace, Lockheed and McDonnell Douglas: Applies to Airbus Industries Models A300 and A310; Boeing Models 707, 720, 727, 737, 747, 757, and 767; British Aerospace Models BA-146 and BAC 1-11; Lockheed Model L-1011; and McDonnell Douglas Models DC-8, DC-9 and DC-10; certificated in any category. To eliminate the possibility of a chemical reaction between atmospheric oxygen and volatile gases from the tire innerliner producing a tire explosion, accomplish the following, unless already accomplished:

A. Within 180 days after the effective date of this AD, install a placard, either in the wheel wells, or on or near the landing gear struts, in a location so as to be easily seen and readable by a person performing routine tire servicing. This placard shall state "Inflate tires with nitrogen only." The words "service" or "fill" may be substituted for the word "inflate."

Note.—It is not necessary to purge the deflated tire of the one atmosphere of air remaining in the tire prior to its initial inflation with nitrogen.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region (Airbus Industrie, Boeing, and British Aerospace models); or the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region (Lockheed and McDonnell Douglas models).

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of inspections and/or modifications required by this AD.

Issued in Seattle, Washington, on August 20, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19449 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-153-AD]

Airworthiness Directives: EON Corporation Technical Standard Order (TSO) C22 Safety Belt Assemblies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require replacement of EON safety belt assemblies which have EON E6000 safety belt buckle assemblies. This proposed AD is prompted by reports of a buckle assembly which pulled apart under load, and other assemblies which could be pulled apart by wiggling the latch in the buckle. This condition, if not corrected, could result in the inadvertent unbuckling of a safety belt assembly, with the resultant lack of restraint of the occupant under either flight loads or crash loads.

DATE: Comments must be received no later than October 20, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration (FAA), Northwest Mountain Region, Office of the Regional Counsel (ATTN: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–153–AD, 17900 Pacific Highway South, C–68966 Seattle, Washington 98168. EON Corporation no longer exists. A copy of all documents applicable to this AD may be examined at the Federal Aviation Administration, Northwest Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Systems & Equipment Section, ANM–173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; Telephone (213) 297–1388. Mailing address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM–173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–153–AD 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

There have been reports where, during the flight of the helicopters in which they were installed, safety belt assemblies became unlatched. Later inspection of the safety belt assemblies revealed that one of the buckle assemblies could be easily pulled apart under load, and several others could be pulled apart by wiggling the latch in the buckle. There was no evidence that the buckle assemblies had been damaged. This condition, if not corrected, could result in the inadvertent unbuckling of a safety belt assembly, with the resultant lack of restraint of the occupant under either flight loads or crash loads. The safety belt assemblies involved were manufactured by EON Corporation. This company is no longer in business; therefore, no manufacturer service information is presently available.

Since this condition is likely to exist or develop on other safety belt assemblies of the same type design, this AD proposes to require replacement of the inadequate safety belt assemblies with other FAA-approved assemblies.

It is not possible to estimate the number of safety belt assemblies that must be replaced in order to comply with the requirements of this proposed AD. The FAA has determined that the highest cost for each safety belt assembly replacement would be less than $100, including labor costs.

For these reasons, the FAA had determined that this document (1) involves a proposed regulations which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimum cost of compliance per aircraft (replacement of each safety belt assembly has been determined to be less than $100). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administor, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

EON Corporation

Applies to EON Corporation TSO C22 safety belt assemblies incorporating E6000 buckle assemblies.

Compliance is required within thirty (30) days after the effective date of this AD, unless previously accomplished.

To prevent inadvertent opening of safety belt assemblies, accomplish the following:

A. Inspect all EON Corporation TSO C22 safety belt assemblies to determine if they use E6000 buckle assemblies. If a safety belt assembly with E6000 buckles is installed, remove and replace it with another FAA-approved safety belt assembly.

Note.—This type of buckle assembly has a front cover plate which is pivoted at one end and is pulled at the other end through an arc to release the latch from the buckle. The E6000 buckle assemblies can be identified by the type of catch they use. Figure 1 (follows) shows the configuration of the catch and how it is located within the buckle assembly.

B. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

Issued in Seattle, Washington, on August 21, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

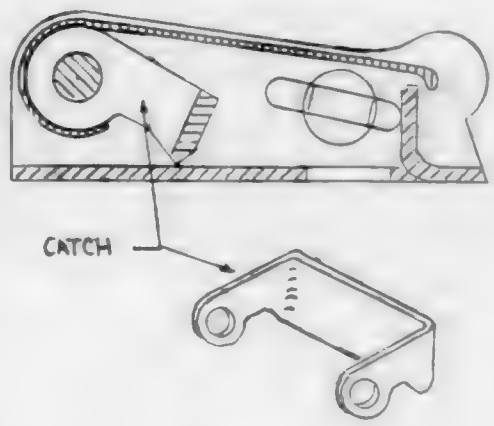

FIGURE 1.

E 6000 SERIES BUCKLE

[FR Doc. 86–19450 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86-AGL-24]

Establishment of Transition Area—Greenville, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Greenville, Michigan, transition area to accommodate a new VOR/DME-A instrument approach procedure to Greenville Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before September 30, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-24, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independent Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Greenville, Michigan, transition area.

The establishment of a new VOR/DME-A instrument approach procedure requires that the FAA designate airspace to ensure that the procedure will be contained within controlled airspace.

The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71-[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Greenville, Michigan [NEW]

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Greenville Municipal Airport (Lat. 43°08'30" N., Long. 85°15'15" W.).

Issued in Des Plaines, Illinois, on August 15, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-19451 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

American Dairy Association

AGENCY: Federal Trade Commission.

ACTION: Notice of extension of time for public comment on petition.

SUMMARY: The Federal Trade Commission has extended the time period for public comment on the petition [1] filed by the American Dairy Association to reopen and terminate or modify the consent order issued in Docket No. C–2459 in September 1973 (38 FR 29315, Oct. 24, 1973). The petition to terminate or modify the order was filed on July 9, 1986. The thirty day (30) public comment period ended on August 14, 1986. A 30 day extension of time has been granted by the Commission allowing those interested parties an additional 30 days in which to comment on this matter. The deadline for filing comments with the Commission is September 15, 1986.

DATE: The deadline for filing comments in this matter is September 15, 1986.

ADDRESS: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. Requests for copies of the petition should be sent to the Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT: Sherri N. Blount, Attorney, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 376–2891.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86–19447 Filed 8–27–86; 8:45 am]

BILLING CODE 6750-1-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 86N–0072]

Review of Investigational Device Exemptions Regulations; Invitation To Submit Comments, Data, and Information

Correction

In FR Doc. 86–16718, beginning on page 26830, in the issue of Friday, July 25, 1986, make the following correction:

On page 26832, third column, second line from the bottom, after "might" insert "increase benefits attributable to the IDE regulations or that might".

BILLING CODE 1505-01-M

[1] The petition was never published in the *Federal Register*.

21 CFR Part 882

[Docket No. 83N–0192]

Medical Devices; Invitation for Offers To Submit or To Develop a Performance Standard for Central Nervous System, Fluid Shunt and Components; Reopening of Time for Submission of Offers

Correction

In FR Doc. 86–16719, appearing on page 26718, in the issue of Friday, July 25, 1986, second column, ninth line, after "time" insert "to prepare an offer to submit an existing standard or".

BILLING CODE 1505-1-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301, 1311 and 1312

Registration of Manufacturers, Distributors, Dispensers, Importers and Exporters of Controlled Substances; Importation and Exportation of Controlled Substances; Updating Requirements

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Diversion Control Amendments which were included in the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473) effective October 12, 1984 amended portions of the Controlled Substances Import and Export Act. Several of these amendments involve the registration and recordkeeping requirements for those who import and export controlled substances. As stated in the legislative history of the Diversion Control Amendments the changes are designed to strengthen the regulatory controls while at the same time providing a workable, flexible regulatory system. The proposed amendments to Parts 1301, 1311 and 1312 of Title 21, Code of Federal Regulations, reflect the statutory changes.

DATE: Written comments and objections must be received on or before September 29, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Diversion Operations Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, (202) 633–1216.

SUPPLEMENTARY INFORMATION: Sections 519 through 525 of the Diversion Control Amendments (Pub. L. 98–473) amend various portions of the Controlled Substances Import and Export Act, 21 U.S.C. 951 et seq. These statutory amendments permit the import of the narcotic raw materials poppy straw and concentrate of poppy straw in addition to the previously authorized opium and coca leaves and the importation of controlled substances for exclusively analytical, scientific and research puposes. The amendments also require an import permit or export permit for specifically designated Schedule III non-narcotic controlled substances; require registration for those who export Schedule V controlled substances; impose additional procedural requirements for obtaining export permits; and establish standards and procedures for the denial, revocation and suspension of registrations issued to importers and exporters of controlled substances. The proposed amendments to 21 CFR Parts 1301, 1311 and 1312 reflect these statutory changes.

Section 519 of the Diversion Control Amendments amended several portions of the Controlled Substances Import and Export Act to permit the importation of poppy straw and concentrate of poppy straw for medical, scientific and other legitimate purposes. This is in addition to the previously authorized importation of crude opium and coca leaves. Revisions of §§ 1311.42(b)(6)(i) and 1312.13(a)(1) of 21 CFR are proposed to reflect that change.

Section 520 of the Diversion Control Amendments amends 21 U.S.C. 952(a)(2) to allow for the importation of controlled substances for exclusively scientific, analytical or research purposes. Revision of § 1311.42(b)(6)(iv) of 21 CFR is proposed to reflect that amendment.

Section 521 of the Diversion Control Amendments amends 21 U.S.C. 952(b)(2) to allow the Administrator of DEA to designate by regulation specific Schedule III nonnarcotic controlled substances which would require import permits. This amendment also requires an import permit for the importation of any Schedule IV or V non-narcotic controlled substance that is listed in Schedule I or II of the Convention on Psychotropic Substances, 1971. Revision of §§ 312.11 (a) and (b), 1312.13 (b) and (c), and 1312.18 (a) and (b) of 21 CFR are proposed to refect the statutory amendment.

Section 522 of the Diversion Control Amendments amended 21 U.S.C. 953(e)

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VOL 51 ISS 167 AG 28 1986 UMI

to require that documentary proof that importation is not contrary to the laws or regulations of the country of destination and that it is for consumption by that country be provided prior to export of a non-narcotic controlled substances in Schedule III or IV or any controlled substance in Schedule V. This statutory amendment also authorizes the Administrator of DEA to require, by regulation, export permits for specific Schedule III non-narcotic controlled substances. There is also a provision for export permits when a Schedule IV or V non-narcotic controlled substance which is also listed in Schedule I or II of the Convention on Psychotropic Substances is exported. Revisions of §§ 1312.21 (a) and (b), 1312.23, 1312.27 and 1312.28 of 21 CFR reflect this statutory amendment.

A new 21 CFR 1312.30 is proposed for the listing of those specific non-narcotic Schedule III, IV and V controlled substances designated by the Administrator of DEA which require an import or export permit.

Section 523 of the Diversion Control Amendments amends 21 U.S.C. 957(a)(2) by requiring specific registration as an exporter for persons who export Schedule V controlled substances. The previous statute required such registration only for those persons exporting controlled substances in Schedules I, II, III, and IV. 21 CFR 1301.22(a)(10), 1311.02(d) and 1311.21 are proposed for revision to reflect the statutory change.

Section 524 of the Diversion Control Amendments amends 21 U.S.C. 958(b) to limit the import and export of controlled substances by DEA registrants to those controlled substances specified in their registration. In order to make this determination, registrants and applicants for registration will be required to use the Administration Controlled Substances Code Number which is described in 21 CFR 1308.03. Amendments are proposed for §§ 1311.26, 1311.32, 1311.42, 1311.61, 1312.22, and 1312.27 of 21 CFR to reflect this statutory change.

Section 525 of the Diversion Control Amendments amends 21 U.S.C. 958 by outlining the grounds and procedures for denial, suspension or revocation of a registration issued pursuant to 21 U.S.C 957 and 958. The grounds and procedures were previously cross-referenced from 21 U.S.C. 824. The proposed amendments to 21 CFR 1311.44, 1311.47, and 1311.53 reflect this statutory change.

The Deputy Assistant Administrator hereby certifies that this proposal will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. These regulatory changes apply to a very small number of individuals and firms who import and export controlled substances. They are already registered with the Drug Enforcement Administration to conduct these activities, and subject to reporting requirements. The changes will not impose new regulatory requirements, merely revise the type of reporting required by these firms with regard to specific substances.

Pursuant to § 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, this proposed action has been submitted for review to the Office of Management and Budget, and approval of that Office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

21 CFR Part 1311

Administrative practice and procedure, Drug traffic control, Exports, Imports.

21 CFR Part 1312

Administrative practice and procedure, Drug traffic control, Exports, Imports, Narcotics, Reporting and recordkeeping requirements.

Accordingly, it is proposed to amend 21 CFR Parts 1301, 1311, and 1312 as follows:

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.22 is amended by revising paragraph (a)(10) to read as follows:

§ 1301.22 Separate registration for independent activities.

(a) * * *

(10) Exporting controlled substances; and

* * * * *

PART 1311—[AMENDED]

1. The authority citation for Part 1311 continues to read as follows:

Authority: 21 U.S.C. 952, 956, 957, 958.

2. Section 1311.02 is amended by revising paragraph (d) to read as follows:

§ 1311.02 Definitions.

* * * * *

(d) The term "exporter" includes every person who exports, or who acts as an export broker for exportation of, controlled substances listed in any schedule.

* * * * *

3. Section 1311.21 is revised to read as follows:

§ 1311.21 Persons required to register.

Every person who imports any controlled substance, or who exports any controlled substance, or who proposes to engage in such importation or exportation, shall obtain annually a registration unless exempted by law or pursuant to §§ 1311.24 through 1311.27. Only persons actually engaged in such activities are required to obtain registration; related or affiliated persons who are not engaged in such activities are not required to be registered. (For example, a stockholder or parent corporation importing controlled substances is not required to obtain a registration.)

4. Section 1311.26 is revised to read as follows:

§ 1311.26 Exemption for ocean vessels, commercial aircraft, and certain other entities.

Owners or operators of vessels, aircraft, or other entities described in § 1301.28 of this chapter or in Article 32 of the Single Convention on Narcotic Drugs, 1961, or in Article 14 of the Convention on Psychotropic Substances, 1971, shall not be deemed to import or export any controlled substances purchased and stored in accordance with that section or applicable article.

5. In § 1311.32 paragraphs (e) and (f) are redesignated as paragraphs (f) and (g), paragraph (d) is revised, and new paragraph (e) is added to read as follows:

§ 1311.32 Application forms; contents; signature.

* * * * *

(d) Each application for registration to import or export any controlled substance shall include the Administration Controlled Substance Code Number, as set forth in Part 1308 of this chapter, for each controlled substance whose importation or exportation is to be authorized by such registration.

(e) Registration as an importer or exporter shall not entitle a registrant to import or export any controlled substance not specified in such registration.

* * * * *

6. Section 1311.42 is amended by revising paragraphs (a), (b)(6)(i) and (b)(6)(iv) to read as follows:

§ 1311.42 Application for importation of Schedule I and II substances.

(a) In the case of an application for registration or reregistration to import a controlled substance listed in Schedule I or II, under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)), the Administrator shall, upon the filing of such application, publish in the **Federal Register** a notice naming the applicant and stating that such applicant has applied to be registered as an importer of a Schedule I or II controlled substance, which substance shall be identified. A copy of said notice shall be mailed simultaneously to each person registered as a bulk manufacturer of that controlled substance and to any other applicant therefor. Any such person may, within 30 days from the date of publication of the notice in the **Federal Register**, file written comments on or objections to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on the application pursuant to § 1301.54. Notice of the hearing shall be published in the **Federal Register**, and shall be mailed simultaneously to the applicant and to all persons to whom notice of the application was mailed. Any such person may participate in the hearing by filing a notice of appearance in accordance with § 1301.54 of this chapter. Notice of the hearing shall contain a summary of all comments and objections filed regarding the application and shall state the time and place for the hearing, which shall not be less than 30 days after the date of publication of such notice in the **Federal Register**. A hearing pursuant to this section may be consolidated with a hearing held pursuant to § 1311.43 or § 1311.44 of this Part.

(b) * * *

(6) * * *

(i) Such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Administrator finds to be necessary to provide for medical, scientific, or other legitimate purposes; or

* * * * *

(iv) Such limited quantities of any controlled substance listed in Schedule I or II as the Administrator shall find to be necessary for scientific, analytical or research uses; and

* * * * *

7. Section 1311.44 is amended by revising paragraphs (a) and (b), redesignating paragraphs (c) through (e) as (e) through (g), adding new paragraphs (c) and (d), and revising newly designated paragraphs (f)(1), (f)(2), (g)(1) and (g)(2) as follows:

§ 1311.44 Suspension or revocation of registration.

(a) The Administrator may suspend any registration pursuant to section 1008(d) of the Act (21 U.S.C. 958(d)) for any period of time.

(b) The Administrator may revoke or suspend a registration issued under section 1008(a) of the Act (21 U.S.C. 958(a)) if he determines that such registration is inconsistent with the public interest as defined in that section or with the United States obligations under international treaties, conventions, or protocols in effect on October 12, 1984.

(c) The Administrator may revoke or suspend a registration issued under section 1008(c) of the Act (21 U.S.C. 958(c)) if he determines that such registration is inconsistent with the public interest as defined in that section or with the United States obligations under international treaties, conventions, or protocols in effect on October 12, 1984.

(d) The Administrator may limit the revocation or suspension of a registration to the particular controlled substance, or substances, with respect to which grounds for revocation or suspension exist.

* * * * *

(f) * * *

(1) Deliver all controlled substances in his possession to the nearest office of the Administration pursuant to section 1008(d)(6) of the Act (21 U.S.C. 958(d)(6)); or

(2) Deliver all controlled substances in his possession to authorized agents of the Administration who will either remove the substances or place them under seal as described in section 1008(d)(6) of the Act (21 U.S.C. 958(d)(6)).

(g) * * *

(1) Deliver to the nearest office of the Administration, pursuant to section 1008(d)(6) of the Act (21 U.S.C. 958(d)(6)), all of the particular controlled substance or substances affected by the revocation or suspension which are in his possession; or

(2) Deliver all of such substances to authorized agents of the Administration who will either remove the substances or place them under seal as described in section 1008(d)(6) of the Act (21 U.S.C. 958(d)(6)).

8. Section 1311.47 is revised to read as follows:

§ 1311.47 Order to show cause.

(a) If, upon examination of the application for registration from any applicant and other information gathered by the Administration regarding the applicant, the Administrator is unable to make the determinations required by the applicable provisions of sections 303 and 1008(d) of the Act (21 U.S.C. 823 and 958(d)) to register the applicant, the Administrator shall serve upon the applicant an order to show cause why the application for registration should not be denied, as provided in § 1301.48 of this chapter.

(b) If, upon information gathered by the Administration regarding any registrant, the Administrator determines that the registration of such registrant is subject to suspension or revocation pursuant to section 1008(d) of the Act (21 U.S.C. 958(d)), the Administrator shall serve upon the registrant an order to show cause why the registration should not be revoked or suspended, as provided in § 1301.48. of this chapter.

9. Section 1311.53 is revised to read as follows:

§ 1311.53 Burden of proof.

(a) At any hearing on the granting or denial of an application to be registered to import or export any controlled substance listed in Schedule I or II, the applicant shall have the burden of proving that the requirements for such registration pursuant to sections 1008(a) and (d) of the Act (21 U.S.C. 958 (a) and (d)) are satisfied. Any other person participating in the hearing pursuant to § 1311.42 shall have the burden of proving any propositions of fact or law asserted by him in the hearings.

(b) At any other hearing for the denial of an application for registration, the Administration shall have the burden of proving that the requirements for such registration pursuant to sections 1008 (c) and (d) of the Act (21 U.S.C. 958 (c) and (d)) are not satisfied.

(c) At any hearing for the revocation or suspension of a registration, the Administration shall have the burden of proving that the requirements for such revocation or suspension pursuant to section 1008(d) of the Act (21 U.S.C. 958(d)) are satisfied.

10. Section 1311.61 is revised to read as follows:

§ 1311.61 Modification in registration.

Any registrant may apply to modify his registration to authorize the handling of additional controlled substances or to change his name or address, by submitting a letter of request to the Registration Branch, Drug Enforcement

Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. The letter shall contain the registrant's name, address, and registration number as printed on the Certificate of Registration, and the substances (including the schedule and the Administration Controlled Substances Code Number, as set forth in Part 1308 of this chapter, for those substances) to be added to his registration or the new name and address, and shall be signed in accordance with § 1311.32(f). No fee shall be required to be paid for the modification. The request for modification shall be handled in the same manner as an application for registration. If the modification in registration is approved, the Administrator shall issue a new Certificate of Registration (DEA Form 223) to the registrant, who shall maintain it with the old Certificate of Registration until expiration.

PART 1312—[AMENDED]

1. The authority citation for Part 1312 is revised to read as follows:

Authority: 21 U.S.C. 952, 953, 954, 957, 958.

2. Section 1312.11 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1312.11 Requirement of authorization to import.

(a) No person shall import or cause to be imported any controlled substance listed in Schedule I or II or any narcotic controlled substance listed in Schedule III, IV or V or any non-narcotic controlled substance in Schedule III which the Administrator has specifically designated by regulation in § 1312.30 of this part or any nonnarcotic controlled substance in Schedule IV or V which is also listed in Schedule I or II of the Convention on Psychotropic Substances unless and until such person is properly registered under the Act (or exempt from registration) and the Administrator has issued him a permit to do so pursuant to § 1312.13 of this part.

(b) No person shall import or cause to be imported any non-narcotic controlled substance listed in Schedule III, IV or V, excluding those described in subsection (a) of this section, unless and until such person is properly registered under the Act (or exempt from registration) and has filed an import declaration to do so with the Administrator, pursuant to § 1312.18 of this part.

* * * * *

3. Section 1312.12 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1312.12 Application for import permit.

(a) An application for a permit to import controlled substances shall be made on DEA Form 357. DEA Form 357 may be obtained from, and filed with, the Drug Enforcement Administration, Diversion Operations Section, 1405 I Street, NW., Washington, DC 20537. Each application shall show the date of execution; the registration number of the importer; a detailed description of each controlled substance to be imported including the name, net quantity, dosage form, National Drug Code (NDC) number, and the Administration Controlled Substance Code Number as set forth in Part 1308 of this chapter; the anhydrous alkaloid content in each controlled substance to be imported, if known; the number and size of packages or containers; the name and quantity of the controlled substance contained in any preparation; and the quantity of any solids being given in kilograms or parts thereof. The application shall also include the following:

* * * * *

4. Section 1312.13 is amended by revising paragraph (a)(1), redesignating paragraphs (b) through (e) as (d) through (g), and adding new paragraphs (b) and (c), to read as follows:

§ 1312.13 Issuance of import permit.

(a) * * *

(1) That the substance is crude opium, poppy straw, concentrate of poppy straw, or coca leaves, in such quantity as the Administrator finds necessary to provide for medical, scientific, or other legitimate purposes; * * *

(b) The Administrator may require that such non-narcotic controlled substances in Schedule III as he shall designate by regulation in § 1312.30 of this part be imported only pursuant to the issuance of an import permit. The Administrator may authorize the importation of such substances if he finds that the substance is being imported for medical, scientific or other legitimate uses. (c) If a non-narcotic substance listed in Schedule IV or V is also listed in Schedule I or II of the Convention on Psychotropic Substances, 1971, it shall be imported only pursuant to the issuance of an import permit. The Administrator may authorize the importation of such substances if it is found that the substance is being imported for medical, scientific or other legitimate uses.

* * * * *

5. Section 1312.18 is amended by revising paragraphs (a), (b) and (c)(2) to read as follows:

§ 1312.18 Contents of import declaration.

(a) Any non-narcotic controlled substance listed in Schedule III, IV, or V, not subject to the requirement of an import permit pursuant to § 1312.13 (b) or (c) of this chapter, may be imported if that substance is needed for medical, scientific or other legitimate uses in the United States, and will be imported pursuant to a controlled substances import declaration.

(b) Any person registered or authorized to import and desiring to import any non-narcotic controlled substance in Schedules III, IV, or V which is not subject to the requirement of an import permit as described in paragraph (a) of this section, must furnish a controlled substances import declaration on DEA Form 236 to the Drug Enforcement Administration, Diversion Operations Section, 1405 Eye Street, NW., Washington, DC 20537, not later than 15 calendar days prior to the proposed date of importation and distribute four copies of same as hereinafter directed in § 1312.19.

(c) * * *

(2) A complete description of the controlled substances to be imported, including name, quantity, dosage form, and the Administration Controlled Substance Code Number as set forth in Part 1308 of this chapter; and

* * * * *

6. Section 1312.21 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1312.21 Requirement of authorization to export.

(a) No person shall in any manner export or cause to be exported from the United States any controlled substance listed in Schedule I or II, or any narcotic substance listed in Schedule III or IV, or any non-narcotic substance in Schedule III which the Administrator has specifically designated by regulation in § 1312.30 of this part or any non-narcotic substance in Schedule IV or V which is also listed in Schedule I or II of the Convention on Psychotropic Substances unless and until such person is properly registered under the Act (or exempted from registration) and the Administrator has issued a permit pursuant to § 1312.23 of this part. (b) No person shall in any manner export or cause to be exported from the United States any non-narcotic controlled substance listed in Schedule III, IV, or V, excluding those described in paragraph (a) of this section, or any narcotic controlled substance listed in Schedule V, unless and until such person is properly registered under the Act (or exempted from registration) and has furnished a special controlled

substance export invoice as provided by section 1003 of the Act (21 U.S.C. 953(e)) to the Administrator pursuant to § 1312.28 of this part.

* * * * *

7. Section 1312.22 is amended by revising paragraph (a) to read as follows:

§ 1312.22 Application for export permit.

(a) An application for a permit to export controlled substances shall be made on DEA Form 161 which may be obtained from, and shall be filed with, the Drug Enforcement Administration, Diversion Operations Section, 1405 I Street, NW., Washington, DC 20537. Each application shall show the exporter's name, address, and registration number; a detailed description of each controlled substance desired to be exported including the name, net quantity, dosage form, National Drug Code (NDC) number, and the Administration Controlled Substance Code Number as set forth in Part 1308 of this chapter, the number and size of packages or containers, the name and quantity of the controlled substance contained in any preparation, and the quantity of any solids being given as kilograms or parts thereof. The application shall include the name, address, and business of the consignee, foreign port of entry, the port of exportation, the approximate date of exportation, the name of the exporting carrier or vessel (if known, or if unknown it should be stated whether shipment will be made by express, freight, or otherwise, exports of controlled substances by mail being prohibited), the date and number, if any, of the supporting foreign import license or permit accompanying the application, and the authority by whom such foreign license or permit was issued. The application shall also contain an affidavit that the packages are labeled in conformance with obligations of the United States under international treaties, conventions, or protocols in effect on May 1, 1971, and that, to the best of affiant's knowledge and belief, the controlled susbstances therein are to be applied exclusively to medical and scientific uses within the country to which exported, will not be reexported therefrom and that there is an actual need for the controlled substance for medical or scientific uses within such country. In case of exportation of bulk coca leaf alkaloid, the affidavit may state that to the best of knowledge and belief, the controlled substances will be processed within the country to which exported, either for medical or scientific use within that country or for reexportation in accordance with the laws of that country to another for medical or scientific use within that country. The application shall be signed and dated by the exporter and shall contain the address from which the substances will be shipped for exportation.

* * * * *

8. Section 1312.23 is amended by redesignating paragraphs (b) through (d) as (d) through (f), and adding new paragraphs (b) and (c) to read as follows:

§ 1312.23 Issuance of export permit.

* * * * *

(b) The Administrator may require that such non-narcotic controlled substances in Schedule III as shall be designated by regulation in § 1312.30 of this part be exported only pursuant to the issuance of an export permit. The Administrator may authorize the exportation of such substances if he finds that such exportation is permitted by section 1003(e) of the Act (21 U.S.C. 953(e)).

(c) If a non-narcotic substance listed in Schedule IV or V is also listed in Schedule I or II of the Convention on Psychotropic Substances, it shall be exported only pursuant to the issuance of any export permit. The Administrator may authorize the exportation of such substances if he finds that such exportation is permitted by section 1003(e) of the Act (21 U.S.C. 953(e)).

* * * * *

9. Section 1312.27 is amended by revising paragraphs (a), (b)(2) and (b)(4) to read as follows:

§ 1312.27 Contents of special controlled substance invoice.

(a) A person registered or authorized to export any nonnarcotic controlled substance listed in Schedule III, IV, or V, which is not subject to the requirement of an export permit pursuant to § 1312.23 (b) or (c), or any person registered or authorized to export any controlled substance in Schedule V, must furnish a special controlled substances export invoice on DEA form 236 to the Drug Enforcement Administration, Diversion Operations Section, 1405 I Street, NW., Washington, DC 20537, not less than 15 calendar days prior to the proposed date of exportation, and distribute four copies of same as hereinafter directed in § 1312.28 of this part.

(b) * * *

(2) A complete description of the controlled substances to be exported including the name, quantity, dosage form, and the Administration Controlled Substances Code Number as set forth in Part 1308 of this chapter; and

* * * * *

(4) The name and address of the consignee in the country of destination, and any registration or license number if the consignee is required to have such numbers either by the country of destination or under United States law. In addition, documentation must be provided to show that:

(i) The consignee is authorized under the laws and regulations of the country of destination to receive the controlled substances and that,

(ii) the substance is being imported for consumption within the importing country to satisfy medical, scientific or other legitimate purposes, and that

(iii) the substance will not be reexported.

* * * * *

10. Section 1312.28 is amended by revising paragraph (d) to read as follows:

§ 1312.28 Distribution of special controlled substance invoice.

* * * * *

(d) Copy 4 shall be forwarded, within the time limit required in § 1312.27 of this part, directly to the Drug Enforcement Administration, Diversion Operations Section, 1405 I Street, NW., Washington, DC 20537. The documentation required by § 1327.27(b)(4) of this part must be attached to this copy.

* * * * *

11. A new § 1312.30 under "Exploration of Controlled Substances" is added to read as follows:

§ 1312.30 Schedule III, IV, and V and non-narcotic controlled substances requiring an import and export permit.

The following Schedule III, IV, and V non-narcotic controlled substances have been specifically designated by the Administrator of the Drug Enforcement Administration as requiring import and export permits pursuant to sections 1002(b)(2) and 1003(e)(3) of the Act (21 U.S.C. 952(b)(2) and 953(e)(3):

(a) [Reserved]

Dated: January 28, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion, Drug Enforcement Administration.

[FR Doc. 86-18884 Filed 8-27-86; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 35, 510, 511, 570, and 590

[Docket No. R-86-1-1291; FR-2243]

Lead-Based Paint Hazard Elimination in Community Development Block Grant, Urban Development Action Grant, Secretary's Fund, Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading Programs

Correction

In FR Doc. 86-17470 beginning on page 27793 in the issue of Friday, August 1, 1986, make the following corrections:

1. On page 27798, in the third column, fourth line, "B" should read "D".

2. On page 27799, third column, in Alternative IV, "flaking" was mispelled.

3. On page 27800, second column, in paragraph (a) *CDBG Program*, in the sixth line, "be" should read "by".

4. On page 27801, first column, in the fifth line from the bottom of the page, "very" should read "vary".

5. On page 27802, third column, in the thirteenth line, delete the last "s". And in the same column, in the first complete paragraph, in the eleventh line, between "funds" and "to" insert ")". Also in the third column, in the second line from the bottom of the page, "treated" should read "tested".

6. On page 27805, second column, in amendatory instruction 6., "enclosed" was mispelled, and in the third column, sixth line "availability" was mispelled.

7. On page 27806, first column, in paragraph (ii) *Chewable surfaces*, in the twelfth line "considered" was mispelled.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 86-309]

Inquiry into Policies to be followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off of the Island of Puerto Rico

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Order Granting Extension of Time for Filing Comments.

SUMMARY: In response to a request by All American Cables and Radio, Inc., the Commission's Common Carrier Bureau has granted a 21-day extension of time for filing comments on matters discussed in the Commission's Notice of Proposed Rulemaking, Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off of the Island of Puerto Rico in CC Docket No. 86-309, published on July 24, 1986, 51 FR 26562. The extension also established a new date for filing reply comments.

DATES: Comments are now due by September 15, 1986, and reply comments by October 6, 1986, respectively.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dan Spiro (202) 632-7285.

Order

[CC Docket No. 86-309]

In the matter of inquiry into policies to be followed in the authorization of common carrier facilities to provide telecommunications service off of the Island of Puerto Rico.

Adopted: August 15, 1986.
Released: August 20, 1986.
By the Chief, Common Carrier Bureau:

1. On July 18, 1986, the Commission released a Notice of Proposed Rulemaking (NPRM) in the above captioned proceeding, FCC 86-319, 51 FR 26562 (1986). In the NPRM, the Commission set forth certain tentative conclusions regarding the development of its policies and guidelines concerning applications for facilities to provide telecommunications service between the island of Puerto Rico and off-island points. The Commission's decision called for the filing of comments by August 25, 1986, and reply comments by September 15, 1986.

2. On August 5, 1986, All American Cables and Radio, Inc. (AACR), requested an extension of time until October 30, 1986 to file comments in this proceeding. AACR states that this 66-day extension of time is needed to allow it to prepare adequate comments on the wide range of subjects on which the Commission seeks information and analysis.[1] ACR adds that the difficulty in complying with the Commission's specified comment period is compounded by the fact that several key AACR personnel will be unavailable during part of this period. AACR also states that the need for its personnel to coordinate among several distant locations renders the preparation of comments in this proceeding particularly time-consuming. AACR further claims that the importance of developing an adequate factual record in the proceeding strongly outweighs any considerations of delay to the introduction of competition in the provision of off-island services.

3. On August 11, 1986, the Puerto Rico Telephone Company (PRTC) filed an opposition to AACR's request. PRTC claims AACR appears to have filed its request in order to delay the introduction of competition in the provision of off-island services. PRTC states that the information solicited in the NPRM will not require a major effort to compile and submit. PRTC argues that the information solicited either is in the possession of PRTC, not AACR, and must be provided by PRTC, or has already been commented upon in great detail by AACR on several prior occasions. PRTC maintains that while its burden in filing comments to the NPRM is much greater than that of AACR, it intends to meet the current deadline for filing comments. PRTC also claims that, in light of available technical mechanisms which would enable it to initiate competition virtually immediately without anti-competitive consequences, any delay in this proceeding would harm the public by further delaying competition in the provision of off-island services.

4. We find that good cause has been shown for granting an extension of time of the comment period. The matters on which interested parties have been requested to comment are broad in scope and complex in nature. It is reasonable to assume that preparation of relevant data and analyses requires a substantial commitment of time on issues of engineering, economics and law. We find that a 21-day extension of time for comments is reasonable under the circumstances. We do not, however, believe that good cause has been shown that the public interest would be served by delaying the proceeding to the full extent requested by AACR.

5. Accordingly, it is ordered that, pursuant to §§ 0.291 and 1.46 of the Commission's Rules and Regulations, 47 CFR 0.291, 1.46 (1985), the request for extension of time by All American Cables and Radio, Inc. is granted to the

[1] As AACR states, the Commission solicits comment on the following subjects: switching connections; overall access arrangements; the condition of the local network; structural arrangements; application of the Separations Manual and other accounting rules; use and protection of CPNI; rate integration and the associated interstate settlements arrangements; earth station costs, demand and revenues; earth station ownership options; local tax matters; and policy issues.

extent provided for herein and is otherwise denied.

6. It is further ordered that comments and reply comments to the Notice of Proposed Rulemaking issued in CC Docket No. 86-309 shall be filed on or before September 15, 1986 and October 6, 1986, respectively.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86-19469 Filed 8-27-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 100

[MM Docket 85-32; FCC 86-359

Broadcast Services; Adoption of Technical Standards for the Direct Broadcast Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Report and order; termination of proceeding.

SUMMARY: Through this action, the Commission declines to adopt mandatory technical standards for the Direct Broadcast Satellite (DBS) Service. The comments received in this proceeding did not provide enough evidence to warrent enactment of mandatory standards. Thus, the Commission believes that voluntary industry standards would more appropriately encourage growth in the DBS service. This action is needed to terminate the above-captioned proceeding.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Policy and Rules Division, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in MM Docket 85-32, adopted, August 7, 1986, and released August 21, 1986. The full test of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On February 6, 1985, the Commission adopted a Notice of Proposed Rule Making (Notice) (50 FR 6871, February 19, 1985) suggesting possible technical standards for the Direct Broadcast Satellite (DBS) service. The Notice, however, expressed reservations about the necessity of any mandatory standards and requested comments on the need for each individual standard, as proposed.

2. The comments received in response to the Notice generally reinforced the Commission's hesitancy expressed in the Notice. The Commission believes that to allow the DBS applicants the best chance to compete with other program delivery services, the industry should be allowed to develop its own operating parameters. Therefore, this action terminates the above-captioned proceeding and declines to enact technical standards for the DBS service.

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this action will not have a significant economic impact on a substantial number of small entities because it simply closes a proceeding and does not adopt significant Rule amendments.

4. The Secretary shall cause a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq*), (1981).

5. The Report and Order contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

6. Accordingly, it is ordered, that this proceeding is terminated.

William J. Tricarico,

Secretary.

[FR Doc. 86-19467 Filed 8-27-86; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 514 and 552

[GSAR Notice No. 5-139]

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of Proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which would incorporate the substance of an approved class deviation which provides for the use of a Minimum Bid Acceptance Period provision that deviates from the provision at FAR 52.214-16. Section 514.270 will be revised to include the prescription for use of the provision and the text of the provision will be included in § 552.214-16. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

DATE: Comments are due in writing on or before September 29, 1986.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4028, Washington, DC 20405 (202) 523-3822.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Sanders, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4033, Washington, DC 20405 (202) 523-4740.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). This proposed rule will incorporate an approved deviation to the FAR provision which is designed to eliminate a problem with nonresponsive bids that resulted when bidders misinterpreted the language in the FAR provision at 52.214-16, Minimum Bid Acceptance Period. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 514 and 552

Government procurement.

Dated: August 12, 1986.

Ida M. Ustad,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 86-19416 Filed 8-27-86; 8:45 am]

BILLING CODE 6820-61-M

Notices

Federal Register
Vol. 51, No. 167
Thursday, August 28, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 22, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Animal and Plant Health Inspection Service
  Report of Violation
  PPQ Form 518
  On occasion
  Individuals or households; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 600 responses; 102 hours; not applicable under 3504(h)
- Foreign Agricultural Service
  Request for Vessel Approval; Request for Vessel Approval (Cotton)
  Form CCC–105; CCC–105 (Cotton)
  On occasion
  Businesses or other for-profit; Small businesses or organizations; 700 responses; 1,750 hours; not applicable under 3504(h)
  Donald R. Pickett (202) 447–6711
- Food and Nutrition Service
  Cash in Lieu of Donated Foods
  Recordkeeping; Annually
  State or local governments; Non-profit institutions; 184 responses; 60,630 hours; not applicable under 3504(h)
  Barbara Batts (703) 756–3671

New

- Federal Crop Insurance Corporation
  Contract Continuation Form
  FCIC–526
  Annually
  Individuals or households; Farms; 500 responses; 250 hours; not applicable under 3504(h)
  Peter F. Cole (202) 447–3325

Reinstatement

- Food and Nutrition Service
  Administrative Review Report (Sponsor) and Civil Rights Racial Data Collection Form for Administrative Review Report (site)
  FNS 19–1, 19–2
  Annually, Biennially
  State or local governments; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 4,157 responses; 36,027 hours; not applicable under 3504(h)
  Al Perna (703) 756–3800
- Food and Nutrition Service
  7 CFR Part 253—Food Distribution Program on Indian Reservations
  Recordkeeping; Monthly; Quarterly; Semi-annually; Annually
  Individuals or households; State or local governments; 175,518 responses; 70,114 hours; not applicable under 3504(h)
  Barbara Batts (703) 756–3660

Revision

- Agricultural Marketing Service
  Cotton Classification, Market News Service, and Cotton Fiber and Processing Tests
  CN–73–1, CN–110
  On occasion; Weekly; Annually; Twice per week
  Farms; Businesses or other for-profit; 7,982 responses; 565 hour; not applicable under 3504(h)
  Elvin Morris (202) 222–2921
- Food and Nutrition Service
  Employment & Training Requirements: Proposed Rule
  Quarterly
  State or local governments; 1,753 responses; 231,821 hours; not applicable under 3504(h)
  Art Foley (703) 756–3389

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 86–19482 Filed 8–27–86; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Revised Fee Basis for Livestock Area Special-Use Permits; Regional Forester, Nothern Region

AGENCY: Forest Service, USDA.

ACTION: Notice of effective date for revised fee basis.

SUMMARY: The Northern Region, administering those National Forests located in northern Idaho, Montana, North Dakota and northwestern South Dakota, has revised procedures governing determination of rental fees for livestock area special-use permits. How rental fees will be calculated is discussed in this notice. This approved process has been issued as a Regional Supplement to Forest Service Manual Chapter 2720, Special Uses Adminstration. A complete report has been prepared and is available for review.

SUPPLEMENTARY INFORMATION: The Northern Region, Forest Service, administers approximately 165 permits for livestock areas which provide forage but are not managed as part of a grazing allotment or other authorized use. These uses were formerly known as "special-use pastures". Previous annual rental

fees for this use were based on comparable private land rented for similar purposes, usually through local appraisals made at intervals of about 5 years.

Direction in the Secretary of Agriculture's Regulation 36 CFR 251.57 provides that special use fees will be based on the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles.

Fees for livestock area special-use permits for grazing were based on appraisals or market analyses developed on individual National Forests. Such fees closely reflected actual local grazing rental rates. Fees were generally reviewed (reappraised) at 5-year intervals, which often led to differences between fees and actual market conditions in a rapidly changing market. Preparing appraisals on individual National Forests is costly and inefficient particularly when market conditions are similar on several National Forests. Appraisal costs often exceeded the total fees to be collected.

Annual rental fees for livestock area special-use permits which authorize grazing can be established and adjusted annually in the Northern Region without local appraisals. Fees established under the new procedure will more closely reflect broad livestock market conditions. Annual adjustments will more accurately reflect market fluctuations. The proposal assures that fees charged are equitable to the permittee and public as landowners; are based on appraisal data; employ sound business management principles; and are developed through an efficient, cost-effective process.

Revised Procedure

Fees will be based on data from the *Appraisal Report Estimating Fair Market Rental Value of Grazing on Public Lands* prepared for the Forest Service and Bureau of Land Management. That report is dated July 27, 1984, and identified as PB 84–242205. The public lands grazing appraisal is probably the most comprehensive appraisal of grazing rental values made. The majority of private land rentals in the western United States was confirmed and analyzed.

Annual updates will use an index based on data provided annually to Forest Service and Bureau of Land Management for computation of grazing fees. This data is published in an annual report in December by the Crop Reporting Board, Statistical Reporting Service, USDA. The report cites average survey rates in western states for grazing cattle on privately owned nonirrigated land. These grazing rates published annually by the Statistical Reporting Service are based on their June enumerative surveys, which involve personal confirmation of rates and data through a scientifically designed, statistically valid sampling process.

Copes of the *Northern Region's Fee Basis Report—Livestock Area Special-Use Permits,* dated May 29, 1986, and approved June 13, 1986, are available for review at Forest Supervisor offices in the Northern Region at the Regional Forester's office, and will be mailed to anyone requesting a copy. Notice of the proposal is being mailed to holders of livestock area special-use permits which authorize grazing.

EFFECTIVE DATE: This revised fee basis will be effective in the Northern Region, Forest Service on October 1, 1986.

Responsible Party

The responsible party is James C. Overbay, Regional Forester, Northern Region, USDA Forest Service, P.O. Box 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION CONTACT: Jim Schoenbaum (406) 329–3601.

Dated: August 21, 1986.

James C. Overbay,

Regional Forester

[FR Doc. 86–19410 Filed 8–27–86; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:30 to 4:00 PM, on Wednesday, September 10, 1986, to take place in Department of Transportation (DOT) Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

ITEMS ON THE AGENDA: Selection of the ATBCB Executive Director; ATBCB retreat scheduled for November 1986; approval of the preamble to the ATBCB revised Statement of Organization and Procedures for publication; approval of the FY 1987 and 1988 research and technical assistance priorities.

DATE: Wednesday, September 10, 1986–1:30–4:00 PM.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street SW., Washington, DC.

Committees of the ATBCB will meet on Monday and Tuesday, September 8 and 9, and Wednesday morning, September 10, 1986. The Compliance and Enforcement Committee will meet in Room 1004 of the ATBCB staff offices, 330 C Street SW. All other committees will meet in the Department of Transportation Conference Room 2230, 400 Seventh Street, SW.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 86–19411 Filed 8–27–86; 8:45 am]

BILLING CODE 6820–BF–M

DEPARTMENT OF COMMERCE

Economic and Statistical Affairs; Senior Executive Service; Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic and Statistical Affairs Senior Executive Service (SES) Performance Appraisal System:

Barbara Bailar
Joseph F. Caponio
John E. Cremeans
Lucy A. Falcone
C.L. Kincannon
Frederick T. Knickerbocker
Charles A. Waite
Allan H. Young
Harry A. Scarr
Carol S. Carson
Jerome A. Mark
Daniel B. Levine
Martin Marimont
Katherine K. Wallman
Kenneth M. Brown

Edward A. McCaw,

Executive Secretary, Economic and Statistical Affairs Performance Review Board.

[FR Doc. 86–19142 Filed 8–27–86; 8:45 am]

BILLING CODE 3510–BS–M

Economic Development Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic Development Administration

Senior Executive Service (SES) Performance Appraisal System:

Craig Smith
Beverly Milkmann
Edward M. Levin
William Dohr
Steve Brennen
John Corrigan
Edward Jeep
Charles Oxley
Mary Ann Baron
George Muller

Jo Ann Sondey-Horsh,

Executive Secretary, Economic Development Administration, Performance Review Board.

[FR Doc. 86-19413 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-05-M

Foreign-Trade Zones Board

[Docket No. 28-86]

Foreign-Trade Zone 122—Nueces County, TX (Corpus Christi POE); Application for Subzone for Champlin Oil Refinery, Nueces County

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of FTZ 122, requesting special-purpose subzone status for the oil refinery complex of the Champlin Petroleum Company, a wholly-owned subsidiary of Union Pacific Corporation, in Nueces County, Texas, adjacent to the Corpus Christi Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 18, 1986.

The 125,000 BPD refinery, which employs 600 persons, covers 905 acres on sites at Highway 37/Corn Products Road and Highway 37/Nueces Bay Blvd. The facilities are used to produce gasoline, middle distillates, coke, and fuel oil. Some 80 percent of the refinery inputs are imported, including crude oil, naptha and catalysts. The company exports some 11 percent of the refined products.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On its domestic sales, duties would be deferred, and in some cases reduced. The savings from zone procedures would help the company improve its international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe St., Houston, TX 77057; and Colonel Gordon M. Clarke, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 30, 1986.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Government Plaza, 400 Mann St., Suite 305, Corpus Christi, TX 78401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, DC 20230.

Dated: August 22, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-19540 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 336]

Resolution and Order Approving the Application of the Oregon International Port of Coos Bay Commission for a Foreign-Trade Zone in Coos County, OR

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the International Port of Coos Bay Commission, filed with the Foreign-Trade Zones Board (the Board) on August 19, 1985, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Coos County, Oregon, within the Coos Bay Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant; To Establish, Operate, and Maintain a Foreign-Trade Zone in Coos County, Oregon

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 USC 81a-81u) (the Act), the Foreign-Trade Zones Act (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Oregon International Port of Coos Bay Commission (the Grantee) has made application (filed August 19, 1985, Docket No. 29-85, 50 FR 34524) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Coos County, Oregon, within the Coos Bay Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 132 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 19th day of August 1986, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-19541 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from Blaw Knox Construction Equipment Company, the petitioner, and from Fortress Allatt Ltd., a manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covers the four known manufacturers/exporters of this merchandise to the United States and two consecutive periods from September 1, 1981 through August 31, 1983. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

When company-supplied information was incomplete or no information was received in response to our questionnaire, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2209/5255.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 1263) the final results of its last administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada (42 FR 44811, September 7, 1977). On January 18, 1984, the Department published a correction to that notice in the **Federal Register** (49 FR 2131). Again on March 5, 1986, the Department published a correction to that notice in the **Federal Register** (51 FR 7600). We began this review of the finding under our old regulations. After the promulgation of our new regulations, Blaw Knox Construction Equipment Company, the petitioner, and Fortress Allatt Ltd., a manufacturer/exporter, requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review of the finding. We published the notice of initiation of antidumping duty administrative review on November 27, 1985 (50 FR 48825).

Scope of the Review

Imports covered by the review are shipments of replacement parts for self-propelled bituminous paving equipment. The review covers the four known manufacturers/exporters of this merchandise to the United States and two consecutive periods from September 1, 1981 through August 31, 1983.

Available information indicates that Anvil Manufacturing is no longer in business. Barber-Greene Canada Ltd. reported they have not been in the business of manufacturing replacement parts for self-propelled paving equipment in Canada since the antidumping finding was published. S.F. Tubing reported that all parts shipped to the United States are for original bituminous paving equipment only and not for repair. There are no unliquidated entries for any of the three firms. Therefore, the Department will not cover these three firms in this review or future section 751 reviews. This is not a proposal to revoke the finding with respect to the three firms. Should any of these firms begin exporting the covered merchandise to the United States, we shall treat them as new exporters.

One firm, National Paver Parts, failed to provide adequate responses to our questionnaires for either year. Two firms, General Construction Equipment Manufacturing Co. and Parker Hannifin, reported no shipments in the first period but did not respond to our questionnaire for the second period. For those non-responsive firms the Department used the best information available for assessment and estimated antidumping duties cash deposit purposes. The best information available is either the most recent rate for that firm or the highest rate for responding firms in this review.

United States Price

In calculating United States price, the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act

of 1930 ("the Tariff Act"), as appropriate.

Purchase price was based on the packed, f.o.b. price to unrelated purchasers in the United States. ESP was based on the packed, f.o.b. warehouse price to unrelated purchasers in the United States. We made adjustments, where applicable, for U.S. and foreign inland freight, U.S. duty, brokerage charges, discounts, commissions to unrelated parties, and in ESP calculations the U.S. subsidiary's selling expenses. We made an addition for Canadian sales tax not collected by reason of the exportation of the merchandise to the United States on sales to end-users. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act since sufficient quantities of such or similar mechanidse were sold in the home market at or above the cost of production to provide a basis of comparison. Home market price was based on the packed, ex-factory price to unrelated customers. We made adjustments, where applicable, for discounts, credit costs, commissions to unrelated parties and indirect selling expenses to offset U.S. selling expenses for ESP calculations. No other adjustments were claimed or allowed.

An allegation was made by the petitioner that sales by Fortress Allatt Ltd. were at prices below their costs of production. We compared the home market sales prices to costs of production and found that the very low percentage of below cost sales did not justify excluding those sales from our calculations.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value we preliminarily determine that the following margins exist:

Manufacturer/exporter	Period	Margin (percent)
Fortress Allatt Ltd. (formerly Babcock Allatt, Ltd.)	9/1/81-8/31/82	0.67
	9/1/82-8/31/83	0.67
General Construction Equipment Manufacturing	9/1/81-8/31/82	[1]0.0
	9/1/82-8/31/83	0.67
National Paver Parts	9/1/81-8/31/82	1.05
	9/1/82-8/31/83	1.05
Parker Hannifin	9/1/81-8/31/82	[1]20.12
	9/1/82-8/31/83	20.12

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(2) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins will be required for these firms. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipment occurred after August 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 0.67 percent shall be required. These deposit requirements are effective for all shipments of Canadian replacement parts for self-propelled bituminous paving equipment entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: August 20, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19536 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-504]

Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning petroleum wax candles from the People's Republic of China (PRC), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that petroleum wax candles from the PRC are being sold at less than fair value and that imports of petroleum wax candles from the PRC are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of petroleum wax candles from the PRC made on or after February 19, 1986, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Mary S. Clapp, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2613 or 377-1769, respectively.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products are classified under the *Tariff Schedules of the United States* (TSUS) item 755.25, Candles and Tapers.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on February 11, 1986, the Department preliminarily determined that there was reason to believe or suspect that petroleum wax candles from the PRC were being sold at less than fair value (51 FR 6016, February 19, 1986). On July 7, 1986, the Department made its final determination that these imports were being sold at less than fair value (51 FR 25085, July 10, 1986).

On August 21, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such importations materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to

section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise subject to the order exceeds the United States price for all entries of such merchandise from the PRC. These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after February 19, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as noted below:

Manufacturers/producers/exporters	Weighted-Average (percent)
China National Native Produce and Animal By-Products Import & Export Corporation	54.21
All Others	54.21

This determination constitutes an antidumping duty order with respect to petroleum wax candles from the PRC, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations, (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 22, 1986.

[FR Doc. 86-19539 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

Tool Steel From the Federal Republic of Germany; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce

ACTION: Notice of final results of changed circumstances administrative review and revocation of antidumping duty order.

SUMMARY: On May 30, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on tool steel from the Federal Republic of Germany and announced its tentative determination to revoke the order. The review covers the period from March 1, 1986.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. We therefore determine that domestic interested parties are no longer interested in continuation of the order and we are revoking the order. In accordance with the petitioner's notification, the revocation will apply to tool steel exported on or after March 1, 1986.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 19582) the preliminary results of its changed circumstances administrative review of the antidumping duty order on tool steel from the Federal Republic of Germany (48 FR 33730, July 25, 1983). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of tool steel currently classifiable under items 606.9100, 606.9105, 606.9110, 606.9300, 606.9400, 606.9505, 606.9512, 606.9514, 606.9520, 606.9525, 606.9535, 606.9542, 606.9544, 606.9540, 606.9548, 607.2800, 607.3200, 607.3405, 607.3420, 607.4600, 607.4800, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. As a result of this review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on tool steel from the Federal Republic of Germany and that the order should be revoked on this basis.

Therefore, we are revoking the order on tool steel from the Federal Republic of Germany effective March 1, 1986. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of tool steel from the Federal Republic of Germany which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

This administrative review, revocation and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: August 21, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19537 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

Stainless Steel Wire Rods From France; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of antidumping duty finding.

SUMMARY: On July 9, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty finding on stainless steel wire rods from France and announced its tentative determination to revoke the finding. The review covers the period from March 1, 1986.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the finding.

and we are revoking the finding. In accordance with the petitioner's notification, the revocation will apply to all stainless steel wire rods exported on or after March 1, 1986.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 24885) the preliminary results of its changed circumstances administrative review of the antidumping duty finding on stainless steel wire rods from France (38 FR 22961, August 28, 1973). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated, or partly manufactured, currently classifiable under item 607.3400 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. As a result of this review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty finding on stainless steel wire rods from France and that the finding should be revoked on this basis.

Therefore, we are revoking the finding on stainless steel wire rods from France effective March 1, 1986. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of stainless steel wire rods from France which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

This administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: August 21, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–19538 Filed 8–27–86; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. OEE–1–86]

La Physique Appliquee Industrie and Les Accessoires Scientifiques; Order Renewing Temporary Denial of Export Privileges

In the matter of: La Physique Appliquee Industrie, 5 Rue de Pacalaire, 38170 Seyssinet-Pariset, France, and Les Accessoires Scientifiques, Varigney, 70800 Conflans-Sur-Lanterne, France, Respondents.

On August 1, 1986, the Office of Export enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368–399 (1986), (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. Sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), asked the Deputy Assistant Secretary for Export Enforcement to renew an order temporarily denying all United States export privileges to La Physique Appliquee Industrie (LPAI) of Seyssinet-Pariset, France, and Les Accessoires Scientifiques (LAS) of Conflans-Sur-Lanterne, France (hereinafter collectively referred to as respondents). The initial order was issued on April 23, 1986 (51 FR 15955, April 29, 1986) and renewed on June 20, 1986 (51 FR 23256, June 26, 1986).

Section 388.19(d)(2) of the Regulations provides that LPAI or LAS may oppose renewal of the temporary denial order by filing written submissions with the Deputy Assistant Secretary not later than seven days before the expiration of the Order, that is, on or before August 15, 1986.

No such opposition was filed with the Deputy Assistant Secretary by either respondent and no hearing was requested by respondents. Respondents did, however, submit to Department counsel a Memorandum in Opposition to Renewal of Temporary Denial Order on August 15, 1986. I do not consider this to be in conformity with the requirements of the Regulations that any written opposition should be filed with the Deputy Assistant Secretary for Export Enforcement, because, in connection with requests for the issuance of temporary denial orders and the disposition of such requests, neither the Office of Export Enforcement of the Department nor its counsel is an extension of the Deputy Assistant Secretary or *vice versa*.

While a respondent's failure to properly oppose a Department's request for a temporary denial order or the renewal of a temporary denial order may be adequate gounds to grant the Department's request, I have, nevertheless, considered the merit of respondents' Memorandum in Opposition (a copy of which was provided to my office at my request upon learning that the memorandum was delivered to Department's counsel on August 15), together with the merit of the Department's request for a renewal of the temporary denial order.[1]

As a result of my review of the record before me, including respondents' Memorandum in Opposition, I find that the Department has established that a violation is imminent. In this regard, it is important to note that the matter is still under investigation by the Department.

The material facts out of which this proceeding arose are not, in my view, seriously disputed by theparties. What is disputed between the parties is the conclusions to be drawn from those facts. Based on the record before me, I find that the Department's investigation is focusing on serious violations which may have been committed by the respondents. The Department's investigation to date has given it sufficient reason to believe that respondents herein may have participated in a scheme to divert highly sensitive U.S.-origin goods and technology to the Union of Soviet Socialist Republics (U.S.S.R.) and other Eastern bloc countries. Further, there is sufficient reason to believe that respondents may continue to seek to obtain U.S.-origin goods and technology which they may divert to the U.S.S.R. or other Eastern bloc countries.

The evidence presented to me established a very strong basis for the Department's belief that: (1) On at least

[1] It should be clear that consideration of respondents' Memorandum in Opposition in the instant case is not intended to establish any precedents that delivery of pleadings or other papers to the Department's counsel would satisfy the requirements to file such documents with the Deputy Assistant Secretary as specified under the Regulations.

two occasions, LPAI, acting in response to an order from LAS, purchased U.S.-origin goods; (2) The ultimate destination of those U.S.-origin goods was intended to be the U.S.S.R.; (3) If an export license or reexport authorization request had been requested by either respondent identifying the U.S.S.R. as the country of ultimate destination, which it was not, the Department would not have authorized that export or reexport; (4) Further, LAS currently has a contract with the U.S.S.R. which calls for LAS to supply equipment of a similar type and nature to equipment in the two transactions which are the principal focus of the Department's investigation; (5) Again, export or reexport of this equipment to the U.S.S.R. would not be authorized by the Department; (6) That the respondents have had substantial business experience in import and export transactions involving scientific and technical products; (7) Respondent LAS was a consignee of licensable U.S. technology and commodities under a distribution license in 1978 and, as such, the respondent would have had considerable experience handling U.S. controlled commodities and reason to know the requirements of the Regulations; (8) In 1977, respondent LAS, in a statement made by its President in connection with a distribution license application, expressly stated that LAS would "comply with the U.S. Export Administration Regulations", including the provision pertaining to the general distribution license procedure; (9) The respondents knew or had reason to know the requirements of the Regulations at the time of the occurrence of the alleged illegal reexportation here in question; (10) A violation may be likely to occur in the future unless action is taken to prevent respondents from gaining access to U.S.-origin goods and technical data.

In their opposition, respondents contend that the technology involved in the instant case is not significant because it is not technologically sophisticated or that it is of a much lower level than claimed by the Department. The technological sophistication of a commodity may be relevant but is not, in and of itself, indicative or dispositive of the question whether a violation is or is not "significant" within the meaning of an export control violation under the Regulations. Other factors relevant to the assessment of the significance of a violation include, but not limited to: the monetary value and nature of the technology; the scope and complexity of the facts involved in the alleged violation or the suspected event which could give rise to a violation; and, whether there is a requirement for a U.S. export license or reexport authorization and a presumption of approval or denial of an application, if one were submitted.

Therefore, based on the record before me, I find that renewal of the order temporarily denying export privileges to respondents is necessary in order to prevent an imminent violation and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order shall become effective on August 21, 1986 and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order renewing the temporary denial of export privileges

shall be served upon the respondents and published in the **Federal Register**.

Dated: August 18, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-19527 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DS-M

Patent and Trademark Office

Interim Protection for Mask Works of Foreign Nationals

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Extension and issuance of interim order.

SUMMARY: On March 24, 1986, comments on existing interim orders were requested by a Notice of Initiation of Proceedings published at 51 FR 10073. Following the submission of comments, the Commissioner decided to extend certain of the previously granted interim orders until September 12, 1986, to hold a public hearing on the further extension of all of the existing orders. The hearing would include discussion of the possible issuance of a Presidential Proclamation for any of those countries. 51 FR 18352 (May 19, 1986). Comments were received from, or on behalf of, all countries to which orders had been issued and from the Semiconductor Industry Association (SIA). On July 9, 1986, a public hearing was held to permit the parties to present further comments. The witnesses represented the Electronic Industries Association of Japan (EIAJ), Sweden, the European Communities (EC), and the SIA. The representatives of Sweden and the EC urged that the existing orders be extended. Similar written representatives were received from Canada and Australia. The SIA supported the extension of these orders. The representative of the EC requested that orders be issued for Spain and Portugal as new members of the EC. The SIA did not oppose these orders. The representatives of the EIAJ argued strongly that Japan was entitled to a Presidential Proclamation under 17 USC 902. The SIA opposed this position and urged that the interim order for Japan be extended. Based upon the record of the proceedings, I have determined that all existing interim orders should be extended until November 8, 1987; that interim orders should be issued for Spain and Portugal; and that the interim order for Japan will be extended pending the President's final determination on the issuance of a Proclamation.

DATES: *Effective Date:* The effective date for the newly issued interim orders for Spain and Portugal shall be June 26, 1986.

Termination Date: These orders shall terminate on November 8, 1987.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557-3065 or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: On March 24, 1986, a Notice of Initiation of Proceedings was published at 51 FR 10073 requesting comments on the interim orders previously issued for certain foreign countries under the provisions of the Semiconductor Chip Protection Act of 1984 (SCPA). 17 U.S.C. 914. Information on progress in those countries toward establishing compatible regimes of legislation for the protection of mask works or semiconductor chip designs was requested. In response to that request, comments were received from Japan, Sweden, Australia, Canada, the United Kingdom, the Commission of the European Communities (EC) and the Semiconductor Industry Association (SIA). Based upon the comments received, and in consideration of the developments in the World Intellectual Property Organization leading toward a new multinational treaty for chip protection, it was determined that it was premature to take any final action on the existing orders. However, as the interim orders for Japan, Sweden, Canada and Australia were soon to expire, and to avoid any gaps in the availablility of protection, those orders were extended until September 12, 1986, the expiration date for the orders issued for the Member States of the EC.

To secure further information on progress, and to permit the parties to articulate publicly their views on the issues, a public hearing was scheduled for July 9, 1986. 51 FR 18352 (May 19, 1986). Requests to testify were received from the Commission of the European Communities, the Government of Sweden, the Electronic Industries Association of Japan (EIAJ) and the SIA.

At the July 9 hearing, the representatives of the EIAJ summarized the present situation in Japan arguing that "[i]f Section 902 of the SCPA has any meaning or significance, Japan is now entitled to a Presidential Proclamation under that provision." The EIAJ argued that Japan has enacted a *sui generis* law that is substantially similar to the SCPA, that the law has been "on the books" since May of 1985, in force since January 1, 1986, and that U.S. nationals receive national treatment under that law.

The SIA has raised several objections to the issuance of a Presidential Proclamation for Japan. First, in Japan, the existence of protection is contingent upon registration, and, therefore, protection is subject to Governmental discretion. Second, the registration system is new and its operation not yet fully understood. Third, the lack of protection prior to registration, subject only to the right to seek a reasonable royalty, is insufficient to deter piracy.

In response, the EIAJ replied that registration can only be denied for a limited number of reasons clearly specified in regulations. EIAJ further stated that six-months' experience should be sufficient to determine the effectiveness of the registration system. EIJA also alleged that in the Japanese context, the "reasonable royalties that might be assessed under such circumstances could be prohibitively high, and the pirate could be enjoined from marketing chips and forced to pay damages for chips manufactured prior to registration."

The representatives of Sweden discussed the support of Swedish industry for the passage of a chip protection law and the progress toward legislation in Sweden. The representative of the Federation of Swedish Industries emphasized that Swedish industry strongly supports the prompt establishment of a legal regime for the protection of chips in Sweden. The representative of the Government of Sweden stated that he expected that chip protection legislation would be passed by the Parliament by early 1987. He explained that the protection afforded would be generally similar to that under the SCPA, but that there would be no provisions for notice and registration since that might conflict with the Berne Convention for the Protection of Literary and Artistic Works. He further stated that it was not yet decided whether the new Swedish legislation would be a separate law or a part of the copyright law. The SIA stated their belief that the regime contemplated in Sweden "would be quite compatible with out own."

The representative of the EC emphasized the European industry strongly supports the efforts toward achieving a directive on the protection of integrated circuits. In the EC system, once a directive is adopted by the European Parliament, it is binding on the Member States. In the present case the aim of the directive will be to require

Member States to adopt legislati the protection of chips by November of 1987. It is expected that the directive will be adopted in September and that is:

Defines what should be protected; who should benefit from the protection; what maximum formalities may be required, and what are the conditions for the subsistence of protection. It specifies the acts to be considered infringements. It defines the conditions for reverse engineering. It also provides for the exception of innocent infringement. And, it sets time limits on the availability of the protection.

With respect to the EC, the SIA observed that the "effect to develop a common system that would apply to all member countries of the Community is an important and a desirable objective." The SIA then went on to note some areas of concern, including the form of notice to be used in marking a chip, and the scope of the provisions relating to reverse engineering.

With respect to other countries from whom only written submissions were received, the SIA noted that in both Canada and Australia the issue of special legislation for the protection of semiconductor chips was receiving increasing attention.

In its written submission, the Government of Canada called attention to the February 7, 1986, announcement that "mask works fixed in semiconductor chips will be protected under the *Copyright Act* but will be distinguished from traditional works." The announcement further points out that "[a]lthough chip legislation will likely be *sui generis* in nature, it is linked to changes in the *Copyright Act* as a whole."

In its written submission, the Government of Australia noted that the question of the appropriate regime for mask works protection is being examined in Australia and that "it is not possible to say that any consensus has emerged as to the form which any new type of legal protection of mask works—if considered necessary—should take in Australia, there does appear to be a general view within industry that existing copyright and industrial design laws are not clearly appropriate to mask works." In any case, the Government of Australia believes that the Australian copyright law presently provides protection for mask works.

In no part of this proceeding has there been any allegation of misappropriation of mask works in any of the countries to which interim orders have been extended.

Based upon the evidence in the record of this proceeding, I concluded that, to promote international comity in the protection of mask works, all the existing interim orders should be extended until November 8, 1987, in view of the substantial and rapid progress that has taken place. This extension will include Japan so that protection under section 914 will continue until the President makes a final determination under 17 U.S.C. 902.

I also conclude that the issuance of interim orders for Spain and Portugal, as new Member States of the EC, will promote international comity in the protection of mask works. As illustrated in the preceding discussion, the criteria for the issuance of those interim orders has been fulfilled. The effective dates for those orders shall be June 26, 1986, the date upon which the request for interim orders for Spain and Portugal was received from the EC.

Order Extending Interim Protection Under Chapter 9, Title 17, United States Code, to Nationals, Domiciliaries, and Sovereign Authorities of Portugal

In accordance with the authority vested in me by Amendment 1 to Department Organization Order 10–14 regarding 17 U.S.C. 914, and based upon the records of this proceeding commenced on March 24, 1986, I find that: Portugal is and has, since January 1, 1986, been making good faith efforts toward providing effective protection for mask works in compliance with 17 U.S.C. 902(a)(2); nationals, domiciliaries, and sovereign authorities of Portugal and persons controlled by them are not engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works; and, the issuance of this order will promote international comity with respect to the protection of mask works.

Accordingly, nationals, domiciliaries, and sovereign authorities of Portugal are entitled to protection under chapter 9 of Title 17 of the United States Code subject to compliance with all formalities specified therein. The effective date of this order shall be June 26, 1986, and this order shall terminate on November 8, 1987.

Order Extending Interim Protection Under Chapter 9, Title 17, United States Code, to Nationals, Domiciliaries, and Sovereign Authorities of Spain

In accordance with the authority vested in me by Amendment 1 to Department Organization Order 10–14 regarding 17 U.S.C. 914, and based upon the records of this proceeding commenced on March 24, 1986, I find that: Spain is and has, since January 1, 1986, been making good faith efforts toward providing effective protection for mask works in compliance with 17 U.S.C. 902(a)(2); nationals, domiciliaries, and sovereign authorities of Spain and persons controlled by them are not engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works; and, the issuance of this order will promote international comity with respect to the protection of mask works.

Accordingly, nationals, domiciliaries, and sovereign authorities of Spain are entitled to protection under chapter 9 of Title 17 of the United States Code subject to compliance with all formalities specified therein. The effective date of this order shall be June 26, 1986, and this order shall terminate on November 8, 1987.

Extension of Expiration Date for Certain Previously Granted Interim Orders Under Chapter 9, Title 17, United States Code

In accordance with the authority vested in me by Amendment 1 to Department Organization Order 10–14 regarding 17 U.S.C. 914, and based upon the records of this proceeding commenced on March 24, 1986, I find that: Japan, Sweden, Australia, Canada, Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg and the Netherlands are making and are continuing to make, good faith efforts toward providing effective protection for mask works in compliance with 17 U.S.C. 902(a)(2); nationals, domiciliaries, and sovereign authorities of those countries and persons controlled by them are not engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works; and, the extension of the expiration date for the interim orders for those countries will promote international comity with respect to the protection of mask works.

Accordingly, existing interim orders for Japan, Sweden, Australia, Canada, Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg and the Netherlands are extended and shall terminate on November 8, 1987.

Dated: August 21, 1986.

Donald W. Peterson,

Deputy Commissioner of Paten's and Trademarks.

[FR Doc. 86–19479 Filed 8–27–86; 8:45 am]

BILLING CODE 3510–16–M

VOL 51 ISS 167 AG 28 1986 UMI

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

August 25, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 28, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On June 20, 1986, a notice was published in the **Federal Register** (51 FR 22539), which established import restraint limits for cotton and man-made fiber textile products in Category 300/301 (combed and carded cotton yarns) and Category 659–S (man-made fiber swimwear—only TSUSA Numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2330, 384.8300, 384.8400, 384.9353), produced or manufactured in China and exported to the United States during the ninety-day period which began on May 30, 1986 and extends through August 27, 1986. The notice also stated that the Government of the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, if no mutually satisfactory solution is reached on levels for these categories during consultations, to limit its exports during the twelve-month period immediately following the ninety-day consultation period to 4,095,573 pounds (Category 300/301) and 711,703 pounds (Category 659–S).

No solution has been reached in consultations on mutually satisfactory limits for these categories. The United States Government has decided, therefore, to control imports of cotton and man-made fiber textile products in Categories 300/301 and 659–S, exported during the twelve-month period beginning on August 28, 1986 at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limits established for the ninety-day period have been exceeded, such excess amount, if allowed to enter, will be charged to the levels established for the designated twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30,, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 25, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, December 22, 1981 and July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 28, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 300/301 and 659–S,[1] produced or manufactured in the People's Republic of China and exported during the twelve-month period which begins on August 28, 1986 and extends through August 27, 1987, in excess of the following levels of restraint:

Category	12-month restraint levels [1]
300/301	4,095,573 pounds.
659–S	711,703 pounds.

[1] The limits have not have been adjusted to account for any imports exported after August 27, 1986.

Textile products in Categories 300/301 and 659–S which are in excess of the ninety-day limits previously established shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–19528 Filed 8–27–86; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 659, only TSUSA numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2330, 384.8300, 384.8400, 384.9353).

Adjusting Import Charges for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

August 25, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 29, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 30, 1985 a notice was published in the **Federal Register** (50 FR 53182), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including cotton skirts in Category 342, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. CITA has determined in a data investigation concerning this category that 15,512 dozen of 1985 exports, currently charged to the 1986 limit, should be charged to the 1985 limit. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to deduct this amount from the import

charges made to the current year limit and charge them to the 1985 limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 25, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on August 29, 1986, you deduct 15,512 dozen from charges made to the restraint limit established in the directive of December 24, 1985 for cotton textile products in Category 342, produced or manufactured in China and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. This same amount should be charged to the limit established for Category 342 during the agreement year which began on January 1, 1985 and extended through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19535 Filed 8-27-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision To Implement Certain Actions Associated With the Homeporting of a Surface Action Group at Stapleton, Staten Island, NY

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), the U.S. Navy announces its decision to implement the proposed actions discussed in Draft and Final Supplemental Environmental Impact Statements (DSEIS and FSEIS) prepared for the proposed Surface Action Group (SAG) homeport facility. These statements were prepared to document changes to the proposed homeport facility to be located on Staten Island, New York.

The Navy's Record of Decision to construct this Navy homeport for seven ships in Staten Island appeared in the March 21, 1985 **Federal Register.**

The decision to build the SAG homeport at Staten Island constitutes a crucial component of the Navy's implementation of the Strategic Homeporting Concept of 1982. That concept is now a cornerstone of our nation's maritime defense strategy and represents the Navy's conclusion that the present ship homeporting structure is militarily and strategically deficient particularly as the Fleet builds to its projected level of over 600 ships. As part of our attempt to rectify this deficiency, we determined that homeporting a SAG in the northeastern United States was essential. The decision to build the SAG homeport at Staten Island was made after careful examination of all reasonable alternatives, including the "no-action" alternative. Our decision represents the conclusion that, on balance, locating the BB SAG homeport at Staten Island is the optimum approach to our strategic homeporting needs in the northeastern United States.

The proposed actions, which modify planned facility development as documented in the original DEIS and FEIS and which now the Navy plans to implement, include the following:

- Land acquisition including 27 privately owned parcels at the Stapleton waterfront site raising the total upland area to 40 acres.
- Front Street will be relocated to the west adjacent to the Staten Island Rapid Transit right-of-way.
- Delete construction of the second pier; delete a portion of the fill requirement; modify quaywall construction and other minor changes.
- Changes in land and facility use at Fort Wadsworth to yield building space of approximately 552,000 square feet.
- Transfer of about 30 acres of land including Battery Weed and the promenade of Fort Tompkins to Gateway National Recreation Area (NRA). The Navy will retain Fort Tompkins itself and waterfront land along the southern boundary (beach area) for operational and personnel support requirements.
- Planned removal of certain batteries at Fort Wadsworth in conjunction with site development for Naval family housing construction.

The Navy proposes to construct, in two increments, approximately 550 family housing units at Fort Wadsworth. Also up to 800 units will be constructed at the South Beach (Ocean Breeze) housing site. Any remaining housing requirement is expected to be satisfied within the existing market.

The impacts of these proposed actions were presented in the DSEIS which was published in December 1985. Public hearings were held in Staten Island, Manhattan, and Brooklyn in New York and at Monmouth College in New Jersey. Over 600 commentators provided approximately 1,400 comments on various aspects of the proposed actions. Comments concerning nuclear weapons, economic and social priorities, and Gateway NRA impacts constituted approximately 60% of all concerns raised. Other concerns included fiscal impacts and employment, safety and security issues, as well as housing and ecological impacts, particularly aquatic impacts.

Responses to comment and concerns were documented in the FSEIS which was filed in March 1986. Copies of both the DSEIS and FSEIS were mailed to over 1,200 recipients including Federal, state, local officials and agencies, citizen groups and members of the general public. The most commonly expressed concern was the issue of nuclear weapons. For national security reasons the Navy will neither confirm nor deny the presence or absence of nuclear weapons at any specific location.

With regard to economic and social priorities, comments received generally cited the needs of the poor, the homeless and those who live in unsuitable housing. The Navy's response acknowledged these concerns as important issues warranting appropriate governmental attention. The resolution of competing priorities in the Federal budget and the authorization of funds are the responsibility of Congress. Similarly, decisions regarding Municipal budgets are the responsibility of local elected officials.

The majority of comments about Gateway NRA dealt with the Navy's proposed use of Fort Wadsworth. A few spokesmen advocated the Navy abandon its plans to use any of the Fort since Congress had earmarked this property for incorporation into the Gateway NRA. Paramount to the Gateway NRA concept was the excessing of the entire coastline of the Fort including Battery Weed, Fort Tompkins and the beach area on the

south shore. Others requested that Navy turn over a lesser portion of the Fort. The Navy's preferred alternative as presented in the FSEIS includes the transfer of 30 acres of land along the north shore (about 40% of the shoreline) including Battery Weed and the promenade of Fort Tompkins, and five other smaller batteries. The Navy responded to those comments advocating excessing all or a larger part of Fort Wadsworth by indicating that while Fort Wadsworth was included in the legislation defining Gateway NRA, its transfer is dependent upon its no longer being needed for military purposes. Other Gateway NRA comments concerned plans for construction of family housing at Floyd Bennett Field in Brooklyn, an established major segment of the Gateway NRA. The Navy noted the concerns raised and does not now propose to develop housing at Floyd Bennett Field.

Family housing will instead be concentrated in two principal areas—Fort Wadsworth and South Beach (Ocean Breeze). Existing traffic loads and patterns in these areas would be impacted. Mitigation measures have been proposed and no significant adverse conditions are predicted. Temporary degradation of air or water quality will result from construction.

Subsequent to the close of the comment period but prior to publication of the FSEIS the Navy received information from the New York State Department of Environmental Conservation (DEC) that indicated a recent survey of the South Beach site revealed the presence of freshwater wetlands on site. These wetlands also qualify for Federal protection. The Navy has had several discussions with representatives from DEC, the Urban Development Corporation (UDC) and the U.S. Army Corps of Engineers (COE) to resolve this issue. The Navy believes the South Beach site can accommodate Navy housing requirements without impacting any wetlands. The Navy will not construct housing at South Beach on any designated wetlands.

With regard to cultural resources, comprehensive investigations were conducted for all properties considered in the development of the SAG Homeport Project. No properties listed or eligible for listing on the National Register of Historic Places were identified at the Stapleton site where the pier and operational support facilities will be constructed. Further investigation and analysis could be required for privately owned lands to be acquired subsequent to the initial land acquisition. Results of these studies will then be coordinated with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) as appropriate. Investigations udertaken by the Navy revealed that the proposed housing development at South Beach would have no effect on any cultural resources.

Within the Fort Wadsworth complex, sixteen properties are listed, or have been determined eligible for listing, on the National Register. Of these properties Bateries Weed, Catlin, Bacon, Turnbull, Barbour and Hudson are to be transferred to the National Park Service and they will not be affected by Navy activities. Fort Tompkins will be retained by the Navy. The plan for this structure will be developed in accordance with the Secretary of Interior's Standards and Guidelines for work on historic structures which encourages concurrent utilization of registered properties and efforts will be coordinated with the SHPO and the ACHP.

With respect to those batteries to be retained by the Navy, only three—Batteries Duane, Richmond and Ayers—are located in areas of new construction. Batteries Richmond and Ayers will be removed for new housing construction. Battery Duane, currently in a badly deteriorated condition, will be removed, at least partially, for construction of a combined club facility. The batteries to be retained will be stabilized and protected from vandalism or other abuses. Based on recommendations of the New York SHPO, damage to the Fountain-Mouquin House Site will be mitigated. In seeking a Memorandum of Agreement (MOA) with the Advisory Council on Historic Preservation in compliance with the National Historic Preservation Act (NHPA), the Navy has participated in several meetings with the ACHP and has: (1) Situated Navy housing in such a manner to avoid affecting retained historical properties; and (2) relocated the combined club facilities to the vicinity of Battery Duane to avoid affecting Fort Tompkins in particular. With these accommodations no further obstacles are foreseen in developing the required MOA.

A review of the SAG homeport activities with respect to applicable policies of the New York State Coastal Zone Management Program and the New York City Waterfront Revitalization Program indicates that the Homeport program is consistent, to the maximum extent practicable, with the goals and objectives of the coastal programs. Development activities will revitalize underutilized coastal areas of Staten Island without significantly altering the quality or use of the coastal resources. Consistent with the intent of the Federal Coastal Zone Management Act, the SAG Homeport undertaking is a water-dependent military facility that will serve in the national interest and thus should be afforded a high priority for use of the coastal zone.

In the preparation of the Record of Decision, the Navy considered the comments received subsequent to the filing of the FSEIS. Concerns were equally centered around the issues of nuclear weapons and Gateway NRA impacts. As with previous correspondence received, commentators requested confirmation on the presence of nuclear weapons. The Navy acknowledges receipt of these documents but offers no further response.

With respect to the Gateway issues, commentators object to the Navy's plans to retain exclusive use of the southerly beach area thereby denying the public right-of-access to the waterfront along a continuous shoreline from Battery Weed to other Gateway NRA holdings to the south. The Navy recognizes these concerns but reiterates the conditions that established the Gateway NRA, specifically the provisions in the enabling legislation which provides for the transfer of Fort Wadsworth "when it is no longer needed for military purposes". The Navy reaffirms its requirements to retain and utilize Fort Wadsworth lands identified in the FSEIS to satisfy operational, personnel support and security requirements in support of the SAG Homeport.

The Navy believes there are no outstanding issues to be resolved with respect to this action, except as noted herein. Some mitigation measures may require continued coordination between the Navy and cognizant federal, state and local agencies to effect implementation of the homeporting action. Apporpriate coordination and resultant mitigation is expected to occur.

Dated: August 20, 1986.

Everett Pyatt,

Assistant Secretary of the Navy (Shipbuilding & Logistics).

[FR Doc. 86-19484 Filed 8-27-86; 8:45 am]

BILLING CODE 3810-AE-M

Western Instrument Corp.; Intent to Grant Limited Exclusive Patent License

The Department of the Navy hereby gives notice of intent to grant Western Instrument Corporation, a corporation of the State of California, a revocable,

nonassignable, limited exclusive license to practice the Government-owned invention described in U.S. Patent No. 4,410,925 entitled "Ground Fault Detector and Shutdown System" issued October 18, 1983; inventors: Leroy W. Tucker and Floyd E. Nelson.

This license will be granted unless within 60 days from the date of this notice written objections to this grant along with supporting evidence, if any, received by the Office of the Chief of Naval Research (Code OOCCPP3), Arlington, VA 22217.

For further information concerning this notice, contact: Dr. A.C. Williams, Staff Patent Adviser, Office of the Chief of Naval Research, Code OOCCPP3, Ballston Tower No. 1, 800 N. Quincy Street, Arlington, VA 22217-5000, Telephone No. (202) 696-4005.

Dated: August 25,1986.

Harold L. Stoller,

CDR, JAGC, USN Federal Register Liaison Officer.

[FR Doc. 86-19483 Filed 8-27-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Council on Educational Research; Meeting

AGENCY: National Council on Educational Research, Education.

ACTION: Full Council Meeting of the National Council on Educational Research and Meetings of Its Committees.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the National Council on Educational Research and meetings of its committees. This notice also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: September 25 and 26, 1986.

ADDRESS: Committees will meet on September 25 from 10 a.m. to 5 p.m. in rooms adjacent to the Council's office, Suite 617 B, 2000 L St., NW., Washington, DC 20036. The full Council will meet on September 26 from 9 a.m. to 4 p.m. in Conference Room 3000, U.S. Department of Education, FOB-6, 400 Maryland Ave., SW., Third Floor, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Acting Executive Director, National Council on Educational Research, 2000 L St., NW., Suite 617 B, Washington, DC 20036, (202) 254-7490.

SUPPLEMENTARY INFORMATION: The National Council on Educational Research is established under section 405 of the General Education Provisions Act (20 U.S.C. 1221e); Department of Education organization plan implemented pursuant to section 413 of Pub. L. 96-88 and notice to Congress dated July 2, 1985. The Council is established to advise the Secretary of Education on policies and priorities for the Office of Educational Research and Improvement (OERI), and to review the conduct of OERI and to advise the Secretary of Education and the Assistant Secretary for OERI on development of programs to be carried out by OERI.

Meetings of the Council and its committees are open to the public. Committees will meet according to the following schedule: Office of Research Committee, 10-11:30 a.m.; Information Services Committee, 1-2:30 p.m.; Statistics Committee, 1-2:30 p.m.; Improvement of Practice Committee, 2:30-4 p.m.; Reports Committee, 4-5 p.m. Committees will draft resolutions and recommendations for submission to the Assistant Secretary for OERI and will plan its agenda for FY 1987.

Records are kept of all Council proceedings and are available for public inspection at the office of the National Council on Educational Research, 2000 L St., NW., Suite 617 B, Washington, DC 20036, from the hours of 9 a.m. to 5 p.m. Monday through Friday.

Dated: August 22, 1986.

Mary Grace Lucier,

Acting Executive Director.

[FR Doc. 86-19481 Filed 8-27-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA86-18-20-000 & 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 25, 1986

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August 14, 1986, tendered for filing Fourteenth Revised Sheet No. 203 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas States that such tariff sheet is being filed to reflect in Algonquin Gas' Rate Schedule F-2, changes in the underlying rates of Consolidated Gas Transmission Corporation ("Consolidated"), as reflected in Consolidated's August 1, 1986 semi-annual PGA filing, proposed to be effective September 1, 1986.

Algonquin Gas requests that the Commission accept Fourteenth Revised Sheet No. 203 to be effective September 1, 1986 to coincide with the proposed effective date of Consolidated's rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211, and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19513 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-32-000, 001]

Colorado Interstate Gas Co., Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

August 25, 1986

Take notice that Colorado Interstate Gas Company (CIG) on August 15, 1986, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1986.

The decreased jurisdictional cost to CIG of purchased gas proposed by the filing amounts to approximately $3.3 million below the rates which were effective on April 1, 1986, in Docket Nos. TA86-3-32-000 and TA86-3-32-001. Further, and consistent with CIG's tariff PGA procedures, this filing includes the projected effect of the FERC's Final Rule promulgated by Order No. 451 of Docket No. RM86-3-000, issued June 6, 1986. (CIG, along with many others, has filed for rehearing of Order No. 451; and CIG's filing herein is without prejudice to that application for rehearing for any further action CIG may take with regard to said order.) This Final Rule has a projected impact of increasing the Maximum Lawful Price (MLP) for most

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vintages of gas for certain wells under NGPA Sections 104 and 106 by approximately $35.0 million. Due to the absence of any projected maximum surcharge absorption capability on CIG's system, no reduction in CIG's Estimated Actual Cost of Purchased Gas for incremental pricing purposes is reflected in the filing.

Copies of this filing have been served upon CIG's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211 (1985). All such motions or protests should be filed on or before September 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19514 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-137-001]

Florida Gas Transmission Co.; Compliance Filing

August 25, 1986

Take notice that on August 15, 1986, Florida Gas Transmission Company (FGT) tendered for filing revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume Nos. 2 and 3 in compliance with the Commission's order issued July 31, 1986 in Docket No. RP86-137-000.

FGT states that the tariff sheets identified on Appendix A and supporting workpapers, attached to the filing as Appendix C, reflect the elimination of the salary and wage adjustments estimated to occur on January 1, 1987. Certain tariff sheets not affected by the elimination of the salary and wage increases because the rate impact was *de minimis* are identified on Appendix B.

Copies of this filing were mailed to the authorized purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before September 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19515 Filed 8-27-86; 8:45 am]

Billing Code 6717-01-M

[Docket No. RP86-69-003]

Mid Louisiana Gas Co.; Compliance Filing

August 25, 1986

Take notice that on August 6, 1986, Mid Lousiana Gas Company (Mid-La) tendered for filing as part of its First Revised Volume No. 1 of its FERC Gas Tariff, the following tariff sheets:

Second Substitute Fifty-Fifth Revised Sheet No. 3a
Second Substitute Original Sheet No. 12f
Second Substitute Original Sheet No. 12g

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR § 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 20, 1986.

Mid-La states that the filing of the tariff sheets is in compliance with the letter order issued July 22, 1986, in Docket No. RP86-69-002 in order to eliminate the collection of a reservation fee for firm transportation service under its Rate Schedule FT-1. Mid-La has filed such tariff sheets under protest and has requested rehearing on this issue or in the alternative that the issue of Mid-La's ability to collect a reservation fee for firm transportation service be the subject of this proceeding.

Mid-La further states that a copy of this compliance filing has been mailed to each of its jurisdictional customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before September 3, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19516 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-208-001 and CP80-274-011]

Mountain Fuel Resources, Inc; Refund Report and Withdrawal of Tariff Sheets

August 25, 1986

Take notice that on August 18, 1986, Mountain Fuel Resources, Inc. (MFR) filed a refund report reflecting amounts it refunded to its jurisdictional customers on July 18, 1986 totaling $5.8 million. This filing was made pursuant to the Commission's May 20, 1986 Letter Order, accepting and approving the Stipulation and Agreement in Docket Nos. RP85-208-000 and CP80-274-011.

Also in compliance with the above Letter Order, MFR withdraws its request to make effective First Revised Sheet No. 12 and Third Revised Sheet No. 13 to its First Revised Volume No. 1 and First Revised Sheet Nos. 8, 9, and 10 to its Original Volume No. 3.

MFR has mailed copies of this filing to all parties on the service list (attached as Item 3 to filing).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in acccordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before September 3, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19517 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No G-19714-000 et al.]

Phillips Petroleum Co. et al.; Applications for Abandonment and Blanket Limited-Term Certificate

August 22, 1986

Take notice that each of the applications listed herein have filed applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service or for a blanket limited-term certificate to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-19714-000, B, July 25, 1986 [1]	Phillips Petroleum Company, 336 Home Savings & Loan Bldg., Bartlesville, Oklahoma 74004.	United Gas Pipe Line Company, Jeanerette Field, St. Mary's Parish, Louisiana.	[2]	
CI86-614-000, A, July 25, 1986	Do.	[3]		
CI86-635-000, B, August 4, 1986	Pi Energy, One Allen Center, Suite 1000, 500 Dallas, Houston, Texas 77002.	United Gas Pipe Line Company, Red Fish Bay Field, Nueces County, Texas.	[4]	
CI86-648-000, B August 11, 1986	Industrial Gas Associates, Box 1610, Greenwich, Connecticut 06836.	Carnegie Natural Gas Company, Union District Field, Ritchie County, West Virginia.	[7][5]	
CI86-664-000, B August 11, 1986	do	Carnegie Natural Gas Company, Centerville District Field, Tyler County, West Virginia.	[7][6]	
CI86-665-000, B August 11, 1986	do	Carnegie Natural Gas Company, Central District Field, Doddridge County, West Virginia.	[7][10]	
CI86-666-000, B August 11, 1986	do	do	[7][11]	
CI86-667-000, B August 11, 1986	do	do	[7][12]	
CI86-668-000, B August 11, 1986	Industrial Gas Associates, (Operator for Petro Enterprises, Inc.)[13] Box 1610, Greenwich, Connecticut 06836	Carnegie Natural Gas Company, Centerville District Field, Tyler County, West Virginia.	[7][14]	
CI86-669-000, B, August 11, 1986	do	do	[7][15]	
CI86-670-000, B, August 11, 1986	do	do	[7][16]	
CI86-671-000, B, August 11, 1986	Industrial Gas Associates, Box 1610, Greenwich, Connecticut 06836	Carnegie Natural Gas Company, Central District Field, Doddridge County, West Virginia.	[7][17]	

[1] Supplemental information received August 12, 1986.

[2] Applicant request a limited-term abandonment for a period of two-years for a sale made to United under a contract dated September 8, 1959, which was replaced by a contract dated September 7, 1979, and covered by Applicant's FERC Gas Rate Schedule No. 357. Applicant states that the contract expired by its own terms on September 1, 1984. Applicant states that it has received from United, by letter dated January 31, 1986, allegations of a continuing situation of force majeure, commercial impracticability and impossibility on its pipeline system due to severely depressed markets and continued reduction in purchases. Applicant further states that such letter asserts United's intent to permanently cease taking all gas not subject to the Natural Gas Act (NGA) and to temporarily cease taking, through the Fall of 1986, all gas subject to the NGA. Applicant states its belief that its situation warrants expeditious treatment pursuant to § 2.77 of the Commission's Regulations due to substantially reduced takes without payment. Applicant states that the subject gas qualifies under section 106(a) of the Natural Gas Policy Act of 1978 (NGPA) and that the subject deliverability is approximately 300 Mcf/per month.

[3] Applicant requests in Docket No. CI86-614-000 a blanket, limited-term certificate with pre-granted abandonment for a period of two-years to make sales for resale in interstate commerce of gas which is released and is subject to the limited-term abandonment in Docket No. G-19714-000.

[4] Additional information received August 12 and 18, 1986.

[5] Applicant, a small producer certificate holder in Docket No. CS86-88-000, requests authorization to abandon service to United for a period of two-years from two NGPA section 104 replacement or recompletion gas wells. Applicant states it has made extensive capital expenditure in the acquesion of the subject properties and additional facilities to deliver gas to United. However, Applicant states, United has cut its price which combined with its substantially reduced takes without payment makes production of these wells uneconomical and prohibitive. Applicant states Sun Oil Company processed the natural gas liquids from the subject gas and delivered the gas at the tailgate of their plant to United. Applicant states Sun abandoned its gas processing plant on May 3, 1985, and has subsequently removed said plant. As a result, Applicant states, United abandoned its low pressure gas gathering lines which caused Applicant to negotiate with United to take the subject gas onshore at a mutually agreeable point. Applicant further states the procedure resulted in Applicant's having to acquire a new gas gathering line, install its own processing equipment along with compression and dehydration units. Applicant states that after installation of these facilities United decided not to take the subject gas which forced Applicant to negotiate the sale of such gas to another company. Applicant proposes to sell the remaining gas to Seagull Energy Corporation or to Tenngasco Marketing Corporation in intrastate commerce. The wells involved are shown below:

Well name	Average deliverability (Mcf/d)
State Tract 397 #4	[redacted]
State Tract 397 #6	682
	1,384

[6] Additional information received August 18, 1986.

[7] Applicant, a small producer certificate holder in Docket No. CS77-833, requests authorization to abandon service to Carnegie Natural Gas Company from certain NGPA section 108 stripper gas wells. Applicant states the purchaser has not taken any gas or paid for any gas since April 1986 and has indicated to Applicant that it has no market for the gas now or for the foreseeable future. Applicant states it has been very adversely affected by the extended shut-in and will not be able to continue as a financially viable natural gas producer unless it can reestablish production and revenues from these wells in the very near future. Applicant states other markets are available for its natural gas through Ohio Gas Marketing Company, through Park-Ohio Industries, and through direct sales to certain industrial firms, which will, in general, offer better contract terms and large sales volumes.

[8] The well involved is shown below:

Well name	Approximate deliverability (Mcf/d)
Kenneth Godrey #1	[redacted]

[9] The wells involved are shown below

Well name	Approximate deliverability (Mcf/d)
Hattie Bradford #1	15
Hattie Bradford #2	15
	30

[10] The wells involved are shown below:

Well name	Approximate deliverability (Mcf/d)
J. Montgomery #1	20

[11] The wells involved are shown below:

Well name	Approximate deliverability (Mcf/d)
Lorena G. Hammer #1	40
Lorena G. Hammer #2	40
	80

[12] The wells involved are shown below

Well name	Approximate deliverability (Mcf/d)
Minerva Thompson #1	30
Gladys Hurst #1	30
Gladys Hurst #2	20
D. Smith #1	20
Lawrence James #1	20
Lawrence James #2	20
Lawrence James #3	20
	160

[13] Petro Enterprises, Inc. operates under a small producer certificate in Docket No. CS80-141

[14] The well involved is shown below:

Well name	Approximate deliverability (Mcf/d)
A. E. Pratt #1	25

[15] The wells involved are shown below:

Well name	Approximate deliverability (Mcf/d)
C.K. McCullough #1	20
C.K. McCullough #2	15
	35

[16] The well involved is shown below

Well name	Approximate deliverability (Mcf/d)
J.F. Mulvay #1	20

[17] The well involved is shown below:

Well name	Approximate deliverability (Mcf/d)
Lillie M. Shepherd #1	20

Filing Code: A-Initial Service B-Abandonment. C-Amendment to add acreage. D-Amendment to delete acreage. E-Total Succession. F-Partial Succession.

[FR Doc. 86-19518 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-630-000, et al.]

Utah Power and Light Company et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Utah Power and Light Company

[Docket No. ER86-630-000]

August 22, 1986.

Take notice that on August 11, 1986, Utah Power and Light Company (the Company) tendered for filing in compliance with section 205(c) of the Federal Power Act and in accordance with the provisions of Section V of Exhibit C of the Residential Purchase and Sale Agreement between the Company and Bonneville Power Administration the following:

(1) BPA's written report dated July 14, 1986 for the ASC determined by BPA,

(2) The Company's Appendix 1 for an exchange period beginning November 26, 1985 as filed with BPA by UP&L,

(3) Rate Order No. 19101 issued by the Idaho Public Utilities Commission in Case U-1009-157,

(4) Order reconciliation,

(5) Footnotes and workpapers supporting Average System Cost calculations,

(6) Attachments, A, B, C, D, E, and

(7) $3,100 filing fee.

Comment date: September 5, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Power & Light Company, an Assumed Business Name of PacifiCorp.

[Docket No. ER86-631-000]

August 21, 1986.

Take notice that on August 4, 1986 Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, in accordance with § 35.30 of the Commission's Regulations. Pacific's Revised Appendix 1 for the state of Montana and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Montana (Bonneville's Docket No. 5-A4-8503). The Revised Appendix 1 calculates the ASC for the state of Montana applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective December 2, 1985, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Montana Public Service Commission, Helena, Montana, and Bonneville's Direct Service Industrial Customers.

Comment date: September 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. El Paso Electric Company

[Docket No. ER86-368-004]

August 22, 1986.

Take notice that on August 18, 1986, El Paso Electric Company tendered for filing as an amendment, a reply to comments on its compliance filing, Docket No. ER86-638-000. The reply accepts certain corrections proposed by intervenors and has appended to its revised rate sheets to implement the corrections.

Comment date: September 8, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Gulf States Utilities Company. Towns of Erath, Gueydan, and Kaplan, Louisiana v. Gulf States Utilities Company

[Docket Nos. ER86-558-000 and EL86-48-000]

August 20, 1986.

Take notice that on August 15, 1986, the towns of Erath, Gueydan, and Kaplan, Louisiana ("Towns") filed in Docket No. EL86-48-000 an amendment to their complaint filed on July 10, 1986, against Gulf States Utilities Company ("Gulf States").

The Towns state that the amendment to the complaint supplements the allegations made in the complaint, and is based, in part, on facts occurring or coming to the attention of the Towns after July 10, 1986. In their amendment, the Towns allege that Gulf States may have charged the Towns a lower rate than the rate filed with the Commission, in violation of section 205(d) of the Federal Power Act. The Towns allege that such action may have been taken in order for Gulf States to require the Towns to pay the difference between the filed rate and the rate actually paid before the Towns could take advantage of their right to terminate their contracts with Gulf States.

The Towns request that the Commission investigate whether they are being charged the filed rate under the contracts now on file with the Commission. In the event the Commission finds that Gulf States has charged the Towns less than the filed rate, the Towns request the Commission find: (1) That such billing practices violated the Federal Power Act; (2) that Gulf States be barred from requiring the Towns to pay the difference between the filed rates and the rates actually

paid; and (3) that Gulf States be estopped from claiming that the Towns can not take advantage of their rights to terminate their contracts with Gulf States.

In light of the Towns' filing, Gulf States is hereby directed to respond to the complaint, as amended, and the motions for consolidation and for expedited hearing (which response was previously due on August 21, 1986) within 20 days of the issuance of this notice.

Comment date: September 9, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19510 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2390 et al.]

Hydroelectric Applications (Lake Superior District Power Company); Applications Filed With the Commission

The comment date for all projects listed below is September 22, 1986, except for Project No. 2587-000 (comment date: September 18, 1986) and Project No. 2610 (comment date: September 19, 1986). The licensee on each project is Lake Superior District Power Company. The following paragraphs apply to all the applications listed below:

Correspondence with the applicants should be directed to: John P. Moore, Jr., Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, Gary R. Johnson, Northern States Power Company, 414 Nicollet Mall, Minneapolis, MN 55401, and Paul Korman, Gardner, Carton & Douglas, 1875 Eye Street, NW., Suite 1050, Washington, DC 20006.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before the comment date.

Filing and Service of responsive Documents—Any filings must bear in all capital letters the title "Comments", "Protest", or "Motion To Intervene", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the applicant specified above.

1. Lake Superior District Power Company

[Project No. 2390-000]

Take notice that the Lake Superior District Power Company, licensee for the Big Falls Project, FERC No. 2390, and the Northern States Power Company, Wisconsin (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on May 25, 1965, and would expire on December 31, 1993. The project is located on the Flambeau River in Rusk County, Wisconsin.

2. Lake Superior District Power Company

[Project No. 2587-000]

Take notice that the Lake Superior District Power Company, licensee for the Superior Falls Project, FERC No. 2587, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on October 9, 1968, and would expire on December 31, 1993. The project is located on the Montreal River in Iron County, Wisconsin and Gogebic County, Michigan.

3. Lake Superior District Power Company

[Project No. 2417-000]

Take notice that the Lake Superior District Power Company, licensee for the Hayward Project, FERC No. 2417, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on August 17, 1967, and would expire on December 31, 1993. The project is located on the Namekagon River in Sawyer County, Wisconsin.

4. Lake Superior District Power Company

[Project No. 2564-000]

Take notice that the Lake Superior District Power Company, licensee for the Orienta Project, FERC No. 2564, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on October 2, 1968, and would expire on December 31, 1993. The project is located on the Iron River in Bayfield County, Wisconsin.

5. Lake Superior District Power Company

[Project No. 2444-000]

Take notice that the Lake Superior District Power Company, licensee for the White River Project, FERC No. 2444, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on May 3, 1966, and would expired on December 31, 1993. The project is located on the White River in Ashland County, Wisconsin.

6. Lake Superior District Power Company

[Project No. 2475-001]

Take notice that the Lake Superior District Power Company, licensee for the Thornapple Project, FERC No. 2475, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on April 22, 1965, and would expire on December 22, 1993. The project is located on the Flambeau River in Rusk County, Wisconsin.

7. Lake Superior District Power Company

[Project No. 2610-000]

Take notice that the Lake Superior District Power Company, licensee for the Saxon Falls Project, FERC No. 2610, and the Northern States Power Company (NSP) have requested that the project license be transferred from the licensee to NSP. The reason for the requested transfer is that on June 24, 1986, the licensee filed jointly with NSP to merge with and into NSP.

The license was issued on December 10, 1968, and would expire on December 31, 1989. The project is located on the Montreal River in Gogebic County, Michigan.

Dated: August 25, 1986, Washington, DC.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19511 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-679-000 et al.]

Interstate Power Company et al.; Natural Gas Certificate Filings

Take notice that the followings filings have been made with the Commission:

[Docket No. CP86-679-000]

August 21, 1986.

Take notice that on August 18, 1986, Interstate Power Company (Applicant), 1000 Main Street, Dubuque, Iowa 52001, filed in Docket Nos. CP86-679-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transport of up to a maximum of 40 billion Btu equivalent of natural gas per day on a firm basis, and up to a maximum of 3 billion Btu equivalent of natural gas per day on an interruptible basis, for Hawkeye Chemical Company (Hawkeye), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Hawkeye's own use as an industrial end-user, and for Hawkeye acting as an agent for Norchem, Inc. (Norchem), another industrial end-user which operates plants within the same Clinton County, Iowa, chemical complex as Hawkeye's. Applicant states that it would perform its proposed transportation services for Hawkeye pursuant to a transportation gas service agreement (Agreement) concluded by it and Hawkeye on August 14, 1986.

The Agreement between Hawkeye and Applicant would be effective for two years from the date of the first gas delivery, and would be continued on a month-to-month basis thereafter, reports Applicant.

Under this agreement, it is stated, Applicant would receive Hawkeye's contract gas at the interconnection point between Natural Gas Pipeline Company of America's and Applicant's facilities located at Hooppole, Illinois. Applicant states that it would then transport this gas through its pipelines, and deliver equivalent volumes (less one-half percent to reflect Applicant's fuel consumption and system losses) to Hawkeye's facilities near Clinton, Iowa.

Applicant proposes to charge Hawkeye firm and interruptible transportation rates that are equivalent to those that it currently charges under tariffs approved by the Iowa Utility Board.

Applicant states that it would require no new facilities to provide the proposed transportation service for Hawkeye.

Comment date: September 4, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP86-667-000]

August 22, 1986.

Take notice that on August 12, 1986, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86-667-000 an application pursuant to Section 7 of the Natural Gas Act for authorization to transport up to a maximum of 5.5 billion Btu equivalent per day of natural gas, on an interruptible basis, for MidCon Marketing Corp. (Marketing) and for pre-granted abandonment of such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant would transport natural gas for the account of Marketing for ultimate delivery to The Kelly Springfield Tire Co. (Kelly Springfield), an industrial end-user. It is asserted that the proposed end-use of the gas would be to generate steam for the produciton of tires and for cogeneration at Kelly Springfield's plant in Stephenson County, Illinois.

It is stated that Applicant would receive natural gas for the account of Marketing at the existing interconnections between the facilities of Applicant and the measurement facilities of: (1) ONG Transmission Company (ONG) located in section 6, Township 20 North, Range 18 West, Woodward County, Oklahoma, and (2) M.V. Pipeline Company (M.V.) located in section 2, Township 5 North, Range 10 West, Caddo County, Oklahoma.

It is further stated that Applicant would transport on a fully interruptible basis and would redeliver volumes of gas for the account of Marketing ot Northern Illinois Gas Company (NIGAS) at existing point of interconnection between the facilities of Applicant and the measurement facilities of NIGAS located: (1) In Section 5, Township 38 North, Range 9 East, DuPage County, Illinois, and (2) in section 31, Township 28 North, Range 7 East, Livingston County, Illinois for redelivery by NIGAS to Kelly Springfield's plant in Stephenson County, Illinois.

According to Applicant it would charge Marketing the following transportation rates:

Point of receipt	Point of delivery	Transportation rate (¢/MMBtu) (cents)
ONG-Woodward County, OK.	Du Page County, IL	28.8
ONG-Woodward County, OK.	Livingston County, IL	28.8
M.V.-Caddo County, OK.	Du Page County, IL	33.3
M.V.-Caddo County, OK.	Livingston County, IL	33.3

It is also stated that Applicant would redeliver gas to Marketing, less certain percentage reductions for fuel consumed and lost and gas unaccounted for, or would charge Marketing for fuel consumed and lost and gas unaccounted for as provided under the transportation agreement.

Further, Applicant would charge Marketing the currently effective GRI surcharge as set forth on Tariff Sheet No. 5A of Applicant's Volume 1 Tariff.

Applicant states that it requests authority to provide an interruptible transportation service for Marketing for

a period of 5 years from the date of first delivery.

Applicant also states that no new facilities would be required for this service. Applicant also states that it requests authorization to add or delete additional receipt points in the future as many be necessary to support this service.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. National Fuel Gas Supply Corporation and Penn-York Energy Corporation

[Docket No. CP76-492-040]

August 21, 1986.

Take notice that on August 13, 1986, National Fuel Gas Supply Corporation (Supply Corporation) and Penn-York Energy Corporation (Penn-York), 1100 State Street, Erie, Pennsylvania 16512, filed in Docket No. CP76-492-040, to further amend their joint application pursuant to section 7(c) of the Natural Gas Act to which Supply Corporation requests a limited-term certificate of public convenience and necessity for authorization to transport natural gas to Transco Gas Services Company (Transco), and temporary authority to provide such service pending permanent approval. Penn-York requests temporary authority to provide storage service to Transco for a one year period and to modify the levels of storage service provided to other customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Penn-York requests temporary authority to provide 1.72 million Mcf of storage capacity to Transco for the twelve month period beginning April 1, 1986. Penn-York also requests pregranted abandonment authority for this service, with service terminating on March 31, 1986. Penn-York states that in order to maintain the total storage service provided by Penn-York at a constant level, storage service to Delmarva Power and Light Company (Delmarva), Penn Fuel Gas,Inc. (Penn Fuel), Pennsylvania & Southern Gas Company (Penn & Southern), Connecticut Natural Gas Company (CNG), Connecticut Light and Power Company (CLP), and UGI Corporation (UGI), would be reduced, in the aggregate, by a corresponding amount. Penn-York states that each of the affected customers has agreed to the level of service reflected therein.

In addition, Penn-York states that because the Transco contract has a term of one year the customers who received a decrease in service during the 1986-1987 period must, as of April 1, 1987, increase their storage service levels to existing levels in order to achieve the reallocation without affecting the aggregate level of sales. The storage service provided to customers of Penn-York would be at the level indicated below. Penn-York seeks temporary authority to achieve these modifications in sales levels to the respective companies.

ANNUAL STORAGE QUANTITIES

	Existing contract amount	Apr. 1, 1986 through Apr. 1, 1987	Apr. 1, 1987, and thereafter
UGI	4,000,000	3,462,300	4,000,000
Delmarva	750,000	330,000	750,000
Penn Fuel	850,000	350,000	850,000
Penn & Southern	200,000	175,400	200,000
Fitchburg	136,257	136,257	136,257
Gas Service	200,000	200,000	200,000
Manchester	135,000	135,000	135,000
Valley	550,000	550,000	550,000
Transco	5,000,000	6,720,000	5,000,000
CNG	1,500,000	1,300,000	1,500,000
CLP	1,500,000	1,462,300	1,500,000

Supply Corporation requests in this docket a limited-term certificate of public convenience and necessity to provide transportation for the 1.72 million Mcf of gas to and from Penn-York's facilities for a one-year period with pre-authorized abandonment as of March 31, 1987. Supply Corporation states that this service is required to accommodate the storage service to Transco for which authorization is sought by Penn-York in this docket. Alternatively, Supply Corporation requests a temporary certificate of public convenience and necessity to provide this service for the same period. Supply Corporation states a temporary certificate is necessary in order to allow Transco to meet the service needs of its customers for the upcoming heating season.

In addition, Supply Corporation requests modifications to the demand changes and maximum daily volume levels contained in its tariffs X-29, X-30 and X-31. Supply Corporation states in its filing that decreases in volumes of gas being transported through Supply Corporation's YM-51 line as a result of the volume reductions provided to UGI and Penn Fuel would result in a loss of revenue and underrecovery of fuel costs unless the demand charge contained in the X-29 and X-30 transportation tariff is modified. Supply Corporation further states that the modifications are designed to ensure that the fixed costs associated with the YM-51 lines, which was constructed for the benefit of these customers, continue to be recovered notwithstanding the decrease in storage volumes. Supply Corporation additionally states that the changes to be reflected in the X-31 tariff are necessary to reflect the decrease in storage service provided by Penn-York to Delmarva Power and Light.

Comment date: September 4, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Northwest Pipeline Corporation

[Docket No. CP86-661-000]

August 19, 1986.

Take notice that on August 7, 1986, Northwest Pipeline Corporation (Northwest), 295 Chyseta Way, Salt Lake City, Utah 84108, filed at Docket No. CP86-637-000 an application pursuant to section 7(c) of the Natural Gas Act and the Federal Energy Regulatory Commission (Commission) Regulations thereunder for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce to and from its Ignacio Extraction plant, the construction and operation of piping and valves at its Ignacio compressor station and the flexibility to operate its Ignacio A, B, and C compressors for mainline service, as needed; all as more fully set forth in the application which is on file and open to public inspection.

Northwest states that its Ignacio extraction plant is presently used to condition the natural gas gathered by Northwest in the San Juan Basin to pipeline specifications by the removal of natural gas liquids. Northwest asserts that the design capacity of the Ignacio extraction plant is within the range of 120,000 to 300,000 Mcf per day depending upon the daily operation of such plant. Northwest states that adjacent to the Ignacio extraction facility are the Ignacio A, B, and C compressor units. Ignacio A was certificated in 1951 for mainline service; however Ignacio B and C were only certificated in 1971 for field compression. It is stated that declining sales have recently required Northwest to further cut production, resulting in the Ignacio extraction plant being shut-down. In order to meet its firm, off-system transportation delivery commitments, Northwest is now blending up to 30,000 Mcf per day of unprocessed San Juan gas with its mainline gas for delivery to El Paso Natural Gas Company. Northwest states that it would be in the best interests of Northwest and its customers, if Northwest had the flexibility to comingle its mainline gas with San Juan Basin gas for processing at the Ignacio extraction plant so that the plant could remain operational and recover liquids from whatever San Juan Gas is produced during the periods when

Northwest's low sales dictate drastic cuts in its San Juan Production.

It is stated that the flexibility to use Ignacio A, B, and C compressor units for mainline service when the Ignacio extraction plant is shut-down would be beneficial since it could facilitate the delivery of additional volumes to El Paso by allowing a greater volume of natural gas to be delivered to El Paso. The estimated cost of the piping, valves and appurtenant facilities is estimated at $483,000.

Therefore, Northwest requests certificate authority to transport mailine gas to and from the Ignacio extraction plant for processing in order to keep the plant operational at reduced San Juan production levels and to construct the necessary valve and piping facilities necessary to implement such proposal. In addition to helping satisfy the operational minimum of 120,000 Mcf per day at the Ignacio extraction plant, Northwest intends to divert whatever additional quantity of its mainline gas to the extraction plant for processing which it determines to be economically justifiable based upon such factors as plant efficiency, mainline gas quality and product prices. Northwest also requests authority to operate its Ignacio A, B and C compressor stations to compress mainline gas during periods of low San Juan production in order to maintain higher transportational deliveries to El Paso.

Northwest asserts that implementation of this proposal will provide it with additional flexibility to more effectively serve its transportation service commitments and to more effectively manage its system gas supplies. It is stated that no adverse impacts, when compared with the alternative of shutting down the plant and blending unprocessed gas into the mainline, will devolve on any of Northwest's customers as a result of Northwest processing a portion of its mainline gas at its Ignacio plant. Northwest avers that the flexibility to compress mainline gas at its Ignacio A, B and C stations will help Northwest reduced the curtailment of interruptible transportation services resulting from marketrelated reductions in San Juan production.

Comment date: September 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Panhandle Eastern Pipe Line Company

[Docket No. CP86-669-000]

August 22, 1986.

Take notice that on August 13, 1986, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-669-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and the regulations thereunder for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of certain end-users, additionally granting the authority to Applicant to report annually the addition and deletion of existing points of receipt and granting the authority to abandon this service when the contract term expires, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to the various transportation agreements, Applicant proposes to transport up to 20,100 Mcf of natural gas per day on behalf of certain end-users, as listed below:

End-user	Local distribution company	Transportation volumes (Mcf/d)
Can-Am Industries, Inc.	Central Illinois Public Service Co.	2,500
Carle Foundation Hospital	Illinois Power Co	500
Eli Lilly & Co.	Indiana Gas Co	13,000
Mercy Hospital	Illinois Power Co	500
Methodist Medical Center of Illinois	Central Illinois Public Service Co.	1,000
Proctor Community Hospital	Central Illinois Light Co.	450
Sisters of the Third Order of St. Francis	Central Illinois Light Co.	1,250
VHA—Illinois	Central Illinois Public Service Co.	900

It is stated that each end-user would pay Applicant a unit transportation charge of 43.37 cents per Mcf for volumes received from Beckham, Custer, Dewey, Ellis, Kingfisher, Woodward and Garfield Counties, Oklahoma, and a unit transportation charge of 69.84 cents per Mcf for volumes received from Woods County, Oklahoma and Hansford County, Texas. Applicant would redeliver the gas to the local distribution companies pursuant to each agreement, it is indicated.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP86-670-000]

August 22, 1986.

Take notice that on August 13, 1986, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-670-000 an application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Cabot Corporation (Cabot) for a limited term through June 9, 1986, all as more fully set forth in the application which is on file with the Commission and open for inspection.

Applicant requests Commission authorization to transport up to 6,000 Mcf per day of natural gas on behalf of Cabot pursuant to a transportation agreement dated June 9, 1986, between Applicant, Cabot and Kokomo Gas and Fuel Company (Kokomo), an existing sales customer of Applicant. Applicant proposes to receive the gas, which Cabot is purchasing from Reliance Pipeline Company, at 27 existing points of receipt on Applicant's system located in Texas, Oklahoma and Kansas. Applicant states that it would redeliver the gas for Cabot's account to Kokomo at the existing sales meter in Section 2, Township 21 North, Range 4 East, Tipton County, Indiana and that Kokomo would ultimately deliver the gas to Cabot in Kokomo, Indiana. The transportation rate for this service is pursuant to Applicant's Rate Schedule PT. Applicant requests authority to add and delete from the Agreement points of receipt already connected to Applicant's system, subject to certain reporting requirements of the Commission.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP86-660-000]

August 22, 1986.

Take notice that on August 7, 1986, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-660-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the receipt, transportation and redelivery of natural gas for Columbia Gas of Ohio (Columbia) and the construction and operation of a point of interconnection between the Applicant and Columbia, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that pursuant to a transportation agreement between the Applicant and Columbia dated May 16, 1986, Applicant proposes to transport on an interruptible basis up to 85,000 Mcf per day of natural gas for Columbia. Applicant would provide the proposed service for a primary term of five years, which would remain in full force and

effect for a secondary term not to exceed five years beyond the primary term. Applicant states that the gas to be transported is for Columbia's system supply for the ultimate distribution and consumption by Columbia's customers in Ohio.

Applicant states that it would receive gas for Columbia's account at various existing points of interconnection between Applicant and Columbia's suppliers and redeliver the volumes to the Columbia system at the proposed point of interconnection between Applicant and Columbia. Applicant further requests authority to construct the proposed point of interconnection with Columbia in Maunee, Lucas County, Ohio. The estimated cost of the facilities is $330,000 which Columbia would reimburse the Applicant.

It is stated that for the proposed transportation service, Applicant would charge Columbia a unit transportation charge of 69.84 cents per Mcf received at the Phillip Hansford Plant and the F&M plant or 43.37 cents per Mcf at the remaining twenty-four receipt points. It is alleged that such rates are based on Applicant's Rate Schedule PT filed in Docket No. RP86-116-000 which the Commission accepted by order dated June 27, 1986, subject to refund and certain conditions.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-668-000]

August 22, 1986.

Take notice that on August 12, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, Texas 77001, filed in Docket No. CP86-668-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for AlaTenn Energy Marketing Company, Inc. (ATEMCO), agent for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated August 11, 1986, between Applicant and ATEMCO, Applicant would transport up to 120,000 dt equivalent of natural gas per day on an interruptible basis on behalf of ATEMCO. Applicant states that it would receive the gas at seventeen existing interconnections from Pruet Production Company (Pruet) at Cooper Creek Field and Maple Branch Field in Lowndes County, Mississippi; Buttahatchie River Field, South Aberdeen Field, Tombigbee Field, and Wise Gap Field, Monroe County, Mississippi; County Line Field, in Monroe and Lowndes Counties, Mississippi; and Star Field, Millport Field, Splunge Field, and Mallory Field in Lamar County, Alabama. Applicant states that the redelivery would be made at existing interconnections to Alabama-Tennessee at Corinth Sales in Alcorn County, Mississippi, and Barton Sales in Colbert County, Alabama.

Applicant also requests authority to add and delete receipt points, which may require construction and operation of additional facilities under Applicant's blanket certificate in Docket No. CP82-413-000. Applicant states that it will file annually, on or before March 31, tariff revisions, as necessary to inform the Commission of receipt point additions or deletions.

Applicant further states that ATEMCO would pay a transportation charge equal to the product of 6.80 cents per dt equivalent or 13.84 cents per dt equivalent as applicable, times the total quantity in dt's delivered, plus the effective GRI surcharge. Applicant states that ATEMCO would also provide gas for its system fuel and uses, and lost and unaccounted-for gas.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. Texas Gas Transmission Corporation

[Docket No. CP69-227-001]

August 22, 1986.

Take notice that on August 11, 1986, Texas Gas Transmission Corporation (Petitioner), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP69-227-001, a petition to amend the order issued June 23, 1969, as further amended on February 20, 1973, and February 10, 1982, in Docket No. CP69-227, pursuant to section 7(c) of the Natural Gas Act so as to authorize the addition of certain acreage to its Midland Gas Storage Field, Muhlenberg County, Kentucky (Midland), all as more fully described in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that recent reservoir engineering studies and pressure analyses indicate the subject acreage to be in communication with Midland. To protect the intergrity of the storage field, Texas Gas proposes to add this acreage to the project at a cost of $1,365,335.50. Texas Gas also states that no new facilities will be constructed and no new sales or services are proposed.

Comment date: September 12, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice

10. Transco Gas Services Company, Inc.

[Docket No. CP86-673-000]

August 22, 1986.

Take notice that on August 13, 1986, Transco Gas Services Company, Inc. (Gas Services), Post Office Box 1396, Houston, Texas 77251, filed an application pursuant to section 7(c) of the Natural Gas Act for a limited term certificate of public convenience and necessity with pregranted abandonment authorizing a new storage service for a term expiring March 31, 1987, to Long Island Island Lighting Company (LILCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Gas Services states that the proposed new storage service is made possible by the combination of separate storage arrangements which it has entered into with North Penn Gas Company (North Penn) and Penn-York Energy Corporation (Penn-York) for storage service to be provided from storage fields in Pennsylvania and New York. Additionally, Gas Services states that it has entered into arrangments with National Fuel Gas Supply Corporation (National Fuel) and Transylvania Gas Pipeline Company, Inc. (Transylvania) for the necessary firm transportation of storage quantities.

Gas Services further states that it would provide LILCO with 2.22 Bcf of top gas storage capacity and peak-day withdrawal capability of 20,636 Mcf of natural gas per day as set forth in a one year firm gas storage agreement with LILCO. Gas Services states that the proposed rates for such service entails an accumulation of the charges for the storage and transportation services rendered to Gas Services by North Penn, Penn York, National Fuel and Transylvania, herein after collectively referred to as Suppliers. The proposed rates include a monthly demand charge payable for each of the five months November 1, 1986 through March 31, 1987, of $27.25 per Mcf of storage demand, a monthly capacity charge for the five months of 16.72 cents per Mcf of annual capacity, and injection and withdrawal charges of .474 cents per Mcf. It is stated that the rates for storage service would be subject to tracking adjustments to reflect any changes in the costs and charges of Suppliers providing services of Gas Services.

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Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

11. Trunkline Gas Company

[Docket No. CP86-659-000]

August 22, 1986.

Take notice that on August 7, 1986, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP86-659-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Brandywine Industrial Gas, Inc. (Brandywine), a wholly-owned gas marketing subsidiary of Conoco, Inc. (Conoco), and Elf Aquitaine, Inc. (Elf), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Trunkline requests authorization to construct and operate 3.9 miles of ten-inch pipeline from Conoco's platform in Ewing Bank Block 305, offshore Louisiana, to a subsea tie-in value in Grand Isle Block 82, offshore Louisiana, one measuring station and appurtenant facilities, and perform this service pursuant to section 7(c) of the Natural Gas Act. Trunkline states that the total estimated construction cost of the proposed facilities is $2,800,000. Trunkline states that Conoco would reimburse Trunkline for the cost of the lateral.

Pursuant to two transportation agreements, both dated July 11, 1986, Trunkline stated that it has agreed to transport up to 50,000 Mcf of natural gas per day on a firm basis and up to 50,000 Mcf of natural gas per day on an interruptible basis on behalf of Brandywine. For the firm transportation service Brandywind and Elf would pay Trunkline a demand charge of $3,375, which is representative of operation and maintenance expenses for the proposed pipeline. For the interruptible transportation service, Brandywine and Elf would pay Trunkline a unit transportation charge of 10.66 cents per Mcf for natural gas volumes redelivered at the redelivery point with Transcontinental Gas Pipe Line Corporation in Beauregard Parish, Louisiana, and the redelivery point with Columbia Gulf Transmission Company in St. Mary Parish, Louisiana. Brandywine and Elf would pay Trunkline a unit transportation charge of 43.22 cents per Mcf for natural gas volumes redelivered at the Dyer County, Tennessee, redelivery point with Texas Gas Transmission Corporation and 44.55 cents per Mcf for volumes redelivered at the redelivery point with Consumers Power Company in Elkhart County, Indiana. Redeliveries at the Vermilion Parish, Louisiana, interconnect with Sabine Pipeline Company would have a unit transportation charge of 11.99 cents per Mcf.

Comment date: September 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

12. Williston Basin Interstate Pipeline

[Docket No. CP86-641-000]

August 22, 1986.

Take notice that on July 30, 1986, as supplemented August 7, 1986, Williston Basin Interstate Pipeline (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP86-641-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate two sales taps and appurtenant pipeline facilities, under the authorization issued in Docket No. CP82-487-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Williston Basin proposes to construct and operate a sales taps, a town border station and appurtenant facilities to supply natural gas to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) in order to serve the City of Spearfish, South Dakota. An existing 4.5-inch diameter lateral pipeline currently provides services to the north side of the City of Spearfish. It is stated that the tap and appurtenant facilities are required to serve the growth area along the south side of the City of Spearfish, along with maintaining natural gas linepack in the Spearfish distribution system. Williston Basin also proposes to construct an additional sales tap for deliveries to Montana-Dakota at the Centennial Quarry. The cost of these facilities proposed, herein in estimated at $37,500.

Comment date: October 6, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19512 Filed 8-27-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180701; FRL-3071-6]

Receipt of Application for an Emergency Exemption From Virginia To Use Dichlorprop; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption request from the Virginia Department of Agriculture and Consumer Services (hereafter referred to as "Applicant") to use the pesticide dichlorprop (2,4–DP) (CAS 120–36–5) to treat 21,000 acres of apples to control premature abscission. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant the exemption.

DATE: Comments must be received on or before (September 12, 1986.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP–180701" should be submitted by mail to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460. In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of dichlorprop on apples to inhibit apple abscission.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. Dichlorprop is currently registered in the United States for non-food uses only. Dichlorprop is used in Japan to inhibit fruit drop.

The Applicant states that once an apple has dropped, its acceptance to the processor greatly diminishes. In some years when the crop is short, processors will accept dropped fruit for juice and processing. However, dropped fruit will be bruised, will not store as well as picked fruit, and is more costly to process because bruises, rots, cuts, etc. must be sorted out or trimmed out.

Labor to harvest the apple crop has been more difficult to obtain in recent years, thus causing more reliance on chemicals to control fruit drop. Without efficacious chemicals to control fruit drop, additional problems associated with harvest of immature fruit are likely to increase which will cause increases in storage problems, harvesting of small fruit, and lower yields.

Horticulturists in the 1930s and 1940s found several chemical compounds that could delay normal fruit drop. Among these were 2,4,5–TP and NAA (naphthaleneacetic acid) which were subsequently registered and have been used to control fruit drop in Virginia. In recent years, Alar (daminozide) has also been found to control fruit drop as well as increasing fruit firmness and storability.

Alar became important to the apple industry in 1985 for its ability to delay fruit drop because EPA suspended use of 2,4,5–TP for preharvest fruit drop due to a dioxin contaminant from the manufacturing process. However, in 1985, EPA placed daminozide in the special review process to determine if lifetime exposure to food residues of daminozide could result in unreasonable risk to public health. This caused a number of major processors to write letters to growers in 1986 stating that fruit treated with daminozide would not be accepted for processing. Growers are also considering not treating fresh market apples so off-grade apples can be sent for processing. NAA is now the only chemical currently cleared for control of preharvest fruit drop. In most years, NAA is inadequate because it is shortlived, and does not work beyond the second application.

In the late 70s, Canadian researchers showed that dichlorprop was as effective as 2,4,5–TP for control of preharvest apple drop at a slightly higher concentration. Since the dioxin contaminant found in the manufacture of 2,4,5–TP was not found in 2,4–DP, the Applicant felt that 2,4–DP was a logical replacement for 2,4,5–TP.

The Applicant estimates an increase in fruit drop in fruit grown for fresh market from 4.3 percent with the use of 2,4,5–TP or Alar to 13.5 percent without the proposed use of dichlorprop and an increase from 10.3 percent with the use of the above chemicals to 22.3 percent without the proposed use on apples grown for processing. Using a wholesale value of $12 for a bushel of apples, the increase in fruit drop without the proposed use of dichlorprop would result in an increased loss of apples worth $38 million.

The Applicant plans to treat up to 21,000 acres using a maximum of 630 kilograms active ingredient. Applications are proposed for a period from September 1, 1986 to October 20, 1986. A single application by ground application equipment at a rate of 10 to 20 ppm active ingredient will be made to fruit and foliage of apple trees 7 days before expected fruit drop. The Applicant proposes to use a formulation containing 10.5 percent 2,4-dichlorophenoxy propionic acid, triethanol amine salt, and 89.5 percent inert ingredients.

This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the Federal Register of receipt of an application for a specific exemption proposing the first food use of an active ingredient (i.e., use of an active ingredient on a food or in a manner which otherwise would be expected to result in residues in a food, if no permanent tolerance, exemption from requirement of tolerance, or food additive regulation for residues of the pesticide on any food has been established for the active ingredient under section 408 (d) or (e) or 409 of the Federal Food, Drug, and Cosmetic Act)

(40 CFR 166.24(a)(2)). The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: August 19, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-19492 Filed 8-27-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59225; FRL 3071-5]

Thermoplastic Elastomer

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: September 12, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59225]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 86-53

Close of Review Period. September 3, 1986.

Importer. Confidential.

Chemical (G) Thermoplastic elastomer.

Use/Import. (S) Industrial tube, sealing, etc. for industrial instruments. Import range: Confidential.

Toxicity Data. Ames test: Non-Mutagenic.

Exposure. Processing: a total of >100 workers, up to 6 hrs/da.

Environmenal Release/Disposal No release.

Dated: August 21, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-19494 Filed 8-27-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 22, 1986.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None.

Title: Section 97.521, Question Pools.

Action: New collection.

Respondents: Volunteer examiner coordinators (VEC's) for the Amateur Radio Service.

Estimated Annual Burden: 3 Recordkeepers; 480 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-19508 Filed 8-27-86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; John R. Powley et al.

1. The Commission has before it the following mutually exclusive applications for renewal of license for WHGM (FM) filed by John R. Powley and for a new FM station filed by Elizabeth L. McCumbee & Rocky L. McCumbee d/b/a Relm Communications.

Applicant City and State	File No.	MM Docket No.
A. John R. Powley, Bellwood, PA.	BRH-84033016	86-342
B. Elizabeth L. McCumbee & Rocky L. McCumbee d/b/a Relm Communications Bellwood, PA.	BPH-840629IJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(S)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86-19506 Filed 8-27-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Wisconsin; Major Disaster and Related Determinations

[FEMA-770-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA-770-DR), dated August 14, 1986, and related determination.

DATED: August 14, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

Notice is hereby given that, in a letter of August 14, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Wisconsin resulting from severe storms on August 6, 1986, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eleigible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Ronald Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Wisconsin to have been affected adversely by this declared major disaster and is designated eligible as follows: Milwaukee County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83-516, Disaster Assistance.) (Billing Code 6718-02)

Julius W. Becton,

Director.

[FR Doc. 86-19474 Filed 8-27-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-770-DR]

Wisconsin; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wisconsin (FEMA-770-DR), dated August 14, 1986, and related determinations.

DATED: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Wisconsin, dated August 14, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 14, 1986: Waukesha County as an adjacent area for Individual Assistance.

(Catalog of Federal Domestic Assistance No., 83.516, disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-19475 Filed 8-27-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW, Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010985.

Title: Yamashita-Shinnihon/Calpac Terminals Container Freight Station Agreement.

Parties: Yamashita-Shinnihon Steamship Company, Ltd. (Y-S Line); Calpac Terminals, Inc. (Calpac).

Synopsis: The proposed agreement would permit Calpac to provide space, facilities and container freight station (CFS) services at its CFS in Compton, California to Y-S Line. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: August 25, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19526 Filed 8-27-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Advisory Committee on Mediation and Conciliation will be held on Tuesday, September 16, 1986, from 9:00 a.m. to 5:00 p.m. in Room 538 of the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

The purpose of the meeting is to obtain the views of representatives of labor and management, and other qualified individuals, on cooperative programs, including training in decision making processes, contract administration, and grievance and arbitration procedures. A hearing procedure will be followed in which the views of witnesses will be transcribed for the record.

The meeting will be open to the public. Interested persons may file written statements with the Committee, and subject to reasonable Committee procedures may also make oral statements on matters germane to subjects under consideration at the meeting.

Further information regarding this meeting may be obtained from Mr.

Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, or call (202) 653–5290.

Dated: August 19, 1986.

Duane M. Buckmaster,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 86–19415 Filed 8–27–86; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

F&M Financial Services Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 16, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F & M Financial Services Corporation*, Menomonee Falls, Wisconsin; to engage *de novo* through its subsidiary, F&M Trust Company, Inc., Menomonee Falls, Wisconsin, in performing all of the functions and activities authorized under Wisconsin law for a trust company bank pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Viejo Bancorp*, Mission Viejo, California; to engage *de novo* through its subsidiary, Viejo Home Loan, Inc., Mission Viejo, California, in mortgage banking activities including the origination, acquisition, selling and servicing of real estate secured loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 22, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–19486 Filed 8–27–86; 8:45 am]

BILLING CODE 6210–01–M

Hartford National Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 19, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Hartford National Corporation*, Hartford, Connecticut; to acquire 100 percent of the voting shares of Charter Financial Corporation, and thereby indirectly acquiring Framingham Trust Company, both of Framingham, Massachusetts.

Hartford National has also applied to acquire 100 percent of the voting shares of First New England Bankshares Corp., and thereby indirectly acquiring First Bristol County National Bank, both of Taunton, Massachusetts.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mountaineer Bankshares of W. Va., Inc.*, Martinsburg, West Virginia; to acquire 100 percent of the voting shares of First National Bank of Salem, Salem, West Virginia.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *CB&T Bancshares, Inc.*, Columbus, Georgia; to merge with First Camden Bancorporation, St. Marys, Georgia, thereby indirectly acquiring First National Bank of Camden County, St. Marys, Georgia.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Lincolnland Bancorp, Inc.*, Dale, Indiana; to acquire 100 percent of the voting shares of Farmers State Bank, Rockport, Indiana.

2. *Silex Bancshares, Inc.*, Silex, Missouri; to become a bank holding company by acquiring at least 90 percent of the voting shares of Silex Banking Company, Silex, Missouri.

Board of Governors of the Federal Reserve System, August 22, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–19487 Filed 8–27–86; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Injury Research Grant Review Committee Establishment

Pursuant to Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the

Centers for Disease Control announces the establishment by the Secretary of Health and Human Services, on August 20, 1986, of the following Federal advisory committee:

Designation: Injury Research Grant Review Committee.

Purpose: This Committee will provide advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, Centers for Disease Control, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research and demonstration projects and injury prevention research centers.

Authority for this Committee will expire August 20, 1987, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: August 22, 1986.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-19459 Filed 8-27-86; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

Meeting of National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on September 25-26, 1986, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on September 25 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be on Acquired Immunodeficiency Syndrome. On September 26 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for a report of the Intramural Research Program and reports of the Director of the Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) Pub. L. 92-463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on September 25. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjournment on September 26 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the committee members.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 20, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-19461 Filed 8-27-86; 8:45 am]

BILLING CODE 4140-01-M

Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, September 15-16, 1986 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on September 15 from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public September 15, from approximately 1:00 p.m. to adjournment on September 16, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrell, Committee Management Officer, NIEHS, Bldg. 31, Rm. 2B55, NIH, Bethesda, Md. 20892 (301) 496-3511, will provide summaries of the meeting and rosters of council members.

Dr. Anne Sassaman, Associate Director for Extramural Program, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541-7723, FTS 629-7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: August 20, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-19462 Filed 8-27-86; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the National Advisory Research Resources Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), on September 18-19, 1986, at the National Institutes of Health, Conference Room 10, Building 31-C, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on September 18 from 9:00 a.m.

until 2:00 p.m., and from 9:00 a.m. until 10:15 a.m. on September 19 for discussions on administrative matters such as previous meeting minutes; the Report of the Director, DRR; future meeting dates; and budget and legislative updates. A representative from the NIH Office of Program Planning and Evaluation will present an overview of NIH research training programs, and the Director of the DRR's General Clinical Research Centers (GCRC) Program will report on Program activities. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on September 18 from 2:00 p.m. until recess and from 10:15 a.m. until adjournment on September 19 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20892, 301/496–6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371 Biomedical Research Technology; 13.375, Minority Biomedical Research Support, National Institutes of Health)

Dated: August 20, 1986.

Betty J. Beveridge,

NIH Committee Management Officer

[FR Doc. 86–19463 Filed 8–27–86; 8:45 am]

BILLING CODE 4140-01-M

Meeting of National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees, to provide advice to the National Insititute of Arthritis and Musculoskeletal and Skin Diseases and the National Institute of Diabetes and Digestive and Kidney Diseases, on September 24 and 25, 1986 Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public September 24 from 8:30 a.m. to 12:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

The meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These diliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on September 24, 1986, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on September 25 from 8:30 a.m. to approximately 12:00 p.m.

The full Council meeting will then be open for the reports of the Division Directors on September 25 from approximately 1:00 p.m. to adjournment at 3:30 p.m.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, Room 657, Bethesda, Maryland, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: August 20, 1986.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 86–19464 Filed 8–27–86; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on October 9 and 10, 1986, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 9, 1986, from 8:30 a.m. to 11:30 a.m. for opening remarks; report of the Director, NIGMS; a scientific presentation on pharmacology; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 9 from 11:30 a.m. to 6:00 p.m., and on October 10, 1986, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: (301), 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20892, Telephone: (301), 496–7091 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13–821, Biophysics and Physiological Sciences; 13–859, Pharmacological Sciences; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers [MARC])

Dated: August 20, 1986

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-19465 Filed 8-27-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), October 9, 10, and 11, 1986, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892.

This meeting will be open to the public from 8:00 p.m. to 10:10 p.m. on October 9; from 9:00 a.m. to 12:05 p.m. and from 2:05 p.m. to 4:25 p.m. on October 10; and from 9:00 a.m. to 10:30 a.m. on October 11. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 7:30 p.m. to 8:00 p.m. on October 9; from 12:05 p.m. to 2:00 p.m. and 4:25 p.m. to adjournment on October 10; and from 10:30 a.m. to adjournment on October 11 for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, Room 9a 19 Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institute of Health, Building 10, Room 9N-222, Bethesda, Maryland 20892, (301) 496-4128.

Dated: August 20, 1986.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 86-19466 Filed 8-27-86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: September 12, 1986, 9:00 a.m. to 2:00 p.m.

ADDRESS: Interstate Commerce Commission, Hearing Room A, 1st Floor, 12th and Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ash Hayes, Ed.D., Executive Director, President's Council on Physical Fitness and Sports, 450 Fifth Street, NW., Suite 7103, Washington, DC 20001 Telephone: (202) 272-3421.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12345, as amended, extended by Executive Order #12534 dated September 30, 1985, further amended by Executive Order #12539 dated December 3, 1985. The functions of the Council are: (1) To advise the President and Secretary concerning progress made in ge carrying out the provision of the Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress; (2) Advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities; (3) Advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the Council members of the national program of physical fitness and sports, to reports on on-going Council programs, and to plan for future directions.

Dated: August 25, 1986.

Ash Hayes,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 86-19519 Filed 8-27-86; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Redelegations of Authority Concerning Data Exchange Agreements

With certain exceptions, the Privacy Act of 1974 (5 U.S.C. 552a) curtailed the disclosure of information relating to individuals without their consent. One exception covers the release of data for "routine uses" (i.e., uses for purposes which are compatible with the purposes for which the records were collected). This information may be released when a notice of routine use is published in the **Federal Register** by the Agency making the release. The Privacy Act requires Federal agencies to establish methods and procedures to safeguard such information, and to protect information about individuals from improper disclosure.

To fulfill its obligations under the Privacy Act, the Social Security Administration (SSA), whether obtaining or providing such personal information, has developed and uses a variety of formal data exchange agreements, such as Safeguard Agreements, Safeguard Memoranda of Understanding, Beneficiary Earnings and Data Exchange Agreements, Matching Agreements, and Third Party Query Agreements.

Under these agreements, the parties agree to safeguard the information according to certain criteria, restrict access to it by their employees, and refrain from redisclosure except with the consent of the individuals concerned or as permitted by the agreement. Authority to make such agreements is vested with the Commissioner of Social Security (the Commissioner), with authority to redelegate (33 FR 5836-37, dated April 16, 1968).

Notice is hereby given that the Commissioner has redelegated this authority to other SSA officials, as follows:

Authority

Authority to negotiate, approve (sign), administer, and terminate nonreimbursable data exchange agreements between SSA and State/Local agencies or other parties, under which SSA obtains or provides information about individuals pursuant to "routine use" disclosure provisions of law and regulations.

Delegates	Scope of authority
1. Deputy Commissioner for Programs and Policy.	1. and 2. Data exchange agreements involving unusual sensitivity, precedent-setting features, or other special considerations, as determined by the Regional Commissioner having original jurisdiction.
2. Associate Commissioner for Policy.	Do.
3. Regional Commissioners.	3. Data exchange agreements with States or other parties within their respective jurisdiction, unless, in a particular case, the Regional Commissioner determines that special considerations require the authority to be exercised by the Deputy Commissioner for Programs and Policy, or the Associate Commissioner for Policy.

Conditions

a. These redelegations only apply to situations where the exchange of information between SSA and States or other parties is without reimbursement. Where reimbursement is involved, the information is to be exchanged through the Agency contracting process, under authority redelegated to contracting officers.

b. Further redelegations are authorized.

c. This authority must be exercised in accordance with all pertinent provisions of law, regulations, and national instructions.

These redelegations are effective on the date they are published in the **Federal Register**. I affirm and ratify any actions by the above delegates, or other officials with their approval, which amount to the exercise of this authority before that date.

Dated: August 12, 1986.

Dorcas R. Hardy,

Commissioner for Social Security.

[FR Doc. 86-19489 Filed 8-27-86; 8:45 am]

BILLING CODE 4190-11-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Management of Historical (Historical, Architectural, Archeological, and Cultural) Properties for Operation and Management of the Chief Joseph Dam Project, Eastern Washington

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Seattle District, Corps of Engineers, and the Washington State Historic Preservation Officer for the management of historical properties affected by the operation and maintenance of the Chief Joseph Dam project in eastern Washington. The proposed Programmatic Memorandum of Agreement will establish mechanisms by which historical properties will be identified, evaluated, monitored, and protected in order to meet the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

Comments Due: September 29, 1986.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, Suite 450, 730 Simms Street, Golden, Colorado 80401.

Dated: August 21, 1986

John M. Fowler,

Acting Executive Director.

[FR Doc. 86-19529 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Deletion of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise four notices describing systems of records maintained by the Bureau of Mines, and delete one notice from its inventory of notices of Privacy Act records systems. Except as noted below, all changes being published are editorial in nature, and reflect updating changes and other administrative revisions which have occurred since the publication of the material in the **Federal Register**. The four revised notices, published in their entirety below, are:

1. INTERIOR/WBM-2 (formerly EBM-2), Travel Advance File—Interior, Mines-2 (previously published on May 30, 1984, 49 FR 22544).

2. INTERIOR/WBM-3 (formerly EBM-3), Travel Voucher and Authorizations—Interior, Mines-3 (previously published on May 30, 1984, 49 FR 22545).

3. INTERIOR/WBM-4 (formerly EMB-4), Property Control—Interior, Mines-4 (previously published on May 30, 1984, 49 FR 22546).

4. INTERIOR/WBM-5 (formerly EMB-5), Personnel Identification—Interior, Mines-5 (previously published on October 4, 1983, 48 FR 45314).

The notice being deleted from the Department's inventory of Privacy Act systems of records is titled: INTERIOR/EBM-9, Distribution Center and Film Borrower Record Cards—Interior, Mines-9, which was previously published on December 22, 1980, 45 FR 84165. A recent review in the Bureau of Mines and the Office of the Solicitor indicates that the records are no longer retrieved by the names or other identifiers of the individuals contained in the mailing lists.

In all four notices published below, the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. Also, in all four notices the retention and disposal statements are amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985. The statements describing the purposes, storage, and retrievability in WBM-3 have been updated to reflect the maintenance of the records in the Bureau's Automated Disbursement System.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective September 28, 1986. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240.

Dated: August 19, 1986.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/WBM-2

SYSTEM NAME:

Travel Advance File—Interior, Mines—2.

SYSTEM LOCATION:

Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Mines employees who have active travel advances or who have closed travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

File consists of signed forms whereon employees request travel advances for the purpose of paying travel expenses incurred in the performance of official government business. These forms also include repayments against any advances, whether by claims offset on travel vouchers or remittances by checks, money orders, etc., and records of overpayments and/or debts owed the Federal Government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4111(b), 5701–5709, 5721–5733, 5742(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to provide an accounting record of obligations due to the U.S. Government from employees authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in the record; (b) to serve as a backup authority and manually reconciled file to the entries for travel advances in the automated Finance system; (c) computer data are reported to each Bureau office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552b(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in cardboard boxes in the Division of Finance.

RETRIEVABILITY:

Files are stored alphabetically by fiscal year.

SAFEGUARDS:

Open files are kept by the Travel Advance Clerk for active usage. Closed records are kept in boxes in the vault. Files are accessible during working hours only by personnel from the Division of Finance. Office is locked during periods of non-work.

RETENTION AND DISPOSAL:

Records are retained for 3 years, then destroyed. Disposition is in accordance with the National Archives General Records Schedule No. 9, Item 3a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Finance, Bureau of Mines, Building 20, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records, pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for this system originates with the traveler who specifies the need of a travel advance. The request is concurred in by signature of a responsible supervisory official. All entries on the file are as a result of actions taken by the individual to liquidate his/her travel advance.

INTERIOR/WBM–3

SYSTEM NAME:

Travel Voucher and Authorizations—Interior, Mines-3.

SYSTEM LOCATION:

Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons traveling for or on behalf of the Bureau of Mines on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Voucher file consists of paid travel vouchers which reimburse travelers for expenses incurred in connection with official travel. Travel authorization file consists of record copies of authorizations for travel for which no travel vouchers have been submitted for payment, and records of overpayments and/or debts owed the Federal Government, and related official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) as backup entry data for obligations and disbursements in the automated Finance system of the Bureau of Mines; (b) as input to the Bureau's Automated Disbursement System. This system is used to accumulate approved payments and to generate a daily file which is used by the Treasury Department to issue checks; (c) computer data are reported to each Bureau office as part of

the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office; (d) vouchers are used to determine allowability of expenses within the law authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the date is. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing, the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original records are maintained in standard office filing equipment. Computerized data are stored on magnetic media at the computer processing center.

RETRIEVABILITY:

Manual voucher files are maintained alphabetically by name of traveler within fiscal year. Computerized records are maintained by transaction number within the overall numbering sequence of the accounting system. Authorizations are filed alphabetically by name awaiting payment of travel voucher. Authorization becomes part of the voucher packet at time of payment.

SAFEGUARDS:

Files are maintained with safeguards meeting the requirements of 43 CFR 2.51 in the Division of Finance and are available only to Division of Finance personnel.

RETENTION AND DISPOSAL:

Records are retained for 3 years, then destroyed. Disposition is in accordance with the National Archives General Records Schedule No. 9, Item 3a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Finance, Bureau of Mines, Building 20, Denver Federal Center, Denver CO 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for these files is based on an authorization signed by the traveler in the form of a request. A travel voucher is submitted by the traveler after incurring expenses for official travel and is a request for payment based on his/her record of official expenses.

INTERIOR/WBM–4

SYSTEM NAME:

Property Control—Interior, Mines—4.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, NW., Washington, DC 20241. (2) All field facilities of the Bureau of Mines.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have custody or responsibility for Bureau of Mines property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information indicating what property, including equipment, motor vehicle operator's license, keys, motor pool vehicles, transportation request books, and parking spaces, for which the employee has custody or responsibility. In addition, all other records directly related to the property control function, and records on debts owed the Federal government due to loss or misuse of property.

The system also includes information on employee inventions which is maintained by name of invention, name of employee, and case number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483(b)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of the records are (a) identification, assignment, and control of Bureau property; (b) assistance in locating carpools.

Disclosures outside of the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute,

regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license; (3) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act. (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders or card indexes, a limited quantity on computer tape.

RETRIEVABILITY:

Indexed by employee name or control number.

SAFEGUARDS:

Security will be provided to meet the requirements of 43 CFR 2.51 for manual records.

RETENTIONAL AND DISPOSAL:

Property records are destroyed 3 years after files are closed. Disposition is in accordance with the Bureau Records Control Schedule, Appendix 10. Inventions files are destroyed 2 years after case is closed or patent awarded. Disposition is in accordance with the Bureau Records Control Schedule, Appendix 5.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Property and General Services, Bureau of Mines, 2401 E Street, NW., Washington, DC 20241.

NOTIFICATION PROCEDURE:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Property control information required for accountability purposes.

INTERIOR/WBM-5

SYSTEM NAME:

Personnel Identification—Interior, Mines—5.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, NW., Washington, DC 20241. (2) All field facilities of the Bureau of Mines.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Bureau of Mines and contractor employees requiring access to Bureau facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning identification and location of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101; 43 U.S.C. 1457.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to provide identification cards to employees; (b) locator information provided for use by management to contact employees. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card indexes, manually.

RETRIEVABILITY:

Indexed by employee name and identification card number.

SAFEGUARDS:

Security will be provided to meet requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Destroyed 3 months after return of identification credential. Disposition is in accordance with the Bureau Records Control Schedule, Appendix 10.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Property and General Services, Bureau of Mines, 2401 E Street, NW., Washington, DC 20241.

NOTIFICATION PROCEDURE:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Information necessary to prepare the identification card and locator index.

[FR Doc. 86-19417 Filed 8-27-86; 8:45 am]
BILLING CODE 4310-53-M

Bureau of Land Management

[AA-320-06-4212-02]

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been

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submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Reviewing Official at 202–395–7340.

Title: Indian Allotments, 43 CFR 2530
Bureau Form Number: 2530–1
Frequency: Once
Description of Respondents: Individuals applying for conveyance of public lands under the General Allotment Act.
Annual Responses: 50
Annual Burden Hours: 50
Bureau Clearance Officer (alternate): Rebecca Daugherty at 202–653–8853

Guy Baier,

Acting Assistant Director, Lands and Renewable Resources.

May 23, 1986.

[FR Doc. 86–19418 Filed 8–27–86; 8:45 am]
BILLING CODE 4310–84–M

[AA–6695–A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to The Port Graham Corporation for 124.42 acres. The lands involved are in the vicinity of Port Graham, Alaska.

U.S. Survey No. 1630, Tract A.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 29, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–19419 Filed 8–27–86; 8:45 am]
BILLING CODE 4310–84–M

[CA–940–06–4212–13; CA 16173]

California; Exchange of Public and Private Lands in Trinity and Shasta Counties and Opening Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire two parcels of non-Federal lands which have high public values. One parcel of land contains significant cultural values. The other parcel lies along the Trinity River, a designated "recreation river" under the Wild and Scenic Rivers Act (Pub. L. 95–625). The exchange was consistent with the Bureau's land management plans. The public interest was well served through completion of this exchange. The land acquired in this exchange will be open to the operation of the public land laws and to the full operation of the United States mining laws and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office (916) 978–4815.

The United States issued an exchange conveyance document to Robert F. Snell on January 10, 1986, under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), for the following described land:

Mount Diablo Meridian, California

T. 33 N., R. 5 W.,
Sec. 35, SW¼NW¼SE¼;

Containing 10 acres of public land in Shasta County.

In exchange for these lands, the United States acquired the following described land from Robert F. Snell:

Mount Diablo Meridian, California

Parcel 1

T. 33 N., R. 9 W.,
Sec. 13, SE¼NW¼SW¼;

Parcel 2

T. 33 N., R. 9 W.,
Sec. 28, a portion of the E1/2SW¼NE¼ (described by metes and bounds);

Containing approximately 20 acres of non-Federal land in Trinity County.

The values of the public land and non-Federal lands in the exchange were approximately equal; however, the equalization payment required of the United States in the amount of $1,100 was waived by Mr. Snell.

At 10 a.m. on September 29, 1986, the non-Federal lands described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 29, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on September 29, 1986, the non-Federal lands described above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: August 18, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86–19420 Filed 8–27–86; 8:45 am]
BILLING CODE 4310–40–M

Classification Termination; Nevada

ACTION: Notice of classification termination.

SUMMARY: This notice supersedes the Federal Register Document 86–16735 published on July 25, 1986 (51 FR 26753).

DATE: Effective September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Frank C. Shields, District Manager, Winnemucca District Office, 705 E. 4th Street, Winnemucca, NV 89445 (702) 623–3676.

SUPPLEMENTARY INFORMATION: Termination of recreation and public purposes classification: Nevada.

Pursuant to 43 CFR 2462.4(c)(2), the Bureau of Land Management hereby terminates in part Recreation and Public Purposes classification N–43045 as it pertains to the following described public lands:

Mount Diablo Meridian, Nevada

T. 36 N., R. 36 E.,
Sec. 18, W½W½NE¼, W½NW¼SE¼.

The area described contains 60 acres in Humboldt County.

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In May 1986, 240 acres were classified for recreation and public purposes and a lease was issued to Humboldt County for use of the land for a gun range. Further analysis revealed a conflict with other resources and the lessee agreed to a 60-acre reduction in the size of the lease.

At 10:00 a.m. on September 29, 1986, the land is hereby open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to or at 10:00 a.m. on September 29, 1986 will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10:00 a.m. on September 29, 1986, the land will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land remains open to the mineral leasing and material sale laws.

Dated: August 19, 1986.

Frank C. Shields,

District Manager, Winnemucca.

[FR Doc. 86-19420 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-40-M

[Ut-080-06-4212-08]

Vernal District, Utah; Intent To Amend the Ashley Creek Management Framework Plan

In accordance with Pub. L. 94-579 and 43 CFR 1610.2(c), the Vernal District Office is proposing to amend the Management Framework Plans (MFP) for the Diamond Mountain and Ashley Creek Planning Units in northeastern Utah. The amendments are to designate certain lands as suitable for disposal and other lands as suitable for acquisition. The designations will allow the Diamond Mountain Resource Area to proceed with private exchanges designed to acquire critical multiple use habitat now in private ownership.

The issues that have been tentatively identified at this time and will be addressed in the amendment and environmental assessment are: Range, Minerals, Endangered Species, Wildlife Habitat, Archaeological and Historical Resources, Rights-of-Way and Access, Soils and Water.

Public Participation activities will consist of requests for comments in this notice, news releases, and a public review period of the Draft Environmental Assessment to be prepared as part of the amendment process. Comments will be received up to 30 days from the date of this publication. All comments should be addressed to Ron Trogstad, Diamond Mountain Area Manager, 170 South 500 East, Vernal, Utah 84078, or telephone (801) 789-1362. Documents relevant to the planning process can be examined at the Vernal District office during regular office hours, 7:45 am to 4:30 pm.

Craig M. Hansen,

Acting District Manager.

[FR Doc. 86-19423 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-030-86-4212-17]

Wyoming: Emergency Off-Road Vehicle Limitation on Public Lands in Carbon County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Emergency Off-Road Vehicle Limitation Order.

SUMMARY: The Rawlins District, Bureau of Land Management hereby gives notice that effective immediately vehicle access on public land in the Sand Hills area is limited to designated roads and trails. A map is available from the Divide Resource Area Office.

EFFECTIVE DATE: This order is effective on September 5, 1986.

FOR FURTHER INFORMATION CONTACT: Bud Holbrook, Area Manager, Divide Resource Area, P.O. Box 670, Rawlins, Wyoming 82301 (307) 324-4841.

SUPPLEMENTARY INFORMATION: The purposes of this off-road vehicle limitation are to protect crucial winter habitat for mule deer from damage by motor vehicles and to protect a unique and fragile area. The following described area is covered by this order.

The Sand Hills Area

T. 16 N., R. 90 W., 6th P.M.,
Sec. 5, lots 13, 14, and 21, W½SW¼;
Sec. 6, lots 14-19, 21, 22, 25-27, SE¼SW¼, SE¼.
T. 17 N., R. 90 W., 6th P.M.,
Sec. 15, S½N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 17, S½S½;
Sec. 19, E½NE¼, E½SW¼, SE¼;
Sec. 20 and 21, All;
Sec. 22, S½NE¼, W½, SE¼;
Sec. 23, SW¼NW¼, NW¼SW¼;
Sec. 28 and 29, All;
Sec. 30, lots 1-4, E½, E½W½;
Sec. 31, lots 1-4, E½, E½W½;
Sec. 32, All.
T. 16 N., R. 91 W., 6th P.M.,
Sec. 1, lots 11-22, S½;
Sec. 2, All public lands located east of the Willows Road.
T. 17 N., R. 91 W., 6th P.M.,
Sec. 25 and 36, All public lands located east of the Willows Road.

The authority for this limitation is 43 CFR 8341.2. The limitation will remain in effect until off-road vehicle designations for the Divide Resource Area are implemented.

Michael J. Karbs,

Acting District Manager.

[FR Doc. 86-19425 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-22-M

[AZ-040-06-4212-21; A 22270; A 22292; A 22293]

Realty Action; Leasing of Public Lands near Safford and Winkelman, Arizona for Agriculture Purposes

AGENCY: Bureau of Land Management, Safford District, Interior.

ACTION: Notice of realty action, leasing of public land in Graham and Pinal Counties, Arizona.

SUMMARY: This Notice involves short-term leases on public lands administered by the Bureau of Land Management in Arizona. The leases are intended to authorize three existing agriculture unauthorized uses of public lands. The intention is to lease public lands for agriculture purposes.

The following described lands are available for lease under the provisions of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, and 43 CFR Part 2920:

GILA AND SALT RIVER MERIDIAN, ARIZONA

		Non-Competitive
A 22270	T. 4 S., R. 22 E Sec. 11, portions of lot 4 Sec. 12, portions of S½N½ Comprising approximately 48 acres	Alf B. Clendge
A 22292	T. 6 S., R. 25 E Sec. 26, lots 1 and 2 Comprising approximately 29 acres	James B. Whitmer.
A 22293	T. 7 S., R. 16 E. Sec. 10, part of lot 7 Comprising approximately 2 acres	[redacted] Stambaugh

A more detailed description of the lands may be obtained from the Safford District Office. The lands will be leased on a non-competitive basis to the above-listed persons. Applications will be

accepted at the Bureau of Land Management, Safford District Office, Safford, Arizona 45 days after publication of this Notice in the Federal Register. Applications may be hand-carried to the office or mailed to the Gila Resource Area Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546. Annual rental will be assessed at fair market value as determined by an appraisal. No application will be accepted for less than the appraised price. In addition, the lessee shall reimburse the United States for reasonable administrative and other costs incurred by the United States in processing the lease, in accordance with 43 CFR 2920.6.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Bureau.

Dated: August 19, 1986.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 86-19427 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-6-4212-13; A-20295 THRU A-20300]

Mohave County, Arizona; Public Land Sales; Continuation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of continuation.

SUMMARY: Notice is hereby given that the segretative effect of the Notice of Realty Action published in the Federal Register on November 7, 1985 (50 FR 46364) for land sale cases A-20295 thru A-20300 is to be continued for an additional 270 days.

DATE: The effective date of this action is August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Mike Berch, Realty Specialist, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401, (602) 757-3161.

Dated: August 21, 1986.

Henri R. Bisson,

Acting District Manager.

[FR Doc. 86-19428 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-32-M

[OR-110-04-6310-11; GP6-342]; OR40462

Realty Action; Non-Competitive Occupancy Lease of Public Lands in Jackson County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Non-competitive occupancy lease of a land parcel in Jackson County, Oregon.

ADDRESS: 3040 Biddle Road, Medford, Oregon 97504

FOR FURTHER INFORMATION CONTACT: Maurice Ziegler, Acting District Manager (503) 776-4173.

The following described land (revested Oregon and California railroad grant land) has been examined and identified as suitable for lease under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1740), at not less than the fair market value:

Portion of the SE¼SE¼ of Section 1, T. 37 S., R. 4 W., W.M.

The purpose of this lease is to authorize the use of a parcel sixty (60) feet by sixty (60) feet for residential purposes approximately 1,260 feet west of the SE corner of section 1, T. 37 S., R. 4 W., W.M. The tract contains 0.08 acres more or less. Because the private improvements already exist, the land will not be offered for lease through competitive bidding. The tract is to be leased to Mrs. Juanita Prefontaine of 2655 Foots Creek Road, Gold Hill, Oregon 97525 for a period of thirty years with an option to renew.

The tract presently contains an approximate five (5) foot portion of Mrs. Prefontaine's house, a water pumphouse, and a portion of her yard and driveway. This proposed lease will settle a long-standing unauthorized occupancy.

Detailed information concerning this proposed lease, including the land report and environmental analysis is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504.

For a period of forty-five (45) days interested parties may submit comments to the District Manager, Bureau of Land Management, in Medford, Oregon. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final action determination of the Department of the Interior.

Maurice Ziegler,

Acting District Manager.

[FR Doc. 86-19429 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-33-M

[OR-935-06-6410-06; GP6-327]

Salem, Eugene, Roseburg, Medford and Coos Bay Districts, Oregon; Intent To Prepare District-Wide Resource Management Plans

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare district-wide Resource Management Plans for the Salem, Eugene, Roseburg, Medford and Coos Bay Districts and invitation to participate in the identification of issues and development of planning criteria.

SUMMARY: The Bureau of Land Management (BLM), Salem, Eugene, Roseburg, Medford and Coos Bay Districts, Oregon are initiating the preparation of simultaneous district-wide Resource Management Plans (RMPs) which will each include an Environmental Impact Statement (EIS). The five plans will guide and control future management actions on over 2,386,000 of BLM surface ownership throughout western Oregon.

The public is invited to contribute to the planning process, beginning with the identification of issues and development of planning criteria. RMP decisions will establish land areas for varying levels of use or protection, resource condition goals, constraints and practices needed. Implementation schedules will be established for the above decisions, activity planning, necessary support actions and monitoring.

DATE: Distribution of background information and district maps will be made on September 2, 1986 by each District Manager to the existing district mailing list. Written public comments should be sent to the applicable District Manager by November 3, 1986. Each District will announce, through the local media, any meetings or open houses during this initial RMP/EIS scoping period. Future meetings and other opportunities for public involvement in the planning process will be announced in newsletters to the District mailing lists and through the local media. All Districts are scheduled to publish a summary of issues and draft planning criteria in the spring of 1987. Resource inventories are expected to be completed in 1986. The draft plans and

EISs are scheduled to be published in late 1989, the proposed plans/final EISs in the spring of 1990 with implementation of the plans in the fall of 1990. The extended schedule is deliberately designed to enhance public involvement and promote a consistent inter-district approach to potential common issues, major program inputs, outputs and impacts. The kind and extent of public participation opportunities to be provided will primarily be guided by requests to the Districts.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT ANY OF THE FOLLOWING:

Salem District: Melvin E. Chase, Acting District Manager, Bureau of Land Management, 1717 Fabry Road SE., P.O. Box 3227, Salem, Oregon 97302, Phone (503) 399–5646.

Eugene District: Melvin D. Clausen, District Manager, Bureau of Land Management, 1255 Pearl Street, P.O. Box 10226, Eugene, Oregon 97440, Phone (503) 687–6650.

Roseburg District: Mel Berg, District Manager, Bureau of Land Management, 777 N.W. Garden Valley Blv'd. Roseburg, Oregon 97470, Phone (503) 672–4491.

Medford District: Dave Jones, District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, Phone (503) 776–4174.

Coos Bay District: Robert T. Dale, District Manager, Bureau of Land Management, 333 S. 4th Street, Coos Bay, Oregon 97420, Phone (503) 269–5880.

SUPPLEMENTARY INFORMATION: The five districts include public land and non-federal surface/federal minerals in 19 western Oregon counties. Maps of the BLM managed surface areas are available from the District Offices. The general types of issues anticipated include: (1) Which forest lands should be intensively managed for wood products?; (2) What level of habitat diversity should be provided to meet fish and wildlife goals?; (3) How should watersheds be managed to maintain or enhance water quality?; (4) What areas on the public lands need special management attention to protect and prevent irreparable damage to important historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes or to protect life and safety from natural hazards?; (5) In what areas should BLM encourage and continue to allow mineral entry, mineral leasing and material sales?; (6) How can BLM protect and/or enhance public recreation use? and (7) Should BLM sell, exchange, lease or transfer public land? Public nominations for potential Areas of Critical Environmental Concern are also encouraged at this point in the process.

These preliminary issues are not final and will be further refined by direct input through public participation. The RMPs will be developed by District interdisciplinary teams using representation from the Team Leaders, Technical Coordinators, foresters, wildlife and fishery biologists, botanists, soils scientists, hydrologists, geologists, outdoor recreation planners, and economists, with additional technical support to be provided by other specialists as needed.

A draft public participation plan and schedule has been prepared for each RMP. Each is intended to involve interested or affected parties early and continuously throughout the planning process. The plans emphasize local contacts with individuals and groups, media coverage, direct mailings and continual coordination with local, tribal, state and other federal agencies. Complete records of all phases of the planning process will be available for public review in the respective District Offices.

Dated: August 15, 1986.

Paul M. Vetterick,

Associate State Director, Oregon.

[FR Doc. 86–19430 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-33-M

[CO–942–06–4520–12]

Colorado: Filing of Plats of Survey

August 20, 1986.

The plat of survey of the following described land, will be officially filed in the Colorado State Office. Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., August 20, 1986.

The plat representing the dependent resurvey of the Base Line (south boundary), the Twelfth Auxiliary Guide Meridian West (west boundary), the north boundary, and the subdivisional lines, and the survey of the subdivision of certain sections, T. 1 N., R. 100 W., Sixth Principal Meridian, Colorado, Group No. 562, was accepted August 8, 1986.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Jack A. Eaves,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 86–19431 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-JB-M

[NV–030–06–4321–12]

Routine Use of Helicopter To Gather Wild Horses and Burros; Public Hearing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: The Carson City District Office will conduct a hearing regarding the routine use of helicopter to gather wild horses and burros, and motorized vehicles to transport them, with the District in accordance with Pub. L. 94–579, sec. 404.

DATE: September 10, 1986, 10:00 a.m.

ADDRESS: 1535 Hot Springs Rd., Suite 300, Carson City, Nevada.

FOR FURTHER INFORMATION CONTACT: Timothy B. Reuwsaat, Wild Horse and Burro Specialist, 1535 Hot Springs Rd., Suite 300, Carson City, Nevada 89701, (702) 882–1631.

Dated: August 20, 1986.

Norman L. Murray,

District Manager.

[FR Doc. 86–19424 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-HC-M

Revision of the Geysers Known Geothermal Resources Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of revision of The Geysers Known Geothermal Resources Area, by deletion and addition of lands.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1H, and Secretarial Orders 3071 and 3087, The Geysers Known Geothermal Resources Area boundary is revised by addition and deletion of lands as follows, effective June 30, 1986.

VOL 51 ISS 167 AG 28 1986 UMI

(5) California

The Geysers Known Geothermal Resources Area

Mount Diablo Meridian, California

The following described lands are hereby added to The Geysers Known Geothermal Resources Area:

T. 14 N., R. 5 W.,
Secs. 7 and 8;
Secs. 16–21;
Secs. 27–34.
T. 14 N., R. 6 W.,
Sec. 9 S½;
Secs. 10–16;
Secs. 21–27;
Secs. 34–36.

The added lands described contain 21,437.38 acres, more or less. The subject lands will be made available for lease through the competitive leasing process, under regulations reappearing in 43 CFR Part 3220.

The following described lands are hereby deleted from The Geysers Known Geothermal Resources Area:

T. 13 N., R. 6 W.,
Secs. 13 and 14;
Secs. 19–32
Secs. 34–36.
T. 15 N., R. 7 W.,
Secs. 16–18;
Sec. 21;
Sec. 28.
T. 15 N., R. 8 W.,
Sec. 11;
Secs. 13–15;
Sec. 24, lots 3, 4, 5 and 6.

The deleted lands described contain 18,079.07 acres, more or less. The subject lands will be made available for lease to the first qualified applicant under regulations appearing in 43 CFR Part 3210, beginning with the first calendar month following the date of this notice.

FOR FURTHER INFORMATION CONTACT: Minerals Division, Bureau of Land Management, Ukiah District Office 555 Leslie Street, Ukiah, CA 95482–5599, telephone (707) 462–3873.

Dated: August 19, 1986.

John Santora,

District Manager.

[FR Doc. 86–19422 Filed 8–27–86; 8:45 am]

BILLING CODE 4310–84–M

[MT–920–06–4121–14]

Coal Lease Offering, North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency Coal Lease Offering By Sealed Bid—M 68608(ND)—The Coteau Properties Company.

SUMMARY: Notice is hereby given that the coal resource in the lands described below in Mercer County, North Dakota, will be offered for competitive lease by sealed bid. This offering is being made as a result of an emergency application filed by The Coteau Properties Company, in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 et. seq.), as amended.

An environmental assessment of the proposed coal development and related requirements for consultation, public involvement and hearing have been completed in accordance with 43 CFR Part 3425. The results of these activities were a finding of no significant environmental impact.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value of the coal resource. The minimum bid for the tract is $100 per acre, or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

COAL OFFERED: The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately 7 miles north of the town of Beulah:

T. 145 N., R. 87 W., 5th P.M.,
Sec. 20: NW¼.

Containing 160 acres, Mercer County, North Dakota.

The tract contains an estimated 2.895 million tons of recoverable lignite. The recoverable coal seam in this tract is the Beulah-Zap seam. The seam ranges from 5 to 20 feet in thickness, and averages 17.2 feet in thickness. The Beulah-Zap seam averages (as-received) 6,806 BTU/lb. with 37.99 percent moisture, 0.67 percent sulfur, and 5.82 percent ash. Rental and Royalty: The lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

DATE: Lease Sale—The lease sale will be held at 10:00 a.m., Thursday, September 25, 1986, in the Conference Room on the Sixth Floor of the Granite Tower Building, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107.

Bids—Sealed bids must be submitted on or before 9:00 a.m., Thursday, September 25, 1986, to the Cashier, Bureau of Land Management, Montana State Office, Second Floor, Granite Tower Building, 222 North 32nd Street, Post Office Box 36800, Billings, Montana 59107. The bids should be sent by certified mail, return receipt; or be hand-delivered. The Cashier, will issue a receipt for each hand-delivered bid. Bids received after that time will not be considered.

SUPPLEMENTARY INFORMATION: Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile documents are also available for public inspection at the Montana State Office.

Dated: August 21, 1986.

Ray Brubaker,

Acting State Director.

[FR Doc. 86–19421 Filed 8–27–86; 8:45 am]

BILLING CODE 4310–DN–M

[UT–060–06–4322–14]

Environmental Statement, Flume Canyon Wilderness Study Area, Utah

August 20, 1986.

AGENCY: Bureau of Land Management, Moab, Interior.

ACTION: Notice of 30-day comment period on a draft Environmental Assessment analyzing impacts of a proposed action within a Wilderness Study Area (WSA).

SUMMARY: Pursuant to the Federal Land Policy and Management Act, section 603, and the Bureau's Interim Management Policy, notice is hereby given of a 30-day public comment period on a draft Environmental Assessment starting with publication of this notice on the following action:

WSA Name: Flume Canyon
WSA Number: UT–060–100 B
Proposed Action: Construct a fence (1250') within the WSA to confine cattle to the Corral Wash Grazing Allotment. The fence would be a boundary between the Corral Wash Allotment and the Sulphur Canyon Allotment. A gate would also be constructed on the WSA boundary (Dry Canyon Road) in another location.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Grand Resource Area, P.O. Box M. Moab, Utah

84532. A copy of the draft Environmental Assessment is available upon request.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 86-19530 Filed 8-27-86; 8:45 am]

BILLING CODE 4130-DQ-M

[WY-920-06-4990-11-6001; W-90279]

Proposed Reinstatement of Terminated Oil and Gas Lease, Wyoming

August 22, 1986.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-90279 for lands in Campbell County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-90279 effective January 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-19532 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-22-M

[ID-010-06-4410-08]

Resource Management Plan and Draft EIS; Cascade Resource Area

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of Availability of Draft Resource Management Plan and Draft Environmental Impact Statement (RMP/EIS); and Proposed Area of Critical Environmental Concern (ACEC) Designations.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and 43 CFR Part 1600, the Bureau of Land Management (BLM) has prepared a draft Resource Management Plan (RMP) and associated draft Environmental Impact Statement (EIS) for the Cascade Resource Area. The Cascade RMP/EIS addresses alternative management actions on 487,466 acres of BLM administered public lands in west-central Idaho. Included in the draft plan are recommendations concerning three tracts being considered for Area of Critical Environmental Concern (ACEC) designation. This notice therefore is also issued pursuant to § 1610.7-2(b) of the BLM Planning Regulations.

The Boise District (BLM) invites members of the public, other Federal agencies, State and local governments, and Indian tribes to review and comment on the draft Cascade RMP/EIS. All written comments received during the comment period will be considered in preparation of the Proposed RMP/Final EIS. Public meetings to accept oral comment will not be held.

DATE: The comment period will remain open until November 28, 1986. Written comments may be submitted any time during the comment period to the Boise District.

ADDRESS: Written comments should be sent to the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Copies of the Cascade RMP/EIS may be obtained from the Boise District Office.

FOR FURTHER INFORMATION CONTACT: Richard A. Geier, Cascade Area Manager or Fred Minckler, Team Leader at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Telephone (208) 334-1582.

SUPPLEMENTARY INFORMATION: The Cascade RMP/EIS describes and analyzes five alternative plans for managing natural resources in the Cascade Resource Area over the next 15 to 20 years. One alternative has been identified as BLM's Preferred Alternative.

The alternative plans presented in the Cascade RMP/EIS were developed to resolve the planning issues identified through public involvement early in the planning process. The key planning issues addressed in the RMP/EIS are land tenure and adjustment, rangeland resource management, and future management of the Payette River Corridor. Special management concerns also addressed in the document include off-road vehicle use, timber management, and special designations. The alternative plans include different resource use levels and constraints to address the planning issues. One alternative is a "No Action" alternative designed to represent the continuation of present resource use levels and systems.

The Cascade RMP/EIS also considers three tracts for designation as areas of critical environmental concern (ACEC). The alternatives cover the spectrum from all potential ACECs proposed for designation to none of the potential ACECs proposed for designation. Following preparation and release of the Proposed Cascade RMP and Final EIS, approval of the RMP will constitute formal designation of any ACEC included in the proposed plan.

The Boise Front containing 12,000 acres of public land would be designated an ACEC under the preferred alternative. If designated an ACEC, BLM would restrict vehicle use to protect the watershed values in the area. Additional management actions would be initiated to protect watershed, recreation, and visual quality values.

The Columbian sharp-tailed grouse habitat area containing 4,200 acres of public land north of Weiser, Idaho would be designated an ACEC under the preferred alternative. If designated an ACEC, BLM would restrict vehicle use, seasonally limit mineral leasing activities and rights-of-way construction activities, and management livestock grazing to benefit the Columbian sharp-tailed grouse.

The Long-billed curlew habitat area containing 61,000 acres of public land between Emmett, Idaho and Parma, Idaho would be designated an ACEC under the preferred alternative. If designated an ACEC, BLM would restrict vehicle use and seasonally limit mineral leasing activities and rights-of-way construction activities.

J. David Brunner,

District Manager.

[FR Doc. 86-19533 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-GG-M

[NM-010-06-4410-08; NM-010-0119]

Albuquerque District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of District Advisory Council meeting.

SUMMARY: The Bureau of Land Management's Albuquerque District Advisory Council will meet on Friday, September 19, 1986, at 10 a.m., in the new BLM Albuquerque District Office Building located at 435 Montano NE., in Albuquerque, New Mexico.

The Council will address three major issues:

1. Implementation of ORV decisions in the Rio Puerco Resource Management Plan.

2. Implementation of land ownership adjustment decisions made in the Rio Puerco RMP.

3. Intrusion of commerical signs on Public Lands in the Taos Resource Area.

Time will be provided for public comments during the appropriate agenda item.

The Albuquerque District Advisory Council is managed in accordance with the Federal Land Policy and Management Act of 1976, the Federal Advisory Committee Act of 1972, and the Rangeland Improvement Act of 1976. Minutes of the meeting will be made available for review within 30 days following the meeting.

For additional information, contact Alan Hoffmeister, Public Affairs Specialist, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 766–3114.

L. Paul Applegate,

District Manager.

[FR Doc. 86–19531 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0161, Block 67, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on August 19, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Parkway, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 21, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–19432 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2562, Block 38, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on August 19, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert: Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 21, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–19433 Filed 8–27–86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containning Same; Change of the Commission Investigative Attorney

Before Janet D. Saxton, Chief Administrative Law Judge.

Notice is hereby given that, as of this date, Gary J. Rinkerman, Esq., and Regina A. Loughran, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation instead of Stephen L. Sulzer, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 25, 1986.

Respectfully submitted,

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

[FR Doc. 86–19499 Filed 8–27–86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP3MCF–429]

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall incude the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness, questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification or effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 20, 1986.

By the Commission, Motor Carrier Board, Members Hartley, Thomas and Barnes.

Noreta R. McGee,

Secretary.

MC–F–17658, filed July 24, 1986. HOLLAND INDUSTRIES (Holland) (One Keeshin Drive, Toledo, OH 43612)—CONTROL— MOUNTAIN VIEW COACH LINES, INC. (Mountain View) (Route 9 W, West Coxsackie, NY 12192) AND VANGUARD INTERSTATE TOURS, INC. (Vanguard) (1 Westerly Road, Ossining, NY 10562). Representative: Arthur Wagner, Esq., 342 Madison Avenue, New York, NY 10173. Holland (MC–189866) seeks authority to acquire control, through stock purchase of all the issued and outstanding shares of motor common carriers of passengers Mountain View (MC–47495) and Vanguard (MC–5723). Mountain View and Vanguard are wholly-owned subsidiaries of Laidlaw Transportation Limited, a Canadian Corporation.

Holland, a publically held corporation, controls Shortway Lines, Inc. (MC–13027), Ashland City Lines, Inc. (MC–118928), Shortway Suburban Lines, Inc. (MC–165198), and Shortway Airport Limousines Inc. (MC–165197).

[FR Doc. 86–19584 Filed 8–27–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–12 (Sub-No. 108)]

Southern Pacific Transportation Co.; Abandonment; Tillamook Branch in Washington and Tillamook Counties, OR; Findings

The Commission has issued a certificate authorizing Southern Pacific Transportation Company to abandon operations over its 85.58-mile rail line between Schefflin (milepost 770.500) and Tillamook (milepost 856.080) in Washington and Tillamook Counties, OR, subject to: (1) Employee protective conditions; and (2) The condition that while SP may discontinue operations once its certificate is effective, full abandonment of the right-of-way may not be consummated until (a) the Port of Tillamook Bay Railroad (PTBR) obtains authority, or an exemption, to discontinue trackage rights over the line, and (b) Bicycle USA and the Rails-to-Trails Conservancy are notified, concurrent with the filing, of PTBR's trackage rights discontinuance proposal and given 30 days from the date of notification to submit an appropriate Trails Act or public use statement under 16 U.S.C. 1247(d) or 49 U.S.C. 10906, respectively. SP must notify the Commission, within 10 days of its receipt of a Trails Act statement, of whether it is willing to negotiate an agreement for interim trail use, and, if so, whether it owns the entire right-of-way in fee. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) It is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19551 Filed 8–27–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Water Act; Titanium Metals Corp. of America

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 18, 1986, a proposed Consent Decree in *United States* v. *Titanium Metals Corporation of America,* CV LV 83–587 (LDG) was lodged with the United States District Court for the District of Nevada. The proposed Consent Decree concerns the prevention of discharges of pollutants to waters of the United States in violation of the Clean Water Act and in excess of limits set forth in a National Pollutant Discharge Elimination System ("NPDES") permit. The proposed Consent Decree enjoins further violations by Titanium Metals of their NPDES permit and the Clean Water Act, requires that necessary modifications be made to the facility's spill control

system and requires Titanium Metals to pay a civil penalty of $100,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Titanium Metals Corporation of America*, D.J. Ref. 90-5-1-1-1895.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Nevada, 300 Las Vegas Blvd. South, Las Vegas, Nevada 89101 and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California. Copies of the Consent Decree also may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.40 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney-General, Land and Natural Resources Division

[FR Doc. 86-19434 Filed 8-27-86; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of a Stipulation of Dismissal Pursuant to the Clean Water Act; Upper Occoquan Sewage Authority et al

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on *August 14, 1986* a proposed Stipulation of Dismissal in *United States v. Upper Occoquan Sewage Authority and The Commonwealth of Virginia*, Civil Action No. 85-1242-A was lodged with the United States District Court for the Eastern District of Virginia. The proposed Stipulation of Dismissal concerns the failure of the Upper Occoquan Sewage Authority to implement an approvable pretreatment program prior to July 1, 1983. The proposed Stipulation of Dismissal requires the defendant to pay a penalty of $14,000.00. Its pretreatment program has been approved since the filing of this complaint.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Stipulation of Dismissal. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Upper Occoquan Sewage Authority, et al.*, D.J. Ref. #90-5-1-1-2483.

The proposed Stipulation of Dismissal may be examined at the Office of the United States Attorney, Eastern District of Virginia, 701 Prince Street, Alexandria, Virginia, and at the Region III Office of the United States Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania. Copies of the Stipulation of Dismissal may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Stipulation of Dismissal may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-19435 Filed 8-27-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research Act Notification; ARCO Chemical Co., Division of Atlantic Richfield Company—Air Products and Chemicals, Inc. Venture

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), ARCO Chemical Company, Division of Atlantic Richfield Company—Air Products and Chemicals, Inc. Venture has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture and its general area of planned activity are given below:

The parties to the venture are:

Air Products and Chemicals, Inc.
P.O. Box 538
Allentown, Pennsylvania 18105;
ARCO Chemical Company, Division of
Atlantic Richfield Company
1500 Market Street
Philadelphia, Pennsylvania 19101.

The nature and objectives and the area of planned activity in this venture are to undertake certain information exchange and research and development activities directed to the production and use of polyalkylene carbonate compositions obtained by reacting carbon dioxide with an epoxide or a derivative thereof, including but not limited to polyethylene carbonate and polypropylene carbonate.

Judy Whalley,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 86-19406 Filed 8-27-86; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984 Notifications; NAHB Research Foundation, Inc.; Smart House Project

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the NAHB Research Foundation, Inc. has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Smart House Project and (2) the nature and objectives of the Smart House Project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Smart House Project, and its general areas of planned activity, are given below.

The Smart House Project is a joint venture project that will be implemented in a series of stages by separate agreements at each stage. The following parties have signed agreements to fund or otherwise participate in the first stage of the venture, which involves, among other things, organizational activities:

AMP, Incorporated
Apple Computer, Inc.
Arco Solar, Inc.
AT&T Technologies, Inc.
Bell Northern Research Ltd.
BrinTec Corporation
Broan Mfg. Co., Inc.
Burndy Corporation
Carrier Corporation
Challenger Electrical Equipment Corp.
Dukane Corporation

E.I. duPont de Nemours & Company (Inc.)
Emerson Electric Co.
General Electric Company
Honeywell Inc.
Kohler Company
Landis & Gyr Metering, Inc.
Lennox Industries Inc.
NAHB Research Foundation, Inc.
National Semiconductor Corporation
North American Philips Consumer Electronics Corp., on its own behalf and on behalf of Signetics Corporation
Onan Corporation
Pass & Seymour Incorporated
Robertshaw Controls Company
Schlage Lock Company
Scott Instruments Corporation
Scovill Inc.
Shell Development Company (Division of Shell Oil Company)
Siemens-Allis, Inc.
Slater Electric, Inc.
Smart House Development Venture, Inc.
Sola Basic Industries, Inc.
Southwire Company
Square D Company
Systems Control, Inc.
Whirlpool Corporation
The Wiremold Company

The following entities are serving as advisors to the venture:

American Gas Association
Bell Communications Research, Inc.
Copper Development Association Inc.
Electric Power Research Institute
Gas Research Institute
Home Builders Institute
National Association of Home Builders
Ontario Hydro
Professional Builder
Southern California Edison Company

The Smart House Project will engage in activities the purpose of which will be to develop a coordinated home control and energy distribution system containing integral telecommunications and advanced safety features. The project is intended to design and develop a set of compatible products, including integrated power and signal cabling to tie home electrical products into a single power and communications network; communications-capable appliances, heating and cooling equipment, utility meters and home electrical and electronic products; electric power conditioning and conversion equipment; controllers and software to make logical decisions, issue control instructions, and regulate the distribution of energy, information and instructions throughout the network; monitoring and control devices to detect and neutralize malfunctions in energy distribution within the home; telephone and CATV interfaces to allow information to be passed to and from the home over telephone and CATV lines; and input and output devices with which users can control and receive information from the network and the devices attached to it.

Judy L. Whalley,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 86-19405 Filed 8-27-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice [86-58]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Executive Subcommittee.

DATE: Date and Time: September 12, 1986, 8:30 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Administrator's Conference Room, Federal Building 6, 400 Maryland Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Executive Subcommittee was established under the NASA Advisory Council to assist the Chair in planning the activities, establishing meeting agendas, and otherwise guiding the activities of the Council. The subcommittee is chaired by Mr. Daniel J. Fink, and includes seven other members, six of whom chair standing committees of the Council.

The meeting will be closed to the public. The sole agenda item will be planning for the coming year of the activities of the Council, the committees, and their task forces, with emphasis throughout on prospective future membership of each of these groups and their interactions with NASA and outside parties. Throughout the sessions, the qualifications of these individuals will be candidly discussed and appraised with respect to the tasks to be accomplished. Because the meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this meeting should be closed to the public.

Type of Meeting: Closed.

August 20, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86-19472 Filed 8-27-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

Date: September 18-19, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 316-2.
Program: This meeting will review applications in the fields of the humanities submitted to the Conferences category of the Regrants Program, Division of Research Programs, for projects beginning after December 1, 1986.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86–19490 Filed 8–27–86; 8:45 am]

BILLING CODE 7536–01–M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Presenting Organizations Section) to the National Council on the Arts will be held on September 15, from 9:30 a.m.–7:30 p.m.; on September 16, from 9:00 a.m.–7:00 p.m.; on September 17–18, from 9:00 a.m.–7:30 p.m.; and on September 19, from 9:00 a.m.–5:00 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 15, from 10:00–11:00 a.m. and on September 19, from 9:00 a.m.–1:00 p.m. to discuss policy issues.

The remaining sessions of this meeting on September 15, from 9:30 a.m.–10:00 a.m. and 11:00 a.m.–7:30 p.m.; September 16, from 9:00 a.m.–7:00 p.m.; September 17–18, from 9:00 a.m.–7:30 p.m.; and on September 19, from 2:00 p.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

August 22, 1986.

Yvonne Sabine,

Acting Committee Management Officer, National Endowment for the Arts.

[FR Doc. 86–19500 Filed 8–27–86; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Presenters Section) to the National Council on the Arts will be held on September 17–18, 1986 from 9:00 a.m.–6:00 p.m.; and on September 19, 1986, from 9:00 a.m.–5:00 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 19, from 1:00 p.m.–3:00 p.m. for a guidelines discussion and the Five-Year Plan review.

The remaining sessions of this meeting on September 17-18, from 9:00 a.m.–6:00 p.m. and on September 19, from 9:00 a.m.–12:00 noon and 3:00 p.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne Sabine,

Acting Committee Management Officer, National Endowment for the Arts.

[FR Doc. 86–19501 Filed 8–27–86; 8:45 am]

BILLING CODE 7537–01–M

Office for Partnership Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office for Partnership Panel (Locals Test Program Section) to the National Council on the Arts will be held September 17–18, 1986 from 9:30 a.m.–5:00 p.m.; and on September 19, 1986, from 9:30 a.m.–3:30 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on September 18, from 2:00 p.m.–5:00 p.m. and on September 19, from 9:30 a.m.–3:30 p.m. for a discussion on policy issues, guidelines and Long-Term Planning Evaluation.

The remaining sessions of this meeting on September 17, from 9:30 a.m.–5:00 p.m. and on September 18, from 9:30 a.m.–12:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial asssitance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202 /682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20206, or call 202/682–5433.

Yvonne Sabine,

Acting Committee Management Officer, National Endowment for the Arts.

[FR Doc. 86–19502 Filed 8–27–86; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel; Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Playwrights Section) to the National Council on the Arts will be held on September 17, 1986, from 9:00

a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by the grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and (9) (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne Sabine,

Acting Committee Management Officer, National Endowment for the Arts.

[FR Doc. 86–19503 Filed 8–27–86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Responses of Safety Recommendations

Recommendation No.	Respondent	Date	Subject
I–85–21—27	DOD	Jan. 22, 1986	Transportation of hazardous materials on nation's highways.
I–85–19	DOT	Jan. 30, 1986	Regulate molten sulfur as hazardous materials and relate this information.
I–85–20	DOT	...do	Classify as priority action the definition of a flammable solid.
I–85–2—4	Harris Corporation	Feb. 20, 1986	Hazardous waste materials; copy of waste analysis with shipping papers.
I–78–14—16	Assoc. of American Railroads	Feb. 25, 1986	Establishing hazardous materials programs for derailments.
I–85–16	Div. of Disasters & Emerg. Services (KY)	Feb. 28, 1986	Make state emergency response agencies aware of CHEMTREC.
I–85–17	...do	...do	Monitor state response agencies.
I–85–18	...do	...do	Review and update annually county emergency operation plans.
I–85–14	DOT	Mar. 18, 1986	Emergency Response Guidebook for hazardous materials.
I–86–1—2	DOE	June 12, 1986	With DHHS develop national clearinghouse for alcohol and drug information; evaluate current programs.
I–85–21	DOD	July 21, 1986	Establish an effective communication system to provide local emergency response personnel access to information on hazardous shipments.
I–85–22	DOD	...do	Amend emergency response procedures to provide to local emergency personnel prompt response assistance in accidents involving transportation of explosive shipments.
I–85–23	DOD	...do	Amend the "Special Instructions for Motor Vehicle Drivers" to provide local emergency personnel with information on precautionary actions.
I–85–24	DOD	...do	Provide pertinent training and materials to DOD personnel who are responsible for emergency assistance in accidents.
I–85–25	DOD	...do	Establish DOD requirements for the transportation of explosives.
I–85–26	DOD	...do	Establish a program to monitor motor carrier compliance with DOD requirements for hazardous transportation.
I–85–27	DOD	...do	Revise loading specs for explosives to provide the lowest center of gravity which can be afforded the shipment.
P–79–27	DOT	Mar. 11, 1986	Determine if the type of service line with threaded couplings installed by Lone Star Gas Co constitutes a hazard.
P–73–29	DOT	...do	Review proposals made by the Hazardous Materials Regulation Board; review of failure records of uncoated, unprotected pipelines.
P–85–18	DOT	Mar. 17, 1986	Establish a program to determine if chemically induced ABS plastic pipe failure is nationwide.
P–85–19	DOT	...do	Publish and distribute ABS plastic pipe failure data to gas operators.
P–81–38	DOT	...do	Initiate rulemaking to require installation of excess flow valves on new and renewed residential high pressure services.
P–81–39	DOT	...do	Determine where effective use can be made of excess flow valves to prevent accidents.
P–85–6	Texas Eastern	Mar. 18, 1986	Pipeline—corrosion control program.
P–85–7	NOVA	Apr. 25, 1986	Corrosion control—shorted casing.
P–84–26	DOT	Apr. 27, 1986	Amend regulations governing pipelines that transport highly volatile liquids.
P–86–01—02	Texas Eastern	Apr. 11, 1986	Revise construction specifications to require proper support be provided beneath gas pipelines when installed.
P–86–12	INGAA	May 1, 1986	Train personnel in backfill procedures and monitor their inspection of projects.
P–84–30	National Research Council	May 7, 1986	Task force of experts in various aspects of pipeline safety.
P–86–12	American Petroleum Institute	May 9, 1986	Notify members of accident at Kaycee, Wyoming; improve inspections.
P–86–13	...do	...do	Apply Battelle's research for procedures on pipe lifting and inspection.
P–86–9—11	Cont. Pipe Line Co	May 16, 1986	Use job task analyses for procedures training, and studies in inspection and recoating techniques.
P–85–29	Dresser Industries	June 4, 1986	Revision of practice pertaining to documentation.
P–86–3	Atagasco	June 16, 1986	Provide a minimum separation of 50 feet between the natural gas liquefaction plant and equipment containing flammable gases.
P–86–4	...do	...do	Develop and implement a program for monitoring compliance with its operating procedures by employees at its plants.
P–86–5	...do	...do	Develop and implement maintenance practices at its natural gas liquefaction plants in compliance with standards.
P–86–6	...do	...do	Develop a system independent of the telephone to notify fire, police, or other safety officials about emergency conditions.
P–86–7	...do	...do	Revise its engineering flowsheet and operating manual for its natural gas liquefaction plants to reflect current facilities.
P–86–8	...do	...do	Determine that each valve and pipe system is identified by number; that all valves and pipe systems are identified correctly by a tag.
P–84–37	Columbia Gas	June 25, 1986	Emphasize in training of personnel the importance of following emergency procedures.
P–84–38	...do	...do	Review its atlases and inventory maps and denote those valves which cannot be accessed readily.
P–84–39	...do	...do	Emphasize the importance of knowing the location and availability of at least the critical valves within a jurisdiction.
P–84–40	...do	...do	Instruct personnel to be alert for and report missing pipeline markers, ground cover over valve locations, construction activities near its facilities and other occurrences which might affect operations.
P–84–41	...do	...do	Establish quality control procedures to assure that all changes to the system are recorded and made available to its engineering departments.
P–86–12	Amer. Gas Assoc.	July 3, 1986	Notify member companies of the pipeline accident near Kaycee, Wyoming and urge them to establish their own procedures for recoating pipelines.

Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,

Alternate Federal Register Officer.

August 19, 1986.

[FR Doc. 86-19436 Filed 8-27-86; 8:45 am]

BILLING CODE 7533-01-M

Availability of Responses to Safety Recommendations

Recommendation No	Respondent	Date	Subject
R-85-117-124	City of Elkhart	Mar. 10, 1986	Emergency preparedness for hazardous materials release incidents
R-85-105	DOT	Mar. 20, 1986	Require that tank car shipments of hazardous materials with isolation radius of ½ mile or more be transported in cars equipped with head shield protection.
R-85-117	North American Car	Mar. 31, 1986	All stub sill tank cars made prior to 1967 should be inspected to identify weld undercuts in tank heads.
R-85-123	Conrail	Apr. 14, 1986	Emergencies in freight yards involving hazardous materials.
R-83-9	Assoc. of American Railroads	Apr. 15, 1986	Insure that waybills for TOFC and COFC shipments containing hazardous materials include information regarding the contents.
R-85-121	Allied	do	Revise procedures to ensure compliance with regulation regarding the amount of commodity remaining in empty tank cars.
R-85-53	Alaska Railroad Corp	Apr. 18, 1986	Railyard safety procedures.
R-85-24	DOT	Apr. 22, 1986	Initiate research regarding the postmortem generation of alcohol levels due to microbial action.
R-85-71-72	Dept. of Labor	Apr. 23, 1986	Review and revise priorities inspections and institute new program of inspections at petrochemical loading facilities.
R-85-53	Chicago & Illinois Midland Railway Company	Apr. 24, 1986	Hazardous materials emergency preparedness.
R-85-130	NOAA	Apr. 28, 1986	Solicit the submission of severe weather observations from citizens and provide more complete overview of weather parameters at remote locations.
R-85-131	NOAA	do	Evaluate the revision criteria for use of the tone alert signal with NOAA Weather Radio to include special weather statements.
R-85-82	Amtrak	Apr. 29, 1986	Apply for an exclusive radio channel for the National Railroad Passenger Corporation's operation use in the New York area.
R-85-83	do	do	Develop an operating rules verification procedure that will require employees to demonstrate that they understand the rules and can apply them in emergency circumstances
R-86-1	Wilmer, Cutler & Pickering	May 5, 1986	Establish a standard for identifying railroad car bearings to include date of manufacture or installation.
R-86-2	do	do	Evaluate for adequacy and timeliness Brenco Incorporation's program of inspection and replacement for railroad car bearings manufactured from 1978–1980
R-86-3	do	do	Require that all roller bearings manufactured by Brenco Inc. during 1978–1980 that are in service on railroad hazardous material cars be replaced.
R-84-19	New York City Transit Authority	May 6, 1986	Require that inspectors responsible for insuring safe conditions of track know the standards for maintaining those conditions.
R-85-129	DOT	May 8, 1986	Radios in railroad transportation safety.
R-85-53	Indiana Harbor Belt Railroad Company	May 20, 1986	Hazardous material emergency response plan.
R-85-51	DOT	do	Assignment of responsibilities to conductors and locomotive engineers on freight trains.
R-85-84	Assoc. of American Railroads	May 21, 1986	Review methods of conducting operating rules classes and administering tests for deficiencies.
R-85-47	DOT	May 22, 1986	Selection and training of individuals employed in safety sensitive positions.
R-82-35	New York City Transit Authority	May 23, 1986	Train operating department personnel in the differences between the two train control systems used on the NYCTA system.
R-82-39	do	do	Accelerate the modernization of NYCTA train control signal system by installing the prevalent TA train control.
R-82-42	do	do	Review and revise the procedures for notification of emergency and rescue personnel to eliminate delays and provide all available information
R-86-9	Public Transp. Safety Board	May 27, 1986	Evaluate the training programs of track, signal, and operating personnel to provide for safe operation.
R-86-10	do	do	Require the NYCTA to include in the safety plan its program for training employees involved in train operations.
R-86-11	do	do	Evaluate the supervision of NYCTA employees to determine if the supervision is adequate to assure that work is performed in accordance with rules and procedures
R-86-12	do	do	Require the NYCTA to include in the safety plan a program for improving management coordination between departments that are performing comparable functions.
R-85-55	Fed. Emerg. Management Agency	May 29, 1986	Emergency planning and response guidelines for communities with large populations located near major railroad yards.
R-80-30	Amtrak	June 3, 1986	Prohibit the use in revenue service trains of passenger train cars with defective conditions that may affect their safe operation.
R-83-62	do	do	Develop and install a central alarm system in sleeping cars.
R-83-64	do	do	Provide an emergency escape window exist in each sleeping compartment.
R-83-69	do	do	Discontinue the use of paper trash bags in all passenger trains and install fire proof trash containers.
R-83-72	do	do	Include supervisory personnel and onboard service personnel in refresher training programs covering the changes in emergency procedures.
R-83-75	do	do	Develop a passenger briefing card or place information on the location and operation of emergency exits, fire extinguishers, and first aid kits in prominent places in passenger cars and sleeper cars.
R-85-125	do	do	Eliminate the vulnerability of the battery boxes supplying power for radio usage and lighting on its locomotives in a derailment.
R-85-126	do	do	Replace the existing mirrors in sleeping car compartments and coach lounges with shatterproof material.
R-85-127	do	do	Redesign and modify the coach and setback cushions in Heritage-class coaches to prevent dislodging after an impact from behind.
R-85-128	do	do	Develop and install retention devices on luggage racks to prevent dislodging of luggage in a collision or derailment
R-75-6	Metro North Commuter Railroad	June 4, 1986	Equip all rail lines with a system that will control the speed of the train in compliance with signals.
R-76-48	do	do	Change the emergency release mechanism for the side doors in M-1 and M-2 cars
R-76-49	do	do	Provide means for emergency aid personnel to open the doors from the outside when electrical power is lost.
R-85-53	DOT	June 6, 1986	Enhance safety in transit systems in the areas of uncoupling of trains in emergency situations and provide emergency procedures when transit systems are located near railroads
R-85-124	DOT	June 11, 1986	Identify and correct undercut welds in tank car heads
R-85-10—11	DOT	do	Railroad track inspections

Recommendation No	Respondent	Date	Subject
R-86-4	New York City Transit Authority	June 19, 1986	Establish and carry out a management review and evaluation program to improve the management control and administrative guidance available to identify and correct deficiencies staffing, training, procedures, inspection and supervision of NYCTA system.
R-86-5	do	do	Establish a standard for determining the wear limit for the top of the wheel flange to prevent wheels continuing in service that have a flat surface on the flange.
R-86-6	do	do	Inspect periodically and improve where necessary the condition and legibility of the circuit schematic drawings on the panels of all substations for easy reference by power maintainers.
R-86-7	do	do	Review and improve the procedures for management coordination between divisions that are performing comparable functions or joint system wide programs.
R-86-8	do	do	Expedite the completion of the new track standards manual and instruct all employees responsible for track inspection, maintenance, and replacement in those standards.
R-84-37	Amtrak	June 23, 1986	Review the contribution of the ontime incentive program in encouraging contractor railroad operating practices.
R-84-38	do	do	Regularly review locomotive speed recorder tapes as they are removed from locomotives to detect noncompliance with speed restrictions.
R-84-39	do	do	Reroute passenger trains between Joliet and Mazonia, Illinois onto track where there are fewer railroad and highway grade crossings.
R-84-40	do	do	Correct the identified design deficiencies in the interior features of existing and new passenger cars.
R-84-41	do	do	Modify the overspeed devices on Amtrak diesel-electric locomotive units.
R-84-43	do	do	Improve the cooperative program with the Illinois Central Gulf Railroad for monitoring engine crew performance and compliance with operating rules.
R-85-53	Indiana Harbor Belt Railroad Company	June 24, 1986	Posting exit route maps at IHB location's at Blue Island Yard marking the exit routes in color.
R-78-51	PA Emerg. Management Agency	July 9, 1986	Implement a disaster operations plan.
R-79-13	BART	July 14, 1986	Provide a suitable securement mechanism for all under car equipment covers on BART rolling stock.
R-79-47	BART	do	Provide a means for fire departments to use their own radio equipment in the Transbay Tube and other long tunnel locations.
R-79-49	BART	do	Provide additional Central train radio frequency for emergency communications.
R-79-50	BART	do	Upgrade the flame resistance of vehicle seat assemblies and other plastic components.
R-79-52	BART	do	Redesign and modify car uncoupling circuitry to provide Train operators with a means of uncoupling from within the cars in the event of an electrical short or malfunction.
R-85-117	GE	July 16, 1986	Stub sill tank cars made prior to 1967 should be inspected to identify weld undercuts in tank heads.
R-85-84	Assoc. of American Railroads	July 21, 1986	AAR Rules Committee meeting.
R-80-8	Southeastern PA Trans. Authority	July 23, 1986	Change the construction of the side doors on Market-Frankford Subway-Elevated so that they cannot be closed and locked on a person.
R-80-9	do	do	Establish a control circuit which will prevent the train from moving until all doors are closed.
R-81-36	do	do	Install approved rear marking devices on its commercial cars and discontinue the use of rear-facing headlights.
R-83-18	DOT	July 29, 1986	Radioactive materials carried in a trailer-on-flat-car arrangement.

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Monica Revelle,

Alternate Federal Register Officer.

August 20, 1986.

[FR Doc. 86-19437 Filed 8-27-86; 8:45 am]

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Availability of Responses to Safety Recommendations

Recommendation No.	Respondent	Date	Subject
A-75-35	FAA	May 23, 1986	Establish traffic control area to encompass airports in the Tidewater area.
A-81-25	FAA	May 23, 1985	Require aircraft flight manuals for light twin-engines contain data on capability to maintain level flight.
A-86-44	FAA	May 30, 1986	Issue a GENOT to require controllers to inform airplanes to hold on runways before takeoff.
A-86-45	FAA	do	Establish on a trial base at O'Hare Airport control tower, local control coordinator positions.
A-86-46	FAA	do	Evaluate the need for a local control coordinator position at all major airports that use intersecting runways in concurrent operations.
A-84-101	FAA	June 3, 1986	Require airports certificated or air carrier operations that signs be installed which are classified by function.
A-85-73	FAA	June 3, 1986	Issue an AD applicable to Pilatus Britten-Norman BN-2, BN-2A, BN-2B, BN-2T, and BN-2A Mk III model airplanes.
A-85-74	FAA	do	Amend FAA's operations specs applicable to Viaques Air Link, Inc. to require that preflight checks for fuel contamination be made.
A-86-75	FAA	do	Require Pilatus Britten-Norman to install a device to measure airplane attitude.
A-85-76	FAA	do	Require Pilatus Britten-Norman to prepare and disseminate a Safety Advisory relating to water in the fuel to all operators of the BN-2, BN-2A, BN-2B, BN-2T, and BN-2A Mk III model airplanes.
A-84-119	FAA	June 9, 1986	Expedite the development and adoption of the en route sector loading prediction program.
A-84-120	FAA	do	Take interim measures to control traffic access to the ATC system.
A-84-122	FAA	do	Develop and put into effect radar handoff procedures which require that either an automated interfacility handoff be completed or that voice communications between controllers be established before an airplane is permitted to proceed.
A-84-50	FAA	do	Develop and implement a plan for improved surveillance and enforcement of possession of a valid medical certificate.
A-86-22	FAA	June 20, 1986	Issue an AD to require compliance with Cessna Service Information Letter SE 79-6 by all Cessna single-engine airplanes manufactured before 1979.
A-86-23	FAA	do	Require that throttle opening springs be installed on all Cessna single-engine airplanes with carbureted engines.
A-85-133	FAA	June 23, 1986	Require the manufacturer to modify the design of the Boeing 747 empennage so that the stabilizers and their surfaces will be protected.
A-86-	FAA	do	Issue an AD to require an immediate inspection of all Boeing 747s having a minimum number of operating cycles to verify that all bolts are torqued adequately.

Recommendation No	Respondent	Date	Subject
A-81-13	FAA	June 25, 1986	Review certification of baggage/cargo compartments.
A-84-129	FAA	June 26, 1986	Hinge installation on forward cabin to prevent blockage of the doorway.
A-85-142—144	FAA	June 27, 1986	Incorporate specific instructions or installing control wheel switch ribbon wire in aircraft manuals.
A-85-130	FAA	do	Review of passenger oxygen system.
A-74-38	FAA	July 10, 1986	Amend 14 CFR 23.777-23.781 to include specs for standardizing power plant control location, visual and tactile appearance, and mode of actuation.
A-74-39	FAA	do	Amend 14 CFR 23 to include specs for standardizing fuel selector valve handle designs, displays, and modes of operations.
A-83-15	FAA	do	Record output data from all installed low level wind shear alert systems sensors and retain data to reconstruct wind shear events for studies.
A-83-21	FAA	do	Use the data obtained from the Joint Airport Weather Studies (JAWS) Project.
A-83-22	FAA	do	Use the data obtained from JAWS Project to develop training aids, develop wind models, and promoted wind shear detection devices.
A-83-23	FAA	do	Expedite the development, testing, and installation of Doppler weather radar to detect wind shears.
A-86-6	FAA	do	Issue an AD applicable to Beech series 33, 35, 36, 55, 58, and 95-97 airplanes requiring compliance with the action outlined in Beechcraft Safety Communique dated 4/11/85.
A-82-91	FAA	July 14, 1986	Establish human performance criteria for the development of instrument approach procedures.
A-82-92	FAA	do	Establish human performance checklists or guidelines for use by procedures specialists and flight inspection pilots when evaluating new approach procedures.
A-85-20	FAA	July 15, 1986	Issue an AD requiring compliance with Bellanca Service Letter No. C-139A applicable to Models 7GC, 7GCA, 7GCB, 7GCBA, 7HC, 7KC, 7KCAB, 7ECA, 7GCAA, 7GCBC, 8KCAB, and 8GCBC.
A-86-24	FAA	do	Issue an AD in addition to AD 80-14-12 to require a one-time ultrasonic or eddy current inspection of Parsons Company main rotor blades with more than 3,000 hours time used on Hiller Aviation Model UH-12 helicopters.
A-80-126	FAA	July 17, 1986	Develop instructions for installing shoulder harnesses at each seat in current models and types of general aviation aircraft in which shoulder harness attachment points were not provided.
A-80-130	FAA	do	Revise current standards for seat restraint systems to incorporate crashworthiness improvements.
A-80-131	FAA	do	Establish standards for the dynamic testing of occupant protection devices required in aircraft.
A-75-51	FAA	do	Amend 14 CFR 23.785(f) to require dynamic testing of seats to insure more realistic protection of occupants.
A-81-27	FAA	do	Emergency exists on general aviation aircraft.
A-85-122	FAA	do	Amend 14 CFR Part 23 to specify performance standards for the seat/restraint systems in small airplanes.
A-86-04	FAA	do	Amend AD 75-23-06 applicable to Cessna T130, 320, 340, 401, and 411 series airplanes and to Model 402, 402A, 402B, 414, 421, 421A, and 421B airplanes.
A-86-05	FAA	do	Amend Ad 75-23-06 applicable to Cessna T310, 320, 340, 401, and 411 series airplanes and to Model 402, 402A, 402B, 414, 421, 421A, and 421B airplanes.
A-80-13	FAA	July 21, 1986	Take action to provide double failure protection by means of a secondary locking device on nose baggage doors of light twin engine aircraft engaged in Part 135 operations.
A-80-108-109	FAA	July 23, 1986	Amending ATC handbook.
A-85-138, 140	FAA	July 25, 1986	"Fail-safe" criteria for pressure bulkheads of Boeing 747 airplanes.
A-82-149	FAA	July 28, 1986	On-the-job training for air traffic controllers training guide for pilots of turbojet airplanes.
A-83-78	FAA	do	Passenger seats with fire blocking materials be installed in transport category airplanes.
A-83-79	FAA	do	Require that cabin emergency lighting be installed.
A-83-81	FAA	do	Depict tactile emergency exist indicators on passenger briefing cards and include in oral briefings.
A-85-77	FAA	do	Issue an AD requiring the installation of individual fuel line drain valve in Piper Apache Model PA-23-150, PA-23-160, and PA-23-235 airplanes.
A-85-78	FAA	do	Require the Piper Aircraft Corp. to publish service and operating information describing preflight fuel sampling procedures.
A-86-25	FAA	July 30, 1986	Issue an AD to require that the combustion chambers of Pratt & Whitney Aircraft JT8D-1—17AR engines be inspected in accordance with Service Bulletin No. 5649.
A-86-26	FAA	do	Review all FAA-approved Pratt & Whitney Aircraft JT8D engine condition monitoring programs.
A-86-27	FAA	do	Require that Principal Maintenance Inspectors survey the use of FAA-approved engine condition monitoring programs.
A-86-28	FAA	do	Issue an AD to require that the one-time, on-wing eddy current inspection specified in the directive be repeated at 1,000-cycle intervals until stage 7-8, 8-9, 9-10 removable sleeve spacers are replaced.
A-86-29	FAA	do	Convene a maintenance review board with experts to review maintenance reliability programs.
A-82-123, 124, 126, 127	FAA	Aug. 1, 1986	Training guide for pilots of turbojet airplanes.

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Monica Revelle,

Alternate Federal Register Officer.

August 19, 1986.

[FR Doc. 86-19438 Filed 8-27-86; 8:45 am]

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Availability of Responses to Safety Recommendations

Recommendation No	Respondent	Date	Subject
H-85-56	North Carolina State Board of Education	April 12, 1986	Discontinue the practice of hiring 16- and 17-year-old schoolbus drivers.
H-85-57	do	do	Take steps to correct passenger discipline problems encountered by current school bus drivers under 18 years of age.
H-85-58	do	do	Ensure that local school districts comply with the federal guidelines.
H-85-13	Louisiana Bureau of School Transportation	May 16, 1985	Incorporate into pupil transportation contracts minimum standards for schoolbus driver certification, licensing, and training.
H-85-13	Hawaii Dept. of Education	do	Do.
H-85-13	Delaware Dept. of Public Instruction	do	Do.
H-85-13	Connecticut DMV	May 19, 1986	Do.
H-85-13	New Jersey Dept. of Education	do	Do.
H-85-13	Iowa Dept. of Public Instruction	do	Do.
H-85-13	West VA Dept. of Education	May 20, 1986	Do.

Recommendation No.	Respondent	Date	Subject
H-85-13	New Mexico Dept. of Education	do	Do.
H-85-13	Georgia Dept. of Education	May 21, 1986	Do.
H-85-13	Wisconsin Dept. of Public Instruction	do	Do.
H-85-13	Oregon Dept. of Education	do	Do.
H-85-13	New Hamp. Dept. of Safety	do	Do.
H-85-13	New York State Educ. Dept	do	Do.
H-85-13	Wyoming Dept. of Education	do	Do.
H-85-13	Nebraska Dept. of Education	May 22, 1986	Do.
H-85-13	Rhode Island DMV	do	Do.
H-85-13	Penn. Dept. of Trans.	do	Do.
H-85-13	N. Carolina State Board of Ed.	May 23, 1986	Do.
H-85-13	Michigan Dept. of Education	do	Do.
H-85-13	Montana Office of Public Instruction	do	Do.
H-85-13	Maine Dept. of Educational and Cultural Services	May 27, 1986	Do.
H-85-13	Kentucky Dept. of Education	May 28, 1986	Do.
H-85-13	Alaska Dept. of Public Safety	do	Do.
H-85-13	Missouri Dept. of Elementary and Secondary Education.	do	Do.
H-85-13	California Dept. of Education	do	Do.
H-85-13	Alabama Dept. of Education	do	Do.
H-85-13	N. Dakota Governor	do	Do.
H-85-13	Texas Education Agency	May 29, 1986	Do.
H-85-13	Nebraska DMV	May 30, 1986	Do.
H-85-13	Idaho Dept. of Education	June 2, 1986	Do.
H-85-13	Tenn. Dept. of Safety	June 3, 1986	Do.
H-85-13	Texas Governor	do	Do.
H-85-13	Maryland Dept. of Education	June 5, 1986	Do.
H-85-13	California DMV	June 6, 1986	Do.
H-85-56	N. Carolina Board of Ed.	June 9, 1986	Discontinue the practice of hiring 16- and 17-year-old schoolbus drivers.
H-85-57	do	do	Take steps to correct passenger discipline problems encountered by current schoolbus drivers under 18 years of age.
H-85-58	do	do	Ensure that local school districts comply with federal guidelines.
H-85-05 and 41	do	do	Schoolbuses should be equipped with seat belts and drivers should wear them when the bus is in motion.
H-85-56	Charlotte Mecklenburg Sch.	do	Discontinue the practice of hiring 16- and 17-year-old schoolbus drivers.
H-85-57	do	do	Take steps to correct passenger discipline problems encountered by current schoolbus drivers under 18 years of age.
H-85-58	do	do	Ensure that local school districts comply with the federal guidelines.
H-79-31	Oregon DMV	June 10, 1986	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-85-12	Delaware Dept. of Public Instruction	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of law, regulations, and policies.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their driving skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-85-12	Nevada Governor	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their driving skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-85-12	Virginia Governor	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-84-80	Ohio Dept. of Highway Safety	June 11, 1986	Take steps to preclude reduction of an alcohol related charge to a non-alcohol related charge and require the defendant's record reflect the original charge.
H-84-86	do	do	Take action to increase the availability and quality of alcohol treatment services designed for juvenile alcohol abusers.
H-85-12	Penn. Dept. of Trans.	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-84-78	Kentucky Justice Cabinet	June 12, 1986	Propose legislation and/or take action to facilitate the collection of DWI evidence based on the drawing of blood for BAC test purposes.
H-84-79	do	do	Encourage detention agencies to adopt DWI holding and release policies that do not permit the release of alcohol offenders until after their BAC has dropped below the lowest level specified in State law.
H-84-82	do	do	Take steps to develop a system that preserves records of alcohol-related traffic offenses committed by a juvenile after the offender reaches adulthood.
H-84-83	do	do	Take steps to complete records of DWI defendants' previous alcohol-related traffic offenses, including those committed as a juvenile.
H-84-85	do	do	Take steps to ensure that no diversion or supervision program is used in place of license revocation/suspension and that court and DMV records reflect participation in these programs.
H-85-12	New Mexico Dept. of Education	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-85-12	Arkansas Governor	June 13, 1986	Develop a program for local school districts targeted at drivers of privately-owned and operating transportation vehicles that includes a review of laws, regulations, and policies.

Recommendation No.	Respondent	Date	Subject
H-85-12	Hawaii Governor	June 16, 1986	Do.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-77-41	DOT	June 17, 1986	FHWA require local jurisdictions obtain State approval before installing traffic control devices on State routes through their jurisdiction.
H-85-12	Utah Dept. of Transp	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-85-12	D.C. Dept. of Public Works	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-85-12	Maryland Governor	June 23, 1986	Do.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their driving skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-71-37	DOT	June 26, 1986	Expand rulemaking to require in all buses the installation of occupant restraints, active and passive.
H-72-18	do	do	Upgrading strength requirements of door hinges and latches.
H-74-25	do	do	Revise S.5.5.2 to include a location of seatback latches and an operation of the latches.
H-85-12	Colorado Governor	do	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-85-12	Conn. Executive Chambers	do	Do.
H-85-12	Kansas Governor	June 30, 1986	Do.
H-74-72	do	do	Safety aspects of recreational vehicles.
H-84-72	Vermont Governor	July 2, 1986	Enact legislation to require operators of noncommercial buses to demonstrate their driving skills by taking an exam and road test.
H-79-31	New York Governor	July 22, 1986	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.
H-84-75	DOT	July 28, 1986	Revise FMVSS to include a requirement that schoolbus seat cushions be installed with latching devices.
H-76-4	DOT	July 29, 1986	Study the effectiveness of probationary licenses.
H-85-20	DOT	do	Revise CFR to require that drivers forward status record to the employing motor carrier after completion.
H-85-21	DOT	do	Revise CFR to add all time worked by a commercial driver for all full-time and part-time employers to the definition of "on-duty" time.
H-86-12	National Assoc. of Independ. Insurers	do	Develop a program for local school distncts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-84-60	DOT	July 30, 1986	Determine practical methods and means to prevent or minimize dozing at the wheel by drivers of carriers in interstate commerce.
H-85-12	New Hamp. Governor	July 31, 1986	Develop a program for local school districts targeted at drivers of privately-owned and operated pupil transportation vehicles that includes a review of laws, regulations, and policies.
H-84-72	do	do	Enact legislation to require operators of noncommercial buses to demonstrate their driving skills by taking an exam and road test.
H-79-31	do	do	Enact legislation that the driver of any motor vehicle with a seating capacity of more than 16 passengers possess a certificate indicating the driver's successful completion of a training course.

Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,

Alternate Federal Register Officer.

August 22, 1986.

[FR Doc. 86-19439 Filed 8-27-86; 8:45 am]

BILLING CODE 7533-01-M

POSTAL RATE COMMISSION

[Docket No. A86-21; Order No. 703]

North Westchester, Connecticut 06474 (Adam Pierkarz, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued August 19, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Bonnie Guiton, Vice-Chairman; John W. Crutcher; Henry R. Folsom; Patti Birge Tyson.

Docket Number: A86-21.

Name of Affected Post Office: North Westchester, CT 06474.

Name(s) of Petitioner(s): Adam Pierkarz.

Type of Determination: Closing.

Date of Filing of Initial Appeal Papers: August 15, 1986.

Categories of Issues Apparently Raised:

1. Effect on the community. [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services. [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before September 1, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix.—North Westchester, Connecticut 06474

August 15, 1986—Filing of Petition.

August 19, 1986—Notice and Order of Filing of Appeal.

September 9, 1986—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

September 19, 1986—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b).

October 9, 1986—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

October 24, 1986—Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 301.115(d)].

October 31, 1986—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].

December 12, 1986—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86-19440 Filed 8-27-86; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15269 (File No. 812-6365)]

Centex Collateralized Mortgage Corp.; Application

August 21, 1986.

Notice is hereby given that Centex Collateralized Mortgage Corporation ("Applicant"), 4600 RepublicBank Tower, Dallas, Texas 75201 filed an application on April 29, 1986, and an amendment thereto on August 21, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the relevant provisions thereof.

Applicant, an indirect wholly-owned subsidiary of Centex Corporation (a publicly-held Nevada corporation) is a limited purpose corporation organized to facilitate the financing of long-term mortgages on single-family residences through the issuance and sale of multiple series of bonds ("Bonds") secured by one or more of the following types of mortgage collateral (collectively, "Mortgage Collateral"): GNMA Certificates, FNMA Certificates, FHLMC Certificates, conventional mortgage loans, FHA loans and VA loans (both of the latter defined more fully in the application) (GNMA Certificates, FNMA Certificates and FHLMC Certificates collectively referred to herein as "Mortgage Certificates" and conventional mortgage loans, FHA loans and VA loans collectively referred to herein as "Pledged Loans").

Applicant proposes to issue series of Bonds which will have multiple maturities resulting from the division of the series into two or more classes. Each series of Bonds will be issued pursuant to a trust indenture between Applicant and an independent trustee, supplemented by a supplemental trust indenture with respect to that series, and will be sold to private or public investors through one or more investment banking firms or directly by Applicant. The trust indentures and the trustees serving thereunder for public offerings of series of Bonds will be subject to the provisions of and qualified under the Trust Indenture Act of 1939. Applicant represents that it intends to select Mortgage Certificates without regard to whether they evidence an undivided 100% interest in the underlying pool of mortgage loans.

Applicant represents that any offerings of securities by it will be limited to offerings of Bonds meeting the following conditions:

(1) Each series of Bonds will be registered under the Securities Act of 1933 ("Securities Act") unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. However, the Mortgage Collateral underlying each series of Bonds will be limited to (i) GNMA Certificates, (ii) FNMA Certificates, (iii) FHLMC Certificates and (iv) Pledged Loans (secured by first lien mortgages or deeds of trust on one-to-four family residences).

(3) All Mortgage Collateral, funds, accounts and other collateral securing each series of Bonds ("Bond Collateral") will be held by an independent trustee or on behalf of such trustee by an independent custodian. Such independent custodian will not be an affiliate (as such term is defined in Securities Act Rule 405, 17 CFR 230.405) of Applicant, or of the master servicer or originating lender of any Pledged Loans securing as series of Bonds. If there is no master servicer, no servicer of such Pledged Loans may be an affiliate of such independent custodian. The trustee will be provided with a first priority perfected security or lien interest in and to all Bond Collateral.

(4) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act.

(5) No less often than annually, an independent public accountant will audit the books and records of Applicant and in addition will report on whether the anticipated payments of principal and interest on the Mortgage Collateral securing such series of Bonds continue to be adequate to pay principal and interest on such series of Bonds in accordance with their respective terms. Upon completion, copies of such report will be provided to the trustee for the related series of Bonds.

(6) The master servicer of any Pledged Loans securing a series of Bonds may not be an affiliate of the trustee for the Bonds of such series. If there is no master servicer, no servicer of such Pledged Loans may be an affiliate of such trustee. The master servicer and any servicer of such Pledged Loans will be approved by FNMA or FHLMC as an "eligible/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of any of such Pledged Loans shall obligate the servicer to provide substantially the same services with respect to such Pledged Loans as such servicer is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) If new Mortgage Collateral is substituted for Mortgage Collateral initially pledged to secure as series of Bonds, such new Mortgage Collateral must (i) be of equal or better quality than the Mortgage Collateral replaced, (ii) have payment terms and cash flow similar to the Mortgage Collateral replaced, (iii) be insured or guaranteed to the same extent as the collateral replaced and (iv) meet the conditions set forth in paragraphs (2), (3) and (6) above. In addition, new Mortgage Collateral may not be substituted for more than 20% of the aggregate face amount of the Pledged Loans initially pledged as Mortgage Collateral for a series of Bonds or for more than 40% of the aggregate face amount of the Mortgage Certficates initially pledged as Mortgage Collateral for a series of Bonds. New Pledged Loans may be substituted for Pledged Loans initially pledged as Mortgage Collateral for a series of Bonds only in the event of default, late payments or defect in the Pledged Loans being replaced. In no event may any new Mortgage Collateral be substituted for any other substitute Mortgage Collateral.

Applicant represents that the Bond Collateral which will secure a series of Bonds will be calculated to produce a cash flow sufficient to support Applicant's obligations to make periodic principal and interest payment to holders of the Bonds of the related series in accordance with their terms and to fully amortize such Bonds not later than their stated maturities. Applicant further represents that its ability to make periodic principal and interest payments on the Bonds of a series will not depend upon the actual earnings on investment and reinvestment of amounts in the reserve funds, if any, included in the related trust estate.

Applicant states that the trust indentures with respect to each series of Bonds may contain provisions permitting Applicant, at its discretion, to withdraw Mortgage Collateral which represents collateral in excess of that required to produce a cash flow sufficient to support its obligation to pay principal and interest on the Bonds in accordance with their terms and to fully amortize such Bonds not later than their stated maturities. Applicant states that over-collateralization of series of Bonds will occur due to the pledge on the original issue date of more collateral

than in necessary to support its obligation to bondholders. In addition, it is stated that over-collateralization will also result if any Mortgage Collateral pledged to secure such series is backed by or consists of graduated payment mortgage loans which provide for negative amortization of the principal balance in the early years of such mortgage loan.

Applicant asserts that: (1) It is not the type of entity to which the provisions of the Act were intended to apply; (2) it may be unable to proceed with its proposed transactions if the uncertainties concerning the applicability of the provisions of the Act are not removed; and (3) the proposed transactions are intended to serve a recognized and critical public need by expanding the existing market for Mortgage Collateral, thereby increasing the pool of funds available for mortgage loans and the capacity of mortgage lenders to meet the housing finance needs of the nation.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 11, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authroity.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19546 Filed 8-27-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-15744]

Application and Opportunity for Hearing; Citicorp

August 21, 1986.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United Trust Company of New York (the "Trust Company") under four existing indentures, and a Pooling and Servicing Agreement (the "Agreement") dated as of June 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under either of such indentures or the Agreement.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Applicant alleges that:

(1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989, the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four indentures are hereinafter called the Indentures and the securities issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On June 23, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of June 1, 1986 (the "1986-G Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on June 23, 1986 Mortgage Pass-Through Certificates, Series 1986-G 10.00% Pass-Through Rate (the "Series 1986-G Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986-G Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $101,897,000.47 at the close of business on June 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986-G Certificates. On June 23, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986-G Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986-G Certificates, to be liable for 6.5% of the initial aggregate principal balance of the 1986-G Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986-G Guaranty. The 1986-G Guaranty states the Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986-G Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986-G Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S-11 and S-3, File No. 33-780) as part of a delayed or continuous offering of $1,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986-G Certificates were offered by a Propsectus Supplement dated June 18, 1986, supplemental to a Prospectus dated October 9, 1985. The 1986-G Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) The obligations of Applicant under the Indentures and the 1986-G Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986-G Guaranty are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under

the Indentures and the 1986–G Agreement.

(5) The Applicant has waived notice of hearing, waived hearing, and waived any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–15744, which a public document on file on the office of the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC.

Notice is Further Given that any interested person may, not later than September 15, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19544 Filed 8–27–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15268; (File No. 812–6330)]

Colonial Option Income Trust et al.; Notice of Application

August 21, 1986.

Notice is hereby given the Colonial Option Income Trust ("Option Trust"), on behalf of its two series of shares, Portfolio I and Portfolio II, and Colonial Government Securities Plus Trust ("Government Trust") (collectively, "Applicants") filed an application on April 1, 1986, for a Commission order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Portfolios I and II from section 19(b) of the Act and Rule 19b–1 thereunder to the extent necessary to permit quarterly distributions of long-term capital gains from certain options and futures transactions and upon the sale of securities. In addition, Government Trust seeks an order pursuant to section 6(c) of the Act extending the exemptive relief from section 19(b) of the Act and Rule 19b–1 thereunder granted by Commission order dated April 24, 1985 (Investment Company Act Rel. No. 14485) ("Order") to the extent necessary to enable it to distribute more frequently than annually all capital gains realized from transactions in futures contracts and options on futures contracts and upon the sale of securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of relevant provisions.

Applicants state the Portfolio I's primary objective is high current return which it pursues by investing in dividend-paying common stocks with respect to which call options are traded on a national securities exchange, writing covered call and put options on such stocks on such exchanges, and entering into closing purchase transactions with respect to such options. Portfolio I also seeks stability of principal by purchasing common stock options and stock index options, purchasing and selling stock index futures contracts and purchasing options on stock index futures contracts. Applicants further state that Portfolio II's primary objective is high current return which it pursues by investing in common stock, securities convertible into common stock and U.S. Government securities, writing covered call and put options with respect to certain of such securities, and entering into closing purchase transactions on such options. Portfolio II also seeks stability of principal by purchasing options on its portfolio securities or securities it may purchase and stock indexes, purchasing and selling stock index and interest rate futures contracts, purchasing options on stock index futures contracts, and purchasing put options and writing call options on interest rate futures contracts. Additionally, Portfolios I and II propose to hedge by writing options on stock indexes and stock index futures contracts. Applicants represent that Portfolios I and II pay dividends fron net investment income and distribute net short-term capital gains quarterly.

Applicants state the Government Trust's primary objective is high current return which it pursues by investing in securities of the U.S. Government, its agencies, authorities or instrumentalities ("Government Securities"), and by purchasing options and writing covered options on Government Securities. Further, Government Trust hedges by purchasing put options on Government Securities, purchasing and selling interest rate futures contracts, purchasing and writing options on interest rate futures contracts and entering into closing transactions on such options. Government Trust may also purchase and write options on indexes of debt securities, purchase and sell debt index futures contracts and purchase and write options on such contracts.

Applicants state that Government Trust pays dividends from investment income monthly. Distributions of net short-term capital gains are made quarterly. Applicants further state that Government Trust also distributes quarterly the 60% of net capital gains from transactions in options on Government Securities which are treated as long-term capital gains pursuant to the Order.

Applicants state that under the Internal Revenue Code, as amended, options on non-equity securities, registered future contracts and options on regulated future contracts are considered "Section 1256 Contracts." In general, 60% of the realized gain or loss with respect to section 1256 Contracts is treated as long-term capital gain or loss, and 40% is treated as short-term capital gain or loss ("60/40 rule"). Applicants submit that the 60/40 rule was devised to prevent possible tax abuses and not to limit the frequency with which registered investment companies may distribute capital gains from transactions in Section 1256 Contracts.

Section 19(b) of the Act prohibits registered investment companies from distributing long-term capital gains more than once every twelve months. Rule 19b–1 under the Act generally prohibits registered investment companies from making more than one capital gains distribution per taxable year. As more fully described in the application, Applicants seek an exemption from such Section and Rule permitting them to distribute quarterly all long-term capital gains recognized on transactions in options, futures contracts and options on futures contracts, and upon the sale of securities. Applicants represent that long-term capital gains from the sale of portfolio securities (and, with respect to Portfolios I and II, the sale of equity options) has been a *de minimis* component of Applicants' respective capital gains distributions).

Applicants assert that characterization of these gains as long-term gains will not make shareholders more likely to confuse them with dividends paid from net interest income,

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VOL 51 ISS 167 AG 28 1986 UMI

since Applicants represent that they will clearly distinguish any distribution of capital gains from distributions out of net interest income in the notice to shareholders accompanying such distributions. Applicants state further that section 19(b) of the Act and Rule 19b–1 thereunder were also intended to prevent investment companies from excessive trading of their portfolios in contravention of a stated investment objective of long-term capital appreciation. Applicants state that the revised treatment of 60% of certain capital gains as long-term is not expected to affect their investment decisions or distribution practices, as Applicants have as their primary investment objective high current return. Additionally, Applicants represent that quarterly distribution of long-term capital gains will not increase its administrative expenses, since Applicants already distribute short-term capital gains quarterly.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 15, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19547 Filed 8–27–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24171]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Kentucky Power Co. et al.

August 21, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statement of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by September 15, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Kentucky Power Company (70–6198)

Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, an electric utility subsidiary of American Electric Power Company, 1 Riverside Plaza, Columbus, Ohio 43216–6631, a registered holding company, has filed a post-effective amendment to its declaration pursuant to section 6(a) and 7 of the Act.

By orders dated February, 18, 1982 (HCAR No. 22392) and February 16, 1983 (HCAR No. 22855), Kentucky was authorized to issue and to reissue unsecured promissory notes evidencing borrowings in the aggregate principal amount of up to $150 million at any one time outstanding through December 31, 1987, from a group of ten commercial banks pursuant to a revolving credit agreement ("Revolving Credit Agreement") dated as of January 20, 1982, as amended and restated.

Kentucky now proposes to enter into a further amendment of its Revolving Credit Agreement to issue and to reissue unsecured promissory notes evidencing borrowings in the aggregate principal amount of up to $75 million under which the banks would extend their commitments to December 31, 1990. All other terms and conditions of borrowing under the Revolving Credit Agreement, including provisions relating to the payment of commitment fees on the unused amount of each bank's commitment thereunder, shall remain unchanged.

Columbia Gas System, Inc. (70–6436)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a post-effective amendment to its declaration previously filed with this Commission pursuant to sections 6(a) and 7 of the Act.

By order dated May 1, 1980 (HCAR No. 21546), the Commission authorized Columbia to borrow up to $200 million pursuant to a Revolving Credit and Term Loan Agreement with a group of eight commercial banks. By supplemental order dated July 30, 1982 (HCAR No. 22591), the Commission authorized Columbia to increase its amount of borrowing to $300 million and to incorporate optional certificate of deposit and LIBOR rate structures in addition to prime rate pricing to reduce interest costs over the life of the facility. A $300 million Credit Agreement dated as of August 1, 1982 ("Credit Agreement") was executed pursuant to the supplemental order.

Columbia now proposes to further amend the Credit Agreement; such amendment ("Amendment") is to be dated as of February 1, 1986. Following the filing of the declaration in this file seeking approval of the Amendment, certain provisions were subject to further negotiation, which renegotiation has recently been completed. The Amendment, in its final form, provides for a three-eights of one percent increase to the existing borrowing margins for certificate of deposit and LIBOR options and for certain additional protective covenants.

Columbus and Southern Ohio Electric Company (70–7278)

Columbus and Southern Ohio Electric Company ("C&SOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to section 12(d) of the Act and Rule 44 thereunder.

C&SOE proposes first to lease on an interim basis, then to sell for a total cash price of $769,624 ("Purchase Price"), certain items of electric power distribution equipment ("Facilities") to one of its industrial customers, Anheuser-Busch Inc. ("Busch"), pursuant to the Facilities Purchase Agreement ("Agreement"). As part of the transaction, the Facilities, which constitute a portion of Busch Substation No. 34 in Columbus, Ohio, will be separated from the remaining substation equipment, which will continue to be

owned and used by C&SOE to serve other customers. The Facilities will also be released from the lien of the C&SOE Indenture of Mortgage and Deed of Trust.

Pending the satisfaction of certain conditions precedent to the sale set forth in the Agreement, C&SOE proposes to lease the Facilities to Busch pursuant to terms incorporated in the Agreement ("Lease Agreement"). The Lease Agreement will commence with the first billing cycle following the date of this Commission's order approving the lease and sale of the Facilities and will terminate at the earlier of one year from the date of such order or the closing of the sale. During this period, Busch will pay a monthly rental fee of $26,500. None of these cash payments will be applied to reduce the Purchase Price or the cost of electric service provided to Busch.

General Public Utilities Corporation et al. (70-7282)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its electric utility subsidiaries, Jersey Central Power & Light Company ("JCP&L"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, Metropolitan Edison Company, ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605 and Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907 (collectively, "GPU Companies"), have filed a declaration pursuant to sections 6(a) and 7 of the Act.

By orders dated March 27, 1985 (HCAR No. 23844) and September 9, 1985 (HCAR No. 23826), the Commission authorized the GPU Companies to enter into a revolving credit agreement, as amended ("Amended Credit Agreement") with a group of commericial banks. At present, the declarants have no borrowings outstanding under the Amended Credit Agreement.

The GPU Companies now propose to issue, sell and renew to certain banks ("Banks") from time to time through March 31, 1989, their respective unsecured promissory notes ("New Notes"), maturing not more than six months from the date of issue, pursuant to a new revolving credit agreement ("New Credit Agreement"). Borrowings of the GPU Companies would be limited to an aggregate principal amount of $110 million. GPU would have an individual sublimit of $20 million for amounts outstanding at any one time. The principal amount of New Notes issued and sold by JCP&L, Met-Ed and Penelec, and outstanding at any one time, would not exceed such lesser amount, if any, as may be permitted by the charters of those companies.

The CPU Companies further propose from time to time through March 31, 1989 to issue or renew their respective unsecured promissory notes, maturing not more than nine months after issue, to various commercial banks, pursuant to informal lines of credit. The amount of such Notes of a given GPU Company, when added to such company's total principal amount of New Notes then outstanding, would not exceed the amount of short-term indebtedness permitted by such company's charter to be outstanding at any one time.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19543 Filed 8-27-86; 8:45am]

BILLING CODE 8010-01-M

[Release No. IC-15271; (File No. 812-6458)]

Natalie Clara Pitcairn; Application for an Order Declaring That Applicant is Not an Interested Person

August 21, 1986.

Notice is hereby given, that Natalie Clara Pitcairn ("Applicant") One Pitcairn Place, Jenkintown, Pennsylvania 19046, filed an application on August 14, 1986 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940, as amended (the "Act"), declaring that the Applicant is not an "interested person" as defined in section 2(a)(19) of the Act of an investment company or its investment adviser. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant states that she plans to serve as one of the Independent General Partners of Pitcairn Group L. P. ("Partnership"), a Delaware limited partnership formed pursuant to a Certificate and Agreement of Limited Partnership ("Partnership Agreement"), which will elect to become a business development company pursuant to section 54 of the Act. Applicant states that the Partnership plans to register the limited partnership interests (which will be beneficially owned by the direct descendants of John Pitcairn and their immediate families) ("Limited Partners") under the Securities Exchange Act of 1934. Applicant states that the Partnership has been organized as a limited partnership primarily because business development organized as corporations do not currently qualify for "pass-through" tax treatment under the Internal Revenue Code.

Applicant expects that The Pitcairn Company will serve as the initial limited partner (the "Initial Limited Partner") of the Partnership. Applicant states that the Initial Limited Partner is currently in liquidation and, in connection therewith, will contribute approximately $100 million of its cash and assets to the Partnership on or before September 12, 1986. Applicant states that the cash portion of the capital contribution of the Initial Limited Partner is expected to be invested by the Partnership in venture capital investments and it is anticipated that the Partnership will thereby meet the 70 percent qualifying investments tests of section 55 of the Act. Applicant states that the general partners of the Partnership, including Applicant, will contribute capital to the Partnership in an amount sufficient to cause their aggregate capital contribution to be not less than one percent of the aggregate capital contributions of all partners of the Partnership. Applicant states that she will also be a Limited Partner of the Partnership. Applicant states that the Partnership will terminate not later than December 31, 2011.

Applicant states that Valad Partners, L. P., a Delaware limited partnership, is expected to serve as the managing general partner of the Partnership and as its investment adviser (the "Managing General Partner"). Applicant represents that the Managing General Partner will be responsible for the investments of the Partnership and is also expected to provide managerial, administrative, and supervisory services for the Partnership. Applicant states that the Managing General Partner has filed an application for registration as an investment adviser under the Investment Advisers Act of 1940.

Applicant states that under the Partnership Agreement, there will be at least three but no more than eight individual general partners (the "Individual General Partners") (the Managing General Partner and the Individual General Partners being collectively referred to as the "General Partners"). Applicant states that for so long as the Partnership remains a business development company under the Act, a majority of the Individual General Partners will also be persons who are not "interested persons" of the Partnership as that term is defined in the

Act who have received an order of the Commission exempting them from that definition ("Independent General Partners"). Applicant states that there are currently expected to be three Independent General Partners, one of whom will be Applicant.

Applicant further represents that her father-in-law, Garthowen Pitcairn ("Mr. Pitcairn"), will be an Individual General Partner and a Limited Partner of the Partnership. Applicant states that Mr. Pitcairn will own individually less than one percent of the limited partnership interests in the Partnership, but that he is expected to exercise or share control over more than five percent of such limited partnership interests in a fiduciary capacity as trustee or cotrustee of certain family trusts in which neither Applicant nor her husband have any beneficial interest.

Applicant asserts that the exemptive relief requested is necessary because the Act defines a partner of a partnership (whether general or limited partners), a co-partner of an investment adviser, and a daughter-in-law of an affiliated person of a partnership to be an "interested person" of that partnership. Thus, without the requested relief, Applicant, as a Limited Partner of the Partnership; co-partner of the Managing General Partner; and the daughter-in-law of Mr. Pitcairn, would be an "interested person" of the Partnership and the Partnership would not comply with section 56(a) of the Act which states that a majority of a business development company's directors or general partners be persons who are not "interested persons" of such company.

Applicant states that when any General Partner has a conflict of interest with respect to any matter which the General Partners have under consideration, he or she will recuse himself or herself with respect to that matter. Applicant consents to a condition to the granting of the requested exemption that she recuse herself from consideration by the General Partners of any proposed transaction directly or indirectly concerning her father-on-law, Mr. Pitcairn, governed by sections 57(a) or 57(k). Furthermore, Applicant consents to a condition to the granting of the requested exemption that she recuse herself from consideration by the General Partners of whether and how much of a distribution to make to the Limited Partners. Applicant represents that Mr. Pitcairn has agreed to recuse himself in each of these situations as well.

Applicant states that her requested exemption from the definition of "interested person" of an investment company, as set forth in section 2(a)(19) of the Act, is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support of the exemptive relief requested, Applicant asserts that she maintains a separate household from Mr. Pitcairn, is economically independent of him and of her husband (who is also independent of Mr. Pitcairn), and will receive no direct or indirect benefit, additional compensation, or preferential or other special treatment because of her relationship to Mr. Pitcairn. Finally, Applicant states that she will diligently protect the interests of all Limited Partners not only because she will be acting within well-established fiduciary standards in representing those interests but also because of her personal investment as a Limited Partner of the Partnership.

Notice is further given that any interested person wishing to request a hearing on the Application may, not later than September 11, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of any attorney at law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19545 Filed 8-27-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23549; File No. SR-OCC-86-18]

Self-Regulatory Organizations; Options Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on August 12, 1986, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. The proposal contains several technical amendments to OCC's By-Laws and Rules. The Commission is publishing notice to solicit comment on the rule change.

The proposed rule change would replace the term "Foreign Clearing Member" with "Non-U.S. Clearing Member" each time it appears in OCC's By-Laws and Rules. In addition, references to "Foreign Securities Firm" and "Foreign Regulatory Agency" would be substituted with "Non-U.S. Securities Firm" and "Non-U.S. Regulatory Agency," respectively. OCC also would appropriately modify certain ancillary documents such as the "Foreign Clearing Member's Agreement" and the "Application for Membership." In the year since foreign broker-dealers have been able to become OCC direct Clearing Members,[1] OCC has received several requests that OCC adopt neutral labels for these non-U.S. entities. OCC's proposal is intended to address those comments.

This rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register**. Please file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. Sr-

[1] *See* File No. SR-OCC-85-2 which was approved by the Commission on June 6, 1985, in Securities Exchange Act Release No. 22123 (June 6, 1985), 50 FR 24853 (June 13, 1986).

OCC–86–18 and should be submitted by September 18, 1986.

Dated: August 22, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19542 Filed 8–27–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 980]

Organization Statement

Pursuant to subsection (a)(1) of the Freedom of Information Act (5 U.S.C. 552), the following is a current statement of the organization of the Department of State. It should be noted that all requests under this statute for Department of State records may be submitted to the Information and Privacy Coordinator (Foreign Affairs Information Management Center, Room 1239, Department of State, Washington, DC 20520), rather than directly to the specific elements of the Department described below. The Information and Privacy Coordinator will coordinate action as specified in the request. More detailed procedures regarding access to Department of State records are provided in the Department's rules (22 CFR Part 171).

The Department of State advises the President in the formulation and execution of foreign policy. As Chief Executive, the President has overall responsibility for the foreign policy of the United States. The Department of State's primary objective in the conduct of foreign relations is to promote the long-range security and well-being of the United States. The Department determines and analyzes the facts relating to American overseas interests, makes recommendations on policy and future action, and takes the necessary steps to carry out established policy. In so doing, the Department engages in continuous consultations with the American public, the Congress, other U.S. departments and agencies, and foreign governments; negotiates treaties and agreements with foreign nations; speaks for the United States in the United Nations and in more than 50 major international organizations in which the United States participates; and represents the United States at more than 800 international conferences annually.

Central Organization

The Secretary of State

The Secretary of State, the principal foreign policy adviser to the President, is responsible for the overall direction, coordination, and supervision of U.S. foreign relations and for the interdepartmental activities of the U.S. Government overseas. The Secretary is the first-ranking member of the Cabinet, a member of the National Security Council, and is in charge of the operations of the Department, including the Foreign Service.

Deputy Secretary of State

The Deputy Secretary of State is the Secretary's principal deputy and serves as Acting Secretary in the Secretary's absence.

The Under Secretary for Political Affairs

The Under Secretary for Political Affairs assists the Secretary and Deputy Secretary in the formulation and conduct of foreign policy and in the overall direction of the Department, including coordination of relations with other departments and agencies and interdepartmental activities of the U.S. Government overseas.

The Under Secretary for Economic and Agricultural Affairs

The Under Secretary for Economic and Agricultural Affairs is the principal adviser to the Secretary and Deputy Secretary in the formulation and conduct of foreign economic policy. Specific areas for which the Under Secretary is responsible include international monetary affairs, trade, energy, relations with developing countries, agricultural, and international aviation issues.

The Under Secretary for Security Assistance, Science and Technology

The Under Secretary for Security Assistance, Science and Technology is responsible for assuring the integration of all elements of the Foreign Assistance Program as an effective instrument of U.S. foreign policy and serves as Chairman of the Arms Transfer Management Group (ATMG). The Under Secretary is also responsible for international scientific and technological issues; communications and information policy; and technology transfers.

The Chief of Protocol

The Office of the Chief of Protocol is the principal adviser for the U.S. Government, the President, Vice President, and Secretary of State, on matters of diplomatic procedures governed by law or international customs and practice. The Office is responsible for: visits of foreign chiefs of state, heads of government and other high officials to the United States; operation of the President's Guest House, Blair House; delegations representing the President at official ceremonies abroad; conduct of official ceremonial functions and public events; accreditation of approximately 46,000 foreign embassy, consular and international organization personnel throughout the United States; determining entitlement to diplomatic or consular immunity; publication of diplomatic, mission employee and consular lists; resolution of problems arising out of diplomatic or consular immunity such as legal and police matters; and in conjunction with the Office of Foreign Missions, approving opening of consular offices.

The Under Secretary for Management

The Under Secretary for Management is the principal management official of the Department. The Under Secretary serves as the principal adviser to the Secretary and Deputy Secretary on management matters, including control and direction of all budgetary, administrative, and personnel policies of the Department and the Foreign Service. The Under Secretary also coordinates the activities of the Bureau of Personnel, Bureau of Administration, Bureau of Diplomatic Security, Office of Management Operations, the Office of the Comptroller, the Office of Medical Services, the Office of Equal Employment Opportunity and Civil Rights, the Family Liaison Office, the Curator of the Diplomatic Reception Rooms, the Office for Combating Terrorism, the Office of Small and Disadvantaged Business Utilization, and the Office of Foreign Missions. The Under Secretary for Management's principal concern is the reconciliation of resources, both fiscal and personnel, with policy requirements. The Under Secretary chairs the Priorities Policy Group.

Regional Bureaus

Five Assistant Secretaries direct the activities of the geographic bureaus, which are responsible for our foreign affairs activities in the major regions of the world. These are the Bureaus of African Affairs, European and Canadian Affairs, East Asian and Pacific Affairs, Inter-American Affairs, and Near Eastern and South Asian Affairs. The Assistant Secretaries for these Bureaus are responsible for advising the

Secretary in the formulation of U.S. policies toward the countries within their regional jurisdiction and for guiding the operation of the U.S. diplomatic establishments in the countries in their geographic area. They also direct, coordinate, and supervise interdepartmental and interagency matters involving these regions. They are assisted in these duties by Deputy Assistant Secretaries and by Directors within their Bureau. The Office Directors and their staffs have specific responsibility for working-level management of U.S. relations with respect to their assigned countries. As the Washington focal point for the development of policy recommendations, for coordination with other departments and agencies, and for transmission to Ambassadors in the field, these Office Directors are charged with assuring that all elements—both in Washington and within our missions abroad—jointly pursue U.S. foreign policy directives.

The regional Assistant Secretaries also serve as Chairmen of Interdepartmental Groups in the National Security Council system. These groups discuss and decide issues which can be settled at the Assistant Secretary level, including those arising out of the implementation of National Security Council decisions. They prepare policy papers for consideration by the Council and contingency papers on potential crisis areas for NSC review.

Bureau of Intelligence and Research

The Bureau of Intelligence and Research coordinates programs of intelligence, research, and analysis for the Department and for other Federal agencies, and produces intelligence studies and current intelligence analyses essential to foreign policy determination and execution. In addition, the Bureau, through its Office of Long Range Assessment and Research, maintains liaison with cultural and educational institutions and with other Federal agencies on a wide range of matters relating to Government contractual and private foreign affairs research.

The Bureau of Politico-Military Affairs

The Bureau of Politico-Military Affairs originates and develops policy guidance and provides general direction within the Department on issues which affect U.S. security policies, military assistance, nuclear policy, and arms controls matters. In addition, the Bureau maintains liaison with the Department of Defense and other Federal agencies on a wide range of political/military affairs.

Legal Adviser

The Legal Adviser is the principal adviser to the Secretary and through the Secretary to the President on all matters of international law arising in the conduct of United States Foreign relations. The Legal Adviser also provides general legal advice and services to the Secretary and other officials of the Department on matters with which the Department and overseas posts are concerned.

International Organization Affairs

The Bureau of International Organization Affairs coordinates and develops policy guidance and support for United States participation in the activities of the United Nations, the Specialized Agencies, the International Atomic Energy Agency, and other international organizations.

Oceans and International Environmental and Scientific Affairs

The Bureau of Oceans and International Environmental and Scientific Affairs has principal responsibility for the Department's formulation and implementation of U.S. Government policies and proposals for the scientific and technological aspects of our relations with other countries and international organizations. It also has the management responsibility for a broad range of foreign policy issues and significant global problems related to oceans, fisheries, environment, population, nuclear technology, new energy technology, space and other fields of advanced technology, and for cooperative effort dealing with the application and transfer of technology. The Bureau advises the Secretary where scientific and technological factors or the Bureau's functional responsibilities are concerned; represents the Department in international negotiations in its area of responsibility; provides policy guidance to the U.S. oceanic, environmental, scientific, and technological communities on activities and programs affecting foreign policy issues; assures effective coordination of policy responsibilities between State and AID in the field of science and technology; and directs the Overseas Science and Technology Counselor/Attaché program.

The Bureau develops and directs the carrying out of policy recommendations relative to U.S. participation in international science and technology programs; in bilateral cooperative programs related to its areas of interests; and in the activities of the International Fisheries Commissions of which the United States is a member.

Economic and Business Affairs

The Bureau of Economic and Business Affairs has overall responsibility for formulating and implementing policy regarding foreign economic matters, including resource and food policy, international energy issues, trade policy, international finance and development, aviation and maritime affairs.

Human Rights and Humanitarian Affairs

The Bureau of Human Rights and Humanitarian Affairs has responsibility for the formulation and development and, in cooperation with other bureaus, the implementation of U.S. policy relating to the observance of human rights throughout the world. The Bureau maintains liaison with nongovernmental organizations active in the human rights field and is principally responsible for the preparation of the annual Department report on human rights practices in countries that are members of the United Nations or receive U.S. economic or military assistance. In addition, the Bureau provides the Department's advice to the Immigration and Naturalization Service regarding applications for political asylum for foreign nationals.

Public Affairs

The Bureau of Public Affairs works for a wider and more effective exchange of information and views on U.S. foreign relations between the Department and the American people. Under the guidance of the Assistant Secretary of State for Public Affairs, who also serves as the Spokesman of the Department, the Bureau advises other elements of the Department on public opinion, and arranges continuing contacts between Department officials and the public through conferences, briefings, speaking, and media engagements in the Department and across the country. It directs the development and execution of the Department's news policy, plans, and programs and serves as the principal office advising the Secretary, other officials of the Department, and other Government agencies on all aspects of the Department's responsibilities in the conduct of press relations. The Bureau also produces and distributes publications, films, videotapes and other information and educational materials on U.S. foreign policy and the work of the Department and the Foreign Service; publishes the diplomatic history of the United States, collections of current documents, and occasional special historical studies; and maintains a public information

service to handle miscellaneous public inquiries.

Consular Affairs

The Bureau of Consular Affairs, under the direction of the Assistant Secretary, Bureau of Consular Affairs, is responsible for the administration and enforcement of the provisions of the immigration and nationality laws, insofar as they concern the Department and the Foreign Service, for the issuance of passports and visas and related services, and for the protection and welfare of American citizens and interests abroad.

Refugee Programs

The Bureau for Refugee Programs is responsible for the operation of U.S. refugee programs, carried out in cooperation with other governments, private and international organizations, and other U.S. Government agencies, including the Agency for International Development (AID), the Immigration and Naturalization Service (INS) of the Department of Justice, and the Office of Refugee Relief (HHS/ORR) of the Department of Health and Human Services. These programs include relief; repatriation and resettlement of refugees; and the selection, processing, and training of refugees to be admitted into the United States, in consultation with the Congress and State and local governments. They are carried out through grants to private voluntary agencies and international organizations, including the Intergovernmental Committee for Migration (ICM), the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Relief and Works Agency for Palestine Refugees (UNRWA).

Organization of Foreign Service Posts

Afghanistan
  Embassy: Kabul
Algeria
  Embassy: Algiers
  Consulate: Oran
Antigua and Barbuda
  Embassy: Saint Johns
Argentina
  Embassy: Buenos Aires
Australia
  Embassy: Canberra
  Consulates General:
    Melbourne
    Sydney
  Consulates:
    Brisbane
    Perth
  Consular Agency: Adelaide
Austria
  Embassy: Vienna
  Missions:
    Vienna, U.S. Mission to the International Atomic Energy Agency
    Vienna, U.S. Mission to the Vienna Office of the United Nations
  Consulate General: Salzburg
Bahamas
  Embassy: Nassau
  Consular Agency: Grand Turk
Bahrain
  Embassy: Manama
Bangladesh
  Embassy: Dhaka
Barbados
  Embassy: Bridgetown
Belgium
  Embassy: Brussels
  Missions:
    Brussels, U.S. Mission to the European Communities
    Brussels, U.S. Mission to the North Atlantic Treaty Organization
  Consulate General: Antwerp
Belize
  Embassy: Belize City
Benin
  Embassy: Contonou
Bermuda
  Consulate General: Hamilton
Bolivia
  Embassy: La Paz
  Consular Agencies:
    Cochabamba Santa Cruz
Botswana
  Embassy: Gaborone
Brazil
  Embassy: Brasilia
  Consulates General:
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  Consulates:
    Porto Alegre
    Recife
    Salvador
    Salvador da Bahia
  Consular Agencies:
    Belem
    Manaus
    Sao Luis
Brunei
  Embassy: Bandar Seri Begawan
Bulgaria
  Embassy: Sofia
Burkina FASO
  Embassy: Ouagadougou
Burma
  Embassy: Rangoon
Burundi
  Embassy: Bujumbura
Cameroon
  Embassy: Yaounde
  Consulate General: Douala
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  Embassy: Ottawa
  Mission:
    Montreal, U.S. Mission to the International Civil Aviation Organization
  Consulates General:
    Calgary
    Halifax
    Montreal
    Quebec
    Toronto
    Vancouver
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Cape Verde
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Central African Republic
  Embassy: Bangui
Chad
  Embassy: N'Djamena
Chile
  Embassy: Santiago
China
  Embassy: Beijing
  Consulates General:
    Chengdu
    Guangzhou
    Shanghai
    Shenyang
Colombia
  Embassy: Bogota
  Consulate: Barranquilla
Comoros
  Embassy: Moroni
Congo
  Embassy: Brazzaville
Costa Rica
  Embassy: San Jose
Cyprus
  Embassy: Nicosia
Czechoslovakia
  Embassy: Prague
Denmark
  Embassy: Copenhagen
Djibouti, Republic of
  Embassy: Djibouti
Dominican Republic
  Embassy: Santo Domingo
  Consular Agency: Puerto Plata
Ecuador
  Embassy: Quito
  Consulate General: Guayaquil
Egypt
  Embassy: Cairo
  Consulate General: Alexandria
  Consular Agency: Port Said
El Salvador
  Embassy: San Salvador
Equatorial Guinea
  Embassy: Malabo
Ethiopia
  Embassy: Addis Ababa
Fiji
  Embassy: Suva
Finland
  Embassy: Helsinki
France
  Embassy: Paris
  Mission:
    Paris, U.S. Mission to the Organization for Economic Cooperation and Development
  Consulates General:
    Bordeaux
    Lyon
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Nice
Strasbourg
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Embassy: Libreville
Gambia, The
Embassy: Banjul
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Consulates:
Medan
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Embassy: Dublin
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Italy
Embassy: Rome
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Genoa
Milan
Naples
Palermo
Consulates:
Florence
Trieste
Turin
Ivory Coast
Embassy: Abidjan
Jamaica
Embassy: Kingston
Consular Agency: Montego Bay
Japan
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Consulates General:
Naha
Osaka-Kobe
Consulates:
Fukuoka
Sapporo
Jerusalem
Consulate General: Jerusalem
Jordan
Embassy: Amman
Kenya
Embassy: Nairobi
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Mauritius
Embassy: Port Louis
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Embassy: Mexico, D.F.
Consulates General
Ciudad Juarez
Guadalajara
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Consulates:
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Funchal, Madeira Islands
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Embassy: Sanaa
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Embassy: Belgrade
Consulate General: Zagreb
Zaire
Embassy: Kinshasa
Consulate General: Lumbumbashi
Zambia
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Organization of Domestic Field Offices

U.S. Mission to the United Nations

U.S. Mission to the United Nations, 799 United Nations Plaza, New York, N.Y. 10017.

The U.S. Mission to the United Nations represents the United States at the permanent headquarters of the United Nations in New York City, N.Y. The Mission carries out the instructions of the President as transmitted by the Department of State in conducting U.S. participation in the United Nations. The Mission furnishes a base of operations for the delegations representing the U.S. at meetings of the United Nations and serves as the main channel between the Department of State and the various United Nations organizations, agencies, and commissions at the headquarters, as well as missions and delegations of other member nations.

Passport Agencies

The following offices accept applications and issue passports for U.S. citizens, except certain passports of U.S. civilian and military personnel which are forwarded to the Passport Office in Washington, DC. In addition, applications are also accepted and executed by any Federal or State Clerk of Court authorized by law to naturalize aliens, in accordance with section 310(a) of the Immigration and Nationality Act of 1952. Clerks of Courts forward executed applications to the field office servicing their terrority for issuance.

Boston Passport Agency: John F. Kennedy Building, Government Center, Room E123, Boston, Massachusetts 02203.

Chicago Passport Agency: Federal Office Building, 230 S. Dearborn Street, Room 380, Chicago, Illinois 60604.

Honolulu Passport Agency: New Federal Building, 300 Ala Moana Boulevard, Room C106, Honolulu, Hawaii 96850.

Los Angeles Passport Agency: 1100 Wilshire Boulevard, Room 13100, Los Angeles, California 90024.

Miami Passport Agency: 51 Southwest First Avenue, Room 1616, Miami, Florida 33130.

New Orleans Passport Agency: Federal Services Building T, 701 Loyola Avenue, New Orleans, Louisiana 70133.

New York Passport Agency: Rockefeller Center, 630 Fifth Avenue, Room 270, New York, New York 10111.

New York Passport Agency: Northeast Passport Processing Center, 201 Varick Street, Room 1168, New York 10014.

Philadelphia Passport Agency: Federal Building, 600 Arch Street, Room 4426, Philadelphia, Pennsylvania 19106.

San Francisco Passport Agency: 525 Market Street, Room 200, San Francisco, California 94105.

Seattle Passport Agency: Federal Office Building, 915 Second Avenue, Room 906, Seattle, Washington 98174.

Stamford Passport Agency: One Landmark Square, Broad and Atlantic Streets, Stamford, Connecticut 06901.

Washington Passport Office: 1425 K Street, Room 262, Washington, DC 20524.

Field Offices of the Bureau of Diplomatic Security

The Special Agents in Charge of the following security offices represent and assist the Department in carrying out their investigative responsibilities. They maintain appropriate liaison with their counterparts in various Federal law enforcement, investigative, and security agencies, as well as State, county, and

local investigative agencies, within their area of assignment.

Albany Field Office: Clinton Avenue and Pearl, Albany, New York.

Richmond Field Office: 400 N. Eighth Street., Richmond, Virginia.

Miami Field Office: Federal Building, 51 S.W. First Avenue, Room 1627, Miami, Florida 33130.

San Francisco Field Office: Federal Building, 450 Golden Gate Avenue, Room 13347, San Francisco, California 94102.

New Haven Field Office: 150 Court Street, New Haven, Connecticut.

New York Field Office: 26 Federal Plaza, Suite 3409, New York, New York 10278.

Philadelphia Field Office: Mall Building, 325 Chestnut Street, Room 512, Philadelphia, Pennsylvania 19106.

Greensboro Field Office: 324 West Market Street, Greensboro, North Carolina.

Detroit Field Office: 477 Michigan Avenue, Detroit, Michigan.

Chicago Field Office: Dirksen Federal Building, 219 S. Dearborn Street, Suite 1378, Chicago, Illinois 60604.

Cincinnati Field Office: 550 Main Street, Cincinnati, Ohio.

Cleveland Field Office: 1240 East Ninth Street, Cleveland, Ohio.

Kansas City Field Office: 911 Walnut Street, Kansas City, Missouri.

St. Louis Field Office: 210 North Tucher Street, St. Louis, Missouri.

New Orleans Field Office: Federal Services Building T, 701 Loyola Avenue, New Orleans, Louisiana 70133.

Los Angeles Field Office: Federal Building, 300 North Los Angeles Street, Room 8120, Los Angeles, California 90012.

Honolulu Field Office: 300 Ala Moana Boulevard, New Federal Building, Honolulu, Hawaii 96850.

Seattle Field Office: Federal Office Building, 915 Second Avenue, Seattle, Washington 98174.

Houston Field Office: 515 Rusk Avenue, Houston, Texas.

Dallas Field Office: Federal Building, Room 7C–44, 1100 Commerce Street, Dallas, Texas 75242.

Boston Field Office: John F. Kennedy Building, Government Center, Room 405C, Boston, Massachusetts 02203.

Despatch Agents

The U.S. Despatch Agents, under supervision of the Department of State, provide assistance to Foreign Service personnel in the shipment of their effects, travel and transportation, etc. within their area of assignment.

Baltimore Despatch Agent: 403 US Customs House, Baltimore, Maryland 21202.

Miami Despatch Agent: Building 100, International Trade, 5600 N.W. 36th. Street, Miami, Florida.

New York Despatch Agent: 90 Church Street, Room 1317, New York, New York 10007.

New York Despatch Agent: John F. Kennedy International Airport, New York, New York.

San Francisco Despatch Agent: US Customs House, 555 Battery Street, San Francisco, California 94111.

Dated: August 19, 1986.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86–19480 Filed 8–27–86; 8:45 am]

BILLING CODE 4710–24–M

[CM–6/991]

American Private Sector Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the State Department—American Private Sector Overseas Security Advisory Council on Thursday, September 18, 1986, at 9 A.M. in Room 1105, U.S. Department of State. Pursuant to Section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552(b)(c) (1) and (4), it has been determined that the meeting will be closed to the public. Matters classified pursuant to Executive Order—12356 or items of a privileged commercial nature will be discussed. The agenda calls for the approval of draft crisis management plans, exchange of information programs, public information programs and methods of implementing Council action programs.

Dated: August 22, 1986.

Lou Schwartz,

Deputy Assistant Secretary, Diplomatic Security Service.

[FR Doc. 86–19460 Filed 8–27–86; 8:45am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 44276; Notice 86–9]

Regional Airline Industry Study; Marketing Alliance Impact

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Completion of Study/Request for comments.

SUMMARY: The Department of Transportation is soliciting comments on a recently completed study entitled, "A Study of the Regional Airline Industry—The Impact of Marketing Alliances". The initiation of the study was announced in a final rulemaking action titled "Statements of General Policy; Shared Airline Designator Codes" published in the **Federal Register** on September 23, 1985 (50 FR 38508). This notice informs persons that the study has been completed and that comments may be submitted on the study.

Comment Period: Interested persons should submit comments on or before November 30, 1986.

ADDRESS: Comments (original plus nine copies) may be filed with the Docket Section, Docket No. 44276, Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW. Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Laurence T. Phillips, Chief, Industry Economics and Finance Division, Office of Economics, at (202) 366–5412, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

Background

On September 23, 1985, the Department of Transportation issued a final rule titled "Statements of General Policy; Shared Airline Designator Codes." The Department also announced that it would conduct a study of the competitive ramifications of code sharing upon the regional carrier industry and make available for public comment the results of the study.

The completed study entitled "A Study of the Regional Airline Industry—The Impact of Marketing Alliances" analyzes code sharing activity between the regional and large jet airlines in the context of airlines' efforts to restructure their route networks, documents the growth and current extent of code sharing between regional and jet air carriers, and examines its potential effects on competition within the regional airline industry.

The study concludes that, based on available evidence, there is no clear indication that regional carriers sharing the designator codes of larger airlines enjoy a competitive advantage over regional carriers that continue to operate independently. With respect to the impact on consumers, the study concludes that although code sharing is understandable competitive strategy, the benefits it offers to travelers beyond those already provided by other common elements of joint marketing programs are difficult to assess and essentially impossible to quantify.

The Department will consider comments filed, and interested persons are invited to comment on the results of

the study. Comments should be filed with the Docket Section at the address listed above on or before November 30, 1986

Dated: August 22, 1986.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19457 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-62-M

Order Inviting Applications and Order to Show Cause, U.S.-London Authority

AGENCY: Department of Transportation.

ACTION: Order Inviting Applications and Comments and Order to Show Cause (Order 86-8-68)—Dockets 44174, 44199, 44200, 44246, and 44275.

SUMMARY: The Department has received certificate applications for new United States-London authority from three carriers. They are American Airlines, Inc. (for Raleigh/Durham—Docket 44174), Delta Air Lines, Inc. (for Cincinnati—Docket 44246), and Piedmont Aviation, Inc. (for Charlotte—Docket 44199). There is one new gateway selection under the United States—United Kingdom Air Services Agreement (Bermuda 2). In Docket 44200 Piedmont Aviation and the City of Charlotte filed a joint petition requesting that Charlotte be selected as a new U.S. gateway to London. There has been no U.S. carrier service in the Tampa—London market since Arrow Air, Inc. suspended services in October 1984. The Department is calling for: (1) Interested carriers to file applications for U.S.-London authority from new U.S. gateways or from Tampa, and (2) interested parties to show cause why Arrow Air, Inc.'s certificate for the Tampa-London route should not be deleted and revoked.

DATES: Applications, Comments and Objections should be filed by September 11, 1986. Answers shall be due 10 days thereafter.

ADDRESSES: Comments and Pleadings should be filed in Dockets 44174, 44199, 44200, 44246, and 44275, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590, and should be served on all parties in the above-referenced Dockets.

Dated: August 22, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19458 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[D12 86-11]

Certificates of Alternative Compliance

AGENCY: Coast Guard.

ACTION: Notice of Issuance.

In accordance with 33 U.S.C. 1605(c) and 33 CFR 81.18(a) the following Certificates of Alternative Compliance to the International Navigational Rules have been issued by the Chief of the Marine Safety Division, Twelfth Coast Guard District:

Vessel and Official or Hull Number

(1) POTOMAC—Hull No. 278
(2) EXXON HOUSTON—297151
(3) EXXON NEW ORLEANS—298216
(4) EXXON PHILADELPHIA—526792
(5) GEM STATE—501712
(6) TYEE—516611
(7) GERONIMO—511431
(8) ARTHUR S—500912
(9) HOWARD H—506824
(10) MERCURY—505327
(11) SAN DIEGAN—267775
(12) AVENGER—277633
(13) NEPTUNE—272118
(14) SENECA—526717
(15) SIOUX—527409
(16) APACHE—513045
(17) BLACK HAWK—515015
(18) SEMINOLE—514243
(19) SATURN—518570
(20) SPARTAN—518285
(21) APOLLO—508070
(22) HERCULES—509555
(23) JUPITER—508639
(24) SEA GIANT—273536
(25) SEA WITCH—273537
(26) SEA BREEZE—569926
(27) SEA CLOUD—555656
(28) SEA HORSE—567812
(29) SEA KING—554888
(30) SEA PRINCE—555271
(31) SEA RANGER—569926
(32) SEA ROBIN—553042
(33) SEA VIKING—568790
(34) DARLING—298992
(35) SEA LION—500707
(36) SEA WOLF—500149
(37) SAMSON—505922
(38) SEA MONARCH—504497
(39) SEA RACER—504166
(40) VIGILANT—506463
(41) GUARDIAN—525855
(42) SEA SWIFT—516192
(43) MARS—526607
(44) PATHFINDER—524616
(45) SEA FLYER—516870
(46) ADVENTURER—577697
(47) BULWARK—577084
(48) CAVALIER—570693
(49) CENTURION—574171
(50) COMMANDER—571180
(51) CRUSADER—560235
(52) DEFENDER—576314
(53) ENSIGN—581177
(54) EXPLORER—563687
(55) GAUNTLET—575789
(56) GLADIATOR—586429
(57) GUARDSMAN—572647
(58) HUNTER—576855
(59) INVADER—559404
(60) MARINER—582112
(61) MONITOR—567988
(62) NAVIGATOR—562688
(63) PATRIARCH—578312
(64) PILOT—580326
(65) PIONEER—566933
(66) RANGER—571909
(67) SENTINEL—573428
(68) SENTRY—579188
(69) STALWART—575052
(70) WARRIOR—565291

Copies of these Certificates of Alternative Compliance are available for inspection at Twelfth Coast Guard District, Marine Safety Division, Building 54B, Coast Guard Island, Alameda, CA 94501-1500 between the office hours of 7 a.m. and 3 p.m., Monday thru Friday, except holidays.

Dated: August 25, 1986.

J. W. Kime,

U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-19523 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-050]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on 25 September 1986 in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda is expected to be as follows:

1. Swearing in of new members and approval of minutes from February 1986 TSAC meeting.

2. TSAC discussion and/or deliberation concerning the following items:

(a) Air quality: vapor control/recovery.

(b) Tankers carrying bulk liquid cargoes.

(c) OSHA's proposed benzene standards.

(d) New ABS rules for towing vessels.

(e) Licensing of pilots.

(f) Operating a commercial vessel while intoxicated.

(g) Certification seamen: comment of ILO Convention 147.

(h) Licensing of maritime personnel.

(i) Tankerman requirements.

(j) IMO status report.
(k) Drydocking and tailshaft inspection intervals.
(l) Inspection intervals for pressure vessel cargo tanks.
(m) Portable fire extinguishers.
(n) Waste reception facilities.
(o) Liquefied natural gas waterfront facilities.
(p) Pollution prevention: implementation of amendments to MARPOL 73/78.
(q) Side lights on tugs.
(r) Any other matter properly brought before the committee.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of TSAC no later than the day before the meeting.

FOR FURTHER INFORMATION CONTACT: B.P. Novak, Executive Director (Acting), Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC/21), Washington, DC 20593, (202) 267–1477.

Dated: August 25, 1986.

N.F. Tencza,

Acting Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86–19525 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–14–M

[CGD 86–051]

Towing Safety Advisory Committee; Meeting of Subcommittees

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of all Subcommittees of the Towing Safety Advisory Committee (TSAC). The subcommittee meetings will be held on 24 September 1986 in Room 4436–38 of the Department of Transportation Headquarters (NASSIF) Building, 400 7th Street, SW., Washington, DC. The meeting will begin at 1:30 p.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of the following topics:
(a) Port Facilities and operations.
(b) Tankbarge—construction, certification, operations.
(c) Personnel manning and licensing.
(d) Personnel safety and workplace standards.
(e) Existing regulations review and restructure.
(f) IMO/MARPOL initiates.
(g) Working groups:
(1) Air quality/vapor control.
(2) Intervals for drydocking and tailshaft examination on inspected vessels.
3. Presentation of any new items for consideration of the Subcommittees.
4. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from B.P. Novak, Executive Director (Acting), Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC/21), Washington, DC 20593 or by calling (202) 267–1477.

Dated: August 25, 1986.

N.F. Tencza,

Acting Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86–19524 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement: Alexander and Iredell Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Alexander and Iredell Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: J.M. Tate, District Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856–4270.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) on a proposed NC 90 improvement from I–40 in Iredell County to Taylorsville in Alexander County. Planning, environmental and location studies are being initiated.

Alternatives under consideration include: (1) The "no-build," (2) improving the existing NC 90 roadway, and (3) major relocation alternatives for construction of a new facility.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and a meeting with local officials will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media.

The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: August 21, 1986.

J.M. Tate,

District Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 86–19452 Filed 8–27–86; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Charlotte, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Charlotte, North Carolina.

FOR FURTHER INFORMATION CONTACT: J.M. Tate, District Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856–4270.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) on a proposed Charlotte East Outer Loop in Charlotte. The proposed action would be the construction of a multilane divided, controlled highway on new location from the existing I–85/US 29 Connector northeast of Charlotte to US 74 (Independence Boulevard) at a point coincident with the eastern terminus of the planned I–77/US 74 Connector. This proposed facility, in combination with the I–77/US 74 Connector, will provide a continuous outer belt facility east of Charlotte from I–85 to I–77. The completed outer belt facilities will provide for circumferential travel and will relieve traffic along the existing inner loop (Eastway Drive and

Woodlawn Road). The proposed action is a part of the 1983 Charlotte-Mecklenburg Thoroughfare Plan.

Alternatives under consideration include: (1) The "no-build," (2) improving existing facilities, and (3) a controlled access highway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and meetings with local officials and neighborhood groups will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: August 21, 1986.

J.M. Tate,

District Engineer.

[FR Doc. 86-19453 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Johnson County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Johnson County, Texas.

FOR FURTHER INFORMATION CONTACT: W.L. Hall, Jr., P.E., District Engineer, Federal Highway Administration, Federal Office Building, Room 826, 300 East Eighth Street, Austin, Texas 78708, Telephone: (512) 482-5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal to upgrade a portion of US Highway 67 in Johnson County, Texas, to a four-lane divided facility, on a new location with control of access. Because of the difficulty in predicting availability of funds, the DHT has not yet decided whether to use State or Federal funds to finance construction of this project.

The highway section under study passes through the Cities of Cleburne (Inc.) (1980 pop. 19,208) and Keene (Inc.) (1980 pop. 3,013). The corridor study begins at US 67 approximately 4 miles West of SH 174 in Cleburne and ends at US 67 near FM 2280 in Keene, and will provide a bypass to the north of the congested downtown area of Cleburne. The existing facility is now basically a two-lane roadway, with a four-lane radoway existing through the major portion of Cleburne. Expansion to four lanes for US 67 to the east is anticipated within the next ten years.

US 67 and SH 174 are major arterial routes connecting the Cleburne area to Dallas and Fort Worth respectively. Traffic volumes have increased considerably, and the existing facility through Cleburne is inadequate to handle current traffic needs (20,000 vehicles per day near SH 1740 as evidenced by the present severe congestion in the downtown area, which includes an abnormal proportion of large trucks.

The proposed US 67 bypass will safely and efficiently provide for the transportation needs of the area. Segregation of through traffic from intra-city traffic will alleviate congestion in the city and better serve local traffic, with the result that access to housing, businesses, employment, schools, and churches will be improved.

The proposed improvement will benefit thru traffic by eliminating the usual delays and interruptions associated with city travel. Existing development along SH 174, in the middle of the project on the north side of Cleburne, limits available interchange sites, leaving only one feasible location at SH 174. Three alternatives will be considered for each half of this proposed action, including two possible bypass routes in each quadrant and a no-build alternative.

There are currently no plans to hold a formal scoping meeting for this proposal. Several conferences with local officials plus public meetings by both the City and State, were held in the earlier stages of planning for the proposed action. A public hearing is planned to be held late in 1986 or early 1987 within the project area. Adequate notice will be given through the news media concerning the time and location of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: August 20, 1986.

W.L. Hall, Jr.,

District Engineer, Austin, Texas.

[FR Doc. 86-19454 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Worcester/Millbury, MA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Worcester and Millbury, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Arthur R. Churchill, District Engineer, FHWA, Transportation Systems Center, 10th Floor, 55 Broadway, Cambridge, Massachusetts 02142; Frank Bracaglia, Assistant Director, Systems Planning and Development, Massachusetts Department of Public Works, 10 Park Plaza, Room 4261, Boston, Massachusetts 02116.

SUPPLEMENTARY INFORMATION: The proposed project involves widening Route 146 from two lanes to four lanes from I-290 at Brosnihan Square in Worcester south to the existing four-lane section of Route 146 south of the Worcester/Millbury Town Line, a length of approximately three miles. The proposed project includes improvements to the existing Route 146/Route 20 interchange and a proposed new interchange from Route 146 to the Turnpike. The purpose of the proposed project is to: (1) Improve capacity and safety along Route 146 (2) improve the geometric design of the Route 146/Route 20 interchange (3) provide more direct access between Worcester, the

Blackstone Valley and the Massachusetts Turnpike and (4) stimulate economic development in Worcester and the Blackstone Valley. The possible alternatives include:

I. No-Build Alternative

II. Improvements to Route 146/Route 20 Interchange

III. Route 146 Widening and Route 146/Route 20 Interchange Improvements

IV. Route 146 Widening, Route 146/Massachusetts Turnpike Interchange.

A scoping meeting is scheduled to be held on August 26, 1986 at 10:00 A.M. at the Massachusetts Department of Public Works District 3 Office, 403 Belmont Street, Worcester, Massachusetts 01604.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provision of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: August 20, 1986.

Arthur R. Churchill,

District Engineer, Cambridge, Massachusetts.

[FR Doc. 86-19455 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket Number HS-86-14]

Petition for Exemption From the Hours of Service Act; Keokuk Junction Railway

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Keokuk Junction Railway (KJRY) has petitioned the Federal Railroad Administration (FRA) for a permanent waiver of compliance with the provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty for a period in excess of 12 hours. However, the Hours of Service Act contains a provision that permits a railroad which employs no more than 15 employees who are subject to the statute to seek an exemption from the 12 hour limitation.

The KJRY seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24 hour period. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety.

Additionally, the petitioner asserts that it employes not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning the proceedings should identify this docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Communications received before October 14, 1986, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, Washington, DC 20590

Issued in Washington, DC, on August 20, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-19401 Filed 8-27-86; 8:45 am]

BILLING CODE 4910-06-M

VOL 51 ISS 167 AG 28 1986 UMI

federal register

Thursday
August 28, 1986

Part II

Small Business Administration

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies; Final Rule

VOL 51 ISS 167 AG 28 1986 UMI

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: By this publication, SBA replaces Appendices A, B and C of Part 107 of its regulations (13 CFR Part 107) with Appendices I and II which deal with accounting standards and mandatory financial reporting requirements for licensed Small Business Investment Companies (SBIC's). This final rule addresses the accounting requirements of Limited Partnership Small Business Investment Companies, an area on which the current appendices are silent, and consolidates the accounting requirements of all SBIC's. The objectives of the final rule are:

1. To reduce the number of forms required in the annual financial report, SBA Form 468; and

2. To provide the necessary special forms required for financial reporting of limited partnership SBIC's.

Part (II)(B) of Appendix I differs completely from the proposed rule. As finally adopted, Part (II)(B) retains SBA's former rule concerning those eligible to submit opinions on financial statements (formerly Part (V)(A) of Appendix A of Part 107). Under the final rule, SBA will continue to accept opinions on financial statements only from Certified Public Accountants and from other accountants licensed on or before December 31, 1971.

DATES: Effective August 28, 1986.

Written comments in duplicate will be accepted on the retention of the current rule until October 27, 1986.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Bresnan, Telephone: (202) 653–6389.

Public Response to the Notice of Proposed Rulemaking

On July 19, 1985, SBA gave notice to the public of its intent to revise Appendices A, B and C of 13 CFR 107 which deal with accounting standards and financial reporting requirements for licensed Small Business Investment Companies (50 FR 29532). In order to ensure that the affected members of the public were notified of the Proposed Rulemaking, reprints of the Federal Register publication, along with draft copies of the proposed SBA Form 468—SBIC Financial Statement, were mailed to all SBIC's.

In response to the notice SBA received five written comments, four of which addressed a variety of substantive issues. The comments received from the American Institute of Certified Public Accountants addressed an issue of concern to member CPAs throughout the country. The comments received from the National Association of Small Business Investment Companies and the American Association of Minority Enterprise Small Business Investment Companies addressed issues of concern to all member investment companies.

After careful consideration of the comments received in response to a proposal that would have allowed SBA to accept opinions on financial statements from any person licensed to practice accountancy, SBA has decided to withdraw that section of the proposed rule and retain the existing rule, which is hereby adopted in final form. SBA will continue to accept opinions on financial statements only from Certified Public Accountants or persons licensed to practice accountancy on or before December 31, 1971.

SBA's position is consistent with the Government-wide policy expressed by the General Accounting Office in "Standards for Audits of Governmental Organizations, Programs, Activities, and Functions" (1981 revision).

Continued adherence to the present rule would not affect any existing accountant/client relationship between an SBIC and a licensed accountant, nor would it debar a licensed accountant presently deemed qualified to express an opinion on the financial statements of an SBIC from doing so on behalf of any SBIC clients he or she may acquire hereafter. On the other hand, SBA considers that the interests of the Government would be best served by adhering to the government-wide policy which implements the published views of the General Accounting Office.

Comments are invited, as indicated above, within sixty days from the date of this publication.

The comments received and the actions taken by SBA in response to this rule are as follows:

1. Comment: Accountant's opinion may conform to the new form of reporting set forth in Chapter 10 of the January 15, 1985 AICPA exposure draft entitled "Proposed Audit and Accounting Guide—Audits of Investment Companies."

Action: The examples of auditor's reports referred to cover various situations. The illustration in the SBA regulations has drawn from a number of opinions and has been tailored to fit the SBIC industry specifically. Although it is hoped that accountants will be fully familiar with the publication "Audits of Investment Companies," the sample opinion in the regulation is more appropriate.

2. Comment: Section L of Appendix II appears to be contradictory.

Action: This comment refers to the treatment of non-monetary transactions where the proposed rule stated that Accounting Principles Board Opinion No. 29 should be followed. The following paragraph then stated that non-monetary exchanges where securities are transferred for other securities will not be considered as transactions where gain or loss is recognized: a conflict with APB 29. This section is rewritten to conform with APB 29 in the treatment of non-monetary transactions.

3. Comment: Schedule 7 should not be referred to in the "Accountants Opinion" as supplemental data subject to standard audit procedures.

Action: This comment recommends deleting the "Schedule of Shareholders, Officers and Directors" (Corporations), and the "Schedule of General Partners, Limited Partners and Advisory Directors" (Partnerships) from reference in the "Accountants Opinion" as inappropriate. SBA agrees and has changed the wording of the sample opinion.

4. Comment: The proposed rule requests excessive detailed information on potential fees on unrealized appreciation.

Action: SBA agrees with this comment and has changed the requirement to show only the amount of any potential fees.

5. Comment: SBA should delete the requirement that the licensee furnish copies of adjusting entries.

Action: As adjusting entries are all available to the examiner, SBA has deleted this requirement.

6. Comment: SBA should delete the requirement that the licensee furnish copies of all Special Management Reports.

Action: SBA concedes that submission of all special reports may be excessive, and that defining those which may be of interest to financial analysts is extremely difficult. SBA agrees to delete the requirement for submission but will continue to require that all such reports be maintained in the files pursuant to the record retention requirements of

section 1002 of Part 107, and be available to the examiner as needed.

7. Comment: Tax returns should not be considered Special Reports and should not be routinely furnished to SBA.

Action: SBA agrees and will not require that tax returns be routinely filed.

8. Comment: SBA should state that SBIC's may utilize computer prepared financial statements so long as they provide, in the proper format, all the information required in the Form 468.

Action: SBA has carefully considered the possibility of accepting computer generated financial statements which contain all the information required in the Form 468. In order to avoid the problems of diverse submissions, incomplete statements, and the like, SBA has determined that licensees wishing to prepare statements by computer will be evaluated on a case by case basis. The licensee must submit examples of the forms to SBA for prior approval. Such forms must conform to the SBA Form 468 in every material aspect; such as line by line, schedule by schedule, paper size of 8½ inches by 11 inches, etc. Upon approval, the licensee may then utilize the computer generated forms with no further changes.

9. Comment: SBA should delete the Schedule of Delinquencies.

Action: The unanimous conclusion of financial analysts and examiners is that the Schedule of Delinquencies is a valuable and useful document. SBA has determined that it should be maintained.

10. Comment: Sixty days is too short a time to be considered delinquent. This period should be extended to one hundred and twenty days.

Action: Throughout SBA lending programs, anything over sixty days past due is considered delinquent. Over 60 days is the norm. Both examiners and financial analysts feel this norm is reasonable.

11. Comment: The Schedule of Participation should be limited to only participations and joint financing which were added, deleted, or otherwise changed during the current year of reporting.

Action: SBA agrees with this comment and has so indicated in the instructions for the preparation of the schedule.

12. Comment: Additional space is needed on certain schedules due to the requirement that the Form 468 be typed.

Action: SBA recognizes that the need for additional space arises on occasion. The guides will specify that where there is a need, the additional data should be entered on a plain 8½ by 11 sheet attached to the appropriate schedule.

13. Comment: The Comptroller General's "Standards for Audits of Governmental Organizations, Programs, Activities and Functions" (the Yellow Book) should be followed in the case of SBIC's, and therefore, only CPA's or Public Accountants licensed before December 31, 1971 should be permitted to conduct the required audits.

Action: The question as submitted is whether or not the "Yellow Book" applies to private industry interfacing with a government program. SBA General Counsel has issued an opinion stating that these provisions do not bind private industry. During the review, extensive discussion highlighted the fact that the standards established by the "Yellow Book" are wellfounded and deserving of careful consideration. As the SBIC industry is licensed and regulated by the SBA, and the preparation of financial statements is governed by regulation, it behooves the SBA to consider incorporating the ideas contained in the "Yellow Book" into its regulations. The consensus of personnel in the Offices of Investment, Inspector General, and General Counsel is that such incorporation is desirable. It is determined, therefore, that the comment has merit, and accordingly, will be reinstituted in the regulations.

Finally, cases have arisen wherein examiners have been unable to perform an examination as scheduled due to the fact that records have been kept in a foreign language. The new Appendices I and II will specify that all books and supporting records must be maintained in English.

Compliance with Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act

This rule will likely have a significant economic impact on a substantial number of small entities as it will affect the entire SBIC industry. Therefore, for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the following analysis is offered:

There are no Federal rules which duplicate, overlap or conflict with this rule.

The legal basis for this rule is in section 308(b) of the Small Business Investment Act, 15 U.S.C. 687(b). The objectives of this rule have been indicated above.

There are no significant alternatives capable of accomplishing the objectives and/or minimizing any significant economic impact on the SBIC's.

The rule is a *nonmajor final* rule for purposes of E.O. 12291, for the following reasons:

1. It will *not* result in an annual economic effect of $100 million or more;

2. It will *not* result in a major increase in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

3. It will *not* have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in the domestic or export markets.

The potential net benefits are not quantifiable in monetary terms due to the wide range in size and levels of activity. All SBIC's would have net benefits from each of the following changes; the fewer number of forms required, the smaller size of the forms, and the reduced burden of preparation. In addition to the above benefits, the limited partnerships would benefit by reason of having forms that are designed for partnerships, and not having to manipulate corporate forms for reporting purposes. The elimination of information not required for the financial analysis and the rearrangement of the information being submitted will permit SBA analysts to do a more efficient job of reviewing the annual report, which it is hoped will result in fewer letters to the licensee from SBA requesting additional information.

There are no alternatives that could achieve the same objectives at a lower cost, or even at a higher cost.

The amendment to 13 CFR 107 contains reporting and/or recordkeeping requirements and is therefore subject to the review and clearance provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The revised statements (SBA Form 468—OMB #3245–0063), have been cleared by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980.

List of Subjects in 13 CFR Part 107

Investment companies, loan programs/business, small business.

Dated: June 12, 1986.

Charles L. Heatherly,

Acting Administrator.

1. The authority cite for Part 107 continues to read as follows:

Authority: Sec. 380(c), 72 Stat. 694, as amended (15 U.S.C. 687(c)); sec. 312, 78 Stat. 147 (15 U.S.C. 687d); Sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

2. 13 CFR Part 107 is amended by removing Appendices A, B and C and adding Appendices I and II to read as follows:

Appendix I—Audit Guide for SBICs and Preparation of the Annual Report

A Note of Caution to All SBICs Legal Counsel, Accountants and Tax Advisors

The appendices refer to Securities and Exchange Commission Rules and Regulations, American Institute of Certified Public Accountants' publications, and the Internal Revenue Code in various places. The references are current at this time but can be changed at some future time. It is the responsibility of the licensee and its advisors to be knowledgeable of any change and its effect on the SBIC.

Distributions to stockholders or partners are permitted only to the extent that undistributed net realized earnings exist. Under certain circumstances this could create a hardship on stockholders in Subchapter S Licensees or partners in Limited Partnership Licensees.

The Financial Statements (SBA Form 468) must be typed. All books, records, and other supporting documents must be maintained in the English language.

Permission to file the Annual Report Form 468 on computer generated forms. SBA will consider each application to file the Annual Report Form 468 on a computer generated form, when accompanied by sample forms, on a case by case basis subject to the following conditions:

1. The computer generated forms must be identical to the SBA forms in all respects, including but not limited to:
   a. size of paper,
   b. print style, and
   c. line by line contents of each page.
2. Prior approval must be obtained from SBA prior to the use of the computer generated forms.
3. Submission of computer generated forms without prior approval by SBA or change after approval will be rejected and will not be considered a "timely" filing.

Table of Contents

I. Introduction
   A. Purpose of the guide
   B. Definitions
II. Selection and Qualification of the Auditor
   A. Selection of the Auditor
   B. Qualification of Accountants
   C. Independence
   IPA Certification
   Accountants Opinion
III. Scope of Audit
IV. Accounting Policies and Practices
   A. General
   B. Reporting Entity
      1. Equity Method of Accounting for Investments in Common Stock or Limited Partnership Interests
      2. Policy on Consolidated Financial Statements
V. Reporting Requirements—General
   A. Annual Financial Report
   B. Reporting Irregularities
   C. Regulated Investments Companies
   D. Special Management Reports
   E. Investment Objectives & Policies
   F. Federal Income Tax Provisions Affecting Investment Accounts
   G. Recordkeeping Requirements Relating to Investment Activity
   H. Custody of Securities
   I. Valuation of Securities
   J. Audit Procedures
   K. 3 Percent Cumulative Preferred Stock
   L. Unrealized Gain (Loss) on Securities Held
   M. Undistributed Realized Earnings
VI. Other Matters
   A. Compensating Balances
   B. Taxes
   C. Notes and debentures Payable to or Guaranteed by SBA
   D. Licensees Regulated under the Investment Company Act of 1940
VII. Reporting Requirements—Specifics
   A. General
   B. Financial Report Heading
   C. Statement of Financial Position
General Discussion of partnership Capital Accounts Regulatory Problems
Partners' Permanent Capital Contribution
Partners' Net Realized Gains and
Partners' Non-cash Gains/Income
Partners' Unrealized Gains on Securities Held
Line by line description of forms

I. Introduction

A. Purpose of the Guide

The Small Business Administration (SBA) Audit Guide has been written primarily to (1) inform the licensee and (2) assist the auditors of Small Business Investment Companies (SBICs) in performing their financial examination by focusing on matters that are unique to the SBIC program and the venture capital industry. It should be noted that this Guide is not intended to be a substitute for the accountant's judgment as to the work required to meet generally accepted auditing standards.

The report (SBA Form 468) and related schedules have been designed to provide standard reporting in such form that will insure that uniform and comparable data will be received by SBA from all licensees. The licensee is responsible for the preparation of the report. The independent public accountant is required to audit the licensees' financial statements and express an opinion.

Further discussion of specific policies will be found in Appendix II.

B. Definitions

(1) "Licensee" means any corporation or limited partnership that has been licensed by the SBA as a Small Business Investment Company.

(2) "Directors" means any director of a corporation or any person performing similar functions with respect to any licensee whether incorporated or unincorporated.

(3) "Executive Officer" means the president, vice president, secretary or treasurer of the licensee or any other person who performs similar policy making functions for the licensee whether incorporated or unincorporated.

(4) "Advisory Board" means a board, whether elected or appointed, which is distinct from the board of directors or board of trustees, of the licensee, and which is composed solely of persons who do not serve such licensee in any other capacity, whether or not the functions of such board are such as to render its members "directors" within the definition of that term, which board has advisory functions as to investments but has no power to determine that any security or other investment shall be purchased or sold by such licensee.

(5) See § 107.3 for other "definition of terms."

II. Selection and Qualification of the Auditor

A. Selection of the Auditor

The responsibility for selecting the independent public accountant is vested in the licensee's Board of Directors/General Partner(s). Any accountant qualifying as an independent public accountant, as explained in Paragraph C may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the Board of Directors/General Partner(s), and the filing with SBA by such accountant of an executed IPA Certification, CO Form 112 (XX–XX) certifying as to his qualification and independence, unless advised otherwise by SBA.

It is strongly recommended that the Board of Directors/General Partner(s) give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The Board/General Partner(s) under this policy selects an accountant with whom it agrees as to the scope of the engagement and basis of compensation. Notification of the Board's selection will be furnished to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, NW., Washington, DC 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

B. Qualification of Accountants

Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee whose office is located in such State or Authority. Effective December 31, 1975, only a Certified Public Accountant may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee except that those licensed public accountants who have received their licenses on or before December 31, 1971, will also be considered similarly qualified.

C. Independence

Accountants approved by SBA as auditors of a licensee are to follow the code of professional ethics adopted by the American Institute of Certified Public Accountants (AICPA). In determining whether an accountant may in fact be not independent with respect to a particular licensee, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing on relationships between the accountant and such licensee or any affiliate thereof.

Accordingly, an accountant or a firm of which he is a partner or shareholder shall not express an opinion on financial statements of a licensee unless he and his firm are independent with respect to such licensee. Independence will be considered to be impaired if, for example:

1. During the period of his professional engagement, or at the time of expressing his opinion he or his firm,

a. Had or was committed to acquire any direct or indirect financial interest in the licensee; or

b. Had any joint closely held business investment with the licensee or any officer, director or principal stockholder, or partner, general or limited, thereof which was material in relation to his or his firm's net worth; or

c. Had any loan to or from the licensee or any officer, director or principal stockholder thereof.

2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm,

a. Was connected with the licensee as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the licensee; or was a trustee for any pension or profit-sharing trust of the licensee.

c. The independent accountant should familiarize himself with Section 600 "Matters Relating to Independent Accountants" of the "Codification of Financial Reporting Policies" of the Securities and Exchange Commission (SEC) which the SBA follows in most matters relating to the independence of accountants.

IPA Certification

Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, NW., Washington, DC 20416

Gentlemen:

I (we) have been selected by the Board of Directors of

_____

(Name of Licensed Small Business Investment Company

_____

License Number

_____

(Address of Licensee's Principal Office)

to conduct an annual examination of the licensee's financial statements as of ———, 19——. In accordance with provisions of Paragraph II. B of Appendix L, (Check One):

☐ Independent* Certified Public Accountant (or firm of CPAs).

☐ Independent* Licensed Public Accountant (or firm of Licensed PAs).

I certify that this accountant (or firm of public accountants) is authorized to practice in, and is in good standing under the laws of, the state or other jurisdiction in which the principal office of the Licensee is located, and accordingly, qualifies to perform the annual audit of the above named Licensee.

(Date)———

(Signature of Individual Practitioner or Principal, if applicable)———

(Date)———

(Signature of Partner of Accounting Firm, if applicable) ———

(Type name under which individual practitioner or accounting firm is doing business) —

(Business Address)———

(Zip Code)———

Accountants Opinion

To the Board of Directors and Shareholders of

or

To the General Partners and Limited Partners of

(Insert SBIC Name),
A Small Business Investment Company licensed by the SBA.

We have examined the statement of (Consolidated or combined, if applicable) financial condition of (Insert SBIC Name) including the portfolio of investments as of (insert date for close of fiscal period), and the related statement of operations for the year then ended, the statement of changes in financial position, and the supplementary schedules and information required by SBA Form 468. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Securities owned at (insert date), except securities purchased but not received, were confirmed to us by the custodian (or "counted" if such was the audit procedure). As to securities purchased but not received, we requested confirmation from the (brokers/sellers as applicable), and where replies were not received, we carried out other appropriate auditing procedures.

The company presents its financial statements in conformity with accounting practices prescribed by the Small Business Administration, which provide for specific allocations of certain types of income to specific capital accounts. As discussed more fully in note (identify the note or notes) to the financial statements, securities amounting to $_____ (_____% of the net assets) have been valued at fair value as determined by the (board of directors/general partners, as applicable). We have reviewed the procedures applied by the (directors/partners) in valuing such securities and have inspected the underlying documentation; while in the circumstances the procedures appear to be reasonable and the documentation appropriate, determination involves subjective judgment which is not susceptible to substantiation by auditing procedures.

Our examination was made primarily for the purpose of formulating an opinion on the basic financial statements taken as a whole. The supplemental data contained in Schedules 1 through 6 is presented to conform with the requirements of preparing the Company's annual report to the Small Business Administration and, although not considered necessary for a fair presentation of the basic financial statements, such information has been subjected to the audit procedures applied in the examination of the basic financial statements. In our opinion, Schedules 1 through 6 are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

In our opinion, subject to the possible effect on the financial statements of the valuation of securities determined by the (board of directors/general partners) as described in the preceding paragraph, the aforementioned financial statements present fairly the net assets of (Insert SBIC Name) at (insert date), and the results of its operations, change in financial position, and supplementary information for the year then ended, in conformity with generally accepted accounting principles, applied in a manner consistent with that of the preceding year.

We consent to the use of this opinion in connection with the filing of the report of (Insert SBIC Name) with the Small Business Administration on SBA Form 468.

(Signed) Independent Auditor
(Insert City and State)
(Insert Date)

Note.—The accountant will comment on any other exceptions in Paragraph 2 prior to the comments on valuation.

III. Scope of Audit

The independent public accountant's audit is to be an examination of the licensee's financial statements in accordance with generally accepted auditing standards as expressed by the American Institute of Certified Public Accountants. The auditor is to make an examination of the licensee's financial statements with the view of expressing an opinion as to whether the financial statements present fairly the financial position, changes in financial position, and results of operations in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Management is responsible for the preparation of the Annual Report, SBA Form 468. The statements and supporting schedules will be the basis for the auditor's opinion. It is expected that all audit adjustments will be recorded in the licensee's records before completion of the audit report so that financial statements accompanying the report will agree with the books as adjusted as of the statement date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not so recorded on the licensee's books, a statement

* Independent within the meaning of this term as used by the Small Business Administration. SBA will not recognize any public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any small business investment company with which he has, or had during the period covered by the audit (financial examination), any direct financial interest or any material indirect financial interest; or with which he is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee.

should be made by the independent accountant to this effect.

The independent public accountant is expected to satisfy himself as to the reasonableness of the basis used by the licensee's Board of Directors/General Partner(s) in determining the valuation of loans and investments. Accordingly, the auditor should comment in his report as to reasonableness of procedures used and adequacy of documentation.

IV. Accounting Policies and Practices

A. General

As a general rule, accounting policies followed by licensees are those expressed by the American Institute of CPA's as generally accepted accounting principles and practices. Certain of these principles and practices are prescribed in the AICPA's Audit Guide. The System of Accounts Classification (Appendix II) in item II identifies particular accounting policies and practices licensees are required to follow.

B. Reporting Entity

The auditor should bear in mind that the reporting entity being audited is the licensee. Those securities and assets that are held for investment are to be reported on the fair value basis.

A corporate licensee may hold an investment in a 301(d) licensee and/or have a wholly owned management consulting subsidiary. A limited partnership licensee may hold an investment in a 301(d) licensee and/or own 100 percent of outstanding stock of a management consulting company. Such securities would not be considered held for investment but are considered held for long-term operating purposes.

1. *Equity Method of Accounting for Investments in Common Stock or Limited Partnership Interests.*—"Equity" method of accounting for investments in common stock or Limited Partnership Interests is not to be confused with the "fair value" method of reporting portfolio securities. Under the equity method, an investor initially records such an investment at cost, and adjusts the carrying amount of the investment to recognize the investor's share of the earnings or losses of the investee after the date of acquisition. The amount of the adjustment is included in the determination of net income by the investor. Dividends or distributions received from an investee reduce the carrying amount of the investment. Accounting Principles Board Opinion No. 18 issued in March 1971, by the AICPA specifically does not apply to licensees whether or not registered under the Investment Company Act of 1940, as explained in Paragraph 2 of that Opinion.

The AICPA Audit Guide states that investments in other than portfolio securities which meet the criteria of APB Opinion No. 18 should be carried on the equity basis. As applied to licensees, this would only apply to investments in section 301(d) licensees, investments in unincorporated entities and/or management consulting investments. In those cases where a 301(d) licensee is a subsidiary of another licensee, such subsidiary should be reported as an unconsolidated subsidiary by the corporate parent licensee.

2. *Policy on Consolidated Financial Statements.*—Consolidated Financial Statements are to be filed with SBA only where the corporate licensee has a management consulting subsidiary. Combined Financial Statements are to be filed with SBA only where the limited partnership licensee has an investment in a management company. Under SBA Regulations, management consulting companies are to be a wholly owned and are to be consolidated or combined with the licensee.

Under certain circumstances, a licensee may temporarily own more than a 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the licensee.

V. Reporting Requirements—General

A. Annual Financial Report

The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended, (1958 Act) requires licensees to have their financial statements examined annually by independent public accountants approved by SBA. The annual audit shall be performed as of the close of the licensee's fiscal year.

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and supporting schedules, shall be submitted to SBA by the licensee as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit. Attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special reports, or similar communications furnished to the licensee by the auditor.

B. Reporting Irregularities

The independent public accountant shall promptly inform a responsible official of the licensee and the Deputy Associate Administrator for Investment, Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416, concerning any apparent defalcation that may come to his attention in connection with his examination. Based on available information, he will indicate the nature and the extent of such defalcation(s). In regard to the other financial or regulatory irregularities that may come to his attention in connection with his examination, the independent public accountant shall promptly inform the licensee in writing of his findings. The licensee shall, within 30 days, inform the SBA of the findings of the independent accountant and enclose a copy of the report to the SBA. The independent accountant shall, not later than 60 days after the date of his report to the licensee concerning the irregularities request confirmation from the SBA that the SBA has received a copy of his report to the licensee dated (insert date).

C. Regulated Investment Companies

Concerning licensees that are registered with the Securities and Exchange Commission, additional reports are required by SEC which are identified in Chapter 1 of the AICPA's Audit Guide. It should be noted that any report submitted by a licensee to the SEC shall also be submitted to the Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

D. Special Management Reports

Frequently, the independent public accountant or an outside consultant will render special reports to the licensee's management concerning the financial condition or other matters on the portfolio investments of the licensee. All such reports will be maintained in the licensee's files pursuant to the record retention requirements of Section 1002 of Part 107 of SBA regulations and will be available to SBA as needed. In this respect, tax returns will be retained in the files and made available to SBA as required.

Upon request, licensees will submit to SBA either, the complete SBA form 468 or a part thereof. Such reports are considered interim in that they cover less than a full year of operations and the financial report is not audited by the licensee's independent accountant. Accordingly, such reports are in addition to, not in lieu of, the annual report.

E. Investment Objectives & Policies

The composition of a licensee's loans and investments varies from one licensee to another and reflects the licensee's policies and objectives of investing that are being followed in practice. Such objectives may emphasize equity investments, loans or a balance between loan and equity investments. The portfolio may also be widely diversified or specialized as to industry or geographic area. In addition, the licensee may choose to be "301(d) licensee" that is organized to be a profit or non-profit corporation with an investment policy limited to providing financing solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Such licensees were formerly designated by the acronym "MESBIC."

The basic investment objectives adopted by management can be found in the licensee's proposal to operate, as amended.

F. Federal Income Tax Provisions Affecting Investment Accounts

Licensees which elect to qualify as Regulated Investment Companies under Subchapter M of the Internal Revenue Code must meet the various requirements set forth therein which are summarized in Chapter 5 of the AICPA's Audit Guide. Also Item VI. B. of this Guide summarizes the special income tax provisions that may apply to licensees.

G. Recordkeeping Requirements Relating to Investment Activity

No specific recordkeeping system for investment activity is required other than that provided in the SBA's System of Account Classification. However, the licensee is to develop systems and maintain records sufficient to properly account for transactions

VOL 51 ISS 167 AUG 28 1986 UMI

and valuation of individual loans and investments.

Section 107.1002 of the SBA Rules and Regulations specifies the records and documents which must be maintained and preserved by all licensees. In addition, licensees registered under the Investment Company Act of 1940 are required to maintain and preserve those records specified in such Act and the Rules and Regulations thereunder.

H. Custody of Securities

A licensee's management is expected to assume responsibility for the custody of securities. Accordingly, there is to be safekeeping for securities, usually a safe deposit box at a bank of other custodian with such safekeeping facilities, and control over withdrawal of securities from safekeeping is required as specified in § 107.1003 of the SBA Regulations.

I. Valuation of Securities

The general practice in the investment company industry is to disclose, in one form or another, valuation of securities at quoted market values or, in the absence of quoted values, at fair values determined by the company's Board of Directors of General Partner(s) in good faith.

Ordinarily, little difficulty should be experienced in valuing securities traded on a recognized securities exchange since the prices of transactions are published daily. If a security was traded on the valuation date, the last quoted sales price generally is used. However, if there were no sales on the exchange on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Where quotations appear questionable, consideration should be given to valuing the securities at fair value as determined in good faith by the Board of Directors or General Partner(s).

Quotations are available from various sources for most unlisted securities traded regularly in the over-the-counter market. Ordinarily, quotations for an over-the-counter security should be obtained from more than one broker/dealer unless available from an established market-maker for that security. Quotations for several days should be used and the valuation should be within the range of these quotations.

The Board of Directors or General Partner(s) when valuing securities must consider the effect of factors having a bearing on the value of such securities even when they are traded on a recognized exchange where market quotations are available. Examples of such factors are a thin market, large holdings by the licensee that would adversely affect the market price if traded, or securities that are restricted.

Regarding securities that are not publicly traded, it is incumbent upon the Board of Directors or General Partner(s) to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each security.

To the extent considered necessary, the Board of Directors or General Partner(s) may appoint persons to assist it in the determination of such value. However, the Board of Directors or General Partner(s) must review continuously the appropriateness of the method used in valuing each loan and investment in the licensee's portfolio.

It should be noted that the investments of licensees usually are venture-type investments that complicate the determination of value. The investee, in such cases, is usually a closely held, immature Small Business Concern whose stock is not publicly traded.

In addition, there may be weaknesses in the Concern's management. For these and other reasons, cost may be the most appropriate measure of value of venture-type securities until sufficient evidential matter is available to the licensee's Board of Directors or General Partner(s) to form a basis for valuing the securities at other than cost.

As stated in Accounting Series Release No. 118 of SEC, (404.03 Codification of Financial Reporting Policies) no single standard for determining fair value in good faith can be laid down, since fair value depends upon the circumstances of each individual case. SBA has set forth guidelines in SBA Policy and Procedural Release No. 2006 to assist the directors of licensees in valuing their securities. The auditor should satisfy himself that the valuation guidelines issued by SBA, or other reasonable methods, are used in valuing securities.

Additional guidance for the valuation of securities is given in Chapter 3 of the AICPA Audit Guide and in Accounting Series Releases 113 (404.04 Codification of Financial Reporting Policies) and 118 issued by the SEC.

J. Audit Procedures

The auditing procedures relating to the investment accounts of investment companies require greater attention than those of a commercial enterprise because of the relative significance of such assets. In either case, the independent auditor should evaluate the internal accounting controls as a basis for determining the extent of his examination. The auditing procedures outlined in the AICPA's Audit Guide should be followed to the extent appropriate. Concerning valuation of securities:

The Licensee's Board of Directors or General Partner(s) Has (Have) the Sole Responsibility for Valuing Securities in Good Faith

The auditor is not to be an appraiser in the sense that he is to determine the value of the licensee's securities. He is, however, expected to review the methods and evidential matter used by the Board of Directors or General Partner(s) in their determinations of fair value. He is further expected to comment in his report on the reasonableness of such practices and adequacy of such information.

K. 3 Percent Cumulative Preferred Stock

As part of the leverage funds provided to a 301(d) licensee, SBA may purchase 3 percent cumulative preferred stock, which while considered to be part of equity, is not considered paid-in capital or paid-in surplus for leverage or regulatory purposes.

The rights of the preferred stockholder (SBA) are set forth in § 107.203 of the SBA Regulations.

L. Unrealized Gain (Loss) on Securities Held

Unrealized Gain (Loss) on Securities Held represents the estimated net gain (loss) after tax effect, if any, that the licensee would realize if the loans and investments were sold at the statement date, but as if in the normal course of business.

The auditor should recognize that Unrealized Gain (Loss) on Securities Held results from valuation of Loans and Investments by the licensee's Board of Directors. Such valuation usually is a judgmental estimate which involves uncertainties that are difficult to quantify. Accordingly, the reliability of the unrealized gain (loss) on securities held will not be as great as realized gain (loss) on sale of securities because the latter is based on transactions that are objectively measurable.

1. *Unrealized Appreciation on Securities Held.* This is the amount by which fair value of the licensee's loans and investments exceeds cost.

2. *Unrealized Depreciation of Securities Held.* This is the amount by which fair value of the licensee's loans and investments is less than cost. Included in unrealized depreciation are items such as allowances for losses, temporary declines, and mortgage discounts.

3. *Estimated Income Taxes.*

a. Corporate Licenses—This is a provision for taxes on the net amount of unrealized appreciation and the offset being a deferred credit or deferred charge.

b. Limited Partnership Licensees—No provision for estimated income taxes is necessary since partnerships do not pay income taxes.

M. Undistributed Realized Earnings

Undistributed Realized Earnings is the cumulative balance of periodic net investment income including realized gain (loss) on securities sold.

1. Corporate Licensees—less dividend distributions whether cash, stock or dividends in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

2. Limited Partnership Licensee—less distributions to partners, general or limited, whether cash or property in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

Such non-cash gains will not be available for capitalization or distribution until such assets are converted to cash. Accordingly, undistributed realized earnings will be reflected in two capital accounts: (1) Non-Cash Gains/Income and (2) Undistributed Net Realized Earnings.

3. Non-cash income from the following sources is to be reported as non-cash income, and in certain cases may be reported on the equity method:

(a) Corporate Licensee from a
(i) parent and/or
(ii) subsidiary
(b) Partnership Licensee from
(i) partner (general or limited) and/or

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(ii) wholly owned investment or management company which results in an unpaid receivable.

VI. Other Matters

The independent auditor should satisfy himself that investment company accounts not specifically mentioned in this audit guide or the AICPA Audit Guide are maintained in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards for other commercial enterprises.

A. Compensating Balances

In those instances where idle funds are encumbered or are being used as "compensating balances", the nature and extent of such encumbrance will be disclosed in a note to the financial statements.

If the compensating balance is a formal arrangement, the funds should be reclassified to either other current assets or other assets, whichever would be appropriate.

B. Taxes

Licensees receive special tax treatment in a number of areas. The effect is to allow certain exclusions or additional deductions without the limitations prescribed for other corporations.

A corporate licensee operating under the 1958 Act is allowed a 100 percent dividends received deduction for dividends received by it from a taxable domestic corporation. To claim this 100 percent deduction the licensee must file with its return a statement that it was a Federal licensee under the 1958 Act at the time of the receipt of the dividends.

An ordinary loss, rather than a capital loss, shall be taken on the sale or exchange of convertible debentures or stock acquired pursuant to the conversion privilege of such debentures. Capital losses on other investments receive no special treatment. A licensee must submit with its tax return a statement that it is a Federal licensee under the 1958 Act setting forth the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reason for their worthlessness and the approximate date thereof.

Special provisions are provided for reserves for losses on loans of licensees, and they may obtain special treatment for net operating losses and may be excluded from the definition of a personal holding company. The independent auditor should assure himself that he is familiar with the most recent changes in the IR Code concerning net operating losses or other matters affecting the licensee.

A shareholder in a licensee may treat a loss on stock as an ordinary loss and in the case of a noncorporate shareholder such loss is considered a loss from a trade or business.

Finally, there is no excess accumulated earnings tax assessed to a licensee provided it utilizes such earnings and profits for additional loans and investments.

Congress has recently changed the rules on Subchapter S Corporations. Licensees should seek knowledgeable tax counsel prior to any decision.

C. Notes and Debentures Payable to or Guaranteed by SBA

A primary advantage of the SBIC program is the ability of licensees to acquire long-term leverage funds from SBA. Usually the terms and conditions set forth in § 107.203(b) of SBA Rules and Regulations are incorporated in the debenture as covenants to the agreement.

Section 107.203(b)(1)(iii) provides that the entire indebtedness of the licensee may be declared immediately due and payable for: ". . . Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or Regulations promulgated thereunder, as they may be amended from time to time . . ."

Demand in such cases will be made in a letter from SBA specifying the violations that have occurred and that funds owed the SBA are due and payable in accordance with the acceleration provisions of the debentures. The violations which cause demand to be made are usually those which are significant and include such areas as conflicts of interest, control of small business concerns by the licensee, overline investments and any other such major acts which might be determined by SBA to be contrary to the Act and Regulations. It should be noted that in such cases demand is viewed as a means to protect the SBA's position as a creditor usually after other efforts have been unsuccessful.

In those instances where the licensee fails to maintain either the capital requirement or the investment ratio (See section 303(b)(2) of the Act or §§ 107.203(b)(6) and 107.203(d) of the Regulations) SBA may, in its discretion, upon written notice consider part or all of the licensee's long-term debt to be due and payable. Written notice is not required, however, for the long-term debt to be considered due and payable when any of the four conditions set forth in § 107.203(b)(2) exist.

Should the auditor have difficulty in determining whether demand has been or is about to be made on such long-term indebtedness, he may consider requesting a positive confirmation from the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, as to whether the licensee is in violation of the Act or regulations as of the statement date and as a result whether demand is being made by SBA on the long-term debt.

D. Licensees Regulated under the Investment Company Act of 1940

Licensees that are regulated by SEC under the Investment Company Act of 1940, shall also comply with the Fidelity Bond requirements set forth in § 270.17g–1 of the SEC Rules and Regulations. Therefore, SBICs that are regulated by SEC under the 1940 Act are to comply with such requirements.

VII. Reporting Requirements—Specifics

A. General

The financial statements of Licensees are directed to the presentation of financial position, changes in financial position, results of operations and supporting schedules. Such statements and schedules constitute the Financial Report, SBA Form 468, and are required to be presented in the prescribed format.

The financial statements required for Licensees differ in certain respects from those suggested in the AICPA's Audit Guide. Such deviations are not at variance with generally accepted accounting principles and reporting practices. The opening paragraphs of Chapter 7 of the AICPA's Guide support this view:

"The financial statements illustrated in this chapter are for typical open-end management investment companies and may need to be modified to fit the requirements of other types of investment companies."

"In all instances, the management of investment companies and the auditor should be cognizant of the need for reporting in a manner which properly highlights significant information for shareholders and other interested parties. Content and format of reports required by regulatory authorities, e.g., the Securities and Exchange Commission and Small Business Administration, are, of course, governed by the requirements of the applicable form and related rules, regulations, and instructions."

The Financial Report [SBA Form 468] with supporting schedules, is designed to present the licensee's financial statements as audited by the independent public accountant. Accordingly, the statements are based on the transactions recorded in the accounts.

The Financial Report contains standard statements and schedules. Therefore, when a particular statement or schedule does not apply to the licensee's operations, it should be omitted. For example, if the licensee did not sell securities during the period, the Statement of Realized Gain (Loss) on Sale of Securities would be omitted. The Financial Report, therefore, should be "tailored" to fit the licensee's given situation.

Such tailoring, however, does not include deviating from accounting and reporting practices prescribed in these appendices.

B. Financial Report Heading

Set forth in the appropriate spaces the information called for representing the identification and the principal office address of the licensee. As to the employer identification number, enter the number assigned to the licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS–4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the licensee's principal office is located.

The preparer of this report should keep in mind that amounts are to be rounded to the nearest dollar.

The following is a detailed discussion as to how the statements are prepared.

[OMB Control No.: 3245–0083]

Cover Sheet

Give Name of Licensee, City, State and License Number on the designated lines. Show Fiscal Year End in the space provided. Immediately below the appropriate lettered box, enter the number that describes the

proper classification shown in Tables A through D.

Name of Licensee: _____

City and State: _____

_____

County

_____

ZIP CODE

_____

Employer ID Number

(SIC Code, 4 digit) _____

Licensee Number: _____

Annual Report

_____

For Fiscal Year Ended———, 19——

SBA Form 468

Size and Classification

A B C D

Size—In total Assets—A:

1 Zero to $1 milion
2 $1 million to $2 million
3 $2 million—$5 million
4 $5 million—$10 million
5 over $10 million

Ownership—B:

Bank-Owned:

1 Bank Dominated (50% or more owned by Bank or Bank Holding Company)
2 Bank Associated (10% to 49% owned by Bank or Bank Holding Company)

Owned by Financial Corporation (Other Than Bank or Bank Holding Company):

3 Publicly Owned
4 Privately Owned

Owned by Non-Financial Corporation:

5 Publicly Owned
6 Privately Owned

Owned by Individuals:

7 Publicly Owned
8 Privately Owned

Investment Policy—C:

1 Diversified
2 Non-diversified

Venture Capital Status—D:

1 Venture Capital Qualified
2 Not Venture Capital

C. Statement of Financial Position

This statement is designed to measure the licensee's financial position as of the statement date in a conventional balance sheet format. Because of their significance, loans and investments are presented before current or other assets. Likewise, long-term debt is shown before current or other liabilities.

1. Assets—Are grouped according to Loans and Investments, Investment in 301(d) Licensee, Current Assets and Other Assets.

a. *Loans & Investments as grouped into four categories:*

(1) *Portfolio Securities*—Are those securities of small business concerns obtained through providing financing.

(2) *Assets Acquired in Liquidation of Portfolio Securities*—Are those securities or other assets the licensee has acquired by taking action to protect its investment. Such assets are grouped according to receivables from debtors, and other assets acquired.

(3) *Operating Concerns Acquired*—Represents the total investment in portfolio concerns where action was necessary to protect the licensee's investment. This will include only operating concerns over which the licensee has acquired control or has the power to control either individually or in concert with other licensees.

(4) *Other Securities*—Are those securities the licensee holds that did not result from providing financing to small business concerns. Other securities will result when portfolio securities or assets acquired are sold and part of the net sales price is notes, or other securities. Also, dividends in kind from portfolio concerns would be classified as other securities.

Loans and investments are shown at cost and through adjustments for unrealized appreciation and unrealized depreciation arrive at their value.

b. *Investment in 301(d) Licensee*—Is a unique investment in that the nature and purpose of the investee is similar to that of the investors. Also, the investor actively participates in the management of the investee. For those and other reasons, investments in 301(d) licensees are not classified as Loans and Investments but are shown as a separate asset group on the Statement of Financial Position. Such investments will be carried on the equity method of accounting.

c. *Current Assets*—Are those assets that are cash, expected to be converted to cash or are expected to be expensed in the next operating business cycle: i.e., one year from the statement date. While current assets are not grouped as such for other investment companies, regulatory purposes require such a grouping for SBICs.

d. *Other Assets*—Are those assets that are not otherwise explained above. Included are furniture and equipment, deferred charges, funds in escrow and other items.

e. *Memorandum Assets*—Are worthless investments, each of which has been written off. The licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

2. *Liabilities*—Are classified according to long-term debt, current liabilities and other liabilities.

a. *Long-Term Debt*—Includes debt of the licensee net of current maturities. Such debt is grouped according to that which is payable to or guaranteed by SBA and that which is payable to others.

b. *Current Liabilities*—Are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the statement date. Included are accounts payable, accrued interest and taxes payable, current maturities on long-term debt, dividends payable, distributions payable to partners and other current items.

Other Liabilities—Are those liabilities not otherwise classified and include trust receipts, deferred credits and other items.

3. *Corporate Capital Accounts*—Are grouped according to paid-in capital and surplus, 3 percent preferred stock sold to SBA, unrealized gain (loss) on securities held and undistributed realized earnings..

a. *Capital Stock and Paid-In-Surplus*—Represents the licensee's capital which is the first component used to compute the licensee's regulatory capital for leverage and overline purposes.

b. *3% Preferred Stock Issued to SBA*—While such preferred stock by the nature of the instrument is equity, it is not considered paid-in capital and paid-in surplus; rather it is a part of the leverage funds obtained by a 301(d) licensee from SBA.

c. *Unrealized Gain (Loss) on Securities Held*—Is the net unrealized appreciation on securities held after an allowance for taxes as of the statement date. This is the amount in column 2 line 13, on the Statement of Unrealized Gain (Loss) on Securities Held if a corporation or the amount of column 2 line 11 of a partnership.

d. *Undistributed Realized Earnings*—Represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold, less dividend or distributions. Undistributed realized earnings are composed of:

(1) *Non-Cash Gains/Income*—Which represent notes, securities or other assets received as part of the net sale price when securities are sold and non-cash income from investments reported on the equity method of accounting.

(2) *Undistributed Net Earnings Realized*—Which represents undistributed earnings realized net of (a) non-cash gains on sale of securities (b) non-cash income from investments reported on the Equity Method of Accounting.

4. *Retained Earnings Computation*—In note form above the Statement of Undistributed Realized Earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such Retained Earnings will be the basis for dividend declaration (whether cash or stock) or the basis for capitalizing earnings by corporate resolution.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments. The allowance for loss should not be less than the net amount by which the unrealized depreciation exceeds the unrealized appreciation.

Treasury Stock is a restriction on the amount of Retained Earnings available for distribution.

5. *Partnership Capital Accounts*—Are grouped according to Partner's Permanent Capital Contribution (paid-in cash and capitalized retained earnings), Unrealized Gain (Loss) on securities held, non-cash gain on sale of securities and undistributed net-realized earnings.

a. *Partners Permanent Capital Contribution*—Represents cash paid in to acquire a partnership interest plus any undistributed net realized earnings transferred to partner's permanent capital contribution which is the basis for leverage and other regulatory purposes.

b. *Unrealized Gain (Loss) on Securities Held*—Is the net unrealized appreciation on securities held as of the statement date. This is the amount in column 2, line 11, on the Statement of Unrealized Gain (Loss) on Securities Held.

c. *Non-Cash Gains/Income*—Which represent notes, securities or other assets received as part of the net sale price when securities are sold, and non-cash income from investments reported on the equity method of accounting.

d. ***Undistributed Net Realized Earnings (Earned Capital)***—Represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold less partnership distributions.

6. *Partners Earned Capital Computation*—In note form above the statement of undistributed realized earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such "Earned Capital" will be the basis for partnership distributions (whether cash or in kind) or the basis for capitalizing earnings by agreement of the partners in accordance with the partnership agreement.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments.

General Discussion of Partnership Capital Accounts Regulatory Problems

Regulations governing SBICs create very special and unique requirements for the accounting of Partners' Capital Accounts. Normal partnership accounting requires only one capital account for each partner. Depending on the partnership agreement there may be additional accounts for partner's salaries, interest on partners' capital invested, and/or partners' drawing accounts. At the end of the fiscal year all of the partner's other accounts are closed to the partner's capital account in addition to the partners' share of the results of operations for the year.

Some limited partnership agreements divide the partnership capital between (1) Partnership Permanent Capital, and (2) Partnership Earned Capital.

SBICs, who have adopted the limited partnership form of organization, must, because of regulatory requirements, keep the partners' capital accounts divided into four sub-sections. Each subsection and the legal reason requiring the subsection will be discussed separately. The four subsections are (1) Partner's Permanent Capital Contribution, (2) Partner's Unrealized Gain on Securities Held, (3) Partners Non-cash Gain/Income (restricted capital) and (4) Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four accounts is the equivalent of the partnership capital account of a non-SBIC partnership. The SBIC must also keep the general partners and limited partners shares of each of the four capital accounts separate which creates eight capital accounts as control accounts. The SBIC will, either by subsidiary or memorandum accounts, keep a record for each partner, general or limited.

Partners' Permanent Capital Contribution

The balances shown in these accounts are the amount of cash contributed by each partner to the partnership less any reductions to permanent capital. Any reductions of permanent capital in excess of two percent in any fiscal year must receive prior approval from SBA. These balances after the adjustments required by regulation then constitute "Regulatory Capital" for first, the amount of capital that will be leveraged by SBA and second, the amount of capital that determines the legal maximum amount of any investment in a small business concern without requiring SBA approval for an "Overline". Partners' Permanent Capital Contribution performs the same function for the partnership as "Capital Stock" and "Capital Surplus Contributed in Excess of Par Value" perform in a corporation.

Partners' Net Realized Gains and Partners' Non-Cash Gains/Income

A limited partnership which was not subject to the legal requirements of an SBIC would have a single account titled "Earned Capital". Distributions to either general or limited partners would be charged to this account. SBA rules and regulations, however, permit distributions to be made only from gains realized in cash or cash income from investments reported on the equity method of accounting. "Earned Capital" is therefore divided into two accounts;

1. Partners' Net Realized Gain and,
2. Partners' Non-cash Gains/Income.

Distributions may only be made to partners to the extent that Partners' Net Realized Gains has a credit balance.

Partners' Unrealized Gains on Securities Held

Investment companies report on the value basis rather than on the cost basis for their investments. This account has many of the characteristics of either appraisal surplus for a corporation or recognized goodwill on the admission of a new partner in a non-investment partnership. Normal practice, in a non-investment partnership, for the admission of a new partner by investment in the partnership or the withdrawal of a partner from the partnership requires agreement by all parties on the current market value of the assets to determine the proper price to be paid by a new partner for admission or to the partner who is withdrawing.

License No. _____ Name of Licensee _____

Statement of Financial Position as of _____

(Amounts rounded to nearest dollar)

Assets, loans and investments	Cost	Valuation		Value
		Unrealized depreciation	Unrealized appreciation	
Portfolio Securities:				
1. Loans				
2. Debt Securities				
3. Equity Interests				
4. Total				
Assets Acquired in Liquidation of Portfolio Securities:				
5. Receivables From Debtors on Sale of Assets Acquired				
6. Assets Acquired				
7. Total				
8. Operating Concerns Acquired				
9. Notes and Other Securities Received				
10. Total Loans and Investments				
11. Less Current Maturities				
12. Loans and Investments Net of Current Maturities				
Investment in 301(d) Licensee (Note 1):				
13. Name				
License No.				

Assets, loans and investments	Cost	Valuation		Value
		Unrealized depreciation	Unrealized appreciation	
Current Assests:				
14. Cash				
15. Invested Idle Funds				
16. Interest and Dividends Receivable				
17. Notes, Accounts Receivable and Receivables from Parent				
18. Less: Allowance for Losses				
19. Current Maturities of Portfolio Securities				
20. Current Maturities of Assets Acquired				
21. Current Maturities of Operating Concerns Acquired				
22. Current Maturities on Other Securities				
23. Other Current Assets				
Other Assets:				
24. a. Funiture & Equipment				
b. Less: Accumulated Depreciation				
25. Other				
26. Total Assets				

(Note 1) Note to Item 13 should include percent owned, cost basis and changes resulting from equity method of accounting.

(Note 2) Column Heading apply to items 1 through 12 only. (Cost − Unrealized Depreciation + Unrealized Appreciation = Value)

(Note 3) *Memorandum Assets*—are worthless investments, each of which has been written off. The Licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

Description by Line Item—The following is a description by line item as to how the amounts shown on this statement are developed.

Item 1, Loans—In column 1, show the balance of account 170 less the balance of account 173. In column 2, show the balance of account 172. In column 3, show the balance of account 171.

Item 2, Debt Securities—In column 1, show the aggregate of balances in accounts 180 and 184 less account 188. In column 2, show the balance of account 187. In column 3, show the balance of account 186.

Item 3, Equity Interests—In column 1, show the aggregate of balances in accounts 190, 191, 194 and 197. In column 2, show the aggregate of balances in account 196, 196, and 198. In column 3, show the aggregate of balances in account 192, 195, and 198.

Item 4, Total—Show the total of Items 1, 2, and 3 which represents the total of portfolio securities.

Item 5, Receivables from Debtors on Sale of Assets Acquired—Show in column 1 the balance of account 209 and in column 2 the balance of account 208.

Item 6, Assets Acquired—In column 1, show the balance in account 204. In column 2, show the balance in account 206 and in column 3, show the balance of account 205.

Item 7, Total—State the aggregate of Items 5 and 6 which represents the total of assets acquired in liquidation to portfolio securities.

Item 8, Operating Concerns Acquired—Show in column 1 the balance of account 210, in column 2 the balance of account 212 and in column 3 the balance of account 211.

Item 9, Notes and Other Securities Received—Show in column 1 the aggregate of balances in accounts 220 and 221. In column 2, show the balance in account 223 and in column 3 show the balance of account 222.

Item 10, Total Loans and Investments—State the aggregate of Items 4, 7, 8, and 9 which represents the total of loans and investments.

Item 11, Less Current Maturities—Show the aggregate of balances in accounts 150 thru 154.

Item 12, Loans and Investments Net of Current Maturities—Show the amount stated in Item 10, column 4 less the amount shown in Item 11.

Item 13, Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number of the investee should be shown in the space provided. The balance shown in account 160 should be shown.

Item 14, Cash—Show the aggregate of accounts 100 through 129.

Item 15, Invested Idle Funds—Show the aggregate of accounts 130 through 138.

Item 16, Interest and Dividends Receivable—Show the aggregate of balances in accounts 143 and 145.

Item 17, Notes, Accounts Receivables, and Receivables from Parent—Show the aggregate of balances in accounts 140, 141 and 146.

Item 18, Less: Allowance for Losses—Show the aggregate of balances in accounts 142 and 144.

Item 19, Current Maturities of Portfolio Securities—Show the balance of account 150.

Item 20, Current Maturities of Operating Concerns Acquired—Show the balance of account 152.

Item 21, Current Maturities of Operating Concerns Acquired—Show the balance of account 153.

Item 22, Current Maturities of Other Securities—Show the balance of account 154.

Item 23, Other Current Assets—Show the balance of account 156.

Item 24, (a), Furniture & Equipment—Show the balance of account 240.

Item 24, (b), Less: Accumulated Depreciation—Show the balance of account 241.

Item 25, Other—Show the aggregate of balances of accounts 230, 231, 250, 251, 252, 265 thru 269.

Item 26, Total Assets—Show the aggregate of Items 12, 13 and 14 through 25.

Note.—The following 6 forms are applicable only to corporations. The next 6 forms are applicable only to partnerships.

Name of Licensee: .....

License Number: .....

(Use only if Licensee is a Corporation) .....

Statement of Financial Position (Continued)
As of _____

Liabilities and Capital				
Long-Term Debt (Net of Current Maturities):				
27. Notes and Debentures Payable to or Guaranteed by SBA				
28. Notes and Debentures Payable to Others				
29. Total				
Current Liabilities:				
30. Accounts Payable and Accounts Payable Due Parent				
31. Accrued Interest Payable				
32. Accured Taxes Payable				
33. a. Current Maturities of Line 27				
b. Current Maturities of Line 28				
34. Dividends Payable				
35. Other Current Liabilities				
36. Total				
Other Liabilities:				
37. Trust Receipts				
38. Deferred Credits				
39. Other Liabilities				
40. Total Liabilities				
Capital				
41. Capital Stock				
42. Paid-in Surplus				
43. Paid-in Capital Stock and Surplus				
44. 3% Preferred Stock Issued (301(d) Licensees only)				
45. Unrealized Gain (Loss) on Securities Held				
46. Non-Cash Gains/Income (Note 1)				
47. Undistributed Net Realized Earnings				
(a) Restricted—Equal to Cost of Treasury Stock				
(b) Free				
(c) Subtotal (47(a) plus 47(b))				
48. Undistributed Realized Earnings				
49. Total				
50. Less Cost of Treasury Stock				
51. Total Capital				
52. Total Liabilities & Capital				

(Note 1) Note to Item 46 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable and Accounts Payable Due Parent—Show the balance of account 340 and 341.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Corporations, Dividends Payable—Show the aggregate of balances in accounts 380 through 384.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to corporate licensees and are to be reported on the Statement of Financial Position for corporations.

Item 41, Capital Stock—Show the aggregate of balances in accounts 400 through 414.

Item 42, Paid-in Surplus—Show balance of account 420.

Item 43, Paid-In Capital Stock and Surplus—Show the aggregate of items 41 and 42.

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance of account 430.

Item 45, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of account 440 less 445 and 448.

Item 46, Non-Cash Gain/Income—Show the balance of account 450 and 463.

Item 47, Undistributed Net Realized Earnings—Undistributed Net Realized Earnings is the amount of realized earnings minus the amount of non-cash gains and non-cash income from investments reported on the equity method of accounting. This will be the amount of account 451. Treasury Stock is a restriction on the amount of earnings available for distributions to stockholders. Capitalization of retained earnings by a credit to Capital Stock and/or Paid-in Surplus is a distribution to stockholders.

Item 47(a), Restricted-Equal to Cost of Treasury Stock—Show the aggregate of the balances in accounts 415 through 419.

Item 47(b), Free—This is the amount of undistributed net realized earnings available for distribution if there is a restriction due to the presence of Treasury Stock. The amount to be shown as Item 47(b) is the difference between Account Number 451 and the amount shown as Item 47(a). If Account Number 451 has a debit balance do not report the cost of Treasury Stock as Item 47(a). If the licensee does not have Treasury Stock Item 47(b) and Item 47(c) will be identical. In such instance it will be necessary to complete both Item 47(b) and 47(c) since Item 47(b) is

required for other computations on the Form 468.

Item 47(c), Subtotal—This is the sum of Items 47(a) and 47(b).

Item 48, Undistributed Realized Earnings—Show the aggregate of Items 46 and 47.

Item 49, Total—Show the aggregate of Items 43, 44, 45 and 48.

Item 50. Less Cost of Treasury Stock—Show the sum of the balances in Account Numbers 415 through 419.

Item 51, Total Capital—Subtract Item 50 from Item 49.

Item 52, Total Liabilities and Capital—Add Item 49 and Item 51.

Name of Licensee.....

License No.....

(Use Only if Licensee is a Corporation)

Computation of Earnings Available for Dividend Declaration or Capitalization

Note.—Retained Earnings Available for Dividend Declaration or Capitalization in Accordance With SBA Regulations Computed As Follows:

Undistributed Net Realized Earnings (Line 47(b))

Less: Allowance for Losses on Loans & Investments

Retained Earnings Available for Distribution or Capitalization

Statement of Undistributed Realized Earnings—Lines 46, 47, 48:

Description	Non-Cash Gains/Income (46)	Undistributed Net Earnings (47)	Total (48)
1. Beginning Balance			
2. Additions:			
a. Net Investment Income			
b. Realized Gain (Loss) on Sale of Securities			
c. Non-cash Gains on Distributions In Kind (Note 1)			
d. _____			
e. Total Additions			
3. Adjust: Collections of Non-cash Gain	( )		//////////////
4. Total (Lines 1, 2, 3)			
5. Deductions:			
a. Dividends—Cash	//////////////		
b. Dividends—Stock	//////////////		
c. Dividends-In Kind (Note 2)			
d. _____			
e. Total Deductions			
6. Ending Balance			

(Note 1) Read Instructions Carefully

(Note 2) Name of SBC.....

Description of assets being distributed.....

D. *Statement of Undistributed Realized Earnings (Page 5 Corp.)*—This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains/income and undistributed net earnings realized. The ending balances of this statement are the same as items 46 through 48 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450 and 460.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 460 and in column 2, show the beginning balances of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as Non-cash income undistributed net earnings as applicable that amount shown as item 33 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 461 and 462.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings." There will be no effect on column 3, "Total".

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:*

(a) and (b)—Are to be paid out of undistributed net earnings only. Therefore, dividends will be entered in column 2.

(c) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total shown in column 3 is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—Is determined by subtracting 5(e) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee is a Corporation)

Name of Licensee:.....

..... License No.:

Statement of Operations Realized for———Months Ended———

Investment Income:	
1. Interest on Loans and Debt Securities	
2. Dividend Income	
3. Income from Investments Reports on the Equity Method of Accounting	
4. Management Services	

5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $_____ Expenses)	
8. Other Income Income	
9. Gross Investment Income	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Officer Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. Directors' and Stockholders' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	
26. Insurance Expense	
27. Taxes Expense (Excluding Income Taxes)	
28. Provision for Losses on Accounts Receivables	
29. Miscellaneous Expenses	
30. Total Expenses	
31. Net Investment Income Before Provision for Income Taxes	
32. Provision for Income Taxes (Note 1)	
33. Net Investment Income (Loss)	
Realized Gain (Loss) on Sale of Securities:	
34. Net Sale Price	
35. Cost of Securities Sold	
36. Net Prior to Income Tax Provision	
37. Provision for Income Taxes	
38. Realized Gain (Loss) on Sale of Securities	

Note (1).—Compute a tax only if lines 31 or line 36 show a gain.

E. Statement of Operations Realized—Corporation

This statement is designed to measure separately Net Investment Income (Loss) and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

Provision for taxes is the final measurement prior to determination of Net Investment Income.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold and a provision for taxes on the resulting gain. The remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 33 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show the balance of account 540.

Item 3, Income from Investments Reported on The Equity Method of Accounting—Show the balance of Account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Officer Salaries–Show the balance of account 663—1.

Item 14, Employee Salaries–Show the balance of account 663—2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, Director's and Stockholder's Meetings–Show the balance of account 657—1.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income before Provision for Income Taxes—Show the balance of amount of item 9 less item 30.

Item 32, Provision for Income Taxes—Show the balance of account 720.

Item 33, Net Investment Income (Loss)—Item 31 minus Item 32.

Item 34, Net Sales Price—Show net sales price.

Item 35, Cost of Securities Sold—Show cost.

Item 36, Net Prior to Income Tax Provision—Line 34 minus line 35.

Item 37, Provisions for Income Taxes—Show amount of Income Taxes, if any, applicable to Gains on sale of securities.

Item 38, Realized Gain (Loss) on Sale of Securities—Item 36 minus Item 37.

Analysis of Capital Stock and Paid-in Surplus and Computation of Regulatory Capital

	Capital stock (note 1)	Paid-in surplus	Total
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Capital Stock Issued for Cash			
(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings			
(c) Capital Stock for Service Rendered*			
(d) Capital Stock Issued for Assets Other than Cash or Services			
(f) Other Credits (Explain)*			
(e) Gain on Sale of Treasury Stock			
3. Total Additions (The sum of Items 2(a) through 2(f)			
4. Subtotal (Line 1 plus Line 3)			
5. Deductions:			
(a) Retirement of Capital Stock			
(b) Loss of Sale of Treasury Stock (Note 2)			
(c) Distributions in Partial Liquidation			
(d) Other Debits (Explain)			
6. Total Deduction (The sum of Items 5(a) through 5(d))			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 3)			
(a) Organization Expense (Note 4)			
(b) Capital Stock Issued for Services			
(c) Capital Stock Issued for Assets Other than Cash or Services			
(d) Other Non-monetary Items			
(e) Investment in 301(d) Licensee			
(f) Treasury Stock at Cost			
(g) Other (Explain)*			
9. Total Regulatory Deductions (The sum of Items 8(a) through 8(g))			
10. Regulatory Capital For Leverage Purposes (Line 7 Minus Line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defnied by Section 107.303(b) of the Regulations (note 5)			
12. Regulatory Capital For Overline Purpose (Line 10 Plus Line 11)			

*Give complete details of these items by means of footnotes.

Note 1.—Capital Stock is the sum of the amounts of all classes of capital stock.

Note 2.—If Paid-in Surplus is not sufficient to absorb the entire amount of loss on the Sale of Treasury Stock, the amount of loss in excess of Paid-in Surplus will be charged against Undistributed Net Realized Earnings as shown on line 47(b) of the Statement of Financial Position.

Note 3.—The deductions listed in Items 8(b), 8(c), 8(d) amd 8(g) are total amounts of these items from time of organization to the end of the reporting period.

Note 4.—If the amount of cash contributed for the organization expense was never credited to Capital Stock or Paid-in Surplus, it should be so stated and explained by a footnote.

Note 5.—Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern.
2. Market in which traded.
3. Class of security.
4. Cost.
5. Value.
6. Amount of unrealized appreciation.
7. The total amount of unrealized appreciation on the securities listed.
8. The other adjustments reported on line 13 of the statement of unrealized gain (loss) on securities held.
9. The other adjustments required by 107.303b.

10. Names of market makers.

Analysis of Capital Stock, Paid-in Surplus and Computation of Regulatory Capital—

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Capital Stock Issued for Cash—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of cash received in excess of par or stated value. In column 3 enter the total of columns 1 and 2.

Line 2(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of fair market value of the stock in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2. This amount will be the amount charged against retained earnings.

Line 2(c) Capital Stock Issued for Services Rendered—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the services rendered in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(d) Capital Stock Issued for Assets Other than Cash or Services—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the asset in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(e) Gain on Sale of Treasury Stock—Enter the amount of gain on the sale of treasury stock in columns 2 and 3.

Line 2(f) Other Credits—Enter the amount of the credit in either column 1 or 2 or both and column 3.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(f) of columns 1, 2 and 3.

Line 4 Subtotal—The total of line 1 and lines for columns 1, 2 and 3.

Line 5(a) Retirement of Capital Stock—In column 1 enter the amount of par or stated value of the stock being retired. In column 2 enter the amount appropriate circumstances. In column 3 enter the total of columns 1 and 2.

Line 5(b) Loss of Sale of Treasury Stock—Enter the amount of loss in columns 2 and 3 but not in excess of the balance of Paid-in Surplus.

Line 5(c) Distributions in Partial Liquidation—Enter the amount of the partial liquidation in either column 1 or 2 or both, appropriate to the facts and in column 3.

Line 5(d) Other Debits—Enter the amount of the debit in either column 1 or 2 or both and column 3.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d) of columns 1, 2 and 3.

Line 7 Balance at the End of the Fiscal Period—Subtract line 6 from line 4 for columns 1, 2 and 3.

Line 8(a) Organization Expense—Enter the amount of organization expenses whether or not amortized.

Line 8(b) Capital Stock Issued for Services—Enter the amount credited to both Capital and Paid-in Surplus for services since date of organization.

Line 8(c) Capitol Stock Issued for Assets Other than Cash or Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for assets other than cash or services since date of organization. At such time as the asset is converted to cash the amount of cash received may be considered to have been for stock issued. An adjustment to Paid-in Surplus may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to either Capital Stock or Paid-in Surplus or both since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Treasury Stock at Cost—Enter the cost of Treasury Stock.

Line 8(g) Other—Enter any other necessary adjustments.

Line 9 Total Regulatory Adjustments—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7 and enter.

Line 11 Net unrealized gains as defined by § 107.303(b)—Go to Note 5 prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

(Use Only If Licensee Is a Corporation)

Name of Licensee.....

License Number.....

Statement of Changes in Financial Position for——Months Ended——

1. Beginning Cash and Invested Funds Position		$
Funds Were Provided From:		
2. Net Investment Income	$	
3. Depreciation, Amorization, Provision for Loss on Receivable		
4. Realized Gain (Loss) on Sale of Securities		
5. Decrease in Portfolio Securities		
6. Decrease in Assets Acquired		
7. Decrease in Operating Concerns Acquired		
8. Decrease in Other Securities		
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)		
10. Decrease in Other Assets		
11. Increase in Current Liabilities		
12. Increase in Other Liabilities		
13. Increase in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
14. Sale of Licensee's Stock		
15. Total Funds Provided	$	
16. Total Funds Available	$	
Funds Were Used For:		
17. Increase in Portfolio Securities		
18. Increase in Assets Acquired		
19. Increase in Operating Concerns Acqnired		
20. Increase in Other Securities		
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)		
22. Increase in Other Assets		
23. Decrease in Current Liabilties (Excluding Dividends)		
24. Decrease in Other Liabilities		
25. Decrease in Long-Term Debt:		

a. Due to or Guaranteed by SBA	
b. Due to Others	
26. Payment of Dividends	
27. Redemption of Stock	
28. Total Funds Used	
29. Ending Cash and Invested Idle Funds Position	$

Note.—Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in the above schedule are net after the deduction of non-cash items EXCEPT THE NON-CASH ITEMS REPORTED ON LINE 3 ABOVE. *Furnish a schedule of non-cash items for each applicable category.*

F. Statement of Changes in Financial Position for Corporations

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the Board of Directors and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 38 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during that period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during that period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Licensee's Stock—Enter that amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a corporation.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 16 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Payment of Dividends—Enter the amounts shown in accounts 360 through 364.

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only If Licensee Is a Corporation)

Licensee:.....

License Number:.....

Statement of Unrealized Gain (Loss) on Securities Held for ——— Months Ended .....

	(1) Beginning balance	(2) Ending balance	(3) (2)–(1) Net Changes
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securities			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			
11. Unrealized Appreciation (Net of Depreciation) on Securities Held before fees paid on gains or income taxes			
12. Less Provision for Taxes			
13. Unrealized Gain (Loss) on Securities Held (Note 2)			

Note (1) Disclose by footnote the amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized.

Note (2) Do not compute tax effect if line 11 is a loss.

Realized Loss Experience on Receivables, Loans and Investments

[Dollars Rounded to the Nearest Thousand]

Description	Current year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

G. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired, and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Item 12 will be the estimated taxes that would be due.

Caution Do Not Compute a Tax Benefit if Item 13 is a Net Unrealized Depreciation

Realized Loss Experience on Receivables, Loans and Investments.

Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

Name of Licensee .....

License Number .....

(Use Only if Licensee is a Partnership)

Statement of Financial Position (continued) as of ———

Liabilities and Capital

Long-Term Debt (Net of Current Maturities):		
27. Notes and Debentures Payable to or Guaranteed by SBA		
28. Notes and Debentures Payable to Others		

29. Total			
Current Liabilities:			
30. Accounts Payable and Accounts Payable Due Parent			
31. Accrued Interest Payable			
32. Accrued Taxes Payable			
33. a. Current Maturities of Line 27			
b. Current Maturities of Line 28			
34. Distributions Payable			
35. Other Current Liabilities			
36. Total			
Other Liabilities:			
37. Trust Receipts			
38. Deferred Credits			
39. Other Liabilities			
40. Total Liabilities			
	General Partner(s)	**Limited Partner(s)**	**Combined**
Partnership Capital:			
41. Partners' Permanent Capital Contributed			
42. Unrealized Gain (loss) on Securities Held			
43. Non-Cash Gains/Income (Note 1)			
44. Undistributed Net Realized Earnings (Earned Capital)			
45. Total Partners' Capital			
46. Total Liabilities and Capital			

(Note 1) Note to Item 43 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable—Show the balance of account 340.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Partnerships, Partnership Distributions Payable and Accounts Payable Due Partners—Show the aggregate of balances 365 through 369.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 30 through 39.

The following accounts are applicable only to partnership licensees and are to be reported on the Statement of Financial Position for partnerships.

Item 41, Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 42, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of accounts 440 less 445.

Item 43, Non-Cash Gain/Income—Show the balance of accounts 450 and 460.

Item 44, Undistributed Net Realized Earnings—Show the balance in accounts 493 through 496.

Item 45, Total Partners Capital—Show the totals of Item 41 through 44.

Item 46, Total Liabilities and Capital—Show the total of Item 40 plus Item 45.

Name of Licensee.....

License Number.....

(Use Only if Licensee is a Partnership)

Computation of Earnings Available For Distribution to Partners or Capitalization

Note.—Retained earnings available for distribution to partners and/or capitalization in accordance with SBA Regulations is computed as follows:

Undistributed Net Realized Earnings—Line 44	$
Less: Allowance For Loss on Loans and Investments	
Retained Earnings Available For Distribution or Capitalization	$

Statement of Undistributed Realized Earnings Lines 43 and 44

Description	Non-Cash Gains/Income 43	Undistributed Net Earnings 44	Total 45
1. Beginning Balance			
2. Additions:			
a. Net Investment Income			
b. Realized Gain (Loss) on Sale of Securities			
c. Non-cash Gains on Distributions In Kind (Note 1)			
d.			
e. Total Additions			
3. Adjust: Collections of Non-cash Gain	( )		//////////
4. Total (Lines 1, 2, 3,)			
5. Deductions:			
a. Distributions—Cash	//////////		
b. Distributions—In Kind (Note 2)			
c.			
d. Total Deductions			
6., Ending Balance			
(Note 1) Read instructions carefully:			
(Note 2) Name of SBC			
Description of assets being distributed			

H. Statement of Undistributed Realized Earnings (Part.)

This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains on sale of securities and undistributed net earnings realized. The ending balances of this statement are the same as items 43 and 44 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 468 in column 2, show the beginning balance of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as undistributed net earnings that amount shown as item 31 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 466 and 467.

(c) *Non-Cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings."

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:*

(a) *Distributions to Partners*—are to be paid out of undistributed earnings only. Therefore, distributions will be entered in column 2.

(b) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—Is determined by subtracting 5(d) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee is a Partnership)

Name of Licensee.....

License Number.....

Statement of Operations Realized For———Months Ended———

Investment Income:	
1. Interest on Loans and Debt Securities	
2. Dividend Income	
3. Income from Investments Reported on the Equity Method of Accounting	
4. Management Services	
5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $____ Expenses)	
8. Other Income (Note 1)	
9. Gross Investment Income (Note 1)	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Partners' Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. General and Limited Partners' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	

26. Insurance Expense			
27. Taxes Expense			
28. Provision for Losses on Accounts Receivables			
29. Miscellaneous Expenses*			
30. Total Expenses			
31. Net Investment Income			
Realized Gain (Loss) on Sale of Securities:			
32. Net Sale Price			
33. Cost of Securities Sold			
34. Realized Gain (Loss) on Sale of Securities			

(Note 1) Give supporting details on items 8 and 29.

I. Statement of Operations Realized—Partnerships

This statement is designed to measure separately Net Investment Income and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold, the remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 35 of this statement are derived primarily from the general ledger accounts as follows:

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show balance of account 540.

Item 3, Income From Investments Reported The Equity Method of Accounting—Show the balance of account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income From Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 562 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balance in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of Items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Partners Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of account, 650 and 660.

Item 17, General and Limited Partners' Meetings—Show the balance of account 657–2.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of Items 10 through 29.

Item 31, Net Investment Income—Show the balance of amount of Item 9 less Item 30.

b. *Realized Gain (Loss) on Sale of Securities*—

Item 32, Net Sales Price—Show Net Sales Price.

Item 33, Cost of Securities Sold—Show cost.

Item 34, Net Realized Gain (Loss) on Sale of Securities—Line 32 minus 33.

Analysis of Partners' Permanent Capital Contribution and Computation of Regulatory Capital

	General partner(s)	Limited partner(s)	Total
Permanent Capital Contribution:			
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Cash Contributions			
(b) Undistributed Net Realized Earnings Contributed to Permanent Capital			
(c) Permanent Capital Contributed for Services Rendered*			
(d) Permanent Capital Contributed for Other than Cash and Services*			
(e) Other Credits*			
3. Total Additions (The sum of Items 2(a) through 2(e))			
4. Subtotal (Line 1 plus Line 3)			

Analysis of Partners' Permanent Capital Contribution and Computation of Regulatory Capital—Continued

	General partner(s)	Limited partner(s)	Total
5. Deductions:			
(a) Complete Liquidation of Partners' Interest*			
(b) Partial Liquidation of Partners' Interest*			
(c) Partial Liquidation of All Partners' Interests*			
(d) Other Debits*			
6. Total Deductions (The sum of Items 5(a) through 5(d)			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 1)			
(a) Organization Expense (Note 2)			
(b) Permanent Capital Contributed for Services			
(c) Permanent Capital Contributed for Other than Cash or Services			
(d) Other Non-monetory Items			
(e) Investment in 301(d) Licensee			
(f) Other*			
9. Total Regulatory Deductions (The sum of Items 8(a) through 8(f)			
10. Regulatory Capital for Leverage Purpoes (Line 7 Minus Line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defined by Section 107.301(b) of the Regulations (Note 3)			
12. Regulatory Capital for Overline Purposes			

*Give complete details of these items by means of footnotes.

Note 1.—The deductions listed in Items 8(b), 8(c), 8(d) and 8(f) are the total amounts of these items from time or organization to the end of the reporting period.

Note 2.—If the amount of cash contributed for the organization expense was never credited to Permanent Capital, it should be so stated and explained by a footnote.

Note 3.—Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern.
2. Market in which traded.
3. Class of security.
4. Cost.
5. Value.
6. Amount of unrealized appreciation.
7. The total amount of unrealized appreciation on the securities listed.
8. The other adjustments required by Section 107.303(b).
9. The net amount reported on line 11 of Statement of Unrealized Gains (Loss).
10. Name of market makers.

Analysis of Partners' Permanent Capital Contributions and Computation of Regulatory Capital

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Cash Contributions—Enter the amount of cash contributed to Permanent Capital during the year.

Line 2(b) Undistributed Net Realized Earnings Contributed to Permanent Capital—Enter the amount transferred from Undistributed Net Realized Earnings to Permanent Capital during the year.

Line 2(c) Permanent Capital Contributed for Services Rendered—Enter the amount of services rendered which was credited to permanent capital.

Line 2(d) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to permanent capital and explain in detail by a footnote.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(e).

Line 4 Subtotal—Enter the sum of lines 1 and 3.

Line 5(a) Complete Liquidation of Partner's Interest—Enter the amount of the interest of the partner whose capital is being liquidated.

Line 5(b) Partial Liquidation of Partner's Interest—Enter the amount of interest of the partner whose permanent capital is being partially liquidated.

Line 5(c) Partial Liquidation of All Partners' Interests—Enter the amount of interest of all partners that is being liquidated. In a footnote state whether SBA has approved of the partial liquidation and whether the liquidation is one of a series leading to a complete liquidation. This line should be used when there is a pro-rata liquidation of "all" partners interests. All means "substantially all" in terms of dollar value of the partners' Permanent Capital by class.

Line 5(d) Other Debits—Enter the amount of the other debits.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d).

Line 7 Balance at the End of Fiscal Year—Subtract line 6 from line 4.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Permanent Captial Contributed for Services—Enter the amount credited to Permanent Capital for Services since date of organization.

Line 8(c) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to Permanent Capital for assets other than cash or services since date organizaton. At such time as the asset is converted to cash, the amount of cash received maybe considered to be a cash contribution to Permanent Captial. An adjustment to Permanent Capital may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to Permanent Capital since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Other—Enter the amount of other credits to Permanent Capital since date of organization.

Line 9 Total Regulatory Deductions—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7.

Line 11 Net Unrealized Gains as defined by § 107.303(b)—Go to Note 3, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

(Use Only if Licensee Is a Partnership)

Name of Licensee:..... License No. .....

Statement of Changes in Financial Position For ____ Months Ended _____

1. Beginning Cash and Invested Funds Position		$
Fund Were Provided From:		
2. Net Investment Income	$	
3. Depreciation, Amortization, Provision for Loss on Receivables		
4. Realized Gain (Loss on Sale of Securities		
5. Decrease in Portfolio Securities		
6. Decrease in Assets Acquired		
7. Decrease in Operating Concerns Acquired		
8. Decrease in Other Securities		
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)		
10. Decrease in Other Assets		
11. Increase in Current Liabilities		
12. Increase in Other Liabilities		
13. Increase in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
14. Sale of Additional Partnership Interests		
15. Total Funds Provided		$
16. Total Funds Available		$
Funds Were Used for:		
17. Increase in Portfolio Securities		
18. Increases in Assets Acquired		
19. Increase in Operating Concerns Acquired		
20. Increase in Other Sucurities		
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)		
22. Increase in Other Assets		
23. Decrease in Current Liabilities (Excluding distributions to Partners)		
24. Decrease in Other Liabilities		
25. Decrease in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
26. Distributions to Partners		
27. Redemption of Partnership Interests		
28. Total Funds Used		
29. Ending Cash and Invested Idle Funds Position		$

Note.—Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in the above schedule are net after the deduction of non-cash items EXCEPT THE NON-CASH ITEMS ON LINE 3 ABOVE. *Furnish a shedule of non-cash items for each applicable category.*

I. Statement of Change in Financial Position for Partnership

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the General Partner(s) and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the accounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 31 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if the amount is a decrease during the period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Additional Partnership Interests—Enter the amount of net change in Item 41 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a partnership.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 15 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Postion if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Distributions to Partners)—Enter the amount of net change in Items 30 through 33 and Item 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Distribution to Partners—Enter the amount shown in accounts 365 through 369 of the Statement of Financial Position if that amount is a decrease during the period.

Item 27, Redemption of a Partnership Interests—Enter the amount of Item 41 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only if Licensee is a Partnership)

Licensee:.....

Licensee No.....

Statement of Unrealized Gain (Loss) on Securities Held for _____ Months Ended _____

	(1) Beginning balance	(2) Ending balance	(3) (2)–(1) Net changes
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securities			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			
11. Unrealized Appreciation (Net of Depreciation) on Securities Held before fees to be paid on gains, if any.			

(Note 1) Disclose by footnote the following information: the amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized.

Realized Loss Experience on Receivables, Loans and Investments

[Dollars rounded to the nearest thousand]

Description	Current Year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

J. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Realized Loss Experience on Receivables, Loans and Investments.

Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

This portion of statement is the basis for determining the loss experience of the industry.

Name of Licensee: _____
License Number: _____

Statement of Commitments and Guarantees as of _____

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Commitments of funding					
Total					
Guarantees to others:					
Total					
Total commitments and guarantees outstanding					

L. *Statement of Commitments and Guarantees.*

This statement provides a schedule of outstanding commitments of the licensee to provide funds to small business concerns. It also shows by small business concern the amount of such concern's debt to a third party the licensee has guaranteed. Such amounts will be shown according to Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, or operating concerns acquired.

The statement is completed as follows:

(a) Under Commitments of Funding, show the small business concern to whom the funds are committed. The amounts shown as commitments are derived from memorandum account CL–15.

(b) Under Guarantees to Others, show the name of the small business concern. The amounts shown as guarantees are derived from memorandum account CL–16.

Schedule 1

Name of Licensee: _____
License No. _____
Small Business Concern (Issuer) Name _____
Street Address _____
City _____
State _____
ZIP Code _____
SIC Code _____
Report for the months ended _____

Schedule of Investments

[In Dollars Only—No Cents]

[Including Participations Purchased and After Deduction of Participations Sold]

Description of investment	Loan debt equity	Pub PubRes NonPub NPRes Vent SpPort	DelPri DelInt D P&I	Principal balance of financing at beginning of period	Additions (deductions) during period	Principal balance of financing at close of period	Market, or fair value as determined by the board of directors	Unrealized—appreciation/(depreciation)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Investments—Schedule 1

The Schedules of Investments will be prepared to show each investment by the licensee in each small business concern and indicate participations by the insertion of (P) immediately after the name of the investment. A description of each column follows:

Column 1. Show each investment giving the following details:

Loans: Date of Loan
Amount of Original Loan
Interest Rate
Maturity Date
Repayment Terms
Collateral
If regular repayments are scheduled give details.
Debt: Date of Initial Investment
Amount of Investment
Interest Rate
Maturity Date
Repayment Terms
Equity Features (Include percent of ownership or potential ownership)
Stock: Date of Initial Investment
Amount of Investment
Type of Investment—i.e, common, preferred, common with warrants/options
Percent of Ownership
Equity Interest of Unincorporated SBC
Date of Initial Investment
Amount of Involvement
Persent of Ownership
How Share of Profit (Loss) Determined
Warrants, Options and Other Rights
Date of Initial Investment or Acquisition Cost (if any)
Percent of Ownership Represented
Additional Cost to Exercise

Column 2:

Opposite each investment the appropriate letter should appear

L—Loan
D—Debt Security
E—Equity

Column 3:

Opposite each investment the appropriate letter(s) should appear

P—Public Traded
PR—Public Traded Restricted
N—Non-public
NR—Non-public—Restricted
V—Venture Capital
SC—Special Discretionary Portfolio

Column 4:

Definition of Delinquency: Any investment that a payment of principal and/or interest is 60 or more days past due.

Opposite each investment the appopriate letter should appear

DP—Delinquent as to Principal
DI—Delinquent as to Interest
DPI—Delinquent as to Principal and Interest

If the small business concern is delinquent in one or more of the licensee's investments an identification number should be assigned to the investment for identification on schedule 2.

Details of delinquent investments should be shown on Schedule 2, Schedule of Delinquencies.

Column 5:

Principal Balance at Beginning of Period. Show balance at cost a beginning of fiscal period.

Column 6:

Additions (Deductions) During Period
Show change during fiscal period
Details of changes, except for regularly scheduled repayments of loans or debt should be explained by footnote

Column 7:

Principal Balance at Close of Period. Show balance at close period.

Column 8:

Market of Fair Value as Determined by Board of Directors/General Partners.

Column 9:

Unrealized Appreciation (Depreciation)
Column 9 minus Column 8

The total of all investments in any small business concern appearing in column, 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

Schedule

Name of Licensee: _____

License No. _____

Report for the _____ Months ended _____

Schedule of Delinquencies

Small business concern name	Balance beginning of period	Balance end of period	Prin Int	Amount of delinquency at end of fiscal period	Date of last payment	No. of Pays Delq	Description of collateral	Fair Market value of collateral
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Delinquencies—Schedule 2

The schedule will give complete details of all investments reported as delinquent on Schedule 1, (Schedule of Investments, A separate line should be used to report an investment delinquent as to principal and interest in column 5, 6 and 7.

Column 1. Give name of small business concern.

Column 2. Give balance of investment at beginning of fiscal period.

Column 3. Give balance of investment at end of fiscal period.

Column 4. Insert P for principal and/or I for interest if investment is delinquent as to both principal and interest use separate lines in column 5, 6, and 7.

Column 5. Show the amount of delinquency at end of fiscal period.

Column 6. Show date of last payment.

Column 7. Show numbers of payments delinquent.

Column 8. If investment is collateralized describe collateral in sufficient detail for SBA to evaluate the fair market value of collateral.

Since various types of collateral may be offered, the amount of detail to be supplied should be what "any reasonable person" would require.

9. Show the fair market value of the collateral as determined by the Board of Director/General Manager.

If any delinquencies existing at the balance sheet date have been resolved prior to issuance of Form 468 that fact should be appropriately noted in column 9 and the details of the manner in which the delinquency was resolved disclosed by a footnote on Schedule 2 or a separate sheet attached to Schedule 2.

Schedule 3.—Schedule of Changes in Operating Concerns Acquired

Name of SBC.....
Address ..... Street Address ..... City ..... State

Description	Asset changes				Commitments and Guarantees	Total
	Loans	Debt securities	Equity**	Total		
1. Balance, Beginning of Period*						
2. Add: Cash Additions						
3. Non-cash Additions						
4. Total (Lines 2 and 3)						
5. Less: Cash Deductions						
6. Non-cash Deductions						
7. Total (Lines 5 and 6)						
8. Net Increase (Decrease) Line 4 minus 7)						
9. Balance End of Period (Line 1 plus 8 (at cost)						
10. *Less:* Unrealized Depreciation						
11. Lower of Cost or Value (Line 9 Minus 10)						
12. *Add:* Unrealized Appreciation						
13. Fair Value (Line 11 plus 12)						

*Balance at Beginning of Period is Net of Unearned Discounts, Fees, Etc.
**Give Details of Equity By Reference to Schedule 1.
If Investment Has Been Sold, Show By Footnote—Cost—Sales Price—Gain—Cash Received—Non-Cash Receipts.

Schedule of Changes in Operating Concerns Acquired—Schedule 3

A schedule 3 should be prepared for each small business concern acquired in which changes occured.

Schedule 4

Name of Licensee.....
License Number.....
Participations (a) and Joint Financings as of _____ 19_____

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Name of small business concern	LDE	Original total amount of finacning (b)	Names of participating entities or those taking part in joint financing (identify intitating entity)	Reporting company's outstanding principal balance of			Description of collateral showing percent applicable to each party and any preference to collateral
				Participation purchased (b)	Participation sold (b)	Joint financing (b)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(a) A participation is defined as an undivided interest with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.
(b) Show participations in, or joint financings pertaining to, capital stock or warrants or options at cost.

Participations and Joint Fiancings—Schedule 4

This schedule needs to be completed only for addtions and changes that have occurred in the current year. It there has been no change in the participation since the last Annual Report Form 468 the participation should be indicated in Schedule I, Column 1 by the insertion of (P) immediately after name of the invetment.

Show in this schedule the financings in which the reporting licensee participated as well as financings made jointly by the reporting licensee and one or more other lenders or investors during the period or which were outstanding at any time during such period. Identify each item in column (1) name of th financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options).

In column (3) show the original total amount contributed by all parties in the participation or joint financing. The name of such participating or joint financing entities (including the name of the reporting licensee) shall be shown in column (4) with appropriate indication as to which is the intitating (sponsoring) entity.

Show in column (5), (6), and (7), as appropriate, the reporting licensee's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (8) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to preferences agreed upon.

Cash and Invested Idle Funds—Schedule 5

Cash will be reported on Schedule 5(a) and Invested Idle Funds will be reported on Schedule 5(b).

Schedule 5—Cash

Name of Licensee..... License No..... Date _____..... 19____

Schedule 5A—Cash

Name of depository	Location of depository	Amount
(1)	(2)	(3)
1. General funds-demand balances with:		
(a)		
(b)		
(c)		
(d)		
(e)		
(f)		
(g)		
2. Deposits in imprest accounts with:		
(a)		
(b)		
(c)		
(d)		
(e)		
(f)		
(g)		
3. Other investments in insured institutions:		
(a)		
(b)		
(c)		
(d)		
(e)		
(f)		
(g)		
4. Cash items in process of collection	XXX	

Schedule 5A—Cash—Continued

Name of depository (1)	Location of depository (2)	Amount (3)
5. Petty cash	XXX	
6.		
7.		
8.		
9.		
10.		
11. Total Cash	XXX	

Identify compensating balances by a footnote.

Cash—Schedule 5(a)

Show cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection. Petty cash shall represent the full amount of the petty cash imprest fund. The amount shown on line 11 should be the same amount reported on line 14 of the Statement of Financial Position.

Schedule 5 B.—Schedule of Invested Idle Funds

Name of License

License No.

Date _____, 19____

Schedule 5B–1.—U.S. Government Obligations, Direct and Fully Guaranteed

Name of issuer and title of issue (1)	Interest rate (2)	Call date (3)	Maturity date (4)	Principal at par (5)	Principal at cost (6)	Market value (7)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10. Totals						

Schedule 5B–2.—Insured Savings, and Time Certificates of Deposit

Name of Location of Depository				
Insured Savings (1)	Time Certificates of deposit (2)	Interest rate (3)	Insured savings balance (4)	Time certificates of deposit balance (5)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10				
11.				
12.				
13.				
14.				
15.				
16.				

Schedule 5B–2.—Insured Savings, and Time Certificates of Deposit—Continued

Name of Location of Depository				
Insured Savings	Time Certificates of deposit	Interest rate	Insured savings balance	Time certificates of deposit balance
(1)	(2)	(3)	(4)	(5)
17. Totals				
18. Total Insured Savings and Time Certificates of Deposit (column (4) plus column (5) item 17)				XXX
19. Total U.S. Government Obligations, Insured Savings, and Time Certificates of Deposit (item 18 plus total column (6) Schedule 5(b)(1))				XXX

Invested Idle Funds—Schedule 5(b)

Show in Schedule 5(b)(1) securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 5(b) funds invested in insured savings accounts and funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

The amount shown in Schedule 5(b)(2) line 19 represents invested idle funds and should be the same amount as shown on line 15 of the Statement of Financial Position.

The amounts contained in this schedule can be obtained for the accounts as follows:

In Schedule 5(a), item 1 is based on accounts 100 through 108, item 2 is based on accounts 100 through 112, item 3 is based on account 118, and item 4 is based on account 120.

Schedule 5(b)(1) is based on account 130.

In Schedule 5(b)(2), columns 1 and 4 are based on accounts 131 through 134, and column 2 and 5 are based on accounts 135 through 137.

In Column 3 enter the rate of interest.

VOL 51 ISS 167 AG 28 1986 UMI

Schedule 6

Name of Licensee.....
License No.....

Schedule of Average Cash and Invested Idle Funds Balances on a Monthly Basis for Fiscal Year Ended_____ and Determination of Inactivity

Month and Year	(1) Cash	+	(2) Idle Funds	=	(3) Total
1.....					
2.....					
3.....					
4.....					
5.....					
6.....					
7.....					
8.....					
9.....					
10.....					
11.....					
12.....					
13. Totals.....					
14. Average Idle Funds (Line 13 column 3÷12).....					
15. Line 26 of statement of financial position value at cost.....					
16. Twenty-five percent of Line 15.....					
17. Is Line 16 larger than 14? Yes ___ No ___					
If Answer is Yes—Stop					
If Answer is No—Continue					
18. Twenty-five percent of Line 14					
19. Amount of financing during the past 18 months					
20. Is Line 19 larger than Line 18? Yes ___ No.....					
If Answer is Yes—Stop.					
If Answer is No—Licensee is Inactive.					

Average Cash and Invested Idle Fund Balances on a Monthly Basis—Schedule 6

This schedule is designed to measure cash or cash items available for investment and is a basis for measuring the licensee's level of activity.

A monthly average is to be computed which fairly represents cash and invested idle funds available during the month. The average amount of cash available can usually be obtained from the licensee's bank statements. The average of invested idle funds is to be a "simple" average based on the number of days in the month and giving consideration to the liquidation value of such a short-term securities.

The schedule is to include the 12-month period prior to the statement date. Should there be cash or idle funds that are encumbered or restricted (compensating balances, pledged funds, etc.), such amounts will be eliminated.

The amounts contained in the schedule can be obtained from the accounts as follows:

Column 1, cash, is based on accounts 100 through 120.

Column 2, idle funds, is based on accounts 130 through 138.

It the computation as shown on Schedule 6 show the licensee to be inactive as defined by Regulation, licensee should attach a statement listing extenuating circumstances, if any exist.

Schedule 7

(Use Only if Licensee is a Corporation)

Name of Licensee: _____
License No.: _____
As of _____, 19____

Shareholders, Officers and Directors of the Licensee

Name and address	Officer, director, and manager give exact title	Title of class	Type of ownership	Amount owned		
				Number of shares	Total par or stated value	Percent owned of class outstanding
(1)	(2)	(3)	(4)	(5)	(6)	(7)
			X			
Totals by Class			X X			

Shareholders, Officers, and Directors of the Licensee—Schedule 7

Furnish in this schedule the information as required by the form regarding equity securities issued by the licensee and regarding the licensee's officers, directors and manager.

In column (1) list:

(a) Each person or company directly or indirectly owning, controlling, or holding with power to vote, 10 percent or more of the outstanding voting securities of the company.

(b) Each person or company owning of record or being known to own beneficially more than 10 percent of any other class of equity securities of the company.

(c) Each officer, director, or manager of the licensee. (List and identify officers and directors, and manager regardless of whether or not they own any equity securities of the company.)

Show in column (2) whether each natural person listed in column (1) is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee. Column (3) shall show the title of each class of stock owned by any person or company and column (4) shall indicate whether the securities of the specific class are owned both of record and beneficially, of record only, or beneficially only.

In columns (5), (6), and (7), respectively, show the number of shares of each class owned by each listed person or company, the total par or stated value of such shares, and the percentage of the total number of shares of this class outstanding which is represented by the shares owned by the particular person or company.

Summarize the foregoing information by class of equity security at the bottom of the schedule.

Schedule 7

(Use Only If Licensee Is a Partnership)

Name of Licensee:_____

License No.:_____

As of _____, 19____

General Partners, Limited Partners and Advisory Directors of the Licensee

Name and address	Officer, director, and manager* give exact title	General or limited partner	Type of ownership	Amount owned		Percent owned of class outstanding
				Percent of total partnership	Total dollar value	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* See Glossary for Definitions: Totals by class—General Partner X; Limited Partner X; Total X.

Control Parsons, and All Control Persons Whether Limited Partner, Advisory Director or Other Person—Schedule 7

Furnish in this schedule the information as required regarding the partnership interests of the licensee and licensees partners. The definitions of Director and Executive Officer should be reviewed to insure that the Schedule is complete.

In Column 1 list:

(a) each person or company directly or indirectly owning or controlling a 10 percent or more partnership interest.

(b) each officer, director or manager of the licensee whether or not they own any partnership interest.

Show in column 2 whether any person listed in column 1 is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee.

Column 3 shall show the type of partnership interest (general or limited of each listed person.

Column 4 shall indicate whether the partnership interest is owned both of record and beneficially, of record only or beneficially only.

Column 5 will show the percent of total partnership interest owned.

Column 6 will show the total dollars of Partner's capital contribution.

Column 7 will show the percent owned of the total general partnership interest or the percent of the total limited partnership interests.

Management Certification

The Annual Report for Fiscal Year Ended _____, 19____ submitted by _____ (Licensee) to the Small Business Administration, and consisting of the Audited Financial Statements specified in SBA Form 468 (except those statements listed below which have been omitted) are hereby certified to be correct.

Date: _____
Chief Financial Officer: _____
Title: _____

Statements and Schedules Omitted:

_____

_____

Verification

I hereby attest that the minutes of the meeting of Board of Directors of _____ (Licensee) on _____, 19—, show that the Board at such meeting, reviewed and approved the Annual Report of such company for the Fiscal Year Ended _____, 19—, covered by the above certification of the chief financial officer.

Date _____
Secretary _____

Title 18, Sections 1001 and 1006 of the U.S. Code subjects to punishment by five and/or imprisonment any person who makes any oral or written statements, entry or representation to SBA, knowing it to be false, or willfully conceals a material fact, in a matter within SBA's jurisdiction or who with intent to defraud directly or indirectly shares any benefits derived from any act of an SBIC. Title 15, Section 645(a) subjects to punishment by fine and/or imprisonment any person making a false statement or willfully overvaluing security, for the purpose or obtaining for himself or another any loan, extension thereof, or the acceptance, release, or substitution of security therefore, or for the purpose of influencing in any way the action of SBA, or for the purpose of obtaining money or anything of value.

Appendix II—Chart of Accounts for SBICs

Table of Contents

I. Introduction
A. Statement of Policy
B. Purpose of the System
C. Maintenance and Retention of Records
II. Accounting Policies and Practices
A. Accrual Basis of Accounting
B. Accounting and Reporting Loans and Investments on the Value Basis
C. Equity Method of Accounting
D. Management Consulting Subsidiary for Corporate SBICs
E. Tax Allocation Policy
F. Accounting for Dividend and Interest Income
G. Profit Sharing
H. Financing Discounts and Fees
I. Realization of Gain (Loss) on Sale of Securities
J. Unrealized Gain (Loss) on Securities Held
K. Undistributed Realized Earnings
L. Accounting for Non-Monetary Transactions
m. Loan and Investment Transactions
n. Dividends and Spin offs
o. Special Policies Applying to 301(d) Licensees
1. 3 percent Non-Voting Preferred Stock Sold to SBA
2. Capitalized Operating Expenses
p. Allowance for Losses on Loans and Investments
III. Chart of Accounts
A. Account Numbering System
B. Additional Accounts
C. Primary Classification of Accounts
D. Detail Chart of Accounts
IV. Description of Accounts

I. Introduction

A. *Statement of Policy.* Small Business Investment Companies (SBICs) licensed by the Small Business Administration (SBA) including 301(d) licensees are to maintain their books of account in accordance with the system of account classification and accounting policies herein prescribed. Accounting principles and practices set forth herein are in accordance with generally accepted accounting principles for investment companies as set forth by the American Institute of Certified Public Accountants.

The system of account classification is adaptable to manual or machine accounting procedures employing the double-entry method of accounting, and is otherwise designed to meet the specific needs of companies licensed in accordance with the provisions of the Small Business Investment Act of 1958, as amended.

Nothing contained in this system of account classification can/or is intended to authorize or approve any operation or action by a licensee, or any other action, not authorized or approved by the Small Business Investment Act of 1958, as amended, or the Rules and Regulations promulgated thereunder.

This system of Account Classification was prepared by the SBA. Any inquiries or comments relating to the system should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

B. *Purpose of the System.* This system has been prescribed to insure that standard books of account are maintained by licensees and that uniform accounting policies are followed. By design, the system is basic and may be expanded by a licensee if necessary.

C. *Maintenance and Retention of Records.* The licensee's books and records shall be maintained at its principal place of business. Books and records shall include its books of account, and other records, and memoranda which support the entries in its books of account. These supporting records shall be maintained in such manner as to be able readily to furnish information on any item included in any account. The books and records referred to herein include not only accounting records in a limited technical sense, but other records, such as minute books, capital stock records, reports, correspondence, and memoranda which may be useful in developing the history of, or facts regarding, any transaction.

Memorandum Accounts are included in the chart of accounts to facilitate record keeping of nominal assets, contingent liabilities, commitments to provide future financing (directly or through participations) and guarantees.

Section 107.1002 of SBA Rules and Regulations specifies the time period licensee's records are to be maintained.

II. Accounting Policies and Practices

As a general rule, accounting policies followed by licensees are those promulgated by the American Institute of CAP's as generally accepted accounting principles. Certain of these principles and practices are prescribed in the AICPA's Audit Guide for Investment Companies.

The significant accounting policies licensees are to follow are summarized below. The summary is intended to highlight the more important accounting policies and practices rather than being an all inclusive statement.

A. *Accrual Basis of Accounting.* Books of account shall be maintained on an accrual basis and, at the end of each month, transactions shall be posted to the General Ledger. Entering in the records and posting to the General Ledger of accruals applicable to each month is optional but all accruals are to be entered in the records and posted at the end of the fiscal year, and as of such other dates as mark the close of periods to be covered by interim or special financial reports required to be furnished to SBA.

B. *Accounting and Reporting Loans and Investments on the Value Basis.* Loans and investments will be recorded at cost. However, unrealized appreciation or depreciation of such securities will be recognized in the accounts and as such will result in fair value accounting for loans and investments.

The practice of valuing loans and investments and reflecting in the accounts the resulting unrealized gain (loss) on such securities held has been expressed by the American Institute of CPA's as being a generally accepted accounting practice for investment companies. Accordingly, this practice has been adopted for SBICs.

The adoption of this practice causes unrealized appreciation on loans and investments to be recognized in the accounts. Unrealized depreciation, essentially allowance for losses, has always been recognized. An appropriate tax provision will be established for net unrealized appreciation on securities held for all corporate SBICs. No provision for taxes is necessary for limited partnership SBICs.

C. *Equity Method of Accounting.* The carrying value of equity interests in unincorporated concerns will be determined by the equity method of accounting. However, for valuation purposes, the fair value of accounting will be used for the equity interest in unincorporated concerns.

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBICs investment account will be adjusted for its proportionate share of net income (loss) of such investee as well as dividends paid by the investee. The result will be an investment carried at the book value of such stock.

Income reported on the equity method of accounting will be reported as a non-cash item of income.

D. 1. *Management Consulting Subsidiary for Corporate SBICs.* According to Section 107.501(c) of SBA Regulations, consolidated financial statements are to be submitted to SBA when a licensee has a management consulting subsidiary, books of account are to be maintained for the subsidiary so as to properly account for its financial position and result of operations. Such accounts should also be compatible with this system of accounts.

Consolidated statements will include only the licensee and the management consulting subsidiary. Other subsidiaries are not to be reported on a consolidated basis.

2. *Management Consulting Company Investment of Limited Partnership SBICs.* Limited partnership, legally and technically, do not have subsidiaries. A limited partnership SBIC may have an investment in a management consulting company. It is required that in such cases the limited partnership SBIC will own 100 percent of the stock of the management consulting company. The investment in the management consulting company will be accounted for on the records of the limited partnership by the equity method. A combined balance sheet and statement of operations for the limited partnership SBIC and the management consulting company will be filed with SBA in addition to the annual report on SBA Form 468 and supporting schedules required for the limited partnership SBIC.

E. *Tax Allocation Policy.* Tax allocation policies as set forth in Accounting Principles Board Opinion No. 11, *Accounting for Income Taxes*, effective December 31, 1967, will be followed by licensees in accounting for income taxes.

A difference between the amount of gain or loss recognized for tax purposes and that recognized for accounting purposes may constitute a timing difference to be accounted for according to APB Opinion No. 11.

Such differences will result in either deferred credits or deferred charges to future income taxes.

The licensee and its accountant should also follow the current amendments and/or clarifications or interpretations to APB 11 which include FASB 37, FASB Interpretation 29 and FASB Technical Bulletin 82-1.

FASB Interpretation 29 is not an amendment of APB 11.

FASB Technical Bulletin 82-1 is not an amendment it is a clarification on disclosure only.

F. *Accounting for Dividend and Interest Income.*— 1. *Dividend Income.*—As a general rule, cash dividends on investment securities are recorded as of the ex-dividend date. Occasionally, cash distributions represent a return of capital; under these circumstances the distributions should be credited to the investment account rather than to income.

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest in the company declaring the dividend or split has not changed.

Dividends in kind are generally recorded as non-cash income at the fair value of the property received. When the recipient Licensee has the option to receive cash or stock, income should be recorded for the amount of cash that could have been received. When stock rights are received, a portion of the cost basis of the related investment may be allocated to the rights on a pro rata cost basis.

2. *Interest Income.*—Interest income will be accrued according to terms of interest bearing loans and investments. Interest will not be accrued if the ability of the small business concern to pay such accrued interest is doubtful. Indicators of uncollectible accrued interest arise when the SBC is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Other indicators are when principal and/or interest payments are in default more than 6 months or when the Board of Directors values the security below cost and considers collection to be doubtful.

Unearned premiums or discounts are an adjustment of interest income and are to be amortized over the stated life of the debt instrument on a ratable basis.

Interest on invested idle funds is usually accrued on a monthly basis.

G. *Profit Sharing.* As a general rule, profit sharing with the financed concern is an adjustment of the interest rate. An exception to this rule can arise when the licensee makes an investment in an unincorporated concern which takes the form of an equity interest rather than a loan, and the financed concern treats the profit sharing as an equity distribution rather than an expense.

H. *Financing Discounts and Fees.* Discounts on debt instruments resulting from financing made to small business concerns are considered an upward adjustment of the interest rate, and are to be amortized over the stated life of the instrument on a ratable basis. Accordingly, the discount is considered earned as it is amortized.

Fees as a general rule, are considered earned at the time of financing since they are for services rendered in connection with the financing. To the extent fees are for services to be rendered in the future, such amount will be considered unearned until the services are performed, at which time such fees will be considered earned.

I. *Realization of Gain (Loss) on Sale of Securities.* In accordance with the accrual basis of accounting, gain or loss on sale of securities or other assets of a licensee will be realized at the time of sale rather than at the time of collection. This practice assumes that the sale represents the final transaction, that the collectability of the gain is reasonably assured, and that the earnings process is complete, i.e., the licensee is not obligated to perform significant activities after the sale in order to earn the gain. Accordingly, this practice of recognizing gain is in accordance with generally accepted accounting principles.

Any transaction with recourse upon the licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or recall to the Licensee may not be considered as a final transaction.

Any gain on sale of securities which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

When part of the net sales price is other than cash, gain will be realized at the time of sale unless the sale is not a final transaction or unless collection of the proceeds is not reasonably assured. However, such non-cash gains will be restricted in the sense that they will be unavailable for capitalization or distribution until converted to cash. When collected, application of cash will first be made to the recovery of the licensee's cost of securities sold and then to gain. This is not the cost recovery method if the gain is recognized at the time of sale. It is a method of calculating gains available for distribution similar to the cost recovery method.

Losses are recognized at the point of sale and are shown as a reduction of undistributed net earnings realized. They have no effect on non-cash gains.

Cost of securities sold is usually the carrying value of such assets on the licensee's books. Occasionally, a licensee will acquire shares of an investee's stock (which shares are of the same class) at different times and prices. The average cost method of determining cost of such securities when sold is preferred. If a basis other than the average cost method is used, the difference (if material) in gain (loss) between that determined on the average cost method and that on the method actually used should be disclosed.

J. *Unrealized Gain (Loss) on Securities Held.* Unrealized gain (loss) on securities held results from the licensee's directors/general partner(s) valuation of Loans and Investments. Unrealized appreciation represents the valuation above cost and unrealized depreciation represents valuation below cost. After considering an appropriate provision for taxes, the net amount will be unrealized gain (loss) on securities held for corporate licensees. Limited partnership licensees will not have a provision for taxes.

The Statement of Operations measures the realized activities of a licensee that can be objectively measured. Unrealized gain (loss) on securities held is in many ways a subjective determination by a licensee; therefore, measurement in a separate statement would be most appropriate with the final results being reflected in the equity section of the Statement of Financial Position. Accordingly, unrealized gain (loss) on securities held will be measured separately in the equity accounts rather than being a measurement of earnings. Such accounting treatment is not at variance with Accounting Principles Board Opinion No. 9, *Reporting the Results of Operations*, issued by the AICPA and effective December 31, 1966, or with accounting practices set forth in the AICPA Audit Guide for Investment Companies as applied to SBICs.

K. *Undistributed Realized Earnings.* Undistributed realized earnings will encompass all realized earnings whether in cash or non-monetary receipts such as notes receivable, stock, etc. Earnings realized in other than cash will not be available for distribution or otherwise made available for capitalization until converted to cash. Gain or loss on securities held is unrealized and, therefore, not measured in undistributed earnings.

L. *Accounting for Non-Monetary Transactions.* Non-monetary transactions

involve both reciprocal and non-reciprocal transfers of assets or liabilities not involving cash between the licensee and another entity or person, or between the licensee and its stockholders/partners. Accounting Principles Board Opinion No. 29, issued by the AICPA and effective October 1, 1973, should be followed by licensees to the extent applicable when accounting for non-monetary transactions.

M. *Loan and Investment Transactions.* Non-monetary exchanges with portfolio concerns or others whereby the licensee transfers certain securities or assets for other securities or assets will be considered transactions where gain (loss) is realized whether such transactions are taxable or non-taxable exchanges, when values are clearly determinable as required by paragraphs 18 and 20 of APB 29. In cases where the values are not clearly determinable the accounting basis for assets received will be the same basis as the assets transferred and unrealized gain (loss) will be the result of the valuation process.

N. *Dividends and Spin-offs.* Dividends in kind are nonreciprocal transfers of non-monetary assets to owners and should be accounted for at fair value. Fair value is defined as being not less than the value as reported on the most recent SBA Form 468 and the gain will be reported as a non-cash gain.

Assume the following facts:

Licensee has an investment, Cost $100 Value $500, and wishes to distribute the asset to the shareholders. If this item is isolated from the remainder of the records the balance sheet would appear as follows:

The appropriate asset account	$100	
The appropriate appreciation account	400	
Account 440-Stockholders Unrealized Appreciation on Loans and Investments		$400
Account 451-Stockholders Undistributed Net Realized Earnings		100

At the time that a decision is made to distribute the asset, immediately prior to distribution the licensee will make the following journal entries:

1. Dr Account 440-Stockholders Unrealized Appreciation on Loans and Investments	$400	
Cr Account 450-Stockholders Non-cash Gains on Sale of Securities		$400

Explanation—The distribution of the asset is equivalent to a sale which results in a non-cash gain.

2. Dr The appropriate asset account	$400	
Cr The appropriate appreciation account		$400

Explanation: The appreciation of the asset has been now realized.

At the time of distribution the following entry would be made.

3. Dr Account 450-Stockholders' Non-cash Gains on Sales of Assets	$400	
Dr Account 451-Stockholders Net Realized Earnings	100	
Cr The appropriate asset account		$500

O. *Special Policies Applying to 301(d) Licensees.*—1. *Three percent non-voting Preferred Stock Purchased by SBA.* Although considered leverage funds, preferred stock purchased by SBA of a 301(d) licensee is treated like other equity securities for *accounting purposes.* Dividends on such stock receive the conventional treatment of dividends and are declared and paid out of "retained earnings". If arrearages of dividends exist on the preferred stock purchased by SBA, the balance sheet should indicate that a footnote should be read in conjunction with the preferred stock. The footnote should explain the amount of the arrearages and the number of arrearages. Dividends or other distributions may not be made if (a) Retained Earnings is a deficit or (b) there are any arrearages of dividends on preferred stock issued to SBA.

2. *Capitalized Operating Expenses.* Frequently, 301(d) licensees that have parent companies will be allowed to increase capital by transfers of allocated operating expenses incurred on the part of the licensee but paid for by the parent company. Another form of the same type of transaction exists when the parent company increases private capital of a subsidiary licensee by a cash transfer in which funds are designed to be used for budgeted operating expenses.

Such transfers will be deferred (account No. 383) expenses rather than assets on the basis that they have no future value.

P. *Allowance for Losses on Loans and Investments.* The value basis of accounting does not contemplate a general allowance for losses on loans and investments as does the cost basis. Rather, value accounting requires the licensee's Board of Directors/General Partner(s) to value each loan or investment as of the statement date. When value is determined to be less than cost, unrealized depreciation will result. The Unrealized Depreciation, which is the SBIC's good faith valuation of certain investments below cost, is the amount that should be shown as an "Allowance for Losses on Loans and Investments" in the Computation of Earnings Available for Dividend Declaration or Capitalization. The total amount shown on Line Item 10, Column 2, of the Statement of Financial Position should, under normal conditions, be the amount of the "Allowance for Losses." Any material difference between the amount reported on Line 10, Column 2 of the Statement of Financial Position and the amount reported as the Allowance for Losses on Loans and Investments in the Computation of Earnings Available for Dividend Declaration or Capitalization should be explained by a footnote(s). It should be noted, however, that the adoption of value accounting will have no effect on the licensee's reserve for losses for tax purposes (see I.R.C.)

III. Chart of Accounts

A. *Account Numbering System.* This system provides for two-digit number designations for major categories under which accounts are listed, and three-digit number designations for individual general ledger accounts. The first two digits of an individual account number refer to the major category under which the account is classified and the third digit identifies the specific account. Digits from zero through nine are use to identify specific accounts; the first deposit bank account established will be designed "100" and the second "101." It will be noted that some categories encompass individual accounts in sufficient number to require assignment of more than one two-digit number to identify the category. For example, "Cash on Hand and in Banks" has been assigned category numbers "10," "11," and "12."

B. *Additional Accounts.* Licensees may incorporate such additional accounts into their accounting system as are considered necessary.

Any account may be subdivided provided that such subaccounts do not impair the integrity of the accounts set forth in the prescribed system. Subaccounts shall refer by number and title to the accounts to which they apply. Use of a decimal system is required for extending the account numbers to identify such subaccounts.

C. *Primary Classification of Accounts.* The primary classification of accounts is as follows:

Account No.	Description
General Ledger	
100 to 299	Asset and valuation accounts.
300 to 399	Liability accounts.
400 to 499	Capital accounts.
500 to 599	Income accounts.
600 to 699	Expense accounts.
Memorandum Records	
NA-10 to NA-14	Nominal assets.
CL-15 to CI-17	Contingent liabilities.
OCS-1	Options on company's stock.
AL-1	Actual (realized) losses.
WI	Worthless investments—written off.
PDA	Preferred dividend arrearages on preferred stock sold SBA.

D. *Detail Chart of Accounts.* The detail chart of accounts is organized according to the primary classification of accounts and identifies the account number and title of each account. The page where a description of the account can be found is indicated at the right of the account title.

Asset and Valuation Accounts

10–12—Cash on Hand and in Banks

100–108—Deposits in _____ bank.
110–112—Deposits in imprest account in _____ bank.
118—Cash items in process of collection.

120—Petty cash fund.

13—Invested Idle Funds

130—U.S. Government obligations, direct and fully guaranteed.
131—Insured savings accounts.
135–137—Time certificates of deposit in _____ bank.
138—Other investments in insured institutions.

14—Receivables

140—Notes receivable.
141—Accounts receivable.
142—Allowance for uncollectible notes and accounts receivable.
143—Accrued interest receivable.
144—Allowances for uncollectible interest receivable.
145—Dividends receivable.
146—Receivables from parent.

15—Current Maturities and Other Current Assets

150—Current maturities on portfolio securities.
152—Current maturities on assets acquired in liquidation of portfolio securities.
153—Current maturities on operating concerns acquired.
154—Current maturities on other securities.
156—Other current assets.

16—Investment in 301(d) Licensee

160—Investment in 301(d) licensee.

17—Loans to Small Business Concerns

170—Loans.
171—Appreciation of loan values.
172—Depreciation of loan values.
173—Unearned discount, fees, and other charges on loans.

18—Debt Securities of Small Business Concerns

180—Debt securities, convertible, and with stock purchase warrants or options.
184—Debt securities divested of stock rights.
186—Appreciation of debt securities values.
187—Depreciation of debt securities values.
188—Unearned discount, fees, and other charges on debt securities.

19—Equity Interests of SBCs

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.
191—Capital stock of SBCs—other.
192—Appreciation of capital stock values.
193—Depreciation of capital stock values.
194—Equity interests of unincorporated concerns.
195—Appreciation of equity interests in unincorporated concerns.
196—Depreciation of equity interests in unincorporated concerns.
197—Warrants, options, and other stock rights acquired from SBCs.
198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
199—Depreciation of warrants, options, and other stock rights acquired from SBCs.

20—Assets Acquired in Liquidation of Portfolio Securities

200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
204—Assets acquired in liquidation of portfolio securities.
205—Appreciation of assets acquired in liquidation of portfolio securities.
206—Depreciation of assets acquired in liquidation of portfolio securities.

21—Operating Concerns Acquired

210—Operating concerns acquired.
211—Appreciation of operating concerns acquired.
212—Depreciation of operating concerns acquired.

22—Other Securities

220—Notes and other securities received on sale of portfolio securities.
221—Other securities received.
222—Appreciation of other securities.
223—Depreciation of other securities.

23—Prepaid Expenses and Deferred Charges

230—Prepaid expenses.
231—Deferred charges.

24—Furniture and Equipment

240—Furniture and equipment.
241—Accumulated depreciation on furniture and equipment.

25—Corporate Premises Owned

250—Corporate premises owned.
251—Accumulated depreciation on corporate premises owned.
252—Leasehold improvements.

26—Other Assets

265—Amounts due from directors, officers, general partners, limited partners and employees.
266—Organization costs.
267—Funds in escrow.
269—Other assets.

Liability Accounts

30—Notes and Other Obligations Payable to SBA for Funds Borrowed

300—Notes payable to SBA.
301—Debentures payable issued to SBA.

31—Notes and Other Obligations Payable to Other than SBA for Funds Borrowed

310—Notes payable to other than SBA—guaranteed by SBA.
311—Notes payable to other than SBA—not guaranteed by SBA.
312—Mortgages payable for funds borrowed.
313—Mortgages payable on assets acquired in liquidation of portfolio securities.

32—Notes Payable—Other

320—Notes payable—other.

33—Current Maturities of Long-Term Debt

330—Current maturities of notes and debentures payable to or guaranteed by SBA.
331—Current maturities of notes and debentures payable to others not guaranteed by SBA.

34—Accounts Payable

340—Accounts payable.
341—Accounts payable due parent or partners.

35—Accrued Expenses and other current Liabilities

350—Accrued interest payable.
351—Accrued taxes.
354—Estimated income taxes accrued.
358—Other current liabilities.

36—Dividends and Distributions Payable

360–364—Dividends payable on _____ (type and class) capital stock.
365–369—Distributions payable to general and limited partners.

37—Trust Receipts

370—Employee taxes withheld.
374—Unapplied receipts.
378—Miscellaneous trust receipts.

38—Deferred Credits

380—Deferred credit to future income taxes.
383—Other deferred credits.

39—Other Liabilities

390—Other liabilities.

Capital Accounts

40–41—Capital Stock

400–404—_____ (type and class) capital stock authorized.
405–409—_____ (type and class) unissued capital stock.
410–411—_____ (type and class) capital stock subscribed.
413–414—Capital stock subscriptions receivable _____ (type and class).
415–419—Treasury stock _____ (type and class).

42—Paid-in Surplus

420—Paid-in surplus.

43—3 Percent Preferred Stock [301(d) Licensees only]

430—3 percent preferred stock, cumulative, non-voting issued to SBA.

44—Stockholders' Unrealized Gain (Loss) on Securities Held

440—Stockholders' unrealized appreciation on loans and investments.
445—Stockholders' unrealized depreciation on loans and investments.
448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held.

45—Stockholders' Undistributed Realized Earnings

450—Stockholders' non-cash gains on sale of securities.
451—Stockholders' undistributed net realized earnings.

46—Stockholders' and Partners Profit and Loss Clearing

460—Stockholders' profit and loss summary.

461—Stockholders' realized gain and loss summary in cash.
462—Stockholders' non-cash realized gain summary.
463—Stockholders' non-cash income from investments reported on the equity method of accounting.
465—Partners' profit and loss summary.
466—Partners' realized gain and loss summary in cash.
467—Partners' non-cash realized gain summary.
468—Partners' non-cash income from investments reported on the equity method of accounting.

47—Partners' Capital Contributions

470—General Partners' Permanent Capital Contribution Summary.
471—Corporate General Partners' Permanent Capital Contribution.
472—Individual General Partners' Permanent Capital Contribution.
475—Limited Partners' Permanent Capital Contribution Summary.
476—Limited Partners' Permanent Capital Contribution.

48—Partners' Unrealized Gain (Loss) on Securities Held

481—Corporate General Patners' Unrealized Appreciation on loans and investments.
482—Individual General Partners' Unrealized Appreciation on loans and investments.
483—Corporate General Partners' Depreciation on loans and investments.
484—Individual General Partners' Depreciation on loans and investments.
485—Limited Partners' Unrealized Appreciation on loans and investments.
486—Limited Partners' Unrealized Depreciation on loans and investments.

49—Partners' Undistributed Realized Earnings

491—Corporate General Partners' non-cash gains.
492—Individual General Partners' non-cash gains.
493—Corporate General Partners' undistributed net realized earnings.
494—Individual General Partners' undistributed net realized earnings.
495—Limited Partners' non-cash gains.
496—Limited Partners' Undistributed net realized earnings.

Income Accounts

50—Commitment Income

500—Commitment Income.

51–52—Interest Income

510—Interest on invested idle funds.
512—Interest on loans.
516—Interest on debt securities.
520—Interest income—other.

53—Fee Income

532—Management service fees.
534—Investigation and service fees charged other lenders.
536—Application and appraisal fees.

54—Dividends and Other Earnings

540—Dividends on capital stock of SBCs.
541—Sharings in income or revenue of SBCs.
542—Non-cash income from investments reported on the "Equity Method of Accounting."

57—Gain on Securities and Other Assets

570—Gain on U.S. Government securities.
571—Gain on loans.
572—Gain on debt securities.
574—Gain on capital stock of SBCs.
575—Gain on equity interests of unincorporated SBCs.
576—Gain on warrants, options, and other stock rights acquired from SBCs.
577—Gain on assets acquired in liquidation of portfolio securities.
578—Gain on operating concerns acquired.
579—Gain on other assets.

58—Miscellaneous Income

582—Income from assets acquired in liquidation of portfolio securities.
584—Other income.

Expense Accounts

60—Commitment Expense

600—Commitment expense.

61–62—Interest Expense

610—Interest on obligations payable to SBA.
622—Interest on obligations payable to other than SBA.

64—Stock Record and Other Financial Expenses

642—Stock record and other financial expenses.

65–67—Operating Expenses

650—Advertising and promotional costs.
651—Appraisal and investigation costs.
652—Auditing and examination costs.
653—Communications.
654—Cost of space occupied.
655—Depreciation of corporate premises owned, furniture, and equipment.
656—Amortization of leasehold improvements.
657—Directors' and stockholders' and partners' meetings costs.
658—Insurance.
659—Management services fees.
660—Investment adviser costs.
661—Legal services.
663—Salaries.
664—Taxes, excluding income taxes.
665—Travel.
670—Employee benefits expense.
672—Amortization of organization expense.
679—Miscellaneous operating expenses.

68—Estimated Losses on Receivables

680—Estimated losses on receivables.

70—Loss on Securities and Other Assets

700—Losss on U.S. Government securities.
701—Loss on loans.
702—Loss on debt securities.
704—Loss on capital stock of SBCs.
705—Loss on equity interests of unincorporated concerns.
706—Loss on warrants, options, and other stock rights acquired from SBCs.
707—Loss on assets acquired in liquidation of portfolio securities.
708—Loss on operating concerns acquired.
709—Loss on other assets.

71—Miscellaneous Expenses

710—Expense on assets acquired in liquidation of portfolio securities.
715—Other Expenses

72—Income Taxes

720—Income taxes—net income.
722—Income taxes—net realized gain on investments.

Memorandum Records

Nominal Assets

NA–10—Stock purchase warrants or options on stock of SBCs.

Contingent Liabilities

CL–15—Commitments outstanding.
CL–16—Guarantees outstanding.
CL–17—Other contingent liabilities.

Options on Company's Stock

OCS–1—Options on company's stock.

Actual Loss Experience

AL 1—Actual (realized) losses.

Worthless Investments

WI–1—Worthless investments written off.

Preferred Dividend Arrearages

PDA–1—Preferred dividend arrearages on preferred stock sold to SBA.

IV—Description of Accounts

Asset and Valuation Accounts

100–108—Deposits in ———— bank.

These accounts will represent funds on demand deposit in banks which are members of the Federal Deposit Insurance Corporation.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn, and charges made by bank for such items as dishonored checks, transfer of funds by wire, collection, exchange, etc.

110–112—Deposits in imprest account in ———— bank.

These accounts will represent funds on demand deposit in imprest bank accounts to be drawn upon for the payment of operating expenses and to be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on the company's general funds bank account.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn.

118—Cash items in process of collection

This account will represent the amount of cash items placed with banks for collection.
Debit:
(a) With amount of such items placed with banks for collection.
Credit:
(a) With amount of items collected.

(b) With amount of uncollected items returned or withdrawn.

120—Petty cash fund

This account will represent the imprest petty cash fund maintained for the purpose of making small disbursements.

Debit:

(a) With amount placed in the fund when established.

(b) With amount of increase in the fund.

Credit:

(a) With amount of decrease in the fund.

Note.—The petty cash fund may be reimbursed and expenditures recorded as often as circumstances require, but must be reimbursed at the close of the company's fiscal year. Checks to replenish the fund will be drawn on a general fund bank account and include "petty cash" as a payee. Debits totaling the amount of this replenishment should be made concurrently to the appropriate accounts.

130—United States Government obligations, direct and fully guaranteed

This account will represent the cost of temporary investments made from general cash funds in direct obligations of the United States Government and obligations guaranteed as to principal and interest by the United States Government. When United States Government Savings Bonds redeemable at par value on maturity are purchased at less than face value, the increase in redemption value may be periodically charged to this account with concurrent credit to account No. 510—Interest on invested idle funds.

Debit:

(a) With cost of such securities acquired.

(b) With increase in redemption value of United States Savings Bonds.

Credit:

(a) With redemption value of United States Savings Bonds redeemed.

(b) With cost of such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury Bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be debited to account No. 143—Accrued interest receivable, with concurrent credit to account No. 510—Interest on invested idle funds.

(See account Nos. 570 and 700.)

131—Insured savings accounts

This account will include the balances in subaccount Nos. 131.1, 131.2, etc.

131.1—Insured savings in _____

This account will represent funds invested in an insured savings account (up to the amount of the insurance) in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) With amount of funds invested.

(b) With amount of interest earned on such invested funds.

Credit:

(a) With amount of funds withdrawn.

135–137—Time certificates of deposit in _____ bank.

These accounts will represent funds in Time Certificates of Deposit, maturing not later than one year after issuance, in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn.

138—Other investments in insured institutions

This account will represent funds deposited or invested in insured institutions that can not be classified in any of the prior categories.

Debit:

(a) With the amount of funds deposited or invested.

Credit:

(a) With the amount of funds withdrawn.

140—Notes receivables

This account will represent the unpaid balance of miscellaneous notes receivable, such as notes for management consulting services. Notes representing amounts due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount of such miscellaneous notes received.

Credit:

(a) With amount collected on principal of such miscellaneous notes.

(b) With unpaid principal balance written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 9 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

141—Accounts receivable

This account will represent the amount due on open account for management consulting, appraisal, and miscellaneous services rendered; and miscellaneous current receivables.

The account also will include the amount of accrued compensation receivable for services rendered to "participating" companies and the amount of accrued commitment fees receivable for making funds available on a deferred basis to small business concerns and to "initiating" companies in connection with the latter's financing of small business concerns.

Accounts receivable representing receivables due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount due the company.

Credit:

(a) With amount collected.

(b) With amount written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination on the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

142—Allowance for uncollectible notes and accounts receivable

This account will represent the valuation reserve provided for estimated losses on notes and accounts receivable and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate or probable losses on notes and accounts receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of notes and accounts receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on notes and accounts receivable written off.

Note.—When a note receivable or an account receivable is recorded with respect to any debtor small business is in default more than 6 months to the licensee, or the fair value of whose debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable reflected in this account should be made in an amount equivalent to the recorded receivable, or, as

an alternative, the amount of the receivable recorded as an asset should be concurrently credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See account Nos. 140, 141 and 680.)

143—Accrued interest receivable

This account will represent the amount of interest accrued on portfolio loans to and debt securities of small business concerns, United States Government obligations, direct and fully guaranteed, notes receivable, sales contracts, and other interest-bearing amounts due from debtors, including funds placed in escrow pending the closing of financing and assets acquired in liquidation of portfolio securities as well as interest accrued on other securities.

Debit:

(a) With amount of interest accrued on all items covered by this account.

Credit:

(a) With amount of interest payments received.

(b) With amount of accrued interest transferred to assets acquired in liquidation of loans and debt securities.

(c) Upon disposition of interest-bearing obligations, with amount of accrued interest thereon included in this account.

(d) With amount of accrued interest written off or disposed of otherwise.

Note 1.—At the option of the company, interest payments received in cash from debtors prior to the interest maturity date may be credited to account No. 374—Unapplied receipts, until the maturity date.

Note 2.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee; or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partners is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See account No. 144.)

144—Allowance for uncollectible interest receivable

This account will represent the valuation reserve provided for estimated losses of accrued interest receivable, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses of accrued interest receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of accrued interest receivable written off.

Credit:

(a) With amount of increases in such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries of accrued interest receivable written off.

Note.—When interest receivable is accrued under circumstances in which the financed small business concern is in default over six months to the licensee, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable reflected in this account should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See account Nos. 143 and 680.)

145—Dividends receivable

This account will represent cash dividends that have been declared on capital stock of small business concerns but have not been distributed to stockholders.

Debit:

(a) With amount due the licensee of cash dividend declared.

Credit:

(a) With amount distributed to the licensee of the dividend declared.

(See account No. 540.)

Note 1.—Stock splits or dividends in stock of the same class as that owned are not recorded as dividend receivable or income because the licensee's equity interest in the company declaring the dividend or split has not changed.

Therefore, stock splits or dividends will be measured in the appropriate investment account.

(Account Nos. 190 or 191.)

Note 2.—Dividends in kind will be recorded as income at the fair market value of the securities received and will be recorded in account No. 221, Other securities received.

146—Receivables from parent

This account will represent receivables due licensee from its parent. Receivables due from parent will generally be from one of two sources: (1) Expenses shared pro-rata with the parent paid by the licensee, but not yet reimbursed by the parent and/or (2) licensee has a tax loss from which the parent (and/or consolidated group) have received a tax benefit.

Debit:

(a) Parent's share of any expense shared with the licensee which was paid by the licensee.

(b) Licensee's share of any tax benefit derived by the parent from the filing of a consolidated tax return when the licensee has a taxable loss.

(c) Any other receivable due from parent arising from any other source.

Credit:

(a) Cash received from parent.

(b) Income taxes due from licensee but paid by the parent.

Note.—The credit for income taxes due from licensee but paid by the parent can only arise in the case of a prior benefit being derived by the parent.

If the licensee has had a previous tax benefit by reason of a tax loss from some other member of the consolidated group the credit would be to account No. 341—Accounts payable due parent.

150—Current maturities of portfolio securities

The account will represent the principal amounts due the licensee on a cost basis of loans and debt securities of small business concerns that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to loan or debt security accounts.

(See account Nos. 170, 180, and 184.)

152—Current maturities on assets acquired in liquidation of portfolio securities

This account will represent the current principal amounts due the licensee on a cost basis of amounts due from debtors on sale of assets acquired; or the current principal amounts of their debt instruments that are classified as assets acquired in liquidation of portfolio securities.

This account will represent only those amounts reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to the appropriate asset acquired in liquidation of portfolio securities account.

(See account Nos. 200, 204.)

153—Current maturities on operating concerns acquired

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as operating concerns acquired that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See account No. 218.)

154—Current maturities on other securities

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as "other securities" that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See accounts Nos. 220 and 221.)

158—Other current assets

This account will represent current assets not otherwise classified of the licensee that are expected to be converted to cash or expensed in the normal course of business in the next twelve months.

Debit:

(a) With amount of such asset.

Credit:

(a) With amount collected.

(b) With the proportionate amount allocated to the period as an expense.

160—Investment in 301(d) licensee

This account will represent the licensee's investment in capital stock of a special purpose SBIC. The account will be maintained on the equity method of accounting basis and will show licensee's investment after considering proportionate share of realized income (loss) of the 301(d) licensee's operations and dividends declared by the 301(d) licensee.

Debit:

(a) With cost of capital stock of such 301(d) licensee.

(b) With the licensee's proportionate share of the 301(d) licensees:

(1) Net investment income, and

(2) Net realized gain on the sale of securities.

Credit:

(a) With the licensee's proportionate share of:

(1) Net investment loss.

(2) Net realized loss on sale of securities.

(b) With the licensee's proportionate share of cash dividends or dividends in kind at fair value.

(c) With the value on equity basis of stock in 301(d) licensee when sold.

170—Loans

This account will represent the unpaid principal balance of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With face amount of direct loans.

(b) With parties retained by company of loans in which participations are sold to others.

(c) With amount of participations in loans of others.

(d) With unpaid principal of loans represented by renewal notes accepted or notes taken in substitution for those held.

(e) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of direct loans.

(b) With company's share of amount collected on principal of loans in which participations are sold to others.

(c) With amount by which participations in loans of others are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of loans represented by notes received or for which other notes have been substituted.

(e) With amount transferred to assets acquired in liquidation of portfolio securities.

(f) With unpaid principal of loans written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all loan participation arrangements the "initiating" company will service the loans.

Note 3.—It is recommended that individual loan ledger cards or sheets be maintained for all loans. Such ledger cards or sheets should contain the detailed information needed for account No. 173—Unearned discount, fees, and other charges on loans.

(See account Nos. 171 and 172.)

171—Appreciation of loan values

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans above cost.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of loans.

(b) With amount of appreciation attributable to loans sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 172.

172—Depreciation of loan values

This account will represent the downward valuation of loans and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of such loans written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of recoveries to such reserve.

(c) With amount of recoveries on such loans written off.

(See account Nos. 170 and 445.)

Note.—Usually, this account will be subdivided into at least two accounts:

172.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific loans.

172.2 *Other Depreciation of Loan Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity, no loss would be expected. An example would be money mortgage discounts.

173—Unearned discount, fees, and other charges on loans

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with loans participated in by other lenders (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is assigned to the company in connection with its participations in loans of other lenders (the amount to be recorded becomes earned through collection of passage of time).

(d) With amount of unearned discount, fee, and other charges included in the face amount of loans, but withheld from disbursement to debtor small business concerns, which is refunded to borrowers upon early repayment of loans, or is closed into the asset account upon liquidation of loans at less than full amount.

Credit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with loans participated in by other lenders.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with its participation in loans of other lenders.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate to account No. 512—Interest on loans, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of loans will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all unearned amounts included in this account to permit identification of such amounts with the particular loans to which they relate.

180—Debt securities, with stock purchase warrants or options, and/or convertible

This account will represent the unpaid principal balance of small business concerns' debt securities, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With face amounts of debt securities, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities, with stock purchase warrants or options, and/or convertible.

(b) With company's share of amount collected on principal of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amounts by which participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible, are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, or portions thereof, converted into capital stock.

(e) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, which have been divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(f) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, transferred to assets acquired in liquidation of loans and debt securities.

(g) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the purchase of debt securities, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all debt securities, convertible, and with stock purchase warrants or options. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities, and for activities pertaining to participations purchased or sold.

(See account Nos. 184, 186, 187, 188, and memorandum record No. NA–10.)

184—Debt securities divested of stock rights

This account will represent the unpaid principal balance of small business concerns' debt securities which have been divested of stock rights through (1) the expiration of the conversion privilege of convertible debt securities, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options of debt securities, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of debt securities pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With unpaid principal of debt securities divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With company's retained portion of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With amount of participations in purchases by others of debt securities which have been subsequently divested of stock rights.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities divested of stock rights.

(b) With company's share of amount collected on principal of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With full amount by which participations in purchases by others of debt securities which have been subsequently divested of stock rights are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities divested of stock rights transferred to assets acquired in liquidation of loans and debt securities.

(e) With unpaid principal of debt securities divested of stock rights written off or disposed of otherwise.

Note.—It is recommended that individual ledger cards or sheets be maintained for all debt securities which have been divested of stock rights. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities.

(See account Nos. 186, 187, and 188.)

186—Appreciation of debt securities of SBC's

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued debt securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 187.

187—Depreciation of debt securities values

This account will represent the downward valuation of debt securities, with stock purchase warrants or options, and/or convertible, and debt securities divested of stock rights and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for debt securities which are written off, sold, or disposed of otherwise.

(c) With amount of writedown of such debt securities, not to exceed the amount of reserve established therefor in this account

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When debt securities of small business concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 702 will be debited for the amount of the loss, and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 572. The amount of the reserve which has been established in this account for the debt security sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

187.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific debt securities.

187.2 *Other Depreciation of Debt Securities Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific debt securities. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

188—Unearned discount, fees and other charges on debt securities

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of small business concerns's debt securities acquired pursuant to Section 304 of the Small Business Investment Act of 1958, as amended, and which is withheld from disbursements to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with purchases of debt securities participated in by other investors (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns which is assigned to the company in connection with its participations in purchases of debt securities by other investors (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is rebated to borrowers upon early repayment of debt securities, or is closed into the asset account upon liquidation of debt securities at less than full amount.

Credit:

(a) With amount of unearned discount (including that equivalent to the determined cost of warrants, options, and other stock rights, as explained in Note 2 of the account No. 197), fees, and other charges included in the face amount of debt securities but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with purchases of debt securities participated in by other investors.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with its participations in purchases of debt securities by other investors.

Note 1.—A participation is defined as an undivided interest shared with one or more lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate, to account No. 576—Interest on debt securities, as it becomes earned, and unearned fees and other charges will be transferred to account No. 538—Application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of financing through purchase of debt securities will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all earned amounts included in this account to permit identification of such amounts with the particular debt securities to which they relate.

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible

This account will represent the value at cost of small business concerns' capital stock, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of the capital stock of SBCs, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in acquisitions by others of capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

Credit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, which has been divested of stock purchase rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, converted to another class of capital stock.

(c) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participations in the acquisition of capital stock of SBCs, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See account Nos. 191, 193 and memorandum record No. NA-10.)

191—Capital stock SBCs—other

This account will represent the value at cost of small business concerns capital stock acquired by the company without conversion privileges or stock purchase warrants or options, or existing on the books as the result of (1) the expiration of the conversion privilege of convertible capital stock of SBCs, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With cost of such capital stock of SBCs—other acquired through (1) purchase (2) conversion of convertible debt securities or convertible capital stock of SBCs, or (3) exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock acquired by the company.

(b) With cost of such capital stock of SBCs—other resulting from (1) the expiration of the conversion privilege of convertible capital stock of SBCs, (2) the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or

options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns.

(c) With portion retained by company of the capital stock of SBCs—other in which participations are sold to others.

(d) With amount of participations in capital stock of SBCs—other acquired by or subsequently existing on the books of others without conversion privileges or stock purchase warrants or options.

Credit:

(a) With cost of such capital stock of SBCs—other written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs—other acquired or subsequently existing without conversion privileges or stock purchase warrants or options.

Note 2.—In acquisitions of capital stock through exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock previously acquired by the company, the amount of the expenditure made by the company in the current acquisition of the capital stock will be considered the cost of the stock in those instances when the stock purchase rights surrendered have only a nominal value; otherwise, the cost of the stock will comprise the current expenditure plus the cost of the warrants or options surrendered.

Note 3.—In conversion of convertible debt securities of small business concerns into capital stock, or in conversions of convertible capital stock of SBCs into another class of capital stock, the value at cost of the particular convertible security should be considered the cost of the capital stock received in the conversion.

(See account Nos. 190, 193, and 197.)

192—Appreciation of capital stock of SBCs

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued capital stock of SBCs above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account No. 193.

193—Depreciation of capital stock values

This account will represent the downward valuation of (1) capital stock of SBCs, with stock purchase warrants or options, and/or convertible, and (2) capital stock of SBCs—other, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for capital stock which is written off, sold, or disposed of otherwise.

(c) With amount of writedown of such capital stock, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increase in such reserve.

Note 1.—When capital stock of SBCs is sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 704 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 574. The amount of the reserve which has been established in the account for capital stock sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

193.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific capital stock investments.

193.2 *Other Depreciation of Stock Values*—represents the downward valuation of specific stock investments. However, the licensee's management expects the decline to be temporary and thereby suffer no loss on the investment. An example is a temporary market decline of public tradeable stocks that are unrestricted.

(See account Nos. 190, 192, and 445.)

194—Equity interests of unincorporated concerns

This account will represent the licensee's investment in equity types securities of a limited partnership or other type of unincorporated concern. The account will be maintained on the equity method of accounting basis and will show the licensee's investment after considering its proportionate share of realized income (loss) of the unincorporated concern as well as distributions.

Debit:

(a) With cost of equity interest acquired.

(b) With the licensee's proportionate share of the concern's net income.

Credit:

(a) With the licensee's proportionate share of net loss.

(b) With the licensee's proportionate share of cash distributions.

(c) With the value on equity basis of the licensee's investment when sold or disposed of otherwise.

(See account Nos. 195 and 196.)

195—Appreciation of equity interest of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns above the carrying value of such securities on the equity method of accounting.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account 196.

(See account Nos. 194, and 440.)

196—Depreciation of equity interests of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns below the carrying value of such securities on the equity method of accounting.

Debit:

(a) With decrease in amount of such depreciation resulting from increase in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1—. When equity interests are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 705 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 575. The amount of the reserve which has been established in the account for equity interest sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—This account will usually be the same as allowance for loss on equity interests of unincorporated concerns. Otherwise, the account should be subdivided.

(See account Nos. 194, 195 and 445.)

197—Warrants, options, and other stock rights acquired from SBCs

This account will represent the value at purchase price or at cost as otherwise determined of warrants, options, and other stock rights acquired by the company from small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. The account will include conversion rights for which a separate cost has been determined.

Detachable stock purchase warrants or options on stock of SBCs for which no consideration is given distinct from that surrendered for the debt securities or capital stock which they accompany, or for which no separate cost has been determined, will be reflected in memorandum record No. NA–10.

if retained after the financing instruments which they accompanied have been disposed of.

Debit:

(a) With cost of such warrants, options, or other stock rights acquired.

(b) With portion retained by company of the warrants, options, or other stock rights in which participations are sold to others.

(c) With amount of participations in acquisitions by others of warrants, options, or other stock rights.

Credit:

(a) With cost of such warrants, options, or other stock rights surrendered in exercising the stock rights.

(b) With cost of such warrants, options, or other stock rights written off or disposed of otherwise.

(c) With cost of such warrants, options, or other stock rights for which the exercise period has expired.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all warrants, options, or other stock rights acquired from SBCs.

Note 2.—The cost of warrants, options, and other stock rights acquired from SBCs for a separate consideration will be charged to this account, with a credit to cash. If warrants, options, or other stock rights are acquired from SBCs without a separate consideration and a cost thereof is otherwise determined, such cost will be established in this account. (The determined cost of warrants, options, and other stock rights acquired with debt securities without a separate consideration therefore shall be arrived at giving full consideration to the grade of the debt security.) The payment for the debt security or capital stock certificate which accompanied the stock rights will be allocated between the obligation or stock and the stock rights. Cash will be credited for the determined cost of the stock rights. Cash also will be credited for the amount of the debt security or stock received less the amount withheld from disbursement in relation to the debt security or stock received, which is equivalent to the determined cost of the stock rights plus (in the case of a debt security) any other withholding from net funds advanced. In the purchase of a debt security the deduction equal to the determined cost of the stock rights, plus any other withholding from net funds advanced, will be treated as unearned discount on the debt security and credited to account No. 188—Unearned discount, fees, and other charges on debt securities. In the case of a purchase of capital stock, the deduction equal to the determined cost of the stock rights will serve to reduce the cost of the stock to be recorded in account No. 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See account Nos. 199, 576 and 706.)

198—Appreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the amount by which the licensee's Board of Directors General Partner(s) has valued warrants, options and other stock rights above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account Nos. 197, 199 and 440.)

Note.—See Note 1 to account No. 199.

199—Depreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the Board of Directors/General Partner(s) downward valuation of warrants, opinions, and other stock rights acquired from SBCs, and should represent an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for warrants, options, and other stock rights acquired from SBCs which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such warrants, options, and other stock rights acquired from SBCs, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When warrants, options, and other stock rights acquired from SBCs are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account 576. The amount of the reserve which has been established in the account for warrants, options, or other stock rights acquired, sold or disposed of otherwise will be reversed and offset against account 445.

Note 2.—This account will usually represent the allowance for losses on warrants, options, and other stock right. Otherwise, this account should be subdivided.

(See account Nos. 197, 198, and 445.)

200—Receivables due from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the unpaid balance of accounts receivable, notes receivable, sales contracts, purchase money mortgages, and similar evidences of indebtedness to the company arising from the sale of assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such receivables.

(b) With amount of participation in amounts due from debtors on sale of assets acquired in liquidation of portfolio securities of other lenders or investors.

Credit:

(a) With amount collected on principal of such receivables.

(b) With amount transferred to account No. 204—assets acquired in liquidation of portfolio securities. (Noncash assets other than receivables obtained on sale of assets acquired in liquidation of portfolio securities should be reflected at cost in account No. 204).

(c) With unpaid principal balance written off or disposed of otherwise.

Note.—It is recommended that subsidiary records to be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting amounts due from debtors on sale of assets acquired in liquidation of portfolio securities.

(See account Nos. 203, 204.)

203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation on amounts due from debtors and securities received on sale of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount due from debtors on sale of assets acquired in liquidation of portfolio securities written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such items written off.

Note.—Occasionally, this account will be subdivided into at least two accounts:

203.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific receivables from debtors.

203.2 *Other Depreciation of Receivables from Debtors*—Represents the Board of Directors/General Partner(s) downward valuation of specific receivables from debtors. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See account Nos. 200 and 445.)

204—Assets acquired in liquidation of portfolio securities

This account will represent the company's investment in assets acquired by foreclosure, or otherwise, in liquidation of portfolio securities. Judgments, sheriffs' certificates (including property acquired subject to redemption), etc., will be reflected in this account.

The investment in property at the date of acquisition by the company should be

determined by the Board of Directors/ General Partner(s) on the most suitable of the following basis: (1) Bid-in price of the property; (2) agreed consideration for the property; (3) fair appraised value of the property. Any remaining indebtedness will be written off unless the company expects further liquidation of the debt from other sources. Insofar as practicable, investment values will be determined for each individual asset, or unit, at the time such assets are recorded in this account, and when an asset is sold only an amount equal to the investment in such asset will be credited to this account.

The company's investment in mortgaged real property acquired in liquidation of portfolio securities should be recorded at gross value as determined by the Board of Directors/General Partner(s), reduced as necessary to bring the net recorded value to no more than the outstanding principal balance of the related portfolio securities involved. The amount of the existing mortgage or mortgages on such property acquired by the company will be reflected in account No. 313.

The company's investment in judgments should be recorded at the face amount of the judgment. When the company acquires the underlying security to the related portfolio securities outright or subject to redemption, the investment in the property should be determined in accordance with the basis set forth in the second paragraph.

Debit:

(a) With amount of the company's investment in the assets at the time of the acquisition.

(b) With amount of the company's investment in the assets at the date of judgment, sheriff's certificate, etc.

(c) With amount of participation in assets acquired by others in liquidation of portfolio securities.

Credit:

(a) With proceeds of partial sale of the assets.

(b) With amount of the company's investment at date of sale, or other disposition of the assets.

(c) With amount written off.

Note 1.—Collateral notes receivable acquired in the liquidation of portfolio securities will be reflected in this account; but notes receivable that are subsequently accepted in connection with the disposition of assets acquired in the liquidation of portfolio securities will be included in account No. 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

Note 2.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting assets acquired in liquidation of portfolio securities.

(See account Nos. 170, 180, 194, and 200.)

205—Appreciation of assets acquired in liquidation of portfolio securities

This account will represent the amount by which the licensee's Board of Directors/ General Partner(s) has valued assets acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 206.

(See account Nos. 204, 206, and 440.)

206—Depreciation of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for assets acquired in liquidation of portfolio securities which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such assets acquired in liquidation of portfolio securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When assets acquired in liquidation of portfolio securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 707 will be debited for the amount of the loss and account No. 204 will be credited for the related cost value carried therein. If a gain over recorded investment in the assets acquired in liquidation is realized, such gain will be credited to account No. 577. The amount of the reserve which has been established in this account for other assets acquired in liquidation of portfolio securities will be reversed and offset against account 445 when such assets are sold or disposed of otherwise.

Note 2.—This account will usually represent the allowance for losses on other assets acquired in liquidation of portfolio securities. Otherwise, it should be subdivided.

(See accounts Nos. 204 and 445.)

210—Operating concerns acquired

Occasionally, a licensee takes action to protect its investment in a portfolio concern and as a result acquires a controlling interest in an operating concern. In such cases, the licensee will reclassify the aggregate amount due from the portfolio concern to this account. If the concern has ceased operations and is being liquidated, the aggregate amount due from the portfolio concern will be classified as assets acquired in liquidation of portfolio securities (account No. 204) rather than this account.

Debit:

(a) With total amount of the licensee's investment in the operating concern at the time of the acquisition.

(b) With additional financing provided by the licensee.

Credit:

(a) With amount collected from such operating concern.

(b) With proportionate cost of interest sold or disposed of otherwise.

(c) With amounts written off.

Note.—It is recommended that individual ledger cards or sheets be maintained for individual loans and investments by operating concerns acquired.

(See account Nos. 211 and 212.)

211—Appreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/ General Partner(s) has valued securities of operating concerns acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See accounts 210, 212, and 440.)

Note.—See Note 1 to account No. 212.

212—Depreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/ General Partner(s) has valued securities of operating concerns acquired below cost of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increases in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When investments in operating concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 708 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein.

If a gain over cost is realized, such gain will be credited to account No. 578. The amount of the reserve which has been established in the account for the investment

sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

212.1 *Allowance for Losses*—which represents losses the licensee expects to realize on the specific operating concern acquired.

212.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See account Nos. 210, 211, and 445.)

220—Notes and other securities received on sale of portfolio securities

This account will represent the securities taken by the licensee as part of the net sales price of portfolio securities sold.

Debit:

(a) With assigned cost of such securities when acquired.

Credit:

(a) With cost of such securities when sold.

(b) With cost of such securities when written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for securities received on sale of portfolio securities.

(See accounts 221, 222, and 223.)

221—Other securities received

This account will represent securities received by the licensee for which no funds were provided and which would not otherwise be classified as loans and investments. An example of such securities would be a dividend in kind received by licensee from a portfolio concern.

Debit:

(a) With fair value of such securities when received.

Credit:

(b) With carrying value of such securities when sold, written off or disposed of otherwise.

(See accounts 220, 222, and 223.)

222—Appreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 223.

(See accounts 220, 221, 223, and 440.)

223—Depreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increase in fair value of such securities.

(b) With amount of depreciation attributable to other securities sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When other securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 709 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 579. The amount of the reserve which has been established in the account for securities sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Frequently, this account will be subdivided into at least two accounts:

223.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific other securities.

223.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific securities. However, if securities are held to maturity, no loss would be expected. An example is money mortgage discount. Another example would be temporary market decline of marketable securities.

(See account Nos. 220, 221, 222, and 445.)

230—Prepaid expenses

This account will represent the unexpired or unconsumed portion of expenses expressly applicable to future periods for which no specific accounts have been provided. Such expenses should be amortized over the appropriate period. An example of such prepaid expense is debt discount and expense that may result from obtaining leverage funds.

Debit:

(a) With amount of prepaid expenses.

Credit:

(a) With the proportional amount of such expenses applicable to the period.

Note.—Subsidiary records should be maintained to identify the items reflected in this account and to facilitate their amortization.

231—Deferred charge

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock of SBCs. This account will represent such deferred charges recognized.

Debit:

(a) Such account for amounts when prepaid.

Credit:

(a) Such account for amounts that have been previously prepaid that are being applied during the period.

(See account No. 380.)

240—Furniture and equipment

This account will represent the cost of furniture, fixtures, and equipment, including automobiles, owned by the company. The cost of freight, drayage, cartage, express, etc., in connection with the purchase of such items of furniture and equipment, will be included in this account.

Debit:

(a) With cost of such assets purchased.

Credit:

(b) With cost of such assets at the time of sale or other disposition.

Note.—An inventory record should be maintained for all such assets and each item should be tagged or numbered to facilitate ready identification.

(See account No. 241.)

241—Accumulated depreciation of furniture and equipment

This account will represent the valuation reserve provided for depreciation of furniture, fixtures, and equipment, including automobiles, owned by the company. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such assets while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With amount necessary to depreciate the cost of such assets over the estimated service life.

(See account Nos. 240 and 655.)

250—Corporate premises owned

This account will represent the actual cost of acquisition of the land and building used as the company's office quarters. The account also will include the actual cost of any improvements, such as street, sidewalk and other benefits, applicable to the land, and any improvements applicable to the building.

Debit:

(a) With actual cost of acquisition of the land and building.

(b) With actual cost of any improvement to the land and/or building.

Credit:

(a) With the acquisition cost of the land and/or building, plus the cost of improvements made thereto, when the land and/or building is sold or disposed of otherwise.

(See account No. 251.)

251—Accumulated depreciation of corporate premises owned

This account will represent the valuation reserve provided for depreciation of the building and other depreciable improvements of corporate premises owned and used as the company's office quarters. This account should be maintained in an amount not less than a conservative estimate of the expired

service life of such building and improvements while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With the amount necessary to depreciate the cost of such assets over the estimated service life.

(See account Nos. 250 and 655.)

252—Leasehold improvements

This account will represent the actual cost of improvements to leased property used as the company's office quarters. The amount of this account will be amortized through account No. 656 over the life of the lease or the life of the improvements, whichever is the shorter.

Debit:

(a) With actual cost of improvements to leasehold.

Credit:

(a) With the amount necessary to amortize the cost of leasehold improvements.

265—Amounts due from directors, officers, general partners, limited partners and employees

This account will represent the unpaid balance of amounts advanced to directors, officers, general partners, limited partners and employees.

Debit:

(a) With amount of such advances made.

Credit:

(a) With amount collected on such advances.

(b) With amount transferred to appropriate expense classification upon proper authorization.

(c) With amount written off or disposed of otherwise.

(See account No. 709.)

266—Organization costs

This account will represent the amount of legal fees, promotional expense, stock certificate cost, incorporation fees, taxes, and other related costs incurred in organizing the company.

Debit:

(a) With amount of such costs incurred.

Credit:

(a) With the amount necessary to amortize the organization costs.

(See account No. 672.)

267—Funds in escrow

This account will represent the amount of funds placed in escrow pending the closing of financing for small business concerns.

Debit:

(a) With amount of funds placed in escrow.

Credit:

(a) With amount of funds withdrawn from escrow.

269—Other assets

This account will represent the amount of assets of the company, at cost, not specifically provided for in other accounts, including recoverable amounts advanced for the protection and preservation of the company's investments (such as the payment of taxes on mortgaged property), but not including short-term loans or debt securities issued to protect the company's interests in previously issued long-term loans or equity securities.

Debit:

(a) With amount of the company's investment in such assets.

Credit:

(a) With amount of such assets sold or disposed of otherwise.

(See account No. 709.)

Liability Accounts

300—Notes payable to SBA

This account will represent the long-term principal balance of notes payable (1) for funds borrowed and received directly from the Small Business Administration and (2) for funds borrowed from others through guaranteed loans which subsequently have been purchased by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra debit will be made to account No. 310).

(See account 330.)

301—Debentures payable issued to SBA

This account will represent the loan-term principal balance of funds received by the company under its debentures payable issued to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of principal payments made to SBA on such debentures.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds received from SBA under such debentures.

(See account 330.)

310—Notes payable to other than SBA—guaranteed by SBA

This account will represent the long-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra credit will be made to account No. 300).

(c) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 330.)

311—Notes payable to other than SBA—not guaranteed by SBA

This account will represent the loan-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and not guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

312—Mortgages payable for funds borrowed

This account will represent the long-term principal balance of mortgages payable for funds borrowed on corporate premises or other real estate owned by the company. Purchase money mortgages, conditional sales contracts, or similar documentary evidence of indebtedness given by the company in the acquisition of real property will be included in this account.

Debit:

(a) With amount of principal payments made on such indebtedness.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

313—Mortgages payable on assets acquired in liquidation of portfolio securities

This account will represent the unpaid principal balance of existing mortgages payable on assets acquired by the company in liquidation of portfolio securities.

Debit:

(a) With amount of principal payments made on such indebtedness.

Credit:

(a) With amount of such indebtedness.

(See account No. 204.)

320—Notes payable—other

This account will represent the unpaid principal balance of notes payable in evidence of amounts owned by the company other than for funds borrowed. Notes payable, conditional sales contracts, and liens for the acquisition of furniture, fixtures, equipment, and automobiles will be included in this account.

Debit:

(a) With amount of principal payments made on such notes.

Credit:

(a) With amount of unpaid principal of such notes executed.

330—Current maturities of notes and debentures payable to or guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 300, 301 and 310.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 300, 301, and 310.)

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331—Current maturities of notes and debentures payable to others not guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 311 through 313.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 311 through 313.)

340—Accounts payable

This account will represent amounts payable on open account. The account also will include accrued compensation payable for services rendered to the company on its participations in financing transactions, and accrued commitment fees payable for having funds made available on a deferred basis by "participating" companies in connection with the financing of, or commitments to finance, small business concerns.

Debit:

(a) With amount of such indebtedness paid, or disposed of otherwise.

Credit:

(a) With amount of such indebtedness incurred.

Note 1: A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2: A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account Nos. 141, 600, and 715.)

341—Accounts payable due parent and partners

This account will represent payables due parent from licensee. Payables due parent will generally be from one of two sources: (1) Expenses shared (pro-rata with the parent, paid by the parent but not yet reimbursed by the licensee and/or (2) parent (and/or consolidated group) has a tax loss from which the licensee has received a tax benefit.

Debit:

(a) Cash paid to parent and partners.

(b) Income taxes due from licensee but paid by the parent.

Note: The above debit can only arise when the licensee has had the benefit of a prior tax loss from the filing of a consolidated return.

Credit:

(a) Licensee's share of any expense shared with parent and paid by parent.

(b) Licensee's share of any tax benefit resulting from the filing of a consolidated tax return with the parent if the licensee has taxable income but the consolidation has a loss.

(c) Any other payable due parent or partner arising from any other source.

350—Accrued interest payable

This account will represent the amount of liability for interest accrued on the company's notes, mortgages and debentures payable. The account will also include accrued interest payable on other interest-bearing obligations of the company.

Debit:

(a) With amount of such interest paid or disposed of otherwise.

Credit:

(a) With amount of such interest accrued on all interest-bearing obligations covered by this account.

351—Accrued taxes

This account will represent the balance of accrued taxes on payroll, such as the company's portion of social security taxes, which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See account No. 664.)

354—Estimated income taxes accrued

This account will include the balances in subaccounts Nos. 354.1, 354.2, 354.3, etc.

354.1 *Estimated Federal income taxes accrued—This account will represent the balance of estimated Federal income taxes accrued which have not been remitted to the Internal Revenue Service.*

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.1 and 722.1.)

354.2 *Estimated State income taxes accrued*—This account will represent the balance of estimated State income taxes accrued which have not been remitted to the appropriate collector of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.2 and 722.2.)

358—Other current liabilities

This account will represent other current liability not provided for in other accounts.

Debit:

(a) With amount of such expenses paid or disposed or otherwise.

Credit:

(a) With amount of such expenses accrued.

Note.—Increases or decreases in the liability for accrued expenses, through accruals or adjustments, will be offset by increases or decreases, respectively, in the appropriate expenses accounts.

360–364—Dividends payable on [Type of class) ———— *capital stock*

These accounts will represent the company's liability for dividends declared by the company's Board of Directors on the respective types and classes of capital stock issued and outstanding. A separate account should be used to reflect the dividends payable for each type and class of capital stock outstanding.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared payable by the company's Board of Directors.

365–369—Partnership distributions payable to general partners/limited partners

Debit:

(a) With the amount of distributions paid.

Credit:

(a) With the amount of distributions accrued.

370—Employee taxes withheld

This account will represent the amount of income and social security taxes withheld from employee's salaries which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes remitted.

Credit:

(a) With amount of such taxes withheld.

374—Unapplied receipts

This account will represent the amount of funds received by the company which have not been applied to loans, debt securities, interest receivable, etc. This account will be used only in instances when the funds received cannot be applied promptly.

Debit:

(a) With amount of such funds applied or disposed of otherwise.

Credit:

(a) With amount of funds received which cannot be applied promptly.

378—Miscellaneous trust receipts

This account will represent the liability of the company for funds withheld or received in trust, for which no specific account is provided, including earnest money deposits, and funds withheld from employees' salaries for the purpose of United States Savings Bonds, payment of group life insurance premiums, payment of pension fund contributions, etc. The account will also include amounts due other companies that are participants in financing where the licensee is the sponsor and is servicing the debt.

Debit:

(a) With amount of such funds disbursed or disposed of otherwise.

Credit:

(a) With amount of such funds withheld or received.

380—Deferred credit to future taxes

Timing differences will exist between accounting income and taxable income and thereby cause a deferment of tax expense. Such deferred credits usually will result from provision for loss on loans and debt securities. This account will represent such deferred tax payments.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.

Credit:

(a) Such account with amount of tax payments when deferred.

(See account Nos. 231 and 448.)

383—Other deferred credits

This account will represent the amount of deferred credits of the company not specifically provided for in other accounts.

The account will include any gain on sale of assets which does not qualify as realized gain.

Debit:

(a) With amount of such deferred credits transferred to income or gain, or disposed of otherwise.

Credit:

(a) With amount of such deferred credits established.

Note 1.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in this account, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to licensee over 6 months, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in this account as above indicated.

Note 2.—Deferred gain in this account will be transferred to appropriate gain accounts as it is realized.

390—Other liabilities

This account will represent the amount of liabilities of the company not specifically provided for in other accounts.

Debit:

(a) With amount of such liabilities paid or disposed of otherwise.

Credit:

(a) With amount of such liabilities incurred.

Capital Accounts

400–404 ———— capital stock authorized.

(Type and class)

These accounts will represent the total par or stated value of the capital stock authorized, as provided for in the company's charter. A separate account should be provided for each type and class of capital stock authorized.

Debit:

(a) With amount of reductions of such capital stock authorized.

Credit:

(a) With original amount of such capital stock authorized.

(b) With additional amounts of such capital stock authorized.

(See account Nos. 405–409 and "Note" of accounts Nos. 415–419.)

405–409———— unissued capital stock.

(Type and class)

These accounts will represent the total par or stated value of unissued capital stock of the company. A separate account should be provided for each type and class of unissued capital stock.

Debit:

(a) With original amount of such unissued capital stock, as provided for in the company's charter.

(b) With additional amounts of such unissued capital stock authorized.

(c) With par or stated value of capital stock retired.

Credit:

(a) With amount of such capital stock issued (contra debit will be made to accounts Nos. 410–411).

(b) With amount of reductions of capital stock authorized.

(See account Nos. 400–404 and "Note" of accounts Nos. 415–419.)

410–411———— capital stock subscribed.

(Type and class)

These accounts will represent the total amount at the subscription price of the company's capital stock subscribed. A separate account should be provided for each type and class of capital stock subscribed. These accounts will reflect the company's responsibility to issue shares of its stock to subscribers who have made final payment of their capital stock subscriptions.

Debit:

(a) With amount at the subscription price of such subscribed capital stock issued (contra credits will be made to accounts Nos. 405–409 and, as appropriate, No. 420).

(b) With amount at the subscription price of such subscribed capital stock canceled or disposed of otherwise.

Credit:

(a) With amount at the subscription price of such capital stock subscribed.

(See account Nos. 413–414 and "Note" of accounts Nos. 415–419.)

413–414—Capital stock subscriptions receivable————

(Type and class)

These accounts will represent the total unpaid balances of capital stock subscriptions receivable from subscribers of the company's authorized capital stock. A separate subscriptions receivable account should be provided for each type and class of capital stock subscribed.

Debit:

(a) With amount of such capital stock subscriptions received.

Credit:

(a) With amount collected on such capital stock subscriptions.

(b) With amount of such capital stock subscriptions canceled or disposed of otherwise.

(See account Nos. 410–411 and "Note" of accounts Nos. 415–419.)

415–419—Treasury stock————

(Type and class)

These accounts will represent the total amount of the company's issued capital stock which has been reacquired through purchase or donation and has not been retired. A separate account should be provided for each type and class of such capital stock held by the company.

Debit:

(a) With cost of such capital stock acquired through purchase.

(b) With amount of fair market value or par value of such capital stock acquired through donation (contra credit will be made to account No. 420).

Credit:

(a) With cost of such capital stock acquired through purchase, when sold or disposed of otherwise.

(b) With amount of fair market value or par value of such capital stock acquired through donation, when sold or disposed of otherwise.

Note.—Appropriate subsidiary records should be maintained as deemed necessary.

420—Paid-in surplus

This account will represent the amount of surplus arising from (1) sales initially of the company's capital stock at a price in excess of par value (including amounts transferred from capital stock subscribed at a price above par, when shares are issued); (2) donations to the company of its issued capital stock carried as treasury stock at fair market value or par value; (3) retirements of capital stock purchased at less than the par value thereof; (4) sales of treasury stock in excess of its carrying value on the books of the company; (5) donations or gifts to the company of assets carried at not in excess of fair market value; and (6) other equity transactions with stockholders.

Debit:

(a) With amount of loss on treasury stock sold which was acquired through purchase, but not to exceed the total paid-in surplus. (Any amount of loss in excess of the total of such credits will be charged to account No. 451).

(b) With amount received by the company below fair market value, or par value, whichever applicable, for treasury stock sold which was acquired through donations.

(c) With amount paid by the company in excess of par value, but not to exceed the premium received initially, for shares of capital stock retired (any amount paid in excess of par plus initial premium received will be charged to account No. 451).

Credit:

(a) With amount paid in (including stock dividends from undistributed earnings), or transferred from capital stock subscribed,

representing the excess after deduction of underwriters' fees and commissions) over par value of the company's capital stock, when shares are issued.

(b) With amount of fair value or par value of the company's capital stock acquired through donation.

(c) With amount of discount below par value of the company's capital stock acquired through purchases, when such stock is retired.

(d) With amount received by the company in excess of cost, or in excess of fair value or par value, whichever applicable, for treasury stock sold.

(e) With amount not to exceed fair market value of donations or gifts of assets to the company.

430—3% Cumulative preferred stock (Issued to SBA)

This account will be used by 301(d) licensees only and will represent the preferred stock sold to the Small Business Administration at its par value by the licensee. Such stock is not included in capital stock accounts Nos. 400 and 414 because such stock is not considered private capital for leverage or regulatory purposes.

Debit:

(a) Such account with the par value of preferred stock repurchased by the licensee.

Credit:

(a) Such account with the par value of preferred stock sold to SBA by the licensee.

440—Stockholders' unrealized appreciation on loans and investments

This is a credit balance account and will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans and investments above cost of such securities.

Debit:

(a) With decrease in amount of appreciation resulting from decline in fair value of securities held.

(b) With amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With amount of such appreciation recognized.

(b) With amount of increase in such appreciation recognized.

(See account Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

Note.—In the case of distributions in kind to stockholders, this account will be debited with an amount not less than the amount of unrealized gain reported on the most recent 468 for the asset being distributed. The offsetting credit will be to account No. 450, Non-cash gains.

445—Stockholders' unrealized depreciation on loans and investments

This is a debit balance account and will represent the amount by which the licensee's Board of Directors has valued loans and investments below cost of such securities.

Debit:

(a) With amount of "depreciation" of loans and investments recognized.

(b) With amount of increase in such depreciation recognized.

Credit:

(a) With decrease in the amount of depreciation resulting from increase in fair value of securities held.

(b) With amount of depreciation attributable to securities sold or disposed of otherwise.

(See account Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 223.)

448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held

This is a debit balance account that will represent the provision for income taxes on net unrealized appreciation (amount by which the Board of Directors valuation of all securities exceeds cost). As the valuation of securities changes, the provisions for taxes will change.

Debit:

(a) With provisions for taxes established on net unrealized gain.

(b) With increases in provisions for taxes.

Credit:

(a) With established provision for taxes attributable to securities sold or disposed of otherwise.

(b) With decrease in provision established.

(See account No. 380.)

450—Stockholders' non-cash gains on sale of securities

This is a credit balance account and represents gains realized on sale of securities that have not been converted to cash. While considered to be undistributed earnings, amounts in this account will not be available for distribution or capitalized by corporate action. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With amount of cash collected of such non-cash gains previously recognized.

(b) With amount of non-cash gains written off or disposed of otherwise.

(c) With the amount previously credited to this account from stockholders' unrealized appreciation on loans and investments.

Credit:

(a) With amounts of non-cash gain when the securities generating such gain are sold.

(b) With the amount of unrealized gain on the asset being distributed. This is the amount debited to account No. 440.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See account Nos. 462, 220, 579 and 709.)

451—Stockholders' undistributed net realized earnings

This is a credit balance account and represents the cumulative balance of periodic net investment income including realized gain (loss) on securities sold, less dividend distributions whether cash, stock, or cost portions of dividends in kind. Non-cash gain on sale of securities are included in account No. 450.

Debit:

(a) At the end of the fiscal year, with any debit balance in account No. 460 reflected in the profit and loss summary account, and/or the realized gain and loss summary account No. 461.

(b) With amount of dividends, other than stock dividends declared payable out of undistributed net realized earnings by the company's Board of Directors.

(c) With amount of stock dividends, at a per share value representing the higher of fair value existing at the time that the dividend is declared, which are declared by the company's Board of Directors and paid out of undistributed net realized earnings.

(d) With appropriate amount of loss on treasury stock sold which was acquired through purchase, representing the excess of such loss over the total of credits residing in paid-in surplus, account No. 420, relating to previous gains on treasury stock sold or retirement of capital stock at amounts less than the amounts previously paid in with respect thereto.

(e) With appropriate amount paid by the company in excess of par plus initial premium received on the type and class of shares of capital stock retired.

Credit:

(a) At end of the fiscal year, with the credit balances of the profit and loss summary account, No. 460 and the realized gain and loss summary account, No. 461.

(See account Nos. 450, 460, 461 and 462.)

460—Stockholders' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the year with any credits arising from investments in management service subsidiaries or unincorporated businesses reported on the equity method of accounting.

(c) At the end of the fiscal year, with the credit balance of the account (transfer to undistributed net realized earnings—account No. 451).

Credit:

(a) At the end of the fiscal year, with the credit balances of all income and expense accounts.

(b) At the end of the year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services subsidiary and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss summary that were credited to account No. 463—Stockholders' non-cash income from investments reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to undistributed net realized earnings—account No. 451).

(See account No. 451.)

461—Stockholders' realized gain and loss summary in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balance of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to retained earnings).

Credit:

(a) At the end of the fiscal year, with the balance of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to retained earnings).

(See account No. 451.)

462—Stockholders non-cash realized gain summary

This account will be used as a clearing account through which all accounts for non-cash realized gains on investment on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to non-cash gains on sale of securities)—account No. 450.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

(See account Nos. 450 and 461.)

463—Stockholders non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management services subsidiaries and/or investments in unincorporated small businesses concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 460 on the same investment.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note: It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 460.

465—Partners' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the fiscal year with any credit arising from management services investments or unincorporated businesses reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the credit balance (transfer to the appropriate partners' undistributed net realized earnings account, i.e., account 493—Corporate General Partners' undistributed net realized earnings, 494—Individual General Partners' undistributed net realized earnings and 495—Limited Partners' undistributed net realized earnings.)

Credit:

(a) At the end of the fiscal year, with the credit balance of all income and expense accounts.

(b) At the end of the fiscal year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services investment and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss Summary that were credited to Account 495—Partners Non-cash Income from Investment Reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' Undistributed net realized earnings, i.e., 493, 494 and 495.

466—Partners' realized gain and loss summary-in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balances of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 495).

Credit:

(a) At the end of the fiscal year, with the balances of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 495).

467—Partners' non-cash realized gain summary

This account will be used as a closing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' non-cash gains on sale of securities, i.e. 491—Corporate General Partners' non-cash gain on sale of securities, 492—Individual General Partners' non-cash gain sale of securities, and 495—Limited Partners non-cash gain on sale of securities.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

468—Partners' non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management service investments and/or investments in unincorporated small business concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry, debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 465.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note 1: It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 465.

Note 2: This account should be divided into 468.1 for general partners and 468.2 for limited partners.

470—General Partners' Permanent Capital Contribution Summary

This is a summary account reflecting the balances of all general partners capital contributions. The credit balance in this account represents the amount of general partners' capital contributions that is a component in the computation of regulatory capital for leverage and overline purposes.

471—Corporate General Partners' Permanent Capital Contribution

This account respects the amount of the corporate general partners' capital contribution available for computation of regulatory capital.

Debit:

(a) Debit with the amount of any withdrawal during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to the general partners' permanent capital contribution that is available for SBA leverage purposes.

(b) Credit with the amount transferred from account 493—Corporate General Partners' undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a corporate licensee. It represents capital available for leverage purposes, subject to certain regulatory adjustments.

Note 2.—This account performs an additional function for the partnership

licensee. The credit balance in this account may be used to determine the percent of interest a corporate general partner has in the following items: (a) general partners' unrealized appreciation (depreciation), (b) general partners non-cash income from investments reported on the Equity Method of Accounting, (c) general partners' non-cash gain on sale of securities and (d) general partners undistributed net realized earnings.

Note 3.—Usually there is no relationship between the amount of capital contributed by general partners to the total partnership capital and the general partners' share of profits, losses and gains on securities. The ratio of the general partners' share of profits and gains is determined by the partnership agreement.

472—Individual General Partners' Permanent Capital Contribution

This account corresponds to account 471.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to general partners' capital contribution that is available for computation of regulatory capital.

(b) Credit with the amount transferred from account 494—Individual general partners undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—See notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each general partner.

475—Limited Partners Capital Permanent Contribution Summary

This is a summary amount reflecting the balance of all limited partners capital contributions. The credit balance in this account represents the amount of limited partners capital contributions that is available for computation of regulatory capital.

Note.—This account performs the same function for limited partners as account 470 performs for general partners.

476—Limited Partners Permanent Capital Contribution

This account performs the same function for limited partners that accounts 471 and 472 perform for general partners.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for computation of regulatory capital.

Credit:

(a) Credit with the amount of additional cash contributed to limited partners' permanent capital contribution that is available for computation of regulatory capital.

(b) Credit with the account transferred from account 496—Limited Partners Undistributed Net Realized Earnings to increase the amount of capital available for computation of regulatory capital.

Note 1.—The same rules apply to limited partners as apply to general partners. See Notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each limited partner.

481—Corporate General Partners' Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the corporate general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See account Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

482—Individual General Partner(s) Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the individual general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such investments.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See account Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

483—Corporate General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the corporate general partners share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See account Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 222.)

484—Individual General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the individual general partners' share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See account Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 222.)

485—Limited Partners Unrealized Appreciation on Loans and Investments

This is a credit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in the fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See account Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

486—Limited Partners Unrealized Depreciation on Loans and Investments

This is a debit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the Decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See account Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

491—Corporate General Partners' Non-cash Gains on Sale of Securities

This is a credit balance account and represents the corporate general partners' share on gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amounts in this account will not be available for distribution or capitalized by partnership action transferring amounts to Partners' Permanent Capital Contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

VOL 51 ISS 167 AG 28 1986 UMI

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See account Nos. 467, 220, 579, and 709.)

492—Individual General Partners' Non-cash Gain on Sale of Securities

This is a credit balance account that performs the same function for individual general partners as account 491 performs for corporate general partners.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amount of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See account Nos. 467, 220, 579, and 709.)

493—Corporate General Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the corporate general partners' share of the limited partnership's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 491.

Debit:

(a) At the end of the fiscal year, with the corporate general partners' share of any debit balance in account (a) 465—Partners' profit and loss summary and/or (b) the debit balance in Account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to corporate general partners' whether cash, stock and/or in kind.

(c) With the amount transferred to corporate general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year with the corporate general partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

494—Individual General Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the individual general partners' share of the limited partnerships' cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 492.

Debit:

(a) At the end of the fiscal year, with the individual general partners' share of any debit balance in account (a) 465—Partners' profit and loss summary and/or (b) the debit balance in 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to individual general partners whether cash, stock and/or in kind.

(c) With the amount transferred to the individual general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the individual general partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

495—Limited Partners' Non-cash Gains On Sale of Securities

This is a credit balance account and represents the limited partners' share of gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amount in this account will not be available for distribution or capitalized by partnership action transferring amounts to partners' capital contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gains when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See account Nos. 467, 220, 579, and 709.)

496—Limited Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the limited partners' share of the licensee's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 495.

Debit:

(a) At the end of the fiscal year, with the limited partners' share of any debit balance in (a) account 465—Partners' profit and loss summary and/or (b) the debit balance in account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to limited partners whether cash, stock and/or in kind.

(c) With the amount transferred to limited Partners' capital contribution account 476 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the limited partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) account 466—Partners' realized gain and loss summary in cash.

Income Accounts

500—Commitment income

This account will represent the amount of income earned on commitments to small business concerns for loans and equity securities. This account, on the books of the "participating" company, will include the amount of commitment income on deferred participations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income earned on commitments and deferred participations.

Note 1:—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

Note 2:—Recording as income in this account of accrued commitment fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the small business concern or the fair value of its debt or equity instrument held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued commitment fees taken into income in this account, or as an alternative, the commitment income should be deferred in account No. 383 as above indicated.

(See account Nos. 141 and 142.)

510—Interest on invested idle funds

This account will represent the amount of interest earned on (1) time certificates of deposit in banks which are members of the Federal Deposit Insurance Corporation, (2) U.S. Government obligations, direct and fully guaranteed, owned by the company, and (3) funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on invested idle funds.

(See account Nos. 130 through 137, 143 and 144.)

512—Interest on loans

This account will represent the amount of interest earned on loans to small business concerns.

Debit:

(a) At the end of fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on loans outstanding to small business concerns.

Note:—Accrual of interest receivable should be discontinued with respect to any loan to a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payment received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credit as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the loan as determined in good faith by the Board of Directors is less than cost of recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 170 and 173.)

516—Interest on debt securities

This account will represent the amount of interest earned on debt securities of small business concerns owned by the company pursuant to section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on debt securities owned.

Note:—Accrual of interest received should be discontinued with respect to any debt security of a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the debt security as determined in good faith by the Board of Directors is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 180, 184 and 188.)

520—Interest income—other

This account will represent the amount of interest earned on miscellaneous notes receivable, funds in escrow, and interest-bearing receivables not otherwise classified.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on such receivables.

(See account Nos. 140, 143, and 267.)

532—Management service fees

This account will represent the amount of fees charged for management services rendered to small business concerns and other small business investment companies pursuant to section 107.601 of the Small Business Administration Rules and Regulations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

Note.—Recording as income in this account of accrued management service fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the fair value of the financed concern's debt or equity instruments held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued management consulting service fees taken into income in this account, or, as an alternative, the management consulting service income should be deferred in account No. 383 as above indicated.

(See account Nos. 140, 141, and 142.)

534—Investigation and service fees charged other lenders

This account will represent the amount of fees charged for investigation and services rendered to banks or other lenders or investors, pursuant to section 308(a) of the Small Business Investment Act of 1958, as amended. The account will include compensation for financial services rendered in connection with participations sold.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 140, 141 and 142.)

536—Application and appraisal fees

This account will represent the amount of fees charged for application, appraisal, investigation, and related services rendered to small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See account Nos. 173 and 188 and "Note" of account Nos. 140, 141 and 532.)

540—Dividends on capital stock of SBCs

This account will represent the amount of income from dividends on capital stock of small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income from such dividends.

(See account No. 145.)

541—Sharings in income or revenue of SBCs

This account will represent the amount of sharing or participations in the income or revenue of small business concerns which the company has financed by means of loans or debt securities.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such sharings.

(See account Nos. 140, 141 and 145.)

542—Non-cash income from investments reported on equity method of accounting

This account is a summary account of all income and losses from investments required to be reported on the Equity Method of Accounting. The sources of entries will be primarily from any of the following sources.

1. Corporate licensees' management service subsidiary.

2. Limited partnerships' investment in a management services company.

3. Investments in unincorporated small business concerns.

It is important that separate records be kept of each source of investments reported on the Equity Method of Accounting since losses and gains are not reported in the same manner.

Debit:

(a) At the end of the fiscal year with the amounts of all gains, which will be credited to account 463—Stockholder non-cash income from investments reported on the Equity Method of Accounting or to account 468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

(b) With the amount of losses resulting from investments to be reported on the Equity Method of Accounting.

Credit:

(a) With the amount of income from investments to be reported on the Equity Method of Accounting.

(b) With the amount of losses from investments to be reported on the Equity Method of Accounting. If the licensee is a corporation the offsetting debit will be to account 460. If the licensee is a limited partnership the offsetting debit will be to account No. 465.

570—Gain on U.S. Governemnt securities

This account will represent the amount of gain on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed, carried in account No. 130.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be credited to account No. 510—Interest on invested idle funds, with concurrent debit to account No. 143—Accrued interest receivable.

571—Gain on loans.

This account will represent the amount of gain on the sale or other disposition of loans of small business concerns carried in account No. 170, and will include recoveries on loan losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462)

Credit:

(a) With amount of gain on such loans sold or disposed of otherwise.

(b) With amount collected on portions of loans previously charged to the loss account.

(See accounts Nos. 383 and 701.)

572—Gain on debt securities

This account will represent the amount of gain on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184, and will include recoveries on debt security losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such debt securities sold or disposed of otherwise.

(b) With amount collected on portions of debt securities previously charged to the loss account.

(See account Nos. 383 and 702.)

574—Gain on capital stock of SBCs

This account will represent the amount of gain on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191, and will include recoveries on capital stock losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such capital stock sold or disposed of otherwise.

(b) With amount realized on capital stock of SBCs previously charged to the loss account.

(See account Nos. 383 and 704.)

575—Gain on equity interest of unincorporated concerns

This account will represent the amount of gain on the sale or other disposition of equity interests of unincorporated concerns carried in account 194 and will include recoveries of losses on equity interests of unincorporated concerns previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such equity interests sold or disposed of otherwise.

(b) With amount realized on equity interests previously charged to the loss account.

576—Gain on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of gain on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs, and will include recoveries on stock rights losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such warrants, options, and other stock rights acquired from SBCs sold or disposed of otherwise.

(b) With amount realized on warrants, options, and other stock rights previously charged to the loss account.

(See account Nos. 197, 383 and 706, and memorandum record No. NA–10.)

577—Gain on assets acquired in liquidation of portfolio securities

This account will represent the amount of gain on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in accounts Nos. 200, and 204, and will include recoveries on losses on assets acquired in liquidation previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets acquired in liquidation of portfolio securities sold or disposed of otherwise.

(b) With amount realized on assets in liquidation of portfolio securities previously charged to the loss account.

(See account Nos. 383 and 707.)

578—Gain on Operating Concerns Acquired

This account will represent the amount of gain on the sale or other disposition of investments in operating concerns acquired and will include recoveries on losses previously charged to the related loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See account Nos. 210, 221, 383, and 708.)

579—Gain on other assets

This account will represent the amount of gain on the sale or other disposition of assets not specifically provided for in other accounts, and will include recoveries on losses on other assets previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 220, 221, 383, and 709.)

582—Income from assets acquired in liquidation of portfolio securities

This account will represent the amount of income earned on assets acquired in liquidation of portfolio securities, including the operation of properties, carried in accounts Nos. 200, 204.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent. Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation or the disposition of assets acquired in the liquidation of portfolio securities should be charged to account No. 230—Prepaid expenses.

584—Other income

This account will represent the income earned not specifically provided for in other accounts.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of such income earned.

Expense Accounts

600—Commitment expense

This account will represent the amount of commitment expense on commitments from lending institutions.

On the books of the "initiating" company, this account also will include the amount of commitment expense on deferred participations.

Debit:

(a) With amount of expense incurred on commitments and deferred participations.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Note.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account No. 340.)

610—Interest on obligations payable to SBA

This account will represent the amount of interest expense accrued on obligations payable to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account Nos. 300, 301 and 350.)

622—Interest on obligations payable to other than SBA

This account will represent the amount of interest expense accrued on obligations payable to other than the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 310, 311, 312, 313, 320 and 350.)

642—Stock record and other financial expenses

This account will represent the amount of charges to the company by transfer agent and the registrar for services rendered in connection with the issuance and transfer of company's capital stock, and will include other financial expenses not provided for elsewhere.

Debit:

(a) With amount of such interest incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account No. 340.)

650–679—Operating expenses

The accounts under this caption will represent the amounts of operating expenses incurred.

Debit appropriate account:

(a) With amount of operating expenses incurred.

Credit appropriate account:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

650—Advertising and promotional costs

This account will represent the cost of advertising and promoting the company's services, including the cost of entertaining prospective borrowers and clients.

651—Appraisal and investigation costs

This account will represent the amount of charges made by outside firms and individuals for appraisal, investigation, and related services rendered to the company.

652—Auditing and examination costs

This account will represent the amount of charges for auditing, examination, and bookkeeping services rendered by accountants not on the company's payroll, and charges for services rendered by SBA examiners.

653—Communications

This account will represent telephone, telegraph, and postage expense.

654—Cost of space occupied

This account will represent the cost of space occupied such as rent, alterations, light, heat, power, janitor service, maintenance and repair expense on buildings, furniture, and equipment (other than automobiles), etc.

655—Depreciation of corporate premises owned, furniture, equipment and automobiles

This account will represent the amount of provision applicable to the fiscal year for depreciation of the buildings and other depreciable improvements of corporate premises owned and used as the company's office quarters. The account also will include the amount of provision applicable to the fiscal year for depreciation of furniture, equipment and automobiles owned by the company.

656—Amortization of leasehold improvements

This account will represent the amortization of leasehold improvements.

657—Directors, stockholders' or partners' meetings costs

This account will represent directors' fees and travel expense for attendance at directors' and stockholders' or partners' meetings. The account also will include the cost of holding stockholders' or partners' meetings, such as rental of the meeting hall and related expenses.

658—Insurance

This account will represent fire, theft, employee group life insurance, and other insurance expense, including fidelity bond, premiums and insurance on automobiles. The portion, if any, of employee group life insurance premiums withheld from salaries or received from employees will be reflected in account No. 378. Insurance premiums to be amortized will be charged to account No. 230.

659—Management services fees

This account will represent the amount of charges made by outside firms or individuals for management services provided to licensee pursuant to management agreement approved by SBA.

660—Investment advisor costs

This account will represent the amount of charges made by outside firms and individuals for furnishing consultation and advice to the company with respect to the desirability of investing in, purchasing, or selling loans, debt securities, and capital stock of small business concerns and other property.

661—Legal services

This account will represent the cost of legal services rendered to the company.

663—Salaries

This account will include the balance in subaccounts Nos. 663.1 and 663.2.

663.1—Salaries of officers or partners

This account will represent the salary cost of all officers/partners of the company, including directors' salaries, if any, but not directors' fees for attendance at meetings.

663.2—Salaries of employees

This account will represent the salary cost of all employees other than officers/partners, including salaries of any temporary or part-time employees engaged for specific assignments.

664—Taxes, excluding income taxes

This account will represent the cost of all taxes, including those on corporate premises owned, motor vehicle, and personal property, social security taxes (company's portion), and other taxes charged to the company, exclusive of income taxes.

665—Travel

This account will represent all travel expense, including transportation charges, automobile maintenance, operating expense, meals, lodging, telephone, telegraph, and other company costs incurred by officers and employees while in a travel status.

670—Employee benefits expense

This account will represent the cost assumed by the company in contributing to funds providing for employee retirement benefits and other types of employee benefits, except group life insurance. The portion, if any, of the cost of employee

benefits withheld from salaries or received from employees will be reflected in account No. 378.

672—Amortization of organization expense

This account will represent the amount of legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other related costs incurred in organizing the company, which are charged to expense (this account) as incurred or are transferred to this account periodically through the amortization of organization costs established as an asset in account No. 266.

679—Miscellaneous operating expenses

This account will represent the amount of operating expenses not specifically provided for in other accounts. There will be included expenses incurred in connection with dues, subscriptions, donations, and similar items; charges made to the company for custodial or safekeeping services in connection with its portfolio securities; and bank service charges, exchange on checks, protest fees, etc., and the cost of office supplies such as stationery, accounting forms, binders, pencils, etc.

680—Estimated losses on receivables

This account will represent the amount of estimated losses applicable to the fiscal year on notes and accounts receivable, and interest receivable.

Debit:

(a) With amount of such estimated losses incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

700—Loss on U.S. Government securities

This account will represent the amount of loss on the sale or other disposition of United States Government obligations, direct and fully guaranteed, carried in account No. 130–135.

Debit:

(a) With amount of loss on such securities sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 460 or 462).

(See account No. 570.)

701—Loss on loans

This account will represent the amount of loss on the sale or other disposition of loans of small business concerns carried in account No. 170.

Debit:

(a) With amount of loss on such loans written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 571.)

702—Loss on debt securities

This account will represent the amount of loss on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184.

Debit:

(a) With amount of loss on such debt securities written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 572.)

704—Loss on capital stock of SBCs

This account will represent the amount of loss on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191.

Debit:

(a) With amount of loss on such capital stock written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 574.)

705—Loss on equity interest of unincorporated concern

This account will represent the amount of loss resulting from sale or other disposition of equity interests of unincorporated concerns carried in account No. 194.

Debit:

(a) With amount of loss on such equity interest sold, written off, or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 575.)

706—Loss on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of loss on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs.

Debit:

(a) With amount of loss on such warrants, and other stock rights written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account Nos. 197, 576, and memorandum record No. NA–10.)

707—Loss on assets acquired in liquidation of portfolio securities

This account will represent the amount of loss on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in account No. 200, 204.

Debit:

(a) With amount of loss on such assets written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 577.)

708—Loss on Operating Concerns Acquired

This account will represent the amount of loss on the sale or other disposition of investments in operating concerns acquired.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 578.)

709—Loss on other assets

This account will represent the amount of loss on the sale or other disposition of assets not specifically provided for in other accounts.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 579.)

710—Expense on assets acquired in liquidation of portfolio securities

This account will represent the amount of expense incurred on assets acquired in liquidation of portfolio securities, including the operation and depreciation of properties, carried in account No. 204. The account also will include the amount of interest expense accrued on mortgages payable on assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such expense incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent.

Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation of or in the disposition of assets acquired in the liquidation of loans and debt securities should be charged to account No. 230—Prepaid expenses.

715—Other expenses

This account will represent the amount of nonoperating expenses not specifically provided for in other accounts, including, on the books on the "participating" company, the amount of compensation expense for financial services received from "initiating"

companies in connection with participations purchased.

Debit:

(a) With amount of such expenses incurred.

Credit:

(b) At the end of fiscal year, with the balance of account (transfer to profit and loss summary—account No. 480).

(See account No. 340.)

720—Income taxes—net income

This account will include the balances in subaccounts Nos. 720.1, 720.2, 720.3, etc.

720.1—*Federal income taxes—net income.*

This account will represent the amount of Federal income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 480).

720.2—*State income taxes—net income.*

This account will represent the amount of State income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 480).

(See subaccount Nos. 354.1 and 354.2.)

722—Income taxes—net realized gain on investments

This account will include the balance in subaccount Nos. 722.1, 722.2, 722.3, etc.

722.1—*Federal income taxes—net realized gain on investments.*

This account will represent the amount of Federal income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.1.)

722.2—*State income taxes—net realized gain on investments.*

This account will represent the amount of State income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.2.)

Memorandum Records

Nominal Assets

NA–10—*Stock purchase warrants or options on stock of SBCs.* This record will show the company's ownership of detachable stock purchase warrants or options on stock of SBCs, retained after the accompanying financing instruments have been disposed of, for which no consideration was given distinct from that surrendered for such financing instruments and for which no separate cost has otherwise been determined.

Each such detachable stock purchase warrant or option certificate should be entered in this record, upon detachment, at a nominal value of one dollar ($1.00). Upon sale of such a detached stock purchase warrant or option, upon exercise or expiration of rights conveyed by such a detached stock purchase warrant or option or upon the determination of a cost to be recorded for such a detached stock purchase warrant or option, the entry establishing such certificate in the memorandum records is to be discharged through an equivalent credit.

Debit:

(a) With nominal value of such detachable stock purchase warrants or options upon their detachment from capital stock certificates or debt securities.

Credit:

(a) With nominal value of such detachable stock purchase warrants or options upon exercise or expiration of rights conveyed by such warrant or option certificates.

(b) With nominal value of such detachable stock purchase warrants or options sold or disposed of otherwise.

(c) With nominal value of such detachable stock purchase warrants or options for which a separate cost has been established.

(See accounts Nos. 180, 190, and 197.)

Contingent Liabilities

CL–15—*Commitments outstanding.* This record will show the amount of financing commitments made and outstanding to small business concerns, including commitments for loans and for the acquisition of small business concerns' capital stock and debt securities. This record also will show the amount of deferred participations. A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies. When funds are advanced against commitments, appropriate entry will be made in this record.

CL–16—*Guarantees outstanding.* This record will show the amount for which the company is contingently liable under guarantees issued to lending institutions in connection with obligations of portfolio concerns under notes, debentures, or other evidences of indebtness, or short-term advances to such concerns.

CL–17—*Other contingent liabilities.* This record will show the amount of miscellaneous contingent obligations not otherwise classified.

Options on Company's Stock

OCS–1—*Options on company's stock.* This record will show details of outstanding options on the company's capital stock granted in lieu of salary or in payment for services actually rendered to the company. The following data will be included:

1. Identification of person or entity holding options.
2. Number of shares optioned.
3. Type and class of stock called for by options.
4. Dates of grant and of expiration of options.
5. Price or prices at which options exercisable, with dates they apply.
6. Fair market value, per share, of stock called for at date each option was granted.
7. Price of each option as percent of fair market value of optioned stock at date option was granted.
8. Provisions for termination of options in case of death of retirement of optionees, or other circumstances.
9. Details of authorization, shares reserved for, issuance, exercise, lapse, and forfeiture of options provided for under the company's stock option plan.

Actual Loss Experience

AL–1—*Actual (realized) losses.* This record will show for each fiscal year, and also accumulatively, the amount of actual (realized) losses incurred through disposition, writedown, or write-off of loans and investments. Losses shall be stated in total for all loans and investments and also separately for loans; debt securities; capital stock of small business concerns; warrants; options, and other stock rights of small business concerns; assets acquired in liquidation of loans and debt securities; and amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. Losses realized shall be determined in relation to cost of the assets involved without regard to the existence or nonexistence of related allowances for losses.

WI—Worthless Investments Written Off.

PDA—Preferred Dividend Arrearages on Preferred Stock Sold SBA.

A memorandum account will be established showing:

(a) the amount of each arrearage
(b) the total amount of arrearage
(c) the number of arrearages
(d) the date the arrearages began.

The auditor will disclose the above information by an appropriate footnote.

[FR Doc. 86–15191 Filed 8–27–86; 8:45 am]

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federal register

Thursday
August 28, 1986

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for April 1986; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53085; FRL-3061-9]

Premanufacture Notices; Monthly Status Report for April 1986

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for April 1986.

Nonconfidential portions of the PMNs may be seen in Rm. NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53085]:" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substance, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d) (3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) PMNs for which the notice review period has ended during April; (d) chemical substances for which EPA has received a notice of commencent to manufacture during April and (e) PMNs for which the review period has been suspended. Therefore, the April 1986 PMN Status Report is being published.

Dated: July 24, 1986.

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, April 1986

I. 149 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-821	Generic name: Modified hydrocarbon resin	51 FR 12557 (12558) (4/11/86)	June 29, 1986.
P 86-822	Generic name: (E)(Z)-2,6-heptadienal,2,4-dimethyl-	51 FR 12557 (12558) (4/11/86)	Do.
P 86-823	Generic name: Functional acrylate type polymer	51 FR 12557 (12558) (4/11/86)	Do.
P 86-824	Generic name: Polymer of acrylic acid esters with an aliphatic acid monomer and an aromatic vinyl monomer, and an aliphatic nitrile monomer.	51 FR 12557 (12558) (4/11/86)	Do.
P 86-825	Generic name: Ester copolymer	51 FR 12557 (12558) (4/11/86)	Do.
P 86-826	Generic name: Styrene-acrylic latex	51 FR 12557 (12558) (4/11/86)	Do.
P 86-827	Generic name: Modified monocyclic urethane isocyanate	51 FR 12557 (12558) (4/11/86)	Do.
P 86-828	Generic name: Aliphatic alicyclic polyester polyurethane	51 FR 12557 (12558) (4/11/86)	Do.
P 86-829	Generic name: Diazonium resin	51 FR 12557 (12558) (4/11/86)	Do.
P 86-830	Generic name: Diazonium resin	51 FR 12557 (12558) (4/11/86)	Do.
P 86-831	Generic name: Alkyl substituted pyridine	51 FR 12557 (12559) (4/11/86)	June 30, 1986.
P 86-832	Generic name: Reaction product of hydroxyethyl acrylate and methyl oxirane	51 FR 12557 (12559) (4/11/86)	Do.
P 86-833	Generic name: Polyurethane resin	51 FR 12557 (12559) (4/11/86)	Do.
P 86-834	(d), 1-Camphorquinone	51 FR 12557 (12559) (4/11/86)	Do.
P 86-835	Generic name: Acrylic (copolymer)	51 FR 12557 (12559) (4/11/86)	July 1, 1986.
P 86-836	Generic name: Poly(substituted carbomonocyclic alkylene) phosfate	51 FR 12557 (12559) (4/11/86)	Do.
P 86-837	Generic name: Styrene-acrylonitrile graft terpolymer	51 FR 12557 (12559) (4/11/86)	Do.
P 86-838	Generic name: Substituted pyridine	51 FR 12557 (12559) (4/11/86)	Do.
P 86-839	Generic name: Alkyd resin	51 FR 15681 (4/25/86)	July 2, 1986.
P 86-840	Generic name: Water dispersible modified alkyd resin	51 FR 15681 (15682) (4/25/86)	Do.
P 86-841	Generic name: Polyamide resin	51 FR 15681 (15682) (4/25/86)	Do.
P 86-842	Generic name: Styrene-2-ethyl hexylacrylate copolymer	51 FR 15681 (15682) (4/25/86)	Do.
P 86-843	Generic name: Substituted phenylamino substituted carbopolycycle sulfonic acid, salt	51 FR 15681 (15682) (4/25/86)	Do.
P 86-844	Generic name: Substituted phenylamino substituted carbopolycycle sulfonic acid, salt	51 FR 15681 (15682) (4/25/86)	Do.
P 86-845	Generic name: Substituted propionamide	51 FR 15681 (15682) (4/25/86)	Do.
P 86-846	Generic name: Substituted propionamide	51 FR 15681 (15682) (4/25/86)	Do.
P 86-847	Benzenesulfonic acid, 5-methoxy-2-[(2-hydroxy-1-naphthalenyl)azo], barium salt (2:1)	51 FR 15681 (15682) (4/25/85)	Do.
P 86-848	Generic name: Poly [(disubstituted amino)aryl] alkane	51 FR 15681 (15682) (4/25/86)	Do.
P 86-849	Generic name: Vegetable oil, modified ethoxylated and capped	51 FR 15681 (15682) (4/25/86)	Do.
P 86-850	Eicosene	51 FR 15681 (15682) (4/25/86)	Do.
P 86-851	Generic name: Ethyl acetoxyalkenoate	51 FR 15681 (15682) (4/25/86)	July 5, 1986.
P 86-852	Generic name: Acid terminated, water dispersible, isophthalic/terphthalic acid, polyester resin	51 FR 15681 (15682) (4/25/86)	Do.
P 86-853	Generic name: Polyalkyleneoxyalkyl, alkyl silicone	51 FR 15681 (15683) (4/25/86)	Do.
P 86-854	Generic name: Alkylene polyether alkylate	51 FR 15681 (15683) (4/25/86)	Do.
P 86-855	Generic name: Metal alkoxy halide	51 FR 15681 (15683) (4/25/86)	Do.
P 86-856	Generic name: Functionalized acrylic polymer	51 FR 15681 (15683) (4/25/86)	Do.
P 86-857	Amine functional polyamide	51 FR 15681 (15683) (4/25/86)	Do.
P 86-858	Generic name: Polymer of methylene tetramine, tetraethylene pentamine, monobasic fatty acid dibasic fatty acid, substituted phenol and substituted oxirane.	51 FR 15681 (15683) (4/25/86)	Do.
P 86-859	Generic name: Aliphatic hydrocarbon resin	51 FR 15681 (15683) (4/25/86)	July 6, 1986.
P 86-860	Generic name: Hydrocarbon resin	51 FR 15681 (15683) (4/25/86)	Do.
P 86-861	Generic name: Acid terminated polyester prepolymer	51 FR 15681 (15683) (4/25/86)	Do.
P 86-862	Generic name: Hydrocarbon resin	51 FR 15681 (15683) (4/25/86)	Do.
P 86-863	Generic name: Styrenated rosin ester	51 FR 15681 (15683) (4/25/86)	Do.
P 86-864	Generic name: Nonionically blocked P-toluenesulfonic acid	51 FR 15681 (15683) (4/25/86)	Do.
P 86-865	Generic name: Modified epoxy acrylate	51 FR 15681 (15683) (4/25/86)	Do.
P 86-866	Generic name: Salt of a substituted-(phenylpyrazole)	51 FR 15681 (15683) (4/25/86)	Do.
P 86-867	Generic name: Siloxanes and silicones, di-me, me hydrogen, reaction products allyl glycidyl ether and polyethylene polypropylene glycol allyl methyl ether.	51 FR 15681 (15684) (4/25/86)	Do.
P 86-868	Generic name: Dicyclohexyl alkane	51 FR 15681 (15684) (4/25/86)	Do.
P 86-869	Generic name: Dicyclohexyl alkane	51 FR 15681 (15684) (4/25/86)	Do.
P 86-870	Generic name: Alkyl-substituted decaline	51 FR 15681 (15684) (4/25/86)	Do.
P 86-871	Generic name: Dicyclohexyl alkane	51 FR 15681 (15684) (4/25/86)	Do.
P 86-872	Generic name: Perfluoroalkyl epoxide	51 FR 15681 (15684) 4/25/86)	July 7, 1986.
P 86-873	Generic name: Perfluoroalkyl epoxide	51 FR 15681 (15684) (4/25/86)	Do.

I. 149 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-874	Generic name: Organosulfur modified EPDM	51 FR 15681 (15684) (4/25/86)	Do.
P 86-875	Generic name: High solids oxirane/anhydride polyester resin	51 FR 15681 (15684) (4/25/86)	Do.
P 86-876	Generic name: Polyester resin	51 FR 15681 (15684) (4/25/86)	Do.
P 86-877	Titanium complex of ethanol, isopropanol, monobutyl phosphate, and dibutyl phosphate	51 FR 15681 (15684) (4/25/86)	Do.
P 86-878	Generic name: Polymethylene polyphenyl isocyanate polyol	51 FR 15681 (15684) (4/25/86)	Do.
P 86-879	Generic name: Sulfonate surfactant intermediate	51 FR 15681 (15684) (4/25/86)	Do.
P 86-880	Generic name: Sulfonate surfactant intermediate	51 FR 15681 (15684) (4/25/86)	Do.
P 86-881	Generic name: Sulfonate surfactant intermediate	51 FR 15681 (15684) (4/25/86)	Do.
P 86-882	Generic name: Sulfonate surfactant intermediate	51 FR 15681 (15685) (4/25/86)	Do.
P 86-883	Generic name: Sulfonate surfactant	51 FR 15681 (15685) (4/25/86)	Do.
P 86-884	Generic name: Sulfonate surfactant	51 FR 15681 (15685) (4/25/86)	Do.
P 86-885	Generic name: Functionalized styrenated acrylic polymer	51 FR 15681 (15685) (4/25/86)	July 8, 1986.
P 86-886	Generic name: Polymer of acrylic and acrylate	51 FR 15681 (15685) (4/25/86)	Do.
P 86-887	Generic name: Fluorinated telomer	51 FR 15681 (15686) (4/25/86)	Do.
P 86-888	Generic name: Ester copolymer	51 FR 15681 (15686) (4/25/86)	Do.
P 86-889	Reaction product of trimethylsilloxy silica copolymer and 1,1,2,2-tetrahydroperfluoro-1-decenol	51 FR 15681 (15685) (4/25/86)	Do.
P 86-890	Generic name: Polymer of acrylic acid esters, an aromatic vinyl monomer, and a nitrile monomer	51 FR 15681 (15685) (5/2/86)	July 9, 1986.
P 86-891	6-(2-Hydroxy ethoxy)-7-methoxy-2,3-dimethyl-quinoxaline	51 FR 16383 (16384) (5/2/86)	Do.
P 86-892	Generic name: Aminophenyl-(substituted) carbomonocyclic sulfonamide	51 FR 16383 (16384) (5/2/86)	July 12, 1986.
P 86-893	Generic name: Modified triazine-formaldehyde polymer	51 FR 12567 (12568) (5/2/86)	Do.
P 86-894	Generic name: Alkenoate metal complex	51 FR 16383 (16384) (5/2/86)	July 13, 1986.
P 86-895	Generic name: Reaction product of polysubstituted alkanes	51 FR 16383 (16384) (5/2/86)	Do.
P 86-896	Generic name: Siloxanes and silicones, dimethyl, methyl(mercaptoalkyl) trimethyl end blocked	51 FR 16383 (16384) (5/2/86)	Do.
P 86-897	Generic name: Phosphoric acid, mono and di-(2-ethylhexyl) esters, compounds with N,N-dimethyl alkylamine	51 FR 16383 (16384) (5/2/86)	Do.
P 86-898	Generic name: N-tallow alkyl-2-2-iminobis-propanol, inorganic salt	51 FR 16383 (16384) (5/2/86)	Do.
P 86-899	Generic name: Calcium sulfonate	51 FR 16383 (16384) (5/2/86)	Do.
P 86-900	Generic name: Substituted phenol	51 FR 16383 (16384) (5/2/86)	Do.
P 86-901	Cuprate (4-), [5-(acetylamino)-4-hydroxy-3-[[5-hydroxy-6-[[(2-hydroxy-4[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-7-sulfo-2-naphthalenyl]azo]-2,7-napthalene disulfonate (6-)]-tetra- sodium salt.	51 FR 16383 (16385) (5/2/86)	Do.
P 86-902	Cuprate (4-)[3[[2,4-dihydroxy- 3-[[2-hydroxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]phenyl]azo]-4,8-naphthalene disulfonate(-6)]- trisodium salt.	51 FR 16383 (16385) (5/2/86)	Do.
P 86-903	Generic name: Succinate ester amide	51 FR 16383 (16385) (5/2/86)	Do.
P 86-904	Generic name: Polymer of alkyl methacrylate and substituted methacrylamide	51 FR 16383 (16385) (5/2/86)	Do.
P 86-905	Generic name: Functionalized ethene copolymer	51 FR 16383 (16385) (5/2/86)	Do.
P 86-906	Generic name: Mercaptoalkyl, alkylpolysiloxane	51 FR 16383 (16385) (5/2/86)	Do.
P 86-907	Generic name: Siloxanes and silicones, methyl, mercaptoalkyl hydrolysis products with tetraethoxysilane	51 FR 16383 (16385) (5/2/86)	Do.
P 86-908	Generic name: Ester copolymer	51 FR 16383 (16385) (5/2/86)	Do.
P 86-909	Generic name: Alkylated aromatic compound	51 FR 16383 (16385) (5/2/86)	Do.
P 86-910	Generic name: Substituted alkyl arylamine	51 FR 16383 (16385) (5/2/86)	Do.
P 86-911	Generic name: Amine adduct of epoxy resin	51 FR 16383 (16385) (5/2/86)	Do.
P 86-912	Generic name: Amine adduct of epoxy resin	51 FR 16383 (16385) (5/2/86)	Do.
P 86-913	Generic name: High solids oxirane/anhydride polyester resin	51 FR 16383 (16385) (5/2/86)	July 14, 1986.
P 86-914	Generic name: High solids oxirane/anhydride polyester resin	51 FR 16383 (16385) (5/2/86)	Do.
P 86-915	Generic name: Phenolic polyester	51 FR 16383 (16386) (5/2/86)	Do.
P 86-916	Generic name: Alkyl fatty acids	51 FR 16383 (16386) (5/2/86)	Do.
P 86-917	Generic name: Alkyl diquaternary	51 FR 16383 (16386) (5/2/86)	July 15, 1986.
P 86-918	Generic name: Linseed oil based terephthalic alkyd	51 FR 16383 (16386) (5/2/86)	Do.
P 86-919	Generic name: Substituted phenyl, substituted triazolyl (substituted) alkanamide	51 FR 16383 (16386) (5/2/86)	Do.
P 86-920	Generic name: Substituted-3-sulfoalkylbenzothiazole, salt	51 FR 16383 (16386) (5/2/86)	Do.
P 86-921	Generic name: (Substituted aromatic heterocyclic) substituted-3-sulfoalkyl	51 FR 16383 (16386) (5/2/86)	Do.
P 86-922	Generic name: Rubber modified epoxy	51 FR 16587 (5/5/86)	July 16, 1986.
P 86-923	Generic name: Zirconium (4+) alkanolamine complex	51 FR 16587 (5/5/86)	Do.
P 86-924	Generic name: Acrylate ester	51 FR 16587 (5/5/86)	Do.
P 86-925	Generic name: Modified polyvinyl alcohol	51 FR 16587 (5/5/86)	Do.
P 86-926	1H-isoindole-5-carboxylic acid, 2,2-(methylene di-4,1-phenylene) bis [2,3-dihydro-1,3-dioxo-]	51 FR 16587 (5/5/86)	Do.
P 86-927	Generic name: Organo nickel complex	51 FR 16587 (5/5/86)	Do.
P 86-928	Generic name: Alkyl aryl phosphine	51 FR 16587 (5/5/86)	Do.
P 86-929	Generic name: Ampa copolymer	51 FR 16587 (16588) (5/5/86)	July 19, 1986.
P 86-930	Generic name: Monoamide of a disubstituted carboxyalkene	51 FR 16587 (16588) (5/5/86)	July 20, 1986.
P 86-931	Generic name: Diamide of a disubstituted carboxyalkene	51 FR 16587 (16588) (5/5/86)	Do.
P 86-932	Generic name: Monoamide of a disubstituted carboxyalkene	51 FR 16587 (16588) (5/5/86)	Do.
P 86-933	Generic name: Diamide of a disubstituted carboxyalkene	51 FR 16587 (16588) (5/5/86)	Do.
P 86-934	Generic name: Ethylene vinyl fatty ester copolymer	51 FR 16587 (16588) (5/5/86)	Do.
P 86-935	Generic name: Polymer of methyl methacrylate, butyl acrylate, hydroxy ethyl acrylate	51 FR 16587 (16588) (5/5/86)	Do.
P 86-936	Generic name: Polyester urethane methacrylate blocked	51 FR 16587 (16588) (5/5/86)	Do.
P 86-937	Generic name: Alkyl formamide	51 FR 16587 (16588) (5/5/86)	Do.
P 86-938	Generic name: Polyisobutenylsuccinimide	51 FR 16587 (16588) (5/5/86)	Do.
P 86-939	Generic name: Polyster/polyamide copolymer	51 FR 16587 (16588) (5/5/86)	Do.
P 86-940	Generic name: Aromatic methyl oxirane	51 FR 16587 (16588) (5/5/86)	July 21, 1986.
P 86-941	Generic name: Functionalized styrenated acrylic polymer	51 FR 16587 (16588) (5/5/86)	Do.
P 86-942	Generic name: Copolymer of methacrylic and acrylic esters	51 FR 16587 (16588) (5/5/86)	Do.
P 86-943	Ethenyl tris[(1-methylethenyl)oxy]silane	51 FR 16587 (16589) (5/5/86)	Do.
P 86-944	Tris[(1-methylethenyl)oxy]phenyl silane	51 FR 16587 (16589) (5/5/86)	July 22, 1986.
P 86-945	Generic name: Ester of long chain fatty acids	51 FR 16587 (16589) (5/5/86)	Do.
P 86-946	Generic name: Perfluoroalkyl propoxy polyalkyl ethers	51 FR 16587 (16589) (5/5/86)	Do.
P 86-947	Generic name: Perfluoroalkyl propoxy polyalkyl ethers	51 FR 16587 (16589) (5/5/86)	Do.
P 86-948	Generic name: Perfluoroalkyl propoxy polyalkyl ethers	51 FR 16587 (16589) (5/5/86)	Do.
P 86-949	Generic name: Chromium complex	51 FR 17232 (5/9/86)	July 23, 1986.
P 86-950	Generic name: Aliphatic urethane acrylate oligomer	51 FR 17232 (17233) (5/9/86)	Do.
P 86-951	Generic name: Aliphatic urethane acrylate oligomer	51 FR 17232 (17233) (5/9/86)	Do.
P 86-952	Generic name: High solids oxirane/anhydride polyester intermediate	51 FR 17232 (17233) (5/9/86)	Do.
P 86-953	Generic name: Salt of alkanethiol	51 FR 17232 (17233) (5/9/86)	Do.
P 86-954	Generic name: Vegetable oil, polymer with aromatic dicarboxylic acid, and aliphatic thiol	51 FR 17232 (17233) (5/9/86)	Do.
P 86-955	4-Hydroxy-3-[[2-methoxy-5-[[2-potassium salt (sulfooxy)]ethenyl] sulfonyl]phenyl]azo]naphthalene	51 FR 17232 (17233) (5/9/86)	Do.
P 86-956	3,5-Diamino-2,4,6-trimethyl benzene sulfanic acid	51 FR 17232 (17233) (5/9/86)	July 26, 1986.
P 86-957	Polymer of acrylic acid, methacrylic acid, acrylenitrile, methacrylamide, ammonium, persulfate, sodium hydroxide	51 FR 17232 (17233) (5/9/86)	Do.
P 86-958	Generic name: Polyperfluoroalkyl acrylate	51 FR 17232 (17233) (5/9/86)	Do.
P 86-959	Generic name: Amine alkylphosphoric salt	51 FR 17232 (17233) (5/9/86)	July 27, 1986.
P 86-960	Generic name: Chlorendic acid modified alkyd resin	51 FR 17232 (17233) (5/9/86)	Do.
P 86-961	Generic name: Crosslinked MDI-aromatic polyether polyurethane	51 FR 17232 (17233) (5/9/86)	Do.
P 86-962	Generic name: Polyether ester amine	51 FR 17232 (17233) (5/9/86)	Do.
P 86-963	Generic name: Polyether polyamine	51 FR 17232 (17233) (5/9/86)	Do.

I. 149 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-954	Generic name: Alkali metal salt of acid modified polyfunctional alkylene oxide polymer	51 FR 17232 (17234) (5/9/86)	Do.
P 86-955	Generic name: Ethylene interpolymer	51 FR 17232 (17234) (5/9/86)	Do.
P 86-956	Generic name: Carboxyl terminated butadiene/acrylonitrile copolymer, 1,4-((2,3-epoxypropoxy)methyl) cyclohexane	51 FR 17232 (17234) (5/9/86)	Do.
P 86-957	Generic name: Ketoxime blocked aromatic isocyanate	51 FR 17232 (17234) (5/9/86)	July 28, 1986.
P 86-958	Generic name: Styrene, polymer with alkanedioic acid, butadiene and substituted alkane	51 FR 17232 (17234) (5/9/86)	Do.
P 86-959	Generic name: Polymer of benzenedicarboxylic acid, alkane triol, vegetable oil and fatty acids, resinous polyol and phenolic resin.	51 FR 17232 (17234) (5/9/86)	Do.
Y 86-116	Generic name: Terpene modified hydrocarbon copolymer	51 FR 12559 (12560) (4/11/86)	Apr. 21, 1986.
Y 86-117	Generic name: Polyester/polyamine copolymer	51 FR 15686 (4/25/86)	Apr. 29, 1986.
Y 86-118	Generic name: Water soluble acrylate random copolymer	51 FR 16382 (16383) (5/2/86)	May 4, 1986.
Y 86-119	Generic name: Water soluble acrylate random copolymer	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-120	Generic name: Water soluble acrylate random copolymer	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-121	Generic name: Styrene-acrylate random copolymer emulsion	51 FR 16382 (16383) (5/2/86)	May 5, 1986.
Y 86-122	Generic name: Chain stopped alkyd resin	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-123	Generic name: Vinyl modified alkyd resin	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-124	Generic name: Copolymer of acrylic and methacrylic esters	51 FR 16382 (16383) (5/2/86)	May 6, 1986.
Y 86-125	Generic name: Polyurethane dispersion	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-126	Generic name: Polyurethane dispersion	51 FR 16382 (16383) (5/2/86)	Do.
Y 86-127	Generic name: Alkyd	51 FR 16589 (5/5/86)	May 14, 1986.
Y 86-128	Generic name: Linear saturated polyester resin containing hydroxyl groups	51 FR 17235 (5/9/86)	May 19, 1986.
Y 86-129	Generic name: Linear saturated polyester resin containing hydroxyl groups	51 FR 17235 (17236) (5/9/86)	Do.
Y 86-130	Generic name: Branched saturated polyester resin containing hydroxyl groups	51 FR 17235 (17236) (5/9/86)	Do.

II. 226 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.

P 86-585
P 86-586
P 86-587
P 86-588
P 86-589
P 86-600
P 86-601
P 86-602
P 86-603
P 86-604
P 86-605
P 86-606
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P 86-815
P 86-816
P 86-817
P 86-818
P 86-819
P 86-820

III. 156 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.

P 84-591
P 84-1219
P 85-800
P 85-822
P 85-1013
P 85-1071
P 85-1168
P 85-1169
P 85-1170
P 85-1210
P 85-1211
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P 85-1272
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P 86-69
P 86-83
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P 86-418
P 86-419

P 86-420	P 86-431	P 86-442	P 86-453	P 86-464	Y 86-108
P 86-421	P 86-432	P 86-443	P 86-454	P 86-465	Y 86-109
P 86-422	P 86-433	P 86-444	P 86-455	P 86-466	Y 86-110
P 86-423	P 86-434	P 86-445	P 86-456	P 86-467	Y 86-111
P 86-424	P 86-435	P 86-446	P 86-457	Y 86-102	Y 86-112
P 86-425	P 86-436	P 86-447	P 86-458	Y 86-103	Y 86-113
P 86-426	P 86-437	P 86-448	P 86-459	Y 86-104	Y 86-114
P 86-427	P 86-438	P 86-449	P 86-460	Y 86-105	Y 86-115
P 86-428	P 86-439	P 86-450	P 86-461	Y 86-106	Y 86-116
P 86-429	P 86-440	P 86-451	P 86-462	Y 86-107	Y 86-117
P 86-430	P 86-441	P 86-452	P 86-463		

IV. 87 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-530	Generic name: Substituted thiol salt	Mar. 12, 1986.
P 82-171	Generic name: Aromatic substituted triazine diazo dye, tetrasodium salt	Mar. 10, 1986.
P 83-30	Generic name: Disubstituted naphthalene	Mar. 31, 1986.
P 83-402	Generic name: Poly alkylene oxide aromatic diisocyanate prepolymer	Apr. 8, 1986.
P 83-725	Generic name: Methyl lactate	Mar. 23, 1986.
P 83-1021	Generic name: Hydroxy functional acrylic copolymer	Apr. 3, 1986.
P 84-213	Generic name: 2,8-Phenazinediamine, tetra substituted-5,10-dihydro-10-(substituted-phenyl)-5-(4-substituted) benzoyl	Mar. 31, 1986.
P 84-572	2,5,6-Trimethyl-4-hepten-1-al	Mar. 11, 1986.
P 84-573	3-L-n-methoxypropane-1,2-diol	Do.
P 84-574	Vanillyl n-butyl ether 4(M-butoxy methyl)-2-methoxy phenol	Do.
p 84-578	Methoxy dimethyl tricyclo (5,2,1,0,2,6) decene	Do.
P 84-905	Generic name: Rosin modified phenolic resin	Mar. 25, 1986.
P 85-60	Generic name: Functional polyester	Apr. 9, 1986.
P 85-139	Generic name: Complex polyester	Apr. 10, 1986.
P 85-261	Generic name: Substituted phenylazo substituted carbopolycycle	Mar. 24, 1986.
P 85-441	Generic name: Polymer from N-methyl-N-vinylacetamide, acrylic acid and N-substituted acrylamide	Mar. 10, 1986.
P 85-462	Generic name: Acrylic polymer	Mar. 31, 1986.
P 85-528	Generic name: Anthranilate schiff base	Apr. 7, 1986.
P 85-706	Generic name: Substituted polyglycol	Mar. 30, 1986.
P 85-727	Generic name: Calcium-P, P1-(1-hydroxyethylidene) di-(hydrogen phosphate) dihydrate	Feb. 15, 1986.
P 85-932	Generic name: Disubstituted alkyltriazine	Mar. 7, 1986.
P 85-933	Generic name: Disubstituted alkyltriazine	Mar. 10, 1986.
P 85-945	Generic name: Polysubstituted benzene	Apr. 14, 1986.
P 85-985	Generic name: Tetrasubstituted aminonaphthol	Mar. 6, 1986.
P 85-989	Generic name: Tetrasubstituted aminonaphthol	Mar. 5, 1986.
P 85-1064	Generic name: Biphenolphosphite	Mar. 25, 1986.
P 85-1065	Generic name: Biphenol	Do.
P 85-1135	Generic name: Alkyl phenol blocked isocyanate, prepolymer	Mar. 20, 1986.
P 85-1186	Generic name: Monosubstituted carbamic acid, methyl ester, salt	Mar. 13, 1986.
P 85-1218	Generic name: Acrylate copolymer	Feb. 18, 1986.
P 85-1294	Generic name: Phosphonium salt	Apr. 9, 1986.
P 85-1362	Generic name: Titanium IV neoalkoxy, tris dodecylbenzene-sulfonato-O	Mar. 9, 1986.
P 85-1382	Generic name: Amine modified epoxy resin	Apr. 9, 1986.
P 85-1383	Generic name: Amine modified epoxy resin	Do.
P 85-1400	Generic name: Disubstituted phenylazo disubstituted naphthalenesulfonic acid, salt	Mar. 25, 1986.
P 85-1422	Generic name: Aliphatic polyester reacted with aromatic diisocyanate and diol acid, amine salt	Mar. 21, 1986.
P 85-1480	Generic name: Substituted bis(phenyl)isobenzofuranone	Apr. 4, 1986.
P 85-1509	Generic name: Mixed C_4 and C_8 methyl ethers	Feb. 24, 1986.
P 86-3	Generic name: Perfluoroalkyl acrylate copolymer latex	Mar. 11, 1986.
P 86-44	Generic name: Polyester urethane polymer	Mar. 19, 1986.
P 86-45	Generic name: Adipic acid, polymer with disubstituted alkanol	Apr. 22, 1986.
P 86-113	Generic name: Polymer of alkyl alcohol; alkyl diol; monocyclic dicarboxylic acid, dimethyl ester; and cyclic ether	Mar. 3, 1986.
P 86-114	Generic name: Esterified aromatic carboxylic acid	Mar. 24, 1986.
P 86-115	Generic name: Esterified aromatic acyl halide	Do.
P 86-116	Generic name: Esterified aromatic carboxylic acid	Do.
P 86-117	Generic name: Esterified aromatic acyl halide	Do.
P 86-118	Generic name: Esterified polyamic acid	Do.
P 86-121	Generic name: Saturated polyester based on terphthalic acid	Mar. 7, 1986.
P 86-133	Generic name: Substituted polyamine	Mar. 24, 1986.
P 86-134	Generic name: Polyisobutenylsuccinamide	Do.
P 86-140	Generic name: Blocked aliphatic polyisocyanate	Mar. 12, 1986.
P 86-151	Generic name: Metal salt of alkylphenol sulfides phosphosulfurized polyalkene complexes	Apr. 4, 1986.
P 86-176	Generic name: Acid salt of a modified acrylic copolymer	Mar. 19, 1986.
P 86-194	Generic name: Carprolactam-blocked cycloaliphatic diisocyanate	Mar. 11, 1986.
P 86-196	Generic name: Oil-free saturated polyester	Apr. 2, 1986.
P 86-201	Generic name: Polymer of partial ester of polyol with a carboxylic anhydride and an olefin, partial salt	Mar. 5, 1986.
P 86-212	Generic name: Cycloaliphatic carbonyl chloride	Apr. 7, 1986.
P 86-213	Generic name: Cycloaliphatic carboxylic acid	Mar. 20, 1986.
P 86-229	Generic name: 2-Amino-5-[2-(sulfooxyethyl)sulfonyl]phenol	Mar. 10, 1986.
P 86-245	Generic name: Azo condensation pigment	Mar. 17, 1986.
P 86-246	Generic name: Tetrasubstituted monoazo pigment	Apr. 6, 1986.
P 86-249	Polymer of isophorone diisocyanate, 2-hydroxy ethyl acrylate and polyoxypropylene triamine	Mar. 27, 1986.
P 86-277	Generic name: 4-Substituted phenol, polymer with substituted bis(chlorobenzene), substituted bisphenol and inorganic hydroxide	Mar. 10, 1986.
P 86-285	Generic name: Acrylic resin	Mar. 17, 1986.
P 86-289	Generic name: Unsaturated polyester resin	Apr. 9, 1986.
P 86-300	Complete ester derived from triethylolethane and palm kernel derived from fatty acid	Do.
P 86-306	Generic name: Styrenated drying oil alkyd resin	Mar. 18, 1986.
P 86-316	Generic name: Water reducible oil-free polyester	Mar. 24, 1986.
P 86-325	Generic name: Acrylic resin solution	Do.
P 86-326	Generic name: Ester-imide	Apr. 1, 1986.
P 86-350	Generic name: Phenolic formaldehyde condensate derivative	Apr. 3, 1986
P 86-353	Generic name: Aryl substituted lactone	Apr. 19, 1986.
P 86-366	Generic name: Polyimide	Apr. 6, 1986
P 86-372	Ethanol, potassium salt	Apr. 11, 1986.
P 86-374	Generic name: Blocked isocyanate	Apr. 10, 1986.
P 86-394	2-Ethoxy-4-methyl phenol	Apr. 21, 1986.
P 86-417	Generic name: Vinylsiloxane-organo-platinum complex	Apr. 23, 1986.

IV. 87 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
Y 86-42	Generic name: Hydroxy functional acrylic copolymer	Do.
Y 86-74	Generic name: Styrenated acrylic modified polyester	Do.
Y 86-75	Generic name: Thermosetting alkyd resin	Do.
Y 86-76	Generic name: Alkyd resin	Do.
Y 86-77	Generic name: Unsaturated polyester	Do.
Y 86-84	Generic name: Acrylic modified alkyd	Mar. 19, 1986.
Y 86-95	Generic name: Bisphenol A type polyester resin	Mar. 26, 1986.
Y 86-98	Generic name: Polyester resin	Mar. 28, 1986.
Y 86-99	Generic name: Unsaturated polyester	Apr. 8, 1986.
Y 86-100	Generic name: Unsaturated polyester	Do.

V. 25 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 84-382	Generic name: Alkyloxylated cycloaliphatic diamine	49 FR 6180 (6181) (2/17/84)	Apr. 11, 1986.
P 85-109	Generic name: Arylthioalkanoylhydrazide	49 FR 45857 (11/19/84)	Do.
P 85-317	Phosphine oxide, diphenyl(2,4,6-trimethyl- benzoyl)-	49 FR 50444 (50445) (12/28/84)	Apr. 2, 1986.
P 85-459	1-Propanol, 3-mercapto-	50 FR 4986 (4986) (2/4/85)	Apr. 22, 1986.
P 85-463	Generic name: Silane	50 FR 6983 (6984) (2/15/85)	Apr. 25, 1986.
P 85-662	Generic name: Alkanolalkane triacrylate octylamine adduct	50 FR 9504 (9505) (3/8/85)	Apr. 21, 1986.
P 85-1433	Generic name: Alkoxylate coconut glycoside	50 FR 38197 (38198) (9/20/85)	Apr. 7, 1986.
P 85-36	Generic name: Substituted epoxy resin	50 FR 42773 (42774) (10/22/85)	Apr. 5, 1986.
P 86-223	Generic name: Thioether	50 FR 52225 (52227) (12/9/85)	Apr. 25, 1986.
P 86-304	Generic name: Diester of 1,4-benzenedicarboxylic acid	51 FR 4605 (2/7/86)	Apr. 2, 1986.
P 86-331	Generic name: Propoxylated quaternary amine	51 FR 462 (464) (1/6/86)	Apr. 8, 1986.
P 86-351	Generic name: Carboxyoxyamide sulfate polymer	51 FR 2589 (1/17/86)	Apr. 29, 1986.
P 86-382	Generic name: Modified trisphenol epoxy novolac	51 FR 4033 (4034) (1/31/86)	Apr. 11, 1986.
P 86-387	Generic name: Modified acrylic ester	51 FR 4033 (4034) (1/31/86)	Do.
P 86-411	Generic name: Substituted alkyl benzotriazole	51 FR 4039 (4039) (1/31/86)	Apr. 14, 1986.
P 86-412	Generic name: Substituted alkyl benzotriazole	51 FR 4080 (4082) (1/31/86)	Do.
P 86-423	Mixed thiodiphenol oligomers	51 FR 4080 (4083) (1/31/86)	Apr. 21, 1986.
P 86-424	Mixed thiodiphenol oligomers sodium salts	51 FR 4080 (4083) (1/31/86)	Do.
P 86-425	Mixed thiodiphenol oligomers ammonium salts	51 FR 4080 (4023) (1/31/86)	Do.
P 86-456	Generic name: Hydrogen 2-[alpha(2-hydroxy-3-sulfo-5-ethenylsulfonylphenylazo)- benzylidenehydrazine]-5-substituted, cuprate, sodium salt.	51 FR 5592 (2/14/86)	Apr. 25, 1986.
P 86-473	Generic name: t-amyl peroxy mono carbonate	51 FR 5592 (5593) (2/14/86)	Apr. 29, 1986.
P 86-544	Butanedioic acid, sulfo-1,4-bis(3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl)ester, sodium salt	51 FR 7119 (7119) (2/28/86)	Apr. 22, 1986.
P 86-566	Methoxyacetyl chloride	51 FR 8009 (8010) (3/7/86)	Apr. 28, 1986.
P 86-850	Eicosene	51 FR 15681 (15682) (4/25/86)	Apr. 18, 1986.

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federal register

Thursday
August 28, 1986

Part IV

Environmental Protection Agency

40 CFR Part 461

Water Pollution; Battery Manufacturing-Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 461

[OW-FRL-(3038-F)]

Water Pollution, Battery Manufacturing Point-Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works (POTW) by existing and new sources that conduct battery manufacturing operations in the lead subcategory. EPA agreed to propose and promulgate these amendments in a settlement agreement which resolved a lawsuit challenging the final battery maufacturing regulation promulgated by EPA on March 9, 1984 (49 FR 9108).

The proposed amendments include: (1) Certain modifications of the effluent limitations for "best available technology economically achievable" (BAT) and "new source performance standards" (NSPS) for direct discharges; (2) certain modifications of the pretreatment standards for new and existing indirect discharges (PSNS and PSES); and (3) guidance which allows consideration of employee shower wastewater as a process wastewater under certain circumstances.

DATES: In accordance with 40 CFR Part 23 (50 FR 7268, February 21, 1985), this regulation shall be considered issued for the purpose of judicial review at 1:00 p.m. Eastern time on September 11, 1986. This regulation shall become effective October 14, 1986. Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: Address questions on this final rule to Mary L. Belefski, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The record for the final rule will be available for public review not later than September 29, 1986 in the EPA Public Information Reference Unit, Room 2404 (Rear), (EPA Library), 401 M Street, SW., Washington, DC. The EPA information regulation provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Question regarding this notice may be addressed to Mr. Ernst P. Hall at (202) 382-7126.

SUPPLEMENTARY INFORMATION:

Organization of this Notice:

I. Legal Authority.
II. Background.
A. Rulemaking and Settlement Agreement.
B. Effect of the Settlement Agreement.
III. Amendments to the Battery Manufacturing Regulation.
A. Effluent Limitations and Standards for Battery Wash Operations in the Lead Subcategory.
B. Battery Employee Shower Wastewater.
IV. Guidance to Permit Writers for Handling Non-Regulated Wastewater Sources.
V. Environmental Impact of the Amendments to the Battery Manufacturing Regulation.
VI. Economic Impact of the Amendments.
VII. Executive Order 12291.
VIII. Regulatory Flexibility Analysis.
IX. OMB Review.
X. List of Subjects in 40 CFR Part 461.

I. Legal Authority

The regulation described in this notice is promulgated under authority of sections 301, 304, 306, 307, 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 92-217).

II. Background

A. Rulemaking and Settlement Agreement

On March 9, 1984, EPA promulgated a regulation to establish Best Practicable Control Technology Currently Available (BPT) and Best Available Technology Economically Achievable (BAT) Effluent Limitations Guidelines and New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES); and Pretreatment Standards for New Sources (PSNS) for the Battery Manufacturing Point Source Category (40 CFR Part 461, 49 FR 9108). The preamble to the regulation describes the history of the rulemaking.

After publication of the battery manufacturing regulation, certain members of the battery manufacturing industry and the Battery Council International filed a petition to review portions of the regulation that pertained to the lead subcategory (*Battery Council International* v. *EPA*, 4th Cir. No. 84-1507).

On March 27, 1985, the parties entered into a settlement agreement which resolved all issues raised by petitioners. On April 25, 1985, the United States Court of Appeals for the Fourth Circuit entered an order staying briefing in the lawsuits. In the Settlement Agreement, EPA agreed to publish a notice of proposed rules and preamble language and to solicit comments regarding certain amendments to the final battery manufacturing regulation. If EPA promulgated amendments to the battery manufacturing regulation and preamble language that are substantially the same as and do not alter the meaning of the proposed language, the petitioners agreed to dismiss the lawsuit and not challenge the new amendments.

B. Effect of the Settlement Agreement

As part of the Settlement Agreement, the parties jointly requested the United States Court of Appeals for the Fourth Circuit to stay the effectiveness of certain sections of 40 CFR Part 461 pending final action by EPA on the proposed amendments. The April 25, 1985 court order granted this request.

All limitations and standards proposed to be amended by regulation were stayed by the court order (i.e., they are not currently in effect). However, pending the Agency's final action on the proposed revisions, the parties agreed to treat these proposed amendments and preamble as applicable. All other limitations and standards have remained the same, and EPA is not deleting or amending any of them.

III. Amendments to the Battery Manufacturing Regulation

In accordance with the Settlement Agreement, on January 28, 1986, EPA proposed to amend the effluent limitations and standards for battery wash operations in the lead subcategory. EPA also proposed to provide guidance for the handling of battery employee shower wastewater and nonregulated wastewater sources in the lead subcategory.

EPA received only two comments on the proposal, one from Battery Council International (BCI), and the other from General Motors. Both commenters supported the proposed amendments. Accordingly, EPA is promulgating the following provisions as final amendments to the battery manufacturing regulation.

A. Effluent Limitations and Standards for Battery Wash Operations in the Lead Subcategory

The BAT, PSES, NSPS and PSNS limitations and standards for the battery

wash (with detergent) operation in the lead subcategory were based upon discharging wastewater from the washing of each battery once during the production process. Based upon subsequent reevaluation of this aspect of lead battery production, EPA concludes that batteries are washed with detergent twice at many plants (once after formation and once prior to shipping after the batteries have been in storage); that wastewater from each such battery wash operation may contain pollutants and is properly considered a process wastewater requiring treatment; and that an additional flow allowance for a second battery wash is appropriate for purposes of calculating the mass limits for battery washing operations. Consequently, EPA is doubling the battery wash (with detergent) mass limits for all pollutants covered by battery wash (detergent) BAT, PSES, NSPS and PSNS limitations and standards.

The amended regulation, like the previous regulation, would provide no allowance for discharges from battery wash operations that do not use detergent. The wastewater from such operations may be reused and thus does not need to be discharged.

B. Battery Employee Shower Wastewater

When EPA promulgated the battery manufacturing regulation on March 9, 1984, EPA determined that no flow allowance should be provided for employee showers. EPA reasoned that relatively few employees in battery plants are exposed to high lead dust levels and that adequate means are available for assuring that substantially all lead is removed prior to showering. EPA concluded that there is thus no need for a plant to discharge battery employee shower wastewater as process wastewater (i.e., as water that has contacted and become contaminated with substantial amounts of lead) and that the battery employee shower wastewater can be discharged as sanitary wastewater. See 49 FR 9108, 9123 (March 9, 1984).

The petitioners in *Battery Council International* v. *EPA*, argued that in some cases, battery employee shower wastewater may be significantly contaminated and require treatment. No data was submitted to demonstrate the actual concentrations of lead in various battery shower wastewaters and EPA continues to believe that battery shower wastewater should not be classified as a process wastewater. However, showers are required by the Occupational Safety and Health Administration (OSHA) for battery plant employees working in areas with lead exposure in excess of 50 mg/m^3. See 29 CFR 1910.1025. This indicates a potential for the contamination of some employee shower wastewater with some amount of lead. Therefore, EPA agrees with petitioners that individual plants should have the opportunity to demonstrate that their particular wastewaters are significantly contaminated and should be accounted for accordingly. EPA is addressing this concern in two ways, one for indirect dischargers and one for direct dischargers.

First, for indirect dischargers in the battery manufacturing point source category, EPA is amending the battery regulation, § 461.34(c), that modifies the way that the combined wastestream formula, 40 CFR 403.6(e), applies to contaminated shower wastewaters. The combined wastestream formula provides a means for determining final discharge requirements for indirect dischargers that combine different wastestreams prior to the treatment and discharge of these combined wastestreams to the publicly owned treatment works. The formula treats certain types of wastestreams, including sanitary wastestreams that are not regulated by a categorical pretreatment standard, as "dilution" streams (F_D in the combined wastestream formula). Thus, battery shower wastewater is considered a dilution stream under the existing regulation.

Under the final § 461.34(c), where battery employee shower wastewater contains a significant amount of lead, and the discharger combines this wastewater with process wastestreams prior to treatment and discharge, the Control Authority is authorized to exercise its discretion to classify the stream as an unregulated stream rather than a dilution stream. Classification as an unregulated stream would result in the consideration of the battery shower wastewater as a contaminated stream that may be combined with regulated wastestreams for purposes of treatment and provided an appropriate flow allowance.

EPA has selected 0.20 mg/l as the concentration of lead that represents a significant contamination of battery employee shower wastewater. This is the lead concentration that was used by EPA as a basis for establishing the monthly average lead mass limitations and standards in the regulation. EPA anticipates that a demonstration of significant contamination would be based on data that can appropriately be compared to the monthly average of 0.20 mg/l. Guidance and sample calculations for pretreatment Control Authorities will be presented in a "Guidance Manual for Battery Manufacturing Pretreatment Standards." This document can be obtained by writing to the contact listed in the "Address" section of this preamble.

Second, for direct dischargers in the battery manufacturing point source category, EPA is stating its policy that where battery employee shower wastewater is shown to be significantly contaminated (greater than 0.20 mg/l), permit writers should likewise provide an allowance when developing the permit. In such situations, it would be appropriate for the permit writer to develop a mass allowance based upon the product of the employee shower wastewater discharge rate and the treatment effectiveness used as a basis for the promulgated regulation (as specified in the Final Development Document for Effluent Limitations Guidelines and Standards for Battery Manufacturing, Vol. II, Table VII–21; EPA 440/1–84/067–V.II).

IV. Guidance to Permit Writers for Handling Non-Regulated Wastewater Sources

For those waste streams not given flow allowances in the regulation, the Agency does not believe they warrant treatment on a national basis because they are generally not contaminated or occur at only one or two plants. The Agency believes that such wastewater sources as noncontact cooling water and boiler blowdown ordinarily do not contain significant quantities of toxic pollutants. However, in some instances wastewater sources such as these may be contaminated. In certain circumstances, the permit writer or Control Authority may develop mass limitations for site-specific wastewater sources.

If the permit writer makes a threshold determination that a wastestream is sufficiently contaminated to require a discharge allowance and further determines that combined treatment with other process wastewater is appropriate, then the permit writer should develop a mass discharge limitation for a site-specific waste stream. The permit writer must use his best professional judgment to decide which nonregulated wastestreams are sufficiently contaminated to require treatment, and which require combined treatement with other process wastewaters.

When consideration of site-specific wastewater sources is warranted as discussed above, the permit writer must quantify the discharge rate of the wastestream. The mass allowance

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provided for the waste stream is then obtained from the product of the discharge rate and treatment effectiveness of the technology basis of the promulgated regulation. For example, if the permit writer determines that boiler blowdown requires treatment, he or she must determine the flow rate of contaminated water to be treated. The permit writer can then determine the appropriate treatment technology basis and treatment effectiveness values by referring to the final development document for battery manufacturing. The product of the discharge rate and treatment effectiveness is then the allowed mass discharge. This quantity can then be added to the other building blocks (i.e., mass discharge for the regulated streams) to determine total allowed mass discharge for each pollutant.

In cases where an indirect discharger combines boiler blowdown or non-contact cooling water with regulated streams, the combined wastestream formula (40 FR 403.6(e)) as amended on May 17, 1984, applies. See 49 FR 21024, 21037 (May 17, 1984).

V. Environmental Impact of the Amendments to the Battery Manufacturing Regulation

The amendments will allow 111 existing direct and indirect dischargers to discharge a greater amount of pollutants than was allowed by the March 1984 regulation. The increase in the mass of pollutants allowed to be discharged is not expected to be substantial, however.

The increased quantity of lead that will be discharged at BAT and PSES due to the flow change under the amended regulation averages only 1.7 pounds per plant per year. Increases for copper and iron will be 5.3 and 5.1 pounds per plant per year. For new sources, the increases for these pollutants will be 33% smaller than the increases for existing sources.

For the 1984 promulgated regulation, it was estimated that 72,047 kkg per year of wastewater treatment sludges will be generated at BAT–PSES of which 93 percent was from the lead subcategory. As a result of these proposed amendments, sludge generation will be decreased by less than one percent to about 71,980 kkg. However, lead battery sludges are not specifically listed under RCRA as a hazardous waste and because of excess lime in the BAT–PSES treatment systems, the Agency believes that the sludges will pass the EP toxicity test. Nevertheless, a separate analysis showed that even if all lead battery sludges were classified as hazardous, there would be no adverse economic impact on the industry from solid waste generation.

VI. Economic Impact of the Amendments

The amendments will not alter the recommended technologies for complying with the battery manufacturing regulation. The Agency considered the economic impact of the regulation when the final regulation was promulgated (see 49 FR 9116). Since the Agency concluded at the time that the regulation was economically achievable, and since it is expected that the amendments will not impose higher cost than the final regulation was estimated to impose, the Agency has concluded that these amendments will not alter the determinations with respect to economic impact that were made previously.

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Major rules are defined as rules that impose an annual cost to the economy of $100 million or more, or meet other economic criteria. This regulation, like the regulation promulgated in March 1984, is not major because it does not fall within the criteria for major regulations established in Executive Order 12291.

VIII. Regulatory Flexibility Analysis

Pub. L. 96–354 requires that EPA prepare a Regulatory Flexibility Anaylsis for regulations that have a significant impact on a substantial number of small entities. In the preamble to the March 9, 1984 final regulation, the Agency concluded that there would not be a significant impact on a substantial number of small entities [49 FR 911]. For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to these amendments, since the amendments would not alter economic impact of the regulation. The Agency has not, therefore, prepared a formal analysis for this regulation.

IX. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street SW., Washington, DC 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding Federal holidays. This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

X. List of Subjects in 40 CFR Part 461

Battery manufacturing industry, Primary batteries, dry and wet, Storage batteries, Waste treatment and disposal, Water pollution control.

Dated: August 21, 1986.

Lee M. Thomas,

Administrator.

For the reasons stated above, EPA is amending 40 CFR Part 461 as follows:

PART 461—BATTERY MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for Part 461 continues to read:

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307, 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"), 33 U.S.C. 1311, 1314 (b), (c), (e) and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. Section 461.32 is amended by revising paragraph (a)(4) to read as follows:

§ 461.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) * * *

(4) Subpart C—Battery Wash (Detergent).

BAT Effluent Limitations

Pollutant or Pollutant Property	Maximum for any 1 Day	Maximum for monthly average
Metric units—mg/kg of lead used English units—pounds per 1,000,000 lb of lead used		
Copper	1.71	0.90
Lead	0.36	0.18
Iron	1.06	0.55

* * * * *

3. Section 461.33 is amended by revising paragraph (a)(4) to read as follows:

§ 461.33 New Source performance standards (NSPS).

(a) * * *

(4) Subpart C—Battery Wash (Detergent)—NSPS.

Pollutant or pollutant Property	Maximum for any 1 Day	Maximum for monthly average
Metric units—mg/kg of lead used English units—pounds per 1,000,000 lb of lead used		
Copper	1.152	0.549
Lead	0.252	0.117
Iron	1.08	0.55
Oil and grease	9.0	9.0
TSS	13.5	10.8
pH	(1)	(1)

[1] Within the limits of 7.5 to 10.0 at all times.

* * * * *

4. Section 461.34 is amended by revising paragraph (a)(4) to read as follows:

§ 461.34 Pretreatment standards for existing sources (PSES).

(a) * * *

(4) Subpart C—Battery Wash—(Detergent)—PSES.

Pollutant or pollutant Property	Maximum for any 1 Day	Maximum for monthly average
Metric units—mg/kg of lead used English units—pounds per 1,000,000 lb of lead used		
Copper	1.71	0.90
Lead	0.38	0.18

* * * * *

5. Section 461.35 is amended by revising paragraph (a)(4) to read as follows:

§ 461.35 Pretreatment standards for new sources (PSNS).

(a) * * *

(4) Subpart C—Battery Wash—(Detergent)—PSNS.

Pollutant or pollutant Property	Maximum for any 1 Day	Maximum for monthly average
Metric units—mg/kg of lead used English units—pounds per 1,000,000 lb of lead used		
Copper	1.152	0.549
Lead	0.252	0.117

* * * * *

6. Section 461.34 is amended by adding a new paragraph (c) to read as follows:

§ 461.34 Pretreatment Standards For Existing Sources (PSES).

* * * * *

(c)(1) In cases where battery employee shower wastewater containing concentrations of lead exceeding 0.20 mg/l is combined with process wastewaters prior to treatment, the Control Authority may, for purposes of applying the Combined Wastestream Formula under § 403.6(e) of this Chapter, notwithstanding the provisions of § 403.6(e), exercise its discretion and classify battery employee shower wastewater as an unregulated rather than a dilute (F_D) wastestream.

(2) Before the Control Authority may exercise its discretion to classify such a stream as an unregulated stream, the battery manufacturer must provide engineering, production, and sampling and analysis information sufficient to allow a determination by the Control Authority on how the stream should be classified.

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Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

August 1, 1986.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1986, of 83 rescission proposals and 70 deferrals contained in the seven special messages of FY 1986. These messages were transmitted to the Congress on October 1 and November 25, 1985, February 5, March 12, March 20, April 25, and June 24, 1986.

Rescissions (Table A and Attachment A)

As of July 1, 1986, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of July 1, 1986, $4,173.6 million in 1986 budget authority was being deferred from obligation and $25.5 million in 1986 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1986.

Information From Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985
Vol. 50, FR p. 49498, Monday, December 2, 1985
Vol. 51, FR p. 5830, Tuesday, February 18, 1986
Vol. 51, FR p. 9154, Monday, March 17, 1986
Vol. 51, FR p. 10526, Wednesday, March 26, 1986
Vol. 51, FR p. 16274, Thursday, May 1, 1986
Vol. 51, FR p. 24790, Tuesday, July 8, 1986

James C. Miller III,
Director.

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VOL 51 ISS 167 AG 28 1986 UMI

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$10,126.9
Accepted by the Congress	143.2
Rejected by the Congress	9,983.7 a/
Pending before the Congress	0

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TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$24,767.2
Routine Executive releases through August 1, 1986	-10,490.7
(OMB/Agency releases of $16,107.1 million and cumulative adjustments of $5,616.4 million)	
Overturned by the Congress	-10,077.3
Currently before the Congress	4,199.1 b/

a/ Rescission proposals transmitted with the FY 1987 Budget and subsequent special messages were released immediately following expiration of the 45-day clock on rescissions under the Impoundment Control Act. However, Congress subsequently enacted some proposed rescissions in the Urgent Supplemental Appropriations Act, 1986 (P.L. 99-349).

b/ This amount includes $25.5 million in outlays for a Department of the Treasury deferral (D86-30B).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Multilateral Assistance								
International organizations and programs.	R86-1			2-5-86				
	R86-1A	39,760		3-20-86		39,760	4-16-86	
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization and Conservation Service								
Rural clean water program.....	R86-2	6,000		2-5-86		6,000	4-16-86	
Agricultural conservation program.....	R86-3	140,839		2-5-86		140,839	4-16-86	
Water bank program.....	R86-4	8,371		2-5-86		8,371	4-16-86	
Dairy indemnity program.....	R86-5	95		2-5-86		95	4-16-86	
Rural Electrification Administration								
Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses..	R86-6	100,000		2-5-86		100,000	4-16-86	
Purchase of Rural Telephone Bank capital stock.....	R86-7	28,710		2-5-86		28,710	4-16-86	
Farmers Home Administration								
Rural development loan fund.....	R86-10	13,674		2-5-86		13,674	4-16-86	
Soil Conservation Service								
Watershed and flood prevention operations	R86-11	60,401		2-5-86		60,401	4-16-86	
Great plains conservation program.....	R86-12	6,606		2-5-86		6,606	4-16-86	
Food and Nutrition Service								
Food donations program.....	R86-13	5,183		2-5-86		5,183	4-16-86	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs.	R86-14	101,309		2-5-86		101,309	4-16-86	
International Trade Administration								
Operations and administration.....	R86-15	19,290		2-5-86		19,290	4-16-86	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities.....	R86-16	63,323		2-5-86		63,323	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R86-17	21,820		2-5-86		21,820	4-16-86	
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R86-81	34,400		4-25-86	34,400	34,400	6-23-86	P.L. 99-349
Shipbuilding and conversion, Navy	R86-82	40,100		4-25-86	40,100	40,100	6-23-86	P.L. 99-349
Other procurement, Air Force	R86-83	40,000		4-25-86	40,000	40,000	6-23-86	P.L. 99-349
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R86-18	7,177		2-5-86		7,177	4-16-86	
Special programs	R86-19	37,782		2-5-86		37,782	4-16-86	
Office of Bilingual Education and Minority Languages Affairs								
Immigrant education	R86-20	28,710		2-5-86		28,710	4-16-86	
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R86-21	44,364		2-5-86		44,364	4-16-86	
Rehabilitation services and handicapped research	R86-22	75,439		2-5-86		75,439	4-16-86	
Payments to institutions for the handicapped	R86-23	446		2-5-86		446	4-16-86	
Office of Vocational and Adult Education								
Vocational and adult education	R86-24	210,337		2-5-86		210,337	4-16-86	
Office of Postsecondary Education								
Student financial assistance	R86-25	456,347		2-5-86		456,347	4-16-86	
Higher education	R86-26	180,882		2-5-86		180,882	4-16-86	
Special Institutions								
Howard University	R86-27	5,699		2-5-86		5,699	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Office of Educational Research and Improvement								
Libraries	R86-28	33,017		2-5-86		33,017	4-16-86	
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R86-8	38,489		3-12-86		38,489	5-9-86	
Fossil energy research and development	R86-80	13,072		3-12-86		13,072	5-9-86	
Energy conservation	R86-77	9,816		3-12-86		9,816	5-9-86	
	R86-77A	5,344		3-20-86		5,344	5-9-86	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R86-9	211,455		2-5-86		211,455	4-17-86	
Indian health	R86-29	24,262		2-5-86		24,262	4-16-86	
Indian health facilities	R96-30	38,642		2-5-86		38,642	4-16-86	
Centers for Disease Control								
Disease control, research, and training	R86-31	34,096		2-5-86		34,096	4-17-86	
National Institutes of Health								
National Cancer Institute	R86-32	6,800		2-5-86		6,800	4-18-86	
National Heart, Lung and Blood Institute	R86-33	11,469		2-5-86		11,469	4-18-86	
National Institute of Diabetes and Digestive and Kidney Diseases	R86-34	7,980		2-5-86		7,980	4-18-86	
National Institute of Neurological and Communicative Disorders and Strokes	R86-35	9,554		2-5-86		9,554	4-18-86	
National Institute of Allergy and Infectious Disease	R86-36	1,513		2-5-86		1,513	4-18-86	
National Institute of General Medical Sciences	R86-37	7,358		2-5-86		7,358	4-18-86	
National Institute of Child Health and Human Development	R86-38	1,150		2-5-86		1,150	4-18-86	
National Eye Institute	R86-39	5,224		2-5-86		5,224	4-18-86	
National Institute on Aging	R86-40	2,679		2-5-86		2,679	4-18-86	
Office of the Director	R86-41	23,055		2-5-86		23,055	4-18-86	
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R86-42	39,718		2-5-86		39,718	4-18-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Health Care Financing Administration								
Program management	R86-43	912		2-5-86		912	4-16-86	
Social Security Administration								
Refugee and entrant assistance	R86-44	87,561		2-5-86		87,561	4-16-86	
Human Development Services								
Human development services	R86-45	29,980		2-5-86		29,980	4-16-86	
Family social services	R86-46	6,157		2-5-86		6,157	4-16-86	
Work incentives	R86-47	45,884		2-5-86		45,884	4-16-86	
Community services block grant	R86-48	182,139		2-5-86		182,139	4-16-86	
Community development credit union revolving fund	R86-49	2,529		2-5-86		2,529	4-16-86	
Departmental Management								
General Departmental management	R86-50	19,619		2-5-86		19,619	4-16-86	
Policy research	R86-51	220		2-5-86		220	4-16-86	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	R86-52	4,416,151		2-5-86		4,416,151	4-16-86	
Congregate services program	R86-53	2,555		2-5-86		2,555	4-16-86	
Housing counseling assistance	R86-54	3,313		2-5-86		3,313	4-16-86	
Community Planning and Development								
Urban development action grants	R86-55	220,062		2-5-86		220,062	4-16-86	
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Land acquisition	R86-56	3,000		2-5-86		3,000	4-16-86	
United States Fish and Wildlife Service								
Land acquisition	R86-57	4,951		2-5-86		4,951	4-16-86	
National Park Service								
Construction	R86-58	13,613		2-5-86		13,613	4-16-86	
Land acquisition	R86-59	83,917		2-5-86	28,710	83,917	4-16-86	P.L. 99-349
Historic preservation fund	R86-60	18,523		2-5-86		18,523	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF JUSTICE								
Federal Prison System								
National Institute of Corrections	R86-61	3,315		2-5-86		3,315	4-16-86	
Office of Justice Programs								
Justice assistance	R86-62	134,666		2-5-86		134,666	4-16-86	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R86-63	416,037		2-5-86		416,037	4-16-86	
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration								
Rail service assistance	R86-64	14,355		2-5-86		14,355	4-16-86	
Northeast corridor improvement program	R86-65	11,962		2-5-86		11,962	4-16-86	
Railroad rehabilitation and improvement financing funds	R86-66	32,059		2-5-86		32,059	4-16-86	
Urban Mass Transportation Administration								
Discretionary grants	R86-67	521,275		2-5-86		521,275	4-16-86	
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
Payments to State and local government fiscal assistance trust fund	R86-68	759,975		2-5-86		759,975	4-16-86	
Federal Law Enforcement Training Center								
Salaries and expenses	R86-69	4,976		2-5-86		4,976	4-16-86	
United States Customs Service								
Salaries and expenses	R86-70	4,169		2-5-86		4,169	4-16-86	
Operation and maintenance, air interdiction program	R86-71	19,275		2-5-86		19,275	4-16-86	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R86-72	26,796		2-5-86		26,796	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
OFFICE OF PERSONNEL MANAGEMENT								
Government payment for annuitants, employees health benefits	R86-73	600,000		2-5-86		600,000	4-16-86	
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission Appalachian regional development programs	R86-74	81,000		2-5-86		81,000	4-16-86	
Corporation for Public Broadcasting Public broadcasting fund	R86-75	44,000		2-5-86		44,000	4-16-86	
National Endowment for the Humanities Grants and administration	R86-76	1,903		2-5-86		1,903	4-16-86	
State Justice Institute Salaries and expenses	R86-78	7,656		2-5-86		7,656	4-16-86	
United States Railway Association Administrative expenses	R86-79	640		2-5-86		640	4-16-86	
Total, rescissions		10,126,892	0		143,210	10,126,892		

Notes. - The amount of the rescission proposal for Subsidized housing programs (R86-52) for the "Rental rehabilitation grants program" was inadvertently shown in the Third Special Message as $71,755,000 instead of $71,775,000. This report reflects the correct amount.

The following rescission proposal has been adjusted downward to reflect the impact of sequestration: R86-54..... $3,312,500

Amounts rescinded in the Urgent Supplemental Appropriations Act, 1986 on July 2, 1986 were available between the date of release and the date of enactment.

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Foreign military sales credit.....	D86-32	4,590,000		2-5-86	4,127,912				462,088
Economic support fund.....	D86-24	1,222,216		11-25-85					
	D86-24A		1,936,060	2-5-86	2,635,473			40,491	563,294
Military assistance program.....	D86-33	661,350		2-5-86	648,407				12,943
International military education and training.....	D86-34	27,245		2-5-86	27,245				0
Agency for International Development									
International disaster assistance.....	D86-59	64,607		3-12-86	51,470,				13,137
Multilateral Development Banks									
Contribution to the special facility for sub-saharan Africa.....	D86-35	75,000		2-5-86	75,000				0
DEPARTMENT OF AGRICULTURE									
Farmers Home Administration									
Rural housing insurance fund.....	D86-60	700,000		3-12-86		700,000 P.L. 99-349			0
Forest Service									
Expenses, brush disposal,.....	D86-2	77,913		10-1-85					
	D86-2A		30,893	3-12-86	7,300				101,506
Timber salvage sales.....	D86-3	22,854		10-1-85	151	3,153 P.L. 99-349			19,549
Cooperative work.....	D86-61	442,336		3-12-86					442,336
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs.....	D86-36	40,000		2-5-86		40,000 P.L. 99-349			0

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	32,333				0
Fisheries loan fund	D86-25	1,959		11-25-85					
	D86-25A		338	2-5-86					2,297
Patent and Trademark Office									
Salaries and expenses	D86-65	1,977		3-20-86					1,977
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D86-4	353,079		10-1-85					
	D86-4A		1,488,579	2-5-86	1,881,631			42,323	2,350
Family Housing									
Family housing, Defense	D86-27	11,800		11-25-85					
	D86-27A		210,042	2-5-86	144,899				76,943
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D86-5	1,168		10-1-85					
	D86-5A		88	2-5-86	124			106	1,238
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities	D86-38	65,763		2-5-86	41,029	23,156 P.L. 99-349		1,120	2,698
Uranium supply and enrichment activities	D86-58	584,158		2-5-86					584,158
Fossil energy research and development	D86-6	9,247		10-1-85					
	D86-6A		55,565	2-5-86	44,065	18,140 P.L. 99-349			2,607
	D86-67	500		6-24-86					500
Fossil energy construction	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves	D86-8	155,668		10-1-85					
	D86-8A		10,798	2-5-86	130,005				36,461

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
Energy conservation	D86-9	9,880		10-1-85					
	D86-9A		26,902	3-12-86	18,560	14,746	P.L. 99-349	3,080	6,556
	D86-68	287		6-24-86					287
Strategic petroleum reserve	D86-37	197,941		2-5-86	156,759	197,941	P.L. 99-349	156,759	0
	D86-69	637		6-24-86					637
SPR petroleum account	D86-10	536,958		10-1-85					
	D86-10A		40,576	2-5-86		577,534	P.L. 99-349		0
Alternative fuels production	D86-11	1,149		10-1-85					
	D86-11A		750	2-5-86	1,899				0
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D86-62	400		3-12-86					400
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					
	D86-13A		8,243	2-5-86					13,243
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					
	D86-14A		16,371	3-12-86	11,900				31,566
Departmental Administration									
Departmental administration	D86-15	8,501		10-1-85	8,501				0
	D86-63	393		3-12-86					393
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Health Care Financing Administration									
Program management	D86-57	8,489		2-5-86	8,489				0
	D86-70	45,000		6-24-86					45,000
Social Security Administration									
Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					
	D86-28A		157	2-5-86					6,647

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
Limitation on administrative expenses (excludes disability determination services)	D86-39	30,000		2-5-86	30,000				0
Limitation on administrative expenses (information technology systems)	D86-40	114,641		2-5-86					114,641
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing -									
Budget authority	D86-41	7,032,443		2-5-86	4,731,637	7,032,443	P.L. 99-349	4,731,637	0
Contract authority	D86-42	641		2-5-86	641				0
Rental housing development grants	D86-43	77,400		2-5-86	77,400				0
Congregate services program	D86-44	2,670		2-5-86	2,670				0
Housing for the elderly or handicapped fund	D86-45	599,801		2-5-86	599,801	599,801	P.L. 99-349	599,801	0
Nonprofit sponsor assistance	D86-46	1,000		2-5-86	1,000	1,000	P.L. 99-349	1,000	0
Community Planning and Development									
Rental rehabilitation grants program	D86-47	77,000		2-5-86	77,000				0
Community development grants	D86-48	500,000		2-5-86		500,000	P.L. 99-349		0
Urban development action grants	D86-49	251,000		2-5-86	251,000				0
Rehabilitation loan fund	D86-50	135,535		2-5-86	4,402	135,535	P.L. 99-349	4,402	0
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d)	D86-66	49		3-20-86					49
National Park Service									
Land acquisition and State assistance	D86-64	1,893		3-12-86					1,893
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities	D86-17	20,000		10-1-85					6,400
	D86-17A		10,730	2-5-86	24,330				

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
Office of Justice Programs									
Crime victims fund	D86-18	100,000		10-1-85					
	D86-18A		3,396	2-5-86	4,300				99,096
DEPARTMENT OF LABOR									
Employment and Training Administration									
State unemployment insurance and employment service operation	D86-51	37,000		2-5-86	33,089				3,911
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Conrail labor protection	D86-52	4,565		2-5-86	4,565				0
Urban Mass Transportation Administration									
Discretionary grants	D86-21	223,600		10-1-85		223,600 P.L. 99-190			0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D86-29	686,438		11-25-85					
	D86-29A		681,723	2-5-86	36,011				1,332,151
Maritime Administration									
Operations and training	D86-53	9,350		2-5-86					
	D86-53A		888	3-20-86	8,500	10,238 P.L. 99-349	8,500		0

Attachment B - Status of Deferrals - Fiscal Year 1986

As of August 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-86
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D86-30	7,743		11-25-85					
	D86-30A		97,483	2-5-86					
	D86-30B		19,774	3-12-86	125,712			26,211	25,499
Local government fiscal assistance trust fund	D86-31	54,349		11-25-85					
	D86-31A		25,651	3-12-86	6,055			244	74,189
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine Salaries and expenses	D86-54	233		2-5-86					233
Pennsylvania Avenue Development Corporation Land acquisition and development fund	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D86-23	243		10-1-85	43				200
Dual benefits payments account	D86-55	2,201		2-5-86	2,009				192
United States Information Agency									
Acquisition and construction of radio facilities	D86-56	66,545		2-5-86	4,880				61,666
TOTAL, DEFERRALS		20,102,143	4,665,008		16,107,096	10,077,286		5,616,355	4,199,124

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30B) of outlays only.

Some of the amounts shown above as "Cumulative OMB/Agency Releases" were sequestered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

The Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349) disapproved parts of deferrals already released. The column entitled "Congressionally Required Releases" reflects the amount required to be released by the law. Appropriate adjustments were made in the "Cumulative Adjustments" column.

[FR Doc. 86-19574 Filed 8-27-86; 8:45am]
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VOL
51
ISS
167
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27515-
27811-
28059-
28219-
28321-
28509-
28687-
28799-
28921-
29085-
29201-
29443-
29545-
29629-
29901-
30045-
30201-
30323-
30473-
30623-

Reader Aids

Federal Register

Vol. 51, No. 167

Thursday, August 28, 1986

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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19
29629-29900.....20
29901-30044.....21
30045-30200.....22
30201-30322.....25
30323-30472.....26
30473-30622.....27
30623-30834.....28

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:

5514.....27515
5515.....28218
5516.....29200
5517.....30470
5518.....30623

Administrative Orders:

Memorandums:

July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445
August 20, 1986.....30201

5 CFR

532.....28799
890.....28799
1201.....28321

Proposed Rules:

540.....29655
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576, 29655, 30068

7 CFR

2.....29201
12.....29901
20.....30203
26.....28800
29.....28687, 30196
51.....27813, 28802
272.....28196, 30045
273.....28196, 30045
301.....30049
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
810.....30323
908.....27816, 28509, 29208, 30051
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
927.....30625
932.....28922
944.....29447
966.....30473
981.....30203
982.....29545
991.....28802
1036.....30325
1064.....28687
1065.....30204
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449, 29903
1924.....29903
1930.....27636
1940.....29901
1941.....29901
1943.....29901
1944.....27636
1945.....29901
1951.....27636
1965.....27636
1980.....29901, 29903

BEST COPY AVAILABLE

Proposed Rules:
52 ..... 28719, 29656
68 30368
235 29236
250 29236
252 29236
255 29236
330 29401
340 29401
400 30369
421 30496
424 30497
425 30497
441 29246
447 27862
656 29251
907 30219
920 29473
929 29836
985 29109
987 29251
1007 29252
1011 29252
1046 29252
1065 ..... 27553, 28721, 28819, 29938
1068 28819
1079 ..... 27554, 28819, 30220
1093 29252
1094 29252
1096 29252
1098 29252
1136 27866
1137 27554
1139 27555
1205 30069
1496 29557
1709 28722
1772 ..... 29557, 29558

8 CFR
238 ..... 28060, 28923, 29085, 30474

Proposed Rules:
214 ..... 27867, 28576
249 27867

9 CFR
75 30327
77 29629
78 29629
92 ..... 28805, 29210, 30051
205 29449
302 29905
303 29905
317 ..... 29456, 30052
318 ..... 29456, 30052
381 29905

Proposed Rules:
92 27871
94 30221
113 30222

10 CFR
Ch. I 29211
50 ..... 27817, 28044, 30028, 30054
73 ..... 27817, 27822, 30054
110 27825

Proposed Rules:
50 27872
73 29656
100 30224
435 ..... 29754, 29773

11 CFR

Proposed Rules:
100 28154
106 28154
9001 28154
9002 28154
9003 28154
9004 28154
9005 28154
9006 28154
9007 28154
9012 28154
9031 28154
9032 28154
9033 28154
9034 28154
9035 28154
9036 28154
9037 28154
9038 28154
9039 28154

12 CFR
1 29085
17 29089
207 27518
220 27518
221 27518
224 27518
303 27826
337 29630
501 28221
522 ..... 28221, 28690
523 28221
570 29458
620 29459
621 29459
622 29460
623 29460
741 27522

Proposed Rules:
205 28589
226 ..... 28245, 29256
337 29657
523 30225
563 30225

13 CFR
107 30750
310 27828

14 CFR
21 ..... 28509-28525, 30206, 30207
23 ..... 28509-28525, 30206, 30207
25 28322
39 ..... 27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211-29213, 29910-29915, 30327-30331, 30628, 30629
71 ..... 27833-27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630, 30054, 30332-30334
73 30208
75 ..... 28809, 30334, 30630
97 ..... 28326, 29631
121 28322
250 30475
1204 27528
1209 28924

Proposed Rules:
Ch. I 28386, 28725
1 28095
21 ..... 29938-29944, 30666, 30667, 30669
23 ..... 29938-29944, 30666, 30667, 30669
36 27556
39 ..... 27557, 27874, 28386, 28832, 29110, 29256-29259, 29474, 29475, 29659, 29946, 30070-30077, 30370, 30372, 30670, 30672
71 ..... 28388-28390, 28956, 28957, 29261-29263, 29534, 30227, 30228, 30373, 30498, 30674
73 ..... 28095, 30228, 30498
75 ..... 28096, 28957
91 29476
382 30078

15 CFR
20 28925
368 30631
369 30631
370 ..... 28692, 30631
371 ..... 28692, 30631
372 30631
373 ..... 28692, 30631, 30632
374 ..... 28692, 30631
375 30631
376 30631
377 30631
379 ..... 28692, 30631
385 30631
386 30631
390 30631
399 ..... 28692, 28693, 30631

16 CFR
13 ..... 28694, 28695, 29633
16 30055
423 28222
444 28328
1500 ..... 28529, 29094, 30209

Proposed Rules:
13 ..... 28594, 29265, 29660, 29664, 30674
703 29666
1500 29778

17 CFR
1 27529
5 27529
16 27529
33 27529

Proposed Rules:
231 28596
240 28096
241 28596

18 CFR
11 30478
13 30478
37 27835
154 ..... 27529, 28331
157 ..... 27529, 28331
270 ..... 27529, 28331
271 ..... 27529, 28068, 28331
282 30634
284 ..... 27529, 28331
375 30478
410 28810

Proposed Rules:
37 ..... 30374, 30499
271 28102

19 CFR
6 27836
101 ..... 28070, 30335
111 30336
171 30336
177 30346
178 30336

Proposed Rules:
6 30375
112 30376
113 27875
141 28390
353 29046

20 CFR
404 28544
416 28544
655 30348

Proposed Rules:
404 28834
410 28834
416 ..... 28834, 30499
655 28599

21 CFR
74 ..... 28331, 28346, 28929
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
133 30210
175 ..... 30059, 30060
176 28545
178 ..... 28930, 29460
193 28223
211 28810
310 28810
314 28810
331 27762
332 27762
344 28556
357 27756
369 27756
433 30478
436 27531
440 27531
442 27531
510 ..... 28546, 29916, 30211
520 ..... 28546, 29215, 30211
522 ..... 28546, 28932, 29462
546 28546
556 ..... 28932, 29097, 29462
558 ..... 28546, 28547, 29097, 29463
561 28223
1308 28695

Proposed Rules:
812 30675
882 30675
1301 30675
1308 ..... 28725, 28727
1311 30675
1312 30675

22 CFR

Proposed Rules:
2a 28391

23 CFR
635 27532

24 CFR
20 28364
35 ..... 27774, 30635
44 30478
111 30478
200 28696
203 ..... 28548, 30478
204 28548
207 ..... 27837, 28547, 28699,

30478
221 ..... 27837, 28547
236 30478
251 28699
255 28699
290 30478
300 27838
390 28551
511 ..... 28703, 30478
570 30478
571 30478
812 29463
850 30478
880 30478
881 30478
882 ..... 29463, 30478
883 30478
884 30478
886 30478
888 28486
892 29633
905 ..... 27774, 30635
941 30478
965 ..... 27774, 30635
968 ..... 27774, 30478, 30635
970 30478
990 30478

Proposed Rules:

0 30178
35 ..... 27793, 30680
203 28247
510 ..... 27793, 30680
511 ..... 27793, 30680
570 ..... 27793, 30680
590 ..... 27793, 30680

26 CFR

1 ..... 28553, 30481
20 28365
25 28365
301 30351
602 ..... 28365, 30481

27 CFR

9 30352
19 28071
250 28071
270 ..... 28078, 30484
275 ..... 28078, 30484
290 28078
295 28078
296 ..... 28078, 30484

Proposed Rules:

4 28836
5 28836
7 28836
9 29478
270 28106
275 28106
290 28106
295 28106
296 28106

28 CFR

0 ..... 29464, 30485

29 CFR

102 30635
1601 ..... 29098, 30486
1620 29816
1952 27534
1956 29917
1960 28378
2603 28379
2676 29215

Proposed Rules:

530 30036
602 28840
1613 29482
1910 30230
1917 30230
2560 30501
2570 30504
2603 29497

30 CFR

901 29096
914 29100
917 ..... 29917, 30486
931 28553
943 28554

Proposed Rules:

250 29947
774 27558
910 27559
912 27559
915 28729
920 ..... 28600, 28601
921 27559
922 27559
933 27559
935 29112
937 27559
939 27559
941 27559
947 27559
950 27560

31 CFR

16 28810
315 28933
317 30212
321 30212
332 28933
352 28933
353 28933
500 (authority extended by Memorandum of Aug. 20, 1986) 30201
505 (authority extended by Memorandum of Aug. 20, 1986) 30201
515 (authority extended by Memorandum of Aug. 20, 1986) 30201
520 (authority extended by Memorandum of Aug. 20, 1986) 30201
545 28933
550 28933

Proposed Rules:

10 ..... 29113, 30510
103 30233
357 29559

32 CFR

90 28092
706 ..... 27535, 27536, 28933–28941, 29464–29468, 30213, 30493

Proposed Rules:

292a 30510
553 29115
701 30377

33 CFR

100 ..... 28706, 29919, 30636, 30637
117 ..... 28380, 28707, 29101, 30060, 30061, 30638
140 28381
142 28381
161 27839
165 ..... 28382, 28383, 29468
207 30639

Proposed Rules:

100 29948
117 27877
334 28248

34 CFR

63 29550
211 29550
617 29434
619 29434
624 29196
668 ..... 29396, 29920, 30190
674 ..... 28312, 30355
690 30190
796 29190

Proposed Rules:

11 30511

36 CFR

1 29469
3 29469
34 29101
261 30355

Proposed Rules:

7 ..... 28107-28110, 29498
60 28204
63 28204

37 CFR

1 ..... 28052, 28555
2 ..... 28052, 28555, 28707, 29920
201 ..... 30061, 30214
306 27537

38 CFR

21 29470

39 CFR

10 28383
111 29922
320 29636

Proposed Rules:

10 28958

40 CFR

33 28710
52 ..... 27537, 27840, 27841, 28813, 29923, 30063
60 29104
61 27956
65 ..... 28224, 29216, 30064
81 ..... 27843–27845, 30065
171 30494
180 28225–28227
228 ..... 29923, 29927
260 ..... 28664, 29430
261 ..... 28296, 28664, 29217–29219, 29430
262 ..... 28664, 29430
263 28664
264 ..... 28556, 29430
265 ..... 28556, 29430
270 29430
271 ..... 28094, 28664, 29430
461 30814
761 28556
799 30216

Proposed Rules:

Ch. I 29499, 30166
52 ..... 27560, 27878, 29116, 30078
65 ..... 28113, 29947, 30061
81 ..... 29268, 30379
85 28114
122 29950
123 29668
135 29426
141 28730
180 ..... 28249, 28603, 28959, 29669, 30516, 30517
228 30081
264 29612
265 29612
271 28604
403 29950
716 ..... 27562, 29499
721 28119
763 28914
795 27880
799 ..... 27880, 28840

41 CFR

60-250 30467
101-26 29104
101-38 29638
101-40 27539

42 CFR

60 30642
405 ..... 27847, 28710, 29386, 30356
417 28569
482 27847

Proposed Rules:

110 30518
405 29560
417 30518
434 30518
447 29560

43 CFR

11 27674

Public Land Orders:

6620 28229
6622 28229
6623 29641

Proposed Rules:

4 28846

44 CFR

11 29222
59 30290
60 30290
61 30290
64 ..... 28230, 28232
65 30290
70 30290
73 30290
76 30290

Proposed Rules:

67 29500
81 28119

45 CFR

232 29223
233 29223
1612 27539
1630 29076
2002 28384

Proposed Rules:

1 29560
19 29560
74 28960
1180 29500

VOL 51 ISS 167 AG 28 1986 UMI

46 CFR

Proposed Rules:

31 29116
61 29116
71 29116
91 29116
150 30241
160 29117
167 29116
169 29116
189 29116
502 29124

47 CFR

15 30362
22 28236
64 29230
68 28237
73 ..... 27552, 28237, 28942, 28943, 29105, 29551, 29552, 30363, 30364
87 29106
97 ..... 28237, 30645

Proposed Rules:

0 27566
1 ..... 27566, 30254, 30680
2 28249
18 30381
21 27566
22 27566
23 27566
62 27566
67 ..... 29126, 30522
73 ..... 27566, 27567, 28961, 29128–29130, 29273, 29574–29576, 30381
74 27566
90 ..... 29130, 29273
100 30681

48 CFR

25 30618
223 ..... 28943, 29231
228 ..... 28943, 29231
232 28946
242 ..... 28943, 29231
252 ..... 28943, 29231
522 28815
552 28815
1801 27848
1804 27848
1805 27848
1806 27848
1807 27848
1809 27848
1813 27848
1814 27848
1815 ..... 27848, 28574
1819 27848
1825 27848
1827 27848
1832 27848
1836 27848
1837 27848
1839 27848
1842 27848
1845 27848
1847 27848
1851 27848
1852 ..... 27848, 28574
1853 27848

Proposed Rules:

501 29131
513 29131
514 30681
552 30681
553 29131

49 CFR

1 ..... 29231, 29233, 29471
509 29552
571 ..... 28238, 29552

Proposed Rules:

Ch. X 28847
27 30382
171 ..... 28962, 29503
172 28962
173 ..... 28605, 28962
175 29503
192 29504
385 28607
391 27567
531 28730
1058 28249
1152 28962
1312 28731

50 CFR

20 ..... 28946, 30646
32 30655
33 30655
285 ..... 28240, 28241, 29642
604 28575
611 30218
630 28575
641 ..... 28094, 29471
651 29642
654 30663
655 ..... 28241, 29555
661 ..... 27859, 28717, 28954, 29234, 29471, 29654, 29932, 30066, 30364
663 ..... 29933, 30365
671 28242
672 ..... 28385, 30218
674 ..... 27860, 28243, 29107, 30365
683 30367

Proposed Rules:

17 ..... 29362, 29671
20 ..... 29274, 29673
216 ..... 28320, 28963, 29674
611 ..... 28731, 29131
630 29132
661 29508
663 29508
685 29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 27, 1986

VOL
51
ISS
1
6
7
AG
28
1986
UMI

VOL
51
ISS
168
AG
29
1986
UMI

8-29-8
Vol. 51

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8-29-86
Vol. 51 No. 168

federal register

Friday
August 29, 1986

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VOL
51
ISS
168
AG
29
1986
UMI

8-29-8
Vol. 51
Pages

8-29-86
Vol. 51 No. 168
Pages 30635-31088

federal register

Friday
August 29, 1986

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For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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VOL
51
ISS
168
AG
29
1986
UMI

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202–523–3419

Contents

Federal Register
Vol. 51, No. 168
Friday, August 29, 1986

Agricultural Marketing Service
RULES
Oranges (Valencia) grown in Arizona and California, 30837

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration
RULES
Conservation, highly erodible land and wetland, 30835
NOTICES
Meetings:
Agribusiness Promotion Council, 30886

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Nogales, AZ, etc.; special ports for birds, 30838
Freedom of Information Act; implementation, 30836
Plant-related quarantine, domestic:
Gypsy and browntail moths, 30835
PROPOSED RULES
Animals, purebred; recognized breeds and books of record:
Wielkopolskich horses, etc., 30869

Army Department
NOTICES
Privacy Act; systems of records, 30900

Blind and Other Severely Handicapped, Committee for Purchase from
See Committee for Purchase from the Blind and Other Severely Handicapped

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 30893
Meetings:
Private Sector Initiatives Presidential Board, 30893

Committee for Purchase from the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 30898
(2 documents)

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Mexico, 30897
South Africa, 30898

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Cotton, 30886, 30889
(2 documents)

Customs Service
NOTICES
Tariff classifications:
Change in tariff classification system, 30933

Defense Department
See also Army Department; Navy Department
NOTICES
Meetings:
DIA Scientific Advisory Committee, 30899
Science Board task forces, 30899
(2 documents)

Education Department
NOTICES
Meetings:
International Education Programs National Advisory Board, 30902

Employment and Training Administration
RULES
Job Training Partnership Act:
Reports required; technical amendments, 30856

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 30919

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
Methanol-fueled motor vehicles and engines; emission standards, 30984
Air quality implementation plans:
Visible emissions source surveillance, 31076
NOTICES
Agency information collection activities under OMB review, 30909
Committees; establishment, renewals, terminations, etc.:
Negotiate Hazardous Waste Injection Advisory Committee, 30911
Negotiate Regulations Governing Major and Minor Modifications of Resource Conservation and Recovery Act (RCRA) Permits, 30911
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 30910
Weekly receipts, 30910
Radiation protection programs:
Radiofrequency radiation; controlling public exposure, etc., 30911

Farmers Home Administration
RULES
Conservation, highly erodible land and wetland [Editorial Note: For a document on this subject see entry under Agriculture Department]

Federal Aviation Administration
RULES
Airworthiness directives:
Cessna, 30853
Jet routes; correction, 30855
PROPOSED RULES
Jet routes; correction, 30874
Terminal control areas; correction, 30874
NOTICES
Organization, functions, and authority delegations:
Valdosta, GA, 30931

Federal Communications Commission
RULES
Common carrier services:
Public land mobile services—
Rural cellular service, 30865
Radio services, special:
Private land mobile services—
Telephone maintenance service, 30865

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30936 (2 documents)

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
Georgia et al., 30861
Massachusetts et al., 30857

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Construction work in progress and anticompetitive implications, 30855
NOTICES
Hydroelectric applications, 30903

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
Loan recordkeeping requirements, 30848
PROPOSED RULES
Federal Savings and Loan Insurance Corporation:
Nationwide lending and loan participations requirements, 30874
Federal savings and loan system, etc.:
Conversions from mutual to stock form; acquisitions of control of insured institutions, 30956

Federal Maritime Commission
RULES
Marine terminal operations and passenger vessels:
Ocean freight forwarders licensing; antirebating certification, 30862

Federal Reserve System
RULES
Extension of credit by Federal Reserve banks (Regulation A):
Discount rate changes, 30847
NOTICES
Meetings; Sunshine Act, 30936
Applications, hearings, determinations, etc.:
AmeriTrust Corp. et al., 30912
Central Wisconsin Bancshares, Inc., 30912

Federal Trade Commission
PROPOSED RULES
Credit practices; exemption from trade rule; California, 30875

Fish and Wildlife Service
RULES
Migratory bird hunting:
Federal Indian reservations, Indian territory, and ceded lands, 31084
NOTICES
Endangered and threatened species permit applications, 30917

Food and Drug Administration
NOTICES
Meetings:
Consumer information exchange, 30913
Health professional organizations, 30913

General Services Administration
NOTICES
Property management:
Beaverhead County, MT; wildlife order conveyance, 30913

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service
NOTICES
Agency information collection activities under OMB review, 30913

Health Care Financing Administration
NOTICES
International Classification of Diseases; changes, 30914

Housing and Urban Development Department
RULES
Low income housing:
Housing assistance payments (Section 8)—
Fair market rents for existing housing, moderate rehabilitation, housing voucher, etc., 31014

Immigration and Naturalization Service
RULES
Transportation line contracts:
Northwest Airlines, Inc., 30837

Interior Department
See Fish and Wildlife Service; Land Management Bureau

Internal Revenue Service
RULES
Estate and gift taxes:
Disclaimers of property, qualified
Correction, 30857

International Trade Administration
NOTICES
Antidumping:
Steel wire strand for prestressed concrete from Japan, 30894

VOL 51 ISS 168 AG 29 1986 UMI

Applications, hearings, determinations, etc.:
Lutheran Institute of Human Ecology et al., 30894

International Trade Commission
NOTICES
Import investigations:
Indomethacin, 30918

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Baltimore & Ohio Railroad Co., 30918
(2 documents)
Illinois Central Gulf Railroad Co., 30919

Justice Department
See Immigration and Naturalization Service

Labor Department
See also Employment and Training Administration; Employment Standards Administration
NOTICES
Meetings:
Economic Adjustment and Worker Dislocation Task Force, 30919

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Clear Lake Resource Area, CA, 30916
Realty actions; sales, leases, etc.:
Colorado, 30917
Nevada, 30917

Legal Services Corporation
NOTICES
Grant awards:
Multi-County Lawyer Referral Service, 30920
San Antonio Bar Association, 30920

National Aeronautics and Space Administration
PROPOSED RULES
Acquisition regulations, 30884

National Bureau of Standards
NOTICES
Information processing standards, Federal:
UNIX operating system derived environments, 30896

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Graco Metal Products, Inc., 30932
Sears, Roebuck and Co., 30932

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 30916

National Labor Relations Board
PROPOSED RULES
Procedural rules:
Equal Access to Justice Act; implementation, 30884

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 30867
PROPOSED RULES
Fishery conservation and management:
Gulf of Mexico drum, 30885
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 30897

Navy Department
NOTICES
Senior Executive Service:
Performance Review Board; membership; correction, 30902

Nuclear Regulatory Commission
RULES
Practice rules:
Radioactive waste below regulatory concern; policy statement, 30839
PROPOSED RULES
Radiation protection standards:
Protection of individuals exposed to ionizing radiation from routine activities licensed by NRC, 30870, 30873
(2 documents)
NOTICES
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 30921
Connecticut Yankee Atomic Power Co., 30921
Florida Power & Light Co., 30923
General Public Utilities Nuclear Corp. et al., 30924

Postal Service
NOTICES
Environmental statements; availability, etc.:
Manhattan General Mail Facility, NY, 30924

Public Health Service
See also Food and Drug Administration
PROPOSED RULES
Health planning and resources development:
Medical facility construction and modernization; services provision for persons unable to pay, 31000

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 30936
Self-regulatory organizations; proposed rule changes:
Options Clearing Corp., 30924
Applications, hearings, determinations, etc.:
Carnegie Government Securities Trust, 30927
Zweig Fund, Inc., 30928

Small Business Administration
NOTICES
Disaster loan areas:
California, 30930
Meetings:
National Small Business Development Center Advisory Board, 30930
Meetings; regional advisory councils:
Arizona, 30930

State Department
NOTICES
Meetings:
South Africa Advisory Committee, 30930

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 30937

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 30930
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 30931
Hearings, etc.—
Haines Airways, Inc., 30931

Treasury Department
See Customs Service; Internal Revenue Service

United States Information Agency
PROPOSED RULES
Freedom of Information Act; implementation for National Endowment for Democracy, 30878

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
Talihina, OK, 30934
Privacy Act:
Computer matching program, 30934

Separate Parts In This Issue

Part II
Federal Home Loan Bank Board, 30956

Part III
Environmental Protection Agency, 30984

Part IV
Department of Health and Human Services, Public Health Service, 31000

Part V
Department of Housing and Urban Development, 31014

Part VI
Environmental Protection Agency, 31076

Part VII
Department of the Interior, Fish and Wildlife Service, 31084

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
12 30835
301 30835
370 30836
908 30837
1940 30835
1941 30835
1943 30835
1945 30835
1980 30835

8 CFR
238 30837

9 CFR
92 30838
Proposed Rules:
151 30869

10 CFR
2 30839
Proposed Rules:
19 (2 documents) 30870, 30873
20 (2 documents) 30870, 30873
30 (2 documents) 30870, 30873
31 (2 documents) 30870, 30873
32 (2 documents) 30870, 30873
34 (2 documents) 30870, 30873
40 (2 documents) 30870, 30873
50 (2 documents) 30870, 30873
61 (2 documents) 30870, 30873
70 (2 documents) 30870, 30873

12 CFR
201 30847
545 30848
563 30848
Proposed Rules:
543 30956
545 30874
546 30956
562 30956
563 (2 documents) 30874, 30956
563b 30956
574 30956

14 CFR
39 30853
75 30855
Proposed Rules:
71 30874
75 30874

16 CFR
Proposed Rules:
444 30875

18 CFR
35 30855

20 CFR
629 30856

22 CFR
Proposed Rules:
526 30878
527 30878

24 CFR
888 31014

26 CFR
20 30857
25 30857
602 30857

29 CFR
Proposed Rules:
102 30884

40 CFR
Proposed Rules:
52 31076
86 30984

42 CFR
Proposed Rules:
124 31000

44 CFR
64 (2 documents) 30857, 30861

46 CFR
510 30862
580 30862
582 30862

47 CFR
22 30865
90 30865

48 CFR
Proposed Rules:
Ch. 18 30884

50 CFR
20 31084
661 30867
Proposed Rules:
653 30885

Rules and Regulations

Federal Register
Vol. 51, No. 168
Friday, August 29, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Farmers Home Administration

7 CFR Parts 12, 1940, 1941, 1943, 1945, and 1980

Highly Erodible Land and Wetland Conservation

AGENCY: Office of the Secretary and Farmers Home Administration, USDA.

ACTION: Interim Rule; Extension of Comment Period.

SUMMARY: The current 60 day comment period on the interim rule that appeared at page 23496 in Volume 51 the **Federal Register** of Friday, June 27, 1986 (FR Doc. 86–14499) expires on August 26, 1986. That interim rule set forth the terms and conditions under which a person who has produced an agricultural commodity on highly erodible land or newly converted wetland shall be declared ineligible for certain benefits provided by the U.S. Department of Agriculture as required by Subtitles B and C of Title XII of the Food Security Act of 1985 (Pub. L. 99–198). This document extends the comment period for that interim rule for an additional 60 days to allow citizens as well as Federal, State and local officials ample time to comment on the interim rule.

DATES: Comments on the interim rule are being extended for a 60 day period from August 26, 1986 to October 25, 1986. Comments must be received on or before October 25, 1986, in order to be assured of consideration.

ADDRESS: Comments should be mailed to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Mr. Alex King, Program Specialist, Cotton, Grain, and Rice Support Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447–4542.

Issued at Washington, DC, on August 26, 1986.

Peter C. Myers,

Acting Secretary.

[FR Doc. 86–19575 Filed 8–26–86; 11:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86–334]

Gypsy Moth Regulated Areas; Affirmation of Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms without change an interim rule published in the **Federal Register** on May 8, 1986, which amended the gypsy moth and browntail moth quarantine and regulations by (1) adding Illinois, Indiana, Minnesota, Ohio, and Wisconsin to the list of States quarantined because of the gypsy moth; (2) by designating previously nonregulated areas in Illinois, Indiana, Maine, Minnesota, Ohio, Oregon, Virginia, and Wisconsin as gypsy moth low-risk areas; (3) by redesignating areas in Delaware, Maine, Maryland, Michigan, and Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas; (4) by designating previously nonregulated areas in Oregon as gypsy moth high-risk areas; and, (5) by removing portions of regulated areas in Michigan and Washington from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. This rule is necessary in order to prevent the artificial spread interstate of gypsy moth and remove unnecessary restrictions of the interstate movement of certain articles.

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas G. Flanigan, Assistant Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436–8295.

SUPPLEMENTARY INFORMATION:

Background

An interim rule published in the **Federal Register** on May 8, 1986, (51 FR 16993–17001) amended § 301.45–2a of the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45 *et seq.*, referred to below as the regulations) by (1) adding Illinois, Indiana, Minnesota, Ohio, and Wisconsin to the list of States quarantined because of the gypsy moth; (2) by designating previously nonregulated areas in Illinois, Indiana, Maine, Minnesota, Ohio, Oregon, Virginia, and Wisconsin as gypsy moth low-risk areas; (3) by redesignating areas in Delaware, Maine, Maryland, Michigan, and Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas; (4) by designating previously nonregulated areas in Oregon as gypsy moth high-risk areas; and, (5) by removing portions of regulated areas in Michigan and Washington from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. The interim rule became effective on the date of publication.

Comments were solicited for 60 days after publication of the interim rule. No comments were received in response to the interim rule. The factual situations which were set forth in the document of May 8, 1986, still provide a basis for the amendments made by the interim rule. Accordingly, it has been determined that the amendments should remain effective as published in the **Federal Register** on May 8, 1986.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an estimated

annual effect on the economy of approximately $135,500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from specified areas in the States of Delaware, Illinois, Indiana, Maine, Maryland, Michigan, Minnesota, Ohio, Oregon, Virginia, Washington, and Wisconsin. Based on information compiled by the U.S. Department of Agriculture, it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 659 small entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall economic impact from this action is estimated to be less than $135,500.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

The program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Gypsy Moth.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 51 FR 16997–17001 on May 8, 1986, is adopted as a final rule.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done at Washington, DC, this 26th day of August 1986.

Donald F. Husnik,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-19631 Filed 8-28-86; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 370

[Docket No. 86-407]

Freedom of Information

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends §§ 370.4 and 370.5 of the Freedom of Information Act (FOIA) regulations (contained in 7 CFR 370 *et seq.*) by revising the address of the FOIA coordinator in these sections. This action is necessary because of the relocation of the office of the FOIA coordinator for the Animal and Plant Health Inspection Service (APHIS).

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Stasia A. Mozynski, Public Affairs Specialist, Legislative and Public Affairs Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 732, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436–7776.

SUPPLEMENTARY INFORMATION: The regulations for APHIS are found in 7 CFR Part 370. In § 370.4 of the FOIA regulations, the address of the FOIA coordinator is provided to enable persons to contact the coordinator when seeking information concerning the location where documents may be inspected under the FOIA. In § 370.5 of the FOIA regulations the address of the FOIA coordinator is provided for persons requesting APHIS records, and information other than published material. Since publication of the FOIA regulations, the office of the FOIA coordinator has been moved. This document revises the address of the FOIA coordinator in §§ 370.4 and 370.5 of the FOIA regulations.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule relates to internal agency management and the provisions of Executive Order 12291 and Regulatory Flexibility Act are not applicable to this action.

Under the circumstances referred to above, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Effective Date

The address of the Freedom of Information Act Coordinator being revised by this document is a matter related to internal agency management.

Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication of this document in the Federal Register.

List of Subjects in 7 CFR Part 370

Freedom of information.

PART 370—FREEDOM OF INFORMATION

Under the circumstances described above, Part 370 of Chapter III of Title 7 of the Code of Federal Regulations, "Freedom of Information," is revised to read as follows:

1. The authority citation for Part 370 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. Section 370.4 is amended by changing the address of the Freedom of Information Act Coordinator to read as follows:

§ 370.4 Facilities for inspection and copying.

* * * * *

Freedom of Information Act Coordinator, Animal and Plant Health Inspection Service, Room 732, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

* * * * *

3. Section 370.5(a) is amended by changing the address of the Freedom of

Information Act Coordinator to read as follows:

§ 370.5 Requests for records.

(a) * * *

Freedom of Information Act Coordinator, (FOIA Request), Animal and Plant Health Inspection Service, Room 732, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

* * * * *

Done at Washington, DC, this 22nd day of August 1986.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 86-19630 Filed 8-28-86; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 378]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 378 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period August 29–September 4, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 378 (§ 908.678) is effective for the period August 29–September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The committee met publicly on August 26, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and the effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges, Valencias.

1. The authority citation for 7 CFR Part 908 continues to read:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 908.678 is added to read as follows:

§ 908.678 Valencia Orange Regulation 378.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 29, 1986, through September 4, 1986, are established as follows:

(a) District 1: 374,000 cartons;

(b) District 2: 476,000 cartons;

(c) District 3: Unlimited cartons.

Dated: August 27, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-19741 Filed 8-28-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR PART 238

Contracts With Transportation Lines; Addition of Northwest Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of transportation lines which have entered into agreements with the Service for the preinspection of their passengers and crew at locations outside the United States by adding the name of Northwest Airlines, Inc.

EFFECTIVE DATE: August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536; Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Northwest Airlines, Inc. on August 21, 1986, to provide for the preinspection of their passengers and crew as provided by section 238(b) of the Immigration and Nationality Act, as amended (18 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crew arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds transportation lines' names to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR 238

Aliens, Common carriers, Government contracts, Inspections, Transportation lines.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.4 [Amended]

2. In § 238.4 *Preinspection outside the United States,* the listing of transportation lines is amended by adding the name Northwest Airlines, Inc. under "at Montreal" and "at Toronto."

* * * * *

Dated: August 25, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-19580 Filed 8-28-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-043]

Special Ports for Pet Birds; Nogales, AZ, et al.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations concerning ports designated for the importation into the United States of pet birds by removing Nogales, Arizona; and El Paso and Laredo, Texas, from the list of special ports for the entry of pet birds from Mexico. This is necessary because few pet birds are offered for importation into the United States at these ports, while the Department continues to incur costs to operate and maintain them despite little or no occupancy.

DATES: Effective date is August 29, 1986. Written comments must be received on or before October 28, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-043. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Ritchie, Import-Export Operations Staff, VS, APHIS, USDA, Room 761, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in § 92.3 of 9 CFR Part 92 list a large number of ports with inspection stations or quarantine stations maintained by Veterinary Services for the importation of animals and birds. In addition to air and ocean ports and several other types of ports, § 92.3 lists special ports for the importation of pet birds.

The ports of Nogales, Arizona; and El Paso and Laredo, Texas, are located at the Mexican border. Quarantine facilities were established at these ports to accommodate pet birds entering the United States from Mexico. Very few pet birds have been imported from Mexico because they must be accompanied by an export permit, which is issued only in Mexico City and must be applied for in person. However, the Department continues to incur costs to operate and maintain the bird quarantine facilities despite little or no occupancy. In order to make better use of Department resources, the quarantine facilities for pet birds at these ports are being closed.

Therefore, it is necessary to amend § 92.3(f) of the regulations by removing Nogales, Arizona; and El Paso and Laredo, Texas, from the list of special ports for the entry of pet birds.

However, inspection stations at these ports will continue to operate, and certain pet birds exempt from quarantine requirements may be presented for entry at these ports.

* * * * *

Executive Order 12291 and Regulatory Flexibility Act

This action has been issued in accordance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that the closing of quarantine facilities at the ports of Nogales, Arizona; and El Paso and Laredo, Texas, will not substantially reduce the number of pet birds imported from Mexico since the inconvenience of obtaining an export permit for pet birds from Mexico already keeps the number of such imports very low. Also, it is economically disadvantageous to the Department to continue to operate and maintain these quarantine facilities. Inspection stations at these ports will remain open for the entry of animals from Mexico and for the entry of pet birds exempt from quarantine requirements. The Mexican border ports of Hidalgo, Texas, and San Ysidro, California, will continue to operate as special ports for the entry of pet birds imported under § 92.2(c)(3).

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V.)

Effective Date

Therefore, pursuant to the administrative provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are unnecessary, and good cause is found for making this interim rule effective upon publication. Comments are being solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. Paragraph (f) of § 92.3 is revised to read:

§ 92.3 Ports designated for the importation of animals and birds.

* * * * *

(f) *Special ports for pet birds.* New York, New York; Miami, Florida; Hidalgo, Texas; Los Angeles and San Ysidro, California; and Honolulu, Hawaii, are designated as ports of entry for pet birds imported under the provisions of § 92.2(c)(3).

* * * * *

Done at Washington, D.C., this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19576 Filed 8-28-86; 8:45am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Radioactive Waste Below Regulatory Concern; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; policy statement.

SUMMARY: This notice contains a policy statement and staff implementation plan regarding expeditious handling of petitions for rulemaking to exempt specific radioactive waste streams from disposal in a licensed low-level waste disposal facility. For the Nuclear Regulatory Commission (NRC) to grant these rulemaking petitions, the waste streams must be sufficiently low in concentration or quantities of radionuclides for the Commission to find that they may be disposed of by alternative means without posing an undue risk to public health and safety. The policy statement and plan are in the nature of regulatory guidance for implementing existing requirements for rulemaking petitions in 10 CFR 2.802. The documents describe the kind of information petitioners should file to allow timely Commission review of the petition. They also describe decision criteria the Commission will use and the administrative procedures to be followed in order to permit the Commission to act upon the petition in an expedited manner. These documents respond to a mandate in the Low-Level Radioactive Waste Policy Amendments Act of 1985 and are being published as Appendix B to 10 CFR Part 2.

EFFECTIVE DATE: October 27, 1986.

ADDRESSES: Send any written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Attention: Docketing and Service Branch. Comments received within 60 days would be most helpful. Copies of comments received by the Commission may be examined or copied for a fee at the U.S. Nuclear Regulatory Commission (NRC) Public Document Room, 1717 H Street NW, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Kitty S. Dragonette, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 427–4300.

SUPPLEMENTARY INFORMATION:

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Classified business information, Freedom of information, Hazardous waste, Nuclear material, Nuclear power plants and reactors, Penalties, Sex discrimination.

For the reasons set forth below and under the authority of the Atomic Energy Act of 1954 as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEDURES

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1437 (42 U.S.C. 2135). Appendix B is also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Add the following policy statement as Appendix B to Part 2:

Appendix B to Part 2—General Statement of Policy and Procedures Concerning Petitions Pursuant to § 2.802 for Disposal of Radioactive Waste Streams Below Regulatory Concern:

I. Introduction and Purpose
II. Standards and Procedures
III. Agreement States
IV. Future Action

I. Introduction and Purpose

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (the Act) (42 U.S.C. 2021b et seq.) was enacted January 15, 1986. Section 10 of the Act addresses disposal of wastes termed "below regulatory concern" that would not need to be subject to regulatory control to assure adequate protection of the public health and safety because of their radioactive content. The goal of this section of the Act is for the Commission to make practical and timely decisions to determine when wastes need not go to a licensed low-level waste disposal site. These decisions will be expressed through rulemaking. Alternative disposal would conserve space in the existing sites while new sites are established and reduce the costs of disposal. Rulemaking petitions may play a role in the national low-level waste strategy outlined by the Act. The Act provides that the Commission establish procedures for acting expeditiously on petitions to exempt specific radioactive waste streams from the Commission's regulations.

The purpose of this statement and accompanying implementation plan is to establish the standards and procedures that will permit the Commission to act upon rulemaking petitions in an expeditious manner as called for in the Act. This policy statement does not require petitioners to present all the information outlined or demonstrate that the decision criteria for expedited handling can be met, if such expedited handling is not wanted. For example, petitions requesting exemption of concentrations of radionuclides that might

result in individual exposures higher than those recommended in the decision criteria may be submitted, but expedited handling cannot be assured.

Finally, this policy statement and accompanying implementation plan are intended to facilities handling of rulemaking petitions for streams from multiple producers and do not apply to individual licensing actions on single producer waste. Individual licensees who seek approval for disposal of their uniques wastes may continue to submit their disposal plans under 10 CFR 20.302(a).

II. Standards and Procedures

The standards and procedures needed to handle petitions expeditiously fall into the following three categories: (1) Information petitioners should file in support of the petitions, (2) standards for assessing the adequacy of the proposals and providing petitioners insight on the decision criteria the Commission intends to use so that all relevant informational issues will be addressed in the petition, and (3) the internal NRC administrative procedures for handling the petitions. These three categories are addressed in the attached staff implementation plan. The staff plan was developed in response to Commission direction to provide detailed guidance on implementing the general approach outlined in this policy statement. Although staff may revise it from time to time as experience is gained in processing petitions, the plan outlines a reasonable basis for accomplishing the approach. Staff is to publish revisions as NUREG documents and notice the availability of the revisions in the **Federal Register**.

As a practical matter, the primary information for justifying and supporting petitions must be supplied by the petitioner if the Commission is to act in an expedited manner. If the petitioner wishes to assure expedited action, the supporting information should be complete enough so that Commission action is primarily limited to independent evaluation and administrative processing.

Decision criteria for judging whether to grant a petition involve the overall impacts of the proposed action, waste properties, and implementation of the proposed exemption. The following criteria address these areas. Petitions which demonstrate that these criteria are met should be suitable for expedited action.

1. Disposal and treatment of the wastes as specified in the petition will result in no significant impact on the quality of the human environment.

2. The maximum expected effective dose equivalent to an individual member of the public does not exceed a few millirem per year for normal operations and anticipated events.

3. The collective doses to the critical population and general population are small.

4. The potential radiological consequences of accidents or equipment malfunction involving the wastes and intrusion into disposal sites after loss of normal institutional controls are not significant.

5. The exemption will result in a significant reduction in societal costs.

6. The waste is compatible with the proposed treatment and disposal options.

7. The exemption is useful on a national scale, i.e., it is likely to be used by a category of licensees or at least a significant portion of a category.

8. The radiological properties of the waste stream have been characterized on a national basis, the variability has been projected, and the range of variation will not invalidate supporting analyses.

9.The waste characterization is based on data on real wastes.

10. The disposed form of the waste has negligible potential for recycle.

11. Licensees can establish effective, licensable, and inspectable programs for the waste prior to transfer to demonstrate compliance.

12. The offsite treatment or disposal medium (e.g., sanitary landfill) does not need to be controlled or monitored for radiation protection purposes.

13. The methods and procedures used to manage the wastes and to assess the impacts are no different from those that would be applied to the corresponding uncontaminated materials.

14. There are no regulatory or legal obstacles to use of the proposed treatment or disposal methods.

III. Agreement States

The Low-Level Radioactive Waste Policy Amendments Act of 1985 establishes a national system for dealing with low-level waste disposal. The system assigns to the States responsiblity for disposal capacity for low-level wastes not exceeding Class C wastes as defined in 10 CFR 61.55. Section 10 of the Act encourages a reduction in volume of such wastes subject to State responsiblitiy for disposal through the option of determining that certain wastes need not go to existing licensed disposal facilities or new sites licensed under 10 CFR Part 61 or equivalent State regulations. If radiological safety can be assured, such disposal would conserve space in the existing sites while new sites are developed, and would serve as an important adjunct to volume reduction efforts in meeting the waste volume allocation limits set forth in the Act. Thus, these rulemakings should aid the States in fulfilling their responsibilities under the Act. Equity also suggests that all waste generators be able to take advantage of below regulatory concern options as part of their waste management strategies. Generators in both Agreeement and non-Agreement States will be competing for space in the existing sites and the concept should be applicable nationwide.

Agreement States will play an important role in ensuring that the system works on a national basis and that it remains equitable. States have been encouraging findings that certain wastes are below regulatory concern and do not have to go to low-level waste sites. The States have been voicing this view for a number of years through forums such as the Conference of Radiation Control Program Directors. Rulemakings granting petitons will be made a matter of compatibility for Agreement States. Consequently, rulemaking will be coordinated with the States.

IV. Future Action

The Commission will conduct a generic rulemaking on waste streams below regulatory concern based on a number of factors. The factors include public comments received on the statement, the number and types of petitons for rulemaking received, and how effective the statement is in enabling timely processing of petitions. A generic rulemaking is warranted to provide a more efficient and effective means of accomplishing the goals reflected in Section 10 of the Act. An advance notice of proposed rulemaking will be published within 90 days. Furthermore, the Commission may periodically review all rulemakings in order to assure that the relevant parameters have not changed significantly and may ask the petitioner to submit updated information to assist in the review. The Commission would also have to confirm that approved exemptions are consistent with any general standards issued by EPA.

Dated at Washington, DC this 25th day of August, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary to the Commission.

Editorial Note: The staff implementation plan will not appear in the Code of Federal Regulation.

Nuclear Regulatory Commission Staff Implementation of Nuclear Regulatory Commission Policy on Radioactive Waste Below Regulatory Concern

I. Introduction
II. Information to Support Petitions
A. General
1. 10 CFR Part 2 Requirements
2. Environmental Impacts
3. Economic Impact on Small Entities
4. Computer Program
5. Scope
B. Waste Characterization
1. Radiological Properties
2. Other Considerations
3. Totals
4. Basis
5. As Low as Reasonably Achievable (ALARA)
C. Waste Management Options
D. Analyses
1. Radiological Impacts
2. Other Impacts
3. Regulatory Analysis
E. Recordkeeping and Reporting
1. Surveys
2. Reports
F. Proposed Rule
III. Decision Criteria
IV. Administrative Handling

I. Introduction

Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 requires the Nuclear Regulatory Commission (NRC) to develop standards and procedures for expeditious handling of petitions for rulemaking to exempt disposal of radioactive waste determined to be

below regulatory concern. The Act also requires NRC to identify information petitioners should file. The Commission Policy Statement provides general guidance on how to meet the requirements of section 10 of the Act, outlines the overall approach to be followed, and lists decision criteria to be used. Implementation of the general approach and decision criteria of the Commission Policy Statement involves developing more detailed guidance and procedures. In accordance with Commission direction, the NRC staff has developed more detailed guidance and procedures for implementation of the Commission Policy Statement. This staff guidance and procedures cover: (1) Information petitioners should file in support of petitions to enable expedited processing, (2) discussion of the decision criteria, and (3) administrative procedures to be followed.

II. Information to Support Petitions

A. General

1. *10 CFR Part 2 requirements.* The codified information requirements for petitions for rulemaking are outlined in the Commission's regulations in 10 CFR 2.802(c). These regulations require the petitioner to identify the problem and propose solutions, to state the petitioner's grounds for and interest in the action, and to provide supporting information and rationale. As a practical matter, the information demonstrating that the radiological health and safety impacts are so low as to be below regulatory concern must be provided by the petitioner if the Commission is to act in an expedited manner. Petitions for rulemaking should therefore be submitted following the staff's supplemental guidance and procedures to assure expedited action.

2. *Environmental impacts.* Petitions must enable the Commission to make a finding of no significant impact on the quality of the human environment. Such Commission findings must be based on an Environmental Assessment that complies with 10 CFR 51.30 and must meet the requirements of 10 CFR 51.32. These requirements include addressing the need for the proposed action, identifying alternatives, and assessing the potential environmental impacts of the proposed action and alternatives. Consistent with 10 CFR 51.41, the petitioner should submit the information needed to meet these requirements and do so in a manner that permits independent evaluation by the Commission of the data and methodology used and the conclusions reached.

3. *Economic impact on small entities.* When a rulemaking action is likely to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires that the impacts on these small entities must be specifically addressed. (The Commission's size standard for identifying a small entity is $3.5 million or less in annual receipts except for private practice physicians and educational institutions where the standard is $1 million or less in annual receipts for private practice physicians and 500 employees for educational institutions. See 50 FR 50214, December 9, 1985.) For any rulemaking, the Commission must either certify that the rule will not economically impact or will have no significant economic impacts on small entities, or present an analysis of alternatives to minimize the impacts. Because rulemakings on below regulatory concern should provide relief from requirements for all affected entities, satisfaction of this requirement should be straightforward but it must be addressed in any rulemaking. To facilitate expeditious preparation of the proposed rule responding to the petition, the petitioner should submit an evaluation of the estimated economic impacts on small entities. The evaluation should include estimates of the costs for small entities in terms of staff time and dollar costs. Any alternatives that could accomplish the objective of the petitioner's proposed rule while minimizing the economic impact on small entities should be presented. The evaluation should include an assessment of the incremental recordkeeping and reporting costs that would be associated with the petitioned rule change.

4. *Computer program.* The computer program (IMPACT–BRC) the Commission intends to use to independently evaluate petitioners' assessments of impacts is based on "De Minimis Waste Impacts Analysis Methodology" (NUREG/CR–3585) published February 1984.[1] Petitioners are encouraged to consult NUREG/CR–3585 in order to better understand the Commission's information needs. The IMPACTS–BRC program will be distributed by the National Energy Software Center on floppy diskettes for use on IBM–PC and compatible computers. The Center's address is 9700 South Cass Avenue, Argonne National Laboratory, Argonne, Illinois 60439. The users guide for IMPACTS–BRC will be published as a draft Volume II of NUREG/CR–3585. Petitioners may evaluate the impacts of the proposed activity using NRC's code, if desired. When alternate calculational methodologies are used, the petitioner should provide all the specific input needed to analyze the waste stream in the petition using IMPACTS–BRC and provide a rationale for all parameter selections. The Commission may clarify or modify the computer code from time to time. Petitioners choosing to use NRC's code should be sure to use the current revision. The National Energy Software Center will provide changes to persons obtaining the program from the Center. Users are encouraged to comment on the code so that their experience can be factored into future revisions.

5. *Scope.* The petitioner should define the geographic area to which the proposed rule should apply and the reasons supporting any area less than national in scope. It might be possible to justify limiting the scope to a low-level waste regional compact or a state but implementation issues such as import or export of wastes outside the compact or state should be addressed in the rationale.

B. Waste Characterization

1. *Radiological properties.* The minimum radiological properties that should be described are the concentration or contamination levels and the half-lives, total quantity, and identities of the radionuclides present. The chemical and physical form of the radionuclides should be addressed. All radionuclides present or potentially present should be specified, including radionuclides identified as trace constituents. The distribution of the radionuclides within the wastes should be noted (e.g., surface or volume distribution). Mass and volume average concentrations should also be presented. For incineration, the radioactive content of the ash and noncombustible fraction should be described. The variability as a function of process variation and variation among licensees should be addressed and bounded.

2. *Other considerations.* An understanding of nonradiological properties of the waste stream is needed to assure that they are consistent with the proposed disposal method and to evaluate the adequacy of the analysis of the radiological impacts. (NRC's deregulation of the radioactive content would not relieve licensees from the applicable rules of other agencies which cover the nonradiological properties.) The petitioner should provide a detailed description of the waste materials, including their origin, chemical

[1] Footnotes at end of article.

composition, physical state, volume, and mass.

The term "stream" only means wastes produced from a common set of circumstances and possessing common characteristics. It does not mean "liquid" although the stream may be in a liquid form (e.g., waste oil). The wastes may be resin beads, laboratory glassware, or any other form. Waste form includes packages or containers used to manage (i.e., store, handle, ship, or dispose) the wastes. The variability and potential changes in the waste form as a function of process variation should be addressed. The variation among licensees should be described and bounded.

Compatibility with requirements associated with the proposed management options should be carefully presented. For example, if the petitioner proposes that the wastes be incinerated, the waste form should be shown to be compatible with the temperatures, flow rates, feed rates, and other operating parameters of typical incinerators that may be used. The petitioner should identify the minimum requirements an incinerator must meet to assure adequate combustion. The form and volume of the ash and other residue from incineration should be described. Similar consideration for disposal at sanitary landfills or hazardous waste sites should be addressed. For example, wastes that include components or properties that would qualify the waste as a "hazardous waste" under EPA rules in 40 CFR Parts 260 through 265 should not be proposed for disposal at a municipal landfill.

The potential for recycle should be presented. Possible treatment, such as shredding, the would reduce the recycle potential should be described. Both the resource value (e.g., salvageable metals) and the functional usefulness (e.g., usable tools) should be addressed. Both short- and long-term potentials for recycle are of significant concern to the Commission.

3. *Totals.* A subsequent rulemaking based upon an accepted petition is generic, and the exemption will likely be used nationwide. Therefore, to the extent possible, the petitioner should estimate the number of NRC and Agreement State licensees that produce the waste, the annual volumes and mass, and the total annual quantities of each radionuclide that would be disposed of. The estimates should include the current situation and the likely variability over the reasonably foreseeable future. If the petition is for a proposed rule that will be limited to less than national scope (e.g., a state or compact region), the totals should be estimated for the petitioned scope. A concentration distribution would be a helpful tool in characterizing the waste stream. For example, the petitioner could indicate that 10% of the wastes fall in the range of 1–10 picocuries per gram, 60% fall in the 10–100 range, and 30% in the 100–1,000 range. Such distribution would permit more realistic assessment of impacts in addition to conservative bounding estimates using maximum values. In any case, the typical quantities produced per generator and an estimate of the geographic distribution of the generators should be described.

4. *Basis.* The basis for the waste stream characterization should be provided. The basis for characterization of the wastes and the total quantities produced should be described. Monitoring, analytical data, and calculations should be specified. Actual measurements or values that can be related to measurements to confirm calculations are important. The description of the bases should include quality assurance aspects. For example, the petitioner should describe the number of samples measured, the representativeness of the samples, and the appropriateness of the instruments used. The statistical confidence in the estimates should be evaluated. If the petitioner conducted any surveys of licensees or relied on surveys by others to help quantify the amount and content of wastes, they should be described. Market information might be useful in characterizing waste generation on a national basis. Designation as a "trace concentration" should be related to specified detection limits, but detection limits themselves are not sufficient reason to dismiss trace concentrations when methods exist to infer concentrations.

For estimates of the radionuclide content of the waste stream, the petitioner may take advantage of licensee experience in classifying wastes for disposal at low-level waste sites. For example, the transuranic radionuclide content of the wastes would likely be below detection limits, but licensees have already established scaling factors for estimating the transuranic content of wastes as part of complying with 10 CFR Part 61 waste classification requirements. Waste generators use generic scaling factors and factors established for their specific wastes through sophisticated analyses. The scaling factors are used to infer the presence and concentrations of many radionuclides based on measurement of only a few nuclides. The classification scheme in 10 CFR Part 61 has been in effect since December 1983. Considerable data and experience should be available to allow characterizing the radiological content and composition of the waste stream being addressed in the petition. The same principles outlined in 10 CFR 61.55(a)(8) may be applied, i.e., values based on direct measurements, indirect methods related to measurements, or material accountability.

5. *As low as is reasonably achievable (ALARA).* The Commission's ALARA requirement in 10 CFR 20.1(c) applies to efforts by licensees to maintain radiation exposures and releases of radioactive materials in effluents to unrestricted areas as low is reasonably achievable. 10 CFR Part 50, Appendix I, describes ALARA for radioactive materials in light water reactor effluents. Licensee compliance with 10 CFR 20.1(c) is a precondition to acceptance by NRC of any waste stream as exempt. Therefore, a description should be provided of reasonable procedures that waste generators would be expected to use to minimize radiation exposures resulting from the disposal of the exempt waste, e.g., removal of surface contamination. These procedures are assumed to apply prior to characterizing the waste to be exempted.

C. Waste Management Options

The management options that the Commission can deal with expeditiously are those described in NUREG/CR–3585. Onsite options include incineration and burial. Offsite options are municipal waste disposal facilities (sanitary landfills), municipal waste incinerators, hazardous disposal facilities, and hazardous waste incinerators. Pretreatment, e.g., shredding of otherwise potentially recyclable materials, is a potential adjunct to either onsite or offsite options. Combinations of these options can also be evaluated. For example, wastes may be incinerated on site and the ash shipped to a sanitary landfill. The favored disposal options should be identified and fully described. The petitioner should evaluate a full range of options. The practicality of the proposed option(s) should be presented. Waste compatibility discussed earlier is one aspect. The national availability and distribution of the option is another. Updates on national regulations and laws pertaining to the proposed option should be described and might have to be considered in selecting acceptable options.

D. Analyses

To support and justify the submittal, each petitioner should include analyses of the radiological impacts associated

with handling, transport, and disposal of the specific wastes. Any incremental nonradiological impacts should be assessed. Also the petitioner should use the analyses to prepare and submit a detailed regulatory analysis with the petition.

1. *Radiological impacts.* The evaluation of radiological impacts should distinguish between expected and potential exposures and events. Impacts should be assessed for the expected concentrations and quantities of radionuclides. The petitioner should quantitatively evaluate the impacts from the proposed waste for each option requested. The petitioner should clearly relate the analytical findings to specific provisions in the recommended rule changes. For example, the basis for each recommended radionuclide limit should be clearly explained.

The radiological impacts included in NUREG/CR–3585 and in NRC's computer program (IMPACTS–BRC) cover exposures to workers and individual members of the public and cumulative population exposures. The program calculates both external direct gamma exposures and exposures from ingested or inhaled radionuclides. NRC's computer program can be used to calculate the expected radiological impacts from generator activities, transportation, treatment, disposal operations, and post-disposal inputs. The program can analyze a wide range of management options including onsite treatment and disposal by the generator, shipment to municipal waste management facilities, and shipment to hazardous waste management facilities. The program covers impacts beginning with initial handling and treatment by the generator through final disposal of all the radionuclides contained in the waste stream. Sequential treatment, sorting, and incineration onsite and at municipal and hazardous facilities can be assessed. Disposal of resulting ash and residue is included. Post-disposal impacts that can be calculated include releases due to intrusion, ground-water migration, erosion, and leachate accumulation. The program thus addresses both expected and potential post-disposal impacts.

The petitioner's analysis of transport impacts should be based on a reasonably expected spacial distribution of licensees and waste treatment and disposal facilities which will accept the wastes. The petitioner should address parameters such as average and extreme transport distances. The petitioner's analysis should address the basis for parameter selection and characterize the expected patterns (e.g., indicate how likely the extreme case may be). In addition, the petitioner's analysis should also address potential exposures from handling and transport accidents. The petitioner's analysis of accidents should include all assumptions, data, and results to facilitate review. The potential for shipment of the entire waste stream to one or a few facilities should be assessed. This scenario currently exists for 10 CFR 20.306 exempted liquid scintillation wastes and might result from very limited numbers of treatment facilities or decontamination services. The analysis of impacts for transport, handling, and disposal should include evaluation of this potential circumstance unless it can be clearly ruled out.

As suggested in Paragraph 89 on page 20 of ICRP Publication 46 [2]:

> Exception from regulation and requirements on these bases should not be used to make it possible to dispose of large quantities of radioactive material in diluted form, or in divided portions, causing widespread pollution which would eventually build up high dose levels by the addition of many small doses to individuals. Nor should they be used to exempt activities that, by isolation or treatment, have been made temporarily harmless but that imply large potential for release and could give rise to high individual doses or high collective doses.

The analysis of expected radiological impacts should clearly address:

—The maximum individual exposures.

—The critical group exposures

—The cumulative population exposures.

The maximum individual exposure evaluation should include exposures to all members of the public who may be exposed beginning with the initial handling at the generator's facility through post-closure. Both internal uptake and external exposures should be included. The individual may be a member of the general population (e.g., consumer of contaminated ground water) or a person receiving the exposure from his or her occupation. Anyone who may be exposed and is not a radiation worker should be considered a member of the public. For example, a worker at a sanitary landfill or a commercial trash truck driver would not be a radiation worker. However, occupational exposures to radiation workers should be evaluated and considered in the cost/benefit analysis of the incremental impacts between disposal at a licensed facility and the requested disposal options.

The total population exposures can be estimated and summed in two parts. One part is the smaller critical group (usually the occupationally exposed population) where potential exposures may be higher on an individual basis but the exposures and the number of exposed individuals are more predictable and the exposures are short-term. The critical group should be the segment of the population most highly exposed exclusive of radiation workers. The other part is the general population where the expected exposures and size of the exposed population are less predictable, potential individual exposyres are probably much smaller, and exposures may extend over longer timeframes. Presentation of the population exposures in these two parts should contribute to a more meaningful cost/benefit analysis.

2. *Other impacts.* The NRC action to exempt the radiological content of the wastes would not relieve persons handling, processing, or disposing of the wastes from requirements applicable to the nonradiological properties. The petition should demonstrate that the nonradiological properties of the radioactive waste are the same as the nonradioactive materials normally handled and disposed of by the proposed methods. If the nonradiological properties are similar and the volumes of exempted waste would not impact the normal operations, there should be no incremental impacts. If the petitioner is aware of other impacts which should be considered for the specific wastes in the petition, the petitioner should also address the additional impacts.

3. *Regulatory analysis.* In order to expedite subsequent rulemaking if the petition is granted, the analysis should also address the topics NRC must address in a Regulatory Analysis (e.g., see NUREG/BR–0058, Revision 1, "Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission"). [3] Following the Regulatory Analysis format will structure the analytical findings, present the bases for decisions, and address the environmental assessment requirements. The topics are:

(1) *A statement of the problem.* This topic is the need for determining which wastes may be safely disposed of by means other than shipment to licensed low-level waste sites.

(2) *Alternatives.* All reasonable alternatives to the proposed action should be described. The no action or status quo alternative should always be included.

(3) *Consequences.* This topic calls for an analysis of the impacts of each alternative described. The factors the petitioner should address include costs and benefits and practical or legal constraints. Cost/benefit considerations

and constraints are discussed more fully after this listing of topics.

(4) *Decision rationale.* This topic is a conclusions statement that explains why the preferred alternative(s) should be adopted.

(5) *Implementation.* This topic covers the steps and schedules for actual implementation of the proposed rule. The petitioner should address the topic from the waste generator's perspective and include surveys discussed under Topic III.A.5. Recordkeeping and Reporting.

A cost/benefit discussion is an essential part of both environmental and regulatory impact considerations and is, therefore, essential to expedited handling. The discussion should focus on expected exposures and realistic concentrations or quantities of radionuclides. The cost/benefit discussion should include the differential exposure and economic costs between disposal at a licensed low-level waste disposal site and the proposed option(s). It may also include qualitative benefits. Reduced hazards from not storing hazardous or combustible materials might be a benefit. Elimination or reduction of the hazardous properties (e.g., by incineration) could be another. Detrimental costs might also be qualitative such as loss of space in municipal or hazardous waste sites. The economic impact on the licensed site operations (i.e., loss of income from diverted wastes) and its potential effect on the availability of economic and safe disposal should be addressed. Costs of surveys and verifying compliance discussed under Topic II.E. Recordkeeping and Reporting should also be covered. The cost/benefit should also reflect ALARA considerations. Radiation worker exposure, public exposure, and environmental releases might be appropriate in ALARA considerations. In weighing the exposure costs and economic costs for light-water-cooled nuclear reactor wastes, the petitioner could use, for perspective, the $1,000 per person-rem guideline in 10 CFR Part 50, Appendix I, for effluent releases from these facilities.

The petitioner should identify any legal or regulatory constraints that might impact implementation of the petitioned change. The compatibility of the waste with the proposed method of disposal was discussed under Topic II.B.2. Other constraints might stem from Department of Transportation (DOT) labeling, placarding, and manifesting requirements for radioactive materials. Since the receiving facility will not be licensed to receive radioactive materials, this could be an impediment to implementation. For most radioactive materials, the general DOT threshold limits of 0.002 microcuries per gram apply. However, the DOT issued a final rule on June 6, 1985 (50 FR 23811) that amended 49 CFR Part 173 to exempt low specific activity wastes as described in NRC's rules in 10 CFR 20.305. (Note that DOT emphasized that the wastes remain subject to the provisions related to other hazards; see 49 CFR 173.425(d).)

E. Recordkeeping and Reporting.

1. *Surveys.* Existing regulations in § 10 CFR 20.201 establish general NRC requirements for performing surveys as necessary to comply with Part 20. Licensees would have to conduct surveys of the waste properties prior to release for exempt disposal to verify that the waste meets the prescribed limits. Such survey programs might consist of (1) fairly comprehensive initial sampling and analysis to confirm that the licensee's wastes will fall below the limits, (2) periodic analysis as part of a process or quality control program to confirm the initial findings, and (3) a routine survey program prior to release of wastes to monitor for gross irregularities. To show that licensees can be expected to conduct compliance surveys prior to waste transfer, the petitioner should describe a sample survey program. The three components just discussed should be included, if appropriate, for the waste stream. Records of the surveys would be maintained for inspection.

2. *Reports.* The petitioner should assume that annual reports on disposals will be required and that associated recordkeeping to generate the reports will be imposed. Minimum information in the annual reports initially might include the type of waste, its volume, its estimated curie content, and the place and manner of disposal. Increased recordkeeping and reporting requirements would address uncertainties in projecting future volumes or amounts of wastes and NRC's responsibility to consider the cumulative impacts of multiple exemptions. When these requirements are proposed, Office of Management and Budget (OMB) approval is required. To facilitate NRC filing for OMB approval, the petitioner should include any duplicating or overlapping reporting requirements, the number and type of expected respondents, suggestions for minimizing the burden, estimates of the staff hours and costs to prepare the reports and keep the records, and a brief description of the basis for the estimates. The petitioner should also address whether changes in technical specifications or licenses may be needed.

F. Proposed Rule

The petition should include the text for the proposed rule (see 10 CFR 2.802(c)(1)). The proposed text should cover at least the following:

(1) The quantity and/or concentration limit for each radionuclide present (trace radionuclides could be lumped together with a total limit);

(2) A method to deal with radionuclide mixtures;

(3) The nonradiological specifications necessary to adequately define the waste; and

(4) The specific method(s) of exempt disposal.

If practicable, and if the supporting information indicates the need, the text should also address other features such as annual limits on each generator in terms of volume, mass, or total radioactivity, and administrative or procedural requirements including process controls, surveys, etc., that have been discussed. The text should not include the various dose limits used to justify the proposed radionuclide limits.

III. Decision Criteria

The Commission policy statement establishes that the following criteria should be used by staff as guidelines for acting on a petition. Each criterion is repeated and staff views on implementation are discussed.

1. Disposal and treatment of the wastes as specified in the petition will result in no significant impact on the quality of the human environment.

Discussion: Unless this finding can be made during information submitted by the petitioner, the Commission must prepare an Environmental Impact Statement to more fully examine the proposed action, alternatives to the proposed action, and associated potential impacts of alternatives. Preparation would likely involve contractual support and would likely take 2 years or more to complete. The Commission could not act in the petition in an expedited manner.

2. The maximum expected effective dose equivalent to an individual member of the public does not exceed a few millirem per year for normal operations and anticipated events.

Discussion: The effective dose equivalent means the ICRP Publication 26 and 30 [2] sum of the dose from

external exposure and the dose incurred from that year's intake of radionuclides. While a range of 1–10 millirem per year might be acceptable, a one millirem dose would facilitate expedited processing. Higher doses may require more extensive justification. Based on a mortality risk coefficient for induced cancer and hereditary effects of $2x10^{-4}$ per rem (ICRP Publication 26), radiation exposure at a level of millirem per year would result in an annual mortality risk of $2x10^{-7}$ (i.e., $2x^{-4}$ effects/remx^{-3} rem/year).

The EPA is developing criteria for identifying low-level radioactive waste that may be below regulatory concern as part of that agency's development of general environmental standards for low-level waste disposal. The EPA published an Advance Notice of Proposed Rulemaking on August 31, 1983 (48 FR 39563) and currently hopes to publish proposed standards in early 1987. Other EPA standards that the doses can be compared to are the Clean Air Act radioactive release standard of 25 millirems per year in 40 CFR Part 61 and the uranium fuel cycle annual whole body limit of 25 millirems in 40 CFR 190.

One millirem is very small when compared to naturally occurring background doses from cosmic and terrestrial sources. Background doses in the United States are typically in the 100–120 millirems per year range exclusive of the lung doses from radon. One millirem is also small when compared to the annual 500 millirem dose limit for individual members of the general public in Federal Radiation Council guidance.

An important feature is that doses of up to 1 millirem from the individual petition should minimize concerns over exposure to multiple exempted waste streams. ICRP Publication 46 addressed individual dose limits and other issues related to exemptions and stated, in paragraphs 83 and 84 on page 19:

> Many radiation exposures routinely encountered in radiation protection, particularly those received by members of the public, are very small by comparison with dose limits or natural background, and are well below dose levels at which the appearance of deleterious health effects has been demonstrated. In individual-related assessments, it is widely recognized that there are radiation doses that are so small that they involve risks that would be regarded as negligable by the exposed individuals. Studies of comparative risks experienced by the population in various activities appear to indicate that an annual probability of death of the order of 10^{-6} per year or less is not taken into account by individuals in their decisions as to actions that could influence their risks. Using rounded dose response factors for induced health effects, this level of risk corresponds to an annual dose of the order of 0.1 mSv [10 millirem].
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> However, in most practical cases, the need for exemption rules arises in source-related assessment, to decide whether a source or waste stream should be subject to control. Consideration should be given to the need for any optimization of radiation protection and to the possibility that many practices and sources of the same kind could combine now or in the future so that their total effect may be significant, even though each source causes an annual individual dose equivalent below 0.1 mSv [10 millirem] to individuals in the critical group. This may involve assessments of dose commitments and of the collective dose per unit practice or source, in order to ensure that the individual dose requirement will not be exceeded now or in the future. It seems almost certain that the total annual dose to a single individual from exempted sources will be less than ten times the contribution from the exempted source giving the highest individual dose. This aspect could, therefore, be allowed for by reducing the annual individual dose exemption criterion from 0.1 to 0.01 mSv [10 to 1 millirem].

The NRC staff recognizes that at times, human reactions are not so strictly governed by quantative considerations as the ICRP excerpt suggests. Nevertheless, the 10^{-6} per year value seems about as low as practicable, seems too low to justify significant concern, and so seems acceptable.

The United Kingdom's National Radiological Protection Board has issued generic guidance on de minimis dose levels (ASP–7, January 1985) [4] that has status similar to Federal Radiation Guidance issued by the President in this country. The Board identified effective dose equivalents of 5 millirem per year as insignificant when members of the public make their decisions. The 5 millirem limit represents the total dose contribution from all exempted practices. For individual practices, the Board divided by 10 (i.e., 0.5 millirem per year) to account for exposures from multiple practices. These limits are applied generically. Less conservatism under the well defined circumstances associated with specific waste streams and disposal options envisaged in this NRC statement seems justified. In a proposed policy statement dated May 6, 1985,[5] the Canadian Atomic Energy Control Board specifically addressed disposal of specific wastes that are of no regulatory concern. An individual does limit of 5 millirems per year was proposd for this limited application.

A maximum individual exposure of 1 millirem per year is also consistent with Appendix I to 10 CFR Part 50. Appendix I specifies design objective doses for operational light-water-cooled nuclear power reactor effluents. These design objectives include annual total body doses of 3 millirems for liquid effluents and 5 millirems for gaseous effluents. If onsite incineration at reactors is petitioned for as a specified disposal option, the petitioner should address how the proposed activity, combined with all other effluents from the sites, would not exceed the design objective doses in Appendix I to 10 CFR Part 50.

3. The collective doses to the critical population and general population are small.

Discussion: An additional advantage when individual doses are no more than 1 millirem per year is that the collective doses are then summations over very small exposures. The collective dose evaluation is primarily for information purposes, cost/benefit considerations, and to confirm the finding of no significant impact on the quality of the human environment. This determination will be made based on information available during the review of each petition in concert with criterion 5. Staff notes that the United Kingdom policy on individual dose limits includes an associated collective dose criterion. (The collective dose criterion must be met in addition to the individual limits). In ICRP Publication 46, a similar criterion is stated.

4. The potential radiological consequences of accidents or equipment malfunction involving the wastes and intrusion into disposal sites after loss of normal institutional controls are not significant.

Discussion: Potential doses from accidents or intrusion should be well within public exposure limits and take into account the probability or possibility of such events. In a statement dated April 26, 1986,[6] the International Commission on Radiological Protection (ICRP) stated that the ICRP's present view is that the principal dose limit for members of the public is 100 millirems in a year. The ICRP further stated that the 500 millirem limit from ICRP Publication 26 could be used as a subsidiary limit provided the lifetime average does not exceed the principal limit. Consequently, potential exposures from accidents or unexpected events would be more easily justified if they are well below 100 millirem per year principal limit.

5. The exemption will result in a significant reduction in societal costs.

Discussion: When the economic and exposure costs associated with the exemption are compared to disposal at a licensed low-level waste site there should be a significant reduction in costs.

VOL 51 ISS 168 AG 29 1986 UMI

6. The waste is compatible with the proposed treatment and disposal options.

Discussion: This criterion relates to the nonradiological properties of the wastes. For example, disposal of radioactive wastes that also qualify as a nonradiological hazardous material should be proposed for disposal methods in accord with EPA regulations (e.g., incineration or disposal at a hazardous waste facility). Also, wastes proposed for incineration should be combustible and wastes proposed for landfills should be appropriate for disposal in typical landfills anywhere in the nation.

7. The exemption is useful on a national scale, i.e., it is likely to be used by a category of licensees or at least a significant portion of a category.

Discussion: Rulemaking is usually not warranted for wastes involving a single licensee, whether a continuing disposal activity or a one-time disposal. Such proposals by individual licensees are normally processed as licensing actions under 10 CFR 20.302(a).

8. The radiological properties of the waste stream have been characterized on a national basis, the variability has been projected, and the range of variation will not invalidate supporting analyses.

Discussion: One of the merits of dealing with specific waste streams is that the actual properties of the waste stream can be relied upon in estimating impacts rather than conservative bounding parameters. The specific pathways that must be considered can be limited to manageable numbers. The expected fate can be credibly limited based on the properties.

9. The waste characterization is based on data on real wastes.

Discussion: Actual data on real waste provide reasonable assurance that the waste characterization is accurate.

10. The disposed form of the waste has negligible potential for recycle.

Discussion: Eliminating the uncertainties associated with recycle is necessary to expeditious handling. Specifying specific wastes and specific methods of disposal narrows the pathways and timeframes to manageable numbers.

11. Licensees can establish effective, licensable, and inspectable programs for the waste prior to transfer to demonstrate compliance.

Discussion: Survey programs and quality control programs will be needed to provide reasonable assurance that actual wastes disposed of under an exemption rule meet the specified parameters. Since disposal would be exempted based on both established and projected waste characteristics, reporting on the wastes actually transferred for below regulatory concern disposal will be important and should be practical.

12. The offsite treatment or disposal medium (e.g., sanitary landfill) does not need to be controlled or monitored for radiation protection purposes.

Discussion: The evaluation of expected exposures should provide the basis for meeting this criterion. However, this is an area where NRC will have a continuing responsibility as multiple petitions are processed. Reporting on actual disposals will help NRC address this responsibility and monitor the adequacy of the limits included in the exempted disposals.

13. The methods and procedures used to manage the wastes and to assess the impacts are no different from those that would be applied to the corresponding uncontaminated materials.

Discussion: Since the receiving facility will not be licensed for radioactive materials, special handling or measures should not be required at the processing or disposal sites because of the radioactive content of the wastes. This criterion also means that realistic assumptions about the disposal methods have been made in estimating exposures.

14. There are no regulatory or legal obstacles to use of the proposed treatment or disposal methods.

Discussion: To have practical use, the disposal option must be available. For example, if all hazardous waste facilities that accept offsite wastes are closed or are not reasonably distributed, the practicality of an exemption to allow disposal at such sites is questionable. Since the receiving facility will not be licensed for radioactive materials, shipments to landfills or hazardous waste facilities should not require identification as radioactive materials.

IV. Administrative Handling

Agency procedures for expeditious handling of petitions for rulemaking were initially published in 1982 in NUREG/BR–0053, "Regulations Handbook."[1] The procedures are contained in Part 11 of the Handbook and were most recently revised in September 1985. Because of resource limitations and other factors, these procedures have not been fully implemented. Petitions for rulemaking submitted in accordance with the Commission's policy statement and this staff implementation plan will be processed in full compliance with these procedures. These procedures coupled with agency policy to complete all rulemaking within 2 years will provide expeditious action on the petitions. In addition, the Handbook notes general scheduling advice that proposed rules to grant petitions should be published in 6–12 months after acceptance and publication for comment. Proposed rules will be forwarded to the Commission on a 6-month schedule to the extent permitted by resource limits, the nature and extent of public comments, and internal Control of Rulemakings procedures. Rulemakings involving power reactors must be reviewed by the Committee on Review of Generic Requirements prior to publication. Proposed rules involving reactors will therefore be forwarded to the Commission on a 7-month schedule to the extent permitted by resources, comments, and approval procedures. In both cases, every effort will be made to publish proposed rules no later than 12 months after noticing for public comment.

Although the procedures in Part 11 of NUREG/BR–0053 include fast track processing, the nature of the anticipated petitions do not fully comply with the decision criteria to follow this alternative.

Some of the key features of the handling procedures include the following steps for complete and fully supported petitions.

1. Petitioners may confer on procedural matters with the staff before filing a petition for rulemaking. Requests to confer on procedural matters should be addressed to: The Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Rules and Procedures Branch.

2. Petitions should be addressed to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. In keeping with 10 CFR 2.802(f), petitioners will be promptly informed if the petition meets the threshold requirements for a petition for rulemaking in 10 CFR 2.802(c) and can be processed in accordance with this implementation plan. Ordinarily this determination will be made within 30 days after receipt of the petition.

3. Following this determination, the petition will be noticed in the **Federal Register** for a public comment period of at least 60 days.

4. The petitioner will be provided copies of all comments received, scheduling information, and periodic status reports.

The procedures in NUREG/BR–0053 also include the process for denial and withdrawal of petitions.

Footnotes:

[1] Copies of NUREG/BR-0053, NUREG/BR-0058 and NUREG/CR-3585 may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5185 Port Royal Road, Springfield, VA 22161. Copies are available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.

[2] ICRP Publication 46, "Radiation Protection Principles for the Disposal of Solid Radioactive Waste," adopted July 1985.

[3] ICRP Publication 26, "Recommendations of the International Commission on Radiological Protection," adopted January 17, 1977. ICRP Publication 30, "Limits for Intake of Radionuclides by Workers," adopted July 1978.

[4] Copies of the United Kingdom's document are available for inspection as enclosures to SECY-85-147A (relating to 10 CFR Part 20) dated July 25, 1985 in the Commission's Public Document Room, 1717 H Street NW, Washington, DC 20555. The United Kingdom documents are available for sale from: Her Majesty's Stationery Office, P.O. Box 569, London SE1 9NH, United Kingdom, as Advice document ASP-7 and a related technical report, "The Significance of Small Doses of Radiation to Members of the Public," NRPB-R175.

[5] Copies of the Canadian document are available for inspection as an enclosure to SECY-85-147A (relating to 10 CFR Part 20) dated July 25, 1985 in the Commission's Public Document Room, 1717 H Street NW, Washington, DC 20555. The Canadian document was issued as Consultative Document C-65, "The Basis for Exempting the Disposal of Certain Radioactive Materials from Licensing" by the Atomic Energy Control Board, P.O. Box 1046, Ottawa, Ontario, Canada, K1P 5S9.

[6] ICRP/85/G-03, "Statement from the 1985 Paris Meeting of the International Commission on Radiological Protect," 1985-04-26.

[FR Doc. 86-19550 Filed 8-28-86; 8:45 am]

BILLING CODE 7560-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of reducing discount rates. In the light of prevailing economic and financial circumstances, the action appears consistent with the objective of sustaining orderly growth within a framework of greater price stability.

The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The discount rate is the interest rate that is charged depository institutions when they borrow from their district Federal Reserve Banks.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: William W. Wiles Secretary of the Board (202/452-3257), or Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TTD) (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A to incorporate changes in discount rates on Reserve Bank extensions of credit. Further, under the authority of 5 U.S.C. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations require that these amendments be adopted immediately.

List of Subjects in 12 CFR Part 201

Banks, banking; Credit; Federal Reserve System.

For the reasons outlined above, the Board of Governors amends 12 CFR Part 201 as set forth below:

PART 201—[AMENDED]

1. The authority citation for 12 CFR Part 201 continues to read as follows:

Authority: Secs. 10(a), 10(b), 13, 13a, 14(d) and 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343 et seq., 347c, 348 et seq., 357, 374, 374a, and 461); and sec. 7(b) of the International Banking Act of 1978 (12 U.S.C. 347d).

2. Section 201.51 is revised to read as follows:

§ 201.51 Short-term adjustment credit for depository institutions.

The rates for short-term adjustment credit provided to depository institutions under §201.3(a) of Regulation A are:

Federal reserve bank	Rate	Effective
Boston	5.5	Aug. 21, 1986
New York	5.5	Aug. 21, 1986
Philadelphia	5.5	Aug. 22, 1986
Cleveland	5.5	Aug. 21, 1986
Richmond	5.5	Aug. 21, 1986
Atlanta	5.5	Aug. 21, 1986
Chicago	5.5	Aug. 21, 1986
St. Louis	5.5	Aug. 22, 1986
Minneapolis	5.5	Aug. 21, 1986
Kansas City	5.5	Aug. 21, 1986
Dallas	5.5	Aug. 21, 1986
San Francisco	5.5	Aug. 21, 1986

3. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit for depository institutions.

(a) *Seasonal credit.* The rates for regular seasonal credit extended to depository institutions under §201.3(b)(1) of Regulation A are:

Federal reserve bank	Rate	Effective
Boston	5.5	Aug. 21, 1986
New York	5.5	Aug. 21, 1986
Philadelphia	5.5	Aug. 22, 1986
Cleveland	5.5	Aug. 21, 1986
Richmond	5.5	Aug. 21, 1986
Atlanta	5.5	Aug. 21, 1986
Chicago	5.5	Aug. 21, 1986
St. Louis	5.5	Aug. 22, 1986
Minneapolis	5.5	Aug. 21, 1986
Kansas City	5.5	Aug. 21, 1986
Dallas	5.5	Aug. 21, 1986
San Francisco	5.5	Aug. 21, 1986

(b) *Temporary seasonal credit program.*

At the option of the borrower, interest on credit advanced under the temporary simplified seasonal credit program as revised on February 18, 1986, can be either at the basic discount rate (see §201.51) or at a rate that is one-half percentage point above the basic rate and that will remain fixed during the time the credit is outstanding. The fixed rate for new loans may be changed as the basic discount rate and extended credit rates are changed. In no case should such borrowing, including renewals, be outstanding beyond February 1987.

(c) *Other extended credit.* The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal reserve bank	Rate	Effective
Boston	5.5	Aug. 21, 1986
New York	5.5	Aug. 21, 1986
Philadelphia	5.5	Aug. 22, 1986
Cleveland	5.5	Aug. 21, 1986
Richmond	5.5	Aug. 21, 1986
Atlanta	5.5	Aug. 21, 1986
Chicago	5.5	Aug. 21, 1986
St. Louis	5.5	Aug. 22, 1986
Minneapolis	5.5	Aug. 21, 1986

Federal reserve bank	Rate	Effective
Kansas City	5.5	Aug. 21, 1986
Dallas	5.5	Aug. 21, 1986
San Francisco	5.5	Aug. 21, 1986

These rates apply for the first 60 days of borrowing. A one percentage point surcharge applies for borrowing during the next 90 days, and a two percentage point surcharge applies for borrowing thereafter. Where credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period and in relatively large amounts, the time period in which each rate under the structure is applied may be shortened, and the rate may be established on a more flexible basis, taking into account rates on market sources of funds.

By order of the Board of Governors of the Federal Reserve System, August 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-19414 Filed 8-28-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

Loan Recordkeeping Requirements

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is adopting final amendments expanding and clarifying its regulation concerning basic loan records that institutions chartered by the Board or the accounts of which are insured by the FSLIC ("insured institutions") and their service corporations (collectively "lenders") are required to maintain. The Board by separate action is withdrawing the portions of its proposed rule reinstituting requirements for nationwide lending and for the joint origination of, or purchase of interests in, participation loans.

EFFECTIVE DATE: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: John Downing, Attorney, Office of Enforcement, (202) 653-2804, or C. Dawn Causey, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-6472, Federal Home Loan Bank Board, 1700 G Street NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

A. Description of the Proposal and Summary of the Comments

On May 9, 1986, the Board proposed to reinstitute requirements for nationwide lending and loan participations and to expand existing loan recordkeeping requirements. Board Res. No. 86-471, previously adopted as Board Res. No. 86-429 on April 24, 1986, 51 FR 17634 (May 14, 1986). By separate action the Board is withdrawing the portions of the proposal dealing with nationwide lending and loan participations. The loan recordkeeping portion of the proposal would have expanded and clarified the Board's existing minimum recordkeeping requirements for loans, loan purchases and participations, and timeshare loans in accordance with the existing requirement that records be accurate and complete. The Board today is adopting the loan recordkeeping portion of the proposal with the modifications described below.

The Board received 104 comments regarding the proposed loan recordkeeping requirements. The majority (66) were submitted by insured institutions. Of the remaining comments, the Board received 13 comments from Members of Congress, 7 from trade associations representing insured institution members and timeshare resort developer members, 5 from law firms representing insured institution and borrower clients, 5 from mortgage banking firms, 5 from subsidiaries of insured institutions, and 1 each from the U.S. Department of Housing and Urban Development, the U.S. Department of Justice, Antitrust Division, and a savings and loan holding company.

Thirty-seven comments expressed support for the recordkeeping requirements. Thirty-eight comments supported the recordkeeping portion of the proposal with certain suggested modifications. Twenty-one comments opposed the recordkeeping proposal. Eight comments expressed neither support for nor opposition to the recordkeeping requirements but, rather, suggested modifications.

B. Discussion of the Comments

1. General Scope and Requirements

The main purpose of the proposal clarifying and expanding the existing recordkeeping provisions of § 563.17-1(c) was not to introduce a series of new underwriting concepts but, as many commenters recognized, to set forth in greater detail existing prudent lending requirements as required by the Board and the courts. The final rule is not intended to be an exhaustive listing of the necessary records for each and every loan transaction, but merely establishes minimum recordkeeping requirements. Lenders may need to obtain additional records, depending on all the circumstances of the transaction, in order to prudentiy underwrite the loan.

Several commenters requested that the Board issue general guidelines to the industry, rather than adopt an expanded rule, in order to provide lenders with greater flexibility. The Board believes that the recordkeeping amendments as hereby adopted do not unduly restrict lending activities. Many commenters observed that the requirements were the minimum necessary for prudent underwriting and are already in general use. By issuing these regulations the Board emphasizes the importance of the recordkeeping requirements, both for purposes of its examination and supervision of insured institutions and as an aid to proper underwriting. However, the Board, as discussed hereafter, has adopted the industry circular approach for the development of requirements for timeshare lending.

The proposed regulation, among other things required that the financial statements a lender must obtain be current and that the lender retain copies of the note given by the borrower or its agent or by any third party who purchases collateral from the borrower. Commenters objected to the requirement of "current" financial statements because it appeared to impose a continuing burden on lenders to update financial records. Commenters also objected that the requirement for a third party transferee of collateral to execute a note is unnecessary for proper underwriting if the original borrower remains liable on its note and is mischievous in that such a practice might in some jurisdictions extinguish the lender's prior lien against the original borrower.

The Board did not intend to impose a continuing requirement to maintain a current financial statement. However, at a minimum a borrower's financial statement must be current at the time the lender decides whether to make the loan. Therefore, the Board has modified the rule to provide that such statements must be current at the time of the loan application. Of course, if an existing borrower seeks to obtain a new loan or to refinance an existing loan, then the lender would be expected to obtain a new financial statement. Lenders should also be aware of the instruction contained in R Series Memorandum No. 63, issued by the Board's Office of Examinations and Supervision ("OES"), that an institution making commercial loans should obtain interim financial

statements from the borrower. In addition, the Board agrees that it may not always be necessary to obtain a note from a purchaser of collateral if the original borrower remains liable for the indebtedness the collateral secures. The provision is therefore modified to require retention of the purchaser's note if the lender releases the original borrower from the indebtedness.

2. Requirements with Respect to Loans Made on the Security of Real Estate

Several commenters expressed concern with the Board's proposal to explicity set forth its existing requirement that appraisals must be "prepared at the request of the lender and for its use." One commenter observed that the proposal would make appraisers subject to an increased risk of suit, while several others observed that under the proposed language wholesale mortgage brokers would be unable to continue their present practice of using retail lenders to obtain appraisals for them. A few commenters contend that the appraisal requirement should not apply to property improvement loans insured by the Federal Housing Administration ("FHA") for which that agency does not require an appraisal. Several commenters expressed concern that the proposed regulation does not incorporate the Board's view, stated in the preamble, that a loan may be approved prior to the receipt of an appraisal if the approval is conditioned on the receipt of a satisfactory appraisal before funds are disbursed.

The Board believes that the regulation only serves the beneficial purpose of clarifying what should be the existing relationship between appraisers and lenders, and should not lead to increased risk of suit against appraisers. The Board therefore has made no change with regard to this part of the regulations. With respect to the application of the regulation to wholesale mortage brokers, the Board is revising the regulation to allow a lender to request the appraisal through an agent. Moreover, because property improvement loans, as that term is used in 24 CFR 200.167, are based on the character of the borrower, the Board is revising its rule to except such loans from the appraisal requirement when the loans are insured by the FHA. Lastly, the Board is incorporating in the final regulation its previously expressed view that it is acceptable to grant a loan without a prior appraisal if the approval is conditioned upon receiving a satisfactory appraisal, which meets the standards of R Series Memorandum No. 41b issued by OES, before funds are disbursed.

Numerous commenters argued that the proposed requirement that lenders retain documentation of the "ultimate" recipient of each loan disbursement is vague and unworkable. Many questioned how the rule would apply to a draw on a construction loan that is taken by the borrower and immediately paid to a subcontractor, an entity of which the lender may have no direct knowledge. The Board believes clarification is in order. This provision is not designed to trace the flow of funds beyond the borrower or other persons who legitimately receive a portion of the loan proceeds, such as for services rendered or in satisfaction of a prior debt. Rather, it is intended to prevent evasion of laws and regulations such as the loans-to-one-borrower and conflict-of-interest regulations by concealment of the borrower's identity. To serve this purpose and to clarify its intent, the Board is amending the requirement to allow the records to indicate to the best of the lender's knowledge any actual recipient when the stated recipient of loan proceeds is acting as an agent or intermediary.

A substantial number of commenters opposed the proposed requirements that the lender certify (1) that the funds in the loan-in-process account are adequate to complete the real estate development or construction project for which the loan was obtained; (2) that each draw on a loan-in-process account is authorized; (3) that the project is proceeding according to a pre-approved timetable; and (4) that the funds disbursed have been used for the purpose requested. The objections include the argument that it is unreasonable to require the lender to certify that the use of funds is proper because often the lender must rely on the borrower for this information; that the required certifications will delay the making of loan disbursements to the competitive detriment of the lender because borrowers will seek lenders not subject to such requirements; that the certifications appear to create liability on the part of the lender if the facts certified turn out to be incorrect and loss results; and that creation of a pre-approved timetable for construction and loan disbursement is impractical because completion of construction projects depends on the vagaries of the construction process, including labor, weather, and the availability of materials.

The Board is persuaded that lenders not be required to certify facts of which they have no independent knowledge, and that the device of a pre-approved timetable is, though desirable, often not practical. However, as an alternative to the proposed certifications, the Board has revised its final rule to require that a lender funding a construction or development loan maintain a lender's inspection report or borrower's voucher demonstrating that the work for which disbursement of funds is sought has been completed. While the lender will be able to rely on the borrower or its own inspection, it will not be permitted to ignore the actual progress or lack thereof on the project.

Although the proposed certifications are withdrawn, the Board wishes to warn lenders that making disbursements when the funds remaining in the loan-in-process account are inadequate to complete construction or development of the project may amount to an unsafe or unsound practice and that any such disbursements will be examined closely.

One commenter pointed out that the proposed requirement that a copy of the deed of trust or mortgage instrument be retained is limited to real estate loans made for the purpose of acquiring the security property. That commenter argued that the requirement for obtaining a mortgage is vital to the underwriting of any loan secured by real estate, and suggested that the documentation requirement be expanded to apply to any such loan. The Board agrees and has revised the regulation accordingly.

3. Requirements with Respect to Loans Not Made on the Security of Real Estate

The Board proposed to require that when a loan not secured by real estate is made to a business entity, documentation demonstrating whether the obligor is able to generate sufficient cash flow to meet the scheduled interest and debt reduction payments be retained by the lender. The same requirement would apply to loan purchases or participations and to loans secured by timeshare accounts receivable. Several commenters asserted that such cash flow documentation should not be required because other collateral can, consistent with proper undewriting, support a loan even if the borrower's cash flow is inadequate.

The Board agrees with the observation that a loan may be properly underwritten even if cash flow is inadequate in some cases, such as when the loan collateral is sufficient to assure that the lender will not suffer a loss if payments on the loan cease. However, because the proposal does not prohibit making loans when cash flow is deemed

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VOL 51 ISS 168 AG 29 1986 UMI

inadequate, there is no conflict between the proposal and the commenters' position. Of course, when cash flow is inadequate, any prudent lender must carefully assess the risks involved in granting such a loan, and should have before it the best information available concerning the inadequacy and any additional collateral provided. For this reason the cash flow documentation requirement is modified to include documentation of the proposed source of the borrower's repayment if the lender does not deem flow adequate to meet scheduled payments.

4. Records with Respect to Loan Purchases and Participations

The Board proposed to require that a lender with respect to each loan that it purchases (in whole or in part) retain certain records relevant to whether the loan is a safe and sound investment, including the originator's written certification that the loan complies with all applicable state and federal laws and a copy of the originator's underwriting standards. Several comments urging modification or deletion of these provisions were received. A few commenters stated that it is impracticable to provide a set of records for each loan to each purchaser when numerous purchasers obtain a participation interest in hundreds or thousands of mortgages, such as in a mortgage-backed security offering. Many commenters contended that the proposed written certification is too broad and would be difficult or impossible to obtain. Several asserted that, because a loan purchaser must make its own underwriting decision, there is no need for it to obtain the originator's underwriting standards. Others argued that, because the purchaser may not be buying from the originator of the loan and may not have any contact with it, the regulation should be revised to provide that the loan purchaser may obtain needed documents from the loan seller even if it is not the originator.

The Board wishes to point out that the proposed recordkeeping regulation would not apply to participation interests in a mortgage pool. The board has a separate regulation in effect, 12 CFR 571.13, which provides that when an insured institution purchases an interest in a mortgage pool it need not comply with the documentation requirements of 12 CFR 563.17–1. This exception thus exempts institutions purchasing mortgage-backed securities from the requirements of the expanded recordkeeping regulation.

The Board acknowledges that the written certification of compliance with all federal and state laws may be overbroad and even difficult to obtain in some cases. The Board's primary interest in proposing the certification requirement was to allow the purchasing lender to determine whether the obligor is legally bound to repay the loan. The purpose may be accomplished through the other documents that the purchasing lender must obtain (particularly the obligor's note, the mortgage instrument or financing statement, and title documentation). Thus the Board has determined not to require the written certification at this time, but it would encourage lenders to try and obtain a compliance certification that meets such lenders' needs whenever possible.

The Board agrees that each purchaser or participant must make its own underwriting decision, but it continues to believe that reviewing a copy of the originator's underwriting standards should be a part of that decision. A lender may wish to consider carefully whether to purchase a loan made by a seller whose standards are substantially different from its own. There may be circumstances in which it is unnecessary for a purchaser to study the underwriting standards of a seller in depth each time it purchases a loan. For example, purchaser and seller may have a longstanding relationship and the purchaser is satisfied that the seller's underwriting standards are compatible.

The Board also recognizes the difficulty lenders purchasing loans or participation interests may have in obtaining documents, certifications, or agreements concerning a loan from an originator with which they have no direct dealings. The final rule has been revised to allow these documents to be obtained from the seller. Although the originator's underwriting standards must be obtained by the purchaser, the rule would allow the purchaser to obtain them either through the seller or directly from the originator. The rule also clarifies that copies of required documents satisfy the recordkeeping requirements for purchases or participations in most cases.

5. Records of Purchases and Loans Involving Timeshare Accounts Receivable

The Board proposed to apply the recordkeeping provisions to timeshare accounts receivable to the extent appropriate and to require such additional documents as are necessary to make the records accurate and complete as this requirement of 12 CFR 563.17–1(c) is interpreted by OES.

The Board expressly requested comments concerning the types of documentation which should be required for loans secured by timeshare accounts. Several commenters responded, favoring the development of specific timeshare recordkeeping requirements. One commenter questioned whether the issuance of interpretations by OES is in compliance with the requirements of the Administrative Procedure Act ("APA"), 5 U.S.C. 553, because the APA requires a notice and comment procedure for rulemaking. However, the APA does not require a notice and comment procedure for the adoption of interpretive rules. *Id.* Inasmuch as the Board is delegating to OES the authority to issue interpretations, and OES would be interpreting a requirement of a rule the Board administers (that records be accurate and complete), the notice and comment procedures would not be required.

In addition, the Board has made a technical revision to the regulation to reflect the organizational realignment by which a new Office of Regulatory Policy, Oversight, and Supervision ("ORPOS") has been formed, effective September 27, 1986, generally to succeed to the duties of OES.

6. Effective Date

The Board proposed to apply the amended recordkeeping provisions only to loans originated or purchased, to participation interests issued or purchased, and to such loans or interests for which legally binding commitments are entered into on or after the effective date, which was to have been no earlier than the date final amendments were published in the **Federal Register**. The Board specifically requested comment on what the effective date should be.

A few commenters requested that the effective date be postponed for two to six months after publication so they could incorporate the requirements new to their own recordkeeping systems. Many other commenters, however, observed that the standards proposed are what any prudent lender should be using, suggesting that revisions of most lenders' recordkeeping systems would not be substantial.[1] The Board has

[1] For loans secured by real estate the regulation specifically requires maintenance of a borrower's note (paragraph (c)(1)(ii) of § 563.17–1), a copy of a deed of trust or mortgage instrument ((c)(1)(iii)), an inspection report or voucher regarding the use of disbursements on construction or development loans ((c)(1)(viii)), and documentation of any loss incurred on the security property ((c)(1)(xi)). The recordkeeping requirements with respect to loans not secured by real estate ((c)(2)), loan purchases and participations ((c)(3)), and loans secured by timeshare accounts receivable ((c)(4)) are new provisions.

determined to allow some additional time to comply with the final rule by making the final recordkeeping requirements effective 60 days after their publication in the **Federal Register**.

This regulation will be applicable to all loans originated or purchased, to participation interests issued or purchased, or to such loans or interests for which legally binding written commitments to make or purchase loans are entered into after the effective date. All insured institutions are, of course, obligated to adhere to prudent underwriting standards for all assets and to maintain accurate and complete records. While not technically in effect for those transactions predating the effective date, this regulation will, to the extent that it merely codifies existing industry standards, provide a guide for determined what are minimum prudent underwriting standards and accurate and complete records.

c. Description of the Final Rule

As modified, the final rule expands the recordkeeping rule, consistently with the existing requirement that records must be accurate and complete, to expressly apply its minimum requirements to service corporations and to specifically require the lender to retain the borrower's note and a mortgage instrument for all such transactions. The rule also makes clear the Board's intention that appraisals are always to be performed at the lender's request, that financial statements must be current, at a minimum, at the time of the loan application, that a lender's records must show the actual recipient of all loan proceeds to the best of the lender's knowledge, that certain documents shall be retained if the borrower has been released from its indebtedness, and that for development or construction loans inspection reports or vouchers be obtained demonstrating that the work for which disbursement is sought has been completed.

The rule also provides basic documentation requirements for unsecured loans and loans secured by collateral other than real estate, including: retention of the borrower's loan application, note, and financial statement, an affirmation of the quality and validity of the lien, documentation of the release of any portion of any collateral or modification of any security interest, and, if the loan is made to a business entity, documentation of whether cash flow is sufficient to meet scheduled interest and debt reduction payments and, if not, the anticipated source of repayment. With respect to loan purchases or praticipation interests secured by real estate, the final rule requires that copies of the borrower's application, note, and financial statement, a mortgage instrument or similar document, and an appraisal of the security property be retained. Records of a purchase or participation interest not secured by real estate must also include copies of the borrower's loan application, note, and financial statement, any documents evidencing creation of a security interest, and, if made to a business entity, documentation of the borrower's cash flow or anticipated source of repayment. A loan purchaser or participant must retain documentation of the currency of the loan on the date of purchase, any agreement concerning participation or loan servicing, and a copy of the loan originator's underwriting standards. The Board is also requiring lenders making loans secured by timeshare accounts receivable to comply with the applicable provisions of the regulation, and to retain such other documents as are necessary to make their records accurate and complete as that requirement is interpreted by the Board's OES (and successor ORPOS).

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are discussed above in **SUPPLEMENTARY INFORMATION.**

2. *Issues raised by comments and agency assessment and response.* These elements are discussed above in **SUPPLEMENTARY INFORMATION.**

3. *Significant alternatives minimizing small-entity impact and agency response.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). Therefore, the small entities to which the final rule applies are the 1,742 insured institutions which had assets totaling $100 million or less as of December 31, 1985. No alternative consistent with the fundamental purposes of the rule would have minimized small-entity impact because recordkeeping and proper underwriting are necessary for all institutions, and the failure to perform these functions adequately may have a substantial negative effect on institutions of any size. The regulation is therefore applicable to all insured institutions, regardless of size, and their service corporations.

List of Subjects in 12 CFR Parts 545 and 563

Accounting, Bank deposit insurance, Consumer protection, Credit, Electronic funds transfer, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 545, Subchapter C, and Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 545—OPERATIONS

1. The authority citation for Part 545 is revised to read as follows:

Authority: Sec. 4, 60 Stat. 824, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 545.13 [Amended]

2. Section 545.13(a) is amended by removing the reference to "563.17–1(c)(5)" and inserting in lieu thereof "563.17–1(c)(8)".

3. Part 545 is amended by removing the authority citations from the ends of the applicable sections of the part.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

4. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 10, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 4, 60 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1489, as amended (12 U.S.C. 1729(f)); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

5. Section 563.17–1 is amended by revising paragraph (c) to read as follows:

§ 563.17–1 Examinations and audits; appraisals; establishment and maintenance of records.

* * * * *

(c) *Establishment and maintenance of records.* To enable the Corporation to examine insured institutions and affiliates and audit insured institutions,

affiliates, and service corporations pursuant to the provisions of paragraph (a) of this section, each insured institution, affiliate, or service corporation shall establish and maintain such accounting and other records as will provide an accurate and complete record of all business it transacts, and the documents, files, and other material or property comprising said records shall at all times be available for such examination and audit wherever any of said records, documents, files, material, or property may be. Without any limitation on the generality of the foregoing sentence, at a minimum insured institutions and service corporations ("lenders") shall establish and maintain the following records:

(1) *Records with respect to loans secured by real estate.* The records of a lender with respect to each loan that such lender makes on the security of real estate shall include:

(i) An application for the loan, signed by the borrower or its agent, in such form and containing such information as will disclose the purpose for which the loan is sought (for example, construction, purchase, refinancing) and the identity of any security property;

(ii) A note evidencing the borrower's obligation to repay the amount of the loan, executed by the borrower or its agent;

(iii) A copy of the deed of trust or mortgage instrument on said real estate or other document customarily used in the jurisdiction in which such real estate security is located evidencing the creation of a security interest in the real estate for the benefit of the lender, which deed of trust, mortgage instrument, or other document has been signed by the borrower or the borrower's agent; and if the loan is made for the purpose of financing the purchase of the real estate security for the loan, a signed statement by the borrower or its agent, as a part of or as an attachment to the application for the loan, disclosing the purchase price of such real estate security;

(iv) One or more written appraisal reports, prepared at the request of the lender or its agent and for the lender's use, and signed prior to the approval of such application, except in the case of an approval conditioned upon obtaining an appraisal that satisfies the requirements of this paragraph (c)(1)(iv) prior to any loan disbursement, by a person or persons duly appointed and qualified as appraisers by the board of directors of such lender, disclosing the market value of the security offered by the borrower and containing sufficient information and data concerning the appraised property to substantiate the market value of the security described in such reports; or, if such loan is an insured loan or a guaranteed loan, a certification of the valuation assigned to real estate security by the appraiser accepted by the insuring or guaranteeing agency and furnished to the lender by such agency: *Provided however,* That nothing in this paragraph (c)(1)(iv) shall apply to property improvement loans, as that term is used in 24 CFR 200.167, insured by the Federal Housing Administration for which that agency does not require an appraisal or certification of valuation;

(v) A financial statement, which is current at the time that the loan application is made, signed by the borrower disclosing its financial ability to repay the loan, or a written credit report prepared by the lender or by others at the special instance and request of such lender;

(vi) Documentation showing when and by whom such loan was approved and any terms and conditions of such approval;

(vii) Documentation showing the date, amount, purpose, the recipient of every disbursement of the proceeds of such loan, and to the best of the lender's knowledge, any actual recipient of any proceeds when the stated recipient is acting as an agent or intermediary for another;

(viii) For each loan made for the purpose or developing or constructing improvements on real estate, inspection reports prepared by or for the lender or vouchers signed by the borrower or its agent demonstrating that the work for which each disbursement is sought has been completed;

(ix) An opinion signed by the lender's attorney, a title insurance policy, or other documentary evidence customarily used in the jurisdiction in which the real estate security is located, affirming the quality and validity of the lender's lien on the real estate security for the loan: *Provided, however,* That such documentary evidence shall not be required with respect to any loan having Federal Housing Administration mortgage insurance as to which 24 CFR 203.390 and 203.402 are applicable, and any such loan may be considered to be secured by a first lien without new title evidence;

(x) Documentation showing that the lender, upon the closing of the loan, furnished to the borrower a loan settlement statement setting forth in detail the charges or fees such borrower has paid or is obligated to pay to such lender or to any other concern or person in connection with such loan, which documentation shall include a copy of such loan settlement statement;

(xi) A record showing the status and current payment of taxes, assessments, insurance premiums, other charges on the security for the loan, and documenting any loss incurred on the loan security, as well as any amounts recovered pursuant to an insurance settlement of such loss;

(xii) Documentation evidencing any modifications of the original documents by which a security interest for the benefit of the lender was created, showing appropriate approval of each party to such modification; and

(xiii) Documentation evidencing any release of any portion of the collateral pledged to secure the loan, showing the portion of the collateral released, the consideration, if any, paid to effect such release, and a record of the appropriate approval of each such release.

(2) *Records with respect to loans not secured by real estate.* The records of a lender with respect to each unsecured loan or loan not secured by real estate that such lender makes shall include the documents referred to in paragraphs (c)(1) (i), (ii), (v), (vi), and (vii) of this section. If the loan is secured by collateral other than real estate, the lender's records also shall include documents evidencing the creation and perfection of a security interest in the collateral, including any financing statement, as well as the documents referred to in paragraphs (c)(1) (xii) and (xiii). In addition, if the loan is made to a business entity, the lender's records shall include documentation showing whether the obligor on the loan is able to generate sufficient cash flow to meet scheduled interest and debt reduction payments and, if not sufficient, the lender's records shall include documentation demonstrating the anticipated source of the borrower's payments.

(3) *Records with respect to loan purchases or participations.* (i) The records of a lender with respect to each loan that it purchases, in whole or in part, that is secured by real estate shall include copies of the documents referred to in paragraphs (c)(1) (i) through (v), (ix), and (xiii). A single lender purchasing a whole loan secured by real estate must retain documents evidencing the assignment to it of the mortgage or deed of trust.

(ii) The records of the lender with respect to loans it has purchased, in whole or in part, that are unsecured by collateral other than real estate shall include copies of the documents referred to in paragraphs (c)(1) (i), (ii), and (v). If the loan is made to a business entity and is unsecured or secured by collateral other than real estate, copies of documentation of the obligor's cash flow or other anticipated source of the borrower's payments, as described in paragraph (c)(2), must be included. If the loan is secured by collateral other than real estate, the purchasing lender must retain copies of documents required by paragraph (c)(1)(xiii) and those evidencing creation and perfection of a security interest for its benefit in the collateral, including any financing statement, signed by the borrower or its agent.

(iii) In addition to the requirements of paragraphs (c)(3) (i) and (ii) of this section a lender purchasing all or any part of any loan must retain the originator's or the selling lender's statement concerning whether, on the date the loan is purchased, the payments are current and, if not current, the period for which the loan is delinquent; any agreement concerning participation in or servicing of the loan; and a copy of the underwriting standards of the originator. In addition, a purchaser must retain the written agreement of the seller of the loan to provide access, upon request, to all loan documentation in its possession or control to the purchasing lender, the Board, the Corporation, its Principal Supervisory Agent, or the examinations and supervision staff at the Federal Home Loan Banks, as well as the seller's written certification that copies of any documents concerning the loan provided to the loan purchaser are accurate and complete to the best of the seller's knowledge.

(4) *Records with respect to loans secured by timeshare accounts receivable.* In addition to the records required by the applicable provisions of paragraphs (c) (1), (2), and (3) of this section, the records of a lender concerning loan purchases, participations, or originations of loans secured by timeshare accounts receivable, including fee, right-to-use, or membership interests, shall include any additional documents necessary to make those records accurate and complete, as this requirement is interpreted by the Board's Office of Examinations and Supervision of Office of Regulatory Policy, Oversight, and Supervision.

(5) *Records with respect to property purchased subject to a lender's lien or a secured loan assumed by a third party.* When a property on which the lender has a line securing an unpaid loan is sold to a third party and the lender releases the original borrower from such indebtedness, the records of the lender shall contain such documentation and records with respect to such third party and such transaction as are required by paragraphs (c)(1) (ii), (iii), (v), (vi), (xii), and (xiii) of this section.

(6) *Records with respect to loans sold.* The records of a lender with respect to each loan it sells, whether in whole or in part, shall include a signed opinion by such lender's attorney stating whether the terms of the sales agreement governing such sale provide for a sale without recourse.

(7) *Records with respect to the acquisition of mortgaged security.* A lender shall maintain a record which discloses every instance that it commences action to acquire the real estate security for a loan, by foreclosure or otherwise, and the ultimate disposition of such action. Such record shall include identification of the real estate security and loan, shall itemize all fees and charges incurred in such action, shall name the recipient or recipients to whom any such fees and charges were paid, and shall identify the holder of title to such real estate as a result of such action.

(8) *Records with respect to insured accounts.* The records of an insured institution with respect to each withdrawable or repurchasable share, investment certificate, deposit, or savings account it issues shall include the signature of the owner of such account or the duly authorized representative of such owner, together with a record reflecting the balance in such account. Notwithstanding the preceding requirement, no account signature card for a trust executed by its trustee(s) of information disclosing the names of the settlor or trustee(s) of the trust need be maintained in the records of an insured institution.

(9) *Other records.* A lender shall establish and maintain such other records as are required by statute or by any other regulation to which the lender is subject.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-19594 Filed 8-28-86; 8:45 am]

BILLING CODE 6725-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-01-AD; Amdt. 39-5407]

Airworthiness Directives; Cessna R172, FR172, 177, 177RG, F177RG, 185, 188, 205, 206, P206, U206, 207, 210 and P210 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna R172, FR172, 177, 177RG, F177RG, 185, 188, 205, 206, P206, U206, 207, 210 and P210 Series Airplanes, which provides special fuel system preflight check instructions and requires the modification of the airplane fuel system on some airplanes. Loss of engine power has resulted from failure to adequately drain fuel contamination from the fuel reservoirs and wing tanks. This action is designed to preclude engine power loss caused by undrained fuel contamination.

EFFECTIVE DATE: October 4, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information Letters, SE79-45 dated September 10, 1979, and SE84-8 dated March 16, 1984, applicable to this AD, may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, Post Office Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-01-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, Aircraft Certification Office, ACE-140W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD applicable to Cessna single-engine model airplanes that have fuel reservoirs and integral fuel tanks requiring initial inspection and modification of the airplane fuel system was published in the **Federal Register** on February 6, 1986 (51 FR 4607).

The proposal resulted from reports received on engine power losses resulting from fuel contamination on

VOL 51 ISS 168 AG 29 1986 UMI

Cessna 100 and 200 Series airplanes equipped with separate fuel reservoirs. These incidents and other service reports indicate that fuel contamination is not being detected by the pilot during normal inspection and/or maintenance of the airplane fuel system installation. Lack of fuel reservoir quick drains and existing fuel system preflight instructions concerning proper draining of fuel reservoirs have contributed to the reported engine power losses.

Cessna has issued Single Engine Customer Care Service Information Letters SE79–45 and SE84–8, making available for in-service airplanes the fuel reservoir and wing tank quick drain provisions that have been installed on production airplanes since 1975. In addition, AD 84–10–01 required fuel reservior and wing tank quick drains, plus installation of a placard on some Cessna airplanes equippped with bladder wing fuel tanks. The placard required by AD 84–10–01 has been determined to overly burdensome in eliminating fuel contamination on those airplanes affected by this AD. Therefore, the FAA proposed to (1) require fuel reservoir and wing tank quick drains be installed on all affected airplanes, and (2) require a checklist in the form of pilot operating procedures on all those airplanes equipped with fuel reservoirs. Since the condition described herein is likely to exist or develop on other airplanes of the same type design, the AD requires visual inspection of the fuel reservoirs and wing tanks on certain Cessna FR172, R172, 177, 177RG, F177RG and 210 Series airplanes for the quick drain fitting and installation of the quick drains on airplanes not presently so equipped as well as require installation of the pilot operating procedures on certain Cessna FR172, R172, 177, F177RG, 185, 188, 205, 206, P206, U206, 207, 210 and P210 Series airplanes.

Interested persons, including registered owners/operators of some 20,000 affected airplanes, were afforded an opportunity to comment on the proposed AD. 48 comments were received, of which 2 were in favor of adopting the amendment as proposed, 12 were opposed, 34 were in favor of adopting the amendment in part, 2 offered neutral comments, and 1 comment proposed complete redesign of the fuel system. The above statistics are general; whereas, the proposed AD has 2 requirements. These are installation of fuel reservoir quick drains and fuel system preflight instructions in the form of a placard. Not all commentors commented on all portions of the proposed AD. The following is a breakdown of comments based on each requirement. Thirty four comments were for installation of fuel reservoir quick drains; whereas, 8 were opposed. Two comments were in favor of the placards; whereas, 40 were opposed. In addition, 15 commentors felt that structural damage to the empennage might occur on some airplanes during performance of the proposed preflight procedures identified on the placard. Twelve commentors believed that the pilot alone could not perform the proposed preflight procedures. Twelve commentors were opposed to including the integral fuel tank equipped airplanes on an AD they believed should apply only to fuel bladder equipped airplanes. Twelve commentors were in favor of adding any necessary fuel system preflight procedures to a Cessna publication in the form of a mandatory checklist. Three commentors suggested compliance be required by the next 100 hour or annual inspection. One commentor that had previously had an accident related to fuel contamination and the National Transportation Safety Board were the only responses in favor of the preflight procedures identified in the form of the proposed placard. Four commentors were in favor of adding the current fuel caps in place of the prior production flush fuel caps.

The proposal to require installation of fuel reservoir and wing tank quick drains was found acceptable by 71 percent of the commentors. Therefore, the FAA adopts this item as proposed.

The proposal to require the installation of an instrument mounted preflight placard was opposed by 83 percent of the commentors. The FAA recognizes the merits of the commentors objections. Therefore, a less burdensome fuel system preflight will be used in the form of a checklist as preferred by 27 percent of the commentors.

25 percent of the commentors were opposed to adding what they perceived as an AD applicable to fuel bladder equipped airplanes to those equipped with integral fuel tanks. The FAA does not agree as the intent of the proposed AD is aimed primarily at airplanes equipped with fuel reservoirs. Cessna manufactures single engine airplanes equipped with fuel reservoirs that have fuel bladders or integral fuel tanks. This AD is intended to provide operating instructions for those airplanes equipped with fuel reservoirs on those fuel bladder equipped airplanes affected by AD 84–10–01 as well as integral tank equipped airplanes that were not included on AD 84–10–01. Therefore, the airplanes to be affected by the AD remains as proposed.

Six percent of the commentors (three) preferred to have the inspection and/or modifications completed at the 100 hour inspection or annual inspection as applicable to lessen the cost associated with AD compliance. The FAA position is that most of the airplanes affected by the AD will accumulate 50 to 100 hours a year; therefore, the FAA concurs that the most practical time limitation is the 100 hour or annual inspection limit originally proposed. The AD is, therefore, adopted with the originally proposed 100 hour compliance time limitation or the annual inspection whichever occurs first.

Two percent of the commentors (one) were in favor of requiring Cessna to redesign the fuel system on integral tank equipped airplanes if these airplanes could be proven to have a fuel contamination problem. The FAA recognizes that the installation of the fuel reservoir(s) and fuel tank quick drains will help maintain continued airworthiness when adequate preflight procedures are followed.

Eight percent of the commentors proposed the current production fuel caps used on light and high performance single engine Cessna airplanes be required. The FAA recognizes the merits of the current umbrella style fuel caps compared to the prior production plastic flush fuel caps. However, the FAA position is that the flush fuel caps can be properly manintained, and it is not necessary to require a change in the fuel caps installed on most of the airplanes affected by the AD.

Accordingly, the proposal is adopted with the changes noted.

There are approximately 20,000 airplanes affected by the AD at an initial inspection cost of $15 per airplane. Eventually 4,000 airplanes are expected to be modified by the installation of fuel tank and reservoir quick drains, at an approximate cost of $200 per airplane. The initial inspection, quick drain and preflight instruction is considered to constitute unscheduled expense for the airplanes affected by the AD. The remaining airplanes have been manufactured with fuel reservoir and wing tank quick drains by Cessna prior to delivery or were equipped when they complied with AD 84–10–01. Accordingly, the estimated total cost to the private sector for compliance with the AD is $1,100,000. This cost of compliance with the AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that: (1) This action is not a major rule under the provisions of Executive Order 12291, (2)

is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air Transportation, Aviation safety, Aircraft, Safety.

The Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Regulations amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation of Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Cessna: Applies to Models R172 thru R172K, FR172E thru FR172K, 177 thru 177B and 177RG, F177RG, 185 thru 185E, A185E, A185F, A188, A188A, A188B, T188C, 205 and 205A, 206, U206, U206A thru U206G, TU206A thru TU206G, P206, P206A thru P206E, TP206A thru TP206E, 207 and 207A, T207 and T207A, 210R thru 210R, T210F thru T210R, P210N and P210R (all Serial Numbers (S/N)) airplanes equipped with fuel reservoir(s) certified in any category.

Compliance: Within 100 hours time-in-service or at the next annual inspection, whichever comes first after the effective date of this AD, unless already accomplished.

To eliminate the possibility of engine power reduction due to contaminated fuel, accomplish the following:

(a) On Cessna Models R172, R172E thru R172H, (S/Ns R1720001 thru R1720825) FR172E thru FR172J (S/Ns FR17200001 thru FR17200530) 177 thru 177A (S/Ns 17700001 thru 17702123) Model 177RG (S/Ns 177RG0001 thru 177RG0592) F177RG (S/Ns F177RG0001 thru F177RG0122) 210G and T210G thru 210L and T210L (S/Ns 21056019 thru 21060536 and T210-0163 thru T21060154) airplanes, install quick drains in the fuel reservoirs and wing fuel tanks if not presently equipped in accordance with Cessna Single Engine Customer Care Service Information Letters SE79-45 dated September 10, 1979, and SE84-8 dated March 16, 1984, or using equivalent aircraft standard hardware.

(b) On all Cessna Models R172, R172E, R172F, R172G, R172H, R172J, R172K, (S/Ns R172-0001 thru R172-0409 and R1720410 and on) FR172E, FR172F, FR172G, FR172H, FR172J, FR172K (S/Ns FR17200001 thru FR17200875) 177, 177A, 177B (S/Ns 17700001 and on), 177RG (S/Ns 177RG0001 and on) F177RG (S/Ns F177RG0001 thru F177RG0177) 185, 185A, 185B, 185C, 185D, 185E, A185E, A185F (S/Ns 632, 185-0001 thru 185-1599, 18501600 and on) A188 (S/Ns 053, 188-0001 thru 188-0572) A188A (S/Ns 18800573 thru 18800832) A188B (S/Ns 678T, 18800833 and on) T188C(S/Ns T18803307T, T18803308T, T18803325T and on) 205, 205A, (S/Ns 205-0001 and on) 206, U206, U206A, U206B, U206C, U206D, U206E, U206F, U206G, TU206A, TU206B, TU206C, TU206D, TU206E, TU206F, TU206G (S/Ns 206-0001 thru 206-0275, U206-0276 and on) P206, P206A, P206B, P206C, P206D, P206E, TP206A, TP206B, TP206C, TP206D, TP206E, (S/Ns P206-0001 thru P20600847) 207, 207A, T207, T207A (S/Ns 20700001 and on) 210B, 210C, 210D, 210E, 210F, 210G, 210H, 210J, 210K, 210L, 210M, 210N, 210R, T210F, T210G, T210H, T210J, T210K, T210L, T210M, T210N, T210R (S/Ns 21057041 and on) P210N and P210R (S/Ns P21000001 and on) airplanes, attach the information that is included in the appendix to this AD (entitled PILOT OPERATING PROCEDURES—PREFLIGHT FUEL SYSTEM CHECK) to the airplane documents.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Cessna Aircraft Company, Piston Aircraft Marketing Division, Post Office Box 1521, Wichita, Kansas, 67201; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 20, 1986.

Edwin S. Harris,

Director, Central Region.

Appendix

Pilot Operating Procedures—Preflight Fuel System Check

Fuel sampling: Fuel strainer, wing tank and reservoir quick drains.

1. Place a suitable container under the fuel strainer drain outlet prior to operating the strainer drain control for at least 4 seconds. Check strainer drain closed.

2. Inspect the fluid drained from the fuel strainer and each wing tank quick drain for evidence of fuel contamination in the form of water, rust, sludge, ice or any other substance not compatible with fuel. Also check for proper fuel grade before the first flight of each day and after each refueling. If any contamination is detected, comply with 4 below.

3. Repeat Steps 1 and 2 on each wing tank quick drain.

4. If the airplane has been exposed to rain, sleet or snow, or if the wing fuel tanks or fuel strainer drains produce water, the fuel reservoir(s) must be checked for the presence of water by operating the fuel reservoir quick drains. The airplane fuel system must be purged to the extent necessary to insure that there is no water, ice or other fuel contamination.

Note 1: The fuel reservoir(s) are located under the fuselage between the firewall and forward door post on all airplane models. Consult the Pilots Operating Handbook or Owners Manual in order to determine if one or two reservoir(s) are installed.

Note 2: A check for the presence of water using the fuel reservoir quick drains prior to the first flight of each day is considered good operating practice.

[FR Doc. 86-19055 Filed 8-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 86-AWA-13]

Establishment of Jet Route J-212-AZ

Correction

In FR Doc. 86-18041 appearing on page 28809 in the issue of Tuesday, August 12, 1986, make the following correction in the second column under "History" in the seventh line: "(ASD 85-SWA-48)" should read "(ASD 85-AWA-48)".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM86-6-000]

Construction Work in Progress; Anticompetitive Implications, Interim Rule and Request for Comment; Extension of Time To File Supplemental Reply Comments

August 25, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim Rule and Request for Comment; extension of time to file supplemental comments in response to the U.S. Department of Justice's reply comments.

SUMMARY: On February 27, 1986, the Commission issued an interim rule

involving construction work in progress and anticompetitive implications (51 FR 7774, March 6, 1986). The period for filing supplemental reply comments in response to the U.S. Department of Justice's reply comments filed July 7, 1986, is being extended at the request of North Carolina Electric Membership Corporation, Northeast Texas Electric Cooperative, Inc., and Sam Rayburn G&T, Inc.

DATE: Supplemental reply comments shall be filed on or before September 8, 1986.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

Construction Work in Progress; Anticompetitive Implications

[Docket No. RM86–6–000]

Notice of Extension of Time

August 25, 1986.

On July 22, 1986, North Carolina Electric Membership Corporation, Northeast Texas Electric Cooperative, Inc., and Sam Rayburn G&T, Inc. (G&T Systems) filed a joint motion to strike reply comments of the United States Department of Justice (DOJ) or alternatively, for leave to file supplemental reply comments, in the above-docketed proceeding. In its motion, G&T Systems states that because it is G&T Systems' view that the DOJ's reply comments filed July 7, 1986, in this docket, address issues which are not in the form of a response to initial comments filed in this proceeding and because these reply comments appear to constitute a first statement by the DOJ in this matter, interested parties should be provided additional time to file supplemental reply comments in this docket. On July 31, 1986, the DOJ filed an answer stating it does not object to G&T Systems' motion to file supplemental reply comments.

Upon consideration, notice is hereby given that an extension of time for all interested parties to file supplemental reply comments in response to the DOJ's reply comments only, is granted to and including September 8, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19554 Filed 8–28–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 629

Job Training Partnership Act; Technical Amendment to "Reports Required" Provisions

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is publishing a final technical amendment to the "Reports Required" section of the Job Training Partnership Act regulations. The purpose is to conform the regulations to new reporting requirements which provide for the submission of reports semiannually.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, U.S. Department of Labor, Room 6402, 601 D Street, NW., Washington, DC 20213. Telephone (202) 376–6093.

SUPPLEMENTARY INFORMATION: The Labor Department is publishing a final rule on the reporting requirements for JTPA programs.

This technical amendment amends the regulations at 20 CFR 629.36 to authorize the new reporting requirements which include the semiannual submission of reports. See 51 FR 16910 (May 7, 1986). The new requirements to place Title II–A and Title III Statewide enrollment and expenditure data on a semiannual reporting basis are based on the Department's concern that many of the budget pressures now faced were not anticipated when the annual submission was authorized starting with Program Year (PY) 1984. The data available from an annual report are too out-of-date to respond to Congressional inquiries during the budget process and to provide a sound basis for the Department's budget recommendations. Semiannual reporting and the addition of the proposed expenditure detail will also give the Department information on what has been found to be widely differing expenditure rates of programs under the Act.

Background

Proposed rulemaking governing the JTPA reporting requirements for Job Training Partnership Act (JTPA) programs was published in the **Federal Register** on February 7, 1986 (51 FR 4762) for the purpose of amending the "Reports Required" section of the JTPA regulations. The February proposal provided that comments on the proposal would be received until March 10, 1986.

Discussion of Public Comments

The Department received two separate written comments. Following is a summary of the comments received and the Department's response. Neither commentor favored semiannual reporting.

One suggested quarterly reporting.

The Department has had previous experience with quarterly reporting. We have determined that the frequency of reporting should be at intervals which would provide the most accurate and realistic data. Quarterly reporting did not provide a realistic means for determining the status of projects.

The other commentor stated that the reporting requirements should not be increased over those already in place. The Department's past experience indicates that data collected from reports provided on an annual basis is usually too out-of-date to be useful.

For the above reasons, the Department has determined that it is better to adopt the proposed rule to change the reporting requirements to semiannual as the final rule. The change, would provide sufficient time for the submission of reports; thus the reporting burden would be lessened and not increased.

Regulatory Impact

This final rule is a technical amendment conforming to changes in JTPA reporting requirements. As such, it does not have the financial or other impact to make it a major rule, and therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR, 1981 Comp., p. 127.

At the time the proposed rule was published, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b) that the final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. The reports under the rule are to be made by States, which are not small entities as defined under the Regulatory Flexibility Act.

Paperwork Reduction Act

Information collection requirements contained in this amendment to the regulation at 20 CFR 629.36 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub.

L. 96–511) and have been assigned OMB control number 1205–0200.

Catalog of Federal Domestic Assistance Number: This program is listed in the *Catalog of Federal Domestic Assistance* at: No. 17.250, "Job Training Partnership Act (JTPA)".

List of Subjects In 20 CFR Part 629

Grant programs, Labor, Manpower training programs.

Final Rule

Accordingly, Part 629 of Chapter V of Title 20, Code of Federal Regulations, is amended as follows:

PART 629—[AMENDED]

1. The authority citation for Part 629 continues to read as follows:

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

2. Section 629.36 is revised to read as follows:

§ 629.36 Reports required.

The Governor shall report to the Secretary pursuant to instructions issued by the Secretary. Reports shall be required by the Secretary no more frequently than semiannually. Reports shall be submitted to the Secretary within 45 calendar days after the end of the report period. (Sec. 165(a)(2)).

(Approved by the Office of Management and Budget under OMB control number 1205–0200)

Signed at Washington, DC this 20th day of August, 1986.

Roger D. Semerad,

Assistant Secretary for Employment and Training.

[FR Doc. 86–19649 Filed 8–28–86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20, 25, and 602

[T.D. 8095]

Estate and Gift Taxes; Qualified Disclaimers of Property

Correction

In FR Doc. 86–17606, beginning on page 28365 in the issue of Thursday, August 7, 1986, make the following correction: On page 28378, in the first column, in amendatory instruction 12 ("Par. 12"), the following authority citation should have appeared after colon:

Authority: 26 U.S.C. 7805.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6725]

Suspension of Community Eligibility; for Flood Insurance; Massachusetts et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, SW., Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fourth column, as of that date, flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the tables. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards

required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorg. Plan No. 3 of 1978, EO 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Region I				
Massachusetts:				
Orleans, city of, Barnstable County	250010C	Dec. 4, 1973, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 31, 1974, Mar. 4, 1971, Oct. 1, 1983 and Sept. 4, 1986.	Sept. 4, 1986.
Salisbury, town of, Essex County	250103C	Nov. 17, 1972, Emerg.; May 2, 1977, Reg.; Sept. 4, 1986, Susp.	Sept. 13, 1974, May. 2, 1977, June 24, 1977, and Sept. 4, 1986.	Do.
Manchester, town of, Essex County	250066B	Jan. 15, 1974, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Apr. 5, 1974, Oct. 29, 1976, and Sept. 4, 1986	Do.
Vermont: Stockbridge, town of, Windsor County	500155B	July 8, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Nov. 1, 1974, Aug. 23, 1977, and Sept. 4, 1986	Do.
Region II				
New York:				
Somers, town of, Westchester County	361242B	Feb. 17, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Dec. 20, 1974, June 4, 1976, and Sept. 4, 1986.	Do.
Southeast, town of, Putnam County	361041A	Aug. 12, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Oct. 1, 1974, Sept. 4, 1986	Do.
Horseheads, town of Chemung County	360153B	June 20, 1973, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Oct. 18, 1974, Jan. 16, 1976 and Sept. 4, 1986	Do.
Kent, town of, Putnam County	360671B	Mar. 21, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Apr. 12, 1974, May 14, 1976 and Sept. 4, 1986	Do.
Wallkill, town of, Orange County	360634B	Mar. 28, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 31, 1974, July 30, 1976 and Sept. 4, 1986	Do.
Concord, town of, Erie County	360235C	July 1, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Aug. 2, 1976, Aug. 27, 1976, Feb. 27, 1984 and Sept. 4, 1986.	Do.
Horseheads, village of, Chemung County	360154B	May 7, 1973, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Nov. 23, 1973, May 21, 1976 and Sept. 4, 1986	Do.
Region III				
Delaware: New Castle county, Unincorporated Areas.	1050058	June 6, 1970, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Dec. 7, 1971, July 1, 1974, Dec. 26, 1975 and Sept. 4, 1986.	Do.
West Virginia:				
Philippi, city of, Barbour County	540004	June 26, 1974, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Feb. 1, 1974, Apr. 2, 1976 and Sept. 4, 1986	Do.
Parkersburg, city of, Wood County	5402148	July 1, 1974, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	June 14, 1974, Sept. 19, 1975 and Sept. 4, 1986	Do.
Buckhannon, city of, Upshur County	5401998	July 8, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	June 28, 1974, Oct. 17, 1975 and Sept. 4, 1986	Do.
Cameron, city of, Marshall County	540267	Mar. 31, 1982, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Sept. 4, 1986	Sept. 4, 1987.
Region V				
Ohio: Lockland, city of, Hamilton County	3902238	Sept. 8, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Feb. 15, 1979, Jan. 13, 1978, and Sept. 4, 1986	Sept. 4, 1986.
Wisconsin:				
Downing, village of, Dunn County	550121B	Apr. 8, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Apr. 3, 1981 and Sept. 4, 1986	Do.
Glenwood City, city of, St. Croix County	550361A	July 1, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 14, 1976 and Sept. 4, 1986	Do.
Region X				
Oregon: Salem, city of, Marion and Polk Counties	410167D	Dec. 3, 1971, Emerg.; June 15, 1979, Reg.; Sept. 4, 1986, Susp.	Aug. 9, 1974, July 2, 1976, June 15, 1979, July 5, 1984 and Sept. 4, 1986.	Do.
Region I—Minimal Conversion				
Vermont: Goshen, town of, Addison County	500004C	July 16, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 20, 1977, Nov. 28, 1980 and Sept. 1, 1986	Sept. 1, 1986
Region III				
Pennsylvania:				
Bloomfield, township of, Crawford County	421563B	July 7, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 31, 1975, May 28, 1976 and Sept. 1, 1986	Do.
Brighton, township of, Beaver County	422309A	Apr. 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 3, 1975 and Sept. 1, 1986	Do.
Chippewa, township of, Beaver County	422311A	Feb. 18, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 27, 1974 and Sept. 1, 1986	Do.
Columbia, township of, Bradford County	421056B,	Aug. 20,1975 Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Aug. 2, 1974, May 7, 1976 and Sept. 1, 1986	Do.
Connoquenessing, township of, Butler County	421418A	Apr. 7, 1975 Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 15, 1974 and Sept. 1, 1986	Do.
Crawford, township of, Clinton County	421535B	Mar. 17, 1977, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 20, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Darlington, township of, Beaver County	422312A	Mar. 11, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 13, 1974 and Sept. 1, 1986	Do.
Delano, township of, Schuylkill County	422001A	Apr. 30, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Feb. 7, 1975 and Sept. 1, 1986	Do.
East Brunswick, township of, Schuylkill County.	422002B	Apr. 9, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 24, 1975, June 27, 1980 and Sept. 1, 1986	Do.
East Union, township of, Schuylkill County	422004A	Apr. 21, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 15, 1974 and Sept. 1, 1986	Do.
Eldred, township of, Schuylkill County	422005A	Aug. 5, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 22, 1974 and Sept. 1, 1986	Do.
Forest Hills, borough of, Allegheny County	420035B	Oct. 16, 1973, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 10, 1974, Sept. 10, 1976 and Sept. 1, 1986	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Foster, township of, Schuylkill County	422006A	Apr. 21, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan 31, 1975 and Sept. 1, 1986	Do.
Frailey, township of, Schuylkill County	422007A	Dec. 3, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 8, 1974 and Sept. 1, 1986	Do.
Green, township of, Clinton County	421538B	Oct 14, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 15, 1974, Feb. 15, 1980 and Sept. 1, 1986	Do.
Harford, township of, Susquehanna County	422081A	Nov. 2, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 20, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Hegins, township of, Schuylkill County	422008A	July 15, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 3, 1975 and Sept. 1, 1986	Do.
Kline, township of, Schuylkill County	422010A	Dec. 26, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 8, 1974 and Sept. 1, 1986	Do.
Logan ton, borough of, Clinton County	421533B	Sept. 8, 1982 Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 8, 1974 and Sept. 1, 1986	Do.
Marion Center, borough of, Indiana County	420503	Sept. 29, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Aug. 30, 1974, Nov. 14, 1975 and Sept. 1, 1986	Do.
Metal, township of, Franklin County	421653B	Jan. 16, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 24, 1975, May 30, 1980 and Sept. 1, 1986	Do.
Mount Carbon, borough of, Schuylkill County	421995B	Aug. 26, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 3, 1976 and Sept. 1, 1986	Do.
New Albany, borough of, Bradford County	420172A	Aug. 14, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 8, 1974 and Sept. 1, 1986	Do.
Peters, township of, Franklin County	421654B	Aug. 14, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 13, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Porter, township of, Schuylkill County	422016A	Aug. 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 15, 1975 and Sept. 1, 1986	Do.
Richmond, township of, Crawford County	421569B	May 23, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Oct. 25, 1974, Aug. 6, 1976 and Sept. 1, 1986	Do.
Rome, township of, Bradford County	422039B	Jan. 6, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Oct. 29, 1976 and Sept. 1, 1986	Do.
Sewickley Hills, borough of, Allegheny County	420072B	Dec. 10, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 26, 1976 and Sept. 1, 1986	Do.
Silver Lake, township of, Susquehanna County.	422091A	Mar. 18, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 10, 1975 and Sept. 1, 1986	Do.
South Beaver, township of, Beaver County	422329A	Dec. 11, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 10, 1975 and Sept. 1, 1986	Do.
Spring, township of, Crawford County	421570B	Mar. 1, 1977, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, July 9, 1976 and Sept. 1, 1986	Do.
Todd, township of, Fulton County	421665B	Dec. 11, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 17, 1975, Aug. 15, 1980 and Sept. 1, 1986	Do.
Tower City, borough of, Schuylkill County	420780B	Apr. 29, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Mar. 12, 1974, Apr. 30, 1976 and Sept. 1, 1986	Do.
Union, township of, Schuylkill County	422024A	July 24, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 8, 1974 and Sept. 1, 1986	Do.
Warren, township of, Bradford County	421606B	Mar. 1, 1977, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 31, 1975, Jan. 16, 1980 and Sept. 1, 1986	Do.
Warren, township of, Franklin County	422427B	Feb. 17, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 24, 1975, Dec. 19, 1980 and Sept. 1, 1986	Do.
West Pike Run, township of, Washington County.	422157A	Oct. 25, 1974, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 6, 1974 and Sept. 1, 1986	Do.
Region IV				
Alabama: Blue Springs, town of, Barbor County	010224A	Nov. 3, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 10, 1975 and Sept. 1, 1986	Do.
Georgia:				
Cairo, city of, Grady County	130097B	May 30, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 20, 1974, Sept. 19, 1975 and Sept. 1, 1986	Do.
Seminole County, unincorporated areas	130387A	Dec. 26, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 14, 1976 and Sept. 1, 1986	Do.
Kentucky:				
Morganfield, city of, Union County	210216B	July 23, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 17, 1974, Dec. 19, 1975 and Sept. 1, 1986	Do.
Providence, city of, Webster County	210223B	July 21, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Feb. 1, 1974, Feb. 27, 1976 and Sept. 1, 1986	Do.
Sturgis, city of, Union County	210217B	Apr. 8, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 15, 1974, Sept. 19, 1975 and Sept. 1, 1986	Do.
Vicco, city of, Perry County	210192B	Apr. 20, 1977, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 10, 1974, Mar. 5, 1976 and Sept. 1, 1986	Do.
Mississippi: Bude, town of, Franklin County	280054B	Jan. 20, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 7, 1974, June 18, 1976 and Sept. 1, 1986	Do.
South Carolina:				
Loris, town of, Horry County	450109B	Aug. 6, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 21, 1974, Apr. 16, 1976 and Sept. 1, 1986	Do.
Stuckey, town of, Williamsburg County	450192B	July 23, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept 6, 1974, July 23, 1976 and Sept. 1, 1986	Do.
Yemassee, town of, Hampton and Beaufort Counties.	450103B	June 17, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 21, 1974, Oct. 17, 1975 and Sept. 1, 1986	Do.
Tennessee:				
Cornersville, town of, Marshall County	470325A	June 18, 1984, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 17, 1976 and Sept. 1, 1986	Do.
Haywood County, unincorporated areas	470227B	Feb. 28, 1986, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 30, 1977 and Sept. 1, 1986	Do.
Region V				
Illinois:				
Piatt County, unincorporated areas	170542B	Aug. 8, 1977, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 31, 1975, Jan. 6, 1978 and Sept. 1, 1986	Do.
Rock Falls, city of, Whiteside County	170694B	May 1, 1974, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Mar. 22, 1974, Apr. 9 1976 and Sept. 1, 1986	Do.
Virginia, city of, Cass County	170024	Aug. 15, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 5, 21 1974, May 28, 1976 and Sept. 1, 1986	Do.
Indiana:				
Hamlet, town of, Starke County	180241B	Dec. 17, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 21, 1974 and Sept. 1, 1986	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Loogootee, city of, Martin County	180165B	Apr. 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 28, 1974, Dec. 26, 1975 and Sept. 1, 1986	Do.
Shoals, town of, Martin County	180166B	May 27, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 9, 1974, Aug. 20, 1976 and Sept. 1, 1986	Do.
Newton County, unincorporated areas	180179B	Apr. 21, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 3, 1975, July 1, 1977 and Sept. 1, 1986	Do.
Worthington, town of, Greene County	180079B	July 29, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 23, 1973, May 28, 1976 and Sept. 1, 1986	Do.
Michigan:				
Big Rapids, city of, Mecosta County	260136B	May 14, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 24, 1974, May 21, 1976 and Sept. 1, 1986	Do.
Fruitland, township of, Muskegon County	260265B	Dec. 11, 1973, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 28, 1974, June 25, 1976 and Sept. 1, 1986	Do.
Glen Arbor, township of, Leelanau County	260604B	Mar. 7, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 30, 1977 and Sept. 1, 1986	Do.
Golden, township of, Oceana County	260301A	July 17, 1974, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 17, 1975 and Sept. 1, 1986	Do.
Hart, city of, Oceana County	260484A	Apr. 8, 1986, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 11, 1975 and Sept. 1, 1986	Do.
Maple Rapids, village of, Clinton County	260364A	Nov. 8, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 25, 1975 and Sept. 1, 1986	Do.
Newfield, township of, Oceana County	260697B	Sept. 20, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 23, 1977 and Sept. 1, 1986	Do.
Newton, township of, Calhoun County	260647B	Nov. 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 28, 1976 and Sept. 1, 1986	Do.
Minnesota: Jasper, city of, Rock and Pipestone Counties.	270416B	July 29, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Mar. 29, 1974, Oct. 31, 1975 and Sept. 1, 1986	Do.
Ohio:				
Holmesville, village of, Holmes County	390278B	June 2, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 22, 1974, July 30, 1976 and Sept. 1, 1986	Do.
Jeromesville, village of, Ashland County	390006B	July 22, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 3, 1974, May Oct. 21, 1976 and Sept. 1, 1986.	Do.
Magnolia, village of, Carroll and Stark Counties.	390061B	Feb. 2, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 3, 1974, Jan. 30, 1974 and Sept. 1, 1986	Do.
Mechanicsburg, village of, Champaign County	390057B	Oct. 2, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Feb. 1, 1974, June 4, 1976 and Sept. 1, 1986	Do.
New Carlisle, city of, Clark County	390062B	Jan. 22, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Feb. 1, 1974, Apr. 9, 1976 and Sept. 1, 1986	Do.
Wisconsin:				
Bruce, village of, Rusk County	550370B	Nov. 26, 1974, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 24, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Coleman, village of, Marinette County	550260B	Mar. 12, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Cumberland, city of, Barron County	550013B	July 10, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, Dec. 12, 1975 and Sept. 1, 1986	Do.
Exeland, village of, Sawyer County	550409B	Mar. 17, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Aug. 16, 1974, June 4, 1976 and Sept. 1, 1986	Do.
Fall Creek, village of, Eau Claire County	550130A	Sept. 4, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 24, 1974, Sept. 24, 1976 and Sept. 1, 1986	Do.
Frederic, village of, Polk County	550334B	Mar. 24, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, Apr. 2, 1974 and Sept. 1, 1986	Do.
Hollandale, village of, Iowa County	550178B	Sept. 16, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 20, 1974, May 14, 1976 and Sept. 1, 1986	Do.
Kekoskee, village of, Dodge County	550101B	July 21, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 23, 1974, June 4, 1976 and Sept. 1, 1986	Do.
Kingston, village of, Green Lake County	550168B	April 10, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 17, 1973 May 14, 1976 and Sept. 1, 1986	Do.
Lyndon Station, village of, Juneau County	550203A	Mar. 28, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 24, 1974 and Sept. 1, 1986	Do.
Merrillan, village of, Jackson County	550189B	May 11, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, May 28, 1976 and Sept. 1, 1986	Do.
Minong, village of, Washburn County	550468B	Nov. 24, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Aug. 30, 1974, May 14, 1976 and Sept. 1, 1986	Do.
Nelsonville, village of, Portage County	550339B	July 1, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 23, 1974, Aug. 29, 1975 and Sept. 1, 1986	Do.
Poplar, village of, Douglas County	550114B	Sept. 1, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 28, 1973, May 14, 1976 and Sept. 1, 1986	Do.
Radisson, village of, Sawyer County	550411B	June 6, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 6, 1974, Dec. 5, 1975 and Sept. 1, 1986	Do.
Region VI				
Louisiana: Baskin, village of, Franklin County	220078B	May 15, 1973, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 24, 1974, Dec. 12, 1975 and Sept. 1, 1986	Do.
Region VII				
Nebraska:				
Clearwater, village of, Antelope County	310262B	Sept. 1, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 2, 1976, Aug. 15, 1978 and Sept. 1, 1986	Do.
Culbertson, village of, Hitchcock County	310110B	July 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 10, 1974, Nov. 14, 1975 and Sept. 1, 1986	Do.
Oakdale, village of, Antelope County	310004B	Oct. 31, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 28, 1973, Apr. 23, 1976 and Sept. 1, 1986	Do.
Verdigre, village of, Knox County	310133B	May 16, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 28, 1974, Dec. 5, 1975 and Sept. 1, 1986	Do.
Winnebago, town of, Thurston County	310223B	Jan. 17, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 5, 1974, Dec. 26, 1975 and Sept. 1, 1986	Do.
Iowa:				
Dedham, city of, Carroll County	190043A	July 7, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Nov. 1, 1974 and Sept. 1, 1986	Do.
Dow City, city of, Crawford County	190097B	Aug. 25, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 31, 1974, Dec. 19, 1975 and Sept. 1, 1986	Do.
Earling, city of, Shelby County	190247B	July 18, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	May 3, 1974, Jan. 2, 1976 and Sept. 1, 1986	Do.
Jefferson, city of, Greene County	190396A	Dec. 23, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Aug. 29, 1975, and Sept. 1, 1986	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Kimballton, city of, Audubon County	190014A	Apr. 8, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Dec. 13, 1974 and Sept. 1, 1986	Do.
Moville, city of, Woodbury County	190293B	Feb. 23, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Feb. 18, 1977 and Sept. 1, 1986	Do.
Portsmouth, city of, Shelby County	190507A	Oct. 6, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 19, 1975 and Sept. 1, 1986	Do.
Shenandoah, city of, Page County	190220B	Aug. 25, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	June 28, 1974, Dec. 26, 1975 and Sept. 1, 1986	Do.
Wall Lake, city of, Sac County	190504A	Aug 7, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 26, 1975 and Sept. 1, 1986	Do.
Westside, city of, Crawford County	190102B	July 28, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 10, 1975, Nov. 29, 1977 and Sept. 1, 1986	Do.
Winfield, city of, Henry County	190688A	Sept. 24, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Sept. 19, 1975 and Sept. 1, 1986	Do.
Kansas				
Logan, city of, Phillips County	200265B	Apr. 11, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	July 19, 1974, Oct. 17, 1975 and Sept. 1, 1986	Do.
Long Island, city of, Phillips County	200266B	May 13, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 3, 1975, Sept. 13, 1977 and Sept. 1, 1986	Do.
Madison, city of, Greenwood County	200121B	Aug. 7, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	July 19, 1974, June 11, 1976 and Sept. 1, 1986	Do.
Virgil, city of, Greenwood County	200122A	Feb. 11, 1976, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Jan. 10, 1975 and Sept. 1, 1986	Do.
Mountain Grove, city of, Wright County	290456B	Feb. 19, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.	Apr. 5, 1974, Oct. 17, 1975 and Sept. 1, 1986	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
Code for reading 3d column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: August 22, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-19476 Filed 8-28-86; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6726]

Suspension of Community Eligibility; Georgia et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fourth column, as of that date, flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazards area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment

of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Region IV—Minimal Conversions				
Georgia:				
Irwinton, city of, Wilkinson County	130440A	Aug. 4, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Apr. 25, 1975 and Sept. 4, 1986	Sept. 4, 1986.
Lake City, city of Clayton County	130044B	May 6, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 31, 1974, May 14, 1976 and Sept. 4, 1986.	Do.
Mississippi: Ecru, town of, Pontotoc County.	280133C	June 2, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Feb. 1, 1974, Feb. 13, 1976, May 9, 1980 and Sept. 4, 1986.	Do.
North Carolina:				
Lillington, town of, Harnett County	370381B	Mar. 7, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 5, 1978 and Sept. 4, 1986	Do.
Mitchell County, unincorporated areas	370161B	July 18, 1979, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	June 30, 1978 and Sept. 4, 1986	Do.
Pollocksville, town of Jones County	370142B	Jan. 15, 1974, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Mar. 15, 1974, June 4, 1976 and Sept. 4, 1986.	Do.
Tennessee: Liberty, city of De Kalb County	470044B	May 23, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Aug. 9, 1974, June 11, 1976 and Sept. 4, 1986.	Do.
Region V				
Illinois: Bradford, village of, Stark County	170745A	Sept. 30, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Dec. 20, 1974, and Sept. 4, 1986	Do.
Region V—Minimal Conversions				
Illinois: New Baden, village of, Clinton County.	170050B	Nov. 25, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	May 24, 1974, May 21, 1976 and Sept. 4, 1986.	Do.
Michigan: Bridgeton, township of Newaygo County.	260466A	May 6, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Oct. 22, 1976, and Sept. 4, 1986	Do.
Wisconsin: Luxemburg, village of, Kewaunee County.	550216B	July 23, 1975, Emerg.; Jan. 3, 1985, Reg.; Sept. 4, 1986, Susp.	Sept. 4, 1986	Do.
Region VII				
Kansas: Sharon Springs, city of, Wallace County.	200529A	Nov. 26, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Sept. 12, 1975 and Sept. 4, 1986	Do.
Missouri:				
Licking, city of, Texas County	290441C	Oct. 2, 1974, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Mar. 1, 1974, Apr. 23, 1976, Apr. 12, 1983 and Sept. 4, 1986.	Do.
Monroe, city of, Marion and Monroe Counties.	290688A	May 4, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Feb. 21, 1975, and Sept. 4, 1986	Do.
Wayland, city of, Clark County	290084B	Sept. 4, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Oct. 18, 1974, Feb. 6, 1976 and Sept. 4, 1986.	Do.
Winona, city of, Shannon County	290419B	July 11, 1975, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.	Nov. 5, 1976 and Sept. 4, 1986	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
Code for reading 3d column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Francis V. Reilly,
Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-19572 Filed 8-28-86; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 510, 580, and 582

[Docket No. 86-19]

Anti-Rebating Certification by Those Engaged in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its rules governing the filing of anti-rebating certificates in the foreign commerce of the United States. The purpose of the rule is to establish uniform application of anti-rebating rules with respect to ocean common carriers, non-vessel operating common carriers and freight forwarders, and provide that companies which function in more than one capacity need file only one anti-rebating certificate. The rule also specifies the time period covered by the anti-rebate certification and provides a uniform due date for submission of the certificate.

EFFECTIVE DATE: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: By Notice published in the **Federal Register** on May 15, 1986 (51 FR 17754), the Commission proposed to amend certain of its rules concerning the filing of anti-rebating certificates. The proposed amendment established a common due date of December 31 by which all certificates must be filed. The purpose of this revision was to eliminate any confusion resulting from the different filing dates facing certain regulated parties, and to clarify the period of validity of a certificate. The proposed amendments also required each common carrier to file a certificate with its initial tariff and each ocean freight forwarder to file its initial certificate with its license application, and specified the time period for which each certificate is valid.

Additionally, provisions were proposed to permit an individual firm to submit only one certificate when it functions in more than one capacity, i.e., both as a non-vessel operating common carrier and an ocean freight forwarder. The Commission also proposed to remove the tariff notification requirement contained in 46 CFR 582.3.

That provision was deemed duplicative of that contained in 46 CFR 580.5(c), where it properly resides.

Comments on the proposed rule were received from three parties, Associated Container Transportation (Australia) Ltd. (ACT), the National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA) and Interstate International, Inc. (Interstate). All three generally supported the proposed rule.

ACT offered two suggestions. The first would include a provision with respect to joint services, providing that the joint service, rather than the individual parties, be held responsible for the certification. This suggestion has merit. The purpose of the anti-rebating certification is to aid in the enforcement of the prohibitions against rebating found in section 10 of the 1984 Act. Section 10(e), 46 U.S.C. app. § 1709(e), states:

> For purposes of this section [section 16], a joint venture or consortium of two or more common carriers *but operated as a single entity* shall be treated as a single common carrier, (emphasis added).

Because a joint service *operated as a single entity* would be treated as a single common carrier for purposes of any violation of section 10 involving rebates, it seems appropriate to treat such joint services as single carriers for purposes of the certification. Accordingly, we have incorporated this suggestion in the final rule [§ 582.1(a)].

ACT also recommended that paragraphs (a) through (d) of proposed 46 CFR 582.2 be eliminated. ACT stated that the requirements contained therein were duplicative of material contained in Appendix A to Part 582, while using dissimilar language. We believe that the provisions in question are substantive and should remain in the body of the rule. However, the final rule, has been modified to make it more consistent with Appendix A to Part 582.

NCBFAA pointed out that the proposed rule failed to take into account the situation wherein an application for an ocean freight forwarder license is granted in a year subsequent to the year in which the application was failed. NCBFAA suggested that the certification filed with the application be valid for the remainder of the calendar year in which the license is granted. This recommendation has merit and has been adopted in the final rule (§ 582.3(c)).

NCBFAA also noted that the proposed rule fails to distinguish between "applicants" and "licensed ocean freight forwarders," and offered certain changes to the proposed rule to take into account this distinction. The thrust of this comment is that applicants file the initial certificate, while licensed ocean freight forwarders must comply with the annual certification requirement. NCBFAA is correct and the final rule has been revised accordingly.

Interstate, which functions as both an ocean freight forwarder and a non-vessel operating common carrier, endorsed the provision that a single certificate would satisfy the annual filing requirement for companies or firms which function in more than one capacity.

The final rule also reflects certain non-substantive technical changes.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, February 27, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies that, although this rule may affect a substantial number of small entities, particularly small businesses, the economic impact is not considered to be significant.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget (O.M.B.) for review under section 3504(h) of the Paperwork Reduction Act. 44 U.S.C. 3504(h). A copy of the request for O.M.B. review and supporting documentation may be obtained from the Commission's Secretary. Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs of O.M.B., Attention: Desk Officer for the Federal Maritime Commission. Collection of information requirements contained in original Parts 510, 580, and 582 were approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned control numbers 3072–0009, 3072–0018 and 3072–0028.

List of Subjects

46 CFR Part 510

Exports, Freight forwarders, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 580

Anti-trust, Cargo, Cargo vessels, Contracts, Exports, Harbors, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

46 CFR Part 582

Cargo, Cargo vessels, Exports, Foreign relations, Freight forwarders, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

Therefore, for the reasons set forth above, Parts 510, 580, and 582 of Title 46, Code of Federal Regulations, are amended as follows:

PART 510—[AMENDED]

1. The authority citation to part 510 is revised to read:

> **Authority:** 5 U.S.C. 553; 46 U.SC. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718.

2. Section 510.25 is revised to read as follows:

§ 510.25 Anti-rebate certifications.

(a) Every licensed ocean freight forwarder shall file an anti-rebating certificate on or before each December 31.

(b) Every applicant for an ocean freight forwarder license shall file an anti-rebating certificate with its license application. Such certificate shall be valid through December 31 of the year in which the license is granted.

(c) The anti-rebating certificate shall comply with the requirements of Part 582 of this title, and, except for a certificate filed with a license application, shall apply to the calendar year following the December 31 filing date.

PART 580—[AMENDED]

1. The authority citation to Part 580 is revised to read:

> **Authority:** 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707–1709, 1712, 1714–1716, and 1718.

2. Section 580.5(c)(2) is revised to read as follows:

§ 580.5 Tariff contents.

* * * * *

(c) * * *

(2)(i) The full legal name of each participating common carrier, appropriately identified as a Non-Vessel-Operating Common Carrier or Vessel Operating Common Carrier and the address of its principal office. Where a joint service participates, the FMC

number of the agreement authorizing the joint service shall also be shown.

(ii) An anti-rebate tariff provision to be effective upon filing which shall read substantially as follows (*see* Exhibit No. 2 to this part):

(Name of company) has a policy against the payment of any rebate by the company or by any officer, employee, or agent thereof, which payment would be unlawful under the United States Shipping Act of 1984. Such policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act of 1984 and the regulations of the Commission set forth in 46 CFR 582.

(A) When the common carrier's tariff is a conference tariff, the common carrier shall ensure that the conference publishes the common carrier's anti-rebate tariff provision in the conference tariff.

(B) In addition to the anti-rebate tariff provision, an anti-rebating certificate shall be filed by every common carrier with its initial tariff, and on each succeeding December 31. The anti-rebating certificate shall comply with the requirements of Part 582 of this title, and, except for a certificate filed with an initial tariff, shall be valid for the calendar year following the December 31 filing date.

PART 582—[AMENDED]

1. The authority citation to Part 582 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701, 1702, 1707, 1709, 1712, and 1714–1716.

2. Section 582.1 is revised to read as follows:

§ 582.1 Scope.

(a) The requirements set forth in this part are binding upon every common carrier by water and ocean freight forwarder in the foreign commerce of the United States and, at the discretion of the Commission, will apply to any shipper, shippers' association, marine terminal operator, or broker. In the case of a joint service operated as a single entity, the joint service, rather than the participants, is responsible for the provisions of this part.

(b) Information obtained under this part will be used to maintain continuous surveillance over common carrier and ocean freight forwarder activities and to deter rebating practices. Failure to file the required certificate may result in a civil penalty of not more than $5,000 for each day such violation continues.

3. Section 582.2 is revised to read as follows:

§ 582.2 Form of certification.

(a) The Chief Executive Officer, *i.e.*, the most senior officer within the firm designated by the board of directors, owners, stockholders, or controlling body as responsible for the direction and management of the firm, of each common carrier and ocean freight forwarder and, when so ordered by the Commission, the Chief Executive Officer of any shipper, shippers' association, marine terminal operator, or broker, shall file with the Secretary, Federal Maritime Commission, a written certification, under oath, as prescribed in the format in Appendix A to this part, attesting:

(1) That it is the stated policy of the firm that the payment, solicitation or receipt by the firm of any rebate which is unlawful under the Shipping Act of 1984, is prohibited;

(2) That this policy was recently promulgated to each owner, officer, employee, and agent of the firm; and

(3) That the firm will fully cooperate with the Commission in any investigation of illegal rebating.

(b) A description of the details of the measures instituted within the firm or otherwise to prohibit its involvement in the payment or receipt of illegal rebates shall be attached to the certification.

§ 582.3 [Removed]

4. Section 582.3 is removed.

5. Section 582.4 is redesignated as § 582.3 and revised to read as follows:

§ 582.3 Reporting requirements.

(a) Every common carrier required by this part to file a written certification in the form prescribed by § 582.2, shall file such certification with its initial tariff and, thereafter, on or before December 31 of each year.

(b) Every licensed ocean freight forwarder, required by § 510.25 of this title to file a written certification in the form prescribed by § 582.2 of this part, shall file such certification on or before December 31 of each year. Every applicant for an ocean freight forwarder license shall file such certification with its license application.

(c) The certification required by this section shall be valid for the remainder of the calendar year following the initial filing of a tariff or granting of an ocean freight forwarder license and, thereafter, shall be valid for the calendar year following the December 31 filing date specified in 46 CFR 510.25, 580.5(c)(2)(ii), and 582.3(a) and (b).

(d) Every person other than a common carrier or ocean freight forwarder which is ordered by the Commission pursuant to § 582.2 to file a written certification shall file such certification in the manner prescribed by the Commission.

(e) In those instances in which a single firm operates in more than one capacity, such as both a non-vessel-operating common carrier and an ocean freight forwarder, a single certificate may be submitted to satisfy the annual reporting requirements of this section.

6. Appendix A to Part 582 is revised to read as follows:

Appendix A—Certification of Policies and Efforts To Combat Rebating in the Foreign Commerce of the United States

46 CFR Part 582

I, (Name of affiant), state under oath that I am the Chief Executive Officer (State exact title) of (Exact names of firm), hereinafter referred to as "The Firm", and that:

1. It is, and shall continue to be, the policy of The Firm to prohibit its participation in the payment, solicitation, or receipt of any rebate, directly or indirectly, which is unlawful under the provisions of the Shipping Act of 1984.

2. Each owner, officer, employee and agent of The Firm was notified or reminded of this policy on (Date).

3. The Firm affirms that it will cooperate fully with the Federal Maritime Commission in any investigation of suspected rebating in United States foreign trades.

4. Attached hereto is a description of the details of measures instituted, within the Firm or otherwise, to prohibit its involvement in the payment or the receipt of illegal rebates in the foreign commerce of the United States.

The period covered by this Certification is from (Date) to (Date).

The Firm is a (check each block applicable):

_____Broker
_____Freight Forwarder (License No._____)
_____Marine Terminal Operator
_____Non-Vessel-Operating Common Carrier
_____Shipper
_____Shippers' Association
_____Vessel Operating Common Carrier

_____
(Signature of affiant)

Subscribed to and sworn before me this _____ day of _____, 19_____.

_____
Notary Public

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19614 Filed 8-28-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 85-388; RM 5167]

Rural Cellular Service; Extension of Time for Filing Suggested Modification to Tentatively Adopted Boundaries

AGENCY: Federal Communications Commission.

ACTION: Final rule; Extension of time for filing suggested modification to tentatively adopted boundaries.

SUMMARY: The Commission has determined that the schedule established for filing suggested modifications, responses and settlements to the Rural Service Area (RSA) boundaries mentioned in its *First Report and Order*, published July 28, 1986, 51 FR 26895 should be extended. This extension of time was granted in response to a Petition for Reconsideration filed by National Telephone Cooperative Association (NTCA).

DATES: Modification suggestions will now be due September 11, 1986. Responses or oppositions will now be due October 1, 1986. Parties will have until October 27, 1986 to settle conflicts.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Tatum, Mobile Services Division, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

Order

In the matter of amendment of the Commission's Rules for Rural Cellular Service.

Adopted: August 21, 1986;
Released: August 25, 1986.
By the Common Carrier Bureau:

1. On August 6, 1986, the National Telephone Cooperative Association (NTCA) filed a Petition for Reconsideration of the *First Report and Order*, FCC 86-302, released July 16, 1986 (*Order*). This *Order* tentatively adopted the boundaries proposed by United TeleSpectrum, Inc. (United) for Rural Service Areas and established a schedule for submitting modifications of these boundaries.

2. Under the established schedule, interested parties have 30 days from the date the summary of the *Order* was published in the **Federal Register** to submit suggestions for modifications to this plan. Responses or oppositions to these suggestions are due 15 days thereafter and the parties have a final 15-day period for effecting settlements with opposing or conflicting parties. NTCA's Petition for Reconsideration asks that the Commission extend these schedules as follows: that the initial filing period be extended from 30 to 90 days, oppositions from 15 to 30 days, and that the settlement period be extended from 15 to "slightly more than" 30 days.[1] NTCA asserts that this time frame is "not inappropriately long" and will allow interested parties ample time to prepare suggested modifications, oppositions to suggestions, and to reach settlements. NTCA argues that this additional time will facilitate joint filings, avoid prejudice to small exchange carriers, and will eliminate future confusion and delays by allowing the parties sufficient time to analyze the new RSA boundaries in the context of local needs, conditions and communities of interest.

3. We have considered NTCA's arguments and have concluded that the public interest would be served by the grant of a limited extension of time as follows: the schedule for filing suggested modifications will be extended by 15 days from 30 to 45 days after publication of the summary in the **Federal Register**, oppositions will be due 20 days, rather than 15 days, later, and parties will have 10 extra days, a total of 25, to settle conflicts. This plan balances the needs of the industry while also insuring that the Commission does not stray from its goal of providing prompt and expeditious cellular service to the public. This extension provides those interested parties who have had difficulty acquiring copies of the United plan additional time to evaluate and submit modifications, insures that small exchange carriers and others which lack a continuing presence in the Washington, D.C. area have had an ample opportunity to participate in this process, and delays the rural cellular filing process by a mere 30 days.

4. Accordingly, It Is Ordered That the portion of the Petition for Reconsideration filed by the National Telephone Cooperative Association treated as a motion for extension of time Is Granted as specified.

Gerald P. Vaughan,
Deputy Chief, Common Carrier Bureau.

[FR Doc. 86-19611 Filed 8-28-86; 8:45 am]
BILLING CODE 6712-01-M

[1] This portion of the Petition for Reconsideration will be treated as a motion for extension of time. NTCA also asks the Commission to require parties filing oppositions or responses to modification suggestions to serve those parties filing the suggested modifications and to establish an appeals process for certain aggrieved parties with limited resources. These matters are outside the scope of a motion for extension of time and will be dealt with at a later date.

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47 CFR Part 90

[PR Docket No. 84-884; FCC 86-361]

Private Land Mobile Radio Services; Operations in the Telephone Maintenance Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order amending the rule governing eligibility and operations in the Telephone Maintenance Radio Service (TMRS). The TMRS rule (47 CFR 90.81) is amended to remove the division of frequencies between wireline carriers and microwave carriers on the VHF and UHF frequencies allocated to the TMRS. The Commission has also decided to allow TMRS eligibles to use their TMRS facilities to maintain customer premises equipment and enhanced service offerings when these activities are undertaken as an adjunct to the maintenance of the licensee's transmission facilities. These actions are taken in light of the dramatic changes the telephone industry experienced with the divestiture of the Bell Operating Companies by AT&T.

EFFECTIVE DATE: September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's report and order, PR Docket No. 84-884, adopted August 7, 1986 and released August 20, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

On August 16, 1985, the FCC released a Notice of Proposed Rule Making (Notice) in PR Docket No. 84-884 (50 FR 33072, August 16, 1985) proposing

amendments to the rule governing the Telephone Maintenance Radio Service (TMRS), 47 CFR 90.81 (1985), in light of the dramatic changes the telephone industry experienced with the divestiture of the Bell Operating Companies (BOCs) by AT&T. The TMRS was established in 1958, when the majority of communications common carrier facilities in the U.S., both local exchange and interexchange (long distance), were owned by AT&T directly or its BOCs. Facilities in the TMRS are used for the transmission of communications related to the construction, repair, maintenance or operation of communications common carrier facilities.

Eligibility in the TMRS is limited to communications common carriers offering wireline service (wireline carriers) and intercity microwave carriers licensed in the Point-to-Point Microwave Radio Service under Part 21 (microwave carriers). The wireline carriers have available for their exclusive use two low-band VHF frequencies, two high-band VHF frequencies, and six frequency pairs at 450–470 MHz in the UHF band. The microwave carriers have available twelve frequency pairs in the 450–470 MHz band which they must share with eligibles in the Power, Petroleum, Forest Products and Manufacturers Radio Services. The wireline carriers also have access to these twelve shared frequency pairs whenever their six frequency pairs in the 450–470 MHz band are exhausted in their proposed area of operation. The term "frequency fence" is commonly used to refer to this division of frequencies, because the microwave carriers do not have access to the exclusive wireline frequencies. In the 470–512 MHz band (Subpart L of Part 90) and the 800 MHz band (Subparts M&S of Part 90) there is no division of frequencies between wireline and microwave carriers, nor are there any frequencies exclusively allocated for the TMRS's use.

Our Notice in this proceeding proposed a number of changes to the TMRS rule to bring it into conformance with the post-divestiture industry environment. Of these, commenters viewed three of them as controversial: (1) The proposal to remove the frequency fence and eliminate the precedence accorded wireline carriers; (2) the proposal to provide TMRS eligibles access to the twelve frequency pairs in the 450–470 MHz band that are shared with four other private land mobile radio services without demonstrating that all exclusive TMRS frequencies in that band are exhausted in the proposed area of operation; and (3) the proposal to permit the use of TMRS facilities to maintain customer premises equipment (CPE) and enhanced service offerings when a TMRS eligible uses common equipment (i.e., same utility trucks equipped with two-way radio) to maintain both its basic transmission facilities and CPE/enhanced offerings.

(1) Elimination of the Frequency Fence

The Notice proposed eliminating the frequency fence and making all TMRS frequencies available to both local exchange (wireline) and interexchange (microwave) carriers on an equal basis.

All commenters except those representing local exchange telephone companies supported the proposal, some noting that the requirements of local exchange carriers and interexchange carriers for TMRS facilities are comparable. Elimination of the frequency fence also eliminates the need for AT&T, or any other carrier, to be displaced from the frequencies on which they operate. Since AT&T is no longer a provider of local exchange telephone service, and hence no longer eligible for the wireline carrier TMRS frequencies, retention of the frequency fence would require either a rule waiver for AT&T, the grandfathering of AT&T's existing authorizations or the relocation of AT&T's TMRS facilities to the interexchange (microwave) carrier frequencies.

The BOCs and others representing local exchange carriers argue that a frequency fence is necessary to ensure that interference between the maintenance and repair activities of local exchange carriers and interexchange carriers is minimized.

The Commission is removing the frequency fence in the interests of conforming the TMRS rule to today's telecommunications environment where all types of communications common carriers require TMRS frequencies to coordinate the maintenance and repair of their transmission facilities. We are mindful of the local exchange carriers' concerns about interference, but we are confident that removing the fence will not increase it. First, it is our experience that licensees in the same radio service usually work together to minimize and resolve interference problems. Second, we remain confident that the frequency coordination procedures of the Telephone Maintenance Frequency Advisory Committee, the Commission-certified organization responsible for frequency coordination of the TMRS, can take the particular requirements of an individual applicant into consideration and select a frequency for that applicant that does not degrade the quality of service of co-channel licensees.

(2) Use of the Shared 450–470 MHz Frequencies

The frequency fence was established in 1974, when eligibility in the TMRS was expanded to include the Part 21 microwave carriers. The fence precluded the microwave carriers from accessing the exclusive wireline frequencies. Instead, the microwave carriers gained access to the twelve frequency pairs shared between the TMRS and four other private land mobile radio services. Under this arrangement only microwave carriers were exempted from the requirement that assignments are made on these frequencies only when all of the base and mobile frequencies in the 450–470 MHz band for which the applicant is primarily eligible are exhausted within 35 miles of the proposed base station. One of the consequences of our proposal to remove the frequency fence is that all TMRS eligibles would gain direct access (i.e., no demonstration of exhausting frequencies) to the twelve frequency pairs.

Organizations representing the four other private land mobile radio services that share these frequencies comment that, with removal of the frequency fence, all TMRS eligibles, including the microwave carriers, can now employ all of the exclusive TMRS frequencies. They point out the proposal would convert a shared pool of frequencies into a primary TMRS allocation with the four other services relegated to secondary status. They urge us to reinstate the pre-1974 regulatory scheme, under which all five services had access to the shared channel pairs whenever their primary 450–470 MHz band frequencies were exhausted in the proposed area of operation.

The Commission believes that with removal of the frequency fence, it would be unfair to convert a shared pool of frequencies into a primary TMRS allocation. Accordingly, we are amending the rule to require TMRS applicants who request facilities on the twelve shared frequency pairs to first demonstrate that no primary TMRS frequencies in the 450–470 MHz band are available in the proposed area of operation. The operations of any microwave carrier now operating on these frequencies will, of course, be grandfathered.

(3) Use of the TMRS for Activities Involving CPE/Enhanced Offerings

The TMRS was established for the maintenance and repair of communications common carrier facilities, which, in the past, sometimes included the installation and repair of CPE and what we today categorize as "enhanced service offerings." Today, CPE and enhanced service offerings are not common carrier functions. Most commenters supported the Commission's proposal to permit the use of TMRS facilities to maintain CPE/enhanced offerings when a TMRS eligible uses common equipment to maintain both its basic transmission facilities and CPE/enhanced offerings. The Commission made this proposal out of concern that no TMRS eligible should be required to construct a duplicate radio system to handle communications involving CPE/enhanced offerings just to meet the requirements of the TMRS eligibility rule.

Some commenters believe the "common equipment" test is not sufficient and would lead to congestion of the TMRS frequencies as eligibles "unnecessarily" used their facilities to maintain CPE/enhanced offerings. The local exchange carriers generally support the proposal, stating that it would remove a significant cost burden from those carriers who have CPE/enhanced functions incidental to the maintenance of their basic transmission facilities. Interexchange carriers urge that all TMRS eligibles be permitted to use their systems for the maintenance of CPE and enhanced services as an adjunct to the transmission facility maintenance activity that forms the basis of their TMRS eligibility.

Having considered the comments, the Commission has decided to adopt the common equipment test and permit the use of TMRS facilities to maintain CPE and enhanced service offerings when a TMRS eligible uses common equipment to maintain both its basic transmission facilities and CPE/enhanced offerings. We believe that the common equipment test strikes a careful balance: no TMRS licensee is required to incur substantial costs constructing a duplicate mobile radio system, while, at the same time, the underlying purpose of the TMRS, which is the maintenance of common carrier transmission facilities, is preserved.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 USC 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

Paperwork Reduction

The rule amendment set forth here has been analyzed with respect to the Paperwork Reduction Act of 1980 and has been found to contain no new or modified form, information collection and/or recordkeeping, labelling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. Additionally, no new compliance requirements are being promulgated.

Ordering Clauses

Accordingly, it is ordered, that effective September 26, 1986, Part 90 of Commission's Rules, 47 CFR Part 90, is amended as shown at the end of this document. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303. It is further ordered, that this proceeding is terminated.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Subpart D—Industrial Radio Services

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 90.81 is amended by revising paragraph (a), removing paragraph (d)(1), and revising paragraph (d)(4) to read as follows. In addition, all references to Limitation 1 are removed from the Table at paragraph (c).

§ 90.81 Telephone Maintenance Radio Service

(a) *Eligibility.* Communications common carriers engaged in the provision of landline local exchange telephone service, or interexchange communications service, or who provide wire-telegraph service, and radio communications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 of this chapter are eligible to hold authorizations in the Telephone Maintenance Radio Service. Resellers that do not own or control transmission facilities are not eligible in this service.

* * * * *

(d) * * *

(1) [Reserved]

* * * * *

(4) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the base and mobile frequencies in the 450–470 MHz band for which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for this frequency must be coordinated with all five services. Telephone Maintenance Radio Service licensees on this frequency authorized prior to September 26, 1986, including their successors or assigns in business, will be permitted to renew their authorizations indefinitely, increase the number of transmitters operated, and expand the geographic coverage area of their systems, without a showing that all of the base and mobile Telephone Maintenance Radio Service frequencies in this band are assigned within 35 miles (56 km) of the existing base station.

* * * * *

William J. Tricarico,

Secretary.

[FR Doc. 86-19612 Filed 8-28-86; 8:45am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and inseason adjustment, and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial salmon fishery in the fishery conservation zone (FCZ) from Cape Blanco, Oregon, to Point Delgada, California, at midnight, August 26, 1986, to ensure that the quota of 75,000 chinook salmon is not exceeded. The Secretary also announces a delay in the opening of the commercial salmon fishery for all species except coho in the FCZ from Sisters Rocks to Mack Arch, Oregon, until 0001 hours Pacific Daylight Time (PDT), August 29, 1986. The closure is necessary to conform to the preseason announcement of 1986 management measures. Since landings are allowed for 24 hours after the area closes, the two-day delay of the subarea opening is

necessary to provide a break between the fisheries to evaluate landings. These actions are intended to ensure conservation of chinook salmon.

EFFECTIVE DATES: Closure of the PCZ from Cape Blanco, Oregon, to Point Delgada, California, to commercial salmon fishing is effective at 2400 hours PDT, August 26, 1986. The opening of the PCZ from Sisters Rocks to Mack Arch, Oregon, to commercial salmon fishing for all species except coho is delayed until 0001 hours PDT, August 29, 1986. Comments on this notice will be received until September 9, 1986.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115–0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731–7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the Office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206–526–6150, or E. Charles Fullerton at 213–514–6196.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the Federal Register under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 15620, May 5, 1986). The 1986 commercial fisheries in the PCZ from Cape Blanco, Oregon, to Point Delgada, California, were established as follows:

Subarea	Species	Season
Cape Blanco, OR to Point Delgada, CA.	All	June 16–19, June 23–26, June 28 through earlier of August 31, coho quota, or chinook quota.
	All except coho.	Coho quota through earlier of August 31 or chinook quota.
Sisters Rocks, OR to Chetco Point OR.	All except coho.	May 1 through earlier of June 7 of chinook subarea quota.
Sisters Rocks, OR to Mack Arch, OR.	All except coho.	Latest of August 7 or chinook quota through earlier of September 15 or chinook subarea quota.
South Jetty, Humboldt Bay, CA to Punta Gorda, OR.	All	September 8 through earlier of September 30 or chinook subarea quota.

The commercial fishery from Cape Blanco, Oregon, to Point Delgada, California, was closed to coho fishing effective midnight, July 24, 1986, when it was projected that the overall coho quota from Cape Falcon, Oregon, to Point Delgada, California, had been met (51 FR 26899, July 28, 1986). The commercial chinook quota from Cape Blanco, Oregon, to Point Delgada, California, originally set at 68,200 fish, has been adjusted twice by previous inseason action (51 FR 24352, July 3, 1986; 51 FR 26388, July 23, 1986) and is currently 75,000 fish. Based on the best available information, the commercial fishery catch in this area is projected to reach the 75,000 chinook quota by midnight, August 26, 1986.

The commercial fishery in the subarea from Sisters Rocks to Mack Arch, Oregon, is scheduled to open either the latest of August 7 or attainment of the commercial chinook quota for the area from Cape Blanco, Oregon, to Point Delgada, California. Although the overall area quota is projected to be reached by midnight, August 26, 1986, landings are allowed for 24 hours after closure. The subarea fishery from Sisters Rocks to Mack Arch, Oregon, is being delayed for two days to evaluate the number of chinook caught in the area between Cape Blanco, Oregon, and Point Delgada, California.

The delay in opening the subarea fishery is authorized under an emergency rule (51 FR 18451, May 20, 1986) extended through November 11, 1986 (51 FR 28717, August 11, 1986), which established inseason management provisions for the 1986 season. The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated treaty Indian fishing rights, and the ocean allocation scheme in the framework amendment. All inseason adjustments must be based on consideration of the following factors: (1) Predicted sizes of salmon runs; (2) harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial, and treaty Indian catch for each species in the area to date; (3) amount of recreational, commercial, and treaty Indian fishing effort in the area to date; (4) estimated average daily catch per fisherman; (5) predicted fishing effort for the area to the end of the scheduled season; and (6) other factors as appropriate.

The Director of the NMFS Northwest Region (Regional Director) consulted with the Chairman of the Pacific Fishery Management Council, the Directors of the Oregon Department of Fish and Wildlife (ODFW) and the California Department of Fish and Game (CDFG), and the Director of the NMFS Southwest Region regarding a closure of the commercial fishery from Cape Blanco to Point Delgada due to the projected attainment of the chinook quota. The Directors of ODFW and CDFG confirmed that Oregon and California will close the commercial fishery in State waters adjacent to this area of the FCZ effective 2400 hours PDT, August 26, 1986.

The Regional Director also discussed a delay in the opening of the commercial fishery for all species except coho from Sisters Rocks to Mack Arch, Oregon, until 0001 hours PDT, August 29, 1986 to evaluate landings in the area between Cape Blanco, Oregon, and Point Delgada, California. The Director of ODFW confirmed that Oregon will open the commercial fishery in State waters adjacent to this area of the FCZ effective 0001 hours PDT, August 29, 1986.

Therefore, the Secretary issues this notice to close the commercial fishery in the FCZ from Cape Blanco, Oregon, to Point Delgada, California, at 2400 hours PDT, August 26, 1986. Based on the determination that the delay in reopening is consistent with the criteria in the emergency rule, the Secretary also issues this notice to delay the opening of the commercial fishery in the FCZ from Sisters Rocks to Mack Arch, Oregon, until 0001 hours PDT, August 29, 1986.

This notice does not apply to other fisheries which may be operating in other areas.

Other Matters

This action is taken under the authority of 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: August 26, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-19643 Filed 8-28-86; 4:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 166
Friday, August 29, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 151

[Docket No. 86-077]

Recognized Breeds and Books of Record

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the "Recognition of Breeds and Books of Record of Purebred Animals" regulations by adding the Wielkopolskich breed of horses and the Ksiega Stadna Koni Wielkopolskich book of record to the list of "recognized breeds and books of record." It has been determined that the Wielkopolskich breed of horses and the Ksiega Stadna Koni Wielkopolskich book of record qualify for such listing, thereby allowing duty-free entry into the United States of horses which are registered in the book.

DATE: Written comments must be received on or before October 28, 1986.

ADDRESS: Written comments concerning this proposed rule should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-077. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Robert E. Wagner, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8565.

SUPPLEMENTARY INFORMATION:

Background

Item 100.01 in Part 1, Schedule 1, of 19 U.S.C. 1202 (the Tariff Act of 1930, as amended) provides, in part, that animals (except for certain foxes) certified to the collector of customs by the Department of Agriculture as being pure bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed, may enter the United States free of duty if imported for breeding purposes. Implementing regulations, captioned "Recognition of Breeds and Books of Record of Purebred Animals" (referred to below as the regulations), are set forth in 9 CFR Part 151.

In accordance with § 151.2 of the regulations, Veterinary Services issues certificates of pure breeding for certain animals. To be eligible for a certificate, an animal must be "purebred of a recognized breed and have been registered in good faith in a book of record listed in § 151.9(a) [of the regulations] and must not have been registered on inspection without regard to purity of breeding." The regulations contain lists of "recognized breeds and books of record" for cattle, horses, asses, sheep, goats, swine, dogs, and cats.

This document proposes to amend the list of "recognized breeds and books of record" in § 151.9(a) of the regulations by adding the Wielkopolskich breed of horses as a recognized breed and by adding as the book of record the Ksiega Stadna Koni Wielkopolskich book issued by the Warm Blood & Full Blood Breeders of the Great Polish Horses, Pulewski 14, 02-152 Warsaw, Poland.

Under the regulations, purebred horses are those which are the progeny of known and registered ancestors of the same recognized breed and for which at least three generations of ancestry can be traced. A "book of record" is defined in the regulations as: "[a] printed book or an approved microfilm record sponsored by a registry association and containing breeding data relative to a large number of registered purebred animals used as a basis for the issuance of pedigree certificates." The regulations also provide that a book of record for a breed of animal must be examined and approved by Veterinary Services before the breed and book of record are eligible to be added to the list contained in the regulations.

The custodian of the book of record for Wielkopolskich horses has submitted to Veterinary Services a complete copy of the book of record with a copy of all rules and forms affecting the registration of the animals in the book of record. A representative of Veterinary Services has reviewed the material submitted and has determined that both the breed and book of record meet the requirements of the regulations for addition to the list of "recognized breeds and books of record."

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

If the proposal is adopted as a final rule, Wielkopolskich horses will be eligible for duty-free importation into the United States. It is anticipated that the number of Wielkopolskich horses imported into the United States annually would be less than one percent of the total number of horses imported into the United States annually.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

BEST COPY AVAILABLE

List of Subjects in 9 CFR Part 151

Animals, Animal pedigree, Imports, Purebred animals.

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Accordingly, 9 CFR Part 151 would be amended as follows:

1. The authority citation for Part 151 would continue to read as follows:

Authority: 19 U.S.C. 1202; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 151.9, the chart in paragraph (a) would be amended by adding the following after Code 2303 under the heading "Horses":

§ 151.9 Recognized breeds and books of record.

* * * * *

(a) * * *

HORSES

Code	Name of breed	Book of record	By whom published
2240	Wielkopolskich	Ksiega Stadna Koni Wielkopolskich.	Warm Blood & Full Blood Breeders of the Great Polish Horses, Pulewski 14, 02-152 Warsaw, Poland.

Done at Washington, DC, this 19th day of August 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19577 Filed 8-28-86; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19, 20, 30, 31, 32, 34, 40, 50, 61, and 70

Standards for Protection Against Radiation; Availability of Supplemental Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: On January 9, 1986, the Nuclear Regulatory Commission published for public comment a proposed revision of its radiation protection standards, 10 CFR Part 20. If implemented, that rule would require changes in the radiation protection procedures at nuclear power reactors and other NRC-licensed activities. Section 50.109 of the Commission's regulations requires that a backfit analysis be prepared for proposed NRC regulations that require changes to operating procedures for nuclear power reactor facilities licensed by the Commission under 10 CFR Part 50. This notice provides such an analysis for the proposed revision of 10 CFR Part 20 and solicits public comment on it.

DATES: Comments on this backfit analysis must be submitted in writing on or before October 31, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date. The comment period for the proposed Part 20 revision is being extended to this same date, thereby providing more than 60 days of concurrent comment period.

ADDRESSES: Submit written comments or any other information concerning this matter to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of the proposed revision of 10 CFR Part 20 and the accompanying Regulatory Analysis that supports this Backfit Analysis may be examined, and copied for a fee, at the Commission's Public Document Room at 1717 H Street, NW, Washington, DC. Single copies of these documents may be obtained from the person indicated under the **"FOR FURTHER INFORMATION CONTACT"** heading.

FOR FURTHER INFORMATION CONTACT: Robert E. Alexander, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443-7976.

SUPPLEMENTARY INFORMATION:

I. Background

A. Part 20 Revision

The Commission's primary standards governing radiation protection requirements for its licensees are given in 10 CFR Part 20. The original Part 20 was issued on January 29, 1957 (22 FR 548). Although about 100 amendments to 10 CFR Part 20 have been made since that time, this is the first complete revision of these regulations in over 25 years. This revision will bring the Commission's radiation protection standards into accord with current recommendations of the International Commission on Radiological Protection (ICRP). The revision is also consistent with "Radiation Protection Guidance to Federal Agencies for Occupational Exposure," which has been prepared for the signature of the President under the leadership of the Environmental Protection Agency.

On March 30, 1980, the Commission published an Advance Notice of Proposed Rulemaking (45 FR 18023) announcing its initation of a rulemaking proceeding for the purpose of updating its radiation protection standards. The notice described in detail the elements being considered for incorporation into the proposed rule and solicitated public comment thereon. About 70 responses were received in response to this notice. In addition, numerous meetings were held between the cognizant NRC staff members preparing the revision and groups associated with States, unions, the nuclear industry, licensees, public interest groups, radiation protection organizations, and other Federal agencies. On December 20, 1985, the Commission published a proposed revision of Part 20 in the **Federal Register** (50 FR 51992). A corrected version was published in the **Federal Register** on January 9, 1986 (51 FR 1092). There is an ongoing public comment period on the proposed rule.

B. The Backfit Rule

On September 20, 1985, the Commission published a final rule (50 FR 38097), commonly called the "backfit rule" (10 CFR 50.109), which sets forth requirements on imposing new or amended requirements on nuclear power reactor facilities licensed by the Commission under 10 CFR Part 50. This regulation sets forth the following requirements, among others:

1. (Section 50.109(a)(2)) "The Commission shall require a systematic and documented analysis pursuant to paragraph (c) of this section for backfits which it seeks to impose."

2. (Section 50.109(a)(3)) "The Commission shall require the backfitting of a facility only when it determines, based upon the analysis described in paragraph (c) of this section, that there is a substantial increase in the overall protection of the public health and safety or the common defense and security to be derived from the backfit and that the direct and indirect costs of

implementation for that facility are justified in view of the increased protection."

In order to reach this determination, § 50.109(c) sets forth certain factors that are to be considered in the backfit analysis. These factors and the accompanying analyses are presented in section II of this notice.

II. Draft Backfit Analysis

The proposed rivision to 10 CFR Part 20 is not anticipated to requrie physical modification to nuclear power reactors (or other licensed facilities). However, the definition of a "backfit" in § 50.109(a)(1) includes the modification of or addition to the procedures or organization required to design, construct or operate a nuclear power reactor facility. Even though the Part 20 rule is applicable to all NRC licensees and therefore is broader in scope than the "Backfit Rule," it would result in the need for revisions in the operating procedures dealing with radiation protection at nuclear power reactor facilities licensed under 10 CFR Part 50 and, consequently, a backfit analysis is to be performed for power reactor facilities.

Paragraph 50.109(c) requires consideration of the priority and scheduling of the action under consideration in light of other regulatory activities. Implementation of the proposed revision of 10 CFR Part 20 should not significantly affect any other backfits or safety-related activities. In order to minimize the impact of the retraining and revisions of procedures, the proposed implementation period of the Part 20 revision extends over a five-year period. Therefore the changes required to implement the Part 20 revision would not conflict with and do not need to be further prioritized with respect to other activities at nuclear power plants.

Paragraph 50.109(c) of the backfit rule also sets forth certain factors which are to be considered in the backfit analysis. These factors and how the proposed Part 20 revision relates to each are summarized below. These summary statements are based on the Regulatory Analysis which describes the anticipated benefits and anticipated costs that would be associated with the implementation of the proposed revision, were it to be adopted. This Regulatory Analysis is the primary source of the estimates of the benefits and the impacts described in this draft backfit analysis and is incorporated as part of this draft backfit analysis. Copies of the Regulatory Analysis are available for inspection in the Public Document room (see "ADDRESSES") and single copies are available from the NRC staff contact.

1. Statement of Specific Objectives to be Achieved

The proposed revision of 10 CFR Part 20 intended to:

a. Update the quarter-century-old 10 CFR Part 20 to incorporate advances in science and new concepts of radiation protection methodology and philosophy;

b. Implement pending Federal Radiation Guidance on occupational radiation protection;

c. Implement the principal current dose-limiting recommendations of the ICRP;

d. Incorporate the ICRP "effective dose equivalent" concept;

e. Update the limits on airborne radionuclide intakes, effluent releases and doses from inhaled or ingusted radionuclides using up-to-date metabolic models and dose factors; and

f. Require that licensees have programs for keeping radiation exposures "as low as is reasonably achievable" (ALARA).

2. General Description of the Actions to be Required of the Licensee or Applicant

The principal new or additional actions that would be required of licensees by the proposed 10 CFR Part 20 revisions are to:

a. Sum, under some circumstances, the estimated dose from radionuclides external to the body and from radionuclides deposited in the body;

b. If not previously done, provide documentation of programs for keeping exposures "as low as is reasonably achievable";

c. Provide increased protection for the embryo/fetus when female workers declare themselves pregnant;

d. Employ the latest ICRP limits on airborne radionuclide intakes, effluent releases and does from inhaled or ingested radionuclides; and

e. Modify training guides, operating procedures, and manuals to incorporate the new concepts and requirements and provide retraining of employees on these concepts and their implementation.

3. Change in the Risk to the Public from Accidental Off-Site Release of Radioactive Material

10 CFR Part 20 generally applies only to normal off-site releases of radioactive material, so there would be no direct impact on risks associated with accidental releases of radioactive materials.

4. Potential Impact on Rodiological Exposure of Faciltiy Employees

The principal impact of the revision would be to assure significantly better and more-up-to-date worker protection. The added protection result from the following:

a. The limit for annual worker doses would be 5 rems (effective whole-body dose) per year. Workers are permitted to receive 12 rems per year (3 rems per quarter) under the current Part 20 providing that the worker's average dose does not exceed 5 rems per year. Between 200 and 400 workers receive more than 5 rems per year under the existing rule. The Part 20 revision would provide for Planned Special Exposures which would allow worker doses to exceed 5 rems per year, but only under very stringently controlled conditions.

b. The worker dose limit for extremities would be reduced from 75 to 50 rems per year.

c. A limit would be placed on the dose to the embryo/fetus. There is currently no specific limit in the NRC regulations to protect the embryo/fetus.

d. Allowable intakes of radionuclides would be based upon the latest radiobiological, metabolic, and dosimetric data. For a number of radionuclides the intake limits would be lowered.

e. Doses would be limited by considering both internal and external radiation doses added together rather than evaluating them separately as allowed by the present rule.

f. Dose limits would be expressed as the sum of organ doses weighted by the comparative biological risk of the organ. These limits would therefore be based on a better characterization of the predicted biological effect on the body organs.

g. More effort would be required of some licensees to formulate and implement programs to keep worker exposures "as low as is reasonably achievable" (ALARA).

5. Installation and Continuing Costs, Including the Cost of Facility Downtime or the Cost of Construction Delays

There should be little or no costs associated with facility downtime or construction delays. The Part 20 changes apply primarily to operational procedures and should cause only minor revisions, if any, in facility design or in shielding. The initial and annual costs associated with various provisions in the revision are discussed and analyzed in the Regulatory Analysis and are summarized in the notice of proposed rulemaking (51 FR 1121). The total

estimated costs for all affected licensees are $33 million for initial implementation and $7.8 million additional costs per year thereafter. Of these amounts, a $13.1 million initial cost and $2.5 million annual cost are estimated to apply to nuclear power reactors. These costs may be reduced as a result of the five-year implementation period mentioned in the proposed revision.

6. Potential Safety Impact of Changes in Plant or Operational Complexity, Including Relationships to Proposed and Existing Regulatory Requirements

Any safety impacts and changes in plant complexity would be negligible, since the proposed rule should not entail changes in plant design. Some of the proposed changes could increase operational complexity. However, once the new procedures are fully implemented they are expected to become routine.

The impact of modifying operating procedures, manuals, and records would be minimized by a five-year implementation period during which licensees may develop the necessary new procedures, manuals, and, records and convert to the new system at any time most convenient to the licensee.

7. The Estimated Resource Burden on the NRC and the Availability of These Resources

Costs to the NRC would primarily be associated with the preparation of new regulatory guides for implementing the new procedures and revising existing regulatory guides, branch technical positions, and inspection procedures to reflect the Part 20 revisions. It has been estimated that this effort would consist of 5 to 7 new regulatory guides requiring 0.2 staff-years per guide or 1 to 1.4 staff-years total and approximately $350K of technical support effort. At least seven existing regulatory guides would require revision, resulting in an additional staff-year of effort. It is estimated that approximately one staff-year would be required in both the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Nuclear Reactor Regulation (NRR) to modify license conditions and technical specifications to comply with the proposed revision.

The largest impact in NRC would be in the Office of Inspection and Enforcement and the NRC Regional Offices to revise inspection procedures and to train inspectors on the new regulations and procedures. It is estimated that this would require about 5 staff-years total. Once the new procedures are in place, there should not be any significant resource expenditures above current levels.

These impacts would be spread over the 5-year implementation period. For this reason and the fact that the impact would be distributed over several NRC offices, the Part 20 implementation should not have a major impact on NRC programs.

8. Potential Impact of Differences in Facility Type, Design, or Age on the Relevancy and Practicality of the Proposed Action

Since the proposed revisions principally affect operating procedures rather than facility physical design, there would be no significant impact from differences in facility type, design or age.

9. Are the Proposed Revisions Interim or Final and if Interim, What is the Justification for Imposing Them on an Interim Basis

The proposed rule, with modifications, is intended to be issued as a final rule.

Other Factors

The Environmental Protection Agency, in cooperation with NRC and other Federal Agencies, has prepared revised Federal guidance on radiation protection for workers. This guidance, if approved by the President, would greatly influence the formulation of occupational radiation protection standards. The proposed Part 20 modifications would implement the new guidance. If the Part 20 revision is not adopted, NRC regulations would not be consistent with the new Federal guidance and the regulations of other Federal agencies.

Conclusion

The proposed revisions will provide improved public health protection by virtue of:

- Limiting routine annual occupational doses to 5 rems and deleting the present 5(N–18) formula option which allows doses up to 12 rems per year;
- Imposing a limit on radiation doses to the embryo-fetus. (No specific limit exists in the present Part 20 for the embryo-fetus);
- Updating the radionuclide intake limits based upon current scientific data, including substantially lower limits for several radionuclides such as uranium. (Part 20 now relies upon more than 25-year-old methodology and information);
- Providing limits for the combined doses from both internal and external radiation sources. (The current Part 20 permits the evaluations to be done separately);
- Incorporating the "effective dose" concept whereby organ doses are weighted by their relative health risk and summed to give a risk-equivalent dose. (The current Part 20 uses the "critical organ" concept and does not consider doses to organs other than the critical organ in setting allowable limits on radionuclide intake); and
- Requiring licensees to develop and implement a program and procedures for keeping radiation exposures "as low as is reasonably achievable" or "ALARA." (Except for LWR effluent releases subject to Appendix I of 10 CFR Part 50, the present regulations exhort the licensee to keep radiation exposures "ALARA", but do not make this a requirement.)

In spite of these expected improvements, the Commission's analysis does not show unequivocally that the direct and indirect costs of implementation are justified in view of the increased protection. However, the Commission believes that there are additional relevant and material factors not amenable to quantitative cost comparisons and having significant bearing on this issue, including:

- Incorporation of updated Presidential guidance on radiation protection;
- Consistency with international standards, particularly with regard to international commerce.
- Updating the technical basis for the Part 20 limits; and
- Consistency of the methods and technical approaches for radiation protection regulations and those for current risk assessment methodologies.

Because of the public health improvements and the additional qualitative factors bearing on the issue described above, the Commission believes that the rule should be promulgated even though it may not provide a substantial increase in the overall protection of the public health and safety for the common defense and security. In addition, the Commission has tentatively concluded, pending consideration of public comments, that when all factors, qualitative as well as quantitative, are taken into consideration, the benefits to be derived from the proposed revision of Part 20 justify the direct and indirect costs of its implementation. However, this decision and the Commission's decison regarding the cost-benefit balancing and conformance of the proposed Part 20 revision to the "Backfit Rule" are tentative pending receipt of public comments on these issues.

III. Request for Comments

The Commission solicits public comment on:

(1) The draft Backfit Analysis for the proposed revision of Part 20;

(2) Whether the Commission has adequately implemented § 50.109 as it applies to the proposed Part 20 revision;

(3) Whether the proposed revision of 10 Part 20 would provide a substantial increase in the overall protection of public health and safety that will justify the direct and indirect costs of implementing this rule; and

(4) Whether, because of other factors which support the proposed Part 20 revision, the application of § 50.109(a)(3) should be suspended for this rulemaking if it is found that the proposed amendments do not meet the criteria in that section.

In addition to the above questions, Commissioner Bernthal also would like comments on the following two issues:

1. In regard to the Backfit Analysis, comment is solicited on whether criteria for Commission suspension of the "substantial increase" threshold should be developed and made subject to rulemaking.

2. Comment is also solicited on whether the Backfit Rule, given its evident defects and limitations in such cases, should continue to be applied at all to Commission rulemaking per se.

IV. Additional Comments of the NRC Commissioners

Commissioner Roberts' Views

Commissioner Roberts disapproved the proposed revision to Part 20 because the backfit analysis could not demonstrate that the changes would provide a "substantial" reduction in the radiation dose received by workers and members of the public.

Commissioner Asselstine's Views

I approve the publication of this Backfit Analysis for the purpose of obtaining public comment on the adequacy of the Commission's compliance with its Backfit Rule. The NRC staff has written that it ". . . does not believe that the Part 20 revision will provide a 'substantial' change in the radiation doses received by workers and members of the public." (See SECY–86–48A, page 2, "Backfit Analysis for Proposed Revision of 10 CFR Part 20" dated May 19, 1986.) The Commission's Backfit Rule (10 CFR 50.109) requires a two prong test to be met before the Commission can promulgate a new or revised regulation such as the Part 20 proposed revisions. One of the required tests contained in 10 CFR 50.109(a)(3) is that any revision to the Commission's regulations affecting part 50 licensees must provide ". . . a substantial increase in the overall protection of the public health and safety . . ." Given the above conclusion of the staff that this threshold is not met in the proposed revision to Part 20, the Commission is here asking the public whether the application of the threshold standard in 10 CFR 50.109(a)(3) should be suspended for the Part 20 revisions. I would particularly appreciate receiving comments from those that believe the threshold standard should be suspended as to why the Part 20 rulemaking deserves special treatment under the Backfit Rule. In addition, I would appreciate comments on whether the Commission should develop criteria governing when the Commission will or will not apply the threshold standards of 10 CFR 50.109(a)(3) and whether such criteria should be subjected to rulemaking.

Commissioner Bernthal's Views

The public should be aware of the fact that the Commission has for nearly a year attempted to adapt the Backfit Rule to *all* rulemaking, even rulemaking that has nothing to do with powerplant hardware and the original intent of the Backfit Rule. This rulemaking and the accompanying analysis illustrates the difficulty. When applied to human-factors and certain other rulemaking, the Backfit Rule continues to exact NRC resources wholly disproportionate to any conceivable benefit to the public.

The record already shows cases where the Commission has been forced to sidestep a strict reading of the cost-benefit requirements of the Backfit Rule, when it nevertheless finds broad agreement that a rulemaking is in the public interest (e.g. in the case of conversion of non-power reactors from HEU [Highly Enriched Uranium] to LEU [Low Enriched Uranium]).

I therefore believe the public may wish to comment directly on the question of whether the Commission should continue its attempts to apply the Backfit Rule to all rulemaking, or whether the Rule should be revoked as it applies to rulemaking activity *per se*.

Alternatively, the public may wish to consider whether the Commission should amend the Backfit Rule to indicate explicitly that non-monetary benefits may be weighed by the Commission in the cost-benefit balance, when such considerations are found by the Commission to be in the public interest.

Dated at Washington, DC, this 26th day of August, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–19624 Filed 8–28–86; 8:45 am]

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10 CFR Parts 19, 20, 30, 31, 32, 34, 40, 50, 61 and 70

Standards for Protection Against Radiation; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On January 9, 1986, the Nuclear Regulatory Commission published for public comment a proposed revision of its radiation protection standards, 10 CFR Part 20. This Notice extends the comment period from September 12, 1986 to October 31, 1986 in order to be coincident with the comment period for the draft backfit analysis for this proposed rulemaking that is being published elsewhere in this issue.

DATE: Comments on the proposed revision must be submitted in writing on or before October 31, 1986. Comments received from this date will be considered if it is practical to do so, but assurance of this consideration cannot be given except as to comments filed on or before this date. The comment period on the proposed backfit analysis for this rule also ends on this date.

ADDRESSES: Submit written comments or any other information concerning this matter to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Docketing and Service Branch. Copies of the proposed revision of 10 CFR Part 20 and the accompanying regulatory analysis that support this backfit analysis may be examined and copied for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of these documents may be obtained from the person indicated under the "**FOR FURTHER INFORMATION CONTACT**" heading.

FOR FURTHER INFORMATION CONTACT: Robert E. Alexander, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7976.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is

proposing to revise its regulations pertaining to radiation protection standards. The proposed revision was published in the FEDERAL REGISTER on January 9, 1986 (51 FR 1092). In that document (51 FR 1122), the Commission indicated that it was publishing the proposed Part 20 revision without waiting for the preparation of a backfit analysis in accordance with § 50.109 of 10 CFR Part 50. The Commission noted that such an analysis could be prepared and, if necessary, public comment on the backfit analysis could be obtained at a later date. A draft backfit analysis is published elsewhere in this issue of the Federal Register. The change in the comment period on the proposed Part 20 revision, extending it to October 31, 1986, is coincident with the comment period on the draft backfit analysis and will provide at least 60 days of concurrent comment period for both documents.

Dated Washington, DC, this 26th day of August, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-19625 Filed 8-28-86; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

[No. 86-854-A]

Nationwide Lending and Loan Participation Requirements; Withdrawal of Proposed Rule

Dated: August 15, 1986.

AGENCY: Federal Reserve System.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Home Loan Bank Board (Board) is withdrawing the nationwide lending and loan particpation portion of its proposals of May 9, 1986, 51 FR 17634, May 14, 1986. The Board is withdrawing these proposals pending further staff study of issues raised by the comments.

DATE: This withdrawal is effective August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Director, Policy Analysis Division, Office of Policy and Economic Research, (202) 377-6763; Diana Garnus, Financial Analyst, Office of Examinations and Supervision, (202) 377-6820; or C. Dawn Causey, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-6472, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC. 20552.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank ("Board") on May 9, 1986, proposed to reinstitute requirements for nationwide lending and loans participations and to expand existing loan recordkeeping requirements. Board Res. No. 86-471, previously adopted as Board Res. No. 86-429 on April 24, 1986, 51 FR 17634 (May 14, 1986). The proposal would have (1) limited the amount of whole loans secured by collateral (other than first liens on owner-occupied homes) located outside the normal lending territories ("nationwide loans") of insured institutions that they could purchase or originate without the prior approval of the Principal Supervisory Agent; (2) limited the ability of insured institutions to participate in originating secured loans or to purchase participation interests in such loans without the prior approval of the principal Supervisory Agent; and (3) expanded and clarified the Board's existing minimum recordkeeping requirements for loans, loan purchases and participations, and timeshare loans in accordance with the existing requirement that records be accurate and complete. The Board by separate action is adopting as a final rule with modifications the loan recordkeeping portion of the proposal.

In response to the comments received, the Board is withdrawing the nationwide lending and loan participation portions of the proposal pending further staff study of the issues raised by the commenters. Specifically, commenters suggested that the nationwide lending portion of the proposal addressed the wrong aspect of the problem of asset quality. They urged that the asset quality problem is related to loan underwriting, not loan location. In addition, concerns were raised over the potential inhibition of the secondary market and the availability of credit. Commenters addressing the loan participation portion of the proposal expressed serious concern over the requirement for divestiture of participation interests and the potential conflict between the proposed retainage requirements and the Board's loans-to-one-borrower rule. Commenters also opposed the proposed waiver procedure as unworkable and as adding an element of delay to the lending process. The Board is persuaded that commenters have raised substantial issues that require further study before the Board decides what action, if any, to take on nationwide lending and loan participations. The Board is therefore withdrawing the portions of its proposal concerning nationwide lending and loan participations. Should the Board decide to act in the future on nationwide lending or loan participations, it will repropose any such action for public comment.

A few commenters petitioned the Board for a public hearing on the nationwide lending and loan participation portions of the proposal. Because the Board intends to repropose for public comment any action that might in the future seem desirable, it is unnecessary at this time to grant the petitions for a public hearing, and the Board hereby denies them. Should the Board repropose action on these subjects, petitioners may renew their requests for a public hearing if they so desire.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-19595 Filed 8-28-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-30]

Proposed Alteration of Detroit, MI, Terminal Control Area

Correction

In FR Doc. 86-18152, beginning on page 28956, in the issue of Wednesday, August 13, 1986, make the following corrections:

1. On page 28957, in the first column, in the Authority citation, second line, "10845" should read "10854"; and

§71.401 [Corrected]

2. On the same page and column, the last paragrph of § 71.401(b) should be corrected to read as follows:

In Area D, wherever "050° radial" appears substitute "047°T (050°M) radial", wherever "323° radial" appears substitute "317°T (323°M) radial", wherever "226° radial" appears substitute "220°T (226°M) radial" and wherever "200° radial" appears substitute "197°T (200°M) radial".

BILLING CODE: 1505-01-M

14 CFR Part 75

[Airspace Docket No. 86-ASO-5]

Proposed Alteration of Jet Route J-89-GA

Correction

In FR Doc. 86-18150 beginning on page 28957, in the issue of Wednesday,

August 13, 1986, make the following correction:

On page 28958, in the first column, in the fourth line from the bottom, "7600.6B" should read "7400.6B".

BILLING CODE: 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 444

Trade Regulation Rule; Credit Practices

AGENCY: Federal Trade Commission.

ACTION: Request for exemption from trade regulation rule by the State of California Attorney General.

SUMMARY: The Federal Trade Commission hereby publishes for comment a request from the State of California for an exemption from that portion of the Commission's trade regulation rule on Credit Practices that pertains to cosigners, 16 CFR 444.3 (1984) (Credit Practices Rule).

Interested persons are invited to comment on the State of California's exemption request summarized below, and on certain issues raised by the request that are identified below. At the end of the comment period, the Commission staff will review the comments received and make a recommendation to the Commission as to whether the requested exemption should be granted. The Commission will publish its decision to grant or deny the exemption.

DATE: Comments are invited and must be received on or before October 28, 1986.

ADDRESS: Comments on the Request for Exemption of the State of California should be sent to: Secretary, Federal Trade Commission, Washington, DC 20580.

Comments should be captioned: "California Petition for Statewide Exemption from the Credit Practices Rule."

Copies of the Petition can be obtained from the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 523–3598.

FOR FURTHER INFORMATION CONTACT: David G. Grimes, Jr., Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 (202) 724–1156.

SUPPLEMENTARY INFORMATION: The Credit Practices Rule states that it is unfair for a creditor in a transaction subject to the Rule [1] to include in a contract a provision that constitutes or contains a confession of judgment or similar waiver; a waiver of exemptions; an assignment of wages (with certain limited exceptions); or a non-purchase money security interest in household goods. The Rule also states that it is deceptive for a creditor to misrepresent a cosigner's liability and unfair for a creditor to fail to disclose the cosigner's liability. The Rule requires that a particular notice be provided to potential cosigners and states that a creditor complying with that disclosure provision does not violate the prohibition against unfair and deceptive statements concerning the cosigner's liability. The Rule states that it is an unfair practice for a creditor to assess multiple late fees when the only delinquency is the failure to pay a previously assessed late fee.

The Credit Practices Rule provides (Rule § 444.5, 16 CFR 444.5) that if a state applies for an exemption from a provision of the Rule, such exemption will be granted if the Commission determines that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Credit Practices Rule applies; and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule's provision. Such an exemption will continue for so long as the state effectively administers and enforces its law. The result of the exemption is that the exempted provision of the Credit Practices Rule is not in effect in that state.[2]

The State of California asserts that the California Civil Code § 1799.90 *et. seq.*, the California Business and Professions Code, § 17200 *et. seq.*, and the state enforcement scheme meet the standards for exemption contained in the Rule and requests an exemption from § 444.3 of the Rule, the section pertaining to unfair or deceptive cosigner practices, on that basis.

Pursuant to § 1.16 of the Commission's Rules of Practice, the Commission has determined to publish the exemption request for public comment for 60 days to receive information from the public on whether the state requirements meet the Rule's criteria for exemption.

As set forth in 16 CFR 444.5, the Commission will evaluate in the context of an exemption proceeding appropriate state petitions for exemption to determine whether the level of protection afforded to consumers under the state law is substantially equivalent to the Credit Practices Rule and whether the state law is administered and enforced effectively. As explained in the staff guidelines, the exemption proceeding will be conducted pursuant to § 1.16 of the Commission's Rules of Practice.[3]

As indicated by the Commission in the Rule's Statement of Basis and Purpose,

> the requirement in [16 CFR] § 444.5 that a comparable state requirement be "substantially equivalent" to the Commission rule provision does not, in our view, require that the state requirement mirror exactly the Commission provision. Any differences that exist, however, should be so minor as not to deprive consumers of the level of protection guaranteed by the Commission Rule nor to complicate significantly compliance by interstate creditors. [footnote omitted] Other factors that will be considered by the Commission in determining whether an exemption is warranted include the resources committed by the state to enforce its provisions, and the extent of any private rights of action available to aggrieved consumers (49 FR 7740, 7783).

Contents of the California Submission

The Attorney General of the State of California has provided a copy of the relevant state statutes and a narrative statement comparing and explaining how state law and the Rule would apply to the same transaction. The Attorney General has also expressed his conclusion, based on the information he has submitted, that California law affords greater protection to consumers than does the cosigner provision of the Commission's Rule. The submission is signed by the Deputy Attorney General.

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[1] The Federal Trade Commission does not have jurisdiction over banks or federally-chartered or insured savings and loan associations, so transactions by those creditors are not subject to the Rule. However, the Federal Reserve Board and the Federal Home Loan Bank Board have adopted substantially similar rules for those institutions. The FRB's rule and the FHLBB's rule may be found at 50 FR 16695 (April 29, 1985) (codified at 12 CFR Part 227) and 50 FR 19325 (May 8, 1985) (codified at 12 CFR Part 535), respectively.

[2] To assist the states in applying for exemptions, the FTC has published staff guidelines for exemption proceedings under the Credit Practices Rule at 50 FR 19335, May 8, 1985.

[3] The staff guidelines also state that additional procedures for public participation may be scheduled if necessary for a full and fair presentation of significant factual issues, such as when cross-examination is necessary. The guidelines list the information that should be contained in any request for such additional procedures. Any such request should be sent to the Office of the Secretary, Federal Trade Commission, Washington, DC 20580.

VOL 51 ISS 168 AUG 29 1986 UMI

California Law as Described in the Submission

A. Summary of Provisions of California Law

The petition cites the California Civil Code, section 1799.91, which contains a requirement that a "Notice to Cosigner" be given to certain persons who enter into consumer credit contracts. Sections 1799.95 and 1799.99 provide that no action may be brought and no security interest enforced, against any cosigner who is entitled to receive a cosigner notice and does not receive it, in connection with any consumer credit contract subject to the Code or any other transaction subject to provisions of § 444.3 of the Commission's Credit Practices Rule.

The petition also cites the California Business and Professions Code, section 17200, which prohibits unfair competition, a term defined to include unlawful and unfair business practices, as well as unfair or deceptive advertising. Actions for injunctions and civil penalties are provided for in sections 17204 and 17206. False or misleading statements are prohibited by section 17500 and injunctive relief and civil penalties are provided for in sections 17535 and 17536.

B. Comparison of Cosigner Notice Requirements

Section 1799.91 of the California Civil Code requires that each "creditor" who obtains the signature of more than one person on a transaction subject to § 444.3 of the Credit Practices Rule deliver a notice that is identical to the text of the notice contained in § 444.3(c) of the Credit Practices Rules [4] to each person unless the persons are married to each other or unless the person in fact receives any of the money, property, or services that are the subject of the transaction.

Public comment is sought on the degree to which the differences in coverage between state law and the Rule affect the level of protection afforded by state law, as discussed below.

1. Parties Required to Give the Notice

The California Civil Code requires that the notice be given by each "creditor," defined as any person or entity who enters into or arranges for consumer credit contracts (including lease purchase arrangements), "in the ordinary course of business." The Credit Practices Rule applies to any "lender" and any "retail installment seller," as defined in §§ 444.1(a) and 444.1(b) respectively, within the Commission's jurisdiction.[5] California states that its law covers the same parties that the Rule covers. It maintains further that the definition of "consumer credit contract" includes all of the retail installment sales and virtually all of the loans covered by the Rule.

In view of the differences in terminology in the Commission's Rule and the California Code, public comment is sought as to whether there are situations where the notice would be required under the Rule but not the Code, or under the Code but not the Rule, or whether the protection afforded by the Code is as great as, or greater than, the protection afforded by the Rule.

2. Inclusion of the California Notice in the Contract

The Rule requires that the cosigner notice be on a separate document. California law requires the placement of the notice on either a separate document or on the contract or other document establishing the cosigner's liability. California law requires that all cosigner notices be in at least 10-point type, although the Rule contains no such requirement. California notes that the Commission's stated purpose (at 49 FR 7778) for requiring that the notice be given on a separate document is to assure that the cosigner will actually be aware of the notice before becoming obligated. California contends that its law meets this objective by requiring that any cosigner notice not actually on a separate document must be placed on the document that contractually obligates the cosigner and must appear in a box with a bold border that is placed immediatley above the signature line or immediately above or adjacent to other statutorily required notices. California maintains this cosigner notice will not be lost in the verbiage of the contract, because the notice must appear on the side of the contract that has the signature line.

California law also contains the express requirement, not contained in the Rule, that the cosigner receive a copy of the cosigner notice. California law prohibits obtaining a cosigner's signature on a contract containing blank spaces to be filled in later and requires that each person entitled to the cosigner notice also receive a copy of the debt instrument and any security agreement or deed of trust evidencing the consumer credit contract.

Public comment is sought on whether California law provisions governing the locations of the cosigner notice make the protection afforded by California law greater or less than that afforded by the Rule.

3. Provision of the Notice to Spouses

The Rule requirement that the cosigner notice be given does not exclude a spouse who is a cosigner; California law does exclude spouses. California contends that providing the Rule notice to spouses would constitute the furnishing of a misleading statement [6] of spouses' legal responsibilities under California's marital law, and that the Rule notice cannot appropriately be modified to reflect the intricacies of such law. California claims that it would be impractical to modify the notice; that an accurate, modified notice would be ineffective because of its complexity; and that such notice would rarely be of value to spouses.

In summarizing California's marital property law, the California Attorney General notes that all real property in California and all personal property acquired during marriage is community property. California law provides that community property is "liable" for debt incurred by either spouse before or during marriage, regardless of whether one or both are parties to the debt. A married person may imperil his or her separate property (e.g. property acquired before marriage or through gift or inheritance) by cosigning for the spouse's debts. Otherwise, such separate property is not liable for debts of a spouse, except for debts incurred to obtain the "necessities of life." California maintains that a cosigner

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[4] The text of the consigner notice is as follows:

Notice to Cosigner.

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This notice is not the contract that makes you liable for the debt.

[5] Under the Rule the term "lender" [§ 444.1(a)] denotes one who engages "in the business" of lending money to consumers, and the term "retail installment seller" [§ 444.1(b)] denotes one who sells goods or services to consumers on a deferred payment basis or pursuant to a lease-purchase arrangement.

[6] California argues that the cosigner notice may mislead a married person to believe he or she will not be liable for his or her spouse's debt unless the person signs the obligation.

notice explaining these provisions of the California law would be too complex to be effective. California contends that the notice would be of little value because it is likely that all of a spouse's significant assets are community property that is already imperiled without the spouse's signature, for any debt incurred by the other spouse before or during marriage. Further, California contends that the notice would not apply to most obligations, because creditors will structure them to entitle both spouses to receive the proceeds of the transaction or to use or own the purchased goods.

Public comment is sought as to whether, in light of the provisions of California community property law, California law provides less protection than does the Rule, because it does not require that the cosigner notice be given to spouses. Comment is also sought concerning whether the notice required by the Rule would mislead a married person to believe that there would be no liability for his or her spouse's obligation, unless that person became a cosigner.

4. Other Parties Entitled To Receive the Notice

California maintains that its law offers protection to a greater range of cosigners than does the Rule. The California Code requires that a cosigner notice be given to a person whose collateral is at risk, unless that person actually uses the money, property, or services that are the subject of the transaction. Under § 444.1(k) of the Rule, as construed in Commission staff opinion letters, a person who merely pledges collateral without becoming personally obligated,[7] and a person who is entitled to receive proceeds of a loan but elects not to receive them,[8] are not cosigners and not entitled to receive the cosigner notice. Such persons are entitled to receive the cosigner notice under California law.

California also maintains that its law offers protection to certain cosigners of open-end credit transactions, but that the Rule does not offer protection to such cosigners in California. The Attorney General states that creditors in California offer open-end credit plans to multiple obligors as joint applicants, each of whom has the theoretical right to receive credit. Consumers who elect not to receive the credit under such open-end transactions would not be entitled to receive the cosigner notice under the Rule as construed by the Commission staff.[9] Under California law, the cosigner notice would have to be given unless the creditor disclosed clearly and conspicuously in the credit application or agreement that each applicant has the right to receive credit up to any limit and that each applicant may be liable for credit extended to any applicant. The creditor would also have to issue each applicant the credit cards or other devices needed to access the credit plan in order to avoid being required to give the cosigner notice.

Public comment is sought on the degree to which these differences as to persons entitled to receive the cosigner notice affect the level of protection afforded by California law as compared with the Rule.

5. Language of the Notice

In its Statement of Basis and Purpose, the Commission noted (at 49 FR 7778) that the cosigner notice should be provided in the same language as that in which the underlying loan contract is written, a matter not specifically addressed by the Rule. California requires that a prescribed, Spanish language translation of the notice accompany the English version, and that the notice be translated into the language in which the underlying contract is written, if other than English or Spanish (in addition to, or in lieu of, the Spanish translation).

California maintains that the language requirements for its notice are consistent with the Commission's viewpoint that the cosigner notice should be given in the same language used in the underlying credit agreement.

Public comment is sought as to whether the requirements of California law as to the language of the cosigner notice afford the same protection as does the Rule.

6. Coverage of Real Estate Loans

California contends that its law requires that the cosigner notice be given in some transactions not covered by the Rule. The Commission's Statement of Basis and Purpose for the Rule states (at 49 FR 7740) that the rulemaking proceeding focuses on credit "for purposes other than the purchase of real estate." The Commission's Statement of Basis and Purpose states that the confession of judgment prohibition under § 444.2(a)(1) of the Rule applies to real estate secured second mortgage loan obligations, to the extent that the proceeds of such loans are used for consumer purchases, but does not apply to real estate first mortgages (49 FR 7745–55). Commission staff believes the foregoing Commission statements determine the extent to which the cosigner provision applies to real estate loans and has therefore concluded that the cosigner provision does not cover transactions for the purchase of real estate, or the refinancing of purchase money real estate loans if the refinancing is not to obtain cash to be used for the purchase of consumer goods or services, for personal, family or household use.[10] The California law cosigner provision applies to all loans for personal, family or household purposes, including purchase money real estate loans, that are arranged by real estate brokers or made by personal property brokers, thrift and loan companies, and consumer finance lenders subject to state licensure.

California maintains that the scope of its law is broader than the cosigner provision of the Rule, because it includes purchase money real estate loans.

Public Comment is sought as to whether the provisions of California law requiring that cosigner notices be provided in real estate transactions afford the same protection as does the Rule.

C. Comparison of Prohibitions Against Misrepresentations of Cosigner Liability

Section 444.3(a)(1) of the Rule provides that it is a deceptive act or practice within the meaning of Section 5 of the Federal Trade Commission Act for a lender or retail installment seller to misrepresent to any person, directly or indirectly, the nature or extent of consigner liability. Section 444.3(a)(2) provides that it is an unfair act or practice within the meaning of Section 5 for a lender or retail installment seller to obligate a consigner, directly or indirectly, unless the consigner is informed of the nature of his or her liability as a consigner prior to becoming obligated.

California law does not prohibit misrepresentation of cosigner liability or provide law enforcement agencies a cause of action to redress such conduct.

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[7] "A party whose sole connection with the transaction is to provide security for the transaction, but who is *not* obligated to pay the underlying debt . . . is not a cosigner." (FTC Staff Advisory Letter #7, February 22, 1985, 5 CCH Cons. Credit Guide ¶ 98,380. FTC Staff Advisory Letter #20, March 22, 1985, 5 CCH Cons. Credit Guide ¶ 98,345).

[8] "The FTC staff position . . . is that, if both persons are entitled to receive the proceeds of the loan, but elect to have the proceeds paid to only one of them, the other person is not a cosigner simply because he or she has chosen not to receive the loan proceeds." (FTC Staff Advisory Letter #20, March 22, 1985, 5 CCH Cons. Credit Guide ¶ 98,345).

[9] See Staff Advisory Letter #20, March 22, 1985, 5 CCH Cons. Credit Guide ¶ 98,345.

[10] FTC Staff Advisory Letter #23, March 8, 1985, 5 CCH Cons. Credit Guide ¶ 98,332.

California law does, however, proscribe the dissemination of untrue and misleading statements in order to dispose of goods or services. Proof of actual deception, the intent of the disseminator, the customer's knowledge of or reliance on the statement or damages are unnecessary to establish a violation. California law also prohibits a wide range of practices constituting unfair competition, which includes unlawful, unfair, or fraudulent business practices. This law protects consumers as well as businesses.

Public comment is sought on the degree to which the differences between state law and the Rule concerning prohibitions against misrepresentations affect the level of protection afforded by state law.

D. Enforcement and Remedies

California contends that its law affords consumers more protection than does the Rule, so far as enforcement and remedies are concerned. Public comment is sought on whether the enforcement mechanisms and remedies provided under state law afford a level of protection comparable to that afforded by the Rule.

1. Remedies

The rule provides for penalties of $10,000 per violation, but failure to comply with the Rule does not alter the underlying obligation. The commission may sue to enforce the Rule, but no private right of action is provided under the Rule.

Under California law, an action for injunction, restitution, and other equitable relief may be brought by private organizations or individuals, even if they are not directly aggrieved by the violations. Such actions may also be brought by the Attorney general, any of 58 district attorneys, and local prosecutors, all of whom may seek a civil penalty of up to $2,500 for each violation of the statutes (which could result in a $5,000 penalty for a deceptive statement that violates two provisions of the Code) and may seek a civil penalty of up to $6,000 per day for each violation of an injunction issued pursuant to the Business and Professions Code.

If a consumer credit contract does not comply with California law, a creditor is prohibited from bringing any action or enforcing any security interest against anyone who signed the contract, did not receive any proceeds from the contract, was entitled to receive the consigner notice, and did not receive the notice.[11]

A party injured through misrepresentation of consigner liability has a cause of action under California law pursuant to traditional tort theories such as fraud, deceit, negligent misrepresentation, and mistake, and is entitled to appropriate traditional remedies that might include actual and punitive damages, rescission or reformation.

2. Enforcement Capabilities

In addition to the private right of action discussed above, California law is enforced by the Attorney General, the 58 district attorneys who have enforcement powers within their own counties that are concurrent with the powers of the Attorney General and by local prosecutorial offices. District attorneys in a number of highly populated counties maintain active consumer fraud divisions. City attorneys for Los Angeles and San Diego maintain active consumer protection sections.

List of Subjects in 16 CFR Part 444

Credit practices.

By direction of the Commission.

Benjamin I. Berman

Acting Secretary.

[FR Doc. 86-19548 Filed 8-28-86; 8:45 am]

BILLING CODE 6750-01-M

[11] This prohibition does not affect the rights of a bona fide purchaser for value of property sold pursuant to enforcement of a security interest, if such purchase was made without notice of any facts constituting a violation.

UNITED STATES INFORMATION AGENCY

22 CFR Parts 526 and 527

Freedom of Information Act Regulations for the National Endowment for Democracy

AGENCY: United States information Agency.

ACTION: Proposed rule.

SUMMARY: These proposed regulations comply with Pub. L. 99-93 of August 16, 1985, amending the National Endowment for Democracy Act (22 U.S.C. 4411, *et seq.*) which requires the Director of the United States information Agency to publish information on the application of the Freedom of Information Act (5 U.S.C. 552) (hereinafter "FOIA") to the National Endowment for Democracy (NED). More specifically, Pub. L. 99-93 requires that NED make available to the Director of the United States Information Agency (hereinafter 'USIA") such records and information as necessary to comply with the provisions of FOIA, and that the Director shall cause such records and information to be published in the **Federal Register.**

DATE: Comments must be received by September 29, 1986..

ADDRESS: Comments may be mailed to John A. Lindburg, Assistant General Counsel, United States Information Agency, Room 700, 301 Fourth Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: John A. Lindburg, Office of the General Counsel, United States Information Agency, Room 700, 301 Fourth Street, SW., Washington, DC 20547, (202) 485-7976.

SUPPLEMENTARY INFORMATION: Under the National Endowment for Democracy's most recent authorizing legislation (Pub. L. 99-93), NED is required to comply with the provisions of the Freedom of Information Act. *See* 22 U.S.C. 4415(a). The proposed regulations governing NED's compliance with FOIA were drafted to ensure that requesters seeking access to NED records receive prompt responses and have recourse to denials through a series of procedures.

The law also establishes a mechanism of review by the Director of USIA in the event of final determinations by NED not to comply with a FOIA request for its records. *See* 22 U.S.C. 4415(c). In such instances, NED is required to submit to the Director of USIA a report of its reasons for noncompliance. *See* 22 U.S.C. 4415(c)(1). If the Director approves NED's determination, USIA then assumes full responsibility, including financial responsibility, for defending NED in judicial review of its determinaiton. *See* 22 U.S.C. 4415(c)(2). If the Director disapproves NED's determination, NED Must comply with the request. *See* 22 U.S.C. 415(c)(3).

The proposed regulations fulfill the publication requirements of 5 U.S.C. 552(a)(1) for NED's and USIA's compliance with FOIA. The proposed regulations largely follow USIA's existing regulations implementing FOIA, since USIA regulations have provided an effective framework for compliance. To the extent that the proposed regulations differ from USIA's existing regulations, they do so to reflect the structure and organization of NED and the additional review by the Director of USIA of NED determinations not to comply with requests for records. The significant differences between the sets of regulations are discussed below.

Section 526(a). Requesters are permitted to make their initial requests for records and appeals of denials thereof to either NED or USIA,

consistent with the legislative intent expressed by the Committee of Conference. *See* H.R. Rep. No. 99–240, 99th Cong., 1st Sess. 79 (1985). Requesters are encouraged, however, to make their requests directly to NED to expedite their handling. For the same reason, USIA is required to forward any request it receives to NED within 2 working days of receipt by USIA. Requests will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(i) until actually received by NED.

Section 526(b). The proposed regulations provide a 30-day period for appeal of an initial adverse NED determination, which period runs from the receipt by the requester of the notification of denial. This is the same as the appeal period contained in the existing USIA regulations. Thus, NED's initial determination becomes its final determination, *inter alia*, upon expiration of the appeal period. To allow for full consideration within NED before review by the Director of USIA, only final determinations by NED are reviewed by the Director.

At the same time, the proposed regulations allow a requester to accelerate the time within which NED's initial determination becomes final and therefore eligible for review by the Director of USIA (and by the courts) by notifying NED of his election to forego appeal by the President of NED or his designee. This will allow more expeditious resort to review by USIA if the requester wishes.

The proposed regulations require NED to submit a report to the Director of USIA within five working days of NED's determination to deny a request for records. This period is designed to provide the requester with expeditious review and NED with sufficient opportunity to prepare the report that will serve as the basis of approval or disapproval by the Director.

Because review by the Director may resolve any dispute over access to NED records in favor of the requester, the proposed regulations encourage, but do not require, the requester to await the determination on review by the Director before seeking judicial review of NED's final determination. The minimal time period allowed for USIA review should not prejudice requesters.

USIA has determined that this is not a major rule for purpose of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, because USIA neither prescribes nor exercises any discretion over NED's grant application procedures, Paperwork Reduction Act requirements governing information collection are inapplicable.

List of Subjects

22 CFR Part 526

Freedom of information.

22 CFR Part 527

Organization and functions.

Dated: August 13, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison, United States Information Agency.

1. It is proposed to add Part 526 to read as follows:

PART 526—AVAILABILITY OF THE RECORDS OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

Sec.

526.1 Introduction.
526.2 Location of description of organization and substantive rules of general applicability adopted as authorized by law, and statements of general applicability formulated and adopted by NED.
526.3 Places at which forms and instructions for use by the public may be obtained.
526.4 Availability of final opinions, orders, policies, interpretations, manuals, and instructions.
526.5 Availability of NED records.
526.6 Exemptions.
526.7 Limitation of exemptions.
526.8 Reports.

Authority: Title II, Sec. 210, Pub. L. 99–93, 99 Stat. 431, 22 U.S.C. 4415.

§ 526.1 Introduction.

These regulations amend the Code of Federal Regulations to conform with Pub. L. 99–93. Pub. L. 99–93 amended the National Endowment for Democracy Act (22 U.S.C. 4411, *et seq.*) to require the National Endowment for Democracy (hereinafter "NED") to comply fully with the provisions of the Freedom of Information Act (5. U.S.C.) (hereinafter "FOIA"), notwithstanding that NED is not an agency or establishment of the United States Government. NED will make information about its operation, organization, procedures and records available to the public in accordance with the provisions of FOIA.

§ 526.2 Location of description of organization and substantive rules of general applicability adopted as authorized by law, and statements of general applicability formulated and adopted by NED.

(See 22 CFR Part 527 for a description of the organization of NED and substantive rules of general applicability formulated and adopted by NED.)

§ 526.3 Places at which forms and instructions for use by the public may be obtained.

(a) All forms and instructions pertaining to procedures under FOIA may be obtained from the FOIA Officer of the National Endowment for Democracy, 1156 15th Street NW, Suite 304, Washington, DC, 20005.

(b) Grant guidelines may be obtained from the Program Office of NED at the address shown above.

(c) General information may be obtained from the Public Affairs Office of NED at the address shown above.

§ 526.4 Availability of final opinions, orders, policies, interpretations, manuals, and instructions.

NED is not an adjudicatory organization and therefore does not issue final opinions and orders made in the adjudication of cases. NED will, however, in accordance with the rules in this section and § 526.7, make available for public inspection and copying those statements of policy and interpretation that have been adopted by NED and are not published in the Federal Register, and administrative staff manuals and instructions of staff that affect any member of the public.

(a) *Deletion of protect privacy.* To the extent required to prevent a clearly unwarranted invasion of personal privacy, NED may delete identifying details when it mades available or publishes a statement of policy, interpretation, or staff manual or instruction. Whenever NED finds any such deletion necessary, the responsible officer or employee must fully explain the justification therefor in writing.

(b) *Current index.* NED will maintain and make available on its premises for public inspection and copying a current index providing identifying information for the public as to any matter issued, adoted or promulgated after July 4, 1967, and required by this section to be made available or published. NED will provide copies on request at a cost of $0.15 per page.

§ 526.5 Availability of NED records.

Except with respect to the records made available under § 526.4 NED will, upon a request that reasonably describes records in accordance with the requirements of this section, and subject to the exemptions listed in 5 U.S.C. 552(b), make such records promptly available to any person.

(a) *Requests for records—How made and addressed.* (1) Requesters seeking access to NED records under FOIA should direct all requests in writing to: Freedom of Information Act Officer,

National Endowment for Democracy, 1156 15th Street, NW., Suite 304 Washington, DC 20005, (202) 293-9072. Although requesters are encouraged to make their requests for access to NED records directly to NED, requests for access to NED records also may be submitted to USIA's Office of General Counsel and Congressional Liasion at the following address: Freedom of Information/Privacy Acts Coordinator, U.S. Information Agency, Room M-04, 301 Fourth Street, SW., Washington, DC 20547.

(2) Appeals of denials of initial requests must be addressed to NED or USIA in the same manner, with the addition of the word "APPEAL" preceding the address on the envelope. Requests or appeals addressed directly to USIA's Office of the General Counsel and Congressional Liaison will not be deemed to have been received by NED for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(i) until actually received by NED. USIA shall forward any request or appeal received by it to NED within 2 working days from the actual day of receipt by USIA.

(3) The request letter should contain all available data concerning the desired records, including a description of the material, dates, titles, authors, and other information that may help identify the records. The first paragraph of a request letter should state whether it is an initial request or an appeal.

(b) *Administrative time limits.* (1) Within 10 working days after NED's receipt of any request for access to NED records in compliance with paragraph (a) of this section, NED shall make an initial determination whether to provide the requested information and NED shall notify the requester in writing of its initial determination. In the event of an adverse determination, notification shall include the reasons for the adverse determination, the officials responsible for such determination, the right of the requester to appeal within NED, and that the final determination by NED to deny a request for records in whole or in part shall be submitted to the Director of USIA for review. NED shall also provide USIA a copy of its response as soon as practicable after it responds to the requester.

(2) When a request for records has been denied in whole or in part, the requester may, within 30 days of the date of receipt by the requester of the adverse determination from NED, appeal the denial to the President of NED or his designee, who will make a determination whether to grant or deny such appeal within 20 working days of receipt thereof. All appeals should be addressed in compliance with paragraph (a) of this section. If on appeal, the denial of the request for records is upheld, in whole or in part, NED shall notify the requester in writing of such determination, the reasons therefor, the officials responsible for such determination, the right of the requester to judicial review, and that the final determination by NED whether to deny a request for records in whole or in part shall be submitted to the Director of USIA for review.

(3) If the requester elects not to appeal to the President of NED or his designee within the appeal period specified above, NED's initial determination will become the final NED determination upon expiration of said appeal period or receipt by NED of notice from the requester that he does not elect to appeal, whichever is earlier. If the requester chooses to appeal NED's initial determination within NED, the decision on appeal will become NED's final determination.

(4)(i) Once NED's determination to deny a request in whole or in part becomes final, NED shall submit a report to the Director of USIA explaining the reasons for such denial no later than 5 working days thereafter.

(ii) The Director of USIA shall review NED's final determination within 20 working days. If the Director of USIA or his designee approves NED's denial in whole or in part, USIA shall inform the requester and NED in writing of such determination, the reasons therefor, the officials responsible for such determination, and the right of the requester to judicial review of NED's determination. In the event of such a determination, USIA shall assume full responsibility, including financial responsibility, for defending NED in any litigation relating to such request.

(iii) If the Director of USIA or his designee disapproves NED's denial in whole or in part, USIA shall promptly notify NED and thereafter NED shall promptly comply with the request for the pertinent records.

(iv) Because review by the Director of USIA may resolve any dispute over access to NED records in the requester's favor, the requester is encouraged (but not required) to wait for the determination on review by the Director of USIA before seeking judicial review of NED's final determination.

(5) In unusual circumstances as defined in 5 U.S.C. 552(a)(6)(B), the time limit provisions noted in paragraphs (b)(1) and (b)(2) of this section may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination can be expected. Such extensions of the time limits may not exceed 10 working days in the aggregate.

(6) Any person making a request for records pursuant to § 526.5 may consider administrative remedies exhausted if NED fails to comply within the applicable time limit provisions of this section. When no determination can be dispatched within the applicable time limits set forth in this section, NED shall nevertheless continue to process the request. On the expiration of the time limit, NED shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of the requester's right to treat the delay as a denial and of the requester's right to appeal. NED may ask the requester to forego appeal until a determination is made. A copy of any such notice of delay will be sent to the Director of USIA or to his designee no later than 2 working days after it has been sent to the requester. A court may retain jurisdiction and allow NED additional time to complete its review of the records, if it can be determined that exceptional circumstances exist and that NED is exercising due diligence in responding to the request.

(c) *Schedule of standard fees.* The following specific fees shall apply with respect to services rendered to the public pursuant to the FOIA:

(1) Making photocopies—$0.15 per page. No fee will be charged for a request totalling 10 pages or fewer.

(2) Searching for records—$8.00 per hour for clerical personnel; $15.00 per hour for supervisory personnel. No fees will be charged for searches of one hour or less.

(3) Duplication of architectural photographs and drawings—$2.00.

(4) For signed statement of nonavailability of record—no fee.

(5) Fees must be paid in full prior to issuance of requested copies.

(6) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable NED personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice of request shall suspend the running of the period

for response by NED until a reply is received from the requester.

(7) Search costs are due and payable even if the record that was requested cannot be located after all reasonable efforts or if NED determines that a record that is exempt from disclosure under this part is to be withheld.

(8) Remittances shall be in the form of a personal check or bank draft drawn on any bank in the United States, a postal money order, or cash. Remittances shall be made payable to the order of: National Endowment for Democracy. NED will assume no responsibility for cash lost in the mail.

(9) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(10) The President of NED or his designee may waive all or part of any fee provided for in this section when the President of NED or his designee deems such waiver to be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(d) *Determination of Non-Standard Fees.* When no specific fee has been established for a service (for example, when the search involves computer time, or special travel, transportation, or communication costs), the President of NED or his designee is authorized to determine the direct costs of the service and include such costs in the fees chargeable under this section.

§ 526.6 Exemptions.

NED reserves the right to withhold records and information that are exempt from disclosure under FOIA. *See* 5 U.S.C. 552(b).

§ 526.7 Limitation of exemptions.

FOIA does not authorize withholding of information or limit the availability of NED records to the public except as specifically stated in this part. Nor is authority granted to withhold information from Congress.

§ 526.8 Reports.

On or before March 1 of each calendar year, NED shall submit a reporting covering the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include those items specified at 5 U.S.C. 552(d).

2. It is proposed to add Part 527 to read as follows:

PART 527—ORGANIZATION OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

Sec.
527.1 Introduction.
527.2 Board of Directors.
527.3 Management.
527.4 Description of functions and procedures.

Authority: 22 U.S.C. 4411 *et seq.;* Title II, Sec. 210, Pub. L. 99-93, 99 Stat. 431, 22 U.S.C. 4415.

§ 527.1 Introduction.

(a) The National Endowment for Democracy (hereinafter "NED") was created in 1983 to strengthen democratic values and institutions around the world through nongovernmental efforts. Incorporated in the District of Columbia and governed by a bipartisan Board of Directors, NED is a tax-exempt, nonprofit, private corporation as defined in section 501(c)(3) of the Internal Revenue Code. Through its worldwide grant program, NED seeks to enlist the energies and talents of private citizens and groups to work with partners abroad who wish to build for themselves a democratic future.

(b) Since its establishment in 1983, NED has received an annual appropriation approved by the United States Congress as part of the United States Information Agency budget. Appropriations for NED are authorized in the National Endowment for Democracy Act (the "Act"), 22 U.S.C. 4411 *et. seq.*

(c) The activities supported by NED are guided by the six purposes set forth in NED's Articles of Incorporation and the National Endowment for Democracy Act. These six purposes are:

(1) To encourage free and democratic institutions throughout the world through private-sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) To facilitate exchanges between U.S. private sector groups (especially the two major American political parties, labor and business) and democratic groups abroad;

(3) To promote U.S. nongovernmental participation (especially through the two major American political parties, labor, and business) in democratic training programs and democratic institution-building abroad;

(4) To strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) To support the participation of the two major American political parties, labor, business, and other U.S. private-sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) To encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by NED-supported programs.

§ 527.2 Board of Directors.

(a) NED is governed by a bipartisan Board of Directors of not fewer than thirteen and not more than seventeen members reflecting the diversity of American society. The officers of the corporation are Chairman and Vice Chairman of the Board, who shall be members of the Board, a President, Secretary and Treasurer, and such other officers as the Board of Directors may from time to time appoint. Meetings of the Board of Directors are held at times determined by the Board, but in no event fewer than four times each year. A current list of members of the Board of Directors and a schedule of upcoming meetings is available from NED's office at 1156 15th Street, NW., Suite 304, Washington, DC, 20005.

(b) All major policy and funding decisions are made by the Board of Directors. The primary statement of NED's operating philosophy, general principles and priorities is contained in the National Endowment for Democracy's *Statement of Principles and Objectives,* adopted by the Board of Directors in December 1984. Copies of this statement as well as other general information concerning the organization are available from NED on request.

(c) As a grantmaking organization, NED does not carry out programs directly. The procedures for approval of grants are stated in NED's bylaws: "[a]11 grants made by the corporation shall be by a two-thirds vote of those voting at a meeting at which a quorum is present, provided, however, that no grant may be approved by less than a majority of the Board of Directors" (Article VI, section 5). In addition, "[a]ny Board member who is an officer or director of an organization seeking to receive grants from the Corporation must abstain from consideration of and any vote on such grant" (Article VI, section 6). Copies of the bylaws are available from NED's offices.

VOL 51 ISS 168 AUG 29 1986 UMI

§ 527.3 Management.

(a) NED's operations and staff are managed by a President selected by the Board of Directors. The President is the chief executive officer of the corporation and manages the business of the corporation under the policy direction of the Board of Directors. The President directs a staff whose functions are divided among the Office of the President, a Program Section and a Finance Office.

(b) The Office of the President provides policy direction and is responsible for day-to-day management of the organization, including personnel management, liaison with the Board of Directors and preparation of meetings of the Board and Board committees. The President's office also provides information concerning NED's activities to the press and public. The Program Section, under the direction of the Director of Program, is responsible for the review and preparation of proposals submitted to the Endowment and for the monitoring and evaluation of all programs funded by NED.

(c) The Finance Office, under the direction of the Comptroller, is responsible, with the President and the Board of Directors, for financial management of NED's affairs, including both administrative financial management and grant management. The Director of Program and the Comptroller report to the NED President.

§ 527.4 Description of functions and procedures.

(a) In accordance with the *Statement of Principles and Objectives*. NED is currently developing and funding programs in five substantive areas:

(1) *Pluralism*. NED encourages the development of strong, independent private-sector organizations, especially trade unions and business associations. It also supports cooperatives, civic and women's organizations, and youth groups, among other organizations. Programs in the areas of labor and business are carried out, respectively, through the Free Trade Union Institute and the Center for International Private Enterprise.

(2) *Democratic governance and political processes*. NED seeks to promote strong, stable political parties committed to the democratic process. It also supports programs in election administration and law, as well as programs that promote dialogue among different sectors of society and advance democratic solutions to national problems.

(3) *Education, culture and communications*. NED funds programs that nourish a strong democratic civic culture, including support for publications and other communications media and training programs for journalists; the production and dissemination of books and other materials to strengthen popular understanding and intellectual advocacy of democracy; and programs of democratic education.

(4) *Research*. A modest portion of NED's resources is reserved for research, including studies of particular regions or countries where NED has a special interest, and evaluations of previous or existing efforts to promote democracy.

(5) *International cooperation*. NED seeks to encourage regional and international cooperation in promoting democracy, including programs that strengthen cohesion among democracies and enhance coordination among democratic forces.

(b) As a grantmaking organization, NED has certain responsibilities that govern its relationship with all potential and actual grantees. Briefly, these are:

(1) *Setting program priorities* within the framework of the purposes outlined in NED's articles of incorporation and contained in the legislation, and guided by the general policy Statement of the Board of Directors;

(2) *Reviewing and vetting proposals*, guided by the general guidelines and selection criteria adopted by the NED Board;

(3) *Coordinating among all grantees* to avoid duplication and to assure maximum program effectiveness;

(4) *Negotiating a grant agreement* which ensures a high standard of accountability on the part of each grantee;

(5) *Financial and programmatic monitoring* following the approval and negotiation of a grant, and ongoing and/or follow-up evaluation of programs prior to any subsequent funding of either a particular grantee or a specific program. Grantees will also be expected to monitor projects, to provide regular reports to NED on the progress of programs, and to inform NED promptly of any significant problems that could affect the successful implementation of the project. NED grantees will also conduct their own evaluations of programs.

(6) As a recipient of congressionally appropriated funds, NED has a special responsibility to

(i) Operate openly,

(ii) Provide relevant information on programs and operations to the public, and

(iii) Ensure that funds are spent wisely, efficiently, and in accordance with all relevant regulations.

(c) Institutes representing business, labor, and the major political parties carry out programs which are central to NED's purposes. As a result of their unique relationship to NED, institute programs are an integral part of NED's priorities and the institutes themselves are "core" grantees. As such, the institutes, while subject to all the normal procedures governing NED's relationships with grantees, will be treated differently in the following respects:

(1) The institutes will have the mandate to carry out programs funded by NED in their respective sectors of business, labor and political parties.

(2) As an integral part of the process of budgeting and setting program priorities, the NED Board will target a certain amount of its annual resources for institute programs in their respective fields of activity.

(3) Unlike its practice for the majority of its grantees, NED will fund significant administrative costs for each of the core grantees.

(4) Institute staff will assume responsibility for program development and preparation of proposals for the Board in each field of activity for which it has a special mandate.

(5) NED will expect its core grantees to perform their monitoring/evaluation function described in programmatic monitoring under *Financial and programmatic monitoring* above in a manner that will minimize the need to devote NED resources for these purposes. (Individual copies of the Grants Policy are available from the NED office.)

(6) As stated above, in awarding grants the Board is guided by established grant selection criteria. In addition to evaluating how a program fits within NED's overall priorities, the Board considers factors such as the urgency of a program, its relevance to specific needs and conditions in a particular country, and the democratic commitment and experience of the applicant. NED is especially interested in proposals that originate with indigenous democratic groups. It is also interested in nonpartisan programs seeking to strengthen democratic values among all sectors of the democratic political spectrum.

(d) *Selection criteria*. In determining the relative merit of a particular proposal NED considers whether the grant application:

(1) Proposes a program that will make a concrete contribution to assisting foreign individuals or groups who are working for democratic ends and who need NED's assistance.

(2) Proposes a program, project or activity which is consistent with current NED program priorities and contributes to overall program balance and effectiveness.

(3) Proposes an activity that meets an especially urgent need.

(4) Does not overlap with what others are doing well.

(5) Proposes a program that will encourage an intellectual climate which is favorable to the growth of democratic institutions.

(6) Proposes a program that is not only culturally or intellectually appealing, but will affect the education and the awareness of minorities and/or the less privileged members of a society.

(7) Originates from an organization within a particular country representing the group whose needs are to be addressed.

(8) Appears to be well thought out, avoiding imprudent activities and possibilities for negative repercussions.

(9) Takes into consideration not only what objectively could be significant to a certain society, but how the cultural traditions and values of that society will react to the project.

(10) Incorporates an analysis of the problem of democracy in the area in question and the method by which the proposed program will have a constructive impact on the problem.

(11) Proposes a program that will enhance our understanding of what really helps in aiding democracy.

(12) Creatively enlists support of foreign democratic organizations.

(13) Encourages democratic solutions and peaceful resolution of conflict in situations otherwise fraught with violence.

(14) Proposes a program, project or activity that is clearly relevant to NED program objectives and not better funded by other government or private organizations. (Proposing organizations will be referred to other funding organizations where substantial overlap exists.)

(15) Proposes a program or strategy that is appropriate to the circumstances in the country concerned.

(16) Proposes a program that can be expected to have a multiplier effect, hence having an impact broader than that of the specific project itself; or establishes a model that could be readily replicated in other countries or institutions.

(17) Proposes appropriate, qualified staff who have a demonstrated ability to administer programs capably so as to accomplish stated goals and objectives.

(18) Proposes an appropriate ratio of administrative to program funds.

(19) Is responsive to NED suggestions with regard to program revisions.

(20) Proposes a realistic budget that is consistent with NED perceptions of project value and is performed within a stated and realistic time frame; and

(21) Proposes a program that has, as one of its principal aspects, a major impact on the role of women and/or minorities.

(e) The following guidelines also apply to all projects funded by NED.

(1) The proposing organization must be able to show that it is a responsible, credible organization or group that has a serious and demonstrable commitment to democratic values. (Various factors may be considered in this regard: Recognized democratic orientation; established professional reputation; proven ability to perform; existence of organization charter, board of directors, regular audits, etc.);

(2) The proposing organization must be willing to comply with all provisions of the National Endowment for Democracy Act as well as all provisions of current and subsequent agreements between the USIA and NED;

(3) The proposing organization must agree not to use grant funds for the purpose of educating, training, or informing United States audiences of any U.S. political party's policy or practice, or candidate for office. (This condition does not exclude making grants or expenditures for the purpose of educating, training or informing audiences of other countries on the institutions and values of democracy that may incidentally educate, train, or inform American participants.);

(4) The proposing organization must agree that no NED funds will be used for lobbying or propaganda that is directed at influencing public policy decisions of the government of the United States or of any state or locality thereof;

(5) The proposing organization must agree that there shall be no expenditure of NED funds for the purpose of supporting physical violence by individuals, groups or governments;

(6) The proposing organization may not employ any person engaged in intelligence activity on behalf of the United States government or any other government;

(7) NED will not normally reimburse grantees for expenses incurred prior to the signing of a grant agreement with NED;

(8) Each grant made by NED will be an independent action implying no future commitment on NED's part to a project or program;

(9) NED may, from time to time, fund feasibility studies. Applications for grants in this category should include, but not be limited to, the following: Scope, method and objective of the study; Calendar; Proposed administration of the study; and Detailed budget. The funding of a feasibility study by NED does not imply support for any project growing out of the study. It does, however, imply interest by NED in the area under study and a willingness to entertain a project proposal growing out of the study; and

(10) The proposing organization may not use NED funds to finance the campaigns of candidates for public office.

(f) All proposals received by NED are reviewed by the staff in order to determine their congruence with NED's purposes as stated in the organization's Articles of Incorporation and the NED Act.

(g) Grant applications must contain the following information:

(1) A one-page summary of the proposed program;

(2) Organizational background and biographical information on staff and directors in the U.S. and abroad;

(3) A complete project description, including a statement of objectives, a project calendar, and a description of anticipated results;

(4) A statement describing how the project relates to NED's purposes;

(5) A description of the methods to be used to evaluate the project in relation to its objectives;

(6) A detailed budget, including an explanation of any counterpart support anticipated by the applicant, whether monetary or in-kind, domestic or foreign; and

(7) The names and addresses of all other funding organizations to which the proposal has been submitted or will be submitted.

(h) After an award determination has been made by the Board, NED enters into a grant agreement with the recipient. That agreement is made in accordance with NED policy, the terms of NED's grant agreement with USIA, and the terms of the Act, and the terms of NED's standard grant agreement as they apply to the specific project in question. (The NED Board of Directors approved a Statement of General Procedures and Guidelines on August 3, 1984. The statement, outlined above, is under revision and the revised document will be available for public inspection pending completion. Individual copies of the document are available from the NED office.)

(i) NED staff welcomes preliminary letters of inquiry prior to submission of a formal proposal. Letters of inquiry and formal proposals should be submitted to:

Director of Program, National Endowment for Democracy, 1156 15th Street NW., Suite 304, Washington, DC 20005.

[FR Doc. 86-18712 Filed 8-28-86; 8:45 am]

BILLING CODE 6236-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules; Amendments

AGENCY: National Labor Relations Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On 15 May 1986, the National Labor Relations Board published revisions to its rules and regulations that were required by amendments to the Equal Access to Justice Act. These further proposed revisions state the revised effective date of the Equal Access to Justice Act to cases before the Board and clarify one provision of the rules.

DATE: Comments by: September 29, 1986.

ADDRESS: Send or deliver written comments to: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION:

Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (29 U.S.C. 156), and in accordance with the requirements of section 504(c)(1) of the Equal Access to Justice Act (5 U.S.C. 504(c)(1)), the National Labor Relations Board is revising its rules implementing the Equal Access to Justice Act governing the award of fees and other expenses to eligible parties who prevail in litigation before the Agency. In 1985, the Equal Access to Justice Act was amended with the changes in the Act made applicable to any case commenced after 1 October 1984. On 15 May 1986, the Board published in the **Federal Register** (51 FR 17732) revisions to its rules and regulations that were required by the amendments to the Equal Access to Justice Act and, in one instance, to conform language in the Board's rules to the statutory language. In issuing those rules, the Board omitted changing the paragraph of its rules that sets forth the effective date of the Equal Access to Justice Act and included the 30 September 1984 expiration date of the statute as originally enacted. In addition, one paragraph of the rules, which provides for the content of the application for an award, contains a less precise definition of the employee information required than is necessary to avoid any confusion with other provisions of the rules.

Section 102.143(a) presently provides that the Board's rules implementing the Equal Access to Justice Act apply to cases pending before the Board between 1 October 1981, and 30 September 1984, the former expiration date of the Equal Access to Justice Act. It is proposed to revise this provision to have the Board's rules applicable to all cases pending before the Board after 1 October 1984.

Section 102.147(a) presently states the requirements for the application for an award under the Equal Access to Justice Act. In setting forth the employee information that is required, paragraph (a) does not specify that the employee information is that of the applicant and its affiliates. Therefore, in order to conform this paragraph to § 102.143(g), which sets forth the eligibility of an applicant, it is proposed to revise § 102.147(a) to include the specification that the employee information from the applicant's affiliates, as well as the applicant, must be included in the application.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Equal access to justice.

Accordingly, it is proposed to amend 29 CFR Part 102 as follows:

PART 102—RULES AND REGULATIONS, SERIES 8, AS AMENDED

1. The authority citation for 29 CFR Part 102 is revised to read as follows:

Authority. Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.143 is amended by revising paragraph (a) to read as follows:

§ 102.143 "Adversary adjudication" defined; entitlement to award; eligibility for award.

(a) The term "adversary adjudication," as used in this subpart, means unfair labor practice proceedings pending before the Board on complaint and backpay proceedings under sections 102.52 to 102.59 of these rules pending before the Board on notice of hearing at any time after October 1, 1984.

* * * * *

3. Section 102.147 is amended by revising paragraph (a) to read as follows:

§ 102.147 Contents of application; net worth exhibit; documentation of fees and expenses.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the adversary adjudication for which an award is sought. The application shall state the particulars in which the applicant has prevailed and identify the positions of the General Counsel in that proceeding that the applicant alleges were not substantially justified. Unless the applicant is an individual, the application shall also state the number, category, and work location of employees of the applicant and its affiliates and describe briefly the type and purpose of its organization or business.

* * * * *

Dated: Washington, DC, August 25, 1986.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 86-19564 Filed 8-28-86; 8:45 am]

BILLING CODE 7545-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 18

NASA Federal Acquisition Regulation Supplement (NASA/FAR Supplement) Concerning Guidelines for the Acquisition of Investigations

AGENCY: NASA Office of Procurement, Procurement Policy Division.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a NASA proposal to amend the NASA Federal Acquisition Regulation Supplement, Ch. 18 of the Federal Acquisition Regulations System in Title 48 of the Code of Federal Regulations. The changes consist of updating NASA's present "Guidelines for the Acquisition of Investigations" handbook and clarifying its status as a part of the NASA/FAR Supplement. The proposed changes are available for review and comment.

DATE: Comments are due not later than September 29, 1986.

ADDRESS: Requests for copies of the proposal and comments should be

addressed to NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W. A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453–2119.

SUPPLEMENTARY INFORMATION:

Background

Success of NASA's program in aeronautics and space, in a large measure, can be attributed to the ability of NASA to harness the ideas, knowledge, and technical abilities of the investigators within and outside of NASA. It is also dependent on the effective development of equipment required for investigations, upon the support of actual and potential users of space related systems, and upon how well NASA understands the operations and programmatic requirements of the aerospace community. Sound management and acquisition practices are also essential to program execution. NASA's techniques designed to achieve these effects are described in NASA Handbook 8030.6, "Guidelines for the Acquisition of Investigations," which has been available to the public since 1974.

The Handbook provides general and specific guidance to all the NASA personnel engaged in the solicitation, evaluation, and selection of investigations. It emphasizes the responsibilities of line management and, as appropriate, the selected investigators in the acquisition of equipment necessary for the investigation. It helps assure uniform procedures and equitable treatment in the evaluation and selection of investigators and the acquisition of investigative equipment. As a management tool, it does not contain program descriptions or suggest topics for research, which are more appropriately subjects for individual solicitations known as "Announcements of Opportunity."

Changes to the Handbook are minor, reflecting for the most part changes in NASA's programs, new legislation, issuance of the Federal Acquisition Regulation (FAR), and evolution in procedures in the past eight years. The revised Handbook will be reissued as the NASA FAR Supplement basis for "Announcements of Opportunity," i.e., broad agency announcements as set forth in FAR 6.102(d)(2).

Impact

This proposed rule was forwarded to the Office of Management and Budget on August 6, 1986, for review under E.O. 12291. NASA certifies that these regulations will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). "Announcements of Opportunity" issued pursuant to this rule are subject to the Paperwork Reduction Act and 5 CFR 1320. OMB approval number 2700–0042 applies to these requirements.

List of Subjects in 48 CFR Ch. 18

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

[FR Doc. 86–19435 Filed 8–28–86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

Red Drum Fishery of the Gulf of Mexico; Availability of Management Plan and Request for Comments

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of management plan and request for comments.

SUMMARY: NOAA issues this notice that the Secretary of Commerce (Secretary) has prepared a Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP) and is requesting comments from the public. Copies of the FMP may be obtained from the address below.

DATE: Comments on the FMP should be submitted on or before November 8, 1986.

ADDRESS: All comments and requests for copies of the FMP should be sent to Jack T. Brawner, Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702. If commenting on the FMP, mark "Comments on Red Drum Plan" on the envelope.

FOR FURTHER INFORMATION CONTACT: Paul J. Leach (Plan Coordinator), 813–893–3721.

SUPPLEMENTARY INFORMATION: The FMP was prepared under authority of section 304(c) of the Magnuson Fishery Conservation and Management Act, as amended, (Magnuson Act). The Magnuson Act requires that the Secretary submit the FMP to the appropriate Council (i.e., Gulf of Mexico Fishery Management Council) for consideration and comment. The Magnuson Act also requires that the Secretary will consider public comments in determining whether to implement the FMP.

This FMP proposes regulations for managing the commercial fishery for red drum in the fishery conservation zone of the Gulf of Mexico as well as other fisheries that have an incidental catch of red drum. The FMP suggests a State/Federal cooperative approach and recommends that the Gulf States establish uniform size and bag limits for recreational drum fishing, participate in cooperative research, and further efforts to conserve coastal wetland habitat used by juvenile red drum.

Proposed regulations based on this FMP are scheduled to be published within 30 days.

Dated: August 26, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–19644 Filed 8–28–86; 4:54 pm]

BILLING CODE 3510-22

VOL 51 ISS 168 AG 29 1986 UMI

Notices

Federal Register
Vol. 51, No. 168
Friday, August 29, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agribusiness Promotion Council; Meeting

Notice is hereby given that the Committee on the Caribbean Subregion of USDA's Agribusiness Promotion Council, advisory group to the Secretary of Agriculture on matters pertaining to the Caribbean Basin, will meet on September 5, 1986 from 4:00 to 5:15 PM at the Convention Center in San Juan, Puerto Rico. The Committee meeting will be held in conjunction with USDA's Agribusiness Development Workshop hosted by the Economic Development Administration of Puerto Rico. The agenda will consist of discussions on intensifying trade and investment activities between the U.S. and Eastern Caribbean private sectors. The U.S. Agency for International Development for the Eastern Caribbean in Bridgetown, Barbados will facilitate the meeting. The meeting will be open to the public. Written statements may be submitted to Joan S. Wallace, Administrator, USDA/OICD Room 3047, South Building, Washington, DC 20250–4300, until September 1, 1986.

Tommye Cooper,

Acting Administrator, OICD

August 20, 1986.

[FR Doc. 86–19579 Filed 8–28–86; 8:45 am]
BILLING CODE 3410–05–M

Commodity Credit Corporation

1987 Program for Extra Long Staple Cotton; Proposed Determinations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1987 crop of extra long staple (ELS) cotton: (a) The loan level; (b) the established (target) price; (c) the national program acreage; (d) whether a voluntary reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (e) whether an acreage reduction program (ARP) should be established and, if so, the percentage of reduction to be made in accordance with such program; (f) uses of Acreage Conservation Reserve acreage; (g) whether binding contracts should be required for producers desiring to participate in any acreage reduction program; (h) whether a land diversion program should be established and, if so, the percentage of diversion and the payment rate; (i) whether offsetting compliance should be required of producers as a condition of eligibility for loans and deficiency payments; (j) the loan level for seed cotton; (k) whether advance deficiency payments should be offered; (l) whether an advance recourse commodity loan program should be implemented; (m) cost reduction options; and (n) other related determinations. These determinations are required to be made pursuant to the Agricultural Act of 1949, as amended, (hereinafter referred to as the "1949 Act") and the Commodity Credit Corporation (CCC) Charter Act.

DATE: Comments must be received on or before September 17, 1986, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Leader Fibers Group, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7954. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been designated as "not major" since the proposed provisions are not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, indivdual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the federal assistance programs to which this notice applies are: Cotton Production Stabilization, Number 10.052 and Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these proposed determinations.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

It is necessary that the determinations for the 1987 crop of ELS cotton be made in sufficient time to permit ELS cotton producers to make plans for the production of their crop. Therefore, comments with respect to the following proposed determinations must be received by September 17, 1986, in order to allow the Secretary an adequate period to consider the comments before making the program decisions.

Proposed Determinations

A. *Loan level.* Section 103(h)(2) of the 1949 Act provides that the Secretary shall determine and announce the loan level for the 1987 crop of ELS cotton by December 1, 1986. The loan level must be established at 85 percent of the simple average price received by producers of ELS cotton during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period. Based on data through March, 1986, the 1987 loan level is calculated as follows:

(1) Simple average price received by producers (cents per pound):

August 1, 1981–July 31, 1982	96.90
August 1, 1982–July 31, 1983	98.50
August 1, 1983–July 31, 1984	106.00
August 1, 1984–July 31, 1985	91.90
August 1, 1985–July 31, 1986	89.00

(2) Five year average after dropping high and low years:
(96.90+98.50+91.90)/3=95.77.

(3) Multiply result by .85:
95.77×.85=81.40 cents per pound=estimated 1987 loan rate for ELS cotton.

B. *The established (target) price.* Section 103(h)(3)(B) of the 1949 Act provides that the established (target) price for the 1987 crop of ELS cotton shall be 120 percent of the 1987-crop ELS loan level. Based on data as of March 1986, the 1987 target price equals 1.20×81.40 or 97.68 cents per pound.

C. *National program acreage.* Section 103(h)(4) of the 1949 Act provides that the Secretary shall proclaim a national program acreage (NPA) for the 1987 crop of ELS cotton. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision in the NPA shall be announced as soon as it has been made. The 1987 NPA shall be the number of harvested acres the Secretary determines will be necessary, based on the estimated weighted national average of the farm program payment yields for the 1987 crop, to produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the 1987-88 marketing year.

The NPA shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply and the stocks not accounted for by official domestic consumption and export data, so as to provide an adequate but not excessive supply of ELS cotton for the 1987-88 marketing year. In no event shall the national program acreage be less than 60,000 acres. If an acreage reduction program is established for the 1987 crop of ELS cotton, the NPA determination will not be applicable.

A carryover of 50,000 bales is considered to provide an adequate, but not excessive, supply. Based on July estimates, the national program acreage for the 1987 crop of ELS cotton would be:

(a) Estimated domestic consumption, 1987–88 (480 lb. net wt. bales)	50,000
(b) Plus estimated exports, 1987–88 (480 lb. net wt. bales)	100,000
(c) Minus estimated imports, 1987–88 (480 lb. net wt. bales)	4,000
(d) Minus adjustment to bring stocks to desired level (480 lb. net wt. bales) [1]	3,000
(e) Plus adjustment for stocks estimated not accounted for by official domestic consumption and export data (480 lb. net wt. bales)	10,000
(f) Times 480 lb. per bale	73,440,000
(g) Divided by estimated national average of farm program yields (lbs./acre)	915
(h) Equal 1987 calculated National Program Acreage (acres)	80,262
(i) Statutory minimum National Program Acreage (acres)	60,000

[1] The 1987 beginning stock level is estimated to be 53,000 bales. Therefore, the stock adjustment is 53,000 bales minus 50,000 bales or 3,000 bales.

Based, on July estimates the NPA, if applicable, would be 80,262 acres.

Comments from interested persons on the NPA and the appropriate stock adjustment for the 1987 crop of ELS cotton, along with appropriate supporting data, are requested.

D. *Voluntary reduction percentage.* Section 103(h)(6) of the 1949 Act provides that the 1987 individual farm program acreages of ELS cotton eligible for payments shall not be further reduced by application of an allocation factor if the producer reduces the acreage of ELS cotton planted for harvest on the farm from the 1987-crop ELS cotton acreage base established for the farm by at least the percentage recommended by the Secretary in the proclamation of the national program acreage for the 1987 crop. If an acreage reduction program is implemented for the 1987 crop of ELS cotton, the voluntary reduction percentage shall not be applicable to such crop. If required, the recommended national reduction percentage for the 1987-crop of ELS cotton would be:

(a) 1987 estimated ELS cotton acreage base	82,000
(b) Minus 1987 NPA	80,262
(c) Equals reduction needed from acreage base	1,738
(d) Divided by 1987 ELS cotton acreage base	82,000
(e) Equals 1987 crop reduction percentage	2 percent.

Comments from interested persons with respect to the voluntary reduction percentage are requested.

E. *Whether an Acreage Reduction Program (ARP) should be established and, if so, the percentage of such reduction.* Section 103(h)(8)(A) of the 1949 Act provides that the Secretary may establish a limitation on the acreage planted to ELS cotton if the Secretary determines that the local supply of ELS cotton will, in the absence of such limitation, be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each ELS-cotton-producing farm. Producers who knowingly produce ELS cotton in exces of the permitted ELS cotton acreage shall be ineligible for ELS cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of an acreage limitation shall be the average acreage planted on the farm to ELS cotton for harvest in the three crop years immediately preceding the year prior to the year for which the determination is made. For the purpose of determining the acreage base, the acreage planted to ELS cotton for harvest shall include any acreage which producers were prevented from planting to ELS cotton or other nonconserving crops in lieu of ELS cotton because of drought, flood, or other natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines necessary to establish a fair and equitable base.

A number of acres on the farm determined by dividing (a) the product obtained by multiplying the number of acres required to be withdrawn from the production of ELS cotton times the number of acres actually planted to ELS cotton, by (b) the number of acres authorized to be planted to ELS cotton in accordance with the acreage limitation established by the Secretary, shall be devoted to approved conservation uses in accordance with regulations issued by the Secretary. If an acreage limitation program is in effect for the 1987 crop of ELS cotton, the national program acreage, program allocation factor, and voluntary reduction provisions of section 103(h) of the 1949 Act will not be applicable to such crop. The individual farm program

acreage shall be the acreage planted on the farm to ELS cotton for harvest within the permitted ELS cotton acreage established for the farm under the acreage limitation program.

The need for an acreage limitation program for the 1987 crop of ELS cotton will depend upon the projected level of ending stocks for the 1986–87 marketing year and the likely demand for ELS cotton in 1987–88. Estimates as of July 1986 indicate that production may equal utilization in 1986–87, resulting in ending stocks of an estimated 53,000 bales, close to the desirable level of 50,000 bales. Demand is projected to drop slightly for the 1987–88 season; therefore, some reduction in production may be needed to keep stocks near the 50,000 bale level. Options under consideration at this time include no ARP, a 10-percent ARP and a 15-percent ARP. However, future developments in weather conditions, market trends, and projections of supply and use could affect the suitability of various production adjustment programs. Options considered at the final determination stage may vary depending upon conditions in existence and information available at that time.

Interested persons are encouraged to comment on the need for an acreage limitation program for the 1987 crop of ELS cotton, and the appropriate percentage of any such reduction.

F. *Uses of Acreage Conservation Reserve (ACR) acreage.* Section 103(h)(A) of the 1949 Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shalla assure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the reduced acreage to be devoted to sweet sorghum, or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye or other commodity if the Secretary determines that such provision is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

Interested persons are invited to comment on the provisions concerning the uses of ACR acreage.

G. *Whether contracts signed by the producer should be binding at the end of the enrollment period for the 1987 ELS Cotton Program.* For the 1986 ELS Cotton Program, contracts signed by program participants are considered to be binding contracts. The contracts also provide for liquidated damages in the event the producer does not fulfill the terms and conditions of the contract. This type of contract is also under consideration for the 1987 ELS Cotton Program.

Interested persons are requested to comment on the use of binding contracts for the 1987 ELS Cotton Program.

H. *Whether a land diversion program should be established and, if so, the extent of such diversion and the level of payments.* Section 104(h)(8)(B) of the 1949 Act provides that the Secretary may make land diversion payments to producers of ELS cotton, whether or not an acreage limitation for ELS cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage to desirable goals. Such land diversion payments shall be made to producers who devote to conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producer or in such manner as the Secretary determines appropriate. In the past, land diversion payments have been made based upon an offer rate system (i.e., specific rate per pound times the farm program payment yield).

Interested persons are encouraged to address the need for a land diversion program and the appropriate terms and conditions of such a program.

I. *Whether to require offsetting compliance if an acreage reduction program is established.* Section 103(h)(13) of the 1949 Act provides that the Secretary may issue such regulations as the Secretary determines to be necessary to carry out the ELS cotton program. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, operators and owners of farms would have to ensure thas all of the farms in which they had an interest were either in compliance with the program requirements or that the acreages of ELS cotton planted for harvest on each of such farms did not exceed the ELS cotton acreage bases which were established for such farms. Offsetting compliance was not in effect for the 1986 crop.

Interested persons are encouraged to comment on the need for offsetting compliance for the 1987-crop of ELS cotton if an acreage reduction program is established.

J. *Loan level for ELS seed cotton.* Section 103(h)(17) of the 1949 Act provides that in order to assist producers in the orderly ginning and marketing of their ELS cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Chapter Act. Consideration is being given to the level at which loans should be made available for seed cotton under the 1987 program. The loan level presently being considered for seed cotton is 100 percent of the loan level which is applicable for lint cotton. Such loans would be made on the value of the seed cotton adjusted to a lint basis.

Comments from interested persons are requested on the appropriate loan level for seed cotton and the method of adjustment of the value of such cotton to a lint basis for the purpose of determining loan value.

K. *Advance deficiency payments.* Section 103(h)(3)(C) of the 1949 Act provides that if the Secretary establishes an acreage limitation program for the 1987 crop of ELS cotton and determines that deficiency payments will likely be made for such crop, the Secretary may make available advance deficiency payments to producers who agree to participate in the acreage limitation program. Such advance payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in the acreage limitation program and in such amount as the Secretary determines appropriate to encourage adequate participation in such program, except that the advance payment shall not exceed an amount determined by multiplying (1) the estimated farm program acreage for the crop, by (2) the farm program payment yield for the crop, by (3) 50 percent of the projected payment rate.

Comments are requested as to whether advance deficiency payments should be made for the 1987 crop of ELS cotton and, if so, in what amount and what manner of payment.

L. *Advance recourse loans.* Section 424 of the 1949 Act provides that the Secretary may make advance recourse loans to producers of commodities for which nonrecourse loans are available if it is determined such a program is necessary to ensure adequate operating credit is available to producers. These recourse loans may be made available under terms and conditions prescribed by the Secretary except that the

producer shall be required to obtain crop insurance for the crop as a condition of eligibility for such loan.

Comments are requested as to whether an advance recourse loan program should be offered for ELS cotton since nonrecourse loans are available for the 1987 crop.

M. *Cost reduction options.* Section 1009(a) of the Food Security Act of 1985 provides that whenever the Secretary determines that an action authorized by section 1009(c), (d) and (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium size producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) commercial purchases of commodities by the Secretary, (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral, and (3) reopening of a production control or loan program at any time prior to harvest for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has determined that: (1) changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments are not subject to the maximum payment limitation of section 1001 but are limited to $20,000 per year per producer for any one commodity.

Accordingly, comments are requested on the manner in which these cost reduction options should be administered in the event the Secretary determines to implement any of these provisions.

N. *Other related provisions.* A number of other determinations must be made in order to carry out the ELS cotton loan program such as: (1) commodity eligibilty; (2) micronaire discounts; (3) loan levels for the individual qualities of 1987-crop ELS cotton; and (4) such other provisions as may be necessary to carry out the program.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

Section 103(h), (7 Stat. 494 (USC 1444(h)).

Signed at Washington, DC, on August 26, 1986.

Earle J. Bedenbaugh,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-19665 Filed 8-27-86; 9:39 am]

BILLING CODE 3410-05-M

Proposed Determinations With Regard to the 1987 Upland Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1987 crop of upland cotton: (a) the loan level; (b) whether Plan A or Plan B should be implemented and the loan repayment level under the chosen Plan; (c) whether loan deficiency payments should be made available, and, if so, whether such payments should be made available in cash only or in cash and commodity certificates; (d) the established "target" price; (e) the national program acreage; (f) whether a voluntary reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (g) whether an acreage limitation program should be implemented and, if so, the percentage reduction under such acreage limitation program; (h) whether an optional land diversion program should be established and, if so, the percentage of diversion required under such land diversion program; (i) whether a portion of any deficiency and diversion payments which might be made available should be made available in advance and, if so, at what level; (j) whether the inventory reduction program should be implemented; (k) whether commodity certificates should be issued under the 1987 Upland Cotton Program, whether such certificates should be generic or commodity-specific, and what restrictions should be placed on the use of such certificates; (l) the loan level for seed cotton; (m) cost reduction options; and (n) other related determinations. These determinations are to be made in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), 7 U.S.C. 1421 *et seq.*, and the Commodity Credit Corporation Charter Act, as amended, 7 U.S.C. 714 *et seq.*

DATE: Comments must be received on or before September 17, 1986, in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Leader, Fibers Group, Commodity Analysis Division, USDA–ASCS, Room 3741 South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7954. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs to which this notice applies are: Title–Cotton Production Stabilization: Number 10.052 and Title–Commodity Loans and Purchases: Number 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On May 13, 1986 (51 FR 17598) a notice of proposed determinations was published which set forth provisions common to the 1987 wheat, feed grain, upland cotton, and rice price support and production adjustment programs.

The comments applicable only to the 1987 crop of upland cotton which were received with respect to such notice and the comments received with respect to this notice of proposed determination will be reviewed in determining the provisions of the 1987 Upland Cotton Program.

It is necessary that the determinations for the 1987 crop of upland cotton be

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made in sufficient time to permit upland cotton producers to make plans for the production of their crop. Therefore, comments with respect to the following proposed determinations must be received by September 17, 1986, in order to allow the Secretary an adequate period to consider the comments before making the program decisions.

Accordingly, the following program determinations with respect to the 1987 crop of upland cotton are to be made by the Secretary:

Proposed Determinations

a. *Loan level for upland cotton.* Section 103A(a)(1) of the 1949 Act provides that, for the 1987 crop of upland cotton, the Secretary shall make nonrecourse loans available to producers at such level as will reflect for Strict Low Middling (SLM) one and one-sixteenth inch upland cotton (mircronaire 3.5 through 4.9) at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period (hereinafter referred to as the "spot market calculation"); or (2) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling one and three-thirty-seconds inch cotton, C.I.F. northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average northern European price quotation and quotations in the designated United States spot markets for SLM 1 1/16 inch cotton (micronaire 3.5 through 4.9)) (hereinafter referred to as the "northern European calculation").

Section 103A(a)(2) of the 1949 Act provides that the loan level may not be reduced by more than 5 percent from the loan level determined for the preceding crop, nor below 50 cents per pound. Further, if the northern European calculation results in a price which is less than the price derived from the spot market calculation, the Secretary may increase the loan level to such a level as the Secretary deems appropriate, but not in excess of the level which is determined based upon the spot market calculation.

The spot market calculation cannot be completed until after complete spot market data for the 1985–86 marketing year is obtained. Based upon quotations through May 1986, the spot market calculation is as follows:

(1) Weighted average spot market prices for SLM 1 1/16 inch upland cotton (micronaire 3.5 through 4.9):

August 1981 through July 1982—83.77 cents/lb.
August 1982 through July 1983—57.66 cents/lb.
August 1983 through July 1984—81.79 cents/lb.
August 1984 through July 1985—71.58 cents/lb.
August 1985 through May 1986—59.00 cents/lb.

(2) Average of the five years, excluding the highest and lowest years:

61.79+71.58+59.00/3=64.12 cents/lb.

(3) Loan rate based on U.S. spot market calculations through May 1986:

64.12x.58=54.50 cents/lb.

The northern European calculation cannot be performed at this time since the 1949 Act provides that the calculation must be based upon market quotations through October 15, 1986. However, if Northern Europe prices continue their current trend, 90 percent of the 15-week adjusted Northern European average will be well below the statutory minimum loan rate of 52.25 cents per pound, so that the 1987-crop upland cotton loan rate is likely to be the statutory minimum of 52.25 cents per pound.

Section 103A(a)(3) of the 1949 Act provides that the Secretary shall determine and announce the loan rate for the 1987 crop by November 1, 1986.

Comments on the upland cotton loan rate, along with supporting data, are requested from interested persons.

b. *Plan A/Plan B and loan repayment level.* Section 103A(a)(5) provides that if the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under section 103A(a) (1) and (2), then, in order to make United States upland cotton competitive in world markets, the Secretary shall implement the provisions of Plan A or Plan B. If the Secretary elects to implement Plan A, the Secretary shall permit a producer to repay a loan made for the 1987 crop at a level determined and announced by the Secretary at the same time the Secretary announces the 1987 loan level. Such repayment level for the 1987 crop shall not be less than 80 percent of the 1987 loan level. Such repayment level, once announced for the crop, shall not thereafter be changed.

Section 103A(a)(5) further provides that if the Secretary elects to implement Plan B, the Secretary shall permit a producer to repay a loan made for the 1987 crop at the lesser of (1) the 1987 loan level; or (2) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary. Section 103A(a)(5) further provides that for the 1987 crop of upland cotton, if the prevailing world market price for cotton (adjusted to United States quality and location) as determined by the Secretary, is less than 80 percent of the 1987 loan level, the Secretary may permit a producer to repay the 1987 loan at such a level (not in excess of 80 percent of the 1987 loan level) as the Secretary determines will (1) minimize potential loan forfeitures; (2) minimize the accumulative of cotton stocks by the Federal Government; (3) minimize the cost incurred by the Federal Government in Storing cotton; and (4) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

Comments are requested on whether Plan A or Plan B should be implemented for the 1987 crop of upland cotton and the level of the 1987 loan repayment rate.

c. *Loan deficiency payments.* Section 103A(b)(1)–(5) provides that for the 1987 crop of upland cotton, the Secretary may make payments available to producers who, although eligible to obtain a loan, agree to forgo obtaining such loan in return for such payments. Pursuant to that section, payments shall be computed by multiplying (1) the loan payment rate, by (2) the quantity of upland cotton the producer is eligible to place under loan. The section provides that the loan payment rate shall be the amount by which the loan level exceeds the loan repayment rate and that the quantity of upland cotton eligible to be placed under loan may not exceed the product obtained by multiplying the individual farm program acreage for the crop by the farm program payment yield established for the farm. Section 103A(b) further provides that the Secretary may make up to one-half the amount of such payment in the form of negotiable marketing certificates.

Comments are requested on whether loan deficiency payments should be made available and if so, the percentage of each loan deficiency payment to be made available in the form of negotiable marketing certificates.

d. *The established (target) price.* Section 103A(c)(1)(A) of the 1949 Act provides that the Secretary shall make

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payments available to producers of upland cotton for the 1987 crop year in an amount computed by multiplying (1) the payment rate, by (2) the individual farm program acreage, by (3) the farm program payment yield.

Section 103A(c)(1)(C) provides that the payment rate for the 1987 crop of upland cotton shall be the amount by which the established "target" price for the crop exceeds the higher of (1) the national average market price received by producers during the calendar year that includes the first 5 months of the marketing year for such crop, as determined by the Secretary, or (2) the loan level for the crop. Section 103A(c)(1)(D) provides that the established "target" price for the 1987 crop of upland cotton shall not be less than $0.794 per pound. Section 103A(c)(1)(F) provides that the Secretary may pay not more than 5 percent of the total amount of such payments in the form of upland cotton, and that the use of upland cotton in making payments to producers shall be subject to a determination by the Secretary that such in-kind payments will not have a detrimental effect on market prices for any commodity.

Comments are requested on the level of the 1987 target price and whether the Secretary should make a portion of the 1987 upland cotton crop deficiency payment in the form of in-kind compensation.

e. *National program acreage.* Section 103A(d)(1) of the 1949 Act provides that the Secretary shall proclaim a national program acreage (NPA) for the 1987 crop by November 1, 1986. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision shall be announced as soon as it has been made. The NPA shall be the number of harvested acres the Secretary determines necessary, based on the estimated weighted national average of the farm program payment yields for the 1987 crop, to produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1987–88 marketing year. The Secretary may make such adjustments in the NPA as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1987–88 marketing year. In no event shall the national program acreage be less than 10 million acres. If an acreage reduction program is implemented for the 1987 crop of upland cotton, the NPA determination will not be applicable. A carryover of 4.0 million bales is considered to provide an adequate, but not excessive, supply. If required, the national program acreage for the 1987 crop of upland cotton is currently estimated to be:

(a) Estimated domestic consumption, 1987–88 (480 lb. net wt. bales)	6,800,000
(b) Plus estimated exports, 1987–88 (480 lb. net wt. bales)	6,200,000
(c) Minus estimated imports, 1987–88 (480 lb. net wt. bales)	10,000
(d) Minus adjustment to bring stocks to desired level (480 lb. net wt. bales)[1]	3,700,000
(e) Times 480 lbs. per bale equals desired pounds	4,459,200,000
(f) Divided by estimated national average of farm program yields (lbs/acre)	590
(g) Equal 1987 calculated National Program Acreage (acres)	7,557,966
(h) Statutory minimum National Program Acreage (acres)	10,000,000

[1] The 1987 beginning stock level is estimated to be 7.7 million bales. Therefore, the stock adjustment is 7.7 million bales minus 4.0 million bales equal 3.7 million bales.

In the event a NPA were established for the 1987 crop, 10.0 million acres would likely be the established NPA since the NPA cannot be less than 10.0 million acres. A NPA was not announced for the 1986 crop of upland cotton since an acreage reduction program was implemented for such crop.

Comments from interested persons on the NPA calculations for the 1987 crop of upland cotton, along with appropriate supporting data, are requested.

f. *Voluntary reduction percentage.* Section 103A(d) (3) of the 1949 act provides that the individual farm program acreages for the 1987 crop of upland cotton which are eligible for payments shall not be further reduced by application of an allocation factor if the producer reduces the acreage of upland cotton planted for harvest on the farm from the acreage base established for the farm for the 1987 crop of upland cotton by at least the percentage recommended by the Secretary in the proclamation of the national program acreage for the 1987 crop. If an acreage reduction program is implemented for the 1987 crop of upland cotton, the voluntary reduction percentage shall not be applicable to such crop. If required, the recommended national reduction percentage for the 1987-crop of upland cotton is currently estimated to be:

(a) 1987 estimated upland cotton acreage base	15,400,000
(b) Minus 1987 NPA	10,000,000
(c) Equals reduction needed from acreage base	5,400,000
(d) Divided by 1987 upland cotton acreage base	15,400,000
(e) Equals 1987 crop reduction percentage	35 percent

Comments from interested persons with respect to the voluntary reduction percentage are requested.

g. *Acreage limitation program.* Section 103A(f) of the 1949 Act provides that, with respect to the 1987 crop of upland cotton, if the Secretary determines the total supply of upland cotton, in the absence of an acreage limitation program (ALP), will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for an acreage limitation program.

If the Secretary elects to put an ALP into effect for 1987, the Secretary shall announce the program not later than November 1, 1986. The Secretary shall, to the maximum extent practicable, carry out an ALP for the 1987 crop of upland cotton in a manner that will result in a carryover of 4 million bales of upland cotton.

If an upland cotton ALP is announced, such reduction shall be achieved by applying a uniform percentage reduction (not to exceed 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm. Producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm shall be ineligible for loans and payments with respect to that farm. Acreage on the farm to be devoted to conservation uses shall be determined by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres planted to upland cotton, by (2) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary. This acreage is referred to as "reduced acreage."

Comments are requested with regard to the percentage level at which an ALP should be implemented for the 1987 crop of upland cotton.

h. *Land diversion program.* Section 103A(f) (4) (A) of the 1949 Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not an ALP is in effect, if the Seceretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with

land diversion contracts entered into with the Secretary.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

Any additional acreage reduction (beyond the ALP) under a land diversion program (LDP) would be at a producer's option. If such a program were implemented, the Secretary proposes to make payments in the form of cash or commodity certificates.

Comments are requested with respect to the need for an optional paid LDP as well as the provisions of such program.

i. *Advance deficiency and diversion payments.* Section 107C(a)(1) of the 1949 Act provides that if the Secretary establishes an acreage limitation program for the 1987 crops of upland cotton, and determines that deficiency payments will likely be made for the 1987 crop, the Secretary may make advance deficiency payments available to producers who agree to participate in such program for the 1987 crop.

Section 107C(a)(2)(E) provides that such payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

Section 107C(a)(2)(F) provides that advance payments shall be made available in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (1) the estimated farm program acreage for the crop, by (2) the farm program payment yield for the crop, by (3) 50 percent of the projected payment rate as determined by the Secretary.

Section 107C(b) provides that if the Secretary makes land diversion payments to assist in adjusting the total national acreage of the 1987 crop of upland cotton to desirable levels, the Secretary may make at least 50 percent of such payments available to a producer as soon as possible after the producer agrees to undertake the diversion of land in return for such payments.,

Comments are requested as to whether a portion of the deficiency and diversion payments for the 1987 crop of upland cotton should be made in advance and, if so, the level of such payments.

j. *Inventory reduction program.* Section 103A(g) of the 1949 Act provides that the Secretary may, for the 1987 crop of upland cotton, make payments available to producers who: (1) agree to forgo obtaining a loan; (2) agree to forgo receiving deficiency payments; and (3) do not plant upland cotton for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under the announced acreage limitation program. Such payments shall be made in the form of upland cotton which is owned by CCC and shall be subject to the availability of such upland cotton. Payments under this program shall be determined by multiplying (a) the loan payment rate (loan rate minus loan repayment rate) by (b) the quantity of upland cotton the producer is eligible to place under loan.

Comments are requested as to whether an inventory reduction program should be implemented in 1987.

k. *Commodity certificates.* Section 107E of the 1949 Act provides that, in making in-kind payments under any upland cotton program (other than negotiable marketing certificates), the Secretary may (1) acquire and use commodities that have been pledged to CCC as security for price support loans, and (2) use other commodities owned by CCC. Section 107E provides that the Secretary may make in-kind payments: (1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary; (2) by the transfer of negotiable warehouse receipts; (3) by the issuance of negotiable certificates which CCC shall redeem for a commodity; and (4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

Section 103A(a)(5)(D) of the 1949 Act provides for the Secretary to make payments to first handlers in the form of negotiable marketing certificates if the Secretary determines that a loan program carried out in accordance with Plan A or Plan B fails to make upland cotton fully competitive in world markets and that the prevailing world market price of upland cotton is below the current loan repayment rate. CCC may assist any person receiving such negotiable marketing certificates in the redemption of such certificates for cash, or marketing or exchange of such certificates for upland cotton owned by CCC or (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the CCC at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the first handler program.

Section 508(b) of the 1949 Act, as amended, provides that, in the case of the 1987 crop year for a commodity, if the farm program payment yield for a farm is reduced more than 5 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity (in the form of commodities owned by CCC) in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 5 percent below the farm program payment yield for the farm for the 1985 crop year.

Commodity certificates exchangeable for upland cotton were issued with respect to the 1986 upland cotton price support and production adjustment program. Such certificates were issued for inventory protection payments, additional yield payments, 50 percent of loan deficiency payments, and first handler payments.

Comments are requested with respect to (1) whether certificates should be issued under the 1987 Upland Cotton Program, (2) whether such certificates should be exchangeable for only upland cotton or for other commodities owned by CCC or pledged to CCC as collateral for a price support loan, and (3) what restrictions should be placed on the use of such certificates.

1. *Loan level for seed cotton.* In the past, the Secretary has made recourse loans available to producers of seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act, 7 USC 714 *et seq.* Consideration is being given to whether such loans should be made available for the 1987 crop and, if so, the level at which such loans should be made available for seed cotton under the 1987 program. Comments are requested on the appropriate loan level for seed cotton and the method of adjustment to a lint basis for the purpose of determining the seed cotton loan value.

M. *Cost reduction options.* Section 1009(a) of the Food Security Act of 1985 provides that whenever the Secretary determines that an action authorized by section 1009(c), (d) or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting the income of small and medium sized producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) commercial purchases of commodities with respect to which a nonrecourse loan program is in effect if the cost of such purchases plus carrying charges will probably be less than the comparable cost of later acquiring the commodity through default of the nonrecourse loans; (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount plus accumulated interest, but not less than the principal amount, if such action will result in: (A) receipt of a portion rather than none of the accumulated interest, (B) avoidance of default on the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral; and (3) reopening of a production control or loan program at any time prior to harvest for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has detemined that: (1) changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop and (2) the Federal Government and producers will be faced with a burdensome and costly surplus without action to further adjust production. Such payments are not subject to the maximum payment limitation of $50,000 set forth in section 1001 of the Food Security Act of 1985, but are limited to $20,000 per year per producer for any one commodity.

Comments are requested on the manner in which these cost reduction options should be administered in the event the Secretary determines to implement any of these provisions.

n. *Other related provisions.* A number of other determinations must be made in order to carry out the upland cotton loan program such as: (1) commodity eligibility; (2) premiums and discounts for grades, staples, and other qualities; (3) establishment of base loan rates by warehouse location; (4) the form of any deficiency, advance deficiency, diversion and loan deficiency payments (e.g. cash, commodities, commodity certificates) if such payments are made available under the 1987 Upland Cotton Program; and (5) such other provisions as may be necessary to carry out the programs..

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: Secs. 103A, 107E, and 110 of the Agricultural Act of 1949, as amended; 99 Stat. 1445, 1395, as amended, 1448, 91 Stat. 951, as amended, (7 U.S.C. 1444e, 1445b–4, 1445b–5, and 1445e); Sec. 1009 of the Food Security Act of 1985; 99 Stat. 1406 (7 U.S.C. 1444e–1).

Signed at Washington, DC, on August 26, 1986.

Earle J. Bedenbaugh,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 10666 Filed 8–27–86; 9:39 am]

BILLING CODE 3410–05–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1989 Census Dress Rehearsal-Prelist Operation
Form number: Agency—DX–101A, DX–169, DX–31; OMB—NA
Type of request: New collection
Burden: 135,107 respondents; 3,378 reporting hours
Needs and uses: The survey will be used to evaluate various methods for address list compilation and update to be used in the 1990 Decennial Census.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: December 1986 General Education Development Test Supplement
Form number: Agency—CPS–1; OMB—NA
Type of request: New collection
Burden: 14,550 respondents; 72 reporting hours
Needs and uses: This test, to be conducted in December 1986, will provide data on the number of persons receiving GED's in the United States. The data will be used to test the October 1986 educational attainment estimates for persons 14 years or over who are not currently attending college.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 25, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86–19618 Filed 8–28–86; 8:45 am]

BILLING CODE 3510–07–M

Presidential Board of Advisors on Private Sector Initiatives; Notice of Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison, Commerce.

SUMMARY: The Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on September 11, 1986. Committee meetings will also be held on this date. Public comment is welcome.

Time and Place

Presidential Board of Advisors on Private Sector Initiatives.

Thursday, September 11, 1986, 8:30—10:00 a.m. and 3:30—5:00 p.m., at the Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

Committee Meetings

Thursday, September 11, 1986, 1:30—3:15 p.m., at the Federal Home Mortgage Corporation, 1776 G Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Council, U.S. Department of Commerce, (202/377–4772) or the Alternate Control Officer, Nancy J. Olson, Director, Office of Business Liaison, U.S. Department of Commerce, (202/377–3942), Main

Commerce Building, Washington, D.C. 20230.

Nancy J. Olson,
Director, Office of Business Liaison.
Dated: August 26, 1986.
[FR Doc. 86-19701 Filed 8-27-86; 9:10 am]
BILLING CODE 3510-BW-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket number: 86-079R. Applicant: Lutheran Institute of Human Ecology, Park Ridge, IL 60068. Instrument: Electron Microscope, Model H-600-3 with Accessories. Manufacturer: Hitachi Limited, Japan. Original notice of this resubmitted applicaiton was published in the **Federal Register** of February 6, 1986. Instrument ordered: August 27, 1985.

Docket number: 86-228. Applicant: Bowman Gray School of Medicine, Winston-Salem, NC 271093. Instrument: Electron Microscope, Model EM 10CA/CR/C. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 22845. Instrument ordered: April 7, 1986.

Docket number: 86-231. Applicant: The University of Texas System Cancer Center, Houston, TX 77030. Instrument: Electron Microscope, Model JEM-1200EX. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 51 FR 23255. Instrument ordered: March 31, 1986.

Docket number: 86-236. Applicant: Columbus Children's Hospital, Columbus, OH 43205. Instrument: Electron Microscope, Model H-600-3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 51 FR 25083. Instrument ordered: March 31, 1986.

Docket number: 86-239. Applicant: Veterans Administration Medical Center, Memphis, TN 38104. Instrument: Electron Microscope, Model JEM-1200EX. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 51 FR 25924. Instrument ordered: March 26, 1986.

Docket number: 86-243. Applicant: University of Georgia, Trifton, GA 31793. Instrument: Electron Microscope, Model EM 109T with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: See notice at 51 FR 25924. Instrument ordered: May 13, 1986.

Docket number: 86-247. Applicant: University of Pennsylvania, Philadelphia, PA 19104. Instrument: Electron Microscope, Model BE 10CA/CR/C. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 25925. Instrument ordered: April 17, 1986.

Docket number: 86-248. Applicant: University of Cincinnati, Cincinnati, OH 45267-0529. Instrument: Electron Microscope, Model H-600 CR/CR. Manufacturer: Hitachi Ltd., Japan. Intended use: See notice at 51 FR 26287. Instrument ordered: March 6, 1986.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 86-19621 Filed 8-28-86; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-068]

Steel Wire Strand for Prestressed Concrete From Japan; Final Results of Antidumping Duty, Administrative Review and Revocation in Part

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Revocation in Part.

SUMMARY: On July 9, 1984, the Department of Commerce published the preliminary results of its administrative review and intent to revoke in part the antidumping finding on steel wire strand for prestressed concrete from Japan. The review covered thirteen of the fourteen known manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and generally two consecutive periods from December 1, 1980 through November 30, 1982.

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke in part. We received a comment from one manufacturer. Based on our analysis of the comment received, the final results of review are unchanged from those presented in the preliminary results for the firms covered by these final results, and we revoke the finding with regard to merchandise produced by Sumitomo Electric Industries, Ltd. and exported by Sumitomo Corp., Japan.

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 27966) the preliminary results of its administrative review and intent to revoke in part the antidumping finding on steel wire strand for prestressed concrete from Japan (43 FR 57599, December 8, 1978). The preliminary results covered thirteen of the fourteen known manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and generally two consecutive periods from December 1, 1980 through November 30, 1982. The intent to revoke applied to merchandise produced and exported by Sumitomo.

In accordance with § 353.53(a) of the Commerce Regulations, the petitioner requested that we complete the administrative review for all exported merchandise produced by Shinko Wire Co., Suzuki Metal Industry Co., and Tokyo Rope Manufacturing Co. Sumitomo Electric Industries, Ltd. requested that we complete the review for that firm. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete. Steel wire strand for prestressed concrete is currently classifiable under item 642.1120 of the Tariff Schedules of the United States Annotated.

The review covers twelve of the manufacturers and/or exporters of Japanese steel wire strand for prestressed concrete to the United States currently covered by the finding and generally two consecutive periods from December 1, 1980 through November 30, 1982. We are deferring review of Mitsui & Co., Ltd. We will cover that firm in a separate review.

Analysis of Comment Received

We gave interested parties the opportunity to comment on the preliminary results. One manufacturer, Tokyo Rope Mfg. Co., Ltd., submitted a written comment.

Comment

Tokyo Rope argues that the use of best information available for that company was not warranted. In each of the two periods of review, December 1, 1980 through November 30, 1981 and December 1, 1981 through November 30, 1982, Tokyo Rope made a small number of sales to the United States. As it had in previous responses to the Department, Tokyo Rope provided information on home market sales only for the months in which the U.S. sales were made. The Department in the review of those earlier responses had not informed Tokyo Rope that its responses were inadequate, nor had the Department resorted to best information in that review.

Tokyo Rope therefore did not submit full-year home market sales data in the current review because it did not understand that its responses were inadequate, it had no knowledge or understanding of the best information rule, and the Department failed to explain the situation to the company in writing. Tokyo Rope has now submitted with its comments full home market sales data which it urges the Department to use to determine Tokyo Rope's foreign market value.

Department's Position

Tokyo Rope has been inconsistent in reporting home market sales. The Department's first administrative review covered two distinct periods for Tokyo Rope, April 1, 1978 through March 31, 1979 and April 1, 1979 through November 30, 1980. In its response for the 1978–79 period, Tokyo Rope provided a complete listing of home market sales by both quantity and value. However, in its response for 1979–80, Tokyo Rope provided only selected months of home market sales information, and it is unclear that the sales data was complete even for the months submitted.

The record for the current review, which also covers two distinct periods for Tokyo Rope, shows the same pattern of selective reporting. In its response for 1980–81, Tokyo Rope again provided selected months of home market sales information. The Department subsequently requested that Tokyo Rope provide data for all individual home market sales. In response, we again received a listing of selected home market sales. On March 31, 1983, Tokyo Rope responded to our questionnaire covering 1981–82. The company reported only one sale to the U.S. and reported on only one home market sale for comparison with the U.S. sale. At that time, the Department reiterated its request for data on all home market sales for the period and fully explained our requirements, including the prospect of the use of best information available. Tokyo Rope stated that it had responded in the same manner since 1980 and refused to submit further information.

Thus, in its analysis of the responses submitted by Tokyo Rope during this current administrative review, the Department correctly identified the deficiencies regarding the reporting of home market sales, notified the company of those deficiencies, and provided the firm an opportunity to submit complete data.

The statute and the regulations provide for the use of the best information otherwise available when, as here, a party refuses to supply the Department with adequate information in a timely manner. The record here is clear that Tokyo Rope was provided the opportunity to correct its deficient responses, and it did not do so. Therefore, the Department will not consider the information submitted by Tokyo Rope subsequent to publication of the preliminary results.

Final Results of Review and Revocation in Part

Based on our analysis of the comment received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Shinko Wire Company, Ltd./Mitsubishi Corporation/Freyssinet International.	12/01/80–11/30/81	0
	12/01/81–11/30/82	[1]0
Shinko Wire Company, Ltd./All other exporters (except Mitsui & Co., Ltd.).	12/01/80–11/30/81	0
	12/01/81–11/30/82	0
Sumitomo Electric Ind., Ltd./Sumitomo Corp., Japan.	01/01/81–12/31/81	0
	01/01/82–05/20/82	[1]0
Sumitomo Electric Ind., Ltd./All other exporters (except Mitsui & Co., Ltd.).	01/01/81–12/31/81	0
	01/01/82–05/20/82	[1]0
Suzuki Metal Industry Co., Ltd.	12/01/80–11/30/81	0
	12/01/81–11/30/82	[1]
Suzuki Metal Industry Co., Ltd./Mitsubishi Corp./Nissho–Iwai Co., Ltd.	12/01/80–11/30/81	[1]
	12/01/81–11/30/82	[1]
Suzuki Metal Industry Co., Ltd./All other exporters (except Mitsui & Co., Ltd.).	12/01/80–11/30/81	[1]
	12/01/81–11/30/82	[1]
Tokyo Rope Mfg. Co., Ltd	12/01/80–11/30/81	4.5
	12/01/81–11/30/82	4.5
Tokyo Rope Mfg. Co., Ltd./All other exporters (except Mitsui & Co., Ltd.).	12/01/80–11/30/81	4.5
	12/01/81–11/30/82	4.5

[1] No shipments during the period.

For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Sumitomo Electric Industries, Ltd. Accordingly, we revoke in part the antidumping finding on steel wire strand for prestressed concrete from Japan. This partial revocation applies to all unliquidated entries of this merchandise manufactured by Sumitomo Electric Industries, Ltd. and exported by Sumitomo Corp., Japan, entered, or withdrawn from warehouse, for consumption on or after May 20, 1982.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, the Department will instruct the Customs Service to collect a cash deposit of estimated antidumping duties for each firm based upon the above margins, as provided i section 751(a)(1) of the Tariff Act. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for each of those firms (48 FR 45586, October 6, 1983). For any shipments from a new exporter not covered by this or prior administrative reviews, whose first shipments of Japanese steel wire strand for prestressed concrete occurred after November 30, 1982, and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese steel wire strand for prestressed concrete entered, or withdrawn from warehouse, for

VOL 51 ISS 168 AG 29 1986 UMI

consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review, revocation in part, and notice are in accordance with section 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985; 353.54).

Dated: August 22, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19619 Filed 8-28-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 60733-6133]

Proposed Federal Information Processing Standard for UNIX [1] Operating System Derived Environments

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Proposed Federal Information Processing Standard.

SUMMARY: The purpose of this notice is to announce a proposed Federal Information Processing Standard (FIPS) for UNIX Operating System Derived Environments. This proposed standard will adopt the full use version of IEEE 1003.1 "Standard for Portable Operating System for Computer Environments" (POSIX[2]) which is a voluntary industry standard developed by the Institute of Electrical and Electronics Engineers (IEEE). The standard is currently undergoing public review as a trial use standard. A full use version is expected within the next two years.

Prior to submission of this proposed standard to the Secretary of Commerce for review and approval as a FIPS, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed Federal Information Processing Standard contains two sections: (1) An announcement section, that provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section (the IEEE 1003.1 standard) which deals with the technical requirements of the standard. Only the announcement section of the proposal is provided in this notice. Interested parties may obtain a copy of the technical specifications from IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854, telephone (201) 981-0060.

DATE: Comments must be submitted on or before November 28, 1986.

ADDRESS: Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for UNIX Operating System Derived Environments, Technology Building, Room B154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Roger J. Martin or Anthony Cincotta, Institute for Computer Sciences and Technology, Technology Building, Room B266, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 921-3545.

Dated: August 25, 1986.

Raymond G. Kammer,

Acting Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION —

(date)

Announcing the Standard for UNIX [1] Operating System Derived Environments

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f) (2) of the Federal Property and Administration Services Act of 1949 as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. UNIX Operating System Derived Environments.

Category of Standard. Software Standard, Operating Systems.

Explanation. This publication announces the adoption of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System for Computer Environments (IEEE 1003.1/POSIX [2]) as a Federal Information Processing Standard (FIPS). IEEE 1003.1 defines a C language source interface to an operating system environment. The purpose of this FIPS is to promote portability of computer programs at the source level between UNIX operating system derived environments. This standard is for use by computing professionals involved in system and application software implementation.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. The Institute of Electrical and Electronic Engineers Standard for Portable Operating System for Computing Environments, IEEE 1003.1 (POSIX).

Related Documents:

a. Federal Information Resources Management Regulation 201-8.1, Federal ADP and Telecommunications Standards.

b. American National Standard X3.—, C Language.

Objectives. This FIPS permits Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of this FIPS are:

a. To promote portability of computer programs at the source code level.

b. To simplify computer program documentation by the use of a standard portable system interface design.

c. To reduce staff hours in porting computer programs to different vendor systems and architectures.

d. To increase portability of acquired skills, resulting in reduced personnel training costs.

e. To maximize the return on investment in generating or purchasing computer programs by insuring operating system compatibility.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard specifications.

Applicability. This FIPS should be used for portable operating systems that are either developed or acquired for Government use. This FIPS is applicable to the entire range of computer hardware, e.g.:

a. Micro-computer systems.

b. Mini-computer systems.

c. Engineering workstations.

d. Mainframes.

Specifications. The FIPS specifications are the specifications contained in the Institute of Electrical and Electronics Engineers Standard for Portable Operating System for Computer Environments, IEEE 1003.1 (POSIX). IEEE 1003.1 defines a C language source code level interface to an operating system environment. IEEE 1003.1 refers to and is a complement to ANSI X3.—, C Language, which is under development by Accredited Standards Committee X3. IEEE 1003.1 requires specific areas of ANSI X3. —, C Language, to complete the environment specification for portable application software.

Implementation. The implementation of this FIPS involves three areas of

[1] UNIX is a registered trademark of AT&T

[2] POSIX is a trademark of the IEEE

[1] UNIX is a registered trademark of AT&T

[2] POSIX is a trademark of the IEEE

consideration: acquisition of a portable operating system, interpretation of the FIPS for UNIX Operating System Derived Environments, and validation of the portable operating system.

a. *Acquisition of a Portable Operating System.* This publication is effective six months after publication in the **Federal Register** of an announcement by the National Bureau of Standards of approval by the Secretary of Commerce. Portable operating systems acquired for Federal use after this date should implement the FIPS for UNIX Operating System Derived Environments. Conformance to this FIPS should be considered whether the operating system environments are:

1. Developed internally,
2. Acquired as part of an ADP system procurement,
3. Acquired by separate procurement,
4. Used under an ADP leasing arrangement, or
5. Specified for use in contracts for programming services.

A transition period provides time for industry to produce conforming portable operating system environments. The transition period begins on the effective date and continues for one year thereafter. The provisions of this publication apply to orders placed after the effective date; however, a system conforming to this FIPS, if available, may be acquired for use prior to the effective date. If a conforming system is not available, a system not conforming to this FIPS may be acquired for interim use during the transition period.

b. *Interpretation of the FIPS for UNIX Operating System Derived Environments.* NBS provides for the resolution of questions regarding the FIPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this FIPS should be addressed to:

Director, Institute for Computer Sciences and Technology, Attn: Portable Operating System Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

c. *Validation of the Portable Operating System.* NBS is currently investigating various methods for testing conformance to this FIPS. Policies concerning required testing of portable operating systems will be announced in the near future. For more information on conformance testing of portable operating systems, contact:

Director, Institute for Computer Sciences and Technology, Attn: Portable Operating System Testing, National Bureau of Standards, Gaithersburg, MD 20899.

Waivers. Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provision of this FIPS.

Exceptional circumstances which would warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard, and

b. The interchange of programs between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the: Director, Institute for Computer Sciences and Technology National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination of a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice. A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such delegations as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the Institute of Electrical and Electronics Engineers, Incorporated.) When ordering, refer to Federal Information Processing Standards Publication — (FIPSPUB —), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 86-19565 Filed 8-28-86; 8:45 am]
BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Intent and Scoping Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of scoping meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a scoping meeting to obtain comments and recommendations in relation to its intention to prepare an environmental impact statement and a fishery management plan (EIS/FMP) for the red drum fishery resources of the Gulf of Mexico. This action by the Council will eventually result in a management plan which replaces a Secretarial FMP for red drum. The purposes of the scoping process are discussed in 40 CFR 1501.7 of the Council on Environmental Quality's regulations implementing the National Environmental Policy Act (43 FR 55978). This notice is also intended to satisfy the requirement for a Notice of Intent to prepare an EIS.

DATE: The scoping meeting will be held on September 10, 1986, at 4:00 p.m.

ADDRESS: The meeting will take place at Stokley Hall, Civic Center Complex, 600 International Boulevard, Brownsville, Texas.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida, 813-228-2815.

Dated: August 25, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-19559 Filed 8-28-86; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Mexico

August 22, 1986.

On July 17, 1986 a notice was published in the **Federal Register** (51 FR 25927) which announced the import control limits for certain cotton, wool and man-made fiber textiles and textile products under the newly extended bilateral agreement with Mexico. In the letter to the Commissioner of Customs which followed that notice the limits for Categories 341/641 and 604 should have read as follows:

Category	12-Mo limit [1]
341/641	600,000 dozen of which not more than 225,000 dozen shall be in TSUSA number 384.4608, 384.4610, 384.4612, 384.9110, and 384.9120.
604-A	1,000,000 pounds (only TSUSA numbers 310.5049 and 310.6042).
604-O	1,500,000 pounds (all TSUSA numbers except 310.5049 and 310.6042).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19616 Filed 8-28-86; 4:11 pm]
BILLING CODE 3510-DR-M

VOL 51 ISS 168 AG 29 1986 UMI

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of South Africa

August 26, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 29, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On November 21 and 22, 1985, the Government of the United States and the Republic of South Africa exchanged diplomatic notes establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement. The agreement establishes, among other things, specific limits for Categories 335, 347/348, 433 and 604 and 604pt. (only T.S.U.S.A. number 310.5049), produced or manufactured in South Africa and exported during the twelve-month agreement period beginning on September 1, 1986 and extending through August 31, 1987. The letter from the Chairman of the Committee for the Implementation of Textile Agreements published below directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the foregoing categories in excess of the designated limits for the new agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 21 and 22, 1985, between the Governments of the United States and the Republic of South Africa; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 29, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 335, 347/348, 433 and 604, produced or manufactured in South Africa and exported during the twelve-month period which begins on September 1, 1986 and extends through August 31, 1987, in excess of the following restraint limits:

Category	12-Mo. restraint limit [1]
335	31,460 dozen.
347/348	283,920 dozen.
433	5,757 dozen.
604	1,280,000 pounds of which not more than 609,000 pounds shall be in T.S.U.S.A. number 310.5049.

[1] The limits have not been adjusted to account for any imports exported after August 31, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–19617 Filed 8–28–86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1986 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 29, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 3, 1986 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (51 FR 24429) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to produce the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1986:

Janitorial/Custodial
Marine Corps Air Station
Yuma, Arizona

C.W. Fletcher,

Executive Director.

[FR Doc. 86–19607 Filed 8–28–86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1986 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before October 1, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2,6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1986, October 15, 1985 (50 FR 41609):

Commodities

Stay, Fence
5660–00–943–9927
5660–00–804–8023
5660–00–807–0286
5660–00–807–0287

Pillow, Bed Feather
7210–01–015–5190
(Portion above 96,000 each annually now on Procurement List)

Services

Janitorial, Grounds Maintenance and Major Mechanical Operations
The Carter Presidential Library Atlanta, Georgia

Microfiche Reproduction
Headquarters, USMC (Navy Annex)
Washington, DC

Parts Sorting
McClellan Air Force Base, California

Deletions

It is proposed to delete the following commodities and services from Procurement List 1986, October 15, 1985 (50 FR 41609):

Commodities

Toothbrush, Aspiration
6520–01–065–3438

Dress, Operating, Surgical
6532–00–149–0464
6532–00–149–0465
6532–00–149–0466
6532–00–149–0467
6532–00–149–0472
6532–00–149–0473

Pajamas, Ladies
6532–00–NSH–0001
6532–00–NSH–0002
6532–00–NSH–0003
6532–00–NSH–0004

Robe, Ladies
6532–00–NSH–0005

Table, Steel
7110–00–149–2047

Pin, Tent, Wood
8340–00–261–9752

Case, Map and Note, Field
8465–00–634–1903

Services

Commissary Shelf Stocking and Custodial
Patrick Air Force Base, Florida

Repair and Maintenance of Electric Typewriters at the following locations:
1. Social Security Administration, 600 W. Madison, Chicago, Illinois.
2. Health and Human Services, 300 S. Wacker Drive, Chicago, Illinois.

C.W. Fletcher,
Executive Director.

[FR Doc. 86–19608 Filed 8–28–86; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DoD.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: 16 September 1986, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Space Activities.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
August 26, 1986.

[FR Doc. 86–19569 Filed 8–28–86; 8:45 am]
BILLING CODE 3810–01–M

Defense Science Board Task Force on Multi-National FOFA; Meeting

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Multi-National FOFA will meet in closed session on October 16, 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO with a view towards future U.S. and NATO requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
August 26, 1986.

[FR Doc. 86–19570 Filed 8–28–86; 8:45 am]
BILLING CODE 3810–01–M

Defense Science Board Task Force on Multi-National FOFA

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Multi-National FOFA will meet in closed session on October 23–24, 1986 in Munich, Germany.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the

Department of Defense. At these meetings the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO with a view towards future U.S. and NATO requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meetings, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 26, 1986.

[FR Doc. 86-19571 Filed 8-28-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records Notices

AGENCY: Department of the Army, DOD.

ACTION: Notice of amendments to systems of records.

SUMMARY: The Army proposes to amend three notices for systems of records subject to the Privacy Act of 1974. The specific changes to the notices being amended are set forth below followed by the system notices, as amended, published in their entirety.

DATES: This proposed action will be effective without further notice on September 29, 1986 unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the particular system notice concerned.

FOR FURTHER INFORMATION CONTACT: Mr. Bert K. Haggett, HQDA, DAIM-FAR-RI, Room 1138, Hoffman Building I Alexandria, VA 22331-0301. Telephone: (202) 325-6044 Autovon 221-6044.

SUPPLEMENTARY INFORMATION: The Army's systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published to date in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22090) May 29, 1985 (Compilation)
FR Doc. 86-14667 (51 FR 23576) June 30, 1986

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 25, 1986.

Amendments

A0314.08DACA

System name:

Check Cashing Privilege Files (50 FR 22127) May 29, 1985.

Changes:

Routine uses:

Add the following:

c. Lists of persons whose privileges have been suspended or withdrawn may be disclosed to banks or credit unions operating on Army installations so that the financial facilities can, if they wish, withhold check cashing privileges from those individuals.

A0319.01DACA

System name:

Out of Service Accounts Receivables (50 FR 22129) May 29, 1985.

Changes:

System Name:

Remove current system name. Add the following: Debt Collection System.

Routine uses:

Add the following to the end of paragraph b. : * * * to provide for offset of tax refunds.

Add the following: e. Other government agencies: For the purpose of offset, administrative or salary.

Retention and disposal:

Remove the following from line 1: Individual military pay records and * * *

A0718.01DAPC

System name:

Military Award Case Files (50 FR 22201) May 29, 1985.

Changes:

Retention and disposal:

Remove the following:

Approved wartime or combat activities military award case files are retained permanently; approved case files for all other periods are destroyed after 1 year. Disapproved military award case files are destroyed after 5 years.

Add the following:

Approval/disapproval authorities: Approved awards relating to wartime and/or combat activities are held permanently. Approved peacetime awards and all disapproved awards are held for 25 years.

A0314.08DACA

SYSTEM NAME:

Check Cashing Privilege Files.

SYSTEM LOCATION:

All Army installations/activities with facilities to cash checks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose checks, written at Army facilities, have been dishonored and/or whose check cashing privileges have been suspended or revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to advancing, revoking, or suspending, restoring and general supervision of check cashing privileges. Included are letters to individuals about bad checks, warnings that a recurrence may result in withdrawing check cashing privileges, notices from banks that the bank was in error, notices to activities that check cashing privileges have been suspended or withdrawn, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

PURPOSE:

To determine individuals to be denied check cashing privileges at installation check cashing facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. See 'Blanket Routine Uses' set forth at the beginning of the Army's listing of records system notices.

b. Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies as defined in the Fair credit reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3).

c. Lists of persons whose privileges have been suspended or withdrawn may be disclosed to banks or credit unions operating on Army installations so that the financial facilities can, if they wish, withhold check cashing privileges from these individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, paper records in file folders, and computer tapes.

RETRIEVABILITY:

By individual's name or SSN.

SAFEGUARDS:

Files are maintained in areas accessible only to authorized persons having an official need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Destroyed 3 years after individual has made restitution for dishonored check.

SYSTEM MANAGER AND ADDRESS:

Comptroller of the Army, U.S. Army Finance and Accounting Center, Ft. Benjamin Harrison, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the installation commander where check was cashed.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to themselves should write to the installation commander, furnishing full name, SSN, details relevant to the incident and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the dishonored check, the individual, banking facilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0319.01DACA

SYSTEM NAME:

Debt Collection System.

SYSTEM LOCATION:

U.S. Army Finance and Accounting Center, Ft. Benjamin Harrison, IN 46249–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Separated and retired military/civilian personnel and others indebted to the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees' pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to:

a. Individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts from the Joint Uniform Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence;

b. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents including, but not limited to: Statements of financial status (personal income and expenses), statements of commanders and/or accounting and finance officers, correspondence with members and employees;

c. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders and/or vouchers, and correspondence with members and employees;

d. Delinquent accounts receivable from field accounting and finance officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Army Criminal Investigation Command and/or Federal Bureau of Investigation reports;

e. Reports from probate courts regarding estates of deceased debtors;

f. Reports from bankruptcy courts regarding claims of the United States against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., section 3711; 10 U.S.C., section 2774; and 12 U.S.C., section 1715.

PURPOSE:

To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed to:

a. U.S. Department of Justice/U.S. Attorneys: For legal action and/or final disposition of the debt claims. The litigation briefs (comprehensive, written referral recommendations) will restructure the entire scope of the collection cases.

b. Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Automated controls exist to preclude redisclosure of solicited IRS address data;) and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age; to provide for offset of tax refunds.

c. Private collection agencies: For collection action when the Army has exhausted its internal collection efforts.

d. To consumer reporting agencies: Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1631a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3) when an individual is responsible for a debt to the U.S. Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected.

e. Other government agencies: For the purpose of offset, administrative or salary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in collection file folders and bulk storage; card files; computer magnetic tapes and printouts; microfiche.

RETRIEVABILITY:

By Social Security Number, name, and substantiating document number, conventional indexing is used to retrieve data.

SAFEGUARDS:

The U.S. Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in effect. Hard copy records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Computerized records are accessed by custodian of the records system and by persons responsible for servicing the records system in the performance of their official duties. Certifying finance and accounting officers of debts have access to debt information to confirm if the debt is valid and collection action is to be continued. Computer equipment and files are located in a separate secured area.

RETENTION AND DISPOSAL:

Accounts receivables are converted to microfiche and retained for 6 years and

3 months. Destruction is by shredding. Retention periods for other records vary according to category, but total retention does not exceed 56 years; these records are sent to the Federal Records Center General Services Administration at Dayton, Ohio; destruction is by burning or salvage as waste paper.

SYSTEM MANAGER AND ADDRESS:

Commander, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249–0001.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contain information about them should contact the System Manager, ATTN: FINCP–FF, Department 80, furnishing full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records in this system pertaining to them should submit a written request as indicated in "Notification procedure" and furnish information required therein.

CONTESTING RECORD PROCEDURE:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is received from Department of Defense staff and field installations, Social Security Administration, Treasury Department, financial organizations, and automated system interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0718.01DAPC

SYSTEM NAME:

Military Award Case Files.

SYSTEM LOCATION:

Primary system exists at U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332–0400. Segments exist at Army commands which have been delegated authority for approval of an award.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel on active duty, members of reserve components, U.S. civilians serving with U.S. Army in a combat zone, and deceased former members of the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include recommendation for award; endorsements; award board approvals/disapprovals; citation texts; Department of Army letter orders/general orders; related papers supporting the award; correspondence among the Army; service member, and individuals having knowledge/information relating to the service member concerned or the act or achievement for which award is recommended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapters 5, 357; 5 U.S.C., section 301.

PURPOSE:

To consider individual nominations for awards and/or decorations; record final action; maintain individual award case files.

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may disclosed to public and private organizations including news media, which grant or publicized awards or honors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By nominee's name.

SAFEGUARDS:

Records are accessible only to designated individuals having official need therefor in the performance of assigned duties.

RETENTION AND DISPOSAL:

Approval/disapproval authorities: Approved awards relating to wartime and/or combat activities are held permanently. Approved peacetime awards and all disapproved awards are held for twenty-five years.

SYSTEM MANAGER AND ADDRESS:

Commander, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information on them is included in this system should write to the System Manager, ATTN: DAPC–AL. Individuals should include his/her full name, SSN, grade and branch of service, name or award/honor, and current address.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–19534 Filed 8–28–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Notice of Performance Review Board Membership

Correction

In Fr Doc. 86–18546 appearing on page 29515 in the issue of Monday, August 18, 1986, make the following correction in the first column: At the end of the seventh line, insert "review of".

BILLING CODE 1505–01–M

DEPARTMENT OF EDUCATION

National Advisory Board on International Education Programs

AGENCY: National Advisory Board on International Education Programs.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the National Advisory Board on International Education Programs. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATE: September 26, 1986.

ADDRESS: Indiana University, Bloomington Campus, Showalter House, The Board Room, Bloomington, Indiana.

FOR FURTHER INFORMATION CONTACT: Harry M. Gardner, Postsecondary Relations Staff, ROB–3, Room 3082, 7th & D Streets, SW., Washington, DC 20202 (202–245–9274).

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under section 621 of the Higher Education Act of 1965, as amended, by the Education Amendments of 1980 (Pub. L. 96–374; 20 U.S.C. 1131). Its mandate is to advise the Secretary of Education on the conduct of programs under this title.

This meeting of the National Advisory Board on International Education Programs is open to the public. The

agenda includes a discussion of the meeting of the Chairman with the Secretary in accordance with a Resolution passed at the March 10th Board meeting. In addition, the Director-Designate for the Center for International Education will present overviews of activities and operations of the CIE programs. General Board business will also be discussed.

The Board members will conduct on-site visits to a number of language and area studies centers.

The meeting will be held from 9:00 a.m. to 4:30 p.m., the 26th of September in the Board Room, the Showalter House, Indiana University, Bloomington, Indiana.

Records are kept on the Board proceedings and are available for public inspection at the Office of Postsecondary Relations Staff, from 8:00 a.m. to 4:00 p.m., ROB–3, 7th and D Streets, SW., Room 3082, Washington, DC.

Signed at Washington, DC, on August 20, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 86–19588 Filed 8–28–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 8142–001 et al.]

Hydroelectric Applications (Henwood Associates, Inc., et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection.

1 a. Type of Application: Minor License.

b. Project No.: 8142–001.

c. Date Filed: January 29, 1986.

d. Applicant: Henwood Associates, Inc.

e. Name of Project: Dynamo Pond.

f. Location: On Green Creek, near Bridgeport, within land administered by the Bureau of Land Management, in Mono County, California (In Section 4 of T3N, R25E, and Sections 28, 29, and 33 of T4N, R25E, M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mark Henwood, Henwood Associates, Inc., 2555 3rd Street, Suite 110, Sacramento, CA 95818, (916) 447–3497.

i. Comment Date: October 6, 1986.

j. Description of Project: The proposed project would consist of: (1) A repaired and refurbished 20-foot-high Sario Livestock Company Dynamo Pond Dam at elevation 7,583 feet msl; (2) A reservoir with a storage capacity of 28.1 acre-feet and a surface area of 3.6 acres; (3) A 26-inch-diameter, 8,975-foot-long steel penstock; (4) A powerhouse containing a single turbine-generator unit with a rated capacity of 900 kW operating under a head of 690 feet; and (5) A 16-kV, 7,166-foot-long transmission line interconnecting the project to an existing Southern California Edison Company (SCE) line. The estimated average annual generation of 4.18 GWh would be sold to SCE.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 9844–000.

c. Date Filed: December 31, 1985.

d. Applicant: George Nelson and Joe Straley.

e. Name of Project: Poplar River Project.

f. Location: On the Poplar River near the town of Lutsen, Cook County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Joe Straley, 350 N. 28th Avenue, St. Cloud, MN 56301, (612) 253–6361.

i. Comment Date: October 14, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A new concrete V-shaped diversion structure 4 feet high and approximately 40 feet long; (2) A new intake and settling basin having 1,000 square feet of surface area and a storage capacity of 1,500 cubic feet at an elevation of 750 feet msl; (3) A new steel penstock 28 to 30 inches in diameter and approximately 1,900 feet long leading to; (4) An existing concrete powerhouse containing two new turbine/generator units rated at 100 kW and 150 kW for a total installed capacity of 250 kW operating at 150 feet of hydraulic head; (5) An existing bedrock tailrace; (6) A new 250-foot-long 480 volt transmission line; and (7) Appurtenant facilities. The Applicant estimates the average annual energy production to be 1,500,000 kWh. All project areas and features are owned by Mr. George Nelson.

k. Purpose of Project: Project energy will be used by George Nelson with excess energy being sold to Arrowhead Co-op.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 9976–000.

c. Date Filed: April 21, 1986.

d. Applicant: Arnold M. Heitmann and S. David Tine.

e. Name of Project: Lake Gardner and Arlington Mill.

f. Location: Powwow River, Essex County, Massachusetts and Spicket River, Rockingham County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arnold M. Heitmann, 80 Phillips Beach Avenue, Swampscott, MA 01907, (617) 935–9050.

i. Comment Date: October 9, 1986.

j. Description of Project: The proposed project would consist of two sites. The Lake Gardner site consists of: (1) An existing granite-block dam 980 feet long and 14 feet high; (2) An existing reservoir, Lake Gardner, with a surface area of 9 acres and a storage volume of 512 acre-feet at a normal maximum surface elevation of 87 feet mean sea level; (3) An existing 6-foot-diameter penstock 20 feet long; (4) An existing 29-foot-long, 18-foot-wide brick powerhouse; (5) Three proposed turbine-generators of 40 kW capacity each; (6) A proposed 4,160-V transmission line 150 feet long; and (7) Appurtenant facilities. The net hydraulic head is 18 feet. The estimated annual energy production is 600,000 kWh. Site power would be sold to Massachusetts Electric Company. The existing facilities are owned by the Town of Amesbury, MA.

The Arlington Mill site consists of: (1) An existing concrete-block dam 600 feet long and 36 feet high; (2) An existing reservoir of 340-acre surface area and storage volume of 5,000 acre-feet at a normal maximum surface elevation of 160 feet mean sea level; (3) An existing 3-foot-diameter penstock 5 feet long; (4) Three proposed turbine-generators of 40 kW capacity each; (5) A proposed 7,620-V transmission line 250 feet long; and (6) Appurtenant facilities. The net hydraulic head is 30 feet. The estimated annual energy production is 800,000 kWh. Site power would be sold to Public Service Company of New Hampshire. The existing facilities are owned by the Town of Salem, NH.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of

preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $11,500.

4 a. Type of Application: Preliminary Permit.

b. Project No: 10010–000.

c. Date Filed: June 4, 1986.

d. Applicant: The North Jersey District Water Supply Commission and the Hackensack Water Company.

e. Name of Project: Monksville Dam.

f. Location: On the Wanague River in Passaic County, New Jersey.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas McKeon, Hackensack Water Company, 200 Old Hook Road, Harrington Park, NJ 07640, (201) 767–9300.

i. Comment Date: October 6, 1986.

j. Description of Project: The proposed project would consist of: (1) The 150-foot-high, 2,200-foot-long, Monksville Dam (the dam is presently under construction for the purposes of water supply, as well as swimming, boating, and fishing); (2) A proposed reservoir with a surface area of 505 acres at a normal pool elevation of 400 feet m.s.l.; (3) A proposed 40-foot-long, 4-foot-diameter steel penstock; (4) A proposed powerhouse which will contain an 850 kW generating unit; (5) A proposed 1,000-foot-long, 13.8-kV transmission line; and (6) Appurtenant facilities.

The applicant estimates the average annual energy generation to be 3.5 GWh. The applicant anticipates selling the power generated to either the New Jersey Central Power and Light Company or the Rockland Electric Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, the applicant would prepare an application for an FERC license. Applicant estimates that the cost of the studies under permit would be $78,000.

5 a. Type of Application: Preliminary Permit.

b. Project No: 10039–000.

c. Date Filed: July 14, 1986.

d. Applicant: S & F Power.

e. Name of Project: Riverdale.

f. Location: On Mink and Dry Creeks in Franklin County, Idaho Township 13S and Range 41E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ted S. Sorenson, 550 Linden Drive, Idaho Falls, ID 83401, (208) 522–8069.

i. Comment Date: October 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 6-foot-high diversion dam on Mink Creek at elevation 5,360 feet and a proposed 6-foot-high diversion dam on Dry Creek at elevation 5,360 feet; (2) An existing 18,000-foot-long feeder ditch; (3) A 4,200-foot-long, 72-inch-diameter penstock; (4) A powerhouse containing one generating unit with a capacity of 5.2 MW and an average annual generation of 19,400 MWh; and (5) A 0.5-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $45,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

6 a. Type of Application: Surrender of Transmission Line License.

b. Project No: 1545–001.

c. Date Filed: June 16, 1986.

d. Applicant: Monongahela Power Company.

e. Name of Project: Monongahela Transmission Line.

f. Location: Monongahela National Forest, Tucker and Randolph Counties, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Raymond Fish, Monongahela Power Co., 1310 Fairmont Avenue, Fairmont, WV 26553, (304) 366–3000.

i. Comment Date: September 26, 1986.

j. Description of Project: The licensee proposes to surrender its license for transmission line. The transmission line was determined non-jurisdictional by the Commission and has been partially removed. A special use permit has been granted by the U.S. Forest Service for the .65-mile-long transmission portion of line.

k. This notice also consists of the following standard paragraphs: B, and C.

7 a. Type of Application: Amendment to Exemption from Licensing.

b. Project No.: 5730–002.

c. Date Filed: June 30, 1986.

d. Applicant: American Hydro Power Company.

e. Name of Project: Oakland Dam.

f. Location: Susquehanna River, Susquehanna County, Pennsylvania.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. Peter A. McGrath, American Hydro Power Company, 33 Rock Hill Road, Bala Cynwyd, PA 19004–2010, (215) 668–6143.

i. Comment Date: September 29, 1986.

j. Description of Project: The applicant proposes to replace the existing 2-foot-high non-collapsable flashboards with a fixed concrete cap at the same crest elevation.

k. Purpose of Project: The existing flashboards are susceptible to damage by debris. Replacement by a concrete cap will prevent such damage.

l. This notice also consists of the following standard paragraphs: B, C, D3a.

8 a. Type of Application: Major License.

b. Project No.: 7481–003.

c. Date Filed: April 17, 1986.

d. Applicant: Enerco Corporation.

e. Name of Project: New York State Dam Project.

f. Location: On Mohawk River, in the Town Cohoes, Albany and Saratoga Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Malcolm M. Preston, Enerco Corporation, 5 Great Valley Parkway, Suite 282, Malvern, PA 19355, (215) 648–3941.

i. Comment Date: October 10, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 7 section amberson type dam, 5 of the sections are 132 feet long and 17.2 feet high, and two of the sections are 132 feet long and 16.7 feet high; (2) The two middle sections are topped by 0.5-foot-high flashboards (3) A reservoir with a surface area of 17 acres and gross storage capacity of 200 acre-feet and normal water surface elevation of 50 feet msl; (4) Twelve integral powerhouses 20-foot by 54-foot each containing a single generating unit rated at 630-kW, for a total installed capacity of 7,560-kW; (5) A buried 180-foot-long transmission line connecting to a Niagara Mohawk Power Corporation substation; and (6) Appurtenant

facilities. The Applicant estimates the annual average generation would be 35,600,000 kWh. The dam is owned and operated by the New York State Department of Transportation. This license application was filed pursuant to a preliminary permit, Project No. 7481–000 held by the Applicant.

k. Purpose of Project: All project energy generated would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

9 a. Type of Application: Major License over 5MW.

b. Project No.: 9095–001.

c. Date Filed: December 26, 1985.

d. Applicant: Northwestern Pacific Power Company.

e. Name of Project: Genesee.

f. Location: The project is located on Red Clover and Last Chance Creeks within the Plumas National Forest near Taylorsville in T25N, R12E, Plumas County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: J Ward MacDonald, President, Northwestern Pacific Power Company, Four Embarcadero Center, Suite 1980, San Francisco, CA 94111, (415) 433–3505.

i. Comment Date: October 20, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 6-foot-high diversion weir at elevation 4,800 feet on Last Chance Creek and a 6-foot-high diversion weir at elevation 4,800 feet on Red Clover Creek; (2) A 15-foot diameter, 4,725-foot-long tunnel from the Last Chance Creek diversion to a point of bifurcation and a 72-inch diameter, 4,100-foot-long low pressure conduit from the Red Clover Creek diversion to the point of bifurcation; (3) A 72-inch diameter, 15,000-foot-long penstock leading from the point of bifurcation to the powerhouse; (4) A powerhouse at elevation 3,850 feet containing one generating unit with a rated capacity of 30 MW; (5) A tailrace returning flows to Red Clover Creek; and (6) A 4.0-mile-long 60-kV transmission line. The average annual energy generation is estimated to be 65 GWh. Total project costs are estimated to be $36,829,000.

k. Purpose of Project: The power produced will be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9518–000.

c. Date Filed: October 2, 1985.

d. Applicant: Calaveras County Water District.

e. Name of Project: Upper Mokelumne River Multipurpose Water Development Project.

f. Location: On Middle Fork Mokelumne River, South Fork Mokelumne River and Mokelumne River, near Rail Road Flat, in Calaveras County, California (In Sections 12, 13, 15, 16, 17, 18, 21, 22, 23, 26, 34, and 35 of T6N, R13E, MDB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Steve Felte, General Manager, Calaveras County Water District, 427 East St. Charles Street, San Andreas, CA 95247, (209) 754–3543.

i. Comment Date: October 10, 1986.

j. Description of Project: The proposed project would consist of: (1) A 50-foot-high, 120-foot-long Upper Mokelumne Diversion Dam located across South Fork Mokelumne River at elevation 2,000 feet msl; (2) A 20-foot-high, 100-foot-long diversion dam located across Middle Fork Mokelumne River at elevation 2,500 feet msl; (3) A 3,000-foot-long, 8-foot-diameter tunnel connecting the Middle Fork Mokelumne River to the Upper Mokelumne Reservoir; (4) A 6-foot-diameter, 9-mile-long diversion pipeline; (5) A 5-foot-diameter, 4,000-foot-long penstock; (6) A powerhouse with a total installed capacity of 12 MW operating under a head of 1,250 feet; and (7) A 1-mile-long, 230-kV transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 36 GWh will be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $600,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11 a. Type of Application: Small Conduit Exemption.

b. Project No.: 9620–001.

c. Date Filed: December 31, 1985, as supplemented June 19, 1986.

d. Applicant: Cross Flow Hydroelectric, Inc.

e. Name of Project: Cabazon Hydroelectric.

f. Location: On the existing Cabazon County Water District water supply system, which uses water from Millard Canyon Creek, Riverside County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Mr. Robert R. Hunter, Cross Flow Hydroelectric, Inc., 2200 West Orangewood, Suite 250, Orange, CA 92868, (714) 978–0884.

i. Comment Date: September 22, 1986.

j. Description of Project: The proposed project would utilize a planned upgrade to the Cabazon water supply system and would consist of a powerhouse located at the discharge end of the 18-inch pipeline containing a generating unit rated at 375 kW and producing an average annual output of 1.45 GWh. Flow from the powerhouse would be directed via a short tailrace into a concrete box culvert which would pipe the flow to the existing storage tanks.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 10034–000.

c. Date Filed: July 9, 1986.

d. Applicant: CRV Corporation.

e. Name of Project: Crystal River.

f. Location: On the Crystal River, near Marble, in Gunnison County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Robert F. Chaffin, 811 Colorado Avenue, Glenwood Springs, CO 81601, (303) 945–5474

Mr. Thomas A. Rogers, 274–A Grandview, Laguna Beach, CA 92651, (714) 494–6557

i. Comment Date: October 20, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A reconstructed 5-foot-high, 7-foot-long wingwall located on the Crystal River at elevation 8,484 feet msl; (2) An 80-inch-diameter, 3,900 foot-long steel penstock; (3) A powerhouse containing 2 turbine-generator units with a total rated capacity of 4.9 MW and producing an estimated average annual generation of 13.6 GWh; (4) A 150-foot-long riprap tailrace returning flows to the Crystal River at elevation 8,000 feet msl; (5) A switchyard; and (6) A 10-mile-long, 24-kV transmission line interconnecting the project to a Holy Cross Electric Association line near Redstone, Colorado. The proposed penstock would be located on White River Forest lands. The project would be located in the NW¼ of Section 30, Township 11S, Range 87W, the S½ and the N¼ of Section 25, Township 11S, Range 88W,

6th Principal Base and Meridian. Project power would be sold to the Colorado Ute Electric Association.

Portions of the proposed project are situated approximately three quarters of a mile from a designated wilderness area. None of the project area is included within a designated wilderness area or a wilderness study area. A portion of the project is included in a section of river that has been designated for study for inclusion in the National Wild and Scenic River System.

A preliminary permit, if issued, does not authorize construction. Applicant seeks to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $40,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 10046–000.

c. Date Filed: July 21, 1986.

d. Applicant: Trans Mountain Construction Company.

e. Name of Project: Upper Clear Creek.

f. Location: On Clear Creek, near Georgetown, in Clear Creek County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, CO 80401, (303) 526–9296.

i. Comment Date: October 17, 1986.

j. Description of Project: The proposed project would consist of: (1) 6-foot-high, 10-foot-long diversion dam across Clear Creek at elevation 10,600 feet msl; (2) A 3-foot-diameter, 5,000-foot-long penstock; (3) A powerhouse containing 3 turbine-generator units (175 kW, 175 kW, 250 kW) with a total rated capacity of 600 kW, operating under a head of 240 feet, a maximum flow of 40 cfs, and producing an estimated average annual generation of 1.5 GWh; and, (4) A 500-foot-long, 25-kV transmission line interconnecting the project to an existing Public Service Company of Colorado (PSCC) line.

Applicant intends to sell power to PSCC. The project would be located in the SW¼ of Section 14 and the NE¼ of Section 22, Township 4 South, Range 76 West, 6th Principal Base and Meridian.

A preliminary permit, if issued, does not authorize construction. Applicant seeks to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $80,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

14 a. Type of Application: License.

b. Project No.: 7962–001.

c. Date Filed: May 30, 1986.

d. Applicant: Robert W. Shaw.

e. Name of Project: Baldwin.

f. Location: Connecticut River, Village of Pittsburg, Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Robert W. Shaw, 4 Pleasant Street, P.O. Box 17, Colebrook, NH 03576, (603) 237–4358.

i. Comment Date: October 17, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing breached timber crib dam which would be rehabilitated and would be 158 feet long, including an 8-foot-high, 66-foot-long spillway surmounted by 2-foot-high flashboards, and piers and gate structures having a combined length of 92 feet and a maximum height of 18 feet impounding a reservoir at elevation 1299 feet having a surface area of 2 acres and a gross storage capacity of 16 acre-feet; (2) A reinforced concrete canal intake structure integral with the dam; (3) A 4,000-foot-long canal; (4) A penstock intake structure at the end of the canal; (5) A 10-foot-diameter, 300-foot-long penstock; (6) A reinforced concrete powerhouse containing a single 4,000 kW turbine/generator with a 600 cfs hydraulic capacity; (7) A 400-foot-long tailrace with water surface elevation 1197 feet; (8) A 3,300-foot-long, 34.5-kV transmission line; and (9) Appurtenant facilities. The applicant estimates the average annual energy generation will be 18 GWh. The owner of the project site is the New England Power Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

15 a. Type of Application: Minor License.

b. Project No.: 9273–000.

c. Date Filed: June 3, 1985.

d. Applicant: Upstate Hydro Associates.

e. Name of Project: Seneca Mills.

f. Location: On the Keuka Outlet in Yates County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John Benjamin Guthrie, 6235 Bridge Street, Box 113, Valois, NY 14888, (315) 471–3123.

i. Comment Date: October 16, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 20-foot-high and 150-foot-long stone gravity dam (now breached) with a crest elevation of 598 feet mean sea level; (2) An impoundment with a surface area of 4 acres; (3) An existing intake structure; (4) Two 50-foot-long penstocks, 3 feet and 5 feet in diameter; (5) 3 new submersible turbine-generator units with a total installed capacity of 830 kW; (6) A new switch house; (7) A new 70-foot-long transmission line; and (8) Other appurtenances. Applicant estimates an average annual generation of 3,609,410 kWh. Existing facilities are owned by the New York State Electric & Gas Corporation.

k. Purpose of Project: Project energy would be sold to the local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

16 a. Type of Application: Major License (less than 5 MW).

b. Project No.: 10011–000.

c. Date Filed: June 5, 1986.

d. Applicant: Middlebury Falls Hydropower, Inc.

e. Name of Project: Middlebury Falls.

f. Location: Otter Creek, Addison County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Matthew J. Bonaccorsi, Timothy Buzzell & Associates, Inc., Methodist Hill Road, Lebanon, NH 03766, (603) 448–3245.

i. Comment Date: September 25, 1986.

j. Competing Application: Project No. 9969–000. Date Filed: April 14, 1986.

k. Description of Project: The proposed run-of-river project would consist of: (1) An existing three-foot-high, 180-foot-long concrete dam with crest elevation 337 feet mean sea level and impounding a negligible amount of water; (2) A proposed concrete intake structure; (3) Two 50-foot-long steel penstocks, one 8 feet in diameter and the other 14 feet in diameter; (4) A concrete powerhouse containing two turbine-generators rated 400 kW and 2,300 kW at an average head of 22.5 feet, having a total hydraulic capacity of 1,800 cfs and generating an estimated 9.9 GWh annually; (5) A 60-foot-long tailrace at an elevation of 314 feet mean sea level; (6) A 200-foot-long, 4.16-kV underground transmission line to an existing Central Vermont Public Service Corporation line; and (7) Appurtenant facilities.

Project power would be sold to Central Vermont Public Service Corporation. The existing facilities are owned by the Town of Middlebury, Vermont.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

17 a. Type of Application: Exemption (5MW).

b. Project No.: 9717-000.

c. Date Filed: December 24, 1985, as supplemented May 22, 1986.

d. Applicant: Pat Landers.

e. Name of Project: Snowy Range Ranch.

f. Location: On the East Fork Mill Creek, in Sec. 17, T6S, R10E, near Livingston, in Park County, Montana.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Roger Kirk, Hydrodynamics, Inc., P.O. Box 6165, Bozeman, MT 59771, (406) 586-1272.

i. Comment Date: October 2, 1986.

j. Description of Project: The proposed project would restore an existing hydro plant which consists of: (1) A 4-foot-high diversion weir at elevation 5,790 feet; (2) A 1,600-foot-long diversion canal; (3) A 200-foot-long, 20-inch-diameter penstock; and (4) A powerhouse containing a generating unit rated at 45kW. Average annual generation would be .15 GWh.

k. Purpose of Project: Project power would be sold to Park Electric Cooperative.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

18 a. Type of Application: Major License (5MW or less).

b. Project No.: 9756-000.

c. Date Filed: December 30, 1985 and amended on June 12, 1986.

d. Applicant: Edward T. Navikis.

e. Name of Project: Deer Creek Power Project.

f. Location: On Deer and Squirrel Creeks, near the Town of Grass Valley, in Nevada County, California (In Sections 19, 20, 24, and 30, T16N, R7E, M.D.M.&B).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Edward T. Navikis, P.O. Box 1578, Grass Valley, California 95945, (916) 432-2560.

i. Comment Date: October 16, 1986.

j. Description of Project: Water will be diverted from Deer and Squirrel Creeks through a common forebay and penstocks to a powerhouse on Squirrel Creek. The proposed project would consist of: (1) A 60-foot-long, 3-foot-high existing concrete diversion dam on Deer Creek with a crest elevation of 1,130 feet msl; (2) A 70-foot-long, 18-foot-high existing concrete diversion dam on Squirrel Creek with a crest elevation of 1,100 feet msl; (3) Two-existing gated power canal intakes; (4) Two in-situ power canal sections totaling 11,500 feet in length; (5) A 4-foot-deep forebay having a surface area of 0.25 acre; (6) Two 850-foot-long steel penstocks, 60 and 48 inches in diameter; (7) A concrete and wood powerhouse at elevation 840 feet msl containing three generating units with combined rated capacity of 4800 kW, at a net head of 248 feet, discharging into; (8) A 30-foot-long tailrace terminating at Squirrel Creek; (9) A 1,200-foot-long, 21-kV transmission line connecting the project to a Pacific Gas and Electric Company distribution line; and (10) Appurtenant facilities. Applicant estimates the average annual energy generation at 7.9 GWh. The existing facilities, abandoned by the Nevada Irrigation District, would be rehabilitated by the Applicant.

k. Purpose of Project: Project energy will be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

19 a. Type of Application: Conduit Exemption.

b. Project No.: 9827-000.

c. Date Filed: December 31, 1985.

d. Applicant: Snowbird, Ltd.

e. Name of Project: Wasatch Tunnel Hydro Project.

f. Location: Wasatch Drain Tunnel in Salt Lake County, UT.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: A. Colin Jackson, President, Snowbird Development Co., Snowbird, Ltd., Snowbird, UT 84092.

i. Comment Date: September 26, 1986.

j. Description of Project: The proposed project would utilize the existing Wasatch Drain Tunnel culinary water system, operated by the Salt Lake County Service Area No. 3, and would consist of: (1) An underground powerhouse, inside the tunnel about 775 feet from its outlet, containing a turbine-generator unit rated at 500 kW and operating under a 800-foot head; and (2) Appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,300,000 kWh.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9863-000.

c. Date Filed: April 7, 1986.

d. Applicant: JK Inc.

e. Name of Project: Andro.

f. Location: Androscoggin River in Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Jennees N. Buck, JK Inc., Box 98, Hanover, ME 04237, (207) 364-3947.

i. Comment Date: September 26, 1986.

j. Competing Application: Project No. 10001. Date Filed: May 28, 1986.

k. Description of Project: The proposed project would consist of: (1) A proposed 25-foot-high, 550-foot-long earth dam with a spillway elevation of 410 feet msl; (2) A proposed reservoir with a surface area of 183 acres and a gross storage capacity of 1,830 acre-feet; (3) A proposed powerhouse at the base of the dam containing a generating unit with a rated capacity of 5,300 kW; and (4) A proposed 300-foot-long transmission line tying into the existing Central Maine Power Company system. The applicant estimates a 32,000 MWh average annual energy production.

l. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $300,000.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

21 a. Type of Application: Preliminary Permit.

b. Project No: 10048-000.

c. Date Filed: July 23, 1986.

d. Applicant: Turner Creek Power Company, Inc.

e. Name of Project: Turner Creek.

f. Location: Turner Creek, near Sierraville, in Sierra County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Russell Turner, Turner Creek Power Company, Inc., P.O. Box 7, Sattley, CA 96124, (916) 587-1470.

i. Comment Date: October 20, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) An 8-foot-high, 30-foot-long concrete diversion dam across Turner Creek and below the confluence of Big Canyon and Turner Canyon Creeks; (2) A 14-inch-diameter, 5,000-foot-long, penstock; (3) A powerhouse containing a single turbine-generator unit with a rated capacity of 250 kW, operating under a head of 780

feet and a hydraulic capacity of 5 cfs, and producing an estimated average annual generation of 1.01 GWh; (4) A concrete lined tailrace returning flows to Turner Creek; and (5) A 2,600-foot-long, 12.5-kV transmission line interconnecting the project to an existing Plumas-Sierra Rural Electric Company line. The proposed diversion dam and penstock would be partially located on Tahoe National Forest lands. The proposed project would be located in Sections 31 and 32, Township 21 North, Range 14 East, MDB&M and Section 12, Township 20 North, Range 13 East, MDB&M, Sierra County, California.

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be between $20,000 and $30,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

22 a. Type of Application: Amendment of License.

b. Project No.: 2593–004.

c. Date Filed: July 1, 1986.

d. Applicant: Missisquoi Associates.

e. Name of Project: Beaver Falls.

f. Location: Beaver River in Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Amy S. Koch, Reid & Priest, 1111 19th Street, NW., Washington, DC 20036, (202) 828–0100.

i. Comment Date: October 6, 1986.

j. Description of Amendment: On July 1, 1986, Missisquoi Associates (licensee) filed an application to amend article 21 of its license for the Beaver Falls Project No. 2593. The licensee proposes to amend article 21 as follows:

Licensee, shall, continue to consult and cooperate with the New York State Department of Environmental Conservation and the U.S. Fish and Wildlife Service to assess the existing intake structure's ability to protect fish moving downstream from being entrained. Within 1 year of the effective date of this amended article, Licensee shall report to the Commission and submit comments from the above referenced agencies regarding the status of this further consultation. The Commission reserves the right to take whatever action it deems necessary regarding the existing intake structure.

k. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either: (1) A preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 28, 1986, Washington, DC.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19553 Filed 8–28–86; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE FRL–3072–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data colleciton instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepaman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Data Call-in/Registration Standards Program, EPA ICR 0922. (This is an extension of an existing collection; no change is proposed.)

Abstract: Under section 3 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, EPA requires manufacturers to submit test data when registering or re-registring certain pesticides to determine whether the chemicals cause an unreasonable adverse effect on man and the environment.

Respondents: Pesticide manufacturers.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #1170, Collection of Emergency Economic and Regulatory Support Data: Request for Generic Clearance, was approved 8/18/86 (OMB #2070–0034; expires 8/31/89).

EPA ICR #1293, Development of NSPS for Small Boilers, was approved 8/12/86 (OMB #2060–0138; expires 6/30/88).

* * * * *

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW, Washington, DC 20503

Dated: August 26, 1986.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86–19599 Filed 8–28–86; 8:45 am]

BILLING CODE 6560–50–M

BEST COPY AVAILABLE

[ER-FRL-3071-8]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed August 18, 1986 Through August 22, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860336, Draft, FHW, WI, North Corridor Arterial and Chippewa River Crossing Construction, US 12 to US 53, Eau Claire County, Due: October 14, 1986, Contact: Robert Cooper (608) 264-5956.

EIS No. 860337, Final, IBR, CA, Grass Valley Creek Debris Dam Sediment Control Project, Trinity River, Construction and Operation, Trinity County, Due: September 29, 1986, Contract: David Gore (916) 978-4966.

EIS No. 860338, Draft, COE, TX, Galveston Bay Area Navigation Improvements, Houston Ship and Galveston Channels, Galveston and Harris Counties, Due: October 17, 1986, Contact: Charles Harbaugh (409) 766-3044.

EIS No. 860339, Draft, AFS, CA, Eldorado National Forest, Land and Resource Management Plan, Due: November 27, 1986, Contact: Jerald Hutchins (916) 622-5061.

EIS No. 860340, Draft, NPS, CA, Sequoia-Kings Canyon National Parks, Grant Grove and Redwood Mountain Areas, Development and Use, Fresno County, Due: November 7, 1986, Contact: John Davis (209) 565-3341.

EIS No. 860341, Report, COE, HI, West Beach Resort Development, Marina and Beach Lagoons Construction, Updated Information, Contact: Michael Lee (808) 438-9258.

EIS No. 860342, Draft, FHW, OR, North Roseburg Interchange/I-5 Construction, I-5 to Oakland-Shady Highway, Douglas County, Due: October 23, 1986, Contact: Dale Wilken (503) 399-5749.

EIS No. 860343, Final, AFS, NV, Humboldt National Forest, Land and Resource Management Plan, Due: September 29, 1986, Contact: B.J. Graves (702) 738-5171.

EIS No. 860344, Final, COE, IL, North-South Tollway Construction, Fill Material Discharge, Lily Cache Creek and Du Page River, Du Page and Will Counties, Due: September 29, 1986, Contact: Tom Slowinski (312) 353-6428.

EIS No. 860345, Final, FHW, PA, Industrial Highway/PA-291/LR 542 Improvement, 4th and Price Streets to Ridley Creek, Delaware County, Due: September 29, 1986, Contact: Manuel Marks (717) 782-2222.

EIS No. 860346, Final, BLM, CA, Clear Lake Resource Area, Cedar Roughs and Rocky Creek-Cache Creek Wilderness Study Areas, Wilderness Recommendations, Due: November 21, 1986, Contact: Van Manning (707) 462-3873.

EIS No. 860347, Draft, UAF, AK, Alaskan Radar System, Over-the-Horizon Backscatter Radar Program, Construction and Operation, Elmendorf Air Force Base, Due: October 14, 1986, Contact: Lt. V.G. Brown (617) 271-5380.

EIS No. 860348, Draft, BLM, ID, Cascade Resources Area, Resource Management Plan, Due: November 28, 1986, Contact: Richard Geier (208) 334-1582.

Amended Notice

EIS No. 860003, FSuppl, COE, AL, Upper Santa Ana River Main Stem and Santiago Creek Flood Control Project, Mentone Dam Upstream Flood Storage Alternative, Published FR 1-17-86-Officially Withdrawn—Note: EIS 860003, FS, was erroneously filed with the EPA in January 1986. The official filing of the EIS appeared in the August 22, 1986 FR.

Dated: August 26, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-19638 Filed 8-28-86; 8:45 am]

BILLING CODE 6560-50

[ER-FRL-3071-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 11, 1986 through August 15, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D-BLM-J61068-UT, Rating EO2, Utah Statewide Wilderness Study Areas, Wilderness Designation, UT. Summary: EPA expressed serious concerns with the draft EIS and recommended that the process be revised to use this EIS as a programmatic statement on statewide wilderness, supplemented by separate EIS's on cluster Wilderness Study areas. EPA's concerns included exclusion of areas qualified for wilderness study without explanation in the draft EIS, incorrect application of the mineral value conflicts, failure to consider wilderness designation in the context of other BLM land use plans, failure to appropriately cluster areas for wilderness study, and inconsistent application of BLM's management capabilities.

ERP No. D-COE-C32031-NJ, Rating LO, Claremont Terminal Channel Navigation Improvements, NJ. Summary: EPA believes that there will be no significant environmental impacts as a result of implementing the proposed project.

ERP No. D-COE-F35039-OH, Rating EC2, Toledo Harbor Confined Disposal Facility and Maintenance Dredging, Construction, OH. Summary: EPA concluded that upland disposal sites were not adequately considered. EPA is also concerned with the loss of aquatic habitat and the lack of a mitigation proposal for same. EPA requested more information regarding the structure and pollutant containment capability of the dike walls.

ERP No. D-USN-K09003-CA, Rating LO, Navy Geothermal Development Program, Power Plant Construction and Operation, Coso Known Geothermal Resource Area, CA. Summary: EPA suggested additional information be included in the final EIS on issues related to the Underground Injection Control (UIC) program Class V wells, and the adoption of a UIC monitoring plan.

ERP No. DS-USN-C10002-NJ, Rating EC2, Naval Weapons Station Earle, Logistic Support System, Modernization and Expansion and Issuance of COE Section 10, 404, and 103 Permits, Project Modifications, (USN and COE Joint Lead Agencies), NJ. Summary: EPA believes the proposed project, as modified and reduced in scope in the draft supplemental EIS, will not have significant adverse environmental impacts. However, we requested further information regarding possible relocation of the tank farm, the discharge method for the oil-water separation system, and plans to respond to potential oil spills. EPA does not object to the COE adoption of the USN final EIS (1980) as background information.

Final EISs

ERP No. F-COE-C10002-NJ, Naval Weapons Station Earle, Logistic Support System, Modernization and Expansion and Issuance of COE Section 10, 404,

and 103 Permits, Project Modifications, (COE Adoption of USN Final EIS (1980)), NJ. Summary: See above Summary for DS–USN–C10002–NJ.

ERP No. F–COE–C32030–00, Arthur Kill Channel Navigation Improvements, Howland Hook Marine Terminal Vicinity, NJ and NY. Summary: EPA's concerns regarding the proposed project have been resolved. However, additional sediment testing will be required to determine the acceptability of ocean disposal of the dredged material.

ERP No. F–FHW–G40116–LA, Eden Isles Interchange Construction, I–10 Access Point, Between Gause Blvd. and Lake Pontchartrain, 404 and 10 Permits, LA. Summary: The final EIS adequately responded to EPA comments issued on the draft EIS. EPA has not identified any new issues of concern with regard to the proposed action.

ERP No. FS–SFW–A86084–00, Migratory Bird Hunting in the United States, Use of Lead Shotgun Pellets, Regulations, US. Summary: EPA noted positive changes over the draft supplemental EIS, specifically, the adoption of a new preferred alternative (VII–3) which results in a nationwide ban of the use of lead shot for migratory waterfowl hunting in 1991. However, EPA recommended that the Fish and Wildlife Service adopt Alternative V, which would extend the prohibition to include non-waterfowl migratory bird species and proposes the prohibition of the use of lead shot by migratory flyway, banning its use first in the Mississippi Flyway for the 1986/87 season, in the Atlantic Flyway in the 1987/88 season, etc., until a nationwide ban is achieved. Alternative V is the proposal which most effectively protects migratory birds and their habitats, and does so without the enforcement problems and survey costs associated with the Preferred Alternative.

ERP No. F–SFW–K64008–HI, Hawaiian Islands National Wildlife Refuge Mgmt. Plan, HI. Summary: EPA expressed concerns that the Refuge's water quality and pristine ecosystems may not be preserved under the proposed boundaries, and supported the adoption of monitoring programs to determine if changes in management strategy would be warranted.

ERP No. F–VAD–F81011–MI, Allen Park Veterans Administration Medical Center, Replacement/Modernization, Construction, MI. Summary: EPA's review resulted in no objections to the preferred alternative.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86–19639 Filed 8–28–86; 8:45 am]

BILLING CODE 6560–50–M

[OPPE–FRL–3073–5]

Advisory Committee to Negotiate Hazardous Waste Injection Restrictions; Establishment and Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the establishment of an Advisory Committee to Negotiate Hazardous Waste Injection Restrictions. We have determined that this is in the public interest and will assist the Agency in performing its duties prescribed in sections 3004(f) and (g) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984.

Copies of the Committee charter will be filed with appropriate committees of Congress and the Library of Congress.

The Committee's initial meeting will be held on September 16, 1986 at the National Institute for Dispute Resolution, 1901 L Street, NW., Suite 600, Washington, DC. The Agency has issued this Notice promptly upon confirmation of the establishment of the Committee. Due to the need for an expeditious regulation, the Agency is giving this Notice less than 15 days prior to the meeting. The Committee has notified interested parties on its mailing list of the meeting date.

The meeting will start at 9:00 a.m. and will run until completion. The purpose of the meeting is to complete any outstanding procedural matters, to determine how best to address the substantive issues, and to begin to address them.

If interested in attending, or in receiving more information, please contact Kathy Tyson at (202) 382–5352.

Dated: August 27, 1986.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86–19726 Filed 8–28–86; 8:45 am]

BILLING CODE 6560–50–M

[OPPE–FRL–3073–4]

Advisory Committee To Negotiate Regulations Governing Major and Minor Modifications of Resource Conservation and Recovery Act (RCRA) Permits; Establishment and Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the establishment of an Advisory Committee to Negotiate Regulations Governing Major and Minor Modifications of Resource Conservation and Recovery Act (RCRA) Permits. We have determined that this is in the public interest and will assist the Agency in performing its duties prescribed in 40 CFR Part 270 Subpart D, under the Resource Conservation and Recovery Act (RCRA).

Copies of the Committee charter will be filed with appropriate committees of Congress and the Library of Congress.

The Committee's initial meeting will be held on September 10, 1986 at the National Insitutute for Dispute Resolution, 1910 L Street, NW., Suite 600, Washington, D.C. The Agency has issued this Notice promptly upon confirmation of the establishment of the Committee. Due to the need for an expeditious regulation, the Agency is giving this Notice less than 15 days prior to the meeting. The Committee has notified interested parties on its mailing list of the meeting dates.

The meting will start at 9:00 a.m. and will run until completion. The purpose of the meeting is to complete any outstanding procedural matters, to determine how best to address the substantive issues, and to begin to address them.

If interested in attending, or in receiving more information, please contact Kathy Tyson at (202) 382–5352.

Dated: August 27, 1986.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86–19727 Filed 8–28–86; 8:45 am]

BILLING CODE 6560–50–M

FRL–3071–7

Federal Radiation Protection Guidance; Public Hearing on Proposed Alternatives for Controlling Public Exposure to Radiofrequency Radiation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearing.

VOL 51 ISS 168 AG 29 1986 UMI

SUMMARY: A public hearing to consider proposed alternatives for controlling public exposure to radiofrequency (RF) radiation has been scheduled for September 22–23, 1986.

DATES: A public hearing on the proposed alternatives will be held on September 22–23, 1986, in Washington, D.C. Interested parties are invited to testify. Requests to participate in the hearing should be made in writing by September 18, 1986.

Written statements and comments on the proposed alternatives may be entered into the record on or before October 28, 1986.

ADDRESSES: The hearing will be held at the General Services Administration first floor auditorium, F Street between 18th and 19th Streets, NW., Washington, DC, from 9:00 a.m. to 5:00 p.m. each day. Requests to participate in the hearing should be made in writing to David E. Janes, Director, Analysis and Support Division (ANR–461), Office of Radiation Programs, U.S Environmental Protection Agency, Washington, DC 20460. Requests should include an outline of the topic to be addressed in the opening statement and the names of the participants. Participants are requested to provide five copies of any prepared statements. Presentations should be limited to 30 minutes. Please indicate a preferred date for testimony. Prospective participants should advise EPA of any need for special accommodations for physical handicaps.

Written comments should be submitted to: Central Docket Section (LE–131), U.S Environmental Protection Agency, Washington, DC 20460, Attention: Docket A–81–43. The rulemaking docket, containing information used by EPA in developing the proposed standard is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at EPA's Central Docket Section, West Tower Lobby, Gallery One, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Norbert N. Hankin, Analysis and Support Division (ANR–461), Office of Radiation Programs, U.S Environmental Protection Agency, Washington, DC 20460, (202) 475–9630.

SUPPLEMENTARY INFORMATION: The proposed alternatives for controlling public exposure to RF radiation were announced in the **Federal Register** on July 30, 1986, (51 FR 27318).

Dated: August 28, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86–19600 Filed 8–28–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Ameritrust Corp. et al.; Formations of, Acquisitions by and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 22, 1986.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation,* Cleveland, Ohio, and *First Indiana Bancorp,* Elkhart, Indiana; to acquire 100 percent of the voting shares of Central Indiana Bancorp, Inc., Fairland, Indiana.

AmeriTrust Corporation, Cleveland, Ohio, and *First Indiana Bancorp,* Elkhart, Indiana; have also applied to acquire 100 percent of the voting shares of Union Banc Corp., Kokomo, Indiana.

2. *Banc One Corporation,* Columbus, Ohio; to acquire 100 percent of the voting shares of First National Bank of Fenton, Fenton, Michigan.

3. *Huntington Bancshares Incorporated and Huntington Bancshares of Indiana, Inc.,* Columbus, Ohio; to acquire 100 percent of the voting shares of Wainwright Financial Corporation, Noblesville, Indiana.

4. *Woodford Bancorp, Inc.,* Versailles, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Woodford Bank & Trust Company, Versailles, Kentucky.

Board of Governors of the Federal Reserve System, August 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–19557 Filed 8–28–86; 8:45 am]

BILLING CODE 6210–01–M

Central Wisconsin Bancshares, Inc., et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bancshares, Inc.*, Wausau, Wisconsin; to acquire First American Investment, Incorporated, Wausau, Wisconsin, and thereby engage in securities brokerage pursuant to § 225.25(b)(15) of the Board's Regulation Y. The activities will be conducted in the State of Wisconsin.

Board of Governors of the Federal Reserve System, August 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-19558 Filed 8-28-86; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 161; 10-I-MT-582C]

Tract 18R, East Bench Unit, Dillon, Beaverhead County, MT; Conveyance of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration dated June 6, 1986, the property, consisting of 13 acres of unimproved land, known as Tract 18R, East Bench Unit, Dillon, Montana (10-I-MT-582C), has been transferred to the State of Montana, Montana Department of Fish, Wildlife and Parks.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: August 18, 1986.

Allan W. Beres,

Acting Commissioner, Federal Property Resources Service.

[FR Doc. 86-19622 Filed 8-28-86; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 22, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages.)

Office of the Assistant Secretary for Health

Subject: AIDS Vaccine Development: Private Sector/Government Collaborative Efforts—NEW—

Respondents: Businesses or other for-profit; Non-profit institutions

OMB Desk Officer: Bruce Artim

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package.)

Subject: Information Collection Requirements in 42 CFR Part 405.1716, .1720, .1721 and .1725—Conditions of Participation for Outpatient Clinics—Reinstatement—(0938-0336) HCFA-R-44

Respondents: Businesses or other for-profit; Small businesses or organizations

OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

(Call Reports Clearance Officer on 202-245-6511 for copies of package.)

Office of the Inspector General

Subject: Program Inspection on Medicaid Estate Recovery—NEW—

Respondents: State or local governments

OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

(Call Reports Clearance Officer on 202-472-4415 for copies of package.)

Subject: Program Performance Report—Revision—(0980-0172)

Respondents: State or local governments

OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the numbers shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: (name of OMB Desk Officer).

Date: August 26, 1986.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-19587 Filed 8-28-86; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Los Angeles District Office, chaired by George J. Gerstenberg, District Director. The topic to be discussed is Health Fraud.

DATE: Thursday, September 11, 1986, 9 a.m. to 12 m.

ADDRESS: Braille Institute, Whittier Rm., First Floor, 741 North Vermont Ave., Los Angeles, CA 90029.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-252-7597.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 22, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-19562 Filed 8-28-86; 8:45 am]

BILLING CODE 4160-01-M

Health Professional Organizations' Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting of health professional organizations to be chaired by Frank E. Young, Commissioner of Food and Drugs. The agenda will include discussions on National Prescription Awareness Month, tampering, update on food safety, Chernobyl followup, health fraud, and FDA's Action Plan: update and phase II.

DATE: The meeting will be held on September 15, 1986, from 1:30 p.m. to 3:30 p.m.

ADDRESS: The meeting will be held in Conference Rm. 703A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs (HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

Dated: August 22, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-19563 Filed 8-28-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BDM-033-N]

Changes to the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth coding changes to the ICD-9-CM approved prior to July 1, 1986, by the ICD-9-CM Coordination and Maintenance Committee and the heads of HCFA and the National Center for Health Statistics (NCHS). It also announces the availability through the Government Printing Office of the approved codes as well as other approved material to be included in ICD-9-CM as follows: (1) New instructional material for the tabular list of diseases (Volume 1) and procedures (Volume 3) in the form of includes and excludes notes; (2) Additions to the indexes (Volumes 2 and 3) to provide help in locating and achieving proper usage of the codes; and (3) Errata for Volumes 1 through 3.

FOR FURTHER INFORMATION CONTACT:
Sue Meads RRA, PHS (Diagnosis codes) (301) 436-7019
Patricia Brooks RRA, HCFA (Procedure codes) (301) 597-0603
Janis Niessing, HCFA (Administrative Matters) (301) 594-8945

SUPPLEMENTARY INFORMATION:

I. Background

A. International Classification of Diseases.

1. General.

The International Classification of Diseases, Ninth Revision (ICD-9) is a classification system developed by the World Health Organization for recording morbidity and mortality information for statistical purposes, for indexing hospital records by diseases, and for data storage and retrieval purposes. The International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) is a system for reporting diagnostic information and procedures performed in hospitals and primary care settings.

The clinical modification to ICD-9, that is, ICD-9-CM, was developed under the guidance of the National Center for Health Statistics (NCHS) to adapt the ICD-9 classification system to the needs of hospitals in North America. The modifications were intended to provide a mechanism to present a clinical picture of the patient. Thus, ICD-9-CM codes are more precise than those included in ICD-9 since greater precision is needed to describe the clinical picture of a patient than for statistical groupings and trend analysis. ICD-9-CM is published as a three-volume set:

Volume 1—Diseases: Tabular List
Volume 2—Diseases: Alphabetic Index
Volume 3—Procedures: Tabular List and Alphabetic Index

The three-volume set can be purchased from the Government Printing Office at a cost of $29.00 in paper, and $40.00 in hardback.

2. Development of and Responsibility for ICD-9-CM.

Effective January 1979, after nearly two years of development by numerous national experts on clinical and technical matters, the ICD-9-CM became the single classification system intended for use by hospitals in the United States. This system replaced several earlier related but somewhat dissimilar classification systems. Once the ICD-9-CM classification system was in place, several errors and omissions were noted. Consequently, in September 1980 a second edition of ICD-9-CM was published. The preface to the second edition noted that the continuous maintenance of ICD-9-CM is the responsibility of the Federal government. The preface also stated that no future modifications to the system would be considered without the Federal government considering the opinions of representatives of major users of the classification system.

3. ICD-9-CM Coordination and Maintenance Committee.

In September 1985, the ICD-9-CM Coordination and Maintenance Committee was formed. This is a Federal inter-departmental committee charged with the mission of maintaining and updating the ICD-9-CM. This would include approving new coding changes, developing errata, addenda, and other modifications to the ICD-9-CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The Committee encourages participation in the above process by major health-related organizations. In this regard the Committee holds public meetings for discussion on educational issues and proposed coding changes. These meetings provide an opportunity for input into coding matters from representatives from recognized organizations in the coding field, such as the American Medical Record Association, the American Hospital Association, and the Commission on Professional and Hospital Activities, as well as physicians, medical record administrators, and other members of the public. Considering the opinions expressed at the public meeting, the Committee formulates recommendations, which then must be approved by the co-chair agency heads (that is, the Administrator of HCFA and the Director of NCHS) before adoption for general use.

II. Changes to The ICD-9-CM

A. General.

This notice sets forth coding changes to the ICD-9-CM that were approved prior to July 1, 1986 by the ICD-9-CM Coordination and Maintenance Committee and the heads of HCFA and NCHS. (See section B. following for a listing of these codes.) It also announces the availability through the Government Printing Office (See section E. below for specific information regarding availability) of the approved codes as well as other approved material to be included in ICD-9-CM as follows: (1) New instructional material for the tabular list of diseases (Volume 1) and procedures (Volume 3) in the form of includes and excludes notes; (2) Additions to the indexes (Volumes 2 and 3) to provide help in locating and achieving proper usage of the codes; and (3) Errata for Volumes 1 through 3.

B. Coding Changes.

The following new ICD-9-CM codes have been approved for use.

New Diagnoses Codes

Human T-Lymphotropic Virus-III/ Lymphadenopathy Associated Virus (HTLV–III/LAV) Infections (042–044)

042 HTLV–III/LAV infection with specified conditions
042.0 HTLV–III/LAV infection with specified infections
042.1 HTLV–III/LAV infection causing other specified infections
042.2 HTLV–III/LAV infection with specified malignant neoplasms
042.9 Acquired immunodeficiency syndrome with or without other conditions

043 HTLV–III/LAV infection causing other specified conditions
043.0 HTLV–III/LAV infection causing lymphadenopathy
043.1 HTLV–III/LAV infection causing specified disease of the central nervous system
043.2 HTLV–III/LAV infection causing other disorders involving the immune mechanism
043.9 Acquired immunodeficiency syndrome-related complex with or without other conditions

044 Other HTLV–III/LAV infection
044.0 HTLV–III/LAV with specified acute infections
044.9 HTLV–III/LAV not otherwise specified

795.8 Positive Serological or Viral Culture findings for Human T-Lymphotropic Virus-III/ Lymphadenopathy Associated Virus (HTLV–III/LAV)

New/Modified Procedure Codes

Cochlear Prosthetic Device Implant

20.96 Implantation of cochlear prosthetic device, not otherwise specified
20.97 Implantation or replacement of cochlear prosthetic device, single channel
20.98 Implantation or replacement of cochlear prosthetic device, multiple channel

Percutaneous (Balloon) Valvuloplasty

35.96 Percutaneous valvuloplasty

Percutaneous Transluminal Coronary Angioplasty (PTCA)

36.00 Removal of coronary artery obstruction, not otherwise specified
36.01 Percutaneous transluminal coronary angioplasty (PTCA) without mention of thrombolytic agent
36.02 Percutaneous transluminal coronary angioplasty (PTCA) with thrombolytic agent
36.03 Open chest coronary artery angioplasty
36.04 Intracoronary artery thrombolytic infusion
36.09 Other specified removal of coronary artery obstruction

Cardioverter/Defibrillator

37.94 Implantation or replacement of automatic cardioverter/ defibrillator, total system (AICD)
37.95 Implantation of automatic cardioverter/defibrillator lead(s) only
37.96 Implantation of automatic cardioverter/defibrillator pulse generator only
37.97 Replacement of automatic cardioverter/defibrillator lead(s) only
37.98 Replacement of automatic cardioverter/defibrillator pulse generator only

Thoracoabdominal Aortic Aneurysm Repair

38.4 Resection of vessel with replacement
(NOTE: removal of section mark (§) allows this code to use the following unique 4th digit subclassification)
0 unspecified site
1 intracranial vessels
2 other vessels of head and neck
3 upper limb vessels
4 aorta, abdominal
5 thoracic vessels Aorta
6 abdominal arteries
Excludes: abdominal aorta (4)
7 abdominal veins
8 lower limb arteries
9 lower limb veins

Percutaneous Angioscopy

38.22 Percutaneous angioscopy

Gastric Endoscopic Balloon Procedures

44.21 Dilation of pylorus by incision
44.22 Endoscopic dilation of pylorus
44.29 Other pyloroplasty
44.93 Insertion of gastric bubble (balloon)
44.94 Removal of gastric bubble (balloon)

Other Procedures on Biliary Tract

51.97 Therapeutic endoscopic procedures on biliary tract, oral route
51.98 Other percutaneous procedures on biliary tract

Percutaneous nephrostomy

55.03 Percutaneous nephrostomy without fragmentation
55.04 Percutaneous nephrostomy with fragmentation

Artificial Urinary Sphincter Implant (AUS)

58.93 Implantation of artificial urinary sphincter (AUS)

Extracorporeal Shockwave Lithotripsy (ESWL)

59.96 Extracorporeal shockwave lithotripsy (ESWL)

Penile Prostheses Inflatable and Non-Inflatable

64.95 Insertion or replacement of *non-inflatable* prosthesis of penis
64.97 Insertion or replacement of inflatable prosthesis of penis

Chemonucleolysis

80.50 Excision or destruction of intervertebral disc, unspecified
80.51 Excision of intervertebral disc
80.52 Intervertebral Chemonucleolysis
80.59 Other destruction of intervertebral disc

Debridement of Nail

86.27 Debridement of nail, nail bed, or nail fold

Magnetic Resonance Imaging (MRI)

88.90 Diagnostic imaging, not elsewhere classified
88.91 Magnetic resonance imaging of brain and brain stem
88.92 Magnetic resonance imaging of chest and myocardium
88.93 Magnetic resonance imaging of spinal canal
88.94 Magnetic resonance imaging of musculoskeletal
88.95 Magnetic resonance imaging of pelvis, prostate, and bladder
88.99 Magnetic resonance imaging of other and unspecified sites

Parenteral And Enteral Nutrition

96.6 External infusion of concentrated nutritional substances
99.15 Parenteral infusion of concentrated nutritional substances

C. Coding Changes and the Medicare Prospective Payment System (PPS).

Medicare's prospective payment system is based on diagnosis related groups (DRGs) which, in turn, are based on ICD–9–CM diagnostic and procedural codes as well as several other factors.

On June 3, 1986, a brief portion of the list of new codes contained in this notice was included in the Final Notice of Changes to the DRG Classification System (51 FR 20192). The material set forth in this notice expands upon the information previously published and sets forth other changes arising from the January and May meetings of the ICD–

9–CM Coordination and Maintenance Committee meetings.

D. Effective Dates.

1. PPS.

The adoption of the ICD–9–CM codes set forth in this notice are effective for Medicare discharges occurring on or after October 1, 1986. As indicated in the June 3 final notice about Changes to the DRG Classification System, these codes are not expected to make changes in classification of cases in the DRG classification system.

[C]oding changes adopted by the committee prior to July 1, 1986 would be included in the Medicare GROUPER program for Federal fiscal year 1987 (October 1986 through September 1987), but would not necessarily result in changes to the classification of cases using the new codes. . . . Because use of most of the new ICD–9–CM codes would not result in DRG classification changes initially, the new codes would not be published for public comment. Of course, should reclassification become necessary, . . . we would follow the procedures set forth at § 412.10 of the regulations.

2. All ICD–9–CM Users.

To promote consistency among all users reporting ICD–9–CM data, we encourage the use of the new codes set forth above effective for hospital discharges occurring on or after October 1, 1986.

E. Copies of Changes.

As stated in section II. A. of this notice, copies of all the changes announced in this notice are available through the Government Printing Office (GPO). Copies can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. A GPO stock number is not yet available at the GPO.

Dated: August 18, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86–19586 Filed 8–28–86; 8:45 am]

BILLING CODE 4120–03–M

National Institutes of Health

Developmental Therapeutics Contracts Review Committee; Open Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, September 5, 1986, Holiday Inn Crowne Plaza, Bethesda, Maryland 20852.

This meeting will be open to the public on September 5, from 8:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on September 5, from approximately 9:30 a.m. until adjournment for the review, discussion and evaluation of contract proposals. These proposals and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7030) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting date because of conflicting schedules.

Dated: August 25, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–19709 Filed 8–28–86; 10:00 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Final Environmental Impact Statement for Clear Lake Resource Area, CA

[FES 86–23]

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability of final Environmental Impact Statement (EIS) for the Clear Lake Resource Area wilderness proposals.

SUMMARY: This EIS assesses the environmental consequences of managing two wilderness study areas (WSAs) located in northwestern California as wilderness or nonwilderness. The alternatives assessed in this EIS include: (1) A "no wilderness/no action" alternative for each WSA, (2) an "all wilderness" alternative for each WSA, and (3) a "partial wilderness" alternatives for the Rocky Creek—Cache Creek WSA.

The names of the two WSAs analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

Cedar Roughs—5,597 acres; 0 acres suitable, 5,597 acres nonsuitable.

Rocky Creek—Cache Creek—33,582 acres; 0 acres suitable, 33,582 acres nonsuitable.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and from the President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the Area Manager, Clear Lake Resource Area, 555 Leslie Street, Ukiah, CA 95482. Copies are also available for inspection at the following locations.

Department of the Interior
Bureau of Land Management
18th and "C" Streets, NW.
Washington, DC 20420

or

Bureau of Land Management
California State Office
2800 Cottage Way, Room 2841
Sacramento, California 95825

or

Bureau of Land Management
Ukiah District Office
555 Leslie Street
Ukiah, California 95482

FOR FURTHER INFORMATION CONTACT: Gretchen Smyth, Area Manager, Clear Lake Resource Area, 555 Leslie Street, Ukiah, California 95482, Telephone (707) 462–3873.

Dated: August 21, 1986.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86–19592 Filed 8–28–86; 8:45 am]

BILLING CODE 4310–40–M

[CO-050-4212-20; C-26982, C-38675]

Realty Action; Color-of-Title sales of public land in Clear Creek and Bent County, Colorado.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Actions C-26982, sale of public land to Mr. and Mrs. William E. Sanders; C-38675, sale of public land to Manifor Ranch, Inc.

SUMMARY: The following described lands have been examined and found to be suitable for sale under Color-of-Title, Act of December 22, 1928 (45 Stat. 1069) as amended, at no less than the appraised sale prices listed below:

6th Principal Meridian, Colorado

T.4S., R.74W., Section 18, Lot 7; 0.35 acres; $5000

T.23S., R.53W., Section 10, Lot 2; 24.5 acres; $815

These parcels have been held under claim or color of title and have been found to meet the sale requirements under either Class 1 or Class 2 of the Color-of-Title Act.

DATES: Comment period ends 45 days from publication.

FOR FURTHER INFORMATION: Contact the District Manager, Canon City District Office, 3080 East Main Street, PO Box 311, Canon City, Colorado 81212. Any comments will be evaluated by the District Manager. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Donnie R. Sparks,

District Manager.

[FR Doc. 86-19578 Filed 8-28-86; 8:45 am]

BILLING CODE 4310-JB-M

[NV-060-06-4212-14; N-41597]

Realty Action; Noncompetitive Sale of Federal Lands in Esmeralda County, NV

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Realty Action; Noncompetitive Sale of Federal Lands in Esmeralda County, NV.

SUMMARY: The following described Federal lands have been examined and found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 at not less than the appraised fair market value.

Mount Diablo Meridian, Nevada

T. 4 S., R. 38 E.,
Section 4, NE1/4SE1/4.
A parcel of land containing 40 acres.

The lands will be offered for sale, without competition to William S. Wright, the adjacent landowner, who plans to use them for agricultural purposes. Conveyance of available mineral interest will incur simultaneously with the sale of the lands. Acceptance of the direct sale offer will constitute an application for conveyance of those mineral interests. Mr. Wright will be required to pay a $50.00 nonreturnable filing fee for conveyance of available mineral interests. Failure to submit purchase money and the aforementioned $50.00 nonreturnable filing fee within the time frame specified by the Authorized Officer result in cancellation of the sale.

The sale is consistent with the Bureau's planning system. The lands are not needed for any resource program. No conflicts with state or local plans are present. The grazing lessee has waived his rights to the two-year notification prescribed in section 402(8) of the Federal Land Policy and Management Act of 1976.

Minimum bid for this parcel will be fair market value which will be determined by an appraisal and which will be made available prior to the sale. Under no circumstances will this parcel be sold sooner than 60 days after publication of this notice.

The patent, when issued, will contain the following reservations tot he United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All oil and gas, sodium, and potassium mineral deposits. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Battle Mountain District Office.

Segregration: Upon publication of this Notice in the **Federal Register** the above-described Federal lands will be segregrated from all forms of appropriation under the public land laws, including locations under the mining laws, except as to application under the mineral leasing laws.

Comments: For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, NV 89820. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: August 20, 1986.

Thomas H. Jury,

Acting District Manager.

[FR Doc. 86-19623 Filed 8-28-86; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Oklahoma City Zoo, et al. Receipt of Applications for Endangered Species Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Oklahoma City Zoo, Oklahoma City, OK; PRT-708806.

The applicant requests a permit to import two pairs of captive born Darwin's rheas (*Pterocnemia p. pennata*) from Mr. Michel Durand Quesnel of Santiago, Chile, for purposes of captive breeding and zoological display.

Applicant: Chicago Zoological Society, Brookfield, IL; PRT-710779.

The applicant requests a permit to import one male Siberian tiger (*Panthera tigris altaica*) from the Assiniboine Park Zoo, Manitoba, Canada, for the enhancement of captive breeding by increasing the genetic diversity of their tiger population.

Applicant: William B. Rhoten, Newark, NJ; PRT-710506.

The applicant requests a permit to import one Nile crocodile (*Crocodylus niloticus*) from Mr. P. Arnold, Cango Crocodile Ranch, Oudtshoorn, Republic of South Africa, for the purpose of scientific research. The specimen will be used in research of hormonal secretions of the pancreas and calcium-binding proteins of kidney nephrons. The animal will be sacrificed during the investigation and preserved for future research projects.

Applicant: New York Zoological Society, Bronx, NY; PRT-711084.

The applicant requests a permit to import two captive born White-Naped cranes (*Grus vipio*) from Whipsnade Park, Great Britain for the purposes of breeding and exhibition.

Applicant: Cheyenne Mountain Zoological Park, Colorado Springs, CO; PRT-711321.

The applicant requests a permit to export one male lion-tailed macaque, to Zoo Negara in Malaysia, for the purpose of breeding and exhibition.

Documents and other information submitted with these applications are available to the public during normal

business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86-19585 Filed 8-28-86; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-183]

Certain Indomethacin; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Mylan, FIS, SST, PAR, Chelsea, Rugby and Zenith.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 14, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: August 27, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-19733 Filed 8-28-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-No. 118X)]

The Baltimore and Ohio Railroad Co. Abandonment in Fayette County, PA; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by The Baltimore and Ohio Railroad Company of its Redstone Branch, consisting of approximately 1.20 miles of track near Uniontown, Fayette County, PA, subject to standard labor protective conditions.

DATES: This exemption will be effective on September 29, 1986. Petitions to stay must be filed by September 8, 1986. Petitions for reconsideration must be filed by September 18, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-19 (Sub-No. 118X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

Decided: August 21, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-19581 Filed 8-28-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 120X)]

The Baltimore and Ohio Railroad Co. Abandonment in Midvale, Tuscarawas County, OH; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by The Baltimore and Ohio Railroad Company of 0.21 miles of track in Midvale, Tuscarawas County, OH, subject to standard labor protective conditions.

DATES: This exemption will be effective on September 29, 1986. Petitions to stay must be filed September 8, 1986, and petitions for reconsideration must be filed by September 18, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-19 (Sub-No. 120X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Donald Shaw, Jr. (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: August 21, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-19582 Filed 8-28-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-Nos. 144X and 145X)]

Illinois Central Gulf Railroad Co. Abandonment in Champaign, Macon, De Witt, and Piatt Counties, IL; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by Illinois Central Gulf Railroad Company in Docket No. AB-43 (Sub-No. 144X) of 4 miles of line, in Champaign and Piatt Counties, IL, and in Docket No. AB-43 (Sub-No. 145X) of 6.3 miles of line, in Macon and De Witt Counties, IL, subject to standard labor protective conditions.

DATES: This exemption is effective September 29, 1986. Petitions to stay must be filed by September 8, 1986, and petitions for reconsideration must be filed by September 18, 1986.

ADDRESSES: Send pleadings referring either to Docket No. AB-43 (Sub-No. 144X) or Docket No. AB-43 (Sub-No. 145X) as pertinent to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative: Howard D. Koontz, 233 N. Michigan Ave, 28th Floor, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan Area) or toll free (800) 424-5403.

Decided: August 21, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-19583 Filed 8-28-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Task Force on Economic Adjustment and Worker Dislocation; Meeting

Notice is hereby given that the Task Force on Economic Adjustment and Worker Dislocation will hold its fourth meeting at 10:00 a.m. on Wednesday, September 17, 1986, in Room C-5515—Seminar Room 6, 200 Constitution Avenue, NW, Washington, DC 20210. The public is invited to attend.

The purpose of the meeting is to discuss and ratify subcommittee progress.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Holmes, U.S. Department of Labor, Room S-5014, Washington, D.C. 20210, (202) 523-7571.

Signed at Washington, DC, this Tuesday of August 26, 1986.

Michael E. Baroody,

Assistant Secretary for Policy.

[FR Doc. 86-19650 Filed 8-28-86; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of **Wage Determinations**, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage

VOL 51 ISS 168 AG 29 1986 UMI

Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

	Decisions	Pages
Volume I:		
District of Columbia	DC86-1 (Jan. 3, 1986)	80, 82
Maryland	MD86-2 (Jan. 3, 1986)	390-391
Maryland	MD86-15 (Jan. 3, 1986)	420
New York	NY86-3 (Jan. 3, 1986)	661-663
New York	NY86-5 (Jan. 3, 1986)	677-679
Pennsylvania	PA86-15 (Jan. 3, 1986)	901
Virginia	VA86-14 (Jan. 3, 1986)	1066
Volume II:		
Kansas	KS86-8 (Jan. 3, 1986)	337-340
Louisiana	LA86-5 (Jan. 3, 1986)	365
Michigan	MI86-1 (Jan. 3, 1986)	384-385, 387
Michigan	MI86-2 (Jan. 3, 1986)	399-409, 409a-409b
Michigan	MI86-4 (Jan. 3, 1986)	425
Michigan	MI86-7 (Jan. 3, 1986)	445-461, 461a-461d
Michigan	MI86-17 (Jan. 3, 1986)	466
Missouri	MO86-1 (Jan. 3, 1986)	541
Oklahoma	OK86-13 (Jan. 3, 1986)	820
Oklahoma	OK86-14 (Jan. 3, 1986)	832
Volume III:		
Nevada	NV86-3 (Jan. 3, 1986)	241-243

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 22nd day of August 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-19387 Filed 8-28-86; 8:45 am]

BILLING CODE 4510-27-M

LEGAL SERVICES CORPORATION

Announcement of One-Time Grant Award to the Multi-County Lawyer Referral Service

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award a one-time grant.

SUMMARY: The Legal Services Corporation. (LSC) announces its intention to award a one-time, non-recurring grant of $19,650 to the Multi-County Lawyer Referral Service. This grant will be for a one-year term. It will be awarded pursuant to authority conferred by sections 1006(a)(1)(B) and 1006(A)(3) of the Legal Services Corporation Act of 1974, as amended, in response to an unsolicited proposal submitted by the Multi-County Lawyer Referral Service for promoting involvement of private attorneys in *pro bono* services to the poor in six rural counties in South Central Tennessee, including a public guardianship program for conservatorships. It will address those clients with special problems of access to legal services. The grant will not be subject to automatic refunding rights nor entitled to any rights, including hearing rights, under section 1011 of the LSC Act, as amended, or LSC regulations promulgated thereunder.

This public notice is issued pursuant to Section 1007(F) of the LSC Act. LSC requests that comments and recommendations be provided within a period of thirty (30) calendar days from date of publication of this notice. The grant award will not become effective and no grant funds will be distributed prior to expiration of this thirty (30) day period.

DATE: All comments and recommendations must be received by the Program Development and Substantive Support Division (PDSS) within the Office of Field Services (OFS) of the Legal Services Corporation within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Legal Services Corporation, Beverly Bunn, Speical Counsel, Program Development and Substantive Support Division, Office of Field Services, 400 Virginia Avenue, SW., Washington, DC 20024-2751, (202) 863-1837.

SUPPLEMENTARY INFORMATION: The project consists of an incorporated consortium of six rural county bar associations in South Central Tennessee, planning to expand into six more counties. It has a panel of volunteer attorneys, provides basic client intake and referral, coordination of bar associations within the consortium, education of the bar to organized *pro bono* service, poverty law educational assistance for individual private attorneys, and public and social service awareness of the program. A new focus will be establishment of a public guardianship program of conservatorships of indigents adjudged incompetent.

The establishment of panels of *pro bono* attorneys to supplement existing legal services organizations provides direct civil legal assistance to low-income individuals. These panels generally work cooperatively with local LSC-funded field programs.

Dated: August 27, 1986.

James H. Wentzel,

President, Legal Services Corporation.

[FR Doc. 86-19739 Filed 8-28-86; 8:45 am]

BILLING CODE 6820-35-M

Announcement of One-Time Grant Award to San Antonio Bar Association

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award a one-time grant.

SUMMARY: The Legal Services Corporation (LSC) announces its intention to award a one-time, non-recurring grant of up to $30,000 to the San Antonio Bar Association (SABA). This grant will be for up to a nine (9) month period, as needed, to complete

the joint voucher project between the American Bar Association and LSC. The grant will be solely for administrative expenses; service delivery costs have already been given to SABA for the entirety of the voucher study. It will be awarded pursuant to authority conferred by sections 1006(a)(1)(B) and 1006(A)(3) of the Legal Services Corporation Act of 1974, as amended. The grant will not be subject to automatic refunding rights nor entitled to any rights, including hearing rights, under section 1011 of the LSC Act, as amended, or LSC regulations promulgated thereunder.

This public notice is issued pursuant to section 1007(F) of the LSC Act. LSC requests that comments and recommendations be provided within a period of thirty (30) calendar days from date of publication of this notice. The grant award will not become effective and no grant funds will be distributed prior to expiration of this thirty (30) day period.

DATE: All comments and recommendations must be received by the Program Development and Substantive Support Division (PDSS) within the Office of Field Services (OFS) of the Legal Services Corporation within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Legal Services Corporation, Keith Osterhage, Manager, Program Development and Substantive Support Division, Office of Field Services, 400 Virginia Avenue, S.W., Washington, D.C. 20024–2751, (202) 863–1837.

Dated: August 27, 1986.

James H. Wentzel,

President, Legal Services Corporation.

[FR Doc. 86–19740 Filed 8–28–86; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–456–OL, 50–457–OL, (ASLBP No. 79–410–03–OL)]

Commonwealth Edison Co. (Braidwood Station, Unit Nos. 1 and 2); Notice of Hearing Changes

Before Administrative Judges: Herbert Grossman, Chairman, Richard F. Cole, A. Dixon Callihan.

Please take notice that the evidentiary hearing in the matter of the Braidwood Station will reconvene in the Federal Building, in Courtroom #1919, 219 South Dearborn Street, Chicago, IL 60604, at 2:00 p.m. on August 25, 1986, and will continue from day to day until concluded.

The public is invited to attend all hearing sessions.

For The Atomic Safety And Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 86–19626 Filed 8–28–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co., Haddam Neck Plant, Exemption

I.

The Connecticut Yankee Atomic Power Company (CYAPCO, the Licensee) is the holder of Operating License No. DPR–61 which authorizes operation of the Haddam Neck Plant. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II.

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specified requirements for a particular aspect of the fire protection features at a nuclear power plant. The licensee has submitted a request for exemption from the schedular requirements of 10 CFR 50.48(c) in accordance with the provisions of 10 CFR 50.12(a)(2)(v) for a temporary exemption. Such a temporary exemption requires a demonstration by the licensee that it has made good faith efforts to comply with the applicable regulatory requirements. Further, Generic Letter 86–10 contains four criteria used by the staff to evaluate whether a licensee has demonstrated a good faith effort to meet the requirements under 10 CFR 50.48.

These criteria are:

(1) The utility has, since the promulgation of Appendix R on 1980, proceeded expeditiously to meet the Commission's requirements.

(2) The delay was caused by circumstances beyond the utility's control.

(3) The proposed schedule for completion represents a best effort under the circumstances.

(4) Adequate interim compensatory measures will be taken until compliance is achieved.

III.

Background

By a letter dated July 16, 1982, CYAPCO requested an exemption from section III.G.2 of Appendix R, 10 CFR Part 50 which proposed to relocate redundant shutdown systems within the switchgear room in lieu of providing alternate shutdown capability. CYAPCO indicated at that time that the cost of an independent, alternate shutdown capability would be prohibitive. In a draft safety evaluation dated November 3, 1982, the staff accepted CYAPCO proposal for this area. The staff's fial safety evaluation was issued by letter dated November 14, 1984, in conjuction with the granting of eight exemptions from the requirements of section III.G of Appendix R and approval of other plant modifications for the Haddam Neck plant to achieve compliance with Appendix R. To comply with the schedular requirements of 10 CFR 50.48(c), these modifications were to be completed before startup from the 1986 outage, which subsequently commenced on January 4, 1986.

By letter dated March 7, 1986, CYAPCO requested a temporary exemption from the schedular requirements of 10 CFR 50.48(c), which would defer implementation of the modifications to meet the requirements of Section III.G of Appendix R for fire areas A–1, R–1, R–3, S–2, S–3, and T–1, in order to pursue a new approach for the switchgear room. Rather than relocating redundant electrical divisions for safe shutdown equipment within the existing switchgear room and related plant areas, the licensee now proposes to construct a new building housing a switchgear room that would accommodate one shutdown division. The proposal associated with this exemption request is intended to resolve a number of other issues (tornado missiles, standby DC power, internal missiles and high energy pipe break effects), and, as such, represents a significant improvement in fire protection capability and overall plant safety as compared to the modifications referred to in the staff's November 1984 safety evaluation. The planning, construction and testing associated with this proposal would, subject to staff review, require schedular relief until start-up following the currently planned 1989 outage. This schedular extension would also apply to the specified fire areas which contain redundant

shutdown-related cables that are impacted by the newly proposed switchgear room modifications.

Evaluation Criteria

As stated in Section II above, the Commission provided criteria to be considered when granting schedular exemptions under 10 CFR 50.12(a)(2)(v). The following is a discussion of how these four criteria have been satisfied.

(1) *The utility has, since the promulgation of Appendix R in 1980, proceeded expeditiously to meet the Commission's requirements.*

Since the issuance of 10 CFR 50 Appendix R, CYAPCO has undertaken a number of fire protection reviews and evaluations, and has implemented many fire protection modifications. On March 19, CYAPCO provided the NRC with the results of an initial comparison to Appendix R. The initial comparison to Appendix R and subsequent submittals resulted in numerous meetings with the Staff during the period of 1981 through 1984. Numerous Staff clarifications during this period required additional submittals which culminated in a favorable resolution of a related control room exemption request, as described in the staff's November 1984 safety evaluation.

To date, CYAPCO has performed fire protection modifications costing in excess of $3 million and the proposed switchgear room modifications will cost approximately an additional $10 million to complete. With the exception of 8 pending exemption requests, all other fire protection modifications have been completed.

Based on the above, the Commission concludes that the completed modifications reflect a reasonable effort to expeditiously comply with the requirements of 10 CFR 50 Appendix R.

(2) *The delay was caused by circumstances beyond the utility's control.*

In a somewhat unique approach to the resolution of fire protection requirements, CYAPCO prepared a risk-related document for specific plant fire areas. In March of 1982, the switchgear room, as presently configured, was determined, based on the consultants' study, to be a negligible contributor to risk via internal fire events. Thus, major modifications to this fire area (S–2) were not proposed by the licensee. CYAPCO later determined that the PRA consultant had made a major error in the switchgear assumptions which, when corrected, significantly impacted the calculated risk.

The resolution of the fire protection provisions for the control room, as described in the staff's November 1984 safety evaluation, included the need for a new remote instrumentation panel in the south end of the switchgear room. Related plant modifications further complicated the modification design for the switchgear room and exacerbated the congestion in that area.

In June 1983, the staff issued the Integrated Plant Safety Assessment Report for the Haddam Neck plant (NUREG–0826) which identified plant modifications and additional engineering studies resulting from the Commission's Systematic Evaluation Program (SEP). The license recognized that the contemplated modifications to the switchgear room could affect the resolution of several SEP issues. The licensee subsequently determined that resolution of all of the issues related to the switchgear room would require that the modifications would have to be moved outside the switchgear room.

CYAPCO eventually contracted the services of a consultant to develop a feasibility study of design alternatives to resolve all of the issues for the switchgear room. This study resulted in the proposal presented in the licensee's March 7, 1986 schedular exemption request. The current proposal represents a significant improvement in both fire protection capability and overall plant safety as compared to the earlier modification design concept.

While it is not entirely clear to the staff why the proposed conceptual design for the switchgear room could not have been developed earlier, some of the delay resulted from circumstances beyond the licensee's control. The staff agrees that the licensee was justified in awaiting resolution of all switchgear room issues before committing substantial resources to plant modifications which would also resolve the fire protection problem. While this judgment is a close one, the staff finds that this criterion is satisfied.

(3) *The proposed schedule for completion represents a best effort under the circumstances.*

The licensee's March 7, 1986 letter presents a schedule for the proposed modifications including estimates for the lead time required for detailed design engineering, purchasing of all required equipment, and related construction activities. In view of the magnitude of the proposed modifications and the lead time required to procure the necessary equipment, the staff agrees with the licensee's assessment that it would not be possible to perform all required modifications by the end of the next refueling outage. The staff concluded that, given that certain modifications can only be performed during refueling outages, the licensee's scheduled completion within two refueling outages represents a best effort possible under the circumstances.

(4) *Adequate interim compensatory measures will be taken until compliance is achieved.*

The existing fire protection for the switchgear room and related areas consists of a smoke detection system, an automatic Halon fire extinguishing system or an automatic carbon dioxide suppression system, manual hose stations, and portable fire extinguishers. In addition, the licensee has proposed compensatory measures, in the form of a continuous fire patrol, (i.e., twenty-minute rounds) for the affected areas. The staff concludes that the continuous fire patrol, in conjunction with the fire detection and suppression systems in the switchgear room and related plant areas provide reasonable assurance that any fire would be detected and extinguished before redundant divisions are affected by a fire in any one of the specified fire areas of sufficient size to cause a loss of safe shutdown capability. On this basis, the staff further concludes that plant operation, in the interim, will not present an undue risk to the public health and safety.

IV.

According, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(v), the exemption would provide only temporary relief and the licensee has made a reasonable effort to comply with the schedular requirements of 10 CFR 50.48, in conjunction with the resolution of other important safety issues. The requested exemption is authorized by law and will not endanger life or property or the common defense and security. Therefore, the Commission hereby grants a temporary exemption from the requirements of 50.48(c) and Section III.G of Appendix R to 10 CFR Part 50, with respect to separation of electrical divisions in fire areas A–1A, A–1B, A–1C, A–1D, R–1, R–3, S–2, S–3 and T–1 at the Haddam Neck plant until the end of the Cycle 15 refueling outage.

The granting of this exemption is subject to the licensee's submittal of major implementation milestones by September 30, 1986, and subsequent bimonthly progress reports. This exemption is also contingent on implementation of the commitments in the licensee's letter dated July 3, 1986, which resulted from the fire protection inspection audit on June 16–20, 1986. These modifications will substantially improve the existing fire protection capability at the Haddam Neck plant in the interim. Failure to meet any milestone or implement any

commitments will be considered a violation of the terms of the exemption and may result in the voiding of the exemption and subsequent enforcement/compliance action.

The Director, Office of Nuclear Reactor Regulation may grant changes to interim dates of the completion schedule if the licensee's request is timely and shows good cause for the proposed change. However, the completion date for the fire protection modifications will remain the startup from the cycle 15 outage.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (51 FR 17696, May 14, 1986).

A copy of the Safety Evaluation dated August 25, 1986, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Director Division of PWR Licensing-B.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 25th day of August, 1986.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86-19627 Filed 8-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-250 and 50-251]

Florida Power And Light Co.; Exemption

I.

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorizes the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power levels not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II.

10 CFR 50, Appendix H. Section III.A, requires that a summary technical report be submitted to the Director, Office of Nuclear Reactor Regulation, (NRR) as specified in § 50.4(a) of this part, within one year after capsule withdrawal unless an extension is granted by the Director. The Director, NRR, has delegated the authority to grant such extensions to the Division Director.

The licensee's letter of April 30, 1986, requested an extension be granted for the submittal of the summary technical report dealing with the analysis and testing of the materials in surveillance capsule "V" from Turkey Point Unit 3. The withdrawal date was indicated to be in late April 1985. In response to the NRC staff's request for the specific date, the licensee indicated that capsule "V" was withdrawn from the Unit 3 reactor vessel on March 16, 1985. Since the April 30, 1986, request exceeded one year after withdrawal of the capsule, the request for an extension was not timely and could not be granted.

By letter dated July 11, 1986, the licensee indicated that ex-vessel dosimetry was installed in the April 1985 time frame referenced in their letter requesting an extension for submitting the summary technical report. The date of the dosimetry activity, which is an adjunct part of the licensee's surveillance program, was confused with the capsule "V" removal date and resulted in the untimely request for an extension. Since an extension could not be granted, the licensee requested an Exemption pursuant to 10 CFR 50.12 from the one year requirement specified in 10 CFR 50, Appendix H, section III. A., for submittal of the capsule "V" summary technical report. The request is for a submittal on or before September 1, 1986, which is an extension of the one year requirement by approximately six months.

III.

The surveillance capsule "V" was removed from the reactor vessel during the refueling of Unit 3 and placed in the spent fuel pool. The Turkey Point Technical Specifications require that all the spent fuel in the pool decay for at least 1500 hours before a shipping cask can be moved into the area. The analysis and testing of the materials in the surveillance capsule "V" were contracted to Southwest Research, Inc. (SWRI). The capsule was placed in a shipping cask and sent to SWRI on June 25, 1985. The request for the delay in submitting the summary technical report is due to the death of the SWRI project manager who was responsible for the capsule "V" analysis and tests.

The purpose of the reactor vessel material surveillance program is to monitor the effects of neutron irradiation damage and the thermal environment on the reactor vessel beltline material integrity. The timely analysis of the materials in the surveillance capsule(s) serves to determine the safety margin of the beltline material associated with the pressure temperature limits as required by Appendix G of 10 CFR Part 50. Amendment numbers 56 and 48 dated March 21, 1980, to the facility operating licenses for Units 3 and 4, respectively, allowed the existing pressure-temperature limits to be effective for the first 10 Effective Full Power Years (EFPY) of operation for both units. As of May 31, 1986, exposure for the Unit 3 reactor vessel is 8.7 EFPY and the present exposure for Unit 4 is 8.31 EFPY. These present exposures are below the allowable limit of 10 EFPY set forth in the operating licenses and the summary technical report of the materials in capsule "V" will be submitted well in advance of reaching the licensing limit.

The analysis and test results of the materials in surveillance capsule "V" are applicable to both Units 3 and 4. The Director, Office of Nuclear Reactor Regulation, has approved amendment numbers 112 and 106 dated April 22, 1985, which authorized an integrated surveillance program at the Turkey Point Plant in accordance with the requirements of 10 CFR 50, Appendix H II.C. Hence, based on the present EFPY exposures, there is adequate margin between the actual amount of neutron irradiation exposure to both reactor vessels and the exposure permitted by the operating licenses.

Based on the above, this one-time-only delay of approximately six months in the submittal of the summary technical report will in no way affect the reactor vessel integrity. Therefore, the requested submittal date of on or before September 1, 1986, is reasonable and should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule—to permit the evaluation of the surveillance test data in a timely fashion so that the margins in the approved pressure-temperature curves can be evaluated. Specifically, as noted above, the data from the tests and analysis of the materials in the surveillance capsule(s) are used to define the pressure-temperature limits required by Appendix G of 10 CFR Part 50. The existing Technical Specification

pressure-temperature limits, based on the present EFPY exposures, provide adequate margin between the actual amount of neutron irradiation exposure on both reactor vessels and the exposure permitted by the operating licensees. The summary technical report will be submitted well in advance of reaching the current licensing EFPY limit allowing adequate time to revise the pressure-temperature curves in the Technical Specifications if the test and analysis results indicate the need of revised pressure-temperature curves. Therefore, the requested exemption which authorizes the licensee to submit the sumary technical report of the surveillance capsule "V" on or before September 1, 1986, is granted.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (51 FR 30276) dated August 25, 1986.

For further details with respect to this action, see the licensee's request dated July 11, 1986, which is available for public inspection at the Commission Public Document Room, 1717 H Street, NW., Washington, DC and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 25th day of August, 1986.

For the Nuclear Regulatory Commission.

George E. Lear,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-19628 Filed 8-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Withdrawal of Application For Amendment to Provisional Operating License; GPU Nuclear Corp. et al

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear Corporation (the licensee) to withdraw its February 24, 1986 application for amendment to Provisional Operating License No. DPR-16 issued to the licensee for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey. Notice of consideration of issuance of this amendment was published in the **Federal Register** on May 21, 1986 (51 FR 18683).

The request proposed a temporary change to the Oyster Creek Security Plan to describe a special situation at the site protected area boundary. This was requested to facilitate construction of the Expanded Safety System Facility (ESSF) at the Oyster Creek site.

In the staff's April/May 1986 Progress review meeting with GPU Nuclear Corporation on June 16 and 17, 1986, the licensee requested withdrawal of the application for amendment. The meeting summary is dated August 1, 1986. Pursuant to 10 CFR 2.107 the Commission has granted this withdrawal.

For further details with respect to this action, see (1) the application for amendment dated February 24, 1986, (2) the licensee's request for withdrawal in the meeting summary dated August 1, 1986, and (3) the Commission's letter dated August 22, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the local public document room at Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Bethesda, Maryland, this 22nd day of August 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-19629 Filed 8-28-86; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Intent to Prepare a Supplemental Draft Environmental Impact Statement-Manhattan General Mail Facility

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Postal Service (USPS) intends to prepare a Supplemental Draft Environmental Impact Statement (SDEIS) further documenting the assessment of effects related to development of a new General Mail Facility (GMF) to supplement and/or replace certain existing mail processing facilities in Manhattan. Also evaluated will be a "No-Action" alternative.

EFFECTIVE DATE: August 20, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Wandelt, AICP, Facilities Program Engineer, United States Postal Service, Facilities Department, 475 L'Enfant Plaza, SW, Washington, DC., 20260-6424, tel: (202) 268-3135.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-19606 Filed 8-28-86; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-23550; File No. SR-OCC-86-08]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change; Options Clearing Corp.

The Options Clearing Corporation ("OCC") on April 28, 1986, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposal extends the benefits of OCC's U.S. escrow receipt program to Canadian OCC Clearing Members and Canadian investors. The Commission published notice of the proposal in the **Federal Register** on May 28, 1986, to solicit public comment.[1] No comments were received. On August 4, 1986, OCC filed with the Commission certain non-substantive amendments to the proposal. For the reasons discussed below, the Commission is approving the proposal.

I. Description of the Proposal

Currently, Clearing Members can deposit with OCC escrow reciepts, issued by a qualified financial institution and collateralized by the underlying security, in lieu of OCC margin on short equity option call positions.[2] OCC can accept escrow receipts only from U.S. financial institutions. The proposed rule change amends OCC's procedures under OCC Rule 610 to permit certain Canadian banks and trust companies to qualify as escrow receipt issuers.

Under the proposal, Canadian financial institutions wishing to issue escrow receipts would have to meet a number of requirements. Specifically, to qualify as an escrow receipt issuer, each Canadian financial institution would need: (1) To satisfy several standards (the "Proposed Standards"); (2) to execute a "Depositary Agreement"; and (3) to use OCC's Escrow Receipt form. (The proposal also sets out a recommended form of Escrow Receipt Agreement for use by Canadian escrow receipt issuers and their customers.)

The Proposed Standards are very similar to existing OCC standards for U.S. financial institutions escrow receipt issuers. The Proposed Standards (and also the Depository Agreement) require a Canadian financial institution: (1) To be either a Schedule A (*i.e.*, a Canadian domestic) bank governed by the Canadian Bank Act or a trust company governed by Canadian federal or

[1] Securities Exchange Act Release No. 23253 (May 19, 1986), 51 FR 19279 (May 28, 1986).

[2] *See* OCC Rule 610 concerning Clearing Member use of escrow receiptrs and Chaper Six of OCC's rules regarding OCC margin requirements generally.

provincial legislation; [3] (2) to have shareholders' equity [4] equivalent to at least $20,000,000 U.S.; [5] and (3) to file with the Board of Governors of the Federal Reserve System (the "Fed") either F.R. Form T–2 or its equivalent conforming to Section 8(a) of the Act [6] in which the Canadian financial institution agrees to comply with U.S. law relating to the use of credit to finance securities transactions.[7] The Proposed Standards further provide that each Canadian financial institution, upon application to OCC for approval as an escrow receipt issuer, must supply OCC with its latest available audited financial statements. After its approval, the institution would be required to submit quarterly unconsolidated statements to OCC and an annual audited report. That report must contain a consolidated or unconsolidated statement of financial condition and a special supplemental report signed by the chief officer of the internal audit department regarding the adequacy of the institution's internal accounting controls relating to escrow receipts and underlying assets.[8] Additionally, the Proposed Standards require each Canadian institution to submit to OCC a signature list of employees authorized to sign escrow receipt forms. Finally, they authorize OCC to charge escrow receipt issuers a $2.00 fee for each escrow receipt form ordered.

The Proposed Standards, Depositary Agreement and the Escrow Receipt all limit the amount of escrow receipts that can be issued by a Canadian financial institution. Institutions can issue escrow receipts as long as either: (i) the total amount of cash and securities (at current market value) held by it pursuant to all outstanding escrow receipts and guarantee letters collateralizing puts and calls,[9] or (ii) the intrinsic or "in-the-money" value of all such puts and calls, does not exceed a dollar amount equal to 25% of the shareholders' equity of the institution.[10]

The Depositary Agreement, which must be executed by proper representatives of the Canadian institution, will be used primarily as the application for approval as an escrow receipt issuer. In the Agreement, Canadian institutions represent that they meet OCC's escrow issuer standards and agree to perform the obligations set forth in the escrow receipt form. In fact, many provisions of the Canadian Escrow Receipt also appear in the Depositary Agreement. For example, the Canadian institution agrees: (1) To hold securities for which the escrow receipt is issued to the order of OCC, the Clearing Member or broker; (2) to deliver to OCC, the Clearing Member or broker those securities against payment of the exercise price (less applicable commissions and other charges) upon receipt of a duly executed [11] escrow receipt; (3) to release those securities to the institution's customer upon receipt of an escrow receipt with an Endorsement of Release executed by each of OCC, the Clearing Member and the broker;[12] and (4) to ensure that all securities held pursuant to outstanding escrow receipts meet the general rules for negotiability by delivery. Moreover, the Depositary Agreement enables the institution to terminate the Agreement solely by providing OCC with 30 days' written notice.[13] Finally, pursuant to the Agreement, the institution consents to jurisidiction in the courts of Ontario and agrees to maintain an office in Toronto (or to irrevocably appoint an agent in Toronto) to receive service of process. The Depositary Agreement and Canadian Escrow Receipt both provide that they will be governed by, and construed in accordance with, the laws of Ontario.

The Canadian Escrow Receipt form is the same as the form used by U.S. institutions,[14] except for necessary terminology changes reflecting the Proposed Standards. When a Canadian finanical institution issues an OCC escrow receipt, the Canadian institution will certify that it: (1) Holds specific securities as custodian for its customer's account and that its customer has authorized the filing of the escrow receipt with OCC; (2) has segregated such securities; (3) has the power to put the securities in good deliverable form or already holds them in good deliverable form; and (4) will not subject (or permit the customer to subject) the securities to any lien or encumbrance and will not cause or permit the securities to be used to satisfy any claim that it may have against the customer. The Canadian Escrow Receipt also carries over language from the U.S. Escrow Receipt form which states that if any securities or other property is distributed (relating to deposited securities because of distribution, stock, split, rights offering, corporate reorganization, recapitalization and the like (the "distributed property")), and OCC chooses to adjust the options on the deposited securities under its By-Laws,[15] then the institution agrees that the deposited securities are deemed to include the distributed property.[16] Moreover, the institution also confirms that its customer understands: (1) If the customer closes out short positions relating to an escrow receipt, the customer is responsible to ensure the due release of the receipt; and (2) until the deposit is released, OCC can demand delivery of the deposited securities if an exercise notice is allocated to that series of options in the Clearing Member's customer account.

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[3] To qualify as an escrow receipt issuer, a U.S. financial institution must be a bank or trust company organized under the laws of the U.S. or a state thereof, supervised and examined by a state or federal authority.

[4] Shareholders' equity would be computed on an unconsolidated basis and would consist of common stock, surplus and retained earnings, preferred stock and subordinated debt would not be considered.

[5] Shareholders' equity requirement for U.S. financial institutions also is $20,000,000.

[6] The staff of the Board of Governors of the Federal Reserve System has stated that escrow receipts issued by any foreign banking institution that has filed a Form T–2 qualify as "escrow agreements" for purposes of Regulation T. *See* letter dated May 15, 1984, from Laura Homer, Securities Credit Officer, to Martin Portney, Esq.

[7] F.R. Form T–2 or any equivalent agreement filed with the Fed is subject to termination at any time by order of the Fed for failure to comply with the agreement's provisions.

[8] U.S. escrow-issuing institutions' reporting requirements are very similar. Each U.S. institution must submit to OCC quarterly reports, an annual audited report and a supplemental report by an independent public accountant on the adequacy of its internal accounting controls relating to escrow receipts. OCC represents in its filing that Canadian public accountants do not issue independent supplemental reports. Therefore, OCC instead will require that the corresponding Canadian supplemental report be signed by the chief officer of the institution's internal audit department.

[9] Under the proposal, OCC will accept escrow receipts relating only to deposited stocks underlying short stock option call positions. If a significant demand develops in Canada for index option escrow receipts, OCC states in its filing that it will consider at that time whether to prepare a Canadian version of its existing index option escrow receipt and will submit it to the Commission as a proposed rule change under section 19(b) of the Act.

[10] *See* Securities Exchange Act Release No. 23244 (May 16, 1986), 51 FR 19094 (May 27, 1986) ("Release No. 23244"), in which the Commission approved File No. SR–OCC–85–05 containing the alternative "in-the-money" formula.

[11] The Depositary Agreement provides that "duly executed" includes, in the case of an escrow receipt delivered by a Clearing Member, an "Endorsement of Release" duly executed by OCC; or, in the case of an escrow receipt delivered by the broker, an Endorsement of Release duly executed by both OCC and the Clearing Member named in the escrow receipt.

[12] The provisions regarding the release or delivery of deposited securities also are contained in the Canadian Escrow Receipt form.

[13] All of these terms of agreement are identical to the terms in the U.S. Depositary Agreement.

[14] As amended in File No. SR–OCC–85, *see* note 10 *supra*.

[15] *See* OCC By-Laws, Article VI, Section 11.

[16] The escrow agreement also clarifies the institution's duties concerning deposited securities that are "called-in" between "ex-date" for a distribution and the time of distribution.

VOL 51 ISS 168 AG 29 1986 UMI

II. OCC's Rationale for the Proposed Rule Change

OCC believes that the proposal is consistent with the purposes and requirements of Section 17A of the Act for several reasons. First, it would further the public interest by promoting greater Canadian participation in the U.S. options markets. Second, OCC states that its proposal would foster competition by increasing the number of institutions eligible to issue escrow receipts. At the same time, OCC also believes that investors will continue to be protected by the safeguards provided in connection with the escrow receipt program.

III. Discussion

The Commission believes that the proposal is consistent with Section 17A of the Act and therefore is approving it. As discussed below, the Commission believes that the proposal should promote the prompt and accurate clearance and settlement of options transactions and should assure the safeguarding of funds and securities in OCC's possession or for which it is responsible.

The proposal should promote the prompt and accurate clearance and settlement of options transactions for a number of reasons. OCC-issued, standardized options contracts traded in U.S. markets have been offered in Canada for several years. To cover short equity option call positions, Canadian investors have had to deposit underlying securities with the OCC-approved, escrow receipt issuer in the United States. This procedure has been inconvenient and somewhat burdensome to Canadian investors (and their Canadian brokers who have had to route their options business through U.S. OCC Clearing Members), but the low volume of Canadian investors' OCC options activity has provided little impetus for change. That situation is changing rapidly, however.

Recenty, there has been a growing interest in international securities trading and, with it, the development of a number of international trading, clearance and settlement linkages and other arrangements to facilitate international trading.[17]

The Commission agrees with OCC that these recent developments may stimulate increased Canadian investor interest in U.S. option markets and perhaps greater direct Canadian broker-dealer participation in OCC.[18] The proposal should encourage increased activity. For the first time, Canadian and American investors will be able to write and cover equity option call contracts under substantially identical procedures. Because the proposal will allow those writers to use local banks to receive deposits of underlying securities, and to issue for OCC's benefit escrow receipts on those deposits, Canadian investors and their Canadian broker-dealers (especially if they become direct OCC Clearing Members) will be on parity with their American counterparts. This will enable Canadian options investors to make market decisions without having to consider the operational and financial burdens of establishing and maintaining U.S. banking relationships necessary to cover their short equity option call positions.[19]

The Commission also believes that the proposal should assure the safeguarding of securities and funds under section 17A of the Act. OCC's proposal is almost identical to OCC's long-established and successful U.S. escrow receipt issuer program. Canadian escrow receipt issuers will need to meet financial and regulatory requirements almost identical to the requirements for U.S. financial institutions. First, Canadian institutions must have at least the equivalent of $20,000,000 U.S. in shareholders' equity, which is identical to the requirement for U.S. escrow issuers. Second, Canadian financial institutions, like U.S. banks or trust companies organized under state or federal law, must be banks or trust companies governed by federal or provincial legislation. Thus, OCC will be afforded protections under the Canadian bank regulatory scheme such as segregation of trust assets and special creditor status in the event of a bank failure. Because Canadian institutions necessarily cannot be subject to U.S. state or federal examination,[20] the Commission believes that this provision should help to assure OCC that it will not be exposed to increased financial risk from the institution's securities related financing activities.

The Commission believes that the proposed financial reporting requirements for Canadian financial institutions, *i.e.*, quarterly financial statements, annual audited report and supplemental report on internal accounting controls relating to escrow receipts, are effective safeguards. These reports not only will keep OCC informed about the overall financial condition of Canadian escrow receipt issuers; they also will provide OCC with specific assurances concerning the adequacy of escrow receipt related internal accounting controls. The Commission, however, notes that while these reporting requirements are generally comparable to corresponding requirements for U.S. institutions, they differ in one important way. Because Canadian public accountants do not issue independent internal accounting

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[17] *See Request for Comments on Issues Concerning Internationalization of the World Securities Markets*, Securities Exchange Act Release No. 21958 (April 18, 1985), 50 FR 16302 (April 25, 1985). *See also*, Securities Exchange Act Release Nos. 21499 (November 1, 1984), 49 FR 44575, and 21925 (April 8, 1985), 50 FR 14480, approving a Boston Stock Exchange-Montreal Stock Exchange trading link; Securities Exchange Act Release No. 22442 (September 20, 1985), 50 FR 39201 (September 27, 1985), approving an American Stock Exchange-Toronto Stock Exchange ("TSE") trading link; and Securities Exchange Act Release No. 23075 (March 28, 1986), 51 FR 11854 (April 7, 1986), approving a Midwest Stock Exchange-TSE link. Clearance and settlement linkages have been established between the Amsterdam Stock Exchange and the Depository Trust Company (1980); Trans-Canada Options and National Securities Clearing Corporation ("NSCC")/OCC (1982); Canadian Depository for Securities, Limited ("CDS") and NSCC; Vancouver Stock Exchange Service Corporation and Midwest Clearing Corporation ("MCC")/Midwest Securities Trust Company ("MSTC") (1985); CDS and MCC/MSTC (1986); and most recently, MCC/MSTC and The Stock Exchange, London, England. The Commission has reviewed these links in the "no-action" context. *See, e.g.*, letter dated September 20, 1985, from Jonathan Kallman, Assistant Director, Division of Market Regulation, to Karen L. Saperstein, Assistant General Counsel, NSCC.

[18] OCC has been an active player in developing international business. For example, OCC last summer proposed, and the Commission approved, a proposed rule change that enables foreign broker-dealers, including Canadian broker-dealers, to become direct OCC Clearing Members. *See* Securities Exchange Act Release No. 22133 (June 6, 1985), 50 FR 24853 (June 13, 1985), approving File No. SR–OCC–85–02. On May 9, 1986, OCC filed a proposed rule change (File No. SR–OCC–86–10) with the Commission that OCC hopes will facilitate direct OCC membership of foreign broker-dealers generally, and, in particular, Canadian broker-dealers. The proposal would authorize OCC to adjust OCC financial reporting requirements for those broker-dealers in light of the regulatory schemes in their home countries. In addition, OCC currently has pending before the Commission a proposed rule change (File No. SR–OCC–85–13) that would enable OCC to offer, clear and settle "fungible" foreign currency options traded through a London Stock Exchange ("LSE")—Philadelphia Stock Exchange ("Phlx") link. *See* Securities Exchange Act Release Nos. 22354 (August 23, 1985), 50 FR 35340, and 22847 (January 30, 1986), 51 FR 4551 (February 5, 1986). *See also* File No. SR–Phlx–85–24, Securities Exchange Act Release No. 22343 (August 21, 1985), 50 FR 34955 (August 28, 1985), concerning the LSE–Phlx link. OCC also intends in the near future to establish a branch office in Toronto.

[19] The broker-dealer also benefits from this proposal because OCC does not include covered positions in its margin calculations. Therefore, the broker-dealer will have more assets available for business use.

[20] The proposal, however, does require Canadian institutions to file a Form T–2 (or its equivalent) with the Fed. By filing this Form (or its equivalent), the foreign financial institution agrees to comply with U.S. law relating to the use of credit to finance securities transactions, *e.g.*, Regulation T, 12 C.F.R. § 220.

control reports on escrow-related procedures (unlike U.S. public accountants), the internal audit departments of Canadian institutions will prepare this annual "supplemental report" on the adequacy of internal accounting controls relating to escrow receipts. Nevertheless, the Commission thinks that this difference should not reduce OCC's level of protection in any meaningful way. The Commission recognizes that OCC (and other clearing agencies) should have a reasonable amount of flexibility to create financial and operational standards for foreign participants in the U.S. securities markets that are not unreasonably burdensome when viewed, among other things, in relation to the regulatory scheme of their home country. At the same time, the standards must protect OCC and its domestic clearing community from unreasonable financial exposure. OCC's proposal accomplishes this result.

Moreover, the proposal contains adequate concentration requirements that mirror the requirements for U.S. escrow receipt issuers. Like U.S. institutions, Canadian institutions will be able to issue escrow receipts until the gross value of the deposited collateral or the intrinsic value, *i.e.*, the "in-the-money" amount of the options covered by the escrow receipt, reaches 25% of the institution's shareholders' equity. As the Commission concluded in Release No. 23244,[21] this provision should adequately protect OCC by controlling the amount of escrow receipts that can be issued by banks and trust companies and, indeed, should ensure that OCC always will have sufficient collateral to secure its risks related to the escrow receipt program. To ensure that the concentration requirements are a meaningful safeguard, escrow issuing banks must monitor closely the value of escrowed assets and must notify OCC whenever that value falls to less than 50% of the current position value.[22]

An important distinction between Canadian-issued and American-issued escrow receipts is that Canadian issuers would not be required to consent to service of process within the United States. Canadian escrow receipt issuers, however, would be required to appoint an agent for services of process in the province of Ontario. The Commission is satisfied with this arrangement in light of an opinion from OCC's Canadian counsel that the Canadian escrow receipt and the Depositary Agreement, including provisions that would require application of Ontario law, would be valid and enforceable under Canadian federal and Ontario provincial law.

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

Accordingly, it is therefore ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR–OCC86–06) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 22, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19591 Filed 8–28–86; 8:45 am]

BILLING CODE 8010-01-M

[21] *See* note 10 *supra.*

[22] If an institution notifies OCC of this fact, OCC then can disregard the escrow receipt and require the appropriate Clearing Member to deposit OCC margin regarding the previously covered short position.

[Rel. No. IC–15272; 812–6366]

Carnegie Government Securities Trust; Application For Order Permitting Custody of Excess Margin Payments With Futures Commission Merchants

August 22, 1986.

Notice is hereby given that Carnegie Government Securities Trust (the "Applicant"), 1331 Euclid Avenue, Cleveland, Ohio 44115, filed an application on April 29, 1986 and amendments thereto July 9 and August 19, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from section 17(f) of the Act to the extent necessary to permit its Carnegie High Yield Government Series to maintain certain excess variation margin payments with respect to futures contracts and options thereon (collectively, "Futures Contracts") on deposit with futures commission merchants ("FCMs"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

According to the application, Applicant is a diversified, open-end management investment company with two series of shares: the Money Market Series and the Carnegie High Yield Government Series (the "Government Series"). Applicant represents that the Government Series' investment objective is to seek a high current return consistent with reasonable risk, through a professionally managed portfolio invested in debt obligations issued or guaranteed by the United States Government, its agencies or instrumentalities ("U.S. Government Securities"). Applicant also represents that the Government Series may engage in portfolio strategies involving the use of options on U.S. Government Securities to seek to enhance its current return and to hedge against changes in interest rates. Applicant further represents that the Government Series may also purchase and sell Futures Contracts with respect to U.S. Government Securities as a hedge against changes in interest rates. The Government Series will not however, engage in transactions involving Futures Contracts for speculation. Thus, Applicant states that it has filed with the Commodity Futures Trading Commission a notice of eligibility, pursuant to Rule 4.5(a)(1) under the Commodities Exchange Act, to claim exclusion from the definition of the term "commodity pool operator".

According to the application, both the purchaser and seller of futures contracts are required to deposit "initial margin" payments at the time the contract is entered into and, if the market moves adversely to their positions, to make "variation" margin payments in order to restore the equity in the account to a certain level. Applicant represents that if the market moves in a direction favorable to the trader's position, variation margin payments will be due to the trader. Applicant further represents that the required amount of variation margin payments is determined daily, and additional margin is required, or excess margin is released, as the value of the futures contract fluctuates.

Applicant states that the purchaser of an option on a futures contract is not subject to initial or variation margin payments, unless the option is exercised, but is required to pay a non-refundable premium, plus transaction costs. Applicant further states that the writer of the option, however, is subject to initial and variation margin payments in connection with the option, as well as the underlying futures contract, in the event the option is exercised.

Applicant states that it currently demands that any excess variation margin be remitted to it on the business day next succeeding the business day on which a determination is made that there is variation margin due. Applicant represents that this policy is consistent with no-action letters issued by the Division of Investment Management, which have established guidelines for

the maintenance of margin accounts between FCMs and investment companies. Applicant asserts, however, that this policy is unnecessarily costly and unduly burdensome for the Applicant and a FCM, if the Government Series is continuously required to demand payment of small amounts of variation margin. According to the application, the Government Series' custodian ("Custodian") presently imposes a charge of $25 for each transfer of excess variation margin to its general custodial account.

Applicant proposes that variation margin payments due from any FCM with which it maintains an account will be retained by such FCM until the total amount due exceeds $50,000, at which time Government Series will demand that such excess variation margin be paid over. Applicant further proposes that the total amount of such excess variation margin due from all FCMs with which the Government Series maintains accounts will not exceed the greater of $100,000 or ⅛ of one percent of Applicant's net assets, in order to minimize any risk of loss of the variation margin to which it is entitled. Applicant states that the Government Series may be unable to comply with the provisions of section 17(f) of the Act to the extent that variation margin payments up to $50,000 will be retained by a FCM as described above.

In support of its requested relief from section 17(f), the Applicant undertakes, with respect to Futures Contracts, that the Government Series' custodial agreement will always provide for the transfer of the margin deposit assets maintained for each FCM into a segregated account with the Custodian and will provide that (1) the Custodian will take instructions with respect to disposition of assets in that account only from that FCM; and (2) in directing the disposition of these assets, the FCM must state that the Government Series is in default on an obligation to perform on a Futures Contract, that all conditions precedent to its right to direct disposition have been satisfied, and that the disposition is for a proper purpose under, and in all other respects complies with, the terms of its agreement with the Government Series. The Government Series will enter into an agreement with each FCM which will provide that (1) Government Series assets which would otherwise be physically held by the FCM will be in the possession of the Custodian until released or sold or otherwise disposed of in accordance with or under the terms of that agreement; (2) that those assets would not otherwise be pledged or encumbered by the FCM; (3) that when requested by the Government Series the FCM would cause such Custodian to release to the Government Series' general custodial account any assets to which the Government Series is entitled under the terms of such agreement; and (4) that assets in the segregated account shall otherwise be used only to satisfy the Government Series' obligations to the FCM under the terms of that agreement. Applicant states that the Government Series will appropriately disclose in the prospectus used for the sale of its shares the risk of loss or delay in recovery of margin deposits in the event of a broker's insolvency or bankruptcy, although the foregoing arrangements are intended to reduce that risk.

Applicant further states that any variation margin payable to the Government Series by an FCM will be reflected as net gains, will immediately be shown as increased equity in the Government Series' account with that FCM and will immediately be credited to the Government Series' net asset value. (Conversely, variation margin payments made to an FCM by the Government Series will be reflected as net losses). Applicant undertakes to monitor, on a daily basis, amounts of variation margin due to the Government Series, and to promptly demand payment and transfer of those amounts from each FCM to the Government Series' general custodial account whenever the amount of variation margin owed to the Government Series by a given FCM exceeds $50,000. Applicant anticipates that excess margin will be returned to the Government Series one business day or less after the $50,000 level is exceeded with respect to a particular FCM. Applicant believes that the proposed practices in connection with variation margin owed to the Government Series by FCMs have been structured to minimize any risk of loss of any variation margin to which it is entitled while benefiting the Government Series by reducing transactional costs incurred by it in purchasing and selling Futures Contracts.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 15, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by Affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19589 Filed 8-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15273; File No. 812-6441]

The Zweig Fund, Inc.; Application For an Order Permitting Custody of Excess Variation Margin With Futures Commission Merchants

August 22, 1986.

Notice is hereby given that The Zweig Fund, Inc. ("Applicant"), 900 Third Avenue, New York, New York 10022, Registered under the Investment Company Act of 1940, as amended (the "Act"), as a closed-end, management investment company, filed an application on July 25, 1986, with the Commission pursuant to section 6(c) of the Act, for an order exempting its proposed activities from any provisions of the Act, including, but not limited to, section 17(f) of the Act, and the rules thereunder to the extent necessary to permit Applicant to maintain excess variation margin with its futures commission merchants when Applicant engages in transactions in futures contracts and options on futures contracts. All interested parties are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below, and to the Act and the rules thereunder for the applicable statutory provisions.

Applicant states that, in furtherance of its investment objective, it may use certain investment methods, including the purchase and sale of equity options and short sales of securities and that, for hedging purposes, it may purchase and sell stock index and other futures contracts and purchase related options thereon. Applicant states that such purchases and sales of stock index and other futures contracts and purchases of related options will be made solely for the purpose of hedging against the effect that changes in general market conditions, interest rates and conditions affecting particular industries may have on the value of securities held in

Applicant's portfolio, or which it intends to purchase, and not for the purposes of speculation.

Applicant states that in purchasing and selling futures contracts and in purchasing related options on such contracts, Applicant will comply with the rules and interpretations of the Commodity Futures Trading Commission ("CFTC"), including the provisions of Regulation 4.5 under which Applicant is exempted form regulation as a "commodity pool operator." Accordingly, Applicant does not intend to register as a "commodity pool operator" with CFTC.

Applicant states that futures contracts are traded only on commodity exchanges—known as "contract markets"—approved for such trading by the CFTC. Transactions in futures contracts must be executed through a futures commission merchant ("FCM") which is a member of the relevant contract market.

Applicant states that in contrast to the purchase or sale of a security, a long or short futures position is established not by payment of the purchase price but through payment to the FCM of a percentage of the face value of the contract. This amount, known as "initial margin", represents a "good faith" deposit assuring the performance of both parties to the contract. Both the purchaser and seller of the futures contract are required to deposit initial margin at the time the contract is entered into and, if the market moves adversely to their positions, to make "variation" or "maintenance" margin payments in order to restore the equity in the account to a certain level. Conversely, if the market moves in a direction favorable to the trader's position, variation margin payments will be due to the trader. The required amount of variation margin payments, established through a process known as "marking to the market", is detemined daily, and additional margin is required, or excess margin is released, as the value of the contract fluctuates.

Applicant states that initial margin payments required in connection with Applicant's transactions in futures contracts and related options will be made into special segregated accounts with Applicant's Custodian, in the name and for the benefit of Applicant's FCMs ("Account"). A separate Account will be established for each FCM with which Applicant enters into futures transactions, and each such Account will be maintained apart from the general custodial account of Applicant. The amounts held in the Accounts will constitute performance bonds, to be returned to Applicant upon termination of the futures positions, assuming that all of Applicant's contractual obligations to the FCM have been satisfied. Applicant states that subsequent variation margin payments due to an FCM by Applicant, if any, will be made directly to such FCM by Applicant.

Applicant further states that it has a right to demand excess variation margin payments from an FCM in any amount on any day that there is excess above the required initial margin, but submits that it would be unnecessarily costly and unduly burdensome for both Applicant and its FCM if Applicant were required to demand payment of *de minimis* amounts of excess variation margin. It is further asserted that, to demand return of an insubstantial portion of its assets, Applicant would have to incur transaction fees charged by its Custodian and additional operating expenses. Accordingly, Applicant requests an exemption from section 17(f) of the Act to permit it to maintain excess variation margin with its FCM so long as the amount of such margin does not exceed $50,000, and so long as the total amount due from all FCMs with which Applicant maintains accounts does not exceed ⅛ of one percent of Applicant's net assets.

In support of the requested relief, Applicant states that the ability to leave excess margin with its FCM to this extent would save Applicant, its shareholders and its FCM the expense of processing payments of small amounts without increasing in any meaningful degree any risk to the security of its assets. Applicant submits that these procedures are consistent with the protection of investors and the appropriate conduct of futures contracts and related options activities.

Applicant represents that each agreement with its Custodian and FCM establishing an Account will provide that (1) the Custodian will take instructions with respect to disposition of assets in that Account only from the FCMs; (2) in directing any disposition of assets, the FCM must state that Applicant is in default (if the directed disposition is to the FCM), that all conditions precedent to its right to direct disposition have been satisfied, and that the disposition is for a proper purpose under, and in all other respects complies with, the terms of the agreement; (3) Applicant's assets that would otherwise be held by the FCM will be in the possession of the Custodian until released or sold or otherwise disposed of in accordance with or under the terms of the agreement; (4) those assets will not otherwise be pledged or encumbered by the FCM; (5) when requested by Applicant, the FCM will cause the Custodian to release to Applicant's general custodial account any assets to which Applicant is entitled under the terms of such agreement; and (6) assets in the segragated Account will otherwise be used only to satisfy Applicant's obligations to the FCM under the terms of the agreement. Applicant further states that it will promply cause to be transferred to the general custodial account any amounts no longer required as initial margin to support its futures contracts and options thereon. Applicant states that it has disclosed and will disclose in its prospectus the risk of loss of margin deposits due to the bankruptcy of an FCM, although the foregoing arrangements are designed to reduce this risk.

Applicant states that any variation margin payable to Applicant by an FCM will be reflected as net gains, will immediately be shown as increased equity in Applicant's account with that FCM and will immediately be credited to Applicant's net asset value. Conversely, variation margin payments made to an FCM by Applicant will be reflected as net losses. Applicant states that, on a daily basis, it will monitor amounts of variation margins due to it and promply demand payment and transfer those amounts from the FCM to Applicant's Custodian (for the general or segregated custodial account, as appropriate) whenever the amount of variation margin owed to Applicant by a given FCM reaches $50,000, in order to minimize any risk of loss of any variation margin to which Applicant is entitled. In no event, however, will the total amount due from all FCMs with which Applicant maintains accounts exceed ⅛ of one percent of Applicant's net assets. Applicant anticipates that excess margin will be returned to it one business day or less after the levels noted above are reached.

Applicant further states that initial margin held by its Custodian and variation margin payments held by its FCM will continue to be regarded as assets of Applicant, unless and until such amount are owed to the FCM. No FCM will be permitted to pledge or encumber amounts held by it or the Custodian for the benefit of Applicant. In the event of the insolvency of an FCM, amounts held by the FCM for the benefit of Applicant will be subject to the Federal bankruptcy laws and the bankruptcy regulations of the CFTC, which provide for pro rata distribution to customers of the FCM of all customer property.

In view of the CFTC requirement that initial margin deposits on futures

BEST COPY AVAILABLE

contracts and related options and premiums paid for related options may not exceed five percent of Applicant's total assets, and the other extensive regulations of the CFTC governing segregation and accounting by FCMs, Applicant believes that an exemption from the provision of section 17(f) of the Act is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 15, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for such request and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon Applicant at its address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19590 Filed 8-28-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2248]

California; Declaration of Disaster Loan Area

Riverside County in the State of California, constitutes a disaster area because of damage from an earthquake which occurred on July 8, 1986, and its aftershocks. Applications for loans for physical damage may be filed until the close of business on October 20, 1986, and for economic injury until the close of business on May 21, 1987, at the address listed below:

Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825.

or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.000

The number assigned to this disaster is 224802 for physical damage and for economic injury the number is 643300.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Date: August 21, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-19646 Filed 8-28-86; 8:45 am]

BILLING CODE 8025-01-M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Thursday and Friday, September 4 and 5, 1986, from 8:00 a.m. to 4:15 p.m. The meeting will be held in a conference room at The University of Georgia, Chicopee Building, 1180 East Broad Street, Athens, Georgia 30602. The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Freddie Collins, SBA Member, Room 317, U.S. Small Business Administration, 1441 "L" Street, NW, Washington, DC 20416; telephone number: (202) 653-6768.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 26, 1986.

[FR Doc. 86-19647 Filed 8-28-86; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting at 10:00 a.m. on October 17, 1986, at the Phoenix Chamber of Commerce Building, Suite 900, Chamber Board Room, 34 West Monroe, Phoenix, Arizona 85003 to discuss such matters as may be presented by members, staff of the Small Business Administation and others attending.

For further information, write or call Anthony M. White, District Director, U.S. Small Business Administration, 2005 North Central Avenue, Fifth Floor, Phoenix, Arizona 85004 (602) 261-3732.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 25, 1986

[FR Doc. 86-19648 Filed 8-28-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/984]

Advisory Committee on South Africa; Closed Meetings

The Advisory Committee on South Africa will meet in a closed session on September 11, 1986. The meeting will commence at 9 a.m. and will be held in Room 7516, Department of State, Washington, DC.

The session will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (c)(9)(B). The Committee will have access to and will discuss classified information. Disclosure of the Committee's deliberations could adversely affect the Committee's ability to function as a group in providing the Secretary of State with advice on matters of critical importance to the conduct of United States foreign policy. The purpose of the meeting will be to discuss the current situation in South Africa and to evaluate U.S. policy toward South Africa.

Requests for further information should be directed to: Ann Miller (202) 632-0190, 1730 K Street, NW., Washington, DC 20006.

Dated: July 29, 1986.

C. William Kontos,

Executive Director.

[FR Doc. 86-19556 Filed 8-28-86; 8:45 am]

BILLING CODE 4710-26-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending—Aug. 22, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of filing.

Docket No. 44268

Parties: Members of International Air Transport Association.
Date Filed: August 19, 1986.
Subject: Reso. 518 ex-Malaysia.
Proposed Effective Date: October 1, 1986.

Docket No. 44269

Parties: Members of International Air Transport Association.
Date Filed: August 19, 1986.
Subject: UK/Eire-Canada Cargo Rates.
Proposed Effective Date: October 1, 1986.

Docket No. 44270

Parties: Members of International Air Transport Association.
Date Filed: August 19, 1986.
Subject: Tokyo-Saipan fare conditions.
Proposed Effective Date: October 1, 1986.

Docket No. 44271

Parties: Members of International Air Transport Association.
Date Filed: August 19, 1986.
Subject: Demurrage in New Zealand.
Proposed Effective Date: October 1, 1986.

Docket No. 44273 R-1—R-3

Parties: Members of International Air Transport Association.
Date Filed: August 22, 1986.
Subject: Adjustment Factors Europe-Japan/Korea.
Proposed Effective Date: September 26, 1986 and October 1, 1986.

Docket No. 44274

Parties: Members of International Air Transport Association.
Date Filed: August 22, 1986.
Subject:
Proposed Effective Date: November 1, 1986.

Docket No. 44264

Parties: Delta Air Lines, Inc. and Jet America Airlines, Inc.
Dated Filed: August 18, 1986.
Subject: Application of Delta Air Lines, Inc. pursuant to section 416(b) of the Act applies for an exemption from section 408 of the Act, in connection with its proposed acquisition of control of Jet America Airlines, Inc. Answers may be filed by August 28, 1986 per Order 86-8-67.

Phyllis T. Kaylor,
Chief, Documentary Service Division.
[FR Doc. 86-19640 Filed 8-28-86; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ended

August 22, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44257

Date Filed: August 21, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 18, 1986.
Description: Application of KLM Royal Dutch Airlines pursuant to section 402 of the Act and Subpart Q of the Regulations requests renewal of its permit to engage in foreign air transportation between a point or points in the Netherlands and Anchorage, Alaska, either as a terminal point or as an intermediate point on its polar services and authorizing it to transfer traffic at Anchorage on an emergency basis.

Docket No. 44266

Date Filed: August 18, 1986.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 15, 1986.
Description: Application of Ryan International Airlines pursuant to section 401(d)(1) of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail on a permissive basis between the following points:

Between any point or points in any States of the United States (including all points in United States commonwealths, territories and possessions), and the District of Columbia, on the one hand, and a point or points in the following countries, on the other hand:

Algeria
Austria
Bahrain
Belgium
Canada
Denmark
Egypt
Federal Rep. of Germany
France
Hong Kong
India
Indonesia
Shannon, Ireland
Israel
Kenya
South Korea
Kuwait
Liberia
Netherlands
Nigeria
Oman
Pakistan
Portugal
Romania
Senegal
Singapore
South Africa
Spain
Sri Lanka
Sweden
Switzerland
Taiwan
Thailand
Tunisia
Turkey
United Arab Emirates
United Kingdom
Yugoslavia
Zimbabwe

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-19641 Filed 8-28-86; 8:45 am]
BILLING CODE 4910-62-M

[Order 86-8-76; Docket 43855]

Application of Haines Airways, Inc. For Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.
ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Haines Airways, Inc., fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so no later than September 15, 1986.

ADDRESSES: Objections and answers to objections should be filed in Docket 43855 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara P. Dunnigan, Special Authorities Division (P-47, Room 6420), U.S. Department of Transportation, 400 Seventh Street, SW., Washingtin, DC 20590, (202) 366-2342.

Dated: August 25, 1986.

Vance Fort,
Acting Assistant Secretary for Policy and International Affairs.
[FR Doc. 86-19642 Filed 8-28-86; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Closing of Airport Traffic Control Tower at Valdosta Regional Airport, Valdosta, GA

Notice is hereby given that on or about September 4, 1986, the Airport Traffic Control Tower at Valdosta Regional Airport, Valdosta, Georgia,

will be closed. Services to the general aviation public of Valdosta, Georgia, formerly provided by this office, will be provided by a Non-Federal Tower operated by the City of Valdosta, Georgia. Valdosta Flight Service Station in Valdosta, Georgia, will continue to provide airport advisory service during those hours the tower is closed. Moody Air Force Base Radar Approach Control in Valdosta, Georgia, and Jacksonville Air Route Traffic Control Center in Hilliard, Florida, will continue to provide approach control service. This information will be reflected in the FAA Organization Statement the next time it is issued.

Issued in Atlanta, Georgia, on August 20, 1986.

William M. Berry, Jr.,

Acting Director, Southern Region.

[FR Doc. 86-19552 Filed 8-28-86; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP85-18; Notice 2]

Graco Metal Products, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Graco Metal Products, Inc. of Elverson, Pennsylvania to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.)* for an apparent noncompliance with 49 CFR 571.213 Motor Vehicle Safety Standard No. 213, *Child Restraint Systems.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 4, 1985 and an opportunity afforded for comment (50 FR 49810).

Paragraph S5.2.3.2(b) of Standard No. 213 requires "a thickness of not less than ½ inch for materials having a 25 percent compression-deflection resistance of not less than 1.8 and not more than 10 pounds per square inch when tested in accordance with S6.3. Materials having a 25 percent compression-deflection resistance of less than 1.8 pounds per square inch shall have a thickness of not less than ¾ inch."

Graco Metal Products, Inc. stated that between August 1982 and June 1984, the corporation manufactured and sold approximately 22,600 units of its Little Trav'ler child restraint system. Three different models, 315–T, 310–T and 310–U were sold. NHTSA tested a Little Trav'ler and discovered a failure to meet one of the head impact protection requirements. Due to a misunderstanding with a vendor, the units did not comply with paragraph S5.2.3.2(b). The vendor of the foam was supposed to determine that the foam would meet the requirements of Standard No. 213. The ½ inch foam pad used in the restraint had a 25% compression-deflection resistance of 1.24 pounds per square inch (PSI). The standard requires not less than 1.8 PSI for ½ inch material but allows a lower limit of .5 PSI for ¾ inch material. Graco argued that the noncompliance is inconsequential as it relates to motor vehicle safety because 1.24 PSI ½ inch foam provides significantly greater energy absorption than the .5 PSI, ¾ inch foam acceptable under paragraph S5.2.3.2 of Standard 213. The typical energy absorption for this foam would be about .02 foot-pound per square inch. This calculation is based on a support factor of 2 (ASTM D3574–81 x 3.1) from 0% deflection to 65% deflection which ASTM D3574–8, *Standard Methods of Testing for Flexible Cellular Materials,* indicates is the support region of the stress-strain curve.

The foam erroneously used in the Little Trav'ler child restraints was ½ inch thick with a 25% compression-deflection of 1.24 PSI. Using the same calculations as above the energy absorption would be about .04 foot-pound per square inch. The foam in the Little Trav'ler child restraints has nearly twice the energy absorbing capability of the ¾ inch .5 PSI foam that is acceptable under the standard.

Graco stated that it had not received any complaints with regard to the comfort or protection provided by the padding on the Little Trav'ler child restraints. Graco, therefore, petitioned for a determination that the condition noted herein, is inconsequential as it relates to specific child restraints manufactured by its company.

One comment was received on the petition, from Physicians for Auto Safety, which supported it. The commenter suggested that the noncompliance was a minor one, and that to initiate notification and recall could be counterproductive as undue publicity could undermine public confidence in the efficacy of child safety seats.

The agency has decided to grant Graco's petition. The agency has reviewed petitioner's arguments and concurs that the material that Graco provided, a ½ inch-thick material with pressure-deflection resistance of 1.24 psi has a higher energy absorption capacity than that provided by the alternative material permitted by the Standard No. 213. Calculations indicate that ½ inch (0.75 psi) material will provide protection equivalent to ¾ inch/0.5 psi material. Although petitioner's test value of 1.24 psi is less than the standard requires, it provides greater protection than the standard's alternative. It is therefore found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: August 25, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-19560 Filed 8-28-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP86-04; Notice 2]

Sears, Roebuck and Co.; Grant of Petition of Sears Roebuck and Co. for Determination of Inconsequential Noncompliance

This notice grants the petition by Sears, Roebuck and Co., of Chicago, Illinois, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.109 Motor Vehicle Safety Standard No. 109 *New Pneumatic Tires.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on March 12, 1986, and an opportunity afforded for comment (51 FR 8613).

Paragraph S4.3(d) of Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires,* requires that:

> Each tire shall have permanently molded into both sidewalls, in letters and numerals not less than 0.078 inch high . . . The generic name of each cord material used in the plies (both sidewall and tread area) of the tire.

The petitioner discovered that its supplier, Michelin Tire Corporation, had manufactured approximately 3,325 tires under its brand name Sears Roadhandler P195/75R14, between August 2 and September 1, 1985, that were incorrectly labeled. The tread material indicated on one sidewall was "2 polyester plies + 2 Fiberglass plies" instead of "2 polyester plies + 2 steel plies." The other sidewall was correctly labeled.

Of the approximately 3,325 tires produced approximately 2,250 were

shipped to Sears outlets and most of them have been sold. The labeling on the remaining 775 has been corrected by Michelin.

Michelin Tire Corporation, Sears' supplier, argued that:

> This noncompliance is inconsequential as it relates to motor vehicle safety. Even if a consumer were to read the incorrect labeling and mix these steel belted tires on a vehicle with tires that actually had fiberglass belt material, an unsafe situation could not be created because the tires would be compatible. Michelin, as well as the rest of the tire industry, does not have any restrictions on mixing radial tires of different materials on a vehicle.

No comments were received on the petition at the conclusion of the comment period.

The agency recognizes that variations in cornering forces result from the use of different tread and sidewall materials, but Michelin has designed its fiberglass belted radial tires to be compatible with its steel belt radial tires. Therefore mixing the two types of tires is unlikely to have any effect upon safety, and a customer who purchases one of the mismarked tires obtains a tire with safety equivalent to the tire that he thought he was buying. However, the general admonition against mixing radial and bias ply tires remains, a caveat that exists independent of the Sears noncompliance with the marking requirements.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: August 25, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-19561 Filed 8-28-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

Change in Tariff Classification System

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of change in Tariff Classification System.

SUMMARY: Classification of imported merchandise for rate of duty and statistical purposes is determined presently in the U.S. by reference to the Tariff Schedules of the United States (TSUS). The U.S. intends to replace the TSUS on January 1, 1988, by acceding to the International Convention on the Harmonized Commodity Description and Coding System (HS). The HS is a multipurpose nomenclature, intended to be used to describe and classify goods in international trade for customs purposes, for reporting all import and export trade statistics, and eventually for freight and transport documentation. In view of the fundamental differences between the TSUS and HS coding schemes, Federal agencies are advised that all regulations, directives, forms, etc., which presently incorporate TSUS item numbers or references to TSUS provisions, must be revised to conform with the new U.S. tariff prior to its implementation on January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Hubbard L. Volenick, International Nomenclature Staff, 202-566-8530.

SUPPLEMENTARY INFORMATION:

Background

The Harmonized System (HS) is the culmination of a 10 year effort by the member states of the Customs Cooperation Council (CCC), particularly the U.S. and its major trading partners, to develop a single modern structure for product classification which can be used for customs, tariff, trade statistics, and transport documentation purposes. Based on the present Customs Cooperation Council Nomenclature (CCCN), the HS is a more detailed classification scheme reflecting changes in technology, trade patterns and user requirements.

In August 1981, the President requested the U.S. International Trade Commission to initiate an investigation for the purpose of preparing a conversion of the Tariff Schedules of the U.S. (TSUS), the current reference source for determining the classification of imported merchandise, into the structure of the HS. The conversion provides numerical coding beyond the 6-digit categories of the international system, taking into account U.S. tariff and statistical requirements. Thus, each tariff provision is coded in 8-digits and the tariff reporting number in 10-digits.

This conversion, submitted to the President on June 30, 1983, was reviewed and revised by the Trade Policy Staff Committee, Office of U.S. Trade Representative, and republished as TPSC 84-76 on September 30, 1984. A further, more comprehensive, revision will be made in October 1986 and this will be the basic working document aimed at U.S. adoption of the HS.

The HS Convention was opened for signature July 1, 1983, and thus far has been signed by 45 countries and customs unions, five without reservation of ratification. The U.S. is expected to sign, subject to ratification by the Congress, in the spring of 1987.

In February 1986, the meeting of the General Agreement on Tariffs and Trade (GATT) Tariff Concessions Committee in Geneva resulted in the firm political commitments of the U.S., Canada, Japan, the European Community, the Nordic countries and Switzerland, to a January 1, 1988, date for entry into force of the International Convention on the HS.

Purpose of Harmonized System

The HS is a multipurpose nomenclature, intended to be used to describe and classify goods in international trade for customs purposes, for reporting all import and export trade statistics, and eventually for freight and transport documentation. Its use is expected to increase uniformity and predictability of trade data, and promote standardization of trade and transport documentation. Implementation of the HS will impact not only all areas of trade, *i.e.*, imports, exports, transportation of goods, and trade statistics, but all aspects of customs operations, including classification and appraisement of merchandise selection for and examination of merchandise data entry into the Automated Commercial System (ACS) and the pre-release and release of goods. Brokers and importers will experience significant changes to their entry procedures.

Action Requested of Other Agencies

Customs directives, regulations, informational publications and forms are all being revised to conform with the proposed new commodity classification system. Federal agencies currently using TSUS item numbers in any of their publications are advised to take appropriate steps to amend their publications prior to the entry into force of the HS-based tariff system on January 1, 1988. Customs is prepared to work with those agencies which require assistance in bringing their publications into conformity with the new tariff and will provide additional information on request.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 13, 1986.

Michael H. Lane,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86-19609 Filed 8-28-86; 8:45 am]

BILLING CODE 4820-02-M

VOL 51 ISS 168 AG 29 1986 UMI

VETERANS ADMINISTRATION

51-Bed Nursing Care Addition, Oklahoma State Veterans Center, Talihina, OK; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a 51-bed nursing care addition at the Oklahoma State Veterans Center at Talihina, Oklahoma. The approximate cost of this project is $3.075 million, inclusive of contingencies, professional design services and inflation at the time of construction.

Construction related traffic may cause disruption of nearby traffic flow. In addition, construction noise associated with the development of the new facility is likely to cause annoyance to residents within the area. The impact of dust and fumes that will exist during construction will be of short effect lasting only during that phase of project development. In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State and local air quality standards.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40, CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of that document may do so at the following office:

Director, Office of Environmental Affairs, Room 653, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202/389-3544). Questions or requests for single copies of the Environmental Assessment may be addressed to the above.

Date: August 21, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86-19573 Filed 8-28-86; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program-Veterans Indebtedness Records with United States Postal Service Personnel File.

SUMMARY: The Veterans Administration is providing notice that the Department of Veterans Benefits will conduct a series of recurring computer matches of VA compensation, pension, education, rehabilitation and home loan default indebtedness records with U.S. Postal Service Personnel File.

The goal of these matches is to identify active Postal employees, who are indebted to the Veterans Administration under the compensation, pension, education and rehabilitation benefit programs or resulting from home loan defaults. The purpose of the match is to initiate salary offset in the collection of unpaid obligations to the VA.

DATE: It is anticipated that the matches will commence in approximately February 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Osendorf, Department of Veterans Benefits (20D), Veterans Administration, 810 Vermont Avenue NW, Washington, D.C. 20420, area code 202-389-5213.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: August 22, 1986.

Thomas K. Turnage,

Administrator.

Report of Matching Program: Veterans Administration Compensation, Pension, Education, Rehabilitation and Home Loan Default Indebtedness Records and United States Postal Service Personnel File.

a. *Authority:* The Debt Collection Act of 1982, Pub. L. 97-365.

b. *Program Description.*

(1) *Purpose.* The Veterans Administration, Department of Veterans Benefits, plans to match indebtedness records for veterans and their dependents with the Records Office of the United States Postal Service, to identify active Postal employees, who are indebted to the Veterans Administration. The purpose of the match is to initiate salary offset when all other collection actions have been unsatisfactory.

(2) *Procedures.* A match will be made of VA debt records with the USPS Personnel File. The match will be performed by the VA, Department of Veterans Benefits. In order to conduct a match, the VA will request that USPS provide computerized extracts of their Record Office Personnel File containing names, identifying data and record descriptions. When necessary to resolve the identity of debtors who may be listed in USPS records, the VA will conduct appropriate, independent inquiries. This match will be repeated periodically.

In the event of a "hit", i.e., the determination through the matching program that a debtor appears on USPS files as a Postal employee, the identity of the debtor will be verified by the VA. If confirmed, the information will be referred by the VA for action to recover the outstanding debt(s) by salary offset, when all other collection actions have been pursued and have been unsatisfactory.

c. *Records to be Matched.* A computer extract list from the following systems of records will be matched with USPS Records Office Personnel File:

58VA21/22/28—Compensation, Pension, Education and Rehabilitation Records-VA; Privacy Act Issuances, 1984 Comp., Volume V, pages 738-741; as amended at 50 FR 10886, March 18, 1985; 50 FR 26875, June 28, 1985; 50 FR 31453, August 2, 1985; 51 FR 24781, July 8, 1986 and 51 FR 25142, July 10, 1986. The disclosure of information from this system of records, for the purpose of the matching program, is permitted by a published routine use.

55VA26—Loan Guaranty Home, Condominium and Manufactured Home Loan Application Records, Specially Adapted Housing Applicant Records and Vendee Loan Applicant Records—VA; Privacy Act Issuances, 1984 Comp. Volume V, pages 734-736 and amended at 51 FR 24781, July 8, 1986. The disclosure of information from this system of records, for the purpose of the matching program, is permitted by a published routine use.

d. *Period of Match.* Intermittently from approximately February 1987.

e. *Safeguards.* Records used in the matches and data generated as a result, will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the

material will be stored in locked containers when not in use. The matching files to be used in this project will remain under the control of the Department of Veterans Benefits. The matching file will be used and accessed only to match files in accordance with this notice. It will not be used to extract information concerning "non-hit" individuals for any purpose. It will not be disseminated outside the Department of Veterans Benefits unless authorized by the Chief Benefits Director.

f. *Retention and Disposition.* Records not resulting in "hits" will not be used by the VA for any purpose. Records not resulting in "hits" will be destroyed by burning, shredding or electronic erasing within two months of the completion of the individual matches. Records resulting in "hits" will be retained by the Department of Veterans Benefits until the completion of any necessary administrative, collection or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 86-19613 Filed 8-28-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 168
Friday, August 29, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1, 2
Federal Reserve System	3
Securities and Exchange Commission	4
Tennessee Valley Authority	5

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, August 26, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Citizens Thrift and Loan Association, Irvine, California, an insured thrift and loan association, for consent to purchase certain assets of and assume the liability to pay deposits made in U.S. Thrift and Loan, Sacramento, California, a non-federally insured institution, and for consent to establish the four operating offices of U.S. Thrift and Loan as branches of Citizens Thrift and Loan Association.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent for those assets:

Case No. 46,643-L
The First National Bank of Midland, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: August 27, 1986.

Federal Deposit Insurance Corporation.
Margaret M. Olsen,
Deputy Executive Secretary.
[FR Doc. 86-19728 Filed 8-27-86; 2:41 pm]
BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, August 26, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the Corporation's corporate activities.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: August 27, 1986.

Federal Deposit Insurance Corporation.
Margaret M. Olsen,
Deputy Executive Secretary.
[FR Doc. 86-19729 Filed 8-27-86; 2:41 PM]
BILLING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:15 a.m., Wednesday, September 3, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 26, 1986.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 86-19322 Filed 8-26-86; 4:21 pm]
BILLING CODE 6210-01-M

4

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 1, 1986:

A closed meeting will be held on Wednesday, September 3, 1986, at 2:30 p.m. An open meeting will be held on Thursday, September 4, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 3, 1986, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.
Administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, September 4, 1986, at 10:00 a.m., will be:

1. Consideration of whether to propose for public comment amendments to the Commission's financial responsibility rules involving the treatment of repurchases and reverse-repurchase agreements by registered broker-dealers. Securities Exchange Act Rule 17a–3 would be amended to specifically require broker-dealers to maintain certain books and records with respect to their repurchase and reverse-repurchase transactions. Securities Exchange Act Rule 17a–13 would be amended to specifically require broker-dealers to physically examine and count securities retained that are subject to repurchase and reverse-repurchase agreements and to account for and verify those securities not in its possession. Securities Exchange Act Rule 15c3–3 would be amended to require broker-dealers that agree to retain aecurities subject to repurchase agreements to disclose the rights and liabilities of the parties, that the Securities Investor Protection Corporation has taken the position that coverge under the Securities Investor Protection Act of 1970 may not be available to the contra party, and to maintian such securities free of any lien. Securities Exchange Act Rule 15c3–1 would be amended to require a broker-dealer to deduct from net worth in computing net capital certain amounts that relate to repurchase and reverse repurchase agreements where the broker-dealer is in a deficit position. Rule 15c3–1 would be amended to raise the net capital required of a broker-dealer that obtains substantial leverage as a rsult of reverse-repurchase agreements. Rule 15c3–1 would be further amended to provide that any receivable from an unregistered affiliate be deducted from net worth, unless the affiliate makes available its books and records to the Commission and its Designated Examining Authority. For further information, please contact Michael P. Jamroz at (202) 272–2398 or Michael A. Macchiaroli at (202) 272–2904.

2. Consideration of whether to adopt Rule 202(a)(1)–1 under the Investment Advisers Act of 1940 which would deem a transaction not resulting in a change of actual control or management of an investment adviser not to be an "assignment" requiring approval of the adviser's clients. For further information, please contact A. Thomas Smith III at (202) 272–2031.

3. Consideration of whether to propose for public comment Rule 206(4)–4 under the Investment Advisers Act of 1940 which would codify an investment adviser's fiduciary obligation to disclose material financial and disciplinary information to clients. For further information, please contact Thomas S. Harman or Debra Kertzman at (202) 272–2107.

4. Consideration of whether to issue a permanent conditional opinion and order by the Commission, pursuant to section 9(c) of this Investment Company Act of 1940 ("Act"), exempting E.F. Hutton & Company Inc. and The E.F. Hutton Group Inc. from the statutory bar contained in Section 9(a) of the Act as a result of their filing an application on which an adminsitrative hearing, limited to written submissions, has been ordered. For futher information, plese contact Meryl Dewey at (202) 272–2799 or George Martinez at (202) 272–3024.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For futher information, please contact Meryl Dewey at any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

August 25, 1986.

[FR Doc. 86–19706 Filed 8–27–86; 12:26 pm]

BILLING CODE 8010–01–M

5

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 166 (August 27, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. (edt), Friday, August 29, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

Old Business Items

4. Supplement to Personal Services Contract No. TV–67471A with Management Analysis Company, San Diego, California, requested by the Office of Nuclear Power.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approved the above findings and their approvals are recorded below:

Dated: August 26, 1986.

Approved:

C. H. Dean, Jr.,

Director and Chairman

John B. Waters,

Director.

[FR Doc. 86–19671 Filed 8–27–86; 10:12 am]

BILLING CODE 8120–01–M

VOL
51
ISS
168
AG
29
1986
UMI

federal register

Friday
August 29, 1986

Part II

Federal Home Loan Bank Board

12 CFR Parts 543, 546, 562, 563, 563b, and 574

Conversions From Mutual to Stock Form and Acquisitions of Control of Insured Institutions; Proposed Rule

VOL 51 ISS 168 AG 29 1986 UMI

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 543, 546, 562, 563, 563b, and 574

[No. 86-856]

Conversions From Mutual to Stock Form and Acquisitions of Control of Insured Institutions

Date: August 15, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed Rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is proposing to adopt several amendments to its regulations governing mutual-to-stock conversions of insured institutions. The purposes of the proposed amendments are to encourage insured institutions to undertake standard conversions and to enable more institutions that fail to meet their regulatory capital requirement or are insolvent to convert to stock form and raise new capital using the modified or voluntary supervisory conversion procedures. The amendments also seek to provide a degree of increased protection to newly converted institutions from changes in control that may disrupt the transition into the stock form of ownership and the prudent deployment of conversion proceeds, to address issues relating to the purchases of stock by management of converting institutions in conversions and thereafter, to provide additional incentives for institutions to participate in merger conversions with insolvent institutions, to make more attractive the voluntary supervisory and modified conversion processes to management of insured institutions and potential acquirers, and to enhance the efficiency of processing of modified and voluntary supervisory conversions.

The Board also is proposing to adopt certain amendments to its regulations governing the acquisition of control of an insured institution in order to conform provisions of those rules with changes proposed in the Conversion Regulations.

The current proposal is an expanded and revised version of an earlier proposal which is being withdrawn, although this current proposal incorporates a number of the provisions contained in the earlier proposal. The purposes of the provisions from the earlier proposal that are incorporated herein are to clarify several of the policies and interpretations of the Board relating to the voluntary supervisory conversion process, to expedite the processing of voluntary supervisory conversion and modified conversion applications, and to facilitate the voluntary supervisory and modified conversion procedures and encourage their use by insured institutions as capital-raising tools.

DATE: Comments must be received by September 29 1986.

ADDRESS: Send comments to Director, Public Information Services Branch, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Dean V. Shahinian, Attorney, (202) 377-7289; R. Penfield Starke, Deputy Director for Special Projects, (202) 377-6453; J. Larry Fleck, Associate General Counsel for Conversions, (202) 377-6413; or Julie L. Williams, Deputy General Counsel, Director, (202) 377-6459; Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 85-938 dated October 17, 1985, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), proposed several amendments to its regulations governing voluntary supervisory conversions and modified conversions of mutual insured institutions to stock form ("first proposal"). *Voluntary Supervisory Conversions and Modified Conversions*, 50 FR 45414 (Oct. 31, 1985). The proposed amendments were intended to clarify several of the policies and interpretations of the Board's regulations relating to the voluntary supervisory conversion process, to expedite the processing of voluntary supervisory conversion and modified conversion applications, and to facilitate the voluntary supervisory and modified conversion procedures and encourage their use by insured institutions as capital raising tools.

Upon further consideration, the Board is withdrawing the first proposal in favor of this expanded and revised proposal. The Board believes that the expanded scope and revisions are appropriate in light of the Board's experience with the mutual-to-stock conversion process, and in particular, the experience of three years since the conversion regulations were last comprehensively revised. The primary purposes of this current proposal are to encourage insured institutions to undertake mutual-to-stock conversions; enable more insured institutions that fail to meet their regulatory capital requirement or that are insolvent to undertake modified or voluntary supervisory conversions; address issues relating to purchases of stock by management of converting institutions in the conversion and thereafter; re-examine anti-takeover measures available to converting institutions; and through a variety of means, streamline the processing of voluntary supervisory and modified conversions.

I. Background

A. General

The Board, as operating head of the Corporation, has broad authority to authorize mutual-to-stock conversions of insured institutions under sections 5(i)(1) and (2) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(i)(1), (2) (1982), and section 402(j) of the National Housing Act ("NHA"), 12 U.S.C. 1725(j) (1982). Sections 5(i) (1) and (2) provide, respectively, that subject to the rules and regulations of the Board, any institution which is, or is eligible to become, a Federal Home Loan Bank ("FHLB") member may convert itself into a federal savings and loan association or federal savings bank, and simultaneously or subsequently may convert from mutual to stock form; and that any federally chartered association may convert from the mutual to stock form of organization. Section 402(j) of the NHA provides that mutual insured institutions may convert to federally or state-chartered stock form only in accordance with the rules and regulations of the Board.

Section 121 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"), which added paragraph (p) to section 5 of the HOLA, 12 U.S.C. 1464(p) (1982), enhanced the Board's conversion authority under sections 5(i) (1) and (2) of the HOLA and section 402(j) of the NHA. Section 121 of the Garn-St Germain Act empowered the Board in certain circumstances to preempt other provisions of federal and state law in order to authorize, and in the case of a federally chartered insured institution, to require, the conversion of a FSLIC-insured savings and loan association or savings bank, from mutual to federal stock form; or to charter a federal stock savings and loan association or federal stock savings bank to acquire the assets of, or merge with, a mutual institution under the rules and regulations of the Board. The Board's conversion authority under section 5(p) of the HOLA arises only if (1) the institution is in receivership, (2) the Corporation has contracted to

provide assistance to the institution under section 406 of the NHA, or (3) the Board has determined that severe financial conditions exist which threaten the stability of the institution and that such authorization is likely to improve the financial condition of the institution.

Section 5(p) expired July 15, 1986, Pub. L. No. 99–278, 100 Stat. 397 (1986) but the Board has urged the Congress to restore this and several other sections which provide important emergency acquisition authority for the Board. Certain aspects of this proposal have been prepared in the hope that section 5(p) will be restored. Of course, the Board would not act under any regulation or portion thereof whose sole basis was section 5(p) unless, and until, the section was reenacted. The Board notes, however, that while section 5(p) has been an extremely valuable tool, the absence of section 5(p) will not preclude the Board from acting on voluntary conversions. Section 5(i) of the HOLA provides an independent basis for the Board's authority to regulate all types of conversions where the resulting entity is federally chartered, provided that no preemption is required and that the transaction is voluntary on the part of the institution. The Board's authority over conversions of state-chartered institutions pursuant to section 402(j) of the NHA also remains intact.

Part 563b of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation (the "Conversion Regulations"), 12 CFR Part 563b (1986), sets forth the requirements of the Corporation for conversions from mutual-to-stock form of federally-chartered and FSLIC-insured institutions. The Conversion Regulations were promulgated and have been amended by the Board over the years in order to implement its comprehensive conversion authority under sections 5(i)(1) and (2) of HOLA, section 402(j) of NHA, as well as 5(p) of HOLA.

Under the Conversion Regulations, as previously noted, there are three basic types of conversions: standard, voluntary supervisory, and modified conversions. Subpart A of the Conversion Regulations, 12 CFR 563b.1 through 563b.10, establishes the rules and procedures applicable to standard conversions to stock form of mutual institutions. In a standard conversion an institution's accountholders and voting members are given the first right to subscribe for conversion stock, to be followed by a community or public offering of any stock that is unsubscribed. Purchases by directors and officers and their "associates" in the aggregate are limited to between 25 and 35 percent of the total offering, determined on a sliding scale depending upon the asset size of the institution. Generally, no person together with any associate or group of persons acting in concert may purchase more than 5% of the conversion stock.

Subpart C of the Conversion Regulations, 12 CFR 563b.20 through 563b.33, specifies the qualifications for and the rules and procedures applicable to voluntary supervisory conversions of insured institutions from the mutual to the stock form of organization. Institutions that are insolvent on the basis of regulatory accounting principles or are projected to be so within 12 months, may be eligible to undertake a voluntary supervisory conversion. In voluntary supervisory conversions, based upon a determination that there is no realizable equity value remaining for the mutual members, the substantive and procedural rights granted to members in converting mutual insured institutions by the Board's standard conversion rules under Subpart A are eliminated. Accordingly, the members of the insured institution converting to stock form on a voluntary supervisory basis are not afforded rights of approval or participation, and upon completion of the conversion have no continuing legal or beneficial ownership interest in the converted insured institution. Currently, in order for the Board to authorize a voluntary supervisory conversion, an insured institution must satisfy all of the following criteria, which are set forth in § 563b.23 of Subpart C: (1) As to a federally-chartered insured institution, the Board has the power to appoint a receiver for the purpose of liquidation, or, as to a state-chartered insured institution, the Board would have the power to appoint a receiver for the purpose of liquidation were the institution federally-chartered; (2) Upon liquidation, there would be no equity value realizable by the mutual accountholders; (3) The insured institution is in receivership, or the Corporation has contracted to provide assistance to the insured institution under section 406 of the NHA, or the Board has determined that severe financial conditions exist which threaten the financial condition of the insured institution; and (4) The insured institution would be a viable entity under § 563b.26 of Subpart C following the conversion.

Subpart D of the Conversion Regulations provides guidelines for modified conversions to stock form. Modified conversions generally are available to institutions that fail to meet their regulatory net worth requirement, but do not "qualify" for a voluntary supervisory conversion, and that demonstrate that they would be unable to sell their stock in a standard conversion. In a modified conversion, the substantive and procedural rights granted to members of mutual institutions converting under Subpart A are limited but not eliminated. Modified conversions may be effected without the approval of members, must involve sales of conversion stock at an aggregate price in excess of the *pro forma* market value of the institution as determined by an independent appraiser, and provide for members' preemptive rights, but subject to limitations. Pursuant to § 563b.36(a), in order to qualify for Board authorization of a modified conversion, an insured institution must meet one of the three previously described conditions derived from section 5(p)(2) of the HOLA. The Board has established the following criteria under § 563b.36(c) of Subpart D for determining the existence of the severe financial conditions portion of such test: (1) Failure of the institution to meet its regulatory capital requirement; (2) Insufficiency of current and projected income from operations to restore and maintain the institution's regulatorily required capital; and (3) A demonstration that a standard conversion would not be feasible.

The Board considers the mutual-to-stock conversion process an extremely valuable structural option available to savings institutions today. Mutual-to-stock conversions infuse new capital into insured institutions, provide an opportunity for needed portfolio restructuring and may be a key to an institution's ability to compete successfully in the modern financial marketplace. Since the advent of the Board's mutual-to-stock conversion program in the mid-1970's, the aggregate amount of such new capital raised exceeds $6 billion, much of that amount raised during the past three and one-half years. The conversion process also has the attraction of increasing an institution's capital in a manner that does not require an institution to rely on increased earnings, a course which may entail increased risk-taking by the institution. Therefore, mutual-to-stock conversions represent a desirable means for increasing capital in the industry.

B. Summary of Current Proposal

While the current proposal incorporates many of the provisions of the first proposal, it differs in a number of significant respects both as to scope and specifics. With respect to Subparts

C and D of the Conversion Regulations, the current proposal would effect a major change in the criteria used by the Board to determine whether an insured institution is in such severe financial condition as to qualify for voluntary supervisory or modified conversion. In particular, the new tests would refer to a generally accepted accounting principles ("GAAP") rather than regulatory accounting principles ("RAP") standard of insolvency or regulatory capital compliance in the case of both voluntary supervisory and modified conversions, and would provide an alternative approach to the requirement for the amount of capital that must be infused in a voluntary supervisory conversion. The tests for determining whether an institution qualifies for a voluntary supervisory or modified conversion would be substantially simplified to refer to more easily ascertainable objective standards of financial condition and specified legal structural requirements. The revisions also would revise the processing of voluntary supervisory and modified conversion applications to centralize the process in the Board's Office of General Counsel ("OGC"), as is now the case with standard and modified conversions. As is also now the case with standard conversions and modified conversions, authority to approve supervisory conversions would be delegated to OGC, except in cases involving a significant issue of policy. Various components of supervisory and modified conversions, such as a business plan, would be subject to approval by the appropriate FHLB and/or the Office of Examinations and Supervision or its successor, the Office of Regulatory Policy, Oversight and Supervision ("ORPOS"). Authority to approve holding company applications and change in control notices that accompany voluntary supervisory and modified conversions would continue to be delegated to be appropriate FHLB or ORPOS, with the concurrence of OGC, in accordance with the delegation standards set forth in § 574.8 of the Board's Acquisitions of Control Regulations.

With respect to Subpart A, the current proposal would revise the criteria for consideration of applications involving an acquisition of the securities of converted institutions within three years after conversion, to require an affirmative showing that a proposed acquisition would be beneficial to the institution, its depositors, and the FSLIC. Changes are also proposed to address issues relating to the purchases of stock by management, employees and various types of employee stock benefit plans in the conversion and thereafter. In addition, the current proposal would grant to stock institutions that undertake merger conversions with insolvent institutions post-conversion anti-takeover protection derived from the converting insured institutions. The term of such protection would be determined on the basis of the asset size of the converting insolvent institution and, potentially, other factors. The proposed changes also would attempt to facilitate merger conversions by providing an exception to the aggregate conversion stock purchase limitations applicable to officers and directors of the existing insured stock institution and their associates in merger conversions.

The proposal also defines the term "acting in concert," as used in the conversion stock purchase limitations, and clarifies that the rebuttable presumptions of concerted action set forth in § 574.4(d) of the Board's Acquisitions of Control Regulations apply to conversion stock purchases by any person together with any associate or group of persons acting in concert. Certain clarifying amendments also are proposed to be made to the provisions of the regulations dealing with the liquidation account established by converted institutions in order to address questions that have arisen recently regarding the transferability of such account if the converted institution merges, dissolves into, or is otherwise absorbed by a non-FSLIC insured institution.

Finally, the Board also is taking this opportunity to propose several amendments to its Acquisitions of Control Regulations to conform with certain of its proposed revisions to the Conversion Regulations.

C. Summary of Comments Received on the First Proposal

In response to the first proposal, the Board received two public comment letters, one from a law firm and one from a trade association. The law firm advocated clarifying the language of the amendment to the voluntary supervisory conversion regulation, proposed § 563.25(a), to preclude an interpretation that an investor would be required to infuse capital in an amount necessary to increase the institutions's GAAP capital to at least the level required by Bank Board regulations plus loan losses previously deferred under regulatory accounting principles.

The trade association commended the Board's efforts to facilitate the use of conversions by removing "needless regulatory restrictions" and supported many aspects of the proposal, including: allowing the sale of stock in a voluntary supervisory conversion to be made as part of a public as well as a nonpublic offering; adoption of the FDIC capital criteria to determine the eligibility of FDIC institutions to convert; allowing losses on deferred loan sales to be recognized and appraised equity capital to be disregarded in determining whether an institution qualifies to undertake a voluntary supervisory conversion; and the addition of new criteria that the transaction be in the best interests of and not present the potential for injury to, the converting institution, its depositors or the FSLIC.

The trade association raised concerns about three issues. One, it felt that the Board should not condition approval of a supervisory conversion on the maintenance of the capital of the converting institution by its acquirers. Two, it advocated the inclusion of appraised equity capital and the deferral of loan losses in determining the viability of insured institutions. Three, it stated that employment contracts should be encouraged and that a safe harbor rule should be adopted to protect employment contracts of less than three years existing at the time of the conversion.

All of these points have been considered by the Board in connection with the revisions discussed below, however, in large measure, these considerations are rendered moot by the proposed revisions.

II. Proposed Revisions to Subpart A

A. Introduction

The Conversion Regulations reflect an extended effort on the part of the Board to develop a conversion procedure that is equitable to accountholders and insured institutions and which provides an effective capital-raising tool for savings institutions. The Board thus has refined the Conversion Regulations periodically since their adoption in light of its experience with the conversion process and in response to developments in the marketplace, in order to facilitate the standard conversion procedure and enhance its use by insured institutions.

The Board has once again reviewed the standard conversion process to determine additional measures that could be taken to encourage more insured institutions to convert to stock form and to provide an incentive for stock institutions to undertake transactions involving the mutual-to-stock conversion of insolvent institutions. The Board believes that it has identified several provisions of

Subpart A of the Conversion Regulations that may be revised to achieve the above-described goals without conflicting with the guiding equitable principles of the conversion process and the assurance to insured institutions that such procedures can withstand judicial scrutiny. *See York* v. *Federal Home Loan Bank Board*, 624 F. 2d 495 (4th Cir.), *cert. denied*, 449 U.S. 1043 (1980).

B. Anti-takeover Provisions

The Board has reviewed its position regarding the adoption by converting insured institutions of charter provisions that generally make more difficult the acquisition of controlling interests of the institution's stock. Section 563b.3(i)(7) currently allows a converting or newly converted institution to include in its stock charter, for a specified period of time after conversion not to exceed five years, any or all of the provisions specified in § 552.4(b)(8). The full availability of these charter provisions to state-chartered insured institutions will depend upon state law.

Under § 552.4(b)(8), federal institutions are authorized for a specified period to eliminate cumulative voting, limit the right of shareholders to call special meetings of shareholders relating to changes in control or to amending the converted institution's charter, and, most fundamentally, to restrict the acquisition of more than 10 percent of the converted institution's stock. Following conversion, a state-chartered insured institution may adopt any anti-takeover charter provision that would be permitted to be adopted by an institution chartered by the state in which the converted institution is chartered, and a federally chartered insured institution may adopt any such charter provision permitted under § 552.4 of this Chapter. Section 552.4 currently employs a state law standard for determining the permissibility of anti-takeover charter provisions.

The Board notes that the charter provisions that currently may be adopted at the time of conversion are extensive and afford substantial protection against changes in control of converting and newly converted institutions. The Board also is concerned that extending the maximum time period that these anti-takeover provisions may remain in effect without shareholder ratification beyond five years could have a deleterious effect on the ability of the institution to market its conversion stock, the amount of capital raised in the conversion and the liquidity of the institution's stock after conversion. The Board also is aware that institutions that want to maintain the anti-takeover charter amendments for a period of time longer than five years generally have been able to do so after submitting the provisions to their shareholders for a vote after conversion.

The Board therefore is not at this time proposing any amendment to § 563b.3(i)(7), but rather is requesting comment on whether the types of anti-takeover charter provisions that may be included in an institution's charter at the time of conversion should be expanded, and if so, according to what standard. The Board also seeks comment on whether the current five-year maximum life for anti-takeover provisions implemented at conversion should be extended. The Board is conscious of the balancing process inherent in allowing expanded anti-takeover charter provisions at the time of conversion, and thus for commenters advocating the availability of broader or longer term anti-takeover provisions, commenters are specifically requested to provide analyses and data on the effect of such changes on conversion stock prices and the ability of institutions to access capital markets after conversion.

C. Restrictions on Offers To Acquire and Acquisitions of Converted Institutions

Section 563b.3(i)(3) of the Conversion Regulations prohibits, for a period of three years following the date of the completion of an insured institution's conversion, any person, directly or indirectly, from offering to acquire or acquiring the beneficial ownership of more than 10 percent of any class of the institution's equity securities without the prior written approval of the Corporation. Section 563b.3(i)(6) sets forth six general grounds for Corporation denial of an application involving offers to acquire or acquisitions of the securities of converted institutions and generally requires the Board to make a finding that the acquisition would be detrimental to the institution under one or more of those standards in order for the application to be denied.

The Board is proposing to revise section 563b.3(i)(6) to require a prospective acquirer of a recently converted institution in addition to affirmatively demonstrate that a proposed acquisition would be beneficial to the converted institution, its depositors, and the FSLIC. By placing the burden on the acquirer to make an affirmative showing regarding the beneficial effects of a proposed acquisition, the Board believes the standard will operate more appropriately to reasonably ensure that changes in control of newly converted institutions do not disrupt the institution's efforts to adjust to its reorganization into stock form and prudently deploy its conversion proceeds.

The Board also is proposing to amend § 563b.3(i)(3) to include within the scope of the rule the holding of revocable and/or irrevocable proxies under specified circumstances that have been regarded as providing the proxy holder with the potential to exert effective control over significant aspects of an institution's operations and management. The Board has already recognized in the Acquisition of Control Regulations that a holder of proxies can exert the same type of control in matters of shareholder voting as the owner of shares. The inclusion of proxies therefore parallels § 574.4 of the Acquisitions of Control Regulations. Thus, the holding of revocable and/or irrevocable proxies would be subject to § 563b.3(i)(3) only in the same circumstances that holding of such proxies would give rise to a conclusive or rebuttable control determination under § 574.4 (a) and (b), respectively.

The Board specifically requests comments on all these changes.

D. Purchases by Management, Employees and, Employee Stock Benefit Plans

1. Purchases at the Time of Conversion

a. *Introduction.* A number of issues have arisen regarding the application of certain provisions of the Conversion Regulations and other regulations to employee stock benefit plans such as employee stock ownership plans ("ESOPs"). An ESOP, for example, is an employee stock benefit plan designed to invest primarily in an employer's stock, principally by using tax-deductible contributions made to the ESOP under the terms of the plan. The Congress in a series of laws has "made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free enterprise system which will solve the dual problems of securing capital for necessary capital growth and of bringing about stock ownership by all corporate employees." *See* Tax Reform Act of 1976, Pub. L. 94–455, 90 Stat. 1580, 1590, Title VIII, section 803(h). In addition, through various other provisions of the Internal Revenue Code ("IRC"), Congress has identified other types of employee stock purchase plans the public benefits of which have been found to warrant a favorable type of tax treatment (referred to herein as "tax-qualified employee stock benefit

plans"). These include types of pension plans, profit-sharing plans, stock bonus plans and annuity plans.

The Board is proposing amendments to eliminate uncertainty on a variety of issues presented by employee stock benefit plans, and to enhance the ability of officers, directors and employees of an institution to acquire stock when their institution converts, through various types of employee stock benefit vehicles. The Board believes that acquisition of an institution's stock by such plans may provide a means for officials and employees of converting institutions to acquire larger ownership stakes in their institutions upon conversion, without undermining the basic equities of the conversion process. The Board invites comments on all aspects of these proposals, including whether other types of employee benefit plans should be included, and in particular, on the potential impact of increased director, officer and employee purchases through employee plans, on conversion stock prices. The Board also requests comment on whether plans established by an institution's subsidiary for its employees should be accorded the same treatment as a plan established by the institution.

b. *Definition of "Tax Qualified Employee Stock Benefit Plan".* The proposal would add a new paragraph (a)(37) to § 563b.2 to define the terms "tax-qualified employee stock benefit plan" and "non-tax-qualified employee stock benefit plan." A tax-qualified plan would be defined with reference to the types of plans described in section 401 of the IRC. As noted above, this would include types of pension plans, profit-sharing plans, stock bonus plans, and annuity plans. These new definitions would then be used to clarify the treatment of such plans for the purposes of various restrictions on stock purchases imposed by the Conversion Regulations.

The Board notes that tax-qualified employee stock benefit plans generally must comply with various participation, vesting, distribution, and other rules under the IRC designed to protect the interests of all employees. For example, a plan must be in writing, permanent, and communicated to employees, and all provisions essential to qualification must be included in the written plan. The minimum vesting requirements include minimum schedules under which an employee's benefit from employer contributions must accrue and become nonforfeitable and special rules for vesting in the event that the plan is terminated. In addition, these employee stock benefit plans generally must be established for the benefit of employees and also must meet minimum employee participation standards designed to enhance employee participation and prohibit discrimination in favor of employees who are officers, directors, shareholders, or highly compensated employees. Discrimination in favor of persons other than officers, directors, shareholders, or highly compensated employees, such as rank-and-file employees, is not prohibited, however.

c. *Amendment to the definition of "Associate".* The ability of employee stock benefit plans to acquire conversion stock could be substantially affected by the scope of the term "associate." The term "associate" is defined under § 563b.2(a)(4) of the Conversion Regulations to include any trust in which an officer or director services as a trustee or in a similar fiduciary capacity. Thus, the literal application of § 563b.2(a)(4) would require any employee stock benefit plan that retains an officer or director of the insured institution as a plan trustee or similar fiduciary to be considered an "associate" of each such officer or director (and potentially of more than one officer or director), and therefore subject to the various conversion stock purchase priorities and percentage limitations established in the Conversion Regulations, including limitations on the total number of shares that officers, directors, and their associates may purchase both individually and in the aggregate in the conversion stock offering, and to the restrictions set forth in § 563b.3(c)(9) of the Conversion Regulations on post-conversion stock purchases by officers, directors, and their associates.

The Board believes that the application of the term "associate" to employee stock benefit plans in certain of these contexts is neither necessary nor intended in order to accomplish the purposes of the "associate" definition as used in the Conversion Regulations. Therefore, the Board is proposing to amend current § 563b.2(a)(4), redesignated as new § 563b.2(a)(5), and to make corresponding changes to §§ 563b.3 (c)(6), (c)(7), (c)(8), (c)(9), and (d)(5) to clarify when stock held by an employee stock benefit plan will be aggregated with stock purchased by a person or purchased by all officers and directors as a group. In this regard, a distinction is proposed to be made between tax-qualified and non-tax qualified plans. With respect to purchase restrictions that apply to individual purchases, § 563b.3 (c)(6), (c)(7), (c)(9), and (d)(5) would be revised to indicate that, stock held by either a tax-qualified or non-qualified plan would *not* be aggregated to a person who may serve as a trustee or other fiduciary of the plan. With respect to the aggregate director and officer purchase restrictions of § 563b.3(c)(8), however, this section would be revised so that stock held by a qualified plan would not be counted, but stock held by a *non-*qualified plan and attributable to the institution's directors and officers would be counted for purposes of the aggregate management purchase limits set by that section. The Board specifically requests comment with respect to the latter as to whether it is feasible, and if so how, to determine the amount of stock held by a non-qualified plan that would be attributable to employees who are not officers and directors, that would be excluded from the officer and director purchase category.

d. *Purchases of stock in the conversion.* (i) Treatment of tax-qualified plans. The Board is proposing to allow a converting association to provide for a plan allowing any number of separate tax-qualified employee stock benefit plans to purchase, in the aggregate, up to a total of ten percent of the stock offered in the conversion. Such association plans may otherwise limit purchases by any other person together with any associate or group of persons acting in concert to a lesser amount than five percent of the total shares offered in the conversion in accordance with existing provisions of the Conversion Regulations. Tax-qualified employee benefit plans also would be entitled to purchase up to ten percent of the offering regardless of the number of shares purchased by any other party. Thus, if an offering were over-subscribed, the plan's purchases would not be prorated.

Generally, in order for plans to meet the definition of a tax-qualified plan, they must include a broad base of employee beneficiaries. Accordingly, the Board believes that in connection with such plans, the Board's goal of having stock sold in a conversion in a manner that will achieve wide distribution, *see* 12 CFR 563b.3(c)(6)(iii), will not be undermined, even if, for example, an ESOP were to acquire ten percent of the stock sold in the conversion, because stock purchased by the plan is held for the beneficiary employees. However, because employees of the association may also have subscription rights to purchase stock or may desire to purchase stock sold in a community or public offering, the Board is proposing to amend other aspects of its conversion regulations, to recognize the independence of the new ten percent

tax-qualified employee stock benefit plan purchase provision.

The Conversion Regulations currently limit the amount of conversion stock that management officials and their associates may purchase as a group to between 25 and 35 percent of the stock sold in the conversion, depending on the asset size of the converting association. 12 CFR 563b.3(c)(8). If the shares purchased by an employee stock benefit plan were attributed to certain management officials as beneficiaries of such plan, the plan might not be able to purchase a substantial amount of stock without causing management, as a group, to exceed its limitation. Accordingly, the Board is proposing to except purchases by tax-qualified employee stock benefit plans from the aggregate amount that the officers and directors are entitled to purchase under § 563b.3(c)(8) of the Conversion Regulations. Section 563b.3(c)(8) also is being revised to include the formula for calculating permitted share purchases.

In addition to limitations on the purchase by the officers and directors of the association as a group, as already noted, the Conversion Regulations limit the amount of conversion stock that any person including individual officers, directors and employees, may purchase. 12 CFR 563b.3 (c)(6), (c)(7), and (d)(5). The Board is proposing that the shares purchased by employee stock benefit plans—whether or not tax-qualified—that are attributed to an individual employee as a beneficiary of the employee stock benefit plan, not be aggregated with any conversion shares purchased directly by or otherwise attributable to the individual. This treatment would be accomplished by amendments to § 563b.3 (c)(6), (c)(7), (c)(9), and (d)(5) to exclude stock held by an employee stock benefit plan which is attributable to a purchaser. It should be noted, however, that where shares attributable to a person are held by more than one plan, those shares could be separately aggregated to determine if the conversion stock purchase limits were exceeded. As already discussed, an amendment to the definition of "associate" set forth in § 563b.2(a)(4), is also proposed which would provide that an employee stock benefit plan in which a person serves as a trustee or in a similar fiduciary capacity will not be considered an "associate" of such person for purposes of the purchase limitations of § 563b.3 (c)(6), (c)(7), (c)(9), and (d)(5).

Finally, the Board notes that in order to give an employee stock benefit plan an opportunity to purchase shares in certain conversions, that plan must receive subscription rights to purchase conversion stock. The institution's board of directors could obtain a subscription priority status for an employee stock benefit plan under the current conversion regulations merely by opening an account for the employee stock benefit plan with a qualifying balance at the association prior to the eligibility record date. In addition, the Board is proposing to provide in new § 563b.3(c)(23) of the Conversion Regulations an explicit priority for tax-qualified employee stock benefit plans that permits the plan to purchase conversion stock after eligible and supplemental accountholders, but prior to voting members who have subscription rights. In any case, tax-qualified employee stock benefit plans are permitted to acquire, in the aggregate, up to ten percent of the total conversion stock offering without proration in the event of oversubscription.

In a related area, the Board notes that many converting institutions have experienced a significant increase in new accounts being opened in the institutions after they have given notice of their impending conversions. Pursuant to § 563b.3(c)(5) these new account holders become voting members in the conversion and thereby receive the same subscription rights as eligible account holders and supplemental account holders, if applicable, with the exception that they are subordinated to the stock purchase rights of the other account holders. Many converting institutions have advised the Board that these new account holders have disrupted the orderly distribution of their conversion stock and requested that the conversion regulations be revised accordingly. The Board requests commenters to address this issue. Any revision to the stock purchase rights of voting members would separate the rights into a required allotment and an optional allotment to be determined by the converting institution based on the specific circumstances of the conversion.

(ii) Treatment of non-qualified plans. In addition to employee stock benefit plans that receive beneficial tax treatment, associations may desire to devise their own benefit plans. Plans that do not qualify for favorable tax treatment ("non-tax-qualified plans") may vary from tax-qualified plans in several ways. For instance, these plans may allow a concentration of the benefits of the plan to a limited group of the highest compensated employees. Further, non-qualified plans do not provide the same financial benefits to the association, generally failing to obtain a tax deduction for contributions to the plan. The Board notes that the adoption of non-qualified plans that purchase the association's stock nevertheless may foster certain goals related to the conversion process. These plans often enable the association to retain or attract key employees, for example. Accordingly, the Board proposes to amend its conversion regulations to eliminate the uncertainty of the applicability of the conversion regulations to purchases by these plans.

Because such plans need not be broad-based among the employees of the association, the Board proposes to provide no special purchase treatment for the amount of conversion stock each nonqualified plan may purchase. Accordingly, a non-qualified plan would be treated no differently than any other person. Further, because a plan could be structured to benefit primarily top management officials, the stock purchased by such plans would be attributable to the officers and directors of the association to the extent that any such management officials are beneficiaries of the plan, but solely for purposes of determining the amount that officers and directors as a *group* may purchase in the conversion pursuant to § 563b.3(c)(8). As noted previously, the Board specifically requests comments on the feasibility of making this allocation.

On the other hand, the Board recognizes the potential complexity of vesting provisions, which leads to difficulty in fairly attributing precise amounts of stock to specified management officials, as of the time of conversion. Accordingly the Board is proposing to provide that shares attributable to individual beneficiaries of such plans would not be aggregated with shares purchased in the conversion directly by, or otherwise attributable to, such individuals for purposes of § 563b.3 (c)(6), (c)(7), and (d)(5). This is the same treatment as discussed above with respect to tax-qualified plans, and again, it should be noted that where shares attributable to a person are held by more than one plan, these shares could be separately aggregated to determine if the conversion stock purchase limits are exceeded.

The Board also is not proposing to provide non-qualified plans with special subscription rights to purchase conversion stock but notes that, as in the case of qualified plans, management of the association could obtain a priority subscription right for the plan by qualifying the plan as an eligible accountholder. In the case of a non-

qualified plan, however, subscriptions by the plan could be reduced on a pro-rata basis in the same manner as any other subscription, in the event of an oversubscription.

(iii) Financing considerations. The Board also is proposing to amend its Conversion Regulations to clarify an acceptable role of an association in financing the acquisition by an employee stock benefit plan of conversion stock. One of the fundamental premises of the Board's conversion process is the raising of new capital for insured institutions. Thus, the Board wishes to take the opportunity to clarify its position on several issues in this regard. First, a *contribution* of any amount of conversion stock to an employee benefit plan for less than full consideration would be inconsistent with the fundamental premises of the conversion process. Second, the conversion regulations expressly prohibit the converting association from extending credit to any person, which would include an association's own employee stock benefit plan, for the purpose of purchasing conversion stock. 12 CFR 563b.3(i)(22). This requirement also would prohibit an association from guaranteeing an extension of credit to an employee stock benefit plan. (Individual stockholders or officials of the association could guarantee such a loan, however.) As the Board views the primary function of the conversion program as a method of raising capital, it proposes to continue to prohibit any contractual financing obligations from an association to an employee stock benefit plan or to a third party lender to the plan in the conversion context.

Nevertheless, the Board also is aware that employee stock benefit plans constitute a useful means of compensating association employees and that such a plan itself is not capable of generating income sufficient to service the debt it may incur to acquire conversion stock. Accordingly, the Board is proposing in § 563b.3(c)(24) to permit plans of conversion in which the association indicates its intent to make certain scheduled contributions to employee stock benefit plans. Such contributions must be made in the discretion of the association's management. The Board specifically requests comment as to whether it should specify circumstances where contributions would not be permitted, such as, for example, if the overall effect of the contribution would be to cause the association to fail to meet its regulatory capital requirement. Commenters are specifically requested to address the accounting treatment of such a contribution and how it would affect the institution's capital. Of course, plans also must provide for a realistic schedule of payments in light of the historical performance of the association and projected earnings after the conversion. Moreover, management of an association considering the inclusion of employee stock benefit plans in the association's conversion should carefully consider the impact on the marketing of stock in the conversion resulting from the sale of stock to any qualified or non-qualified employee stock benefit plan as well as the financial burdens such a plan may place on the association.

The Board specifically requests comments on the proper role of employee stock benefit plans in the conversion process, including amounts of stock purchased by the plan, the association's role in directly or indirectly financing the acquisition of its own stock and how plans established by service corporations to purchase the stock of the parent institution should be treated.

e. *Post-conversion purchase restrictions applicable to directors and officers.* Section 563b.3(c)(9) sets forth restrictions on the manner in which officers and directors of a converted institution, and their "associates," may acquire additional stock of the institution. Where a director or officer of the institution serves as a trustee of an employee stock benefit plan (or in a similar fiduciary capacity) the plan would be subject to the stock purchase constraints applicable to the director or officer. Moreover, attribution of shares to individual officers and directors, pursuant to vesting provisions of a plan, arguably could also be deemed an acquisition of stock within the scope of the rule.

However, consistent with the approach already discussed above of *not* aggregating employee benefit plans to individual directors or officers for purposes of purchases in the conversion, the Board is proposing to further amend the definition of "associate" to provide that for the purposes of § 563b.3(c)(9), the term "associate" does not include an employee stock benefit plan in which a person serves as a trustee or in a similar fiduciary capacity. In addition, § 563b.3(c)(9) would be amended separately to exclude from its coverage stock that may be attributable to individual officers and directors, acquired pursuant to an employee stock benefit plan. The Board specifically requests comments on whether this latter treatment should only be available to broad-based tax-qualified plans.

Finally, the Board notes that questions have arisen in a related area, regarding the treatment of stock option plans under § 563b.3(c)(9). It is the Board's view that this section was not intended to apply to purchases by officers and directors from a converted institution pursuant to a stock option plan.

f. *Issuer repurchase restrictions.* Section 563b.3(g) of the Conversion Regulations generally prohibits an insured institution, for a period of three years from its conversion, from repurchasing any of its capital stock from any person, except in the case of a repurchase on a pro-rata basis from all stockholders. While the rule, by its terms, applies only to the recently converted institution itself, the Board is aware that the rule may be unclear as to whether purchases by an employee stock benefit plan of the stock of its recently converted sponsor institution may be attributed to the institution and thereby be considered a repurchase subject to the rule. The Board believes that routine purchases by either tax-qualified or non-qualified employee stock benefit plans of amounts of capital stock reasonable and appropriate to fund the plan should not lead to a presumption that impermissible repurchases are being made. Therefore, the Board is proposing to amend § 563b.3(g)(1) to provide that where stock is purchased in such manner, the acquisition would not be considered a "repurchase" by the institution within the scope of the restriction and, thus, the acquisition would not be subject to the issuer repurchase restrictions of § 563b.3(g). The Board also notes in this regard that purchases of newly issued shares from the institution would not be a "repurchase" and thus would not come within the scope of the rule in any case.

g. *Acquisitions of stock of recently converted institutions.* Section 563b.3(i) of the Conversion Regulations generally prohibits any person or persons acting in concert, for a period of three years following the date of completion of the conversion of an insured institution, from offering to acquire or acquiring beneficial ownership of greater than 10 percent of any class of equity securities of that institution without the prior written approval of the Board. The term "person" is broadly defined in the rule to include all forms of entities, including trusts. Thus, employee stock benefit plans are subject to the rule's requirements if their holdings exceed the current regulatory thresholds.

The Board is concerned that subjecting an employee stock benefit plan to the requirements of § 563b.3(i)(3)

may make unnecessarily more difficult routine purchases by an employee stock benefit plan of capital stock of its converted sponsor institution to fund the plan, since the plan must seek the prior written approval of the Board to offer to acquire or acquire greater than 10 percent of the stock or rebut the presumption of concerted action before it makes such an offer or acquisition. As discussed above, the Board believes that employee stock benefit plans may provide an incentive to an institution's management and employees to perform their duties effectively and, thus, offer a potential benefit to the FSLIC. Therefore, the Board is proposing to revise § 563b.3(i) by adding a new subsection (5)(v) to exempt from the applicability of the rule any one or more tax-qualified employee stock benefit plans (as proposed to be defined in § 563b.2(a)(37)), provided the plans have beneficial ownership in the aggregate of a total of not more than 25 per cent of any class of stock of the recently converted institution.

A key issue for this purpose is when a plan will be deemed to beneficially own the institution's stock. Section 563b.3(i) refers to but does not define beneficial ownership. Rather, it incorporates the term "beneficial ownership" as defined in Rule 13d–3 under the Securities Exchange Act of 1934 ("Exchange Act"), 17 CFR 240.13d–3. Generally, beneficial ownership for purposes of the Exchange Act, and thus also for purposes of § 563b.3(i), includes voting power, which involves the power to vote shares, *or* the power to dispose or to direct the disposition of shares, *or* the right to dividends and/or proceeds in liquidation, *or* the right to acquire beneficial ownership within sixty days, such as by exercise of an option, warrant or conversion right, and also reaches schemes designed to avoid the definition of beneficial ownership.

Thus, vesting, as well as pass-through voting provisions, would affect the total number of shares attributable to the employee stock benefit plan only if other factors also were present. In this regard, shares vested with plan participants which carry pass-through voting rights and over which the employee stock benefit plan does not otherwise retain *any* of the abovementioned indicia of beneficial ownership would not be included for purposes of the proposed exemption to the rule's 10 percent threshold. However, if the employee stock benefit plan does retain some form of control or legal ownership, as described above, such as dispositive power, all those shares would be considered beneficially owned by the employee stock benefit plan. (It should also be noted that such shares could *also* be deemed to be beneficially owned by the employees that also possess indicia of beneficial ownership, *e.g.*, voting rights.)

The Board also notes that the term "person" encompasses those parties or entities who may be considered for purposes of the rule to be a "group acting in concert." The term "acting in concert," which is defined in § 563b.3(i)(8)(v), is comprehensive and is intended to encompass, among other things, conscious parallel action towards a common goal of offering to acquire or acquiring the stock of an insured institution. As a mixed question of law and fact, action in concert may be established directly through available factual information or by means of a presumption that is based on the legal or familial relationships between the parties, or both. In certain circumstances, acting in concert may be presumed from business relationships where a fiduciary relationship and dual ownership of an insured institution's stock exist. For example, where a person or other entity acts as a trustee over a trust, and both the trustee and the trust have certain interests in or relationships with an insured institution, the inference is raised that they are acting in concert with respect to stock each owns in the insured institution. In particular, the fiduciary duties that a trustee owes to the trust lead to the presumption that they act in concert, since it is unlikely that the trustee could fulfill those duties while voting independently of the trust. The Board had codified the rebuttable presumption of action in concert between a trust and trustee in the context of the acquisition of control of an insured institution under the Holding Company Act and Change in Savings and Loan Control Act ("Control Act"), 12 U.S.C. 1730(q), in its Acquisitions of Control Regulations. In some circumstances, however, it may be possible to rebut the presumption of concerted action by demonstrating on a clear and convincing basis that the decisions by the trustee with respect to stock held in its own account, or similarly, stock held as trustee for another trust or other fiduciary accounts, are made independently of decisions as trustee for a specific trust.

Under the current rules, the shares of an institution held by the trustee of an employee stock benefit plan would be presumed by the Board to be aggregated with the shares of the institution held by the plan itself in determining whether the 10 percent threshold of § 563b.3(i) has been exceeded by either the institution or the ESOP trustee. In other words, stock held by an employee stock benefit plan trustee for its own account or as a trustee or in some other fiduciary capacity with respect to trust or fiduciary accounts other than the employee stock benefit plan presumptively would be aggregated with the stock held by the plan in assessing whether the rule's threshold has been met or exceeded, subject to rebuttal.

The proposed amendment to § 563b.3(i) exempts a taxqualified employee stock benefit plan from the rule's approval requirements up to a 25 percent level, relaxing the limitation but not mooting the issue of whether the employee stock benefit plan and trustee's stock should be aggregated for purposes of determining whether the rule's threshold has been exceeded. To clarify this area, the Board proposes to revise the term "acting in concert" in § 563b.3(i)(8)(v) by deleting this section, defining the term in § 563b.2(a)(1) to incorporate the definition of § 574.2(c), and modifying § 574.2(c)(3) to provide that, *solely* for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated, a *tax*-qualified employee stock benefit plan will not be deemed to act in concert with its trustee or a person who serves in a similar fiduciary capacity. It should be noted, however, that this does *not* mean that two different plans having the same trustee or other fiduciaries in common, or otherwise connected, could not be found to be acting in concert and their holdings aggregated for purposes of § 563b.3(i)(3) or the Acquisitions of Control Regulations. Finally, the Board notes that for purposes of § 574.2(c), and accordingly as would apply also in the conversion context under the present proposal, members of the board of directors of an institution are not deemed to act in concert solely as a result of their director status.

2. Application of the Holding Company Act and the Acquisitions of Control Regulations

a. *To purchases by employee stock benefit plans.* Acquisitions of control of stock from insured institutions generally are governed by either the Control Act or the Holding Company Act. The Holding Company Act prohibits any "company" directly or indirectly or acting in concert with one or more persons from acquiring "control" of an insured institution (or holding company) without the prior written approval of the Board. For purposes of this restriction, the term "company" is broadly defined to include any corporation, partnership,

trust, joint stock company, or similar organization. Thus, an employee stock benefit plan, as a type of trust, is subject to the Holding Company Act if it acquires an amount of stock (or takes other actions) that would constitute control under the Holding Company Act or the Board's Acquisitions of Control Regulations thereunder.

Under the Board's recently adopted Acquisitions of Control Regulations, a plan's purchases of stock would be subject to the requirement of obtaining prior approval under the Holding Company Act in various situations. For example, control is conclusively determined to exist upon the acquisition of ownership, control, or the power to vote more than 25 percent of a class of voting stock of an insured institution (or holding company), or where a company controls in any manner the election of directors of an insured institution. Control also is determined to exist, subject to rebuttal, where a company acquires more than 10 percent of a class of voting stock of an institution, when such stock ownership is combined with specified "control factors."

In determining the amount of shares subject to the numerical "control" criteria, the Board notes certain issues regarding aggregation of stock that may arise. For example, as discussed in part II.C.1.g., above, shares of the institution held by trustees of the plan presumptively would be aggregated with those of the plan, subject to rebuttal, to determine whether the control threshold has been met. In order for regulations governing similar concepts to be consistent, the Board is proposing to amend the rebuttable presumption of concerted action set forth in § 574.4(d)(6) of the Acquisitions of Control Regulations to provide that solely for the purposes of determining whether to combine the holdings of a plan and its trustee (or fiduciary), a tax-qualified employee stock benefit plan will not be deemed to act in concert with its trustee or a person who serves in a similar fiduciary capacity. As already noted in the context of the comparable treatment under the Conversion Regulations, this does *not* mean that two plans having the same trustee or other fiduciaries in common would not be presumed to act in concert, since persons (in this case, the two plans) are presumed to act in concert where they both act in concert with the same third person. 12 CFR 574.4(d)(7). In such cases, the Board would consider rebuttals of the presumption of action in concert on a case-by-case basis.

A related issue is whether in employee stock benefit plans with pass-through voting provisions, shares allocated to employees with pass-through voting rights or other "sterilization" plans, *i.e.*, plans which provide that unallocated shares are voted on pass-through basis in proportion to allocated share voting, should be included. Under the Holding Company Act, as in the Conversion Regulations, the definition of control is broad and includes all means of beneficial or equitable ownership. Accordingly, the Board believes that all shares held by an employee stock benefit plan, regardless of any pass-through voting provisions (except for shares actually distributed to employees under the distribution terms of the plan), should be counted as being held by the plan for purposes for determining whether the Holding Company Act is applicable.

However, consistent with its proposal to amend the Conversion Regulations, the Board also is proposing to revise § 574.3(c) by adding a new paragraph (c)(1)(vi) to exempt from the Board's review process under the Holding Company Act acquisitions of up to 25 percent of a class of an institution's stock by a tax-qualified employee benefit plan. This amendment is consistent with the Board's proposed revision to § 563b.3(i) to exempt from its prior approval requirements offers to acquire and acquisitions of not more than 25 percent of a class of a newly converted institution's stock by a tax-qualified employee stock benefit plan. The proposal would not affect either the requirement of approval of a holding company application where an employee stock benefit plan (or plans deemed to be acting in concert) intends to acquire more than 25 percent of a class of an institution's voting stock, or the treatment of non-tax-qualified plans.

b. *Delegation of authority.* The Board is taking this opportunity to amend its standards for delegation of authority for approval of acquisitions of insured institutions to reflect a recent regulatory development. Currently, the Principal Supervisory Agent ("PSA") is authorized to approve or deny any holding company application to acquire control of an insured institution, a notice of change of control or a merger application unless, *inter alia* certain filings under the Securities Exchange Act of 1934 ("Exchange Act") are required to be made within the Board. 12 CFR 546.2(i)(1)(i); 563.22(f)(1)(i), 574.8(a)(1)(i). In adopting this standard, the Board stated that "review of such acquisitions can be done more efficiently in the same office where the Exchange Act filings of such institutions are reviewed." 50 FR 48711 (Nov. 26, 1985).

Since the Board adopted these delegation standards, it has adopted in final form securities offering disclosure regulations applicable to all insured institutions. *See* 12 CFR Part 563g. The procedures of new Part 563g require review and clearance of offering circulars in connection with specified types of public offerings of securities by the Board's Office of General Counsel in a fashion similar to materials filed under the Exchange Act. Accordingly, in order to clarify any uncertainty that may exist in this area, the Board is proposing to amend its delegation of authority standards in §§ 546.2(i)(1)(vi), 563b.22(f)(i)(vi) and 574.8(a)(i)(v) to remove authority from the PSA to approve merger or holding company applications or to clear notices of change in control, if in connection with such transactions, an offering circular is required to be reviewed and cleared by OGC pursuant to Part 563g of the Board's regulations.

E. Merger Conversions With Insolvent Insured Institutions

The Board proposes to amend § 563b.10(c) of the Conversion Regulations in order to encourage voluntary supervisory merger conversions with any mutual institution that is qualified to undertake a supervisory conversion. The Board believes that this aspect of the current proposal could assist the FSLIC in resolving a number of its significant supervisory cases. Specifically, the proposed amendment would grant to the resulting stock institution up to three-years' post-conversion protection regarding offers to acquire or acquisitions of more than 10 percent of any class of the institution's stock, depending upon the converting institution's asset size. The applicable time period would be one year of coverage in the case of an insolvent mutual institution with less than $100 million in total assets; two years for an institution with assets in the $100 million to $500 million range; and three years for an institution with more than $500 million in total assets. The three categories are designed to reflect the time needed to assimilate insolvent institutions of differing sizes and to provide appropriate periods of adjustment for acquisitions of different magnitudes. Total assets would be calculated as of the end of the most recently concluded quarter of the converting institution prior to filing of the voluntary supervisory merger conversion application. The Board notes

that, as currently proposed, the availability of this treatment need not be limited to existing stock institutions. The Board specifically requests comments as to whether, under this provision, a company should be permitted to charter an interim institution for the purpose of acquiring another institution in a voluntary supervisory merger conversion and thereby come within the scope of the post-conversion acquisition rule. The Board also requests commentators to address whether this application of § 563b.3(i)(3) in a supervisory-merger conversion should be optional for the acquiring party.

The proposal would not allow the acquiring stock institution to cumulate the post-conversion protection derived from the acquisition of a financially ailing or insolvent institution. In other words, the § 563b.3(i)(3) post-conversion acquisition features would last for up to three years from the most recent acquisition of an institution in a supervisory merger conversion. The Board specifically requests comment on conditioning the availability of the full three-year period on the relative sizes of the acquiring institution and the institution to be acquired; on determining the date on which asset size should be measured; and on whether the relative size of the insolvent institution in its market area should be incorporated as a factor used to calculate the appropriate period of coverage under § 563b.3(i)(3).

F. Purchase Limitations for Officers, Directors, and Their Associates in Merger Conversions

The Board also is proposing to amend § 563b.3(c)(8) of the Conversion Regulations to provide an exception to the aggregate conversion stock purchase limitations for officers, directors, and their associates in merger conversions undertaken pursuant to § 563b.10(c). Specifically, the proposal would exclude the pre-merger percentage of stock ownership of the officers and directors of an existing stock institution that undertakes a merger conversion with a mutual institution in calculating the aggregate amount which may be purchased by officers and directors in connection with the merger conversion.

Under current § 563b.3(c)(8), the aggregate amount of stock that officers, directors, and their associates may purchase in a conversion is limited to a sliding scale of between 25 and 35 percent based upon the total asset size of the converting institution. In a standard merger conversion, the accountholders and voting members of the converting institution receive preemptive rights to subscribe for stock of the existing stock institution. Thus, the purchase limitations of § 563b.3(c)(8), which apply to officers and directors of the existing stock institution and their associates who purchase its stock, could have the effect of preventing those persons—if their aggregate stock ownership equals or exceeds the specified percentage purchase limitations—from purchasing additional stock in the merger conversion, even where such purchases were designed merely to preserve their previous percentage ownership.

It is the Board's belief that some existing insured stock institutions may not have pursued merger conversions for this reason. Therefore, the Board believes that by permitting additional purchases the proposed amendment to § 563b.3(c)(8) would encourage use of the merger-conversion procedure as a capital-raising tool for insured institutions.

G. Definition of "Acting In Concert"

Sections 563b.3(c)(6), 563b.3(c)(7), and 563b.3(d)(5) establish percentage limitations on the amount of stock a person together with any associate or group of persons acting in concert may purchase in the conversion and various stages of the conversion. Since the recent adoption of its Acquisitions of Control Regulations, the Board and its staff have received inquiries regarding the relationship of the rebuttable presumptions of concerted action set forth in § 574.4(d) to the conversion stock purchase limitations.

The Board is taking this opportunity to propose a revision to § 563b.2 of the Conversion Regulations, to add a new paragraph (a)(1), which would incorporate the definition of "acting in concert" established in § 574.2(c) of the Acquisitions of Control Regulations and apply it to the entire Part 563b, and delete the definition of "acting in concert" in § 563b.3(i)(8)(v) which would become superfluous. The Board believes that in this regard the converting insured institution and its counsel should take appropriate steps to ensure that conversion stock purchase limitations and the requirements of the Acquisitions of Control Regulations are not exceeded by groups of persons acting in concert in connection with conversion stock purchases.

H. Use of Media Advertisements, Sales Literature and Other Forms of Publicity in Connection With the Offer and Sale of Conversion Stock

The Board also is taking this opportunity to address and clarify certain questions which have arisen with respect to the use of media advertisements, sales literature, and other forms of publicity by converting institutions to promote a conversion stock offering to prospective investors. In addressing these issues, the Board seeks to provide guidance to converting institutions for charting compliance with the Board's Conversion Regulations and also to alleviate any confusion which may have existed previously.

The Board notes that concerns regarding compliance with the Board's Conversion Regulations have arisen in two respects in connection with the use of media advertisements, sales literature and other forms of publicity, during the mutual-to-stock conversion process: first, publicity which may constitute premature proxy soliciting material in connection with the vote of the mutual members of the thrift on the conversion to stock form; and second, information which may prematurely "offer" the conversion stock by means of prohibited communications. For example, media advertisements, sales literature or other forms of publicity used by a converting institution *prior* to the Board's approval of its proxy soliciting materials may constitute proxy soliciting materials required to be filed with the Board and cleared prior to its use, pursuant to § 563b.5(b) of the Board's Conversion Regulations.[1] In addition, § 563b.5(e) specifically requires that any additional proxy soliciting material furnished to association accountholders *subsequent* to furnishing the proxy statement regarding the proposed conversion (including soliciting material in the form of media presentations such as press releases, and radio or television scripts) must be filed with the Board for review at least five business days prior to the date on which the FHLBB is requested to authorize the use of such material.[2] As with proxy material required to be filed with and cleared by the Board prior to use pursuant to § 563b.5(b), failure to file such additional solicitation materials with the Board prior to use would constitute a violation of the Board's Conversion Regulations.

Second, media advertisements, sales literature and other forms of publicity also may constitute conversion stock

[1] 12 CFR 563b.5(b). Section 563b.2(a)(30) of the Board's Conversion Regulations broadly defines the terms "solicitation" and "solicit" to refer to "(i) any request for a proxy whether or not accompanied by or included in a form of proxy; (ii) any request to execute, not execute, or revoke a proxy; or (iii) the furnishing of a form of proxy or *other communication to association members under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.*" (emphasis added). 12 CFR 563b.2(a)(30).

[2] See 12 CFR 563b.5(e).

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offering materials which are required to be filed with and cleared by the Board prior to use. Materials which "offer" conversion stock must be accompanied or preceded by a conversion offering circular declared effective by the Board. In this regard, the broad definition of "offer" in the Board's Conversion Regulations [3] generally has been interpreted to cover a wide variety of forms of media or written communication disseminated by a converting institution at any time during the mutual-to-stock conversion process. However, the Board's staff has taken the position that a notice, containing basic information concerning a proposed offering which meets the requirements of Rule 135 under the Securities Act of 1933 ("Securities Act")[4] will not be considered offering material for this purpose and thus, may be used prior to clearance of an offering circular.

In order to provide guidance in this area, the Board is proposing to revise its regulation governing the offer and sale of securities, § 563b.7, and add a new § 563b.7(a)(2), which would prohibit any offer or sale of securities in a mutual-to-stock conversion under Part 563b, unless: (1) The offer or sale is accompanied or preceded by an offering circular filed with and declared effective by the FHLBB; *or* (2) An exemption from the offering circular requirement is available. The rule would, however, provide exemptions from this restriction for three types of communications which would not be deemed to be an "offer" for this purpose, which, as such, closely track the requirements under the Board's securities offering regulations at Part § 563g,[5] and also are similar to the disclosure rules under the federal securities laws: (1) Any notice of the proposed offering, used prior to the filing of an offering circular, which meets the requirements of Rule 135 under the Securities Act; (2) Oral offers after the filing of an offering circular; and (3) Any notice, circular, advertisement, letter or other communication which meets the requirements of Securities Act Rule 134,[6] which is used after the filing of an offering circular.

In addition, notwithstanding the general prohibition on offers and sales prior to the effective date of an offering circular, a preliminary offering circular would be permitted to be used for an offer, but not a sale, of a security prior to the effective date of the offering circular if the preliminary version has been filed with the Board, includes the information required to be contained in the final offering circular except for the omission of pricing information and matters dependent thereon, and the offering circular that ultimately is declared effective by the Board is furnished to a purchaser prior to, or simultaneously with, the sale of the security. This provision also tracks the Board's securities offerings regulation.[7] Finally, in order to provide interpretive guidance in this area so that proxy soliciting materials will not be subjected unnecessarily to the Part 563b offering circular requirements, the Board generally will consider information regarding the proposed conversion stock offering which does not exceed the disclosure requirements of either Rule 135 or § 563b.4(a)(3)(ii) of the Board's Conversion Regulations [8] not to be subject to the offering circular requirements.

I. Liquidation Account

The Board is aware that questions have arisen regarding the assumability or transferability of the liquidation account required to be established in non-supervisory conversions, and whether various types of transactions constitute complete liquidations for the purposes of payout of the liquidation account. Without seeking to address all the situations where such a distribution may or may not be required, the Board is proposing to modify § 563b.3(f)(3), to clarify its view that the term "complete liquidation" is not meant to include a merger, consolidation, bulk sale of assets or similar transaction with a FSLIC-insured institution. The current proposal provides that in the event of a merger, consolidation, bulk sale of assets, or similar transaction, with another FSLIC-insured institution, but not in the event of a complete liquidation, the liquidation account shall be assumed by the surviving insured institution. The Board intends by this approach to reserve the ability to address on a case-by-case basis other situations that may not be found to constitute a complete liquidation and, upon application and having determined that appropriate safeguards are available, to permit transfer and assumption of a liquidation account. The Board notes that a variety of transactions might be deemed to constitute a complete liquidation for this purpose and is aware that the staff has raised the issue that a merger, consolidation, or equivalent transaction with a non-FSLIC-insured institution should be deemed to be a complete liquidation for this purpose.

J. Underwriter Consulting Fee

The Board is aware that questions recently have arisen regarding the compensation paid to underwriters for various services they may render in connection with a conversion. The Board notes that a converting institution often must enter understandings with underwriters to sell conversion stock in a public offering before the institution knows how many shares will be sold in the subscription offering, or whether all shares will be sold by subscription and a public offering will not occur. In the event that all shares are subscribed and no public offering occurs, the underwriter would earn nothing in commissions and only be reimbursed for out-of-pocket expenses, which has been interpreted to include reasonable compensation for time spent by employees and officers of the underwriting firm prior to the stock offering. However, the institution may be obligated to pay certain underwriter consulting fees. The regulations do not address the issue of an acceptable level of expenses under these circumstances. Accordingly, the current proposal includes an amendment to § 563.b.7(e) which would allow the payment of a consulting fee, determined by the Board or its delegate to be reasonable under the circumstances, to an underwriter in the event that all shares are sold prior to the public offering and no public offering occurs.

III. Proposed Revisions to Subpart C

A. Introduction

In proposing revisions to Subpart C, the Board has sought to streamline the processing of voluntary supervisory conversions and thereby to substantially increase the number of voluntary supervisory conversions that may be accomplished. In its review of both the

[3] Section 563b.2(a)(22) of the Board's Conversion Regulations, in pertinent part, defines the terms "offer" "offer to sell" or "offer to sale" to include "every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value." 12 CFR 563b.2(a)(22).

[4] 17 CFR 230.135.

[5] *See* 12 CFR 563g.1, 563g.3.

[6] *See* 17 CFR 230.134.

[7] *See* 12 CFR 563g.2(c)(1)–(3).

[8] *See* 12 CFR 563b.4(a)(3)(ii). Section 563b.4(a)(3)(ii) of the Board's Conversion Regulations generally permits an association to issue a press release immediately subsequent to adoption of a plan of conversion, announcing such action. However, the nature and extent of information which may be presented in such a press release is extremely limited. In this regard, the rule sets forth an exclusive "laundry list" of disclosure items; the press release must contain only (but need not contain all of) the information items set forth in the list, which predominantly is limited to factual information regarding the conversion proposal, rights of accountholders and required regulatory approvals. The rule also provides that the press release need not be filed with the FHLBB prior to its use, but may be submitted to the FHLBB's Office of General Counsel for review. *Id.*

completed and pending voluntary supervisory conversions, the Board and its staff repeatedly have been confronted with questions not clearly answered in Subpart C, such as the permissibility of employment contracts incident to a voluntary supervisory conversion, the amount of expenses an insured institution may incur in connection with a voluntary supervisory conversion, the components of a voluntary supervisory conversion application, the nature of the consideration given by the Board to the character and financial condition of the prospective conversion stock purchasers and other features of the transaction, and the eligibility of FDIC-insured savings banks for voluntary supervisory conversion under Section 112 of the Garn-St Germain Act. 12 U.S.C. 1464(o) (1982). As it did in the first proposal, the Board currently is proposing to amend Subpart C to clarify its interpretations and policies regarding these matters, in order to facilitate compliance with voluntary supervisory conversion procedures, expedite applications processing, and encourage the use of the voluntary supervisory conversion procedure as a method of raising enhancing capital levels in the industry.

In addition, the Board is proposing, as it did in the first proposal, to amend Subpart C to remove the requirement that the offer and sale of capital stock in a voluntary supervisory conversion must constitute a non-public offering. The Board believes that the potential risk to the institution of a failure to complete the conversion through the sale of conversion stock to the public is outweighed by the need to provide mutual insured institutions with the maximum appropriate flexibility to structure a plan of voluntary supervisory conversion in the most effective manner. Of course, such a public offering would be fully subject to the disclosure requirements established by the Conversion Regulations.

In the first proposal, the Board proposed to amend Subpart C to clarify its policies and interpretations regarding the acceptable treatment for appraised equity capital, net-worth certificates, deferred losses, and supervisory forebearances in determining whether an insured institution is in a sufficiently weakened financial condition to qualify for a voluntary supervisory conversion. Upon reconsideration, the Board is proposing a more comprehensive change to the threshold qualification standards which would moot many of the issues presented by the first proposed changes.

Specifically, the Board is proposing to revise the tests it uses to determine whether an institution qualifies for voluntary supervision conversion by substantially simplifying the tests. The current standards in § 563b.23 would be replaced with a two-part test. First, is the institution insolvent on a GAAP basis? Second, would the institution be "viable," as redefined in the rule, after conversion? All other aspects of the current tests would be eliminated.

The Board believes that reference to GAAP is a more appropriate standard to measure the existence of any realizable equity value of an institution for its mutual account holders. Unlike regulatory capital, which is a measure of the financial buffer to the FSLIC, GAAP provides the best picture of whether there would be any realizable equity value to the mutual account holders in the event of a liquidation of the institution. In this respect, the Board believes that use of GAAP is fully consistent with the Board's longstanding concerns to ensure the equitability of the conversion process, and would not result in the taking of any property interest of an institution's mutual account holders. Thus, the Board believes that in the context determining the participation afforded mutual account holders in a conversion, a GAAP financial measure would be appropriate, while regulatory capital standards continue to be appropriate for determining the need for supervisory intervention and related exposure of FSLIC resources. The Board specifically requests comment on this change in the threshold qualification standard for supervisory conversions, including whether the applicable standard should be the lesser of GAAP or RAP capital, or whether the standard should refer to tangible capital only.

In addition, the Board is aware that by determining insolvency on a GAAP basis, significantly more mutual insured institutions will be eligible to undergo a voluntary supervisory conversion, which can be an attractive conversion procedure from the perspective of both management and potential acquirers. Generally, management and prospective investors may be more interested in undertaking a mutual-to-stock conversion if they can be assured of where control of the institution will reside after the conversion. The voluntary supervisory conversion procedure provides such assurance since the transaction can be voluntary, and a purchaser or purchasers (who may include the institution's management) may acquire all of the conversion stock.

The Board believes that requiring insured institutions to be evaluated in accordance with GAAP will best serve the public interest. Analyzing the financial strength of insured institutions on this basis also provides the Board with a more consistent basis for comparing the financial statements filed by all insured institutions. Because of the predominant role of GAAP in the public disclosure and reporting of other financial institutions as well as other entities in the business community, financial information prepared in accordance with GAAP should provide the Board a more consistent, comprehensive basis to monitor the performance and soundness of the industry. This should also enhance industry stability by providing the Board with an additional yardstick to assess and address supervisory concerns.

The Board also has reconsidered the application of the criteria used to determine whether a converted institution will be a viable entity following the voluntary supervisory conversion, and is proposing to revise the existing viability standard, as well as that proposed in the first proposal, to substantially simplify the test, and to provide an alternative viability standard. The alternative viability standard would permit a lesser initial capital infusion but would place a greater burden on the acquirer to increase the institution's capital levels in the future or risk the imposition of severe supervisory measures. Reliance on the alternative viability standard would be deemed to present issues of policy requiring approval by the Board itself, rather than by use of delegated authority.

The Board is proposing additionally to streamline the processing of voluntary supervisory conversion applications and, thus it is expected, to expedite the conversion procedure by centralizing the processing in OGC, as is now the case with both standard and modified conversions. In this connection, the Board proposes to delegate authority to approve voluntary supervisory conversion applications to OGC, with specified input from OES and the appropriate FHLB, except in cases where the application presents significant issues of law or policy. In the latter case, the application would be considered by the Board itself. Clearance by OES and/or the appropriate FHLB for various components of the application, such as the infusion of non-cash assets or the proposed business plan, would be required. In addition, the authority to approve holding company applications and change in control notices that accompany supervisory conversion

VOL 51 ISS 168 AUG 29 1986 UMI

applications would continue to be delegated to the appropriate FHLB or to OES with the concurrence of OGC, under the delegation standards set forth in the Board's Acquisition of Control Regulations. With these proposed changes, the Board hopes to expedite the conversion approval process by better defining the review and approval roles of its various Offices and the FHLBs, and thereby enable functions necessary for approval of conversions to be accomplished concurrently. Finally, the Board is taking this opportunity to again propose adoption of certain other technical amendments to Subpart C. Because of the extent of the changes proposed to Subpart C, the revised subpart is set forth in its entirety in the proposal.

B. Scope of Subpart C

The Board has generally regarded the Conversion Regulations as applicable to all institutions that satisfy the definition of an "insured institution" under its rules, which, unless the context otherwise requires, includes federal savings banks insured by the Federal Deposit Insurance Corporation ("FDIC") and chartered by the Board under section 112 of the Garn-St Germain Act. 12 CFR 563b.2(a)(1) and 561.1 (1985), 12 U.S.C. 1464(o) (1982). Consistent with a similar recent amendment to the modified conversion rules under Subpart D, *see* 12 CFR 563b.34(a), 563b.36(b) (1985), the Board is proposing to revise § 563b.20 of Subpart C to clarify its applicability to mutual-to-stock conversions under section 5(o)(2)(F) of the HOLA (to the extent the section is in effect), as well as to sections 5(i) (1) and (2) and 5(p) of the HOLA (to the extent the latter is in effect), and section 402(j) of the NHA, and to revise current § 563b.23, which would be redesignated as § 563b.25, to specify the eligibility of FDIC-insured mutual savings banks for conversion thereunder.

The Board notes that while Subpart C does not expressly encompass such conversions, several voluntary supervisory conversions of FDIC-insured federally and state-chartered mutual savings banks to federal stock form have been undertaken pursuant to joint action by the FDIC and the Board under section 5(o)(2)(F) of the HOLA. Specifically, such conversions may occur under section 5(o)(2)(F) when the FDIC has certified that severe financial conditions exist that threaten the stability of an FDIC-insured savings bank and that conversion to federal stock form is likely to improve the financial condition of the savings bank, and the Board has concurred in the determination of the FDIC and authorized the conversion pursuant to the Board's Conversion Regulations. The Board proposes to set forth the eligibility requirements for a section 5(o)(2)(F) voluntary supervisory conversion in new § 563b.25(a).

In order to ensure that a voluntary supervisory conversion undertaken pursuant to Subpart C will be subject to the same equitable standards and safeguards as a standard conversion undertaken pursuant to Subpart A, the Board is currently proposing, as it did in the first proposal, to add to § 563b.20 a requirement that, unless clearly inapplicable, all of the provisions of Subpart A shall apply to a voluntary supervisory conversion undertaken pursuant to Subpart C. The Board notes that as a result of the addition of this provision, it would be unnecessary to retain current §§ 563b.28(c) and 563b.31, the first of which restates the provisions of section § 563b.8(d) of Subpart A regarding the status of a converting insured institution's charter, and the second of which subjects a converted insured institution to the dividend and repurchase restrictions set forth in § 563b.3(g) (2)(ii) and (3) of Subpart A. The Board, therefore, proposes to delete §§ 563b.28(c) and 563b.31.

C. Definition of Voluntary Supervisory Conversions

In order to eliminate uncertainty as to the types and structures of transactions that fall within the scope of Subpart C, the Board is proposing to amend § 563b.21 to clarify that in addition to the sale of the converting insured institution's conversion stock directly to a person or persons, a voluntary supervisory conversion may be accomplished by mergering the institution into a stock institution that has been organized and newly chartered for the purpose of facilitating the conversion. Subpart C would continue to govern only voluntary supervisory conversions, and the Board would continue to exercise its power to authorize and order non-voluntary supervisory stock conversions on a case-by-case basis. In addition, the Board is proposing to add a new § 563b.22 to set forth the regulatory purpose of this Subpart.

D. Qualification for Voluntary Supervisory Conversion

The Board proposes to substantially revise and clarify current § 563b.23, which currently sets forth the four qualification criteria for voluntary supervisory conversion discussed in part I above. First, in recognition of the fact that the Board has the authority to approve voluntary supervisory conversions of both FSLIC-insured and FDIC-insured institutions but that it may not be feasible—and in the case of section 5(o)(2)(F) conversions, not required—for the Board to apply the same voluntary supervisory conversion qualification criteria to FSLIC-insured and FDIC-insured institutions, the Board, as it did in the first proposal, proposes to clarify in new paragraph 563b.24 that the qualification criteria in § 563b.23 would apply only to FSLIC-insured institutions and to specify qualification criteria applicable to FDIC-insured institutions in a separate new paragraph 563b.25.

New paragraph 563b.25(a) would establish the qualification standards applicable to a section 5(o)(2)(f) conversion undertaken by an FDIC-insured institution, *See* Part II.B. above, and new paragraph 563b.25(b) would establish the qualification criteria applicable to a voluntary supervisory conversion undertaken by an FDIC-insured mutual institution to federal stock form pursuant to section 5(i) of the HOLA. Accordingly, the Board is proposing in new § 563b.25(b) that the Board may, in its discretion, authorize an FDIC-insured institution to undergo a voluntary supervisory conversion to federal stock form if the following conditions have been met: (1) The institution is insolvent on a GAAP basis; and (2) A sufficient amount of permanent capital stock is issued in connection with the voluntary supervisory conversion to allow the institution to meet its capital requirement to the satisfaction of the FDIC immediately upon completion of the conversion. The Board intends that the proposed § 563b.25(b) voluntary supervisory conversion procedure would be available to FDIC-insured institutions as an alternative to a 5(o)(2)(F) conversion.

Second, the Board is proposing to revise and to substantially simplify new § 563b.24, which sets forth the test used by the Board to determine whether a FSLIC-insured institution qualifies to undertake a supervisory conversion. In the first proposal, the Board proposed to amend Subpart C to clarify its policies and interpretations regarding the acceptable treatment for appraised equity capital, net-worth certificates, deferred losses, and supervisory forbearances in determining whether an insured institution qualifies for a voluntary supervisory conversion on the basis of its regulatory capital. Upon reconsideration of this issue, the Board believes it is preferable to substantially simplify this test, and to use GAAP to determine whether an institution is

insolvent and, thus, qualifies for voluntary supervisory conversion. As discussed above, the Board believes that the use of GAAP represents a better measure of realizable equity value for account holders in the institution and would be fully consistent with the Board's historical concerns regarding the interests of mutual account holders.

Thus, the test for determining whether an institution qualifies to undertake a voluntary supervisory conversion would simply be, first, whether the institution is insolvent on a GAAP basis, and second, whether the institution after conversion would satisfy the new viability test set forth in revised § 563b.27. The Board also proposes to amend the voluntary supervisory conversion qualification criteria to clarify that if the converting institution is state-chartered and is converting to state stock form, the conversion must be authorized under state law. The Board invites comments on this proposed simplification.

In sum, as a result of the current proposal, section 563b.22 would be redesignated as § 563b.23 and revised to incorporate appropriate new section references; § 563b.24 would be revised to incorporate the foregoing simplified qualification test for FSLIC insured institutions; § 563b.23 would be replaced with new § 563b.25 containing provisions applicable to FDIC insured institutions, and existing §§ 563b.25, 563b.32 and 563b.33, which deal with the determination of realizable equity value of an institution, treatment of appraised equity capital and capital certificates, would be deleted.

E. Viability of Converted FSLIC-Insured Institution

Current § 563b.26 sets forth the two required characteristics of a viable entity, that the capital of the insured institution after conversion would (1) meet regulatory requirements, and (2) be reasonably sufficient to absorb projected operating losses for a period of not less than three years after completion of the conversion. In the first proposal, the Board proposed amending the current definition of viable entity to codify its practice of requiring that the amount of permanent equity capital issued in connection with a supervisory conversion be sufficient to satisfy both of the above-described components of viability. The Board stated that it did not foreclose the use of securities not constituting permanent equity capital to satisfy the viability standard, but emphasized that the use of such securities would be an exception that must be justified, and that the Board would disfavor any conversion plan where securities not constituting permanent equity capital made up more than one-third of the consideration necessary to meet the institution's regulatory net-worth requirement.

Under the first proposal, the Board proposed to revise the first component of the current definition of viable entity by clarifying that an FSLIC-insured institution must satisfy its regulatory net-worth requirement immediately upon completion of the conversion. Further, the Board proposed to clarify the items that should be disregarded in determining whether an FSLIC-insured institution would be a viable entity following the voluntary supervisory conversion to include any supervisory forebearances proposed to be granted in connection with the conversion, and to require that all losses on sales or other dispositions of mortgage loans, redeemable ground-rent leases or other securities (as defined in 12 CFR 563.17-4(a)(4)) that were previously deferred for regulatory accounting purposes pursuant to 12 CFR 563c.14 must be recognized for purposes of determining the viability of an FSLIC-insured institution. The Board believed that the additional permanent equity capital that would be infused into FSLIC-insured institutions as a result of the proposed amendment would enhance the ability of such institutions to operate in a safe and sound manner following the voluntary supervisory conversion.

The Board has reconsidered its proposed amendments to the current definition of viable entity and is of the view that a more flexible approach to the required initial capital infusion may have the desirable effect of encouraging management and prospective acquirers to undertake voluntary supervisory conversions. Basically, the Board is proposing in new § 563.27 to make available an expedited processing procedure when the conversion transaction meets certain standards, including the infusion of a substantial new capital base for the converted institution. Accordingly, the Board is proposing to revise the definition of viable entity by providing simplified alternative standards as follows. Under the proposal, an FSLIC-insured institution may be deemed a viable entity if the Board determines that the prospective acquirer will infuse sufficient new capital to cause the institution to achieve a ratio of capital to total liabilities, computed in accordance with GAAP, of 4.5 percent. The second part of the current test regarding viability over a three-year horizon, would be deleted. Supervisory conversions that meet this viability test would be eligible for approval under delegated authority by OGC, provided that the transaction does not present issues of policy requiring consideration by the Board. The Board specifically requests comment on this revised first alternative and on the level of capital infusion—above or below 4.5 percent—that would be appropriate.

Also, under the current proposal, an alternative viability test would be available. Under this alternative, an FSLIC-insured institution may be deemed a viable entity if the prospective acquirer will infuse an amount of capital sufficient to increase the converting insured institution's capital to at least one percent of liabilities calculated on a GAAP basis, immediately following conversion. However, in such cases, the acquirer must agree in writing with the FSLIC to infuse additional capital into the converted institution, as necessary, to enable the institution to increase its capital on a scheduled basis such that the institution's capital will comply with the Board's regulatory net worth regulations in effect from time to time, and within not less than five years of the date of conversion.

The Board does not intend to foreclose the use of non-cash assets or securities which do not constitute permanent equity capital, such as subordinated debt or mandatorily redeemable preferred stock, to satisfy the alternative viability standard. The use of securities not constituting permanent equity capital in a voluntary supervisory conversion must be justified by prospective acquirer, however, and the Board intends to evaluate the acceptability of their use on a case-by-case basis.

The written agreement entered into between the FSLIC and prospective acquirer under the alternative viability standard would provide severe consequences for failure to achieve any of the required levels of capital, or to adhere to the business plan required to be submitted as part of the supervisory conversion application. These could include the automatic effectiveness of a consent agreement with the FSLIC, the vesting of proxies to vote the acquirer's shares in the institution with the Principal Supervisory Agent of the appropriate FHLB, the ability of the PSA to terminate certain or all executive officers' employment with the institution, and the imposition of appropriate capital maintenance obligations. Transactions relying on this second alternative viability test would be deemed to present policy issues appropriate for consideration by the Board itself and would not be eligible

for approval under delegated authority. The Board requests comments on the proposed viability tests, including whether under the alternative viability tests the initial infusion of capital should be higher, have a dollar floor, or be related in some other way to the size of an association's assets.

Under either of the foregoing alternatives, the viability test would contain a requirement that the transaction overall must be in the best interests of, and not present the potential for injury to, the converting institution, its depositors, or the FSLIC. The Board proposes this additional criterion as a result of its experience in several cases where the managerial resources, integrity, or financial resources of the prospective acquirer in the conversion transaction presented significant concerns to the Board relating to the safety and soundness of the insured institution after conversion, the welfare of depositors and risk to the FSLIC. The qualification criteria do not currently include an express standard which would empower the Board to disapprove a voluntary supervisory conversion on the basis of the managerial resources, integrity, or financial condition of the prospective conversion stock purchaser or other unfavorable features of the transaction. With respect to the managerial resources of the prospective acquirer, however, the Board or its delegate would continue to have the option to disapprove a change-in-control notice or holding company application filed as part of the conversion application under the respective standards 12 CFR 574.7(c), 574.7(d) (1986).

As it did in the first proposal, the Board also is proposing to eliminate the alternative in current § 563b.28 for the proposed conversion stock purchaser to guarantee to maintain the insured institution's capital at regulatorily required levels for a period of not less than three years from the date of completion of the conversion in lieu of providing an opinion of qualified, independent counsel or an independent certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service ruling that the transaction qualifies as a tax-free reorganization. The Board believes that the viability of the institution is adequately addressed by the viability component of supervisory conversion qualification criteria, and that it is important for a converting insured institution, as well as the Corporation, to receive professional advice regarding the tax consequences arising from a voluntary supervisory conversion. Moreover, the Board would continue to have the option to impose, on a case-by-case basis, individual capital maintenance requirements as a condition of approval of voluntary supervisory conversions, on those applications that are considered by the Board and not handled under delegated authority.

Finally, in order to enable the Board to monitor the GAAP financial condition of a converted insured institution qualifying for voluntary supervisory conversion under either of the viability standards, the institution would be required to file with the Board the annual and quarterly reports on Forms 10K and 10Q for a period of three years following the conversion. This abbreviated reporting requirement supercedes the more extensive reporting requirement that otherwise would be required pursuant to § 563b.3(c)(19). As in the case of the broader reporting requirement imposed on institutions that complete standard and modified conversions, these reports are extremely useful in monitoring the institution's ongoing financial condition.

F. Voluntary Supervisory Conversion Application

The Board notes that a variety of the documents and information necessary for its staff to review a voluntary supervisory conversion and related transactions are not now specifically required to be filed as part of the application under current § 563b.27. The Board, therefore, is proposing, as it did in the first proposal, to amend § 563b.27, redesignated as new § 563b.28, to require that the following information and documents, if applicable to the transaction, be filed by an insured institution as part of its voluntary supervisory conversion application: (1) The plan of conversion; (2) A copy of any agreements between the converting institution and the proposed conversion stock purchasers; (3) An opinion of qualified independent counsel or an independent certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service Ruling that the transaction qualifies as a tax-free reorganization; (4) A business plan acceptable to the appropriate FHLBank or to OES; (5) A holding company application or change in control notice; (6) The proposed charter and bylaws of the converted institution; (7) The proposed stock certificate form; (8) A description of all existing and proposed employment contracts; (9) All filings required under Part 563g; (10) A subordinated debt application; (11) Applications for permission to organize a stock institution, Federal Home Loan Bank membership, insurance of accounts, and merger, if applicable; (12) An opinion of an independent public accountant regarding the appropriateness of the accounting treatment for the transaction and the conformity of such accounting treatment to generally accepted accounting principles and Board Memorandum No. R–55; (13) Information to support the value of any non-cash assets to be contributed to the insured institution in connection with the voluntary supervisory conversion (appraisals submitted in this connection would be required to meet the standards of Board Memorandum No. R–41b); (14) A description of the estimated expenses of the voluntary supervisory conversion of the insured institution; (15) The most current audited or unaudited financial information dated after the date of the FSLIC-insured institution's latest quarterly report; (16) If applicable, an opinion of independent counsel that the voluntary supervisory conversion of a state-chartered insured institution to state stock form is authorized under applicable state law; (17) A specific description of any of the features of the insured institution's application that do not conform to the requirements of Subpart C; and (18) A specific description of and detailed justification for any waivers or supervisory forebearances that are requested as part of the voluntary supervisory conversion.

G. Sales of Conversion Stock

As discussed in Part II.A above, the Board is proposing, as it did in the first proposal, to remove the requirement in current § 563b.30 that the offering and sale of voluntary supervisory conversion stock must constitute a non-public offering under Part 563g of the Subchapter. Pursuant to proposed new § 563b.31, each insured institution that converts on a voluntary supervisory basis would be required to offer and sell its conversion stock pursuant to the requirements of 12 CFR Part 563g. In addition, pursuant to proposed § 563b.20(c), the offer and sale of a converting insured institution's voluntary supervisory conversion stock would be subject to the provisions of Subpart A unless clearly inapplicable.

H. Procedural Requirements

In the first proposal, the Board proposed an amendment to the procedures for filing voluntary supervisory conversion applications, by revising current § 563b.28. Under current § 563b.28(a), an applicant is required to

file an original and two copies of the voluntary supervisory conversion application with the Principal Supervisory Agent of the applicable FHLB ("PSA") and one copy with the Office of Regulatory Policy, Oversight, and Supervision. In order to expedite the application processing procedure, the Board proposed that § 563b.28(a) would require an applicant to file the original and three copies of an application for approval with the Corporate and Securities Division of the Board's Office of General Counsel. Upon reconsideration, the Board has determined to revise current § 563b.28(a), redesignated § 563b.29(a), to require an applicant to file an original and one copy of the voluntary supervisory conversion application with the Office of General Counsel, and one copy with each OES and the appropriate PSA.

The Board proposes to streamline the processing of voluntary supervisory conversion applications by modelling the new process upon that already in effect and working successfully with respect to standard conversions. The Office of General Counsel would have delegated authority to approve voluntary supervisory conversions, except in cases presenting issues of policy, with clearance required from OES and the appropriate FHLB for components of the application such as the business plan or the contribution of non-cash assets. In addition, as noted previously, the appropriate FHLB or OES, with the concurrence of OGC must review and may possess delegated authority to approve holding company applications and change in control notices required to be submitted in connection with supervisory conversion applications.

The current proposal also delegates authority to charter interim federal institutions and to approve the insurance of accounts for such institutions, where an institution is created in connection with, and to facilitate, transactions that may be approved by the PSA or by OES, OGC or the Director of the Office of District Banks. This change would be accomplished by amending §§ 543.2(h)(3) and 562.7. This step should further expedite the processing of conversions, and is modelled upon the delegation standards already in existence with respect to mergers generally.

I. Expenses

The Board currently proposes to provide in new § 563b.32, as in the first proposal, that expenses incurred by an insured institution in connection with a voluntary supervisory conversion shall be reasonable and, with respect to an FSLIC-insured institution, shall not be in an amount such that the proceeds to the institution from the sale of its conversion stock would be insufficient to satisfy either of the viability qualification criteria.

J. Employment Contracts

As it did in the first proposal, the Board currently proposes to add a new § 563b.33 which clarifies its concerns regarding employment contracts incident to a voluntary supervisory conversion, particularly those to existing management of the applicant with a term in excess of one year. In addition, the Board again proposes to confirm that an applicant for voluntary supervisory conversion must justify any employment contract incidental to the conversion, and otherwise demonstrate to the Board's satisfaction that the making of such an employment contract by an insured institution would not be an unsafe or unsound practice or represent a sale of control. For example, employment contracts entered into in connection with conversions relying upon the alternative viability standard would be subject to the provisions of any agreement entered into as a condition of reliance upon the alternative standard. Finally, new § 563b.33 would confirm that the Board or its delegate shall determine the permissibility of an employment contract based upon, at a minimum, the applicant's justification for the contract, the term, salary, and severance provisions of the contract, the identity and background of the officer or employee subject to the employment contract, and the amount of conversion stock to be purchased by such officer or employee or his affiliates or associates.

IV. Proposed Revisions to Subpart D

A. Introduction

In the first proposal, the Board proposed several technical amendments and certain modifications to Subpart D in order to expedite the processing of modified conversion applications, and thereby to encourage the use of the modified conversion procedure by insured institutions as a capitalization vehicle. The Board is currently reproposing those amendments and modifications in order to give the public an opportunity to comment on them in connection with certain other newly proposed revisions to Subpart D.

As it is currently proposing for voluntary supervisory conversions, the Board proposes to revise the test used to determine whether an insured institution qualifies for a modified conversion by referring to a GAAP standard. Thus, an institution with capital calculated in accordance with GAAP that fails to meet the Board's regulatorily required capital could be eligible to undertake a modified conversion if the institution also demonstrates that it is unable to accomplish a standard conversion which would raise a specified level of capital. The Board also is incorporating into the rule an expectation the Board previously expressed in the preamble to its original promulgation of the modified conversion rules to clarify that an acquirer of a controlling amount of stock is required to pay a control premium for the acquisition.

Because of the extent of the changes proposed to Subpart D, the revised subpart is set forth in its entirety in the proposal.

B. Technical Amendments and Other Modifications

As it did in the first proposal, the Board currently proposes to delete the requirement in § 563b.38 that a modified conversion applicant must obtain prior written permission from the Corporation to file a modified conversion application. The Board notes that such a requirement is not imposed on an applicant for supervisory conversion under Subpart C or standard conversion under Subpart A, and is of the view that the pre-filing approval requirement in the modified conversion context may have unduly delayed the processing of modified conversion applications. In connection with this proposed modification, the Board would delete the last sentence of § 563b.35, which refers to the pre-filing approval requirement of § 563b.38. In addition, the Board again proposes to clarify in new § 563b.39 that an insured institution seeking to undergo a modified conversion shall file an application for approval in accordance with the requirements of § 563b.8 of Subpart A. The Board is also adding a brief description of the modified stock conversion, in new § 563b.35.

Finally, the Board is again proposing to amend § 563b.34(a) to clarify the applicability of Subpart D to mutual-to-stock conversions under sections 5(i) (1) and (2) of the HOLA and 402(j) of the NHA, as well as to sections 5(o)(2)(F) and 5(p) of the HOLA, and to revise § 563b.37(b) to clarify that both state-chartered and federally chartered FDIC-insured mutual savings banks may undergo modified conversions to federal stock form pursuant to section 5(o)(2)(F) of the HOLA.

VOL 51 ISS 168 AG 29 1986 UMI

C. Qualification for Modified Conversion

The Board proposes to revise § 563b.36(c), which sets forth the guidelines discussed in part I, above, for determining whether an institution qualifies to undertake a modified conversion. Current § 563b.37(c) provides generally that an insured institution may qualify for a modified conversion if it does not meet its regulatory capital requirement and allows an institution to recognize deferred losses and disregard appraised equity capital in determining whether its regulatory capital is sufficiently low to justify a modified conversion.

The Board is proposing to revise and substantially simplify this qualification guideline by providing that an insured institution may qualify for modified conversion if it meets a two-part test. First, the institution must not meet its applicable regulatory capital requirement computed on the basis of GAA. As discussed in part III.D, above, the Board is proposing to revise Subpart C in a similar manner. Second, the institution must not be able to undertake a standard conversion that would raise sufficient capital to enable the institution to meet its regulatory capital requirement computed in accordance with GAAP, on the basis of an independent valuation as provided in § 563b.7 acceptable to the Board or its delegate.

The Board is proposing this revision because it believes that determining whether an institution is financially qualified to undergo a modified conversion on a GAAP basis is a realistic measure of the institution's financial position from the perspective of the extent of realizable equity value in the institution which could be obtainable by the mutual account holders. Moreover, like the voluntary supervisory conversion, the modified conversion is attractive to both management and potential acquirers, since it provides assurance of how control in the institution will be vested after the conversion. For this reason, the Board is of the view that the proposed revision to the qualification guideline will facilitate the modified conversion procedures.

D. Substantive Guidelines

The Board is proposing to add new § 563b.38(h), which will require acquirers of control in an institution undertaking a modified conversion to pay the price per share set for all acquirers plus an additional control premium, in an amount, form, and on terms acceptable to the Board or its delegate. This premium recognizes the additional value which shares that enable an acquirer to obtain control have above other shares and also provides additional capital to the institution.

The Board is also proposing amendments to § 563b.38(f) to revise terminology in certain respects and to delete clause (2) and replace it with more comprehensive language comparable to that proposed for the viability test for supervisory conversions regarding the overall benefit of the transaction to the institution, its depositors and the FSLIC.

E. Buyback of Minority Stock

The Board is aware that despite the ability of insured institutions that undertake modified conversions to limit the preemptive subscription rights of accountholders and other members on a sliding scale based upon the institution's capital as a percentage of liabilities, some prospective acquirers might be reluctant to use the modified conversion procedure because of their inability in most cases to obtain all of the common stock in the conversion. While the preemptive rights of members have been an essential element in the Conversion Regulations since their introduction, the Board has carved out exceptions to this requirement in supervisory conversions and in modified conversion involving institutions in which there is negligible or no realizable liquidation value.

The Board wishes to maintain a balance between the ownership interests of accountholders and other shareholders and the need of institutions undertaking modified conversions to provide prospective acquirers with the assurance of obtaining control. The Board is proposing to revise current § 563b.37 in new § 563b.38(i) to provide that for three years following the completion of a modified conversion, controlling shareholders may acquire and the converted institution may repurchase other shares only after receiving Board approval and upon making an offer that reflects the fair value of the shares, supported by an independent appraisal. The appraisal would be based on several factors, including historic and projected earnings, financial strength, market price, net asset value, dividends, investment value, and book value. The Board specifically requests comments on this aspect of the proposal.

F. Modified Conversion Application

The Board notes that a variety of the documents and information necessary for its staff to review a modified conversion and related transactions are not now specifically required to be filed as part of the application under current § 563b.39. The Board, therefore, is proposing to amend § 563b.39 to require that the following information and documents, if applicable to the transaction, be filed by an insured institution as part of its modified conversion application: (1) The plan of conversion; (2) A copy of any agreements between the converting institution and the proposed conversion stock purchasers; (3) An opinion of qualified independent counsel or an independent certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service Ruling that the transaction qualifies as a tax-free reorganization; (4) A business plan acceptable to the appropriate FHLBank or ORPOS; (5) A holding company application or change in control notice; (6) The proposed charter and bylaws of the converted institution; (7) The proposed stock certificate form; (8) A description of all existing and proposed employment contracts; (9) All filings required under Part 563g; (10) A subordinated debt application; (11) Applications for permission to organize a stock institution, Federal Home Loan Bank membership, insurance of accounts, and merger, if applicable; (12) An opinion of an independent public accountant regarding the appropriateness of the accounting treatment for the transaction and the conformity of such accounting treatment to generally accepted accounting principles and Board Memorandum No. R–55; (13) Information to support the value of any non-cash assets to be contributed to the insured institution in connection with the voluntary supervisory conversion (appraisals submitted in this connection would be required to meet the standards of Board Memorandum No. R–41b); (14) A description of the estimated expenses of the modified conversion of the insured institution; (15) The most current audited or unaudited financial information dated after the date of the FSLIC-insured institution's latest quarterly report; (16) If applicable, an opinion of independent counsel that the modified conversion of a state-chartered insured institution to state stock form is authorized under applicable state law; (17) A specific description of any of the features of the insured institution's application that do not conform to the requirements of Subpart C; and (18) A specific description of and detailed justification for any waivers or supervisory forebearances that are requested as part of the modified

conversion. The procedural requirements governing an application for a modified conversion are set forth in new § 563b.41.

Public Comment Period

The Board has determined that a 30-day public comment period is appropriate because prompt action is in the public interest in order to facilitate and enhance the availability of mutual-to-stock conversions and make the foregoing clarifications, amendments and expedited procedures available as soon as possible.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been discussed elsewhere in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply to all insured institutions.

3. *Impact of the proposed rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping or conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the proposed rules.

5. *Alternatives to the proposed rule.* Other alternatives, such as the present rules, may tend to limit the utility of the mutual-to-stock conversion procedures. More liberal provisions may raise questions of statutory authority.

List of Subjects in 12 CFR Parts 543, 546, 562, 563, 563b, and 574

Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings and loan associations, Securities.

Accordingly, the Board hereby proposes to amend Parts 543 and 546, Subchapter C, Parts 562, 563, 563b, and 574 of Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

1. The authority citation for 12 CFR Part 543 is revised to read as follows:

Authority: Secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 801, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 543.2 by revising paragraph (h)(3) to read as follows:

§ 543.2 Application for permission to organize.

* * * * *

(h) * * *

(3) *Delegations of authority.* (i) The Board delegates the authority to approve applications for permission to organize an interim Federal association under paragraph (g) of this section to the Principal Supervisory Agent (as defined in § 541.18 of this subchapter), provided that the Principal Supervisory Agent otherwise is authorized to approve the transaction for which the interim Federal association has been chartered to facilitate.

(ii) The Board delegates the authority to approve applications for permission to organize an interim Federal association under paragraph (g) of this section to the Director of the Office of District Banks or his designee with the concurrence of the General Counsel or his designee, provided that the Director of the Office of District Banks, the General Counsel, or the Director of the Office of Examinations and Supervision or its successor, the Office of Regulatory, Policy and Oversight ("ORPOS"), jointly or individually, otherwise are authorized to approve the transaction for which the interim Federal association has been chartered to facilitate.

3. Part 543 is amended by removing the authority citations located at the end of the applicable sections of the part.

PART 546—MERGER, DISSOLUTION REORGANIZATION, AND CONVERSION

4. The authority for Part 546 continues to read as follows:

Authority: Secs. 5, 406, 48 Stat. 132, as amended, 1259, as amended; 12 U.S.C. 1464, 1729. Reorg. Plan No. 3 of 1947: 3 CFR 1943–1948 Comp. unless otherwise noted.

5. Amend § 546.2 by adding a new paragraph (i)(1)(vi) to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(i) * * *

(1) * * *

(vi) Either constituent association is required under § 563g.2 of this chapter to file an offering circular with the Board.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

6. The authority citation for 12 CFR Part 562 is revised to read as follows:

Authority: Secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 801, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

7. Amend § 562.7 by redesignating it as § 562.7(a) and by adding a new paragraph (b) to read as follows:

§ 562.7 Action by Corporation.

* * * * *

(b) The Board delegates to the Principal Supervisory Agent or to the Director of the Office of District Banks or his designee, with the concurrence of the General Counsel or his designee, the authority to approve the application for insurance of accounts of an interim Federal association (i) accompanying an application for permission to organize an interim federal association which may be approved under delegated authority pursuant to § 543.2(h)(3) (i) and (ii) respectively, or (ii) for an interim state-chartered institution chartered to facilitate a transaction which otherwise may be approved under delegated authority by the Principal Supervisory Agent or by the Director of the Office of District Banks, the General Counsel or the Director of ORPOS, or their respective designees, jointly or individually.

§§ 562.3, 562.4, and 562.6 [Amended]

8. Amend §§ 562.3, 562.4, and 562.6 by removing the authority citations located at the ends of the sections.

PART 563—OPERATIONS

9. The authority for Part 563 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 202, 96 Stat. 1469 (12 U.S.C. 1729(f)); sec. 409, 94 Stat. 160 (12 U.S.C. 1726(b)); secs. 401–405, 407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071 unless otherwise noted.

10. Amend § 563.22 by adding a new paragraph (f)(1)(vi) to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of bulk assets, or assumption of liabilities.

* * * * *

(f) * * *

(1) * * *

(vi) The insured institution to be acquired is required under § 563g.2 of this chapter to file an offering circular with the Corporation.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

11. The authority citation for 12 CFR Part 563b is revised to read as set forth below and all other authority citations in this part are removed:

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 17, 48 Stat. 738, as amended (12 U.S.C. 1437); secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); secs. 3(b), 12–14, 23, 48 Stat. 882, 892, 894–895, 901, as amended 915 U.S.C. 78c, 1–n, w); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

12. Section 563b.2 is amended as follows:

A. Pargaraph (a)(36) is redesignated as paragraph (a)(38).

B. Paragraphs (a)(1) through (a)(35) are redesignated as paragraphs (a)(2) through (a)(36).

C. New paragraphs (a)(1) and (a)(37) are added to read as set forth below.

D. New paragraph (a)(5)(ii) is revised to read as set forth below.

The revised and added material reads as follows:

§ 563b.2 Definitions.

(a) * * *

(1) *Acting in concert.* The term "acting in concert" shall be defined as provided in § 574.2(c).

* * * * *

(5) *Associate.* * * *

(ii) Any trust or other estate in which such person has substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, except that it does not include any tax-qualified employee stock benefit plan or non-tax-qualified employee stock benefit plan in which a person serves as a trustee or in a similar fiduciary capacity for the purposes of § 563b.3 (c)(6), (c)(7), (c)(9), and (d)(5) or any tax-qualified employee stock benefit plan for the purposes of § 563b.3(c)(8).

* * * * *

(37) *Tax-qualified employee stock ownership plan.* A "tax-qualified employee stock benefit plan" is any defined benefit plan or defined contribution plan, such as an employee stock ownership plan, stock bonus plan, profit-sharing plan or other plan, which with its related trust meets the requirements to be "qualified" under section 401 of the Internal Revenue Code. A "non-tax-qualified employee stock benefit plan" is any defined benefit plan or defined contribution plan which is not so qualified.

* * * * * *

13. Amend § 563b.3 by revising paragraphs (c)(6)(i), (c)(7), (c)(8), (c)(9), by adding new paragraphs (c)(23) and (c)(24); by revising paragraphs (d)(5); (f)(3); (g)(1); (i)(3); by adding new paragraph (i)(5)(v); and by revising paragraph (i)(6) to read as follows:

Subpart A—Standard Conversions

§ 563b.3 General principles for conversion.

* * * * * *

(c) * * *

(6) * * *

(i) Subject to the adoption in the plan of conversion of the optional provision of paragraph (d)(5) of this section, a condition limiting purchases in the public offering or the direct community offering by any person together with any associate or group of persons acting in concert to not more than five percent (5%) of the total offering of shares except that any one or more tax-qualified employee stock benefit plans may purchase not more than ten percent (10%) of the total offering of shares and shall be entitled to purchase such amount regardless of the number of shares to be purchased by other parties, and that shares held by one or more tax-qualified or non-tax-qualified employee stock benefit plans and attributed to a person shall not be aggregated with other shares purchased directly by or otherwise attributable to that person.

* * * * * *

(7) Subject to the adoption in the plan of conversion of the optional provision of paragraph (d)(5) of this section, provide that the total of shares which any person and any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five percent (5%) of the total offering of shares, except that any one or more tax-qualified employee stock benefit plans may purchase not more than ten percent (10%) of the total offering of shares, and shall be entitled to purchase this quantity regardless of the number of shares to be purchased by other parties, and that shares held by one or more tax-qualified or non-qualified employee stock benefit plans and attributed to a person shall not be aggregated with shares purchased directly by or otherwise attributable to that person.

(8) Provide that the officers and directors of the converting institution and their associates may purchase in the conversion, up to thirty-five percent (35%) of the total offering of shares of the converting institution provided that the converting institution has less than $50 million in total assets and up to twenty-five percent (25%) in the total offering of shares if the converting institution has more than $500 million in total assets. If the converting institution has between $50 million and $500 million, in total assets, the maximum percentage shall be equal to twenty-five percent (25%) plus one percent (1%) multiplied by the quotient of the total assets less $50 million divided by $45 million. For example, for a converting institution with $275 million in total assets, the percentage will be thirty percent (30%), calculated as twenty-five percent (25%) plus, one percent (1%) multiplied by the quotient of $275 million less $50 million, or $225 million, divided by $45 million, which equals five, or five percent (5%), which adds to a sum of thirty percent (30%). In calculating the number of shares which may be purchased, any shares attributable to the officers and directors and their associates but held by one or more tax-qualified employee stock benefit plans shall not be included. In the case of merger conversions undertaken pursuant to § 563b.10(c), the shares owned prior to the merger conversion by officers, directors, and their associates, shall not be included in calculating the aggregate amount which may be purchased.

(9) Provide that an officer or director, or his associates, shall not purchase, without the prior written approval of the Corporation, the capital stock of the converted insured institution except from a broker or dealer registered with the Securities and Exchange Commission, for a period of three years following the date of the conversion; except that, this paragraph (c)(9) shall not apply to either negotiated transactions involving more than one percent (1%) of the outstanding capital stock of the converted insured institution, to purchases of stock made by and held by any one or more tax-qualified or non-tax-qualified employee stock benefit plan which may be attributable to individual officers or directors.

* * * * * *

(23) Provide that a tax-qualified employee stock benefit plan has a priority to purchase conversion stock after eligible and supplemental account holders but prior to voting members who have subscription rights.

(24) May make scheduled discretionary contributions to a tax-qualified employee stock benefit plan provided such contributions do not

cause the association to fail to meet its regulatory capital requirement.

(d) * * *

(5) That purchases in the public offering or in the direct community offering by any person together with any associate or group of persons acting in concert shall be limited to less than ten percent (10%) of the total offering of shares, provided that orders for conversion stock exceeding five percent (5%) of the total offering of shares shall not exceed in the aggregate ten percent (10%) of the total offering of shares, except that tax-qualified employee stock benefit plans may purchase in the aggregate up to ten percent (10%) of the total offering and not be included in the order limit.

* * * * *

(f) * * *

(3) In the event of a complete liquidation of the converted insured institution (and only in such event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts held, before any liquidation distribution may be made with respect to capital at the time of the conversion in exchange for the surrender of mutual capital certificates issued by the institution prior to conversion. A merger, consolidation, sale of bulk assets, or similar combination or transaction with another FSLIC-insured institution is not considered a complete liquidation, and in such a transaction the liquidation account would be assumed by the surviving institution. Preferred stock issued in exchange for mutual capital certificates may receive distributions in liquidation prior to distribution from the liquidation account to the holders of the mutual capital certificates that would have been entitled to priority over the residual rights of depositors had the institution not been converted as of the date of liquidation.

* * * * *

(g) * * *

(1) No converted insured institution shall for a period of three years from the date of the completion of the conversion repurchase any of its capital stock from any person, except that this restriction shall not apply to either (i) a repurchase, on a pro rata basis pursuant to an offer, approved by the Corporation, made to all shareholders of such institution, (ii) the repurchase of qualifying shares of a director, or (iii) a purchase in the open market by either a tax-qualified or non-tax-qualified employee stock benefit plan in an amount reasonable and appropriate to fund the plan.

* * * * *

(i) * * *

(3) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* For a period of three years following the date of the completion of the conversion, no person shall directly or indirectly, offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of an insured institution converted in accordance with the provisions of this Part 563b, without the prior written approval of the Corporation. Where any person, directly or indirectly, acquires beneficial ownership of more than ten percent of any class of any equity security of an insured institution converted in accordance with Part 563b, without the prior written approval of the Corporation as required by this section, the securities beneficially owned by such person in excess of ten percent shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matter submitted to the stockholders for a vote. For the purposes of this section a person shall be deemed to have acquired beneficial ownership of more than ten percent (10%) of a class of equity security of an insured institution where such person holds any combination of stock or revocable or irrevocable proxies of the institution under circumstances that give rise to a conclusive control determination or rebuttable control determination under § 574.4 (a) and (b) of this chapter.

* * * * *

(5) * * *

(v) Paragraphs (i)(1), (i)(2), and (i)(3) of this subsection shall not apply to the acquisition of securities by any one or more tax-qualified employee stock benefit plan, provided that the plan or plans do not have beneficial ownership in the aggregate of more than twenty-five percent (25%) of any class of stock of the converted institution.

(6) *Criteria for approval.* The Corporation shall approve an application involving an offer for, or an announcement thereof, of an acquisition of any security or proxies to vote securities of a converted association submitted under paragraphs (i) (3) or (4) of this section if it finds that the proposed acquisition would be beneficial to the converted institution, the depositors of the converted institution, and the FSLIC; would not frustrate the purposes of the provisions of this Part 563b; would not be manipulative or deceptive; would not subvert the fairness of the conversion; would not be likely to result in injury to the association; would be consistent with economical home financing; and would not otherwise be violative of law or regulation.

§ 563b.3 [Amended]

14. Part 563b is amended by removing § 563b.3(i)(8)(v).

15. Amend § 563b.7 by revising paragraphs (a) and (e) to read as follows:

§ 563b.7 Pricing and sale of securities.

(a) *General.* (1) No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation.

(2) No offering circular may be transmitted to any person in connection with an offer or sale of a security that is the subject of a plan of conversion which has been filed with the Board unless the offering circular meets the requirements of this part or Part 563g.

(3) No sale of securities may be made except by means of a final offering circular which has been declared effective by the Corporation.

(4) The provisions of § 563b.7(a) shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in priority of contract with the applicant.

* * * * *

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share determined to be reasonable by the Corporation. No underwriting commission shall be allowed or paid with respect to shares of capital stock sold in the subscription offering unless the plan of conversion contains the optional provision permitted by § 563b.3(d)(12) of this part; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering limited such that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses and, in the case in which no public offering occurs, an underwriter may be paid a consulting fee reasonable under the circumstances as the Corporation shall determine. The term "underwriting commissions" includes underwriting discounts.

* * * * *

16. Amend § 563b.10 by redesignating paragraph (c) as paragraph (c)(1); and

by adding a new paragraph (c)(2) to read as follows:

§ 563b.10 Conversion of an insured institution in connection with a acquisition by an existing holding company; conversion of an insured institution through merger with an existing insured stock institution.

* * * * *

(c) Merger with an existing insured stock institution.* * *

(2) Prohibition on offers to acquire and acquisitions of stock following voluntary supervisory merger conversion.

(i) Following the date of the completion of a merger conversion of an insolvent institution converted in accordance with Subpart C of Part 563b, the resulting institution shall be subject to § 563b.3(i)(3) for the period specified in subsection (ii) below.

(ii) The period specified shall be one year if the converting insolvent institution has less than $100 million in total assets, two years if the converting insolvent institution has between $100 million and $500 million in total assets, and three years if the converting insolvent institution has more than $500 million in total assets, calculated at the end of the quarter of the converting institution concluded most recently prior to the filing of the voluntary supervisory merger conversion application.

Subpart C—Voluntary Supervisory Stock Conversion

17. Amend Part 563b by revising § 563b.20, to read as follows:

§ 563b.20 Scope of subpart.

(a) Except as the Board may otherwise determine, the provisions of this subpart shall govern the voluntary supervisory conversion from the mutual to stock form of FSLIC-insured institutions and FDIC-insured institutions converting to federal stock form as authorized or ordered by the Board pursuant to sections 5(i) (1) and (2) and 5(p) of the Home Owners' Loan Act, 12 U.S.C. 1464(i) (1), (2), (p), and, with respect to the former, Section 402(j) of the National Housing Act, 12 U.S.C. 1725(j), and the voluntary supervisory conversion to federal stock form of FDIC-insured savings banks as certified by the FDIC and as concurred in by the Board pursuant to section 5(o)(2)(F) of the Home Owners' Loan Act, 12 U.S.C. 1464(o)(2)(F).

(b) The determination to authorize or order a voluntary supervisory conversion of a FSLIC-insured institution, to authorize a voluntary supervisory conversion of an FDIC-insured savings bank, or to concur in the certification of the FDIC regarding a FDIC-insured savings bank, shall be in the sole discretion of the Board.

(c) All of the provisions of Subpart A of this part shall apply to a supervisory conversion undertaken pursuant to this subpart unless clearly inapplicable.

18. Amend Part 563b by revising § 563b.21, to read as follows:

§ 563b.21 Voluntary supervisory conversions.

A voluntary supervisory conversion of an FSLIC-insured institution or an FDIC-insured savings bank may be accomplished through the sale of the institution's or savings bank's securities issued in the conversion directly to a person or persons. Such a conversion may also occur through the merger of the institution or savings bank into a stock savings and loan association or stock savings bank newly-chartered for the purpose of facilitating the conversion. At least a majority of the board of directors of the institution or savings bank shall adopt a plan of voluntary supervisory conversion that is in accordance with the provisions of this subpart. The members of the mutual institution or savings bank shall have no rights of approval or participation in the voluntary supervisory conversion, or to the continuance of any legal or beneficial ownership interest in the converted institution or savings bank.

19. Part 563b is further amended as follows:

§ 563b.24 [Removed]

A. Section 563b.24 is removed.

§ 563b.23 [Redesignated as § 563b.24]

B. Section 563b.23 is redesignated as § 563b.24 and revised to read as set forth below.

§ 563b.22 [Redesignated as § 563b.23]

C. Section 563b.22 is redesignated as § 563b.23 and revised to read as set forth below.

D. A new§ 563b.22 is added to read as set forth below:

§ 563b.22 Purpose of Subpart.

The purpose of this Subpart is to give guidance to insured institutions and potential acquirors of the stock of converting insured institutions regarding the qualification of insured institutions for a supervisory conversion under this subpart, and guidance as to the extent to which the Board will permit, by means of a supervisory conversion, deviations from the substantive and procedural requirements adopted by the Board for standard conversions under Subpart A of this part.

§ 563b.23 Authorization of supervisory conversions.

The Board will consider authorizing or ordering a supervisory stock conversion if the insured institution files an application containing the information and documents specified in § 563b.28 of this part, in accordance with the procedures specified in § 563b.29 of this subpart, and meets the qualification standards specified in § 563b.24 of this subpart. If the Board authorizes or orders a supervisory stock conversion, the conditions specified in § 563b.30 of this part must be fulfilled, and the converted insured institution and the purchaser or purchasers of its conversion stock must comply with the requirements of § 563b.31 of this part.

§ 563b.24 Qualification for supervisory conversion of FSLIC-insured institutions.

The Board in its discretion may authorize the supervisory conversion of an insured institution when:

(a) Upon liquidation, there would be no equity value realizable by mutual accountholders as defined in § 563b.26 of this part, and

(b) The insured institution would be a viable entity as determined under § 563b.27 of this part following the conversion.

20. Part 563b is further amended as follows:

§§ 563b.25, 563b.28, 563b.31, 563b.32, 563b.33 [Removed]

A. Sections 563b.25, 563b.28, 563b.31, 563b.32, and 563b.33 are removed.

B. Section 563b.30 is redesignated as new § 563b.31 and revised to read as set forth below.

C. Section 563b.29 is redesignated as new § 563b.30 and revised to read as set forth below.

D. New §§ 563b.29, 563b.32 and 563b.33 are added to read as set forth below.

E. Section 563b.27 is redesignated as new § 563b.28 and revised to read as set forth below.

F. Section 563b.26 is redesignated as new § 563b.27 and revised to read as set forth below.

G. New §§ 563b.25 and 563b.26 are added to read as set forth below.

The revised and added material reads as follows:

§ 563b.25 Qualification for supervisory conversion of FDIC-insured institutions.

(a) The Board may, in its discretion, concur with the determination of the Federal Deposit Insurance Corporation ("FDIC") that an FDIC-insured mutual savings bank qualifies for a voluntary supervisory conversion if the FDIC certifies to the Board in accordance with

section 5(o)(2)(F) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(o)(2)(F), that severe financial conditions exist that threaten the stability of the savings bank and that the voluntary supervisory conversion is likely to improve the financial condition of the savings bank; or

(b) The Board may, in its discretion, authorize an FDIC-insured institution to undergo a voluntary supervisory conversion to Federal stock form if the following conditions have been met: (i) The institution is insolvent under generally accepted accounting principles based upon the capital requirements imposed by the FDIC; and (ii) (A) A sufficient amount of permanent capital stock is issued in connection with the voluntary supervisory conversion to allow the institution to meet its capital requirement as established by the FDIC immediately upon completion of the conversion; or (B) the FDIC has indicated that, based upon the institution's proposed post-conversion operating plan, the institution would be a viable entity following the conversion and would achieve a capital level acceptable to the FDIC within a period satisfactory to the FDIC.

§ 563b.26 No equity value realizable upon liquidation.

A finding that no equity value would be realized upon liquidation by members of an insured institution shall be based upon a demonstration that the institution is insolvent under generally accepted accounting principles.

§ 563b.27 Viability of converted insured institution.

(a) An application of an insured institution to convert pursuant to this subpart may be approved by the Board in its discretion if it finds that the FSLIC-insured institution will be a "viable entity" following the conversion.

(b) A converting FSLIC-insured institution is a "viable entity" if either § 563b.27 (b)(1) or (b)(2), and § 563b.27(b)(3) are met.

(1) As part of the plan of conversion, the prospective acquirer shall infuse sufficient capital to enable the institution to achieve a ratio of net worth to total liabilities, computed in accordance with generally accepted accounting principles, of four-and-one-half percent (4.5%), or

(2) As part of the plan of conversion, the prospective acquirer shall infuse capital sufficient at the time of conversion to increase the institution's net worth, computed in according to generally accepted accounting principles, to one percent (1%) of total liabilities, and undertake in a writing to the Corporation that the acquirer will infuse additional capital as necessary to enable the institution to increase its net worth on a scheduled basis to comply with the Board's net worth requirements then in effect within five years of the date of conversion, *and* the potential acquirer will agree in writing that upon failure to achieve scheduled net worth levels on or before the due date or to adhere in all material aspects to the business plan submitted as part of the supervisory conversion application, the institution's consent agreement with the FSLIC would become effective, proxies to vote the acquirer's shares in the institution would permanently vest with the PSA, and/or the employment of all executive officers of the institution could be terminated in the absolute discretion of the Board or its delegate, and

(3) The transaction taken as a whole is in the best interests of, and does not present the potential for injury to, the converting institution, its depositors or the FSLIC.

(c) The institution undertaking a supervisory conversion shall agree to file with the Board annual and quarterly disclosure statements conforming to the requirements of Forms 10K and 10Q under the Securities Exchange Act of 1934 (*see* 17 CFR 240.13a–1 and 13a–13) for three years following the conversion.

§ 563b.28 Application for voluntary supervisory stock conversion.

An insured institution may apply for Board approval of a voluntary supervisory conversion pursuant to this subpart by filing the following information and documents in accordance with the procedures specified in § 563b.29 of this subpart:

(a) The plan of conversion adopted by the board of directors of the institution shall contain at a minimum the name and address of the insured institution; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the insured institution; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by directors, officers or their affiliates and associates (as defined in § 563b.2(a) of this part); the form of consideration to be paid for the conversion stock; and certified copies of all resolutions of the board of directors relating to the Plan.

(b) A copy of any agreements between the insured institution and the proposed conversion stock purchasers.

(c) An opinion of qualified, independent counsel or an independent, certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service ruling that the transaction qualifies as a tax-free reorganization.

(d) The business plan, acceptable to the appropriate Federal Home Loan Bank and ORPOS which shall contain a description of the proposed operating policies of the insured institution following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the insured institution's results of operations for the three-year period following completion of the conversion. The insured institution shall specify the assumptions on which its projections are based.

(e) A savings and loan holding company application or a Change-in-Control Act Notice for each proposed conversion stock purchaser as required by § 574.3 of this subchapter, whichever is applicable, and the certifications required by Memorandum SP–51 issued by ORPOS.

(f) The proposed charter and bylaws of the converted insured institution.

(g) The proposed stock certificate form.

(h) A description of all existing and proposed employment contracts.

(i) All filings required under the securities offering rules of 12 CFR Part 563g.

(j) A subordinated debt application, if applicable.

(k) Applications for permission to organize a stock institution, Federal Home Loan Bank membership, insurance of accounts, and merger, if applicable.

(l) An opinion of an independent certified public accountant regarding the appropriateness of the accounting treatment for the transaction and the conformity of such accounting treatment to generally accepted accounting principles and Memorandum No. R–55 of ORPOS.

(m) Information to support the value of any non-cash assets to be contributed to the insured institution in connection with the voluntary supervisory conversion. Appraisals submitted in this connection must meet the standards of Memorandum No. R–41b of ORPOS.

(n) A description of the estimated expenses of the voluntary supervisory conversion to the insured institution.

(o) The insured institution's most current audited and unaudited financial information prepared in accordance with generally accepted accounting principles.

(p) An opinion of independent counsel that the voluntary supervisory conversion of a state-chartered insured institution to state stock form is authorized under applicable state law.

(q) A specific description of any of the features of the insured institution's application that do not conform to the requirements of this subpart.

(r) A specific description of and detailed justification for any waivers or supervisory forbearances that are requested as part of the voluntary supervisory conversion.

§ 563b.29 Procedural requirements.

(a) *Filing of voluntary supervisory conversion application.* An insured institution seeking to convert pursuant to this subpart shall file an original and one copy of its supervisory conversion application containing the information and documents specified in § 563b.28 of this subpart with the Corporate and Securities Division of the Board's Office of General Counsel, with one copy each to ORPOS and to the appropriate Principal Supervisory Agent ("PSA"). The application shall be deemed to be filed on the date received by the Corporate and Securities Division.

(b) *Incomplete application.* An application for supervisory stock conversion that does not contain all of the applicable information and documents specified in § 563b.28 shall constitute an incomplete application, and the PSA shall continue to seek other appropriate supervisory resolutions of the institution's financial condition pending the filing of a complete application.

(c) The Board delegates to the General Counsel or his designee, the authority to approve applications for voluntary supervisory conversions except in those applications presenting a significant issue of law or policy, and to exercise the authority of the Board pursuant to this section.

(d) *Termination or amendment of charter.* (1) Upon Board approval of a plan of supervisory stock conversion of a state-chartered insured institution or a Federally-chartered insured institution which is converting to a state-chartered stock insured institution, the mutual charter of such insured institution shall terminate upon issuance to it of a stock charter under the laws of the state in which its home office is located. If such converting insured institution is a Federally-chartered insured institution, its Federal charter shall be surrendered promptly to the Board for cancellation. An insured institution converting to a state-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall be surrendered promptly to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall apply to amend its charter and bylaws to read in the form of charter and bylaws for a Federal stock charter. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall be deemed to be a continuation of the entity of the institution so converted. In the case of a state-chartered mutual insured institution converting to a state-chartered stock insured institution, unless state law otherwise prescribes, the corporate existence of the converting mutual insured institution shall similarly not terminate and the converted insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

§ 563b.30 Conditions of approval.

Board approval of a supervisory conversion application will be conditioned upon the following:

(a) Completion of the sale of conversion stock within a maximum of three months after the Board approves the application, or within such additional period as the General Counsel or his designee may for good cause grant;

(b) Compliance with all filing requirements of 12 CFR Part 563g;

(c) Submission of an opinion of independent legal counsel that all applicable state securities law requirements have been met in connection with the sale of the institution's conversion stock;

(d) Compliance with all applicable laws, rules, and regulations; and

(e) Satisfaction of any other requirement or condition the Board or its delegate may impose.

§ 563b.31 Sale of conversion stock.

Each insured institution that converts pursuant to this subpart shall offer and sell its conversion stock pursuant to the requirements of 12 CFR Part 563g.

§ 563b.32 Expenses.

Expenses incurred by an insured institution in connection with its voluntary supervisory conversion application shall be reasonable and, with respect to a FSLIC-insured institution, shall not be in an amount such that the payment of such expenses would render the proceeds to the institution from the sale of its conversion stock insufficient to satisfy the viability requirement of § 563b.27 of this subpart.

§ 563b.33 Employment contracts.

An applicant for voluntary supervisory conversion must justify any employment contract incidental to the conversion, and otherwise demonstrate that the making of such an employment contract by an insured institution would not be an unsafe or unsound practice or represent a sale of control. The Board shall determine the permissibility of such contract based upon, at a minimum, the applicant's justification for the contract, the term, salary, and severance provisions of the contract, the identity and background of the officer or employee who is subject to the employment contract, and the amount of the conversion stock to be purchased by such officer or employee or his affiliates or associates. The Board generally will disfavor an employment contract incident to a voluntary supervisory conversion with a term in excess of one year granted to existing management of an insured institution.

Subpart D—Guidelines for Modified Conversions

21. Part 563b is further amended as follows:

A. Sections 563b.34, 563b.39, and 563b.40 are revised to read as set forth below.

B. Section 563b.38 is removed.

C. Section 563b.37 is redesignated as § 563b.38 and revised to read as set forth below.

D. Section 563b.36 is redesignated as the new § 563b.37 and revised to read as set forth below.

E. Section 563b.35 is redesignated as the new § 563b.36 and revised to read as set forth below.

F. New §§ 563b.35 and 563b.41 are added to read as set forth below.

§ 563b.34 Scope of subpart.

(a) This subpart establishes guidelines for modified conversion from the mutual to stock form of insured institution as authorized or ordered by the Board

pursuant section 5(i) (1) and (2) and 5(p) of the Home Owners' Loan Act, 12 U.S.C. 1464(i) (1) and (2), (p) and section 402(i) of the National Housing Act, 12 U.S.C. 1725(j) or of an FDIC-insured savings bank as concurred in by the Board pursuant to section 5(o) of the Home Owners' Loan Act, 12 U.S.C. 1464(o).

(b) The provisions of this subpart are not exclusive and maybe waived by the Board.

§ 563b.35 Modified stock conversion.

A modified conversion generally is available to an institution that fails to meet its regulatory net worth requirement. In a modified conversion, the substantive and procedural rights granted to members in mutual insured institutions converting under Subpart A may be restricted in order to meet the needs of an insured institution whose financial condition has deteriorated such that a standard conversion is not feasible. Modified conversions may be effected without the approval of members, must involve sales of conversion stock at an aggregate price in excess of the *pro forma* market value of the institution as determined by an independent appraiser, and involve the limitation of members' preemptive rights.

§ 563b.36 Purpose of subpart.

The purpose of this subpart is to give guidance to insured institutions and potential acquirors of the stock of insured institutions regarding the qualification of insured institutions for a modified conversion under this subpart, and guidance as to the extent to which the Board will permit, by means of a modified conversion, deviance from the substantive and procedural requirements adopted by the Board for standard conversions under Subpart A of this part.

§ 563b.37 Qualification for modified conversion.

(a) The Board may, in its discretion, approve or order a modified conversion if it finds that: (1) The insured institution does not meet its regulatory net worth requirement calculated according to generally accepted accounting principles; and (2) That the projected net proceeds of the sale of conversion stock by the insured institution in a standard conversion under Subpart A, as demonstrated by an appraisal determined to the acceptable to the Board, would not be sufficient to meet the institution's regulatory net worth requirement computed in accordance with generally accepted accounting principles.

(b) The Board may, in its discretion, concur that an FDIC-insured mutual savings bank qualifies for a modified conversion to federally-chartered stock savings bank form if the Federal Deposit Insurance Corporation certifies to the Board in accordance with section 5(p)(2)(F)–(H) of the Home Owners' Loan Act that severe financial conditions exist that threaten the stability of the savings bank and conversion to the federally-chartered stock savings bank form is likely to improve the financial condition of the savings bank.

§ 563b.38 Authorization of modified conversion.

(a) All of the provisions of Subpart A of this part shall apply to a conversion undertaken pursuant to the subpart unless clearly inapplicable.

(b) The Board may authorize the conversion to the stock form of an insured institution under this subpart upon the filing of an application approved by resolution of the majority of the board of directors of the institution, but neither the Board nor the institution would be required to secure the prior approval of the institution's members of the conversion.

(c) An insured institution that has converted to the stock form pursuant to this subpart is required to establish a liquidation account on behalf of the institution's members as required under § 563b.3(f) of this part.

(d) An insured institution converting under this Subpart D shall sell its stock at an aggregate price exceeding the estimated pro forma market value of the institution, including an appropriate control premium, based on an independent valuation, as provided in § 563b.7 of this part.

(e) The Board may, in its discretion, approve an application for conversion pursuant to this subpart if it is demonstrated to the Board's satisfaction, through a submission prepared by an independent investment banking firm or other qualified person, that the (1) net capital to be received from the sale by the converting insured institution of its capital stock pursuant to this subpart, cause the insured institution to meet its regulatory net worth requirement computed in accordance with generally accepted accounting principles and (2) the transactions would benefit the institution, its depositors, and the FSLIC.

(f) The eligible accountholders, the supplemental eligible accountholders, and the voting members, if any, of the insured institution converting pursuant to this subpart shall be granted subscription rights to purchase all of the stock proposed to be issued by the insured institution, in accordance with the rules and regulations of Subpart A of this part, except that such subscription rights may be eliminated or reduced as follows: (1) If the regulatory net worth of the institution is between 0 percent of an institution's liabilities and one-third of its regulatory net worth requirement under § 563.13, such subscription rights may be reduced to an amount between 0 percent and 20 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth; (2) If the regulatory net worth of the institution is more than one-third but not in excess of two-thirds of its regulatory net worth requirement under § 563.13, subscription rights may be reduced to an amount between 20 percent and 50 percent of the total stock to be offered, such percentage between 20 percent and 50 percent to be determined on a sliding scale of the basis of the institution's regulatory net worth; and (3) If the regulatory net worth of the institution is more than two-thirds of its regulatory net worth requirement but not in excess of the institution's regulatory net worth requirement, subscription rights may be reduced to an amount between 50 percent and 100 percent to be determined on a sliding scale on the basis of the institution's regulatory capital. Regulatory net worth for purposes of this paragraph shall be computed in accordance with generally accepted accounting principles.

(g) An acquiror of a controlling interest in an institution undertaking a modified conversion shall pay a control premium in such an amount and in such form determined to be acceptable by the Office of General Counsel.

(h) For three years following the date of completion of a modified conversion, any controlling shareholder or the converted institution may not acquire shares from minority shareholders without first obtaining prior Bank approval of such purchases and offering fair value, as determined through an independent appraisal which takes into consideration the value of the institution on a "going concern" basis including, but not limited to, an evaluation of historical earnings, future prospects for earnings, financial conditions, any arms' length trades in the stock, net asset value, dividends record, investment value, and book value.

§ 563b.39 Application for modified conversion.

An insured institution may apply for Board approval of a modified conversion pursuant to this subpart by filing in accordance with the procedures

specified in § 563b.8 of this part an application which includes the following information and documents:

(a) The plan of conversion adopted by the board of directors of the institution. The plan of conversion shall contain at a minimum the name and address of the insured institution; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the insured institution; the method of stock sale; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by directors, officers or their affiliates and associates (as defined in § 563b.2(a) of this part); the form of consideration to be paid for the conversion stock; and certified copies of all resolutions of the board of directors relating to the plan.

(b) A copy of any agreements between the insured institution and the proposed conversion stock purchasers.

(c) An opinion of qualified, independent counsel or an independent, certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service ruling that the transaction qualifies as a tax-free reorganization.

(d) A business plan acceptable to the appropriate Federal Home Loan Bank and ORPOS, which shall contain a description of the proposed operating policies of the insured institution following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the insured institution's results of operations for the three-year period following completion of the conversion. The insured institution shall specify the assumptions on which its projections are based.

(e) A savings and loan holding company application or a Change-in-Control Act Notice for each proposed conversion stock Purchaser as required by § 574.3 of this subchapter, whichever is applicable, and the certifications required by Memorandum SP-51 issued by ORPOS.

(f) The proposed charter and bylaws of the converted insured institution.

(g) The proposed stock certificate form.

(h) A description of all existing and proposed employment contracts.

(i) An independent valuation of the proposed stock offering prepared in accordance with § 563b.7 of this part.

(j) All filings required under the securities offering rules of 12 CFR Part 563g.

(k) A subordinated debt application, if applicable.

(l) Applications for permission to organize a stock institution, Federal Home Loan Bank membership, insurance of accounts, and merger, if applicable.

(m) An opinion of an independent certified public accountant regarding the appropriateness of the accounting treatment for the transaction and the conformity of such accounting treatment to generally accepted accounting principles and Memorandum No. R-55 of ORPOS.

(n) Information to support the value of any non-cash assets to be contributed to the insured institution in connection with the modified conversion. Appraisals submitted in this connection must meet the standards of Memorandum No. R-41b of ORPOS.

(o) A description of the estimated expenses of the modified conversion to the insured institution.

(p) The institution's most current audited and unaudited financial information prepared in accordance with generally accepted accounting priniciples.

(q) An opinion of independent counsel that the modified conversion of a state-chartered insured institution to state stock form is authorized under applicable state law.

(r) A specific description of any of the features of the insured institution's application that do not conform to the requirements of this subpart.

(s) A specific description of and detailed justification for any waivers or supervisory forbearances that are requested as part of the modified conversion.

§ 563b.40 Sale of stock.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of modified conversion may be made prior to approval by the Corporation of the application for conversion. No sale of securities may be made except by means of a final offering circular which has been declared effective by the Corporation.

(b) *Delegation.* The Board delegates to the General Counsel or his designee the authority of the Corporation to declare a final offering circular effective.

§ 563b.41 Procedural Requirements.

(a) *Filing of modified conversion application.* An insured institution seeking to convert pursuant to this subpart shall file an original and one copy of its modified conversion application containing the information and documents specified in § 563b.28 of this subpart with the Corporate and Securities Division of the Board's Office of General Counsel, with one copy each to ORPOS and to the appropriate Principal Supervisory Agent ("PSA"). The application shall be deemed to be filed on the date received by the Corporate and Securities Division.

(b) *Incomplete application.* An application for modified stock conversion that does not contain all of the applicable information and documents specified in § 563b.28 shall constitute an incomplete application, and shall not be approved pending the filing of a complete application.

(c) The Board delegates to the General Counsel or his designee, the authority to approve applications for modified conversions except in those applications presenting a significant issue of law or policy, and to exercise the authority of the Board pursuant to this section.

(d) *Termination or amendment of charter.* (1) Upon Board approval of a plan of modified stock conversion of a state-chartered insured institution or a Federally-chartered insured institution which is converting to a state-chartered stock insured institution, the mutual charter of such insured institution shall terminate upon issuance to it of a stock charter under the laws of the state in which its home office is located. If such converting insured institution is a Federally-chartered insured institution, its Federal charter shall be surrendered promptly to the Board for cancellation. An insured institution converting to a state-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall be surrendered promptly to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall apply to amend its charter and bylaws to read in the form of charter and bylaws for a Federal stock charter. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall

be deemed to be a continuation of the entity of the institution so converted. In the case of a state chartered mutual insured institution converting to a state-chartered stock insured institution, unless state law otherwise prescribes, the corporate existence of the converting mutual insured institution shall similarly not terminate and the converted insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

22. The authority citation for 12 CFR Part 574 is revised to read as follows:

Authority: Sec. 407, 48 Stat. 1260, as amended (12 U.S.C. 1730); and Sec. 408; 82 Stat. 5, as amended (12 U.S.C. 1730a).

PART 574—ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

23. Amend § 574.2 by revising paragraph (c)(3) to read as follows:

§ 574.2 Definitions.

* * * * *

(c) * * *

(3) A person or company which acts in concert with another person or company ("other party") shall also be deemed to be acting in concert with any person or company who is also acting in concert with that other party, except that any tax-qualified employee stock benefit plan as defined in § 563b.2(a)(37) will not be deemed to be acting in concert with its trustee or a person who serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated.

* * * * *

24. Amend § 574.3 by adding a paragraph (c)(1)(vi) to read as follows:

§ 574.3 Acquisition of control of insured institutions.

* * * * *

(c) *Exempt transactions.*

(1) * * *

(vi) Acquisitions of up to twenty-five percent (25%) by a tax-qualified employee stock benefit plan as defined in § 563b.2(a)(37).

25. Amend § 574.4 by revising paragraph (d)(6) to read as follows:

§ 574.4 Control.

* * * * *

(d) * * *

(6) A person or company will be presumed to be acting in concert with any trust for which such person or company serves as trustees, except that a tax-qualified employee stock benefit plan as defined in § 563b.2(a)(37) shall be presumed not to be acting in concert with its trustee or person acting in a similar fiduciary capacity solely for the purposes of determining whether to combine the holdings of a plan and its trustee or fiduciary.

* * * * *

26. Amend § 574.8 by adding a new paragraph (a)(1)(v) to read as follows:

§ 574.8 Delegations of authority.

(a) * * *

(1) * * *

(v) The insured institution to be acquired is not required under § 563g.2 of this chapter to file an offering circular with the Board.

The Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

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Part III

Environmental Protection Agency

40 CFR Part 86

Standards for Emissions From Methanol-Fueled Motor Vehicles and Motor Vehicle Engines; Notice of Proposed Rulemaking

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2947-5]

Standards for Emissions From Methanol-Fueled Motor Vehicles and Motor Vehicle Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes low- and high-altitude emission standards and test procedures for the certification of methanol-fueled light-duty vehicles, light-duty trucks, heavy-duty engines and vehicles, and motorcycles beginning with the 1988 model year. The proposed carbon monoxide (CO), nitrogen oxides (NO_x), and particulate standards are identical to those for current vehicles. Particulate and smoke standards, which currently apply only to diesel-fueled engines and vehicles, are proposed for methanol-fueled engines and vehicles which are non-throttled in normal operation. Idle CO standards, currently applicable only to gasoline-fueled vehicles, are proposed for both throttled and non-throttled methanol-fueled vehicles. For all classes of methanol-fueled vehicles and for methanol-fueled motorcycles, no crankcase emissions would be allowed. Also proposed are exhaust and evaporative standards for non-oxygenated and oxygenated hydrocarbon (HC) emissions (i.e., organics) that would basically control carbon emissions from methanol-fueled vehicles to a level which is equivalent to that emitted from gasoline- and diesel-fueled vehicles under the current HC standards. Particulate and NO_x emissions averaging programs are proposed for methanol-fueled vehicles of every class for which such programs exist for current vehicles. Averaging would not be permitted between methanol-fueled vehicles and gasoline- or diesel-fueled vehicles.

Due to the high cost of publication of the entire set of proposed regulations in the **Federal Register**, the proposed regulations themselves are not published with this notice. They are entitled "Proposed Emission Standards and Test Procedures for Methanol-Fueled Vehicles," and are available free of charge from the EPA contact person named below. The proposed rules will also be available for inspection as item III-A-2 in the rulemaking docket. The substance of the proposed rule and the issues involved are described in later sections of this preamble.

DATES: EPA will conduct a public hearing on this Notice of Proposed Rulemaking on October 30, 1986, in Ann Arbor, Michigan. The hearing will convene at 9:00 a.m. and will adjourn at such time as is necessary to complete the testimony. Comments on this notice will be accepted until November 28, 1986.

ADDRESSES: The public hearing will be held in the Conference Room of the Environmental Protection Agency, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Written comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-130), Environmental Protection Agency, Attention: Docket No. A-84-05, 401 M Street SW., Washington, DC 20460.

Materials relevant to this rulemaking are contained in Docket No. A-84-05. The docket is located at the above address in the West Tower Lobby, Gallery 1, and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Gold, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4227.

SUPPLEMENTARY INFORMATION:

I. Extended Summary of the Proposal

Today's notice proposes emission standards for methanol-fueled vehicles and engines. Table 1 summarizes the proposed standards for the various classes of motor vehicles and engines.

As discussed in the ANPRM, EPA had originally intended to propose a method for determining the amount of methanol fuel which is equivalent to one gallon of gasoline so that methanol-fueled vehicles could be included in the CAFE standards and Gas Guzzler Tax programs. However, the enabling legislation for those programs requires that the Secretary of Transportation (in the case of the CAFE program) and the Secretary of the Treasury (in the case of the Gas Guzzler program) specifically include methanol within the regulatory domain of those programs. To date this has not occurred, nor does such action appear imminent. Therefore EPA is not presently proposing any rules related to this subject.

EPA had also intended to propose fuel economy labeling requirements for light-duty methanol vehicles; however, this program is authorized under the same law as the CAFE program. Thus the present notice proposes no action in the area of labeling.

II. Development of the Proposal

For over a decade, there has been active interest in the use of essentially pure ("neat") alcohols as alternative transportation fuels.[1] Work in this area has increasingly centered on methanol (CH_3OH) for three general reasons. First, the technology to produce methanol from non-petroleum energy sources such as natural gas, coal, wood, or other biomass is well known, and its production economics appear significantly better than other synthetic fuels from these sources. Second, Otto-cycle engines designed to operate on methanol have the potential to be more energy efficient (work output per thermal energy input) than similar gasoline-fueled engines, and when used in diesel engines, methanol appears to provide the same energy efficiency. Third, engines operating on methanol, including diesel engines, have the potential to emit relatively low levels of both NO_x and particulate matter. The control of these two pollutants from diesel engines is technologically difficult, yet environmentally desirable.

Methanol's ability to reduce both NO_x and particulate emissions without losing the fuel efficiency advantage of the diesel engine is a significant environmental attribute. In addition, methanol as a fuel does not require octane enhancers to prevent engine knock, so additives such as lead, ethylene dibromide, and benzene are avoided.

The interest in methanol is not just academic. Methanol-fueled vehicles have been built in limited production runs by major automobile companies (i.e., Ford and Volkswagen), and large test fleets are being run in California and several other parts of the world. For example, the California Energy Commission is currently operating over 500 methanol-fueled vehicles and the Bank of America is operating over 250 such vehicles. These programs demonstrate the possibility that methanol-fueled vehicles could enter the marketplace in significant numbers in the relatively near future.

Before methanol-fueled vehicles are sold in significant numbers, however, consideration must be given to the appropriate emission standards for such vehicles. EPA's current emission standards and test procedures apply to

[1] Neat methanol fuel, as discussed herein, is to be distinguished from methanol blends where a small amount of methanol (e.g., 2-5 percent) is mixed with gasoline and sold as gasoline.

gasoline- and diesel-fueled vehicles. However, section 202 of the Clean Air Act (CAA), 42 U.S.C. 7521, requires control of certain emissions from all vehicles regardless of fuel type. (Vehicles and engines are generally referred to collectively as vehicles throughout this notice.) Thus, methanol-fueled vehicles would become the third major type of certified vehicle and would be subject to both pre-production and in-use requirements. Methanol producers and vehicle manufacturers are aware that certain emission control requirements will apply to methanol-fueled vehicles. However, the current uncertainty regarding the applicable emission standards and associated test procedures is adding to the other unknowns present in establishing a new fuel/vehicle combination.

This area of uncertainty is a potential impediment to the development of methanol as a transportation fuel according to a report by the General Accounting Office [2] and, along with other issues, has led to the formation of a Cabinet Council Work Group on methanol.

As a first step in eliminating any such hindrance, EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on April 10, 1984 (49 FR 14244), which initiated the development of suitable emission standards and test procedures for the certification of methanol-fueled light-duty vehicles (LDVs), light-duty trucks (LDTs), heavy-duty engines (HDEs), and motorcycles (MCs). The ANPRM was followed by a workshop on May 30, 1984, to provide an opportunity for the informal presentation and discussion of views regarding the subjects raised in the notice.

This Notice of Proposed Rulemaking is the next step in developing appropriate rules for methanol-fueled vehicles. In preparing this proposal, the Agency has fully considered all of the comments submitted in response to the ANPRM and those presented at the public workshop on this subject. Today's notice presents a brief overview of the more detailed analyses contained in the Regulatory Support Document for this action. Any reader interested in additional information is referred to that document, which is available for review in the public docket, or which may be obtained by writing the Agency contact person listed above.

[2] The report entitled, "Removing Barriers to the Market Penetration of Methanol Fuels," is available for review in EPA Docket No. A–84–05.

III. Development of the Proposed Emission Standards

In general, EPA proposes that standards for methanol-fueled vehicles be set to correspond with standards already applicable to gasoline- and diesel-fueled vehicles, as appropriate.[3] More specifically, where gasoline- and diesel-fueled vehicles are governed by the same standard for a particular pollutant, methanol-fueled vehicles would also be required to meet that standard if they emit that pollutant. Where gasoline and diesel vehicles are governed by different standards [4], methanol vehicles would be required to meet the standard which is applicable to the vehicle type whose emissions of the relevant pollutant are most like those of methanol vehicles. Only where methanol vehicles emit pollutants not controlled from gasoline or diesel vehicles would they be governed by standards set specifically for methanol vehicles.

EPA believes this overall approach is appropriate for several reasons. First, the emission control requirements of the Clean Air Act do not distinguish between vehicles operating on different fuels, but generally apply to all vehicles regardless of fuel type. The legislative history of the Act indicates that Congress generally contemplated common emission standards for vehicles of different fuel types. Second, EPA previously took this approach in setting standards for diesel-fueled vehicles based on standards applicable to gasoline-fueled vehicles (for example, see 50 FR 10606.) Third, this approach would provide equal environmental protection from vehicles of different fuel types, since their emissions of common pollutants would be controlled to the same levels. Fourth, methanol-fueled vehicles are expected to be similar in type, size, and function to their petroleum-fueled counterparts, so it would be equitable to require them to comply with the same standards.

Moreover, EPA generally believes it would be unwise to set more stringent standards for methanol-fueled vehicles than those applicable to gasoline- or diesel-fueled vehicles. As noted above, methanol as an automotive fuel has significant environmental advantages over gasoline and diesel fuels. Setting more stringent standards than those applicable to gasoline and diesel vehicles would likely discourage manufacturers from developing methanol vehicles, and thus may be environmentally counterproductive in the long run. If the control of any particular pollutant is desired beyond that provided for by the present standards, it would be more appropriate to adopt tighter standards for all fuel types so that the current market equity is maintained. Such a consideration of future emission control requirements, however, is outside the scope of this rulemaking.

A. Timing of Methanol-Fueled Vehicle Standards

From an environmental perspective, the timing of emission standards is principally dependent upon when methanol-fueled vehicles will reach the market in significant numbers. The Agency finds it very unlikely that such vehicles would be mass-produced for public sale anytime before the late 1980's based on the present state of development.

Also important is the leadtime that may be required for manufacturers to respond to emission control requirements. As discussed in greater detail later, the Agency fully expects all methanol-fueled vehicles to be able to comply with the proposed standards using the same technology being applied to gasoline- and diesel-fueled vehicles. Thus, the only leadtime necessary is that for the development of specific applications, procurement of componentry, and certification. (Leadtime for developing methanol emission testing procedures and facilities will be minimal, given their overall similarity to current test protocols.) Since this process can proceed concurrently with, but no faster than, the development of other, non-emissions related equipment specific to methanol-fueled vehicles, it is likely to be completed no sooner than the late 1980's. Accordingly, the late 1980's would appear to be a feasible time frame for methanol-fueled vehicle emission standards. Since a number of emission standards for light-duty trucks and heavy-duty engines become initially effective in the 1988 model year, EPA is proposing that the regulations applicable to methanol-fueled vehicles also become effective beginning in the 1988 model year.

[3] Currently, emission standards for gasoline-fueled vehicles apply to exhaust hydrocarbons (HC), carbon monoxide (CO), nitrogen oxides (NO_x), evaporative HC, and crankcase emissions. The standards for vehicles using diesel engines apply to exhaust HC, CO, NO_x, crankcase emissions, particulate, and smoke.

[4] Where current diesel- and gasoline-fueled vehicle standards differ, the relevant emissions for one class are well below that of the other class and are also below the level needed for environmental protection. In these cases, no standard is applied to the lower emitting class, since compliance with the otherwise applicable standard can be assumed.

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VOL 51 ISS 168 AG 29 1986 UMI

B. Standards for CO, NO_x, Smoke, and Particulate

As discussed above, the Agency finds that where numerically identical standards presently apply to petroleum-fueled vehicles regardless of fuel type, the same standards should be adopted for methanol-fueled vehicles. This is the case with regard to the current CO and NO_x emission standards. For example, the same 3.4 g/mi CO emission standard that now applies to gasoline- and diesel-fueled LDVs should also apply to methanol-fueled LDVs. Therefore, EPA proposes that the same CO and NO_x standards should apply to all vehicles regardless of fuel type.

For particulate and smoke, where current emission standards apply only to diesel-fueled vehicles, the Agency finds that the same control requirements should apply to methanol-fueled vehicles with characteristics similar to those of diesel vehicles. A useful method for determining the applicability of the standards is to equate specific methanol-fueled engines with their petroleum-fueled counterparts based on the method used in controlling the engine's power output, i.e., the use or non-use of a throttle to regulate the fuel rate. The Agency expects that smoke and particulate emission characteristics of methanol-fueled engines which are not throttled in normal operation will tend to be similar to those of non-throttled petroleum-fueled (i.e., diesel) engines. Likewise, throttled methanol-fueled engines should be, like throttled petroleum-fueled (i.e., gasoline-fueled) engines, relatively free of smoke and particulate emissions. Thus, the smoke and particulate standards which currently apply to diesel vehicles would apply only to non-throttled methanol-fueled vehicles. Should, however, smoke or particulate emissions from throttled methanol-fueled vehicles approach levels where standards appear necessary, appropriate action would be taken.

Idle CO standards, which currently apply only to certain gasoline-fueled vehicles, are being proposed for all corresponding methanol-fueled vehicles, regardless of whether or not they are throttled in normal operation. The reason that a distinction is made between the treatment of smoke and particulate emissions and the treatment of idle CO is that one prototype methanol-fueled engine is predominately non-throttled in normal operation but relies on a throttle during idle. Thus, in the absence of a standard, the fuel/air mixture at idle may be sufficiently rich as to result in CO emissions above the applicable standard for throttled engines.

The Agency believes that exceptions to the above standards could possibly be made in the form of a waiver of test requirements where emissions of a regulated pollutant from a methanol-fueled vehicle are expected to always remain below the level of the applicable standard. (This is currently done with the CO standard for HD diesel engines.) Under this alternative approach, a smoke standard for non-throttled, methanol-fueled vehicles may be unnecessary because the smoke levels associated with these engines should be extremely low compared to current diesel engines. The same may be true, albeit to a lesser extent, for some of the diesel particulate standards applicable to LDVs, LDTs, and HDEs. While there is reason to suspect that certain emissions will generally be lower than the applicable standards, a lack of actual emission data makes it impossible to prove that this is actually the case. Therefore, the Agency finds it prudent to propose that standards be applied as discussed above.

Due to the limited data on smoke and particulate emissions from non-throttled, methanol-fueled engines, the Agency specifically requests comments on the likelihood that HDEs operating on this fuel would automatically comply with the proposed particulate standards of 0.60 g/BHP-hr beginning in the 1988 model year and 0.25 g/BHP-hr beginning in the 1991 model year. Comments are similarly requested on the need for the proposed LDV and LDT particulate standards of 0.20 g/mi and 0.26 g/mi, respectively, beginning in the 1988 model year.

C. Ozone-Related Standards

1. Overview

Congress included the control of HC emissions from motor vehicles in the Clean Air Act to reduce photochemical oxidants, or ozone, in the atmosphere. For this reason, EPA believes that organic emissions from methanol-fueled vehicles should be limited to ensure that they produce no more ozone than current vehicles.

It is important to note that the exhaust and evaporative emissions from current vehicles and those from methanol-fueled vehicles are significantly different in composition. The photochemically reactive organic emissions from gasoline- and diesel-fueled vehicles are composed almost exclusively of non-oxygenated hydrocarbons (HC). Methanol vehicles emit not only non-oxygenated hydrocarbons, but also substantial quantities of oxygenated hydrocarbons. These oxygenated hydrocarbons are principally methanol, with smaller quantities of formaldehyde in the exhaust. The photochemical reactivity of methanol is significantly less than that of most non-oxygenated hydrocarbons, while formaldehyde is much more photochemically reactive.

The Agency's analysis of the exhaust and evaporative constituents of emissions from prototype methanol-fueled vehicles shows that non-oxygenated HC, methanol and formaldehyde may be emitted in quantities great enough to contribute significantly to the overall ozone-producing potential of these vehicles. For example, one well-tuned LDV operating on methanol without its catalytic converter emitted about 0.8 g/mi non-oxygenated HC, 5 g/mi methanol and 0.2 g/mi formaldehyde. Based on the photochemical modelling discussed later in this section, such levels would cause much more ozone to be formed in the atmosphere per vehicle than that allowed by the current 0.41 g/mi LDV HC standard. Therefore, EPA finds that these vehicles warrant inclusion in the overall HC emission control program for mobile sources.

The Agency believes that the most economically efficient approach to regulating methanol and formaldehyde emissions is to include these pollutants along with non-oxygenated hydrocarbons in a single exhaust organics standard and a single evaporative organics standard, as appropriate, for the various vehicle classes. This approach would allow the amount of each pollutant to vary, thus providing manufacturers with flexibility in developing methanol-fueled vehicles by avoiding constraints caused by specific standards for each pollutant.

Of course, paramount in regulating HC from methanol-fueled vehicles is whether a combined organics standard would provide adequate control of ozone precursor pollutants, or whether in the case of formaldehyde, which is highly reactive, it may be necessary to have a separate standard. With regard to ozone formation potential, EPA's evaluation of the exhaust emission data from prototype methanol-fueled vehicles indicates that even in the worst case, formaldehyde levels do not appear to reach levels that would be of special concern under the combined standard approach. For example, under the proposed standards described below, and assuming a relatively high formaldehyde to methanol emission ratio, the maximum ozone-producing potential from methanol-fueled vehicles is still only around 70 percent that of

current gasoline-fueled vehicles on a per vehicle basis.[5]

Nonetheless, EPA will be able to monitor formaldehyde levels from methanol-fueled engines as they are certified, because HC, methanol, and formaldehyde will be measured and reported separately as part of compliance with any combined standard. This will provide an opportunity to reevaluate the need for a separate formaldehyde standard before these vehicles make up a significant fraction of the motor vehicle fleet. For these reasons, EPA is not proposing a separate standard for formaldehyde based on photochemical reactivity concerns. Nonetheless, comments are specifically requested on the need for such a standard.

2. Presentation of Alternatives

Within the framework of a single, combined organics standard, the Agency has identified three distinctly different standard-setting approaches. Each alternative will be described below using LDVs to illustrate particular aspects of the approaches. The reader is reminded, however, that the standard-setting approach that is ultimately chosen will be used to derive organic emission standards for the various vehicle classes (i.e., LDVs, LDTs, HDEs, and MCs).

The first alternative is the most stringent of those considered and is based on the interpretation that the relevant basis for limiting ozone precursors is total organic emissions mass. It involves adopting the numerical value of the existing HC standards for each vehicle class and requiring that the combined mass of non-oxygenated and oxygenated hydrocarbon does not exceed the applicable standard. Using this standard-setting approach, "total HC" standards for LDVs would be 0.41 g/mi for non-oxygenated hydrocarbons, methanol, and formaldehyde exhaust emissions, and 2.0 g/test for non-oxygenated hydrocarbons and methanol evaporative emissions.

[5] This and all subsequent estimates of ozone production potential are based on a model developed in the Regulatory Support Document showing a reasonably direct relationship between the carbon content of various organic emissions and photochemical reactivity or ozone formation potential. The model is based on the results of a computer simulation of the Los Angeles metropolitan airshed during a single day ozone episode. The absolute level of ozone producing potential will differ from EPA's estimates depending on the specific conditions of any particular ozone episode. The rank order (in terms of ozone potential) of particular emission scenarios should not generally be affected as a function of varying modeling conditions; however, there may be exceptions to this statement.

Such standards are expected to result in about 70 percent less ozone production from methanol-fueled vehicles as compared to current gasoline-fueled vehicles on a per vehicle basis (using the photochemical modeling conditions and limitations noted previously). The predicted reduction in ozone production potential under this alternative has two principal causes. First, while unburned methanol is the primary constituent of organic emissions from methanol-fueled vehicles, it is relatively unreactive at the concentrations which would be expected to occur in the atmosphere under such standards. Second, methanol and formaldehyde, which are emitted from methanol-fueled vehicles, contain oxygen atoms which add substantially to the mass of organic emissions but which do not inherently represent increased photochemical reactivity relative to non-oxygenated hydrocarbons.

The second alternative involves deriving methanol-fueled vehicle standards that would be photochemically equivalent to the current HC standards. This can be attempted using the photochemical model described above. By definition, this approach would result in the ozone-producing potential of methanol-fueled vehicles being 100 percent that of current vehicles. This has the obvious advantage of providing equitable treatment for all vehicles with respect to the environmental endpoint: ozone.

This standard-setting approach depends on computer models which simulate a wide array of very complex chemical, climatological, and meteorological interactions. Because of the many variables involved, the effect of methanol and formaldehyde on ozone formation would vary substantially in different urban areas, and no model currently exists that could be characterized as applying to most of the urban areas throughout the nation. To date, modeling has been performed and analyzed in detail for only a one-day ozone episode in a single city, Los Angeles. Single-day modeling is also underway for Philadelphia and such modeling could conceivably be performed for other cities. It would then be possible to establish an ozone equivalency based on some average of the results for several representative cities during single- and multiple-day ozone episodes.

Using only the Los Angeles modeling as a basis, these standards would be implemented for light-duty vehicles under the following equations:

$$0.41\ \text{g/mi exhaust} = \text{g/mi non-oxygenated HC} + \left(\frac{13.876}{32.042}\right)\left(\text{g/mi methanol}\right) + \left(\frac{13.876}{30.026}\right)\left(\text{g/mi formaldehyde}\right)$$

$$2.0\ \text{g/test Evap.} = \text{g/test non-oxy. HC} + \left(\frac{14.359}{32.042}\right)\left(\text{g/test diurnal methanol}\right) + \left(\frac{14.228}{32.042}\right)\left(\text{g/test hot soak methanol}\right)$$

Where 0.41 g/mi and 2.0 g/test are the current standards, 13.867 is the calculated molecular weight of the empirical carbon/hydrogen unit of exhaust emissions from current vehicles, 14.359 and 14.228 are the molecular weights for the empirical units of current vehicle diurnal and hot soak evaporative emissions respectively, 32.042 is the molecular weight of methanol, and 30.026 is the molecular weight of formaldehyde. Evaporative emissions of non-oxygenated HC as expressed above include both diurnal and hot soak emissions. The equations also contain the factors .02 and 2.95 which weight the photochemical reactivities of the carbon atoms in methanol and formaldehyde, respectively, relative to that of typical hydrocarbons.

The reader should not be misled by the form of the above standards into thinking that the above standards are total mass standards. If both sides of the above equation for exhaust emissions are divided by the molecular weight of current vehicle hydrocarbons (13.876 g/mole C), then the equation is expressed in terms of moles of carbon and it is clear that the standard is actually a photochemically weighted, organic carbon standard, rather than a total organic mass standard. Since photochemical modelling is based primarily on carbon chemistry this format is the most appropriate.

As an example of how the above equations would be used, suppose a vehicle has exhaust emissions of 0.90 g/mile methanol, 0.27 g/mile HC, and 0.07 g/mile formaldehyde. The total mass of

emissions is 1.24 g/mile, but according to the above equation for exhaust emissions, the hydrocarbon equivalent mass is 0.37 g/mile, and the vehicle is in compliance with the exhaust emission standard. On the other hand, if a vehicle emits a 0.85 g/mile methanol, 0.30 g/mile HC, and 0.09 g/mi formaldehyde, the total mass is still 1.24 g/mi, but the hydrocarbon equivalent mass is 0.43 g/mi, and the vehicle does not comply with the exhaust emission standard.

The third alternative falls between alternatives one and two in terms of stringency and resultant ozone potential. It involves limiting the amount of organic carbon emitted from methanol-fueled vehicles to the amount that is emitted from current vehicles complying with the applicable HC standards. Since this approach follows directly from current HC standards, it is the most similar in concept of the alternatives considered here to the present regulatory scheme. Since photochemical processes are carbon-dependent, this approach can also be viewed as a simplified version of alternative two: equal consideration is given to the carbon emitted from current and methanol vehicles in establishing a photochemical equivalence. This type of standard can be implemented by converting the measured amounts of methanol and formaldehyde into equivalent amounts of non-oxygenated HC. For example, the specific form of the LDV standards can be expressed as follows:

$$\underset{\text{exhaust}}{0.41\ \text{g/mi}} = \underset{\text{HC}}{\text{g/mi non-oxygenated}} + .02\left(\frac{13.876}{32.042}\right)\left(\underset{\text{methanol}}{\text{g/mi}}\right) + 2.95\left(\frac{13.876}{30.026}\right)\left(\underset{\text{aldehyde}}{\text{g/mi form-}}\right)$$

$$\underset{\text{Evap.}}{2.0\ \text{g/test}} = \underset{\text{HC}}{\text{g/test non-oxy.}} + .02\left(\frac{14.359}{32.042}\right)\left(\underset{\text{methanol}}{\text{g/test diurnal}}\right) + .02\left(\frac{14.228}{32.042}\right)\left(\underset{\text{methanol}}{\text{g/test hot soak}}\right)$$

These equations are identical to those developed under the empirical photochemistry option except that the carbon atoms in each emitted compound are accorded identical weight in terms of their ozone-producing potential. For evaporative emissions the current standards do not precisely control carbon since the diurnal and hot soak components of the test have slightly different molecular weights and the breakdown of diurnal and hot soak emissions is variable. The difference between the molecular weights of diurnal and hot soak hydrocarbons is small, however, and the current standards can therefore be said to closely approximate carbon standards. Thus, under this alternative, the total mass of carbon allowed from methanol vehicles is equivalent to that allowed from current vehicles. Organic carbon emissions from methanol vehicles are expressed in current vehicle hydrocarbon equivalents to provide a common basis for examining compliance across all vehicle types. The carbon-based equations would be utilized in the same manner as was demonstrated in the example given for the photochemistry-based standards.

The carbon-based standards have the potential to limit the ozone production of methanol-fueled vehicles to an average of about 50 percent that of gasoline-fueled vehicles on a per vehicle basis using the SAI study based on Los Angeles air chemistry. The worst-case methanol-fueled vehicle (with the highest fraction of formaldehyde in its exhaust) from the data base would have about 70 percent of the ozone-producing potential of gasoline-fueled vehicles using this same SAI study. Of course the absolute magnitude of these estimates will vary depending on the city modeled, but the Agency believes that the ozone potential of methanol vehicles produced under carbon-based standards is still likely to be somewhat less than that of current vehicles.

3. Evaluation of Alternatives

Having presented the three alternative approaches to organic emission standard setting, the discussion can now compare their relative strengths and weaknesses. The first alternative, applying current hydrocarbon standards to methanol vehicles on a total mass basis, is the most stringent approach. As noted previously, this stringency results from inclusion of the mass of oxygen present in methanol and formaldehyde in the reported emission value. It is, however, difficult to justify specifically including oxygen in the control program for methanol vehicles. Non-oxygenated hydrocarbon emissions from current vehicles tend to react with oxygen in the atmosphere, yet the mass of oxygen in these reacted compounds is not accounted for by the current emission regulations. Inclusion of oxygen emitted directly from methanol vehicles may therefore represent inequitable regulatory treatment of methanol vehicles relative to current vehicles. The inclusion of oxygen in this manner may also be at odds with the basic philosophy embodied in the Clean Air Act with regard to focusing control primarily on ozone precursors. Therefore, this alternative was rejected.

The second approach, which attempts to establish a photochemical equivalence between methanol and current vehicles based on computer simulations, is a desirable alternative because it follows directly from the stated goal of this rulemaking: providing a "level regulatory playing field" for methanol vehicles relative to current vehicles. It also appears, based on the modeling performed for Los Angeles, to be the least stringent approach considered here. There are, however, several problems associated with this approach. First, detailed simulation of methanol vehicle scenarios has been completed only for one city under specific conditions. Further modeling would be necessary to derive an average equivalence which would apply more generally to the nation's urban areas as a whole, and which would include appropriate consideration of methanol's reactivity during multiple-day ozone episodes. Given the complexity of photochemistry and its simulation, EPA is somewhat uncertain how best to establish such a national average. Second, other assumptions which are used in this type of modeling, such as the relative ratios of the various organics found in methanol vehicle emissions, and the in-use adjustment factors applied to certification level emissions from methanol vehicles, could prove to be wrong. This could result in methanol vehicles having more (or less) reactivity than the standards are designed to allow. Such assumptive errors would only be discovered after significant numbers of methanol vehicles are produced and tested. Third, were such an average established, and methanol vehicles introduced under this type of standard, some cities would experience significant ozone increases and some would experience decreases as a result. Finally, urban airshed chemistry does change with time and modeling techniques are themselves subject to evolution. The basis for standards developed under this

approach would therefore also be subject to change.

The final approach considered, a carbon-based equivalence on photochemical reactivity, also has its strengths and weaknesses. These standards account for the photochemical reactivity of the exhaust constituents as a result of the general relationship between the mass of carbon emissions and ozone formation; thus they do not rely on photochemical models which are subject to modification. Since the ratio of HC mass to carbon mass is relatively constant in the emissions from gasoline- and diesel-fueled vehicles, the net effect of the current standards is to limit carbon as well as HC. The carbon-based approach for methanol-fueled vehicles is thus consistent with the emission control results achieved represented by the present standards. These standards can be promulgated without further delay because no additional development of the standard-setting methodology is required. Like the empirical photochemistry option, these standards would still result in varying ozone impacts in different cities relative to the local impact of gasoline vehicles, but it is believed that the level of that impact would generally be less than that of current vehicles.

Based on the modeling performed thus far, carbon-based standards are more stringent than would be standards based on the available photochemical modeling. While further modeling may reduce the difference in relative stringency of these approaches, the possibility exists that carbon-based standards may not be as cost effective as empirical photochemistry-based standards in controlling ozone levels. Currently available data do suggest that compliance with the carbon-based standards should be easily achieved given the need for use of a catalytic converter to control CO emissions. (See the section labeled Technical Feasibility.) However, there were a few vehicles that achieved the photochemistry-based standards and not the carbon-based standards.

EPA seeks comment on several areas pertinent to the relative desirability of empirical photochemistry-based standards and their carbon-based counterparts. First, EPA requests comments on whether a significant cost savings could be realized by manufacturers of methanol vehicles should the empirical photochemistry-based standards be adopted instead of the carbon-based standards. Commenters are asked to consider the experimental nature of the methanol vehicles tested to date and the lack of emissions development work in evaluating the relative costs of requiring production vehicles to meet carbon-based and photochemistry-based standards.

Second, the Agency seeks comment on the relative environmental impacts that can be anticipated as a result of promulgating either of these two approaches. Specifically, comment is requested on the accuracy of available modeling techniques on which photochemistry-based standards would be founded and carbon-based standards judged. Comments are also requested on the number of cities which should be modeled in order to promulgate empirical photochemistry standards. Further, under what meteorological conditions should modeling be performed in order to minimize environmental risk under this type of standard? Finally, comment is requested on the likelihood that this type of standard will require future modification due to changes in airshed chemistry or evolution of modeling techniques.

Given the currently projected beneficial environmental impact of the carbon-based standards, and given the Agency's belief that the photochemistry-based standards would not be significantly less expensive to implement, EPA feels it prudent to propose carbon-based standards with this notice. The Agency does, however, intend to continue its consideration of the photochemistry-based option. Should public comment on this notice or further scientific inquiry establish a much superior cost effectiveness and demonstrate an acceptable environmental risk, EPA would consider performing further photochemical modeling in order to promulgate such standards in the Final Rule.

4. Consideration of Formaldehyde

An issue related to any combined HC exhaust standard is the appropriate treatment of formaldehyde emissions from methanol-fueled vehicles with respect to those from gasoline- and diesel-fueled vehicles. The current test procedure for the latter vehicle types does not measure formaldehyde. This has not been deemed a problem in the past since gasoline- and diesel-fueled vehicles emit formaldehyde at low levels compared to HC emission levels. However, since EPA is proposing to include formaldehyde in the carbon-based methanol-fueled vehicle standards, it may be reasonable to provide an allowance for methanol-fueled vehicles that is equivalent to the emissions of formaldehyde from existing engines. Unfortunately, the data on formaldehyde emissions from recent model year vehicles are very limited. The Agency's current best estimate (as discussed in the Regulatory Support Document), is that the offset for formaldehyde would be very small, perhaps about 0.01 g/mi. Given the doubtful value of such a small adjustment and the uncertainty surrounding its derivation, EPA finds it is more reasonable to exclude any adjustment at this time. Comments are requested on the appropriateness of including a formaldehyde allowance in the carbon-based exhaust standards for methanol-fueled vehicles and, if judged appropriate, the level of the adjustment.

5. Combined Exhaust and Evaporative Emissions Standards

Finally, as part of its overall effort to ease the introduction of methanol vehicles, EPA is examining the concept of creating an optional combined exhaust and evaporative emission standard for methanol-fueled vehicles. Under such an approach, manufacturers would be able to combine engine configurations and evaporative emission codes into unique vehicle groupings. Exhaust and evaporative emission levels, determined by the manufacturer for each grouping such that their weighted sum (as discussed below) does not exceed the combined emission standard, would then serve as effective emission limits for purposes of certification and recall. (It should be noted that this alternative is fundamentally different from existing particulate and NO_x averaging programs. EPA is not proposing to allow organic emissions averaging across engine family lines.) This alternative would enable manufacturers to decide the most cost-effective approach to controlling a vehicle's total organic emissions. The regulations for such an approach would necessarily weight the different exhaust and evaporative emission components appropriately—i.e., on a gram-per-mile basis—to avoid inequitable environmental impact. The present analysis, which is qualitative in nature, touches on the following areas. First, a specific limitation which EPA feels would need to accompany such a program is presented. Next, the potential benefits of this type of "bubble" concept are discussed. Finally, an issue related to the procedure that would be used to weight the exhaust and evaporative emissions is examined.

In developing an organic emissions "bubble" program the Agency must be careful to avoid negative or inequitable (with respect to current control programs) impacts on the environment. In this regard, EPA believes that it

would be inappropriate to allow manufacturers to increase exhaust emissions by lowering their evaporative emissions. The current evaporative emission standards presume essentially no fuel-related evaporative emissions from new cars. Emissions that are measured during the evaporative emission test procedure are largely background organics and vehicle material emissions (e.g., due to synthetic upholstery, undercoating, construction materials, etc.) which generally decrease as the vehicle ages. These background emissions could be reduced in certification testing by altering or removing emitting materials currently used in vehicle construction, or by carefully cleaning the vehicle to remove sources of HC emissions. However, no changes in actual in-use fuel emissions would be expected to result. The 2.0 gram standard was chosen to account for these background emissions, to accommodate some degree of test-to-test and vehicle-to-vehicle variability, and to provide some compliance cushion. This approach was intended to encourage manufacturers to focus their efforts on eliminating fuel emissions. Thus, allowing manufacturers to "borrow" emission credits from the evaporative test portion and apply them to the exhaust portion would likely result in "gaming" of the certification procedure as manufacturers attempted to reduce vehicle background emissions artificially. The end result would be an increase in in-use exhaust emissions without an accompanying decrease in in-use evaporative emissions. This type of program would not be acceptable to EPA.

To the extent that manufacturers could benefit from EPA's allowing them to reduce exhaust emissions while increasing the effective evaporative emission standard, the "bubble" concept is worth exploring further. A very rough estimate of the potential impact of this type of program is provided here. This calculation assumes, based on MOBILE3 estimates, that the average LDGV makes 3.05 trips per day and travels 31.1 miles over this period. Evaporative emissions on a g/mi exhaust equivalent basis are then

$$g/mi = \frac{(3.05)(g\ HS)+(g\ DI)}{31.1\ mi}$$

Where
g HS = Grams per Hot soak
g DI = Grams per Diurnal

Using this equation, a reduction in exhaust emissions can be converted to an equivalent amount of evaporative emissions. In this example, if hot soak and diurnal emissions are equal, a .10 g/mi exhaust HC reduction would increase allowable evaporative emissions by 1.54 grams. If hot soak emissions are zero, then the allowable diurnal emissions would increase by 3.11 grams. (As will be discussed below, the above equation does not account for several factors which any equivalence used for regulatory purposes would need to consider. The equation is provided for illustrative purposes only.)

It is not clear to EPA how much benefit manufacturers would receive from adjustments of this magnitude to the evaporative standard. The evaporative emissions data for methanol vehicles are limited and it is not possible to determine whether or not emission characteristics are similar to those of gasoline vehicles. As discussed in the section titled "Technical Feasibility," it does appear that while methanol vehicles have the potential for low exhaust emissions using existing control technologies, the evaporative emission control system may need to be enhanced to some degree. The bubble concept could potentially enable the use of existing control systems for both the exhaust and evaporative systems.

Manufacturers are requested to comment on the expected size and associated value of the increases in evaporative emissions (accompanied by decrements in exhaust emissions) that this alternative would permit. Comments are also requested on the nature and extent of any environmental risk that use of such an alternative might represent.

In order to properly combine the exhaust and evaporative emission standards, it is necessary that they be compared on the same basis. Since total evaporative emissions are a function of driving patterns—hot soaks result from engine shutdown—driving patterns must be carefully accounted for in establishing such an equivalence. The current MOBILE3 estimates were used above to derive a very rough estimate of the potential effect of a reduction in exhaust emissions on allowable evaporative emissions under a bubble program; however, this type of methodology may be too simplistic for adoption as the basis of emission control regulations because actual driving patterns and associated evaporative emissions vary considerably, whereas exhaust emissions vary less with changes in driving patterns. For example, while some vehicles are not operated on a daily basis and therefore undergo several diurnal cycles between hot soaks, others are operated continually throughout the diurnal period. These issues are of concern to EPA and are being addressed, insofar as possible, in EPA's consideration of evaporative emissions (see "Gasoline Volatility and Hydrocarbon Emissions From Motor Vehicles; Availability of a Regulatory Strategies Analysis," 50 FR 48100, November 21, 1985). The approach EPA would use to account for uncertainties in the data would need to be on the conservative side in order to avoid undue environmental impacts.

Finally, it is necessary that the method by which evaporative emissions are converted to a g/mi basis be consistent with assumptions underlying the existing exhaust standards. The exhaust standards assume that 4.7 trips are made per day (2 cold start trips versus 2.7 hot start trips). This ratio determines the weighting of hot and cold start emission data for the purpose of compliance determination. It is conceivable that this weighting procedure would need to be changed to a basis consistent with any findings related to evaporative emissions. If the MOBILE3 data, which assumes 3.05 trips per day is at least directionally correct, this could result in greater emphasis being placed on cold start exhaust emissions than is presently done.

In summary, the concept of an organic emissions bubble is appealing in theory, but the issues underlying any practical application of it are complex and deserving of very careful consideration. EPA urges commenters to consider these issues in their responses to this notice.

Specifically, comments are requested on the methods that should be used in establishing a basis for comparing exhaust and evaporative emissions. Is the existing MOBILE3 data sufficient to convert evaporative emissions to a g/mi basis? How should the assumptions underlying the exhaust emission test procedure (i.e., hot and cold start weighting) be reconciled with current understanding of driving habits? Comments are also requested on any other issue relating to the bubble concept or to the functional characteristics of a bubble program.

IV. Direct Health Effects of Methanol and Formaldehyde

In addition to the ozone-producing aspect of methanol-fueled vehicle organic emissions, there are other concerns centered on the direct risks to public health from exposure to methanol and formaldehyde. The following discussions relate to (1) the potential acute effects of mobile source-related exposure to methanol and formaldehyde and (2) the potential cancer effects of

mobile source-related exposure to formaldehyde.

A. Acute Health Effects

The available data suggest that the vehicle-related exposure scenarios with the greatest potential for causing significant acute health effects are relatively short (several minutes to perhaps half an hour), intense exposures which may be experienced in certain restricted or enclosed areas. Since overall ambient concentrations of these pollutants should be low (given the effects of continual atmospheric dispersion and photochemical decomposition), they are not now expected to result in adverse acute health effects. EPA is somewhat concerned about the possibility of adverse health effects which might result from repeated exposures to formaldehyde at or below the threshold for single dose-related acute effects. A brief discussion of this topic is provided.

In the ANPRM, the Agency requested comments on two preliminary EPA reports that attempted to identify a range of ambient concentrations for each pollutant that might be expected to cause acute health effects. Many commenters were highly critical of the lower values in the ranges EPA identified. They stated that there is not enough scientific evidence to justify the use of these values in regulatory decision-making at this time. For this proposal, EPA evaluated the available health effects data in an effort to identify specific levels of concern within the ranges for standard-setting purposes. The duration and frequency of expected mobile source related exposures were specifically accounted for in this analysis, which is presented in the Regulatory Support Document. Readers are referred to that document for greater detail on all of the discussions that follow here.

1. Methanol

In identifying the minimum level of methanol likely to cause health problems, the Agency initially considered choosing an ambient concentration of 50 mg/m³ based on a long-term exposure study using rats. At this concentration, tracheitis, bronchitis, and other more subtle health effects were noted. This concentration was rejected, however, because public exposures to significant levels of methanol from methanol-fueled vehicles are expected to be relatively brief and periodic, rather than long term. Also, extrapolating the results of animal studies to human beings is difficult. Such extrapolations are routine in assessing carcinogenic risk, because of the problems associated with gathering cancer data in clinical human studies. However, human data are considered more relevant than animal data, and with regard to methanol toxicity analysis, ample human data on short-term exposure effects are readily available.

The available human data showed that the Threshold Limit Value (TLV) for methanol of 260 mg/m³, which is set by the American Conference of Governmental Industrial Hygienists, is probably an appropriate level of concern for mobile source-related exposures. The TLV incorporates a fairly large margin of safety against serious toxic effects. At this level, no accumulation of methanol in the body is expected to occur, especially as a result of short-term exposures such as those likely in the case of methanol-fueled vehicle exhaust or evaporative emissions. Some temporary effects, such as an altered pattern of dark adaptation and changes in cerebral cortex reflex activity, may occur below this level. The significance of these effects is unclear, as it is not known whether these are adverse physiological effects or simply altered physiological parameters. They are not, however, anticipated to be effects of concern since they were not cited in the TLV documentation. Therefore, an ambient concentration of 260 mg/m³ methanol is used in the Agency's standard-setting analysis as a reasonable level of concern for *short-term* exposures to mobile source-related methanol.

2. Formaldehyde

Initially, the Agency considered choosing a 0.15 mg/m³ ambient concentration of formaldehyde as a basis for regulatory action. This level was based on a lack of effects noted at 0.06 to 0.13 mg/m³ in two occupational and residential studies and definite irritant effects noted in two other residential studies at 0.36 to 0.46 mg/m³ and 0.25 to 0.75 mg/m³. However, it became apparent that identifying a specific level of concern for formaldehyde is particularly difficult because human exposure studies suggest there may not be a clear threshold below which no irritant effects would be experienced by especially sensitive individuals.

In the case of short-term exposures, various studies report only slight eye, nose, or throat irritation or discomfort in human test subjects who were exposed to formaldehyde concentrations of from 0.50 mg/m³ to 3.75 mg/m³. The studies indicate that at 0.50 mg/m³ the odor of formaldehyde should be noticeable by most people, and any health effects experienced (i.e., eye, nose, or throat irritation or discomfort) should be minor and reversible for the vast majority of the populace. The duration of the studied exposures ranged from several minutes to several hours, whereas exposure to mobile source-related formaldehyde at elevated levels is expected to typically last for only a few minutes with occasional episodes lasting up to half an hour. It would appear, therefore, that findings based on the available studies may be conservative. An ambient concentration of 0.50 mg/m³ formaldehyde is used in the following analysis as a reasonable level of concern for short-term exposures to mobile source-related formaldehyde.

It is noted that, given the differing levels of response to a given level of exposure reported from study to study, a case could be made for selecting 0.25 mg/m³ as a level of concern. In one study, the physiological responses of subjects to exposure at this level differed markedly from controls (this did not occur at the next lower testing level, 0.125 mg/m³). In another study, respondents characterized the effect of formaldehyde at 0.25 mg/m³ as barely noticeable, similar to a light windy touch or dry feeling which elicited conscious blinking. It is not clear that these responses justify the choice of a level of concern at 0.25 mg/m³. The severity of the responses reported at 0.25 mg/m³ in any clinical study was clearly low. Furthermore, as the variability in the clinical data suggest, humans have different thresholds to the effects of formaldehyde exposure. In fact, the National Academy of Science has estimated that as much as 10–12 percent of the population may have no threshold at all. While it is not clear that any level of concern would be adequate to protect the hypersensitive portion of the population, the subsequent analysis does include a discussion of the regulatory consequences of choosing 0.25 mg/m³ as a reasonable level of concern when considering mobile sources-related exposures to formaldehyde.

The foregoing analysis was concerned with the effects of acute exposures to formaldehyde. A series of acute exposures which of themselves may or may not result in adverse health effects may constitute a chronic exposure with the potential to cause toxicological harm. However, there is at present a lack of health data to substantiate any firm conclusion with regard to the effects of these types of exposures. EPA requests comments on the likely effects of repeated exposures to formaldehyde

VOL 51 ISS 168 AG 29 1986 UMI

at or below levels which cause irritant effects. EPA also requests comments on the potential for generally elevated average ambient levels of formaldehyde to cause significant non-cancer effects.

3. Personal Exposure Scenarios

Using the above levels of concern, the Agency evaluated a variety of "public" and "private" exposure scenarios to assess the potential public health risks associated with direct exposure to methanol and formaldehyde emissions. The public exposure scenarios included street canyons, tunnels, expressways, and public parking garages. Each scenario was analyzed using traffic densities and ventilation rates that would result in worst-case ambient concentrations. The scenarios also incorporated a worst-case assumption that methanol-fueled vehicles composed 100 percent of the motor vehicle fleet, as well as a more realistic projection that these vehicles were 30 percent of the total. The private exposure scenarios evaluated a methanol-fueled vehicle in a personal garage under typical and worst-case ventilation conditions for periods of hot soak following a trip and periods of engine idle (warm-up) operation. The resulting ambient pollutant concentrations for all scenarios were modeled using likely emission rates from vehicles certified to the proposed carbon-based standards, adjusted upward to reflect the adverse effects on in-use emission levels of factors such as poor maintenance and tampering. While the present need for standards was evaluated on the basis of this analysis, it is noted that uncertainties regarding likely emission factors are present. This issue will continue to be investigated as more information becomes available.

The Agency's analysis indicates that the projected ambient concentrations of methanol and formaldehyde for three of the public exposure scenarios, street canyons, tunnels, and expressways, should not be significant enough to pose a public health risk.

In the final public exposure scenario, the parking garage, levels of formaldehyde and, to a lesser extent, methanol, could approach the levels of concern when several worst-case conditions occur simultaneously. First, all the vehicles in the garage would be methanol-fueled. Additionally, the garage would have a capacity of 1500 or more cars, be mechanically ventilated with a ventilation rate of under 300 cubic feet per minute per parking space (or four air changes per hour), have a parking space-to-outward bound lane ratio of greater than 250 spaces per lane, and exit onto a crowded street. Furthermore, the garage would be used for special events so that all vehicles may start and idle within a short period of time. These conditions are all fairly severe and their simultaneous occurrence is very unlikely; thus EPA does not anticipate a need for a standard to protect the public from such exposures. The Agency will, however, continue to assess this conclusion as more information becomes available. Comments on the need for standards to protect the public health in this scenario are requested.

For the private exposure scenario, the personal garage, the analysis indicates that the ambient levels of formaldehyde may potentially reach twice the level of concern, and that levels of methanol may exceed the level of concern, but only in the most extreme situations evaluated. Specifically, methanol emissions from a hot vehicle in a closed personal garage may be of concern if the evaporative emissions canister is disconnected. Methanol and/or formaldehyde emissions from an idling vehicle in an open garage may be of concern if the catalyst is removed or malfunctioning severely.

Given the above results, the Agency must decide whether the potential adverse health effects caused by the emissions from a malfunctioning vehicle in a personal garage warrant national emission standards. This decision must take into account several important considerations. First, even in these extreme and limited scenarios, the expected concentrations of the two pollutants would apparently result in only minor and reversible health effects (such as a temporary increase in the methanol content of urine or eye irritation due to formaldehyde) given the short exposure times involved. Second, EPA expects the owners to properly maintain their vehicles, thus minimizing these troublesome situations. Third, even a careless or inexperienced owner will likely be alerted to formaldehyde concentrations of potential concern by smell and slight eye irritation. Methanol concentrations of potential concern also may be evidenced by smell, although odor thresholds have been reported at levels above the suggested level of concern. The owner would then face a choice of either fixing the malfunction or avoiding the exposure situation.

At issue is a fundamental question regarding an individual's responsibility for his or her own personal safety. The public has successfully dealt with potentially toxic CO concentrations in personal garages by opening the garage door before idling. The Agency believes it would not be unreasonable to expect car owners with removed or malfunctioning catalysts to avoid idling in personal garages altogether if potentially irritating formaldehyde concentrations might result, at least until they repair or replace their catalysts. Similarly, with regard to methanol exposure, it would not be unreasonable to expect a vehicle owner with a disconnected evaporative control system to avoid remaining in a closed garage in which his or her vehicle is cooling off after a trip, at least until the control system is repaired. Finally, it is not at all clear that a more stringent standard would result in safe emission levels from vehicles with malfunctioning emission control systems. It may not, therefore, even be possible to protect the public against severe malfunction-related exposures, except by prohibiting use of either methanol-fueled vehicles or personal garages. Such drastic action is clearly not warranted. For these reasons, the Agency finds no significant public health basis for specifically controlling emissions based on the personal garage exposure scenario. Consequently, EPA is proposing no emission standards based solely on the toxicological properties of methanol and formaldehyde at this time. The carbon-based, total organics standards are expected to provide adequate protection on their own.

In the case of formaldehyde, it is noted that there may be health effects evidence to support choosing .25 mg/m^3 as a level of concern. The quantitative analysis in the Regulatory Support Document shows that this level is likely to be approached or exceeded only in the tunnel and parking garage scenarios at 100 percent methanol vehicle market penetration, and in the severe personal garage vehicle warm-up scenario.

There are only a few tunnels and garages with the severe ventilation characteristics of EPA's modeled scenarios. Furthermore, 100 percent market penetration by methanol vehicles is at best a remote possibility in the near to mid term. The optimal approach to this potential problem, therefore, should very high methanol penetration be anticipated, would be to study the cost feasibility of altering the relevant tunnels' and garages' ventilation systems and to verify the accuracy of EPA's modeling before imposing costly emissions standards.

The arguments used against setting a standard for idle emissions to protect against exposures in personal garages, given a .50 mg/m^3 level of concern, are also applicable when considering .25 mg/m^3 as the level of concern. It is primarily the individual's responsibility

to keep his vehicle well tuned. High emissions of formaldehyde will be evident by their unpleasant odor or irritant effects, and will provide a cue to the vehicle owner to either repair his or her vehicle or avoid idling inside the garage.

In summary, even if .25 mg/m³ were chosen as a level of concern for formaldehyde, the conclusions of the analysis would not be different from those reached given a .50 mg/m³ level of concern. Specifically, no additional standards for formaldehyde above and beyond the carbon-based total organics (ozone-related) standards appear to be necessary to protect the public health.

The Agency must caution, however, that the finding that separate, direct health effects-based standards for methanol and formaldehyde are not necessary is partly based on data from limited prototype vehicle testing. While EPA believes these data are adequate to characterize relative methanol, HC, and formaldehyde emissions at this time, improvements in the data base are still desirable. The greatest uncertainty involves the emissions from cold (i.e., not warmed up) engines operating in cold ambient temperatures. The idle emission rates used in the garage scenarios described above were derived from warmed-up engines operating at "room" temperature. Although the data were corrected to reflect emissions from a cold engine, cold ambient temperatures are expected to result in somewhat higher emissions. The Agency's analysis shows that cold ambient temperatures could have their most significant effect on formaldehyde emissions in the personal garage scenario. EPA is now conducting tests of a methanol-fueled vehicle operating at colder ambient temperatures and will include its findings in the public docket as soon as they are available. Should the testing indicate that concentrations of methanol or formaldehyde in a personal garage are likely to be significantly higher than is currently projected when reasonable safety precautions are taken, additional standards may be needed.

Comments are requested on the appropriateness of the ambient concentrations EPA has identified as providing adequate public health protection from the toxic effects of methanol and formaldehyde, given the types of exposures that are expected to occur in conjunction with methanol-fueled vehicles. More specifically, EPA wishes to know whether evidence exists to suggest that short exposures to methanol at the level of concern are likely to result in unsafe blood levels of metabolites such as formic acid or formate, or cause any other toxic effects not currently noted in the literature. EPA also wishes to entertain comments on the relative weight of evidence for selecting .50 mg/m³ as the level of concern for formaldehyde as compared to .25 mg/m³ (or any other reasonable level). Comments are also requested on the adequacy of the exposure scenarios EPA has used to evaluate the potential public health risk associated with these emissions. Specific attention to the need for standards in the exposure scenarios evaluated in the Regulatory Support Document (or in any other scenarios) is requested. Finally, commenters are asked to address EPA's responsibility to set standards to protect against reversible and slight irritant effects and the individual's responsibility to protect himself or herself against potentially toxic exposures in the personal garage setting.

B. Formaldehyde's Carcinogenic Effects

As noted in the ANPRM, formaldehyde has been found to cause cancer in animals. Numerous studies have been and continue to be conducted in an effort to establish formaldehyde's carcinogenic potential in humans; however, the issue remains complex and unresolved. Recent activity by OSHA, the Consumer Product Safety Commission, and EPA's Office of Toxic Substances has focused attention on this issue. An increase in mobile source emissions of formaldehyde would tend to increase average ambient formaldehyde levels as well as any attendant cancer risk. However, much ambient formaldehyde is formed through the photochemical reaction of other organic pollutants. Since the reactivity of current vehicle emissions has been found to generally exceed that of methanol vehicle emissions, it is possible that current vehicles may result in more secondary ambient formaldehyde than methanol vehicles. It is not presently clear how much formaldehyde control for methanol vehicles would be necessary to maintain the ambient formaldehyde levels associated with current vehicles. Furthermore, it has not been clearly established whether the levels of formaldehyde due to the existing motor vehicle fleet are acceptable.

Due to the uncertainties associated with the available formaldehyde potency and exposure estimates, EPA intends to continue to investigate the following issues. One, what levels of ambient formaldehyde currently exist due to mobile sources? Two, what levels would likely result from methanol use? Three, what cancer risks, if any, are associated with these levels? And four, what would be the most appropriate approach to managing these risks?

While EPA is concerned with the potential carcinogenic effects of formaldehyde, it will clearly be quite some time before methanol vehicles enter the fleet in numbers significant enough to substantially affect ambient formaldehyde levels. Adequate time to complete the analysis outlined above and take any necessary regulatory action exists. Therefore, no additional standards are being proposed to control formaldehyde emissions from methanol vehicles based on carcinogenicity at this time.

Comments on this suggested approach to dealing with formaldehyde cancer risk and on the need for regulation based on this risk in the future are requested.

V. Emissions Averaging Programs

In the ANPRM, the Agency stated it would consider allowing manufacturers to include methanol-fueled vehicles in their determination of compliance with the diesel particulate averaging standards. EPA pointed out that the high efficiencies of methanol-fueled engines could result in their being in direct competition with diesel engines (i.e., methanol-fueled vehicles would essentially displace diesel vehicles from the market on a one-to-one basis). If this occurred and manufacturers were allowed to count methanol-fueled vehicles toward compliance with the particulate standards, the inherently low particulate emissions from methanol-fueled vehicles would allow a diesel manufacturer to avoid the use of costly particulate trap technology on some of its diesel vehicles. The result would be an incentive to develop methanol-fueled vehicles and no increase in emissions of particulate matter.

All but one of the comments received on this subject disapproved of including methanol in the averaging standards due to concerns that methanol- and diesel-fueled vehicles may not actually be direct competitors. The commenters correctly recognized that without such competition, diesel particulate emissions might actually increase under the averaging scheme. One commenter, the California Air Resources Board (CARB), appeared to support the averaging scheme with the caveat that methanol/diesel averaging should be allowed only in conjunction with the promulgation of more stringent diesel particulate standards. CARB recognized the possibility that direct methanol/diesel competition would not occur and that an

VOL 51 ISS 168 AG 29 1986 UMI

averaging program could adversely affect the environment.

Further analysis by EPA shows that it is indeed impossible to predict with any certainty the degree to which the two vehicle types will be competitors. This uncertainty is due to the unknowns currently associated with the relative economics of methanol-, gasoline- and diesel-fueled vehicles. The analysis also shows that diesel particulate levels could increase substantially if direct competition did not exist. For these reasons, the Agency does not know how to derive an averaging program that would provide an incentive for the production of methanol vehicles without resulting in a negative environmental impact. Therefore, EPA is not proposing to include methanol-fueled vehicles in the diesel particulate averaging program at this time.

Comments are requested on: (1) The likelihood of light- and heavy-duty methanol-fueled vehicles competing directly with diesels; and (2) the desirability of including methanol-fueled engines and vehicles with diesels in determining compliance with the corporate average diesel particulate standards.

While EPA is not proposing to include methanol vehicles in the diesel particulate averaging program, the Agency sees no reason to disallow averaging of particulate or NO_x emissions within groups of methanol vehicles. Since NO_x and particulate averaging programs have been created previously for gasoline and diesel vehicles, EPA is proposing identically structured programs for methanol vehicles. Such programs would result in a similar measure of flexibility for manufacturers of each vehicle type during the certification process. It is noted that averaging between throttled and non-throttled methanol vehicles is prohibited under the proposed regulations, given the differing emission characteristics anticipated with each type of engine (i.e., analogous to today's gasoline and diesel engines). Comments on the above approach to providing averaging programs for methanol vehicles are requested.

VI. Fuel Economy Requirements

A. Corporate Average Fuel Economy and Gas Guzzler Tax

The Energy Policy and Conservation Act (EPCA) directs the Department of Transportation, under 15 U.S.C. 2001(5), to determine whether liquid or gaseous fuels other than gasoline and diesel oil should be included in the Corporate Average Fuel Economy (CAFE) and fuel economy labeling programs. Such a determination shall be based on the finding that inclusion of an alternative fuel is "consistent with the need of the Nation to conserve energy." Similarly, section 201 of the Energy Tax Act of 1978, 26 U.S.C. 4064 *et seq.*, requires the Secretary of the Treasury (after consultation with the Secretary of Transportation) to include in the Gas Guzzler Tax ". . . any product of petroleum or natural gas . . . if . . . such inclusion is consistent with the need of the nation to conserve energy." Since methanol is a liquid fuel and is currently produced mainly from natural gas, it could conceivably be included under either of these pieces of legislation.

Both of these Acts give EPA the responsibility of determining the amount of an alternative fuel which is equivalent to a gallon of gasoline so that the gasoline-equivalent fuel economy of vehicles operating on alternative fuels can be calculated. This gasoline equivalent fuel economy would be used to appropriately include methanol under CAFE and the Gas Guzzler Tax.

To date, neither DOT nor the Treasury have determined that methanol should be included under the respective programs. EPA therefore believes that determining a fuel equivalency between methanol and gasoline would be premature at present. If and when methanol were included in either program, EPA would initiate action to establish such an equivalency. The present notice therefore proposes no action in this regard.

B. Labeling

It is noted that the fuel economy labeling program is also authorized by EPCA, 15 U.S.C. 2006(a)(1). Since methanol vehicles are not specifically included in the CAFE program, EPA has no authority to require labels for them. Thus no proposals are made in this regard with the present action.

VII. Test Procedures

As already mentioned, methanol-fueled vehicles are expected to be very similar to gasoline- and diesel-fueled vehicles in most respects. Also, the proposed CO, NO_x, and particulate standards for methanol-fueled vehicles are the same as for current vehicles. This allows most of the established certification and emission test protocols of 40 CFR Parts 86 and 600 to be applied to methanol-fueled vehicles with only minor revisions. Two areas where major changes are required involve the measurement of new pollutants and certification fuel specifications. Each is discussed separately below. Another area relates to the desirability of providing for alternative vehicle preconditioning procedures and their potential effect on test results. A final area, discussed briefly, concerns the method of assuring safe (i.e., nonflammable) levels of VOCs in the SHED during methanol vehicle testing.

A. HC, Methanol, and Formaldehyde Emission Measurement

The proposed emission control requirements for non-oxygenated HC, methanol, and formaldehyde require that each of these pollutants be properly measured to ensure compliance with the applicable standards. The current HC analyzer, the flame ionization detector (FID), can be used to accurately measure either HC or methanol, but not both at the same time. It is totally unsuitable for measurement of formaldehyde. Hence, new or modified measurement techniques that properly measure all three pollutants are necessary.

In examining various techniques for measuring formaldehyde, EPA has found that only one method currently appears to be widely accepted. This technique consists of bubbling the engine exhaust sample through an impinger filled with a 2,4 dinitrophenylhydrazine (DNPH) solution. The aldehydes in the exhaust react with the DNPH to form aldehyde-2,4 dinitrophenylhydrazone compounds. These compounds are subsequently separated to recover the formaldehyde derivative using high pressure liquid chromatography (HPLC). The amount of formaldehyde is then determined by measuring the formaldehyde derivative with an ultraviolet (UV) detector. The Agency has refined this method somewhat by replacing the liquid impingers with a cartridge containing a DNPH-impregnated silica gel. This simplifies the process, reduces processing time, and allows convenient storage of the samples. Because the DNPH impinger and cartridge techniques are conceptually the same (only the physical apparatus differs) and yield equivalent results, EPA is proposing both for measuring formaldehyde from methanol-fueled vehicles in conjunction with the use of a UV detector.

There has been some question regarding the ability of typical exhaust sampling systems to collect formaldehyde emissions efficiently. EPA finds that use of a heated sampling line should provide adequate protection against entrainment of formaldehyde in the collection system; however, comments on the subject are requested.

With regard to non-oxygenated hydrocarbons and methanol, EPA is

proposing a procedure to individually measure each pollutant. The Agency's evaluation of separate measurement techniques showed only one widely accepted approach that is both accurate and relatively inexpensive. The procedure consists of two steps. First, methanol is measured by bubbling the exhaust or evaporative sample directly from the constant volume sampler (CVS) or the sealed housing for evaporative determination (SHED) through water-filled impingers to collect the alcohols. A gas chromatograph is then used to separate the methanol from the other constituents of the water/alcohol solution. The amount of methanol is then accurately measured with a FID, calibrated with methanol. Second, a single measurement of the non-oxygenated HC and methanol in the sample is made using a heated FID. For this measurement, the device would be calibrated with propane to ensure an accurate reporting of the non-oxygenated HC present. The amount of non-oxygenated HC can then be accurately determined by correcting the overall heated FID reading for methanol content. This is done by knowing the device's response to pure methanol and the concentration of methanol in the sample, as determined by the separate methanol measurement.

The Agency seeks comments on two specific issues related to the individual measurement of methanol and hydrocarbon. First, comments are requested on the need to use a heated FID, as has been proposed. Second, comments are requested on whether the proposed evaporative emissions test procedure, which calls for sampling directly from the SHED through impingers, is preferable to drawing the sample into a bag and then bubbling it through impingers. EPA is somewhat concerned that, when sampling directly, the required sampling volume and the limited time available within which sampling must be achieved may require an impinger flow rate that is too high to be practicable.

Although EPA finds the proposed measurement techniques satisfactory, it is nevertheless aware that more cost-effective procedures would be desirable and are indeed under development. Comments are requested concerning any such techniques which may be soon available. Additionally, to enhance the prospects of finding improved techniques for measuring non-oxygenated HC, methanol, and formaldehyde separately, EPA intends to allow the use of any new procedure that is demonstrated to be equivalent or superior in accuracy and reliability to the proposed procedures.

In addition to separately measuring non-oxygenated hydrocarbons and methanol, the Agency considered an alternative procedure that provides a single measurement for both pollutants by using a FID calibrated with methanol. Determination of compliance with the carbon-based standards could be based on this method since the FID measures carbon directly. However, while this approach provides a total measurement that includes an accurate determination of methanol, also included is a consistent overmeasurement of non-oxygenated hydrocarbons. Compliance under this approach would always assure compliance using separate measurement, since the measured concentration of the combined pollutants always would be greater than the actual concentration.

Measuring the pollutants together in this manner has the advantages of being simple and low in cost. Unfortunately, without knowing the relative amounts of non-oxygenated hydrocarbons and methanol, it would be difficult or impossible to evaluate the standards' effectiveness in controlling air pollution due to the significantly different photochemical reactivity of the pollutants. Also, the Agency could not use combined measurements for compliance testing because a vehicle may be found to exceed the particular standard when it actually was in compliance. The simple fact that EPA would not use this approach would likely result in manufacturers rejecting it.

Even if EPA were to use this approach, however, manufacturers might reject measuring the two pollutants in combination for other reasons. For example, the combined procedure effectively results in more stringent standards and, in turn, may result in the application of more expensive emission control technology than is actually necessary. Also, as part of their overall emission control strategy, manufacturers generally prefer to target emission levels at a predetermined point below the applicable standard to assure compliance. The method's inaccuracy would make this very difficult. These deficiencies may explain why no comments were received on this method. Due to its apparent practical limitations, EPA is not proposing the combined measurement procedure at this time.

B. Certification Fuel Specifications

The Agency's overall goal with respect to emissions and fuel economy tests is that the results be representative of what occurs in real world driving. To accomplish this goal, test fuels must closely match those which are commercially available. Given the experimental nature of current methanol-fueled vehicle development, the specific composition of commercial methanol fuel is not presently known with any certainty. It may be pure methanol, or it may contain additives (such as unleaded gasoline) to enhance combustion performance, lubricity, or safety of methanol use and handling. Consequently, if EPA were to specify a test fuel now, it would probably only have to be changed later.

The Agency also finds that the lack of a certification fuel specification at this time will not hinder the development of methanol-fueled vehicles. Indeed, as alluded to above, the composition of commercial methanol fuel will be determined in large part by the operational performance requirements of methanol-fueled engines as manufacturers continue development. Furthermore, EPA is providing guidance with regard to emission performance requirements by promulgating specific emission standards for these vehicles and engines.

For these reasons, the Agency does not intend to specify the exact composition of methanol fuel for the purposes of emissions and fuel economy testing. Instead, EPA proposes to simply specify the use of a test fuel that: (1) Is composed of 50 percent or more methanol by volume, and (2) is representative of the fuel commercially available in areas of the country with ambient conditions similar to those encountered in the test procedures. This is not unlike the approach used to determine the current specification for diesel fuel, where the specifications are quite broad (e.g., cetane may range from 42 to 50). In this case, EPA selects a certification test fuel within the broad ranges that are representative of current in-use diesel fuel.

C. Vehicle Preconditioning for Evaporative Emissions Testing

The procedures contained in 40 CFR 86.132–88 allow for alternative preconditioning procedures for vehicles which undergo evaporative emission testing. EPA is concerned that this allowance may result in greater variability in the emissions from methanol-fueled vehicles than from gasoline-fueled vehicles, because of methanol's different affinity for the charcoal used in the evaporative emissions storage canister. Comment on this issue is therefore requested before

VOL 51 ISS 168 AG 29 1986 UMI

this section is adopted for the methanol vehicle test procedures.

D. Lean Flammability Limits of Methanol/Hydrocarbon Mixtures: SHED Safety

Comments are requested on the manner in which safe (i.e., nonflammable) VOC concentrations in the SHED are to be provided for. Currently 15,000 ppm C is considered to provide a 4:1 safety margin against the lean flammability limit of gasoline vapors. EPA is concerned that when a significant fraction of the SHED's vapor space is occupied by methanol, as is possible when methanol vehicles are tested, this limit may not be appropriate. Comments submitted on this topic should account for the effect of mixtures of methanol and gasoline HC on flammability and should attempt to identify a satisfactory approach to assuring safe VOC concentrations in the SHED during testing of methanol vehicles.

VIII. Technical Feasibility

The pollutants subject to control by the proposed standards are either similar or identical to those presently regulated from current vehicles and engines. This allows the emission control technology employed by petroleum-fueled vehicles to be applied to methanol-fueled vehicles. As discussed in the Regulatory Support Document (to which the reader is referred for more detail), prototype testing of Otto-cycle, methanol-fueled LDVs equipped with current LDV emission control technology (oxidation or three-way catalysts) shows that the proposed exhaust organic, CO, and NO_x standards are achievable with these controls even before being optimized for methanol. Since the standards for LDTs and HDEs are generally less stringent than those for LDVs, and since Otto cycle technology is fairly similar regardless of vehicle class, the arguments which suggest that the methanol-fueled LDV standards are feasible apply to LDTs and HDEs as well.

Prototype testing of a Maschinenfabric Augsburg-Nurnberg (MAN) non-throttled (i.e., diesel-cycle), methanol-fueled HDE equipped with an oxidation catalyst shows the proposed organic, CO, and particulate standards to be achievable.[8] Regarding NO_x emissions from these engines, prototype testing of two Detroit Diesel Allison (DDA) engines shows emission levels for this pollutant already below the 5.0 g/BHP-hr NO_x standard for 1991 and later model year HDEs.[9,10] The MAN engine had NO_x emissions of 6.6 g/BHP-hr, which is still on the lower end of the range for current diesel engine NO_x levels. Due to the similarity in combustion characteristics of these engines, the same design modifications that will be used to bring current diesel HDE's into compliance with the 5.0 g/BHP-hr NO_x standard should also reduce NO_x emissions in the methanol-fueled version of such engines to the required level. Actually, these design modifications may even reduce NO_x emissions from methanol-fueled HDEs below this level because methanol burns cooler than diesel fuel and, consequently, produces lower amounts of this pollutant. Therefore, non-throttled, methanol-fueled vehicles should also be able to attain the proposed NO_x standards with engine modifications when needed.

Methanol fuel is expected to have markedly different evaporative characteristics than gasoline, so some development effort may be required to ensure compliance with the proposed evaporative organic emission standards. However, there should be no need to fundamentally change current control system designs, which consist of a charcoal canister for evaporative fuel storage coupled with a purge through the vehicle's engine. Thus, the proposed evaporative standards should not pose any significant technological challenges.

IX. Multi-Fuel Vehicles

Technological innovation has resulted in the development of fuel systems capable of running a vehicle on any blend of gasoline and methanol. These systems present questions relating to compliance with emission standards.

If a vehicle is designed to operate on methanol, gasoline, or any intermediate mix, it would be required to demonstrate compliance with applicable standards when tested on any of those fuels.[11] EPA considers it reasonable to subject vehicles tested on a mixed fuel containing methanol to the emission standards for methanol-fueled vehicles. In this fashion, the formaldehyde and methanol fractions of the exhaust, which can be expected to increase as a function of increasing methanol concentration in the fuel, will be accounted for appropriately.

Comments on this approach to regulating emissions from multi-fuel vehicles are requested. Comments should also address any other relevant issues associated with the testing and certification of multi-fuel vehicles. Comments are also requested on any other aspect of this rulemaking which may be affected by the sale of multi-fuel vehicles.

X. Environmental Effects

In general, the proposed standards will require that emissions from methanol-fueled vehicles be reduced from uncontrolled levels. The amount of this emission reduction cannot be specifically quantified at this time due to the problematic nature of forecasting sales of methanol-fueled vehicles, and because the actual emission levels from production methanol-fueled vehicles in the absence of the proposed standards are unknown. Nonetheless, a rough approximation of the emission reduction can be made by noting that methanol-fueled vehicles and engines will likely utilize much the same control technology as that used by their petroleum-fueled counterparts (e.g., oxidation catalysts and engine design modifications). For these latter vehicles, this technology reduces emissions by about 75 to 90 percent depending on the pollutant. The percentage reduction in emissions from uncontrolled methanol-fueled vehicles is expected to be similar or somewhat less. Additionally, while the proposed standards generally limit the pollution potential of methanol-fueled vehicles to that of their gasoline- and diesel-fueled counterparts, the cleaner combustion associated with methanol could result in reduced smoke and particulate emissions depending on the extent to which this fuel displaces the use of diesel fuel. Therefore, the standards being proposed today will have a positive environmental effect.

As more fully discussed in the health effects section of today's notice (Section IV), methanol and formaldehyde emissions from methanol-fueled vehicles are a potential concern due to their acute toxicological effects. The Agency assessed the public health risk associated with the toxicological properties of the pollutants by

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[8] "Emissions from Direct-Injected Heavy-Duty Methanol-Fueled Engines (One Dual-Injection and One Spark-Ignited) and a Comparable Diesel Engine," SAE Paper No. 820566.

[9] "Conversion of a Two-Stroke Diesel Bus Engine to Methanol Fuel," SAE Paper No. 841667.

[10] "Development of Detroit Diesel Allison 6V-92TA Methanol Fueled Coach Engine," SAE Paper No. 831744.

[11] A mixed fuel is distinguished here from a blend. Various blends containing specific amounts of methanol have been approved for use in current vehicles. A vehicle owner may be able to mix a fuel in his own tank that is similar in composition to the blended fuel, but the mix is not considered equivalent to the blend.

evaluating several public and private exposure scenarios which reflected worst-case assumptions. The results of this study showed that methanol and formaldehyde emissions from properly operating vehicles, manufactured in compliance with the proposed organic emission standards, should not reach concentrations of regulatory concern even in the most extreme case evaluated (i.e., a private garage). Nonetheless, these results are not conclusive due to limitations in the methanol emissions database. The Agency is conducting additional tests to improve its database and will place its findings in the public docket as soon as they are available.

Formaldehyde is also a suspected human carcinogen. As noted in Section IV, since methanol vehicles emit more formaldehyde than current vehicles, it is possible that average ambient concentrations would increase as a function of methanol use. If so, any formaldehyde-related cancer risk may also increase. The influence of photochemical reactivity on formaldehyde levels, however, provides a confounding effect in this analysis. While no standards are proposed in this package, EPA intends to continue to study this issue, and to make any significant findings public.

Benzene and other toxic pollutants which result from incomplete combustion of current motor fuels are expected to exhibit a general decrease as a function of methanol vehicle use.

XI. Economic Effects

The Agency expects the proposed methanol standards to be attainable using emission control technology which is similar to that used by current vehicles. As a result, the cost of emission controls for methanol-fueled vehicles generally should be similar to that for the majority of current vehicles. It also appears possible that the application of present technology to methanol-fueled vehicles may be, in at least one instance, somewhat less costly. Most gasoline-fueled vehicles require an oxidation catalyst to achieve the applicable HC and CO standards. Most methanol-fueled vehicles are also expected to utilize this type of control technology, with one important difference. The unique chemical composition and the expected lower temperature of methanol-fueled vehicle exhaust may allow the use of less expensive catalytic materials to achieve the required emission reductions. If this proves to be possible, oxidation catalysts for methanol-fueled vehicles would be less costly than those for gasoline-fueled vehicles. Regarding the overall cost effectiveness of controlling emissions with oxidation catalysts, the percent reduction in carbon emissions (i.e., ozone precursors) from methanol-fueled vehicles may be somewhat less than that for gasoline-fueled vehicles, while the percent reduction in CO emissions may be about the same. Therefore, if oxidation catalysts prove to be cheaper for methanol-fueled vehicles, the cost effectiveness of reducing carbon emissions from these vehicles could be about the same as for gasoline-fueled vehicles, although the cost effectiveness of CO control could be somewhat better for methanol-fueled vehicles.

XII. Public Participation

A. Comments and the Public Docket

As in past rulemaking activities, EPA desires full public participation in arriving at final rulemaking decisions. In addition to those areas where specific comment has been requested, EPA solicits comments on all aspects of today's proposals from all interested parties. Wherever applicable, full supporting data and detailed analyses should also be submitted to allow EPA to make maximum use of the comments. Commenters are especially encouraged to provide suggestions for modification of any aspects of the proposal that they find objectionable. All comments should be directed to the Central Docket Section, Docket No. A–84–05 [see **"ADDRESSES"**].

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket. Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

B. Public Hearings

Any person desiring to present testimony regarding this proposal at the public hearings (see **"DATES"**) should, if possible, notify the contact person listed above of such intent at least seven days prior to the opening day of the hearing. The contact person should also be given an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. Testimony will be scheduled on a first come, first serve basis. A sign-up sheet also will be available at the registration table the morning of the hearing for scheduling testimony.

The Agency suggests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date, in order to give EPA staff adequate time to fully consider such material. Such advance copies should be submitted to the contact person listed above.

The official records of the hearings will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Central Docket Section, Docket No. A-84-05 (see **"ADDRESSES"**).

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, is hereby designated Presiding Officer of the hearings. The hearings will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the two hearings will be placed in the above docket for review. Anyone desiring to purchase a copy of either transcript should make individual arrangements with the court reporter recording the proceedings.

XIII. Authority

Statutory authority for the proposed emission standards is provided by sections 202(a) and 301(a) of the Clean Air Act (42 U.S.C. 7521(a) and 7601(a)). Section 202(a) of the Act provides, in part, that "(t)he Administrator shall by regulation prescribe . . . standards applicable to the emission of any pollutant from any class or classes of new motor vehicles . . . which may reasonably be anticipated to endanger public health or welfare." Section 202(a) of the Act also provides, in part, that "(a)ny regulation prescribed under paragraph (1) . . . shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Section 301(a) provides, in part, that "(t)he Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

VOL 51 ISS 168 AG 29 1986 UMI

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is being developed primarily to remove any emissions- or fuel economy-related regulatory uncertainties that may act as a barrier to the introduction of methanol-fueled vehicles. It will not impose costs on methanol-fueled vehicles that are significantly different from those imposed on vehicles which are already in production, and will not adversely affect competition, productivity, investment, employment, or innovation. This regulation, therefore, is not major and does not require a Regulatory Impact Analysis.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

Reporting and Record Keeping Requirements

Most of the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB Control Number 2060-0104. The information collection provisions relating to the measurement and reporting of methanol and formaldehyde emissions have been submitted for approval to OMB. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked Attention: Desk Officer for EPA. The final rulemaking package will respond to any OMB or public comments.

Impact on Small Entities

Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that the Administrator certify that these regulations would not have a significant impact on a substantial number of small entities. I certify that this regulation does not have such an effect because it primarily affects only manufacturers of motor vehicles and motor vehicle engines, a group which does not contain a substantial number of small entities.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Intergovernmental relations, Motor vehicles, Motor vehicle pollution, Reporting and record keeping requirements.

Dated: August 21, 1986.

Lee M. Thomas,

Administrator.

TABLE 1.—PROPOSED EMISSION STANDARDS FOR 1988 AND LATER MODEL YEAR METHANOL-FUELED VEHICLES AND ENGINES [1]

Vehicle class	Exhaust standards [2]					Evaporative organics [3] (g/test)
	Organics [3]	CO	NO_x	Particulate	Idle CO (percent conc)	
LDV [4] throttled	0.41	3.4	1.0	[5] N/A	0.50	2.0
LDV [4] non-throttled	0.41	3.4	1.0	0.20	0.50	2.0
LDT_1 [6] throttled	0.80	10	1.2	N/A	0.50	2.0
	(1.0)	(14)	(1.2)		(0.50)	(2.6)
LDT_1 [6] non-throttled	0.80	10	1.2	0.26	0.50	2.0
	(1.0)	(14)	(1.2)		(0.50)	(2.6)
LDT_2 [7] throttled	0.80	10	1.7	N/A	0.50	2.0
	(1.0)	(14)	(1.7)		(0.50)	(2.6)
LDT_2 [7] non-throttled	.80	10	1.7	0.26	0.50	2.0
	(1.0)	(14)	(1.7)		(0.50)	(2.6)
HDE [8] throttled	1.1	14.4	[10] 6.0	N/A	0.50	3.0
HDE [9] throttled	1.9	37.9	6.0	N/A	0.50	4.0
HDE [8] non-throttled	1.3	15.5	[10] 6.0	[11] 0.60	0.50	3.0
HDE [9] non-throttled	1.3	15.5	6.0	0.60	0.50	4.0
MC	5.0	12	N/A	N/A	N/A	N/A

[1] Standards in parentheses apply to vehicles sold in specified high-altitude counties. For all classes of vehicles except MC, no crankcase emissions are allowed.
[2] LDV and LDT standards are in g/mi, HDE standards are in g/BHP-hr, and MC standards are in g/km, unless otherwise noted.
[3] Organics standards are expressed in gasoline-fueled vehicle hydrocarbon equivalents, as determined on a carbon mass basis.
[4] Standards apply at all altitudes.
[5] Not applicable.
[6] LDTs up to and including 3,750 lbs loaded vehicle weight (LVW).
[7] LDTs 3,751 lbs or greater LVW.
[8] HDEs up to and including 14,000 lbs gross vehicle weight rating (GVWR).
[9] HDEs 14,001 lbs or greater GVWR.
[10] Beginning in 1991 model year, standard becomes 5.0 g/BHP-hr for all HDEs.
[11] Beginning in 1991 model year, standard becomes .25 g/BHP-hr. for all non-throttled HDEs except urban bus engines, which are subject to a 0.10 g/BHP-hr standard. In 1994, the standard becomes 0.10 g/BHP-hr for all non-throttled methanol HDEs.

[FR Doc. 86-19483 Filed 8-28-86; 8:45 am]

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federal register

Friday
August 29, 1986

Part IV

Department of Health and Human Services

Public Health Service

42 CFR Part 124

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable to Pay; Proposed Rule

VOL 51 ISS 168 AG 29 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable To Pay

AGENCY: Public Health Service, DHHS.

ACTION: Proposed rules.

SUMMARY: This notice proposes revisions to the rules currently governing how health care facilities assisted under Titles VI and XVI of the Public Health Service Act fulfill the assurance, given in their applications for assistance, that they would provide a reasonable volume of services to persons unable to pay. Public comment on the current rules and operational experience with them has indicated the need to revise a number of the current requirements.

DATE: Written comments must be received on or before October 28, 1986.

ADDRESS: Comments must be in writing and be sent to:

Mr. Richard R. Ashbaugh, Assistant Surgeon General, Associate Director for Health Facilities, Bureau of Resources Development, 5600 Fishers Lane, Rockville, Maryland 20857, Attention: Martin J. Frankel.

Comments will be available for public inspection during normal business hours at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Martin J. Frankel (301)443–5656.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services proposes below amendments to the rules governing what is popularly known as the Hill-Burton uncompensated services program. Health care facilities covered by the program received construction assistance under two titles of the Public Health Service Act—Title VI (the "Hill-Burton Act", 42 U.S.C. 291, *et seq.*) and Title XVI (42 U.S.C. 300q, *et seq.*). As a condition of such assistance, they assured that they would make available a reasonable volume of services to persons unable to pay therefor. The statutory and regulatory background of this assurance, now known as the "uncompensated services assurance," and the major changes to the existing rules which are proposed, are set out below.

I. Statutory and Regulatory Background

The assurance given by most of the facilities covered by the rules was the Title VI assurance. Under section 603(e) of the Act (42 U.S.C. 291c(e)), the Secretary was authorized to issue regulations requiring the following assurance:

> Such regulations may also require that before an application is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that. . . (2) there will be available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.[1]

In 1975 Congress enacted Title XVI to replace the program of assistance under Title VI, which was last funded in fiscal year 1974. Pub. L. 93–641, sec. 4. Besides requiring an uncompensated services assurance of assisted facilities (see footnote 1), Title XVI gave the Secretary new regulatory and enforcement responsibilities for both titles. Sec. 1602(6), redesignated by Pub. L. 96–79 as sec. 1620(3), 42 U.S.C. 300s(3); sec. 1612(c), redesignated as sec. 1627, 42 U.S.C. 300s–6. Finally, facilities were required periodically to report data and information about their compliance with the assurance to the Secretary, a requirement which is nonwaivable. Sec. 1602, redesignated as sec. 1620, 42 U.S.C. 300s.

Regulations requiring the assurance were issued shortly after enactment of Title VI in 1946. See 12 FR 6176 (September 16, 1947). The regulatory standard for compliance was extremely general. This changed in 1972, when the Department issued rules setting specific compliance standards. 42 CFR 53.111, 37 FR 14721 (July 22, 1972). The 1972 rules provided for a State-administered monitoring and enforcement program, with State-established eligibility criteria; a definition of "reasonable volume" as either the "open door" option (with no minimum compliance level) or the lesser of 3 percent of operating costs or 10 percent of Title VI assistance; exclusion from the facility's uncompensated services of those services for which a collection action (other than the rendition of bills) had been initiated against the patient; and exclusion of services which were or could be paid for by a third party payor. Following the decision in *Corum* v. *Beth Israel Medical Center*, 373 F. Supp. 550 (S.D.N.Y. 1974), invalidating the so-called "billing provision", the regulations were amended to require determinations prior to service except in certain circumstances. At the same time, a requirement that facilities post notice of their uncompensated services obligation was added. 40 FR 46202 (October 6, 1975).

Following extensive public comment, the Secretary in 1979 issued the current rules, which are codified at 42 CFR Part 124, Subpart F. 44 FR 29372 (May 18, 1979). The 1979 regulations establish a fixed dollar level compliance quota, which is based on the three percent of operating costs or 10 percent of Federal financial assistance level of the 1972 regulations. Facilities that do not meet their quotas are required to make up in later years the deficit in the amount of uncompensated services provided, and their 20-year period of obligation may be extended to permit such make-up. In addition, the facility must institute an affirmative action plan designed to prevent recurrence of the deficit. 42 CFR 124.504. A facility may also get credit for "excess"—that is, uncompensated services provided over and above its annual quota—and credit that excess against its quota in a future year. The 10 percent compliance level, and all deficits and excesses, are required to be adjusted by a factor that reflects inflation, the so-called "inflation factor." 42 CFR 124.503. In each case, however, the facility can only count a portion of the cost of the service provided toward the quota, the so-called "allowable credit." 42 CFR 124.502. Facilities are required to exclude third party payments from the quota, and also may not count toward the quota the differential between the amount of third party reimbursement and allowable credit where the facility has agreed or is otherwise required to accept the reimbursement as payment in full for service. In addition, services disallowed as unnecessary by a Professional Standards Review Organization (PSRO) must also be excluded. 42 CFR 124.509.

A number of changes were made by the 1979 regulations in how uncompensated services are distributed. Instead of the prior, widely varying, State eligibility criteria, there are now national eligibility criteria, based on the Poverty Income Guidelines formerly issued by the Community Services Administration. 42 CFR 124.506. The

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[1] The assurance required by statute of Title XVI assisted facilities, of which there are only 36, was as follows: ". . . reasonable assurances that at all times after such application (for Title XVI assistance) is approved . . . (ii) there will be made available in the facility or portion thereof to be constructed, modernized or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determing the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint." Sec. 1621(b)(1)(K), 42 U.S.C. 300s–1(b)(1)(K), as redesignated by Pub. L. 96–79.

criteria consider only income, not resources, and a mandatory procedure for calculating income is provided. Facilities are given limited discretion to decide how to allocate their quota of uncompensated services among eligible persons. 42 CFR 124.507. Unlike the prior requirement that eligibility be determined prior to service, facilities can credit services if (but only if) they make an eligibility determination within two working days of a request. 42 CFR 124.502, 124.508.

The 1979 regulations contain extensive requirements for notice, including a requirement that written notice be given to each person seeking service in the facility. 42 CFR 124.505(d). In addition, facilities are required to publish and post notices and to provide notice to the local health systems agency (HSA) in certain circumstances. 42 CFR 124.505.

The 1979 regulations contain a number of reporting and recordkeeping requirements, implementing the 1975 Amendments. 42 CFR 124.510. In addition, primary responsibility for enforcement is given to the Secretary, who may contract out certain enforcement functions to the State Health Planning and Development Agency designated under Title XV of the Act. 42 CFR 124.511 and 124.512.

The Department recently proposed a revision of Subpart F providing a compliance alternative for certain public facilities. 50 FR 36454 (September 6, 1985). It is anticipated that any policies ultimately adopted as a result of that Notice of Proposed Rulemaking will be integrated into these proposed rules when they are adopted in final form.

II. Proposed Rules

A. Objectives and Policies of the Proposed Rules

The proposed rules retain the basic policies of the current rules, but refine some provisions in order to lessen the administrative burden of compliance for facilities, while increasing the incentive for compliance by facilities in order to protect the interests of the intended beneficiaries of the assurance. The proposed rules thus seek to establish balance among the basic principles inherent in the proper operation of an uncompensated services program: (1) The provision of a "reasonable volume" of free or below cost health services to eligible persons; (2) the provision of reasonable and equal opportunity to such persons to apply for and receive those services; and (3) the documentation by facilities that a "reasonable volume" of services and opportunity to apply have been provided. The Department proposes below changes to the current regulations which it believes are necessary to give more appropriate emphasis to each of these principles as determinants of compliance.

The existing regulations rely on strict adherence to the procedural requirements to establish whether or not each patient's uncompensated services account is creditable toward a facility's obligation. The current rules provide no basis for obtaining credit on other grounds, including a facility's substantial compliance with the three basic principles mentioned above. Consequently, facilities which generally comply with regulations and provide substantial amounts of free or below cost care to eligible individuals but fail to comply with, for example, the two-day determination requirement are in a worse position than facilities that are out of compliance with provisions of the regulations that do not affect creditability (e.g., the notice provisions). A further consequence of this approach is that the Department is forced to devote substantial enforcement resources to time-consuming account audits, thereby decreasing the number of facilities it can monitor at any given time for systemic problems of compliance.

The proposed rules address this problem by eliminating or loosening a number of the more technical requirements of the current rules. In addition, they depart from the account-based approach of the current rules as the benchmark of compliance. Instead, under the proposed rules, a facility which is in substantial compliance with the requirements necessary for the proper operation of an uncompensated services program will be given credit for its compliance. See proposed § 124.511(b)(1). A certification of substantial compliance will be based on procedures determined by the Secretary to be sufficient to establish that the facility has substantially complied with its assurance for the period covered by the certification. The Department will examine the systems that facilities have put in place to comply with the notice, recordkeeping and determination of eligibility requirements, as well as their compliance with the reporting requirements. Through this approach, for example, a facility which has a system to ensure that notice is properly provided will not be penalized if it is discovered that an individual inexplicably was not notified. Conversely, a facility which shows a pattern of substantial noncompliance with major substantive provisions of the rule is subject to receiving *no* credit for the period in which noncompliance is found. See proposed § 124.512(c). In the Department's view, these changes will encourage facilities to give proper emphasis to ensuring that individuals are provided equal opportunity to obtain uncompensated services and to maintaining appropriate documentation. Further, the proposed rules will provide a basis for timely monitoring of compliance, and permit the establishment of more comprehensive enforcement policies. The proposed rules also restructure and simplify the current regulatory language in certain respects in order to help achieve compliance by facilities through promoting a better understanding of the regulatory requirements.

Finally, the proposed rules propose a more flexible compliance standard for facilities with small ($10,000 or less) annual compliance obligations and which routinely provide free or below cost services to persons determined by the facility, based on objective criteria, to be unable to pay for them. Facilities that qualify would be eligible for certification by the Secretary, pursuant to which they would be required only to comply with the requirements of the program of discounted services upon which the certification was based, along with ancillary reporting and recordkeeping requirements, as long as the certification was in effect.

The major changes to the 1979 regulations are summarized below. Public comment on these changes, as well as suggestions for alternate policies, are solicited and welcomed. Any empirical data that can be cited in support of positions taken in the public comments would be particularly useful, as would discussions of particular problems that specific provisions of the proposed rules may raise for facilities under State or local law.

B. Major Changes Proposed

1. Compliance Level

The proposed regulations retain the current formula for determining a facility's annual compliance level, calculated as the lesser of 10 percent of the Federal assistance received, or 3 percent of operating costs (minus Medicare and Medicaid reimbursements), except that the treatment of interest subsidy amounts has been changed to eliminate an inconsistency of the present rules. Under the current § 124.503(a), interest subsidies, which are received incrementally over the life of the loan, are treated as received when the loan is made instead of when the subsidies are

actually received, unlike grants, which are treated as received when actually received. The proposed change rectifies this, and conforms the treatment of Federal assistance in the form of interest subsidies to that accorded Federal assistance in the form of grants.

Proposed § 124.503(a)(2) establishes criteria for services that qualify as uncompensated services. The addition of this provision clarifies a requirement that is implicit in the present regulations, but about which there has been some confusion. Subsection (iv) of proposed § 124.503(a)(2) merely incorporates and updates the principle embodied in the present § 124.509(c).

2. Deficits

The deficit provisions of the current regulations, including the requirement for affirmative action plans, have been retained with some modifications. The present regulations require deficits to be made up in the following fiscal year except where the facility is financially unable to do so. 42 CFR 124.503(b). The proposed rule makes explicit the approach implicit in the present rules, *i.e.*, that the timing and amount of the make-up of a deficit should depend on the cause of the deficit. See proposed § 124.503(b)(1). Under the proposed rules, deficits are explicitly divided into two categories: "justifiable deficits" and "noncompliance deficits". A justifiable deficit is one in which the facility did not meet its annual compliance level due to either financial inability (as determined in § 124.511(c)) or, although otherwise in compliance with this regulation, there was a lack of eligible applicants for uncompensated services during the fiscal year. A noncompliance deficit is one in which the facility failed to meet its annual compliance level due to noncompliance with this regulation. An example of this type of noncompliance would be if the facility did not have an uncompensated services program in place, or did not have a system for determining eligibility of applicants.

Justifiable deficits may be made up at any time during (or immediately following) the facility's period of obligation; the timing and amount of make-up in a given year is left to the facility's discretion. By contrast, deficits which are due to noncompliance must be made up on a predetermined schedule, beginning in the fiscal year following the deficit year. This is achieved by adjusting the facility's annual compliance level in subsequent years upward by the amount of the deficit, prorated over the remaining years of obligation. The amount of the deficit is calculated and adjusted in accordance with the methodology set out in the present § 124.503(d). Those provisions have simply been reorganized for clarity. See proposed § 124.503(b)(3).

The principles of the current § 124.504, relating to affirmative action plans, have been retained. However, they have been simplified and clarified. See proposed § 124.503(b)(4).

3. Excesses

Proposed § 124.503(c) continues the policies of the present rules, which permit facilities to provide excess uncompensated services (services over and above the annual compliance level) and apply the excess to reduce their obligation in future years. Amendment of the so-called "buy-out" formula is proposed in order to remove two anomalies of the present formula. First, the current § 124.503(c)(2) relies on the method which produces the lesser amount in computing a facility's annual compliance level for the purpose of determining its remaining obligation. Under the three percent method, variables are inherent, most notably the amount of reimbursement received or claimed from Medicare and Medicaid. Any unusually large amount of such reimbursement in a year would result in an abnormally small annual compliance level which, when factored into the existing formula, could produce a buy-out amount that is artificially low. Therefore, the buy-out formula has been revised to take such situations into account. It proposes that an average of the annual compliance levels for the previous three years (regardless of the method used to calculate these levels) be multipled by the number of years remaining in the obligation, less any excesses from prior years or plus any deficits from prior years.

The buy-out formula has been revised in another respect to remedy a second problem which has become evident. Recipients of loans continue to receive the benefits of interest subsidy and other payments made by the Secretary each year until their loans are repaid. The current buy-out formula fails to recognize the effect of payments that will be made after the buy-out year. Proposed § 124.503(c)(3)(ii) takes these payments into account for purposes of calculating the buy-out amount. To calculate the remaining obligation of loan recipients, facilities use the lesser of: (1) The 10% method of determining the annual compliance level, taking into account future interest subsidies to be paid over the life of the loan; or (2) the average of the last 3 years of the base compliance level, computed under the 3% method, times the number of years remaining in the life of the loan. Deficits are added and excesses subtracted, as for grant-assisted facilities. This proposed change does not affect the term of the obligation for these facilities, which lasts until the loan is repaid. See proposed § 124.501(b)(1)(ii).

Proposed § 124.503(c)(4) requires facilities to substantiate, through certified, independent audits, the creditability of excess amounts which in a given year exceed 100 percent of their annual compliance level for that year. The purpose of this requirement is to facilitate monitoring by guarding against inflated claims of excess. The audit must be sufficient for the Secretary to determine the creditability of individual accounts under proposed § 124.503. The Secretary will make guidance materials available for this purpose.

4. Exemption for Community Health Centers and Migrant Health Centers

Proposed § 124.503(d) has been added to exempt community health centers and migrant health centers from the requirements of these regulations. Thirty-seven facilities which received assistance under the Hill-Burton Act also receive assistance under either sec. 330 or 329 of the Public Health Service Act (42 U.S.C. 254c, 247d). These community health centers and migrant health centers, respectively, receive the major portion of their operating budgets from Federal financial assistance under rules that, like the uncompensated services regulations, ensure the provision of health services to individuals and families who cannot afford to pay for them. It is anomalous to require these facilities to implement separately two essentially equivalent sets of Federal regulations designed to achieve the same purpose.

The rules under which the centers operate (42 CFR Parts 51c and 56, respectively) require the provision of health services to medically underserved populations without regard to a patient's ability to pay (42 CFR 51c.303 (f), (u), and 56.303 (f), (u)). Each year, the 37 centers provide about $15 million of services at no cost to patients. These centers must utilize fee schedules which provide for the adjustment of fees based on the Department's poverty line (42 CFR 51c.303(f) and 56.303(f)), the same standard that is used to establish eligibility for uncompensated services under the Hill-Burton obligation. See 42 CFR 124.506. Detailed reports on the operation of these centers and their services are required semiannually under their regulations and contain information sufficient to ascertain compliance with those rules.

In light of these requirements and the purposes for which Federal assistance under sections 330 and 329 is provided, the Department proposes to regard each community or migrant health center that received Hill-Burton assistance as having satisfied its Hill-Burton uncompensated services obligation for each of the center's fiscal years in which it receives a community or migrant health center grant and is in substantial compliance with the conditions of that grant pertaining to discounted services. Therefore, such centers would be exempt from the requirements of 42 CFR Part 124, Subpart F, for that year. The exemption would remain in effect as long as these conditions are met. Should the center fail to meet these conditions (*e.g.*, by losing its grant support before its period of obligation specified in § 124.501(b) has expired), it would automatically become subject to the requirements of 42 CFR Part 124, Subpart F, for the remainder of that period.

5. Notices

The proposed rules continue the three requirements to post notices, provide individual notices, and publish notices of the availability of uncompensated services. The requirement for posted notice is retained in its entirety. The individual notice requirement is modified only to conform to the changes to the eligibility determination requirement, discussed below. The Department believes that these requirements are crucial to ensuring that people are provided equal opportunity to apply for uncompensated services.

In keeping with the elimination of the requirement to notify HSAs, discussed below, the published notice requirement has been modified to require the inclusion of a statement inviting interested parties to comment on the allocation plan contained in the notice. Proposed § 124.504(a) also changes the existing requirement that the notice (and, in particular, allocation plans) be published no later than 60 days before the beginning of a facility's fiscal year. Under proposed § 124.504(a), read together with proposed § 124.506, plans may be published at any time before the beginning of the fiscal year, with the previously published plans remaining in effect until the new plans are published. Plans may be revised at any time during a fiscal year by publishing them. Revised plans would take effect upon their publication, but may not be retroactive (see proposed § 124.506(b)). The Department believes that this proposed change in the published notice requirement is also consistent with the findings in the departmental study on nursing homes, described in greater detail under 8. *Determinations of Eligibility*. Accordingly, the proposed change has been applied to all obligated facilities. This increased flexibility to adopt and revise plans means that the facilities can take advantage of comments, whenever received, and obviates the need for an extended period for public consideration, which is the basis for the present 60-day requirement.

6. Eligibility Criteria

The eligibility criteria have been revised to clarify what has been a source of confusion under the 1979 regulations; that is, whether facilities are required to provide uncompensated services to persons whose services would be paid for under a third-party payment program. The proposed rules make clear, by making the lack of such coverage a criterion for eligibility, that the existence of such coverage eliminates eligibility for uncompensated services. See proposed § 124.505(a)(1). This policy is consistent with long-standing practice and the Federal view of the uncompensated services program as a program of "last resort." See, for example, the discussion at 44 FR 29394, May 18, 1979.

Proposed § 124.505 maintains the current requirements for determining an individual's financial eligibility for uncompensated services. To conform this section to facilities' usual application processes, the proposed rules slightly modify the methods of computing income by requiring the use of income preceding the request for uncompensated services, rather than preceding the determination of eligibility. Proposed § 124.505(a)(2) and proposed § 124.505(b) also update the current requirements, by referencing the "poverty line" issued by the Department, in accordance with sec. 683(c)(1) of Pub. L. 97–35. Proposed § 124.505(b) establishes in the regulations that revisions of the poverty line will be effective 60 days following their publication in the **Federal Register**. This proposal is consistent with the general administrative practice followed since the inception of the existing rules.

7. Allocation Plans

The allocation plan requirements of the current rules have been retained. Facilities retain their discretion to determine certain specified elements of the allocation plan, including determining which services to make available as uncompensated services, and whether to offer these services to Category B patients. As discussed above, proposed § 124.506(b)(2) modifies the existing requirements for facilities which fail to publish a plan or publish it late. The Department believes that this modification closely reflects actual practice by facilities in such situations, and that such practice, being reasonable, should be reflected in the proposed rules.

8. Determinations of Eligibility

Proposed § 124.507 retains the basic policies of the current rules in most respects, but clarifies several points that have proved confusing. Proposed § 124.507(a) makes clear that determinations must be written, while proposed § 124.507(b) clarifies that denials are a form of determination and spells out the requirements for conditional determinations (which are expanded to conform to proposed § 124.506(a)(1)).

The major change to the determination requirement appears in proposed § 124.507(c), relating to the timing of determinations. The proposed rule preserves intact for hospitals and most other facilities the current requirement of a two-day determination of eligibility in the case of requests for service made before admission or treatment. This policy is consistent with the concern expressed by the *Corum* court, *supra*, that persons reluctant to incur medical services without assurance of payment be able to obtain that assurance in a timeframe consistent with sound medical care (see the discussion at 44 FR 29393, May 18, 1979). However, proposed § 124.507(c) eliminates the two-day requirement in situations to which the concern of the *Corum* court is not applicable, *i.e.*, where liability for the cost of the services has already been assumed. Thus, proposed § 124.507(c)(2) provides that in cases where the request for uncompensated services is made during or after receipt of services, the determination must be made before the close of the first full billing period following the request. This will enable facilities to make determinations in a timeframe that is consistent with their standard accounting practices and thereby lessen the administrative burden of these rules. On the other hand, it, together with the related notice requirement of proposed § 124.504(c)(1)(iv), will provide a defined timeframe within which applicants for uncompensated services can determine whether they will receive such services.

Proposed § 124.507(c) contains parallel provisions for nursing homes, but alters the timeframes. It requires nursing homes to make determinations of eligibility within 10 working days, but

VOL 51 ISS 168 AG 29 1986 UMI

no later than the date of admission, when the request is made prior to admission. For patients who have already been admitted, nursing homes, like other facilities, are required to make determinations before the close of the first full billing period following requests for uncompensated services. A Departmental study was conducted to determine whether the current regulations should apply equally to nursing homes and hospitals. The study's findings indicated that the unique characteristics of nursing homes (*e.g.*, length of stay, waiting lists) provide a basis for amending the rules. The timing aspect of the determination of eligibility requirement was identified as inappropriate for nursing homes. Nursing home patients often are on waiting lists before admission, and typically reside in them for months or years at a time, in contrast to hospital patients, who are admitted quickly and stay for a week on average. These factors indicate little need for quick turnaround on determinations by nursing homes. It is thus our view that extending the present two-day requirement to 10 days for preservice determinations and to the billing period for postservice determinations will give nursing homes needed flexibility to handle the paperwork, at no loss of convenience to applicants for uncompensated services.

9. Cessation of Uncompensated Services

Proposed § 124.508 articulates the conditions under which a facility may stop providing uncompensated services. The proposed provisions clarify and draw together in one place policies of the current rules. *See, e.g.*, 42 CFR 124.508, 124.510(b)(2).

10. Exclusions

The proposed rules eliminate § 124.509 of the current regulations, *Exclusions from uncompensated services*, but retain the principles inherent in the four current exclusions. The exclusion of amounts that a facility is entitled to receive from a third-party insurer or under a government program, § 124.509(a), is reflected in proposed §§ 124.502(l) and 124.505(a)(1). Present § 124.509(d) is also reflected in proposed § 124.505(a)(1), while the present § 124.509(b) is reflected in proposed § 124.502(l). The exclusion provided for by the present § 124.509(c) appears in proposed § 124.503(a)(2), as discussed above.

11. Reporting and Record Maintenance

The existing requirements for reporting on compliance and maintaining records to document compliance have been retained in proposed §§ 124.509 and 124.510. However, major reductions in the reporting and recordkeeping burden for facilities are proposed. As discussed below, the proposed rules eliminate the requirement that facilities provide copies of their allocation plans, published notices, and reporting forms to the HSA in their area. The recordkeeping provisions have been modified to require facilities to maintain records for three years after submission of their compliance report or until 180 days following the Secretary's certification of compliance, whichever is less. See proposed § 124.510(b). The current requirement to keep records for 180 days following the close of the Secretary's investigation fails to establish a date certain after which facilities may dispose of such records. The proposed change removes a potentially burdensome requirement for some facilities and, in the Department's view, is proper in light of its expectation for improved efficiencies in monitoring compliance. The proposed exemption for community health centers and migrant health centers represents a major reduction in the reporting and record maintenance requirements for these facilities, while the compliance standard proposed for such centers removes duplicative paperwork requirements.

12. Investigations and Enforcement of Compliance

Proposed § 124.511(a) retains the policies of the present § 124.511(a), relating to complaints. Proposed § 124.511(b) clarifies the policies through which the Department implements its statutory authority to ascertain compliance by spelling out and expanding upon the assessment and certification processes.

For the purpose of effecting a smooth transition between the current rules and the proposed rules, proposed § 124.511(b)(1)(ii) provides for certification of a compliance amount for a facility for the years between 1979 and the effective date of the new rules. For each facility under obligation at the time the final rules are published, the Department plans to certify amounts of uncompensated services provided under the current rules. Therefore, deficit and excess amounts would be carried over. Some facilities will not as yet have had amounts certified toward their obligations, and others will have previously received certifications for a portion of the years under obligation. In order to speed the transition and permit the concentration of resources on monitoring compliance under the new rules, the Department plans to calculate for each facility the amount of creditable uncompensated services not previously certified. The calculation will be made by adjusting each facility's reported data by a factor derived from a review of all assessments conducted to date. In lieu of accepting this calculation, facilities will be given the option of hiring an independent auditor to determine the amount of creditable uncompensated services provided, and submitting the results to the Secretary. The audit, which must be sufficient for the Secretary to determine the creditability of individual accounts under § 124.503, may be conducted for any years not included in a previous assessment conducted by the Department. The Department will make guidance materials available for this purpose. If the Secretary agrees that a change is appropriate, the Secretary will use this information to adjust the Department's calculation.

Proposed § 124.511(b)(1)(i) contains provision for certifications of substantial compliance in future years. This provision, together with the parallel provision relating to substantial noncompliance at proposed § 124.512(c), is designed to provide a "carrot and stick" approach to the problem of uniform enforcement. Proposed § 124.511(b)(1)(i) provides the "carrot" by providing credit for the claimed compliance level if the facility has substantially complied with the rules, despite aberrations on individual accounts. Proposed § 124.512(c) provides the "stick", by enabling the Secretary to deny credit for any uncompensated services provided in a given year in cases where a facility exhibits a pattern of substantial noncompliance with the major procedural requirements of the rules. Together, these provisions are designed to create a strong incentive for facilities to comply with the rules across the board, thereby enhancing the provision of services to persons unable to pay while lessening the burden of compliance for facilities that make a good faith effort to comply.

13. Agreements With State Agencies

Under proposed § 124.513, any agency of a State, which is willing and able to carry out the tasks covered by the section, would be eligible to enter into an agreement with the Secretary.

14. Health Systems Agencies

The current regulations require facilities to send their allocation plans, published notices, and reporting forms to the health systems agency (HSA) in their area. Because facilities are not required to implement recommendations

they may receive from the HSA, the Department believes the requirement is unnecessary and has eliminated it from the proposed rules. Facilities are encouraged, however, to continue to seek comment on their uncompensated services program from local health planning organizations.

15. Facilities With Small Annual Obligations

A recent study conducted for the Department by A.D. Little, Inc., "Evaluation of the Hill-Burton Program Administrative Compliance Costs," (contract No. 232–82–0011) shows that the average cost for all Hill-Burton facilities of administering the program of uncompensated services under subpart F is approximately $7,800 per year. While the cost is relatively trivial for facilities with sizeable annual compliance levels, it can loom large in the case of a facility whose annual obligation is small. Where a facility with a small Hill-Burton obligation has, or is prepared to adopt, its own program of providing free or below-cost care to persons who are unable to pay for the services, it seems difficult as a matter of public policy to justify insistence that the facility comply with the full panoply of administrative and procedural requirements of subpart F. Accordingly, we are proposing that any facility whose annual compliance level in the current year is $10,000 or less be permitted an exemption from the procedural and administrative requirements of the regulations if the Secretary certifies that the facility conducts a program of providing health services at no or a substantially reduced charge to persons who are unable to pay therefor. See proposed § 124.514. Of those institutions eligible to apply for this exemption, many have annual obligations of less than $5,000. Therefore, in some cases, the administrative costs of compliance would approach or even exceed the annual obligation. The program must provide for objective eligibility criteria and procedures, including notice prior to service except in emergency situations, that assure that all persons served by the facility have an opportunity to apply and obtain determinations of eligibility. A facility would apply for certification by submitting to the Secretary a description of its program of discounted services. Once granted, the certification would remain in effect until withdrawn by the Secretary upon his determination that there has been a material change in the factors on which the certification was based or a material failure by the facility to comply with its continuing obligations under the certification.

There may be some facilities who would qualify for the small-obligation compliance alternative who have incurred deficits under the present regulations. In such cases, the proposed regulations would offer facilities choices, as follows:

a. A Title VI-assisted facility that has been assessed as having a deficit may either demonstrate to the Secretary's satisfaction that it met the requirements for certification in the years for which the deficit was assessed, or make up the deficit by continuing to operate under proposed § 124.514 for a period commensurate with the amount of the deficit at the end of its period of obligation.

b. A Title VI-assisted facility whose compliance has not been assessed for a period prior to certification may either accept no credit for that period and make up the deficit as described in a. above, or hire an independent auditor to conduct an audit of its compliance for the unassessed period and establish that it had no (or a reduced) deficit for that period. The Secretary would make guidance materials available for purposes of such audits.

c. A Title XVI-assisted facility (for which the uncompensated services obligation is not time-limited) with an assessed deficit may eliminate the deficit by demonstrating to the Secretary's satisfaction that it met the requirements for certification in the year for which the deficit was assessed. If it is unable to do so, it would be required to make up the deficit should its certification be withdrawn at any time in the future.

d. A Title XVI-assisted facility whose compliance has not been assessed for a period prior to certification would be presumed to have no allowable credit for the unassessed period. It may either eliminate the deficit by making the showing described in c. above or by an independent audit as described in b. above. If it is unable to do either, it would be required to make up the deficit should its certification be withdrawn at any time in the future.

III. Regulatory Flexibility Act and Executive Order 12291

The proposed rule generally maintains the existing procedural and reporting requirements for the majority of obligated facilities, but significantly reduces the burden for others such as CHC's and facilities with small obligations. Taken as a whole, the proposed rule will produce a reduction in costs in light of its reliance on monitoring for substantial compliance, rather than on auditing and the resulting disallowance of individual accounts.

The Department has determined that the impact of the proposed rules would not approach the annual $100 million threshold for major economic consequences as defined in Executive Order 12291.

The Department estimates that, in the aggregate, administrative savings for facilities will be $1.3 million in the first year and $5.2 million in subsequent years. These savings take into account the increased costs related to the requirement for independent audits for claims of excess over 100 percent of the annual compliance level, and the option to hire independent auditors for the transition calculation. The difference between the administrative savings in the first and subsequent years is attributable to the greater number of transition audits likely to be conducted in the first year. We believe the impact would not approach the annual $100 million threshold for major economic consequences established in Executive Order 12291. In order to reach that threshold, each of the approximately 5,000 obligated facilities would have to claim excesses over 100 percent of their compliance level annually, and conduct audits each year at a cost of $20,000 each. That number of excess claims is highly unlikely, and the cost of an audit would not approach $20,000. Similarly, in order for this proposal to have a significant economic impact, audits conducted for the one-time purpose of transition would also have to be carried out by all obligated facilities at a cost of $20,000 each. This is also highly unlikely. Therefore, a regulatory impact analysis is not required.

Consistent with the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Secretary certifies that this rule will not have significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

Sections 124.504 (a) and (c), 124.507(a), 124.509, and §§ 124.510 (a) and (c) of this proposed rule contain information collection requirements which have been approved, under control number 0915–0077, by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980.

Sections 124.503(c)(4) and 124.511(b)(1)(ii), which pertain to the results of independent audits, and § 124.510(b), which modifies the record retention period, contain requirements which are subject to review of OMB under section 3504(h) of the Paperwork Reduction Act of 1980. The Department has submitted a copy of this proposed

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rule to OMB for its review of these requirements.

Other organizations and individuals desiring to submit comments on these information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, ATTN: Desk Officer for HHS.

List of Subjects in 42 CFR Part 124

Grant programs—health, Health facilities, Loan programs—health, Low income persons, Reporting requirements.

Dated: April 22, 1986.

Donald Ian Macdonald,

Assistant Secretary for Health.

Approved: June 11, 1986.

Otis R. Bowen,

Secretary.

In consideration of the foregoing, it is hereby proposed to amend Part 124 of 42 Code of Federal Regulations as set forth below.

PART 124—[AMENDED]

The authority citation for Part 124 is revised to read as follows:

Authority: Sec. 202(b), Pub. L. 96–79, 93 Stat. 639 (42 U.S.C. 300s(3)); Secs. 215, 1602, 1625, Public Health Service Act (42 U.S.C. 216, 300o–1, 300r).

2. Subpart F is revised to read as follows:

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable To Pay

Sec.

124.501 Applicability.
124.502 Definitions.
124.503 Compliance level.
124.504 Notice of availability of uncompensated services.
124.505 Eligibility criteria.
124.506 Allocation of services; plan requirement.
124.507 Written determinations of eligibility.
124.508 Cessation of uncompensated services.
124.509 Reporting requirements.
124.510 Record maintenance requirements.
124.511 Investigation and determination of compliance.
124.512 Enforcement.
124.513 Agreements with State agencies.
124.514 Compliance alternative for facilities with small annual obligations.

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable To Pay

§ 124.501 Applicability.

(a) The provisions of this subpart apply to any recipient of Federal assistance under Title VI or XVI of the Public Health Service Act that gave an assurance that it would make available, in the facility or portion of the facility constructed, modernized or converted with that assistance, a reasonable volume of services to persons unable to pay for the services.

(b) The provisions of this subpart apply to facilities for the following periods:

(1) *Facilities assisted under Title VI.* Except as otherwise herein provided, a facility assisted under Title VI of the Act shall provide uncompensated services at the annual compliance level required by § 124.503(a) for:

(i) Twenty years after the completion of construction, in the case of a facility for which the Secretary provided grant assistance under section 606 of the Act; or

(ii) The period from completion of construction until the amount of a direct loan under section 610 and 623 of the Act, or the amount of a loan with respect to which the Secretary provided a guarantee and interest subsidy under section 623 of the Act, is repaid, in the case of a facility for which such a loan was made.

(iii) "Completion of construction" means:

(A) The date on which the Secretary determines the facility was opened for service;

(B) If the opening date is not available, it means the date on which the Secretary approved the final part of the facility's application for assistance under Title VI of the Act;

(C) If the date of final approval is not available, it means whatever date the Secretary determines most reasonably approximates the date of final approval.

(2) *Facilities assisted under Title XVI.* The provisions of this subpart apply to a facility assisted under Title XVI of the Act at all times following the Secretary's approval of the facility's application for assistance under Title XVI, except that if the facility does not at the time of that approval provide health services, the assurance applies at all times following the facility's initial provision of health services to patients, as determined by the Secretary.

§ 124.502 Definitions.

As used in this subpart—

(a) "Act" means the Public Health Service Act, as amended.

(b) "Allowable credit" for services provided to a specific patient means the lesser of the facility's usual charge for those services, or the usual charge multiplied by the percentage which the total allowable cost as reported by the facility in the facility's preceding fiscal year under Title XVIII of the Social Security Act (42 U.S.C. 1395, *et seq.*) and Subpart D of the implementing regulations (42 CFR 405.401, *et seq.*) bears to the facility's total patient revenues for the year.

(c) "Applicant" means a person who requests uncompensated services or on whose behalf uncompensated services are requested.

(d) "Facility" means an entity that received assistance under Title VI or XVI of the Act and provided an assurance that it would provide a reasonable volume of services to persons unable to pay for the services.

(e) "Federal assistance" means assistance received by the facility under Title VI or Title XVI of the Act and any assistance supplementary to that Title VI or Title XVI assistance received by the facility under any of the following acts: the District of Columbia Medical Facilities Construction Act of 1968, 82 Stat. 631 (Pub. L. 90–457); the Public Works Acceleration Act of 1962 (42 U.S.C. 2641, *et seq.*); the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121, *et seq.*); the Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App.); the Local Public Works Capital Development and Investment Act of 1976 (Pub. L. 94–369). In the case of a loan guarantee with interest subsidy, or a direct loan sold and guaranteed by the Secretary with an interest subsidy, the amount of Federal assistance under Title VI or Title XVI for a fiscal year is the total amount of the interest subsidy that the Secretary will have paid by the close of that fiscal year, as well as any other payments which the Secretary has made as of the beginning of the fiscal year on behalf of the facility in connection with the loan guarantee or the direct loan which has been sold.

(f) "Fiscal year" means the facility's fiscal year.

(g) "Nursing home" means a facility which received Federal assistance for and operates as a "facility for long-term care" as defined at, as applicable, sec. 645(h) or sec. 1624(6) of the Act.

(h) "Operating costs" for any fiscal year means the total operating expenses of a facility as set forth in an audited financial statement, minus the amount of reimbursement, if any, received (or if not received, claimed) in that year under Titles XVIII and XIX of the Social Security Act.

(i) "Persons unable to pay" means persons who meet the eligibility criteria set out in § 124.506.

(j) "Request for uncompensated services" means any indication by or on behalf of an individual seeking services of the facility of the individual's

inability to pay for services. A request for uncompensated services may be made at any time, including following institution of a collection action against the individual.

(k) "Secretary" means the Secretary of Health and Human Services or [his or her] delegatee.

(l) "Uncompensated services" means:

(1) For facilities other than those certified under § 124.514, services that are made available to persons unable to pay for them without charge or at a charge which is less than the allowable credit for those services. The amount of uncompensated services provided in a fiscal year is the total allowable credit for services less the amount charged for the services following an eligibility determination. In determining the amount of uncompensated services, the Secretary includes only those services provided to individuals with respect to whom the facility has made a written determination of eligibility.

(2) For facilities certified under § 124.514, services as defined in paragraph (l)(1) of this section and services that are made available to persons unable to pay for them under programs described by the documentation provided under § 124.514(c)(2). Excluded are services reimbursed by Medicare, Medicaid or other third party programs, including services for which reimbursement was provided as payment in full.

§ 124.503 Compliance level.

(a) *Annual compliance level.* (1) Subject to the provisions of this subpart, a facility is in compliance with its assurance to provide a reasonable volume of services to persons unable to pay if it provides for the fiscal year uncompensated services at a level not less than the lesser of—

(i) Three percent of its operating costs for the most recent fiscal year for which an audited financial statement is available;

(ii) Ten percent of all Federal assistance provided to or on behalf of the facility, adjusted by a percentage equal to the percentage change in the National Consumer Price Index for medical care between the year in which the facility received assistance or 1979, whichever is later, and the most recent year for which a published index is available.

(2) *Qualifying services.* A facility may credit towards its annual compliance level only uncompensated services that are:

(i) Provided to an eligible applicant, as defined at § 124.505;

(ii) Covered by the facility's allocation plan under § 124.506;

(iii) Documented by a written determination of eligibility made in accordance with § 124.507; and

(iv) Provided within 96 hours following notification to the facility by a peer review organization (PRO) that the PRO disapproved of the services under section 1155(a)(1) or section 1154(a)(1) of the Social Security Act.

(b) *Deficits.* If in any fiscal year a facility fails to meet its annual compliance level, it shall provide uncompensated services in an amount sufficient to make up that deficit in subsequent years, and its period of obligation shall be extended until the deficit is made up.

(1) *Types of deficits.* For purposes of determining the timing and amount of any deficit make-up, there are two types of deficits:

(i) *Justifiable deficits.* A justifiable deficit is one in which the facility did not meet its annual compliance level due to either financial inability (as determined under § 124.511(c)) or, although otherwise in compliance with this subpart, a lack of eligible applicants for uncompensated services during the fiscal year.

(ii) *Noncompliance deficits.* A noncompliance deficit is one in which the facility failed to meet its annual compliance level due to noncompliance with this subpart.

(2) *Timing of deficit make-up*—(i) *Justifiable deficits.* (A) A facility assisted under Title VI of the Act may make up a justifiable deficit at any time during its period of obligation or in the year (or years, if necessary) immediately following its period of obligation.

(B) A facility assisted under Title XVI of the Act is not required to make up a justifiable deficit.

(ii) *Noncompliance deficits.* (A) A facility must begin to make up a noncompliance deficit in the fiscal year following the finding of noncompliance by the Secretary.

(B) A facility which claimed financial inability under § 124.509(b)(3) and is found by the Secretary to have been financially able to provide uncompensated services in the year in which the deficit was incurred shall begin to make up the deficit beginning in the fiscal year following the Secretary's finding.

(C) A facility required to make up a noncompliance deficit but which is determined by the Secretary, pursuant to § 124.511(c), to be financially unable to do so in the year following the Secretary's finding of noncompliance shall make up the deficit in accordance with a schedule set by the Secretary.

(3) *Deficit make-up amount.* (i) The amount of a deficit in any fiscal year is the difference between the facility's annual compliance level for that year and the amount of uncompensated services provided in that year.

(ii) The amount of a justifiable deficit must be adjusted by a percentage equal to the percentage change in the National Consumer Price Index between the fiscal year in which the deficit was incurred and the fiscal year in which it was made up.

(iii) An amount equal to the result of dividing the amount of any noncompliance deficit for a fiscal year by the number of years of obligation remaining and adjusting it by a percentage equal to the percentage change in the National Consumer Price Index between the fiscal year in which the deficit was incurred and the fiscal year in which it was made up shall be added to a facility's annual compliance level for each fiscal year following the fiscal year of the finding of noncompliance.

(4) *Affirmative action plan for precluding future deficits.* Except where a facility reports to the Secretary in accordance with § 124.509(b)(3) that it was financially unable to provide uncompensated services at the annual compliance level, a facility that fails to meet its annual compliance level in any fiscal year shall, in the following year, develop and implement a plan of action that can reasonably be expected to enable the facility to meet its annual compliance level. Such actions may include special notice to the community though newspaper, radio, and television, or expansion of service to Category B persons. The Secretary may require changes to the plan.

(c) *Excesses.* (1) Whenever a facility provides in a fiscal year uncompensated services in an amount exceeding its annual compliance level, it may apply the amount of excess to reduce its annual compliance level in any subsequent fiscal year. The facility may use any excess amount to reduce its annual compliance level only if the services in excess of the annual compliance level are provided in accordance with the requirements of this subpart.

(2) *Calculation and adjustment of excess.* (i) The amount of an excess in uncompensated services in any fiscal year is the difference between the amount of uncompensated services the facility provided in that year and the facility's annual compliance level for that year.

(ii) The amount of any excess compliance applied to reduce a facility's annual compliance level must be adjusted by a percentage equal to the

VOL 51 ISS 168 AG 29 1986 UMI

percentage change in the National Consumer Price Index for medical care between the fiscal year in which the facility provided the excess, and the fiscal year in which the facility applies the excess to reduce its annual compliance level or satisfy its remaining obligations.

(3) A facility assisted under Title VI may in any fiscal year apply the amount of excess credited under this paragraph to satisfy the remainder of its obligation to provide uncompensated services.

(i) For grant assistance, the remaining obligation is the average of the facility's annual compliance levels in the previous three years, multiplied by the number of years remaining in its period of obligation, plus any deficits required to be made up under this section, and less any unused excesses accrued in prior years.

(ii) For loan assistance, the remaining obligation is the lesser of: (A) The facility's annual compliance level in that year, calculated under the ten percent method, multiplied by the number of years remaining in the scheduled life of the loan, plus the sum of ten percent of each yearly cumulative total of additional interest subsidy or other payments (which the Secretary will have made in connection with the guaranteed loan or a direct loan which has been sold) in each subsequent year remaining in the scheduled life of the loan, plus any deficits required to be made up under this section, and less any unused excesses accrued in prior years; or (B) the average of the facility's annual compliance levels in the previous three years, computed under the three percent method, multiplied by the number of years remaining in its period of obligation, plus any deficits required to be made up under this section, and less any unused excesses accrued in prior years.

(4) Excesses which are reported under § 124.509(a) in an amount greater than one hundred percent of a facility's adjusted annual compliance level for that year must be substantiated by a certified, independent audit, conducted in accordance with procedures specified by the Secretary, of the facility's records required to be maintained under § 124.510(a).

(d) For each fiscal year for which a facility that receives a grant to operate a community health center under section 330 of the Act or a migrant health center under section 329 of the Act is in substantial compliance with the terms and conditions of such grant relating to the provision of services at a discount, the facility shall be deemed to have met its annual compliance level in accordance with the requirements of this subpart and shall not be required otherwise to comply with the requirements of this subpart for that fiscal year.

§ 124.504 Notice of availability of uncompensated services.

(a) *Published notice.* A facility shall, before the beginning of its fiscal year, publish in a newspaper of general circulation in its area notice of its uncompensated services obligation. The notice shall include:

(1) The plan of allocation the facility proposes to adopt;

(2) The amount of uncompensated services the facility intends to make available in the fiscal year or a statement that the facility will provide uncompensated services to all persons unable to pay who request uncompensated services;

(3) An explanation, if the amount of uncompensated services the facility intends to make available in a fiscal year is less than the annual compliance level. If a facility has satisfied its remaining uncompensated services obligation since the last published notice under this paragraph, or will satisfy the remaining obligation during the fiscal year, the explanation must include this information; and

(4) A statement inviting interested parties to comment on the allocation plan.

(b) *Posted notice.* (1)(i) The facility shall post notices, which the Secretary supplies in English and Spanish, in appropriate areas in the facility, including but not limited to the admissions areas, the business office and the emergency room.

(ii) If in the service area of the facility the "usual language of households" of ten percent or more of the population according to the most recent figures published by the Bureau of the Census is other than English or Spanish, the facility shall translate the notice into that language and post the translated notice on signs substantially similar in size and legibility to, and posted with those supplied under paragraph (b)(1)(i) of this subsection.

(iii) The facility shall make reasonable efforts to communicate the contents of the posted notice to persons who it has reason to believe cannot read the notice.

(2) If a facility determines that it has provided uncompensated services in an amount sufficient to meet its annual compliance level for the fiscal year or its allocation for any period specified in its allocation plan, and that it will not continue to provide uncompensated services during the fiscal year or the appropriate period, it may post an additional notice stating that it has satisfied its obligation for the fiscal year or appropriate period and when additional uncompensated services will be available.

(c) *Individual written notice.* (1) In any period during a fiscal year in which uncompensated services are available in the facility, the facility shall provide individual written notice of the availability of uncompensated services to each person who seeks services in the facility on behalf of himself or another. The individual written notice must:

(i) State that the facility is required by law to provide a reasonable amount of care without or below charge to people who cannot afford care;

(ii) Set forth the criteria the facility uses for determining eligibility for uncompensated services (in accordance with the financial eligibility criteria and the allocation plan);

(iii) State the location in the facility where anyone seeking uncompensated services may request them; and

(iv) State that the facility will make a written determination of whether the person will receive uncompensated services, and the date by or period within which the determination will be made.

(2) The facility shall provide the individual written notice before providing services, except where the emergency nature of the services provided makes prior notice impractical. If this exception applies, the facility shall provide the individual written notice to the next of kin or to the patient as soon as practical, but not later than when first presenting a bill for services.

(3) The facility shall make reasonable efforts to communicate the contents of the individual written notice to persons who it has reason to believe cannot read the notice.

§ 124.505 Eligibility criteria.

(a) A person unable to pay for health services is a person who—

(1) Is not covered, or receives services not covered, under a third-party insurer or governmental program, except where the person is not covered because the facility fails to participate in a program in which it is required to participate by § 124.603(c); and

(2) Falls into one of the following categories:

(i) *Category A*—A person whose annual individual or family income, as applicable, is not greater than the current poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. The facility shall provide uncompensated services to persons in Category A without charge.

(ii) *Category B*—A person whose annual individual or family income, as applicable, is greater but not more than twice the poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. If persons in Category B are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges as specified in the allocation plan.

(b) For purposes of determining eligibility for uncompensated services, revisions of the poverty line are effective 60 days from the date of their publication in the **Federal Register**.

(c) A person is eligible for uncompensated services if the person's individual or family annual income, as applicable, is at or below the level established under paragraph (a)(2) when calculated by either of the following methods:

(1) Multiplying by four the person's or family's income, as applicable, for the three months preceding the request for uncompensated services;

(2) Using the person's or family's income, as applicable, for the twelve months preceding the request for uncompensated services.

§ 124.506 Allocation of services; plan requirement.

(a)(1) A facility shall provide its uncompensated services in accordance with a plan that sets out the method by which the facility will distribute its uncompensated services among persons unable to pay. The plan must:

(i) State the type of services that will be made available;

(ii) Specify the method, if any, for distributing those services in different periods of the year;

(iii) State whether Category B persons will be provided uncompensated services, and if so, whether the services will be available without charge or at a reduced charge;

(iv) If services will be made available to Category B persons at a reduced charge, specify the method used for reducing charges, and provide that this method is applicable to all persons in Category B; and

(v) Provide that the facility provides uncompensated services to all persons eligible under the plan who request uncompensated services.

(2) A facility must adopt an allocation plan that meets the requirements of paragraph (a) by publishing the plan in a newspaper of general circulation in its area before the beginning of its fiscal year.

(b)(1) If in any fiscal year a facility fails to adopt and publish a plan in accordance with paragraph (a), it shall provide uncompensated services in accordance with the last plan it published in a newspaper of general circulation in its area.

(2) If no plan was previously published in a newspaper of general circulation in the facility's area, the facility must provide uncompensated services without charge to all applicants in Category A and Category B who request service in any portion of the facility until the facility reaches its annual compliance level or publishes an allocation plan in a newspaper of general circulation in the area it serves, whichever first occurs.

(c) A facility may revise its allocation plan during the fiscal year by publishing the revised plan in a newspaper of general circulation in the area it serves. A revised plan may not be retroactive.

§ 124.507 Written determinations of eligibility.

(a) Determinations of eligibility must be in writing, be made in accordance with this section, and a copy of the determination must be provided to the applicant promptly.

(b) *Content of determinations*— (1) *Favorable determinations.* A determination that an applicant is eligible must indicate:

(i) That the facility will provide uncompensated services at no charge or at a specified charge less than the allowable credit for the services;

(ii) The date on which services were requested;

(iii) The date on which the determination was made;

(iv) The income of the applicant; and

(v) The date on which services were or will be first provided to the applicant.

(2) *Conditional determinations.* (i) As a condition to providing uncompensated services, a facility may:

(A) Require the applicant to furnish any information that is reasonably necessary to substantiate eligibility; and

(B) Require the applicant to apply for any benefits under third party insurer or governmental programs to which he/she is or could be entitled upon proper application.

(ii) A conditional determination must:

(A) Comply with paragraph (b)(1) of this section; and

(B) State the condition(s) under which the applicant will be found eligible.

(iii) When a facility determines that the condition(s) upon which a conditional determination was made has been met, or will not be met, it shall make a favorable determination or denial on the request, as appropriate, in accordance with this section.

(3) *Denials.* A facility must provide to each applicant denied the uncompensated services requested, in whole or in part, a dated statement of the reasons for the denial.

(c) *Timing of determinations*—(1) *Preservice determinations.* (i) Facilities other than nursing homes shall make a written determination of eligibility within two working days following a request for uncompensated services which is made before receipt of outpatient services or before admission for inpatient services;

(ii) Nursing homes shall make a written determination of eligibility within ten working days, but no later than the date of admission, following a request for uncompensated services made prior to admission.

(2) *Postservice determinations.* All facilities shall make a written determination of eligibility not later than the end of the first full billing period following a request for uncompensated services which is made after receipt of outpatient services or after admission for inpatient or nursing home services.

§ 124.508 Cessation of uncompensated services.

Where a facility has maintained the records required by § 124.510(a) and determines based thereon that it has met its annual compliance level for the fiscal year or the appropriate level for the period specified in its allocation plan, it may, for the remainder of that year or period:

(a) Cease providing uncompensated services;

(b) Cease providing individual notices in accordance with § 124.504(c); and

(c) Remove the posted notices required by § 124.504(b).

§ 124.509 Reporting requirements.

(a) *Facilities not covered by § 124.514*—(1) *Timing of reports.*

(i) A facility shall submit to the Secretary a report to assist the Secretary in determining compliance with this subpart once every three fiscal years, on a schedule to be prescribed by the Secretary.

(ii) A facility shall submit the required report more frequently than once every three years under the following circumstances:

(A) If the facility determines that in the preceding fiscal year it did not provide uncompensated services at the annual compliance level, it shall submit a report.

(B) If the Secretary determines, and notifies the facility in writing that a report is needed for proper administration of the program, the

facility shall submit a report within 90 days after receiving notice from the Secretary, or within 90 days after the close of the fiscal year, whichever is later.

(iii) Except as specified in paragraph (a)(1)(ii)(B) of this section, the reports required by this section shall be submitted within 90 days after the close of the fiscal year, unless a longer period is approved by the Secretary for good cause.

(2) *Content of report.* The report must include the following information in a form prescribed by the Secretary:

(i) Information that the Secretary prescribes to permit a determination of whether a facility has met the annual compliance level for the fiscal years covered by the report;

(ii) The date on which the notice required by § 124.504(a) was published, and the name of the newspaper that printed the notice;

(iii) If the amount of uncompensated services provided by the applicant in the preceding fiscal year was lower than the annual compliance level, an explanation of why the facility did not meet the required level. If the facility claims that it failed to meet the required compliance level because it was financially unable to do so, it shall explain and provide documentation prescribed by the Secretary;

(iv) If the facility is required to submit an affirmative action plan, a copy of the plan.

(v) Other information that the Secretary prescribes.

(3) *Institution of suit.* Not later than 10 days after being served with a summons or complaint the facility shall notify the HHS Regional Health Administrator [1] for the Region in which it is located of any legal action brought against it alleging that it has failed to comply with the requirements of this subpart.

(b) *Facilities covered by § 124.514.* A facility certified under § 124.514 shall comply with paragraph (a)(3) of this section and shall submit within 90 days after the close of its fiscal year, as appropriate:

(1) A certification, signed by the responsible official of the facility, that there has been no material change in the factors upon which the certification under § 124.514 was based; or

(2) A certification, signed by the responsible official of the facility and supported by appropriate documentation, that there has been a material change in the factors upon which the certification under § 124.514 was based.

[1] The addresses of the HHS Regional Offices are set out in 45 CFR 5.31.

§ 124.510 Record maintenance requirements.

(a) *Facilities not covered by § 124.514.* (1) A facility shall maintain, make available for public inspection consistent with personal privacy, and provide to the Secretary on request, any records necessary to document its compliance with the requirements of this subpart in any fiscal year, including:

(i) Any documents from which the information required to be reported under § 124.509(b) was obtained;

(ii) Accounts which clearly segregate uncompensated services from other accounts; and

(iii) Copies of written determinations of eligibility under § 124.507.

(2) A facility shall retain the records maintained pursuant to paragraph (a)(1) for three years after submission of the report required by § 124.509(a)(1) or until 180 days following the Secretary's certification of compliance under § 124.511(b), whichever is less.

(3) A facility shall, within 60 days of the end of each fiscal year, determine the amount of uncompensated services it provided in that fiscal year. Documents that support the facility's determination shall be made available to the public on request. If a report is or will be filed under § 124.509(a)(1), a facility may respond to a request by providing a copy of the report to the requester.

(b) *Facilities covered by § 124.514.* A facility certified under § 124.514 shall maintain, make available for public inspection consistent with personal privacy, and provide to the Secretary on request, any records necessary to document its compliance with the requirements of this subpart in any fiscal year, including those documents submitted to the Secretary under § 124.514(c). A facility shall maintain these records for three years except where a longer period is required as a result of an investigation by the Secretary. In such cases, records must be kept until following the close of the Secretary's investigation under § 124.511.

§ 124.511 Investigation and determination of compliance.

(a) *Complaints.* A complaint that a facility is out of compliance with the requirements of this subpart may be filed with the Secretary by any person.

(1) A complaint is considered to be filed with the Secretary on the date the following information is received in the Office of the HHS Regional Health Administrator for the Region in which the facility is located:

(i) The name and address of the person making the complaint or on whose behalf the complaint is made;

(ii) The name and location of the facility;

(iii) The date or approximate date on which the event complained of occurred; and

(iv) A statement of what actions the complainant considers to violate the requirements of this subpart.

(2) The Secretary promptly provides a copy of the complaint to the facility named in the complaint.

(3) When the Secretary investigates a facility, the facility, including a facility certified under § 124.514, shall provide to the Secretary on request any documents, records and other information concerning its operations that relate to the requirements of this subpart. A facility certified under § 124.514 will be presumed to be out of compliance with its certification unless it supplies documentation sufficient to show compliance with the programs of discounted health services certified under that section.

(4) Section 1027 of the Act provides that if the Secretary dismisses a complaint or the Attorney General has not brought an action for compliance within six months from the date on which the complaint is filed, the person filing it may bring a private action to effectuate compliance with the assurance. If the Secretary determines that he/she will be unable to issue a decision on a complaint or otherwise take appropriate action within the six month period, he/she may, based on priorities for the disposition of complaints that are established to promote the most effective use of enforcement resources, or on the request of the applicant, dismiss the complaint without a finding as to compliance prior to the end of the six month period, but no earlier than 45 days after the complaint is filed.

(b) *Assessments.* The Secretary periodically investigates and assesses facilities to:

(1) Ascertain compliance with the requirements of this subpart, including certification of the amount of uncompensated services provided in a fiscal year or years.

(i) The Secretary may certify that a facility has substantially complied with its assurance for a fiscal year or years, and such certification shall establish that the facility provided the amount of uncompensated services certified for the period covered by the certification. A certification of substantial compliance shall be made based on procedures determined by the Secretary to be

sufficient to establish that the facility has substantially complied with its assurance for the period covered by the certification. In making a certification of substantial compliance for any fiscal year, the Secretary will examine patterns of substantial compliance by the facility with:

(A) The individual written notice provisions of § 124.504(c);

(B) The written determinations of eligibility provisions of § 124.507;

(C) The reporting provisions of § 124.509; and

(D) The record maintenance provisions of § 124.510.

(ii) Where a facility disputes the amount certified for transition purposes for fiscal years prior to the effective date of these rules, it may obtain reconsideration of the transition certification by submitting an independent certified audit, conducted in accordance with procedures specified by the Secretary, of the facility's records maintained pursuant to § 124.510.

(2) Provide guidance and prescribe action to correct noncompliance.

(c) *Determinations of financial inability.* In determining whether a facility was or is financially able to meet its annual compliance level, the Secretary will consider any comments submitted by interested parties. In making this determination, the Secretary will consider factors such as:

(1) The ratio of revenues to expenses;

(2) The occupancy rate;

(3) The ratio of current assets to current liabilities;

(4) The average cost per patient day;

(5) The number of days of operating expenses in accounts payable;

(6) The number of days of revenues in accounts receivable;

(7) The sinking fund (or depreciation fund) balance;

(8) The debt coverage ratio; and

(9) The availability of restricted or unrestricted funds (such as an endowment) available for charitable use.

§ 124.512 Enforcement.

(a) If the Secretary finds, based on his/her investigation under § 124.511, that a facility did not comply with the requirements of this subpart, he/she may take any action authorized by law to secure compliance, including but not limited to voluntary agreement or a request to the Attorney General to bring an action against the facility for specific performance.

(b) A facility, including a facility certified under § 124.514, that has denied uncompensated services to any person because it failed to comply with the requirements of this subpart will not be in compliance with its assurance until it takes whatever steps are necessary to remedy fully the noncompliance, including:

(1) Provision of uncompensated services to applicants improperly denied;

(2) Repayment of amounts improperly collected from persons eligible to receive uncompensated services; and

(3) Other corrective actions prescribed by the Secretary.

(c) The Secretary may disallow the amount of uncompensated services reported by a facility in any fiscal year if the Secretary finds a pattern of substantial noncompliance in that year which indicates the facility:

(1) Improperly denied uncompensated services to applicants and failed to take the actions prescribed pursuant to paragraph (b) of this section;

(2) Failed to comply with the individual written notice provisions of § 124.504(c);

(3) Failed to make written determinations of eligibility in accordance with § 124.507;

(4) Failed to comply with the reporting requirements of § 124.509; or

(5) Failed to comply with the record maintenance requirements of § 124.510.

§ 124.513 Agreements with State agencies.

(a) Where the Secretary finds that it will promote the purposes of this subpart and the State agency is able and willing to do so, he or she may enter into an agreement with an agency of a State to assist in administering this subpart in the State. An agreement may be terminated by the Secretary or the State agency on 60 days notice.

(b) Under an agreement the State agency will provide the Secretary with any assistance he or she requests in any one or more of the following areas, as set out in the agreement:

(1) Investigation of complaints regarding noncompliance;

(2) Monitoring of the compliance of facilities with the requirements of this subpart;

(3) Review of reports submitted under § 124.509, including affirmative action plans;

(4) Making initial decisions for the Secretary with respect to compliance, subject to appeal by any party to the Secretary or review by the Secretary on the Secretary's initiative; and

(5) Application of any sanctions available to it under State law (such as license revocation or termination of State assistance) against facilities determined to be out of compliance with the requirements of this subpart.

(c) Nothing in this subpart precludes any State from taking any action authorized by State law regarding the provision of uncompensated services by facilities in the State as long as the action taken does not prevent the Secretary from enforcing the requirements of this subpart.

§ 124.514 Compliance alternative for facilities with small annual obligations.

(a) *Effect of certification.* The Secretary may certify a facility which meets the requirements of paragraphs (b) and (c) of this section as a "facility with a small annual obligation." A facility which is so certified is not required to comply with this subpart except as otherwise herein provided.

(b) *Criteria for qualification.* A facility may qualify for certification under this section if all of the following criteria are met:

(1) Its annual compliance level, as determined under § 124.503(a), is not more than:

(i) For the facility's fiscal year in which this section becomes effective, $10,000;

(ii) For a subsequent fiscal year, $10,000, adjusted by a percentage equal to the percentage change in the National Consumer Price Index for medical care between the year in which this section becomes effective and the most recent year for which a published index is available.

(2) It provides health services without charge or at a substantially reduced rate to persons who are determined by the facility to qualify therefor under a program of discounted health services. A "program of discounted health services" must provide for financial and other objective eligibility criteria and procedures, including notice prior to nonemergency service, that assure effective opportunity for all persons to apply for and obtain determination of eligibility for such services, including determination prior to service where requested; *provided that,* such criteria and procedures are not required where the facility makes all services available to all persons at no or nominal charge.

(c) *Procedures for certification.* To be certified under this section, a facility must submit to the Secretary, in addition to other materials that the Secretary may from time to time require, a complete description of its program(s) of discounted health services, including charging and collection policies of the facility, and eligibility criteria and notice and determination procedures used under its program(s) of discounted services.

(d) *Period of effectiveness.* A certification by the Secretary under this section remains in effect until withdrawn. The Secretary may withdraw a certification under this subpart when the Secretary determines that there has been a material change in the factors upon which certification was based or a material failure to comply with the applicable requirements of this subpart.

(e) *Deficits*—(1) *Title VI-assisted facilities with deficits.* Where a facility assisted under Title VI of the Act has been assessed pursuant to § 124.511(a) as having a deficit under § 124.503(b) that has not been made up prior to certification under this section, the facility may make up the deficit by either—

(i) Demonstrating to the Secretary's satisfaction that it met the requirements of paragraph (b) of this section for each year in which a deficit was assessed; or

(ii) Providing an additional period of service under this section on the basis of one (or portion of a) year of certification for each year (or portion of a year) of deficit assessed. The period of obligation applicable to the facility under § 124.501(b) shall be extended until the deficit is made up in accordance with the preceding sentence.

(2) *Title VI-assisted facilities which have not been assessed.* Where any period of compliance under this subpart of a facility assisted under Title VI of the Act has not been assessed pursuant to § 124.511(a), the facility will be presumed to have no allowable credit for such period. The facility may either—

(i) Make up such deficit in accordance with subparagraph (e)(1) of this section; or

(ii) Submit an independent certified audit, conducted in accordance with procedures specified by the Secretary, of the facility's records maintained pursuant to § 124.510. If the audit establishes to the Secretary's satisfaction that no, or a lesser, deficit exists for the period in question, the facility will receive credit for the period so justified. Any deficit which the Secretary determines still remains must be made up in accordance with subparagraph (e)(1) of this section.

(3) *Title XVI-assisted facilities.* (i) A facility assisted under Title XVI of the Act which has an assessed deficit pursuant to § 124.511(a) which was not made up prior to certification under this section shall make up that deficit in accordance with paragraph (e)(1)(i) of this section. If it cannot make the showing required by that paragraph, it shall make up the deficit when its certification under this section is withdrawn.

(ii) A facility assisted under Title XVI of the Act whose compliance with this subpart has not been completely assessed pursuant to § 124.511(a) will be presumed to have no allowable credit for the unassessed period. The facility may make up the deficit by—

(A) Following the procedure of paragraph (e)(3)(i) of this section; or

(B) Submitting an independent certified audit, conducted in accordance with procedures specified by the Secretary, of the facility's records maintained pursuant to § 124.510. If the audit establishes to the Secretary's satisfaction that no, or a lesser, deficit exists for the period in question, the facility will receive credit for the period so justified. Any deficit which the Secretary determines still remains must be made up in accordance with paragraph (e)(3)(i) of this section.

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Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program

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168
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29
1986
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-86-1573; FR-2133]

Section 8 Housing Assistance Payments Program: Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program

AGENCY: Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents periodically, but not less frequently than annually. This document announces fiscal year 1986 Fair Market Rent Schedules for all market areas for the Section 8 Existing Housing Certificate Program and Moderate Rehabilitation Program (Part 882), including space rentals by owners of manufactured homes under the Section 8 Existing Housing Certificate Program (Part 882, Subpart F) and for existing housing assisted under Part 886, Subparts A and C. In addition, FMRs are used to determine the computation of subsidy in the Housing Voucher Program. While today's document lists final rents for all areas, the Department also published a partial list of rents in the April 22, 1986, **Federal Register**.

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Existing Housing Division, Office of Elderly and Assisted Housing, telephone (202) 755-6477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 755-5577. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) established by HUD for different areas.

In general, the FMR for an area is the amount that would be needed to rent privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities. Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually.

1986 Fair Market Rent Schedules

Proposed FMRs. The Department proposed fiscal year 1986 (FY 1986) FMRs on January 2, 1986 (51 FR 75), which reflect estimated rent levels as of April 1, 1986. The elements used by HUD in developing the FMRs are the same as those HUD has used in the past and include: (1) The 45th percentile rent (that is, the rent below which 45 percent of the standard quality rental housing units are distributed); (2) Rents based on units occupied by recent movers (households who moved within two years before the date of the survey data used in these calculations); and (3) Exclusion from the data base of all public housing units and recently completed housing (units built within two years of the survey dates).

The Department used 1980 Census data for the first time when developing the proposed 45th percentile-standard FMRs for FY 1986. These data resulted in proposed FMRs that were higher than the FY 1985 FMRs in approximately 81 percent of the metropolitan FMR areas and 70 percent of the nonmetropolitan areas. The 1980 Census data also resulted in proposed reductions in the FY 1985 FMRs in approximately 19 percent of the metropolitan areas and in 30 percent of the nonmetropolitan market areas. (In addition to the proposed FMRs published on January 2, 1986, see a correction document reproposing rents for 148 nonmetropolitan areas published in the **Federal Register** on February 18, 1986, 51 FR 5804.)

In the January 2, 1986, Notice, the Department encouraged readers to retain the complete listing of the proposed rents, since it was possible that the Department would announce final rents in one or more final Notices.

To help decide which FMRs could be published for effect in an expedited fashion, the Department also requested in the January 2, 1986 Notice that anyone planning to comment submit a Notice of Intent to comment by February 18, 1986. The Department used these Notices of Intent to assist in determining which FMRs could be published for effect without waiting to complete the analysis of all the submitted comments.

Final FMRs. The Department published FMRs for effect for 2,328 market areas on April 22, 1986 (51 FR 15118). This publication included effective FMRs for all markets, except:

(1) FMR areas that submitted Notices of Intent to Comment *and* for which HUD proposed decreases for one or more bedroom sizes;

(2) The 148 areas that were the subject of the February 18, 1986 correction document.

The Department stated that FMRs that had been proposed for increases were made effective, although public comment could result in the Department's approving further changes. These changes would appear in the second Notice of FMRs published for effect, that is, this document.

Today's Document. Today's document contains a complete list of FMRs for all market areas. These rents are effective today, the date of publication. Readers should check today's document, since some rents appear in final for the first time and some rents may vary from the April 22, 1986 final notice discussed above.

Applicability of Fair Market Rent Schedules

The final FMRs are used to determine assistance amounts for several HUD housing assistance programs. FMRs for the Moderate Rehabilitation Program are 120 percent of the Schedule B Existing Housing Fair Market Rents (see 24 CFR 882.408(a) and 888.113(e)(1)).

Currently, the FMR limitation for a Single Room Occupancy (SRO) unit in the Existing Housing Certificate Program is 75 percent of the zero-bedroom FMR listed in Schedule B. The FMR limitation for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for a zero-bedroom unit. For Housing Vouchers, the PHA may request an amount for HUD approval, within the range of 75 and 100 percent of the zero-bedroom FMR or exception rent, based on the presence of either kitchen or sanitary facilities, or the absence of both.

Administrative Fees

The FMRs published for effect will be used to calculate the PHA ongoing administrative fee. For a PHA administering a Section 8 program in an area where the two-bedroom FMR has increased, the PHA's administrative fee will be adjusted as of the first day of the first month following the effective date (today) of the FMRs appearing in this document. For a PHA administering a Section 8 program in an area where the

two-bedroom FMR is decreased, the PHA's administrative fee will be adjusted as of the first day of the PHA's fiscal year that begins after the effective date (today) of the FMRs appearing in this document.

Public Comments

Six hundred and thirty-eight public comments were submitted on the proposed notice. These comments covered 386 of the 2,755 Section 8 Existing FMR areas. About two-thirds of the comments were from public housing agencies, including State housing agencies. The remainder were from the following sources: 130 from owners, realtors, or management companies; 26 from associations; 12 from members of Congress; 9 from legal aid organizations; 11 from individuals; and 4 from representatives of hospitals or churches.

FMRs are established using a two-step process. The first step is to develop estimates of 45th percentile rents based on area-specific 1980 Census or American Housing Survey (AHS) data, updated using the most current available Consumer Price Index data. These estimates are published for comment. The second step is to review the information submitted with public comments to determine whether adjustments to the estimates are needed. While the first step yields estimates that are reasonably accurate for most areas, data limitations are such that a second step is needed to adjust for errors in areas where this is not the case. The final FMRs are then published for effect.

Requests to modify the FMRs proposed earlier this year were received for about one in seven FMR areas. Of the 386 such areas, a decrease was requested for one area and increases were requested for the remainder. The Department evaluated all comments carefully and sought to look behind the information presented when it appeared to have merit but was incomplete or poorly presented. As a result of this process, modifications have been made for 224 FMR areas.

All but one commenter stated the general proposition that the FMRs proposed by the Department for the commenter's locality were too low. In addition to this general proposition, questions were raised by the National Leased Housing Association which covered the concerns of many other commenters. These concerns included: (1) The methodology used to develop FMRs; (2) the effect of the proposed rents on the viability of the Section 8 program; and (3) the effect of lower FMRs on administration of a PHA's program.

1. Methodology Issues

A generally expressed concern was that HUD relies on national rather than local data in preparing FMR estimates, and that HUD procedures do not capture dynamic changes in local rental markets.

The Department notes that metropolitan area and county-group level 1980 Census and post-1980 AHS data are used in estimating FMRs. Subsequent rent changes are estimated using CPI data available for the largest metropolitan areas and the four Census Regions. HUD believes that the resulting estimates generally reflect local market conditions and changes. However, HUD relies on the public comment process to identify areas where use of regional factors is not appropriate, or where there have been abrupt changes in local rental market conditions. Specific comments on HUD methodology are summarized and responded to below.

Issue. It is not clear that the Census data entirely excludes publicly assisted units; the Census relies on self-reporting households, many of whom are not sure about their housing.

Response. The 1980 Census data do not identify publicly owned rental housing. AHS data have identifiers for this purpose. In areas where 1980 Census data are used as the basis for calculating FMRs, estimates are adjusted using factors developed from national AHS data. Correction factors are calculated by comparing the 45th percentile two-bedroom rent for all standard quality units with the same percentile rent resulting if all publicly owned units are excluded from calculations. For metropolitan areas with AHS surveys, FMRs are calculated using locality-specific data excluding publicly assisted units. Other types of assisted housing are not excluded, partly because their market rate rents are, or are supposed to be, reported and partly because available data are not sufficiently reliable for this purpose. As implied by some commenters, it is likely that there are some families in public housing who do not report themselves as such. We have no basis for estimating how many families might be in this category, but analysis of AHS data suggests that most public housing families are correctly categorized and those who are not would have little impact on the rent calculations.

Issue. Several commenters contended that Census reports typically indicate rents that are lower than those derived by other methods of rental market surveys. The commenters conclude, therefore, that Census reports do not produce accurate rent estimates of local housing markets.

Response. From a statistical perspective, it is likely that this perceived difference is a result of inadequacies in these local surveys rather than errors in Census data. Even the most extensive of non-Census local surveys generally includes only a fraction of the Census coverage. Local surveys frequently result in overstated estimates of 45th percentile rents because of sampling biases. The most common problem with local surveys is that they do not proportionately reflect all structure types, age groups, and locations of rental units in the inventory. Typically, there is an overrepresentation of large projects and newer projects. Surveys made up of newspaper advertisements, for example, tend to have a relatively low coverage of less expensive rentals. Tables provided by the Bureau of Census on the statistical reliability of estimates based on 1980 Census data indicate that there is a 95 percent likelihood that the actual two-bedroom 45th percentile rent estimate for a large metropolitan locality will be within one percent of the estimated 45th percentile rent. For very sparsely populated nonmetropolitan areas, the estimate error could be as high as 7 percent, but these would be extreme cases. Most Section 8 activity is in areas where Census-based rent estimates should be accurate within a three-to-four percent range.

HUD has sought to assess the accuracy of Census and AHS rent estimates by comparing rent estimates for localities where surveys were conducted at about the same time. These comparisons strongly suggest that errors are within a reasonable range.

Issue. The Consumer Price Index (used to update Census information) lags far behind current rental housing markets.

Response. There is, on average, an eighteen-month lag from the date of the most recent CPI data and the midpoint of the FMR estimates. HUD seeks to compensate for this lag by trending national-level CPI data forward by eighteen months. For the FY 1986 estimates, an adjustment factor of 5.2 percent was used.

Under- or over-estimations of FMRs are most likely to occur in areas which are not covered by AHS or CPI metropolitan surveys, and in which rental market conditions do not follow the pattern of the Census Division. The longer the period from the 1980 Census, the greater the likelihood of such errors. Program experience and the level of requests for modifications made through

VOL
51
ISS
168
AG
29
1986
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the public comment process suggest that the current system works reasonably well for most areas, and that the public comment process is an effective means of identifying areas where corrections in FMR estimates may be needed.

Issue. The definition of substandard conditions used in the Census data that are gathered is very limited. The Section 8 Housing Quality Standards are much more extensive. Thus, a unit that may be acceptable in the Census data may not be acceptable to the Section 8 program.

Response. Any unit that fails specified criteria is considered inadequate and is not counted when calculating the 45th percentile FMR. The 1980 Census offers fewer housing quality indicators than needed to correspond with HUD's definition of adequate housing. The AHS offers much more extensive data on unit quality. The 24 AHS housing quality indicators selected by HUD result in identifying about ten percent of the inventory as inadequate. The rent ratio obtained from comparing the national-level differential between units that fail the Census quality indicators and those that fail the more extensive AHS criteria is used to adjust Census-based 45th percentile rents upward to correspond with the more extensive quality definition.

The AHS variables used by HUD to measure housing quality do not fully correspond with the Section 8 Housing Quality Standards. Conditions which would result in failing the HQS and passing the AHS-based quality standards, however, are generally of the type that can be easily and inexpensively fixed and, therefore, are not good statistical measures of substandard quality housing. Compliance with Housing Quality Standards is not intended to exclude units from the rental inventory, but to generate repair and maintenance of housing stock.

Issue. The Census data do not appear to exclude minority impacted areas or economically depressed areas.

Response. All of the areas within an FMR area, including very wealthy neighborhoods, minority neighborhoods or economically depressed parts are included for purposes of calculating FMRs. The objective of the FMR process is to set program rent levels high enough to permit a wide selection of units and neighborhoods but low enough to serve the maximum number of low income families. Roughly half of an area's rental inventory should fall within FMR rent standards.

Issue. The Consumer Price Index rent inflator does not appear to make the distinction between recent movers and all renters.

Response. CPI rental cost indices do not distinguish between changes in the rents of recent movers and changes in the rents of households who remain in place. However, the initial rent levels against which these factors are applied are based on the 45th percentile rent estimate applicable to recent movers. Recent mover rents are somewhat higher than average, and the FMR process maintains the percentage differentials derived from the 1980 Census or the most recent metropolitan American Housing Survey. Under unusual housing market conditions, the difference between recent mover and total inventory rents can widen. In such instances, HUD relies on the public comment process to identify what corrections to FMR levels are needed.

Issue. Basing the FMRs for *all* bedroom sizes on HUD-established ratios applied to the estimated FMR for two-bedroom units does not reflect the real differences in rental cost between bedroom sizes and, as currently calculated, effectively detracts from a family's ability to locate an eligible larger unit.

Response. Based on program experience, HUD increased the FMR ratio used to compute three-bedroom and larger units in 1983 by about 10 percent. This was done, not because there was reason to believe that the old bedroom differentials were incorrect, but because it had become clear that larger families had a more difficult time finding affordable standard rental units. The adjustments HUD makes ensures that the bedroom size differentials for larger unit sizes are greater than exist in most market areas, increasing the number of units available to large families in the program. The difficulties large families find in seeking housing appear to be much more a function of landlord preferences for smaller families than inadequacy of FMRs. In instances where a locality can document that unit size differentials used by HUD are inappropriate, a request for a modification of FMRs may be made.

Issue. The current system results in disjunction of FMRs with Annual Adjustment Factor rent increases.

Response. This year's FMR estimates have been revised entirely using 1980 Census and post-1980 AHS data. This is the first overall revision since 1979, although locality-specific revisions are routinely made when a new AHS survey becomes available. Revised data may show that old FMRs have been set at too high or low a level. In such instances, use of the new data permits HUD to improve its accuracy in setting FMRs at the intended program standard.

If FMRs were adjusted solely for movement in local rent levels, Annual Adjustment Factors (AAFs) and FMRs would change at the same rates. However, FMR changes also are influenced by new data used to determine the 45th percentile FMR standard. AAFs apply to units already under lease, and are intended to correct only for changes in local rent levels. Use of FMRs to calculate annual adjustments for units under lease would result in sudden and unwarranted increases and decreases in rents, and would be quite likely to result in a landlord's withdrawing from the program in the event of a decrease. If local FMRs are changed to match more accurately the 45th percentile program standard, it does not follow that rents for units under lease are too high or low. Units under lease may rent at a level above or well below the revised 45th percentile FMR, but this does not mean that the current rent for such units is incorrect or that it should be changed.

Issue. Over 100 commenters felt that HUD may have ignored local conditions mandating higher FMRs. Specifically, commenters cited dramatic increases in property operating costs, usually resulting from rising local property taxes or jumps in water and sewer costs. As one commenter stated, it is the dynamics of the real estate market that are largely responsible for causing rapid increases in market rents. The combination of a shortage of rental housing stock (translating into higher property values) plus lower interest rates has resulted in rapid turnover of rental property ownership. New owners, carrying larger debt service, must raise the rents to meet this debt service. Other commenters noted that the rebound of the economy has resulted in increases in property values, in turn creating a need to increase rental rates. Two other commenters noted that the recent establishment of a university in the community had increased the number of rental units available, but also had raised the rents.

Response. We agree with the commenters who indicated that the development of the proposed rents may not keep apace with a particularly dynamic shift in local rental housing conditions. As stated earlier, however, we rely on local data submitted during the public comment period to identify these dynamic changes.

Issue. Several comments were submitted on the HUD methodology used to determine the FMRs for manufactured home spaces. One commenter posited that no consideration has been given to areas

where the cost of renting a mobile home space may be high because of the characteristics of the area; for example, any coastal community in California will experience a higher cost for renting a manufactured home space than will an inland community. Another commenter noted a shift in practice in the industry, in which manufactured home parks no longer designate single-wide and double-wide spaces and prices; all spaces are priced according to their location in the park, rather than their unit size, and generally can accommodate either single- or double-wide homes. If this trend continues, and if FMRs continue to assume single- and double-wide price differences, it will place an unfair burden on those families only eligible for single-wide assistance.

Response. Currently, the Section 8 Existing Housing Program includes the establishment of FMRs for manufactured home spaces of a modest nature for single- and double-wide spaces. One data source used by HUD, the American Housing Survey (AHS) data, still reflects the use of double- and single-wide space rents. It appears that the practice of establishing rents based on the characteristics of an area is unique to certain parks in California and, at this time, a change in the Department's methodology for establishing FMRs is not justified. However, we also note that while FMRs for manufactured home spaces are published on a State-wide basis, the Department will, upon request, establish FMRs for individual nonmetropolitan counties, as appropriate.

2. Effect of the Proposed Rents on the Viability of the Section 8 Program

General. More than 250 commenters (which included over 100 form letters) indicated that the proposed FMRs would have a negative impact on the operation of the Section 8 program. Concern ranged from the proposed FMRs' rendering the program totally infeasible to the FMRs' limiting a family's choice of units. Over 50 commenters alleged that the program would no longer function if the proposed FMRs became final. Sixty-eight commenters indicated that landlords would drop out of the Section 8 program if rents are too low—that there is no incentive for landlords to continue without some assurance of a reasonable FMR to meet expenses and allow a modest income. Many others indicated that the minimum damage the proposed rents would do would be to affect the success rates of Certificate holders in finding acceptable housing.

Issue. Some commenters believed that the program will cease to function as a vital part of the housing industry servicing the needs of the low income and disabled or handicapped sectors of the community. Lower FMRs will jeopardize the major achievements of the Section 8 program, which include:

(a) Making good quality rental housing affordable to low income persons;

(b) Utilizing existing housing stock for rental to low income persons;

(c) Permitting recipients the option of choosing their own units and location; and

(d) Promoting economic integration of Section 8 participants throughout the community, rather than clustering them in a certain area.

Response. While HUD understands, and, to a certain degree, anticipated, apprehension over the proposed lowering of many FMRs, the Department is confident that the reductions are appropriate.

The United States Housing Act of 1937 requires the Department to establish FMRs at least annually. A basic premise of the FMRs is that they are used in the Section 8 programs as the measure of *modest affordable, nonluxury* housing. The Department also must live within its own budget constraints. Accordingly, on September 23, 1983, the Department adopted (after notice and comment rulemaking) new criteria for the establishment of the FMRs. These criteria include:

(a) The 45th percentile rent (that is, the rent below which 45 percent of standard-quality housing units are distributed);

(b) Rents based on units occupied by recent movers (households who moved within two years before the date of the survey data used in these calculations); and

(c) Exclusion from the data base of all public housing units and recently completed housing (units built within two years of the survey dates).

The most significant shift in these 1983 criteria was from the 50th percentile rent to the 45th percentile rent. The Department lowered the criterion to the 45th percentile in the interest of reducing costs—but only after it had determined that there would be an adequate number of units available which meet the housing quality standards and provide an adequate choice of housing.

In 1986, the Department proposed changes in FMRs to ensure that they remained at the 45th percentile. If, as a result, FMRs were decreased, it means that the introduction of 1980 Census data has corrected what could have been rents that exceeded the criteria established in 1983. On the other hand (and as discussed at length previously), HUD welcomed and encouraged comment from localities if local survey data could show that the proposed rents did not reflect the 45th percentile rent. The Department continues to believe that the 45th percentile rent provides an adequate number of units to continue providing housing to Section 8 Certificate holders.

Finally, while we are concerned that some public housing agencies are finding it harder to place families, we are not convinced that this is a measure of the program's "not working". To date, we are not aware of a jurisdiction either turning back Certificates or terminating its program because of inadequate FMR levels.

Issue. Approximately 75 commenters predicted that the reduction in FMRs will result in a reduction in the quality and quantity of units, which will create problems in meeting HUD's Housing Quality Standards. A further criticism was that the Section 8 program may be *creating* slum areas, rather than preventing them.

Response. Since the FMR estimates are based on the 45th percentile of *standard* quality housing, we do not see this as a problem. In addition, the 45th percentile rent levels have been used since 1983, and the Department is not aware of any decreases in the quality of housing to date. If anything, HUD is aware of improvements in the enforcement of the Housing Quality Standards, which have resulted in improvements in the quality of leased units.

Issue. Several commenters noted that lower FMRs will jeopardize the Rental Rehabilitation program, because decreased FMRs will make fewer rehabilitation projects feasible. One commenter questioned the rationale of lower FMRs in the interest of cost containment, since the commenter believes that lower FMRs will increase the per-unit rehabilitation cost to Federal and local governments as it reduces the number of units assisted.

Response. The lowering of FMRs in some areas is based on new data that brings FMRs in line with the 45th percentile rent level, consistent with criteria established in 1983. Regarding concern about the Rental Rehabilitation program, we repeat our response to similar comments in the two previous years: participants in the Rental Rehabilitation Program are expected to deliver at least 80 percent of the rehabilitated units at rents below the FMRs. Local officials are responsible for selecting appropriate buildings and neighborhoods and for developing methods to finance the rehabilitations

that ensure affordability for 80 percent of the units.

Issue. One State task force reported it had found that 52,000 households in its State are "at risk" of becoming homeless because (a) they pay half or more of their income for housing or (b) live in substandard or overcrowded conditions, or both. The commenter believed that there will not be enough landlords interested in the Section 8 program.

Response. While the Department agrees that persons who pay more than half of their income for rent or live in substandard or overcrowded housing or both have serious housing problems, we do not believe that 45th percentile FMRs are the cause. Rather, we believe the commenter really is raising a concern about an inadequate *amount* of assistance being available—given the number of persons needing assistance.

Issue. One commenter indicated that the proposed FMRs would severely limit its county-sponsored portability program. The commenter's portability program allows families to move from the city to any of 18 surrounding suburban communities.

Response. The Department's policy on exception rents (see 24 CFR 882.106(a)) allows a PHA to provide a wider choice of housing opportunities to its Certificate holders in higher cost areas. The proposed FMRs do not affect this basic policy.

3. The Effect of Lower FMRs on Other Administrative Areas of the PHA's Operation

Sixty-one commenters raised issues concerning the effect the proposed FMRs would have on the ability of the PHA to administer the program.

Issue. Several comments made the point that lower FMRs result in lost income to the PHAs in two ways. First, if the FMR is lowered, many current landlords will terminate their contracts. Participants displaced by landlords dropping out will have difficulty finding units, and thus, the number of active units will decline. Since administrative fees are a function of the number of units under lease, the PHA's administrative fee will be reduced.

Second, since the administrative fee is derived as a percentage of the two-bedroom FMR, any reduction in the FMR for the two-bedroom unit results in a decrease in the administrative fee for the PHA.

Response. While some landlords may drop out of the Section 8 program, we are not aware, to date, of this happening. In addition, we do not believe that either the success rate or number of units under lease will decline, because rents are established at the 45th percentile rent of standard units, as they have been since 1983.

It is true that a reduction in the two-bedroom FMR will result in a reduction in the actual amount of the administrative fee. However, because FMRs remain at the 45th percentile rent of standard units, we do not see this as a change in policy.

Issue. Several PHAs questioned HUD's failure to apply the computation of administrative fees to March 29—a date many contend is the "mandatory" effective date for FMRs according to law.

Response. The requirement imposed by the United States Housing Act of 1937 is for the Department to establish rents at least annually. There is no statutory duty however, either to tie the administrative fee to the FMR, or to adjust the fee annually or at any other specified interval. March 29th is a date on which one of the early publications appeared in the **Federal Register**, and HUD has used it periodically since then to assist PHAs in determining their administrative fees. However, this year we are faced with some PHAs receiving increases in their administrative fee amounts and other PHAs receiving decreases in their administrative fee amounts. As a matter of equity, we determined not to continue the retroactive application of fees. In its place, we have established a two-phase method of computing fees, explained earlier in this preamble under the heading *Administrative Fees.*

Issue. Some rural PHAs made the point that any decrease in the two-bedroom FMR has a greater impact on rural communities than on larger urban programs.

Response. The Department believes that the mechanism used to establish administrative fees is adequate—for both urban and rural programs. HUD recognizes, however, that there is a point below which a program is too small to be financially viable. In such cases, we only can recommend that the PHA seek the cooperation and perhaps assistance of any county, regional or State program.

Issue. Several commenters made the point that, since reduced FMRs will result in reduced success rates as well as reduced administrative fees, the PHA is being asked to do more work for less money.

Response. The Department does not agree that the success rate will be lower. Again, where FMRs have been lowered, they have been lowered to the 45th percentile, based on *newer* data. There has been no change in the basic criterion that the FMRs be pegged to the 45th percentile rent.

4. Miscellaneous Comments

Issue. Over 50 commenters from areas proposed for reduction requested that HUD continue its consistent past practice of "holding harmless" all jurisdictions designated for a decrease.

Response. HUD does not believe it appropriate to hold rents harmless this year. For the first time, proposed reductions in FMRs were the direct result of using the more current 1980 Census data as a base. (See responses in section one of the Summary of Comments for a more detailed explanation of how the FMRs are developed.) This reason alone is adequate for the Department to determine to discontinue the policy of holding rents harmless. In addition, however, there are concerns regarding cost containment, reducing Federal deficits and specific program budget constraints—all of which must be weighed against competing local concerns.

Issue. Several commenters asserted that HUD was in breach of the spirit as well as the letter of the United States Housing Act of 1937—the letter of the law because we do not establish FMRs every 12 months and the spirit because the proposed FMRs do not support an adequate supply of decent, safe and sanitary housing.

Response. The Department has made diligent attempts to establish a consistent schedule for producing the FMRs. However, it is not always possible to predict the availability of data, or the time required for distributing all public comments to appropriate offices, reproduction and distribution of data to field economists, availability of headquarters staff for necessary clearances, etc. With regard to the second concern—that HUD has proposed rents that will not provide an adequate number of decent, safe and sanitary units—the Department categorically disagrees. The *formula* used to develop FMRs has not changed since 1983. The only change—one that has resulted in lower FMRs in some areas—has been *new*, not previously available 1980 Census data. The Department believes that an adequate number of affordable units, that meet the Department's Housing Quality Standards, will continue to be available.

Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Existing Housing program is

categorically excluded under HUD regulations at 24 CFR 50.20(d).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the project were not in the Section 8 program.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 888

Rent subsidies.

Accordingly, the Fair Market Rent Schedules are amended as follows:

Date: August 25, 1986.

Silvio DeBartolomeis,

General Deputy Assistant Secretary for Housing–Deputy Federal Housing Commissioner.

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for Existing Housing—Schedules B & D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for Existing Housing (Schedule B) are established for all Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, District of Columbia, Puerto Rico, the Virgin Islands, and Guam. FMRs also are established for nonmetropolitan parts of counties in the New England States.

b. FMRs for Manufactured Home spaces in the Section 8 Certificate Program (Schedule D) are established for all MSAs, PMSAs, selected nonmetropolitan counties, and the residual nonmetropolitan portion of each State.

c. The current 337 MSAs and PMSAs are those established by the Office of Management and Budget effective as of June 30, 1985.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by MSA–PMSA and nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each MSA and PMSA are listed immediately following the MSA–PMSA names in each State listed in Schedule B. All of the constituent parts of an MSA that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: ALABAMA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANNISTON, AL MSA					
COUNTY(IES): CALHOUN	218	264	311	369	436
BIRMINGHAM, AL MSA					
COUNTY(IES): BLOUNT, JEFFERSON, ST CLAIR, SHELBY, WALKER	255	310	365	435	510
COLUMBUS, GA-AL MSA					
COUNTY(IES): RUSSELL	225	270	320	400	450
DOTHAN, AL MSA					
COUNTY(IES): DALE, HOUSTON	254	308	363	453	508
FLORENCE, AL MSA					
COUNTY(IES): COLBERT, LAUDERDALE	231	281	332	411	460
GADSDEN, AL MSA					
COUNTY(IES): ETOWAH	201	245	288	360	403
HUNTSVILLE, AL MSA					
COUNTY(IES): MADISON	256	311	365	457	512
MOBILE, AL MSA					
COUNTY(IES): BALDWIN, MOBILE	265	321	378	473	530
MONTGOMERY, AL MSA					
COUNTY(IES): AUTAUGA, ELMORE, MONTGOMERY	235	286	336	420	471
TUSCALOOSA, AL MSA					
COUNTY(IES): TUSCALOOSA	248	299	352	440	493

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	185	224	264	330	370	BIBB	179	218	257	321	359
BULLOCK	174	211	249	311	349	BUTLER	174	211	249	311	349
CHAMBERS	183	222	261	327	366	CHEROKEE	183	222	261	327	366
CHILTON	179	218	257	321	359	CHOCTAW	201	245	288	360	403
CLARKE	201	245	288	360	403	CLAY	183	222	261	327	366
CLEBURNE	183	222	261	327	366	COFFEE	185	224	264	330	370
CONECUH	201	245	288	360	403	COOSA	183	222	261	327	366
COVINGTON	185	224	264	330	370	CRENSHAW	174	211	249	311	349
CULLMAN	223	271	319	399	447	DALLAS	201	245	288	360	403
DE KALB	210	255	300	375	421	ESCAMBIA	170	207	243	304	340
FAYETTE	179	218	257	321	359	FRANKLIN	179	217	255	319	357
GENEVA	185	224	264	330	370	GREENE	179	218	257	321	359
HALE	179	218	257	321	359	HENRY	185	224	264	330	370
JACKSON	210	255	300	375	421	LAMAR	179	218	257	321	359
LAWRENCE	223	271	319	399	447	LEE	228	278	327	409	458
LIMESTONE	190	231	272	340	381	LOWNDES	174	211	249	311	349
MACON	194	236	279	344	382	MARENGO	201	245	288	360	403
MARION	179	217	255	319	357	MARSHALL	197	240	280	348	386
MONROE	201	245	288	360	403	MORGAN	223	271	319	399	447
PERRY	201	245	288	360	403	PICKENS	179	218	257	321	359
PIKE	174	211	249	311	349	RANDOLPH	183	222	261	327	366
SUMTER	201	245	288	360	403	TALLADEGA	183	222	261	327	366
TALLAPOOSA	183	222	261	327	366	WASHINGTON	201	245	288	360	403
WILCOX	201	245	288	360	403	WINSTON	179	217	255	319	357

S T A T E: ALASKA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, AK MSA					
COUNTY(IES): ANCHORAGE	448	545	641	801	887

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEUTIAN I.	532	646	760	950	1064	BETHEL	532	646	760	950	1064
BRISTOL BAY	532	646	760	950	1064	DILLINGHAM	532	646	760	950	1064
FAIRBKS-N.ST	438	532	626	783	877	HAINES	532	646	760	950	1064
JUNEAU	532	646	760	950	1064	KENAI-PENIN	438	532	626	783	877
KETCH-GATEWY	532	646	760	950	1064	KOBUK	532	646	760	950	1064
KODIAK ISLND	532	646	760	950	1064	MATANUSKA-SU	438	532	626	783	877
NOME	532	646	760	950	1064	NORTH SLOPE	532	646	760	950	1064
P.WLS-O.KTCH	532	646	760	950	1064	SITKA	532	646	760	950	1064
SKGWY-YKT-AN	532	646	760	950	1064	SE FAIRBANKS	438	532	626	783	877
VALDEZ-CORDO	438	532	626	783	877	WADE HAMPTON	532	646	760	950	1064
WRNGLL-PTRBR	532	646	760	950	1064	YKN-KOYKK	532	646	760	950	1064

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: ARIZONA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHOENIX, AZ MSA COUNTY(IES): MARICOPA	345	415	490	615	685
TUCSON, AZ MSA COUNTY(IES): PIMA	327	398	468	585	655

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APACHE	239	290	342	427	478	COCHISE	244	296	348	435	488
COCONINO	303	368	433	541	606	GILA	246	298	352	440	492
GRAHAM	244	296	348	435	488	GREENLEE	244	296	348	435	488
MOHAVE	308	374	440	550	616	NAVAJO	239	290	342	427	478
PINAL	246	299	352	440	492	SANTA CRUZ	244	296	348	435	488
YAVAPAI	303	368	433	541	606	YUMA	308	374	440	550	616

STATE: ARKANSAS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FAYETTEVILLE-SPRINGDALE, AR MSA COUNTY(IES): WASHINGTON	238	289	340	425	476
FORT SMITH, AR-OK MSA COUNTY(IES): CRAWFORD, SEBASTIAN	231	281	331	414	463
LITTLE ROCK-NORTH LITTLE ROCK, AR MSA COUNTY(IES): FAULKNER, LONOKE, PULASKI, SALINE	278	334	393	491	550
MEMPHIS, TN-AR-MS MSA COUNTY(IES): CRITTENDEN	245	300	355	440	495
PINE BLUFF, AR MSA COUNTY(IES): JEFFERSON	229	278	328	410	459
TEXARKANA, TX-TEXARKANA, AR MSA COUNTY(IES): MILLER	227	276	326	406	455

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARKANSAS	194	236	277	346	388	ASHLEY	185	224	264	330	370
BAXTER	220	268	315	394	441	BENTON	220	276	322	396	441
BOONE	220	268	315	394	441	BRADLEY	185	224	264	330	370
CALHOUN	188	229	267	334	372	CARROLL	220	268	315	394	441
CHICOT	185	224	264	330	370	CLARK	203	247	290	363	407
CLAY	208	251	295	369	413	CLEBURNE	216	263	309	386	433
CLEVELAND	191	232	273	341	382	COLUMBIA	186	229	267	334	372
CONWAY	190	231	272	340	380	CRAIGHEAD	241	293	345	431	483
CROSS	195	238	281	347	388	DALLAS	188	229	267	334	372
DESHA	185	224	264	330	370	DREW	185	224	264	330	370
FRANKLIN	172	208	245	306	343	FULTON	216	263	309	386	433
GARLAND	203	247	290	363	407	GRANT	191	232	273	341	382
GREENE	206	251	295	369	413	HEMPSTEAD	185	229	270	338	378
HOTSPRING	203	247	290	363	407	HOWARD	168	128	270	338	378
INDEPENDENCE	216	263	309	386	433	IZARD	216	263	309	386	433
JACKSON	216	263	309	386	433	JOHNSON	186	231	272	340	380
LAFAYETTE	189	229	270	338	378	LAWRENCE	208	251	295	369	413
LEE	195	238	281	347	388	LINCOLN	185	224	264	330	370
LITTLE RIVER	189	229	270	338	378	LOGAN	172	208	245	306	343
MADISON	220	268	315	394	441	MARION	220	268	315	394	441
MISSISSIPPI	224	272	320	400	448	MONROE	167	202	238	298	333
MONTGOMERY	203	247	290	363	407	NEVADA	188	229	270	338	378
NEWTON	220	268	315	394	441	OUACHITA	186	226	265	332	372
PERRY	190	231	272	340	380	PHILLIPS	198	238	281	347	388
PIKE	203	247	290	363	407	POINSETT	206	251	295	369	413
POLK	205	249	293	366	410	POPE	190	231	272	340	380
PRAIRIE	167	202	238	298	333	RANDOLPH	208	251	295	369	413
ST FRANCIS	195	238	281	347	388	SCOTT	172	208	245	306	343
SEARCY	220	268	315	394	441	SEVIER	189	229	270	338	378
SHARP	216	263	309	386	433	STONE	216	263	309	386	433
UNION	186	229	267	334	372	VAN BUREN	216	263	309	386	433
WHITE	216	263	309	386	433	WOODRUFF	216	263	309	386	433
YELL	190	231	272	340	380						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: CALIFORNIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANAHEIM-SANTA ANA, CA PMSA	461	559	658	822	921
COUNTY(IES): ORANGE					
BAKERSFIELD, CA MSA	331	402	473	591	662
COUNTY(IES): KERN					
CHICO, CA MSA	290	353	415	519	581
COUNTY(IES): BUTTE					
FRESNO, CA MSA	302	367	432	540	605
COUNTY(IES): FRESNO					
LOS ANGELES-LONG BEACH, CA PMSA	410	490	570	730	820
COUNTY(IES): LOS ANGELES					
MODESTO, CA MSA	318	386	455	569	637
COUNTY(IES): STANISLAUS					
OAKLAND, CA PMSA	452	549	646	808	904
COUNTY(IES): ALAMEDA, CONTRA COSTA					
OXNARD-VENTURA, CA PMSA	394	478	562	703	788
COUNTY(IES): VENTURA					
REDDING, CA MSA	302	367	432	540	606
COUNTY(IES): SHASTA					
RIVERSIDE-SAN BERNARDINO, CA PMSA	338	395	460	595	670
COUNTY(IES): RIVERSIDE, SAN BERNADIN					
SACRAMENTO, CA MSA	320	380	455	660	700
COUNTY(IES): EL DORADO, PLACER, SACRAMENTO, YOLO					
SALINAS-SEASIDE-MONTEREY, CA MSA	362	440	517	647	725
COUNTY(IES): MONTEREY					
SAN DIEGO, CA MSA	375	460	540	675	758
COUNTY(IES): SAN DIEGO					
SAN FRANCISCO, CA PMSA	495	600	710	885	990
COUNTY(IES): MARIN, SAN FRANCISC, SAN MATEO					
SAN JOSE, CA PMSA	486	550	642	837	918
COUNTY(IES): SANTA CLARA					
SANTA BARBARA-SANTA MARIA-LOMPOC, CA MSA	409	497	585	732	819
COUNTY(IES): SANTA BARBAR					
SANTA CRUZ, CA PMSA	443	538	633	791	887
COUNTY(IES): SANTA CRUZ					
SANTA ROSA-PETALUMA, CA PMSA	390	473	557	696	780
COUNTY(IES): SONOMA					
STOCKTON, CA MSA	281	339	399	510	595
COUNTY(IES): SAN JOAQUIN					
VALLEJO-FAIRFIELD-NAPA, CA PMSA	363	413	486	701	756
COUNTY(IES): NAPA, SOLANO					
VISALIA-TULARE-PORTERVILLE, CA MSA	282	343	404	584	640
COUNTY(IES): TULARE					
YUBA CITY, CA MSA	250	304	357	469	526
COUNTY(IES): SUTTER, YUBA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALPINE	331	402	473	591	662	AMADOR	331	402	473	591	662
CALAUERAS	331	402	473	591	662	COLUSA	251	305	359	449	503
DEL NORTE	302	367	432	540	605	GLENN	251	305	359	449	503
HUMBOLDT	311	378	445	556	623	IMPERIAL	314	381	448	560	627
INYO	331	402	473	591	662	KINGS	273	332	390	488	547
LAKE	302	367	432	540	605	LASSEN	277	336	395	494	554
MADERA	273	332	390	490	547	MARIPOSA	331	402	473	591	662
MENDOCINO	302	367	466	590	605	MERCED	285	346	407	523	583
MODOC	277	336	395	494	554	MONO	331	402	473	591	662
NEVADA	371	451	530	663	742	PLUMAS	277	336	395	494	554
SAN BENITO	273	332	418	537	602	SAN LUIS OBI	375	455	536	670	750
SIERRA	371	451	530	663	742	SISKIYOU	277	336	395	494	554
TEHAMA	277	336	395	494	554	TRINITY	302	367	432	540	605
TUOLUMNE	331	402	473	591	662						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS
S T A T E: COLORADO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOULDER-LONGMONT, CO PMSA COUNTY(IES): BOULDER	373	484	534	667	747
COLORADO SPRINGS, CO MSA COUNTY(IES): EL PASO	272	330	389	486	544
DENVER, CO PMSA COUNTY(IES): ADAMS, ARAPAHOE, DENVER, DOUGLAS, JEFFERSON	356	420	495	618	690
FORT COLLINS-LOVELAND, CO MSA COUNTY(IES): LARIMER	313	380	447	559	626
GREELEY, CO MSA COUNTY(IES): WELD	271	329	387	484	542
PUEBLO, CO MSA COUNTY(IES): PUEBLO	270	327	385	482	540

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALAMOSA	270	327	385	482	540
BACA	236	284	330	413	463
CHAFFEE	299	363	427	534	598
CLEAR CREEK	299	363	427	534	598
COSTILLA	270	327	385	482	540
CUSTER	299	363	427	534	598
DELORES	270	327	385	482	540
ELBERT	231	281	330	413	463
GARFIELD	339	412	485	606	679
GRAND	356	432	508	635	712
HINSDALE	356	432	508	635	712
JACKSON	356	432	508	635	712
KIT CARSON	231	281	330	413	463
LA PLATA	300	360	425	530	595
LINCOLN	236	284	330	413	463
MESA	339	412	485	606	679
MOFFAT	339	412	485	606	679
MONTROSE	356	432	508	635	712
OTERO	236	284	330	413	463
PARK	299	363	427	534	598
PITKIN	356	432	508	635	712
RIO BLANCO	339	412	485	606	679
ROUTT	356	432	508	635	712
SAN JUAN	270	327	385	482	540
SEDGWICK	231	281	330	413	463
TELLER	299	363	427	534	598
YUMA	231	281	330	413	463
ARCHULETA	270	327	385	482	540
BENT	236	284	330	413	463
CHEYENNE	231	281	330	413	463
CONEJOS	270	327	385	482	540
CROWLEY	236	284	330	413	463
DELTA	356	432	508	635	712
EAGLE	356	432	508	635	712
FREMONT	299	363	427	534	598
GILPIN	299	363	427	534	598
GUNNISON	356	432	508	635	712
HUERFANO	270	327	385	482	540
KIOWA	236	284	330	413	463
LAKE	299	363	427	534	598
LAS ANIMAS	270	327	385	482	540
LOGAN	231	281	330	413	463
MINERAL	270	327	385	482	540
MONTEZUMA	270	327	385	482	540
MORGAN	231	281	330	413	463
OURAY	356	432	508	635	712
PHILLIPS	231	281	330	413	463
PROWERS	236	284	330	413	463
RIO GRANDE	270	327	385	482	540
SAGUACHE	270	327	385	482	540
SAN MIGUEL	356	432	508	635	712
SUMMIT	356	432	508	635	712
WASHINGTON	231	281	330	413	463

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: CONNECTICUT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRIDGEPORT-MILFORD, CT PMSA	357	433	510	637	714
COUNTY: FAIRFIELD TOWNS OF BRIDGEPORT, EASTON, FAIRFIELD, MONROE, SHELTON, STRATFORD, TRUMBULL					
COUNTY: NEW HAVEN TOWNS OF ANSONIA, BEACON FALLS, DERBY, MILFORD, OXFORD, SEYMOUR					
BRISTOL, CT PMSA	304	369	434	543	608
COUNTY: HARTFORD TOWNS OF BRISTOL, BURLINGTON					
COUNTY: LITCHFIELD TOWNS OF PLYMOUTH					
DANBURY, CT PMSA	386	469	552	690	773
COUNTY: FAIRFIELD TOWNS OF BETHEL, BROOKFIELD, DANBURY, NEW FAIRFIEL, NEWTOWN, REDDING, RIDGEFIELD, SHERMAN					
COUNTY: LITCHFIELD TOWNS OF BRIDGEWATER, NEW MILFORD					
HARTFORD, CT PMSA	365	445	520	555	730
COUNTY: HARTFORD TOWNS OF AVON, BLOOMFIELD, CANTON, EAST GRANBY, EAST HARTFOR, EAST WINDSOR, ENFIELD, FARMINGTON GLASTONBURY, GRANBY, HARTFORD, MANCHESTER, MARLBOROUGH, NEWINGTON, ROCKY HILL, SIMSBURY, SOUTH WINDSO SUFFIELD, WEST HARTFOR, WETHERSFIELD, WINDSOR, WINDSOR LOCK					
COUNTY: LITCHFIELD TOWNS OF BARKHAMSTED, NEW HARTFORD					
COUNTY: MIDDLESEX TOWNS OF EAST HADDAM					
COUNTY: NEW LONDON TOWNS OF COLCHESTER					
COUNTY: TOLLAND TOWNS OF ANDOVER, BOLTON, COLUMBIA, COVENTRY, ELLINGTON, HEBRON, SOMERS, STAFFORD, TOLLAND, VERNON WILLINGTON					
MIDDLETOWN, CT PMSA	308	374	440	551	617
COUNTY: MIDDLESEX TOWNS OF CROMWELL, DURHAM, EAST HAMPTON, HADDAM, MIDDLEFIELD, MIDDLETOWN, PORTLAND					
NEW BRITAIN, CT PMSA	315	383	451	564	631
COUNTY: HARTFORD TOWNS OF BERLIN, NEW BRITAIN, PLAINVILLE, SOUTHINGTON					
NEW HAVEN-MERIDEN, CT MSA	336	408	481	601	673
COUNTY: MIDDLESEX TOWNS OF CLINTON, KILLINGWORTH					
COUNTY: NEW HAVEN TOWNS OF BETHANY, BRANFORD, CHESHIRE, EAST HAVEN, GUILFORD, HAMDEN, MADISON, MERIDEN, NEW HAVEN NORTH BRANFO, NORTH HAVEN, ORANGE, WALLINGFORD, WEST HAVEN, WOODBRIDGE					
NEW LONDON-NORWICH, CT-RI MSA	350	425	500	625	700
COUNTY: NEW LONDON TOWNS OF BOZRAH, EAST LYME, FRANKLIN, GRISWOLD, GROTON, LEDYARD, LISBON, MONTVILLE, NEW LONDON NORTH STONIN, NORWICH, OLD LYME, PRESTON, SALEM, SPRAGUE, STONINGTON, WATERFORD					
COUNTY: WINDHAM TOWNS OF CANTERBURY					
NORWALK, CT PMSA	410	499	587	733	821
COUNTY: FAIRFIELD TOWNS OF NORWALK, WESTON, WESTPORT, WILTON					
STAMFORD, CT PMSA	429	522	614	767	859
COUNTY: FAIRFIELD TOWNS OF DARIEN, GREENWICH, NEW CANAAN, STAMFORD					
WATERBURY, CT MSA	304	369	434	543	608
COUNTY: LITCHFIELD TOWNS OF BETHLEHEM, THOMASTON, WATERTOWN, WOODBURY					
COUNTY: NEW HAVEN TOWNS OF MIDDLEBURY, NAUGATUCK, PROSPECT, SOUTHBURY, WATERBURY, WOLCOTT					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD COUNTY TOWNS OF HARTLAND	304	369	434	543	608
LITCHFIELD COUNTY TOWNS OF CANAAN, COLEBROOK, CORNWALL, GOSHEN HARWINTON, KENT, LITCHFIELD, MORRIS, NORFOLK, NORTH CANAAN, ROXBURY, SALISBURY, SHARON, TORRINGTON, WARREN WASHINGTON, WINCHESTER	336	408	480	600	672
MIDDLESEX COUNTY TOWNS OF CHESTER, DEEP RIVER, ESSEX, OLD SAYBROOK WESTBROOK	376	456	537	671	752
NEW LONDON COUNTY TOWNS OF LEBANON, LYME, VOLUNTOWN	270	328	386	483	541
TOLLAND COUNTY TOWNS OF MANSFIELD, UNION	364	442	520	650	729
WINDHAM COUNTY TOWNS OF ASHFORD, BROOKLYN, CHAPLIN, EASTFORD, HAMPTON KILLINGLY, PLAINFIELD, POMFRET, PUTNAM, SCOTLAND, STERLING, THOMPSON, WINDHAM, WOODSTOCK	322	391	460	575	645

STATE: DELAWARE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WILMINGTON, DE-NJ-MD PMSA	304	367	432	540	605
COUNTY(IES): NEW CASTLE					

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KENT	256	311	366	462	512
SUSSEX	256	311	366	462	512

STATE: DIST. OF COLUMBIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WASHINGTON, DC-MD-VA MSA	370	450	530	665	745
COUNTY(IES): WASHINGTON					

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: FLORIDA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRADENTON, FL MSA COUNTY(IES): MANATEE	317	385	454	567	635
DAYTONA BEACH, FL MSA COUNTY(IES): VOLUSIA	307	372	438	548	614
FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL PMSA COUNTY(IES): BROWARD	385	443	521	651	729
FORT MYERS-CAPE CORAL, FL MSA COUNTY(IES): LEE	326	396	466	583	653
FORT PIERCE, FL MSA COUNTY(IES): MARTIN, ST LUCIE	326	396	466	583	653
FORT WALTON BEACH, FL MSA COUNTY(IES): OKALOOSA	218	265	311	389	436
GAINESVILLE, FL MSA COUNTY(IES): ALACHUA, BRADFORD	276	336	396	494	553
JACKSONVILLE, FL MSA COUNTY(IES): CLAY, DUVAL, NASSAU, ST JOHNS	289	351	413	517	579
LAKELAND-WINTER HAVEN, FL MSA COUNTY(IES): POLK	261	317	373	467	523
MELBOURNE-TITUSVILLE-PALM BAY, FL MSA COUNTY(IES): BREVARD	299	358	421	527	590
MIAMI-HIALEAH, FL PMSA COUNTY(IES): DADE	372	445	520	655	730
NAPLES, FL MSA COUNTY(IES): COLLIER	335	406	478	598	670
OCALA, FL MSA COUNTY(IES): MARION	241	294	344	430	482
ORLANDO, FL MSA COUNTY(IES): ORANGE, OSCEOLA, SEMINOLE	319	388	456	555	620
PANAMA CITY, FL MSA COUNTY(IES): BAY	232	282	332	415	464
PENSACOLA, FL MSA COUNTY(IES): ESCAMBIA, SANTA ROSA	259	315	370	463	518
SARASOTA, FL MSA COUNTY(IES): SARASOTA	343	417	491	613	687
TALLAHASSEE, FL MSA COUNTY(IES): GADSDEN, LEON	272	330	389	486	544
TAMPA-ST. PETERSBURG-CLEARWATER, FL MSA COUNTY(IES): HERNANDO, HILLSBOROUGH, PASCO, PINELLAS	286	347	409	511	573
WEST PALM BEACH-BOCA RATON-DELRAY BEACH, FL MSA COUNTY(IES): PALM BEACH	333	398	463	565	623

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	210	255	300	375	420
CHARLOTTE	315	383	451	563	631
COLUMBIA	194	236	278	347	389
DIXIE	194	236	278	347	389
FRANKLIN	178	216	254	318	356
GLADES	315	383	451	563	631
HAMILTON	194	236	278	347	389
HENDRY	315	383	451	563	631
HOLMES	178	216	254	318	356
JACKSON	185	225	265	331	371
LAFAYETTE	194	236	278	347	389
LEVY	241	294	344	430	482
MADISON	194	236	278	347	389
OKEECHOBEE	227	275	324	405	454
SUMTER	241	292	344	430	482
TAYLOR	194	236	278	347	389
WAKULLA	178	216	254	318	356
WASHINGTON	178	216	254	318	356

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CALHOUN	178	216	254	318	356
CITRUS	241	292	344	430	482
DE SOTO	227	275	324	405	454
FLAGLER	243	295	347	434	486
GILCHRIST	194	236	278	347	389
GULF	178	216	254	318	356
HARDEE	227	275	324	405	454
HIGHLANDS	227	275	324	405	454
INDIAN RIVER	328	398	466	583	653
JEFFERSON	178	216	254	318	356
LAKE	254	308	362	453	508
LIBERTY	178	216	254	318	356
MONROE	370	448	593	709	770
PUTNAM	243	295	347	434	488
SUWANNEE	194	236	278	347	389
UNION	194	236	278	347	389
WALTON	242	294	346	433	484

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BEST COPY AVAILABLE

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: GEORGIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY, GA MSA COUNTY(IES): DOUGHERTY, LEE	241	292	344	430	482
ATHENS, GA MSA COUNTY(IES): CLARKE, JACKSON, MADISON, OCONEE	249	303	357	446	499
ATLANTA, GA MSA COUNTY(IES): BARROW, BUTTS, CHEROKEE, CLAYTON, COBB, COWETA, DE KALB, DOUGLAS, FAYETTE, FORSYTH, FULTON, GWINNETT, HENRY NEWTON, PAULDING, ROCKDALE, SPALDING, WALTON	310	375	440	550	615
AUGUSTA, GA-SC MSA COUNTY(IES): COLUMBIA, MCDUFFIE, RICHMOND	254	305	357	446	499
CHATTANOOGA, TN-GA MSA COUNTY(IES): CATOOSA, DADE, WALKER	270	328	386	483	541
COLUMBUS, GA-AL MSA COUNTY(IES): CHATTAHOOCHE, COLUMBUS	225	270	320	400	450
MACON-WARNER ROBINS, GA MSA COUNTY(IES): BIBB, HOUSTON, JONES, PEACH	250	305	360	450	500
SAVANNAH, GA MSA COUNTY(IES): CHATHAM, EFFINGHAM	254	308	363	454	508

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLING	208	253	298	372	417	ATKINSON	195	237	279	349	391
BACON	195	237	279	349	391	BAKER	203	247	287	359	402
BALDWIN	198	241	284	355	397	BANKS	187	228	268	335	375
BARTON	211	257	302	378	423	BEN HILL	206	250	294	368	412
BERRIEN	206	250	294	368	412	BLECKLEY	203	247	287	359	397
BRANTLEY	195	237	279	349	391	BROOKS	206	250	294	368	412
BRYAN	240	279	329	411	460	BULLOCH	208	253	298	372	417
BURKE	199	242	285	357	399	CALHOUN	203	247	287	359	402
CAMDEN	230	279	329	411	460	CANDLER	208	253	298	372	417
CARROLL	240	290	340	425	475	CHARLTON	203	246	287	354	391
CHATTOOGA	211	257	302	378	423	CLAY	203	247	287	359	402
CLINCH	195	237	279	349	391	COFFEE	195	237	279	349	391
COLQUITT	201	244	287	358	402	COOK	206	250	294	368	412
CRAWFORD	169	205	241	301	337	CRISP	201	244	287	358	402
DAWSON	190	234	272	338	375	DECATUR	203	247	287	359	402
DODGE	203	247	287	359	397	DOOLY	203	247	287	359	402
EARLY	203	247	287	359	402	ECHOLS	206	250	294	368	412
ELBERT	192	233	274	343	384	EMANUEL	199	242	285	357	399
EVANS	208	253	298	372	417	FANNIN	226	274	322	403	452
FLOYD	211	257	302	378	423	FRANKLIN	187	228	268	335	375
GILMER	226	274	322	403	452	GLASCOCK	199	242	285	357	399
GLYNN	230	279	329	411	460	GORDON	211	257	302	378	423
GRADY	203	247	287	359	402	GREENE	190	230	271	339	379
HABERSHAM	210	255	300	375	420	HALL	270	325	385	480	540
HANCOCK	203	247	287	359	397	HARALSON	211	257	302	378	423
HARRIS	205	250	290	360	402	HART	187	228	268	335	375
HEARD	223	271	319	399	447	IRWIN	206	250	294	368	412
JASPER	203	247	287	359	397	JEFF DAVIS	208	253	298	372	417
JEFFERSON	199	242	285	357	399	JENKINS	199	242	285	357	399
JOHNSON	203	247	287	359	397	LAMAR	186	226	266	333	372
LANIER	208	250	294	368	412	LAURENS	198	241	284	355	397
LIBERTY	230	279	329	411	460	LINCOLN	199	242	285	357	399
LONG	230	279	329	411	460	LOWNDES	206	250	294	368	412
LUMPKIN	190	234	272	338	375	MCINTOSH	230	279	329	411	460
MACON	203	247	287	359	402	MARION	205	250	290	360	402
MERIWETHER	223	271	319	399	447	MILLER	203	247	287	359	402
MITCHELL	203	247	287	359	402	MONROE	169	205	241	301	337
MONTGOMERY	205	251	294	362	402	MORGAN	190	230	271	339	379
MURRAY	226	274	322	403	452	OGLETHORPE	190	230	271	339	379
PICKENS	226	274	322	403	452	PIERCE	195	237	279	349	391
PIKE	186	226	266	333	372	POLK	211	259	302	378	423
PULASKI	203	247	287	359	397	PUTNAM	203	247	287	359	397
QUITMAN	201	244	287	358	402	RABUN	190	234	272	338	375
RANDOLPH	203	247	287	359	402	SCHLEY	205	250	290	360	402
SCREVEN	205	251	294	362	402	SEMINOLE	203	247	287	359	402
STEPHENS	220	270	315	395	440	STEWART	205	250	290	360	402
SUMTER	225	275	325	405	455	TALBOT	201	244	287	358	402
TALIAFERRO	199	242	285	357	399	TATTNALL	208	253	298	372	417
TAYLOR	203	247	287	359	402	TELFAIR	203	247	287	359	397
TERRELL	203	247	287	359	402	THOMAS	236	286	335	420	470
TIFT	206	250	294	368	412	TOOMBS	208	253	298	372	417
TOWNS	190	234	272	338	375	TREUTLEN	203	247	287	359	397
TROUP	218	275	323	402	448	TURNER	206	250	294	368	412
TWIGGS	169	205	241	301	337	UNION	190	234	272	338	375
UPSON	186	226	266	333	372	WARE	195	237	279	349	391
WARREN	199	242	285	357	399	WASHINGTON	203	247	287	359	397

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS
STATE: GEORGIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WAYNE	198	253	298	372	417	WEBSTER	205	250	290	360	402
WHEELER	203	247	287	359	397	WHITE	190	234	272	338	376
WHITFIELD	226	274	322	403	452	WILCOX	203	247	287	359	397
WILKES	199	242	285	357	399	WILKINSON	203	247	287	359	397
WORTH	203	247	287	359	402						

STATE: HAWAII

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HI MSA	395	480	565	710	795
COUNTY(IES): HONOLULU					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HAWAII	380	461	542	678	760	KAUAI	380	461	542	678	760
MAUI	380	461	542	678	760						

STATE: IDAHO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOISE CITY, ID MSA	317	385	453	566	634
COUNTY(IES): ADA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	247	300	353	441	494	BANNOCK	258	314	366	458	513
BEAR LAKE	256	311	366	458	513	BENEWAH	256	311	366	458	513
BINGHAM	258	314	366	458	513	BLAINE	262	318	375	468	525
BOISE	247	300	353	441	494	BONNER	256	311	366	458	513
BONNEVILLE	276	335	395	493	553	BOUNDARY	256	311	366	458	513
BUTTE	276	335	395	493	553	CAMAS	262	318	375	468	525
CANYON	247	300	353	441	494	CARIBOU	258	314	366	458	513
CASSIA	262	318	375	468	525	CLARK	276	335	395	493	553
CLEARWATER	256	311	366	458	513	CUSTER	276	335	395	493	553
ELMORE	247	300	353	441	494	FRANKLIN	256	311	366	458	513
FREMONT	276	335	395	493	553	GEM	247	300	353	441	494
GOODING	262	318	375	468	525	IDAHO	256	311	366	458	513
JEFFERSON	276	335	395	493	553	JEROME	262	318	375	468	525
KOOTENAI	256	311	366	458	513	LATAH	256	311	366	458	513
LEMHI	276	335	395	493	553	LEWIS	256	311	366	458	513
LINCOLN	262	318	375	468	525	MADISON	276	335	395	493	553
MINIDOKA	262	318	375	468	525	NEZ PERCE	256	311	366	458	513
ONEIDA	256	311	366	458	513	OWYHEE	247	300	353	441	494
PAYETTE	247	300	353	441	494	POWER	258	314	366	458	513
SHOSHONE	256	311	366	458	513	TETON	276	335	395	493	553
TWIN FALLS	262	318	375	468	525	VALLEY	247	300	353	441	494
WASHINGTON	247	300	353	441	494						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: ILLINOIS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AURORA-ELGIN, IL PMSA COUNTY(IES): KANE, KENDALL	365	445	525	655	735
BLOOMINGTON-NORMAL, IL MSA COUNTY(IES): MCLEAN	279	339	399	499	559
CHAMPAIGN-URBANA-RANTOUL, IL MSA COUNTY(IES): CHAMPAIGN	272	330	389	486	544
CHICAGO, IL PMSA COUNTY(IES): COOK, DU PAGE, MCHENRY	355	435	510	640	715
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA COUNTY(IES): HENRY, ROCK ISLAND	299	363	427	534	598
DECATUR, IL MSA COUNTY(IES): MACON	272	330	389	486	544
JOLIET, IL PMSA COUNTY(IES): GRUNDY, WILL	365	445	525	655	735
KANKAKEE, IL MSA COUNTY(IES): KANKAKEE	269	326	384	480	538
LAKE COUNTY, IL PMSA COUNTY(IES): LAKE	375	455	535	670	750
PEORIA, IL MSA COUNTY(IES): PEORIA, TAZEWELL, WOODFORD	314	382	449	562	629
ROCKFORD, IL MSA COUNTY(IES): BOONE, WINNEBAGO	285	347	408	510	571
ST. LOUIS, MO-IL MSA COUNTY(IES): CLINTON, JERSEY, MADISON, MONROE, ST CLAIR	275	335	395	495	555
SPRINGFIELD, IL MSA COUNTY(IES): MENARD, SANGAMON	286	348	409	512	573

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	213	258	304	380	426	ALEXANDER	197	239	282	352	394
BOND	234	285	335	419	469	BROWN	213	258	304	380	426
BUREAU	259	315	371	464	519	CALHOUN	238	289	340	425	476
CARROLL	241	292	344	430	482	CASS	244	293	346	427	476
CHRISTIAN	246	299	351	439	492	CLARK	234	285	335	419	469
CLAY	220	267	314	393	440	COLES	234	285	335	419	469
CRAWFORD	220	267	314	393	440	CUMBERLAND	234	285	335	419	469
DE KALB	280	340	400	501	561	DE WITT	234	285	335	419	469
DOUGLAS	234	285	335	419	469	EDGAR	234	285	335	419	469
EDWARDS	213	258	304	380	426	EFFINGHAM	220	267	314	393	440
FAYETTE	220	267	314	393	440	FORD	244	296	348	436	488
FRANKLIN	249	302	356	445	498	FULTON	259	315	371	464	519
GALLATIN	197	239	282	352	394	GREENE	238	289	340	425	476
HAMILTON	213	258	304	380	426	HANCOCK	228	277	326	408	457
HARDIN	197	239	282	352	394	HENDERSON	228	277	326	406	457
IROQUOIS	244	296	348	436	488	JACKSON	249	302	356	445	498
JASPER	220	267	314	393	440	JEFFERSON	240	290	345	430	480
JO DAVIESS	241	292	344	430	482	JOHNSON	197	239	282	352	394
KNOX	252	306	360	451	505	LA SALLE	294	357	420	525	588
LAWRENCE	220	267	314	393	440	LEE	294	357	420	525	588
LIVINGSTON	244	296	348	436	488	LOGAN	244	293	346	427	476
MCDONOUGH	234	284	332	412	457	MACOUPIN	246	299	351	439	492
MARION	220	267	314	393	440	MARSHALL	259	315	371	464	519
MASON	244	293	346	427	476	MASSAC	197	239	282	352	394
MERCER	228	277	326	408	457	MONTGOMERY	246	299	351	439	492
MORGAN	244	293	346	427	476	MOULTRIE	246	299	351	439	492
OGLE	241	292	344	430	482	PERRY	234	285	335	419	469
PIATT	234	285	335	419	469	PIKE	213	258	304	380	426
POPE	197	239	282	352	394	PULASKI	197	239	282	352	394
PUTNAM	259	315	371	464	519	RANDOLPH	234	285	335	419	469
RICHLAND	220	267	314	393	440	SALINE	197	239	282	352	394
SCHUYLER	213	258	304	380	426	SCOTT	244	293	346	427	476
SHELBY	246	299	351	439	492	STARK	259	315	371	464	519
STEPHENSON	241	292	344	430	482	UNION	197	239	282	352	394
VERMILION	244	296	348	436	488	WABASH	213	258	304	380	426
WARREN	234	284	332	412	457	WASHINGTON	234	285	335	419	469
WAYNE	213	258	304	380	426	WHITE	213	258	304	380	426
WHITESIDE	294	357	420	525	588	WILLIAMSON	249	302	356	445	498

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: INDIANA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, IN MSA COUNTY(IES): MADISON	235	286	336	420	471
BLOOMINGTON, IN MSA COUNTY(IES): MONROE	254	308	363	454	508
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): DEARBORN	250	305	360	450	500
ELKHART-GOSHEN, IN MSA COUNTY(IES): ELKHART	248	301	354	443	496
EVANSVILLE, IN-KY MSA COUNTY(IES): POSEY, VANDERBURGH, WARRICK	262	310	364	456	510
FORT WAYNE, IN MSA COUNTY(IES): ALLEN, DE KALB, WHITLEY	262	314	367	460	510
GARY-HAMMOND, IN PMSA COUNTY(IES): LAKE, PORTER	193	388	418	523	586
INDIANAPOLIS, IN MSA COUNTY(IES): BOONE, HAMILTON, HANCOCK, HENDRICKS, JOHNSON, MARION, MORGAN, SHELBY	295	310	365	458	510
KOKOMO, IN MSA COUNTY(IES): HOWARD, TIPTON	250	315	370	463	519
LAFAYETTE-WEST LAFAYETTE, IN MSA COUNTY(IES): TIPPECANOE	274	333	391	489	548
LOUISVILLE, KY-IN MSA COUNTY(IES): CLARK, FLOYD, HARRISON	240	291	340	425	476
MUNCIE, IN MSA COUNTY(IES): DELAWARE	226	272	319	398	443
SOUTH BEND-MISHAWAKA, IN MSA COUNTY(IES): ST JOSEPH	258	309	361	448	498
TERRE HAUTE, IN MSA COUNTY(IES): CLAY, VIGO	232	282	330	409	454

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	231	279	326	407	456
BENTON	221	269	317	396	443
BROWN	261	317	373	467	523
CASS	214	260	306	383	429
CRAWFORD	191	232	273	342	383
DECATUR	261	317	373	467	523
FAYETTE	225	271	317	396	443
FRANKLIN	225	271	317	396	443
GIBSON	248	301	354	443	496
GREENE	215	261	308	385	431
HUNTINGTON	228	277	326	407	456
JASPER	231	280	330	413	462
JEFFERSON	248	301	354	443	496
KNOX	221	265	308	385	431
LAGRANGE	237	287	338	422	473
LAWRENCE	240	292	343	429	480
MARTIN	215	261	308	385	431
MONTGOMERY	221	269	317	396	443
NOBLE	236	287	338	422	473
ORANGE	191	232	273	342	383
PARKE	221	269	317	396	443
PIKE	248	301	354	443	496
PUTNAM	229	278	327	409	458
RIPLEY	248	301	354	443	496
SCOTT	237	288	339	424	475
STARKE	231	280	330	413	462
SULLIVAN	221	269	317	396	443
UNION	225	271	317	396	443
WABASH	214	260	306	383	429
WASHINGTON	256	311	366	458	513
WELLS	233	280	327	409	456

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARTHOLOMEW	261	317	373	467	523
BLACKFORD	209	254	298	373	418
CARROLL	221	269	317	396	443
CLINTON	221	268	317	396	443
DAVIESS	215	261	308	385	431
DUBOIS	191	233	273	342	383
FOUNTAIN	221	268	317	396	443
FULTON	214	260	306	383	429
GRANT	209	254	298	373	418
HENRY	209	254	298	373	418
JACKSON	261	317	373	467	523
JAY	209	254	298	373	418
JENNINGS	261	317	373	467	523
KOSCIUSKO	237	288	337	418	462
LA PORTE	251	305	358	448	501
MARSHALL	231	280	330	413	462
MIAMI	214	260	306	383	429
NEWTON	231	280	330	413	462
OHIO	248	301	354	443	496
OWEN	253	307	361	452	506
PERRY	191	232	273	342	383
PULASKI	231	280	330	413	462
RANDOLPH	209	254	298	373	418
RUSH	221	269	317	396	443
SPENCER	191	232	273	342	383
STEUBEN	236	287	338	422	473
SWITZERLAND	248	301	354	443	496
VERMILLION	229	277	324	403	446
WARREN	221	269	317	396	443
WAYNE	226	272	319	398	443
WHITE	221	269	317	396	443

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: IOWA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CEDAR RAPIDS, IA MSA COUNTY(IES): LINN	291	353	415	519	582
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA COUNTY(IES): SCOTT	299	363	427	534	598
DES MOINES, IA MSA COUNTY(IES): DALLAS, POLK, WARREN	290	352	414	518	580
DUBUQUE, IA MSA COUNTY(IES): DUBUQUE	269	326	384	480	538
IOWA CITY, IA MSA COUNTY(IES): JOHNSON	305	371	436	546	611
OMAHA, NE-IA MSA COUNTY(IES): POTTAWATTAMI	265	321	378	473	530
SIOUX CITY, IA-NE MSA COUNTY(IES): WOODBURY	262	319	375	469	526
WATERLOO-CEDAR FALLS, IA MSA COUNTY(IES): BLACK HAWK, BREMER	292	354	417	521	584

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	221	268	316	395	442	ADAMS	221	268	316	395	442
ALLAMAKEE	233	283	333	417	467	APPANOOSE	221	268	316	395	442
AUDUBON	234	285	335	419	469	BENTON	228	277	326	408	456
BOONE	266	323	380	475	532	BUCHANAN	233	283	333	417	467
BUENA VISTA	229	278	327	409	459	BUTLER	233	283	333	417	467
CALHOUN	234	285	335	419	469	CARROLL	234	285	335	419	469
CASS	240	291	342	428	480	CEDAR	260	316	372	465	521
CERRO GORDO	231	281	330	413	463	CHEROKEE	234	285	335	419	469
CHICKASAW	233	283	333	417	467	CLARKE	221	268	316	395	442
CLAY	229	278	327	409	459	CLAYTON	233	283	333	417	467
CLINTON	260	316	372	465	521	CRAWFORD	234	285	335	419	469
DAVIS	221	268	316	395	442	DECATUR	221	268	316	395	442
DELAWARE	260	316	372	465	521	DES MOINES	245	297	350	437	490
DICKINSON	229	278	327	409	459	EMMET	229	278	327	409	459
FAYETTE	233	283	333	417	467	FLOYD	231	281	330	413	463
FRANKLIN	231	281	330	413	463	FREMONT	240	291	342	428	480
GREENE	234	285	335	419	469	GRUNDY	233	283	333	417	467
GUTHRIE	234	285	335	419	469	HAMILTON	234	285	335	419	469
HANCOCK	231	281	330	413	463	HARDIN	243	295	347	434	486
HARRISON	240	291	342	428	480	HENRY	245	297	350	437	490
HOWARD	233	283	333	417	467	HUMBOLDT	234	285	335	419	469
IDA	234	285	335	419	469	IOWA	228	277	326	408	456
JACKSON	260	316	372	465	521	JASPER	247	300	353	441	494
JEFFERSON	244	296	348	435	487	JONES	228	277	326	408	456
KEOKUK	229	278	327	409	458	KOSSUTH	231	281	330	413	463
LEE	245	297	350	437	490	LOUISA	245	297	350	437	490
LUCAS	221	268	316	395	442	LYON	229	278	327	409	459
MADISON	247	300	353	441	494	MAHASKA	221	268	316	395	442
MARION	247	300	353	441	494	MARSHALL	243	295	347	434	486
MILLS	240	291	342	428	480	MITCHELL	231	281	330	413	463
MONONA	234	285	335	419	469	MONROE	221	268	316	395	442
MONTGOMERY	240	291	342	428	480	MUSCATINE	245	297	350	437	490
O BRIEN	229	278	327	409	459	OSCEOLA	229	278	327	409	459
PAGE	240	291	342	428	480	PALO ALTO	229	278	327	409	459
PLYMOUTH	234	285	335	419	469	POCAHONTAS	234	285	335	419	469
POWESHIEK	243	295	347	434	486	RINGGOLD	221	268	316	395	442
SAC	234	285	335	419	469	SHELBY	240	291	342	428	480
SIOUX	229	278	327	409	459	STORY	266	323	380	475	532
TAMA	243	295	347	434	486	TAYLOR	221	268	316	395	442
UNION	221	268	316	395	442	VAN BUREN	221	268	316	395	442
WAPELLO	260	315	371	464	519	WASHINGTON	228	277	326	408	456
WAYNE	221	268	316	395	442	WEBSTER	234	285	335	419	469
WINNEBAGO	231	281	330	413	463	WINNESHIEK	233	283	333	417	467
WORTH	231	281	330	413	463	WRIGHT	234	285	335	419	469

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: KANSAS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MO-KS MSA					
COUNTY(IES): JOHNSON, LEAVENWORTH, MIAMI, WYANDOTTE	280	340	400	500	560
LAWRENCE, KS MSA					
COUNTY(IES): DOUGLAS	292	354	417	521	584
TOPEKA, KS MSA					
COUNTY(IES): SHAWNEE	265	322	378	473	530
WICHITA, KS MSA					
COUNTY(IES): BUTLER, SEDGWICK	285	345	410	510	570

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEN	185	224	264	330	370	ANDERSON	185	224	264	330	370
ATCHISON	213	258	304	380	426	BARBER	214	260	306	382	428
BARTON	214	260	306	382	428	BOURBON	185	224	264	330	370
BROWN	213	258	304	380	426	CHASE	233	284	334	417	467
CHAUTAUQUA	185	224	264	330	370	CHEROKEE	196	238	280	350	393
CHEYENNE	187	227	267	334	374	CLARK	220	267	314	393	440
CLAY	233	284	334	417	467	CLOUD	231	281	331	414	463
COFFEY	233	284	334	417	467	COMANCHE	214	260	306	382	428
COWLEY	185	224	264	330	370	CRAWFORD	196	238	280	350	393
DECATUR	187	227	267	334	374	DICKINSON	233	284	334	417	467
DONIPHAN	213	258	304	380	426	EDWARDS	214	260	306	382	428
ELK	185	224	264	330	370	ELLIS	187	227	267	334	374
ELLSWORTH	231	281	331	414	463	FINNEY	220	267	314	393	440
FORD	220	267	314	393	440	FRANKLIN	202	245	288	360	403
GEARY	233	284	334	417	467	GOVE	187	227	267	334	374
GRAHAM	187	227	267	334	374	GRANT	220	267	314	393	440
GRAY	220	267	314	393	440	GREELEY	220	267	314	393	440
GREENWOOD	233	284	334	417	467	HAMILTON	220	267	314	393	440
HARPER	214	260	306	382	428	HARVEY	246	299	352	440	492
HASKELL	220	267	314	393	440	HODGEMAN	220	267	314	393	440
JACKSON	213	258	304	380	426	JEFFERSON	202	246	289	361	405
JEWELL	231	281	331	414	463	KEARNY	220	267	314	393	440
KINGMAN	214	260	306	382	428	KIOWA	214	260	306	382	428
LABETTE	196	238	280	350	393	LANE	220	267	314	393	440
LINCOLN	231	281	331	414	463	LINN	185	224	264	330	370
LOGAN	187	227	267	334	374	LYON	233	284	334	417	467
MCPHERSON	246	299	352	440	492	MARION	233	284	334	417	467
MARSHALL	233	284	334	417	467	MEADE	220	267	314	393	440
MITCHELL	231	281	331	414	463	MONTGOMERY	196	238	280	350	393
MORRIS	233	284	334	417	467	MORTON	220	267	314	393	440
NEMAHA	213	258	304	380	426	NEOSHO	196	238	280	350	393
NESS	220	267	314	393	440	NORTON	187	227	267	334	374
OSAGE	202	246	289	361	405	OSBORNE	187	227	267	334	374
OTTAWA	231	281	331	414	463	PAWNEE	214	260	306	382	428
PHILLIPS	187	227	267	334	374	POTTAWATOMIE	233	284	334	417	467
PRATT	214	260	306	382	428	RAWLINS	187	227	267	334	374
RENO	246	299	352	440	492	REPUBLIC	231	281	331	414	463
RICE	246	299	352	440	492	RILEY	233	284	334	417	467
ROOKS	187	227	267	334	374	RUSH	214	260	306	382	428
RUSSELL	187	227	267	334	374	SALINE	231	281	331	414	463
SCOTT	220	267	314	393	440	SEWARD	220	267	314	393	440
SHERIDAN	187	227	267	334	374	SHERMAN	187	227	267	334	374
SMITH	187	227	267	334	374	STAFFORD	214	260	306	382	428
STANTON	220	267	314	393	440	STEVENS	220	267	314	393	440
SUMNER	214	260	306	382	428	THOMAS	187	227	267	334	374
TREGO	187	227	267	334	374	WABAUNSEE	233	284	334	417	467
WALLACE	187	227	267	334	374	WASHINGTON	231	281	331	414	463
WICHITA	220	267	314	393	440	WILSON	185	224	264	330	370
WOODSON	185	224	264	330	370						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: KENTUCKY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): BOONE, CAMPBELL, KENTON	250	305	360	450	500
CLARKSVILLE-HOPKINSVILLE, TN-KY MSA COUNTY(IES): CHRISTIAN	250	305	360	450	500
EVANSVILLE, IN-KY MSA COUNTY(IES): HENDERSON	262	310	364	456	510
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): BOYD, CARTER, GREENUP	266	323	380	475	533
LEXINGTON-FAYETTE, KY MSA COUNTY(IES): BOURBON, CLARK, FAYETTE, JESSAMINE, SCOTT, WOODFORD	280	340	400	501	561
LOUISVILLE, KY-IN MSA COUNTY(IES): BULLITT, JEFFERSON, OLDHAM, SHELBY	240	291	340	425	478
OWENSBORO, KY MSA COUNTY(IES): DAVIESS	258	314	369	462	517

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	206	251	293	361	404	ALLEN	174	211	248	310	348
ANDERSON	257	313	368	460	515	BALLARD	211	256	301	376	422
BARREN	220	267	314	392	440	BATH	206	250	295	369	413
BELL	224	272	320	400	448	BOYLE	250	303	357	446	500
BRACKEN	206	250	295	369	413	BREATHITT	212	257	303	378	424
BRECKINRIDGE	203	247	290	363	406	BUTLER	174	211	248	310	348
CALDWELL	221	269	317	396	443	CALLOWAY	211	256	301	376	422
CARLISLE	211	256	301	376	422	CARROLL	212	258	303	379	424
CASEY	202	245	289	361	404	CLAY	190	231	271	339	380
CLINTON	206	251	293	361	404	CRITTENDON	221	269	317	396	443
CUMBERLAND	206	251	293	361	404	EDMONSON	174	211	248	310	348
ELLIOTT	190	231	272	340	381	ESTILL	250	303	357	446	500
FLEMING	206	250	295	369	413	FLOYD	225	273	321	402	450
FRANKLIN	257	313	368	460	515	FULTON	211	256	301	376	422
GALLATIN	212	258	303	379	424	GARRARD	250	303	357	446	500
GRANT	212	258	303	379	424	GRAVES	211	256	301	376	422
GRAYSON	203	247	290	363	406	GREEN	206	251	293	361	404
HANCOCK	214	260	306	383	428	HARDIN	230	280	329	411	461
HARLAN	224	272	320	400	448	HARRISON	187	227	267	334	374
HART	174	211	248	310	348	HENRY	189	230	270	338	378
HICKMAN	211	256	301	376	422	HOPKINS	221	269	317	396	443
JACKSON	190	231	271	339	380	JOHNSON	225	273	321	402	450
KNOTT	212	257	303	378	424	KNOX	196	238	280	364	392
LARUE	203	247	290	363	406	LAUREL	190	231	271	339	380
LAWRENCE	190	231	272	340	381	LEE	212	257	303	378	424
LESLIE	212	257	303	378	424	LETCHER	212	257	303	378	424
LEWIS	206	250	295	369	413	LINCOLN	250	303	357	446	500
LIVINGSTON	191	232	273	341	382	LOGAN	222	270	318	398	445
LYON	191	232	273	341	382	MCCRACKEN	221	269	305	378	422
MCCREARY	206	251	293	361	404	MCLEAN	214	260	306	383	428
MADISON	250	303	360	446	500	MAGOFFIN	225	273	321	402	450
MARION	203	247	290	363	406	MARSHALL	221	269	305	376	422
MARTIN	225	273	321	402	450	MASON	206	250	295	369	413
MEADE	230	280	329	411	461	MENIFEE	206	251	295	369	413
MERCER	257	313	368	460	515	METCALFE	174	211	248	310	348
MONROE	174	211	248	310	348	MONTGOMERY	206	250	295	369	413
MORGAN	206	251	295	369	413	MUHLENBERG	221	269	317	396	443
NELSON	203	247	290	363	406	NICHOLAS	187	227	267	334	374
OHIO	214	260	306	383	428	OWEN	212	258	303	379	424
OWSLEY	212	257	303	378	424	PENDLETON	212	258	303	379	424
PERRY	212	257	303	378	424	PIKE	225	273	321	402	450
POWELL	187	227	267	334	374	PULASKI	206	251	293	361	404
ROBERTSON	206	250	295	369	413	ROCKCASTLE	190	231	271	339	380
ROWAN	206	250	295	369	413	RUSSELL	202	245	289	361	404
SIMPSON	222	270	318	398	445	SPENCER	189	230	270	338	378
TAYLOR	206	251	293	361	404	TODD	191	232	273	341	382
TRIGG	191	232	273	341	382	TRIMBLE	189	230	270	338	378
UNION	214	260	306	383	428	WARREN	222	270	318	398	445
WASHINGTON	203	247	290	363	406	WAYNE	206	251	293	361	404
WEBSTER	214	260	306	383	428	WHITLEY	224	272	320	400	448
WOLFE	212	257	303	378	424						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: LOUISIANA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEXANDRIA, LA MSA COUNTY(IES): RAPIDES	235	285	336	420	470
BATON ROUGE, LA MSA COUNTY(IES): ASCENSION, E BATON ROUG, LIVINGSTON, W BATON ROUG	295	358	421	526	590
HOUMA-THIBODAUX, LA MSA COUNTY(IES): LAFOURCHE, TERREBONNE	261	317	373	466	522
LAFAYETTE, LA MSA COUNTY(IES): LAFAYETTE, ST MARTIN	295	358	421	526	590
LAKE CHARLES, LA MSA COUNTY(IES): CALCASIEU	238	286	334	416	466
MONROE, LA MSA COUNTY(IES): OUACHITA	234	284	334	418	468
NEW ORLEANS, LA MSA COUNTY(IES): JEFFERSON, ORLEANS, ST BERNARD, ST CHARLES, ST JOHN THE, ST TAMMANY	325	395	465	580	650
SHREVEPORT, LA MSA COUNTY(IES): BOSSIER, CADDO	266	323	381	476	533

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACADIA	203	247	289	362	405	ALLEN	162	197	232	290	325
ASSUMPTION	175	213	250	313	350	AVOYELLES	200	243	286	358	401
BEAUREGARD	162	197	232	290	325	BIENVILLE	209	254	299	373	418
CALDWELL	161	196	230	288	322	CAMERON	162	197	232	290	325
CATAHOULA	200	243	286	358	401	CLAIBORNE	209	254	299	373	418
CONCORDIA	200	243	286	358	401	DE SOTO	209	254	299	373	418
EAST CARROLL	161	196	230	288	322	E FELICIANA	168	204	240	300	336
EVANGELINE	194	235	277	346	388	FRANKLIN	161	196	230	288	322
GRANT	200	243	286	358	401	IBERIA	239	291	342	428	479
IBERVILLE	168	204	240	300	336	JACKSON	161	196	230	288	322
JEFFERSON DA	162	197	232	290	325	LA SALLE	200	243	286	358	401
LINCOLN	209	254	299	373	418	MADISON	161	196	230	288	322
MOREHOUSE	161	196	230	288	322	NATCHITOCHES	209	254	299	373	418
PLAQUEMINES	283	355	418	523	585	POINTE COUPE	168	204	240	300	336
RED RIVER	209	254	299	373	418	RICHLAND	161	196	230	288	322
SABINE	209	254	299	373	418	ST HELENA	168	204	240	300	336
ST JAMES	175	213	250	313	350	ST LANDRY	194	235	277	346	388
ST MARY	239	291	342	428	479	TANGIPAHOA	189	230	271	338	379
TENSAS	161	196	230	288	322	UNION	161	196	230	288	322
VERMILION	203	247	289	362	405	VERNON	200	243	286	358	401
WASHINGTON	189	230	271	338	379	WEBSTER	181	220	259	324	363
WEST CARROLL	161	196	230	288	322	W FELICIANA	168	204	240	300	336
WINN	200	243	286	358	401						

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: MAINE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BANGOR, ME MSA	272	331	389	487	545
COUNTY: PENOBSCOT TOWNS OF BANGOR, BREWER, EDDINGTON, GLENBURN, HAMPDEN, HERMON, HOLDEN, KENDUSKEAG, OLD TOWN, ORONO ORRINGTON, PENOBSCOT IN, VEAZIE					
COUNTY: WALDO TOWNS OF WINTERPORT					
LEWISTON-AUBURN, ME MSA	287	341	385	430	490
COUNTY: ANDROSCOGGIN TOWNS OF AUBURN, GREENE, LEWISTON, LISBON, MECHANIC FAL, POLAND, SABATTUS					
PORTLAND, ME MSA	330	425	500	585	630
COUNTY: CUMBERLAND TOWNS OF CAPE ELIZABE, CUMBERLAND, FALMOUTH, FREEPORT, GORHAM, GRAY, NORTH YARMOU, PORTLAND, RAYMOND SCARBOROUGH, SOUTH PORTLA, STANDISH, WESTBROOK, WINDHAM, YARMOUTH					
COUNTY: YORK TOWNS OF BUXTON, HOLLIS, OLD ORCHARD					
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA	355	432	508	634	711
COUNTY: YORK TOWNS OF BERWICK, ELIOT, KITTERY, NORTH BERWIC, SOUTH BERWIC, WELLS, YORK					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDROSCOGGIN COUNTY TOWNS OF DURHAM, LEEDS, LIVERMORE, LIVERMORE FA MINOT, TURNER, WALES	248	293	347	425	470
AROOSTOOK COUNTY	253	308	362	452	507
CUMBERLAND COUNTY TOWNS OF BALDWIN, BRIDGTON, BRUNSWICK, CASCO HARPSWELL, HARRISON, NAPLES, NEW GLOUCEST, POWNAL, SEBAGO	280	340	400	496	553
FRANKLIN COUNTY	264	298	355	420	475
HANCOCK COUNTY	266	315	370	461	515
KENNEBEC COUNTY	266	323	380	475	532
KNOX COUNTY	257	312	367	459	515
LINCOLN COUNTY	253	307	361	452	506
OXFORD COUNTY	264	298	355	420	475
PENOBSCOT COUNTY TOWNS OF ALTON, ARGYLE, BRADFORD, BRADLEY, BURLINGTON CARMEL, CARROLL, CHARLESTON, CHESTER, CLIFTON, CORINNA, CORINTH, DEXTER, DIXMONT, DREW, EAST MILLINO, EDINBURG ENFIELD, ETNA, EXETER, GARLAND, GRAND FALLS, GREENBUSH, GREENFIELD, HOWLAND, HUDSON, KINGMAN, LAGRANGE, LAKEVILLE LEE, LEVANT, LINCOLN, LOWELL, MATTAWAMKEAG, MAXFIELD, MEDWAY, MILFORD, MILLINOCKET, MOUNT CHASE, NEWBURGH, NEWPORT NORTH PENOBS, PASSADUMKEAG, PATTEN, PLYMOUTH, PRENTISS, SEBOEIS, SPRINGFIELD, STACYVILLE, STETSON, SUMMIT, TWOMBLY WEBSTER, WHITNEY, WINN, WOODVILLE	261	315	367	459	515
PISCATAQUIS COUNTY	219	266	313	382	439
SAGADAHOC COUNTY	290	390	420	496	574
SOMERSET COUNTY	253	307	361	452	506
WALDO COUNTY TOWNS OF BELFAST, BELMONT, BROOKS, BURNHAM, FRANKFORT FREEDOM, ISLESBORO, JACKSON, KNOX, LIBERTY, LINCOLNVILLE, MONROE, MONTVILLE, MORRILL, NORTHPORT, PALERMO, PROSPECT SEARSMONT, SEARSPORT, STOCKTON SPR, SWANVILLE, THORNDIKE, TROY, UNITY, WALDO	257	312	367	459	515
WASHINGTON COUNTY	257	312	367	459	515
YORK COUNTY TOWNS OF ACTON, ALFRED, ARUNDEL, BIDDEFORD, CORNISH, DAYTON KENNEBUNK, KENNEBUNKPOR, LEBANON, LIMERICK, LIMINGTON, LYMAN, NEWFIELD, PARSONSFIELD, SACO, SANFORD, SHAPLEIGH WATERBORO	320	377	478	490	593

S T A T E: MARYLAND	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MD MSA	325	394	464	580	650
COUNTY(IES): ANNE ARUNDEL, BALTIMORE, CARROLL, HARFORD, HOWARD, QUEEN ANNES, BALTIMORE					
COLUMBIA, MD MSA	420	510	600	750	840
COUNTY(IES): COLUMBIA					
CUMBERLAND, MD-WV MSA	245	295	340	420	470
COUNTY(IES): ALLEGANY					
HAGERSTOWN, MD MSA	274	332	391	489	547
COUNTY(IES): WASHINGTON					
WASHINGTON, DC-MD-VA MSA	370	450	530	665	745
COUNTY(IES): CALVERT, CHARLES, FREDERICK, MONTGOMERY, PRINCE GEORG					
WILMINGTON, DE-NJ-MD PMSA	304	367	432	540	605
COUNTY(IES): CECIL					

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CAROLINE	258	310	365	456	511	DORCHESTER	268	322	379	474	531
GARRETT	246	298	351	439	491	KENT	270	328	386	483	540
ST MARYS	340	410	480	600	665	SOMERSET	268	322	379	474	531
TALBOT	298	359	422	528	591	WICOMICO	318	386	450	478	531
WORCESTER	287	326	378	474	531						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: MASSACHUSETTS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MA PMSA	470	570	670	840	940
COUNTY: BRISTOL TOWNS OF MANSFIELD, NORTON, RAYNHAM					
COUNTY: ESSEX TOWNS OF LYNN, LYNNFIELD, NAHANT, SAUGUS					
COUNTY: MIDDLESEX TOWNS OF ACTON, ARLINGTON, ASHLAND, AYER, BEDFORD, BELMONT, BOXBOROUGH, BURLINGTON, CAMBRIDGE, CARLISLE CONCORD, EVERETT, FRAMINGHAM, GROTON, HOLLISTON, HOPKINTON, HUDSON, LEXINGTON, LINCOLN, LITTLETON, MALDEN MARLBOROUGH, MAYNARD, MEDFORD, MELROSE, NATICK, NEWTON, NORTH READIN, READING, SHERBORN, SHIRLEY SOMERVILLE, STONEHAM, STOW, SUDBURY, TOWNSEND, WAKEFIELD, WALTHAM, WATERTOWN, WAYLAND, WESTON, WILMINGTON WINCHESTER, WOBURN					
COUNTY: NORFOLK TOWNS OF BELLINGHAM, BRAINTREE, BROOKLINE, CANTON, COHASSET, DEDHAM, DOVER, FOXBOROUGH, FRANKLIN, HOLBROOK MEDFIELD, MEDWAY, MILLIS, MILTON, NEEDHAM, NORFOLK, NORWOOD, QUINCY, RANDOLPH, SHARON, STOUGHTON, WALPOLE WELLESLEY, WESTWOOD, WEYMOUTH, WRENTHAM					
COUNTY: PLYMOUTH TOWNS OF CARVER, DUXBURY, HANOVER, HANSON, HINGHAM, HULL, KINGSTON, LAKEVILLE, MARSHFIELD, MIDDLEBOROUG NORWELL, PEMBROKE, PLYMOUTH, PLYMPTON, ROCKLAND, SCITUATE					
COUNTY: SUFFOLK TOWNS OF BOSTON, CHELSEA, REVERE, WINTHROP					
COUNTY: WORCESTER TOWNS OF BERLIN, BOLTON, HARVARD, HOPEDALE, LANCASTER, MENDON, MILFORD, SOUTHBOROUGH, UPTON					
BROCKTON, MA PMSA	360	435	545	660	740
COUNTY: BRISTOL TOWNS OF EASTON					
COUNTY: NORFOLK TOWNS OF AVON					
COUNTY: PLYMOUTH TOWNS OF ABINGTON, BRIDGEWATER, BROCKTON, EAST BRIDGEW, HALIFAX, WEST BRIDGEW, WHITMAN					
FALL RIVER, MA-RI PMSA	315	375	450	520	575
COUNTY: BRISTOL TOWNS OF FALL RIVER, SOMERSET, SWANSEA, WESTPORT					
FITCHBURG-LEOMINSTER, MA MSA	280	340	400	500	560
COUNTY: MIDDLESEX TOWNS OF ASHBY					
COUNTY: WORCESTER TOWNS OF ASHBURNHAM, FITCHBURG, LEOMINSTER, LUNENBURG, WESTMINSTER					
LAWRENCE-HAVERHILL, MA-NH PMSA	350	425	500	625	700
COUNTY: ESSEX TOWNS OF AMESBURY, ANDOVER, BOXFORD, GEORGETOWN, GROVELAND, HAVERHILL, LAWRENCE, MERRIMAC, METHUEN, NEWBURY NEWBURYPORT, NORTH ANDOVE, SALISBURY, WEST NEWBURY					
LOWELL, MA-NH PMSA	370	450	525	635	725
COUNTY: MIDDLESEX TOWNS OF BILLERICA, CHELMSFORD, DRACUT, DUNSTABLE, LOWELL, PEPPERELL, TEWKSBURY, TYNGSBOROUGH, WESTFORD					
NEW BEDFORD, MA MSA	320	360	425	520	575
COUNTY: BRISTOL TOWNS OF ACUSHNET, DARTMOUTH, FAIRHAVEN, FREETOWN, NEW BEDFORD					
COUNTY: PLYMOUTH TOWNS OF MARION, MATTAPOISETT, ROCHESTER					
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA	280	340	400	500	560
COUNTY: BRISTOL TOWNS OF ATTLEBORO, NORTH ATTLEB, REHOBOTH, SEEKONK					
COUNTY: NORFOLK TOWNS OF PLAINVILLE					
COUNTY: WORCESTER TOWNS OF BLACKSTONE, MILLVILLE					
PITTSFIELD, MA MSA	290	350	410	510	575
COUNTY: BERKSHIRE TOWNS OF CHESHIRE, DALTON, HINSDALE, LANESBOROUGH, LEE, LENOX, PITTSFIELD, RICHMOND, STOCKBRIDGE					
SALEM-GLOUCESTER, MA PMSA	400	495	580	725	800
COUNTY: ESSEX TOWNS OF BEVERLY, DANVERS, ESSEX, GLOUCESTER, HAMILTON, IPSWICH, MANCHESTER, MARBLEHEAD, MIDDLETON, PEABODY ROCKPORT, ROWLEY, SALEM, SWAMPSCOTT, TOPSFIELD, WENHAM					
SPRINGFIELD, MA MSA	325	385	460	575	645
COUNTY: HAMPDEN TOWNS OF AGAWAM, CHICOPEE, EAST LONGMEA, HAMPDEN, HOLYOKE, LONGMEADOW, LUDLOW, MONSON, MONTGOMERY, PALMER RUSSELL, SOUTHWICK, SPRINGFIELD, WESTFIELD, WEST SPRINGF, WILBRAHAM					
COUNTY: HAMPSHIRE TOWNS OF BELCHERTOWN, EASTHAMPTON, GRANBY, HUNTINGTON, NORTHAMPTON, SOUTHAMPTON, SOUTH HADLEY					
WORCESTER, MA MSA	330	405	475	595	665
COUNTY: WORCESTER TOWNS OF AUBURN, BARRE, BOYLSTON, BROOKFIELD, CHARLTON, CLINTON, DOUGLAS, DUDLEY, EAST BROOKFI, GRAFTON HOLDEN, LEICESTER, MILLBURY, NORTHBOROUGH, NORTHBRIDGE, NORTH BROOKF, OXFORD, PAXTON, PRINCETON, RUTLAND SHREWSBURY, SPENCER, STERLING, SUTTON, UXBRIDGE, WEBSTER, WESTBOROUGH, WEST BOYLSTO, WORCESTER					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARNSTABLE COUNTY	425	525	600	750	840
BERKSHIRE COUNTY TOWNS OF ADAMS, ALFORD, BECKET, CLARKSBURG, EGREMONT FLORIDA, GREAT BARRIN, HANCOCK, MONTEREY, MOUNT WASHIN, NEW ASHFORD, NEW MARLBORO, NORTH ADAMS, OTIS, PERU SANDISFIELD, SAVOY, SHEFFIELD, TYRINGHAM, WASHINGTON, WEST STOCKBR, WILLIAMSTOWN, WINDSOR	280	340	400	500	560
BRISTOL COUNTY TOWNS OF BERKLEY, DIGHTON, TAUNTON	310	375	440	530	590
DUKES COUNTY	425	525	600	750	840
FRANKLIN COUNTY	325	385	450	565	630
HAMPDEN COUNTY TOWNS OF BLANDFORD, BRIMFIELD, CHESTER, GRANVILLE HOLLAND, TOLLAND, WALES	293	356	419	523	586
HAMPSHIRE COUNTY TOWNS OF AMHERST, CHESTERFIELD, CUMMINGTON, GOSHEN HADLEY, HATFIELD, MIDDLEFIELD, PELHAM, PLAINFIELD, WARE, WESTHAMPTON, WILLIAMSBURG, WORTHINGTON	380	440	540	650	755
NANTUCKET COUNTY	425	525	600	750	840
PLYMOUTH COUNTY TOWNS OF WAREHAM	310	366	430	531	592
WORCESTER COUNTY TOWNS OF ATHOL, GARDNER, HARDWICK, HUBBARDSTON NEW BRAINTRE, OAKHAM, PETERSHAM, PHILLIPSTON, ROYALSTON, SOUTHBRIDGE, STURBRIDGE, TEMPLETON, WARREN, WEST BROOKFI WINCHENDON	310	365	440	540	600

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: MICHIGAN

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANN ARBOR, MI PMSA COUNTY(IES): WASHTENAW	351	426	502	627	702
BATTLE CREEK, MI MSA COUNTY(IES): CALHOUN	244	296	348	436	488
BENTON HARBOR, MI MSA COUNTY(IES): BERRIEN	271	329	387	484	542
DETROIT, MI PMSA COUNTY(IES): LAPEER, LIVINGSTON, MACOMB, MONROE, OAKLAND, ST CLAIR, WAYNE	287	345	403	502	560
FLINT, MI MSA COUNTY(IES): GENESEE	257	312	368	460	515
GRAND RAPIDS, MI MSA COUNTY(IES): KENT, OTTAWA	240	285	345	430	485
JACKSON, MI MSA COUNTY(IES): JACKSON	268	325	383	478	536
KALAMAZOO, MI MSA COUNTY(IES): KALAMAZOO	280	336	395	495	542
LANSING-EAST LANSING, MI MSA COUNTY(IES): CLINTON, EATON, INGHAM	293	352	412	511	571
MUSKEGON, MI MSA COUNTY(IES): MUSKEGON	238	280	341	426	477
SAGINAW-BAY CITY-MIDLAND, MI MSA COUNTY(IES): BAY, MIDLAND, SAGINAW	285	320	375	470	535

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALCONA	213	259	305	382	427
ALLEGAN	247	300	353	441	494
ANTRIM	266	323	380	475	532
BARAGA	218	264	311	389	436
BENZIE	266	323	380	475	532
CASS	242	293	345	432	484
CHEBOYGAN	213	259	305	382	427
CLARE	234	285	335	419	469
DELTA	210	255	301	376	421
EMMET	266	323	380	475	532
GOGEBIC	218	264	311	389	436
GRATIOT	267	324	381	477	534
HOUGHTON	218	264	311	389	436
IONIA	250	301	355	442	494
IRON	218	264	311	389	436
KALKASKA	266	323	380	475	532
LAKE	245	297	350	437	490
LENAWEE	265	321	378	473	530
MACKINAC	210	255	301	376	421
MARQUETTE	266	323	380	475	532
MECOSTA	245	297	350	437	490
MISSAUKEE	266	323	380	475	532
MONTMORENCY	213	259	305	382	427
OCEANA	237	288	339	424	475
ONTONAGON	218	264	311	389	436
OSCODA	213	259	305	382	427
PRESQUE ISLE	213	259	305	382	427
ST JOSEPH	249	302	356	445	498
SCHOOLCRAFT	210	255	301	376	421
TUSCOLA	240	291	342	428	480
WEXFORD	266	323	380	475	532

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALGER	210	255	301	376	421
ALPENA	213	259	305	382	427
ARENAC	234	285	335	419	469
BARRY	249	302	356	445	498
BRANCH	249	302	356	445	498
CHARLEVOIX	266	323	380	475	532
CHIPPEWA	210	255	301	376	421
CRAWFORD	213	259	305	382	427
DICKINSON	218	278	328	408	458
GLADWIN	234	285	335	419	469
GRD TRAVERSE	266	323	380	475	532
HILLSDALE	265	321	378	473	530
HURON	240	291	342	428	480
IOSCO	234	285	335	419	469
ISABELLA	267	324	381	477	534
KEWEENAW	218	264	311	389	436
LEELANAU	266	323	380	475	532
LUCE	210	255	301	376	421
MANISTEE	266	323	380	475	532
MASON	245	297	350	437	490
MENOMINEE	266	323	380	475	532
MONTCALM	247	300	353	441	494
NEWAYGO	245	297	350	437	490
OGEMAW	234	285	335	419	469
OSCEOLA	245	297	350	437	490
OTSEGO	213	259	305	382	427
ROSCOMMON	234	285	335	419	469
SANILAC	240	291	342	428	480
SHIAWASSEE	264	320	377	471	528
VAN BUREN	242	293	345	432	484

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: MINNESOTA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DULUTH, MN-WI MSA					
COUNTY(IES): ST LOUIS	270	322	379	474	531
FARGO-MOORHEAD, ND-MN MSA					
COUNTY(IES): CLAY	272	331	388	487	545
MINNEAPOLIS-ST. PAUL, MN-WI MSA					
COUNTY(IES): ANOKA, CARVER, CHISAGO, DAKOTA, HENNEPIN, ISANTI, RAMSEY, SCOTT, WASHINGTON, WRIGHT	335	405	480	600	670
ROCHESTER, MN MSA					
COUNTY(IES): OLMSTED	285	347	409	511	572
ST. CLOUD, MN MSA					
COUNTY(IES): BENTON, SHERBURNE, STEARNS	273	331	389	487	545

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AITKIN	245	298	351	439	491
BELTRAMI	235	286	336	420	471
BLUE EARTH	273	330	382	472	522
CARLTON	247	300	351	439	491
CHIPPEWA	218	265	312	391	437
COOK	245	298	351	439	491
CROW WING	230	279	349	431	480
DOUGLAS	244	297	349	437	489
FILLMORE	226	274	323	404	452
GOODHUE	235	286	334	415	464
HOUSTON	226	274	323	404	452
ITASCA	247	300	351	439	491
KANABEC	245	298	351	439	491
KITTSON	235	286	336	420	471
LAC QUI PARL	218	265	312	391	437
LAKE OF WOOD	235	286	336	420	471
LINCOLN	225	271	317	394	438
MCLEOD	257	312	367	459	514
MARSHALL	235	286	336	420	471
MEEKER	257	312	367	459	514
MORRISON	230	279	329	411	460
MURRAY	225	271	317	394	438
NOBLES	225	271	317	394	438
OTTER TAIL	244	297	349	437	489
PINE	245	298	351	439	491
POLK	235	286	336	420	471
RED LAKE	235	286	336	420	471
RENVILLE	257	312	367	459	514
ROCK	225	271	317	394	438
SIBLEY	265	310	364	455	510
STEVENS	244	297	349	437	489
TODD	230	279	329	411	460
WABASHA	235	286	334	415	464
WASECA	232	282	333	415	464
WILKIN	244	297	349	437	489
YELLOW MEDIC	218	265	312	391	437

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BECKER	244	297	349	437	489
BIG STONE	218	265	312	391	437
BROWN	232	282	332	415	464
CASS	230	279	329	411	460
CLEARWATER	235	286	336	420	471
COTTONWOOD	218	265	312	391	437
DODGE	221	268	315	394	441
FARIBAULT	232	282	332	415	464
FREEBORN	266	323	381	476	533
GRANT	244	297	349	437	489
HUBBARD	235	286	336	420	471
JACKSON	225	271	317	394	438
KANDIYOHI	257	312	367	459	514
KOOCHICHING	245	298	351	439	491
LAKE	245	298	351	439	491
LE SUEUR	255	310	364	455	510
LYON	225	271	317	394	438
MAHNOMEN	235	286	336	420	471
MARTIN	232	282	332	415	464
MILLE LACS	245	298	351	439	491
MOWER	226	274	323	404	452
NICOLLET	255	310	364	455	510
NORMAN	235	286	336	420	471
PENNINGTON	235	286	336	420	471
PIPESTONE	225	271	317	394	438
POPE	244	297	349	437	489
REDWOOD	218	265	312	391	437
RICE	266	323	381	476	533
ROSEAU	235	286	336	420	471
STEELE	266	323	381	476	533
SWIFT	218	265	312	391	437
TRAVERSE	244	297	349	437	489
WADENA	230	279	329	411	460
WATONWAN	232	282	332	415	464
WINONA	227	274	323	404	452

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072886
FINAL FMRS

S T A T E: MISSISSIPPI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BILOXI-GULFPORT, MS MSA COUNTY(IES): HANCOCK, HARRISON	235	285	336	420	470
JACKSON, MS MSA COUNTY(IES): HINDS, MADISON, RANKIN	298	362	426	533	597
MEMPHIS, TN-AR-MS MSA COUNTY(IES): DE SOTO	245	300	365	440	495
PASCAGOULA, MS MSA COUNTY(IES): JACKSON	256	310	365	457	512

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	205	239	281	371	403
AMITE	171	207	244	305	342
BENTON	192	234	275	344	385
CALHOUN	225	273	322	402	454
CHICKASAW	232	273	322	405	451
CLAIBORNE	171	207	244	305	342
CLAY	222	258	303	379	425
COPIAH	181	220	259	324	363
FORREST	223	271	319	398	446
GEORGE	174	211	249	311	348
GRENADA	172	209	245	307	344
HUMPHREYS	198	240	283	354	396
ITAWAMBA	211	256	302	377	422
JEFFERSON	171	207	244	305	342
JONES	174	211	249	311	348
LAFAYETTE	225	273	322	402	451
LAUDERDALE	221	268	316	395	442
LEAKE	190	231	272	340	381
LEFLORE	172	209	245	307	344
LOWNDES	212	258	303	379	425
MARSHALL	192	234	275	344	385
MONTGOMERY	172	209	245	307	344
NEWTON	190	231	272	340	381
OKTIBBEHA	212	258	303	379	425
PEARL RIVER	223	271	319	398	446
PIKE	205	239	281	371	403
PRENTISS	192	234	275	344	385
SCOTT	190	231	272	340	381
SIMPSON	181	220	259	324	363
STONE	223	271	319	398	446
TALLAHATCHIE	207	251	295	369	414
TIPPAH	192	234	275	344	385
TUNICA	207	251	295	369	414
WALTHALL	171	207	244	305	342
WASHINGTON	198	240	283	354	396
WEBSTER	222	258	303	379	425
WINSTON	222	258	303	379	425
YAZOO	251	305	359	449	503

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALCORN	204	248	292	365	409
ATTALA	172	209	245	307	344
BOLIVAR	198	240	283	354	396
CARROLL	172	209	245	307	344
CHOCTAW	222	258	303	379	425
CLARKE	223	270	316	395	442
COAHOMA	207	251	295	369	414
COVINGTON	174	211	249	311	348
FRANKLIN	171	207	244	305	342
GREENE	174	211	249	311	348
HOLMES	172	209	245	307	344
ISSAQUENA	198	240	283	354	396
JASPER	223	270	316	395	442
JEFFERSON DA	174	211	249	311	348
KEMPER	223	270	316	395	442
LAMAR	223	271	319	398	446
LAWRENCE	171	207	244	305	342
LEE	224	273	320	400	448
LINCOLN	171	207	244	305	342
MARION	223	271	319	398	446
MONROE	211	256	302	377	422
NESHOBA	190	231	272	340	381
NOXUBEE	212	258	303	379	425
PANOLA	207	251	295	369	414
PERRY	174	211	249	311	348
PONTOTOC	233	283	322	402	451
QUITMAN	207	251	295	369	414
SHARKEY	198	240	283	354	396
SMITH	190	231	272	340	381
SUNFLOWER	198	240	283	354	396
TATE	207	251	295	369	414
TISHOMIGO	192	234	275	344	385
UNION	232	273	322	405	451
WARREN	251	305	359	449	503
WAYNE	174	211	249	311	348
WILKINSON	171	207	244	305	342
YALOBUSHA	172	209	245	307	344

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: MISSOURI	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, MO MSA COUNTY(IES): BOONE	267	324	382	477	535
JOPLIN, MO MSA COUNTY(IES): JASPER, NEWTON	206	251	295	369	413
KANSAS CITY, MO-KS MSA COUNTY(IES): CASS, CLAY, JACKSON, LAFAYETTE, PLATTE, RAY	280	340	400	500	560
ST. JOSEPH, MO MSA COUNTY(IES): BUCHANEN	219	266	313	391	438
ST. LOUIS, MO-IL MSA COUNTY(IES): FRANKLIN, JEFFERSON, ST CHARLES, ST LOUIS, ST. LOUIS	275	335	395	495	555
SPRINGFIELD, MO MSA COUNTY(IES): CHRISTIAN, GREENE	229	279	328	410	459

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	209	253	298	373	418	ANDREW	219	266	313	391	438
ATCHISON	198	241	283	354	397	AUDRAIN	232	281	331	414	464
BARRY	193	234	276	345	386	BARTON	188	228	268	335	376
BATES	188	228	268	335	376	BENTON	188	228	268	335	376
BOLLINGER	221	269	316	395	443	BUTLER	182	222	264	329	368
CALDWELL	198	241	284	354	397	CALLAWAY	232	281	331	414	464
CAMDEN	211	256	301	376	422	CAPE GIRARDE	221	269	316	395	443
CARROLL	203	247	291	363	407	CARTER	182	222	264	329	368
CEDAR	188	228	268	335	376	CHARITON	203	247	291	363	407
CLARK	209	253	298	373	418	CLINTON	198	241	283	354	397
COLE	232	281	331	414	464	COOPER	232	281	331	414	464
CRAWFORD	202	246	289	362	405	DADE	193	234	276	345	386
DALLAS	193	234	276	345	386	DAVIESS	198	241	284	354	397
DE KALB	198	241	283	354	397	DENT	202	246	289	362	405
DOUGLAS	182	222	261	326	365	DUNKLIN	182	222	261	326	365
GASCONADE	202	246	289	362	405	GENTRY	198	241	283	354	397
GRUNDY	209	253	298	373	418	HARRISON	198	241	284	354	397
HENRY	188	228	268	335	376	HICKORY	188	228	268	335	376
HOLT	198	241	283	354	397	HOWARD	232	281	331	414	464
HOWELL	182	222	261	326	365	IRON	221	269	316	395	443
JOHNSON	211	257	302	378	423	KNOX	209	253	298	373	418
LACLEDE	211	256	301	376	422	LAWRENCE	193	234	276	345	386
LEWIS	207	250	295	368	408	LINCOLN	202	246	289	362	405
LINN	209	253	298	373	418	LIVINGSTON	209	253	298	373	418
MCDONALD	193	234	276	345	386	MACON	202	246	289	362	405
MADISON	221	269	316	395	443	MARIES	202	246	289	362	405
MARION	207	250	295	368	408	MERCER	198	241	284	354	397
MILLER	211	256	301	376	422	MISSISSIPPI	182	222	261	326	365
MONITEAU	232	281	331	414	464	MONROE	202	246	289	362	405
MONTGOMERY	202	246	289	362	405	MORGAN	211	256	301	376	422
NEW MADRID	182	222	261	326	365	NODAWAY	205	241	291	364	387
OREGON	182	222	261	326	365	OSAGE	232	281	331	414	464
OZARK	182	222	261	326	365	PEMISCOT	182	222	261	326	365
PERRY	221	269	316	395	443	PETTIS	203	247	291	363	407
PHELPS	235	285	335	425	475	PIKE	202	246	289	362	405
POLK	193	234	276	345	386	PULASKI	211	256	301	376	422
PUTNAM	209	253	298	373	418	RALLS	207	250	295	368	408
RANDOLPH	202	246	289	362	405	REYNOLDS	182	222	261	326	365
RIPLEY	182	222	264	329	368	ST CLAIR	188	228	268	335	376
STE GENEVIEV	221	269	316	395	443	ST FRANCOIS	221	269	316	395	443
SALINE	203	247	291	363	407	SCHUYLER	209	253	298	373	418
SCOTLAND	209	253	298	373	418	SCOTT	221	269	316	395	443
SHANNON	182	222	261	326	365	SHELBY	202	246	289	362	405
STODDARD	182	222	261	326	365	STONE	193	234	276	345	386
SULLIVAN	209	253	298	373	418	TANEY	193	234	276	345	386
TEXAS	182	222	261	326	365	VERNON	188	228	268	335	376
WARREN	202	246	289	362	405	WASHINGTON	202	246	289	362	405
WAYNE	182	222	264	329	368	WEBSTER	193	234	276	345	386
WORTH	198	241	283	354	397	WRIGHT	182	222	261	326	365

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: MONTANA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BILLINGS, MT MSA					
COUNTY(IES): YELLOWSTONE	305	371	437	546	611
GREAT FALLS, MT MSA					
COUNTY(IES): CASCADE	263	320	377	471	527

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVERHEAD	262	319	375	469	525
BLAINE	245	297	350	437	490
CARBON	247	300	353	442	495
CHOUTEAU	245	297	350	437	490
DANIELS	245	297	350	437	490
DEER LODGE	262	319	375	469	525
FERGUS	247	300	353	442	495
GALLATIN	290	355	420	520	585
GLACIER	245	297	350	437	490
GRANITE	262	319	375	469	525
JEFFERSON	262	319	375	469	525
LAKE	268	326	383	479	537
LIBERTY	245	297	350	437	490
MCCONE	247	300	353	442	495
MEAGHER	262	319	375	469	525
MISSOULA	268	326	383	479	537
PARK	262	319	375	469	525
PHILLIPS	245	297	350	437	490
POWDER RIVER	247	300	353	442	495
PRAIRIE	247	300	353	442	495
RICHLAND	247	300	353	442	495
ROSEBUD	247	300	353	442	495
SHERIDAN	245	297	350	437	490
STILLWATER	247	300	353	442	495
TETON	245	297	350	437	490
TREASURE	247	300	353	442	495
WHEATLAND	247	300	353	442	495
YL-ST-NT-PK	262	319	375	469	525
BIG HORN	247	300	353	442	495
BROADWATER	262	319	375	469	525
CARTER	247	300	353	442	495
CUSTER	247	300	353	442	495
DAWSON	247	300	353	442	495
FALLON	247	300	353	442	495
FLATHEAD	268	326	383	479	537
GARFIELD	247	300	353	442	495
GOLDEN VALLE	247	300	353	442	495
HILL	245	297	350	437	490
JUDITH BASIN	247	300	353	442	495
LEWIS+ CLARK	300	370	435	540	610
LINCOLN	268	326	383	479	537
MADISON	262	319	375	469	525
MINERAL	268	326	383	479	537
MUSSELSHELL	247	300	353	442	495
PETROLEUM	247	300	353	442	495
PONDERA	245	297	350	437	490
POWELL	262	319	375	469	525
RAVALLI	268	326	383	479	537
ROOSEVELT	245	297	350	437	490
SANDERS	268	326	383	479	537
SILVER BOW	262	319	375	469	525
SWEET GRASS	247	300	353	442	495
TOOLE	245	297	350	437	490
VALLEY	245	297	350	437	490
WIBAUX	247	300	353	442	495

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: NEBRASKA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LINCOLN, NE MSA COUNTY(IES): LANCASTER	169	327	385	482	539
OMAHA, NE-IA MSA COUNTY(IES): DOUGLAS, SARPY, WASHINGTON	165	321	378	473	530
SIOUX CITY, IA-NE MSA COUNTY(IES): DAKOTA	162	319	375	469	525

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	241	293	345	431	483	ANTELOPE	234	284	335	418	469
ARTHUR	204	248	291	364	408	BANNER	198	240	282	353	396
BLAINE	198	240	282	353	396	BOONE	216	263	309	387	433
BOX BUTTE	226	274	322	402	451	BOYD	198	240	282	353	396
BROWN	198	240	282	353	396	BUFFALO	241	293	345	431	483
BURT	216	263	309	387	433	BUTLER	213	259	305	381	427
CASS	213	259	305	381	427	CEDAR	234	284	335	418	469
CHASE	204	248	291	364	408	CHERRY	198	240	282	353	396
CHEYENNE	198	240	282	353	396	CLAY	241	293	345	431	483
COLFAX	216	263	309	387	433	CUMING	216	263	309	387	433
CUSTER	198	240	282	353	396	DAWES	198	240	282	353	396
DAWSON	204	248	291	364	408	DEUEL	198	240	282	353	396
DIXON	234	284	335	418	469	DODGE	216	263	309	387	433
DUNDY	204	248	291	364	408	FILLMORE	213	259	305	381	427
FRANKLIN	241	293	345	431	483	FRONTIER	204	248	291	364	408
FURNAS	204	248	291	364	408	GAGE	236	286	337	421	472
GARDEN	198	240	282	353	396	GARFIELD	198	240	282	353	396
GOSPER	204	248	291	364	408	GRANT	204	248	291	364	408
GREELEY	198	240	282	353	396	HALL	241	293	345	431	483
HAMILTON	241	293	345	431	483	HARLAN	241	293	345	431	483
HAYES	204	248	291	364	408	HITCHCOCK	204	248	291	364	408
HOLT	202	247	290	360	402	HOOKER	204	248	291	364	408
HOWARD	241	293	345	431	483	JEFFERSON	213	259	305	381	427
JOHNSON	213	259	305	381	427	KEARNEY	241	293	345	431	483
KEITH	204	248	291	364	408	KEYA PAHA	202	247	290	360	402
KIMBALL	198	240	282	353	396	KNOX	234	284	335	418	469
LINCOLN	204	248	291	364	408	LOGAN	204	248	291	364	408
LOUP	198	240	282	353	396	MCPHERSON	204	248	291	364	408
MADISON	234	284	335	418	469	MERRICK	241	293	345	431	483
MORRILL	198	240	282	353	396	NANCE	216	263	309	387	433
NEMAHA	213	259	305	381	427	NUCKOLLS	241	293	345	431	483
OTOE	213	259	305	381	427	PAWNEE	213	259	305	381	427
PERKINS	204	248	291	364	408	PHELPS	241	293	345	431	483
PIERCE	234	284	335	418	469	PLATTE	216	263	309	387	433
POLK	213	259	305	381	427	RED WILLOW	204	248	291	364	408
RICHARDSON	213	259	305	381	427	ROCK	202	247	290	360	402
SALINE	213	259	305	381	427	SAUNDERS	213	259	305	381	427
SCOTTS BLUFF	230	277	322	399	445	SEWARD	213	259	305	381	427
SHERIDAN	198	240	282	353	396	SHERMAN	198	240	282	353	396
SIOUX	198	240	282	353	396	STANTON	234	284	335	418	469
THAYER	213	259	305	381	427	THOMAS	204	248	291	364	408
THURSTON	216	263	309	387	433	VALLEY	198	240	282	353	396
WAYNE	234	284	335	418	469	WEBSTER	241	293	345	431	483
WHEELER	198	240	282	353	396	YORK	213	259	305	381	427

STATE: NEVADA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAS VEGAS, NV MSA COUNTY(IES): CLARK	367	445	524	655	734
RENO, NV MSA COUNTY(IES): WASHOE	452	549	646	808	905

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHURCHILL	322	388	456	570	639	DOUGLAS	322	388	456	570	639
ELKO	322	388	456	570	639	ESMERALDA	319	388	456	570	639
EUREKA	319	388	456	570	639	HUMBOLDT	322	388	456	570	639
LANDER	322	388	456	570	639	LINCOLN	319	388	456	570	639
LYON	322	388	456	570	639	MINERAL	322	388	456	570	639
NYE	319	388	456	570	639	PERSHING	322	388	456	570	639
STOREY	322	388	456	570	639	WHITE PINE	319	388	456	570	639
CARSON CITY	322	388	456	570	639						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: NEW HAMPSHIRE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAWRENCE-HAVERHILL, MA-NH PMSA	350	425	500	625	700
COUNTY: ROCKINGHAM TOWNS OF ATKINSON, BRENTWOOD, DANVILLE, DERRY, EAST KINGSTO, HAMPSTEAD, KINGSTON, NEWTON, PLAISTOW SALEM, SANDOWN, SEABROOK, WINDHAM					
LOWELL, MA-NH PMSA	370	450	525	635	725
COUNTY: HILLSBOROUGH TOWNS OF PELHAM					
MANCHESTER, NH MSA	343	416	490	612	686
COUNTY: HILLSBOROUGH TOWNS OF BEDFORD, GOFFSTOWN, MANCHESTER					
COUNTY: MERRIMACK TOWNS OF ALLENSTOWN, HOOKSETT					
COUNTY: ROCKINGHAM TOWNS OF AUBURN, CANDIA					
NASHUA, NH PMSA	388	471	554	693	776
COUNTY: HILLSBOROUGH TOWNS OF AMHERST, BROOKLINE, HOLLIS, HUDSON, LITCHFIELD, MERRIMACK, MILFORD, MONT VERNON, NASHUA WILTON					
COUNTY: ROCKINGHAM TOWNS OF LONDONDERRY					
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA	355	432	508	634	711
COUNTY: ROCKINGHAM TOWNS OF EXETER, GREENLAND, HAMPTON, NEW CASTLE, NEWFIELDS, NEWINGTON, NEWMARKET, NORTH HAMPTO PORTSMOUTH, RYE, STRATHAM					
COUNTY: STRAFFORD TOWNS OF BARRINGTON, DOVER, DURHAM, FARMINGTON, LEE, MADBURY, MILTON, ROCHESTER, ROLLINSFORD SOMERSWORTH					
NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELKNAP COUNTY	298	359	418	518	580
CARROLL COUNTY	294	357	420	525	606
CHESHIRE COUNTY	308	375	441	551	617
COOS COUNTY	274	333	392	490	549
GRAFTON COUNTY	306	372	438	547	613
HILLSBOROUGH COUNTY TOWNS OF ANTRIM, BENNINGTON, DEERING, FRANCESTOWN GREENFIELD, GREENVILLE, HANCOCK, HILLSBOROUGH, LYNDEBOROUGH, MASON, NEW BOSTON, NEW IPSWICH, PETERBOROUGH, SHARON TEMPLE, WEARE, WINDSOR	336	408	480	600	672
MERRIMACK COUNTY TOWNS OF ANDOVER, BOSCAWEN, BOW, BRADFORD, CANTERBURY CHICHESTER, CONCORD, DANBURY, DUNBARTON, EPSOM, FRANKLIN, HENNIKER, HILL, HOPKINTON, LOUDON, NEWBURY, NEW LONDON NORTHFIELD, PEMBROKE, PITTSFIELD, SALISBURY, SUTTON, WARNER, WEBSTER, WILMOT	322	392	461	576	646
ROCKINGHAM COUNTY TOWNS OF CHESTER, DEERFIELD, EPPING, FREMONT HAMPTON FALL, KENSINGTON, NORTHWOOD, NOTTINGHAM, RAYMOND, SOUTH HAMPTO	336	409	481	601	673
STRAFFORD COUNTY TOWNS OF MIDDLETON, NEW DURHAM, STRAFFORD	290	352	414	518	580
SULLIVAN COUNTY	298	359	419	523	586

S T A T E: NEW JERSEY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA	272	330	385	486	540
COUNTY(IES): WARREN					
ATLANTIC CITY, NJ MSA	324	394	463	579	648
COUNTY(IES): ATLANTIC, CAPE MAY					
BERGEN-PASSAIC, NJ PMSA	445	540	640	800	895
COUNTY(IES): BERGEN, PASSAIC					
JERSEY CITY, NJ PMSA	308	374	440	550	616
COUNTY(IES): HUDSON					
MIDDLESEX-SOMERSET-HUNTERDON, NJ PMSA	413	502	590	738	826
COUNTY(IES): HUNTERDON, MIDDLESEX, SOMERSET					
MONMOUTH-OCEAN, NJ PMSA	371	450	530	663	742
COUNTY(IES): MONMOUTH, OCEAN					
NEWARK, NJ PMSA	347	421	495	619	693
COUNTY(IES): ESSEX, MORRIS, SUSSEX, UNION					
PHILADELPHIA, PA-NJ PMSA	310	375	440	550	616
COUNTY(IES): BURLINGTON, CAMDEN, GLOUCESTER					
TRENTON, NJ PMSA	388	471	554	693	776
COUNTY(IES): MERCER					
VINELAND-MILLVILLE-BRIDGETON, NJ PMSA	311	378	445	556	623
COUNTY(IES): CUMBERLAND					
WILMINGTON, DE-NJ-MD PMSA	304	367	432	540	605
COUNTY(IES): SALEM					

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: NEW MEXICO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE, NM MSA COUNTY(IES): BERNALILLO	308	374	440	550	616
LAS CRUCES, NM MSA COUNTY(IES): DONA ANA	244	297	349	437	489
SANTA FE, NM MSA COUNTY(IES): LOS ALAMOS, SANTE FE	358	435	512	640	717

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CATRON	221	268	316	395	442	CHAVES	240	291	343	428	480
COLFAX	228	277	326	407	456	CURRY	228	277	326	407	456
DE BACA	228	277	326	407	456	EDDY	264	321	378	472	529
GRANT	221	268	316	395	442	GUADALUPE	228	277	326	407	456
HARDING	228	277	326	407	456	HIDALGO	221	268	316	395	442
LEA	264	321	378	472	529	LINCOLN	240	291	343	428	480
LUNA	221	268	316	395	442	MCKINLEY	306	372	438	548	613
MORA	228	277	326	407	456	OTERO	240	291	343	428	480
QUAY	228	277	326	407	456	RIO ARRIBA	205	249	293	366	410
ROOSEVELT	228	277	326	407	456	SANDOVAL	260	315	371	464	519
SAN JUAN	306	372	438	548	613	SAN MIGUEL	228	277	326	407	456
SIERRA	240	291	343	428	480	SOCORRO	240	291	343	428	480
TAOS	245	298	350	438	490	TORRANCE	228	277	326	407	456
UNION	228	277	326	407	456	VALENCIA	221	268	316	395	442

STATE: NEW YORK	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY-SCHENECTADY-TROY, NY MSA COUNTY(IES): ALBANY, GREENE, MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY	275	330	390	490	545
BINGHAMTON, NY MSA COUNTY(IES): BROOME, TIOGA	249	298	353	435	488
BUFFALO, NY PMSA COUNTY(IES): ERIE	263	319	375	469	525
ELMIRA, NY MSA COUNTY(IES): CHEMUNG	251	305	359	449	503
GLENS FALLS, NY MSA COUNTY(IES): WARREN, WASHINGTON	259	315	370	463	519
NASSAU-SUFFOLK, NY PMSA COUNTY(IES): NASSAU, SUFFOLK	438	532	626	783	876
NEW YORK, NY PMSA COUNTY(IES): BRONX, KINGS, NEW YORK, PUTNAM, QUEENS, RICHMOND, ROCKLAND, WESTCHESTER	330	400	470	590	660
NIAGARA FALLS, NY PMSA COUNTY(IES): NIAGARA	252	306	360	450	504
ORANGE COUNTY, NY PMSA COUNTY(IES): ORANGE	303	368	433	541	606
POUGHKEEPSIE, NY MSA COUNTY(IES): DUTCHESS	346	420	495	618	692
ROCHESTER, NY MSA COUNTY(IES): LIVINGSTON, MONROE, ONTARIO, ORLEANS, WAYNE	295	360	425	530	590
SYRACUSE, NY MSA COUNTY(IES): MADISON, ONONDAGA, OSWEGO	260	311	364	455	510
UTICA-ROME, NY MSA COUNTY(IES): HERKIMER, ONEIDA	226	275	324	405	453

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGANY	222	266	311	389	436	CATTARAUGUS	218	265	311	389	436
CAYUGA	259	315	370	463	519	CHAUTAUQUA	233	283	333	416	466
CHENANGO	256	311	366	457	512	CLINTON	235	286	336	420	471
COLUMBIA	244	296	349	436	488	CORTLAND	266	323	380	475	532
DELAWARE	238	290	341	426	477	ESSEX	236	286	336	420	471
FRANKLIN	235	286	336	420	471	FULTON	211	257	302	378	423
GENESEE	241	292	344	430	482	HAMILTON	235	286	336	420	471
JEFFERSON	253	307	361	451	506	LEWIS	253	307	361	451	506
OTSEGO	238	290	341	426	477	ST LAWRENCE	241	292	344	430	482
SCHOHARIE	238	290	341	426	477	SCHUYLER	244	296	349	436	488
SENECA	259	315	370	463	519	STEUBEN	244	296	349	436	488
SULLIVAN	238	290	341	426	477	TOMPKINS	266	323	380	475	532
ULSTER	304	369	434	542	608	WYOMING	242	292	344	430	482
YATES	242	294	346	433	484						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: NORTH CAROLINA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHEVILLE, NC MSA COUNTY(IES): BUNCOMBE	242	295	347	433	485
BURLINGTON, NC MSA COUNTY(IES): ALAMANCE	240	292	343	429	481
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA COUNTY(IES): CABARRUS, GASTON, LINCOLN, MECKLENBURG, ROWAN, UNION	270	328	381	476	533
FAYETTEVILLE, NC MSA COUNTY(IES): CUMBERLAND	232	281	331	414	464
GREENSBORO--WINSTON-SALEM--HIGH POINT, NC MSA COUNTY(IES): DAVIDSON, DAVIE, FORSYTH, GUILFORD, RANDOLPH, STOKES, YADKIN	253	308	362	453	507
HICKORY, NC MSA COUNTY(IES): ALEXANDER, BURKE, CATAWBA	222	269	317	396	444
JACKSONVILLE, NC MSA COUNTY(IES): ONSLOW	230	280	329	412	461
RALEIGH-DURHAM, NC MSA COUNTY(IES): DURHAM, FRANKLIN, ORANGE, WAKE	290	353	415	519	581
WILMINGTON, NC MSA COUNTY(IES): NEW HANOVER	242	295	347	433	485

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGHANY	219	264	309	386	424	ANSON	221	265	309	387	433
ASHE	219	264	309	386	424	AVERY	219	264	309	386	424
BEAUFORT	242	295	347	433	485	BERTIE	242	295	347	433	486
BLADEN	235	285	335	419	469	BRUNSWICK	220	268	315	394	441
CALDWELL	219	265	312	391	437	CAMDEN	236	281	327	407	453
CARTERET	228	277	326	408	457	CASWELL	220	267	314	393	440
CHATHAM	218	264	311	389	435	CHEROKEE	190	231	272	340	381
CHOWAN	235	281	327	407	453	CLAY	190	231	272	340	381
CLEVELAND	219	264	309	386	424	COLUMBUS	230	276	326	410	459
CRAVEN	228	277	326	408	457	CURRITUCK	267	320	368	455	502
DARE	235	281	327	407	453	DUPLIN	205	246	283	366	410
EDGECOMBE	228	277	326	408	457	GATES	235	281	327	407	453
GRAHAM	190	231	272	340	381	GRANVILLE	210	255	300	376	420
GREENE	212	257	303	379	424	HALIFAX	228	277	326	408	457
HARNETT	212	257	303	379	424	HAYWOOD	190	231	272	340	381
HENDERSON	239	291	342	428	479	HERTFORD	242	296	347	433	486
HOKE	205	249	293	366	410	HYDE	236	281	327	407	453
IREDELL	220	267	314	389	435	JACKSON	228	277	326	408	456
JOHNSTON	225	273	322	402	451	JONES	228	277	326	408	457
LEE	225	273	322	402	451	LENOIR	196	238	280	350	392
MCDOWELL	219	264	309	386	424	MACON	190	231	272	340	381
MADISON	239	291	342	428	479	MARTIN	242	295	347	433	485
MITCHELL	219	264	309	386	424	MONTGOMERY	221	268	309	387	433
MOORE	221	265	309	387	433	NASH	234	284	334	418	468
NORTHAMPTON	228	277	326	408	457	PAMLICO	228	277	326	408	457
PASQUOTANK	235	281	327	407	453	PENDER	201	244	287	359	403
PERQUIMANS	235	281	327	407	453	PERSON	210	255	300	376	420
PITT	242	295	347	433	485	POLK	219	264	309	386	424
RICHMOND	221	265	309	387	433	ROBESON	196	238	280	350	392
ROCKINGHAM	220	267	314	393	440	RUTHERFORD	219	264	309	386	424
SAMPSON	212	257	303	379	424	SCOTLAND	196	238	281	350	392
STANLY	217	264	311	389	435	SURRY	207	252	296	370	414
SWAIN	190	231	272	340	381	TRANSYLVANIA	250	291	342	428	479
TYRRELL	235	281	327	407	453	VANCE	210	255	300	376	420
WARREN	210	255	300	376	420	WASHINGTON	236	281	327	407	453
WATAUGA	219	264	309	386	424	WAYNE	212	257	303	379	424
WILKES	219	264	309	386	424	WILSON	234	284	334	418	468
YANCEY	219	264	309	386	424						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: NORTH DAKOTA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BISMARCK, ND MSA					
COUNTY(IES): BURLEIGH, MORTON	273	332	381	488	647
FARGO-MOORHEAD, ND-MN MSA					
COUNTY(IES): CASS	272	331	389	487	548
GRAND FORKS, ND MSA					
COUNTY(IES): GRAND FORKS	260	315	371	464	520

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	231	281	331	414	463
BENSON	237	288	338	423	474
BOTTINEAU	231	281	331	414	463
BURKE	231	281	331	414	463
DICKEY	237	288	338	423	474
DUNN	231	281	331	414	463
EMMONS	209	253	298	373	417
GOLDEN VALLY	231	281	331	414	463
GRIGGS	237	288	338	423	474
KIDDER	209	253	298	373	417
LOGAN	237	288	338	423	474
MCINTOSH	237	288	338	423	474
MCLEAN	209	253	298	373	417
MOUNTRAIL	231	281	331	414	463
OLIVER	209	253	298	373	417
PIERCE	231	281	331	414	463
RANSOM	215	261	307	384	430
RICHLAND	215	261	307	384	430
SARGENT	215	261	307	384	430
SIOUX	209	253	298	373	417
STARK	231	281	331	414	463
STUTSMAN	237	288	338	423	474
TRAILL	215	261	307	384	430
WARD	231	281	331	414	463
WILLIAMS	231	281	331	414	463

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARNES	237	288	338	423	474
BILLINGS	231	281	331	414	463
BOWMAN	231	281	331	414	463
CAVALIER	237	288	338	423	474
DIVIDE	231	281	331	414	463
EDDY	237	288	338	423	474
FOSTER	237	288	338	423	474
GRANT	209	253	298	373	417
HETTINGER	231	281	331	414	463
LA MOORE	237	288	338	423	474
MCHENRY	231	281	331	414	463
MCKENZIE	231	281	331	414	463
MERCER	209	253	298	373	417
NELSON	237	288	338	423	474
PEMBINA	237	288	338	423	474
RAMSEY	237	288	338	423	474
RENVILLE	231	281	331	414	463
ROLETTE	237	288	338	423	474
SHERIDAN	209	253	298	373	417
SLOPE	231	281	331	414	463
STEELE	215	261	307	384	430
TOWNER	237	288	338	423	474
WALSH	237	288	338	423	474
WELLS	237	288	338	423	474

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

BEST COPY AVAILABLE

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: OHIO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AKRON, OH PMSA COUNTY(IES): PORTAGE, SUMMIT	271	330	388	485	543
CANTON, OH MSA COUNTY(IES): CARROLL, STARK	237	288	338	423	474
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): CLERMONT, HAMILTON, WARREN	250	305	360	450	500
CLEVELAND, OH PMSA COUNTY(IES): CUYAHOGA, GEAUGA, LAKE, MEDINA	283	344	404	505	566
COLUMBUS, OH MSA COUNTY(IES): DELAWARE, FAIRFIELD, FRANKLIN, LICKING, MADISON, PICKAWAY, UNION	270	325	385	480	540
DAYTON-SPRINGFIELD, OH MSA COUNTY(IES): CLARK, GREENE, MIAMI, MONTGOMERY	250	305	355	445	495
HAMILTON-MIDDLETOWN, OH PMSA COUNTY(IES): BUTLER	280	341	401	501	561
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): LAWRENCE	266	323	380	475	533
LIMA, OH MSA COUNTY(IES): ALLEN, AUGLAIZE	251	305	359	449	503
LORAIN-ELYRIA, OH PMSA COUNTY(IES): LORAIN	267	325	382	478	535
MANSFIELD, OH MSA COUNTY(IES): RICHLAND	227	277	325	406	455
PARKERSBURG-MARIETTA, WV-OH MSA COUNTY(IES): WASHINGTON	247	300	353	442	495
STEUBENVILLE-WEIRTON, OH-WV MSA COUNTY(IES): JEFFERSON	254	308	362	453	508
TOLEDO, OH MSA COUNTY(IES): FULTON, LUCAS, WOOD	288	350	412	515	577
WHEELING, WV-OH MSA COUNTY(IES): BELMONT	250	304	358	448	501
YOUNGSTOWN-WARREN, OH MSA COUNTY(IES): MAHONING, TRUMBULL	251	305	359	449	503

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	225	271	317	395	443
ASHTABULA	265	322	379	474	531
BROWN	225	271	317	395	443
CLINTON	229	279	328	410	459
COSHOCTON	205	250	295	365	410
DARKE	229	279	328	410	459
ERIE	259	314	370	462	518
GALLIA	247	300	353	442	495
HANCOCK	243	295	347	434	487
HARRISON	228	277	327	408	457
HIGHLAND	225	271	317	395	443
HOLMES	241	293	344	431	482
JACKSON	221	269	316	395	443
LOGAN	243	295	347	434	487
MEIGS	218	265	312	390	436
MONROE	245	298	350	438	491
MORROW	221	269	316	395	443
NOBLE	245	298	350	438	491
PAULDING	256	310	365	457	512
PIKE	221	269	316	395	443
PUTNAM	247	300	353	442	495
SANDUSKY	259	314	370	462	518
SENECA	228	277	327	408	457
TUSCARAWAS	241	293	344	431	482
VINTON	247	300	353	442	495
WILLIAMS	256	310	365	457	512

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHLAND	248	302	355	444	497
ATHENS	235	290	340	425	475
CHAMPAIGN	240	291	343	429	480
COLUMBIANA	235	285	336	420	470
CRAWFORD	228	277	327	408	457
DEFIANCE	256	310	365	457	512
FAYETTE	229	279	328	410	459
GUERNSEY	242	294	346	433	485
HARDIN	243	295	347	434	487
HENRY	256	310	365	457	512
HOCKING	218	265	312	390	436
HURON	228	277	327	408	457
KNOX	221	269	316	395	443
MARION	221	269	316	395	443
MERCER	229	279	328	410	459
MORGAN	245	298	350	438	491
MUSKINGUM	205	250	295	365	410
OTTAWA	259	314	370	462	518
PERRY	218	265	312	390	436
PREBLE	249	303	356	446	499
ROSS	229	279	328	410	459
SCIOTO	221	269	316	395	443
SHELBY	229	279	328	410	459
VAN WERT	247	300	353	442	495
WAYNE	248	302	355	444	497
WYANDOT	228	277	327	408	457

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1 15 TIMES THE FOUR-BEDROOM FMR; AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1 30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: OKLAHOMA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ENID, OK MSA	177	217	288	408	585
COUNTY(IES): GARFIELD					
FORT SMITH, AR-OK MSA	231	281	331	414	463
COUNTY(IES): SEQUOYAH					
LAWTON, OK MSA	238	289	341	426	477
COUNTY(IES): COMANCHE					
OKLAHOMA CITY, OK MSA	300	361	424	520	585
COUNTY(IES): CANADIAN, CLEVELAND, LOGAN, MCCLAIN, OKLAHOMA, POTTAWATOMIE					
TULSA, OK MSA	301	366	431	538	603
COUNTY(IES): CREEK, OSAGE, ROGERS, TULSA, WAGONER					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	186	227	286	332	369	ALFALFA	211	257	302	377	423
ATOKA	163	199	234	292	327	BEAVER	211	257	302	377	423
BECKHAM	206	250	294	368	412	BLAINE	211	257	302	377	423
BRYAN	196	238	280	350	392	CADDO	195	237	279	348	390
CARTER	196	238	280	350	392	CHEROKEE	186	227	266	332	369
CHOCTAW	163	199	234	292	327	CIMARRON	211	257	302	377	423
COAL	163	199	234	292	327	COTTON	195	237	279	348	390
CRAIG	236	287	338	422	473	CUSTER	206	250	294	368	412
DELAWARE	184	224	263	329	369	DEWEY	211	257	302	377	423
ELLIS	211	257	302	377	423	GARVIN	196	238	280	350	392
GRADY	195	237	279	348	390	GRANT	244	296	348	436	488
GREER	206	250	294	368	412	HARMON	206	250	294	368	412
HARPER	211	257	302	377	423	HASKELL	163	199	234	292	327
HUGHES	189	230	271	339	379	JACKSON	206	250	294	368	412
JEFFERSON	195	237	279	348	390	JOHNSTON	196	238	280	350	392
KAY	244	296	348	436	488	KINGFISHER	244	296	348	436	488
KIOWA	206	250	294	368	412	LATIMER	163	199	234	292	327
LE FLORE	163	199	234	292	327	LINCOLN	233	283	333	416	466
LOVE	196	238	280	350	392	MCCURTAIN	163	199	234	292	327
MCINTOSH	189	230	271	339	379	MAJOR	211	257	302	377	423
MARSHALL	196	238	280	350	392	MAYES	245	297	350	438	490
MURRAY	196	238	280	350	392	MUSKOGEE	189	230	271	339	379
NOBLE	244	296	348	436	488	NOWATA	236	287	338	422	473
OKFUSKEE	189	230	271	339	379	OKMULGEE	189	230	271	339	379
OTTAWA	236	287	338	422	473	PAWNEE	233	283	333	416	466
PAYNE	233	283	333	416	466	PITTSBURG	163	199	234	292	327
PONTOTOC	196	238	280	350	392	PUSHMATAHA	163	199	234	292	327
ROGER MILLS	206	250	294	368	412	SEMINOLE	194	236	278	348	382
STEPHENS	195	237	279	348	390	TEXAS	211	257	302	377	423
TILLMAN	195	237	279	348	390	WASHINGTON	236	287	338	422	473
WASHITA	206	250	294	368	412	WOODS	211	257	302	377	423
WOODWARD	211	257	302	377	423						

S T A T E: OREGON	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
EUGENE-SPRINGFIELD, OR MSA	321	390	459	574	642
COUNTY(IES): LANE					
MEDFORD, OR MSA	319	387	455	568	636
COUNTY(IES): JACKSON					
PORTLAND, OR PMSA	357	340	410	512	666
COUNTY(IES): CLACKAMAS, MULTNOMAH, WASHINGTON, YAMHILL					
SALEM, OR MSA	300	364	429	536	601
COUNTY(IES): MARION, POLK					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	292	355	417	522	584	BENTON	298	362	426	532	596
CLATSOP	284	345	406	507	568	COLUMBIA	284	345	406	507	568
COOS	305	370	436	545	610	CROOK	309	376	442	553	619
CURRY	305	370	436	545	610	DESCHUTES	309	376	442	553	619
DOUGLAS	305	370	436	545	610	GILLIAM	292	355	417	522	584
GRANT	292	355	417	522	584	HARNEY	279	339	399	499	559
HOOD RIVER	309	376	442	553	619	JEFFERSON	309	376	442	553	619
JOSEPHINE	305	370	436	545	610	KLAMATH	279	339	399	499	559
LAKE	279	339	399	499	559	LINCOLN	284	345	406	507	568
LINN	298	362	426	532	596	MALHEUR	279	339	399	499	559
MORROW	292	355	417	522	584	SHERMAN	309	376	442	553	619
TILLAMOOK	284	345	406	507	568	UMATILLA	292	355	417	522	584
UNION	292	355	417	522	584	WALLOWA	292	355	417	522	584
WASCO	309	376	442	553	619	WHEELER	292	355	417	522	584

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1 15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1 30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

STATE: PENNSYLVANIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA COUNTY(IES): CARBON, LEHIGH, NORTHAMPTON	272	330	385	485	540
ALTOONA, PA MSA COUNTY(IES): BLAIR	242	294	346	432	484
BEAVER COUNTY, PA PMSA COUNTY(IES): BEAVER	267	322	379	474	531
ERIE, PA MSA COUNTY(IES): ERIE	279	339	398	498	558
HARRISBURG-LEBANON-CARLISLE, PA MSA COUNTY(IES): CUMBERLAND, DAUPHIN, LEBANON, PERRY	288	346	408	510	571
JOHNSTOWN, PA MSA COUNTY(IES): CAMBRIA, SOMERSET	235	286	336	420	471
LANCASTER, PA MSA COUNTY(IES): LANCASTER	291	354	416	520	582
PHILADELPHIA, PA-NJ PMSA COUNTY(IES): BUCKS, CHESTER, DELAWARE, MONTGOMERY, PHILADELPHIA	310	375	440	550	615
PITTSBURGH, PA PMSA COUNTY(IES): ALLEGHANY, FAYETTE, WASHINGTON, WESTMORELAND	280	340	400	500	560
READING, PA MSA COUNTY(IES): BERKS	272	331	389	486	545
SCRANTON--WILKES-BARRE, PA MSA COUNTY(IES): COLUMBIA, LACKAWANNA, LUZERNE, MONROE, WYOMING	222	269	317	398	444
SHARON, PA MSA COUNTY(IES): MERCER	258	313	369	461	517
STATE COLLEGE, PA MSA COUNTY(IES): CENTRE	311	378	445	556	623
WILLIAMSPORT, PA MSA COUNTY(IES): LYCOMING	238	286	336	420	471
YORK, PA MSA COUNTY(IES): ADAMS, YORK	262	319	375	469	525

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARMSTRONG	270	328	386	483	541
BRADFORD	224	273	321	401	449
CAMERON	218	277	325	407	456
CLEARFIELD	232	282	332	415	464
CRAWFORD	230	279	329	411	460
FOREST	222	270	318	397	445
FULTON	219	266	313	391	438
HUNTINGDON	219	266	313	391	438
JEFFERSON	232	282	332	415	464
LAWRENCE	230	279	329	411	460
MIFFLIN	225	274	328	403	451
NORTHUMBRLND	242	282	332	415	464
POTTER	228	277	325	407	456
SNYDER	225	274	322	403	451
SUSQUEHANNA	224	273	321	401	449
UNION	260	305	376	466	507
WARREN	230	279	329	411	460

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEDFORD	219	266	313	391	438
BUTLER	260	327	384	481	538
CLARION	222	270	318	397	445
CLINTON	228	275	323	403	451
ELK	228	277	325	407	456
FRANKLIN	249	303	356	446	499
GREENE	232	282	332	415	464
INDIANA	270	328	386	483	541
JUNIATA	225	274	322	403	451
MCKEAN	228	277	325	407	456
MONTOUR	232	282	332	415	464
PIKE	260	304	376	466	507
SCHUYLKILL	252	296	359	434	472
SULLIVAN	224	273	321	401	449
TIOGA	224	273	321	401	449
VENANGO	222	270	318	397	445
WAYNE	250	304	358	448	501

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: RHODE ISLAND	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FALL RIVER, MA-RI PMSA	315	375	450	520	575
COUNTY: NEWPORT TOWNS OF LITTLE COMPT, TIVERTON					
NEW LONDON-NORWICH, CT-RI MSA	350	425	500	625	700
COUNTY: WASHINGTON TOWNS OF HOPKINTON, WESTERLY					
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA	280	340	400	500	660
COUNTY: PROVIDENCE TOWNS OF BURRILLVILLE, CENTRAL FALL, CUMBERLAND, LINCOLN, NORTH SMITHF, PAWTUCKET, SMITHFIELD WOONSOCKET					
PROVIDENCE, RI PMSA	300	355	420	525	585
COUNTY: BRISTOL TOWNS OF BARRINGTON, BRISTOL, WARREN					
COUNTY: KENT TOWNS OF COVENTRY, EAST GREENWI, WARWICK, WEST WARWICK					
COUNTY: NEWPORT TOWNS OF JAMESTOWN					
COUNTY: PROVIDENCE TOWNS OF CRANSTON, EAST PROVIDE, FOSTER, GLOCESTER, JOHNSTON, NORTH PROVID, PROVIDENCE, SCITUATE					
COUNTY: WASHINGTON TOWNS OF EXETER, NARRAGANSETT, NORTH KINGST, RICHMOND, SOUTH KINGST					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KENT COUNTY TOWNS OF WEST GREENWI	293	356	419	523	586
NEWPORT COUNTY TOWNS OF MIDDLETOWN, NEWPORT, PORTSMOUTH	325	385	450	565	630
WASHINGTON COUNTY TOWNS OF CHARLESTOWN, NEW SHOREHAM	293	356	419	523	586

S T A T E: SOUTH CAROLINA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, SC MSA	220	267	314	393	440
COUNTY(IES): ANDERSON					
AUGUSTA, GA-SC MSA	254	305	357	446	499
COUNTY(IES): AIKEN					
CHARLESTON, SC MSA	272	331	389	486	545
COUNTY(IES): BERKELEY, CHARLESTON, DORCHESTER					
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA	270	328	381	476	533
COUNTY(IES): YORK					
COLUMBIA, SC MSA	275	335	394	492	551
COUNTY(IES): LEXINGTON, RICHLAND					
FLORENCE, SC MSA	223	271	319	399	447
COUNTY(IES): FLORENCE					
GREENVILLE-SPARTANBURG, SC MSA	241	292	344	430	482
COUNTY(IES): GREENVILLE, PICKENS, SPARTANBURG					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABBEVILLE	194	236	279	344	382	ALLENDALE	202	246	289	362	405
BAMBERG	202	246	289	362	405	BARNWELL	202	246	289	362	405
BEAUFORT	250	304	358	447	501	CALHOUN	207	252	299	366	409
CHEROKEE	194	235	277	346	388	CHESTER	194	235	277	346	388
CHESTERFIELD	193	234	275	344	386	CLARENDON	218	264	311	389	436
COLLETON	250	304	358	447	501	DARLINGTON	193	234	275	344	386
DILLON	193	234	275	344	386	EDGEFIELD	190	231	272	340	381
FAIRFIELD	190	231	272	340	381	GEORGETOWN	234	284	334	418	468
GREENWOOD	194	236	279	344	382	HAMPTON	250	304	358	447	501
HORRY	234	284	334	418	468	JASPER	250	304	358	447	501
KERSHAW	218	264	311	389	436	LANCASTER	208	254	300	371	414
LAURENS	194	236	279	344	382	LEE	218	264	311	389	436
MCCORMICK	190	231	272	340	381	MARION	193	234	275	344	386
MARLBORO	193	234	275	344	386	NEWBERRY	190	231	272	340	381
OCONEE	239	291	342	428	479	ORANGEBURG	202	246	289	362	405
SALUDA	190	231	272	340	381	SUMTER	218	264	311	389	436
UNION	194	235	277	346	388	WILLIAMSBURG	234	284	334	418	468

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: SOUTH DAKOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RAPID CITY, SD MSA	250	301	350	434	486
COUNTY(IES): PENNINGTON					
SIOUX FALLS, SD MSA	264	320	377	471	528
COUNTY(IES): MINNEHAHA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AURORA	225	271	317	396	444
BENNETT	204	248	291	364	408
BROOKINGS	220	265	310	385	435
BRULE	222	269	317	396	444
BUTTE	243	295	347	434	486
CHARLES MIX	222	269	317	396	444
CLAY	222	269	317	396	444
CORSON	204	248	291	364	408
DAVISON	225	271	317	396	444
DEUEL	199	239	285	353	392
DOUGLAS	222	269	317	396	444
FALL RIVER	243	295	347	434	486
GRANT	220	265	310	385	435
HAAKON	204	248	291	364	408
HAND	225	271	317	394	438
HARDING	243	295	347	434	486
HUTCHINSON	222	269	317	396	444
JACKSON	204	248	291	364	408
JONES	204	248	291	364	408
LAKE	193	235	276	346	387
LINCOLN	225	271	317	396	444
MCCOOK	193	235	276	346	387
MARSHALL	216	263	309	387	433
MELLETTE	204	248	291	364	408
MOODY	193	235	276	346	387
POTTER	204	248	291	364	408
SANBORN	225	271	317	396	444
SPINK	216	263	309	387	433
SULLY	204	248	291	364	408
TRIPP	204	248	291	364	408
UNION	222	269	317	396	444
YANKTON	222	269	317	396	444

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEADLE	225	271	317	394	438
BON HOMME	222	269	317	396	444
BROWN	240	290	340	425	475
BUFFALO	204	248	291	364	408
CAMPBELL	204	248	291	364	408
CLARK	199	239	285	353	392
CODINGTON	220	265	310	385	435
CUSTER	243	295	347	434	486
DAY	216	263	309	387	433
DEWEY	204	248	291	364	408
EDMUNDS	216	263	309	387	433
FAULK	216	263	309	387	433
GREGORY	204	248	291	364	408
HAMLIN	199	239	285	353	392
HANSON	225	271	317	396	444
HUGHES	265	325	380	475	530
HYDE	204	248	291	364	408
JERAULD	225	271	317	396	444
KINGSBURY	193	235	276	346	387
LAWRENCE	249	295	347	434	486
LYMAN	204	248	291	364	408
MCPHERSON	216	263	309	387	433
MEADE	250	301	350	434	486
MINER	193	235	276	346	387
PERKINS	204	248	291	364	408
ROBERTS	216	263	309	387	433
SHANNON	204	248	291	364	408
STANLEY	265	325	380	475	530
TODD	204	248	291	364	408
TURNER	225	271	317	396	444
WALWORTH	204	248	291	364	408
ZIEBACH	204	248	291	364	408

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) .072586
FINAL FMRS

STATE: TENNESSEE

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHATTANOOGA, TN-GA MSA COUNTY(IES): HAMILTON, MARION, SEQUATCHIE	270	318	386	483	541
CLARKSVILLE-HOPKINSVILLE, TN-KY MSA COUNTY(IES): MONTGOMERY	250	305	360	450	506
JACKSON, TN MSA COUNTY(IES): MADISON	245	295	350	435	490
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA COUNTY(IES): CARTER, HAWKINS, SULLIVAN, UNICOI, WASHINGTON	227	275	324	405	454
KNOXVILLE, TN MSA COUNTY(IES): ANDERSON, BLOUNT, GRAINGER, JEFFERSON, KNOX, SEVIER, UNION	248	303	356	446	499
MEMPHIS, TN-AR-MS MSA COUNTY(IES): SHELBY, TIPTON	245	300	355	440	495
NASHVILLE, TN MSA COUNTY(IES): CHEATHAM, DAVIDSON, DICKSON, ROBERTSON, RUTHERFORD, SUMNER, WILLIAMSON, WILSON	296	360	423	529	593

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEDFORD	213	267	303	378	423	BENTON	200	243	287	358	401
BLEDSOE	222	270	318	397	445	BRADLEY	222	270	318	397	445
CAMPBELL	180	220	260	325	360	CANNON	200	245	290	360	405
CARROLL	200	243	287	358	401	CHESTER	219	266	313	391	438
CLAIBORNE	180	220	260	325	360	CLAY	174	214	253	316	351
COCKE	202	245	288	360	404	COFFEE	213	267	303	378	423
CROCKETT	204	247	291	364	408	CUMBERLAND	200	245	290	360	405
DECATUR	219	266	313	391	438	DE KALB	200	245	290	360	405
DYER	204	247	291	364	408	FAYETTE	209	255	299	374	419
FENTRESS	200	245	290	360	405	FRANKLIN	240	290	340	425	478
GIBSON	204	247	291	364	408	GILES	213	267	303	378	423
GREENE	198	241	283	354	397	GRUNDY	222	270	318	397	445
HAMBLEN	210	255	300	375	420	HANCOCK	198	241	283	354	397
HARDEMAN	219	266	313	391	438	HARDIN	219	266	313	391	438
HAYWOOD	209	261	299	374	419	HENDERSON	219	266	313	391	438
HENRY	200	243	287	358	401	HICKMAN	213	267	303	378	423
HOUSTON	184	224	263	329	368	HUMPHREYS	184	224	263	329	368
JACKSON	174	214	253	316	351	JOHNSON	193	238	276	345	386
LAKE	204	247	291	364	408	LAUDERDALE	209	261	299	374	419
LAWRENCE	213	267	303	378	423	LEWIS	211	257	302	378	423
LINCOLN	240	290	340	425	475	LOUDON	213	261	305	381	427
MCMINN	222	270	318	397	445	MCNAIRY	219	266	313	391	438
MACON	200	245	290	360	405	MARSHALL	213	267	303	378	423
MAURY	213	267	303	378	423	MEIGS	222	270	318	397	445
MONROE	213	261	305	382	427	MOORE	213	267	303	378	423
MORGAN	180	220	260	325	360	OBION	207	255	291	366	408
OVERTON	200	245	290	360	405	PERRY	211	257	302	378	423
PICKETT	200	245	290	360	405	POLK	222	270	318	397	445
PUTNAM	206	250	294	368	412	RHEA	222	270	318	397	445
ROANE	213	261	305	382	427	SCOTT	180	220	260	325	360
SMITH	200	245	290	360	405	STEWART	184	224	263	329	368
TROUSDALE	200	245	290	360	405	VAN BUREN	206	250	294	368	412
WARREN	206	250	294	368	412	WAYNE	211	257	302	378	423
WEAKLEY	200	243	287	358	401	WHITE	206	250	294	368	412

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: TEXAS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABILENE, TX MSA COUNTY(IES): TAYLOR	269	327	385	481	539
AMARILLO, TX MSA COUNTY(IES): POTTER, RANDALL	247	301	354	442	495
AUSTIN, TX MSA COUNTY(IES): HAYS, TRAVIS, WILLIAMSON	317	381	448	560	627
BEAUMONT-PORT ARTHUR, TX MSA COUNTY(IES): HARDIN, JEFFERSON, ORANGE	284	345	406	508	569
BRAZORIA, TX PMSA COUNTY(IES): BRAZORIA	314	381	449	561	628
BROWNSVILLE-HARLINGEN, TX MSA COUNTY(IES): CAMERON	252	306	360	450	504
BRYAN-COLLEGE STATION, TX MSA COUNTY(IES): BRAZOS	334	406	477	597	669
CORPUS CHRISTI, TX MSA COUNTY(IES): NUECES, SAN PATRICIO	291	353	416	520	582
DALLAS, TX PMSA COUNTY(IES): COLLIN, DALLAS, DENTON, ELLIS, KAUFMAN, ROCKWALL	285	350	410	515	575
EL PASO, TX MSA COUNTY(IES): EL PASO	249	302	355	444	498
FORT WORTH-ARLINGTON, TX PMSA COUNTY(IES): JOHNSON, PARKER, TARRANT	285	350	410	515	575
GALVESTON-TEXAS CITY, TX PMSA COUNTY(IES): GALVESTON	293	356	419	524	587
HOUSTON, TX PMSA COUNTY(IES): FORT BEND, HARRIS, LIBERTY, MONTGOMERY, WALLER	280	340	400	500	560
KILLEEN-TEMPLE, TX MSA COUNTY(IES): BELL, CORYELL	245	298	351	438	491
LAREDO, TX MSA COUNTY(IES): WEBB	232	282	332	415	465
LONGVIEW-MARSHALL, TX MSA COUNTY(IES): GREGG, HARRISON	280	340	400	500	560
LUBBOCK, TX MSA COUNTY(IES): LUBBOCK	299	362	342	434	479
MC ALLEN-EDINBURG-MISSION, TX MSA COUNTY(IES): HIDALGO	251	305	356	448	502
MIDLAND, TX MSA COUNTY(IES): MIDLAND	322	391	460	574	645
ODESSA, TX MSA COUNTY(IES): ECTOR	320	388	457	572	640
SAN ANGELO, TX MSA COUNTY(IES): TOM GREEN	271	329	386	485	543
SAN ANTONIO, TX MSA COUNTY(IES): BEXAR, COMAL, GUADALUPE	275	330	390	490	549
SHERMAN-DENISON, TX MSA COUNTY(IES): GRAYSON	248	298	352	440	493
TEXARKANA, TX-TEXARKANA, AR MSA COUNTY(IES): BOWIE	227	276	326	406	455
TYLER, TX MSA COUNTY(IES): SMITH	285	344	406	508	567
VICTORIA, TX MSA COUNTY(IES): VICTORIA	346	420	494	618	692
WACO, TX MSA COUNTY(IES): MCLENNAN	235	280	330	408	458
WICHITA FALLS, TX MSA COUNTY(IES): WICHITA	258	310	365	456	511

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON	215	261	307	384	430	ANDREWS	184	223	262	328	368
ANGELINA	250	303	357	446	500	ARANSAS	238	289	340	425	476
ARCHER	206	251	295	369	413	ARMSTRONG	224	272	320	400	448
ATASCOSA	221	269	317	396	443	AUSTIN	254	308	363	454	508
BAILEY	208	254	300	371	414	BANDERA	221	269	317	396	443
BASTROP	218	266	313	392	439	BAYLOR	208	251	295	369	413
BEE	238	289	340	425	478	BLANCO	203	247	290	363	407
BORDEN	203	247	290	363	406	BOSQUE	189	230	270	338	378
BREWSTER	184	223	262	328	368	BRISCOE	224	272	320	400	448
BROOKS	238	289	340	425	476	BROWN	208	254	300	371	414
BURLESON	221	268	315	394	441	BURNET	203	247	290	363	407
CALDWELL	218	266	313	392	439	CALHOUN	233	283	332	415	465
CALLAHAN	213	259	304	380	426	CAMP	198	240	283	353	396
CARSON	224	272	320	400	448	CASS	227	276	324	406	454
CASTRO	224	272	320	400	448	CHAMBERS	263	319	375	469	526
CHEROKEE	215	261	307	384	430	CHILDRESS	208	251	295	369	413
CLAY	206	251	295	369	413	COCHRAN	208	254	300	371	414

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS
STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COKE	193	235	276	345	386
COLLINGSWORT	224	272	320	400	448
COMANCHE	213	259	304	380	426
COOKE	237	287	338	423	474
CRANE	184	223	262	328	368
CROSBY	208	254	300	371	414
DALLAM	224	272	320	400	448
DEAF SMITH	224	272	320	400	448
DE WITT	232	282	332	415	465
DIMMIT	200	243	286	357	400
DUVAL	238	289	340	425	476
EDWARDS	205	251	294	362	402
FALLS	189	230	270	338	378
FAYETTE	219	266	313	392	439
FLOYD	208	254	300	371	414
FRANKLIN	227	276	324	406	454
FRIO	221	269	317	396	443
GARZA	208	254	300	371	414
GLASSCOCK	203	247	290	363	406
GONZALES	232	282	332	415	465
GRIMES	221	268	315	394	441
HALL	224	272	320	400	448
HANSFORD	224	272	320	400	448
HARTLEY	224	272	320	400	448
HEMPHILL	224	272	320	400	448
HILL	235	281	330	413	462
HOOD	254	308	363	454	508
HOUSTON	223	271	319	399	447
HUDSPETH	184	223	262	328	368
HUTCHINSON	224	272	320	400	448
JACK	205	251	295	369	413
JASPER	238	289	340	425	476
JIM HOGG	226	274	323	404	452
JONES	213	259	304	380	426
KENDALL	221	269	317	395	443
KENT	213	259	304	380	426
KIMBLE	193	235	276	345	386
KINNEY	205	251	294	362	402
KNOX	208	254	300	371	414
LAMB	208	254	300	371	414
LA SALLE	200	243	286	357	400
LEE	219	266	313	392	439
LIMESTONE	189	230	270	338	378
LIVE OAK	238	289	340	425	476
LOVING	184	223	262	328	368
MCCULLOCH	193	235	276	345	386
MADISON	228	278	325	406	455
MARTIN	203	247	290	363	406
MATAGORDA	254	308	363	454	508
MEDINA	221	269	317	396	443
MILAM	219	266	313	392	439
MITCHELL	213	259	304	380	426
MOORE	224	272	320	400	448
MOTLEY	208	254	300	371	414
NAVARRO	189	230	270	338	378
NOLAN	213	259	304	380	426
OLDHAM	224	272	320	400	448
PANOLA	215	261	307	384	430
PECOS	184	223	262	328	368
PRESIDIO	184	223	262	328	368
REAGAN	193	235	276	345	386
RED RIVER	227	276	324	406	454
REFUGIO	238	289	340	425	476
ROBERTSON	221	268	318	394	441
RUSK	215	261	307	384	430
SAN AUGUSTIN	197	240	282	353	395
SAN SABA	208	254	300	371	414
SCURRY	213	259	304	380	426
SHELBY	197	240	282	353	395
SOMERVELL	189	230	270	338	378
STEPHENS	213	259	304	380	426
STONEWALL	213	259	304	380	426
SWISHER	224	272	320	400	448
TERRY	208	254	300	371	414
TITUS	227	276	324	406	454

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLEMAN	208	254	300	371	414
COLORADO	254	308	363	454	508
CONCHO	193	235	276	345	386
COTTLE	206	251	295	369	413
CROCKETT	193	235	276	345	386
CULBERSON	184	223	262	328	368
DAWSON	203	247	290	363	406
DELTA	227	276	324	406	454
DICKENS	208	254	300	371	414
DONLEY	224	272	320	400	448
EASTLAND	213	259	304	380	426
ERATH	213	259	304	380	426
FANNIN	237	287	338	423	474
FISHER	213	259	304	380	426
FOARD	206	251	295	369	413
FREESTONE	189	230	270	338	378
GAINES	184	223	262	328	368
GILLESPIE	221	269	317	396	443
GOLIAD	232	282	332	415	465
GRAY	224	272	320	400	448
HALE	208	254	300	371	414
HAMILTON	203	247	290	363	407
HARDEMAN	206	251	295	369	413
HASKELL	213	259	304	380	426
HENDERSON	215	261	307	384	430
HOCKLEY	206	251	295	369	413
HOPKINS	227	276	324	406	454
HOWARD	203	247	290	363	406
HUNT	237	287	338	423	474
IRION	193	235	276	345	386
JACKSON	232	282	332	415	465
JEFF DAVIS	184	223	262	328	368
JIM WELLS	238	289	340	425	476
KARNES	182	221	260	325	364
KENEDY	238	289	340	425	476
KERR	221	269	317	396	443
KING	208	254	300	371	414
KLEBERG	238	289	340	425	476
LAMAR	227	276	324	406	454
LAMPASAS	203	247	290	363	407
LAVACA	232	282	332	416	466
LEON	228	276	325	406	455
LIPSCOMB	224	272	320	400	448
LLANO	203	247	290	363	407
LYNN	208	254	300	371	414
MCMULLEN	238	289	340	425	476
MARION	198	240	283	353	396
MASON	193	235	276	345	386
MAVERICK	205	251	294	362	402
MENARD	193	235	276	345	386
MILLS	208	254	300	371	414
MONTAGUE	206	251	295	369	413
MORRIS	227	276	324	406	454
NACOGDOCHES	250	303	357	446	500
NEWTON	238	289	340	425	476
OCHILTREE	224	272	320	400	448
PALO PINTO	213	259	304	380	426
PARMER	224	272	320	400	448
POLK	250	303	357	446	500
RAINS	204	250	292	361	398
REAL	205	251	294	362	402
REEVES	184	223	262	328	368
ROBERTS	224	272	320	400	448
RUNNELS	208	254	300	371	414
SABINE	197	240	282	353	395
SAN JACINTO	250	303	357	446	500
SCHLEICHER	193	235	276	345	386
SHACKLEFORD	213	259	304	380	426
SHERMAN	224	272	320	400	448
STARR	197	239	281	351	393
STERLING	193	235	276	345	386
SUTTON	193	235	276	345	386
TERRELL	184	223	262	328	368
THROCKMORTON	213	259	304	380	426
TRINITY	228	286	337	421	472

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS
STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TYLER	228	276	325	406	455	UPSHUR	198	240	283	353	396
UPTON	203	247	290	363	406	UVALDE	205	251	294	362	402
VAL VERDE	205	251	294	362	402	VAN ZANDT	204	250	292	361	398
WALKER	259	315	371	464	519	WARD	184	223	262	328	368
WASHINGTON	228	276	325	406	455	WHARTON	254	308	363	454	508
WHEELER	224	272	320	400	448	WILBARGER	206	251	295	369	413
WILLACY	238	289	340	425	476	WILSON	182	221	260	325	364
WINKLER	184	223	262	328	368	WISE	254	308	363	454	508
WOOD	198	240	283	353	396	YOAKUM	208	254	300	371	414
YOUNG	206	251	295	369	413	ZAPATA	197	239	281	351	393
ZAVALA	205	251	294	362	402						

S T A T E: UTAH

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PROVO-OREM, UT MSA	251	305	358	448	502
COUNTY(IES): UTAH					
SALT LAKE CITY-OGDEN, UT MSA	293	350	415	516	580
COUNTY(IES): DAVIS, SALT LAKE, WEBER					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVER	274	333	392	490	549	BOX ELDER	253	307	362	452	507
CACHE	253	307	362	452	507	CARBON	313	380	447	559	626
DAGGETT	313	380	447	559	626	DUCHESNE	313	380	447	559	626
EMERY	313	380	447	559	626	GARFIELD	274	333	392	490	549
GRAND	313	380	447	559	626	IRON	274	333	392	490	549
JUAB	274	333	392	490	549	KANE	274	333	392	490	549
MILLARD	274	333	392	490	549	MORGAN	313	380	447	559	626
PIUTE	274	333	392	490	549	RICH	253	307	362	452	507
SAN JUAN	313	380	447	559	626	SANPETE	274	333	392	490	549
SEVIER	274	333	392	490	549	SUMMIT	313	380	447	559	626
TOOELE	253	307	362	452	507	UINTAH	313	380	447	559	626
WASATCH	313	380	447	559	626	WASHINGTON	300	360	425	530	595
WAYNE	274	333	392	490	549						

S T A T E: VERMONT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BURLINGTON, VT MSA	350	425	500	625	700
COUNTY: CHITTENDEN TOWNS OF BURLINGTON, CHARLOTTE, COLCHESTER, ESSEX, HINESBURG, JERICHO, MILTON, RICHMOND, ST. GEORGE SHELBURNE, SOUTH BURLIN, WILLISTON, WINOOSKI					
COUNTY: FRANKLIN TOWNS OF GEORGIA					
COUNTY: GRAND ISLE TOWNS OF GRAND ISLE, SOUTH HERO					
NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADDISON COUNTY	280	340	400	500	561
BENNINGTON COUNTY	285	350	410	510	575
CALEDONIA COUNTY	239	290	341	426	478
CHITTENDEN COUNTY TOWNS OF BOLTON, BUELS, HUNTINGTON, UNDERHILL WESTFORD	324	394	464	580	649
ESSEX COUNTY	239	290	341	426	478
FRANKLIN COUNTY TOWNS OF BAKERSFIELD, BERKSHIRE, ENOSBURG, FAIRFAX FAIRFIELD, FLETCHER, FRANKLIN, HIGHGATE, MONTGOMERY, RICHFORD, ST. ALBANS, ST. ALBANS, SHELDON, SWANTON	260	315	370	460	515
GRAND ISLE COUNTY TOWNS OF ALBURG, ISLE LA MOTT, NORTH HERO	239	290	341	426	478
LAMOILLE COUNTY	239	290	341	426	478
ORANGE COUNTY	260	315	370	460	515
ORLEANS COUNTY	239	290	341	426	478
RUTLAND COUNTY	271	329	388	485	543
WASHINGTON COUNTY	285	350	410	510	575
WINDHAM COUNTY	271	329	388	485	543
WINDSOR COUNTY	271	329	388	485	543

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS
STATE: VIRGINIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLOTTESVILLE, VA MSA COUNTY(IES): ALBEMARLE, FLUVANNA, GREENE, CHARLOTTESVI	314	382	449	562	629
DANVILLE, VA MSA COUNTY(IES): PITTSYLVANIA, DANVILLE	240	292	343	429	480
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA COUNTY(IES): SCOTT, WASHINGTON, BRISTOL	227	276	324	405	454
LYNCHBURG, VA MSA COUNTY(IES): AMHERST, CAMPBELL, LYNCHBURG	259	322	370	462	518
NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA MSA COUNTY(IES): GLOUCESTER, JAMES CITY, YORK, CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, POQUOSON, PORTSMOUTH, SUFFOLK VIRGINIA BEA, WILLIAMSBURG	301	361	415	511	572
RICHMOND-PETERSBURG, VA MSA COUNTY(IES): CHARLES CITY, CHESTERFIELD, DINWIDDIE, GOOCHLAND, HANOVER, HENRICO, NEW KENT, POWHATAN, PRINCEGEORGE COLONIAL HEI, HOPEWELL, PETERSBURG, RICHMOND	287	345	404	505	566
ROANOKE, VA MSA COUNTY(IES): BOTETOURT, ROANOKE, ROANOKE, SALEM	252	306	360	451	505
WASHINGTON, DC-MD-VA MSA COUNTY(IES): ARLINGTON, FAIRFAX, LOUDOUN, PRINCEWILLIA, STAFFORD, ALEXANDRIA, FAIRFAX, FALLS CHURCH, MANASSAS MANASSAS PRK	370	459	530	665	748

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACCOMACK	236	286	333	411	459
AMELIA	208	252	297	371	416
AUGUSTA	251	305	359	449	503
BEDFORD	217	264	311	388	435
BRUNSWICK	197	239	281	352	394
BUCKINGHAM	208	252	297	371	416
CARROLL	212	257	303	379	424
CLARKE	252	306	360	451	505
CULPEPER	262	318	374	468	524
DICKENSON	225	261	308	385	431
FAUQUIER	262	318	374	468	524
FRANKLIN	217	264	311	388	435
GILES	258	304	357	447	500
GREENSVILLE	197	239	281	352	394
HENRY	252	306	360	450	504
ISLE OFWIGHT	203	247	287	359	394
KING GEORGE	297	361	424	530	594
LANCASTER	229	279	328	410	459
LOUISA	208	321	374	468	524
MADISON	266	321	374	468	524
MECKLENBURG	197	239	281	352	394
MONTGOMERY	305	370	435	545	609
NORTHAMPTON	238	286	333	411	459
NOTTOWAY	208	252	297	371	416
PAGE	252	306	360	451	505
PRINCEEDWARD	208	252	297	371	416
RAPPAHANNOCK	262	318	374	468	524
ROCKBRIDGE	251	305	359	449	503
RUSSELL	240	292	343	429	481
SMYTH	212	257	303	379	424
SPOTSLYVANIA	297	361	424	530	594
SUSSEX	197	239	281	352	394
WARREN	252	306	360	451	505
WISE	242	293	345	431	483
BEDFORD	217	264	311	388	435
CLIFTON FORG	251	305	359	449	503
EMPORIA	197	239	281	352	394
FREDERICKBUR	287	361	424	530	594
HARRISONBURG	251	305	359	449	503
MARTINSVILLE	252	306	360	450	504
RADFORD	305	370	435	545	609
STAUNTON	251	305	359	449	503
WINCHESTER	252	306	360	451	505

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGHANY	251	305	359	449	503
APPOMATTOX	254	305	387	447	500
BATH	251	305	359	449	503
BLAND	212	257	303	379	424
BUCHANAN	240	292	343	429	481
CAROLINE	297	361	424	530	594
CHARLOTTE	208	252	297	371	416
CRAIG	197	239	281	381	393
CUMBERLAND	208	252	297	371	416
ESSEX	229	279	328	410	459
FLOYD	250	304	357	447	500
FREDERICK	252	306	360	451	505
GRAYSON	212	257	303	379	424
HALIFAX	208	252	297	371	416
HIGHLAND	251	305	359	449	503
KING + QUEEN	229	279	328	410	459
KING WILLIAM	229	279	328	410	459
LEE	215	261	308	385	431
LUNENBURG	208	252	297	371	416
MATHEWS	229	279	328	410	459
MIDDLESEX	229	279	328	410	459
NELSON	221	268	316	394	441
NORTHUMBERLD	229	279	328	410	459
ORANGE	266	321	374	468	524
PATRICK	217	264	311	388	435
PULASKI	250	304	357	447	500
RICHMOND	229	279	328	410	459
ROCKINGHAM	251	305	359	449	503
SHENANDOAH	252	306	360	451	505
SOUTHAMPTON	203	247	287	359	394
SURRY	203	247	287	359	394
TAZEWELL	240	292	343	429	481
WESTMORELAND	229	279	328	410	459
WYTHE	231	280	325	403	448
BUENA VISTA	251	305	359	449	503
COVINGTON	251	305	359	449	503
FRANKLIN	197	239	281	352	394
GALAX	212	257	303	379	424
LEXINGTON	251	305	359	449	503
NORTON	241	293	344	430	482
SOUTH BOSTON	208	252	297	371	416
WAYNESBORO	251	305	359	449	503

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: WASHINGTON	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELLINGHAM, WA MSA COUNTY(IES): WHATCOM	303	368	433	552	607
BREMERTON, WA MSA COUNTY(IES): KITSAP	304	370	435	544	609
OLYMPIA, WA MSA COUNTY(IES): THURSTON	318	382	450	563	630
RICHLAND-KENNEWICK-PASCO, WA MSA COUNTY(IES): BENTON, FRANKLIN	355	432	508	635	711
SEATTLE, WA PMSA COUNTY(IES): KING, SNOHOMISH	325	395	460	595	665
SPOKANE, WA MSA COUNTY(IES): SPOKANE	266	315	371	474	525
TACOMA, WA PMSA COUNTY(IES): PIERCE	280	340	400	520	579
VANCOUVER, WA PMSA COUNTY(IES): CLARK	251	305	359	450	510
YAKIMA, WA MSA COUNTY(IES): YAKIMA	277	336	395	494	554

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	226	274	322	403	452	ASOTIN	292	354	417	521	584
CHELAN	272	330	390	485	545	CLALLAM	294	357	420	525	588
COLUMBIA	292	354	417	521	584	COWLITZ	273	332	390	488	547
DOUGLAS	272	330	390	485	545	FERRY	226	274	322	403	452
GARFIELD	292	354	417	521	584	GRANT	226	274	322	403	452
GRAYS HARBOR	294	357	420	525	588	ISLAND	300	364	428	536	600
JEFFERSON	294	357	420	525	588	KITTITAS	249	302	356	445	498
KLICKITAT	273	332	390	488	547	LEWIS	273	332	390	488	547
LINCOLN	226	274	322	403	452	MASON	294	357	420	525	588
OKANOGAN	249	302	356	445	498	PACIFIC	294	357	420	525	588
PEND OREILLE	226	274	322	403	452	SAN JUAN	300	364	428	536	600
SKAGIT	300	364	428	536	600	SKAMANIA	273	332	390	488	547
STEVENS	226	274	322	403	452	WAHKIAKUM	273	332	390	488	547
WALLA WALLA	292	354	417	521	584	WHITMAN	292	354	417	521	584

S T A T E: WEST VIRGINIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLESTON, WV MSA COUNTY(IES): KANAWHA, PUTNAM	325	394	464	580	650
CUMBERLAND, MD-WV MSA COUNTY(IES): MINERAL	245	290	340	420	470
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): CABELL WAYNE	266	323	380	475	533
PARKERSBURG-MARIETTA, WV-OH MSA COUNTY(IES): WOOD	247	300	353	442	496
STEUBENVILLE-WEIRTON, OH-WV MSA COUNTY(IES): BROOKE, HANCOCK	254	308	362	453	508
WHEELING, WV-OH MSA COUNTY(IES): MARSHALL, OHIO	250	304	358	448	501

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	204	248	292	365	409	BERKELEY	224	272	320	400	448
BOONE	232	281	331	414	463	BRAXTON	204	248	292	365	409
CALHOUN	270	315	365	475	523	CLAY	232	281	331	414	463
DODDRIDGE	228	277	326	407	456	FAYETTE	214	260	306	382	428
GILMER	248	297	360	447	491	GRANT	224	272	320	400	448
GREENBRIER	214	260	306	382	428	HAMPSHIRE	224	272	320	400	448
HARDY	224	272	320	400	448	HARRISON	228	277	326	407	456
JACKSON	270	315	365	475	523	JEFFERSON	224	272	320	400	448
LEWIS	204	248	292	365	409	LINCOLN	225	272	320	400	448
LOGAN	225	272	320	400	448	MCDOWELL	217	264	310	388	435
MARION	275	334	393	491	550	MASON	225	272	320	400	448
MERCER	220	268	315	394	441	MINGO	225	272	320	400	448
MONONGALIA	275	334	393	491	550	MONROE	225	270	315	394	441
MORGAN	224	272	320	400	448	NICHOLAS	214	260	306	382	428
PENDLETON	224	272	320	400	448	PLEASANTS	197	239	281	351	393
POCAHONTAS	214	260	306	382	428	PRESTON	275	334	393	491	550
RALEIGH	225	270	311	388	435	RANDOLPH	204	248	292	365	409
RITCHIE	197	239	281	351	393	ROANE	270	315	365	475	523
SUMMERS	225	270	315	394	441	TAYLOR	228	277	326	407	456
TUCKER	204	248	292	365	409	TYLER	197	239	281	351	393
UPSHUR	204	248	292	365	409	WEBSTER	214	260	306	382	428
WETZEL	236	286	337	421	472	WIRT	197	239	281	351	393
WYOMING	225	270	311	388	435						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: WISCONSIN

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLETON-OSHKOSH-NEENAH, WI MSA COUNTY(IES): CALUMET, OUTAGAMIE, WINNEBAGO	246	299	352	440	493
DULUTH, MN-WI MSA COUNTY(IES): DOUGLAS	270	322	379	474	531
EAU CLAIRE, WI MSA COUNTY(IES): CHIPPEWA, EAU CLAIRE	244	297	349	437	489
GREEN BAY, WI MSA COUNTY(IES): BROWN	246	299	354	440	493
JANESVILLE-BELOIT, WI MSA COUNTY(IES): ROCK	272	331	389	487	545
KENOSHA, WI PMSA COUNTY(IES): KENOSHA	284	345	406	508	569
LA CROSSE, WI MSA COUNTY(IES): LA CROSSE	290	352	415	519	581
MADISON, WI MSA COUNTY(IES): DANE	280	340	400	505	565
MILWAUKEE, WI PMSA COUNTY(IES): MILWAUKEE, OZAUKEE, WASHINGTON, WAUKESHA	296	359	423	528	592
MINNEAPOLIS-ST. PAUL, MN-WI MSA COUNTY(IES): ST CROIX	335	405	480	600	670
RACINE, WI PMSA COUNTY(IES): RACINE	281	341	401	502	562
SHEBOYGAN, WI MSA COUNTY(IES): SHEBOYGAN	252	306	360	450	504
WAUSAU, WI MSA COUNTY(IES): MARATHON	246	299	352	440	493

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	251	304	358	448	502
BARRON	239	290	342	427	479
BUFFALO	227	275	324	405	454
CLARK	239	290	342	427	479
CRAWFORD	216	263	309	386	433
DOOR	226	272	319	394	440
FLORENCE	216	263	309	386	433
FOREST	234	284	334	418	468
GREEN	234	284	332	412	457
IOWA	226	274	322	403	452
JACKSON	227	275	324	405	454
JUNEAU	251	304	358	448	502
LAFAYETTE	226	274	322	403	452
LINCOLN	234	284	334	418	468
MARINETTE	220	265	311	388	433
MENOMINEE	220	268	315	394	441
OCONTO	216	263	309	386	433
PEPIN	227	275	324	405	454
POLK	239	290	342	427	479
PRICE	220	268	315	394	441
RUSK	220	268	315	394	441
SAWYER	220	268	315	394	441
TAYLOR	220	268	315	394	441
VERNON	216	263	309	386	433
WALWORTH	262	318	375	468	525
WAUPACA	220	268	315	394	441
WOOD	251	304	358	448	502

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHLAND	220	268	315	394	441
BAYFIELD	220	268	315	394	441
BURNETT	220	268	315	394	441
COLUMBIA	229	278	327	409	458
DODGE	229	278	327	409	458
DUNN	239	290	342	427	479
FOND DU LAC	270	326	370	460	502
GRANT	226	274	322	403	452
GREEN LAKE	246	299	352	440	493
IRON	220	268	315	394	441
JEFFERSON	262	318	375	468	525
KEWAUNEE	226	272	319	394	440
LANGLADE	234	284	334	418	468
MANITOWOC	226	272	319	394	440
MARQUETTE	220	268	315	394	441
MONROE	227	275	324	405	454
ONEIDA	234	284	334	418	468
PIERCE	227	275	324	405	454
PORTAGE	251	304	358	448	502
RICHLAND	226	274	322	403	452
SAUK	229	278	327	409	458
SHAWANO	220	268	315	394	441
TREMPEALEAU	227	275	324	405	454
VILAS	234	284	334	418	468
WASHBURN	220	268	315	394	441
WAUSHARA	220	268	315	394	441

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 072586
FINAL FMRS

S T A T E: WYOMING	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CASPER, WY MSA					
COUNTY(IES): NATRONA	350	425	500	625	700
CHEYENNE, WY MSA					
COUNTY(IES): LARAMIE	290	350	415	520	580

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY	225	275	325	405	450	BIG HORN	230	280	330	410	460
CAMPBELL	225	275	325	405	450	CARBON	225	275	325	405	450
CONVERSE	225	275	325	405	450	CROOK	225	280	330	410	460
FREMONT	225	275	325	405	450	GOSHEN	225	275	325	405	450
HOT SPRINGS	230	280	330	410	460	JOHNSON	225	275	325	405	450
LINCOLN	225	275	325	405	450	NIOBRARA	225	275	325	405	450
PARK	230	280	330	410	460	PLATTE	225	275	325	405	450
SHERIDAN	310	380	445	555	625	SUBLETTE	225	275	325	405	450
SWEETWATER	225	275	325	405	450	TETON	295	355	420	525	590
UINTA	225	275	325	405	450	WASHAKIE	230	280	330	410	460
WESTON	230	280	330	410	460						

STATE: GUAM

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GUAM	365	440	520	650	730

S T A T E: PUERTO RICO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AGUADILLA, PR MSA					
COUNTY(IES): AGUADELLA	225	275	325	405	455
ARECIBO, PR MSA					
COUNTY(IES): ARECIBO	330	400	470	590	660
CAGUAS, PR PMSA					
COUNTY(IES): CAGUAS	275	330	390	490	545
MAYAGUEZ, PR MSA					
COUNTY(IES): MAYAGUEZ	225	275	325	405	455
PONCE, PR MSA					
COUNTY(IES): PONCE	320	390	460	575	645
SAN JUAN, PR PMSA					
COUNTY(IES): SAN JUAN	320	390	460	575	645

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALL OTHER	215	265	310	390	435

STATE: VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
-CHAR.AMALIE	355	435	510	640	715	ST CROIX	300	365	430	540	600

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	62	70
MSA: ANNISTON, AL	65	71
MSA: BIRMINGHAM, AL	90	99
MSA: COLUMBUS, GA-AL	82	90
MSA: DOTHAN, AL	60	68
MSA: FLORENCE, AL	71	77
MSA: GADSDEN, AL	65	71
MSA: HUNTSVILLE, AL	90	99
MSA: MOBILE, AL	72	78
MSA: MONTGOMERY, AL	72	77
MSA: TUSCALOOSA, AL	84	95
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	202	202
MSA: ANCHORAGE, AK	224	224
EXCEPTION COUNTY: KETCHIKAN	202	214
NON METRO STATE: ARIZONA	83	106
MSA: PHOENIX, AZ	115	137
MSA: TUCSON, AZ	83	115
NON METRO STATE: ARKANSAS	36	40
MSA: FAYETTEVILLE-SPRINGDALE, AR	57	61
MSA: FORT SMITH, AR-OK	33	36
MSA: LITTLE ROCK-NORTH LITTLE ROCK, AR	48	50
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: PINE BLUFF, AR	26	28
MSA: TEXARKANA, TX-TEXARKANA, AR	98	110
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	130	170
PMSA: ANAHEIM-SANTA ANA, CA	295	295
MSA: BAKERSFIELD, CA	122	185
MSA: CHICO, CA	130	170
MSA: FRESNO, CA	185	208
PMSA: LOS ANGELES-LONG BEACH, CA	144	240
MSA: MODESTO, CA	193	208
PMSA: OAKLAND, CA	199	260
PMSA: OXNARD-VENTURA, CA	160	278

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: REDDING, CA	130	170
PMSA: RIVERSIDE-SAN BERNARDINO, CA	122	193
MSA: SACRAMENTO, CA	149	178
MSA: SALINAS-SEASIDE-MONTEREY, CA	185	232
MSA: SAN DIEGO, CA	185	232
PMSA: SAN FRANCISCO, CA	214	278
PMSA: SAN JOSE, CA	253	295
MSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA	153	232
PMSA: SANTA CRUZ, CA	185	232
PMSA: SANTA ROSA-PETALUMA, CA	185	223
MSA: STOCKTON, CA	193	208
PMSA: VALLEJO-FAIRFIELD-NAPA, CA	194	220
MSA: VISALIA-TULARE-PORTERVILLE, CA	130	170
MSA: YUBA CITY, CA	130	170
EXCEPTION COUNTY: SAN LUIS OBI	177	208
NON METRO STATE: COLORADO	N/A	N/A
PMSA: BOULDER-LONGMONT, CO	186	214
MSA: COLORADO SPRINGS, CO	122	137
PMSA: DENVER, CO	199	229
MSA: FORT COLLINS-LOVELAND, CO	115	130
MSA: GREELEY, CO	115	130
MSA: PUEBLO, CO	115	130
EXCEPTION COUNTY: ALAMOSA	97	115
EXCEPTION COUNTY: ARCHULETA	115	130
EXCEPTION COUNTY: BACA	97	115
EXCEPTION COUNTY: BENT	97	115
EXCEPTION COUNTY: CHAFFEE	115	130
EXCEPTION COUNTY: CHEYENNE	97	115
EXCEPTION COUNTY: CLEAR CREEK	115	130
EXCEPTION COUNTY: CONEJOS	97	115
EXCEPTION COUNTY: COSTILLA	97	115
EXCEPTION COUNTY: CROWLEY	97	115
EXCEPTION COUNTY: CUSTER	115	130
EXCEPTION COUNTY: DELTA	115	130
EXCEPTION COUNTY: DELORES	115	130
EXCEPTION COUNTY: EAGLE	186	208
EXCEPTION COUNTY: ELBERT	97	115
EXCEPTION COUNTY: FREMONT	115	130
EXCEPTION COUNTY: GARFIELD	186	208
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	115	130
EXCEPTION COUNTY: GUNNISON	115	130
EXCEPTION COUNTY: HINSDALE	115	130
EXCEPTION COUNTY: HUERFANO	97	115

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: JACKSON	115	130
EXCEPTION COUNTY: KIOWA	97	115
EXCEPTION COUNTY: KIT CARSON	97	115
EXCEPTION COUNTY: LAKE	115	130
EXCEPTION COUNTY: LA PLATA	115	130
EXCEPTION COUNTY: LAS ANIMAS	97	115
EXCEPTION COUNTY: LINCOLN	97	115
EXCEPTION COUNTY: LOGAN	97	115
EXCEPTION COUNTY: MESA	115	130
EXCEPTION COUNTY: MINERAL	97	115
EXCEPTION COUNTY: MOFFAT	186	208
EXCEPTION COUNTY: MONTEZUMA	115	130
EXCEPTION COUNTY: MONTROSE	115	130
EXCEPTION COUNTY: MORGAN	97	115
EXCEPTION COUNTY: OTERO	97	115
EXCEPTION COUNTY: OURAY	115	130
EXCEPTION COUNTY: PARK	115	130
EXCEPTION COUNTY: PHILLIPS	97	115
EXCEPTION COUNTY: PITKIN	186	208
EXCEPTION COUNTY: PROWERS	97	115
EXCEPTION COUNTY: RIO BLANCO	186	208
EXCEPTION COUNTY: RIO GRANDE	97	115
EXCEPTION COUNTY: ROUTT	186	208
EXCEPTION COUNTY: SAGUACHE	97	115
EXCEPTION COUNTY: SAN JUAN	115	130
EXCEPTION COUNTY: SAN MIGUEL	115	130
EXCEPTION COUNTY: SEDGWICK	97	115
EXCEPTION COUNTY: SUMMIT	186	208
EXCEPTION COUNTY: TELLER	101	115
EXCEPTION COUNTY: WASHINGTON	97	115
EXCEPTION COUNTY: YUMA	97	115
NON METRO STATE: CONNECTICUT	113	113
PMSA: BRIDGEPORT-MILFORD, CT	141	141
PMSA: BRISTOL, CT	113	113
PMSA: DANBURY, CT	108	108
PMSA: HARTFORD, CT	123	123
PMSA: MIDDLETOWN, CT	123	123
PMSA: NEW BRITAIN, CT	123	123
MSA: NEW HAVEN-MERIDEN, CT	110	110
MSA: NEW LONDON-NORWICH, CT-RI	105	105
PMSA: NORWALK, CT	132	132
PMSA: STAMFORD, CT	132	132
MSA: WATERBURY, CT	113	113
NON METRO STATE: DELAWARE	63	63

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: WILMINGTON, DE-NJ-MD	103	103
NON METRO STATE: DIST. OF COLUMBIA	143	143
MSA: WASHINGTON, DC-MD-VA	143	143
NON METRO STATE: FLORIDA	77	77
MSA: BRADENTON, FL	110	110
MSA: DAYTONA BEACH, FL	98	98
PMSA: FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL	164	164
MSA: FORT MYERS-CAPE CORAL, FL	103	103
MSA: FORT PIERCE, FL	75	75
MSA: FORT WALTON BEACH, FL	77	77
MSA: GAINESVILLE, FL	77	77
MSA: JACKSONVILLE, FL	71	83
MSA: LAKELAND-WINTER HAVEN, FL	77	77
MSA: MELBOURNE-TITUSVILLE-PALM BAY, FL	90	90
PMSA: MIAMI-HIALEAH, FL	130	130
MSA: NAPLES, FL	77	77
MSA: OCALA, FL	77	77
MSA: ORLANDO, FL	90	90
MSA: PANAMA CITY, FL	77	77
MSA: PENSACOLA, FL	77	77
MSA: SARASOTA, FL	103	103
MSA: TALLAHASSEE, FL	71	71
MSA: TAMPA-ST. PETERSBURG-CLEARWATER, FL	103	103
MSA: WEST PALM BEACH-BOCA RATON-DELRAY BEACH, FL	130	130
EXCEPTION COUNTY: BAKER	59	81
EXCEPTION COUNTY: WAKULLA	69	81
NON METRO STATE: GEORGIA	56	56
MSA: ALBANY, GA	49	52
MSA: ATHENS, GA	56	56
MSA: ATLANTA, GA	81	87
MSA: AUGUSTA, GA-SC	75	77
MSA: CHATTANOOGA, TN-GA	49	71
MSA: COLUMBUS, GA-AL	82	90
MSA: MACON-WARNER ROBINS, GA	50	55
MSA: SAVANNAH, GA	63	71
EXCEPTION COUNTY: BRYAN	57	64
EXCEPTION COUNTY: TWIGGS	49	54
NON METRO STATE: HAWAII	N/A	N/A

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS), IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: HONOLULU, HI	N/A	N/A
NON METRO STATE: IDAHO	97	97
MSA: BOISE CITY, ID	104	121
NON METRO STATE: ILLINOIS	93	99
PMSA: AURORA-ELGIN, IL	178	191
MSA: BLOOMINGTON-NORMAL, IL	104	104
MSA: CHAMPAIGN-URBANA-RANTOUL, IL	85	85
PMSA: CHICAGO, IL	187	200
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	113	119
MSA: DECATUR, IL	113	113
PMSA: JOLIET, IL	187	200
MSA: KANKAKEE, IL	83	83
PMSA: LAKE COUNTY, IL	178	191
MSA: PEORIA, IL	153	168
MSA: ROCKFORD, IL	150	161
MSA: ST. LOUIS, MO-IL	86	99
MSA: SPRINGFIELD, IL	99	106
NON METRO STATE: INDIANA	51	66
MSA: ANDERSON, IN	57	57
MSA: BLOOMINGTON, IN	54	54
PMSA: CINCINNATI, OH-KY-IN	99	104
MSA: ELKHART-GOSHEN, IN	74	74
MSA: EVANSVILLE, IN-KY	67	72
MSA: FORT WAYNE, IN	64	85
PMSA: GARY-HAMMOND, IN	90	105
MSA: INDIANAPOLIS, IN	80	91
MSA: KOKOMO, IN	74	84
MSA: LAFAYETTE-WEST LAFAYETTE, IN	68	100
MSA: LOUISVILLE, KY-IN	73	80
MSA: MUNCIE, IN	55	62
MSA: SOUTH BEND-MISHAWAKA, IN	84	88
MSA: TERRE HAUTE, IN	54	66
EXCEPTION COUNTY: ADAMS	57	75
EXCEPTION COUNTY: BLACKFORD	58	66
EXCEPTION COUNTY: GIBSON	60	66
EXCEPTION COUNTY: GRANT	58	66
EXCEPTION COUNTY: HENRY	58	66
EXCEPTION COUNTY: JAY	58	66
EXCEPTION COUNTY: MARSHALL	74	78
EXCEPTION COUNTY: RANDOLPH	58	66

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SULLIVAN	52	63
EXCEPTION COUNTY: VERMILLION	52	63
EXCEPTION COUNTY: WAYNE	58	66
EXCEPTION COUNTY: WELLS	57	75
NON METRO STATE: IOWA	80	86
MSA: CEDAR RAPIDS, IA	91	106
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	113	119
MSA: DES MOINES, IA	97	104
MSA: DUBUQUE, IA	91	112
MSA: IOWA CITY, IA	91	104
MSA: OMAHA, NE-IA	86	99
MSA: SIOUX CITY, IA-NE	88	88
MSA: WATERLOO-CEDAR FALLS, IA	91	106
NON METRO STATE: KANSAS	70	80
MSA: KANSAS CITY, MO-KS	87	106
MSA: LAWRENCE, KS	72	82
MSA: TOPEKA, KS	70	80
MSA: WICHITA, KS	82	87
EXCEPTION COUNTY: JEFFERSON	67	77
EXCEPTION COUNTY: OSAGE	67	77
NON METRO STATE: KENTUCKY	68	74
PMSA: CINCINNATI, OH-KY-IN	99	104
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	71	77
MSA: EVANSVILLE, IN-KY	67	72
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: LEXINGTON-FAYETTE, KY	84	96
MSA: LOUISVILLE, KY-IN	73	80
MSA: OWENSBORO, KY	78	92
NON METRO STATE: LOUISIANA	72	84
MSA: ALEXANDRIA, LA	71	83
MSA: BATON ROUGE, LA	83	98
MSA: HOUMA-THIBODAUX, LA	70	82
MSA: LAFAYETTE, LA	77	90
MSA: LAKE CHARLES, LA	82	96
MSA: MONROE, LA	71	83
MSA: NEW ORLEANS, LA	87	101
MSA: SHREVEPORT, LA	77	90
EXCEPTION COUNTY: GRANT	69	81

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: WEBSTER	72	84
NON METRO STATE: MAINE	100	115
MSA: BANGOR, ME	100	115
MSA: LEWISTON-AUBURN, ME	77	77
MSA: PORTLAND, ME	124	141
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	100	115
NON METRO STATE: MARYLAND	111	111
MSA: BALTIMORE, MD	159	159
MSA: CUMBERLAND, MD-WV	111	111
MSA: HAGERSTOWN, MD	139	139
MSA: WASHINGTON, DC-MD-VA	143	143
PMSA: WILMINGTON, DE-NJ-MD	103	103
EXCEPTION COUNTY: ST MARYS	152	152
NON METRO STATE: MASSACHUSETTS	123	123
PMSA: BOSTON, MA	114	123
PMSA: BROCKTON, MA	114	114
PMSA: FALL RIVER, MA-RI	77	77
MSA: FITCHBURG-LEOMINSTER, MA	92	92
PMSA: LAWRENCE-HAVERHILL, MA-NH	108	115
PMSA: LOWELL, MA-NH	108	115
MSA: NEW BEDFORD, MA	106	106
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI MA	105	105
MSA: PITTSFIELD, MA	114	114
PMSA: SALEM-GLOUCESTER, MA	114	123
MSA: SPRINGFIELD, MA	90	90
MSA: WORCESTER, MA	79	79
NON METRO STATE: MICHIGAN	99	111
PMSA: ANN ARBOR, MI	134	145
MSA: BATTLE CREEK, MI	86	99
MSA: BENTON HARBOR, MI	99	111
PMSA: DETROIT, MI	131	140
MSA: FLINT, MI	121	121
MSA: GRAND RAPIDS, MI	91	98
MSA: JACKSON, MI	99	99
MSA: KALAMAZOO, MI	105	108
MSA: LANSING-EAST LANSING, MI	116	134
MSA: MUSKEGON, MI	91	93
MSA: SAGINAW-BAY CITY-MIDLAND, MI	106	106

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BARRY	82	95
EXCEPTION COUNTY: IONIA	103	118
EXCEPTION COUNTY: OCEANA	87	89
EXCEPTION COUNTY: SHIAWASSEE	115	115
EXCEPTION COUNTY: VAN BUREN	99	103
NON METRO STATE: MINNESOTA	72	72
MSA: DULUTH, MN-WI	74	83
MSA: FARGO-MOORHEAD, ND-MN	112	127
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	141	141
MSA: ROCHESTER, MN	103	103
MSA: ST. CLOUD, MN	91	91
EXCEPTION COUNTY: POLK	110	124
NON METRO STATE: MISSISSIPPI	72	84
MSA: BILOXI-GULFPORT, MS	83	98
MSA: JACKSON, MS	90	110
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: PASCAGOULA, MS	71	83
EXCEPTION COUNTY: STONE	76	88
NON METRO STATE: MISSOURI	56	63
MSA: COLUMBIA, MO	80	86
MSA: JOPLIN, MO	56	83
MSA: KANSAS CITY, MO-KS	87	106
MSA: ST. JOSEPH, MO	82	88
MSA: ST. LOUIS, MO-IL	86	99
MSA: SPRINGFIELD, MO	58	64
EXCEPTION COUNTY: ANDREW	78	84
NON METRO STATE: MONTANA	N/A	N/A
MSA: BILLINGS, MT	144	160
MSA: GREAT FALLS, MT	122	137
EXCEPTION COUNTY: BEAVERHEAD	115	130
EXCEPTION COUNTY: BIG HORN	115	130
EXCEPTION COUNTY: BLAINE	83	97
EXCEPTION COUNTY: BROADWATER	115	130
EXCEPTION COUNTY: CARBON	115	130
EXCEPTION COUNTY: CARTER	83	97
EXCEPTION COUNTY: CHOUTEAU	83	97
EXCEPTION COUNTY: CUSTER	115	130
EXCEPTION COUNTY: DANIELS	83	97

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: DAWSON	115	130
EXCEPTION COUNTY: DEER LODGE	115	130
EXCEPTION COUNTY: FALLON	83	97
EXCEPTION COUNTY: FERGUS	83	97
EXCEPTION COUNTY: FLATHEAD	115	130
EXCEPTION COUNTY: GALLATIN	115	130
EXCEPTION COUNTY: GARFIELD	83	97
EXCEPTION COUNTY: GLACIER	83	97
EXCEPTION COUNTY: GOLDEN VALLE	83	97
EXCEPTION COUNTY: GRANITE	115	130
EXCEPTION COUNTY: HILL	83	97
EXCEPTION COUNTY: JEFFERSON	115	130
EXCEPTION COUNTY: JUDITH BASIN	83	97
EXCEPTION COUNTY: LAKE	115	130
EXCEPTION COUNTY: LEWIS+ CLARK	115	130
EXCEPTION COUNTY: LIBERTY	83	97
EXCEPTION COUNTY: LINCOLN	115	130
EXCEPTION COUNTY: MCCONE	83	97
EXCEPTION COUNTY: MADISON	115	130
EXCEPTION COUNTY: MEAGHER	115	130
EXCEPTION COUNTY: MINERAL	115	130
EXCEPTION COUNTY: MISSOULA	115	130
EXCEPTION COUNTY: MUSSELSHELL	115	130
EXCEPTION COUNTY: PARK	115	130
EXCEPTION COUNTY: PETROLEUM	83	97
EXCEPTION COUNTY: PHILLIPS	83	97
EXCEPTION COUNTY: PONDERA	83	97
EXCEPTION COUNTY: POWDER RIVER	115	130
EXCEPTION COUNTY: POWELL	115	130
EXCEPTION COUNTY: PRAIRIE	83	97
EXCEPTION COUNTY: RAVALLI	115	130
EXCEPTION COUNTY: RICHLAND	83	97
EXCEPTION COUNTY: ROOSEVELT	83	97
EXCEPTION COUNTY: ROSEBUD	115	130
EXCEPTION COUNTY: SANDERS	115	130
EXCEPTION COUNTY: SHERIDAN	83	97
EXCEPTION COUNTY: SILVER BOW	115	130
EXCEPTION COUNTY: STILLWATER	83	97
EXCEPTION COUNTY: SWEET GRASS	83	97
EXCEPTION COUNTY: TETON	83	97
EXCEPTION COUNTY: TOOLE	83	97
EXCEPTION COUNTY: TREASURE	115	130
EXCEPTION COUNTY: VALLEY	83	97
EXCEPTION COUNTY: WHEATLAND	83	97
EXCEPTION COUNTY: WIBAUX	83	97
EXCEPTION COUNTY: YL-ST-NT-PK	115	130

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: NEBRASKA	73	89
MSA: LINCOLN, NE	98	104
MSA: OMAHA, NE-IA	86	99
MSA: SIOUX CITY, IA-NE	88	88
NON METRO STATE: NEVADA	92	106
MSA: LAS VEGAS, NV	193	215
MSA: RENO, NV	193	215
NON METRO STATE: NEW HAMPSHIRE	91	100
PMSA: LAWRENCE-HAVERHILL, MA-NH	108	115
PMSA: LOWELL, MA-NH	108	115
MSA: MANCHESTER, NH	104	113
PMSA: NASHUA, NH	123	123
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	100	115
NON METRO STATE: NEW JERSEY	94	94
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	92	92
MSA: ATLANTIC CITY, NJ	143	143
PMSA: BERGEN-PASSAIC, NJ	190	191
PMSA: JERSEY CITY, NJ	183	183
PMSA: MIDDLESEX-SOMERSET-HUNTERDON, NJ	215	215
PMSA: MONMOUTH-OCEAN, NJ	165	199
PMSA: NEWARK, NJ	178	183
PMSA: PHILADELPHIA, PA-NJ	163	163
PMSA: TRENTON, NJ	145	145
PMSA: VINELAND-MILLVILLE-BRIDGETON, NJ	128	128
PMSA: WILMINGTON, DE-NJ-MD	103	103
NON METRO STATE: NEW MEXICO	87	99
MSA: LAS CRUCES, NM	87	99
MSA: ALBUQUERQUE, NM	97	112
MSA: SANTA FE, NM	87	99
EXCEPTION COUNTY: SANDOVAL	92	104
NON METRO STATE: NEW YORK	108	108
MSA: ALBANY-SCHENECTADY-TROY, NY	125	125
MSA: BINGHAMTON, NY	81	81
PMSA: BUFFALO, NY	108	108
MSA: ELMIRA, NY	87	87

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: GLENS FALLS, NY	108	108
PMSA: NASSAU-SUFFOLK, NY	145	187
PMSA: NEW YORK, NY	151	151
PMSA: NIAGARA FALLS, NY	104	104
PMSA: ORANGE COUNTY, NY	104	104
MSA: POUGHKEEPSIE, NY	139	139
MSA: ROCHESTER, NY	123	123
MSA: SYRACUSE, NY	100	100
MSA: UTICA-ROME, NY	92	92
NON METRO STATE: NORTH CAROLINA	50	63
MSA: ASHEVILLE, NC	71	83
MSA: BURLINGTON, NC	71	83
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	71	83
MSA: FAYETTEVILLE, NC	71	83
MSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC	71	83
MSA: HICKORY, NC	50	63
MSA: JACKSONVILLE, NC	50	63
MSA: RALEIGH-DURHAM, NC	71	83
MSA: WILMINGTON, NC	71	83
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY: MADISON	64	76
NON METRO STATE: NORTH DAKOTA	90	104
MSA: BISMARCK, ND	128	141
MSA: FARGO-MOORHEAD, ND-MN	112	127
MSA: GRAND FORKS, ND	97	120
NON METRO STATE: OHIO	65	65
PMSA: AKRON, OH	99	99
MSA: CANTON, OH	70	70
PMSA: CINCINNATI, OH-KY-IN	99	104
PMSA: CLEVELAND, OH	106	106
MSA: COLUMBUS, OH	91	105
MSA: DAYTON-SPRINGFIELD, OH	70	70
PMSA: HAMILTON-MIDDLETOWN, OH	80	83
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: LIMA, OH	91	91
PMSA: LORAIN-ELYRIA, OH	113	113
MSA: MANSFIELD, OH	86	86
MSA: PARKERSBURG-MARIETTA, WV-OH	77	77
MSA: STEUBENVILLE-WEIRTON, OH-WV	68	68

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: TOLEDO, OH	113	153
MSA: WHEELING, WV-OH	71	71
MSA: YOUNGSTOWN-WARREN, OH	86	86
EXCEPTION COUNTY: CHAMPAIGN	65	78
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	65	65
EXCEPTION COUNTY: PUTNAM	81	81
EXCEPTION COUNTY: VAN WERT	81	81
NON METRO STATE: OKLAHOMA	69	75
MSA: ENID, OK	69	75
MSA: FORT SMITH, AR-OK	33	36
MSA: LAWTON, OK	70	77
MSA: OKLAHOMA CITY, OK	72	80
MSA: TULSA, OK	77	83
EXCEPTION COUNTY: LE FLORE	32	35
EXCEPTION COUNTY: MAYES	70	76
NON METRO STATE: OREGON	123	130
MSA: EUGENE-SPRINGFIELD, OR	144	148
MSA: MEDFORD, OR	123	130
PMSA: PORTLAND, OR	169	187
MSA: SALEM, OR	144	148
NON METRO STATE: PENNSYLVANIA	65	65
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	92	92
MSA: ALTOONA, PA	84	84
PMSA: BEAVER COUNTY, PA	77	77
MSA: ERIE, PA	84	84
MSA: HARRISBURG-LEBANON-CARLISLE, PA	95	95
MSA: JOHNSTOWN, PA	84	84
MSA: LANCASTER, PA	88	88
PMSA: PHILADELPHIA, PA-NJ	163	163
PMSA: PITTSBURGH, PA	80	80
MSA: READING, PA	88	88
MSA: SCRANTON--WILKES-BARRE, PA	84	84
MSA: SHARON, PA	65	65
MSA: STATE COLLEGE, PA	65	65
MSA: WILLIAMSPORT, PA	65	65
MSA: YORK, PA	88	88
EXCEPTION COUNTY: SUSQUEHANNA	70	70
NON METRO STATE: RHODE ISLAND	100	100

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: FALL RIVER, MA-RI	77	77
MSA: NEW LONDON-NORWICH, CT-RI	105	105
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI MA	105	105
PMSA: PROVIDENCE, RI	105	105
NON METRO STATE: SOUTH CAROLINA	56	56
MSA: ANDERSON, SC	56	56
MSA: AUGUSTA, GA-SC	75	77
MSA: CHARLESTON, SC	71	71
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	71	82
MSA: COLUMBIA, SC	63	71
MSA: FLORENCE, SC	56	56
MSA: GREENVILLE-SPARTANBURG, SC	63	63
NON METRO STATE: SOUTH DAKOTA	77	90
MSA: RAPID CITY, SD	77	90
MSA: SIOUX FALLS, SD	108	121
NON METRO STATE: TENNESSEE	56	56
MSA: CHATTANOOGA, TN-GA	69	71
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	71	77
MSA: JACKSON, TN	56	56
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN VA	77	77
MSA: KNOXVILLE, TN	83	83
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: NASHVILLE, TN	83	98
NON METRO STATE: TEXAS	61	75
NON METRO STATE: TEXAS	61	75
MSA: ABILENE, TX	52	59
MSA: AMARILLO, TX	85	101
MSA: AUSTIN, TX	87	103
PMSA: BEAUMONT-PORT ARTHUR, TX	90	103
MSA: BRAZORIA, TX	106	124
MSA: BROWNSVILLE-HARLINGEN, TX	71	83
MSA: BRYAN-COLLEGE STATION, TX	87	98
MSA: CORPUS CHRISTI, TX	75	98
PMSA: DALLAS, TX	77	98
MSA: EL PASO, TX	100	113
PMSA: FORT WORTH-ARLINGTON, TX	77	98

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 083086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: GALVESTON-TEXAS CITY, TX	103	116
PMSA: HOUSTON, TX	110	129
MSA: KILLEEN-TEMPLE, TX	90	98
MSA: LAREDO, TX	63	77
MSA: LONGVIEW-MARSHALL, TX	83	95
MSA: LUBBOCK, TX	95	98
MSA: MC ALLEN-EDINBURG-MISSION, TX	82	98
MSA: MIDLAND, TX	98	103
MSA: ODESSA, TX	98	103
MSA: SAN ANGELO, TX	83	90
MSA: SAN ANTONIO, TX	71	83
MSA: SHERMAN-DENISON, TX	77	90
MSA: TEXARKANA, TX-TEXARKANA, AR	98	110
MSA: TYLER, TX	77	81
MSA: VICTORIA, TX	61	75
MSA: WACO, TX	80	90
MSA: WICHITA FALLS, TX	56	63
EXCEPTION COUNTY: CALLAHAN	51	57
EXCEPTION COUNTY: CLAY	55	61
EXCEPTION COUNTY: HOOD	70	88
EXCEPTION COUNTY: JONES	51	57
EXCEPTION COUNTY: WISE	70	86
NON METRO STATE: UTAH	N/A	N/A
MSA: PROVO-OREM, UT	115	130
MSA: SALT LAKE CITY-OGDEN, UT	130	144
EXCEPTION COUNTY: BEAVER	83	97
EXCEPTION COUNTY: BOX ELDER	83	97
EXCEPTION COUNTY: CACHE	83	97
EXCEPTION COUNTY: CARBON	115	130
EXCEPTION COUNTY: DAGGETT	83	97
EXCEPTION COUNTY: DUCHESNE	83	97
EXCEPTION COUNTY: EMERY	115	130
EXCEPTION COUNTY: GARFIELD	83	97
EXCEPTION COUNTY: GRAND	115	130
EXCEPTION COUNTY: IRON	83	97
EXCEPTION COUNTY: JUAB	83	97
EXCEPTION COUNTY: KANE	83	97
EXCEPTION COUNTY: MILLARD	83	97
EXCEPTION COUNTY: MORGAN	83	97
EXCEPTION COUNTY: PIUTE	83	97
EXCEPTION COUNTY: RICH	83	97
EXCEPTION COUNTY: SAN JUAN	83	97
EXCEPTION COUNTY: SANPETE	83	97
EXCEPTION COUNTY: SEVIER	83	97

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SUMMIT	83	97
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY: UINTAH	115	130
EXCEPTION COUNTY: WASATCH	83	97
EXCEPTION COUNTY: WASHINGTON	83	97
EXCEPTION COUNTY: WAYNE	83	97
NON METRO STATE: VERMONT	94	108
MSA: BURLINGTON, VT	94	108
NON METRO STATE: VIRGINIA	80	80
MSA: CHARLOTTESVILLE, VA	80	80
MSA: DANVILLE, VA	80	80
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN /A	77	77
MSA: LYNCHBURG, VA	71	71
MSA: NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA	112	112
MSA: RICHMOND-PETERSBURG, VA	110	110
MSA: ROANOKE, VA	77	77
MSA: WASHINGTON, DC-MD-VA	143	143
EXCEPTION COUNTY: APPOMATTOX	69	69
EXCEPTION COUNTY: CRAIG	75	75
NON METRO STATE: WASHINGTON	106	123
MSA: BELLINGHAM, WA	106	136
MSA: BREMERTON, WA	106	136
MSA: OLYMPIA, WA	106	136
MSA: RICHLAND-KENNEWICK-PASCO, WA	144	144
PMSA: SEATTLE, WA	137	193
MSA: SPOKANE, WA	115	130
PMSA: TACOMA, WA	122	144
PMSA: VANCOUVER, WA	157	174
MSA: YAKIMA, WA	115	122
NON METRO STATE: WEST VIRGINIA	77	77
MSA: CHARLESTON, WV	83	83
MSA: CUMBERLAND, MD-WV	111	111
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: PARKERSBURG-MARIETTA, WV-OH	77	77
MSA: STEUBENVILLE-WEIRTON, OH-WV	68	68
MSA: WHEELING, WV-OH	71	71
EXCEPTION COUNTY: WIRT	75	75
NON METRO STATE: WISCONSIN	80	86

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 063086

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: APPLETON-OSHKOSH-NEENAH, WI	99	106
MSA: DULUTH, MN-WI	74	83
MSA: EAU CLAIRE, WI	93	100
MSA: GREEN BAY, WI	97	104
MSA: JANESVILLE-BELOIT, WI	97	104
PMSA: KENOSHA, WI	104	110
MSA: LA CROSSE, WI	88	96
MSA: MADISON, WI	146	152
PMSA: MILWAUKEE, WI	113	119
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	141	141
PMSA: RACINE, WI	109	112
MSA: SHEBOYGAN, WI	80	86
MSA: WAUSAU, WI	80	86
NON METRO STATE: WYOMING	N/A	N/A
MSA: CASPER, WY	193	208
MSA: CHEYENNE, WY	115	138
EXCEPTION COUNTY: ALBANY	115	138
EXCEPTION COUNTY: BIG HORN	115	138
EXCEPTION COUNTY: CAMPBELL	193	208
EXCEPTION COUNTY: CARBON	193	208
EXCEPTION COUNTY: CONVERSE	193	208
EXCEPTION COUNTY: CROOK	115	138
EXCEPTION COUNTY: FREMONT	193	208
EXCEPTION COUNTY: GOSHEN	115	138
EXCEPTION COUNTY: HOT SPRINGS	115	138
EXCEPTION COUNTY: JOHNSON	115	138
EXCEPTION COUNTY: LARAMIE	115	138
EXCEPTION COUNTY: LINCOLN	115	138
EXCEPTION COUNTY: PARK	115	138
EXCEPTION COUNTY: PLATTE	115	138
EXCEPTION COUNTY: SHERIDAN	193	208
EXCEPTION COUNTY: SUBLETTE	115	138
EXCEPTION COUNTY: SWEETWATER	193	208
EXCEPTION COUNTY: TETON	115	138
EXCEPTION COUNTY: UINTA	115	138
EXCEPTION COUNTY: WASHAKIE	115	138
EXCEPTION COUNTY: WESTON	115	138

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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Friday
August 29, 1986

Part VI

Environmental Protection Agency

40 CFR Part 52

Source Surveillance of Visible Emissions; Proposed Revisions of Existing Rule

VOL 51 ISS 168 AG 29 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-2963-7]

Source Surveillance of Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revisions of existing rule.

SUMMARY: The EPA proposes to promulgate new visible emission test procedures for evaluating compliance with opacity standards when a State implementation plan (SIP) does not contain an appropriate test method or when the Administrator promulgates a plan for a State. Section 52.12(c) requires EPA to use appropriate procedures and test methods in 40 CFR 60 for enforcement of SIP requirements if the SIP does not specify a method. The test method in Part 60 for visible emission observations is Method 9 of Appendix A. This action proposes to incorporate a new Method, F-1, for reading visible emissions, for use in place of Method 9 under appropriate circumstances, into a new Appendix F of Part 52. The new Method, F-1, provides EPA with an expanded array of data reduction procedures for various types of SIP opacity limitations. These procedures constitute the main difference between Methods 9 and F-1. This action is necessary because the current data reduction procedures of Method 9 may not adequately relate to SIP opacity regulations which specify no averaging time, or have certain data aggregation provisions that are not consistent with the data averaging procedures specified in Method 9. This action will provide EPA with visible emission test procedures that would be available for use with most SIP opacity regulations. Additionally the notice clarifies EPA's intention that evidence of violation not be solely limited to test results, but the fact that violations have occurred may be proven by evidence admissible under Federal Rules of Evidence. The EPA proposes to add a statement in § 52.23 regarding this intent. No revisions to any SIP are required by this action.

DATES: Comments must be submitted on or before October 28, 1986.

ADDRESSES: Send comments to: Central Docket Section (LE-131), EPA, Attention: Docket No. A-84-22, 401 M Street, SW., Washington, DC 20460. Docket No. A-84-22, containing material relevant to this rulemaking, is located in EPA's Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, Washington, DC 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ted Creekmore or Joseph Sableski, Standards Implementation Branch, MD-15, EPA, Research Triangle Park, North Carolina, 27711, telephone: (commercial) 919-541-5697 or (FTS) 629-5697.

SUPPLEMENTARY INFORMATION:

Introduction

The Clean Air Act (Act) includes requirements that EPA establish national ambient air quality standards for various pollutants which may reasonably be anticipated to endanger public health and welfare. The Act requires States to develop SIP's which include rules to control emissions of air pollutants. Many SIP's include regulations limiting emissions from sources by limiting visible emissions.

The SIP's include a variety of such limits. The limits are generally written to specify a maximum opacity a source is allowed to emit, as determined by a trained observer. Some provisions limit opacity for a specified number of minutes in an hour (time exception), others limit it for levels as averaged over a specified number of minutes (time averaged), and others specify limits that are never to be exceeded (instantaneous limitation). Many SIP's do not prescribe the test methods to be used to determine compliance with opacity provisions. When EPA desires to enforce these regulations, 40 CFR 52.12(c) specifies that EPA will do so using appropriate test methods in 40 CFR 60, *Standards of Performance for New Stationary Sources.* The only general visible emission observation test procedure in 40 CFR 60 is Method 9 of Appendix A.

Method 9 contains procedures for the training and certification of observers, field procedures for the determination of plume opacity, and a data reduction procedure. It provides a time-averaged data reduction technique whereby opacity levels are determined by averaging 24 consecutive opacity observations, each taken at 15-second intervals, to arrive at an average opacity for a 6-minute period.

The EPA revised Method 9 on November 12, 1974 (39 FR 39872). The preamble to that revision recognized that the data reduction techniques in Method 9 were not appropriate for some types of SIP opacity regulations. The preamble also stated EPA's intent to propose procedures to enforce SIP limitations not adequately addressed under Method 9. Such regulations include those with time-exception provisions, as well as those that specify averaging times of other than 6 minutes. Also, Method 9 did not address data reduction procedures for instantaneous limitations (sometimes called caps) on visible emissions which are included in some SIP's.

The EPA proposes to promulgate explicit test procedures to determine compliance with SIP opacity limitations in a new Method, F-1, of a new Appendix F to Part 52. The new Method, F-1, provides EPA with an expanded array of visible emission data reduction procedures for various types of SIP opacity limitations. It will replace Method 9 for EPA enforcement of SIP opacity limitations. Method F-1 contains field and observer certification procedures that are identical to those of Method 9. The only difference between Method 9 and the new Method, F-1, are the data reduction procedures. These new data reduction procedures are appropriate for determining compliance with SIP regulations that contain time-exception, time-averaged (2 minutes or greater), and instantaneous limitations. The proposed data reduction procedures are based on a number of data sets. The test data and other background information are included in the docket. The proposed data reduction procedures are discussed in the following paragraphs.

Data Reduction Procedures for Time-Exception Opacity Regulations

This procedure applies to SIP regulations that allow a certain level of visible emissions to be exceeded for a specified period of time. Such regulations are often referred to as time-exception regulations. A typical time-exception regulation might provide that a source cannot exceed 20 percent opacity except for 5 minutes in any 1 hour. The 6-minute averaging technique used in Method 9 may result in underenforcement of this type of regulation. Underenforcement may occur because some sources exhibit short-term peak level opacity intermixed with periods of no visible emissions at all. Thus, the opacity readings in excess of the standard can be effectively offset in the averaging of 24 consecutive readings by the periods of very low readings, resulting in an overall opacity value which is in compliance with the SIP regulation.

Section 2.5.1 of Method F-1, "Time-Exception Regulations," provides for effective enforcement of time-exception provisions. It requires that readings above the allowable level be added

together or "aggregated" to determine compliance with the exception period of the regulation. This is done without regard to any "averaging period," taken during the appropriate observation period, usually up to an hour.

Data Reduction for Time-Averaged Opacity Regulations

This data reduction procedure is very similar to that of Method 9 except that it applies to SIP regulations which specify averaging times different from Method 9. The use of a 6-minute average when the SIP specifies a shorter averaging time may result in underenforcement of SIP regulations in comparison with other, shorter averaging periods. Such underenforcement may occur because State regulations that specify averaging times of less than 6 minutes are better able to control sources with frequent opacity fluctuations. The less-than-6-minute averge is a more sensitive indicator of short-term visible emission excursions above the standard which may not be properly reflected when averaged over the full 6-minute period as specified in Method 9.

Under section 2.5.2 of Method F-1, "Time-Averaged Regulations," individual 15-second readings are averaged over the time period specified by the SIP or federally-promulgated regulation.

Where a SIP specifies an averaging time of 6 minutes, the 6-minute averaging procedure of Method F-1 will be used to determine compliance with the standard. Section 2.5.2 also includes the flexibility to reduce and report opacity observations averaged over periods of 6 minutes, or greater if such an averaging period is specified by the applicable SIP.

Data Reduction Procedures for Instantaneous Opacity Regulations

The EPA will use this procedure to enforce SIP visible emission limitations that are intended by the State or Federal government as never-to-be-exceeded opacity limitations. The proposed section 2.5.3, "Instantaneous Limitation Regulations," specified the use of a 2-minute averaging time for determining compliance with the "never-to-be-exceeded" or "cap" limitation. The 2-minute averaging time is used because it is consistent with acceptable accuracy levels for opacity observations.

Many State regulations include two-tiered opacity standards. An example of a two-tiered limitation is ". . . visible emissions may not exceed 20 percent opacity, except for 3 minutes in any 1 hour, and may not exceed 40 percent opacity." The first level, 20 percent opacity, would be treated as a time-exception regulation, and the second level, 40 percent opacity, as an instantaneous limitation under section 2.5.3.

In other situations, a single opacity limitation has been adopted as an instantaneous limitation for certain sources under the SIP regulations. For either the single or two-tiered case, this data reduction procedure would apply if it was clearly the intent of the regulation that the opacity limitation was never to be exceeded.

Procedures to Implement 40 CFR 52.12(c)

To test for compliance, EPA will select the visible emission test method and data reduction procedure in Part 52 which best ensures that the SIP visible emission standard is being enforced in a manner that is as consistent as possible with the language originally contained in the rule incorporated in the federally-approved or promulgated SIP. Absent an indication of State intent to the contrary, EPA will assume that a State intended a 6-minute averaging time be associated with SIP opacity regulations which contain no specific reference to time-exception, time-averaging, or instantaneous limitations.

Accuracy of Methods

The accuracy of visible emission observations is chiefly dependent upon the training of the obervers and the field procedures utilized by the observer for assigning opacity values. The training, certification, and field procedures in this proposed test method, F-1, are taken from Reference Method 9, 40 CFR Part 60, Appendix A. These Method 9 procedures were sustained by the Court of Appeals for the D.C. Circuit in *Portland Cement v. Train* 513 F.2d 506 (D.C. Cir. 1975).

The EPA reviewed the training and certification procedures and the field procedures of the current Method 9 during the development of these new test procedures. The EPA concluded that these procedures remain the best available means of assuring the accuracy of visible emission observations. The field procedures reduce to the extent possible the potential influence of variables that might otherwise affect the ability of the observer to accurately assign opacity values.

The docket, A-84-22, contains reports on field studies and other data which EPA has used to support the accuracy of these test procedures. This information indicates that in visible emission observations both positive and negative error may occur.

A positive error occurs when an observer assigns an opacity value greater than the actual plume opacity. A negative error occurs when an observer assigns an opacity value lower than the actual plume opacity.

To evalute potential errors, both positive and negative, a series of field experiments were condacted under controlled field conditions using light and dark visible plumes generated using a smoke generator, equipped with a transmissometer meeting the specifications of Method 9. During these evaluation tests, panels of qualified observers (certified by Method 9 procedures) read the generated plumes in 5 percent opacity increments and at 15-second intervals. The data were reduced for time-averaged regulations by averaging for varying lengths of time, and for time-exception regulations by aggregating the data over the time period of each reading. Data from earlier field trials also were evaluated. Observer measurements were then compared to the reference values measured by the transmissometer in the stack of the smoke generator.

Docket A-84-22 contains a detailed discussion of error in opacity readings. From the data in the docket, EPA has determined the error probabilities for these test procedures as used for determining compliance with opacity standards. These studies demonstrate conclusively that opacity readings taken in accordance with the test procedures prescribed in this proposal reflect an overall negative bias; i.e., the observers are more likely to assign opacity values that are below, rather than above the actual opacity value. The field studies conducted by EPA demonstrate that there is about a 60-70 percent probability of no positive error for opacity readings taken under the time-averaged and time-exception test procedures, respectively.

Tables 1-5 in the introduction to the proposed regulations indicate the probability of the existence of various levels of maximum potential positive error for time-averaged procedures, and were derived by comparing observed opacity with the measured opacity. The tables present data for 2- to 6-minute averaging times.

Table 6 in the introduction to the proposed regulation indicates the range of observer errors which occurred in determining the duration of visible emissions using time-exception test procedures and was derived by comparing time calculated from the observer's readings with the measured value. A combination of opacity error and time error was determined to be the

VOL 51 ISS 168 AG 29 1986 UMI

most practical way of explaining accuracy for this method.

Method F-1 in Appendix F of Part 52 will be used by EPA to assess compliance with SIP opacity regulations where a SIP does not contain an applicable opacity test method or where the Administrator promulgates a SIP opacity regulation. When EPA seeks to enforce compliance with SIP opacity regulations, test results which exceed the applicable standard will be used as evidence of a violation in Federal judicial action and in EPA administrative actions.

All reference method test results will be considered by EPA as competent evidence of compliance or violation. The method error analysis will be considered by EPA along with other relevant factors in determining whether the test results establish compliance with, or a violation of, an opacity standard.

Application of Method F-1 to Fugitive Dust

The EPA believes that visible emission surveillance based on Method F-1 is appropriate for determining compliance of fugitive process dust sources with State emission regulations. For many years Method 9 has been used to measure the opacity of these sources in new source performance standards (NSPS). The EPA also believes that Method F-1 can be applied to fugitive dust emissions from nonprocess sources such as roads and parking lots. The EPA is currently developing a more complete record to support application of this method to nonprocess fugitives. The EPA is also considering the addition of clarifying language to Method F-1 that will assure its applicability to State regulations governing nonprocess fugitive sources. For example, certain existing State regulations for limiting visible emissions from roads and lots specify the conditions and points in the plume under which observation will be made. The regulations address such conditions as intermixing of plumes and unusual conditions (such as a broken cement bag on the pavement). The regulations also address points in the plume such as how high above the surface the readers should make observations.

If at the close of this rulemaking EPA decides, as it now proposes, to use Method F-1 for nonprocess fugitives, EPA will consider changing the terms governing observation techniques in the test method itself to account for physical differences between testing process and nonprocess fugitive sources. The EPA solicits comments on whether these kinds of adjustments to Method F-1 would be necessary or appropriate.

The Federal Rules of Evidence

This action proposes to revise 40 CFR 52.23, "Violation and Enforcement," to clarify that the promulgation of test methods in Parts 52 and 60 are not intended to limit the use of evidence that would otherwise be admissible under the Federal Rules of Evidence. The Federal Rules of Evidence govern proceedings in the courts of the United States and before United States magistrates to the extent and with the exceptions stated in Rule 1101 (Fed. R. Evid. 101). Section 113(b)(5) of the Act provides that ". . . [a]ny action under this subsection may be brought in the district court in which the defendant resides or has his principal place of business . . ." [42 U.S.C. 7413(b)(5)]. All civil enforcement actions brought by EPA under the Act are thus subject to the Federal Rules of Evidence. Under the Federal Rules of Evidence all relevant evidence is admissible, subject to limited exceptions (Fed. R. Evid. 402 advisory committee note). The court has the ultimate authority to decide any issue involving the admissibility of evidence.

The EPA never intended the promulgation of test methods to limit the admissibility of other forms of evidence. Thus, expert testimony may be used, for example, by the government to prove violations or to present evidence of the extent to which pollution control technology is applied. Admissions may be used as evidence of violation and of actions or positions which have been taken by the source. The issue of whether expert testimony or admissions by party opponents or any other evidence is admissible is to be decided by the court. Thus, we are proposing language to the Code of Federal Regulations that retains judicial flexibility to consider admitting competent evidence such as expert testimony and admissions by party opponents.

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This proposed regulation is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no regulatory impact analysis is being conducted. This regulation was submitted to the Office of Management and Budget (OMB) for review under E.O. 12291.

This action does not require any revision to existing SIP's or changes to any SIP regulations. Its purpose is to give EPA an appropriate test method to enforce SIP opacity regulations where there are no test methods in the applicable SIP. The proposal will help EPA to enforce opacity regulations using the techniques originally intended by the States in their SIP regulations.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C., section 601 et seq., whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have no adverse economic impact on small entities. Its only purpose is to assure EPA has an appropriate test method to enforce SIP opacity regulations. No new SIP regulations are being proposed. Since this amendment does not significantly change the status quo for such entities, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

Paperwork Reduction Act

This rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C., 3501 et seq.

List of Subjects in 40 CFR Part 52

Air pollution control, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

Dated: August 22, 1986.

Lee M. Thomas,

Administrator.

The EPA proposes to amend Title 40, Chapter I, Part 52 of the Code of Federal Regulations as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: Section 110 of the Clean Air Act as amended, 42 U.S.C. 7410.

2. Section 52.12 is amended by revising paragraphs (c) introductory text and (c)(1) to read as follows:

§ 52.12 Source surveillance.

* * * * *

(c) For purposes of Federal enforcement, the following test procedures shall be used:

(1) Sources subject to plan provisions that do not specify test procedures and to provisions promulgated by the Administrator will be tested by means of the appropriate procedures and methods prescribed in Part 60 or in Part 52. In deciding which methods to follow, the Administrator will use the method or methods which are most consistent with the applicable provisions of the plan.

* * * * *

3. Section 52.23 is amended by revising paragraph (b) to read as follows:

§ 52.23 Violation and enforcement.

* * * * *

(b) The promulgation of test methods under Parts 52 and 60 is not intended as a limitation on the use of evidence that would be otherwise admissible under the Federal Rules of Evidence.

* * * * *

4. A new Appendix F is added to Part 52 as follows:

Appendix F—Reference Methods For EPA Plan Enforcement

The test methods in this Appendix are referred to in § 52.12 (Source Surveillance) of 40 CFR Part 52, Subpart A (General Provisions). These methods, where applicable, are used to determine compliance with SIP regulations when the SIP fails to specify a test method or when EPA promulgates SIP regulations.

Method F–1—Visual Determination of Opacity of Emissions From Stationary Sources

The EPA has evaluated field studies and other information to determine the accuracy of the test procedure. This information indicates that both positive and negative error may occur while reading plumes under contrasting conditions and using the test procedures of Method F–1.

To evaluate potential positive error, a series of field experiments were conducted under controlled field conditions using light and dark visible plumes generated using a smoke generator and with a transmissometer meeting the specifications of Method 9. During these evaluation tests, panels of qualified observers (certified by Method 9 procedures) read the generated plumes in 5 percent opacity increments and at 15-second intervals. The data were reduced for time-averaged regulations by averaging over varying lengths of time, and for time-exception provisions by aggregating the readings above a given opacity within the time period. Data from the earlier field trials conducted in developing Method 9 also were evaluated. Observer measurements were then compared to the reference values measured by the smoke generator transmissometer. These data are included in the docket. Tables 1–5 indicate the probability of various levels of maximum potential positive error for time-averaged test procedures, over averaging periods of 2 to 6 minutes. For any averaging times over 6 minutes, the positive error for the 6-minute averaging period may be used.

Range of Positive Error For Various Averaging Times Used in Time-Averaged Regulations—Tables 1–5

Table 1. Averaging 8 Observations (2 minutes).

95 percent of the data sets were read with a positive error of 12.5 percent opacity or less
90 percent of the data sets were read with a positive error of 9.5 percent opacity or less
85 percent of the data sets were read with a positive error of 7.5 percent opacity or less
80 percent of the data sets were read with a positive error of 6 percent opacity or less
70 percent of the data sets were read with a positive error of 3 percent opacity or less
60 percent of the data sets were read with a positive error of less than 1 percent opacity

Table 2. Averaging 12 Observations (3 minutes).

95 percent of the data sets were read with a positive error of 12 percent opacity or less
90 percent of the data sets were read with a positive error of 9 percent opacity or less
85 percent of the data sets were read with a positive error of 7 percent opacity or less
80 percent of the data sets were read with a positive error of 5.5 percent opacity or less
70 percent of the data sets were read with a positive error of 3 percent opacity or less
60 percent of the data sets were read with a positive error of less than 1 percent opacity

Table 3. Averaging 16 Observations (4 minutes).

95 percent of the data sets were read with a positive error of 12 percent opacity or less
90 percent of the data sets were read with a positive error of 9 percent opacity or less
85 percent of the data sets were read with a positive error of 7 percent opacity or less
80 percent of the data sets were read with a positive error of 5.5 percent opacity or less
70 percent of the data sets were read with a positive error of 3 percent opacity or less
60 percent of the data sets were read with a positive error of less than 1 percent opacity

Table 4. Averaging 20 Observations (5 minutes).

95 percent of the data sets were read with a positive error of 11.5 percent opacity or less
90 percent of the data sets were read with a positive error of 9 percent opacity or less
85 percent of the data sets were read with a positive error of 6.5 percent opacity or less
80 percent of the data sets were read with a positive error of 5 percent opacity or less
70 percent of the data sets were read with a positive error of 2.5 percent opacity or less
60 percent of the data sets were read with a positive error of less than 1 percent opacity

Table 5. Averaging 25 Observations (6 minutes).

95 percent of the data sets were read with a positive error of 10 percent opacity or less
90 percent of the data sets were read with a positive error of 7.5 percent opacity or less
85 percent of the data sets were read with a positive error of 5.5 percent opacity or less
80 percent of the data sets were read with a positive error of 4 percent opacity or less
70 percent of the data sets were read with a positive error of 2 percent opacity or less
60 percent of the data sets were read with a positive error of less than 1 percent opacity

Table 6 indicates a range of observer errors in determining duration of visible emissions for time-exception test procedures and was derived by comparing observed opacity with actual opacity. The table expresses accuracy in terms of opacity error and time error because it was determined to be the most practical way of explaining accuracy for this method. Opacity error refers to the error allowance or "buffer" allowed to obtain a given level of accuracy. Time error refers to the number of 15-second observations that must be discounted to obtain a given level of accuracy.

Table 6. Range of Observer Errors for Time-Exception Observations.

92 percent of the data sets showed no positive error when 5 percent opacity was subtracted from each observation and one observation above the opacity limit was discarded for each set of 24 observations.
87 percent of the data sets showed no positive error when 5 percent opacity was subtracted from each observation.
81 percent of the data sets showed no positive error when one observation above the opacity limit was discarded for each set of 24 observations.
70 percent of the data sets showed no positive error.

1. Principle and Applicability

1.1 Principle

The opacity of emissions from sources of visible emissions is determined visually by a qualified observer.

1.2 Applicability

This method is applicable for the determination of the opacity of emissions from sources of visible emissions for (1) time-exception regulations, (2) time-averaged regulations, and (3) instantaneous limitations.

1.3 Definitions

"Time-exception regulation" means any regulation which allows predefined periods of opacity above the otherwise applicable opacity limit.

"Time-averaged regulation" means any regulation which utilizes averaging to determine the opacity of visible emissions over a specific time period.

"Instantaneous limitation regulation" means an opacity limit which is never to be exceeded.

2. Procedures

The observer qualified in accordance with section 3 of this method shall use the following procedures for visually determining the capacity of emissions.

2.1 Position

The qualified observer shall stand at a distance sufficient to provide a clear view of the emissions with the sun oriented in the 140-degree sector to his back. Consistent with maintaining the above requirement, the observer shall, as much as possible, make his observations from a position such that his line of vision is approximately perpendicular to the plume direction and, when observing opacity of emissions from rectangular outlets (e.g. roof monitors, open baghouses, noncircular stacks), approximately perpendicular to the longer axis of the outlet. The observer's line of sight should not include more than one plume at a time when multiple stacks are involved and, in any case, the observer should make his observations with his line of sight perpendicular to the longer axis of such a set of multiple stacks (e.g., stub stacks on baghouses).

2.2 Field Records

The observer shall record the name of the plant, emission location, type of facility, observer's name and affiliation, and the date on a field data sheet. The time, estimated distance to the emission location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and plume background are recorded on a field data sheet at the time opacity readings are initiated and completed.

2.3 Observations

Opacity observations shall be made at the point of greatest opacity in that portion of the plume where condensed water vapor is not present.

The observer shall not look continuously at the plume, but instead shall observe the plume momentarily at 15-second intervals.

2.3.1 Attached Steam Plumes

When condensed water vapor is present within the plume as it emerges from the emission outlet, opacity observations shall be made beyond the point in the plume at which condensed water vapor is not longer visible. The observer shall record the approximate distance from the emission outlet to the point in the plume at which the observations are made.

2.3.2 Detached Steam Plume

When water vapor in the Plume condenses and becomes visible at a distinct distance from the emission outlet, the opacity of emissions should be evaluated at the emission outlet prior to the condensation of water vapor and the formation of the steam plume.

2.4 Recording Observations

Opacity observations shall be recorded to the nearest 5 percent at 15-second intervals on an observational record sheet. Each momentary observation recorded shall be deemed to represent the average of emissions for a 15-second period.

2.5 Data Reduction

2.5.1 Time-Exception Regulations

For a time-exception regulation, reduce opacity observations as follows: count the number of observations above the applicable standard, and multiply that number by 0.25 to determine the minutes of emissions above the standard.

2.5.2. Time-Averaged Regulations

For a time-averaged regulation that provides for averaging over a period of 2 or more minutes, opacity observations shall be reduced to an average of eight, or more (as appropriate), consecutive observations recorded at 15-second intervals depending on the averaging time specified by the regulation in the State implementation plan. Divide the observations recorded on the record sheet into sets of eight, or more (as appropriate), for the specified averaging time. A set is composed of any eight or more consecutive observations. Sets need not be consecutive in time and in no case shall two sets overlap. For each set of observations, calculate the appropriate average by summing the opacity of the observations and dividing this sum by the number of observations in the set.

2.5.3. Instantaneous Limitation Regulation

For aninstantaneous limitation, a 2-minute averaging time will be used. Opacity observations shall be reduced by averaging eight consecutive observations recorded at 15-second intervals. Divide the observations recorded on the record sheet into sets of eight consecutive observations. A set is composed of any eight consecutive observations. Sets need not be consecutive in time. In no case shall two sets overlap. For each set of eight observations, calculate the average by summing the opacity of the eight observations and dividing this sum by eight.

3. Qualifications and Testing

3.1 Certification Requirements

To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in 5 percent increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15 percent opacity on any one reading and an average error not to exceed 7.5 percent opacity in each category. Candidates shall be tested according to the procedures described in paragraph 3.2. Smoke generators used pursuant to paragraph 3.2 shall be equipped with a smoke meter which meets the requirements of paragraph 3.3.

The certification shall be valid for a period of 6 months, at which time the qualification procedure must be repeated by any observer in order to retain certification.

3.2 Certification Procedure

The certification test consists of showing the candidate a complete run of 50 plumes—25 black plumes and 25 white plumes—generated by a smoke generator. Plumes within each set of 25 black and 25 white runs shall be presented in random order. The candidate assigns an opacity value to each plume and records his observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator during which candidates are shown black and white plumes of known opacity.

3.3. Smoke Generator Specifications

Any smoke generator used for the purpose of paragraph 3.2 shall be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity based upon a path length equal to the stack exit diameter on a full 0 to 100 percent chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 7. The smoke meter shall be calibrated as prescribed in paragraph 3.3.1 prior to the conduct of each smoke reading tests. At the completion of each test, the zero and span drift shall be checked and if the drift exceeds ±1 percent opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated at the time of installation to meet the specifications listed in Table 7. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry including the chart recorder or output meter, or every 6 months, whichever occurs first.

TABLE 7.—SMOKE METER DESIGN AND PERFORMANCE SPECIFICATIONS

Parameter	Specification
a. Light source	Incandescent lamp operated at nominal rated voltage.
b. Spectral response of photocell	Photopic (daylight spectral response of the human eye—reference 4.1).
c. Angle of view	15 degrees maximum total angle.
d. Angle of projection	15 degrees maximum total angle.
e. Calibration error	± 3 percent opacity, maximum.
f. Zero and span drift	± 1 percent opacity, 30 minutes.
g. Response time	≤ 5 seconds.

3.3.1 Calibration

The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternately producing simulated opacity of 0 percent and 100 percent. When stable response at 0 percent or 100 percent is noted, the smoke meter is adjusted to produce an output of 0 percent or 100 percent as

appropriate. This calibration shall be repeated until stable 0 percent and 100 percent readings are produced without adjustment. Simulated 0 percent and 100 percent opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

3.3.2 Smoke Meter Evaluation

The smoke meter design and performance are to be evaluated as follows:

3.3.2.1 *Light Source.* Verify from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within ±5 percent of the nominal rated voltage.

3.3.2.2 *Spectral Response of Photocell.* Verify from manufacturer's data that the photocell has a photopic response; i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 7.

3.3.2.3 *Angle of View.* Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15 degrees. The total angle of view may be calculated from: $0=2\tan^{-1} d/2L$, where 0 = total angle of projection; d = the sum of the length of the lamp filament + the diameter of the limiting aperture; and L = distance from the lamp to the limiting aperature. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters this is normally an orifice plate.

3.3.2.4 *Angle of projection.* Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15 degrees. The total angle of projection may be calculated from: $0 = 2\tan^{-1} d/2L$, where 0 = total angle of projection; d = the sum of the length of the lamp filament + the diameter of the limiting aperature; and L = the distance from the lamp to the limiting aperature.

3.3.2.5 *Calibration Error.* Using neutral-density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter according to 3.3.1. and then inserting a series of three neutral-density filters of nominal opacity of 20, 50, and 75 percent in the smoke meter path length. Filters calibrated within ±2 percent shall be used. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum error on any one reading shall be 3 percent opacity.

3.3.2.6 *Zero and Span Drift.* Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

3.3.2.7 *Response Time.* Determine the response time by producing the series of five simulated 0 percent and 100 percent opacity values and observing the time required to reach stable response. Opacity values of 0 percent and 100 percent may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

4. References

4.1 Federal Register, Volume 39, No. 219, November 12, 1974. Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources (Appendix A).

4.2 Technical Assistance Document: Quality Assurance Guideline for Visible Emission Training Programs, Office of Air, Noise, and Radiation, EPA–600/S4–83–011, May 1982.

4.3 Quality Assurance Handbook for Air Pollution Measurement Systems: Volume III, Stationary Source Specific Methods, Section 3.12, Method 9, Visible Determination of the Opacity of Emissions from Stationary Sources, Environmental Monitoring Systems Laboratory, EPA–600/4–77–027(b), February 1984.

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Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations, Indian Territory, and Ceded Lands

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168
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29
1986
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations, Indian Territory, and Ceded Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special migratory bird hunting regulations to be established for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands in the 1986–87 hunting season. This season begins as early as September 1.

EFFECTIVE DATE: This rule takes effect on September 1, 1986.

ADDRESSES: Comments received on the proposed special hunting regulations and tribal proposals are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. Communications regarding the documents should be addressed to Director (FWS/MBMO), Room 536, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrow, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C 703 et seq.), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the July 30, 1986, **Federal Register** (51 FR 27376–27382), the U.S. Fish and Wildlife Service (hereinafter the Service) proposed special migratory bird hunting regulations for the 1986–87 hunting season for certain Indian tribes, under the interim guidelines published for this purpose on September 3, 1985, (at 50 FR 35767–35765). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their full wildlife management authority to regulate all hunting by both tribal and nontribal members on their reservations The guidelines include possibilities for: (1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the closed season requirement mandated by the 1916 Migratory Bird Treaty with Canada. Tribes that desired special hunting regulations in the 1986–87 hunting season were requested in the December 5, 1985, **Federal Register** (at 50 FR 49870–49871) to submit a proposal that included details on: (1) requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located.

The National Congress of American Indians (NCAI) raised a number of concerns in an August 14, 1986, letter regarding the July 30, 1986, proposed rules. For the most part, the NCAI comments address the guidelines that the Service employs in establishing special migratory bird hunting regulations for Indian tribes. The NCAI comments and the Service's response follow:

Comment 1. The NCAI questioned Service authority to regulate migratory bird hunting by tribal members within their reservations and in off-reservation areas where they have treaty hunting rights, and harvest is regulated by the tribal government.

Response. The Service holds that the 1916 Migratory Bird Treaty with Canada applies to Indians. However, as pointed out in the July 30, 1986, **Federal Register**, the Service recognizes that sustenance hunting of waterfowl and other migratory game birds outside of usual Federal frameworks has been traditional by tribal members on some Federal Indian reservations. This harvest is small in comparison with the off-reservation sport harvest in the surrounding State(s), and the Service does not oppose it, provided hunting does not occur during the closed season mandated by the Canadian treaty and the harvest is not excessive. The Service will continue use of the guidelines to reach agreement with interested tribes for on-reservation hunting regulations for tribal members. The Service believes, however, that Federal regulations for off-reservation hunting seasons on ceded lands should be reached through consultation with the affected State(s), as well as tribes. The Service's aim is to accommodate the reserved hunting rights of tribes in a manner that does not cause adverse impacts on the migratory bird resource.

Comment 2. While not endorsing the guidelines and proposed rules, the NCAI concluded that they offer positive steps toward helping Indian governments exercise their management authority over wildlife resources. For example, the NCAI pointed out that the lack of tribal criminal jurisdiction over non-Indians is a serious obstacle to enforcement of tribal regulations, and the possibility of Federal prosecution of non-Indians for violations of tribal regulations would improve this situation. Similarly, Service recognition of Indian hunting rights within their reservation and in off-reservations areas may be beneficial in helping non-Indians understand the nature of these rights.

Response. The Service notes that all migratory bird hunting by nontribal members is subject to Federal enforcement. Tribes needing enforcement assistance should contact the appropriate Service Regional Office. Insofar as tribal hunting rights for migratory birds are concerned, the Service reiterates that it is appropriate to accommodate tribes to the extent that this accommodation is compatible with migratory bird conservation. The Service also believes it is appropriate to aid tribes in their wildlife management programs directed at non-Indians. However, such programs have the potential of having much greater impacts on migratory game birds than does hunting by tribal members. Consequently, requests for special regulations for nontribal members, under the guidelines established for this purpose, will be closely scrutinized to ensure that migratory bird populations are not affected adversely.

Comment 3. The NCAI had concerns regarding the Service's position in regard to the "full wildlife management authority" of Indian tribes. According to the NCAI, full wildlife management authority is an inherent aspect of tribal sovereignty which exists unless limited for a specific tribe by treaty, Act of Congress, tribal constitution, or a Federal court decision, and it is not something that a tribe gains through a court decision or by some other means. The NCAI believes that the approach now being taken by the Service could encourage some tribes to pursue litigation, and recommended that the Service presume that a tribe has full wildlife management authority.

Response. Full wildlife management authority, as used by the Service, applies to reservations on which it is recognized that tribes have jurisdiction over hunting by both tribal and nontribal members on all reservation lands, as the result of a Federal court decision, by the consent of the States in which the reservations are located, or by some other authority. Two examples are the Colorado River and the Navajo Indian Reservations. The Service notes that virtually all lands on these and other Federal Indian Reservations in the Southwestern United States are tribally owned or trust lands. Indian tribes usually can exercise jurisdiction on such lands anyway. However, the question of jurisdiction is more complex on reservations that include lands owned by non-Indians. A recent Federal court decision has held that States generally have jurisdiction over hunting by nontribal members on non-Indian lands within reservations. This poses a practical limitation on tribal wildlife management authority on Federal Indian reservations that have a checkerboard pattern of Indian and non-Indian land ownership. Generally, the Service does not believe it would be an appropriate conservation measure to establish migratory bird hunting regulations that would permit nontribal members to hunt on different season dates on Indian and non-Indian lands on such reservations. Instead, tribal and State officials should, to the maximum extent possible, reach mutual agreement on reservation-wide hunting regulations on such reservations. On reservations where only a small fraction of the total amount of land is owned by non-Indians, the Service may consult with tribal and State officials for the purpose of reaching mutual agreement on reservation-wide hunting regulations. As an alternative, the Service, in consultation with an Indian tribe and the affected State, may establish a special zone that will include both a reservation and off-reservation non-Indian lands. This approach recently was used to resolve jurisdictional and boundary questions on the Fort Hall Indian Reservation in Southeastern Idaho. Any such zones must have uniform season dates and other hunting regulations, and harvest of waterfowl and other migratory game birds should not be significantly larger than would have occurred in the absence of the zone.

Comment 4. The NCAI noted that "Indian Territory" is a term that does not have a commonly accepted meaning and that the service should clarify its meaning when used in the guidelines and rules.

Response. The use of the term by the Service was made at the request of the Penobscot Indian Nation and is intended to apply to the Penobscot and Passamaquoddy reservations and other tribal lands acquired as the result of the 1980 Maine Indian Claims Settlement. The Service agrees that use of the term may be confusing to most readers. In the future, it will be used only in reference to the tribes affected by the claims settlement.

As a result of recent consultations with tribal and State officials, the 1986–87 waterfowl regulations for the Fort Hall Indian Reservation also will include surrounding off-reservation areas. This special zone is generally described in the August 15, 1986, **Federal Register** (at 51 FR 29289). The hunting season dates for ducks, coots, common moorhens, and common snipe likely will be different in this zone than elsewhere in Idaho. Since this special zone includes off-reservation areas, the final waterfowl hunting regulations will be published prior to the 1986–87 waterfowl hunting season in a later **Federal Register.**

The White Mountain Apache Tribe did not respond to the request for additional information or to the Service's proposed regulations for the Fort Apache Indian Reservation, published on July 30, 1986 (at 51 FR 27379).

Therefore, the Service has withdrawn these proposed hunting regulations, and presumes that any migratory bird hunting seasons for nontribal members on the reservation will be, as in past years, under the same regulations as established by the State of Arizona. The Service further presumes that migratory bird hunting regulations for nontribal members on all Indian reservations not mentioned in this document also will be the same as established by the State(s) in which each reservation is located.

In this final rule, the Service corrects shooting hours and adds geese to subsistence hunting regulations for the Penobscot Indian Nation. Geese were inadvertently omitted in the earlier proposed rule. Harvest of geese by tribal members under subsistence hunting regulations is expected to be too small to have any significant impact.

Nontoxic Shot Regulations

In the January 6, 1986, **Federal Register** (51 FR 409), the Service published a proposed rule describing area in which lead shot would be prohibited for waterfowl and coot hunting in the 1986–87 hunting season. Appendix O of the recently published Final Supplemental Environmental Impact Statement on the Use of Lead shot for Hunting Migratory Birds in the United States contains a preliminary final rule addressing the 1986–87 nontoxic shot zones. The final rule describing areas where nontoxic shot is required will become effective September 1, 1986.

Waterfowl hunters are advised to become familiar with tribal regulations regarding the use of nontoxic shot for waterfowl and coot hunting. Attention is also directed to the January 6, 1986, **Federal Register** (51 FR 409) which gave notice that if nontoxic shot zones are not approved when current service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to waterfowl and coot hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, an August 1985, environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall]" insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or

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threatened species or result in the destruction or adverse modification of [critical] habitat. . . ."

Consequently, the Service initiated section 7 consultation under the Endangered Species Act for the proposed hunting season on Federal Indian Reservations, Indian Territory, and ceded lands.

On August 6, 1986, the Office of Endangered Species notified the Office of Migratory Bird Management of its concurrence with the finding that the proposed action will not affect any listed species or any critical habitat.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 21, 1986 (at 51 FR 9859), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated July 25, 1986, (at 51 FR 26714).

Authorship

The primary author of this final rule is Fant W. Martin, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on July 30, 1986, the Service established the longest period possible for public comment. In doing this the Service recognized that time would be of the essence. The comment periods provided the maximum amount of time possible while ensuring that a final rule was published before the beginning of the hunting season on September 1, 1986.

Therefore, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.) the Service prescribes final hunting regulations for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds other than waterfowl. However, final Federal frameworks for waterfowl hunting seasons (opening and closing framework dates, daily bag and possession limits, etc.) are planned for publication on September 9, 1986. Because it was necessary to publish this document by September 1, 1986, most waterfowl regulations for the tribes listed here are shown as "within final Federal frameworks to be established."

The Service finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule will, therefore, take effect on September 1, 1986.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

PART 20—[AMENDED]

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K, is amended as set forth below.

1. The authority citation for Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–708h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–04.

Note.—The following annual hunting regulations provided for by § 20.110 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Penobscot Indian Nation, Penobscot Indian Territory, Old Town, Maine

(1) *Ducks.*[1]

Same season dates, season length, and daily bag and possession limits as regular duck season in Maine.

(2) *Geese.*[1]

Same season dates, season length, and daily bag and possession limits as regular season for geese in Maine.

(3) *General Conditions.*

(i) Tribal members may hunt waterfowl (ducks and geese) on Penobscot Indian Territory under special sustenance regulations during the 1986–87 hunting season. Sustenance season dates are September 20–November 30. Daily bag limits for ducks in the sustenance season are 4, of which no more than 2 can be wood ducks and no more than 2 be black ducks. Where sustenance and the regular State hunting seasons overlap, daily bag limits for tribal members shall be only the larger of the two bag limits. Daily bag limits for geese during the sustenance season shall be 3 Canada geese, 3 snow geese, or 3 in the aggregate.

(ii) Possession limits of ducks and geese during the tribal sustenance season are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence.

(iii) Tribal members shall comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking, except that during the sustenance season, tribal members shall be permitted to hunt from ½ hour before sunrise to ½ hour after sunset.

(iv) All tribal and nontribal waterfowl hunters 16 years of age or over must possess and carry on their persons a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face.

(v) Nontribal members hunting waterfowl on Penobscot Indian Territory shall comply with all Federal and State migratory bird hunting regulations. Special regulations established by the Penobscot Indian Nation also apply on Penobscot Indian Territory.

---

[1] Final Federal frameworks to be established.

(b) Navajo Indian Reservation, Window Rock, Arizona

(1) *Ducks, (including Mergansers).*[1]

Season Dates: October 11–November 30.

Daily Bag and Possession Limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Canada Geese (Season closed on other geese).*[1]

Season Dates: December 27–January 4.

Daily Bag and Possession Limits: 2 daily. Possession limit 4. Season limit 5.

(3) *Other Migratory Game Birds.*

(i) *Coots and Common Moorhens (Gallinule).*[1]

Season Dates: October 11–November 30.

Daily Bag and Possession Limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(ii) *Mourning Doves.*

Season Dates: September 1–September 30.

Daily Bag and Possession Limits: 12 daily. Possession limit 24.

(iii) *Band-tailed Pigeons.*

Season Dates: September 1–September 30.

Daily Bag and Possession Limits: 5 daily. Possession limit 10.

(4) *General Conditions.* Tribal and nontribal members will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(c) Jicarilla Indian Reservation, Dulce, New Mexico

(1) *Ducks (including Mergansers).*[1]

Season Dates: October 4–November 30.

Daily Bag and Possession Limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Geese.*[1]

Season Dates: October 4–November 30.

Daily Bag and Possession Limits: Same as permitted Pacific Flyway portion of New Mexico under final Federal frameworks.

(3) *General Conditions.* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner to taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Jicarilla Apache Tribe also apply on the reservation.

(d) Colorado River Indian Reservation, Parker, Arizona

(1) *Ducks (including Mergansers).*[1]

Season Dates: Same as Colorado River Zone in California.

Daily Bag and Possession Limits: Same as Colorado River Zone in California.

(2) *Geese.*[1]

Season Dates: Same as Colorado River Zone in California.

Daily Bag and Possession Limits: Same as Colorado River Zone in California.

(3) *Other Migaratory Game Birds.*

(i) *Coots and Common Moorhens (Gallinule).*[1]

Season Dates: Same as for ducks in Colorado River Zone in California.

Daily Bag and Possession Limits: Same as Colorado River Zone in California.

(ii) *Common (Wilson's Snipe.*[1]

Season Dates: Same as for ducks in Colorado River Zone in California.

Daily Bag and Possession Limits: Same as Colorado River Zone in California.

(iii) *Mourning Doves and White-winged Doves.*

Season Dates: September 1–October 15; November 15–November 29.

Daily Bag and Possession Limits: Daily bag limit is 15 and possession limit is 30 mourning and white-winged doves, singly or in the aggregate of the species; however, the bag and possession limit of white-winged doves may not exceed 10 and 20, respectively.

(4) *General Conditions.* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Colorado River Indian Tribes also apply on the reservation.

(e) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).

(1) *Ducks (including Mergansers).*[1]

Wisconsin Zone.

Season Dates: Begin 15 days prior to opening of regular State duck season. End with closure of State duck season.

Daily Bag and Possession Limits: Same as permitted Wisconsin under final Federal frameworks.

Michigan Zone: Same season dates, season length, and daily bag and possession limits permitted Michigan under Federal frameworks.

(2) *Geese.*[1]

Wisconsin Zone.

Canada Geese.

Season Dates: Begin September 25. End October 31.

Daily Bag and Possession Limits: 3 daily. Possession limit 6.

Other Geese (Snow Geese, Blue geese, White-fronted geese).

Same dates, season length, and daily bag and possession limits permitted Wisconsin under final Federal frameworks.

Michigan Zone.

Canada Geese.

Season Dates: Same dates and season length permitted Michigan under final Federal frameworks.

Daily Bag and Possession Limits: 3 daily. Possession limit 6.

Other Geese (Snow geese, Blue geese, White-fronted geese: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks.

(3) *Other Migratory Game Birds.*

(i) Coots, Common Moorhens (Gallinule), and Purple Gallinule.[1]

Wisconsin Zone.

Season Dates: Begin 15 days prior to opening of regular State duck season. End with closure of State duck season.

Daily Bag and Possession Limits: 15 daily, singly or in aggregate. Possession limit 30.

Michigan Zone.

Season Dates: Same dates permitted Michigan under final Federal frameworks.

Daily Bag and Possession Limits: 15 daily, singly or in aggregate. Possession limit 30.

(ii) Sora and Virginia Rails.

Michigan and Wisconsin Zones.

Season Dates: September 15–November 19.

Daily Bag and Possession Limits: 25 daily, singly or in the aggregate. Possession limit 25.

(iii) Common (Wilson's) Snipe.

Michigan and Wisconsin Zones.

Season Dates: September 15–November 19.

Daily Bag and Possession Limits: 8 daily. Possession limit 16.

(iv) Woodcock.

Michigan and Wisconsin Zones.

Season Dates: September 15–November 19.

Daily Bag and Possession Limits: 5 daily. Possession limit 10.

(4) *General Conditions.*

(i) Tribal members will comply with all basic Federal migratory bird hunting regulations, 50 CFR Part 20, and

shooting hour regulations, 50 CFR Part 20, Subpart K.

(ii) Nontoxic shot will be required for all off-reservation waterfowl hunting by tribal members.

(iii) In Wisconsin Zone tribal members will comply with sec. NR 10.09(1)(a)(2) and (3), Wis. Adm. Code (shotshells), sec. NR 10.12(1)(c), Wis. Adm. Code (shooting from structures), sec. NR 10.12(1)(g), Wis. Adm. Code (decoys), and sec. 29.27, Wis. Stats. (duck blinds).

(iv) In Wisconsin and Michigan Zones, tribal members will comply with State regulations providing for closed and restricted waterfowl hunting areas.

(v) Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal hunters on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State Conservation warden as taken on-reservation. In Wisconsin, such tagging shall comply with sec. NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

Dated: August 27, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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VOL 51 ISS 168 AG 29 1986 UMI

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Public
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Other S
Library
Privacy
TDD fo
FEDERA
27515-27
27811-28
28059-28
28219-28
28321-28
28509-28
28687-28
28799-28
28921-29
29085-29
29201-29
29443-29
29545-29
29629-29
29901-30
30045-30
30201-30
30323-30
30473-30
30623-30
30835-31

Reader Aids

Federal Register

Vol. 51, No. 168

Friday, August 29, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

27515-27810.....1
27811-28058.....4
28059-28218.....5
28219-28320.....6
28321-28508.....7
28509-28686.....8
28687-28798.....11
28799-28920.....12
28921-29084.....13
29085-29200.....14
29201-29442.....15
29443-29544.....18
29545-29628.....19
29629-29900.....20
29901-30044.....21
30045-30200.....22
30201-30322.....25
30323-30472.....26
30473-30622.....27
30623-30834.....28
30835-31088.....29

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....28509

3 CFR

Proclamations:

5514.....27515
5515.....28218
5516.....29200
5517.....30470
5518.....30623

Administrative Orders:

Memorandums:

July 31, 1986.....27811
August 1, 1986.....28219
August 14, 1986.....29443, 29445
August 20, 1986.....30201

5 CFR

532.....28799
890.....28799
1201.....28321

Proposed Rules:

540.....29655
870.....28576
871.....28576
872.....28576
873.....28576
890.....28576, 29655, 30068

7 CFR

2.....29201
12.....29901, 30835
20.....30203
26.....28800
29.....28687, 30196
51.....27813, 28802
272.....28196, 30045
273.....28196, 30045
301.....30049, 30835
370.....30836
400.....29202
402.....29204
403.....29204, 29205
405.....29205
409.....29204, 29205
410.....29204
411.....29204, 29205
413.....29204, 29205
414.....29204
415.....29204, 29205
416.....29204, 29205
417.....29204, 29205
418.....29204-29207
419.....29204-29207
420.....29204-29207
421.....29204-29207
422.....29204, 29205
423.....29204, 29205
424.....29204-29207
425.....29204, 29205
426.....29204
427.....29204-29207
428.....29204, 29205
429.....29204, 29205
430.....29204, 29205
431.....29204, 29205
432.....29204-29207
433.....29204, 29205
435.....29204, 29205
436.....29204, 29205
437.....29204, 29205
438.....29204, 29205
439.....29204, 29205
440.....29204
441.....29204
442.....29204
443.....29204
444.....29204
445.....29204
446.....29204, 29205
447.....29204, 29205
448.....29204-29207
449.....29204
450.....29204, 29205
451.....29204, 29205
652.....29208
770.....28921
810.....30323
906.....27816, 28509, 29206, 30051, 30837
910.....28059
911.....27517
918.....27518
923.....29209
926.....29447
927.....30625
932.....28922
944.....29447
966.....30473
981.....30203
982.....29545
991.....28802
1036.....30325
1064.....28687
1065.....30204
1102.....28687
1106.....28687
1108.....28687
1126.....28687
1138.....28687
1240.....29210
1427.....28321
1475.....28803
1900.....29449, 29903
1924.....29903
1930.....27636
1940.....29901, 30835
1941.....29901, 30835
1943.....29901, 30835
1944.....27636
1945.....29901, 30835
1951.....27636
1965.....27636
1980.....29901, 29903, 30835

Proposed Rules:
52 ..... 28719, 29856
68 30368
235 29236
250 29236
252 29236
255 29236
330 29401
340 29401
400 30369
421 30496
424 30497
425 30497
441 29246
447 27682
456 28251
907 28219
920 29473
929 28896
965 29199
987 28251
1007 28252
1011 28252
1046 28252
1065 ..... 27553, 28721, 28819, 28888
1068 28819
1079 ..... 27554, 28819, 30220
1093 28252
1094 28252
1096 28252
1098 28252
1135 27556
1137 27554
1139 27555
1265 28669
1496 28557
1769 28782
1772 ..... 28557, 28558

8 CFR
238 ..... 28080, 28929, 28955, 30474, 30837

Proposed Rules:
214 ..... 27867, 28576
248 27857

9 CFR
75 30327
77 29629
78 29629
92 ..... 28605, 29210, 30051, 30838
205 29449
302 29905
303 29905
317 ..... 29456, 30052
318 ..... 29456, 30052
381 29905

Proposed Rules:
92 27871
94 29221
113 29882
151 28669

10 CFR
Ch. I 29211
2 30839
50 ..... 27817, 28044, 30288, 30854
73 ..... 27817, 27822, 30854
110 27825

Proposed Rules:
19 ..... 30670, 30873
20 ..... 30670, 30873
30 ..... 30670, 30873
31 ..... 30670, 30873
32 ..... 30670, 30873
34 ..... 30670, 30873
40 ..... 30670, 30873
50 ..... 27872, 30670, 30873
61 ..... 30670, 30873
70 ..... 30670, 30873
73 29856
100 30224
435 ..... 29754, 29773

11 CFR

Proposed Rules:
100 28154
106 28154
9001 28154
9002 28154
9003 28154
9004 28154
9005 28154
9006 28154
9007 28154
9042 28154
9091 28154
9032 28154
9033 28154
9034 28154
9035 28154
9036 28154
9037 28154
9038 28154
9039 28154

12 CFR
1 28085
17 28089
201 30847
207 27518
220 27518
221 27518
224 27518
303 27686
337 28690
501 28221
522 ..... 28221, 28690
523 28221
545 30848
563 30848
570 29458
620 29459
621 29459
622 29460
623 29460
741 27522

Proposed Rules:
205 28589
226 ..... 28245, 29256
337 28657
523 30225
545 28656
565 30874
566 30856
582 30856
563 ..... 30225, 30874, 30856
563b 30856
574 30856

13 CFR
107 28750
310 27628

14 CFR
21 ..... 28509-28525, 30295, 30367
23 ..... 28509-28525, 28905, 30367
25 28322
39 ..... 27523-27527, 27828-27830, 27832, 27833, 28061-28066, 28322, 28323, 28527, 28691, 28806, 28807, 29090, 29092, 29093, 29211-29213, 29910-29915, 30327-30331, 30626, 30629, 30853
71 ..... 27833-27835, 28067, 28325, 28326, 28528, 28923, 29460, 29630, 30054, 30332-30334
73 30208
75 ..... 28809, 30334, 30630, 30855
97 ..... 28326, 29631
121 28322
250 30475
1204 27528
1209 28924

Proposed Rules:
Ch. I 28085, 28725
1 28085
21 ..... 29938-29944, 30666, 30667, 30669
23 ..... 29938-29944, 30666, 30667, 30669
36 27556
39 ..... 27557, 27874, 28386, 28832, 29110, 29256-29259, 29474, 29475, 29659, 29945, 30070-30077, 30370, 30372, 30670, 30672
71 ..... 28388-28390, 28956, 28957, 29261-29263, 29534, 30227, 30228, 30373, 30498, 30674, 30674
73 ..... 28095, 30228, 30498
75 ..... 28096, 28957, 30674
91 29476
382 30078

15 CFR
30 28925
368 30631
369 30631
370 ..... 28692, 30631
371 ..... 28692, 30631
372 30631
373 ..... 28692, 30631, 30632
374 ..... 28692, 30631
375 30631
376 30631
377 30631
379 ..... 28692, 30631
385 30631
386 30631
390 30631
399 ..... 28692, 28693, 30631

16 CFR
13 ..... 28694, 28695, 29633
16 30055
423 28222
444 28328
1500 ..... 28529, 29094, 30209

Proposed Rules:
13 ..... 28594, 29265, 29660, 29664, 30674
444 30875
703 29666
1500 29778

17 CFR
1 27529
5 27529
16 27529
33 27529

Proposed Rules:
231 28596
240 28096
241 28596

18 CFR
11 30478
13 30478
35 30855
37 27835
154 ..... 27529, 28831
157 ..... 27529, 28331
270 ..... 27529, 28831
271 ..... 27529, 28068, 28831
282 30834
284 ..... 27529, 28831
375 30478
390 28810

Proposed Rules:
37 ..... 30374, 30499
271 28402

19 CFR
8 27836
101 ..... 28070, 28835
111 30836
171 30336
177 30346
178 30336

Proposed Rules:
6 30375
112 30376
113 27875
141 28390
355 28546

20 CFR
404 28544
416 28544
629 30856
655 30348

Proposed Rules:
404 28834
410 28834
416 ..... 28664, 30499
655 28599

21 CFR
74 ..... 28331, 28346, 28929
81 ..... 28331, 28346, 28363
82 ..... 28331, 28346
133 30210
175 ..... 30059, 30060
176 28545
178 ..... 28930, 29460
193 28683
211 28810
310 28840
314 28840
331 27762
332 27762
344 28686
357 27756
369 27756
433 30478
436 27561
440 27561
442 27561
510 ..... 28546, 29916, 30211
520 ..... 28546, 29215, 30211
522 ..... 28546, 28932, 29462
546 28546
556 ..... 28932, 29097, 29462
558 ..... 28546, 28547, 29097, 29463
561 28223

1306.....28695
Proposed Rules:
812.....30675
882.....30675
1301.....30675
1306.....28725, 28727
1311.....30675
1312.....30675

22 CFR

Proposed Rules:
2a.....28391
526.....30878
527.....30878

23 CFR

635.....27532

24 CFR

20.....28364
35.....27774, 30635
44.....30478
111.....30478
200.....28696
203.....28548, 30478
204.....28548
207.....27837, 28547, 28699, 30478
221.....27837, 28547
236.....30478
251.....28699
255.....28699
290.....30478
300.....27838
390.....28551
511.....28703, 30478
570.....30478
571.....30478
812.....29463
850.....30478
880.....30478
881.....30478
882.....29463, 30478
883.....30478
884.....30478
886.....30478
888.....28486, 31014
892.....29633
905.....27774, 30635
941.....30478
965.....27774, 30635
968.....27774, 30478, 30635
970.....30478
990.....30478
Proposed Rules:
0.....30178
35.....27793, 30680
203.....28247
510.....27793, 30680
511.....27793, 30680
570.....27793, 30680
590.....27793, 30680

25 CFR

1.....28553, 30481
20.....28365, 30857
25.....28365, 30857
301.....30351
602.....28365, 30481, 30657

27 CFR

9.....30352
19.....28071
250.....28071
270.....28078, 30484
275.....28078, 30484
290.....28078
295.....28078
296.....28078, 30484
Proposed Rules:
4.....28836
5.....28836
7.....28836
9.....29478
270.....28106
275.....28106
290.....28106
295.....28106
296.....28106

28 CFR

0.....29464, 30485

29 CFR

102.....30635
1601.....29098, 30486
1620.....29816
1952.....27534
1956.....29917
1960.....28378
2603.....28379
2676.....29215
Proposed Rules:
102.....30684
530.....30036
602.....28840
1613.....29482
1910.....30230
1917.....30230
2560.....30501
2570.....30504
2603.....29497

30 CFR

901.....29096
914.....29100
917.....29917, 30486
931.....28553
943.....28554
Proposed Rules:
250.....29947
774.....27558
910.....27559
912.....27559
915.....28729
920.....28600, 28601
921.....27559
922.....27559
933.....27559
935.....29112
937.....27559
939.....27559
941.....27559
947.....27559
950.....27560

31 CFR

16.....28810
315.....28933
317.....30212
321.....30212
332.....28933
352.....28933
353.....28933
500 (authority extended by Memorandum of Aug. 20, 1986).....30201
505 (authority extended by Memorandum of Aug. 20, 1986).....30201
515 (authority extended by Memorandum of Aug. 20, 1986).....30201
520 (authority extended by Memorandum of Aug. 20, 1986).....30201
545.....28933
550.....28933
Proposed Rules:
10.....29113, 30510
103.....30233
357.....29559

32 CFR

90.....28092
706.....27535, 27536, 28933–28941, 29464–29468, 30213, 30493
Proposed Rules:
292a.....30510
553.....29115
701.....30377

33 CFR

100.....28706, 29919, 30636, 30637
117.....28380, 28707, 29101, 30060, 30061, 30638
140.....28381
142.....28381
161.....27839
165.....28382, 28383, 29468
207.....30639
Proposed Rules:
100.....29948
117.....27877
334.....28248

34 CFR

63.....29550
211.....29550
617.....29434
619.....29434
624.....29196
668.....28396, 29920, 30190
674.....28312, 30355
690.....30190
796.....29190
Proposed Rules:
11.....30511

36 CFR

1.....29469
3.....29469
34.....29101
261.....30355
Proposed Rules:
7.....28107–28110, 29498
60.....28204
63.....28204

37 CFR

1.....28052, 28555
2.....28052, 28555, 28707, 29920
201.....30061, 30214
306.....27537

38 CFR

21.....29470

39 CFR

10.....28383
111.....29922
320.....29636
Proposed Rules:
10.....28958

40 CFR

33.....28710
52.....27537, 27840, 27841, 28813, 29923, 30063
60.....29104
61.....27956
65.....28224, 29216, 30064
81.....27843–27845, 30065
171.....30494
180.....28225–28227
228.....29923, 29927
260.....28664, 29430
261.....28296, 28664, 29217–29219, 29430
262.....28664, 29430
263.....28664
264.....28556, 29430
265.....28556, 29430
270.....29430
271.....28094, 28664, 29430
461.....30614
761.....28556
799.....30216
Proposed Rules:
Ch. I.....29499, 30166
52.....27560, 27878, 29116, 30378, 31076
65.....28113, 29947, 30061
81.....29268, 30379
85.....28114
86.....30964
122.....29950
123.....29668
135.....29426
141.....28730
180.....28249, 28603, 28959, 29669, 30516, 30517
228.....30081
264.....29812
265.....29812
271.....28604
403.....29950
716.....27562, 29499
721.....28119
763.....28914
795.....27880
799.....27880, 28840

41 CFR

60-250.....30467
101-26.....29104
101-38.....29638
101-40.....27539

42 CFR

60.....30642
405.....27847, 28710, 29386, 30358
417.....28569
482.....27847
Proposed Rules:
110.....30518
124.....31000
405.....29560
417.....30518
434.....30518
447.....29560

43 CFR

11.....27674
Public Land Orders:
6620.....28229

VOL 51 ISS 168 AG 29 1986 UMI

6622.....28229
6623.....29641
Proposed Rules:
4.....28846

44 CFR

11.....29222
59.....30290
60.....30290
61.....30290
64.....28230, 28232, 30857, 30861
65.....30290
70.....30290
73.....30290
76.....30290
Proposed Rules:
67.....29500
81.....28119

45 CFR

232.....29223
233.....29223
1612.....27539
1630.....29076
2002.....28384
Proposed Rules:
1.....29560
19.....29560
74.....28960
1160.....29509

46 CFR

510.....30862
580.....30862
582.....30862
Proposed Rules:
31.....29116
61.....29116
71.....29116
91.....29116
150.....30241
160.....29117
167.....29116
169.....29116
189.....29116
502.....29124

47 CFR

15.....30362
22.....28236, 30865
64.....29230
68.....28237
73.....27552, 28237, 28942, 28943, 29105, 29551, 29552, 30363, 30364
87.....29106
90.....30865
97.....28237, 30645
Proposed Rules:
0.....27566
1.....27566, 30254, 30680
2.....28249
18.....30381
21.....27566
22.....27566
23.....27566
62.....27566
67.....29126, 30522
73.....27566, 27567, 28961, 29128–29130, 29273, 29574–29576, 30381
74.....27566
90.....29190, 29273
100.....30681

48 CFR

25.....30618
223.....28943, 29231
226.....28943, 29231
232.....28946
242.....28943, 29231
252.....28943, 29231
522.....28815
552.....28815
1801.....27848
1804.....27848
1805.....27848
1806.....27848
1807.....27848
1809.....27848
1813.....27848
1814.....27848
1815.....27848, 28574
1819.....27848
1825.....27848
1827.....27848
1832.....27848
1836.....27848
1837.....27848
1839.....27848
1842.....27848
1845.....27848
1847.....27848
1851.....27848
1852.....27848, 28574
1853.....27848
Proposed Rules:
Ch. 18.....30884
501.....29131
513.....29131
514.....30681
552.....30681
553.....29131

49 CFR

1.....29231, 29233, 29471
509.....29552
571.....28238, 29552
Proposed Rules:
Ch. X.....28847
27.....30382
171.....28962, 29503
172.....28962
173.....28605, 28962
175.....29503
192.....29504
385.....28607
391.....27567
531.....28730
1058.....28249
1152.....28962
1312.....28731

50 CFR

20.....28946, 30646, 31084
32.....30655
33.....30655
285.....28240, 28241, 29642
604.....28575
611.....30218
630.....28575
641.....28094, 29471
651.....29642
654.....30663
655.....28241, 29555
661.....27859, 28717, 28954, 30667
672.....30663
29234, 29471, 29654, 29932, 30066, 30364
663.....29933, 30365
671.....28242
672.....28385, 30218
674.....27860, 28243, 29107, 30365
683.....30367
Proposed Rules:
17.....29362, 29671
20.....29274, 29673
216.....28320, 28963, 29674
611.....28731, 29131
630.....29132
653.....30885
661.....29508
663.....29508
685.....29131

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List August 27, 1986

VOL
51

ISS
1
6
8

AG
2 9

1986

UMI